

Item 6.**Development Application: 22-28 Mandible Street, Alexandria - D/2019/578****File No.: D/2019/578****Summary****Date of Submission:** 31 May 2019

Amended information submitted 3 September 2019, 10 October 2019, 15 October 2019 and 15 July 2020

Applicant: Sincourt Pty Ltd**Architect:** Tonkin Zulaikha Greer**Owner:** Sincourt Pty Ltd**Cost of Works:** \$43,444,501**Zoning:** The site is in the B7 business park zone. The proposal includes indicative retail and office land uses. While retail use is generally prohibited, some categories of retail land uses are permitted with consent. Office premises are permitted with consent.**Proposal Summary:** The development application (DA) seeks approval for a concept application (stage 1) for the following:

- One (1) concept envelope with a maximum height of 35 metres which has been tested to accommodate up to a total approximate gross floor area (GFA) of 13,062m² or a floor space ratio of 3.5:1.
- A design excellence strategy which seeks an additional 10% height (or 3.5m) if the development undertakes a competitive design process and the detailed DA (stage 2) demonstrates design excellence.
- Indicative retail and office land uses.

This DA was also accompanied by a public benefit offer with a total value of \$1,156,550 which includes the following:

- To dedicate 1,060m² of land as required by the Sydney Development Control Plan 2012 (Sydney DCP 2012) with a value of \$212,000.
- This includes 0.5m wide footpath widening land dedication along Mandible Street. This equates to 19.5m² of land.
- A 10m wide land dedication for new road running north to south along the western boundary connecting Mandible Street with the drainage channel. This equates to 810m² of land to be dedicated.
- A 6m wide land dedication for a new shared bicycle path running along the edge of the drainage channel. This forms part of the liveable green network. This equates to 230.5m² of land to be dedicated.
- Embellishment works for the footway with a value of \$6,922.50.
- Road works, green network and drainage works with a value of \$801,345.
- A monetary contribution towards community infrastructure in the green square area of \$136,282.50.

This draft voluntary planning agreement (VPA) has been exhibited. One (1) submission in relation to the provision of the new road was received. It raised concerns about the impact of the new road on existing heavy vehicle movements on Mandible Street. Council's road safety officer has reviewed the road design and has advised the probability of a crash occurring is unlikely.

This DA is recommended to be approved subject to a deferred commencement condition to require the VPA to be executed and registered on title prior to the consent becoming operative.

The proposal was notified for 28 days between 28 June 2019 and 27 July 2019. During this time, one (1) submission was received. This submission was from the same landowner as the submission received in relation to the VPA.

This submission raised concerns with the sensitivity of office and retail uses on the adjoining industrial land uses (that being, a concrete batching plant).

The subject land uses are both permitted with consent in the B7 zone. The detailed DA will need to ensure that the building design ameliorates the noise impacts of nearby land uses.

Amended plans and information were submitted on 3 September 2019, 10 October 2019, 15 October 2019 and 15 July 2020, including:

- A remediation action plan, additional site investigation report and letter of interim advice from a NSW accredited site auditor.
- Updated public benefit offer based on quantity surveyors estimate of the cost of works.
- Details of the future roads design.
- Updated stormwater drainage plans.
- Updated design excellence strategy.

Subject the imposition of conditions, as detailed in the report and Attachment A, it is considered that the proposal is generally compliant with the relevant planning controls. In the instance where a non-compliance is proposed, for example height in storeys, the non-compliance can be supported.

There is also opportunity through the competitive design process and as part of the detailed DA to refine, develop and improve the proposal.

Summary Recommendation: Deferred commencement approval to allow for the VPA to be executed and registered on title.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
 - (ii) Water Management Act 2000
 - (iii) Sydney Water Act 1994 No 88
 - (iv) Sydney Airport Referral Act 1996
 - (v) Commonwealth Airports Act 1996
 - (vi) State Environmental Planning Policy No 55 - Remediation of Land
 - (vii) State Environmental Planning Policy (Infrastructure) 2007
 - (viii) Sydney Local Environmental Plan 2012
 - (ix) Sydney Development Control Plan 2012
 - (x) City of Sydney Development Contributions Plan 2015
 - (xi) Green Square Affordable Housing Program
- Attachments:**
- A. Recommended Conditions
 - B. Proposed Building Envelope
 - C. Reference Plans
 - D. Perspectives
 - E. Public Benefit Offer
 - F. Design Excellence Strategy

Recommendation

It is resolved that:

- (A) the Design Excellence Strategy for 22-28 Mandible Street, prepared by Mersonn Pty Ltd on behalf of Clipper International Corporation, and dated December 2019, be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (B) pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979, deferred commencement consent be granted to Development Application No. D/2019/578, subject to the conditions as detailed in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the B7 business park zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) The development complies with the permitted height pursuant to the clause 4.3 of Sydney Local Environmental Plan 2012.
- (C) The development will result in additional community infrastructure in accordance with Clause 6.14 of the Sydney Local Environmental Plan 2012, as per the submitted public benefit offer and voluntary planning agreement.
- (D) The development will deliver environmentally sustainable development, and this is secured through the commitments in the approved Design Excellence Strategy as per Clause 6.21 of Sydney Local Environmental Plan 2012.
- (E) The development provides adequate setbacks to Mandible Street and the new north/south road. These setbacks provide opportunities for deep soil planting, provide an appropriate public domain interface and allow for the building to align with the neighbouring development at 12-20 Mandible Street. In this regard, the development can deliver design excellence and meets the objectives of the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 27 August 2019.
2. The site is legally defined as lot A in deposited plan 155704, lot B in deposited plan 155083, lots 4, 5, and 11 in deposited plan 37767. It is approximately 3,732m² in area and is L-shaped. The site has a 48.145 metre frontage to Mandible Street and a 38.74 metre frontage to Shea's Creek drainage channel.
3. The site is located approximately half way along Mandible Street between Wyndham Street to the east and Bowden Street to the west. The site is generally orientated north, north west and has a flat topography. The site currently contains a two-storey warehouse building with an at grade carpark in the north west corner. There are two driveway crossovers providing access, and three (3) trees located on the subject site between these two crossovers.
4. Surrounding land uses are generally industrial, office and warehouses. Dangrove art storage warehouse is located directly adjacent at 12-20 Mandible Street. Further east at 177 Wyndham Street is the Rail Operations centre.
5. To the west, at 30 Mandible Street and on the opposite side of the road at 33-39 Mandible Street there is 'Murrays' bus depot including bus wash facility and offices.
6. On the opposite side of the road at 23 Mandible Street, there is a warehouse building used as a depot, storage and offices. At 25 Mandible Street there is a concrete batching plant.
7. To the rear of the site is the Shea's Creek drainage channel. This is a concrete lined channel that runs into Alexandra Canal. The Sydney Development Control Plan 2012 (Sydney DCP 2012) has identified this drainage channel as an area to be developed into the 'liveable green network' which will provide bike and pedestrian access across the surrounding area. This is being delivered as part of this development.
8. On the other side of the drainage channel, a development application for a 5-storey office building at 15 Bourke Road was approved by the Land and Environment Court. A concept development application and design competition have been held for a 35m tall office building at 5-7 Bourke Road. The detailed development application for this building is currently a deemed refusal application before the Land and Environment Court.
9. The site is not a heritage item or located in a heritage conservation area.
10. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area. The site is highlighted in red. The concrete batching plant is annotated with a blue circle. The Murray's bus depot is annotated with yellow circles. Dangrove art storage facility is annotated with a purple circle. The warehouse and office building at 13-21 and 23 Mandible Street is annotated with an orange circle. Shea's Creek drainage channel is highlighted with a broken green line.



Figure 2: Subject site viewed from Mandible Street



Figure 3: Subject site viewed from Mandible Street. The apex of Dangrove art storage facility is in the background.



Figure 4: Subject site viewed from Mandible Street. This photo shows the boundary of the subject site with 30 Mandible Street.



Figure 5: Looking east along Mandible Street towards Wyndham Street. Dangrove art storage facility is in the foreground and the Rail Operations Centre is located further east.



Figure 6: Concrete batching plant at 25 Mandible Street, opposite the subject site



Figure 7: Murray bus depot at 33-39 Mandible Street, which is located north west of the subject site



Figure 8: Murray bus depot at 30 Mandible Street, located next to the subject site



Figure 9: Photograph looking west along Mandible Street showing Murray bus depot, located next to the subject site

History Relevant to the Development Application

11. Two pre-development application (preDAs) meetings were held with the applicant prior to lodgement of the subject DA. The preDAs raised several issues including the need for a design competition.
12. Requests for additional information and amendments were made during the assessment. In response, the following information was submitted, and changes were made to the proposal:
 - (a) a remediation action plan and letter of interim advice from a NSW accredited site auditor;
 - (b) updated public benefit offer based on quantity surveyors estimate of the cost of works;
 - (c) details of the future roads design;
 - (d) updated stormwater drainage plans;
 - (e) updated design excellence strategy to incorporate the option for an additional 10% height;

- (f) updated plans showing how the proposed ground floor could accommodate a medium rigid vehicle; and
- (g) updated envelope plans to reduce the level of detail of the exact breakdown of uses on each level.

Proposal

13. The subject application seeks consent for a concept proposal for:
 - (a) a 35metre tall and a 9-storey envelope;
 - (b) indicative retail and office land uses; and
 - (c) public domain works and dedications.

Public domain works and dedications

14. The subject application was accompanied by a public benefit offer. This public benefit offer has a value of \$1,156,550 and proposes to dedicate and embellish three separate parcels of land, as required by the Sydney DCP 2012, and provide a monetary contribution. The breakdown of this is as follows:
 - (a) To dedicate 1,060m² of land as required by the Sydney Development Control Plan 2012 (Sydney DCP 2012) with a value of \$212,000.
 - (i) This includes 0.5m wide footpath widening land dedication along Mandible Street. This equates to 19.5m² of land.
 - (ii) A 10m wide land dedication for new road running north to south along the western boundary of the site connecting Mandible Street with the drainage channel. This equates to 810m² of land to be dedicated.
 - (iii) A 6m wide land dedication for a new shared bicycle path running along the edge of the drainage channel. This forms part of the liveable green network. This equates to 230.5m² of land to be dedicated.
 - (b) Embellishment works for the footway with a value of \$6,922.50.
 - (c) Road works, green network and drainage works with a value of \$801,345.
 - (d) A monetary contribution towards community infrastructure in the green square area of \$136,282.50.
15. The figure below shows the areas of land to be dedicated. This is as per the Sydney DCP 2012. This development will deliver half of the proposed new street between Mandible Street and Bourke Road. This will run from Mandible Street to the drainage channel. The remainder of the street connecting Mandible Street to Bourke Road across the drainage channel will be delivered when the rear site fronting Bourke Road redevelops.

land dedications

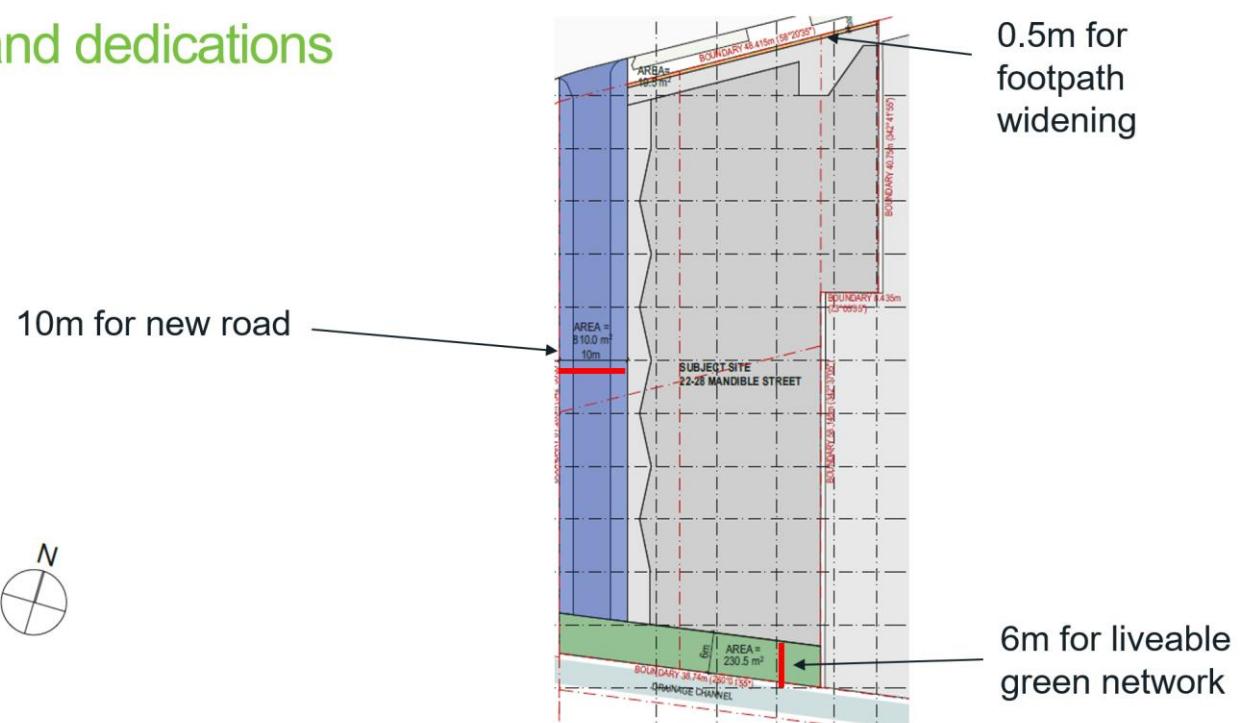


Figure 10: Land dedications required and proposed as per the Sydney DCP 2012

16. The concept envelope reflects these land dedications and provides additional setbacks where required. This is discussed under the concept envelope below.

Concept envelope

17. The concept DA seeks consent for a building envelope with a maximum height of 35 metres. This envelope is proposed to include 9 storeys and has been tested to accommodate up to a total approximate gross floor area (GFA) of 13,062m² or a floor space ratio of 3.5:1.
18. In addition to the land dedications discussed above, the envelope also provides the additional setbacks. These setbacks are as follows and are shown in figure 11 below:
 - (a) An additional 2.5 metres, on top of the required 0.5metres dedication for footpath widening, to Mandible Street for the whole of the envelope. This is to align the building with the newly built Dangrove development at 12-20 Mandible Street.
 - (b) A 1m landscape setback for the full height of the building along the new road running north south. An additional 2.7m on the ground floor and a zone for building articulation/pассив shading above.
 - (c) On the eastern elevation, the building envelope steps from levels 2 upwards and provides an 6m wide landscape zone. This is retained for the remainder of the building.

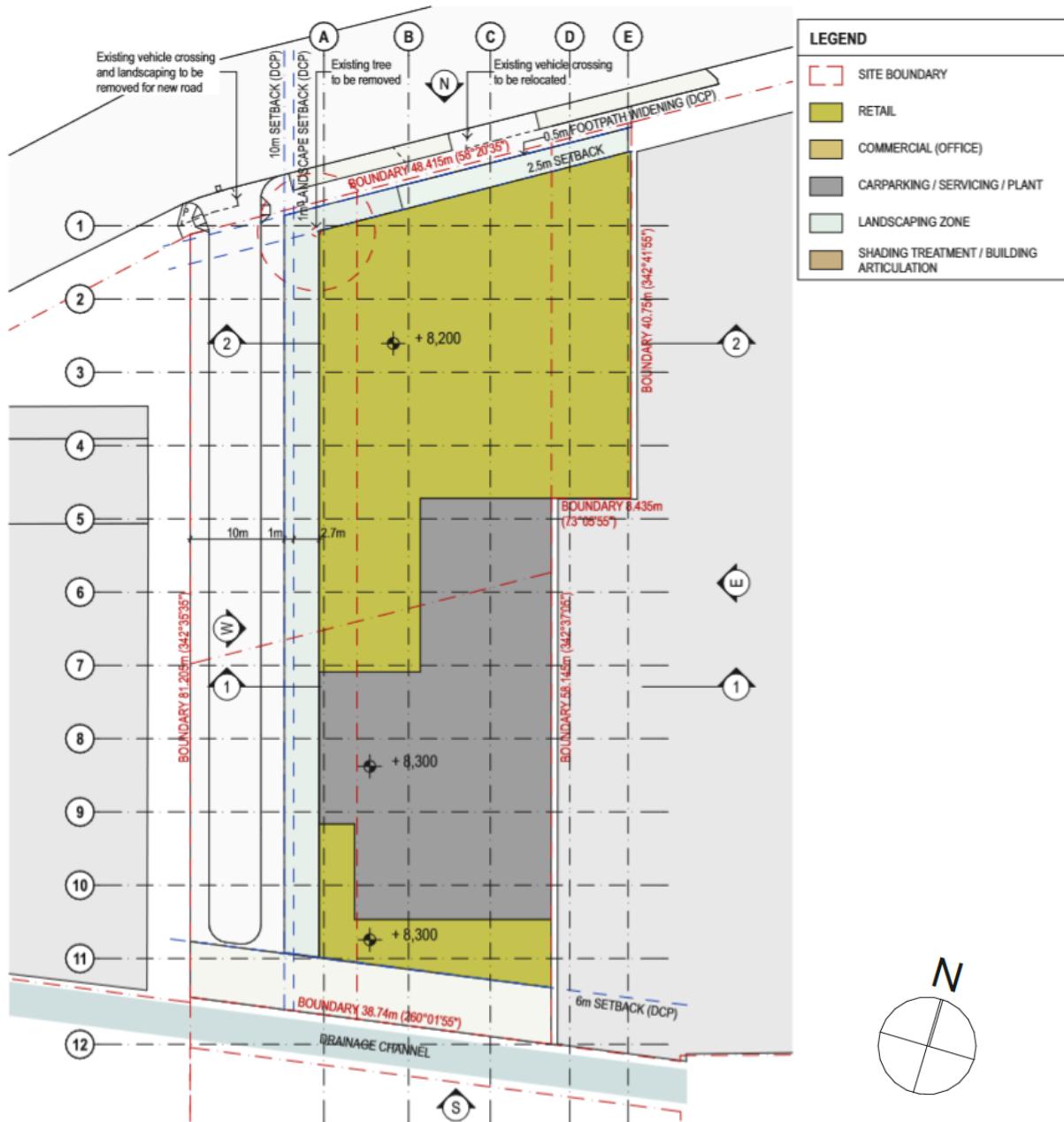


Figure 11: Proposed ground floor envelope plan

19. These setbacks are as per the Sydney DCP 2012, provide for deep soil planting and ensure the new building aligns with the adjoining development (Dangrove Art Storage Facility at 12-20 Mandible Street).
20. The proposed development also seeks consent for a design excellence strategy. This design excellence strategy seeks an additional 10% height (or 3.5m). Should the development proceed, and a detailed DA be approved, the overall development may have a maximum building height of up to 38.5 metres.

Indicative land uses and vehicular entry

21. The envelope includes indicative ground floor 'retail' uses and car parking/servicing/plant. While the ground floor envelope plan does not specify the exact location of the vehicular entry, it does indicate an approximate position of the new street. The exact location of the driveway entry can be explored as part of the design competition and be resolved as part of the detailed design development.
22. The indicative ground floor plans show how these retail uses, as well as end of trip facilities and bike parking, could be accommodated on the ground floor. The indicative floor plans also show an at grade carpark with loading for a medium rigid vehicle, two disabled parking spaces, 5 service vehicle spaces and possible car stacker. This is shown in the image below.

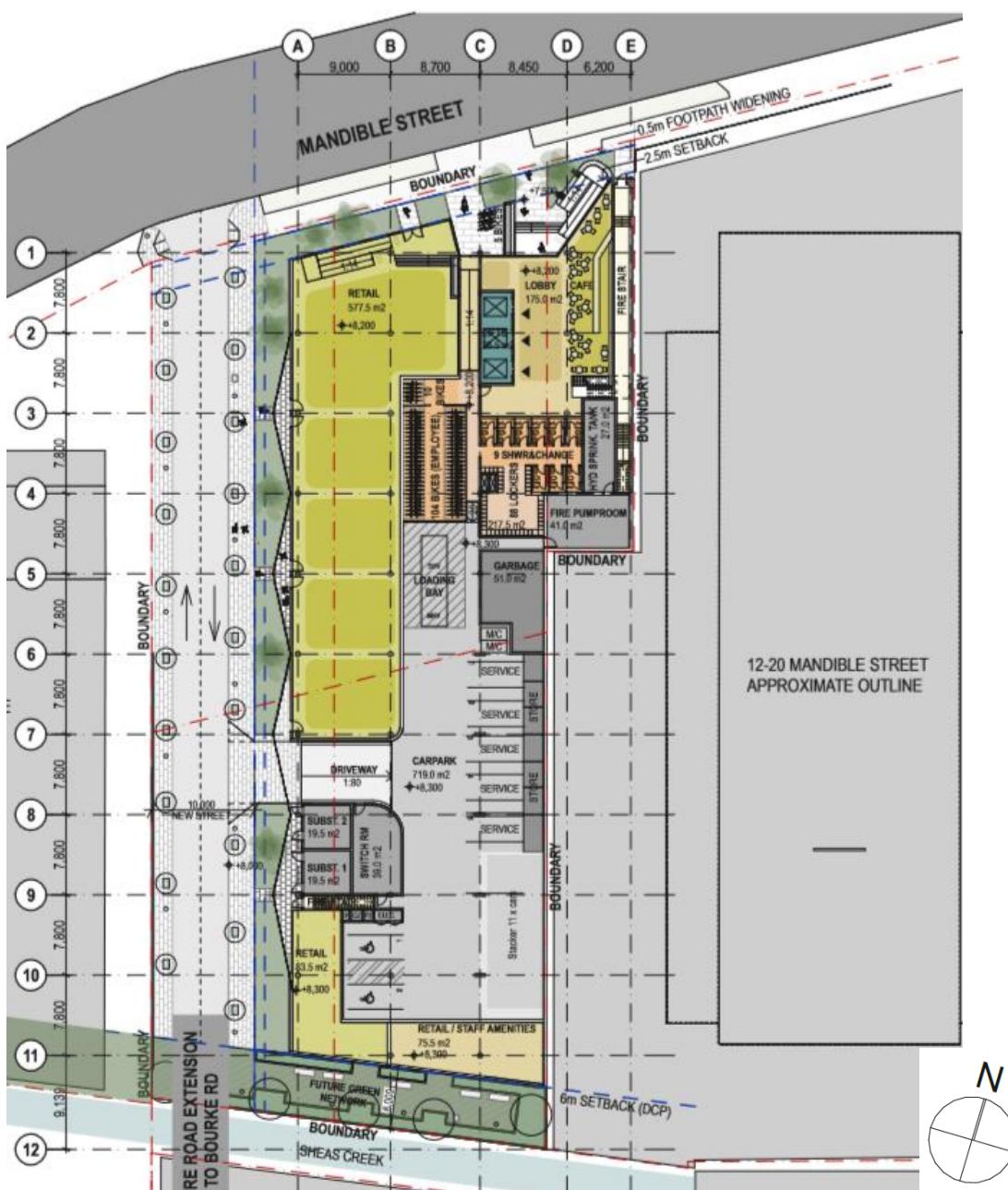


Figure 12: Indicative ground floor plan showing how the envelope could accommodate these uses and how the site can be serviced from within the building.

23. In addition to the ground floor plans included above, plans of the proposed development are provided below.

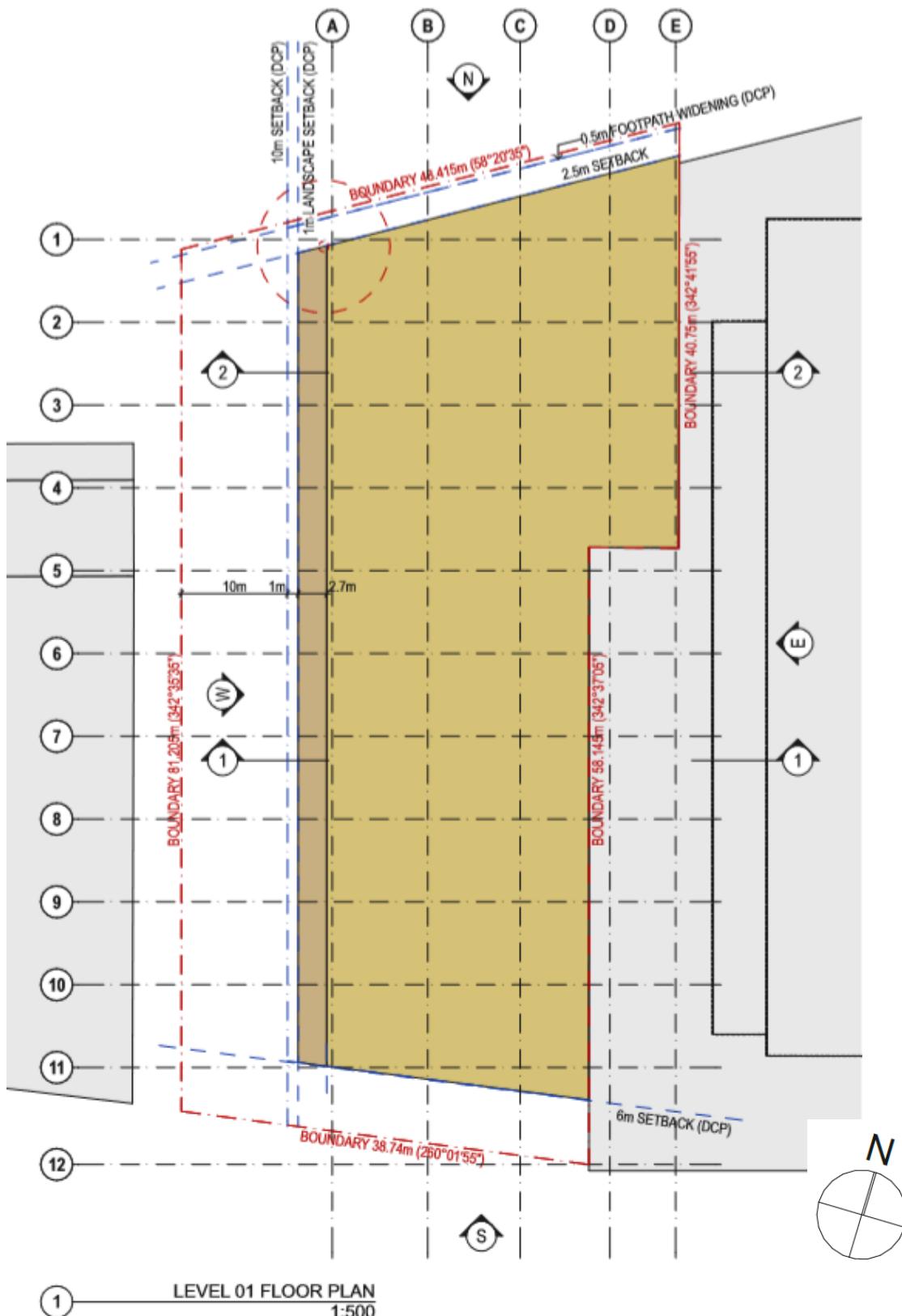


Figure 13: Proposed level 1 envelope

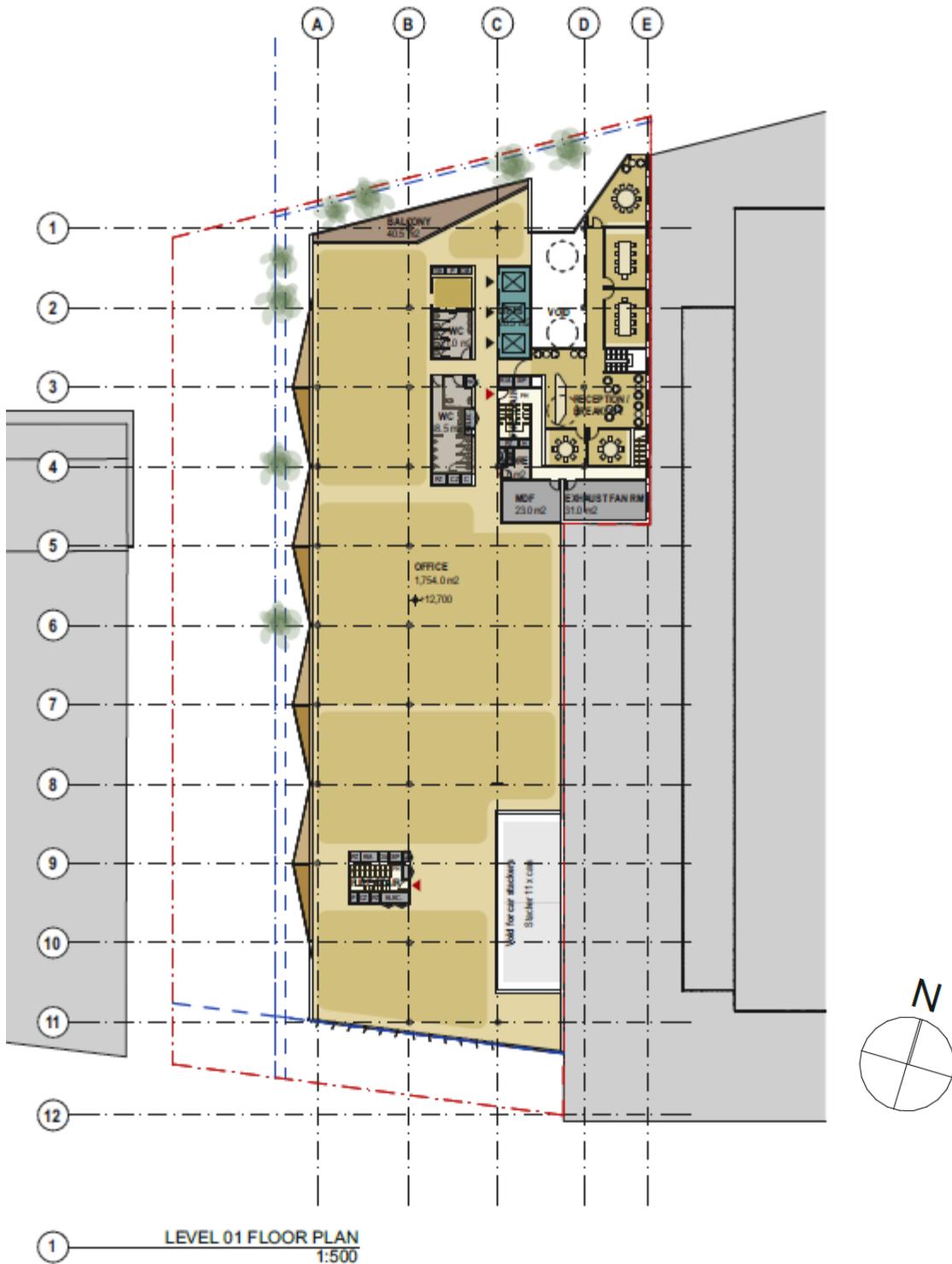


Figure 14: Proposed level 1 indicative/reference plan

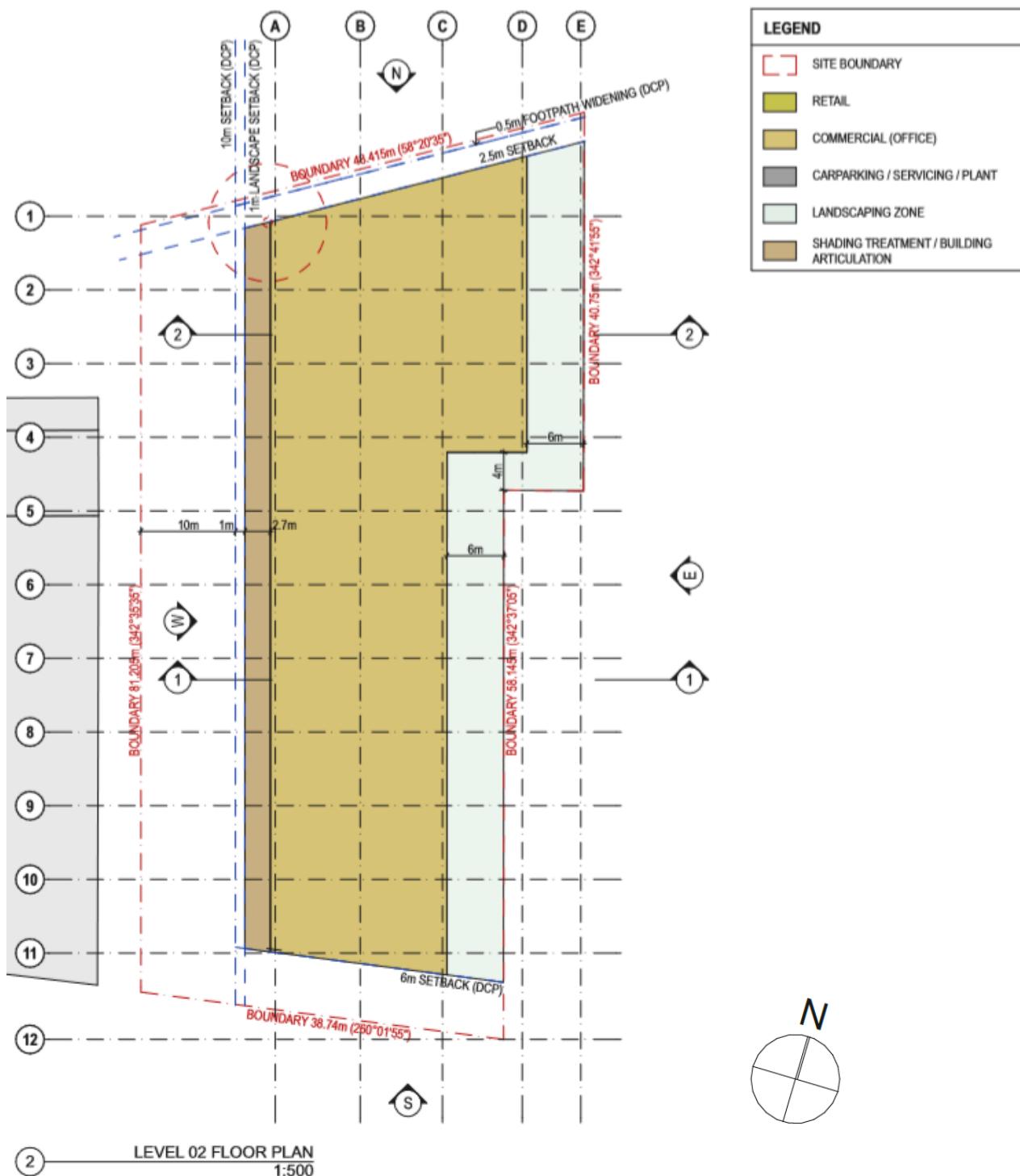


Figure 15: Proposed level 2 envelope

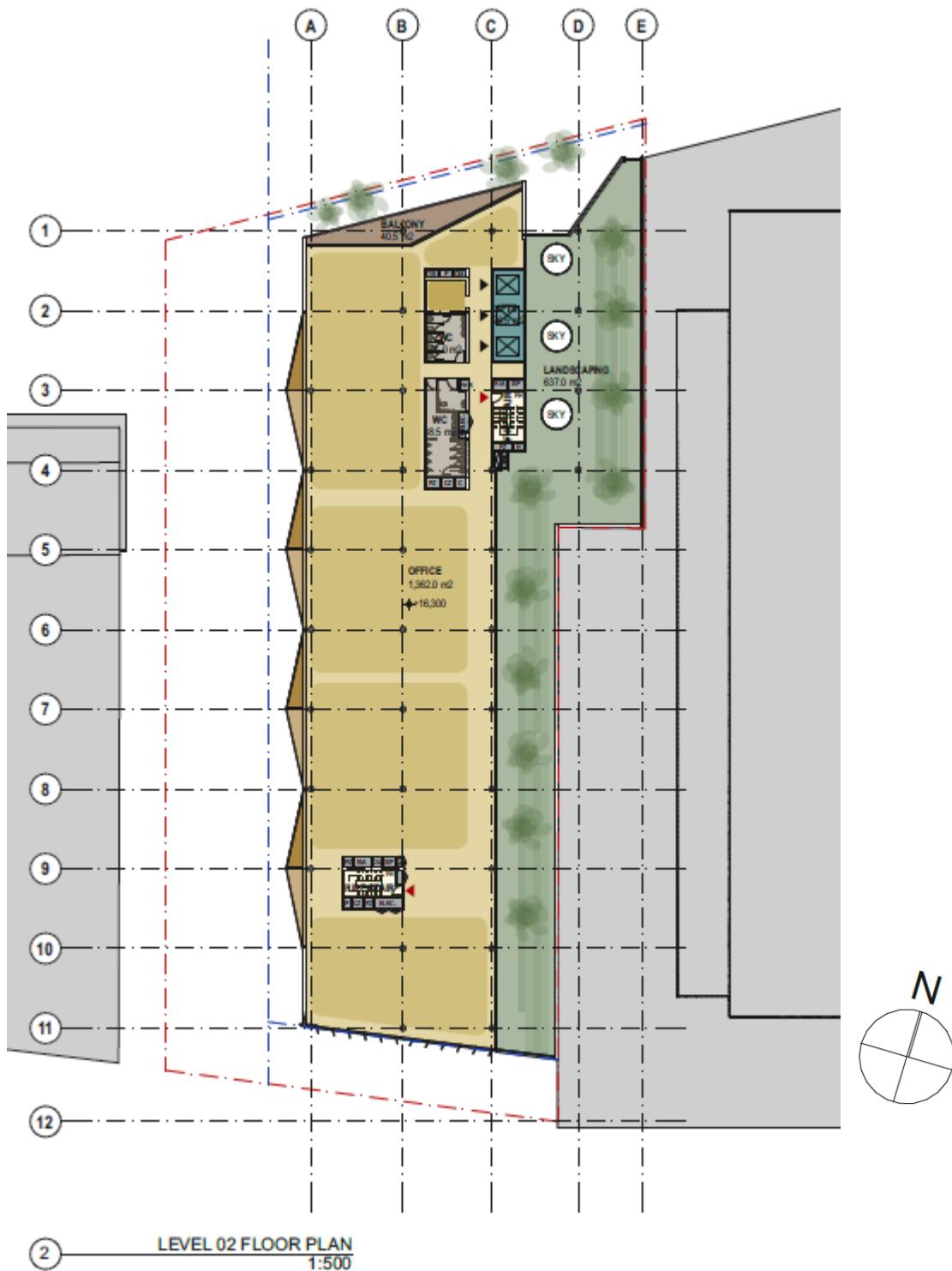


Figure 16: Proposed level 2 indicative/reference plan

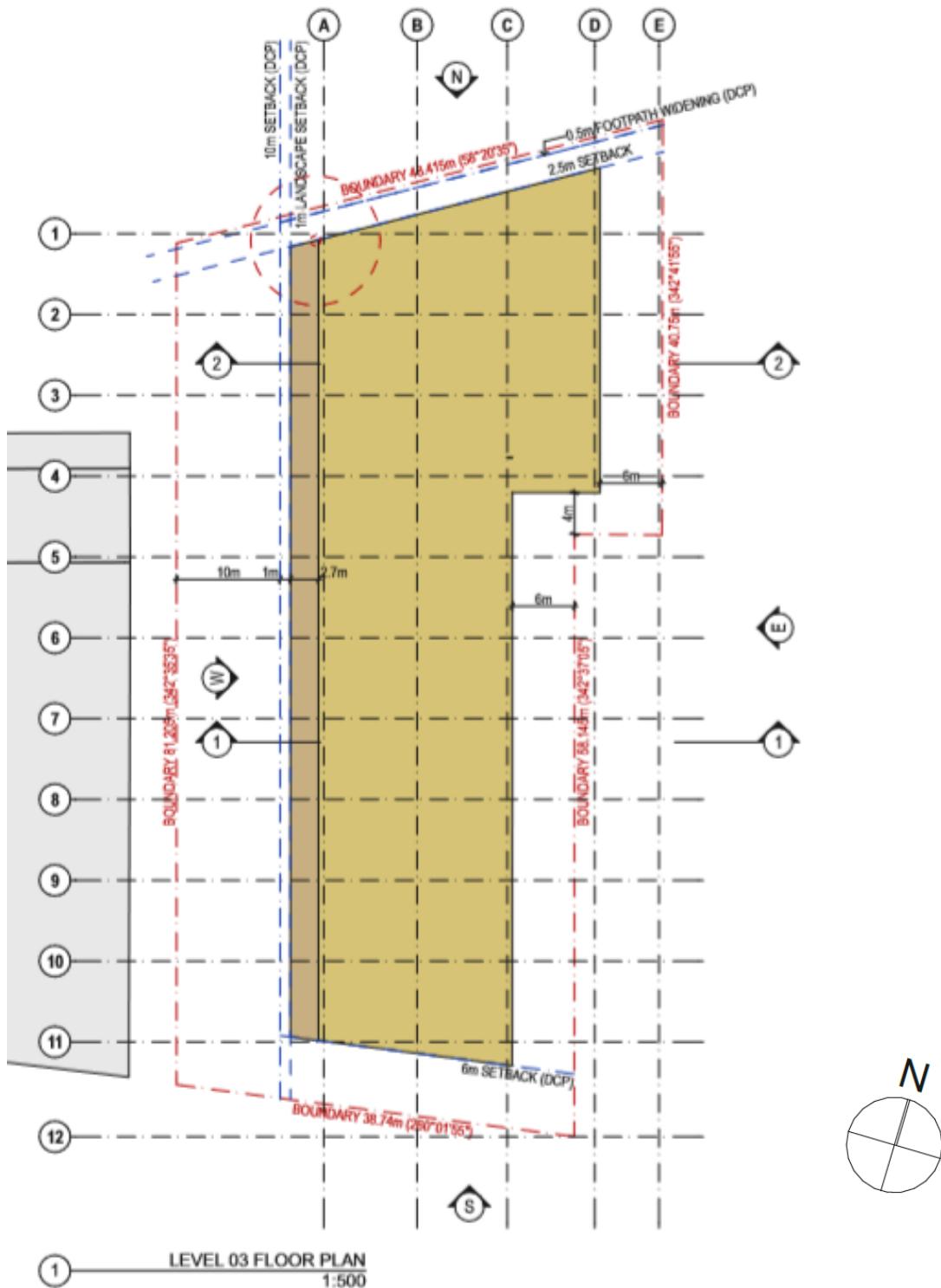


Figure 17: Proposed level 3 envelope

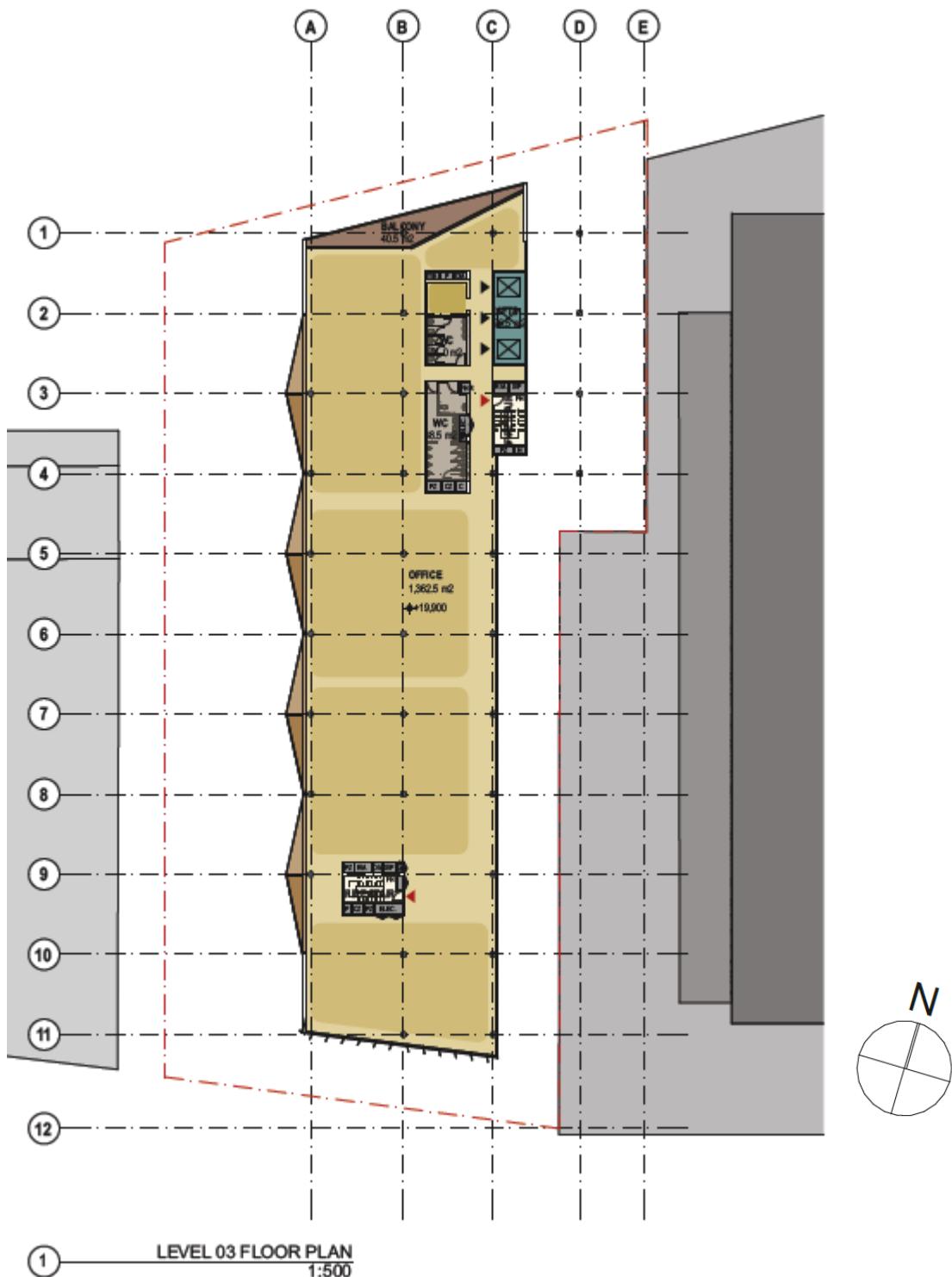


Figure 18: Proposed level 3 indicative/reference plan

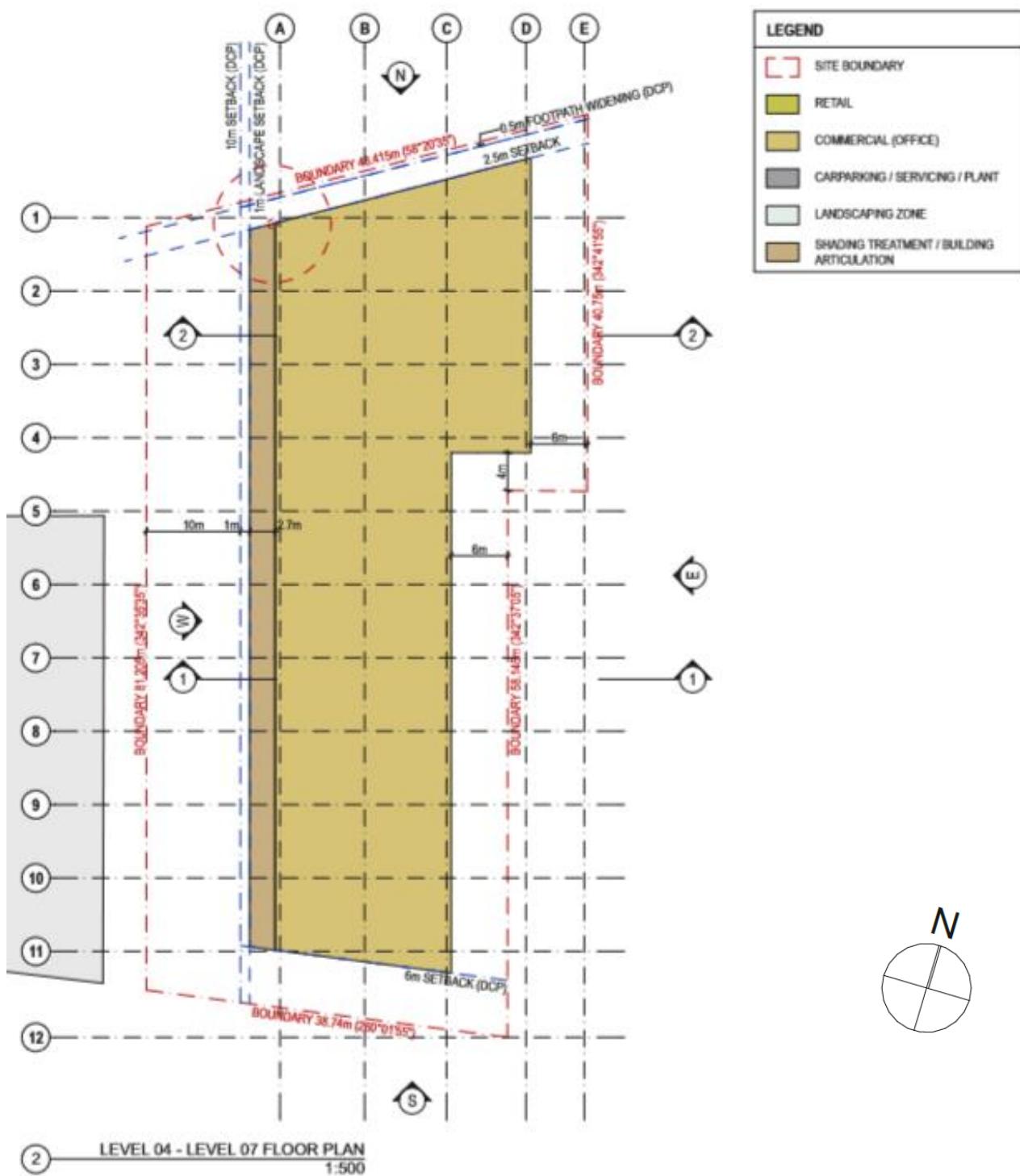


Figure 19: Proposed level 4 to 7 envelope

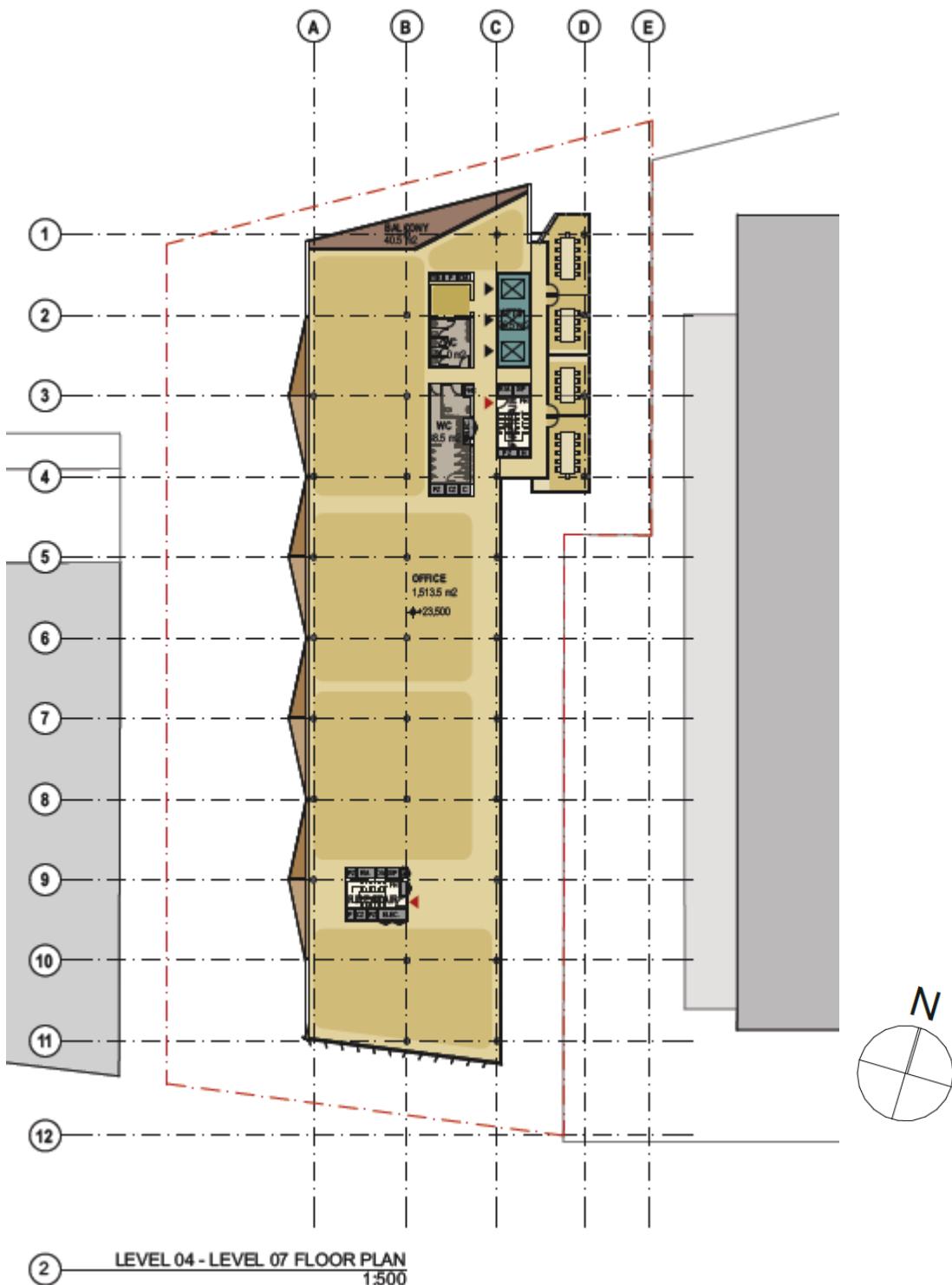


Figure 20: Proposed levels 4 to 7 indicative/reference plan

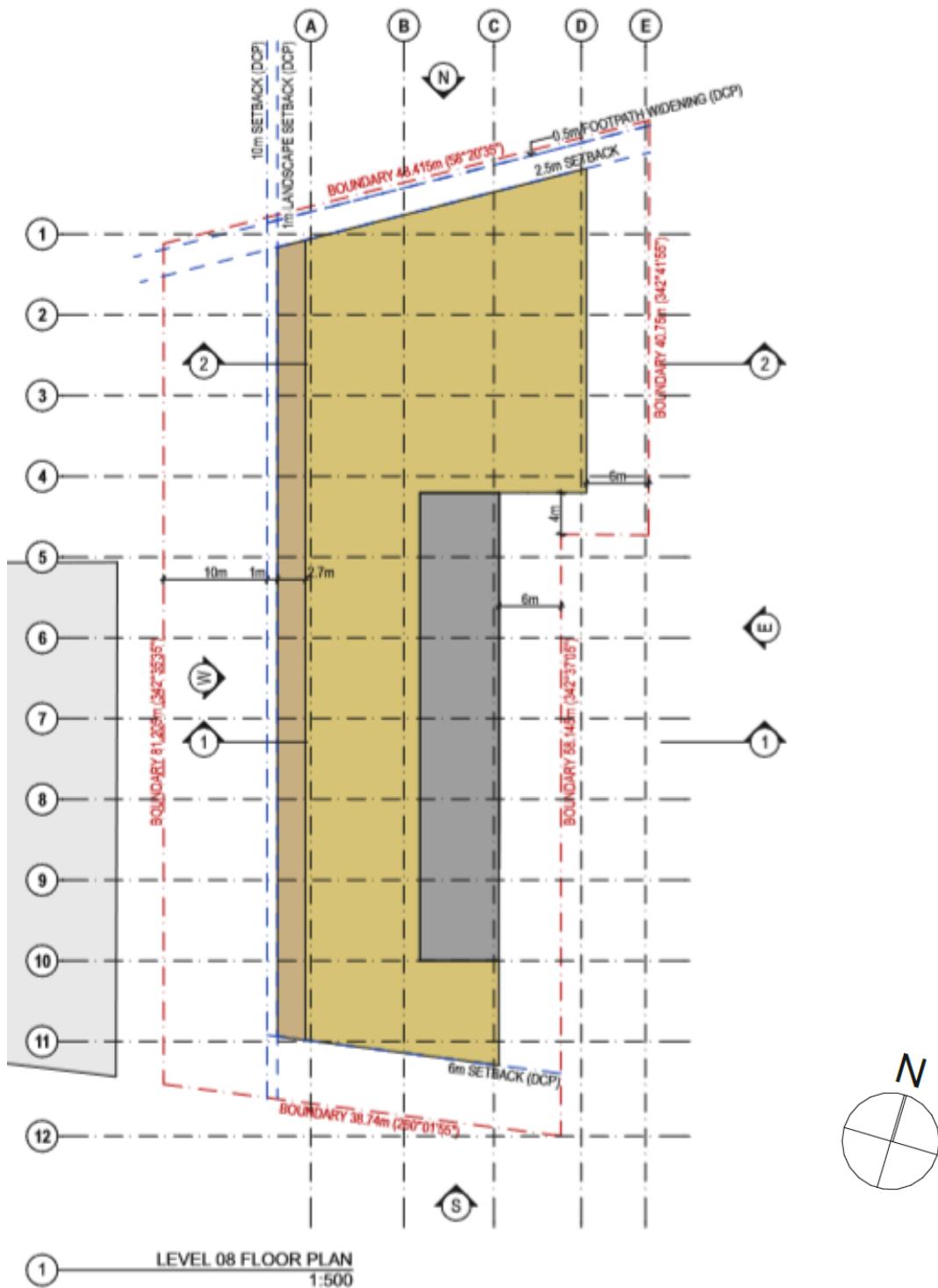


Figure 21: Proposed level 8 envelope

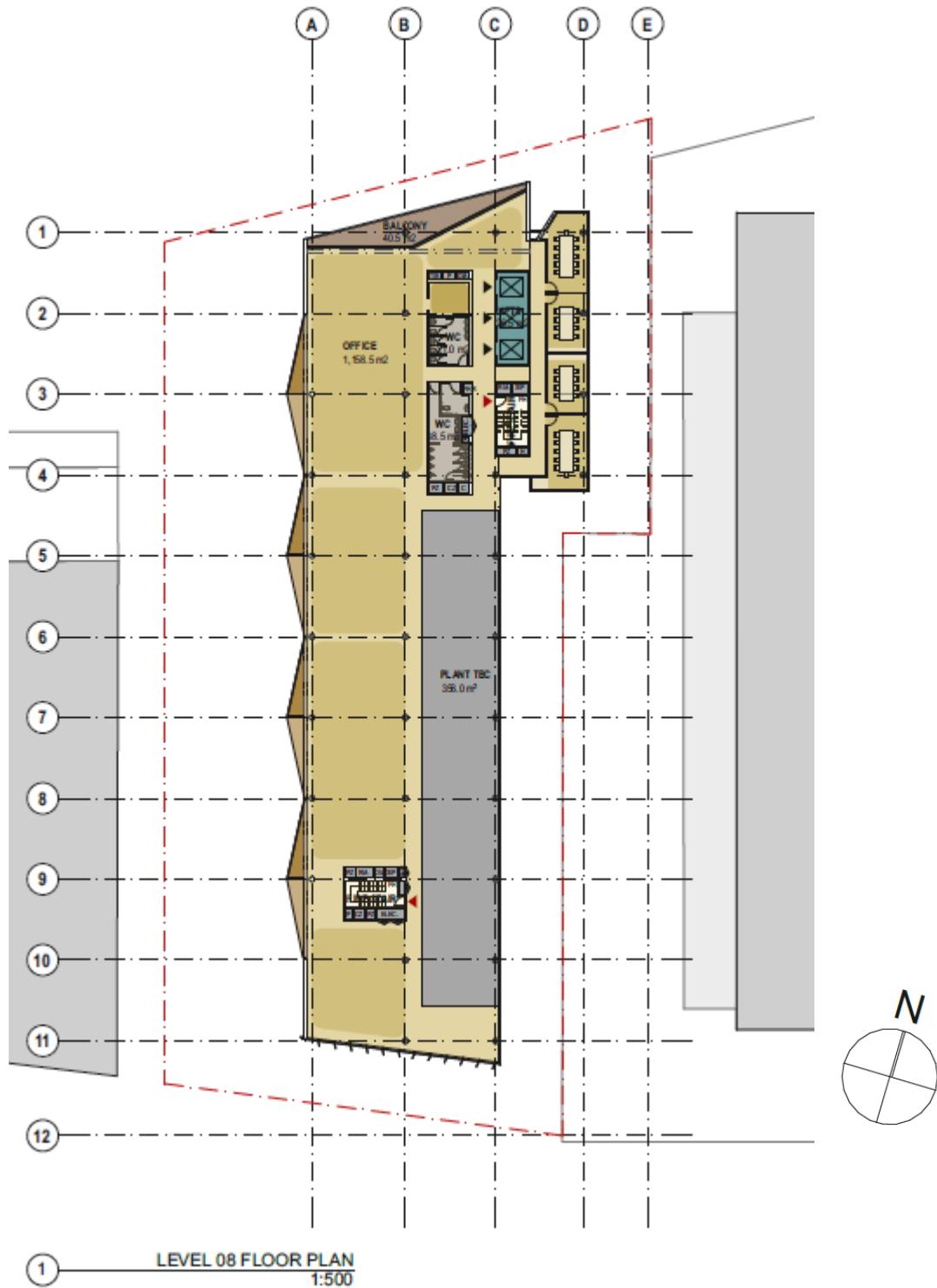


Figure 22: Proposed level 8 indicative/reference plan

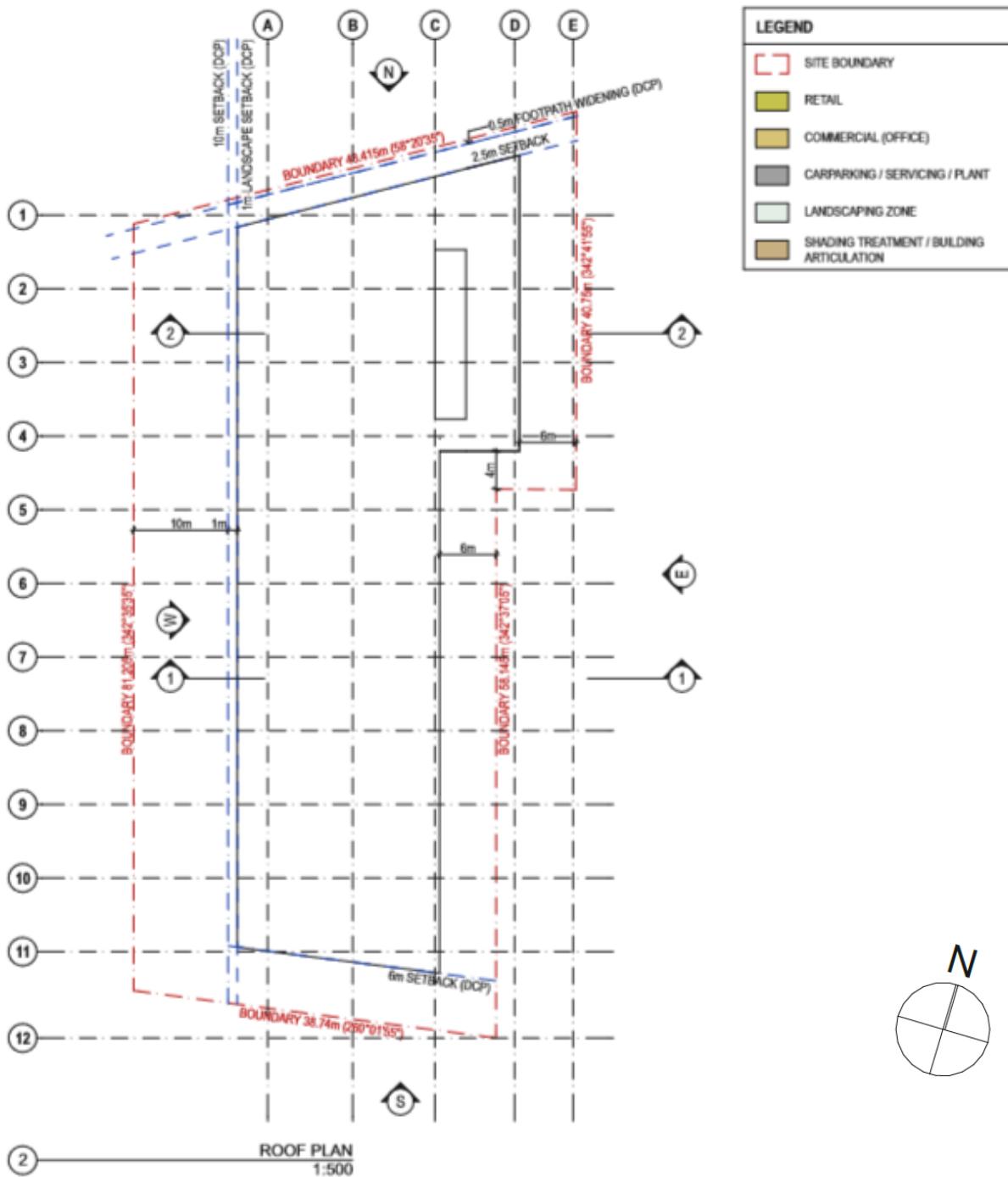


Figure 23: Proposed roof plan

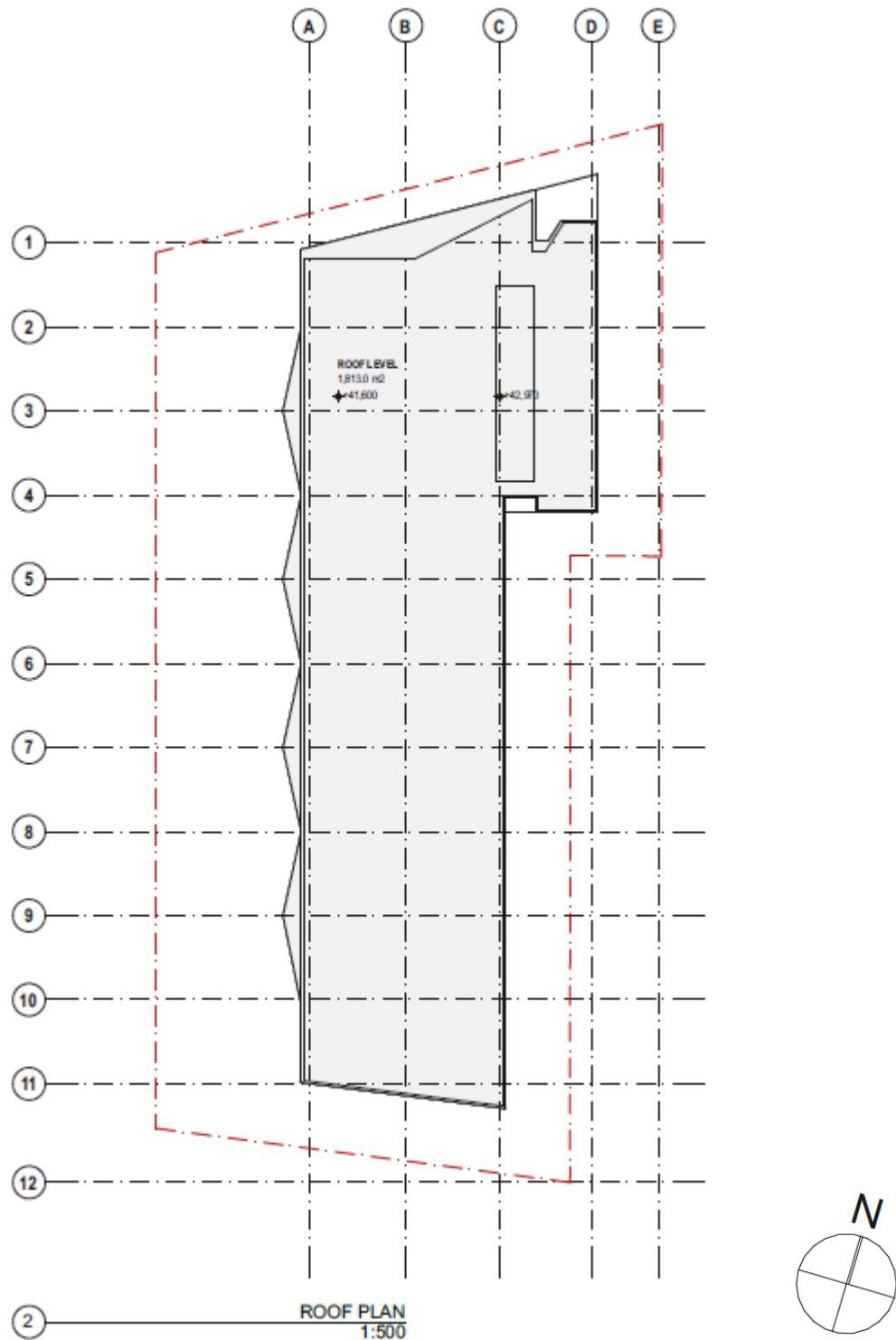


Figure 24: Proposed roof indicative/reference plan

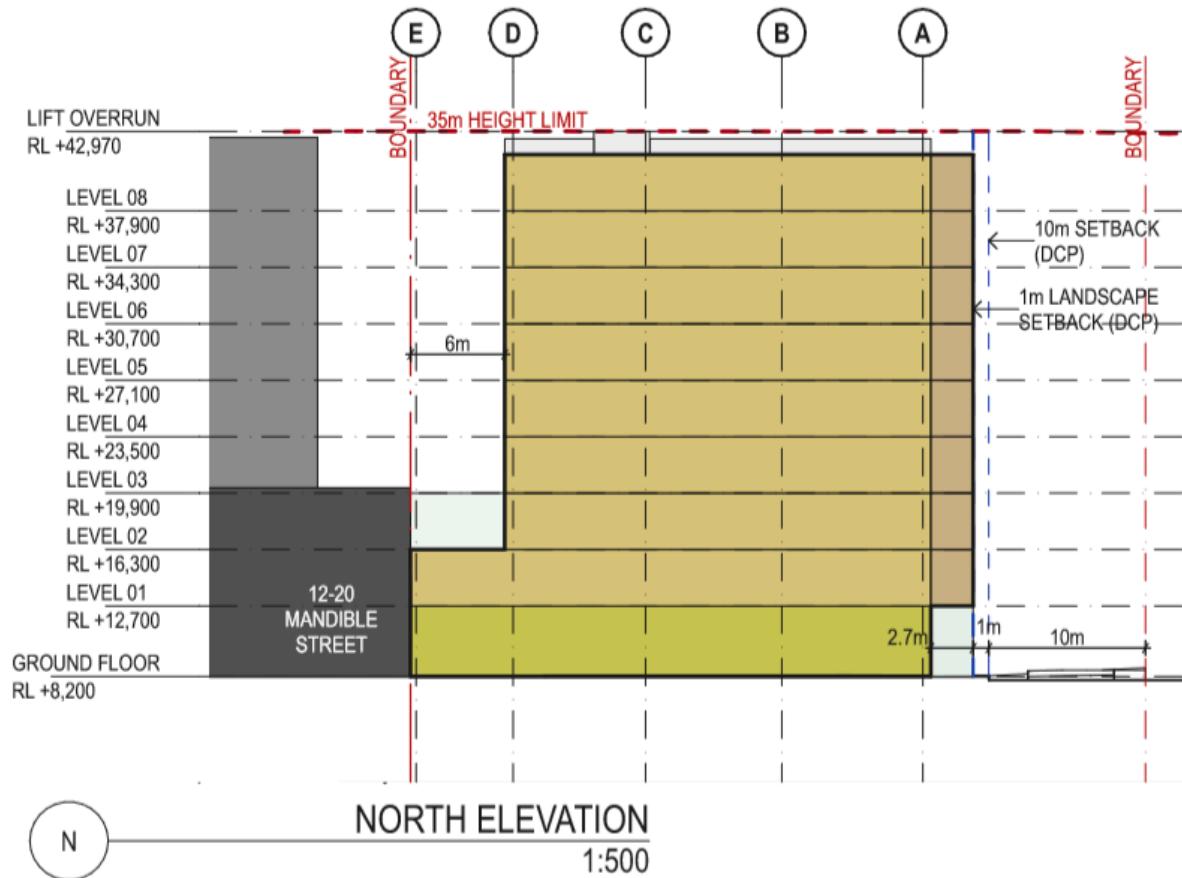


Figure 25: Proposed north elevation

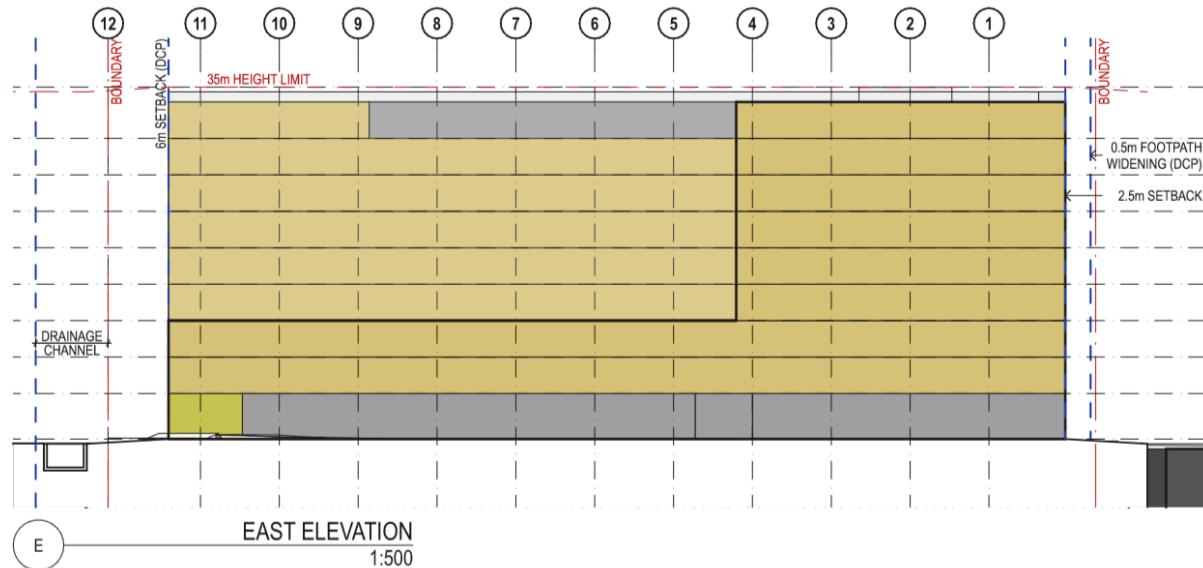


Figure 26: Proposed east elevation

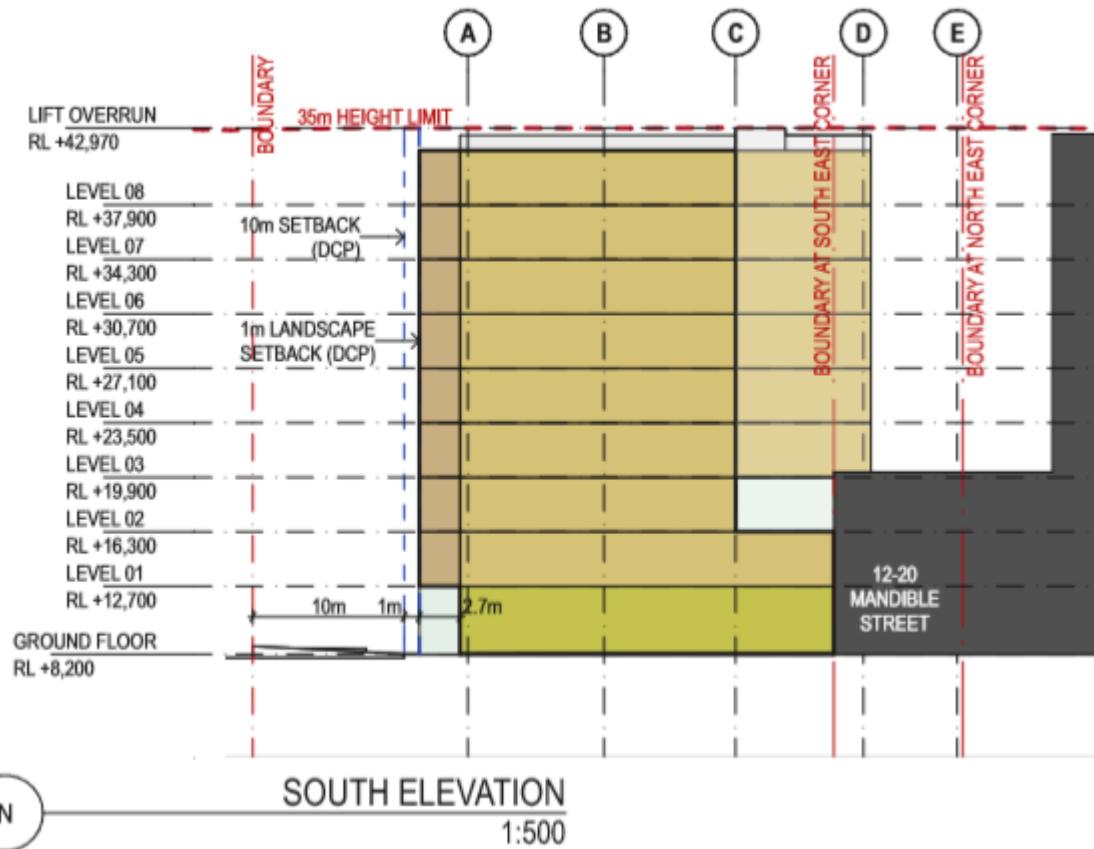


Figure 27: Proposed south elevation

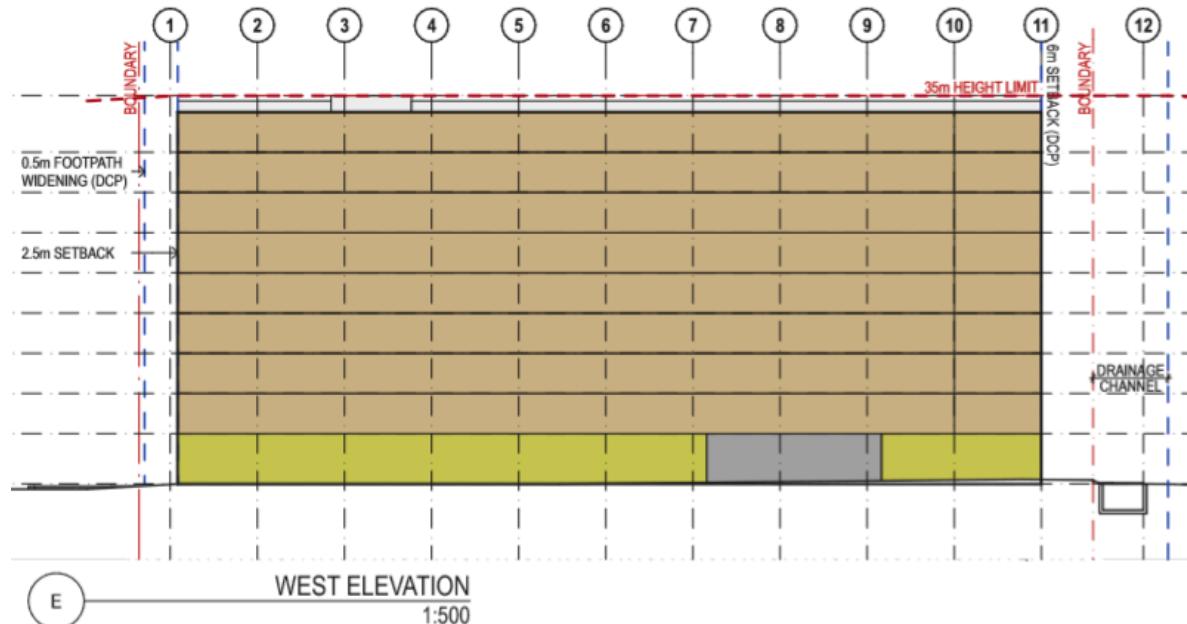


Figure 28: Proposed west elevation



Figure 29: Perspective, viewed from Mandible Street



Figure 30: Perspective, viewed from corner of Mandible Street and new north south street



Figure 31: Perspective, viewed from south west looking north along Mandible Street

Economic/Social/Environmental Impacts

24. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

Airports Act 1996 (Cth)

25. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
26. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 15.24 metres existing ground height.
27. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
28. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, has advised that they have no objection to this development to a maximum height of 43 metres AHD. The proposed envelope is within this height limit.

29. As the detailed stage 2 development application will explore an additional 10% height (up to an overall height of 38.5metres), further approval will be required from Sydney Airports. This is because the approval currently provided by Sydney Airports only relates to the height of the envelope proposed to be approved as part of this development. In any event, the detailed stage 2 development will still be below the OLS height of 51m AHD.

Water Management Act 2000 (NSW)

30. The development does not include any basement. The applicant confirmed by email on 27 June 2019 that the proposal does not penetrate the water table. As such, the development does not constitute integrated development under the Water Management Act 2000 and does not seek or require approval for dewatering.
31. The application was referred to the Natural Resource Access Regulator (NRAR) under the Water Management Act 2000 as the site has a frontage to Shea's Creek. The NRAR responded on 25 June 2019 and advised that as Shea's Creek is a concrete lined channel and is therefore exempt from the need to obtain a controlled activity approval.

Sydney Water 1994 No 88

32. The application was referred to and discussed with Sydney Water. This is because the new north south road will need to bridge over the Shea's Creek (Sydney Water's stormwater channel). This bridge will be built when the site to the rear (9-13 Bourke Road) redevelops.
33. Sydney Water, by email on 25 July 2019, confirmed that "Sydney Water agrees in principal to the proposed bridge over its stormwater channel subject to it meeting Sydney Water's clearance requirements as per the bridge over Sydney Water's open stormwater channel guidelines."
34. The applicant was provided with these guidelines to ensure that the proposed road design and levels could seamlessly integrate into the future bridge.
35. Indicative road levels have been provided as part of this concept DA. The City's public domain team and flood engineer are supportive of these levels.
36. A condition is recommended to ensure that the design of the road needs to ensure that the road can meet the future bridge over Shea's Creek canal. The future bridge over the canal needs to meet Sydney Water's clearance requirements as per the bridge over Sydney Water's open stormwater channel guidelines.

State Environmental Planning Policy No 55—Remediation of Land

37. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

38. The following documentation was included as part of the development application:
 - (a) Preliminary Site Investigation (PSI), Environmental Investigations Australia (EIA) dated 1 November 2019, ref E244066.E01_REV2 (2019/632242)
 - (b) Detailed Environmental Site Investigation (DESI), Environmental Investigations Australia dated 10 December 2019, ref E244066.E02_REV1 (2019/632243)
 - (c) Remedial Action Plan (RAP version 2), Environmental Investigations Australia dated 10 December 2019, ref E244066.E06_REV2 (2019/632244)
 - (d) Letter of Interim Advice No 3, Phreatic Consulting Pty Ltd dated 12 December 2019 (2019/632241)
 - (e) Supplementary Site Assessment, Environmental Investigations Australia dated 16 June 2020, reference E24066.E02_Rev 0 (2020/286144)
 - (f) Acid Sulphate Management Plan, Environmental Investigations Australia, dated 18 June 2020, reference E24066.E14.Rev 0 (2020/286146)
 - (g) Letter of Interim Advice no 4, Tim Chambers, Phreatic Consulting dated 2 July 2020 (2020/286148)
 - (h) Letter of Interim Advice no 6, Tim Chambers, Phreatic Consulting dated 13 July 2020 (2020/305280)
 - (i) Supplementary Site Assessment, Environmental Investigations Australia dated 13 July 2020, reference E24066.E02_Rev 1 (2020/305281)
 - (j) Auditor response Environmental Investigations Australia dated 13 July 2020 (2020/305282)
 - (k) Remedial Action Plan (RAP version 3), Environmental Investigations Australia dated 14 July 2020, ref E244066.E06_REV3 (2020/307651)
 - (l) Letter of Interim Advice no 7, Tim Chambers, Phreatic Consulting dated 15 July 2020 (2020/309437)
39. Following submission of RAP version 2 and interim advice no 3, supplementary site investigation was undertaken to further delineate poly fluoro alkyl substances (PFAS) in the groundwater. The findings within the supplementary site investigation were endorsed by the site auditor, and where incorporated into RAP version 3.
40. The RAP version 3, which was endorsed by the site auditor recommends two different remedial approaches. These are as follows:
 - (a) For land to be dedicated to the City of Sydney Council as part of VPA, excavation, removal and offsite disposal of all contaminants from the dedicated areas with no Long Term Environmental Management Plan.
 - (b) For land proposed as part of this commercial development, retention and encapsulation of contaminants including Lead, Asbestos, Poly aromatic hydrocarbons and total recoverable hydrocarbons, which will be subject to a Long Term Environmental Management Plan (LTEMP).

41. Council's Environmental Health Officer and Public Domain Officer has advised that these remediation approaches are deemed appropriate for the site and for the land to be dedicated to Council.
42. A condition is recommended to ensure that where deep soil is proposed on subject site (that is, not on the land to be dedicated), the capping is at a sufficient depth so that advanced tree planting is not restricted. This can be further resolved and demonstrated as part of the detailed DA.

State Environmental Planning Policy (Infrastructure) 2007

43. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.
44. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the detailed DA will impact on nearby overhead powerlines. The DA was referred to Ausgrid, however no response was received.
45. The application was also referred under clauses 85 and 86 to the Sydney Metro Corridor Protection given the sites proximity to the metro. The Sydney Metro Corridor Protection confirmed by email on 22 July 2019 that concurrence was not required given the distance between the site and the corridor.

Sydney Local Environmental Plan 2012

46. The site is located within the B7 business park zone. The proposed indicative land uses are defined as office and retail. Office is permissible with consent. Retail land use is prohibited, however nominated types of retail land uses, including shops and food and drink premises, are permissible with consent.
47. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined in the table below.

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	A maximum height of 35m is permitted. A height of 35m is proposed.
4.4 Floor Space Ratio 6.14 Community infrastructure floor space	Yes	Clause 4.4 of Sydney LEP 2012 stipulates a base floor space (FSR) ratio of 2:1 for the site. Clause 6.14 of Sydney LEP 2012 allows an additional FSR of 1.5:1 where community infrastructure is provided.

Development Control	Compliance	Comment
		<p>As part of the subject application, a public benefit offer has been made to the City for land dedication, embellishments, road works and a monetary contribution towards community infrastructure in Green Square.</p> <p>The documentation submitted demonstrates that the proposed building envelope can accommodate up to 13,062 m² of floor, which equates to an FSR of 3.5:1.</p>
6.13 End of journey floor space	Yes	<p>Clause 6.13 of Sydney LEP 2012 allows up to an additional 0.3:1 FSR for end of journey floor space. The facilities that can be included within end of journey floor space include showers, change rooms, lockers and bicycle storage areas. The reference scheme includes these facilities and allocates 0.06:1 FSR to their use. While this FSR is less than the total 0.3:1 that potentially could be allocated to end of trip facilities, the reference scheme does generally show a compliant number of bike spaces, lockers, showers and change rooms.</p>
6.21 Design excellence	Yes	<p>The development satisfies the requirements of these provisions in so far as they can be applied to a concept proposal. The detailed Stage 2 development is capable of demonstrating design excellence. This issue, and the Design Advisory Panels (DAPs) comments are discussed further in the issues section below.</p>
Part 7 Division 1 Car parking ancillary to other development 7.6 Office premises and business premises 7.7 Retail premises	Able to comply	<p>The reference design includes 11 car parking spaces, 2 accessible spaces, 5 service vehicle spaces and 5 motorbike spaces.</p> <p>Car parking numbers are approved as part of the detailed DA.</p>

Development Control	Compliance	Comment
7.13 Contribution for affordable housing	Able to comply	The detailed DA site will be subject to an affordable housing contribution under Clause 7.13 of Sydney LEP 2012.
7.14 Acid sulphate soils	Yes	An acid sulphate soils management plan has been submitted. This plan is satisfactory and is recommended to be included as a condition of consent.
7.15 Flood planning	Yes	The site is flood affected. The submitted flood report is acceptable. The proposed RLs of the ground floor meet the minimum floor levels required to overcome flood risk.
7.16 Airspace operations	Able to comply	<p>The proposed development does not penetrate the prescribed airspace, and as such, does not trigger the concurrence requirements of this clause.</p> <p>The height of the proposed envelope will breach the 15.24 metre height limit defined in the schedules of the Civil Aviation (Building Control) Regulations.</p> <p>An approval for the erection of the development to a maximum height of 43 metres AHD was received on 6 March 2020.</p>
7.20 Development requiring preparation of a development control plan	Yes	<p>As the height of the subject development is over 25m, the provision of Clause 7.20 of Sydney LEP 2012 requires the preparation of a site specific DCP.</p> <p>However, in accordance with section 4.23(3) of the Environmental Planning and Assessment Act, the lodgement of a concept DA can be considered as an alternative to a site specific DCP.</p> <p>For clause 7.20(4), see discussion under design excellence in the issues section below.</p>

Development Control	Compliance	Comment
7.23 Large retail development near Green Square Town Centre	Yes	<p>The subject site is located on land identified as restricted retail development on the Retail Premises Map. As such, development consent cannot be granted for the purposes of shops or markets with a gross floor area greater than 1,000m².</p> <p>The detailed DA will need to ensure that it complies with this requirement.</p>

Sydney Development Control Plan 2012

48. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – East Alexandria

The subject site is in the East Alexandria locality. It is located within the Green Square urban renewal areas and the southern employment lands.

The proposed development is consistent with the locality statement. That is, the development will see the site transition from a traditional industrial land use to a higher density commercial land uses. It will support the function of the Green Square town centre as the strategic centre for the southern part of the City.

The development also provides for new roads making the street block more permeable and enabling for future access to be provided between Bourke Road and Mandible Street. Land is also being embellished and dedicated on Mandible Street to create a wider footpath. Land is also being embellished and dedicated along the rear of the site to facilitate the creation of the liveable green network along Shea's creek, which will provide new bike and pedestrian links in the area.

3. General Provisions	Compliance	Comment
3.1.1.2 Streets	Yes	A new 10m wide street is proposed to be delivered as part of the subject development. This new street is being delivered via a voluntary planning agreement. The detailed design of the street will be a matter for the detailed DA and the construction certificate. The concept road levels and road design have been provided as part of this DA. They demonstrate how the new street can integrate into the future bridge over Shea's Creek and how the street can operate now and, in the future, once the second half of the street (connecting to Bourke Road) is delivered.
3.1.1.4 Footpaths	Yes	A 0.5m wide land dedication to enable footpath widening is being provided along Mandible Street. This is also being delivered via a voluntary planning agreement.
3.1.2.2 Bike network	Yes	A 6m wide land dedication to enable the delivery of the liveable green network is being provided at the rear. This 6m parcel of land will sit between the building and Shea's Creek and will facilitate the delivery of the 'Liveable Green Network.' The Liveable green network will operate as a linear park that connects Green Square and Alexandra Canal. It will provide opportunities for walking, cycling and passive recreation. It is part of the City's pedestrian and cycling network.
3.1.5 Public Art	Able to comply	A preliminary public art strategy has been provided. This can be further resolved as part of the detailed DA.

3. General Provisions	Compliance	Comment
3.2.2 Addressing the street and public domain	Yes	The proposal will enhance the public domain by ensuring adequate setbacks between the building and public spaces. The proposal includes an additional 2.5m setback to Mandible Street to match the adjoining building at 12-20 Mandible Street. The proposal also includes a 3.7metre setback (1m to shading devices) along the length of the new road. These setbacks will enable additional landscaping and an improved public domain experience. The building also allows activation
3.3 Design Excellence and Competitive Design Processes	Yes	Prior to lodgement of the detailed DA, a competitive design process is required. A design excellence strategy, in accordance with section 3.3.8 of the Sydney DCP, is recommended to be approved as part of this concept consent. As part of this design excellence strategy, the applicant is seeking up to an additional 10% height or 3.5m). While this does not provide space for an additional floor, it does provide flexibility for greater floor to floor heights and a green roof or solar panels. This design excellence strategy includes several ESD targets which must be achieved as part of the detailed DA. These are discussed further under section 3.6 of the Sydney DCP 2012.
3.4 Hierarchy of Centres, City South	Yes	This is addressed in Clause 7.23 of Sydney LEP 2012 above and will be the subject of the detailed DA.
3.5 Urban Ecology	Able to comply	No tree removal is approved as part of the concept DA.

3. General Provisions	Compliance	Comment
		<p>The development, including the new north/south road will necessitate the removal of three (3) trees. While the survey plan only shows a casuarina tree in the north west corner, the other two trees are shown in the photos. These appear to be a bottle brush which has a lean and either a short jacaranda or acacia. The removal of these trees is not ideal, however, is required to facilitate the development.</p> <p>The land dedications, setbacks on the site and the landscaping space on podium allows for substantial replacement tree planting. This replacement planting will significantly offset the loss of these trees.</p> <p>The detailed DA will be required to provide sufficient tree planting to achieve a minimum 15% canopy cover across the site in 10 years. This is addressed by condition.</p>
3.6 Ecologically Sustainable Development	Able to comply	<p>The proposal is accompanied by a Sustainability Report, prepared by Northrob and dated 31 May 2019. This report demonstrates how the development will meet the requirements under clause 3.6 of the Sydney DCP and;</p> <ul style="list-style-type: none"> • Section J of the BCA; • 5 Star Green Star design and as built in accordance with the Green Building Council of Australia; • Property Council of Australia Office Quality criteria for a Grade A Office New building; and • NABERS 5.5-star base rating.

3. General Provisions	Compliance	Comment
		<p>This report details several requirements to achieve the above list, including but not limited to:</p> <ul style="list-style-type: none"> • external vertical shading to east and west facades; • external horizontal shading to north façade; • provision of operable windows to outside air; • high performance building envelope (including efficient glazing and installation); • internal blinds to each facade; and • increased landscaping including green roof provisions to level 1 office space. <p>The requirements in this report have also been included in the design excellence strategy which is recommended for approval.</p>
3.7 Water and Flood Management	Able to comply	See discussion under Clause 7.15 of Sydney LEP 2012. As part of the detailed DA, clauses 3.7.2 and 3.7.3 of the Sydney DCP 2012 will need to be addressed.
3.11 Transport and Parking	Able to comply	As the gross floor area (GFA) is not approved as part of the concept consent, the exact numbers of car parking and bike parking cannot be determined. Notwithstanding this, a traffic report and indicative plans were submitted as part of this concept application.

3. General Provisions	Compliance	Comment
		<p>This report and plans demonstrate how a medium rigid vehicle (MRV) can enter and exit the site in a forward direction. Presently, the indicative plans show 11 car parking spaces, 2 accessible spaces, 5 service vehicle spaces and 5 motorbike spaces. This is well below the permitted maximum of 78 car parking spaces permitted on the site (subject to the limitations on above ground car parking).</p> <p>The plans also show that 88 bike parking spaces, 88 lockers, 9 showers and change rooms and 37 visitor parking space, can be accommodated within the proposed building. This is generally consistent with the amount of bike parking and end of trip facilities required for these land uses. The exact number will be determined by the final breakdown of GFA and land uses in the detailed DA.</p>
3.13 Social and Environmental Responsibilities	Able to comply	<p>The indicative plans provide adequate passive surveillance, including by providing windows on all elevations and no concealed corners or areas. This will be subject to further assessment as part of the detailed DA.</p>
3.14 Waste	Subject to detailed DA	<p>A detailed waste management plan is also required to be submitted as part of the detailed DA.</p>

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.1 Building height 5.8.2.3 Building height	Assessed as acceptable	The Sydney DCP 2012 prescribes a 7-storey height control for the site. The subject proposal seeks 9 storeys. In this instance, the 9 storeys are considered acceptable as it sits within the 35-metre height control, the building meets the minimum floor to floor height, and there is sufficient space for roof top parapet. This is discussed further in the issues section below.
4.2.2 Building setbacks 5.2.10 Setbacks 5.8.2.2 Building setbacks	Yes	The ground floor and upper level setbacks proposed are considered acceptable, and consistent with the provisions of the Sydney DCP 2012.
4.2.3.1 Solar access	Yes	The proposed development, including with the additional 10% height that may be available, does not unreasonably overshadow any residential development.
4.2.3.7 Deep soil 4.2.3.5 Landscaping 5.8.2.5.1 Landscaping	Assessed as acceptable	<p>The proposed development can provide approximately 9% of the residual site as deep soil. This is less than the 10% that the Sydney DCP 2012 requires. While this is a technical non-compliance, it is considered on balance that 9% deep soil for this site is acceptable.</p> <p>The 9% figure does not include the approximately 225m² of land to be dedicated at the rear of the site which will also be able to accommodate deep soil planting.</p> <p>The figure also does not include the large landscaped area on the podium adjacent to the east boundary which is proposed as part of the development. This landscaped area will provide space for increased soft landscaping and canopy coverage on the site.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed-use developments		
4.2.3.11 Acoustic privacy 5.8.6.3 Noise management	Able to comply	The site is located opposite a concrete batching plant. A condition is recommended requiring an acoustic report to be developed and its recommendations implemented within the detailed design of the building to ensure that the development mitigates any possible noise impact arising from the surrounding land uses.
4.2.4 Fine grain, architectural diversity and articulation	Assessed as acceptable	While the building fronting the new north south street is greater than 45m long, the reference scheme demonstrates that there is sufficient space within the envelope to create a highly articulated, modulated and interesting building facade.
4.2.5 Types of development	Yes	The indicative scheme includes a vertically proportioned, slender form. The form is setback from the boundaries to allow for natural ventilation and a narrow floor plate. The competition and detailed development application will allow for the design of the building to be further detailed and refined.

5. Specific Areas	Compliance	Comment
Green Square and Southern Employment lands		
5.2.3 Community infrastructure	Yes	<p>The proposal relies on the additional 1.5:1 community infrastructure floor space. A public benefit offer was submitted to access this floor space.</p> <p>This offer will contribute to the delivery of community infrastructure for Green Square through the dedication and embellishment of land for footpath, a new road and the liveable green network.</p>

5. Specific Areas Green Square and Southern Employment lands	Compliance	Comment
<p>5.2.4.1 Street Network</p> <p>5.8.3.2 Proposed streets and through site links</p>	Yes	<p>As per figure 5.35 of the Sydney DCP 2012, the new north south street off Mandible Street is being proposed and delivered via VPA as part of this development. In accordance with the Sydney DCP 2012, this is a 10m wide local street. It will initially operate as a two-way street to service the subject development, however once the remainder of the street is provided and connected to Bourke Road, it will likely become a one-way street, as per figure 5.186 of the Sydney DCP 2012.</p>
<p>5.2.5 Pedestrian and bike networks</p> <p>5.2.6 Public open space</p> <p>5.8.3.1 Public open space</p> <p>5.8.3.3 Liveable green network</p>	Yes	<p>As per figure 5.192 of Sydney DCP 2012, 6 metres of land is being dedicated at the rear of the site for the liveable green network.</p> <p>As per the Public domain setbacks map, 0.5m for footpath widening is being dedicated along Mandible Street.</p>
<p>5.2.12 Above ground parking spaces and adaptable car parking spaces</p>	Capable of complying	<p>A small amount of above ground parking is proposed as part of this development. While the number of car spaces are not locked in, the reference design shows that the space allocated for parking accommodates 11 cars (in a car stacker), 2 accessible spaces and 5 service spaces. These areas have sufficient floor to floor heights to enable them to be converted to other uses. The car park is also proposed to be screened from the street.</p>

Issues

Design excellence

49. The development can deliver design excellence, as required by clause 6.21 of Sydney Local Environmental Plan 2012.
50. As the development is over 25 metres in height, it is required to undertake a competitive design process. The applicant, in the submitted design excellence strategy, has elected to pursue up to an additional 10% height for the development.
51. As part of this additional 10% height, it is the expectation that this additional height will not result in an additional storey or floor space beyond that which is permitted by the Sydney LEP 2012. This is because to accommodate another storey, a minimum of 3.6metres would be required, as opposed to the maximum 3.5metres available through the design excellence process. This is recommended to be included as a condition on the consent.
52. The additional 10% height is to allow for:
 - (a) flexibility with the ground floor level should any of the ground floor requirements change as part of the detailed design of the road;
 - (b) flexibility to explore greater floor to ceiling heights; and
 - (c) space to accommodate green roofs, photovoltaic panels and architectural embellishments.
53. The development was presented to the City's Design Advisory Panel (DAP) on 12 September 2019. The panel were supportive of the proposal and made the following comments:
 - (a) The Panel noted that the proponent is obliged to proceed with a design excellence competition under the Sydney LEP 2012.
 - (b) The Panel did not support on-street vehicle loading area/service vehicle bay. It recommended that provision of loading area/ service vehicle bay be located within the site.
 - (c) The Panel recommended that green roof/solar panel provisions be a project requirement, integrated into the competition brief.
 - (d) Noting the changing nature of Mandible Street and recent construction of the Dangrove development by Tzannes Associates, the Panel commended the scheme's contextual response of continuing Dangrove's street wall datum into the reference design.
54. In relation to the on-street loading, the plans have been updated to show how an MRV can enter and exit the site in a forward direction and load onsite. This is also included as a condition on the consent.
55. The requirement for a green roof and/or solar panels are also included as conditions on the consent to be incorporated into the competition brief.

56. Overall, the development is considered capable of delivering design excellence, as required by clause 6.21(4) of Sydney LEP 2012. The reasons for this are as follows:
- (a) The proposed bulk, massing and modulation of the buildings appropriately responds to the surrounding context.
 - (b) The development will deliver a high level of environmentally sustainable development, including by using natural ventilation, passive shading and landscaping.
 - (c) The development provides all the necessary and identified public benefit improvements, and by doing so improves the permeability of the pedestrian and cycling network.
 - (d) Additional setbacks have been provided at the which improve the interface at ground level and the public domain, as well as the buildings relationship to its emerging surrounding context.

Height in storeys

57. The Sydney DCP 2012 provides a 7-storey height in storeys control for the site. The development seeks consent for 9 storeys. This variation to the Sydney DCP 2012 is supported for the following reasons:
- (a) The development includes a maximum 35 metre height limit for the site. The development is also eligible for up to an additional 3.5m (or 10%) height on the building. As such, there is plenty of scope within the envelope to accommodate 9 storeys with adequate floor to floor heights.
 - (b) Within the development, the ground floor has a proposed floor to floor height of 4.5m. This is consistent with the clause 4.2.1.2 of Sydney DCP 2012 for ground floor commercial uses and will allow for a variety of uses.
 - (c) Levels 1 to 8 have a floor to floor height of 3.6m, which is consistent with the requirements for any commercial floor as per clause 4.2.1.2 of Sydney DCP 2012.
 - (d) The envelope plan also provides a 1.47m space for parapet, roof top plant and equipment. This is in addition to the area within level 8 of the envelope dedicated to plant and servicing. A condition is also recommended to be included to ensure that "all plant and services are to be concealed by a parapet and contained within the maximum permissible height allowable by clause 4.3 and 6.21 of the Sydney Local Environmental Plan."
 - (e) The development has setback further than the Sydney DCP 2012 requires from Mandible Street. The setbacks and massing have responded appropriately to the Dangrove development at 12-20 Mandible Street. This results in an improved public domain outcome and DAP also commended this aspect of the proposal.
 - (f) The development provides a 1 metre setback clear to the sky from the new north south street. An additional 2.7 metre setback is provided on the ground floor, and only passive shading and building articulation is permitted within this 2.7m zone on levels 1 to 8. This will enable the building to be appropriately articulated to respond to the surrounding context, allow the building to be passively shaded and allow for deep soil planting.

- (g) Given that 27% of the site area is being dedicated to Council, the development cannot accommodate the maximum permitted floor space in the slender form building that is proposed if 9 storeys are not permitted.
- (h) The floor plates at the upper levels are highly efficient and allow for natural ventilation. The provision of any upper level setbacks to achieve a 7-storey street wall height will severely impact on the massing currently proposed and result in bulky building at the lower levels. This is not considered to be a better urban design outcome.

Other Impacts of the Development

- 58. It is considered that the concept DA will not have detrimental environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

- 59. The proposal is of a nature consistent with the permitted land use of the B7 zone and the desired future character of the surrounding locality.

Internal Referrals

- 60. The conditions of other sections of Council have been included in the proposed conditions.
- 61. The application was discussed with the Urban Design Specialists; Environmental Health; Public Domain; and Transport and Access who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

Notification and Advertising of Planning Agreement

- 62. In accordance with clause 7.5(1) of the Environmental Planning and Assessment Act 1979, the VPA was publicly exhibited for 28 days from 2 June 2020 to 30 June 2020. One submission from the same landowner who objected to the DA notification (discussed below) was received.
- 63. This submission raises concerns about road safety issues arising from the new road.
- 64. This issue was discussed with the City's Road Safety Officer who advised that:
 - (a) Mandible Street is a public road of mixed use in a predominantly light industrial area of Alexandria.
 - (b) The operators of the site at 25 Mandible Street do use heavy vehicles which raise general concerns about traffic movements particularly interactions with pedestrians and cyclists.
 - (c) However, while the consequences of a crash at this location has the potential to be severe, the probability of one occurring are unlikely. The risk rating of the location would fall within the moderate risk level.

- (d) The moderate risk level is based on probability vs consequence of a crash. The moderate risk rating is supported by the crash data indicating the location has recorded zero crashes in the last 10 years combined with low traffic volumes.
 - (e) The current road layout including the multiple driveways, footpaths and cycleways creates greater awareness of road safety as road users operate in a mixed environment with suitable road user separation. A separate bi-directional cycleway and adequate footpaths on both sides of Mandible Street provide suitable protection for vulnerable road users, such as pedestrians and cyclists.
 - (f) The operator of 25 Mandible Street will continue to need to manage the entry and exit for 25 Mandible Street to ensure safety of all road users interacting with the site.
65. In addition to this, it is noted that the existing development is currently an office, warehouse, and includes a large at grade carpark. Although the number of car parking spaces is not yet approved as part of this DA, indicatively only 18 car spaces are shown for the redevelopment.

Notification and Advertising of Development Application

- 66. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development was notified and advertised for a period of 28 days between 28 June 2019 and 29 July 2019. One (1) submission was received from this notification.
- 67. This submission raised the following concerns about the potential unsafe interactions between heavy vehicles (such as concrete trucks) and light vehicles movements. A response to this issue is included above under the VPA notification.
- 68. The submitter also raised an issue about the incompatibility with surrounding land use. The submitter said that industry (concrete batching plant) needs to operate freely but may be disruptive to more sensitive surrounding land uses. This issue was raised as an objection by the submitter to the planning proposal to rezone lands from IN1 to B7 Business Park.
- 69. In response, it is noted that the proposed land uses are permissible with consent in the B7 Business Park. The development will need to ensure it is designed to mitigate any external noise sources or elements that may impact on the amenity of the development. The impact of noise from the concrete batching plant will need to be considered as part of an acoustic report and the design will need to respond to this issue. This is addressed by condition of consent.

Public Interest

- 70. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Contributions

- 71. Section 7.11 contributions and affordable housing contributions will be applicable as part of the detailed DA.

Relevant Legislation

72. Environmental Planning and Assessment Act 1979.
73. Water Management Act 2000.
74. Sydney Water Act 1994 No 88.
75. Commonwealth Airports Act 1996.

Conclusion

76. The DA seeks approval for a concept application (stage 1) for one (1) concept envelope with a maximum height of 35 metres which has been tested to accommodate up to a total approximate gross floor area (GFA) of 13,062m² or a floor space ratio of 3.5:1.
77. The DA also seeks approval of the design excellence strategy which requires the applicant to undertake a competitive design competition and explore up to an additional 10% height on the development.
78. The DA was also accompanied by a public benefit offer with a total value of \$1,156,550 which includes the dedication and embellishment of land for footpath widening, the liveable green network and new road off Mandible Street.
79. This DA is recommended to be approved subject to a deferred commencement condition to require the VPA to be executed and registered on title prior to the consent becoming operative.
80. Subject the implementation of conditions, as detailed in the report and Attachment A, it is considered that the proposal is generally compliant with the relevant planning controls for the site. In the instance where a non-compliance is proposed, for example height in storeys, it is considered, in this instance, the non-compliance can be supported.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Erin Faulkner, Senior Planner