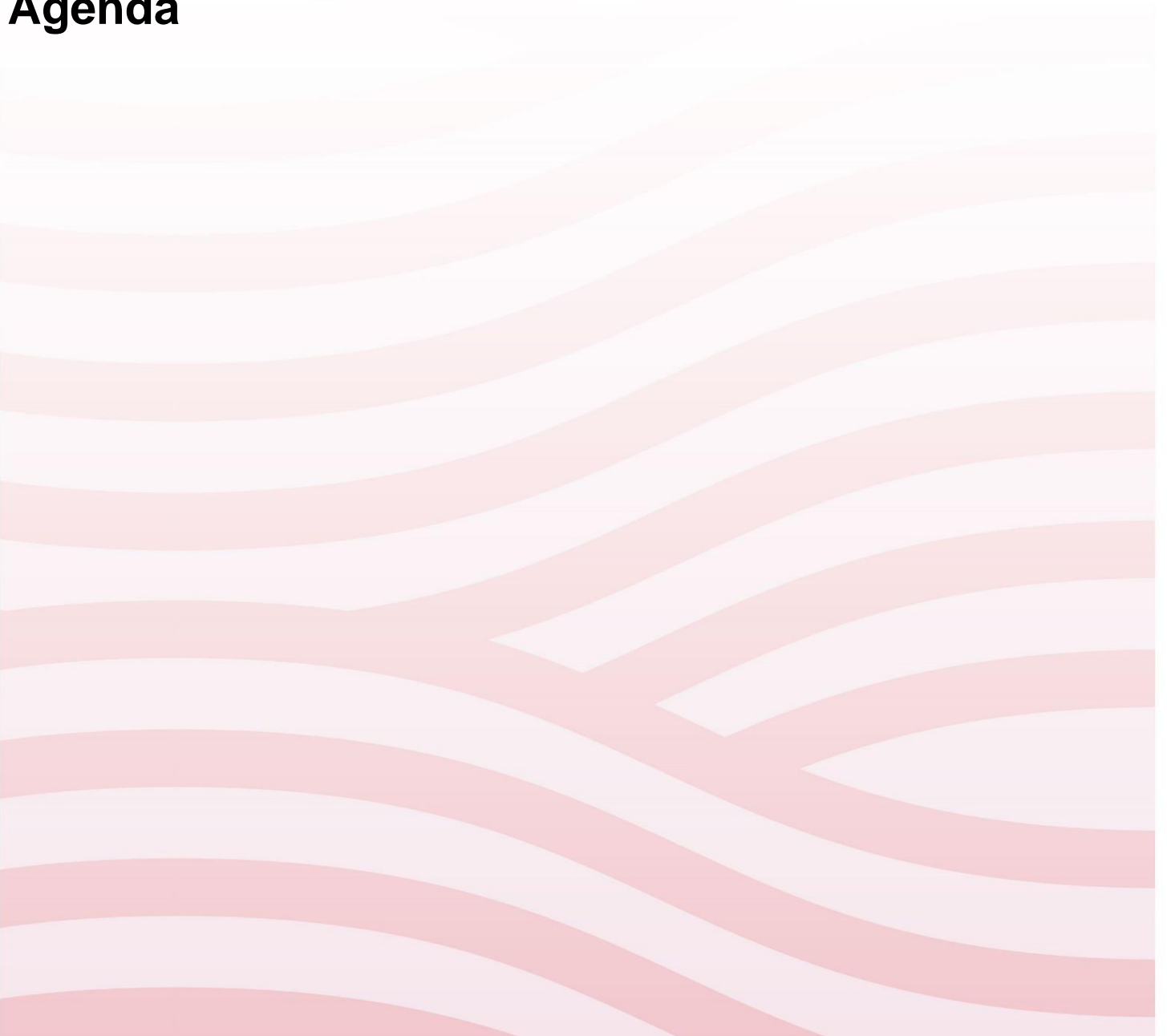




Woollahra Local Planning Panel (Public Meeting)

Thursday 15 February 2024
1.00pm

Agenda



Woollahra Local Planning Panel (Public Meetings):

Woollahra Council will be holding Woollahra Local Planning Panel (WLPP) meetings remotely 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 may attend via audio-visual link.

In response to the Directive issued by the Minister for Planning & Public Spaces on 30 June 2020, the Woollahra Local Planning Panel was required to change the way applications are considered from 1 August 2020.

In this regard, the applications listed on this Agenda will be considered at a public meeting by the Panel.

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

Instructions on how to join the meeting will be forwarded to person who have pre-registered to listen or make a submission to the panel.

This information will be forwarded on the day of the meeting via email.

Late correspondence may be submitted for consideration by the Panel. All late correspondence must be received by **12 noon on the day before the meeting**. Late correspondence is to be emailed to records@woollahra.nsw.gov.au

The Woollahra Local Planning Panel (Public Agenda), including the assessment report on the development application, will be publically available on Council's website six (6) days prior to the meeting at: www.woollahra.nsw.gov.au/council/meetings_and_committees/agendas_and_minutes

Minutes of the Woollahra Local Planning Panel (Electronic Meeting) will be posted to Council's website once finalised.

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

A audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

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

- The Chair will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chair will commence the Order of Business as shown in the Index to the Agenda.
- To listen to the meeting, please register by sending your name, phone number, email address and item you are interested in to records@woollahra.nsw.gov.au by **12 noon on the day before the meeting**.
- To register to speak at the meeting, you should register using the appropriate 'Register to address the Panel Application Form' as available on Council's website at: www.woollahra.nsw.gov.au by **12 noon on the day before the meeting**.
- Members of the Public who have pre-registered to listen or speak at a meeting will be sent an email with the audio-visual link prior to the meeting. Please **do not** share the audio-visual link with any third party/ies.
- Members of the Public who have pre-registered to speak will be allowed three (3) minutes in which to address the Panel, one (1) warning bell will be rung at the conclusion of two (2) minutes and two (2) warning bells rung at the conclusion of three (3) minutes. 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 Chair 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) in closed session, and arrive at a resolution.
- Minutes of the Woollahra Local Planning Panel (Public Meeting) will be posted to Council's website once finalised.

Disclaimer:

By speaking at the Woollahra Local Planning Panel (WLPP) 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.

The recording of each meeting will be retained on Council's website for a minimum period of 6 months. After that period has passed, recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

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

Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

Quorum:

3 Panel members

Woollahra Municipal Council

Notice of Meeting

6 February 2024

To: Woollahra Local Planning Panel Members
Chair
Experts
Community Representative

Dear Panel Members,

Woollahra Local Planning Panel (Public Meeting) – 15 February 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Public Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 15 February 2024 at 1.00pm.**

Members of the public may:

- Register to address the meeting by **no later than 12 noon on the day before the meeting** using the following Register to Speak Form
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_register_to_speak.
- Submit late correspondence for consideration by the Panel by emailing records@woollahra.nsw.gov.au by **no later than 12 noon on the day before the meeting.**
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**
https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

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

Regards,

Craig Swift-McNair
General Manager

**Woollahra Local Planning Panel
(Public Meeting)
Agenda**

Item	Subject	Page
1	Opening	
2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3	Leave of Absence and Apologies	
4	Disclosures of Interest	

Items to be Decided by the Panel

D1	DA245/2023/1 - 19-27 Bay Street, Double Bay - 24/180957 *See Recommendation Page 87
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LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA245/2023/1 (PAN-349726)
ADDRESS	19 & 21-27 Bay Street DOUBLE BAY (Lot 1 in DP90466 & Lot 2127 in DP 1286633)
COUNCIL WARD	Double Bay
SITE AREA	1,026.6m ² (total combined site area)
ZONING	E1 Local Centre
PROPOSAL	Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage
TYPE OF CONSENT	Integrated development
COST OF WORKS	\$10,960,000.00
DATE LODGED	12/07/2023
APPLICANT	The Trustee for 21 Bay Trust
OWNER	21 Bay Pty Ltd
AUTHOR	Mr W Perdigao
TEAM LEADER	T Wong
SUBMISSIONS	>10 Objections & >10 letters of support
RECOMMENDATION	Approval

1. PREAMBLE

The subject Development Application was considered by the Woollahra Local Planning Panel (WLPP) on Thursday 21 December 2023. The Panel resolved:

“THAT the Woollahra Local Planning Panel, exercising the functions of Council, defer Development Application No. 245/2023/1 for the demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage on land at 19 & 21-27 Bay Street Double Bay, to the Public meeting of the Woollahra Local Planning Panel to be held on 1 February 2024 on the grounds that the total number of submissions (by way of unique objections) exceeded 10.”

2. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)

The application is to be determined by the Woollahra Local Planning Panel (LPP) as it falls under the category of:

- Contentious development
Development that:
 - (a) is the subject of 10 or more unique submissions by way of objection

AND

- Departure from development standards

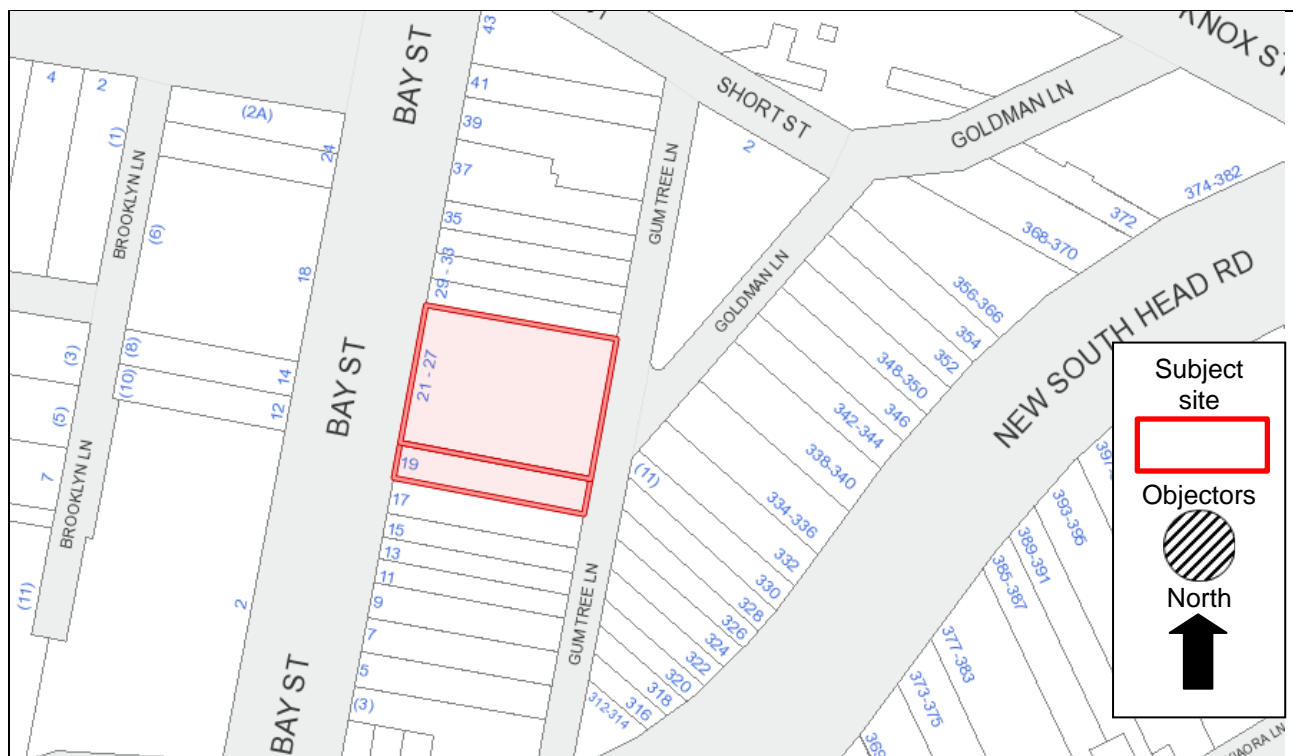
- (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

3. 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;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

4. LOCALITY PLAN



Note: A total of twelve (12) objections were received including multiple submissions from the Double Bay Residents (DBRA) and from unknown or addresses located outside of the above Locality Plan. Refer to Section 10.1 of this report for details.

5. PROPOSAL

5.1. Description of Proposal

Development Application DA 245/2023/1 ("DA") seeks consent for the demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage ("the Proposal") located at 19 & 21-27 Bay Street, Double Bay legally described as Lot 1 in DP90466 and Lot 2127 in DP 1286633 ("the Site").

5.2. Detailed Description

Specifically, the proposal involves the following components:

- Demolition of the existing commercial building at No 19 Bay Street;
- Earthworks and associated bulk excavation to accommodate the construction of the proposed basement levels;
- Construction of a new five (5) storey mixed-use commercial development (retail and restaurant) above four (4) basement levels comprising a single retail gallery ('retail use') occupying the ground floor level, levels 1, 2 and 3, and a restaurant use occupying the uppermost floor (level 4). Parking for fifty-nine (59) cars is accommodated across the four levels of basement including vehicular access via Gumtree Lane. A floor-by-floor breakdown of the proposal is provided below:
 - Basement B4 (RL -7.38 AHD): 15 x car parking spaces, 3 x motorbike parking, 11 x bicycle storage, 2 x loading bays. This level also includes end-of-trip facilities, unisex accessible WC and shower, a retail storeroom, sewer pump station and services cupboards. Internal lifts and stairs to upper levels is provided.
 - Basement B3 (RL -4.56 AHD): 16 x car parking spaces, 1 x motorbike parking, 28 x bicycle storage with locker storage. This level also includes end of trip facilities, unisex accessible WC and shower, cleaners storage room, and services cupboards. Internal lifts and stairs to upper and lower levels is provided.
 - Basement B2 Level (RL -1.74 AHD): 16 x car parking spaces, 1 x motorbike parking. This level also includes a restaurant bin room, retail bin room, tow tractor store (to transport bins), hot water plant, and services cupboards. Internal lifts and stairs to upper and lower levels is provided.
 - Basement B1 Level (RL 1.08 AHD): 12 x car parking spaces (including 2 accessible spaces), 1 x motorbike parking. This level also includes the hydrant pump room, grease arrestor, switch and comms room, and services cupboards. Internal lifts and stairs to upper and lower levels is provided.
 - Ground Floor (RL 3.935 AHD - RL 5.00 AHD): Retail gallery, substation, booster, gas meter, stormfilter chamber, services cupboards. A central thoroughfare from the Bay Street entry to the Gum Tree Lane staircase offers a through site link between the main street and rear laneway. Internal lifts and stairs to upper and lower levels is provided. Entry to the basement parking levels is from a two-way driveway and a vehicle access ramp, accessible from Gum Tree Lane at the north-eastern corner of the site.
 - Level 1 Floor (RL 8.49 AHD): Retail gallery, electrical room, services cupboards. Internal lifts and stairs to upper and lower levels is provided.
 - Level 2 Floor (RL 11.740 AHD): Retail gallery, electrical room, services cupboards. Internal lifts and stairs to upper and lower levels is provided.
 - Level 3 Floor (RL 14.99 AHD): Retail gallery, electrical room, services cupboards. Internal lifts and stairs to upper and lower levels is provided. A covered trafficable terrace is located at the front of the site addressing Bay Street, and an uncovered trafficable terrace and planters along the rear addressing Gum Tree Lane.

- Level 4 Floor (RL 18.24 AHD): Restaurant (internal and external seating), back of house, kitchen, WCs, refrigeration room, wine/beverage store, office, coat store, waste room, and lift and stair access.
- Roof level (RL 21.24 AHD - RL 22.79 AHD): Skillion and flat roofs form, lift overruns, roof access hatch; AC condenser unit enclosure, and 8 x PV panels.
- Awnings above the footpath along Bay Street;
- Utility and fire protection services are incorporated into the ground floor Gumtree Lane façade.
- Landscaping: Landscaping comprising small planter boxes are proposed at the terrace and balcony edges of the Level 4 (Bay Street) and Level 3 (Gum Tree Lane) terraces.
- Signage: Two (2) x illuminated building identification/business identification wall signs are proposed in a central position on the façade above Level 3 (Bay Street), and above Level 2 (Gum Tree Lane). The signs measure approximately 0.42m (h) x 0.69m (w) and contain block lettering "RH".

Proposed Plan of Management and Operational Details (Retail Gallery and Restaurant)

The DA also seeks consent for the use of the building as "RH, the Gallery at Double Bay".

The proposed use is for a design gallery located across the Ground Floor, Levels 1, 2 and 3 which is intended to offer high-end interior design services with installations of luxury home furnishing collections across each gallery level ('the retail gallery component').

The proposed use also intended to include an integrated food and beverage restaurant ('restaurant component'), at Level 4 which includes indoor and outdoor dining.

The building is to be solely occupied and operated by a single operator known as RH.

The proposal more specifically seeks the following:

- Hours of Operation: The proposal seeks the following hours of operation for the *retail* and *restaurant* components (across all levels indoor and outdoor):
 - Monday to Saturday: 10am to 9pm
 - Sunday: 10am to 8pm
- Patron numbers: The proposal seeks a patron seating capacity for the restaurant of (176) patrons (96 indoor and 80 outdoor).
- Staff numbers: The proposal seeks a total number of rostered staff at any given time for the entire premises being a maximum of (70) staff, allocated as follows:
 - *Retail Gallery (Ground, Level 1, 2 and 3)*: The total number of rostered staff at any given time for the 'Retail Gallery' premises being a maximum of (30) staff.
 - *Restaurant (Level 4)*: The total number of rostered staff at any given time for the 'Restaurant' 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.

5.2.1. Amended Plans and Additional Information

On 31 July 2023, 26 October and 1 November 2023, amended plans and additional documentation was provided to address issues identified by Council's Traffic Engineering and Urban Design staff as well as issues identified by the Public Objection to the DA (further detailed in Section 7 below).

Specifically, the above has the effect of amending the DA, as originally submitted, including the following key design changes:

- Vehicular Access and Parking Arrangement refinements including:
 - Details of pedestrian sight splays;
 - Detailing ramp width and access driveway dimensions;
 - Detailing accessible parking.
- Additional awning cover above the Bay Street retail entry.
- Additional rooftop planting to the Level 4 rooftop outdoor dining terrace.
- Revised Operational Waste Management Plan, detailing proposed waste collection to be located wholly within the basement level (with no kerb-side/on-street waste collection).

Modifications to Plan of Management

The Plan of Management was also amended to include the following key changes:

- Revised Patron numbers: A seating capacity for the restaurant being (136) patrons (reduced from 176 patrons).
- Revised Staff numbers: A total number of rostered staff at any given time for the entire premises being a maximum of (52) staff (reduced from 70 staff), including the following allocations:
 - *Retail Gallery (Ground, Level 1, 2 and 3)*: A revised total number of rostered staff at any given time for the 'Retail Gallery' premises being a maximum of (20) staff (reduced from 30 staff).
 - *Restaurant (Level 4)*: A revised total number of rostered staff at any given time for the 'Restaurant' premises being a maximum of (32) staff (reduced from 40 staff).

Refer to the submitted Amended Plan of Management (POM) Revision 2 dated October 2023 for 'RH, the Gallery at Double Bay' at 19-27 Bay Street Double Bay – Refer to **Annexure 2**.

Note: The revised architectural plans set (DA Rev "B" Response to Council RFI dated 16 October 2023) prepared by MHN Design Union 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.

5.3. 3D Images and Photomontages



Photomontage of the proposed development, as viewed from Bay Street (Source: MHN Design Union)



Photomontage of the proposed development, as viewed from Bay Street (Source: MHN Design Union)



Photomontage of the proposed development, as viewed from Gum Tree Lane (Source: MHN Design Union)

6. ISSUES

6.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	A 3.43m or 23.3%, departure from the 14.7m control	Satisfactory*
Part 4.4	Floor Space Ratio	A 232.45m ² or 9%, non-compliance with the 2.5:1 control	Satisfactory*

*cl4.6 written requests were submitted for Part 4.3 and Part 4.4 and were found to be satisfactory

6.2. Primary Issues

Issue	Conclusion	Section
<p>Objector Concerns</p> <ul style="list-style-type: none"> - Earthworks & Adjoining Owner's Consent; - Risks of Excavation & Potential Environmental Impacts; - Traffic Impacts and TfNSW Referral Requirement (Traffic Generating Development); and, - Built Form & Proposed Clause 4.6 Variation Requests - Excessive Height; - Excessive FSR; - Non-compliances with WDCP; - Noise impacts arising from roof-top restaurant; - Illuminated signage; - Electronic WLPP meeting excludes objectors from meeting. 	<p>Acceptable, the issues raised do not warrant refusal and/or modifications of the DA and are addressed under the relevant headings of the report. Appropriate conditions of consent to address and/or mitigate any environmental impacts arising the above issues (where relevant) have been recommended.</p>	10.1

Issue	Conclusion	Section
Non-compliance with the height of buildings development standard	<p>Acceptable – The written submissions from the applicant have adequately demonstrated that the contravention of the <i>Height of Buildings</i> and <i>Floor Space Ratio</i> development standards prescribed by Part 4.3, and Part 4.4 of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6. Compliance with the development standards are unreasonable or unnecessary in the circumstances of the case, and sufficient environmental planning grounds have been demonstrated to justify the contravention of the standards.</p> <p>The proposal is in the public interest as it is consistent with the objectives of the development standards and those applicable to development within the zone. Departure from the controls is supported.</p>	18.3 & 18.4
Non-compliance with the floor space ratio development standard		
Non-compliances with the WDCP 2015 Chapter D5 Double Bay Centre Building Envelope and Street Character controls	<p>Acceptable and/or does not warrant refusal or further modification of the application.</p> <p>The proposed height, bulk, scale, massing and configuration of the development, whilst seeking a variation to the prescribed DCP building envelope controls, are generally acceptable on merit achieving consistency with the relevant objectives contained in <i>D5.4: Street Character</i>, <i>D5.5: Built form envelopes</i> and <i>D5.6: Development Controls</i> in Chapter D5 of the WDCP 2015.</p>	19.1-19.5.5
Desired future character	<p>Acceptable and/or does not warrant refusal or further modification of the application.</p> <p>The proposal is not considered to be inconsistent with the desired future character of the neighbourhood or area.</p>	18.4.4
Illuminated signage	<p>Acceptable, subject to Condition C.3(a) requiring that the proposed signage is non-illuminated.</p> <p>The proposal is considered to be acceptable with regard to Chapter 3 – Advertising and Signage of the SEPP (Industry and Employment) 2021.</p>	12 & 19.12
Parking provision	<p>Acceptable, Council's Traffic Engineering section supports the minor short-fall of non-residential parking.</p> <p>The proposal is considered to achieve consistency with regards to the objectives and controls in <i>Chapter E1: Parking and Access</i> of the WDCP 2015 and/or is addressed by relevant conditions.</p>	19.6.1
Waste collection and deliveries impeding on traffic flows in the locality	<p>Acceptable, waste collection and deliveries can be readily accommodated on-site and all deliveries/collections must be undertaken outside of peak hours by imposition on-going Condition I.10 requiring waste collection and/or deliveries to be undertaken outside of peak traffic periods.</p>	19.10.2
New Licensed Premises including roof-top dining	<p>Acceptable, subject to the recommended on-going acoustic measures and operational restrictions (recommended Conditions I.1-I.22) 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.</p>	19.13

Issue	Conclusion	Section
	The proposal is considered to be acceptable with the relevant controls and achieves the underlying objectives of the Chapter F3: Licensed Premises of the WDCP 2015	

PROPERTY DETAILS AND REFERRALS

7. SITE AND LOCALITY

Physical features
<p>The Site is located at 19 and 21-27 Bay Street, Double Bay (AKA 19-27 Bay Street, Double Bay). The subject site ("Site") comprises the following two (2) allotments, more particularly described as:</p> <ul style="list-style-type: none"> Lot 1 in DP 90466, known as 19 Bay Street; Lot 2127 in DP 1286633, known as 21-27 Bay Street. <p>The Site has a combined area of 1,026.6m². The consolidated site is of a rectangular shape comprising of a primary street frontage to Bay Street (west) of 30.44m and a secondary street frontage to Gumtree Lane (east) of 30.53m, a northern (side) boundary of 33.73m and a southern (side) boundary of 33.785m.</p>
Topography
<p>The Site has a slight south-to-north and west-to-east cross fall, ranging from RL 5.79 AHD at the south-western corner to RL 4.20 AHD at the north-eastern corner.</p>
Existing Buildings and Structures
<p>The Site is presently developed with the following:</p> <ul style="list-style-type: none"> No 19 Bay Street, contains a two-storey commercial building; No 21-27 Bay Street, is currently a vacant site with demolition of existing structures already undertaken under DA14/2021 for <i>demolition of the existing buildings and the construction of a five-storey commercial development over basement parking, including the provision of a through-site pedestrian link</i>.
Environment
<p>The Site is located to the southern section of Bay Street within the Double Bay Local Centre (B2 Local Centre Zone of the WLEP).</p> <p>The Site forms part of the Bay Street (south) precinct and Gumtree Lane precincts of the Double Bay commercial centre as described in the Woollahra Development Control Plan 2015 ("WDCP") at Section D5.4.4: Bay Street (South), D5.4.11: Gumtree Lane and D5.5.9 Control Drawing 5, i.e. the eastern side of Bay Street and western side of Gumtree Lane, being the block between Short Street and New South Head Road. It is bound by road reserves on two of its boundaries that is Bay Street, to the west; and Gumtree Lane, to the east.</p>
Adjoining Development
<p>Development that immediately surrounds the Site comprises a mixture of uses and buildings, and includes:</p> <ul style="list-style-type: none"> Immediately to the north, is a group of three (3) two-storey terrace style buildings at Nos 29-33 Bay Street which are identified as character buildings within the WDCP. Further to the north, are one (1) and two (2) storey commercial buildings at No's 37, 39, 41 and 43 Bay Street and even further (north of Short Street) is a six (6) storey shop-top housing development, known as the Cosmopolitan Building; Immediately to the south of the site, are a mix of older and contemporary two (2) storey commercial buildings, at No's 3-17 Bay Street. The property immediately adjoining the site, No. 17 Bay Street, was granted consent (deferred commencement) in July 2023 for alterations and additions that increase the height of the development to four storeys to provide for a shop top housing use. That approval included support for a variation of 2.65 metres (as defined excluding basement) to accommodate a minor elevated ceiling and roof in the level 4 residential use. To the west of the site, on the opposite side of Bay Street, there are a mix of development and activities comprising:

- At the southern end of the street is the construction site of No. 2-10 Bay Street & 294-298 New South Head Road. It is a large 5 storey mixed use (retail and commercial development) currently under construction as per DA 280/2022. The building steps down Bay Street from New South Head Road. This was approved by the NSW Land and Environment Court on 11 May 2023.
- 12 and 14 Bay Street comprise two adjoining terraces. No 14 is approved for a narrow 5-storey building (DA 449/2020). It was approved by the NSW Land and Environment Court on 17 November 2021 following a Woollahra Local Planning Panel decision to refuse the development application;
- 18 – 22 Bay Street comprises a mixed use five storey mixed-use building.
- At the immediate northern part of the street opposite the site, on the corner of Cooper Street is the construction site of No. 2A Cooper Street (AKA 24 Bay Street). It is a large 5 storey commercial development (DA 68/2021). This was approved by the NSW Land and Environment Court on 03 February 2022 following a Council decision to refuse the development application.

Further to the west, is the R3 Medium Density Residential zone.

- **To the east and north-east**, directly across Gumtree Lane is a mix of old and contemporary styled **commercial** buildings of two (2) to three (3) storeys which are orientated primarily towards New South Head Road.

7.1. Aerial Image of Site



Aerial Image of Site (Source: Council's GIS Mapping System)

7.2. Images (Subject Site)



8. RELEVANT PROPERTY HISTORY

Current use
No. 21-27 Bay Street: Vacant site (original building demolished) No. 19 Bay Street: Commercial
Relevant Application History
<p>The following DA approval history for the properties at Nos. 19, 21, 23-25 and 27 Bay Street:</p> <ul style="list-style-type: none"> • DA 535/2021/1 – A DA for a five-storey commercial development on the amalgamated subject site at Nos. 19-27 Bay Street was submitted to Council. The DA progressed to Court however the refusal was upheld by the Land and Environment Court on the 10 January 2023 (<i>Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2023] NSWLEC 1005</i>). • DA 14/2021/1 – A DA for <i>demolition of the existing buildings and the construction of a five-storey commercial development over basement parking, including the provision of a through-site pedestrian link</i> at 21-27 Bay Street Double Bay was approved by the Land and Environment Court on the 6 October 2022. (<i>Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2021] NSWLEC 1585</i>). • DA 33/2018/1 – A DA for <i>demolition of existing structures and construction of a new five (5) storey shop-top housing development, containing 15 apartments, three ground floor level retail spaces, two landscape rooftop gardens and car parking with vehicular access via Gumtree Lane</i> at 21-27 Bay Street Double Bay was approved by the Land and Environment Court on the 18 February 2020 (<i>Thing Net Pty Limited v Woollahra Municipal Council [2020] NSWLEC 1063</i>). Note: This DA was surrendered on 27 March 2023 to satisfy Condition C.1 of DA14/2021/1.
Relevant Compliance History
Nil
Pre-DA
Nil
Requests for Additional Information and Amended Plans/Documentation
<p>On 27 July 2023, a “Stop the clock” letter was sent to the applicant requesting the following amended plans/additional information:</p> <ul style="list-style-type: none"> • Amended Statement of Environmental Effects (SEE) including assessment against <i>Chapter F3 Licensed Premises</i> of the WDCP 2015; • Acoustic Report. <p>On 31 July 2023, Additional information was provided that addressed the above “Stop the clock” issues, including an amended SEE prepared by GSA Planning dated 31 July 2023. It was also confirmed that an Acoustic Report had been submitted and therefore was not required.</p> <p>On 14 September 2023, a Request for Further Information (RFI) letter was sent to the applicant requesting a response to the issues raised by Council’s Urban Design and Traffic Engineer.</p> <p>On 31 July 2023, Additional information/amended plans was provided that addressed the above “RFI” issues, including:</p> <ul style="list-style-type: none"> • Cover Letter prepared by GSA; • Updated Architectural Drawings and Photomontages prepared by MHNDU; • Urban Design Response prepared by AE Design; • Traffic & Parking Response prepared by TTPP; • Updated Plan of Management (POM) prepared by RH; • Updated Operational Waste Management Plan prepared by Elephants Foot. <p>Note: This are the final version of plans/documents to be approved and are referenced in Condition A.3.</p> <p>On 26 October 2023, Additional information/amended plans was provided in response to Public Submission to the DA, including:</p> <ul style="list-style-type: none"> • Response to Public Submissions letter prepared by GSA; • Geotechnical letter prepared by EI Australia; • Structural letter prepared by TTW; and • Traffic letter prepared by TTPP. <p>On 1 November 2023, an Addendum Cover Letter prepared by GSA was provided.</p>

Land and Environment Court Appeals (Previous)
<ul style="list-style-type: none"> • <u>DA 535/2021/1</u> – A Class 1 Appeal was dismissed by the LEC on the 10 January 2023. • <u>DA 14/2021/1</u> – A Class 1 Appeal (No. 2021/127725) was upheld by the LEC with amended plans on 6 October 2021. • <u>DA 33/2018/1</u> – A Class 1 Appeal (No. 2018/282273) was upheld by the LEC with amended plans on 18 February 2020.

9. REFERRALS

Referral	Summary of Referral Response(s)	Attachment
Internal Referrals		
Urban Design	Unsatisfactory. Refer to Planning Comment below.	5
Traffic Engineer	<u>1st Referral</u> Unsatisfactory, issues raised relating to parking provision and waste collection/deliveries. <u>2nd Referral</u> Acceptable, subject to relevant conditions being imposed.	9
Development Engineer	Acceptable, subject to relevant conditions being imposed.	10
Drainage Engineer	Acceptable, subject to relevant conditions being imposed. (flood protection)	11
Fire Safety Officer	No formal referral required, subject to relevant conditions being imposed.	-
Environmental Health	<u>1st Referral</u> Satisfactory, subject to relevant conditions being imposed however an assessment of acoustic related impacts relating to licensed premises and mechanical noise was not undertaken. Considerations relating to the restaurant use (food premises), Contaminated Land and Acid Sulfate Soils (ASS) considerations were however considered and deemed to be satisfactory subject to relevant conditions being imposed. <u>2nd Referral</u> Unsatisfactory, additional assessment of acoustic related impacts relating to licensed premises and mechanical noise was undertaken and concerns with insufficient information were raised. In response, Council engaged an independent Acoustic Engineer to undertake a peer-review noise impact assessment (refer to Attachment 13) and provides a generally satisfactory conclusion, 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.	12
Trees and Landscaping	Acceptable, subject to relevant conditions being imposed.	14
Heritage Officer	No formal referral required, subject to relevant conditions being imposed.	-
External Referrals		
Water NSW (Integrated Development)	Acceptable, General Terms of Approval have been provided under Section 90 of the <i>Water Management Act 2000</i> .	15
Transport for NSW	Transport for NSW have provided concurrence to the development under <i>Clause 2.122 (Traffic-generating development)</i> of the <i>Transport and Infrastructure SEPP 2021</i> .	16
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.	17

9.1 Planning Comment – Urban Design Referral Response

Council's Urban Design Consultant provided an unsatisfactory referral response in relation to the proposal as originally submitted.

On 14 September 2023, a Request for Further Information (RFI) dated 14 September 2023 was issued.

In response the Applicant provided the following additional information and amended plans

- Response to Council Request For Further Information (RFI) letter prepared by GSA Planning and dated 20 October 2023 – Refer to **Attachment 6**
- Addendum Response to Council Request For Further Information (RFI) letter prepared by GSA Planning and dated 1 November 2023 – Refer to **Attachment 7**
- Amended Architectural Plans (and Photomontages) prepared by MHNDU – Refer to **Attachment 1**
- Urban Design Statement prepared by AE Design dated 19 October 2023 – Refer to **Attachment 8**

Council's Urban Design Consultant provided the following recommendation:

“The proposal is not supported, and a redesign of the development is suggested. The redesign should consider the following observations (in no particular order and not purporting to be complete)…”

- 1. Removing the fifth floor of the building and reconfiguring the resulting four floors to maximise the potential building height, including attention to floor to floor heights and floor plate depths;**

Applicant Response: The applicant provides:

“The reasons for retaining the fifth story have been addressed in detail in the accompanying Urban Design Statement, and can be summarised as follows:

- *The proposal achieves the objectives of the development standard*
- *There are adequate planning grounds for the height non-compliance*
- *The proposed height is consistent with the desired future character of the neighbourhood*
- *The proposal is consistent with the dominant character within the visual catchment and streetscape of the site*
- *The proposal is consistent with the Double Bay Centre Draft Strategy*
- *No potential impacts to neighbours*

In relation to the floor-to-floor non-compliance, the Urban Design Statement concludes inter alia:

“The proposal thoughtfully incorporates slightly lower floor-to-floor heights compared to the standards outlined in the DCP. This design decision serves a dual purpose: firstly, to maintain consistency with the previous approval, and secondly, to minimize the extent of non-compliance with the LEP height regulations.

...

Incorporating strategies like floor-to-ceiling height windows and glass doors, this design plan ensures that natural light penetrates the spaces efficiently. While the proposal may not strictly adhere to the floor-to-floor height requirements in the DCP, it demonstrates an acute understanding of how to optimize the internal amenity.

The result is a project that successfully balances both external and internal considerations, ultimately achieving positive amenity outcomes. This approach serves as a testament to the importance of combining regulatory compliance with thoughtful design strategies to create harmonious, comfortable, and aesthetically pleasing urban spaces."

The Urban Design Statement outlines the irrelevance of the building envelope controls for the upper levels due to their commercial nature, stating *inter alia*:

"While the building footprint at the upper levels is in excess of 15.6m, the above control clearly indicates that this is in relation to residential development with building depths by referencing 'dwellings'. Therefore, the control is less relevant to commercial development, which requires larger floorplates for adequate efficiency and operational requirements, In any case, the proposal will achieve adequate natural light and ventilation to the commercial tenancies."

Further details can be found in the Urban Design Statement (separately submitted), and SEE, Clause 4.6 Request Height of Buildings, and Acoustic Impact Assessment submitted with the application."

Assessing Officer Comment: The above response is generally concurred with.

2. Addressing potential impacts of acoustic and privacy and visual intrusion by adhering to the required WDCP separation and setback requirements and attention to the proximity of any noise generating activities (for example the restaurant) to adjoining noise sensitive uses;

Applicant Response: The applicant provides:

"Council's Urban Design Referral Response does not identify any potential impacts to neighbours other than noise. Acoustic privacy of the restaurant has been previously addressed in a Noise Impact Assessment. This assessment found that acoustic privacy impacts of the proposed restaurant, despite any DCP separation variations, are acceptable and will not adversely impact adjoining noise sensitive uses. The reduction in patron numbers will further reduce any potential noise impact, and therefore enforcing compliance with DCP separation and setback requirements is unnecessary. Notwithstanding this, the possible impacts of activities on the terraces can be further addressed by conditions of consent for its operation and usage."

Assessing Officer Comment: The above response is generally concurred with. Furthermore, the recommended on-going operational restrictions (recommended **Conditions '1.1-1.22'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre of surrounding properties. These measures aim to minimise significantly adverse disturbance to residents.

3. Improving the design of the building so that it offers greater greenery and articulation to the Bay Street and Gum Tree Lane frontages;

Applicant Response: The applicant provides:

"In response to landscaping and façade design, the Urban Design Statement states;

'Design amendments to the rooftop terrace provide further landscape at the top level to soften the bulk of the proposal even further. Awning concepts further work to present a modulated design which is better addresses the narrow lot width of character buildings. Urban Design benefits from a compliant envelope are substantially the same as what is proposed and minor alterations will not have drastic improvements'

These proposed amendments will improve the presentation of the proposal and should be considered acceptable. Details of amended landscaping are included in the amended Architectural Plans (separately submitted) and are visible in the updated Photomontages (separately submitted)."

Assessing Officer Comment: The above response is generally concurred with.

4. Improving presentation of the building to both Bay Street and Gum Tree Lane by compliance with WDCP 2015 setbacks and articulation controls;

Applicant Response: The applicant provides:

"The Urban Design Statement has found that the presentation of the proposal would not be significantly improved by the strict enforcement of the relevant DCP setback controls, stating inter alia:

'Urban Design benefits from a compliant envelope are substantially the same as what is proposed and minor alterations will not have drastic improvements'

The statement further address the extent of compliance with the articulation controls, stating:

The proposed façade comprises a series of vertical and horizontal elements. The glazing is set back. In this instance, we note that the envelope control.

- *Identifies a 2.5 m articulation zone. The controls do not specify a minimum.*
- *Are written primarily for residential uses on the 1st floor and the floors above*

Assessing Officer Comment: The above response is generally concurred with.

5. Improving the amenity of the public domain by the provision of an awning at ground level to the Bay Street entrance, the provision of greater window area to the ground floor Gum Tree Lane frontage and greater visibility and legibility to the publicly accessible link to the Lane from Bay Street through the ground floor of the building (including suggestions on how that can be guaranteed in the longer term);

Applicant Response: The applicant provides:

"To improve the amenity of the public domain the addition of a new central awning is proposed to the Bay Street entrance (see amended Architectural Plans and Photomontage, separately submitted). Extensive glazing, a dual frontage, and the central spine design already proposed on the ground floor level promotes pedestrian permeability and facilitates a through site link. A further condition may be imposed that provides certainty of visibility and unrestricted public access during business hours."

Assessing Officer Comment: The above response is generally concurred with. Additional awning cover has been provided to Bay Street. Furthermore, **Condition I.22** (Maintenance of Public Access through Ground Floor Retail) is recommended to ensure that unrestricted public (pedestrian) access must be maintained at all times between Bay Street and Gum Tree Lane during the approved hours of operation.

6. Attention to roof design that obscures roof top air conditioning plant; and

Applicant Response: The applicant provides:

"The rooftop plant and air conditioning are largely obscured from the public domain, but the air conditioning will still be visible from taller buildings to the west and north. The urban design statement states:

'The existing street environment with dense tree foliage and narrower streets prevents long lines of sight to the proposal and therefore any visual impact is only visible at slight angles through side boundaries of underdeveloped lots with a susceptibility to change.'

The proposed amendments to rooftop plantings will further obscure the rooftop-built form and should be considered acceptable. Should Council request further screening to the rooftop plant, this could be provided as a condition of consent."

Assessing Officer Comment: The above response is generally concurred with. The rooftop AC units are centrally located on the roof and include screens ensuring that they are not readily visible from the public domain.

- 7. Attention to the configuration and style of building façade materials colours, fenestration and level setbacks / articulation to Bay Street to enable the building to offer a streetscape character that presents a distinctive two storey building wall, activation and style that is consistent with the prevailing character of the eastern side of the street. In some respects the approach adopted to the design of No 17 Bay Street and 2-10 Bay Street offer examples of approaches that may assist in this regard.**

Applicant Response: The applicant provides:

"The Urban Design Statement confirms that the proposed façade and architectural resolution remains compatible with the DCP controls, stating:

'Building frontage design is defined by vertical columns that are stepped forward from the window and building line to define and create narrow columns across the site with a wider central column distinguishing both sides at either end to break up the built form and follow an interpretation of previous terrace allotments.'

The articulated façade, proposed awning and materials will remain consistent with the predominant and emerging character of the street;

'Façade design and awning presentation will help to modulate the perceived bulk of the building when visible from primary public domain locations which mostly consist of those near the site as the streets natural elements obscure it from further distances. Development in the visual catchment particularly approved development which opposes the character buildings has the same effect on the Bay Street character.'

Accordingly, AE Design find the proposal to have a positive impact from an urban design perspective."

Assessing Officer Comment: The above response is generally concurred with. The proposal provides a high quality architecturally designed building which is not incompatible with the surrounding environment.

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.*

10. ADVERTISING AND NOTIFICATION

10.1. Submissions

The application was advertised and notified from 2 August 2023 to 1 September 2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

A total of approximately **197 submissions** were received in response to the DA, both within and outside the notification period. Of the submissions, **1 was an objection** to the DA and approximately **196 were in support** of the DA. The **objection to the DA** was received from Douglas Bennett OBO the Double Bay Residents Association (DBRA).

These were submitted prior to the finalisation of the WLPP (Electronic) Meeting agenda for the 21 December 2023.

Following the publishment of the WLPP Meeting agenda and prior to the meeting, a further **thirteen (13)** unique submissions by way of **objection to the DA** were received from:

1. Brian O'Dowd – Town Planner & Urban Designer;
2. Eva Santo of Unit 8/337 New South Head Road, Double Bay;
3. Peter Benjamin of Unit 5/337 New South Head Road, Double Bay;
4. Alex and Annette Koutzoumis of Unit 17 / 337 New South Head Road, Double Bay;
5. Janine Adams of unknown address;
6. Kay Gladstone of unknown address;
7. Jasmine Steel of unknown address;
8. Merrill Witt, Woollahra Councillor for the Vaucluse Ward;
9. Mark Silcocks, Woollahra Councillor and resident of 19 Court Road, Double Bay;
10. Malcom Young of 10 Pine Hill Avenue, Double Bay;
11. A Tregoning OBO the Double Bay Residents Association (DBRA);
12. Barbara Mortimer of 14-16 Wallaroy Road, Woollahra;
13. Joyce Somm of Unit 13/337 New South Head Road, Double Bay.

Objections to the DA

The submissions in objection to the DA raised the following key issues (in summary):

- Earthworks & Adjoining Owner's Consent;
- Risks of Excavation & Potential Environmental Impacts;
- Traffic Impacts and TfNSW Referral Requirement (Traffic Generating Development); and,
- Built Form & Proposed Clause 4.6 Variation Requests;
- Excessive Height;

- Excessive FSR;
- Non-compliances with WDCP;
- Noise impacts arising from roof-top restaurant;
- Illuminated signage;
- Electronic WLPP meeting excludes objectors from meeting.

Comment: The above are acknowledged and adequately addressed throughout the report that follows. The issues raised do not in itself warrant refusal and/or modification of the DA. Appropriate conditions of consent to address and/or mitigate adverse environmental impacts arising the above issues (where relevant) have been recommended.

Furthermore, it is noted that Councils Development and Traffic Engineers support the DA subject to recommended conditions. WaterNSW have provided General Terms of Approval (GTA) for the dewatering of the site during works. In addition, Transport for NSW have provided concurrence to the DA with no recommended conditions.

In addition, the DA as deferred from the WLPP (Electronic) meeting of 21 December 2023 is to be referred to a WLPP (Public) meeting for consideration.

Submissions in Support of the DA

The submissions in support of the DA was received from the local and wider community provided the following reasons (in summary) for support:

- RH as long-term tenants of the proposed building would bring significant benefits to Double Bay, through offering a unique, high-quality design and hospitality destination for residents and visitors.
- With the calibre of tenants such as RH, the vibrancy can be returned to support the people that live and work in the area.
- The well-considered design of the building would be a positive addition to the streetscape.
- The design and occupation of the site by RH encourages the revitalisation of Double Bay, acting as a drawcard for further premium brands to the area.
- RH's presence in Double Bay would save existing local customers trips to the United States, with the resident noting their gallery and restaurant setup would invigorate Double Bay.
- The author of one of the submissions is familiar with the RH Brand and the impact its Flagship has had on the reinvigoration of the Meatpacking District in New York City. As business owners who have conducted business in New York City they have witnessed firsthand the positive impact this development has had in that location, and would wish the same for Double Bay.
- The author for another submission considers that this new development will be 'absolutely fabulous for the amenity and local economy of Double Bay' given the reputation of RH, being a public company listed on the New York Stock Exchange, who has chosen Double Bay as their location for their first Australian flagship store.
- One supporter notes that the proposal is a 'beautiful development' that is worthy of approval and will add to the growing list of A grade restaurants and retailers setting up shop here and creating Double Bay as a truly international destination.

Comment: The proposal is recommended for approval.

10.2. Amended Plans and Additional Information

The Amended Plans and Additional Information as noted in Section 5.2.1 was not re-notified or re-advertised 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 and notified application.

10.3. Statutory Declaration

The applicant has completed the statutory declaration dated 04/09/2023 declaring that the site notice for DA245/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

11. INTEGRATED DEVELOPMENT (DIVISION 4.8 OF THE EP&A ACT 1979)

Section 4.46 of the Act provides that development is integrated development if it requires consent and it requires approval under certain other Acts. The proposed development is integrated as it requires development consent under Section 90 of the *Water Management Act 2000* (WM Act). Under the WM Act, a permit is required for development which involves water use, water management work and water activity. The proposal requires a Water Supply Work approval for the dewatering of the site. Therefore, WaterNSW is the approval body under the WM Act.

Section 4.47(3) provides that a consent must be consistent with the general terms of approval of an approval body. Section 4.47(4) provides that if an approval body informs a consent authority that it will not grant a required approval, the consent authority must refuse consent to the application. Section 4.47(5) provides that if an approval body fails to inform a consent authority the consent authority may determine the DA.

A copy of the determination is also required to be forwarded to WaterNSW in accordance with S4.47(6).

Under cl.45 of the Environmental Planning and Assessment Regulation 2021, an approval body is required to advise its decision in relation to the general terms of approval within 21 days after receiving the last of the submissions received during the submission period.

WaterNSW has provided General Terms of Approval (GTA), under Section 90 of the WM Act – refer to **Attachment 15** which are imposed in Condition A.7.

STATE ENVIRONMENTAL PLANNING POLICY (“SEPP”)

12. SEPP (INDUSTRY AND EMPLOYMENT) 2021

12.1. Chapter 3 – Advertising and Signage

Chapter 3 – Advertising and Signage of the SEPP (Industry and Employment) 2021 is applicable as the application involves signage which “*is visible from any public place or public reserve*”, as contained in Clause 3.4(1)(b) of the SEPP. Clause 3.6 of the SEPP requires the consent authority to consider whether the signage satisfies the objectives in Clause 3 (1) (a), and the assessment criteria specified in Schedule 5, of the SEPP.

The application involves the two (2) x new illuminated building identification/business identification wall signs (one to the Bay Street elevation above Level 3 and one to the Gumtree Lane elevation above Level 2. The signs measure approximately 0.42m (h) x 0.69m (w) with the lettering ‘RH’.



Signage Details (Source: MHNDUNION)

Clause 3.1: Aims

The objectives in of this Chapter are “to ensure that signage (including advertising):

- i) *Is compatible with the desired amenity and visual character of an area*
- ii) *Provides effective communication in suitable locations*
- iii) *Is of high quality design and finish*

Subject to **Condition C.3(a)** requiring that the proposed signage is non-illuminated, the proposed is acceptable with respect to the objectives in Clause 3.

12.2. Part 3.2: Signage Generally

The proposed signage is subject to the assessment criteria in Schedule 5 of the SEPP below:

Character of the area

The proposed signage is compatible with the proposed RH tenancy on the property and does not significantly alter the existing character of the street in this location. The signage will be constructed using sympathetic materials and muted colours to complement the architectural style of the building and visual character of the surrounding area.

Special areas

The proposed signage will not impact negatively in terms of amenity on the existing heritage or residential area.

Views and vistas

The proposed signage does not obscure or compromise important views or vistas.

Streetscape, setting or landscape

The scale and proportion of the proposed signage is appropriate to the setting and will not protrude above any buildings, structures or tree canopies in the area.

Site and building

The proposed signage is compatible in scale and proportion with the proposed buildings on site.

Associated devices and logos with advertisements and advertising structures

Not relevant to the scope of works.

Illumination

The proposal includes a new illuminated wall signs. Due to their proposed elevated location illumination is not considered reasonable when considering they are likely to be visible from surrounding residential properties within and outside of the Double Bay Centre.

Condition C.3(a) is therefore recommended which requires modification of the proposed plans to incorporate wording to the effect that the signs must not be illuminated.

The proposed signage therefore satisfies the objectives and assessment criteria of this part.

Safety

The proposed signage will not impact on the safety of cyclists, pedestrians or residents.

Conclusion

The proposal is considered to be acceptable with regard to Chapter 3 – Advertising and Signage of the SEPP (Industry and Employment) 2021 and/or is addressed via the recommended condition.

13. SEPP (RESILIENCE AND HAZARDS) 2021

13.1. Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) 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 located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11).

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

13.2. Chapter 4 – Remediation of Land

The aims of Chapter 4 of the Resilience and Hazards SEPP are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

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

Section 4.6(1) of Chapter 4 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.*

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

Section 4.6(2) of Chapter 4 provides:

- (2) *Before determining an application for consent to carry out development that would **involve a change of use** on any of the land specified in subclause (4), the **consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned** carried out in accordance with the contaminated land planning guidelines.*

Not relevant.

Section 4.6(3) and 4.6(4) of Chapter 4 provides:

- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. **The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.***
- (4) *The land concerned is—*
 - (a) ***land that is within an investigation area,***
 - (b) ***land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,***
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land—*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

A search of Council's Contaminated Land GIS mapping register indicates the Site as being potentially contaminated. Furthermore, the Site is located within close proximity to potentially contaminated sites within the Double Bay Centre.

Section 4.6(3) and 4.6(4) therefore apply as the site is identified as land within an investigation area or land identified as being potentially contaminated.

Assessment:

The following reports were reviewed by Council's Environmental Health Officer:

- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.

Council's Environmental Health Officer concludes:

"The applicant proposes the implementation of the RAP prepared by eiaustralia (2023), to which excavation and off-site disposal was selected as the remediation strategy.

Intrusive investigations across all reports have been conducted at the adjacent site no.21-27 Bay st which comprises the bulk of the redevelopment envelope. Limitations regarding access to no. 19 due were present due to existing commercial infrastructure limiting access to the site. Stage 2 of the RAP (eiaustralia, 2023) proposes further intrusive investigations to occur before bulk excavation. At this stage it can be determined whether potential contamination on site or in the fill is present as the RAP can be adapted accordingly.

Environmental health unit is satisfied with the proposed RAP prepared by eiaustralia (2023) and with respect to clause 4.6 of the SEPP that the site can be made suitable for proposed use."

It is therefore concluded by Council's Environmental Health Officer that the submitted RAP is satisfactory in terms of the objectives (a), (b) and (c) in Section 4.6(2) of Chapter 4 Remediation of Land, as:

- It provides a framework for the implementation of *Detailed (site) investigation* (Stage 2 Report) when site access becomes available;
- Provides a conceptual strategy to remediate and validate the site based on the findings of the Stage 1 and 2 Reports and the documented assumptions;
- Provides a contingency plan for the remediation works;
- Outlines site management procedures to be implemented during remediation work; and
- Provides an unexpected finds protocol to be implemented during the development works.

The above are all to be undertaken with reference to the National Environmental Protection (Assessment of Site Contamination) Measure 1999 & other guidelines made under or with regards to the Contaminated Land Management Act (1997) and Chapter 4 - Remediation of Land (former SEPP 55) and therefore the proposed development does promote the remediation of land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The above requirements are enforced by a DA condition requiring compliance with the framework outlined by the submitted RAP.

Therefore, Section 4.6(1) of Chapter 4 – Remediation of Land or a pre-condition of the grant of consent is satisfied.

Conclusion

The proposal 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.

14. SEPP (BIODIVERSITY AND CONSERVATION) 2021

Chapter 2 – Vegetation in non-rural areas

The proposal does not involve the removal of any trees nor result in any impacts upon trees as determined by Council's Tree and Landscape Officer. The potential for any adverse impacts upon street trees can be adequately mitigated via standard tree protection and preservation conditions.

The proposal therefore achieves consistency with regards to the relevant criteria prescribed by Chapter 2 of the Biodiversity and Conservation SEPP 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.

Council's Development and Drainage Engineers have determined that sufficient information has been submitted to enable an assessment of the proposal raising no adverse concerns with regards to water quality targets, stormwater and flood risk management concerns of the site subject to appropriate conditions of consent which ensure implementation of the proposed stormwater and flood risk management design for the development.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 6 – Water Catchments of the Biodiversity and Conservation SEPP 2021.

15. SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

Chapter 2 Infrastructure - Subdivision 2 Development in or adjacent to road corridors and road reservations

Division 17 Roads and traffic of Part 2.3 in Chapter 2 Infrastructure of the Transport and Infrastructure SEPP 2021, applies to the development based on its location adjacent to a Classified Road.

The subject site is located within the proximity of New South Head Road, a Classified Road.

The relevant considerations are:

- *Clause 2.118: Development on Proposed Classified Road*
- *Clause 2.119: Development with Frontage to Classified Road*
- *Clause 2.120: Impact of road noise or vibration on non-road development*
- *Clause 2.122 Traffic-generating development*

Clause 2.118: Development on Proposed Classified Road

Clause 2.118 requires concurrence from Transport for NSW, if works are proposed to be carried out within a Classified Road (New South Head Road) reserve. No works are proposed to the New South Head Road reserve.

Clause 2.119: Development with Frontage to Classified Road

Clause 2.119 applies to development that has a frontage to a Classified Road (New South Head Road). Not applicable as the site does not have a direct frontage to a Classified Road (New South Head Road).

Clause 2.120: Impact of road noise or vibration on non-road development

Clause 2.120 applies to development involving sensitive land-uses (including residential accommodation, places of public worship, hospitals and educational establishments or child-care facilities) that is on land in or adjacent to the road corridor for Classified Road or any road with an annual average daily traffic volume of more than 20,000 vehicles. Not applicable. The proposal does is not for a sensitive land-use purpose.

Clause 2.122 Traffic-generating development

Clause 2.122 requires concurrence from Transport for NSW, if new development considered to be Traffic-generating development.

Traffic-generating development is identified in Schedule 3 of the SEPP as of a size or capacity with:

- direct vehicular or pedestrian access to any road; or
- direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection

The proposed development has direct *vehicular* and *pedestrian* access to a road that connects to a classified road within 90m of the connection and is identified as of a size and capacity identified in Schedule 3 of the SEPP (refer to Table 1 below).

Transport for NSW have provided concurrence to the development under Clause 2.122.

Table 1: Schedule 3 Traffic-generating development to be referred to TfNSW—Chapter 2

Purpose of development	Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)
Commercial premises (other than premises specified elsewhere in this table)	2,500m ² in gross floor area
Food and drink premises (other than take away food and drink premises with drive-through facilities)	300m ² in gross floor area

Conclusion

The proposal is acceptable with regard to the relevant matters for consideration in Chapter 2 – Infrastructure of the Transport and Infrastructure SEPP 2021.

16. 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 commercial building.

17. 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.

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

18.1. Part 1.2: Aims of Plan

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

18.2. Part 2.3: Zone Objectives and Land Use Table

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

Land-use permissibility

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

***"mixed use development"** means a building or place comprising 2 or more different land uses.*

***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,*

...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 uses are permissible with consent within the E1 Local Centre zone.

Zone Objectives

For the assessment undertaken above and that follows, the proposal is consistent with the objectives of the E1 Local Centre zone as required in sub-clause 2.3(2) – refer to Clause 4.6 Assessment (Section 18.4.4 of the report) of the E1 zone objectives.

Note: The new applicable E1 Local Centre zoning and objectives for the site commenced on 26 April 2023, replacing the previously applicable B2 Local Centre zoning and objectives.

18.3. Part 4: Principal Development Standards

18.3.1. Compliance Table (Note: non-compliances are highlighted)

Development Standard	Proposed	Controls	Departure	Complies
Maximum Building Height (Clause 4.3)	18.13m (RL22.46 – top of central skylight)	14.7m	3.43m or 23.3%	No*
Floor Space Ratio (Clause 4.4) [Site Area: 1,026.6m ²]	2.73:1 (2,799m²)	2.5:1 (2,566.55m ²)	232.45m ² or 9%	No*

*A written request pursuant to Clause 4.6 of the WLEP 2014 was submitted but found to be unsatisfactory.

The proposal involves non-compliances with the *Height of Buildings* and *Floor Space Ratio* development standards under Clause 4.3 & Clause 4.4 of the WLEP 2014, as follows:

- A 3.43m or **23.3%**, non-compliance with the 14.7m *Height of Buildings* development standard, as prescribed by Part 4.3;
- A 232.45m² or **9%**, non-compliance with the 2.5:1 *Floor Space Ratio* development standard, as prescribed by Part 4.4.

A Clause 4.6 written request for the above has been submitted by the applicant and is assessed below.

18.3.2. Part 4.3: Height of Buildings ('HOB')

The proposal does not comply with the maximum building height prescribed by Part 4.3(2) of the Woollahra LEP 2014. A Clause 4.6 written request has been submitted by the applicant and is assessed below.

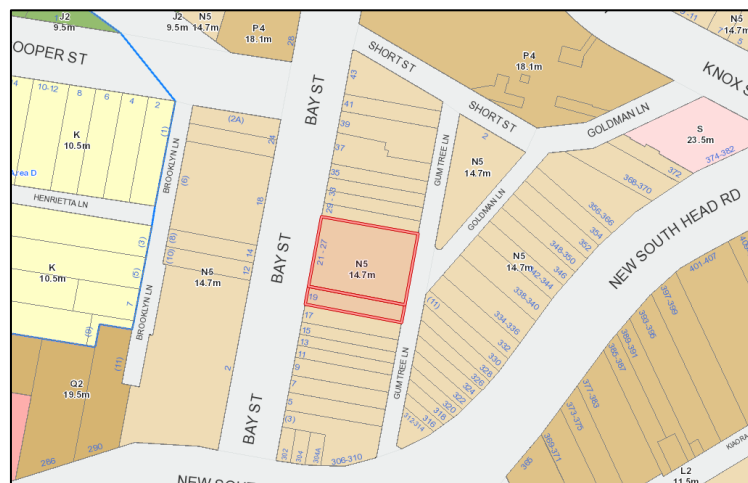


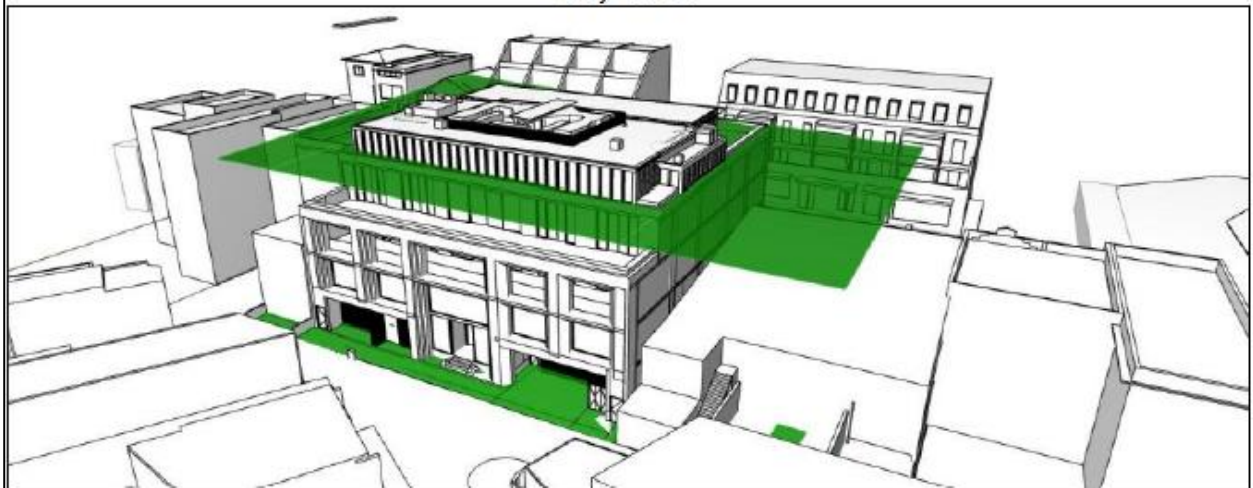
Figure: HOB Map - WLEP 2014



Figure: LEP Height Blanket Diagram – Existing Ground Level (Bay Street) (Source: MHN Design Union)



Bay Street



Gum Tree Lane

Figure: LEP Height Blanket Diagram – Natural Ground Level (Bay Street and Gumtree Lane) (Source: MHN Design Union)

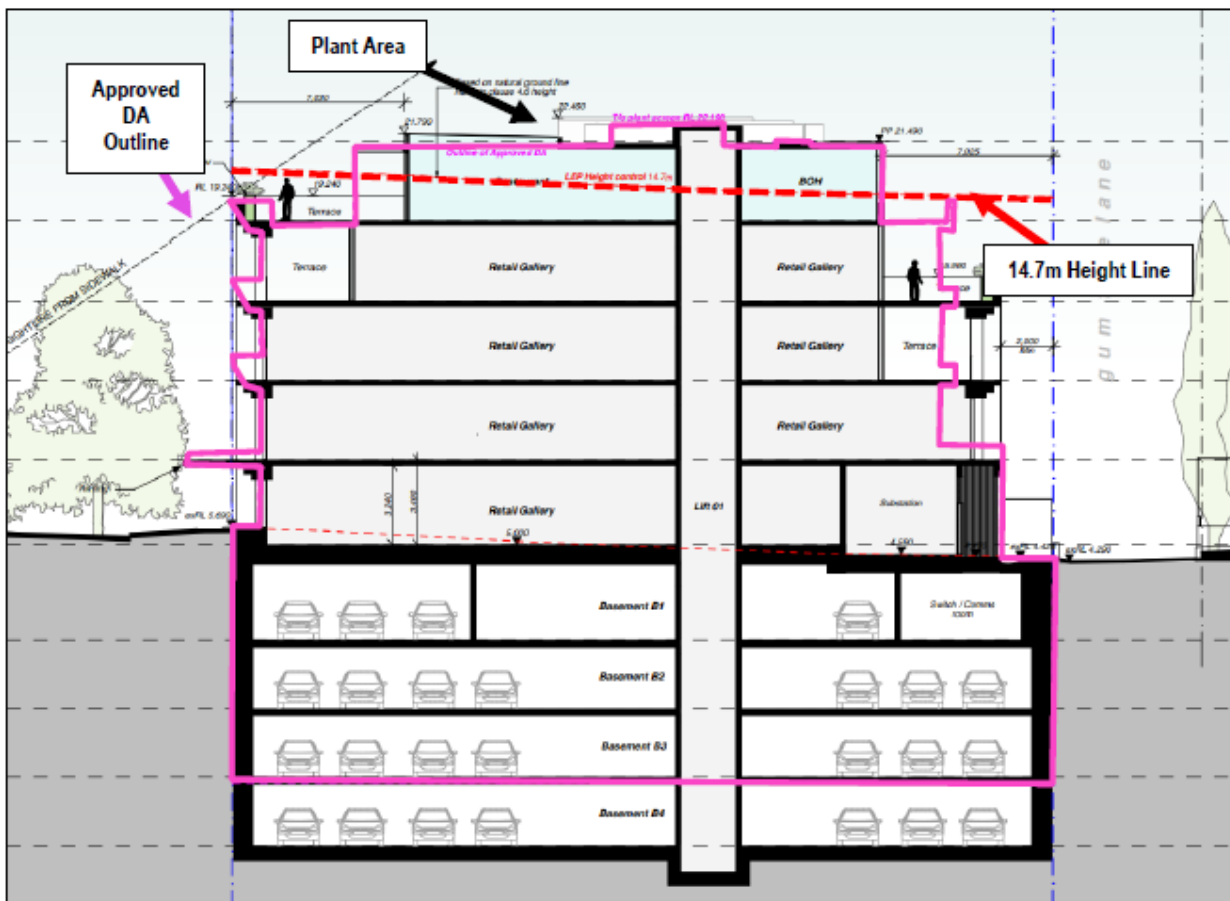


Figure: Section detailing HOB non-compliance – Natural Ground Level (Source: MHN Design Union/GSA Planning)

18.3.3. Part 4.4: Floor Space Ratio ('FSR')

The proposal does not comply with the maximum floor space ratios prescribed by Part 4.4(2) of Woollahra LEP 2014. A Clause 4.6 written request has been submitted by the applicant and is assessed below.

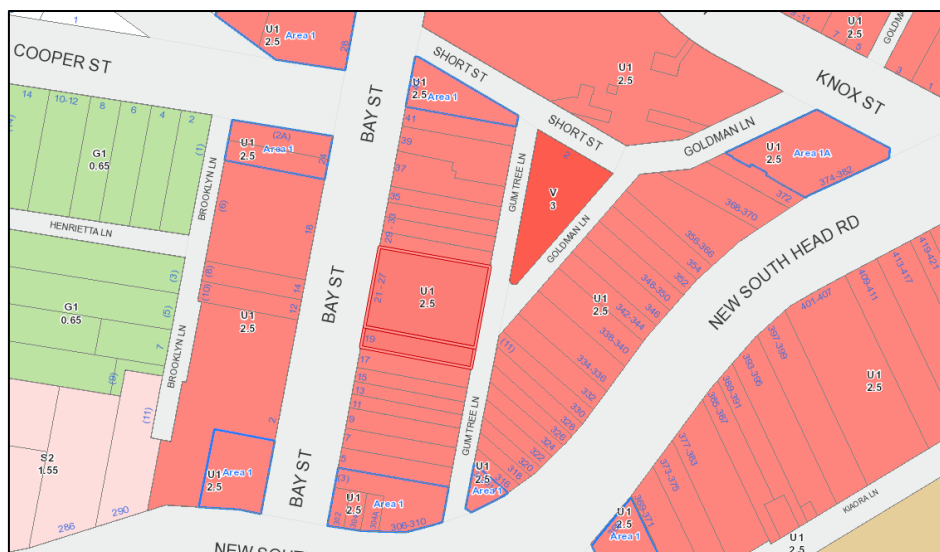


Figure: FSR Map – WLEP 2014

18.4. Part 4.6: Exceptions to Development Standards

18.4.1. Departures

The proposal involves the following non-compliances with the Woollahra LEP 2014:

- *Height of Buildings* development standard under Clause 4.3;
- *Floor Space Ratio* development standard under Clause 4.4;

As detailed in the report above.

18.4.2. Clause 4.6(1) & (2) - Purpose

Part 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

18.4.3. Clause 4.6(3) - Written Request

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard/s by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided written requests in relation to the departures and are attached as **Annexures 3 and 4**.

18.4.4. Clause 4.6(4) - Assessment

Clause 4.6(4)(a)(i) - Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request/s, seeking to justify the contravention of the development standard/s, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Comment: The applicant's written requests for HOB and FSR have adequately addressed how compliance is unreasonable and unnecessary in the circumstances of the case.

The written requests for HOB and FSR also states that compliance with the *Height of Buildings* and *Floor Space Ratio* development standards is unreasonable and unnecessary as the objectives of the relevant development standards are achieved – refer to further comments below as to how the objectives of the development standard are achieved.

b) That there are sufficient environmental planning grounds to justify contravening the development standard.

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written requests have adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standards:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act.'

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Assessment: The written requests provides explanation of how the proposed development is reasonable and supportable in the circumstances. In doing so, the written requests provides sufficient environmental planning grounds to justify contravention of the *Height of Buildings* and *Floor Space Ratio* development standards, as it demonstrates that the proposal achieves aims (c), (g) and (h) of Section 1.3 of the Act.

Specifically, the HOB and FSR written requests provides the following environmental planning grounds:

- Consistency with Context (Desired Future Character)
- Proposed Use
- Urban Design Benefits

Refer to **Annexure 3** and **4** for details of each of the above environmental planning grounds.

Conclusion:

The written requests are considered to have adequately addressed the matters prescribed by Clause 4.6(3) of the Woollahra LEP 2014.

Clause 4.6(4)(a)(ii) - Assessment

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that:

- ii) ***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out***

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Height of Buildings* and *Floor Space Ratio* development standards, and the zone objectives of the *E1 Local Centre* zone. An assessment against these objectives is provided below.

Clause 4.3 – Height of Buildings

Calculation of Building Height

In relation to building height attributed to the existing basement levels and altered land, this assessment has had regard to the planning principles formed in the *Bettar v Council of the City of Sydney [2014] NSWLEC 1070* ('Bettar') judgement.

To summarise, in considering the application of the HOB development standard, it was determined by the Court that relying on existing basement levels would result in the permissible building height artificially rising and falling across the site. As such, in Bettar the Court took the approach of measuring the building height with the intent, in part, of relating the development proposal to its context in the street:

*It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in [the LEP]. The objectives include, at cl 4.3(a) of [the LEP], to ensure the height of development is appropriate to the condition of the site and its context. As one of the purposes of the development standard is to relate the proposal to its context, **it follows that the determination of the existing ground level should bear some relationship to the overall topography that includes the site.***

...

With regard to the planning principle formed in the *Bettar* judgement, it is acknowledged that the building height attributed to the existing levels below the natural ground level do not contribute to any detrimental impacts to the desired future character or amenity of the locality. As such, **the following merits assessment is primarily focused on the built form as measured from above the existing ground level (natural ground level) prior to the demolition/levelling of the site occurring at No's 21-27 Bay Street.**

Objectives of Clause 4.3

The proposal is assessed against sub-clause (1) objectives of Clause 4.3 which specify the following objectives:

- (a) *To establish building heights that are consistent with the **desired future character** of the neighbourhood*

Background:

There are several court cases that are of assistance in deducing what factors are pertinent to informing the 'Desired Future Character' (DFC) being:

- *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 (SJD-1)*
- *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD-2)*
- *Ricola Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1047 (Ricola)*
- *Big Property Group Pty Ltd v Woollahra Municipal Council [2020] (Big Property)*

- *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] (HPG)*
- *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2023] NSWLEC 1005 (Pallas 2023)*

In SJD-1, which was the appeal upheld for 28-34 Cross Street (currently under construction), it was determined that the existing and approved developments located at 16-18 and 20-26 Cross Street should be taken into consideration when assessing whether the proposal achieves the DFC of the area. In Para [71], AC Clay stated:

“71 For these reasons I agree with [the person], as stated in the cl 4.6 objections, that the approvals and buildings under construction to the east of the Site establish the desired future character of this part of Cross Street. Therefore, they set the desired future character for the purpose of the cl 4.6 objections. ...”

The conclusions in SJD-1 were later affirmed on appeal by CJ Preston in SJD-2 which stated:

“...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.”

In Ricola, which was the appeal for a proposal located at 49-53 Bay Street, at Para 23 C Clay stated:

“23 Throughout the WLEP 2014, there is a common objective in the zone and in the development standards for height and FSR, for the development to be compatible with the desired future character. The desired future character can be ascertained from the applicable development standards, the controls in the WDCP 2015 and recent approvals.”

In Big Property, Commissioner O'Neill held that development standards for building envelopes are frequently generic standards which do not account for existing and approved development, site amalgamations, SEPP allowances, heritage issues or the nuances of an individual site. The Commissioner expressly referenced SJD, and went on to hold that:

“The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character. Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map. As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPIs that incentivise particular development with GFA bonuses or other mechanisms that intensify development. All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality” [at44]

In HPG, Commissioner O'Neill held at [57]:

"The desired future character of the locality can be evaluated by reference to matters other than the development standards that determine the building envelope for the site, including the existing development that forms the built context of the site The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. ... Development standards that determine building envelopes can only contribute to shaping the character of the locality ..."

In Pallas 2023, the judgement for the previous DA at the subject site Commissioner Gray stated, that:

"...The WDCP sets a clearly defined desired future character for the Bay Street south area, which is one way to understand "the desired future character of the neighbourhood"

Accordingly, the following observations can be made:

- the Desired Future Character meaning is derived from the text and context of the provisions of the WLEP in which it is used and the other provisions of WLEP that frame the urban character and built form of the neighbourhood or area.
- The development standards in the LEP do not exhaustively define and fix the desired future character of an area and matters other than development standards may be used to evaluate whether proposed development meets the desired future character of a neighbourhood or an area.
- Desired Future Character is shaped by the LEP but also by other recent approvals in the vicinity, as well as historic pre-existing buildings.
- When defining the meaning of the 'desired future character of the neighbourhood', one way the 'neighbourhood' can be defined is through the precinct or area a site is located within such as in Chapter D5 of the WDCP.

Assessment:

It is generally concurred with the Applicant assertions that when defining the meaning of the 'desired future character of the neighbourhood', one possible way the 'neighbourhood' can be defined is through the precinct or area that a site is located within.

The subject site is located within the *Bay Street (South)* precinct which can be defined as within the 'neighbourhood' of the subject site.

It is acknowledged that there is notable amount of recent development history within this precinct that involves non-compliances with both the HOB and FSR development standards.

DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
33/2018	21-27 Bay Street	0m	14.7m	Bay Street: 17.25m	17.35%
14/2021	21-27 Bay Street	0m	14.7m	17.72m	20.5%
69/2021	2-10 Bay Street	20m	14.7m	19.5m	33%
449/2020	14 Bay Street	20m	14.7m	16.58m	12.8%
138/2012	18-22 Bay Street	20m	13.5m	18.1m	25.4%
68/2021	24 Bay Street	35m	14.7m	17.75m (street level) 21.32m (existing ground line)	43.2%

Table 1 Approved height breaches in the Bay Street (South) Precinct (Source: GSA Planning)

DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
14/2021	21-27 Bay Street	N/A	2.5:1	3.25:1	30%
138/2012	18-22 Bay Street	10m	2.5:1	3.15:1	26.2%
69/2021	294-298 New South Head Road and 2-10 Bay Street	30m	2.5:1 + 3:1	2.66:1 + 3.13:1	6.49% + 4.2%
68/2021	24 Bay Street	40m	3:1	3.35:1	11.7%

Table 2 Approved FSR breaches in the Bay Street (South) Precinct (Source: GSA Planning)



Figure. Visual Catchment Diagram (Source: GSA Planning/AE Design Partnership)

This assessment recognises the above and the notable amount of development history within the *Bay Street (South)* precinct of the Double Bay Centre that also involves non-compliances with both the HOB and FSR development standards.

The above share a similar height with proposed development, specifically 5-storeys above-ground.

Furthermore, the directly adjoining the site to the south (17 Bay Street), was granted consent (deferred commencement) in July 2023 for alterations and additions that increase the height of the development to four storeys to provide for a shop top housing use. That approval included support for a variation of 2.65 metres (as defined excluding basement) to accommodate an elevated ceiling and roof in the level 4 residential use. The development is four storeys and exceeds the height control.

Based on the above analysis, the DFC for the Site is considered to be affected by the aforementioned development approvals, and as such, must be taken into consideration when informing the DFC for the site.

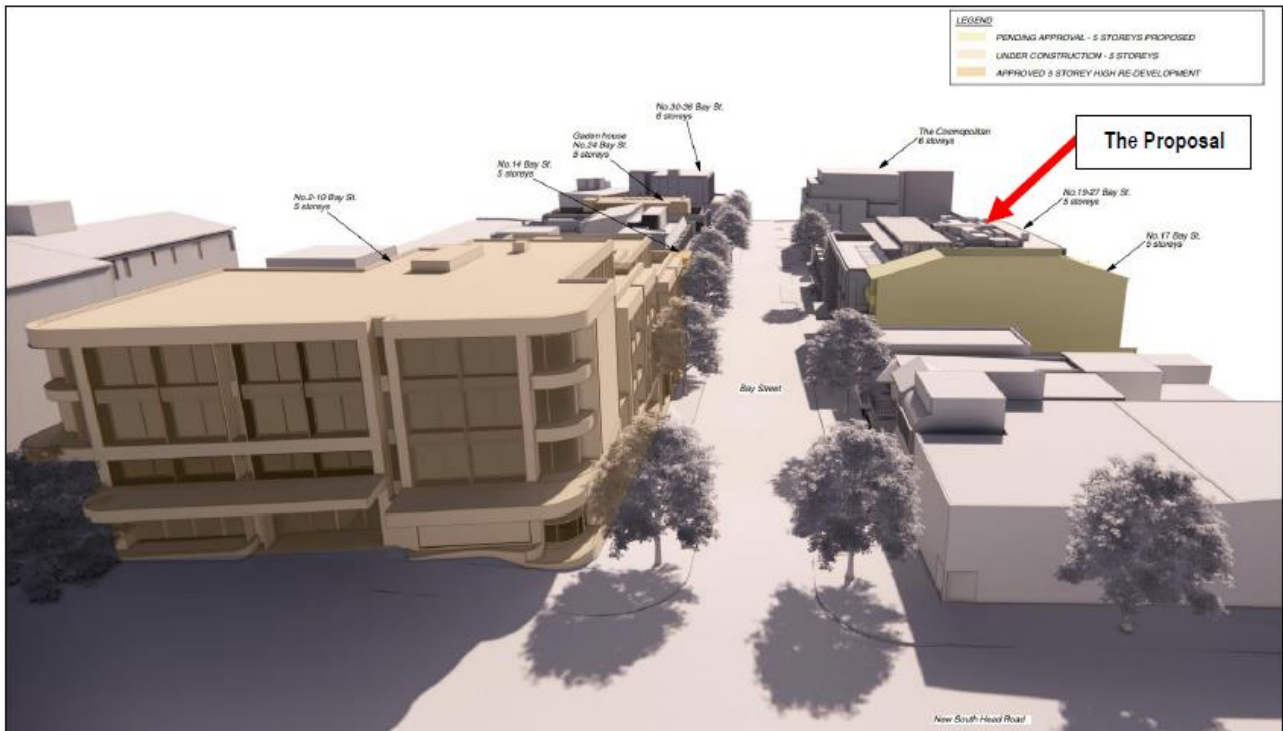


Figure. Existing, Proposed and Approved Developments within the Neighbourhood and Visual Catchment of the Subject Site (Bay Street) (Source: GSA Planning/MHN Design Union)

For reasons discussed above, the proposed building height is not considered to be inconsistent with the ‘desired future character of the neighbourhood’, in that:

- The proposed parapet height along Bay Street presents as 4-storeys;
- The proposed overall height is 5-storeys, above-ground;
- In terms of height, it is compatible with the *existing* and *desired future* character of Site and specifically within the ‘*Bay Street (South)*’ precinct in which the site is located; and
- It therefore results in development of a height that achieves the DFC of the neighbourhood.

The proposal therefore satisfies the objective of sub-clause 4.3(a) of the Woollahra LEP 2014.

(b) To establish a transition in scale between zones to protect local amenity

Assessment: The site is zoned E1 and is not bordering any other zones.

The proposal satisfies the objective of sub-clause 4.3(b) of the Woollahra LEP 2014.

(c) To minimise the loss of solar access to existing buildings and open space

Assessment: The overshadowing of the proposed development when compared to that of a compliant built-form on the subject site is not substantial nor significant. In the circumstances of the case, noting the approved development (DA 14/2021), the proposed height will not cause any additional unreasonable overshadowing of existing buildings and open space.

The proposal therefore satisfies the objective of sub-clause 4.3(c) of the Woollahra LEP 2014.

- (d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion*

Assessment: The proposal does not result in any significantly adverse impacts upon *disruption of views, overshadowing, loss of privacy or visual intrusion* on adjoining or nearby properties arising from the non-compliant height of the proposal.

The proposal therefore satisfies the objective of sub-clause 4.3(d) of the Woollahra LEP 2014.

- (e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas*

Assessment: The non-compliant height will not impact upon the amenity of the public domain and will not impact upon any public views of the harbour and surrounding areas.

The proposal satisfies the objective of sub-clause 4.3(e) of the Woollahra LEP 2014.

Clause 4.4 – Floor Space Ratio

The objective of the development standard under clause 4.4(1)(b) (for buildings located in Zone E1 Local Centre) is:

*To ensure that buildings are compatible with the **desired future character** of the area in terms of bulk and scale.*

Assessment:

For reasons discussed under assessment of Height Objectives in the report above and in the WDCP 2015 assessment in the report that follows, the proposed building is “...*compatible with the desired future character of the area in terms of bulk and scale*” in that:

- It provide development that is compatible with the *existing* and *desired future* character of the *Bay Street (South) and Gumtree Lane* distinct character precinct in which the site is located; and
- It provides development of a scale that is compatible with the *desired future character* of the area.

The proposal therefore satisfies the objective (b) of sub-clause 4.4(1) of the Woollahra LEP 2014.

Objectives of the Zone (E1 Local Centre)

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*

Assessment: The proposal is satisfactory in regards to the above-mentioned objectives.

Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) of the WLEP 2014 requires that the cl4.6 written request justify contravening the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

One further way of demonstrating that compliance with a development standard is unreasonable or unnecessary is summarised as a “five part test” by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827. Although *Wehbe* concerned a SEPP 1 objection, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 determined that this test is equally applicable to Clause 4.6 variations.

This “five part test” is summarised as follows:

- **Test 1:** The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- **Test 2:** The underlying objective or purpose of the development standard is not relevant to the development, so that compliance is unnecessary.
- **Test 3:** The underlying objective or purpose would be defeated or thwarted if compliance was required, so that compliance is unreasonable.
- **Test 4:** The development standard has been abandoned by the Council.
- **Test 5:** The zoning of the site was unreasonable or inappropriate so that the development standard was also unreasonable or unnecessary.

While this “five part test” is not an exhaustive list of ways to demonstrate compliance is unreasonable/unnecessary, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 determined that it may be sufficient to establish only one of these ways.

The submitted Clause 4.6 Written Requests (HOB and FSR) and the arguments provided are relevant to **Test 1** – in that the objectives of the development standards are met - are largely agreed with and accepted.

Environmental planning grounds which justify the contravention of the standard

In regard to this consideration, it is not sufficient to support a variation to a development standard by merely pointing to an absence of environment harm (*Hooker Corporation Pty Ltd v Hornsby Shire Council* [1986] 130 LGERA 438; *Memel Holdings Pty Ltd v Pittwater Council* [2000] NSWLEC 106; *Winten Property Group Ltd v North Sydney Council* [2001] NSW LEC 46). Therefore it is necessary to demonstrate that the public interest is satisfied in the circumstances of the case.

For reasons already discussed, there are sufficient environmental planning grounds to justify contravening the development standards in this instance and the development is considered to be in the public interest.

Clause 4.6(4)(b) – Concurrence of the Secretary

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

(b) *the concurrence of the Secretary has been obtained.*

The Department issued a Planning Circular No. PS20-002 (dated 05 May 2020) which notified Councils of arrangements “...where the Director General’s concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument...” Clause 64 of the EPA Regulations provides that Council may assume the Director-General’s [Secretary’s] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

Part 4.6(4) requires Council to be satisfied that the written requests have adequately addressed the relevant matters, and that the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone and the concurrence of the Director-General has been obtained. Furthermore, the Council must be satisfied the proposal is in the public interest because it is *consistent with the relevant objectives of the particular standard and the zone* where the development is located.

The applicant’s written requests adequately address the relevant matters for consideration in Cl4.6(3)(a) and (b).

18.4.5. Conclusion

The written submissions from the applicant have adequately demonstrated that the contravention of the *Height of Buildings* and *Floor Space Ratio* development standards prescribed by *Part 4.3*, and *Part 4.4* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority is satisfied that the applicant’s written requests have demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standards and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 and Clause 4.4 development standards. Departure from the controls is supported.

18.5. Parts 5 & 6: Miscellaneous and Additional Local Provisions

18.5.1. 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 subject site is not a heritage item in the WLEP 2014 nor located:

- within the vicinity of listed heritage items in close proximity; or
- within or adjacent to any heritage conservation areas; or
- located within the vicinity of listed heritage items in close proximity that would be adversely affected by the proposal; or

- within, or directly adjacent of a site identified as of 'Aboriginal Heritage Sensitivity', as indicated on the Aboriginal cultural heritage sensitivity map.

The objectives of Part 5.10(1), are:

- (a) to conserve the environmental heritage of Woollahra,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

Demolition of the existing buildings

No 21-27 Bay Street is currently a vacant lot with the previous building and structures demolished per the approval granted under DA2021/14/1.

The applicant submitted a 'Demolition Report', prepared by NBRIS & Partners dated 15 June 2023 in support of the proposal that concludes:

"The existing building at 19 Bay Street, Double Bay does not meet the threshold for listing as an item of local significance. The proposed demolition of the building at 19 Bay Street, will have an acceptable impact on the heritage significance of the heritage item and character buildings in the vicinity."

Furthermore, Council's Heritage Officer does not raise concerns with regards to demolition of the existing building. Demolition of the existing building is supported.

Surrounding Heritage Items

The site is in proximity to a state and locally listed items as listed under Schedule 5 of the Woollahra LEP 2014. The descriptions of the heritage items located in the vicinity are extracted as follows:

Suburb	Item name	Address	Property description	Significance	Item no
Double Bay	Weeping Lilli Pilli, all Bangalow Palms (approx 30), Washingtonia Palm, Queen Palms, Cabbage Palms	5 Manning Road	Lot 6, DP 15038	Local	I205
Double Bay	Gardens to former "Overthorpe", including 3 Small-Leaved Figs, Coolamon or Watermelon Tree, Silver Quandong, 2 Moreton Bay Figs, Bunya Pine, Queen Palm, Cabbage Palms, 9 Canary Island Date Palms, service driveway, front retaining wall and fence, gates	337-347 New South Head Road	SP 20175	State	I206
Double Bay	Vegetation associated with the gardens of the former house "Overthorpe", including Silver Quandong, Norfolk Island Pine, Bunya Pine, rainforest specimen, Bangalow Palms, Queen Palms, Cabbage Palms	349 New South Head Road	SP 62056	Local	I207
Double Bay	Gaden House including interiors	2A Cooper Street	Lots 11 and 12, DP 4606	Local	I681

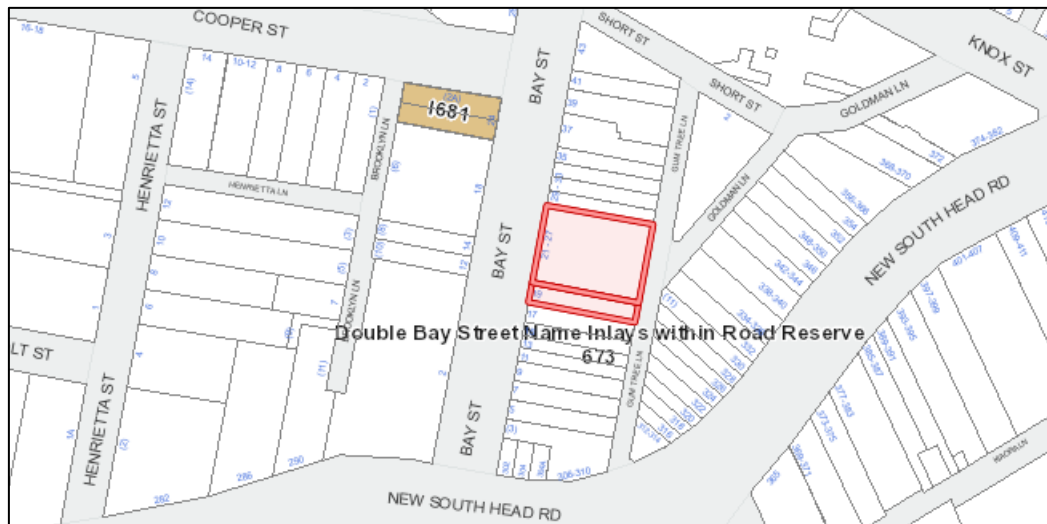


Figure. The subject site and the nearby Heritage Items (source: Councils GIS Mapping System)

The applicant submitted a ‘*Demolition Report*’, prepared by NBRIS & Partners dated 15 June 2023 in support of the proposal that concludes:

“All existing views to and from the heritage item and the character buildings in the vicinity will be retained and conserved. Users of the sites and streetscapes of Bay Street and Gum Tree Lane will continue to be able to appreciate their significance.”

Based on the above, no adverse impacts upon surrounding Heritage Items are envisaged.

Aboriginal Heritage

The site is not located in an area of ‘Aboriginal Heritage Sensitivity’. No 19 Bay Street is however partly located within ‘Potential Aboriginal Heritage Sensitivity’.

The assessment in the previous DA for the site (DA2021/535/1) provided:

“...There are no registered Aboriginal heritage sites located on the property and the properties do not have Aboriginal heritage sensitivity due to being a previous swamp. As the site has been previously disturbed when the existing buildings were constructed, it is unlikely that any archaeological evidence will remain. Accordingly no Archaeological Assessments or Due Diligence reports were required. The unexpected finds procedure should be followed.”

The application is recommended for refusal but should development consent be issued the aforementioned requirement can be enforced by DA conditions requiring archival recordings of existing buildings and Aboriginal protection of objects during work.”

Therefore, an Aboriginal Heritage Impact Assessment (AHIA) was not required as part of the DA. In any event, standard DA conditions are recommended outlining an unexpected findings protocol procedure for any new evidence of aboriginal archaeological remains and/or deposits identified during any development work.

Conclusion

The proposal is therefore considered to be acceptable with regard to relevant heads of consideration in Part 5.10 of the WLEP 2014.

18.5.2. Part 5.21: Flood Planning

Part 5.21 provides the following objectives:

- (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.*

Clause 5.21(2) requires that, 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.*

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

Clause 5.21(3) requires that, 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 proposal incorporates automatic flood barriers and flood protection walls along the Bay Street and Gumtree Lane frontages. These measures are in accordance with the Flood Risk Assessment prepared by Catchment Simulation Solutions and Stormwater Management Plans prepared by TTW Engineers.

Council's Infrastructure & Sustainability Services Division has reviewed the above and is satisfied that the proposed development can be made fit for purpose and provide adequate provision of flood protection measures including flood barriers, subject to imposition of a *Flood Protection* condition, which requires that:

"The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) *A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.*
- b) *The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of RL4.9m AHD.*
- c) *Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.*
- d) *All below ground construction shall be fully tanked.*

- e) *Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.*
- f) *The basement level shall have adequate pumping to cater for any leakage in flood barriers. The pump system is to incorporate:*
 - 1) *Dual alternating pumps,*
 - 2) *An uninterruptable power supply capable of running the pumps for a minimum of 2 hours,*
 - 3) *A trash screen to protect the inlet from debris,*
 - 4) *A minimum pump pit size of 3m³,*
 - 5) *An alarm/ warning system designed to alert residents when flood levels are above 100mm deep,*
 - 6) *A warning alarm/system that indicates when the pumps are running.*
- g) *The pedestrian entry off Bay Street shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of RL5.45m.*
- h) *Flood compatible materials shall be used for all flood exposed construction.*
- i) *All flood exposed electrical wiring and equipment shall be waterproofed.*
- j) *All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation."*

Conclusion

Based on the above, the proposal is considered to be acceptable with regards to the relevant matters for consideration in Part 5.21 of the WLEP 2014 and/or is adequately addressed via recommended standard DA conditions.

18.5.3. Part 6.1: Acid Sulfate Soils

Part 6.1(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 subject site is located entirely within a *Class 2* area as specified in the Acid Sulfate Soils Map.

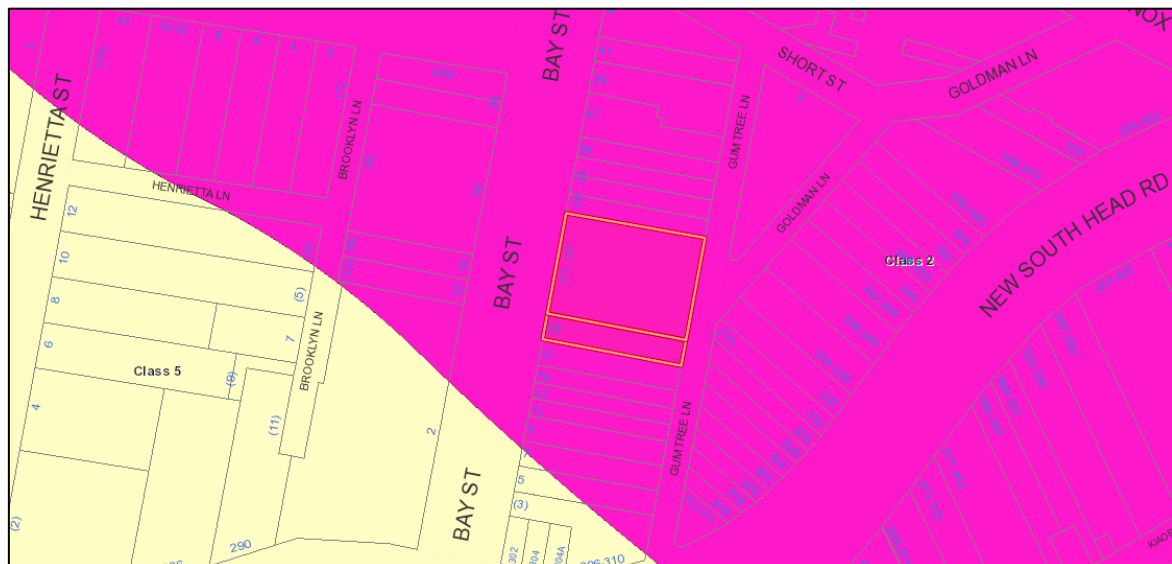


Figure. Acid Sulfate Soils Map (WLEP 2014)

Part 6.1(2) stipulates that works to *Class 2* soils is work that requires development consent, if it involves:

- **Works below the natural ground surface.** and/or;
- *Works by which the watertable is likely to be lowered.*

The proposal involves major bulk excavation work for the purposes of accommodating four (4) levels of basement that is occurring below the *natural ground surface*.

Part 6.1(3) stipulates that:

“Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority”

Part 6.1(4) stipulates that despite sub-clause (2), development consent is not required under this clause for the carrying out of works if:

- (a) ***a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and***
- (b) *the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*

Part 6.1(6) stipulates that despite sub-clause (2), development consent is not required under this clause to carry out any works if:

- (a) *the works involve the disturbance of less than 1 tonne of soil, and*
- (b) *the works are not likely to lower the watertable.*

Assessment:

The proposal is satisfactory in terms of Part 6.1(4)(a) of the WLEP 2014 as a preliminary assessment of the proposed works concludes that an ASSMP is not required.

The following reports were reviewed by Council’s Environmental Health Officer:

- Geotechnical Investigation (rev2), prepared by JKGeotechnics, dated 12/11/2021.
- Geotechnical and Hydrogeological Investigation, prepared by Douglas, dated 24/06/22.
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.
- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023

Council’s Environmental Health Officer concludes:

“The aforementioned investigations involved intrusive investigations at no.21-29 Bay st., by way of drilling boreholes and collecting of soil samples for field and laboratory sPOCAS analysis. Results were primarily compared against the ASSMAC 1998 Guidelines and action criteria of more than 1,000 tonnes of soil are to be disturbed. Environmental Health Unit agrees with this investigation strategy.

Results across all investigations conclude that ASS are unlikely to present or encountered during the bulk of redevelopment works and as such, an Acid Sulfate Soils Management Plan would not be necessary for proposed works.

*Environmental Health however notes, no intrusive investigations being conducted at no. 19 due to lack of access. There is however, a substantial amount of evidence from previous intrusive investigations of no. 21-29 to determine the site is unlikely to have ASS and require an ASSMP. As the site is adjacent to no. 19, shares the same Class 2 ASS classification and comprises the bulk of the proposed development, it can be assumed that the site too, is unlikely to have ASS and will not be requiring an ASSMP. **Environmental Health is satisfied, with respect to 6.1 of the WLEP, that the site is unlikely to encounter ASS and that an ASSMP will not be required.***

Based on the above, the proposal is considered to be satisfactory in terms of the objective (1) in Part 6.1 of the WLEP 2014 as a preliminary ASSMP has been provided specific to the subject DA.

Therefore, it can be reasonably concluded that the development can be appropriately managed in order to ensure that it would not *disturb, expose or drain acid sulfate soils and cause environmental damage*, as required by Objective (1) of Part 6.1 of the WLEP 2014, subject to the implementation of the submitted Remedial Action Plan (RAP) in conjunction with the Conceptual Remediation Action Plan.

The proposal is therefore acceptable with regard to the relevant matters for consideration in in Part 6.1 *Acid Sulfate Soils* of the WLEP 2014.

18.5.4. 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 proposal involves bulk excavation work for the purposes of accommodating the construction of four (4) levels of basement that is below the *natural ground surface*. The proposal involves excavation with a maximum depth of about 13.9m from the existing ground surface for the proposed basement and extends across the entire site area.

Part 6.2(3) requires that Council in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

Part 6.2(3) – Matters for Consideration – Assessment	
Clause	Comment
(a) <i>the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i>	<p>Satisfactory.</p> <p>The following have been submitted in support of the application:</p> <ul style="list-style-type: none"> • Geotechnical Report prepared by JK Geotechnics referenced 30721PN3rpt rev2 and dated 12 Nov 2021; • Geotechnical Report prepared by Douglas Partners referenced 210180.00 and dated 24 June 2022; • Geotechnical Report prepared by EI Australia referenced E25794.G04_Rev1 and dated 14 June 2023 <p>Council's Development Engineer has reviewed these documents and is satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality, subject to recommended DA conditions.</p> <p>Standard DA conditions requiring structural certification and the like prior to issuing of a construction certificate would be required ensuring structural risk/s to adjoining property, and impacts are minimised.</p>

Part 6.2(3) – Matters for Consideration – Assessment	
Clause	Comment
<i>(b) the effect of the development on the likely future use or redevelopment of the land,</i>	<p>Satisfactory.</p> <p>The proposed excavation is not considered to effect the likely future use or redevelopment of the land.</p>
<i>(c) the quality of the fill or the soil to be excavated, or both,</i>	<p>Satisfactory.</p> <p>The quality of the soil to be removed has been assessed in Section 13.2 <i>Remediation of Land</i> (Chapter 4 in Resilience and Hazards SEPP 2021) and Section 18.5.3 <i>Acid Sulfate Soils</i> (Part 6.1 Acid Sulfate Soils of the WLEP 2014) of the report.</p> <p>Relevant DA Conditions are to be recommended to ensure the framework outlined in the submitted RAP are adhered to prior to and during development work.</p>
<i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i>	<p>Satisfactory.</p> <p>Excavation works are considered to be temporary in nature, therefore minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term.</p> <p>Standard DA Conditions requiring noise and dust mitigation measures could be imposed in order to ensure impacts on amenity are minimised.</p>
<i>(e) the source of any fill material and the destination of any excavated material,</i>	<p>Satisfactory.</p> <p>The proposal does not involve fill. The destination of excavated material will need to be in accordance with relevant guidelines, relating to management of any soils that are Acid Sulfate Soils and/or Contaminated Land.</p>
<i>(f) the likelihood of disturbing relics,</i>	<p>Satisfactory.</p> <p>Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics. A recommended DA condition would be imposed requiring the protection of Aboriginal Objects and procedure to be followed in the unlikely event such objects are found during work.</p>
<i>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i>	<p>Satisfactory.</p> <p>WaterNSW have provided General Terms of Approval (GTA) relating to dewatering of the site. Council's Development Engineer is satisfied the submitted Stormwater Management Plan is acceptable with regards to Part E2.2 of the WDCP 2015 which considers water sensitive urban design and stormwater treatment. The site is not identified as being located within an environmentally sensitive area.</p>
<i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i>	<p>Satisfactory.</p> <p>Standard DA Conditions requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work are required. These would ensure structural risk/s to adjoining property and impacts are minimised.</p>

Conclusion

Based on the above, the proposal is considered to be acceptable with regards to the relevant matters for consideration in Part 6.2 of the Woollahra LEP 2014 and/or is adequately addressed via recommended standard DA conditions.

19. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 ('WDCP 2015')

19.1. Chapter D5: Double Bay Centre

19.1.1. 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.*

As already discussed and for reasons in the report that follows, the proposal achieves consistency with the *Part D5.1.3: Objectives* of the Double Bay Centre in the WDCP 2015.

19.2. Section D5.3: Urban structure

Part D5.3.1: Structure of the Double Bay Centre

The proposal is generally consistent with the Structure of the Double Bay Centre and would satisfy the relevant criteria prescribed by this part.

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

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

The proposal incorporates an active street frontages with above ground mixed use commercial (retail and restaurant) spaces above which would satisfy many of the key strategies.

The proposed height, bulk, scale, massing and configuration of the development whilst seeking a variation to the prescribed DCP building envelope controls it is generally acceptable on merit achieving consistency with the relevant objectives contained in *D5.4: Street Character*, *D5.5: Built form envelopes* and *D5.6: Development Controls*.

19.3. Section D5.4: Street character

Part D5.4.1 Desired future character

Part D5.4.1: Desired future character, provides:

“The following is provided for each street in the centre:

- Existing character, which describes elements such as built form, streetscape, lighting, landscape and views;*
- Desired future character, which outlines the urban design criteria for each street;*
- Annotated street sections, which illustrate the existing and the desired future built form.”*

Section D5.4: Street character describes the existing character and the desired future character of character precincts in the Double Bay Centre. An assessment of the desired future character prescribed by this part for ‘Bay Street (South)’, and ‘Gumtree Lane’ and is provided further below.

Part D5.4.2: Common street strategies

Part D5.4.2 of the WDCP 2015 provides the following relevant Common Street Strategies:

- *Strengthen the spatial definition of streets by encouraging building to the street boundary.*
- *Provide continuous active retail frontage at ground floor level.*
- *Increase street surveillance and promote a safe environment.*
- *Strengthen all built form on corner sites.*

The proposal satisfies the relevant criteria prescribed by this part.

Part D5.4.4 Bay Street (south) and Part D5.4.11: Gumtree Lane

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.”

Part D5.4.11 prescribes the existing character of ‘Gumtree Lane’ as follows:

“Gumtree Lane is spatially defined by the discontinuous two storey built form on its west side and the lane geometry that creates a central triangular site.”

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.*

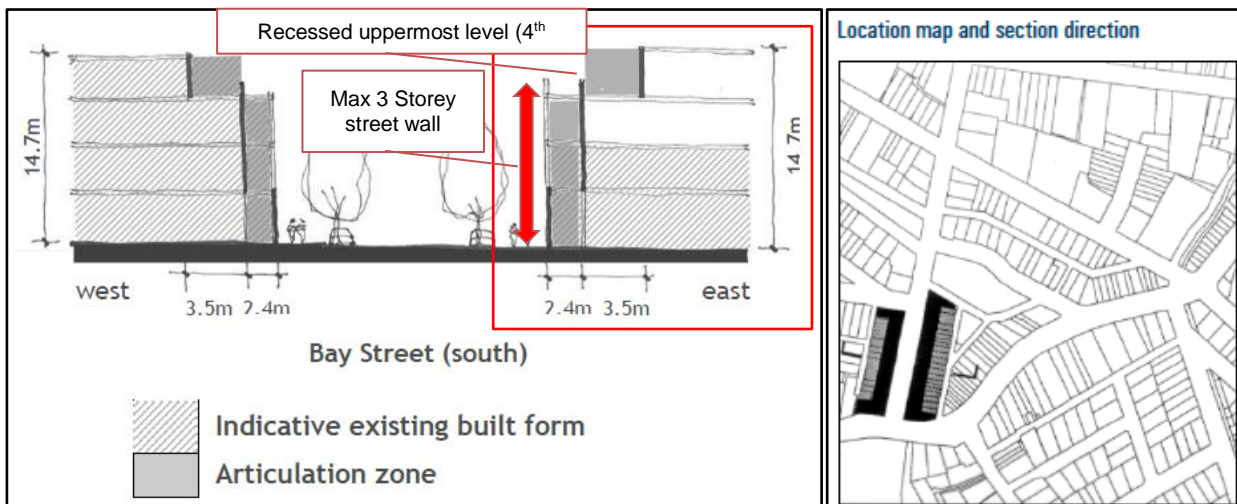


Figure: Indicative street section detailing desired future character of Bay Street (South) (eastern side outlined in red) in Part D5.4.4 of the Woollahra DCP 2015.

Part D5.4.11 of the WDCP 2015 provides the following relevant desired future character objectives:

- a) Retain the two storey built form and 2m setback on the west side.
- c) Increase the spatial definition of the lane, and street surveillance with an articulated building addressing the lane from the central triangular site.

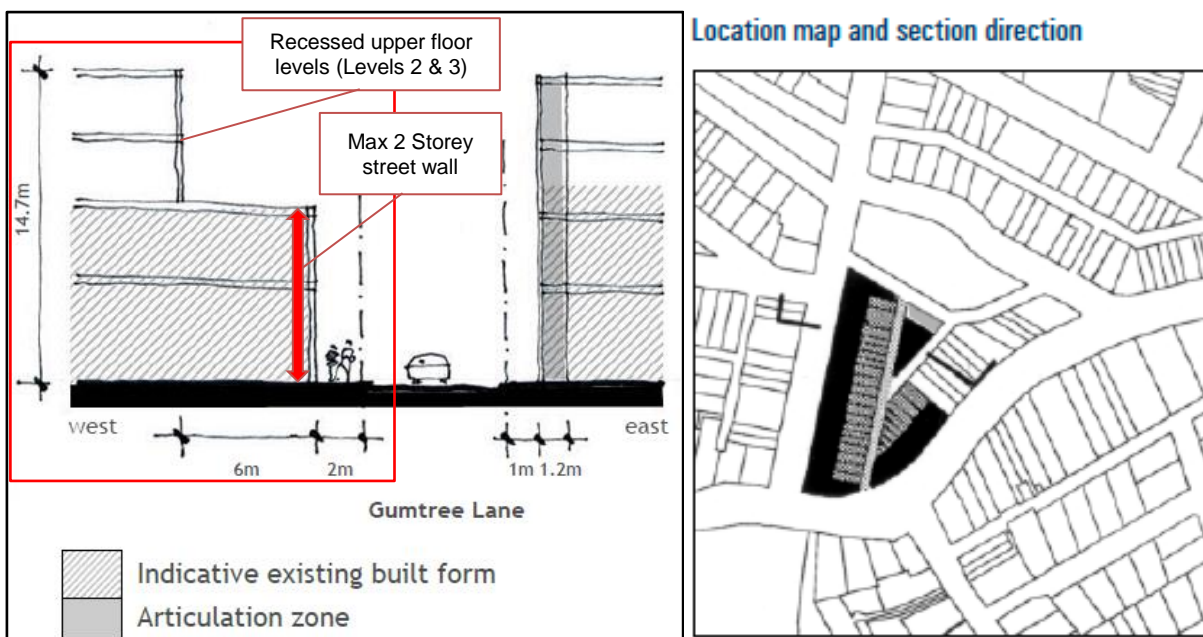
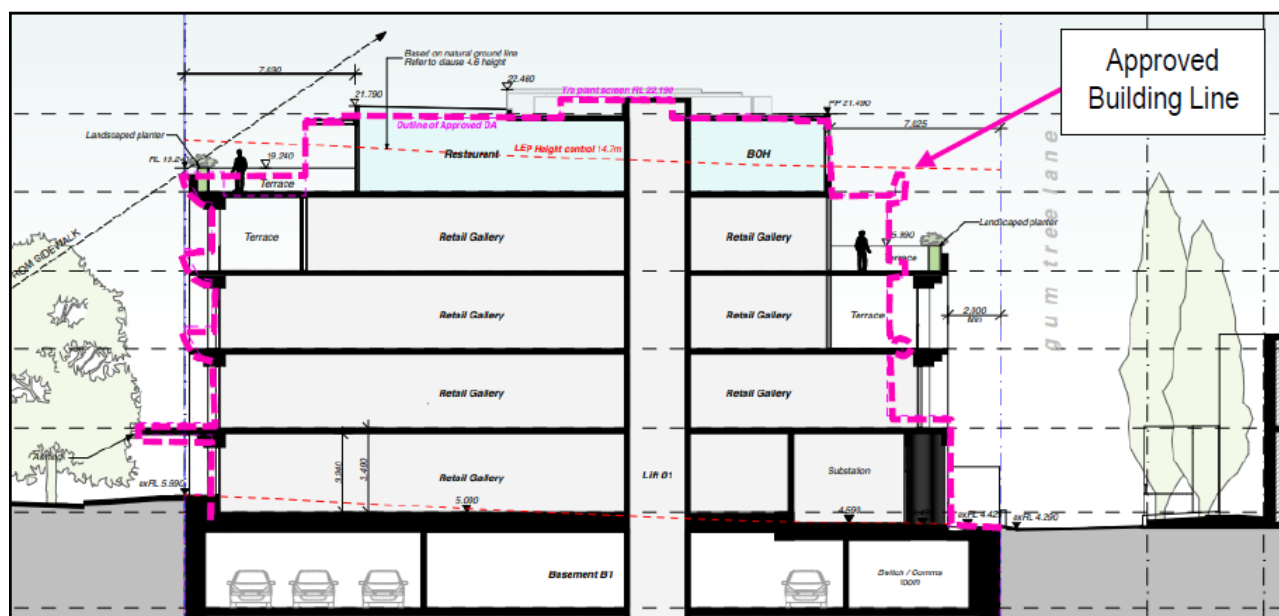


Figure: Indicative street section detailing desired future character of Gumtree Lane (western side outlined in red) in Part D5.4.11 of the Woollahra DCP 2015.

Assessment:

The proposed development does achieve the desired future character of *Bay Street (south)* precinct and *Gumtree Lane* precinct objectives a) & c) notwithstanding that it is contrary to the *indicative built form street section* (per **Figures** above) in Part D5.4.4 and Part D5.4.11 of the WDCP 2015, as:

- The proposed building exceeds the 14.7m building height permitted on the eastern side of Bay Street (South) and exceeds the 2-storey (or approximate 7.4m) building height permitted above ground on the western side of Gumtree Lane, as per **Figures** above. However, the exceedance is considered to be reasonable and necessary in the circumstances of the case, as it would be consistent with the existing and desired future character of the neighbourhood as discussed in the Clause 4.6 HOB and Clause 4.6 FSR assessment of this report;
- It provides for a maximum four-storey built form fronting Bay Street. This is consistent with relevant recent LEC approvals on the subject site and to this part of Bay Street (south) and the emerging character within the Bay Street (South) character area of the Double Bay Centre;
- It incorporates a recessive uppermost storey which provides a setback of 6.095m from the western (front) boundary of the proposed development.
- Whilst it does not provide for a maximum two-storey built form fronting Gumtree Lane. The proposal does provide recessive Levels 2-4 (levels above Ground and Level 1) which are setback 4-7m from Gumtree Lane, albeit non-compliant with the 8m (2m + 6m) setback control to all levels above the first two-storeys.



Building Envelope - comparison between approved development (DA14/2021) and Proposed DA (Source: GSA Planning/MHN Design Union)

Conclusion

The proposal therefore satisfies the relevant criteria prescribed by this part.

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

Part D5.5.1: Urban form methodology

This section contains control drawings which show building envelopes for every site in the Double Bay Centre.

Part D5.5.9 Control drawing 5

Part D5.5.9 prescribes the built form envelope control drawings applicable to the subject site. The **Figures** below provides relevant extracts from the explanatory legend, and provide close up images of the controls applicable to the subject site.

<p>No OF LEVELS</p> <p>2 8m</p> <p>3 11.5m</p> <p>4 14.7m</p> <p>5 18.1m</p>	<p>BUILDING ENVELOPE</p> <p>100% of this area per floor may be built on</p> <p>50% of this area per floor may be built on</p> <p>Area for building articulation. Refer to 5.6.3.3 for configuration</p> <p>Possible roof, roof terrace or courtyard below</p> <p>BUILDING LINES</p> <p>Continuous building line - 100%</p> <p>Building line 50% - 100%</p>	<p>UPPER LEVEL SETBACK</p> <p>3.5m setback of level 4</p> <p>RELATIONSHIP TO THE PUBLIC DOMAIN</p> <p>Colonnade</p> <p>Continuous awning</p> <p>CHARACTER BUILDINGS</p> <p>Character buildings</p> <p>LANDSCAPED AREA</p>
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Figure: Explanatory legend for control drawings in Part D5.5.9 of the Woollahra DCP 2015.

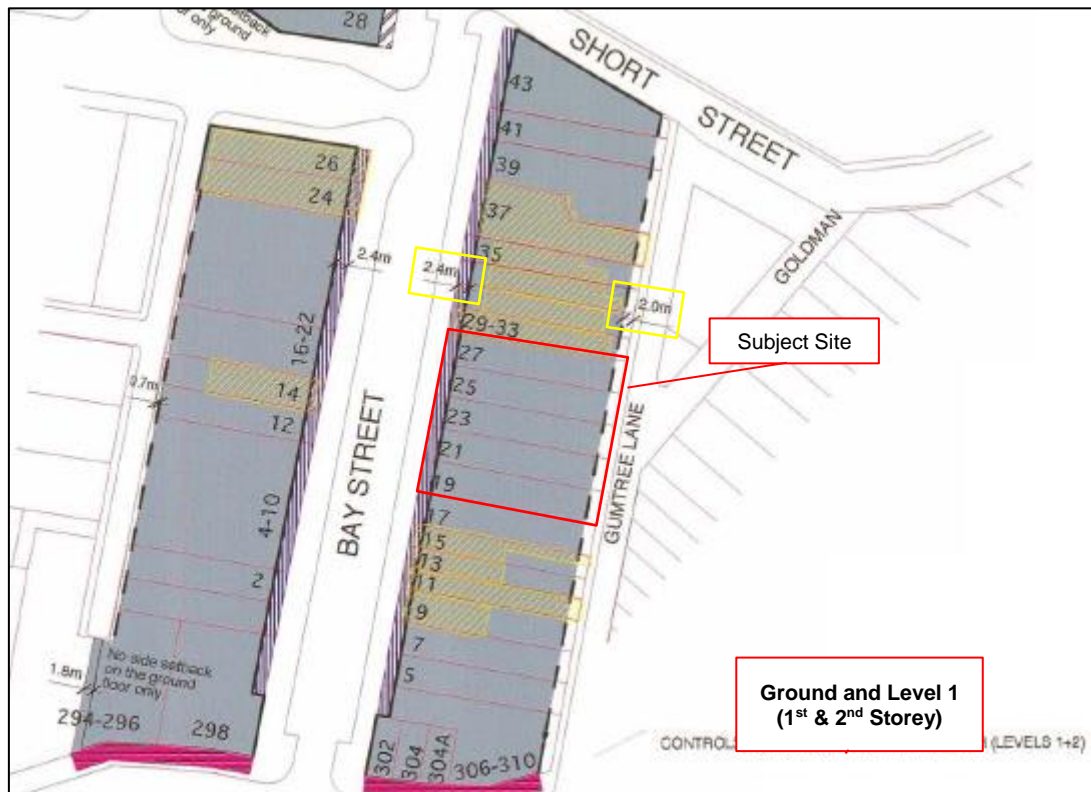


Figure: Control drawing applicable to lower levels of subject site (i.e. 100% of area may be built on) (2m setback on Gumtree Lane).

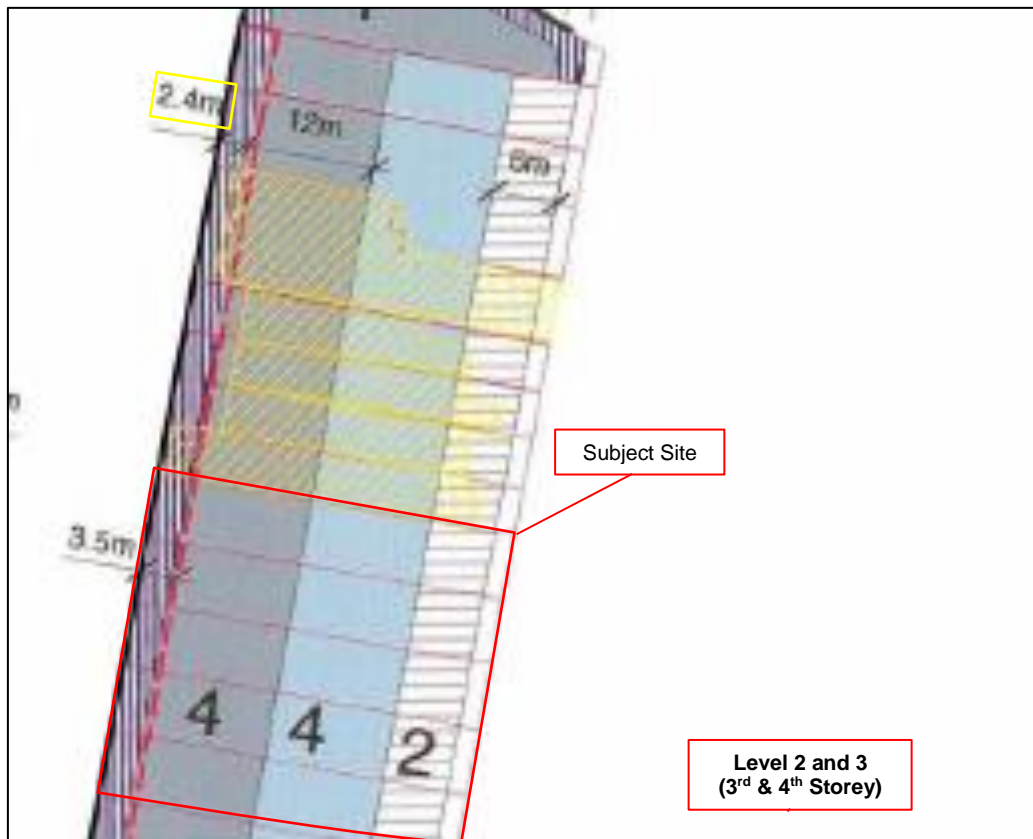


Figure: Control drawing applicable to upper levels of subject site (6m + 2m setback to Gumtree Lane; 3.5m setback to uppermost level on Bay Street).

Part D5.5.13: View 2: 3D view of building envelopes

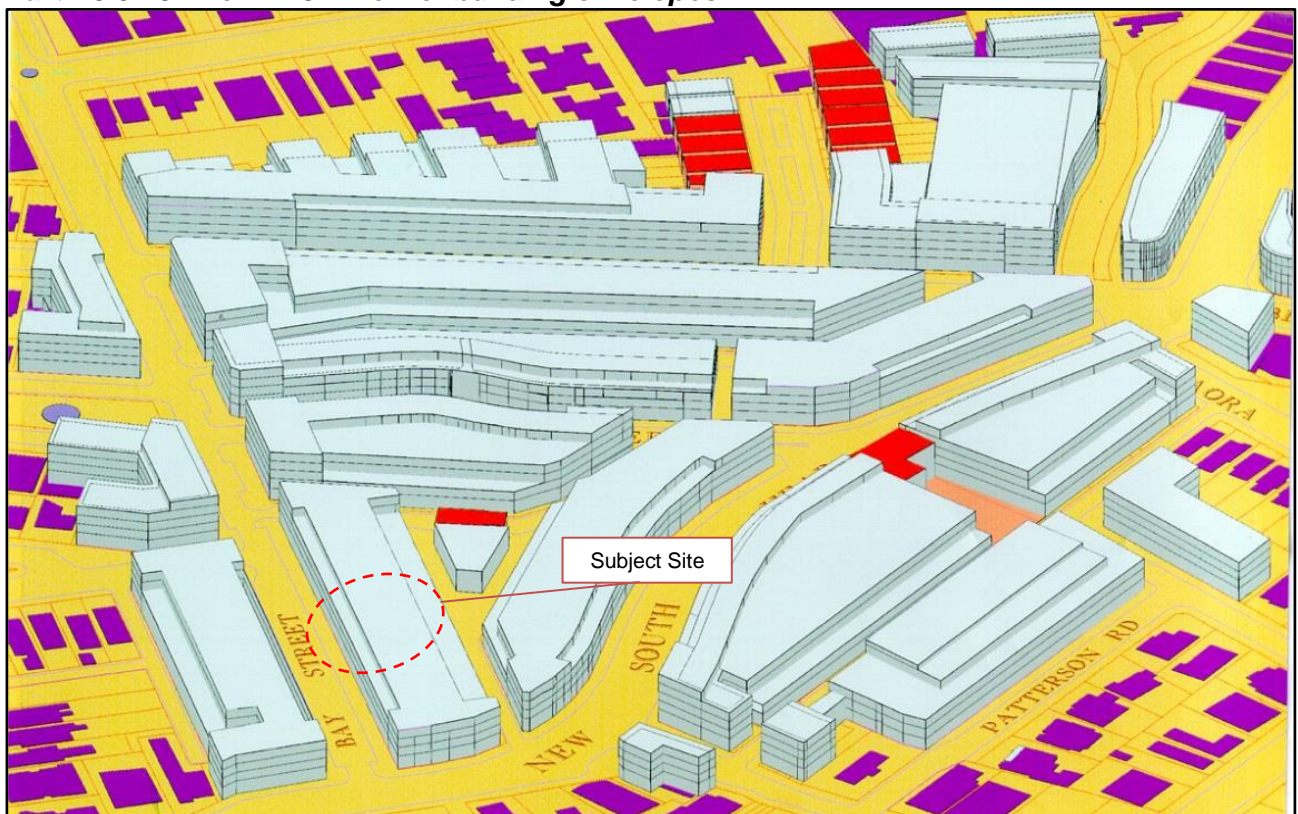


Figure: Northerly view of Double Bay Centre building envelopes (Source: WDCP, Part D5.5.13: View 2: 3D view of building envelopes)

19.5. Section D5.6: Development Controls

19.5.1. 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
Maximum retail frontage at street level	>15m	15m	Yes (on merit)
Architectural resolution of buildings on amalgamated small lots	Lot widths expressed via vertical articulation	Must express existing lot widths	Yes

- D5.6.2 – Controls C1, C2, C3, C5, C6 and Objectives O2, O3, O4, O5, O6, 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.*
O5 *Encourage arcades and double fronted shops that provide through block connections for pedestrians.*
O6 *Limit the width of retail frontage to preserve the small shop character of the centre.*
- 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.*
C5 *The maximum retail frontage at street level for individual premises identified on the diagram above must correspond with current lot widths. Other lots must not exceed 15m for each street frontage.*
C6 *The architectural resolution of buildings on amalgamated small lots identified in Figure 19 must express existing lot widths.*

The proposed mixed-use commercial development which provides for a mix of uses and providing a broader range of local services in the Double Bay centre and generally complies with relevant use provisions in Part D5.6.2 of the WDCP 2015.

Control C5 requires that the maximum retail frontage at street level for premises on Bay Street must correspond with current lot widths and must not exceed 15m for each street frontage.

The proposal involves the amalgamation of the existing two (2) lots to provide a single retail gallery use. Notwithstanding non-compliance with Control C5, the proposal achieves consistency with the relevant Objectives in *Part D5.6.2 Use* of the WDCP 2015, as the proposed façade of the building along the Bay Street and Gumtree Lane frontage is vertically articulated and modulated to reflect the existing lot widths.

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 '1.1-1.22'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre 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 O8 in *Part D5.6.2: Use of the WDCP 2015* ensuring that the proposed uses:

- Do not have unacceptable noise or other environmental impacts; and
- Minimise noise and other impacts on adjoining properties.

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

19.5.2. Part D5.6.3: Urban Character

Building envelopes (Part 5.6.3.1)

D5.6.3 Urban character	Proposed	Control	Complies
Urban Character – Building Envelopes			
D5.6.3.1 Occupied Floor Area (%) at each level - Ground & Level 1 - Level 2 & Level 3 - Level 4	100% >100% >100%*	100% 50%-100% No Control*	Yes NO NO*
D5.6.3.1 – Building depth from Front Setback / cross-flow ventilation - Ground & Level 1 - Level 2 & Level 3 - Level 4	Boundary-to-Boundary >15.6m >15.6m*	Boundary-to-Boundary Max 15.6m No Control*	Yes NO NO*

*No controls for this level, this level of the development extends outside the permitted envelope controls.

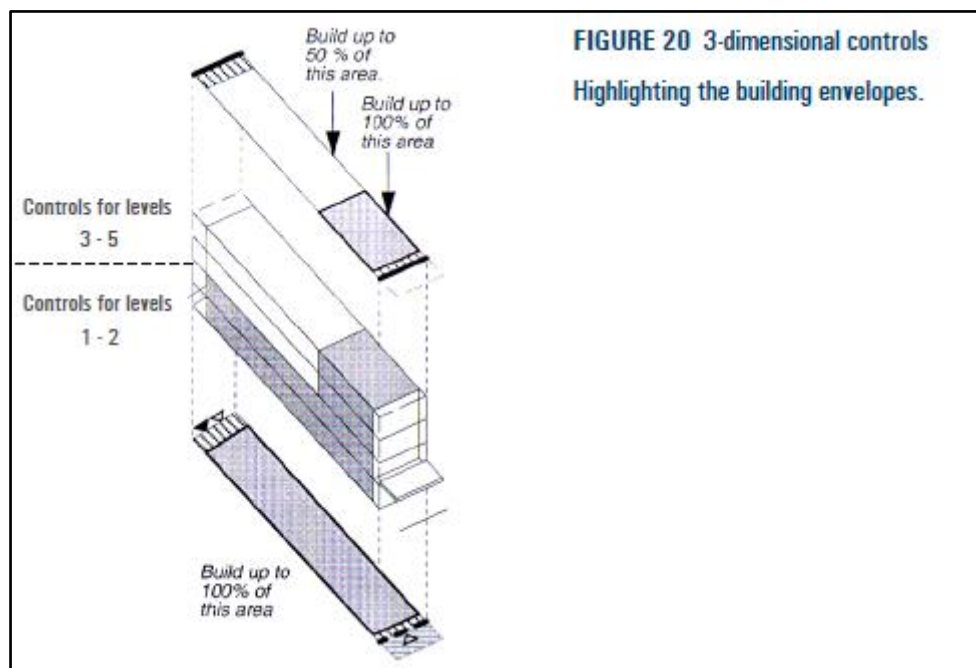


Figure: indicative diagram highlighting the potential building envelope for the site to be read in conjunction with Control Drawing 5

- D5.5.9: Built Form Envelopes: Control Drawing 5
- D5.6.3.1 – Controls C1, C2-C4 & Objectives O1 & O2

Building Envelope

The proposal does not comply with Control C1, however it does achieve consistency with the relevant Objective O1 states “*development should contribute to the desired future character of streetscapes with appropriate and consistent building forms*” in *Part D5.6.3.1: Building Envelopes* of the WDCP 2015, as:

- The proposed development is beyond the prescribed building envelopes as shown on the *Built Form Envelopes: Control Drawing 5* and as noted in the Compliance Table above;
- The proposed 5-storey building with a 4-storey street wall height to Bay Street and 3-storey street wall to Gumtree Lane will result in a building that is not inconsistent with the emerging *desired future character* of the Bay Street (South) character precinct as discussed in the Clause 4.6 HOB assessment of this report.
- Whilst it provides for a maximum four-storey built form fronting Bay Street (with a maximum of five-storeys) it is consistent with relevant recent approvals on the subject site and to this part of Bay Street (South) and Gumtree Lane precincts and also with the emerging character of this part of Double Bay Centre;
- The proposal generally maintains the building envelope as approved under DA 14/2021 (construction commenced with demolition work already undertaken), albeit includes an additional site being No 19 Bay Street which is currently isolated with no 17 Bay Street approved for redevelopment.

Building Depth

The proposal does not comply with Control C2(b) and C4(a), however it does achieve consistency with the relevant Objective O2 in *Part D5.6.3.1: Building Envelopes* of the WDCP 2015, as:

- Per Controls C2-C4, deep building footprints are not permitted to levels above the Ground and First Floor level. Furthermore, light-wells and internal courtyards are encouraged at Ground and First Floor to minimise the need for artificial heating and cooling via providing natural light and ventilation.

As noted in the Compliance Table above, the proposal provides deep floorplates (if measured from the Bay Street to Gumtree Lane frontages which exceeds the maximum 15.6m building depth as permitted by Control C2(b) above first floor level.

Nevertheless, the proposed development has large floorplates to the retail gallery uses and whereby natural light is not conducive to requiring or necessitating natural light. Furthermore, and the uppermost floor level (restaurant use) is largely roofed in glass with a large central skylight over the central void. Therefore the provision of natural light and ventilation is not considered an issue as the internal areas of the commercial (retail) and restaurant level would have a reasonable amount of natural light and ventilation.

The proposal satisfies the relevant criteria prescribed by this part.

Height (5.6.3.2)

<i>Urban Character - Height</i>	<i>Proposed</i>	<i>Control</i>	<i>Complies</i>
D5.6.3.2 - Maximum Height – Storeys & (m) (Bay Street)	4-storey street wall	4 storeys (14.7m) above ground	Yes
D5.6.3.2 - Maximum Height – Storeys & (m) (Gumtree Lane)	3-storey street wall	2 storeys (7.4m) above ground	NO
D5.6.3.2 - Minimum <u>floor-to-ceiling</u> heights of habitable rooms	Min >2.7m	2.7m	Yes

Urban Character - Height	Proposed	Control	Complies
D5.6.3.2 - Floor level of uppermost habitable storey below the permissible height	>11.2m (Fifth storey FFL)	11.2m (3.5m below maximum permitted height)	NO
D5.6.3.2 - Minimum <u>floor-to-floor</u> heights			
- Ground (Retail)	Min 3.5m	4m	NO
- L 1 (Commercial/Office)	3.25m	3.4m	NO
- L 2 (Commercial/Office)	3.25m	3.4m	NO
- L 3 (Commercial/Office)	3.25m	3.4m	NO
- L 4 (Commercial/Office)	3.5m*	No Control*	NO*

*No controls for this level, this level of the development extends outside the permitted envelope controls.

- D5.6.3.2 – Controls C1, C2, C3, C4 & Objectives O1, O2

Height (Street Wall and Overall)

The proposal does not comply with Controls C1, C2, C3 however it does achieve consistency with the relevant Objective O1 in *Part D5.6.3.2: Height* of the WDCP 2015, as the building height and number of storeys are considered to be acceptable for reasons as detailed in the section above.

Internal amenity of retail/commercial levels

The proposal does not comply with Control C4 (minimum floor-to-floor heights) and achieves consistency with the relevant Objective O2 in *Part D5.6.3.2: Height* of the WDCP 2015 for reasons as detailed in the section above.

Building articulation (5.6.3.3)

Urban Character – Articulation	Proposed	Control	Complies
D5.6.3.3 Building Articulation - <u>Max internal space</u> in articulation zone (%)			
<u>Bay Street</u>	<u>Bay Street</u>	<u>Bay Street</u>	
- Ground	Approx. <100% / 2.4m	100% / 2.4m	Yes
- L 1	Approx. <100% / 2.4m	100% / 2.4m	Yes
- L 2	Approx. <40% / 2.4m	40% / 2.4m	Yes
- L 3	0% / 2.4m	40% / 2.4m	Yes
- L 4	0% / 2.4m*	No Control*	NO*
<u>Gumtree Lane</u>	<u>Gumtree Lane</u>	<u>Gumtree Lane</u>	
- All Levels	N/A	No Articulation Zone	Yes

- D5.6.3.3 – Controls C1, C2 & Objectives O1, O2

This part of the DCP aims to, “...*promote buildings of articulated design and massing, with building facades that contribute to the character of the street, and provide useable external spaces...*”, via a mix of both internal and external spaces.

The proposed development is articulated with both internal and external spaces within the articulation zones as specified by the *Built Form Envelopes: Control Drawing 5* located to Bay Street and Gumtree Lane. The areas of articulation include façade elements including terraces, planters, articulated windows and inset area in the facade within the articulation zones. The articulation is generally consistent with intent of Control C1 and C2.

The proposal would satisfy the relevant criteria prescribed by this part, except that the uppermost level (level 4) is not envisaged under this Part.

Figure below details the minimum numerical requirements for the articulation zones attributed to the subject site. No articulation zones apply to Gumtree Lane on the site.

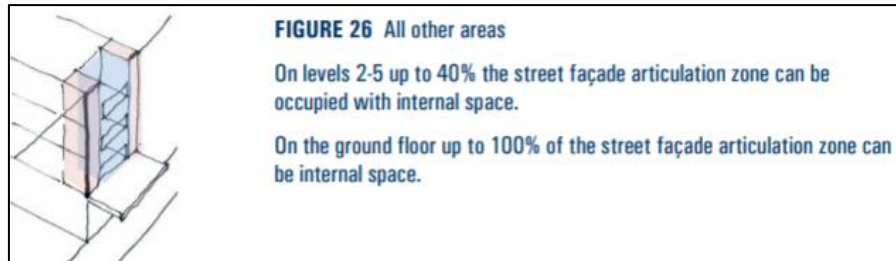


Figure1: Minimum requirements for the articulation zone on the east elevation (Bay St frontage)

Setbacks (5.6.3.4)

Urban Character – Setbacks and Building Depth	Approved (DA 14/2021)	Proposed	Control	Complies
D5.6.3.4 - Front Setback (Bay Street) (D5.5.9 Control Dwg 5)				
- G	1.2-1.8m	0-1.2m	0m	Yes
- L 1	1.3m	0-1.2m	0m	Yes
- L 2	1.3m	0-1.2m	0m	Yes
- L 3	1.3m	0-4.8m	3.5m	Yes
- L 4	5m*	6.095m*	No Control*	NO*
D5.6.3.4 - Front Setback (Gumtree Lane) (D5.5.9 Control Dwg 5)				
- G	2.1m	2-2.1m	2m	Yes
- L 1	2.1-4.8m	2-2.1m	2m	Yes
- L 2	4-4.8m	2.1-7m	8m (2 + 6)	NO*
- L 3	4-4.8m	7m	8m (2 + 6)	NO*
- L 4	7m*	7m*	No Control*	NO*

*No controls for this level, this level of the development extends outside the permitted envelope controls.

- D5.5.9: Built Form Envelopes: Control Drawing 5
- D5.6.3.4 – Controls C1, C2, C3, C4, C5 & Objectives O1, O2, O3.

This part of the DCP aims to:

- O1 *Encourage consistent building lines to provide coherent streetscapes*
- O2 *Introduce new setbacks at street level in selected laneways to improve pedestrian amenity*
- O3 *Where indicated provide street setbacks to the upper level of development to permit mid-winter sunlight.*

The proposal does not comply with Control C1, C2, C4 & C5 however it does achieve consistency with the relevant Objectives O1-O3 in *Part D5.6.3.4: Setbacks* of the WDCP 2015, as:

- The proposed development is not located within the prescribed front setbacks of Bay Street and Gumtree Lane as shown on the *Built Form Envelopes: Control Drawing 5* and as noted in the Compliance Table above. Notwithstanding this, the subject DA, is generally consistent with the minimum approved setbacks under DA 14/2021 and achieves the DFC of the neighbourhood, as already discussed in the Clause 4.6 Assessment of this report. The modified proposal would not result in a decrease to the spatial definition of the lane nor any significant additional overshadowing of surrounding properties and the public domain at mid-winter.
- It will result in a building bulk and scale that that is commensurate with the DFC of the Bay Street (South) and Gumtree Lane Precincts within the Double Bay Centre, achieving consistency with objectives O1 and O3.

The proposal would therefore satisfy the relevant criteria prescribed by this part.

Corner buildings (5.6.3.5)

Not applicable.

Architectural resolution (5.6.3.6)

The proposal is generally consistent with the architectural resolution provisions, and is therefore acceptable with regard to Part D5.6.4.7 of the Woollahra DCP 2015.

Roof design (5.6.3.7)

The proposal is generally consistent with the roof design provisions, and is therefore acceptable with regard to Part D5.6.4.7 of the Woollahra DCP 2015.

Heritage items and character buildings (5.6.3.8)

Not applicable.

19.5.3. 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.”*

Awnings (D5.6.4.1)

- D5.6.4.1 – Control C1, C2, C3, C4 and Objective O1 & O2

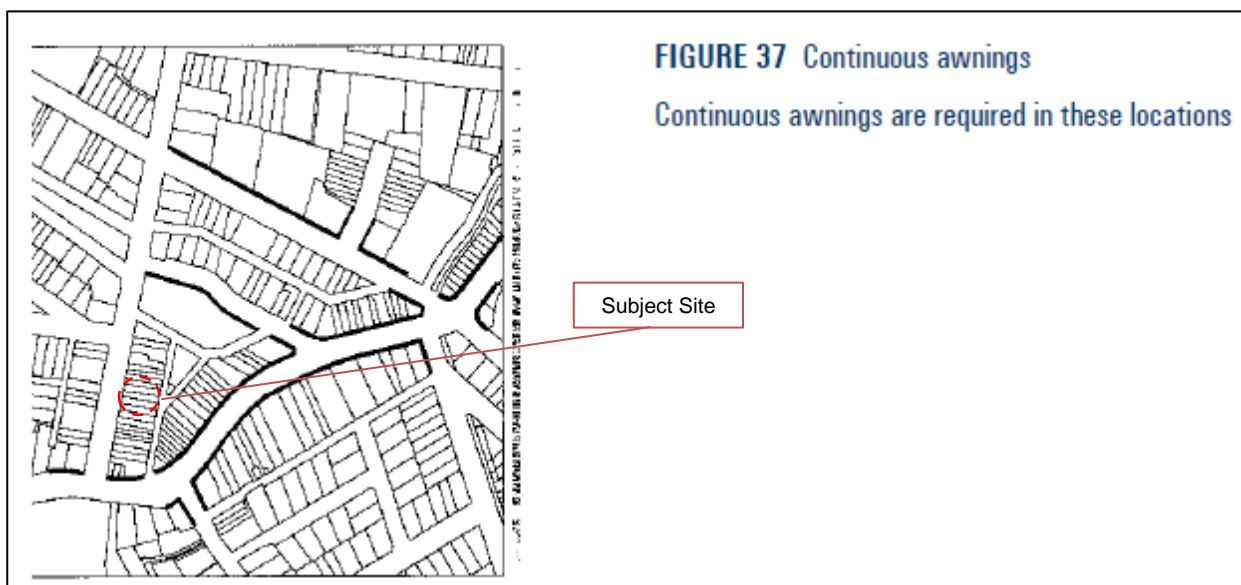


Figure: Diagram in Part D5.6.4.1 specifying specific sites in the centre requiring continuous awnings (subject site highlighted).

Per Figure above (Figure 37 in the DCP) and Control Drawing 5, a continuous awning is not required for the Bay Street or Gumtree Lane frontage of the site.

Notwithstanding this, it is acknowledged that Control C4 requires adequate cover to building entrances. The proposal provides awnings above footpath directly adjacent to the main entrances along Bay Street. The proposed awnings whilst less than the 3.2m minimum soffit height is generally acceptable in the circumstances.

The proposal would satisfy the relevant criteria prescribed by this part.

Colonnades (D5.6.4.2)

Colonnades are not required in the location of the site. The proposal does not incorporate colonnades. The proposal would satisfy the relevant criteria prescribed by this part.

Arcades, walkways and courtyards (D5.6.4.3)

- Part D5.6.4.3 – Control C1, Objectives O1-O4
 - O1 *Encourage new arcades and walkways that provide:*
 - a) *public access across private land; and*
 - b) *connections between streets and other parts of the public domain.*
 - O2 *Create arcades with active retail frontages.*
 - O3 *Encourage arcades that are supplemented with outdoor areas such as courtyards or outdoor rooms.*
 - O4 *To provide suitable amenity within arcades.*
 - C1 *All existing arcades and walkways must be retained or replaced when a site is redeveloped.*

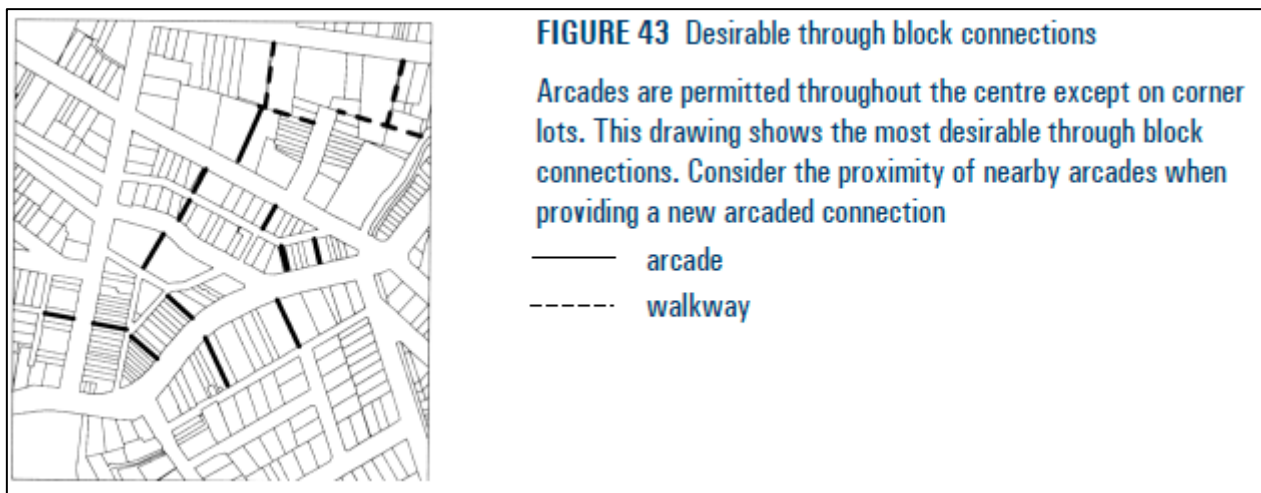


Figure: Diagram in Part D5.6.4.3 specifying specific sites in the centre with desirable through block connections (subject site highlighted).

Per **Figure** above (Figure 43 in the DCP) and Control Drawing 5, a through block connection via an arcade is encouraged and as a desirable location through the site from Bay Street to Gum Tree Lane.

A through block connection through the centre of the proposed building is provided.

Council's Urban Design Officer states:

"The proposed design of the ground floor provides for an accessible link between Bay Street and the Lane through the ground floor retail.

This approach is not particularly legible and does not offer the certainty that is required.

Yes, subject to a condition that provides certainty of visibility and unrestricted public access during business hours."

Based on the above, the below DA Condition is recommended:

I.22 Maintenance of Public Access through Ground Floor Retail

Public thoroughfare at ground floor between Bay Street and Gum Tree Lane must be provided and maintained between the following hours:

i) Monday to Saturday: 10am to 6pm

ii) Sunday: 10am to 6pm

After the above hours, the entry of Gum Tree Lane must be closed. Patrons to the restaurant at Level 4 may only access through the ground floor entry upon Bay Street, as the main principal entry point, after 6pm. And the entry after 6pm must be monitored by a security posture as required by NSW Police Force – Licensing.

Note: *This condition is imposed to maintain public access through the site and, at the same time, to ensure intoxicated persons are not able to readily access the site after ordinary business hours (6pm).*

The proposal achieves consistency with the relevant Objectives in Part D5.6.4.3 Arcades, walkways and courtyards of the WDCP 2015.

Public art (D5.6.4.4)

D5.6.4 Relationship to public domain	Proposed	Control	Complies
Public art (D5.6.4.4)			
D5.6.4.4 - Public art	Not required for CIV <\$15Mil/ not provided	Provided for >CIV \$15Mil	Yes

Control C1 only requires that that development with a capital investment value of \$15M or more to include public art.

The proposed development involves an estimated cost of work less than \$15M CIV and therefore inclusion of public art is not required.

The proposal satisfies the relevant criteria prescribed by this part.

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.

Ground floor active lane frontage (D5.6.4.6)

Site Area: 1026.6m² Site Width (Gumtree Lane): 30.53m	Existing	Proposed	Control	Complies
D5.6.4.6 - Active Frontage to Lane (Gumtree Lane)	0% (0m)	<75% (Approx. 16%)	75% (22.9m)	Yes* (on merit)

**existing non-compliance which is not exacerbated as a result of the proposal*

- D5.6.4.5 – Control C1, C2, C3, C4, C5 and Objectives O1, O2, O3, O4 & O5

Per the table above, the proposal is non-compliant with the minimum requirement for active rear lane frontage to Gumtree Lane.

Notwithstanding the above, the proposal achieves consistency with the relevant Objectives O1, O2, O3, O4 & O5 in Part D5.6.4.6 of the WDCP 2015, as:

- Despite not meeting the minimum active street frontage on Gum Tree Lane, the central spine design and floor to ceiling glass will enable through site visibility and accessibility;
- It does not further exacerbate the existing situation in that the existing rear lane frontage is dominated by vehicular ingress and egress points including full width hardstand parking areas;
- Ground floor active retail frontage is to be maximised along the Bay Street frontage, with the provision of a single vehicular access point to the site located to the north-eastern corner of the site;
- Separate pedestrian and vehicle entries are provided.
- Service stairs and plant areas, including electrical substations, have been incorporated within the building envelope and are screened and integrated within the building envelope minimising lane presence.

The proposal would satisfy the relevant criteria prescribed by this part.

19.5.4. Part D5.6.5: Amenity

Visual privacy (D5.6.5.1)

D5.6.5 Amenity	Proposed	Control	Complies
Visual privacy (D5.6.5.1)			
D5.6.5.1 Minimum separation (m) - Non-habitable to non-habitable - Non-habitable to habitable - Habitable to habitable	Min >9m – GF, L1, L2, L3 Min >12m – L4	6m* 9m* 12m*	Yes

* DCP Controls relating to separation distances do not apply to commercial premises.

The preamble in this part of the DCP states:

“Visual privacy is an important consideration for residential development within the centre, and neighbours adjacent to the centre, as it is a major determinant of amenity.”

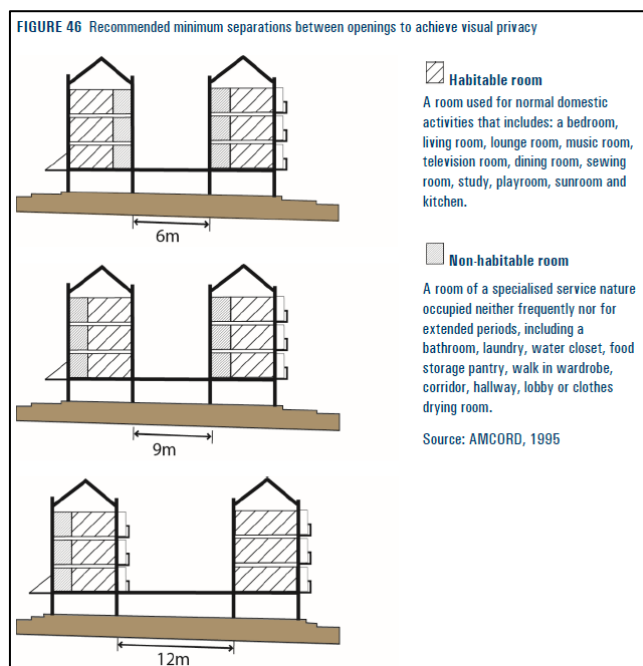


Figure 2: Recommended minimum separation DCP distances between openings

- D5.6.5.2 – Controls C1, C2 and Objectives O1 and O2.

O1 *Ensure development protects the privacy of adjacent residential neighbours.*

O2 *Ensure residential apartments and private open spaces have adequate visual privacy.*

C1 *Orientate main living spaces, and their primary openings, to the street or rear garden to avoid overlooking between neighbouring properties. Living areas with primary openings facing the side boundary should be avoided.*

C2 *Where openings face the side boundaries of properties, protect visual privacy between neighbouring dwellings by:*

a) providing adequate distance between opposite windows – use the illustrations in this section as a guide;

b) offsetting facing windows of neighbouring dwellings; and

c) providing obscure glazing, screening or planting.

The proposal however complies with Controls C1 and C2 and achieves consistency with the relevant Objectives O1 & O2 in Part D5.6.6.2 of the WDCP 2015, as:

- There are no adjacent residential dwellings to the north or south.
- The proposed glazed openings and terraces to the west are orientated towards Bay Street and have minimum separation distances substantially greater than 9m (at Ground Floor, Levels 1-3) and greater than 12m (Level 4) from the site boundaries of the properties on the western side of Bay Street (approximate width of Bay Street is 20m). This is considered sufficient separation distances even when considering existing and potential future habitable room windows of neighbouring residential properties.
- The proposed glazed openings and terraces to the east are orientated towards Gum Tree Lane and have a minimum separation distance of no less than 9m (at Ground Floor, Levels 1-3) from the nearest building along the eastern side of Gum Tree Lane (approximate width of Gum Tree Lane is 6m). No glazed openings or terraces are proposed to the eastern elevation at Level 4.
- The proposed balconies and terraces are also either orientated towards public areas or adequately offset from the boundaries including the provision of raised landscape garden beds along their edges. Cumulatively, this would ensure that downward sightlines to any future areas of private open space and habitable room windows are minimised.

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 '1.1-1.22'**) provide a balance between the use of the premises and the existing and future residential uses within the Double Bay Centre 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.

Landscaped areas (5.6.5.3)

The existing and proposed development does not provide any deep-soil landscaping. There is no existing significant trees and/or vegetation on the subject site. Landscaping has been proposed as planting in the form of planters above-structures.

The proposal satisfies the relevant criteria prescribed by this part.

Private open space (5.6.5.4)

The proposal involves non-residential development. The criteria prescribed in this part is not relevant to the proposed scope of work.

19.5.5. Part D5.6.6: Solar access and natural ventilation

Solar access (5.6.6.1)

<i>D5.6.6 Solar access and natural ventilation</i>	Existing	Proposed	Control	Complies
<i>Solar access (5.6.6.1)</i>				
D6.6.6.1 Maintain Solar Access to <u>adjoining properties and public open areas (South Footpath of Knox St, Cross St, and NSH Rd)</u> between 12pm and 2pm on 21 June	Not reduced between 12-2pm	Not reduced between 12-2pm	Not further reduced beyond existing between 12pm and 2pm	Yes
D6.6.6.1 Hours of Solar Access to <u>adjoining properties</u> windows between 9am and 3pm on 21 June - Habitable windows - Private open space	Min 3hrs Min 2hrs	Min 3hrs Min 2hrs	3hrs 2hrs	Yes Yes

- Part D5.6.6.1 – Control C2, C3 and Objective O1

Part D5.6.6.1 aims to minimise overshadowing of publicly accessible spaces, and minimise shadowing of north-facing habitable rooms and private open space.

The proposal would not result in overshadowing of public open areas (South Footpath of Knox St, Cross St, and NSH Rd) as required by Control C1.

The proposal achieves compliance with the minimum solar access requirements of C3 and C4 in Part D5.6.6.1 of the WDCP 2015, in terms of maintaining solar access to surrounding main areas of private open space and habitable room windows.

Furthermore, the overshadowing of the proposed development when compared to that of a compliant built-form on the subject site is not substantial nor significant.

Thereby, achieving consistency with the key objective O1 which aims to, *“Minimise overshadowing of adjoining properties or publicly accessible spaces.”*

The proposal would satisfy the relevant criteria prescribed by this part.

Cross-ventilation (5.6.6.2)

D5.6.6 Solar access and natural ventilation	Approved (DA 14/2021)	Proposed	Control	Complies
Cross-ventilation (5.6.6.2)				
D6.6.6.2 Natural cross-ventilation to all buildings, levels above the Ground & 1 st Floor	>15.6m	>15.6m	Max Depth 15.6m	NO*

*Acceptable on merit

- Part D5.6.6.2 – Control C1, C3 and Objectives O1, O2

O1 All buildings should be designed to achieve natural ventilation.

O2 Design buildings with naturally lit habitable rooms.

C1 The maximum building depth of development for levels 3-5 is 15.6m to achieve buildings that are substantially naturally lit and ventilated.

C3 Encourage building articulation, such as light wells and courtyards, that allows daylight into ground and first floor levels.

The proposal does not comply with Control C1 which requires the maximum building depth of development to all levels (above ground and 1st floor) to be a maximum of 15.6m to achieve buildings that are substantially naturally lit and ventilated.

The proposal does not comply with Control C1, however it does achieve consistency with the relevant Objectives O1 & O2, as discussed in *Part D5.6.3.1 Building envelopes* assessment of this report, the maximum permitted building depth of 15.6m is supported as the non-compliance with building depth does not result in adverse internal amenity impacts for future users of the commercial spaces (non-residential spaces) which are designed for a single tenant (RH Double Bay).

The proposal would satisfy the relevant criteria prescribed by this part.

19.5.6. Part D5.6.7: Geotechnology and hydrogeology

Repealed by Woollahra DCP 2015 (Amendment 18) on 6 December 2021. Refer to assessment of *Chapter E2 Stormwater and Flood Risk Management* of DCP 2015.

19.5.7. Part D5.6.8: Parking and Site facilities

	Proposed	Control	Complies
D5.6.8 Parking and site facilities			
On-site parking (D5.6.8.1)			
D5.6.8.1 - Location of Parking	Parking located within Basement Levels	Located below Existing Ground Level	Yes
Site facilities (D5.6.8.4)			
D5.6.8.4 - Site facilities - Air-Conditioning Units - Garbage Storage Area - Fire Hydrant and booster pumps	within dedicated internal areas / not readily visible and/or visually integrated	Not readily visible Visually integrated	Yes Yes Yes

On-site parking (D5.6.8.1)

- Part D5.6.8.1 – Control C1, C2, Objectives O1, O2

This control requires that parking must comply with the terms of Chapter E1 of this DCP. The proposed parking areas are located within Basement Levels, under the proposed building footprint and would not be visible from Bay Street or Gum Tree Lane apart from the vehicular access point at Gumtree Lane. The proposal satisfies the relevant criteria prescribed by this part.

See below *Chapter E1: Parking and Access* for further assessment.

Vehicular access (5.6.8.2)

- Part D5.6.8.2 – Control C1, C2, C3, C4, C5, Objectives O1, O2, O3, O4, O5

The proposal complies with relevant Controls C1, C2, C3, C4, C5 and achieves consistency with the relevant Objectives O1, O2, O3, O4 & O5 in Part D5.6.8.2 of the WDCP 2015, as:

- The proposed vehicular access and loading bay access is consolidated to Gumtree Lane to the rear in compliance with Controls C1 & C2;
- The proposed single driveway crossing is 5.5m (as necessitated to achieve compliance with the Australian Standards) in compliance with Controls C3, C4 & C5 and achieving consistency with Objective O3;
- The proposed removal and consolidation of the vehicular crossovers on Gumtree Lane ensures the retail frontage is able to be maximised and ensures minimising of conflict between pedestrians and vehicles; achieving consistency with the intent of Objectives O1 & O2;
- The proposal involves a reduction of the width and number of vehicular access points on Gumtree Lane into a single vehicular access point, achieving consistency with the intent of Objective O4 & O5 that aims to reduce the number of vehicle access and egress points.

The proposal satisfies the relevant criteria prescribed by this part.

Site facilities (5.6.8.4)

The provision of site facilities including waste storage, fire hydrants and the like are unobtrusively integrated into the design of the proposal and/or not readily visible from the public domain.

The balance of the proposal would satisfy the relevant criteria prescribed by this part.

19.6. Chapter E1: Parking and Access

The objectives of this chapter are:

- O1 *To minimise the amount and impact of vehicular traffic generated due to proposed development.*
- O2 *To ensure that development generating vehicular traffic makes adequate provision off street for the car parking and servicing needs of its occupants and users, including residents, employees, visitors and deliveries.*
- O3 *To ensure the safe and efficient movement of vehicles within, entering and leaving properties.*
- O4 *To minimise the environmental effects, particularly visual impact, of parked vehicles on the amenity of the municipality.*
- O5 *To ensure that access points to car parking areas are situated to minimise disruption of vehicle movement on the public road system.*

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

19.6.1. 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.

Use	GFA	Rate	Multiplier	Control (Spaces Required)	Complies (Y/N) (Spaces Provided)
<u>Commercial (proposed) –</u> <i>Minimum Parking Rates</i>	<u>2,799m²</u>				N – 59 Spaces provided
• Retail ('Display Suite / Retail Gallery')	2,406m ²	3.3/100m ²	x0.6*	Min 48 (47.64)	
• Restaurant	393m ²	7/100m ²		Min 17 (16.51)	
Total:				65	

* The number of parking spaces for non-residential uses are multiplied by the parking multiplier (x0.6) in the Double Bay Centre E1 zone.

Based on the compliance table above, the proposal results in a short-fall of **six (6)** non-residential parking spaces for the development.

Council's Traffic Engineer supports the undersupply of non-residential parking spaces, stating:

"3.1 Parking Provision

On-site parking provision has been previously assessed in accordance with Council's DCP 2015 Chapter E1 Parking and Access, where a shortfall of six (6) parking spaces than DCP's minimum requirement is identified. Refer to TRIM #23/166058.

It is however acknowledged DCP does not specify parking rate for the proposed use. Council's Traffic & Transport Engineers concur with the submitted traffic letter that the proposed furniture display suite operates closer to a bulky good/slow trade furniture store which has a lower customer density, noting the majority of future customers will visit on an appointment basis that should further decrease the turnover rate.

The traffic letter made reference to the RMS (now TfNSW) Guide and Technical Directions, as well as parking generation manual and a similar RH site currently operating in USA, where it was concluded that parking rate for the furniture display component is approximately 2.3 spaces per 100m² GFA. The required minimum parking is 33 spaces for furniture store and 17 spaces for food and drinking premises, giving a total requirement of 50 spaces. The proposed parking rate is considered reasonable.

It is also noted that the maximum seating capacity and number of staff on-site has been reduced as per the revised plan of management. Carpooling and alternative transport modes will be facilitated in addition to a review of Census 2021 Journey to Work data, which suggests 26% of employees use public transport to travel to and from work in Double Bay area.

In light of all the above, the proposed provision of 59 car parking spaces is considered acceptable"

Based on the above, the proposal is considered to achieve consistency with Part E1.5 of the WDCP 2015.

19.6.2. Part E1.6: Bicycle parking and end-of-trip facilities and Part E1.7: Motorcycle parking rates

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Retail/Restaurant Employees	2799m ²	1 per 250m ²	11.2 (11)
Retail/Restaurant Customers	2799m ²	2 + 1 per 100m ² over 100m ² GFA	29.0 (29)
Total required			40
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	65	1 per 10 car spaces	6.5 (7)
Total required			7

Council's Traffic Engineer provides:

"In response, the proposal includes 39 bicycle parking spaces and 6 motorbike parking spaces, which results in a shortfall of 1 space for bicycle parking and 1 space for motorbike parking. It is however acknowledged that there may be some overlapping in parking demand from the retail and restaurant components and the marginal shortfall is considered acceptable."

Bicycle Parking

Based on the compliance table above, the proposed development composition requires a *minimum* number of forty (40) bicycle parking spaces.

The proposal provides thirty-nine (39) bicycle parking spaces, representing a short-fall of 1 bicycle parking space with the *minimum* requirement.

Based on the overlapping parking demand, the proposal is considered to achieve consistency with regards to the relevant bicycle parking controls and objectives in *Part E1.6 Bicycle parking and end-of-trip facilities* of the WDCP 2015.

End-of-trip facilities (EOT)

Control C4 requires one (1) shower and change cubicle to be provided for 5-10 bicycle parking spaces and two (2) showers and change cubicles for 11-20 bicycle parking spaces and one (1) additional shower and cubicle for each additional 10 bicycle parking spaces. *Total required: Three (3) x EOT (3 based on 39 bicycle spaces).*

The proposal provides 4 x shower/change cubicles (EOT) for the development (Control C4, Objective O2), representing compliance with the requirement.

The proposal is considered to achieve consistency with regards to the relevant EOT controls and objectives in *Part E1.6 Bicycle parking and end-of-trip facilities* of the WDCP 2015.

Motorbike Parking

Control C1 requires that developments shall provide a minimum of 1 motorcycle parking space per 10 car spaces for all types of development.

Based on this, the proposed development requires a *minimum* of seven (7) motorcycle parking spaces to be provided.

The proposal provides six (6) motorbike parking spaces, a short-fall of 1 motorcycle parking spaces for the development (Control C1, Objective O1)

Based on the overlapping parking demand, the proposal is not considered to achieve consistency with regards to the relevant controls and objectives in *Part E1.7: Motorcycle parking rates* of the WDCP 2015.

19.6.3. Part E1.10: Parking and Access Design Standards

The proposed vehicular access and carparking layout has been reviewed by Council's Development and Traffic Engineer and is satisfied that it complies with the applicable Australian Standard (AS2890.1), subject to refinements required at CC stage and is conditioned accordingly.

The proposal is acceptable with regard to relevant Parking and Access Design Standards as required in Chapter E1.10 of the Woollahra DCP 2015.

19.6.4. Part E1.11: Electric Vehicle Charging Points

Part E1.11 seeks to encourage and support the increased use of electric vehicles by ensuring the installation of appropriate electric circuitry and dedicated electric vehicle charging points.

Control C1 requires evidence of electric circuitry to accommodate 'Level 2' electric vehicle charging points to be integrated into all off-street car parking of new residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future.

Control C4 requires all new residential and non-residential development (other than for dwelling houses, semi-detached dwellings or dual occupancies) must provide 1 car parking space or 10% of all car parking spaces – whichever is greater - to have a 'Level 2' electric vehicle charging point installed.

Assessment: No details have been provided of electric circuitry or EV charging points. Compliance with the above is achieved via the recommended standard DA conditions requiring the provision for electric vehicle circuitry within the development.

Conclusion

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 relevant conditions.

19.7. Chapter E2: Stormwater and Flood Risk Management

The objectives of this chapter are:

- O1 *To encourage ecologically sustainable stormwater management and the use of water sensitive urban design.*
- O2 *To maintain existing natural drainage patterns.*
- O3 *To ensure that adequate provision has been made for the disposal of stormwater from land proposed to be developed.*
- O4 *To ensure the controlled release of stormwater to public stormwater systems without adversely impacting on adjoining or downstream properties.*
- O5 *To protect Sydney Harbour and its waterways from stormwater pollution.*
- O6 *To minimise flood risk and damage to people and property by setting appropriate development controls.*

O7 To ensure that flood levels are not increased by development.

For the reasons discussed below, the proposal satisfies the aforementioned relevant objectives and/or can be addressed via standard conditions of consent.

Part E2.2: Stormwater drainage management controls and Part E2.2.10: Groundwater (hydrogeology)

Council's Development Engineer is satisfied that the proposed development has made adequate provision of stormwater management.

The proposal is considered to be satisfactory in terms of the relevant controls and objectives in Part E2.2 of the WDCP 2015 and/or can be addressed via standard conditions of consent.

Part E2.3: Flood Risk Management controls

The subject site is identified as a 'Flood Planning Area'.

Council's Drainage Engineer is satisfied that the proposed development has or can be made to have adequate provision of flood protection measures.

The proposal is considered to be satisfactory in terms of the relevant controls and objectives in Part E2.3 of the Woollahra DCP 2015 and/or can be addressed via a recommended DA condition of consent.

Conclusion

The proposal is considered to achieve consistency with regards to the objectives and controls in Chapter E2 of the Woollahra DCP 2015 and/or is addressed via recommended DA Conditions.

19.8. Chapter E3: Tree Management

The proposal does not involve the removal of any trees nor result in any impacts upon trees as determined by Council's Tree and Landscape Officer. The potential for any adverse impacts upon street trees can be adequately mitigated via standard tree protection and preservation conditions.

The proposal is acceptable with regard to the objectives and controls in Chapter E3 of the Woollahra DCP 2015.

19.9. Chapter E4: Contaminated Land

Where the site is seen to be potentially contaminated, the applicant is required to provide some or all of the following information under Chapter E4:

- Stage 1 – Preliminary Site Investigation
- Stage 2 – Detailed Site Investigation
- Stage 3 – Remedial Action Plan
- Stage 4 – Validation and Monitoring

As discussed under Section 13.2 (Chapter 4 – Remediation of Land under SEPP Resilience and Hazards 2021), adequate information has been submitted that ensures that the proposal is satisfactory with regards to Contaminated Land considerations, subject to the implementation of relevant DA Conditions of consent.

The proposal is therefore acceptable with regard to the objectives and controls in Chapter E4 of the Woollahra DCP 2015.

19.10. Chapter E5: Waste Management

The objectives of this chapter are:

- O1 To assist applicants in planning for sustainable waste management, through the preparation of a site waste minimisation and management plan.*
- O2 To identify on-site requirements for waste and recycling storage and management, having regard to access and amenity.*
- O3 To ensure waste management systems are compatible with collection services.*
- O4 To minimise noise and nuisance arising from waste and recycling collection having regard to the need to balance operational needs and functions of businesses with the amenity of nearby residential uses, particularly between 10pm and 7am.*

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete are to be considered.

An 'Operational Waste Management Plan' ('OWMMP'), prepared by Elephants Foot (Rev F dated 19 October 2023) were submitted with the development application and were found to be generally satisfactory.

19.10.1. Part E5.2: Demolition and Construction Phase

The proposal is considered to be acceptable with regard to the relevant controls and objectives in Part E5.2 of the Woollahra DCP 2015 and/or can be adequately addressed via recommended standard conditions of consent.

19.10.2. Part E5.3: On-site waste and recycling controls for all development

Waste Storage

The proposal complies with relevant Controls C1-C6 and achieves consistency with the relevant Objectives O1, O2 & O3 in Part D5.3 of the WDCP 2015, as:

- The proposed provides a dedicated basement floor levels waste storage room which are suitably designed and located;
- The waste storage areas are appropriately located to allow for on-site collection;
- The waste storage areas are easily accessible by future tenants/occupants of the development; and
- The waste storage areas are not visible from the public domain.

Waste Collection and Deliveries

Council's Traffic Engineer originally had concerns regarding potential waste collection occurring on Gumtree Lane as it would impede traffic flow along the narrow laneway and result in traffic related issues. On this basis, it was considered that any waste collection must occur wholly within the subject site and shall be undertaken outside of peak periods.

Council's Traffic Engineer has provided the following commentary of relevance:

“Service Vehicles

It is understood that deliveries for the restaurant will be undertaken by vans of approximately 6-8 cubic metres in size and will utilise the on-site loading bays. Deliveries will occur 4-5 times per day outside peak hours. Deliveries for furniture display will be undertaken via 8.8m MRV using the on-street loading zone in close vicinity and are anticipated to occur once or twice a year.

It is also understood that waste collection will be undertaken by 6.345m waste truck and will utilise the on-site loading bays. Swept path diagrams demonstrate successful movements accessing/egressing the site without impeding access along Gum Tree Lane.

The proposed arrangements for service vehicles are unlikely to generate unacceptable adverse traffic impacts on the local road network and are considered satisfactory. Should the development be approved, conditions will be imposed to ensure service vehicles can only attend the site outside peak hours.”

Based on the above, waste collection can be readily accommodated on-site and deliveries/collections must be undertaken outside of peak hours by imposition on-going DA condition which will read:

1.10 Waste Collection and Deliveries (Special Condition)

General waste collection and deliveries are to be undertaken ONLY between the hours of:

***10.00am to 3.00pm, Monday to Friday,
7.00pm 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 and to ensure that waste collection avoid peak traffic hours.

The proposal therefore complies with relevant Controls C7-C11 and achieves consistency with the relevant Objective O4 in Part D5.3 of the WDCP 2015.

Conclusion

The proposal is considered to be acceptable with regard to the relevant controls and objectives in Part E5.3 of the Woollahra DCP 2015 and/or can be adequately addressed via recommended standard conditions of consent requiring compliance with the submitted OWMP.

19.10.3. Part E5.6: Commercial and non-residential developments

The submitted on-going OWMP provides the following estimated waste volumes and Bin Summary:

Table 1: Estimated Waste and Recycling Volumes

Tenancy Type	Area m ²	Waste Generation Rate (L/100m ² /Day)	Generated Waste (L/Week)	Recycling Generation Rate (L/100m ² /Day)	Generated Recyclables (L/Week)
Retail Show Room	2406.0	10	1684.2	25	4210.5
Restaurant/Café	393.0	400	11004.0	280	7702.8
TOTALS	2799.0		12688		11913
Bins and Collections		Bin Size (L)	660	Bin Size (L)	660
	Retail Show Room	Bins/Week	7.0	Bins/Week	17.5
		Collections/Week	3	Collections/Week	3
		Total Bins	1	Total Bins	3
	Restaurant	Bins/Week	45.9	Bins/Week	11.7
		Collections/Week	5	Collections/Week	3
		Total Bins	4	Total Bins	4

5.2 BIN SUMMARY

Based on the estimated waste generated by the retail show room and restaurant tenant, the recommended bin quantities and collection frequencies are as follows:

➤ Retail Show Room

General Waste:

1 x 660L MGBs collected 3 x weekly.

Recycling:

3 x 660L MGBs collected 3 x weekly.

➤ Restaurant

General Waste:

4 x 660L MGBs collected 5 x weekly.

Recycling:

4 x 660L MGBs collected 3 x weekly

The proposed development provides dedicated waste rooms at basement floor level which caters for the required number of bins.

The proposal is acceptable with regard to the relevant controls and objectives in Part E5.6 of the WDCP 2015.

Conclusion

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.

19.11. Chapter E6: Sustainability

Part E6.2: Commercial and Non-Residential Buildings

Per Control C1, an office development including over 1,000m² of gross floor area must be accompanied by an ESD statement prepared by an accredited assessor, to provide evidence that the proposal achieves a minimum NABERS (i.e. National Australian Built Environment Rating System) rating of 4 stars, or equivalent under other rating systems and promotes environmentally sustainable development.

The proposal involves greater than 1,000m² of commercial gross floor area but is limited to retail and restaurant uses and therefore an ESD statement is not required.

Part E6.3: Solar Energy Systems

	Existing	Proposed	Control	Complies
Maximum Projection Above Roof Surface (C1a)	N/A	<300mm	300mm	Yes
Location of Solar Energy System (C1b)		Behind front building line and not readily visible from street	Behind the Front Setback and not visible from the street	Yes

C1 limits solar equipment to 300mm above the roof surface and behind the front setback. It is not to consist of mirrors or lenses and where it is in a heritage conservation area, not be located on the roof plane, wall or chimney of the principal building. Complies.

C2 requires that solar energy systems must not have an unreasonable visual impact upon the streetscape or area, views from Sydney Harbour, adjoining properties or views from private property. Complies.

Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter E6 of the WDCP 2015.

19.12. Chapter E7: Signage

The proposed development application includes two (2) x new illuminated building identification/business identification wall signs (one to the Bay Street elevation above Level 3 and one to the Gumtree Lane elevation above Level 2. The signs measure approximately 0.42m (h) x 0.69m (w) with the lettering 'RH'.

Chapter E7.2.1: Building Identification Signs and Business Identification Signs

	Proposed	Control	Complies
Location of Signage	Subject Building	Subject Building	Yes
Number of Logos	One to each street frontage	One	Yes
Area of Signage	<0.5m ² per metre	0.5m ² per metre	Yes
Flush Wall/Painted Sign – Maximum Area	<5m ²	5m ²	Yes
Maximum Projection From Wall	<150mm	150mm	Yes
Illumination	Illumination proposed	Not Permitted	Yes*
Maximum Number of Flush Wall/Painted Signs	One to each street frontage	One	Yes

***Condition C.3(a)** requires the proposed signs to be non-illuminated.

Conclusion

Subject to the imposition of **Condition C.3(a)**, the proposal is acceptable with regard to the objectives and controls in Chapter E7 of the WDCP 2015.

19.13. 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

19.13.1. 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 136 patrons).

19.13.2. 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.*

19.13.3. Assessment

In accordance with 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*

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. It is not located to any residential zoned land and the proposed licensed areas are well setback from existing residential uses.

An acoustic report prepared by Acoustic Logic was submitted with the application (refer to **Attachment 18**). The report provided the following recommendations:

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

- No more than 176 patrons are allowed within the premises at any time.*
- The three-entrance door facilitating access between the indoor area and outdoor terrace may be kept open during trading hours if required (E.g., for ventilation purposes). When not required, the main entrance door should be kept closed to minimise noise impacts to nearby receivers.*
- All other entry doors accessing internal areas and external windows are to be kept closed during trading hours. Doors are to be used for only ingress/egress and 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 below (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 – 10:00am to 10:00pm Monday to Sunday.*
- Minimum installed glazing thickness (including the ceiling glazing) is to be 6mm for all glazed elements. Glazed elements are to be fitted with acoustic seals and should thicker glazing be required for structural (or other requirements) – these will be acoustically acceptable.*
- Any external doors which are not glazed elements 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).*

- *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.*

An independent peer-review of the applicant submitted Acoustic Report was undertaken by Renzo Tonin & Associates which concludes:

“We have reviewed the acoustic report submitted with the Development Application for a restaurant at the above site.

The two primary acoustic issues are:

- *The background noise levels at the site are high (meaning noise emission targets are quite relaxed). It is likely that the high ambient noise levels are a result of the operation of the adjacent site at 29 Bay Street. It is important to ensure that noise from that site is not presently the subject of complaint.*
- *The noise from the use of the outdoor dining area is predicted to be compliant with noise targets, and we generally agree with the predicted levels. However, the predictions are based an assumption that the typical patron vocal level is slightly low and does not appear to take into account reflected noise off the western façade of the restaurant. Taking these two factors into account, a reduced number of patrons in the outdoor area (currently approx. 88) should be considered. We have provided recommendations in order to address this.”*

Based on the above, it is noted that Council’s Development Assessment Department are unaware of any complaints regarding the noise associated with No 29 Bay Street. The reduced number of patrons to the outdoor dining area (to maximum capacity of 60 seated patrons) is recommended in **Condition I.2** and the measures of the submitted Acoustic Report are required to be adhered to (**Condition I.16**)

Therefore, the recommendations of the Acoustic Report and Acoustic Peer-Review, 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 136 patrons (all seated) and a maximum of 32 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.2-I.3 are recommended restricting the total number of patrons (136) and staff (32).

d) Trading hours

In accordance with Control C2, the permitted 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)

Proposed trading hours are noted in **Condition I.1** as:

- Monday to Saturday: 10am to 9pm
- Sunday: 10am to 8pm

The proposed hours of operation are consistent with Control C2 in that they are wholly within the permitted base trading hours for 'high' risk rated premises. No extended hours beyond the permitted base hours are proposed.

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. No extended hours beyond the permitted base hours are proposed.

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.8**.

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.

19.13.4. Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter F3 of the Woollahra DCP 2015.

20. DRAFT AMENDMENTS TO POLICIES AND PLANS

None relevant to the scope of proposed works.

21. CONTRIBUTION PLANS

21.1. Section 94 Contributions Plan 2002 and Section 7.12 Contributions Plan 2022

Both Contribution Plans are applicable. However, the Section 94 Contributions Plan 2002 was developed to fund an additional parking level on the existing public car parking structure in Cross Street, Double Bay. Council is no longer pursuing this development option and therefore the contribution under this plan is no longer relevant.

Section 7.13(1) of the EPA Act 1979 states in part that: “...A consent authority may impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan”.

On this basis, a levy pursuant to Section 7.12 is recommended to be applied.

The contribution under this plan is calculated as follows:

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 recommended **Condition C.4**.

22. APPLICABLE ACTS/REGULATIONS

22.1. Environmental Planning and Assessment Regulation 2021

22.1.1. Demolition of Structures (Clause 61)

Clause 61 of the Environmental Planning and Assessment Regulation 2021 requires Council to consider Australian Standard AS 2601-2001: *The demolition of structures*. This requirement is addressed by Council’s standard condition.

22.1.2. Fire Safety (Clause 64)

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.

The proposal is for a new building, BCA compliance is assessed at Construction Certificate stage.

The requirements for 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.

22.1.3. Building Code of Australia

The proposal is required to comply with the relevant provisions of the Building Code of Australia. Compliance with these requirements are enforced by recommended standard DA conditions.

23. 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.

24. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

25. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

26. 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.

27. 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.

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the written requests from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the *Height of Buildings* and *Floor Space Ratio* development standards under Clause 4.3 and 4.4 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 245/2023/1 for the demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage on land at 19 Bay 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)
DWG No.	Architectural Plans	All prepared by MHN Design Union	All dated 16 Oct 2023
DA 1002 B	Site & Roof Plan		
DA 2001 B	Basement Level 4 Plan		
DA 2002 B	Basement Level 3 Plan		
DA 2003 B	Basement Level 2 Plan		
DA 2004 B	Basement Level 1 Plan		
DA 2005 B	Ground Floor Plan		
DA 2006 B	Level 1 Plan		
DA 2007 B	Level 2 Plan		
DA 2008 B	Level 3 Plan		
DA 2009 B	Level 4 Plan		
DA 2010 B	Roof Plan		
DA 2400 B	North Elevation		
DA 2401 B	South Elevation		
DA 2402 B	East Elevation		
DA 2403 B	West Elevation		
DA 2500 B	Section A		

Reference	Description	Author/Drawn	Date(s)
DA 2501 B	Section B		
DA 2502 B	Section C		
DA 2503 B	Section D		
DA 4001 B	Driveway Profile (Sheet 1)		
DA 4002 B	Driveway Profile (Sheet 2)		
DA 6000 B	External Finishes Schedule		
DA 6100 B	Signage		
E30721Prpt-RAP	Conceptual Remedial Action Plan	JKEnvironments	08/09/2023
E25794.E99.1_R ev1	Addendum to Remedial Action Plan	Eiaustralia	14/06/2023
30721PN3rpt rev2	Geotechnical Report	JK Geotechnics	12 Nov 2021
210180.00	Geotechnical Report	Douglas Partners	24 Jun 2022
E25794.G04Rev1	Geotechnical Report	EI Australia	14 Jun 2023
231269	Structural Report	TTW	26 May 2023
231269 C01-P1 C04-P1 C06-P1 C10-P1	Stormwater Management Plan	TTW	13/06/2023 13/06/2023 13/06/2023 13/06/2023
Rev 3.1	Flood Risk Assessment	Catchment Simulation Solutions	9 Jun 2023
6654.2	Arboricultural Impact Assessment Report	Neville Shields – Redgum Horticultural	6 of May 2023
Dwg No's LP01-D2623 Revision E, LP02-D2623 Revision E, LP03-D2623 Revision E	Landscape Plans	Dangar Barin Smith	All dated 3 Nov 2023
20344	Traffic and Parking Addendum Letter	TTPP	19 Oct 2023
DWG No. 20344CAD028 & 20344CAD029	Swept Path Analysis for B99 Vehicles and 6.345m Waste Trucks, Rev A	TTPP	17 Oct 2023
unreferenced,	Waste Service Provider Letter	Capital City Waste Services	12 Oct 2023
Rev 2	Plan of Management, Rev 02 Note: This Plan of Management must be amended as required in Condition F.1	RH	Oct 2023
SO799 Rev F	Operational Waste Management Plan	Elephants Foot Consulting	19 Oct 2023
20230564.1/2806 A/R1/JHT Revision 1	Noise Impact Assessment	Acoustic Logic	28/06/2023
SYD23223 Rev P1	Section J Compliance Report	Sustain Erbas	15/06/2023
230145 Rev 0	BCA Compliance Statement	BM+G	15/06/2023
22109.1 – DA Stage Access Report - R1.1	Access Report	Code Performance	14/06/2023
21623-L03	Fire Engineering Statement	Innova Services Australia	15/06/2023

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)

A.5 No Underpinning works

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

A.6 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1 and Council's DCP.

A.7 General Terms of Approval – Water Management Act 2000 (WaterNSW)

The following General Terms of Approval (Ref: **IDAS1150580** issued on 17 August 2023) have been imposed by WaterNSW for proposed Water Supply Work (**dewatering**) requiring approval requiring approval under Sections 89, 90 or 91 of the *Water Management Act 2000*:

- a) GT0115-00001: Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- b) GT0116-00001: Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

- c) GT0117-00001: A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- d) GT0118-00001: If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
- e) GT0119-00001: All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- f) GT0120-00001: The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- g) GT0121-00001: Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
- h) GT0122-00001: Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.

- ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- i) GT0123-00001: (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering
- j) GT0150-00001: The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- k) GT0151-00001: Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- l) GT0152-00001: This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- m) GT0155-00001: The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

Note: The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Note: These conditions have not been imposed by the Council but are required to be incorporated as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Note: Should you have any questions relating to this condition please contact David Murphy, WaterNSW, on 0499 836 822 or email david.murphy@waternsw.com.au (Level 14, 169 Macquarie Street, Parramatta, NSW 2150 / PO Box 398, Sydney, NSW 2124 / customer.helpdesk@waternsw.com.au / www.waternsw.com.au)

A.8 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most southern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	12 x 8	\$6700.00
2	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most northern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	10 x 8	\$6700.00

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

A.9 Development Consent is Not Granted in Relation to these Matters

This approval does not give the applicant consent to prune street trees referenced 1 & 2 for the purposes of providing clearance for modified hoarding and scaffolding or the approved building footprint or to provide clearance to any building machinery associated with the development.

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and *AS 4373-2007 Pruning of Amenity Trees*.

A request for the pruning of Council street trees must be submitted to Council in writing at least sixty (60) days prior to any proposed work. The written request to prune for clearance or building machinery or any hoarding application must be accompanied by a current Pruning specification prepared by a qualified AQF Level 5 arborist in accordance with attachment 4 of Council's DA Guide. All costs associated with the approved pruning will be the responsibility of the applicant.

A.10 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).
Standard Condition: B8

A.11 Skeletal Remains

If any skeletal remains suspected of being human are found during construction works, work must cease immediately and no further disturbance of the site must occur. The NSW Police and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified and details of the remains and their precise location are to be provided.

Standard Condition: B9

A.12 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

A.13 Site Contamination - Remedial Action Plan

Development to adhere to *Addendum Remedial Action Plan (RAP) E25794.E99.1_Rev1*, prepared by EI Australia dated 29/06/2023 in conjunction with the Attachment D *Conceptual Remediation Action Plan E30721Prpt-RAPRev2*, prepared by JKENvironments dated 08/09/2023.

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

B.1 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

- all hazardous materials identified on the site,
- the specific location of all hazardous materials identified,
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and
- safety measures to be put in place.

Note: This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.

Standard Condition: B6

B.2 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

B.3 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970-2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most southern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	3
2	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most northern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	3

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	<i>Ulmus parvifolia</i> (Chinese Elm)
2	<i>Ulmus parvifolia</i> (Chinese Elm)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Ground protection shall consist of geotech fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface.
- g) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.

- h) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- i) The project arborist shall provide written certification of compliance with the above condition.

B.4 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of non-compliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise.• The project arborist shall install or supervise the installation of tree protection fencing and trunk protection.
During any development work	<ul style="list-style-type: none">• The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none">• The project arborist shall supervise the dismantling of tree protection measures.• After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

C.1 Surrender of Consent (section 4.17(1)(b) and section 4.17(5) of the Act)

A notice of surrender of **DA14/2021/1** (including all subsequent modification development applications) must be provided to Council in writing by the Owner of the land in compliance with clause 67 of the *Regulation*.

No Construction Certificate must be issued until Council has acknowledged in writing that this condition has been satisfied.

Standard Condition: C1 (Autotext CC1)

C.2 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
 - shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.3 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) Signage

The two (2) proposed wall signs located to the Bay Street and Gumtree Lane elevations must be non-illuminated.

b) Tree Protection – Street Trees

To minimise the potential for the disfigurement of Council Street trees referenced 1 & 2 plans must specify '*no pruning works to Trees 1 & 2 permitted without Council permission*'.

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.4 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 (S138) - making good any damage caused to any property of the Council	\$261,266	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$13,400	No	T114
Infrastructure Works Bond (S138) - completing any public work required in connection with the consent.	\$152,700	No	T113
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)	\$109,600 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$200	No	T45
Public Road/Footpath Infrastructure Inspection Fee (S138 Fee)	\$645	No	T45
Security Administration Fee	\$225	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$538,036 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.5 Hydraulic Fire Services

The Construction Certificate plans and specifications required by clause 139 of the Regulation, must detail hydraulic fire safety services required by this condition.

Fire hydrants, booster valve assembly installations, sprinkler valves and associated hydraulic equipment, must be:

- (i) enclosed with doors, if located in the building façade; or
- (ii) housed in a cabinet or enclosure, if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure must be visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.

Note: This condition has been imposed to ensure that hydraulic fire services are concealed so these services are not visually intrusive when viewed from the street.

Note: These conditions apply in addition to requirements in *AS 2419.1 Fire hydrant installations*.
Standard Condition: C11 (Autotext CC11)

C.6 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

Civil Works

- a) The construction of kerb and gutter for the full frontage of the site in Gum Tree Lane in accordance with Council's Crossing Specification and to the satisfaction of Council's Assets Engineers,
- b) The removal of all existing redundant layback and gutter in Gum Tree Lane and the construction of a new 5.5 metres wide layback and gutter in accordance with Council's Crossing Specification, Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary, Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.
- c) The reconstruction of full width footpath with Double Bay pavers for the full frontage plus 3 metres beyond the frontage of the site in Bay Street in accordance with Council's Specification for Road works, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. A maximum crossfall of 3% must be provided for the full width footpath from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment.

Drainage works

- a) The installation of stormwater outlet pipe by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the grated concrete channel must be submitted for assessment,
- b) The reconstruction of the existing Council's stormwater concrete channel with open grates within the frontage of the site in Gum Tree Lane. The grates are to be Class D "heel-safe removable grates" type. All works shall be designed and carried out in accordance with Council's Specifications for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
- c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.

Awning works

- a) The submission of design drawings and a certificate from a professional engineer (structural engineer), for the proposed metal awning on Council's property,
- b) Observe condition for the creation of positive covenant requirements.

Bond

- a) A bond of \$152,700 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
- b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advisings* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.7 Waste Storage – Commercial

The Construction Certificate plans and specifications required by clause 139 of the *Regulation*, must make provision for a dedicated and enclosed waste and recycling storage area behind the building line or within non-habitable areas of the building.

C.8 Waste Storage – Compliance with Approved Waste Management Plan (WMP)

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail provisions for waste management in accordance with the approved WMP.

Waste storage areas must meet the following requirements:

- a) Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

C.9 Utility Services Generally

The Construction Certificate plans and specifications, required by clause 139 of the *Regulation*, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 4.55 of the *Act* to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any Construction Certificate application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the Construction Certificate plans and/or detailed within the Construction Certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the Construction Certificate plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Water's sewer main. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.
Standard Condition: C20 (Autotext CC20)

C.10 Provision for Energy Supplies

The Applicant must provide to the Certifying Authority a letter from Austgrid setting out Austgrid's requirements relative to the provision of electricity/gas supply to the development.

Any required electricity pillar and/or substation must be located within the boundaries of the site. Where an electricity pillar and electricity substation required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans an application under section 4.55 of the *Act* is required to be submitted to Council. Council will assess the proposed location of the required electricity pillar and/or substation.

The Construction Certificate plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Austgrid.

Where the electricity pillar and/or substation is required, the Construction Certificate plans and specifications must provide:

- a) A setback not less than 3m from the road boundary and dense landscaping of *local native plants* to screen the electricity pillar and/or substation from view within the streetscape.
- b) A setback not less than 3m from any other site boundary (fire source feature) and not within the areas required to be kept clear of obstructions to vehicle visibility pursuant to clause 3.2.4 of AS2890.1-1993(See: Figures 3.2 and 3.3).
- c) A setback to and not within the drip line of any existing tree required to be retained.
- d) A setback not less than the 10m from any NSW Fire Brigade booster connection as prescribed by clause 5.6.3(d)(iii) of AS 2419.1-1994 or be separated from any booster connections by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994, and
- e) The Owner shall dedicate to the appropriate energy authority, free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established, if required. The size and location of the electricity pillar and/or substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road reserve.

Note: If the electricity pillar and/or substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Certifying Authority prior to issue of the Construction Certificate. The Certifying Authority must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Note: This condition has been imposed because the application fails to provide sufficient detail (either by plans or by the Statement of Environmental Effects) demonstrating that provision has been made to Austgrid's satisfaction for the provision of electricity supply to the building. Nevertheless, Council has no reason to believe that provision cannot be reasonably made for electricity to service the development.

Note: Where it is proposed to shield any booster connection or any building from any electricity pillar and/or substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the BCA respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 4.55 of the *Act* to allow assessment under section 4.15 of the *Act*.

Note: Electricity pillar and/or Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard AS/NZS 2890 (Set)-2004 *Parking Facilities Set whether such driveways service the site or any adjoining land*.

Standard Condition: C21

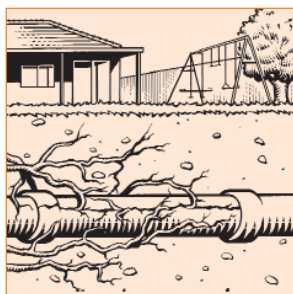
C.11 Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System

A Compliance Certificate must be obtained from Sydney Water under section 73 of the *Sydney Water Act 1994*. Sydney Water's assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to their mains.

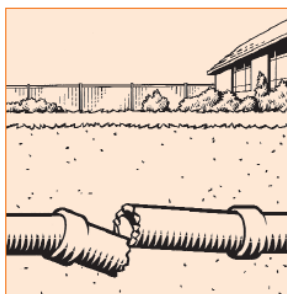
Note: Sydney Water will assess the development and if required will issue a 'Notice of Requirements' letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Please make early contact with Sydney Water or a WSC, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Note: For more information go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

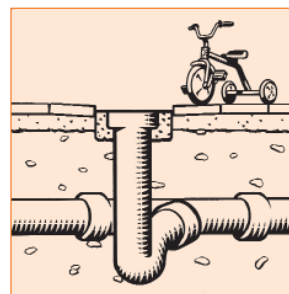
The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation*, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Water's sewer main where they are not found by inspection to be sewer grade UPVC or copper with continuously welded joints.



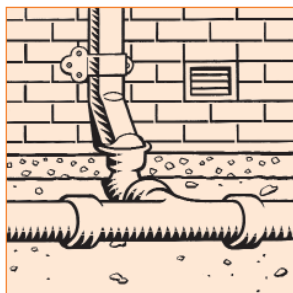
Cracked pipes



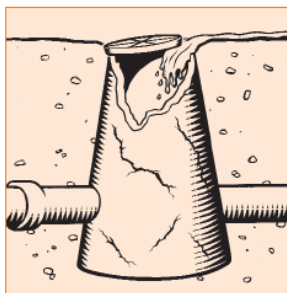
Broken pipes



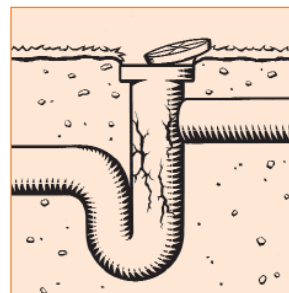
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development. Leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest.
Standard Condition: C22 (Autotext CC22)

C.12 Soil and Water Management Plan – Submission and Approval

The Principal Contractor or Owner-builder must submit to the Certifying Authority a soil and water management plan complying with:

- "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

The Certifying Authority must be satisfied that the soil and water management plan complies with the publications above prior to issuing any Construction Certificate.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association – Australasia www.austieca.com.au lists consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: The “*Do it Right On Site, Soil and Water Management for the Construction Industry*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an Accredited Certifier may be satisfied as to this matter.

Standard Condition: C25

C.13 Professional Engineering Details

The Construction Certificate plans and specifications, clause 7 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, 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, the statement of environmental effects and supporting documentation.

Detailed professional engineering plans and/or specifications must be submitted to the Certifying Authority with the application for any Construction Certificate.

Note: This does not affect the right of the developer to seek staged Construction Certificates.

Standard Condition: C36

C.14 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.

Any structural design is not to incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc which encroach outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.15 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a geotechnical engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Council's document “*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*”. The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.

- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
 - c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.2m at any time.
 - d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
 - e) Provide a Geotechnical and Hydrogeological Monitoring Program that:
 - will detect any settlement associated with temporary and permanent works and structures,
 - will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
 - will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
 - will detect groundwater changes calibrated against natural groundwater variations,
 - details the location and type of monitoring systems to be utilised,
 - details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
 - details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
 - details a contingency plan.
- Standard Condition: C40 (Autotext: CC40)

C.16 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road. Standard Condition: C41 (Autotext: CC41)

C.17 Vehicular Access and Parking Arrangement

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, certification from a Chartered Traffic Engineer with construction drawings certifying the following:

- a) That a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, is provided on both sides of the driveway exit to comply with Clause 3.3 of AS2890.1. These sight splays, clear of any obstructions to visibility, must be clearly depicted on the construction drawings,
- b) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades must comply AS2890.1, AS2890.2 and AS2890.6,
- c) That the proposed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,
- e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Clause 2.4 of AS2890.6,
- f) Minimum dimensions of 2.4m x 5.4m shared area is provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards must be provided at the location on each shared area specified in AS2890.6 which must be clearly labelled and shown on the construction drawings,
- g) Simultaneous manoeuvring of B99 and B85 vehicles at all ramps and ramp ends including the clearance lines for each vehicle, in accordance with AS2890.1, is complied with,
- h) That the headroom clearance required in AS2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area,
- i) Simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided.

The proposed off-street parking spaces and vehicular access must be designed in compliance with AS2890.1, AS2890.2 and AS2890.6. Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*. The Certifying Authority has no discretion to reduce or increase the number or area of car parking space(s) required to be provided and maintained by this consent.

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: C45 (Autotext: CC45)

C.18 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans [prepared by a suitably qualified and experienced civil engineer](#), which detail the following:

- a) General design in accordance with stormwater management plans, referenced 231269-P1, prepared by TTW, dated 13/06/2023, other than amended by this and other conditions,

- b) A minimum 450x450 boundary junction pit shall be provided. The stormwater outlet pipe must be made by using 150mm x75mm galvanised RHS which must be located within the frontage of the subject site with a minimum grade of 1% to comply with Council's DCP and AS3500.3. Only one stormwater outlet point will be permitted to comply with Council's DCP,
- c) The installation of stormwater filtration /treatment system which includes but not limited to the installation of OceanGuard filter basket, Jellyfish Unit and 3x690mm PSorb StormFilters by Ocean Protect to achieve the minimum the water quality targets stipulated in Chapter E2.2.3 of Council's DCP;
- d) The installation of a pumpout system with a minimum storage capacity to be determined to comply with Section 8 of AS3500.3,
- e) All below ground structures are to be fully tanked. Notation to this requirement shall be clearly depicted on the drawings,
- f) The dimensions of all drainage pits and access grates must comply with AS3500,
- g) Compliance the objectives and performance requirements of the BCA, and
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, *Australian Rainfall and Run-off*, 2019 edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) All invert levels reduced to Australian Height Datum (AHD),
- c) Location and dimensions of all drainage pits,
- d) Point and method of connection to Councils drainage infrastructure, and
- e) Overland flow paths over impervious areas.

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C.51 (Autotext CC51)

C.19 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b) The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of RL4.9m AHD.
- c) Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- d) All below ground construction shall be fully tanked.

- e) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.
- f) The basement level shall have adequate pumping to cater for any leakage in flood barriers. The pump system is to incorporate:
 - 1) Dual alternating pumps,
 - 2) An uninterruptable power supply capable of running the pumps for a minimum of 2 hours,
 - 3) A trash screen to protect the inlet from debris,
 - 4) A minimum pump pit size of 3m³,
 - 5) An alarm/ warning system designed to alert residents when flood levels are above 100mm deep,
 - 6) A warning alarm/system that indicates when the pumps are running.
- g) The pedestrian entry off Bay Street shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of RL5.45m.
- h) Flood compatible materials shall be used for all flood exposed construction.
- i) All flood exposed electrical wiring and equipment shall be waterproofed.
- j) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, 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.
Standard Condition C.54 (autotext CC54)

C.20 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified person, demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a Level 2 electric vehicle charger point. The construction certificate plans are to:
 - Identify the power capacity to each car parking space.
 - identify the load management system on each level of parking such as a distribution board.
 - identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).
- b) A minimum of one Level 2 electric charger must be provided and Level 2 chargers must be provided to not less than 10% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces including visitor spaces: 'Level 2' slow – single phase 7kW power; and
- b) Publicly available spaces: 'Level 2' fast – three-phase 11-22kW power

Standard Condition: C57 (Autotext CC57)

C.21 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.22 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The *basement carpark* in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The *basement carpark* must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the *basement carpark* and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the *basement carpark* shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.23 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.24 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.

C.25 Acoustic Certification of Mechanical Plant and Equipment

The relevant 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.26 Design Sound Levels for Building Interiors

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, L_{Aeq} , dB(A) specified by AS 2107-2000, *Acoustics - Recommended design sound levels and reverberation times for building interiors*.

Note: The design sound levels given in AS 2107-2000 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107-2000 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the BCA is mandatory.
Standard Condition: C63 (Autotext CC63)

C.27 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

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 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

- No. 17 Bay Street
- No. 29-33 Bay Street

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4 (Autotext DD4)

D.3 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. 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 Principal Contractor fails to submit the dilapidation 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: D5 (Autotext DD5)

D.4 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.
Standard Condition: D6 (Autotext DD6)

D.5 Piezometers for the monitoring of Ground water Levels

The *principal contractor* must be provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

D.6 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.7 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.

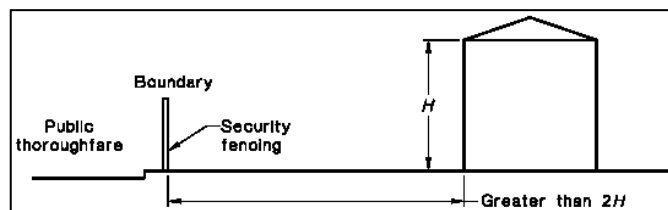
Note: The Principal Contractor or Owner must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the clause 22 of the *Transport Administration (General) Regulation 2000* 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)

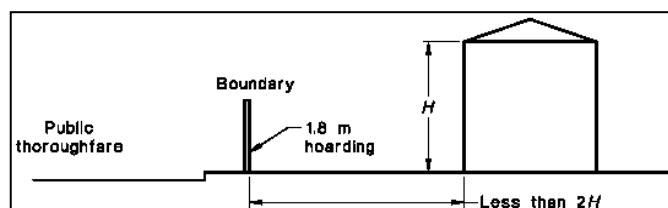
D.8 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



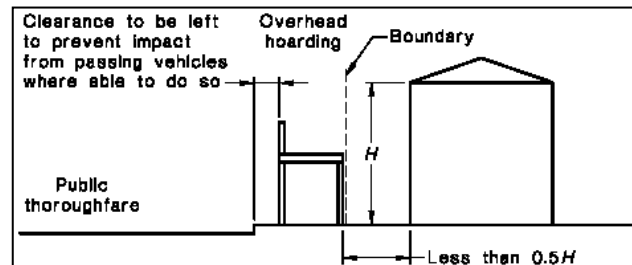
Type B Hoarding

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:

- a) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- b) have a clear height above the footpath of not less than 2.1m,
- c) 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
- d) 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](http://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.9 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.10 Toilet Facilities

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.

Each toilet provided:

- 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.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with SafeWork NSW requirements.
Standard Condition: D13 (Autotext DD13)

D.11 Erosion and Sediment Controls – Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- 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*” published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) “*Managing Urban Stormwater - Soils and Construction*” 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.

Note: 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.

Note: The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

Note: 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.

Note: 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 developed.
Standard Condition: D14 (Autotext DD14)

D.12 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)

D.13 Insurance cover in case of potential damage to adjoining properties

A significant subsidence or collapse of any one of the adjoining properties may have a severe impact in the Applicant's financial ability to personally pay for repairs. Accordingly, an insurance policy shall be purchased to cover any damage and up to full loss and re-instatement of all buildings and/or structures that are located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

- No. 17 Bay Street
- No. 29-33 Bay Street

The policy shall cover any loss of access to these properties in the event damage is so severe access is lost/significantly hampered, the residents may need equivalent alternate accommodation during repairs/restitution. The cover shall be in the order of 20,000,000 dollars (or an appropriately agreed amount between affected property owners and the Applicant) to ensure adequate cover for the benefit of any one or all the owners affected.
Standard Condition: D19 (Autotext DD19)

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 Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.
Standard Condition: E2 (Autotext EE2)

E.3 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.4 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.5 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.6 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.7 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.8 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.9 Compliance with Geotechnical / Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the Geotechnical / Hydrogeological Monitoring Program and any oral or written direction of the supervising professional engineer.

The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:

- a) the location and type of monitoring systems to be utilised,
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the development application to be appointed as the professional engineer supervising the work however, it is the Council's recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12 (Autotext EE12)

E.10 Support of Adjoining Land and Buildings

A person must not do anything on or in relation to the site (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building).

For the purposes of this condition, supporting land includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the Principal Contractor or Owner-builder must obtain:

- a. the consent of the owners of such adjoining or supported land to trespass or encroach, or
- b. an access order under the *Access to Neighbouring Land Act 2000*, or
- c. an easement under section 88K of the *Conveyancing Act 1919*, or
- d. an easement under section 40 of the *Land and Environment Court Act 1979* as appropriate.

Note: Section 177 of the *Conveyancing Act 1919* creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, Crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act 1993*.

Standard Condition: E13 (Autotext EE13)

E.11 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.

The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the *supported land*.

Note: *professional engineer* has the same mean as in clause A1.1 of the BCA.

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

Note: *supported land* has the same meaning as in the *Conveyancing Act 1919*.
Standard Condition: E14 (Autotext EE14)

E.12 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) the Soil and Water Management Plan required under this consent,
- b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001, and
- c) "*Managing Urban Stormwater - Soils and Construction*" 2004 published by the NSW Government (*The Blue Book*).

Where there is any conflict *The Blue Book* takes precedence.



Note: 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.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides 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 the occupation of the land being developed whether or not they actually cause the pollution.

Standard Condition: E15 (Autotext EE15)

E.13 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from Council under section 138(1)(d) of the *Roads Act 1993*.
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water.
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not concentrate water such that they cause erosion and water pollution.

Standard Condition: E17 (Autotext EE17)

E.14 Site Cranes

Site crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the Principal Contractor or Owner-builder have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the Principal Contractor or Owner-builder must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the Principal Contractor or Owner-builder must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land and Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.
Standard Condition: E19 (Autotext EE19)

E.15 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the site and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The Principal Contractor or Owner-builder must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level.
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey.
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof.
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like.
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.
- f) Stormwater drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.16 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.17 Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The Owner, Principal Contractor or Owner-builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within roads and other public places.

Note: A copy of Council’s *Specification for Roadworks, Drainage and Miscellaneous Works* can be downloaded from Council’s website www.woollahra.nsw.gov.au

Standard Condition: E24 (Autotext EE24)

E.18 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.19 Site Waste Minimisation and Management – Demolition

In order to maximise resource recovery and minimise residual waste from demolition 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) an area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements),
- c) provide separate collection bins and/or areas for the storage of residual waste,
- d) clearly ‘signpost’ the purpose and content of the bins and/or storage areas,
- e) implement measures to prevent damage by the elements, odour, health risks and windborne litter, and

- f) minimise site disturbance, limiting unnecessary excavation.

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

Standard Condition: E31 (Autotext EE31)

E.20 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)

E.21 Shoring and Adequacy of Adjoining Property

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 an excavation that extends below the level of the base of the footings of a building on adjoining land.

The person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and

- b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Standard condition: E33 (Autotext: EE33)

E.22 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.23 Replacement/Supplementary trees which must be planted

The proposed tree species listed on Landscape Plan No. LP01-D2623 Issue 01 Revision E, designed by Dangar Barin Smith, dated 03/11/2023 shall be installed within the subject property. The proposed trees shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The proposed trees shall be maintained in a healthy and vigorous condition. If a replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species as indicated on the landscape plan.

E.24 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

Where hazardous material, including bonded or friable asbestos has been identified in accordance with the conditions in Section B above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- a) Be undertaken by contractors who hold a current SafeWork NSW "demolition licence" and a current SafeWork NSW "Class A licence" for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

Note: This condition is imposed to protect the health and safety of persons working on the site and the public Standard Condition: E39

E.25 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste, 2014*.

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an asbestos licensed contractor can definitively determine where the waste may be legally taken for disposal.

Standard Condition: E40

E.26 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

Standard Condition: E41

E.27 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.

Standard Condition: E42

E.28 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.

Standard Condition: E43

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/retail gallery uses.

F.2 Occupation Certificate (section 6.9 of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.
Standard Condition: F1 (Autotext FF1)

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) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: *Off-Street car parking*.
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) 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 Commissioning and Certification of Public Infrastructure Works

The Principal Contractor or Owner-builder must submit, to the satisfaction of Council, certification from a professional engineer that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with works-as-executed engineering plans and a survey report detailing all finished reduced levels.

Standard Condition F9 (Autotext FF9)

F.6 Street Numbering

The development must be provided with street and sole occupancy unit numbers determined by Council. This condition has been imposed to ensure that emergency services, utility services, and the general public are able to clearly and readily locate any property. Further, this condition has been imposed to protect the integrity of street numbering and land information.

Note: Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.

Standard Condition: F11 (Autotext FF11)

F.7 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, Council's 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.8 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.9 New Waste Services

No Occupation Certificate must be issued until the Owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved Waste Management Plan.

Standard Condition: F19 (Autotext FF19)

F.10 3D Digital Model

Prior to the issue of an Occupation Certificate an accurate "as built" 3D digital model of the building must be submitted to Council for use in the Woollahra 3D digital model.

A 3D digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:

- a) a building envelope which includes all elements affecting shadow analysis,
- b) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external features, and
- c) a ground level terrain showing accurate RLs extending to site boundaries.

All models must be generated in accordance with Council's guidelines for submitting 3D digital models outlined in "Attachment 9 - 3D Digital Model Requirements" of the DA guide.

Note: This model will update previous version(s) submitted at Development Application stage.
Any future modifications under section 4.55 of the *Act* that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.
Standard Condition: F21 (Autotext FF21)

F.11 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by Condition C. *Electric vehicle circuitry and electric vehicle charging point requirements*

Standard Condition: F22 (Autotext FF22)

F.12 Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a Chartered Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,
- d) All parking spaces are open type with no partitions,
- e) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- f) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,
- g) That the headroom clearance of minimum 2.5 metres has been provided to all parking spaces for people with disabilities to comply with Clause 2.4 of AS2890.6,
- h) That Aisle widths throughout basements comply with AS2890.1,
- i) That the headroom clearance has been provided for the loading area for the largest vehicle accessing the site and complies with AS2890.2,
- j) That minimum dimensions of 2.4m x 5.4m shared area, has been provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards are provided at the location on each shared area specified in AS2890.6,
- k) That simultaneous manoeuvring of B99 and B85 at all ramps and ramp ends including clearances for each vehicle as per AS2890 is achieved,
- l) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS2890.1 and AS2890.2 is achieved.

F.13 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

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

G.1 Electricity Substations – Dedication as Road and/or Easements for Access

If an electricity pillar and/or substation is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity pillar and/or substation to be established. The size and location of the electricity pillar and/or substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors must not intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Principal Certifier prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity pillar and/or substation is provided on the site adjoining the road boundary, the area within which the electricity pillar and/or substation is located must be dedicated as public road. Where access is required across the site to access an electricity pillar and/or substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any statutory corporation requiring access to the electricity pillar and/or substation.

Standard Condition: G4 (Autotext GG4)

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)

H.2 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012) unless expressly provided otherwise by these conditions at the Principal Contractor's or Owner's expense:

- a) stormwater pipes, pits and connections to public stormwater systems within the *road*,
- b) driveways and vehicular crossings within the *road*,
- c) removal of redundant driveways and vehicular crossings,
- d) new footpaths within the *road*,
- e) relocation of existing power/light pole,
- f) relocation/provision of street signs,
- g) new or replacement street trees,
- h) new footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street,
- i) new or reinstated kerb and guttering within the *road*, and
- j) new or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 4.17(6) of the *Act* will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the Final Occupation Certificate to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

Standard Condition: H13 (Autotext HH13)

H.3 Dilapidation Report for Public Infrastructure Works

The Principal Contractor must submit a follow up dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to retaining walls within the footway or road,

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.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation 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: H14 (AutotextHH14)

H.4 Covenant for Private Works on Council Property

A positive covenant, pursuant to section 88E of the *Conveyancing Act 1919*, must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions, and the on-going maintenance of any private structures on or over Council property for which consent has been given, such as steps, retaining walls, access ways, overhang, balconies, awnings, signs and the like.

The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services prior to the issuance of any Occupation Certificate. The property owner must reimburse all Council's expenses incurred in the drafting, negotiation and registration of the covenant

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: The Occupation Certificate must be issued until this condition has been satisfied.
Standard Condition: H19 (Autotext HH19)

H.5 Positive Covenant & Works-As-Executed certification of Stormwater Systems

Prior to issue of any Occupation and on completion of construction work, the applicant must submit, for approval by the Principal Certifying Authority, certification by a Chartered Professional Civil Engineer on all stormwater drainage works, including flood protection measures with works-as-executed drawings prepared by a registered surveyor detailing:

- a) compliance with conditions of development consent relating to stormwater and flooding,

- b) that the flood protection measures in the flood risk management plan for the major flooding and overland flow path have been fully implemented,
- c) that the structural adequacy of the following stormwater/ flood protection structures:
 - mechanical flood barriers, and
 - the stormwater treatment devices,
- d) that the works have been constructed in accordance with the approved design;
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the on-going maintenance of the flood protection measures (e.g. mechanical flood barriers), rainwater tanks and stormwater treatment devices, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The property owner must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: The Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

H.6 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

I.1 Hours of Operation

a) Hours of Operation – Retail Gallery (Ground, Level 1, 2 and 3)

The hours of operation for the Retail Gallery on Ground, Level 1, 2 and 3 are restricted to:

- i) Monday to Saturday: 10am to 9pm
- ii) Sunday: 10am to 8pm

AND

b) Hours of Operation – Indoor Area Licensed Premises (Level 4 – Restaurant)

The hours of operation for the indoor area of the licensed premises on Level 4 are restricted to:

- i) Monday to Saturday: 10am to 9pm
- ii) Sunday: 10am to 8pm

AND

c) Hours of Operation – Outdoor Area Licensed Premises (Level 4 – Outdoor Roof Terrace)

The hours of operation for the outdoor roof terrace of the licensed premises on Level 4 are restricted to:

- i) Monday to Saturday: 10am to 9pm
- ii) Sunday: 10am to 8pm

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.

I.2 Maximum Patron Capacity

The total number of patrons (seating capacity) within the Level 4 - Restaurant Premises, being the total number of patrons at any time shall not exceed:

- a) A total of (indoor and outdoor) patrons: **one-hundred and thirty-six (136) patrons.**

AND

- b) A total of (indoor) patrons: **seventy-six (76) patrons**

AND

- c) A total of (outdoor) patrons: **sixty (60) patrons.**

AND

- d) A total of (indoor and outdoor) standing capacity: **0 patrons (i.e. All patrons must be seated)**

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.3 Maximum Staff Capacity

a) Total Staff

The total number of rostered staff at any given time for the entire premises shall be limited to a maximum of **fifty-two (52)** staff.

AND

b) Retail Gallery (Ground, Level 1, 2 and 3)

The total number of rostered staff at any given time for the 'Retail Gallery' premises shall be limited to a maximum of **twenty (20)** staff.

AND

c) Restaurant (Level 4)

The total number of rostered staff at any given time for the 'Restaurant' premises shall be limited to a maximum of **thirty-two (32)** staff.

I.4 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 98D of the *Regulation*.

"Approved Hours of Operation – Retail Gallery (Ground, Level 1, 2 and 3) are restricted to:

- i) Monday to Saturday: 10am to 9pm*
- ii) Sunday: 10am to 8pm*

Approved Hours of Operation – Indoor Area Licensed Premises (Level 4 – Restaurant) are restricted to:

- i) Monday to Saturday: 10am to 9pm*
- ii) Sunday: 10am to 8pm*

Approved Hours of Operation – Outdoor Area Licensed Premises (Level 4 – Outdoor Roof Terrace) are restricted to:

- i) Monday to Saturday: 10am to 9pm*
- ii) Sunday: 10am to 8pm*

Approved patron capacity

The total number of patrons (seating capacity) within the Level 4 - Restaurant Premises, being the total patrons at any time shall not exceed one-hundred and thirty-six (136) patrons including a total of 60 (outdoor) patrons and 76 (indoor) patrons. All patrons must be seated.

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.

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

I.5 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.6 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.7 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.8 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 to the rooftop area the authorised capacity of indoor and outdoor areas.
- b) Provision to ensure intoxicated persons are not able to readily access the site after ordinary business hours (6pm) a security posture be established to control entry. This would be necessary also at times in which the restaurant has reached or is likely to reach capacity.
- c) Provision in the POM to monitor and maintain numeric limits of **60 persons** in the rooftop terrace, and maximum of **136 persons** in total at Level 4 (Restaurant).
- d) Provision for windows/doors to be closed, with self-closing devices installed, other than for ingress/egress.

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
Standard Condition: I15

I.9 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: I17)

I.10 Waste Collection and Deliveries (Special Condition)

General waste collection and deliveries are to be undertaken ONLY between the hours of:

10.00am to 3.00pm, Monday to Friday,
7.00pm 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 and to ensure that waste collection avoid peak traffic hours.

I.11 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: I18)

I.12 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.13 Amplification and Live Music

To maintain the amenity of surrounding residential properties, no amplified or recorded music is to be played within the roof terrace, including sound from any televisions. No amplified live music or DJ is permitted to operate within the premises.

I.14 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.15 Outdoor Lighting – Roof Terraces

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.

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 600mm above the finished floor level of the roof terrace.

Note: 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 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: I51

I.16 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.17 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the **Acoustic Report prepared by acoustic logic dated 28/06/2023**.

Standard Condition: I57

I.18 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.19 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.20 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.21 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.22 Maintenance of Public Access through Ground Floor Retail

Public thoroughfare at ground floor between Bay Street and Gum Tree Lane must be provided and maintained between the following hours:

- i) Monday to Saturday: 10am to 6pm
- ii) Sunday: 10am to 6pm

After the above hours, the entry of Gum Tree Lane must be closed. Patrons to the restaurant at Level 4 may only access through the ground floor entry upon Bay Street, as the main principal entry point, after 6pm. And the entry after 6pm must be monitored by a security posture as required by NSW Police Force – Licensing.

Note: This condition is imposed to maintain public access through the site and, at the same time, to ensure intoxicated persons are not able to readily access the site after ordinary business hours (6pm).

I.23 Maintenance of Landscaping

All landscaping must be maintained in general accordance with this consent.

This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.

Note: This condition has been imposed to ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

Note: This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality. Owners should have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils. Standard Condition: I25

I.24 Provision of Off-street Public and Visitor Parking

During the occupation and ongoing use, in compliance with *AS 2890.1: Parking facilities - Off-street car parking*, *AS 2890.6: Parking facilities - Off-street parking for people with disabilities*, and *AS 2890.3: Parking Facilities - Bicycle Parking Facilities*, unimpeded public access to off-street parking must be maintained as follows:

Use	Number of spaces
Car parking spaces	59 (including 2 accessible parking spaces)
Loading bays	2
Bicycle parking spaces	39
Motor bike parking spaces	6

This condition has been imposed to ensure adequate on-site parking is maintained.

Notes:

- 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.

I.25 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.26 Ongoing Maintenance of the Stormwater Treatment System and Flood Protection Measures

The owner(s) must in accordance with this condition and any positive covenant:

- permit stormwater to be treated by the System;
- keep the system clean and free of silt rubbish and debris;
- maintain renew and repair as reasonably required from time to time the whole or part of the treatment system so that it functions in a safe and efficient manner;
- carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- Not take any act, matter or thing which would prevent the overland flow path and flood protection measures (e.g. mechanical flood barriers) from operating in a safe and efficient manner;
- Not allow any structure to encroach upon the overland flow path;
- Not make any alterations to the flood protection measures and overland flow path or elements thereof without prior consent in writing of the Council and not interfere with the flood protection measures and overland flow path or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.
Standard Condition: I29

I.27 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.28 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.29 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.30 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.

I.31 Operation of the building

The various uses of the building on different levels must be integrated as a sole occupation and operated by a single operator of the entire building.

J. Miscellaneous Conditions

N/A

K. Advisings

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 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

Standard Advising: K2 (Autotext KK2)

K.3 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.4 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.5 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.6 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.7 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from SafeWork NSW.

Before starting work, a work site-specific permit approving each asbestos project must be obtained from SafeWork NSW. A permit will not be granted without a current SafeWork licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) *Work Health and Safety Act 2011*,
- b) *Work Health and Safety Regulation 2017*,
- c) SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
- d) SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

Note: For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050. Standard Advising: K8 (Autotext KK8)

K.8 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995: *Guide to Lead Paint Management—Industrial Applications*, or AS 4361.2–1998: *Guide to Lead Paint Management—Residential and Commercial Buildings*.

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9 (Autotext KK9)

K.9 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Wilson 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.10 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)

K.11 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the Applicant is to demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23 (Autotext KK23)

K.12 Roads Act 1993 Application

Works or structures over, on or under public roads or footpaths are subject to sections 138, 139 and 218 of the *Roads Act 1993* and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's below ground stormwater system
- Installation of soil/rock anchors under the roadway
- Installation of Stormwater outlet pipes across the nature strip

An "Application to Carry Out Works in a Public Road" form must be completed and lodged, with the application fee, at Council's Customer Services. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by Council under section 138 of the *Roads Act 1993*, before the issue of any Construction Certificate.

Detailed engineering plans and specifications of the works required by this condition must accompany the application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb and gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – *Off-street car parking*. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by Council. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".

Services: Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: When an application under the *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

Note: *road* has the same meaning as in the *Roads Act 1993*.












Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.
Standard Advising: K24 (Autotext KK24)

K.13 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Attachments

1. Plans, Elevations and Sections, Landscape & Survey [↓](#) 
2. Plan of Management (POM) [↓](#) 
3. Clause 4.6 Written Request Height of Buildings [↓](#) 
4. Clause 4.6 Written Request Floor Space Ratio [↓](#) 
5. Referral Response - Urban Design [↓](#) 
6. Response to Council RFI (GSA Planning) [↓](#) 
7. Addendum Response to Council RFI (GSA Planning) [↓](#) 
8. Response to Council's Urban Design Referral (AE Design) [↓](#) 
9. Referral Response - Traffic Engineer [↓](#) 
10. Referral Response - Development Engineer [↓](#) 
11. Referral Response - Drainage Engineer [↓](#) 
12. Referral Response(s) - Environmental Health (1st and 2nd Referral) [↓](#) 
13. Acoustic Engineer Peer-Review (Council Engaged) [↓](#) 
14. Referral Response - Trees and Landscaping [↓](#) 
15. General Terms of Approval (WaterNSW) [↓](#) 
16. Transport for NSW (concurrence) [↓](#) 
17. Referral Response - NSW Police (Licensing) [↓](#) 
18. Acoustic Report (Acoustic Logic) [↓](#) 

PROJECT

NEW FIVE (5) STOREY SHOWROOM DEVELOPMENT INCLUDING , FOUR (4) FLOORS OF SHOWROOM SPACE, A RESTAURANT TENANCY ON THE TOP STOREY, AND FOUR (4) LEVELS OF UNDERGROUND CAR PARKING + ASSOCIATED LANDSCAPE WORKS + REMOVAL OF EXISTING BUILDING LOCATED AT 19 BAY STREET.

**19-27 BAY STREET
DOUBLE BAY, NSW**

SCHEDULE OF CHANGES
REVISION B - 16/10/23

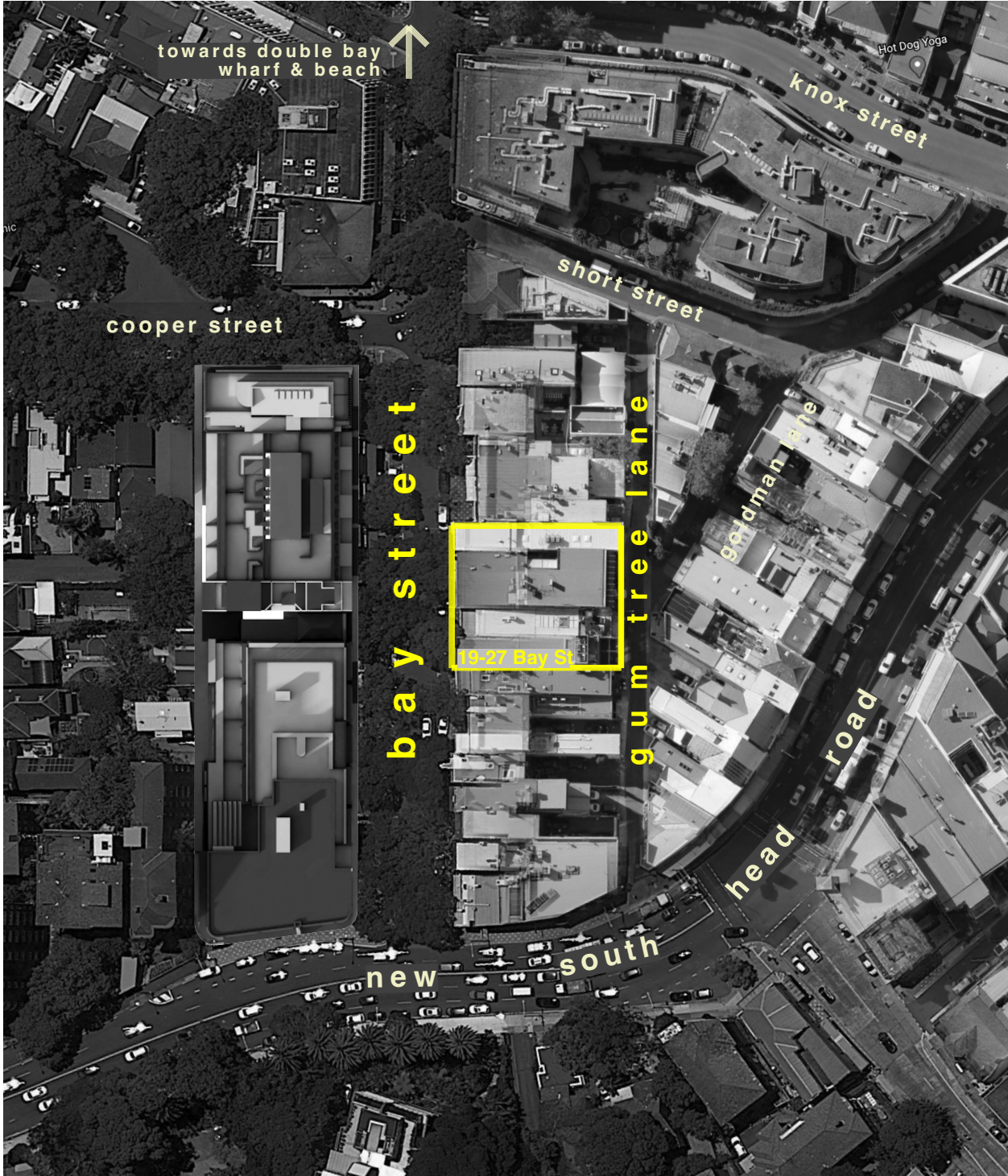
5. AWNING ABOVE BAY STREET RETAIL ENTRY SHOWN IN RESPONSE TO RFI No. 2.5.
6. ADDITIONAL GREENERY SHOWN IN RESPONSE TO RFI No. 2.3.

DWG No.	DRAWING LIST
DA 0000	COVER PAGE
DA 1000	SITE CONTEXT
DA 1001	SITE ANALYSIS PLAN
DA 1002	SITE & ROOF PLAN
DA 2001	BASEMENT LEVEL 4 PLAN
DA 2002	BASEMENT LEVEL 3 PLAN
DA 2003	BASEMENT LEVEL 2 PLAN
DA 2004	BASEMENT LEVEL 1 PLAN
DA 2005	GROUND FLOOR PLAN
DA 2006	LEVEL 1 PLAN
DA 2007	LEVEL 2 PLAN
DA 2008	LEVEL 3 PLAN
DA 2009	LEVEL 4 PLAN
DA 2010	ROOF PLAN
DA 2400	NORTH ELEVATION
DA 2401	SOUTH ELEVATION
DA 2402	EAST ELEVATION
DA 2403	WEST ELEVATION
DA 2500	SECTION A
DA 2501	SECTION B
DA 2502	SECTION C
DA 2503	SECTION D
DA 4001	DRIVEWAY PROFILE (SHEET 1)
DA 4002	DRIVEWAY PROFILE (SHEET 2)
DA 6000	EXTERNAL FINISHES SCHEDULE
DA 6001	PHOTOMONTAGE - BAY STREET
DA 6002	PHOTOMONTAGE - BAY STREET
DA 6003	PHOTOMONTAGE - GUM TREE LANE
DA 6100	SIGNAGE
DA 9100	GFA DIAGRAMS (SHEET 1)
DA 9101	GFA DIAGRAMS (SHEET 2)
DA 9102	WASTE MANAGEMENT PLAN (SHEET 1)
DA 9103	WASTE MANAGEMENT PLAN (SHEET 2)
DA 9104	NOTIFICATION PLANS (SHEET 1)
DA 9105	NOTIFICATION ELEVATIONS (SHEET 2)
DA 9106	HEIGHT PLANE DIAGRAMS
DA 9300	VIEWS FROM THE SUN 9-11am - 21 June
DA 9301	VIEWS FROM THE SUN 12-2pm - 21 June
DA 9302	VIEWS FROM THE SUN 3pm - 21 June
DA 9404	PERSPECTIVE VIEWS - BAY STREET (SHEET 1)
DA 9405	PERSPECTIVE VIEWS - BAY STREET (SHEET 2)
DA 9406	PERSPECTIVE VIEWS - GUM TREE LANE
DA 9407	CURRENT + FUTURE MASSING - BAY STREET
DA 9408	COMPARISON VIEW 01 - BAY STREET
DA 9409	COMPARISON VIEW 02 - BAY STREET



ARTISTS IMPRESSION

[illegible]



Greater context - location plan

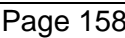


Local context - location plan

SCHEDULE OF CHANGES
REVISION B - 16/10/23
NO CHANGES.

PENDING DEVELOPMENT APPROVAL
FOR 5 STOREY REDEVELOPMENT

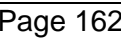
REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1586 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 6.1.4 & AS1586 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 6 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 3.7 OF BCA MASONRY: TO COMPLY WITH AS2700 MECHANICAL VENTILATION: TO COMPLY WITH PART 3.8 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1586 & AS1587 SMOKE ALARMS: TO COMPLY WITH BCA PART 4.4 & AS1586 ASBESTOS: THROUGH FIRE RATED CONSTRUCTION FOR MECHANICAL PENETRATIONS: TO COMPLY WITH BCA CLAUSE 6.1.15 & AS1586 HYDRAULIC PENETRATIONS: TO COMPLY WITH PART 3.8 OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 6.1.13 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 6.1.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS2700	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPARATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 662 NSW Registration Number 4907	DRAWING TITLE: SITE CONTEXT PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	SCALE: NTS ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	DRAWN BY: BW REVISION: B DWG NO.: DA 1000	CHECKED: BW REVISION: B DA 1000
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MHNDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONTRACTS. 5. CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MHNDU TO REVIEW ALL CONTRACTORS' DETAILS, DRAWINGS / SETTING OUT PROGRESS WORK TO BE VERIFIED AGAINST OURS DRAWINGS PRIOR TO CONSTRUCTION. 8. CONTRACTOR TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION PROCEEDING WITH NEXT TRADE.	CLAUSE 6.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C.1.1 FIRE RESISTING CONSTRUCTION SPEC. C.1.18 FIRE HAZARD PROPERTIES SPEC. C.1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC. C.1.16 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS SPEC. C.1.12 SEPARATION OF EQUIPMENT SPEC. C.1.13 ELECTRICAL SUPPLY SYSTEMS SPEC. C.1.14 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) SPEC. C.1.15 OPENING IN FIRE RATED EXITS SPEC. C.1.16 DISCHARGE FROM EXITS SPEC. C.1.17 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL SPEC. C.1.18 SOUNDING AND FIRE SPEC. C.1.19 LANDSCAPING SPEC. C.1.20 THRESHOLDS SPEC. C.1.21 BALUSTRADES	CLAUSE 6.1.17 HANDRAILS CLAUSE 6.1.18 OPERATION OF LATCH CLAUSE 6.1.19 SIGNS ON DOORS CLAUSE 6.1.20 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE 6.1.21 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 6.1.22 IDENTIFICATION OF ACCESSIBLE FACILITIES/FEATURES CLAUSE 6.1.23 WATERPROOFING OF WET AREAS CLAUSE 6.1.24 DRAIN PROTECTION CLAUSE 6.1.25 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE 6.1.26 SOUND INSULATION OF FLOORS CLAUSE 6.1.27 SOUND INSULATION OF WALLS CLAUSE 6.1.28 SOUND INSULATION OF SERVICES CLAUSE 6.1.29 SOUND INSULATION OF PUMPS	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 662 NSW Registration Number 4907	Non-Registered Architect Bryan Mayerson	DRAWING TITLE: SITE CONTEXT PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	SCALE: NTS ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	DRAWN BY: BW REVISION: B DWG NO.: DA 1000	CHECKED: BW REVISION: B DA 1000



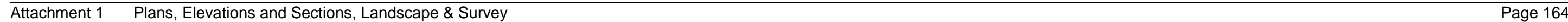


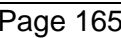




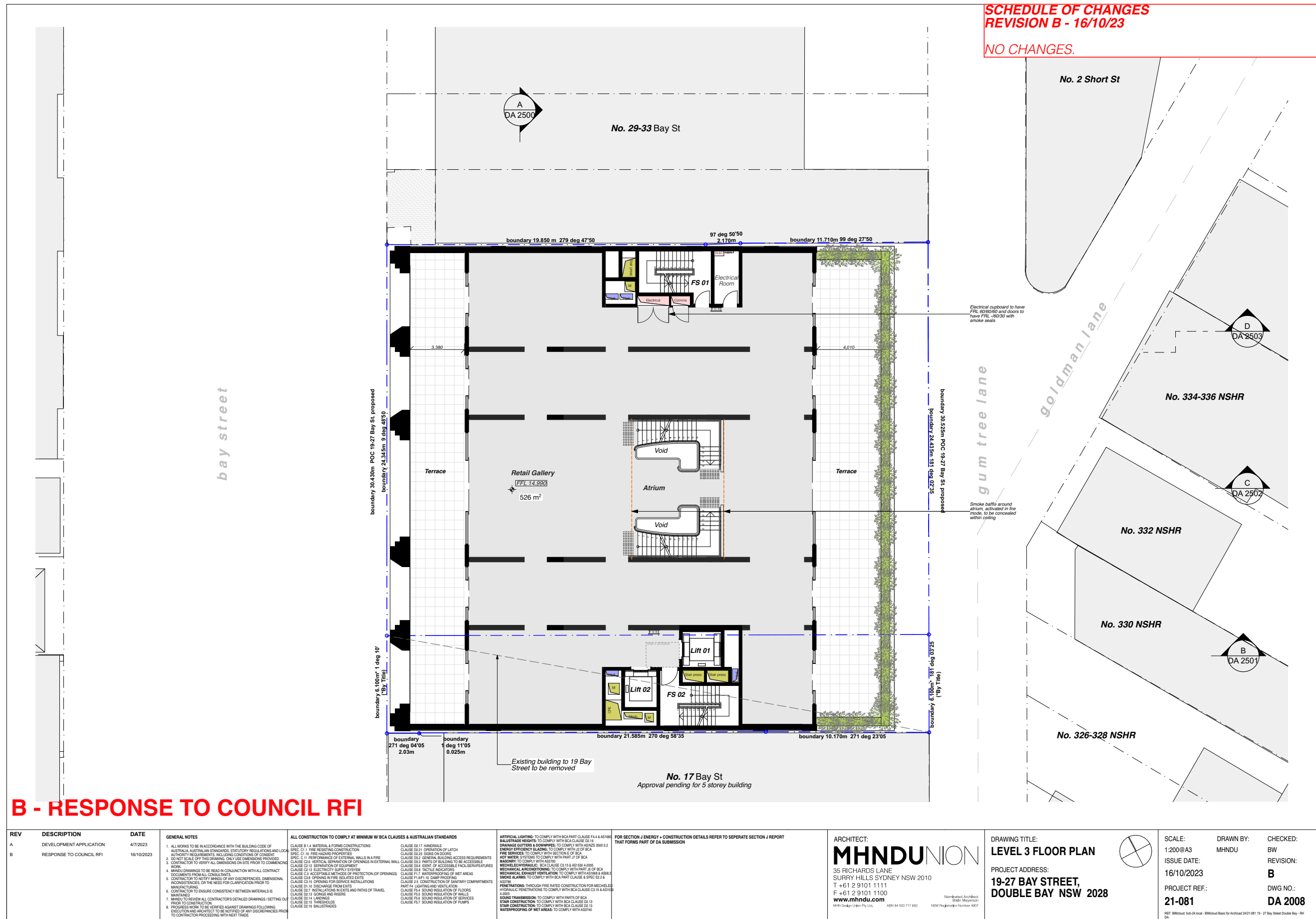




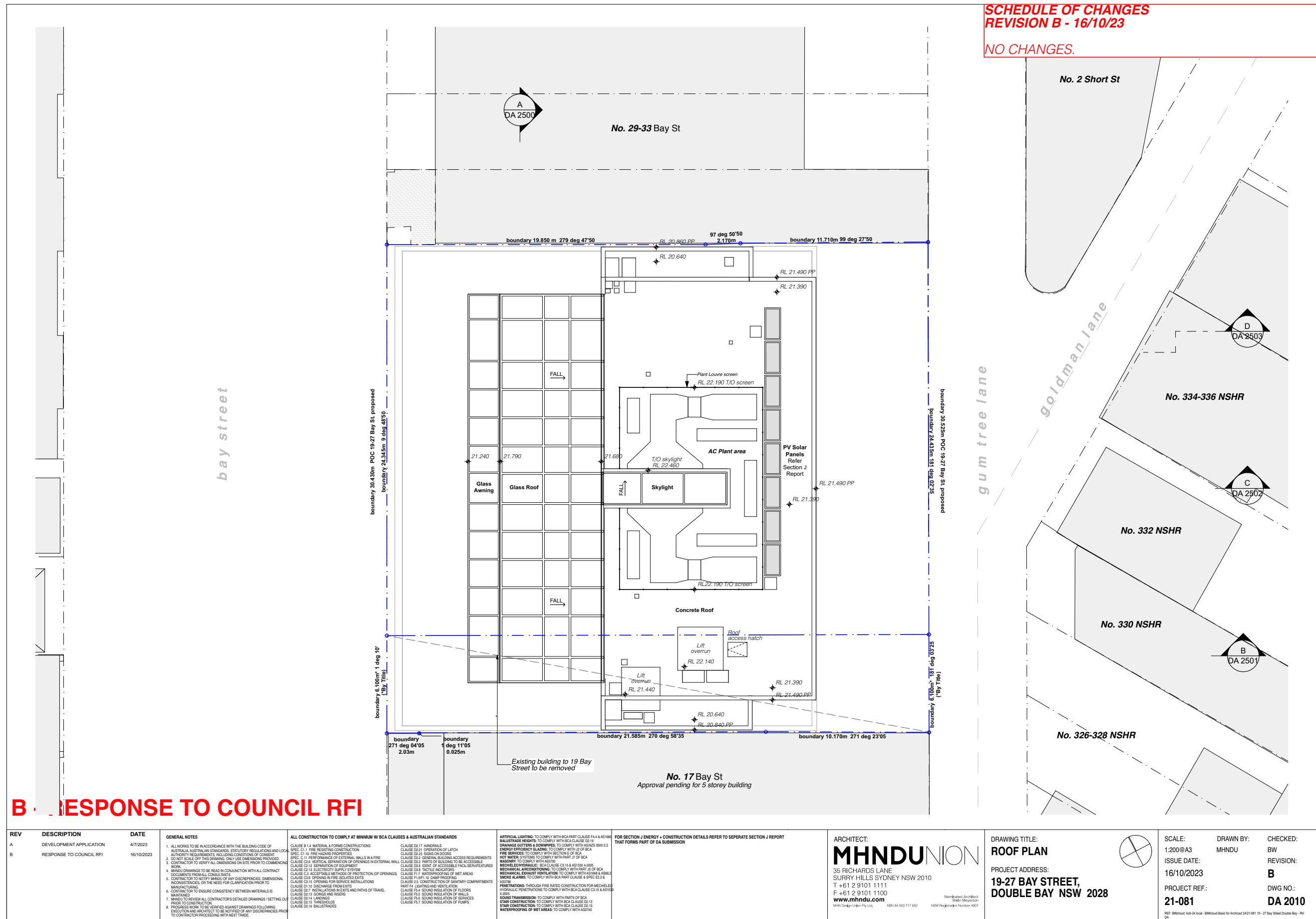




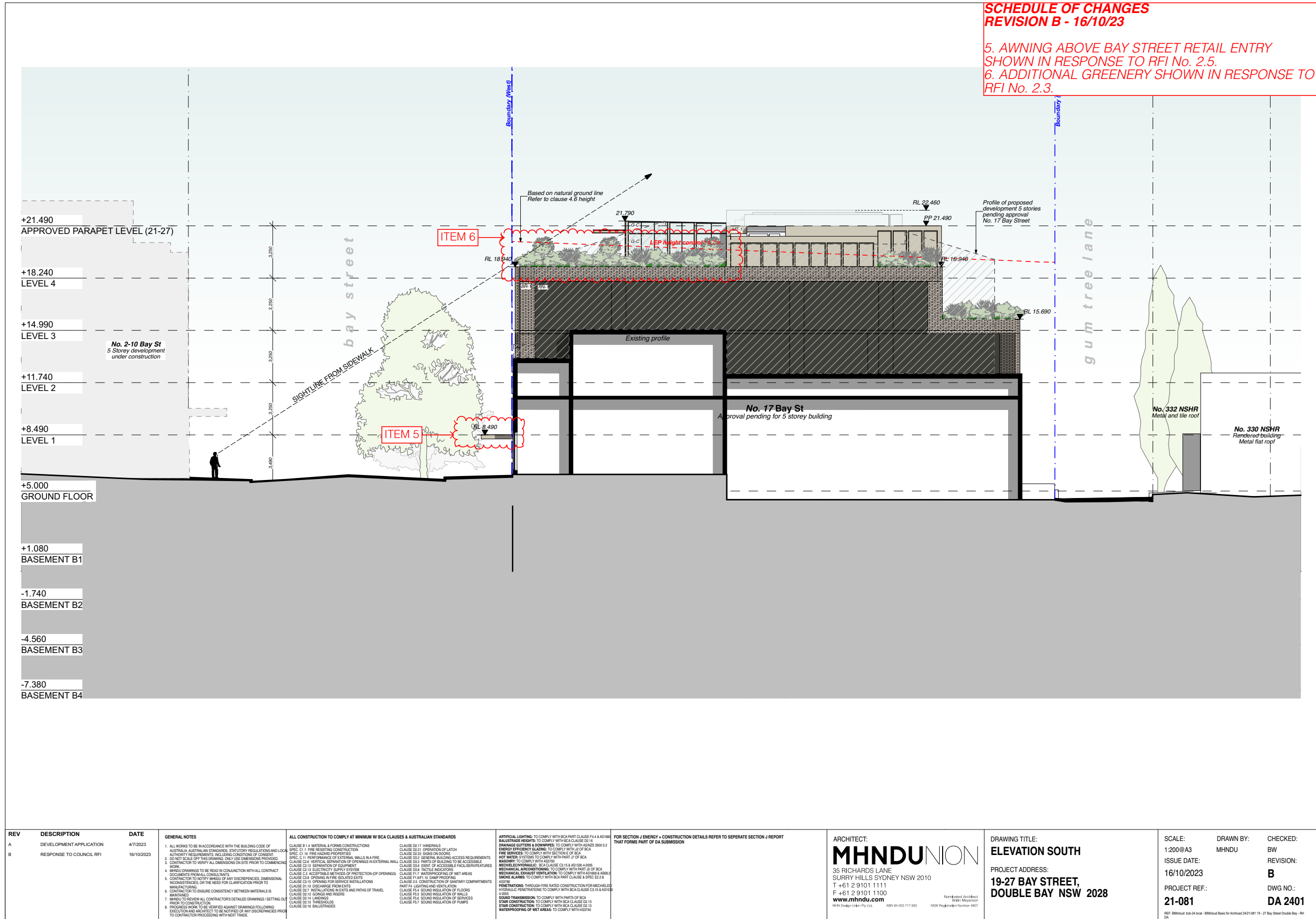


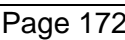


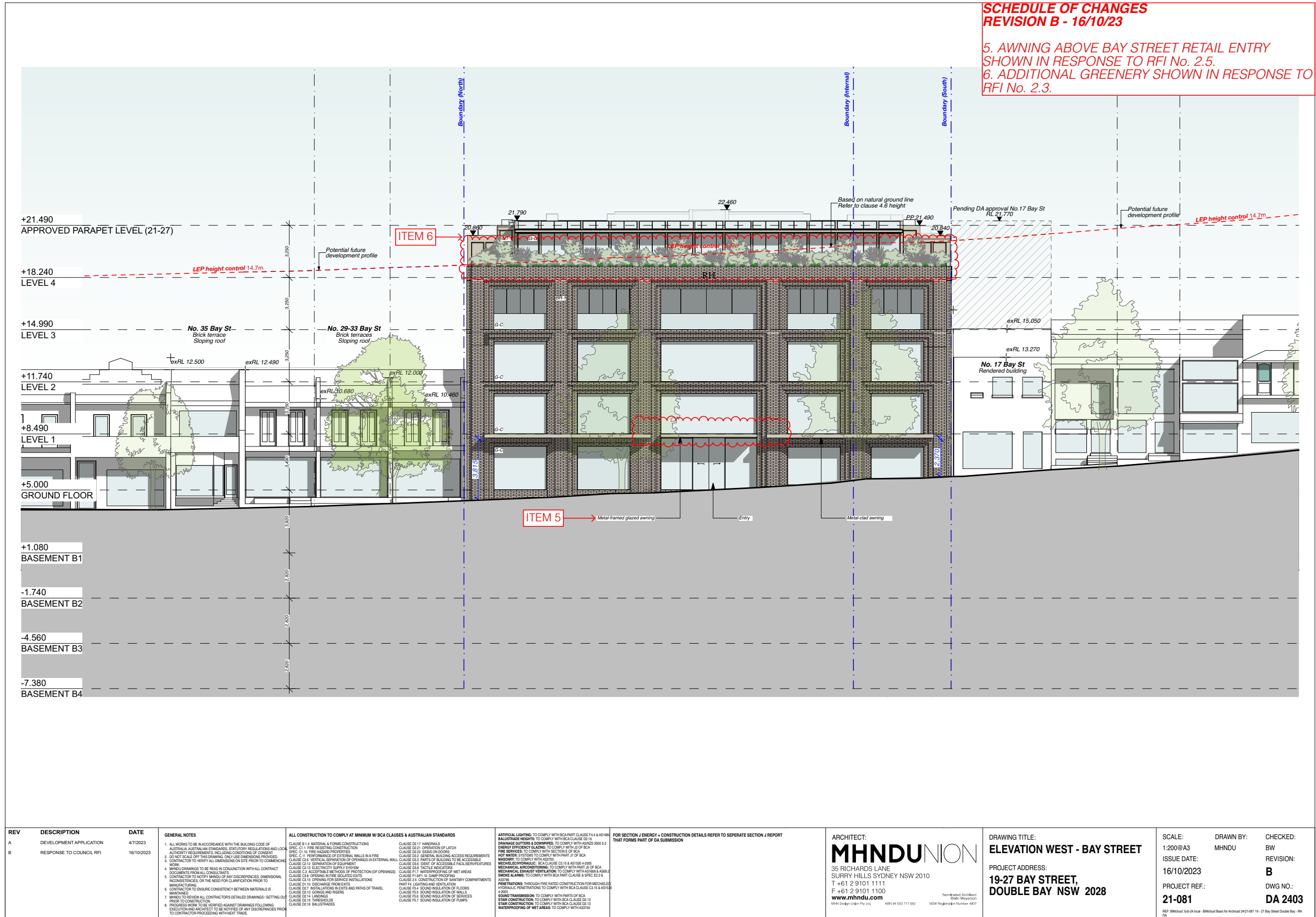


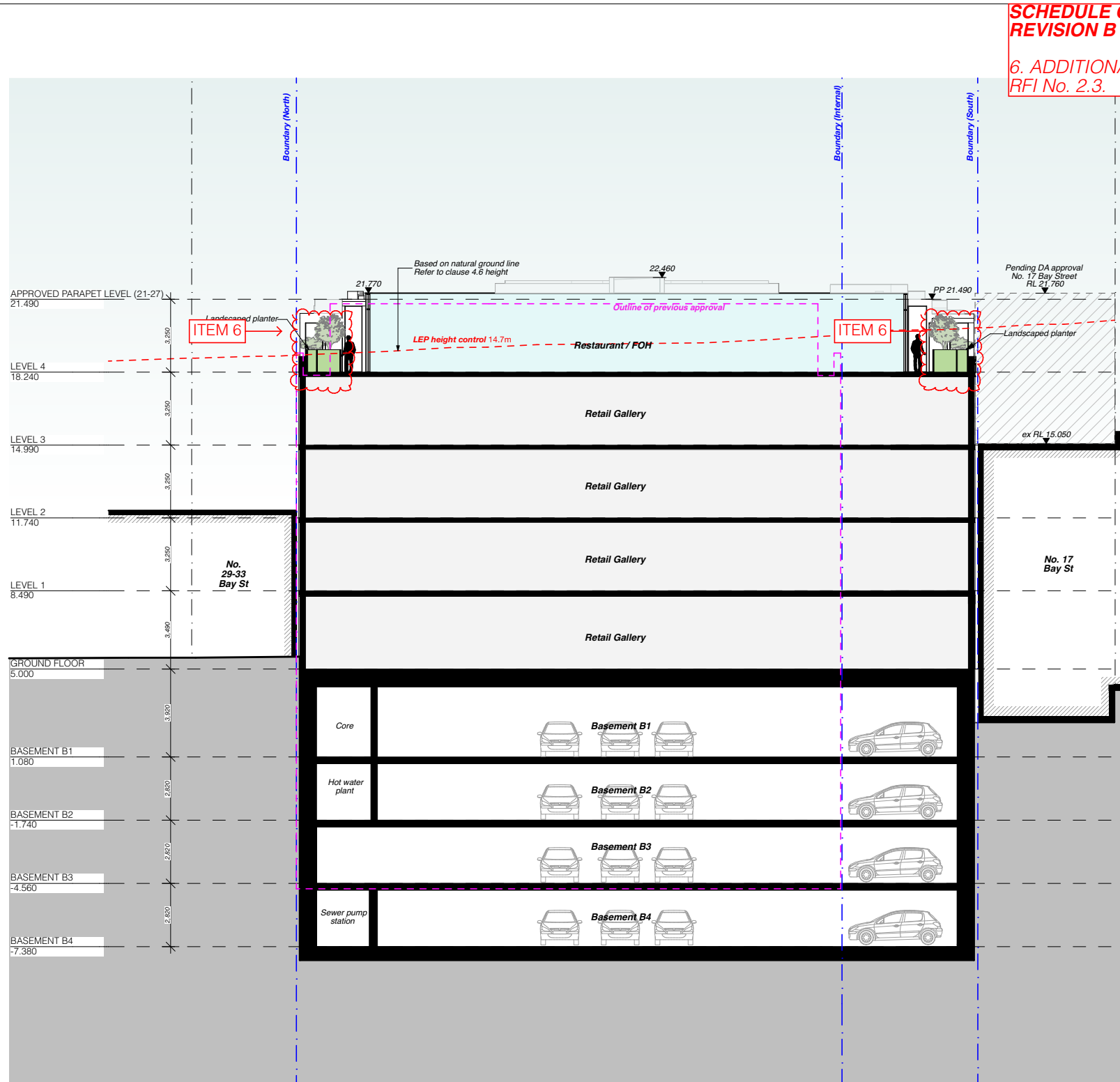




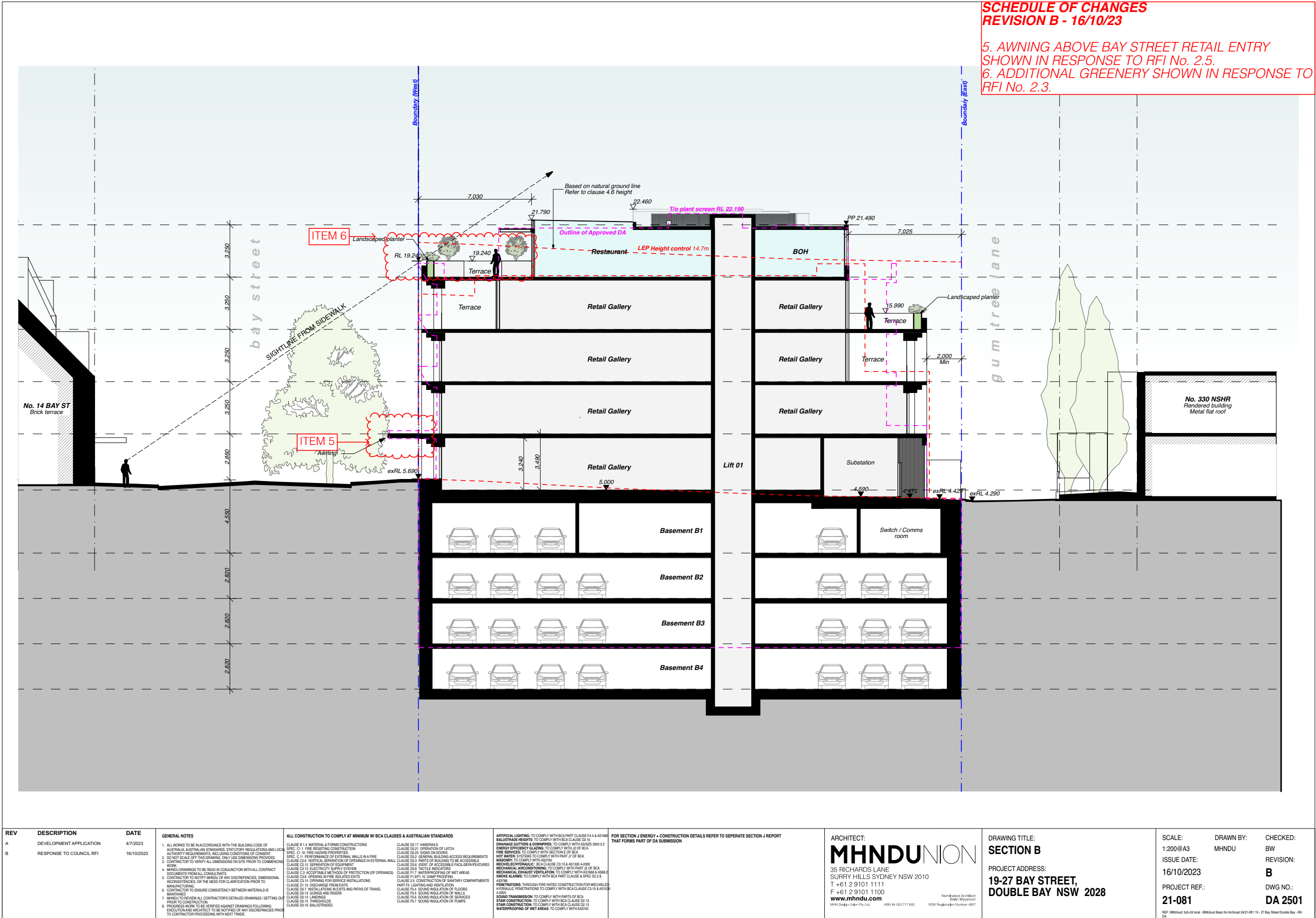


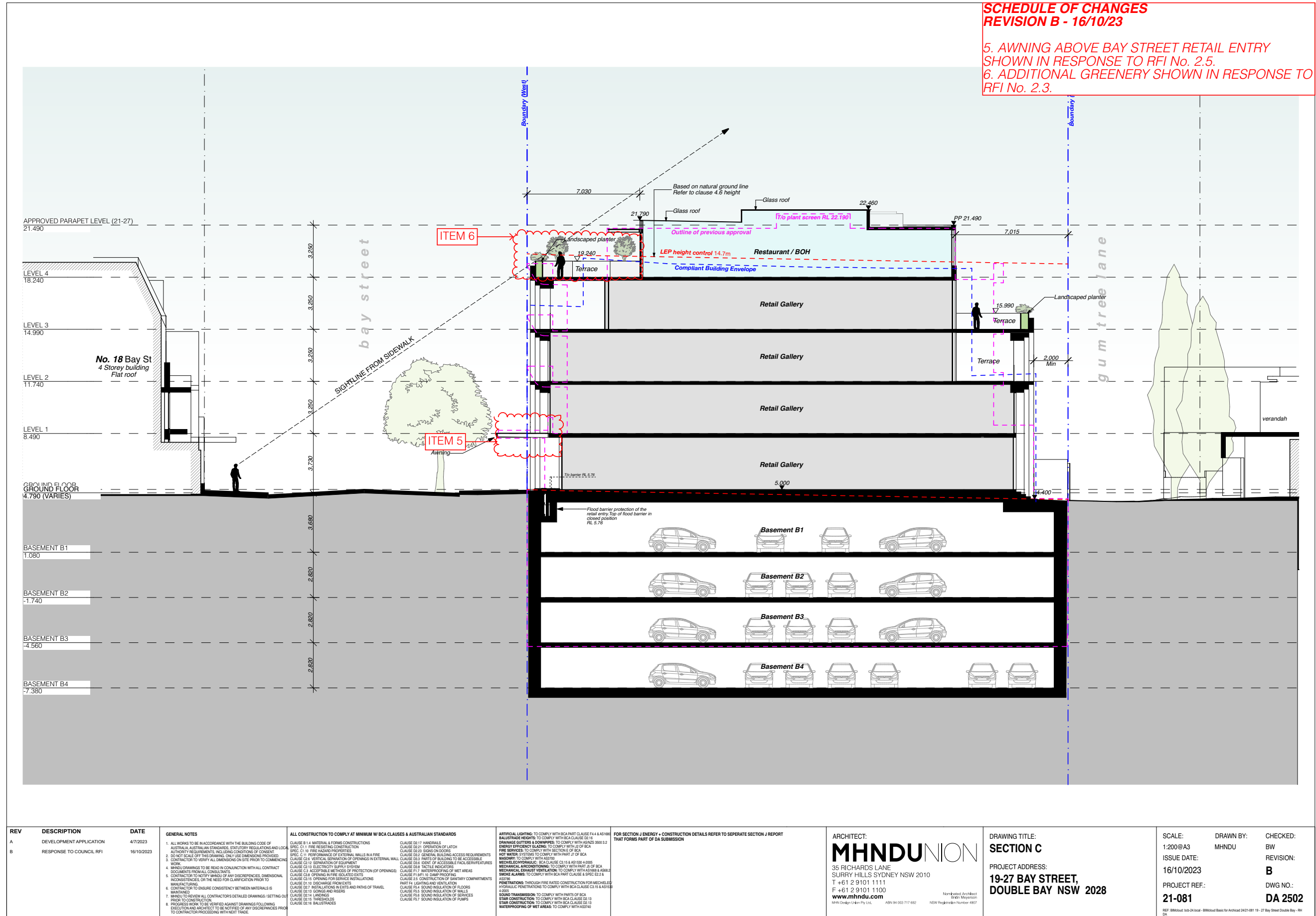


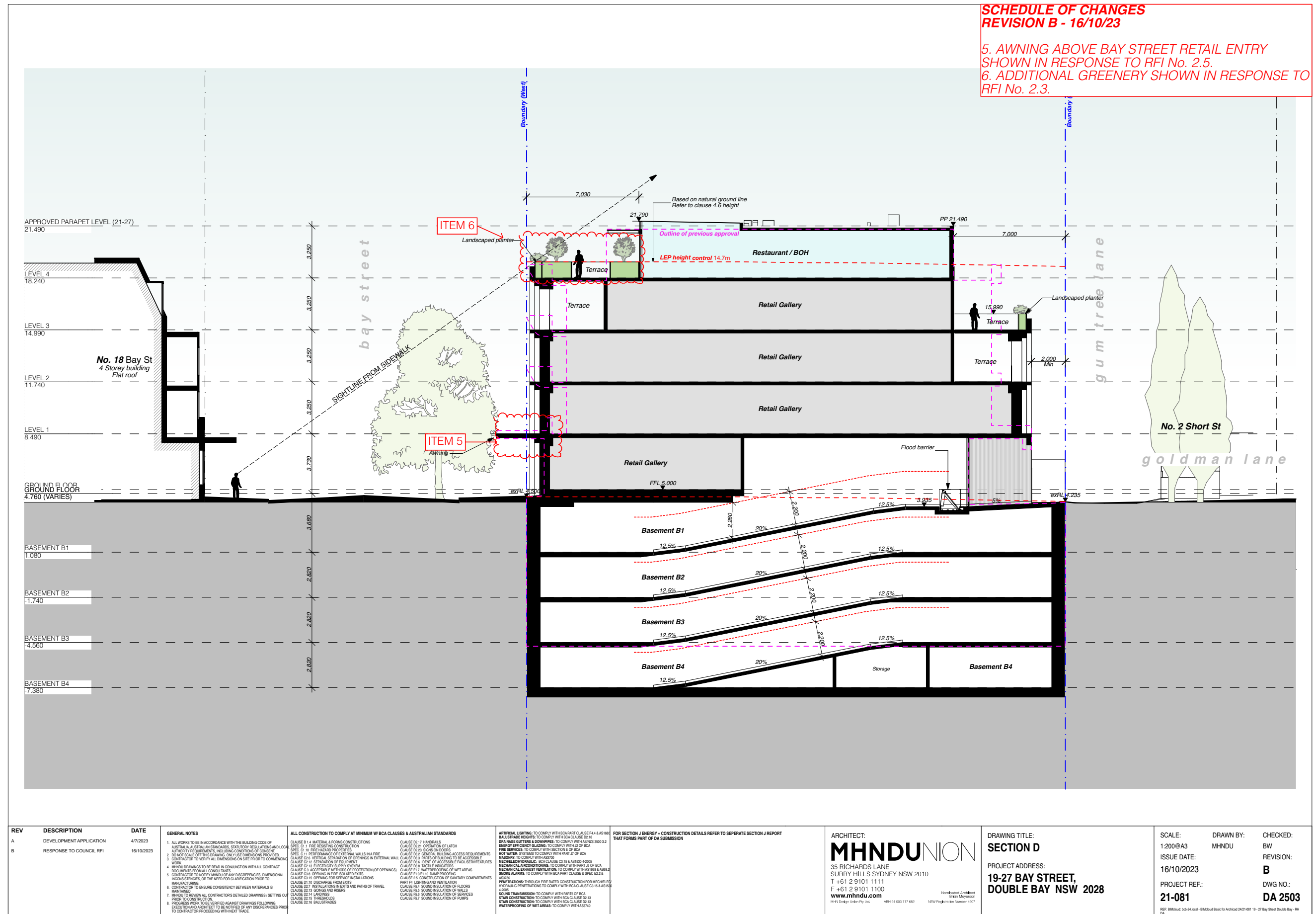


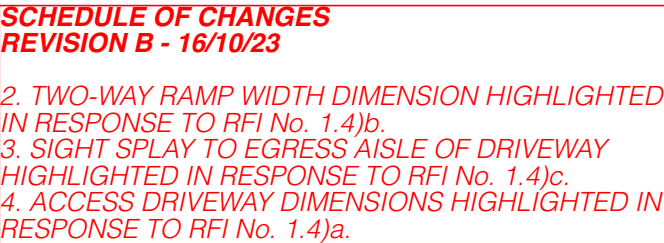


REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLASSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4 CLAUSE F4.4 & AS1686 BALUSTRADES: TO COMPLY WITH BCA CLAUSE 10.1.6	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPARATE SECTION 4 REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT: MHNDU 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com NBN (Creative) Urban Pty Ltd ABN 63 003 717 682 NSW Registration Number 4907	DRAWING TITLE: SECTION A PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028 <small>Notified Architect 19-27 Bay Street Double Bay NSW 2028</small>	SCALE: 1:200 @A3 ISSUE DATE: 16/10/2023 PROJECT REF: 21-081	DRAWN BY: MHNDU REVISION: B DWG NO.: DA 2500	CHECKED: BW REVISION: B DWG NO.: DA 2500
A	DEVELOPMENT APPLICATION	47/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS. 2. CONTRACTOR TO VERIFY ALL DIMENSIONS AND LOCATIONS OF EXISTING SERVICES PRIOR TO CONSTRUCTION. 3. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.	CLAUSE 8.1 MATERIALS & FINISHES CLAUSE 10.1 FIRE RESISTANCE CLAUSE 10.2 BALUSTRADES CLAUSE 10.3 PERFORMANCE OF EXTERNAL WALLS & FILL CLAUSE 10.4 VERTICAL SPACING OF OPENINGS CLAUSE 10.5 SEPARATION OF EQUIPMENT CLAUSE 10.6 ELECTRICAL & MECHANICAL SYSTEMS CLAUSE 10.7 FLOORING CLAUSE 10.8 ROOFING CLAUSE 10.9 SOUND INSULATION CLAUSE 10.10 SOUND INSULATION OF WALLS CLAUSE 10.11 SOUND INSULATION OF FLOORS CLAUSE 10.12 SOUND INSULATION OF ROOFS CLAUSE 10.13 SOUND INSULATION OF PARTS 4 & 5 CLAUSE 10.14 SOUND INSULATION OF PARTS 6 & 7 CLAUSE 10.15 SOUND INSULATION OF PARTS 8 & 9 CLAUSE 10.16 SOUND INSULATION OF PARTS 10 & 11 CLAUSE 10.17 SOUND INSULATION OF PARTS 12 & 13 CLAUSE 10.18 SOUND INSULATION OF PARTS 14 & 15 CLAUSE 10.19 SOUND INSULATION OF PARTS 16 & 17 CLAUSE 10.20 SOUND INSULATION OF PARTS 18 & 19 CLAUSE 10.21 SOUND INSULATION OF PARTS 20 & 21 CLAUSE 10.22 SOUND INSULATION OF PARTS 22 & 23 CLAUSE 10.23 SOUND INSULATION OF PARTS 24 & 25 CLAUSE 10.24 SOUND INSULATION OF PARTS 26 & 27 CLAUSE 10.25 SOUND INSULATION OF PARTS 28 & 29 CLAUSE 10.26 SOUND INSULATION OF PARTS 30 & 31 CLAUSE 10.27 SOUND INSULATION OF PARTS 32 & 33 CLAUSE 10.28 SOUND INSULATION OF PARTS 34 & 35 CLAUSE 10.29 SOUND INSULATION OF PARTS 36 & 37 CLAUSE 10.30 SOUND INSULATION OF PARTS 38 & 39 CLAUSE 10.31 SOUND INSULATION OF PARTS 40 & 41 CLAUSE 10.32 SOUND INSULATION OF PARTS 42 & 43 CLAUSE 10.33 SOUND INSULATION OF PARTS 44 & 45 CLAUSE 10.34 SOUND INSULATION OF PARTS 46 & 47 CLAUSE 10.35 SOUND INSULATION OF PARTS 48 & 49 CLAUSE 10.36 SOUND INSULATION OF PARTS 50 & 51 CLAUSE 10.37 SOUND INSULATION OF PARTS 52 & 53 CLAUSE 10.38 SOUND INSULATION OF PARTS 54 & 55 CLAUSE 10.39 SOUND INSULATION OF PARTS 56 & 57 CLAUSE 10.40 SOUND INSULATION OF PARTS 58 & 59 CLAUSE 10.41 SOUND INSULATION OF PARTS 60 & 61 CLAUSE 10.42 SOUND INSULATION OF PARTS 62 & 63 CLAUSE 10.43 SOUND INSULATION OF PARTS 64 & 65 CLAUSE 10.44 SOUND INSULATION OF PARTS 66 & 67 CLAUSE 10.45 SOUND INSULATION OF PARTS 68 & 69 CLAUSE 10.46 SOUND INSULATION OF PARTS 70 & 71 CLAUSE 10.47 SOUND INSULATION OF PARTS 72 & 73 CLAUSE 10.48 SOUND INSULATION OF PARTS 74 & 75 CLAUSE 10.49 SOUND INSULATION OF PARTS 76 & 77 CLAUSE 10.50 SOUND INSULATION OF PARTS 78 & 79 CLAUSE 10.51 SOUND INSULATION OF PARTS 80 & 81 CLAUSE 10.52 SOUND INSULATION OF PARTS 82 & 83 CLAUSE 10.53 SOUND INSULATION OF PARTS 84 & 85 CLAUSE 10.54 SOUND INSULATION OF PARTS 86 & 87 CLAUSE 10.55 SOUND INSULATION OF PARTS 88 & 89 CLAUSE 10.56 SOUND INSULATION OF PARTS 90 & 91 CLAUSE 10.57 SOUND INSULATION OF PARTS 92 & 93 CLAUSE 10.58 SOUND INSULATION OF PARTS 94 & 95 CLAUSE 10.59 SOUND INSULATION OF PARTS 96 & 97 CLAUSE 10.60 SOUND INSULATION OF PARTS 98 & 99 CLAUSE 10.61 SOUND INSULATION OF PARTS 100 & 101 CLAUSE 10.62 SOUND INSULATION OF PARTS 102 & 103 CLAUSE 10.63 SOUND INSULATION OF PARTS 104 & 105 CLAUSE 10.64 SOUND INSULATION OF PARTS 106 & 107 CLAUSE 10.65 SOUND INSULATION OF PARTS 108 & 109 CLAUSE 10.66 SOUND INSULATION OF PARTS 110 & 111 CLAUSE 10.67 SOUND INSULATION OF PARTS 112 & 113 CLAUSE 10.68 SOUND INSULATION OF PARTS 114 & 115 CLAUSE 10.69 SOUND INSULATION OF PARTS 116 & 117 CLAUSE 10.70 SOUND INSULATION OF PARTS 118 & 119 CLAUSE 10.71 SOUND INSULATION OF PARTS 120 & 121 CLAUSE 10.72 SOUND INSULATION OF PARTS 122 & 123 CLAUSE 10.73 SOUND INSULATION OF PARTS 124 & 125 CLAUSE 10.74 SOUND INSULATION OF PARTS 126 & 127 CLAUSE 10.75 SOUND INSULATION OF PARTS 128 & 129 CLAUSE 10.76 SOUND INSULATION OF PARTS 130 & 131 CLAUSE 10.77 SOUND INSULATION OF PARTS 132 & 133 CLAUSE 10.78 SOUND INSULATION OF PARTS 134 & 135 CLAUSE 10.79 SOUND INSULATION OF PARTS 136 & 137 CLAUSE 10.80 SOUND INSULATION OF PARTS 138 & 139 CLAUSE 10.81 SOUND INSULATION OF PARTS 140 & 141 CLAUSE 10.82 SOUND INSULATION OF PARTS 142 & 143 CLAUSE 10.83 SOUND INSULATION OF PARTS 144 & 145 CLAUSE 10.84 SOUND INSULATION OF PARTS 146 & 147 CLAUSE 10.85 SOUND INSULATION OF PARTS 148 & 149 CLAUSE 10.86 SOUND INSULATION OF PARTS 150 & 151 CLAUSE 10.87 SOUND INSULATION OF 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CLAUSE 11.08 SOUND INSULATION OF PARTS 194 & 195 CLAUSE 11.09 SOUND INSULATION OF PARTS 196 & 197 CLAUSE 11.10 SOUND INSULATION OF PARTS 198 & 199 CLAUSE 11.11 SOUND INSULATION OF PARTS 200 & 201 CLAUSE 11.12 SOUND INSULATION OF PARTS 202 & 203 CLAUSE 11.13 SOUND INSULATION OF PARTS 204 & 205 CLAUSE 11.14 SOUND INSULATION OF PARTS 206 & 207 CLAUSE 11.15 SOUND INSULATION OF PARTS 208 & 209 CLAUSE 11.16 SOUND INSULATION OF PARTS 210 & 211 CLAUSE 11.17 SOUND INSULATION OF PARTS 212 & 213 CLAUSE 11.18 SOUND INSULATION OF PARTS 214 & 215 CLAUSE 11.19 SOUND INSULATION OF PARTS 216 & 217 CLAUSE 11.20 SOUND INSULATION OF PARTS 218 & 219 CLAUSE 11.21 SOUND INSULATION OF PARTS 220 & 221 CLAUSE 11.22 SOUND INSULATION OF PARTS 222 & 223 CLAUSE 11.23 SOUND INSULATION OF PARTS 224 & 225 CLAUSE 11.24 SOUND INSULATION OF PARTS 226 & 227 CLAUSE 11.25 SOUND INSULATION OF PARTS 228 & 229 CLAUSE 11.26 SOUND INSULATION OF PARTS 230 & 231 CLAUSE 11.27 SOUND INSULATION OF PARTS 232 & 233 CLAUSE 11.28 SOUND 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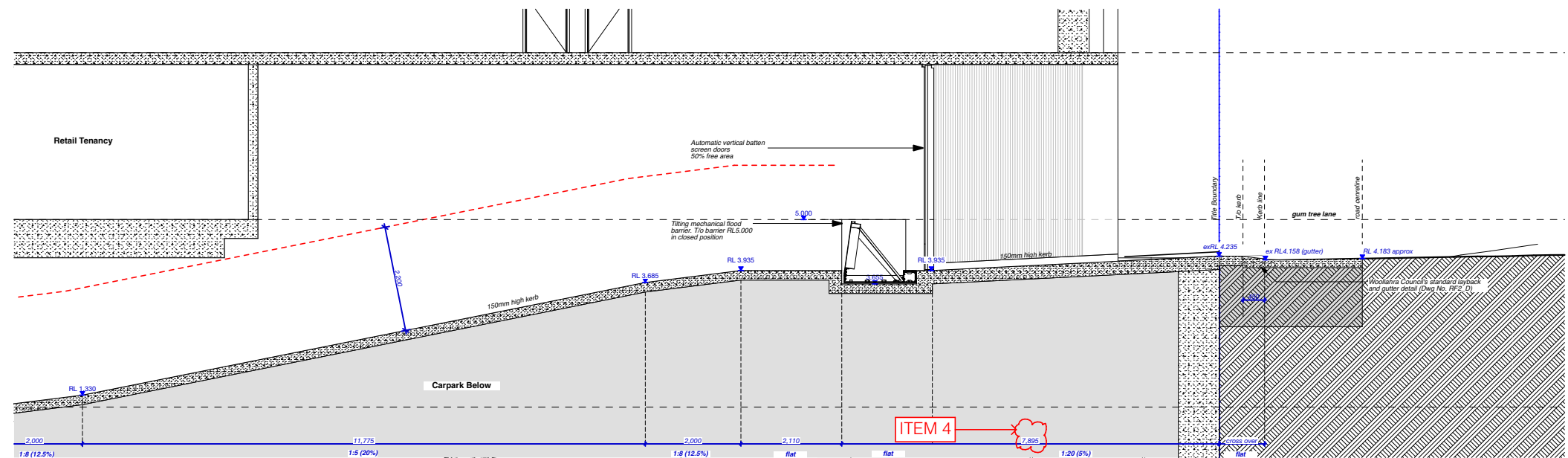






Part Ground Floor Plan - Showing car park entry ramp *Scale 1:100*

Driveway ramp entry plan



Section G-1 Scale 1:100

Driveway ramp entry section detail

ALL EXTERNAL LEVELS TO THE SITE WITHIN THE PUBLIC DOMAIN TO COUNCIL APPROVAL

[illegible]

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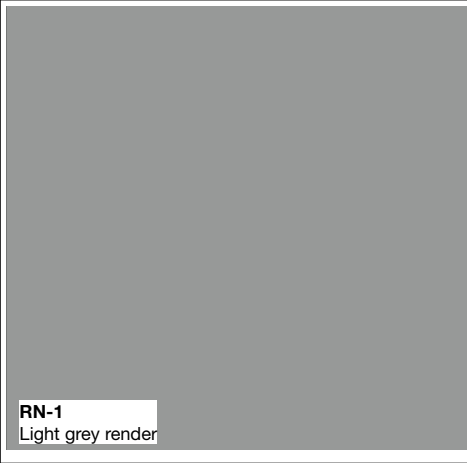
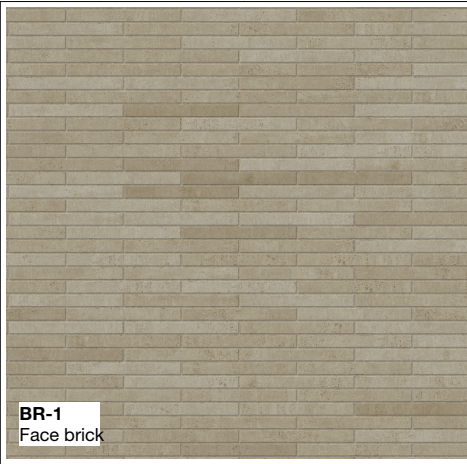
EXTERNAL FINISHES SCHEDULE



SCHEDULE OF CHANGES
REVISION B - 16/10/23

5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.

6. ADDITIONAL GREENERY SHOWN IN RESPONSE TO
RFI No. 2.3.



DESCRIPTION		DATE	GENERAL NOTES		ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA AND AUSTRALIAN STANDARDS		ARCHITECT:		DRAWING TITLE:		SCALE:	DRAWN BY:	CHECKED:					
DEVELOPMENT APPLICATION		4/7/2023	ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING BUT NOT LIMITED TO: DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. MINIUM DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONTRACTS. CONTRACTOR TO NOTIFY MINIUM OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. CONTRACTOR TO DISBURSE CONFLICTS BETWEEN MATERIALS IS MAINTAINED. MINIUM TO REVIEW ALL CONTRACTS'S DETAILED DRAWINGS / SETTING OUT PROGRESS WORK TO BE VERIFIED AGAINST OURS DRAWINGS FOLLOWING COMPLETION OF WORK. ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRAVE.		CLAUSE 14 MATERIAL FORMS CONSTRUCTIONS CLAUSE 15 FIBRE REINFORCED CONCRETE CLAUSE 16 FIRE PROTECTION CLAUSE 17 FIRE PROTECTION CLAUSE 18 FIRE PROTECTION CLAUSE 19 FIRE PROTECTION CLAUSE 20 FIRE PROTECTION CLAUSE 21 FIRE PROTECTION CLAUSE 22 FIRE PROTECTION CLAUSE 23 FIRE PROTECTION CLAUSE 24 FIRE PROTECTION CLAUSE 25 FIRE PROTECTION CLAUSE 26 FIRE PROTECTION CLAUSE 27 FIRE PROTECTION CLAUSE 28 FIRE PROTECTION CLAUSE 29 FIRE PROTECTION CLAUSE 30 FIRE PROTECTION CLAUSE 31 FIRE PROTECTION CLAUSE 32 FIRE PROTECTION CLAUSE 33 FIRE PROTECTION CLAUSE 34 FIRE PROTECTION CLAUSE 35 FIRE PROTECTION CLAUSE 36 FIRE PROTECTION CLAUSE 37 FIRE PROTECTION CLAUSE 38 FIRE PROTECTION CLAUSE 39 FIRE PROTECTION CLAUSE 40 FIRE PROTECTION CLAUSE 41 FIRE PROTECTION CLAUSE 42 FIRE PROTECTION CLAUSE 43 FIRE PROTECTION CLAUSE 44 FIRE PROTECTION CLAUSE 45 FIRE PROTECTION CLAUSE 46 FIRE PROTECTION CLAUSE 47 FIRE PROTECTION CLAUSE 48 FIRE PROTECTION CLAUSE 49 FIRE PROTECTION CLAUSE 50 FIRE PROTECTION CLAUSE 51 FIRE PROTECTION CLAUSE 52 FIRE PROTECTION CLAUSE 53 FIRE PROTECTION CLAUSE 54 FIRE PROTECTION CLAUSE 55 FIRE PROTECTION CLAUSE 56 FIRE PROTECTION CLAUSE 57 FIRE PROTECTION CLAUSE 58 FIRE PROTECTION CLAUSE 59 FIRE PROTECTION CLAUSE 60 FIRE PROTECTION CLAUSE 61 FIRE PROTECTION CLAUSE 62 FIRE PROTECTION CLAUSE 63 FIRE PROTECTION CLAUSE 64 FIRE PROTECTION CLAUSE 65 FIRE PROTECTION CLAUSE 66 FIRE PROTECTION CLAUSE 67 FIRE PROTECTION CLAUSE 68 FIRE PROTECTION CLAUSE 69 FIRE PROTECTION CLAUSE 70 FIRE PROTECTION CLAUSE 71 FIRE PROTECTION CLAUSE 72 FIRE PROTECTION CLAUSE 73 FIRE PROTECTION CLAUSE 74 FIRE PROTECTION CLAUSE 75 FIRE PROTECTION CLAUSE 76 FIRE PROTECTION CLAUSE 77 FIRE PROTECTION CLAUSE 78 FIRE PROTECTION CLAUSE 79 FIRE PROTECTION CLAUSE 80 FIRE PROTECTION CLAUSE 81 FIRE PROTECTION CLAUSE 82 FIRE PROTECTION CLAUSE 83 FIRE PROTECTION CLAUSE 84 FIRE PROTECTION CLAUSE 85 FIRE PROTECTION CLAUSE 86 FIRE PROTECTION CLAUSE 87 FIRE PROTECTION CLAUSE 88 FIRE PROTECTION CLAUSE 89 FIRE PROTECTION CLAUSE 90 FIRE PROTECTION CLAUSE 91 FIRE PROTECTION CLAUSE 92 FIRE PROTECTION CLAUSE 93 FIRE PROTECTION CLAUSE 94 FIRE PROTECTION CLAUSE 95 FIRE PROTECTION CLAUSE 96 FIRE PROTECTION CLAUSE 97 FIRE PROTECTION CLAUSE 98 FIRE PROTECTION CLAUSE 99 FIRE PROTECTION CLAUSE 100 FIRE PROTECTION		CLAUSE 12 HANDRAILS CLAUSE 13 OPERATION OF LIFT CLAUSE 14 OPERATION OF LIFT CLAUSE 15 OPERATION OF LIFT CLAUSE 16 OPERATION OF LIFT CLAUSE 17 OPERATION OF LIFT CLAUSE 18 OPERATION OF LIFT CLAUSE 19 OPERATION OF LIFT CLAUSE 20 OPERATION OF LIFT CLAUSE 21 OPERATION OF LIFT CLAUSE 22 OPERATION OF LIFT CLAUSE 23 OPERATION OF LIFT CLAUSE 24 OPERATION OF LIFT CLAUSE 25 OPERATION OF LIFT CLAUSE 26 OPERATION OF LIFT CLAUSE 27 OPERATION OF LIFT CLAUSE 28 OPERATION OF LIFT CLAUSE 29 OPERATION OF LIFT CLAUSE 30 OPERATION OF LIFT CLAUSE 31 OPERATION OF LIFT CLAUSE 32 OPERATION OF LIFT CLAUSE 33 OPERATION OF LIFT CLAUSE 34 OPERATION OF LIFT CLAUSE 35 OPERATION OF LIFT CLAUSE 36 OPERATION OF LIFT CLAUSE 37 OPERATION OF LIFT CLAUSE 38 OPERATION OF LIFT CLAUSE 39 OPERATION OF LIFT CLAUSE 40 OPERATION OF LIFT CLAUSE 41 OPERATION OF LIFT CLAUSE 42 OPERATION OF LIFT CLAUSE 43 OPERATION OF LIFT CLAUSE 44 OPERATION OF LIFT CLAUSE 45 OPERATION OF LIFT CLAUSE 46 OPERATION OF LIFT CLAUSE 47 OPERATION OF LIFT CLAUSE 48 OPERATION OF LIFT CLAUSE 49 OPERATION OF LIFT CLAUSE 50 OPERATION OF LIFT CLAUSE 51 OPERATION OF LIFT CLAUSE 52 OPERATION OF LIFT CLAUSE 53 OPERATION OF LIFT CLAUSE 54 OPERATION OF LIFT CLAUSE 55 OPERATION OF LIFT CLAUSE 56 OPERATION OF LIFT CLAUSE 57 OPERATION OF LIFT CLAUSE 58 OPERATION OF LIFT CLAUSE 59 OPERATION OF LIFT CLAUSE 60 OPERATION OF LIFT CLAUSE 61 OPERATION OF LIFT CLAUSE 62 OPERATION OF LIFT CLAUSE 63 OPERATION OF LIFT CLAUSE 64 OPERATION OF LIFT CLAUSE 65 OPERATION OF LIFT CLAUSE 66 OPERATION OF LIFT CLAUSE 67 OPERATION OF LIFT CLAUSE 68 OPERATION OF LIFT CLAUSE 69 OPERATION OF LIFT CLAUSE 70 OPERATION OF LIFT CLAUSE 71 OPERATION OF LIFT CLAUSE 72 OPERATION OF LIFT CLAUSE 73 OPERATION OF LIFT CLAUSE 74 OPERATION OF LIFT CLAUSE 75 OPERATION OF LIFT CLAUSE 76 OPERATION OF LIFT CLAUSE 77 OPERATION OF LIFT CLAUSE 78 OPERATION OF LIFT CLAUSE 79 OPERATION OF LIFT CLAUSE 80 OPERATION OF LIFT CLAUSE 81 OPERATION OF LIFT CLAUSE 82 OPERATION OF LIFT CLAUSE 83 OPERATION OF LIFT CLAUSE 84 OPERATION OF LIFT CLAUSE 85 OPERATION OF LIFT CLAUSE 86 OPERATION OF LIFT CLAUSE 87 OPERATION OF LIFT CLAUSE 88 OPERATION OF LIFT CLAUSE 89 OPERATION OF LIFT CLAUSE 90 OPERATION OF LIFT CLAUSE 91 OPERATION OF LIFT CLAUSE 92 OPERATION OF LIFT CLAUSE 93 OPERATION OF LIFT CLAUSE 94 OPERATION OF LIFT CLAUSE 95 OPERATION OF LIFT CLAUSE 96 OPERATION OF LIFT CLAUSE 97 OPERATION OF LIFT CLAUSE 98 OPERATION OF LIFT CLAUSE 99 OPERATION OF LIFT CLAUSE 100 OPERATION OF LIFT		35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 www.mhndunco.com.au		PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028		ISSUE DATE: 16/10/2023		PROJECT REF: 21-081		DWG NO: DA 6000	

**SCHEDULE OF CHANGES
REVISION B - 16/10/23**

5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.
6. ADDITIONAL GREENERY SHOWN IN RESPONSE TO
RFI No. 2.3.



ARTISTS IMPRESSION

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1586	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPERATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MANDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MANDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MANDU TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	CLAUSE 9.1.4 MATERIAL FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.18 FIRE HAZARD PROPERTIES SPEC. C2.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC. C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS CLAUSE C2.15 SEPARATION OF EQUIPMENT CLAUSE C2.16 ELECTRICITY SUPPLY SYSTEM CLAUSE C2.18 OPENING IN FIRE ISOLATED EXITS CLAUSE C2.19 DISCHARGE FROM EXITS CLAUSE C2.20 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C2.13 SOUNDING AND FIRE CLAUSE C2.14 LANDINGS CLAUSE C2.15 THRESHOLDS CLAUSE C2.16 BALUSTRADES	CLAUSE D2.1 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.22 SIGNS ON DOORS CLAUSE D2.3 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D2.8 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D2.9 ENTRY OF ACCESSIBLE FACILITIES/FEATURES CLAUSE D2.10 FACTS INDICATORS CLAUSE D2.11 WATERPROOFING OF WET AREAS PART F4 LIGHTING AND VENTILATION CLAUSE F4.4 SOUND INSULATION OF FLOORS CLAUSE F4.5 SOUND INSULATION OF WALLS CLAUSE F4.6 SOUND INSULATION OF SERVICES CLAUSE F4.7 SOUND INSULATION OF PUMPS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1586 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3600.3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS OF BCA HOT WATER SYSTEMS TO COMPLY WITH PART 37 OF BCA MASONRY: TO COMPLY WITH AS270 MECHANICAL VENTILATION: TO COMPLY WITH PART 38 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS3088 & AS818 SMOKE ALARMS: TO COMPLY WITH BCA PART 4.6 & SPEC. D2.2.4 ASBESTOS: THROUGH FIRE RATED CONSTRUCTION FOR MECH/ELEV HYDRAULIC PENETRATIONS: TO COMPLY WITH BCA CLAUSE C3.15 & AS1586 FLOOR TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS270	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 682 NSW Registration Number 4907	Non-Registered Architect Bryan Mayerson	PHOTOMONTAGE - BAY ST PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	16/10/2023 PROJECT REF.: 21-081	NTS ISSUE DATE: 16/10/2023 DRAWN BY: BW CHECKED: BW REVISION: B DWG NO.: DA 6001

SCHEDULE OF CHANGES
REVISION B - 16/10/23

5. AWNING ABOVE BAY STREET RETAIL ENTRY SHOWN IN RESPONSE TO RFI No. 2.5.

6. ADDITIONAL GREENERY SHOWN IN RESPONSE TO RFI No. 2.3.



ARTISTS IMPRESSION

[illegible]

SCHEDULE OF CHANGES
REVISION B - 16/10/23

NO CHANGES.



ARTISTS IMPRESSION

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1598 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 22 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS OF BCA HOT WATER SYSTEMS TO COMPLY WITH PART 37 OF BCA MASONRY: TO COMPLY WITH AS270 MECHANICAL/MECHANICAL: BCA CLAUSE C3.15 & AS1598.4.2005 MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 38 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1598 & AS1598.2 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 6. SPEC. D2.4 ASTM: THROUGH FIRE RATED CONSTRUCTION FOR MECHANICAL HYDRAULIC PENETRATIONS: TO COMPLY WITH BCA CLAUSE C3.15 & AS1598.4.2005 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS1598.2	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPARATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT: MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 662 NSW Registration Number: 4907	DRAWING TITLE: PHOTOMONTAGE - GUM TREE LANE PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028 F +61 2 9101 1100	SCALE: NTS ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	DRAWN BY: BW REVISION: B DWG NO.: DA 6003	CHECKED: BW REVISION: B DWG NO.: DA 6003	
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MANU/DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MINDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MINDU TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	CLAUSE 8.1.4 MATERIAL FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.18 FIRE HAZARD PROPERTIES CLAUSE C2.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS CLAUSE C2.15 SEPARATION OF EQUIPMENT CLAUSE C2.8 DISCHARGE FROM EXITS CLAUSE C3.3 ACCEPTABLE METHOD OF PROTECTION (OF OPENINGS) CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C3.16 DISCHARGE FROM EXITS CLAUSE C3.17 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C3.18 SOUNDING AND PRESSURE CLAUSE C3.14 LANDINGS CLAUSE C3.16 THRESHOLDS CLAUSE C3.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.29 SIGNS ON DOORS CLAUSE D3.2 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 FLOOR INDICATORS CLAUSE D3.9 DRAINAGE OF ACCESSIBLE FACILITIES/FEATURES CLAUSE D3.10 WATERPROOFING OF WET AREAS PART F4 LIGHTING AND VENTILATION CLAUSE F4.4 LIGHTING AND VENTILATION CLAUSE F4.5 SOUND INSULATION OF FLOORS CLAUSE F4.6 SOUND INSULATION OF WALLS CLAUSE F4.8 SOUND INSULATION OF SERVICES CLAUSE F4.7 SOUND INSULATION OF PUMPS							
B	RESPONSE TO COUNCIL RFI	16/10/2023										



GFA DIAGRAMS (SHEET 1)

WOOLLAHRA MUNICIPAL COUNCIL
LEP 2014 GFA Definition:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

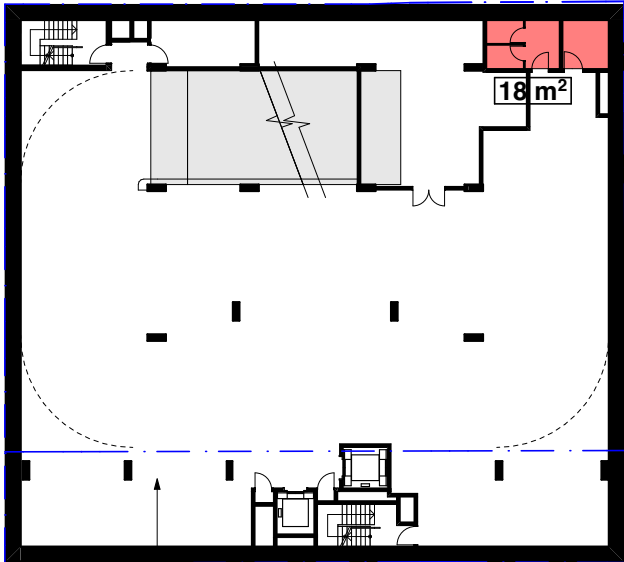
- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

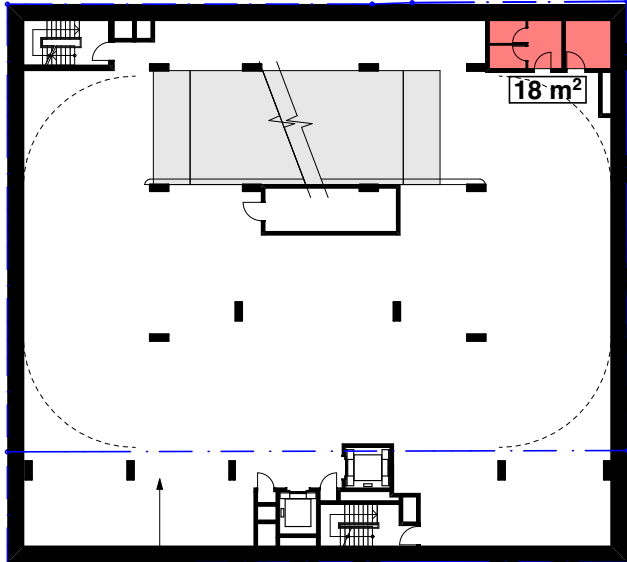
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

GFA Calculations	
Basement B4	18 m²
Basement B3	18 m²
Ground floor	540 m²
Level 1	724 m²
Level 2	604 m²
Level 3	502 m²
Level 4	393 m²

Total GFA		2,799 m ²	
FSR			
	Control	Approved (21-27 Bay)	Proposed
SITE AREA:	1,027 m ²	820 m ²	
TOTAL GFA:	2,568 m ²	2,661 m ²	2,799 m ²
FSR:	2.5 : 1	3.25 : 1	2.73: 1



Basement B4



Basement B3



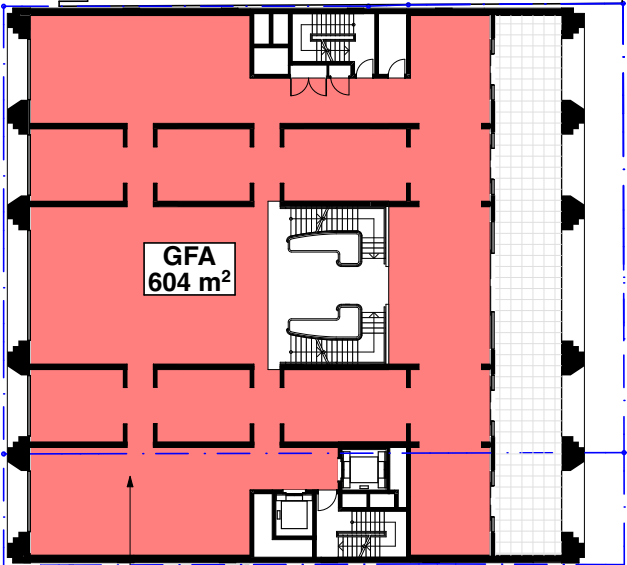
Ground floor

SCHEDULE OF CHANGES
REVISION B - 16/10/23
NO CHANGES.

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4.4 & AS1384	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPERATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT.	CLAUSE 9.1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.18 FIRE HAZARD PROPERTIES SPEC. C1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS CLAUSE C2.15 SEPARATION OF EQUIPMENT CLAUSE C2.8 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.3 ACCEPTABLE METHODS OF PROTECTION OF OPENINGS CLAUSE C2.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C1.15 DISCHARGE FROM EXITS CLAUSE C2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C2.15 SOUNDING AND PRESSURE CLAUSE C2.14 LANDINGS CLAUSE C2.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D2.1 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D2.8 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D2.8 IDENT. OF ACCESSIBLE FACILITIES/FEATURES CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F5.10.1 DAMP PROOFING CLAUSE E3 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F4.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F6.6 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4.4 & AS1384 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE C2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500.3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 22 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS OF BCA HOT WATER SYSTEMS TO COMPLY WITH PART 17 OF BCA MASONRY: TO COMPLY WITH AS1250 MECHANICAL/MECHANICAL: BCA CLAUSE C3.15 & AS1384 4.3055 MECHANICAL AIRCONDITIONING: TO COMPLY WITH PART 18 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1384 & AS1882 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 6. SPEC. D2.4 AS1384 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECHANICAL HYDRAULIC PENETRATIONS: TO COMPLY WITH BCA CLAUSE C3.15 & AS1384 FLOORS SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS1250	MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 053 717 682	NSW Registered Architect Bryan Mayerson NSW Registration Number: 4907	16/10/2023 PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028 PROJECT REF.: 21-081	NTS ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	BW REVISION: B DWG NO.: DA 9100

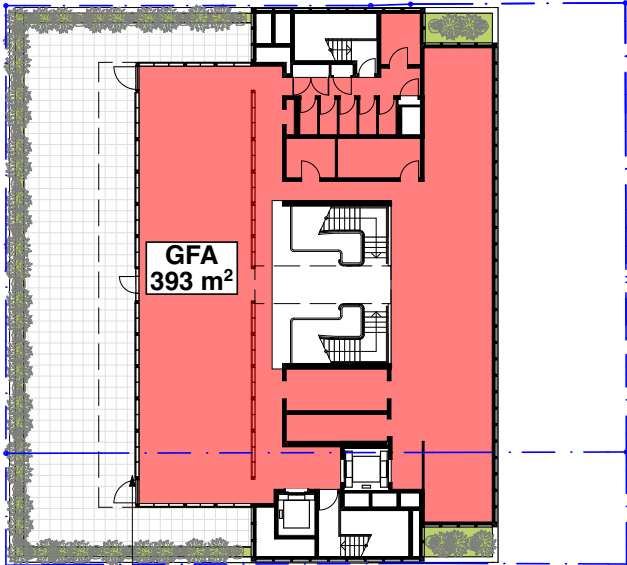
SCHEDULE OF CHANGES
REVISION B - 16/10/23

NO CHANGES



Level 1

Level 2



Level 3

Level 4

[illegible]

TO BE READ IN CONJUNCTION WITH OPERATIONAL WASTE MANAGEMENT PLAN BY ELEPHANTS FOOT WASTE COMPACTORS PTY LTD

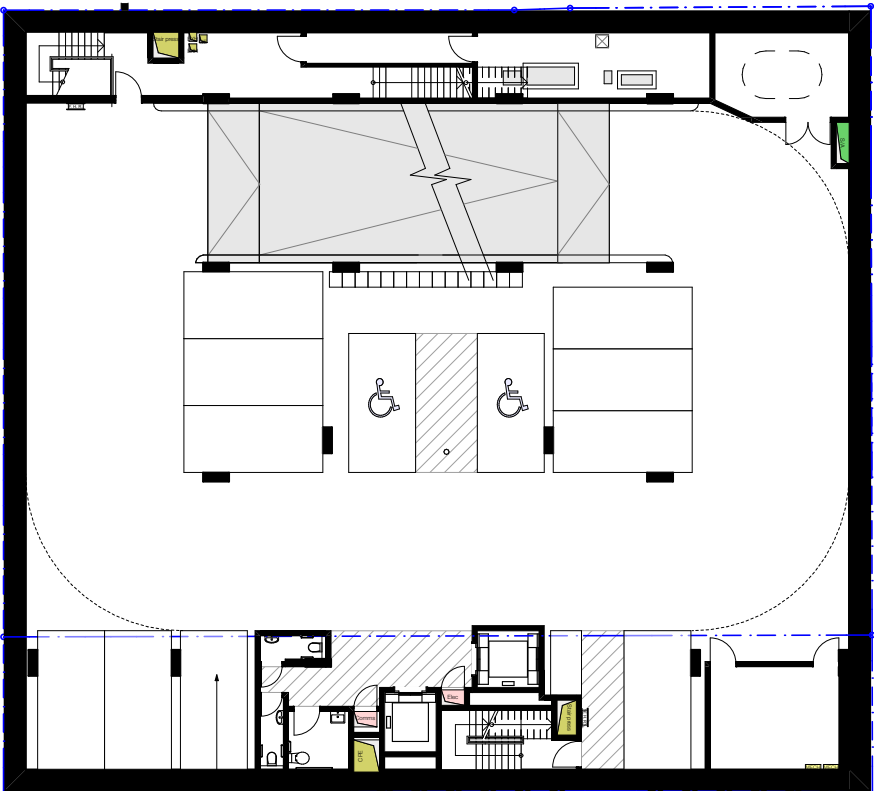
BINS PROVIDED

General Waste:	4 x 660L MGBs collected 5x weekly
General Recycling:	4 x 660L MGBs collected 3x weekly

General Waste: 1 x 660L MGBs collected 3x weekly
General Recycling: 3 x 660L MGBs collected 3x weekly

[illegible]

Basement B2 Plan



Basement B1 Plan

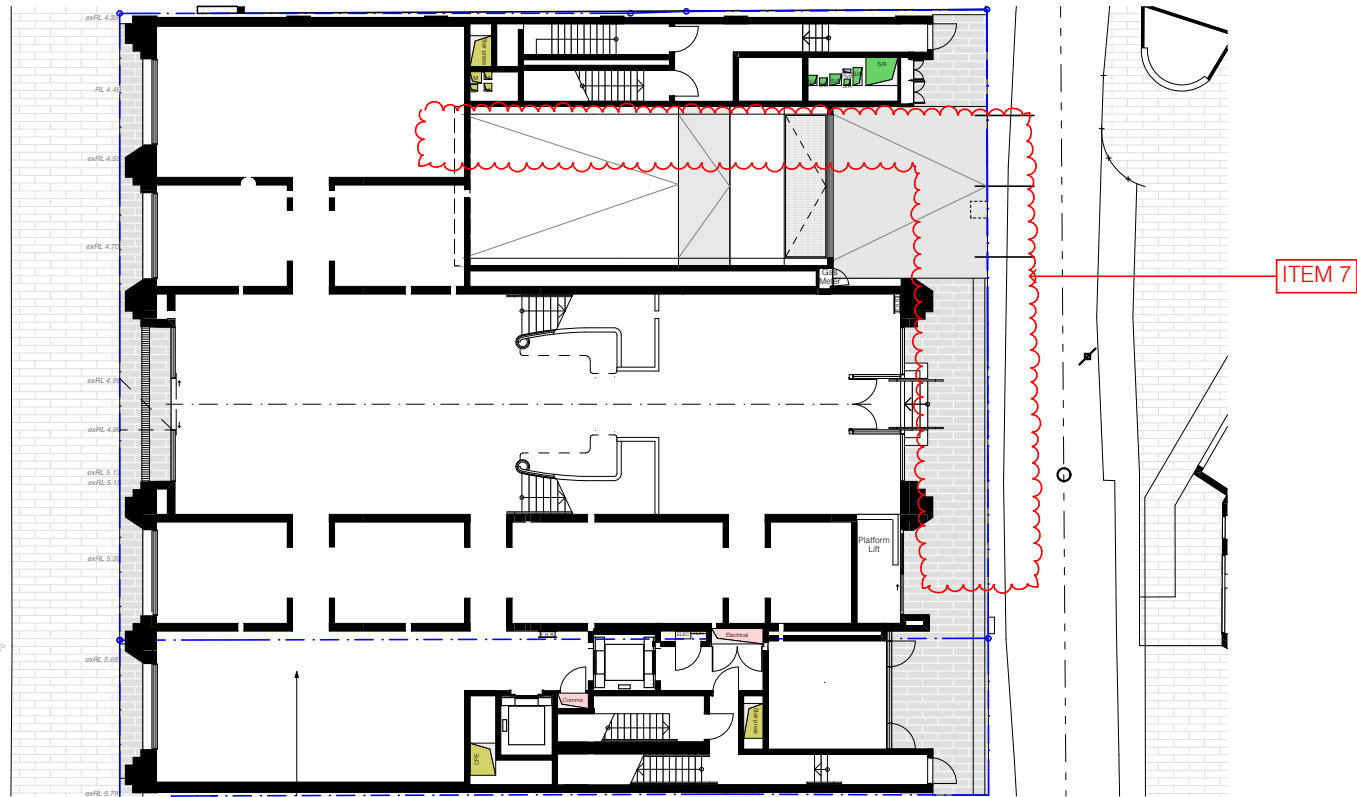
ITEM 7. WASTE COLLECTION LOCATED WITHIN SITE
AWAY FROM GUMTREE LANE IN RESPONSE TO RFI
No. 1.3)b

A		DESCRIPTION	DATE	GENERAL NOTES		ALL CONSTRUCTION TO BE AT MINIMUM W/ BCA CLASSES & AUSTRALIAN STANDARDS		ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1686 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 12.16 DRAINAGE GUTTERS & DOWNPIPS: TO COMPLY WITH AS/NZS 3005.2 FIRE ENERGY CLADDING: TO COMPLY WITH PART 9 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 9 OF BCA FIRE EXITS: TO COMPLY WITH SECTION 9 OF BCA MASONRY: TO COMPLY WITH AS1870 ROOFING: TO COMPLY WITH AS1562 & AS1560 & 2005 MECHANICAL MICROCLIMATING: TO COMPLY WITH PART 9 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1870 & AS1562 SCAFFOLDING: TO COMPLY WITH BCA PART 4.5 & AS 2581 SCAFFOLDING: TO COMPLY WITH BCA PART 4.5 & AS 2581		ARCHITECT: MHNDUNO 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhnduno.com MHP Design Urban Pty Ltd ADP 04 003 717 682 NSW Registration Number 4907		FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPARATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION		DRAWING TITLE: WASTE MANAGEMENT PLAN (SHEET 1) PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028 Non-lead Architect Start Construction To Comply With BCA Clause 12.13 Start Construction To Comply With BCA Clause 12.13 METEOROLOGICAL DATA TO COMPLY WITH AS1562		SCALE: ISSUED DATE: 16/10/2023 PROJECT REF: 21-081		DRAWN BY: CHECKED: BW REVISION: B DWG NO: DA 9102	
B		DEVELOPMENT APPLICATION RESPONSE TO COUNCIL RFI	4/7/2023 16/10/2023	<p>ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING BUT NOT LIMITED TO:</p> <p>DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED.</p> <p>CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.</p> <p>MHNDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONTRACTS.</p> <p>CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING.</p> <p>CONTRACTOR TO DISCLOSE CONFLICTS BETWEEN MATERIALS IS MAINTAINED.</p> <p>MHNDU TO REVIEW ALL CONTRACTORS' DETAILED DRAWINGS / SETTING OUT PROGRESS WORK TO BE VERIFIED AGAINST OURS DRAWINGS PRIOR TO CONSTRUCTION.</p> <p>CONTRACTOR TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION PROCEEDING WITH NEXT TRADE.</p>		<p>CLAUSE 11.4 MATERIALS FORMS CONSTRUCTIONS</p> <p>CLAUSE 12.1 OPERATIONS OF LIFT</p> <p>CLAUSE 12.16 SOUND INSULATION</p> <p>CLAUSE 12.17 SOUND INSULATION</p> <p>CLAUSE 12.18 SOUND INSULATION</p> <p>CLAUSE 12.19 SOUND INSULATION</p> <p>CLAUSE 12.20 SOUND INSULATION</p> <p>CLAUSE 12.21 SOUND INSULATION</p> <p>CLAUSE 12.22 SOUND 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TO BE READ IN CONJUNCTION WITH OPERATIONAL WASTE MANAGEMENT PLAN BY ELEPHANTS FOOT WASTE COMPACTORS PTY LTD

SCHEDULE OF CHANGES
REVISION B - 16/10/23

ITEM 7. WASTE COLLECTION LOCATED WITHIN SITE
AWAY FROM GUMTREE LANE IN RESPONSE TO RFI
No. 1.3)b

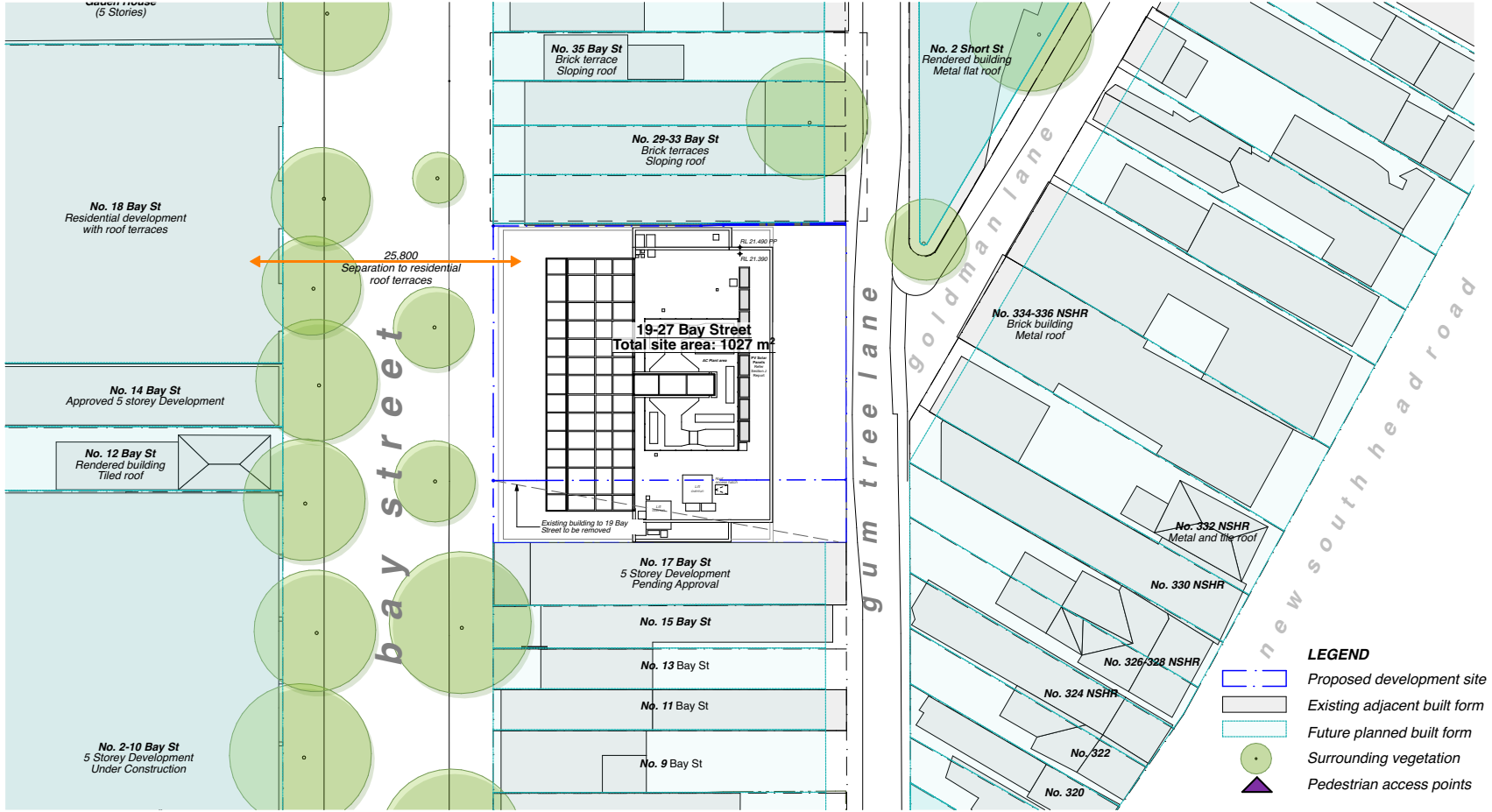


Ground Floor Plan

[illegible]

NOTIFICATION PLAN (SHEET 1)

SCHEDULE OF CHANGES
REVISION B - 16/10/23
NO CHANGES.

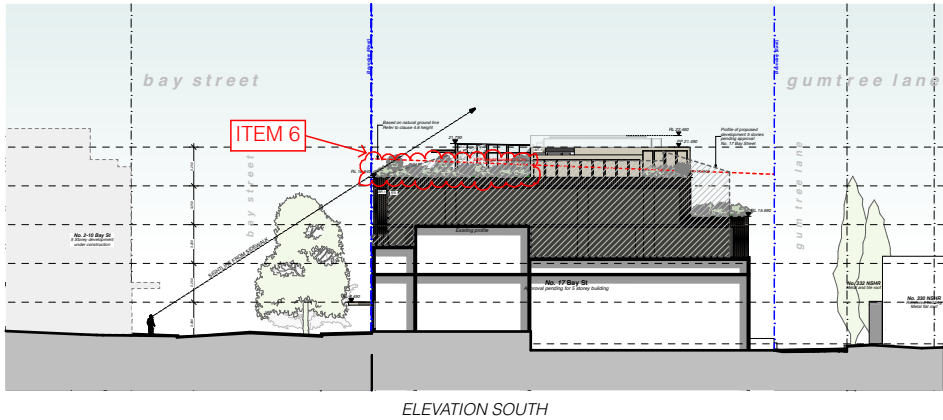
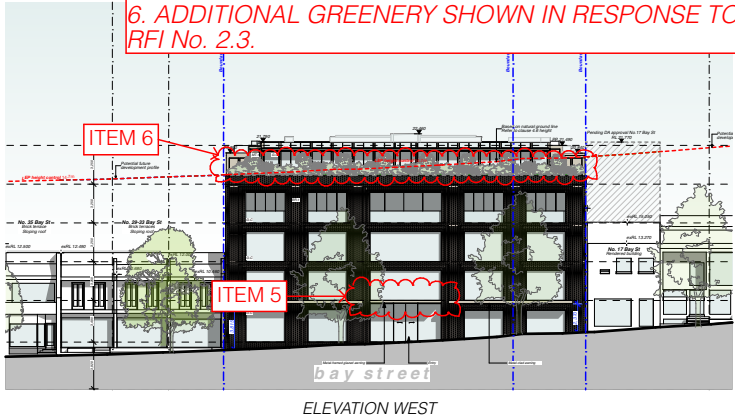
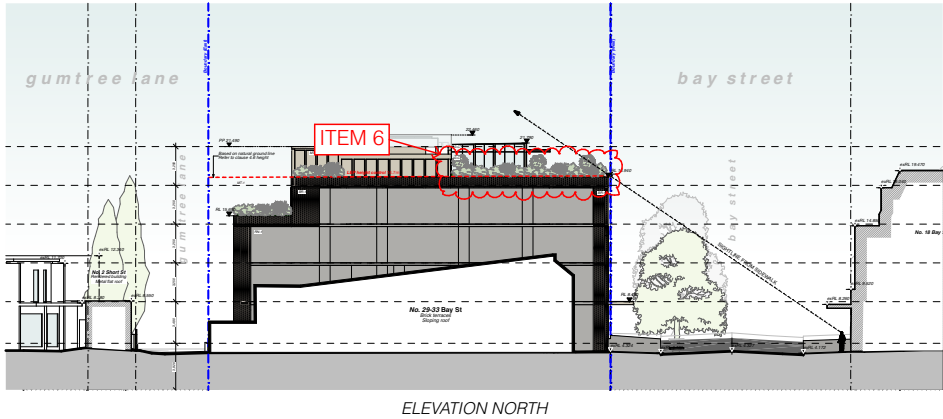


REV	DESCRIPTION	DATE	GENERAL NOTES	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, EXISTING REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THE DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MIND DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MINDU TO REVEAL ALL CONTRACTORS DETAILED DRAWINGS (SETTING OUT PRIOR TO CONSTRUCTION). 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	NOTIFICATION PLAN (SHEET 1) PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	1:500@A4 ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	MHNDU BW REVISION: B DWG NO.: DA 9104	

NOTIFICATION PLAN (SHEET 2)

**SCHEDULE OF CHANGES
REVISION B - 16/10/23**

5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.
6. ADDITIONAL GREENERY SHOWN IN RESPONSE TO
RFI No. 2.3.

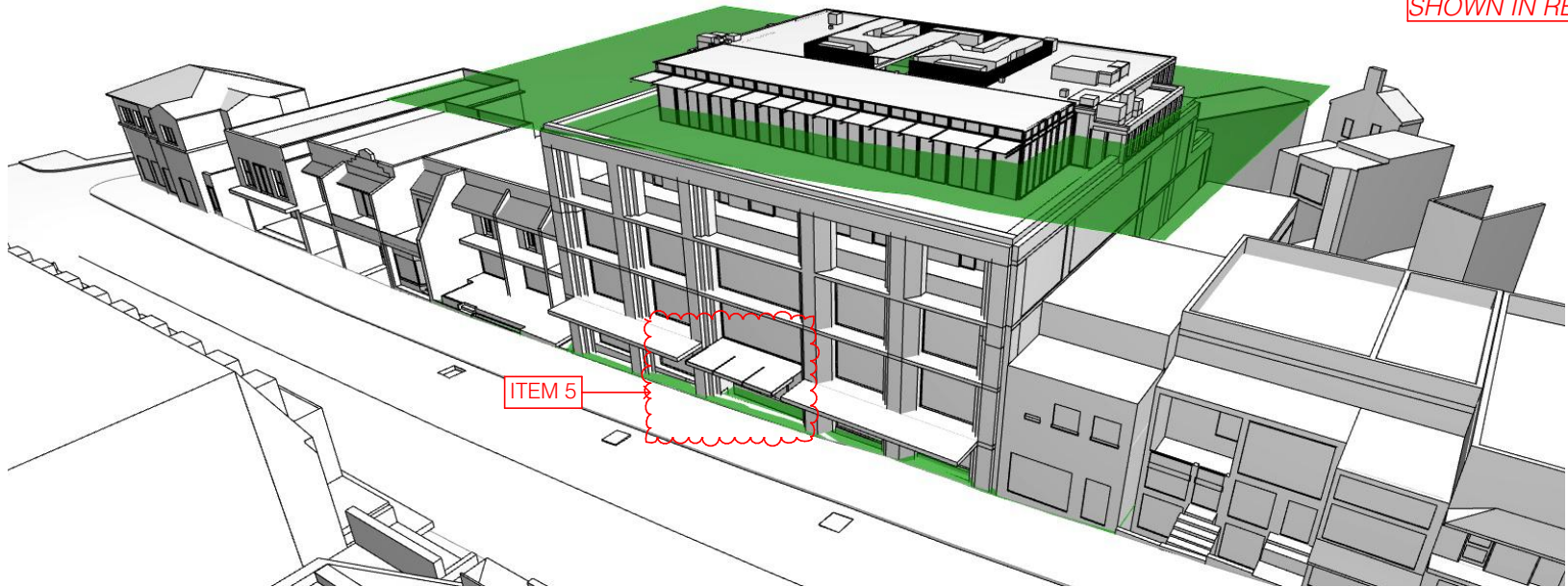


REV	DESCRIPTION	DATE	GENERAL NOTES	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, EXISTING REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MINOR DRAWINGS TO BE RE-DESIGNED IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MHNH OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MHNH TO REVIEW ALL CONTRACTOR DETAIL DRAWINGS (SETTING OUT PRIOR TO CONSTRUCTION). 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	MHNHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	NOTIFICATION PLAN (SHEET 2) PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	1:500@A4 ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	MHNHNDU	BW
B	RESPONSE TO COUNCIL RFI	16/10/2023		Non-Registered Architect Briker Meyerstein NSW Registration Number 4907				REVISION: B DWG NO.: DA 9105

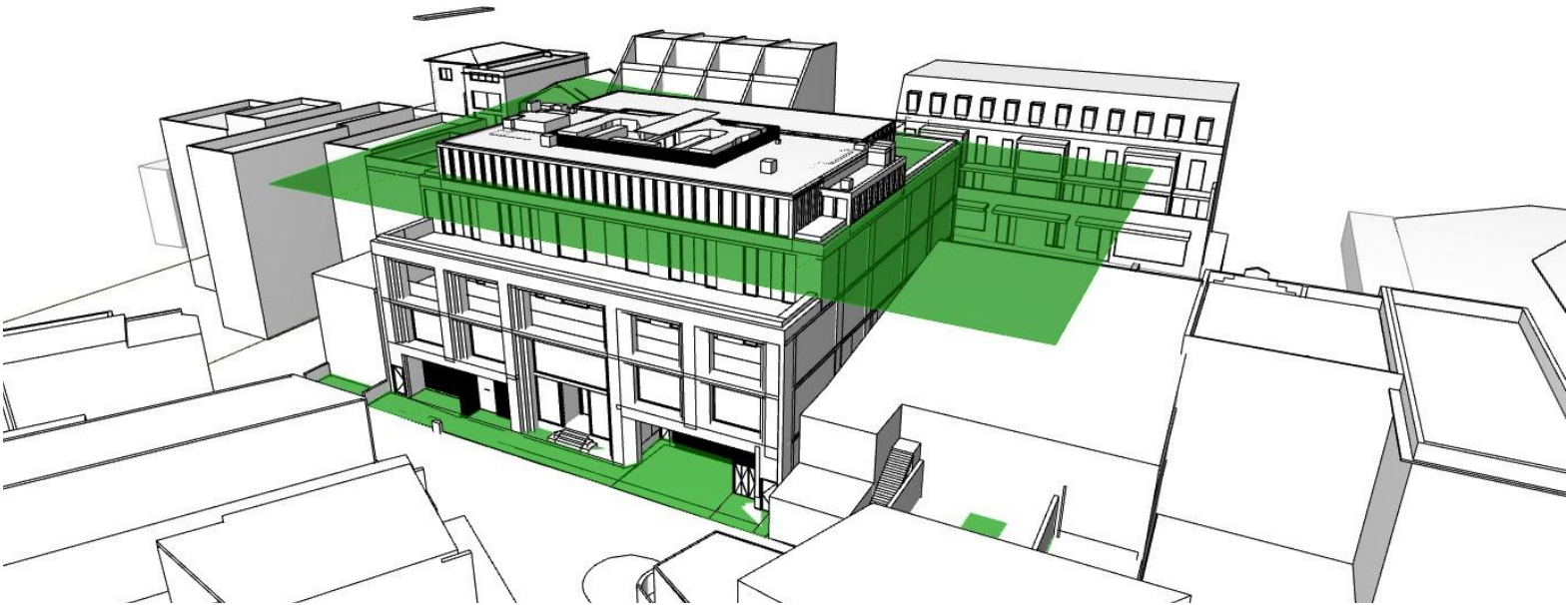
SCHEDULE OF CHANGES

REVISION B - 16/10/23

5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.



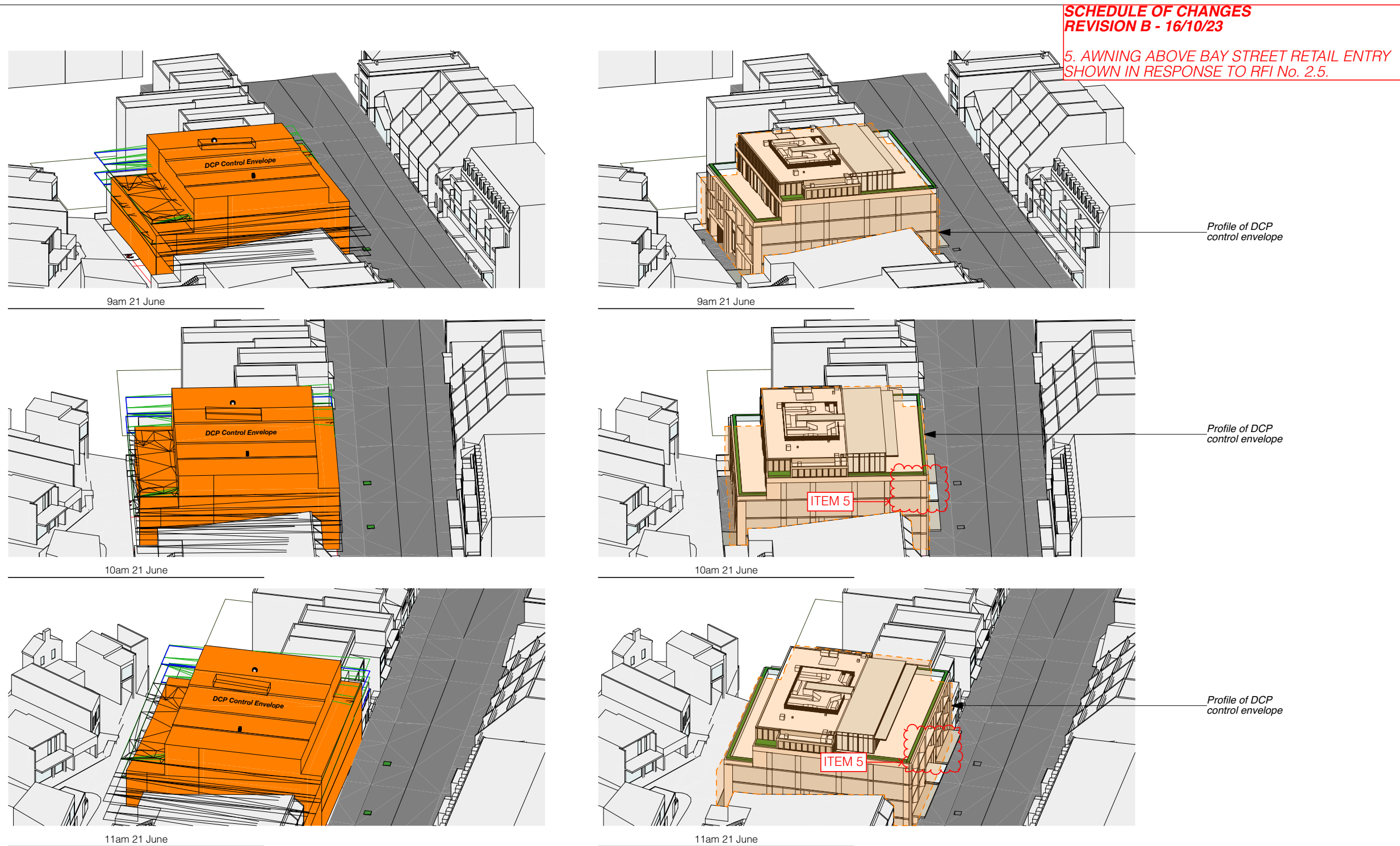
1
- HEIGHT CONTROL PLANE DIAGRAM (BASED ON NATURAL GROUND LEVEL - REFER CL.4.6 HEIGHT) - VIEW FROM BAY STREET 1:100

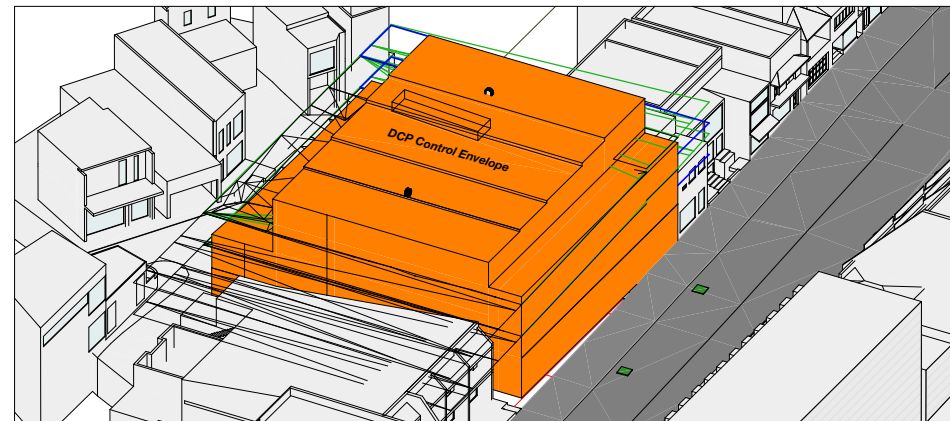


2 HEIGHT CONTROL PLANE DIAGRAM (BASED ON NATURAL GROUND LEVEL - REFER CL.4.6 HEIGHT) - VIEW FROM GUM TREE LANE
- 1:100

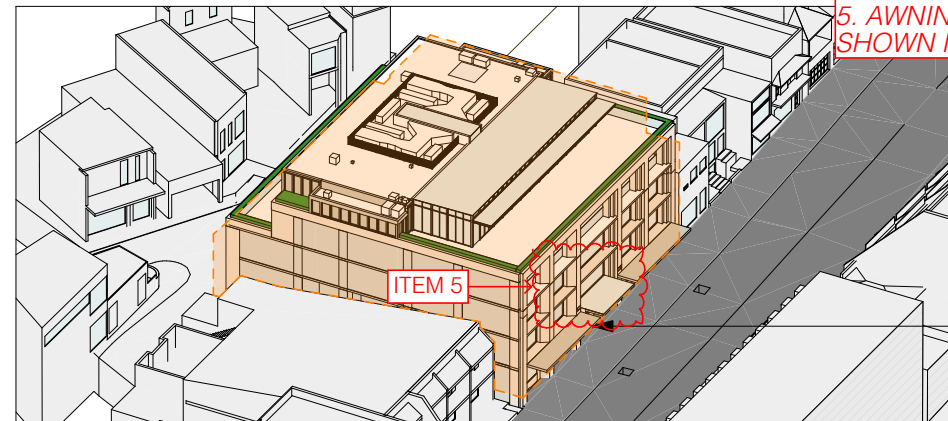
19 - 27 BAY STREET NATURAL GROUND LEVEL
IS TAKEN FROM RL'S AT EXISTING BOUNDARY
EDGE LEVELS ALONG SITE

A	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM WITH BCA CLASSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 9.4.4 & AS1686 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA PART CLAUSE 9.4.4 & AS1686 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3000.32 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH PART 9.4.4 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 9.9 OF BCA GLAZING: TO COMPLY WITH SECTION 9.9 OF BCA
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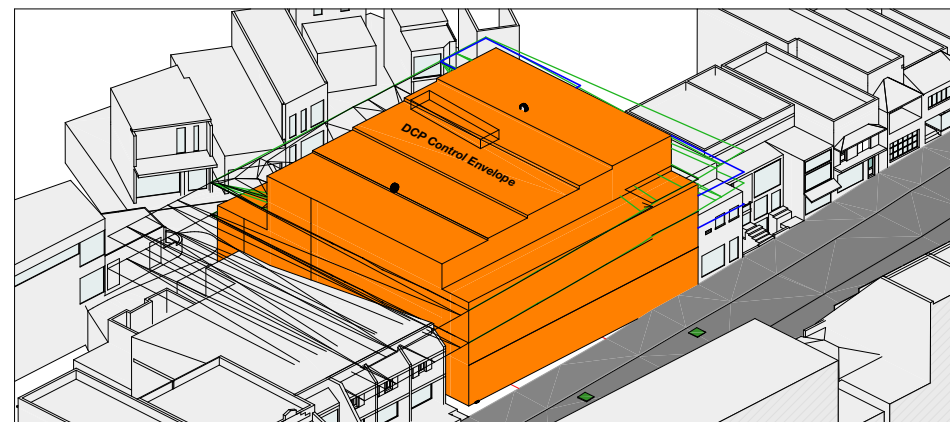
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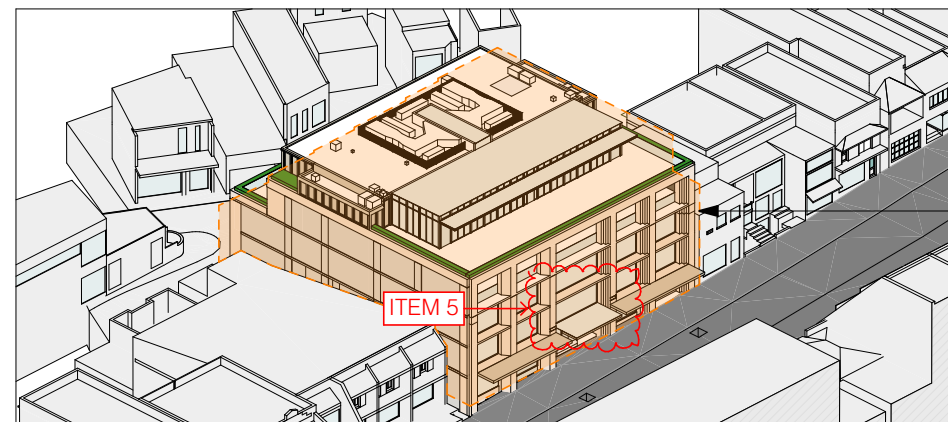
12pm 21 June



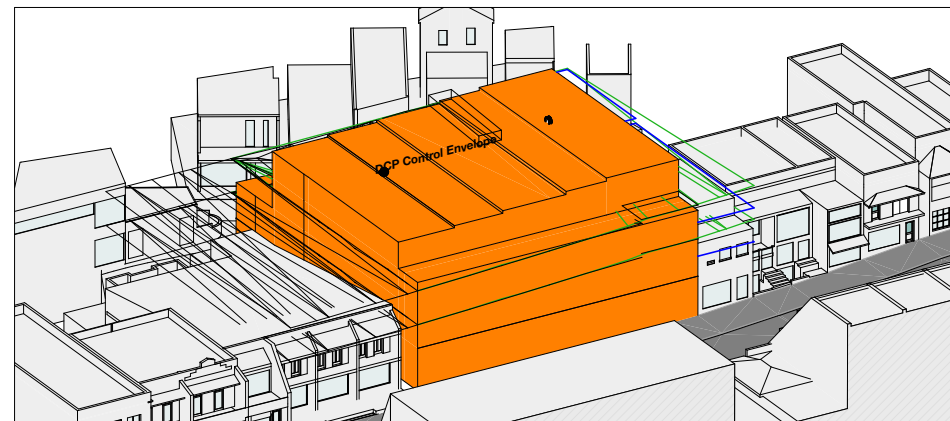
12pm 21 June



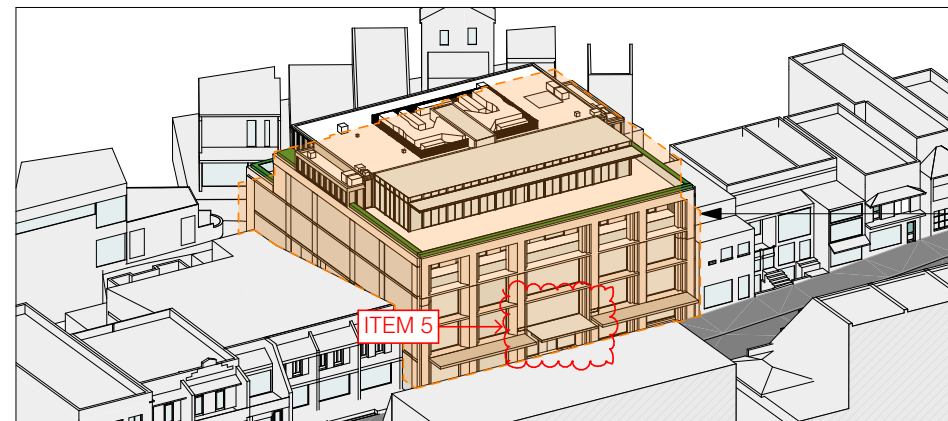
1pm 21 June



1pm 21 June



2pm 21 June



2pm 21 June

SCHEDULE OF CHANGES
REVISION B - 16/010/23

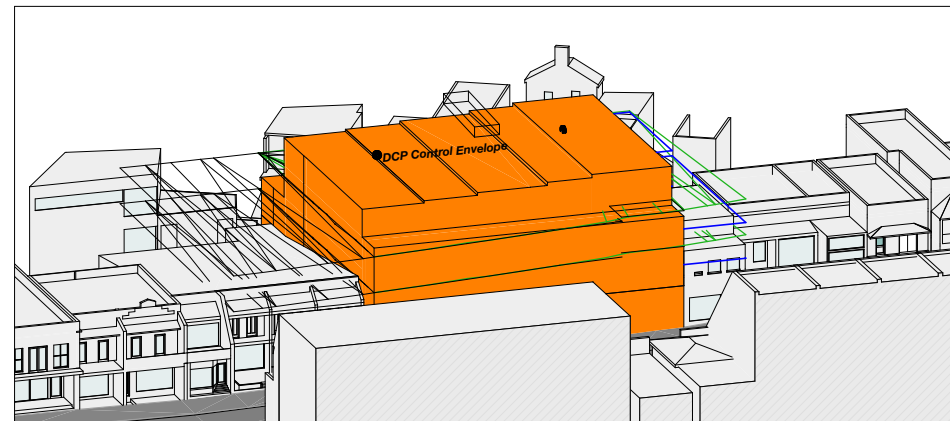
5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.

Profile of DCP
control envelope

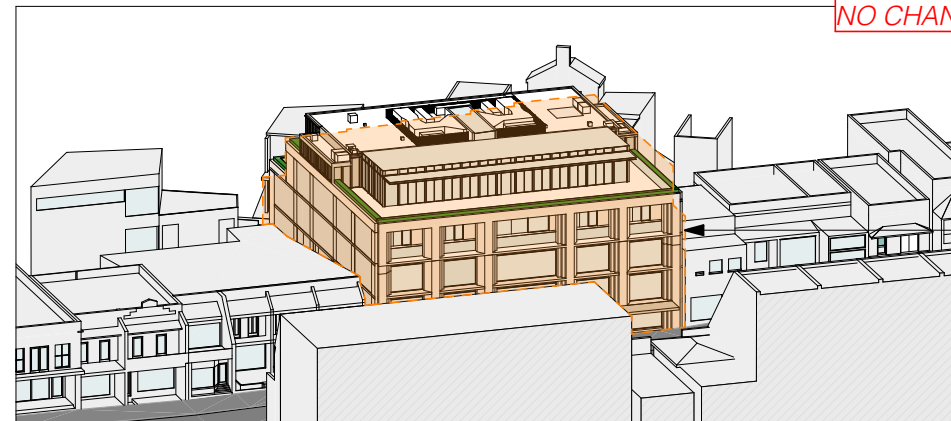
Profile of DCP
control envelope

*Profile of DCP
control envelope*

[illegible]



3pm 21 June



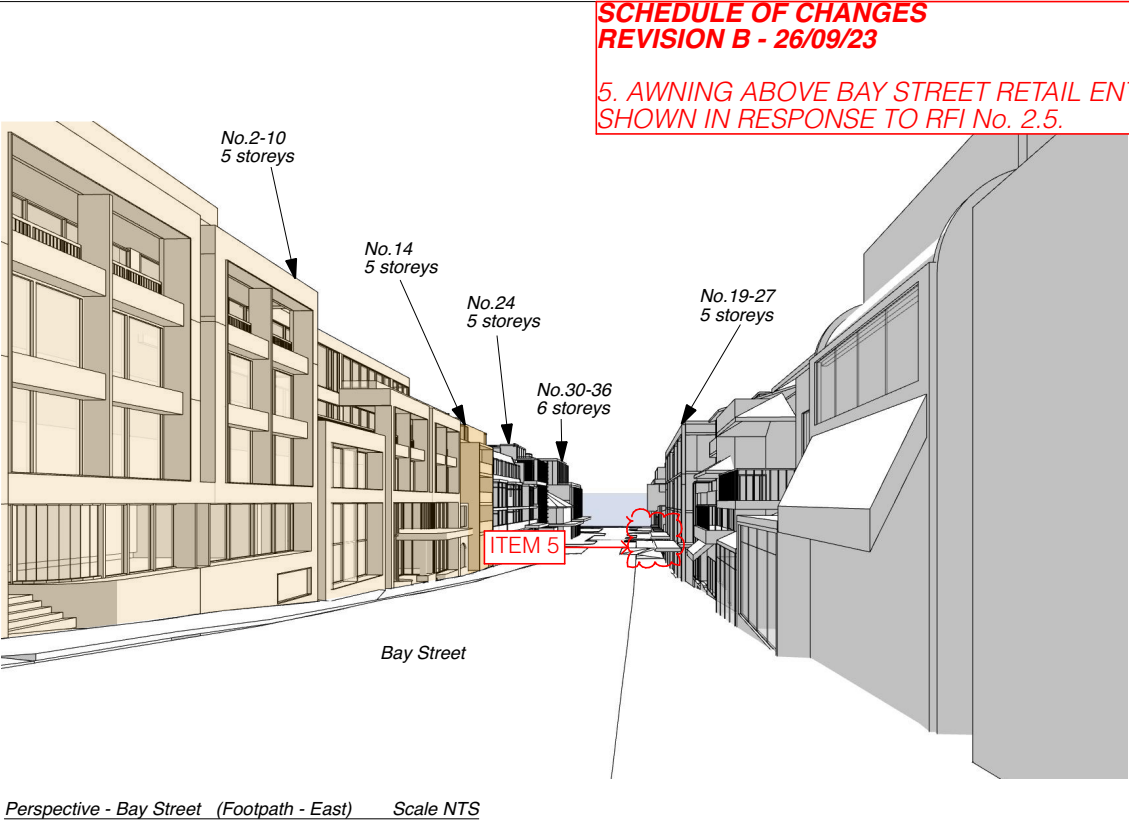
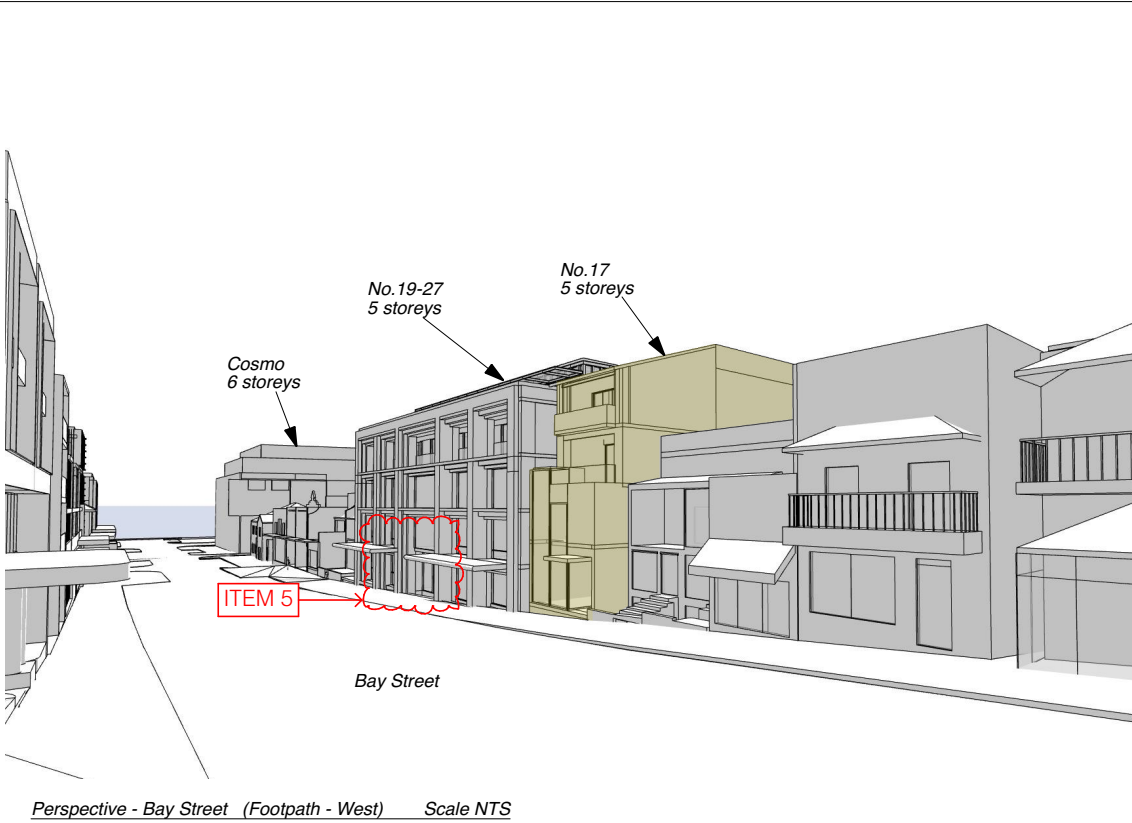
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SCHEDULE OF CHANGES
REVISION B - 16/10/23

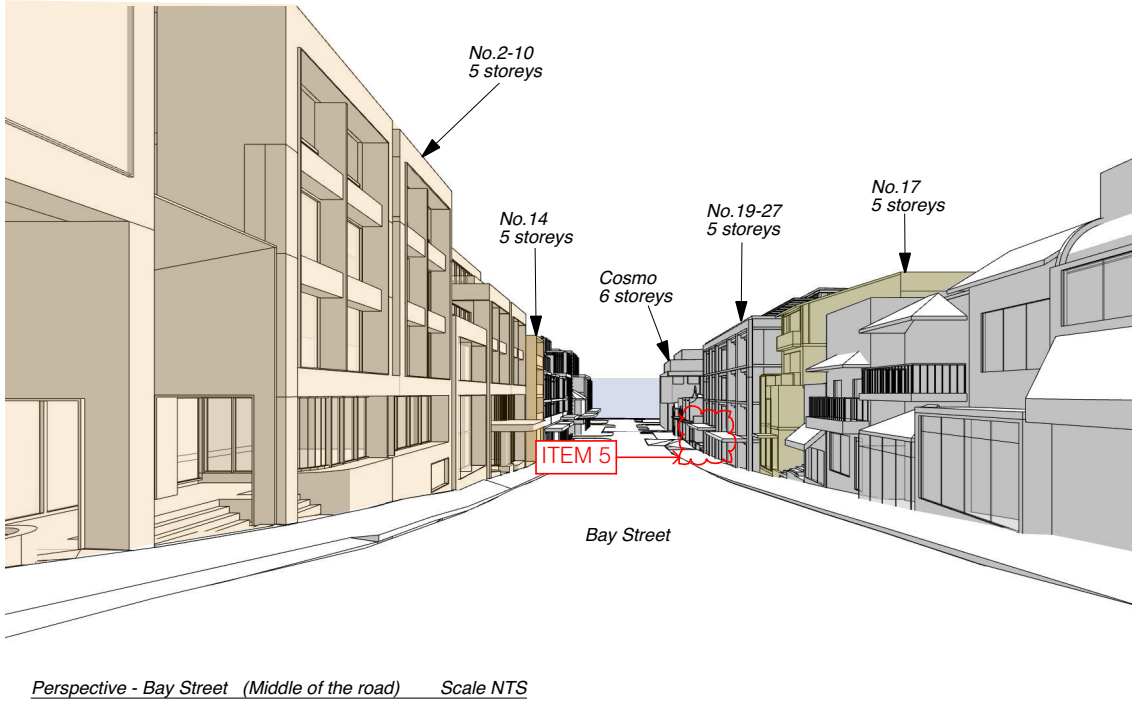
NO CHANGES.

Profile of DCP control envelope

[illegible]



**SCHEDULE OF CHANGES
REVISION B - 26/09/23**
**5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.**



LEGEND




- PENDING APPROVAL - 5 STOREYS PROPOSED
- UNDER CONSTRUCTION
- APPROVED 5 STOREY HIGH RE-DEVELOPMENT

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE F4.4 & AS1598 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 & AS1598 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3600 3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 12 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS OF BCA HOT WATER: SYSTEMS TO COMPLY WITH PART 37 OF BCA MASONRY: TO COMPLY WITH AS270 MECHANICAL/PLUMBING: TO COMPLY WITH PART 38 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS3568 & AS3569 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 6 SPEC. D2.4 & AS270 FIRE DETECTORS: THROUGH FIRE RATED CONSTRUCTION FOR MECH/ELEV HYDRAULIC PENETRATIONS: TO COMPLY WITH PARTS OF BCA F1.200 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS2702	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPARATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT: MHNDU 35 RICHARDS LANE SURREY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHNDU Design Urban Pty Ltd ABN 94 003 717 602 NSW Registration Number 4907	DRAWING TITLE: PERSPECTIVE VIEWS - BAY STREET (SHEET 1) PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	SCALE: NTS ISSUE DATE: 4/7/2023 PROJECT REF.: 21-081	DRAWN BY: MHNDU CHECKED: BW REVISION: A DWG NO.: DA 9404
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MHNDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MHNDU TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	CLAUSE D1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.18 FIRE HAZARD PROPERTIES SPEC. C1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE D2.4 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS CLAUSE D2.5 SEPARATION OF EQUIPMENT CLAUSE D2.6 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.3 ACCEPTABLE METHODS OF PROTECTION OF OPENINGS CLAUSE D2.8 OPENING IN FIRE ISOLATED EXITS CLAUSE D2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.14 LANDING AND RISERS CLAUSE D2.16 BALUSTRADES CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.20 SIGNS ON DOORS CLAUSE D2.2 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D2.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D2.8 IDENTIFICATION OF ACCESSIBLE FACILITIES/FEATURES CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.8 F1.10 DAMP PROOFING CLAUSE D2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F4.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F6.6 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS						

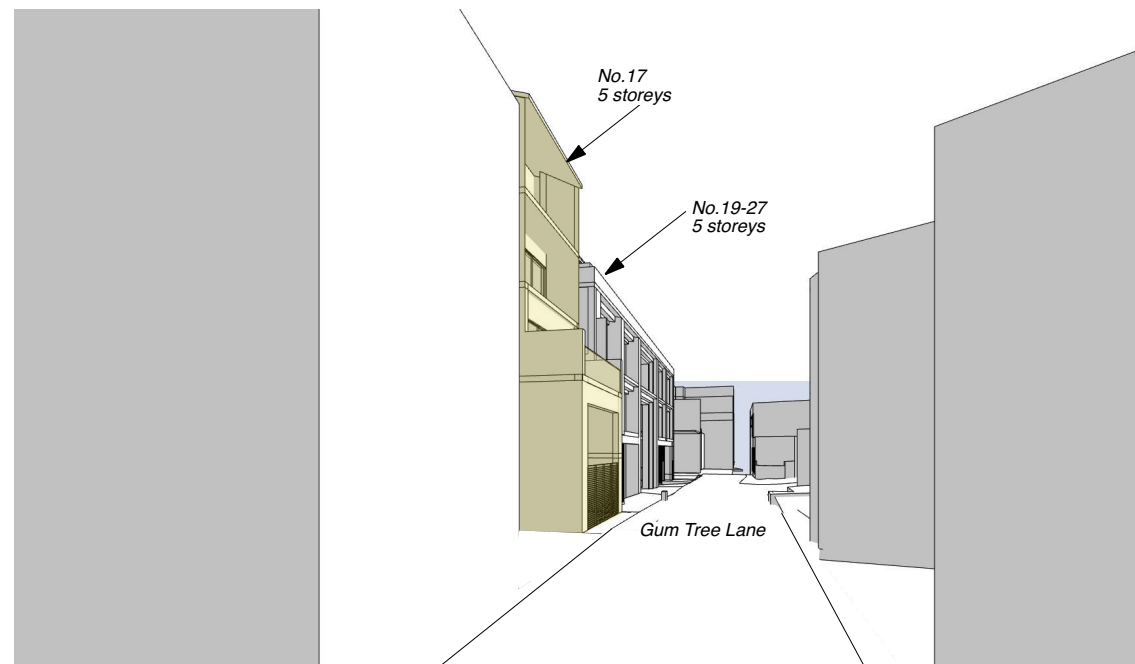
REP: Bldmoot 20-24 local - Bldmoot Basic for Interact 2421-081 19 - 27 Bay Street Double Bay - RH DA



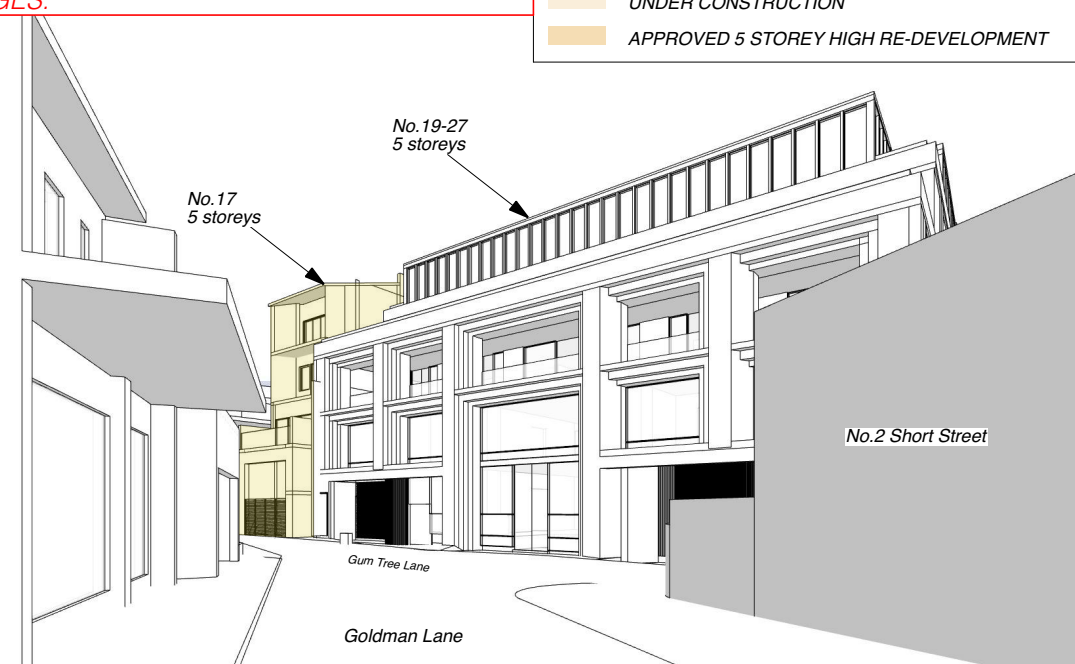
LEGEND

	PENDING APPROVAL - 5 STOREYS PROPOSED
	UNDER CONSTRUCTION
	APPROVED 5 STOREY HIGH RE-DEVELOPMENT

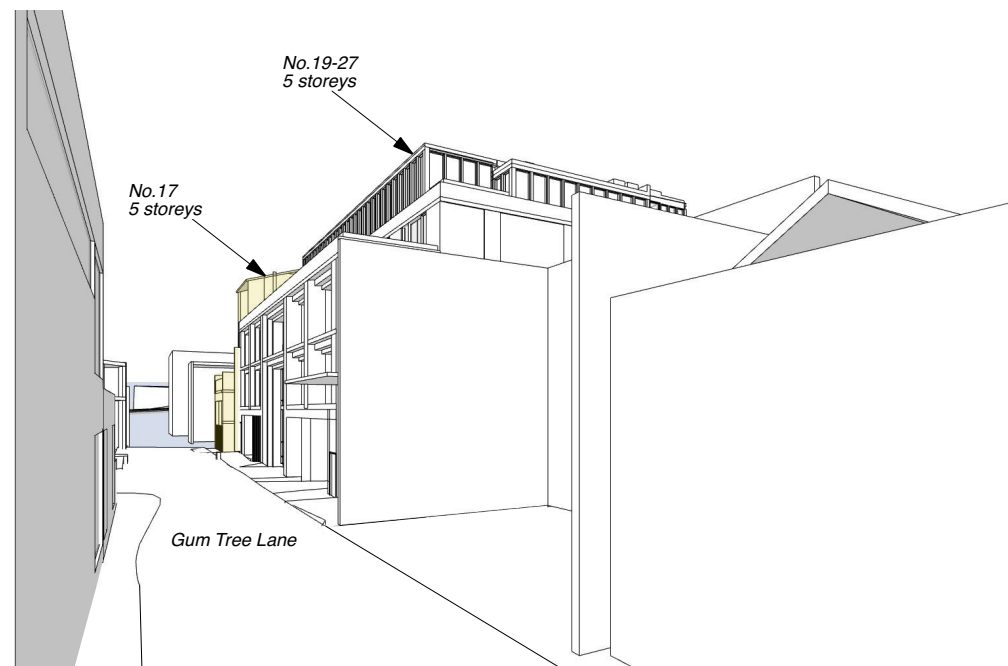
<div> <div>A</div> <div>DESCRIPTION</div> <div>DATE</div> </div>	<div> <div>DEVELOPMENT APPLICATION</div> <div>4/7/2023</div> </div>	<div> <div>GENERAL NOTES</div> <div> <p>ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. DO NOT SCALE OFF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK.</p> <p>MHNDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONTRACTS INVOLVED IN THIS PROJECT. CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING.</p> <p>CONTRACTOR TO ENSURE COORDINATION BETWEEN MATERIALS IS MAINTAINED.</p> <p>MHNDU TO REVIEW ALL CONTRACTORS' DETAILED DRAWINGS / SETTING OUT PROGRESS WORK TO BE VERIFIED AGAINST OURS FOLLOWING PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRAPE.</p> </div> </div>	<div> <div>ALL CONSTRUCTION TO BE AT MINIMUM W/ BCA CLASSIFIED AS AUSTRALIAN STANDARDS</div> <div> <p>CLAUSE B1.4 MATERIAL FORMS CONSTRUCTIONS</p> <p>CLAUSE B2.1 FIRE RESISTANT CONSTRUCTIONS</p> <p>CLAUSE B3.10 FIRE HAZARD PROPERTIES</p> <p>CLAUSE C2.6 VERTICAL SEPARATION OF OPENINGS TO EXTERNAL WALL</p> <p>CLAUSE C13 ELECTRICAL SUPPLY SYSTEM</p> <p>CLAUSE C13.2 ACCEPTABLE METHODS OF PROTECTION OF OPENINGS</p> <p>CLAUSE C2M OPENING IN FIRE SOLATED ECTS</p> <p>CLAUSE C13.5 OPENING FOR SERVICE INSTALLATIONS</p> <p>CLAUSE D10 SOUNDING AND REDUCTION OF NOISE FROM TRAVEL</p> <p>CLAUSE D12 DISORG AND RISERS</p> <p>CLAUSE D14 LANDINGS</p> <p>CLAUSE D16 BALUSTRADES</p> </div> </div>	<div> <div>FOR SECTION J ENERGY & CONSTRUCTION DETAILS REFER TO SEPARATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION</div> <div> <p>CLAUSE D2.1 HANDRAILS</p> <p>CLAUSE D2.2 OPERATION OF LATCH</p> <p>CLAUSE D2.3 LOCKS ON DOORS</p> <p>CLAUSE D2.4 LOCKS ON DOORS</p> <p>CLAUSE D2.5 LOCKS ON DOORS</p> <p>CLAUSE D2.6 LOCKS ON DOORS</p> <p>CLAUSE D2.7 LOCKS ON DOORS</p> <p>CLAUSE D2.8 LOCKS ON DOORS</p> <p>CLAUSE D2.9 LOCKS ON DOORS</p> <p>CLAUSE D2.10 LOCKS ON DOORS</p> <p>CLAUSE D2.11 LOCKS ON DOORS</p> <p>CLAUSE D2.12 LOCKS ON DOORS</p> <p>CLAUSE D2.13 LOCKS ON DOORS</p> <p>CLAUSE D2.14 LOCKS ON DOORS</p> <p>CLAUSE D2.15 LOCKS ON DOORS</p> <p>CLAUSE D2.16 LOCKS ON DOORS</p> <p>CLAUSE D2.17 LOCKS ON DOORS</p> <p>CLAUSE D2.18 LOCKS ON DOORS</p> <p>CLAUSE D2.19 LOCKS ON DOORS</p> <p>CLAUSE D2.20 LOCKS ON DOORS</p> <p>CLAUSE D2.21 LOCKS ON DOORS</p> <p>CLAUSE D2.22 LOCKS ON DOORS</p> <p>CLAUSE D2.23 LOCKS 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<div>NZW Registration Number 4907</div> </div>	<div> <div>DRAWING TITLE:</div> <div>PERSPECTIVE VIEWS - BAY STREET (SHEET 2)</div> <div>PROJECT ADDRESS:</div> <div>19-27 BAY STREET, DOUBLE BAY NSW 2028</div> </div>	<div> <div>SCALE:</div> <div>ISSUE DATE:</div> <div>4/7/2023</div> <div>PROJECT REF:</div> <div>21-081</div> </div>	<div> <div>DRAWN BY:</div> <div>MHNDU</div> <div>CHECKED:</div> <div>BW</div> <div>REVISION:</div> <div>A</div> <div>DWG NO:</div> <div>DA 9405</div> </div>	<div> <div>REP: Bimbaud 20-24 local - Bimbaud Basic for Inland 2421-081 19 - 27 Bay Street Double Bay - RH</div> </div>
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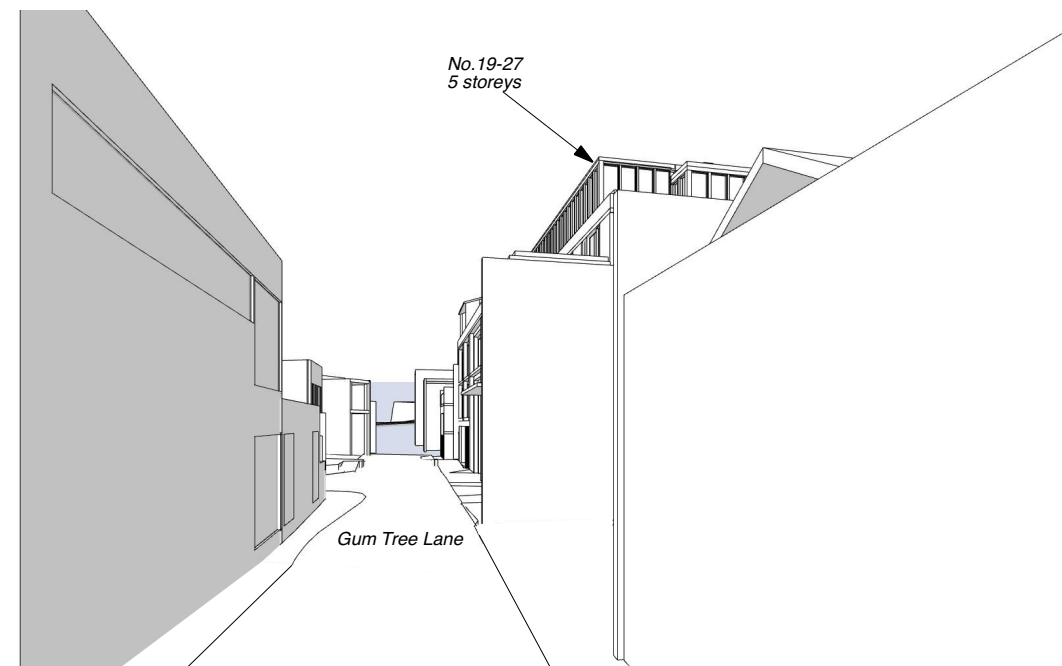
Perspective - Gum Tree Lane (Footpath - East looking north) Scale NTS



Perspective - Gum Tree Lane (Footpath - East) Scale NTS

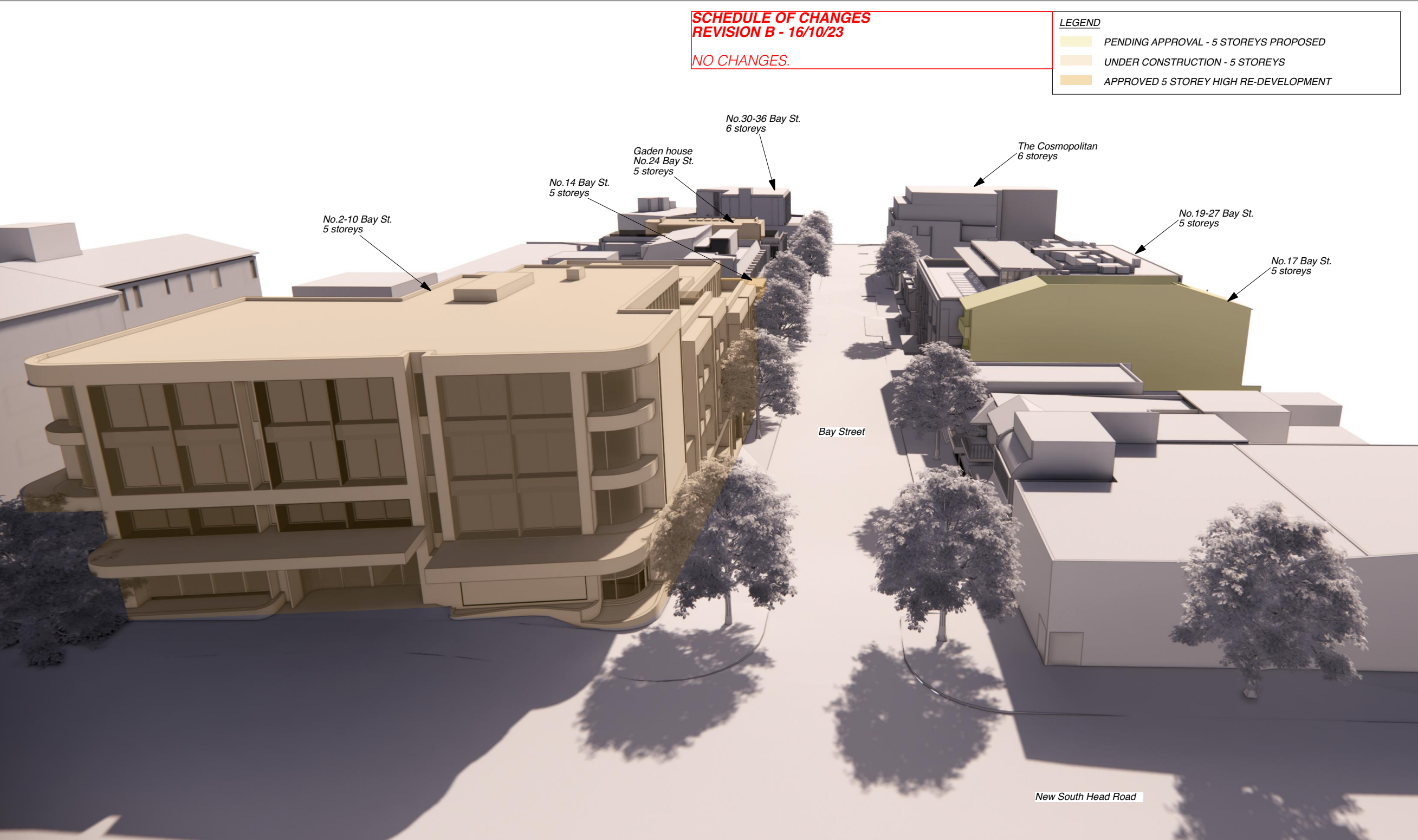


Perspective - Gum Tree Lane (Footpath - East looking south) Scale NTS



Perspective - Gum Tree Lane (Middle of the road looking south) Scale NTS

REV A	DESCRIPTION DEVELOPMENT APPLICATION	DATE 4/7/2023	GENERAL NOTES 1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA (B.C.A.) (FEDERAL STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS) INCLUDING CONSENT OF CONSENT. 2. NO SCALE OF THIS DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. DRAWING TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MAINS OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES, OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. REFERENCE TO GENERAL CONTRACT DETAILS DRAWINGS FOLLOWING EXEMPTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO ORDERING OR COMMENCING WORKSETBACK TIME.	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS CLAUSE B 1.5 FIRE RESISTING CONSTRUCTION SPEC. C 1.1 FIRE HAZARD PROFILES SPEC. C 1.2 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC. C 1.3 GENERAL BUILDING CLASSIFICATION REQUIREMENTS CLAUSE D 1.1 PERFORMANCE OF EQUIPMENT CLAUSE D 1.2 ELECTRICAL SUPPLY SYSTEM CLAUSE D 3.1 ACCEPTABLE METHODS OF PROTECTION OF OVERHANGING ROOFS TO PREVENT FIRE IN CLIMATIC ZONES CLAUSE D 3.2 INSTALLATION FOR SERVICE INSTALLATIONS CLAUSE D 3.3 DISCHARGE FROM VENTILATION CLAUSE D 3.4 OPTIMISATION IN EISTS AND PATHS OF TRAVEL CLAUSE D 3.5 DRIVING AND TRIPPER CLAUSE D 3.6 THRESHOLDS CLAUSE D 3.7 BALUSTRADES CLAUSE D 3.8 HANDRAILS CLAUSE D 3.9 SOUND INSULATION REQUIREMENTS CLAUSE D 3.10 SOUND INSULATION OF WALLS CLAUSE D 3.11 SOUND INSULATION OF FLOORS CLAUSE D 3.12 SOUND INSULATION OF ROOFS CLAUSE D 3.13 SOUND INSULATION OF PIPES CLAUSE D 3.14 SOUND INSULATION OF PIPES CLAUSE D 3.15 SOUND INSULATION OF PIPES CLAUSE D 3.16 SOUND INSULATION OF PIPES CLAUSE D 3.17 SOUND INSULATION OF PIPES CLAUSE D 3.18 SOUND INSULATION OF PIPES CLAUSE D 3.19 SOUND INSULATION OF PIPES CLAUSE D 3.20 SOUND INSULATION OF PIPES CLAUSE D 3.21 SOUND INSULATION OF 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Perspective - New South Head Road (Looking to Bay St) Scale NTS (Artists Impression)

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4.4 & AS1586 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.14 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3600 3.2 ENERGY EFFICIENCY GLAZING: TO COMPLY WITH 2.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTIONS 4 OF BCA MASONRY: TO COMPLY WITH AS270 MECHANICAL VENTILATION: TO COMPLY WITH PART 4.4 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS3086 & AS3087 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 6. SPEC. D2.2.4 ASBESTOS: THROUGH FIRE RATED CONSTRUCTION FOR MECHANICAL HYDRAULIC PENETRATIONS: TO COMPLY WITH BCA CLAUSE C3.15 & AS1586 SOUND TRANSMISSION: TO COMPLY WITH PARTS 4 OF BCA STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS270	FOR SECTION J ENERGY + CONSTRUCTION DETAILS REFER TO SEPERATE SECTION J REPORT THAT FORMS PART OF DA SUBMISSION	ARCHITECT: 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd ABN 94 003 717 602 NSW Registration Number 4907	DRAWING TITLE: CURRENT + FUTURE MASSING - BAY ST. PROJECT ADDRESS: 19-27 BAY STREET, DOUBLE BAY NSW 2028	SCALE: NTS ISSUE DATE: 16/10/2023 PROJECT REF.: 21-081	DRAWN BY: BW REVISION: B DWG NO.: DA 9407	CHECKED: BW REVISION: B DWG NO.: DA 9407
A	DEVELOPMENT APPLICATION	4/7/2023	1. ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA, AUSTRALIAN STANDARDS, STATUTORY REGULATIONS AND LOCAL AUTHORITY REQUIREMENTS, INCLUDING CONDITIONS OF CONSENT. 2. DO NOT SCALE OFF THE DRAWING. ONLY USE DIMENSIONS PROVIDED. 3. CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING WORK. 4. MHNDU DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONTRACT DOCUMENTS FROM ALL CONSULTANTS. 5. CONTRACTOR TO NOTIFY MHNDU OF ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION PRIOR TO MANUFACTURING. 6. CONTRACTOR TO ENSURE CONSISTENCY BETWEEN MATERIALS IS MAINTAINED. 7. MHNDU TO REVIEW ALL CONTRACTORS DETAILED DRAWINGS / SETTING OUT PRIOR TO CONSTRUCTION. 8. PROGRESS WORK TO BE VERIFIED AGAINST DRAWINGS FOLLOWING EXECUTION AND ARCHITECT TO BE NOTIFIED OF ANY DISCREPANCIES PRIOR TO CONTRACTOR PROCEEDING WITH NEXT TRADE.	CLAUSE B1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.18 FIRE HAZARD PROPERTIES SPEC. C2.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE SPEC. C2.18 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALLS SPEC. C2.19 SEPARATION OF EQUIPMENT SPEC. C2.20 ELECTRICAL SUPPLY SYSTEM SPEC. C2.21 OPENING IN FIRE ISOLATED EXITS SPEC. C2.22 OPENING FOR SERVICE INSTALLATIONS SPEC. C2.23 SOUNDING AND PRESSURE SPEC. C2.24 LANDINGS SPEC. C2.25 THRESHOLDS SPEC. C2.26 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D2.24 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D2.25 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D2.26 FACTS OF ACCESSIBLE FACILITIES/FEATURES CLAUSE D2.27 WATERPROOFING OF WET AREAS CLAUSE D2.28 DRAINAGE CLAUSE D2.29 DAMP PROOFING CLAUSE D2.30 CONSTRUCTION OF SANITARY COMPARTMENTS CLAUSE D2.31 LIGHTING AND VENTILATION CLAUSE D2.32 SOUND INSULATION OF WALLS CLAUSE D2.33 SOUND INSULATION OF FLOORS CLAUSE D2.34 SOUND INSULATION OF SERVICES CLAUSE D2.35 SOUND INSULATION OF PUMPS						
B	RESPONSE TO COUNCIL RFI	16/10/2023									



COMPARISON VIEW - APPROVED SCHEME 21-27 BAY STREET DA14/2021



COMPARISON VIEW - PROPOSED SCHEME 19-27 BAY STREET

[illegible]



SCHEDULE OF CHANGES
REVISION B - 16/10/23

5. AWNING ABOVE BAY STREET RETAIL ENTRY
SHOWN IN RESPONSE TO RFI No. 2.5.

2
-

COMPARISON VIEW - APPROVED SCHEME 21-27 BAY STREET DA14/2021



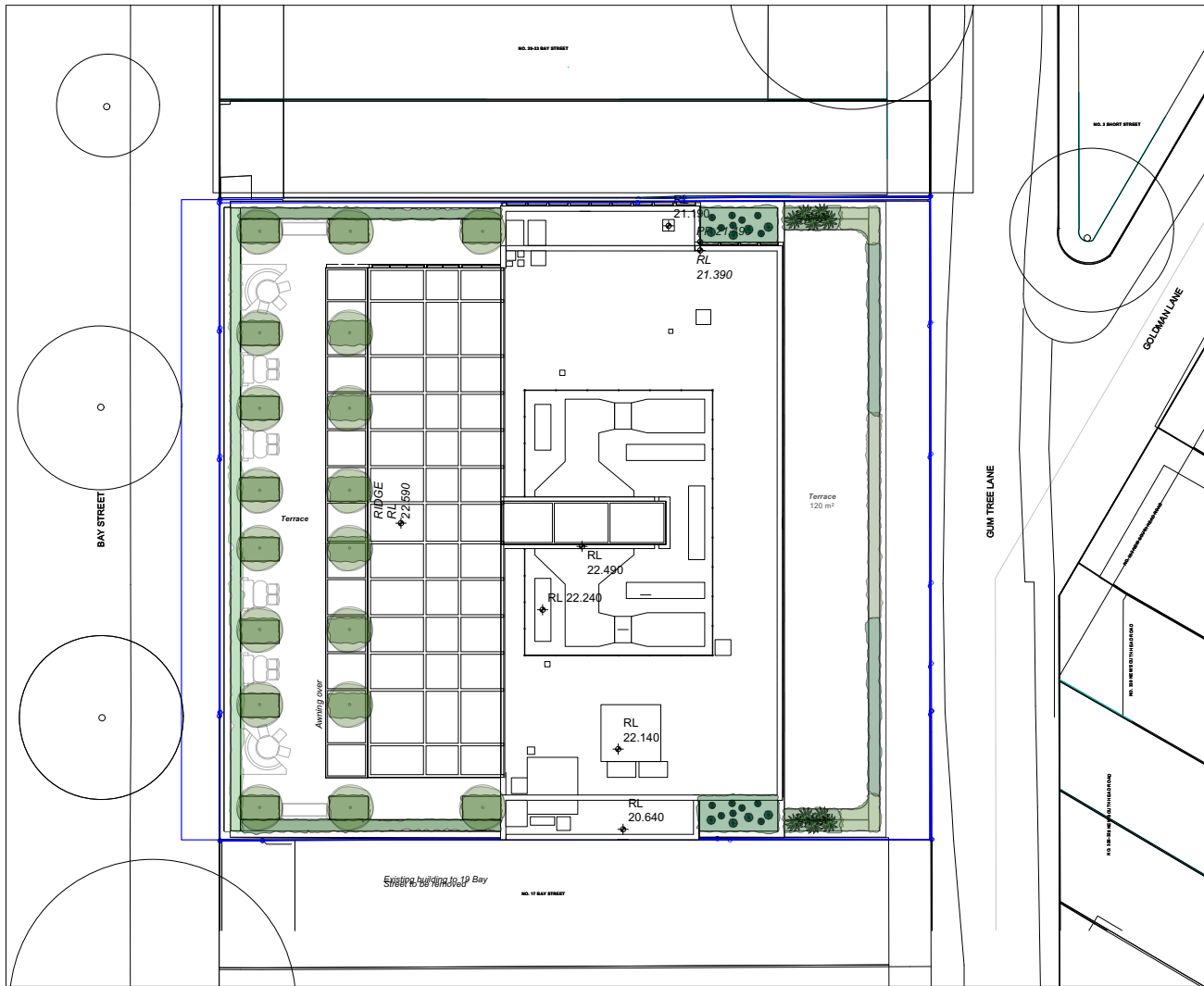
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COMPARISON VIEW - PROPOSED SCHEME 19-27 BAY STREET

REV	DESCRIPTION	DATE	GENERAL NOTES	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1589 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 4.4.1 DRAINAGE GUTTERS: TO COMPLY WITH AS/NZS 3000.3.2 FIRE SERVICES: TO COMPLY WITH SECTION 6 OF THE BUILDING CODE OF AUSTRALIA MASONRY: TO COMPLY WITH AS1859 MECHANICAL INSULATION: TO COMPLY WITH AS/NZS 4832
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19-27 Bay St, Double Bay

DEVELOPMENT APPLICATION



GENERAL NOTES:

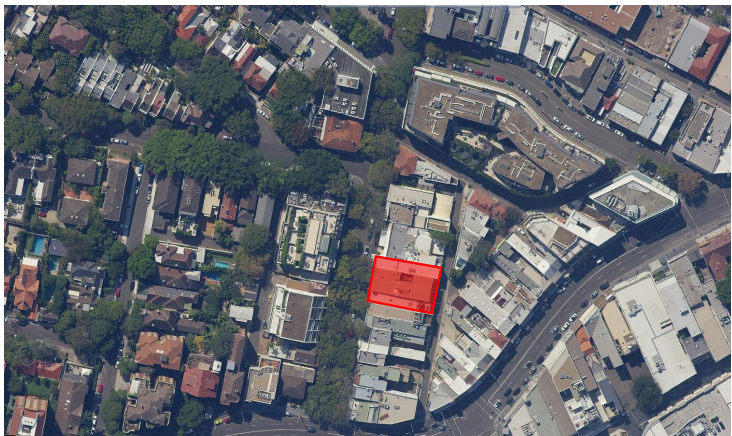
GRAPHIC ILLUSTRATION: Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase

SITE PREPARATION: All existing plants marked for retention shall be protected for the duration of works. Remove from site all perennial weeds and rubbish before commencing landscape works.

SOILWORKS: Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

MULCH: Supply and install a 75mm layer of hardwood horticultural grade mulch to all planting beds set down 25mm from adjacent paving or garden edge.

MAINTENANCE: All failed or defective plant species to be replaced by landscaper for a 3 months period following completion of work. Further maintenance during and after this period should include watering, weeding, fertilising, pest and disease control, pruning and hedging, reinstatement of mulch and keeping the site neat and tidy.



LOCATION MAP

PLANT SCHEDULE				
Botanic Name	Common Name	Mature Height	Pot Size	Qty
Plant Species				
Aloe 'Bush Baby Yellow'	Baby Bush Yellow	0.4m	200mm	70
Dracaena marginata	Madagascar dragon tree	4-6m	500mm	14
Euphorbia ingens	Candelabra tree	6m	300mm	6
Olea europea	European Olive	3-5m	Mature	18
Pandorea jasminoides	Bower Vine	Climber	200mm	50
Portulacaria afra	Elephant Bush	2.5-4m	140mm	60
Rhaphiolepis indica	Indian Hawthorn	2-3m	400mm	62
Rosmarinus 'Huntington Carpet'	Prostrate Rosemary	0.2-0.2m	200mm	216
Trachelospermum jasminoides	Star Jasmine	Climber	200mm	170
Zamia furfuracea	Cardboard Cycad	0.7-1m	300mm	14

GENERAL PLANTING NOTES:

NOTE: It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include: watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.

NOTE: Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. Root system shall be well balanced in relation to the size of the plant.

NOTE: install 'root barrier' or equivalent to manufacturers specifications to protect nearby structures and services.

NOTE: Install temporary drip irrigation system under mulch in tree protection zones and water on allotted days.



Project:
19-27 Bay St
Double Bay NSW 2028

Client:
Fortis

Dwg no:
LP01-D2623

Drawn by:
SM

Checked:
TS

Scale:
1200 @ A2

Title:
DA Cover Page

Issue:
01

Revision:
E

Date:
03.11.2023

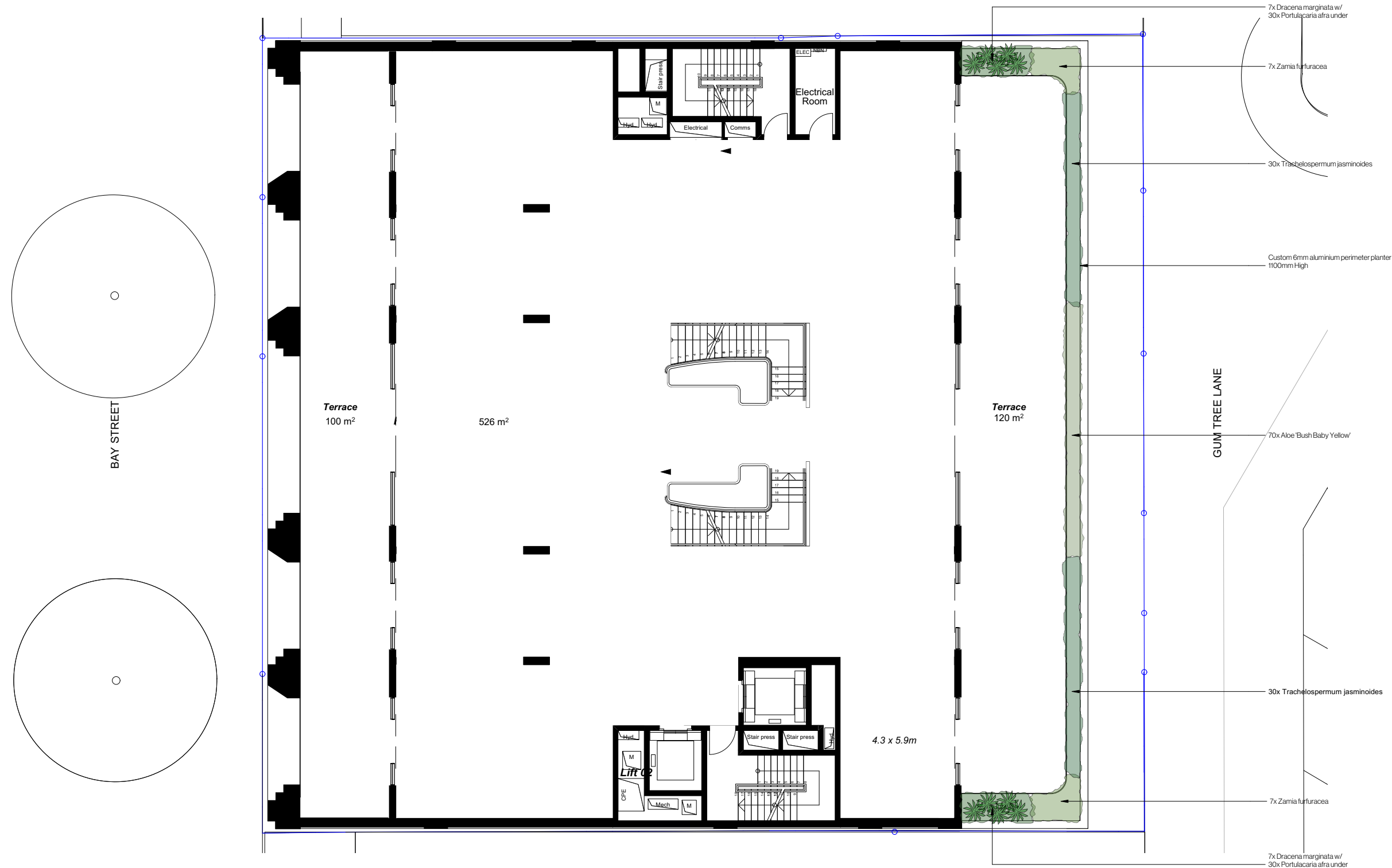
Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019

Tel: (02) 9316 9044
Fax: (02) 9316 9055

Figure dimensions shall take precedence over scale. Contractors must verify all dimensions on site before commencing any work or making shop drawings. This drawing is protected by copyright.



DANGAR
BARIN
SMITH



Level 3 Landscape Plan



Project:
19-27 Bay St
Double Bay NSW 2028
Client:
Fortis

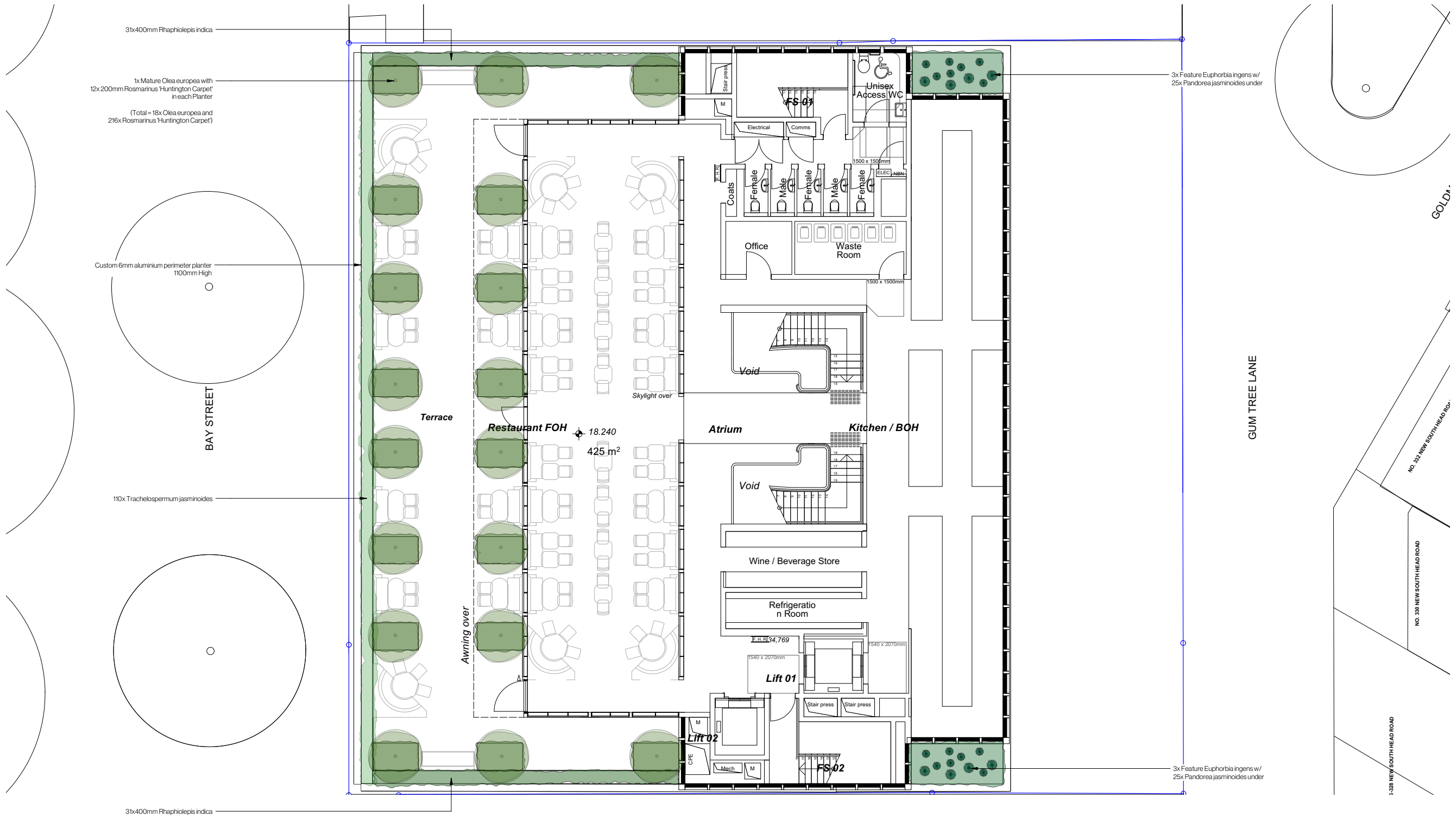
Dwg no:
LP02-D2623
Title: Level 3
Landscape Plan

Drawn by:
SM
Issue:
01
Checked:
TS
Revision:
E
Scale:
1:100 @ A2
Date:
03.11.2023

Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019
Tel: (02) 9316 9044
Fax: (02) 9316 9055
Figures dimensions shall take precedence over scale. Contractors must verify all dimensions on site before commencing any work or making shop drawings. This drawing is protected by copyright.



DANGAR
BARIN
SMITH



Level 4 Landscape Plan



Project:
19-27 Bay St
Double Bay NSW 2028

Client:
Fortis

Dwg no:
LP03-D2623

Title: Level 4
Landscape Plan

Drawn by:
SM

Checked:
TS

Scale:
1:100 @ A2

Issue:
01

Revision:
E

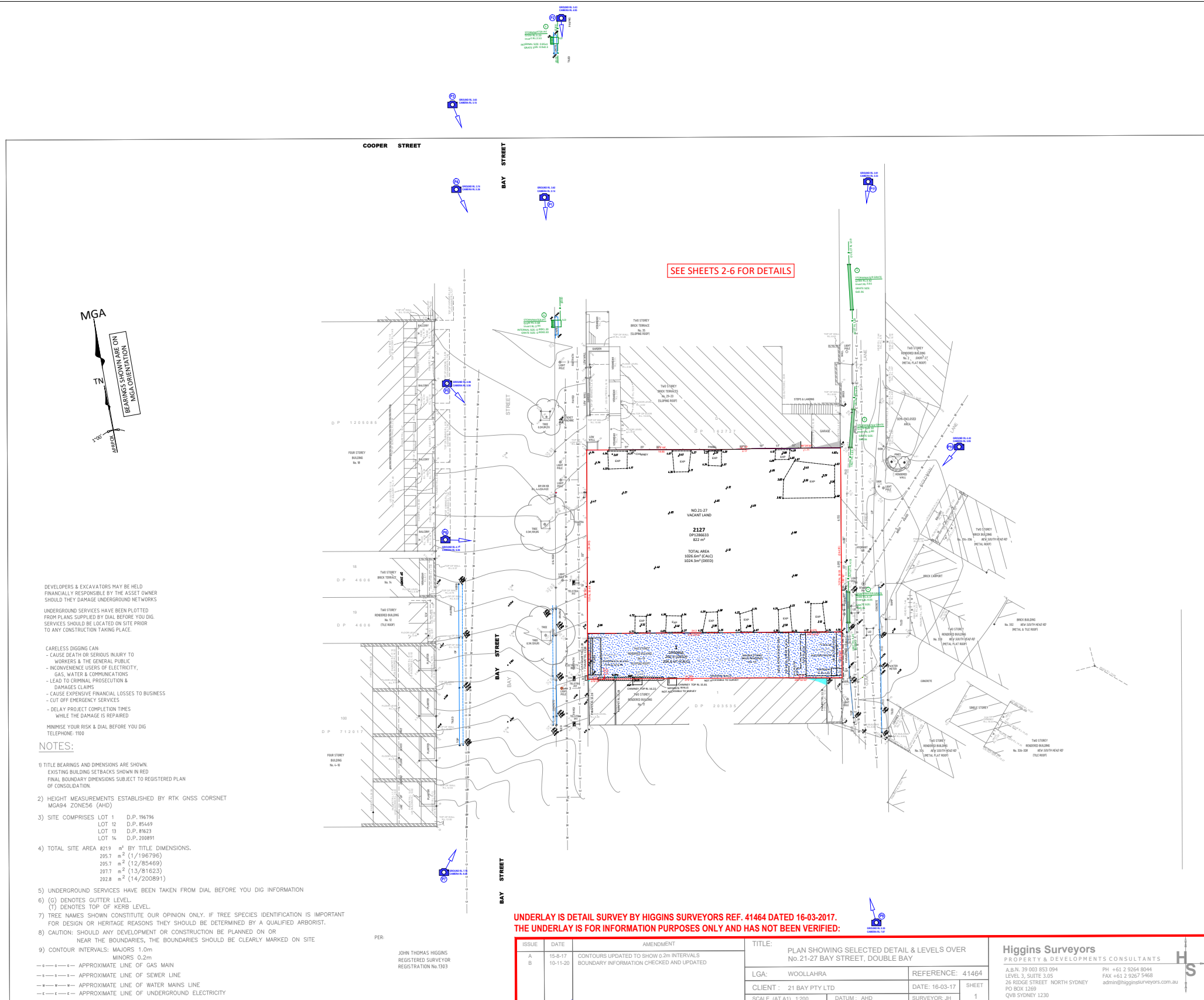
Date:
03.11.2023

Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019

Tel: (02) 9316 9044
Fax: (02) 9316 9055



DANGAR
BARIN
SMITH



GENERAL NOTES

THE SURVEY IS NOT A 'LAND SURVEY' AS DEFINED BY THE SURVEYING AND SPATIAL INFORMATION ACT, 2002.

ONLY TREES GREATER THAN 3.5 METRES IN HEIGHT ARE SHOWN ON THIS PLAN AND THEIR POSITIONS ARE DIAGRAMMATIC ONLY AND MAY REQUIRE ADDITIONAL SURVEY WHERE CRITICAL TO DESIGN.

SPOT LEVELS ONLY SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.

LEVELS ARE ON AUSTRALIAN HEIGHT DATUM (AHD).

ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK SHOWN ON THIS PLAN.

BOUNDARY NOTES

A BASIC BOUNDARY SURVEY HAS BEEN DONE SUITABLE FOR DA FUTURE DEVELOPMENT PURPOSES.

BOUNDARIES HAVE NOT BEEN MARKED.

SURVEY INFORMATION NOTES

THE SURVEY NOT ON A DEFINED COORDINATE SYSTEM.

THE ORIENTATION OF THIS PLAN (SURVEY UNDERTAKEN BY SDG ONLY) IS MGRS 48M UH93 WHICH HAS BEEN DETERMINED BY A COORDINATE JOIN BETWEEN SSM586062 AND SSM537306.

THE ORIGIN OF LEVELS COMES FROM SSM586062 RL2.892 CLASS LC POSITIONAL UNCERTAINTY (PU) 0.02 ADDED FROM SCIMS DATA 23/09/2021.

CERTIFICATE OF TITLE NOTES

THE FOLLOWING INFORMATION RELATES TO THE RESPECTIVE CERTIFICATE OF TITLE OF EACH LOT:

LOT 1 IN DP90466

- ICF EDITION 8 DATED 10/09/2021 SEARCH DATE 28/09/2021

THERE ARE NO NOTATIONS ON THE CERTIFICATE OF TITLE AT THE DATE OF TITLE SEARCH.

COVENANTS AND RESTRICTIONS NOTED ON THE TITLE HAVE NOT BEEN INVESTIGATED. THESE SHOULD BE INVESTIGATED PRIOR TO DESIGN TO ENSURE ANY FUTURE DEVELOPMENT COMPLIES.

LEGEND

CL	CENTRELINE
COM	COMMUNICATIONS PIT
FL	FLOOR LEVEL
LIP	LIP LINE
LP	LIGHT POLE
TK	TOP OF KERB
EB	ELECTRICITY BOX
ILD	INTERNAL PIT LAYOUT DIAGRAMMATIC ONLY
EXP	EXCAVATION PIT

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PROJECT:
DETAIL AND LEVEL SURVEY OF
LOT 1 IN DP90466

19-27 BAY STREET
DOUBLE BAY

CLIENT: Neoscape Pty Ltd
FILE: 8554 19-27 BAY STREET DOULE BAY DETAIL REV F

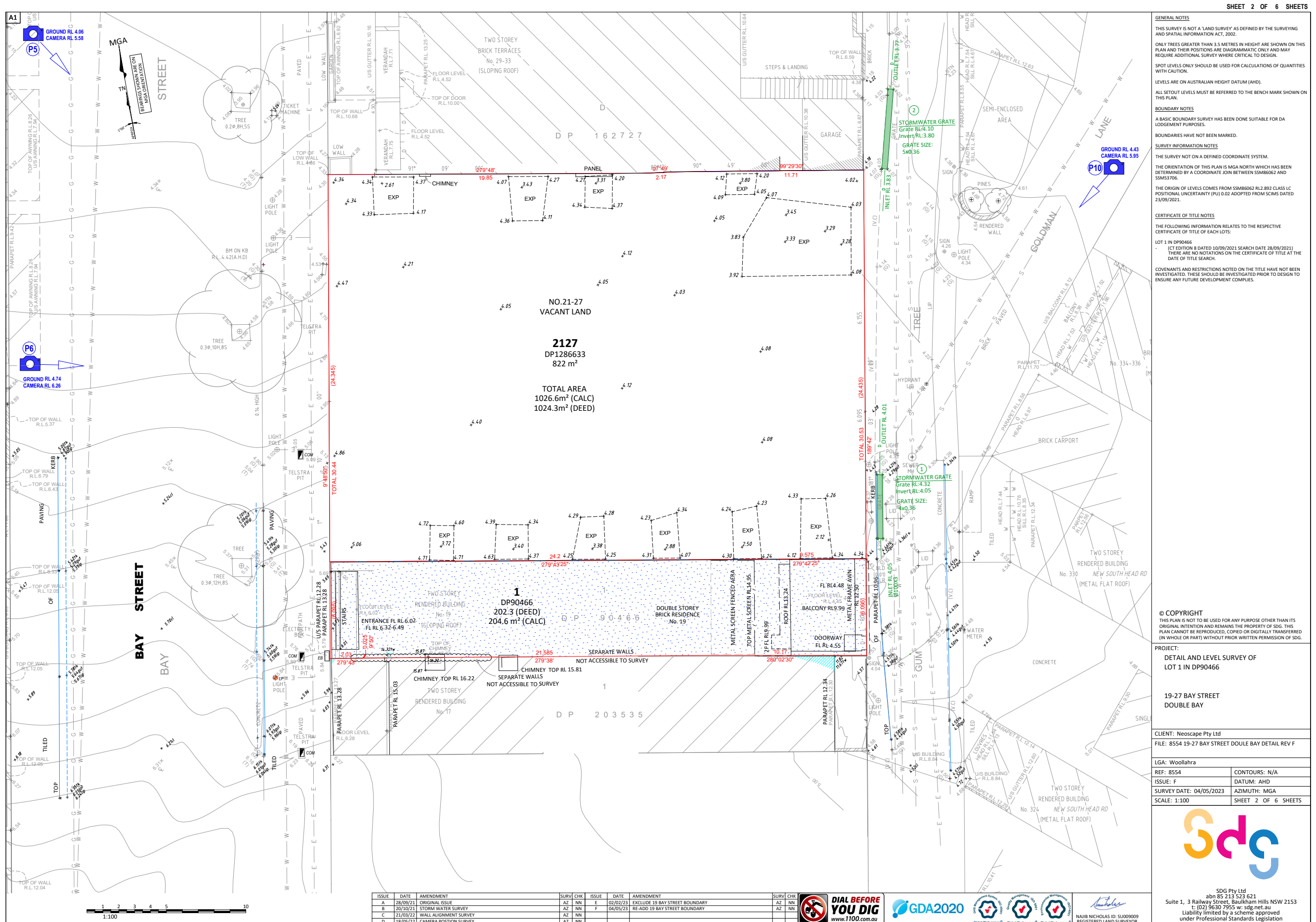
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REF: 8554	CONTOURS: N/A
ISSUE: F	DATUM: AHD
SURVEY DATE: 04/05/2023	AZIMUTH: MGA
SCALE: 1:250	SHEET 1 OF 6 SHEETS

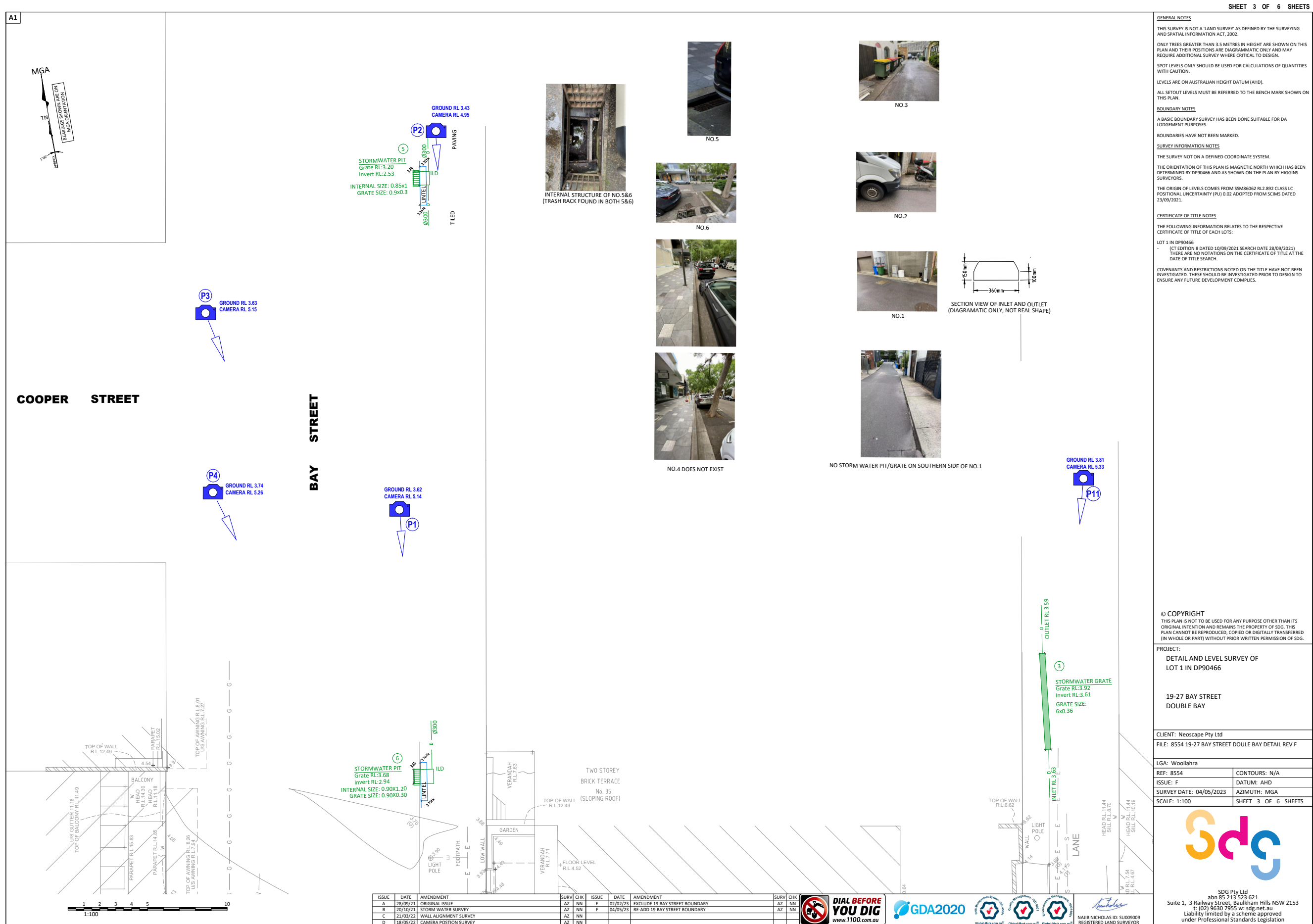


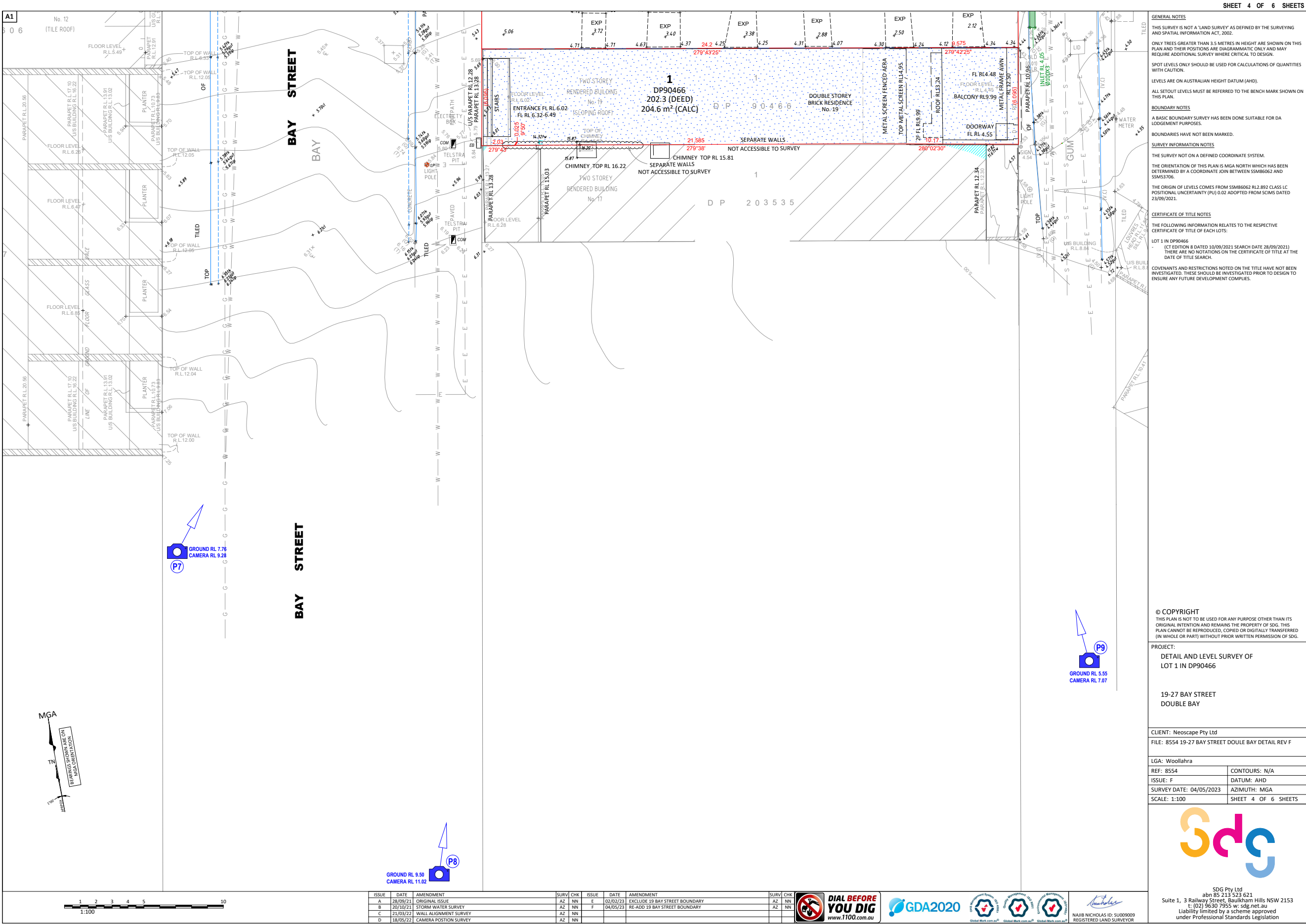
SDG Pty Ltd
abn 85 213 523 621
Suite 1, 3 Railway Street, Baulkham Hills NSW 2153
t: (02) 9630 7955 w: sdg.net.au
Liability limited by a scheme approved
under Professional Standards Legislation

ISSUE	DATE	AMENDMENT	SURV	CHK	ISSUE	DATE	AMENDMENT
A	28/09/21	ORIGINAL ISSUE	AZ	NN	E	02/02/23	EXCLUDE 19 BAY STREET BOUNDARY
B	20/10/21	STORM WATER SURVEY	AZ	NN	F	04/05/23	RE-ADD 19 BAY STREET BOUNDARY
C	21/03/22	WALL ALIGNMENT SURVEY	AZ	NN			
D	18/06/22	CAMERA BOTTOM SURVEY	AZ	NN			



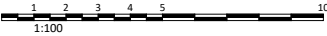
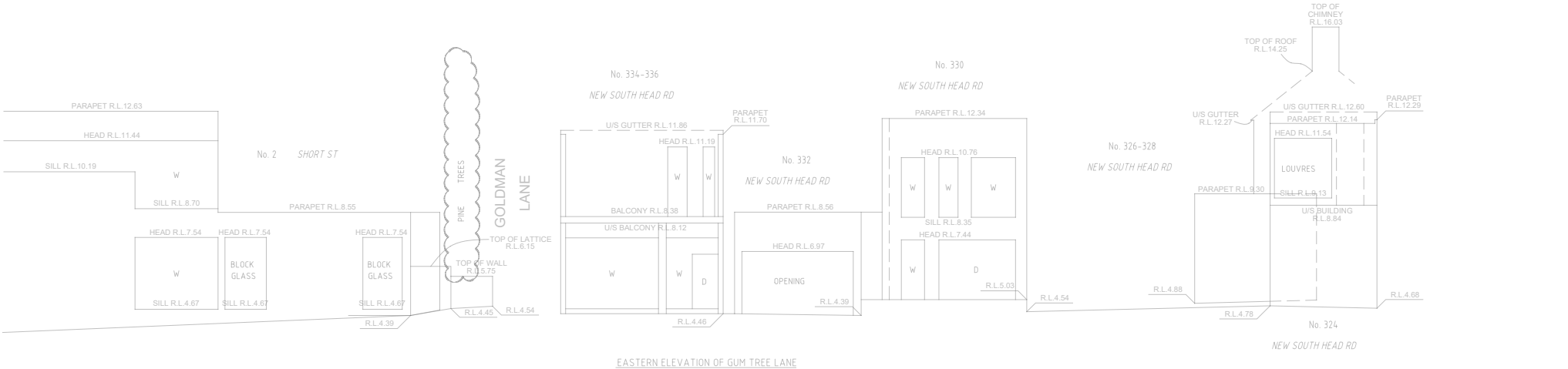






SHEET 5 OF 6 SHEETS

A1



ISSUE	DATE	AMENDMENT	SURV	CHK	ISSUE	DATE	AMENDMENT	SURV	CHK
A	28/09/21	ORIGINAL ISSUE	AZ	NN	E	02/02/23	EXCLUDE 19 BAY STREET BOUNDARY	AZ	NN
B	20/10/21	STORM WATER SURVEY	AZ	NN	F	04/05/23	RE-ADD 19 BAY STREET BOUNDARY	AZ	NN
C	11/05/22	WALL ALIGNMENT SURVEY	AZ	NN					
D	18/05/22	CAMERA POSITION SURVEY	AZ	NN					



NAIIB NICHOLAS ID: SU009009
REGISTERED LAND SURVEYOR

GENERAL NOTES
THIS SURVEY IS NOT A 'LAND SURVEY' AS DEFINED BY THE SURVEYING AND SPATIAL INFORMATION ACT, 2002.
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LEVELS ARE ON AUSTRALIAN HEIGHT DATUM (AHD).
ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK SHOWN ON THIS PLAN.
BOUNDARY NOTES
A BASIC BOUNDARY SURVEY HAS BEEN DONE SUITABLE FOR DA LODGEMENT PURPOSES.
BOUNDARIES HAVE NOT BEEN MARKED.
SURVEY INFORMATION NOTES
THE SURVEY NOT ON A DEFINED COORDINATE SYSTEM.
THE ORIENTATION OF THIS PLAN IS MAGNETIC NORTH WHICH HAS BEEN DETERMINED BY DP90466 AND AS SHOWN ON THE PLAN BY HIGGINS SURVEYORS.
THE ORIGIN OF LEVELS COMES FROM SSM86062 RL2.892 CLASS LC POSITIONAL UNCERTAINTY (PU) 0.02 ADOPTED FROM SCMS DATED 23/09/2021.
CERTIFICATE OF TITLE NOTES
THE FOLLOWING INFORMATION RELATES TO THE RESPECTIVE CERTIFICATE OF TITLE OF EACH LOT:
LOT 1 IN DP90466
- (CT EDITION 8 DATED 10/09/2021 SEARCH DATE 28/09/2021)
THERE ARE NO NOTATIONS ON THE CERTIFICATE OF TITLE AT THE DATE OF TITLE SEARCH.
COVENANTS AND RESTRICTIONS NOTED ON THE TITLE HAVE NOT BEEN INVESTIGATED. THESE SHOULD BE INVESTIGATED PRIOR TO DESIGN TO ENSURE ANY FUTURE DEVELOPMENT COMPLIES.

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PROJECT:
DETAIL AND LEVEL SURVEY OF
LOT 1 IN DP90466

19-27 BAY STREET
DOUBLE BAY

CLIENT: Neoscape Pty Ltd
FILE: 8554 19-27 BAY STREET DOULE BAY DETAIL REV F

LGA: Woollahra	
REF: 8554	CONTOURS: N/A
ISSUE: F	DATUM: AHD
SURVEY DATE: 04/05/2023	AZIMUTH: MGA
SCALE: 1:100	SHEET 5 OF 6 SHEETS



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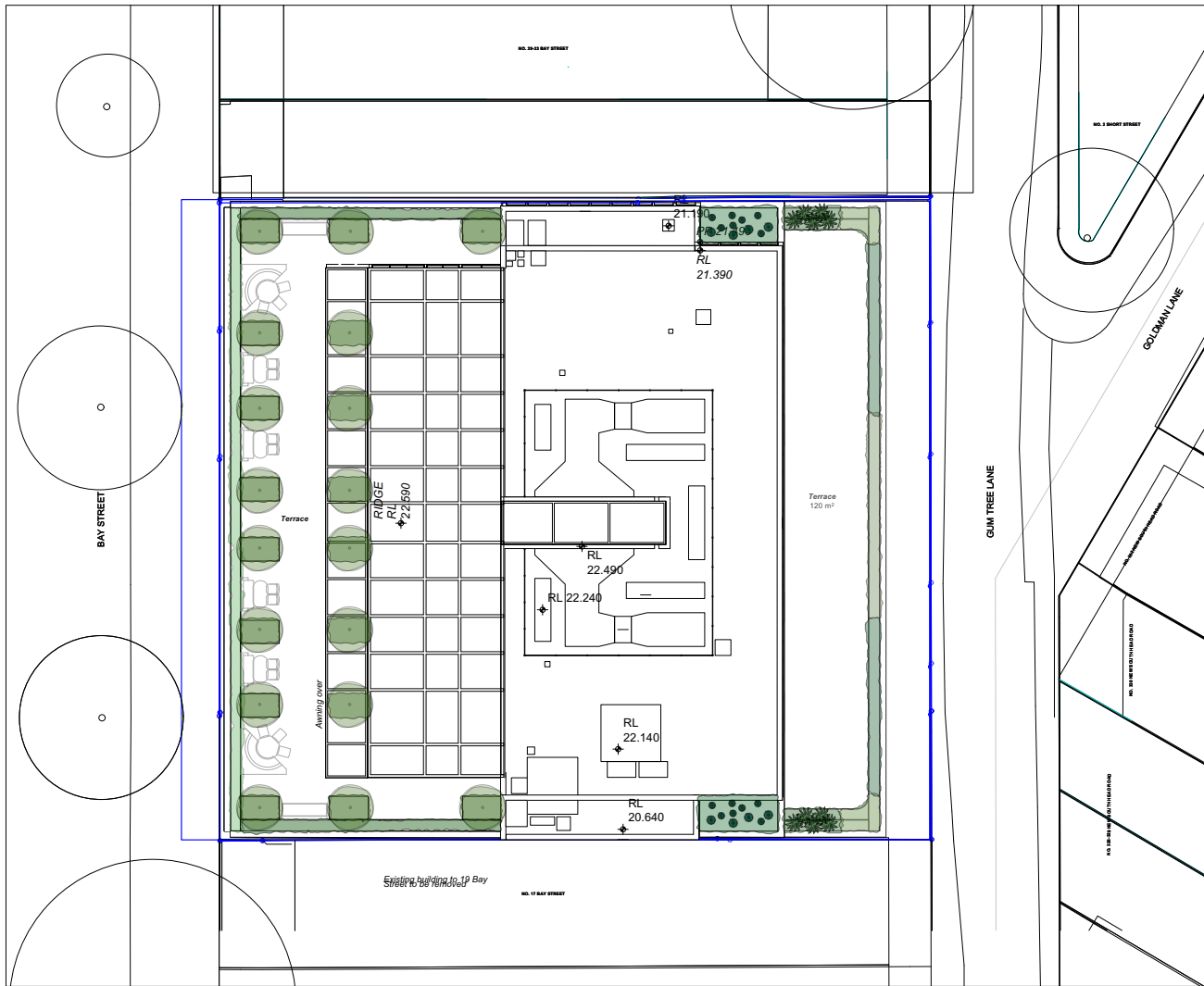
SHEET 6 OF 6 SHEETS

A1

The drawing is a detailed architectural elevation of the western side of a building complex, labeled 'WESTERN ELEVATION OF BAY ST'. It features three main building sections, numbered 4-10, 12, and 14. Building 4-10 is a long, low structure with multiple levels, including a ground floor with glass railings and upper floors with balconies. Building 12 is a smaller, two-story structure with a gabled roof and a central entrance. Building 14 is a larger, two-story structure with a flat roof and a central entrance. The drawing includes numerous level callouts (e.g., R.L. 17.87, R.L. 16.22, R.L. 14.70, R.L. 13.91, R.L. 13.02, R.L. 12.04, R.L. 11.40, R.L. 10.73, R.L. 9.83, R.L. 7.56, R.L. 6.84, R.L. 6.27, R.L. 6.07, R.L. 5.83, R.L. 5.70, R.L. 5.48, R.L. 5.40, R.L. 5.15, R.L. 4.84, R.L. 4.57, R.L. 4.34, R.L. 4.22, R.L. 4.15, R.L. 4.13, R.L. 3.97, R.L. 12.49, R.L. 11.86, R.L. 11.64, R.L. 11.40, R.L. 11.36, R.L. 11.06, R.L. 10.76, R.L. 10.71, R.L. 10.69, R.L. 10.65, R.L. 10.60, R.L. 10.57, R.L. 10.54, R.L. 10.51, R.L. 10.48, R.L. 10.45, R.L. 10.42, R.L. 10.39, R.L. 10.36, R.L. 10.33, R.L. 10.30, R.L. 10.27, R.L. 10.24, R.L. 10.21, R.L. 10.18, R.L. 10.15, R.L. 10.12, R.L. 10.09, R.L. 10.06, R.L. 10.03, R.L. 10.00, R.L. 9.97, R.L. 9.94, R.L. 9.91, R.L. 9.88, R.L. 9.85, R.L. 9.82, R.L. 9.79, R.L. 9.76, R.L. 9.73, R.L. 9.70, R.L. 9.67, R.L. 9.64, R.L. 9.61, R.L. 9.58, R.L. 9.55, R.L. 9.52, R.L. 9.49, R.L. 9.46, R.L. 9.43, R.L. 9.40, R.L. 9.37, R.L. 9.34, R.L. 9.31, R.L. 9.28, R.L. 9.25, R.L. 9.22, R.L. 9.19, R.L. 9.16, R.L. 9.13, R.L. 9.10, R.L. 9.07, R.L. 9.04, R.L. 9.01, R.L. 8.98, R.L. 8.95, R.L. 8.92, R.L. 8.89, R.L. 8.86, R.L. 8.83, R.L. 8.80, R.L. 8.77, R.L. 8.74, R.L. 8.71, R.L. 8.68, R.L. 8.65, R.L. 8.62, R.L. 8.59, R.L. 8.56, R.L. 8.53, R.L. 8.50, R.L. 8.47, R.L. 8.44, R.L. 8.41, R.L. 8.38, R.L. 8.35, R.L. 8.32, R.L. 8.29, R.L. 8.26, R.L. 8.23, R.L. 8.20, R.L. 8.17, R.L. 8.14, R.L. 8.11, R.L. 8.08, R.L. 8.05, R.L. 8.02, R.L. 7.99, R.L. 7.96, R.L. 7.93, R.L. 7.90, R.L. 7.87, R.L. 7.84, R.L. 7.81, R.L. 7.78, R.L. 7.75, R.L. 7.72, R.L. 7.69, R.L. 7.66, R.L. 7.63, R.L. 7.60, R.L. 7.57, R.L. 7.54, R.L. 7.51, R.L. 7.48, R.L. 7.45, R.L. 7.42, R.L. 7.39, R.L. 7.36, R.L. 7.33, R.L. 7.30, R.L. 7.27, R.L. 7.24, R.L. 7.21, R.L. 7.18, R.L. 7.15, R.L. 7.12, R.L. 7.09, R.L. 7.06, R.L. 7.03, R.L. 7.00, R.L. 6.97, R.L. 6.94, R.L. 6.91, R.L. 6.88, R.L. 6.85, R.L. 6.82, R.L. 6.79, R.L. 6.76, R.L. 6.73, R.L. 6.70, R.L. 6.67, R.L. 6.64, R.L. 6.61, R.L. 6.58, R.L. 6.55, R.L. 6.52, R.L. 6.49, R.L. 6.46, R.L. 6.43, R.L. 6.40, R.L. 6.37, R.L. 6.34, R.L. 6.31, R.L. 6.28, R.L. 6.25, R.L. 6.22, R.L. 6.19, R.L. 6.16, R.L. 6.13, R.L. 6.10, R.L. 6.07, R.L. 6.04, R.L. 6.01, R.L. 5.98, R.L. 5.95, R.L. 5.92, R.L. 5.89, R.L. 5.86, R.L. 5.83, R.L. 5.80, R.L. 5.77, R.L. 5.74, R.L. 5.71, R.L. 5.68, R.L. 5.65, R.L. 5.62, R.L. 5.59, R.L. 5.56, R.L. 5.53, R.L. 5.50, R.L. 5.47, R.L. 5.44, R.L. 5.41, R.L. 5.38, R.L. 5.35, R.L. 5.32, R.L. 5.29, R.L. 5.26, R.L. 5.23, R.L. 5.20, R.L. 5.17, R.L. 5.14, R.L. 5.11, R.L. 5.08, R.L. 5.05, R.L. 5.02, R.L. 4.99, R.L. 4.96, R.L. 4.93, R.L. 4.90, R.L. 4.87, R.L. 4.84, R.L. 4.81, R.L. 4.78, R.L. 4.75, R.L. 4.72, R.L. 4.69, R.L. 4.66, R.L. 4.63, R.L. 4.60, R.L. 4.57, R.L. 4.54, R.L. 4.51, R.L. 4.48, R.L. 4.45, R.L. 4.42, R.L. 4.39, R.L. 4.36, R.L. 4.33, R.L. 4.30, R.L. 4.27, R.L. 4.24, R.L. 4.21, R.L. 4.18, R.L. 4.15, R.L. 4.12, R.L. 4.09, R.L. 4.06, R.L. 4.03, R.L. 4.00, R.L. 3.97, R.L. 3.94, R.L. 3.91, R.L. 3.88, R.L. 3.85, R.L. 3.82, R.L. 3.79, R.L. 3.76, R.L. 3.73, R.L. 3.70, R.L. 3.67, R.L. 3.64, R.L. 3.61, R.L. 3.58, R.L. 3.55, R.L. 3.52, R.L. 3.49, R.L. 3.46, R.L. 3.43, R.L. 3.40, R.L. 3.37, R.L. 3.34, R.L. 3.31, R.L. 3.28, R.L. 3.25, R.L. 3.22, R.L. 3.19, R.L. 3.16, R.L. 3.13, R.L. 3.10, R.L. 3.07, R.L. 3.04, R.L. 3.01, R.L. 2.98, R.L. 2.95, R.L. 2.92, R.L. 2.89, R.L. 2.86, R.L. 2.83, R.L. 2.80, R.L. 2.77, R.L. 2.74, R.L. 2.71, R.L. 2.68, R.L. 2.65, R.L. 2.62, R.L. 2.59, R.L. 2.56, R.L. 2.53, R.L. 2.50, R.L. 2.47, R.L. 2.44, R.L. 2.41, R.L. 2.38, R.L. 2.35, R.L. 2.32, R.L. 2.29, R.L. 2.26, R.L. 2.23, R.L. 2.20, R.L. 2.17, R.L. 2.14, R.L. 2.11, R.L. 2.08, R.L. 2.05, R.L. 2.02, R.L. 1.99, R.L. 1.96, R.L. 1.93, R.L. 1.90, R.L. 1.87, R.L. 1.84, R.L. 1.81, R.L. 1.78, R.L. 1.75, R.L. 1.72, R.L. 1.69, R.L. 1.66, R.L. 1.63, R.L. 1.60, R.L. 1.57, R.L. 1.54, R.L. 1.51, R.L. 1.48, R.L. 1.45, R.L. 1.42, R.L. 1.39, R.L. 1.36, R.L. 1.33, R.L. 1.30, R.L. 1.27, R.L. 1.24, R.L. 1.21, R.L. 1.18, R.L. 1.15, R.L. 1.12, R.L. 1.09, R.L. 1.06, R.L. 1.03, R.L. 1.00, R.L. 0.97, R.L. 0.94, R.L. 0.91, R.L. 0.88, R.L. 0.85, R.L. 0.82, R.L. 0.79, R.L. 0.76, R.L. 0.73, R.L. 0.70, R.L. 0.67, R.L. 0.64, R.L. 0.61, R.L. 0.58, R.L. 0.55, R.L. 0.52, R.L. 0.49, R.L. 0.46, R.L. 0.43, R.L. 0.40, R.L. 0.37, R.L. 0.34, R.L. 0.31, R.L. 0.28, R.L. 0.25, R.L. 0.22, R.L. 0.19, R.L. 0.16, R.L. 0.13, R.L. 0.10, R.L. 0.07, R.L. 0.04, R.L. 0.01, R.L. -0.02, R.L. -0.05, R.L. -0.08, R.L. -0.11, R.L. -0.14, R.L. -0.17, R.L. -0.20, R.L. -0.23, R.L. -0.26, R.L. -0.29, R.L. -0.32, R.L. -0.35, R.L. -0.38, R.L. -0.41, R.L. -0.44, R.L. -0.47, R.L. -0.50, R.L. -0.53, R.L. -0.56, R.L. -0.59, R.L. -0.62, R.L. -0.65, R.L. -0.68, R.L. -0.71, R.L. -0.74, R.L. -0.77, R.L. -0.80, R.L. -0.83, R.L. -0.86, R.L. -0.89, R.L. -0.92, R.L. -0.95, R.L. -0.98, R.L

19-27 Bay St, Double Bay

DEVELOPMENT APPLICATION



GENERAL NOTES:

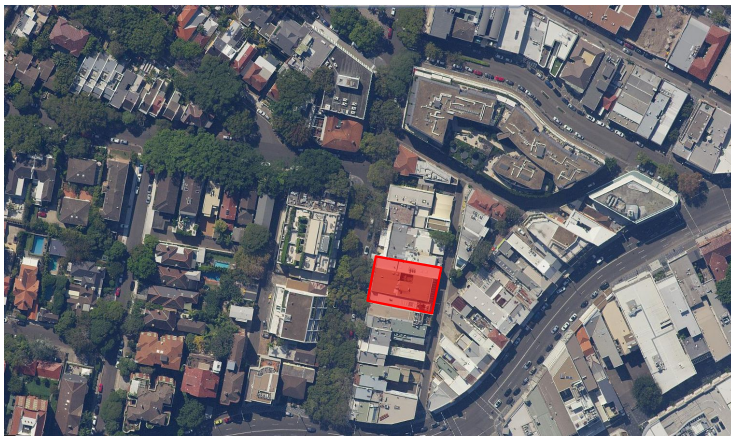
GRAPHIC ILLUSTRATION: Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase

SITE PREPARATION: All existing plants marked for retention shall be protected for the duration of works. Remove from site all perennial weeds and rubbish before commencing landscape works.

SOILWORKS: Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

MULCH: Supply and install a 75mm layer of hardwood horticultural grade mulch to all planting beds set down 25mm from adjacent paving or garden edge.

MAINTENANCE: All failed or defective plant species to be replaced by landscaper for a 3 months period following completion of work. Further maintenance during and after this period should include watering, weeding, fertilising, pest and disease control, pruning and hedging, reinstatement of mulch and keeping the site neat and tidy.



LOCATION MAP

PLANT SCHEDULE				
Botanic Name	Common Name	Mature Height	Pot Size	Qty
Plant Species				
Aloe 'Bush Baby Yellow'	Baby Bush Yellow	0.4m	200mm	70
Dracaena marginata	Madagascar dragon tree	4-6m	500mm	14
Euphorbia ingens	Candelabra tree	6m	300mm	6
Olea europea	European Olive	3-5m	Mature	18
Pandorea jasminoides	Bower Vine	Climber	200mm	50
Portulacaria afra	Elephant Bush	2.5-4m	140mm	60
Rhaphiolepis indica	Indian Hawthorn	2-3m	400mm	62
Rosmarinus 'Huntington Carpet'	Prostrate Rosemary	0.2-0.2m	200mm	216
Trachelospermum jasminoides	Star Jasmine	Climber	200mm	170
Zamia furfuracea	Cardboard Cycad	0.7-1m	300mm	14

GENERAL PLANTING NOTES:

NOTE: It is recommended that all plants used be subject to an establishment period. During this period maintenance work carried out will include; watering, mowing, weeding, fertilising, pest and disease control, reseeding, returfing, staking and tying, replanting, cultivating, pruning, hedge clipping, aerating, reinstatement of mulch, top dressing and keeping the site neat and tidy.

NOTE: Plants shall be vigorous, well established, of good form consistent with species or variety, not soft or forced, free from disease and insect pests, with large healthy root systems and no evidence of having been restricted in growth or damaged. Root system shall be well balanced in relation to the size of the plant.

NOTE: install 'root barrier' or equivalent to manufacturers specifications to protect nearby structures and services.

NOTE: Install temporary drip irrigation system under mulch in tree protection zones and water on allotted days.



Level 3 Landscape Plan



Project:
19-27 Bay St
Double Bay NSW 2028
Client:
Fortis

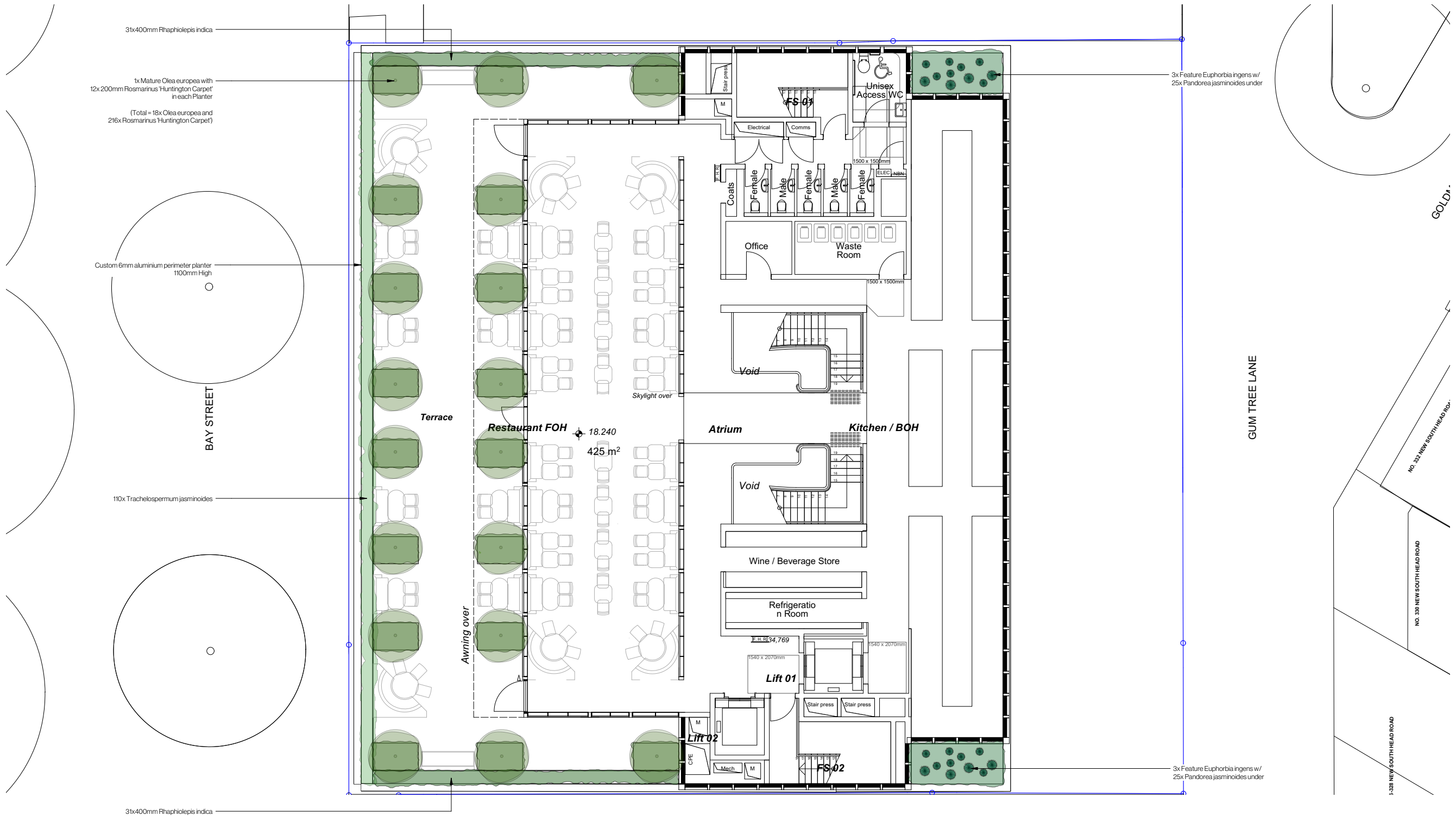
Dwg no:
LP02-D2623
Title: Level 3
Landscape Plan

Drawn by:
SM
Issue:
01
Checked:
TS
Revision:
E
Scale:
1:100 @ A2
Date:
03.11.2023

Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019
Tel: (02) 9316 9044
Fax: (02) 9316 9055
Figures dimensions shall take precedence over scale. Contractors must verify all dimensions on site before commencing any work or making shop drawings. This drawing is protected by copyright.



DANGAR
BARIN
SMITH



Level 4 Landscape Plan



Project:
19-27 Bay St
Double Bay NSW 2028

Client:
Fortis

Dwg no:
LP03-D2623

Title: Level 4
Landscape Plan

Drawn by:
SM

Checked:
TS

Scale:
1:100 @ A2

Issue:
01

Revision:
E

Date:
03.11.2023

Landscape Design Sydney
53 Cranbrook St
Botany NSW 2019

Tel: (02) 9316 9044
Fax: (02) 9316 9055



DANGAR
BARIN
SMITH

GENERAL NOTES

THIS SURVEY IS NOT A 'LAND SURVEY' AS DEFINED BY THE SURVEYING AND SPATIAL INFORMATION ACT, 2002.

ONLY TREES GREATER THAN 3.5 METRES IN HEIGHT ARE SHOWN ON THIS PLAN AND THEIR POSITIONS ARE DIAGRAMMATIC ONLY AND MAY REQUIRE ADDITIONAL SURVEY WHERE CRITICAL TO DESIGN.

SPOT LEVELS ONLY SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.

LEVELS ARE ON AUSTRALIAN HEIGHT DATUM (AHD).

ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK SHOWN ON THIS PLAN.

BOUNDARY NOTES

A BASIC BOUNDARY SURVEY HAS BEEN DONE SUITABLE FOR DA LODGEMENT PURPOSES.

BOUNDARIES HAVE NOT BEEN MARKED.

SURVEY INFORMATION NOTES

THE SURVEY NOT ON A DEFINED COORDINATE SYSTEM.

THE ORIENTATION OF THIS PLAN (SURVEY UNDERTAKEN BY SDG ONLY) IS MGA NORTH WHICH HAS BEEN DETERMINED BY A COORDINATE JOIN BETWEEN SSM86062 AND SSM53706.

THE ORIGIN OF LEVELS COMES FROM SSM86062 RL2.892 CLASS LC
POSITIONAL UNCERTAINTY (PU) 0.02 ADOPTED FROM SCIMS DATED
23/09/2021.

CERTIFICATE OF TITLE NOTES

THE FOLLOWING INFORMATION RELATES TO THE RESPECTIVE
CERTIFICATE OF TITLE OF EACH LOTS:

LOT 1 IN DP90466

CT EDITION 8 DATED 10/09/2021 SEARCH DATE 28/09/2021
THERE ARE NO NOTATIONS ON THE CERTIFICATE OF TITLE AT THE
DATE OF TITLE SEARCH.

COVENANTS AND RESTRICTIONS NOTED ON THE TITLE HAVE NOT BEEN INVESTIGATED. THESE SHOULD BE INVESTIGATED PRIOR TO DESIGN TO ENSURE ANY FUTURE DEVELOPMENT COMPLIES.

LEGEND

CL	CENTRELINE
COM	COMMUNICATIONS PIT
FL	FLOOR LEVEL
LIP	LIP LINE
LP	LIGHT POLE
TK	TOP OF KERB
EB	ELECTRICITY BOX
ILD	INTERNAL PIT LAYOUT DIAGRAMMATIC ONLY
EXP	EXCAVATION PIT

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PROJECT:
DETAIL AND LEVEL SURVEY OF
LOT 1 IN DP90466

19-27 BAY STREET
DOUBLE BAY

CLIENT: Neoscape Pty Ltd

FILE: 8554 19-27 BAY STREET DOULE BAY DETAIL REV F

LGA: Woollahra

REF: 8554

ISSUE: F

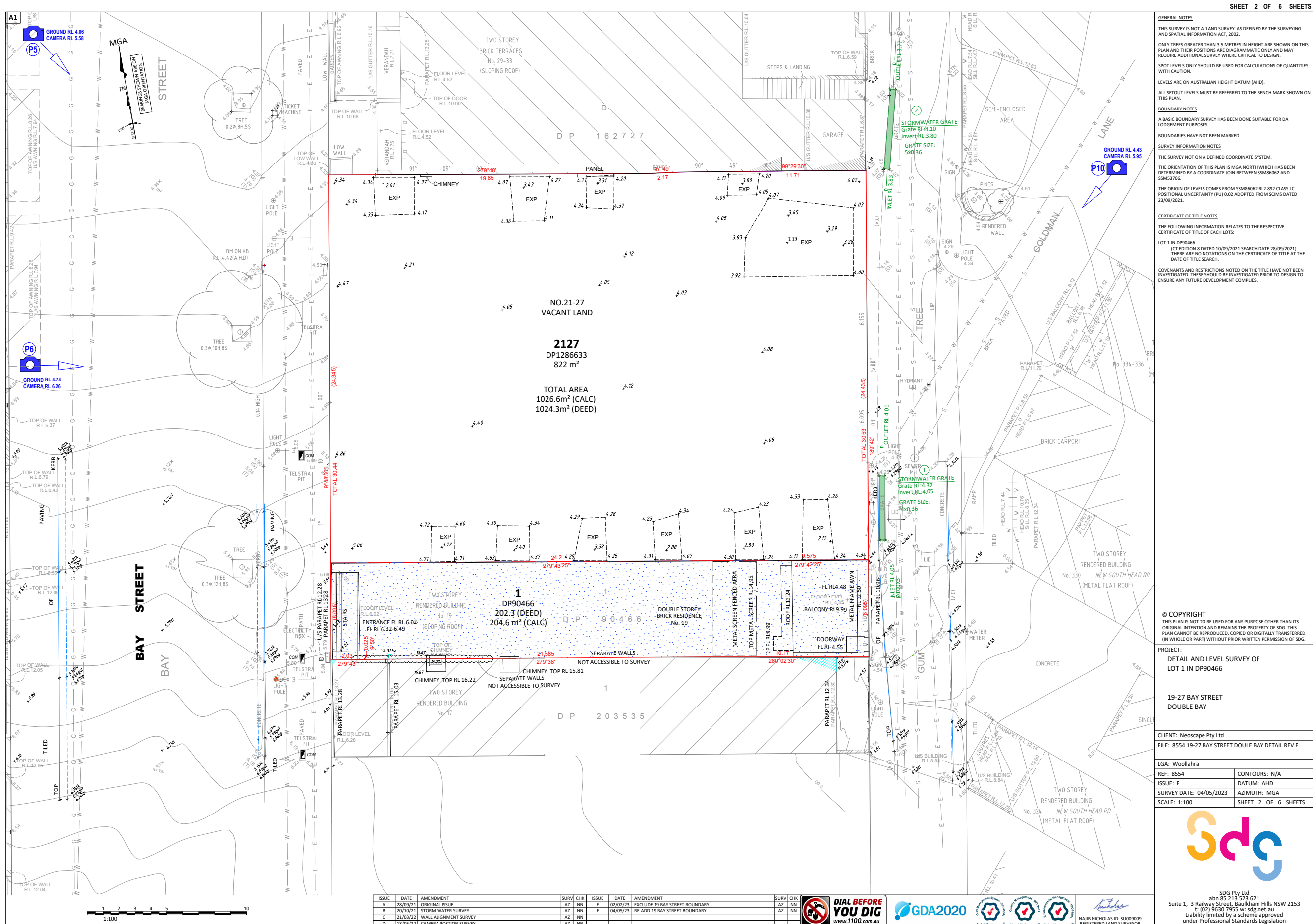
SURVEY DATE: 04/05/2023	AZIMUTH: MGA
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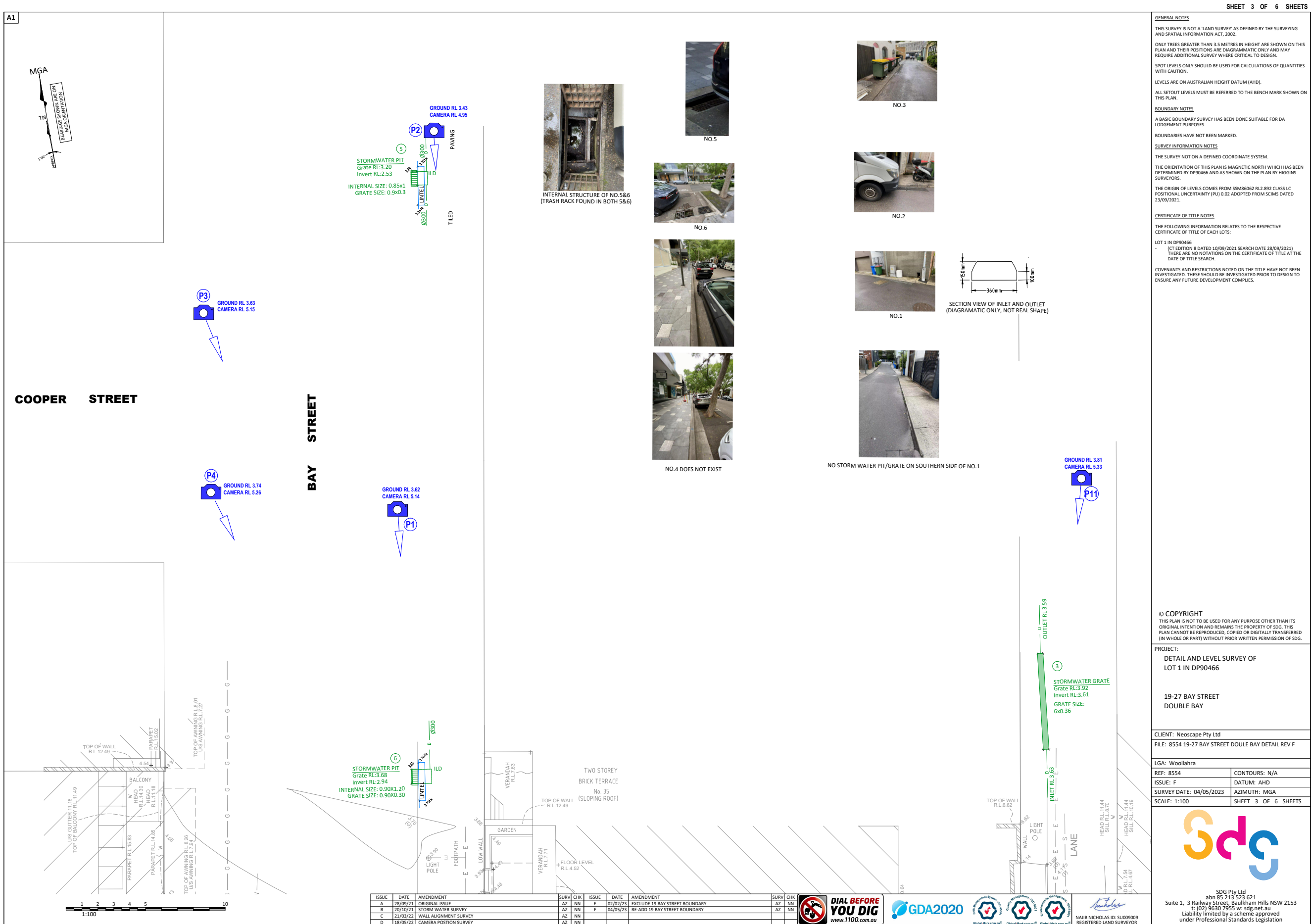


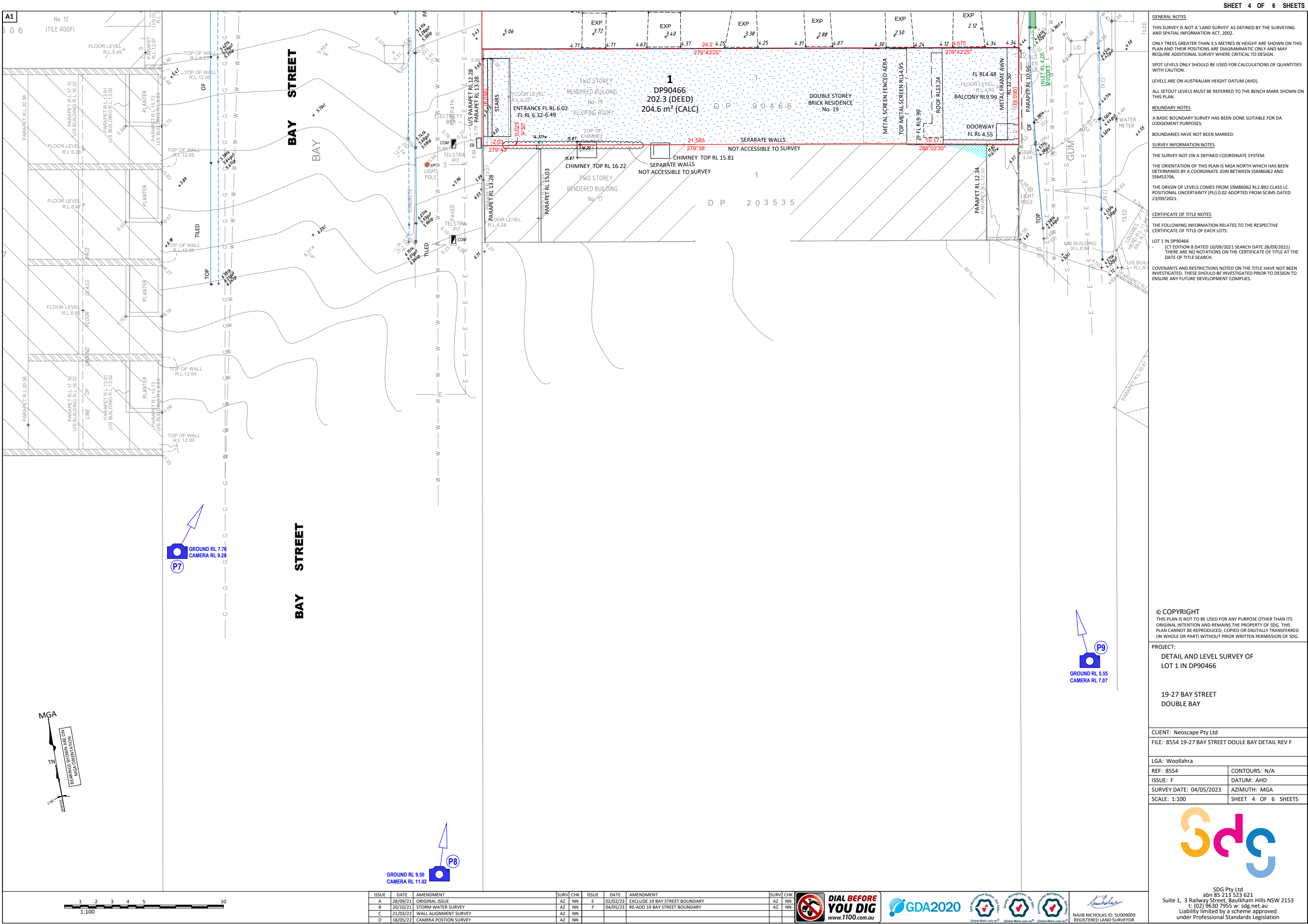
SDG Pty Ltd
 abn 85 213 523 621
 Suite 1, 3 Railway Street, Baulkham Hills NSW 2153
 t: (02) 9630 7955 w: sdg.net.au
 Liability limited by a scheme approved
 under Professional Standards Legislation

ISSUE	DATE	AMENDMENT	SURV	CHK	ISSUE	DATE	AMENDMENT
A	28/09/21	ORIGINAL ISSUE	AZ	NN	E	02/02/23	EXCLUDE 19 BAY STREET BOUNDARY
B	20/10/21	STORM WATER SURVEY	AZ	NN	F	04/05/23	RE-ADD 19 BAY STREET BOUNDARY
C	21/03/22	WALL ALIGNMENT SURVEY	AZ	NN			
D	18/05/22	CAMERA POSITION SURVEY	AZ	NN			



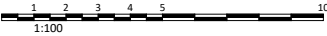
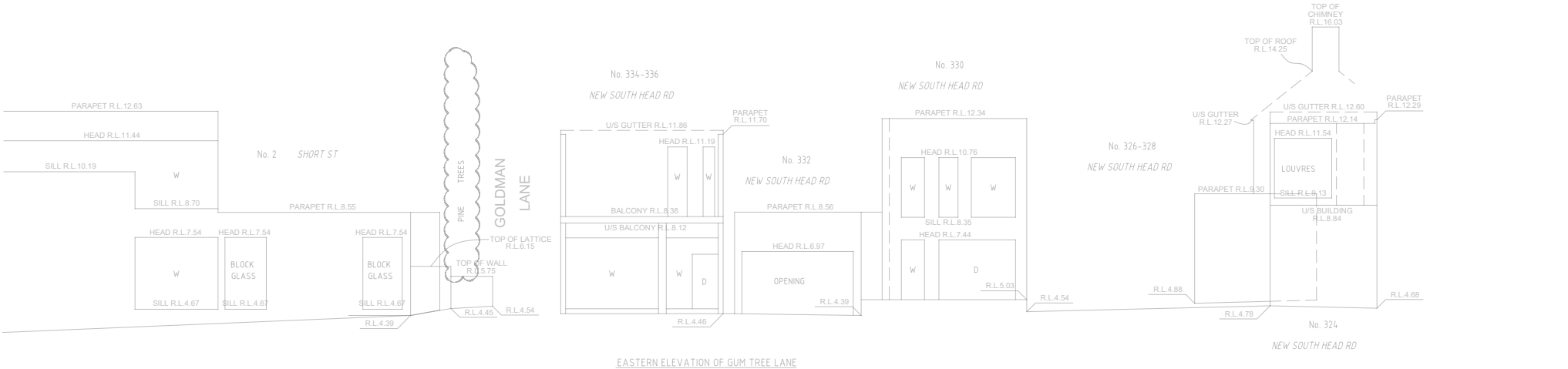






SHEET 5 OF 6 SHEETS

A1



ISSUE	DATE	AMENDMENT	SURV	CHK	ISSUE	DATE	AMENDMENT	SURV	CHK
A	28/09/21	ORIGINAL ISSUE	AZ	NN	E	02/02/23	EXCLUDE 19 BAY STREET BOUNDARY	AZ	NN
B	20/10/21	STORM WATER SURVEY	AZ	NN	F	04/05/23	RE-ADD 19 BAY STREET BOUNDARY	AZ	NN
C	11/05/22	WALL ALIGNMENT SURVEY	AZ	NN					
D	18/05/22	CAMERA POSITION SURVEY	AZ	NN					



NAIIB NICHOLAS ID: SU009009
REGISTERED LAND SURVEYOR

GENERAL NOTES
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SPOT LEVELS ONLY SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.
LEVELS ARE ON AUSTRALIAN HEIGHT DATUM (AHD).
ALL SETOUT LEVELS MUST BE REFERRED TO THE BENCH MARK SHOWN ON THIS PLAN.
BOUNDARY NOTES
A BASIC BOUNDARY SURVEY HAS BEEN DONE SUITABLE FOR DA LODGEMENT PURPOSES.
BOUNDARIES HAVE NOT BEEN MARKED.
SURVEY INFORMATION NOTES
THE SURVEY NOT ON A DEFINED COORDINATE SYSTEM.
THE ORIENTATION OF THIS PLAN IS MAGNETIC NORTH WHICH HAS BEEN DETERMINED BY DP90466 AND AS SHOWN ON THE PLAN BY HIGGINS SURVEYORS.
THE ORIGIN OF LEVELS COMES FROM SSM86062 RL2.892 CLASS LC POSITIONAL UNCERTAINTY (PU) 0.02 ADOPTED FROM SCMS DATED 23/09/2021.
CERTIFICATE OF TITLE NOTES
THE FOLLOWING INFORMATION RELATES TO THE RESPECTIVE CERTIFICATE OF TITLE OF EACH LOT:
LOT 1 IN DP90466
- (CT EDITION 8 DATED 10/09/2021 SEARCH DATE 28/09/2021)
THERE ARE NO NOTATIONS ON THE CERTIFICATE OF TITLE AT THE DATE OF TITLE SEARCH.
COVENANTS AND RESTRICTIONS NOTED ON THE TITLE HAVE NOT BEEN INVESTIGATED. THESE SHOULD BE INVESTIGATED PRIOR TO DESIGN TO ENSURE ANY FUTURE DEVELOPMENT COMPLIES.

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PROJECT:
DETAIL AND LEVEL SURVEY OF
LOT 1 IN DP90466

19-27 BAY STREET
DOUBLE BAY

CLIENT: Neoscape Pty Ltd
FILE: 8554 19-27 BAY STREET DOULE BAY DETAIL REV F

LGA: Woollahra	
REF: 8554	CONTOURS: N/A
ISSUE: F	DATUM: AHD
SURVEY DATE: 04/05/2023	AZIMUTH: MGA
SCALE: 1:100	SHEET 5 OF 6 SHEETS



SDG Pty Ltd
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Suite 1, 3 Railway Street, Baukham Hills NSW 2153
t: (02) 9630 7955 w: sdg.net.au
Liability limited by a scheme approved
under Professional Standards Legislation

SHEET 6 OF 6 SHEETS

A1

The drawing is a detailed architectural elevation of the western side of a building complex along Bay Street. It features three distinct building sections labeled 'No. 4-10', 'No. 12', and 'No. 14'. Each section shows multiple levels with various architectural elements such as parapets, glass railings, building facades, gutters, and awnings. Elevation points are meticulously noted throughout the drawing, ranging from 2.25 to 23.97. The drawing is bounded by vertical lines labeled 'BOUNDARY'. At the bottom center, the text 'WESTERN ELEVATION OF BAY ST' is present. The title block on the right contains project information, including the client 'Neoscape Pty Ltd', project name '19-27 BAY STREET DOULE BAY', and a table of revisions. A scale bar (1:100) and a north arrow are located at the bottom left. A series of logos and accreditation marks are displayed at the bottom right, including GDA2020 and various engineering and architectural registration bodies.

GENERAL NOTES

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LOT 1 IN DP90466
- (CT EDITION 8 DATED 10/09/2021 SEARCH DATE 28/09/2021)
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PROJECT:

DETAIL AND LEVEL SURVEY OF LOT 1 IN DP90466

19-27 BAY STREET DOULE BAY

CLIENT: Neoscape Pty Ltd

FILE: 8554 19-27 BAY STREET DOULE BAY DETAIL REV F

LGA: Woollahra

REF: 8554

ISSUE: F

SURVEY DATE: 04/05/2023

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SHEET 6 OF 6 SHEETS

ISSUE	DATE	AMENDMENT	SURV	CHK	ISSUE	DATE	AMENDMENT	SURV	CHK
A	28/09/21	ORIGINAL ISSUE	AZ	NN	E	02/02/23	EXCLUDE 19 BAY STREET BOUNDARY	AZ	NN
B	20/10/21	STORM WATER SURVEY	AZ	NN	F	04/05/23	RE-ADD 19 BAY STREET BOUNDARY	AZ	NN
C	21/03/22	WALL ALIGNMENT SURVEY	AZ	NN					
D	18/05/22	CAMERA POSITION SURVEY	AZ	NN					

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REGISTERED LAND SURVEYOR



Plan of Management

RH, the Gallery at Double Bay

19-27 Bay Street, Double Bay

Revision: 02
Date: October 2023

RH

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Plan of Management

1.0 Executive Summary

This Plan of Management has been prepared to accompany documentation submitted to Council as part of a Development Application for 19-27 Bay Street, Double Bay which proposes a design gallery featuring décor and distinctive home furnishings seamlessly integrated within a curated food and beverage program operated by RH. The proposed trading hours are from 10:00am to 9:00pm Monday to Saturday and 10:00am to 8:00pm on Sunday.

Consent is also sought for a liquor licence, 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 proposed design gallery and restaurant at 19-27 Bay Street, Double Bay ('subject site').

This Plan of Management aims to communicate the purpose of the design gallery and restaurant, and to ensure that its operation:

- Is well managed;
- Is undertaken with regard to the surrounding area;
- Takes a proactive role in being a responsible neighbour within the local area; and
- Provide an adequate and appropriate parking facility

As indicated within Section 1 of this document, the proposal before Council seeks consent to approve a development application for a 5-storey building that will feature décor and distinctive home furnishings seamlessly integrated within a curated food and beverage program. The ground floor, first, second and third floor of the building will primarily be the display of furniture and décor in a series of rooms - complete living, bed and bathrooms. There will also be an interactive RH Design Atelier, an integrated interior design workspace that allows RH design consultants and customers to conceptualize one room or an entire home. The fourth floor will feature a roof-top restaurant with up to 136 seats.

The proposed operations within the building are as follows:

- Proposed trading hours, from 10:00am to 9:00pm, Monday to Saturday and 10:00am to 8:00pm on Sunday. The design gallery (ground to third floor) may choose to end operations earlier while the restaurant (fourth floor) remains open until the hours stated above.
- Seating within the restaurant would be limited to 136 patrons split between indoor and outdoor dining.
- 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 licence from Liquor and Gaming NSW.



3.0 Business and Operational Information

3.1 Business information

General contact information (including a phone number, contact form and email address) for the future operator 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 premise and online.

3.2 Area of the site occupied by the design gallery and restaurant

For reference, the design gallery and restaurant would occupy the entire building as follows:

- The design gallery will occupy the ground, first, second and third floors and the restaurant will occupy the rooftop or fourth floor.
- Toilet facilities for customers are located on the building's fourth floor and are accessed via an internal stairway and the elevator. Staff has dedicated toilet facilities on level Basement 01.

3.3 Access to the design gallery and restaurant

Access to the uses is obtainable via two points, which are as follows:

- The main entrance is located at the front of the site along Bay Street; and
- There is an additional entrance points along Gum Tree Lane for vehicles and pedestrians.

Public through access from Bay Street to Gum Tree Lane will be available during trading hours via the center doors found on either street.

3.4 Hours of operation

The design gallery and restaurant will operate during the following times:

- Proposed trading hours, from 10:00am to 9:00pm, Monday to Saturday and 10:00am to 8:00pm on Sunday. The design gallery (ground to third floor) may choose to end operations earlier while the restaurant (forth floor) remains open until the hours stated above.



3.5 Number of patrons

Seating capacity within the restaurant would be limited to a maximum of one hundred and thirty-six (136) patrons. Tables and chairs would all be located within the site boundary on level 04. Seating for patrons would be located inside the glazed pavilion and on the outdoor terrace.

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.

3.6 Staffing

3.6.1 Staff numbers

The design gallery would employ full time staff with a maximum of 20 staff rostered at any given time. The restaurant on the fourth floor would employ 70 staff consisting of 50 full time staff and 20 casual staff. There would be a maximum of 32 restaurant staff rostered on at any given time.

3.6.2 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;

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- 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.

3.6.3 Delegation of responsibilities

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



4.0 Safety, Security and Emergencies

4.1 Safety and Security

Having regard to the proposed manner of operation of the design gallery and restaurant it is not envisaged there would be any need to provide licensed security personnel. Sufficient staff will be employed 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.

Clear signage will be provided to ensure customers are able to find their way around the design gallery and restaurant. Entry points to either use will be well lit. All lighting will be maintained and cleaned regularly. CCTV surveillance will be in operation throughout the building. A recording process and procedure will be put in place to ensure that footage of any incidents is available and is able to be provided to the relevant authorities if and when required. Back of house storage and staff areas will be controlled through restricted access measures.

As detailed in Section 3.3 of this document, access to the design gallery would be controlled via two entrance points that are clearly visible from service areas. Access to the restaurant 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 the merchandised area of the design gallery and seating areas within the restaurant 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 excessive noise is affecting surrounding areas and amenity.
- Should a third warning be required, then staff will request that the individual/group pay their bill and leave the site.

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Approaches taken by staff would be similar to those when dealing with an intoxicated person, as detailed within Appendix A. In the event that 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 stop 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 this part of the site 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 ground floor level is located below the 1 in 100-year flood level on Bay Street, however it is protected by an automatic flood barrier at the opening. The flood barrier also protects the ground floor from inundation in the Probable Maximum Flood (PMF) (i.e. the absolute “worst case” scenario flooding, as a result of probable maximum rainfall).

In the unlikely event of the flood barrier failure, 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).

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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 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. The site operator wishes to demonstrate their commitment to maintaining the amenity of the locality.

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 restaurant staff, however some cleaning activities (both of the shop and restaurant) may also be contracted to a private cleaning service.

All areas 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.

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7.0 Waste Management Procedures

This section is intended to be read in conjunction with the Operational Waste Management Plan submitted with the Development Application which may be updated from time to time.

Waste and recycling shall be stored within receptacles within the restaurant and designated areas within the design gallery until they are transported to the main waste storage rooms in the basement. The doors of the waste storage rooms are to remain closed except when in use.

The transfer of any waste between the internal bins and main waste storage rooms should only occur between the hours of 7:00am to 6:00pm, Monday to Sunday. Under no circumstances are bottles to be disposed of in outdoor areas outside of these times. The transfer of waste may need to occur later in the evening. If that occurs, all efforts will be made to minimize noise from bins and personnel.

For collection, a small rigid rearloader collection vehicle operated by a private waste and recycling contractor will enter the basement via the Gum Tree Lane vehicle entrance to collect the deferent waste streams from the prescribed 660L bins. Collection times and frequencies will be coordinated to occur outside peak hours and between the hours of 7.00am and 6.00pm.

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. 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

The majority of items sold within the design gallery can only be ordered for direct delivery to a customer's home. Orders will be processed and dispatched from a separate facility, rather than the subject site. Only an incidental percentage (approximately 2-3%) of the business would involve "cash and carry" retail.

Deliveries for the design gallery, such as new display furniture and decor, do not occur very often. Once the building is completely furnished and open to the public, portions of display items within the store are only refreshed when a new collection is available. This generally occurs every six to twelve (6-12) months.

Deliveries for the restaurant would occur when required, and would therefore not occur at a specific time or frequency. Delivery vehicles would enter the basement utilising the vehicle entrance from Gum Tree Lane between 9:00am to 6:00pm Monday to Sunday. Two dedicated loading dock spaces have been provided on Basement Level B4 for restaurant deliveries. Delivery vehicles will consist of delivery vans that meet a maximum 2.2m height clearance requirement to enter the basement.



10.0 Access and Parking

This section is intended to read in conjunction with the Traffic & Parking Assessment submitted with the Development Application.

10.1 Access

The primary entrance to the ground floor design gallery is provided from Bay Street with secondary access through Gum Tree Lane.

The site is highly accessible with respect to public transport, walking and cycling. Edgecliff Train Station is 600m from the site while the Double Bay Ferry Wharf is 400m from the site. There are also well established pedestrian networks provided around the site, which ensure safe and legible networks for the site as both a destination and origin for people trips. Formal crossing points are provided at local signalised intersections.

During periods where the level four restaurant operates past the hours of the retail gallery, the customer access arrangement will not change, however entrance points will be monitored by staff along with lift programming / security put in place to control customer movement.

10.2 Parking

Vehicle access for parking is provided via a driveway off Gum Tree Lane down to four levels of basement parking, connected with a two-way internal ramp.

A total of 62 parking spaces has been provided for both gallery (retail) and restaurant customers along with RH staff members. The basement also provides for the required number of accessible, motorcycle and bicycle parking spaces.

A basement access system will be developed during the Design Development phase of the project to control car park security and usage. Basement access will be available for customers during normal business operating hours with staff provided extended access as required.



11.0 Review

This Plan of Management should be used as a general guide for the day to day operations of the building. 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.

Contact Information



www.rh.com

US & Canada

800.762.1005

International

+1.209.834.1044

US & Canada

Sun 7am - 6pm PT

Mon-Fri 6am - 8pm PT

Sat 6am - 6pm PT



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



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:

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- 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.);
- 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 removed from 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 gallery and restaurant, the nominated Fire Warden will organise for all guests and staff to assemble at an evacuation assembly point.

Evacuation and assembly points will be designated within an evacuation plan and diagram which will be displayed at appropriate locations within the building. Staff will also be trained in evacuation procedures.

In the event of evacuation, once evacuation has occurred and if safe to do so, a nominated member of staff should monitor the building entranceways to prevent unauthorised access to the site.

Building entranceways should not be obstructed to ensure emergency personnel who may need to enter the site are able to do so.

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.



WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings

Construction of a Five-Storey Commercial Development
(Retail and Restaurant) with Basement Parking and
Signage for the use of RH at

Nos. 19-27 Bay Street, Double Bay

Prepared for:

21 Bay Pty Ltd
30-36 Bay Street
Double Bay NSW 2028

Prepared by:

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JOB NO. 21470
July 2023

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: 21 Bay Pty Ltd

SITE ADDRESS: Nos. 19-27 Bay Street, Double Bay

PROPOSAL: Construction of a Five-Storey Commercial Development (Retail and Restaurant) with Basement Parking and Signage for use as the Asia-Pacific flagship RH store.

1. (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

E1 Local Centre. The objectives of which are as stated:

- 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.

(iii) The number of the relevant clause therein:

Clause 4.3 – Height of Buildings, which is stated as follows:

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
 - (b) to establish a transition in scale between zones to protect local amenity,
 - (c) to minimise the loss of solar access to existing buildings and open space,
 - (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
 - (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

- (2A) Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.
- (2B) Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent and relevant case law.

In that regard, and at the outset, it is important to note that clause 4.6 of the LEP **“is as much a part of [the LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome.”** (SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 at [73]).

In our opinion, the variation in this instance is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP – Height of Buildings. This Clause operates in conjunction with the height map which indicates a maximum height of 14.7m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

A previous approval (DA14/2021) on the part of the subject site (Nos. 21-27 Bay Street) exceeded the height standard with a maximum height of 17.715m (measured from existing ground level at the time of approval) with a maximum RL of 22.19 AHD. That previous approval was for a purely commercial development (retail and office) which was five storeys above three levels of basement parking.

This proposal for a five storey commercial building comprising retail and restaurant spaces, above four levels of basement parking, has been designed to cater to a sole tenant, RH, who have committed to a long-term lease of the proposed building. RH are a high calibre international brand that offer luxury home furnishings and interior design services in a retail setting, with unique design gallery spaces and an integrated hospitality experience. This proposal will accommodate RH's Australian flagship store, and is considered to be an important use for the Double Bay Centre.

The current proposal has a design approach which is similar to the approved in terms of overall height, bulk and scale, on a larger consolidated lot through inclusion of an additional allotment at No. 19 Bay Street (see **Figure 1** on the following page). This results in larger floorplates and the provision of additional commercial floorspace within an efficient design, that is consistent with the desired future character of the neighbourhood area and caters to the unique RH use.



Figure 1: Elevation West (Bay Street) as Approved (Nos. 21-27 Bay Street) and Proposed (Showing Additional Lot at No. 19 Bay Street)

The proposed building has a maximum height of 18.13m, as measured from the ground level (presently existing) to the highest point directly above (RL 22.46 AHD), in the location of the ducting within the plant area at roof level. This equates to a 3.43m or 23.3% variation of the numerical height standard (see **Figure 2** on the following page).



Source: MHN Design Union

Figure 2: LEP Height Blanket Diagram – Existing Ground Level (Bay Street)

This maximum height measurement is based on the latest existing ground levels provided in the SDG Survey Plan dated 04/05/2023 (measured from the ground level of the currently vacant allotment at Nos. 21-27 Bay Street to the proposed ducting within the plant area at roof level). Despite the additional lot which is included in this proposal, the current proposed design retains a similar street parapet height and massing to Bay Street as approved, with a reduced street wall height to Gum Tree Lane.

As the buildings on the site at Nos. 21-27 Bay Street have been previously demolished, the survey represents the ground levels post-demolition. However, the existing ground levels reflect the flattened site in its interim state as a result of demolition, and do not reflect the appearance of the proposal in its context. Therefore, an alternative method has been utilised, which is further discussed in the following paragraphs.

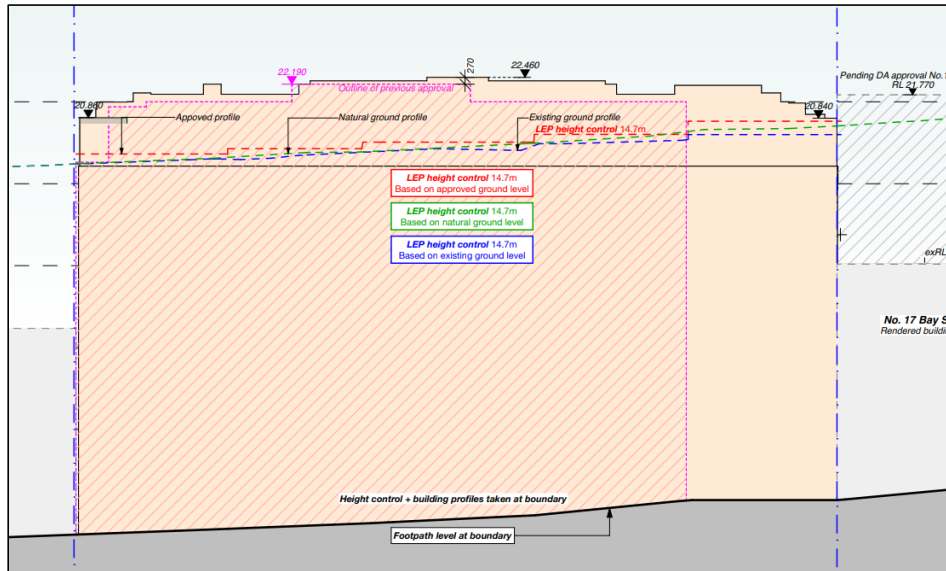
The interpretation of height has been considered by the Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (Bettar). In *Bettar*, the Court dealt with a site with similar characteristic to the subject site, where a basement or previous site condition existed in some parts of the site and not others. The Court adopted the approach that considered the height measurement with the intention of relating the development proposal to its context, and made the following relevant comments:

*It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in LEP 2012. As one of the purposes of the development standard is to relate the proposal to its context, it follows that **the determination of the existing ground level should bear some relationship to the overall topography** that includes the site... (emphasis added)*

Similarly, a comparable approach can be undertaken for the subject site, with a focus on how the development will be perceived from the public domain and surrounding properties. The proposed five-storey commercial development aims to revitalize the site, with the upper levels stepped back to reduce the perceived scale. Notably, Level 3 and 4 have been significantly setback from the boundaries.

Therefore, taking into account the principles established in *Bettar*, the proposal aligns with the ground line pre-demolition, the sloping topography of the site and the street levels (see **Figure 3** on the following page).

Height plane analysis have been completed for the existing ground level (see **Figure 2** on the previous page), natural ground level as established in *Bettar* (see **Figure 4** on the following page), and the previously approved ground level of DA 14/2021 (see **Figure 5** on the following page).



Source: MHN Design Union

Figure 3: Height Plane Comparison Diagram (Bay Street)

When taking the *Bettar* approach, the maximum building height of 17.16m to the parapet and 18.13m to the top of the services (see **Figure 4** on the following pages).



Bay Street



Gum Tree Lane

Source: MHN Design Union

Figure 4: LEP Height Blanket Diagram – Natural Ground Level

Furthermore, it should be noted that using the same method of calculating the existing ground level and associated height plane as the previous approval (DA14/2021), results in a reduced maximum height of 16.77m to the parapet and 17.74m to the services (see **Figure 5**).



Source: MHN Design Union

Figure 5: LEP Height Blanket Diagram – Approved Ground Level (Bay Street)

Despite the additional height when measured from existing ground levels which reflect a lower ground line than the previous site condition (pre-demolition of the buildings at Nos. 21-27 Bay Street), the increased height will not be noticeable when viewed from the public domain as demonstrated in the height plane analysis. Furthermore, these works will enhance the viability of the commercial uses on the site.

The upper levels will be setback along Bay Street and Gum Tree Lane, with terraces at Levels 3 and 4 to Bay Street, and Levels 2 and 3 to the rear laneway, which minimise perceived bulk and increase articulation. The design approach ensures the upper level which is partially above the LEP height standard will not be readily discernible when viewed from the street opposite the site or from the public domain more broadly, to reduce the perceived scale when viewed from the public domain.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

- Objective (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- Objective (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Flexibility is sought in the application of the height development standard to the proposed development in the circumstance of this particular case. The upper level will be setback with glazed materiality to minimise visibility and bulk when viewed from the street and will provide additional retail and restaurant floorspace, which is desirable in the locality, as reiterated throughout the E1 Local Centre zone objectives. The five storey built form will accommodate the required floorspace and floor to ceiling heights to achieve the retail gallery and restaurant space for the RH tenancy, which will be an important use in the Double Bay Centre.

The proposal will present an attractive façade to the primary frontage to Bay Street, as well as the rear at Gum Tree Lane; provides the same number of storeys as was previously approved on the majority of the site at Nos. 21-27 Bay Street; and retains a similar parapet height to the approved scheme. The only areas of additional height outside the approved envelope are attributed to the additional allotment forming part of the subject site, a portion of the roof in the middle of the site, and the relocated lift overrun and plant areas on the roof. The plant areas are screened and set back from the boundaries to minimise their visibility from the public domain and nearby development.

Strict compliance with the height development standard would not result in a better planning outcome. The proposed height will allow a well-designed building that will be consistent with, and contribute to, the evolving character of the site's neighbourhood area, visual catchment, and the Double Bay Centre more broadly, whilst minimising amenity impacts to neighbouring development. The number of storeys and restaurant on the upper level is integral to the operations of RH such that the loss of a storey would mean that the site would not be suitable for use by RH.

Accordingly, the proposal provides an improved planning outcome both for and from the development.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in these circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable height development standard, the proposal is consistent with the desired high-density, commercial character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by the desired future character of the area. Reasons why the proposed development is consistent with the objectives of the height standard are explained below.

(a) to establish building heights that are consistent with the desired future character of the neighbourhood,

The proposal's height is consistent with the built form in the Double Bay Centre area. Surrounding developments are an eclectic mix of residential flat buildings, commercial, and mixed use developments that vary between two to six storeys. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], which also related to a development in the Double Bay Centre, Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Similarly, in *Big Property Group Pty Ltd v Randwick City Council* [2021] NSWLEC 1161 Commissioner O'Neill held that development standards for building envelopes are frequently generic standards which do not account for existing and approved development, site amalgamations, SEPP allowances, heritage issues or the nuances of an individual site. The Commissioner expressly referenced *SJD*, and went on to hold that:

"The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character. Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map. As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPIs that incentivise particular development with GFA bonuses or other mechanisms that intensify development. All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality" [at44]

More recently, in 2021, in the matter of *HPG Mosman Projects Pty Ltd v Mosman Municipal Council* [2021] NSWLEC 1243 Commissioner O'Neill held at [57]:

"The desired future character of the locality can be evaluated by reference to matters other than the development standards that determine the building envelope for the site, including the existing development that forms the built context of the site (Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [54]). The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (SJD DB2 at [62]-[63]). Development standards that determine building envelopes can only contribute to shaping the character of the locality (SJD DB2 at [53]-[54] and [59]-[60])."

Accordingly, the desired future character is shaped by the LEP but also by other recent approvals in the vicinity, as well as historic pre-existing buildings. We observe that there are a number of **recently approved** height exceedances in the neighbourhood area as well as within the visual catchment of the subject site, as detailed in **Table 1** (on the following page):

Table 1: Approved Height Breaches in the Neighbourhood and Within Visual Catchment					
DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
33/2018	21-27 Bay Street	0m	14.7m	Bay Street: 17.25m	17.35%
14/2021	21-27 Bay Street	0m	14.7m	17.72m	20.5%
69/2021	2-10 Bay Street	20m	14.7m	19.5m	33%
449/2020	14 Bay Street	20m	14.7m	16.58m	12.8%
138/2012	18-22 Bay Street	20m	13.5m	18.1m	25.4%
68/2021	24 Bay Street	35m	14.7m	17.75m (street level) 21.32m (existing ground line)	43.2%

When defining the meaning of the 'desired future character of the neighbourhood', we note that one way the 'neighbourhood' can be defined is through the precinct or area a site is located within, as per Chapter D.5 of the DCP. This is in accordance with the judgement for the previous DA at Nos. 19-27 Bay Street (the subject site), *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2023] NSWLEC 1005, where Commissioner Gray states, inter alia:

The WDCP sets a clearly defined desired future character for the Bay Street south area, which is one way to understand "the desired future character of the neighbourhood"

Accordingly, we refer specifically to the six approvals in the Bay Street South precinct alone with height breaches, which can be defined as being within the 'neighbourhood' of the subject site (see **Figure 6** on the following page).

In the Judgment for the previous shop-top housing approval on a portion of the subject site at Nos. 21-27 Bay Street (DA 33/2018, which pre-dates the commercial building approval), Commissioner Horton was previously satisfied with a height non-compliance not dissimilar to the height proposed for this new DA, which also facilitated a five storey built form. In *Thinq Net Pty Limited v Woollahra Municipal Council* [2020] NSWLEC 1063 (*Thinq Net*), Commissioner Horton states, inter alia:

I accept, that the objectives of the height standard set out at [20] are achieved notwithstanding noncompliance for the following reasons:

- (1) *Firstly, the proposed building height is consistent with the desired future character of the neighbourhood as it presents 4 visible storeys to Bay Street that is consistent with the building opposite at 16-22 Bay Street. Both buildings are 1-storey higher than the WDCP control and due partly to the need to raise floor levels due to avoid flooding. Furthermore, in considering the desired future character of the neighbourhood, development at 16-18 Cross Street, 20-26 Cross Street, and the Cosmopolitan Hotel on Bay Street all exceed the maximum permissible height that are, or were, considered consistent with the desired future character. [31]*

As the proposal is subject to two previous approvals on the site, one of which has had works commence on site (DA 14/2021); is consistent with the height non-compliance of approvals on nearby sites within the neighbourhood area and visual catchment; and reflects the overall height, bulk and scale of nearby existing and approved shop-top housing and commercial developments, the assessment above is relevant to this proposal. The approvals in the neighbourhood area and visual catchment inform the desired future character of the neighbourhood and are relevant to the proposal on the subject site (see **Figure 6** on the following page, demonstrating approvals in the Double Bay Centre, neighbourhood, and visual catchment of the subject site).



Source: AE Design Partnership

Figure 6: Approvals in the Neighbourhood and Visual Catchment Area

- Approvals in the visual catchment
- Approvals in Double Bay Centre over the Height and/or FSR

The proposal presents as four storeys when viewed from directly opposite on Bay Street, in accordance with the intent of the LEP height standard and DCP number of storeys control. The upper levels are setback from the primary frontage to Bay Street, as well as Gum Tree Lane. This will assist in minimising the perceived bulk and scale of the additional height as viewed along Bay Street and the rear laneway. The glazed materiality of the upper level will also assist to minimise visibility and bulk. The proposed height, bulk and scale is consistent with a number of other existing and approved developments along the western side of Bay Street and the approval at No. 21-27 Bay Street on the eastern side of Bay Street, which are within the same DCP neighbourhood area and visual catchment as the subject site and have a consistent four to five storey massing. Accordingly, the proposal will appear as predominantly four storeys from the public domain which is consistent with nearby approvals in the neighbourhood area and visual catchment.

Wholly commercial buildings are not anticipated in the DCP envelope and articulation controls. The proposed built form provides greater consistency in terms of articulation and envelope with that of commercial developments in the neighbourhood area and visual catchment, with these approvals informing the desired future character of the area in terms of bulk and scale, and commercial façade style (see **Figure 7 and 8**).

The stepped back upper levels and façade style which incorporates subtly articulated elements at the lower levels, inset covered terraces and open terraces, strong vertical elements representing the original subdivision pattern, and soft landscaping at the upper levels is sympathetic to the nearby approved and constructed commercial buildings.



Source: Fortis Development Group

Figure 7: Approved Five-Storey Commercial Building – No. 24 Bay Street (within neighbourhood area)



Source: Lawton Hurley

Figure 8: Approved Five-Storey Commercial Building – Nos. 2-10 Bay Street + Nos. 294-298 New South Head Road (within neighbourhood area, with non-compliant FSR)

As previously noted, in addition to the upper level above the height standard being setback from the street boundaries, a number of design features including terraces and setback elements to the building façade openings, and the use of light-coloured brick and glass balustrades to the facades will minimise the perceived height, bulk and scale of the development. In addition to these design features, the fourth-floor levels use of transparent glazing further reduces the perceived bulk and scale of elements located above the development standard.

The approvals and heights indicated in the table on the previous pages demonstrate an emerging higher density built form character in the immediate context, being the 'neighbourhood' for the purposes of this objective (a) of the development standard. The proposed additional building height will provide highly sought after commercial floorspace tailored to the RH use, in a central location within the Double Bay Centre.

Accordingly, despite the variation to the height development standard, the proposal is consistent with the desired future character of the neighbourhood.

(b) to establish a transition in scale between zones to protect local amenity,

The subject site is not located on a zone boundary. Commissioner Horton in a DA for the site opposite at Nos. 2-10 Bay Street + Nos. 294-298 New South Head road (*Thing Net*) stated, inter alia:

Secondly, as the site is not located near a lower density zone, there is limited work for the development to do in transitioning in scale between zones, and a reduced likelihood of impact on local amenity. [31]

The built form is consistent with what is envisaged for the E1 Local Centre zone and the proposal is considered acceptable in this regard.

Ultimately, this objective has no operative work to do in the context of this clause 4.6 variation (see decision of Preston CJ in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [57] and [58]).

(c) to minimise the loss of solar access to existing buildings and open space,

To assess the impact of the proposed development in terms of solar access, hourly shadow diagrams and views from the sun have been prepared for the winter solstice (June 21). The extent of overshadowing to adjoining developments and in particular, to existing buildings and private open space will be similar to that of an LEP and DCP compliant envelope (see **Figure 9** on the following page). There is no impact on solar access to nearby residential windows or private open space.

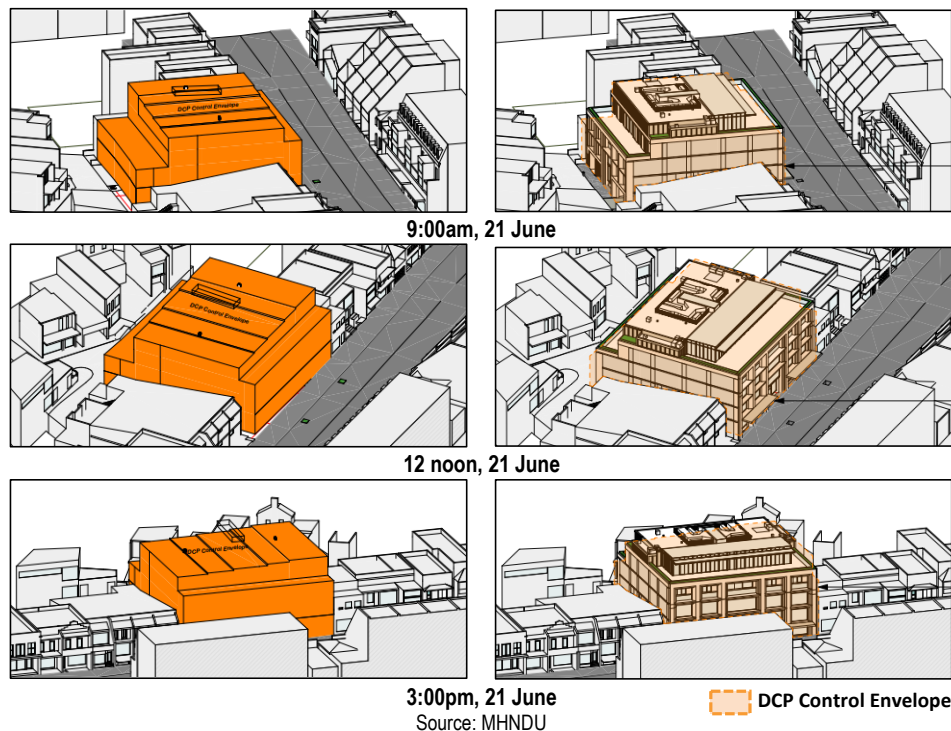


Figure 9: Compliant and Proposed Sun Eye Diagrams at 9am, 12pm and 3pm

The relevant DCP control for solar access is as follows:

Development which does not comply with the control drawings must maintain existing solar access to existing development for at least three hours between 9am and 3pm on 21 June to north facing windows of habitable rooms, and at least two hours to at least 50% of the private open space.

The proposal will maintain three hours solar access to habitable room north facing windows and two hours solar access to private open space, to mixed-use neighbouring development. This is in accordance with the requirement above. The extent of overshadowing as a result of the additional height above the LEP standard is generally consistent with the compliant envelope impact. The additional impact occurs at 3pm in mid winter to two negligible portions of commercial windows at Nos. 326-328 New South Head Road, which in planning terms would be an entirely acceptable impact. Much of the additional overshadowing will fall over the road carriageway and commercial roof tops, where it will not impact amenity or usable communal areas.

Accordingly, surrounding properties will maintain compliant solar access to nearby existing buildings and open space in accordance with the DCP control.

(d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

As the proposal maintains a similar height and configuration of uses to that already approved, it is unlikely to generate an unreasonable additional impact on neighbouring amenity. Nor are there unreasonable additional impacts beyond those of a height-compliant scheme. View sharing, privacy, overshadowing and visual intrusion will now be assessed individually.

View Sharing

Due to the location of the subject site, lot orientation and scale of surrounding buildings, there are no significant views anticipated across the site from nearby residential development or the public domain. In any case, the proposal provides flat roof forms which would maximise any potential sightlines. Therefore, the area of additional height is unlikely to have any view impacts.

Privacy

The design and layout of the proposal, particularly at the upper level above the height limit, will maintain aural and visual privacy for residents of surrounding sites. Windows on the fifth floor are located partially above the LEP height standard, are setback well over 12m from neighbouring residential development to the west and are located on the eastern and western street boundaries.

The terrace on the fifth floor is located below the LEP height standard, notwithstanding this when in a standing position, customers on the terrace will be partially above the LEP height standard on the Bay Street boundary. Possible sightlines are minimised by the use of landscaped planters on the boundary, and >25m separation distance to residential units opposite at Nos. 18-22 Bay Street. When in a seated position, customers of the restaurant will be located below the LEP height standard.

Overshadowing

As discussed under Objective (c) on the previous page, the additional height will not result in unacceptable additional overshadowing on adjoining or nearby properties, particularly in comparison to the impact resulting from a fully compliant envelope on the site.

Visual Intrusion

The non-compliant portion, being part of the upper level, roof plant and lift overrun above, will not be readily visible from a number of view points in the public domain and will therefore not contribute to visual intrusion. Further, the proposed area of additional height is well-separated from neighbouring windows and private open space to minimise visual intrusion. Given that the proposed height is very similar to the approved for the subject site, the area of additional height will have no discernible impact on visual intrusion within the private and public domain in comparison to the approved development. The design measures implemented to minimise any impact on visual intrusion include the following:

- Upper level will be stepped back along Bay Street and Gumtree Lane;
- Upper level is predominately transparent glazing
- Articulated, architecturally designed facades;
- Inclusion of soft landscaping at the building edges of Level 4;
- Inset Terrace at Level 3 on Bay Street;
- Inset Terrace at Levels 2 and 3 on Gum Tree Lane; and
- Screening of services.

Accordingly, the proposed height encroachment is not likely to result in additional amenity impacts and is therefore consistent with Objective (d).

- (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.**

N/A - No public views of the harbour are identified from the subject site.

Accordingly, although the proposal will exceed the height standard, the area of additional height has been thoughtfully designed to ensure consistency with the desired future character of the area, and minimise amenity impacts to neighbours. Therefore, the additional height is consistent with the relevant objectives of the development standard. It would therefore be unreasonable and unnecessary to comply, “in the circumstances of the case” (cl.4.6(3)(a)).

It is further submitted that the previously approved and activated DA for this site (namely (DA14/2021)) is a relevant “circumstance of the case”.

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

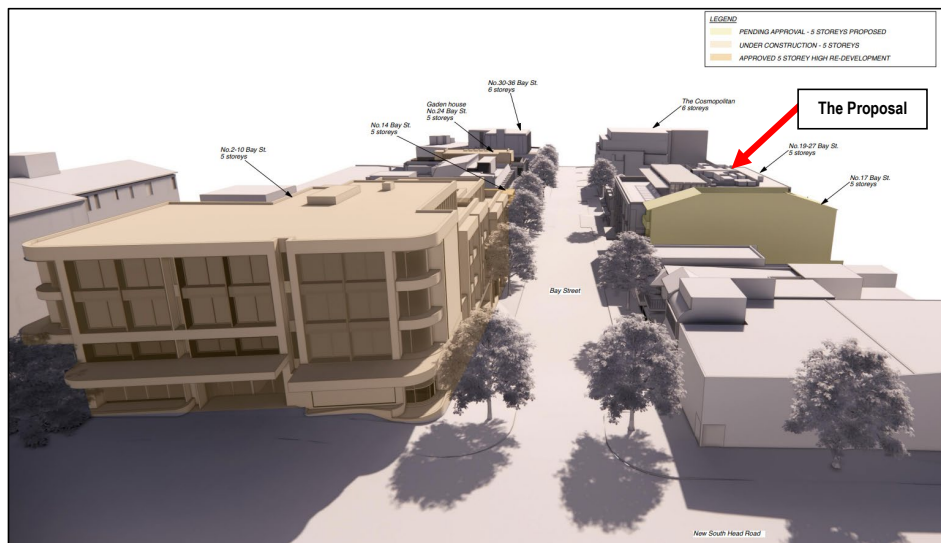
There are a number of environmental planning grounds that justify the additional height in this particular circumstance. In addition to compliance with the objectives of the zone and development standard; environmental planning grounds include the consistency in the context; the proposed use; and other considerations including the urban design benefits of the proposal. These will now be addressed.

Consistency with Context

The proposal will present as a four-storey development, with stepped back fifth level above the LEP height line, which is consistent with the context. The predominantly four storey presentation to Bay Street is consistent with the intent of the four storey DCP control (per Control Drawing 5) applicable to the subject site. A number of recently approved and constructed developments in the vicinity also exceed the height standard as demonstrated in **Table 1** of this report. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

In our opinion, despite the height exceedance, the building will present a height and scale compatible to the surrounding existing and approved developments within the neighbourhood and visual catchment (see **Figure 10** on the following page).



Source: MHN Design Union

Figure 10: Existing, Proposed and Approved Developments within the Neighbourhood Area and Visual Catchment of the Subject Site (Bay Street)

The previous commercial approvals on the subject site and various nearby commercial and shop top housing approvals are defined as being within the neighbourhood of the subject site (in the Bay Street South precinct, as defined in Chapter 5.4.4 of the DCP), and therefore inform the scale, context and desired future character of the area. These approvals are as follows (and demonstrated in **Figure 6** of this report):

- DA 33/2018 – Nos. 21-27 Bay Street (subject site) (shop-top housing)
- DA 14/2020 – Nos. 21-27 Bay Street (subject site) (commercial)
- DA 69/2021 – Nos. 294-298 New South Head Road & 2-10 Bay Street
- DA 449/2020 – No. 14 Bay Street
- DA 138/2012 – Nos. 18-22 Bay Street (older DA approval)
- DA 68/2021 – No. 24 Bay Street

More recently at Nos. 21-27 Bay Street, Commissioner O'Neil was satisfied with a similar height (and associated envelope) proposed in DA 14/2021. In *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2021] NSWLEC 1585, Commissioner O'Neil states the following in relation to height:

29. *The grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature, and environmental planning grounds is a phrase of wide generality (Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]) as they refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects of the Act (Initial Action at [23]). The environmental planning grounds relied upon must be sufficient to justify contravening the development standard and the focus is on the aspect of the development that contravenes the development standard, not the development as a whole (Initial Action at [24]). Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (Initial Action at [24]).*

30. *I am satisfied, pursuant to cl 4.6(4)(a)(i), that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3). The applicant's written request defends the exceedance of the development standard as a justified response to the existing and approved built context of the site. I am satisfied that justifying the aspect of the development that contravenes the development standard in this way can be properly described as an environmental planning ground within the meaning identified by his Honour in Initial Action at [23].*

Accordingly, a height non-compliance that is similar to the current proposal was previously found to be acceptable on the subject site. The existing approvals on the subject site and approvals nearby inform the context and desired future character of this precinct of Double Bay, and confirm the approved breaches in height and scale are characteristic of the neighbourhood area of Bay Street South. They are also relevant in the sense of being an 'environmental planning ground' which is particular to the site and its own context. They are therefore undoubtedly relevant factors to be considered in the context of a clause 4.6 request.

We note the western side of Bay Street South is characterised by five storey existing or approved developments. The eastern side has a mix of 2-3 storey terraces and commercial buildings, with a larger five storey development approved at Nos. 21-27 Bay Street. With the exception of the additional allotment, the proposal provides a similar height, bulk, scale, and overall external envelope to the approved development for the site and nearby approvals, which in granting approval, the Court deemed is contextually compatible in the locality. Therefore, the proposal provides a building of a height and scale consistent with these existing and approved developments along Bay Street, and can be considered contextually compatible with the locality.

Proposed Use

The proposal responds to a recognised demand for commercial floor space within the Woollahra Local Government Area (LGA) generally and the Double Bay Centre specifically. The proposed retail and restaurant floorplates have been purpose designed for high-profile tenant, RH, who have committed to a long-term lease of the premises. 'The Gallery at Double Bay', as RH's flagship store, has been designed to create a significant landmark for the city's eastern suburbs retail and dining culture, with a design and building scale that responds to the evolving commercial character of the Double Bay Centre and the Bay Street South neighbourhood area in particular.

The proposal has been designed and tailored to the RH tenancy. RH are a United States based luxury furniture and stylist company, that will occupy the four levels of 'gallery' retail space and the upper level fine dining restaurant. The retail levels have large floorplates and increased floor to floor heights which contribute to the overall height, however are required to accommodate gallery spaces that artistically integrate luxury home furnishings and interior design services to customers. The proposed restaurant on the upper floor also has an increased floor to floor height, however will provide a high end hospitality experience for customers and the public, and is an integral part of the mixed retail and restaurant experience that RH are synonymous with. The store has included a number of terraces to simultaneously minimise perceived height, bulk and scale, and cater to their outdoor furniture range. Any further reduction to the proposed height would jeopardise the viability of the operation of RH on the site.

As discussed, the additional area above the height standard is a direct consequence of providing an exclusively commercial use, rather than a predominantly residential use. The commercial use of the proposal has different needs to residential floors. In particular, the floor to floor heights proposed provide a balance between the DCP controls for retail and commercial tenancies, whilst remaining largely within the previously approved DA envelope and height. An increased floor to floor height in total compliance with the DCP requirements for retail uses at each level would result in a further departure from the LEP height standard, which is well-beyond that approved in the previous DA for the site, with potential amenity

impacts to neighbours and streetscape implications.

The RH tenancy will provide an important contribution to the future vibrancy and identity of the Double Bay precinct, and has the possibility to attract other high-end retailers to the Double Bay Centre. This will stimulate economic benefits in the area. In any event, the exclusively commercial use will provide additional local employment and contribute to the daytime activation and vibrancy of Double Bay.

Enforcing strict compliance with the LEP height of buildings standard, even with a reduced floor to ceiling height, would necessitate the removal of an entire level which provides a restaurant use that is integral to the operation of the RH use. RH will not tenant the space at a reduced height, as the future Gallery at Double Bay has been designed and modelled off their business operations and stores internationally, at an already compressed scale. The additional height is integral to RH coming to Double Bay. Enforcing strict compliance would therefore be an inefficient use of the site and would not facilitate the orderly and economic development for a commercial use in accordance with Object (c) of the EPA Act.

Other Relevant Considerations

Urban Design Benefits

The proposal provides a high level of urban design which minimises potential impacts from the non-compliance. The facades will be articulated, and the massing setback at the uppermost level when viewed from Bay Street, and the two uppermost levels when viewed from Gum Tree Lane. The upper level glazed materiality will also reduce its visual impact, which is a factor relevant to consideration of a height non compliance. Soft landscaping to the commercial terraces, and a mix of materials and fenestration will break up the built form and reduce the perceived height and scale, whilst reflecting the existing subdivision pattern along Bay Street (see **Figure 11** on the following page).



Bay Street



Gum Tree Lane

Source: MHN Design Union

Figure 11: Photomontages of Proposal

In our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request and having regard to the site and locality. In our opinion, the proposal is consistent with the objectives of the Height of Buildings Development Standard, as already demonstrated; and the E1 Local Centre Zone, as discussed below:

Objective: *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Response: The retail and restaurant tenancies will contribute to the range of service and business uses in the area. The restaurant use proposed on the upper level above the LEP height standard further contributes to the range of retail, business and entertainment uses to serve the needs of the people who live in, work in and visit the local area.

Objective: *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Response: Employment opportunities are enhanced through the proposed commercial building that has been specifically designed for RH. The inclusion of the upper-level restaurant space above the height standard provides further opportunities for employment and economic growth.

Objective: *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.*

Response: The proposed height facilitates high quality retail and restaurant uses on site which cater to residents of the area and creates a vibrant and active local centre

Objective: *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Response: The Ground Floor level of the retail tenancy will address both street frontages and contribute to activated ground floors in the area. Providing additional retail and restaurant floorspace will increase the potential for economic multipliers. This could support existing surrounding businesses and provide a further economic benefit.

Objective: *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

Response: As development immediately adjoining the site is currently made up of predominantly commercial or retail uses, the proposal is unlikely to affect the amenity of nearby residential uses. The proposed building height has been skilfully designed to remain compatible with existing and approved developments in the immediate context whilst ensuring residential amenity of surrounding properties is maintained.

Objective: To ensure development is of a height and scale that achieves the desired future character of the local centre.

Response: The proposal will be largely consistent in height and scale with the DA approval for the subject site, and other approved developments on Bay Street. The proposed stepped-in and glazed design of the upper level will ensure that the area above the height standard will not be obtrusive to the streetscape.

Objective: To encourage development that is compatible with the local centre's position in the centres hierarchy.

Response: The proposed development is compatible with the Double Bay Local Centre and reflects the emerging existing and approved developments in the area. The proposal will reinforce the Centre's hierarchy within the Woollahra municipality and as a local centre within the Eastern City District Plan.

Objective: To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.

Response: The Ground Floor retail spaces will address Bay Street to create a vibrant and activated centre. Large windows with strong vertical elements, and ample floor to ceiling heights, create attractive entries at the human scale.

Objective: To maximise public transport patronage and encourage walking and cycling.

Response: The subject site is highly accessible by public and active transport networks. There are a range of public transport options in close proximity including bus, train and ferry services. The high level of pedestrian amenity in Double Bay encourages walking and cycling to access the proposed restaurant and retail uses.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. While the proposal exceeds the development standard by over 10%, the Planning Circular provides for the Court to assume concurrence.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The height non-compliance will enhance the amenity and functionality of the proposed commercial building without significantly, unreasonably or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that the non-compliant portion will be recessed, to minimise perceived bulk and scale when viewed from the streetscape.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 2** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the development objectives of the E1 Local Centre Zone pursuant to the LEP. The height will remain substantially the same as a previous development on the majority of the site which was considered acceptable, and which has been commenced. There are no newer or greater impacts of the subject DA that would now lead to a different conclusion.

On the basis of all of the above, the request to vary Clause 4.3 should be upheld.

Table 2: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	14.7m	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed height is consistent with the context of the neighbourhood and visual catchment; The proposed use for the RH tenancy requires larger floor to floor heights to accommodate the retail and restaurant uses, and will bring significant benefits to the Double Bay Centre; and Other considerations including the improved urban design outcome which justify the proposed height. 	YES
26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development is consistent with the objectives of the height standard as addressed under Test 1 of <i>Wehbe</i> . The proposal is also consistent with the objectives of the E1 Local Centre Zone.	YES
28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have	YES

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	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.		been satisfied as outlined above, the Council can grant development consent.	
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WOOLLAHRA LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)

Construction of a Five-Storey Commercial Development
(Retail and Restaurant) with Basement Parking and
Signage for the use of RH at

Nos. 19-27 Bay Street, Double Bay

Prepared for:

21 Bay Pty Ltd
30-36 Bay Street
Double Bay NSW 2028

Prepared by:

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

APPLICANT'S NAME: 21 Bay Pty Ltd

SITE ADDRESS: Nos. 19-27 Bay Street, Double Bay

PROPOSAL: Construction of a Five-Storey Commercial Development (Retail and Restaurant) with Basement Parking and Signage for use as the Asia-Pacific flagship RH store.

1. (i) Name of the applicable planning instrument which specifies the development standard:

Woollahra Local Environmental Plan (LEP) 2014

(ii) The land is zoned:

E1 Local Centre. The objectives of which are as stated:

- 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.

(iii) The number of the relevant clause therein:

Clause 4.4 – Floor Space Ratio for which the relevant objective is stated:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

(a) for development in Zone R3 Medium Density Residential:

- (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and
- (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and
- (iii) to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space,

(b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), the floor space ratio for a building on land shown on the Floor Space Ratio Map does not apply to a building that is a dwelling-house, dual occupancy or semi-detached dwelling.

2. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent and relevant case law.

In that regard, and at the outset, it is important to note that clause 4.6 of the LEP **“is as much a part of [the LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome.”** (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

In our opinion, the variation in this instance is consistent with the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds.

3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4 of the LEP – Floor Space Ratio. This Clause operates in conjunction with the FSR Map which indicates a maximum FSR of 2.5:1 applies to the subject site. Clause 4.4 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

This proposal for a five-storey commercial building comprising retail and restaurant uses above basement parking at Nos. 19-27 Bay Street retains a similar design approach as approved at Nos. 21-27 Bay Street (DA14/2021) in terms of bulk and scale, on a larger consolidated lot through inclusion of an additional allotment at No. 19 Bay Street (see **Figure 1** on the following page). This results in a slightly larger floorplate and associated GFA and allows the opportunity to provide additional commercial floorspace within an efficient design, that is consistent with the desired future character. We note the previous DA was approved with an FSR of 3.25:1 on the No. 21-27 Bay Street portion of the site, and the proposed FSR of 2.73:1 for this new DA is proportionately less than the previous approval.

The proposed retail and restaurant spaces have been designed to cater to a sole tenant, RH, who have committed to a long-term lease of the proposed building. RH are a high calibre international brand that offer luxury home furnishings and interior design services in a retail setting, with unique design gallery spaces and an integrated hospitality experience. This proposal will accommodate RH's Asia-Pacific flagship store, and is considered to be an important use for the Double Bay Centre.



Figure 1: Elevation West (Bay Street) as Approved (Nos. 21-27 Bay Street) and Proposed (Showing Additional Lot at No. 19 Bay Street)

The proposal has a total Gross Floor Area (GFA) of 2,799m² which results in a FSR of 2.73:1, which is 9% above the development standard (see **Figure 2** on the following page). Of this GFA, 32m² of the Basement B3 and B4 levels will contribute to GFA as this space is to be used for accessible end of trip facilities, however, does not contribute to the perceived bulk.



Source: MHNDU

Figure 2: Proposed GFA Plans

As indicated, the approved Development Application (DA14/2021) for a commercial development at Nos. 21-27 Bay Street had an FSR of 3.25:1. We note on-site works to this approved Development Application are underway on-site, making it a relevant consideration to this new DA. The current proposal has a reduced density across the subject site, which includes an additional allotment, compared to the approval at Nos. 21-27 Bay Street.

4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

Objective (a)	to provide an appropriate degree of flexibility in applying certain development standards to particular development,
Objective (b)	to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Flexibility is sought in the application of the FSR development standard to the proposed development in the circumstance of this particular case, as the built form's external envelope is similar to what was previously approved on the site, with the addition of one lot at No. 19 Bay Street, as well as nearby developments in the neighbourhood area and visual catchment. Development in the Double Bay Centre and immediate context comprises an evolving mix of development, with a variety of commercial and residential uses. A number of approved and recently constructed buildings in the surrounding area, particularly in the neighbourhood and visual catchment, have exceeded Council's development standards.

Flexibility in this circumstance will achieve a better outcome both for and from the development. The five storey built form will accommodate the floorspace to achieve the retail gallery and restaurant space required for the RH tenancy, which will be an important use in the Double Bay Centre. The proposal will present an attractive façade to the primary frontage to Bay Street, as well as the rear at Gum Tree Lane. The upper level is setback to minimise visibility when viewed from the footpath directly opposite the site along Bay Street, and the two upper levels to Guntree Lane are recessed to minimise perceived bulk and scale. The additional GFA will facilitate additional commercial floorspace on the site, which is a highly desired use within the E1 Local Centre zone. The proposal provides the same number of storeys as was previously approved, a reduced FSR, and a near-identical parapet height.

Reducing the FSR would unreasonably restrict the development of the site, without any noticeable benefits to surrounding properties. The proposal provides retail or restaurant floorspace at each level – uses which are in high demand within the Double Bay Centre. The long-term lease of the building committed to by RH will offer economic growth, new employment opportunities, and high quality products and services to residents and visitors of the local centre.

Accordingly, the proposal provides an improved planning outcome both for and from the development.

5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in these circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

5.1 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. Test 1 will be considered below.

Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Despite the proposed development's non-compliance with the applicable FSR development standards, the proposal is consistent with the desired commercial character of the area. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls. As the subject site is zone E1 Local Centre, the only relevant development standard objective is (b) which is stated as follows:

- (b) **for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.**

The site is within the immediate vicinity of a number of recently approved five to six storey developments with FSRs in excess of the LEP standard, some of which are under construction. Those developments form part of the desired future character of the area in terms of bulk and scale. The proposal maintains the surrounding area's amenity with a development of a height, bulk, scale and type compatible with the desired future character. Importantly, the previous development application on the subject site which is within the Bay Street South neighbourhood area was approved with an FSR of 3.25:1, and similarly catered towards solely commercial uses.

The proposal's FSR is consistent with the built form in the Double Bay Centre area. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], which also related to a development in the Double Bay Centre, Preston CJ states, inter alia:

...the desired future character of the neighbourhood or area can be shaped not only by the provisions of WLEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard.

Similarly, in *Big Property Group Pty Ltd v Randwick City Council* [2021] NSWLEC 1161 Commissioner O'Neill held that development standards for building envelopes are frequently generic standards which do not account for existing and approved development, site amalgamations, SEPP allowances, heritage issues or the nuances of an individual site. The Commissioner expressly referenced SJD, and went on to hold that:

"The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realisation of that masterplan will achieve the desired urban character. Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map. As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPLs that incentivise particular development with GFA bonuses or other mechanisms that intensify development. All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality" [at44]

More recently, in 2021, in the matter of *HPG Mosman Projects Pty Ltd v Mosman Municipal Council* [2021] NSWLEC 1243 Commissioner O'Neill held at [57]:

"The desired future character of the locality can be evaluated by reference to matters other than the development standards that determine the building envelope for the site, including the existing development that forms the built context of the site (Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [54]). The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (SJD DB2 at [62]-[63]). Development standards that determine building envelopes can only contribute to shaping the character of the locality (SJD DB2 at [53]-[54] and [59]-[60])."

Accordingly, the desired future character is shaped by the LEP but also by other recent approvals in the vicinity, as well as historic pre-existing buildings. We observe that there are a number of **recently approved** FSR exceedances in the neighbourhood and within the visual catchment of the subject site, as detailed in **Table 1**:

Table 1: Approved FSR Breaches in the Neighbourhood and Within Visual Catchment					
DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
14/2021	21-27 Bay Street	N/A	2.5:1	3.25:1	30%
138/2012	18-22 Bay Street	10m	2.5:1	3.15:1	26.2%
69/2021	294-298 New South Head Road and 2-10 Bay Street	30m	2.5:1 + 3:1	2.66:1 + 3.13:1	6.49% + 4.2%
68/2021	24 Bay Street	40m	3:1	3.35:1	11.7%

When defining the meaning of the 'desired future character of the neighbourhood' (or the interchangeable term 'area' per this objective), we note that one way the 'neighbourhood' can be defined is through the precinct or area a site is located within, as per Chapter D.5 of the DCP. This is in accordance with the judgement for the previous DA at Nos. 19-27 Bay Street (the subject site), *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2023] NSWLEC 1005, where Commissioner Gray states, inter alia:

The WDCP sets a clearly defined desired future character for the Bay Street south area, which is one way to understand "the desired future character of the neighbourhood"

Accordingly, we refer specifically to the approvals in the Bay Street South precinct which can be defined as being within the 'neighbourhood' of the subject site and within the visual catchment (see **Figure 3** on the following page). Whilst some approvals complied with the relevant FSR standard due to being shop-top housing developments rather than purely commercial buildings, they still have a comparable height, bulk and scale to the proposal (for example, the five storey shop-top housing development approved at No. 14 Bay Street).

We also note that DA 14/2021 at Nos. 21-27 Bay Street (commercial building) **on the subject site** was approved with a variation of 30% from the FSR standard, and works on site have commenced for this DA. Opposite the subject site to the north-east, DA 68/2021 at No. 24 Bay Street (commercial building) was approved with a variation of 11.7% from the FSR standard. Both of these comparable developments within the neighbourhood area represent a greater variation from the FSR standard compared to the proposed FSR for this new DA.

These approvals inform the desired future character of the neighbourhood/area, and are relevant to the proposal on the subject site (see **Figure 3** on the following page, demonstrating approvals in the Double Bay Centre, neighbourhood area and visual catchment of the subject site).



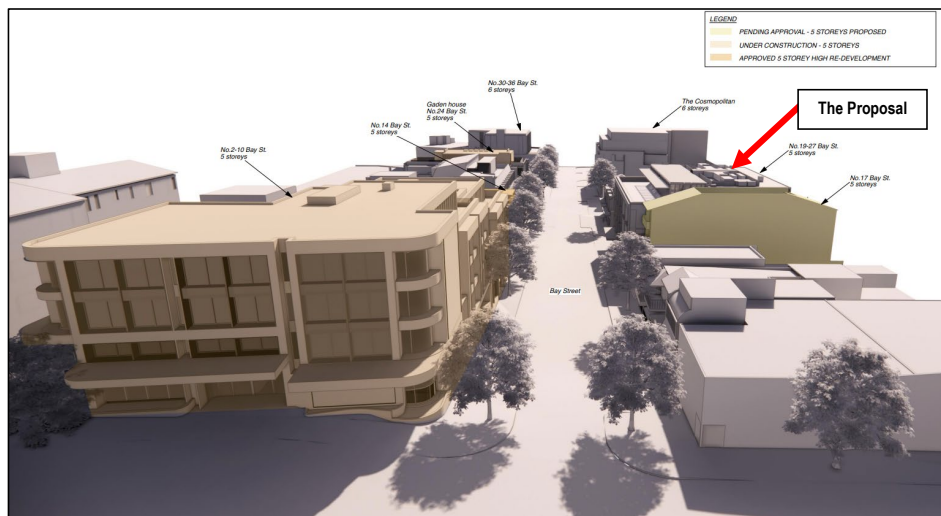
Source: AE Design Partnership

Figure 3: Approvals in the Neighbourhood and Visual Catchment Area

- Approvals in the visual catchment
- Approvals in Double Bay Centre over the Height and/or FSR

The proposed FSR will facilitate an overall building envelope and massing not dissimilar to that previously approved on the No. 21-27 Bay Street portion of subject site, with the additional GFA associated with the inclusion of an additional lot at No. 19 Bay Street. The upper levels are setback from the eastern and western boundaries similar to the approved, with allows the proposed massing to present a four storey street wall to Bay Street, and three storey street wall to Gum Tree Lane. Balconies located on Level 3 on Bay Street and Level 2 on Gum Tree Lane, provide further articulation to the fourth and third levels respectively, and further minimise the perceived bulk of the development.

The proposed bulk and scale are consistent with a number of other existing and approved developments within the same DCP neighbourhood area and visual catchment as the subject site, which has an evolving four to five storey massing (see **Figure 4** on the following page). The stepped back upper levels and articulation will result in the upper level being less visible from the sidewalk directly opposite on Bay Street. Accordingly, the proposal is consistent with any number of developments in the direct vicinity, including Nos. 2-10 Bay Street to the east.



Source: MHN Design Union

Figure 4: Existing, Proposed and Approved Developments within the Neighbourhood Area and Visual Catchment of the Subject Site (Bay Street)

Wholly commercial buildings are not anticipated in the DCP envelope and articulation controls. The proposed built form provides greater consistency in terms of articulation and envelope with that of commercial developments in the neighbourhood area and visual catchment, with these approvals informing the desired future character of the area in terms of bulk and scale, and commercial façade style (see **Figure 5 and 6** on the following page). The stepped back upper levels and façade style which incorporates subtly articulated elements at the lower levels, inset covered terraces and open terraces, strong vertical elements representing the original subdivision pattern, and soft landscaping at the upper levels is sympathetic to the nearby approved and constructed commercial buildings.



Source: Fortis Development Group

Figure 5: Approved Five-Storey Commercial Building – No. 24 Bay Street (within neighbourhood area and visual catchment, with a non-compliant FSR of 3.35:1)



Source: Lawton Hurley

Figure 6: Approved Five-Storey Commercial Building – Nos. 2-10 Bay Street + Nos. 294-298 New South Head Road (within neighbourhood area and visual catchment, with a non-compliant FSR of 2.66:1 + 3.13:1)

As previously noted, in addition to the upper level of the proposal being setback from the street boundaries, a number of design features including terraces and setback elements to the building façade openings, and the use of light-coloured brick and glass balustrades to the facades will minimise the perceived scale of the development. In addition to these design features, the fourth-floor levels use of transparent glazing further reduces the perceived bulk and scale of elements located above the development standard.

As the building's bulk and scale is consistent in the context with approved and existing development, the proposal is considered to be consistent with the desired future character of the area.

Accordingly, although the proposal will exceed the FSR standard applicable to the site, it will remain consistent with the relevant objectives of the development standard. It would therefore be unreasonable and unnecessary to comply, "in the circumstances of the case" (cl.4.6(3)(a)).

It is further submitted that the previously approved and activated DA for this site (namely DA14/2021) is a relevant "circumstance of the case".

5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard

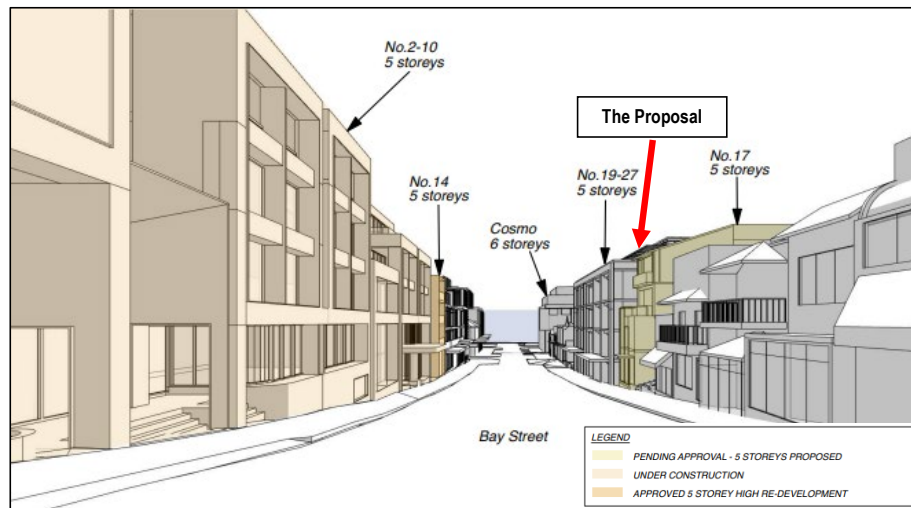
There are a number of environmental planning grounds that justify the additional FSR in this particular circumstance. In addition to compliance with the objectives of the zone and development standard; environmental planning grounds include the consistency in the context, the proposed use, and other considerations including urban design benefits of the proposal. These will now be addressed.

Consistency with Context (Desired Future Character)

The proposal will present as a predominantly four-storey development, with a stepped back fifth level, which is consistent with the context. The predominantly four storey presentation to Bay Street is also consistent with the intent of the four storey DCP control (per Control Drawing 5) applicable to the subject site. A number of recently approved and constructed developments in the visual catchment also exceed the FSR development standard as demonstrated in **Table 1**. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).

In our opinion, despite the 9% FSR exceedance, the building will present a similar bulk and scale to the surrounding existing and approved development within the neighbourhood and visual catchment (see **Figure 7**).



Source: Marchenko Novak Studio

Figure 7: Existing, Proposed and Approved Development within the Neighbourhood Area and Visual Catchment of the Subject Site - Bay Street Perspective

The previous approval on the subject site and various nearby commercial approvals are defined as being within the neighbourhood of the subject site (in the Bay Street South precinct, as defined in Chapter 5.4.4 of the DCP), and therefore inform the scale, context and desired future character of the area. These approvals are as follows (and demonstrated in **Figure 3** of this report):

- DA 33/2018 – Nos. 21-27 Bay Street (subject site) (shop-top housing)
- DA 14/2020 – Nos. 21-27 Bay Street (subject site) (commercial)
- DA 69/2021 – Nos. 294-298 New South Head Road & 2-10 Bay Street
- DA 449/2020 – No. 14 Bay Street
- DA 68/2021 – No. 24 Bay Street

Although not all of these approvals resulted in an FSR non-compliance, their height, bulk and scale are consistent with that of the proposed development on the subject site. Accordingly, the existing approval on the subject site and approvals nearby inform the context and desired future character of this precinct of Double Bay, with the western side of Bay Street South characterised by five storey existing or approved developments.

The eastern side has a mix of 2-3 storey terraces and commercial buildings, with an approved five storey development approved at Nos. 21-27 Bay Street. Approved commercial developments on the opposite side of Bay Street have a clear character of maximum four storey street walls (see **Figures 5 and 6** of this report), which the proposal is consistent with.

On the subject site itself, at Nos. 21-27 Bay Street, Commissioner O'Neil was previously satisfied with a greater FSR approved under DA 14/2021. In *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2021] NSWLEC 1585, Commissioner O'Neil states, inter alia:

37. I am satisfied, pursuant to cl 4.6(4)(a)(i), that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3). The applicant's written request defends the exceedance of the FSR development standard as a justified response to the existing and approved built context of the site. I am satisfied that justifying the aspect of the development that contravenes the development standard in this way can be properly described as an environmental planning ground within the meaning identified by his Honour in Initial Action at [23].

With the exception of the additional allotment, the proposal provides a similar height, bulk, scale, and overall external envelope to the approved development for the site, which in granting approval, the Court deemed that it is contextually compatible in the locality. This approval informs the context and desired future character of the neighbourhood, and is a relevant consideration given that works for the approved DA have commenced on the site.

As the proposal has a proportionately lower FSR (2.73:1) compared to the previous approval (3.25:1) with one additional lot at No. 19 Bay Street; provides a four storey street wall to Bay Street and three storey street wall to Gum Tree Lane with a mix of setbacks and areas of articulation to both facades; and utilises a terrace at the upper level to recess the built form and minimise the scale in the streetscape, the FSR can be considered contextually compatible with the locality.

Proposed Use

The proposal responds to a recognised demand for commercial floor space within the Woollahra Local Government Area (LGA) generally and the Double Bay Centre specifically. The proposed retail and restaurant floorplates have attracted a high-profile tenant, RH, who have committed to a long-term lease of the premises. As part of an international expansion, 'The Gallery at Double Bay', as RH's flagship Asia Pacific store, has been designed to create a significant landmark for the city's eastern suburbs retail and dining culture, with a design and building scale that responds to the evolving commercial character of the Double Bay Centre and the Bay Street South neighbourhood area in particular.

The proposal has been designed and tailored to the RH tenancy. RH are a United States based luxury furniture and stylist company, that will occupy the four levels of 'gallery' retail space and the upper level fine dining restaurant. The retail levels have large floorplates to accommodate gallery spaces that artistically integrate luxury home furnishings and interior design services to customers. The proposed restaurant on the upper floor will provide a high end hospitality experience for customers and the public, and is an integral part of the mixed retail and restaurant experience that RH are synonymous with. The store has included a number of terraces to simultaneously minimise bulk and scale, and cater to their

outdoor furniture range. Any further reduction to floorspace would jeopardise the viability of the operation of RH on the site.

The RH tenancy will provide an important contribution to the future vibrancy and identity of the Double Bay precinct, and has the possibility to attract other high-end retailers to the Double Bay Centre. This will stimulate economic benefits in the area. In any event, the exclusively commercial use will provide additional local employment and contribute to the daytime activation and vibrancy of Double Bay.

As previously discussed, the additional floorspace above the FSR standard is a direct consequence of providing an exclusively commercial use, rather than a predominantly residential use. In addition to wider floorplates, the commercial uses include the provision of end of trip facilities at the basement levels, which contributes to GFA however is not readily visible in the street, and encourages active transport patronage in accordance with the objectives of the E1 Local Centre zone. The additional commercial floorplate will support economic activity in the Double Bay Centre.

Enforcing strict compliance would require removal of approximately 231m² of commercial GFA. This will result in the site not being fit for purpose for the long-term Residential Hardware use, with a lost opportunity to incorporate the upper-level restaurant which, through a quality glazed design, is not obtrusive in the streetscape. This would be an inefficient use of the site and would not facilitate the orderly and economic development for a commercial use in accordance with Object (c) of the EPA Act.

Other Relevant Considerations

Urban Design Benefits

The proposal provides a high level of urban design which minimises potential impacts from the non-compliance. The facades will be articulated, and the massing setback at the uppermost level when viewed from Bay Street, and the two uppermost levels when viewed from Gum Tree Lane. Soft landscaping to the commercial terraces, and a mix of light materials and fenestration will break up the built form and reduce the perceived scale, whilst reflecting the original subdivision pattern along Bay Street (see **Figure 8** on the following page).



Bay Street



Gum Tree Lane

Source: MHN Design Union

Figure 8: Photomontages of Proposal

In our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b).

6. Clause 4.6(4)(a) Requirements

Clause 4.6(4)(a) guides the consent authority's consideration of this Clause 4.6 variation request. It provides that:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The applicant submits that the consent authority can be satisfied of each of the requirements of Clause 4.6(4)(a), for all the reasons set out in this written request and having regard to the site and locality.

In our opinion, the proposal is consistent with the objectives of the FSR Development Standards, as already demonstrated; and the E1 Local Centre Zone, as discussed below:

Objective: *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Response: The retail and restaurant tenancies will contribute to the range of service and business uses in the area. This is considered preferable to the commercial development that was previously approved for Nos. 21-27 Bay Street.

Objective: *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

Response: Employment opportunities are enhanced through the proposed commercial building that has been specifically designed for RH. The large commercial floorplates therefore encourage investment in the local area and provides opportunities for economic growth.

Objective: *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.*

Response: The proposed FSR facilitates high quality retail and restaurant uses on site which cater to residents of the area and creates a vibrant and active local centre

Objective: *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

Response: The Ground Floor level of the retail tenancy will address both street frontages and contribute to activated ground floors in the area. Providing additional retail and restaurant floorspace will increase the potential for economic multipliers. This could support existing surrounding businesses and provide a further economic benefit.

Objective: *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

Response: As development immediately adjoining the site is currently made up of predominantly commercial or retail uses, the proposal is unlikely to affect the amenity of nearby residential uses. The proposed building bulk and scale has been skilfully designed to remain compatible with existing and approved developments in the area whilst ensuring residential amenity of surrounding properties is maintained.

Objective: *To ensure development is of a height and scale that achieves the desired future character of the local centre.*

Response: The proposal will be consistent in overall height, bulk and scale with the DA approval for Nos. 21-27 Bay Street portion of the subject site, and other approved developments on Bay Street and Cross Street (to the north). The proposed stepped-in design of the upper levels will ensure that these levels, and the areas of additional floorspace, will not be readily discernible from the streetscape.

Objective: *To encourage development that is compatible with the local centre's position in the centres hierarchy.*

Response: The proposed development is compatible with the Double Bay Local Centre and reflects the emerging existing and approved developments in the area. The proposal will reinforce the Centre's hierarchy within the Woollahra municipality and as a local centre within the Eastern City District Plan.

Objective: *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.*

Response: The Ground Floor level of the retail tenancy will address Bay Street to create a vibrant and activated centre. Large windows with strong vertical elements, and ample floor to ceiling heights, create attractive entries at the human scale.

Objective: *To maximise public transport patronage and encourage walking and cycling.*

Response: The subject site is highly accessible by public and active transport networks. There are a range of public transport options in close proximity including bus, train and ferry services. The high level of pedestrian amenity in Double Bay encourages walking and cycling to access the proposed restaurant and retail uses.

From this, we consider the proposal is in the public interest and should be supported.

7. Clauses 4.6(4)(b) and 4.6(5) Requirements

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

Under Clause 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under Clause 4.6, subject to the conditions in the table in the notice. Since the conditions in the table do not apply in this case, the concurrence of the Secretary can be assumed.

Nevertheless, the matters in Clause 4.6(5) should still be considered when exercising the power to grant development consent for development that contravenes a development standard (*Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at [100] and *Wehbe* at [41]). In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The FSR non-compliance will enhance the amenity and functionality of the proposed commercial development without significantly, unreasonably or unacceptably impacting neighbouring properties.

The public benefit of maintaining the development standard is not considered significant given that the non-compliance would not result in significant environmental impacts.

Accordingly, the proposal is consistent with the matters required to be taken into consideration before concurrence can be granted. The non-compliance contributes to a quality development which is consistent with the desired character of the precinct and is, in our opinion, in the public interest.

8. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 2** on the following pages).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the standard and the development objectives of the E1 Local Centre Zone pursuant to the LEP. The FSR will be improved from the previous development on the majority of the site which was considered acceptable, and which has been commenced. There are no newer or greater impacts of the subject DA that would now lead to a different conclusion.

On the basis of all of the above, the request to vary Clause 4.4 and Clause 4.4A should be upheld.

Table 2: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.4: FSR	
12	What is the control	1 & 2	2.5:1	
14	First Precondition to Enlivening the Power – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	1st Positive Opinion – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	First Aspect is Clause 4.6(3)(a) – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Test 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> The objectives of the standard are achieved notwithstanding the non-compliance with the standard. 	YES
23-24	Second Aspect is Clause 4.6(3)(b) – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under Clause 4.6(4)(a)(i) that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> The proposed FSR is consistent with the context of the neighbourhood and visual catchment; The proposed use for the RH tenancy requires larger floorplates to accommodate the retail and restaurant levels, and will bring significant benefits to the Double Bay Centre; and Other considerations including an improved urban design outcome justify the proposed FSR. 	YES
26-27	2nd Positive Opinion – That the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.	6	The proposed development is consistent with the objectives of the FSR standard as addressed under Test 1 of <i>Wehbe</i> . The proposal is also consistent with the objectives of the E1 Local Centre Zone.	YES
28-29	Second Precondition to Enlivening the Power –	7	As the relevant matters for consideration under Clause 4.6 have	YES

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	That the concurrence of the Secretary has been obtained [Clause 4.6(4)(b)]. On appeal, the Court has the power to grant development consent, subject to being satisfied of the relevant matters under Clause 4.6.		been satisfied as outlined above, the Council can grant development consent.	
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Completion Date: Version 1, 4 September 2023

REFERRAL RESPONSE URBAN DESIGN

FILE NO: **Development Application: 245/2023/1**

ADDRESS: 19 -27 Bay Street, Double Bay

PROPOSAL: Demolition of the existing commercial building at No. 19 and construction of a mixed use development comprising lower 4 levels of retail use, top floor (fifth) level of hospitality use (restaurant) and four basement car parking levels.

FROM: Stephen McMahon, Director Inspire Planning

TO: Mr W. Perdigao

Information

Architectural drawings: MHNDUnion Architecture, DA 1000 – 9409 Revision A, 20.06.2023.

Landscape Plan: Dangar Barin Smith, Issue 01 Rev D, 14 June 2023.

Statement of Environmental Effects: GSA Planning – Project No. 21470, July 2023.

Survey: SDG Pty Ltd, Project No. 8554, Issue F, 04 May 2023

Background

Council has received a development application for the demolition of the existing commercial development in No. 19 and construction of a mixed use development comprising four levels of retail use, top floor (level 5) restaurant and four basement car parking level.

At the time of the preparation of this urban design assessment the application was undergoing assessment and awaiting responses from internal and external referral agencies / departments.

Part 1: Site and Context

Views of the site and its context are presented in **Figure 1** below.

1.1 The Site and Existing Development

The site comprises two lots that have a combined site area of 1026.6 sqm. It has a double frontage of 30.44 metres to Bay Street (western boundary) and 30.53 metres to Gum Tree Lane at the rear (eastern boundary). It also has a southern side boundary of 23.63 metres and corresponding northern side boundary of 33.63 metres to establish a generally rectangular site. That said, I note the qualifications in the survey plan (SDG 4 May 2023) that the survey plan does not comprise a "a 'land survey' as defined by the Surveying and Spatial Information Act, 2002.



Figure 1: (Top) Aerial Photograph of site and neighbours (source www.SIX.nsw.gov.au). (Middle) panoramic views of site from Bay Street and (bottom) Gum Tree Lane illustrating site analysis elements discussed in this part.

The site's landform is generally flat, with a fall of 0.32 metres (approx.) from west to east from Bay Street and a rise of 0.7 metres (approx.) from north to south along the Bay Street frontage.

The majority of the site is vacant, having been previously cleared of buildings as part of the construction of a previous approval that was halted sometime in 2022.

Today that part of the site lies wrapped in construction hoarding and site fencing.

The southern part of the site (No. 19 Bay Street) accommodates a part two/three storey commercial building built to all boundaries. The building has been deemed to have no heritage significance (NBRS Demolition Report June 2023).

There is no vegetation within the site. However there are established attractive canopy street trees on the adjoining road (Bay Street). There are also a number of established conifer and other trees in properties opposite the site on Gum Tree Lane (but no gum trees), No trees within the land are in the immediate vicinity of the site.

1.2 The Locality

The site is located in a part of Double Bay originally established as a residential area developed in the 1880s. The Demolition Report suggests that the site and surrounds were progressively converted to commercial use in the 1960s as part of the significant transformation of the area to the Double Bay town centre.

Many of the adjoining properties have experienced a similar history, undergoing periodic conversion such that this part of Double Bay centre is, today, distinguished by a mix of building uses, forms and architectural styles in a prevailing two storey building form. More recently the area has experienced a second era of transformation. Most notably, properties immediately to the west of the site on the western side of Bay Street, have, or are being, redeveloped with mixed use buildings at 5 or 6 stories in height.

1.3 Adjoining Roads and Lanes

Bay Street is a local road in the Centre's hierarchy. It accommodates a wide pedestrian footpath on both sides and on-street parallel parking. An established, attractive green street tree canopy is present within the streetscape as a result of a series of trees planted in the road pavement (i.e. not the footpath) on both sides of the road. Traffic volumes are generally low and unobtrusive. However, I understand that the road can be busy at peak periods due to its intersection to New South Head Road that offers good access to that road. No public transport (i.e., bus service) uses the street.

The Double Bay Wharf is located 450 metres from the site at the northern end of the street and provides ferry access to the Sydney CBD and other ferry stops. It is currently closed for reconstruction.

Gum Tree Lane, on the other hand, has a rear lane function. It has a narrow width of 6.0 metres (approximately) typical of similar rear lane environments in centres. There is no on-street parking. Traffic volumes are low and anecdotal evidence from site inspections suggests that the primary function of the road is to provide access for informal loading, onsite car park, servicing and waste collection. That said, some commercial activities address the lane including low scale boutique retail shops and commercial offices. There is some informal pedestrian movement that uses the road pavement.

1.4 Adjoining Development

To the west:

To the west of the site, on the opposite side of Bay Street, there are a mix of development and activities comprising:

- At the southern end of the street is the construction site of No. 2-10 Bay Street & 295 – 298 New South Head Road. It is a large 5 storey mixed use (retail, commercial and upper level residential development (DA 69/2021) that steps down Bay Street from New South Head Road. This was approved by the NSW Land and Environment Court on 17 November 2021 following a Council decision to refuse the development application;
- 12 and 14 Bay Street comprise two adjoining terraces. No 14 is approved for a narrow 5 storey building (DA 449/2020). It was approved by the NSW Land and Environment Court on 17 November 2021 following a Woollahra Local Planning Panel decision to refuse the development application;
- 18 – 22 Bay Street comprises a mixed use four storey mixed use building. A small fifth storey comprises a small roof top room accommodating lift and building plant and access to a roof top terrace; and
- At the immediate northern part of the street opposite the site, on the corner of Cooper Street is the construction site of No. 2A Cooper Street. It is a large 5 storey commercial development (DA 68/2021). This was approved by the NSW Land and Environment Court on 03 February 2022 following a Council decision to refuse the development application.

Further north along Bay Street is a mix of original 2 to 4 storey commercial and mixed use developments and more recent 5 to 6 storey buildings.

To the east:

To the north east of the site, on the east side of the Gum Tree Lane, existing development comprises two adjoining single and two storey commercial and retail buildings on one triangular shaped lot (No. 2 Short Street). All building facades are built to the boundaries of Gum Tree and Goldman Lanes and within the southern tip of the triangle are a number of mature and semi mature conifer and other trees.

To the south east of the site are the rear areas of a series of narrow two storey terrace shops addressing New South Road. Most of these areas accommodate rear car parking. However a small number incorporate the frontage of retail and commercial office activities addressing the lane.

To the South:

On the south side of the site on Bay Street the built form is dominated by a series of two storey retail and commercial buildings on narrow lots that extend south to New South Head Road. The two storey building wall is interrupted by one single storey shop. Buildings exhibit an eclectic mix of architectural styles and building forms. Many of the buildings are identified as 'character buildings' in the WDCP. This is discussed in Part 3.2 below.

The property immediately adjoining the site, No. 17 Bay Street, was granted consent (deferred commencement) in July 2023 for alterations and additions that increase the height of the development to four storeys to provide for a shop top housing use. That approval included support for a variation of 2.65 metres (as defined excluding basement) to accommodate a minor elevated ceiling and roof in the level 4 residential use.

The style and built form of that building presents a distinct 'top' and 'bottom' to Bay Street by the user of prominent lighter coloured materials in the lower two levels and recessive darker coloured materials in the upper two levels (that are also setback from the street).

To the North:

On the north side of the site on Bay Street the built form is, in many respects, very similar to the south. It is also dominated by a series of original two storey retail and commercial predominantly terrace type buildings on narrow lots that extend north to Short Street. The two storey building wall is interrupted by one single storey shop in an original cottage, that is setback from the street by a formal landscape garden. Unlike the south of the street, buildings generally exhibit a common historic terrace shop row type character. Many of the buildings are also identified as 'character buildings' in the WDCP.

Part 2: Proposal

The proposed development comprises the demolition of the existing building at No. 19 and construction across the combined site of a five-storey retail / hospitality building and four level basement car park with 59 spaces, storage, bins and bicycle storage. Of relevance to this review:

- The proposed building envelope extends to all boundaries with the exception of a 2.0 metre rear setback at all levels to Gum Tree Lane;
- A four-storey building wall is proposed to Bay Street with level five stepped back 7.030 metres via a trafficable outdoor terrace. Level four includes a large recessed enclosed outdoor terrace / balcony that adds a void space in the wall;
- A three-storey building wall is proposed to Gum Tree Lane with levels four and five set back 7.025 metres via a trafficable outdoor terrace on level four. Level three includes a large enclosed recessed outdoor terrace / balcony that adds a void space in the wall;
- An electrical substation, together with a rear shop entry and a double width driveway to the basement car park, are proposed at the rear of the building on the ground floor addressing the Lane;
- A "retail gallery" use is proposed within the ground floor retail and levels 2 and 3 and 4; while a large restaurant comprising 176 seats consumes all of the top floor. The Statement of Environmental Effects (GSA July 2023) describes the retail use comprising one tenancy (a large homeware and furniture store);
- Where the retail tenancy addresses the Gum Tree Lane the floor level is 600 mm above ground level. The difference in level is addressed by steps and a platform lift. At Bay Street the ground floor retail level is at grade at the building entrance at the centre of the building. The ground floor level is approximately 550 mm above ground level at the north and approximately 700 mm sunken below ground level at the southern end;
- The proposed floor to floor heights are 3.25 metres, with the exception of the ground floor, which is 3.49 metres and where the plans suggest a floor to ceiling height of 3.24 metres. No floor to ceiling heights are nominated for the upper levels;
- An awning for pedestrian weather protection projects from the bottom of the first floor window on Bay Street and extends partly along the frontage (it is absent above the building entry);
- The proposed building has a maximum height of 18.13 metres (as identified in the Statement of Environmental effects). The height limit in WLEP 2014 is 14.7 metres and a variation to the building height control is sought to accommodate the additional level of development (3.43 metres, being a 23.3% variation to the 14.7 m standard). However I note that the Clause 4.6 request to vary the height limit introduces conjecture as to the definition of existing ground level and suggests that the building height may also be 17.74 metres;

- The envelope also seeks a corresponding variation to the FSR control from the WLEP 2014 standard of 2.5:1. The gross floor area limit is 2,566.5 sqm. The proposed envelope's gross floor area nominated in the application is 2,799 sqm; (being an FSR control of FSR 2.73:1. This represents a 9.2% variation);
- The dominant visual element of the proposed architectural design comprises sand coloured brickwork to the northern and southern elevations of levels 1 to 4; while the top floor adopts a different approach to colours and materials using a taupe/champagne coloured steel cladding. Thus the building presents as a distinctive 'bottom' and recessed 'top'. The northern and southern elevations to the side boundaries adopt a simple uniform light grey coloured render;
- The design of the building wall façade to both frontages comprises a four storey wall to Bay Street and a similar three storey wall to the Lane with no articulation. Recessed balcony terraces are included at Level 4 (Bay Street) an Level 3 (Gum Tree Lane); and
- Landscaping is minimal given the build form and façade character described above. Small planter boxes are proposed at the terrace and balcony edges of the level five (Bay Street) and level four (Gum Tree Lane) terraces.

Part 3: Controls and Compliance

- Woollahra Local Environment Plan 2014 (Woollahra LEP 2014)
- Woollahra Development Control Plan 2015 (Woollahra DCP 2015)

The following is an assessment of the proposal against the relevant controls above.

3.1 Woollahra Local Environment Plan 2014 (WLEP 2014)

The proposed development is assessed against the relevant provisions of WLEP 2014 in the table below.

Clause	Objective / Control	Assessment	Complies
Zoning	E1 Local Centre <i>Objectives</i> <ul style="list-style-type: none"> • 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. 	The proposal achieves the following objectives: <ul style="list-style-type: none"> • It provides floor space suitable for a range of retail and hospitality uses that serve the needs of people who live in, work in and visit the area. However the low floor to floor heights may reduce its flexibility for alternative uses. • It will encourage employment opportunities and economic growth. • It has the potential to attract new business and commercial opportunities. • It will provide an ground floor use that may contribute to vibrant and functional streets and public spaces. • It will be a development that is compatible with the local centre's position in the centres hierarchy. 	No.

Clause	Objective / Control	Assessment	Complies
	<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> It will maximise public transport patronage and encourage walking and cycling. <p>The proposed development is not consistent with the balance of the relevant objectives as follows:</p> <ul style="list-style-type: none"> In my opinion the proposed development is of a height and scale that will not achieve the desired future character of the centre. <p>I will elaborate on this opinion in further discussion below and summarised at the end of the report.</p>	
Height of Buildings	<p>Maximum height limit is 14.7 metres.</p> <p>Objectives:</p> <ul style="list-style-type: none"> (a) to establish building heights that are consistent with the desired future character of the neighbourhood, (b) to establish a transition in scale between zones to protect local amenity, (c) to minimise the loss of solar access to existing buildings and open space, (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion, (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas 	<p>I have reviewed the justification to vary the height standard. I do not support the variation as the proposed height is not consistent with the following relevant objectives:</p> <ul style="list-style-type: none"> (a) to establish building heights that are consistent with the desired future character of the neighbourhood, (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion, <p>I will elaborate on this opinion in further discussion below and summarised at the end of the report.</p>	
Floor Space Ratio	<p>Maximum FSR is 2.5:1</p> <p>Objectives:</p> <p>for buildings in ..., Zone E1 Local Centre, ...—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.</p>	<p>I have reviewed the justification to vary the FSR standard. I do not support the variation as the proposed resulting floor space would not be consistent with the objective.</p> <p>I will elaborate on this opinion in further discussion below and summarised at the end of the report.</p>	No
Heritage		The property is not heritage listed, is not identified as a contributory item and is not within the vicinity of a heritage item.	Yes
Tree Canopy Cover in Zones	Clause 6.9 requires development in R2 and R3 zones to plant trees, and retain and minimise; disturbance and adverse impacts on existing	The site is not located in any applicable zone.	N/A

Clause	Objective / Control	Assessment	Complies
R2 and R3	<i>canopy trees which are to be retained. (The Clause does not apply to certain HCAs)</i>	Notwithstanding this, a distinctive and dominant street tree canopy exists within Bay Street which needs to be protected.	

The proposal includes two requests for variations to the height and floor space standards in WLEP 2014. I will discuss each of these below.

3.3.1 Height Variation

The application includes a request for a variation to the height standard in the LEP. It nominates 'Test 1' established in *Wehbe v Pittwater Council* as the basis upon which the request is founded.

Wehbe's Test 1 seeks to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

I summarise the key aspects of the request, and comment in the table below on whether the written request has satisfactorily demonstrated that:

1. compliance with the development standard is unreasonable or unnecessary;
2. that there are sufficient environmental planning grounds; and
3. the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

This urban design review does not address the definitional conjecture as to the definition of 'existing ground level' as raised in the request.

1. Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case	
Clause 4.6 Request Part 5.2: Part 5.1: the proposal satisfies Test 1 established in <i>Wehbe v Pittwater Council</i> (2007) 156 LGERA 446 (<i>Wehbe</i>) "The objectives of the standard are achieved notwithstanding non-compliance with the standard".	
4.3 Height of buildings objective: (a) to establish building heights that are consistent with the desired future character of the neighbourhood,	
Request	Comment
<i>Despite the proposed development's non-compliance with the applicable height development standard, the proposal is consistent with the desired high-density, commercial character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by the desired future character of the area.</i>	<p>The site is not located in an area with a desired high density commercial character. The desired density is an outcome of the FSR control, and the proposal seeks to vary this; while the land use character of the area is directed by the land use zoning control.</p> <p>An accompanying Clause 4.6 request to vary the FSR controls seeks a 9.2 percent increase in density. Therefore it is incorrect to suggest that density sought by the proposal is desired by the future character statement for the area.</p> <p>The E1 zoning that applies to the site supports a wide range and mix of uses, including commercial. However, the zone objectives do not place a particular emphasis or priority on the provision of commercial floorspace over the provision of floor space for other uses.</p> <p>The desired future character for the site is identified and defined by:</p> <ol style="list-style-type: none"> 1. The height and FSR controls and objectives; and the objectives of the E1 zone discussed above; and 2. The Desired Future Character Statement in WDCP 2015.

	WDCP 2015 is discussed in detail in Part 3.2 below in this review. None of the sources cited above identify a desired density and character comprising a five storey commercial building for the site.
<p><i>The proposal's height is consistent with the built form in the Double Bay Centre area. Surrounding developments are an eclectic mix of residential flat buildings, commercial, and mixed use developments that vary between two to six storeys.</i></p> <p><i>... the desired future character is shaped by the LEP but also by other recent approvals in the vicinity, as well as historic pre-existing buildings. We observe that there are a number of recently approved height exceedances in the neighbourhood area as well as within the visual catchment of the subject site,</i></p>	<p>The discussion on approvals in the 'vicinity' and in the 'visual catchment' of the site, and the resulting built form that exceeds the LEP height and FSR standards, goes to the heart of the request's position that the variation is consistent with the Desired Future Character ('DFC') for the area within which the site resides.</p> <p>I interpretate the matter differently as:</p> <ul style="list-style-type: none"> i) It cannot be argued that there is a common DFC that geographically applies to properties in the vicinity of the site. Height and FSR standards in WLEP 2014, and building heights, vary widely across the Double Bay Centre. As noted in the request, Double Bay's character, both existing and proposed, is "eclectic." ii) The request includes quotes from <i>Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161</i> and <i>HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] NSWLEC 1243</i>. The quotes suggest that development standards are generic and take no account of site specific circumstances. Therefore they have minimal role to play. However these opinions need to be read with the context of the site. The standards are not 'as of right.' The height limit is a maximum and Clause 4.6 introduces a mechanism to vary the maximum where circumstances create an opportunity to do so. The circumstances of this matter do not support the variation in this instance as described elsewhere in this review. iii) The approvals cited in the request are located in a distinct block on the west side of Bay Street South where a history of approvals in that block has resulted in an evolution of the DFC for that block; iv) The subject site is physically separated from the Block by Bay Street and the development character in that block has no relevance to the site; v) The character on the east side of Bay Street is different, being a distinct two storey form of narrow fronted shops, many of the buildings of which are identified as "character buildings" in WDCP 2015; vi) The adjoining development, at No. 17 Bay Street, that successfully requested a 2.65 metre height variation did so whilst retaining a four storey building form and paid attention to the design and colours of the building façade to Bay Street to provide a sympathetic and consistent response to the surrounding two storey built form character; vii) The evolution of the DFC has not extended beyond the Bay Street (West) Block to the east side of the street suggested by the variation; viii) On the contrary, Council has generally not sought or encouraged any development in the block that may support a change in character as a result of the variation to the height standard; ix) The DFC for the Bay Street South (east) block is thus very different from that of the Bay Street South (west) block; x) Reference to case law cited in <i>WMC v SJD DB2 Pty Limited [2020] NSWLEC 115</i>, <i>Ricola Pty Ltd v WMC [2021] 1047</i> and <i>Pallas vs WMC [2023] 1005</i> reinforce, in my opinion, the position above; xi) The Court has on many occasions clarified and narrowed

	<p>the definition of "neighbourhood" and "area" to the extent that an evolved DFC does not influence the DFC in other parts of Double Bay;</p> <p>xii) Of note, in WMC v SJD DB2 Pty Limited [2020] NSWLEC 115, Preston CJ also said (at [56] to [59]): <i>"the desired future character of the neighbourhood establishes the building heights for buildings on land in the neighbourhood and not the other way around, that the building heights establish the desired future character."</i></p> <p>xiii) While in Pallas vs WMC [2023] 1005, Gray C said at [80] <i>"Whilst it is well established that the desired future character of an area can be informed by the form of the buildings approved by the Council in the area, selectively pointing to other approved buildings elsewhere in the Double Bay local centre that are five or more storeys in height (including across the road) does not actually inform why a fifth storey is justified on this site, particularly in the absence of any streetscape analysis or analysis of a defined area with which the proposal is seeking to be consistent."</i></p>
<p><i>In the Judgment for the previous shop-top housing approval on a portion of the subject site at Nos. 21-27 Bay Street (DA 33/2018, which pre-dates the commercial building approval), Commissioner Horton was previously satisfied with a height non-compliance not dissimilar to the height proposed for this new DA.</i></p>	<p>I do not identify any circumstances that have changed to take a counter position to the Commissioner's view above in the recent 2023 matter.</p> <p>I do not agree that the existing approvals and recent buildings on the western side of Bay Street indicate that the consent authority (not always Council I note), has accepted the outcome and that the outcome provides any guidance to support the proposed height.</p> <p>Existing heights have been established in different locations for a number of different reasons over a number of different eras of development. It is the precinct specific mix of heights that gives the Centre its character. It does not provide any commonality, theme or justification for future development to match the highest building, not does it suggest that future development can seek to exceed the prevailing highest building.</p>
<p><i>The proposal presents as four storeys when viewed from directly opposite on Bay Street, in accordance with the intent of the LEP height standard and DCP number of storeys control. The upper levels are setback from the primary frontage to Bay Street, as well as Gum Tree Lane. This will assist in minimising the perceived bulk and scale of the additional height as viewed along Bay Street and the rear laneway. The glazed materiality of the upper level will also assist to minimise visibility and bulk. Accordingly, the proposal will appear as predominantly four storeys from the public domain which is consistent with nearby approvals in the neighbourhood area and visual catchment</i></p>	<p>I do not agree that the proposed development will present as a four storey building. The fifth level will be visible from oblique views along Bay Street and Gum Tree Lane, particularly from viewpoints in the northern parts of both streets.</p>
<p>4.3 Height of buildings objective: (b) to establish a transition in scale between zones to protect local amenity</p>	
<p><i>This objective is not relevant.</i></p>	<p>Agreed.</p>
<p>4.3 Height of buildings objective: (c) to minimise the loss of solar access to existing buildings and open space,</p>	
<p><i>The extent of overshadowing to adjoining developments and in particular, to existing buildings and private open space will be similar to that of an LEP and DCP</i></p>	<p>Agreed.</p>

<p><i>compliant envelope. ... There is no impact on solar access to nearby residential windows or private open space.</i></p> <p><i>The proposal will maintain three hours solar access to habitable room north facing windows and two hours solar access to private open space, to mixed-use neighbouring development.</i></p>	
<p>4.3 Height of buildings objective: (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion</p>	
<p>View Sharing <i>Due to the location of the subject site, lot orientation and scale of surrounding buildings, there are no significant views anticipated across the site from nearby residential development or the public domain. In any case, the proposal provides flat roof forms which would maximise any potential sightlines. Therefore, the area of additional height is unlikely to have any view impacts.</i></p> <p>Privacy <i>The design and layout of the proposal, particularly at the upper level above the height limit, will maintain aural and visual privacy for residents of surrounding sites. Windows on the fifth floor are located partially above the LEP height standard, are setback well over 12m from neighbouring residential development to the west and are located on the eastern and western street boundaries.</i></p> <p>Overshadowing <i>the additional height will not result in unacceptable additional overshadowing on adjoining or nearby properties, particularly in comparison to the impact resulting from a fully compliant envelope on the site.</i></p> <p>Visual Intrusion <i>The non-compliant portion, being part of the upper level, roof plant and lift overrun above, will not be readily visible from a number of view points in the public domain and will therefore not contribute to visual intrusion.</i></p> <p><i>Further, the proposed area of additional height is well-separated from neighbouring windows and private open space to minimise visual intrusion</i></p>	<p>View Sharing: I have not been able to access apartments in the upper levels of the development under construction in the west side of Bay Street.</p> <p>However outlook from the future apartments may be compromised by the proposal to increase the height from 4 to 5 stories.</p> <p>Given the DFC does not support the proposed additional level the onus on the application is to demonstrate that view sharing is not impacted.</p> <p>Given this absence of evidence and erring on the side of caution as a result of this absence of evidence, I cannot support the request's claim that there will be no view impact.</p> <p>Privacy: Given the DFC does not support the proposed additional level the onus on the application is to demonstrate that privacy is not impacted.</p> <p>However, I note that the width of Gum Tree Lane is approximately 6 metres. I do not consider that this is adequate separation to provide visual privacy and prevent overlooking from the Level 3 and 4 terraces to development to the east on Gum Tree Lane. I also note that the level 5 restaurant is not setback from the side boundaries and the noise generated by hospitality activities has the potential to impact the peace and amenity of buildings to the north and south of the site on the east side of Bay Street, and possibly the future upper level residential uses on the west side of Bay Street.</p> <p>Overshadowing: Agreed</p> <p>Visual intrusion: Given the DFC does not support the proposed additional level the onus on the application is to demonstrate that there is no visual intrusion.</p> <p>I do not agree that the upper level of the building will be well separated from neighbouring windows and private open space for the reasons noted above.</p> <p>Given this absence of evidence and erring on the side of caution as a result of this absence of evidence, I cannot support the request's claim that there will be no visual intrusion.</p>

4.3 Height of buildings objective: (e) To protect the amenity of the public domain by providing public views of the harbour and surrounding areas.	
No public views of the harbour are identified across the subject site	Agreed

2. There are sufficient environmental planning grounds	
Clause 4.6 Request Part 5.2: There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard	
Request	Comment
Consistency with Context	
<i>The proposal will present as a four-storey development, with stepped back fifth level above the LEP height line, which is consistent with the context. The predominantly four storey presentation to Bay Street is consistent with the intent of the four storey DCP control (per Control Drawing 5) applicable to the subject site. A number of recently approved and constructed developments in the vicinity also exceed the height standard.</i>	For the reasons noted above, I do not support this point. The proposed height is not consistent with that of its context. The proposed height is not seeking to respond to or 'fit into' an area with a similar established height character. On the contrary, the proposal seeks to establish a building height that enables an additional storey that currently does not exist in development in this part of the Centre, is not sought by the planning controls and will be visible from certain viewpoints.
Proposed Use	
<i>The proposed retail and restaurant floorplates have been purpose designed for high-profile tenant, RH, who have committed to a long-term lease of the premises. 'the height standard is a direct consequence of providing an exclusively commercial use, rather than a predominantly residential use. ... the floor to floor heights proposed provide a balance between the DCP controls for retail and commercial tenancies, whilst remaining largely within the previously approved DA envelope and height. An increased floor to floor height in total compliance with the DCP requirements for retail uses at each level would result in a further departure from the LEP height standard, which is well-beyond that approved in the previous DA for the site with potential amenity impacts to neighbours and streetscape implications.</i>	The part of the request relies on the reputation of the proposed tenant and the desire to accommodate them in the building to justify the variation. Further it makes observations that compliance with WDCP 2015 floor to floor heights for commercial use would result in an increased height (and resulting variation request) that would, with candid honesty, create potential amenity impacts to neighbours and streetscape implications. Notwithstanding the reputation of the proposed tenant and the potential risk of depriving Double Bay of its presence, this benefit (and risk) offered by the proposed additional level of the building is not, in my opinion, sufficient to justify the impacts of the variation.
<i>The proposal provides a high level of urban design which minimises any potential impacts from the non-compliance. Soft landscaping to the commercial terraces, and a mix of materials and fenestration will break up the built form and reduce the perceived height and scale, whilst reflecting the existing subdivision pattern along Bay Street</i>	Minimal landscaping is proposed and there is a negligible mix of materials and fenestration to effectively break up the visual appearance, mass and scale of the building within the streetscape. The façade design fails to respond to the narrow frontage subdivision pattern on the western side of Bay Street. No additional urban design benefits are offered by the proposed additional level of the building that, in my opinion, sufficiently justifies the variation. Any urban design benefits identified could be achieved by a complying better designed development.

3. <i>The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.</i>	
Clause 4.6 Request Part 6: Clause 4.6(4)(a) Requirements: Zone, Zone Objectives and Land Use Table	
Request	Comment
the proposal achieves the objectives of the E1 Local Centre Zone. ...	<p>The proposed development:</p> <ul style="list-style-type: none"> Is not consistent with the desired future character of the area; and While the proposed development is generally consistent with the balance of the zone objectives, a compliant development could also be consistent with the objectives. The consistency does not, in itself, justify the proposed variation.

3.3.2 FSR Variation

The application includes a request for a variation to the FSR standard in WLEP 2014. It nominates 'Test 1' established in *Wehbe v Pittwater Council* as the basis upon which the request is founded.

Wehbe's Test 1 seeks to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

For the sake of efficiency, I have not summarised the key aspects of the FSR request as it generally relies on the same material and justifications as presented in the Height variation request discussed above.

As with the height request, at the heart of the FSR request is the position that non-compliance by the proposed development with the applicable FSR development standard is consistent with the desired density and character of the area. The precedent established by previous approvals in the Double Bay Centre that have included similar large magnitudes of variations to the FSR control establishes a trend that has resulted in the DFC for the site evolving and the proposed variation to the FSR control in this instance is consistent with the evolved DFC.

Furthermore, the request notes that "*Enforcing strict compliance would require removal of approximately 231m² of commercial GFA. This will result in the site not being fit for purpose for the long-term Residential Hardware use, with a lost opportunity to incorporate the upper-level restaurant which, through a quality glazed design, is not obtrusive in the streetscape. This would be an inefficient use of the site and would not facilitate the orderly and economic development for a commercial use in accordance with Object (c) of the EPA Act*" (p. 15).

I consider the request for a variation to the FSR standard to be similarly not well founded, for the same reasons as discussed above.

3.4 Woollahra Development Control Plan 2015 (WDCP2015)

The proposed development is assessed against the relevant urban design provisions in Chapter D5 of WDCP 2015 in the table below.

Control	Objective / Control Summary	Assessment	Complies
D5.4 Street Character	The DCP does not have one overarching DFC for the Centre. Rather, it has individual street specific DFCs. The site is located in the Bay Street South and Gum Tree Lane Character Precincts. Relevant statements are:	The style and form of the proposed development does not acknowledge the modest pattern of narrow retail frontages. On the contrary it presents as a large, somewhat monolithic single use building of uniform style.	No

Control	Objective / Control Summary	Assessment	Complies
	<p><i>Bay Street South</i></p> <p>a) Retain the existing modest, lot related building widths and retail frontages.</p> <p>b) Provide setback areas at ground level that can be used for outdoor eating or public circulation.</p> <p>c) Retain the character buildings along Bay Street.</p> <p>Figure 15 seeks a four storey height limit with a 2.4 metre articulation zone in levels 1 to 3 and then 3.5 metres at level 4.</p> <p><i>Gum Tree Lane</i></p> <p>a) Retain the two storey built form and 2m setback on the west side.</p> <p>b) Apply a 1m setback to the eastern side of Gumtree Lane.</p> <p>c) Increase the spatial definition of the lane, and street surveillance with an articulated building addressing the lane from the central triangular site.</p> <p>The section seeks a two storey height limit at the building wall, a 2 metre setback and a 6.0 metre setback above Level 2.</p>	<p>The rear of the development includes a 2.0 metre setback to Gum Tree Lane. However building wall heights, setbacks and articulation zones to both Bay Street and Gum Tree Lane do not comply with the design controls.</p>	
D5.5 Built Form Envelopes: Control Drawings			
D.5.5.9 Control Drawing 5	<p>i) A four storey height limit applies to the site.</p> <p>ii) Gum Tree Lane: On levels 2-4, up to 50% of the level may be built upon.</p> <p>iii) Ground floor: A zero front setback applies.</p> <p>iv) Character buildings are located at 9-15 and 29-37 Bay Street. Immediately north and south of the site.</p> <p>v) In Knox Lane two storey buildings to spatially define the lane with levels above setback 6 metres.</p> <p>vi) No continuous awning is required to Bay Street.</p>	<p>The setbacks, building heights and articulation sought by the Control Drawing are not achieved by the proposed development.</p>	No
D5.6 Development Controls			

Control	Objective / Control Summary	Assessment	Complies
D5.6.2 Use	<p>A mix of uses with ground floor retail and upper storey residential encouraged.</p> <p>The architectural resolution of buildings on amalgamated small lots identified in Figure 19 must express existing lot widths.</p>	<p>The building is proposed as a retail and hospitality use.</p> <p>However such a use is consistent with other large developments within Double Bay.</p> <p>The design resolution of the building frontage does not respond, and is not sympathetic, to the prevailing pattern of shop front widths on the east side of Bay Street</p>	<p>No, but considered acceptable.</p> <p>No, but can be addressed by conditions that seek changes to front facade design.</p>
D5.6.3.1 Building Envelopes	<p><i>Development must comply with the building envelope and setback controls in the DCP.</i></p> <p><i>Level 3-5 building depth is limited to 15.6m including the articulation zones.</i></p>	<p>As noted above, the building envelope and setback controls are not achieved.</p> <p>Levels 3 and 4 building depth exceeds 15.6 metres.</p>	<p>No.</p> <p>No.</p>
D5.6.3.2 Height	<i>Minimum floor to floor heights of 4 metres for retail and 3.4 metres for commercial office.</i>	The proposed floor to floor heights do not comply.	No.
D5.6.3.3 Building Articulation	<p><i>FIGURE 25 Bay Street South</i> <i>On levels 2-5 up to 40% of the street façade articulation zone must be occupied with either or both internal and external space.</i></p> <p><i>On the ground floor up to 100% of the street façade articulation zone can be internal space.</i></p>	No articulation is proposed to the Bay Street façade above ground floor (until a terrace is proposed at Level 4).	No, but can be addressed by conditions that seek changes to front facade design.
D5.6.3.4 Side Setbacks	<p><i>Side setbacks must protect privacy to adjoining buildings;</i></p> <p><i>Rear setbacks must protect privacy and facilitate solar access to adjoining buildings and gardens.</i></p>	The proposal offers no upper level setbacks. I raise acoustic and visual privacy concerns due to the proximity of neighbouring uses above.	No.
D5.6.3.6 Architectural resolution	<i>Architectural Resolution that promotes high quality design, and materials and colours that are not visually dominant within the street.</i>	<p>There is no mix of building colours and materials at the visually prominent levels and no vertical or horizontal articulation is offered to break down the visual bulk and scale of the building within the streetscape.</p> <p>Similarly, side elevations offer a monotonous grey painted rendered wall.</p> <p>These walls have the potential to be visually prominent within the streetscape and they present a poor relationship with the adjoining two storey character buildings.</p>	No, but can be addressed by conditions that seek changes to front and side facade design.
5.6.3.7 Roof design	<p><i>Roof designs should create distinctive building silhouettes.</i></p> <p><i>Air conditioning plant and equipment must be concealed from the exterior and be within the building.</i></p>	<p>The proposal seeks to visually obscure the roof line to minimise visual impacts with the proposed height exceedance.</p> <p>Roof top air conditioning plant will be visible from taller buildings to the west and north</p>	No

Control	Objective / Control Summary	Assessment	Complies
		and are not screened or integrated in building design.	
5.6.3.8 Heritage items and character buildings	<i>Protect and enhance heritage items and conservation areas.</i>	Character buildings are located immediately the north and south of the site. The proposed development does not involve any works to existing character buildings. However the proposed building envelope and building design will overwhelm the presence of the character buildings and as such do not protect and enhance the contribution of these buildings to the character of the Bay Street South precinct.	
D5.6.4.1 Awnings	<i>Development must provide continuous awnings to street frontages as indicated on the control drawings</i> <i>Awning design should provide protection from sun and rain and be integrated with the building's architectural resolution.</i> <i>Where no awnings are indicated on the control drawings, the building entrances must have generous cover.</i>	At ground level the awnings do not provide efficient footpath protection at the building entrance at Bay Street	Yes, subject to a condition that requires an awning at the building entrance on Bay Street.
D5.6.4.3 Arcades, walkways and courtyards	<i>Figure 43 Desirable through block connections</i>	Figure 43 indicates a desired arcade link through the site to Gum Tree Lane. The proposed design of the ground floor provides for an accessible link between Bay Street and the Lane through the ground floor retail. This approach is not particularly legible and does not offer the certainty that is required.	Yes, subject to a condition that provides certainty of visibility and unrestricted public access during business hours.
D 5.6.4.4 Public art	<i>Development with a capital investment value of \$15M or more includes public art.</i>	Not required.	N/A
5.6.4.6 Ground floor active lane frontage	<i>A minimum of 75% active frontage to lanes, measured as a linear ratio across the width of a lot, is generally required.</i> <i>Vehicle access points and building entrances must be separate and clearly defined to avoid pedestrian and vehicular conflicts.</i>	The ground floor frontage to Gum Tree Lane does not achieve 75% due to the need for fire egress and an electrical substation. However the extend of window area to the Lane could be increased by replacing the wall behind the platform lift with a window.	No, but can be addressed by a condition that seeks an increase in the window area at ground floor to the Lane.
5.6.5.1 Visual privacy	<i>Protect privacy between dwellings proposed on a single development by adopting the recommended distance between openings illustrated in Figure 46. Alternatively use</i>	I raise concerns above, in my discussion on the request for a variation of the WLEP 2014 height standard, on the lack of ability of the proposed building envelope to provide sufficient separation between the site and adjoining development in Bay	No.

Control	Objective / Control Summary	Assessment	Complies
	<i>vegetation and balcony screening to protect privacy.</i> <i>Use building articulation, particularly in required building articulation zones, to provide visual privacy between buildings and the public domain.</i>	Street and Gum Tree Lane, and the resulting privacy impact. The resulting poor amenity is exacerbated by minimal landscaping.	
5.6.5.2 Acoustic privacy	<i>Building siting and layout, particularly with regard to the location of courtyards, terraces and balconies and the like, should minimise the transmission of noise to other buildings and private open space on the site and on adjacent land.</i>	I raise concerns above, in my discussion on the request for a variation of the WLEP 2014 height standard, on the lack of ability of the siting of the proposed building uses to provide sufficient separation between the site and adjoining development in Bay Street and Gum Tree Lane, and the potential resulting acoustic impact.	No
D5.6.6 Solar Access and Natural Ventilation	<i>Minimise overshadowing of adjoining properties or publicly accessible spaces.</i> <i>The maximum building depth of development for levels 3-5 is 15.6m to achieve buildings that are substantially naturally lit and ventilated.</i>	The proposed development has effectively minimised shadow impact to the public domain. Building depth exceeds the maximum	Yes. No.
5.6.8.1 On-site parking	<i>Ensure the impact of car parking on the site and streetscape is handled discretely.</i> <i>Ensure the design of on-site car parking is safe and efficient, and integrated with the overall site and building design.</i>	The proposed development achieves these requirements	Yes.
5.6.8.4 Site facilities	<i>Site facilities, particularly garage areas, are to be visually integrated with the development to minimise their visibility from the street.</i> <i>Hydraulic fire services such as fire hydrants and booster installations are concealed.</i> <i>Ensure service areas are unobtrusive and have minimal lane presence.</i>	The proposed development achieves these requirements	Yes.

Part 4: Urban Design Review

4.1 Summary

In conclusion, the proposed development fails to achieve the Desired Future Character for the site presented in the height and FSR standards in WLEP 2014 and supported by the detailed design guidance and setback controls in WDCP 2015.

Thus I cannot support the proposed development in its current form. The proposed development seeks to exceed the height, floor space and building envelope controls with a monolithic built form that maximises the gross floor area of the building in order to accommodate a large desired major retail tenant and restaurant.

In particular, the resulting building bulk and scale would not offer a sensitive and compatible design response to the narrow shop front and two storey form that distinguishes the low scale modest character of the eastern side of Bay Street south.

While I have a concern with the proposed height variation from a numerical perspective, I have a greater concern that the additional increase in height will realise an additional level to the building that is not sought by the planning controls and that will contribute to a configuration and character of development that is contrary to a large number of urban design objectives.

No effort to recognise and present a contextual fit with the desired future character for the area is apparent. Like many recent proposals, it seeks to capitalise on, and it relies upon, previous approvals in the vicinity of the site, particularly Bay Street west to justify multiple departures to Council's urban design controls.

For the reasons identified above, I do not consider that the written requests for variations to both the height and FSR standards in WLEP 2014 have adequately addressed the matters and demonstrated that compliance with the development standards is unreasonable or unnecessary.

The requests have not demonstrated that there are sufficient environmental planning grounds to support the variations.

Furthermore, support for the additional level and building envelope would result in:

1. an approach to the design of the building that attempts to 'squeeze' the floor area into a non-complying building envelope that does not comply with any of the building siting, articulation, landscaping and setback controls required by Part D5 of the WDCP 2015;

The proposal fails to provide sufficient justification to depart from these controls, particularly given the comparatively large size of the site, where architectural design has greater opportunity to respond with alternative acceptable solutions;

2. the adoption of undesirable measures to reduce the potential impacts of the height exceedance, particularly low floor to floor (and resulting floor to ceiling) heights within the commercial levels of the building).

Building floor to floor (and resulting floor to ceiling) heights do not meet DCP minimum requirements and are lower than contemporary best practice. This coupled with the deep, non-compliant floor plates may result in a potentially oppressive character for the interior spaces and reduces the ability for the building to be used effectively for alternative non-residential purposes;

3. a scale, mass and appearance of built form that imposes an unsympathetic and visually overwhelming relationship with the two storey terrace character buildings to the north and south.

While the character buildings are not identified as heritage items in WLEP 2014, the buildings present two notable clusters within the eastern side of Bay Street South and are significant contributory items to the existing and desired future character for street. It is reasonable to expect that their role in this regard will be protected.

To the north, the proposed building turns its back on the adjoining character building at No. 29 Bay Street. It gives no recognition to the building by way of possible upper level side setbacks to establish a transition in building height, no adoption of colours, materials and setbacks above level 2 at Bay Street that may replicate the visual pattern of the narrow fronted two storey building wall character in the street, and that presents an unrelieved five storey grey painted rendered wall to the common boundary.

The same concern also exists to the south. While it could be argued that this is resolved by the form and architectural response of the approved development in No. 17 Bay Street (which performs as a transitional building between the site and the character buildings to the south), it would be inappropriate to rely on the development of a neighbouring site (which is not certain) to address this impact;

4. an undesirable precedent for other properties on the east side of Bay Street south and particularly those that adjoin character buildings which if realised would present unreasonable impacts on the visual setting and character contribution of those buildings to the Double Bay Town Centre; and
5. a building presentation to both Bay Street and Gum Tree Lane that fails to achieve the desired future character for the public domain in those streets.

4.2 Recommendation

The proposal is not supported, and a redesign of the development is suggested. The redesign should consider the following observations (in no particular order and not purporting to be complete):

1. Removing the fifth floor of the building and reconfiguring the resulting four floors to maximise the potential building height, including attention to floor to floor heights and floor plate depths;
2. Addressing potential impacts of acoustic and privacy and visual intrusion by adhering to the required WDCP separation and setback requirements and attention to the proximity of any noise generating activities (for example the restaurant) to adjoining noise sensitive uses;
3. Improving the design of the building so that it offers greater greenery and articulation to the Bay Street and Gum Tree Lane frontages;
4. Improving presentation of the building to both Bay Street and Gum Tree Lane by compliance with WDCP 2015 setbacks and articulation controls;
5. Improving the amenity of the public domain by the provision of an awning at ground level to the Bay Street entrance, the provision of greater window area to the ground floor Gum Tree Lane frontage and greater visibility and legibility to the publicly accessible link to the Lane from Bay Street through the ground floor of the building (including suggestions on how that can be guaranteed in the longer term);
6. Attention to roof design that obscures roof top air conditioning plant; and
7. Attention to the configuration and style of building façade materials colours, fenestration and level setbacks / articulation to Bay Street to enable the building to offer a streetscape character that presents a distinctive two storey building wall, activation and style that is consistent with the prevailing character of the eastern side of the street. In some respects the approach adopted to the design of No 17 Bay Street and 2-10 Bay Street offer examples of approaches that may assist in this regard (refer to images in **Appendix 1**).

Stephen McMahon
Director, Inspire Urban Design and Planning Pty Ltd

APPENDIX 1



No 2 -10 Bay Street. (Source of Image, GSA July 2023, Statement of Environmental Effects)

The façade steps down the street to maintain the relationship between the ground floor of the building and the footpath, that together with the voids, green balconies and articulation, break up the plane of the façade and bring activity and interest to the street.

Distinctive vertical elements in the façade design that project from the building wall and variously extend, often uninterrupted, to the ground break up the mass and width of the facade enabling it to be read as a series of narrower facades rather than one broad wall when viewed from the street, providing visual cues to a terrace shopfront type appearance.

The long horizontal spandrel that highlights level 2 of the building, together with the recessed two storey glazed curtain wall and multiple building entries offers a subtle modern interpretation of a series of narrow retail terrace forms in the street.



No. 17 Bay Street.

(Source of Image, Woollahra Local Planning Panel (Electronic Meeting) Agenda, Thursday 6 July 2023)

The building presents a prominent visually distinctive 'top' and 'bottom' with the presence of the lower two stories accentuated by the light colour and upper level setback that bring this element to the foreground of the streetscape to match adjoining two storey buildings. The contrasting dark colour of the upper two levels on the other hand enables that part of the building to visually recede into the background, emphasising the presence of the lower two levels.



OUR REF: 21470

20 October 2023

The General Manager
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Attention: Mr Wilson Perdigao

Dear Wilson,

**RESPONSE TO COUNCIL REQUEST FOR FURTHER INFORMATION
NOS. 19-27 BAY STREET, DOUBLE BAY (DA 245/2023)**

We act on behalf of the applicant of the Development Application (DA 245/2023) for the proposed demolition of the existing building and construction of a five-storey commercial development with basement parking, retail gallery, upper level restaurant, and signage at Nos. 19-27 Bay Street, Double Bay. The proposed building is a fit-for-purpose development for the exclusive use of 'RH', who will be long-term tenants.

This cover letter will provide a summary of responses to Council's Request for Further Information (RFI) Letter dated 14 September 2023 in the following sections. The following information and documentation has been provided to support the response to Council (separately submitted), as follows:

- Amended Architectural Plans (and Photomontages) prepared by MHNDU;
- Traffic and Parking Addendum Letter prepared by TTPP;
- Urban Design Statement prepared by AE Design;
- Revised Operational Waste Management Plan prepared by Elephant's Foot; and
- Amended Plan of Management prepared by RH.

1.0 RESPONSE TO COUNCIL RFI LETTER

1.1 TRAFFIC

Council provides the following comment in their RFI Letter (with the traffic referral in Attachment A of that letter):

Council's Traffic Engineer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

- 1) *Parking Provision – A more quantifiable analysis to demonstrate parking demand and justify the significant undersupply of parking. The analysis should consider the breakdown of staff and visitor/patron parking demand to justify the proposed allocation of parking spaces.*
 - a. *A shortfall of six (6) parking spaces than DCP's minimum requirement;*
 - b. *Plan of management indicates a maximum seating capacity of 176 patrons and approximately 70 staff on-site at any time, which suggests a much higher parking demand than DCP's general requirement;*
 - c. *12 out of the proposed parking spaces are designated staff parking, which further compromises the capacity to accommodate patron/visitor parking that cannot be deterred by the timed parking restrictions surrounding the site.*

planning | urban design | expert evidence | development advice | traffic

- 2) *Accessible Parking – The design of the accessible parking space, including the provision of shared area, should comply with AS2890.6. The dimension of accessible parking space and the shared area as well as pavement marking and bollard should be clearly depicted on the revised architectural drawing.*
- 3) *Service Vehicles –*
 - a. *More information be provided on the frequency of deliveries and the largest size of delivery vehicle anticipated to attend the site;*
 - b. *More information be provided on waste collection operations and size of vehicles intended to use, noting Gum Tree Lane is a narrow laneway and the operation of waste collection should not impede access along the street.*
- 4) *Access Driveway –*
 - a. *The dimension of access driveway be clearly depicted on the architectural drawing;*
 - b. *A waiting bay be incorporated at access point wholly within property boundary to avoid conflicts between accessing and egressing vehicles among different levels of car park;*
 - c. *Sight splay should be provided accordingly,*

Response:

Parking Provision

Council's DCP does not include a retail parking rate for furniture display suites, and therefore Council's retail car parking rates were adopted for the proposal.

As stated in Traffic letter "the proposed furniture display suite is proposed to operate closer to a bulky good/slow trade furniture store rather than a typical retail store which has a much higher customer density". Using a combination of Transport for NSW, RTA, Institute of Transportation Engineers and a currently operating RH USA store, the traffic engineers calculated a parking rate relevant to the specific slow-trading style of the proposed retail premise. Based on these calculations it was concluded that;

Based on Table 2, the development would require 50 car parking spaces. It is proposed to provide 59 car parking spaces which exceeds the anticipated parking demand. Based on this, a shortfall of 6 spaces adopting a less relevant retail parking rate of 3.3 spaces per 100m² is deemed acceptable. The parking supply of 59 spaces will meet expected parking demand when adopting the more appropriate parking rate of 2.3 spaces per 100m² which accurately reflects the proposed building use.

As outlined in the Amended Plan of Management, the restaurant has now been limited to a maximum of 136 patrons (reduced from 176 patrons). Staffing numbers have also been revised with a maximum of 20 staff rostered at any given time in the design gallery and 32 in the restaurant (a total of 52 staff reduced from 70). These amendments to patron and staffing numbers will further reduce the parking demand for the development as submitted.

Accessible Parking

The Traffic letter states inter alia;

The accessible parking spaces have been designed in accordance with AS2890.6, with the dimensions of the accessible space and the shared area shown on the revised architectural drawings prepared by MHNDU.

Service Vehicles

The Traffic letter has provided additional information on the frequency and sizes of delivery vehicles. In regard to waste collection the proposal has been amended to reflect waste collection inside the basement, with the letter stating;

The location of the proposed waste collection activities has been amended from street-side collection on Gum Tree Lane to within the basement car park on Basement Level 2 to address the matter of potential impeded access along the street at collection times.

The waste collection vehicle proposed to be used is a specially designed vehicle for commercial buildings. It is understood that the client has communicated with Capital City Waste Services, who has provided a letter to the proponent detailing the vehicle specifications and waste collection capabilities of the vehicle. Please refer to the Plan of Management for further details

The Operational Waste Management Plan has been amended to reflect this change (separately submitted).

Access Driveway

As outlined in the traffic letter, the proposed development provides an access driveway in accordance with AS2890.1, measuring 5.6m between kerbs. This two-way driveway does not require a waiting bay as it has been designed in accordance with Australian Standards for two-way operation and is supported by swept path analysis attached to the letter. The swept path analysis further supports the acceptable operation of the access/egress point without conflict. Sight splays in accordance with AS2890.1 are also shown on the architectural plans as being 2m x 2.5m measured from the property boundary.

Based on the above information, the proposed parking rates and additional information should satisfy Council's concerns. Further details can be found in the accompanying Traffic Statement, separately submitted.

1.2 URBAN DESIGN

Council provides the following comment in their RFI Letter (with the urban design referral in Attachment B of that letter):

Council's Urban Design Officer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

The proposal is not supported, and a redesign of the development is suggested. The redesign should consider the following observations (in no particular order and not purporting to be complete):

1. *Removing the fifth floor of the building and reconfiguring the resulting four floors to maximise the potential building height, including attention to floor to floor heights and floor plate depths;*
2. *Addressing potential impacts of acoustic and privacy and visual intrusion by adhering to the required WDCP separation and setback requirements and attention to the proximity of any noise generating activities (for example the restaurant) to adjoining noise sensitive uses;*
3. *Improving the design of the building so that it offers greater greenery and articulation to the Bay Street and Gum Tree Lane frontages;*
4. *Improving presentation of the building to both Bay Street and Gum Tree Lane by compliance with WDCP 2015 setbacks and articulation controls;*
5. *Improving the amenity of the public domain by the provision of an awning at ground level to the Bay Street entrance, the provision of greater window area to the ground floor Gum Tree Lane frontage and greater visibility and legibility to the publicly accessible link to the Lane from Bay Street through the ground floor of the building (including suggestions on how that can be guaranteed in the longer term);*
6. *Attention to roof design that obscures roof top air conditioning plant; and*
7. *Attention to the configuration and style of building façade materials colours, fenestration and level setbacks / articulation to Bay Street to enable the building to offer a streetscape character that presents a distinctive two storey building wall, activation and style that is consistent with the prevailing character of the eastern side of the street. In some respects the approach adopted to the design of No 17 Bay Street and 2-10 Bay Street offer examples of approaches that may assist in this regard (refer to images in Appendix 1).*

Response:

1. The reasons for retaining the fifth story have been addressed in detail in the accompanying Urban Design Statement, and can be summarised as follows:
 - The proposal achieves the objectives of the development standard
 - There are adequate planning grounds for the height non-compliance

- The proposed height is consistent with the desired future character of the neighbourhood
- The proposal is consistent with the dominant character within the visual catchment and streetscape of the site
- The proposal is consistent with the Double Bay Centre Draft Strategy
- No potential impacts to neighbours

In relation to the floor-to-floor non-compliance, the Urban Design Statement concludes inter alia:

The proposal thoughtfully incorporates slightly lower floor-to-floor heights compared to the standards outlined in the DCP. This design decision serves a dual purpose: firstly, to maintain consistency with the previous approval, and secondly, to minimize the extent of non-compliance with the LEP height regulations.

...

Incorporating strategies like floor-to-ceiling height windows and glass doors, this design plan ensures that natural light penetrates the spaces efficiently. While the proposal may not strictly adhere to the floor-to-floor height requirements in the DCP, it demonstrates an acute understanding of how to optimize the internal amenity.

The result is a project that successfully balances both external and internal considerations, ultimately achieving positive amenity outcomes. This approach serves as a testament to the importance of combining regulatory compliance with thoughtful design strategies to create harmonious, comfortable, and aesthetically pleasing urban spaces.

The Urban Design Statement outlines the irrelevance of the building envelope controls for the upper levels due to their commercial nature, stating inter alia:

While the building footprint at the upper levels is in excess of 15.6m, the above control clearly indicates that this is in relation to residential development with building depths by referencing 'dwellings'. Therefore, the control is less relevant to commercial development, which requires larger floorplates for adequate efficiency and operational requirements,

In any case, the proposal will achieve adequate natural light and ventilation to the commercial tenancies.

Further details can be found in the Urban Design Statement (separately submitted), and SEE, Clause 4.6 Request Height of Buildings, and Acoustic Impact Assessment submitted with the application.

2. Council's Urban Design Referral Response does not identify any potential impacts to neighbours other than noise. Acoustic privacy of the restaurant has been previously addressed in a Noise Impact Assessment. This assessment found that acoustic privacy impacts of the proposed restaurant, despite any DCP separation variations, are acceptable and will not adversely impact adjoining noise sensitive uses. The reduction in patron numbers will further reduce any potential noise impact, and therefore enforcing compliance with DCP separation and setback requirements is unnecessary. Notwithstanding this, the possible impacts of activities on the terraces can be further addressed by conditions of consent for its operation and usage.

3. In response to landscaping and façade design, the Urban Design Statement states;

Design amendments to the rooftop terrace provide further landscape at the top level to soften the bulk of the proposal even further. Awning concepts further work to present a modulated design which is better addresses the narrow lot width of character buildings.

Urban Design benefits from a compliant envelope are substantially the same as what is proposed and minor alterations will not have drastic improvements

These proposed amendments will improve the presentation of the proposal and should be considered acceptable. Details of amended landscaping are included in the amended Architectural Plans (separately submitted) and are visible in the updated Photomontages (separately submitted).

4. The Urban Design Statement has found that the presentation of the proposal would not be significantly improved by the strict enforcement of the relevant DCP setback controls, stating inter alia:

Urban Design benefits from a compliant envelope are substantially the same as what is proposed and minor alterations will not have drastic improvements

The statement further address the extent of compliance with the articulation controls, stating:

The proposed façade comprises a series of vertical and horizontal elements. The glazing is set back. In this instance, we note that the envelope control.

- *Identifies a 2.5 m articulation zone. The controls do not specify a minimum.*
- *Are written primarily for residential uses on the 1st floor and the floors above*

5. To improve the amenity of the public domain the addition of a new central awning is proposed to the Bay Street entrance (see amended Architectural Plans and Photomontage, separately submitted). Extensive glazing, a dual frontage, and the central spine design already proposed on the ground floor level promotes pedestrian permeability and facilitates a through site link. A further condition may be imposed that provides certainty of visibility and unrestricted public access during business hours.

6. The rooftop plant and air conditioning are largely obscured from the public domain, but the air conditioning will still be visible from taller buildings to the west and north. The urban design statement states:

The existing street environment with dense tree foliage and narrower streets prevents long lines of sight to the proposal and therefore any visual impact is only visible at slight angles through side boundaries of underdeveloped lots with a susceptibility to change.

The proposed amendments to rooftop plantings will further obscure the rooftop-built form and should be considered acceptable. Should Council request further screening to the rooftop plant, this could be provided as a condition of consent.

7. The Urban Design Statement confirms that the proposed façade and architectural resolution remains compatible with the DCP controls, stating:

Building frontage design is defined by vertical columns that are stepped forward from the window and building line to define and create narrow columns across the site with a wider central column distinguishing both sides at either end to break up the built form and follow an interpretation of previous terrace allotments.

The articulated façade, proposed awning and materials will remain consistent with the predominant and emerging character of the street;

Façade design and awning presentation will help to modulate the perceived bulk of the building when visible from primary public domain locations which mostly consist of those near the site as the streets natural elements obscure it from further distances. Development in the visual catchment particularly approved development which opposes the character buildings has the same effect on the Bay Street character.

Accordingly, AE Design find the proposal to have a positive impact from an urban design perspective.

2.0 CONCLUSION

This letter responds to the RFI Letter from Council relating to the proposed construction of a five-storey commercial development with basement parking and signage. The matters relating to traffic and urban design raised by Council have been addressed throughout this letter and more thoroughly in the accompanying amended Architectural Plans (including Photomontages), Traffic and Parking Response Letter, Urban Design Statement, Operational Waste Management Plan, and Plan of Management, which accompany this cover letter.

We trust this information is of some assistance to you. If you wish to discuss this matter further, please do not hesitate to call our office on (02) 9362 3364.

Yours faithfully,



George Karavanas
MANAGING DIRECTOR



OUR REF: 21470

1 November 2023

The General Manager
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Attention: Mr Wilson Perdigao

Dear Wilson,

**ADDENDUM: RESPONSE TO COUNCIL REQUEST FOR FURTHER INFORMATION
NOS. 19-27 BAY STREET, DOUBLE BAY (DA 245/2023)**

We act on behalf of the applicant of the Development Application (DA 245/2023) for the proposed demolition of the existing building and construction of a five-storey commercial development with basement parking, retail gallery, upper level restaurant, and signage at Nos. 19-27 Bay Street, Double Bay. The proposed building is a fit-for-purpose development for the exclusive use of 'RH', who will be long-term tenants.

This addendum letter provides additional information to be read in conjunction with our 'Response to Council Request for Further Information Letter' dated 20 October 2023.

Council's Urban Design Referral provides the following comment in their RFI Letter (with the urban design referral in Attachment B of that letter):

Council's Urban Design Officer has reviewed the application and recommend that the development not be supported at this stage until the following issues are addressed:

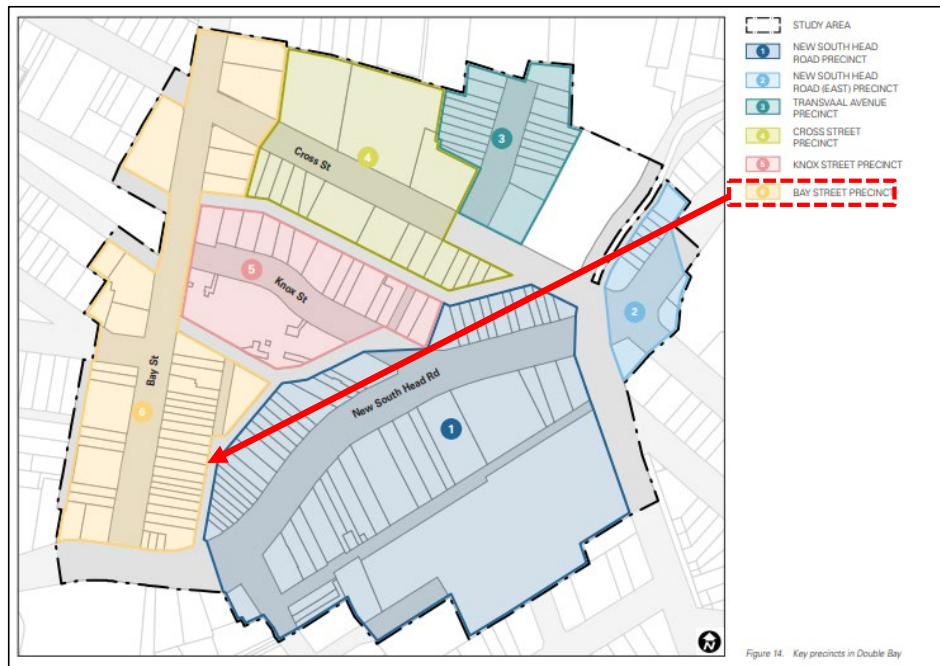
The proposal is not supported, and a redesign of the development is suggested. The redesign should consider the following observations (in no particular order and not purporting to be complete):

1. *Removing the fifth floor of the building and reconfiguring the resulting four floors to maximise the potential building height, including attention to floor to floor heights and floor plate depths;*

Additional Response:

Since the preparation of our Response to Council RFI Letter, a notable development for the future of the Bay Street precinct and Double Bay Centre generally has occurred.

The Council-led Double Bay Centre and Planning Urban Design Strategy (October 2023) (hereafter referred to as the Strategy) has been amended and progressed to the Strategic and Corporate Committee Meeting on 30th October. The Strategy provides a review of planning controls and establishes a clear and coordinated approach to future development in the area. The Strategy has been informed by strategic plans and studies, urban design analysis, 3D modelling and community consultation. The Strategy identifies the full extent of Bay Street as its own precinct with a consistent desired future character. This is a more cohesive outcome, rather than isolating portions of Bay Street into separate areas. This is demonstrated in **Figure 1** on the following page.



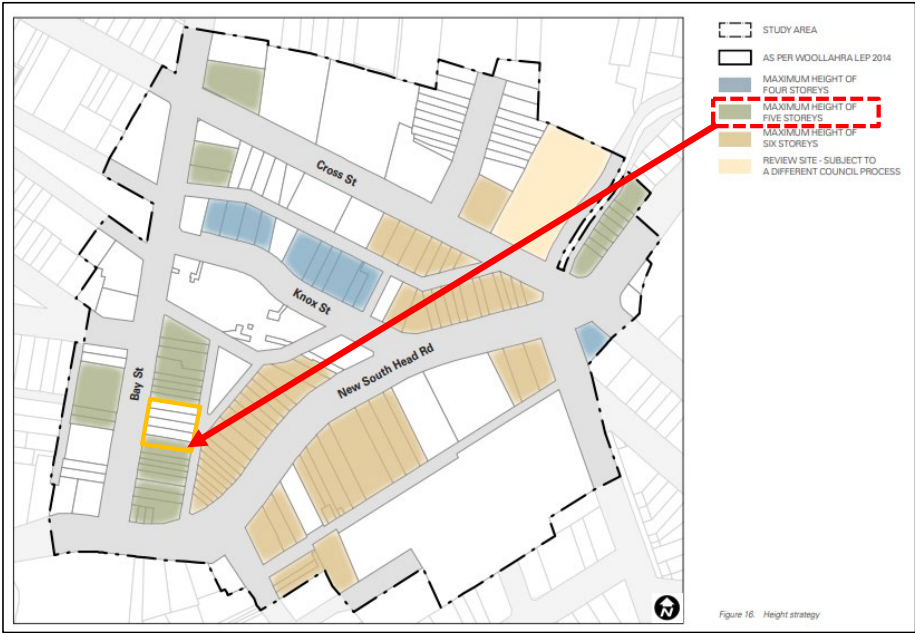
Source: Double Bay Planning and Urban Design Strategy October 2023, Woollahra Council

Figure 1: Map of Key Precincts in Double Bay

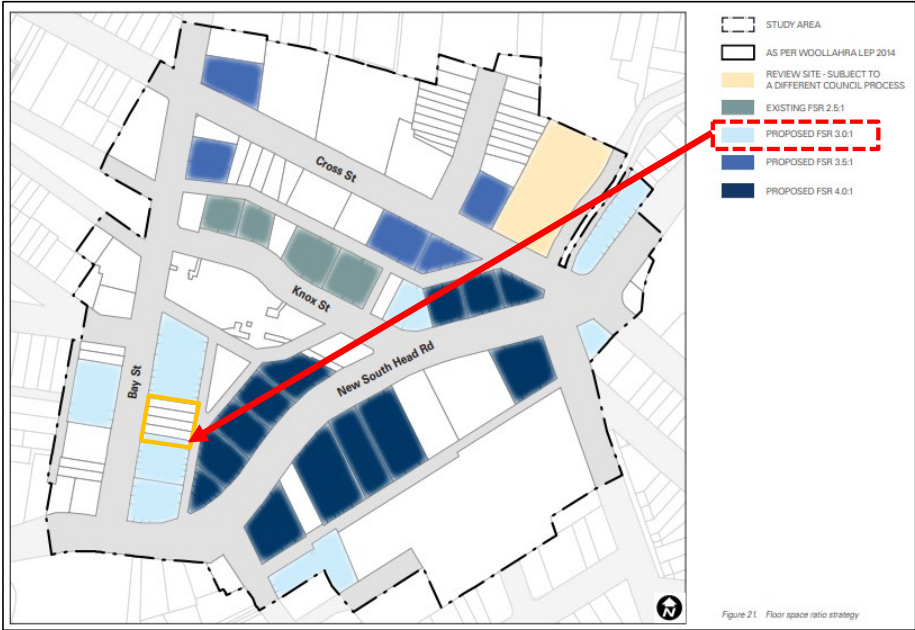
With reference to the above diagram, the eastern side of Bay Street south is identified to be part of the same neighbourhood or precinct as the western side of Bay Street south when interpreting Desired Future Character for the area under the Strategy.

The Strategy recommends a built form of 5 storeys and FSR of 3.0:1 at the southern end of Bay Street with the exception of lots that are already subject to a 5-6 storey approval or constructed building. It is assumed part of the subject site (21-27 Bay Street) is excluded due to the existing 5 storey approval on the site. The remaining part of the site (19 Bay Street), not subject to an existing development consent is identified for future development up to 5 storeys (equivalent to 18.4m, or 19m to provide for additional flexibility) (see **Figure 2** on the following page).

Furthermore, all other sites on the eastern block of Bay Street between New South Head Road and Short Street are earmarked for uplift to five storeys. This recommendation is pivotal in shaping the desired future character of the Bay Street precinct, and future development on the subject site and surrounding allotments. Removal of the fifth storey, as is suggested in Council's Urban Design Referral, is incongruent with the amended Strategy and would result in a built form that is out of place in the streetscape with consideration of future development.



Height Strategy



FSR Strategy

Subject Site

Source: Double Bay Planning and Urban Design Strategy October 2023, Woollahra Council

Figure 2: Proposed Height and FSR Maps for Double Bay

The current Proposal at 19-27 Bay Street (DA 245/2023) is materially consistent with the height and FSR controls recommended within Council's Strategy, with a maximum height of 18.13m (five storeys) and FSR of 2.73:1 proposed. Therefore, this DA for a five-storey development is consistent with the height, massing and overall vision for subject site and the Bay Street Precinct.

This addendum letter provides additional information in relation to the RFI Letter received from Council, specifically relating to the Urban Design referral (Point One). This addendum should be read in conjunction with the previous letter date 20 October 2023. Discussion on the Strategy is also provided in our Response to Public Submissions Letter dated 25 October 2023.

We trust this information is of assistance to you. If you wish to discuss this matter further, please do not hesitate to call our office on (02) 9362 3364.

Yours faithfully,



George Karavanas
MANAGING DIRECTOR



19th October 2023

RESPONSE TO URBAN DESIGN REFERRAL RESPONSE

19 – 27 Bay Street, Double Bay

BACKGROUND

Architectural drawings:	MHNDUnion Architecture, DA 1000 – 9409 Revision B, 16.10.2023
Landscape Plan:	Dangar Barin Smith, Issue 01 Rev D, 14 June 2023
Statement of Environmental Effects:	GSA Planning – Project No. 21470, July 2023.
Survey:	SDG Pty Ltd, Project No. 8554, Issue F, 04 May 2023

The key matters raised in the 'Urban Design Referral Response' are.

- The application is inconsistent with the height and scale of the desired future character of the local centre in that:
 - The style and form of the proposed development does not acknowledge the modern patterns of retail frontage.
 - Height and FSR are of contention.
 - The building wall height setbacks and articulation zones to both Bay Street and Gum Tree Lane do not comply with the design controls.
 - The design resolution of the building frontage does not respond and is not sympathetic to the prevailing shop front widths on the east side of Bay Street.
 - Levels 3 and 4 building depth exceeds 15.6 meters.
 - Floor-to-floor heights do not comply.
 - No articulation is proposed for the Bay Street facade above ground level.
 - The proposal offers no upper-floor level setbacks requiring potential acoustic and visual privacy content due to the proximity of neighbouring buildings.
 - There is no mix of colours and materials at the visually prominent levels and no vertical horizontal articulation to break down the visual bulk and scale of the building within the streetscape.
 - The roof line is visually obscured to minimise the visual impacts however rooftop air condition plant will be visible from taller buildings to the west and north – not screened or integrated.
 - The proposed building will overwhelm the prescribed character buildings and as such will not protect and enhance the contribution of the building to the characteristics of Bay Street South Precinct



Response:

The proponent has made significant improvements to the scheme off the back of the prior refusal (DA 535/2021). The updated design has been refined to address key issues raised through the previous court process, such as:

- FSR – significantly reduced from 3.41:1 to 2.73:1.
- Increased setback to the upper level 05.
 - Designed to be hidden from street view and use of glazed design to reduce visual impacts.
- Introduction of outdoor terraces to increase façade articulation;
- Increased depth of façade articulation zone within façade portals previously 750mm and now set at 1.1m.
- Lightened brick tone to soften the building's appearance within the context of the streetscape.

Character is defined by more than just one side of the street. There are a significant number of 5-6 storey approvals in the Double Bay Town Centre.

- Detailed 3D modelling of Bay Street demonstrates this proposal fits within the height datum of the street. See Architectural drawings for 3D analysis.
- Notwithstanding the above, the combination of the existing 5-storey approval on 21-27 and now approval of 17 Bay Street contributes to the character of the east side of Bay Street.
 - An existing 5-storey approval on the 21-27 lot therefore exists and contributes to the character.

Ultimately the proposal is a refined version of the 'refused' scheme. To address these matters in more depth it is important to understand what desired future character is...

DESIRED FUTURE CHARACTER

Defining the desired future character of an area is guided by the following recent court matters that have considered the term 'desired future character' being:

- a) *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112* (SJD-1)
- b) *Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115* (SJD-2)
- c) *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] (HPG)*
- d) *Big Property Group Pty Ltd v Woollahra Municipal Council [2020]*

Reference is made in particularly *Woollahra Municipal Council v SJD DB2 Pty Limited* (2020) NSWLEC 1112 [46] [48] [52] [53] [56] [57] [58] [63] and more recent court judgements such as *Big Property*, and *HPG*. Based on these judgements I understand that:

- The Desired Future Character meaning is derived from the text and context of the provisions of the WLEP in which it is used and the other provisions of WLEP that frame the urban character and built form of the neighbourhood or area.
- The development standards in the LEP do not exhaustively define and fix the desired future character of an area and the council (and court) may have regard to matters other than development standards to evaluate whether proposed development meets the desired future character of an area.



- The desired future character of the neighbourhood or area exists before and informs the establishment of the maximum height and FSR for building and the height and scale of development in the area. In this case, the desired future character of the neighbourhood or area can be evaluated by reference to other matters than building height and FSR established by the height and FSR development standards.
- The Author(s) of the DCP provides an interpretation of the LEP. In this regard, the DCP does not establish a definition of the desired future character in the WLEP but offers an interpretation as to what the desired future character might be. To provide guidance, the maker of the DCP construes the meaning of the terms and applies that understanding when drafting the development control plan. However, this process does not establish the definition of the undefined terms in the local environmental plan but rather implements an interpretation of their meaning.
- The Desired Future Character meaning is derived from the text and context of the provisions of the WLEP in which it is used and the other provisions of WLEP that frame the urban character and built form of the neighbourhood or area”.

Local Centre

We reject the overly narrow conception of neighbourhood both in terms of visual catchment and the national exclusion of some built or approved development in the Local Centre.

Preston CJ uses the term neighbourhood or area. In this case, we take it to mean the Village which is the E1 Local Centre. The objective of this zone refers to “the desired future character of the neighbourhood”.

Here Preston CJ notes [58] this.

“is used in order to ensure that development is of height and scale that achieves the desired character. This means that the desired future character of the neighbourhood establishes the height and scale of the development in the neighbourhood and not the other way around.

The Local Centre – a neighbourhood is more than just what can be seen from any one site – indeed the urban design referrals approach would mean every site has a different neighbourhood; an obvious absurdity that reinforces the erroneous approach.

Double Bay Centre is a relatively small area Knox Street and Cross Street are essentially one to two streets away from the site. Further, the court in Pallas Development Management vs Woollahra Council ignored the effect of existing and approved developments and described some as having no relevance.

I note the LEP objectives that refer to desired future character refer to either the neighbourhood or the area. There is no reference made to the precinct in terms of desired future character.

This essentially means that because development does not comply with height and FSR control it is neither consistent with the desired future character contained within the text of LEP nor is it incompatible with the desired future character.

WDCP

Further Preston CJ [49] [50]

“the Commissioner did not err on a question of law by not construing the ‘desired future character’ in the provisions of the height and development standards of cl 4.3 and cl 4.4 and



the objectives of the B2 zone of the WLEP by reference to the desired future character provisions of the WDCP.”

“That’s not to say its permissible for the Commissioner to have had regard to the desired future character provisions in the WDCP only that he was not bound to do so”.

The Court in Pallas Development Management Pty Limited Trading as Fortis Development Group vs. Woolhara Municipal Council; [2023] NSWLEC 1005

- Has a very narrow view as to the neighbourhood.
- Gives considerable weight to a narrow visual catchment.
- Placed considerable weight on the WDCP.
- Did not consider the Applicants urban design evidence as to compatibility.

The DCP Controls regarding envelopes in the WDCP were written on the assumption that the upper levels of developments in the Double Bay Centre will contain residential uses. The D 5.6.1 Objective 1 and the introduction to D5.6.3.1 expressly states the development depth for levels 3-5 are suitable for residential uses based on the former RFDC. The provided depth for ground floor is suitable for commercial uses. The DCP recognises this expressly stating “the deep ground floor and first floor building envelopes are suitable for retail uses.

As the proposal seeks to provide commercial uses on upper levels, the relevance of these controls is not relevant – this only reinforces Preston CJ in that an author has preferred an interpretation of the text of the LEP to be for essentially mixed-use development only and has not contemplated the potential for single-use commercial buildings.

Double Bay Centre Draft Strategy

In response to the recent development in the Double Bay Centre, Woollahra Council have prepared and placed the Double Bay Centre Draft Strategy on public exhibition. This strategy recommends all undeveloped and unconstrained sites in the Double Bay Centre should be developed to a height of six storeys.

While this document was a draft and hasn’t been enacted, it been prepared to elicit a desired future character beyond what was envisaged in the 2014 LEP and as interpreted in the DCP.

The rationale behind the recommended height is stated on Page 44 of the Strategy:

- *Provides an opportunity to enhance the non-residential floor space ratio in the Centre.*
- *Provides consistency with the desired future character of the Centre.*
- *Responds to the evolving character of the Centre.*



Zone E1 Local Centre

The 'Urban Design Referral Response' at page 7 identifies that one of the 10 objectives E1 Zone is not met.

"To ensure development is of a height and scale that achieves the desired future character".

This objective is met as the Double Bay neighbourhood area is undergoing a built-form transition as demonstrated by

- Recently approved developments within the Double Bay Centre
- Urban Design Principles and recommended development controls in the DBC Strategy
- Development objectives set out in the Woollahra LEP 2014.

On this basis, the desired future character is evolving as follows:

Recently approved developments

Based on GSA analysis CI 4.6s Exception to Development Standard Height of Building and FSR it is evident that the number of approved developments exceeds height and or FSR standards in the neighbourhood or area. In this regard, the desired future character is for a building height of 5-6 storeys.

Double Bay particularly within the visual catchment and streetscape of the site is constituted by several recently approved developments which highlight the emerging and changing landscape of the Double Bay area, these are.

- At the southern end of the street is the construction site of No. 2-10 Bay Street & 295 – 298 New South Head Road. It is a large 5-storey mixed-use (retail, commercial development (DA 280/2022) with 3 levels of parking that steps down Bay Street from New South Head Road. This was approved by the NSW Land and Environment Court on 11 May 2023 following a Council decision to refuse the development application.
- 12 and 14 Bay Street comprise two adjoining terraces. No 14 is approved for a narrow 5 storey building (DA 449/2020). It was approved by the NSW Land and Environment Court on 17 November 2021 following a Woollahra Local Planning Panel decision to refuse the development application.
- 18 – 22 Bay Street comprises a mixed-use four-storey mixed-use building. A small fifth storey comprises a small rooftop room accommodating lift and building plant and access to a rooftop terrace; and
- At the immediate northern part of the street opposite the site, on the corner of Cooper Street is the construction site of No. 24 Bay Street. It is a large 5 storey commercial development (DA 68/2021). This was approved by the NSW Land and Environment Court on 03 February 2022 following a Council decision to refuse the development application.
- Adjoining the site is 17 Bay Street which was recently approved (06/07/23) for alterations and additions to commercial Substantial alterations and additions of an existing commercial building to facilitate a shop top housing development consisting of two-levels of commercial and two-level residential dwelling with rooftop terrace. The development is four storeys and exceeds the height control.



The dominant character of these recently approved developments is summarised as follows:

- a. 5-6 storey height
- b. Predominantly four-storey street wall but instances of 5-6 storeys on corner sites
- c. Nil street front setbacks
- d. Upper-level setbacks range from 3.5m to 7m.
- e. Nil to 2m street level setback to laneways
- f. 2-4 storey street wall height to laneways

Double Bay Centre Planning and Urban Design Strategy

The key streetscape elements of Bay Street, as shown in Figure 61, are:

- Treed and leafy streetscape.
- Four-storey Street wall height. Nil set back
- Sensitive alterations and additions to the character buildings.
- Fine-grain facade.
- Active frontages on the ground level with outdoor dining area.



Figure 1 – Figure 61 (Double Bay Urban Design Strategy)



Woollahra Local Environmental Plan 2014

The Woollahra LEP makes several references in its bulk and scale objectives in the alignment of development to the desired future character as follows:

1.2 Aims of Plan

- (l) to ensure development achieves the desired future character of the area

Zone E1 Local Centre

1 Objectives of zone

- 1.2 To ensure development is of a height and scale that achieves the desired future character of the local centre.

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
 - (a) to establish building heights that are consistent with the desired future character of the neighbourhood,

4.4 Floor space ratio

- (1) The objectives of this clause are as follows—
 - (a) for development in Zone R3 Medium Density Residential—
 - (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area,
 - (b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.

6.10 Development in local centres

- (1) The objectives of this clause are as follows—
 - (a) to ensure the scale and function of development in local centres are appropriate for the location,
 - (b) to ensure development in local centres is compatible with the desired future character and amenity of surrounding residential areas.
- (3) Development consent must not be granted to development on the land unless the consent authority has considered—
 - (a) the impact of the development on—
 - (i) the amenity of surrounding residential areas, and
 - (ii) the desired future character of the local centre, and

WDCP

As Preston [50] states “to have regard to the desired future Character provisions of WDCP” we have addressed and satisfied the desired future character statements contained in the character area for:

Bay Street

Existing character

It is lined by modest buildings on narrow lots, with the exception of several approvals on the west side as well as the east side with irregular setbacks at street level and street trees. There are several buildings widths that have been identified as south-north New South Head Road

- 3.5m, 3.5m, 14.7 m, 2.4m, 2.4m, 18.1m



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.

Evident is an emerging character transitioning from older two storey terraces to commercial four storey (plus) lots.

Newer more recent developments consist of wider lot widths and strong retail frontages.

Desired future character

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

The Lanes

Desired future character

- Facilitate the service role of lanes, while encouraging increased active retail frontage.
- Improve pedestrian amenities by providing adequate footpaths, limiting the width and numbers of vehicle crossovers, setting buildings back on one side and preserving natural daylight to the lanes.
- Enhance the spatial definition of lanes with ground and first floor building lines and buildings up to two storeys in height

Gum Tree Lane

Gumtree Lane is spatially defined by the discontinuous two-storey built form on its west side and the lane geometry that creates a central triangular site.

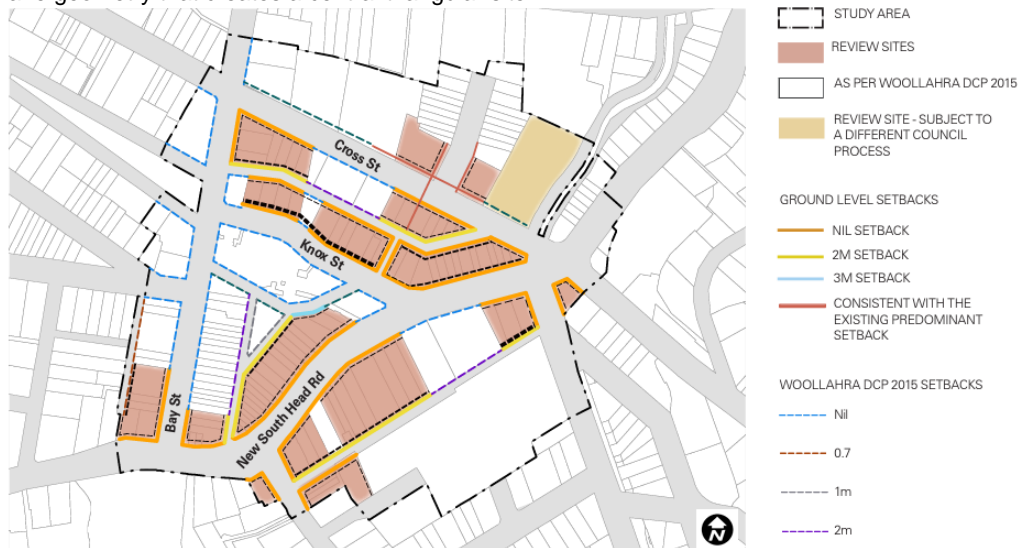


Figure 2 – Figure 55 Street Setbacks



The proposal

a) the proposal will align with the strategies contained within this Draft Strategy through the following:

- Providing an increased height on the site;
- Recessing upper levels above a street wall height of four storeys to Bay Street, which is envisioned for other review sites facing Bay Street;
- Encouraging active frontages on the ground level; and
- Amalgamation of sites.
- Retains three-storey built form and 2m setback on the west side.

b) Provides a three storey street wall that spatially defines the lane, and allows for surveillance of Gum Tree Lane.

c) Has an articulated building addressing the lane from the central triangular site.

Character Conclusion

Bay Street just as its Double Bay context is undergoing a changing character. The existing character is, therefore, an emerging one as it transitions to fulfil zoning LEP Objectives with higher-density developments on older lots that are highly susceptible to change.

Some buildings feature modern and contemporary design elements, creating a harmonious blend of old and new. The ground floors of many buildings in the town centre are dedicated to retail and commercial spaces, often with large display windows and inviting storefronts to showcase high-end merchandise and services.

Transitioning the area from predominately 2-4 storey buildings to 5-6 storeys mixed-use and commercial developments.

The site and steep topography present an opportunity to address site-specific circumstances given its location at the lower end the building can and will facilitate a transitioning height between the southern and northern ends of Bay Street of the street.

Previous approvals would indicate that the concern is as much if not more a matter of built-form presentation than a numeric value.



Compatibility

The appropriate test to determine a proposal's response to its context is 'Compatibility'. While its not strictly applicable to commercial development it offers a useful two tests to assess compatibility.

Bignold J states at paragraph 74 of *Dem Gillespies v Warringah Council* [2002] NSWLEC 224, "the primary dictionary meaning of "compatible" (the Macquarie Dictionary: capable of existing together in harmony) is in my judgment, both apt and applicable to the interpretation of the word "consistent".

In relation to the proposal's compatibility with the character of the area, RD considers the compatibility planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 (Project Venture).

Roseth SC states at [19] "Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

The two questions to test whether a proposal is compatible with its context are.

1. Are the proposal's physical impacts on surrounding development acceptable?

The physical impacts include constraints on the development potential of surrounding sites.

2. Is the proposal's appearance in harmony with the buildings around it and the character of the street?

To answer the first question:

- The proposed height is like other recently approved developments in the area and within the precinct
- While the proposal does not comply with the height of buildings development standard it satisfies the objective the proposal is consistent with the desired future character as shaped by the approved developments in the area and the precinct that contravenes the development standard
- The proposed development is located within the E1 Zone. and is not immediately adjacent to the adjoining R1 zone and therefore this objective is not relevant.
- Hourly solar access diagrams are provided for 21 June. The extent of overshadowing is acceptable and is minimal.
- The proposal is oriented to Bay Street and Gum Tree Lane.
- The upper-level setback is such that it will be partially visible from Bay Street and Gum tree Lane.
- The third and fourth levels outdoor terrace use planters that orientate uses to the east rather to the side or downwards to the adjoining properties.
- Given the site location, it minimises the impact of district views from adjoining development.



To answer the second question, I refer to the key characteristics/elements of the visual catchment that establish the site's existing neighbourhood character.

The quintessential characteristics are.

- a) consistent street wall height 4 storeys as demonstrated by the approved recent developments.
- b) With any further level setbacks for the streets and lanes
- c) flat roof
- d) a mix of solid to void ratio.
- e) variety of materials ranging from painted render sandstone

The proposal is compatible with the existing character of the neighbourhood in that:

- a) Buildings with a similar height have been approved.
- b) 4 storey street wall built to the front setbacks like recent approvals.
- c) Low solid to high void ratio
- d) Materials – face brick with glazing

In this regard, the proposed built form is consistent and compatible with the approved existing and desired character therefore satisfying the compatibility test under Project Venture.

Height.

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
 - (b) to establish a transition in scale between zones to protect local amenity,
 - (c) to minimise the loss of solar access to existing buildings and open space,
 - (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
 - (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.

Objective (a) *To establish building heights that are consistent with the desired future character of the neighbourhood.*

I note that objective (1) (a) refers to the neighbourhood – not the precinct nor visual catchment.

The height objectives are satisfied as the proposed building is consistent with the more recent approvals within the neighbourhood or area and the following character precincts being D5.4.4 Bay Street (south).

The area is undergoing a built-form transition with numerous developments exceeding council's height and density controls which have been approved and constructed. Existing building heights have been approved in different locations at different times for several different reasons. It is the precinct with a mix of heights that gives the Centre its character.

It does not provide any commonality, theme, or justification for future development to match the highest building, nor does it suggest that future development can seek to exceed the prevailing highest building.

Proposals do not need to remain identical or be the same to remain in character particularly when a development is one of the first on its side of the street. Previous approvals particularly that of 17 Bay Street work to demonstrate the evolving nature of Bay Street that collectively shape its emerging character.



There is no uniform desired future character that applies to properties in the vicinity, as Double Bay's character is described as "eclectic." This observation underscores the idea that flexibility and adaptability should be considered when assessing development proposals.

The site and steep topography present an opportunity to do so to address site-specific circumstances given its location at the lower end the building can and will facilitate a transitioning height between the top and bottom of the street given an RL difference of almost 4m to the south.

This open rooftop restaurant therefore acts as a transitioning element that is not constituted as an entirely enclosed level but rather an open top of a partially built 5th floor ensuring a more gradual and visually active step to the north at a lower more consistent RLs.

As stated developments approved in the visual catchment such as 2-10 Bay Street & 298 New South Head Road whilst demonstrating a stepped design attempt at a gradual transition in height as a result of steep terrain topography, the sites along the east of the street are not yet amalgamated and there is no guarantee of such either indicating that narrow lots would ideally take full use of the height control and at higher RLs this creates a steep transition between the site and those at the south-eastern extent of Bay Street.

The example of No. 17 Bay Street successfully requesting a height variation while maintaining a four-storey building form emphasises the importance of design considerations when evaluating such variations and that it is more a question of building form and expression than the numeric height.

Street wall presents clearly as a 4-storey development from Bay Street, there is a clear recession on the 5th floor and towards the lane ensuring recession is not intrusive and that design amendments further improve and hide the 5th floor from Gum Tree Lane evaluating the proposed variation to the Desired Future Character (DFC) for the area. Let's address each of these points:

Pallas vs Woollahra Municipal Council [2023] 1005 to relevant case law reinforces that the desired future context for a particular neighbourhood or area should not be solely determined by isolated instances but should consider the broader context.

We argued that there is a common desired Future character that geographically applies to properties in the vicinity of the site. We note that cities town Local centres etc. are built for are constantly evolving and as such amalgamation patterns and building heights vary widely across the Double Bay Centre.

It's important to note cities towns villages local centres comprise an overlay of several miniature utopias, i.e., Layers of town-making planning policies and principles, each conceived to solve the perceived problems of their day. Each miniature utopia represents some normative view as to what makes a good place.

Since the mid-1980s, the Double Bay has had a series of miniature utopias overlayed on it, the latest being in the form of WLEP 2014 and DCP 2014 controls. Consequently, as a result of the various formatted empirical notion of town planning Double Bay's character, both existing and proposed in the WLWP, is "eclectic."

The CL 4.6 request includes quotes. from *Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161* and *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] NSWLEC 1243* The circumstances of this matter do not support the variation in this instance Therefore they have a minimal role to play.

The approvals cited in the request are located in a distinct block on the west side of Bay Street and South and the eastern side of Bay Street where a history of approvals in those blocks has resulted in an evolution of the desired future character for east and west side of Bay Street block.

The character on the east side of Bay Street is evolving, being a distinct two-storey form of narrow-fronted shops, many of the buildings of which are identified as "character buildings" in WDCP 2015;

The adjoining development, at No. 17 Bay Street, that successfully requested a 2.65-metre height variation did so while retaining a four-storey building form and paid attention to the design and colours of the building façade to Bay Street to provide a sympathetic and consistent response to the



surrounding two storey built form character.

The council has approved two applications on the east side of Bay Street as has by default encouraged any development in the block that supports a change in character as a result of the variation to the height standard.

Consequently, The Desired future character for the Bay Street South (east) block continues to evolve

In Pallas vs WMC [2023] 1005, the applicant's urban design evidence in the Joint report included a streetscape analysis and a compatibility analysis. Further, the applicant's evidence did not selectively point to approved buildings elsewhere in Double Bay. All buildings approved and built that exceed the height and FSR were identified and referenced.

(b) to establish a transition in scale between zones to protect local amenity

The 5th floor is recessed 7.98m from Bay Street and 6.9m from Gumtree at the upper level

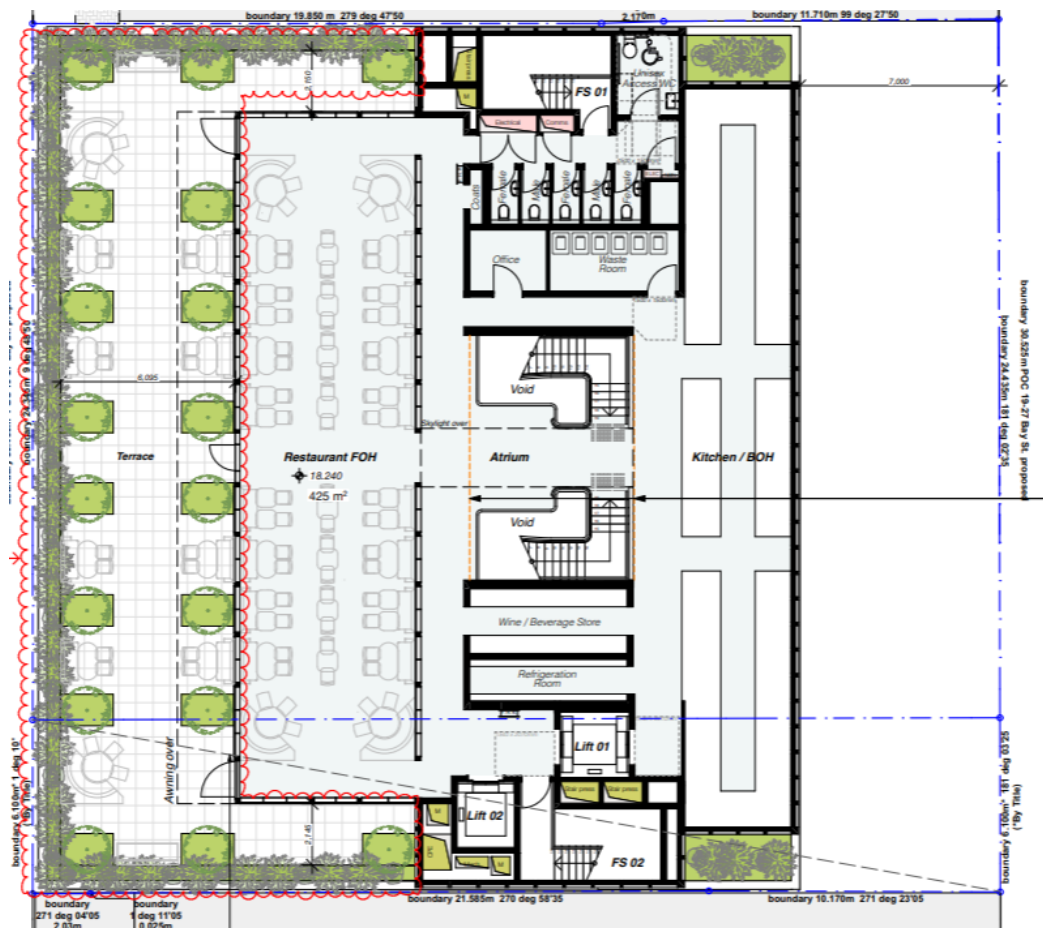


Figure 3 – Level 4 Plan – DA 2009



The fifth floor will:

- Transitioning the area from predominately 2-4 storey buildings to 5-6 storeys mixed-use and commercial developments.
- The site and steep topography present an opportunity to do so to address site-specific circumstances given its location at the lower end the building can and will facilitate a transitioning height between the top and bottom of the street.
- Previous approvals would indicate that the concern is as much if not more a matter of built-form presentation than a numeric value.

(d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion

The site and steep topography present an opportunity to do so to address site-specific circumstances given its location at the lower end the building can and will facilitate a transitioning height between the top and bottom of the street given an RL difference of almost 4m to the south this open rooftop restaurant therefore acts as a transitioning element that is not constituted as an entirely enclosed level but rather an open top of partially built 5th floor ensuring a more gradual and visually active step to the north at lower more consistent RLs

The existing street environment with dense tree foliage and narrower streets prevents long lines of sight to the proposal and therefore any visual impact is only visible at slight angles through side boundaries of underdeveloped lots with a susceptibility to change.

The existing street environment with dense tree foliage and narrower streets prevents long lines of sight to the proposal and therefore any visual impact is only visible at slight angles through side boundaries of underdeveloped lots that are susceptible to change.

The 4 storey street wall will remain the key feature even though one may see the fifth floor from an oblique angle along Bay Street from the north and south.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

Consistency with Context

The example of No. 17 Bay Street successfully requesting a height variation while maintaining a four-story building form emphasises the importance of design considerations when evaluating such variations and that it is more a question of building form and expression than the numeric height under this notion.

In light of this, it becomes evident that maintaining a uniform and visually pleasing streetscape is of utmost significance. To address this challenge, there is an opportunity to provide massing solutions, if deemed necessary. These solutions could serve as a means to reconcile the differences in building heights, ultimately preserving the visual charm and character of the neighbourhood.



Proposed Use

(a) Proposed Tenant

The proposed retail and restaurant floor plans have garnered the interest of a prominent tenant, RH, who has committed to a long-term lease for the space. 'The Gallery at Double Bay,' set to become RH's flagship store for the Asia-Pacific region, has been meticulously designed to serve as a significant landmark in the retail and dining culture of the city's eastern suburbs. The design and scale of the building are carefully aligned with the evolving commercial landscape of the Double Bay Centre and, in particular, the Bay Street South neighbourhood area.

The proposal is custom-tailored to accommodate the unique needs of RH as the tenant. RH, a distinguished luxury furniture and design company based in the United States, will occupy four levels of retail space within 'The Gallery,' artfully integrating luxury home furnishings and interior design services. The upper-level fine dining restaurant is set to provide a premium hospitality experience for both RH's customers and the public, enhancing the overall mixed retail and dining concept that RH is renowned for. Additionally, the inclusion of numerous terraces not only minimizes the visual bulk and scale but also caters to their outdoor furniture range.

To mitigate any potential visual impacts, a partial and highly recessed 5th Floor has been incorporated into the design. Adhering strictly to floor-to-floor controls would result in a built form that far exceeds the existing permissible limits. This would go beyond the bounds of what can be sought with valid planning justifications and grounds to support variations to the LEP.

The Refer Response urban design does not identify any potential impacts on neighbouring properties other than noise. Any concerns about operational hours for activities on the terraces can be addressed through specific conditions.

(b) Landscape

Design amendments to the rooftop terrace provide further landscape at the top level to soften the bulk of the proposal even further. Awning concepts further work to present a modulated design which better addresses the narrow lot width of character buildings.

Urban Design benefits from a compliant envelope are substantially the same as what is proposed and minor alterations will not have drastic improvements.



Woollahra Development Control Plan 2015 (WDCP2015)

The Desired Future Character meaning is derived from the text and context of the provisions of the WLEP in which it is used and the other provisions of WLEP that frame the urban character and built form of the neighbourhood or area.

The Author(s) of the DCP provide an interpretation of the LEP. In this regard, the DCP does not establish a definition of desired future character in the WLEP but offers an interpretation as to what the desired future character might be.

To provide guidance, the maker of the DCP construes the meaning of the terms and applies that understanding when drafting the development control plan. However, this process does not establish the definition of the undefined terms in the local environmental plan but rather implements an interpretation of their meaning.

The key chapter of the WDCP is Chapter D5 Double Bay Centre and its key controls are outlined in the below subheadings.

D.5.5.9 - Control Drawing 5

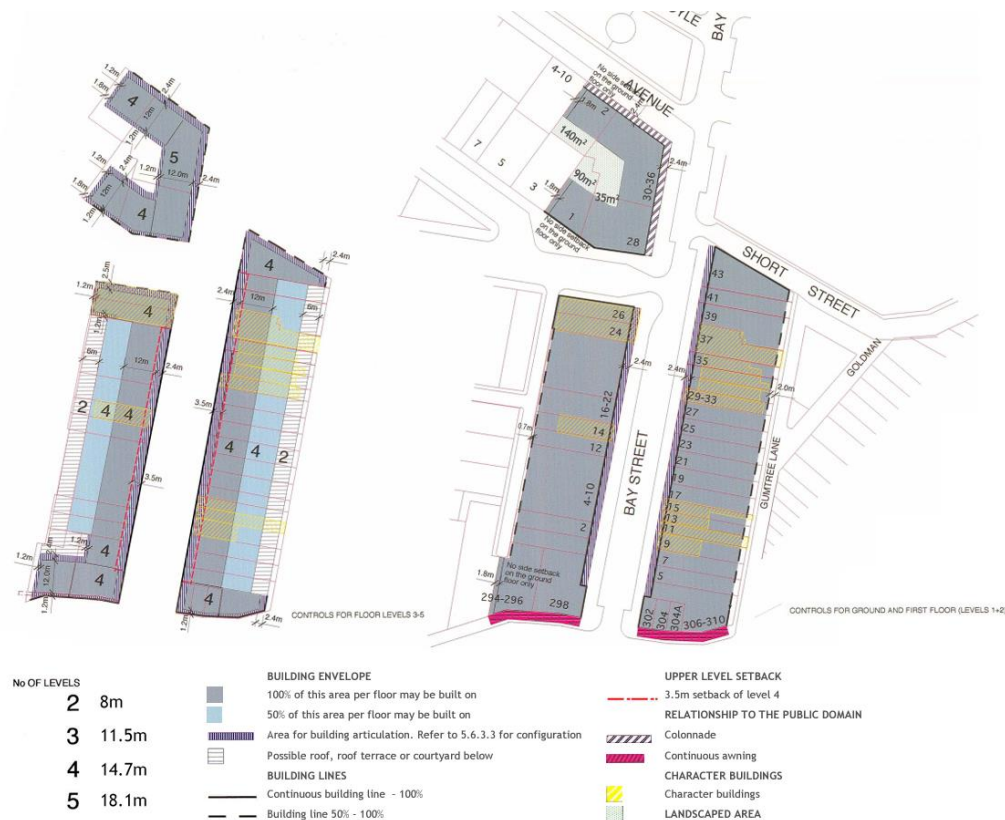


Figure 4 – Control Drawing 5



- The DCP Controls regarding envelopes in the WDCP were written on the assumption that the upper levels of developments in the Double Bay Centre will contain residential uses.
- The D 5.6.1 Objective 1 and the introduction to D5.6.3.1 expressly states the development depth for levels 3-5 are suitable for residential uses based on the former RFDC.
- The provided depth for the ground floor is suitable for commercial uses.
- The DCP recognises this expressly stating "The deep ground floor and first floor building envelopes are suitable for retail uses."
- Part D5.4.11 of Council's DCP includes setback controls to Gum Tree Lane to the rear including a 2m setback for the Ground and First Floor levels, and an 8m setback for all other upper levels.
- The proposed Ground to Second Floor Levels are setback 2.06m, while the Third Floor Level is set back 7.109m and the Fourth Floor Level is set back 7.135m.

The proposal will have a three-storey street wall addressing Gum Tree Lane.

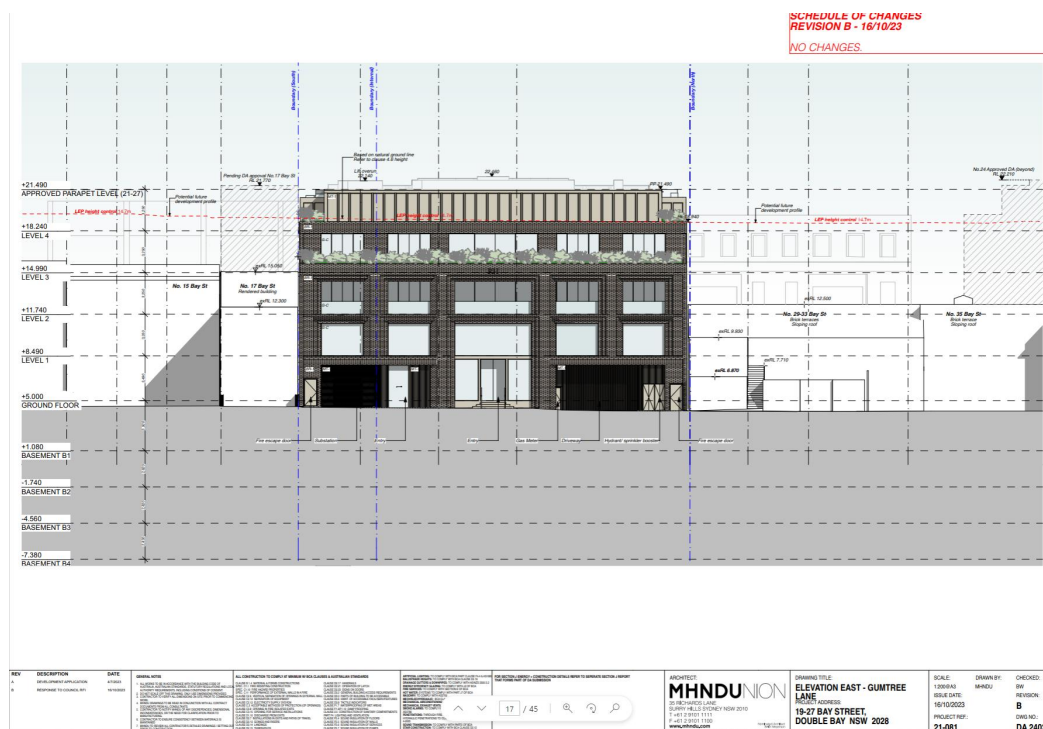


Figure 5 – East Elevation DA2402

5.6.2 Use

The development is expected to attract new business and commercial ventures, which can bring vitality and innovation to the area, fostering healthy competition and economic diversification.

The inclusion of ground floor uses that contribute to vibrant and functional streets and public spaces is a commendable goal. This activates and provides attractiveness to the locality.

The proposed facade design establishes a strong vertical rhythm to Bay Street's reflection of the historic terrace house pattern. It is not intended to emulate that historical pattern.



5.6.3.1 Building Envelopes

This control is less applicable as the proposal is not for a residential development. In any case, the inclusion of openings to balconies and terraces will offer natural cross ventilation and articulation.

While the building footprint at the upper levels is in excess of 15.6m, the above control clearly indicates that this is in relation to residential development with building depths by referencing 'dwellings'. Therefore, the control is less relevant to commercial development, which requires larger floorplates for adequate efficiency and operational requirements in any case, the proposal will achieve adequate natural light and ventilation to the commercial tenancies.

5.6.3.2 Height

The proposal thoughtfully incorporates slightly lower floor-to-floor heights compared to the standards outlined in the DCP. This design decision serves a dual purpose: firstly, to maintain consistency with the previous approval, and secondly, to minimize the extent of non-compliance with the LEP height regulations.

Specifically, the Ground Floor levels are designed with heights ranging from 3.49 meters to 4.09 meters, while the upper levels maintain an average of approximately 3.25 meters, with a slightly higher floor-to-floor on part of the restaurant level.

What's especially noteworthy about this approach is that it doesn't merely stop at adapting to external regulations; it extends to the internal aspects of the building as well. Drawing inspiration from successful precedents, such as the innovative strategies applied in Double Bay at 30-36 Bay Street, the proposal focuses on interior and services design that ensures exceptional internal amenities.

Incorporating strategies like floor-to-ceiling height windows and glass doors, this design plan ensures that natural light penetrates the spaces efficiently. While the proposal may not strictly adhere to the floor-to-floor height requirements in the DCP, it demonstrates an acute understanding of how to optimize the internal amenity.

The result is a project that successfully balances both external and internal considerations, ultimately achieving positive amenity outcomes. This approach serves as a testament to the importance of combining regulatory compliance with thoughtful design strategies to create harmonious, comfortable, and aesthetically pleasing urban spaces.

The proposed building will be occupied solely by RH, a world-renowned company that will offer high-end interior design services with installations of luxury home furnishing collections across each gallery level. The retail levels have large floorplates to accommodate gallery spaces that artistically integrate luxury home furnishings and interior design services to customers.

The proposed restaurant on the upper floor will provide a high-end hospitality experience for customers and the public and is an integral part of the mixed retail and restaurant experience that RH is synonymous with.

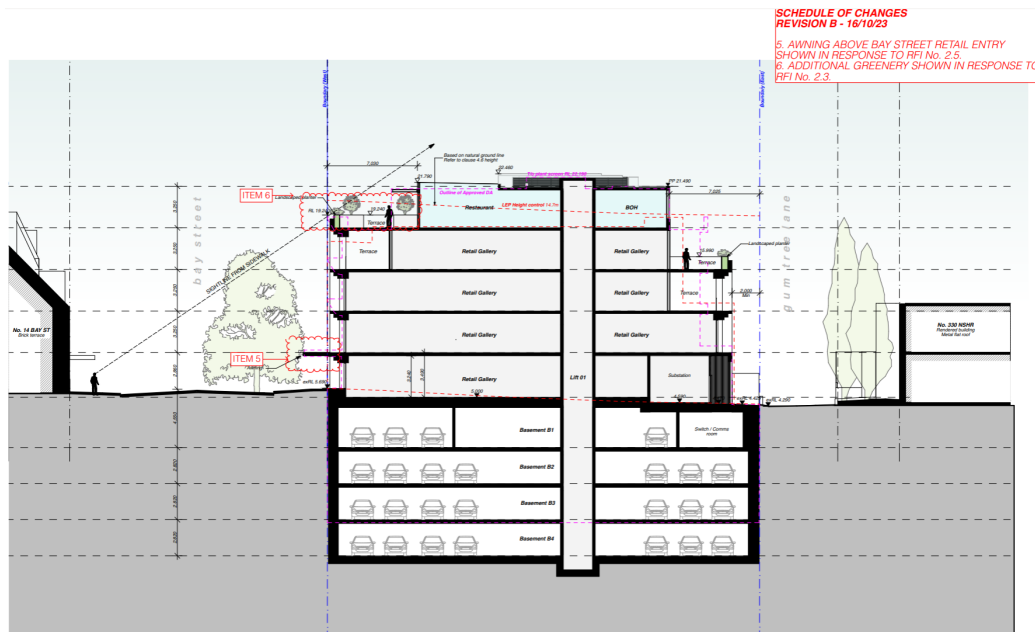


Figure 6 – Section B – DA2501

5.6.3.6 Architectural resolution (Façade and Building Style)

Building frontage design is defined by vertical columns that are stepped forward from the window and building line to define and create narrow columns across the site with a wider central column distinguishing both sides at either end to break up the built form and follow an interpretation of previous terrace allotments.

D5.6.3.3 Building Articulation

The proposed façade comprises a series of vertical and horizontal elements. The glazing is set back. In this instance, we note that the envelope control.

- Identifies a 2.5 m articulation zone. The controls do not specify a minimum.
- Are written primarily for residential uses on the 1st floor and the floors above.

Notwithstanding this, the facade articulation zone has been deepened compared with that of the previously refused scheme while the introduction of outdoor terraces to levels 2 and 3 provide further articulation of the building form.

5.6.3.4 Side Setbacks

The area above the height standard is designed to be setback from the boundaries and uses lightweight materials to minimise the visibility of the restaurant seating area closest to Bay Street. The lightweight materials and glazed materiality of the upper level will also assist in minimising its visibility in the streetscape.

Refer to the acoustic report which makes a statement of the acceptability of the proposed design from an acoustic standpoint.



5.6.3.7 Roof Design

The proposal seeks to visually obscure the roof line to minimise visual impacts with the proposed height exceedance.

- Air conditioning and other rooftop equipment can be addressed at a later stage in the development pipeline.

5.6.3.8 – Heritage items and character buildings

Façade design and awning presentation will help to modulate the perceived bulk of the building when visible from primary public domain locations which mostly consist of those near the site as the streets natural elements obscure it from further distances. Development in the visual catchment particularly approved development which opposes the character buildings has the same effect on the Bay Street character.

5.6.4.1 Awnings

Council considers the development compliant subject to a condition that requires an awning at the building entrance on Bay Street.

- The Applicant has revised the design to now address this matter.

5.6.4.3 Arcades, walkways and courtyards

Council considers the development compliant subject to a condition that provides certainty of visibility and unrestricted public access during business hours.

5.6.4.6 Ground floor active lane frontage

The ground floor frontage to Gum Tree Lane does not achieve 75% due to the need for fire egress and an electrical substation. However, the extent of the window area to the Lane could be increased by replacing the wall behind the platform lift with a window.

Council consider that this can be addressed by a condition that seeks an increase in the window area at the ground floor to the Lane.

5.6.5.2 Acoustic privacy

The restaurant will be used within in the proposed trading hours, from 10:00am to 9:00pm Monday to Saturday and 10:00am to 8:00pm on Sunday to minimise acoustic privacy impacts in the morning and later into the evening.

The restaurant is supported by a Noise Impact Assessment.

5.6.6 Solar Access and Natural Ventilation

The proposed development has effectively minimised shadow impact to the public domain.

5.6.8.1 On-site parking

The proposed development achieves these requirements.

5.6.8.4 Site facilities

The proposed development achieves these requirements.

Memorandum – Traffic

Date 12 December, 2023

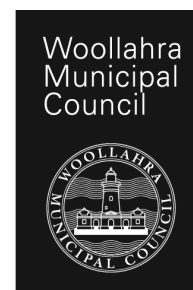
File No. Development Applications: 245/2023/1

To Mr W Perdigao

CC Mr R Lam

From Ms E Fang

Address 19-27 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
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Telephone (02) 9391 7000
Facsimile (02) 9391 7044

I refer to the memo from the Planning Department dated 1 November 2023 requesting comments in relation to the above.

Traffic Engineering has reviewed:

1. Traffic and Parking Addendum Letter, referenced 20344, prepared by TTPP, dated 19 October 2023, including:
2. Swept Path Analysis for B99 Vehicles and 6.345m Waste Trucks, Rev A, referenced DWG No. 20344CAD028 & 20344CAD029, prepared by TTPP, dated 17 October 2023;
3. Waste Service Provider Letter, unreferenced, prepared by Capital City Waste Services, dated 12 October 2023;
4. Plan of Management, Rev 02, unreferenced, prepared by RH, dated October 2023;
5. Revised Operational Waste Management Plan, Rev. F, referenced S0799, prepared by Elephants Foot Consulting, dated 19 October 2023;
6. Revised Architectural Drawings, Rev B, referenced 21-081, prepared by MHN Design Union, dated 16 October 2023.

Proposal

Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage

COMMENTS

Parking Provision

On-site parking provision has been previously assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*, where a shortfall of six (6) parking spaces than DCP's minimum requirement is identified. Refer to TRIM #23/166058.

It is however acknowledged DCP does not specify parking rate for the proposed use. Council's Traffic & Transport Engineers concur with the submitted traffic letter that the proposed furniture display suite operates closer to a bulky good/slow trade furniture store which has a lower customer

Referral Response - TS Traffic - DA2023 245 1 - 19-27 Bay Street DOUBLE BAY - Updated

density, noting the majority of future customers will visit on an appointment basis that should further decrease the turnover rate.

The traffic letter made reference to the RMS (now TfNSW) Guide and Technical Directions, as well as parking generation manual and a similar RH site currently operating in USA, where it was concluded that parking rate for the furniture display component is approximately 2.3 spaces per 100m² GFA. The required minimum parking is 33 spaces for furniture store and 17 spaces for food and drinking premises, giving a total requirement of 50 spaces. The proposed parking rate is considered reasonable.

It is also noted that the maximum seating capacity and number of staff on-site has been reduced as per the revised plan of management. Carpooling and alternative transport modes will be facilitated in addition to a review of Census 2021 Journey to Work data, which suggests 26% of employees use public transport to travel to and from work in Double Bay area.

In light of all the above, the proposed provision of 59 car parking spaces is considered acceptable.

Accessible Parking

Number of on-site accessible parking spaces has been previously assessed and considered acceptable. Dimensions of accessible parking spaces including the provision of bollards and line marking for shared space are depicted in the revised architectural drawing and comply with AS2890.6.

Service Vehicles

It is understood that deliveries for the restaurant will be undertaken by vans of approximately 6-8 cubic metres in size and will utilise the on-site loading bays. Deliveries will occur 4-5 times per day outside peak hours. Deliveries for furniture display will be undertaken via 8.8m MRV using the on-street loading zone in close vicinity and are anticipated to occur once or twice a year.

It is also understood that waste collection will be undertaken by 6.345m waste truck and will utilise the on-site loading bays. Swept path diagrams demonstrate successful movements accessing/egressing the site without impeding access along Gum Tree Lane.

The proposed arrangements for service vehicles are unlikely to generate unacceptable adverse traffic impacts on the local road network and are considered satisfactory. Should the development be approved, conditions will be imposed to ensure service vehicles can only attend the site outside peak hours.

Sight Splay

Sight splay should be provided as per Clause 3.2.4 of AS/NZS 2890.1, to ensure adequate visibility. It is noted that the proposed driveway design can accommodate a compliant splay area however the splay should be clearly depicted on the architectural drawings to indicate provision and dimensions.

RECOMMENDATION

Council's Traffic Engineer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

Referral Response - TS Traffic - DA2023 245 1 - 19-27 Bay Street DOUBLE BAY - Updated

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
20344	Traffic and Parking Addendum Letter	TTPP	19 October 2023
DWG No. 20344CAD028 & 20344CAD029	Swept Path Analysis for B99 Vehicles and 6.345m Waste Trucks, Rev A	TTPP	17 October 2023
unreferenced,	Waste Service Provider Letter	Capital City Waste Services	12 October 2023
unreferenced	Plan of Management, Rev 02	RH	October 2023
S0799	Revised Operational Waste Management Plan, Rev. F	Elephants Foot Consulting	19 October 2023

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

C.13 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council for infrastructure works prior to the issuing of any Construction Certificate. The following infrastructure works must be carried out at the applicant's expense:

- The removal of the existing vehicular crossing including layback and gutter and the construction of a new 5.6 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary.
- Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.
- Other conditions imposed by Development Engineers.**

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any Construction Certificate. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the Applicant to seek to amend this consent.

Note: See section K. *Advicings* of this consent titled *Roads Act Application*.

Standard Condition: C13 (Autotext CC13)

C.45 Car and Commercial Parking Details

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 – *Off-Street Parking: Commercial Vehicle Facilities* respectively.

The plans must satisfy the following requirement(s):

- Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1:2004;
- A 2m x 2.5m sightline be provided, clear of obstruction, along the northern side of the driveway and be clearly depicted on the architectural drawing;
- Other conditions imposed by Development Engineers.**

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Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

Standard Condition: C45 (Autotext: CC45)

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

D.9 Construction Management Plan

D.10 Works (Construction) Zone – Approval & Implementation

E. Conditions which must be satisfied during any development work

E.3 Compliance with Construction Management Plan

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

I.21 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:2015 *Parking Facilities - Bicycle Parking Facilities*, AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* and AS 2890.2:2018 – *Off-Street Parking: Commercial Vehicle Facilities*, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking	59 (including 2 accessible parking spaces)
Loading bays	2
Bicycle parking	39
Motor bike parking	6

This condition has been imposed to ensure adequate on-site parking is maintained.

I.31 Parking Permits (Special Condition)

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

I.XX Waste Collection (Special Condition)

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

10.00am to 3.00pm, 7.00pm 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.

Referral Response - TS Traffic - DA2023 245 1 - 19-27 Bay Street DOUBLE BAY - Updated

Completion Date: 5 September 2023

REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

FILE NO: Development Applications: 245/2023/1
ADDRESS: 19 Bay Street DOUBLE BAY 2028
PROPOSAL: Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage
FROM: Mr R Lam
TO: Mr W Perdigao

1. ISSUES

- None

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21470, prepared by GSA Planning, dated July 2023.
- Architectural Plans, referenced 21-081-Rev A, prepared by MHNDUNION, dated 04/07/2023.
- Survey, referenced 8554-Rev F, prepared by SDG P/L, dated 04/05/2023.
- Stormwater Management Plans, referenced 231269-P1, prepared by TTW, dated 13/06/2023.
- Geotechnical Report, referenced E25794.G04_Rev1, prepared by EI Australia, dated 14 June 2023.
- Flood Risk Assessment, referenced Rev3.1, prepared by Catchment Simulation Solutions, dated 09 June 2023.
- WaterNSW Referral Response, dated 17 August 2023.

3. ASSESSMENT

Comments have been prepared on the following:

a. Site Drainage comments

The submitted revised concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. In particular, the applicant has installed stormwater treatment system which satisfies Chapter E2.2.3 of Council's DCP. The site is situated in the OSD exemption area, in which case the installation of OSD system is not required. Stormwater runoff from the site will be connected to the existing Council's grated concrete located within the frontage of the site in Gum Tree Lane.

Council's Infrastructure & Sustainability Services Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.

b. Flooding & Overland Flow comments

Council's Drainage Engineer has determined that the development proposal is generally satisfactory subject to the following conditions:

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.*
- b) The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of 4.9m AHD.*
- c) Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.*
- d) All below ground construction shall be fully tanked.*
- e) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.*
- f) The basement level shall have adequate pumping to cater for any leakage in flood barriers. The pump system is to incorporate:*
 - 1) Dual alternating pumps.*
 - 2) An uninterruptable power supply capable of running the pumps for a minimum of 2 hours.*
 - 3) A trash screen to protect the inlet from debris.*
 - 4) A minimum pump pit size of 3m³.*
 - 5) An alarm/ warning system designed to alert residents when flood levels are above 100mm deep.*
 - 6) A warning alarm/system that indicates when the pumps are running.*
- g) The pedestrian entry off Bay Street shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of RL5.45m.*
- h) Flood compatible materials shall be used for all flood exposed construction.*
- i) All flood exposed electrical wiring and equipment shall be waterproofed.*
- j) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.*

c. Impacts on Council Infrastructure comments

The applicant seeks to provide basement parking as part of this development. As such, the applicant shall remove the existing vehicular crossing and layback in Gum Tree Lane and construct a new 5.5m wide crossing as part of this application. This requirement will be conditioned accordingly.

d. Traffic comments

Refer to comments and conditions by Council's Traffic Engineer separately.

e. Vehicle Access & Accommodation comments

The proposed vehicular access and carparking layout comply with AS2890.1 except that revised plans shall be submitted at the CC stage showing that bollards to be installed in the shared areas adjacent to the accessible parking spaces which will be conditioned accordingly.

f. Geotechnical, Hydrogeological and/or Structural comments

An additional Geotechnical Report by EI Australia, Ref: E25794.G04_Rev1, dated 14 June 2023, has been submitted in support of the application. The proposal involves excavation with a depth of about 13.9 metres below the ground levels for the proposed four level basement. Locally deeper excavations may be required for footings, service trenches, crane pads, and lift overrun pits.

Previous geotechnical report prepared by JK Geotechnics identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 0.5m in BH1*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 17.7m and extended to a termination depth of 22.49m in BH1*
- c) Sandstone bedrock was encountered beneath the natural sand.*
- d) Groundwater was encountered during the field investigation.*

Previous geotechnical report prepared by Douglas Partners have identified that the subsurface conditions as:

- a) Fill comprising silty sand to a depth of 1.5m, 1.8m and 1m in BH101, BH102 and BH103 respectively*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 19.5m, 15.5m and 20.5m and extended to a termination depth of 25.5m, 25m and 27m in BH101, BH102 and BH103 respectively*
- c) Sandstone bedrock was encountered beneath the natural sand.*
- d) Groundwater was encountered during the field investigation.*

The report made comments and recommendations on the following:

- *Shoring and support,*
- *Vibration Monitoring,*
- *Excavation method,*
- *Further Geotechnical input.*

In addition, the applicant has also submitted a Structural report providing methodology to address the proposed excavation. It is noted from the report that the engineer has confirmed that the proposed structure will be designed in accordance with current Australian Standards and BCA requirements.

Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds subject to the imposition of conditions. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.

4. RECOMMENDATION

Council's Development Engineer has determined that the proposal is satisfactory, subject to the following conditions:

A. General Conditions

A.5 Approved Plans & Supporting documents

Reference	Description	Author/Drawn	Date(s)
30721PN3rpt rev2	Geotechnical Report	JK Geotechnics	12 Nov 2021
210180.00	Geotechnical Report	Douglas Partners	24 June 2022
E25794.G04 Rev1	Geotechnical Report	El Australia	14 June 2023
231269	Structural Report	TTW	26 May 2023
231269 C01-P1 C04-P1 C06-P1 C10-P1	Stormwater Management Plan	TTW	13/06/2023 13/06/2023 13/06/2023 13/06/2023
Rev 3.1	Flood Risk Assessment	Catchment Simulation Solutions	9 June 2023

A.8 Ancillary Aspect of the Development (Repair Damaged Infrastructure)

A.31 No Underpinning works

This development consent does **NOT** give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties.

A.32 Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. In all respects, the proposed vehicular access including any parking spaces must be designed and constructed to comply with the minimum requirements of AS2890.1 and Council's DCP.

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

B.7 Public Road Assets Survey prior to any work/demolition

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

C.5 Security Deposits

Property Damage Security Deposit (S138)	\$261,266	No	T115
Infrastructure Works bond (S138)	\$152,700	No	T113
Public Road and Footpath Infrastructure Application Fee (S138 Fee)	\$645	No	T45

C.13 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by Council as the road authority, for the following infrastructure works prior to the issuing of any Construction Certificate. The infrastructure works must be carried out at the applicant's expense:

1. Civil Works

- a) The construction of kerb and gutter for the full frontage of the site in Gum Tree Lane in accordance with Council's Crossing Specification and to the satisfaction of Council's Assets Engineers,

- b) The removal of all existing redundant layback and gutter in Gum Tree Lane and the construction of a new 5.5 metres wide layback and gutter in accordance with Council's Crossing Specification, Council's standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary,
 - c) The reconstruction of full width footpath with Double Bay pavers for the full frontage plus 3 metres beyond the frontage of the site in Bay Street in accordance with Council's Specification for Road works, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. A maximum crossfall of 3% must be provided for the full width footpath from the property boundary towards the top of kerb. A design longitudinal surface profile (scale 1:100) and cross sections (scale 1:50) at every 5 metres interval must be submitted for assessment.
2. Drainage works
- a) The installation of stormwater outlet pipe by using 150mm x 75mm galvanised RHS in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers. Design longitudinal profile of the proposed stormwater outlet pipe, starting from the boundary junction pit to the grated concrete channel must be submitted for assessment,
 - b) The reconstruction of the existing Council's stormwater concrete channel with open grates within the frontage of the site in Gum Tree Lane. The grates are to be Class D "heel-safe removable grates" type. All works shall be designed and carried out in accordance with Council's Specifications for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers,
 - c) The developer shall be responsible for carrying out all service investigations to allow a gravity connection.
3. Awning works
- a) The submission of design drawings and a certificate from a professional engineer (structural engineer), for the proposed metal awning on Council's property,
 - b) Observe condition for the creation of positive covenant requirements.
4. Bond
- a) A bond of \$152,700 will be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original unconditional bank guarantee with no expiry date.
 - b) Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
 - c) The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

Note: See condition K24 in *Section K. Advising* of this Consent titled *Roads Act Application*.
Standard Condition: C13 (Autotext CC13)

C.21 Provision for Energy Supplies

C.25 Soil and Water Management Plan – Submissions & Approval

C.36 Professional Engineering Details

C.37 Engineer Certification

This development consent does NOT give approval to any works outside the boundaries of the subject property including any underpinning works to any structures on adjoining properties and Council's property.

Any structural design is not to incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc which encroach outside the boundaries of the subject property. Engineer certification to this effect shall be submitted to the Certifying Authority prior to issue of any Construction Certificate.

C.40 Geotechnical and Hydrogeological Design, Certification & Monitoring

Prior to the issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared by a geotechnical engineer with National Engineering Register (NER) credentials in accordance with Council's DCP and Councils document "*Guidelines for Preparation of Geotechnical and Hydrogeological Reports*". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.

These details must be certified by the professional engineer to:

- a) Provide appropriate support and retention to ensure there will be no ground settlement or movement, during excavation or after construction, sufficient to cause an adverse impact on adjoining property or public infrastructure.
- b) Provide appropriate support and retention to ensure there will be no adverse impact on surrounding property or infrastructure as a result of changes in local hydrogeology (behaviour of groundwater).
- c) Provide foundation tanking prior to excavation such that any temporary changes to the groundwater level, during construction, will be kept within the historical range of natural groundwater fluctuations. Where the historical range of natural groundwater fluctuations is unknown, the design must demonstrate that changes in the level of the natural water table, due to construction, will not exceed 0.2m at any time.
- d) Provide tanking of all below ground structures to prevent the entry of all ground water such that they are fully tanked and no on-going dewatering of the site is required.
- e) Provide a Geotechnical and Hydrogeological Monitoring Program that:

- will detect any settlement associated with temporary and permanent works and structures,
- will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),
- will detect vibration in accordance with AS 2187.2-1993 Appendix J including acceptable velocity of vibration (peak particle velocity),
- will detect groundwater changes calibrated against natural groundwater variations,
- details the location and type of monitoring systems to be utilised,
- details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,
- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.41 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under adjoining properties, public roads and/or footpaths. Prior written consent must be obtained from all relevant adjoining property owner(s) for the use of any Ground Anchors extending beyond the boundaries of the subject property.

The use of permanent ground anchors under Council land is not permitted. Temporary ground anchors under Council's land may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act 1993*. Application forms and Council's "Rock Anchor Policy" are available from Council's website. Approval may be granted subject to conditions of consent. Minimum Four weeks should be allowed for assessment.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

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

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)

C.45 Vehicular Access and Parking Arrangement

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, certification from a Chartered Traffic Engineer with construction drawings certifying the following:

- a) That a 2m x 2.5m pedestrian sight splay, clear of any obstructions to visibility, is provided on both sides of the driveway exit to comply with Clause 3.3 of AS2890.1. These sight splays, clear of any obstructions to visibility, must be clearly depicted on the construction drawings,
- b) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades must comply AS2890.1, AS2890.2 and AS2890.6,
- c) That the proposed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,
- e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Clause 2.4 of AS2890.6,
- f) Minimum dimensions of 2.4m x 5.4m shared area is provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards must be provided at the location on each shared area specified in AS2890.6 which must be clearly labelled and shown on the construction drawings,
- g) Simultaneous manoeuvring of B99 and B85 vehicles at all ramps and ramp ends including the clearance lines for each vehicle, in accordance with AS2890.1, is complied with,
- h) That the headroom clearance required in AS2890.2 for the largest vehicle using the site has been provided for the loading area and the path to and from the loading area,
- i) Simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearance in accordance with AS2890.1 and AS2890.2, is provided.

The proposed off-street parking spaces and vehicular access must be designed in compliance with AS2890.1, AS2890.2 and AS2890.6. Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*. The Certifying Authority has no discretion to reduce or increase the number or area of car parking space(s) required to be provided and maintained by this consent.

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: C45 (Autotext: CC45)

C.51 Stormwater Management Plan

Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Certifying Authority, detailed stormwater management plans [prepared by a suitably qualified and experienced civil engineer](#), which detail the following:

- a) General design in accordance with stormwater management plans, referenced 231269-P1, prepared by TTW, dated 13/06/2023, other than amended by this and other conditions,
- b) A minimum 450x450 boundary junction pit shall be provided. The stormwater outlet pipe must be made by using 150mm x75mm galvanised RHS which must be

located within the frontage of the subject site with a minimum grade of 1% to comply with Council's DCP and AS3500.3. Only one stormwater outlet point will be permitted to comply with Council's DCP,

- c) The installation of stormwater filtration /treatment system which includes but not limited to the installation of OceanGuard filter basket, Jellyfish Unit and 3x690mm PSorb StormFilters by Ocean Protect to achieve the minimum the water quality targets stipulated in Chapter E2.2.3 of Council's DCP;
- d) The installation of a pumpout system with a minimum storage capacity to be determined to comply with Section 8 of AS3500.3,
- e) All below ground structures are to be fully tanked. Notation to this requirement shall be clearly depicted on the drawings,
- f) The dimensions of all drainage pits and access grates must comply with AS3500,
- g) Compliance the objectives and performance requirements of the BCA, and
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

The *Stormwater Management Plan* must also include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Australian Government publication, *Australian Rainfall and Run-off, 2019* edition or most current version thereof. It must include:

- a) All pipe layouts, dimensions, grades, lengths and material specification,
- b) All invert levels reduced to Australian Height Datum (AHD),
- c) Location and dimensions of all drainage pits,
- d) Point and method of connection to Councils drainage infrastructure, and
- e) Overland flow paths over impervious areas.

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the *Roads Act 1993* must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's *Specification for Roadworks, Drainage and Miscellaneous Works* (2012).

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C.51 (Autotext CC51)

C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b) The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of RL4.9m AHD.

- c) Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- d) All below ground construction shall be fully tanked.
- e) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.
- f) The basement level shall have adequate pumping to cater for any leakage in flood barriers. The pump system is to incorporate:
 - 1) Dual alternating pumps,
 - 2) An uninterruptable power supply capable of running the pumps for a minimum of 2 hours,
 - 3) A trash screen to protect the inlet from debris,
 - 4) A minimum pump pit size of 3m³,
 - 5) An alarm/ warning system designed to alert residents when flood levels are above 100mm deep,
 - 6) A warning alarm/system that indicates when the pumps are running.
- g) The pedestrian entry off Bay Street shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of RL5.45m.
- h) Flood compatible materials shall be used for all flood exposed construction.
- i) All flood exposed electrical wiring and equipment shall be waterproofed.
- j) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.

Note: The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1 – 2004, 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.
Standard Condition C.54 (autotext CC54)

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

D.4 Dilapidation Reports for existing buildings

Dilapidation surveys and dilapidation reports shall be conducted and prepared by a *professional engineer* (structural) for all buildings and/or structures that are located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration as determined applicable by a Structural Engineer.

These properties to be assessed by the Structural Engineer must include (but is not limited to):

No. 17 Bay Street
No. 29-33 Bay Street

All required dilapidation reports must be completed and submitted to the *Certifying Authority* with a copy submitted to Council with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

Standard Condition: D4 (Autotext DD4)

D.5 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the Principal Contractor must submit a dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to retaining walls within the footway or road.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. 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 Principal Contractor fails to submit the dilapidation 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: D5 (Autotext DD5)

D.6 Adjoining buildings founded on loose foundation materials

D.7 Piezometers for the monitoring of Ground water Levels

The *principal contractor* must provide 2 piezometers within the excavation area and a further 2 piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

Standard Condition: D7 (Autotext DD7)

D.9 Construction Management Plan

D.10 Works (Construction) Zone – Approval & Implementation

D.14 Erosion and Sediment Controls – Installation

E. Conditions which must be satisfied during any development work

E.3 Compliance with Construction Management Plan

E.7 Maintenance of Vehicular and Pedestrian Safety and Access

E.11 Maintenance of Environmental Controls

E.12 Compliance with Geotechnical/Hydrogeological Monitoring Program

E.13 Support of Adjoining Land Owners

E.14 Vibration Monitoring

E.15 Erosion and Sediment Controls – Maintenance

E.17 Disposal of Site Water during Construction

E.19 Site Cranes

E.20 Check Surveys – boundary location, building location, building height, stormwater drainage system and flood protection measures relative to AHD

E.24 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road Works and work within the Road and Footway

E.33 Shoring and Adequacy of Adjoining Property

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.7 Commissioning and Certification of Systems and Works

F.9 Commissioning and certification of Public Infrastructure Works

F.24 Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the applicant must submit, for approval by the Principal Certifying Authority, certification from a Chartered Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate drawings,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement,
- c) That finished driveway gradients and transitions will not result in scraping to the underside of B99 vehicles,

- d) All parking spaces are open type with no partitions,
- e) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.6 in terms of minimum dimensions provided,
- f) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Clause 5.3.1 of AS2890.1 and Clause 2.4 of AS2890.6,
- g) That the headroom clearance of minimum 2.5 metres has been provided to all parking spaces for people with disabilities to comply with Clause 2.4 of AS2890.6,
- h) That Aisle widths throughout basements comply with AS2890.1,
- i) That the headroom clearance has been provided for the loading area for the largest vehicle accessing the site and complies with AS2890.2,
- j) That minimum dimensions of 2.4m x 5.4m shared area, has been provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards are provided at the location on each shared area specified in AS2890.6,
- k) That simultaneous manoeuvring of B99 and B85 at all ramps and ramp ends including clearances for each vehicle as per AS2890 is achieved,
- l) Access and manoeuvrability of the largest vehicle accessing the site and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS2890.1 and AS2890.2 is achieved.

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

G.4 Electricity Substations – Dedication as road and/or easements access

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (S109C (1) (c))

H.13 Road Works (including footpaths)

H.14 Dilapidation Report for Public Infrastructure Works

The Principal Contractor must submit a follow up dilapidation report, prepared by a professional engineer, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the Principal Certifier has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) photographs showing any existing damage to the road pavement fronting the site,
- b) photographs showing any existing damage to the kerb and gutter fronting the site,
- c) photographs showing any existing damage to retaining walls within the footway or road,

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.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and Owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation 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: H14 (AutotextHH14)

H.19 Covenant for Private Works on Council Property

H.20 Positive Covenant & Works-As-Executed certification of Stormwater Systems

Prior to issue of any Occupation and on completion of construction work, the applicant must submit, for approval by the Principal Certifying Authority, certification by a Chartered Professional Civil Engineer on all stormwater drainage works, including flood protection measures with works-as-executed drawings prepared by a registered surveyor detailing:

- a) compliance with conditions of development consent relating to stormwater and flooding,
- b) that the flood protection measures in the flood risk management plan for the major flooding and overland flow path have been fully implemented,
- c) that the structural adequacy of the following stormwater/ flood protection structures:
 - mechanical flood barriers, and
 - the stormwater treatment devices,
- d) that the works have been constructed in accordance with the approved design;
- e) pipe invert levels and surface levels to Australian Height Datum, and
- f) contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the on-going maintenance of the flood protection measures (e.g. mechanical flood barriers), rainwater tanks and stormwater treatment devices, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services. The property owner must reimburse Council's reasonable expenses incurred in the drafting, negotiation and registration of the covenant

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Occupation Certificate.

Note: The Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

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

I.29 Ongoing Maintenance of the Stormwater Treatment System and Flood Protection Measures

The owner(s) must in accordance with this condition and any positive covenant:

- a) permit stormwater to be treated by the System;
- b) keep the system clean and free of silt rubbish and debris;
- c) maintain renew and repair as reasonably required from time to time the whole or part of the treatment system so that it functions in a safe and efficient manner;
- d) carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- e) not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- f) Not take any act, matter or thing which would prevent the overland flow path and flood protection measures (e.g. mechanical flood barriers) from operating in a safe and efficient manner;
- g) Not allow any structure to encroach upon the overland flow path;
- h) Not make any alterations to the flood protection measures and overland flow path or elements thereof without prior consent in writing of the Council and not interfere with the flood protection measures and overland flow path or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- i) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- j) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice; and
- k) where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations.

The Owner

- a) indemnifies the Council from and against all claims, demands, suits, proceedings or actions in respect of any injury, damage, loss, cost, or liability (**Claims**) that may be sustained, suffered, or made against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default; and
- b) releases the Council from any Claim it may have against the Council arising in connection with the performance of the Owner's obligations under this covenant except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Note: This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

Standard Condition: I29

J. Miscellaneous Conditions

Nil

K. Advisings

K.23 Dilapidation Report

K.24 Roads Act Application

Memorandum - Drainage

Date 4/08/2023
File No. Development Applications: DA2023/245/1
To Mr Robert Lam
CC
From Michael Casteleyn
Address 19-27 Bay Street DOUBLE BAY

I refer to the following documents received for this report:

23/127943 Document - Flood Impact Assessment - DA2023/245/1 - 19-27 Bay Street
DOUBLE BAY

RECOMMENDATION

Council's drainage Engineer has determined that the development proposal is generally satisfactory, subject to the following conditions;

C.54 Flood Protection

The Construction Certificate plans and specifications, required by clause 139 of the Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL) detailing:

- a. A permanent flood risk management plan shall be installed in a prominent area of the basement carpark.
- b. The driveway entry shall be protected by a mechanical flood barrier with the threshold set to the flood planning level of 4.9m AHD.
- c. Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- d. All below ground construction shall be fully tanked.
- e. Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.
- f. The basement level shall have adequate pumping to cater for any leakage in flood barriers. The pump system is to incorporate;
 - a. Dual alternating pumps
 - b. An uninterruptable power supply capable of running the pumps for a minimum of 2 hours.
 - c. A trash screen to protect the inlet from debris

- d. A minimum pump pit size of 2000 litres
- e. An alarm/ warning system designed to alert residents when flood levels are above 100mm deep.
- f. A warning alarm/system that indicates when the pumps are running

- g. The pedestrian entry off Bay Street shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 5.45m.
- h. Flood compatible materials shall be used for all flood exposed construction.
- i. All flood exposed electrical wiring and equipment shall be waterproofed.
- j. All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation.

Completion Date: 31/08/2023

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 245/2023/1
ADDRESS: 19 Bay Street DOUBLE BAY 2028
PROPOSAL: Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage
FROM: Jasmine Sutrina
TO: Mr W Perdigao

1. ISSUES

- Acoustics – licenced premises, mechanical plant
- Land Contamination – SEPP RH 2021- subject site indicated by planning MAPS as having potential land contamination
- Acid Sulfate Soils (ASS) – WLEP 2014 - subject site indicated by planning MAPS as Class 2 land

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced, prepared by gsa planning, dated 31/07/2023.
- Architectural Plans, referenced, prepared by MNH Design Union Pty Ltd, dated 04/07/2023.
- Additional Geotechnical Investigation, prepared by eiaustralia, dated 14/07/2023.
- Noise Impact Assessment, referenced, prepared by acousticlogic, dated 28/06/2023.
- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023
- Geotechnical Investigation (rev2), prepared by JKGeotechnics, dated 12/11/2021.
- Geotechnical and Hydrogeological Investigation, prepared by Douglas Partners , dated 24/06/22.
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.

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

It is proposed to demolish the existing building at No. 19 Bay Street and construct a new five-storey commercial development with four levels of basement parking at Nos. 19-27 Bay Street. The commercial development has been specifically designed for a long-term lease with RH as the sole tenant, and includes four levels of retail showroom spaces and one level of restaurant space within the building. Illuminated wall signs are proposed in a central position on the façade at the top of Level 3 to Bay Street, and the top of Level 2 to Gum Tree Lane.

The proposal comprises four basement parking levels providing parking for 59 cars, as well as motorcycle and bicycle parking, end of trip facilities, storage areas, and services/plant areas. The development has a total gross floor area (GFA) of 2,799m². A double width entry ramp providing two way vehicular access to the basement carpark levels is located to the rear of the site on Gum Tree Lane.

B4 Basement Level

The Basement Floor Level is at RL -7.38 AHD and provides parking for 15 cars, 3 motorcycles, 11 bicycles and two loading bays. This level also includes end of trip facilities, unisex accessible WC and shower, a retail storeroom, sewer pump station and services cupboards. Lift and fire stair access to the upper levels is provided (see **Figure 5**).

B3 Basement Level

The Basement Floor Level is at RL -4.56 AHD and provides parking for 16 cars, 1 motorcycle, and 28 bicycles with locker storage. This level also includes end of trip facilities, unisex accessible WC and shower, cleaners storage room, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 6**).

B2 Basement Level

The Basement Floor Level is at RL -1.74 AHD and provides parking for 16 cars and 1 motorcycle. This level also includes a restaurant bin room, retail bin room, tow tractor store (to transport bins), hot water plant, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 7** on the following page).

B1 Basement Level

The Basement Floor Level is at RL 1.08 AHD and provides parking for 12 cars (2 of which are accessible parking spaces) and 1 motorcycle space. This level also includes the hydrant pump room, grease arrestor, switch and comms room, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 8**).

Ground Floor Level

The Ground Floor Level varies between RL 3.935 AHD to RL 5.00 AHD. This floor includes the ground level tenancy occupied by the RH retail gallery, with shopfront windows to Bay Street and Gum Tree Lane. A substation, booster, gas meter, stormfilter chamber, and services cupboards are positioned at the rear lane or in the two services core areas. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 9**). A central thoroughfare from the Bay Street entry to the Gum Tree Lane staircase offers a through site link between the main street and rear laneway. A platform lift allows disabled access from the rear lane to the gallery which is at a higher level than Gum Tree Lane.

Entry to the basement parking levels is from a two-way driveway and a vehicle access ramp, accessible from Gum Tree Lane at the north-eastern corner of the site.

Level 1

Level 1 is at RL 8.49 AHD and includes the first floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 10** on the following page).

Level 2

Level 2 is at RL 11.740 AHD and includes the second floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 11**). A covered terrace is positioned at the rear to Gum Tree Lane.

Level 3

Level 3 is at RL 14.99 AHD and includes the third floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 12**). There is a covered terrace at the front of the site addressing Bay Street, and an open terrace and planters along the rear addressing Gum Tree Lane to display outdoor furniture.

Level 4

Level 4 is at RL 18.24 AHD and includes the RH restaurant tenancy, with the front of house area accommodating 96 patrons internally and 80 patrons at the terrace dining area. There is also a kitchen/back of house area, refrigeration room, wine/beverage store, office, coat store, and waste room to service the restaurant. Three female WCs, two male WCs, a unisex accessible WC, and services cupboards are also provided at this level. Access to the lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 13** on the following page). Planters to the front terrace and at the rear side portions of the building are also proposed at this level.

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, prepared by acousticlogic, dated 28/06/2023.

A Noise Impact Assessment prepared by acousticlogic was prepared to assess the noise impact associated with the proposed development based off revision A of the architectural drawings.

In particular, noise emissions associated with the proposed licenced premises with indoor and outdoor dining and overall maximum capacity of 176 patrons and relevant mechanical plants.

Unattended noise monitoring was performed at existing subject site hoarding to establish background noise levels. These background noise levels were used as basis to assess emissions against the following criteria (see section 4): Woollahra DCP 2015, NSW Liquor and Gaming NSW and the NSW EPA Noise Policy for Industry 2017.

Section 4.1.1.2 of the report refers to the NSW Liquor and Gaming NSW provided noise emission criteria adopted for noise generated by patrons and by music.

Section 4.1.2 refers to Chapter D3 of the WDCP and NSW EPA NPI 2017 was noise criteria adopted for mechanical plant noise.

Assessment of noise emissions was made of the following noise sources:

- *Noise from patrons (indoor and outdoor)*
- *Noise from background music (indoor and outdoor)*
- *Noise from mechanical plant (in principle).*

Moreover, noise associated with patrons and music were made as 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.*
- *Music within the outdoor area is to have sound pressure level of 75dB(A)L10.*
- *Indoor and outdoor 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 & 10 refer to predicted satisfactory background noise emissions from patron/music noise emissions to residential and commercial noise receivers respectfully.

Environmental Health notes, that no detailed plant selections or locations have been made. The report proposes, once plant selections and locations have been determined, a detailed acoustic review is to be undertaken at the Construction Certificate stage. Appropriate treatments should also be determined which will appropriately control plant noise emissions as to attain satisfactory plant noise emissions (see Table 8).

Section 6 of the report, refers to recommendations and management controls to be implemented to achieve noise emission goals identified in Section 4.1. these include glazing and acoustic seals.

Environmental Health – Conclusion

The report concludes that subject to the implementation of recommendations and management controls as section 6 of the report, noise emissions from the operation of the proposed licenced restaurant can comply with the acoustic objectives as derived from WDCP, Liquor and Gaming Authority NSW and NSW EPA Noise Policy for Industry 2017.

Environmental Health further agrees that a detailed acoustic review of mechanical plant services, is to be undertaken at the Construction Certificate stage. With appropriate acoustic treatment to be determined to control plan noise emissions to nearby receivers and attain noise emission goals.

e) Acid Sulphate Soils



Environmental Health – Review

Review of the following:

- Geotechnical Investigation (rev2), prepared by JKGeotechnics, dated 12/11/2021.
- Geotechnical and Hydrogeological Investigation, prepared by Douglas Partners, dated 24/06/22.
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.
- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023

The subject site is identified as having potential Class 2 Acid Sulphate Soils (ASS) according to Council Mapping systems. As per Clause 6.1 of the WLEP 2014, should works occur below natural ground level and/or works that are likely to lower the water table, an Acid Sulphate Soils Management Plan (ASSMP) may be required. It is noted that the subject site is proposed for redevelopment, as part of the adjacent parcel which is also classified as having Class 2 ASS.

Geotechnical and Hydrogeological Investigation, prepared by Douglas Partners (2022), investigated for actual acid sulphate soils (AASS) and potential acid sulphate soils (PASS). Section 7.2 of the investigation refers to the screen testing of twenty-four soil samples from three boreholes, for AASS or PASS. Testing was conducted in accordance with the Acid Sulphate Soils Management Advisory Committee (ASSMAC) and corresponding guidelines for assessing AASS and PASS. All samples were negative indicators of AASS, however fourteen of the samples were identified as PASS.

Six samples were submitted for further chromium analysis at Envirolab services, with the findings compared to the action criteria detailed in ASSMAC 1998 Guidelines. All six samples did not exceed the action criteria and thus were not PASS.

ASS screening testing and Chromium results were further compared to the action criteria outlined in the National Acid Sulfate Soils Guidance (NASSG) 2018, which were determined to be well within the action criteria.

The report concludes that ASS are not likely to be present at the site to the investigated depths of 25-27m and thus an Acid Sulfate Soil Management Plan is not

necessary for works. The report however does conclude that confirmation testing for Acid Sulfate Soils should be conducted across the site as PASS can vary vertically and laterally within short distances. Likewise, existing buildings were present at the subject site thus limited access to land for testing.

A Detailed Site Investigation (DSI) was referenced in section 2.1 of the Addendum to Remediation Action Plan prepared by eiaustralia (2023). The DSI prepared by eiaustralia (2023), further assessed the likelihood of ASS to be encountered during the redevelopment works. The DSI occurred following the demolition of the buildings at no.21-27, allowing greater access to the site for intrusive investigations. It is however noted that a two-storey commercial building still remained at 19 Bay st.

As part of the DSI, intrusive investigation including the following works:

- *The advancement of nine test pits (TP2 - TP5 and TP101 - TP105) distributed in a mixed judgemental / systematic (triangular) grid fashion across the central and southern parts of the site (excluding 19 Bay Street);*
- *The advancement of three boreholes (BH1M, BH101M and BH102M) for the installation of monitoring wells distributed in a triangular fashion with at least two locations positioned down hydraulic gradient of the site;*
- *Multiple level sampling within fill and natural soils at each test pit and at BH1M (for Acid Sulfate Soil Analysis);*

In accordance with the ASSMAC (1998) Acid Sulfate Soils Manual, fifteen natural soil samples were collected from Borehole BH1M. Soil samples underwent pH (field) and pH (peroxide oxidised) testing with samples indicating the possible presence of ASS, undergoing investigation using suspended peroxide oxidation combined acidity and sulfur (sPOCAS) and Chromium suite analysis.

Soil samples were reviewed as prescribed by the ASSMAC 1998, for coarse textured soil action criteria with more than 1,000 tonnes of soil are to be disturbed.

Eight of the fifteen soil samples from BH1M were analysed for sPOCAS and the results indicated only samples BH1M_2-2.1 as having potential acidity and exceeding the action criteria. To confirm the presence of PASS, chromium suite analysis was undertaken and results indicated a marginal exceeded in the action criteria.

The report however notes, that sample BH1M_2-2.1 represents a minor pocket of silty clayey sand which is not representative of the majority sand and elevated pH_{KCl} present on site. These qualities of which, are indicative of a low likelihood of PASS or ASS. The report further raises that the action criteria adopted pertains to coarse grained strata not silty clayey sands.

As such the report has determined the exceedance to be an outlier and, in consideration of the other ASS evidence and assessments, an acid sulphate soil management plan is not necessary for the proposed bulk excavation works.

The DSI however acknowledges data gaps as no intrusive investigations were conducted as part of the 19 Bay st., as a two storey building was still present at the premises.

The DSI proposes this data gap to be addressed as part of the addendum to the JKE (2021) RAP. The addendum to the RAP prepared by eiaustralia (2021) had determined the most appropriate remedial strategy to be excavation and off-site disposal.

Environmental Health – Review

The aforementioned investigations involved intrusive investigations at no.21-29 Bay st., by way of drilling boreholes and collecting of soil samples for field and laboratory sPOCAS analysis.

Results were primarily compared against the ASSMAC 1998 Guidelines and action criteria of more than 1,000 tonnes of soil are to be disturbed. Environmental Health Unit agrees with this investigation strategy.

Results across all investigations conclude that ASS are unlikely to present or encountered during the bulk of redevelopment works and as such, an Acid Sulfate Soils Management Plan would not be necessary for proposed works.

Environmental Health however notes, no intrusive investigations being conducted at no.19 due to lack of access. There is however, a substantial amount of evidence from previous intrusive investigations of no. 21-29 to determine the site is unlikely to have ASS and require an ASSMP. As the site is adjacent to no.19, shares the same Class 2 ASS classification and comprises the bulk of the proposed development, it can be assumed that the site too, is unlikely to have ASS and will not be requiring an ASSMP. Environmental Health is satisfied, with respect to 6.1 of the WLEP, that the site is unlikely to encounter ASS and that an ASSMP will not be required.

f) Land Contamination (R&H SEPP 2021)

SEPP (Resilience and Hazards) 2021

Review of the following:

- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.

The subject site is identified as having potential land contamination according to Council Mapping systems. Pursuant to Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, a preliminary investigation is to be conducted which demonstrates to Council whether a Remediation Action Plan (RAP) is required for the site to be made suitable for proposed use.

A detailed site investigation (DSI) was referenced in section 2.1 of the Addendum to Remediation Action Plan prepared by eiaustralia (2023) to satisfy SEPP 2021, in lieu of the repealed Special Condition E.4 of DA14/2021/1.

The DSI further investigates land contamination with respect to the Conceptual Site Model (CSM) prepared in the initial Conceptual RAP (JKE, 2021). As such, raised potential contamination sources, migration mechanisms and potential exposure pathways that exist within the site, which could result in the exposure of contamination to the potential human health and ecological receptors applicable to a commercial site (as defined by NEPC, 2013), were considered.

The DSI scope of works are as follows:

- *A review of relevant (hydro)geological and soil landscape maps as well as a search of public registers to identify any offsite contamination sources relevant for the site;*
- *A review of the JKE (2021) RAP;*
- *Completion of an intrusive investigation that involved:*
- *The advancement of nine test pits (TP2 - TP5 and TP101 - TP105) distributed in a systematic grid type fashion across the site;*
- *Multiple level sampling within fill and natural soils at each test pit for the contaminants of potential concern (COPC);*
- *Multi-level sampling of natural soils encountered at borehole BH1M for the assessment of acid sulfate soils;*
- *The installation and development of three groundwater monitoring wells (BH101M, BH101M and BH102M) distributed in a triangular fashion encompassing the site, for the collection and laboratory analysis of groundwater samples for the COPC;*
- *The hand augured installation of two soil vapour monitoring wells (BHW2 and BHW3) for the collection and laboratory analysis of soil vapour samples for the COPC.*
- *The integration of data quality assurance / quality control (QAQC) procedures;*
- *A comparison of the results against NEPC (2013) criteria applicable to a generic commercial / industrial setting; and*
- *Data interpretation and reporting.*
- *The analytical results for soils sampled for waste classification purposes (Table 1B, EI, 2023a) are provided as Attachment 3.*

Soil and groundwater samples (as collected from boreholes test pits and bores and monitoring wells respectfully) were analysed for the contaminants of potential concerns (COPC) identified in the conceptual RAP (JKE, 2021). These include: Heavy metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc); Petroleum hydrocarbons (referred to as total recoverable hydrocarbons – TRHs) and benzene, toluene, ethylbenzene and xylene (BTEX); Polycyclic aromatic hydrocarbons (PAHs); Organochlorine pesticides (OCPs) and organophosphate pesticides (OPPs); Polychlorinated biphenyls (PCBs); Volatile organic compounds (VOCs), including chlorinated solvents; and Asbestos. Table 5.3 of the DSI outlines the relevant ecological and health-based Site Acceptable Criteria (SAC) for this investigation.

No COPC were identified to exceed the respective human health based SAC for both soil and groundwater samples. Furthermore, no visual or olfactory indications of contamination were observed at the sampling event. Low level exceedance in the ecological SAC (i.e. ANZG 2018) were identified for zinc and copper groundwater samples. It was however it was delegated to be of no concern, as the exceedance reflected the background conditions of groundwater within an urban environment rather than as a result of the onsite soil conditions.

The DSI identified an Underground Storage Tank (UST) observed at the northern part of the site by 27 Bay st. The potential contamination source contained sandy odorous soil material which was later classified as restricted solid waste. The DSI advises the UST is to be removed and validated accordingly. Samples hand augured from the UST, suggest petroleum based hydrocarbons were stored within the tank pit and excavated backfill material. Furthermore, the DSI noted concerns regarding fill soils of unknown origin and limitations with data gaps from the lack of intrusive investigations at no.19 due to restricted access to land.

The DSI however concludes that, subject to the implementation of the recommendations of the DSI, the site should be made suitable for the proposed commercial development.

DSI recommendations are as follows:

- *Preparation of a RAP Addendum to address the removal and validation of the UST in the north east of the subject site (at 27 Bay Street).*
- *Investigation of property at 19 Bay Street.*
 - *The property at 19 Bay Street was added to expand the subject site footprint after completion of the intrusive investigation of 21-27 Bay Street.*
- *Details of the volumes of soil to be removed from site to facilitate off-site disposal of the surplus soils. Once confirmed, a Waste Certificate can be issued.*
- *Virgin material / natural soils that underlie the filling material must undergo further assessment following the removal of the site-wide fill layer, to confirm that the material represents virgin excavated natural material (VENM) in accordance with JKE (2021).*
- *Any soil material to be imported to the site (i.e. for backfilling and/or landscaping purposes) must be confirmed by documentary evidence as suitable for the proposed land use, in accordance with EPA guidelines.*
- *A validation report will be required in accordance with NSW EPA (2020) Guidelines for Consultants Reporting on Contaminated Land.*

Addendum to Remediation Action Plan prepared by eiaustralia (2023), provides a revised RAP upon review and consideration of the collective findings of the investigations across no.19-27 Bay st. Double Bay. In essence, the RAP has determined excavation and off-site disposal to be the most appropriate remediation strategy.

Prior to the commencement of bulk excavation the following stages are proposed:

Stage 1: *Notification and Site Establishment.*

Stage 2: *Additional Investigation of Soils at 19 Bay Street*

Stage 3: *Removal of UST and associated tank pit soil*

Stage 4: *Waste Classification – Stockpiled Soils (Surrounding UST)*

Stage 5: *UST Validation.*

Environmental Health – Review

The applicant proposes the implementation of the RAP prepared by eiaustralia (2023), to which excavation and off-site disposal was selected as the remediation strategy.

Intrusive investigations across all reports have been conducted at the adjacent site no.21-27 Bay st which comprises the bulk of the redevelopment envelope.

Limitations regarding access to no.19 due were present due to existing commercial infrastructure limiting access to the site. Stage 2 of the RAP (eiaustralia, 2023) proposes further intrusive investigations to occur before bulk excavation. At this stage it can be determined whether potential contamination on site or in the fill is present as the RAP can be adapted accordingly.

Environmental health unit is satisfied with the proposed RAP prepared by eiaustralia (2023) and with respect to clause 4.6 of the SEPP that the site can be made suitable for proposed use.

6. RECOMMENDATION

Refer to section 5 for further details.

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)
	Acid Sulphate Soil Management Plan		
	Acoustic Report		
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
1. E30721 Prpt-RAP 2. E25794. E99.1 Rev1	Contaminated Land - Remedial Action Plan (Stage 3) 1. Conceptual Remedial Action Plan 2. Addendum to Remedial Action Plan	1. JKEnvironmen ts 2. eiaustralia	1. 08/09/ 2023 2. 14/06/ 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

A.2 Site Contamination - Remedial Action Plan

Development to adhere to *Remedial Action Plan (RAP) P2108112JR06V01*, prepared by Martens & Associates dated 29/06/2023 in conjunction with the *Conceptual Remediation Action Plan E30721Prpt-RAP*, prepared by JKEnvironments dated 08/09/2023.

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](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 Design sound levels for building interiors

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation*, must provide details showing how the recommendations of the Environmental Noise Impact Assessment, prepared by *acousticlogic* will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels, L_{Aeq} , dB(A) specified by AS 2107-2000, *Acoustics - Recommended design sound levels and reverberation times for building interiors*.

Note: The design sound levels given in AS 2107-2000 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107-2000 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the *BCA* is mandatory.

Standard Condition: C63

C.5 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.6 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.7 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)

The *underground carpark* in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The *underground carpark* must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the *underground carpark* and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the *underground carpark* shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

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

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 2017*.

Note: EPA Guidelines can be downloaded from
<http://www.epa.nsw.gov.au/noise/nlg.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 in 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 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.

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: 10am-10pm

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/nqlg.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 *Acoustic Report prepared by acousticlogic dated 28/06/2023*.

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 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: 31/08/2023

Completion Date: 31/10/2023

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO: Development Applications: 245/2023/1
ADDRESS: 19 Bay Street DOUBLE BAY 2028
PROPOSAL: Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage
FROM: Jasmine Sutrina
TO: Mr W Perdigao

1. ISSUES

- Acoustics – licenced premises, mechanical plant
- Land Contamination – SEPP RH 2021- subject site indicated by planning MAPS as having potential land contamination
- Acid Sulfate Soils (ASS) – WLEP 2014 - subject site indicated by planning MAPS as Class 2 land

2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced, prepared by gsa planning, dated 31/07/2023.
- Architectural Plans, referenced, prepared by MNH Design Union Pty Ltd, dated 04/07/2023.
- Additional Geotechnical Investigation, prepared by eiaustralia, dated 14/07/2023.
- Noise Impact Assessment, referenced, prepared by acousticlogic, dated 28/06/2023.
- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023
- Geotechnical Investigation (rev2), prepared by JKGeotechnics, dated 12/11/2021.
- Geotechnical and Hydrogeological Investigation, prepared by Douglas Partners , dated 24/06/22.
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.

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

It is proposed to demolish the existing building at No. 19 Bay Street and construct a new five-storey commercial development with four levels of basement parking at Nos. 19-27 Bay Street. The commercial development has been specifically designed for a long-term lease with RH as the sole tenant, and includes four levels of retail showroom spaces and one level of restaurant space within the building. Illuminated wall signs are proposed in a central position on the façade at the top of Level 3 to Bay Street, and the top of Level 2 to Gum Tree Lane.

The proposal comprises four basement parking levels providing parking for 59 cars, as well as motorcycle and bicycle parking, end of trip facilities, storage areas, and services/plant areas. The development has a total gross floor area (GFA) of 2,799m². A double width entry ramp providing two way vehicular access to the basement carpark levels is located to the rear of the site on Gum Tree Lane.

B4 Basement Level

The Basement Floor Level is at RL -7.38 AHD and provides parking for 15 cars, 3 motorcycles, 11 bicycles and two loading bays. This level also includes end of trip facilities, unisex accessible WC and shower, a retail storeroom, sewer pump station and services cupboards. Lift and fire stair access to the upper levels is provided (see **Figure 5**).

B3 Basement Level

The Basement Floor Level is at RL -4.56 AHD and provides parking for 16 cars, 1 motorcycle, and 28 bicycles with locker storage. This level also includes end of trip facilities, unisex accessible WC and shower, cleaners storage room, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 6**).

B2 Basement Level

The Basement Floor Level is at RL -1.74 AHD and provides parking for 16 cars and 1 motorcycle. This level also includes a restaurant bin room, retail bin room, tow tractor store (to transport bins), hot water plant, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 7** on the following page).

B1 Basement Level

The Basement Floor Level is at RL 1.08 AHD and provides parking for 12 cars (2 of which are accessible parking spaces) and 1 motorcycle space. This level also includes the hydrant pump room, grease arrestor, switch and comms room, and services cupboards. Lift and fire stair access to the upper and lower levels is provided (see **Figure 8**).

Ground Floor Level

The Ground Floor Level varies between RL 3.935 AHD to RL 5.00 AHD. This floor includes the ground level tenancy occupied by the RH retail gallery, with shopfront windows to Bay Street and Gum Tree Lane. A substation, booster, gas meter, stormfilter chamber, and services cupboards are positioned at the rear lane or in the two services core areas. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 9**). A central thoroughfare from the Bay Street entry to the Gum Tree Lane staircase offers a through site link between the main street and rear laneway. A platform lift allows disabled access from the rear lane to the gallery which is at a higher level than Gum Tree Lane.

Entry to the basement parking levels is from a two-way driveway and a vehicle access ramp, accessible from Gum Tree Lane at the north-eastern corner of the site.

Level 1

Level 1 is at RL 8.49 AHD and includes the first floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 10** on the following page).

Level 2

Level 2 is at RL 11.740 AHD and includes the second floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 11**). A covered terrace is positioned at the rear to Gum Tree Lane.

Level 3

Level 3 is at RL 14.99 AHD and includes the third floor tenancy occupied by the RH retail gallery, with internal walls separating the gallery into various display areas. An electrical room and services cupboards are also at this level. Access to the upper and lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 12**). There is a covered terrace at the front of the site addressing Bay Street, and an open terrace and planters along the rear addressing Gum Tree Lane to display outdoor furniture.

Level 4

Level 4 is at RL 18.24 AHD and includes the RH restaurant tenancy, with the front of house area accommodating 96 patrons internally and 80 patrons at the terrace dining area. There is also a kitchen/back of house area, refrigeration room, wine/beverage store, office, coat store, and waste room to service the restaurant. Three female WCs, two male WCs, a unisex accessible WC, and services cupboards are also provided at this level. Access to the lower levels is via two lifts, the grand central staircase, or two fire stairs (see **Figure 13** on the following page). Planters to the front terrace and at the rear side portions of the building are also proposed at this level.

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, prepared by acousticlogic, dated 28/06/2023.

A Noise Impact Assessment prepared by acousticlogic was prepared to assess the noise impact associated with the proposed development based off revision A of the architectural drawings.

In particular, noise emissions associated with the proposed licenced premises with indoor and outdoor dining and overall maximum capacity of 176 patrons (96 indoor and 80 outdoor) and relevant mechanical plants.

Unattended noise monitoring was performed at existing subject site hoarding to establish background noise levels. These background noise levels were used as basis to assess emissions against the following criteria (see section 4): Woollahra DCP 2015, NSW Liquor and Gaming NSW and the NSW EPA Noise Policy for Industry 2017.

Section 4.1.1.2 of the report refers to the NSW Liquor and Gaming NSW provided noise emission criteria adopted for noise generated by patrons and by music.

Section 4.1.2 refers to Chapter D3 of the WDCP and NSW EPA NPI 2017 was noise criteria adopted for mechanical plant noise.

Assessment of noise emissions was made of the following noise sources:

- *Noise from patrons (indoor and outdoor)*
- *Noise from background music (indoor and outdoor)*
- *Noise from mechanical plant (in principle).*

Moreover, noise associated with patrons and music were made as 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.*
- *Music within the outdoor area is to have sound pressure level of 75dB(A)L10.*
- *Indoor and outdoor 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 & 10 refer to predicted satisfactory background noise emissions from patron/music noise emissions to residential and commercial noise receivers respectfully.

Environmental Health notes, that no detailed plant selections or locations have been made. The report proposes, once plant selections and locations have been determined, a detailed acoustic review is to be undertaken at the Construction Certificate stage. Appropriate treatments should also be determined which will appropriately control plant noise emissions as to attain satisfactory plant noise emissions (see Table 8).

Section 6 of the report, refers to recommendations and management controls to be implemented to achieve noise emission goals identified in Section 4.1., including glazing and acoustic seals.

Environmental Health – Conclusion

The report concludes that subject to the implementation of recommendations and management controls as section 6 of the report, noise emissions from the operation of the proposed licenced restaurant can comply with the acoustic objectives as derived from WDCP, Liquor and Gaming Authority NSW and NSW EPA Noise Policy for Industry 2017.

Environmental Health Unit however has concerns regarding the noise impacts associated with the proposed outdoor dining. It is noted that trading hours are proposed from 10am-10pm and background music is to be operating at the proposed licenced premises.

Mitigation measures have however only been proposed for indoor dining (e.g. glazing, acoustic seals, etc) despite overall maximum capacity for indoor and outdoor dining to be 96 and 80 respectfully.

In consideration of nearby residential receivers and potential cumulative site generated noise (from patrons and background music), Environmental Health Unit is not satisfied that the noise emission criteria (as per section 4.1) can be achieved and as such, is not satisfied with the proposed outdoor dining component.

With respect to mechanical noise, Environmental Health Unit however agrees with the preparation of a detailed acoustic review of mechanical plant services at the Construction Certificate stage. As this CC stage, relevant acoustic treatments are to be determined that will achieve compliance as per the noise emission goals outlined in Table 8 of the report.

e) Acid Sulphate Soils



Environmental Health – Review

Review of the following:

- Geotechnical Investigation (rev2), prepared by JKGeotechnics, dated 12/11/2021.
- Geotechnical and Hydrogeological Investigation, prepared by Douglas, dated 24/06/22.
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.
- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023

The subject site is identified as having potential Class 2 Acid Sulphate Soils (ASS) according to Council Mapping systems. As per Clause 6.1 of the WLEP 2014, should works occur below natural ground level and/or works that are likely to lower the water table, an Acid Sulphate Soils Management Plan (ASSMP) may be required. It is noted that the subject site is proposed for redevelopment, as part of the adjacent parcel which is also classified as having Class 2 ASS.

Geotechnical and Hydrogeological Investigation, prepared by Douglas Partners (2022), investigated for actual acid sulphate soils (AASS) and potential acid sulphate soils (PASS). Section 7.2 of the investigation refers to the screen testing of twenty-four soil samples from three boreholes, for AASS or PASS. Testing was conducted in accordance with the Acid Sulphate Soils Management Advisory Committee (ASSMAC) and corresponding guidelines for assessing AASS and PASS. All samples were negative indicators of AASS, however fourteen of the samples were identified as PASS.

Six samples were submitted for further chromium analysis at Envirolab services, with the findings compared to the action criteria detailed in ASSMAC 1998 Guidelines. All six samples did not exceed the action criteria and thus were not PASS.

ASS screening testing and Chromium results were further compared to the action criteria outlined in the National Acid Sulfate Soils Guidance (NASSG) 2018, which were determined to be well within the action criteria.

The report concludes that ASS are not likely to be present at the site to the investigated depths of 25-27m and thus an Acid Sulfate Soil Management Plan is not necessary for works. The report however does conclude that confirmation testing for Acid Sulfate Soils should be conducted across the site as PASS can vary vertically and laterally within short distances. Likewise, existing buildings were present at the subject site thus limited access to land for testing.

A Detailed Site Investigation (DSI) was referenced in section 2.1 of the Addendum to Remediation Action Plan prepared by eiaustralia (2023). The DSI prepared by eiaustralia (2023), further assessed the likelihood of ASS to be encountered during the redevelopment works. The DSI occurred following the demolition of the buildings at no.21-27, allowing greater access to the site for intrusive investigations. It is however noted that a two-storey commercial building still remained at 19 Bay st.

As part of the DSI, intrusive investigation including the following works:

- *The advancement of nine test pits (TP2 - TP5 and TP101 - TP105) distributed in a mixed judgemental / systematic (triangular) grid fashion across the central and southern parts of the site (excluding 19 Bay Street);*
- *The advancement of three boreholes (BH1M, BH101M and BH102M) for the installation of monitoring wells distributed in a triangular fashion with at least two locations positioned down hydraulic gradient of the site;*
- *Multiple level sampling within fill and natural soils at each test pit and at BH1M (for Acid Sulfate Soil Analysis);*

In accordance with the ASSMAC (1998) Acid Sulfate Soils Manual, fifteen natural soil samples were collected from Borehole BH1M. Soil samples underwent pH (field) and pH (peroxide oxidised) testing with samples indicating the possible presence of ASS, undergoing investigation using suspended peroxide oxidation combined acidity and sulfur (sPOCAS) and Chromium suite analysis.

Soil samples were reviewed as prescribed by the ASSMAC 1998, for coarse textured soil action criteria with more than 1,000 tonnes of soil are to be disturbed.

Eight of the fifteen soil samples from BH1M were analysed for sPOCAS and the results indicated only samples BH1M_2-2.1 as having potential acidity and exceeding the action criteria. To confirm the presence of PASS, chromium suite analysis was undertaken and results indicated a marginal exceeded in the action criteria.

The report however notes, that sample BH1M_2-2.1 represents a minor pocket of silty clayey sand which is not representative of the majority sand and elevated pH_{KCl} present on site. These qualities of which, are indicative of a low likelihood of PASS or ASS. The report further raises that the action criteria adopted pertains to coarse grained strata not silty clayey sands.

As such the report has determined the exceedance to be an outlier and, in consideration of the other ASS evidence and assessments, an acid sulphate soil management plan is not necessary for the proposed bulk excavation works.

The DSI however acknowledges data gaps as no intrusive investigations were conducted as part of the 19 Bay st., as a two storey building was still present at the premises.

The DSI proposes this data gap to be addressed as part of the addendum to the JKE (2021) RAP. The addendum to the RAP prepared by eiaustralia (2021) had

determined the most appropriate remedial strategy to be excavation and off-site disposal.

Environmental Health – Review

The aforementioned investigations involved intrusive investigations at no.21-29 Bay st., by way of drilling boreholes and collecting of soil samples for field and laboratory sPOCAS analysis.

Results were primarily compared against the ASSMAC 1998 Guidelines and action criteria of more than 1,000 tonnes of soil are to be disturbed. Environmental Health Unit agrees with this investigation strategy.

Results across all investigations conclude that ASS are unlikely to present or encountered during the bulk of redevelopment works and as such, an Acid Sulfate Soils Management Plan would not be necessary for proposed works.

Environmental Health however notes, no intrusive investigations being conducted at no.19 due to lack of access. There is however, a substantial amount of evidence from previous intrusive investigations of no. 21-29 to determine the site is unlikely to have ASS and require an ASSMP. As the site is adjacent to no.19, shares the same Class 2 ASS classification and comprises the bulk of the proposed development, it can be assumed that the site too, is unlikely to have ASS and will not be requiring an ASSMP. Environmental Health is satisfied, with respect to 6.1 of the WLEP, that the site is unlikely to encounter ASS and that an ASSMP will not be required.

f) Land Contamination (R&H SEPP 2021)

SEPP (Resilience and Hazards) 2021

Review of the following:

- Addendum to Remediation Action Plan, referenced, prepared by eiaustralia, dated 14/06/2023
- Detailed Site Investigation, prepared by eiaustralia, dated 29/05/2023.

The subject site is identified as having potential land contamination according to Council Mapping systems. Pursuant to Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, a preliminary investigation is to be conducted which demonstrates to Council whether a Remediation Action Plan (RAP) is required for the site to be made suitable for proposed use.

A detailed site investigation (DSI) was referenced in section 2.1 of the Addendum to Remediation Action Plan prepared by eiaustralia (2023) to satisfy SEPP 2021, in lieu of the repealed Special Condition E.4 of DA14/2021/1.

The DSI further investigates land contamination with respect to the Conceptual Site Model (CSM) prepared in the initial Conceptual RAP (JKE, 2021). As such, raised potential contamination sources, migration mechanisms and potential exposure pathways that exist within the site, which could result in the exposure of contamination to the potential human health and ecological receptors applicable to a commercial site (as defined by NEPC, 2013), were considered.

The DSI scope of works are as follows:

- *A review of relevant (hydro)geological and soil landscape maps as well as a search of public registers to identify any offsite contamination sources relevant for the site;*
- *A review of the JKE (2021) RAP;*
- *Completion of an intrusive investigation that involved:*
- *The advancement of nine test pits (TP2 - TP5 and TP101 - TP105) distributed in a systematic grid type fashion across the site;*
- *Multiple level sampling within fill and natural soils at each test pit for the contaminants of potential concern (COPC);*
- *Multi-level sampling of natural soils encountered at borehole BH1M for the assessment of acid sulfate soils;*
- *The installation and development of three groundwater monitoring wells (BH101M, BH101M and BH102M) distributed in a triangular fashion encompassing the site, for the collection and laboratory analysis of groundwater samples for the COPC;*
- *The hand augured installation of two soil vapour monitoring wells (BHW2 and BHW3) for the collection and laboratory analysis of soil vapour samples for the COPC.*
- *The integration of data quality assurance / quality control (QAQC) procedures;*
- *A comparison of the results against NEPC (2013) criteria applicable to a generic commercial / industrial setting; and*
- *Data interpretation and reporting.*
- *The analytical results for soils sampled for waste classification purposes (Table 1B, EI, 2023a) are provided as Attachment 3.*

Soil and groundwater samples (as collected from boreholes test pits and bores and monitoring wells respectfully) were analysed for the contaminants of potential concerns (COPC) identified in the conceptual RAP (JKE, 2021). These include: Heavy metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc); Petroleum hydrocarbons (referred to as total recoverable hydrocarbons – TRHs) and benzene, toluene, ethylbenzene and xylene (BTEX); Polycyclic aromatic hydrocarbons (PAHs); Organochlorine pesticides (OCPs) and organophosphate pesticides (OPPs); Polychlorinated biphenyls (PCBs); Volatile organic compounds (VOCs), including chlorinated solvents; and Asbestos. Table 5.3 of the DSI outlines the relevant ecological and health-based Site Acceptable Criteria (SAC) for this investigation.

No COPC were identified to exceed the respective human health based SAC for both soil and groundwater samples. Furthermore, no visual or olfactory indications of contamination were observed at the sampling event. Low level exceedance in the ecological SAC (i.e. ANZG 2018) were identified for zinc and copper groundwater samples. It was however it was delegated to be of no concern, as the exceedance reflected the background conditions of groundwater within an urban environment rather than as a result of the onsite soil conditions.

The DSI identified an Underground Storage Tank (UST) observed at the northern part of the site by 27 Bay st. The potential contamination source contained sandy odorous soil material which was later classified as restricted solid waste. The DSI advises the UST is to be removed and validated accordingly. Samples hand augured from the UST, suggest petroleum based hydrocarbons were stored within the tank pit and excavated backfill material. Furthermore, the DSI noted concerns regarding fill soils of unknown origin and limitations with data gaps from the lack of intrusive investigations at no.19 due to restricted access to land.

The DSI however concludes that, subject to the implementation of the recommendations of the DSI, the site should be made suitable for the proposed commercial development.

DSI recommendations are as follows:

- *Preparation of a RAP Addendum to address the removal and validation of the UST in the north east of the subject site (at 27 Bay Street).*
- *Investigation of property at 19 Bay Street.*
 - *The property at 19 Bay Street was added to expand the subject site footprint after completion of the intrusive investigation of 21-27 Bay Street.*
- *Details of the volumes of soil to be removed from site to facilitate off-site disposal of the surplus soils. Once confirmed, a Waste Certificate can be issued.*
- *Virgin material / natural soils that underlie the filling material must undergo further assessment following the removal of the site-wide fill layer, to confirm that the material represents virgin excavated natural material (VENM) in accordance with JKE (2021).*
- *Any soil material to be imported to the site (i.e. for backfilling and/or landscaping purposes) must be confirmed by documentary evidence as suitable for the proposed land use, in accordance with EPA guidelines.*
- *A validation report will be required in accordance with NSW EPA (2020) Guidelines for Consultants Reporting on Contaminated Land.*

Addendum to Remediation Action Plan prepared by eiaustralia (2023), provides a revised RAP upon review and consideration of the collective findings of the investigations across no.19-27 Bay st. Double Bay. In essence, the RAP has determined excavation and off-site disposal to be the most appropriate remediation strategy.

Prior to the commencement of bulk excavation the following stages are proposed:

Stage 1: *Notification and Site Establishment.*

Stage 2: *Additional Investigation of Soils at 19 Bay Street*

Stage 3: *Removal of UST and associated tank pit soil*

Stage 4: *Waste Classification – Stockpiled Soils (Surrounding UST)*

Stage 5: *UST Validation.*

Environmental Health – Review

The applicant proposes the implementation of the RAP prepared by eiaustralia (2023), to which excavation and off-site disposal was selected as the remediation strategy.

Intrusive investigations across all reports have been conducted at the adjacent site no.21-27 Bay st which comprises the bulk of the redevelopment envelope.

Limitations regarding access to no.19 due were present due to existing commercial infrastructure limiting access to the site. Stage 2 of the RAP (eiaustralia, 2023) proposes further intrusive investigations to occur before bulk excavation. At this stage it can be determined whether potential contamination on site or in the fill is present as the RAP can be adapted accordingly.

Environmental health unit is satisfied with the proposed RAP prepared by eiaustralia (2023) and with respect to clause 4.6 of the SEPP that the site can be made suitable for proposed use.

6. RECOMMENDATION

Refer to section 5 for further details.

Council's Environmental Health Officer has determined that insufficient information has been submitted to enable an assessment of the proposal. The following information is required before any further assessment of the application can be undertaken:

- i. Environmental Health Unit is not satisfied that the outdoor dining component of the proposed licenced premises, has been adequately acoustically mitigated. Further information is required detailing appropriate acoustic mitigation measures for this proposed outdoor dining area. These acoustic mitigation measures should further reflect the noise emissions assessment detailed in section 5 of the acoustic report.

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 (Part 4A of the Act and Part 8 Division 3 of the Regulation)

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

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil

Environmental Health Officer: Jasmine Sutrina

Date: 31/10/2023



Acoustics
Vibration
Structural Dynamics

3 December 2023

TN709-01F01 Peer Review Acoustic Advice (r0)

Woollahra Council

Att: Thomass Wong

Dear Mr Wong,

19-27 Bay Street, Doble Bay (Proposed Restaurant) - Peer Review of Acoustic Report

Introduction

We have been engaged by Woollahra Council to conduct a peer review of an acoustic report for a proposed sporting facility.

The report reviewed is *Noise Impact Assessment (Licenced Premises)* dated 28/6/2023 by Acoustic Logic (Rev 2) – the Acoustic Logic report.

The development in question is a proposed licenced restaurant with capacity of 176 people with both an indoor and outdoor area.

The Acoustic Logic Report:

- Has determined noise emission goals for the site based on Office of Liquor and Gaming (for patron and music noise) and the EPA Noise Policy (for plant and equipment noise).
- Has undertaken a survey of ambient noise levels in order to determine noise emission limits for the site.
- Has conducted a study of noise predicted to be generated by the operation of the site and provided recommendations in order to ensure noise emissions are compliant with requirements.

Our comments on the report are detailed below.



Sydney Melbourne Brisbane Gold Coast Kuwait Singapore

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RENZO TONIN & ASSOCIATES

3 DECEMBER 2023

Background Noise Survey.

Background noise levels at the site were measured by long term noise logger placed on a hoarding on the Bay Street frontage. The measured background noise levels at key times were:

- 54dB(A) L_{90} in the evening (6pm-10pm).
- 48dB(A) L_{90} in the evening (10pm-12am).

With respect to the background noise levels:

- An evening time background noise level of 54dB(A) L_{90} is quite high.
- On review of the noise logging graphs that are appended to the Acoustic Logic report there is a dramatic drop in background noise level at approximately 10-10:30pm on 30 May and 1-2 June.
- The source of such high ambient noise level is not explained nor is the reason for the sudden drop in ambient noise level between 10pm and 10.30pm.
- This raises concern that the logger may have been placed inadvertently near a local noise source (such as a plant item) that may artificially inflate background noise levels at the logger and not be representative of the ambient noise levels at the nearest residences. If this were the case, the noise emission limits that were set could have been too high.

To address the above concern, we attended the above site between 10pm and 11pm on 17/11/2023.

- Ambient noise levels on Bay Street are primarily a result of the cumulative noise level from the operation of a number of other restaurant/bar premises in the vicinity (29 Bay Street in particular, and to a lesser degree the Royal Oak Hotel).
- The ambient noise level measured by the logger at 10pm appears to be correct.
- Provided that there is no proposal to curtail the trading of the adjacent food and beverage premises (eg 29 Bay Street), the background noise levels presented in the Acoustic Logic Report are reasonable.

Recommendation:

- There would be no need to adjust the background noise levels/noise emission targets unless the site at 29 Bay Street has been the subject of complaint and it is expected that their operational noise will change.
- In the absence of the noise from nearby Food and Beverage premises, the 10pm background noise level would be expected to be 50dB(A) L_{90} , and a result of distant traffic from New South Head

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Road. (This was determined by measurement on Knox Street at a similar distance from New South Head Road from the subject site, however Knox Street does not have significant outdoor dining and is an environment dominated by distant traffic noise).

- In the event that the premises at 29 Bay Street have been the subject of complaint and the operation of their outdoor trading changed, it would become likely that a background level of 50dB(A)_{L₉₀} would apply for the subject site, not 54dB(A).

Outdoor Dining

Noise Emission Assumptions

In order to predict operational noise from the site, it is necessary to make assumptions about typical patron noise levels, numbers of patrons etc.

With respect to outdoor dining:

- The Acoustic Logic report does not identify the number of people outside at any one time. On counting the number of seats in the outdoor area, there appears to be space for approximately 84 people. This should be confirmed.
- The Acoustic Logic report does not identify a typical noise level per patron in an outdoor area (the patron noise level for indoor areas only is nominated). We assume that 77dB(A) (one in two speaking) was intended to apply for both indoor and outdoor areas. This should be confirmed.
- If sound power per patron of 77dB(A) (one in two speaking) is assumed for patrons in the outdoor area, this is the quieter end of what we believe is typically reasonable. In our opinion, a range of 77-80dB(A)_{L₁₀} is reasonable. For seated outdoor dining, 77dB(A) is reasonable. If a more lively bar/beer garden, a noise level of 80dB(A) is typical. For spaces that permit standing patrons (higher density), 77dB(A) is too low.
- Also, Section 6 of the report permits moderately high levels of background music in the outdoor area (75dB(A)). In a noise environment of 75dB(A) from music, it is very likely that patrons will speak more loudly than 77dB(A) sound power.

Recommendation.

If relying on an assumed patron speaking sound power of 77dB(A):

- The report should impose a recommendation setting a maximum number of patrons outside.
- There should be a recommendation requiring that the outdoor area be used for seated patrons only (no standing room).

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- Music noise level should be limited to 65dB(A)_{L10} in the space, not 75dB(A).

Noise Emission Calculations

Based on 77dB(A) per person speaking and 84 people, the predicted noise level of 56dB(A) (table 9 of Acoustic Logic Report) appears correct assuming there is no noise reflection off the western façade of the restaurant.

However, given the restaurant façade is glass, and cannot have noise absorption applied to it, it is likely that there will be some reflected noise off the façade. This would increase the emitted noise by approximately 2dB. If this is the case, the predicted noise emission in table 9 would become just compliant (no margin whatsoever).

This noise reflection, coupled with the fact that assumptions with respect to patron speaking noise levels is already at the quieter end of the anticipated range, creates a risk that there would be an exceedance in the event that the outdoor area is crowded.

Considering the above:

- There are two factors that could result in the assumed noise predictions being higher than expected – patrons speaking louder than 77dB(A) and the additional noise as a result noise reflection of the western façade of the restaurant.
- In the event that both of these factors occur, it could be necessary to limit outdoor dining to closer to 44, not 88.

Recommendation:

There will be a number of outdoor dining spaces that can be accommodated on the site without excessive noise impact.

With the proposed number of spaces (88) there is a moderate risk of exceedance of noise targets when the space is trading at capacity.

We recommend that this number is adjusted to 60.

We also recommend that a post-operation compliance measurement be undertaken once the site is trading to verify the noise emitted from the outdoor dining area. In the event that operational noise exceeds noise targets, the permissible number of patrons in outdoor areas would need to be further reduced.

Noise from Indoor Areas

With respect to indoors areas:

- The Acoustic Logic Report does not state if doors/windows to internal areas were assumed to be open or closed for the purpose of noise emission predictions. It is assumed that were proposed to be closed (other than the three entry doors opening onto the terrace). This should be clarified.
- The Acoustic Logic report does not identify the number of people inside at any one time. This should be confirmed (we assume approx. 100 based on seating plan).
- The assumed noise level of 77dB(A) per patron speaking in a space where background music noise levels are high (75dB(A)) is likely to be too low. The noise emitted via openings (it appears only to be three doors) is likely to be under-predicted. The internal sound pressure level that has been used in noise emission calculations should be provided to enable comparison against guidance documents such as the *AAAC Licenced Premises Noise Assessment Technical Guideline*

However, even if internal noise levels are under predicted, the noise emitted from internal spaces will still be less than what is emitted from use of the external areas. Provided that the music noise limit (75dB(A)_{L10} in internal areas) is applied and the only openings are via the three doorways, noise emitted from internal areas is not expected to cause an exceedance of noise goals.

Recommendation.

- Recommendation that music is limited to 75dB(A) in internal areas should be retained.
- An internal music noise limit of 75dB(A) will effectively prohibit any form of live entertainment. This should be checked against the Statement of Environmental Effects to ensure that this is not proposed.
- Recommendation should be included with respect to having windows/doors closed other than for ingress/egress should be included in recommendation.

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Plant and Equipment

The Acoustic Logic report identifies noise emission goals based on the EPA Noise Policy for Industry for future plant and equipment.

The Acoustic Logic report identifies that plant and equipment should be assessed in detail once equipment selections and locations are finalised. In general, this is a reasonable approach.

Recommendation.

We suggest that the following high level analysis is conducted at DA stage:

- Identify if there will be any roof top air-conditioning, refrigeration or kitchen exhaust fans proposed and get an indicative equipment selection/data sheet.
- These equipment items will potentially require a noise screen in order to protect the residential apartments to the west. A screen, if required, could necessitate lodging a 4.55 modification if not identified at DA stage.

Closure

We have reviewed the acoustic report submitted with the Development Application for a restaurant at the above site.

The two primary acoustic issues are:

- The background noise levels at the site are high (meaning noise emission targets are quite relaxed). It is likely that the high ambient noise levels are a result of the operation of the adjacent site at 29 Bay Street. It is important to ensure that noise from that site is not presently the subject of complaint.
- The noise from the use of the outdoor dining area is predicted to be compliant with noise targets, and we generally agree with the predicted levels. However, the predictions are based on an assumption that the typical patron vocal level is slightly low and does not appear to take into account reflected noise off the western façade of the restaurant. Taking these two factors into account, a reduced number of patrons in the outdoor area (currently approx. 88) should be considered. We have provided recommendations in order to address this.

RENZO TONIN & ASSOCIATES

3 DECEMBER 2023

Please contact us if you have any queries.

Regards,

A handwritten signature in black ink, appearing to read 'T. Taylor', with a stylized flourish at the end.

Thomas Taylor
Principal Engineer

31 August 2023

REFERRAL RESPONSE – TREES & LANDSCAPING

FILE NO: Development Applications: 245/2023/1
ADDRESS: 19 Bay Street DOUBLE BAY 2028
PROPOSAL: Demolition of existing building and construction of a five-storey commercial development (retail and restaurant) with basement parking and signage
FROM: Nick Williams – Tree & Landscape Officer
TO: Mr W Perdigao

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by GSA Planning, dated July 2023.
- Survey Plan No.41464, drafted by Higgins Surveyors, dated 10/11/2020.
- Architectural Drawing No's DA0000, DA1000, DA1001, DA1002, DA20021-DA2010, DA2400-DA2403, DA2500-DA2503 drawn by MHNDUNION, dated 4/7/2023.
- Arboricultural Impact Assessment Report referenced 6654.2, written by Redgum Horticultural, dated 6 May 2023.
- Landscape Plan No's LP01-D2623- LP02-D2623, LP03-D2623, designed by Dangar Barin Smith, dated 14/6/2023

A site inspection was carried out on.

Relevant Control:

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

Ensure the tree protection conditions relating to Council street tree 1 & 2, outlined within this referral response, form part of any development approval. These conditions are reflective of those for the previous and most recent development proposal for the site (DA2021/535/1). These conditions also reflect the tree protection recommendations outlined within the current and revised Redgum Arboricultural Impact Assessment.

In regards to the pruning of Tree 1 & 2 I note that the revised and current Arboricultural Impact Assessment report for this proposal states the following: *"For trees 1 & 2 are not expected to require further pruning based on the proposed building and awning design"*. While this is generally considered to be correct it has been inferred that an application to install site sheds on top of the existing awnings may form part of a future hoarding

application. This may require the pruning of branches which exist in the airspace of the current hoarding. For these reasons ensure Condition A.2 and C.3 of this referral response forms part of any development consent.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.

CONDITIONS OF CONSENT

Please note that the standard conditions of consent are generally modified by the Technical Services Department to suit a particular development application. Please ensure all Technical Services conditions of consent are cut and pasted from this document only, and not inserted as standard conditions using the automatically generated (F3) function

A. General Conditions

A.1 Tree Preservation & Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees shall be retained

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
1	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most southern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	12 x 8	\$6700.00
2	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most northern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	10 x 8	\$6700.00

Note: The tree/s required to be retained should appear coloured green on the construction certificate plans.

A.2. Development Consent is Not Granted in Relation to these Matters

This approval does not give the applicant consent to prune street trees referenced 1 & 2 for the purposes of providing clearance for modified hoarding and scaffolding or the approved building footprint or to provide clearance to any building machinery associated with the development.

Only a Council authorised contractor will be allowed to undertake the pruning of trees located on Council managed land under the instruction of Council's Coordinator of Trees Maintenance in accordance with Council's Tree Management Policies and AS 4373-2007 *Pruning of Amenity Trees*.

A request for the pruning of Council street trees must be submitted to Council in writing at least sixty (60) days prior to any proposed work. The written request to prune for clearance or building machinery or any hoarding application must be accompanied by a current Pruning specification prepared by a qualified AQF Level 5 arborist in accordance with attachment 4 of Council's DA Guide. All costs associated with the approved pruning will be the responsibility of the applicant.

A.2 Approved Plans and supporting documents

Reference	Description	Author/Drawn	Date(s)
6654.2	Arboricultural Impact Assessment Report	Neville Shields – Redgum Horticultural	6 th of May 2023
Landscape Plan No. s LP01-D2623 Revision D, LP02-D2623 Revision D, LP03-D2623 Revision D	Landscape Plan	Dangar Barin Smith	14/6/2023.

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

B.1 Establishment of Tree Protection Zone (TPZ) Fence

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)
1	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most southern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	3
2	<i>Ulmus parvifolia</i> (Chinese Elm)	Bay Street Road reserve – most northern specimen in relation to the subject site. Refer to appendix E of the submitted Redgum Horticultural Arboricultural Impact Assessment.	3

Note: Where this condition relates to street trees and the fence cannot be placed at the specified radius, the fencing shall be positioned so that the entire verge (nature strip) area in front of the subject property, excluding existing driveways, footpaths and bus stops is protected.

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

- b) Tree Protection Zones shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being brought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
1	<i>Ulmus parvifolia</i> (Chinese Elm)
2	<i>Ulmus parvifolia</i> (Chinese Elm)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.
- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in this consent.
- f) Ground protection shall consist of geotech fabric placed directly over the ground surface with 100mm mulch / aggregate / rumble boards strapped over mulch / steel plating over 10mm mulch layer / retention of existing surface.
- g) Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in this consent.
- h) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- i) The project arborist shall provide written certification of compliance with the above condition.

B.2 Permissible work within Tree Protection Zones

Nil

B.3 Demolition and Construction Management Plan

Nil

B.4 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development;
- Recommended actions to improve site conditions and rectification of non-compliance; and
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection and supervision	Compliance documentation and photos shall be included
Prior to the demolition of any building or construction and prior to the commencement of any development work	<ul style="list-style-type: none">• Project Arborist to hold pre construction site meeting with the principal contractor to discuss methods and importance of tree protection measures and resolve any issues in relation to feasibility of tree protection requirements that may arise.• The project arborist shall install or supervise the installation of tree protection fencing and trunk protection.
During any development work	<ul style="list-style-type: none">• The project arborist shall supervise all demolition and excavation works within the Tree Protection Zones of nominated trees listed in this consent.
Prior to the issue of a Final Occupation Certificate	<ul style="list-style-type: none">• The project arborist shall supervise the dismantling of tree protection measures.• After all demolition, construction and landscaping works are complete the project Arborist shall assess that the subject trees have been retained in the same condition and vigour. If changes to condition are identified the project Arborist should provide recommendations for remediation.

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

C.1 Tree Management Plan

The *Construction Certificate* plans and specifications shall show the following information:

- a) Trees to be numbered in accordance with these conditions:
- shaded green where required to be retained and protected
 - shaded red where authorised to be removed
 - shaded yellow where required to be transplanted
 - shaded blue where required to be pruned
- b) References to applicable tree management plan, arborists report or transplant method statement.

This plan shall be kept on site until the issue of the final occupation certificate.

C.2 Payment of Security, Levies and Fees (S80A(6) & S94 of the Act, Section 608 of the Local Government Act 1993)

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$13,400.00	No	T114
INSPECTION FEES under section 608 of the Local Government Act 1993			
Tree Inspection Fee	\$200.00	No	T95

C.3 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) To minimise the potential for the disfigurement of Council Street trees referenced 1 & 2 plans must specify '*no pruning works to Trees 1 & 2 permitted without Council permission*'.

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.

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

Nil

E. Conditions which must be satisfied during any development work

E.1 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 50mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

Note: Trees must be pruned in accordance with *Australian Standard AS 4373 "Pruning of Amenity Trees"* and *WorkCover NSW Code of Practice Amenity Tree Industry*.

E.2 Replacement/Supplementary trees which must be planted

The proposed tree species listed on Landscape Plan No. LP01-D2623 Issue 01 Revision D, designed by Dangar Barin Smith, dated 14/6/2023 shall be installed within the subject property. The proposed trees shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The proposed trees shall be maintained in a healthy and vigorous condition. If a replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species as indicated on the landscape plan.

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 Amenity Landscaping

The *owner* or *principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

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))

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

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

Nil

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions.
You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au
or you may contact Council on 9391-7000 for further advice.



Nick Williams
Tree & Landscape Officer



David Murphy
0499 836 822
david.murphy@waternsw.com.au

WOOLLAHRA MUNICIPAL COUNCIL

Our ref: IDAS1150580
Your ref: DA245/23

Wilson.perdigao@woollahra.nsw.gov.au

17 August 2023

Dear Applicant,

**RE: Integrated Development Referral – General Terms of Approval
Proposed Development DA245/23
Lot 1 DP90466 & Lot 2127 DP1286633
19-27 Bay Street Double Bay 2028**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47 (3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- Detailed information required to permit a hydrogeological assessment to be carried out is to be provided for any further application related to the subject property according to the minimum requirements for building site groundwater investigations and reporting.
- An extraction limit will be determined by the Department of Planning and Environment following the hydrogeological assessment using the detailed information and that will be included on the conditions applied to the approval for the dewatering activity.
- The approval will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of permission for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO Box 398, Sydney, NSW 2124
customer.helpdesk@waternsw.com.au | www.waternsw.com.au



The attached GTA issued by WaterNSW do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.

Yours sincerely

David Murphy

Water Regulation Officer
WaterNSW



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1150580
Issue date of GTA:	17 August 2023
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	19-27 Bay Street, Double Bay 2028
DA Number:	DA245/23
LGA:	Woollahra Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@watnsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of

Level 14, 169 Macquarie Street, Parramatta, NSW 2150 | PO BOX 398, Parramatta, NSW 2124
water.enquiries@watnsw.com.au | www.watnsw.com.au

Template Ref: WLS 004A, Version 1.0 – May 2016

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General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1150580
Issue date of GTA:	17 August 2023
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	19-27 Bay Street, Double Bay 2028
DA Number:	DA245/23
LGA:	Woollahra Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023
	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion
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General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1150580
Issue date of GTA: 17 August 2023
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 19-27 Bay Street, Double Bay 2028
DA Number: DA245/23
LGA: Woollahra Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watarnsw.com.au/customer-service/water-licensing/dewatering

- GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

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SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA245/23 as provided by Council:

- Geotechnical Report Pt1&2/Architectural Plans Pt1-8

Transport for NSW

16 October 2023

TfNSW Reference: SYD23/01097/01
Council Reference: DA245/23 (CNR-58180)



Mr Craig Swift-McNair
Chief Executive Officer
Woollahra Municipal Council
536 New South Head Road
Double Bay NSW 2028

Attention: Wilson Perdigao

PROPOSED COMMERCIAL DEVELOPMENT 19-27 BAY STREET, DOUBLE BAY

Dear Mr Swift-McNair,

Reference is made to Council's referral dated 29 September 2023 regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 2.122 of the *State Environment Planning Policy (Transport and Infrastructure) 2021*.

Following a review of the submitted application, TfNSW raises no objection to the application and offers the following advisory comment for Council's consideration in the determination of the application:

1. Due to the narrow width of Gum Tree Lane, it is suggested that Council considers requiring the installation of a "No Right Turn" sign within the development site at the exit driveway to discourage any right turn movements onto Gum Tree Lane.

For more information, please contact Shengxi Lin, Development Assessment Officer, on 0476 505 715 or by email at development.sydney@transport.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "RDavis".

Rachel Davis
Senior Land Use Planner
Land Use Assessment Eastern
Planning and Programs, Greater Sydney Division

OFFICIAL

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
PO Box 973 Parramatta CBD NSW 2124

W transport.nsw.gov.au

Wilson Perdigao

From: Peter Bolt <bolt1pet@police.nsw.gov.au>
Sent: Tuesday, 5 December 2023 11:16 AM
To: Wilson Perdigao
Cc: Records
Subject: DA 2023/245/1 - 19-27 Bay St Double Bay [SEC=OFFICIAL]

Mr Wilson Perdigao
Senior assessment Officer Team Central
Woollahra Municipal Council

RE DA 2023/245/1 – 19-27 Bay Street, Double Bay (New licensed rooftop restaurant – RH Double Bay)

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 appears to be constrained the rooftop restaurant area with near equal proportions of indoor dining and outdoor dining. It can therefore be anticipated that noise associated with the area will have limited attenuation. 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 patron numbers relevant to the rooftop restaurant area and would seek that Council reviews those proposed numbers with relevance to usable space. Police would assert that the patron numbers permitted within the restaurant are assessed as to allow at a minimum of one person per one metre squared of usable space. That any Plan of Management relevant to the venue addresses how outdoor patrons will be managed if outdoor area use is restricted due to weather etc.

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 a sign be displayed at the entrance to the rooftop area the authorised capacity of indoor and outdoor areas.

- That any Plan of Management detail authorised patron capacity and strategies relevant to patron movement / ingress and egress etc.
3. 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 outside of ordinary business hours and can be expected to encourage attendance by the local and broader community. The supporting documents do not provide clarity as to how patrons will access the rooftop restaurant. It appears it will require navigation through internal stairways. To ensure intoxicated persons are not able to readily access the site after ordinary business hours (6pm) it would be appropriate that a security posture be established to control entry. This would be necessary also at times in which the restaurant has reached or is likely to reach capacity. Communication in this regard should occur at the main principal entry points. To this end Gum Tree Lane is not presently a well activated space and entry via Gum Tree Lane should not be permitted outside of ordinary business hours or until such time that a suitable CPTED (Crime Prevention Through Environmental Design) is conducted and submitted to Council and Police for review. The supporting documentation is not sufficient in disclosing the potential risks and treatments.

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 entry after ordinary business hours is monitored by a security posture. That prior to the use of Gum Tree Lane entrance a CPTED assessment is provided and reviewed by Council and Police.
4. The Plan of Management submitted with the application lacks considerable detail in respect to security posture / patron movement / noise measures etc.

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.

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
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MATTHEW PALAVIDIS
VICTOR FATTORETTO
MATTHEW SHIELDS

19-27 Bay Street, Double Bay

Noise Impact Assessment (Licensed Premises)

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Project ID	20230564.1
Document Title	Noise Impact Assessment (Licensed Premises)
Attention To	21 Bay Pty Ltd

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	15/06/2023	20230564.1/1506A/R0/JHT	JHT		AZ
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1 INTRODUCTION

Acoustic Logic has been engaged to provide an acoustic assessment for the proposed licensed restaurant to be located on the rooftop at 19-27 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 MHNDUnion, Project Number 21-081, dated 8th June 2023, issued for Development Application, Revision A.

2 SITE DESCRIPTION

The proposed development to be located at 19-27 Bay Street, Double Bay consists of a 5-level mixed-use retail/licensed premises building accommodating 4 levels of retail galleries and a top floor restaurant. The restaurant includes an outdoor terrace with proposed outdoor dining.

This assessment entails the noise impacts associated with the use of the top-level space as a restaurant and outdoor dining licensed premises. The licensed venue will be situated on level 4 and is expected to have an overall maximum capacity of 176 patrons –96 indoor and 80 outdoor.

This office has been advised that the hours of operation for the venue are from 10:00am to 9:00pm, Monday to Saturday and 10am to 8pm Sunday.

2.1 NEAREST SENSITIVE RECEIVERS

The nearest sensitive receivers at the current time 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 – Nearest Sensitive Receivers

Receiver (Refer to Figure 1)	Land Use	Comment
R1	Local Centre (Residential)	Local centres located between 2-24 Bay Street which consist of residential premises. Worst affected receivers are located at 16-22 Bay Street which is a 4 storey mixed use residential/commercial building.
R2	Local Centre (Commercial)	Local Centres located between 29-35 Bay Street currently utilised as small retail stores.
R3		Local Centres located between 11-17 Bay Street currently utilised as small retail stores.
R4		Proposed Commercial Offices located at 2-10 Bay Street currently under construction.

Note that these sensitive receivers are the most likely affected receivers and are based on current available information.



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.

3.2.1 Measurement Equipment

Unattended noise monitoring was conducted using a 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 top of the existing hoarding at approximately 4.5m above ground level of 19-27 Bay Street, Double Bay. For a detailed location refer to the Figure below and the site map depicted in Figure 1. The measurement was conducted between 30th May 2023 and 7th June 2023.



Figure 2: Unattended Noise Monitor (From Hoarding)

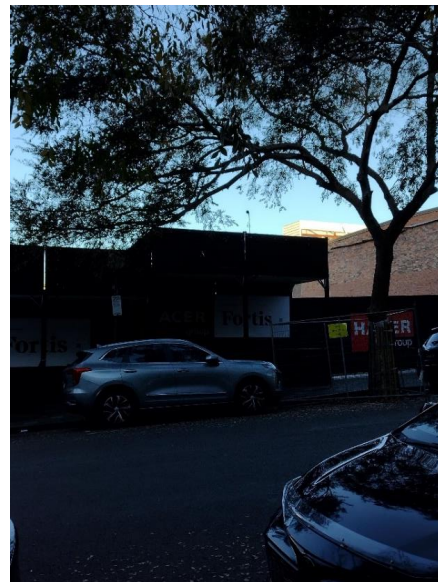


Figure 3: Unattended Noise Monitor (From Bay Street)

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 NPfI 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

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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)}
19-27 Bay Street, Double Bay	Day (7:00am - 6:00pm)	55
	Evening (6:00pm - 10:00pm)	54
	Night (10:00pm - 7:00am)	48

3.2.4 Background Noise Spectrum

From the unattended noise monitor, a background broadband spectrum has been extracted from the monitoring data. This extracted spectrum represents the $L_{90,15\text{minute}}$ spectrum obtained on Sunday 4th June during the evening period.

Table 3 - Measured Background Noise Spectrum $L_{90,15\text{ minute}}$

Time	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-wt
4 th June 10:00pm	53	53	53	54	51	47	44	38	30	53

3.3 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 – dB(A)_{L90,15minute}

Time	31.5Hz	63 Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	A-wt
Day (7am – 6pm)	55	55	55	56	53	49	46	41	32	55
Evening (6pm – 10pm)	54	54	54	55	52	48	45	40	31	54
Late Evening (10pm – 12am)	48	48	48	49	46	42	39	34	25	48
Night (12am – 7am)	48	48	48	49	46	42	39	34	25	48

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4 NOISE EMISSION ASSESSMENT

The major noise sources from the operation of the proposed licensed venue at 19-27 Bay Street include:

- Background music noise associated with the proposed licensed restaurant.
- Patron's noise associated with the proposed licensed restaurant – indoor and outdoor.
- 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 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 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
Local Centres (Residential R1)	Day (7am – 6pm)	60	60	60	61	58	54	51	46	37	60
	Evening (6pm – 10pm)	59	59	59	60	57	53	50	45	36	59
Local Centres (Commercial – R2/R3)	Day (7am – 6pm)	60	60	60	61	58	54	51	46	37	60
	Evening (6pm – 10pm)	59	59	59	60	57	53	50	45	36	59

Note: Commercial 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)	55	60
	Evening (6:00pm – 10:00pm)	54	59
	Late Evening (10:00pm – 12:00am)	48	53
	Night (12:00am – 7:00am)	48	53

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) _{Leq}	Project Intrusiveness Criteria dB(A) _{L_{eq}}	Woollahra DCP 2015	Project Noise Trigger Level dB(A) _{L_{eq}}
Local Centres (Residential) R1	Day (7am – 6pm)	55	58	60	55	55
	Evening (6pm – 10pm)	54	48	59	54	54
	Late Evening (10pm – 12am)	48	48	53	48	48
	Night (12am – 7am)	48	43	53	48	48
Local Centre (Commercial) R2/R3/R4	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 (indoor and outdoor)
- Noise from background music (indoor and outdoor)
- 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 10:00am to 10:00pm).

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.
- Music within the outdoor area is to have sound pressure level of 75dB(A)_{L10}.
- Indoor and outdoor 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 R1 (Residential Local Centre)

Receivers	f (Hz)	31.5	63	125	250	500	1k	2k	4k	8k	A-wt
R1	Predicted Noise Level dB(A) _{L10}	41	41	49	49	55	52	47	38	27	56
	Noise Emission Goal (Evening)	59	59	59	60	57	53	50	45	36	59
	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 R2 & R3 (Commercial Local Centre)

Receivers	f (Hz)	31.5	63	125	250	500	1k	2k	4k	8k	A-wt
R2	Predicted Noise Level dB(A) _{L10}	43	43	47	44	46	40	33	21	7	46
	Noise Emission Goal (Evening)	59	59	59	60	57	53	50	45	36	59
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R3	Predicted Noise Level dB(A) _{L10}	42	42	47	45	47	41	34	22	8	47
	Noise Emission Goal (Evening)	59	59	59	60	57	53	50	45	36	59
	Compliance	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
R4	Predicted Noise Level dB(A) _{L10}	41	41	49	49	56	53	48	39	28	57
	Noise Emission Goal (Evening)	59	59	59	60	57	53	50	45	36	59
	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 176 patrons are allowed within the premises at any time.
- The three-entrance door facilitating access between the indoor area and outdoor terrace may be kept open during trading hours if required (E.g., for ventilation purposes). When not required, the main entrance door should be kept closed to minimise noise impacts to nearby receivers.
 - All other entry doors accessing internal areas and external windows are to be kept closed during trading hours. Doors are to be used for only ingress/egress and 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 below (75 dB(A)_{L10}).
- Music is permitted within the outdoor area provided the sound pressure level does not exceed 75dB(A)_{L10} when measured at the centre of the terrace and speakers are appropriately located.
- 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 – 10:00am to 10:00pm Monday to Sunday.
- Minimum installed glazing thickness (including the ceiling glazing) is to be 6mm for all glazed elements. Glazed elements are to be fitted with acoustic seals and should thicker glazing be required for structural (or other requirements) – these will be acoustically acceptable.
- Any external doors which are not glazed elements 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 and are appropriately oriented. Speakers are not to be located along the outer perimeter of the terrace.
- 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).
- 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 the roof top of the proposed development to be located at 19-27 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 as presented in this report in accordance with Woollahra Municipal DCP, Liquor and Gaming Authority NSW and NSW EPA Noise Policy for Industry 2017.

We trust this information is satisfactory. Please contact us should you have any further queries.

Yours faithfully,

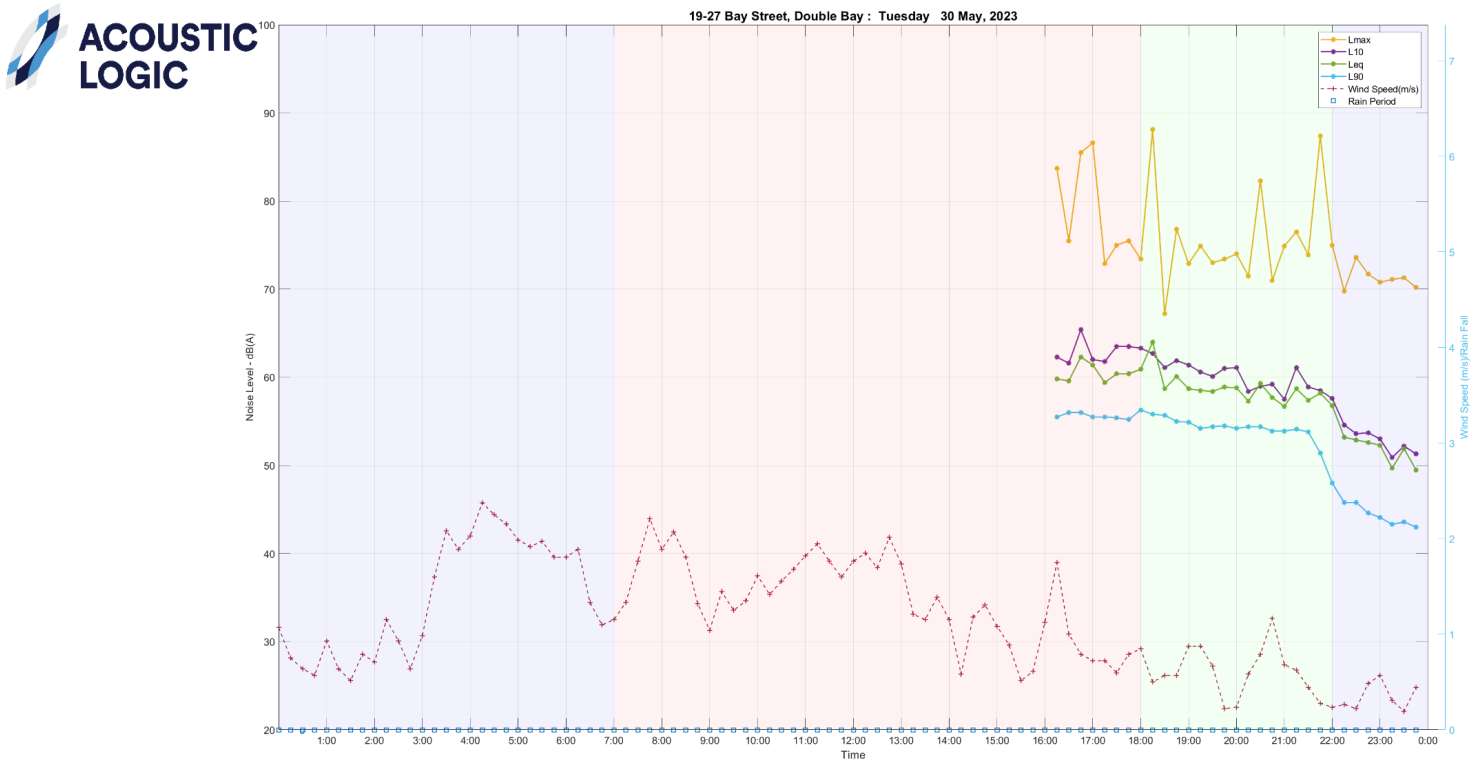


Acoustic Logic Pty Ltd
James Ting

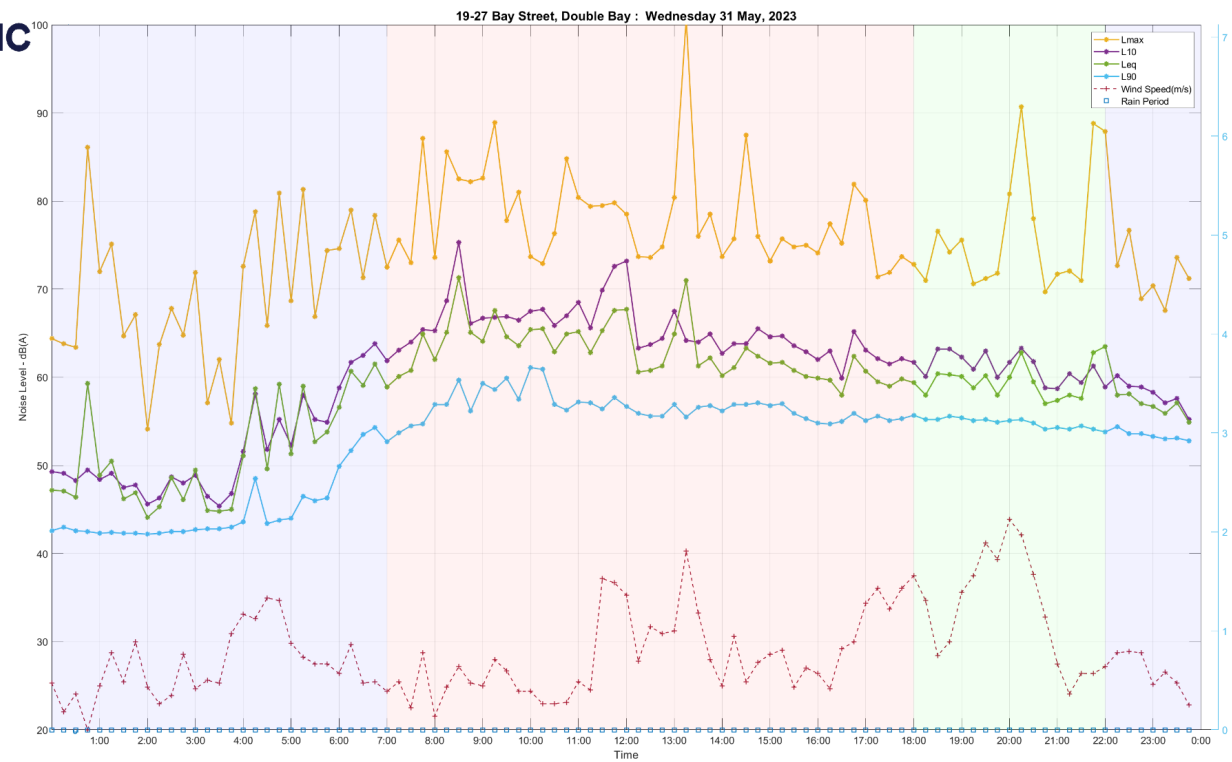
APPENDIX A – UNATTENDED NOISE MONITORING

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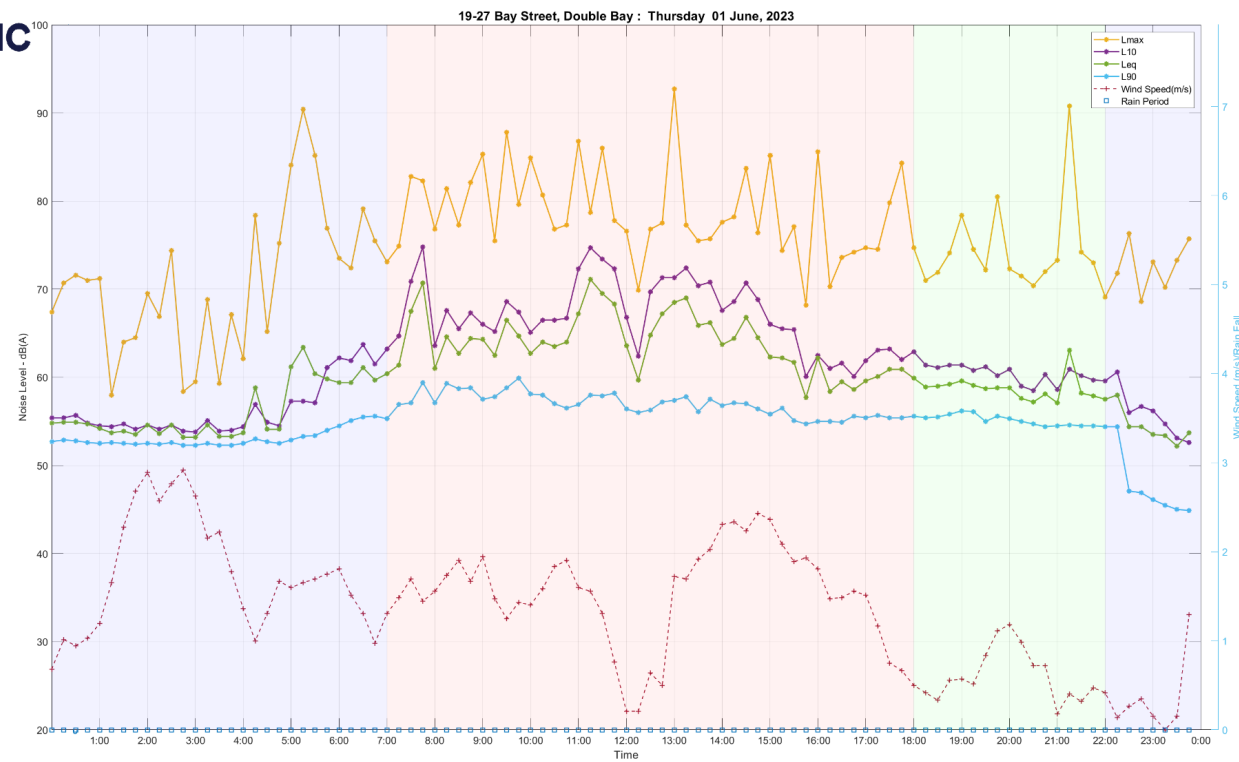


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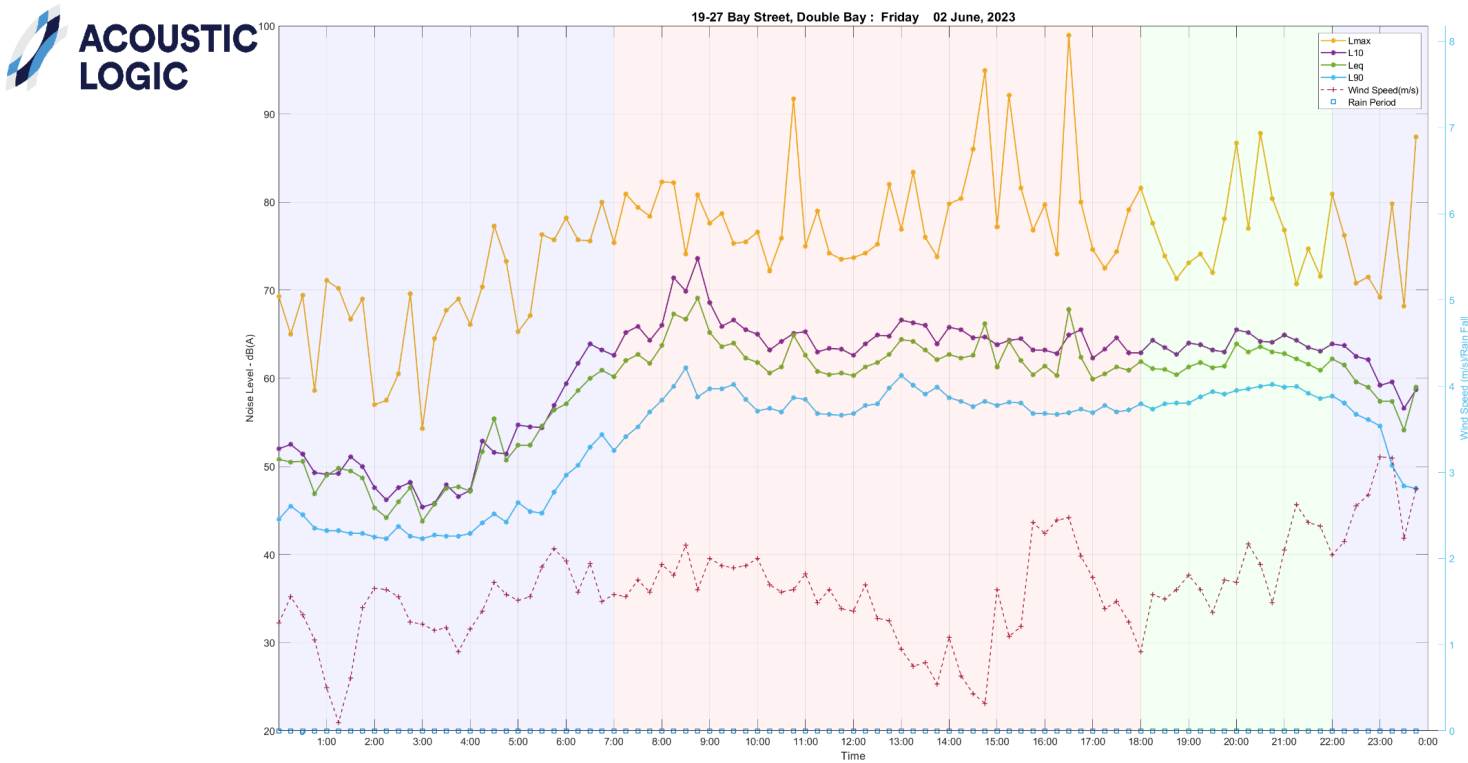
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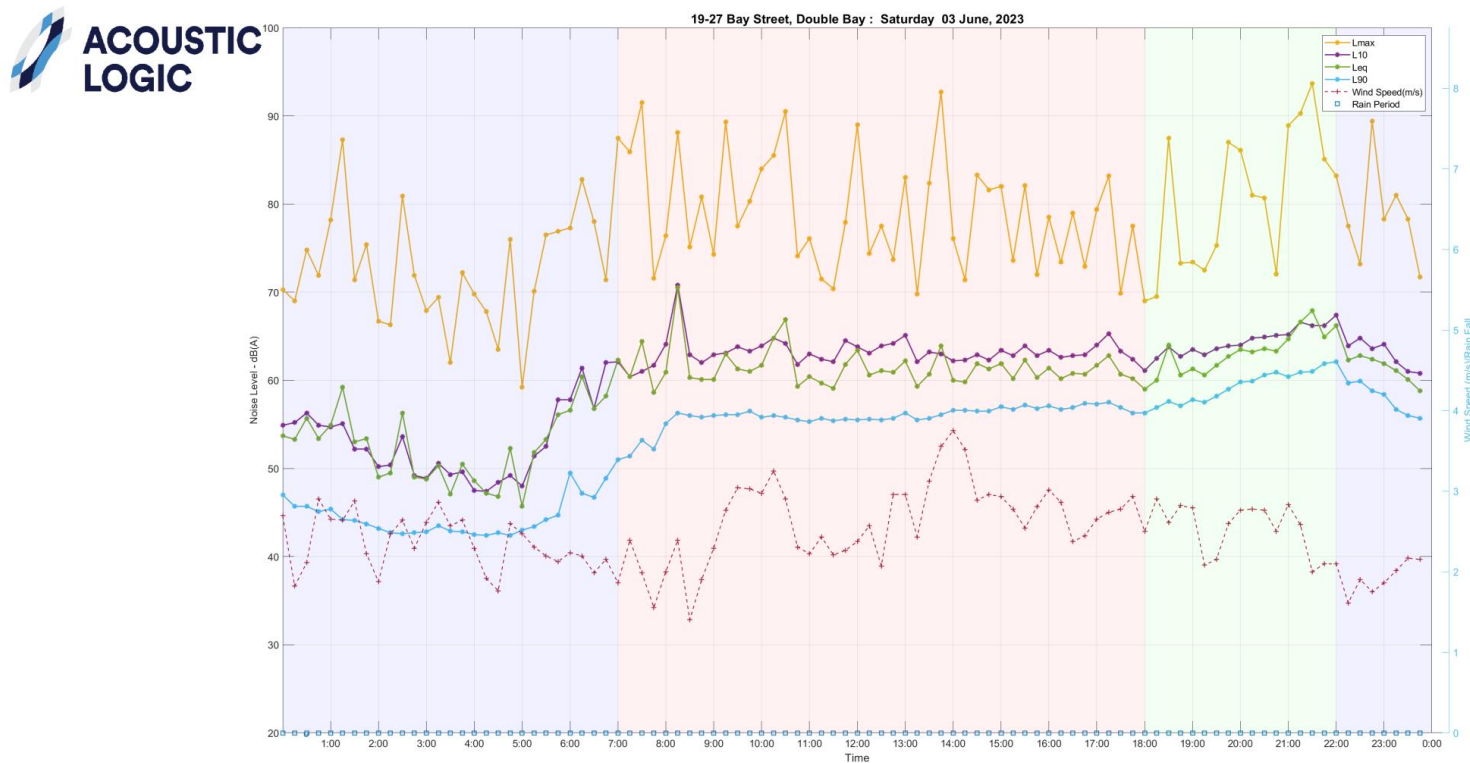


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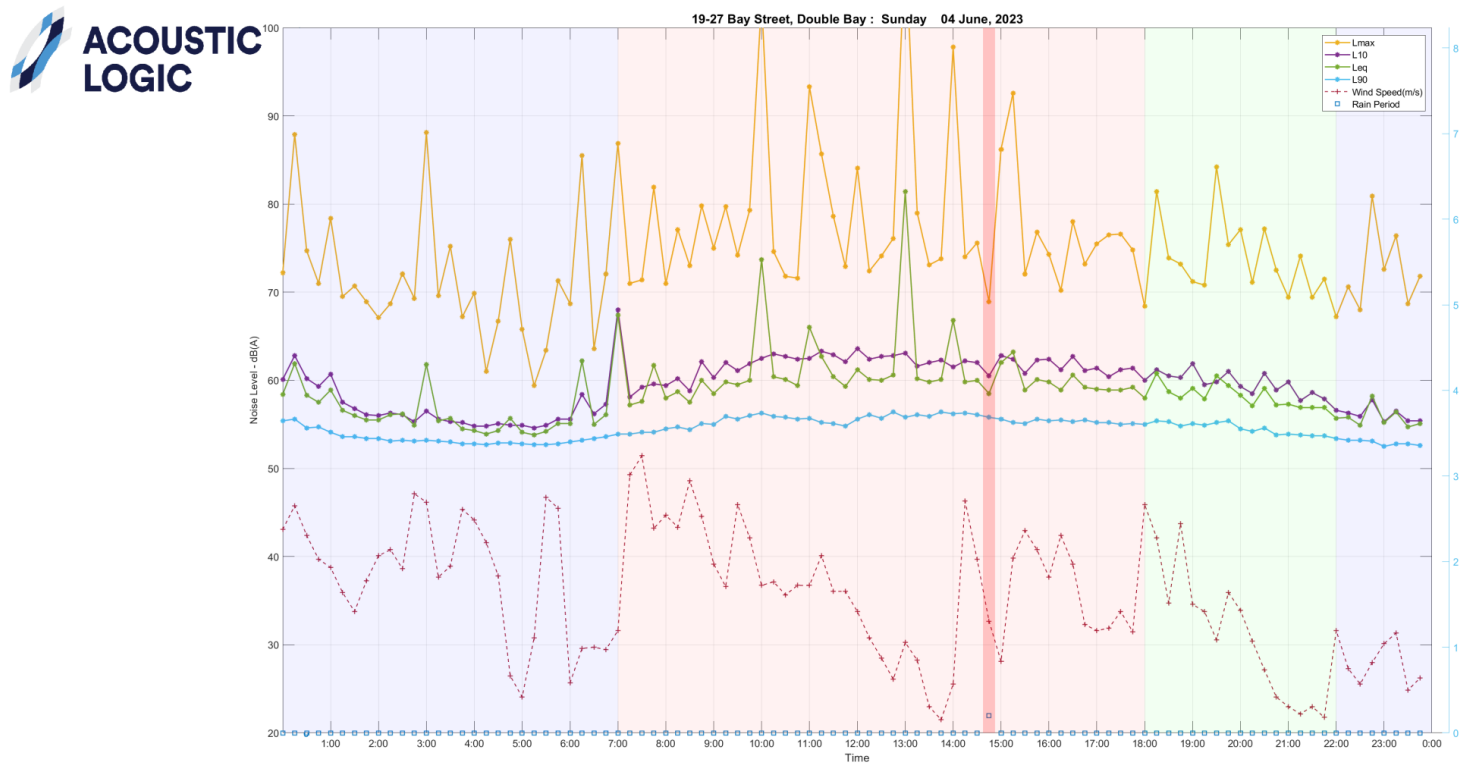


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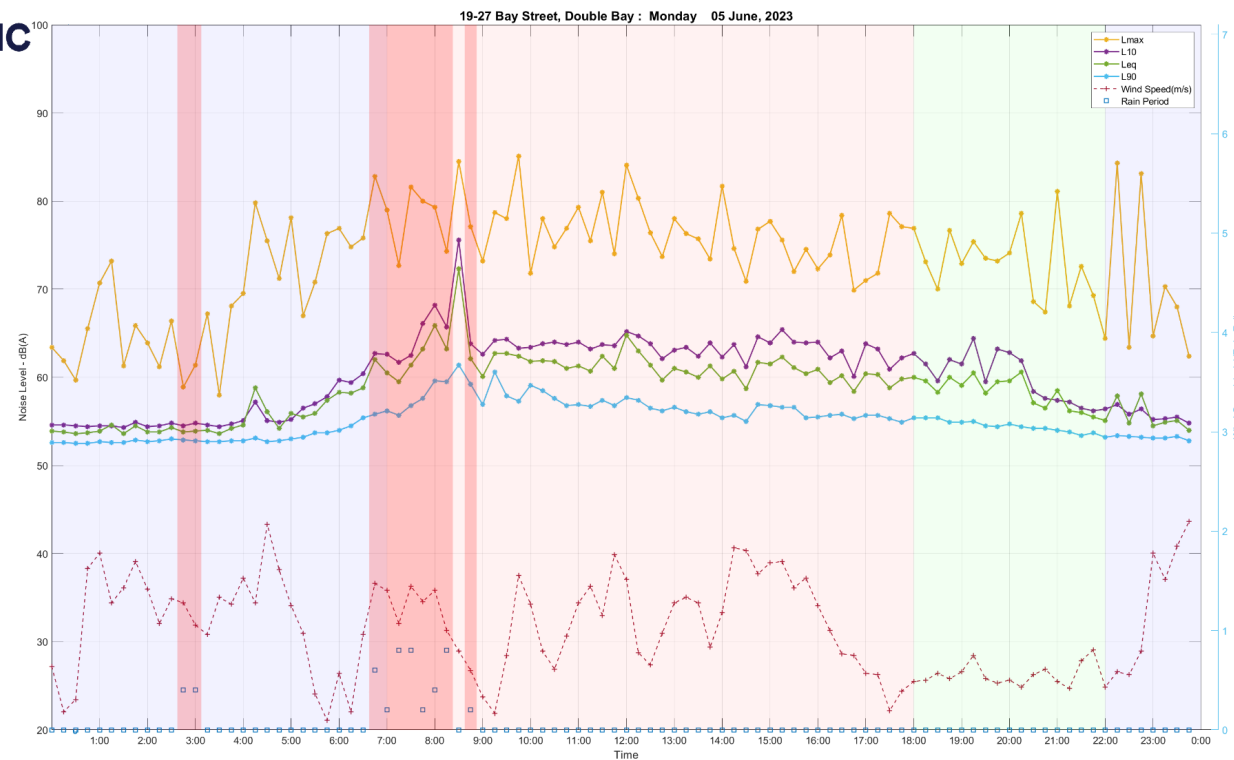
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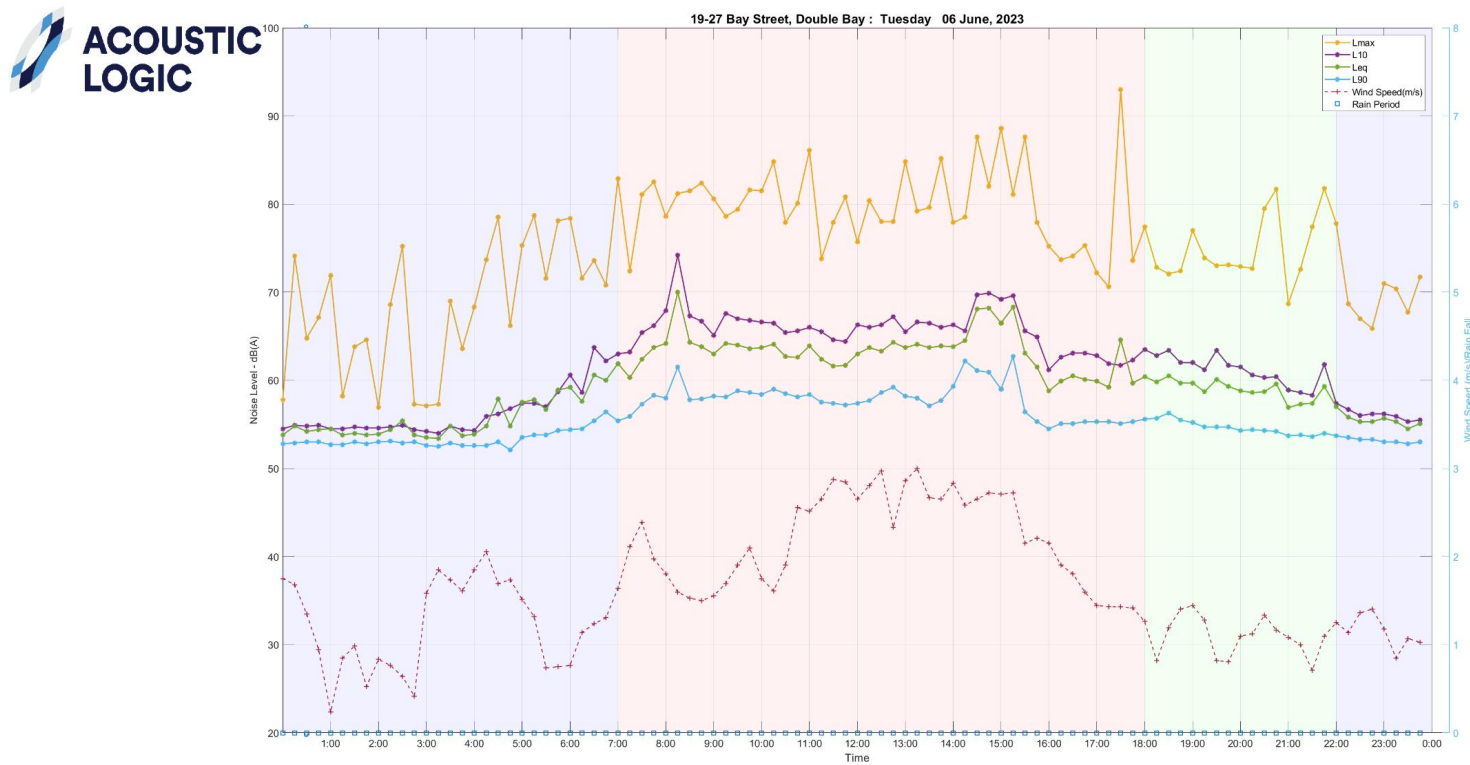
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