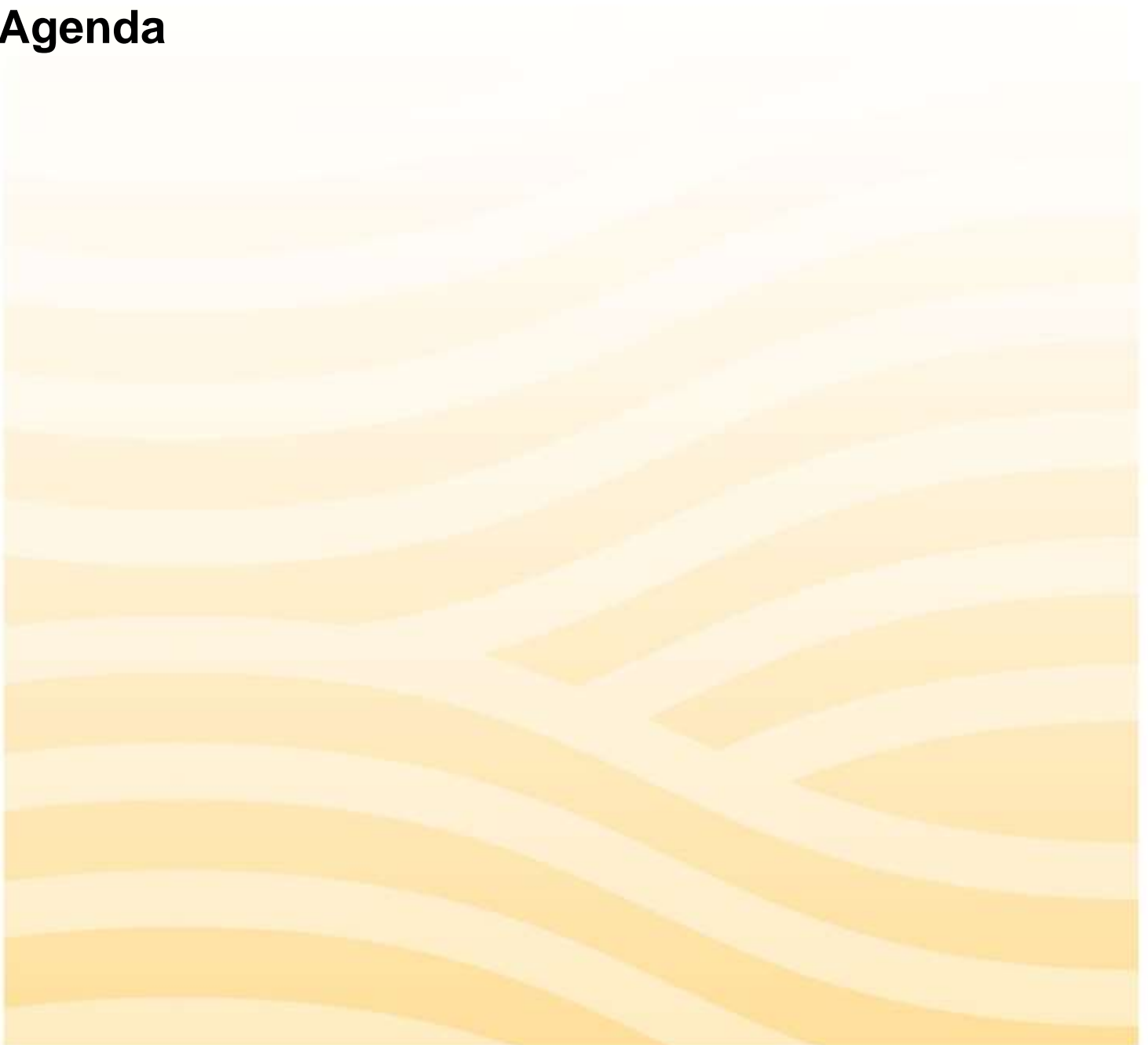




Application Assessment Panel

Tuesday 13 February 2024
3.00pm

Agenda



Compliance with social distancing requirements to limit the spread of COVID-19 virus at Application Assessment Panel (AAP) Meetings:

Woollahra Council will be holding Application Assessment Panel (AAP) meetings using conferencing technology.

The Chair of the Panel, members of the Panel and staff will be participating in meetings in person and members of the public are able to participate in the meeting by audio-visual link instead of attending in person.

Members of the public are invited to listen to meetings using conferencing technology or address the AAP meeting by conferencing technology. Public participation will be managed in accordance with meeting procedures.

- **To watch the meeting live listen to the meeting live at 3.00pm**
Visit Council's website at 3.00pm and watch live via the following link:
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap/aap_agendas_and_minutes
- **To request to address the Committee (pre-register by 12noon on the day of the meeting)**
Pre-register to listen to the meeting live or request to address the Panel by 12noon on the day of the meeting by emailing your name, mobile number and the item you are interested in, to records@woollahra.nsw.gov.au or by contacting the Governance team on (02) 9391 7001.
- **To submit late correspondence (submit by 12noon on the day of the meeting)**
Members of the public may submit late correspondence on an agenda item being considered at a Panel Meeting. If you wish to make a written submission on an Item on the Agenda, please email your submission to records@woollahra.nsw.gov.au by 12noon on the day of the meeting.

Once registered you will be forwarded information on how to join the meeting via email.

If you are experiencing any issues in joining the meeting please contact Council's Governance Team on (02) 9391 7001.

Outline of Meeting Protocol & Procedure (COVID-19):

- The Chairperson will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Panel.
- If person(s) wish to address the Panel, they are allowed three (3) minutes in which to do so.
Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated three (3) minutes, the speaker takes no further part in the debate unless specifically called to do so by the Chair.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Panel will debate the matter (if necessary), and arrive at a resolution.

Disclaimer:

By speaking at the Application Assessment Panel (AAP) Meeting members of the public consent to their voice and personal information (including name and address) being recorded and publicly available on Council's website. Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

Woollahra Council does not accept any liability for statements, comments or actions taken by individuals during a Council meeting. Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

For further information please visit www.woollahra.nsw.gov.au

Application Assessment Panel Membership: 1 Chair and 2 Panel Members

Quorum: 3 Panel members

Woollahra Municipal Council

Notice of Meeting

5 February 2024

To: Scott Pedder (Director Planning & Place) (Chair)
Rosemary Bullmore (Manager Legal, Compliance & Enforcement)
Tom O'Hanlon (Director Infrastructure & Sustainability)
Craig Swift-McNair (General Manager)
Anne White (Manager Strategic Planning & Place)

CC: The Mayor
All Councillors

Application Assessment Panel – 13 February 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Application Assessment Panel** meeting to be held in the **Thornton Room (Committee Room)**, 536 New South Head Road, Double Bay, on **Tuesday 13 February 2024 at 3.00pm**.

Members of the public are advised that we will be holding Application Assessment Panel meetings remotely using conferencing technology (until further notice).

- Register to address the meeting (via Zoom) by completing the relevant form available on Council's website:
https://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0012/279957/Registration-Form-to-Address-Planning-Panels-2023-2024.pdf and email the completed form to records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.
- Submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au **by 12 noon day before the meeting**.

Information on how to listen and/or address the Panel will be available on Council's website https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/aap.

If you have any difficulties accessing the meeting please contact (02) 9391 7001.

Regards,

Craig Swift-McNair
General Manager

Application Assessment Panel

Agenda

Item	Subject	Page
1.	Opening	
2.	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3.	Leave of Absence and Apologies	
4.	Declarations of Interest	
Items to be Decided by this Committee using its Delegated Authority		
D1	Confirmation of Minutes of Meeting held on 6 February 2024 - 24/19716	7
D2	DA242/2023/1 - 24 Bay Street Double Bay - 24/19303 *See Recommendation Page 35	9
D3	DA337/2023/1 - 24 Bay Street Double Bay - 24/19350 *See Recommendation Page 199	173

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 6 FEBRUARY 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/19716
Purpose of the Report: The Minutes of the Application Assessment Panel of 6 February 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Minutes of the Application Assessment Panel Meeting of 6 February 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Application Assessment Panel Meeting of 6 February 2024 for confirmation by the Application Assessment Panel.

Options:

Submission of minutes to the Application Assessment Panel is a procedural matter for the adoption of the minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.

Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The minutes are presented for confirmation by the Application Assessment Panel.

Attachments

Nil

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA242/2023/1 (PAN-348885)
ADDRESS	24 Bay Street (AKA 2A Cooper Street) DOUBLE BAY ('Gaden House')
SITE AREA	386m ² (Lot 11 & 12 in DP 4606)
ZONING	E1 Local Centre
PROPOSAL	Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2)
TYPE OF CONSENT	Local development
COST OF WORKS	\$4,975,000.00
DATE LODGED	07/07/2023
APPLICANT	Fire & Embers Pty Ltd
OWNER	Brooklyn Investments Pty Limited
AUTHOR	Mr W Perdigao
TEAM LEADER	Mr T Wong
SUBMISSIONS	Nil
RECOMMENDATION	Approval

1. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties have been addressed in the report, or are considered to be satisfactory, subject to the on-going operational conditions specified in Part "I" of the recommendation;
- The site is suitable for the proposed development; and
- The proposal is in the public interest

2. LOCALITY PLAN



3. LEVEL OF DELEGATION

The application is to be determined by the Application Assessment Panel as the application is for a new licensed restaurant.

4. PROPOSAL

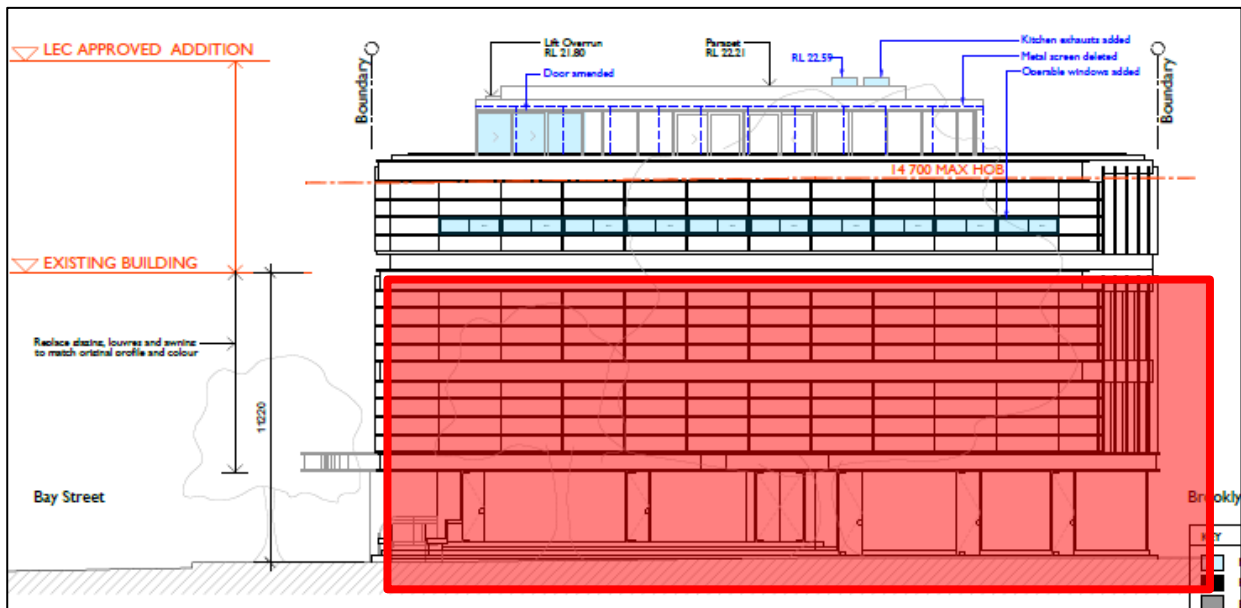
4.1. Description of Proposal

Development Application DA 242/2023/1 ("DA") seeks consent for the change of use at the Ground Floor, Level 1 and Level 2 of the existing Gaden House [AKA 2A Cooper Street, Double Bay, legally described as Lot 11 & 12 in DP 4606 ("the Site")] which is currently undergoing substantial building works approved under DA2021/68. The proposal is to operate these floors as a licensed restaurant and to carry out the associated internal fit-out works ("the Proposal").

4.2. Detailed Description

Specifically, the proposal involves the following components:

- Change of use to the ground, level 1 and 2 of the approved mixed use commercial building (under DA2021/68). The proposed change of use includes the conversion of the approved Ground Floor level 'retail' tenancies and Level 1 and Level 2 'office' tenancies into a single restaurant tenancy occupying three levels.
- Internal fit-out works associated with the proposed restaurant tenancy.
- No external changes are proposed.
- No signage is proposed.



Change of use and internal fit-out works are to the Ground Floor, Level 1 and 2 of the approved building under construction (area highlighted in red) (Source: Lawton Hurley Architects/Approved North Elevation in DA2021/68/8)

Refer to **Attachment 1** for the proposed 'fit-out plans' prepared by ACME (Rev "F", dated 22.08.2023) for details of the proposed internal fit-out works.

Refer to **Attachment 2** for the stamped approved architectural plans under DA2021/68/9 for details of the mixed-use commercial building currently under construction.

Proposed Plan of Management and Operational Details (Licensed Restaurant)

The DA seeks consent for the use as a licensed restaurant to be known as "Song Bird" located at Ground Floor, Level 1 and 2 of the approved mixed-use commercial building (currently under construction).

The DA more specifically seeks the following:

- Hours of Operation: The proposal seeks the following hours of operation for the *restaurant* (across all levels):
 - Monday to Sunday: 8am to 12am (midnight)
- Patron numbers: The proposal seeks a patron seating capacity for the restaurant of (248) patrons (all indoor), distributed across each level as follows:
 - Ground Floor: 32 patrons
 - Level 1: 102 patrons
 - Level 2: 114 patrons
- Staff numbers: The proposal seeks a total number of rostered staff at any given time for the entire premises being a maximum of (40) staff.
- Liquor License: A separate consent is intended to be sought for a liquor license for the restaurant use (on-premises license) to be obtained through Liquor and Gaming NSW.

4.2.1. Amended Plans and Additional Information

On 24 August, 22 November, 4 December and 19 December 2023, amended plans and additional documentation was provided to address issues identified by Council's Heritage Officer, Traffic Engineer and Environmental Health Officer (further detailed in Section 7 below).

Specifically, the above did not effect of amending the DA, as originally submitted but rather provided clarification and additional detail to allow for an informed assessment including:

1. Updated fit-out plans prepared by ACME including architectural plans prepared by Fotis detailing works proposed versus works under assessment;
2. Heritage Commentary letters prepared by Urbis and flooring detail package;
3. Updated Noise Impact Assessment;
4. Updated Traffic & Parking Statement;
5. Updated Plan of Management (POM).

Note: Refer to the submitted Amended Plan of Management (POM) dated December 2023 for 'Restaurant – Song Bird' at 24 Bay Street Double Bay – Refer to **Attachment 3**.

Note: The revised fit-out plan set (DA Rev "F") prepared by ACME are the final version of plans to be approved and are referenced in **Condition A.3** and form the basis of the planning assessment contained within this report.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

Issue	Conclusion	Section
New Licensed Premises	<p>Acceptable, subject to the recommended on-going acoustic measures and operational restrictions (recommended Conditions I.1-I.21) which provide for a balance between the use of the premises and the existing and future residential and non-residential uses within the Double Bay Centre of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents. In particular, reviewable conditions (Conditions I.2 and I.3) have been recommended, which allow Council to review the extended hours of operation (10pm to 12midnight) of the licensed premises.</p> <p>The proposal is considered to be acceptable with the relevant controls and achieves the underlying objectives of the <i>Chapter F3: Licensed Premises</i> of the WDCP 2015</p>	12.9

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>The subject site is located at 24 Bay Street Double Bay (also known as 2A Cooper Street, Double Bay) and encompasses two lots, legally known as Lots 11 & 12 in Deposited Plan 4606.</p> <p>The subject site is roughly rectangular in shape and comprises a primary street front boundary to Cooper Street (north) of 30.46m, a rear street boundary to Brooklyn Lane (west) of 12.265m, and a secondary street front boundary to Bay Street (east) of 13.135m and a southern (side) boundary of 30.45m.</p> <p>The subject site has a total area of 386m².</p>

Topography
The site is generally flat, apart from the excavated to accommodate a basement level with a minor cross fall of approximately 0.44m from the southwest corner to the northeast corner.
Existing Buildings and Structures
<p>The subject site was occupied by a three-storey commercial building with basement level known as “Gaden House”. It is currently undergoing alterations and additions to accommodate a five-storey mixed-sue commercial building under DA2021/68 (refer to photomontage below).</p> <p>The subject site and building thereon was designed by a notable Sydney Architect Neville Gruzman. The building and interiors on the subject site are listed as a local heritage item (No 681) in Schedule 5 of the Woollahra Local Environmental Plan 2014.</p>
Environment
<p>The subject site forms part of the Bay Street South Precinct (i.e. from Short Street South towards New South Head Road). The subject site is bounded by road reserves on three of its four boundaries that is Bay Street to the east, Cooper Street to the north and Brooklyn Lane to the west.</p> <p>The existing surrounding context includes a range of two-four storey developments including a number of character buildings as identified in Section D5.6.3.8 of the WDCP 2015. Development that immediately surrounds the subject site comprises a mixture of uses such as commercial, retail, hotel, office, residential and licensed food and drink premises, and includes:</p> <ul style="list-style-type: none">• To the north, across Cooper Street a two-storey building known as the Royal Oak Hotel;• To the east, across Bay Street is a group of three two-storey terrace style commercial buildings at No’s 29-33 Bay Street identified as Character Buildings;• To the north-east, is a six storey shop-top housing development, known as the Cosmopolitan Building;• To the south, directly adjacent to the subject site is a four-storey shop-top housing contemporary building at 18 Bay Street. This building has a three-storey street wall height with a recessive fourth-storey with a further recessed upper fifth level for providing access to roof-terraces;• Further to the south, is a mix of older and contemporary style two-four storey commercial buildings with primary orientation towards Bay Street;• To the west, directly across Brooklyn Lane is the R2 and R3 Low and Medium Density Residential zones which includes a mix of older and contemporary buildings of residential uses, typically ranging from one-three storeys.



Photomontage of the approved five-storey mixed-use commercial building currently under construction (DA2021/68)

7. RELEVANT PROPERTY HISTORY

Current use

Mixed-use commercial building currently under construction under DA 68/2021.

Relevant Application History

Applications currently under assessment (yet to be determined at time of writing subject report)

• DA 337/2023/1 – A DA for “Internal fit out of food and drink premises on lower ground floor for a licensed bar” lodged on 15/9/2023 is currently under assessment.

• DA 455/2023/1 – A DA for “Fit-out works for the office tenancies at Levels 3 and 4 of the approved commercial building” lodged on 5/12/2023 is currently under assessment

• DA 68/2021/10 – A Section 4.56 Modification Application for “Minor external modifications to the previously proposed commercial building” lodged on 25/1/2024 is currently under assessment.

Previous Relevant Applications – (DA 68/2021 – ‘Base build DA’)

• DA68/2021/1 – A Development Application (DA) for “Alterations and additions to the existing commercial building including two additional levels above the existing building” was refused by the Woollahra Local Planning Panel (WLPP) on 15 July 2021. The DA was subsequently approved via a Court Hearing (*Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council*) on 3 February 2022. It was subject to **Condition A.5** stating:

A.5 Development Consent is Not Granted in Relation to First-Use/Use of tenancies.

This approval does not give consent to First-Use/Use of the Food & Beverage Tenancy (lower ground floor), Retail tenancies (ground floor) and Office tenancies (levels 1, 2, 3 & 4). A separate Development Consent or Complying Development Certificate, as appropriate, will need to be obtained prior to such development work and/or use commencing.

Refer to court approved North + West Elevation below:

The figure displays two architectural elevation drawings for a building at 24 Bay Street, Double Bay. The top drawing is the 'WEST ELEVATION' and the bottom drawing is the 'NORTH ELEVATION'. Both drawings show the building's facade with various materials and colors. Annotations include 'PROPOSED ADDITION', 'EXISTING BUILDING', and 'New external works to match existing profile and color'. A table at the bottom left lists the materials and their specifications:

ITEM	DESCRIPTION	DATE
1	BRICKWORK - WHITE	15/02/21
2	ALUMINIUM - WHITE	15/02/21
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100	ALUMINIUM - WHITE	15/02/21

North + West Approved Elevations (under DA2021/68/1)

- DA 68/2021/2 – A Section 4.56 Modification Application for “*Minor modification to wording of Condition C.3 (building upgrades)*”. It was approved under staff delegated authority on 2 September 2022.
- DA 68/2021/3 – A Section 4.56 Modification Application for “*Modifications to Part C of development consent relating to the heading of Part C and Conditions C.3, C.4, C.6, C.8, C.11 and C.17, C.18 and C.19*” to refer to ‘relevant’ rather than ‘any’ construction certificate to allow for Construction Certificate staging. It was approved under staff delegated authority on 28 July 2022. It was subject to retention of **Condition C.4** and the addition of **Condition A.9** relating to limiting staging of construction certificate works into three (3) distinct stages of work.
- DA 68/2021/4 – A Section 4.56 Modification Application for “*internal and external modifications to the approved development*”. It was approved under staff delegated authority on 24 January 2023. It included modification to the wording of **Condition C.16** (flood protection).
- DA 68/2021/5 – A Section 4.56 Modification Application for “*Internal modifications to the approved development including raising the ground floor level and relocation of the goods lift*”. It was approved under staff delegated authority on 5 May 2023.
- DA 68/2021/6 – Rejected.
- DA 68/2021/7 – A Section 4.56 Modification Application for “*Modifications to the approved lower ground floor level and associated access and service*”. It was approved under staff delegated authority on 16 October 2023.
- DA 68/2021/8 – A Section 4.56 Modification Application for “*Internal and external modifications to the approved development including new operable windows, new mechanical plant and kitchen exhaust*”. It was approved under staff delegated authority on 16 October 2023.
- DA 68/2021/9 – A Section 4.56 Modification Application for “*Internal modifications including changes to bathrooms, deletion of some internal walls, column changes, and amendments to lift door openings*”. It was approved under staff delegated authority on 16 October 2023.

Relevant Compliance History

Nil.

Pre-DA

Nil.

Requests for Additional Information

On 20 July 2023, a “Stop the clock” letter was sent to the applicant requesting amended plans/details to clearly indicate the works that are under consideration as part of the subject DA.

On 24 August 2023, Additional information was provided that addressed the above “Stop the clock” issues, including:

1. Updated fit-out plans prepared by ACME **Note: These are the plans to be approved and are referenced in **Condition A.3**.**
2. Heritage Commentary letter prepared by Urbis;
3. Architectural Plans prepared by Fotis detailing works proposed versus works under assessment.

On 16 November 2023, a Request for Further Information (RFI) letter was sent to the applicant requesting a response to the issues raised by Council’s Traffic Engineer relating to service/delivery vehicle details and heritage related concerns.

On 22 November 2023, Additional information was provided that addressed the above “RFI” issues, including:

- Traffic & Parking Statement Response prepared by TTPP (dated 20 November 2023); and
- Updated Plan of Management (POM), dated November 2023.

On 4 December 2023, Additional information was provided including a floor details package by ACME and heritage letter by Urbis.

<p>On 4 December 2023, a Request for Further Information (RFI) letter was sent to the applicant requesting a response to the issues raised by Council's Environmental Health Officer relating to concerns raised with the submitted Acoustic Report.</p> <p>On 19 December 2023, Additional information was provided that addressed the above "RFI" issues, including:</p> <ul style="list-style-type: none"> Updated Noise Impact Assessment prepared by Acoustic Logic (dated 18 December 2023); and Updated Plan of Management (POM), dated December 2023. <p>Note: These are the final version of documents to be approved and are referenced in Condition A.3.</p>
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineer	No formal referral required, subject to relevant conditions being imposed.	-
Drainage Engineer	No conditions required. Flood mitigation measures will be implemented as per the approved DA (Condition C.16 in DA68/2021).	-
Traffic Engineer	Acceptable, subject to relevant conditions being imposed.	4
Heritage Officer	Acceptable, no conditions required.	5
Environmental Health	Acceptable, subject to relevant conditions being imposed.	6
Fire Safety Officer	Acceptable, subject to relevant conditions being imposed.	7
NSW Police (Licensing)	Acceptable. No objection raised to the licensed restaurant premises subject to implementation of appropriate operational restrictions on the on-going use of the premises which are to be implemented via relevant conditions of consent and inclusion within the Plan of Management.	8

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 include the following:

- (a) *the provisions of:*
- (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
 - (v) *(Repealed)*

that apply to the land to which the development application relates,

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*

- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 26 July 2023 to 10 August 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No submissions were received.

9.2 Amended Plans and Documentation

The Amended Plans and Documentation noted in Section 4.2.1 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 10/08/2023 declaring that the site notice for DA242/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (“SEPP”)

10.1 SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) of the SEPP gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject site is not located within the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11).

The proposed change of use and associated fit-out works to an approved building will not have any adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of Chapter 2 – Coastal Management of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

Under Clause 4.6(1)(a) of Chapter 4 – Remediation of Land, consideration is required to be given as to whether the subject site on which the development is occurring is contaminated.

Clause 4.6(1) of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021. Provides:

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Clause 4.6(1) is in the form of a prohibition on the grant of consent.

The Detailed (Stage 2) Site Investigation prepared for the site under the base build DA (DA2021/68) concluded that the site was suitable for the proposed redevelopment of the commercial building and in the event of unexpected contaminants in the soil could be managed by relevant conditions of consent. The proposal does not alter these conclusions.

The proposed change of use and associated internal fit-out of the approved building is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

10.2 SEPP (Biodiversity and Conservation) 2021

Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the SEPP applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The land is within the Sydney Harbour Catchment but is outside the Foreshores and Waterways Area and therefore only the provisions in Part 6.2 of the SEPP applies.

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The proposed change of use and associated internal fit-out works to an approved building would not alter the stormwater and flood risk management of the site and therefore satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

10.3 SEPP (Industry and Employment) 2021

Chapter 3 – Advertising and Signage

The proposal does not involve any signage.

10.4 SEPP (Sustainable Buildings) 2022

Clause 4.2 Savings and transitional provisions

This policy does not apply a development application or an application for modification of a development consent submitted on the NSW planning portal but not finally determined before 1 October 2023.

The subject application was lodged prior to 1 October 2023 and the Sustainable Buildings SEPP is therefore not applicable.

10.5 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to residential development. It is not applicable as the proposed development work is for the purposes of a change of use and fit-out to a commercial building.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014 ('WLEP 2014')

11.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

11.2 Part 2.3: Zone Objectives and Land Use Table

The proposal is defined as a mixed-use "commercial premises" being a 'food and drink' (restaurant use). The proposed development is permissible with consent within the E1 Local Centre zone – Refer to *land-use permissibility* below.

Land-use permissibility

The relevant land-use definitions in the WLEP 2014 Dictionary are:

"commercial premises means any of the following—

- (a) *business premises*,
- (b) *office premises*,
- (c) **retail premises**.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—...

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a **restaurant** or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

...

Note—**Food and drink premises** are a type of retail premises—see the definition of that term in this Dictionary."

The E1 Local Centre land-use table provides nominate permissible and prohibited uses:

3 Permitted with consent

*Amusement centres; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; **Commercial premises**; Community facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Function centres; Home businesses; Home occupations; Home occupations (sex services); Hotel or motel accommodation; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Respite day care centres; Service stations; Serviced apartments; Sex services premises; Shop top housing; Tank-based aquaculture; Veterinary hospitals*

4 Prohibited

Any development not specified in item 2 or 3

Based on the above, the proposed use is permissible with consent within the E1 Local Centre zone.

Zone Objectives

The zone objectives for the E1 Local Centre are:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings*
- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area*
- *To ensure development is of a height and scale that achieves the desired future character of the local centre*
- *To encourage development that is compatible with the local centre's position in the centres hierarchy*
- *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces*
- *To maximise public transport patronage and encourage walking and cycling*
- *To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates*

The proposed change of use to a food and drink premises is consistent with the objectives of the E1 Local Centre zone as required in sub-clause 2.3(2) of the WLEP 2014.

11.3 Part 4: Principal Development Standards

Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 14.7m.

The proposal will not alter the overall building height of the approved building. The extent of the proposed internal fit-out works are located entirely below the maximum building height.



Long Section (Source: ACME & GSA Planning)

The proposal complies with the maximum building height prescribed by Part 4.3 of WLEP 2014.

Part 4.4: Floor Space Ratio

Clause 4.4A (Areas 1 and 1A) of the WLEP 2014 refers to the Floor Space Ratio Map, which provides a maximum FSR of 3:1 for the site given it is a corner site located in Area 1.

The approved works under the Base build DA for the subject site (DA 2021/68) resulted in a departure from the FSR standard, being an approved FSR of 3.67:1.

The proposed works are restricted to internal works at Ground Floor to Level 2 and will not result in any increase or change to the approved FSR. Therefore, the maximum FSR for the approved building will not be altered by this proposal. A Clause 4.6 Variation Request is therefore not required for this new DA.

11.4 Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The existing building that is a locally listed heritage item in the WLEP 2014 known as 'Gaden House including interiors', Item No. 681. The previously approved development (DA2021/68) included alterations and additions to the existing commercial building including two additional levels above the existing building.

Council's Heritage Officer has assessed the proposal and provided the following comments:

"The proposed fit-out to ground floor and Levels 1 and 2, including joinery, furniture, services, amenities, new flooring and ceiling treatments, is supported. The reinstatement of original coffered ceiling panels in conjunction with replica panels at Levels 1 and 2, and reinstatement of the domed skylight above original staircase would retain and reinterpret the original design intent by Neville Gruzman, and are supported.

The raising of floor along north boundary to match raised floor to its south would modify the exterior presentation by removing the distinction between the entry podium and this lower level currently accessible from Cooper St, and would result in additional loss of original structure.

The proposed materials and finishes would complement the extant original fabric and are supported.

CONCLUSION

Woollahra LEP 2014

Clause 1.2 (2) (f) - The development does conserve the built heritage of Woollahra, subject to a condition.

Part 5.10 Heritage Conservation

Clause 1(a) - The development does conserve the heritage of Woollahra, subject to a condition.

Clause 1(b) - The impact upon the heritage significance of the heritage item will be neutral, subject to a condition.

Clause 4 - This referral constitutes an assessment under this clause.

RECOMMENDATION

*The proposal generally respects the cultural significance of the site, and complies with the relevant statutory and policy documents. **The following condition is provided:***

- 1. The raising of floor along north boundary to match raised floor to its south would modify the original exterior presentation by removing the distinction between the entry podium and this lower level currently accessible from Cooper St, and would result in additional loss of original structure. This modification is to be deleted in order to comply with Woollahra LEP 2014 Clause C 1.2 (2) (f), Part 5.10."**

In response to the above, the applicant submitted additional details of the ground floor level kitchen floor interface and treatment and a supporting letter 'Response to Request for Additional Information' prepared by Urbis (dated 1 December 2023) requesting re-consideration of above-mentioned recommended condition.

The application was re-referred to Council's Heritage Officer for assessment and provides the following comments:

"I have reviewed the updated drawings by ACME dated 29/11/2023, and response letter from Urbis dated 01/12/2023.

The updated documents adequately respond to the condition provided in the heritage referral response dated 12/10/2023, in that the original concrete slab to the space would be retained, and new infill dressed in sympathetic materials to ameliorate adverse impacts.

The proposed works comply with Woollahra LEP 2014 Clause C 1.2 (2) (f), Part 5.10.

No heritage conditions are required."

Based on the above, the proposal is considered to be acceptable with regards to the relevant heads of consideration in Part 5.10 Heritage Conservation of the WLEP 2014.

11.5 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

- a) *to minimise the flood risk to life and property associated with the use of land,*
- b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- a) *is compatible with the flood function and behaviour on the land, and*
- b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

In deciding whether to grant development consent on land to which Part 5.21 applies, the consent authority must consider the following matters:

- a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- b) *the intended design and scale of buildings resulting from the development,*
- c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion*

The subject site is located in a 'Flood Planning Area', as identified on the Flood Planning Map.

The proposed change of use and internal fit-out works will maintain the floor levels as per the approved commercial building development (DA2021/68). The previous approval was considered to be acceptable, subject to DA condition requiring a Flood risk Management Plan that details flood risk mitigation measures. Flood mitigation measures will be implemented as per approved DA (DA 68/2021 in Condition C.16).

The proposal is acceptable with regard to with regards to the relevant heads of consideration in Part 5.21: Flood Planning of the WLEP 2014.

11.6 Part 6.1: Acid Sulfate Soils

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The site is located within land identified as Class 2 on the Acid Sulfate Soils Map. The proposed internal fit-out works do not involve earthworks and would not disturb, expose or drain acid sulfate soils. Furthermore, an Acid Sulfate Soils Management Plan ('ASSMP') was not deemed to be required as confirmed by the Preliminary Site Investigation (Stage 1) and Detailed (Stage 2) Site Investigation (Stage 2), prepared by JKE Environments submitted with the approved commercial building development (DA2021/68).

The proposal was considered to be acceptable with regards to the relevant heads of consideration in Part 6.1 Acid Sulfate Soils of the WLEP 2014.

11.7 Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed internal fit out works does not involve earthworks. The proposal is are considered to be is acceptable with regards to Part 6.2 Earthworks of the WLEP 2014.

12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

12.1 Chapter D5: Double Bay Centre

12.1.1. Section D5.1: Introduction

Part D5.1.3: Objectives

The objectives of this chapter are:

- O1 *To retain and enhance through block connections which allow pedestrians to move freely within the Double Bay Centre.*
- O2 *To develop the particular qualities of different parts of the Double Bay Centre.*
- O3 *To encourage a diverse mix of uses in the Double Bay Centre and maintain retail uses at ground level.*
- O4 *To conserve and enhance the visual and environmental amenity of all buildings and places of heritage significance in the Double Bay Centre.*
- O5 *To enhance the way development contributes to a sense of place.*
- O6 *To ensure a high standard of architectural and landscape design in any new developments within the Double Bay Centre.*
- O7 *To preserve and enhance the diversity of uses in the Double Bay Centre.*
- O8 *To ensure that new development is compatible with the existing built form, and streetscape and village character.*
- O9 *To encourage view sharing and individual privacy.*
- O10 *To ensure new development is designed to be compatible with the heritage significance of listed heritage items.*

The proposal achieves consistency with the *Part D5.1.3: Objectives* of the Double Bay Centre in the WDCP 2015, and in particular:

- enhances the diversity of uses in the Double Bay Centre (O8)

12.2. Section D5.3: Urban structure

Part D5.3.2: Key strategies for the Double Bay Centre

The proposal maintains active street frontages and provides a new food and drink (restaurant) use at ground floor to level 2 of an approved mixed use commercial building which would satisfy many of the key strategies. The proposal does not alter the approved external building envelope.

The proposal achieves consistency with regards to the Key strategies for the Double Bay Centre in Part D5.3.2 of the WDCP 2015.

12.3. Section D5.4: Street character

Part D5.4.1 Desired future character

Section D5.4: Street character describes the existing character and the desired future character of character precincts in the Double Bay Centre.

The site is located within the 'Bay Street (South)' area described below.

Part D5.4.4 Bay Street (south)

Existing Character

Part D5.4.4 prescribes the existing character of 'Bay Street (south)' as follows:

"Bay Street connects New South Head Road with the harbour. Its north-south orientation results in the street being sunny throughout the day. It is lined by modest buildings on narrow lots, with irregular setbacks at street level and street trees. Together the elements contribute to an intimate and relaxed atmosphere. There are a number of buildings that have been identified as character buildings in Section 5.6.3.8 Heritage items and character buildings. These include several Victorian terraces that have been modified for retail use."

Desired future character

Part D5.4.4 of the WDCP 2015 provides the following desired future character objectives:

- a) *Retain the existing modest, lot related building widths and retail frontages.*
- b) *Provide setback areas at ground level that can be used for outdoor eating or public circulation.*
- c) *Retain the character buildings along Bay Street.*
- d) *Maintain the avenue of trees.*

The proposal involves internal fit-out works to accommodate a new licensed restaurant, it will maintain the existing external envelope and streetscape presentation. The proposal will continue to provide a retail (food and drink) frontage to Bay and Cooper Streets and will retain the existing built form on the subject site. No changes to the avenue of trees along Bay Street are proposed.

The proposal is consistent with the desired future character objectives of the Bay Street (south) area.

12.4. Section D5.5: Built form envelopes: Control Drawing 5

Not applicable – The proposal does not involve any changes to the approved building envelope.

12.5. Section D5.6: Development Controls

The controls outlined in this part of the WDCP 2015 mainly relate to urban street character, built form, relationship to the public domain, site elements and external works.

The proposal involves internal fit-out works to accommodate a new licensed restaurant at Ground to Level 2, only, and does not involve any physical external works to the built form.

Notwithstanding, the proposal is assessed against the following relevant sections:

Part D5.6.2: Use

D5.6.2 Use	Proposed	Control	Complies
Use	Commercial (retail and food and drink)	Mix of Uses	Yes
Access to Residential Uses at Ground Floor	N/A – commercial / retail only	Max 20% of Frontage	Yes

- D5.6.2 – Controls C1, C2, C3 and Objectives O2, O3, O4, O8 & O9

- O2 *Encourage mixed use development to reduce transport and travel requirements.*
- O3 *Encourage the continuation of retail and commercial uses at street level in the centre.*
- O4 *Encourage first floor retail and commercial use.*

- C1 *Design for a mix of uses within buildings.*
- C2 *Design durable and adaptable buildings, spaces and places.*
- C3 *Design for retail, commercial and community uses at ground and first floor levels. Consider design solutions that promote retail, commercial use at first floor level such as galleried arcades.*

The proposal involves internal fit-out works to accommodate a new licensed restaurant within an approved mixed-use commercial development and generally complies with relevant use provisions in Part D5.6.2 of the WDCP 2015.

Licensed Premises (Restaurant)

- O8 *Encourage activities which do not have unacceptable noise or other environmental impacts.*
O9 *Ensure that buildings are designed and constructed to minimise noise and other impacts on building occupants and adjoining properties.*

The recommended on-going operational restrictions (recommended **Conditions '1.1-1.21'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre and of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents.

Subject to recommended on-going acoustic measures and operational restrictions, as detailed in **Part "I"** of the report recommendation, the proposal is considered to be satisfactory with regard to Objectives O8 and O9 in *Part D5.6.2: Use of the WDCP 2015* ensuring that the proposed use:

- Does not have unacceptable noise or other environmental impacts; and
- Minimises noise and other impacts on adjoining properties.

The proposal is therefore acceptable with regard to Part D5.6.2 of the WDCP 2015.

Part D5.6.4: Relationship to public domain

This Part of the DCP states that *"the success of commercial centres is dependent on street edge activity. Street activation requires a safe, cohesive and attractive public domain. This section establishes objectives and controls for the street frontage elements of built form such as awnings, colonnades, arcades, walkways, courtyards, public art, outdoor eating and address to laneways."*

Outdoor eating (D5.6.4.6)

There is no outdoor footpath seating proposed as part of the subject DA. The criteria prescribed in this part is not relevant to the proposed scope of work.

Part D5.6.5: Amenity

Acoustic privacy (D5.6.5.2)

- D5.6.5.2 – Control C4 and Objectives O1 and O2.
- O1 *Ensure adequate acoustic privacy to residential apartments and private open spaces in the centre.*
O2 *Protect the acoustic privacy of residential neighbours adjacent to the centre.*
C4 *Restaurants should be designed to minimise the impact of noise associated with late night operation on nearby residents.*

The recommended on-going operational restrictions (recommended **Conditions '1.1-1.21'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre and of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents.

Subject to recommended on-going acoustic measures and operational restrictions, as detailed in **Part "I"** of the report recommendation, the proposal is considered to be satisfactory with regard to Objectives O1 and O2 in *D5.6.5.2 Acoustic Privacy* of the WDCP 2015

The proposal satisfies the relevant criteria prescribed by this part.

12.6 Chapter E1: Parking and Access

Part E1.5: Non-residential parking

Parking for non-residential uses is calculated using the generation rates specified in E1.5.2 and applied by the multiplier rate in E1.5.3.

The proposed change of use results in the approved ground floor retail and level 1 + 2 commercial (office) uses be converted to a food and drink premises (restaurant) use.

It is worth noting that the proposal does not in an overall increase to the approved GFA of the Ground Floor, Level 1 and Level 2 areas. However, as per the parking rates as set out in the DCP, the change of use results in an increase to the parking provision requirement for the development.

Notwithstanding this, Clause E1.8.5 of the WDCP relates to business zoned land in Double Bay with regards to parking requirements for a change of use, this clause states:

“Change of use: restaurants or cafes

Council will not require additional off-street parking for proposals within an existing building and its site (such as an external courtyard) involving a change of use from a shop or commercial premises to a restaurant or café.”

Council’s Traffic Engineer provides the following comments on Parking Provision:

“...It is evident from Table 1 that the proposal would significantly increase the size of the restaurant and substantially increase parking demand. Non-provision of on-site parking will result in a shortfall of 50 car parking spaces than DCP’s minimum requirement.

It is however noted that DCP states that no additional parking is required for change of use from a shop or commercial premises to a restaurant or café in Double Bay Centre which applies to the proposed change of use. It is also acknowledged that the site is surrounded by metred parking bays and has easy access to public car parks that are available to the customers/patrons that require parking. Taxi zone is also installed on Cooper Street in front of the site that could cater to pick-up and drop-off demand. In addition, this area is covered by resident parking scheme that provides convenience and support to the residents nearby.

As such, the proposed non-provision of on-site parking is considered acceptable”

The above is concurred with. The proposal is considered to achieve consistency with regards to the objectives and controls in *Chapter E1: Parking and Access* of the WDCP 2015 and/or is addressed by Council’s standard DA conditions.

12.7 Chapter E5: Waste Management

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the WDCP 2015 and/or can be addressed by Council’s standard conditions.

12.8 Chapter E7: Signage

The proposal does not involve any signage.

12.9 Chapter F3: Licensed Premises

Part F3.1.3: Objectives

The objectives of the Licensed Premises controls in Chapter F3 are:

- O1 To standardise the way we assess development applications (DAs) and other related applications for licensed premises
- O2 To provide certainty to applicants, residents and other stakeholders regarding our approach to, and planning requirements for, dealing with DAs and other related applications for licensed premises
- O3 To achieve a more consistent approach to determining trading hours and operating conditions for licensed premises
- O4 To recognise the important role of licensed premises in contributing to the vitality and vibrancy of centres at night while minimising potential negative impacts from activities associated with licensed premises.
- O5 To provide for the safety of patrons and the general public.
- O6 To ensure noise from the activities of licensed premises is not intrusive and does not unreasonably impact on the amenity of adjoining and nearby residential uses.

For the reasons discussed below, the proposal satisfies the aforementioned objectives.

Liquor Act 2007

Type of licence	Type of use or activity
Hotel (including a general bar licence)	Pub or large bar with more than 100 patrons
Club	Registered club
Small bar	Small bar with under 100 patrons
On-premises	Restaurant or cafe, nightclub, entertainment facility, hotel or motel accommodation, function centre and other venues where liquor is consumed on the premises
Packaged liquor	Bottle Shops or online liquor sales
Producer/wholesaler	Brewer, distiller, winemaker or wholesaler
Limited	Functions held by non-profit organisations, as well as special events and trade fairs

Types of licences under the Liquor Act 2007

12.9.1. Rating (F3.2: Licensed premises risk rating)

The proposed premises is defined as a 'restaurant' and the proponent is seeking to obtain a future 'on-premises' liquor license under the *Liquor Act 2007* permitting the sale and consumption of alcohol.

The premises has a rating level of 'HIGH' in accordance with Table F3.2 (Risk Rating of Licensed Premises) of the DCP, due to its proposed capacity greater than 100 patrons (a total of 248 patrons).

RISK RATING OF LICENSED PREMISES		
Type of licence	Location/zone	Risk rating
Hotel or General Bar, packaged liquor, clubs irrespective of their capacity	Anywhere	HIGH
On-premises, producer/wholesaler, limited with a capacity of 100 or more patrons		
Any licensed premises	R2 and R3 zones	HIGH
On-premises/small bars	B1	HIGH
	B2, B4, SP3 and RE1	LOW
Small bars, on-premises, packaged liquor, producer/wholesaler, limited with a capacity of less than 100 patrons	B2	LOW
Note: Outdoor seating is included in calculating patron capacity		

Risk Rating of Licensed Premises Table F3.2 in Chapter F3 Licensed Premises of the WDCP 2015

12.9.2. Part F3.3: Objectives and Controls

Part F3.3 of the WDCP 2015 provides the following relevant Objectives and Controls applicable to the subject DA:

- O1 *Minimise the impact of licensed premises on the amenity of residential or other sensitive land uses.*
- C1 *Before deciding on an application involving licensed premises, the following matters are considered:*
 - a) *the location of the premises and the proximity of residential and other sensitive uses, including any external areas (not fully enclosed areas)*
 - b) *the type of licensed premises;*
 - c) *the size and capacity of the premises;*
 - d) *trading hours;*
 - e) *existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas;*
 - f) *existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises;*
 - g) *the density of licensed premises in the vicinity of the proposed development;*
 - h) *availability of car parking and proximity and access to public transport; and*
 - i) *any recommendations/comments provided by NSW Police (applications involving licensed premises will be referred to NSW Police for comment in accordance with our Memorandum of Understanding – Crime Prevention Through Environmental Design).*
- O2 *Identify appropriate trading hours for licensed premises.*

C2 *The trading hours for licensed premises are as set out in the following table:*

Trading Hours - Development within the site*				
Risk rating	Internal (fully enclosed)		External (not fully enclosed)	
	Base	Extended	Base	Extended
High	8am - 10pm	8am - midnight	7am - 10pm	7am - 11pm Fri and Sat only
Low	8am - midnight	8am - 2am	7am - 10pm	7am - 11pm Fri and Sat only
*Refer to the Woollahra Footway Dining Policy and Guidelines for the trading hours applicable to the use of footways for restaurant purposes.				

Note: *The base and extended trading hours referred to in the above table are not an 'as of right'. Where licensed premises are located in close proximity to low density residential zones, Council may impose more restrictive trading hours than those shown in the table.*

C3 *Consents for licensed premises will, by condition, limit trading hours so that they do not exceed the base trading hours as shown in the Trading Hours Table under C2 (consents may impose trading hours less than the base trading hours).*

C4 *Extended trading hours may be permitted. The matters set out in C1 will be considered in the assessment of an application to extend trading hours. If approved, extending trading hours:*

- a) will not exceed the extended trading hours in the Trading Hours Table under C2 (an approval may be subject to a condition which requires extended trading hours to be less than the hours shown in the table); and*
- b) will be approved as a reviewable condition under s.80A (10b) of the EP&A Act.*

Reviews of extended trading hours will only be undertaken if:

- a) Council has satisfactory evidence to suggest the extended trading hours are unduly impacting on the amenity of the neighbourhood; or*
- b) NSW Police has requested a review.*

O3 *Identify the maximum number of persons permitted on the licensed premises (including outdoor areas) to:*

- a) minimise the impact on the amenity of surrounding residential and sensitive land uses; and*
- b) provide a safe environment for occupants.*

C5 *Consents for licensed premises will, by condition, limit the maximum number of persons permitted on licensed premises based on:*

- a) an assessment of likely amenity impacts; and*
- b) fire safety and other emergency situation considerations.*

O4 *Appropriate management practices are implemented for licensed premises to:*

- a) minimise impacts, such as anti-social behaviour and crime, on surrounding residential and other sensitive land uses particularly at closing times and during periods of high patronage; and*
- b) safeguard persons occupying licensed premises.*

O5 *Buildings and areas accommodating licensed premises are designed and located to:*

- a) minimise impacts on the amenity of surrounding residential and other sensitive uses; and*
- b) provide a safe environment for its occupants.*

12.9.3. Assessment

In accordance with Control C1, assessment of the licensed premises must consider the following:

- a) *The location of the premises and the proximity of residential and other sensitive uses*

Control C10 requires that outdoor areas, openings, plant equipment, storage and waste collection spaces must take into account the amenity of surrounding residents.

The site is located within the E1 Local Centre zone and is located adjacent to R2 and R3 Residential zoned land to the west. The locality is characterised by a mix of residential properties and commercial developments. The location of the proposed licensed premises and its potential amenity impacts upon adjoining residential uses are assessed below.



Zoning Map showing the context of the subject site in relation to zoning in the vicinity of the site

An acoustic report prepared by Acoustic Logic was submitted with the application (refer to **Attachment 9**). The report provided the following recommendations:

6 RECOMMENDATIONS/MANAGEMENT CONTROLS

The following building and management controls are required to achieve the noise emission goals identified in Section 4.1.

- No more than 248 internal patrons are allowed within the premises at any time.
- All openable facades facilitating access to internal areas (including external windows) are to be kept closed during trading hours except when being used to facilitate ingress/egress of patrons. Doors should be fitted with a closing mechanism to ensure that they are not left open. Doors and windows should be fitted with full perimeter acoustic seals.
- Indoor dining area music is to be at background music volume only (75 dB(A)_{L10}).
- Music is not permitted within the outdoor area of the restaurant at any time.
- It is recommended that the management keep a complaint register on site and that noise complaints are registered, and any respective remedial actions undertaken to address complaints. This register should be stored on site and be always accessible.
- Trading hours are to be within the operating hours identified within this report – 8:00am to 12:00am Monday to Sunday.
- Minimum installed glazing thickness is to be 6mm with acoustic seals.
- All doors are to be minimum 38-40mm thick solid core door with full perimeter acoustic seals.
- Speakers are to be vibration isolated from the building structure by NRD mounts or equal.
- Signs are to be displayed at the entrance of the restaurant reminding patrons to minimise noise when departing the premise.
- All garbage and bottle collection services are only to be conducted during daytime hours (7am - 6pm).
- Based on the intended use of the premises – as licensed venue/restaurant – internal acoustic treatment is typically recommended to improve the overall acoustic performance and experience of internal patrons. Internal treatment can include acoustic ceiling panelling, curtains, rugs, soft furnishings, and the like. Such treatment can improve the speech clarity and intelligibility for internal patrons.
- A detailed acoustic review of mechanical plant proposed to be installed into the tenancy shall be undertaken once plant selections and locations have been finalised.

Council's Environmental Health Officer has reviewed the report and has determined that the proposal is satisfactory, subject to conditions.

NSW Police has also reviewed the application and have determined that the proposal is satisfactory, subject to imposition of relevant conditions and inclusion of operational restrictions and requirements within the Plan of Management of the premises.

Based on the above, it is recommended the measures of the submitted Acoustic Report are required to be adhered to (**Condition I.19**) and where relevant are specified as on-going acoustic measures and operational restrictions, as detailed in **Part "I"** of the report recommendation to ensure the reasonable maintenance of the residential amenity of the surrounding properties.

Therefore, the recommendations of the Acoustic Report, together with the recommendations provided by NSW Police, are considered appropriate to ensure that the acoustic impacts on adjoining properties in this location are mitigated.

In this instance, and subject to conditions, the proposed licensed premises is considered to be appropriate and acceptable.

Having regard to the character of the area, the trading hours of other food and drink establishments in the area, the detailed assessment by Council and NSW police and subject to conditions, the proposed licensed restaurant (food and drink premises) is considered appropriate in this location.

b) The type of licensed premises

The type of licence required for the proposal is an on-premises restaurant licence. An on-premises restaurant licence application will need to be made to the Licensing Authority if and when consent is granted for the use as a licensed restaurant.

c) The size and capacity of the premises

The proposed licensed restaurant will have a capacity of 248 patrons (all seated) and a maximum of 40 staff at any given time. Council's Fire Safety Officer has not raised any concerns with regards to the capacity of the premises to accommodate the aforementioned patrons and staff. Furthermore, as the proposal is for a new building it will need to comply with BCA standards in relation to fire egress, and toilet facilities and disability access.

Conditions I.4-I.5 are recommended restricting the total number of patrons (248) and staff (40).

d) Trading hours

In accordance with Control C2, the permitted base and extended trading hours are to be limited to:

- **Internal (fully enclosed)**
Base: 8am - 10pm
Extended: 8am – Midnight
- **External (not fully enclosed)**
Base: 7am – 10pm
Extended: 7am – 11pm (Fri & Sat only)

In accordance with Control C4, extended trading hours may be permitted. If, the trading hours:

- will not exceed the extended trading hours in the Trading Hours Table under control C2; and
- will be approved as a reviewable condition.

The proposal seeks the following hours of operation for the *restaurant* (across all levels):

Monday to Sunday: 8am to 12am (midnight)

In light of the above, the following base trading hours are recommended and noted in **Condition I.1** as:

Monday to Sunday: 8am to 10pm

The following extended trading hours are noted in **Condition I.1** and **I.2** as:

Monday to Sunday: 10pm to 12am (midnight)

The proposed hours of operation are consistent with Control C4 (extended trading hours) in that they are wholly within the permitted extended trading hours for 'high' risk rated premises that are fully enclosed. The proposed extended hours of operation beyond the permitted base trading hours are also subject to a reviewable condition (**Condition I.3**) consistent with Control C4.

e) Existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas

C7(a) requires the submission of a Plan of Management. C9 requires revisions where there is an extension of trading hours, patrons or a review of these limitations.

Operational restrictions are specified in **Part I** of the report recommendation to ensure the reasonable maintenance of the residential amenity of the surrounding properties. Extended hours beyond the permitted base hours are subject to a reviewable condition.

f) Existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises

The submitted Plan of Management provides a detailed management and operational procedure for the premises which is required to be adhered to as per **Condition I.10**.

g) The density of licensed premises in the vicinity of the proposed development

Noting that Control C7(b) requires the submission of a Social Impact Report, it is not considered to be relevant in this instance as the premises is for a restaurant use (as opposed to bar/pub use).

Furthermore, given that the location of the proposed licensed restaurant (within the Double Bay Centre precinct), the nature of the numerous mixed use developments surrounding the site and the recommended conditions of consent, the need for a Social Impact Report is considered unreasonable in this instance.

h) Availability of car parking and proximity and access to public transport

Council's Traffic Section supports the proposed application in terms of car parking availability.

i) Any recommendations/comments provided by NSW Police

The proposal was referred to NSW Police for comment. The Referral Response provided by NSW Police has concluded that the proposal is generally acceptable, subject to appropriate management requirements, which have been recommended to be imposed as Conditions of Consent.

It is noted that NSW Police have advised that the Plan of Management (POM) accompanying this Development Application has not been approved.

In this regard, **Condition F.1** is recommended to be imposed requiring the approval, by Council and NSW Police, of a detailed Plan of Management prior to the commencement of operations.

12.9.4. Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015, subject to the recommended conditions of consent

13. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant to the scope of proposed works.

14. CONTRIBUTION PLANS

14.1 Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022. Refer to **Condition C.1**.

15. APPLICABLE ACTS/REGULATIONS

15.1 Environmental Planning and Assessment Regulation 2021

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, recommending that a fire safety certificate must be submitted on completion of the work required under this DA and thereafter fire safety statements on an annual basis.

These requirements are enforced by recommended standard DA conditions.

16. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

19. CONCLUSION

Based on the assessment contained within this report, the proposal is acceptable against the relevant heads of considerations under Section 4.15 of the EP&A Act 1979.

20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the applicant or any person who made a submission.

21. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Council, as the consent authority, grant development consent to DA242/2023/1 for Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2) on land at 24 Bay Street (AKA 2A Cooper Street) DOUBLE BAY, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* ("the *Act*") and the provisions of the *Environmental Planning and Assessment Regulation 2000* ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 4.15 of the *Act*. Standard Condition: A1 (Autotext AA1)

A.2 Definitions

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or **AS/NZS** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

- the collection of stormwater,
- the retention of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater; and
- connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner-builder has the same meaning as in the *Home Building Act 1989*.

PC means the Principal Certifier under the *Act*.

Principal Contractor has the same meaning as in the *Act*, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.

Professional engineer has the same meaning as in the *BCA*.

Public place has the same meaning as in the *Local Government Act 1993*.

Road has the same meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an occupation certificate.

Note: Interpretation of conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.
Standard Condition: A2 (Autotext AA2)

A.3 Approved Plans and Supporting Documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below as submitted by the Applicant unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
	Architectural Plans		
A.02.04 F	Proposed Plan: Ground Floor	All prepared by ACME Architecture + Interiors	22/08/2023
A.02.05 E	Proposed Plan: Level One		16/06/2023
A.02.06 F	Proposed Plan: Level Two		22/08/2023
A.02.07 F	Proposed Floor Finishes: Ground Floor		22/08/2023
A.02.08 E	Proposed Floor Finishes: Level One		16/06/2023
A.02.09 F	Proposed Floor Finishes: Level Two		22/08/2023
A.02.10 F	Proposed Finishes RCP: Ground Floor		22/08/2023
A.02.11 F	Proposed Finishes RCP: Level One		22/08/2023
A.02.12 F	Proposed Finishes RCP: Level Two		22/08/2023
A.05.01 F	Proposed Section		22/08/2023
A.05.02 E	Proposed Section		16/06/2023
Unreferenced	Plan + Elevation: GF Kitchen; Section Detail A: GF Kitchen	ACME	29/11/2023
Unreferenced	Materials & Finishes Schedule	ACME CAON	21/06/2023
202330058.2/181 2A/R1/JHT	Updated Noise Impact Assessment	Acoustic Logic	18/12/2023
20447	Traffic and Parking Statement	TTPP	20/11/2023
Unreferenced	Plan of Management Restaurant – Song Bird	Unknown	December 2023
20251 Rev R1.3	Access Compliance Capability Statement (G, L1 & L2 Restaurant Fit-out)	Code Performance	14/06/2023
230120 Rev 0	BCA Compliance Statement	BM+G	23/06/2023
Attachment 1	Site Waste Minimisation and Management Plan	Neil Perry	16/04/2023

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5 (Autotext AA5)

A.4 Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Note: This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8 (Autotext AA8)

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Public Road Assets Prior to Any Work/Demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the Applicant or Owner must submit to Council a full record of the condition of the public road infrastructure adjacent to the development site.

The report must be submitted to Council **prior to the commencement of any work** and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose

Standard Condition: B7

C. Conditions which must be satisfied prior to the issue of any Construction Certificate

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

The approved plans and the Construction Certificate plans and specification, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the following amendments:

a) Self-closing doors

All doors must be fitted with self-closing mechanism to ensure that all doors are not left open.

b) Acoustic seals

All doors and windows must be fitted with full perimeter acoustic seals

c) Glazing and door thickness

All glazing thickness must achieve a minimum of 6mm with acoustic seals. All doors must be minimum 38-40mm thick solid core door with full perimeter acoustic seals.

d) Internal acoustic treatments

Appropriate internal acoustic treatments, including, but not limited to, acoustic ceiling panelling, curtains, rugs, soft furnishings, and the like must be specified.

e) Mechanical plants

A detailed acoustic review of mechanical plant proposed to be installed into the tenancy must be undertaken and approved by an appropriate acoustic engineer once the selections and locations have been finalised.

This condition is imposed to achieve consistency with the recommendations in the approved Acoustic Report by Acoustic Logic, referenced 202330058.2/1812A/R1/JHT, dated 18/12/2023 specified in **Condition A.3**.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the Construction Certificate drawings and specifications to address specific issues identified during assessment under section 4.15 of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any Construction Certificate subject to this condition unless the Certifying Authority is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any Construction Certificate that is inconsistent with this consent.

Standard Condition: C4 (Autotext CC4)

C.2 Payment of Long Service Levy, Security, Contributions and Fees

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a Construction Certificate, Subdivision Certificate or Occupation Certificate, as will apply.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit -making good any damage caused to any property of the Council	\$121,220	No	T115
DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au			
Development Levy (section 7.12)	\$49,750 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$645	No	T115
Security Administration Fee	\$225	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$171,840 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

The long service levy under section 34 of the *Building and Construction Industry Long Service Payment Act 1986*, must be paid and proof of payment provided to the Certifying Authority prior to the issue of any Construction Certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2021 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 94A Development Contributions Plan 2021

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable],
- the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent,
- the bank guarantee is lodged with the Council prior to the issue of the Construction Certificate, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.3 Structural Adequacy of Existing Supporting Structures

A certificate from a professional engineer (structural engineer), certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be submitted with the Construction Certificate application.

Note: This condition is imposed to ensure that the existing structure is able to support the additional loads proposed.

Standard Condition: C35 (Autotext CC35)

C.4 Light and Ventilation

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#).

If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*.

This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59 (Autotext CC59)

C.5 Acoustic Certification of Mechanical Plant and Equipment

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a professional engineer (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**—professional society of noise-related professionals
www.acoustics.asn.au

2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals
www.aaac.org.au.

Standard Condition: C62 (Autotext CC62)

C.6 Food Premises – Construction Certificate Plans and Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*, and the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No Construction Certificate relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officer has advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officer must form part of any Construction Certificate.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning and Assessment Regulation 2000* as a matter that a Certifying Authority may be satisfied as to. Hence, the detailed plans and specifications must be referred to Council and be to Council's satisfaction prior to the issue of any Construction Certificate for such works.
Standard Condition: C65

C.7 Ventilation - Kitchen Exhaust- Smoke & Odour Control

1. The discharge of air from the kitchen exhaust ventilation system(s) is considered an obnoxious discharge under Section 3.7 of Australian Standard 1668.2-1991. The ductwork serving the proposed kitchen exhaust system(s) shall be arranged vertically with a discharge velocity of not less than 5 m/s and be situated at least 1 m above the ridge of a pitched roof or 3 m above the flat of the building.
2. All exhaust air and spill air shall be discharged to atmosphere in such a manner as not to cause a danger or nuisance to occupants in the building, occupants of neighbouring buildings or members of the public.
3. The design, construction and installation of the kitchen exhaust hood(s) shall comply with the requirements of *Appendix E, 'Kitchen Exhaust Hoods' of AS 1668.2-1991* and *Appendix F, 'Capture of Emissions By Kitchen Exhaust Hoods' of AS 1668.2-1991*.
4. A *Smoke & Odour Impact Assessment Report* is to be prepared by a suitably qualified engineer detailing the design specification of the proposed kitchen exhaust system, including all smoke and odour inhibiting controls and filtering systems.
5. The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all the kitchen exhaust ventilation system(s), including all smoke and odour controls and filtering systems. Upon completion and prior to occupation of the premises, the kitchen exhaust ventilation system(s) shall be certified by a qualified engineer that the system(s) has been installed in accordance with AS 1668.1 and AS 1668.2 and the design specification as detailed in the *Smoke & Odour Impact Assessment Report*.

C.8 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

For the purposes of section 4.17(11) of the *Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*, or
- b) to the erection of a temporary building.

In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: D1 (Autotext DD1)

D.2 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:

- a) Detail the scope of the works to be completed including details of the various stages, e.g. demolition, excavation, construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.

- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- j) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- k) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- l) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion (Note: oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.)
- o) Show the location of any proposed excavation and estimated volumes.
- p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.
Standard Condition: D9 (Autotext: DD9)

D.3 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

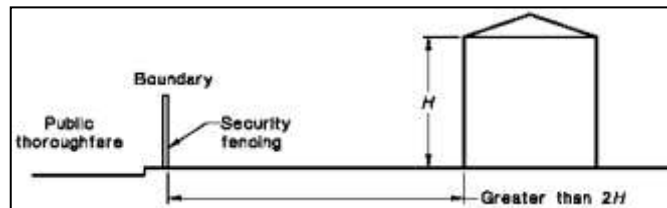
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are not erected until full payment of works zone fees.

Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

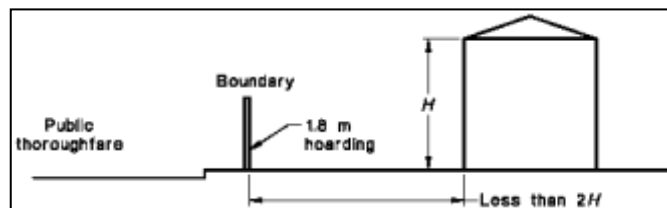
D.4 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Type A Hoarding

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.



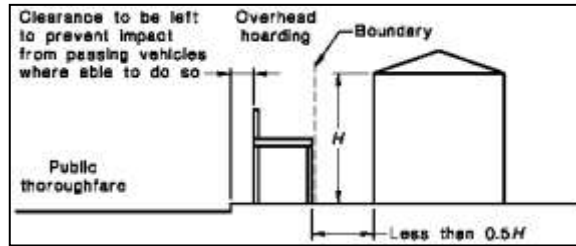
Type B Hoarding

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure and the facing facade protected by heavy-duty scaffolding, unless either:

- the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- have a clear height above the footpath of not less than 2.1m,
- terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface, and
- together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW “Code of Practice - Overhead Protective Structures 1995”. This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Hoardings on Public Land including ‘Creative Hoardings’

The Principal Contractor or Owner-builder must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council’s Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council’s website www.woollahra.nsw.gov.au

Note: The Principal Contractor or Owner must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council’s form “Application for a permit to use a footpath for the erection of a hoarding/scaffolding”.

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council’s Cultural Development Team. Standard Condition: D11 (Autotext DD11)

D.5 Site Signs

The Principal Contractor or Owner-builder must ensure that the sign/s required by clauses 98A and 227A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifier for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.6 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the *Act*)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A Construction Certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - appointed a Principal Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier has, no later than 2 days before the building work commences:
 - notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and
 - notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:
- appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - notified the Principal Certifier of any such appointment, and
 - unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 1.4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 6.1 of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the *Act* (including the need for a Construction Certificate) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

E. Conditions which must be satisfied during any development work

E.1 Compliance with BCA and Insurance Requirements under the Home Building Act 1989

For the purposes of section 4.17(11) of the *Act*, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),
- b) in the case of residential building work for which the [Home Building Act 1989](#) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the *Regulation*, or
- b) to the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1 (Autotext EE1)

E.2 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.
Standard Condition: E3 (Autotext EE3)

E.3 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*.

Critical stage inspections means the inspections prescribed by the *Regulations* for the purposes of section 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

Note: The PC may require inspections beyond mandatory critical stage inspections in order that the PC be satisfied that work is proceeding in accordance with this consent.

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

Standard Condition: E5 (Autotext EE5)

E.5 Hours of Work –Amenity of the Neighbourhood

- a) No *work* must take place on any Sunday or public holiday.
- b) No *work* must take place before 7am or after 5pm any weekday.
- c) No *work* must take place before 7am or after 1pm any Saturday.
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:
 - (i) piling,
 - (ii) piercing,
 - (iii) rock or concrete cutting, boring or drilling,
 - (iv) rock breaking,
 - (v) rock sawing,
 - (vi) jack hammering, or
 - (vii) machine excavation.
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.6 Public Footpaths – Safety, Access and Maintenance

The Principal Contractor or Owner-builder and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 of the *Local Government Act 1993* except that at all time compliance is required with:

- a) Australian Standard AS 1742 (Set): *Manual of uniform traffic control devices* and all relevant parts of this set of standards.
- b) Australian Road Rules.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the Council including:

- Part C Management of waste:
 - a. For fee or reward, transport waste over or under a public place
 - b. Place waste in a public place
 - c. Place a waste storage container in a public place.
- Part E Public roads:
 - a. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

- b. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
Standard Condition: E7 (Autotext EE7)

E.7 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- a) erosion and sediment controls,
- b) dust controls,
- c) dewatering discharges,
- d) noise controls,
- e) vibration monitoring and controls,
- f) ablutions.

Standard Condition: E11

E.8 Dust Mitigation

Dust mitigation must be implemented in accordance with “*Dust Control - Do it right on site*” published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: “*Dust Control - Do it right on site*” can be downloaded from Council’s website www.woollahra.nsw.gov.au or obtained from Council’s office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

E.9 Food Premises – Construction and Fitout

The Principal Contractor or Owner-builder must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council’s Environmental Health Officer but no less compliant than with the *Food Act 2003*, *Food Regulation 2015*, the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

Standard Condition: E29 (Autotext EE29)

E.10 Site Waste Minimisation and Management – Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,
- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Amended Plan of Management (POM) to be submitted and approved (special condition)

Prior to the issue of any Occupation Certificate or occupation or use of any licensed restaurant (food and drinks premises):

- a) The POM shall be amended to include details of all operational and management procedures of the premises as outlined in Conditions "I" of this consent.
- b) The POM shall be approved by Council prior to the commencement of operation of the restaurant use.

F.2 Change of Building Use of Existing Building Requires Occupation Certificate (section 6.9 of the Act)

A person must not effect a change of building use for the whole or any part of an existing building unless an Occupation Certificate has been issued in relation to the building or part.

Standard Condition: F2 (Autotext FF2)

F.3 Fire Safety Certificates

In the case of a final occupation certificate to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a certifying authority must be satisfied that a *final fire safety* certificate has been issued for the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the *Regulation*.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

final fire safety certificate has the same meaning as it has in Part 9 of the *Regulation*.

new building has the same meaning as it has in section 6.1 of the *Act*.

Standard Condition: F4 (Autotext FF4)

F.4 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier works-as-executed (WAE) plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant construction certificate, the BCA and relevant Australian Standards.

Works-as-executed plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA must include but may not be limited to:

- a) All flood protection measures.
- b) All mechanical ventilation systems.
- c) All hydraulic systems.
- d) All structural work.
- e) All acoustic attenuation work.
- f) All waterproofing.
- g) Such further matters as the Principal Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as execute is maintained.

Note: The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.

Standard Condition: F7 (Autotext FF7)

F.5 Food Premises - Inspection and Registration

Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- a) the Principal Contractor or Owner must arrange an inspection of the fit out of the food premises by Council's Environmental Health Officer,
- b) a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer, and
- c) the Owner or *occupier* must have registered the food premises (notification of conduct) under section 100 of the *Food Act 2003*.

Note: To notify conduct of a food business, Councils approved form can be accessed at:

https://www.woollahra.nsw.gov.au/data/assets/pdf_file/0006/118626/Form_-_Food_Premises_Registration.pdf

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires: "100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

Note: Accredited Certifiers are unable to issue compliance certificates in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises* since these are not matters which an accredited certifier can be satisfied in relation to under clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.
Standard Condition: F15 (Autotext FF15)

F.6 Maintenance of the Kitchen Exhaust

The proprietor(s) of the subject site shall enter into a contract agreement for the regular maintenance and cleaning of the odour control units and filtering systems. A copy of the contract agreement shall be made available to Council's Health Services Section prior to the occupation of the building.

F.7 Gas Heating Appliances

The gas heating appliance shall comply with the requirements of **AS4553-2008(Gas Space Heating Appliances)** and the installation of the appliance shall comply with **AS5601-2004(Gas Installations)**.

F.8 Domestic Solid Fuel Heating Appliances

The solid fuel heating appliance shall be installed in compliance with the Australian Building Code and Australian Standard AS/NZS 2918, to ensure the safety of the installation.

And the solid fuel heating appliance must comply with AS/NZS 4013:1999(*Domestic Solid Fuel Burning Appliances-Method of determination of flue gas emission*).

A Certificate of Compliance in relation to the Solid Fuel Heater is to be provided to Council.

F.9 Certification of acoustic performance

A comprehensive acoustic performance review must be carried out and approved by an appropriate acoustic engineer ensuring that all required acoustic measures are in place in accordance with the recommendation of the approved Acoustic Report by Acoustic Logic, referenced 202330058.2/1812A/R1/JHT, dated 18/12/2023 specified in Condition A.3.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

N/A

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Removal of Ancillary Works and Structures

The Principal Contractor or Owner must remove from the land and any adjoining public place:

- a) the site sign,
- b) ablutions,
- c) hoarding,
- d) scaffolding, and
- e) waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the Final Occupation Certificate.
Standard Condition: H12 (Autotext HH12)

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Hours of Operation

The hours of operation for the Licensed Premises (Restaurant - Ground Floor, Level 1 and 2) are restricted to:

Monday to Sunday and Public Holidays: **8:00am to 10.00pm**

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: Deliveries to or dispatches from the site must not be made outside these hours. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I3 (Autotext: I13)

I.2 Extended Hours of Operation for Licensed Premises – Reviewable Condition

The hours of operation for the Licensed Premises (Restaurant - Ground Floor, Level 1 and 2) are extended as follows:

10.00pm to 12.00am (midnight), Monday to Sunday and Public Holidays

This condition is a reviewable condition as referred to under section 4.17(10B-10D) of the *Act*. The extended trading hours will be reviewed in accordance with **Condition I.3**.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: Council's consideration of the extended hours of operation of licensed premises will take into account:

- a) compliance of the premises in terms of security and its general management;
- b) the number and nature of substantiated complaints regarding the operation of the premises;
- c) compliance with the conditions of this consent; and
- d) any other matters considered relevant to the environmental evaluation of the premises.

Standard Condition: I4 (Autotext: I14)

I.3 Review of Extended Hours of Operation for Licensed Premises

Council will review the extended trading hours as referred to in **Condition I.2** (*if required, refer to Note 1 below*) generally as follows:

- a) one (1) year following the issue of any Occupation Certificate applicable to this application (if works are proposed) or the date of development consent (if no works are proposed),
- b) two (2) years following the first review, and
- c) each five (5) years thereafter.

The review will be undertaken in accordance with Clause 79 *Review conditions—the Act*, s 4.17(10C) of the Environmental Planning and Assessment Regulation 2021 which states:

- (3) *The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.*
- (4) *The consent authority may notify other persons of the review as it considers appropriate.*
- (5) *The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.*

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

- Note 1:** A review will only be undertaken if Council has satisfactory evidence to suggest the extended trading hours are unduly impacting on the amenity of the neighbourhood or NSW Police has requested a review.
- Note 2:** The review will be presented to the equivalent delegated decision making panel that determined the application and all stakeholders will be notified of the meeting.
- Note 3:** As a result of a review a reviewable condition may be changed.

I.4 Maximum Patron Capacity

The total number of patrons (seating capacity) for the *Ground Floor, Level 1, 2 – Restaurant* premises at any time shall not exceed a maximum **two-hundred and forty eight (248)** patrons.

AND

The total number of patrons (seating capacity) at each level at any time shall not exceed a maximum of:

- Ground Floor: **32** patrons
- Level 1: **102** patrons
- Level 2: **114** patrons

Any person/s attending the premises for the purpose of 'takeaway' products/services will not be considered a 'patron' as detailed above, provided no food and or drink is consumed by those persons on the premises.

Standard Condition: I6 (Autotext: I16)

I.5 Maximum Staff Capacity

The total number of rostered staff at any given time for the *Ground Floor, Level 1, 2 – Restaurant* premises shall not exceed a maximum of **forty (40)** staff.

I.6 Signage to be Displayed – Licensed Premises

Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the principal entry to the premises in accordance with Clause 73 of the Environmental Planning and Assessment Regulation 2021.

The signage shall state the following and may change from time to time due to reviewable conditions in accordance with **Condition I.3:**

“Approved hours of operation:

Monday to Sunday and Public Holidays: 8:00am to 12:00am (midnight)

Approved patron capacity:

Ground Floor: 32 patrons

Level 1: 102 patrons

Level 2: 114 patrons

Total: 248 patrons

Upon leaving please respect local residents by minimising noise.”

The signage required by this condition is to be erected prior to the commencement of operations. This condition has been imposed to clearly identify the hours and patron capacity of the licensed premises. Standard Condition: I9 (Autotext: I11)

I.7 Neighbourhood Amenity – Licensed Premises

The Management of the premises:

- a) Shall ensure persons entering and leaving the premises do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the Management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council or by NSW Police, the Management is to employ private security staff to ensure that this condition is complied with.
- c) Shall record in a Register full details of any disturbance complaint/s made by a person to Management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by Management / staff to resolve such complaint/s shall be recorded in the Register.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Note: The lead agency for the enforcement of this condition is NSW Police.

Standard Condition: I10 (Autotext: II10)

I.8 Copies of Consents, Registers and Management Plans – Licensed Premises

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council, NSW Police and/or Liquor and Gaming NSW authorised officers.

Standard Condition: I12 (Autotext: II12)

I.9 Noise Limiters

All amplification equipment used in the premises is to be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer. The equipment must be tamper proof and only operable by the management or their nominee.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

Standard Condition: I13 (Autotext: II13)

I.10 Operation in Accordance with Plan of Management (POM)

The operation and management of the premises shall be in accordance with the POM specified in **Condition A.3**, subject to the following amendments (as required in Condition **F.1**):

- a) That a sign be displayed at the entrance of each restaurant level (Ground Floor, Level 1 and Level 2) indicating the authorised capacity of level.
- b) Provision in the POM to monitor and maintain numeric limits of the authorised patron capacity including strategies relevant to patron movement /ingress and egress.
- c) Provision for windows/doors/openable facades must be closed (at all times), other than for ingress/egress. Self-closing devices are installed to ensure doors are not left open.

- d) Provision to ensure that all service vehicles attending the site via Brooklyn Lane must not impede access along Brooklyn Lane.

The POM shall be filed with the Licensing Police of the relevant NSW Police Local Area Command prior to the commencement of operations and cannot be altered without the written consent of Council.

I.11 Glass Sorting and Collection

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied/transferred within the premises and removed in containers.

No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Sunday to Friday and between 9.00pm Saturday and 10am Sundays and Public Holidays.

This condition has been imposed to protect the amenity of neighbouring residents.
Standard Condition: I17 (Autotext: II17)

I.12 Waste Collection – Commercial

General waste collection is to be undertaken ONLY between the hours of:

7.00am to 9.00pm Monday to Friday, and
8.00am to 8.00pm Saturday, Sunday and Public Holidays

This condition has been imposed to protect the amenity of neighbouring residents.
Standard Condition: I31 (Autotext: II31)

I.13 Surveillance Cameras (CCTV)

Licensed Premises

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- a) It must operate continuously from opening time until one hour after closing.
- b) It must record in digital format at a minimum of six frames per second.
- c) Any recorded image must specify the time and date of the image.
- d) The system's cameras must be located within the property and cover:
 - i) all entry and exit points of the premises,
 - ii) the footpath immediately adjacent to the premises, and
 - iii) all publicly accessible areas (other than toilets) on the premises, from floor level to a minimum height of two metres.
- e) CCTV recordings must be retained for at least 30 days.
- f) Management shall ensure the system is accessible by at least one member of staff at all times it is in operations, and
- g) Provide any recordings made by the system to Council or NSW Police within 24 hours of any request by an authorised officer to provide such recordings.

Note: The lead agency for enforcement is NSW Police.
Standard Condition: I18 (Autotext: II18)

I.14 NSW Police Requirements (Licensed Premises)

Plan of Management

That a Plan of Management be established prior to the commencement of business operations which is approved by Council and the Eastern Suburbs Police Area Command (ESPAC). That the proposed premises must always operate in accordance with the approved Plan of Management. The Plan of Management may be updated at any time in which improved business practices are identified. Council and the ESPAC will be notified and if approved will be considered the Plan of Management. Irrespective the Plan of Management will be reviewed by the applicant on a yearly basis.

I.15 Complaint Investigation

Council may, upon the receipt of a complaint by one or more affected resident, direct the Applicant to engage a suitably qualified and experienced acoustic engineer to investigate the complaint.

I.16 Qualifications of Acoustic Engineer

In these conditions, reference to a suitably qualified and experienced acoustic engineer means an experienced acoustic engineer who possesses the qualifications to render them eligible for membership of both the Australian Acoustical Society and Institution of Engineers Australia at the grade of member or an experienced acoustic engineer who is employed by a member firm of the Association of Australasian Acoustic Consultants (AAAC).

I.17 Outdoor Lighting – Commercial

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

Note: This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Standard Condition: I50

I.18 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government
www.cjc.nsw.gov.au.

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
Standard Condition: I56

I.19 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with all the recommendations and management controls identified in Section 6 of the updated Noise Impact Assessment (R1), 202330058.2/1812A/R1/JHT, prepared by Acoustic Logic, dated 18/12/2023 including, but not limited to, the following:

- a) Provision for windows/doors/openable facades must be closed (at all times), other than for ingress/egress. Self-closing devices are installed to ensure doors are not left open;
- b) Indoor dining area must be background music only (i.e. music not exceed a maximum volume of 75dB(A)_{L10});
- c) Speakers are to be vibration isolated from the building structure by NRD mounts of equal;
- d) Music is not permitted externally (outdoors).

I.20 Noise from Licensed Premises

The L_{A10} noise level emitted from the licensed premises shall not exceed the *background noise level* in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the *background noise level* in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: dB(A) is a value used for ‘A-weighted’ sound pressure levels ‘A’ frequency weighting is an adjustment made to approximate the response of the human ear.

Note: *licensed premises* means premises licensed under the *Liquor Act 2007*.

Note: For the purposes of this condition, the L_{A10} is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured.

Note: The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} level measured by a sound level meter over the applicable period.

Note: This condition reflects the minimum standard condition imposed by the former Casino Liquor and Gaming Control Authority. Liquor & Gaming NSW or the Independent Liquor & Gaming Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Secretary of the Department of Industry is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For more information go to Liquor and Gaming NSW website www.liquorandgaming.nsw.gov.au

Note: Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.
Standard Condition: I58

I.21 Noise from Mechanical Plant and Equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Note: This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017) [www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)) and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government
Standard Condition: I59

I.22 Provision of Off-street Commercial Vehicle Facilities

The owner and occupier, in compliance with AS 2890.2-2018 *Parking facilities - Off-street commercial vehicle facilities*, must maintain unimpeded access to off-street parking as follows:

Use	Number of spaces
Loading Bay (6.5m in length)	1

All deliveries to and dispatch from the site, excluding retail sales, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.

All service vehicles accessing the loading bay must not be larger than 6.4m Small Rigid Vehicles and must enter and leave the car park in a forward direction.

Note: This condition has been imposed to ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.
Standard Condition: I23

I.23 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety

www.woollahra.nsw.gov.au.

Standard Condition: I35

I.24 Storage and Handling of Flammable and Combustible Liquids

The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2017 *The storage and handling of flammable and combustible liquids*.

Note: This condition has been imposed to protect public safety.

Standard Condition: I38

I.25 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

Note: This condition has been imposed to protect public health.

Standard Condition: I41

I.26 Maintenance of the Kitchen Exhaust log

A logbook detailing the schedule maintenance and cleaning of the odour control units and filtering systems shall be kept on the premises at all times and be made available for viewing by Council's Environmental Health Officer's as required.

J. Miscellaneous Conditions

N/A

K. Advising

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious.

Standard Advising: K1 (Autotext KK1)

K.2 Commonwealth *Disability Discrimination Act 1992*

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Note: Further advice can be obtained from the Australian Human Rights Commission website www.humanrights.gov.au/our-work/disability-rights/about-disability-rights or call 9284 9600 or 1300 656 419.

Standard Advising: K3 (Autotext KK3)

K.3 Builder's Licences and Owner-builders Permits

Section 6.6(2)(d) of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a Principal Contractor for residential building work who must be the holder of a contractor licence.

The Owner(s) must appoint the Principal Certifier. The Principal Certifier must check that the required insurances are in place before the commencement of building work. The Principal Contractor (builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the *Home Building Act 1989* for the residential building work.

Note: For more information go to the NSW Fair Trading website

www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating

Standard Condition: K5 (Autotext KK5)

K.4 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia.

Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "NSW Guide to Standards and Tolerances 2017" are achieved.

The quality of any development is a function of the quality of the Principal Contractor's or Owner-builder's supervision of individual contractors and trades on a daily basis during the development. The Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220. Standard Condition: K6 (Autotext KK6)

K.5 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050. Standard Condition: K7 (Autotext KK7)

K.6 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr W Perdigao, Senior Assessment Officer, on (02) 9391 7126.

However, if you wish to pursue your rights of appeal in the Land and Environment Court you are advised that Council generally seeks resolution of such appeals through a section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14 (Autotext KK14)

K.7 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.










Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

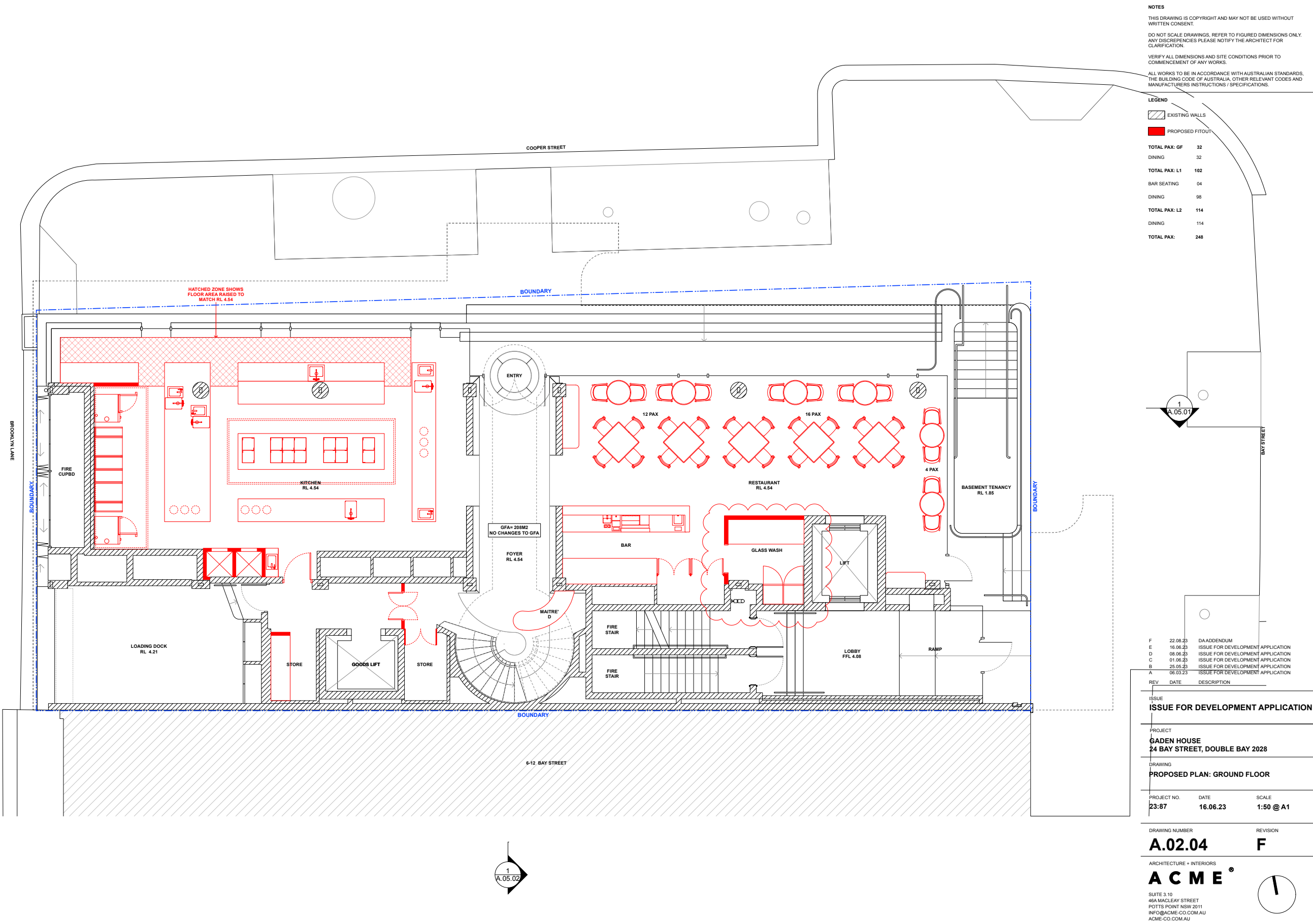
Note: The Refund of Security Bond Application form can be downloaded from

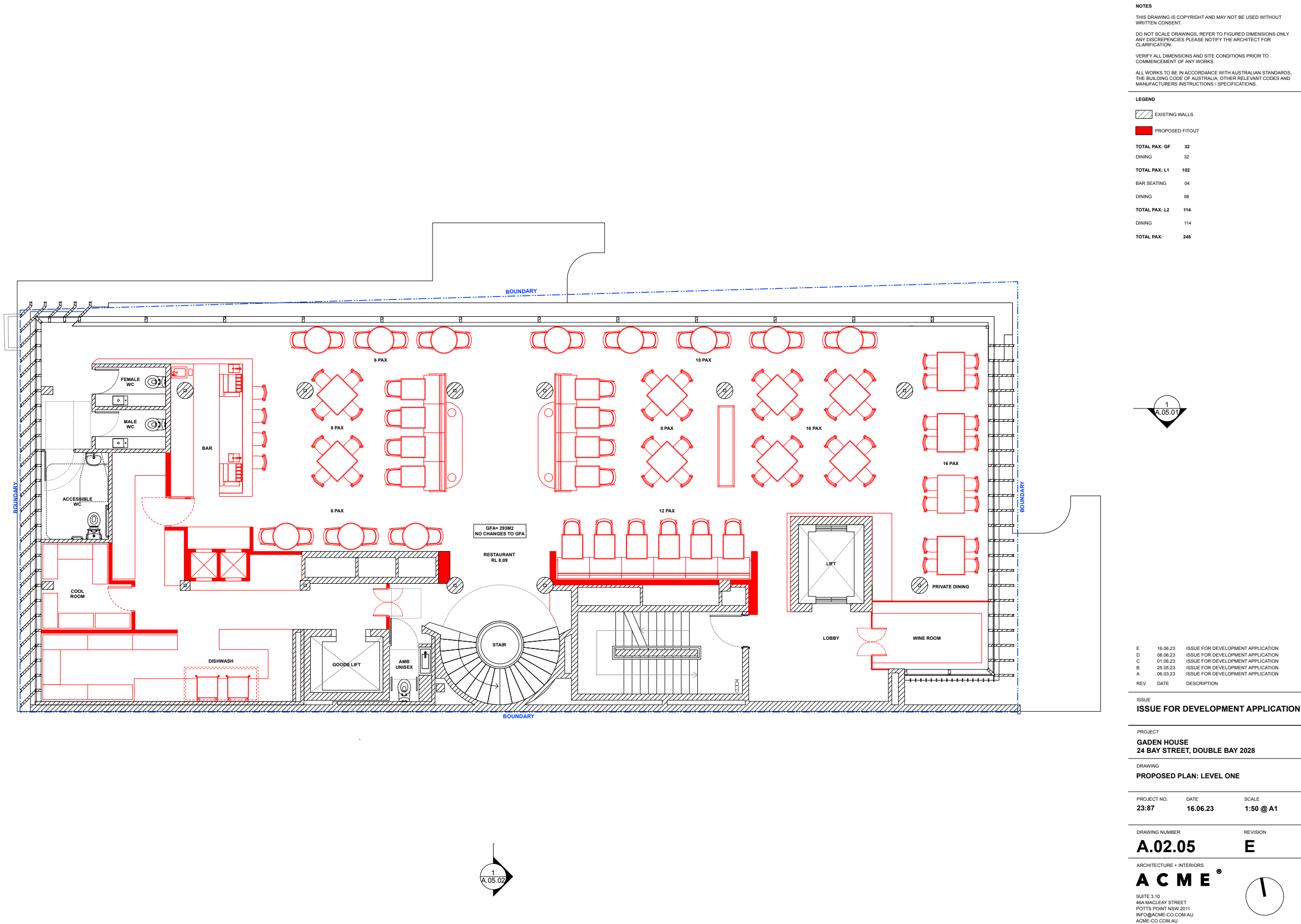
www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

Attachments

1. Proposed fit-out plans (Ground Floor, Level 1 & 2) [↓](#) 
2. Stamped Approved Architectural Plans (DA2021-68-9) [↓](#) 
3. Plan of Management (Restaurant - Song Bird) [↓](#) 
4. Referral Response - Traffic Engineer [↓](#) 
5. Referral Response/(s) - Heritage Officer [↓](#) 
6. Referral Response - Environmental Health [↓](#) 
7. Referral Response - Fire Safety Officer [↓](#) 
8. Referral Response - NSW Police (Licensing) [↓](#) 
9. Acoustic Report [↓](#) 





NOTES

THIS DRAWING IS COPYRIGHT AND MAY NOT BE USED WITHOUT WRITTEN CONSENT.

DO NOT SCALE DRAWINGS, REFER TO FIGURED DIMENSIONS ONLY. ANY DISCREPANCIES PLEASE NOTIFY THE ARCHITECT FOR CLARIFICATION.

VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO COMMENCEMENT OF ANY WORKS.

ALL WORKS TO BE IN ACCORDANCE WITH AUSTRALIAN STANDARDS, THE BUILDING CODE OF AUSTRALIA, OTHER RELEVANT CODES AND MANUFACTURERS INSTRUCTIONS / SPECIFICATIONS.

LEGEND

EXISTING WALLS

 PROPOSED FITOUT

TOTAL PAX: GF 32

DINING 32

TOTAL PAX: L1 102

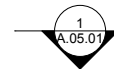
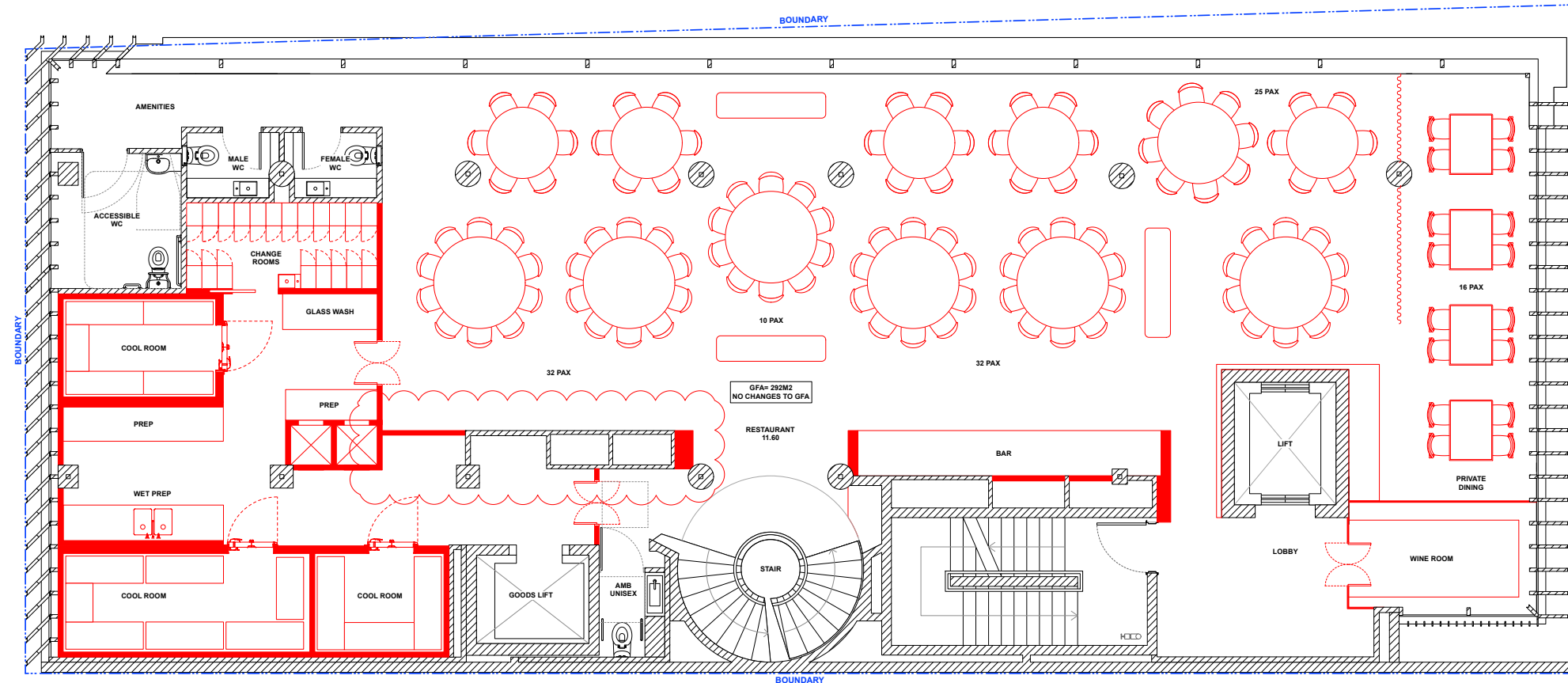
BAR SEATING 04

DINING 98

TOTAL PAX: L2 114

DINING 114

TOTAL PAX: 248



F	22.08.23	DA ADDENDUM
E	16.06.23	ISSUE FOR DEVELOPMENT APPLICATION
D	08.06.23	ISSUE FOR DEVELOPMENT APPLICATION
C	01.06.23	ISSUE FOR DEVELOPMENT APPLICATION
B	25.05.23	ISSUE FOR DEVELOPMENT APPLICATION
A	06.03.23	ISSUE FOR DEVELOPMENT APPLICATION
REV	DATE	DESCRIPTION

ISSUE
ISSUE FOR DEVELOPMENT APPLICATION

PROJECT
GADEN HOUSE
24 BAY STREET, DOUBLE BAY 2028

DRAWING

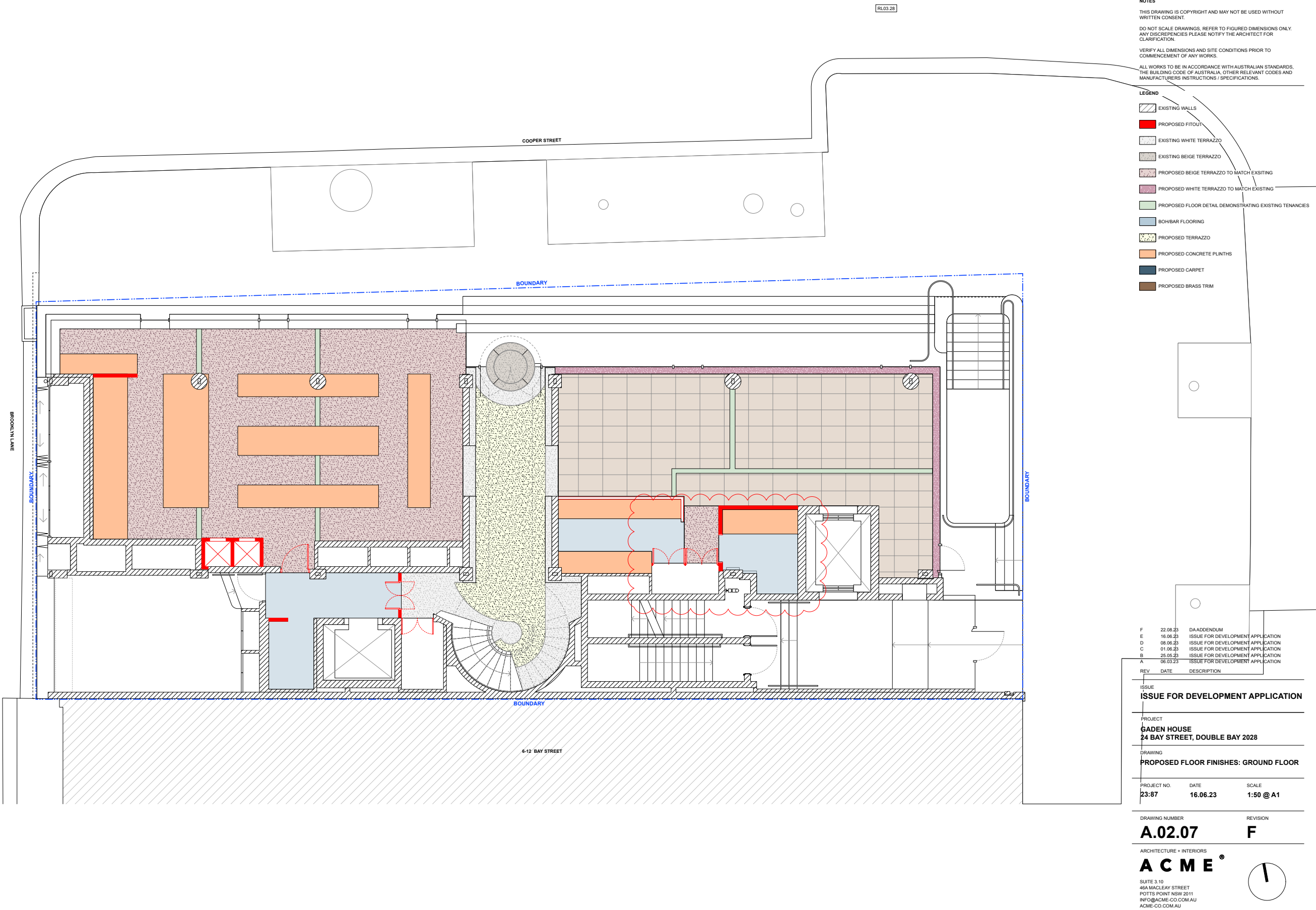
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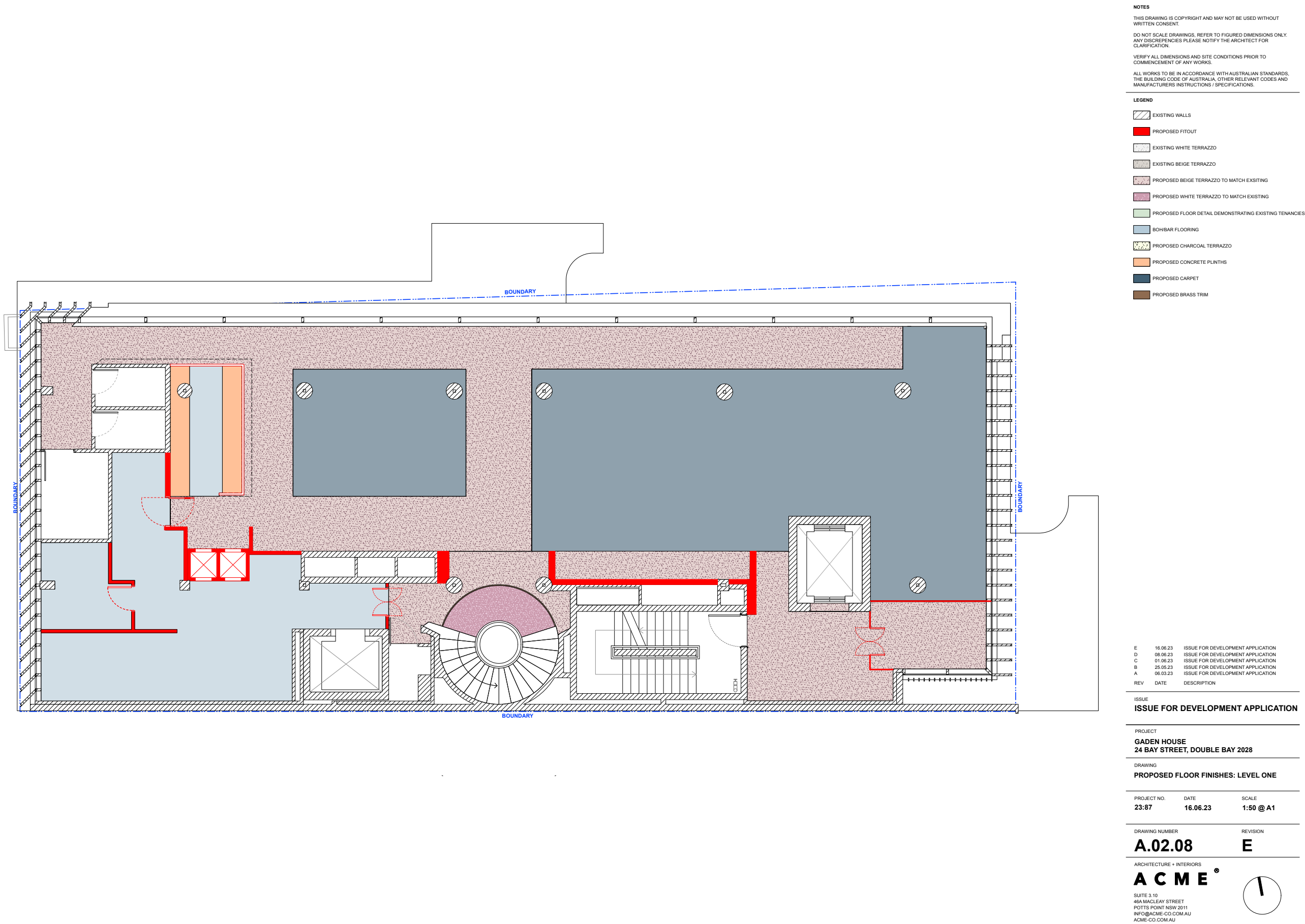
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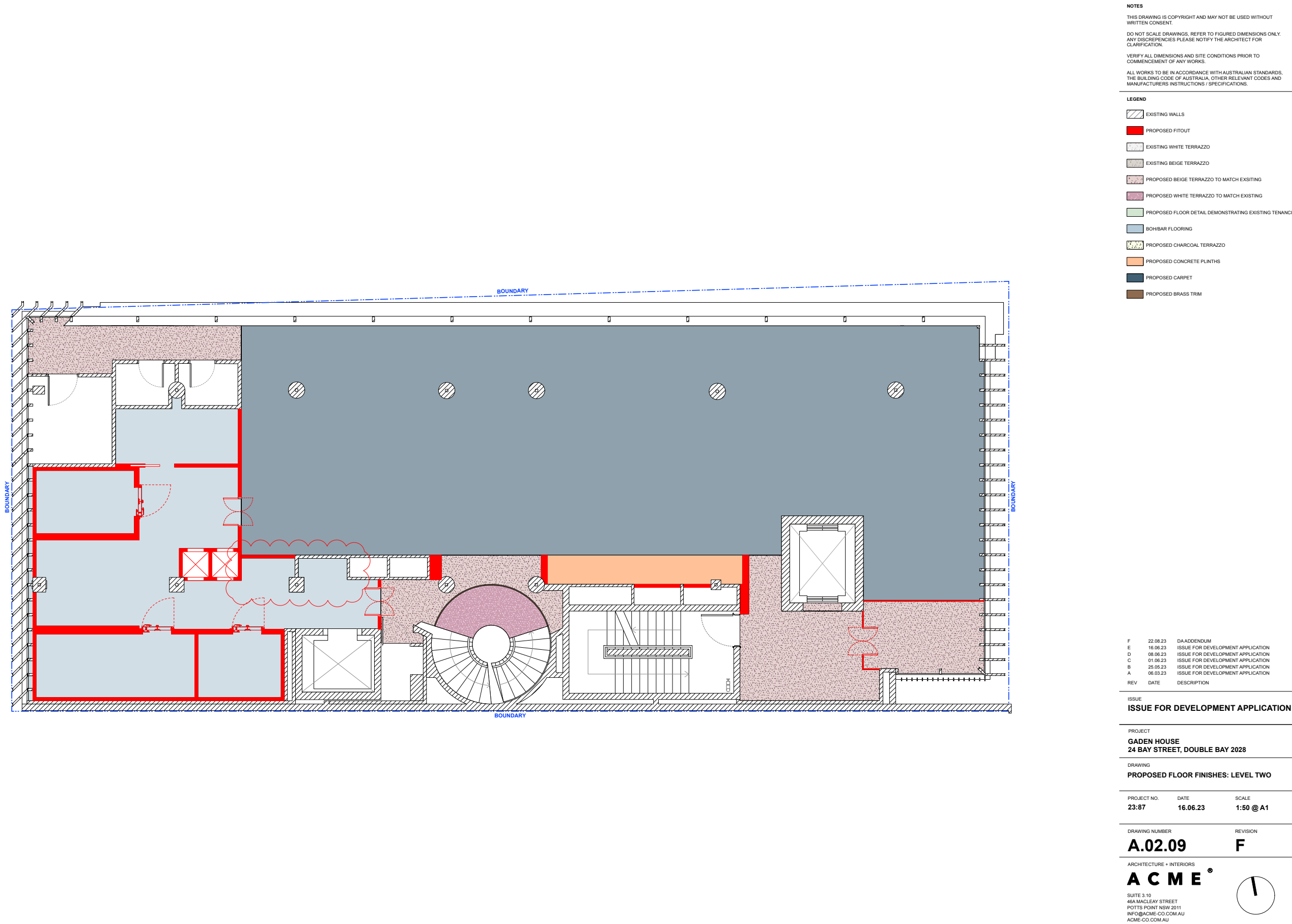
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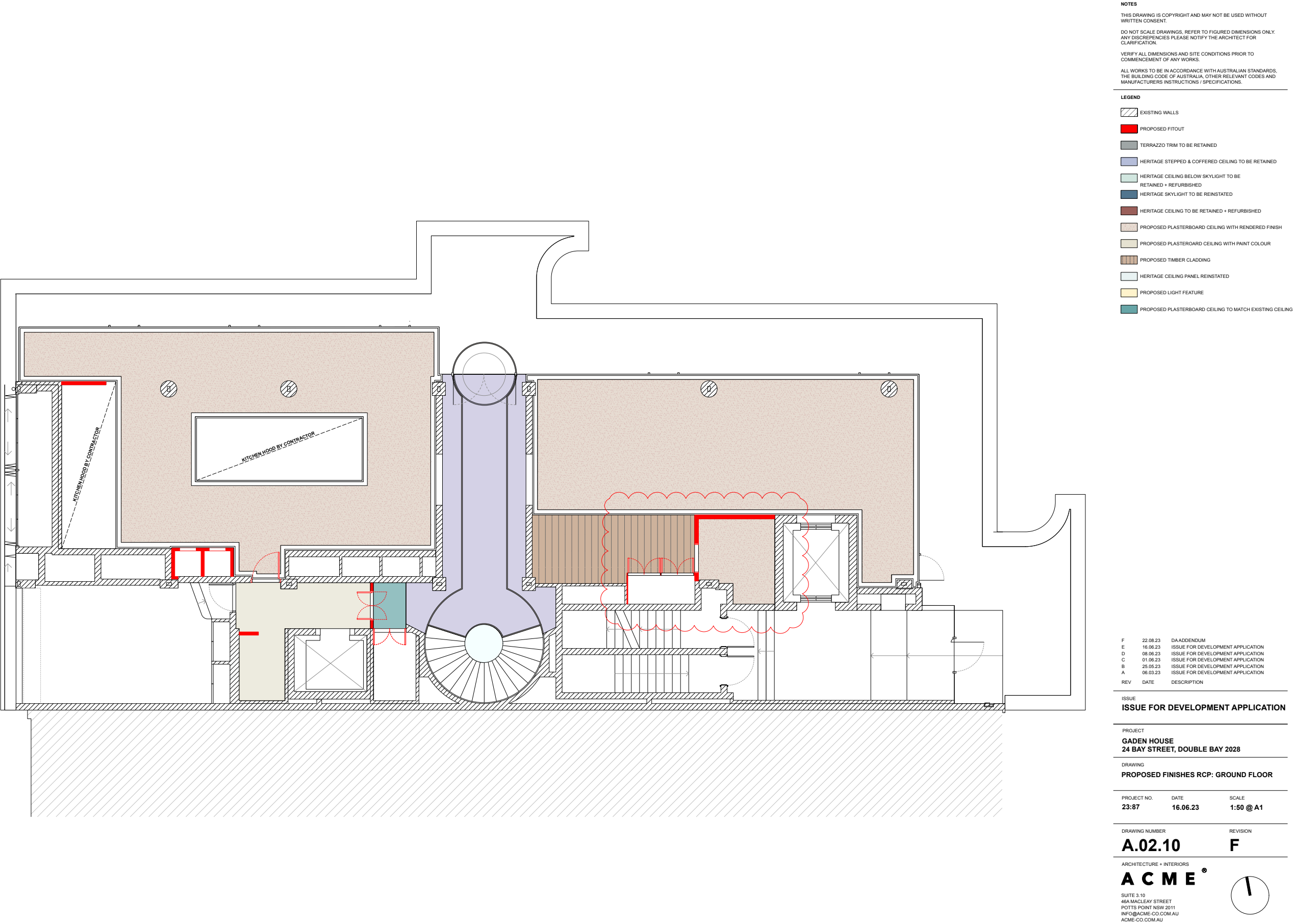
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SUITE 3.10
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POTTS POINT NSW 2011
INFO@ACME-CO.COM.AU
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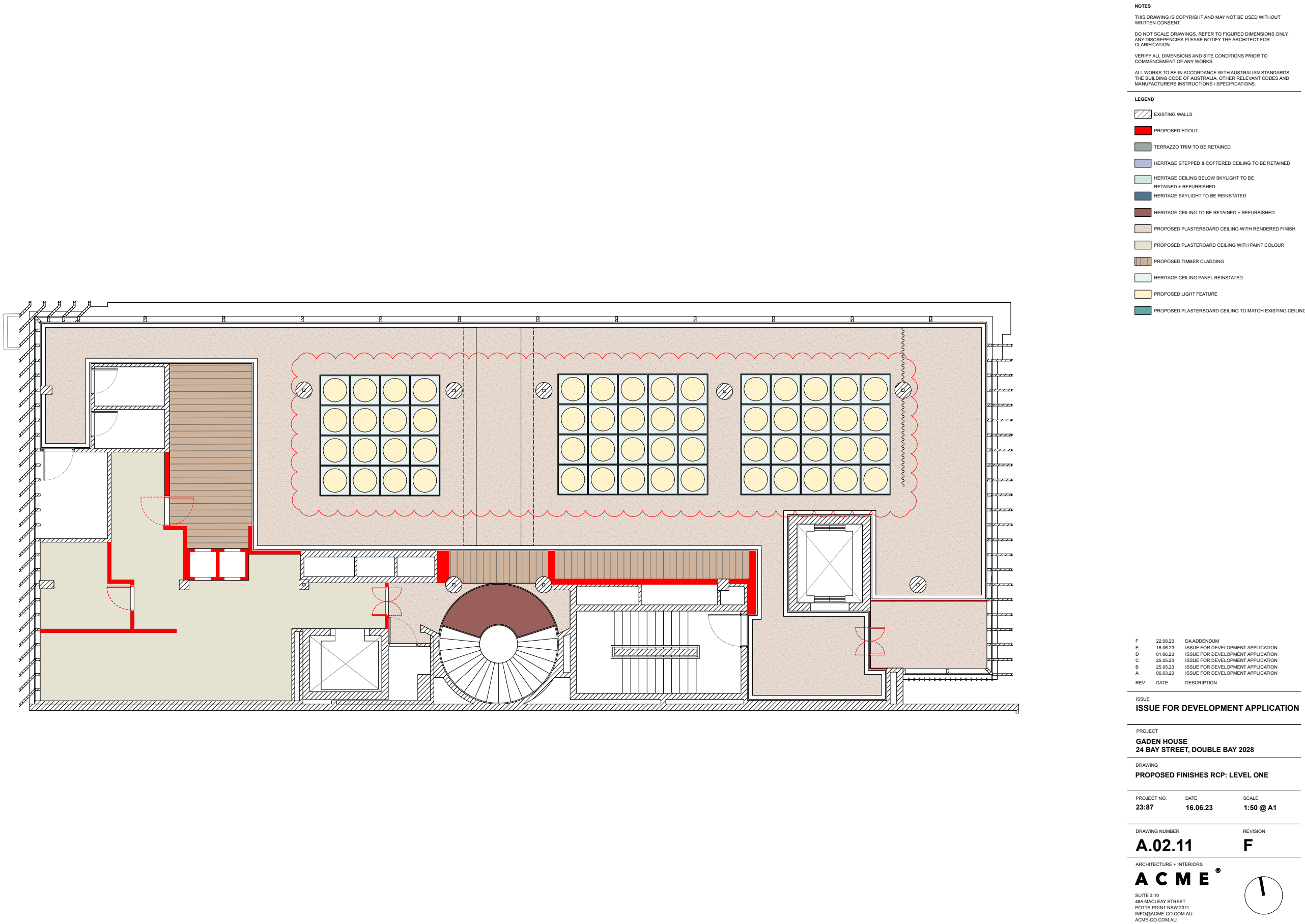


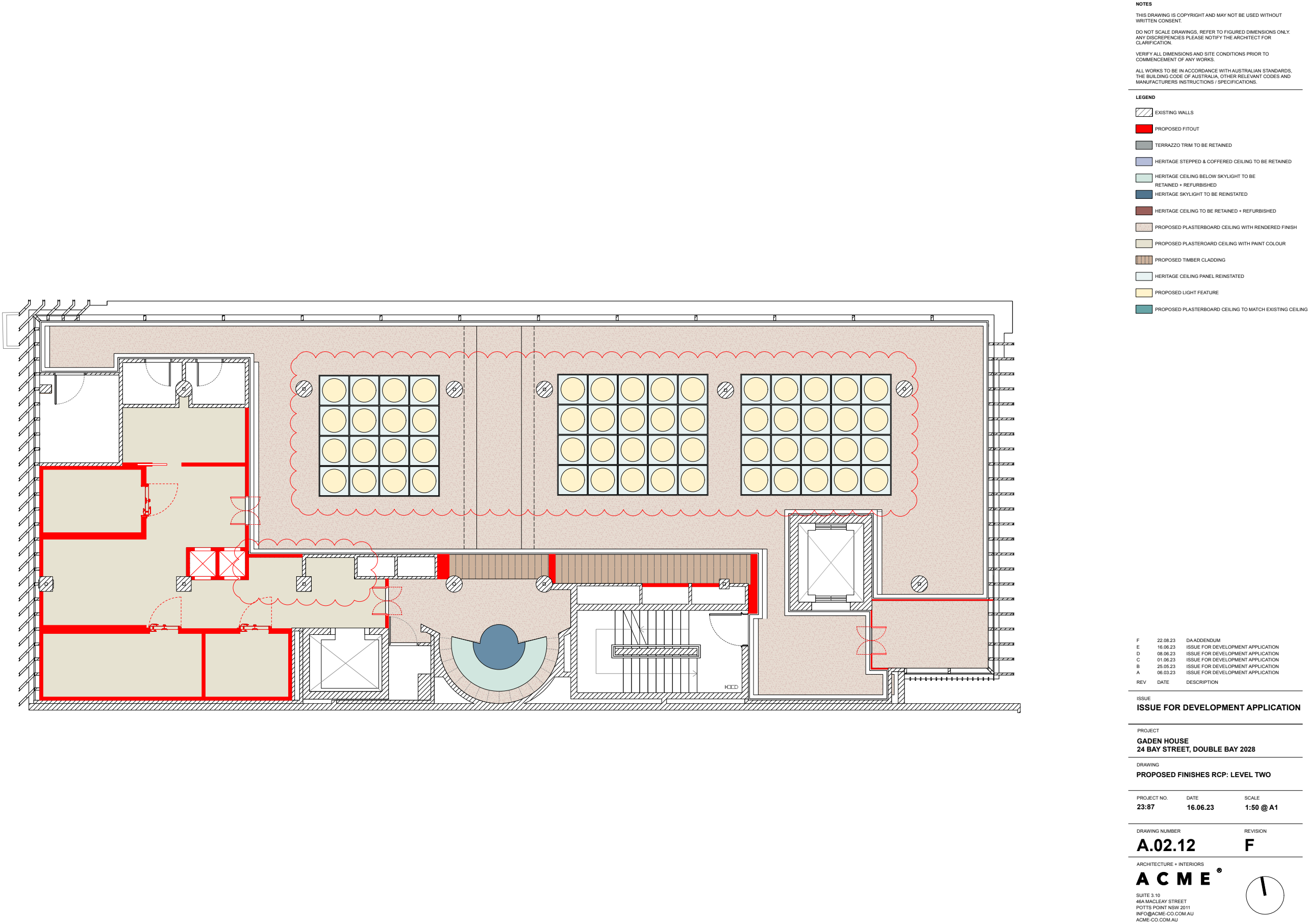


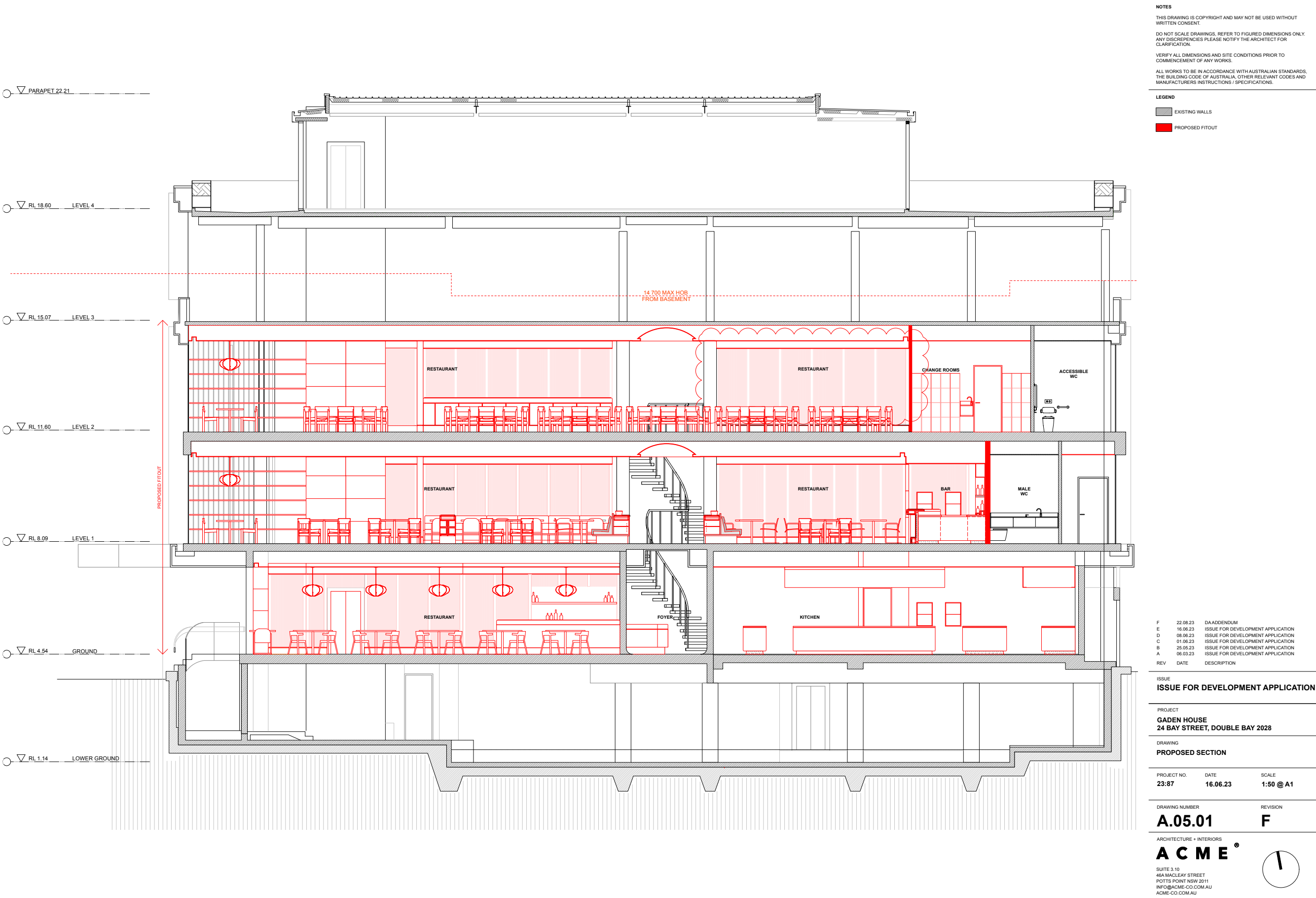


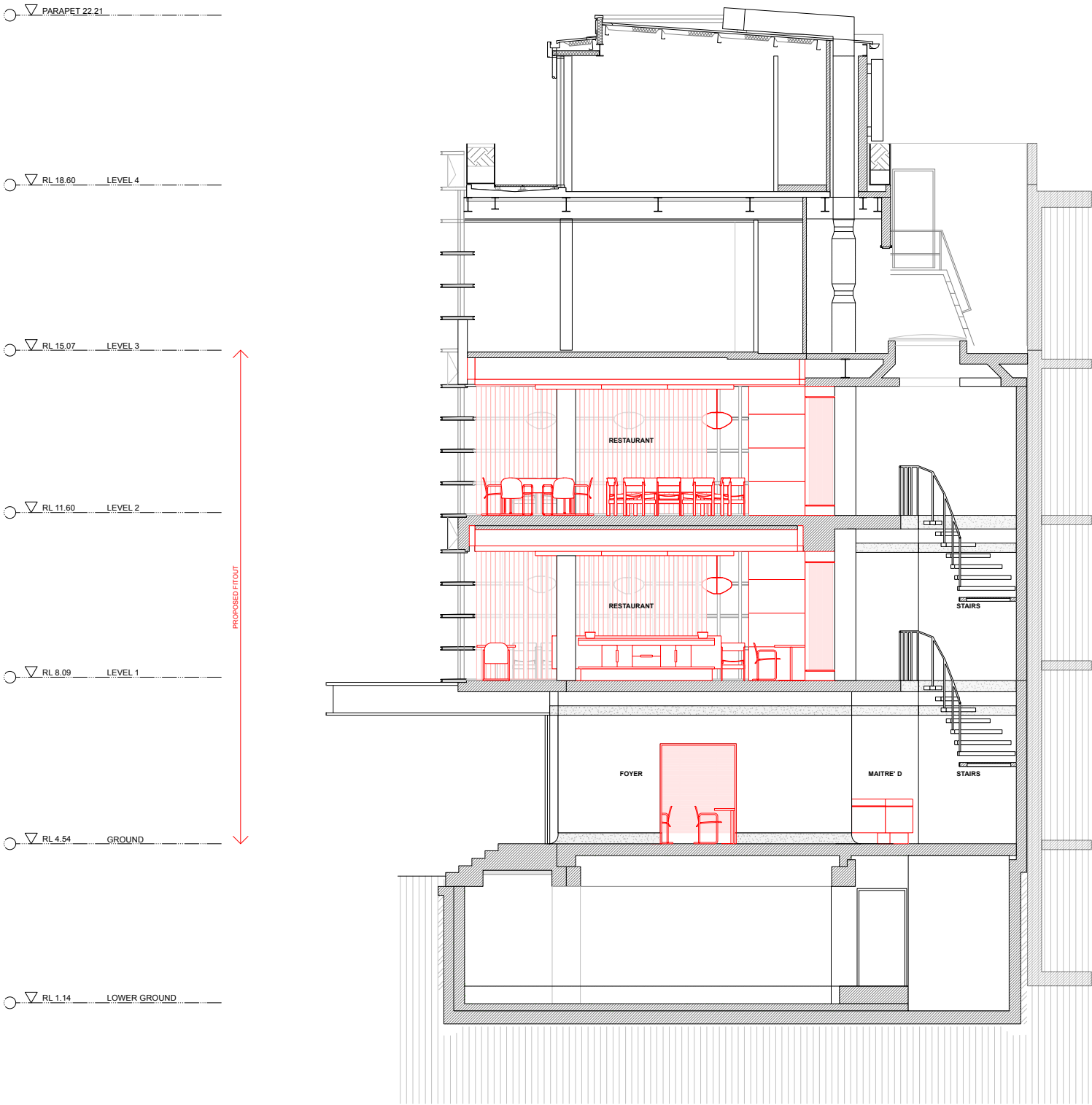












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LEGEND

EXISTING WALLS

PROPOSED FITOUT

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D	08.06.23	ISSUE FOR DEVELOPMENT APPLICATION
C	01.06.23	ISSUE FOR DEVELOPMENT APPLICATION
B	25.05.23	ISSUE FOR DEVELOPMENT APPLICATION
A	06.03.23	ISSUE FOR DEVELOPMENT APPLICATION
REV	DATE	DESCRIPTION

ISSUE
ISSUE FOR DEVELOPMENT APPLICATION

PROJECT
GADEN HOUSE
24 BAY STREET, DOUBLE BAY 2028

DRAWING
PROPOSED SECTION

PROJECT NO.	DATE	SCALE
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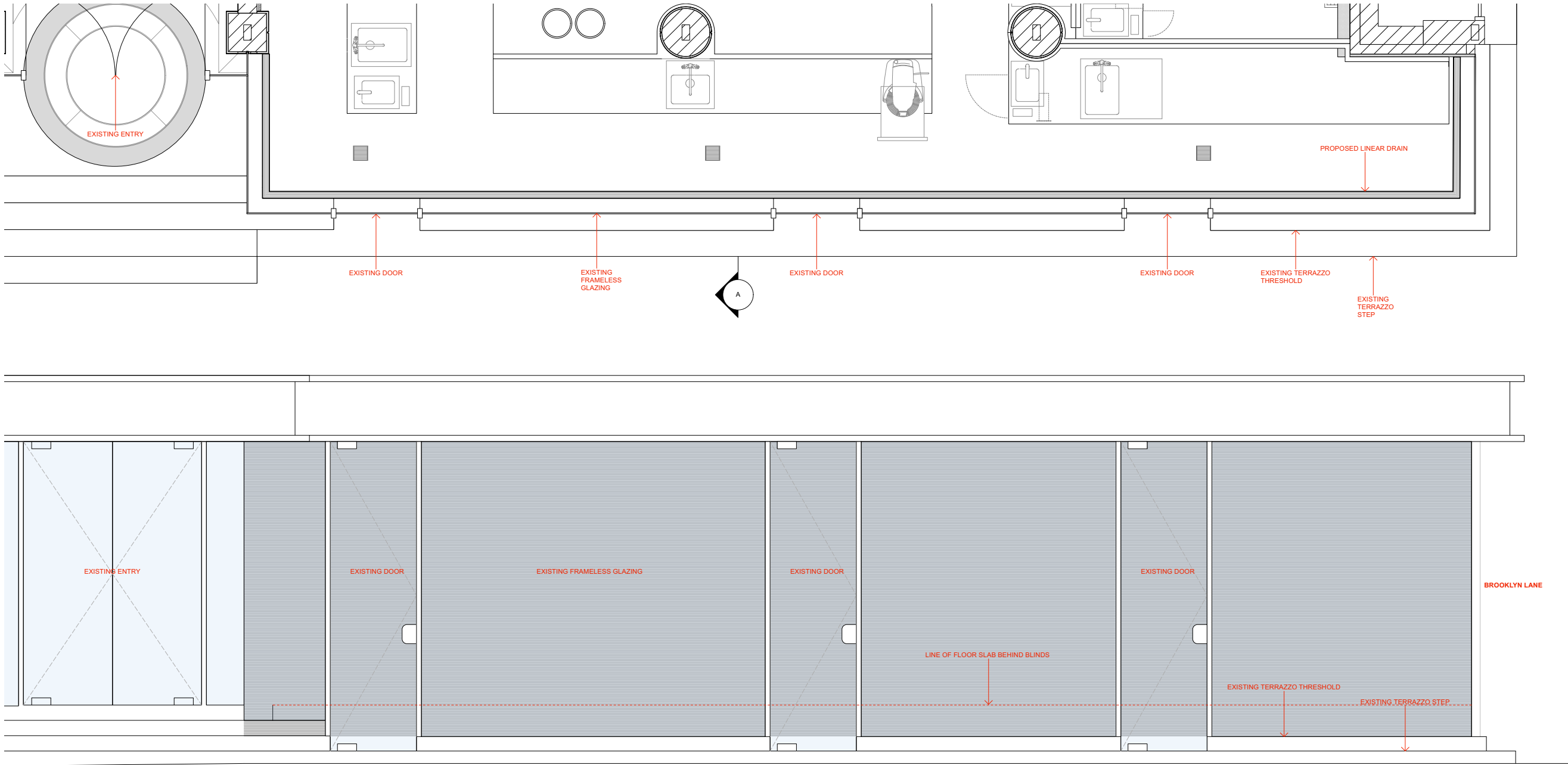
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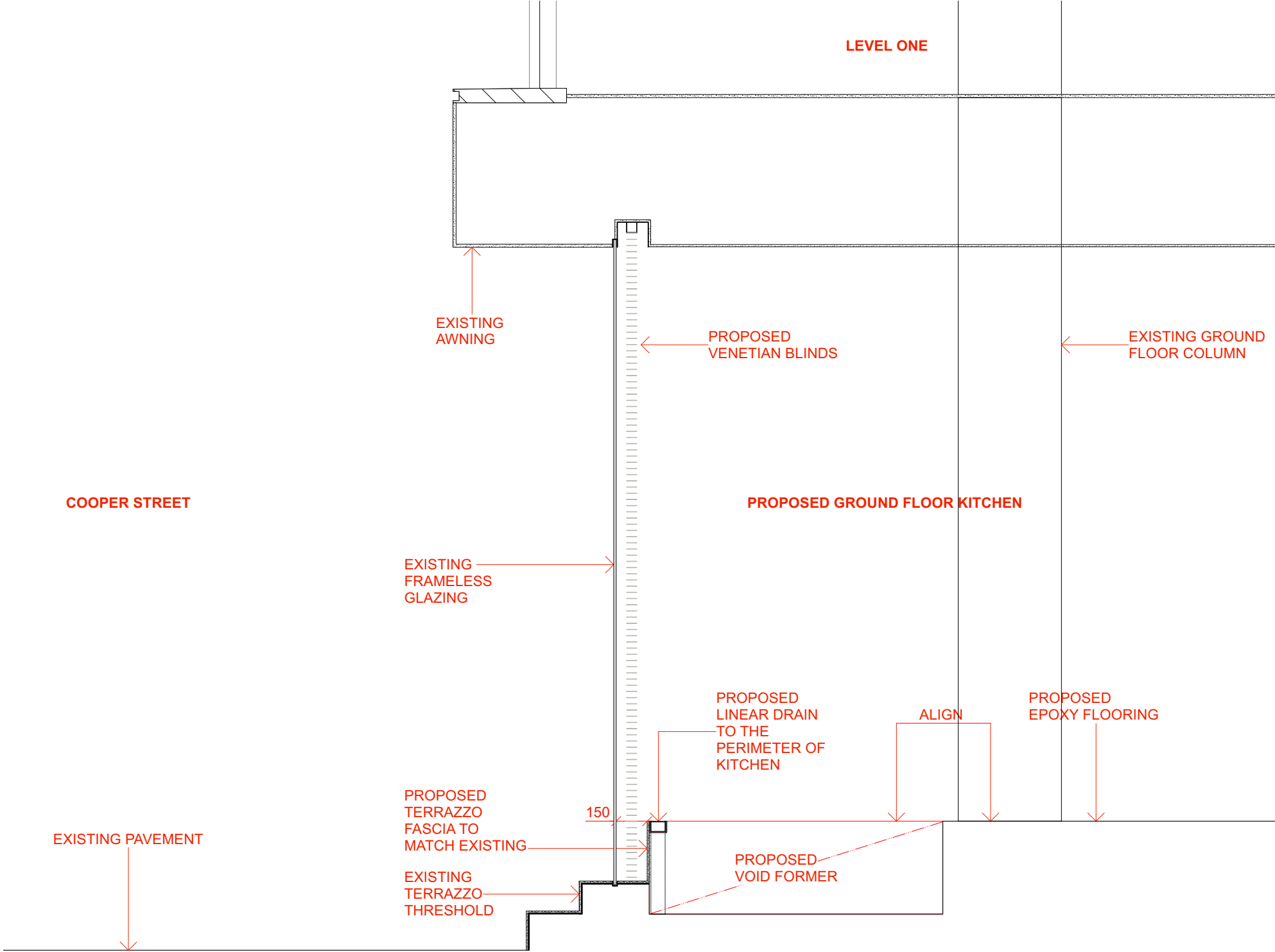
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GADEN HOUSE
24 BAY STREET, DOUBLE BAY 2028
PLAN + ELEVATION: GF KITCHEN
29 NOV 2023

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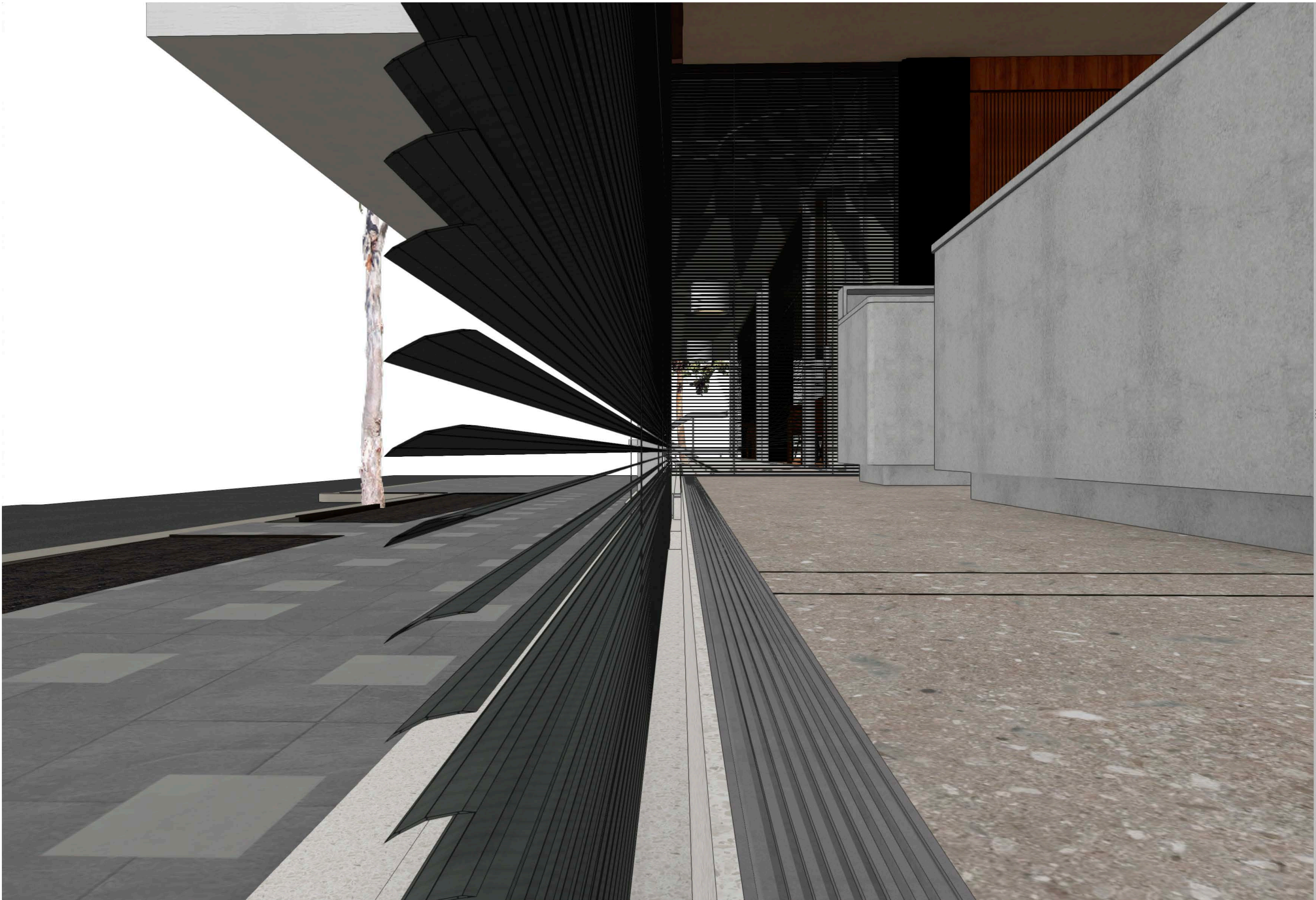


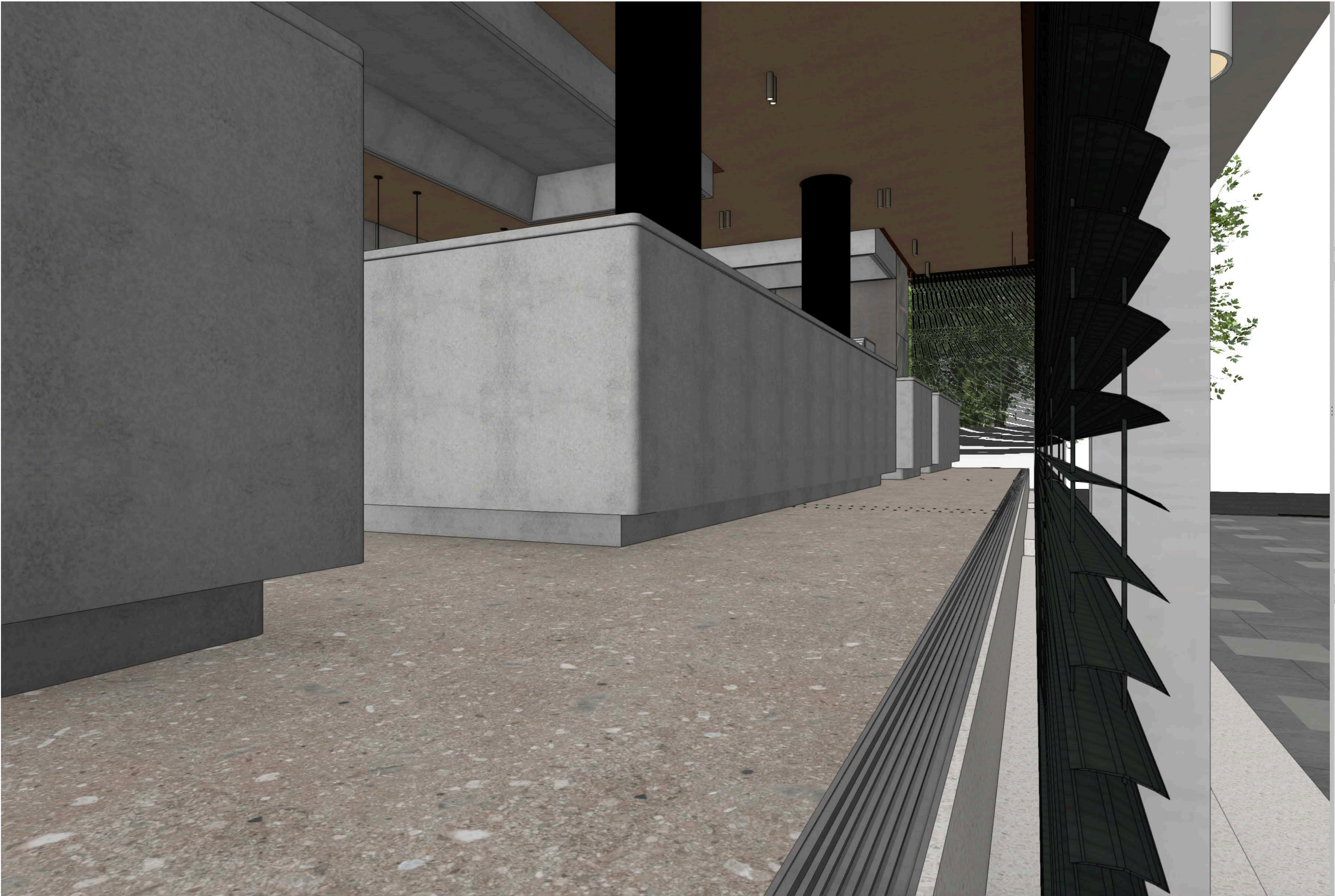
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SECTION DETAIL A: GF KITCHEN
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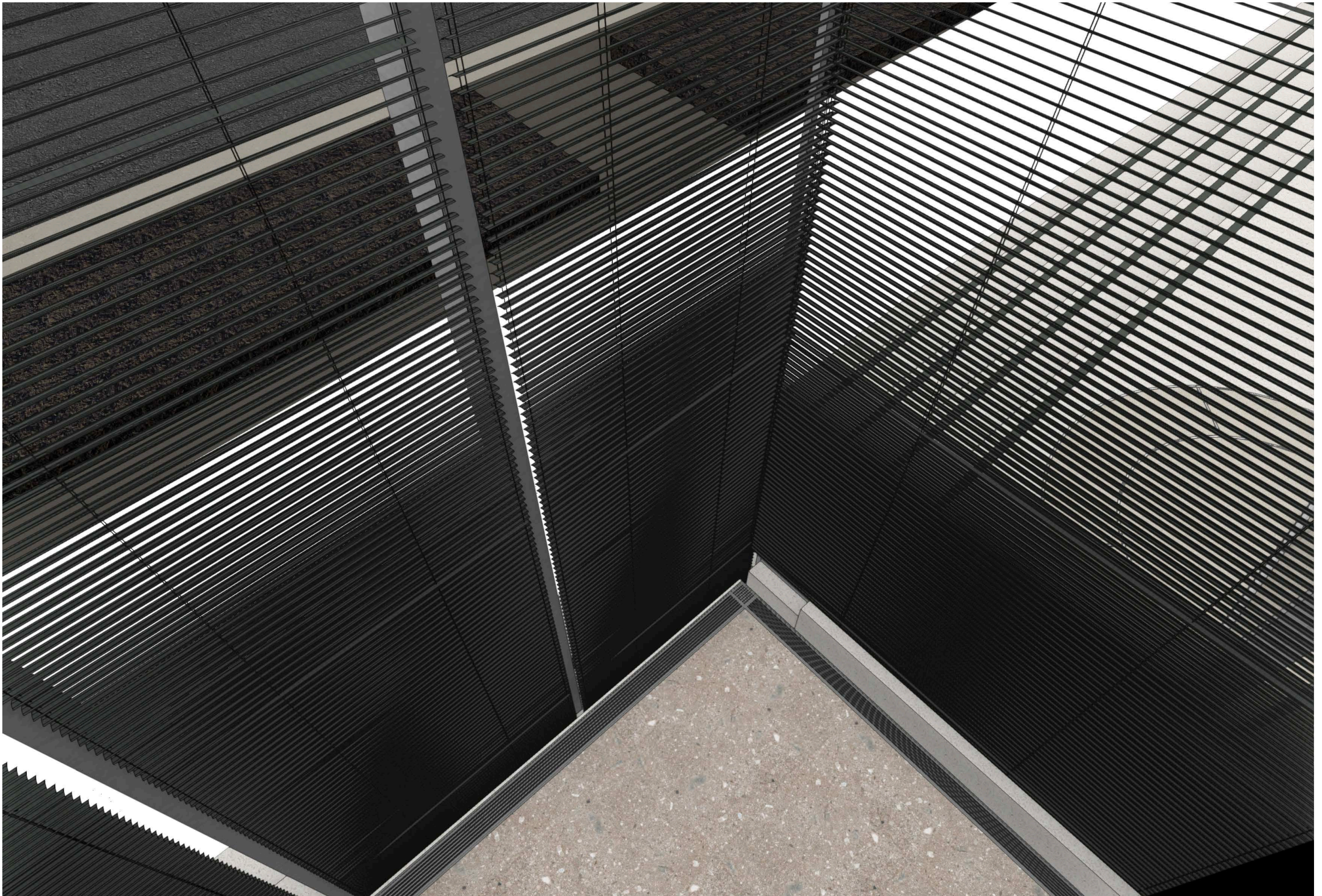
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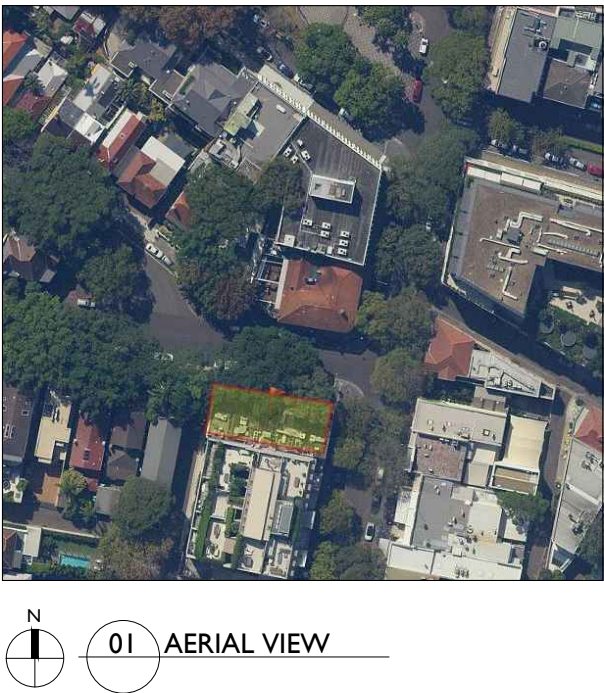
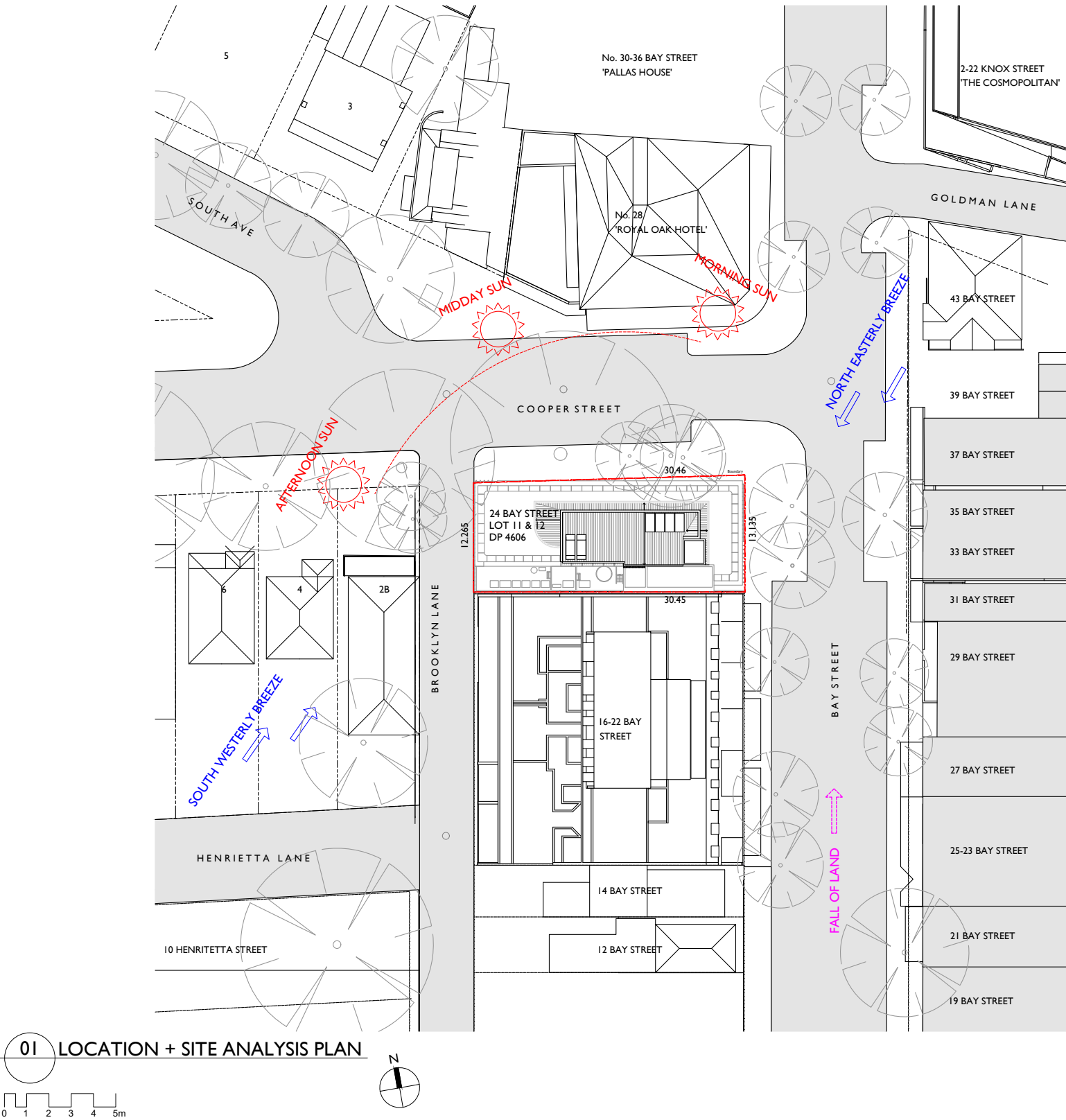












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	WORKS UNDER ASSESSMENT
	WORKS TO BE DELETED (CURRENTLY UNDER ASSESSMENT)
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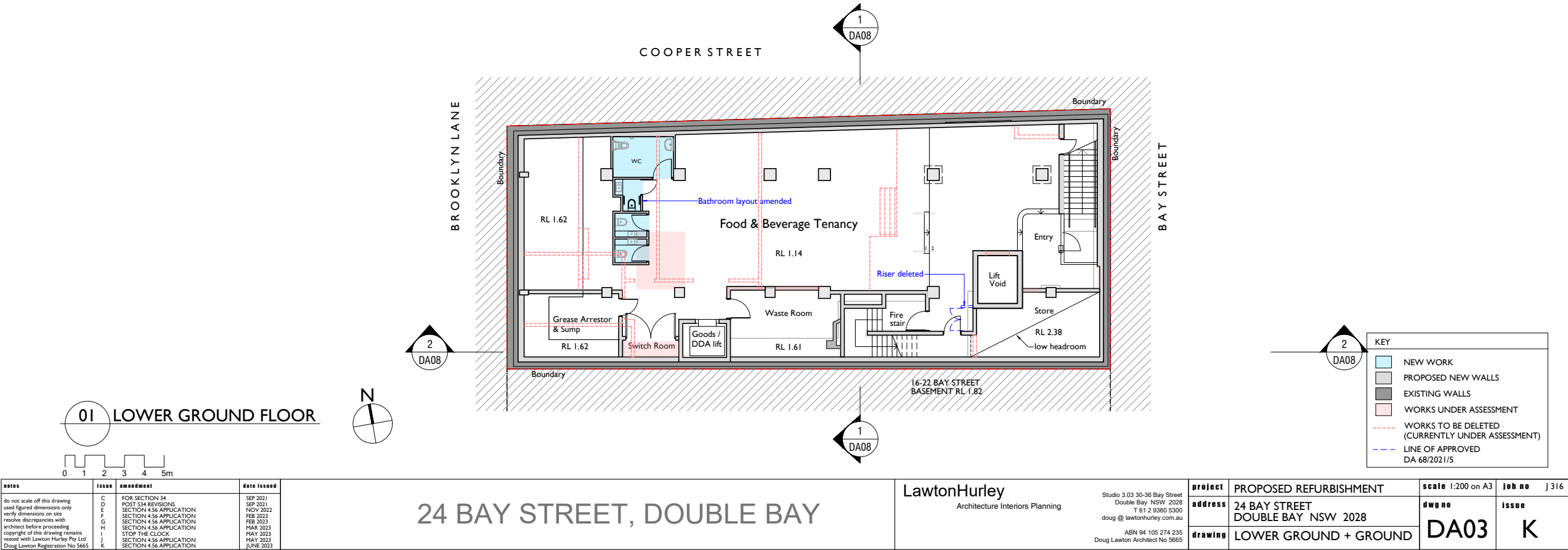
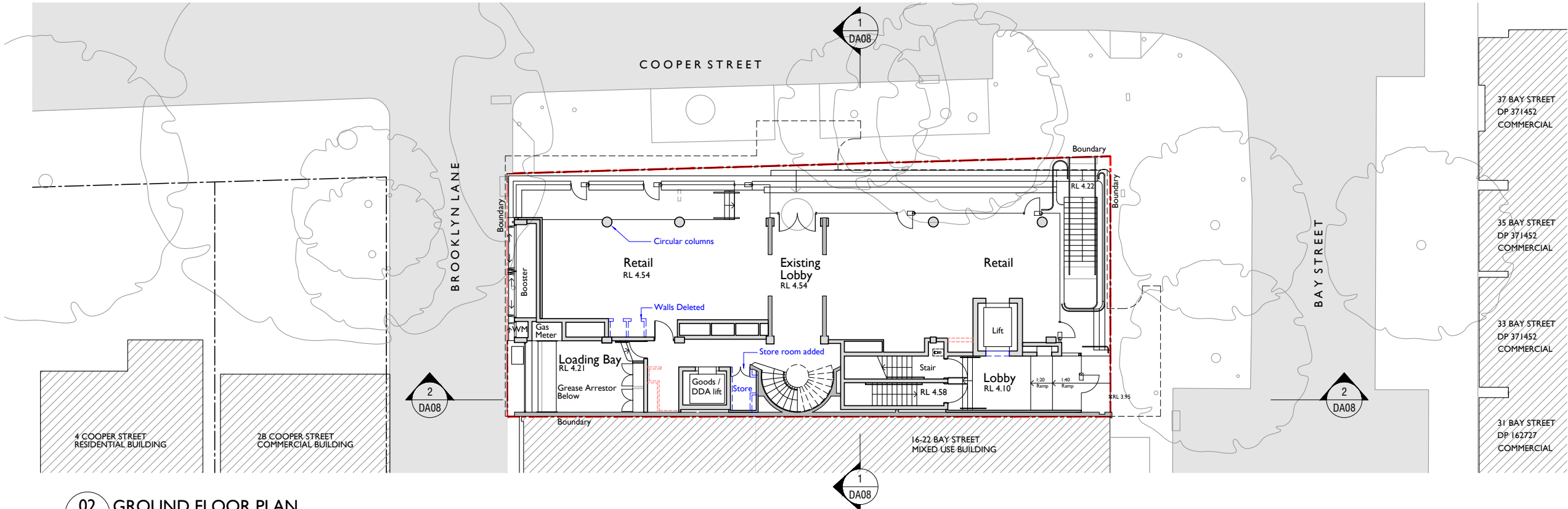
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24 BAY STREET, DOUBLE BAY

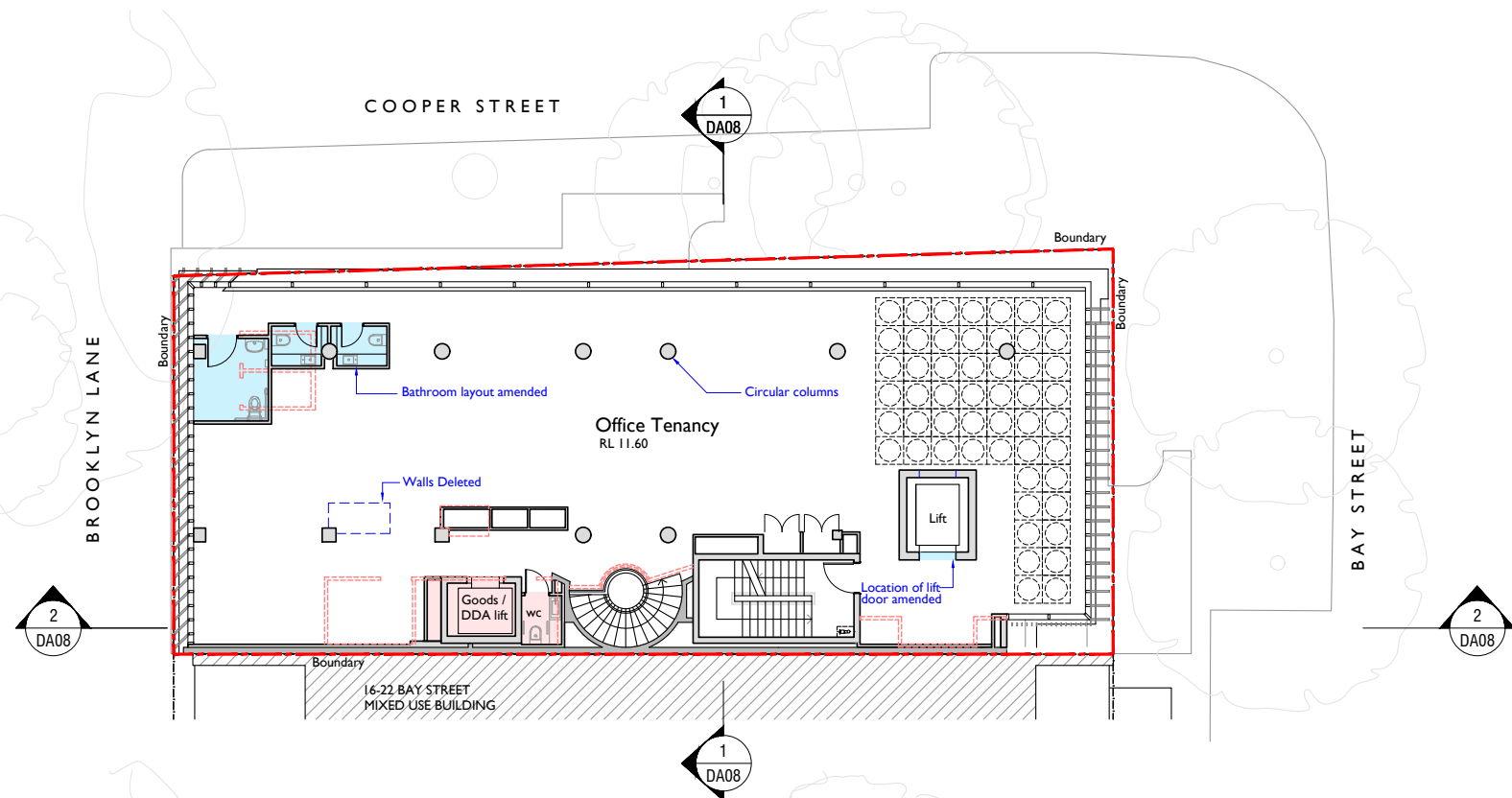
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T 61 2 9360 5300
doug@lawtonhurley.com.au
ABN 94 105 274 235
Doug Lawton Architect No 5665

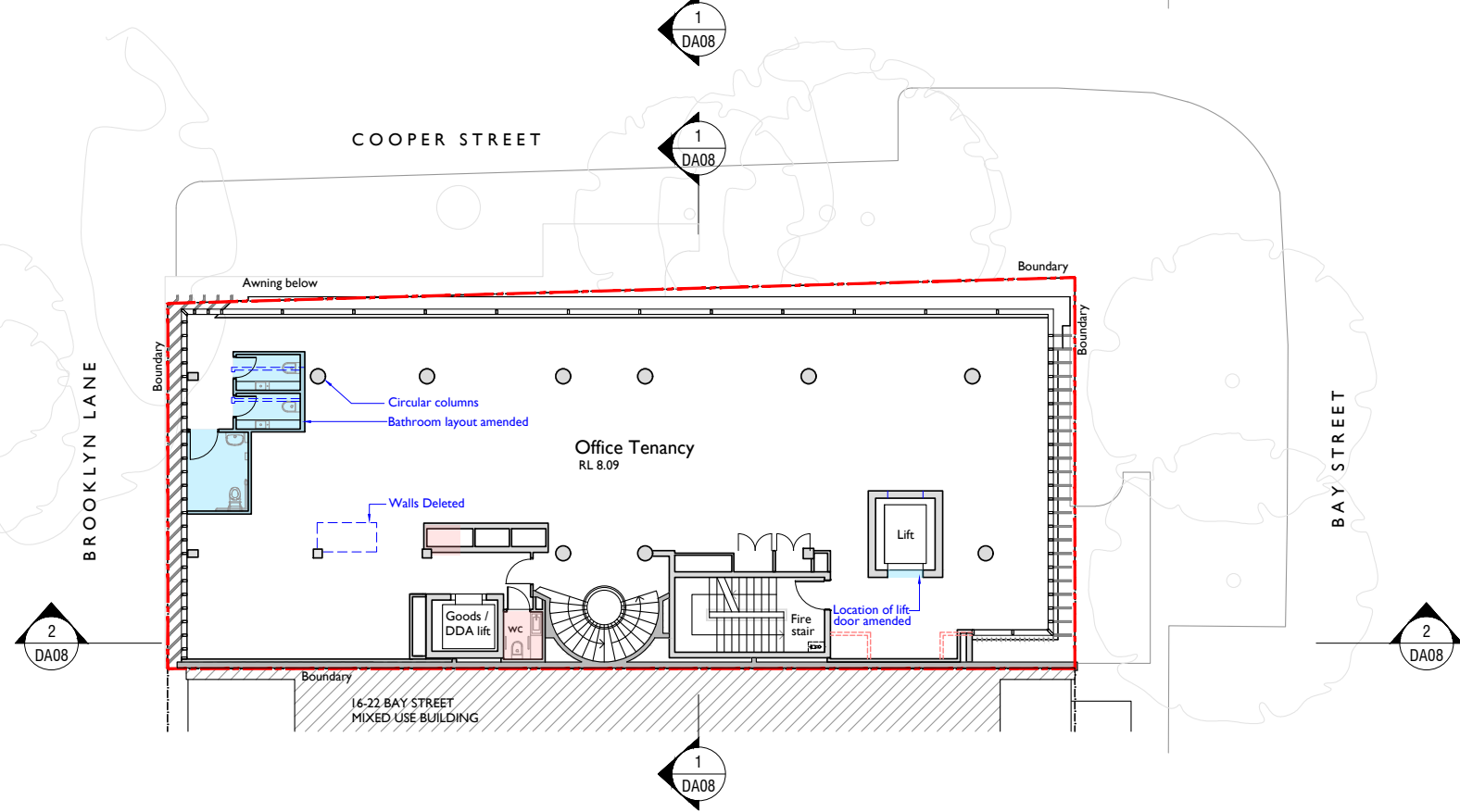
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02 LEVEL 2 FLOOR PLAN



01 LEVEL 1 FLOOR PLAN



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	PROPOSED NEW WALLS
	EXISTING WALLS
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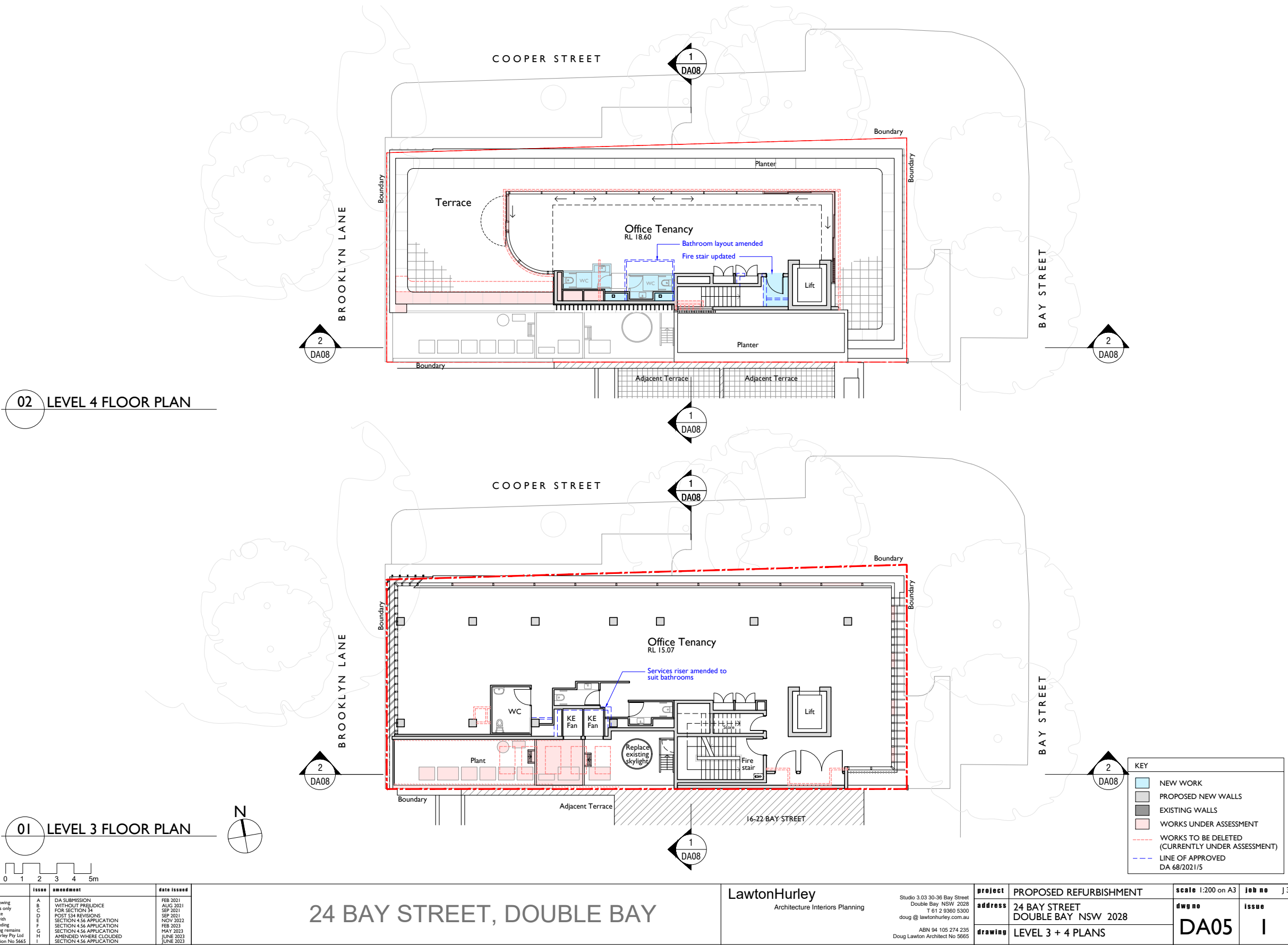
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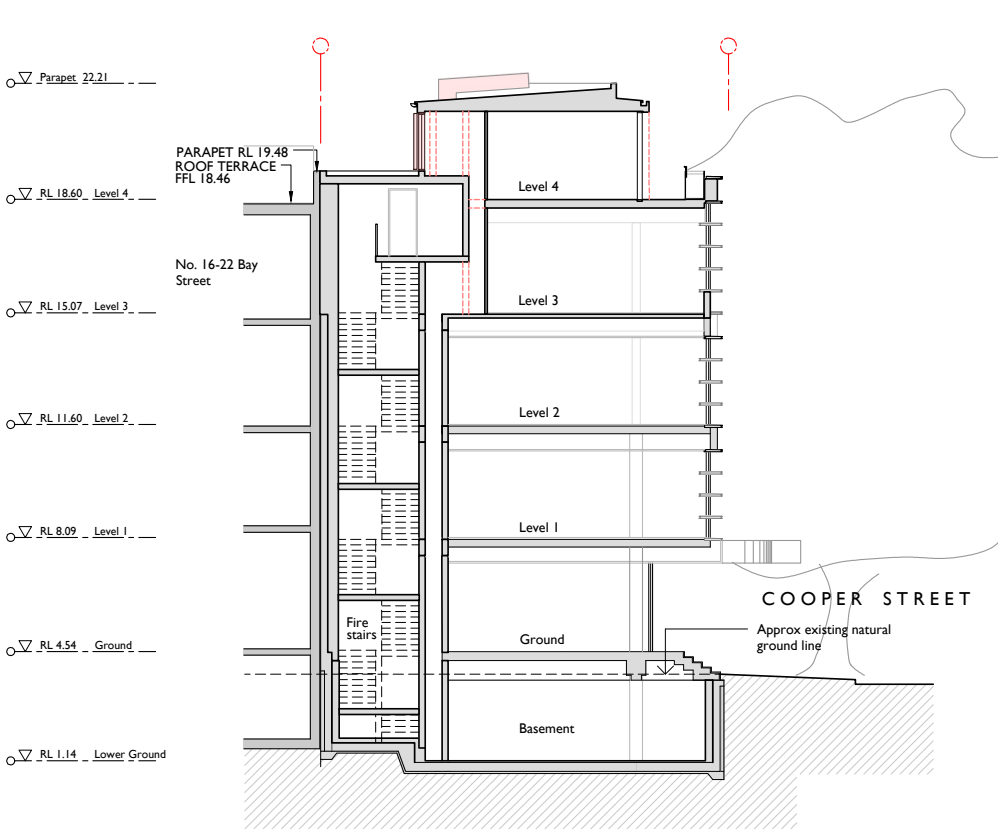
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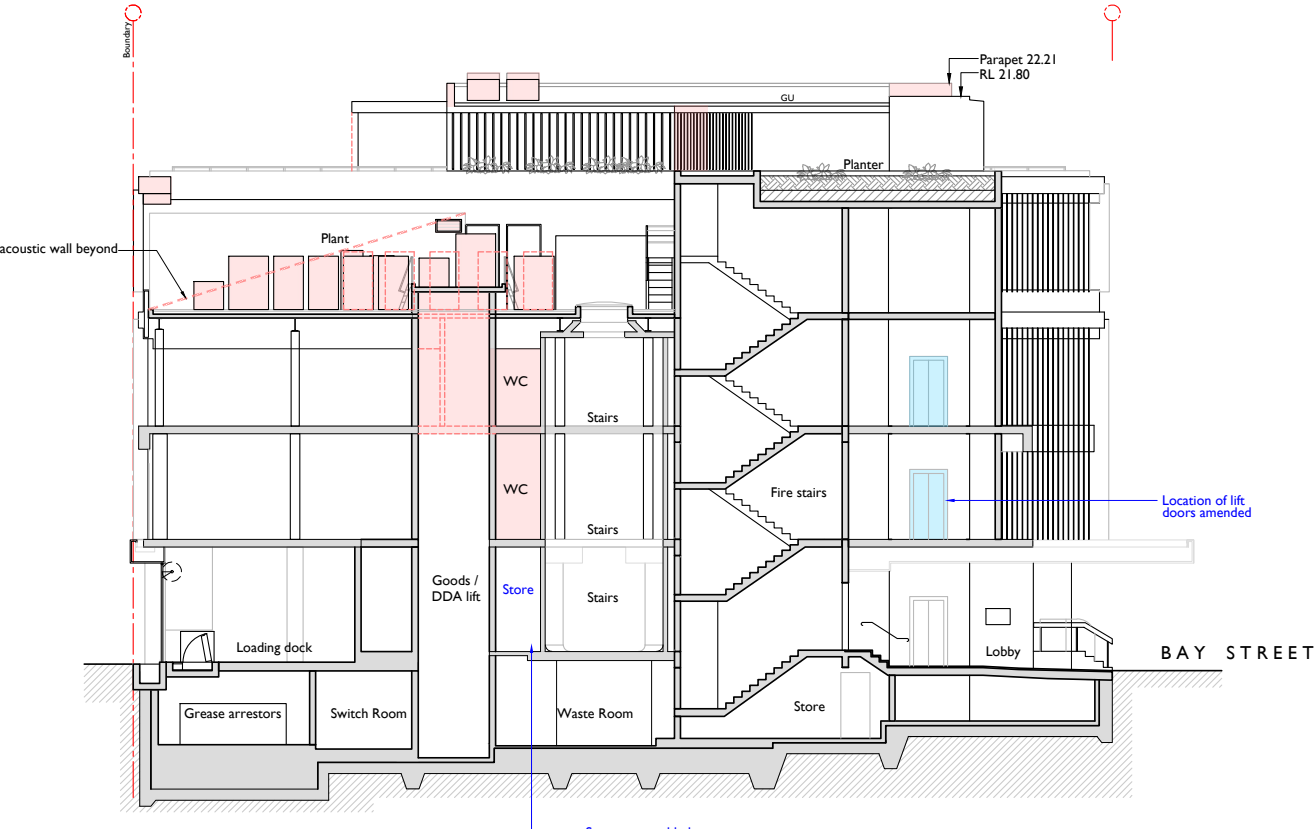
ABN 94 105 274 235
Doug Lawton Architect No 5665

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drawing	LEVEL 1 + 2 PLANS				





01 BUILDING SECTION
LOOKING WEST



02 BUILDING SECTION
LOOKING NORTH

KEY	
	NEW WORK
	PROPOSED NEW WALLS
	EXISTING WALLS
	WORKS UNDER ASSESSMENT
	WORKS TO BE DELETED (CURRENTLY UNDER ASSESSMENT)
	LINE OF APPROVED DA 68/2021/5

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24 BAY STREET, DOUBLE BAY

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Plan of Management

Restaurant – Song Bird

**24 Bay Street,
Double Bay**

Date: December 2023

Plan of Management

December 2023

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Plan of Management

December 2023

1.0 Executive Summary

This Plan of Management has been prepared to accompany documentation submitted to Council as part of a Development Application which proposes changing of use of the existing retail and commercial premises at Ground Floor, L1 and L2, 24 Bay Street, Double Bay to a licensed restaurant the subject of an on-premises liquor licence. The proposed trading hours are from 8:00am to 12:00am Monday to Sunday.

Consent was previously sought for a liquor license with regard to the approved change of use, which will be obtained through Liquor and Gaming NSW.

The preparation of this document has been undertaken in accordance with plans and a Statement of Environmental Effects ('**SEE**') that have been submitted to Council to support the proposal. Further, this Plan of Management demonstrates that the site can be effectively and safely managed in perpetuity, and would not adversely affect the amenity, safety and wellbeing of visitors to the site, surrounding premises and the wider community.

2.0 General Objectives, Background Information and Details of the Proposal

This Plan of Management provides guidelines and management practices for the day-to-day operation of the restaurant at 24 Bay Street, Double Bay ('**subject site**').

This Plan of Management aims to communicate the purpose of the restaurant to ensure that its operation:

- Is well managed;
- Is undertaken with regard to the surrounding area; and
- Takes a proactive role in being a responsible neighbour within the local area.

As indicated within Section 1 of this document, the applicant is awaiting Council approval for the change of use to modify the operations from retail and commercial to restaurant.

The proposed changes are as follows:

- Changing the use of the ground floor, level 1 and level 2 floor usages for a proposed food & beverage offering.
- Seating within the restaurant would be limited to two hundred and forty-eight (248) patrons.
- The restaurant would employ forty (40) staff. There would be a maximum of twenty (20) staff rostered on at any given time.
- Proposed restaurant trading hours, from **8:00am to 12:00am, Monday to Sunday**.
- It is proposed for the restaurant to become a licensed venue, to enable the sale of alcoholic beverages for onsite consumption as has occurred with surrounding cafes and restaurants. The operator of the restaurant will seek to obtain an on-premises license from Liquor and Gaming NSW.

The proposed operational changes are as follows:

- Alteration of internal ground, first and second floor plans;
- Seating within the restaurant would be limited two hundred and forty-eight (248) patrons, to comply with the approved maximum patron capacity; and
- The restaurant would employ forty (40) staff. There would be a maximum of twenty (20) staff rostered on at any given time.

Plan of Management

December 2023

3.0 Business and Operational Information

3.1 Business information

The details of the site operator are as follows:

- Name: Neil Perry
- Email address: neil@margaretdoublebay.com
- Phone number: (02) 9068 8888

General contact information (including a phone number, contact form and email address) will be determined prior to the issue of the liquor licence, should members of the public need to contact restaurant staff. Such information will be made publicly available on the premises.

3.2 Area of the site occupied by the restaurant.

For reference, the approved restaurant will occupy three levels of the building:

- The main part of the restaurant is located on the ground with additional seating located on the first and second floor.

Toilet facilities are located on the building's ground, first and second floor, and are accessed via an internal stairway and the elevator. An accessible WC on the first-floor level accessible via elevator access to the restaurant

Access to the restaurant is obtainable via two points; the main entrance is located on Cooper Street (opposite the Royal Oak) and another DDA access on Bay Street.

3.3 Hours of operation

The restaurant is proposed to operate during the following times:

- 8:00am to 12:00am, Monday to Sunday.

Plan of Management

December 2023

3.4 Number of patrons

Seating capacity within the restaurant is approved for a maximum of two hundred and forty-eight (248) patrons with tables and chairs to accommodate the approved number of internal patrons located within the restaurant's internal seating area.

Given that acoustic amenity of surrounding residential sites is paramount, staff are **not** to provide additional seating for patrons should they arrive once maximum seating capacity has been reached. Should advance bookings be taken, staff should be mindful of the patron numbers detailed above and are to stop taking bookings in the event that capacity is reached.

In the event of patron restrictions and advised social-distancing announced for public safety, staff will enforce the advised patronage in a clear and safe manner to ensure social-distancing is being exhibited within and near the premise. This will include but not limited to:

- Limiting patron numbers
- Distributing tables and chairs within the venue
- Adhering to 1.5 metre social distancing rules.

3.5 Staffing

3.5.1 Staff numbers

The restaurant would employ a total of forty (40) staff. There would be a maximum of twenty (20) staff rostered on at any given time.

There would be no new permanent cleaning staff employed by the restaurant. General trade-related cleaning duties would be undertaken by restaurant staff, while cleaning of the site more broadly would be undertaken by contracted cleaning staff.

Plan of Management

December 2023

3.5.2 Staff training

All restaurant staff would be required to undergo training to ensure they are appropriately qualified to undertake tasks associated with relevant roles. Such training would include familiarity with the contents and protocols of this Plan of Management, in addition to other considerations that include (but may not be limited to):

- Workplace practices and procedures;
- The responsible service of alcohol;
- Occupational health and safety requirements;
- Emergency events and contacts;
- Evacuation procedures; and
- Identification and reporting of building maintenance issues and potential risks to both patrons and employees.

If not already undertaken, then all new staff operating the restaurant shall undertake training in the Responsible Service of Alcohol (RSA) where required to satisfy the requirements of Liquor and Gaming NSW.

If not already done, then a training guide for staff is to be implemented. Once undertaken, new staff will be required to provide a signature indicating that they have undertaken training to address each of the requirements listed above, in addition to any other specific training if/where necessary. The signed documents shall be placed within the personnel file of each employee, so that it can be presented to relevant authorities upon request.

3.5.3 Delegation of responsibilities

The designated manager of the restaurant will be nominated as Fire Warden.

4.0 Safety, Security and Emergencies

4.1 Security

Having regard to the proposed manner of operation of the Restaurant it is not envisaged there would be any need to provide licensed security personnel. Sufficient staff will be employed at the Restaurant during trading hours to monitor patrons to ensure they behave in an orderly manner and do not cause any undue noise disturbance. At closing time staff will request that patrons leave the area quickly and quietly having regard to neighbours, and do not loiter or linger in the immediate vicinity of the Restaurant.

There are no existing security measures (i.e. lighting, surveillance/CCTV measures, etc.). The installation of necessary security measures will be provided where required and/or as directed by conditions associated with the approved development application for the change of use.

As detailed in Section 3.3 of this document, access to the restaurant would be controlled via two entrance points that are clearly visible from service areas. Access to the site can be controlled by restaurant staff.

In the event that patrons enter the site in what appears to be an intoxicated state, then management of such patrons shall be undertaken in accordance with Appendix A, which is attached to this Plan of Management.

Groups of people within seating areas will be capable of being actively observed by staff. Should particularly loud individuals and/or groups be identified (either by staff observations or through reports by other staff/patrons of off-site complaints), then the following procedure would be followed:

- The person/group would be approached by the manager on duty and politely asked to reduce the volume of their voice or activity.
- Should excessive noise continue to be generated by the individual/group, then they would be approached a second time and be given a warning that the site adjoins residential areas, and that excessive noise is affecting such areas.
- Should a third warning be required, then staff will request that the individual/group pay their bill and leave the site.

Plan of Management

December 2023

Approaches taken by staff would be like those when dealing with an intoxicated person, as detailed within Appendix A. If such requests to lower noise are met with verbal aggression, then the manager (if not the person issuing the warnings) will be notified. In the event of any threats and/or physical aggression, then the police are to be contacted to assist with the eviction of the person(s).

4.2 Security of service areas

During operating hours, areas where alcohol is stored will be observed by staff at all times to unauthorised persons from potentially accessing alcoholic products. All staff tasked with running the restaurant will be appropriately trained in the Responsible Service of Alcohol (RSA).

The size and location of the restaurant within the building will enable staff to actively observe persons consuming alcohol. All access points to the restaurant can also be observed from service areas.

4.3 Emergency events

4.3.1 Fire

In the event of a fire, then evacuation procedures are to be initiated. Procedures associated with a fire evacuation are contained within Appendix B, which is attached to the end of this document.

4.3.2 Flood

The subject site is within a flood-prone area. The floor levels of the site are above the 1 in 100-year flood level, however it is affected by the Probable Maximum Flood (PMF) level (i.e. levels that are subject to inundation during an absolute "worst case" scenario, as a result of probable maximum rainfall).

In the unlikely event of a flood, flood waters could inundate the ground floor level. In the event of a flood, the following procedures are to be initiated:

- Any persons within ground floor areas are to be immediately ushered to higher areas (i.e. the first floor). It is important to reiterate to such people that there is no risk to their safety to avoid panic.
- Access to flood-affected areas is to be prevented unless instructed by emergency services. A staff member(s) is to be located on the stairs during a flood event to prevent persons descending from the first floor to flood affected areas.
- Once it is safe to do so or when instructed by emergency personnel, staff are to guide patrons from the first level to the ground level and to a safe exit point(s).

Plan of Management

December 2023

4.3.3 Evacuation procedures

The site operator must provide certified fire equipment commensurate with applicable standards; all such equipment is to be certified as required by law.

The site operator must document Emergency Evacuation Plans and have evacuation diagrams on display throughout the entire site. Both the site operator and staff must also conduct emergency drills and provide staff with information about emergency procedures at regular intervals.

Emergency evacuation procedures for the site are contained within Appendix B, which is attached to this document.

Plan of Management

December 2023

5.0 Noise Management

It is acknowledged that the site is surrounded by a variety of land-uses, including residential development to the north of the subject site. The site operator wishes to demonstrate their commitment to maintaining the amenity of the locality.

An acoustic assessment (prepared by Acoustic Logic and dated 18 December 2023) has been submitted to Council as part of this new Development Application. The recommendations within this report will be adhered to in order to minimise acoustic amenity impacts to neighbours. Furthermore, the management of the premises will be undertaken in accordance with Condition I.9 (Noise Control), as per the approval for DA 2021 68 1 (base building works) to ensure acoustic amenity to neighbouring buildings are maintained.

A detailed house policy (which details the Responsible Service of Alcohol) is contained within Appendix A which is attached to this document. Measures of addressing potentially intoxicated (and therefore noisy) patrons is further detailed within Section 4 of this document.

Further details regarding cleaning and waste management procedures are contained within Sections 6 and 7 of this document.

Plan of Management

December 2023

6.0 Cleaning Procedures

6.1 General hygiene

Any food handling and hygiene practices shall be undertaken in accordance with the legislation, regulations, guidelines and directions of the NSW Food Authority and Council.

6.2 General cleaning practices

General cleaning practices would be undertaken by restaurant staff; however, some cleaning activities (both of the shop and restaurant) may also be contracted to a private cleaning service.

All areas within the approved restaurant will be cleaned daily, though staff would be available to clean any additional/unexpected mess that is created at other times. Bathrooms would be kept clean using standard chemicals (i.e., disinfectants, bleach, etc.) that would be stored within existing storage areas, well away from any food and beverage products. There will be no bulk-storage of chemicals within the restaurant.

The contents of this Plan of Management will be passed on to any contracted cleaning services, and it is expected that any such business will follow the requirements of this document where they apply.

Plan of Management

December 2023

7.0 Waste Management Procedures

Waste and recycling shall be stored within receptacles within the restaurant until they are transported to the main waste storage area at the rear of the site. During trading hours, the doors of the waste storage area are to remain closed except when in use.

The transfer of any waste between the internal bins and main waste storage area should only occur between the hours of 8:00am to 6:00pm, Monday to Saturday. No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Sunday to Friday, and between 9.00pm Saturday and 10.00am Sundays and Public Holidays.

For collection, the bins are to be transported onto Brooklyn Lane via the car entrance and left in an appropriate kerbside location that does not block public walkways. The bins will only be transferred for collection and moved back to the waste storage area as soon as possible following collection.

The bin storage area is to be kept clean and tidy at all times; any spilled food waste is to be removed immediately, to prevent vermin being attracted to this area.

8.0 Complaint Management

Contact information will be made available on site for the restaurant. Contact from complainants will be capable of being received during business hours (i.e. 8:00am to 12:00am, Monday to Sunday). Any complaints that are received will be managed as follows:

- A documented complaints process including a Complaints Register will be kept onsite at all times. Any complaints received will include the following information:
 - The name and contact details of the complainant(s), and the means by which the complaint was made (i.e. phone, email, in person, etc.);
 - The name and position of the employee who received the complaint;
 - The nature of the inquiry and/or complaint; and
 - Details and descriptions of the complaint (e.g. for noise complaints, documented information will include the type and duration of the noise, the location of the caller at the time that the complaint is received, the general area where the noise source was located, etc.).
- The responsible person (i.e., the manager) is to call back the complainant(s) as soon as practical and keep them informed of action(s) that are to be taken to address the issue(s) raised. Once the issue is resolved/finalised, the complainant is to be notified, with the details and content of any response to the complainant to be recorded within the Complaint Register.
- The responsible person is to document the status of the enquiry (i.e., open/closed) and what action(s) has been taken to resolve and finalise the issue.

Should any resolution of a complaint require a modification(s) to be made to the Plan of Management, then the person(s) who made the complaint should be consulted about any such changes.

The complaint register shall be made available to relevant authorities (i.e. Council, NSW Police, Liquor and Gaming NSW) upon request.

Plan of Management

December 2023

9.0 Deliveries

Deliveries would occur during normal business hours (i.e. between 7:00am to 5:00pm Monday to Saturday). Deliveries of other produce and materials would occur when required and would therefore not occur at a specific time or frequency. Delivery vehicles would utilise the vehicle access through the Brooklyn Lane entrance and the loading zone along Bay Street between 9:00am to 6:00pm Monday to Saturday.

Like the previous use of the Lower Ground Floor area, the proposed new licensed restaurant will be typically serviced by B99 (van) vehicles. For the occasional delivery by a larger vehicle, these will be accommodated within the on street loading zones.

Plan of Management

December 2023

10.0 Review

This Plan of Management should be used as a general guide to the day to day operations of the proposed restaurant. It is possible that the Plan of Management will be refined by the Development Application process, and then further refined by the manager to suit the business's specific needs and internal policies. For this reason, the detail and contents of this Plan of Management should be considered adaptable.

Unless onsite activities require that this document be modified sooner, management will review the Plan of Management every twelve (12) months to determine whether the objectives of this document have been achieved. This is considered necessary to assess the effectiveness of the operational management plans and ensure its ongoing relevance to the day to day running of the restaurant.

The Plan of Management must remain consistent with community and Council expectations and the changing requirements of users. If at any time, it is apparent that the provisions of the Plan of Management require significant amendments, a new operational management plan must be prepared in consultation with Woollahra Council.

Plan of Management

December 2023

Appendix A: House Policy for the Responsible Service of Alcohol

INTRODUCTION

This policy has been prepared to promote operational and staff awareness of responsibilities concerning the responsible service of alcohol which includes, but not limited to:

- Prevention of intoxication on the licensed premises;
- Harm Minimisation;
- Signs of intoxication; and
- Strategies for prevention and management of intoxicated patrons.

Where required by relevant authorities (i.e. Council, NSW Police, Liquor & Gaming NSW, etc.), both the Plan of Management and this House Policy will be updated as necessary.

'Responsible Service Practices' is a term that covers house policies, and will ensure that service of alcohol:

- Complies with the law;
- Helps staff deal with problem customers; and
- Maximises the profitability and the reputation of the business

Plan of Management

December 2023

EMPLOYEES' RESPONSIBILITIES

Licensees and employees have a statutory responsibility to ensure that patrons do not become intoxicated on their premises, and to prevent such patrons from entering or remaining on licensed premises.

Although none of these situations are easy to deal with, management and staff may, at times, have to deal with problem customers who may:

- Be observed as being loud and/or abusive;
- Be observed as being too drunk to drive; and/or
- Not care about themselves or others around them.

It is therefore critical to have policies and practices in place to prevent intoxication.

RESPONSIBLE SERVICE OF ALCOHOL STRATEGIES

Observations and Signs of intoxication:

To determine intoxication, it is first necessary to have a reference point. Staff need to make an assessment of whether alcohol has been consumed prior to arrival at the premises. If none has, then the behaviour of people when they arrive can be used as a reference point.

Staff should observe and note the appearance and condition of the patron who is sold or supplied with liquor, as well as the period of time the patron has been consuming liquor on the premises. This assessment needs to consider that:

- Everyone, and their ability to be affected by alcohol, is different; and
- Physical factors such as weight, gender, height, age, health and fitness all affect the body's ability to absorb alcohol and remove it from the bloodstream.

The adoption of a house policy and the service of alcohol

The proposed house policy is a framework within which the business operates by outlining practices, procedures and conditions. It serves to guide the behaviour of staff to assist in serving liquor responsibly and to deal with difficult situations when they arise.

The following principles must be considered when serving alcoholic products:

- Liquor is not to be served to anyone under the age of 18 years. Where the age of the patron is unclear, then they are to be asked for appropriate identification (i.e. a passport, driver's licence, proof of age card, etc.);

Plan of Management

December 2023

- The signs of intoxication are to be recognised, which may include, but are not limited to, being excessively loud and/or abusive, slurring of speech, acting inappropriately or in a manner that may cause harm to themselves or others, physical illness, etc;
- Staff are to try and not serve anyone to the point of intoxication;
- Management and staff are not to run promotions that facilitates and/or encourages the significant consumption of alcohol and/or intoxication of patrons'
- Staff are to not serve alcohol to anyone who is already intoxicated;
- Try to discourage people from engaging in activities that may harm themselves or others; and
- Engage in dialogue to prevent drink driving, including offering to call a taxi for patrons who may be too intoxicated to drive.

Approaches for the management of intoxicated persons

A tactful approach should always be employed to remove intoxicated persons from the restaurant. These may include:

- Verbal communication with the customer, which includes outlining any concerns followed by continual observation;
- Informing customers of the legal obligations of staff with regard to the service of liquor;
- Seeking assistance from the patron's friends;
- Intervening tactfully and peacefully;
- Consulting with the manager on duty or more experienced staff members and seeking their assistance;
- Avoiding physical contact with the patron;
- Offering to arrange safe transportation from the site; and/or
- Remaining calm and courteous at all times.

Should the person(s) become abusive and/or violent, then staff are to avoid physical confrontation with that person(s) and the police are to be called immediately by dialing 000.

Appendix B: Evacuation Procedures

Note: These procedures do not apply to flood events; refer to Section 4.3.2 (Page 11) of this document for procedures associated with flooding.

The following procedures are to be followed in the event of a fire, gas leak, or any other event that requires all staff and guests to immediately vacate the premises.

Procedures:

The R.A.C.E. (Rescue, Alarm, Contain, Extinguish) procedure. This would involve:

- Ensuring that all guests are remove immediate danger;
- Raising the alarm;
- Ringing the Fire Brigade on 000 from safe area;
- Containing fire by closing doors and windows, if safe to do so; and
- Evacuating all persons to a nominated assembly area(s) and ensuring all persons (including staff) are accounted for.

For evacuations of the restaurant, the nominated Fire Warden will organise for all guests and staff to assemble at the evacuation assembly point.

Where it is safe to do so, the preferred evacuation point should be within Guilfoyle Park, so that evacuated persons can be easily seen to by emergency personnel if required. Should it not be safe to evacuate to Guilfoyle Park via Guilfoyle Avenue, then all persons are to evacuate via the Bay Street entrance point to Bay Street at the front of the site (i.e. public areas to the front of the site). Should evacuation to the latter point be required and a person(s) requires medical assistance, then where possible that person(s) should be taken to William Street to meet with emergency services.

Once it is confirmed that all staff have been accounted for, if safe to do so a nominated member of staff should watch the side entranceway to Guilfoyle Avenue to prevent unauthorised access to the site via retail tenancy and car lift. The side entrance doorway is not to be closed at any time during an emergency, to prevent the obstruction of emergency personnel who may need to enter the site via this point.

Plan of Management

December 2023

Duties:

Duty Manager, Site Operator (if present):

- If safe, check upstairs, toilets and storage rooms to ensure that all patrons and staff have evacuated.
- Move to assembly area as quickly as possible.
- Where safe to do so, close doors behind you to contain fire.

General Staff:

- Perform R.A.C.E. procedures where required.
- If safe, collect the staff attendance book to verify that all staff are present and accounted for; and
- Direct guests to the assembly area as quickly as possible.
- Once at the emergency evacuation point, liaise with the Fire Warden to confirm that staff are accounted for.

Exit Procedures

The following points must be considered by all staff:

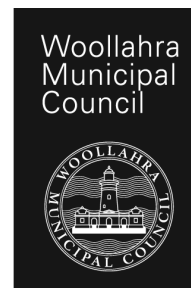
- Exit procedures are to be followed, unless they lead to the source of the fire/problem;
- Staff should only consider using a fire extinguisher if it is safe to do so and they are trained in the use of such equipment;
- Staff and guests may not be able to re-enter the building after evacuation for some time if at all; and
- Points for the Fire Warden or equivalent to consider:
 - The assembly area may not be safe due to other circumstances (e.g. flooding, building collapse, etc.).
 - Both emergency assembly areas must be identified and brought to the attention of all staff.

Remember that evacuation procedures may apply for a variety of situations and not just fire. Such situations may include chemical spillage, bomb threat, storm, aircraft crash, flooding, earthquake, riot, building collapse, gas leak, hostage and/or or siege situations.

Any fire drills should incorporate different scenarios, with evacuations being acted out accordingly, highlighting problems that may not have been envisaged.

Memorandum - Traffic

Date 2 December, 2023
File No. Development Applications: 242/2023/1
To Mr W Perdigao
CC
From Ms E Fang
Address 24 BAY STREET DOUBLE BAY 2028



ABN 32 218 483 245

Redleaf Council Chambers
536 New South Head Road
Double Bay NSW 2028
Correspondence to
General Manager
PO Box 61
Double Bay NSW 1360
DX 3607 Double Bay
records@woollahra.nsw.gov.au
www.woollahra.nsw.gov.au
Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 22 November 2023 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Amended Traffic and Parking Statement, referenced 20447, prepared by TTPP, dated 20 November 2023;
2. Amended Plan of Management, Restaurant – Song Bird, dated November 2023.

Proposal

Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2)

COMMENTS

Parking provision has been previously assessed and deemed satisfactory. Refer to #23/208749.

It is understood that majority of deliveries will occur via B99 vehicles which can be accommodated within the on-site loading area at the rear of the properties. Waste collections will continue to use the on-site loading bay as per existing conditions. Occasional deliveries by larger vehicles will utilise on-street loading zone in close vicinity.

The proposed arrangements for service vehicles are unlikely to create unacceptable adverse traffic impacts in this area and are therefore considered acceptable. Should the development be approved, conditions will be imposed to ensure service vehicles must enter and leave the site in a forward direction and must not impede access along Brooklyn Lane, noting Brooklyn Lane is a narrow laneway where pinch points exist to restrict vehicular movements.

Re-Referral Response - TS Traffic - DA2023 242 1 - 24 Bay Street DOUBLE BAY

RECOMMENDATION

Should the development be approved, it is recommended that the following conditions be included as part of the DA consent:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
20447	Amended Traffic and Parking Statement	TTPP	20 November 2023
Unreferenced	Amended Plan of Management	Restaurant – Song Bird	November 2023

I. Conditions which must be satisfied during the ongoing use of the development

I.15 Operation in Accordance with Plan of Management (POM)

- a) The operation and management of the premises shall be in accordance with the POM.
- b) The POM cannot be altered without the written consent of Council.
- c) All service vehicles attending the site via Brooklyn Lane must enter and leave the site in a forward direction and must not impede access along Brooklyn Lane.

Standard Condition: I15 (Autotext: II15)

I.23 Provision of Off-street Commercial Vehicle Facilities

The owner and occupier, in compliance with AS 2890.2-2018 *Parking facilities - Off-street commercial vehicle facilities*, must maintain unimpeded access to off-street parking as follows:

Use	Number of spaces
Loading Bay (6.5m in length)	1

All deliveries to and dispatch from the site, excluding retail sales, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.

All service vehicles accessing the loading bay must not be larger than 6.4m Small Rigid Vehicles and must enter and leave the car park in a forward direction.

Note: This condition has been imposed to ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.

Standard Condition: I23

Wilson Perdigao

From: Sagar Chauhan
Sent: Thursday, 14 December 2023 2:45 PM
To: Wilson Perdigao
Subject: Re-Referral Response - Heritage - DA2023/242/1 - 24 Bay Street DOUBLE BAY

Hi Wilson

I have reviewed the updated drawings by ACME dated 29/11/2023, and response letter from Urbis dated 01/12/2023.

The updated documents adequately respond to the condition provided in the heritage referral response dated 12/10/2023, in that the original concrete slab to the space would be retained, and new infill dressed in sympathetic materials to ameliorate adverse impacts.

The proposed works comply with Woollahra LEP 2014 Clause C 1.2 (2) (f), Part 5.10.

No heritage conditions are required.

Many Thanks
Kind Regards



Sagar Chauhan
Temporary Heritage Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028
t: 9184 1027
e: Sagar.Chauhan@woollahra.nsw.gov.au **w:** www.woollahra.nsw.gov.au

Our Values: Respect | Open | Accountable | Responsive | Excellence

We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.



Wilson Perdigao

From: Sagar Chauhan
Sent: Thursday, 12 October 2023 1:47 PM
To: Wilson Perdigao
Subject: Referral Response - Heritage - DA2023/242/1 - 24 Bay Street DOUBLE BAY

Hi Wilson

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by ACME, dated 16/06/2023
- Statement of Environmental Effects by GSA Planning, dated 06/07/2023
- Heritage Impact Statement by Urbis, dated 28/06/2023
- Heritage Commentary Letter by Urbis, dated 24/08/2023
- Finishes schedule by ACME, dated 21/06/2023

I provide following comments in relation to cultural heritage against the relevant statutory and policy documents:

SUBJECT PROPERTY

The subject site comprises a three-storey concrete structure, currently being extended with an additional floor and terrace above. As part of approved works, significant amount of original fabric has been demolished. (Figures 1, 2, 3 and 4)

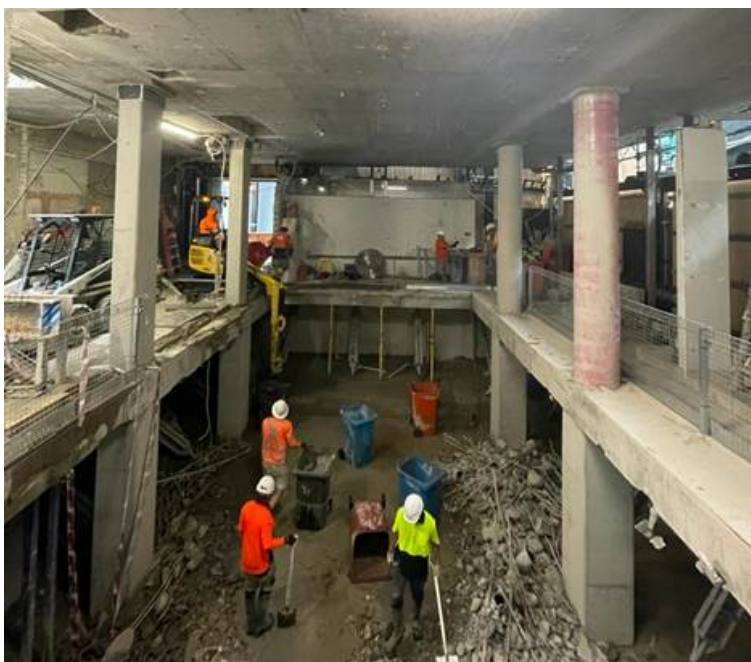


Figure 1: General view of the ground and lower ground floors, looking west.



Figure 2: General view of the ground floor, looking east.



Figure 3: General view of the first floor, looking west.



Figure 4: General view of the second floor, looking west.

PROPOSED WORKS

The proposed works include new fit-out to the ground floor and Levels 1 and 2 for the proposed commercial restaurant use.

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

The subject site is a heritage item of local cultural significance in the Woollahra LEP 2014, known as 'Gaden House including interiors.' item No. 681, and is not within a heritage conservation area.

An assessment of impacts of the proposed works in regards to conservation of built heritage is included below.

Part 5.10 Heritage Conservation

Clause 1(a) - to conserve the environmental heritage of Woollahra

Clause 1(b) - to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views

Clause 4 - Effect of proposed development on heritage significance

The following assessment is based on the cultural significance of the site (statement of cultural significance, extracted below), and cultural heritage assessment and conservation policies included in the Conservation Management Plan prepared by Heritage 21, dated April 2019:

The NSW Government State Heritage Inventory includes the following statement of cultural significance:

Gaden House is an exemplar of the development of Australia's cultural life in the post-war era when architects embraced the purity of Architecture as an art form including sculpture as an essential part of the design process. Neville Gruzman's determination to elevate the building above the ordinary, to make a contribution to the urban setting, to ensure that both the external and internal design were both functional and aesthetically pleasing, and to specially commission a sculpture that would flow through the building from the entrance foyer up the staircase to finish at the perspex dome, demonstrates a creative endeavour of the highest order and a contribution to Australia's cultural life both at the time and through to the present. The achievement of such a creative endeavour in a suburban commercial building in 1970s Sydney is rare.

Gaden House challenged the status quo of suburban shopping centres and transformed what could have been an ordinary suburban office and retail building into a work of art, pushing the design boundaries to produce a building that was a sculpture, both as an object in the streetscape at night as well as during the day, and in the interiors as a delightful and environmentally comfortable place to work. Gruzman proved that a small suburban office building could also be a work of art. When the building was opened in 1971 by the Premier of NSW, Mr. Robert Askin, its avant-garde design, combining international modernism to suit local conditions, played a pivotal role in elevating Double Bay to its pre-eminent position as Sydney's most cosmopolitan and international shopping centre and has continued to contribute to the community life of Double Bay ever since.

Gaden House demonstrates aesthetic characteristics and a high degree of creative and technical achievement by experimenting with materials and new technology, as evidenced by the precast concrete and glass spiral staircase topped by a perspex dome, the specially designed circular ceiling system incorporating lighting and air-conditioning, and the external metal clad louvres which were both environmentally functional and aesthetically significant. Adding to the creative and aesthetic significance of the building was the work of leading Australian sculptor Michael Kitching, which was an integral part of the original design and survived in-situ until around 2006. Despite the loss of the sculpture, which has the potential to be reconstructed through surviving documentation in the Kitching Archive, the building retains much of its original fabric and detailing externally and internally, and these original elements have the potential to yield information about architectural thinking and practice at the time related to a local interpretation of international modernism. The fact that Gaden House has survived in a relatively intact manner since 1971 makes it a structure of some quality and rarity in Double Bay and in Sydney.

The proposed fit-out to ground floor and Levels 1 and 2, including joinery, furniture, services, amenities, new flooring and ceiling treatments, is supported. The reinstatement of original coffered ceiling panels in conjunction with replica panels at Levels 1 and 2, and reinstatement of the domed skylight above original staircase would retain and reinterpret the original design intent by Neville Gruzman, and are supported.

The raising of floor along north boundary to match raised floor to its south would modify the exterior presentation by removing the distinction between the entry podium and this lower level currently accessible from Cooper St, and would result in additional loss of original structure.

The proposed materials and finishes would complement the extant original fabric and are supported.

CONCLUSION

Woollahra LEP 2014

Clause 1.2 (2) (f) - The development does conserve the built heritage of Woollahra, subject to a condition.

Part 5.10 Heritage Conservation

Clause 1(a) - The development does conserve the heritage of Woollahra, subject to a condition.

Clause 1(b) - The impact upon the heritage significance of the heritage item will be neutral, subject to a condition.

Clause 4 - This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal generally respects the cultural significance of the site, and complies with the relevant statutory and policy documents. The following condition is provided:

1. The raising of floor along north boundary to match raised floor to its south would modify the original exterior presentation by removing the distinction between the entry podium and this lower level currently accessible from Cooper St, and would result in additional loss of original structure. This modification is to be deleted in order to comply with Woollahra LEP 2014 Clause C 1.2 (2) (f), Part 5.10.

Many Thanks
Kind Regards



Sagar Chauhan
Temporary Heritage Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028

t: 9184 1027

e: Sagar.Chauhan@woollahra.nsw.gov.au w: www.woollahra.nsw.gov.au

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Completion Date: 21/12/2023

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 242/2023/1
ADDRESS: 24 Bay Street DOUBLE BAY 2028
PROPOSAL: Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2)
FROM: Jasmine Sutrina
TO: Mr W Perdigao

1. ISSUES

- Acoustics – licenced premises

2. DOCUMENTATION

I refer to the following documents received for this report:

- Noise Impact Assessment (R1), 202330058.2/1812A/R1/JHT, prepared by Acoustic Logic, dated 18/12/2023

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The proposed development will involve the change of use from two retail tenancies and two office tenancies to a restaurant across the Ground, First and Second Floor levels. Associated restaurant fit-out works are also proposed. The new tenancy spanning across the three levels will operate as a single restaurant premises.

The restaurant premises is proposed to operate 7 days per week, between 8:00am to 12:00am, Monday to Sunday. According to the Plan of Management (separately submitted), a maximum of 40 staff will be employed, and a maximum of 20 staff will be rostered on at any given time. The restaurant will have a maximum seating capacity of 248 patrons, with tables and chairs located internally. The restaurant is proposed to become a licensed venue and as such, the operator will seek to obtain an on-premises license from Liquor & Gaming NSW.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a) Acoustics

Environmental Health – Review

Review of **Updated Noise Impact Assessment, prepared by Acoustic logic, dated, 18/12/2023**

As response to the Environmental Health referral dated 27/11/2023, an updated Noise Impact Assessment was prepared involving updated noise monitoring at the subject site, 24 Bay st, Double Bay.

Unattended long term noise monitoring was conducted at the subject site from the 8th to the 18th of December 2023. Summarised rating background noise levels for the day, evening, late evening and night period are presented in Table 2.

Attended noise monitoring was conducted at subject site on the 31st of January 2023, to determine the background noise spectrum (see table 3). Summarised background noise levels spectrum for the day, evening, late evening and night period are detailed in table 4.

Section 4. of the report refers to the adopted noise emissions assessment criteria. NSW Liquor and gaming noise emissions criteria was used to assess noise generated by patrons and music at residential and commercial receivers (see table 5). Chapter D3 of the Woollahra DCP 2015 and Noise Policy for Industry 2017 was adopted as the mechanical plant noise criteria (see table 8).

Section 5 of the report refers to the noise emissions assessment.

Operational (patron/music) noise sources were assessed within the context of operating within the 8am-12am midnight trading hours and with doors/windows remaining closed. The following worse-case modelling parameters were also adopted as part of the assessment:

- *Patron noise in indoor areas are of a sound power level of 77 dB(A)L10 representative of a raised voice, with one in two patrons speaking at any one time*
- *Music within the indoor dining area is to be an internal sound pressure level of 75 dB(A)L10. This is representative of amplified "background" music*
- *Indoor dining areas are assumed to be filled to the maximum seating capacities*
- *The recommendations set out in Section 6 of this report have been implemented*

Table 9 and table 10 outlines the predicted noise levels and noise emission goals for the late evening periods at residential receivers and local centres respectfully.

Section 5.1.2 refers to the mechanical plant noise emissions. As detailed plant selections and locations have yet to be determined, the report proposes conducting a detailed acoustic review of mechanical plants proposed to be installed at the CC stage. At this stage, acoustic treatments are to be determined to control plant noise emissions as per the established emission goals (see table 8).

Section 6 of the report details recommendations and management controls to achieve noise emission goals as established in sections 4.1. It is noted that doors and windows are to be closed during trading hours except for when being used for the ingress/egress of patrons.

Environmental Health – Conclusion

Following the submission of the Updated Noise Impact Assessment prepared by Acoustic Logic (18/12/2023), the Environmental Health Unit is acoustically satisfied with this proposal.

6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
202330058.2/18 12A/R1/JHT	Updated Noise Impact Assessment	Acoustic Logic	18/12/2023

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Waste Storage - Commercial

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must make provision for:

- a) A dedicated and enclosed waste and recycling storage area behind the building line or within non-habitable areas of the building,
Standard Condition: C14

C.2 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).
Standard Condition C59

C.3 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} , 15 minute level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C62

C.4 Food Premises – Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.
Standard Condition: C65

C.5 Ventilation - Kitchen Exhaust- Smoke & Odour Control

1. The discharge of air from the kitchen exhaust ventilation system(s) is considered an obnoxious discharge under Section 3.7 of Australian Standard 1668.2-1991. The ductwork serving the proposed kitchen exhaust system(s) shall be arranged vertically with a discharge velocity of not less than 5 m/s and be situated at least 1 m above the ridge of a pitched roof or 3 m above the flat of the building.
2. All exhaust air and spill air shall be discharged to atmosphere in such a manner as not to cause a danger or nuisance to occupants in the building, occupants of neighbouring buildings or members of the public.
3. The design, construction and installation of the kitchen exhaust hood(s) shall comply with the requirements of *Appendix E, 'Kitchen Exhaust Hoods' of AS 1668.2-1991* and *Appendix F, 'Capture of Emissions By Kitchen Exhaust Hoods' of AS 1668.2-1991*.
4. A *Smoke & Odour Impact Assessment Report* is to be prepared by a suitably qualified engineer detailing the design specification of the proposed kitchen exhaust system, including all smoke and odour inhibiting controls and filtering systems.
5. The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all the kitchen exhaust ventilation system(s),

including all smoke and odour controls and filtering systems. Upon completion and prior to occupation of the premises, the kitchen exhaust ventilation system(s) shall be certified by a qualified engineer that the system(s) has been installed in accordance with AS 1668.1 and AS 1668.2 and the design specification as detailed in the *Smoke & Odour Impact Assessment Report*.

C.6 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

D. Conditions which must be satisfied prior to the commencement of any development work

E. Conditions which must be satisfied during any development work

E.1 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work must not* take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - (i) Piling;
 - (ii) Piering;
 - (iii) Rock or concrete cutting, boring or drilling;
 - (iv) Rock breaking;
 - (v) Rock sawing;
 - (vi) Jack hammering; or
 - (vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No *operation of any equipment* associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

- Note:** The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.
- Note:** Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.
- Note:** The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement out side the approved hours of work will be considered on a case by case basis.
- Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.
- Note:** EPA Guidelines can be down loaded from <http://www.epa.nsw.gov.au/noise/nglg.htm>.
- Note:** see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.2 Dust Mitigation

Dust mitigation must be implemented in accordance with "*Dust Control - Do it right on site*" published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: "*Dust Control - Do it right on site*" can be down loaded free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23

E.3 Food Premises – Construction & Fitout

The *principal contractor* or *owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health

Officers but no less compliant than with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

Standard Condition: E29

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Food Premises - Inspection and Registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) The *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) The *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act 2003*).

Note: Notification can be done on-line at www.foodnotify.nsw.gov.au

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires:

"100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

Note: *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

Standard Condition: F15

F.2 Maintenance of the Kitchen Exhaust

The proprietor(s) of the subject site shall enter into a contract agreement for the regular maintenance and cleaning of the odour control units and filtering systems. A copy of the contract agreement shall be made available to Council's Health Services Section prior to the occupation of the building.

F.3 Gas Heating Appliances

The gas heating appliance shall comply with the requirements of **AS4553-2008(Gas Space Heating Appliances)** and the installation of the appliance shall comply with **AS5601-2004(Gas Installations)**.

F.4 Domestic Solid Fuel Heating Appliances

The solid fuel heating appliance shall be installed in compliance with the Australian Building Code and Australian Standard AS/NZS 2918, to ensure the safety of the installation.

And the solid fuel heating appliance must comply with AS/NZS 4013:1999(*Domestic Solid Fuel Burning Appliances-Method of determination of flue gas emission*).

A Certificate of Compliance in relation to the Solid Fuel Heater is to be provided to Council.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

Nil.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Trading hours

Trading hours are limited to:

- a) Monday to Sunday: 8am - 12am (midnight)

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading including, but not limited to, external impacts associated with clients attending the site for business or otherwise.

Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.
Standard Condition: I2

I.2 Storage and handling of flammable and combustible liquids

The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 - *The storage and handling of flammable and combustible liquids*.

This condition has been imposed to protect public safety.
Standard Condition: I38

I.3 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the *Food Act* 2003, *Food Regulation* 2004; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health.

Note: The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this *Act*, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at www.legislation.nsw.gov.au.
Standard Condition: I41

I.4 Outdoor lighting – Commercial

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: I50

I.5 Outdoor lighting – Roof Terraces

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

All lighting to be installed on the roof terrace will be recessed lights or will be surface wall/balustrade mounted lights at a maximum height of 600 mm above the finished floor level of the roof terrace.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: I51

I.6 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2017* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).

Standard Condition: I56

I.7 Maintenance of Sound Attenuation

- Sound attenuation must be maintained in accordance with the *Noise Impact Assessment (R1)*, 202330058.2/1812A/R1/JHT, prepared by Acoustic Logic, dated 18/12/2023

Standard Condition: I57

I.8 Noise from licensed premises

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear.

Note: *Licensed premises* means premises licensed under the *Liquor Act 2007*

- Note:** For the purposes of this condition, the L_{A10} is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured.
- Note:** The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} level measured by a sound level meter over the applicable period.
- Note:** This condition is identical to the minimum standard condition imposed by the Casino Liquor and Gaming Control Authority (the Authority). The Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Director of Liquor and Gaming is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the NSW Office of Liquor and Gaming and Racing's website: (www.olgr.nsw.gov.au).
- Note:** Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.
Standard Condition: I58

I.9 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

- Note:** Words in this condition have the same meaning as in the:
NSW Industrial Noise Policy
(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)
ISBN 0 7313 2715 2, dated January 2000, and
Noise Guide for Local Government
(<http://www.environment.nsw.gov.au/noise/nglg.htm>)
ISBN 1741370671, dated December 2004.
Standard Condition: I59

I.10 Maintenance of the Kitchen Exhaust log

A logbook detailing the schedule maintenance and cleaning of the odour control units and filtering systems shall be kept on the premises at all times and be made available for viewing by Council's Environmental Health Officer's as required.

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Environmental Health Officer: Jasmine Sutrina

Date: 21/12/2023

Completion Date: 23 November 2023

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 242/2023/1
ADDRESS: 24 Bay Street DOUBLE BAY 2028
PROPOSAL: Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2)
FROM: Ashley Wang - Fire Safety Officer
TO: Mr W Perdigao

1. ISSUES

- *During the occupation and ongoing use, the total number of patrons on the premise at any time must not exceed 248 patrons.*

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 20307 prepared by GSA Planning, dated 6 July 2023.
- Architectural Plans, referenced A.02.04 – A.02.06 & A.05.01 – A.05.02, prepared by ACME, dated 16.06.23,
- BCA Compliance Statement, referenced 230120, prepared by BM+G, dated 23 June 2023.

3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
 - *Category 1 fire safety provisions required*
- ☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’
 - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’
 - fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which

the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

4. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

5. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

- A. **General Conditions**
- B. **Conditions which must be satisfied prior to the demolition of any building or construction**
- C. **Conditions which must be satisfied prior to the issue of any construction certificate**
- D. **Conditions which must be satisfied prior to the commencement of any development work**
- E. **Conditions which must be satisfied during any development work**
- F. **Conditions which must be satisfied prior to any occupation or use of the building**
- F.1 **Fire Safety Certificates**

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

- G. **Conditions which must be satisfied prior to the issue of any Subdivision Certificate**
- H. **Conditions which must be satisfied prior to the issue of a Final Occupation Certificate**
- I. **Conditions which must be satisfied during the ongoing use of the development**
- I.1 **Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the

Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Standard Condition: I22

J. Miscellaneous Conditions

K. Advisings

Ashley Wang
Fire Safety Officer

Date: 23 November 2023

Wilson Perdigao

From: Peter Bolt <bolt1pet@police.nsw.gov.au>
Sent: Tuesday, 5 December 2023 2:08 PM
To: Wilson Perdigao
Cc: Records
Subject: DA 2023/242/1 - 24 Bay St Double Bay [SEC=OFFICIAL]

Mr Wilson Perdigao
Senior assessment Officer Team Central
Woollahra Municipal Council

RE DA 2023/242/1 – 24 Bay Street, Double Bay (New licensed restaurant – Song Bird)

The Licensing Unit (“**Police**”) have reviewed the application and supporting documentation. Police do not object to the subject development yet provide the following referral comments for consideration in respect to likely social impact:

1. The proposed trading hours sought are within the standard trading period for the category of liquor licence likely to be sought from Liquor & Gaming NSW (on-premises). The sale and supply of liquor will be ancillary to the primary business activity of providing restaurant quality meals. The proposed site is located within an area of the Double Bay precinct in which residential disturbance issues have been previously disclosed by local residents. Disturbance issues have included the noise from amplified noise within licensed premises in the precinct, noise from outdoor dining activity associated with licensed premises and general matters of order.

Police submit that the following be addressed through the imposition of development consent conditions / inclusion within the Plan of Management:

- That the trading hours not exceed those that are proposed.
- That the premises be subject to an independent qualified acoustic assessment to determine acceptable levels of any amplified noise being emitted.
- That controls be in place to ensure determined levels cannot be exceeded by the installation of RMS limiters or similar / that speakers are not removed from positions.
- That a noise complaint register be maintained to record instances of disturbance reported by residents and action taken to remedy complaints / that such register be made available for inspection by Council officer / police officer.
- That a contact phone number be made available at all times the business trades in which a person may speak directly to the manager in charge in respect to undue disturbance issues
- That any Plan of Management detail noise attenuation / strategy measures.

2. Police note the proposed premises to be of three (3) separate levels and would seek that Council reviews the proposed numbers with relevance to usable space. It appears the patron numbers proposed would be comfortably accommodated within the proposed premises.

Police submit that the following be addressed through the imposition of development consent conditions / inclusion within the Plan of Management:

- That the premises be subject to a patron capacity. That the patron capacity for each separate level be determined. That a sign be displayed at the entrance of each level identifying the authorised patron capacity.
- That any Plan of Management detail authorised patron capacity and strategies relevant to patron movement / ingress and egress etc.

3. It is necessary so as to ensure that any adverse social impact is minimised that a Plan of Management be established that includes all operational features of the venue.

Police submit that the following be addressed through the imposition of a development consent condition:

- That a Plan of Management be established prior to the commencement of business operations which is approved by Council and the Eastern Suburbs Police Area Command (ESPAC). That the proposed premises must always operate in accordance with the approved Plan of Management. The Plan of Management may be updated at any time in which improved business practices are identified. Council and the ESPAC will be notified and if approved will be considered the Plan of Management. Irrespective the Plan of Management will be reviewed by the applicant on a yearly basis.
- That CCTV is installed and maintained ensuring that all publicly accessible areas are monitored including adjacent footpaths.

Should you have further inquiries please do not hesitate to contact.

Kind regards



Sergeant Pete Bolt
Licensing Supervisor
Eastern Suburbs Police Area Command
1 Wunulla Road Point Piper NSW 2027
P: 9362 6399 E/N: 44399
E: bolt1pet@police.nsw.gov.au E: eslicensing@police.nsw.gov.au

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MATTHEW PALAVIDIS
VICTOR FATTORETTO
MATTHEW SHIELDS

24 Bay Street, Double Bay

Updated Noise Impact Assessment

SYDNEY
9 Sarah St
MASCOT NSW 2020
(02) 8339 8000

ABN 98 145 324 714
www.acousticlogic.com.au

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1

Project ID	20230058.2
Document Title	Updated Noise Impact Assessment
Attention To	Fire & Embers Pty Ltd

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	12/04/2023	20230058.2/1204C/R0/JHT	JHT		AW
1	18/12/2023	20230058.2/1812A/R1/JHT	JHT		AZ

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1 INTRODUCTION

Acoustic Logic has been engaged to provide an updated acoustic assessment for the proposed licensed restaurant at Gaden House, located at 24 Bay Street, Double Bay.

This document will address noise impacts associated with the following:

- Noise emissions from the proposed operation of the tenancy. This will include patron and music noise.
- Noise from mechanical plant (in principle)

A detailed site map with measurement locations is presented in Figure 1 below.

This report has been prepared for the sole purpose of a development application assessment and should not be used or relied on for any other purpose.

1.1 REFERENCED DOCUMENTS

Acoustic Logic have utilised the following documents and regulations in the assessment of noise emissions for this development:

- Woollahra Municipal Council Development Control Plan (DCP) 2015
- NSW Independent Liquor and Gaming Authority (ILGA) – Liquor and Gaming NSW
- NSW Environmental Protection Authority (EPA) document – ‘Noise Policy for Industry (NPI) 2017’

This assessment has been conducted in accordance with the architectural drawing set provided by Acme Caon, Project Number 23:87, dated 16th June 2023, issued for Development Application, Revision E.

1.2 WOOLLAHRA COUNCIL REFERRAL RESPONSE – ENVIRONMENTAL HEALTH TEAM

We note that Woollahra Council have provided a referral response to the previous revision of the noise impact assessment prepared by this office (Document reference: 20230058.2/1204C/R0/JHT, dated 12/04/2023). The referral response from the environmental health team raised concerns regarding the use of adopted long-term unattended noise monitoring conducted in August 2021 at 2 Guilfoyle Avenue. The conclusion outlined by the Environmental Health Unit states the following:

“Environmental Health – Conclusion

Environmental health unit generally agrees with the acoustic report prepared by Acoustic Logic dated 12/04/2023.

Concerns however are raised regarding the use of long-term noise monitoring measurements conducted in August 2021, at a “nearby similar project”. These long-term measurements were used to establish background levels and used as a basis for acoustic assessment. As these were not conducted at the site nor recently, Environmental Health considers the unattended noise monitoring data to be inappropriate and thus the reports’ findings and conclusion to be unsatisfactory.

Environmental Health Unit requires unattended noise monitoring to be conducted at the subject site, 24 Bay Street Double Bay. Likewise, noise emission criteria, assessments and recommendations are to be updated to reflect these findings.

As part of the report recommendations and management controls, it is noted that the ground floor main entrance door is proposed to be open during trading hours as required for ventilation. It is acknowledged that some worse-case scenario parameters were considered and implemented as part of the predicted noise modelling, however, it should be made clear whether the predicted noise modelling is reflection of open or closed doors/windows. Environmental Health Unit has concerns that predicated modelling has not considered breakout noise from open doors/windows and that corresponding mitigation measured may [be] unsatisfactory”.

This updated revision of the document prepared seeks to provide clarity and justification to Environmental Health Team’s raised concerns. With regards to the conclusions drawn above, we note the following:

This updated revision of the document prepared seeks to provide clarity and justification to Environmental Health Team’s raised concerns. With regards to the conclusions drawn above, we note the following:

- Acoustic Logic acknowledge that the previously adopted long-term unattended monitoring may have taken place during a period which is no longer reflective of the existing acoustic environment. As such, updated monitoring has been undertaken and the new background monitoring levels have been reflected within Table 2.
- Furthermore, noise emission criteria, assessment and recommendations have also been adjusted to reflect the new background noise monitoring data.
- The modelling assumptions reflect a “door closed” scenario as a worst-case scenario. This modelling assumption is incorporated into the predicted noise level results presented within Table 9. The recommendations and management controls outlined in Section 6 have been adjusted to explicitly reflect all doors being fitted with a closing mechanism such that it is only opened to facilitate ingress/egress of patrons.

2 SITE DESCRIPTION

The existing development consists of a 3-level commercial building which accommodates ground floor retail and commercial office spaces above. The approved development includes additions and alterations to both tie internal and external elements, as well as 2 additional levels for commercial office use. The additions and alteration intend to retain and conserve heritage items, and principal character defining elements.

The proposal within this assessment entails the change of use to restaurant and associated works for ground level, level 1, and level 2 only. The licensed venue will be situated on ground floor, level 1 and level 2 of the development and intends to consist of:

- A maximum capacity of 248 patrons –32 (Ground Floor), 102 (First Floor), 114 (Second Floor).

This office has been advised that the hours of operation for the venue are from 8:00am to 12:00am, Monday to Sunday.

2.1 NEAREST SENSITIVE RECEIVERS

The nearest sensitive receivers surrounding the project site are outlined below. An aerial photo of the site indicating nearby noise sensitive receivers and measurement locations is presented in Figure 1 below.

Table 1 – Sensitive Receivers

Receiver (Refer to Figure 1)	Land Use	Comment
R1	Local Centre	Local Centres located at 28 Bay Street and 30-36 Bay Street, Double Bay consisting of food and beverage venues.
R2		Local Centres located 27-43 Bay Street, Double Bay consisting of typical small retail stores.
R3	Residential	5-storey mixed use apartment building located at 16-22 Bay Street, Double Bay consisting of typical small retail stores below and residential above.
R4		Two-storey mixed-use residential/commercial site located at 2 Cooper Street, Double Bay
R5		Single-storey Residential accommodation located at 3 South Avenue, Double Bay.



Figure 1: Site Map and Sensitive Receivers (SIX Maps)



3 AMBIENT NOISE MONITORING

Monitoring has been undertaken to obtain background noise levels at the surrounding residential properties.

Figure 1 above shows the monitoring locations used.

3.1 NOISE DESCRIPTORS

Ambient noise constantly varies in level from moment to moment, so it is not possible to accurately determine prevailing noise conditions by measuring a single, instantaneous noise level.

To quantify ambient noise, a 15-minute measurement interval is typically utilised. Noise levels are monitored continuously during this period, and then statistical and integrating techniques are used to characterise the noise being measured.

The principal measurement parameters obtained from the data are:

L_{eq} - represents the average noise energy during a measurement period. This parameter is derived by integrating the noise levels measured over the measurement period. **L_{eq}** is important in the assessment of noise impact as it closely corresponds with how humans perceive the loudness of time-varying noise sources (such as traffic noise).

L₉₀ – This is commonly used as a measure of the background noise level as it represents the noise level heard in the typical, quiet periods during the measurement interval. The **L₉₀** parameter is used to set noise emission criteria for potentially intrusive noise sources since the disturbance caused by a noise source will depend on how audible it is above the pre-existing noise environment, particularly during quiet periods, as represented by the **L₉₀** level.

L₁₀ is used in some guidelines to measure noise produced by an intrusive noise source since it represents the average of the loudest noise levels produced at the source. Typically, this is used to assess noise from licenced venues.

L_{max} is the highest noise level produced during a noise event and is typically used to assess sleep arousal impacts from short term noise events during the night. It is also used to assess internal noise levels resulting from aircraft and railway ground vibration induced noise.

L₁ is sometimes used in place of **L_{max}** to represent a typical noise level from a number of high-level, short-term noise events.

3.2 UNATTENDED LONG TERM NOISE MONITORING

Acoustic monitoring was conducted at the site to establish the background noise levels which will be used as the basis for this assessment. Unattended noise monitoring in this assessment has been undertaken at the project site of 24 Bay Street, Double Bay.

3.2.1 Measurement Equipment

Unattended noise monitoring was conducted using one noise logger. The logger was set to store 15-minute statistical noise levels throughout the monitoring period. The equipment was calibrated at the beginning and the end of each measurement using a Rion NC-74 calibrator; no significant drift was detected. All measurements were taken on A-weighted fast response mode.

3.2.2 Measurement Locations and Period

An unattended noise monitor was installed on the second floor of 24 Bay Street, Double Bay. For a detailed location refer to Figure 1. The measurement was conducted between 8th and 18th December 2023.

3.2.3 Measured Background Noise Levels

Ambient, assessment and rating background levels have been determined from the long term, unattended noise monitoring data based on the methodology in the Noise Policy for Industry Fact Sheet B. Appendix 1 contains the data collected, and the periods identified as being affected by adverse weather conditions or extraneous noise (as defined by NPI Fact Sheet B).

Weather data was obtained from records provided by the Bureau of Meteorology for the weather station located at Sydney Observatory Hill and Fort Denison.

The NPI day, evening and night periods are:

- Day - period from 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays
- Evening - the period from 6 pm to 10 pm
- Night - the remaining periods

3.2.3.1 Background Noise Levels

The following table summarises the rating background noise levels determined for the day, evening and night periods as defined in the NPI.

Table 2 - Rating Background Noise Levels

Location	Time of Day	Rating Background Noise Levels – dB(A) _{L₉₀(Period)}
24 Bay Street, Double Bay	Day (7:00am - 6:00pm)	60
	Evening (6:00pm - 10:00pm)	51
	Night (10:00pm - 7:00am)	43

3.3 ATTENDED SHORT TERM NOISE MEASUREMENTS

Attended short-term noise monitoring was carried out on site to determine the background noise spectrum. The result of the attended short term noise monitoring is presented in the table below. Location can be seen in figure 1.

Table 3 - Measured Attended Noise Spectrum

Time	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-wt
31 st January 2023, 3:00pm	59	64	65	55	53	51	49	45	40	57

3.4 SUMMARISED BACKGROUND NOISE LEVELS

The following table provides the summarised background noise level spectrum for the nearby receivers.

Table 4 - Summarised Rating Background Noise Spectrum

Time	31.5Hz	63 Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-wt
Day (7am – 6pm)	67	67	68	58	56	54	52	48	43	60
Evening (6pm – 10pm)	58	58	59	49	47	45	43	39	34	51
Late Evening (10pm – 12am)	50	50	51	41	39	37	35	31	26	43
Night (12am – 7am)	50	50	51	41	39	37	35	31	26	43

4 NOISE EMISSION ASSESSMENT

The major noise sources from the operation of the proposed licensed venue at Gaden House include:

- Background music noise associated with the proposed licensed restaurant.
- Patron's noise associated with the proposed licensed restaurant – indoor only.
- Mechanical plant to service the proposed licensed restaurant (in principle).

4.1 NOISE EMISSION CRITERIA

4.1.1 Patron/ Music Noise Criteria

4.1.1.1 Woollahra Municipal Council Development Control Plan (DCP) 2015

Chapter F3 – Licensed Premises of Woollahra Municipal Council Development Control Plan (DCP) 2015 states the following regarding licensed premises:

“C11 – A report by an acoustic engineer is submitted with applications involving licensed premises, where relevant.”

Woollahra Municipal Council Development Control Plans (DCP) 2015 does not contain any specific acoustic criteria regarding noise emission for proposed licensed venues. Therefore, the applicable criteria will be in accordance with the Independent Liquor and Gaming Authority – Liquor and Gaming NSW as detailed below.

4.1.1.2 NSW Liquor and Gaming

Liquor & Gaming NSW typically imposes the following noise emission criteria. These apply to noise generated by patrons and by music when assessed at residential receivers.

- *“The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) by more than 5dB between 7:00am and 12:00 midnight at the boundary of any affected residence.”*
- *The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) between 12:00midnight and 7:00am at the boundary of any affected residence).*
- *Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00am”*
- *LA10 is the average maximum deflection of the noise emission from the licensed premises”*

The following assessment criteria have been determined based on the noise levels measured. These apply when measured outside the open window of a residential façade. Typically, the most sensitive period is during the early night-time hours between 10pm and 12am midnight as this period contains the most stringent criteria.

Table 5 - Summarised Operation Noise (Music/Patron) Noise Emission Criteria

Receivers	Time	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-wt
Residential R3, R4 & R5	Day (7am – 6pm)	72	72	73	63	61	59	57	53	48	65
	Evening (6pm – 10pm)	63	63	64	54	52	50	48	44	39	56
	Late Evening (10pm – 12am)	55	55	56	46	44	42	40	36	31	48
	Night (12am – 7am)	55	55	56	46	44	42	40	36	31	48
Local Centres R1/R2	Day (7am – 6pm)	72	72	73	63	61	59	57	53	48	65
	Evening (6pm – 10pm)	63	63	64	54	52	50	48	44	39	56

Note: Local centres are typically only operational during day and early evening hours.

4.1.2 Mechanical Plant Noise Criteria

The noise emissions from the plant servicing the project site shall comply with the requirements of Woollahra Municipal Council and the NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI) requirements.

4.1.2.1 Woollahra Municipal Council Development Control Plan (DCP) 2015

Woollahra Municipal Council outlines the following requirements for mechanical plant and equipment operation for Mixed Use Centre developments.

“Chapter D3| General Controls for Neighbourhood and Mixed-Use Centres

C10 - Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply. ”

4.1.2.2 NSW Environmental Protection Authority (EPA) document – ‘Noise Policy for Industry (NPI) 2017’

The NPI provides guidelines for assessing noise impacts from developments. The recommended assessment objectives vary depending on the potentially affected receivers, time of day and the type of noise source. The NPI has two requirements which both have to be complied with, namely an amenity criterion and an intrusiveness criterion.

4.1.2.2.1 Intrusiveness Criterion

The intrusiveness criterion is intended to limit the audibility of noise emissions at **residential receivers** and requires that noise emissions measured using the L_{eq} descriptor not exceed the background noise level by more than 5 dB(A). The formulated intrusiveness criteria for the project site based on the measured background noise levels are as follows:

Table 6 – NSW EPA NPI Intrusiveness Criteria

Receiver	Time of Day	Background Noise Level dB(A) $L_{90}(\text{Period})$	Intrusiveness Criteria (Background + 5 dB(A) $L_{eq}(15\text{-min})$)
Residential Receivers	Day (7:00am – 6:00pm)	60	65
	Evening (6:00pm – 10:00pm)	51	56
	Late Evening (10:00pm – 12:00am)	43	48
	Night (12:00am – 7:00am)	43	48

4.1.2.2.2 Amenity Criterion

The amenity guideline is intended to limit the absolute noise level from all noise sources to a level that is consistent with the general environment. The *Noise Policy for Industry* sets out acceptable noise levels for various land uses. Table 2.2 on page 11 of the policy has four categories to distinguish different residential areas. They are rural, suburban, urban and urban/industrial interface.

The NPI requires the project amenity noise level to be calculated in the following manner:

$$L_{Aeq, 15min} = \text{Recommended Amenity Noise Level} - 5 \text{ dB(A)} + 3 \text{ dB(A)}$$

For the purposes of a conservative assessment, this office will assess noise emissions in accordance with the 'Urban' category. 'Urban' is defined as area which has an acoustical environment incorporating the following characteristics:

- Is dominated by 'urban hum' or industrial source noise
- Has through traffic characteristically heavy and continuous traffic flows during peak periods
- Is near commercial districts
- Has any combination of the above.

Table 7 – NSW EPA NPI Project Amenity Criteria

Type of Receiver	Time of Day	Project Amenity Noise Level – dB(A) _{Leq(15-min)}
Residential (Urban)	Day (7:00am – 6:00pm)	58
	Evening (6:00pm – 10:00pm)	48
	Late Evening (10:00pm – 12:00am)	48
	Night (12:00am – 7:00am)	43
Commercial/ Local Centres	When in Use	63

4.1.2.3 Summarised Mechanical Plant Noise Emission Goals

The following table presents the mechanical plant noise emission objectives for nearby sensitive receivers.

Table 8 – Mechanical Plant Noise Emission Criteria

Location	Time	Background Noise Level dB(A) _{L₉₀}	Project Amenity Criteria dB(A) _{L_{eq}}	Project Intrusiveness Criteria dB(A) _{L_{eq}}	Woollahra DCP 2015	Project Noise Trigger Level dB(A) _{L_{eq}}
Nearby Residences R3/R4/R5	Day (7am – 6pm)	60	58	65	60	58
	Evening (6pm – 10pm)	51	48	56	51	48
	Late Evening (10pm – 12am)	43	48	48	43	43
	Night (12am – 7am)	43	43	48	43	43
Commercial/Local Centre R1/R2	When in use	N/A	63	N/A	N/A	63

5 NOISE EMISSIONS ASSESSMENT

An assessment of noise emissions from the proposed restaurant tenancy has been conducted to ensure that the amenity of nearby land users is not adversely affected.

The following sources will be assessed:

- Noise from patrons/music (indoor areas only).
- Noise from mechanical plant (in principle).

5.1 OPERATIONAL NOISE SOURCES (PATRON/MUSIC)

An assessment of patron and music noise has been conducted and the predicted noise levels are shown below.

Noise emissions have been assessed in accordance with the trading hours (from 8:00am to 12:00am midnight).

In any case, noise emissions will be predicted based on the following adopted modelling parameters:

- Patron noise in indoor areas are of a sound power level of 77 dB(A)_{L10}, representative of a raised voice, with one in two patrons speaking at any one time.
- Music within the indoor dining area is to be an internal sound pressure level of 75 dB(A)_{L10}. This is representative of amplified "background" music.
- Indoor dining areas are assumed to be filled to the maximum seating capacities.
- The recommendations set out in Section 6 of this report have been implemented.

5.1.1 Predicted Noise Levels from Music and Patrons

The assessment has been based on noise levels that occur during typical worst-case situations. This event would correspond to maximum use periods E.g., Friday and Saturday evenings. The typical background music noise levels are present below.

Table 9 – Patron/Music Noise Emission to R3, R4 & R5 (Residential)

Receivers	f (Hz)	31.5	63	125	250	500	1k	2k	4k	8k	A-wt
R3	Predicted Noise Level dB(A)L ₁₀	32	32	34	28	31	23	22	9	0	31
	Noise Emission Goal (Late Evening)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R4	Predicted Noise Level dB(A)L ₁₀	45	45	47	40	44	37	34	23	10	44
	Noise Emission Goal (Late Evening)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R5	Predicted Noise Level dB(A)L ₁₀	37	37	40	35	40	35	31	22	13	40
	Noise Emission Goal (Late Evening)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Typical operation hours for local-centres and commercial/retail businesses are during the day-time hours, however, for the purpose of a conservative assessment, evening hours will be assessed as a worst-case scenario. The following table presents the predicted music and patron noise levels to local centre receivers.

Table 10 – Patron/Music Noise Emission to R1 & R2 (Local Centre)

Receivers	f (Hz)	31.5	63	125	250	500	1k	2k	4k	8k	A-wt
R1	Predicted Noise Level dB(A)L ₁₀	45	45	47	40	44	37	34	23	10	44
	Noise Emission Goal (Evening)	63	63	64	54	52	50	48	44	39	56
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R2	Predicted Noise Level dB(A)L ₁₀	37	37	40	35	40	35	31	22	13	40
	Noise Emission Goal (Evening)	63	63	64	54	52	50	48	44	39	56
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

5.1.2 Mechanical Plant Noise Emissions

As detailed plant selections and locations are yet to be finalised, it is recommended that a detailed review of all external plant should be conducted at CC stage once final plant selections and locations have been made. Acoustic treatment should be determined to control plant noise emissions to nearby sensitive receivers and achieve the relevant noise emission goals identified above.

6 RECOMMENDATIONS/MANAGEMENT CONTROLS

The following building and management controls are required to achieve the noise emission goals identified in Section 4.1.

- No more than 248 internal patrons are allowed within the premises at any time.
- All openable facades facilitating access to internal areas (including external windows) are to be kept closed during trading hours except when being used to facilitate ingress/egress of patrons. Doors should be fitted with a closing mechanism to ensure that they are not left open. Doors and windows should be fitted with full perimeter acoustic seals.
- Indoor dining area music is to be at background music volume only (75 dB(A)_{L10}).
- Music is not permitted within the outdoor area of the restaurant at any time.
- It is recommended that the management keep a complaint register on site and that noise complaints are registered, and any respective remedial actions undertaken to address complaints. This register should be stored on site and be always accessible.
- Trading hours are to be within the operating hours identified within this report – 8:00am to 12:00am Monday to Sunday.
- Minimum installed glazing thickness is to be 6mm with acoustic seals.
- All doors are to be minimum 38-40mm thick solid core door with full perimeter acoustic seals.
- Speakers are to be vibration isolated from the building structure by NRD mounts or equal.
- Signs are to be displayed at the entrance of the restaurant reminding patrons to minimise noise when departing the premise.
- All garbage and bottle collection services are only to be conducted during daytime hours (7am - 6pm).
- Based on the intended use of the premises – as licensed venue/restaurant – internal acoustic treatment is typically recommended to improve the overall acoustic performance and experience of internal patrons. Internal treatment can include acoustic ceiling panelling, curtains, rugs, soft furnishings, and the like. Such treatment can improve the speech clarity and intelligibility for internal patrons.
- A detailed acoustic review of mechanical plant proposed to be installed into the tenancy shall be undertaken once plant selections and locations have been finalised.

7 CONCLUSION

This report presents an acoustic assessment of potential noise impacts associated with the proposed licensed venue to be located on ground floor, level 1 and level 2 of the project located at 24 Bay Street, Double Bay. Noise emissions have been assessed in accordance with the following documents:

- Woollahra Municipal Council Development Control Plan (DCP) 2015
- Independent Liquor & Gaming Authority (ILGA) – Liquor & Gaming Authority NSW
- NSW Environmental Protection Authority (EPA) – *Noise Policy for Industry 2017*

Provided that the recommendations presented in this report have been implemented, noise emissions from the operation of the proposed licensed restaurant can comply with the acoustic objectives of this report.

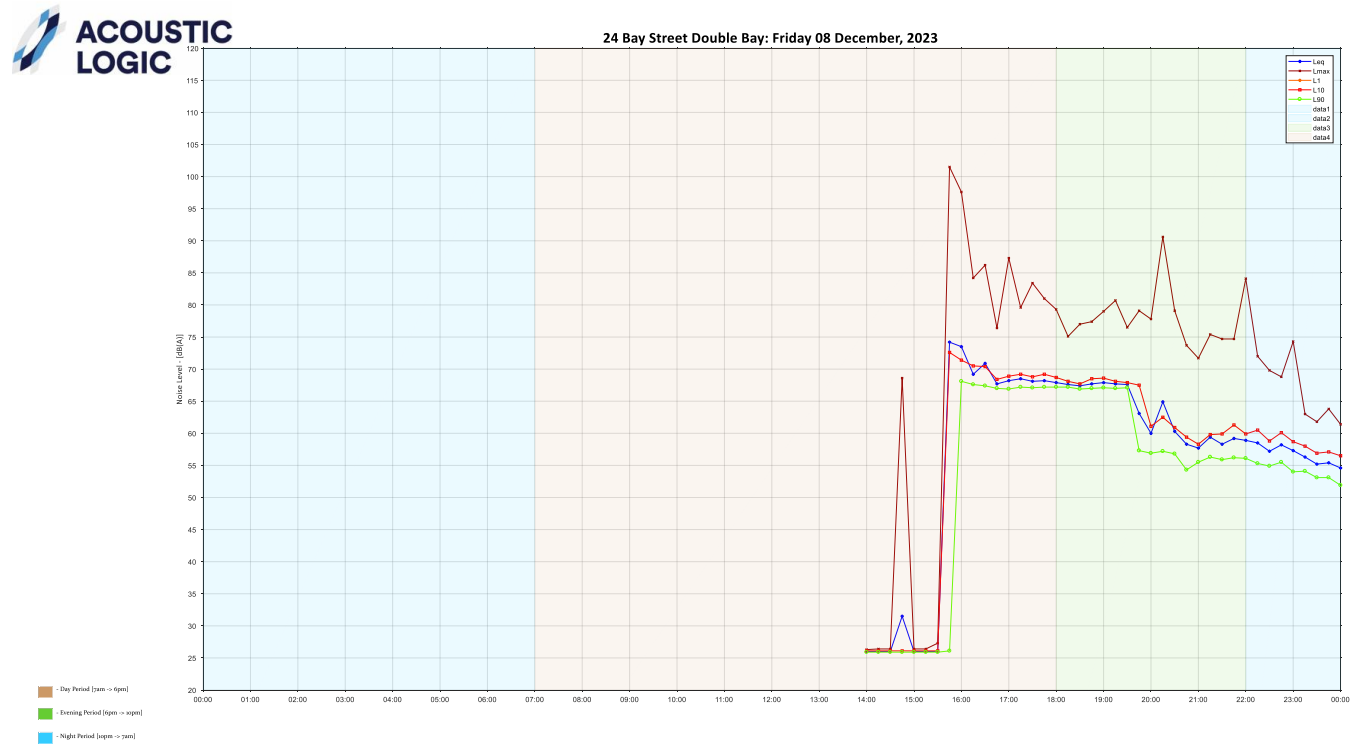
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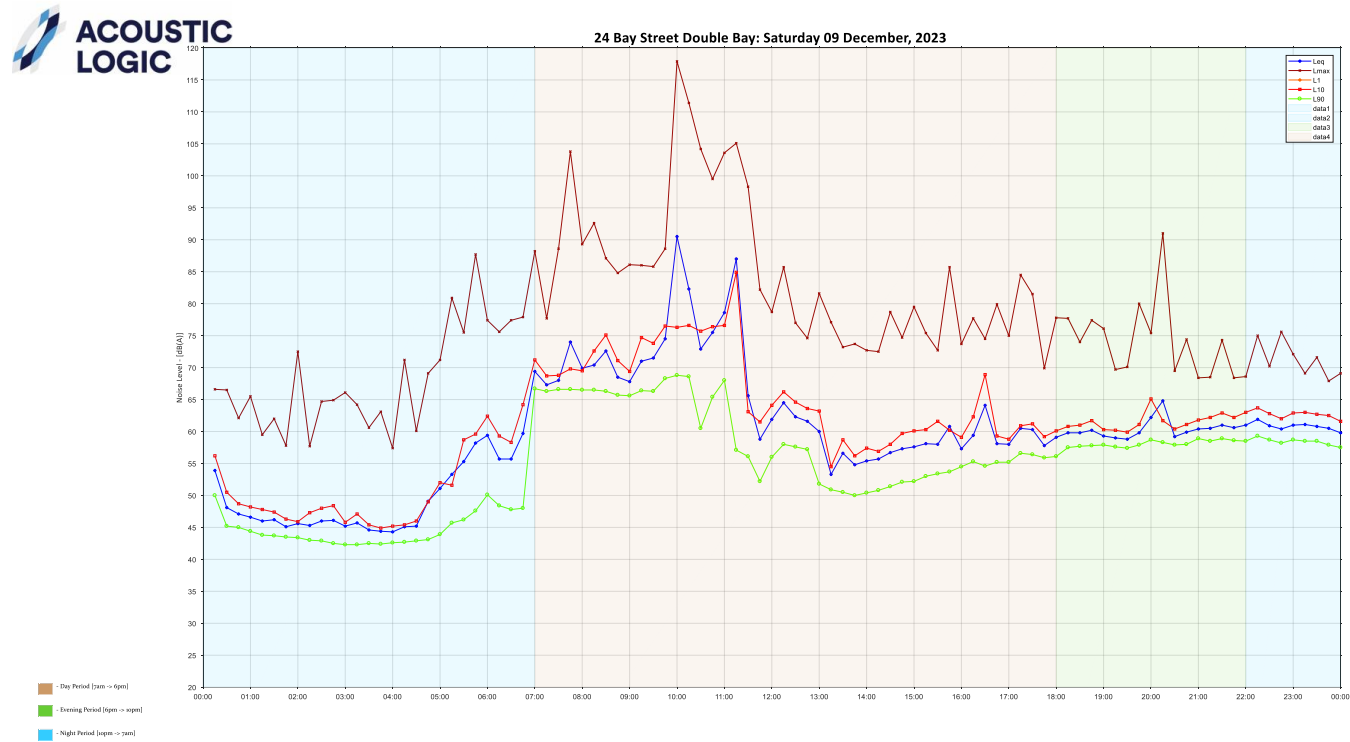
Yours faithfully,

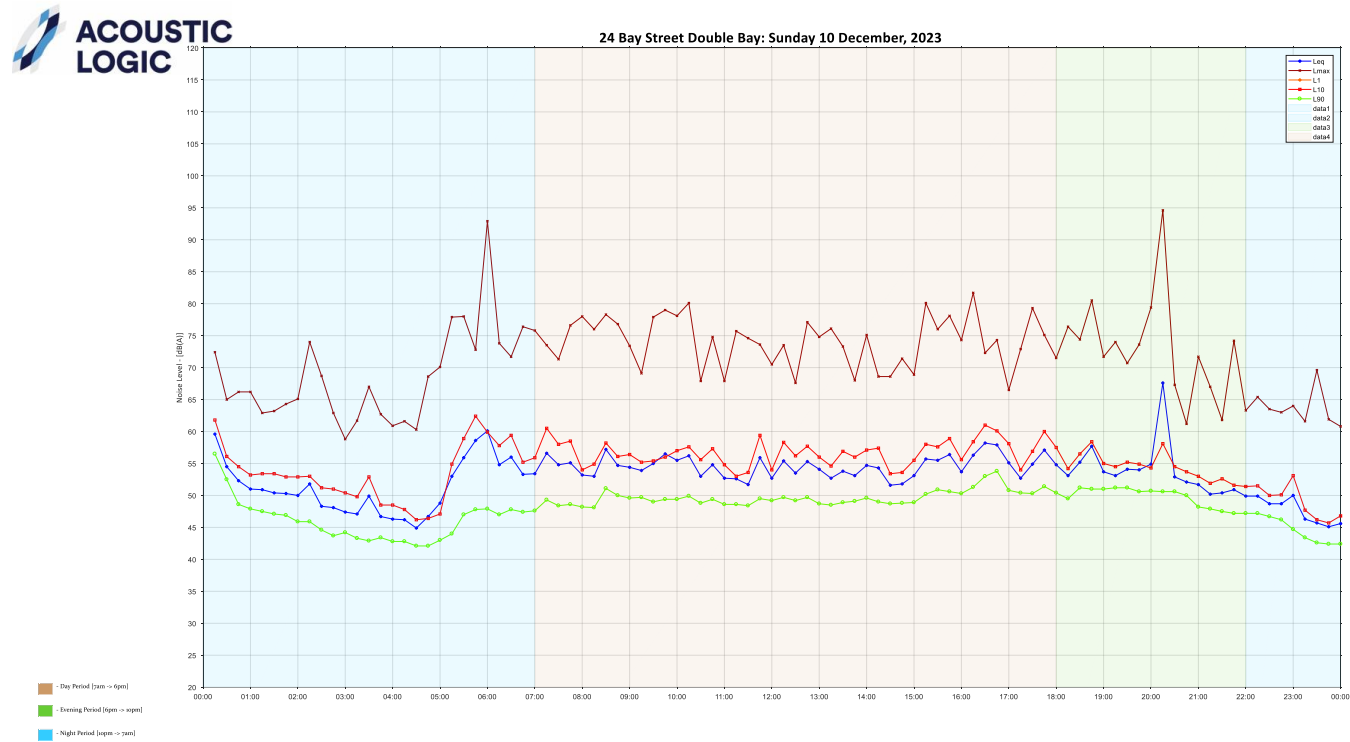


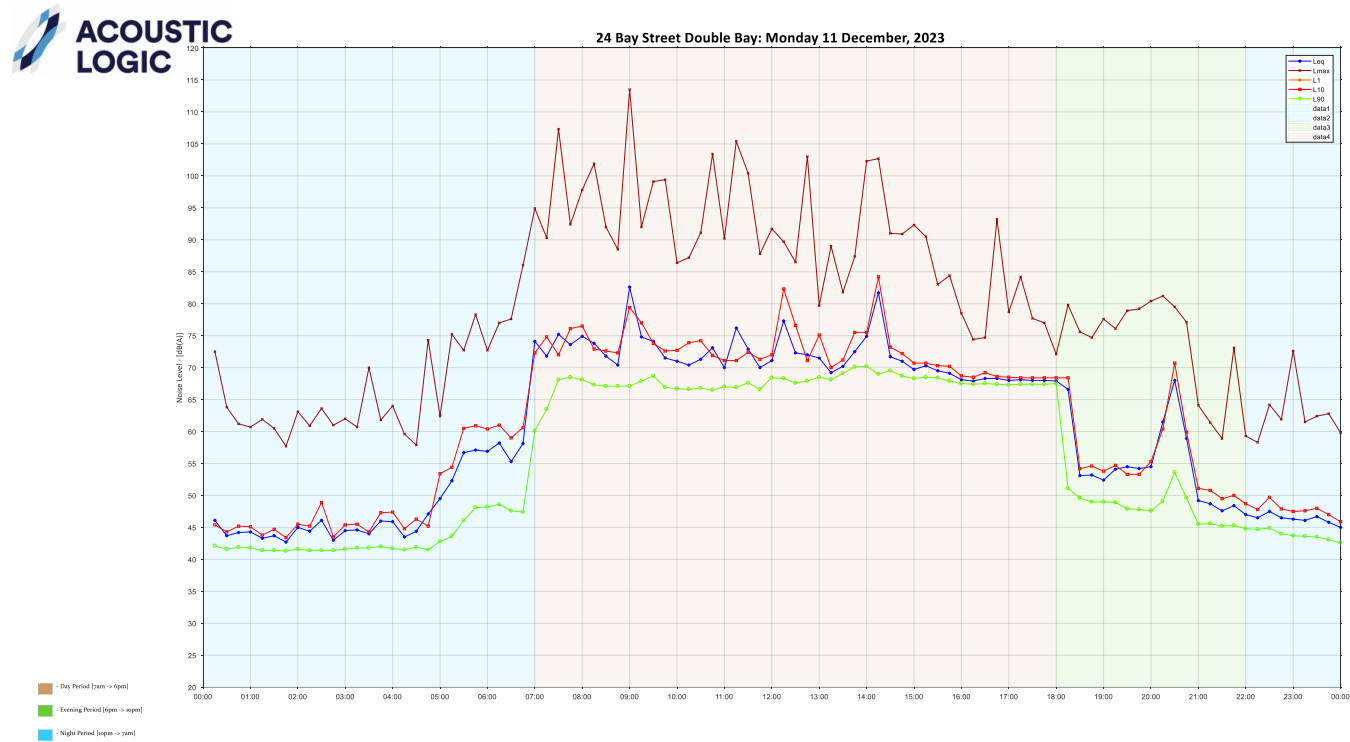
Acoustic Logic Pty Ltd
James Ting

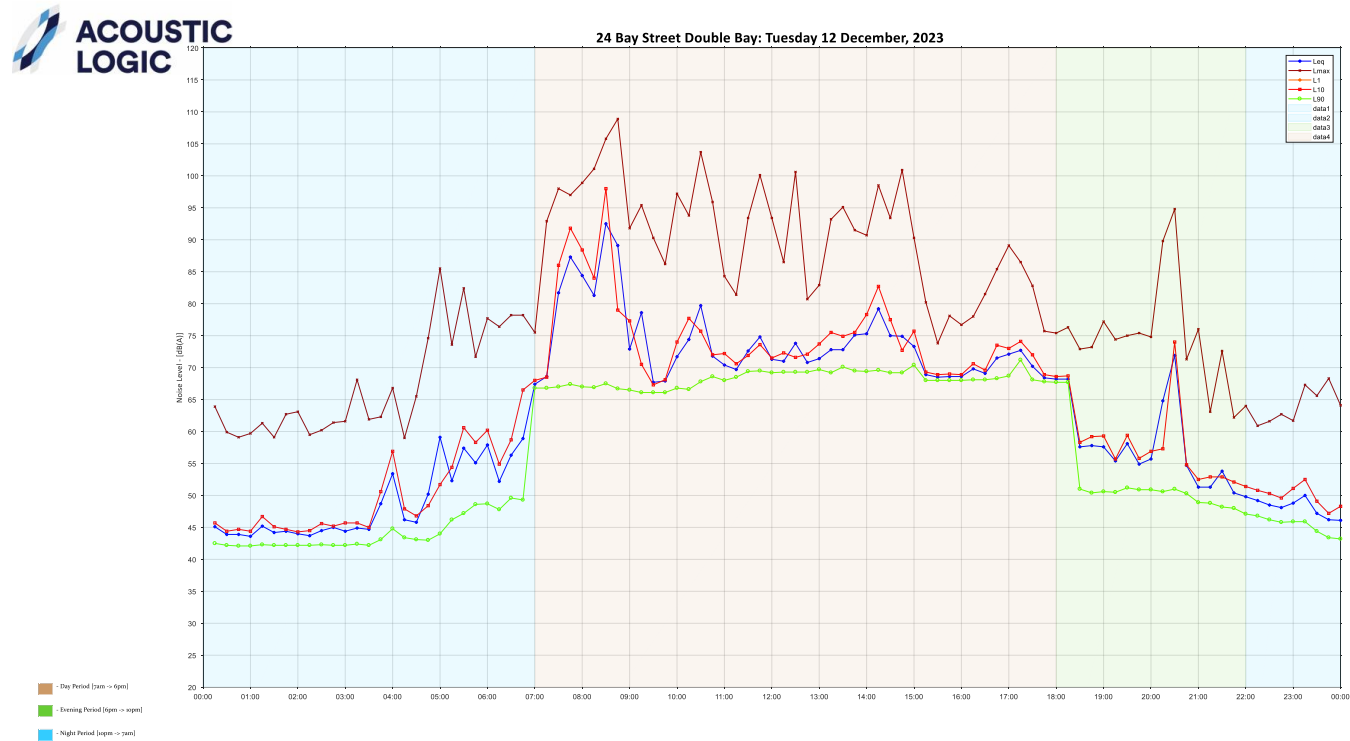
APPENDIX – UNATTENDED NOISE MONITORING GRAPHS

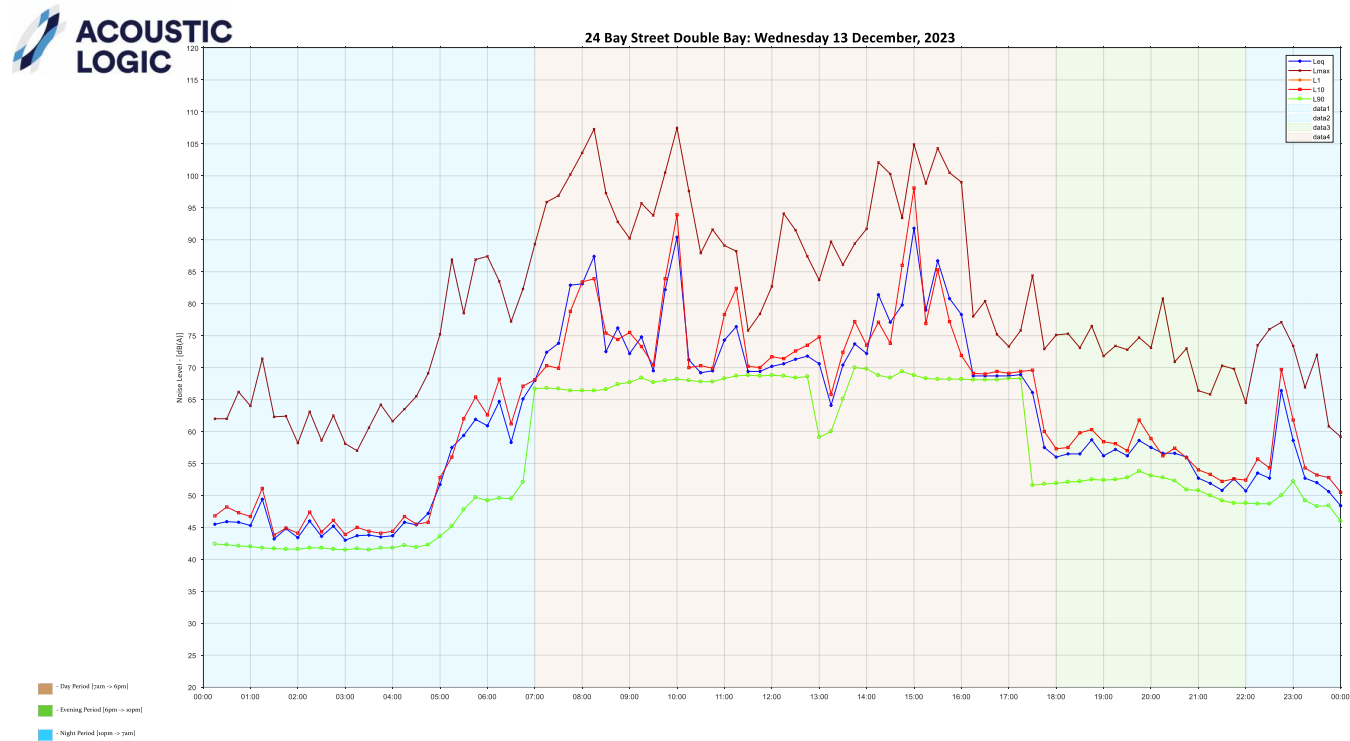


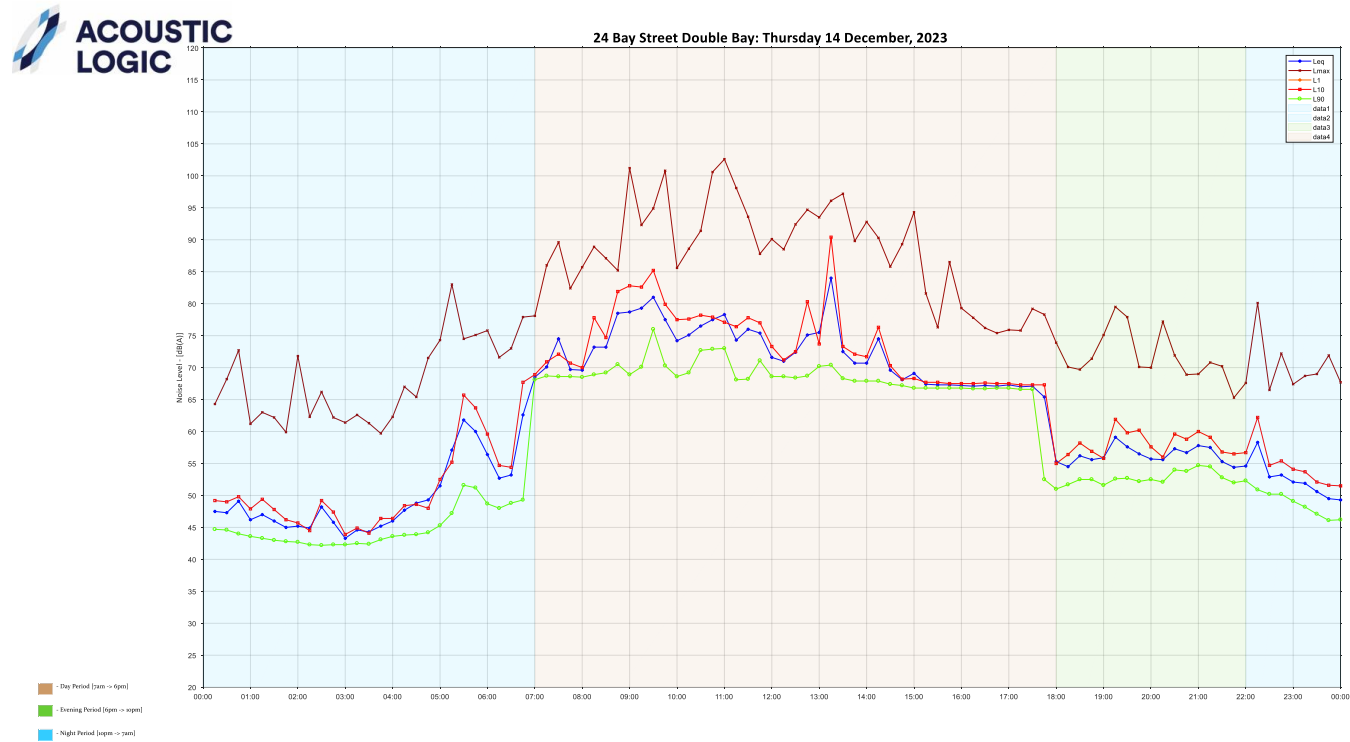


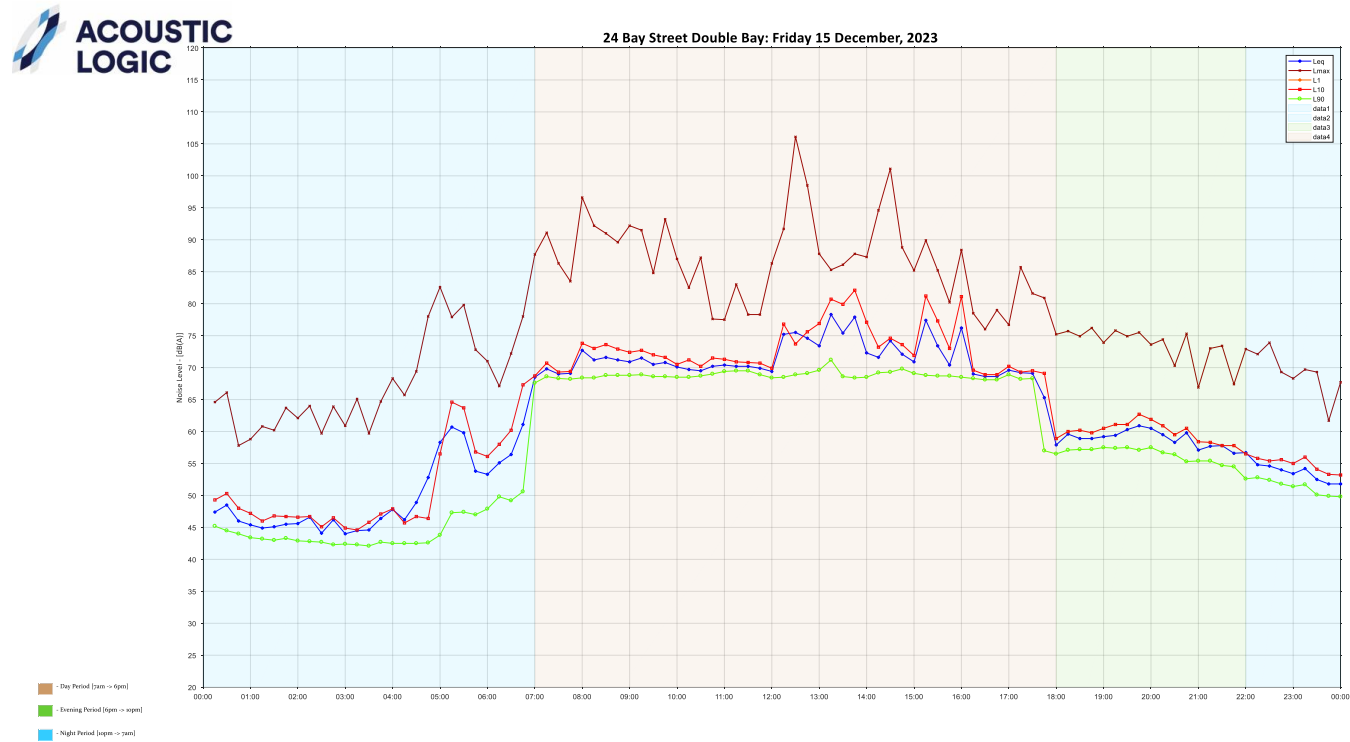


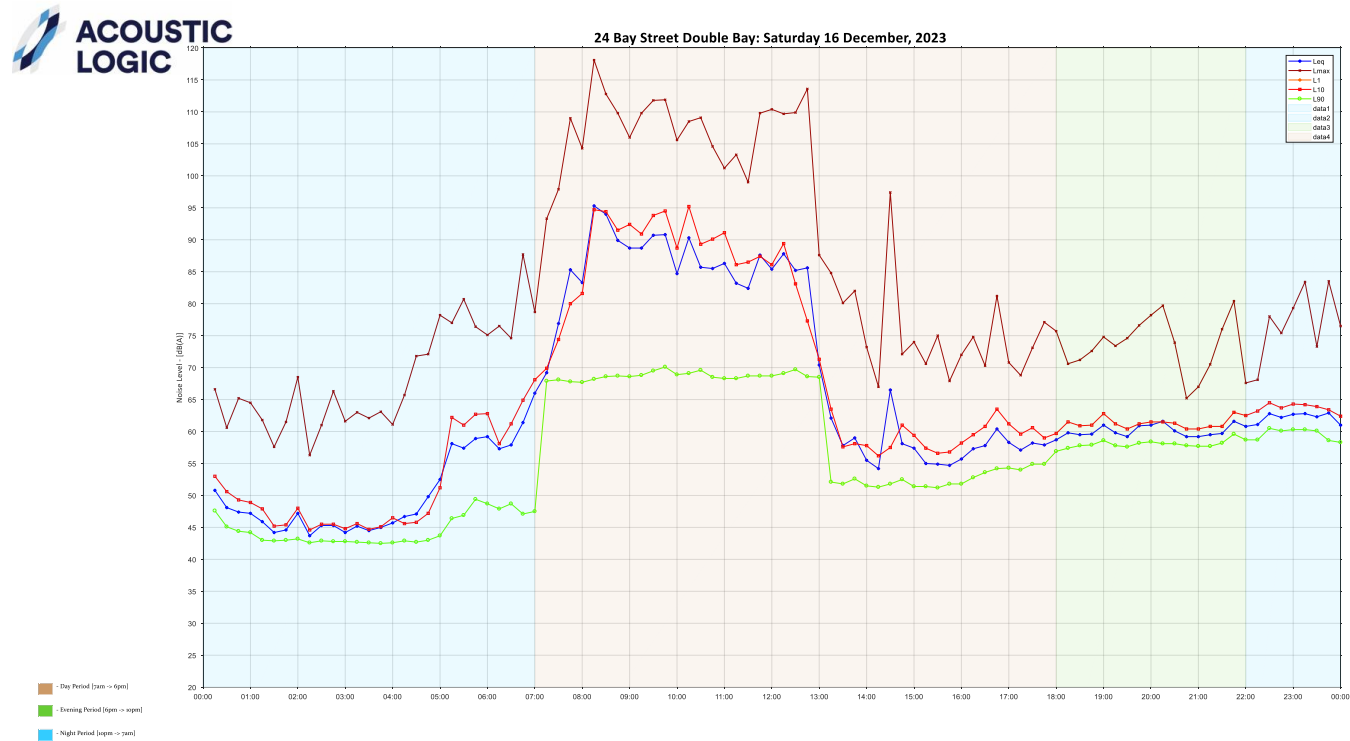


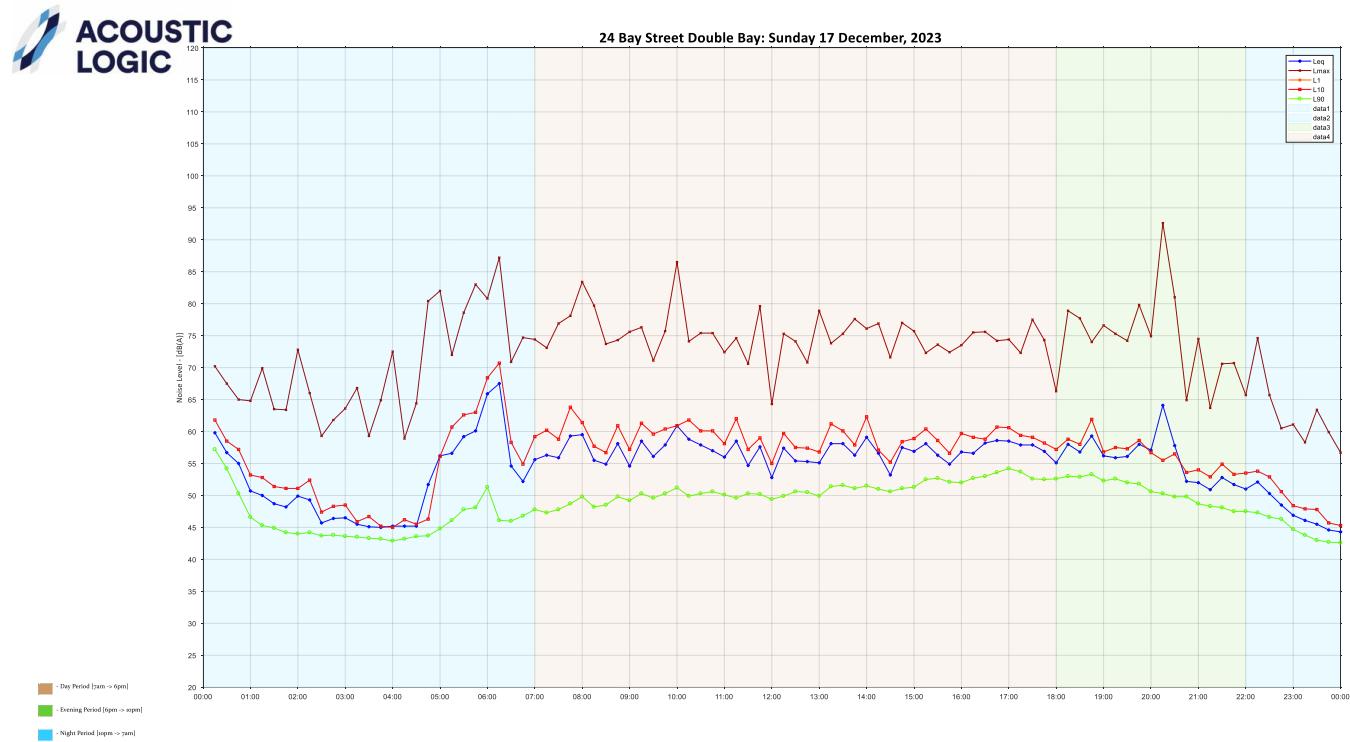


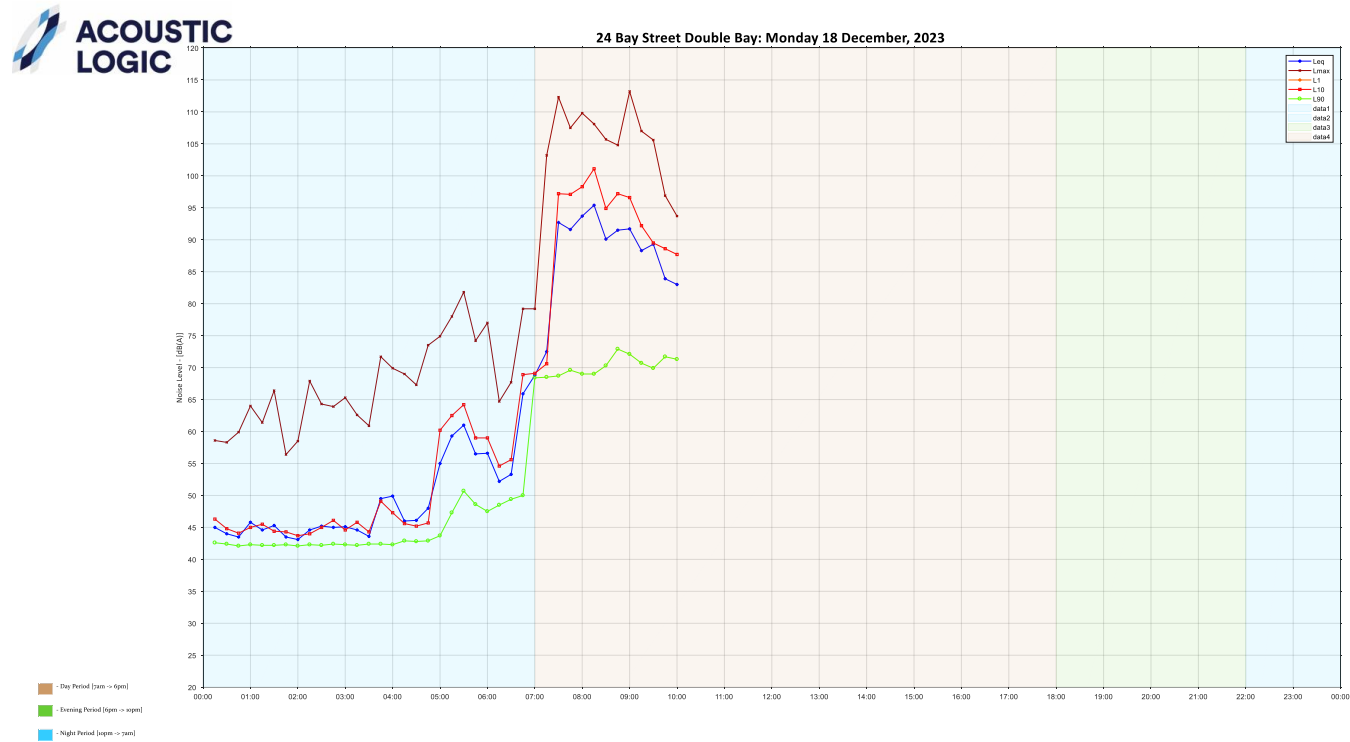












DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA337/2023/1 (PAN-370991)
ADDRESS	24 Bay Street (AKA 2A Cooper Street) DOUBLE BAY ('Gaden House')
SITE AREA	386m ² (Lot 11 & 12 in DP 4606)
ZONING	E1 Local Centre
PROPOSAL	Internal fit out of food and drink premises on lower ground floor for a licensed bar
TYPE OF CONSENT	Local development
COST OF WORKS	\$1,330,000.00
DATE LODGED	15/09/2023
APPLICANT	Fire & Embers Pty Ltd
OWNER	Brooklyn Investments Pty Limited
AUTHOR	Mr W Perdigao
TEAM LEADER	Mr T Wong
SUBMISSIONS	1
RECOMMENDATION	Approval

1. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015;
- It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality;
- All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory, subject to the on-going operational conditions specified in Part "H" of the recommendation;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

2. LOCALITY PLAN



3. LEVEL OF DELEGATION

The application is to be determined by the Application Assessment Panel as the application is for a new licensed small bar.

4. PROPOSAL

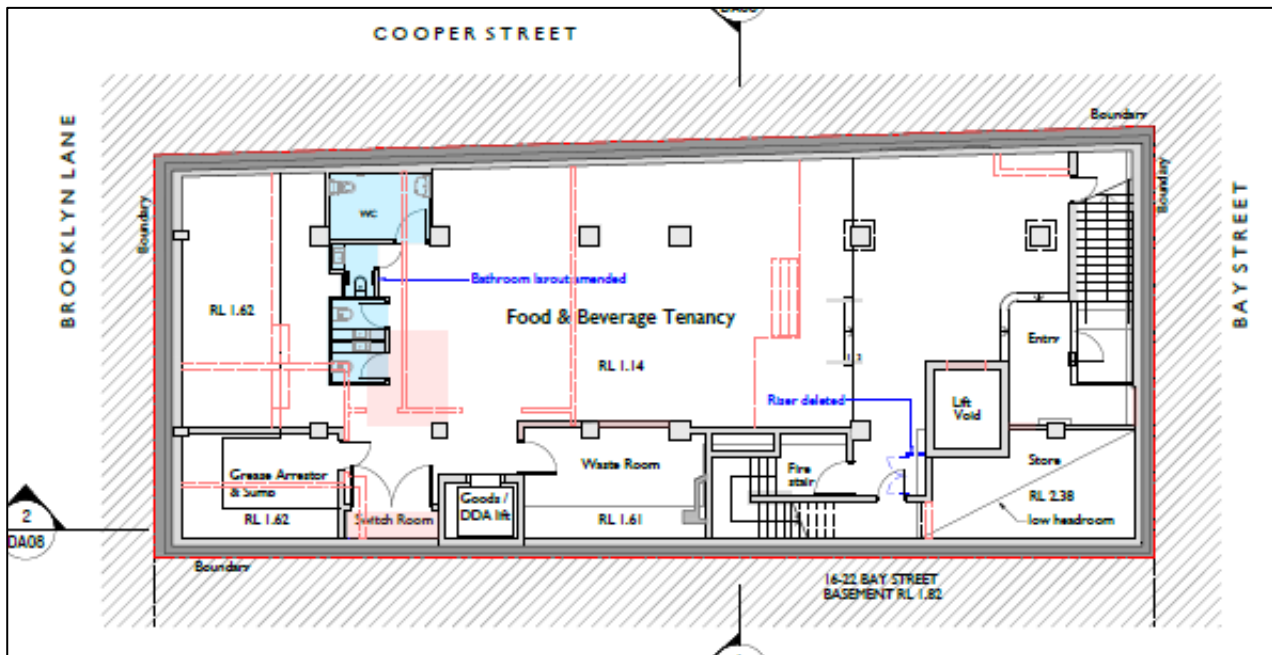
4.1. Description of Proposal

Development Application DA 337/2023/1 ("DA") seeks consent for the use of the Lower Ground Floor of the existing Gaden House [AKA 2A Cooper Street, Double Bay, legally described as Lot 11 & 12 in DP 4606 ("the Site")] which is currently undergoing substantial building works approved under DA2021/68. The proposal is to operate the floor as a licensed small bar and to carry out the associated internal fit-out works ("the Proposal").

4.2. Detailed Description

Specifically, the proposal involves the following components:

- Conversion of the approved Lower Ground Floor level 'food and beverage' tenancy and into a single 'small bar' premises occupying the entire level.
- Internal fit-out works associated with the proposed small bar tenancy.
- No external changes are proposed.
- No signage is proposed.



Approved Lower Ground Floor Level of the building under construction (Source: Lawton Hurley Architects/Approved Plan in DA2021/68/9)



Proposed Lower Ground Floor Level (internal fit out works) (Source: ACME)

Refer to **Attachment 1** for the full set of proposed 'fit-out plans' prepared by ACME (Rev "A", dated 24.07.2023) for details of the proposed internal fit-out works.

Refer to **Attachment 2** for the stamped approved architectural plans under DA2021/68/9 for details of the mixed-use commercial building currently under construction.

Proposed Plan of Management and Operational Details (Small Bar)

The DA seeks consent for the use as a single small bar to be known as "Bobbies" located at the Lower Ground Floor of the approved mixed-use commercial building (currently under construction).

The DA more specifically seeks the following:

- Hours of Operation: The proposal seeks the following hours of operation for the *small bar* (lower ground floor level):
 - Monday to Wednesday: 12pm to 12am (midnight);
 - Thursday, Friday & Saturday: 12pm to 2am (the following day)
 - Sunday: 12pm to 10pm
- Patron numbers: The proposal seeks a patron seating capacity for the small bar of (100) patrons (all indoor) comprising a mixture of bar, table and lounge seating.
- Staff numbers: The proposal seeks a total number of rostered staff at any given time for the entire premises being a maximum of (10) staff.
- Liquor License: A separate consent is intended to be sought for a liquor license for the small bar use (small bar license) to be obtained through Liquor and Gaming NSW to allow for on-site consumption of alcohol.

4.2.1. Additional Information

On 5 October, 22 November, 19 December 2023, additional documentation was provided to address issues identified by Council's Traffic Engineer and Environmental Health Officer (further detailed in Section 7 below).

Specifically, the above did not effect of amending the DA, as originally submitted but rather provided clarification and additional detail to allow for an informed assessment including:

1. Updated Noise Impact Assessment;
2. Updated Traffic & Parking Statement;
3. Updated Plan of Management (POM).

Note: Refer to the submitted Amended Plan of Management (POM) dated December 2023 for 'Bar – Bobbies' at 24 Bay Street Double Bay – Refer to **Attachment 3**.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None.

5.2 Primary Issues

Issue	Conclusion	Section
New Licensed Premises (small bar)	<p>Acceptable, subject to the recommended on-going acoustic measures and operational restrictions (recommended Conditions H.1-H.20) which provide for a balance between the use of the premises and the existing and future residential and non-residential uses within the Double Bay Centre of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents. In particular, reviewable conditions (Conditions H.2 and H.3) have been recommended, which allow Council to review the extended hours of operation (12midnight to 2am, Thursday, Friday and Saturday) of the licensed premises.</p> <p>The proposal is considered to be acceptable with the relevant controls and achieves the underlying objectives of the <i>Chapter F3: Licensed Premises</i> of the WDCP 2015</p>	13.9

5.3 Summary of Submission

Issue	Conclusion	Section
Inadequate toilet facilities	Acceptable, the issues raised do not warrant refusal or modification of the application. A BCA Compliance Statement, referenced 230120 Rev 1, prepared by BM+G dated 15/08/2023 was submitted in support of the application which deems adequate toilet facilities are provided to accommodate the proposed number of patrons (100) and staff (10) in accordance with Section F of the BCA. In addition, Council's Environmental Health Officer has reviewed the proposed licensed premises and raised no particular concerns with the proposed toilet provisions.	-

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

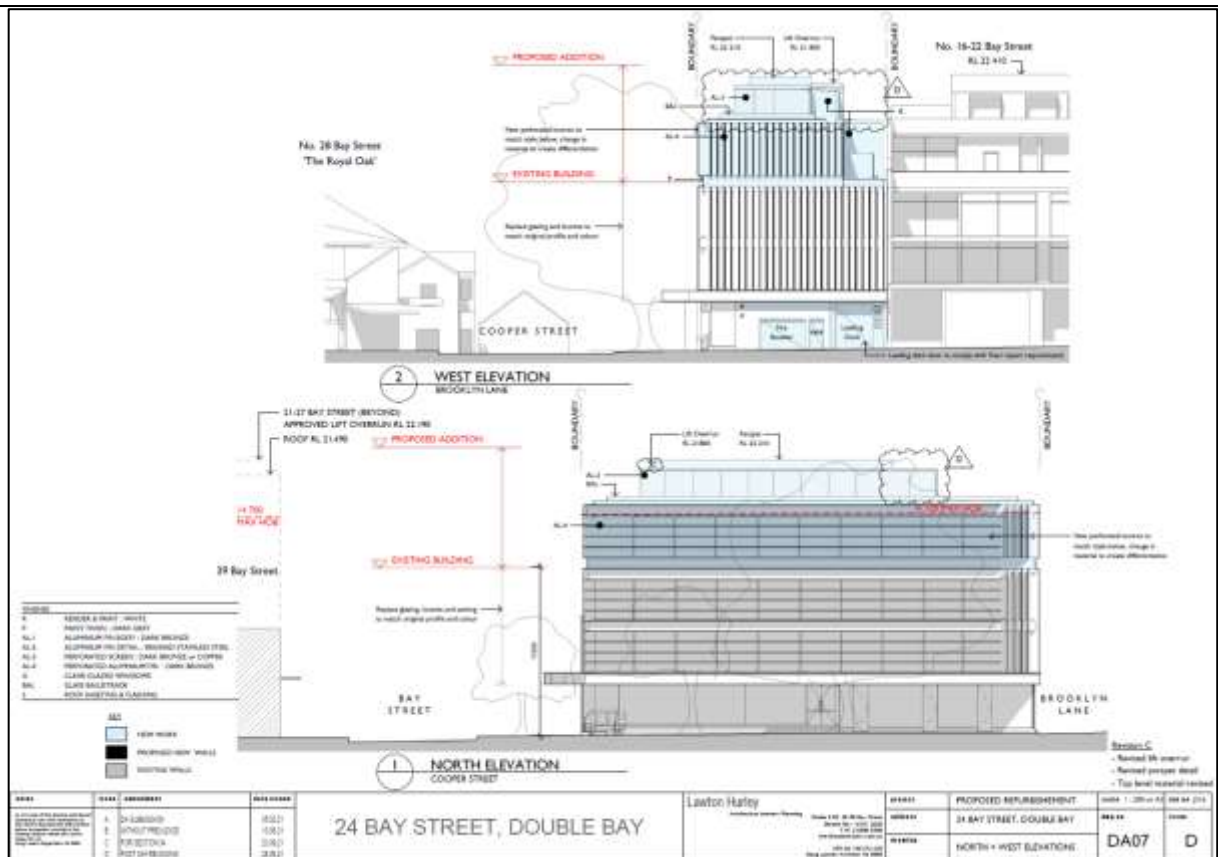
Physical features
<p>The subject site is located at 24 Bay Street Double Bay (also known as 2A Cooper Street, Double Bay) and encompasses two lots, legally known as Lots 11 & 12 in Deposited Plan 4606.</p> <p>The subject site is roughly rectangular in shape and comprises a primary street front boundary to Cooper Street (north) of 30.46m, a rear street boundary to Brooklyn Lane (west) of 12.265m, and a secondary street front boundary to Bay Street (east) of 13.135m and a southern (side) boundary of 30.45m.</p> <p>The subject site has a total area of 386m².</p>
Topography
<p>The site is generally flat, apart from the excavated to accommodate a basement level with a minor cross fall of approximately 0.44m from the southwest corner to the northeast corner.</p>
Existing Buildings and Structures
<p>The subject site was occupied by a three-storey commercial building with basement level known as "Gaden House". It is currently undergoing alterations and additions to accommodate a five-storey mixed-sue commercial building under DA2021/68 (refer to photomontage below).</p> <p>The subject site and building thereon was designed by a notable Sydney Architect Neville Gruzman. The building and interiors on the subject site are listed as a local heritage item (No 681) in Schedule 5 of the Woollahra Local Environmental Plan 2014.</p>
Environment
<p>The subject site forms part of the Bay Street South Precinct (i.e. from Short Street South towards New South Head Road). The subject site is bounded by road reserves on three of its four boundaries that is Bay Street to the east, Cooper Street to the north and Brooklyn Lane to the west.</p> <p>The existing surrounding context includes a range of two-four storey developments including a number of character buildings as identified in Section D5.6.3.8 of the WDCP 2015. Development that immediately surrounds the subject site comprises a mixture of uses such as commercial, retail, hotel, office, residential and licensed food and drink premises, and includes:</p> <ul style="list-style-type: none"> To the north, across Cooper Street a two-storey building known as the Royal Oak Hotel; To the east, across Bay Street is a group of three two-storey terrace style commercial buildings at No's 29-33 Bay Street identified as Character Buildings; To the north-east, is a six storey shop-top housing development, known as the Cosmopolitan Building; To the south, directly adjacent to the subject site is a four-storey shop-top housing contemporary building at 18 Bay Street. This building has a three-storey street wall height with a recessive fourth-storey with a further recessed upper fifth level for providing access to roof-terraces; Further to the south, is a mix of older and contemporary style two-four storey commercial buildings with primary orientation towards Bay Street; To the west, directly across Brooklyn Lane is the R2 and R3 Low and Medium Density Residential zones which includes a mix of older and contemporary buildings of residential uses, typically ranging from one-three storeys.



Photomontage of the approved five-storey mixed-use commercial building currently under construction (DA2021/68)

7. RELEVANT PROPERTY HISTORY

Current use
Mixed-use commercial building currently under construction under DA 68/2021.
Relevant Application History
<u>Applications currently under assessment</u> (yet to be determined at time of writing subject report)
<ul style="list-style-type: none"> DA 242/2023/1 – A DA for “Change of use to operate as a licensed restaurant and associated fit-out works (ground floor, Level 1 and Level 2)” lodged on 7/07/2023 is currently under assessment DA 455/2023/1 – A DA for “Fit-out works for the office tenancies at <u>Levels 3 and 4</u> of the approved commercial building” lodged on 5/12/2023 is currently under assessment” DA 68/2021/10 – A Section 4.56 Modification Application for “Minor external modifications to the previously proposed commercial building” lodged on 25/01/2024 is under assessment.
<u>Previous Relevant Applications – (DA 68/2021 – ‘Base build DA’)</u>
<ul style="list-style-type: none"> DA68/2021/1 – A Development Application (DA) for “Alterations and additions to the existing commercial building including two additional levels above the existing building” was refused by the Woollahra Local Planning Panel (WLPP) on 15 July 2021. The DA was subsequently approved via a Court Hearing (<i>Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council</i>) on 3 February 2022. It was subject to Condition A.5 stating: <ul style="list-style-type: none"> A.5 Development Consent is Not Granted in Relation to First-Use/Use of tenancies. <i>This approval does not give consent to First-Use/Use of the Food & Beverage Tenancy (lower ground floor), Retail tenancies (ground floor) and Office tenancies (levels 1, 2, 3 & 4). A separate Development Consent or Complying Development Certificate, as appropriate, will need to be obtained prior to such development work and/or use commencing.</i> <p>Refer to court approved North + West Elevation below:</p>



North + West Approved Elevations (under DA2021/68/1)

- DA 68/2021/2 – A Section 4.56 Modification Application for “Minor modification to wording of Condition C.3 (building upgrades)”. It was approved under staff delegated authority on 2 September 2022.
- DA 68/2021/3 – A Section 4.56 Modification Application for “Modifications to Part C of development consent relating to the heading of Part C and Conditions C.3, C.4, C.6, C.8, C.11 and C.17, C.18 and C.19” to refer to ‘relevant’ rather than ‘any’ construction certificate to allow for Construction Certificate staging. It was approved under staff delegated authority on 28 July 2022. It was subject to retention of **Condition C.4** and the addition of **Condition A.9** relating to limiting staging of construction certificate works into three (3) distinct stages of work.
- DA 68/2021/4 – A Section 4.56 Modification Application for “internal and external modifications to the approved development”. It was approved under staff delegated authority on 24 January 2023. It included modification to the wording of **Condition C.16** (flood protection).
- DA 68/2021/5 – A Section 4.56 Modification Application for “Internal modifications to the approved development including raising the ground floor level and relocation of the goods lift”. It was approved under staff delegated authority on 5 May 2023.
- DA 68/2021/6 – Rejected.
- DA 68/2021/7 – A Section 4.56 Modification Application for “Modifications to the approved lower ground floor level and associated access and service”. It was approved under staff delegated authority on 16 October 2023.
- DA 68/2021/8 – A Section 4.56 Modification Application for “Internal and external modifications to the approved development including new operable windows, new mechanical plant and kitchen exhaust”. It was approved under staff delegated authority on 16 October 2023.
- DA 68/2021/9 – A Section 4.56 Modification Application for “Internal modifications including changes to bathrooms, deletion of some internal walls, column changes, and amendments to lift door openings.”. It was approved under staff delegated authority on 16 October 2023.

Relevant Compliance History
Nil.
Pre-DA
Nil.
Requests for Additional Information
<p>On 20 July 2023, a “Stop the clock” letter was sent to the applicant requesting a Traffic/Parking Report.</p> <p>On 5 October 2023, Additional information was provided that addressed the above “Stop the clock” issues, in the form of a Traffic & Parking Statement Response prepared by TTPP (dated 5 October 2023).</p> <p>On 20 November 2023, a Request for Further Information (RFI) letter was sent to the applicant requesting a response to the issues raised by Council’s Traffic Engineer relating to service/delivery vehicle details.</p> <p>On 22 November 2023, Additional information was provided that addressed the above “RFI” issues, including:</p> <ul style="list-style-type: none"> Traffic & Parking Statement Response prepared by TTPP (dated 20 November 2023); and Updated Plan of Management (POM), dated November 2023. <p>On 4 December 2023, a Request for Further Information (RFI) letter was sent to the applicant requesting a response to the issues raised by Council’s Environmental Health Officer relating to concerns raised with the submitted Acoustic Report.</p> <p>On 19 December 2023, Additional information was provided that addressed the above “RFI” issues, including:</p> <ul style="list-style-type: none"> Updated Noise Impact Assessment prepared by Acoustic Logic (dated 18 December 2023); and Updated Plan of Management (POM), dated December 2023. <p>Note: These are the final version of documents to be approved and are referenced in Condition A.3.</p>
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Attachment
Development Engineering	No formal referral required, subject to relevant conditions being imposed.	-
Drainage Engineer	Acceptable, subject to relevant conditions being imposed. Flood mitigation measures will be implemented as per the approved DA (Condition C.16 in DA68/2021).	-
Traffic Engineer	Acceptable, subject to relevant conditions being imposed.	4
Heritage Officer	Acceptable, no conditions required.	5
Environmental Health	Acceptable, subject to relevant conditions being imposed.	6
Fire Safety Officer	Acceptable, subject to relevant conditions being imposed.	7
NSW Police (Licensing)	Acceptable. No objection raised to the licensed small bar premises subject to implementation of appropriate operational restrictions on the on-going use of the premises which are to be implemented via relevant conditions of consent and inclusion within the Plan of Management.	8

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 include the following:

- (a) the provisions of:
- (i) any environmental planning instrument, and

- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) *any development control plan, and*
- (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- (v) *(Repealed)*

that apply to the land to which the development application relates,

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 4 October 2023 to 19 October 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. A submission was received from S Granger of Unit 41/18 Bay Street, Double Bay

The submissions raised the following issue:

- Inadequate toilet facilities within the proposed bar.

Comment: Acceptable, the issues raised do not warrant refusal or modification of the application. A BCA Compliance Statement, referenced 230120 Rev 1, prepared by BM+G dated 15/08/2023 was submitted in support of the application which deems adequate toilet facilities are provided to accommodate the proposed number of patrons (100) and staff (10) in accordance with Section F of the BCA.

9.2 Amended Documentation

The Amended Documentation noted in Section 4.2.1 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 20.10.2023 declaring that the site notice for DA337/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

10. STATE ENVIRONMENTAL PLANNING POLICY (“SEPP”)

10.1 SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) of the SEPP gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject site is not located within the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11).

The proposed change of use and associated fit-out works to an approved building will not have any adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of Chapter 2 – Coastal Management of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

Under Clause 4.6(1)(a) of Chapter 4 – Remediation of Land, consideration is required to be given as to whether the subject site on which the development is occurring is contaminated.

Clause 4.6(1) of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021. Provides:

- (1) A consent authority must not consent to the carrying out of any development on land unless—
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Clause 4.6(1) is in the form of a prohibition on the grant of consent.

The Detailed (Stage 2) Site Investigation prepared for the site under the base build DA (DA2021/68) concluded that the site was suitable for the proposed redevelopment of the commercial building and in the event of unexpected contaminants in the soil could be managed by relevant conditions of consent. The proposal does not alter these conclusions.

The proposed change of use and associated internal fit-out of the approved building is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

10.2 SEPP (Biodiversity and Conservation) 2021

Chapter 6 – Water Catchments

Chapter 6 (Water Catchments) of the SEPP applies to the subject land which is located within a regulated catchment being the Sydney Harbour Catchment.

The land is within the Sydney Harbour Catchment but is outside the Foreshores and Waterways Area and therefore only the provisions in Part 6.2 of the SEPP applies.

In deciding whether to grant development consent to development on land in a regulated catchment, matters relating to water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management must be considered.

The proposed change of use and associated internal fit-out works to an approved building would not alter the stormwater and flood risk management of the site and therefore satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

10.3 SEPP (Industry and Employment) 2021

Chapter 3 – Advertising and Signage

The proposal does not involve any signage.

10.4 SEPP (Sustainable Buildings) 2022

Clause 4.2 Savings and transitional provisions

This policy does not apply a development application or an application for modification of a development consent submitted on the NSW planning portal but not finally determined before 1 October 2023.

The subject application was lodged prior to 1 October 2023 and the Sustainable Buildings SEPP is therefore not applicable.

10.5 SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to residential development. It is not applicable as the proposed development work is for the purposes of a change of use and fit-out to a commercial building.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

12. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014 ('WLEP 2014')

12.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

12.2 Part 2.3: Zone Objectives and Land Use Table

The proposal is defined as a mixed-use “commercial premises” being a ‘food and drink’ (small bar). The proposed development is permissible with consent within the E1 Local Centre zone – Refer to *land-use permissibility* below.

Land-use permissibility

The relevant land-use definitions in the WLEP 2014 Dictionary are:

- “commercial premises** means any of the following—
- (a) *business premises*,
 - (b) *office premises*,
 - (c) **retail premises**.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—...

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) **a small bar.**

...

Note—

Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary.”

The E1 Local Centre land-use table provides nominate permissible and prohibited uses:

3 Permitted with consent

... **Commercial premises;** ...

4 Prohibited

Any development not specified in item 2 or 3

Based on the above, the proposed use is permissible with consent within the E1 Local Centre zone.

Zone Objectives

The zone objectives for the E1 Local Centre are:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area
- To encourage investment in local commercial development that generates employment opportunities and economic growth
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings
- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area
- To ensure development is of a height and scale that achieves the desired future character of the local centre
- To encourage development that is compatible with the local centre’s position in the centres hierarchy
- To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces
- To maximise public transport patronage and encourage walking and cycling
- To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates

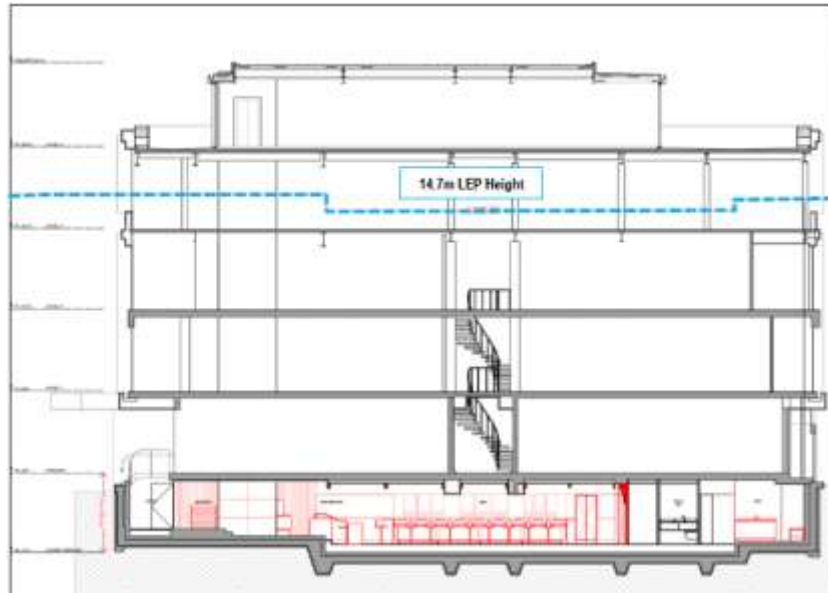
The proposed use of as a food and drink (small bar) premises is consistent with the objectives of the E1 Local Centre zone as required in sub-clause 2.3(2) of the WLEP 2014.

12.3 Part 4: Principal Development Standards

Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 14.7m.

The proposal will not alter the overall building height of the approved building. The extent of the proposed internal fit-out works are located entirely below the maximum building height.



Long Section (Source: ACME & GSA Planning)

The proposal complies with the maximum building height prescribed by Part 4.3 of WLEP 2014.

Part 4.4: Floor Space Ratio

Clause 4.4A (Areas 1 and 1A) of the WLEP 2014 refers to the Floor Space Ratio Map, which provides a maximum FSR of 3:1 for the site given it is a corner site located in Area 1.

The approved works under the base build for the subject site (DA 2021/68) resulted in a departure from the FSR standard, being an approved FSR of 3.67:1.

The proposed works are restricted to internal works at Lower Ground Floor and will not result in any increase or change to the approved FSR. Therefore, the maximum FSR for the approved building will not be altered by this proposal. A Clause 4.6 Variation Request is therefore not required for this new DA.

12.4 Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The existing building that is a locally listed heritage item in the WLEP 2014 known as 'Gaden House including interiors', Item No. 681. The previously approved development (DA2021/68) included alterations and additions to the existing commercial building including two additional levels above the existing building.

Council's Heritage Officer has assessed the proposal and provided the following comments:

"The proposed fit-out to lower ground floor would not adversely impact original significant fabric or the character of the heritage item, and is supported."

CONCLUSION

Woollahra LEP 2014

Clause 1.2 (2) (f) - The development does conserve the built heritage of Woollahra.

Part 5.10 Heritage Conservation

Clause 1(a) - The development does conserve the heritage of Woollahra.

Clause 1(b) - The impact upon the heritage significance of the heritage item will be neutral.

Clause 4 - This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal generally respects the cultural significance of the site, and complies with the relevant statutory and policy documents.

No heritage conditions are required."

Based on the above, the proposal is considered to be acceptable with regards to the relevant heads of consideration in Part 5.10 Heritage Conservation of the WLEP 2014.

12.5 Part 5.21: Flood Planning

The objectives of Part 5.21 are:

- a) *to minimise the flood risk to life and property associated with the use of land,*
- b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development:

- a) *is compatible with the flood function and behaviour on the land, and*
- b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

In deciding whether to grant development consent on land to which Part 5.21 applies, the consent authority must consider the following matters:

- a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- b) *the intended design and scale of buildings resulting from the development,*
- c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion*

The subject site is located in a 'Flood Planning Area', as identified on the Flood Planning Map.

The proposed internal fit-out works maintain the floor levels as per the approved commercial building development (DA2021/68). The previous approval was considered to be acceptable, subject to DA condition requiring a Flood Risk Management Plan that details flood risk mitigation measures. Flood mitigation measures will be implemented as per approved DA (DA 68/2021 in Condition C.16).

The proposal is acceptable with regard to with regards to the relevant heads of consideration in Part 5.21: Flood Planning of the WLEP 2014.

12.6 Part 6.1: Acid Sulfate Soils

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The site is located within land identified as Class 2 on the Acid Sulfate Soils Map. The proposed internal fit-out works do not involve earthworks and would not disturb, expose or drain acid sulfate soils. Furthermore, an Acid Sulfate Soils Management Plan ('ASSMP') was not deemed to be required as confirmed by the Preliminary Site Investigation (Stage 1) and Detailed (Stage 2) Site Investigation (Stage 2), prepared by JKE Environments submitted with the approved commercial building development (DA2021/68).

The proposal was considered to be acceptable with regards to the relevant heads of consideration in Part 6.1 Acid Sulfate Soils of the WLEP 2014.

12.7 Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposed internal fit out works does not involve earthworks. The proposal is are considered to be is acceptable with regards to Part 6.2 Earthworks of the WLEP 2014.

13. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 ('WDCP 2015')

13.1 Chapter D5: Double Bay Centre

13.1.1. Section D5.1: Introduction

Part D5.1.3: Objectives

The objectives of this chapter are:

- O1 To retain and enhance through block connections which allow pedestrians to move freely within the Double Bay Centre.*
- O2 To develop the particular qualities of different parts of the Double Bay Centre.*
- O3 To encourage a diverse mix of uses in the Double Bay Centre and maintain retail uses at ground level.*
- O4 To conserve and enhance the visual and environmental amenity of all buildings and places of heritage significance in the Double Bay Centre.*
- O5 To enhance the way development contributes to a sense of place.*
- O6 To ensure a high standard of architectural and landscape design in any new developments within the Double Bay Centre.*
- O7 To preserve and enhance the diversity of uses in the Double Bay Centre.*
- O8 To ensure that new development is compatible with the existing built form, and streetscape and village character.*

O9 *To encourage view sharing and individual privacy.*

O10 *To ensure new development is designed to be compatible with the heritage significance of listed heritage items.*

The proposal achieves consistency with the *Part D5.1.3: Objectives* of the Double Bay Centre in the WDCP 2015, and in particular:

- enhances the diversity of uses in the Double Bay Centre (O8)

13.2. Section D5.3: Urban structure

Part D5.3.2: Key strategies for the Double Bay Centre

The provides a new food and drink (licensed small bar) use at lower ground (existing basement) of an approved mixed use commercial building which would satisfy many of the key strategies. The proposal does not alter the approved external building envelope.

The proposal achieves consistency with regards to the Key strategies for the Double Bay Centre in Part D5.3.2 of the WDCP 2015.

13.3. Section D5.4: Street character

Part D5.4.1 Desired future character

Section D5.4: Street character describes the existing character and the desired future character of character precincts in the Double Bay Centre.

The site is located within the 'Bay Street (South)' area described below.

Part D5.4.4 Bay Street (south)

Existing Character

Part D5.4.4 prescribes the existing character of 'Bay Street (south)' as follows:

"Bay Street connects New South Head Road with the harbour. Its north-south orientation results in the street being sunny throughout the day. It is lined by modest buildings on narrow lots, with irregular setbacks at street level and street trees. Together the elements contribute to an intimate and relaxed atmosphere. There are a number of buildings that have been identified as character buildings in Section 5.6.3.8 Heritage items and character buildings. These include several Victorian terraces that have been modified for retail use."

Desired future character

Part D5.4.4 of the WDCP 2015 provides the following desired future character objectives:

- a) Retain the existing modest, lot related building widths and retail frontages.*
- b) Provide setback areas at ground level that can be used for outdoor eating or public circulation.*
- c) Retain the character buildings along Bay Street.*
- d) Maintain the avenue of trees.*

The proposal involves internal fit-out works to accommodate a new licensed small bar, it will maintain the existing external envelope and streetscape presentation. The proposal will retain the existing built form on the subject site. No changes to the avenue of trees along Bay Street are proposed.

The proposal is consistent with the desired future character objectives of the Bay Street (south) area.

13.4. Section D5.5: Built form envelopes: Control Drawing 5

Not applicable – The proposal does not involve any changes to the approved building envelope.

13.5. Section D5.6: Development Controls

The controls outlined in this part of the WDCP 2015 mainly relate to urban street character, built form, relationship to the public domain, site elements and external works.

The proposal involves internal fit-out works to accommodate a new licensed small bar at Lower Ground Floor, only, and does not involve any physical external works to the built form.

Notwithstanding, the proposal is assessed against the following relevant sections:

Part D5.6.2: Use

D5.6.2 Use	Proposed	Control	Complies
Use	Commercial (retail and food and drink)	Mix of Uses	Yes
Access to Residential Uses at Ground Floor	N/A – commercial / retail only	Max 20% of Frontage	Yes

- D5.6.2 – Controls C1, C2, C3 and Objectives O2, O3, O4, O8 & O9

O2 *Encourage mixed use development to reduce transport and travel requirements.*
O3 *Encourage the continuation of retail and commercial uses at street level in the centre.*
O4 *Encourage first floor retail and commercial use.*

C1 *Design for a mix of uses within buildings.*
C2 *Design durable and adaptable buildings, spaces and places.*
C3 *Design for retail, commercial and community uses at ground and first floor levels. Consider design solutions that promote retail, commercial use at first floor level such as galleried arcades.*

The proposal involves internal fit-out works to accommodate a new licensed small bar within an approved mixed-use commercial development and generally complies with relevant use provisions in Part D5.6.2 of the WDCP 2015.

Licensed Premises (Small Bar)

O8 *Encourage activities which do not have unacceptable noise or other environmental impacts.*
O9 *Ensure that buildings are designed and constructed to minimise noise and other impacts on building occupants and adjoining properties.*

The recommended on-going operational restrictions (recommended **Conditions 'H.1-H.20'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre and of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents.

Subject to recommended on-going acoustic measures and operational restrictions, as detailed in **Part "H"** of the report recommendation, the proposal is considered to be satisfactory with regard to Objectives O8 and O8 in *Part D5.6.2: Use* of the WDCP 2015 ensuring that the proposed use:

- Does not have unacceptable noise or other environmental impacts; and
- Minimises noise and other impacts on adjoining properties.

The proposal is therefore acceptable with regard to Part D5.6.2 of the WDCP 2015.

Part D5.6.4: Relationship to public domain

This Part of the DCP states that *“the success of commercial centres is dependent on street edge activity. Street activation requires a safe, cohesive and attractive public domain. This section establishes objectives and controls for the street frontage elements of built form such as awnings, colonnades, arcades, walkways, courtyards, public art, outdoor eating and address to laneways.”*

Outdoor eating (D5.6.4.6)

There is no outdoor footpath seating proposed as part of the subject DA. The criteria prescribed in this part is not relevant to the proposed scope of work.

Part D5.6.5: Amenity

Acoustic privacy (D5.6.5.2)

- D5.6.5.2 – Control C4 and Objectives O1 and O2.

O1 *Ensure adequate acoustic privacy to residential apartments and private open spaces in the centre.*

O2 *Protect the acoustic privacy of residential neighbours adjacent to the centre.*

C4 *Restaurants should be designed to minimise the impact of noise associated with late night operation on nearby residents.*

The recommended on-going operational restrictions (recommended **Conditions ‘H.1-H.20’**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre and of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents.

Subject to recommended on-going acoustic measures and operational restrictions, as detailed in **Part “H”** of the report recommendation, the proposal is considered to be satisfactory with regard to Objectives O1 and O2 in *D5.6.5.2 Acoustic Privacy* of the WDCP 2015

The proposal satisfies the relevant criteria prescribed by this part.

13.6 Chapter E1: Parking and Access

Part E1.5: Non-residential parking

Parking for non-residential uses is calculated using the generation rates specified in E1.5.2 and applied by the multiplier rate in E1.5.3.

The proposal does not result in an increase to the approved GFA of the Lower Ground Floor Level that has been approved for the purpose of a food and beverage use under DA2021/68. As such, the proposal does not result in an increase to the parking provision requirement for the development.

Furthermore, Clause E1.8.5 of the WDCP relates to business zoned land in Double Bay with regards to parking requirements for a change of use, this clause states:

“Change of use: restaurants or cafes

Council will not require additional off-street parking for proposals within an existing building and its site (such as an external courtyard) involving a change of use from a shop or commercial premises to a restaurant or café.”

Council’s Traffic Engineer provides the following comments on Parking Provision and Traffic Generation:

“...It is understood that this proposal is for internal building and fit-out works for the food and beverage use on the Lower Ground Level approved under DA68/2021.

There’s no change to the overall GFA and split of use for each level and therefore parking and traffic implications are anticipated to be consistent with previously approved, as per Council’s DCP and RMS Guide to Traffic Generating Developments.

Pursuant to RMS Guide, traffic generation varies among restaurants and are influenced by the nature and type of the restaurant, the location, number of seats, seat occupancy and transport modes of patrons, etc.

The proposal has a seating capacity of 100 patrons, which is calculated to generate 85 patrons at peak levels as an 85% of seat occupancy is generally assumed as per RMS Guide. RMS Guide also suggests a mean mode split for private cars of 0.85 and a mean car occupancy of 2.2 people for restaurant use, which is calculated to be 32.8 cars during peak hours ($85/2.2 \times 0.85 = 32.8$).

It is however acknowledged that a lower level of private car use is anticipated for the proposal given the nature of a licensed bar. Anecdotal results show a higher rate of alternative transport modes in this area due to its proximity to public transport, the availability of on-site parking provision and the timed and ticketed parking restrictions installed on surrounding streets. In addition, it is noted that the frontage road Cooper Street consists Taxi Zone that can accommodate pick-ups and drop-offs of patrons, which can accommodate the picks-up and drops-off generated by the proposal and is considered acceptable.”

The above is concurred with. The proposal is considered to achieve consistency with regards to the objectives and controls in *Chapter E1: Parking and Access* of the WDCP 2015 and/or is addressed by Council’s standard DA conditions.

13.7 Chapter E5: Waste Management

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the WDCP 2015 and/or can be addressed by Council’s standard conditions.

13.8 Chapter E7: Signage

The proposal does not involve any signage.

13.9 Chapter F3: Licensed Premises

Part F3.1.3: Objectives

The objectives of the Licensed Premises controls in Chapter F3 are:

- O1 *To standardise the way we assess development applications (DAs) and other related applications for licensed premises*

- O2 *To provide certainty to applicants, residents and other stakeholders regarding our approach to, and planning requirements for, dealing with DAs and other related applications for licensed premises*
- O3 *To achieve a more consistent approach to determining trading hours and operating conditions for licensed premises*
- O4 *To recognise the important role of licensed premises in contributing to the vitality and vibrancy of centres at night while minimising potential negative impacts from activities associated with licensed premises.*
- O5 *To provide for the safety of patrons and the general public.*
- O6 *To ensure noise from the activities of licensed premises is not intrusive and does not unreasonably impact on the amenity of adjoining and nearby residential uses.*

For the reasons discussed below, the proposal satisfies the aforementioned objectives.

Liquor Act 2007

Type of licence	Type of use or activity
Hotel (including a general bar licence)	Pub or large bar with more than 100 patrons
Club	Registered club
Small bar	Small bar with under 100 patrons
On-premises	Restaurant or cafe, nightclub, entertainment facility, hotel or motel accommodation, function centre and other venues where liquor is consumed on the premises
Packaged liquor	Bottle Shops or online liquor sales
Producer/wholesaler	Brewer, distiller, winemaker or wholesaler
Limited	Functions held by non-profit organisations, as well as special events and trade fairs

Types of licences under the Liquor Act 2007

13.9.1. Rating (F3.2: Licensed premises risk rating)

The proposed premises is defined as a 'small bar'. The proponent is seeking to obtain a future liquor license (small bar license) under the *Liquor Act 2007* to be obtained through Liquor and Gaming NSW to allow for on-site consumption of alcohol.

The premises has a rating level of 'LOW' in accordance with Table F3.2 (Risk Rating of Licensed Premises) of the DCP, due to its proposed capacity of no greater than 100 patrons.

RISK RATING OF LICENSED PREMISES		
Type of licence	Location/zone	Risk rating
Hotel or General Bar, packaged liquor, clubs irrespective of their capacity	Anywhere	HIGH
On-premises, producer/wholesaler, limited with a capacity of 100 or more patrons		
Any licensed premises	R2 and R3 zones	HIGH
On-premises/small bars	B1	HIGH
	B2, B4, SP3 and RE1	LOW
Small bars, on-premises, packaged liquor, producer/wholesaler, limited with a capacity of less than 100 patrons	B2	LOW
Note: Outdoor seating is included in calculating patron capacity		

Risk Rating of Licensed Premises Table F3.2 in Chapter F3 Licensed Premises of the WDCP 2015

13.9.2. Part F3.3: Objectives and Controls

Part F3.3 of the WDCP 2015 provides the following relevant Objectives and Controls applicable to the subject DA:

- O1 *Minimise the impact of licensed premises on the amenity of residential or other sensitive land uses.*
- C1 *Before deciding on an application involving licensed premises, the following matters are considered:*
- the location of the premises and the proximity of residential and other sensitive uses, including any external areas (not fully enclosed areas)*
 - the type of licensed premises;*
 - the size and capacity of the premises;*
 - trading hours;*
 - existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas;*
 - existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises;*
 - the density of licensed premises in the vicinity of the proposed development;*
 - availability of car parking and proximity and access to public transport; and*
 - any recommendations/comments provided by NSW Police (applications involving licensed premises will be referred to NSW Police for comment in accordance with our Memorandum of Understanding – Crime Prevention Through Environmental Design).*
- O2 *Identify appropriate trading hours for licensed premises.*
- C2 *The trading hours for licensed premises are as set out in the following table:*

Trading Hours - Development within the site*				
Risk rating	Internal (fully enclosed)		External (not fully enclosed)	
	Base	Extended	Base	Extended
High	8am - 10pm	8am - midnight	7am - 10pm	7am - 11pm Fri and Sat only
Low	8am - midnight	8am - 2am	7am - 10pm	7am - 11pm Fri and Sat only
*Refer to the Woollahra Footway Dining Policy and Guidelines for the trading hours applicable to the use of footways for restaurant purposes.				

Note: The base and extended trading hours referred to in the above table are not an 'as of right'. Where licensed premises are located in close proximity to low density residential zones, Council may impose more restrictive trading hours than those shown in the table.

- C3 Consents for licensed premises will, by condition, limit trading hours so that they do not exceed the base trading hours as shown in the Trading Hours Table under C2 (consents may impose trading hours less than the base trading hours).
- C4 Extended trading hours may be permitted. The matters set out in C1 will be considered in the assessment of an application to extend trading hours. If approved, extending trading hours:
- will not exceed the extended trading hours in the Trading Hours Table under C2 (an approval may be subject to a condition which requires extended trading hours to be less than the hours shown in the table); and
 - will be approved as a reviewable condition under s.80A (10b) of the EP&A Act.
- Reviews of extended trading hours will only be undertaken if:
- Council has satisfactory evidence to suggest the extended trading hours are unduly impacting on the amenity of the neighbourhood; or
 - NSW Police has requested a review.
- O3 Identify the maximum number of persons permitted on the licensed premises (including outdoor areas) to:
- minimise the impact on the amenity of surrounding residential and sensitive land uses; and
 - provide a safe environment for occupants.
- C5 Consents for licensed premises will, by condition, limit the maximum number of persons permitted on licensed premises based on:
- an assessment of likely amenity impacts; and
 - fire safety and other emergency situation considerations.
- O4 Appropriate management practices are implemented for licensed premises to:
- minimise impacts, such as anti-social behaviour and crime, on surrounding residential and other sensitive land uses particularly at closing times and during periods of high patronage; and
 - safeguard persons occupying licensed premises.
- O5 Buildings and areas accommodating licensed premises are designed and located to:
- minimise impacts on the amenity of surrounding residential and other sensitive uses; and
 - provide a safe environment for its occupants.

13.9.3. Assessment

In accordance with Control C1, assessment of the licensed premises must consider the following:

- a) *The location of the premises and the proximity of residential and other sensitive uses*

Control C10 requires that outdoor areas, openings, plant equipment, storage and waste collection spaces must take into account the amenity of surrounding residents.

The site is located within the E1 Local Centre zone and is located adjacent to R2 and R3 Residential zoned land to the west. The locality is characterised by a mix of residential properties and commercial developments. The location of the proposed licensed premises and its potential amenity impacts upon adjoining residential uses are assessed below.



Zoning Map showing the context of the subject site in relation to zoning in the vicinity of the site

An acoustic report prepared by Acoustic Logic was submitted with the application (refer to **Attachment 9**). The report provided the following recommendations:

6 RECOMMENDATIONS/MANAGEMENT CONTROLS

The following building and management controls are required to achieve the noise emission goals identified in Section 4.1.

- No more than 100 internal patrons and 15 staff are allowed within the premises at any time.
- The single-entry door may be left open at all times during trading hours. All other doors are to be fitted with a closing mechanism to ensure that they are not left open and used only for ingress/egress. Doors and windows should be fitted with full perimeter acoustic seals.
- Any foreground music/singing is to be at a maximum internal sound pressure level of 85dB(A)_{L10}.
- It is recommended that the management keep a complaint register on site and that noise complaints are registered, and any respective remedial actions undertaken to address complaints. This register should be stored on site and be always accessible.
- Trading hours are to be within the operating hours identified within this report – 8:00am to 2:00am Monday to Saturday and 12:00pm to 10:00pm Sunday.
- Speakers are to be vibration isolated from the building structure by NRD mounts or equal.
- Signs are to be displayed at the entrance of the bar reminding patrons to minimise noise when departing the premise.
- All garbage and bottle collection services are only to be conducted during daytime hours (7am - 6pm).
- A detailed acoustic review of mechanical plant proposed to be installed into the tenancy shall be undertaken once plant selections and locations have been finalised.

Council's Environmental Health Officer has reviewed the report and has determined that the proposal is satisfactory, subject to conditions.

NSW Police has also reviewed the application and have determined that the proposal is satisfactory, subject to imposition of relevant conditions and inclusion of operational restrictions and requirements within the Plan of Management of the premises.

Based on the above, it is recommended the measures of the submitted Acoustic Report are required to be adhered to (**Condition H.10**) and where relevant are specified as on-going acoustic measures and operational restrictions, as detailed in **Part "H"** of the report recommendation to ensure the reasonable maintenance of the residential amenity of the surrounding properties.

Therefore, the recommendations of the Acoustic Report, together with the recommendations provided by NSW Police, are considered appropriate to ensure that the acoustic impacts on adjoining properties in this location are mitigated.

In this instance, and subject to conditions, the proposed licensed premises is considered to be appropriate and acceptable.

Having regard to the character of the area, the trading hours of other food and drink establishments in the area, the detailed assessment by Council and NSW police and subject to conditions, the proposed licensed premises (small bar) is considered appropriate in this location. Furthermore, it should be noted that a previous licensed premises operated in the location of the subject DA.

b) The type of licensed premises

The type of licence required for the proposal is a 'small bar license'. A 'small bar license' application will need to be made to the Licensing Authority if and when consent is granted for the use as a 'small bar'.

c) The size and capacity of the premises

The proposed licensed small bar premises will have a capacity of 100 patrons and a maximum of 10 staff at any given time. Council's Fire Safety Officer has not raised any concerns with regards to the capacity of the premises to accommodate the aforementioned patrons and staff. Furthermore, as the proposal is for a new building it will need to comply with BCA standards in relation to fire egress, and toilet facilities and disability access.

Conditions H.4-H.5 are recommended restricting the total number of patrons (100) and staff (10).

d) Trading hours

In accordance with Control C2, the permitted base and extended trading hours are to be limited to:

- **Internal (fully enclosed)**
Base: 8am – Midnight
Extended: 8am – 2am
- **External (not fully enclosed)**
Base: 7am – 10pm
Extended: 7am – 11pm (Fri & Sat only)

In accordance with Control C4, extended trading hours may be permitted. If, the trading hours:

- will not exceed the extended trading hours in the Trading Hours Table under control C2; and
- will be approved as a reviewable condition.

The proposal seeks the following hours of operation for the *small bar*:

- Monday to Wednesday: 12pm to 12am (midnight);
- Thursday, Friday & Saturday: 12pm to 2am (the following day)
- Sunday: 12pm to 10pm

In light of the above, the following base trading hours are recommended and noted in **Condition H.1** as:

- Monday to Saturday: 12.00pm to 12.00am (midnight);
- Sundays and Public Holidays: 12.00pm to 10.00pm.

The following extended trading hours and are noted in **Condition H.2** as:

- 12.00pm to 2.00am (the following day), Thursday, Friday & Saturday

The proposed hours of operation are consistent with Control C4 (extended trading hours) in that they are wholly within the permitted extended trading hours for 'low' risk rated premises that are fully enclosed. The proposed extended hours of operation beyond the permitted base trading hours are also subject to a reviewable condition (**Condition H.3**) consistent with Control C4.

e) Existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas

C7(a) requires the submission of a Plan of Management. C9 requires revisions where there is an extension of trading hours, patrons or a review of these limitations.

Operational restrictions are specified in **Part H** of the report recommendation to ensure the reasonable maintenance of the residential amenity of the surrounding properties. Extended hours beyond the permitted base hours are subject to a reviewable condition.

f) Existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises

The submitted Plan of Management provides a detailed management and operational procedure for the premises which is required to be adhered to as per **Condition H.10**.

g) The density of licensed premises in the vicinity of the proposed development

Noting that Control C7(b) requires the submission of a Social Impact Report, it is not considered to be relevant in this instance as the premises is for a 'low' risk use (small bar).

Furthermore, given that the location of the proposed licensed premises (within the Double Bay Centre precinct), the nature of the numerous mixed use developments surrounding the site and the recommended conditions of consent, the need for a Social Impact Report is considered unreasonable in this instance.

h) Availability of car parking and proximity and access to public transport

Council's Traffic Section supports the proposed application in terms of car parking availability.

i) Any recommendations/comments provided by NSW Police

The proposal was referred to NSW Police for comment. The Referral Response provided by NSW Police has concluded that the proposal is generally acceptable, subject to appropriate management requirements, which have been recommended to be imposed as Conditions of Consent.

It is noted that NSW Police have advised that the Plan of Management (POM) accompanying this Development Application has not been approved.

In this regard, **Condition G.1** is recommended to be imposed requiring the approval, by Council and NSW Police, of a detailed Plan of Management prior to the commencement of operations.

13.9.4. Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter F3 of the WDCP 2015, subject to the recommended conditions of consent

14. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant to the scope of proposed works.

15. CONTRIBUTION PLANS

15.1 Section 7.12 Contributions Plan

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022. Refer to **Condition D.1**.

15.2 Subdivision 4 Housing and Productivity Contributions

The proposal does not require a housing and productivity contribution.

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2021

Clause 64: Consent authority may require upgrade of buildings

Clause 64 of the Environmental Planning and Assessment Regulation 2021 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, recommending that a fire safety certificate must be submitted on completion of the work required under this DA and thereafter fire safety statements on an annual basis.

These requirements are enforced by recommended standard DA conditions.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

20. CONCLUSION

Based on the assessment contained within this report, the proposal is acceptable against the relevant heads of considerations under Section 4.15 of the EP&A Act 1979.

21. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the applicant or any person who made a submission.

22. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 337/2023/1 for Internal fit out of food and drink premises on lower ground floor for a licensed bar on land at 24 Bay Street Double Bay (AKA 2A Cooper Street), subject to the following conditions:

ALL DEVELOPMENT TYPES

A. GENERAL CONDITIONS

<p>A. 1.</p>	<p>Conditions</p> <p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 (“the Act”), and the provisions of the Environmental Planning and Assessment Regulation 2021 (“the Regulations”) and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (“the Development Certification and Fire Safety Regulations”), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence. • Where there is any breach Council may without any further warning: <ul style="list-style-type: none"> a) Issue Penalty Infringement Notices (On-the-spot fines); b) Issue notices and orders; c) Prosecute any person breaching this consent; and/or d) Seek injunctions/orders before the courts to restrain and remedy any breach. • Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences. • Should Council have to take any action to enforced compliance with this consent or other environmental laws Council’s policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. • This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action. • The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the Crimes (Sentencing Procedure) Act 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. <p>Condition Reason: To ensure all parties are aware of the relevant legislation that applies to the development.</p>
<p>A. 2.</p>	<p>Definitions</p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p>Applicant means the applicant for this consent.</p> <p>Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p>Local native plants means species of native plant endemic to Sydney’s eastern suburbs.</p> <p>Owner-builder has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p>PC means the Principal Certifier under the <i>Act</i>.</p>

	<p>Principal Contractor has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p>Professional engineer has the same meaning as in the BCA.</p> <p>Public place has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p>Road has the same meaning as in the <i>Roads Act 1993</i>.</p> <p>SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p>Site means the land being developed subject to this consent.</p> <p>Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p>Woollahra LEP means <i>Woollahra Local Environmental Plan 2014</i></p> <p>Woollahra DCP means <i>Woollahra Development Control Plan 2015</i></p> <p>Work for the purposes of this consent means:</p> <ul style="list-style-type: none"> • the use of land in connection with development, • the subdivision of land, • the erection of a building, • the carrying out of any work, • the use of any site crane, machine, article, material, or thing, • the storage of waste, materials, site crane, machine, article, material, or thing, • the demolition of a building, • the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land, • the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or • the occupation of the <i>site</i> by any person unless authorised by an occupation certificate. <p>Condition Reason: To ensure all parties are aware of the relevant definitions.</p>
<p>A. 3.</p>	<p>Approved Plans and Supporting Documents</p> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p>

Reference	Description	Author	Date
	Architectural Plans	All prepared by ACME Architecture + Interiors	All dated 24.07.2023
A.02.01 A	Proposed Plan: Lower Ground		
A.02.02 A	Proposed Floor Finishes: Lower Ground		
A.02.03 A	Proposed Finishes RCP: Lower Ground		
A.05.01 A	Proposed Section		
A.05.02 A	Proposed Section		
Unreferenced	Materials & Finishes Schedule	ACME CAON	11/09/2023
Unreferenced	Plan of Management Bar – Bobbie's	Fortis	Dec 2023
20447	Traffic & Parking Statement	TTPP	20/11/2023
20230058.3/18 12A/R2/JHT	Noise Impact Assessment – Lower Ground Floor (Bobbie's)	Acoustic Logic	18/12/2023
20251 Rev R1.2	Access Compliance Capability Statement (LG (Basement) Bar Fit-out)	Code Performance	16/08/2023
230120 Rev 1	BCA Compliance Statement	BM+G	15/08/2023
Attachment 1	Site Waste Minimisation and Management Plan	Neil Perry	16/04/2023

Notes:

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

A. 4. Ancillary Aspects of Development (section 4.17(2) of the Act)

The Owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

Notes:

- This condition does not affect the Principal Contractor's or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Condition Reason: To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

DEMOLITION WORK

B. BEFORE DEMOLITION WORK COMMENCES

B. 1.	<p>Public Road Assets Prior to Any Work/Demolition</p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none">• road pavement,• street signage including street lights,• kerb and gutter,• footway including pedestrian crossings, footpath, and driveways,• retaining walls, or other significant structures,• Heritage Items, including street name inlays,• utility service items including historical utility covers, and• drainage structures/pits/pipes (CCTV footage). <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> <p>Condition Reason: To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>																								
B. 2.	<p>Payment of Security and Fees</p> <p>Prior to any site works, the following security and fees must be paid in full:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td>Property Damage Security Deposit - making good any damage caused to any property of the Council</td><td>\$35,925</td><td>No</td><td>T115</td></tr><tr><td colspan="4">INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td>TOTAL SECURITY AND FEES</td><td>\$36,150</td><td></td><td></td></tr></table> <p>How must the payments be made? Payments must be made by:</p> <ul style="list-style-type: none">• cash deposit with Council,• credit card payment with Council, or• bank cheque made payable to Woollahra Municipal Council.	Description	Amount	Indexed	Council Fee Code	SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				Property Damage Security Deposit - making good any damage caused to any property of the Council	\$35,925	No	T115	INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>				Security Deposit Administration Fee	\$225.00	No	T16	TOTAL SECURITY AND FEES	\$36,150		
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TOTAL SECURITY AND FEES	\$36,150																								

	<p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"> • the guarantee is by an Australian bank for the amount of the total outstanding contribution, • the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first [NOTE: a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable], • the bank agrees to pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, • the bank guarantee is lodged with the Council prior to any site works being undertaken, and • the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required. <p>Notes:</p> <ul style="list-style-type: none"> • An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act. • The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. • Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. • Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. • Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period. • The Refund of Security Bond Application form can be downloaded from www.woollahra.nsw.gov.au
	<p>Condition Reason: To ensure any relevant security and fees are paid.</p>
<p>B. 3.</p>	<p>Works (Construction) Zone – Approval and Implementation</p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> • A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.

	<ul style="list-style-type: none"> The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.
	<p>Condition Reason: To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
B. 4.	<p>Site Signs</p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p>Erection of signs</p> <ul style="list-style-type: none"> For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> showing the name, address and telephone number of the principal certifier for the work, and showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building. This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia. <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p>Signs on development sites</p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out. <p>Notes:</p> <ul style="list-style-type: none"> Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with. If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.

	Condition Reason: To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.
B. 5.	<p>Toilet Facilities</p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ul style="list-style-type: none"> a) must be a standard flushing toilet, and b) must be connected to a public sewer, or c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council. <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p>Notes:</p> <ul style="list-style-type: none"> • In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999. • This condition does not set aside the requirement to comply with SafeWork NSW requirements. <p>Condition Reason: To ensure toilet facilities are provided for workers at the work site.</p>

REMEDIATION WORK

C. ON COMPLETION OF REMEDIATION WORK

N/A

BUILDING WORK

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	<p>Modification of Details of the Development (section 4.17(1)(g) of the Act</p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p>a) Self-closing doors</p> <p>All doors must be fitted with self-closing mechanism to ensure that all doors are not left open. The single-entry door may be left open at all times during trading hours</p>
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	<p>b) Acoustic seals</p> <p>All doors and windows must be fitted with full perimeter acoustic seals</p> <p>c) Mechanical plants</p> <p>A detailed acoustic review of mechanical plant proposed to be installed into the tenancy must be undertaken and approved by an appropriate acoustic engineer once the selections and locations have been finalised.</p> <p>This condition is imposed to achieve consistency with the recommendations in the approved Acoustic Report specified in Condition A.3.</p> <p>Notes:</p> <ul style="list-style-type: none">• Clause 20 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.• Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent. <p>Condition Reason: To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.</p>																								
D. 2.	<p>Payment of Long Service Levy and S7.12 Contributions</p> <p>Before the issue of any construction certificate, the original receipt(s) for the payment of all of the following levy and contributions must be provided to the Principal Certifier:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4">LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i></td></tr><tr><td>Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr><tr><td colspan="4">SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au</td></tr><tr><td>Development Levy (section 7.12)</td><td>\$13,300 + Index Amount</td><td>Yes, quarterly</td><td>T96</td></tr><tr><td>TOTAL CONTRIBUTIONS AND LEVIES</td><td colspan="3">\$13,300 plus any relevant indexed amounts and long service levy</td></tr></table> <p>Building and Construction Industry Long Service Payment</p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.</p>	Description	Amount	Indexed	Council Fee Code	LONG SERVICE LEVY under <i>Building and Construction Industry Long Service Payments Act 1986</i>				Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No		SECTION 7.12 DEVELOPMENT LEVY under Woollahra Section 7.12 Development Contributions Plan 2022 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au				Development Levy (section 7.12)	\$13,300 + Index Amount	Yes, quarterly	T96	TOTAL CONTRIBUTIONS AND LEVIES	\$13,300 plus any relevant indexed amounts and long service levy		
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TOTAL CONTRIBUTIONS AND LEVIES	\$13,300 plus any relevant indexed amounts and long service levy																								

How must the payments be made?

Payments must be made by:

- cash deposit with Council,
- credit card payment with Council, or
- bank cheque made payable to Woollahra Municipal Council.

How will the section 7.12 levy (formerly known as 94A levy) be indexed?

To ensure that the value of the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 2.12 of the Woollahra Section 7.12 Development Contributions Plan 2022 sets out the formula and index to be used in adjusting the levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 94A levy) under the Woollahra Section 7.12 Development Contributions Plan 2022

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,
- the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

	Condition Reason: To ensure any relevant levy and contributions are paid.
D. 3.	Structural Adequacy of Existing Supporting Structures
	Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.
	Condition Reason: To ensure that the existing structure is able to support the additional loads proposed.
D. 4.	Professional Engineering Details
	Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.
	Notes: <ul style="list-style-type: none"> This does not affect the right of the developer to seek staged construction certificates.
	Condition Reason: To ensure professional engineering details and technical specifications are provided.
D. 5.	Flood Protection
	Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).
	<u>Flood Warning:</u>
	a) A permanent flood risk management plan shall be installed in an area frequented by the occupants such as the store room,
	Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.
	Notes: <ul style="list-style-type: none"> The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.
	Condition Reason: To ensure the development incorporates flood inundation protection measures.

<p>D. 6.</p>	<p>Light and Ventilation</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.</p> <p>If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.</p> <p>This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved. • Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process. • Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. • Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2. <p>Condition Reason: To ensure the development is provided with adequate light and ventilation.</p>
<p>D. 7.</p>	<p>Acoustic Certification of Mechanical Plant and Equipment</p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Where sound attenuation is required this must be detailed.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> • Further information including lists of Acoustic Engineers can be obtained from: <ul style="list-style-type: none"> - Australian Acoustical Society - professional society of noise-related professional www.acoustics.asn.au - Association of Australian Acoustical Consultant - professional society of noise related professionals www.aaac.org.au <p>Condition Reason: To ensure the development does not result in any unreasonable acoustic impacts.</p>
D. 8.	<p>Food Premises – Construction Certificate Plans and Specifications</p> <p>Before the issue of any construction certificate, the person with the benefit of this consent must submit to Council details for the construction and fit out of the food premises. Such details must demonstrate compliance with the Food Act 2003, Food Regulation 2015, and the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674: Construction and fit out of food premises.</p> <p>No construction certificate relating to the construction or fitout of food premises must be issued until Council’s Environmental Health Officer has advised in writing that the plans and specification are considered satisfactory.</p> <p>The details for the construction and fit out of food premises, as considered satisfactory by Council’s Environmental Health Officer must form part of any construction certificate.</p> <p>Notes:</p> <ul style="list-style-type: none"> • The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 73 of the Development Certification and Fire Safety Regulation as a matter that a Principal Certifier may be satisfied as to. Hence, the detailed plans and specifications must be referred to Council and be to Council’s satisfaction prior to the issue of any construction certificate for such works. <p>Condition Reason: To ensure that the food premises fitout plans and specifications are assessed and approved by Council.</p>

E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> a) that the work must be carried out in accordance with the requirements of the Building Code of Australia, b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. <p>This condition does not apply:</p> <ol style="list-style-type: none"> a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or
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	<p>b) to the erection of a temporary building.</p> <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p>Notes:</p> <ul style="list-style-type: none"> This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the Home Building Act 1989. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia. All new guttering is to comply with the provisions of AS3500. <p>Condition Reason: To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>
<p>E. 2.</p>	<p>Erosion and Sediment Controls – Installation</p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ul style="list-style-type: none"> a) The Soil and Water Management Plan if required under this consent; b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book). <p>Where there is any conflict The Blue Book takes precedence.</p> <p>Notes:</p> <ul style="list-style-type: none"> The International Erosion Control Association – Australasia (www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia. The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from www.woollahra.nsw.gov.au and The Blue Book is available at www.environment.nsw.gov.au A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution. Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”. Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being. <p>Condition Reason: To prevent potential water pollution and dust nuisance.</p>
<p>E. 3.</p>	<p>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</p> <p>Building work must not commence, until:</p>

	<p>a) A construction certificate for the building work has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier, and</p> <p>b) The person having the benefit of the development consent has:</p> <ul style="list-style-type: none"> • appointed a Principal Certifier for the building work, and • notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and <p>c) The Principal Certifier has, no later than 2 days before the building work commences:</p> <ul style="list-style-type: none"> • notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and • notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and <p>d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:</p> <ul style="list-style-type: none"> • appointed a Principal Contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and • notified the Principal Certifier of any such appointment, and • unless that person is the Principal Contractor, notified the Principal Contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and • given at least 2 days' notice to the Council of the person's intention to commence the erection of the building. <p>Notes:</p> <ul style="list-style-type: none"> • Building has the same meaning as in section 1.4 of the Act and includes part of a building and any structure or part of a structure. • New building has the same meaning as in section 6.1 of the Act and includes an altered portion of, or an extension to, an existing building. • The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125. • Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website www.woollahra.nsw.gov.au • It is an offence for any person to carry out the erection of a building in breach of this condition and in breach of section 6.6(2) of the Act. • Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading. <p>Condition Reason: To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>
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F. DURING BUILDING WORK

F. 1.	<p>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</p> <p>While site work is being carried out:</p>
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	<p>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</p> <p>b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p> <p>b) to the erection of a temporary building.</p> <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p>Notes:</p> <ul style="list-style-type: none"> All new guttering is to comply with the provisions of AS 3500. <p>Condition Reason: To ensure compliance with the BCA and Home building Act 1989.</p>
F. 2.	<p>Requirement to Notify about New Evidence</p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p>Condition Reason: To ensure Council and the Principal Certifier are made aware of new information.</p>
F. 3.	<p>Critical Stage Inspections</p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p>Notes:</p> <ul style="list-style-type: none"> The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.

	<ul style="list-style-type: none"> The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.
	<p>Condition Reason: To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
F. 4.	<p>Hours of Work –Amenity of the Neighbourhood</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> No work must take place on any Sunday or public holiday. No work must take place before 7am or after 5pm any weekday. No work must take place before 7am or after 1pm any Saturday. The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> piling, piering, rock or concrete cutting, boring or drilling, rock breaking, rock sawing, jack hammering, or machine excavation. No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday. No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour. <p>Notes:</p> <ul style="list-style-type: none"> The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council. Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution. The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis. Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the Protection of the Environment Operations Act 1997, the Protection of the Environment Operations (Noise Control) Regulation 2017. NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nglg.htm <p>Condition Reason: To mitigate the impact of work upon the amenity of the neighbourhood.</p>

<p>F. 5.</p>	<p>Public Footpaths – Safety, Access and Maintenance</p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ul style="list-style-type: none"> a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway. b) Not use the road or footway for the storage of any article, material, matter, waste or thing. c) Not use the road or footway for any work. d) Keep the road and footway in good repair free of any trip hazard or obstruction. e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council. f) Not stand any plant and equipment upon the road or footway. g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand. h) Provide a clear safe pedestrian route a minimum of 1.5m wide. i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development. <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ul style="list-style-type: none"> a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards. b) Australian Road Rules. <p>Notes:</p> <ul style="list-style-type: none"> • Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. • Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> - erect a structure or carry out a work in, on or over a public road, or - dig up or disturb the surface of a public road, or - remove or interfere with a structure, work or tree on a public road, or - pump water into a public road from any land adjoining the road, or - connect a road (whether public or private) to a classified road, - otherwise than with the consent of the appropriate roads authority. • Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> - Part C Management of waste: <ul style="list-style-type: none"> a) For fee or reward, transport waste over or under a public place b) Place waste in a public place c) Place a waste storage container in a public place. - Part E Public roads: <ul style="list-style-type: none"> a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road.
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	Condition Reason: To ensure safe access is maintained to footpaths and roads during building works.
F. 6.	<p>Maintenance of Environmental Controls</p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ol style="list-style-type: none"> erosion and sediment controls, dust controls, dewatering discharges, noise controls, vibration monitoring and controls, and ablutions. <p>Condition Reason: To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F. 7.	<p>Dust Mitigation</p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ol style="list-style-type: none"> Dust screens to all hoardings and site fences. All stockpiles or loose materials to be covered when not being used. All equipment, where capable, being fitted with dust catchers. All loose materials being placed bags before placing into waste or skip bins. All waste and skip bins being kept covered when not being filled or emptied. The surface of excavation work being kept wet to minimise dust. Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust. <p>Notes:</p> <ul style="list-style-type: none"> “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website www.woollahra.nsw.gov.au Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply. Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution. <p>Condition Reason: To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
F. 8.	<p>Food Premises – Construction and Fitout</p> <p>While site work is being carried out, all construction and fitout of the food premises must comply with the details for the food premises submitted to and considered satisfactory by Council’s Environmental Health Officer but no less compliant than with the Food Act 2003, Food Regulation 2015, the Food Standards Code as published by Food Standards Australia and New Zealand and AS 4674: Construction and fit out of food premises.</p>

	Condition Reason: To protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.
F. 9.	Site Waste Minimisation and Management – Construction While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities: <ul style="list-style-type: none"> a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work, b) deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage, c) consideration must be given to returning excess materials to the supplier or manufacturer, d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation), e) the purpose and content of the storage areas must be clearly ‘signposted’, f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste, g) separate collection bins or areas for the storage of residual waste must be promoted, h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented, i) site disturbance must be minimised and unnecessary excavation limited, j) all waste must be transported to a place that can lawfully be used as a waste facility, and k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.
	Condition Reason: To maximise resource recovery and minimise residual waste from construction activities.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G. 1.	Amended Plan of Management (POM) to be submitted and approved (special condition) Prior to the issue of any Occupation Certificate or occupation or use of any licensed restaurant (food and drinks premises): <ul style="list-style-type: none"> a) The POM shall be amended to include details of all operational and management procedures of the premises as outlined in Conditions “H” of this consent. b) The POM shall be approved by Council prior to the commencement of operation of the small bar use.
	Condition Reason: To ensure the use is not commenced without all operational details being contained within a consolidated POM.

<p>G. 2.</p>	<p>Change of Building Use of Existing Building Requires Occupation Certificate (section 6.9 of the Act)</p> <p>Before the issue of any occupation certificate, a person must not effect a change of building use for the whole or any part of an existing building.</p> <p>Condition Reason: To ensure that a change of use does not occur without the issue of an occupation certificate</p>
<p>G. 3.</p>	<p>Fire Safety Certificates</p> <p>Before the issue of any occupation certificate to authorise a person:</p> <ol style="list-style-type: none"> to commence occupation or use of a new building, or to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building. <p>Notes:</p> <ul style="list-style-type: none"> In this condition: <ul style="list-style-type: none"> interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act. <p>Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.</p>
<p>G. 4.</p>	<p>Commissioning and Certification of Systems and Works</p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ol style="list-style-type: none"> All acoustic attenuation work. All structural work. All waterproofing. Such further matters as the Principal Certifier may require. <p>Notes:</p> <ul style="list-style-type: none"> The PC may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the Act, Regulation, development standards, BCA, and relevant Australia Standards. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services). The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.

	<p>Condition Reason: To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p>
G. 5.	<p>Food Premises - Inspection and Registration</p> <p>Before the issue of any occupation certificate or occupation or use of any food premises:</p> <ol style="list-style-type: none"> an inspection of the fit out of the food premises must be arranged with Council's Environmental Health Officer, a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer, and the food premises must be registered (notification of conduct) under section 100 of the Food Act 2003. <p>Notes:</p> <ul style="list-style-type: none"> To notify conduct of a food business, Councils approved form can be accessed at: https://www.woollahra.nsw.gov.au Inspections are subject to payment of the adopted inspection fee. Section 100 of the Food Act 2003 requires: "100 Notification of conduct of food businesses - The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation." Principal Certifiers are unable to issue compliance certificates in relation to compliance with the Food Act 2003, Food Regulation 2015; the Food Standards Code and the Australian Standard AS 4674: Construction and fit out of food premises since these are not matters which an Principal Certifier can be satisfied in relation to under clause 73 of the Development Certification and Fire Safety Regulation. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers. <p>Condition Reason: To ensure food premises accord with food safety and public health requirements.</p>
G. 6.	<p>Certification of acoustic performance</p> <p>A comprehensive acoustic performance review must be carried out and approved by an appropriate acoustic engineer ensuring that all required acoustic measures are in place in accordance with the recommendation of the approved Acoustic Report by Acoustic Logic, referenced 202330058.2/1812A/R1/JHT, dated 18/12/2023 as specified in Condition A.3.</p> <p>Condition Reason: To ensure acoustic attenuation measures are built and installed in accordance with the approved development.</p>

H. OCCUPATION AND ONGOING USE

H. 1.	<p>Hours of Operation – Indoor and Outdoor Areas of Licensed Premises</p> <p>During the occupation and ongoing use, the hours of operation for the Licensed Premises (Small Bar – Lower Ground Floor) are restricted to:</p> <ul style="list-style-type: none"> Monday to Wednesday: 12.00pm to 12.00am (midnight); Thursday, Friday & Saturday: 12.00pm to 12.00am (midnight);
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	<ul style="list-style-type: none"> Sundays and Public Holidays: 12.00pm to 10.00pm. <p>Notes:</p> <ul style="list-style-type: none"> Deliveries to or dispatches from the site must not be made outside these hours. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling than such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws. <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H. 2.	<p>Extended Hours of Operation for Licensed Premises – Reviewable Condition</p> <p>During the occupation and ongoing use, the hours of operation for the Licensed Premises (Small Bar – Lower Ground Floor) are extended as follows:</p> <p>12.00pm to 2.00am (the following day), Thursday, Friday & Saturday</p> <p>This condition is a reviewable condition as referred to under section 4.17(10B-10D) of the Act in accordance with Condition H.3.</p> <p>Notes:</p> <ul style="list-style-type: none"> Council's consideration of the extended hours of operation of licensed premises will take into account: <ul style="list-style-type: none"> compliance of the premises in terms of security and its general management; the number and nature of substantiated complaints regarding the operation of the premises; compliance with the conditions of this consent; and any other matters considered relevant to the environmental evaluation of the premises. <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H. 3.	<p>Review of Extended Hours of Operation for Licensed Premises</p> <p>During the occupation and ongoing use, Council will review the extended trading hours as referred to in Condition H.2 (<i>if required, refer to Note 1 below</i>) generally as follows:</p> <ol style="list-style-type: none"> one (1) year following the issue of any occupation certificate applicable to this application (if works are proposed) or the date of development consent (if no works are proposed), two (2) years following the first review, and each five (5) years thereafter. <p>The review will be undertaken in accordance with Clause 79 <i>Review conditions—the Act, s 4.17(10C)</i> of the Environmental Planning and Assessment Regulation 2021 which states:</p> <p>(3) <i>The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.</i></p> <p>(4) <i>The consent authority may notify other persons of the review as it considers appropriate.</i></p> <p>(5) <i>The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.</i></p>

	<p>Note 1: A review will only be undertaken if Council has satisfactory evidence to suggest the extended trading hours are unduly impacting on the amenity of the neighbourhood or NSW Police has requested a review.</p> <p>Note 2: The review will be presented to the equivalent delegated decision making panel that determined the application and all stakeholders will be notified of the meeting.</p> <p>Note 3: As a result of a review a reviewable condition may be changed.</p> <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H. 4.	<p>Maximum Patron Capacity</p> <p>During the occupation and ongoing use, the total number of patrons for the <i>Lower Ground Floor – Small Bar</i> premises at any time shall not exceed a maximum one hundred (100) patrons.</p> <p>Any person/s attending the premises for the purpose of ‘takeaway’ products/services will not be considered a ‘patron’ as detailed above, provided no food and or drink is consumed by those persons on the premises.</p> <p>Condition Reason: To prevent overcrowding inside the venue and to minimise impacts on local amenity.</p>
H. 5.	<p>Maximum Staff Capacity</p> <p>The total number of rostered staff at any given time for the <i>Lower Ground Floor – Small Bar</i> premises shall not exceed a maximum of ten (10) staff.</p> <p>Condition Reason: To prevent overcrowding inside the venue.</p>
H. 6.	<p>Signage to be Displayed – Licensed Premises</p> <p>During the occupation and ongoing use, signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the principal entry to the premises in accordance with clause 73 of the Regulation.</p> <p>The signage must state the following and may change from time to time due to reviewable conditions in accordance with the conditions of this consent:</p> <p><u>“Approved hours of operation</u> <i>Monday to Wednesday: 12.00pm to 12.00am (midnight);</i> <i>Thursday, Friday & Saturday: 12.00pm to 2.00am (the following day);</i> <i>Sundays and Public Holidays: 12.00pm to 10.00pm.</i></p> <p><u>Approved patron capacity</u> <i>100 patrons</i></p> <p><i>Upon leaving please respect local residents by minimising noise.”</i></p> <p>Condition Reason: To clearly identify the hours and patron capacity of the licensed premises.</p>

H. 7.	Copies of Consents, Registers and Management Plans – Licensed Premises
	During the occupation and ongoing use, a full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council, NSW Police and/or Liquor and Gaming NSW authorised officers.
	Condition Reason: To mitigate amenity impacts upon the neighbourhood.
H. 8.	Noise Limiters
	During the occupation and ongoing use: a) All amplification equipment used in the premises is to be controlled by a root mean square (RMS) noise limiter, calibrated by an acoustic engineer. The equipment must be tamper proof and only operable by the management or their nominee.
	Condition Reason: To mitigate amenity impacts upon the neighbourhood.
H. 9.	Neighbourhood Amenity – Licensed Premises
	The Management of the premises: a) Shall ensure persons entering and leaving the premises do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered. b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the Management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council or by NSW Police, the Management is to employ private security staff to ensure that this condition is complied with. c) Shall record in a Register full details of any disturbance complaint/s made by a person to Management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided. d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by Management / staff to resolve such complaint/s shall be recorded in the Register. e) This condition has been imposed to mitigate amenity impacts upon the neighbourhood. Notes: • the lead agency for the enforcement of this condition is NSW Police.
	Condition Reason: This condition has been imposed to mitigate amenity impacts upon the neighbourhood

<p>H. 10.</p>	<p>Operation in Accordance with Plan of Management (POM)</p> <p>The operation and management of the premises shall be in accordance with the POM specified in Condition A.3, subject to the following amendments (as required in Condition G.1):</p> <ul style="list-style-type: none"> a) No patron is permitted access to the proposed lower ground premises except via the main principal entranceway. That is, there is to be no internal communication between the proposed basement level development and the floors above for patrons. No accessibility to lifts and or stairs (excluding emergency exits). b) Provision in the POM to monitor and maintain numeric limits of the authorised patron capacity including strategies relevant to patron movement /ingress and egress. c) Provision in the POM detail an adequate security posture / strategies to ensure intoxicated persons are not permitted entry into the proposed premises. That patrons do not loiter or congregate in the immediate vicinity (especially considering the conservative capacity). That patrons are directed to leave the area quickly and quietly. That assistance is provided to ensure patrons are directed towards safe transport options. d) Provision to ensure that all service vehicles attending the site via Brooklyn Lane must not impede access along Brooklyn Lane. e) The POM shall be filed with the Licensing Police of the relevant NSW Police Local Area Command prior to the commencement of operations and cannot be altered without the written consent of Council. <p>Notes: The POM shall be filed with the Licensing Police of the relevant NSW Police Local Area Command prior to the commencement of operations and cannot be altered without the written consent of Council.</p> <p>Condition Reason: To ensure the use is not commenced without all operational details being contained within a consolidated POM.</p>
<p>H. 11.</p>	<p>Glass Sorting and Collection</p> <p>During the occupation and ongoing use, glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied/transferred within the premises and removed in containers.</p> <p>No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Sunday to Friday and between 9.00pm Saturday and 10am Sundays and Public Holidays.</p> <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
<p>H. 12.</p>	<p>Surveillance Cameras (CCTV)</p> <p>During the occupation and ongoing use:</p> <p>Licensed Premises The Management must maintain a closed-circuit television (CCTV) system on the premises.</p> <p>The CCTV system must comply with the following requirements:</p> <ul style="list-style-type: none"> a) It must operate continuously from opening time until one hour after closing. b) It must record in digital format at a minimum of six frames per second.

	<p>c) Any recorded image must specify the time and date of the image.</p> <p>d) The system's cameras must be located within the property and cover:</p> <ul style="list-style-type: none"> all entry and exit points of the premises, the footpath immediately adjacent to the premises, and all publicly accessible areas (other than toilets) on the premises, from floor level to a minimum height of two metres. <p>e) CCTV recordings must be retained for at least 30 days.</p> <p>f) Management must ensure the system is accessible by at least one member of staff at all times it is in operations, and</p> <p>g) Provide any recordings made by the system to Council or NSW Police within 24 hours of any request by an authorised officer to provide such recordings.</p> <p>Notes:</p> <ul style="list-style-type: none"> The lead agency for enforcement is NSW Police. <p>Condition Reason: To reduce and prevent crime and ensure community safety.</p>
H. 13.	<p>NSW Police Requirements (Licensed Premises)</p> <p>During the occupation and ongoing use:</p> <p><u>Plan of Management</u></p> <p>That a Plan of Management be established prior to the commencement of business operations which is approved by Council and the Eastern Suburbs Police Area Command (ESPAC). That the proposed premises must always operate in accordance with the approved Plan of Management. The Plan of Management may be updated at any time in which improved business practices are identified. Council and the ESPAC will be notified and if approved will be considered the Plan of Management. Irrespective the Plan of Management will be reviewed by the applicant on a yearly basis.</p> <p>Notes:</p> <ul style="list-style-type: none"> The lead agency for enforcement is NSW Police. <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H. 14.	<p>Complaint Investigation</p> <p>Council may, upon the receipt of a complaint by one or more affected resident, direct the Applicant to engage a suitably qualified and experienced acoustic engineer to investigate the complaint.</p> <p>Condition Reason: To mitigate amenity impacts upon the neighbourhood.</p>
H. 15.	<p>Qualifications of Acoustic Engineer</p> <p>In these conditions, reference to a suitably qualified and experienced acoustic engineer means an experienced acoustic engineer who possesses the qualifications to render them eligible for membership of both the Australian Acoustical Society and Institution of Engineers Australia at the grade of member or an experienced acoustic engineer who is employed by a member firm of the Association of Australasian Acoustic Consultants (AAAC).</p> <p>Condition Reason: To ensure that the acoustic engineer is suitably qualified.</p>

H. 16.	Waste Collection – Commercial
	<p>During the occupation and ongoing use, general waste collection is to be undertaken ONLY between the hours of:</p> <ul style="list-style-type: none"> • 7.00am to 9.00pm Monday to Friday, and • 8.00am to 8.00pm Saturday, Sunday and Public Holidays
	Condition Reason: To protect the amenity of neighbouring residents.
H 17.	Maintenance of Sound Attenuation
	<p>Sound attenuation must be maintained in accordance with all the recommendations and management controls identified in Section 6 of the <i>Noise Impact Assessment – Lower Ground Floor (Bobbie’s)</i>, R2, 202330058.3/1812A/R2/JHT, prepared by Acoustic Logic, dated 18/12/2023 including, but not limited to, the following:</p> <ul style="list-style-type: none"> a) Indoor music/singing must be a maximum internal sound pressure level of 85dB(A)_{L₁₀}; b) Speakers are to be vibration isolated from the building structure by NRD mounts of equal; c) Music is not permitted externally (outdoors).
	Condition Reason: To ensure required acoustic measures are maintained.
H. 18.	Noise Control
	<p>During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p>Notes:</p> <ul style="list-style-type: none"> • Council will generally enforce this condition in accordance with the Noise Guide for Local Government (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the NSW Industrial Noise Policy (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997. • Useful links: <ul style="list-style-type: none"> - Community Justice Centres—free mediation service provided by the NSW Government www.cjc.nsw.gov.au. - NSW Environment Protection Authority— see “noise” section www.environment.nsw.gov.au/noise. - NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at www.legislation.nsw.gov.au. - Australian Acoustical Society—professional society of noise related professionals www.acoustics.asn.au. - Association of Australian Acoustical Consultants—professional society of noise related professionals www.aaac.org.au. - Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.
	Condition Reason: To protect the amenity of the neighbourhood.

<p>H. 19.</p>	<p>Noise from Licensed Premises</p> <p>During the occupation and ongoing use, the LA10 noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.</p> <p>The LA10 noise level emitted from the licensed premises must not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence.</p> <p>Notwithstanding compliance with the above, the noise from the licensed premises must not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.</p> <p>Notes:</p> <ul style="list-style-type: none"> • dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear. • licensed premises means premises licensed under the Liquor Act 2007. • For the purposes of this condition, the LA10 is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured. • The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90 level measured by a sound level meter over the applicable period. • This condition reflects the minimum standard condition imposed by the former Casino Liquor and Gaming Control Authority. Liquor & Gaming NSW or the Independent Liquor & Gaming Authority may specify other standards in respect of the above condition under the Liquor Act 2007, and associated Regulations. Section 79 of the Liquor Act 2007 provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Secretary of the Department of Industry is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For more information go to Liquor and Gaming NSW website www.liquorandgaming.nsw.gov.au • Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council. <p>Condition Reason: To protect the amenity of the neighbourhood.</p>
<p>H. 20.</p>	<p>Noise from Mechanical Plant and Equipment</p> <p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p>

	<p>Notes:</p> <ul style="list-style-type: none"> Words in this condition have the same meaning as in the Noise Policy for Industry (2017) www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017) and Noise Guide for Local Government (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government <p>Condition Reason: To protect the amenity of the neighbourhood.</p>				
H. 21.	<p>Provision of Off-street Commercial Vehicle Facilities</p> <p>During the occupation and ongoing use, in compliance with AS 2890.2: Parking facilities - Off-street commercial vehicle facilities, unimpeded access to off-street parking must be maintained as follows:</p> <table border="1"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Loading Bay (6.5m in length)</td><td>1</td></tr> </tbody> </table> <p>All deliveries to and dispatch from the site, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.</p> <p>Notes:</p> <ul style="list-style-type: none"> Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993. Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100. <p>Condition Reason: To ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.</p>	Use	Number of spaces	Loading Bay (6.5m in length)	1
Use	Number of spaces				
Loading Bay (6.5m in length)	1				
H. 22.	<p>Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)</p> <p>During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.</p> <p>Notes:</p> <ul style="list-style-type: none"> essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation. annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation. Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au. <p>Condition Reason: To ensure public safety.</p>				
H. 23.	<p>Food Premises - Maintenance of Food Premises</p> <p>During the occupation and ongoing use, the food premises must be maintained in accordance with the Food Act 2003, Food Regulation 2015; the Food Standards</p>				

	Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674: Construction and fit out of food premises.
	Condition Reason: To protect public safety.
H. 24.	Outdoor Lighting – Commercial
	During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.
	Notes: <ul style="list-style-type: none"> Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
	Condition Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

SUBDIVISION WORK

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

N/A

J. BEFORE SUBDIVISION WORK COMMENCES

N/A

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

N/A

LAND SUBDIVISION

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE










N/A

STRATA SUBDIVISION

M. BEFORE ISSUE OF A STRATA CERTIFICATE

N/A

Attachments

1. Proposed fit-out plans (Lower Ground Floor) [↓](#) 
2. Stamped Approved Architectural Plans (DA2021-68-9) [↓](#) 
3. Plan of Management (Bar - Bobbies) [↓](#) 
4. Referral Response - Traffic Engineer [↓](#) 
5. Referral Response - Heritage Officer [↓](#) 
6. Referral Response - Environmental Health [↓](#) 
7. Referral Response - Fire Safety Officer [↓](#) 
8. Referral Response - NSW Police (Licensing) [↓](#) 
9. Acoustic Report [↓](#) 

NOTES



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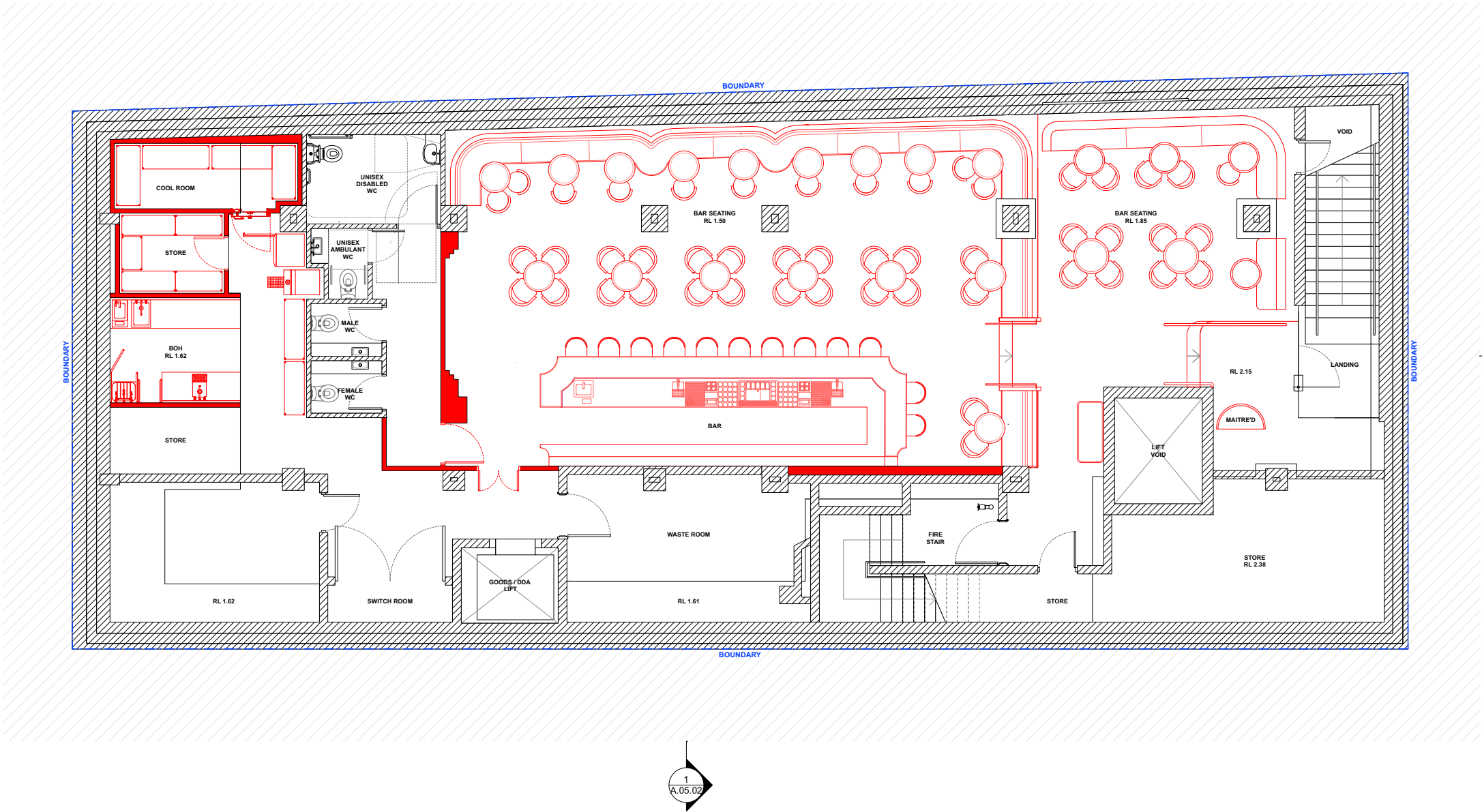
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ALL WORKS TO BE IN ACCORDANCE WITH AUSTRALIAN STANDARDS, THE BUILDING CODE OF AUSTRALIA, OTHER RELEVANT CODES AND MANUFACTURERS INSTRUCTIONS / SPECIFICATIONS.

LEGEND

	EXISTING WALLS
	PROPOSED FITOUT
TOTAL PAX	100
BAR SEATING	88
BAR	12



A	24.07.23	ISSUE FOR DEVELOPMENT APPLICATION
REV	DATE	DESCRIPTION

ISSUE
ISSUE FOR DEVELOPMENT APPLICATION

PROJECT
**GADEN HOUSE
24 BAY STREET, DOUBLE BAY 2028**

DRAWING
PROPOSED PLAN: LOWERGROUND

PROJECT NO.	DATE	SCALE
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DRAWING NUMBER	REVISION
A.02.01	A

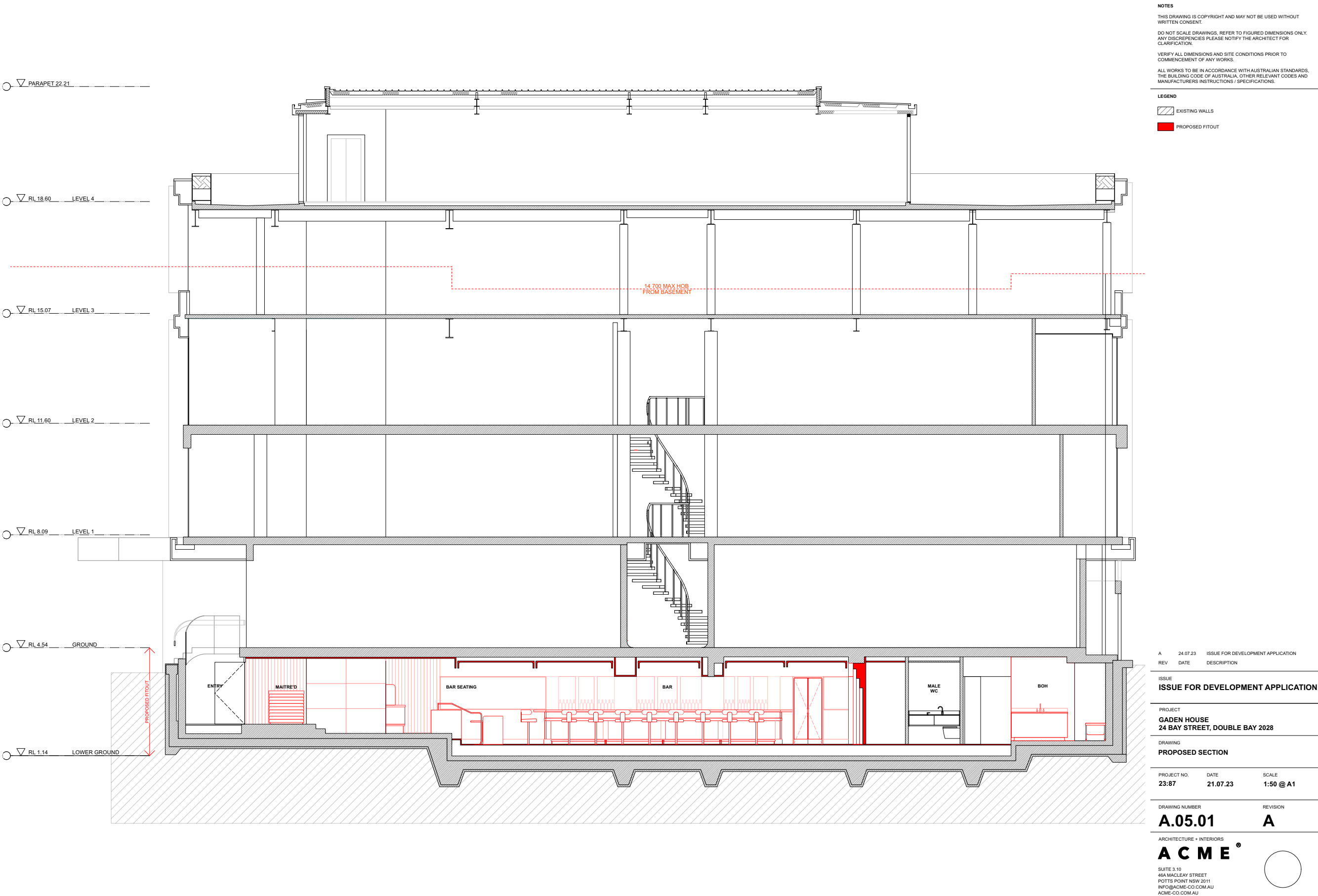
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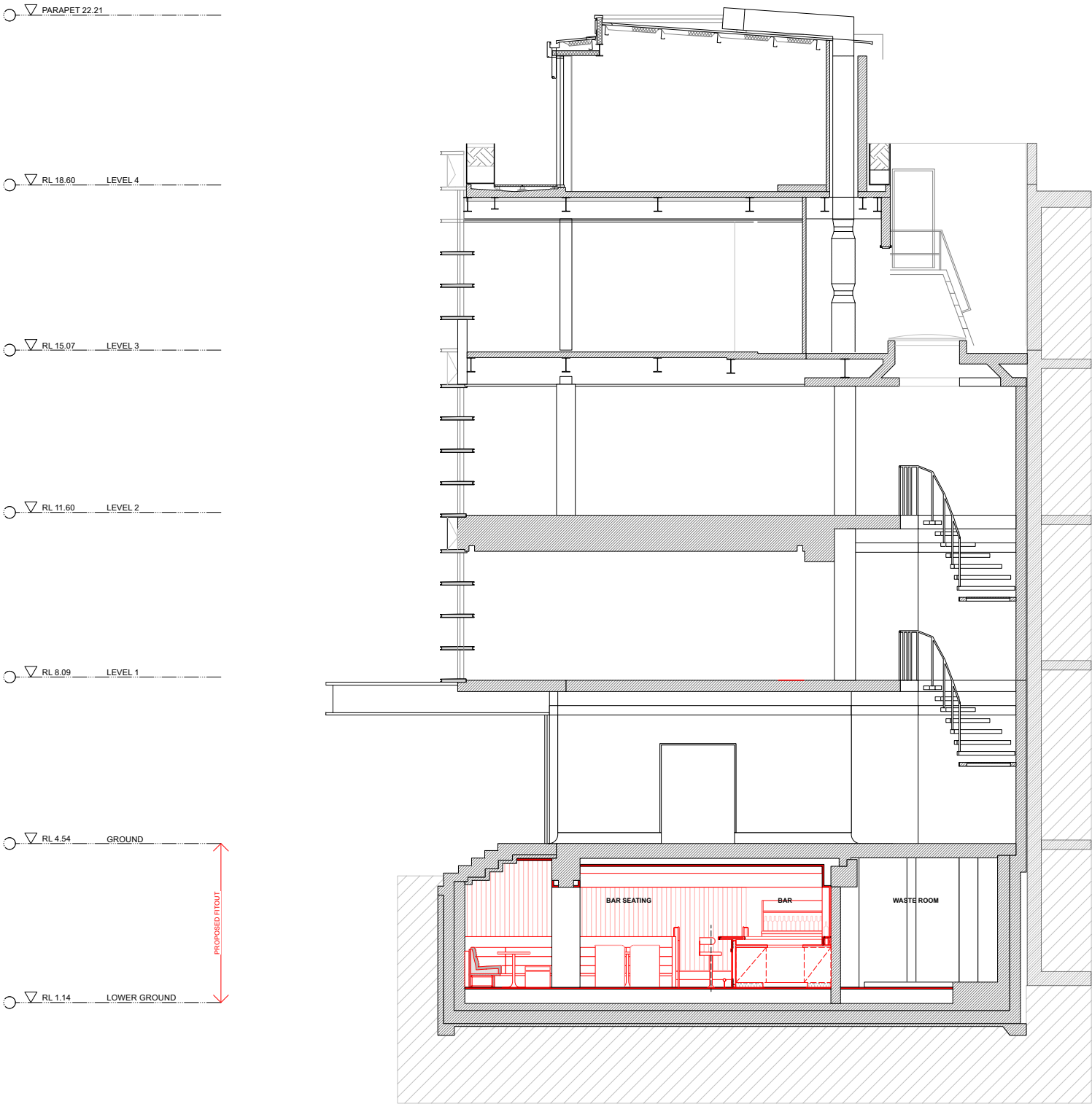
SUITE 3.10
46A MACLEAY STREET
POTTS POINT NSW 2011
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LEGEND

EXISTING WALLS

PROPOSED FITOUT

A	24.07.23	ISSUE FOR DEVELOPMENT APPLICATION
REV	DATE	DESCRIPTION

ISSUE
ISSUE FOR DEVELOPMENT APPLICATION

PROJECT
GADEN HOUSE
24 BAY STREET, DOUBLE BAY 2028

DRAWING
PROPOSED SECTION

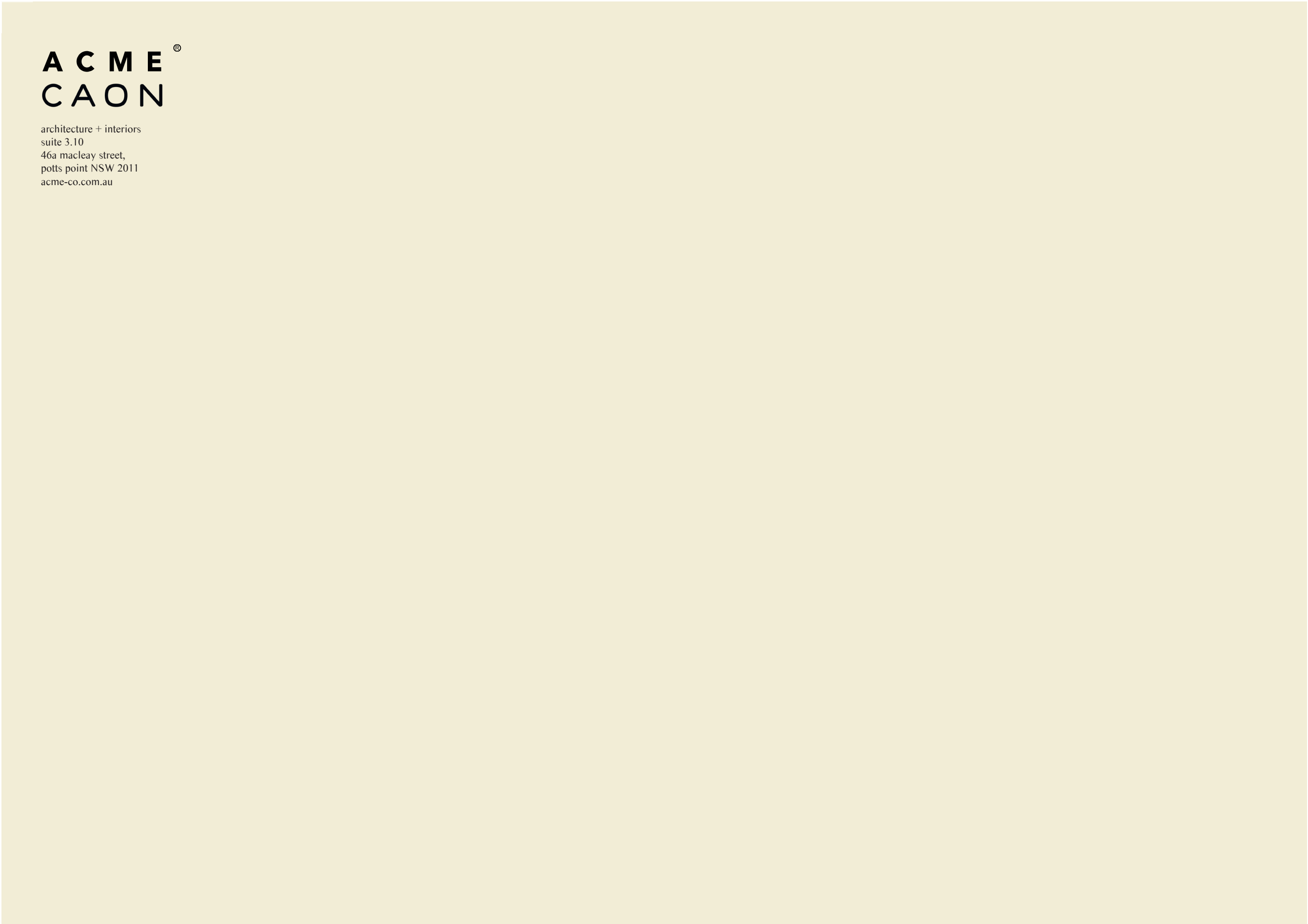
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DRAWING NUMBER	REVISION
A.05.02	A

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SUITE 3.10
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POTTS POINT NSW 2011
INFO@ACME-CO.COM.AU
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potts point NSW 2011
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bobbie's

*24 bay street, double bay 2028.
24.07.23*

interior perspective



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24.07.23*

interior perspective











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24.07.23

interior perspective





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interior perspective







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24.07.23*

interior perspective





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*24 bay street, double bay 2028.
24.07.23*

interior perspective



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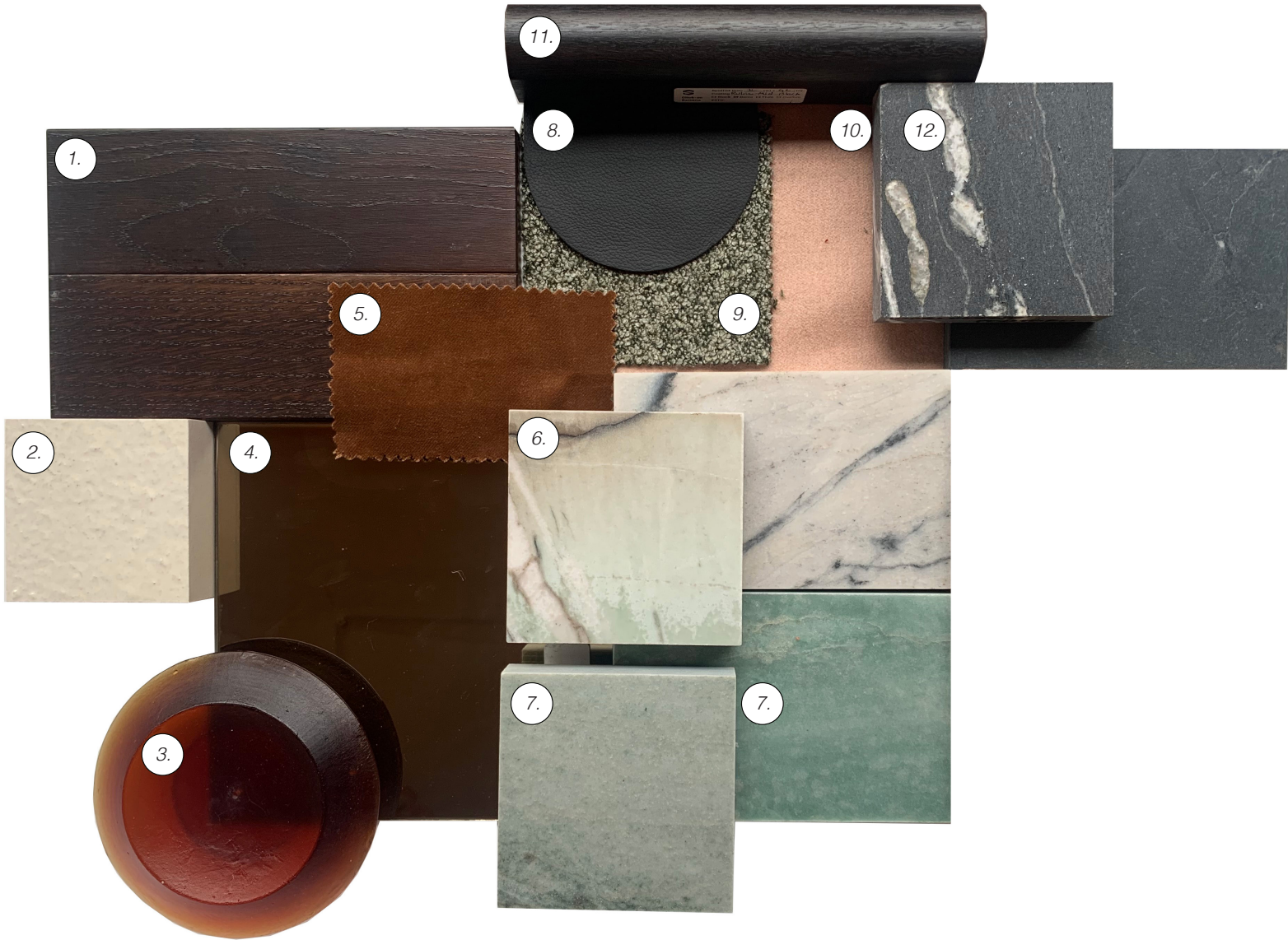
bobbie's

*24 bay street, double bay 2028.
24.07.23*

interior perspective

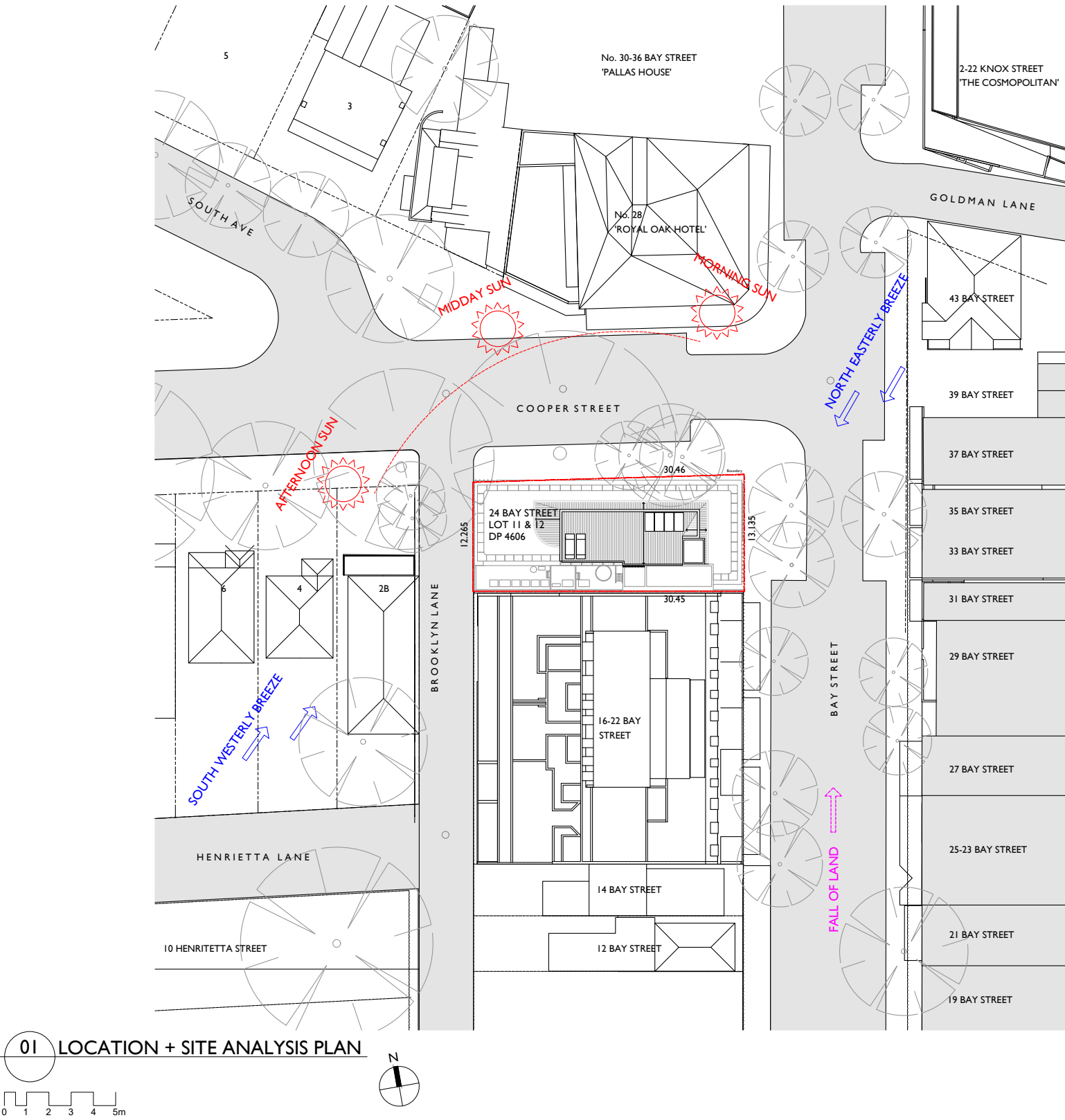
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24 bay street, double bay 2028.
11.09.23



- | | | | |
|------------------------------------|----------------------------|---------------------------------|-------------|
| 1. timber ceiling cladding | 5. velvet curtains | 9. fabric to chair | 13. deleted |
| 2. gloss paint finish | 6. marble to bar bench top | 10. fabric to chair | |
| 3. resin to back bar | 7. marble to floor | 11. timber to banquette joinery | |
| 4. bronzed mirror to beams/backbar | 8. leather to banquette | 12. marble to bar floor detail | |

material selections

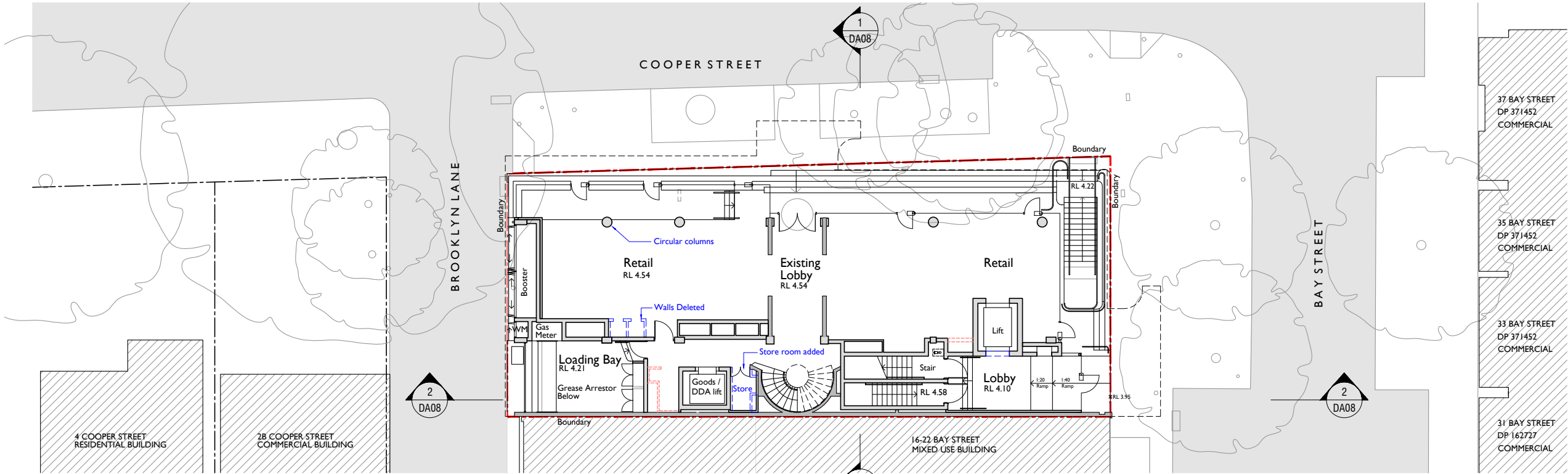


KEY	
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	PROPOSED NEW WALLS
	EXISTING WALLS
	WORKS UNDER ASSESSMENT
	WORKS TO BE DELETED (CURRENTLY UNDER ASSESSMENT)
	LINE OF APPROVED DA 68/2021/5

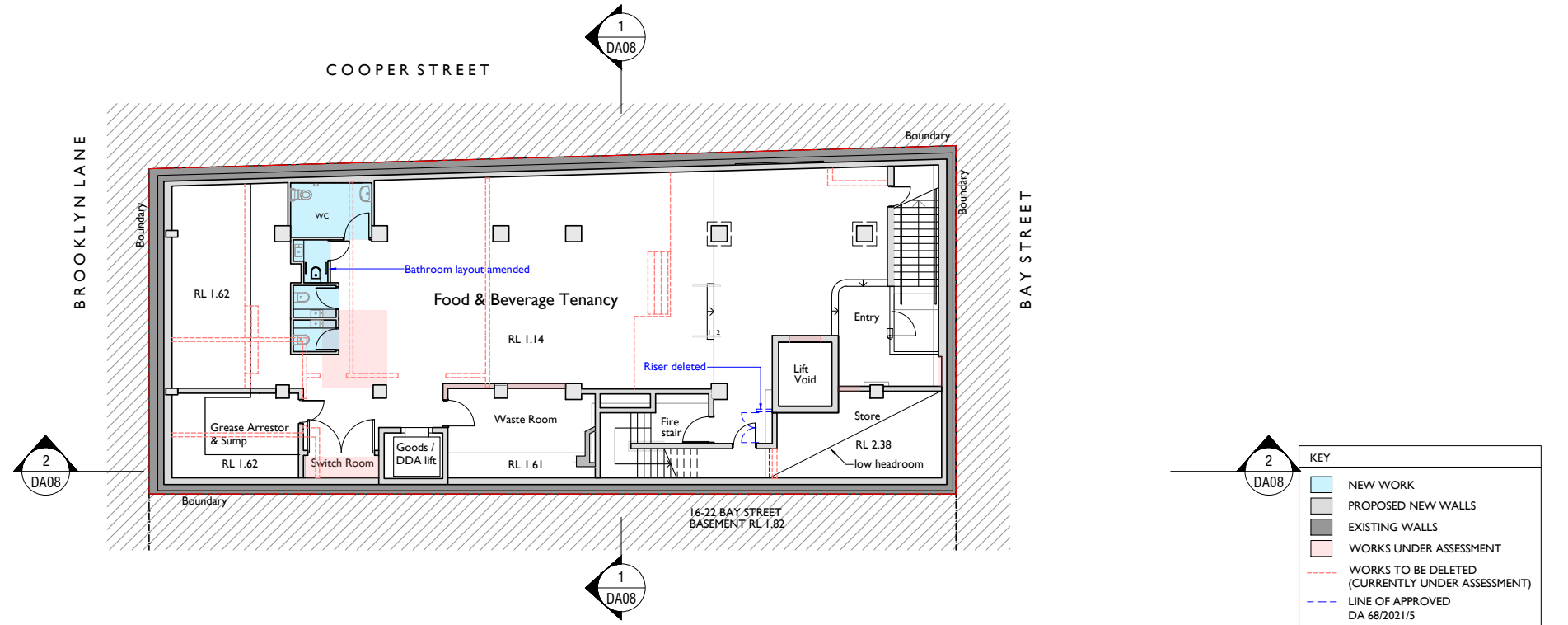
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do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	A B C D E F G	DA SUBMISSION POST 344 REVISIONS SECTION 4.56 APPLICATION SECTION 4.56 APPLICATION SECTION 4.56 APPLICATION SECTION 4.56 APPLICATION SECTION 4.56 APPLICATION	FEB 2021 SEP 2021 NOV 2021 FEB 2023 FEB 2023 MAY 2023 JUNE 2023

24 BAY STREET, DOUBLE BAY

LawtonHurley Architecture Interiors Planning Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665		project	PROPOSED REFURBISHMENT	scale	1:500 on A3	job no	J 316
		address	24 BAY STREET DOUBLE BAY NSW 2028	dwg no	DA01	issue	G
		drawing	SITE + CONTEXT				



02 GROUND FLOOR PLAN



01 LOWER GROUND FLOOR

notes	issue	amendment	date issued
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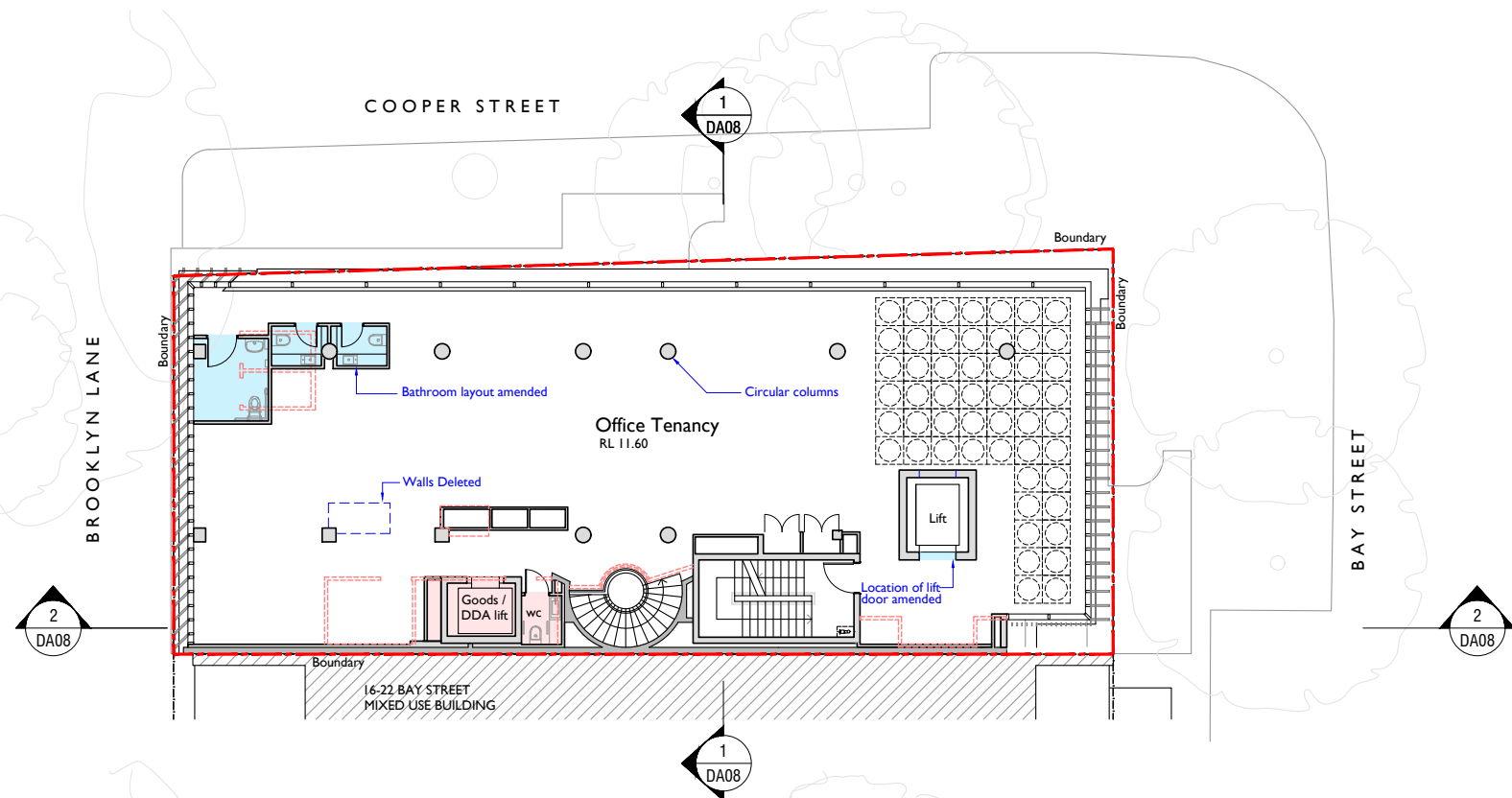
24 BAY STREET, DOUBLE BAY

LawtonHurley
Architecture Interiors Planning

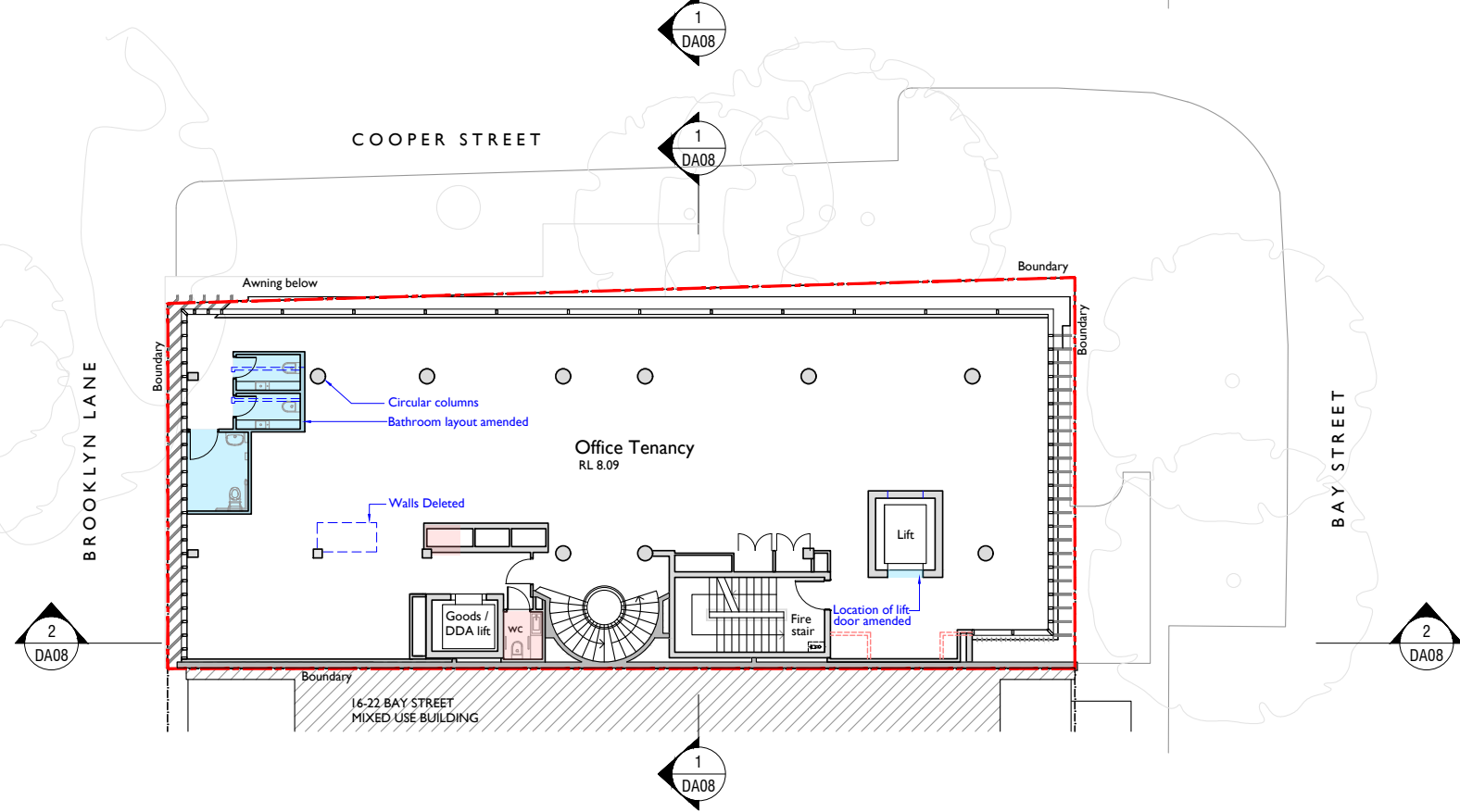
Studio 3.03 30-36 Bay Street
Double Bay NSW 2028
T 61 2 9360 5300
doug@lawtonhurley.com.au
ABN 94 105 274 235
Doug Lawton Architect No 5665

project	PROPOSED REFURBISHMENT	scale	1:200 on A3	job no	J 316
address	24 BAY STREET DOUBLE BAY NSW 2028	dwg no	DA03	issue	K
drawing	LOWER GROUND + GROUND				

02 LEVEL 2 FLOOR PLAN



01 LEVEL I FLOOR PLAN

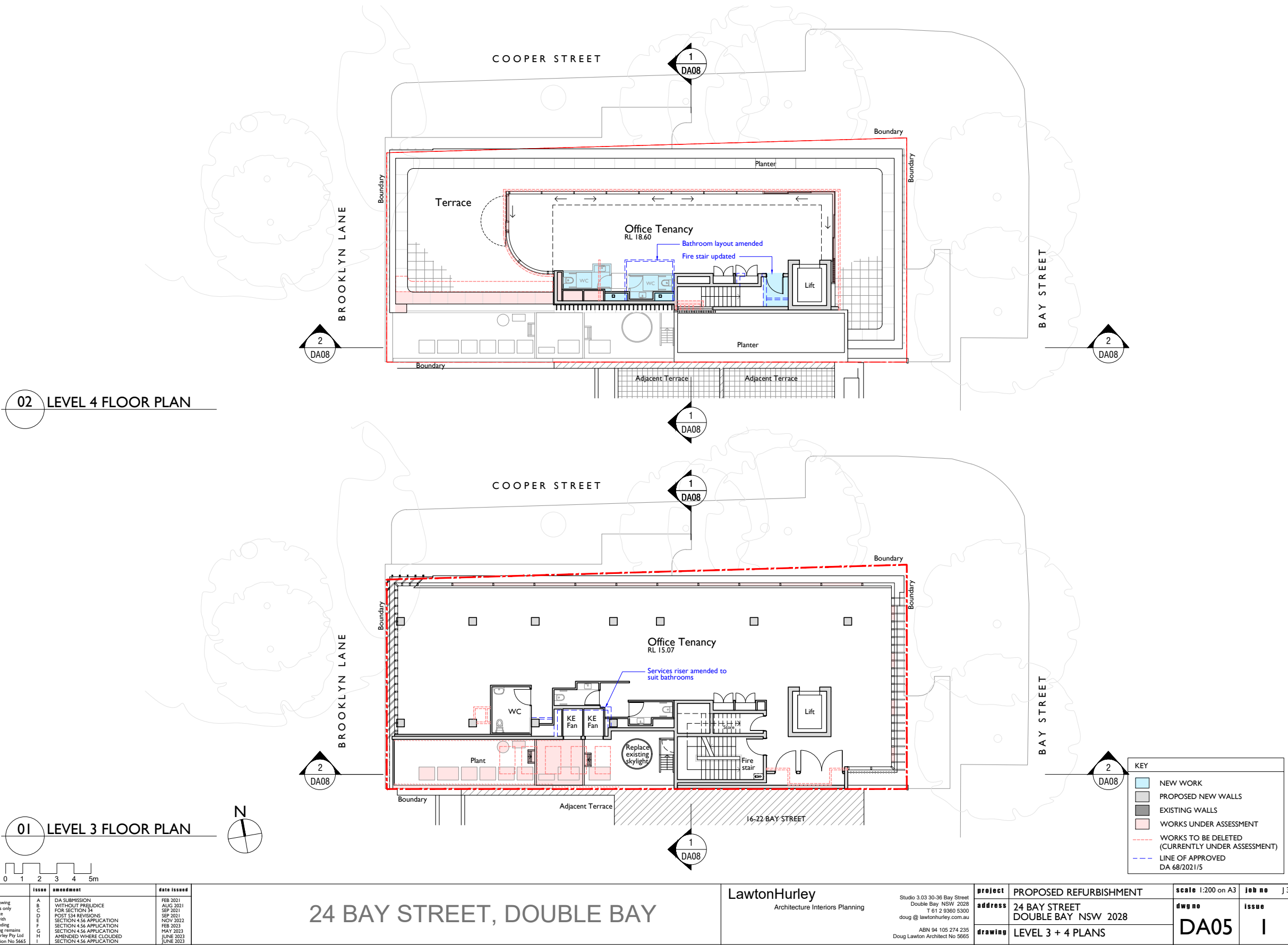


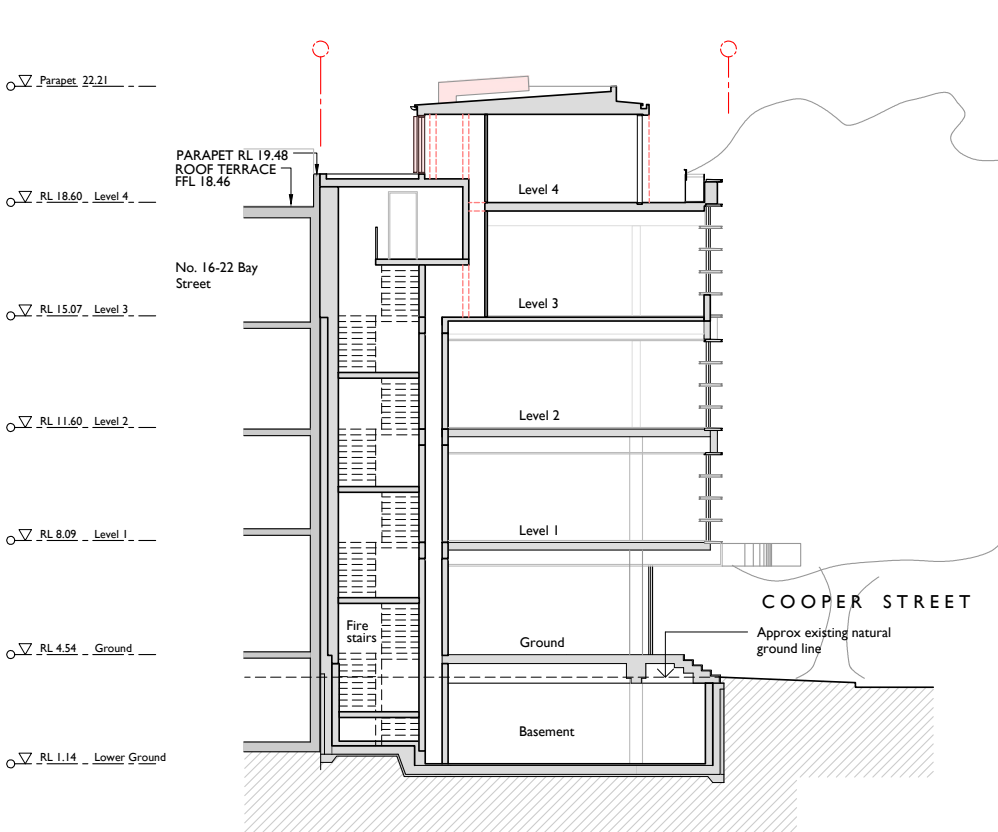
KEY	
	NEW WORK
	PROPOSED NEW WALLS
	EXISTING WALLS
	WORKS UNDER ASSESSMENT
	WORKS TO BE DELETED (CURRENTLY UNDER ASSESSMENT)
	LINE OF APPROVED DA 68/2021/5

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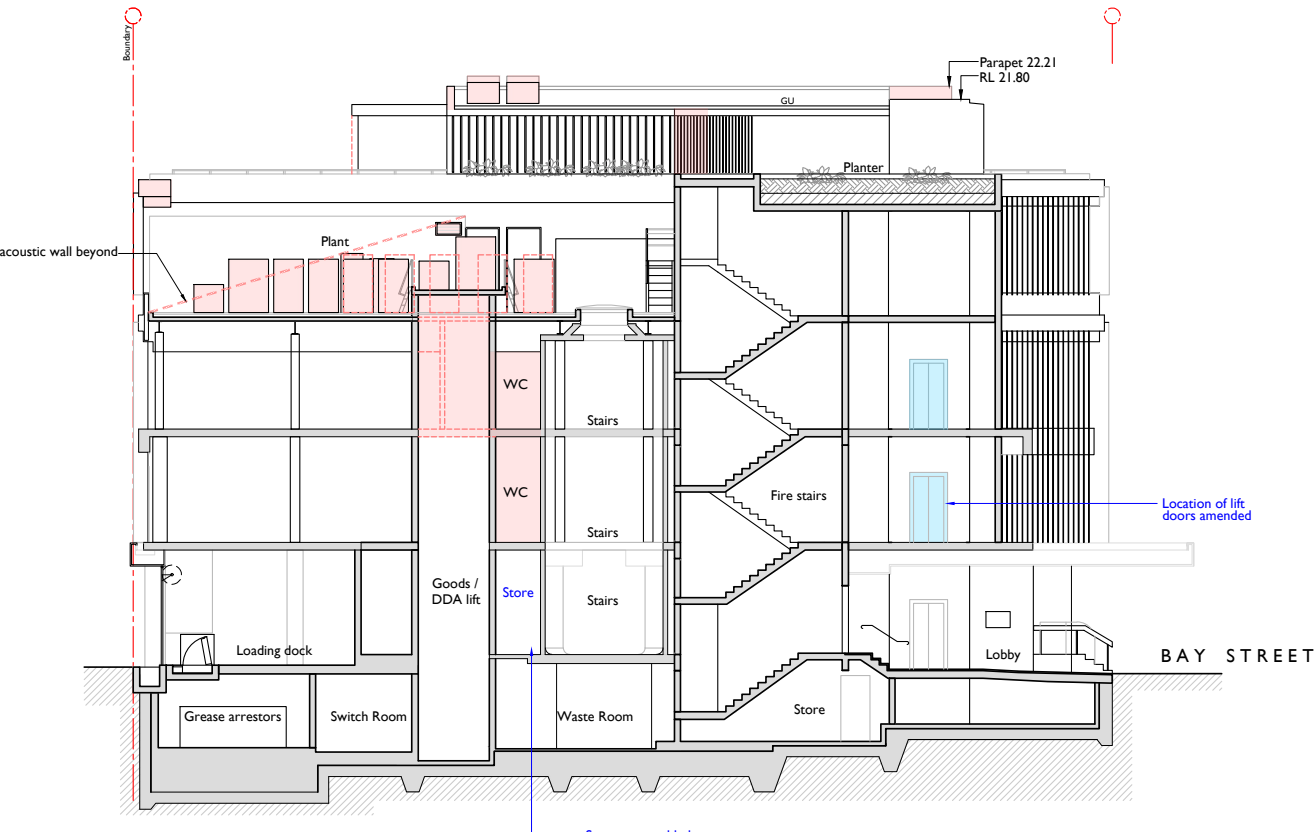
24 BAY STREET, DOUBLE BAY

LawtonHurley Architecture Interiors Planning		Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	project	PROPOSED REFURBISHMENT	scale	1:200 on A3	job no	J 316
			address	24 BAY STREET DOUBLE BAY NSW 2028	dwg no	DA04	issue	H
			drawing	LEVEL I + 2 PLANS				





01 BUILDING SECTION
LOOKING WEST



02 BUILDING SECTION
LOOKING NORTH

KEY	
	NEW WORK
	PROPOSED NEW WALLS
	EXISTING WALLS
	WORKS UNDER ASSESSMENT
	WORKS TO BE DELETED (CURRENTLY UNDER ASSESSMENT)
	LINE OF APPROVED DA 68/2021/5

NOTES	ISSUE	AMENDMENT	DATE ISSUED
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24 BAY STREET, DOUBLE BAY

LawtonHurley Architecture Interiors Planning Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	project	PROPOSED REFURBISHMENT	scale	1:200 on A3	job no	J 316
	address	24 BAY STREET DOUBLE BAY NSW 2028	dwg no	DA08	issue	K
	drawing	SECTIONS				



Plan of Management

BAR – Bobbie’s

**24 Bay Street,
Double Bay**

Date: December 2023

Plan of Management

December 2023

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BAR – Bobbie's

24 Bay Street, Double Bay

Plan of Management

December 2023

1.0 Executive Summary

This Plan of Management has been prepared to accompany documentation submitted to Council as part of a Development Application which proposes the use of the existing retail premises at Lower Ground Floor, 24 Bay Street, Double Bay to a licensed cocktail Bar the subject of a small bar licence. The proposed trading hours are from 12:00pm – 12:00am Monday, Tuesday & Wednesday, 12:00pm and 2:00am the following day Thursday, Friday & Saturday and 12:00pm – 10:00 pm Sunday.

Consent will be sought for a liquor license with regard to the approved development application, which will be obtained through Liquor and Gaming NSW.

The preparation of this document has been undertaken in accordance with plans and a Statement of Environmental Effects ('**SEE**') that have been submitted to Council to support the proposal. Further, this Plan of Management demonstrates that the site can be effectively and safely managed in perpetuity, and would not adversely affect the amenity, safety, and wellbeing of visitors to the site, surrounding premises and the wider community.

BAR – Bobbie's

24 Bay Street, Double Bay

Plan of Management

December 2023

2.0 General Objectives, Background Information and Details of the Proposal

This Plan of Management provides guidelines and management practices for the day-to-day operation of the Bar at 24 Bay Street, Double Bay (**'subject site'**).

This Plan of Management aims to communicate the purpose of the Bar to ensure that its operation:

- Is well managed;
- Is undertaken with regard to the surrounding area; and
- Takes a proactive role in being a responsible neighbour within the local area.

As indicated within Section 1 of this document, awaiting Council approval for the development to operate a cocktail bar.

The proposed operational changes are as follows:

- Development application for fit-out of the Lower ground floor to accommodate the first use of the approved food & beverage tenancy.
- Seating within the bar would be limited to one hundred (100) patrons (classified as a 'small bar' with under 120 patrons).
- The bar would employ fifteen (15) staff. There would be a maximum of ten (10) staff rostered on at any given time.
- Proposed Bar trading hours, from 12:00pm – 12:00am Monday, Tuesday & Wednesday, 12:00pm and 2:00am the following day Thursday, Friday & Saturday and 12:00pm – 10:00 pm Sunday.
- It is proposed for the bar to become a licensed venue, to enable the sale of alcoholic beverages for onsite consumption as has occurred with surrounding cafes and bars. The operator of the bar will seek to obtain a small bar licence from the Independent Liquor and Gaming Authority.

BAR – Bobbie's

24 Bay Street, Double Bay

Plan of Management

December 2023

3.0 Business and Operational Information

3.1 Business information

The details of the site operator are as follows:

- Name: Neil Perry
- Email address: neil@margaretdoublebay.com
- Phone number: (02) 9068 8888

General contact information (including a phone number, contact form and email address) will be determined prior to the issue of the liquor licence, should members of the public need to contact bar staff. Such information will be made publicly available on the premises.

3.2 Area of the site occupied by the bar.

For reference, the approved bar will occupy one level of the building:

- The main part of the bar is located on the lower ground.
- Toilet facilities are located on the building's lower ground floor, including a unisex disabled WC, unisex ambulant WC, and a male and female WC for patrons
- Access to the bar is obtainable via two points; the main entrance via stairs is located on Cooper Street (opposite the Royal Oak) and another DDA access via a lift is from Bay Street.

3.3 Hours of operation

The bar is proposed to operate during the following times:

12:00pm – 12:00am Monday, Tuesday & Wednesday
12:00pm and 2:00am (the following day) Thursday, Friday & Saturday
12:00pm – 10:00 pm Sunday.

3.4 Number of patrons

The patron capacity for the proposed small bar is for one hundred (100) patrons.

Adequate practices will be implemented to ensure the approved patron capacity of one hundred (100) is not exceeded.

BAR – Bobbie's

24 Bay Street, Double Bay

Plan of Management

December 2023

3.5 Staffing

3.5.1 Staff numbers

The bar would employ a total of fifteen (15) staff. There would be a maximum of ten (10) staff rostered on at any given time.

There would be no new permanent cleaning staff employed by the bar. General trade-related cleaning duties would be undertaken by bar staff, while cleaning of the site more broadly would be undertaken by contracted cleaning staff.

BAR – Bobbie's

24 Bay Street, Double Bay

Plan of Management

December 2023

3.5.2 Staff training

All bar staff would be required to undergo training to ensure they are appropriately qualified to undertake tasks associated with relevant roles. Such training would include familiarity with the contents and protocols of this Plan of Management, in addition to other considerations that include (but may not be limited to):

- Workplace practices and procedures;
- The responsible service of alcohol;
- Occupational health and safety requirements;
- Emergency events and contacts;
- Evacuation procedures; and
- Identification and reporting of building maintenance issues and potential risks to both patrons and employees.

If not already undertaken, then all new staff operating the bar shall undertake training in the Responsible Service of Alcohol (RSA) where required to satisfy the requirements of Liquor and Gaming NSW.

If not already done, then a training guide for staff is to be implemented. Once undertaken, new staff will be required to provide a signature indicating that they have undertaken training to address each of the requirements listed above, in addition to any other specific training if/where necessary. The signed documents shall be placed within the personnel file of each employee, so that it can be presented to relevant authorities upon request.

3.5.3 Delegation of responsibilities

The designated manager of the bar will be nominated as Fire Warden.

BAR – Bobbie's

24 Bay Street, Double Bay

4.0 Safety, Security and Emergencies

4.1 Security

Having regard to the proposed manner of operation of the bar and its small capacity, it is not envisaged there would be any need to provide licensed security personnel. Sufficient staff will be employed at the bar during trading hours to monitor patrons to ensure they behave in an orderly manner and do not cause any undue noise disturbance. At closing time staff will request that patrons leave the area quickly and quietly having regard to neighbours, and do not loiter or linger in the immediate vicinity of the bar.

There are no existing security measures (i.e. lighting, surveillance/CCTV measures, etc.). The installation of necessary security measures will be provided where required and/or as directed by conditions associated with the approved development application for the change of use.

As detailed in Section 3.3 of this document, access to the bar would be controlled via two entrance points that are clearly visible from service areas. Access to the site can be controlled by bar staff.

Intoxicated persons will be refused entry to the premises.

Groups of people within seating areas will be capable of being actively observed by staff. Should particularly loud individuals and/or groups be identified (either by staff observations or through reports by other staff/patrons of off-site complaints), then the following procedure would be followed:

- The person/group would be approached by the manager on duty and politely asked to reduce the volume of their voice or activity.
- Should excessive noise continue to be generated by the individual/group, then they would be approached a second time and be given a warning that the site adjoins residential areas, and that excessive noise is affecting such areas.
- Should a third warning be required, then staff will request that the individual/group pay their bill and leave the site.

See also Appendix A regarding practices to be implemented in relation to responsible service of liquor and preventing intoxication.

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4.2 Security of service areas

During operating hours, areas where alcohol is stored will be observed by staff at all times to unauthorised persons from potentially accessing alcoholic products. All staff tasked with running the bar will be appropriately trained in the Responsible Service of Alcohol (RSA).

The size and location of the bar within the building will enable staff to actively observe persons consuming alcohol. All access points to the bar can also be observed from service areas.

4.3 Emergency events

4.3.1 Fire

In the event of a fire, then evacuation procedures are to be initiated. Procedures associated with a fire evacuation are contained within Appendix B, which is attached to the end of this document.

4.3.2 Flood

The subject site is within a flood-prone area. The floor levels of the site are above the 1 in 100-year flood level, however it is affected by the Probable Maximum Flood (PMF) level (i.e. levels that are subject to inundation during an absolute “worst case” scenario, as a result of probable maximum rainfall).

In the unlikely event of a flood, flood waters could inundate the ground floor level. In the event of a flood, the following procedures are to be initiated:

- Any persons within ground floor areas are to be immediately ushered to higher areas (i.e. the first floor). It is important to reiterate to such people that there is no risk to their safety to avoid panic.
- Access to flood-affected areas is to be prevented unless instructed by emergency services. A staff member(s) is to be located on the stairs during a flood event to prevent persons descending from the first floor to flood affected areas.
- Once it is safe to do so or when instructed by emergency personnel, staff are to guide patrons from the first level to the ground level and to a safe exit point(s).

BAR – Bobbie's

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4.3.3 Evacuation procedures

The site operator must provide certified fire equipment commensurate with applicable standards; all such equipment is to be certified as required by law.

The site operator must document Emergency Evacuation Plans and have evacuation diagrams on display throughout the entire site. Both the site operator and staff must also conduct emergency drills and provide staff with information about emergency procedures at regular intervals.

Emergency evacuation procedures for the site are contained within Appendix B, which is attached to this document.

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5.0 Noise Management

It is acknowledged that the site is surrounded by a variety of land-uses, including residential development to the north of the subject site. The site operator wishes to demonstrate their commitment to maintaining the amenity of the locality.

An acoustic assessment (prepared by Acoustic Logic and dated 18 December 2023) has been prepared in relation to the operation of the small bar. The recommendations within this report will be adhered to in order to minimise acoustic amenity impacts to neighbours. The management of the premises will also be undertaken in accordance with any noise controls that apply to the basement level pursuant to other consents issued by Council.

A detailed house policy (which details the Responsible Service of Alcohol) is contained within Appendix A which is attached to this document. Measures of addressing potentially intoxicated (and therefore noisy) patrons is further detailed within Section 4 of this document.

Further details regarding cleaning and waste management procedures are contained within Sections 6 and 7 of this document.

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6.0 Cleaning Procedures

6.1 General hygiene

Any food handling and hygiene practices shall be undertaken in accordance with the legislation, regulations, guidelines and directions of the NSW Food Authority and Council.

6.2 General cleaning practices

General cleaning practices would be undertaken by bar staff; however, some cleaning activities may also be contracted to a private cleaning service.

All areas within the approved bar will be cleaned daily, though staff would be available to clean any additional/unexpected mess that is created at other times. Bathrooms would be kept clean using standard chemicals (i.e., disinfectants, bleach, etc.) that would be stored within existing storage areas, well away from any food and beverage products. There will be no bulk-storage of chemicals within the bar.

The contents of this Plan of Management will be passed on to any contracted cleaning services, and it is expected that any such business will follow the requirements of this document where they apply.

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7.0 Waste Management Procedures

Waste and recycling shall be stored within receptacles within the bar until they are transported to the main waste storage area at the rear of the site. During trading hours, the doors of the waste storage area are to remain closed except when in use.

The transfer of any waste between the internal bins and main waste storage area should only occur between the hours of 8:00am to 6:00pm, Monday to Saturday. No bottle or glass sorting, recycling or collection shall take place between 8.00pm and 8.00am Sunday to Friday, and between 9.00pm Saturday and 10.00am Sundays and Public Holidays.

For collection, the bins are to be transported onto Brooklyn via the car entrance and left in an appropriate kerbside location that does not block public walkways. The bins will only be transferred for collection and moved back to the waste storage area as soon as possible following collection.

The bin storage area is to be kept clean and tidy at all times; any spilled food waste is to be removed immediately, to prevent vermin being attracted to this area.

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8.0 Complaint Management

Contact information will be made available on site for the bar. Contact from complainants will be capable of being received during business hours. Any complaints that are received will be managed as follows:

- A documented complaints process including a Complaints Register will be kept onsite at all times. Any complaints received will include the following information:
 - The name and contact details of the complainant(s), and the means by which the complaint was made (i.e. phone, email, in person, etc.);
 - The name and position of the employee who received the complaint;
 - The nature of the inquiry and/or complaint; and
 - Details and descriptions of the complaint (e.g. for noise complaints, documented information will include the type and duration of the noise, the location of the caller at the time that the complaint is received, the general area where the noise source was located, etc.).
- The responsible person (i.e., the manager) is to call back the complainant(s) as soon as practical and keep them informed of action(s) that are to be taken to address the issue(s) raised. Once the issue is resolved/finalised, the complainant is to be notified, with the details and content of any response to the complainant to be recorded within the Complaint Register.
- The responsible person is to document the status of the enquiry (i.e., open/closed) and what action(s) has been taken to resolve and finalise the issue.

Should any resolution of a complaint require a modification(s) to be made to the Plan of Management, then the person(s) who made the complaint should be consulted about any such changes.

The complaint register shall be made available to relevant authorities (i.e. Council, NSW Police, Liquor and Gaming NSW) upon request.

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9.0 Deliveries

Deliveries would occur during normal business hours. Deliveries of other produce and materials would occur when required and would therefore not occur at a specific time or frequency. Delivery vehicles would utilise the vehicle access through the Brooklyn Lane entrance and the loading zone along Bay Street between 9:00am to 6:00pm Monday to Saturday.

Like the previous use of the Lower Ground Floor area, the proposed new licensed small bar will be typically serviced by B99 (van) vehicles. For the occasional delivery by a larger vehicle, these will be accommodated within the on street loading zones.

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10.0 Review

This Plan of Management should be used as a general guide to the day to day operations of the bar. It is possible that the Plan of Management will be refined by the Development Application process, and then further refined by the manager to suit the business's specific needs and internal policies. For this reason, the detail and contents of this Plan of Management should be considered adaptable.

Unless onsite activities require that this document be modified sooner, management will review the Plan of Management every twelve (12) months to determine whether the objectives of this document have been achieved. This is considered necessary to assess the effectiveness of the operational management plans and ensure its ongoing relevance to the day to day running of the bar.

The Plan of Management must remain consistent with community and Council expectations and the changing requirements of users. If at any time, it is apparent that the provisions of the Plan of Management require significant amendments, a new operational management plan must be prepared in consultation with Woollahra Council.

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Appendix A: House Policy for the Responsible Service of Alcohol

INTRODUCTION

This policy has been prepared to promote operational and staff awareness of responsibilities concerning the responsible service of alcohol which includes, but not limited to:

- Prevention of intoxication on the licensed premises;
- Harm Minimisation;
- Signs of intoxication; and
- Strategies for prevention and management of intoxicated patrons.

Where required by relevant authorities (i.e. Council, NSW Police, Liquor & Gaming NSW, etc.), both the Plan of Management and this House Policy will be updated as necessary.

'Responsible Service Practices' is a term that covers house policies, and will ensure that service of alcohol:

- Complies with the law;
- Helps staff deal with problem customers; and
- Maximises the profitability and the reputation of the business

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EMPLOYEES' RESPONSIBILITIES

Licensees and employees have a statutory responsibility to ensure that patrons do not become intoxicated on their premises, and to prevent such patrons from entering or remaining on licensed premises.

Although none of these situations are easy to deal with, management and staff may, at times, have to deal with problem customers who may:

- Be observed as being loud and/or abusive;
- Be observed as being too drunk to drive; and/or
- Not care about themselves or others around them.

It is therefore critical to have policies and practices in place to prevent intoxication.

RESPONSIBLE SERVICE OF ALCOHOL STRATEGIES

Observations and Signs of intoxication:

To determine intoxication, it is first necessary to have a reference point. Staff need to make an assessment of whether alcohol has been consumed prior to arrival at the premises. If none has, then the behaviour of people when they arrive can be used as a reference point.

Staff should observe and note the appearance and condition of the patron who is sold or supplied with liquor, as well as the period of time the patron has been consuming liquor on the premises. This assessment needs to consider that:

- Everyone, and their ability to be affected by alcohol, is different; and
- Physical factors such as weight, gender, height, age, health and fitness all affect the body's ability to absorb alcohol and remove it from the bloodstream.

The adoption of a house policy and the service of alcohol

The proposed house policy is a framework within which the business operates by outlining practices, procedures and conditions. It serves to guide the behaviour of staff to assist in serving liquor responsibly and to deal with difficult situations when they arise.

The following principles must be considered when serving alcoholic products:

- Liquor is not to be served to anyone under the age of 18 years. Where the age of the patron is unclear, then they are to be asked for appropriate identification (i.e. a passport, driver's licence, proof of age card, etc.);

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- The signs of intoxication are to be recognised, which may include, but are not limited to, being excessively loud and/or abusive, slurring of speech, acting inappropriately or in a manner that may cause harm to themselves or others, physical illness, etc;
- Staff are to try and not serve anyone to the point of intoxication;
- Management and staff are not to run promotions that facilitates and/or encourages the significant consumption of alcohol and/or intoxication of patrons'
- Staff are to not serve alcohol to anyone who is already intoxicated;
- Try to discourage people from engaging in activities that may harm themselves or others; and
- Engage in dialogue to prevent drink driving, including offering to call a taxi for patrons who may be too intoxicated to drive.

Approaches for the management of persons exhibiting signs of intoxication

A tactful approach should always be employed when removing persons exhibiting signs of intoxication from the bar. These may include:

- Verbal communication with the customer, which includes outlining any concerns followed by continual observation;
- Informing customers of the legal obligations of staff with regard to the service of liquor;
- Seeking assistance from the patron's friends;
- Intervening tactfully and peacefully;
- Consulting with the manager on duty or more experienced staff members and seeking their assistance;
- Avoiding physical contact with the patron;
- Offering to arrange safe transportation from the site; and/or
- Remaining calm and courteous at all times.

Should the person(s) become abusive and/or violent, then staff are to avoid physical confrontation with that person(s) and the police are to be called immediately by dialing 000.

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Appendix B: Evacuation Procedures

Note: These procedures do not apply to flood events; refer to Section 4.3.2 (Page 11) of this document for procedures associated with flooding.

The following procedures are to be followed in the event of a fire, gas leak, or any other event that requires all staff and guests to immediately vacate the premises.

Procedures:

The R.A.C.E. (Rescue, Alarm, Contain, Extinguish) procedure. This would involve:

- Ensuring that all guests are remove immediate danger;
- Raising the alarm;
- Ringing the Fire Brigade on 000 from safe area;
- Containing fire by closing doors and windows, if safe to do so; and
- Evacuating all persons to a nominated assembly area(s) and ensuring all persons (including staff) are accounted for.

For evacuations of the bar, the nominated Fire Warden will organise for all guests and staff to assemble at the evacuation assembly point.

Where it is safe to do so, the preferred evacuation point should be within Guilfoyle Park, so that evacuated persons can be easily seen to by emergency personnel if required. Should it not be safe to evacuate to Guilfoyle Park via Guilfoyle Avenue, then all persons are to evacuate via the Bay Street entrance point to Bay Street at the front of the site (i.e. public areas to the front of the site). Should evacuation to the latter point be required and a person(s) requires medical assistance, then where possible that person(s) should be taken to William Street to meet with emergency services.

Once it is confirmed that all staff have been accounted for, if safe to do so a nominated member of staff should watch the side entranceway to Guilfoyle Avenue to prevent unauthorised access to the site via retail tenancy and car lift. The side entrance doorway is not to be closed at any time during an emergency, to prevent the obstruction of emergency personnel who may need to enter the site via this point.

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Duties:

Duty Manager, Site Operator (if present):

- If safe, check upstairs, toilets and storage rooms to ensure that all patrons and staff have evacuated.
- Move to assembly area as quickly as possible.
- Where safe to do so, close doors behind you to contain fire.

General Staff:

- Perform R.A.C.E. procedures where required.
- If safe, collect the staff attendance book to verify that all staff are present and accounted for; and
- Direct guests to the assembly area as quickly as possible.
- Once at the emergency evacuation point, liaise with the Fire Warden to confirm that staff are accounted for.

Exit Procedures

The following points must be considered by all staff:

- Exit procedures are to be followed, unless they lead to the source of the fire/problem;
- Staff should only consider using a fire extinguisher if it is safe to do so and they are trained in the use of such equipment;
- Staff and guests may not be able to re-enter the building after evacuation for some time if at all; and
- Points for the Fire Warden or equivalent to consider:
 - The assembly area may not be safe due to other circumstances (e.g. flooding, building collapse, etc.).
 - Both emergency assembly areas must be identified and brought to the attention of all staff.

Remember that evacuation procedures may apply for a variety of situations and not just fire. Such situations may include chemical spillage, bomb threat, storm, aircraft crash, flooding, earthquake, riot, building collapse, gas leak, hostage and/or or siege situations.

Any fire drills should incorporate different scenarios, with evacuations being acted out accordingly, highlighting problems that may not have been envisaged.

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24 Bay Street, Double Bay

Completion Date: 2/12/2023

REFERRAL RESPONSE – TRAFFIC

FILE NO: Development Applications: 337/2023/1
ADDRESS: 24 Bay Street DOUBLE BAY 2028
PROPOSAL: Internal fit out of food and drink premises on lower ground floor for a licensed bar
FROM: Ms E Fang
TO: Mr W Perdigao

I refer to the memo from the Planning Department dated 22 November 2023 requesting comments in relation to the above.

DOCUMENTATION

I refer to the following documents received for this report:

- Amended Traffic & Parking Statement, referenced 20447, prepared by TTPP, dated 20 November 2023;
- Amended Plan of Management, Bar – Bobbie's, prepared by Fortis, dated November 2023.

ASSESSMENT

Parking implications for the proposal have been previously assessed and considered acceptable. Refer to TRIM #23/213264.

It is understood that majority of deliveries will occur via B99 vehicles which can be accommodated within the on-site loading area at the rear of the properties. Waste collections will continue to use the on-site loading bay as per existing conditions. Occasional deliveries by larger vehicles will utilise on-street loading zone in close vicinity.

The proposed arrangements for service vehicles are unlikely to create unacceptable adverse traffic impacts in this area and are therefore considered acceptable. Should the development be approved, conditions will be imposed to ensure service vehicles must enter and leave the site in a forward direction and must not impede access along Brooklyn Lane, noting Brooklyn Lane is a narrow laneway where pinch points exist to restrict vehicular movements.

RECOMMENDATION

Council's Traffic Engineer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

A. 1.	Approved Plans and Supporting Documents
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp "Approved" and supporting documents listed below unless modified by any following condition.

Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.			
Reference	Description	Author	Date
20447	Amended Traffic & Parking Statement	TTPP	20 November 2023
Unreferenced	Amended Plan of Management, Bar – Bobbie's	Fortis	November 2023
Notes: <ul style="list-style-type: none"> Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans. These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development. 			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			

B. BEFORE DEMOLITION WORK COMMENCES

Nil.

C. ON COMPLETION OF REMEDIATION WORK

Nil.

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil.

E. BEFORE BUILDING WORK COMMENCES

Nil.

F. DURING BUILDING WORK

Nil.

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Nil.

H. OCCUPATION AND ONGOING USE

H	1.	Operation in Accordance with Plan of Management (POM)
		During the occupation and ongoing use, the operation and management of the premises must be in accordance with the Plan of Management (POM) prepared by Fortis and dated November 2023.
		The POM cannot be altered without the written consent of Council.

	All service vehicles attending the site via Brooklyn Lane must enter and leave the site in a forward direction and must not impede access along Brooklyn Lane.
	Condition Reason: To mitigate amenity impacts upon the neighbourhood.

H 2.	Provision of Off-street Commercial Vehicle Facilities				
	During the occupation and ongoing use, in compliance with AS 2890.2: Parking facilities - Off-street commercial vehicle facilities, unimpeded access to off-street parking must be maintained as follows:				
	<table border="1"> <thead> <tr> <th>Use</th><th>Number of spaces</th></tr> </thead> <tbody> <tr> <td>Loading Bay (6.5m in length)</td><td>1</td></tr> </tbody> </table>	Use	Number of spaces	Loading Bay (6.5m in length)	1
Use	Number of spaces				
Loading Bay (6.5m in length)	1				
	All deliveries to and dispatch from the site, excluding retail sales, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.				
	Notes: <ul style="list-style-type: none"> Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993. Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at www.olg.nsw.gov.au or call 4428 4100. 				
	Condition Reason: To ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.				

I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)

Nil.

L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)

Nil.

M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

Ever Fang

2/12/2023

Wilson Perdigao

From: Sagar Chauhan
Sent: Thursday, 12 October 2023 2:27 PM
To: Wilson Perdigao
Subject: Referral Response - Heritage - DA2023/337/1 - 24 Bay Street DOUBLE BAY

Hi Wilson

The following documentation provided by the applicant has been examined for this referral response:

- Drawing set by Fortis, dated 22/08/2023
- Statement of Environmental Effects by GSA Planning, dated 14/09/2023
- Heritage Impact Statement by Urbis, dated 12/09/2023
- Renders by ACME, dated 24/07/2023

I provide following comments in relation to cultural heritage against the relevant statutory and policy documents:

SUBJECT PROPERTY

The subject site comprises a two-storey concrete structure with a basement at the intersection of Cooper and Bay streets, currently undergoing major refurbishment and extension works.



Figure 1: General view of the lower ground floor, looking west.



Figure 2: Stairs leading to the lower ground floor.

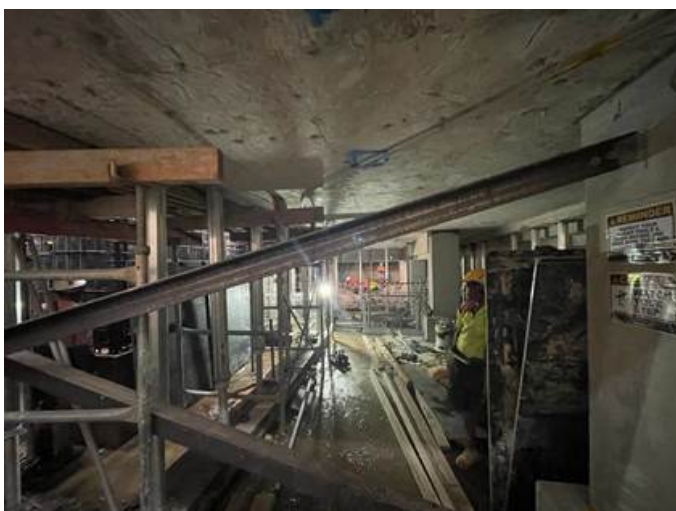


Figure 2: General view of the lower ground floor from the stair landing, looking west.

PROPOSED WORKS

The proposed works include new fit-out to the lower ground floor for the proposed commercial bar use, including joinery, furniture, amenities, services, and new floor and ceiling treatments.

WOOLLAHRA LEP 2014

Clause 1.2 Aims of Plan

Subclause 1.2. (2) (f) – to conserve built and natural environmental heritage

The subject site is a heritage item of local cultural significance in the Woollahra LEP 2014, known as 'Gaden House including interiors.' item No. 681, and is not within a heritage conservation area.

An assessment of impacts of the proposed works in regards to conservation of built heritage is included below.

Part 5.10 Heritage Conservation

Clause 1(a) - to conserve the environmental heritage of Woollahra

Clause 1(b) - to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views

Clause 4 - Effect of proposed development on heritage significance

The following assessment is based on the cultural significance of the site (statement of cultural significance, extracted below), and cultural heritage assessment and conservation policies included in the Conservation Management Plan prepared by Heritage 21, dated April 2019:

The NSW Government State Heritage Inventory includes the following statement of cultural significance:

Gaden House is an exemplar of the development of Australia's cultural life in the post-war era when architects embraced the purity of Architecture as an art form including sculpture as an essential part of the design process. Neville Gruzman's determination to elevate the building above the ordinary, to make a contribution to the urban setting, to ensure that both the external and internal design were both functional and aesthetically pleasing, and to specially commission a sculpture that would flow through the building from the entrance foyer up the staircase to finish at the perspex dome, demonstrates a creative endeavour of the highest order and a contribution to Australia's cultural life both at the time and through to the present. The achievement of such a creative endeavour in a suburban commercial building in 1970s Sydney is rare.

Gaden House challenged the status quo of suburban shopping centres and transformed what could have been an ordinary suburban office and retail building into a work of art, pushing the design boundaries to produce a building that was a sculpture, both as an object in the streetscape at night as well as during the day, and in the interiors as a delightful and environmentally comfortable place to work. Gruzman proved that a small suburban office building could also be a work of art. When the building was opened in 1971 by the Premier of NSW, Mr. Robert Askin, its avant-garde design, combining international modernism to suit local conditions, played a pivotal role in elevating Double Bay to its pre-eminent position as Sydney's most cosmopolitan and international shopping centre and has continued to contribute to the community life of Double Bay ever since.

Gaden House demonstrates aesthetic characteristics and a high degree of creative and technical achievement by experimenting with materials and new technology, as evidenced by the precast concrete and glass spiral staircase topped by a perspex dome, the specially designed circular ceiling system incorporating lighting and air-conditioning, and the external metal clad louvres which were both environmentally functional and aesthetically significant. Adding to the creative and aesthetic significance of the building was the work of leading Australian sculptor Michael Kitching, which was an integral part of the original design and survived in-situ until around 2006. Despite the loss of the sculpture, which has the potential to be reconstructed through surviving documentation in the Kitching Archive, the building retains much of its original fabric and detailing externally and internally, and these original elements have the potential to yield information about architectural thinking and practice at the time related to a local interpretation of international modernism. The fact that Gaden House has survived in a relatively intact manner since 1971 makes it a structure of some quality and rarity in Double Bay and in Sydney.

The proposed fit-out to lower ground floor would not adversely impact original significant fabric or the character of the heritage item, and is supported.

CONCLUSION

Woollahra LEP 2014

Clause 1.2 (2) (f) - The development does conserve the built heritage of Woollahra.

Part 5.10 Heritage Conservation

Clause 1(a) - The development does conserve the heritage of Woollahra.

Clause 1(b) - The impact upon the heritage significance of the heritage item will be neutral.

Clause 4 - This referral constitutes an assessment under this clause.

RECOMMENDATION

The proposal generally respects the cultural significance of the site, and complies with the relevant statutory and policy documents.

No heritage conditions are required.

Many Thanks

Kind Regards



Sagar Chauhan
Temporary Heritage Officer

Woollahra Municipal Council
536 New South Head Road, Double Bay NSW 2028

t: 9184 1027

e: Sagar.Chauhan@woollahra.nsw.gov.au w: www.woollahra.nsw.gov.au

Our Values: Respect | Open | Accountable | Responsive | Excellence

We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.



Completion Date: 22/12/2023

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 337/2023/1
ADDRESS: 24 Bay Street DOUBLE BAY 2028
PROPOSAL: Internal fit out of food and drink premises on lower ground floor for a licensed bar
FROM: Jasmine Sutrina
TO: Mr W Perdigao

1. ISSUES

- Acoustics – licenced premises

2. DOCUMENTATION

I refer to the following documents received for this report:

- Noise Impact Assessment (R2), 20230058.3/1812A/R2/JHT, prepared by Acoustic Logic, dated 18/12/2023

3. RESEARCH

The following research was undertaken in the preparation of this assessment:

- A site inspection was carried out on the following date:

4. SUMMARY OF PROPOSAL

The works are limited to the internal areas of the approved Lower Ground Floor. The proposal will therefore retain the overall built form and external envelope approved under DA No. 68/2021 and its associated Section 4.56 applications (approved and under assessment).

The proposed small bar has been designed to accommodate a maximum capacity for 100 patrons, comprising a mixture of bar, table and lounge seating. The bar will operate between 12:00 pm to 12:00 am from Monday to Wednesday, 12:00 pm to 2:00 am the following day on Thursday to Saturday and 12:00 pm to 10:00 pm on Sunday and will provide food and beverage services.

5. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

a) Acoustics

Environmental Health – Review

Review of **Noise Impact Assessment (R2), 20230058.3/1812A/R2/JHT**, prepared by **Acoustic Logic**, dated 18/12/2023

An updated Noise Impact Assessment, by Acoustic logic (18/12/2023) was prepared to acoustically assess the noise impacts from patron and music noise and mechanical plants upon residential and commercial receivers.

As part of this assessment, updated noise monitoring was conducted at the subject site from 8th to the 18th of December 2023. This data was used to establish background noise levels for the day, evening and night periods as presented in table 2 of the report.

Attended short term monitoring was further conducted at the subject site on the 31st of January 2023. These summarised background noise levels spectrums for the day, evening, late evening and night period are presented in table 4 of the report.

Section 4.1 of the report refers to the adopted noise emissions assessment criteria. NSW Liquor and gaming noise emissions criteria was used to assess noise generated by patrons/music (see table 5). Mechanical plant noise criteria is as derived from the Chapter D3 of the Woollahra DCP 2015 and Noise Policy for Industry 2017 (see table 8).

Section 5 of the report refers to the noise emissions assessment. It is noted that this assessment is in accordance with a doors-open scenario and 12:00pm to 2:00am trading. Operational noise sources (patron/music) was further reflective of the following worse-case scenario parameters:

- *Patron noise in indoor areas are of a sound power level of 77 dB(A)L10 representative of a raised voice, with one in two patrons speaking at any one time*
- *Foreground music and vocal noise with an internal sound power level of 85dB(A)L10 – typical of amplified music when the music is to be played as part of the dominating soundscape.*
- *Indoor dining areas are assumed to be filled to the maximum seating capacities.*
- *The recommendations set out in Section 6 of this report have been implemented.*

Table 9 outlines the predicted noise levels and noise emission goals for the most stringent night periods upon residential receivers.

With respect to mechanical plant noise emissions, it is noted that detailed plant selections and locations are yet to be finalised. The report proposes conducted a detailed acoustic review of all external plants at the CC stage, following determined plant sections and locations. Necessary acoustic treatments are to be determined and implement to achieve compliance as per the noise emission goals (see table 8).

Section 6 of the report refers to recommendations and management control to achieve compliance as per the noise emission goals of section 4.1 of the report.

Environmental Health – Conclusion

Following the submission of the Updated Noise Impact Assessment (R2), 20230058.3/1812A/R2/JHT, prepared by Acoustic Logic, dated 18/12/2023, the Environmental Health Unit is acoustically satisfied with this proposal.

6. RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
20230058.3/181 2A/R2/JHT	Noise Impact Assessment	Acoustic Logic	18/12/2023

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Waste Storage - Commercial

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must make provision for:

- a) A dedicated and enclosed waste and recycling storage area behind the building line or within non-habitable areas of the building,
Standard Condition: C14

C.2 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

C.3 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. Australian Acoustical Society—professional society of noise-related professionals
(www.acoustics.asn.au/index.php).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Standard Condition: C62

C.4 Food Premises – Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.

Standard Condition: C65

C.5 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

D. Conditions which must be satisfied prior to the commencement of any development work

E. Conditions which must be satisfied during any development work

E.1 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,

- d) The following **work must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - (i) Piling;
 - (ii) Piering;
 - (iii) Rock or concrete cutting, boring or drilling;
 - (iv) Rock breaking;
 - (v) Rock sawing;
 - (vi) Jack hammering; or
 - (vii) Machine excavation,
- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday.
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Note: EPA Guidelines can be downloaded from
<http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.2 Dust Mitigation

Dust mitigation must be implemented in accordance with "*Dust Control - Do it right on site*" published by the Southern Sydney Regional Organisation of Councils.

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.

- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: "Dust Control - Do it right on site" can be down loaded free of charge from Council's web site www.woollahra.nsw.gov.au or obtained from Council's office.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au . Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23

E.3 Food Premises – Construction & Fitout

The *principal contractor* or *owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health Officers but no less compliant than with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

Standard Condition: E29

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Food Premises - Inspection and Registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) The *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) The *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act 2003*).

Note: Notification can be done on-line at www.foodnotify.nsw.gov.au

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires:

"100 Notification of conduct of food businesses

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

Note: *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

Standard Condition: F15

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (s109C(1)(c))

Nil.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Trading hours

Trading hours are limited to:

- a) Monday to Saturday: 12:00pm – 2:00am
- b) Sunday: 12:00pm – 10pm Sunday

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading including, but not limited to, external impacts associated with clients attending the site for business or otherwise.

Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I2

I.2 Storage and handling of flammable and combustible liquids

The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 - *The storage and handling of flammable and combustible liquids*.

This condition has been imposed to protect public safety.

Standard Condition: I38

I.3 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the *Food Act* 2003, *Food Regulation* 2004; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health.

Note: The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this *Act*, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at www.legislation.nsw.gov.au.
Standard Condition: I41

I.4 Outdoor lighting – Commercial

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.
Standard Condition: I50

I.5 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act* 1997.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act* 1997.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2017* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (www.dgr.nsw.gov.au).
Standard Condition: I56

I.6 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *Noise Impact Assessment, 20230058.3/1812A/R2/JHT, prepared by Acoustic Logic, dated 18/12/2023*.

Standard Condition: I57

I.7 Noise from licensed premises

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5dB(A) between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: dB(A) is a value used for 'A-weighted' sound pressure levels 'A' frequency weighting is an adjustment made to approximate the response of the human ear.

Note: *Licensed premises* means premises licensed under the *Liquor Act 2007*

Note: For the purposes of this condition, the L_{A10} is the A-weighted sound pressure level that is exceeded for 10% of the time over which a given sound is measured.

Note: The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} level measured by a sound level meter over the applicable period.

Note: This condition is identical to the minimum standard condition imposed by the Casino Liquor and Gaming Control Authority (the Authority). The Authority may specify other standards in respect of the above condition under the *Liquor Act 2007*, and associated Regulations. Section 79 of the *Liquor Act 2007* provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises including registered clubs (or their patrons). The Director of Liquor and Gaming is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the NSW Office of Liquor and Gaming and Racing's website: (www.olgr.nsw.gov.au).

Note: Interior noise levels of licensed premises which exceed safe hearing levels are not supported or condoned by Council.
Standard Condition: I58

I.8 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the:
NSW Industrial Noise Policy
(http://www.environment.nsw.gov.au/resources/ind_noise.pdf)
ISBN 0 7313 2715 2, dated January 2000, and
Noise Guide for Local Government
(<http://www.environment.nsw.gov.au/noise/nlg.htm>)
ISBN 1741370671, dated December 2004.
Standard Condition: I59

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Environmental Health Officer: Jasmine Sutrina

Date: 22/12/2023



Woollahra
Municipal
Council

23 November 2023

REFERRAL RESPONSE – FIRE SAFETY

FILE NO: Development Applications: 337/2023/1

ADDRESS: 24 Bay Street DOUBLE BAY 2028

PROPOSAL: Internal fit out of food and drink premises on lower ground floor for a licensed bar

FROM: A Wang

TO: Mr W Perdigao

1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 20307 prepared by GSA Planning, dated 14 September 2023.
- Architectural Plans, referenced A.02.01 & A.05.01 – A.05.02, prepared by ACME, dated 24.07.23,
- BCA Compliance Statement, referenced 230120, prepared by BM+G, dated 15 August 2023.

2. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
 - *Category 1 fire safety provisions required*
- ☐ Clause 64 – ‘Consent authority may require buildings to be upgraded’
 - Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’
 - fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.



Woollahra
Municipal
Council

3. ASSESSMENT

Comments have been prepared on the following. **Where Approval is recommended, Conditions of Consent follow at the end of the comments.**

4. RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following conditions:

A. GENERAL CONDITIONS

Nil

B. BEFORE DEMOLITION WORK COMMENCES

Nil

C. ON COMPLETION OF REMEDIATION WORK

Nil

D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Nil

E. BEFORE BUILDING WORK COMMENCES

Nil

F. DURING BUILDING WORK

Nil

G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

G	1.	Fire Safety Certificates
		Before the issue of any occupation certificate to authorise a person: a) to commence occupation or use of a new building, or b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building. Notes: <ul style="list-style-type: none">In this condition: interim fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. final fire safety certificate has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation. new building has the same meaning as it has in section 6.1 of the Act.
		Condition Reason: To ensure that a final fire safety certificate is issued prior to occupation.



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H. OCCUPATION AND ONGOING USE

H 1.	Maximum Patron Capacity
	During the occupation and ongoing use, the total number of patrons on the premises at any time must not exceed 100 patrons. Any person/s attending the premises for the purpose of 'takeaway' products/services will not be considered a 'patron' as detailed above, provided no food and or drink is consumed by those persons on the premises.
	Condition Reason: To prevent overcrowding inside the venue and to minimise impacts on local amenity.

H 2.	Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)
	During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building. Notes: <ul style="list-style-type: none">• essential fire safety measure has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation.• annual fire safety statement has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.• Visit Council's website for additional information in relation to fire safety www.woollahra.nsw.gov.au.
	Condition Reason: To ensure public safety.

A Wang
Fire Safety Officer

23 November 2023
Completion Date

Wilson Perdigao

From: Peter Bolt <bolt1pet@police.nsw.gov.au>
Sent: Tuesday, 5 December 2023 3:00 PM
To: Wilson Perdigao
Cc: Records
Subject: DA 2023/337/1 - 24 Bay St Double Bay [SEC=OFFICIAL]

Mr Wilson Perdigao
Senior assessment Officer Team Central
Woollahra Municipal Council

RE DA 2023/337/1 – 24 Bay Street Double Bay (New small bar - Bobbies)

The Licensing Unit (“**Police**”) have reviewed the application and supporting documentation. Police do not object to the subject development yet provide the following referral comments for consideration in respect to likely social impact:

1. The proposal relates to a development in which a *small bar* liquor licence will be sought from the Independent Liquor & Gaming Authority. Notification of this intention has been provided to Police. A *small bar* licence authorises alcohol to be sold for consumption on the premises. House made cocktails made on the premises may be sold for consumption off the premises in sealed containers. Is constrained to patron capacity not exceeding 120 persons. Does not permit gaming machines, keno or betting. Allows standard trading hours between 10am and 2am. Allows minors on the premises in certain circumstances. Allows the provision of entertainment.

The primary business activity of a small bar is not dissimilar to that of a hotel or general bar albeit with patronage not exceeding 120 persons. Alcohol related harms are amplified in these licence categories due to the provision of liquor not ancillary to another product or service. They are recognised for their late night amenity and can attract considerable patronage within a precinct. The Woollahra Municipality has not previously given approval for a small bar development, it is however acknowledged that the NSW Government considers small bars an essential part of the late night economy.

2. It is recognised that the proposed development would be considered a 'high end offering' with rendering depicting a boutique style bar lounge with ample seating. The patron capacity sought is for 100 persons (within the required maximum capacity for a small bar). The proposed trading hours are within the standard trading period for the category of liquor licence to be sought from the *Independent Liquor & Gaming Authority*. It is acknowledged that prior to the site redevelopment a licensed premises operated in the location with hours until 2am. It is the Police understanding that these hours sit outside of the current Council controls. The proposed site is located within an area of the Double Bay precinct in which residential disturbance issues have been previously disclosed by local residents. Disturbance issues have included the noise from amplified noise within licensed premises in the precinct, noise from outdoor dining activity associated with licensed premises and general matters of order. Within the immediate precinct there is a concentration of licensed premises including a large trading hotel directly opposite, numerous licensed restaurants and a proposed rooftop restaurant under development. The combined patron capacity of all licensed premises within the immediate area would be likely to exceed 1000 persons.

Police submit that the following be addressed through the imposition of development consent conditions / inclusion within the Plan of Management:

- That core trading hours be consistent with the applicable controls for the area (which may be 12 midnight). Any approval of trade beyond the controls should be in the form of a reviewable condition to ensure that if operations detrimentally affect the amenity of the local community trading hours can be reverted to core hours consistent with controls.

- That the premises be subject to an independent qualified acoustic assessment to determine acceptable levels of any amplified noise being emitted.
 - That controls be in place to ensure determined levels cannot be exceeded by the installation of RMS limiters or similar / that speakers are not removed from positions.
 - That a noise complaint register be maintained to record instances of disturbance reported by residents and action taken to remedy complaints / that such register be made available for inspection by Council officer / police officer.
 - That a contact phone number be made available at all times the business trades in which a person may speak directly to the manager in charge in respect to undue disturbance issues
 - That any Plan of Management detail noise attenuation / strategy measures.
3. Police note the proposed patron numbers to be 100 persons. It appears these numbers can be comfortably accommodated but it is requested that patron numbers permitted within the proposed premises are assessed as to allow at a minimum of one person per one metre squared of usable space. Police note that a three level restaurant is being developed in unison with this proposal on the levels above. Supporting documentation appears to be silent in respect to any internal communication between the restaurant development Song Bird and the proposed small bar.

Police submit that the following be addressed through the imposition of development consent conditions / inclusion within the Plan of Management:

- That the premises be subject to a patron capacity. That a sign be displayed at the entrance of the premises identifying the authorised patron capacity
 - That no patron is permitted access to the proposed premises except via the main principal entranceway. That is, there is to be no internal communication between the proposed basement level development and the floors above for patrons. No accessibility to lifts and or stairs (excluding emergency exits).
 - That any Plan of Management detail authorised patron capacity and strategies relevant to patron movement / ingress and egress / no internal communication etc.
4. At times persons are excluded from licensed premises within the Double Bay precinct due to intoxication or other anti-social behaviour. It has been experienced that excluded persons will often seek entry into other establishments within close proximity. The proposed premises seeks trade beyond 12:00 midnight on several days of the week. It can be expected due to the primary business activity that the proposed development would be attractive to excluded persons and other persons during later evening hours. The supporting documents do not provide clarity as to how patrons will be managed when seeking access to the venue. What queueing protocols or other controls will be in place. The Plan of Management provided discloses that no security personnel would be engaged. Police would strongly advocate that a security posture will be necessary to ensure that patron capacity is not exceeded, screen prospective patrons, maintain order in the immediate vicinity, assist in establishing queueing protocols and enacting strategies to ensure patrons do not loiter in the immediate area causing obstruction to the pedestrian walkways and generating noise related harms.

Police submit that the following be addressed through the imposition of development consent conditions / inclusion within the Plan of Management:

- That the Plan of Management detail an adequate security posture / strategies to ensure intoxicated persons are not permitted entry into the proposed premises. That strategies are developed to demonstrate that effective entry protocols can be enacted. That patrons do not loiter or congregate in the immediate vicinity (especially considering the conservative capacity). That patrons are directed to leave the area quickly and quietly. That assistance is provided to ensure patrons are directed towards safe transport options.
5. That operations be in accord with a Plan of Management to ensure that adverse social impact is minimised. That adequate CCTV coverage is installed and maintained for the proposed premises.

Police submit that the following be addressed through the imposition of a development consent condition:

- That a Plan of Management be established prior to the commencement of business operations which is approved by Council and the Eastern Suburbs Police Area Command (ESPAC). That the proposed premises must always operate in accordance with the approved Plan of Management. The Plan of Management may be updated at any time in which improved business practices are identified. Council and the ESPAC will be notified and if approved will be considered the Plan of Management. Irrespective the Plan of Management will be reviewed by the applicant on a yearly basis.
- That a comprehensive CCTV systems is installed and maintained providing coverage of all publicly accessible areas including adjoining footpaths that border the footprint of the proposed premises. That the standard CCTV condition be applied including retention of recordings for no less than 30 days.

Should you have further inquiries please do not hesitate to contact.

Kind regards



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Noise Impact Assessment - Lower Ground Floor (Bobbie's)

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Project ID	20230058.3
Document Title	Noise Impact Assessment - Lower Ground Floor
Attention To	Fire & Embers Pty Ltd

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	19/07/2023	20230058.3/1907B/R0/JHT	JHT		AZ
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1 INTRODUCTION

Acoustic Logic has been engaged to provide an acoustic assessment for the proposed bar at Bobbie's, located on the lower ground floor of 24 Bay Street, Double Bay. We note that a separate noise impact assessment has been prepared for ground floor, level 1 and level 2 above associated with the licensed restaurant above.

This document will address noise impacts associated with the following:

- Noise emissions from the proposed operation of the tenancy. This will include patron and music noise.
- Noise from mechanical plant (in principle)

A detailed site map with measurement locations is presented in Figure 1 below.

This report has been prepared for the sole purpose of a development application assessment and should not be used or relied on for any other purpose.

1.1 REFERENCED DOCUMENTS

Acoustic Logic have utilised the following documents and regulations in the assessment of noise emissions for this development:

- Woollahra Municipal Council Development Control Plan (DCP) 2015
- NSW Independent Liquor and Gaming Authority (ILGA) – Liquor and Gaming NSW
- NSW Environmental Protection Authority (EPA) document – 'Noise Policy for Industry (NPI) 2017'

This assessment has been conducted in accordance with the architectural drawing set provided by Acme Coan, dated 21st July 2023.

1.2 WOOLLAHRA COUNCIL REFERRAL RESPONSE – ENVIRONMENTAL HEALTH TEAM

We note that Woollahra Council have provided a referral response to the previous revision of the noise impact assessment prepared by this office (Document reference: 20230058.2/1204C/R0/JHT, dated 12/04/2023). The referral response from the environmental health team raised concerns regarding the use of adopted long-term unattended noise monitoring conducted in 2021 at 2 Guilfoyle Avenue. The conclusion outlined by the environmental health team states the following:

“Environmental Health – Conclusion

Environmental Health Unit agrees with the selected noise emissions criteria, however, has concerns regarding the adoption of unattended long term monitoring data., conducted in August 2021 and at a different site. It is the Environmental Health Unit’s opinion, that updated unattended noise monitoring is to be conducted at the subject site, as the use of data from a “similar project” is unacceptable. This updated unattended data is to be used to update noise emission criteria, assessment and recommendations that are provided in the acoustic report.

Moreover, as part of the report recommendations and management controls, it is noted that the entry door may be opened as means of ventilation. Environmental Health Unit notes, a door-open parameter was not listed as part of the ‘worse-case’ noise modelling parameters. Environmental Health Unit has concerns regarding breakout noise which may not be reflected in the predicted noise emissions or addressed as part of the report’s recommendations and management controls.”

- Acoustic Logic acknowledge that the previously adopted long-term unattended monitoring may have taken place during a period which is no longer reflective of the existing acoustic environment. As such, updated monitoring has been undertaken and the new background monitoring levels have been reflected within Section 3.4.
- Furthermore, Noise emission criteria, assessment and recommendations have also been adjusted to reflect the new background noise monitoring data.
- The modelling assumptions reflect a “door open” scenario as a worst-case scenario. This modelling assumption is incorporated into the predicted noise level results presented within Section 6. The recommendations and management controls outlined in Section 6 have been adjusted to explicitly reflect this assumption.

2 SITE DESCRIPTION

The existing development consists of a 3-level commercial building which accommodates ground floor retail and commercial office spaces above. The proposal entails additions and alterations to both the internal and external elements, as well as 2 additional levels for commercial office use. The proposal intends to retain and conserve heritage items, and principal character defining elements. The proposed licensed venue is situated on the lower ground floor of the development and intends to have a maximum capacity of 100 internal patrons and 15 staff.

This office has been advised that the hours of operation for the venue are from 12:00pm midday to 2:00am, Monday to Saturday and 12:00pm midday to 10:00pm Sunday.

2.1 NEAREST SENSITIVE RECEIVERS


The nearest sensitive receivers surrounding the project site are outlined below. An aerial photo of the site indicating nearby noise sensitive receivers and measurement locations is presented in Figure 1 below.

Table 1 – Sensitive Receivers

Receiver (Refer to Figure 1)	Land Use	Comment
R1	Local Centre	Local Centres located at 28 Bay Street and 30-36 Bay Street, Double Bay consisting of food and beverage venues.
R2		Local Centres located 27-43 Bay Street, Double Bay consisting of typical small retail stores.
R3	Residential	Local centres located at 18-24 Bay Street, Double Bay consisting of typical small retail stores below and residential above.
R4		Two-storey Residential accommodation located at 2 Cooper Street, Double Bay
R5		Single-storey Residential accommodation located at 3 South Avenue, Double Bay.



Figure 1: Site Map and Sensitive Receivers (SIX Maps)

Attended Measurement Location		Residential Receivers	
Unattended Measurement Location		Local Centre Receivers	

3 AMBIENT NOISE MONITORING

Monitoring has been undertaken to obtain background noise levels at the surrounding residential properties.

Figure 1 above shows the monitoring locations used.

3.1 NOISE DESCRIPTORS

Ambient noise constantly varies in level from moment to moment, so it is not possible to accurately determine prevailing noise conditions by measuring a single, instantaneous noise level.

To quantify ambient noise, a 15-minute measurement interval is typically utilised. Noise levels are monitored continuously during this period, and then statistical and integrating techniques are used to characterise the noise being measured.

The principal measurement parameters obtained from the data are:

L_{eq} - represents the average noise energy during a measurement period. This parameter is derived by integrating the noise levels measured over the measurement period. L_{eq} is important in the assessment of noise impact as it closely corresponds with how humans perceive the loudness of time-varying noise sources (such as traffic noise).

L₉₀ – This is commonly used as a measure of the background noise level as it represents the noise level heard in the typical, quiet periods during the measurement interval. The L₉₀ parameter is used to set noise emission criteria for potentially intrusive noise sources since the disturbance caused by a noise source will depend on how audible it is above the pre-existing noise environment, particularly during quiet periods, as represented by the L₉₀ level.

L₁₀ is used in some guidelines to measure noise produced by an intrusive noise source since it represents the average of the loudest noise levels produced at the source. Typically, this is used to assess noise from licenced venues.

L_{max} is the highest noise level produced during a noise event and is typically used to assess sleep arousal impacts from short term noise events during the night. It is also used to assess internal noise levels resulting from aircraft and railway ground vibration induced noise.

L₁ is sometimes used in place of L_{max} to represent a typical noise level from a number of high-level, short-term noise events.

3.2 UNATTENDED LONG TERM NOISE MONITORING

Acoustic monitoring was conducted at the site to establish the background noise levels which will be used as the basis for this assessment. Unattended noise monitoring in this assessment has been undertaken at the project site of 24 Bay Street, Double Bay.

3.2.1 Measurement Equipment

Unattended noise monitoring was conducted using one noise logger. The logger was set to store 15-minute statistical noise levels throughout the monitoring period. The equipment was calibrated at the beginning and the end of each measurement using a Rion NC-74 calibrator; no significant drift was detected. All measurements were taken on A-weighted fast response mode.

3.2.2 Measurement Locations and Period

An unattended noise monitor was installed on the second floor of 24 Bay Street, Double Bay. For a detailed location refer to Figure 1. The measurement was conducted between 8th and 18th December 2023.

3.2.3 Measured Background Noise Levels

Ambient, assessment and rating background levels have been determined from the long term, unattended noise monitoring data based on the methodology in the Noise Policy for Industry Fact Sheet B. Appendix 1 contains the data collected, and the periods identified as being affected by adverse weather conditions or extraneous noise (as defined by NPfI Fact Sheet B).

Weather data was obtained from records provided by the Bureau of Meteorology for the weather station located at Sydney Observatory Hill and Fort Denison.

The NPI day, evening and night periods are:

- Day - period from 7 am to 6 pm Monday to Saturday or 8 am to 6 pm on Sundays and public holidays
- Evening - the period from 6 pm to 10 pm
- Night - the remaining periods

3.2.3.1 Background Noise Levels

The following table summarises the rating background noise levels determined for the day, evening and night periods as defined in the NPI.

Table 2 - Rating Background Noise Levels

Location	Time of Day	Rating Background Noise Levels – dB(A) _{L90(Period)}
24 Bay Street, Double Bay	Day (7:00am - 6:00pm)	60
	Evening (6:00pm - 10:00pm)	51
	Night (10:00pm - 7:00am)	43

3.3 ATTENDED SHORT TERM NOISE MONITORING

Attended short-term noise monitoring was carried out on site to determine the background noise spectrum. The result of the attended short term noise monitoring is presented in the table below. Location can be seen in figure 1.

Table 3 - Measured Attended Noise Spectrum

Time	31.5Hz	63 Hz	125 Hz	250 Hz	500 Hz	1kHz	2kHz	4kHz	8kHz	A-wt
31 st January 2023, 3:00pm	59	64	65	55	53	51	49	45	40	57

3.4 SUMMARISED BACKGROUND NOISE LEVELS

The following table provides the summarised background noise level spectrum for the nearby receivers.

Table 4 - Summarised Rating Background Noise Spectrum

Time	31.5Hz	63 Hz	125 Hz	250 Hz	500 Hz	1kHz	2kHz	4kHz	8kHz	A-wt
Day (7am – 6pm)	67	67	68	58	56	54	52	48	43	60
Evening (6pm – 10pm)	58	58	59	49	47	45	43	39	34	51
Late Evening (10pm – 12am)	50	50	51	41	39	37	35	31	26	43
Night (12am – 7am)	50	50	51	41	39	37	35	31	26	43

4 NOISE EMISSION ASSESSMENT

The major noise sources from the operation of the proposed licensed venue at Bobbies include:

- Background music noise associated with the proposed licensed venue.
- Patron's noise associated with the proposed licensed venue– indoor only.
- Mechanical plant to service the proposed licensed venue (in principle).

4.1 NOISE EMISSION CRITERIA

4.1.1 Patron/ Music Noise Criteria

4.1.1.1 Woollahra Municipal Council Development Control Plan (DCP) 2015

Chapter F3 – Licensed Premises of Woollahra Municipal Council Development Control Plan (DCP) 2015 states the following regarding licensed premises:

"C11 – A report by an acoustic engineer is submitted with applications involving licensed premises, where relevant."

Woollahra Municipal Council Development Control Plans (DCP) 2015 does not contain any specific acoustic criteria regarding noise emission for proposed licensed venues. Therefore, the applicable criteria will be in accordance with the Independent Liquor and Gaming Authority – Liquor and Gaming NSW as detailed below.

4.1.1.2 NSW Liquor and Gaming Authority

Liquor & Gaming NSW typically imposes the following noise emission criteria. These apply to noise generated by patrons and by music when assessed at residential receivers.

- *"The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) by more than 5dB between 7:00am and 12:00 midnight at the boundary of any affected residence."*
- *The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) between 12:00midnight and 7:00am at the boundary of any affected residence).*
- *Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00am"*
- *LA10 is the average maximum deflection of the noise emission from the licensed premises"*

The following assessment criteria have been determined based on the noise levels measured. These apply when measured outside the open window of a residential façade. Typically, the most sensitive period is during the early night-time hours between 12am and 2am as this period contains the most stringent criteria.

Table 5 - Summarised Operation Noise (Music/Patron) Noise Emission Criteria

Receivers	Time	Frequency (Hz)									
		31.5	63	125	250	500	1k	2k	4k	8k	A-wt
Residential R3, R4 & R5	Day (7am – 6pm)	72	72	73	63	61	59	57	53	48	65
	Evening (6pm – 10pm)	63	63	64	54	52	50	48	44	39	56
	Late Evening (10pm – 12am)	55	55	56	46	44	42	40	36	31	48
	Night (12am – 7am)	55	55	56	46	44	42	40	36	31	48

Note: There are no specific criteria for commercial premises associated with liquor and gaming.

4.1.2 Mechanical Plant Noise Criteria

The noise emissions from the plant servicing the project site shall comply with the requirements of Woollahra Municipal Council and the NSW Environmental Protection Authority (EPA) Noise Policy for Industry (NPI) requirements.

4.1.2.1 Woollahra Municipal Council Development Control Plan (DCP) 2015

Woollahra Municipal Council outlines the following requirements for mechanical plant and equipment operation for Mixed Use Centre developments.

“Chapter D3| General Controls for Neighbourhood and Mixed-Use Centres

C10 - Noise emissions from mechanical plant equipment must not exceed the background noise levels when measured at the boundary of the development site. The provisions of the Protection of the Environment Operations Act 1997 apply.”

4.1.2.2 NSW Environmental Protection Authority (EPA) document – ‘Noise Policy for Industry (NPI) 2017’

The NPI provides guidelines for assessing noise impacts from developments. The recommended assessment objectives vary depending on the potentially affected receivers, time of day and the type of noise source. The NPI has two requirements which both have to be complied with, namely an amenity criterion and an intrusiveness criterion.

4.1.2.2.1 Intrusiveness Criterion

The intrusiveness criterion is intended to limit the audibility of noise emissions at **residential receivers** and requires that noise emissions measured using the L_{eq} descriptor not exceed the background noise level by more than 5 dB(A). The formulated intrusiveness criteria for the project site based on the measured background noise levels are as follows:

Table 6 – NSW EPA NPI Intrusiveness Criteria

Receiver	Time of Day	Background Noise Level dB(A) $L_{90}(\text{Period})$	Intrusiveness Criteria (Background + 5 dB(A) $L_{eq}(15\text{-min})$)
Residential Receivers	Day (7:00am – 6:00pm)	60	65
	Evening (6:00pm – 10:00pm)	51	56
	Late Evening (10:00pm – 12:00am)	43	48
	Night (12:00am – 7:00am)	43	48

4.1.2.2.2 Amenity Criterion

The amenity guideline is intended to limit the absolute noise level from all noise sources to a level that is consistent with the general environment. The *Noise Policy for Industry* sets out acceptable noise levels for various land uses. Table 2.2 on page 11 of the policy has four categories to distinguish different residential areas. They are rural, suburban, urban and urban/industrial interface.

The NPI requires the project amenity noise level to be calculated in the following manner:

$$L_{Aeq, 15min} = \text{Recommended Amenity Noise Level} - 5 \text{ dB(A)} + 3 \text{ dB(A)}$$

For the purposes of a conservative assessment, this office will assess noise emissions in accordance with the 'Urban' category. 'Urban' is defined as area which has an acoustical environment incorporating the following characteristics:

- Is dominated by 'urban hum' or industrial source noise
- Has through traffic characteristically heavy and continuous traffic flows during peak periods
- Is near commercial districts
- Has any combination of the above.

Table 7 – NSW EPA NPI Project Amenity Criteria

Type of Receiver	Time of Day	Project Amenity Noise Level – dB(A) _{Leq(15-min)}
Residential (Urban)	Day (7:00am – 6:00pm)	58
	Evening (6:00pm – 10:00pm)	48
	Late Evening (10:00pm – 12:00am)	48
	Night (12:00am – 7:00am)	43
Commercial/ Local Centres	When in Use	63

4.1.2.3 Summarised Mechanical Plant Noise Emission Goals

The following table presents the mechanical plant noise emission objectives for nearby sensitive receivers.

Table 8 – Mechanical Plant Noise Emission Criteria

Location	Time	Background Noise Level dB(A) _{Leq}	Project Amenity Criteria dB(A) _{Leq}	Project Intrusiveness Criteria dB(A) _{Leq}	Woollahra DCP 2015	Project Noise Trigger Level dB(A) _{Leq}
Nearby Residences R3/R4/R5	Day (7am – 6pm)	60	58	65	60	58
	Evening (6pm – 10pm)	51	48	56	51	48
	Late Evening (10pm – 12am)	43	48	48	43	43
	Night (12am – 7am)	43	43	48	43	43
Commercial/Local Centre R1/R2	When in use	N/A	63	N/A	N/A	63

5 NOISE EMISSIONS ASSESSMENT

An assessment of noise emissions from the proposed bar tenancy has been conducted to ensure that the amenity of nearby land users is not adversely affected.

The following sources will be assessed:

- Noise from patrons/music (indoor areas only).
- Noise from mechanical plant (in principle).

5.1 OPERATIONAL NOISE SOURCES (PATRON/MUSIC)

An assessment of patron and music noise has been conducted and the predicted noise levels are shown below.

Noise emissions have been assessed in accordance with the trading hours (from 12:00pm to 2:00am).

In any case, noise emissions will be predicted based on the following adopted modelling parameters:

- Patron noise in indoor areas are of a sound power level of 77 dB(A)_{L10}, representative of a raised voice, with one in two patrons speaking at any one time.
- Foreground music and vocal noise with an internal sound power level of 85dB(A)_{L10} – typical of amplified music when the music is to be played as part of the dominating soundscape.
- Indoor dining areas are assumed to be filled to the maximum seating capacities.
- The recommendations set out in Section 6 of this report have been implemented.

5.1.1 Predicted Noise Levels from Music and Patrons

The assessment has been based on noise levels that occur during typical worst-case situations. This event would correspond to maximum use periods E.g., Friday and Saturday evenings. The predicted patron and music noise emission levels are presented below.

Table 9 – Patron/Music Noise Emission to R3, R4 & R5 (Residential)

Receivers	f (Hz)	31.5	63	125	250	500	1k	2k	4k	8k	A-wt
R3	Predicted Noise Level dB(A)L ₁₀	25	25	33	25	29	23	22	13	4	30
	Noise Emission Goal (Night)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R4	Predicted Noise Level dB(A)L ₁₀	22	22	29	19	23	17	16	7	2	24
	Noise Emission Goal (Night)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R5	Predicted Noise Level dB(A)L ₁₀	37	37	42	38	43	40	35	27	18	44
	Noise Emission Goal (Night)	55	55	56	46	44	42	40	36	31	48
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

5.1.2 Mechanical Plant Noise Emissions

As detailed plant selections and locations are yet to be finalised, it is recommended that a detailed review of all external plant should be conducted at CC stage once final plant selections and locations have been made. Acoustic treatment should be determined to control plant noise emissions to nearby sensitive receivers and achieve the relevant noise emission goals identified above.

6 RECOMMENDATIONS/MANAGEMENT CONTROLS

The following building and management controls are required to achieve the noise emission goals identified in Section 4.1.

- No more than 100 internal patrons and 15 staff are allowed within the premises at any time.
- The single-entry door may be left open at all times during trading hours. All other doors are to be fitted with a closing mechanism to ensure that they are not left open and used only for ingress/egress. Doors and windows should be fitted with full perimeter acoustic seals.
- Any foreground music/singing is to be at a maximum internal sound pressure level of 85dB(A)_{L10}.
- It is recommended that the management keep a complaint register on site and that noise complaints are registered, and any respective remedial actions undertaken to address complaints. This register should be stored on site and be always accessible.
- Trading hours are to be within the operating hours identified within this report – 8:00am to 2:00am Monday to Saturday and 12:00pm to 10:00pm Sunday.
- Speakers are to be vibration isolated from the building structure by NRD mounts or equal.
- Signs are to be displayed at the entrance of the bar reminding patrons to minimise noise when departing the premise.
- All garbage and bottle collection services are only to be conducted during daytime hours (7am - 6pm).
- A detailed acoustic review of mechanical plant proposed to be installed into the tenancy shall be undertaken once plant selections and locations have been finalised.

7 CONCLUSION

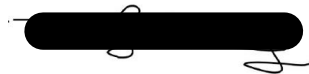
This report presents an acoustic assessment of potential noise impacts associated with the proposed licensed venue on the lower ground floor and of the development located at 24 Bay Street, Double Bay. Noise emissions have been assessed in accordance with the following documents:

- Woollahra Municipal Council Development Control Plan (DCP) 2015
- Independent Liquor & Gaming Authority (ILGA) – Liquor & Gaming Authority NSW
- NSW Environmental Protection Authority (EPA) – *Noise Policy for Industry 2017*

Provided that the recommendations presented in this report have been implemented, noise emissions from the operation of the proposed licensed venue can comply with the acoustic objectives of this report.

We trust this information is satisfactory. Please contact us should you have any further queries.

Yours faithfully,

A black rectangular redaction box covers the signature of James Ting. A small handwritten mark is visible below the redaction.

Acoustic Logic Pty Ltd
James Ting

Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings

