



# Woollahra Local Planning Panel (Electronic Meeting)

Thursday 1 August 2024  
at the Conclusion of the Public Meeting

## Agenda

### **Woollahra Local Planning Panel (Electronic Meetings):**

Woollahra Council will be holding Woollahra Local Planning Panel (Electronic Meetings) remotely using conferencing technology.

The Chair of the panel, members of the Panel and staff will be participating in meetings by an audio-visual link instead of attending in person.

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 not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public).

Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

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](mailto:records@woollahra.nsw.gov.au)

The Woollahra Local Planning Panel (Electronic 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](http://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 have any questions in relation to the above mentioned changes, please contact Council's Governance department on (02) 9391 7001.

**Woollahra Local Planning Panel Membership:** 1 Chair, 2 Experts and 1 Community Representative

**Quorum:** 3 Panel members



# Woollahra Municipal Council

## Notice of Meeting

23 July 2024

To: Woollahra Local Planning Panel Members  
*Chair*  
*Experts*  
*Community Representative*

Dear Panel Members,

### Woollahra Local Planning Panel (Electronic Meeting) – 1 August 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Electronic Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 1 August 2024 at the Conclusion of the Public Meeting.**

The applications listed on this Agenda will not be considered at a public meeting but rather considered **electronically** by the Panel.

When considering applications electronically, the Panel will be provided with an assessment report, relevant attachments and submissions (including copies of any submissions made by members of the public). Meetings held electronically by the Panel, are not public meetings, and therefore members of the public are **unable** to address the panel meeting.

Members of the public are however invited to submit late correspondence for consideration by the Panel by emailing [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by **12 noon on the day prior to the meeting.**

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

Regards,

Craig Swift-McNair  
General Manager



Woollahra Local Planning Panel

(Electronic Meeting)

Agenda

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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	DA68/2024/1 - 8 Flinton Street Paddington - 24/127247 .....7 *See Recommendation Page 25	
D2	DA101/2024/1 - 6 Epping Road Double Bay - 24/128793 ..... 103 *See Recommendation Page 139	
D3	DA363/2023/1 - 98 Fletcher Street Woollahra - 24/127375.....185 *See Recommendation Page 208	
D4	DA174/2024/1 - 9/317-319 Edgecliff Road Woollahra - 24/127271 .....285 *See Recommendation Page 300	
D5	DA417/2022/2 - 718 New South Head Road, Rose Bay - 24/126940.....345 *See Recommendation Page 365	



## **LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	D1
<b>FILE No.</b>	DA68/2024/1
<b>ADDRESS</b>	8 Flinton Street PADDINGTON
<b>COUNCIL WARD</b>	Paddington
<b>SITE AREA</b>	143.3m <sup>2</sup> 248.3m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>PROPOSAL</b>	Alterations and additions to the existing attached dwelling including rear addition at attic level.
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$418,000.00
<b>DATE LODGED</b>	13/03/2024
<b>APPLICANT</b>	L Stachan & Mr A Strachan
<b>OWNER</b>	Dr L N & Mr A R Strachan
<b>AUTHOR</b>	Mr M Moratelli
<b>MANAGER</b>	Mr T Wong
<b>SUBMISSIONS</b>	3
<b>RECOMMENDATION</b>	Conditional Approval

### **1. 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:

- Departure from development standards
  - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% (Height of Buildings)

### **2. 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

### 3. LOCALITY PLAN



### 4. PROPOSAL

The proposal was amended on 20 June 2024 and amended plans were lodged detailing the following change:

- Removal of proposed window to the northern elevation of the second floor.

The proposal, as amended, involves:

- Modification of the existing roof form to accommodate an expanded attic level containing two bedrooms and two ensuites;
- Infill of the open terrace at the attic level to accommodate the expanded attic level;
- New sliding doors and planter boxes to the rear elevation at the attic level;
- New sliding doors to the rear elevation at ground floor.

### 5. ISSUES

- Objector concerns
- Non-compliances with height of buildings development standard.

#### 5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	12.91m or 69% departure from the 9m control	Acceptable

## 5.2 Summary of Submissions

Issue	Conclusion	Section
The proposed north-facing window would compromise the ability of No. 6 Flinton Street to undertake similar works in the future.	The proposed north-facing window has been removed from the proposal in the amended plans submitted on 20 June 2024.	4
Raising the roof pitch detracts from the shared character of the group and is inconsistent with C1.4.3 and C1.4.4 of the Woollahra DCP 2015.	Whilst raising the roof pitch results in a building that differs from the rest of the infill terrace group, it is considered to have a neutral impact from an architectural perspective, given the less visible location of the additions to the rear and the retention of the more significant front façade.	12

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY


<b>Physical features</b>
The subject site comprises Lot 4 in DP 1049074. It has an area of 143.3m <sup>2</sup> and has a regular, rectangular shape. The subject site, as well as 2 – 16 Flinton Street, is one of a number of stratum subdivided lots which are located above a shared basement garage.
<b>Topography</b>
Whilst the site itself is flat, there is a slight slope downwards from Flinton Street at the front (west) to Begg Lane at the rear (east).
<b>Existing buildings and structures</b>
The site contains an existing three-storey contemporary infill terrace above a basement garage. Similar buildings are found at 2 – 16 Flinton Street. Each lot has a rear courtyard garden adjoining Begg Lane.
<b>Surrounding Environment</b>
The surrounding area is the former Royal Hospital For Women, which is bounded by Brown Street, Young Street, Begg Lane and Royal Hospital for Women Park. The area was redeveloped from a hospital to its current use in 1997.
The wider area contains the Paddington Heritage Conservation Area (HCA), which is characterised primarily by Victoria terrace style housing and differs in character from the locality of the subject site.
 <p>Figure 1 - Site location in context of 2 - 16 Flinton Street</p>





Figure 2 - Royal Hospital for Women Precinct

## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Residential
<b>Relevant Application History</b>
<p><u>188 Oxford Street, Paddington</u></p> <ul style="list-style-type: none"> <li>DA 1997/343 Subdivision of the former Royal Women Hospital site into seven precincts, approved 18/05/1998.</li> <li>DA 1997/223/1 Masterplan for the overall redevelopment of the former Royal Women Hospital site, approved 05/03/1998.</li> <li>DA 610/1997/1 Demolition of buildings and structures, site remediation, approved 07/10/1997.</li> </ul> <p><u>16 Flinton Street Paddington</u></p> <ul style="list-style-type: none"> <li>DA62/2013/2 Section 96 Conversion of eastern terrace on second floor into loggia; extension of bedroom 2 on first floor by 1.2m; addition of 1 new window each to western and northern elevations, approved 26/11/2013.</li> <li>DA62/2013/1 Dwelling House Alterations and additions to ground, first and second floors; new entry and new landscaping, approved 03/05/2013.</li> </ul> <p><u>19 Flinton Street Paddington</u></p> <ul style="list-style-type: none"> <li>DA 198/2016/1 – Internal alterations and additions with minor external changes to the northern elevation facing Royal Hospital for Women Park, approved on 04/07/2016</li> </ul>
<b>Pre-DA</b>
<p>A Pre DA meeting was held on 19/07/2022 (Pre DA 20/2022). The proposal detailed in the Pre-DA was similar to the subject proposal.</p> <p>Whilst the Pre DA comments were not supportive of the proposal, this assessment differs for the reasons outlined in the report.</p>
<b>Requests for Additional Information and Replacement Applications</b>
<p>On 23 May 2024 Council issued the following request for information to the applicant:</p> <ul style="list-style-type: none"> <li>Hourly horizontal shadow diagrams;</li> <li>Revised Clause 4.6 requests (Height and FSR)</li> </ul> <p>On 20 June 2024 the Applicant responded to the above request with the following:</p> <ul style="list-style-type: none"> <li>Detailed Shadow Diagrams and Sun Eye Diagrams;</li> <li>Amended Clause 4.6 Requests;</li> <li>Amended Architectural Drawing involving the deletion of the previously proposed north-facing window;</li> <li>Written response to objections.</li> </ul>



## 8. REFERRALS

Referral	Summary of Referral Response	Attachment
Heritage	Satisfactory, subject to recommended conditions.	3

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of 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)
3. The provisions of any development control plan
4. The provisions of 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
5. The provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph)
6. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
7. The suitability of the site for the development
8. Any submissions made in accordance with this Act or the regulations
9. The public interest

## 9. ADVERTISING AND NOTIFICATION

### 9.1 Submissions

The application was advertised and notified from 3 April 2024 to 18 April 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan. Three (3) submissions were received from:

1. Mrs G and Mr R C Head (2 x submissions from 2 separate emails), 10 Flinton Street Paddington
2. Mrs Mamata Dan 14 Flinton Street, Paddington
3. The Paddington Society

The issues raised in the submission have been summarised in Section 5.2 of this report and considered throughout the report.

### 9.2 Amended Plans

The amendments noted in Section 4 (deletion of window), do not give rise to potentially greater impacts to adjoining properties and so were not re-notified or re-advertised.

### 9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 01/05/2024 declaring that the site notice for DA68/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## 10. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

## 11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### 11.1 Part 1.2: Aims of Plan

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

### 11.2 Land Use Table

The proposal is defined as alterations and additions to an attached dwelling is permitted and is consistent with the objectives of the R2 Low Density Residential zone.

### 11.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	13.04m (RL54.61 – RL41.57)	12.8m (height of works) (RL54.61 – RL41.57)	9m	No

As identified in the maximum height of buildings compliance table, the proposal does not comply with Clause 4.3 (2) of Woollahra LEP 2014 as detailed and assessed below under Clause 4.6 of the Woollahra LEP 2014.

### 11.4 Clause 4.4D: Floor Space Ratio (Areas 5 – 188 Oxford Street Paddington)

Site Area: 8,417m <sup>2</sup> Aggregate of all land identified in 'Area 5'	Existing Aggregated FSR based on the last approved development application (DA198/2016 approved on 4/07/2016)	Proposed	Control	Complies
Floor Space Ratio	0.9945:1 (8,371.62m <sup>2</sup> )	0.9994:1 (8,412m <sup>2</sup> )	1.04:1 (8,753m <sup>2</sup> )	Yes

The subject site falls within the land identified as 'Area 5' on the *Floor Space Ratio Map*, and is therefore subject to Clause 4.4D which reads as follows:

*Despite clause 4.4, development consent may be granted to development on land to which this clause applies that results in a floor space ratio that does not exceed 1.04:1 if—*

*(a) the consent authority is satisfied that the development will be compatible with any conservation plan for the land, and*

Comment: The proposal is compatible with the applicable conservation policies and plans for the site which include Chapter G7 of the Woollahra DCP 2015, which relates to the Former Royal Women's Hospital Paddington.

*(b) the floor space ratio that does not exceed 1.04:1 is an aggregate for all the land to which this clause applies.*

Comment: The proposal satisfies Clause (b), as the FSR has been calculated as an aggregate to all land within Area 5 (Refer to Figure 3 below).

Due to the wording of Clause 4.4D, which requires an FSR to be calculated as an aggregate across multiple lots, this assessment has relied on the most recent development application within 'Area 5' that altered the FSR to establish the existing FSR. Site area has been calculated independently, as detailed in Figure 3 below.

Whilst the applicant has submitted a Clause 4.6 request in relation to the Floor Space Ratio, no further consideration of this is necessary as the proposal complies with the development standard.

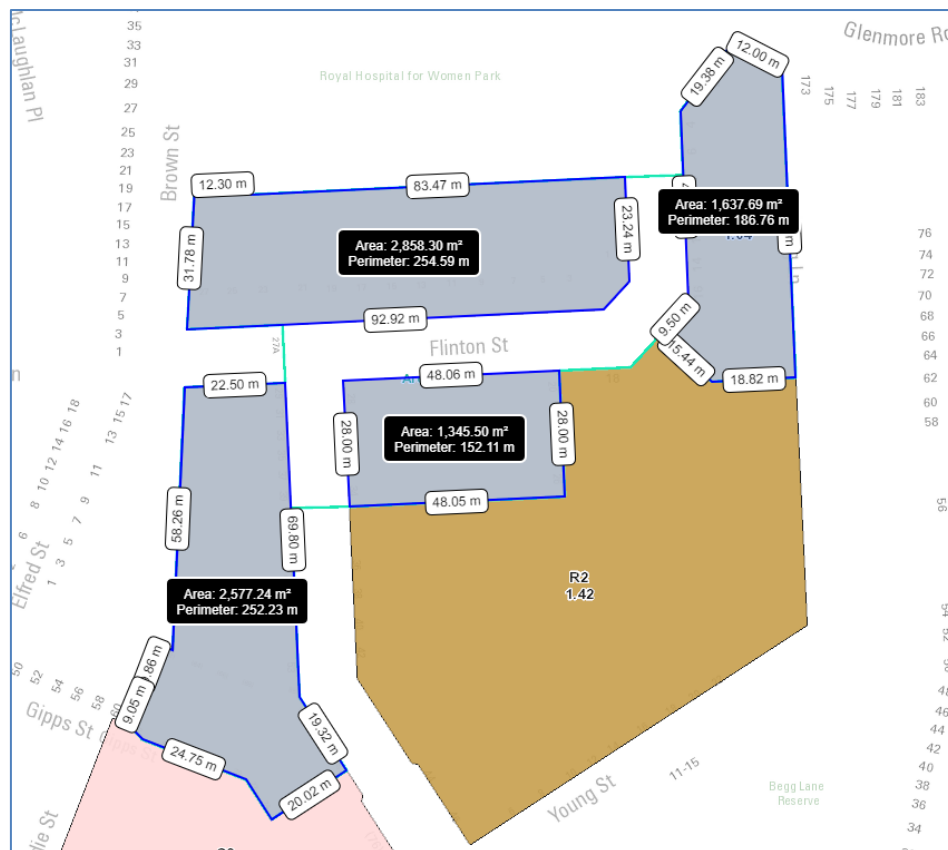


Figure 3 - The map above details the area of all land contained within 'Area 5' equating to 8.417m<sup>2</sup>

## 11.5 Part 4.6: Exceptions to Development Standards

### Departure

The proposal involves works to a height of 12.8m, resulting in a 3.8m (42%) non-compliance with the 9m height of buildings statutory control under Part 4.3 of the Woollahra LEP 2014, as detailed in Section 11.3. As measured from the existing ground level, which is the floor of the basement carpark, the entirety of the works to the attic level exceed the height limit, with the maximum exceedance associated with the new roof.

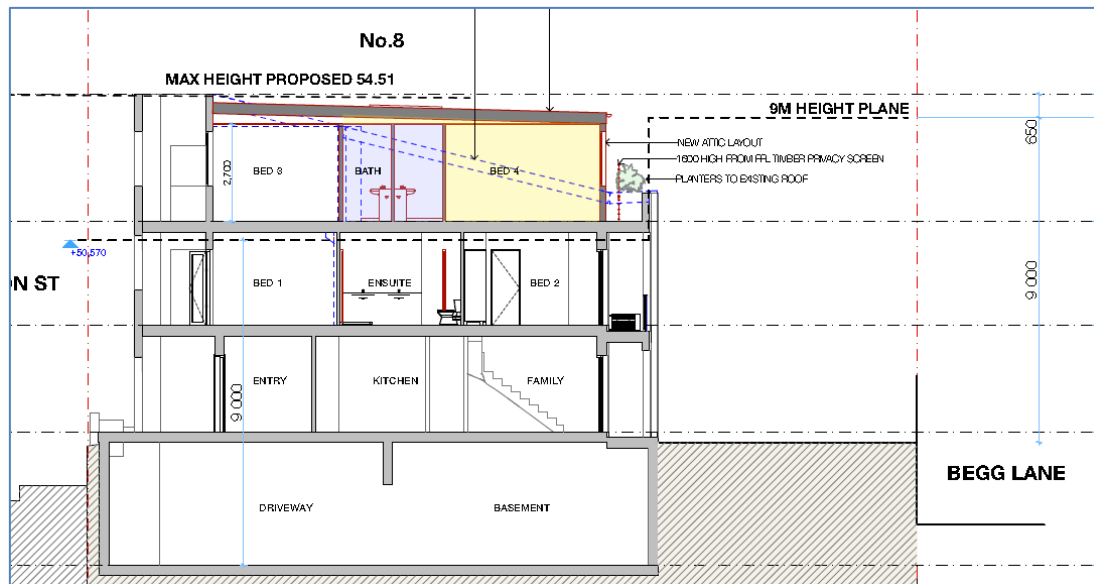


Figure 4 - The image above shows the 9m height plane as measured from the basement level

## Purpose

Clause 4.6 allows for the contravention of a development standard, with the objectives of the section being:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

## Written Request

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

The applicant has provided the following written request in relation to the departure:

The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance. The proposed works are located below the existing maximum height of the building, however, result in an exceedance of the 9m limit.

The proposed minor height variation does not result in adverse amenity or built form impacts on the surrounding area and the development remains consistent with that of surrounding development in terms of scale, built form and context.

The site currently contains a three-storey attached dwelling. The site forms part of a row of 8 terraces. The proposed alterations at the subject site have been carefully sited to the rear of terrace, ensuring that they are largely obscured from the public domain and the dwelling maintains a consistent presentation within the row of attached dwellings.

The works have been sympathetically designed to maintain the principal presentation of the subject terrace within the terrace group. The works are set below the roof ridge and do not alter the bulk, scale or height of the subject building. The new additions do not overwhelm the existing building and are a recessive addition while retaining the principal building form of the existing building.

The design of the development and extent of variation is consistent with previous approvals within the row of terraces and has been designed to ensure a consistent scale and form of development. Furthermore, the design of the development ensures the development and adjoining terraces continue to positively complement the heritage character and significance of the site and wider area.

Compliance with the development standard is unnecessary in the circumstances of the case based on the following:

- The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance and all works are located below the maximum height of existing building onsite.
- The proposed variation does not result in any visual or amenity impacts on the Flinton Street streetscape or visual presentation of the existing row of terraces.
- The height and scale of the existing development is maintained as part of the development.
- The proposed variation results in an improved environmental planning outcome for the site with improved internal amenity and use of the site without any adverse visual or amenity impacts on surrounding development.
- Strict compliance would not provide any material planning benefit and would in fact be counterproductive as it would result in a reduced environmental planning outcome for the site restricting the ability of the site to adapt to the changing needs of residents.
- Strict compliance would not result in reduced impacts on surrounding development.

Therefore, compliance with the development standard is unnecessary in the circumstances of the case.

### **Council's Assessment**

Clause 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in clause 4.6(3). This is set out below.

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

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (Wehbe), Preston CJ established five potential tests (the Wehbe test) for determining whether a development standard could be considered unreasonable or unnecessary:

- *The first is 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.*
- *The second is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- *The third is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- *The fourth is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- *The fifth is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

However, the five tests set out in Wehbe above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 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.*

The applicant's written request does not explicitly state which of the five tests it is reliant upon, however the arguments it relies upon can be broadly categorised as follows:

- Lack of an environmental or amenity impact to surrounding properties;
- Consistency with the local character including height and scale of the existing terrace group;
- Provision of improved amenity to the occupants of the subject site;
- Height non-compliance is existing and derives from basement level with maximum height of building unchanged.

For completeness of assessment, the Clause 4.3 objectives have been independently considered:

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

Comment: The proposal would be generally consistent with the above objective as it does not alter the visible height of the subject property, which presents to Flinton Street. The additions sit behind the parapet and would not alter the established streetscape presentation.

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

Comment: Not relevant.

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

Comment: Shadow diagrams submitted by the applicant indicate that the proposal would primarily overshadow only the roof of the adjoining property with negligible additional overshadowing to private open space of adjoining properties.

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

Comment: The proposal would have a minimal impact to nearby properties in terms of views, privacy, overshadowing or visual impact.

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

Comment: The proposal would have no impact with regards to public views.

### ***Environmental planning grounds which justify the contravention of the 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 request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*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 states:

#### ***1.3 Objects of Act***

*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.*

The written request provides explanation of how the proposed development and in particular the breach of the HOB development standard is reasonable and supportable in the circumstances. In doing so, the written request provides sufficient environmental planning grounds to justify contravention of the Height of Buildings development standard, as it demonstrates that the proposal achieves aims (c) and (g) of Section 1.3 of the Act.

The elements of the proposed attic level additions that extend beyond 9m maximum building height established by the existing ground level (existing basement level) adequately uphold the above-mentioned objects of the Act that on the basis that:

- They are the result of the previous excavation of the site.
- They are considered to be contextually compatible within the locality.
- It is considered that they will not result in any significant amenity impacts upon adjoining properties or the public domain.
- They are considered to be consistent with the objectives of Council's height of buildings development standard and the desired future character for the locality.

With regard to the establishment of an environmental planning ground based upon height above natural ground level i.e. the ground level that existed prior to previous excavation of the site, the interpretation of height was considered by the Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070. There was discussion in *Bettar* concerning the interpretation of *existing ground level* and *basement* which are separately defined.

The LEP definition of *building height* requires a measurement from existing ground level, rather than the ground level that existed prior to the previous excavation of the site.

In considering application of the height development standard, it was indicated by the Court that relying on existing basement levels would result in the height control artificially rising and falling across the site. In *Bettar*, the Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context in the streetscape.

The Court 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..."*

*The definition of basement in LEP 2012 is the space of a building where the floor level of that space is predominantly below existing ground level and where the floor level of the storey immediately above is less than 1 metre above existing ground level [italics added]. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following the construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level.*

*For these reasons, I do not accept [the] approach of defining existing ground level as the ground floor level of the existing building and then dropping it down to the basement level in the north-eastern corner of the site where the existing basement is located. This... relates only to a building that is to be demolished and has no relationship to the context of the site...*



*I prefer [the alternate] approach to determining the existing ground level because the level of the footpath at the boundary bears a relationship to the context and the overall topography that includes the site and remains relevant once the existing building is demolished." (emphasis added)."*

In light of the above judgement, regard has been given to the height of the non-compliant components above natural ground level, i.e. the ground level that existed prior to previous excavation of the site. Under this measurement, the non-compliance is limited to the new roof form, which does not exceed the maximum height (in RL) of the existing roof form, front parapet and building façade.

The non-compliance with Council's 9m height development standard is considered to be contextually compatible with development within the locality and accordingly is considered to uphold objects 1.3(c) and (g) of the EPA Act.

On the basis of the above-mentioned contextual compatibility with surrounding development, there is a sufficient environmental planning ground in this instance to justify the contravention of the development standard as required by Clause 4.6(3)(b). The consent authority can therefore be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

## **Conclusion**

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

Namely, the consent authority is satisfied that the written request has 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 with regards to the breach of the HOB development standard is in the public interest as it is consistent with the objectives of the Height of Buildings development standard.

## **11.6 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 proposed development is located in the Paddington Heritage Conservation Area and the site forms part of a local heritage item, the Royal Hospital for Women Group, Item no. 244.

Council's Senior Strategic Heritage Officer reviewed the proposal and provided the following comment:

*The property is a sympathetic building in the Paddington Heritage Conservation Area and within the Royal Hospital for Women Group heritage item no. 244.*

*The building is not a significant part of the Royal Hospital for Women, and contributes to the significance of the item and HCA only insofar as it is a sympathetic addition. Therefore, the impact of the proposed change arises from the extent to which the change either diminishes the sympathetic nature of the building, or directly impacts upon a significant component of the item or HCA.*

*The proposed works involve changes to the rear of the building at the upper level, creating a new bedroom. The rear of the building is largely not visible from the public domain but, regardless, this change will have minimal impact on its architectural quality and character. Indeed, the existing parapet seems to encourage this sort of development. The factors of the building that make it sympathetic to its surroundings – its terrace typology, masonry construction and post-modern detailing inspired by Paddington's historic terraces are all retained.*

It is acceptable with regard to the relevant objectives in Parts 5.10 of the Woollahra LEP 2014 in the following manner:

- Objective 1(a) The development does not unduly impact the heritage of Woollahra.
- Objective 1(b) The impact upon the heritage significance of the conservation area will be neutral.

### **11.7 Part 5.21: Flood Planning**

Whilst the site is listed as flood affected land, the proposed works do not alter the building footprint, and being principally located at the top level of the existing building, do not have any implications for flood planning.

The proposal is therefore acceptable with regard to Part 5.21 of Woollahra LEP 2014.

### **11.8 Part 6.1: Acid Sulfate Soils**

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

### **11.9 Part 6.9: Tree canopy cover in Zones R2 and R3**

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

The proposal does not alter the existing landscape design and is acceptable with regard to Part 6.9 of Woollahra LEP 2014.

## **12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **12.1 Chapter C1: Paddington Heritage Conservation Area**

#### **12.1.1 Section C1.3.12: Existing Contemporary Infill**

Council's Heritage Officer provided the following comments with respect to this section of the DCP:

- The form of the proposed addition is appropriate to the building and broader context, retaining a skillion roof form, albeit altered, and appropriate scale.
- Materials, textures and finishes are generally appropriate, as are the solid to void ratios.

- The other buildings in the group would be suitable for a similar addition, and this proposal will have limited impact on them in heritage terms.

This is concurred with and the proposal will comply with controls C1, C2 and will achieve the relevant objectives O1, O2.

#### **12.1.2 Section C1.4.1: Principal Building Form and Street Front Zone of Contributory Buildings**

The proposal will generally retain the presentation of the building at the street front, with the only modification being the enclosure of an existing recessed courtyard. This will not greatly alter the building's appearance as it is recessed and obscured by the existing façade and a similar enclosure has already been undertaken to the adjoining terrace at No.8.

The proposal will comply with the relevant controls C1, C3, and C15 and will achieve the relevant objectives.

#### **12.1.3 Section C1.4.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards**



*Figure 5 - 3D Modelling Image of the subject terrace group with the subject site identified in red*

As detailed in Figure 5 above, the existing group has a consistent form behind the front parapet, with the exception of No.16 which has been extended in a manner similar to the proposal.

Notwithstanding this, the rear addition does not adversely impact the overall pattern of the terrace group, as it will be largely imperceptible from the adjoining terraces and the public domain. Furthermore, as noted by Council's Heritage Officer, the other terraces in the group could be similarly developed in the future in a sympathetic manner.

As such, the proposal will comply with the relevant controls C3, C6 and C11 and will achieve the relevant objectives.

#### 12.1.4 Section C1.4.4: Roofs and Roof Forms

	Existing	Proposed	Control	Complies
C10 Transparent material to rear roof planes	<25%	<25%	Not more than 25% transparent material, including skylights and dormer windows	<b>Yes</b>

As noted by Council's Heritage Officer, 'The form of the proposed addition is appropriate to the building and broader context, retaining a skillion roof form, albeit altered, and appropriate scale'.

Whilst the proposal does not comply with control C5, which states that rear roof form must not be raised or altered, in the context of a contemporary group, where nearby terraces could suitably undertake similar additions, the non-compliance is acceptable.

Otherwise, the proposal will comply with the relevant controls C6, C8 and C10 and achieve the relevant objectives.

#### 12.1.5 Section C1.4.5: Building Height, Bulk, Form and Scale

	Existing	Proposed	Control	Complies
C1 Height of existing buildings on street frontages	RL 54.61	Unchanged	Not increased	<b>Yes</b>
C3 The height, bulk, form and scale of infill and new development	Consistent	Inconsistent	Consistent with the predominant height, bulk, form and scale of adjoining buildings	<b>No</b>
C4 Sunlight provided to the main ground level private open space of adjoining properties	<50%	Unchanged	Min 50% (or 35m <sup>2</sup> ) for two hours between 9am and 3pm on 21 June	<b>No*</b>
C5 Sunlight to north-facing windows to habitable rooms of adjoining dwellings	N/A	Unchanged	3 hours between 9am and 3pm on 21 June	N/A

\*Non-compliance is existing and unchanged

As identified in the table above, the proposal differs from adjoining buildings in terms of its form and scale *to the rear*. Notwithstanding this, for the reasons outlined in the report and by Council's Heritage Office, the non-compliance with Control C3 is acceptable and the proposal achieves the relevant objectives.

The proposal does not alter the provision of solar access to the windows or private open space of adjoining properties.

#### 12.1.6 Section C1.4.6: Site Coverage, Setbacks and Levels

The proposal does not alter the established site coverage or setbacks and retains the established floor levels.

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

#### 12.1.7 Section C1.4.8: Private Open Space, Swimming Pools, Lightwell Courtyards and Landscaping

The proposal maintains the principal area of private open space which is at the ground floor, and does not alter deep soil landscaping on the site.

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.8 Section C1.4.9: Views**

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.9 Section C1.4.10: Acoustic and Visual Privacy**

The proposal does not involve any new windows or doors that directly face adjoining properties. Whilst the windows to the rear would look out towards the terraces at 173-183 Glenmore Road, due to the separation distance which is generally greater than 12m, no adverse privacy impact is anticipated.

As such, the proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.10 Section C1.5.1: Dormers and skylights**

#### Skylights

The proposal will comply with the relevant control C3 and will achieve the relevant objective O1.

### **12.1.11 Section C1.5.3: Windows, Doors, Shutters and Security**

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.12 Section C1.5.4: Verandahs and Balconies**

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.13 Section C1.5.8: Materials, Finishes and Details**

The proposed materials, finishes and detailing will reflect those of the existing terrace and group.

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

### **12.1.14 Section C1.5.9: Exterior Colours**

The proposal will comply with the relevant controls and will achieve the relevant objectives under this section.

## **12.2 Chapter E1: Parking and Access**

The proposal is acceptable with regard to Chapter E1 of the Woollahra DCP 2015.

## **12.3 Chapter E2: Stormwater and Flood Risk Management**

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

## **12.4 Chapter E3: Tree Management**

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

## **12.5 Chapter E4: Contaminated Land**

The proposal is acceptable with regard to Chapter E4 of the Woollahra DCP 2015.

## **12.6 Chapter E5: Waste Management**

The proposal is acceptable with regard to Chapter E5 of the Woollahra DCP 2015.

## **12.7 Chapter G7: Former Royal Women's Hospital, Paddington**

The subject site is located within the Former Royal Women's Hospital precinct and Chapter G7 is applicable.

The proposal achieves the relevant objective O1 under G7.1.4 which is to *ensure a high quality of development and compatible relationship between development on the site and development on adjoining properties*.

The proposal is also consistent with the architectural standards under G7.6.

## **12.8 Section 7.12 Contributions Plan**

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

**Condition D.3** requires the applicant to submit a Quantity Surveyor's Report detailing the cost of works which will determine the S7.12 contribution.

## **13. APPLICABLE ACTS/REGULATIONS**

### **13.1 Environmental Planning and Assessment Regulation 2021**

#### **Clause 61(1) Additional matters that consent authority must consider**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard conditions.

## **14. 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.

## **15. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development for the following reasons:

## **16. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## **17. CONCLUSION**

The proposal is acceptable with regards to Section 4.15 of the Act.

## 18. 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.

## 19. 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 matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the height of buildings development standard under Clause 4.3 of Woollahra LEP 2014.

### AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council as the consent authority, grant development consent to Development Application No. 68/2024/1 for alterations and additions to the existing attached dwelling including rear addition at attic level on land at 8 Flinton Street Paddington, subject to the following conditions:

## ALL DEVELOPMENT TYPES

### A. GENERAL CONDITIONS

A. 1.	<b>Conditions</b>
	<p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• 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.</li><li>• Where there is any breach Council may without any further warning:<ul style="list-style-type: none"><li>a) Issue Penalty Infringement Notices (On-the-spot fines);</li><li>b) Issue notices and orders;</li><li>c) Prosecute any person breaching this consent; and/or</li><li>d) Seek injunctions/orders before the courts to restrain and remedy any breach.</li></ul></li><li>• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.</li><li>• 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.</li><li>• 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.</li><li>• 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.</li></ul>

	<b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.
<b>A. 2.</b>	<p><b>Definitions</b></p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p><b>Applicant</b> means the applicant for this consent.</p> <p><b>Approved Plans</b> mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p><b>Local native plants</b> means species of native plant endemic to Sydney's eastern suburbs.</p> <p><b>Owner-builder</b> has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p><b>PC</b> means the Principal Certifier under the <i>Act</i>.</p> <p><b>Principal Contractor</b> has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p><b>Professional engineer</b> has the same meaning as in the <i>BCA</i>.</p> <p><b>Public place</b> has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p><b>Road</b> has the same meaning as in the <i>Roads Act 1993</i>.</p> <p><b>SEE</b> means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p><b>Site</b> means the land being developed subject to this consent.</p> <p><b>Site work</b> means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p><b>Woollahra LEP</b> means <i>Woollahra Local Environmental Plan 2014</i></p> <p><b>Woollahra DCP</b> means <i>Woollahra Development Control Plan 2015</i></p> <p><b>Work</b> for the purposes of this consent means:</p> <ul style="list-style-type: none"> <li>• the use of land in connection with development,</li> <li>• the subdivision of land,</li> <li>• the erection of a building,</li> <li>• the carrying out of any work,</li> <li>• the use of any site crane, machine, article, material, or thing,</li> <li>• the storage of waste, materials, site crane, machine, article, material, or thing,</li> <li>• the demolition of a building,</li> <li>• the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,</li> <li>• the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or</li> </ul>



	<ul style="list-style-type: none"><li>the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.</li></ul>																																	
	<b>Condition Reason:</b> To ensure all parties are aware of the relevant definitions.																																	
A. 3.	<b>Approved Plans and Supporting Documents</b> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>A1737391_02</td><td>BASIX Certificate</td><td>NSW Department of Planning and Environment</td><td></td></tr><tr><td>DA01 Rev.D</td><td rowspan="16">Architectural Drawings</td><td rowspan="16">Tony McLain Architect</td><td rowspan="8">Revision D 01/03/24</td></tr><tr><td>DA04 Rev.D</td></tr><tr><td>DA12 Rev.D</td></tr><tr><td>DA13 Rev.D</td></tr><tr><td>DA14 Rev.D</td></tr><tr><td>DA15 Rev.D</td></tr><tr><td>DA16 Rev.D</td></tr><tr><td>DA20 Rev.D</td></tr><tr><td>DA05 Rev.E</td><td rowspan="7">Revision E 18/6/2024</td></tr><tr><td>DA06 Rev.E</td></tr><tr><td>DA07 Rev.E</td></tr><tr><td>DA08 Rev.E</td></tr><tr><td>DA09 Rev.E</td></tr><tr><td>DA10 Rev.E</td></tr><tr><td>DA11 Rev.E</td></tr><tr><td>DA16 Rev.D</td><td>12/2/2024</td></tr><tr><td>SWMMP</td><td>Site Waste Minimisation &amp; Management Plan</td><td>Tony McLain</td><td>15/2/2024</td></tr></table> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.</li><li>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.</li></ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	A1737391_02	BASIX Certificate	NSW Department of Planning and Environment		DA01 Rev.D	Architectural Drawings	Tony McLain Architect	Revision D 01/03/24	DA04 Rev.D	DA12 Rev.D	DA13 Rev.D	DA14 Rev.D	DA15 Rev.D	DA16 Rev.D	DA20 Rev.D	DA05 Rev.E	Revision E 18/6/2024	DA06 Rev.E	DA07 Rev.E	DA08 Rev.E	DA09 Rev.E	DA10 Rev.E	DA11 Rev.E	DA16 Rev.D	12/2/2024	SWMMP	Site Waste Minimisation & Management Plan	Tony McLain	15/2/2024
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<b>A. 4.</b>	<b>Ancillary Aspects of Development (section 4.17(2) of the Act)</b>
	<p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>
	<p><b>Condition Reason:</b> To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.</p>

## DEMOLITION WORK

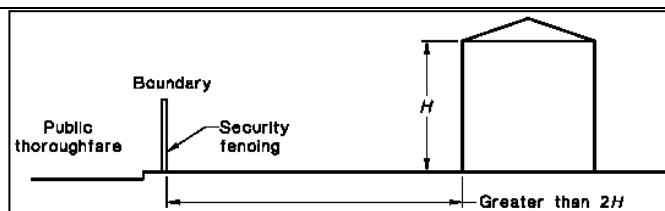
### B. BEFORE DEMOLITION WORK COMMENCES

<b>B. 1.</b>	<b>Construction Certificate Required Prior to Any Demolition</b>
	<p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> <li>• Before issue of a construction certificate</li> <li>• Before building work commences</li> </ul> <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.</li> </ul>
	<p><b>Condition Reason:</b> To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
<b>B. 2.</b>	<b>Erosion and Sediment Controls – Installation</b>
	<p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p>

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>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.</li> <li>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”.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<p><b>B. 3.</b></p>	<p><b>Identification of Hazardous Material</b></p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> <li>all hazardous materials identified on the site,</li> <li>the specific location of all hazardous materials identified,</li> <li>whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and</li> <li>safety measures to be put in place.</li> </ul> <p><b>Condition Reason:</b> 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.</p>
<p><b>B. 4.</b></p>	<p><b>Public Road Assets Prior to Any Work/Demolition</b></p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> <li>road pavement,</li> <li>street signage including street lights,</li> <li>kerb and gutter,</li> <li>footway including pedestrian crossings, footpath, and driveways,</li> <li>retaining walls, or other significant structures,</li> <li>Heritage Items, including street name inlays,</li> <li>utility service items including historical utility covers, and</li> <li>drainage structures/pits/pipes (CCTV footage).</li> </ul>

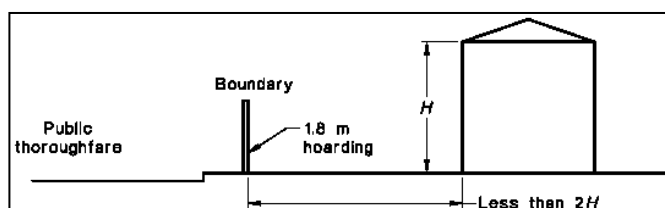
	<p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p> <p><b>Condition Reason:</b> To clarify the condition of the existing public infrastructure prior to the commencement of any site works.</p>																								
B. 5.	<p><b>Payment of Security and Fees</b></p> <p>Prior to any site works, the following security and fees must be paid in full:</p> <table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4"><b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i></td></tr><tr><td><b>Property Damage Security Deposit</b> - making good any damage caused to any property of the Council</td><td>\$14,585</td><td>No</td><td>T115</td></tr><tr><td colspan="4"><b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i></td></tr><tr><td>Security Deposit Administration Fee</td><td>\$225.00</td><td>No</td><td>T16</td></tr><tr><td><b>TOTAL SECURITY AND FEES</b></td><td>\$14,810</td><td></td><td></td></tr></table> <p><b>How must the payments be made?</b> Payments must be made by:</p> <ul style="list-style-type: none"><li>• cash deposit with Council,</li><li>• credit card payment with Council, or</li><li>• bank cheque made payable to Woollahra Municipal Council.</li></ul> <p>The payment of a security may be made by a bank guarantee where:</p> <ul style="list-style-type: none"><li>• the guarantee is by an Australian bank for the amount of the total outstanding contribution,</li><li>• 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],</li><li>• 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,</li><li>• the bank guarantee is lodged with the Council prior to any site works being undertaken, and</li><li>• 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.</li></ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• 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.</li></ul>	Description	Amount	Indexed	Council Fee Code	<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				<b>Property Damage Security Deposit</b> - making good any damage caused to any property of the Council	\$14,585	No	T115	<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>				Security Deposit Administration Fee	\$225.00	No	T16	<b>TOTAL SECURITY AND FEES</b>	\$14,810		
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	<ul style="list-style-type: none"> <li>• The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• The Refund of Security Bond Application form can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure any relevant security and fees are paid.</p>
<p><b>B. 6.</b></p>	<p><b>Works (Construction) Zone – Approval and Implementation</b></p> <p>If the construction relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</li> <li>• The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.</li> </ul> <p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
<p><b>B. 7.</b></p>	<p><b>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</b></p> <p>Before any site work commences, 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.</p>



### Type A Hoarding

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



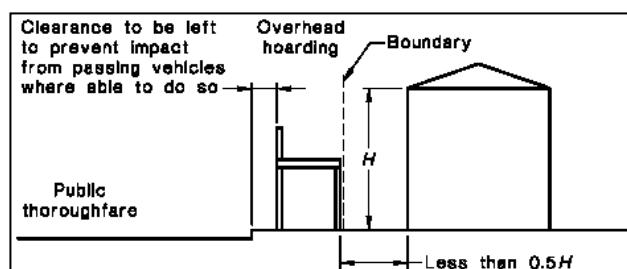
### Type B Hoarding

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

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

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

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



The overhead protective structures must be 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)

	<p><b>All Hoardings</b> 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.</p> <p><b>Hoardings on Public Land including ‘Creative Hoardings’</b> All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.</p> <p>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 person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.</li> <li>• 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: <ul style="list-style-type: none"> <li>A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more OR</li> <li>B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more OR</li> <li>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: <ol style="list-style-type: none"> <li>1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or</li> <li>2. the land is zoned R2 Low Density Residential, or</li> <li>3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).</li> </ol> </li> </ul> </li> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure public safety.</p>
<p><b>B. 8.</b></p>	<p><b>Site Signs</b></p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p>

	<p><b>Erection of signs</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>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: <ul style="list-style-type: none"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>c) stating that unauthorised entry to the work site is prohibited.</li> </ul> </li> <li>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.</li> <li>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.</li> <li>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.</li> </ul> <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p><b>Signs on development sites</b></p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> <li>Each such person <b>MUST</b> 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.</li> <li>If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.</li> </ul> <p><b>Condition Reason:</b> To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p><b>B. 9.</b></p>	<p><b>Toilet Facilities</b></p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ul style="list-style-type: none"> <li>a) must be a standard flushing toilet, and</li> <li>b) must be connected to a public sewer, or</li> </ul>



	<p>c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</p> <p>d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.</p> <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.</li> <li>This condition does not set aside the requirement to comply with SafeWork NSW requirements.</li> </ul> <p><b>Condition Reason:</b> To ensure toilet facilities are provided for workers at the work site.</p>
<b>B. 10.</b>	<p><b>Establishment of Boundary Location, Building Location and Datum</b></p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> <li>set out the boundaries of the site by permanent marks (including permanent recovery points),</li> <li>set out the location and level of footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,</li> <li>establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and</li> <li>provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.</li> <li>On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.</li> </ul> <p><b>Condition Reason:</b> To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</p>
<b>B. 11.</b>	<p><b>Compliance with Australian Standard for Demolition</b></p> <p>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</p> <p><b>Condition Reason</b> To control the risks of demolition work.</p>

## REMEDIATION WORK

### C. ON COMPLETION OF REMEDIATION WORK

Nil

## BUILDING WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D. 1.	<b>Payment of Long Service Levy</b>												
	Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:												
	<table><tr><th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr><tr><td colspan="4"><b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i></td></tr><tr><td><b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a></td><td>Contact LSL Corporation or use online calculator</td><td>No</td><td></td></tr></table>	Description	Amount	Indexed	Council Fee Code	<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>				<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	
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<b>Building and Construction Industry Long Service Payment</b> The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website <a href="http://www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> or the Long Service Corporation on 131 441.													
<b>How must the payments be made?</b> Payments must be made by: <ul style="list-style-type: none"><li>• cash deposit with Council,</li><li>• credit card payment with Council, or</li><li>• bank cheque made payable to Woollahra Municipal Council.</li></ul>													
	<b>Condition Reason:</b> To ensure any relevant levy is paid.												
D. 2.	<b>BASIX Commitments</b>												
	Before the issue of any construction certificate, BASIX Certificate No. A1737391_02 must be submitted to the Principal Certifier with any application for a construction certificate.												
	All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.												
	<b>Notes:</b> <ul style="list-style-type: none"><li>• Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.</li><li>• Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.</li></ul>												

	<p><b>Condition Reason:</b> To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>										
<b>D. 3.</b>	<p><b>Payment of S7.12 Contributions Levy</b></p> <p>A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.</p> <p>A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The cost estimate report must be in the form of:</p> <ul style="list-style-type: none"> <li>• A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or</li> <li>• A quantity surveyor's report, for development over \$750,000.</li> </ul> <p>The applicable levy rate is to be calculated using the summary schedule below.</p> <table border="1"> <thead> <tr> <th colspan="2">Summary Schedule</th></tr> <tr> <th>Development Cost</th><th>Levy Rate</th></tr> </thead> <tbody> <tr> <td>• Up to and including \$100,000</td><td>Nil</td></tr> <tr> <td>• More than \$100,000 and up to and including \$200,000</td><td>0.5% of the cost</td></tr> <tr> <td>• More than \$200,000</td><td>1% of the cost</td></tr> </tbody> </table> <p><b>How must the payments be made?</b> Payments must be made by:</p> <ul style="list-style-type: none"> <li>• Cash deposit with Council,</li> <li>• Credit card payment with Council, or</li> <li>• Bank cheque made payable to Woollahra Municipal Council.</li> </ul> <p><b>Deferred or periodic payment of section 7.12 levy</b> Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:</p> <ul style="list-style-type: none"> <li>• the reasons given,</li> <li>• whether any prejudice will be caused to the community deriving benefit from the public facilities,</li> <li>• whether any prejudice will be caused to the efficacy and operation of the Plan, and</li> <li>• whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.</li> </ul> <p>Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:</p> <ul style="list-style-type: none"> <li>• the guarantee is by an Australian bank for the amount of the total outstanding contribution,</li> </ul>	Summary Schedule		Development Cost	Levy Rate	• Up to and including \$100,000	Nil	• More than \$100,000 and up to and including \$200,000	0.5% of the cost	• More than \$200,000	1% of the cost
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	<ul style="list-style-type: none"> <li>the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,</li> <li>a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,</li> <li>the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and</li> <li>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.</li> </ul> <p>Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.</p> <p><b>Do you need HELP indexing the levy?</b> Please contact Council's Customer Service Team on 02 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).</p> <p><b>Condition Reason:</b> To ensure any relevant contributions are paid.</p>
<b>D. 4.</b>	<p><b>Structural Adequacy of Existing Supporting Structures</b></p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p><b>Condition Reason:</b> To ensure that the existing structure is able to support the additional loads proposed.</p>
<b>D. 5.</b>	<p><b>Professional Engineering Details</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>This does not affect the right of the developer to seek staged construction certificates.</li> </ul> <p><b>Condition Reason:</b> To ensure professional engineering details and technical specifications are provided.</p>

<b>D. 6.</b>	<b>Stormwater Discharge to Existing Stormwater Drainage System</b>
	Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier the following:
	<b>Layout plan</b>
	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:
	<ul style="list-style-type: none"> <li>a) All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>b) Location and dimensions of all downpipes.</li> <li>c) All invert levels reduced to Australian Height Datum (AHD).</li> <li>d) Location and dimensions of all drainage pits.</li> <li>e) Point and method of connection to Councils drainage infrastructure.</li> <li>f) Overland flow paths over impervious areas.</li> </ul>
	Where 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 before 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).
	<b>Notes:</b>
	<ul style="list-style-type: none"> <li>• The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</li> </ul>
	<b>Condition Reason:</b> To ensure that site stormwater is disposed of in a controlled and sustainable manner.

## **E. BEFORE BUILDING WORK COMMENCES**

<b>E. 1.</b>	<b>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</b>
	Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
	<ul style="list-style-type: none"> <li>a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,</li> <li>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.</li> </ul>
	This condition does not apply:
	<ul style="list-style-type: none"> <li>a) to the extent to which an exemption is in force under the Home Building Regulation 2014, or</li> <li>b) to the erection of a temporary building.</li> </ul>
	In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• All new guttering is to comply with the provisions of AS3500.</li> </ul> <p><b>Condition Reason:</b> To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>
<p><b>E. 2.</b></p>	<p><b>Erosion and Sediment Controls – Installation</b></p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>a) The Soil and Water Management Plan if required under this consent;</li> <li>b) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>c) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The International Erosion Control Association – Australasia (<a href="http://www.austieca.com.au/">www.austieca.com.au/</a>) lists consultant experts who can assist in ensuring compliance with this condition.</li> <li>• 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.</li> <li>• The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>• 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.</li> <li>• 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”.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<p><b>E. 3.</b></p>	<p><b>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</b></p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> <li>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</li> <li>b) The person having the benefit of the development consent has: <ul style="list-style-type: none"> <li>• appointed a Principal Certifier for the building work, and</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and</li> </ul> <p>c) The Principal Certifier has, no later than 2 days before the building work commences:</p> <ul style="list-style-type: none"> <li>notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and</li> <li>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</li> </ul> <p>d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has:</p> <ul style="list-style-type: none"> <li>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</li> <li>notified the Principal Certifier of any such appointment, and</li> <li>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</li> <li>given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li><b>Building</b> 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.</li> <li><b>New building</b> 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.</li> <li>The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125.</li> <li>Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>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.</li> <li>Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.</li> </ul> <p><b>Condition Reason:</b> To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>
<p><b>E. 4.</b></p>	<p><b>Notification of Home Building Act 1989 requirements</b></p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:</p> <p>a) In the case of work for which a Principal Contractor is required to be appointed:</p> <ul style="list-style-type: none"> <li>the name and licence number of the Principal Contractor, and</li> <li>the name of the insurer by which the work is insured under Part 6 of that Act,</li> </ul> <p>b) In the case of work to be done by an Owner-builder:</p> <ul style="list-style-type: none"> <li>the name of the Owner-builder, and</li> <li>if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.</li> </ul>

<p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.</p> <p>This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.</p> <p>For the purposes of section 4.17(11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.</p> <p><b>Condition Reason:</b> To ensure Council is notified of the Home Building Acts 1989 requirements.</p>
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## F. DURING BUILDING WORK

<b>F. 1.</b>	<p><b>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</li> <li>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.</li> </ol> <p>This condition does not apply:</p> <ol style="list-style-type: none"> <li>to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</li> <li>to the erection of a temporary building.</li> </ol> <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>All new guttering is to comply with the provisions of AS 3500.</li> </ul> <p><b>Condition Reason:</b> To ensure compliance with the BCA and Home building Act 1989.</p>
<b>F. 2.</b>	<p><b>Requirement to Notify about New Evidence</b></p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p><b>Condition Reason:</b> To ensure Council and the Principal Certifier are made aware of new information.</p>



<p><b>F. 3.</b></p>	<p><b>Critical Stage Inspections</b></p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.</li> <li>• The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.</li> </ul> <p><b>Condition Reason:</b> To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
<p><b>F. 4.</b></p>	<p><b>Hours of Work –Amenity of the Neighbourhood</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>No work must take place on any Sunday or public holiday.</li> <li>No work must take place before 7am or after 5pm any weekday.</li> <li>No work must take place before 7am or after 1pm any Saturday.</li> <li>The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday:             <ol style="list-style-type: none"> <li>piling,</li> <li>piering,</li> <li>rock or concrete cutting, boring or drilling,</li> <li>rock breaking,</li> <li>rock sawing,</li> <li>jack hammering, or</li> <li>machine excavation.</li> </ol> </li> <li>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.</li> <li>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.</li> <li>No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</li> </ol>

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.</li> <li>• The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.</li> <li>• 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.</li> <li>• NSW EPA Noise Guide is available at <a href="http://www.epa.nsw.gov.au/noise/nlg.htm">www.epa.nsw.gov.au/noise/nlg.htm</a></li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of work upon the amenity of the neighbourhood.</p>
<p><b>F. 5.</b></p>	<p><b>Public Footpaths – Safety, Access and Maintenance</b></p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ol style="list-style-type: none"> <li>Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.</li> <li>Not use the road or footway for the storage of any article, material, matter, waste or thing.</li> <li>Not use the road or footway for any work.</li> <li>Keep the road and footway in good repair free of any trip hazard or obstruction.</li> <li>Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.</li> <li>Not stand any plant and equipment upon the road or footway.</li> <li>If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.</li> <li>Provide a clear safe pedestrian route a minimum of 1.5m wide.</li> <li>Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.</li> </ol> <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <ol style="list-style-type: none"> <li>Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</li> <li>Australian Road Rules.</li> </ol>

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.</li> <li>• Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> <li>- erect a structure or carry out a work in, on or over a public road, or</li> <li>- dig up or disturb the surface of a public road, or</li> <li>- remove or interfere with a structure, work or tree on a public road, or</li> <li>- pump water into a public road from any land adjoining the road, or</li> <li>- connect a road (whether public or private) to a classified road,</li> <li>- otherwise than with the consent of the appropriate roads authority.</li> </ul> </li> <li>• Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> <li>- Part C Management of waste: <ol style="list-style-type: none"> <li>a) For fee or reward, transport waste over or under a public place</li> <li>b) Place waste in a public place</li> <li>c) Place a waste storage container in a public place.</li> </ol> </li> <li>- Part E Public roads: <ol style="list-style-type: none"> <li>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</li> <li>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.</li> </ol> </li> </ul> </li> </ul> <p><b>Condition Reason:</b> To ensure safe access is maintained to footpaths and roads during building works.</p>
<p><b>F. 6.</b></p>	<p><b>Maintenance of Environmental Controls</b></p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ol style="list-style-type: none"> <li>a) erosion and sediment controls,</li> <li>b) dust controls,</li> <li>c) dewatering discharges,</li> <li>d) noise controls,</li> <li>e) vibration monitoring and controls, and</li> <li>f) ablutions.</li> </ol> <p><b>Condition Reason:</b> To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
<p><b>F. 7.</b></p>	<p><b>Support of Adjoining Land and Buildings</b></p> <p>While site work is being carried out, a person must not to 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).</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>- the consent of the owners of such adjoining or supported land to trespass or encroach, or</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- an access order under the Access to Neighbouring Land Act 2000, or</li> <li>- an easement under section 88K of the Conveyancing Act 1919, or</li> <li>- an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.</li> </ul> <ul style="list-style-type: none"> <li>• 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).</li> <li>• Clause 17 of the Roads Regulation 2018 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure that the support of adjoining land is not removed.</p>
<p><b>F. 8.</b></p>	<p><b>Erosion and Sediment Controls – Maintenance</b></p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> <li>a) the Soil and Water Management Plan required under this consent,</li> <li>b) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>c) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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".</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>

<p><b>F. 9.</b></p>	<p><b>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</b></p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide 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.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol> <p><b>Condition Reason:</b> To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>
<p><b>F. 10.</b></p>	<p><b>Placement and Use of Skip Bins</b></p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <ol style="list-style-type: none"> <li>Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</li> <li>where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.</li> </ul> <p><b>Condition Reason:</b> To ensure waste storage containers are appropriately located.</p>
<p><b>F. 11.</b></p>	<p><b>Prohibition of Burning</b></p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.</li> </ul> <p><b>Condition Reason:</b> To ensure no burning of waste occurs.</p>

<p><b>F. 12.</b></p>	<p><b>Dust Mitigation</b></p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ol style="list-style-type: none"> <li>Dust screens to all hoardings and site fences.</li> <li>All stockpiles or loose materials to be covered when not being used.</li> <li>All equipment, where capable, being fitted with dust catchers.</li> <li>All loose materials being placed bags before placing into waste or skip bins.</li> <li>All waste and skip bins being kept covered when not being filled or emptied.</li> <li>The surface of excavation work being kept wet to minimise dust.</li> <li>Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>“Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from <a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="http://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
<p><b>F. 13.</b></p>	<p><b>Compliance with Council’s Specification for Roadworks, Drainage and Miscellaneous Works, Road Works and, Work within the Road and Footway</b></p> <p>While site work is being carried out, 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).</p> <p>The person with the benefit of this consent must meet all costs associated with such works.</p> <p>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.</p> <p><b>Notes:</b></p> <p>A copy of Council’s Specification for Roadworks, Drainage and Miscellaneous Works can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></p> <p><b>Condition Reason:</b> To ensure that any road, drainage, or miscellaneous works comply with Council’s specifications.</p>

<b>F. 14.</b>	<b>Site Waste Minimisation and Management – Demolition</b>
	<p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> <li>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),</li> <li>separate collection bins and/or areas for the storage of residual waste are to be provided,</li> <li>the purpose and content of the bins and/or storage areas are to be clearly 'signposted',</li> <li>measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</li> <li>site disturbance must be minimised, and unnecessary excavation limited.</li> </ol> <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> <li>footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</li> <li>any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</li> <li>waste is only transported to a place that can lawfully be used as a waste facility,</li> <li>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</li> <li>evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Materials that have an existing reuse or recycling market must 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.</li> </ul> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from demolition activities.</p>
<b>F. 15.</b>	<b>Site Waste Minimisation and Management – Construction</b>
	<p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> <li>deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,</li> <li>consideration must be given to returning excess materials to the supplier or manufacturer,</li> <li>an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</li> <li>the purpose and content of the storage areas must be clearly 'signposted',</li> </ol>

	<p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p> <p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from construction activities.</p>
<p><b>F. 16.</b></p>	<p><b>Asbestos Removal</b></p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>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:</p> <ul style="list-style-type: none"> <li>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.</li> <li>b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.</li> <li>c) No asbestos products may be reused on the site.</li> <li>d) No asbestos laden skip or bins must be left in any public place.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> <li>- Work Health and Safety Act 2011,</li> <li>- Work Health and Safety Regulation 2017,</li> <li>- SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and</li> <li>- SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).</li> </ul> </li> <li>• For more information go to the SafeWork NSW website on asbestos <a href="http://www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos">www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos</a>, and <a href="http://www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice">www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice</a> or call 131 050</li> </ul> <p><b>Condition Reason:</b> To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>



<b>F. 17.</b>	<b>Classification of Hazardous Waste</b>
	While site work is being carried out, and 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, Part1: Classifying Waste, 2014.
	<b>Condition Reason:</b> 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.
<b>F. 18.</b>	<b>Disposal of Asbestos and Hazardous Waste</b>
	While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.
	<b>Condition Reason:</b> 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.
<b>F. 19.</b>	<b>Asbestos Removal Signage</b>
	While site work is being carried out and when asbestos is being removed, 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.
	<b>Condition Reason:</b> To ensure awareness of any hazard to the health and safety of persons working on the site and public.
<b>F. 20.</b>	<b>Notification of Asbestos Removal</b>
	While site work is being carried out, 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.
	<b>Condition Reason:</b> To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

## **G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

<b>G. 1.</b>	<b>Occupation Certificate (section 6.9 of the Act)</b>
	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.

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>New building includes an altered portion of, or an extension to, an existing building.</li> </ul>
	<p><b>Condition Reason:</b> To ensure the building is suitable to occupy.</p>
<b>G. 2.</b>	<p><b>Commissioning and Certification of Systems and Works</b></p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ol style="list-style-type: none"> <li>All stormwater drainage and storage systems.</li> <li>All mechanical ventilation systems.</li> <li>All structural work.</li> <li>All acoustic attenuation work.</li> <li>All waterproofing.</li> <li>Such further matters as the Principal Certifier may require.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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).</li> <li>The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.</li> </ul> <p><b>Condition Reason:</b> To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p>
<b>G. 3.</b>	<p><b>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</b></p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. A1737391_02.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.</li> </ul> <p><b>Condition Reason:</b> To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>
<b>G. 4.</b>	<p><b>Removal of Ancillary Works and Structures</b></p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> <li>the site sign,</li> </ol>

- |   |
|---|
| b) ablutions,<br>c) hoarding,<br>d) scaffolding, and<br>e) waste materials, matter, article or thing. |
|---|

<b>Condition Reason:</b> To ensure that all ancillary matter is removed prior to occupation.
--

## H. OCCUPATION AND ONGOING USE

H. 1.	<b>Maintenance of BASIX Commitments</b>
	During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. A1737391_02.
	This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
	<b>Condition Reason:</b> To ensure the approved environmental sustainability measures are maintained for the life of development.

## SUBDIVISION WORK

### I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

### J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

### K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

## LAND SUBDIVISION

### L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE




Nil.

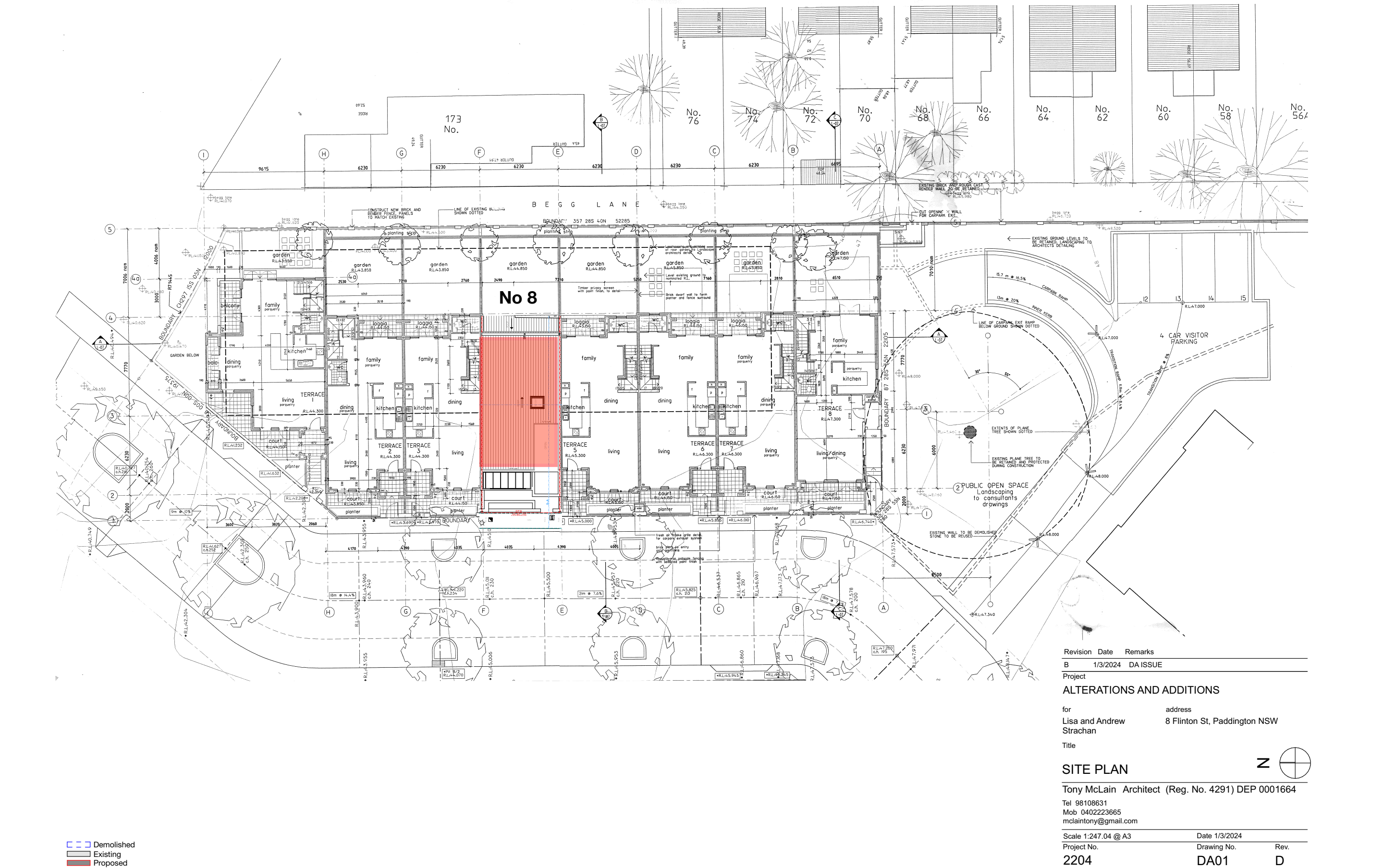
## STRATA SUBDIVISION

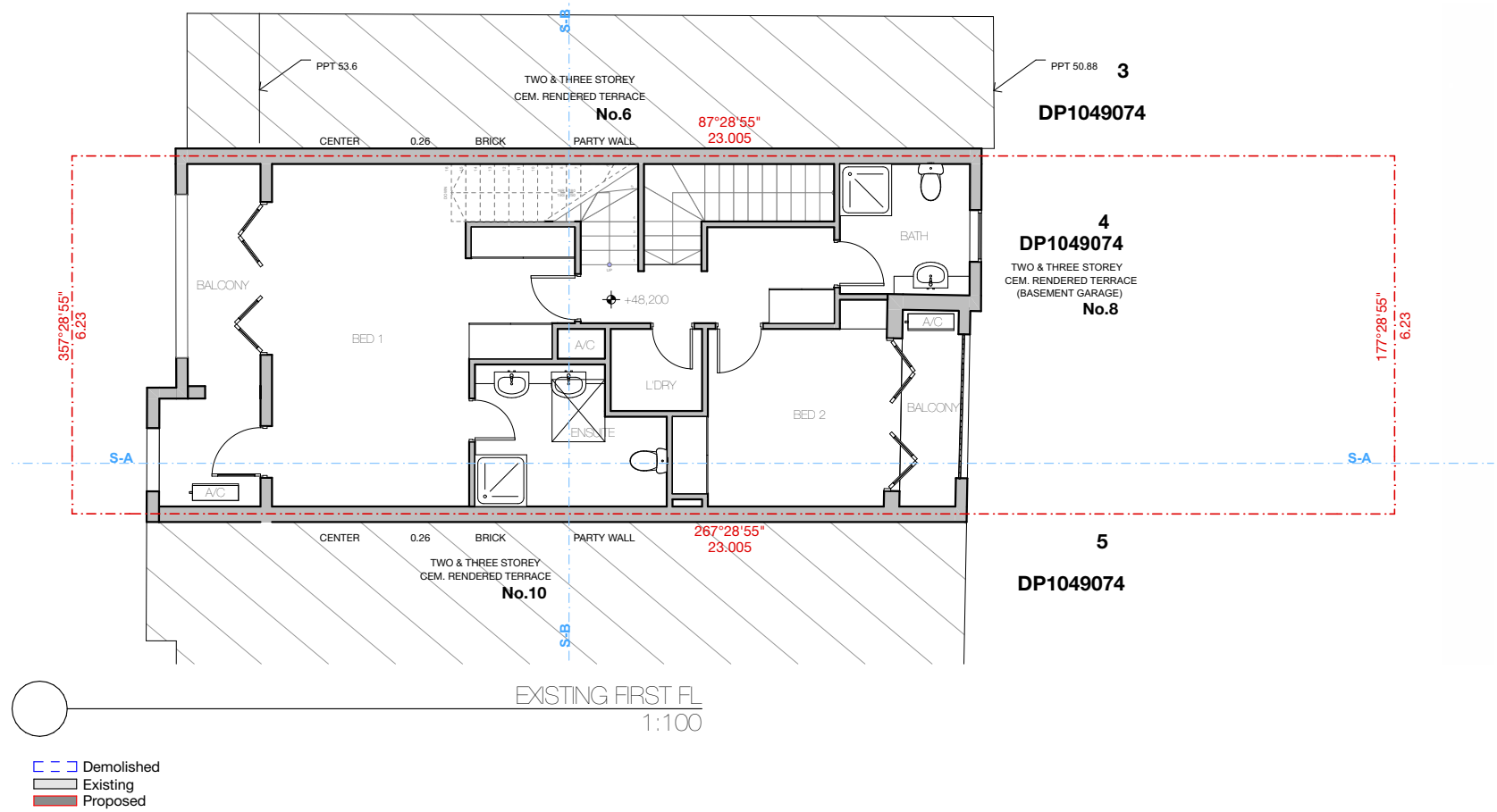
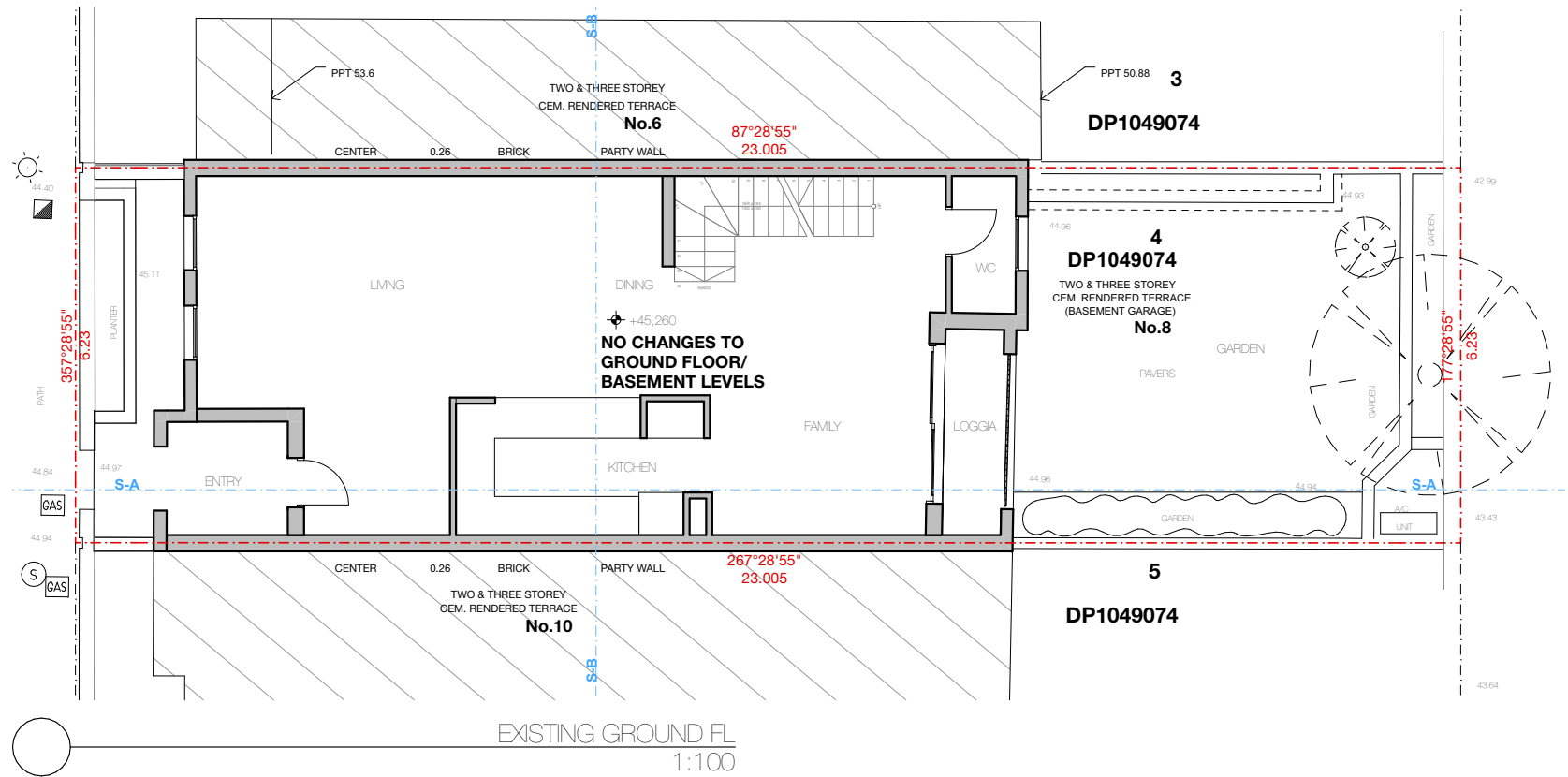
### M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

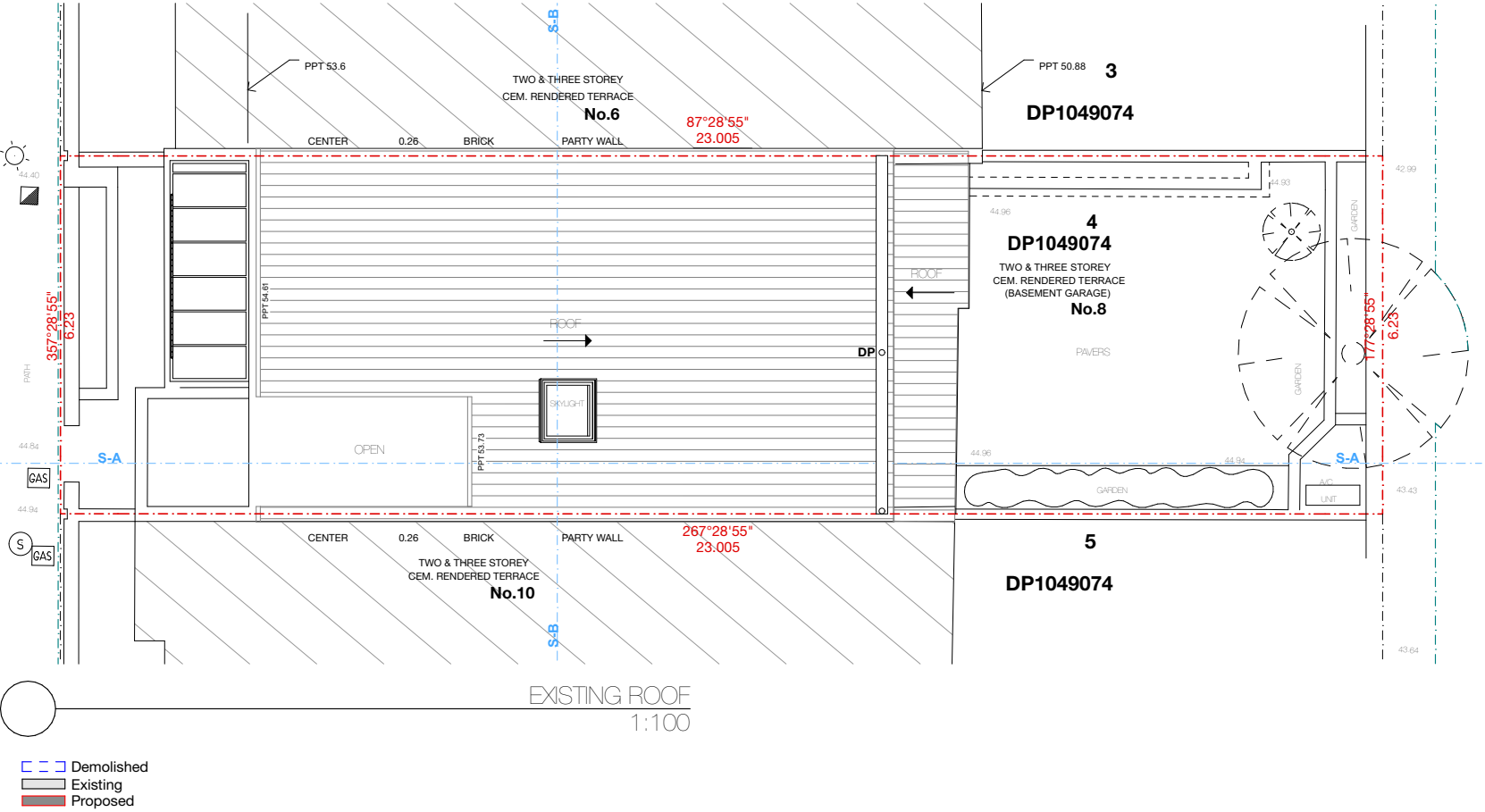
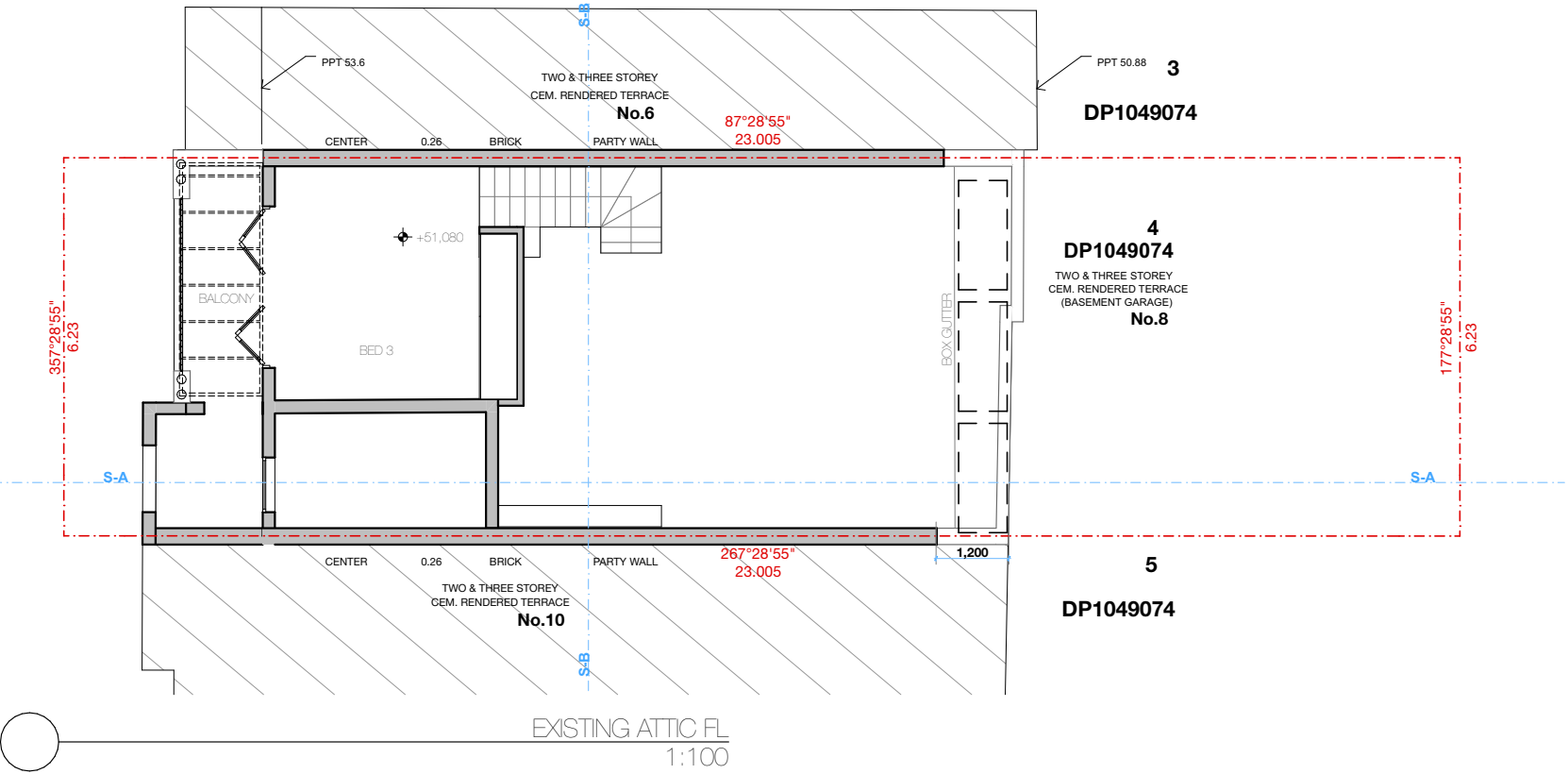
### Attachments

1. Architectural Drawings, Shadow Diagrams and Survey Plan [↓](#) 
2. Clause 4.6 Request for Height [↓](#) 
3. Heritage Referral Response [↓](#) 



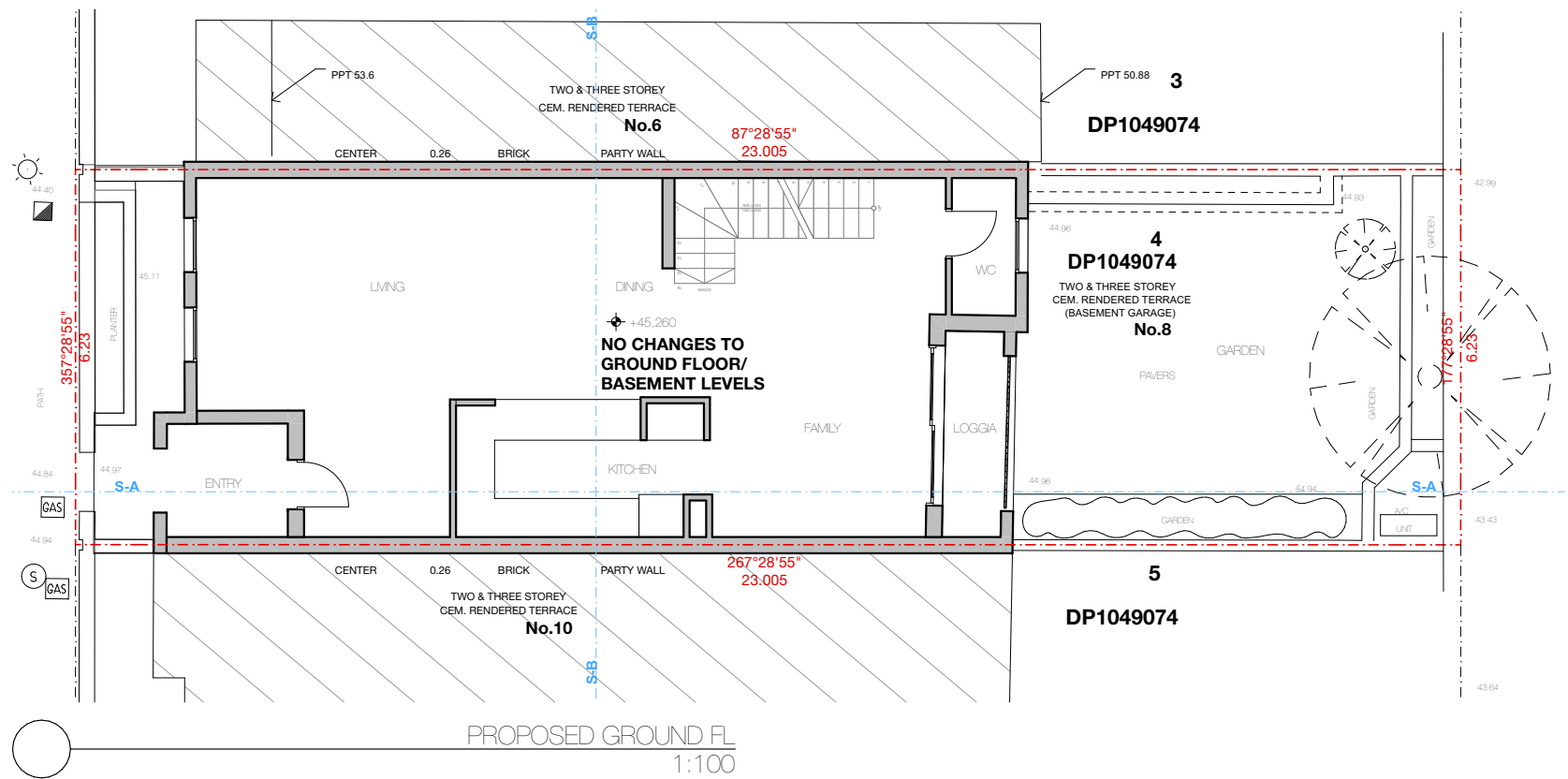


Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
ALTERATIONS AND ADDITIONS		
for address		
Lisa and Andrew Strachan 8 Flinton St, Paddington NSW		
Title		
EXISTING GROUND/FIRST FLOOR		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclainTony@gmail.com		
Scale 1:100 @ A3		Date 1/3/2024
Project No.	Drawing No.	Rev.
2204	DA02	D

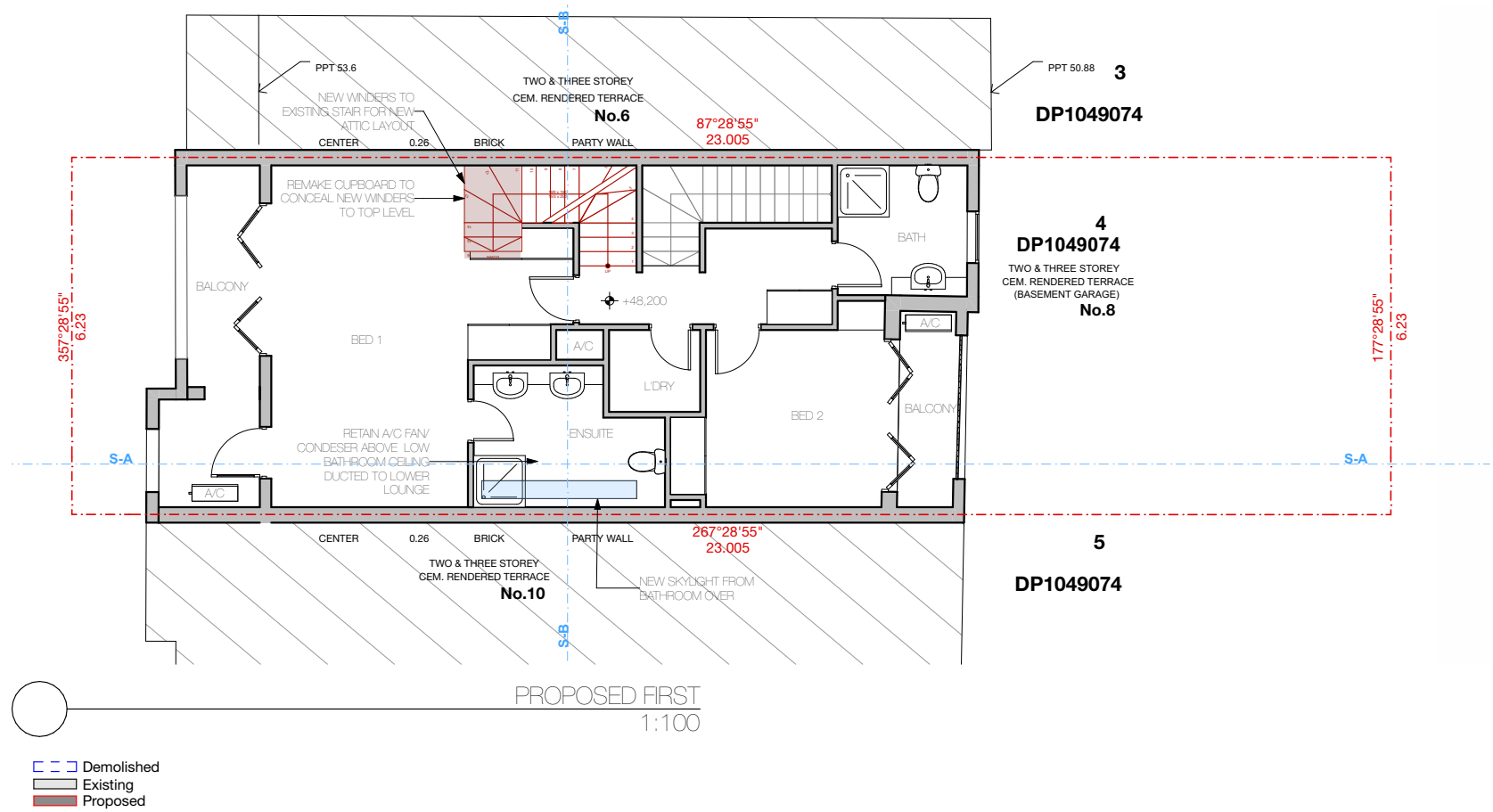


Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
ALTERATIONS AND ADDITIONS		
for		
Lisa and Andrew		
Strachan		
address		
8 Flinton St, Paddington NSW		
Title		
EXISTING ATTIC FLOOR /ROOF		
PLAN		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclaintony@gmail.com		
Scale 1:100 @ A3		
Date 1/3/2024		
Project No.		
2204		
Drawing No.		
DA03		
Rev.		
D		

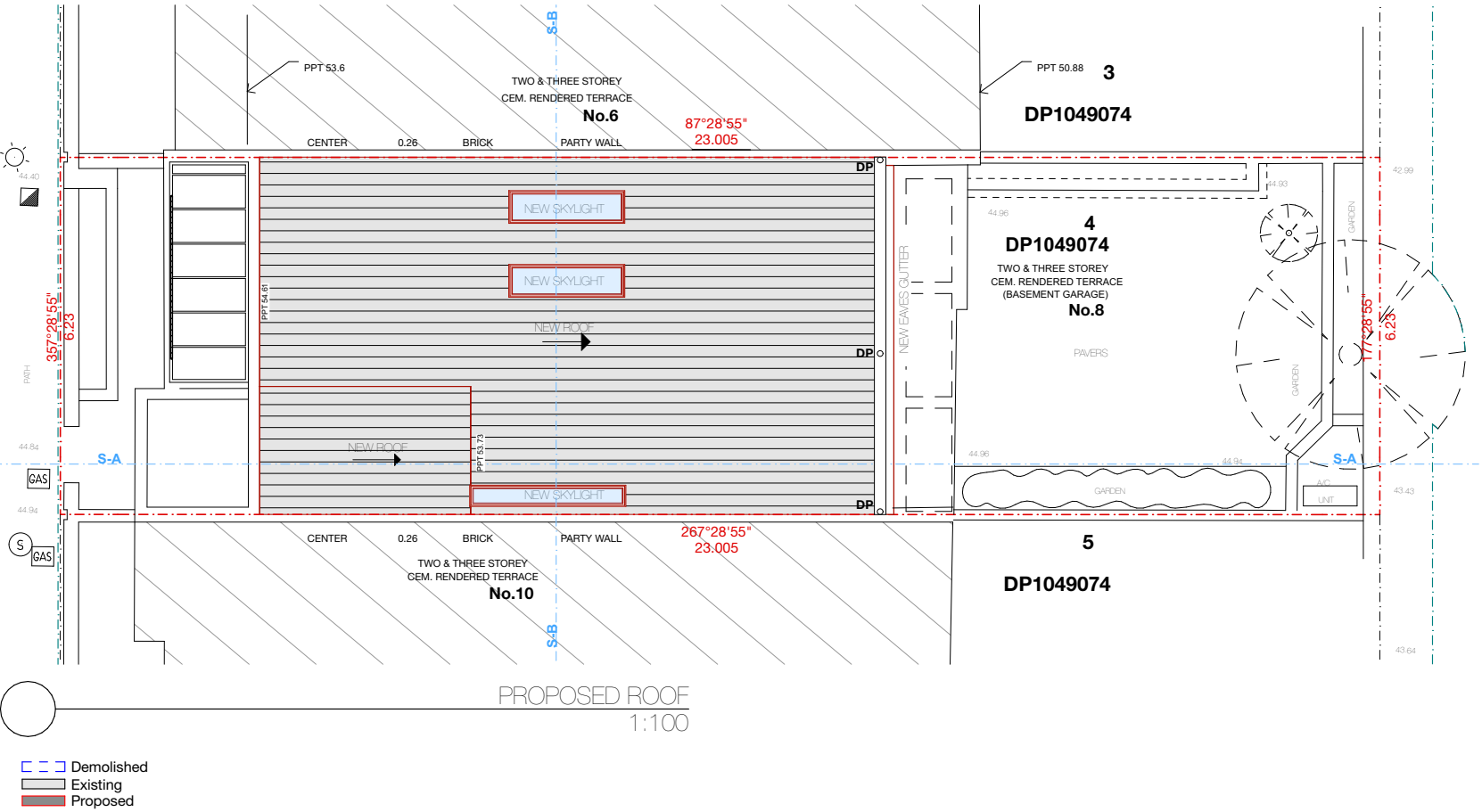
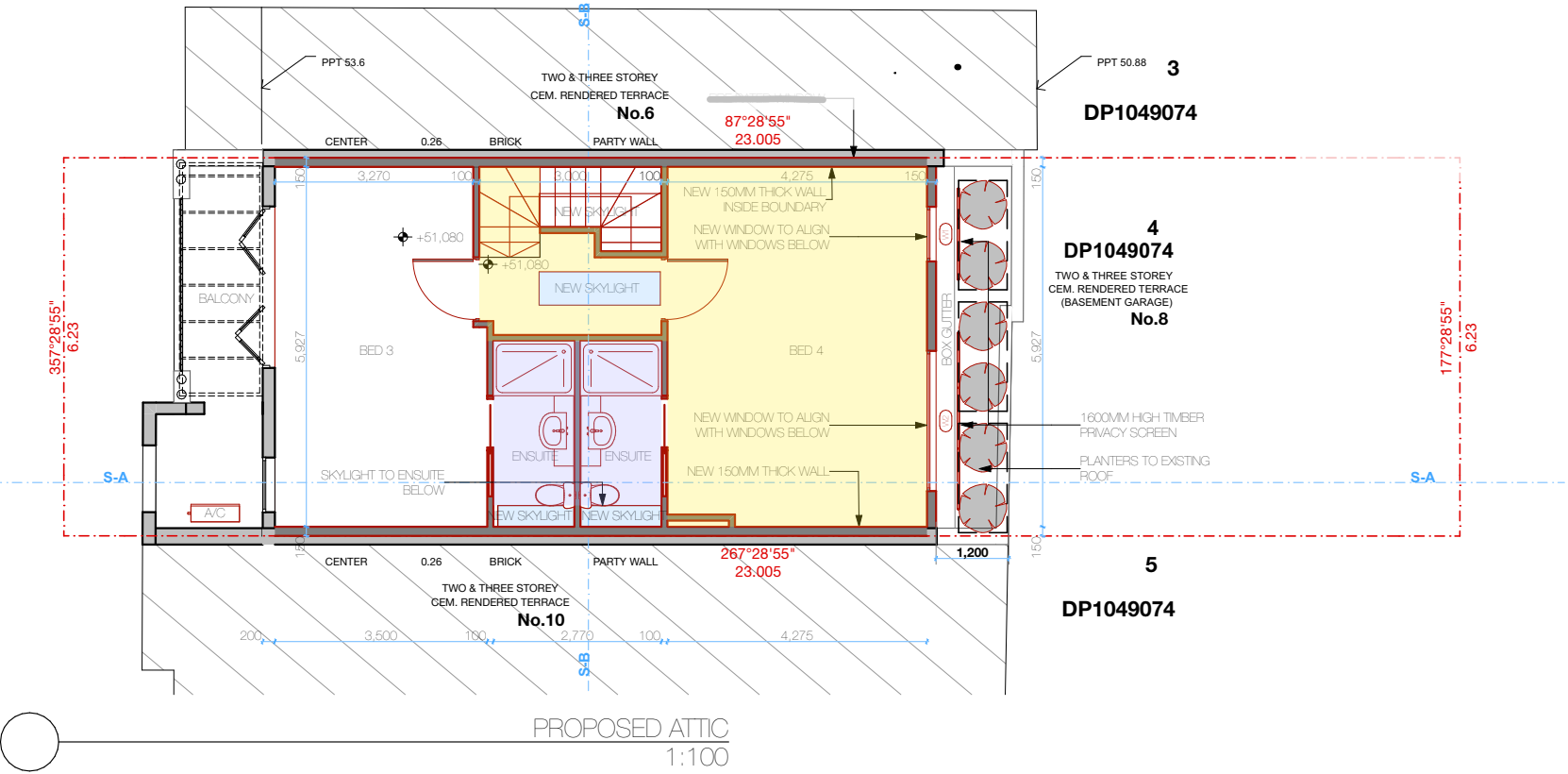




<b>CALCULATIONS</b>	
SITE AREA	143.3 m2
<b>EXISTING GFA</b>	
Ground floor	71.34
First Floor	62.24
Second Floor	25.04
	158.62
EXISTING FSR.	1.10:1
<b>PROPOSED GFA</b>	
Ground floor	71.34
First Floor	62.24
Second Floor	63.68
	197.26
PROPOSED FSR	1.37:1
EXISTING UNBUILT UPON AREA	44.85
PROPOSED UNBUILT UPON AREA	44.85
EXISTING PRIVATE OPEN SPACE	44.85
PROPOSED PRIVATE OPEN SPACE	44.85



Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
<b>ALTERATIONS AND ADDITIONS</b>		
for	address	
Lisa and Andrew Strachan	8 Flinton St, Paddington NSW	
Title		
<b>PROPOSED GROUND/FIRST FLOOR</b>		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631 Mob 0402223665 mclainTony@gmail.com		
Scale 1:100 @ A3	Date 1/3/2024	
Project No.	Drawing No.	Rev.
2204	DA04	D



Revision	Date	Remarks
E	18/6/2024	HEIGHT PLANE REPOSITIONED / W3 DELETED
B	18/6/2024	DA ISSUE

Project  
**ALTERATIONS AND ADDITIONS**

for  
Lisa and Andrew Strachan

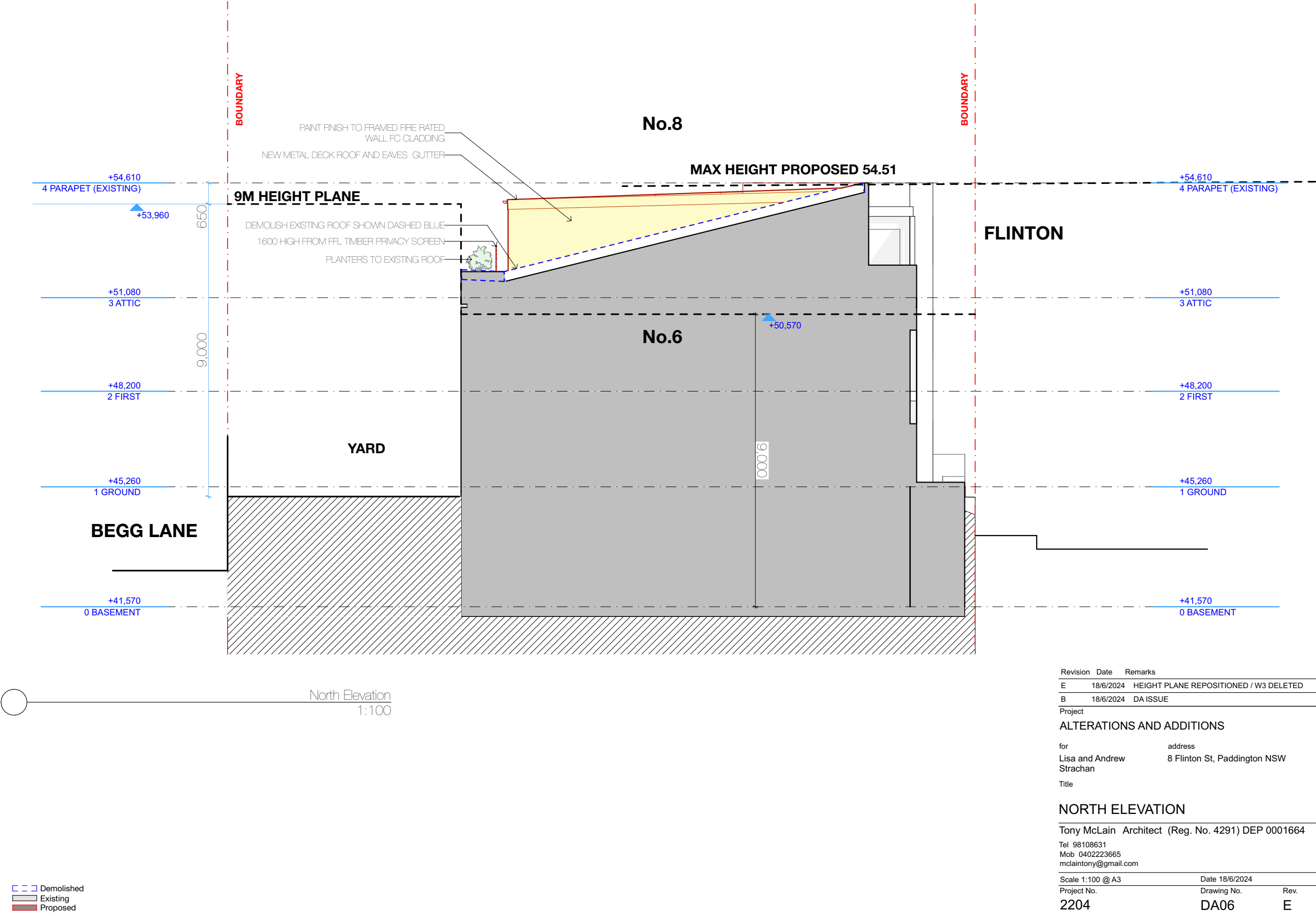
address  
8 Flinton St, Paddington NSW

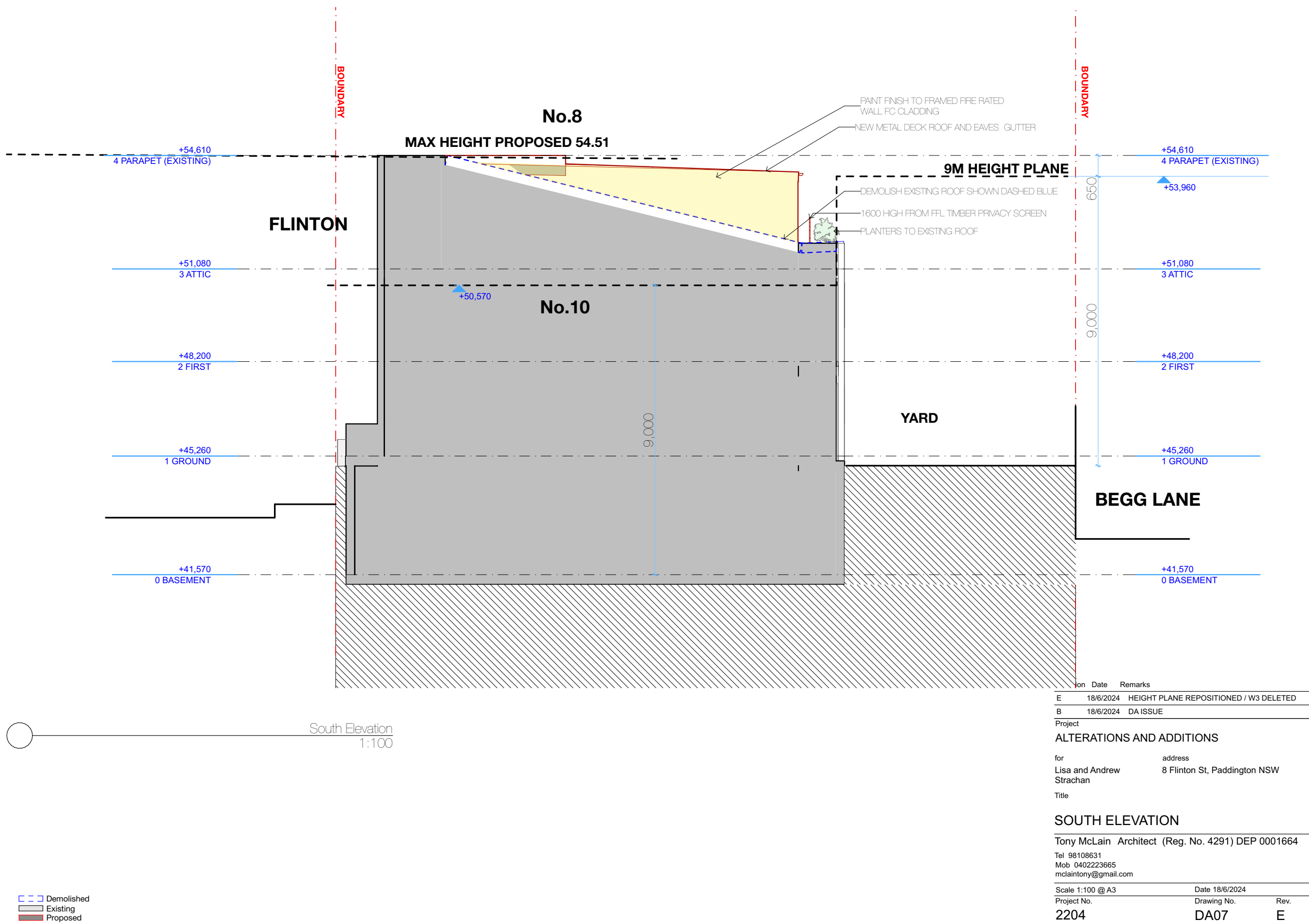
Title  
**PROPOSED ATTIC FLOOR/  
ROOF PLAN**

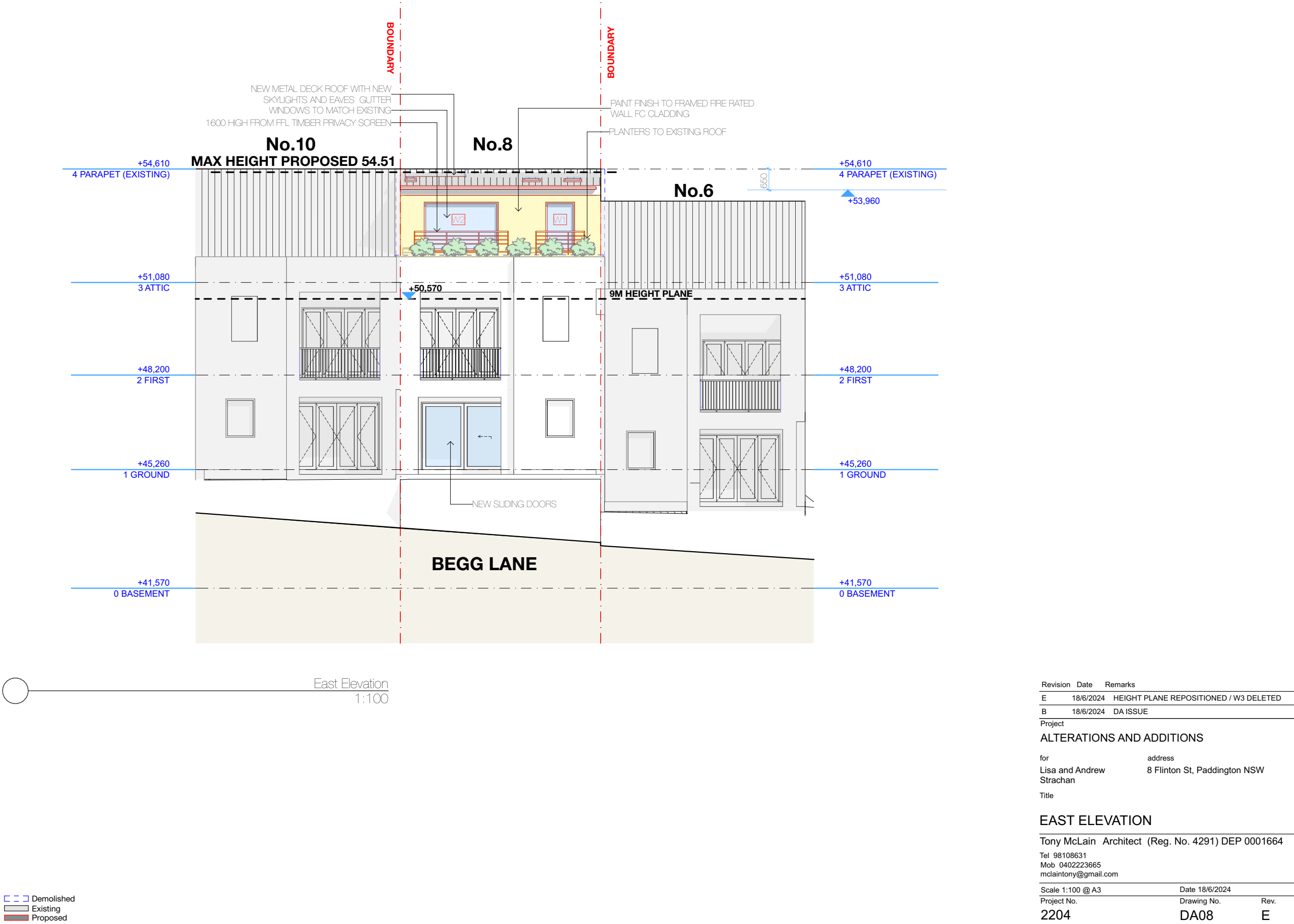
Tony McLain Architect (Reg. No. 4291) DEP 0001664  
Tel 98108631  
Mob 0402223665  
mclaintony@gmail.com

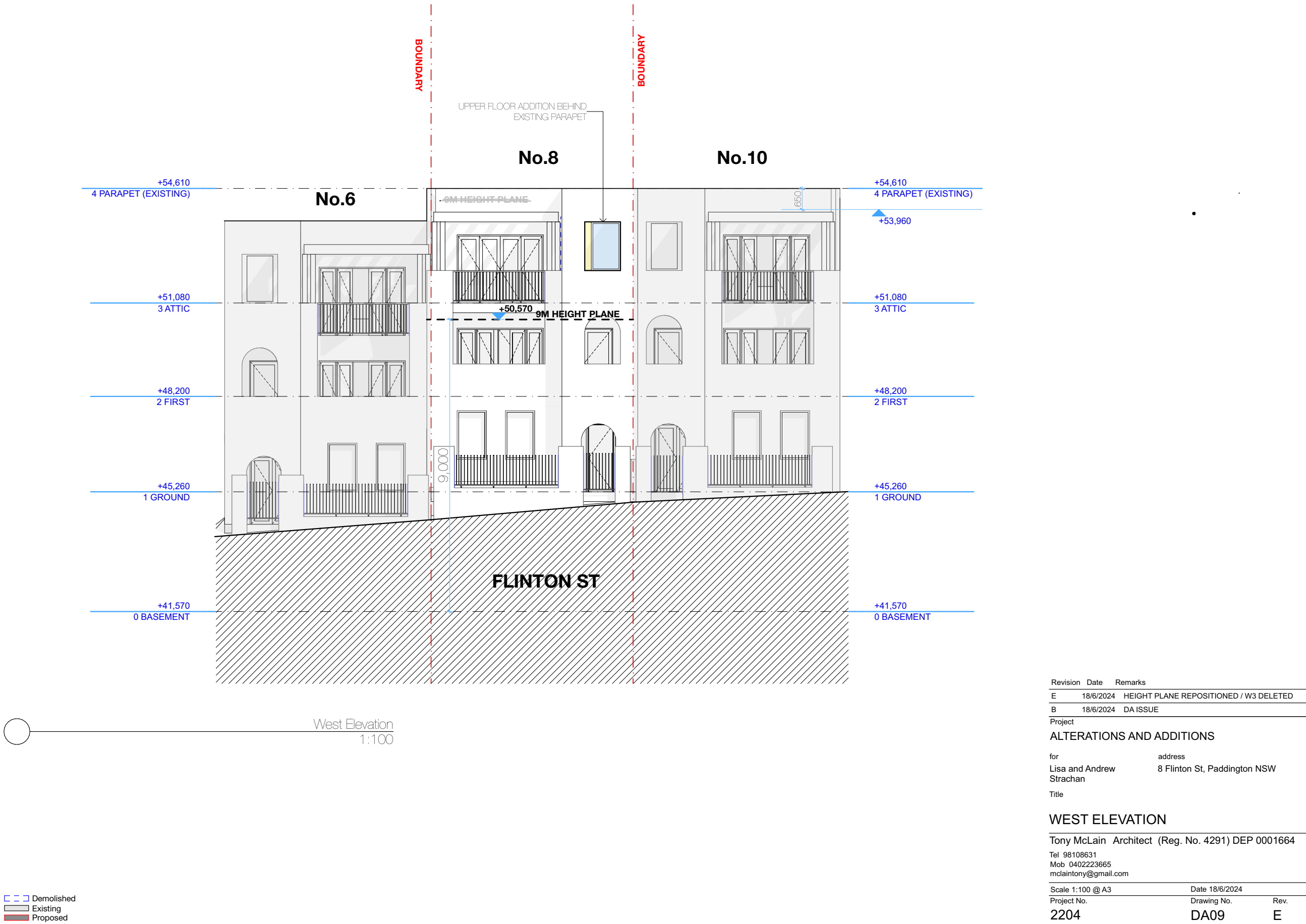
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Project No. 2204	Drawing No. DA05	E

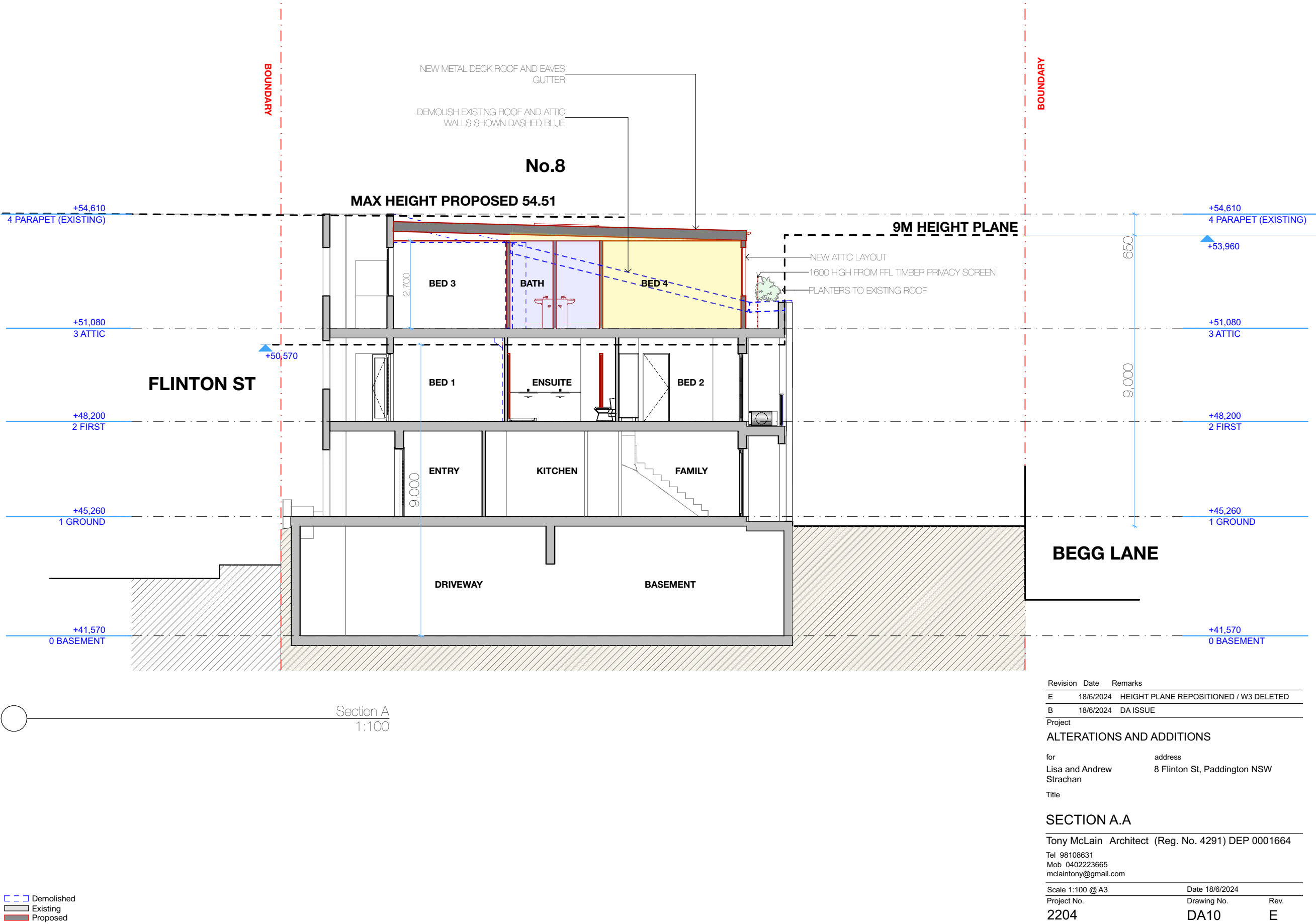


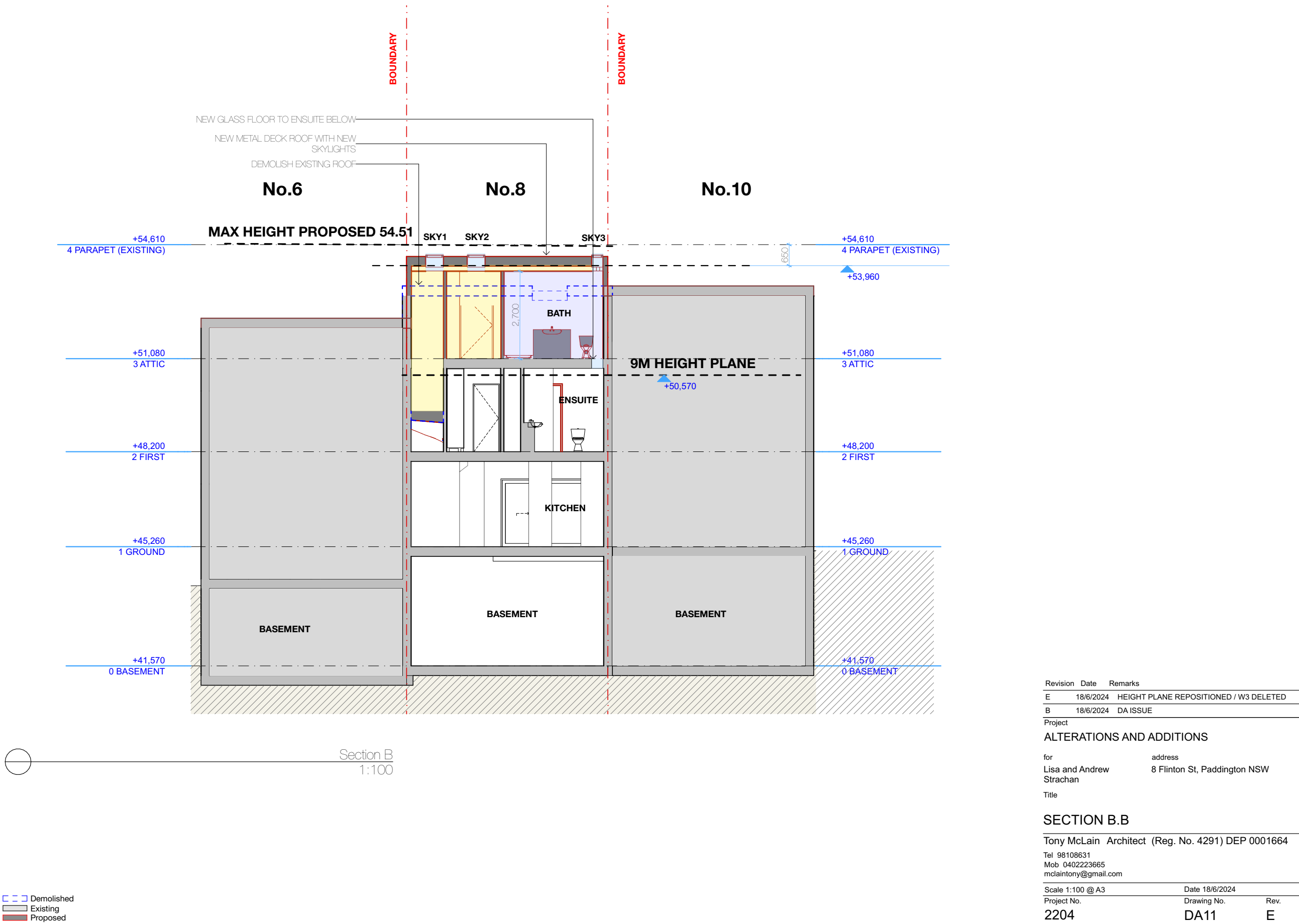


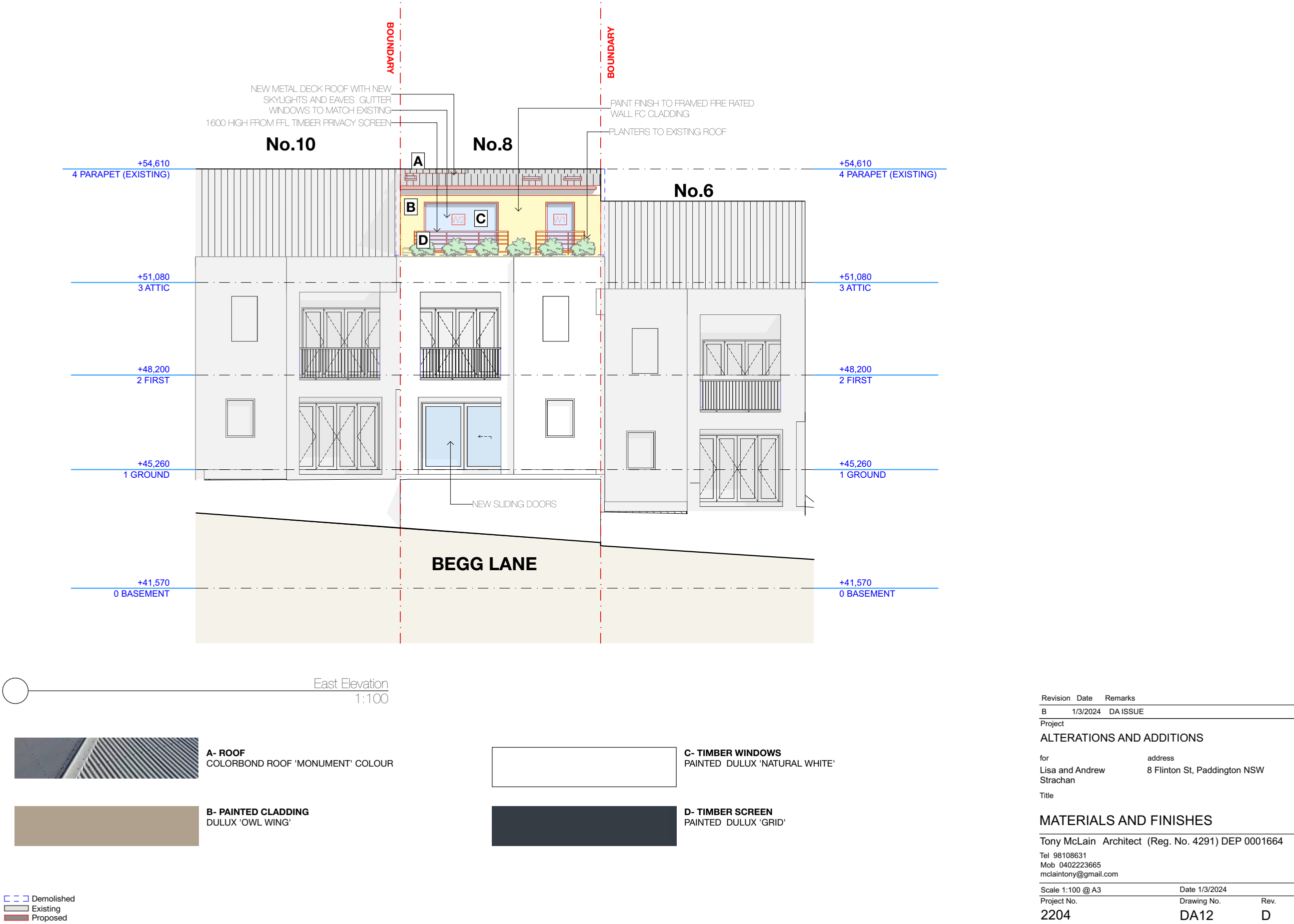


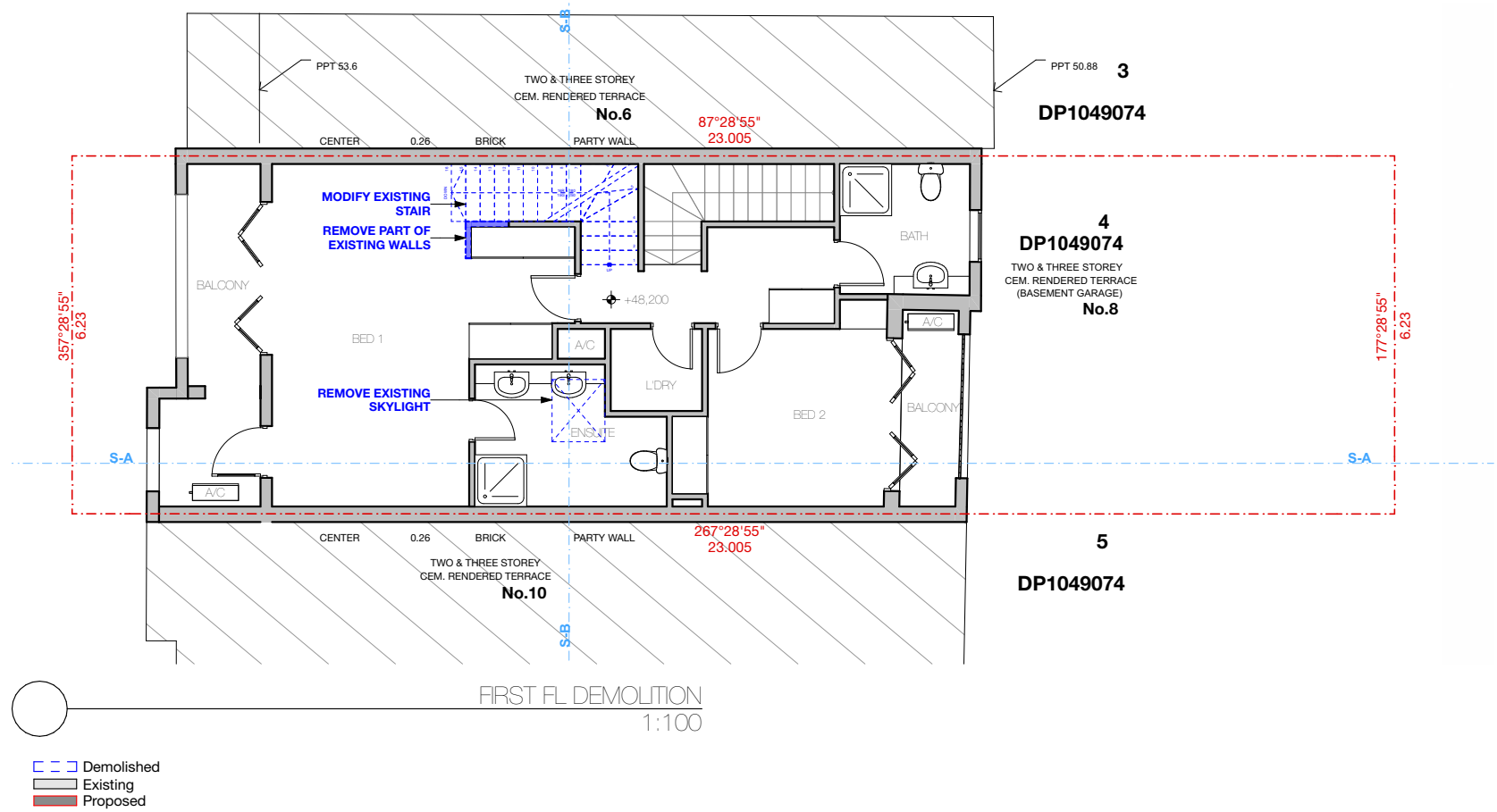
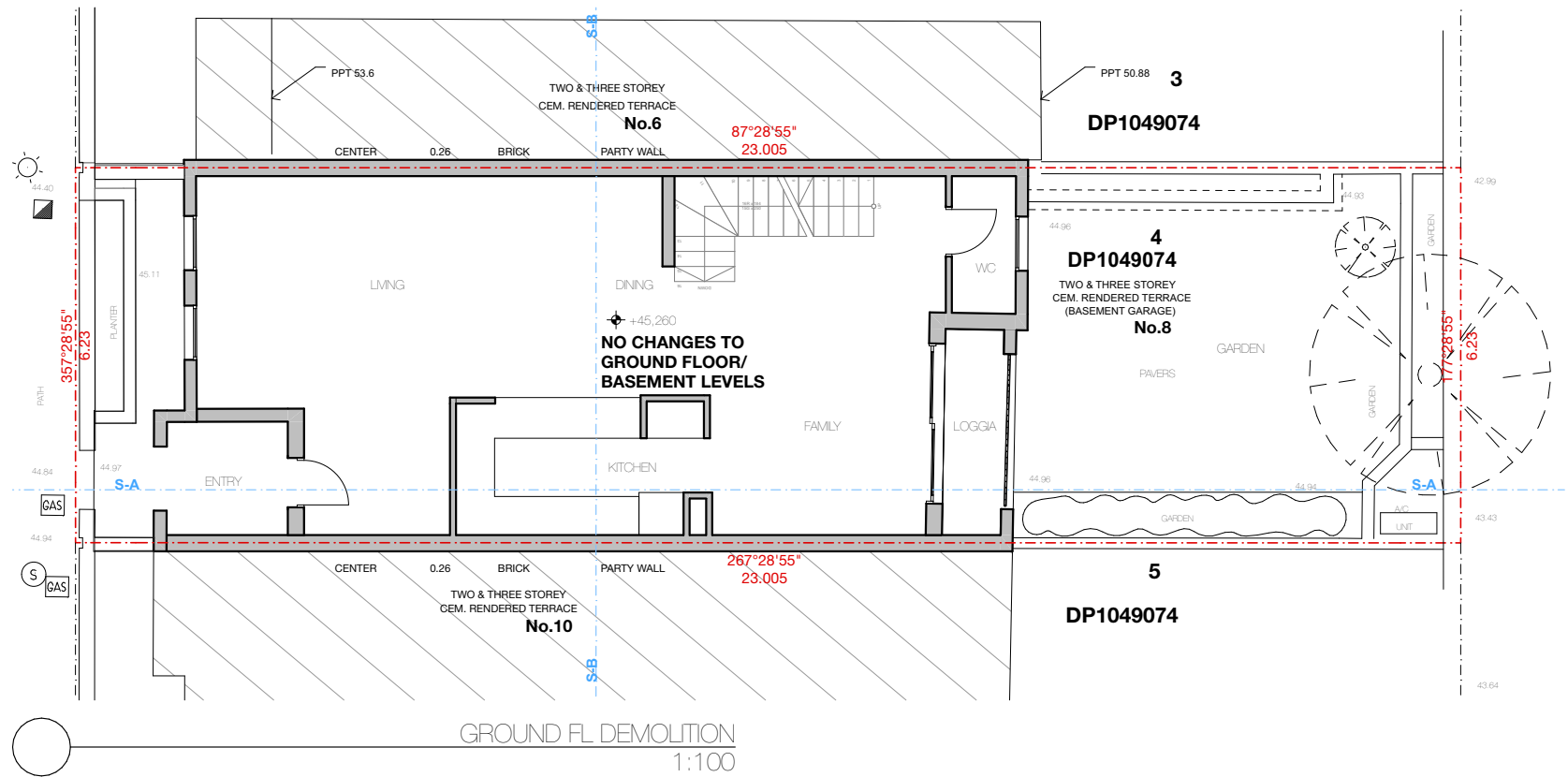






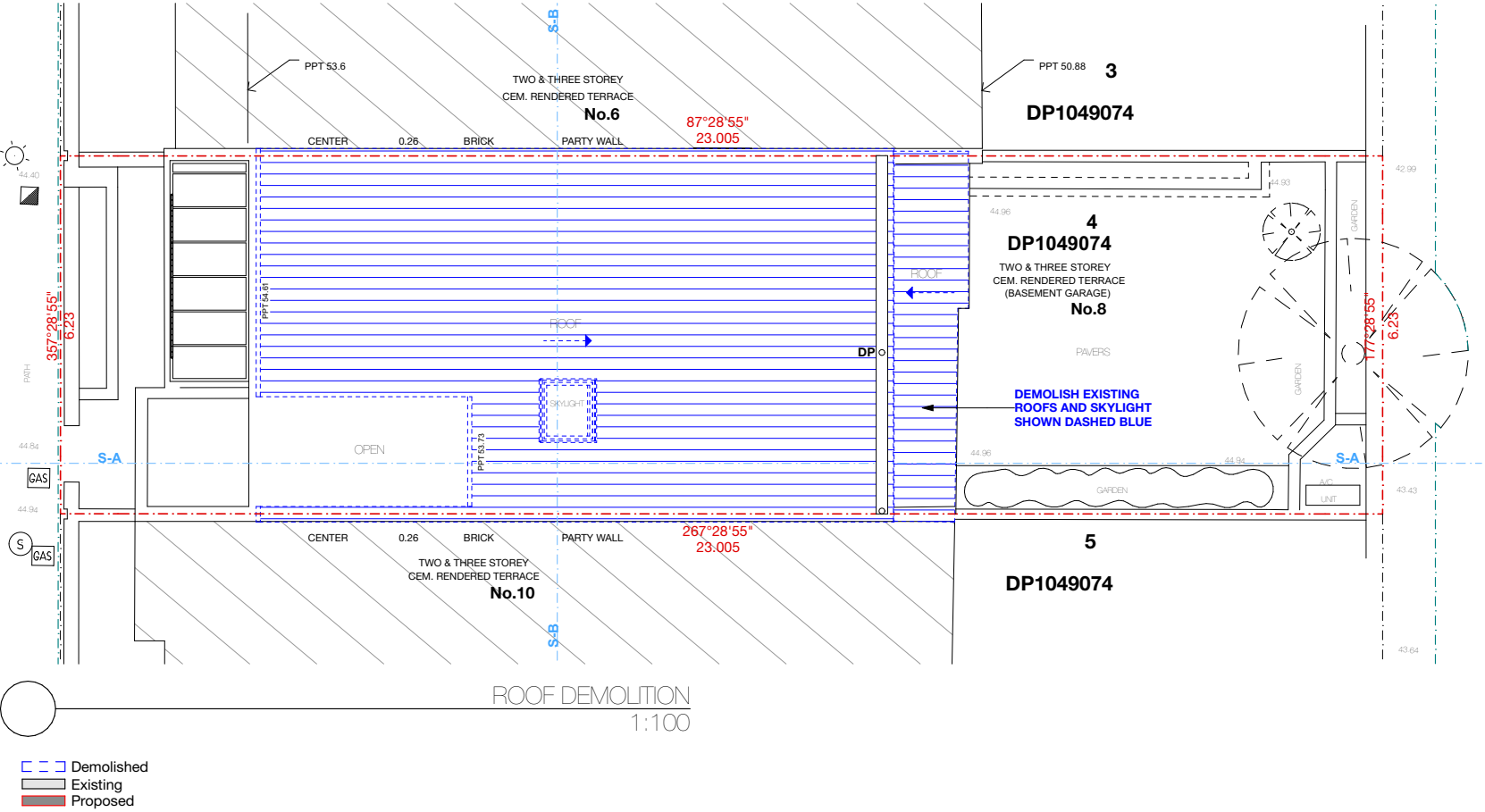
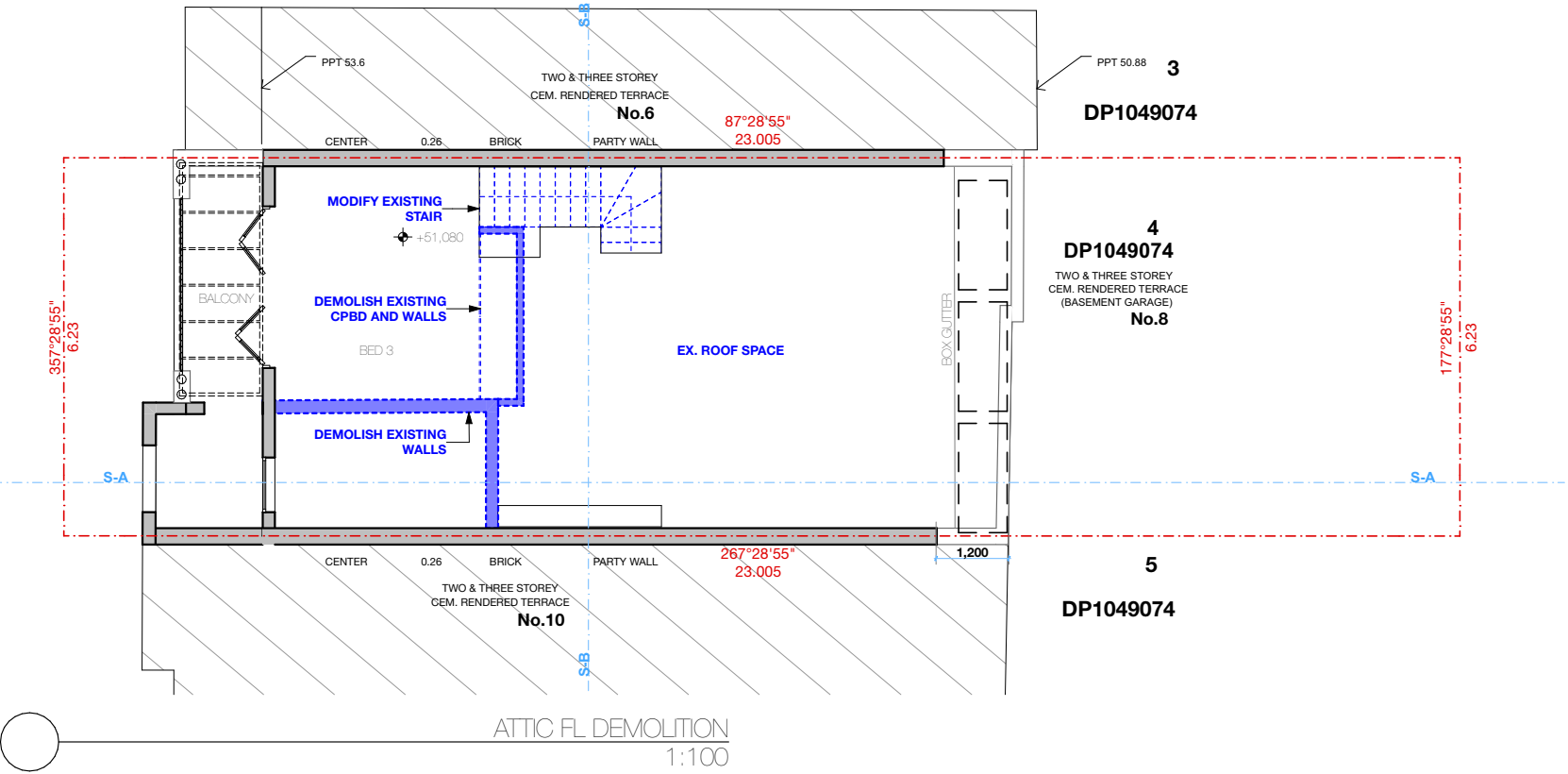






Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
ALTERATIONS AND ADDITIONS		
for		
address		
Lisa and Andrew		
Strachan		
8 Flinton St, Paddington NSW		
Title		
DEMOLITION GROUND/FIRST		
FLOOR		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclainTony@gmail.com		
Scale 1:100 @ A3		
Date 1/3/2024		
Project No.		
Drawing No.		
Rev.		
2204		
DA13		
D		





Revision	Date	Remarks
B	1/3/2024	DA ISSUE

Project  
**ALTERATIONS AND ADDITIONS**

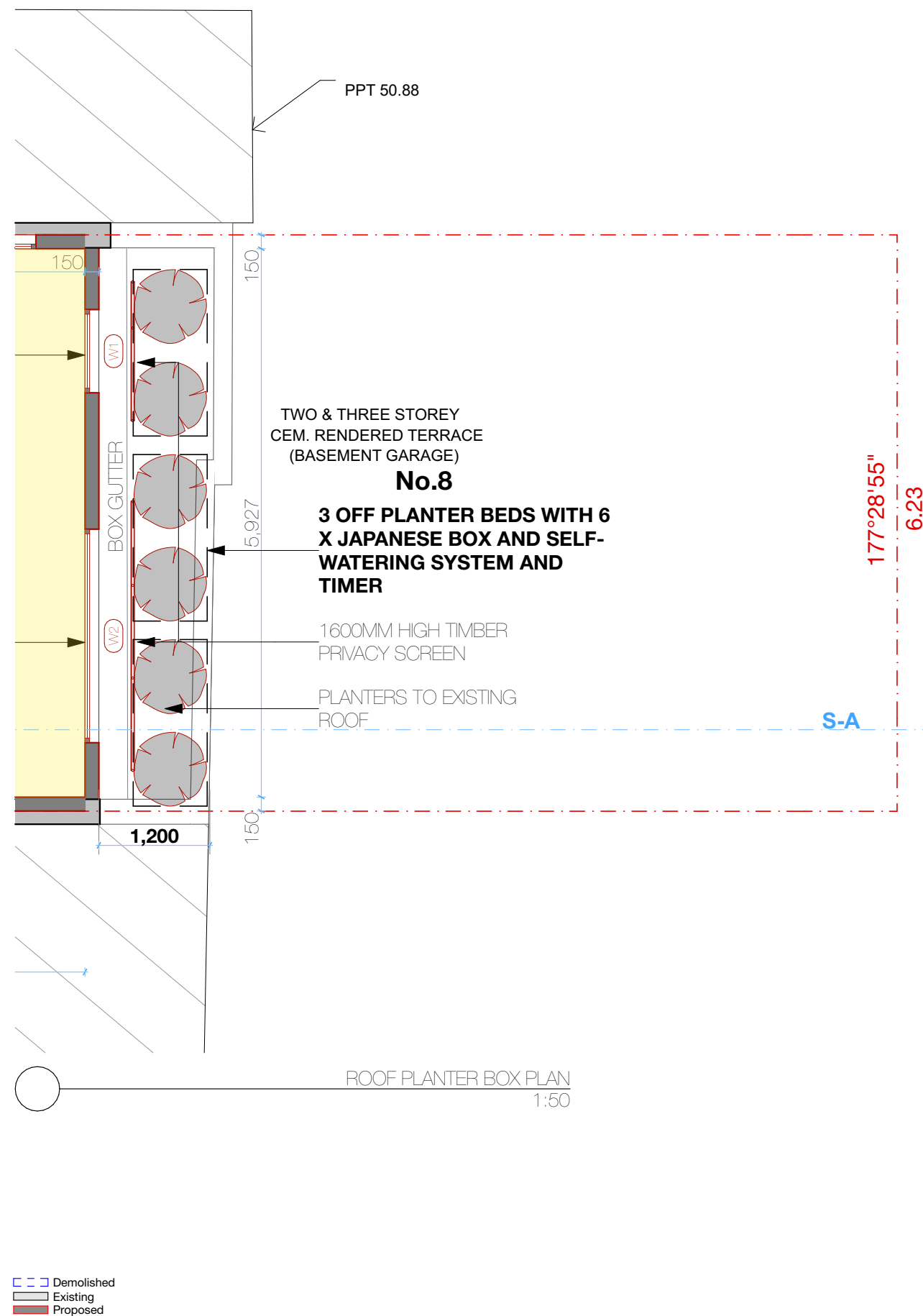
for  
Lisa and Andrew Strachan

address  
8 Flinton St, Paddington NSW


Title  
**DEMOLITION ATTIC FLOOR/  
ROOF PLAN**

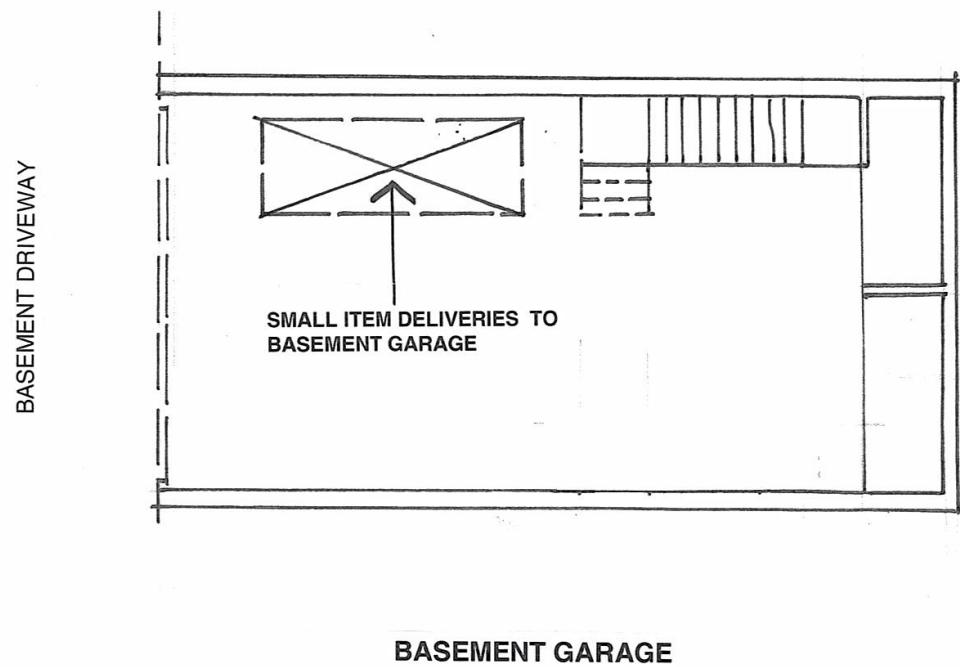
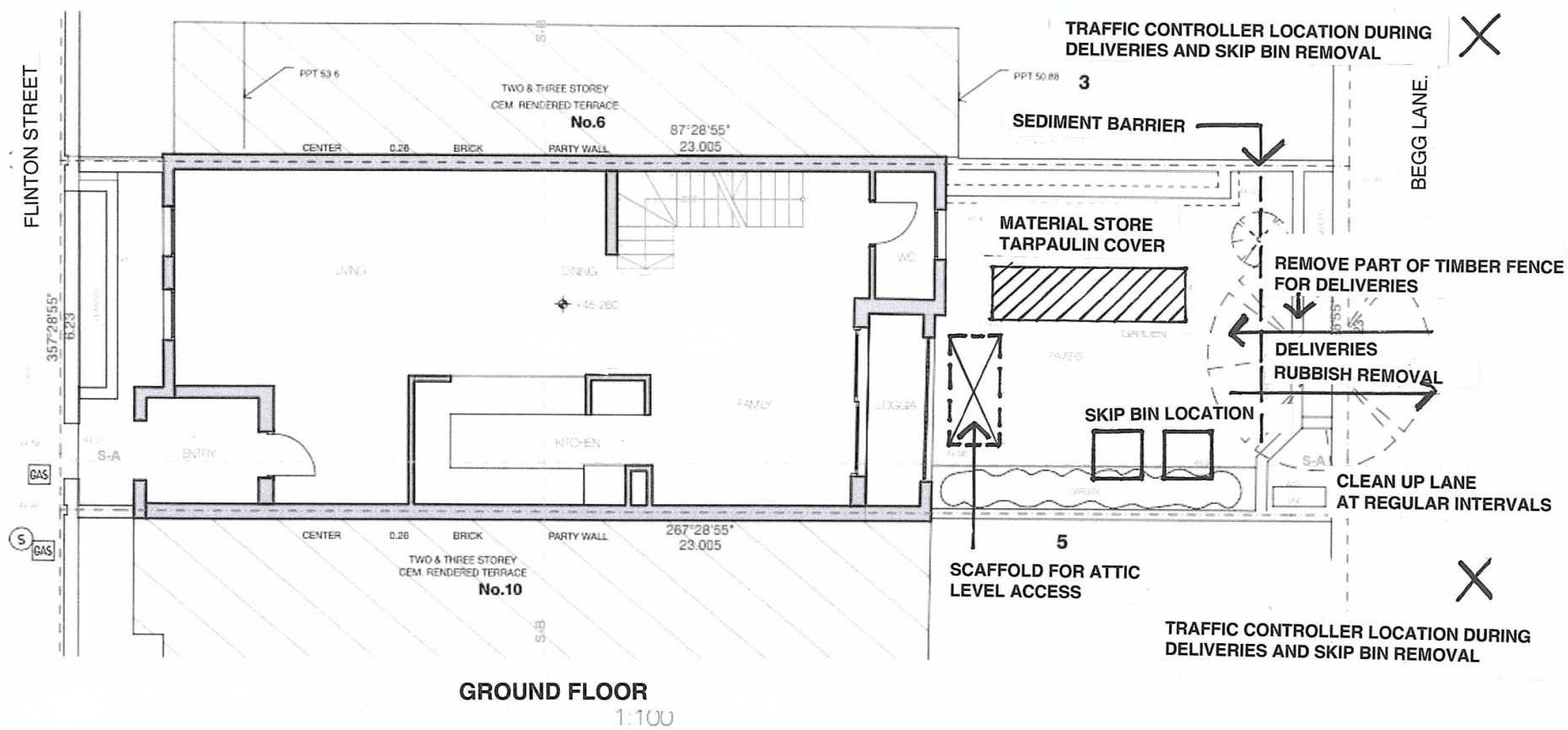
Tony McLain Architect (Reg. No. 4291) DEP 0001664  
Tel 98108631  
Mob 0402223665  
mclaintony@gmail.com

Scale 1:100 @ A3	Date 1/3/2024	Rev.
Project No. 2204	Drawing No. DA14	D



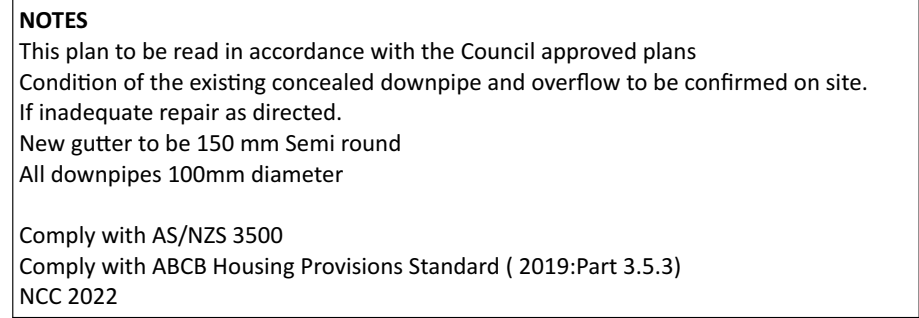
SYMBOL	BOTANIC NAME	COMMON NAME	QTY	MATURE HT	CONTAINER
<b>SHRUBS</b>					
Bj	Buxus japonica	Japanese Box	6	1 m	200mm
<b>NOTES</b>					
Refer to Stormwater plan					
The contractor is responsible for the installation of the planters to the attic level roof area.					
The Landscape Contractor is to check the DA conditions and stamped plans before commencing to ensure that no additions or amendments are required.					
<b>INSTALLTION PROCEDURE</b>					
Position 3 HDPE Injection moulded planters ( 1500mm long x 500 wide x 500 high ) on CAC timber duckboards blocked up from the existing roof.					
Install water reservoirs with 12mm diam pipe water supply pipe connected to each.					
Connect timer.					
Add drainage medium and geotextile fabric to bottom of planters in accordance with GLOWPEAR written instructions.					
Add potting mix. Plant 2 off Buxus japonica to each planter .					
Mulch to 75 mm.					
Ensure that the planter overflow has unimpeded access to the existing box gutter.					
<b>GENERAL</b>					
All shrubs are to be well grown , of typical form, not root bound and free of disease and pests.					
The Landscape contractor is to maintain the works for 2 months after practical completion.					
This includes watering , weeding, replacement of failed plants, replacement of mulch and the rectification of any defective timers , connections or pipes in garden beds.					


Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
<h2>ALTERATIONS AND ADDITIONS</h2>		
for	address	
Lisa and Andrew Strachan	8 Flinton St, Paddington NSW	
Title	<div style="text-align: right;">  </div>	
<h2>LANDSCAPE PLAN</h2>		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631 Mob 0402223665 mclaintony@gmail.com		
Scale 1:50 @ A3	Date 1/3/2024	
Project No.	Drawing No.	Rev.
2204	DA15	D



- OBJECTIVES**  
To ensure that the necessary measures are employed on site to protect both neighbourhood amenity, the surrounding environment and minimise site degradation
- RESPONSIBILITY**  
The Contractor will be responsible and laible for all works carried oiut on the site. This includes assuming responsibility for the actions of subcontractors as well as advising them of Council's requirements and approval conditions.
- COUNCIL PROPERTY**  
Council property is not to be used for construction or storage areas. Council Property is to be kept in a clean , safe and functional condition.
- CONTAINMENT OF SITE WASTE**  
Building materials must not be buried on site. All waste to be placed in rubbish skips or containers for collection.
- OPERATING HOURS**  
The working hours for demolition and construction are to be absolutely restricted to the hours specified in the DA consent. No plant or machinery will move on or off the site outside the hours of operation.
- HAZARDOUS MATERIALS**  
Any hazardous materials encountered ( eg asbestos , lead paint etc ) shall be Ddsposed of in accordance with the Australain Standards and Work Cover requirements. Provide certification of disposal
- BUILDING MATERIAL STOCKPILE**  
No building materials to be store outside the site area. All loose material to be covered by tarpaulins . Stockpile area to be confirmed on site prior to commencement.
- ACCESS POINT**  
To limit disturbance to the site and the tracking of material onto the street all Vehicles will use the single entry point to the basement garage or the area opposite the site in Begg Lane. The Contractor is responsible to remove all material deposited off the site due to spillage or vehicle movements.
- VEHICLE MOVEMENTS**  
All delivery and collection vehicles are to comply with the parking regulations in that area. Trucks and utilities must cover their loads. A licensed person must direct traffic and pedestrians when vehicles are in Begg Lane or exit from the basement carpark.
- DUST CONTROL**  
Prevent wind blown dust from creating an unacceptable hazard or nuisance.

Revision	Date	Remarks
B	12/2/2024	DA ISSUE
Project		
ALTERATIONS AND ADDITIONS		
for	address	
Lisa and Andrew Strachan	8 Flinton St, Paddington NSW	
Title		
CONSTRUCTION MANAGMENT PLAN		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclaintony@gmail.com		
Scale @ A3	Date 12/2/2024	
Project No.	Drawing No.	Rev.
2204	DA16	D



Revision	Date	Remarks
B	1/3/2024	DA ISSUE
Project		
ALTERATIONS AND ADDITIONS		
for	address	
Lisa and Andrew Strachan		8 Flinton St, Paddington NSW
Title		
STORMWATER PLAN		
		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclaintony@gmail.com		
Scale 1:100 @ A3		Date 1/3/2024
Project No.	Drawing No.	Rev.
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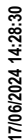
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ALTERATIONS AND ADDITIONS		
for		
Lisa and Andrew Strachan		address 8 Flinton St, Paddington NSW
Title		
PHOTOMONTAGE FRONT FROM FLINTON ST		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclaintony@gmail.com		
Scale @ A3		Date 1/3/2024
Project No.	Drawing No.	Rev.
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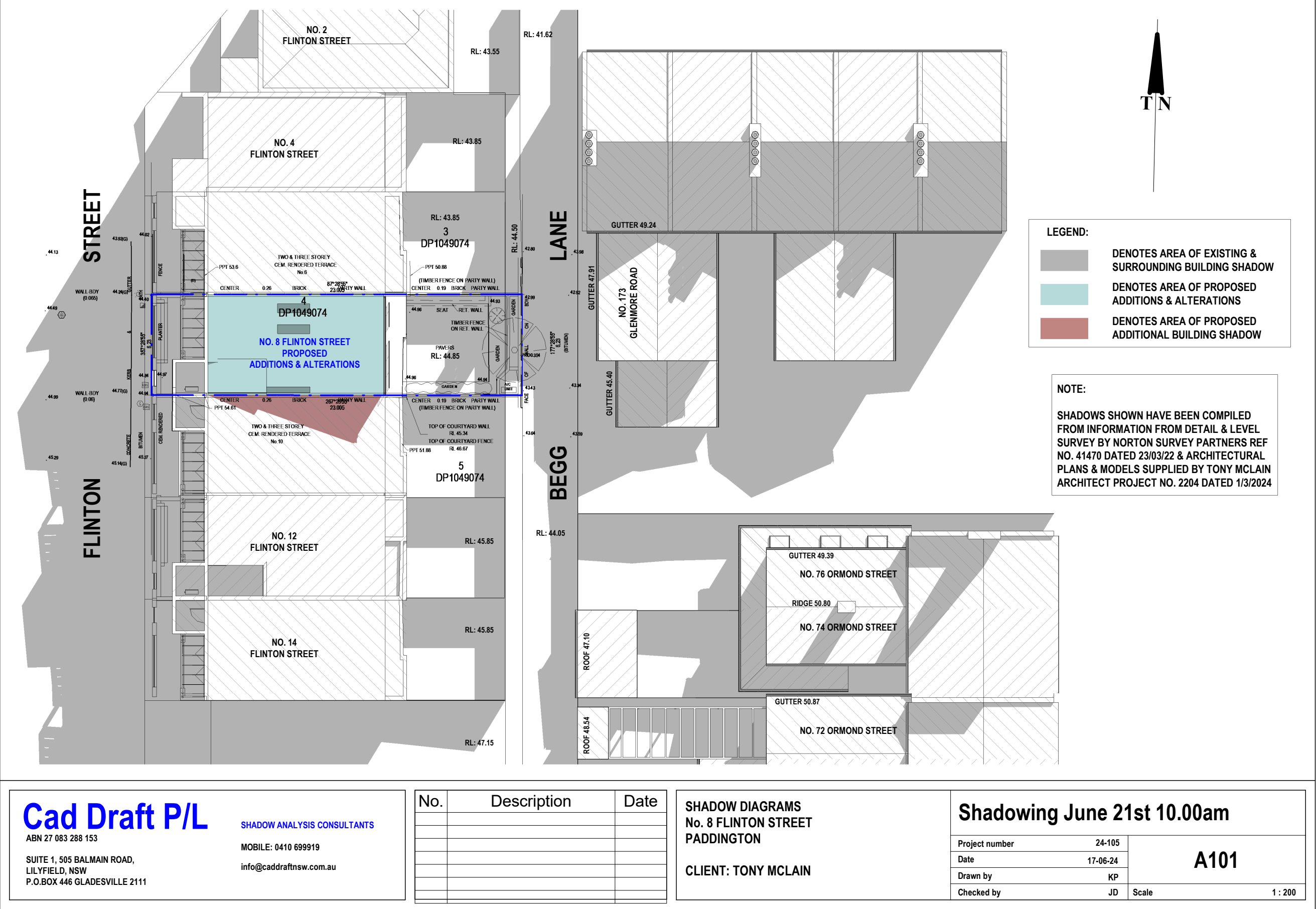




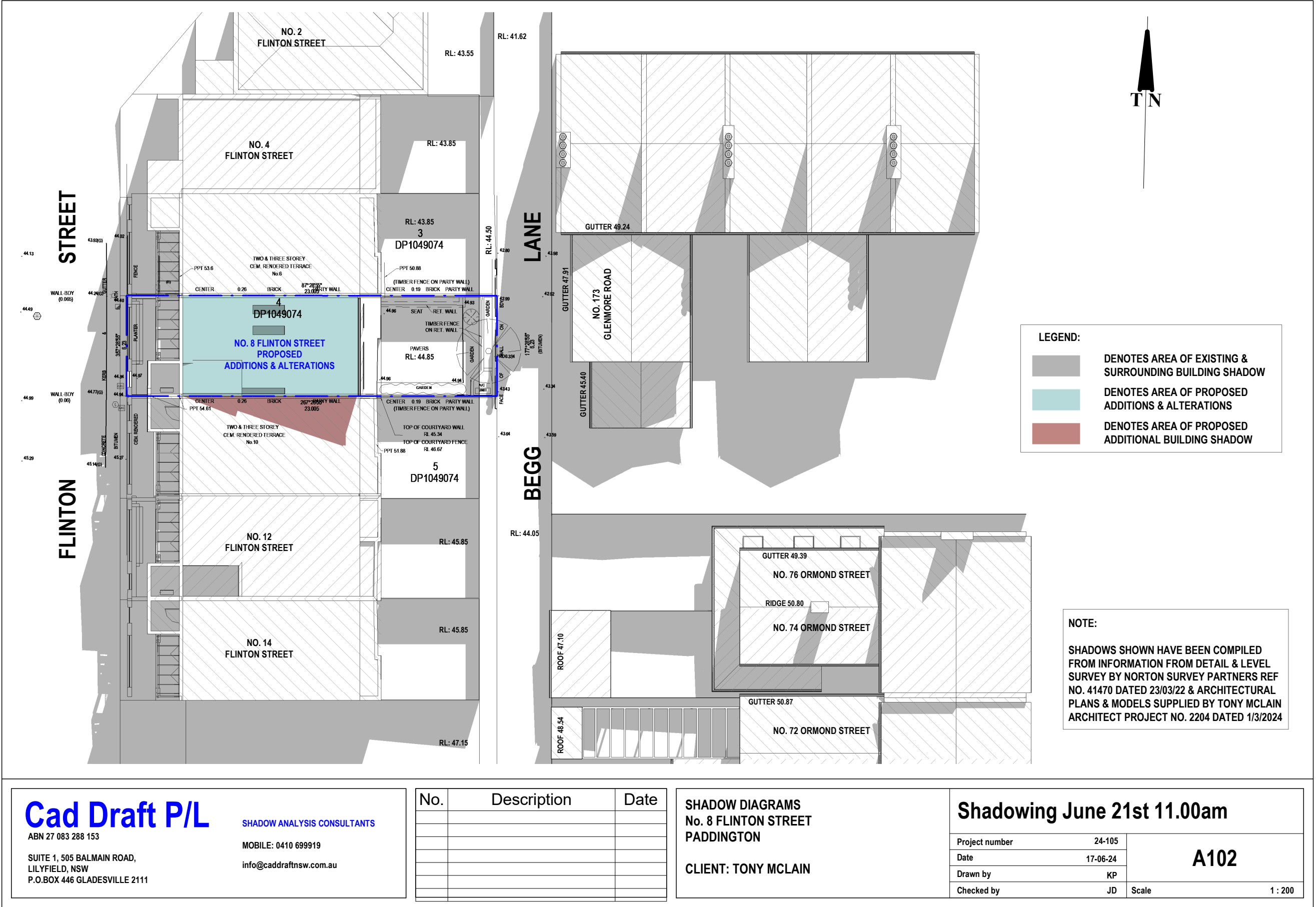
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for		
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Title		
PHOTOMONTAGE FROM BEGG LANE		
Tony McLain Architect (Reg. No. 4291) DEP 0001664		
Tel 98108631		
Mob 0402223665		
mclaintony@gmail.com		
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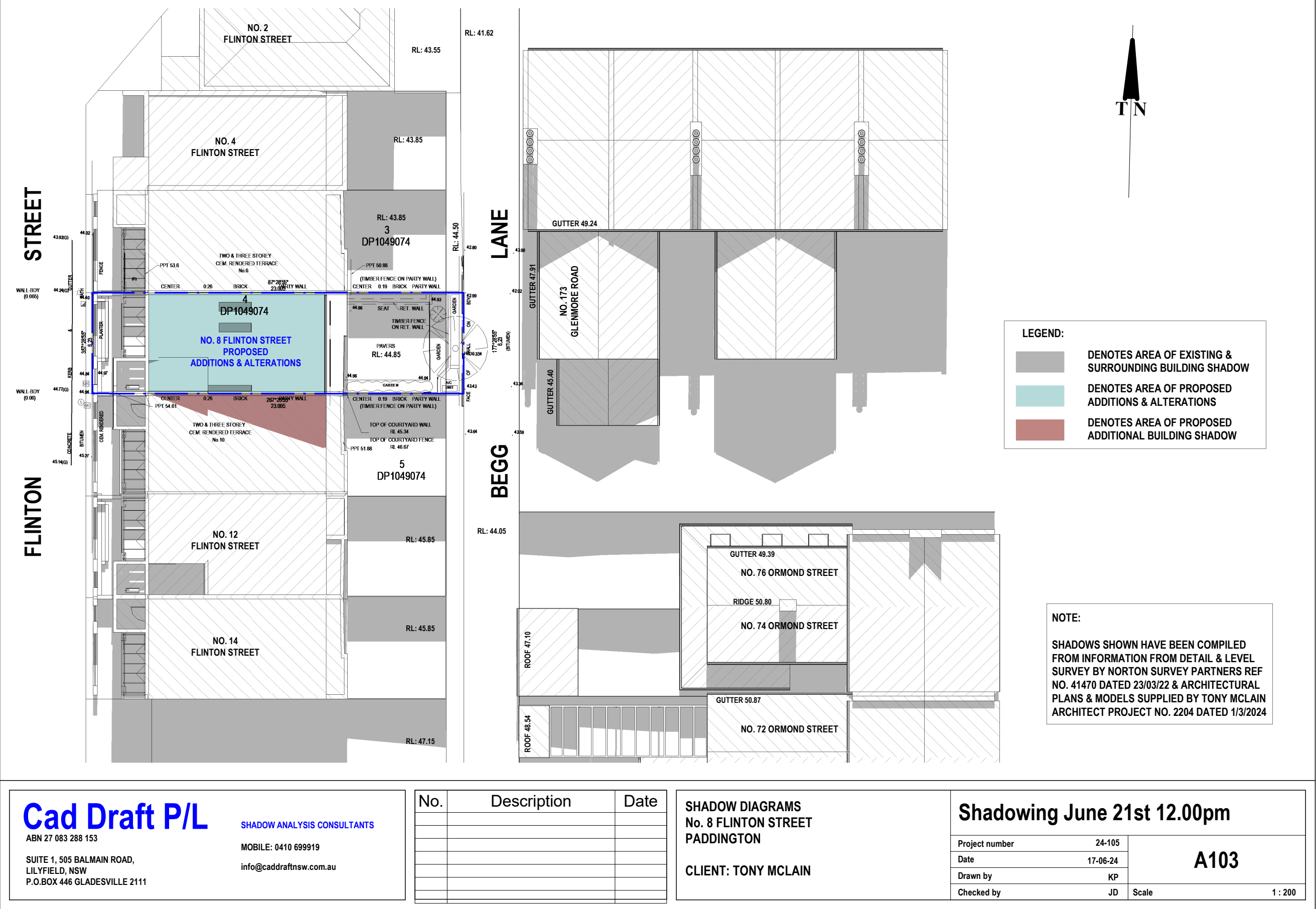


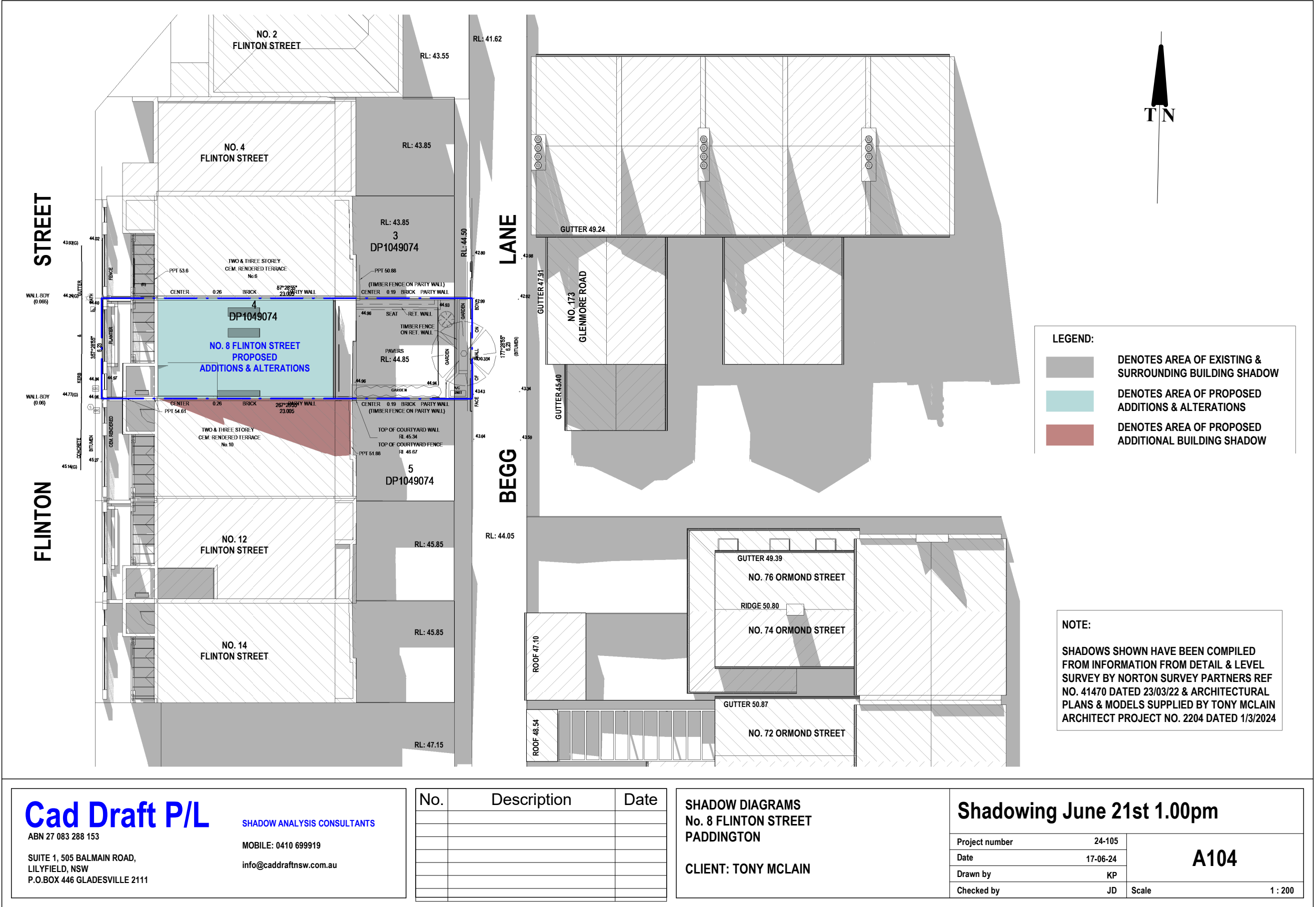


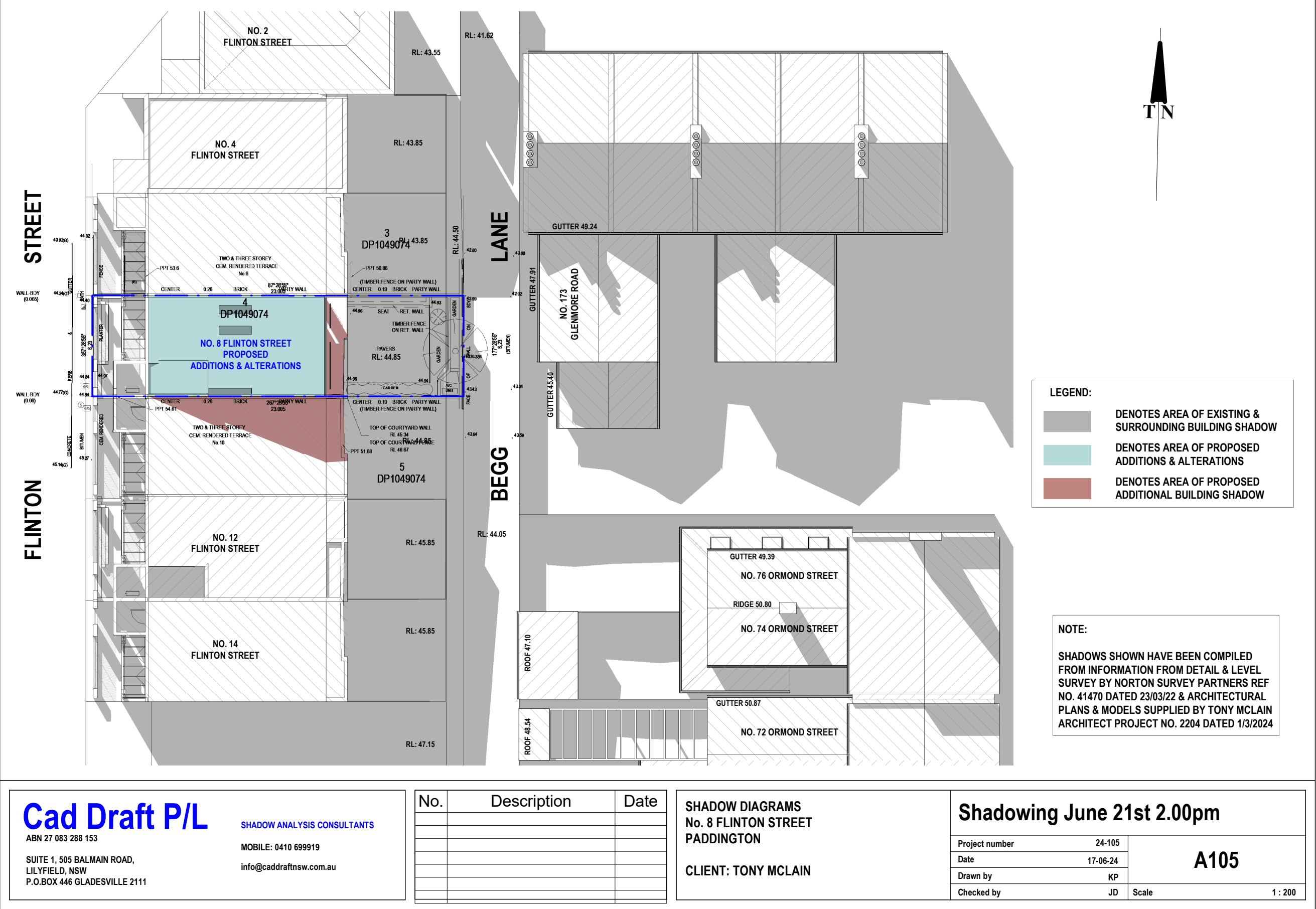




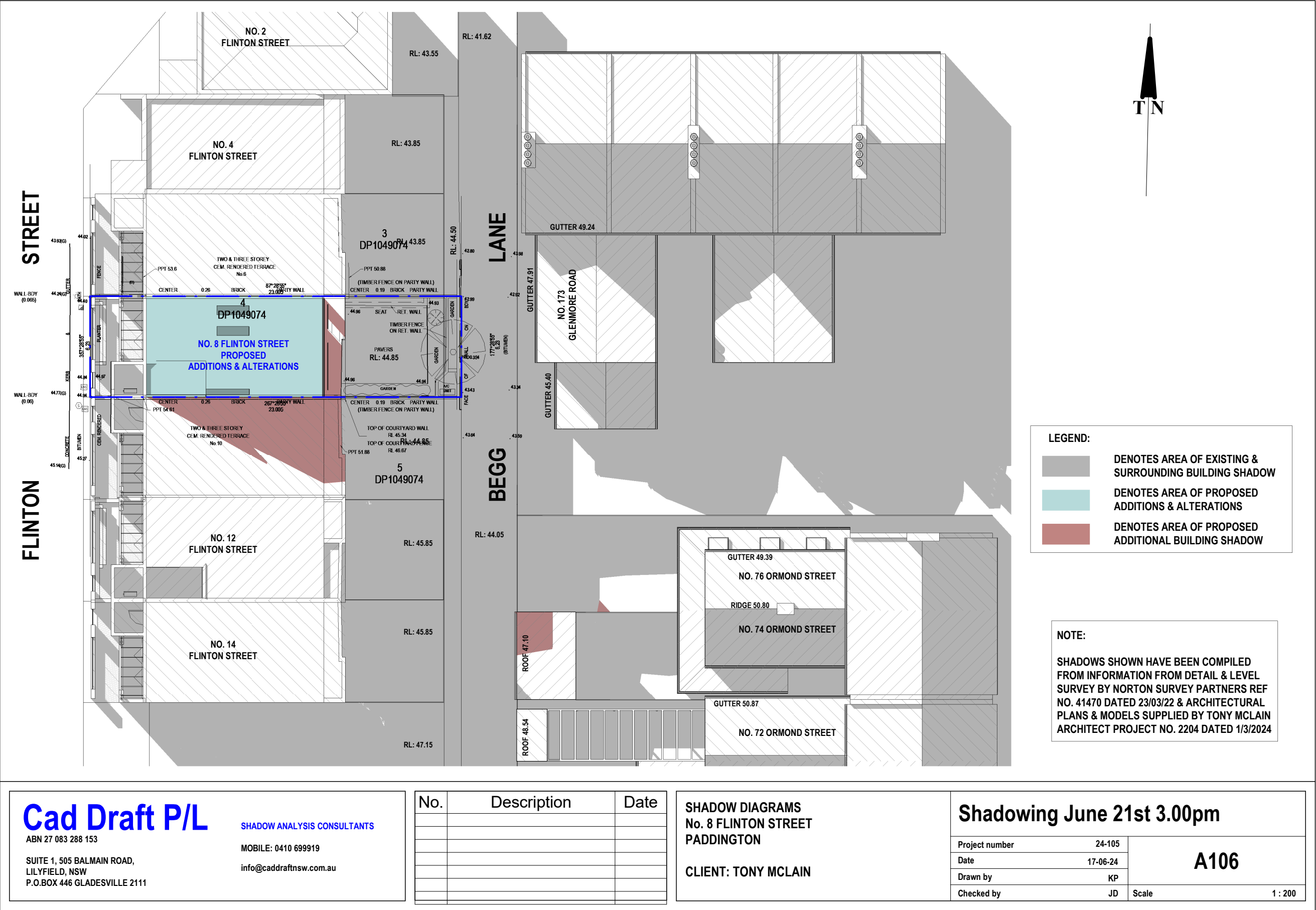


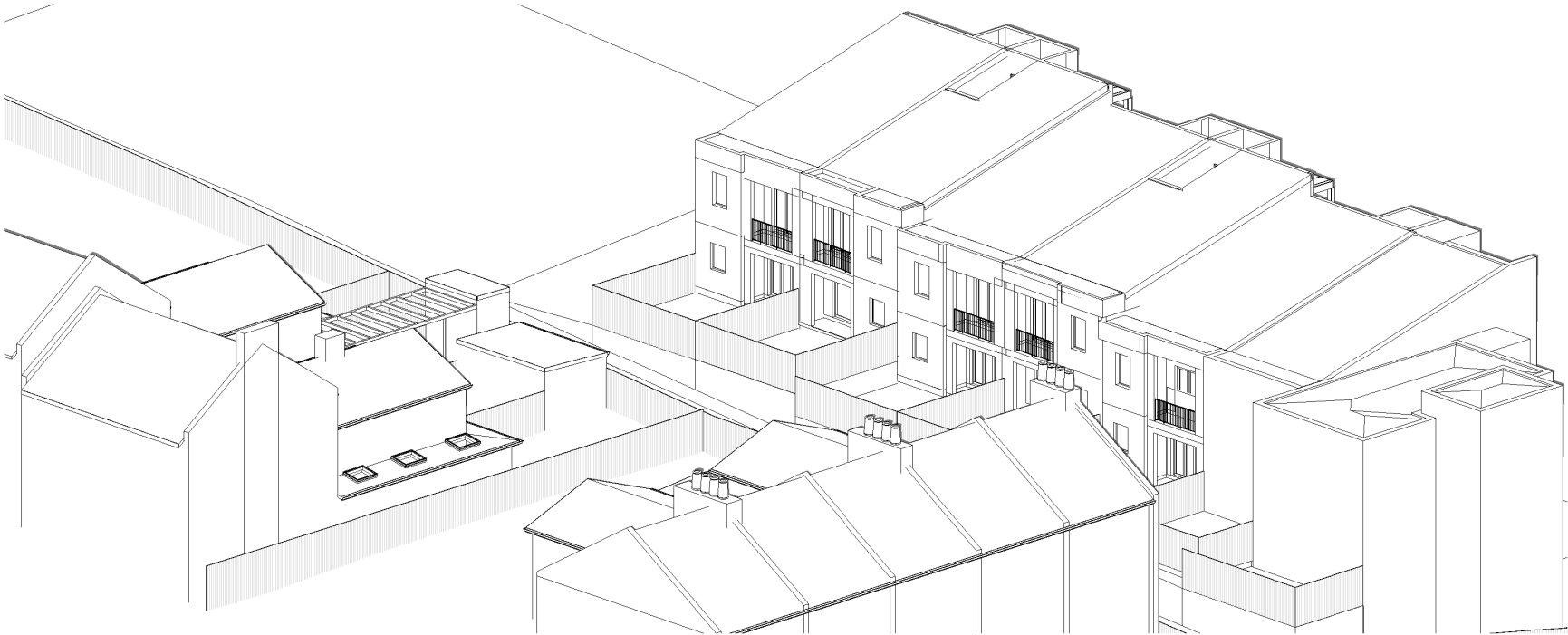












June 21st 9.00am Existing



June 21st 9.00am Proposed

**Cad Draft P/L**  
ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW  
P.O.BOX 446 GLADESVILLE 2111

SHADOW ANALYSIS CONSULTANTS  
MOBILE: 0410 699919  
info@caddraftnsw.com.au

No.	Description	Date

SHADOW DIAGRAMS  
No. 8 FLINTON STREET  
PADDINGTON  
  
CLIENT: TONY MCLAIN

3D Sun Views June 21st 9.00am

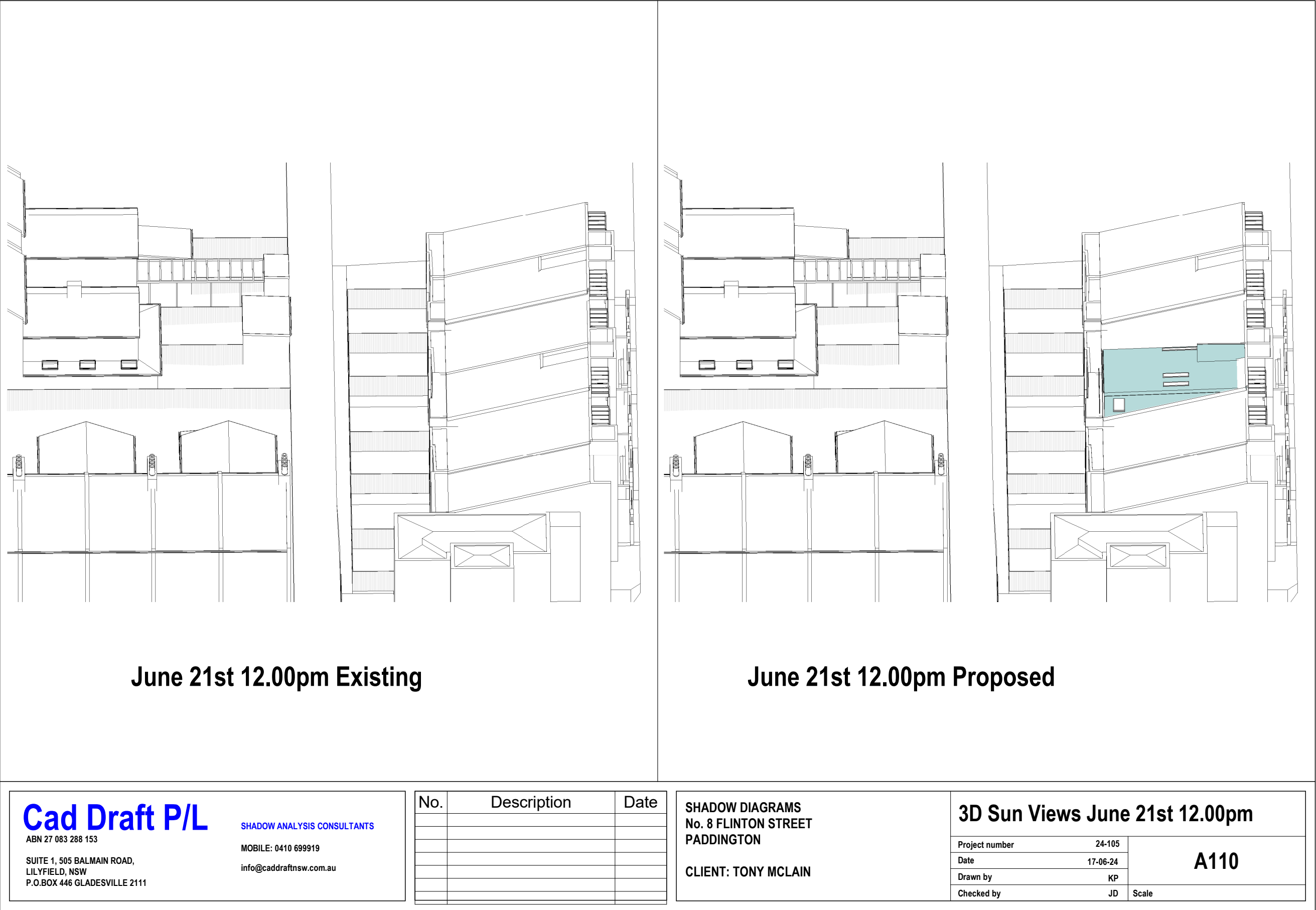
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Checked by	JD	

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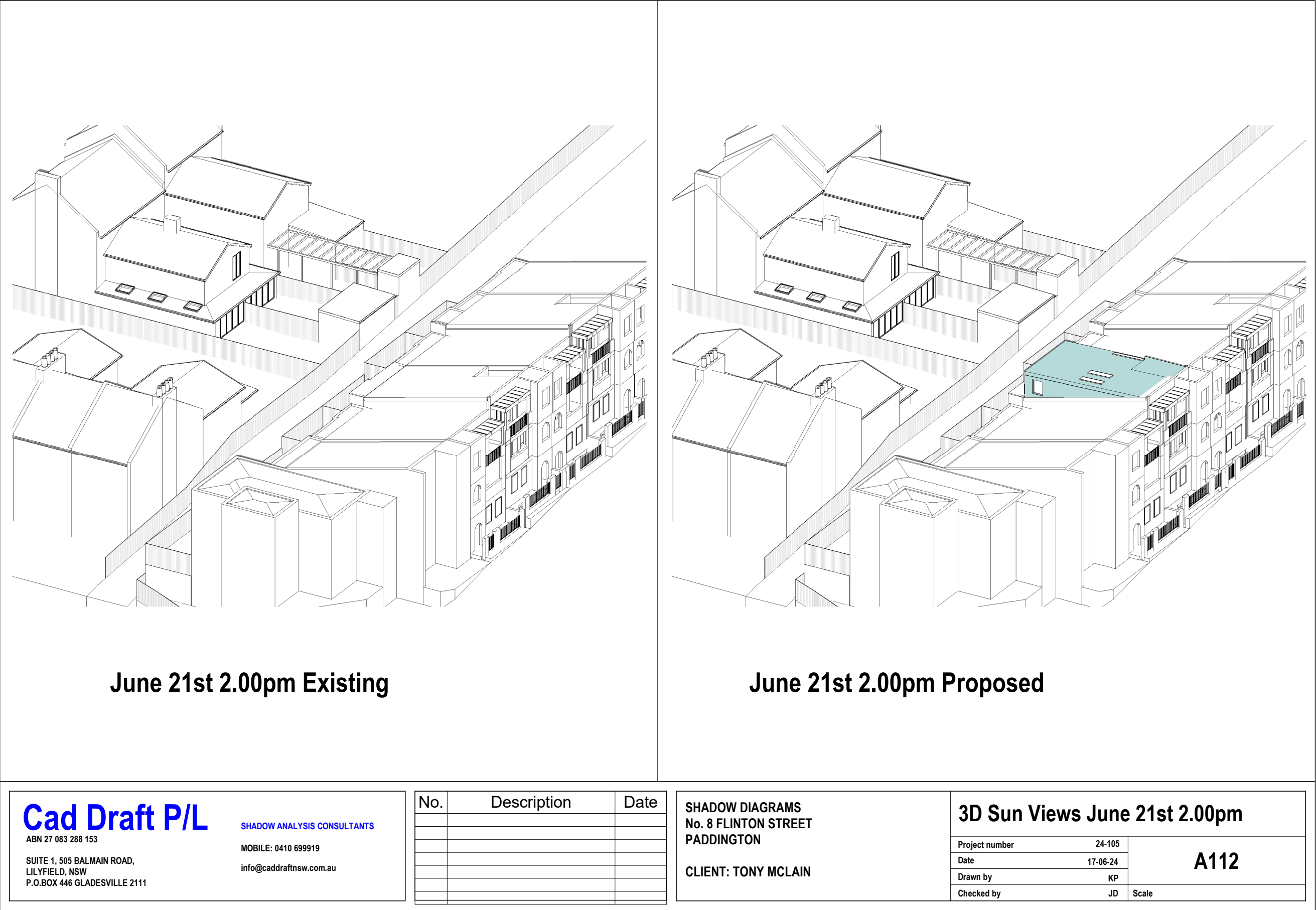


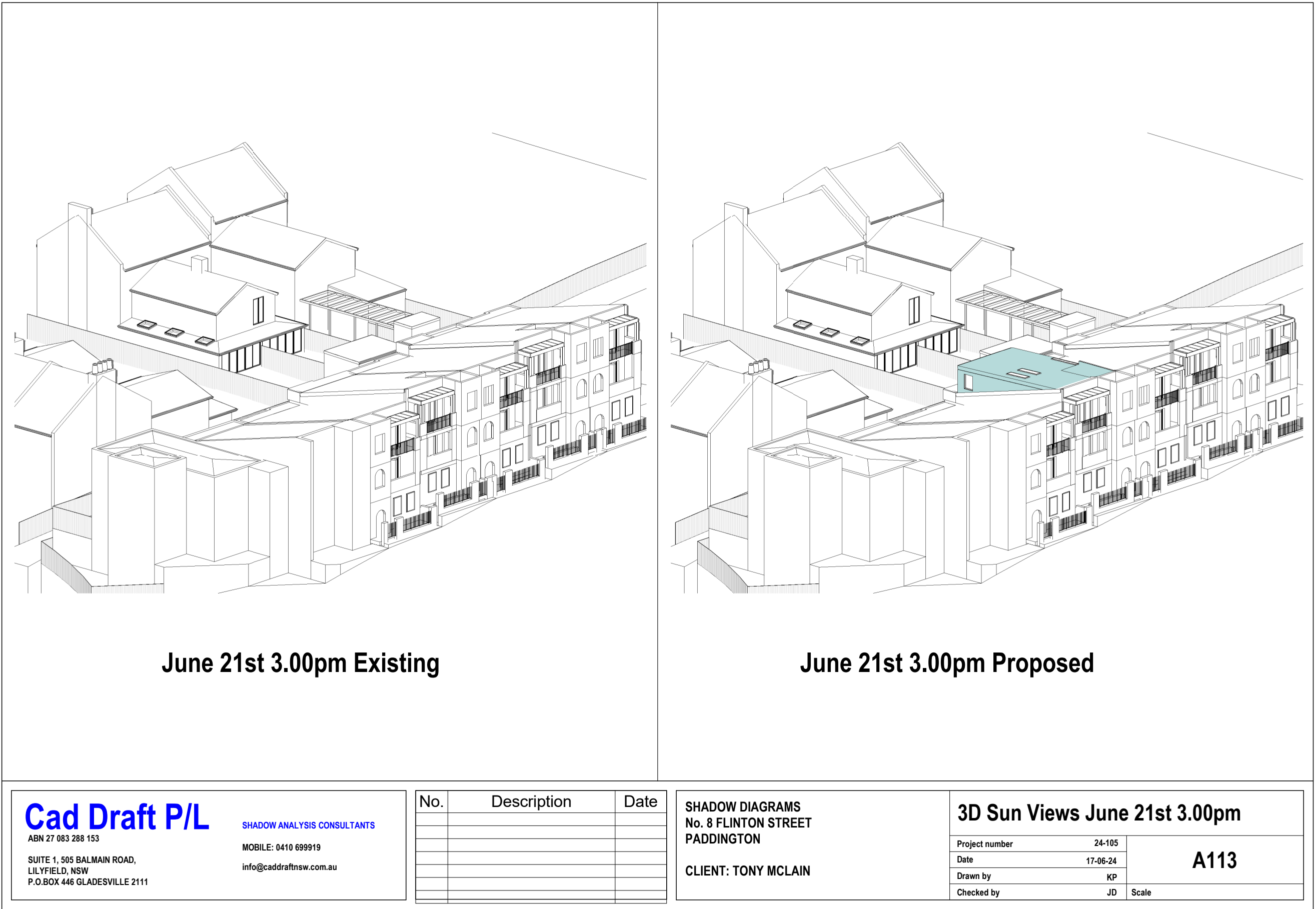


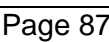














## **REQUEST UNDER CLAUSE 4.6 OF WOOLLAHRA LEP 2014**

**Alterations and Additions to an Existing Attached  
Dwelling at 8 Flinton Street, Paddington**

Clause 4.6 Variation Request  
8 Flinton Street, Paddington

CONTACT INFORMATION

THE PLANNINGHUB *by Hawes & Swan*  
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100 Collins Street,  
Alexandria New South Wales 2015

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Author(s):



Lachlan Rodgers  
Executive Planner

Approved by:



Mairead Hawes  
Director

DOCUMENT INFORMATION

Prepared For:	Lisa and Andrew Strachan
Project Name:	8 Flinton Street, Paddington
Job Reference:	23-486 V.3
Date Approved:	19 June 2024

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Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

**1.0 The Proposal**

This request is written in support of a development application (DA) that proposes alterations and additions to an existing attached dwelling at 8 Flinton Street, Paddington.

This Clause 4.6 Request relates to a variation proposed to Council's Maximum Building Height control as prescribed by Woollahra Local Environmental Plan (LEP) 2014.

**1.1 Clause 4.6 & Relevant Case Law**

Clause 4.6 of the LEP allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP.

*(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.*

The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court (the Court) and the NSW Court of Appeal in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827;
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009;
3. *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7;
4. *Brigham v Canterbury-Bankstown Council* [2018] NSWLEC 1406;
5. *Initial Action v Woollahra Municipal Council* [2018] NSWLEC 118; and
6. *Turland v Wingecarribee Shire Council* [2018] NSWLEC 1511.

The common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are summarised by Preston CJ in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 [42]-[51] and repeated in *Initial Action* [17]-[21]. Although *Wehbe* concerned a SEPP 1 objection, the common ways to demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe* are equally applicable to cl 4.6 (*Initial Action* [16]):

1. The objectives of the development standard are achieved notwithstanding noncompliance with the standard;



Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

2. The underlying objective or purpose of the development standard is not relevant to the development, so that compliance is unnecessary;
3. Underlying objective or purpose would be defeated or thwarted if compliance was required, so that compliance is unreasonable;
4. The development standard has been abandoned by the council; or
5. The zoning of the site was unreasonable or inappropriate so that the development standard was also unreasonable or unnecessary (note this is a limited way of establishing that compliance is not necessary as it is not a way to effect general planning changes as an alternative to strategic planning powers).

The five ways to demonstrate compliance is unreasonable/unnecessary are not exhaustive, and it may be sufficient to establish only one way (*Initial Action* [22]).

The environmental planning grounds relied on in the written request under cl 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. 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* [24]).

## 1.2 Relevant Development Standard

The development standard to which this objection relates is Clause 4.3 Height of Buildings. Clause 4.3 Height of Buildings sets out the following:

- 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.*

### Comment:

The applicable height control for the site is 9m. The existing building on site currently exceeds the building height with the new proposed works being a maximum height of 9.65m resulting in a variation of 0.65m.

Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

1.3 Is the Planning Control in Question a Development Standard?

'Development Standards' are defined under Section 1.4(1) of the EP&A Act as follows:

*“development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: ...*

*(a) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,...”*

Comment:

The maximum building height control under Clause 4.3 of the LEP is clearly a development standard.

2.0 The Contravention

There are two potentially different methods to measure the existing ground level datum, both of which have been adopted by the Land and Environment Court of NSW. One involves establishing/interpolating existing ground level from footpaths or perimeter ground levels, where sites have been extensively excavated (i.e. *Bettar v Council of the City of Sydney [2014]*, *NSWLEC 1070*, or “Bettar”). The other involves measurement from the lowest level of an existing building vertically at every point, even if to a basement level (i.e. *Merman Investments Pty Ltd v Woollahra Municipal Council [2021]* *NSWLEC 1582*, or “Merman”).

The numerical extent of building height in both approaches and the extent of the variation to Council’s Maximum Building Height Control is summarised in the following table:

Table 1: Variation to Council’s Maximum Building Height Control				
	Control	Existing Building	Proposed Works	Variation
Merman Approach	9m	13.04m	12.94m	3.94m 43.77%
Bettar Approach	9m	9.65m	9.55m	0.55m 6.11%

Comment

Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

As demonstrated in the Architectural Plans the existing building onsite exceeds the 9m height limit. The proposed works are located below the existing maximum height of the building, however, result in an exceedance of the 9m limit.

**3.0 Justification of the Contravention**

**3.1 The Site Context**

Site context is a key consideration when determining the appropriateness and necessity of a development standard. The site is located within the Paddington Heritage Conservation Area and forms part of the Royal Hospital for Women group heritage item under the Woollahra LEP 2014. The surrounding area comprises residential development in the form of attached dwellings and residential flat buildings. The Royal Hospital for Women Park is located opposite the site.

The site currently contains a three-storey attached dwelling. The site forms part of a row of 8 terraces. The terraces contain 2 and 3 levels above underground parking. The properties are Torrens title with the below ground carpark driveway is part of a Stratum subdivision.

Despite the proposed variation the development provides a built form that is appropriate for the site context that positively contributes to the streetscape and does not result in any adverse impacts on surrounding development.

The following table provides a list of recently approved developments in proximity to the site that were approved with a variation to the height control based on the lack of impacts of the development and consistency with the objectives of zone and development standard.

Table 2: Recently Approved Developments in Woollahra LGA with a Height Variation			
DA Number	Address	Extent of Variation & Reason for Support	Date Approved
DA-214/2021	23 Underwood Street, Paddington- Residential - Alterations & additions	Variation of 38.9%. Pre-existing non-compliance. No change to existing overall building height. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	09/07/2021
DA-172/2021	15 Ormond Street, Paddington – Residential	Variation of 8.4% Pre-existing non-compliance. No change to existing overall building	15/07/2021

Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

Table 2: Recently Approved Developments in Woollahra LGA with a Height Variation			
DA Number	Address	Extent of Variation & Reason for Support	Date Approved
	alterations and additions.	height. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	
DA-169/2021	140 Jersey Road, Paddington - Residential alterations and additions.	Variation of 25.4%  Pre-existing non-compliance. No change to existing overall building height. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	04/08/2021
DA-382/2021	62 Liverpool Street, Paddington – Residential – alterations and additions	Variation of 4.2%  Pre-existing non-compliance. No change to existing overall building height. The variation is limited to the construction of a new dormer window. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	01/12/2021
DA-335/2021	4 Cambridge Street, Paddington – Residential – alterations and additions	Variation of 4.7%  Pre-existing non-compliance. No change to existing overall building height. The variation is limited to the construction of a new dormer window. No unreasonable impacts on the amenity of adjoining	13/01/2022

Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

Table 2: Recently Approved Developments in Woollahra LGA with a Height Variation			
DA Number	Address	Extent of Variation & Reason for Support	Date Approved
		properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	
DA-36/2021	62 Wallis Street, Paddington – Residential – alterations and additions	Variation of 29.2%  Pre-existing non-compliance. No change to existing overall building height. The variation is limited to the construction of a new dormer window. No unreasonable impacts on the amenity of adjoining properties or locality (built form/context, streetscape presentation). Sufficient environmental planning grounds. Consistent with objectives of the standard.	27/04/2022

As outlined in the table the developments were approved based on a pre-existing non-compliance, no change to the overall building height, no adverse impacts on the amenity of the surrounding area and the development being consistent with the objectives of the standard and zone objectives.

The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance. The proposed works do not increase the overall building height, do not result in adverse amenity or built form impacts on the surrounding area and the development remains consistent with that of surrounding development in terms of scale, built form and context.

**4.0 Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case (Clause 4.6(3)(a))?**

Clause 4.6(3)(a) of the LEP requires the departure from the development standard to be justified by demonstrating:

- ***Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case***

**Comment**



Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance. The proposed works are located below the existing maximum height of the building, however, result in an exceedance of the 9m limit.

The proposed minor height variation does not result in adverse amenity or built form impacts on the surrounding area and the development remains consistent with that of surrounding development in terms of scale, built form and context.

The site currently contains a three-storey attached dwelling. The site forms part of a row of 8 terraces. The proposed alterations at the subject site have been carefully sited to the rear of terrace, ensuring that they are largely obscured from the public domain and the dwelling maintains a consistent presentation within the row of attached dwellings.

The works have been sympathetically designed to maintain the principal presentation of the subject terrace within the terrace group. The works are set below the roof ridge and do not alter the bulk, scale or height of the subject building. The new additions do not overwhelm the existing building and are a recessive addition while retaining the principal building form of the existing building.

The design of the development and extent of variation is consistent with previous approvals within the row of terraces and has been designed to ensure a consistent scale and form of development. Furthermore, the design of the development ensures the development and adjoining terraces continue to positively complement the heritage character and significance of the site and wider area.

Compliance with the development standard is unnecessary in the circumstances of the case based on the following:

- The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance and all works are located below the maximum height of existing building onsite.
- The proposed variation does not result in any visual or amenity impacts on the Flinton Street streetscape or visual presentation of the existing row of terraces.
- The height and scale of the existing development is maintained as part of the development.
- The proposed variation results in an improved environmental planning outcome for the site with improved internal amenity and use of the site without any adverse visual or amenity impacts on surrounding development.
- Strict compliance would not provide any material planning benefit and would in fact be counterproductive as it would result in a reduced environmental planning outcome for the site restricting the ability of the site to adapt to the changing needs of residents.
- Strict compliance would not result in reduced impacts on surrounding development.

Therefore, compliance with the development standard is unnecessary in the circumstances of the case.

**5.0 Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard (Clause 4.6(3)(b))?**



Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

Clause 4.6(3)(b) of the LEP requires the departure from the development standard to be justified by demonstrating:

- ***There are sufficient environmental planning grounds to justify contravening the development standard***

**Comment**

The proposed development relates to alterations and additions to an attached dwelling with an existing height non-compliance. The proposed works are located below the existing maximum height of the building, however, result in an exceedance of the 9m limit.

The proposed minor height variation does not result in adverse amenity or built form impacts on the surrounding area and the development remains consistent with that of surrounding development in terms of scale, built form and context.

It is our opinion that there are sufficient environmental planning grounds to justify contravening the building height standard in this instance. These are as follows:

- The variation proposed is consistent with previous approvals within the terrace group and the works do not result in any unreasonable increase in bulk, scale or form of development of the site.
- The proposed development relates to a building with an existing variation and all works are located below the maximum height of existing building onsite.
- The proposal does not result in any adverse or increased impacts on adjoining properties.
- The works are sympathetic to the existing character and design of development of the site whilst innovatively catering to the growing needs of the residents.
- The proposal does not result in any adverse view loss or visual impacts.
- The proposal provides for the economic and orderly development of the site by allowing alterations to cater to the changing needs of the residents.
- The height and scale of the existing development is maintained as part of the development. The additional height does not adversely change the character of the development in terms of streetscape, nor does it result in development that is noticeably larger or inconsistent with the existing terrace group.
- The proposed variation results in an improved environmental planning outcome for the site with improved internal amenity and use of the site without any adverse visual or amenity impacts on surrounding development.

**6.0 Conclusion**

The proposed contravention of the 9m maximum building height is based on the reasons outlined in this request that are summarised as follows:



Clause 4.6 Variation Request – Height of Buildings – 8 Flinton Street, Paddington

- It is considered that this proposal represents an individual circumstance in which Clause 4.6 was intended and to be available to set aside compliance with unreasonable or unnecessary development standards.
- The proposed development will not create an undesirable precedent.
- There are sufficient environmental planning grounds to justify contravening the building height standard in this instance.

In view of all of the above, it is considered that this written request has adequately addressed the matters required by Clause 4.6(3) of the LEP and Council's support to contravene the maximum building height development standard of Clause 4.3 is therefore sought.



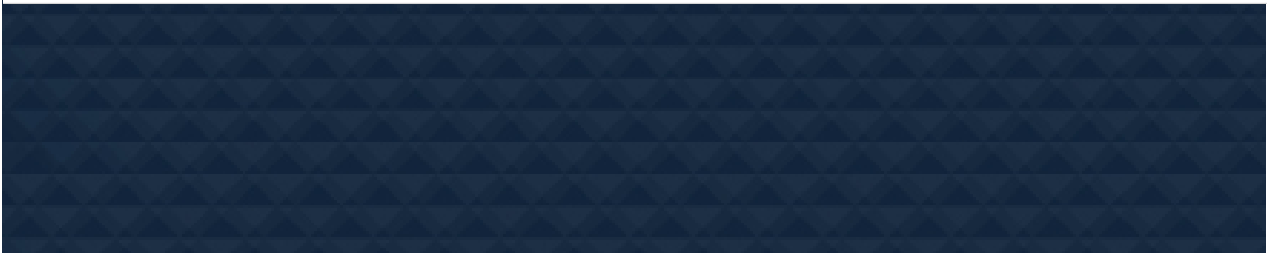


CONTACT US

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Woollahra  
Municipal  
Council

8 May 2024

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 68/2024/1

**ADDRESS:** 8 Flinton Street PADDINGTON 2021

**PROPOSAL:** Alterations and additions to the existing attached dwelling including rear addition at attic level.

**FROM:** Tristan Ryan – Senior Strategic Heritage Officer

**TO:** Mr M D'Alessio

---

### 1. DOCUMENTATION

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

- Drawing set by Tony McLain Architect, dated 1/3/2024, and numbered DA 01 – DA 22.
- Heritage Impact Statement by Heritage 21, dated March 2024.

### 2. SITE INSPECTION / RESEARCH

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

- The site was inspected on the 3 May 2024, including the general locality. It was not considered necessary to inspect the interior in this instance.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Pre-DA minutes and previous referral responses.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

### 3. STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Woollahra LEP 2014
- Woollahra DCP 2015

### 4. ASSESSMENT OF HERITAGE IMPACT

**Compliance with the relevant legislative framework and planning controls**

### 5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The property is a sympathetic building in the Paddington Heritage Conservation Area and within the Royal Hospital for Women Group heritage item no. 244.

The building is not a significant part of the Royal Hospital for Women, and contributes to the significance of the item and HCA only insofar as it is a sympathetic addition. Therefore, the impact of



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the proposed change arises from the extent to which the change either diminishes the sympathetic nature of the building, or directly impacts upon a significant component of the item or HCA.

#### Woollahra LEP 2014

The subject site is part of a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within the Paddington heritage conservation area.

#### *Clause 1.2 Aims of Plan*

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

The proposed works involve changes to the rear of the building at the upper level, creating a new bedroom. The rear of the building is largely not visible from the public domain but, regardless, this change will have minimal impact on its architectural quality and character. Indeed, the existing parapet seems to encourage this sort of development. The factors of the building that make it sympathetic to its surroundings – its terrace typology, masonry construction and post-modern detailing inspired by Paddington's historic terraces are all retained.

#### *Clause 5.10 Heritage Conservation*

There are no notable negative impacts on the heritage value of the place arising from the proposal.

#### *Significance of items in the vicinity*

There are no listed heritage items in close proximity that would be adversely affected by the proposal. The site forms part of the Royal Hospital for Women Group, Item no. 244. The site comprises exclusively fabric that is not in itself significant but is sympathetic to the item. No impact on significant portions of the item will result from this proposal.

#### Woollahra DCP 2015

The subject site is within the Paddington Heritage Conservation Area, and is considered a contributory item.

#### **Part C – Heritage Conservation Areas – C1 Paddington HCA DCP**

#### ***BUILDING TYPES***

#### **C1.3.12 Existing contemporary infill**

Objectives O1, O2

Controls C1, C2

- The form of the proposed addition is appropriate to the building and broader context, retaining a skillion roof form, albeit altered, and appropriate scale.
- Materials, textures and finishes are generally appropriate, as are the solid to void ratios.
- The other buildings in the group would be suitable for a similar addition, and this proposal will have limited impact on them in heritage terms.

## **6. CONCLUSION**



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Woollahra LEP 2014

- Clause 1.2 (2) (f) The development does not unduly impact the built heritage of Woollahra.

*Part 5.10*

- Clause 1(a) The development does not unduly impact the heritage of Woollahra.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral.
- Clause 4 This referral constitutes an assessment under this clause.

**7. RECOMMENDATION**

The proposal is generally acceptable, subject to conditions, as it complies with the relevant statutory and policy documents and would have a satisfactory impact.

Consent is recommended. No heritage conditions are required.

Tristan Ryan  
**Heritage Officer**

8 May 2024  
**Completion Date**



## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D2
<b>FILE No.</b>	DA 101/2024/1
<b>ADDRESS</b>	6 Epping Road DOUBLE BAY
<b>COUNCIL WARD</b>	Cooper
<b>SITE AREA</b>	269.4m <sup>2</sup>
<b>ZONING</b>	R3 Medium Density Residential
<b>TYPE OF CONSENT</b>	Local Development
<b>PROPOSAL</b>	Demolition of existing dwelling and construction of a new dwelling with attic and detached garage
<b>COST OF WORKS</b>	\$1,081,220.00
<b>DATE LODGED</b>	15/04/2024
<b>APPLICANT</b>	G Al-horani
<b>OWNER</b>	G Al-horani
<b>AUTHOR</b>	E Peedom
<b>ACTING TEAM LEADER</b>	Brett McIntyre
<b>SUBMISSIONS</b>	3
<b>RECOMMENDATION</b>	Refusal

### 1. 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:

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

### 2. REASONS FOR RECOMMENDATION

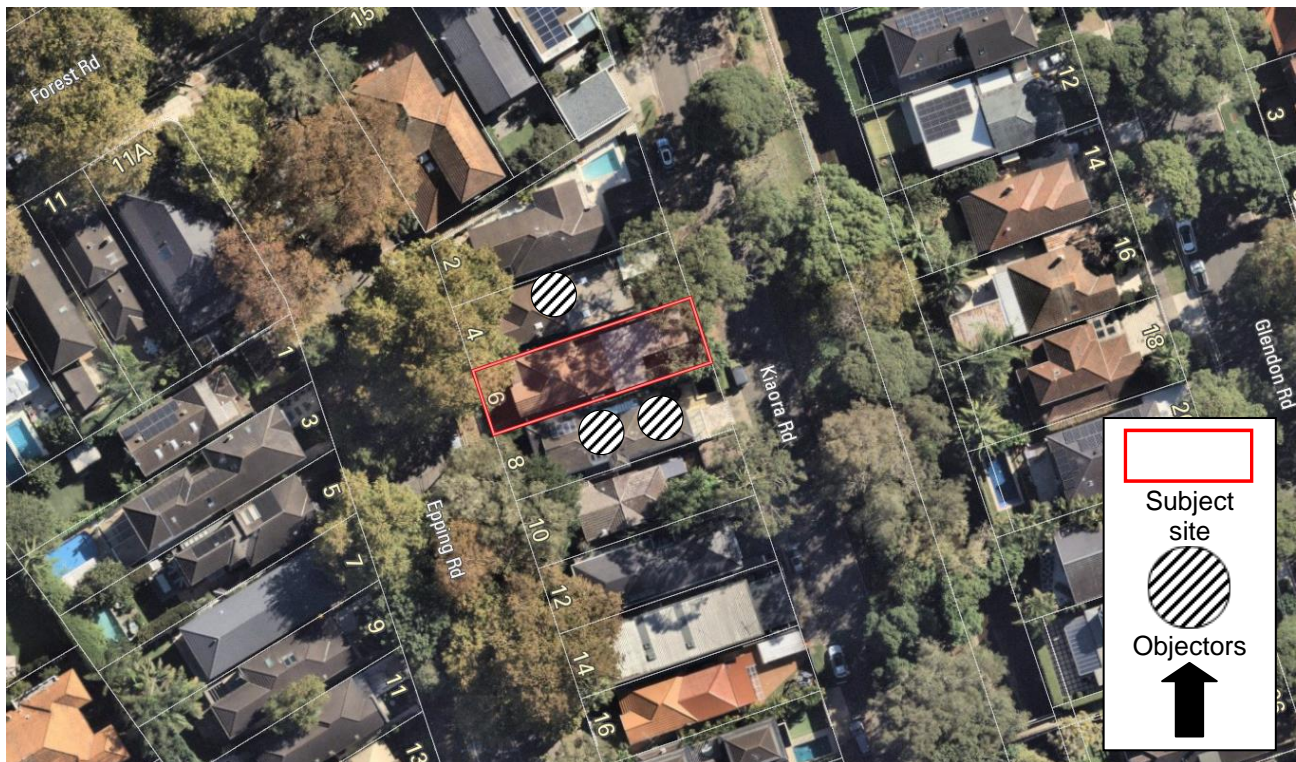
The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal because:

- It is considered to be unsatisfactory with planning provisions contained in WLEP 2014 and WDCP 2015;
- It will have adverse effects on the amenity of adjoining properties and/or local built and natural environment such that refusal is justified;
- The applicants Clause 4.6 written request has not demonstrated compliance with the Floor Space Ratio (FSR) development standard is unreasonable and unnecessary in the circumstances of the case;
- The site is not suitable for the proposed development; and
- The proposal is not in the public interest.



### 3. SUMMARY

#### 3.1. LOCALITY PLAN



#### 3.2. Proposal

The proposal involves the demolition of the existing dwelling and construction of a new two storey dwelling (with attic), detached double garage and associated landscaping. A detailed description of the proposed works is provided below.

##### Ground Floor

- Open plan kitchen, dining and family room with walk in pantry
- Bedroom with ensuite and walk in robe
- Living/study area
- Combined staircase and lift, bathroom, laundry
- Pedestrian entry via Epping Road
- Double garage with access from Kiaora Rd, includes external stairs leading to roof deck
- Associated landscaping

##### First Floor

- Master bedroom with study, ensuite and walk in robe
- Two bedrooms (one with a front facing balcony to Epping Road)
- Study/living area with front facing balcony access
- Shared bathroom
- Balcony accessed from study and master bedroom with stairs leading to roof deck

##### Attic

- Attic area with bathroom and kitchen
- Roof deck with external stair access to garage roof deck

### 3.3. Issues

Issue	Comment	Section/s
Floor Space Ratio	The proposal involves a 24% departure from the Floor Space Ratio development standard as detailed in this report. The submitted Clause 4.6 Written Request is considered unsatisfactory as it fails to demonstrate that the departure is unreasonable or unnecessary nor supply sufficient planning grounds to justify the departure. The proposal is unsatisfactory in this regard, forming a reason for refusal.	11.4 & 11.5
Streetscape Character	The inclusion of a garage rooftop deck with two sets of external stairs providing access at the rear of the property creates a bulk, scale and aesthetic which is not in keeping with the streetscape character of Kiaora Road. Furthermore the siting and design of the on-site parking significantly affects the supply of deep soil landscaping which reduces the opportunity for planting to create the desired landscape setting of the Manning Road residential precinct. The proposal is unsatisfactory in this regard, forming a reason for refusal.	12.1 & 12.2.2
Acoustic and Visual Privacy	The design and siting of two elevated private open spaces to the rear of the dwelling create significant acoustic and visual privacy impacts on adjoining properties. These include the attic balcony and the garage rooftop deck. Insufficient detail (discussed below) was provided to determine the full extent of the impacts. Direct sightlines would be achieved towards the private open spaces and habitable room windows of both adjoining neighbours at No 4 and No 8 Epping Road. Furthermore by elevating the majority of private open space on this site, acoustic impacts are intensified. An assessment under the Planning Principle established in <i>Davies v Penrith City Council (2013) NSW LEC 1141</i> determined the same amount of floor space could be achieved through a more skilful design. The proposal is unsatisfactory in this regard, forming a reason for refusal.	12.2.2
On-Site Parking	The design and siting of the proposed double garage does not fit the context of the site, directly impacting the provision of deep soil landscaping and private open space and has a substantial visual impact on the streetscape. The proposal is unsatisfactory in this regard, forming a reason for refusal.	12.2.3
Tree Canopy, Landscaped Area and Private Open Space	The proposal does not make provision for adequate deep soil landscaping and therefore fails to contribute to the streetscape character in Kiaora Road. Insufficient detail (discussed below) was provided to determine the extent of tree retention and protection. The provision of private open space to the rear is reliant on the garage rooftop deck that is not directly accessible from the primary living area and is designed without privacy treatments. This is not amenable for occupants. The proposal is unsatisfactory in this regard, forming a reason for refusal.	8.1, 11.9, 12.2.4 & 12.5
Insufficient Information	<p>The application is insufficient with regards to the following items for reasons discussed throughout this report which prohibits a detailed and accurate assessment of the proposal against the relevant matters for consideration:</p> <ul style="list-style-type: none"> <li>• Architectural Plans</li> <li>• Shadow Diagrams</li> <li>• Floor Space Ratio Calculations</li> <li>• Site Waste Minimisation Management Plan</li> <li>• Survey Plan</li> <li>• Arboricultural Impact Assessment and Tree Protection Plan</li> <li>• Landscape Plan</li> <li>• Statement of Environmental Effects</li> <li>• Stormwater Management Plan</li> <li>• Statutory Declaration</li> </ul> <p>The proposal is unsatisfactory in this regard, forming reasons for refusal.</p>	Throughout the report

### 3.4. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4E	Floor Space Ratio	64.07m <sup>2</sup> or 24% departure from the 202.05m <sup>2</sup> control	Unsatisfactory*

\*The submitted cl4.6 written request is **not** considered to be well founded

### 3.5. History

Relevant Application History
<ul style="list-style-type: none"> <li>DA2023/415/1 Demolition of the existing dwelling and associated structures and trees and the construction of a new dwelling with attic &amp; detached garage, Rejected 21/11/2023</li> <li>DA2024/42/1 Proposed demolition of the existing dwelling, associated structures &amp; trees and construction of a new double storey dwelling with attic &amp; detached garage, Withdrawn 09/02/2024</li> </ul>
Relevant Compliance History
Nil.

## • PROPERTY DETAILS AND REFERRALS

### 4. SITE AND LOCALITY

Physical features
The Site is located at 6 Epping Road Double Bay, with a western (primary) frontage to Epping Road and eastern (rear) frontage to Kiaora Road. The site is rectangular in shape and is located towards the northern end of Epping Road. The site has a total area of 269.4m <sup>2</sup> . Both frontages measure 8.84m in length whilst both side boundaries (north and south) measure 30.51m in length.
Topography
The site is relatively flat with a minor fall of approximately 0.30m from west to east.
Existing buildings and structures
The site is occupied by a single storey dwelling house with hard stand garage area to the rear accessed off Kiaora Road. The figures immediately below show the existing development on the subject site.





**Figure 1: View of front façade (west) off Epping Road (Source: Council)**



**Figure 2: Elevated view of rear yard from 8 Epping Road (Source: Council)**





**Figure 3: View of southern side boundary from rear yard at 6 Epping Road (Source: Council)**



**Figure 4: View of rear yard over fence (Source: Council)**





*Figure 5: View of rear façade from Kiaora Road (Source: Council)*

#### Surrounding Environment

Development in the immediate surrounds is predominantly detached one to two storey dwelling houses of varying forms and architectural styles. Further north the density increases which changes the areas character as a transition zone between the Double Bay Centre (zoned E1). The immediate surrounds includes:

- **Immediately to the north is** No. 4 Epping Road, a single storey detached dwelling house with garage access from Kiaora Road. Further north is No. 2 Epping Road, a two storey dwelling house with a pool to the rear that abuts a laneway on its northern boundary.
- **Immediately to the east is** a grass reserve with tree plantings alongside an open drainage reserve, together providing a buffer between Kiaora Road and the rear of the dwellings located in Glendon Road further to the east.
- **Immediately to the south is** No. 8 Epping Road, a two storey detached dwelling house with a garage to the boundary on Kiaora Road. Further south is No. 10 Epping Road, another two storey detached dwelling house with a garage to the boundary on Kiaora Road.
- **Immediately to the west is** No's. 3 and 5 Epping Road, which contain two storey detached dwelling houses with garage access from Epping Road.





*Figure 6: 4 Epping Road to the north (Source: Council)*

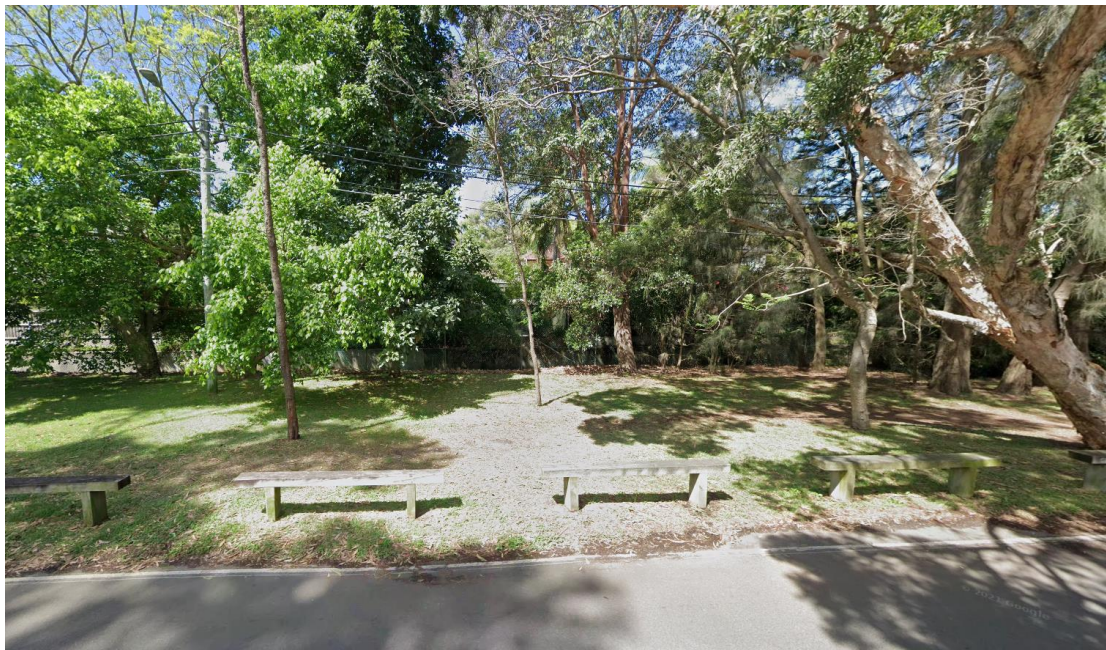


*Figure 7: 2 Epping Road and laneway further north (Source: Council)*





*Figure 8: Rear view of 4 & 2 Epping Road from Kiaora Road (Source: Council)*



*Figure 9: Grass verge on Kiaora Road opposite 6 Epping Road (Source: Council)*





*Figure 10: 8 Epping Road to the south (Source: Council)*



*Figure 11: Closer view of 8 Epping Road to the south (Source: Council)*





*Figure 12: 10 Epping Road further South (Source: Council)*



*Figure 13: Rear view of 8 & 10 Epping Road from Kiaora Road (Source: Council)*





*Figure 14: 3 Epping Road to the west (Source: Council)*



*Figure 15: 5 Epping Road to the west (Source: Council)*





Figure 15a: 1 Epping Road to the west (Source: Council)

## 5. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Dwelling House
<b>Relevant Application History</b>
<ul style="list-style-type: none"> <li>DA415/2023/1 Demolition of the existing dwelling and associated structures and trees and the construction of a new dwelling with attic &amp; detached garage, Rejected Application 21/11/2023</li> <li>DA42/2024/1 Proposed demolition of the existing dwelling, associated structures &amp; trees and construction of a new double storey dwelling with attic &amp; detached garage, Withdrawn 09/02/2024</li> </ul>
<b>Relevant Compliance History</b>
Nil.
<b>Pre-DA</b>
Nil.
<b>Requests for Additional Information and Replacement Applications</b>
Nil.

Referral	Summary of Referral Response	Attachment
Development Engineering	Unsatisfactory, and insufficient documentation.	3
Trees and Landscaping	Unsatisfactory, and insufficient documentation.	4
Drainage (flood protection)	Satisfactory, subject to recommended conditions.	5
Environmental Health	Satisfactory, subject to recommended conditions.	6
Sydney Water	Satisfactory, concurrence and relevant conditions provided.	7

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are assessed under the following headings:



## 7. ADVERTISING AND NOTIFICATION

### 7.1. Notification Period

The application was advertised and notified from 08/05/2024 to 23/05/2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. **Allie Marks on behalf of Nikki Martin (2 submissions)**, 8 Epping Road, Double Bay
2. **Leemin Chan on behalf of Dr Colin Chan and Dr Cheng Oi Soh** of 4 Epping Road, Double Bay

The submissions raised the following issues:

Issue	Summary	Section
Excessive Floor Space Ratio	The objector raised concerns with regards to the excessive gross floor area, which potentially includes a separate domicile within the attic space, attached to the proposed roof top deck. This part of the dwelling is considered visually intrusive, adding excess bulk and scale to the development which leads to solar access and visual privacy impacts. The application does not propose the use of this area for a separate domicile thus it is not assessed as such. Insufficient information has been provided with respect to a Clause 4.6 Written Request and solar diagrams to support a departure from the control. The proposal is <u>unsatisfactory</u> in this regard.	11.4 & 11.5
Desired Future Character	The objector states that the addition of an attic is inconsistent with the Desired Future Character of the Manning Road Precinct which is predominantly characterised by two-storey semi-detached dwellings. Furthermore the multiple staircases to the rear providing access to this part of the dwelling creates excess bulk and scale as seen from Kiaora Road. This is both uncharacteristic, detracting from the predominant pitched roof form of the area and creates the appearance of a multiple occupancy dwelling. The assessment concurs with this sentiment. The proposal is <u>unsatisfactory</u> in this regard.	12.1 & 12.2.2
Building Envelope	The objector states the addition of several external stair cases to the rear of the dwelling creates trafficable areas which push beyond the prescribed building envelope, creating a non-compliance with the rear setback and wall height controls. As these are ancillary structures they are not accounted for in the calculation of wall height. Notwithstanding this, the assessment concurs with the sentiment that excessive bulk and scale is created by incorporating these staircases where other access arrangements, integrated within the built form, could be provided. The proposal is <u>unsatisfactory</u> in this regard.	12.2.1
Overshadowing	The objector states the addition of a roof attic and stairs to the rear creates overshadowing impacts towards the ground and first floor habitable rooms (including skylights) and private open space at 8 Epping Road. The proposal numerically complies with the required amount of solar access specified in Part B3.5 of the DCP. Notwithstanding this, insufficient information in the way of existing overshadowing diagrams has been supplied to determine whether solar access impacts have been minimised. The proposal is <u>unsatisfactory</u> in this regard.	12.2.2
Visual & Acoustic Privacy	The objector states the habitable windows on the south elevation, which are non-compliant with the required building separation controls, create significant visual privacy impacts toward the private open space and habitable rooms of 8 & 4 Epping Road. Visual and potential acoustic privacy is also significantly compromised by the attic balcony and garage roof deck to the rear. There is insufficient information on the supplied architectural plans to determine the extent of the impact. Notwithstanding this, the siting, design and lack of mitigation features on the elevated rear private open spaces can be interpreted as having some level of unreasonable impact. The proposal is <u>unsatisfactory</u> in this regard.	12.2.2

Issue	Summary	Section
Vehicular Access and Parking	The objector states the addition of a rooftop deck to the double garage creates a structure that is uncharacteristic of the predominant streetscape on Kiaora Road. Council concurs with this sentiment as the structure fails to comply with the height controls mandated under Part B3.6 of the DCP and is served by two external staircases, which in turn create excess bulk and scale on the proposed dwelling. The proposal is <u>unsatisfactory</u> in this regard.	12.2.3
Asbestos	The objector raised concerns regarding the demolition of the existing structure and presence of asbestos which may affect the health and livelihood of adjoining residents. Should a development consent be issued, standard conditions could be imposed regarding the demolition of structures with regards to asbestos, in accordance with the Building Code of Australia.	-

## 7.2. Statutory Declaration

The applicant completed the statutory declaration dated 24/05/2024 declaring that the site notice was erected and maintained during the notification period.

## 8. SEPP (BIODIVERSITY AND CONSERVATION) 2021

### 8.1. Chapter 2 – Vegetation in Non-rural Areas

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) applies to the subject site. Furthermore, Clause 2.9(1) defers assessment to the appropriate development control plan in determining vegetation to which Chapter 2 applies. Accordingly, *Chapter E3 Tree Management* under WDCP 2015 is applicable.

Council's Tree & Landscape Officer was not able to conduct a detailed and accurate assessment of the proposal based on insufficient information.

Accordingly, the proposal is not considered to be acceptable pursuant to Chapter 2 of the BC SEPP and is listed as a reason for refusal.

### 8.2. Chapter 6 – Water Catchments

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

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

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

The proposal will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control.

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

## **9. SEPP (RESILIENCE AND HAZARDS) 2021**

### **9.1. 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). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

*This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

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

### **9.2. Chapter 4 – Remediation of Land**

The Object of this Chapter aims 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:*

- a) *By specifying when consent is required, and when it is not required, for a remediation work*
- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

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.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

In addition, Councils Environmental Health Officer has undertaken an assessment of the proposal and has provided the following commentary:

*“The site is located within Class 3 area. A flight auger was used for drilling of borehole AS to a depth of 2.5 mbgl. Analytical results of soil sampling presented in the ASS investigation by Neo Consulting Pty Ltd suggests that potential Acid Sulphate Soil (ASS) conditions may exist where the Net Acidity (%Sulphur) exceeds 0.03% in coarse textured soils. This condition was observed in the sample obtained at all depths. It is expected that potential ASS is presented below the depth of 0.5mbgl. if the depth of excavation exceeds 0.5meters, an Acid Sulphate Soil Management Plan (ASSMP) will be activated to mitigate the impacts on local ASS. Neo Consulting Pty Ltd provides an ASSMP in their report in accordance with the Acid Sulphate Soil Manual 1998. As such, no further investigation is considered necessary.”*

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.

## **10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

## Chapter 2 Standards for residential development—BASIX

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The development application was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. Should a consent be issued these requirements are to be imposed by standard condition.

### 11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

#### 11.1. Part 1.2: Aims of Plan

The proposal is unsatisfactory in terms of the aims in Part 1.2(2) of the Woollahra LEP 2014 for the following reasons:

- In response to Clause 1.2 (2) (g), the development is not considered to protect and enhance amenity and the natural environment.
- In response to Clause 1.2 (2) (j), the development is not considered to promote a high standard of design in the private and public domain.
- In response to Clause 1.2 (2) (l), the development is not considered to ensure development achieves the desired future character of the area.
- In response to Clause 1.2 (2) (n), the development is not considered to encourage the retention and planting of trees and other vegetation as part of the development and minimise the urban heat island effect.

The proposal fails to satisfy the aforementioned aims and is listed as a reason for refusal.

#### 11.2. Land Use Table

The proposal is permissible but is not consistent with the objectives of the R3 Medium Density Residential zone for the following reasons:

- It is not considered to be of a scale that achieves the desired future character of the neighbourhood.
- It is not considered to conserve and enhance tree canopy cover.

The proposal fails to satisfy the aforementioned objectives and is listed as a reason for refusal.

#### 11.3. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m

	Existing	Proposed	Control	Complies
Maximum Building Height	5.6m approx.	9.43m	9.5m	Yes

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

#### 11.4. Part 4.4: Floor Space Ratio

Part 4.4E limits development to a maximum floor space ratio of 0.75:1 for dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 zones.

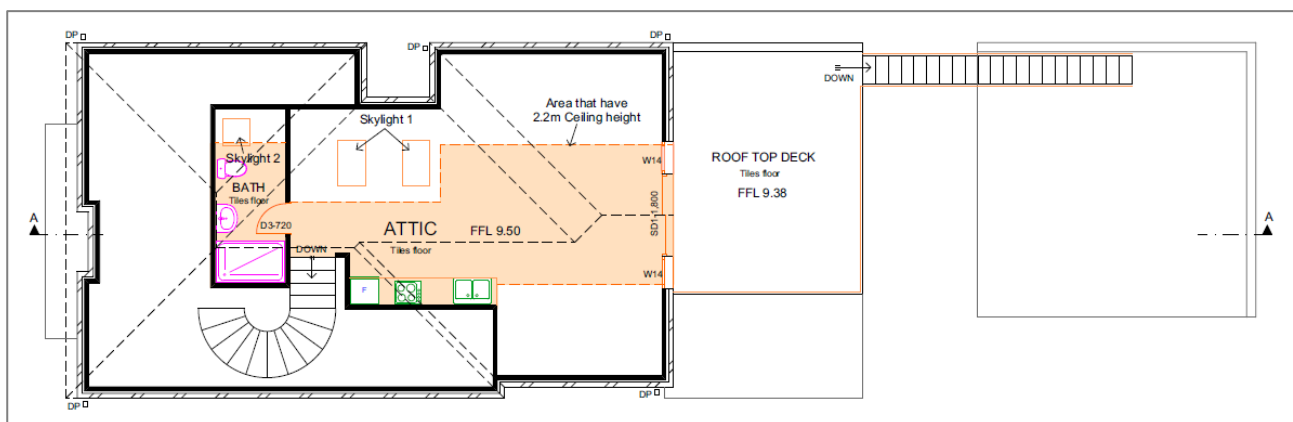
Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
Floor Space Ratio	N/A	0.87:1 (236.58m <sup>2</sup> ) <b>*Applicant calcs</b> 1:1 (266.12m <sup>2</sup> ) <b>*Council calcs</b>	0.75:1 (202.05m <sup>2</sup> )	<b>No - 17%</b> <b>*Applicant calcs</b>  <b>No - 24%</b> <b>*Council calcs</b>

As shown in the table above Council's calculations of Floor Space Ratio differ significantly from those provided by the applicant. Specifically the Applicant does not include areas less than 2.2m in height on the attic floor as part of Gross Floor Area (GFA) calculation (refer to **Figure 16**). The definition of GFA as per the standard instrument only excludes areas below 1.4m.

The definition of Gross Floor Area, in part, reads as follows:

***“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 ...”*

Given the commentary provided above, Council's figures have been used to complete this assessment with regards to the Floor Space Ratio (FSR). Accordingly, as shown in **Figure 17** a rough estimate of this height was measured from the rear elevation. This was then applied to measure the attic floor area above 1.4m as shown in **Figure 18**. Council's calculations came up with an additional 29.54m<sup>2</sup> of gross floor area, bringing the non-compliance up by a further 7% resulting in a total departure from the FSR development standard of 24%.



**Figure 16: Applicants gross floor area measurements of attic floor (Source: Benyana Building Design)**

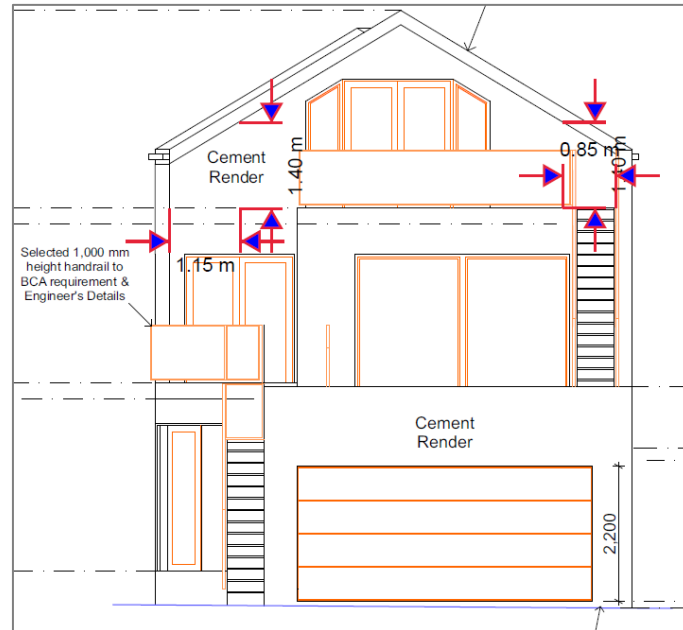


Figure 17: Rear elevation showing depth of height under 1.4m (Source: Benyana Building Design, overlay by Council)

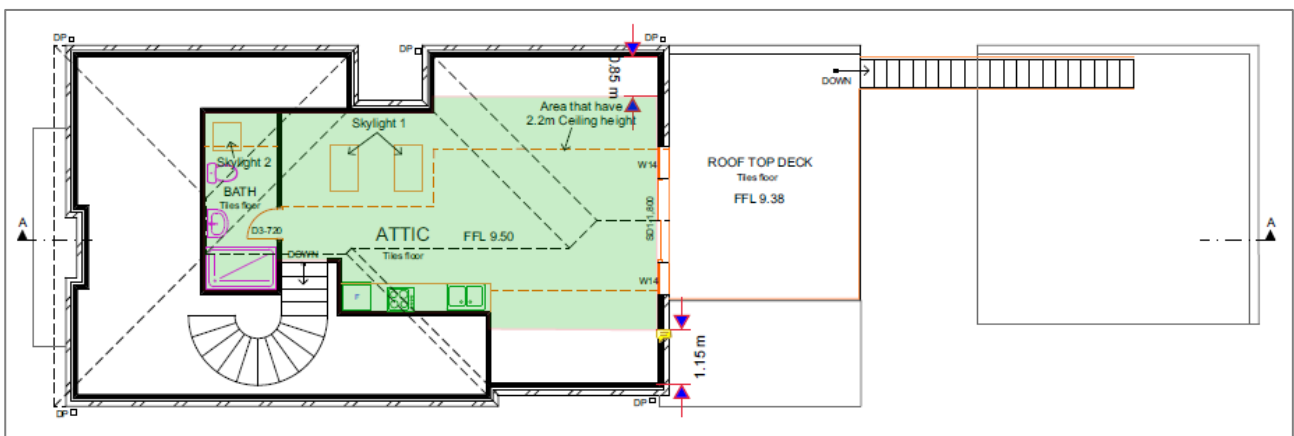


Figure 18: Council's gross floor area measurements of attic floor (Source: Benyana Building Design, green overlay by Council)

The proposal does not comply with Part 4.4E(3) of Woollahra LEP 2014 as detailed and assessed in Part 11.5 below.

## 11.5. Part 4.6: Exceptions to Development Standards

### Departure

With a floor space ratio of 266.12m<sup>2</sup>, the proposal involves a 64.07m<sup>2</sup> (24%) non-compliance with the 0.75:1 floor space ratio statutory control under Section 4.4(E) of the Woollahra LEP 2014, as detailed below.

### Purpose

Section 4.6 allows for the contravention of a development standard (provided that the standard is not expressly excluded from the section), with the objectives of the section being:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

## Justification Requirements

Section 4.6(3) states that:

Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Section 4.6(3) does not require the applicant to demonstrate those matters solely in the written request.

## Applicant's Written Request

Section 35B of the *Environmental Planning and Assessment Regulation 2021* requires a development application for development that proposes to contravene a development standard to be accompanied by a document [the written request] setting out the grounds on which the applicant seeks to demonstrate the matters in section 4.6(3) paragraphs (a) and (b).

The applicant has provided a written request in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*, which is attached at **Attachment 2**.

## Council's Assessment

Section 4.6(3) requires Council to be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention.

Council is required to undertake a critical review of the written request, and any other material that the Applicant has provided seeking to demonstrate the matters in section 4.6(3). This is set out below.

### Step 1: Are the planning instrument, development standard and proposed variation identified in the written request accurate?

In determining whether the information contained within the written request is accurate, the following questions have been considered:

*Is the provision proposed to be varied a development standard?*

The provision proposed to be varied is the Floor Space Ratio development standard under Clause 4.4E of the Woollahra Local Environmental Plan 2015.

*Is the development standard proposed to be varied one that can be varied, and not excluded from the operation of section 4.6 by section 4.6(8)?*

The development standard proposed can be varied under section 4.6 of the Woollahra Local Environmental Plan 2015.

*Is the correct LEP or SEPP section (and objectives if relevant) referenced?*

The Woollahra Local Environmental Plan 2015 is correctly referenced. However, the submitted written request does not correctly identify the objectives listed under Clause 4.4E(1).



*Is the extent of the variation correctly identified?*

The extent of the variation is not correctly identified by the written request. The applicant measures 0.87:1 FSR (236.58m<sup>2</sup>) with the 34.53m<sup>2</sup> variation attributed to the attic area, claiming a 12% non-compliance. Based on the permitted FSR of 0.75:1 (202.05m<sup>2</sup>) this is instead calculated to be a 17% variation to the control. When reviewing the plans, Council calculations measure the total floor area to be 1:1 FSR (266.12m<sup>2</sup>), which is a 64.07m<sup>2</sup>/24% variation to the control.

## **Step 2: Section 4.6(3)(a): Is compliance unreasonable or unnecessary?**

In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (**Wehbe**), Preston CJ established five potential tests (the Wehbe test) for determining whether a development standard could be considered unreasonable or unnecessary:

- The first is 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.
- The second is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
- The third is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
- The fourth is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
- The fifth is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."

However, the five tests set out in Wehbe above are not the only ways that an applicant can demonstrate that compliance with a development standard is unreasonable or unnecessary. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (**Initial Action**), Preston CJ stated at paragraph 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.*

### Assessment:

To determine whether the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, the following questions have been considered:

*Has the applicant adopted one or more of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances?*

The applicant has not identified any of the Wehbe tests to demonstrate that compliance is unreasonable or unnecessary in the circumstances of this case.

*Has the applicant used another method to justify that the variation is unreasonable or unnecessary?*

The applicant makes reference to *Fastbucks v Byron Shire Council (1999) NSWCA 19* case law which acknowledges a modest departure from a development standard is a basis upon which compliance with the standard can be seen to be unreasonable or unnecessary.

*Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?*

The arguments put forward by the applicant are not supported for the following reasons:

- The applicant has not correctly identified the extent of the non-compliance (refer above);
- The applicant has not correctly identified the objectives of the Floor Space Ratio development standard under Clause 4.4E(1);
- The applicant considers the extent of the non-compliance at 12% to be modest by making reference to *Fastbucks v Byron Shire Council (1999) NSWCA 19* case law. This does not reflect Council's treatment of applications with a contravention of more than 10% to be awarded higher determination by the Woollahra Council Local Planning Panel.
- With reference to Objective a) under Clause 4.4E(1), the applicant states the 'area of non-compliance' (the attic) serves the needs of residents and future occupants. As the area has not been classified as a separate domicile to that of the dwelling house it cannot be considered to meet the higher density needs of the R3 Medium Density Residential zone. Furthermore, the proposal results in a bulk and scale which is inconsistent with development in the existing streetscape, for reasons discussed throughout this report. Council contends the ancillary private open space and staircases providing external access to this area of the dwelling are not in character with the streetscape of Kiaora Road.
- Again, with reference to Objective a) under Clause 4.4E(1), the applicant states the dwelling reflects the existing character of the locality and provides adequate amenity without deterring from adjoining properties amenity. Council contends the ancillary private open space and staircases providing external access to this area of the dwelling are not in character with the Streetscape of Kiaora Road. Furthermore in response to Objective b) there may be potential acoustic impacts as a result of the area being elevated, as well as visual privacy amenity impacts, for reasons discussed throughout the report.
- With reference to Objective c) under Clause 4.4E(1), the proposal does not adequately provide for deep soil planting, tree canopy cover and private open space as discussed throughout this report. The applicant has not responded to this Objective at all.

**Step 3: Section 4.6(3)(b) Are there sufficient environmental planning grounds to justify the contravention?**

In *Initial Action* Preston CJ provided the following guidance (at paragraphs 23 and 24) concerning whether there will be sufficient environmental planning grounds to justify a contravention of the development standard:

- 23 *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.*
- 24 *The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". ... the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) 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. 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: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15].*

Section 1.3 of the EPA Act reads as follows:

*1.3 Objects of Act*

*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:

To determine whether the applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of the development standard, the following questions have been considered:

*What environmental planning grounds have been put forward to justify the variation?*

The applicant puts forward the following environmental planning grounds to justify the variation:

- The applicant states due to the 'area of non-compliance' (the attic) being under the maximum permitted height under Clause 4.3 it does not create excessive bulk and therefore is not considered inconsistent with the existing streetscape character.
- The applicant states the proposal serves to minimise any amenity impacts on adjoining properties as addressed by the supplied Statement of Environmental Effects.
- The applicant states the proposed development is of high architectural standard.

*Are the environmental planning grounds specific to the proposed variation?*

The environmental planning grounds put forward by the applicant are not considered specific to the proposed variation for the following reasons:

- The applicant does not make reference to the specific qualities or architectural features this built form possesses which are complimentary to the streetscape character of this precinct.
- The applicant does not make specific reference to the different kinds of amenity impacts, namely visual and potential acoustic privacy and solar access (discussed in this report), or justify how they are minimised.
- The applicant nominates the construction materials alone and not any specific element of the built form as evidence of the proposed dwelling being of high architectural standard.

*Are there sufficient environmental planning grounds to justify the proposed variation to the development standard?*

There are considered insufficient environmental planning grounds to justify the proposed variation for the following reasons:

- The applicant states that the 'area of non-compliance' (the attic) is not out of character with the streetscape as it does not create excess bulk being under the permitted Height of Buildings development standard. This statement fails to take into consideration the ancillary private open space and staircases providing external access to this area of the dwelling which is unique to the site. Council contends these elements are not in character with the streetscape of Kiaora Road.
- The applicant states that the 'area of non-compliance' (the attic) minimises impacts in relation to amenity and building appearance. Council contends the ancillary private open space and staircases providing external access to this area of the dwelling creates visual and potential acoustic privacy concerns for adjoining residents.
- The applicant states that the proposed dwelling is of high architectural standard. Council disagrees with this sentiment based on the amenity impacts, poor contribution to desired future character and inadequate provision of deep soil landscaping and private open space the proposal entails contrary to the objectives under Clause 4.4E Floor Space Ratio of the Woollahra LEP 2014.

## **Conclusion**

Council is not satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention. This forms a reason for refusal.

### **11.6. Part 5.21: Flood Planning**

The objectives of Part 5.21 are:

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

Council's Development Engineers raised no objections with respect to Flood Planning. The proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

### **11.7. Part 6.1: Acid Sulfate Soils**

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

### **11.8. Part 6.2: Earthworks**

The proposal does not involve any substantial excavation as part of this proposal. Council's Development Engineers raise no objections in this regard. It is therefore acceptable with regard to Part 6.2.

## 11.9. Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

For reasons discussed under Part 8.2.4 of this report, insufficient information with respect to Tree canopy cover has been provided and therefore the proposal does not adhere to the requirements of Part 6.9. This forms a reason for refusal.

## 12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 12.1. Chapter B1: Manning Road Residential Precinct

For reasons discussed throughout this report, the proposal fails to meet the streetscape character and key elements of the precinct and desired future character objectives of the Manning Road precinct, as noted in Part B1.5.2 of the Woollahra DCP 2015. This forms a reason for refusal.

### 12.2. Chapter B3: General Development Controls

#### 12.2.1. Part B3.2: Building Envelope

Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>3.2.2 Front setback</b>				
<b>C1</b> - Front Setback (West – Epping Road)	4.45m	4.75m	5.05m*	Yes
<b>C2</b> - Maximum Unarticulated Length to Street	7m	3.6m	6.0m	Yes
<b>3.2.3 Side setbacks</b>				
<b>C1</b> - Side Boundary Setbacks (North) - Ground Floor - First Floor	Nil	0.15m both	0.9m** (8.84m site width)	<b>No</b>
<b>C1</b> - Side Boundary Setbacks (South) - Ground Floor - First Floor	0.9m	0.9m both	0.9m** (8.84m site width)	Yes
<b>C4</b> - Side Elevation maximum unarticulated wall length (North)	9m	6.3m	12m	Yes
<b>C4</b> - Side Elevation maximum unarticulated wall length (South)	12.6m	9.3m	12m	Yes
<b>3.2.4 Rear setback</b>				
<b>C1</b> - Rear Setback (East)	2.7m	Nil – garage attached	7.63m***	<b>No</b>
<b>3.2.5 Wall height and inclined plane</b>				
<b>C1a</b> - Maximum Wall Height - North Elevation - South Elevation	-	6.95m both	7.2m	Yes
<b>C1b</b> - Inclined Plane From Wall Height	45°	45°	45°	Yes

\* Average setback of 2, 4, 8 & 10. Control C1 excludes car parking structures.

\*\*Control C4 A reduced side setback may be considered where zero or significantly reduced setbacks are characteristic of the immediate streetscape. These streets may be specifically identified in Chapter B1 Residential Precincts or Chapter B2 Neighbourhood HCAs.

\*\*\*25% of the average of the two side boundary dimensions



### 3.2.2 Front setback

The proposed front setback, which is carried across both levels, is considered in keeping with the existing streetscape character and is consistent with the established building line along Epping Road. Sufficient deep soil landscaping has been provided in the front setback area in accordance with Part 3.7.1 of the DCP. The front façade is considered well-articulated and positively contributes to the streetscape. The proposal therefore adheres to the requirements of Part B3.2.2.

### 3.2.3 Side setbacks

Notwithstanding the non-compliance with the northern side boundary setback, **Control C4** permits a reduced side setback where zero or significantly reduced setbacks are characteristic of the immediate streetscape. This has been identified in the Manning Road precinct character description under Part B1.5.1 which states “*A significant amount of redevelopment has occurred in Epping Road. The development has predominantly taken the form of two storey semi-detached dwellings or dwellings houses with reduced side setbacks, reflecting the narrow frontages of lots along that street.*” The statement goes on to identify “*regular separation and rhythm of spaces between buildings*” as a key element of the precinct. This site measuring less than 9m in width is considered narrow and based on the pattern of reduced side setbacks in the immediate surrounds, the non-compliance with the northern side setback is considered acceptable on merit. The northern façade incorporates a recessed area for articulation and incorporates window openings whilst balancing the need for visual privacy. The proposal therefore adheres to the requirements of Part B3.2.3.

### 3.2.4 Rear setback

As the proposed garage serves as an ancillary private open space and access point which is attached to the primary dwelling, it is considered part of the dwelling. As such the rear setback is measured to be Nil. This technicality aside, garages to the boundary are commonplace along Kiaora Road and therefore is not considered out of character in this instance. Notwithstanding this merit, the design and siting of the garage is so that insufficient private open space and deep soil landscaping, in accordance with Part 3.7.1 of the DCP, is provided on site, specifically to the rear. This is contrary to **Objectives O1, O5 & O6** of the controls.

The proposal therefore does not adhere to the requirements of Part B3.2.4. This forms a reason for refusal.

### 3.2.5 Wall height and inclined plane

The proposed wall height and inclined plane serves to limit the bulk and scale of the primary built form. Solar access toward adjoining properties is compliant and there are no significant view corridors intercepted. The proposal therefore adheres to the requirements of Part B3.2.5.

## **12.2.2. Part B3.5: Built Form and Context**

Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>3.5.1 Streetscape character</b>				
<b>C8 – Pitched Roof forms</b>	Pitched	Pitched	Consistent with surrounding roof forms	Yes
<b>3.5.2 Overshadowing</b>				
<b>C1a) - Solar Access to Open Space of Adjacent Properties</b>	-	50% for 2 hours on 21 June	50% for 2 hours on 21 June**	Yes
<b>C1b) - Solar Access to Nth Facing Living Areas of Adjacent Properties</b>	-	3 hours on 21 June	3 hours on 21 June**	Yes
<b>3.5.4 Acoustic and visual privacy</b>				

Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>3.5.1 Streetscape character</b>				
<b>C4</b> - Distance of Habitable Room Windows to Adjacent Dwellings - 4 Epping Road (North) - 8 Epping Road (South)	-	Insufficient information	9.0m***	<b>No</b>
<b>C5</b> – Windows to bathrooms and toilet areas	-	Glazed	Glazed	Yes
<b>C7</b> – Setback of Elevated Private Open Space ( <i>at or below second storey</i> ) from Open Space/Habitable Room Windows of Adjoining Properties	-	Insufficient information	9.0m	<b>No</b>

\*\* in accordance with Control C2, lot orientation may make C1 above difficult to achieve so a reduced amount of solar access may be considered, provided the proposed building complies with all setback controls.

\*\*\*within 9m windows may employ privacy solutions including offsetting, planter boxes, screening, glazing or high sills

### Part 3.5.1 Streetscape character

The buildings presentation to Epping Road is considered to be of high visual quality, positively contributing toward the desired future character of the area and serving the potential for highly visible soft landscaping. Notwithstanding this, the buildings presentation to Kiaora Road is not considered in keeping with streetscape character for the following reasons:

- The balustrade atop serves to obscure the dwelling behind, creating excess height and an unreasonable sense of enclosure. This detracts from the streetscape character, contrary to **Control C1**.
- The connecting stairs between the rear yard to the roof top deck, and again from the roof top deck to the attic balcony have poor aesthetic quality and are not necessitated where internal access is already provided. Both staircases create excess bulk and scale and detract from the intent of buildings to be subservient to the landscaped setting. This detracts from the streetscape character, contrary to **Control C1**.
- The siting and design of the connecting rooftop deck reduces the opportunity for landscape planting to reach heights which soften the built form, contrary to **Control C2**.
- The size of the garage leads to a non-compliance with private open space and deep soil landscaping, contrary to **Control C2**.
- The provision of a garage rooftop deck is not in character with the streetscape and results in potential visual and acoustic privacy impacts. Whilst there is evidence of balcony areas on rear elevations, these are often setback and these are adequately screened to preserve the amenity of adjoining dwellings. This is not considered to be well integrated with the architecture of the building, contrary to **Control C6**.

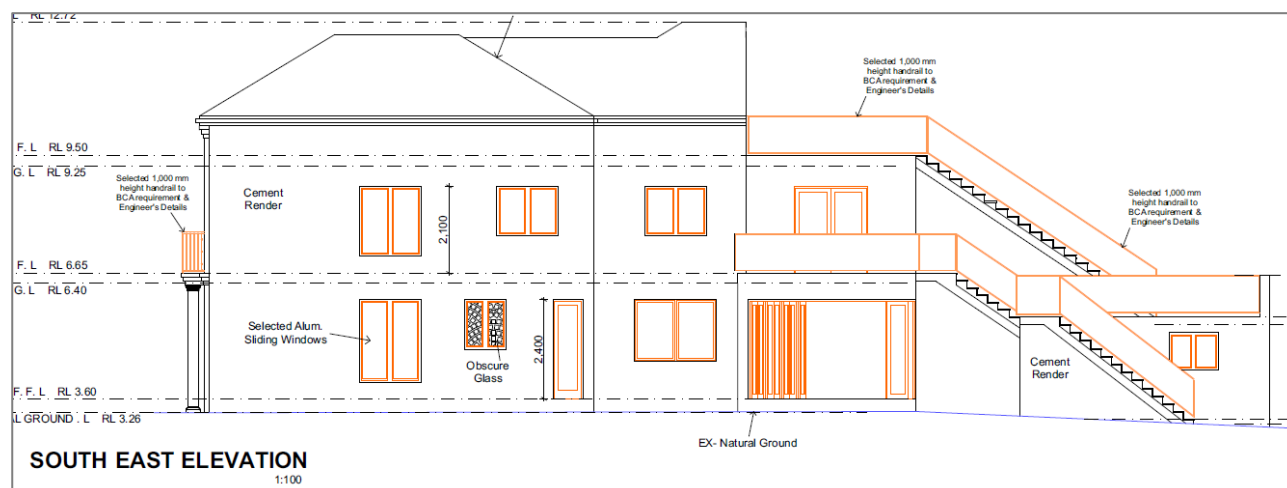


Figure 19: South east elevation showing staircase arrangement to the rear (Source: Benyana Building Design).

The proposal therefore does not adhere to the objectives of the controls for the following reasons:

- The elevated private open spaces to the rear are not compatible with the streetscape and desired future character of the area (**Objective O1**).
- Overall, the development is considered to be of poor visual quality and detracts from the streetscape (**Objective O2**).
- The development does not encourage the retention, protection and enhancement of tree canopy cover (**Objective O3**).
- The development does not contribute to the evolution of well-designed contemporary buildings (**Objective O4**).
- The introduction of a balustrade to the roof profile of the garage is inconsistent with the predominant roof forms in the street and potentially creates unreasonable overshadowing impacts to adjoining properties (**Objective O5**).

The proposal therefore does not adhere to the requirements of Part B3.5.1. This forms a reason for refusal.

#### Part 3.5.2 Overshadowing

The submitted documentation fails to identify the existing overshadowing patterns affecting 8 Epping Road. Notwithstanding the fact that the existing dwelling on the site is single storey, this is of importance due to the proposed height of the garage structure which is sited to create potential overshadowing impacts. Whilst the proposed development complies, a detailed and accurate assessment cannot be performed to determine whether potential overshadowing has been minimised in accordance with **Objective O1**. The proposal therefore does not adhere to the requirements of Part B3.5.2. This forms a reason for refusal.

#### Part B3.5.3: Public and Private Views

There are no significant public or private views or vistas identified across the subject site which will be impacted by the proposed development. The proposal therefore adheres to the requirements of Part B3.5.3.

#### Part 3.5.4 Acoustic and visual privacy

##### *Acoustic privacy*

Notwithstanding the reduced side setback on the northern boundary, the limited fenestration is considered to reduce opportunities for acoustic disturbance at the neighbouring property. The proposed garage rooftop deck however physically elevates a substantial portion of the dwellings private open space, closing the gap toward neighbouring bedrooms and creating opportunities for noise to travel. This design is poor in the way of acoustic separation, failing to comply with **Objective O1** of the controls.

##### *Visual privacy*

The applicant has not detailed the site boundary and neighbouring properties on the supplied floor plans, nor has a short section detailing sightlines been supplied. The insufficient information in this regard prohibits a detailed and accurate assessment of sightlines from the dwelling as well as the elevated private open space areas toward adjoining properties. The proposed attic balcony and garage rooftop deck call into question the following control -

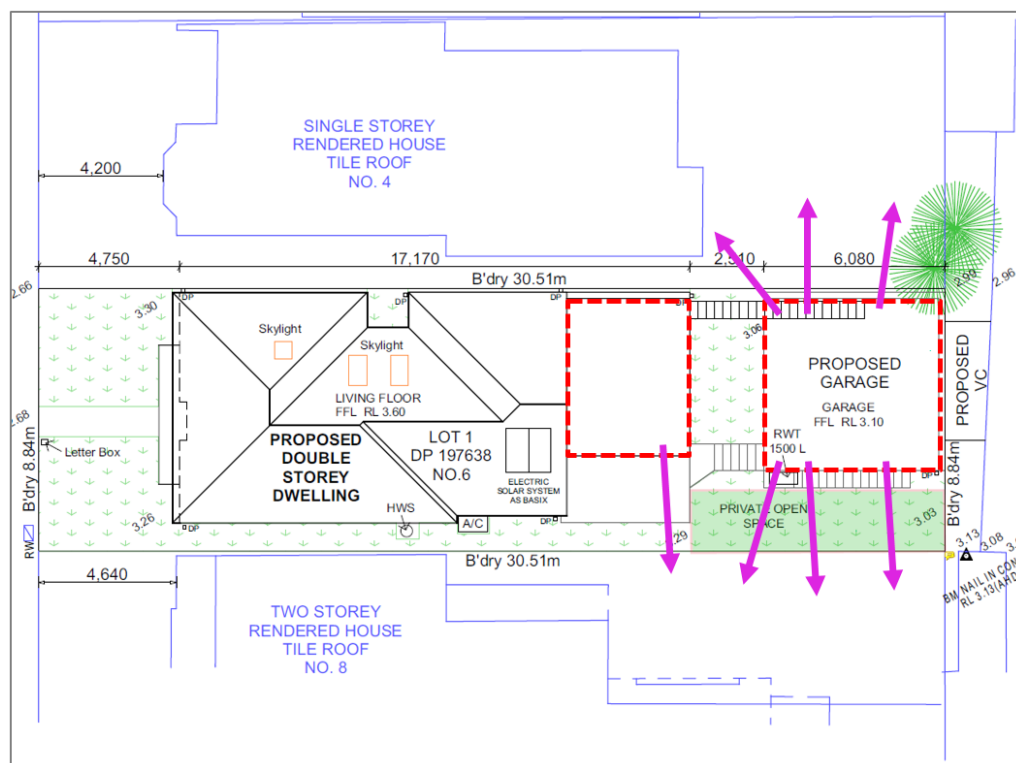
**Control C8** *For a dwelling house, dual occupancy, semidetached dwelling, or attached dwelling— the acceptability of any elevated balcony, deck, or terrace will depend on the extent of its impact, its reasonableness and its necessity. Note: Refer to Super Studio vs Waverley Council, (2004) NSWLEC 91*

Control C8 requires consideration of *Super Studio vs Waverley Council, (2014) NSWLEC 91*. However, the Land and Environment Court has since noted in *Meriton Property Services Pty Limited v Minister for Planning and Infrastructure (2013) NSW LEC 1260* that the revised planning principle in *Davies v Penrith City Council (2013) NSW LEC 1141* has superseded the first limb of *Super Studio*. This report shall assess the reasonableness of the proposed terraces accordingly.

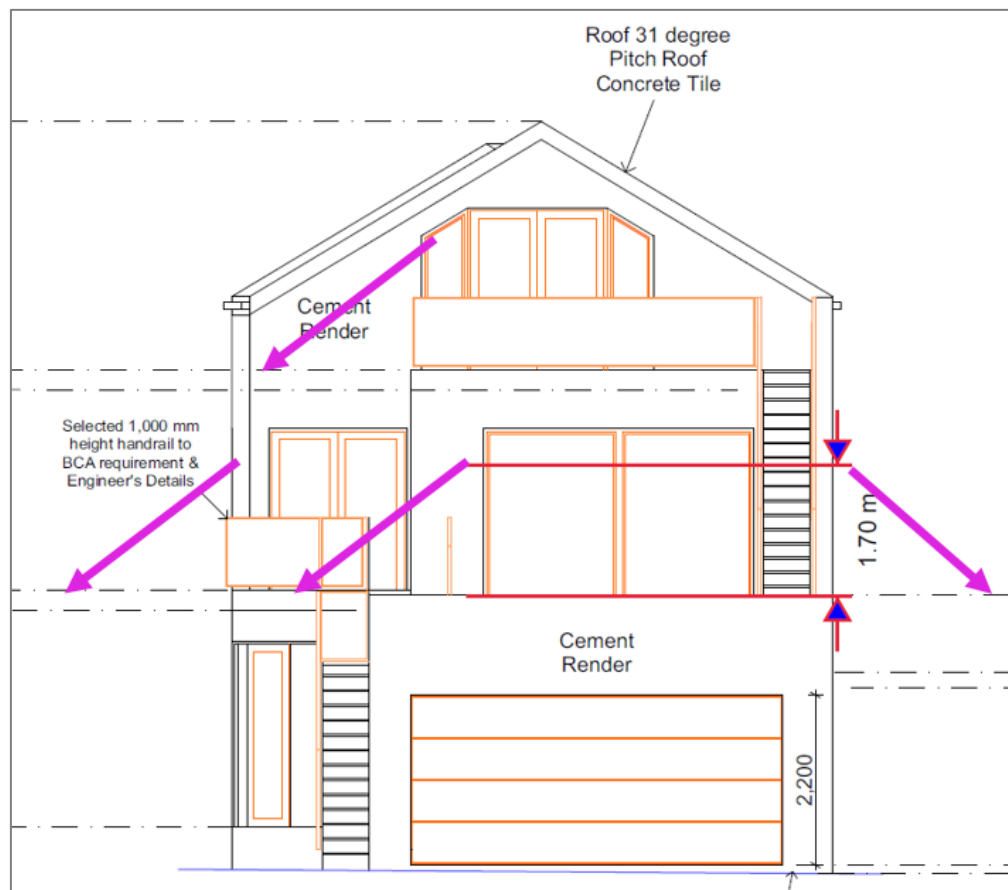
The question of how to assess the impact on neighbouring properties of a development is discussed in *Davies v Penrith City Council (2013) NSW LEC 1141*. The following criteria is established:

- a) **How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?**

Notwithstanding the insufficient information detailed above, it can be inferred that the siting and design of the attic balcony and garage rooftop deck will provide direct sightlines towards both the private open space and habitable room windows of both adjoining properties. No landscape planting or privacy treatments have been offered to mitigate this impact. This substantially impacts the visual privacy of properties either side of the subject site. Refer to Figures 20 & 21 below.



**Figure 20: Site plan with elevated POS areas outlined in red. Sightlines indicated by arrows (Source: Benyana Building Design, overlay by Council).**



**Figure 21: Northeast elevation with sightlines indicated by arrows**  
(Source: Benyana Building Design, overlay by Council)

**b) Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?**

The impact from the garage rooftop deck is considered to arise out of poor design as opportunities for ground floor private open space and landscaping are available should the amount of onsite car parking be reduced. This is discussed further under Section 8.2.4 of this report. This elevated area of private open space which dominates the rear setback is not directly accessible from the primary living area on the ground floor and incorporates two separate sets of stair cases to access separate parts of the dwelling. This is not amenable for occupants and creates excessive bulk and scale. Furthermore as the garage does not directly adjoin the dwelling, the area cannot be attributed to greater opportunities for ventilation or add articulation or points of interest to the dwelling in the same way the master bedroom balcony can.

Based on the information provided, it cannot be determined whether the attic balcony is recessed to a point which redirects sightlines. Assuming there are sightlines, the design is considered poor as it does not incorporate any landscape planters or privacy treatments to mitigate these potential privacy impacts. Based on these observations, the same amount of private open space area with greater amenity could be achieved whilst significantly reducing the impact on neighbours.

**c) Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal**

The proposal fails to comply with the following planning controls as detailed throughout this report:



- Part 3.5.4 Acoustic and visual privacy, Controls C1 & C7.
- Part 3.5.1 Streetscape character, Controls C1, C2 & C6.
- Part B3.6: On-Site Parking, Controls C3a), C3b) & C5.
- Part B3.7: External Areas, C2 & C4.

A large portion of the impact can be attributed to the non-complying elements of the proposal for the following reasons:

- The siting and lack of acoustic and visual privacy treatments of the elevated private open spaces creates direct sightlines toward the private open spaces and habitable room windows of adjoining properties.
- The siting and design of the elevated private open spaces is not commonplace in the streetscape character of Kiaora Road, therefore the pattern of development does not support a level of disturbed visual privacy that is on balance with neighbouring properties.
- The provision of a balustrade on the garage rooftop deck is not in line with the height restrictions imposed by the On-Site Parking controls. Therefore it is contrary to the nature of the controls to support an elevated private open space atop of this structure.
- The External Area controls mandate a total amount of landscaping and private open space on ground level which inherently safeguard the acoustic and visual privacy of adjoining properties.

The proposal is not considered to adhere to the objectives of the controls for the following reasons:

- Due to poor design the proposal does not ensure adequate visual privacy for occupants and neighbours whilst balancing the need to provide for reasonable levels of environmental amenity, including access to sunlight and ventilation, and good architectural outcomes (**Objective O2**).
- The proposal creates unreasonable amenity impacts in the way of visual privacy to both occupants and adjoining neighbours (**Objective O3**).

The proposal therefore does not adhere to the requirements of Part B3.5.4. This forms a reason for refusal.

#### Part B3.5.5: Internal Amenity

Should a development consent be issued, standard conditions should be enforced to ensure compliance with the Building Code of Australia standards for habitable rooms.

#### **12.2.3. Part B3.6: On-Site Parking**

Site Frontage: 8.84m	Existing	Proposed	Control	Complies
<b>C1c)</b> - Location of Parking	Outside buildable area	Outside buildable area	Within the Buildable Area*	<b>No</b>
<b>C1d)</b> - Location of Parking	-	Excess height dominates street frontage	Does not dominate street frontage	<b>No</b>
<b>C1e)</b> - Location of Parking	-	Landscaped area non-compliant	Preserves trees, vegetation and landscape value	<b>No</b>
<b>C3a)</b> – Parking outside building envelope complies with deep soil landscaping controls in Section 3.7.1	-	Does not comply	-	<b>No</b>
<b>C3b)</b> – Parking outside building envelope complies with solar access controls in Section 3.5.2	-	Complies	-	Yes

Site Frontage: 8.84m	Existing	Proposed	Control	Complies
<b>C3b) –</b> Parking outside building envelope complies with privacy controls in Section 3.5.4	-	Does not comply	-	<b>No</b>
<b>C5 –</b> Width of Parking Structure facing rear	-	6m	75% of Rear or 6m	Yes
<b>C5 –</b> Height of Parking Structure facing rear	-	4.6m	3.6m	<b>No</b>
<b>C5 –</b> Area of Parking Structure facing rear	-	36m <sup>2</sup>	40m <sup>2</sup>	Yes
<b>C11 -</b> Width of Driveway (minimised)	-	4.8m	3.0m	<b>No</b>

*\*Control C2 permits parking structure outside the building envelope in circumstances where there is rear lane access; the site slopes; its characteristic of the immediate streetscape*

*\*\*Control C7 permits structures higher than 2.7m if the two adjoining car parking structures exceed this height.*

Notwithstanding the non-compliance with **Control C1c)** as detailed above, **Control C2** permits parking structures outside the building envelope in circumstances where there is rear lane access; the site slopes; it is characteristic of the immediate streetscape. The siting and design of the on-site parking structure together with non-compliances detailed above create an outcome that does not adhere to the objectives of the controls for the following reasons:

- The excess height of the garage structure creates a substantial visual impact on the streetscape, detracting from the landscape setting sought by the desired future character of the Manning Road Precinct statement (**Objectives O1 & O2**).
- The provision of two car spaces leads to non-compliant deep soil landscaping which minimises opportunities for landscape planting (**Objective O5**).

The proposal therefore does not adhere to the requirements of Part B3.6. This forms a reason for refusal.

#### 12.2.4. Part B3.7: External Areas

Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>3.7.1 Landscaped Area and Private Open Space</b>				
<b>C2 –</b> Deep Soil Landscaped Area	17% (45.97m <sup>2</sup> )	27.6% (74.23m <sup>2</sup> )	(35% of Site Area /30% for Wolseley Road) (94.29m <sup>2</sup> )	<b>No</b>
<b>C3 -</b> Deep Soil Landscaping – Front Setback (42m <sup>2</sup> )	82.54% (34.67m <sup>2</sup> )	76.6% (32.18m <sup>2</sup> )	40% (16.8m <sup>2</sup> )	Yes
<b>C4 –</b> Primary Open Space Area (Dwelling House, Semi, Attached, Dual Occ)	<35m <sup>2</sup>	<35m <sup>2</sup>	35m <sup>2</sup>	<b>No</b>
<b>C8 –</b> Private Open Space Access	Directly accessible from habitable room	Directly accessible from habitable room	Directly accessible from habitable room	Yes
<b>3.7.2 Fences</b>				
<b>C4 -</b> Maximum Height of Fencing	-	Insufficient information	1.2m 1.5m and 50% open*	<b>No</b>
<b>C7 -</b> Gate Swing	-	Insufficient information	Opens Inwards	<b>No</b>
<b>C9 -</b> Side and Rear Fence Height	1.8m	1.8m	Behind front setback/1.8m	Yes

Site Area: 269.4m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>3.7.3 Site Facilities</b>				
<b>C1</b> – Lockable Mail Box	-	Integrated with front fence or building entry	Integrated with front fence or building entry	Yes
<b>C4</b> – External Clothes Drying Area	-	Opportunity Provided	Opportunity Provided	Yes
<b>C8</b> – Mechanical Plant Equipment	-	Wholly contained within building envelope/ thoughtfully located	Wholly contained within building envelope/ thoughtfully located	Yes

\*Control C16 Fences and walls made from corrugated iron, barbed wire, and the like are not permitted.

\*\*where there is an increase in ground level in excess of 1.2m on the property side of the street alignment

### Part 3.7.1 Landscaped Area and Private Open Space

Deep soil landscaping is insufficient on site as a result of excess floor space ratio and the provision of two car spaces. The siting and design of parking to the rear also results in insufficient private open space, which is directly accessible from the ground floor primary living area. The garage rooftop deck is a source of private open space which is not considered amenable due to its access arrangements and the fact that it offers little in the way of privacy for its occupants by being elevated. The location of the rear private open space on the ground floor is designed as so that it sits on the southern side of the yard shielded by the parking structure, failing to maximise solar access.

Council's Tree & Landscape Officer was not able to conduct a detailed and accurate assessment of the proposal based on the following commentary:

- *A number of large mature trees are located within and adjacent to the site.*
- *The location of some of the trees in the survey plan are in correct. For example Tree no.3 has been conveniently located at least 1.5m further north than its actual location.*
- *The landscape plans shows SRZ and TPZ of a number of street trees that are incorrect and have been conveniently drawn outside of the property boundary when in fact they are well inside the property. For example the plan indicates Tree No.3 has a TPZ of 3.85m when it is actually more than 10.0m and Tree No.4 has much larger TPZ and SRZ.*
- *The applicant has not provided an Arboricultural Impact Assessment report to assess the impact on trees to be retained and to demonstrate if the proposal is viable.*
- *The SEE (page 18) indicates that as per 35% deep soil should be provided as per C2 of the DCP. The applicant indicates that the proposal complies with the control when the Landscape Plan shows 30% of deep soil is provided and the SEE shows 'more than 30%', therefore, the assessment cannot be supported.*

This creates an outcome that does not adhere to the objectives of the controls for the following reasons:

- The proposed building footprint which overlaps with existing trees, not identified on the plans or survey, assumes their removal. Failure to retain said trees results in a poor contribution to the desired future character of the Manning Road Precinct (**Objective O1**).
- The lack of deep soil landscaped area reduces the potential for urban greening and landscaping which would contribute to the streetscape character of Kiaora Road (**Objective O2**).

- The combination of ground floor and elevated private open space areas, for reasons discussed in this report, are considered to be poorly designed (**Objective O6**).

The proposal therefore does not adhere to the requirements Part B3.7.1. This forms a reason for refusal.

#### Part 3.7.2 Fences

The submitted landscape plan makes reference on the front and rear boundaries of a “decorative wall to engineers specifications”. No floor plans or elevations showing the height or design of said boundary wall have been provided in the architectural set. The proposal therefore does not adhere to the requirements of Part B3.7.2. This forms a reason for refusal.

#### Part 3.7.3 Site Facilities

The proposal includes sufficient site facilities and services to maintain the operation of the dwelling. The proposal therefore adheres to the requirements of Part B3.7.3.

### **12.3. Chapter E1: Parking and Access**

#### **12.3.1. Part E1.4: Residential parking**

	Existing	Proposed	Control	Complies
Max Number of Car Parking Spaces – Dwelling	1 Space	2 Spaces	2 Spaces Maximum	Yes

The proposal adheres to the maximum provision of parking spaces for a residential dwelling house.

#### **12.3.2. Part E1.11: Electric Vehicle Charging Points**

Control C1 of this part 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.*

Insufficient details of the electric circuitry have been provided. However, if development consent were granted, relevant conditions of consent could be imposed requiring the provision for electric vehicle circuitry within the development, thereby ensuring compliance with Part E1.11 of the Woollahra DCP 2015.

#### Conclusion:

If the application were recommended for approval, relevant conditions of consent could be imposed to ensure the proposal achieves the objectives and controls outlined in Chapter E1 of the Woollahra DCP 2015.

### **12.4. Chapter E2: Stormwater and Flood Risk Management**

Council’s Development Engineer was not able to conduct a detailed and accurate assessment of the proposal based on the following commentary:

- Site Drainage comments

*It is noted from the submitted stormwater management plan that stormwater runoff is proposed to be discharged to the street kerb of Kiaora Road. However, due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, Council's Infrastructure Assets Team Leader will not support the discharge of stormwater to Kiaora Road. Therefore, site stormwater must be discharged to Epping Road instead.*

*A charged system draining to an appropriately sized rainwater tank discharging to Epping Road must be provided.*

- Impacts on Council Infrastructure comments

*It is noted from the submitted stormwater management plan that stormwater runoff is proposed to be discharged to the street kerb of Kiaora Road. However, due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, Council's Infrastructure Assets Team Leader will not support the discharge of stormwater to Kiaora Road. Therefore, site stormwater must be discharged to Epping Road instead.*

The proposal therefore does not adhere to the requirements of Chapter E2. This forms a reason for refusal.

## 12.5. Chapter E3: Tree Management

For reasons discussed under Section 8.2.4 above, Council's Tree & Landscape Officer was not able to conduct a detailed and accurate assessment of the proposal based on insufficient information.

The proposal therefore does not adhere to the requirements of Chapter E3. This forms a reason for refusal.

## 12.6. Chapter E5: Waste Management

The applicant has not provided a SWMMP with the development application. However, given the extensive scope of demolition and construction works, it is necessary in this instance. Should a consent be issued the submission of a SWMMP could be enforced through conditions of consent.

### 12.6.1. Part E5.3: On-Site Waste and Recycling Controls for all Development

	Existing	Proposed	Control	Complies
Garbage and Recycling Areas	-	Separated	Separated	Yes
Location of Garbage and Recycling Areas	-	Behind Building Line or Non-Habitable Areas	Behind Building Line or Non-Habitable Areas	Yes

The proposal adheres to the requirements of Part E5.3.



## 12.6.2. Part E5.4: Dwelling Houses, Semi-Detached Dwellings and Dual Occupancies

	Proposed	Control	Complies
Garbage and Recycling Areas	Designated	Required	Yes
Location of Garbage and Recycling Areas	Behind garage in non-habitable area	Behind Building Line or Non-Habitable Areas	Yes
Bin Provision General Waste Green Waste Recycling	2 x 120L bins	1 x 120L General Waste 1 x 240L Green Waste 1 x 240L Recycling	<b>No</b>
Compost Area	Large backyard suitable	Required	Yes

The proposal therefore does not adhere to the requirements of Part E5.4. Should a consent be issued, compliance with the controls could be enforced through conditions.

## 12.7. Chapter E6: Sustainability

### 12.7.1. Part E6.3: Solar Energy Systems

	Existing	Proposed	Control	Complies
Maximum Projection Above Roof Surface	-	Detail not provided	300mm	<b>No</b>
Location of Solar Energy System	-	Behind the Front Setback	Behind the Front Setback	Yes

The applicant fails to detail the solar panels shown on the roof plan on the submitted elevations. Should a consent be issued the maximum projection of the solar panels to not exceed 300mm could be enforced through conditions.

## 13. CONTRIBUTIONS PLAN

### 13.1. Section 7.12 Contributions Plan

The proposed development is recommended for refusal and accordingly Section 7.12 contributions and relevant fees are not applied. Notwithstanding this, should development consent be granted, a contribution pursuant to Section 7.12 would apply and can be enforced by condition.

### 13.2. Subdivision 4 Housing and Productivity Contributions

Section 7.24 of the Environmental Planning and Assessment Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

## **14. APPLICABLE ACTS/REGULATIONS**

### **14.1. Environmental Planning and Assessment Regulation 2021**

#### **Clause 61(1) Additional matters that consent authority must consider**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. If the application were recommended for approval, these requirements could be imposed by standard condition.

## **15. 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.

## **16. THE SUITABILITY OF THE SITE**

The site is unsuitable for the proposed development.

## **17. THE PUBLIC INTEREST**

The proposal is considered to not be in the public interest as the sectionalised public interest outweighs the wider public interest.

## **18. CONCLUSION**

The proposal is unacceptable against the relevant considerations under s4.15.

## **19. 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.

## **20. 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, refuse development consent to Development Application No. 101/2024/1 for demolition of existing dwelling and construction of a new dwelling with attic and detached garage on land at 6 Epping Road Double Bay, for the following reasons:

### **1. State Environmental Planning Policy Biodiversity and Conservation (2021) - Chapter 2: Vegetation in Non-rural Areas**

The proposal is considered unacceptable with regards to determining vegetation to which Chapter 2 applies as insufficient detail was provided in order for Council's Tree and Landscape Officer to conduct a detailed and accurate assessment.

### **2. Woollahra Local Environmental Plan 2014, Clause 1.2 Aims of Plan**

The proposal fails to achieve the following aims prescribed in Clause 1.2(2) of the Woollahra LEP 2014:

- (g) *to protect and enhance amenity and the natural environment,*
- (j) *to promote a high standard of design in the private and public domain,*
- (l) *to ensure development achieves the desired future character of the area,*

- (n) *to encourage the retention and planting of trees and other vegetation as part of development and minimise the urban heat island effect,*

**3. Woollahra Local Environmental Plan, Part 2, Land Use Table**

The proposal is inconsistent with the relevant objectives of the R3 Medium Density zone because:

- The development is not of a height and scale that achieves the desired future character of the local centre.
- The development does not conserve and enhance tree canopy cover.

**4. Woollahra Local Environmental Plan 2014, Part 4 - Clause 4.4E Floor Space Ratio**

The proposal does not comply with the Floor Space Ratio development standard prescribed in Clause 4.4E of the Woollahra Local Environmental Plan 2014. The proposal fails to achieve consistency with the Objectives (a), (b) & (c), prescribed in Clause 4.4E(1) of the Woollahra Local Environmental Plan 2014.

**5. Woollahra Local Environmental Plan 2014, Part 4 – Clause 4.6 Exceptions to Development Standards**

The submitted written request fails to justify the contravention of the *Floor space ratio* development standards under Clause 4.4E in accordance with Clause 4.6(3)(a) and 4.6(3)(b). The submitted written request has not adequately addressed the matters required to be demonstrated by sub-clause (3) in that:

- strict compliance with the development standards is unreasonable or unnecessary in the circumstances of the case;
- there are sufficient environmental planning grounds to justify contravening the development standards.

**6. Woollahra Development Control Plan 2015, Chapter B1 Residential Precincts**

The proposal fails to meet the streetscape character and key elements of the precinct and desired future character objectives of the Manning Road precinct, as noted in Part B1.5.2 of the Woollahra DCP 2015.

**7. Woollahra Development Control Plan 2015, Chapter B3 General Development Controls**

The proposed new works will result in an adverse impact on the desired future character of the Manning Road Residential Precinct as well as amenity of occupants and adjoining properties. The proposal fails to satisfy the following controls and objectives prescribed in Chapter B3 General Development Controls of the Woollahra DCP 2015:

**a. Part B3.2: Building Envelope**

**i. Part 3.2.4 Rear Setback**

- The proposal does not comply with Control C1 and fails to achieve Objectives O1, O5 & O6 prescribed in Part B3.2.4 of the Woollahra DCP 2015.

**b. Part B3.5: Built Form and Context**

i. Part 3.5.1 Streetscape character

- The proposal does not comply with Controls C1, C2, & C6 and fails to achieve Objectives O1, O2, O3 & O4 prescribed in Part B3.5.1 of the Woollahra DCP 2015.

ii. Part 3.5.2 Overshadowing

- The proposal fails to achieve Objective O1 prescribed in Part B3.5.2 of the Woollahra DCP 2015.

iii. Part 3.5.4 Acoustic and visual privacy

- The proposal does not comply with Controls C4, C7, & C8 and fails to achieve Objectives O1, O2 & O3 prescribed in Part B3.5.4 of the Woollahra DCP 2015.

**c. Part B3.6: On-Site Parking**

The proposal does not comply with Controls C1c), C1d), C1e), C3a), C3b) & C5 and fails to achieve Objectives O1, O2 & O5 prescribed in Part B3.6 of the Woollahra DCP 2015.

**d. Part B3.7: External Areas**

i. Part 3.7.1 Landscaped Area and Private Open Space

- The proposal does not comply with Controls C2, C4 & C10 and fails to achieve Objectives O1, O2 & O6 prescribed in Part B3.7.1 of the Woollahra DCP 2015.

ii. Part 3.7.2 Fences

- Contrary to Objectives O1 & O2 and Controls C4 & C7 prescribed in Part B3.7 of the Woollahra DCP 2015. The proposal does not comply with Controls C4 & C7 and fails to achieve Objectives O1 & O2 prescribed in Part B3.7.2 of the Woollahra DCP 2015.

**8. Woollahra Development Control Plan 2015, Chapter E2: Stormwater and Flood Risk Management**

Due to insufficient information as detailed under item 10 below, the proposal fails to adhere to Objectives O1, O2, O3, O4, O5, O6 & O7 prescribed in Chapter E2 of the Woollahra DCP 2015.

**9. Woollahra Development Control Plan 2015, Chapter E3: Tree Management**

Due to insufficient information as detailed under item 10 below, the proposal fails to adhere to Objectives O1, O2, O3, O4, & O5 prescribed in Chapter E3 of the Woollahra DCP 2015.

**10. Insufficient and inconsistent Information**

The following information is deemed insufficient in order to conduct a detailed and accurate assessment of the proposed development:

**a. Architectural Plans**

i. Floor plans

No detail is provided for the site boundary or adjoining property boundaries, buildings and RLs.

ii. Elevations

No details have been provided for the front and rear boundary fences. No detail is provided regarding solar panels and their projection from the roof.

iii. Short section with sightline diagrams

No short section detailing sightlines from both elevated private open spaces have been provided to demonstrate the preservation of visual privacy at adjoining properties.

**b. Shadow Diagrams**

The shadow diagrams provide no details with regards to the existing overshadowing from the subject site.

**c. Floor Space Ratio Calculations**

The calculations provided do not include the gross floor area between 1.4m-2.2m ceiling height of the proposed attic area. This is required as per the definition of gross floor area.

**d. Site Waste Minimisation Management Plan**

Not provided.

**e. Survey Plan**

The location, SRZ and TPZ of some of the trees on the site and on the street are incorrect.

**f. Arboricultural Impact Assessment and Tree Protection Plan**

Not provided.

**g. Landscape Plan**

i. The location, SRZ and TPZ of some of the trees on the site, and on the street, are incorrect.

ii. The assessment of the Canopy Cover and Deep Soil Landscaping are inconsistent across the documentation provided with the application. The applicant indicates that the proposal complies with the controls when the Landscape Plan shows 30% of deep soil is provided and the SEE indicates 'more than 30%' is provided.



## **h. Stormwater Management Plan**

Due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, the discharge of stormwater to Kiaora Road is not supported. Site stormwater must be discharged to Epping Road. The following must be addressed:

- 1) The site discharge must be relocated to the frontage of Epping Road. Any stormwater outlet pipe must be located wholly within the frontage of the subject site. Pipe size shall be 150x75mm galv. RHS with 1% grade to comply with Council's Specification. Only one stormwater outlet will be permitted. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. Given that there is marginal fall towards the street kerb, a longitudinal section showing the proposed stormwater outlet across the nature strip must be provided. All existing utilities services must be clearly depicted on the longitudinal section.
- 2) All roofwater must be directed to a rainwater tank (RWT) via a charged system. A RWT with minimum storage based on 60m<sup>3</sup> per 1,000m<sup>2</sup> of roof area must be provided. The RWT overflow must drain to the street kerb by gravity and must be located behind the front alignment of the building or placed underground.
- 3) Longitudinal section(s) for the charged system showing the pressure head based on the roof gutter invert level and the RWT inlet pipe invert level. The design for the charged system must satisfy a minimum pressure head of 1.5m. All relevant gutter invert and cleaning eye/pit levels must be shown.
- 4) Sectional details of the rainwater tank and/or holding tank showing dimensions, pump details and specifications, both invert levels and overflow levels shall be provided.

The following must be provided in the revised Stormwater Management Plan (to be prepared by a suitably qualified civil engineer):

- a) Drainage 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:
  - All pipe layouts, dimensions, grades, lengths and material specification.
  - Location, dimensions and type of rainwater tanks, drainage pits, surcharge facilities.
  - All invert levels reduced to Australian Height Datum (AHD).
  - Exact point and method of connection to Council's drainage infrastructure.
  - Overland flow paths.
- b) Location of all trees on and adjacent to the site that will be retained under the proposal, in relation to proposed drainage lines. The drainage system must not interfere with these.
- c) Rainwater Tank details:
  - Any potential conflict between existing and proposed trees and vegetation.
  - Internal dimensions and volume of the proposed rainwater storage.
  - Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.
  - Details of access and maintenance facilities.
  - Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.

- Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks.








**i. Statutory Declaration**

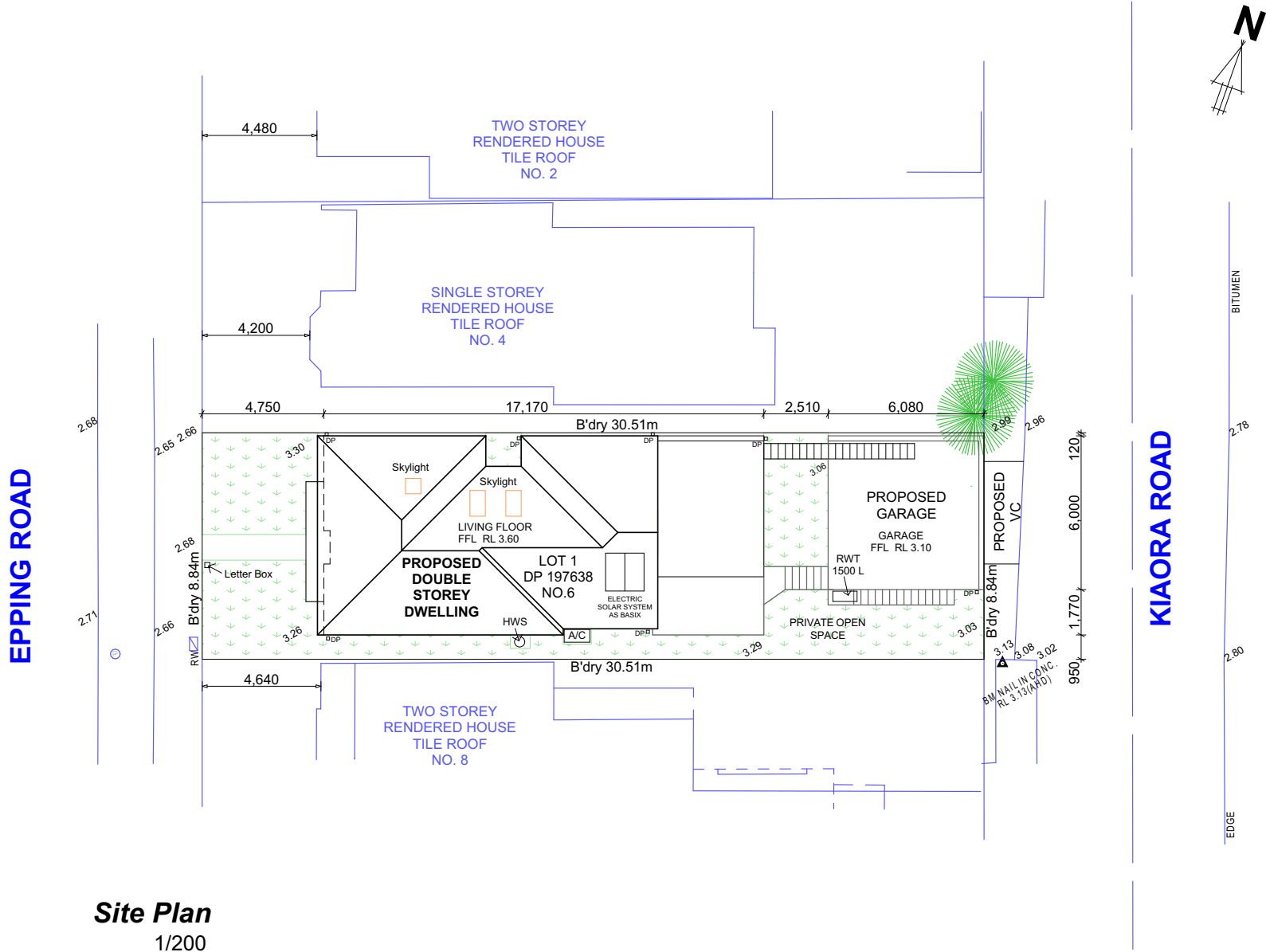
Not provided.

**11. Public Interest**

The proposed development is not in the public interest.

**Attachments**

1. Architectural Plans, Elevations, Sections and Landscape Plans [↓](#) 
2. Clause 4.6 Written Request – Floor Space Ratio (FSR) [↓](#) 
3. Referral Response - Development Engineering [↓](#) 
4. Referral Response - Trees and Landscaping [↓](#) 
5. Referral Response - Drainage [↓](#) 
6. Referral Response – Environmental Health [↓](#) 
7. Referral Response - Sydney Water [↓](#) 



SITE DETAILS:PROPOSED DEMOLISHED THE EXISTING DWELLING & CONSTRUCTION A DOUBLE STOREY DWELLING WITH ATTIC & DETACHED GARAGE	
SITE AREA	269.40 sqm
PROPOSED GROUND FLOOR	115.34 sqm
PROPOSED FIRST FLOOR	103.26 sqm
PROPOSED ATTIC	17.98 sqm
PROPOSED GARAGE	36.48 sqm
TOTAL FLOORPLATE	236.58 sqm
(Ground Floor + First Floor + Attic)	
PRIVATE OPEN SPACE	MORE THAN 35.00 sqm
LANDSCAPED AREA	MORE THAN 81.00 sqm (30%)
TREE CANOPY AREA	MORE THAN 95.00 sqm (35%)

Site Plan  
1/200

DA Revision 2

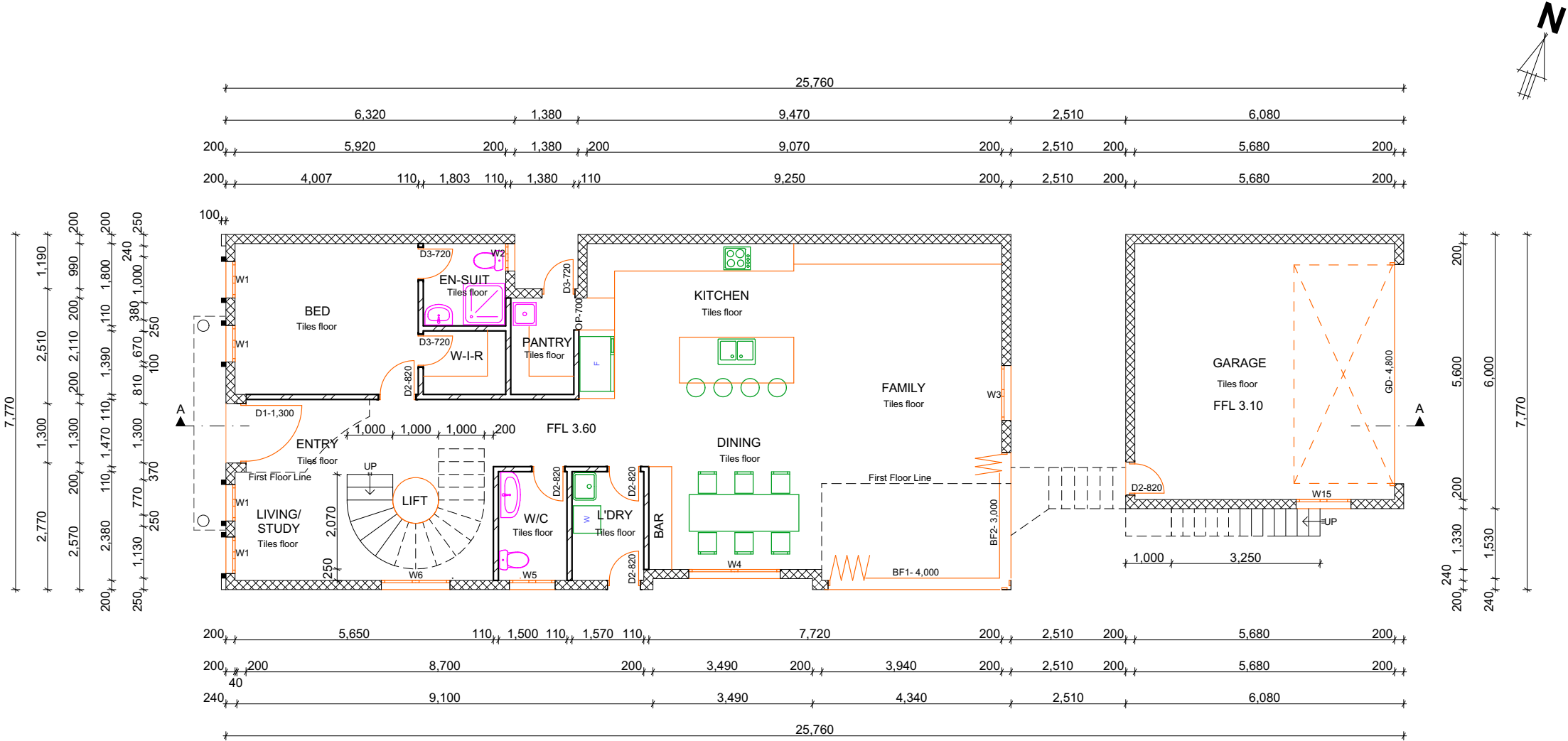
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PROPOSED DOUBLE STOREY DWELLING  
AT: 6 Epping Road, Double Bay, NSW, 2028  
FOR: Dr. George Al-Horani

Council: Woollahra Municipal	Site Plan	
	Scale: 1 / 200	Sheet: 01 of 07
	Design: Arkan Sutto	Date: 02-02-2024
	Drawn: Tran Nguyen	Job No: 29-08-23



GROUND FLOOR  
PLAN

1:100

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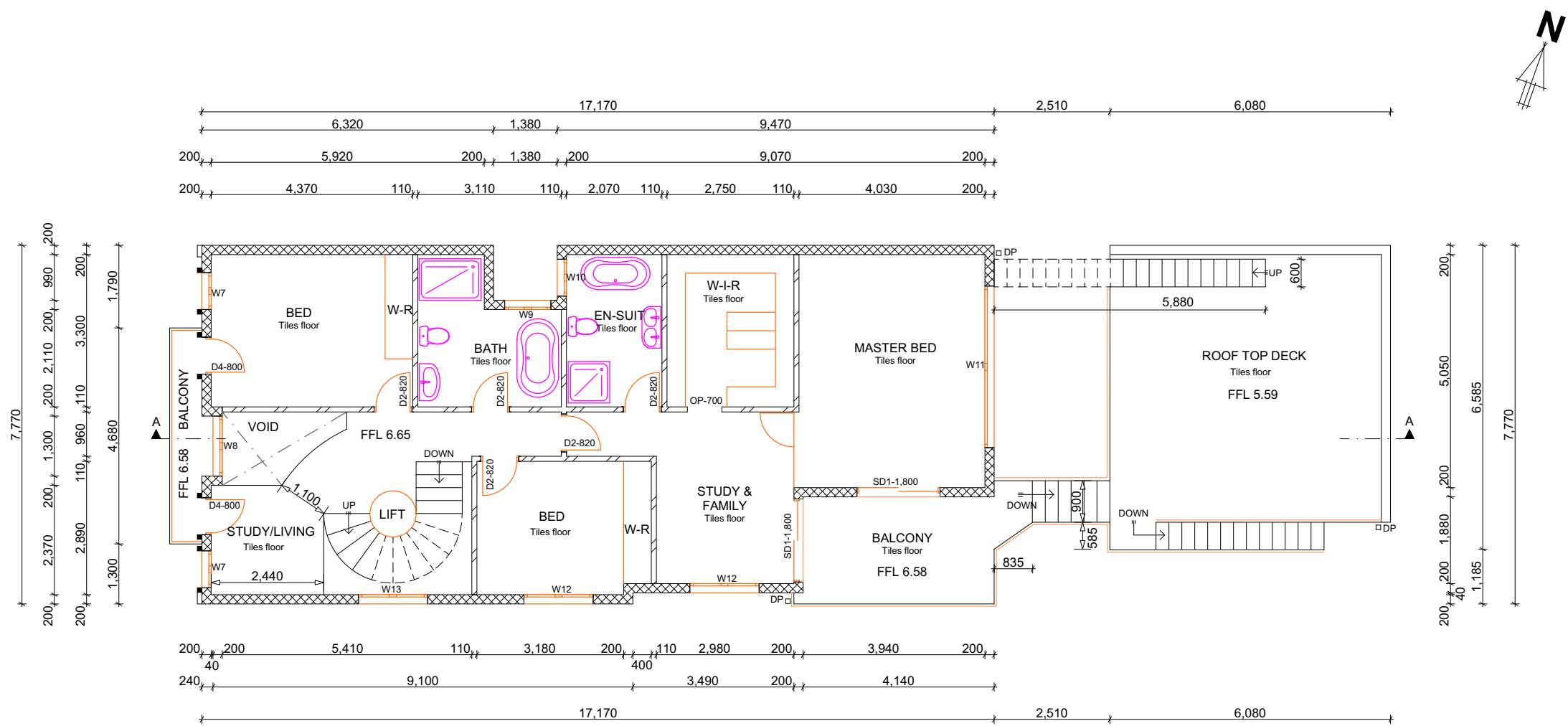
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PROPOSED DOUBLE STOREY DWELLING  
AT: 6 Epping Road, Double Bay, NSW, 2028  
FOR: Dr. George Al-Horani

Council: Woollahra Municipal  
Design: Arkan Sutto  
Drawn: Tran Nguyen

Ground Floor Plan	
Scale: 1 / 100	Sheet: 02 of 07
Date: 02-02-2024	Job No: 29-08-23



FIRST FLOOR  
PLAN

1:100

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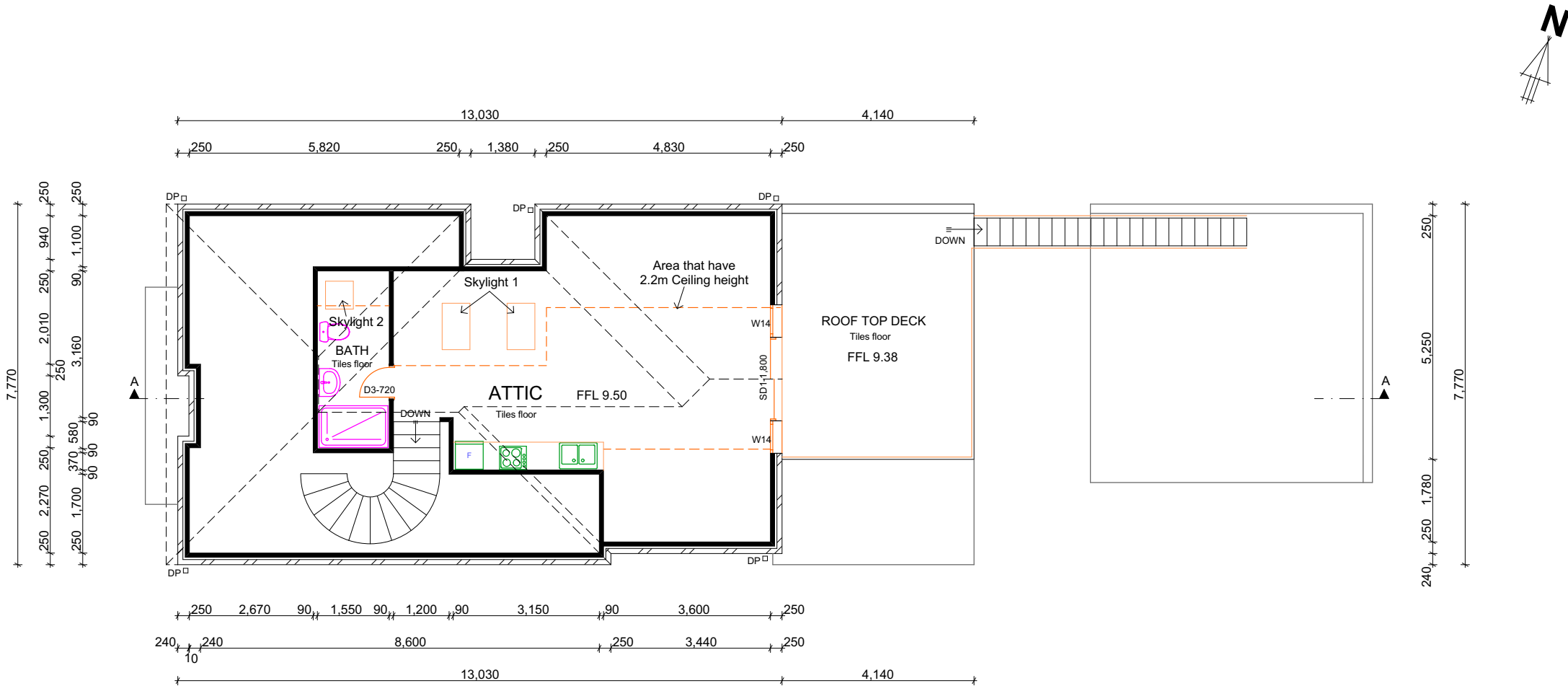
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PROPOSED DOUBLE STOREY DWELLING  
AT: 6 Epping Road, Double Bay, NSW, 2028  
FOR: Dr. George Al-Horani

Council: Woollahra Municipal  
Design: Arkan Sutto  
Drawn: Tran Nguyen

First Floor Plan	
Scale: 1 / 100	Sheet: 03 of 07
Date: 02-02-2024	Job No: 29-08-23





ATTIC FLOOR  
PLAN

1:100

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PROPOSED DOUBLE STOREY DWELLING

AT: 6 Epping Road, Double Bay, NSW, 2028

FOR: Dr. George Al-Horani

Council: Woollahra Municipal

Design: Arkan Sutto

Drawn: Tran Nguyen

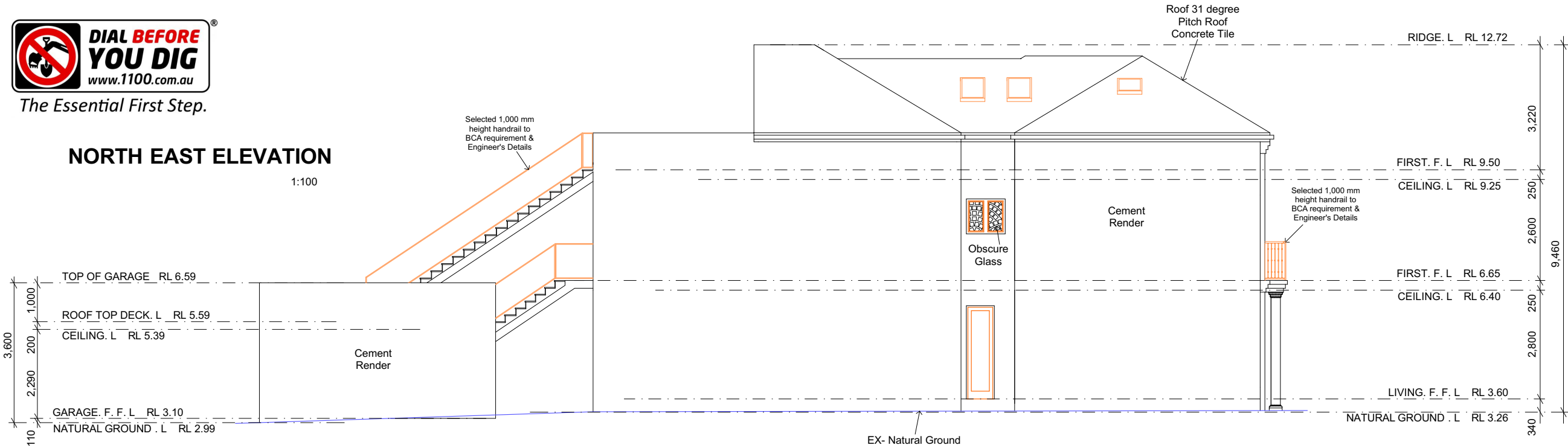
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Scale: 1 / 100	Sheet: 04 of 07
Date: 02-02-2024	Job No: 29-08-23



The Essential First Step.

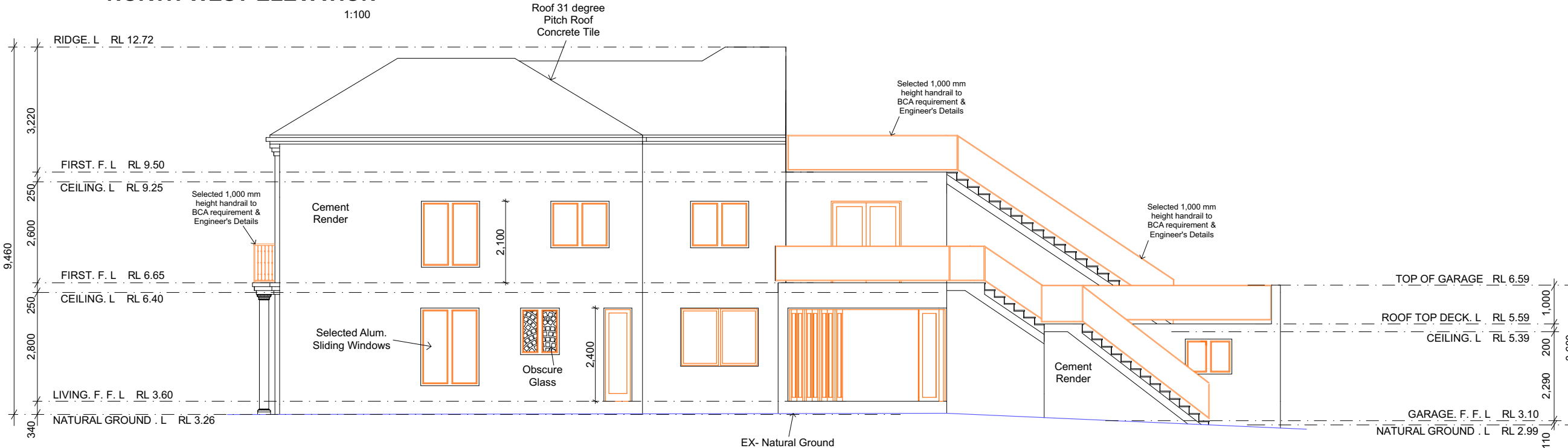
NORTH EAST ELEVATION

1:100



NORTH WEST ELEVATION

1:100



SOUTH EAST ELEVATION

1:100

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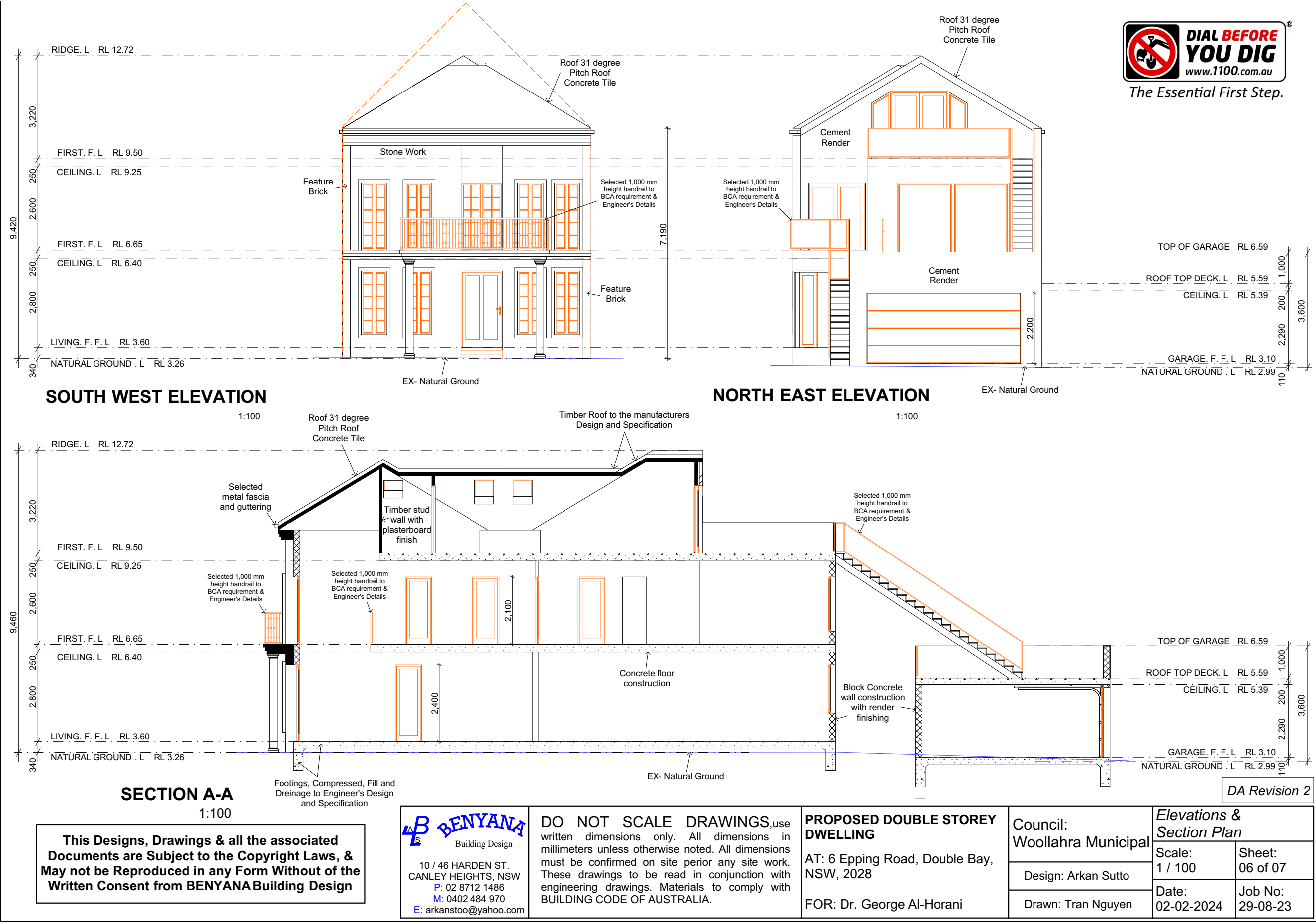
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**PROPOSED DOUBLE STOREY DWELLING**  
AT: 6 Epping Road, Double Bay, NSW, 2028  
FOR: Dr. George Al-Horani

Council:  
Woollahra Municipal  
Design: Arkan Sutto  
Drawn: Tran Nguyen

Elevations Plan	
Scale: 1 / 100	Sheet: 05 of 07
Date: 02-02-2024	Job No: 29-08-23



MAIN DWELLING BASIX

NOTE: BASIX CERTIFICATE MUST TAKE PRECEDENCE OVER THIS TEMPLATE

**BASIX'S REQUIREMENT**  
TO COMPLY WITH BASIX CERTIFICATE NUMBER: 1373225S  
ADDRESS: LOT 1, 6 EPPING ROAD, DOUBLE BAY, NSW, 2028

**STORMWATER**  
PROPOSED SIZE OF INSTALLED RAINWATER TANK: 1500 L  
HOW MUCH RIAN RUNOFF FROM ROOF MUST TANK COLLECT -100 SQM FROM ROOF AREA .  
MUST INSTALL AT LEAST ONE OUTDOOR TAB FROM THE RAINWATER TANK.  
MUST CONNECT THE RAINWATER TANK TO ALL TOILETS IN THE DEVELOPMENT

**WATER**  
SHOWERHEAD RATING - 4 STAR (> 6 but <= 7.5 L/min).  
TOILET FLUSHING SYSTEM RATING - 4 STAR  
KITCHEN TAP RATING - 4 STAR  
BATHROOM TAP RATING - 4 STAR

**ENERGY**  
ACTIVE COOLING FOR LIVING ROOMS- 1 PHASE AIRCONDITIONING DUCTED; ENERGY RATING: 2.5 STAR (OLD LABEL)  
ACTIVE COOLING FOR BED ROOMS- 1 PHASE AIRCONDITIONING DUCTED; ENERGY RATING: 2.5 STAR (OLD LABEL)  
ACTIVE HEATING SYSTEM FOR LIVING ROOMS - 1 PHASE AIRCONDITIONING DUCTED; ENERGY RATING: 2.5 STAR (OLD LABEL)  
ACTIVE HEATING SYSTEM FOR BED ROOMS - 1 PHASE AIRCONDITIONING DUCTED; ENERGY RATING: 2.5 STAR (OLD LABEL)  
TYPE OF HOT WATER SYSTEM MUST BE INSTALLED (ELECTRIC STORAGE) HIGHER ENERGY RATING.  
DOES THE KITCHEN HAVE NATURAL LIGHTING ? YES  
DO BATHROOMS HAVE NATURAL LIGHTING ? YES  
VENTILATION DETAILS? BATH: INDIVIDUAL FAN, DUCTED TO FACADE OR ROOF; OPERATION CONTROL: MANUAL SWITCH ON/OFF  
KITCHEN: INDIVIDUAL FAN, DUCTED TO FACADE OR ROOF, OPERATION CONTROL: MANUAL SWITCH ON/OFF  
LAUNDRY: INDIVIDUAL FAN, DUCTED TO FACADE OR ROOF, OPERATION CONTROL: MANUAL SWITCH ON/OFF

**ARTIFICIAL LIGHTING**  
AS PER BASIX DEFINITION INSTALLED TO THE ALL ROOMS.


**THERMAL AND GLAZING REQUIREMENT**  
EXTERNAL WALL: BRICK VENEER R 2.06 BATTS (OR 2.60 INCLUDING CONSTRUCTION)  
CEILING & ROOF: CEILING/ R 3.32 BATTS (UP) , ROOF: FOIL ,SARKING.  
FRAMED: LIGHT(SOLAR ABSORPTANCE < 0.475).  
ALL GLAZING REQUIREMENT MUST COMPLY WITH BASIX CERTIFICATE NUMBER (1373225S),  
GLAZING TO BE : STANDARD ALUMINIUM, SINGLE CLEAR OR U- VALUE OF 7.63, SHGC=0.75, PLEASE REFER TO THE ARCHITECTURAL NUMBERING SYSTEM.

**ENERGY COMMITMENTS**  
MUST INSTALL A PHOTOVOLTAICSYSTEM WITH THE CAPACITY TO GENERATE AT LEAST 1.6 PEAK KILOWATTS , AND TO BE CONNECT TO THE DEVELOPMENT'S ELECTRICAL SYSTEM.  
THE COOKTOP & THE OVEN TO BE ELECTRIC.  
THE REFRIGERATOR SPACE SHOULD MEET THE (WELL VENTILATED) AS DEFINED IN THE BASIX.

WINDOWS SCHEDULE

NO	TYPE	WIDTH	HEIGHT	QTY	NOTES
W1	Aluminium	800	2000	4	Sliding
W2	Aluminium	600	1200	1	Sliding/ Obscure Glass
W3	Aluminium	1200	1500	1	Sliding
W4	Aluminium	2000	1500	1	Sliding
W5	Aluminium	1000	1200	1	Sliding/ Obscure Glass
W6	Aluminium	1500	2000	1	Sliding
W7	Aluminium	800	2100	2	Sliding
W8	Aluminium	1300	2100	1	Fixed
W9	Aluminium	1000	900	1	Sliding/ Obscure Glass
W10	Aluminium	800	900	1	Sliding/ Obscure Glass
W11	Aluminium	3500	1200	1	Sliding
W12	Aluminium	1500	1200	2	Sliding
W13	Aluminium	1500	1500	1	Sliding
W14	Aluminium	700	2100	2	Fixed
W15	Aluminium	1200	900	1	Sliding
BF1	Aluminium	4000	2400	1	Folding
BF2	Aluminium	3000	2400	1	Folding
SD1	Aluminium	1800	2100	3	Sliding

FINISHES SCHEDULE

WALL (Stone)	STONE - BEIGH	
WALL (Render)	CONCRETE - BEIGH	
GUTTER & FASCIA	COLORBOND - GREY	
ROOF	TILE - BLACK	
DOWN PIPE	METAL WHITE COLOR	
DRIVEWAY	CONCRETE STAINCEIL, LIGHT GREY	
WINDOW	ALUMINUM WHITE COLOR	

DA Revision 02

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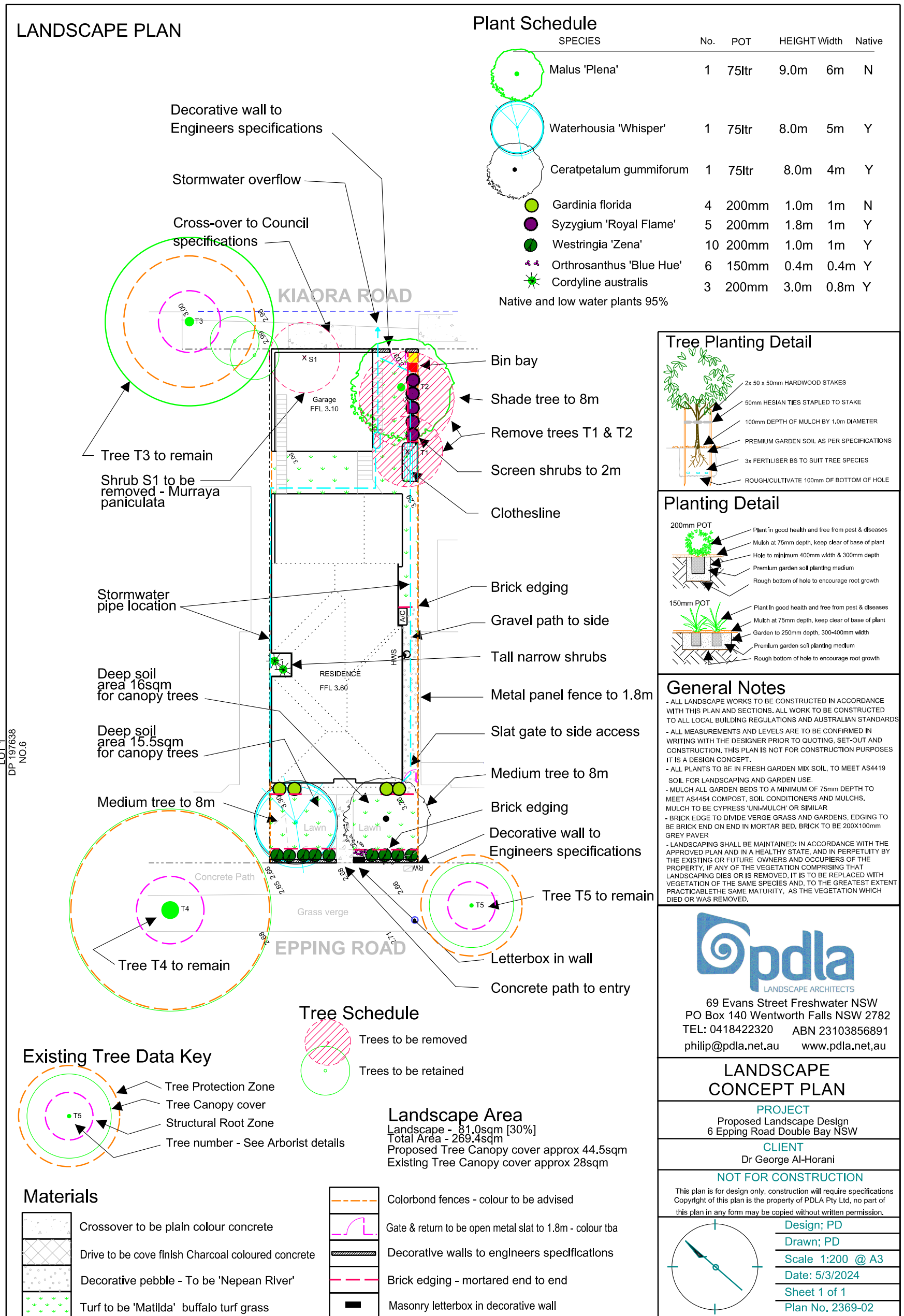
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PROPOSED DOUBLE STOREY DWELLING  
AT: 6 Epping Road, Double Bay, NSW, 2028  
FOR: Dr. George Al-Horani

Council: Woollahra Municipal  
Design: Arkan Sutto  
Drawn: Tran Nguyen

Colour Schedule & Information	
Scale:	Sheet: 07 of 07
Date: 02-02-2024	Job No: 29-08-23









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**CLAUSE 4.6 STATEMENT:**

**REQUEST FOR AN EXCEPTION TO THE FLOOR  
SPACE RATIO DEVELOPMENT STANDARD**

**6 Epping Road, Double Bay NSW 2028**

*PROPOSED DEMOLITION OF EXISTING DWELLING &  
CONSTRUCTION OF TWO STOREY DWELLING WITH ATTIC &  
DETACHED GARAGE*

Prepared for:	Benyana Building Design
Date Prepared:	January 2024
Revision:	2.0
Woollahra Development Application #:	TBA



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- Any conclusion drawn resulting from omission or lack of full disclosure by the client, or the clients' consultants.



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## Introduction

This request for an exception to a development standard is submitted in respect of the development standard contained within Clause 4.4 of the Woollahra Local Environmental Plan 2014 (WLEP). The request relates to an application for the proposed dwelling including attic and detached garage at 6 Epping Road, Double Bay.

This Clause 4.6 request refers to the floor space ratio development standard under Clause 4.4 of WLEP 2014-‘Floor Space Ratio’ which requires a floor space ratio requirement of 0.75:1.

The proposed dwelling results in an overall gross floor area of 236.58m<sup>2</sup> which equates to an FSR of 0.87:1. The variation is 34.53m<sup>2</sup>.

This request to contravene the development standard for the floor space ratio development standard has been prepared in accordance with the principles applied in relevant case law including:

1. *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79,
2. *Wehbe v Pittwater Council* (2007) 156 LGERA 446,
3. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009,
4. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118,
5. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170, and
6. *RebelMH Neutral Bay Pty Limited v North Sydney Council* (2019) NSWCA 130

This Clause 4.6 request is set out in accordance with the relevant principles established by the Court including:

1. Is the development consistent with the objectives of the zone?
2. Is the proposed development consistent with the objectives of the development standard which is not met?
3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (cl 4.6(3)(a) and cl 4.6(4)(a)(i))
4. Are there sufficient environmental planning grounds to justify contravening the development standard and therefore the Applicant’s written request to vary the development standard is well founded? (cl 4.6(3)(b) and 4.6(4)(a)(ii))
5. Is the proposed development in the public interest because it is consistent with the objectives of the standard and the zone? (cl 4.6(4)(a)(ii))



### **Matters required to be demonstrated under clause 4.6(3) of the LEP**

#### Compliance with the development standard is unreasonable or unnecessary in this particular case

The focus of cl 4.6(3)(a) of the LEP which requires demonstration that compliance with the development standard is unreasonable or unnecessary is on whether the compliance with the specified control itself is unreasonable or unnecessary.

The departure from the specified control is considered to be modest (34.53m<sup>2</sup> or 12%). As acknowledged by the Court of Appeal in *Fastbucks v Byron Shire Council* (1999) NSWCA 19, a modest departure from a development standard is a basis upon which compliance with the standard can be seen to be unreasonable or unnecessary.

This request to contravene the development standard for the floor space ratio development standard has been prepared in accordance with the principles applied in relevant case law including:

#### **Objectives for floor space ratio**

The relevant objectives of the FSR development standard are stated as:

*(1) The objectives of this clause are as follows—*

*(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*

*(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*

*(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*

*(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

**Objective (a):** The proposed development introduces an addition that meets the needs of the residents of the future occupants. The bulk and scale of the dwelling complements and is appropriate for the subject property and the streetscape.

Objective (a) is satisfied.





**Objective (b):** The proposed dwelling will replace the existing dwelling and will not create further generation of vehicle and pedestrian traffic. Objective (b) is satisfied.

**Objective (c):** The dwelling will replace the existing dwelling and will not create additional infrastructure. Objective (c) is satisfied.

**Objective (d):** The proposed dwelling reflects the existing character of the locality and provides adequate amenity without deterring from adjoining properties amenity.

### **Clause 4.6(3)(b) - Sufficient Environmental Planning Grounds**

Pursuant to clause 4.6(3)(b) of the LEP, there are sufficient environmental planning grounds to justify the variation to the FSR development standard because:

- The proposal exceeds the approved floor space ratio of 0.75:1 by 34.53m<sup>2</sup>. The exceedance is due to the proposed attic, despite this the dwelling is under the 9.5m maximum height permitted and therefore does not create excessive bulk. The non-compliance is not considered out of character to the streetscape, nor does it make the proposal inconsistent in regards to bulk and scale with other buildings within the street.
- The proposal has been assessed in relation to amenity and building appearance as addressed within the Statement of Environmental Effects Report. It has been concluded that the proposal meets the Council objectives in minimising impacts in this regard and therefore meets this objective.
- The proposed dwelling is of a high architectural standard, of complementary construction materials that will make a positive addition to the built qualities of the area.

The proposed development and in particular the variation to the FSR Standard would further the following objectives of the Act specified in s.1.3:

*(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,*

#### Comment:

The proposed addition does not deter the existing site's ability to promote social and economic welfare of the community and the site's eventual occupants.

*(c) to promote the orderly and economic use and development of land,*



Comment:

The proposed dwelling will result in an orderly and economic use of land.

*(g) to promote good design and amenity of the built environment,*

Comment:

The proposed exceedance in the FSR is a result of the proposed attic. As the dwelling height remains under the permitted 9.5m the dwelling does not appear excessively bulky despite the exceedance. The non-compliance is not considered out of character to the streetscape, nor does it make the proposal inconsistent in regard to bulk and scale with other buildings within the street. The development would provide a high level of amenity to occupants yet would not adversely affect amenity levels on adjoining properties.

#### **Clause 4.6(4) Zone Objectives & The Public Interest**

The subject property is zoned R3 – Medium Density Residential pursuant to WLEP 2014.

The relevant objectives of the R3 zone in accordance with the planning assessment provided as follows:

<i>To provide for the housing needs of the community within a medium density residential environment.</i>	The dwelling provides for the housing needs of the community.
<i>To provide a variety of housing types within a medium density residential environment.</i>	The dwelling will be an addition housing type within the surrounding environment.
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	Not applicable.
<i>To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.</i>	The dwelling is considered to be of an appropriate height and scale that achieves the desired future of the neighbourhood.
<i>To ensure development conserves and enhances tree canopy cover.</i>	Despite the exceedance in FSR the development will conserve the existing tree canopy cover.



### **Clause 4.6(5)**

As addressed, it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the FSR control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal.

### **Conclusion**

The development proposal has a variation (34.53m<sup>2</sup>) to the 0.75:1 floor space ratio development standard contained within clause 4.4 of the WLEP 2014. Notwithstanding, the proposal demonstrates that the property can accommodate the proposed dwelling, presenting a built form and residential density that is consistent with the objectives of the standard and suitable for the subject site.

The proposed dwelling does not result in unreasonable amenity impacts to the adjoining properties regarding overshadowing, visual and acoustic privacy or visual bulk and scale. The development achieves good residential amenity.

The fact that the development meets the remaining WLEP standards and DCP controls confirms the site can accommodate the development that meets the planning controls ensuring that the development is consistent with the desired future character for development in the R3 Medium Density zone.

In accordance with the environmental planning grounds addressed in this clause 4.6 variation, the variation to the height of building standard should be upheld.



Woollahra  
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26 June 2024

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 101/2024/1

**ADDRESS:** 6 Epping Road DOUBLE BAY 2028

**PROPOSAL:** Demolition of existing dwelling and construction of a new dwelling with attic and detached garage

**FROM:** W HUYNH

**TO:** E Peedom

---

### 1. ISSUES

- See comments regarding site drainage.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced-Rev 2, prepared by Auswide Consulting, dated January 2024.
- Architectural Plans, referenced 29-08-23-Rev 2, prepared by Benyana Building and Design, dated 02/02/2024.
- Survey Plan, referenced 23056\_001, prepared by Vertex Surveyors, dated 18/04/2023.
- Stormwater Management Plan, referenced 29-08-23-Rev 2, prepared by Benyana Building and Design, dated 02/02/2024.

### 3. ASSESSMENT

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

#### a. Site Drainage comments

*It is noted from the submitted stormwater management plan that stormwater runoff is proposed to be discharged to the street kerb of Kiaora Road. However, due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, Council's Infrastructure Assets Team Leader will not support the discharge of stormwater to Kiaora Road. Therefore, site stormwater must be discharged to Epping Road instead.*

*A charged system draining to an appropriately sized rainwater tank discharging to Epping Road must be provided.*

#### b. Flooding & Overland Flow comments

Page 1 of 3



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Council

*No outstanding issues, to be conditioned accordingly.*

**c. Impacts on Council Infrastructure comments**

*It is noted from the submitted stormwater management plan that stormwater runoff is proposed to be discharged to the street kerb of Kiaora Road. However, due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, Council's Infrastructure Assets Team Leader will not support the discharge of stormwater to Kiaora Road. Therefore, site stormwater must be discharged to Epping Road instead.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*No outstanding issues, to be conditioned accordingly.*

**f. Geotechnical, Hydrogeological and/or Structural comments**

*No outstanding issues, to be conditioned accordingly.*

**4. RECOMMENDATION**

Council's Development Engineer 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:

Stormwater Management:

It is noted from the submitted stormwater management plan that stormwater runoff is proposed to be discharged to the street kerb of Kiaora Road. However, due to existing drainage issues and the absence of a kerb and gutter on Kiaora Road, Council's Infrastructure Assets Team Leader will not support the discharge of stormwater to Kiaora Road. Therefore, site stormwater must be discharged to Epping Road instead.

The following issues shall be addressed by the applicant prior to further assessment:

- 1) The site discharge must be relocated to the frontage of Epping Road. Any stormwater outlet pipe must be located wholly within the frontage of the subject site. Pipe size shall be 150x75mm galv. RHS with 1% grade to comply with Council's Specification. Only one stormwater outlet will be permitted. A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. Given that there is marginal fall towards the street kerb, a longitudinal section showing the proposed stormwater outlet across the nature strip must be provided. All existing utilities services must be clearly depicted on the longitudinal section.
- 2) All roofwater must be directed to a rainwater tank (RWT) via a charged system. A RWT with minimum storage based on 60m<sup>3</sup> per 1,000m<sup>2</sup> of roof area must be provided. The RWT overflow must drain to the street kerb by gravity and must be located behind the front alignment of the building or placed underground.





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- 3) Longitudinal section(s) for the charged system showing the pressure head based on the roof gutter invert level and the RWT inlet pipe invert level. The design for the charged system must satisfy a minimum pressure head of 1.5m. All relevant gutter invert and cleaning eye/pit levels must be shown.
- 4) Sectional details of the rainwater tank and/or holding tank showing dimensions, pump details and specifications, both invert levels and overflow levels shall be provided.

The following must be provided in the revised Stormwater Management Plan (to be prepared by a suitably qualified civil engineer):

- a) Drainage 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:
  - All pipe layouts, dimensions, grades, lengths and material specification.
  - Location, dimensions and type of rainwater tanks, drainage pits, surcharge facilities.
  - All invert levels reduced to Australian Height Datum (AHD).
  - Exact point and method of connection to Council's drainage infrastructure.
  - Overland flow paths.
- b) Location of all trees on and adjacent to the site that will be retained under the proposal, in relation to proposed drainage lines. The drainage system must not interfere with these.
- c) Rainwater Tank details:
  - Any potential conflict between existing and proposed trees and vegetation.
  - Internal dimensions and volume of the proposed rainwater storage.
  - Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.
  - Details of access and maintenance facilities.
  - Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
  - Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks.

Revised stormwater management plans addressing the above issues must be submitted to Council for further assessment.



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6 June 2024

## REFERRAL RESPONSE – TREES AND LANDSCAPING

**FILE NO:** Development Applications: 101/2024/1

**ADDRESS:** 6 Epping Road DOUBLE BAY 2028

**PROPOSAL:** Demolition of existing dwelling and construction of a new dwelling with attic and detached garage

**FROM:** David Prieto - Tree Management & Landscape Officer

**TO:** E Peedom

---

### 1. ISSUES

- Council's Tree and Landscape Officer has determined that additional information is required before further assessment of the application can be undertaken.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, prepared by Auswide, dated January 2024
- Survey Plan No.23056\_001 Rev.A, drafted by Martin Wahbe, dated 18/04/2024
- Architectural Drawing Sheet Nos. 01 to 07, drawn by Benyana Building Design, dated 02/02/2024
- Stormwater drainage Plan No.01, drawn by Benyana Building Design, dated 02/02/2024
- Landscape Plan No. 2369-2 , designed by PDLA, dated 05/03/2024

A site inspection was carried out on 014/04/2024.

### 3. RELEVANT CONTROLS

- Woollahra Local Environment Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Street Tree Master Plan 2014 – Part 1, Part 2 (Precinct Plans), Part 3 (appendices)
- Significant Tree Register 1991 Volume 1 Significant Trees Under Private Ownership, Volume 2 Significant Trees Under Private Ownership, Volume 3 Significant Trees, Volume 4 Significant Trees in Public Parks



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- 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
- Apartment Design Guide – Tools for improving the design of residential apartment development, Part 4, 4P – Planting on Structures, written by NSW Department of Planning, Industry and Environment, dated July 2015

#### **4. SUMMARY**

The proposal is for demolition of all structures and construction of a dwelling house and a garage a rear, including tree removal, replacement and soft landscaping.

A total of five (5) trees have been found within and adjacent to the site. Two (2) trees in the property are proposed to be removed and replaced and three (3) street trees are proposed to be retained and protected.

Unsatisfactory documentation:

- The applicant has not provided an Arboricultural Impact Assessment report to demonstrate the proposal does not provide a negative impact on existing trees to be retained.
- The location of the trees in the survey plan needs to be confirmed, especially Tree No.3 located within the council verge in Kiaora Road. The tree has been erroneously located at least 1.5m further north than its actual position.
- The landscape plans show SRZ and TPZ of a number of street trees that are incorrect, e.g. the plan indicates Tree No.3 has a TPZ of 3.85m when it is actually more than 10.0m.
- The landscape plan includes an assessment of the Canopy Cover and Deep soil that are inconsistent with the assessment on B3.7 (page 18) of the Statement of Environmental Effect.
- The SEE (page 18) indicates that as per 35% deep soil should be provided as per C2 of the DCP. The applicant indicates that the proposal complies with the control when the Landscape Plan shows 30% of deep soil is provided and the SEE shows 'more than 30%', therefore, the assessment cannot be supported.

#### **5. COMMENTS**

A number of large mature trees are located within and adjacent to the site.

The location of some of the trees in the survey plan are incorrect. For example Tree no.3 has been conveniently located at least 1.5m further north than its actual location.

The landscape plans show SRZ and TPZ of a number of street trees that are incorrect and have been conveniently drawn outside of the property boundary when in fact they are well inside the property. For example the plan indicates Tree No.3 has a TPZ of 3.85m when it is actually more than 10.0m and Tree No.4 has much larger TPZ and SRZ.

The applicant has not provided an Arboricultural Impact Assessment report to assess the impact on trees to be retained and to demonstrate if the proposal is viable.

The SEE (page 18) indicates that as per 35% deep soil should be provided as per C2 of the DCP. The applicant indicates that the proposal complies with the control when the Landscape Plan shows 30% of deep soil is provided and the SEE shows 'more than 30%', therefore, the assessment cannot be supported.



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## 6. RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the following information is required before further assessment of the application can be undertaken:

### Amended Survey Plan

An amended Survey Plan shall be prepared with the correct location and dimensions of all the trees.

### Arboricultural Impact Assessment and Tree Protection Plan

As per 3.3.3 of the AS 4970-2009 *Protection of trees on development sites*, if the proposed encroachment is greater than 10% of the TPZ or inside the SRZ, the project arborist must demonstrate that the tree(s) would remain viable. The area lost to this encroachment should be compensated for elsewhere and contiguous with the TPZ.

An Arboricultural Impact Assessment and Tree Protection Plan, prepared shall be prepared in accordance with Attachment 4 – Tree Reports of Council's DA Guide and submitted to Council's Tree Management Officer for further assessment. The report shall be prepared by an Arborist with a minimum qualification of Australian Qualification Framework Level 5, addressing all trees, subject to Council's Development Control Plan, Chapter E3 – Tree Management which are proposed to be removed or are located within 5 metres of proposed development works. The report must include the following:

- All plans submitted as part of the subject development application that are relevant in terms of impacts to existing trees must be listed in the report (e.g. architectural plans, stormwater drainage plans, landscape plans).
- The report must review the survey plan to verify the location of all trees.
- The report must assess all impacts to existing trees within and adjacent the subject property based on the submitted plans as part of the development application.
- The report must adequately demonstrate how the proposed development can be achieved without negatively impacting on existing trees within and adjacent the subject property to be retained.
- To ensure the street trees the property are not adversely impacted by the proposed design, Exploratory Root Investigation may need be undertaken and the results submitted to Council, especially for Tree Nos. 3 & 4 as major encroachments into the TPZ and the SRZ are anticipated by the proposed building and garage. The report shall include location of trenches, location and dimensions of exposed roots, assessment of the short and long term impacts, etc.

### Amended Landscape Plan

An amended Landscape Plan shall be prepared as per 5.1 of the DA Guide. It shall include an assessment of the existing and proposed tree canopy cover and must clearly address the required percentage of tree canopy cover and deep soil area relevant to the subject site in accordance with Section B3.7.1 in Chapter B3 of the Woollahra DCP 2015. The plan shall include:

- Correct location of all trees.
- Correct TPZ & SRZ of all trees to be retained.
- Existing canopy cover to be retained.

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- Proposed canopy cover.
- Overall canopy assessment complying with Control C1
- Proposed deep soil area complying with Control C2. Please note the LEP 2014 & DCP define deep soil landscape area as *"the area of the site that contains landscaped area which has no above ground, ground level or subterranean development"*.

#### **Amended Statement of Environmental Effects**

B3.7 *External areas* of the submitted Statement of Environmental Effects (SEE) shall be amended for consistency with other documents and demonstrate how the proposal complies all controls, especially C1 Tree canopy area and C2 Deep soil of B3.7.1 *Landscape area and private open space* of the DCP.

David Prieto  
**Tree Management & Landscape Officer**

07/06/2024  
**Completion Date**



14 May 2024

REFERRAL RESPONSE – DRAINAGE

**FILE NO:** Development Applications: 101/2024/1

**ADDRESS:** 6 Epping Road DOUBLE BAY 2028

**PROPOSAL:** Demolition of existing dwelling and construction of a new dwelling with attic and detached garage

**FROM:** Michael Casteleyn

**TO:** E Peedom

1. ISSUES

None.

2. DOCUMENTATION

I refer to the following documents received for this report:

- 24/58821 Document - FLOOD RISK MANAGEMENT - DA2024/101/1 - 6 Epping Road DOUBLE BAY

3. ASSESSMENT

The DA submission has been reviewed.

4. RECOMMENDATION

Council's Drainage Engineer has determined that the proposal is satisfactory, subject to the following conditions:

D	1.	<b>Flood Protection</b>
		<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).</p> <p><u>Flood Warning:</u></p> <p>a) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,</p> <p><u>Floor levels</u></p> <p>a) All habitable floors shall be above or protected from flooding to the flood planning level of 3.6m AHD,</p>





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Flood Proof Material

- a) Flood compatible materials shall be used for all flood exposed construction,

Electricals

- a) All flood exposed electrical wiring and equipment shall be waterproofed,

Certification

- a) 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.

**Notes:**

- The revised driveway profile, gradients and transitions must be in accordance with Australian Standard 2890.1, Part 1: Off-street car parking. The driveway profile submitted to Council must contain all relevant details: reduced levels, proposed grades and distances. Council will not allow alteration to existing reduced levels within the road or any other public place to achieve flood protection.

**Condition Reason:** To ensure the development incorporates flood inundation protection measures.

Michael Casteleyn  
Drainage Engineer

14 May 2024  
**Completion Date**

Completion Date: 14/5/24

## REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

**FILE NO:** Development Applications: 101/2024/1  
**ADDRESS:** 6 Epping Road DOUBLE BAY 2028  
**PROPOSAL:** Demolition of existing dwelling and construction of a new dwelling with attic and detached garage  
**FROM:** K Pakhomova  
**TO:** E Peedom

---

### 1. ISSUES

- 

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced (HPE) 24/83240 prepared by AusWide Consulting, dated January 2024.
- Preliminary Acid Sulphate Soil Assessment and Acid Sulphate Soils Management Plan, referenced N09776, prepared by Neo Consulting, dated 22 March 2024.

### 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

#### Two Storey Dwelling

- Two storey dwelling featuring:
  - Ground floor: kitchen with pantry, dining room, family room, wash closet, pantry, study/living room, bedroom with ensuite and walk in robe, lift access
  - First floor: master bedroom with ensuite, walk in robe and study and family room, two addition bedrooms, bathroom, study/living, front and rear balcony, lift access;
- Attic featuring bathroom and kitchenette;
- Detached double garage with rooftop deck.

### 5. ASSESSMENT

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

**e) Acid Sulphate Soils**

The site is located within Class 3 area. A flight auger was used for drilling of borehole AS to a depth of 2.5 mbgl. Analytical results of soil sampling presented in the ASS investigation by Neo Consulting Pty Ltd suggests that potential Acid Sulphate Soil (ASS) conditions may exist where the Net Acidity (%Sulphur) exceeds 0.03% in coarse textured soils. This condition was observed in the sample obtained at all depths. It is expected that potential ASS is presented below the depth of 0.5mbgl. if the depth of excavation exceeds 0.5meters, an Acid Sulphate Soil Management Plan (ASSMP) will be activated to mitigate the impacts on local ASS. Neo Consulting Pty Ltd provides an ASSMP in their report in accordance with the Acid Sulphate Soil Manual 1998. As such, no further investigation is considered necessary.

## 6. RECOMMENDATION

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

### A. General Conditions

#### A.1 Approved Plans and supporting documents

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

Reference	Description	Author/Drawn	Date(s)
N09776	Preliminary Acid Sulphate Soil Assessment and Acid Sulphate Soils Management Plan	Neo Consulting	22 March 2024
	Acoustic Report		
	Noise Management Plan		
	Plan of Management		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		

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

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

Standard Condition: A5

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

#### B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change*:

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

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

**C.1 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.2 Ventilation - Enclosures used by Vehicles (Car parks, automotive service, enclosed driveways, loading docks and the like)**

The *garage* 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 *garage* 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 *garage* and provide details to the *Certifying Authority* accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the *garage* shall be mechanically ventilated by a combination of general

exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

**C.3 Ventilation - Internal Sanitary Rooms**

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

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

**E. Conditions which must be satisfied during any development work**

**E.1 Hours of Work –Amenity of the neighbourhood**

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

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

**Note:** The use of noise and vibration generating plant and equipment and vehicular traffic, including trucks in particular, significantly degrade the amenity of neighbourhoods and more onerous restrictions apply to these activities. This more invasive work generally occurs during the foundation and bulk excavation stages of development. If you are in doubt as to whether or not a particular



- activity is considered to be subject to the more onerous requirement (9am to 4pm weekdays and 9am to 1pm Saturdays) please consult with Council.
- Note:** Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.
- Note:** The delivery and removal of plant, equipment and machinery associated with wide loads subject to RTA and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.
- Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.
- Note:** EPA Guidelines can be downloaded from <http://www.epa.nsw.gov.au/noise/nlg.htm>.
- Note:** see [http://www.epa.nsw.gov.au/resources/ci\\_build\\_sheet7.pdf](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:

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

**Note:** "*Dust Control - Do it right on site*" can be downloaded free of charge from Council's web site [www.woollahra.nsw.gov.au](http://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](http://www.workcover.nsw.gov.au) and [www.epa.nsw.gov.au](http://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

## E.3 Compliance with Acid Sulfate Soils Management Plan

The Principal Contractor / Owner Builder and any subcontractor must comply with the Acid Sulfate Soil Management Plan and the NSW Government Acid Sulfate Soils Management Advisory Committee guidelines.

**Note:** The Acid Sulfate Soils Management plan submitted with the Development Application sets out all the above requirements in detail.

**Note:** A failure to implement and maintain the Acid Sulfate Soils Management plan can result in the following environmental harm:

- damage to the soil structure so plant roots and soil organisms can't easily move about

- plant roots being burnt by acid, reducing plant health and productivity
  - acid intolerant soil fauna and flora are killed, so the soil biodiversity and health are reduced
  - plants and soil life can be poisoned by the available toxic metals
  - loss of aquatic plants that can not survive acidic conditions
  - loss of fish, crustaceans, birds and other animals
  - damage to metal and concrete structures (such as bridge pylons and pipes)
- Standard Condition: E28

**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**

**I.1 Outdoor lighting – Residential**

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:** This condition has been imposed to control the obtrusive effects of outdoor lighting.

Standard Condition: I49

**I.2 Noise Control**

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

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

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the

Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://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 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

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

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I56

### I.3 Noise from mechanical plant and equipment

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

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

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

**Note:** Words in this condition have the same meaning as in the:

*NSW Industrial Noise Policy*

([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf))

ISBN 0 7313 2715 2, dated January 2000, and

*Noise Guide for Local Government*

(<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671, dated December 2004.

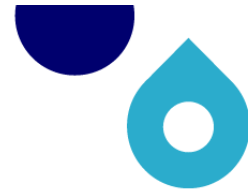
Standard Condition: I59

### J. Miscellaneous Conditions

Nil.

### K. Advisings

Nil



22 May 2024

**Ellie Peedom**

Woollahra Municipal Council

[ellie.peedom@woollahra.nsw.gov.au](mailto:ellie.peedom@woollahra.nsw.gov.au)

**RE: Development Application DA101/24 at 6 Epping Road, Double Bay**

Thank you for notifying Sydney Water of DA101/24 at 6 Epping Road, Double Bay, which proposes to demolish the existing dwelling and construct a two (2) storey dwelling with attic and detached garage.

Sydney Water has reviewed the application based on the information supplied and provides the following Sydney Water requirements to assist in understanding the servicing needs of the proposed development.

Sydney Water understand that this development application replaces DA42/24 (A-79564).

**Water and wastewater servicing**

- Our preliminary assessment indicates that water and wastewater servicing should be available for the proposed development.
- Amplifications, adjustments, deviations and/or minor extensions may be required.
- Detailed requirements will be provided at the Building Plan Approval application stage.

**Next steps**

- Should the Woollahra Municipal Council decide to progress with the subject development application, Sydney Water would require the following conditions be included in the development consent. Further details of the conditions can be found in **Attachment 1**.
  - Building Plan Approval

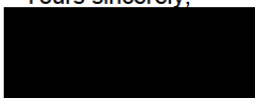
This advice is not formal approval of our servicing requirements. Detailed requirements, including any potential extensions or amplifications, will be provided once the development is referred to Sydney Water for a Building Plan Approval. More information about the Building Plan Approval application process is available on our web page in the [Land Development Manual](#)

Sydney Water Corporation ABN 49 776 225 038  
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124  
Telephone 13 20 92 Media (24/7) 8849 5151 [sydneywater.com.au](http://sydneywater.com.au)



Council can read further advice on requirements for this proposal in Attachments 1. Should Woollahra Municipal Council require further information, please contact the Growth Planning Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au)

Yours sincerely,



**Kristine Leitch**

Commercial Growth Manager  
City Growth and Development  
Water and Environment Services  
Sydney Water, 1 Smith Street, Parramatta NSW 2150

**Enclosed:**

- Sydney Water Development Application Information Sheet (for proponent)

Sydney Water Corporation ABN 49 776 225 038  
1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124  
Telephone 13 20 92 Media (24/7) 8849 5151 [sydneywater.com.au](http://sydneywater.com.au)



### **Attachment 1 – Recommended Development Conditions**

Prior to the issue of a Construction Certificate/Complying Development Certificate:

#### **Building Plan Approval (including Tree Planting Guidelines)**

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to [Sydney Water Tap in®](#) to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

#### **Tree Planting**

Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's [Technical guidelines – Building over and adjacent to pipe assets](#)

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1 Smith Street, Parramatta, NSW 2150 | PO Box 399, Parramatta, NSW 2124  
Telephone 13 20 92 Media (24/7) 8849 5151 [sydneywater.com.au](http://sydneywater.com.au)





# Sydney Water Development Application Information Sheet for Proponent

Sydney Water has provided advice to the Department/Council on your proposed development. Further steps are required before Sydney Water connections and final approvals can be granted. Without relevant Sydney Water approval, your Subdivision Certificate or Occupation Certificate, Construction Certificate, may not be issued. Please read the information below to assist with your development. Further information can also be found on our website [sydneywater.com.au](https://sydneywater.com.au).

## Building Plan Approval

### Why have I been advised a Building Plan Approval?

Demolition, excavation, construction or modification to existing buildings and structures all have the potential to damage or limit access to our water, wastewater or stormwater services. That's why we need to review and approve your building plans before you start any work. In many cases, you need a Building Plan Approval before council can allow you to start demolishing or constructing.

### How do I apply for a Building Plan Approval?

The approved plans must be submitted to the Sydney Water [Tap in®](#) online service to determine whether the development will affect any Sydney Water wastewater, water, stormwater mains and/or easement, and if further requirements need to be met.

Sydney Water recommends you apply for Building Plan approval early as in some instances a detailed engineering assessment would be required when building over or near our critical assets. This can be a lengthy process and may also impact development designs.

You will be required to pay Sydney Water for the costs associated with any detailed review.

## Section 73 Compliance Certificate

### Why have I been advised a Section 73 application?

If you are developing or subdividing land and needing water or wastewater, you may need to apply for a Section 73 Compliance Certificate before council can issue an Occupation or Subdivision Certificate.

If we have noted a requirement for a Section 73 Compliance Certificate in our advice to Council, one must be obtained from Sydney Water under the *Sydney Water Act 1994*. These include secondary homes or granny flats in an area with Priority Sewerage Scheme or with a GFA greater than 60 m<sup>2</sup>.

### How do I apply for a Section 73 Compliance Certificate?

You can choose to use a water servicing coordinator for works of any size. If you only have minor works, you can apply directly through Sydney Water Developer Direct.

We suggest you lodge an early application for the certificate, as there may be additional connections or pipes to be built or additional steps to protect our existing assets. This can also impact other services, buildings, driveways, or landscape designs.

## Feasibility

### Why have I been advised to carry out a Feasibility enquiry?

If the development presents potentially large water servicing demands on drinking water, wastewater, recycled water and stormwater where applicable or asset impacts are anticipated, further investigation may be required to determine the servicing requirements for the site.

It is recommended that a Water Servicing Coordinator is engaged to ensure early discussion on your proposed development so it is considered in any potential planning that we might be undertaking. We advise you do this as soon as possible to prevent potential delays to your development approvals or servicing.

### How do I apply for a Feasibility?

To apply for a Feasibility, you will need to contact a Water Servicing Coordinator. Tell them you have been advised to lodge a Feasibility as part of your development application.

## Growth Data Form

### Why do I need to complete a Growth Data Form as part of the Feasibility application?

If you have been requested to provide growth data, it is likely your planning proposal may lead to development with significant servicing needs, especially in areas not previously identified for substantial growth. To ensure thorough servicing advice and explore staged servicing options, we need anticipated growth data and indicative development staging, including yield per stage, as specified in the Growth Data Form in Appendix 1 of this information sheet.

## Infrastructure Contributions

### What are infrastructure contributions?

Infrastructure contributions are a payment towards the cost of infrastructure needed to provide water-related services to new developments. The contributions are set to be reintroduced by Sydney Water from 1 July 2024 followed a decision by the NSW Government.

Please note existing charges still apply for the recycled water schemes provided by Sydney Water.

### How do infrastructure contributions impact me?

Infrastructure contributions for drinking water and wastewater will be payable for all developments that require a Section 73 Compliance Certificate to be issued from 1 July 2024 onwards. The contributions will be gradually reintroduced such that they will be capped at 25 percent in 2024-25 and 50 percent in 2025-26, with full contributions payable from 1 July 2026 onwards, in line with a transition plan approved by the NSW Government.

You can find more information on the reintroduction of drinking water and wastewater contributions at [Infrastructure contributions | Sydney Water Talk](#).

### I am building in the Western Sydney Aerotropolis Precincts. How does this impact me?

The NSW Government has appointed Sydney Water as the Regional Stormwater Authority in the initial Western Sydney Aerotropolis precincts, including the Mamre Road Precinct.

If you are building in the Aerotropolis Initial Precincts, you will be required to pay infrastructure contributions towards Sydney Water's stormwater and recycled water servicing. The estimated amount of contributions for stormwater and recycled water servicing will be provided at the Notice of Requirements issued during the Section 73 application.

You can find more information on Mamre Road and Aerotropolis Infrastructure Contributions at [Mamre Road and Aerotropolis development](#).



## Water Servicing Coordinator

### What is a Water Servicing Coordinator?

Water Servicing Coordinators are accredited providers who can manage your Sydney Water applications for you.

They can design new pipes, manage applications for Section 73 Compliance Certificates and Feasibilities, applications for approval to move or extend our pipes, design and construction of new pipes, and applications for approval to build over or next to assets.

All Water Servicing Coordinators have designer accreditation and can provide design services.

### How do I find a Water Servicing Coordinator?

Please follow this link to find a list of Water Servicing Coordinators: [Water servicing coordinators](#)

## Quick Links

[Building plan approvals](#)

[Section 73 Compliance Certificates](#)

[Steps for first time developers](#)

[Water servicing coordinators](#)

[Infrastructure contributions | Sydney Water Talk](#)

[Managing trade wastewater](#)

[Growth Servicing Plan](#)

[Mamre Road and Aerotropolis development](#)

## Trade wastewater for business customers

### I am a business customer and my development may generate commercial or industrial trade wastewater. What do I do?

If your development is going to generate trade wastewater, you must have written approval to connect your business to our network, and properly install and maintain appropriate treatment equipment before any business activities can commence. It is illegal to discharge trade wastewater into the Sydney Water sewerage system without permission.

### How to apply for approval to discharge?

Complete an application for connection to discharge trade wastewater at Sydney Water [Tap in@](#) or contact [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au) for further information.



Appendix 1. Example of growth data form

The following is an example of the level of intel that we require to assess the potential staging and phasing of asset upgrades. We acknowledge that this information is an indication only and is provided as a guide to assist SW to provide more nuanced feasibility or servicing advice. We note that timescales are often subject to developer intent/demand and approval timescales. Sydney Water uses the information at its own risk.

Growth forecast																	
Project name	Address+ Reference number																
Development Type	Ultimate proposed new growth	Total # stages	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	continue as required
Example (dwelling multi)	3350						350	350	500	500	350	350	350	200	200	200	
Example (job number)	1900					200	200	300	300	300	300	300	0	0	0	0	
Dwellings (single)																	
Dwellings (multi)																	
Jobs (number)																	
Jobs (GFA)																	

## **LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	D3
<b>FILE No.</b>	DA363/2023/1
<b>ADDRESS</b>	98 Fletcher Street WOOLLAHRA
<b>COUNCIL WARD</b>	Cooper
<b>SITE AREA</b>	203.85m <sup>2</sup>
<b>ZONING</b>	R3 Medium Density Residential
<b>PROPOSAL</b>	Alterations & additions to the existing dwelling including an extension to the first floor level
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$585,000.00
<b>DATE LODGED</b>	31/05/2024
<b>APPLICANT</b>	Wurley Group Pty Ltd
<b>OWNER</b>	Mrs L Rich
<b>AUTHOR</b>	Ms S Soliman
<b>ACTING TEAM LEADER</b>	Mr Brett McIntyre
<b>SUBMISSIONS</b>	1
<b>RECOMMENDATION</b>	Conditional Approval

### **1. 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:

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

**AND**

In accordance with Section 8.3(4) of the Environmental Planning and Assessment Act (EP&A Act) 1979 and Council's delegations, a Section 8.2 Review of Determination application can only be determined at a higher level of delegation than the level at which the original application was determined. In this case, the original application was determined under delegated authority.

### **2. REASONS FOR RECOMMENDATION**

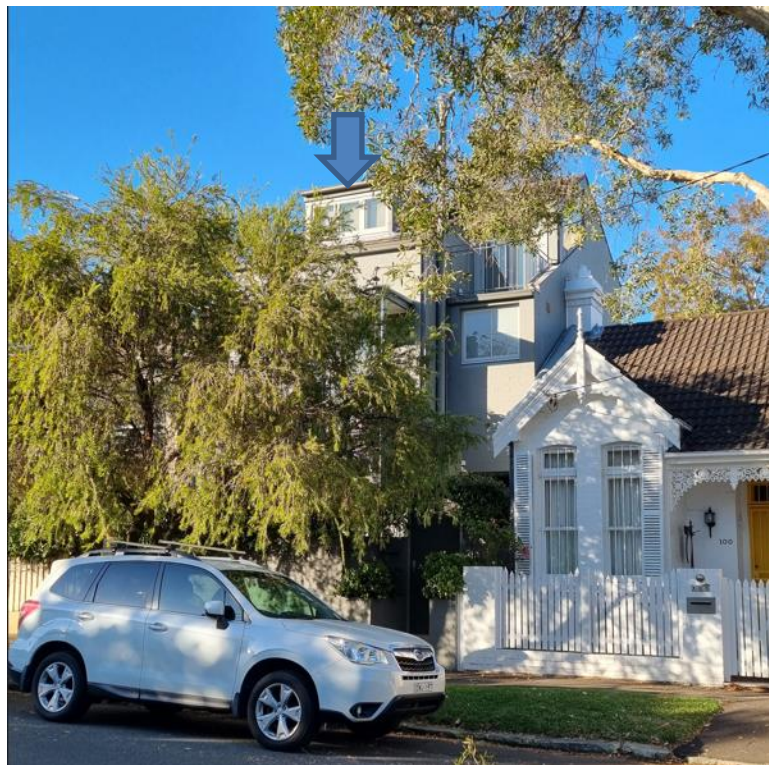
The application has been assessed within the framework of the matters for consideration under section 4.15 of the EP&A Act 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of Woollahra Local Environmental Plan (LEP) 2014 and Woollahra Development Control Plan (DCP) 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 non-compliant FSR will achieve the relevant objectives of the standard and that of the zone where the site falls within, subject to **conditions**. The submitted Clause 4.6 is considered to be well founded with sufficient planning grounds;
- The site is suitable for the proposed development, subject to **conditions**; and
- The proposal is in the public interest.

### 3. LOCALITY PLAN



View of Subject Site from Fletcher Street (Source: Site Inspections, dated 17/07/24)





*View of rear laneway and Subject Site from rear (Source: Site Inspections, dated 17/07/24)*

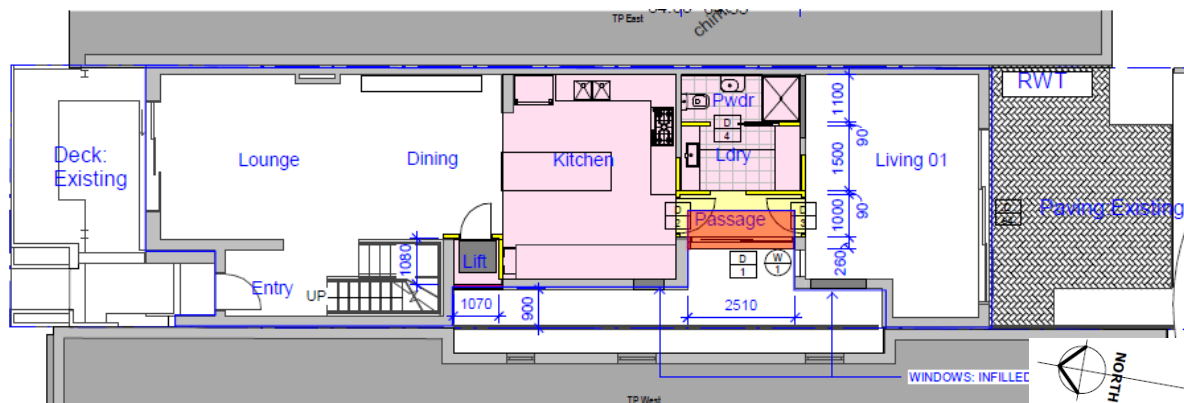


*View of Subject Site from rear (Source: Site Inspections, dated 17/07/24)*

#### **4. PROPOSAL**

The development application (DA) proposes partial demolition to an existing terrace to allow for the introduction of a new lift, internal reconfigurations and the construction of an extension at first floor level. More specifically, the proposal is detailed as follows:

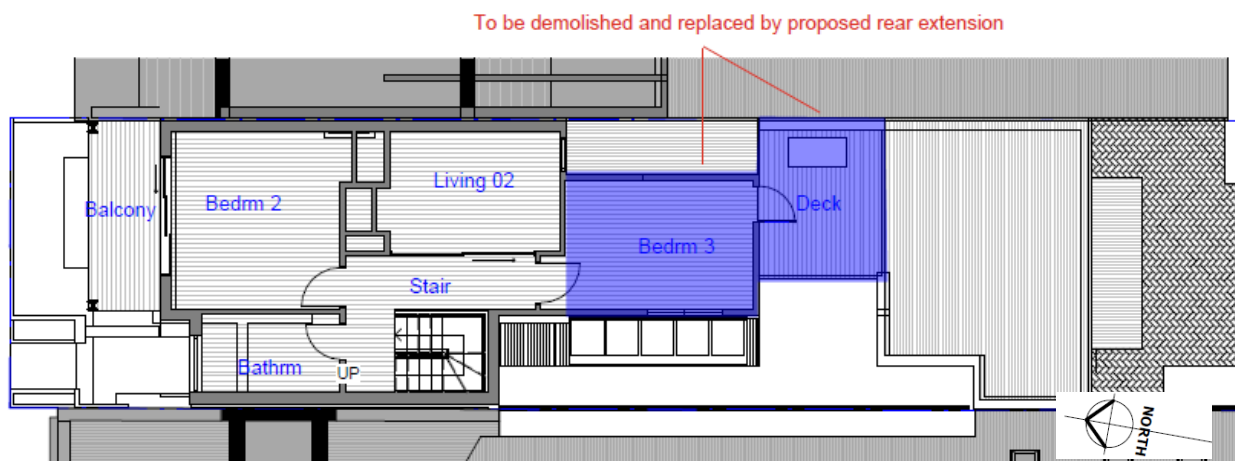
- Partial demolition at Ground Floor Level to allow for internal reconfigurations and the construction of a side extension, which will be limited to the introduction of a new passage way (as depicted below).



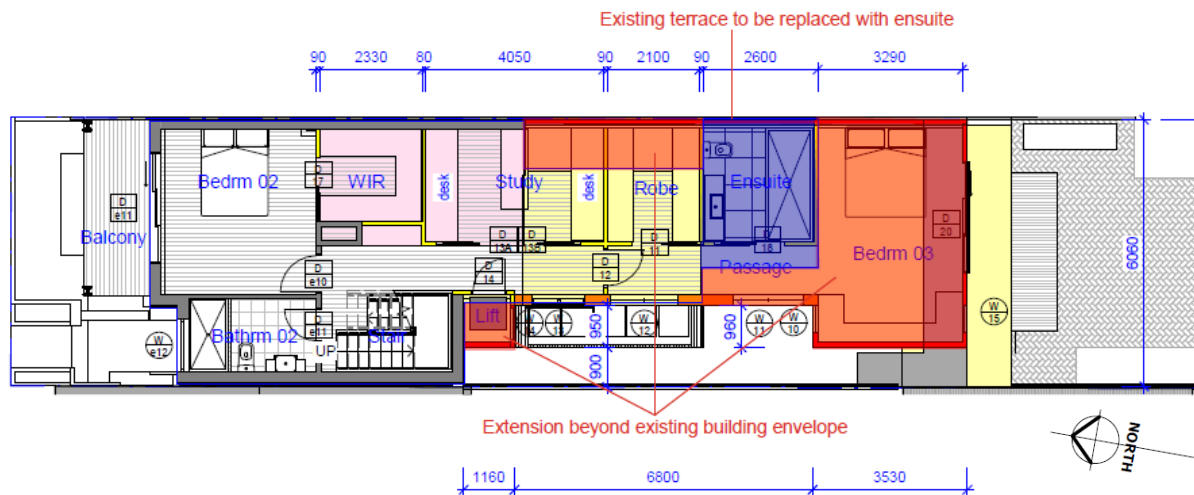
*Proposed Ground Floor Plan – Proposed extension shaded in 'red'*

- Partial demolition at First Floor Level to allow for internal reconfigurations and the construction of an extension to the rear. As depicted below, the proposed rear extension will require the demolition of an existing bedroom and balcony. The extension is to be constructed to the eastern boundary and setbacks from the western boundary will vary from 900mm to 1.85m. The extension will accommodate a lift within the western side setback and a new study and master bedroom (with ensuite and walk-in-robe) to the rear.

Note: The plans depict a sliding door to the rear, accessed via new Bedroom 3, which appears to be an error as the floor plans do not show a Juliet balcony in this location. The Southern Elevation provides further contradicting information as it shows a glass balustrade in this location. A balcony is not supported in this location due to privacy concerns. As such, this matter has been addressed via recommended **condition**.



*Existing First Floor Plan – Existing rear extension to be demolished shaded in 'blue'*



*Proposed First Floor Plan – Proposed extension shaded in ‘red’*

- No changes are proposed at Second Floor Level or to the front façade.
- Two skylights are proposed above the new rear extension.

## 5. DETERMINATION OF THE ORIGINAL DEVELOPMENT APPLICATION

On 16 February 2024, the original development application was refused for the following reasons:

### 1) **Woollahra Local Environmental Plan 2014,**

#### **Part 2 – Clause 1.2 Aims of Plan**

*The proposal is inconsistent with the following aims of Part 1.2(2) of the Woollahra LEP 2014:*

- (f) to conserve built and natural environmental heritage*
- (l) to ensure development achieves the desired future character of the area*

#### **Part 2 – Clause 2.1 Land Use Table**

*The proposal is inconsistent with the following objectives of the R3 Medium Density Residential zone:*

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood*

#### **Part 4.4 Floor Space Ratio**

*The development does not comply with Clause 4.4(2) of the Woollahra LEP 2014. (No Clause 4.6 Written Request was submitted)*

### 2) **Woollahra Development Control Plan 2015, Chapter C2: Woollahra Heritage Conservation Area**

#### **a) Part C2.2.5: Desired Future Character of the Woollahra HCA**

*The proposal will not meet the Desired Future Character of the Woollahra HCA objectives O1, O2, O3, O4, O5 and O7 prescribed in Part C2.2.5 of Chapter C2 of Woollahra Development Control Plan 2015.*



**b) Part C2.3.6: Fletcher Precinct Controls**

*The proposal will not meet the Fletcher Precinct Controls objectives O3 and O4 prescribed in Part C2.3.6 of Chapter C2 of Woollahra Development Control Plan 2015.*

**c) Part C2.5.1: Building Height, Form and Character**

*The proposal does not comply with controls C7, C8, C13 and will not achieve the relevant objectives O1, O3 and O4 prescribed in Part C2.5.1 of Chapter C2 of Woollahra Development Control Plan 2015.*

**d) Part C2.5.4: Materials, Finishes and Colours**

*The proposal does not comply with controls C1, C2, table 1 and will not achieve the relevant objective O1 prescribed in Part C2.5.4 of Chapter C2 Woollahra Development Control Plan 2015.*

**e) Part C2.5.5: Roofs and Skylights**

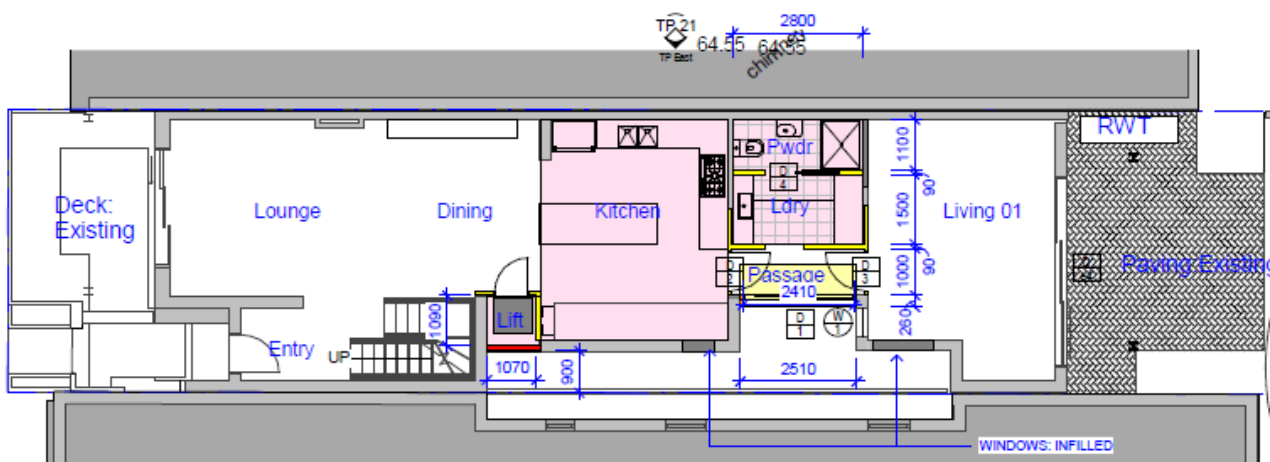
*The proposal does not comply with controls C1 and C4 and will not achieve the relevant objective O1 prescribed in Part C2.5.5 of Chapter C2 Woollahra Development Control Plan 2015.*

**f) Part C2.5.12: Acoustic and Visual Privacy**

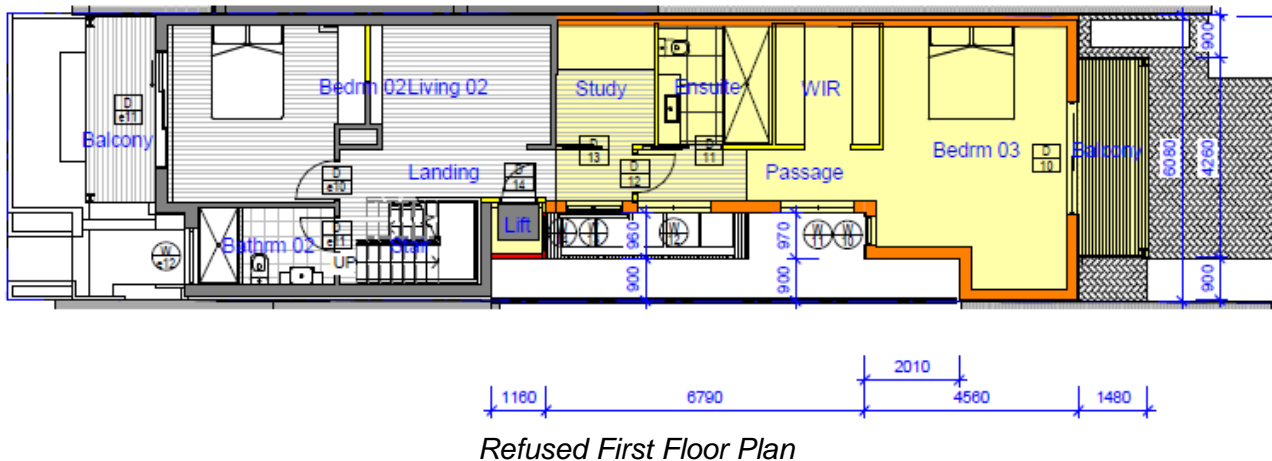
*The proposal will result in unacceptable privacy impacts upon the neighbouring properties and fails to satisfy the Objectives O1 and O2 and Control C6, C7, C8, C9, C10, C11, C12, C13 of Part C2.5.12 of the Woollahra DCP 2015.*

**3) Public Interest**

*The proposal is not in the public interest.*



Refused Ground Floor Plan



## 6. SUBJECT OF REVIEW

In accordance with Section 8.2 of the EP&A Act 1979, the applicant has applied for a review of the refusal of the original application.

## 7. REVIEW PERIOD

Clause 8.3(2)(a) of the EP&A Act 1979 states:

*A determination or decision cannot be reviewed under this Division: (a) after the period within which any appeal may be made to the Court has expired if no appeal was made.*

The subject application was refused under delegated authority on 16 February 2024. In accordance with the provisions of all Clause 8.3(2)(a) as noted above, the right of appeal for the application ceases on 16 August 2024 and Council is unable to determine the subject Section 8.2 application after this date.

## 8. SUBSTANTIALLY THE SAME DEVELOPMENT

Under Section 8.3(3) of the *Environmental Planning and Assessment Act 1979*, states:

*In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*

Whilst the plans have been amended, Council is satisfied that the proposed development will remain substantially the same development. Plan amendments aim to address Council's previous refusal grounds and include the following modifications:

- An increase to the western side setback to new Bedroom 3 at First Floor Level (increased from 0m to 900mm).
- An increased rear setback to Bedroom 3 at First Floor Level (increased by 1.03m).
- Deletion of the rear-facing balcony at First Floor Level.

Further the above, the Section 8.2 Review now includes a Clause 4.6 Written Request for a departure from the Floor Space Ratio (FSR) development standard.

## 9. REFERRALS

Referral	Summary of Comment	Attachment
Development Engineer	A formal referral response was not required. Nevertheless, Council's Development Engineer has raised no objection to the proposal subject to standard <b>conditions</b> .	-
Tree and Landscape Officer	A formal referral response was not required. Nevertheless, Council's Tree and Landscape Officer has raised no objection to the proposal subject to the imposition of relevant <b>conditions</b> .	-
Heritage Officer	Satisfactory, subject to <b>conditions</b>	3

## 10. ISSUES

### 10.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4	Floor Space Ratio (FSR)*	+78.1m <sup>2</sup> or 58.9% departure from the 132.5m <sup>2</sup> control	Satisfactory**

*\*It is further noted that the FSR of the existing building exceeds the statutory limit by more than 10%.*

*\*\*The non-compliant FSR will achieve the relevant objectives of the standard and that of the zone where the site falls within, subject to recommended conditions of consent. The submitted CI 4.6 is considered to be well founded with sufficient planning grounds.*

It is noted that, subject to **Condition D.1**, the FSR is further reduced, yielding the following figures:

Clause	Development Standard	Departure from Control
Part 4.4	Floor Space Ratio	+71.52m <sup>2</sup> or 53.98% departure from the 132.5m <sup>2</sup> control

### 10.2 Primary Issues

Issue	Conclusion	Section
FSR Exceedance	Satisfactory. The submitted Clause 4.6 written request is considered to be well founded and the FSR exceedance is acceptable subject to <b>conditions</b> .	16.4 & 16.5
Heritage Impacts	Satisfactory, subject to recommended <b>conditions</b> .	17
Visual Privacy	Satisfactory, subject to recommended <b>conditions</b> .	17.1.8

## 11. SITE AND LOCALITY

<b>Physical features</b>
The subject site at No.98 Fletcher Street, Woollahra is a rectangular shaped lot with a dual frontage to Fletcher Street and Australia Lane of 6.1m (respectively) and a site depth of 33.4m, equating to a site area of 203.85m <sup>2</sup> .
<b>Topography</b>
The site gradually falls approximately 600mm from the rear to the front.
<b>Existing buildings and structures</b>
Currently occupying the subject site is a three-storey painted and rendered masonry dwelling with a gabled roof of concrete tiles, presenting to Fletcher Street as two storeys. There have been ground, first and second (attic) floor level additions to the rear of the principal building, carried out in 2006. The rear courtyard is located centrally and is mostly paved. An existing garage occupies the southern-most portion of the site and is accessed via Australia Lane. A large canopy tree is located within the existing western side setback of this garage (proposed to be retained).
<b>Surrounding Environment</b>
The subject site is located within an established residential area characterised by a mix of infill and some Victorian and Federation dwelling houses. On this side of Fletcher Road, and in the vicinity of the subject site, there are a number of contributory buildings including No. 92-96, 100-106 and 98 Fletcher Street and a row of Federation terrace houses (No. 100 to 106 Fletcher Street).



## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
  - i) Environmental impacts on the natural and built environments
  - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

## 12. ADVERTISING AND NOTIFICATION

### 12.1 Submissions

The application was advertised and notified from 19 June 2024 to 04 July 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2023. One submission was received from:

- **Christopher Crowe on behalf of Mrs Kamala Valliappan**, owner of No. 100 Fletcher Street Woollahra

The above submission raised the following issues:

Issue	Conclusion	Section
<b>Inadequate Plans</b> The proposed works are not clearly identified on the revised set of DA drawings.	Proposed works have been denoted in colour and the provision of existing floor plans enables a side by side comparison which yields a clear understanding of what is being proposed. As such, the level of information supplied to Council is considered to be sufficient.	-
<b>Insignificant Changes</b> The proposed changes as compared to the original DA are insignificant given the council's original "Notice of Determination", which listed 10 key reasons why the first DA Proposal did not meet the regulatory codes.	The proposed changes, coupled with plan amendments required via recommended <b>condition</b> , would achieve a built form that is acceptable having regard to the relevant provisions of the Woollahra LEP 2014 and Woollahra DCP 2015.	-
<b>Inconsistent with Woollahra LEP</b> The proposal is inconsistent with the Woollahra LEP 2014 and does not achieve Clause 1.2 and 2.1.  The demolition plans provided in the revised submission (Refer Drawing TP 10) has not changed from the original proposal, therefore no attempt at conservation has occurred. The updated Statement of Environmental	<b>Condition D.1</b> have been recommended, including a requirement for increased setbacks from the rear and western boundary at First Floor Level, which results in a built form that achieves the relevant objectives of the zone and the aims listed at Clause 1.2 of the Woollahra LEP 2014.	16

Issue	Conclusion	Section
<p>Effects (SEE) notes that only the front walls from the original terrace are retained on site and therefore only these are considered 'heritage'.</p> <p>Furthermore, the updated SEE focuses on modifications not being 'visible' from Fletcher Street or Australia Lane, suggesting that as long as the proposed modifications cannot be seen, they do not need to consider their overall implication to the heritage nature of the area. Again, heritage embodies ALL parts of the building, not just those aspects that can be 'seen'.</p> <p>There is little evidence indicating a typical first floor rear setback pattern of the extent proposed. Generally, rear additions in the area do not involve a first floor built right up to the rear building line (RBL) - apart from certain detractor properties previously approved under historic planning controls. The closest example of a detractor addition would include the two-storey rear outbuilding at No. 102.</p> <p>The closest examples of existing two-storey town houses with late/contemporary architectural expression along this section and side of Fletcher Street are No.'s 108 and 110. Aerial photography indicates a rear setback of at least 21 metres and 17 metres respectively for both properties, representing an average setback of 19 metres. The proposed rear setback falls short of this average by an astounding 8.9 metres.</p>	<p>Council's Heritage Officer has no objection to the proposed extent of demolition works, noting that the existing building has been highly modified and the proposal will not involve the removal of any significant elements.</p> <p>Views to the development as seen from different vantage points has formed part of the assessment undertaken by Council's delegate.</p> <p>Further to the above, the existing rear alignment at ground and second floor levels are not proposed to be altered and there is no consistent rear alignment defining the immediate context. Nevertheless, the First Floor Level will be visible in part from Adelaide Street. As such, it is important to ensure this level does not extend too far beyond the rear setback established by properties at No.92 &amp; 94 Fletcher Street, which would otherwise assist with obscuring views to the subject site from this vantage point. This has been addressed via a recommended <b>condition</b> of consent.</p>	
<p><b>FSR Non-Compliance &amp; Overshadowing</b></p> <p>The proposal does not comply with Clause 4.4(2) of the Woollahra LEP 2014 in that the new height and length does not support the current character of the area, the proposal will result in significant overshadowing in the morning to 100 Fletcher Street.</p>	<p>The non-compliant FSR will achieve the relevant objectives of the standard and that of the zone, subject to <b>conditions</b>. The submitted Clause 4.6 is considered to be well founded with sufficient planning grounds.</p> <p>Further to the above, the proposal complies with the relevant solar access requirements outlined within the Woollahra DCP 2015.</p>	16.5 & 17.1.4
<p><b>Non-Compliance with the Woollahra DCP</b></p> <p>The proposal does not comply with the Woollahra DCP in that:</p> <ul style="list-style-type: none"> <li>it fails to achieve the desired future character of the area (Part C2.2.5)</li> <li>it fails to achieve the objectives of the Fletcher Precinct (Part C2.3.6)</li> <li>it has not been designed to minimise overshadowing of adjoining properties and does not comply with the relevant overshadowing requirements (Part C2.5.1), and,</li> <li>it fails to comply Part C2.5.4 (Materials, Finishes and Colour), Part C2.5.5 (Roofs and Skylights) and Part C2.5.12 (Acoustic and Visual Privacy).</li> </ul>	<p>The proposal, as <b>conditioned</b>, is acceptable with regard to the relevant objectives and controls of the Woollahra DCP 2015. Refer to Section 17 of this report for detailed assessment.</p>	17

## **12.2 Statutory Declaration**

The applicant has completed the statutory declaration, dated 06/07/2024, declaring that the site notice for DA363/2023/1 was erected and maintained during the notification period.

## **13. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

### **Chapter 2 Standards for residential development—BASIX**

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The DA was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard conditions of consent.

## **14. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

### **14.1 Chapter 6 – Water Catchment**

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

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

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

The proposal will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control.

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

## **15. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

### **15.1 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). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

*This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

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

## 15.2 Chapter 4 – Remediation Of Land

The Object of this Chapter aims 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.

As the site has a long history of residential use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

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.

## 16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### 16.1 Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014 in that, the proposal, as **conditioned**, will conserve built and natural environmental heritage and will achieve the desired future character of the area.

### 16.2 Land Use Table

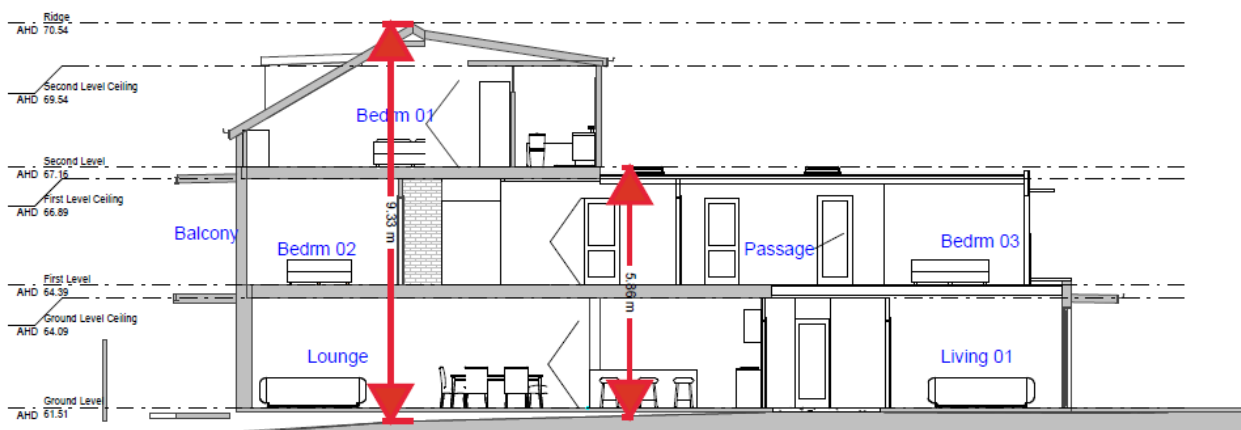
The proposal is defined as dwelling house and is permitted within the R3 Medium Density Residential zone and consistent with the relevant objectives of the zone, subject to **conditions**. More specifically, **Condition D.1** will ensure the development if of a scale that achieves the desired future character of the neighbourhood in accordance with the objective of this zone.

### 16.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	9.33m	5.86m*	9.5m	Yes

\* No works on the second floor, the proposed works are limited to the ground and first floors only.



Proposed & Existing Building Heights

## 16.4 Part 4.4: Floor Space Ratio

Part 4.4(2) specifies a maximum floor space ratio of 0.65:1.

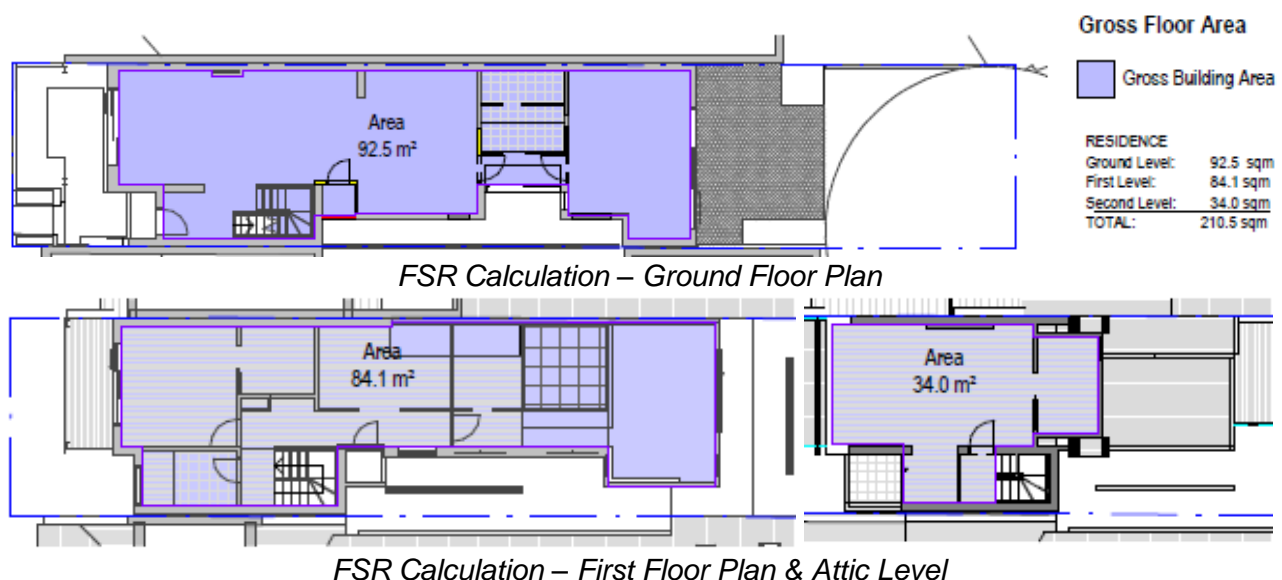
Site Area: 203.85m <sup>2</sup>	Existing	Proposed	Control	Complies
Floor Space Ratio	0.858:1 (175.1m <sup>2</sup> )	1.03:1 (210.5m <sup>2</sup> )	0.65:1 (132.5m <sup>2</sup> )	No*

*\*The non-compliant FSR will achieve the relevant objectives of the standard and that of the zone where the site falls within, subject to recommended conditions of consent. The submitted CI 4.6 is considered to be well founded with sufficient planning grounds.*

It is noted that, subject to **Condition D.1**, the FSR is further reduced, yielding the following figures:

Clause	Development Standard	Departure from Control
Part 4.4	Floor Space Ratio	+71.52m <sup>2</sup> or 53.98% departure from the 132.5m <sup>2</sup> control

Refer to detailed assessment provided at Sections 16.5 & 17 of this report for further information.



## 16.5 Part 4.6: Exceptions to Development Standards

### 16.5.1. Part 4.6 of the WLEP 2014 & Part 35B of the EP&A Regulations 2021

Part 4.6(1) of the WLEP 2014 allows a contravention of a development standard given its objectives seek to allow for an appropriate degree of flexibility in applying certain development standard, and to achieve better outcomes for and from development.

Where a development application involves a contravention of a development standard, Part 35B(2) of the EP&A Regulation 2021 requires the DA to be accompanied by a document (written request) that sets out the grounds on which the applicant seeks to demonstrate the 'unreasonable and unnecessary' and 'sufficient environmental planning grounds' tests i.e. compliance with Part 4.6(3) of the WLEP 2014.

In this instance, the DA proposes to contravene the FSR development standard and has submitted a Clause 4.6 written request which has been provided at **Attachment 2** and has been assessed below.

### 16.5.2. Clause 4.6(3) – Assessment of Written Request

Part 4.6(3) stipulates a DA must not be approved if it contravenes a Development Standard unless Council is satisfied:

**(a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances.***

With respect to Clause 4.6(3)(a), the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the ‘5-part test’ or the ‘Wehbe test’ (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The test can be summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if:

- Test 1: The Objectives of the development standard are achieved notwithstanding the non-compliance.
- Test 2: The underlying objective or purpose is not relevant to the development.
- Test 3: The underlying objective or purpose would be defeated or thwarted if compliance was required.
- Test 4: The development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard.
- Test 5: The zoning of the land on which the development is proposed was unreasonable or inappropriate.

It is important to note that the applicant only needs to satisfy at least one part of the Wehbe test, not all 5 parts, to Council’s satisfaction. The Clause 4.6 written request prepared by the applicant satisfies Test 1. A detailed assessment has been outlined below.

#### Test 1:

The objectives of Part 4.4 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, tree canopy cover 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.***

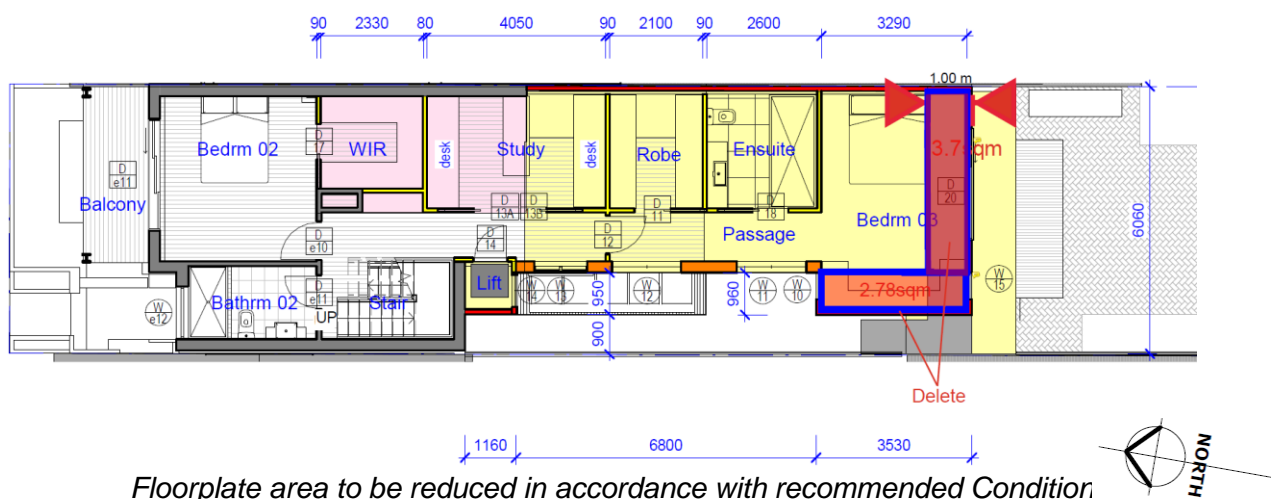
The development has been determined as being consistent with the floor space ratio objectives for the following reasons:

- The proposal, as **conditioned**, is considered to be in keeping with the desired future character of the Woollahra HCA for the reasons listed at Section 17.1.1 of this report.
- The proposal, as conditioned, will not result in any unreasonable adverse amenity impacts upon neighbouring properties including by way of overshadowing and overlooking.
- The proposal will retain existing landscaping and private open space. Accordingly, the breach in FSR does not impact on open space and the proposal is consistent with objective (iii).



Further to the above, recommended **Condition D.1** requires the western side setback of Bedroom 3, at First Floor Level, increased to 1.85m from the western boundary in order to retain the existing breezeway and comply with Chapter C2, Clause 2.4.2, Control C2 of Woollahra DCP 2015 and an additional 1m setback to the rear. This condition will result in a reduced floorplate which will establish a more reasonable development outcome having regard for the amenity enjoyed by neighbouring properties.

As demonstrated below, the floorplate will be reduced by 6.48m<sup>2</sup>. This reduction in floorplate will improve the developments interface to its neighbour to the west and appropriately respond to the broader heritage context.



Accordingly, compliance with the development standard is considered to be unreasonable and unnecessary in this instance.

**(b) That there are sufficient environmental planning grounds to justify the contravention of the development standard.**

Council's assessment of the written request against Clause 4.6(3)(b) is informed by the Initial Action Pty Ltd v Woollahra Municipal Council [2018] case. In this case Preston CJ provides (at para 23) the following guidance:

*'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.'*

Section 1.3 of the EP&A Act 1979 reads as follows:

**1.3 Objects of Act**

*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.*

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

For reasons outlined above, there are sufficient environmental planning grounds to justify the contravention of the development standard.

### **16.5.3. Conclusion**

The proposal is in the public interest as it is consistent with the relevant objectives of the Floor Space Ratio development standard and the objectives of the R3 Medium Density Residential Zone. A departure from the control is supported in this instance.

## **16.6 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 listed heritage item in Schedule 5 of the Woollahra LEP 2014 and there are no heritage items in the vicinity of the subject site.

Council's Heritage Officer has provided the following referral advice:

*'Clause 1.2 Aims of Plan*

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

*The proposal, as recommended, would not be contrary to the aims of the plan to conserve and enhance the environmental heritage of Woollahra.*

*Clause 5.10 Heritage Conservation*

*The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP 2014. The following commentary is provided:*

- **Clause 5.10(1):** *The proposed development, as recommended, conserves the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of the C15 Woollahra Heritage Conservation Area.*
- **Clause 5.10(2) and (3):** *Consent is required for the proposed works*

- **Clause 5.10(4):** *This referral constitutes an assessment under this clause. The effect of the proposal on the heritage significance of the item has been considered and the proposal is found to be acceptable on heritage grounds, subject to the conditions as recommended. The site is not located in the vicinity of any listed heritage items that would be adversely affected by the proposal.*
- **Clause 5.10(5):** *A heritage management document was submitted with the development application.*
- **Clause 5.10(6):** *A Conservation Management Plan has not been prepared for the site.*
- **Clause 5.10(7) and (8):** *The site is not identified as an archaeological site or a place of Aboriginal heritage significance.*
- **Clause 5.10(9):** *Demolition of a nominated State heritage item is not proposed.*
- **Clause 5.10(10):** *Conservation incentives are not being sought as part of this application.'*

In light of the above, the proposal as **conditioned** is acceptable with regard to Part 5.10 of the Woollahra LEP 2014.

### 16.7 Part 5.21: Flood Planning

The subject site is not located within a flood planning area.

### 16.8 Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

### 16.9 Part 6.9: Tree canopy cover in Zones R2 and R3

Part 6.9 aims to conserve and enhance tree canopy cover in the R2 Low Density Residential zone and R3 Medium Density Residential zone.

Part 6.9(3) requires Council to consider whether the development incorporates planning and design measures to enable the retention and planting of trees to minimise the urban heat island effect, and will avoid, minimise or mitigate adverse impacts on the existing tree canopy.

The proposal is acceptable with regard to Part 6.9 of Woollahra LEP 2014, subject to the **conditions** recommended by Council's Tree and Landscaping Officer.

## 17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 17.1 Chapter C2: Woollahra Heritage Conservation Area

The subject site is located within Precinct 6 (Fletcher Precinct), which forms part of the broader Woollahra heritage conservation area (HCA). As illustrated below, the subject site is not considered to be a contributory item.



Map 8 of Chapter C2 of the Woollahra DCP 2015 – Contributory Items

### 17.1.1. Part C2.2.5 – Desired Future Character of Woollahra HCA

The desired future character of the Woollahra HCA states:

*'In the Woollahra HCA, with its established and valuable historic character, new buildings and alterations and additions to existing buildings must be designed with close reference to their context.'*

*Even small changes to buildings in the Woollahra HCA require careful consideration, especially where changes are visible from the street or from other public spaces. It is not just change to the street front elevations of buildings that is important. Alterations and additions at the rear of properties are also often visible from the public domain and can alter the proportion, scale and cohesion of a group of buildings.*

*In the Woollahra HCA, the aim is to establish a cohesive relationship between new work and the existing building fabric. This does not mean that additions should be designed in a historicist style. Contemporary design is often appropriate, as long as it responds to the relevant aspects of its context. Refer to Section 2.2.7.*

*Retention of original fabric and detail and the removal of inappropriate and intrusive building elements to the elevations of contributory items are also important. The reinstatement of missing detail and building elements is also encouraged.'*

#### Objectives O1, O2, O3, O4

The proposed development is considered to be in keeping with the desired future character of the Woollahra HCA given:

- The subject property was originally a terrace house constructed in the early twentieth century, however the majority of the original fabric was demolished in the 1980's. As a result, it no longer has any contributory value. Accordingly the proposal will not involve the removal of any original fabric.
- The DA has not sought to alter the front façade, retaining its existing presentation to Fletcher Street.
- The DA has not sought to alter the overall height of the principal built form and the height of the new rear addition will not extend beyond the eave height of the principal building, ensuring it will not overwhelm the principal building.

- Whilst the rear interface of the subject site will be visible from the rear lane, views from this location will be limited due to the narrow width of the rear laneway and the large existing garage and tree sited within the rear courtyard of the subject site.
- The rear interface will also be seen via angled views taken from Adelaide Street, which is of some concern. As such, **Condition D.1** requires Bedroom 3, at First Floor Level, to be setback an additional 1.0m. This condition will ensure the new addition more closely aligns with the rear setback established by properties at No.92 and 94 Fletcher Street.
- As recommended by Council's Heritage Offer, a further **condition** will require the plans to be revised to show the retention of a breezeway at First Floor Level, which will preserve a characteristic element of the building.
- The proposed first floor rear setback will ensure the new addition will not extend beyond the existing Ground Floor Level and will be sited behind ground floor walls of adjoining properties, reducing any perceived sense of visual bulk as viewed from the rear courtyard of adjoining properties. **Condition D.1** will further reduce any perceived sense of visual bulk as viewed from adjoining courtyards and the public realm.
- Council's Heritage Officer has provided no objection to the proposal subject to recommended **conditions** of consent outlined above and detailed further below.

In light of the above, the proposal as conditioned is acceptable with regard for Part C2.2.5 of the Woollahra DCP 2015.

#### 17.1.2. Part C2.3.6 – Fletcher Precinct

##### *Objective O4*

The existing dwelling house on the site has departed markedly from the predominantly Victorian and Federation single storey, semi-detached and terrace houses that characterise the precinct and little is proposed to improve the presentation of the existing dwelling house on the site. However, the proposal, as **conditioned**, would not unduly detract from this character, as confirmed by Council's Heritage Officer.

Accordingly, the proposal as **conditioned** is acceptable with regard to Part C2.3.6 of the Woollahra DCP 2015.

#### 17.1.3. Part C2.4.2 – Multi-storey dwelling houses

##### *Objectives O1, O2, and Controls C1, C2*

- The existing dwelling is not typical of the multi-storey dwelling houses in the HCA as it is already compromised and dominated by the prior additions to the original main section which has been almost entirely removed. Nonetheless, the proposed addition will not be visible from the main street frontage and no new works are proposed along this elevation. As such, the proposal will not further compromise or dominate the original main front section of the house in accordance with Objectives O1 and O2.
- No increase in the number of storeys is proposed (Control C1).
- The first floor level extension proposed retains the height of the existing rear wing, which is located below the existing gutter line of the principal building in accordance with Control C2.
- The 960mm intrusion of the proposed bedroom 3 into the existing breezeway would not retain the existing breezeway arrangements in accordance with Control C2 and are not supported. The side setback of bedroom 3 should be increased to not less than 1850mm from the western property boundary in order to retain the existing breezeway at first floor level. This has been addressed via **Condition D.1**.

Accordingly, the proposal as **conditioned** is acceptable with regard to Part C2.4.2 of the Woollahra DCP 2015.

#### 17.1.4. Part C2.5.1 – Building height, form and character

*Objectives O1, O3, O4, O5, O7 and Control C1, C6, C7, C8, C9, C12, C13, C14*

- The principal building form has been so altered that it is not consistent with the nearby contributory buildings and of the streetscape. Nevertheless, to ensure that the established historical pattern of development is continued in terms of building setbacks, *Condition D.1* requires the retention of a breezeway and an increased rear setback at First Floor Level in accordance with Objective O1 and Control C1.
- The storey height of the first floor level addition proposed is consistent with that of the existing first floor level, achieving Objective O3 and Controls C7 and C9.
- To protect the privacy and amenity of adjoining neighbours a **condition** will ensure a balcony is not proposed to the rear at First Floor Level. Additionally, a **condition** will require new west-facing windows (W11 & W12) to be treated to limit overlooking to the west.
- The application has not sought to reduce existing open space to the rear, achieving Objective O5.
- Plans submitted to form part of the 8.2 Review show increased first floor setbacks which result in reduced overshadowing impacts upon neighbouring properties. More specifically, no additional overshadowing will be experienced within the rear courtyard of No.100 Fletcher Street and skylights at this property will remain in light from 11am to 2pm (3 hours). Increased setbacks from the rear and western boundary at First Floor Level, required via recommended **condition** of consent, will also reduce overshadowing impacts upon existing skylights at this location at 10am. Additionally, the rear courtyard of No.96 Fletcher Street will not experience any additional overshadowing from 9am to 12pm (3 hours), achieving Objective O7 and Control C7.
- The existing rear alignment at ground floor level and second floor levels are not proposed to be altered (Control C6) and there is no consistent rear alignment defining the immediate context. Nevertheless, the First Floor Level will be visible in part from Adelaide Street. As such, it is important to ensure this level does not extend too far beyond the rear setback established by properties at No.92 & 94 Fletcher Street. This has been addressed via **condition**.
- The plans submitted with the 8.2 Review have increased the area of glazing on the first floor rear elevation compared with the original proposal but have not resolved the treatment of the roof area immediately adjacent to the sliding doors to Bedroom 3 which does not show any proposed balcony or include any balustrading. To ensure a more appropriate solid-to-void ratio, occupant safety and compliance with Control C8, door D20 should be deleted from the plan and replaced with vertically proportioned window openings. This has been addressed via **condition**.
- The proposed roof form of the first floor level addition is a flat (2 degree) skillion for with low parapet which is consistent with the existing built form on the site and is acceptable.
- The proposal will not unreasonable obstruct existing principal views from habitable rooms, balconies or private open spaces of neighbouring dwellings in accordance with Control C11. Habitable room windows at No.100 Fletcher Street are located at ground floor and within 0.55m of an existing boundary fence, which already significantly compromises views from said habitable room windows. Nevertheless, increased setbacks from the western boundary have been required via recommended **condition** of consent, improving the limited views that are currently available.
- Control C13 states: *'Sunlight is provided to at least 50% (or 35m<sup>2</sup> with minimum dimensions 2.5m, whichever is smaller) of the main ground level private open space of adjacent properties for a minimum of two hours between 9am and 3pm on 21 June. Where existing overshadowing is greater than this, sunlight is not further reduced.'* As detailed above, the proposal has been designed in compliance with this control.
- The proposal will not be situated opposite any existing north-facing windows (Control C14).

Accordingly, the proposal as **conditioned** is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015.



#### 17.1.5. Part C2.5.4 – Materials, finishes and colours

*Objective O1, and Control C1, C2, Table 1*

In response to the above objective and controls, Council's Heritage Officer has provided the following commentary:

- *No objections are raised to the proposed materiality which draws from traditional materials for the walls of the proposed addition – painted brick and weatherboard.*
- *No objections are raised regarding the materiality of the proposed window openings, which are proposed to be timber except for W13 which is located on the western elevation and is identified as aluminium with a full height external screen.*
- *The use of Klip-lok metal roofing is identified as intrusive in Part C2 2.5.4 Table 1 and is not supported. The Shale grey colour proposed is not a mid or dark grey colour and is not supported. The roof cladding is to be changed to a traditional corrugated profile in a mid to dark grey colour in accordance with Table 1 of Part C 2.5.4. A condition has been recommended to address this non-compliance.*

Accordingly, the proposal as **conditioned** is acceptable with regard to Part C2.5.4 of the Woollahra DCP 2015.

#### 17.1.6. Part C2.5.5 – Roofs, skylights and colours

*Objective O1, and Controls C1, C4*

In response to the above objective and controls, Council's Heritage Officer has provided the following commentary:

- *The proposed Klip-lok cladding is not supported. Any new metal roofing is to be of a traditional corrugated profile similar to Colorbond Custom Orb in a mid to dark grey colour in accordance with Part C2.5.5. A condition has been recommended to address this.*
- *No objections are raised to the skylights proposed to the roof of the (heavily altered) principal building form and the rear additions, subject to conditions requiring the new skylights be of a low profile and flush with the roof surface, with simple detailing and a frame colour to match the surrounding roof. This is addressed via a condition as recommended.*

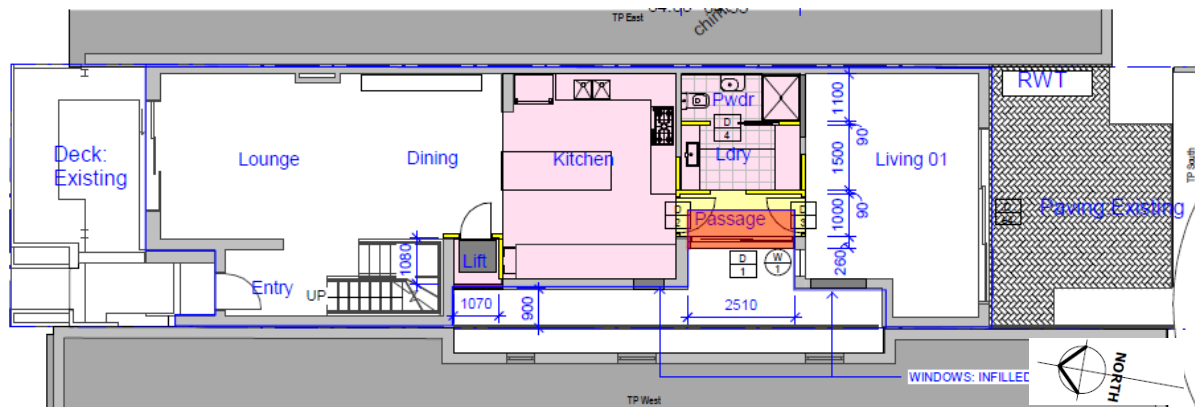
Contrary to the above, it is noted that the skylight above the rear hip of the principal building is existing. New skylights will be limited to the new addition.

Accordingly, the proposal as **conditioned** is acceptable with regard to Part C2.5.5 of the Woollahra DCP 2015.

#### 17.1.7. Part C2.5.6 – Open space and landscaping

*Objectives O1, O2, O3, Controls C1, C3, C4, C8, C11*

- The DA proposes partial demolition at Ground Floor Level to allow for various internal reconfigurations and the construction of a side extension, which will be limited to the introduction of a new passage way (as depicted below). Whilst the proposed extension will reduce the existing courtyard located within the side setback, it will do so marginally and the principal area of open space to the rear will remain unchanged, ensuring adequate provision of accessible and useable open space is maintained in accordance with Objective O1.



*Proposed Ground Floor Plan – Proposed extension shaded in 'red'*

- The existing tree located within the rear courtyard is proposed to be retained in accordance with Objective O2 and Controls C1 and C11.
- The proposed ground floor extension will not involve the removal of any deep soil planting or other permeable surfaces, rather part of an area that is already entirely paved (Objective O3).
- As noted above, the existing principal area of private open space and existing provision of deep soil planting will remain unaltered (Controls C3 and C4).
- Whilst the proposal will result in 2.21m<sup>2</sup> reduction in open space within the side setback, no less than 16% of the site area (i.e. 32.62m<sup>2</sup>) will be dedicated as open space and provided for across the length of the site, achieving Control C4.
- The existing courtyard will remain accessible from the main living area in accordance with Control C8.

Accordingly, the proposal is acceptable with regard to Part C2.5.6 of the Woollahra DCP 2015.

#### 17.1.8. Part C2.5.12 – Acoustic and visual privacy

*Objectives O1, O2, Controls C6, C7, C9, C10, C12*

- A recommended **condition** of consent will ensure a balcony is not proposed to the rear, which will protect the privacy of adjoining neighbours in accordance with Objectives O1, O2 and Controls C6 and C10.
- New west-facing windows at First Floor Level will not directly overlook the main living areas and private open spaces of neighbouring properties. It is further noted that no new east facing windows have been proposed, achieving Controls C6 and C12.
- New west facing windows will not service a bathroom, toilet, laundry or storage rooms (Control C7).
- New west-facing windows will be located opposite existing habitable room windows at No.100 Fletcher Street, however given their existing location at ground floor level, views to said habitable room windows will be limited. Nevertheless, a **condition** has been recommended to require windows W11 and W12 (servicing the hallway) to be treated with fixed obscure glazing in any part of the window less than 1.5m above floor level in accordance with Control C9.

#### 17.2 Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015, subject to the standard conditions recommended by Council's Development Engineer.

### **17.3 Chapter E3: Tree Management**

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015, subject to the conditions recommended by Council's Tree and Landscaping Officer.

### **17.4 Chapter E5: Waste Management**

The provisions of this chapter aim to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

Council's standard **conditions** have been recommended in order to adequately address the provisions of Chapter E5 of Woollahra DCP 2015.

## **18. CONTRIBUTION PLANS**

### **18.1 Section 7.12 Contributions Plan**

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

Refer to **Condition D.6**.

### **18.2 Subdivision 4 Housing and Productivity Contributions**

Section 7.24 of the EP&A Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the EP&A (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

## **19. APPLICABLE ACTS/REGULATIONS**

### **19.1 Clause 61(1) of the EPA Regulation 2021**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-1991: The demolition of structures. This requirement is addressed by Council's standard condition.

## **20. 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.

## **21. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development for the following reasons:

## **22. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## 23. CONCLUSION

The proposal is acceptable against the relevant considerations under s4.15.

## 24. DISCLOSURE STATEMENTS

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

## 25. 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 matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the Floor Space Ratio development standard under Clause 4.4 of the Woollahra LEP 2014.

### AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 363/2023/1 for alterations and additions to the existing dwelling including an extension to the first floor level at 98 Fletcher Street Woollahra, subject to the following conditions:

### ALL DEVELOPMENT TYPES

#### A. GENERAL CONDITIONS

A. 1.	<b>Conditions</b>
	<p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• 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.</li><li>• Where there is any breach Council may without any further warning:<ul style="list-style-type: none"><li>a) Issue Penalty Infringement Notices (On-the-spot fines);</li><li>b) Issue notices and orders;</li><li>c) Prosecute any person breaching this consent; and/or</li><li>d) Seek injunctions/orders before the courts to restrain and remedy any breach.</li></ul></li><li>• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.</li><li>• 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.</li><li>• 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.</li></ul>

	<ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p><b>Definitions</b></p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p><b>Applicant</b> means the applicant for this consent.</p> <p><b>Approved Plans</b> mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p><b>Local native plants</b> means species of native plant endemic to Sydney's eastern suburbs.</p> <p><b>Owner-builder</b> has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p><b>PC</b> means the Principal Certifier under the <i>Act</i>.</p> <p><b>Principal Contractor</b> has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p><b>Professional engineer</b> has the same meaning as in the BCA.</p> <p><b>Public place</b> has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p><b>Road</b> has the same meaning as in the <i>Roads Act 1993</i>.</p> <p><b>SEE</b> means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p><b>Site</b> means the land being developed subject to this consent.</p> <p><b>Site work</b> means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p><b>Woollahra LEP</b> means <i>Woollahra Local Environmental Plan 2014</i></p> <p><b>Woollahra DCP</b> means <i>Woollahra Development Control Plan 2015</i></p> <p><b>Work</b> for the purposes of this consent means:</p> <ul style="list-style-type: none"> <li>the use of land in connection with development,</li> <li>the subdivision of land,</li> <li>the erection of a building,</li> <li>the carrying out of any work,</li> </ul>

	<ul style="list-style-type: none"><li>the use of any site crane, machine, article, material, or thing,</li><li>the storage of waste, materials, site crane, machine, article, material, or thing,</li><li>the demolition of a building,</li><li>the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,</li><li>the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or</li><li>the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.</li></ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant definitions.</p>												
A. 3.	<p><b>Approved Plans and Supporting Documents</b></p> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>Drawing No. TP 10, TP12, TP 13, TP 15, TP 20, TP 21, TP 25, TP 31 – Revision B</td><td>Architectural Plans</td><td>All prepared by Willoughby Architects</td><td>All dated 09 May 2024</td></tr><tr><td>A507871_03</td><td>BASIX Certificate</td><td>NSW Department of Planning, Industry and Environment</td><td>20 May 2024</td></tr></table> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.</li><li>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.</li></ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	Drawing No. TP 10, TP12, TP 13, TP 15, TP 20, TP 21, TP 25, TP 31 – Revision B	Architectural Plans	All prepared by Willoughby Architects	All dated 09 May 2024	A507871_03	BASIX Certificate	NSW Department of Planning, Industry and Environment	20 May 2024
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A507871_03	BASIX Certificate	NSW Department of Planning, Industry and Environment	20 May 2024										
A. 4.	<p><b>Ancillary Aspects of Development (section 4.17(2) of the Act)</b></p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>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</li></ul>												



	<b>Condition Reason:</b> To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.
<b>A. 5.</b>	<b>No Underpinning works</b>
	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.
	<b>Condition Reason:</b> To ensure all works are located within the boundaries of the site and to confirm that no consent is granted for underpinning works to any structures on adjoining properties.

## DEMOLITION WORK

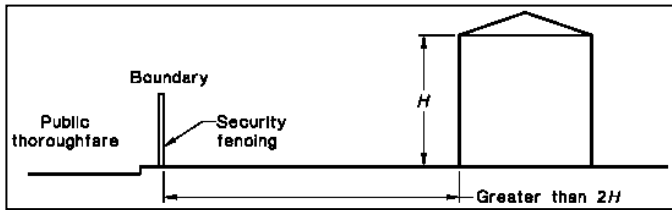
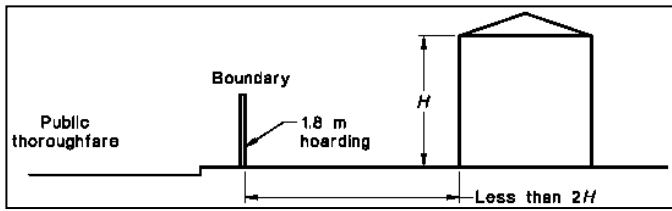
### B. BEFORE DEMOLITION WORK COMMENCES

<b>B. 1.</b>	<b>Construction Certificate Required Prior to Any Demolition</b>
	<p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> <li>• Before issue of a construction certificate</li> <li>• Before building work commences</li> </ul> <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.</li> </ul>
	<b>Condition Reason:</b> To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.
<b>B. 2.</b>	<b>Erosion and Sediment Controls – Installation</b>
	<p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from</li> </ul>

	<p>www.woollahra.nsw.gov.au and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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”.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<p><b>B. 3.</b></p>	<p><b>Identification of Hazardous Material</b></p> <p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> <li>• all hazardous materials identified on the site,</li> <li>• the specific location of all hazardous materials identified,</li> <li>• whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and</li> <li>• safety measures to be put in place.</li> </ul> <p><b>Condition Reason:</b> 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.</p>
<p><b>B. 4.</b></p>	<p><b>Public Road Assets Prior to Any Work/Demolition</b></p> <p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> <li>• road pavement,</li> <li>• street signage including street lights,</li> <li>• kerb and gutter,</li> <li>• footway including pedestrian crossings, footpath, and driveways,</li> <li>• retaining walls, or other significant structures,</li> <li>• Heritage Items, including street name inlays,</li> <li>• utility service items including historical utility covers, and</li> <li>• drainage structures/pits/pipes (CCTV footage).</li> </ul> <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p>

	If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.																										
	<b>Condition Reason:</b> To clarify the condition of the existing public infrastructure prior to the commencement of any site works.																										
<b>B. 5.</b>	<b>Payment of Security and Fees</b>																										
	Prior to any site works, the following security and fees must be paid in full:																										
	<table border="1"> <thead> <tr> <th>Description</th><th>Amount</th><th>Indexed</th><th>Council Fee Code</th></tr> </thead> <tbody> <tr> <td colspan="4"> <b>SECURITY</b>  under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i> </td></tr> <tr> <td> <b>Property Damage Security Deposit</b>  -making good any damage caused to any property of the Council </td><td>\$27,150</td><td>No</td><td>T115</td></tr> <tr> <td colspan="4"> <b>INSPECTION FEES</b>  under section 608 of the <i>Local Government Act 1993</i> </td></tr> <tr> <td>Security Deposit Administration Fee</td><td>\$235.00</td><td>No</td><td>T16</td></tr> <tr> <td><b>TOTAL SECURITY AND FEES</b></td><td>\$27,385</td><td></td><td></td></tr> </tbody> </table>			Description	Amount	Indexed	Council Fee Code	<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>				<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$27,150	No	T115	<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>				Security Deposit Administration Fee	\$235.00	No	T16	<b>TOTAL SECURITY AND FEES</b>	\$27,385		
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	<b>How must the payments be made?</b> Payments must be made by: <ul style="list-style-type: none"> <li>• cash deposit with Council,</li> <li>• credit card payment with Council, or</li> <li>• bank cheque made payable to Woollahra Municipal Council.</li> </ul>																										
	The payment of a security may be made by a bank guarantee where: <ul style="list-style-type: none"> <li>• the guarantee is by an Australian bank for the amount of the total outstanding contribution,</li> <li>• 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],</li> <li>• 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,</li> <li>• the bank guarantee is lodged with the Council prior to any site works being undertaken, and</li> <li>• 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.</li> </ul>																										
	<b>Notes:</b> <ul style="list-style-type: none"> <li>• 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.</li> <li>• The securities will not be released until the Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.</li> </ul>																										

	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• The Refund of Security Bond Application form can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure any relevant security and fees are paid.</p>
<p><b>B. 6.</b></p>	<p><b>Dilapidation Reports for Existing Buildings</b></p> <p>Before any site work commences, dilapidation surveys and dilapidation reports must be conducted and prepared by a professional structural engineer 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 the structural engineer.</p> <p>These properties must include (but is not limited to):</p> <ol style="list-style-type: none"> <li>a) 96 Fletcher Street Woollahra</li> <li>b) 100 Fletcher Street Woollahra</li> </ol> <p>Where access is not granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and it must be demonstrated, in writing, to the satisfaction of the Principal Certifier, that all reasonable steps were taken to obtain access.</p> <p>The completed dilapidation reports must be submitted to the Principal Certifier for approval, and an approved copy of the reports must be submitted to Council with the Notice of Commencement prior to the commencement of any development work.</p> <p>No less than two (2) days before any site work commences, neighbouring building owner(s) must be provided with a copy of the dilapidation report for their property(ies).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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 caused by the carrying out of the development.</li> <li>• This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.</li> <li>• 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.</li> <li>• Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.</li> </ul> <p><b>Condition Reason:</b> To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.</p>

<p><b>B. 7.</b></p>	<p><b>Works (Construction) Zone – Approval and Implementation</b></p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</li> <li>The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.</li> </ul> <p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
<p><b>B. 8.</b></p>	<p><b>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</b></p> <p>Before any site work commences, 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.</p>  <p><b>Type A Hoarding</b></p> <p>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.</p> 

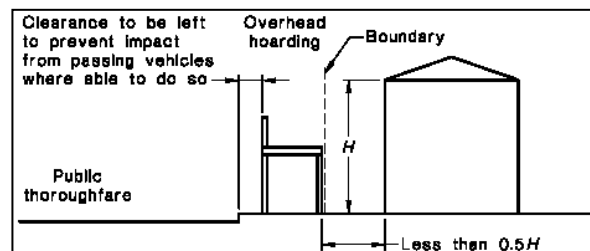
### **Type B Hoarding**

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:

- a) the vertical height above footpath level of the structure being demolished is less than 4.0m; or
- b) 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 overhead protective structures must be 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'**

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

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 person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

### **Notes:**

- A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.



	<ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more OR</li> <li>B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more OR</li> <li>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: <ol style="list-style-type: none"> <li>1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or</li> <li>2. the land is zoned R2 Low Density Residential, or</li> <li>3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).</li> </ol> </li> </ul> </li> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure public safety.</p>
<p><b>B. 9.</b></p>	<p><b>Site Signs</b></p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p><b>Erection of signs</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>c) stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>

	<p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p><b>Signs on development sites</b> If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.</li> <li>If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.</li> </ul> <p><b>Condition Reason:</b> To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p><b>B. 10.</b></p>	<p><b>Toilet Facilities</b></p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> <li>must be a standard flushing toilet, and</li> <li>must be connected to a public sewer, or</li> <li>if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</li> <li>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.</li> </ol> <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.</li> <li>This condition does not set aside the requirement to comply with SafeWork NSW requirements.</li> </ul> <p><b>Condition Reason:</b> To ensure toilet facilities are provided for workers at the work site.</p>
<p><b>B. 11.</b></p>	<p><b>Establishment of Boundary Location, Building Location and Datum</b></p> <p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p>

		<div><div><div>a) set out the boundaries of the site by permanent marks (including permanent recovery points),</div><div>b) set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,</div><div>c) establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and</div><div>d) provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.</div></div><div><div>Notes:</div><div><div>• Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.</div><div>• On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.</div></div></div><div><div>Condition Reason:</div><div>To ensure that the boundary locations, building location, and a datum point is established by a surveyor.</div></div></div>								
B.	12.	<div><div><div>Compliance with Australian Standard for Demolition</div><div>While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.</div><div>Condition Reason To control the risks of demolition work.</div></div></div>								
B.	13.	<div><div><div>Establishment of Tree Protection Zone (TPZ) Fence</div><div>Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the <i>Australian Standard Protection of Trees on Development Sites</i> (AS 4970- 2009). Tree protection zones must also comply with the following requirements;</div><div><div>a) Tree Protection Zone areas</div><table><tr><th>Council Ref No.</th><th>Species</th><th>Tree Location</th><th>Fence Radius from Centre of Trunk (Metres)</th></tr><tr><td>1</td><td><i>Callistemon viminalis</i> (Weeping Bottlebrush)</td><td>In front of property on Fletcher street</td><td>2 metres</td></tr></table><div><div>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.</div><div>Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.</div></div></div><div><div>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.</div></div></div></div>	Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)	1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	In front of property on Fletcher street	2 metres
Council Ref No.	Species	Tree Location	Fence Radius from Centre of Trunk (Metres)							
1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	In front of property on Fletcher street	2 metres							

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

Council Ref No.	Species
1	<i>Callistemon viminalis</i> (Weeping Bottlebrush)

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 Condition B.2 of this consent.

**Condition Reason:** To ensure the protection of existing trees

**B. 14. Aboriginal Objects – Unexpected Findings**

While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:

- Not further disturb or move these objects or bones.
- Immediately cease all work at the particular location.
- In the case of suspected human remains, notify NSW Police.
- Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.
- Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under 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.

**Notes:**

- The Definition of Aboriginal object, as per the National Parks & Wildlife Act 1974, is 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.

**Condition Reason:** To protect Aboriginal objects

<b>B. 15.</b>	<p><b>Aboriginal Heritage Due Diligence Responsibilities</b></p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks &amp; Wildlife Act 1974. Under the National Parks &amp; Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p> <p><b>Condition Reason:</b> To protect Aboriginal heritage.</p>
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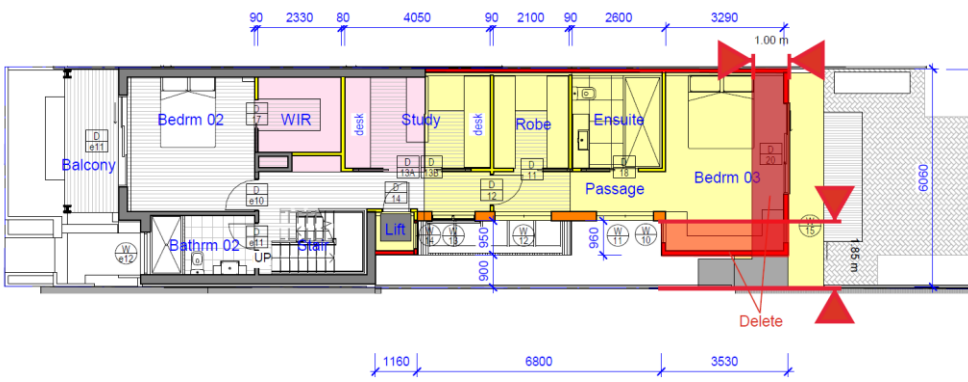
## REMEDIATION WORK

### C. ON COMPLETION OF REMEDIATION WORK

Nil.

## BUILDING WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<b>D. 1.</b>	<p><b>Modification of Details of the Development (section 4.17(1)(g) of the Act</b></p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <ol style="list-style-type: none"> <li>Windows W11 and W12, servicing the hallway at First Floor Level, must be fitted with fixed translucent glazing up to a height of 1.5m measured from the finished floor level to achieve mutual privacy with the neighbouring property.</li> <li>The rear setback of Bedroom 3, at the First Floor Level, must be increased by 1.0m.</li> <li>The western side setback of Bedroom 3, at the First Floor Level, must be increased to 1.85m from the western boundary in order to retain and interpret the existing breezeway complying with Control C2 prescribed in Clause 2.4.2 of Chapter C2 of the Woollahra DCP 2015.</li> </ol>  <p><i>Area nominated in 'red', at First Floor Level, to be deleted in accordance with Condition D.1 (b) (c)</i></p>
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- d) Deletion of Door D20, located on the southern (rear) elevation at First Floor Level, and replacement with vertically proportioned window openings (similar to Window W15) to comply with Control C8 prescribed in Clause 2.5.1 of Chapter C2 of the Woollahra DCP 2015. NOTE: A balcony is not permitted in this location.
- e) Deletion of Kliplok metal roofing proposed above the new addition and replacement with Colorbond Custom Orb roofing in a mid to dark grey colour. This condition is required to achieve consistency and to comply with the following:
  - Objective O1, Control C1 and Table 1 prescribed in Clause 2.5.4 of the Woollahra DCP 2015; and
  - Objective O1 and Control C1 prescribed in Clause 2.5.5 of the Woollahra DCP 2015.
- f) Timber framing to all new first floor window openings. This condition is required to achieve consistency with Objective O1 and to comply with Control C1 and Table 1 prescribed in Clause 2.5.4 of Chapter C2 of the Woollahra DCP 2015.
- g) New skylights, proposed above the new addition, with a low profile and flush with the roof surface. Skylights must be predominantly of glass, with simple, unobtrusive detailing, and the frame colour must match the surrounding roof colour. This condition is required to achieve consistency with Objective O1 and to comply with Control C4 prescribed in Clause 2.5.5 of Chapter C2 of the Woollahra DCP 2015.

**Notes:**

- Clause 20 of the Development Certification and Fire Safety Regulations prohibits **the** issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.
- Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.

**Condition Reason:** To require design changes and/or further information to be provided to address specific issues identified during the assessment under section 4.15 of the Act.

**D. 2. Payment of Long Service Levy**

Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:


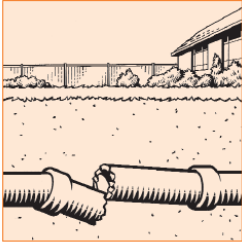
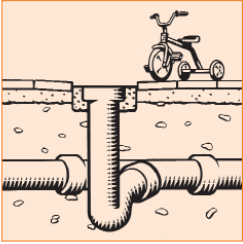
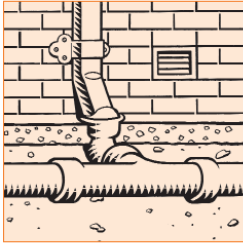
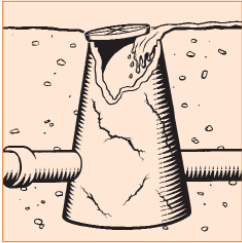
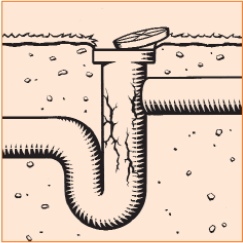
Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	

**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 Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or the Long Service Corporation on 131 441.



	<p><b>How must the payments be made?</b> Payments must be made by:</p> <ul style="list-style-type: none"> <li>• cash deposit with Council,</li> <li>• credit card payment with Council, or</li> <li>• bank cheque made payable to Woollahra Municipal Council.</li> </ul> <p><b>Condition Reason:</b> To ensure any relevant levy is paid.</p>
<p><b>D. 3.</b></p>	<p><b>BASIX Commitments</b></p> <p>Before the issue of any construction certificate, BASIX Certificate No. A507871_03 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.</li> <li>• Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.</li> </ul> <p><b>Condition Reason:</b> To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>
<p><b>D. 4.</b></p>	<p><b>Water and Waste Water - section 73 Developers Certificate and Upgrading of Existing System</b></p> <p>Prior to the issue of any construction certificate, 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.</p> <p>The construction certificate plans and specifications, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety 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.</p>

	<div style="display: flex; flex-wrap: wrap; justify-content: space-around;"> <div style="text-align: center;">  <p>Cracked pipes</p> </div> <div style="text-align: center;">  <p>Broken pipes</p> </div> <div style="text-align: center;">  <p>Damaged or low-lying gullies</p> </div> <div style="text-align: center;">  <p>Direct stormwater connections</p> </div> <div style="text-align: center;">  <p>Hidden or damaged maintenance holes</p> </div> <div style="text-align: center;">  <p>Hidden or damaged inspection points</p> </div> </div> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• For more information go to <a href="http://www.sydneyswater.com.au/section73">www.sydneyswater.com.au/section73</a> or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure that private sewer pipes are upgraded where required to prevent water pollution, and unsafe and unhealthy conditions.</p>
D. 5.	<p><b>Erosion and Sediment Control Plan – Submission and Approval</b></p> <p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p> <ol style="list-style-type: none"> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p>

**Notes:**

- The International Erosion Control Association – Australasia [www.austieca.com.au](http://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.
- The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au), and The Blue Book is available at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)
- Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.

**Condition Reason:** To prevent potential water pollution and dust nuisance.

**D. 6. Payment of S7.12 Contributions Levy**

A payment of a levy authorised by section 7.12 of the Environmental Planning and Assessment Act 1979 must be paid prior to the issue of any Construction Certificate or Subdivision Works Certificate. The Principal Certifier is to be provided with the original receipt for payment under the Woollahra Section 7.12 Development Contributions Plan 2022.

A cost estimate report, no more than 3 months old, demonstrating the proposed cost of carrying out the development must be completed and submitted to Council for determination of the costs of work. This report must incorporate all approved modification applications. The costs and expenses of the proposed cost of development must be established in accordance with clause 208 of the Environmental Planning and Assessment Regulation 2021.

The cost estimate report must be in the form of:

- A cost summary report, prepared by the applicant or a suitably qualified person for a development up to \$749,999; or
- A quantity surveyor’s report, for development over \$750,000.

The applicable levy rate is to be calculated using the summary schedule below.

<b>Summary Schedule</b>	
<b>Development Cost</b>	<b>Levy Rate</b>
• Up to and including \$100,000	Nil
• More than \$100,000 and up to and including \$200,000	0.5% of the cost
• More than \$200,000	1% of the cost

**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.

**Deferred or periodic payment of section 7.12 levy**

Where the Applicant makes a written request supported by reasons for payment of the section 7.12 levy other than as required by clause 2.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- the reasons given,
- whether any prejudice will be caused to the community deriving benefit from the public facilities,

	<ul style="list-style-type: none"> <li>• whether any prejudice will be caused to the efficacy and operation of the Plan, and</li> <li>• whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.</li> </ul> <p>Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:</p> <ul style="list-style-type: none"> <li>• the guarantee is by an Australian bank for the amount of the total outstanding contribution,</li> <li>• the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,</li> <li>• a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,</li> <li>• the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and</li> <li>• 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.</li> </ul> <p>Any deferred or periodic payment of the section 7.12 levy will be adjusted in accordance with clause 2.12 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.</p> <p><b>Do you need HELP indexing the levy?</b> Please contact Council's Customer Service Team on 02 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the Act and could void any such certificate (e.g. construction certificate, subdivision certificate, or occupation certificate).</p> <p><b>Condition Reason:</b> To ensure any relevant contributions are paid.</p>
<b>D. 7.</b>	<p><b>Structural Adequacy of Existing Supporting Structures</b></p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p><b>Condition Reason:</b> To ensure that the existing structure is able to support the additional loads proposed.</p>

<p><b>D. 8.</b></p>	<p><b>Professional Engineering Details</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>This does not affect the right of the developer to seek staged construction certificates.</li> </ul> <p><b>Condition Reason:</b> To ensure professional engineering details and technical specifications are provided.</p>
<p><b>D. 9.</b></p>	<p><b>Engineer Certification</b></p> <p>Before the issue of any construction certificate, engineer certification must be submitted to the Principal Certifier confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.</p> <p>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.</p> <p><b>Condition Reason:</b> To ensure certification is provided that demonstrates all structural works are located within the boundaries of the site and do not include underpinning works to any structures on adjoining properties.</p>
<p><b>D. 10.</b></p>	<p><b>Stormwater Management Plan</b></p> <p>Prior to issue of the Construction Certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a Chartered Professional civil engineer, which include the following:</p> <ol style="list-style-type: none"> <li>The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required,</li> <li>Detail the location of the existing stormwater drainage system including all gutters and downpipes, pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system,</li> <li>Detail any remedial works required to upgrade the existing stormwater drainage system,</li> <li>Internal stormwater drainage system including but not limited to gutters and downpipes, pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans,</li> </ol>

- e) The discharge of stormwater from the site to the street kerb located within the frontage of the site. Only one stormwater outlet with a maximum discharge rate of 20 l/s in the 1% AEP storm event will be permitted. Full supporting calculations must be included in the stormwater management plans. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3,
- f) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement shall be clearly depicted on the drawings,
- g) Dimensions of all drainage pit and access grates must comply with AS3500.3 and Council's DCP,
- h) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and
- i) General compliance with the 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) Location and dimensions of all downpipes,
- c) All invert levels reduced to Australian Height Datum (AHD),
- d) Location and dimensions of all drainage pits,
- e) Point and method of connection to Councils drainage infrastructure, and
- f) Overland flow paths over impervious areas.

Where 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 before 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:

**Condition Reason:** To ensure that site stormwater is disposed of in a controlled and sustainable manner.



## E. BEFORE BUILDING WORK COMMENCES

E. 1.	<p><b>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</b></p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> <li>that the work must be carried out in accordance with the requirements of the Building Code of Australia,</li> <li>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.</li> </ol> <p>This condition does not apply:</p> <ol style="list-style-type: none"> <li>to the extent to which an exemption is in force under the Home Building Regulation 2014, or</li> <li>to the erection of a temporary building.</li> </ol> <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>All new guttering is to comply with the provisions of AS3500.</li> </ul> <p><b>Condition Reason:</b> To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>
E. 2.	<p><b>Erosion and Sediment Controls – Installation</b></p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>The Soil and Water Management Plan if required under this consent;</li> <li>“Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>“Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The International Erosion Control Association – Australasia (<a href="http://www.austieca.com.au/">www.austieca.com.au/</a>) lists consultant experts who can assist in ensuring compliance with this condition.</li> <li>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.</li> <li>The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> </ul>

	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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”.</li> <li>• 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.</li> </ul>
	<p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
E. 3.	<p><b>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</b></p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> <li>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</li> <li>b) The person having the benefit of the development consent has: <ul style="list-style-type: none"> <li>• appointed a Principal Certifier for the building work, and</li> <li>• notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and</li> </ul> </li> <li>c) The Principal Certifier has, no later than 2 days before the building work commences: <ul style="list-style-type: none"> <li>• notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and</li> <li>• 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</li> </ul> </li> <li>d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has: <ul style="list-style-type: none"> <li>• 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</li> <li>• notified the Principal Certifier of any such appointment, and</li> <li>• 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</li> <li>• given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.</li> </ul> </li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• <b>Building</b> 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.</li> <li>• <b>New building</b> 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.</li> <li>• The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125.</li> <li>• Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>• 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.</li> </ul>

	<ul style="list-style-type: none"> <li>Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.</li> </ul>
	<p><b>Condition Reason:</b> To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>
<b>E. 4.</b>	<p><b>Notification of Home Building Act 1989 requirements</b></p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:</p> <p>a) In the case of work for which a Principal Contractor is required to be appointed:</p> <ul style="list-style-type: none"> <li>the name and licence number of the Principal Contractor, and</li> <li>the name of the insurer by which the work is insured under Part 6 of that Act,</li> </ul> <p>b) In the case of work to be done by an Owner-builder:</p> <ul style="list-style-type: none"> <li>the name of the Owner-builder, and</li> <li>if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.</li> </ul> <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.</p> <p>This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.</p> <p>For the purposes of section 4.17(11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.</p> <p><b>Condition Reason:</b> To ensure Council is notified of the Home Building Acts 1989 requirements.</p>

## F. DURING BUILDING WORK

<b>F. 1.</b>	<p><b>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</b></p> <p>While site work is being carried out:</p> <p>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</p> <p>b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p>
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		<p>b) to the erection of a temporary building.</p> <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>All new guttering is to comply with the provisions of AS 3500.</li> </ul> <p><b>Condition Reason:</b> To ensure compliance with the BCA and Home building Act 1989.</p>
F.	2.	<p><b>Requirement to Notify about New Evidence</b></p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p><b>Condition Reason:</b> To ensure Council and the Principal Certifier are made aware of new information.</p>
F.	3.	<p><b>Critical Stage Inspections</b></p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.</li> <li>The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.</li> </ul> <p><b>Condition Reason:</b> To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.</p>
F.	4.	<p><b>Hours of Work –Amenity of the Neighbourhood</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>No work must take place on any Sunday or public holiday.</li> <li>No work must take place before 7am or after 5pm any weekday.</li> <li>No work must take place before 7am or after 1pm any Saturday.</li> </ol>

	<p>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:</p> <ul style="list-style-type: none"> <li>- piling,</li> <li>- piling,</li> <li>- rock or concrete cutting, boring or drilling,</li> <li>- rock breaking,</li> <li>- rock sawing,</li> <li>- jack hammering, or</li> <li>- machine excavation.</li> </ul> <p>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.</p> <p>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.</p> <p>g) No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.</li> <li>• The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.</li> <li>• 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.</li> <li>• NSW EPA Noise Guide is available at <a href="http://www.epa.nsw.gov.au/noise/nglg.htm">www.epa.nsw.gov.au/noise/nglg.htm</a></li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of work upon the amenity of the neighbourhood.</p>
<p><b>F. 5.</b></p>	<p><b>Public Footpaths – Safety, Access and Maintenance</b></p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p> <ul style="list-style-type: none"> <li>a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.</li> <li>b) Not use the road or footway for the storage of any article, material, matter, waste or thing.</li> <li>c) Not use the road or footway for any work.</li> <li>d) Keep the road and footway in good repair free of any trip hazard or obstruction.</li> <li>e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.</li> <li>f) Not stand any plant and equipment upon the road or footway.</li> </ul>

	<p>g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.</p> <p>h) Provide a clear safe pedestrian route a minimum of 1.5m wide.</p> <p>i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.</p> <p>This condition does not apply to the extent that a permit or approval exists under the section 148B of the Road Transport Act 2013, section 138 of the Roads Act 1993 or section 68 of the Local Government Act 1993 except that at all time compliance is required with:</p> <p>a) Australian Standard AS 1742 (Set): Manual of uniform traffic control devices and all relevant parts of this set of standards.</p> <p>b) Australian Road Rules.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.</li> <li>• Section 138 of the Roads Act 1993 provides that a person must not: <ul style="list-style-type: none"> <li>- erect a structure or carry out a work in, on or over a public road, or</li> <li>- dig up or disturb the surface of a public road, or</li> <li>- remove or interfere with a structure, work or tree on a public road, or</li> <li>- pump water into a public road from any land adjoining the road, or</li> <li>- connect a road (whether public or private) to a classified road,</li> <li>- otherwise than with the consent of the appropriate roads authority.</li> </ul> </li> <li>• Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including: <ul style="list-style-type: none"> <li>- Part C Management of waste: <ul style="list-style-type: none"> <li>a) For fee or reward, transport waste over or under a public place</li> <li>b) Place waste in a public place</li> <li>c) Place a waste storage container in a public place.</li> </ul> </li> <li>- Part E Public roads: <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul> </li> </ul> </li> </ul> <p><b>Condition Reason:</b> To ensure safe access is maintained to footpaths and roads during building works.</p>
<p><b>F. 6.</b></p>	<p><b>Maintenance of Environmental Controls</b></p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <p>a) erosion and sediment controls,</p> <p>b) dust controls,</p> <p>c) dewatering discharges,</p> <p>d) noise controls,</p> <p>e) vibration monitoring and controls, and</p> <p>f) ablutions.</p> <p><b>Condition Reason:</b> To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>



<p><b>F. 7.</b></p>	<p><b>Support of Adjoining Land and Buildings</b></p> <p>While site work is being carried out, a person must not to 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).</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>- the consent of the owners of such adjoining or supported land to trespass or encroach, or</li> <li>- an access order under the Access to Neighbouring Land Act 2000, or</li> <li>- an easement under section 88K of the Conveyancing Act 1919, or</li> <li>- an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.</li> </ul> </li> <li>• 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).</li> <li>• Clause 17 of the Roads Regulation 2018 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure that the support of adjoining land is not removed.</p>
<p><b>F. 8.</b></p>	<p><b>Erosion and Sediment Controls – Maintenance</b></p> <p>While site work is being carried out, water pollution, erosion, and sedimentation controls must be maintained in accordance with:</p> <ol style="list-style-type: none"> <li>a) the Soil and Water Management Plan required under this consent,</li> <li>b) "Do it Right On Site, Soil and Water Management for the Construction Industry" and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>c) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>

	<ul style="list-style-type: none"> <li>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”.</li> <li>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.</li> </ul>
	<p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<b>F. 9.</b>	<p><b>Disposal of Site Water During Construction</b></p>
	<p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.</li> <li>Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.</li> <li>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.</li> </ol>
	<p><b>Condition Reason:</b> To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
<b>F. 10.</b>	<p><b>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</b></p>
	<p>While site work is being carried out, a registered surveyor must carry out check surveys and provide 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.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier’s satisfaction:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</li> <li>Flood protection measures are in place confirming location, height and capacity.</li> </ol>

	<p><b>Condition Reason:</b> To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>
<b>F. 11.</b>	<p><b>Placement and Use of Skip Bins</b></p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <p>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</p> <p>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.</li> </ul> <p><b>Condition Reason:</b> To ensure waste storage containers are appropriately located.</p>
<b>F. 12.</b>	<p><b>Prohibition of Burning</b></p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.</li> </ul> <p><b>Condition Reason:</b> To ensure no burning of waste occurs.</p>
<b>F. 13.</b>	<p><b>Dust Mitigation</b></p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <p>a) Dust screens to all hoardings and site fences.</p> <p>b) All stockpiles or loose materials to be covered when not being used.</p> <p>c) All equipment, where capable, being fitted with dust catchers.</p> <p>d) All loose materials being placed bags before placing into waste or skip bins.</p> <p>e) All waste and skip bins being kept covered when not being filled or emptied.</p> <p>f) The surface of excavation work being kept wet to minimise dust.</p> <p>g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>“Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul>

	<ul style="list-style-type: none"> <li>Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from <a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="http://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
<b>F. 14.</b>	<p><b>Site Waste Minimisation and Management – Demolition</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> <li>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),</li> <li>separate collection bins and/or areas for the storage of residual waste are to be provided,</li> <li>the purpose and content of the bins and/or storage areas are to be clearly 'signposted',</li> <li>measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</li> <li>site disturbance must be minimised, and unnecessary excavation limited.</li> </ol> <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> <li>footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</li> <li>any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</li> <li>waste is only transported to a place that can lawfully be used as a waste facility,</li> <li>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</li> <li>evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Materials that have an existing reuse or recycling market must 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.</li> </ul> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from demolition activities.</p>
<b>F. 15.</b>	<p><b>Site Waste Minimisation and Management – Construction</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> </ol>

	<p>b) deliveries of materials must be arranged so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage,</p> <p>c) consideration must be given to returning excess materials to the supplier or manufacturer,</p> <p>d) an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</p> <p>e) the purpose and content of the storage areas must be clearly ‘signposted’,</p> <p>f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,</p> <p>g) separate collection bins or areas for the storage of residual waste must be promoted,</p> <p>h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,</p> <p>i) site disturbance must be minimised and unnecessary excavation limited,</p> <p>j) all waste must be transported to a place that can lawfully be used as a waste facility, and</p> <p>k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from construction activities.</p>
<p><b>F. 16.</b></p>	<p><b>Asbestos Removal</b></p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>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:</p> <p>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.</p> <p>b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.</p> <p>c) No asbestos products may be reused on the site.</p> <p>d) No asbestos laden skip or bins must be left in any public place.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> <li>- Work Health and Safety Act 2011,</li> <li>- Work Health and Safety Regulation 2017,</li> <li>- SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and</li> <li>- SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).</li> </ul> </li> <li>• For more information go to the SafeWork NSW website on asbestos <a href="http://www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos">www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos</a>, and <a href="http://www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice">www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice</a> or call 131 050</li> </ul>

	<b>Condition Reason:</b> To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.
<b>F. 17.</b>	<b>Classification of Hazardous Waste</b>
	While site work is being carried out, and 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, Part1: Classifying Waste, 2014.
	<b>Condition Reason:</b> 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.
<b>F. 18.</b>	<b>Disposal of Asbestos and Hazardous Waste</b>
	While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.
	<b>Condition Reason:</b> 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.
<b>F. 19.</b>	<b>Asbestos Removal Signage</b>
	While site work is being carried out and when asbestos is being removed, 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.
	<b>Condition Reason:</b> To ensure awareness of any hazard to the health and safety of persons working on the site and public.
<b>F. 20.</b>	<b>Notification of Asbestos Removal</b>
	While site work is being carried out, 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.
	<b>Condition Reason:</b> To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.



## G. BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

<p><b>G. 1.</b></p>	<p><b>Occupation Certificate (section 6.9 of the Act)</b></p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• New building includes an altered portion of, or an extension to, an existing building.</li> </ul> <p><b>Condition Reason:</b> To ensure the building is suitable to occupy.</p>
<p><b>G. 2.</b></p>	<p><b>Commissioning and Certification of Systems and Works</b></p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ol style="list-style-type: none"> <li>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.</li> <li>b) All flood protection measures.</li> <li>c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1: Off-Street car parking.</li> <li>d) All stormwater drainage and storage systems.</li> <li>e) All mechanical ventilation systems.</li> <li>f) All hydraulic systems.</li> <li>g) All structural work.</li> <li>h) All acoustic attenuation work.</li> <li>i) All waterproofing.</li> <li>j) Such further matters as the Principal Certifier may require.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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).</li> <li>• The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.</li> </ul> <p><b>Condition Reason:</b> To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p>

<b>G. 3.</b>	<b>Fulfillment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</b>
	<p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX certificate No. A507871_03.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.</li> </ul>
	<b>Condition Reason:</b> To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.
<b>G. 4.</b>	<b>Removal of Ancillary Works and Structures</b>
	<p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> <li>the site sign,</li> <li>ablutions,</li> <li>hoarding,</li> <li>scaffolding, and</li> <li>waste materials, matter, article or thing.</li> </ol>
	<b>Condition Reason:</b> To ensure that all ancillary matter is removed prior to occupation.

## H. OCCUPATION AND ONGOING USE

<b>H. 1.</b>	<b>Maintenance of BASIX Commitments</b>
	<p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. A507871_03.</p> <p>This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.</p>
	<b>Condition Reason:</b> To ensure the approved environmental sustainability measures are maintained for the life of development.
<b>H. 2.</b>	<b>Outdoor Lighting – Residential</b>
	<p>During the occupation and ongoing use, outdoor lighting must comply with AS/NZS 4282: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282.</p>
	<b>Condition Reason:</b> To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.

## **SUBDIVISION WORK**

### **I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE**

Nil.

### **J. BEFORE SUBDIVISION WORK COMMENCES**

Nil.

### **K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**

Nil.

## **LAND SUBDIVISION**

### **L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**




Nil.

## **STRATA SUBDIVISION**

### **M. BEFORE ISSUE OF A STRATA CERTIFICATE**

Nil.

### **Attachments**

1. Plans, Sections and Elevations [↓](#) 
2. Clause 4.6 Written Request – Floor Space Ratio (FSR) [↓](#) 
3. Referral Response - Heritage [↓](#) 

A3

DA ISSUE



Image 1



Image 2



Image 3

WILLOUGHBY  
ARCHITECTS

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nom architect: W Farmilo Reg No 6390



LEGEND:

- SITE PHOTO VIEWS
- VIEW CORRIDORS
- VIEWS FROM SUBJECT SITE
- PREVAILING WINDS
- NOISE LEVEL

REV	DATE	DESCRIPTION	BY
B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Neighbourhood Character

For:  
DEVELOPMENT  
APPLICATION

Scale: 1 : 200 Date: Sept 2023

Drawn: WFF Chk: WFF

Job No. 22026 Dwg No. TP 01 Rev No. B

23/05/2024 8:56:38 AM



Image 4

NEIGHBOURHOOD CHARACTER PLAN

Lot 71 Sec 11 DP 1952

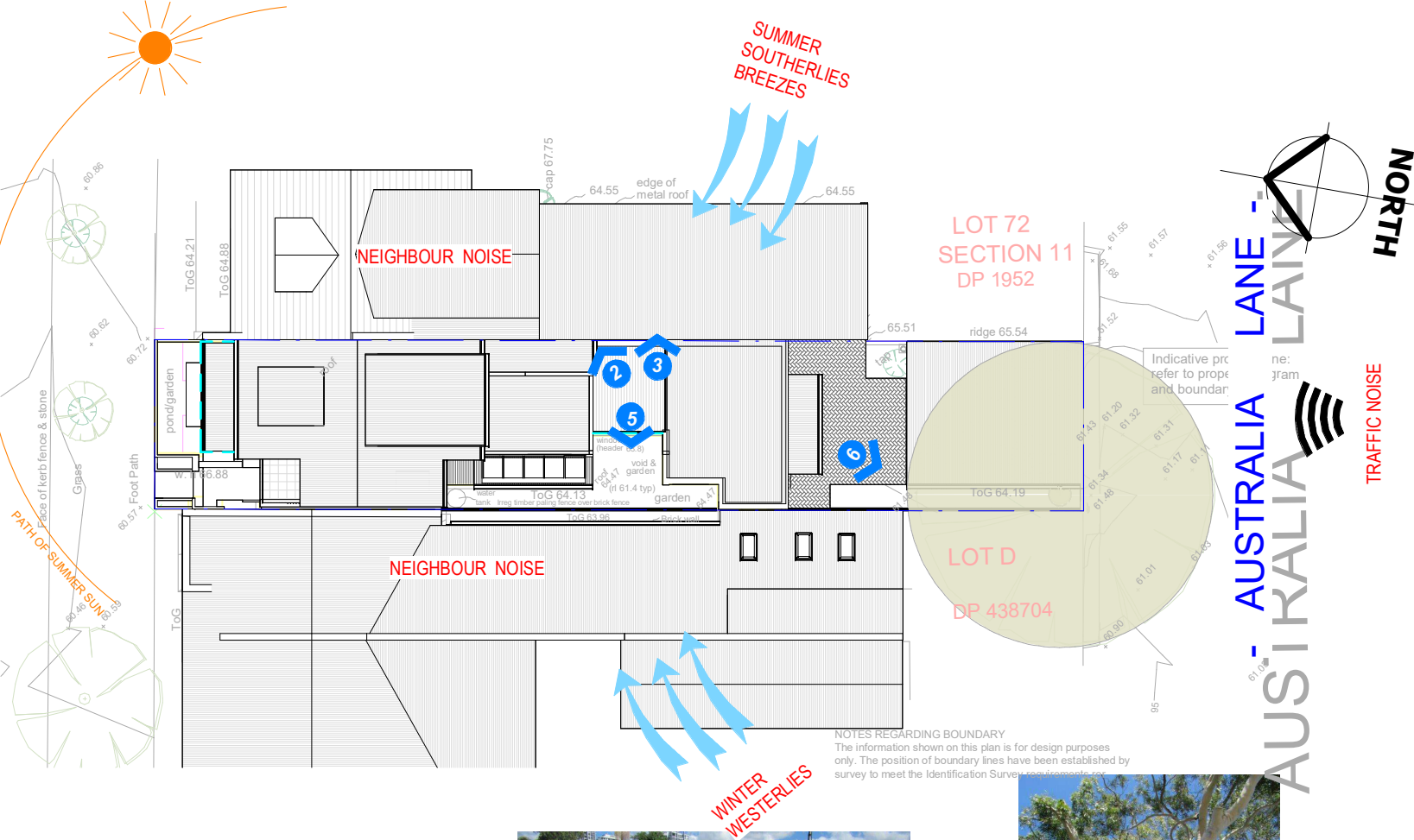


Image 5



Image 6

A3

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NOTES:

61.52

61.43

61.34

61.48

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A	25/09/23	DA Issue	wf
REV	DATE	DESCRIPTION	BY

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Compliance Drawing

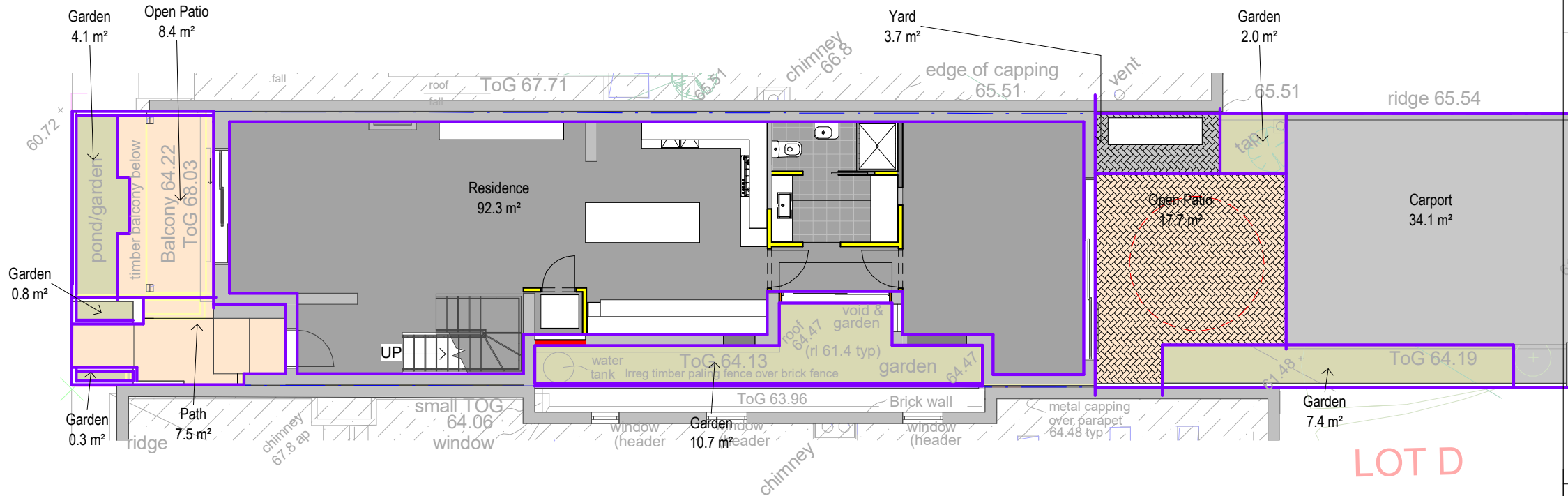
For:  
DEVELOPMENT  
APPLICATION

Scale: 1 : 100 Date: Sept 2023

Drawn: WFF Chk: WFF

Job No. 22026 Dwg No. TP 02 Rev No. B

23/05/2024 8:56:39 AM



AREA ANALYSIS

AREA ANALYSIS:  
SITE AREA = 203.85 m<sup>2</sup>

- DEEP SOIL LANDSCAPE (8%)

PRIVATE OPEN SPACE (16%)

PRINCIPLE REAR AREA
- = 16.3 m<sup>2</sup>

= 32.6 m<sup>2</sup>

= 12 m<sup>2</sup>
- EXISTING LANDSCAPING

EXISTING PRIVATE OPEN SPACE

EXISTING PRINCIPLE REAR AREA
- = 26.5 m<sup>2</sup> (13.0 %)

= 39.2 m<sup>2</sup> (19.2 %)

= 17.7 m<sup>2</sup>
- PROPOSED LANDSCAPING

PROPOSED PRIVATE OPEN SPACE

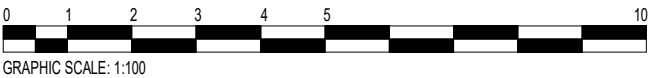
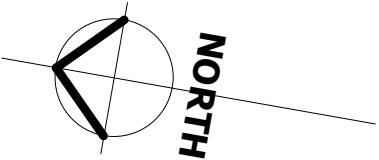
PROPOSED PRINCIPLE REAR AREA
- = 24.5 m<sup>2</sup> (12.0 %)

= 37.2 m<sup>2</sup> (18.2 %)

= 17.7 m<sup>2</sup>

AREA LEGEND

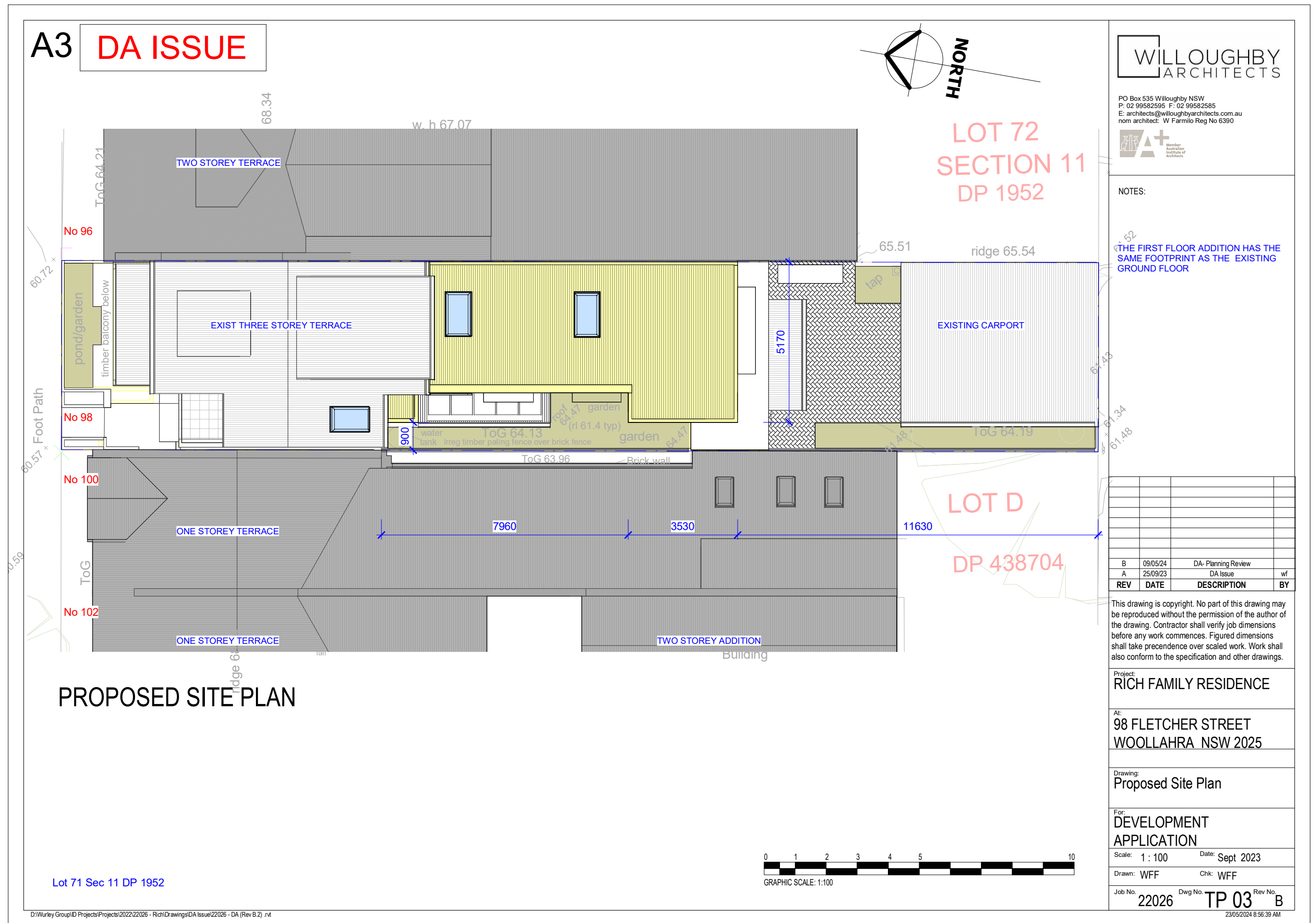
- 1 RESIDENTIAL BUILDING
- 2 NON RESIDENTIAL BUILDING
- 6 HARDSTAND
- LANDSCAPE



Lot 71 Sec 11 DP 1952

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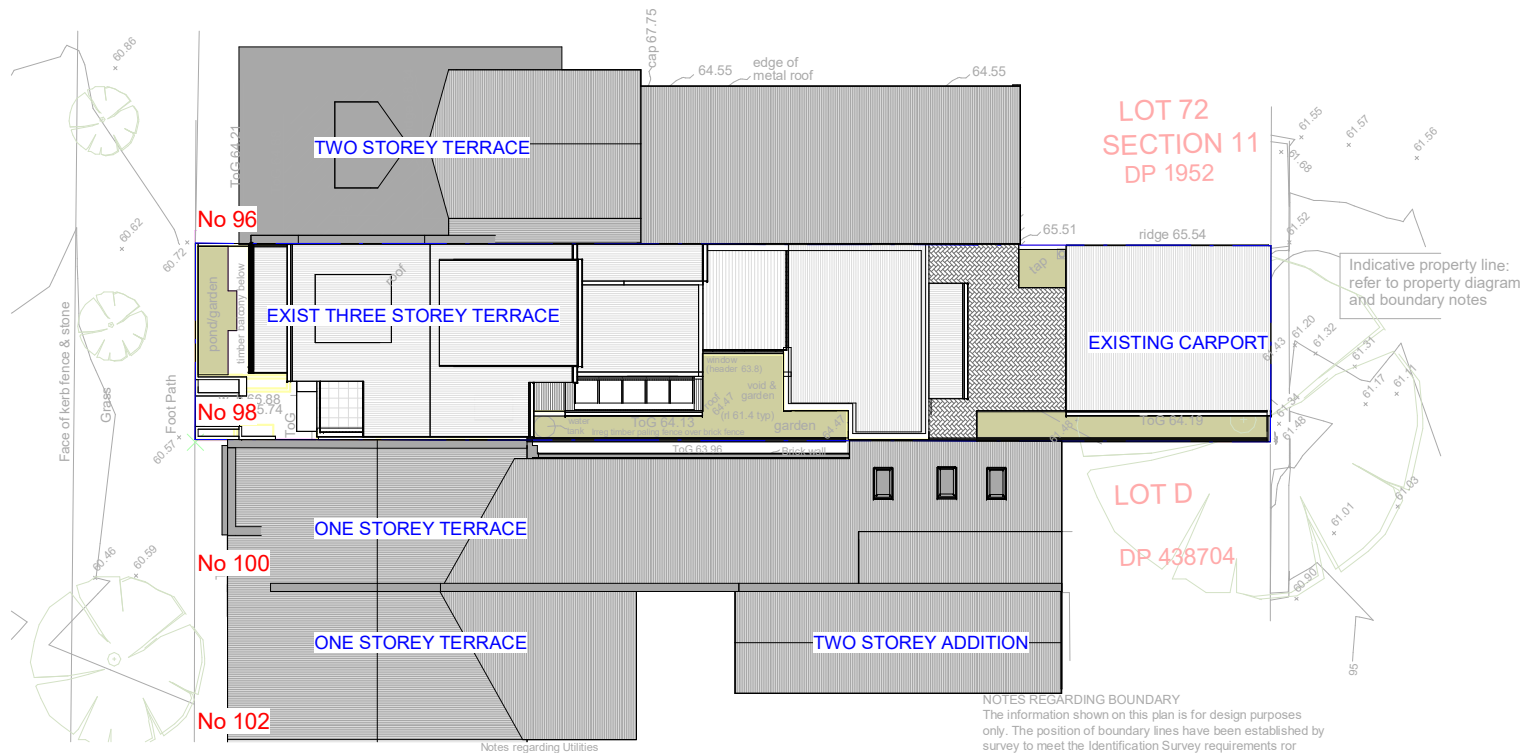




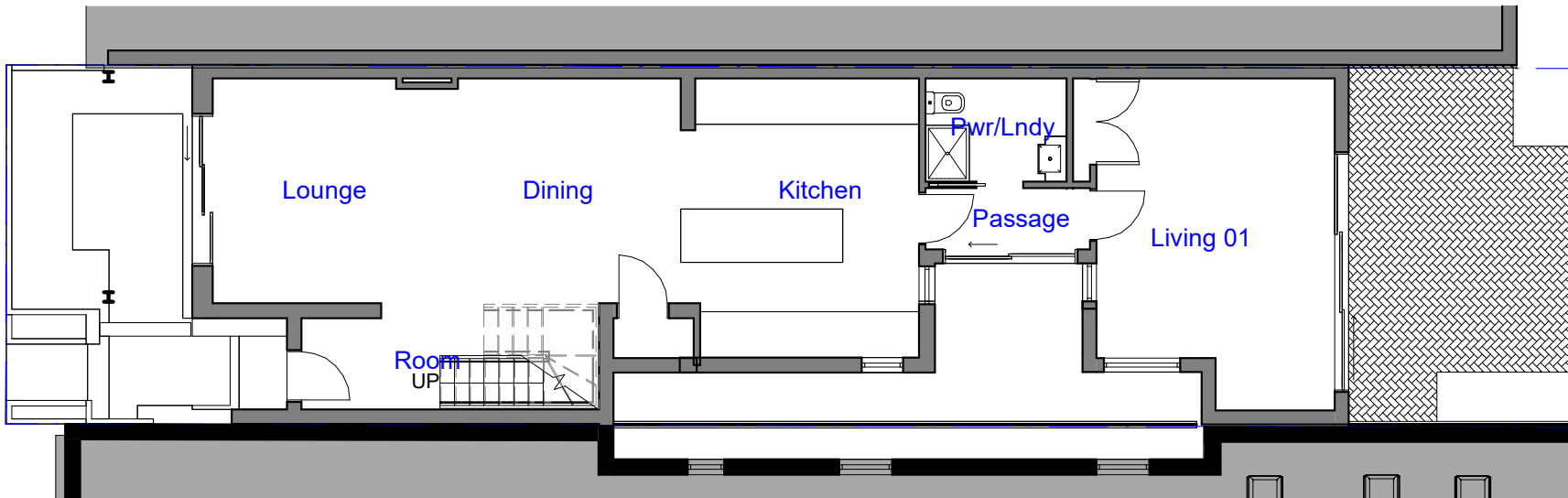


A3

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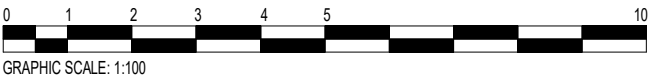


EXISTING SITE PLAN



EXISTING GROUND FLOOR PLAN

Lot 71 Sec 11 DP 1952



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nom architect: W Farmilo Reg No 6390



NOTES:  
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EXCLUDE CLADDINGS**

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A	25/09/23	DA Issue	wf
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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Existing Ground Floor Plan

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

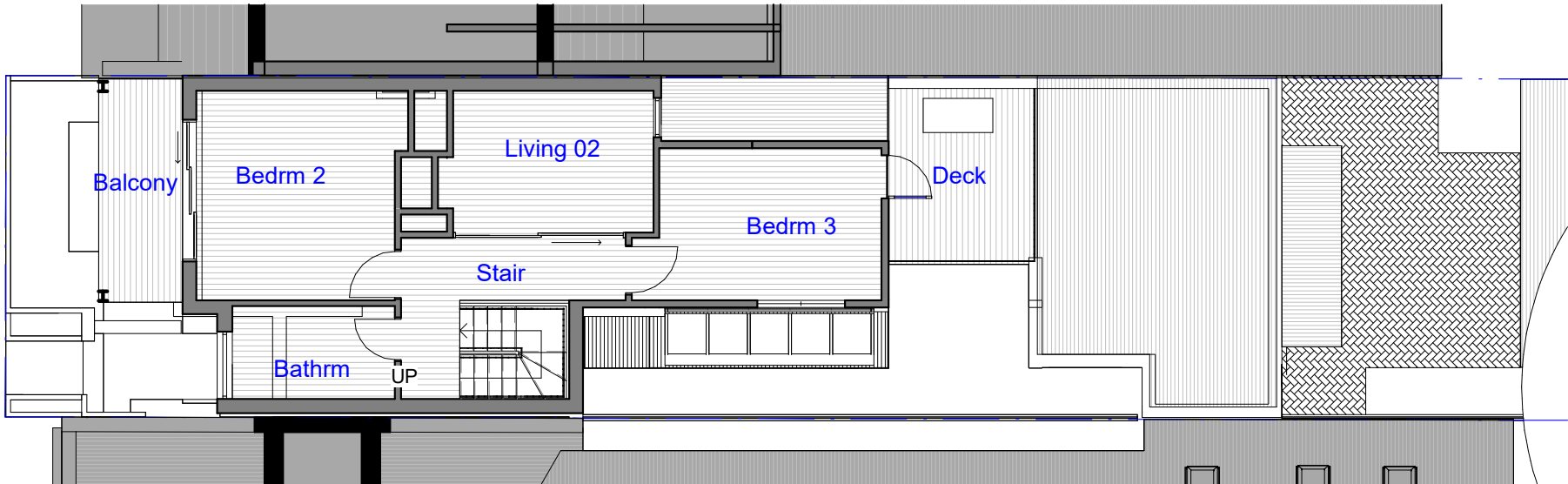
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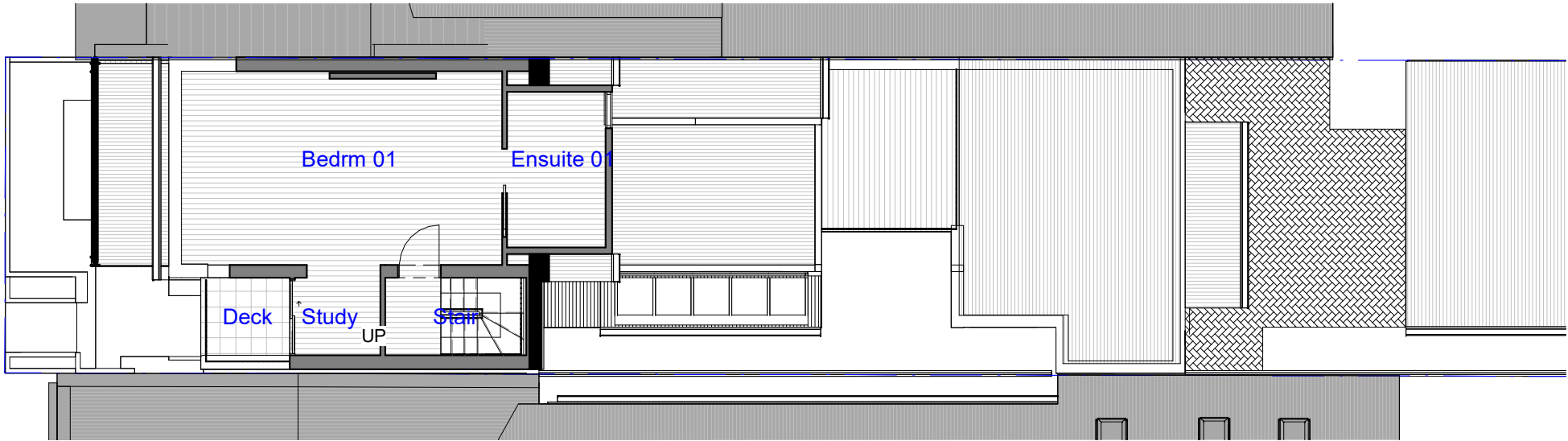
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A3

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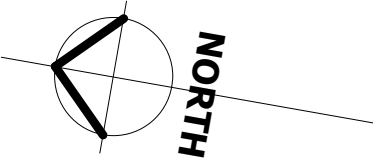
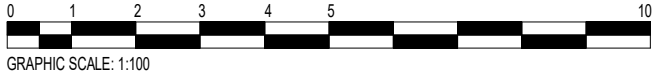


EXISTING FIRST FLOOR PLAN



EXISTING SECOND FLOOR PLAN

Lot 71 Sec 11 DP 1952



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nom architect: W Farmilo Reg No 6390



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EXCLUDE CLADDINGS

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A	25/09/23	DA Issue	wf
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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Existing First Floor Plan

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

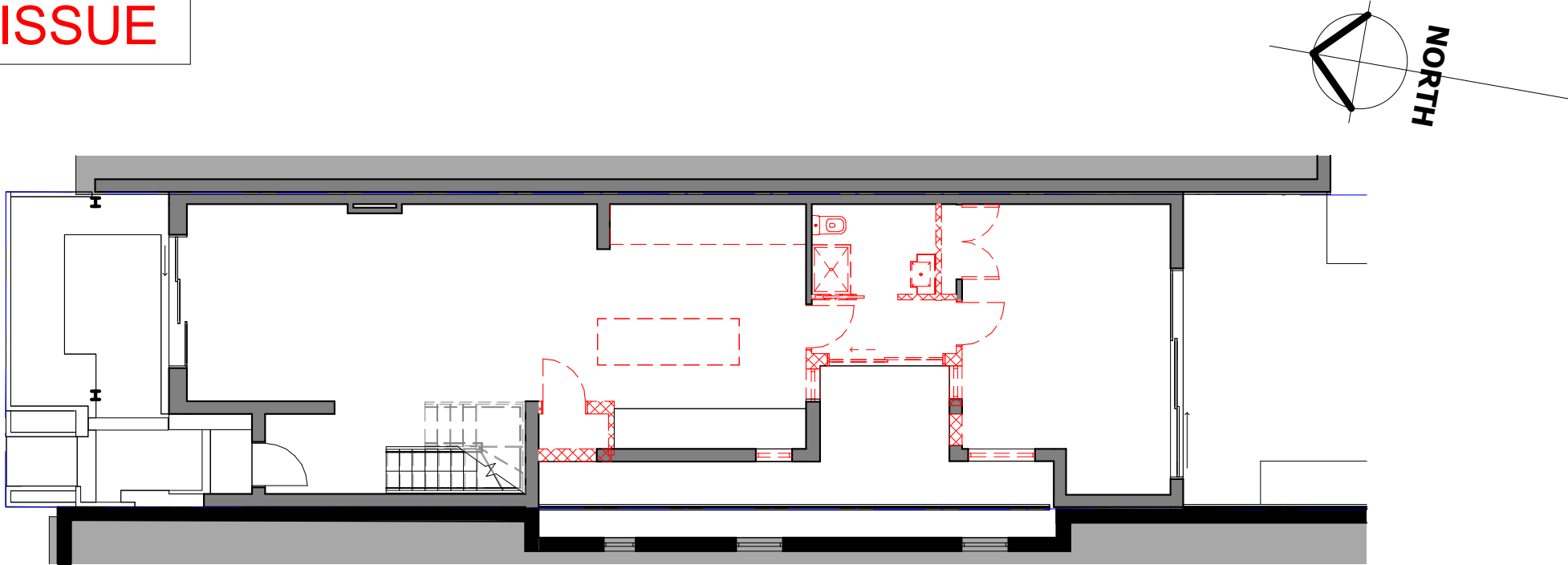
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Job No. 22026 Dwg No. TP 05 Rev No. B

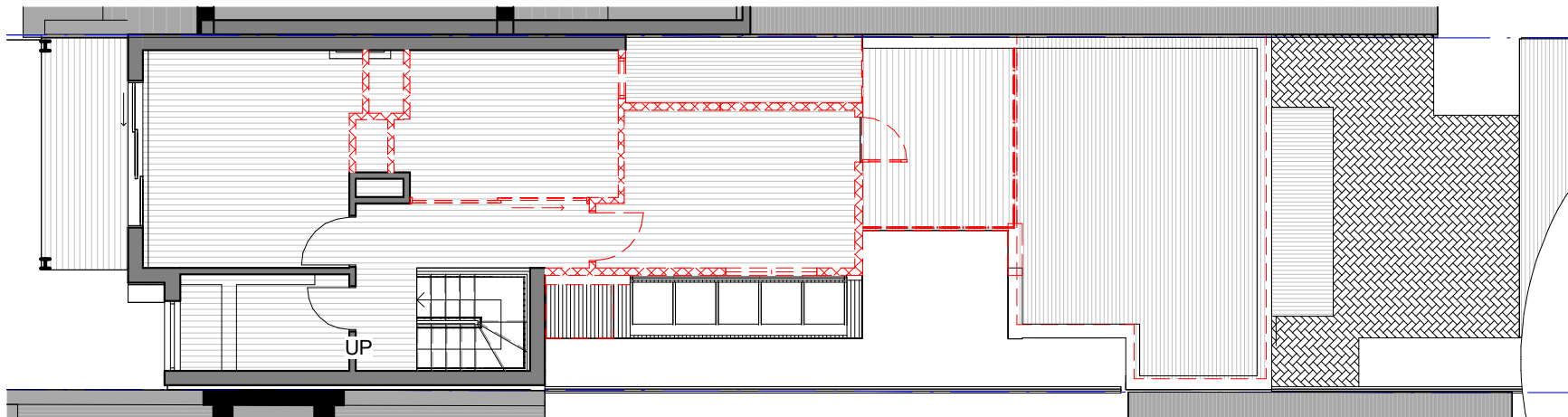
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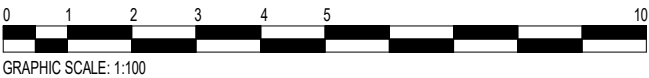


DEMOLITION GROUND FLOOR PLAN



DEMOLITION FIRST FLOOR PLAN

Lot 71 Sec 11 DP 1952



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nom architect: W Farmilo Reg No 6390



NOTES:  
**ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS**

DEMOLITION LEGEND

- REMOVED ELEMENTS
- DEMOLISHED WALLS/ELEMENTS
- DEMOLISH/ EXCAVATE AREA
- SECURITY FENCE
- SEDIMENT FENCE

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A	25/09/23	DA Issue	wf
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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Demolition Ground Floor Plan

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

Drawn: WFF Chk: WFF

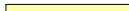





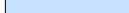
Job No. 22026 Dwg No. TP 10 Rev No. B

23/05/2024 8:56:41 AM



Member  
Australian  
Institute of  
Architects

### NEW WORKS LEGEND

	NEW WORKS AREA
	NEW WALLS - EXTERNAL
	NEW WALLS - INTERNAL
	NEW WINDOWS
	NEW ALTERATIONS/FITOUT
	BLOCK EXISTING OPENINGS
	EXISTING WALLS

B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf
<b>REV</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b>BY</b>

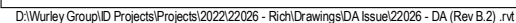
Job No. 22026 Dwg No. TP 12 Rev No. B



WT1: Brickwork, Stud, Plasterboard

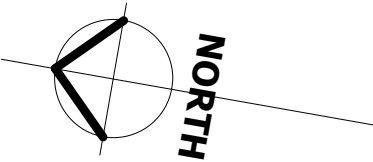
WT2: Horizontal cladding, Stud, Plasterboard

WT3: Rendered board, Stud, Plasterboard



A3

DA ISSUE



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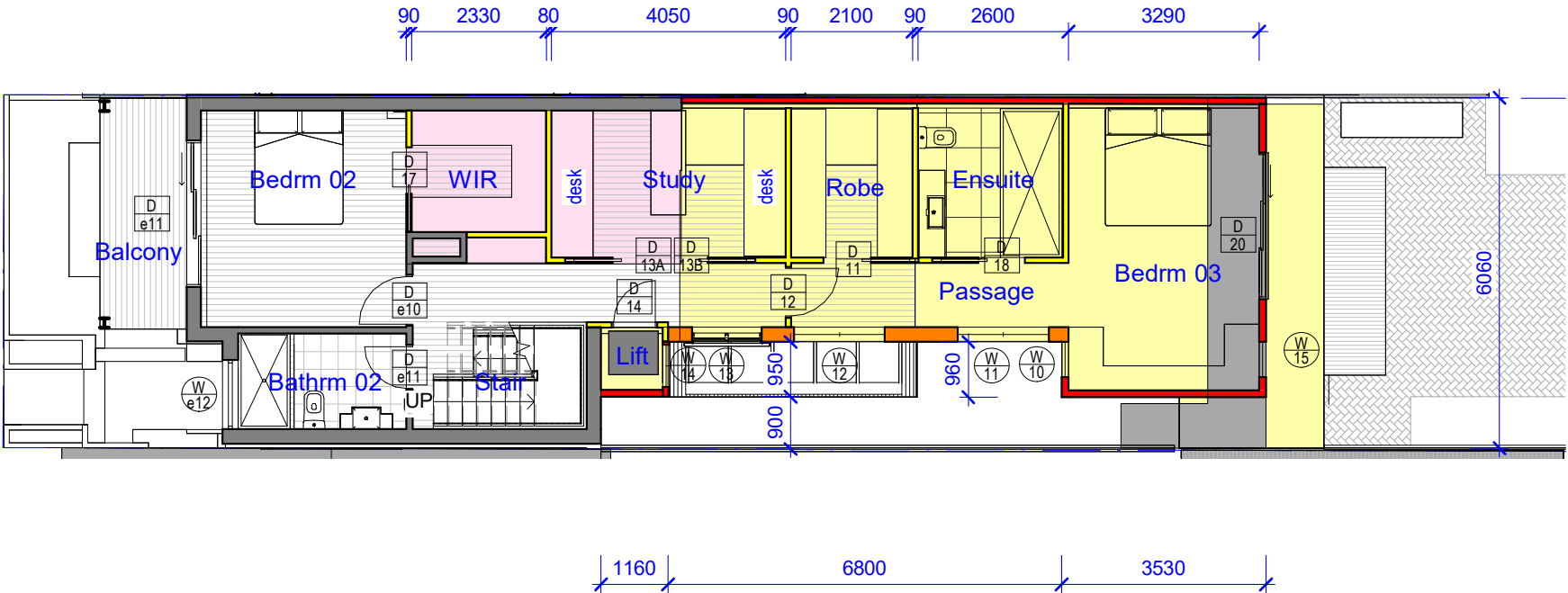
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E: architects@willoughbyarchitects.com.au  
nom architect: W Farmilo Reg No 6390



NOTES:  
ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS

NEW WORKS LEGEND

- NEW WORKS AREA
- NEW WALLS - EXTERNAL
- NEW WALLS - INTERNAL
- NEW WINDOWS
- NEW ALTERATIONS/FITOUT
- BLOCK EXISTING OPENINGS
- EXISTING WALLS

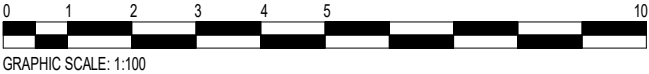


PROPOSED FIRST FLOOR PLAN

THE FIRST FLOOR ADDITION HAS THE  
SAME FOOTPRINT AS THE EXISTING  
GROUND FLOOR

Lot 71 Sec 11 DP 1952

- WT1 Brickwork Stud Plasterboard
- WT2 Horizontal cladding Stud Plasterboard
- WT3 Rendered board Stud Plasterboard



REV	DATE	DESCRIPTION	BY
B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Proposed First Floor Plan

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

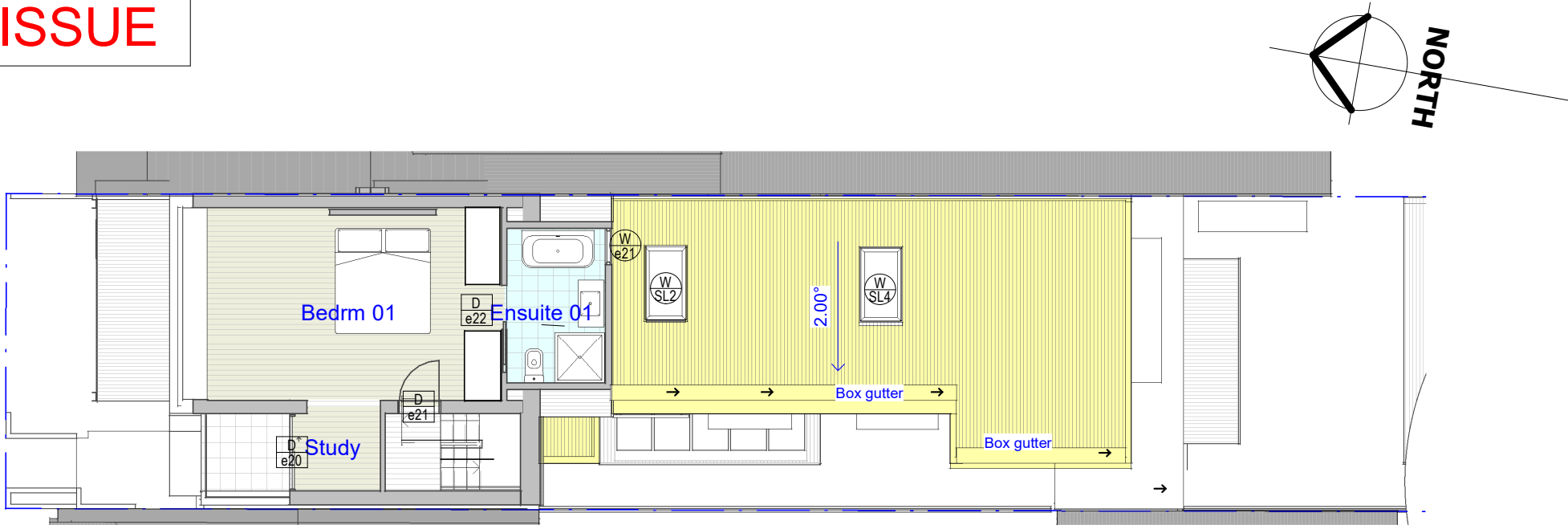
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Job No. 22026 Dwg No. TP 13 Rev No. B

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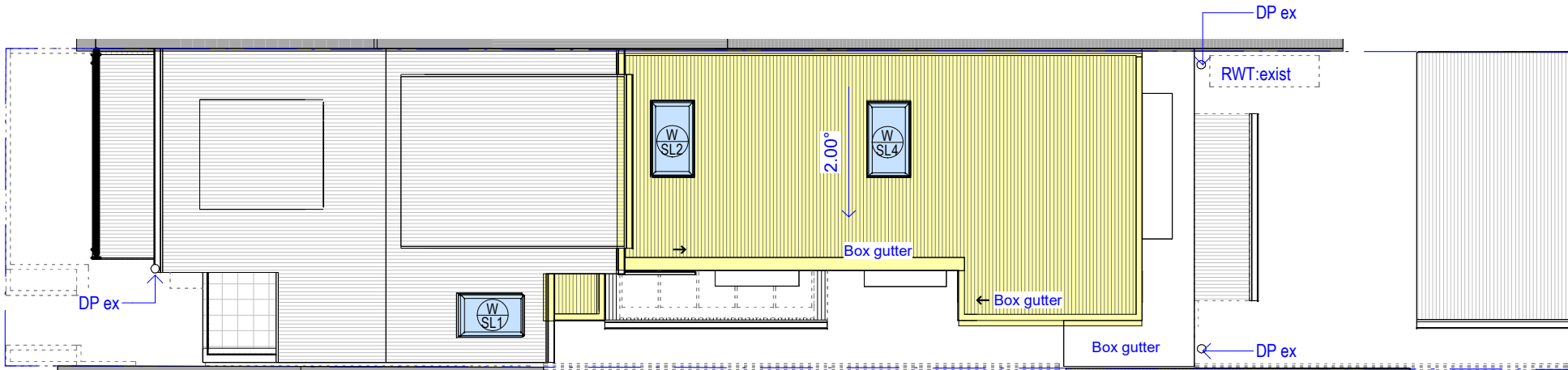
A3

DA ISSUE



PROPOSED SECOND FLOOR PLAN

No proposed changes



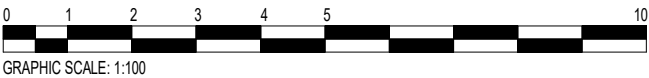
PROPOSED ROOF PLAN

Lot 71 Sec 11 DP 1952

- WT1
- Brickwork  
Stud  
Plasterboard  
Horizontal cladding
- WT2
- Stud  
Plasterboard  
Horizontal cladding
- WT3
- Stud  
Plasterboard

NOTE:STORMWATER

All new roofs are to be drained to the existing downpipes and stormwater system



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nom architect: W Farnilo Reg No 6390



NOTES:  
ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS

NEW WORKS LEGEND

- NEW WORKS AREA
- NEW WALLS - EXTERNAL
- NEW WALLS - INTERNAL
- NEW WINDOWS
- NEW ALTERATIONS/FITOUT
- BLOCK EXISTING OPENINGS
- EXISTING WALLS

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A	25/09/23	DA Issue	wf
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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Proposed Second & Roof  
Plans

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

Drawn: WFF Chk: WFF

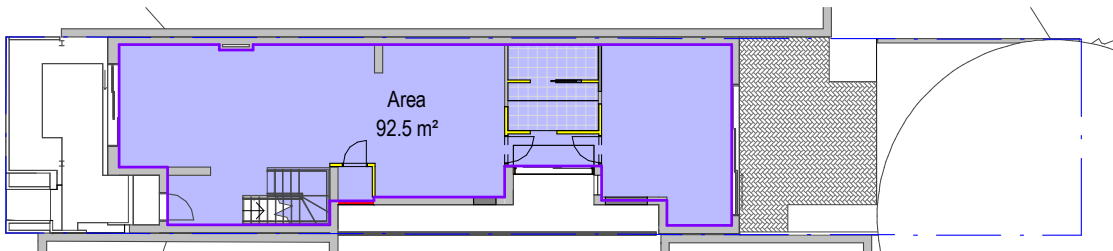
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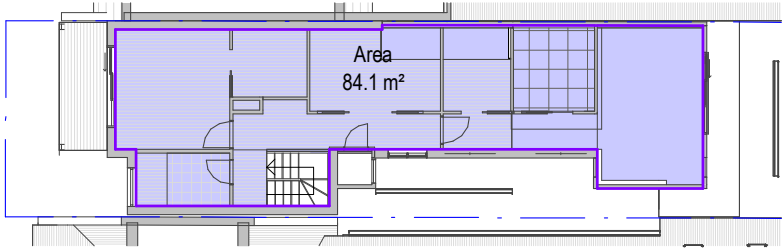


A3

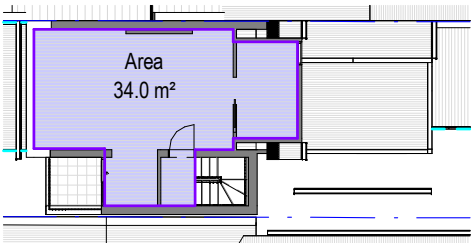
DA ISSUE



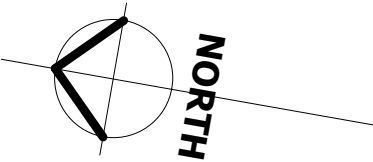
Ground Level



First Level



Second Level



Gross Floor Area

Gross Building Area

RESIDENCE	
Ground Level:	92.5 sqm
First Level:	84.1 sqm
Second Level:	34.0 sqm
TOTAL:	210.5 sqm

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
GFA Calculations

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

Drawn: WFF Chk: WFF

Job No. 22026 Dwg No. TP 16 Rev No. B

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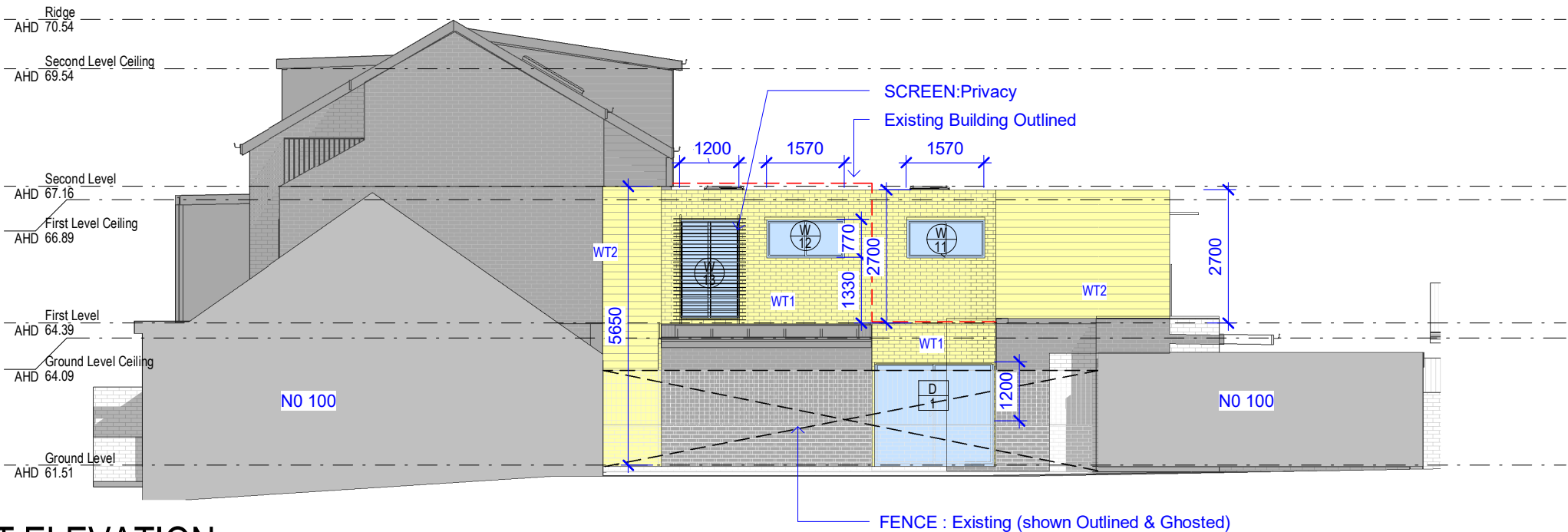
Lot 71 Sec 11 DP 1952

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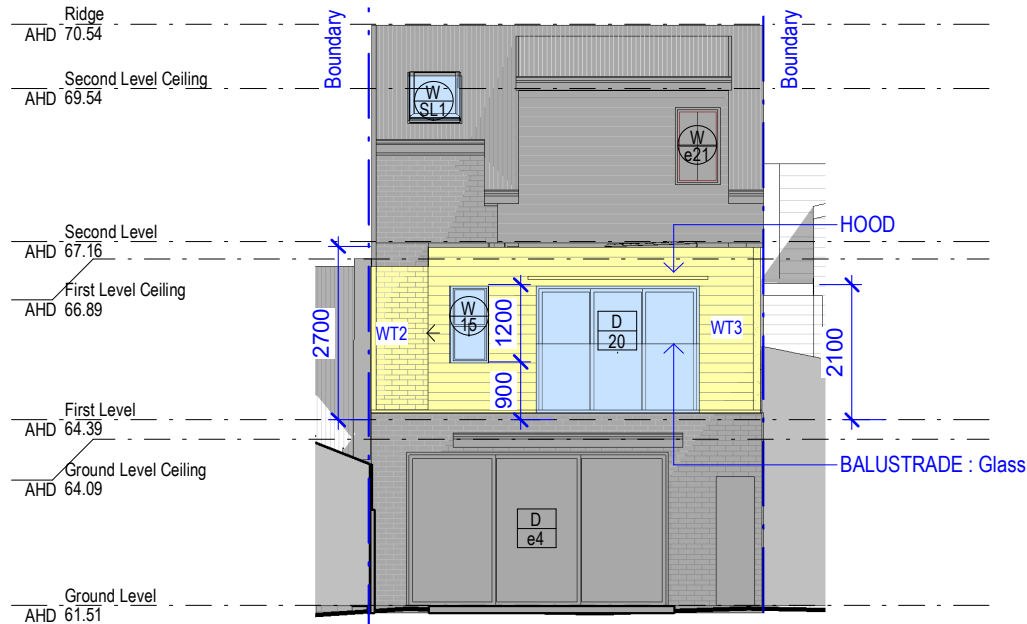


A3

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WEST ELEVATION



SOUTH ELEVATION

Lot 71 Sec 11 DP 1952

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nom architect: W Farmilo Reg No 6390



NOTES:

ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS

NEW WORKS LEGEND

- NEW WORKS AREA
- NEW WALLS - EXTERNAL
- NEW WALLS - INTERNAL
- NEW WINDOWS
- NEW ALTERATIONS/FITOUT
- BLOCK EXISTING OPENINGS
- EXISTING WALLS

REV	DATE	DESCRIPTION	BY
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A	25/09/23	DA Issue	wf

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Elevations 1

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

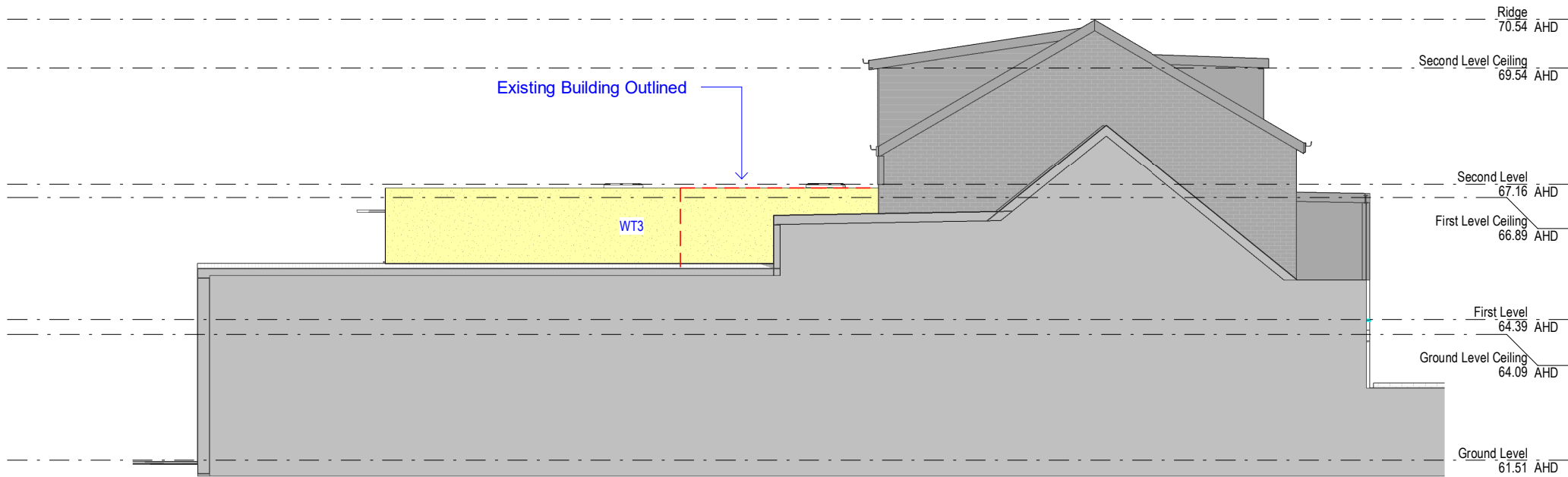
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Job No. 22026 Dwg No. TP 20 Rev No. B

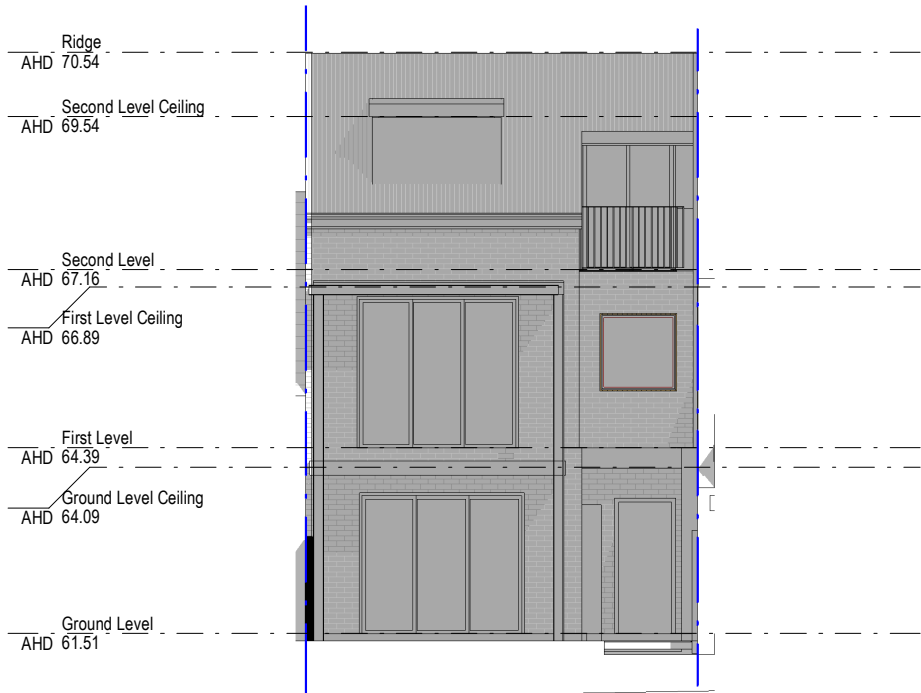
23/05/2024 8:56:46 AM

A3

DA ISSUE



EAST ELEVATION



NORTH ELEVATION

Lot 71 Sec 11 DP 1952

- WT1
- Brickwork
- Stud
- Plasterboard
- WT2
- Horizontal cladding
- Stud
- Plasterboard
- WT3
- Rendered board
- Stud
- Plasterboard



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nom architect: W Farmilo Reg No 6390



NOTES:  
**ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS**

NEW WORKS LEGEND

- NEW WORKS AREA
- NEW WALLS - EXTERNAL
- NEW WALLS - INTERNAL
- NEW WINDOWS
- NEW ALTERATIONS/FITOUT
- BLOCK EXISTING OPENINGS
- EXISTING WALLS

B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf
REV	DATE	DESCRIPTION	BY

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Elevations 2

For:  
DEVELOPMENT  
APPLICATION

Scale: As indicated Date: Sept 2023

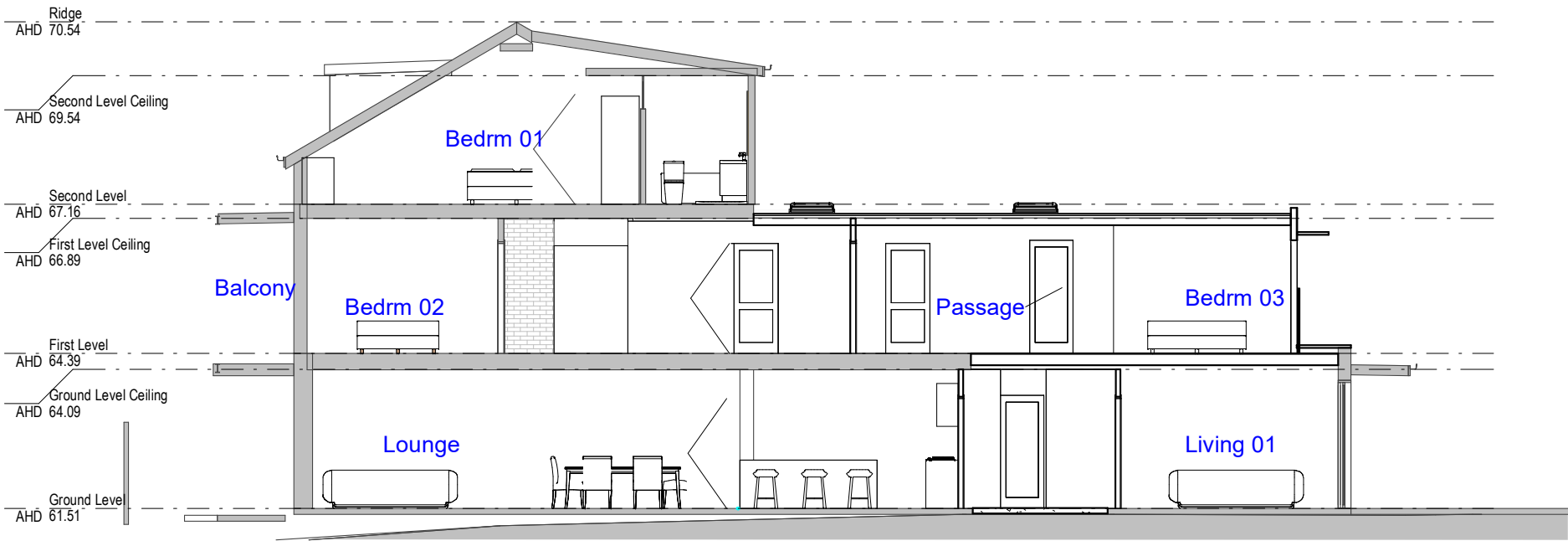
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Job No. 22026 Dwg No. TP 21 Rev No. B

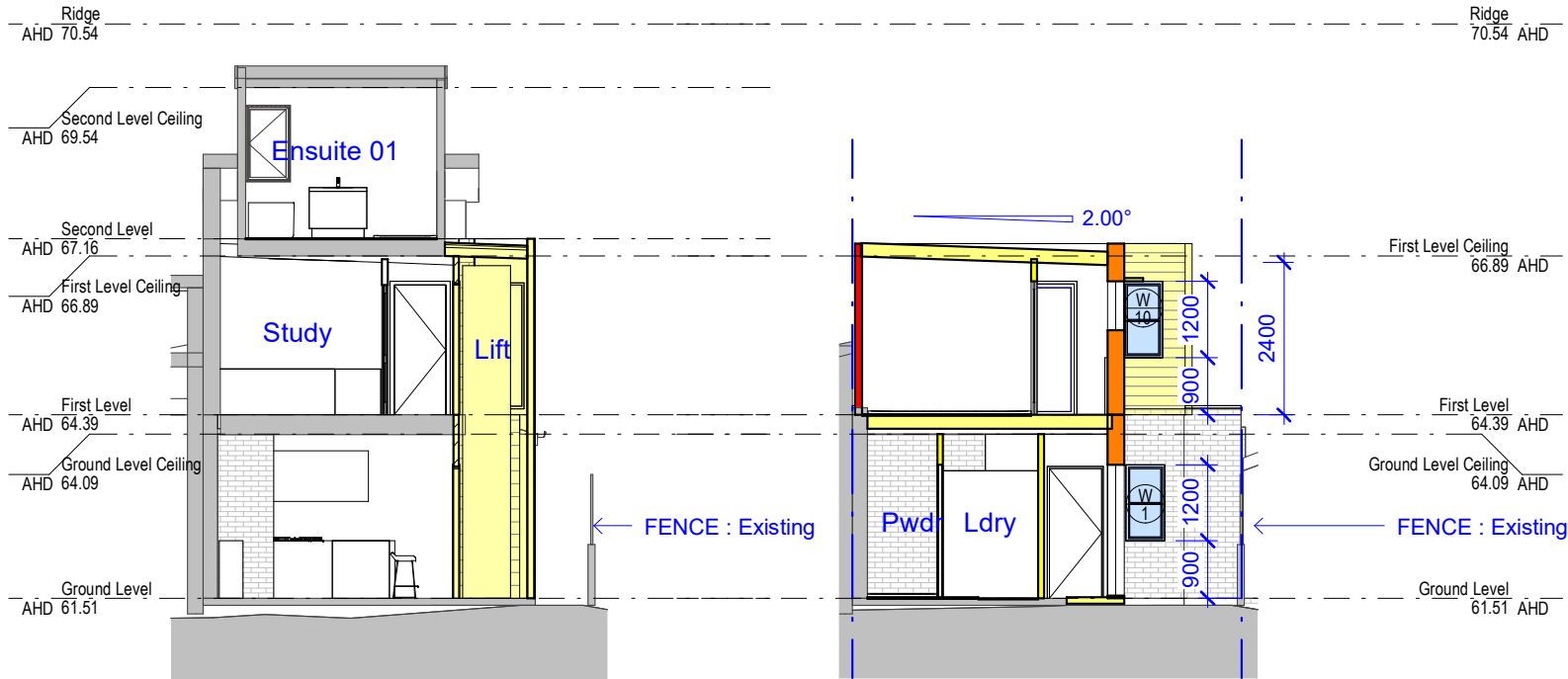
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A3

DA ISSUE

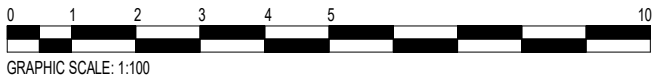


SECTION B-B



SECTION A-A

SECTION C-C



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NOTES:  
**ALL DIMENSIONS ARE TO FACE OF STUD WALL AND  
EXCLUDE CLADDINGS**

NEW WORKS LEGEND

- NEW WORKS AREA
- NEW WALLS - EXTERNAL
- NEW WALLS - INTERNAL
- NEW WINDOWS
- NEW ALTERATIONS/FITOUT
- BLOCK EXISTING OPENINGS
- EXISTING WALLS

REV	DATE	DESCRIPTION	BY
B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf

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Project:  
**RICH FAMILY RESIDENCE**

At:  
**98 FLETCHER STREET  
WOOLLAHRA NSW 2025**

Drawing:  
**Sections**

For:  
**DEVELOPMENT  
APPLICATION**

Scale: As indicated Date: Sept 2023

Drawn: WFF Chk: WFF

Job No. 22026 Dwg No. TP 25 Rev No. B

23/05/2024 8:56:49 AM



A3

DA ISSUE

WINDOW SCHEDULE						
No	Location	Height	Width	Type	Construction Type	Comments
1	Living room 2	1200	610	Double Hung	Timber	U-Value: 5.71, SHG: 0.66
10	Bedroom 03	1200	610	Double Hung	Timber	U-Value: 5.71, SHG: 0.66
11	Passage	770	1570	Sliding	Timber	U-Value: 3.99, SHG: 0.4
12	Passage	770	1570	Sliding	Timber	U-Value: 3.99, SHG: 0.4
13	Passage	2000	1200	Louvre	Aluminium	U-Value: 7.63, SHG: 0.75
14	Lift	1980	730	Fixed	Timber	U-Value: 5.71, SHG: 0.66
15	Bedroom 03	1200	610	Double Hung	Timber	U-Value: 5.71, SHG: 0.66
SL1	Stairs	1420	800		Aluminium w blind	U-Value: 6.21, SHG: 0.808
SL2	Ensuite	1420	800		Aluminium w blind	U-Value: 6.21, SHG: 0.808
SL4	Study	1420	800		Aluminium w blind	U-Value: 6.21, SHG: 0.808

DOOR SCHEDULE						
No	Location	Height	Width	Type	Construction	Comments
1	Passage	2060		DoubleDoorFolding	Timber/glass	U-Value:3.99, SHGC:0.4
2	Passage	2040	820	Swing	Internal Hollow Core	
3	Passage	2040	820	Swing	Internal Hollow Core	
4	Powder	2100		Cavity	Internal Hollow Core	
11	Ensuite	2040		Cavity	Internal Hollow Core	
12	Passage	2040	820	Swing	Internal Hollow Core	
13A	Study	2040		Cavity	Internal Hollow Core	
13B	Study	2040		Cavity	Internal Hollow Core	
14	Lift	2040	720	Swing	Aluminium/Glass	Internal
17	WIR	2100		Cavity	Internal Hollow Core	
18	Ensuite	2100		Cavity	Internal Hollow Core	
20	Bedroom 3	2060		Bifold 3 Panel	Aluminium/Glass	U-Value:5.71, SHGC:0.66

Fixtures and systems
<b>Hot water</b>
The applicant must install the following hot water system in the development: electric heat pump system that is eligible to create Renewable Energy Certificates under the (Commonwealth) Renewable Energy (Electricity) Regulations 2001 (incorporating Amendment Regulations 2005 (No. 2)).
<b>Lighting</b>
The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.
<b>Fixtures</b>
The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.
The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.
The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

Construction		
Insulation requirements		
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.		
Construction	Additional insulation required (R-value)	Other specifications
floor above existing dwelling or building.	nil	N/A
external wall: brick veneer	R1.16 (or R1.70 including construction)	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	
raked ceiling, pitched/skillion roof: framed	ceiling: R1.74 (up), roof: foil backed blanket (55 mm)	medium (solar absorptance 0.475 - 0.70)

Glazing requirements
Windows and glazed doors
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.
The following requirements must also be satisfied in relation to each window and glazed door:
Each window or glazed door with standard aluminium or timber frames and single clear or toned glass may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.
For projections described as a ratio, the ratio of the projection from the wall to the height above the window or glazed door sill must be at least that shown in the table below.
External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.
Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.

Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W1	N	0.8	2.5	2.51	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W10	N	0.8	6	11	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
W11	W	1.3	0	0	projection/ height above sill ratio >=0.29	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)
W13	W	2.4	0	0	external louvre/ blind (fixed)	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.75)
W14	S	1.5	0	0	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
D1	W	5.1	2.4	2.57	none	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)
W12	W	1.3	0	0	projection/ height above sill ratio >=0.29	timber or uPVC, single pyrolytic low-e, (U-value: 3.99, SHGC: 0.4)
W15	S	0.8	0	0	none	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)
D20	S	5.2	0	0	projection/ height above sill ratio >=0.29	timber or uPVC, single clear, (or U-value: 5.71, SHGC: 0.66)



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nom architect: W Familo Reg No 6390



NOTES:

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A	25/09/23	DA Issue	wf
REV	DATE	DESCRIPTION	BY

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Project:	RICH FAMILY RESIDENCE		
At:	98 FLETCHER STREET WOOLLAHRA NSW 2025		
Drawing:	Schedule - Window, Door & BASIX		
For:	DEVELOPMENT APPLICATION		
Scale:	Date: Sept 2023		
Drawn: WFF	Chk: WFF		
Job No. 22026	Dwg No. TP 30	Rev No. B	

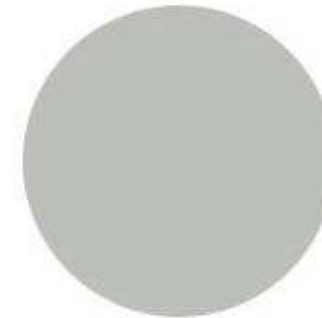
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A3	DA ISSUE
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### ROOF SHEETING (RT1)

MATERIAL: Kliplok  
COLOUR : Shale Grey

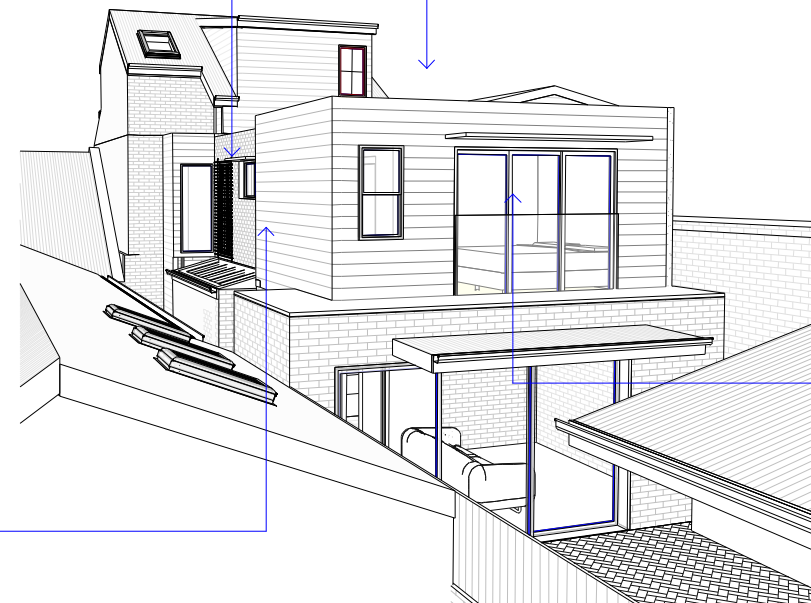


Shale Grey™

SA 0.44 | SRI 66

WALL LINING (WT1)

MATERIAL: Brick Veneer  
COLOUR: Grey to match existing



## — WINDOWS

MATERIAL: Timber & Aluminium (as required)  
COLOUR: White to match existing

WALL LINING (WT2)

MATERIAL: Weatherboard  
COLOUR: Grey to match existing



## Finishes



Lot 71 Sec 11 DP 1952



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nom architect: W Farmilo Reg No 6390



NOTES:

B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf
<b>REV</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b>BY</b>

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Project: **RICH FAMILY RESIDENCE**

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
**Schedule - Finishes**

For:  
DEVELOPMENT  
APPLICATION

Scale: \_\_\_\_\_ Date: Sept 2023

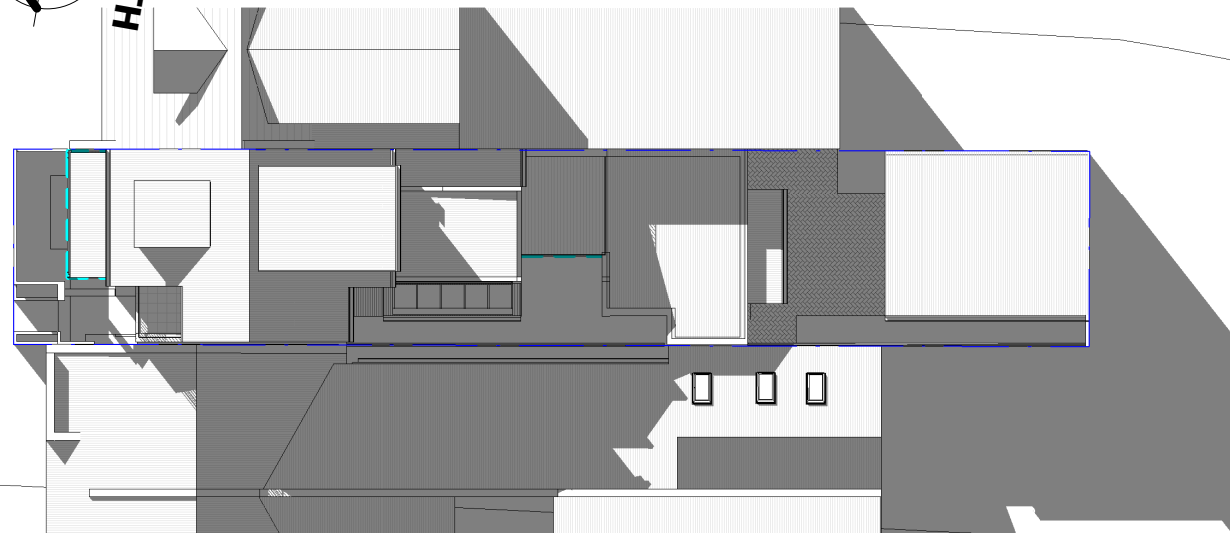
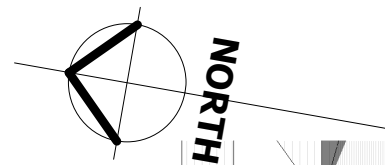
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Job No. 22026 Dwg No. TP 31 Rev No. B

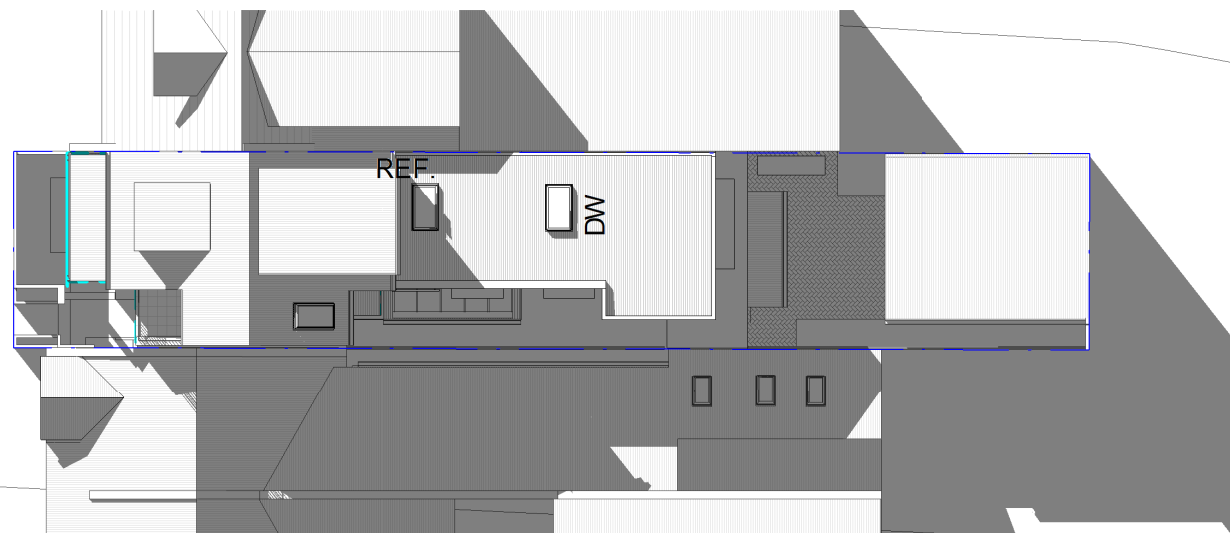
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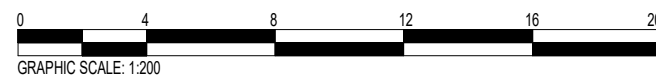
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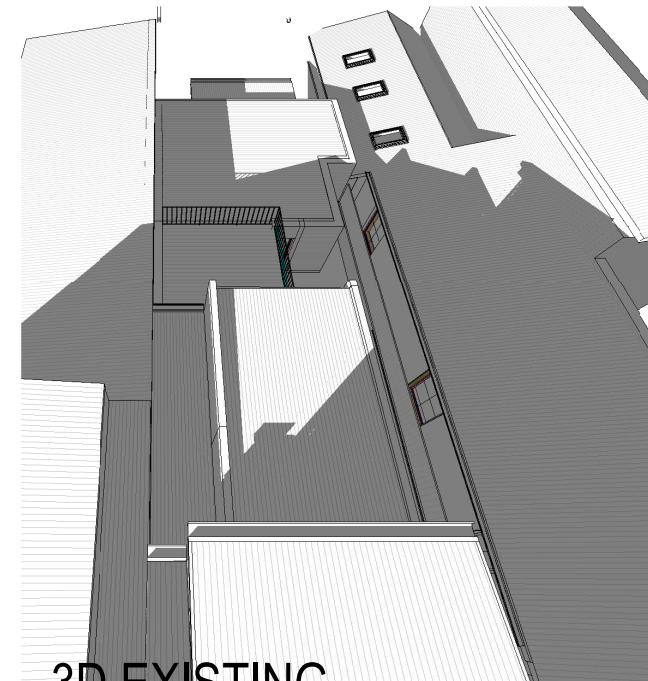


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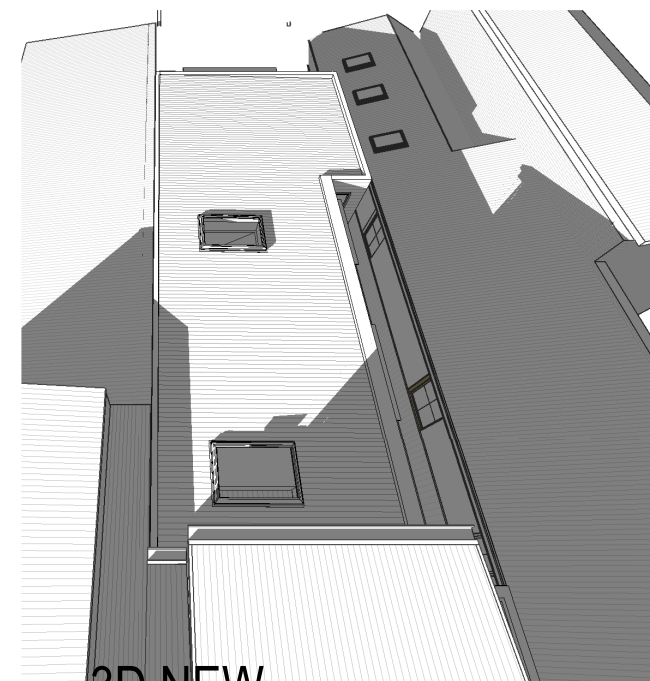


Lot 71 Sec 11 DP 1952

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## 3D EXISTING



## 3D NEW



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nom architect: W Farmilo Reg No 6390



NOTES:

B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf
<b>REV</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b>BY</b>

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Shadow Diagrams - 21 June 9  
AM

For:  
DEVELOPMENT  
APPLICATION

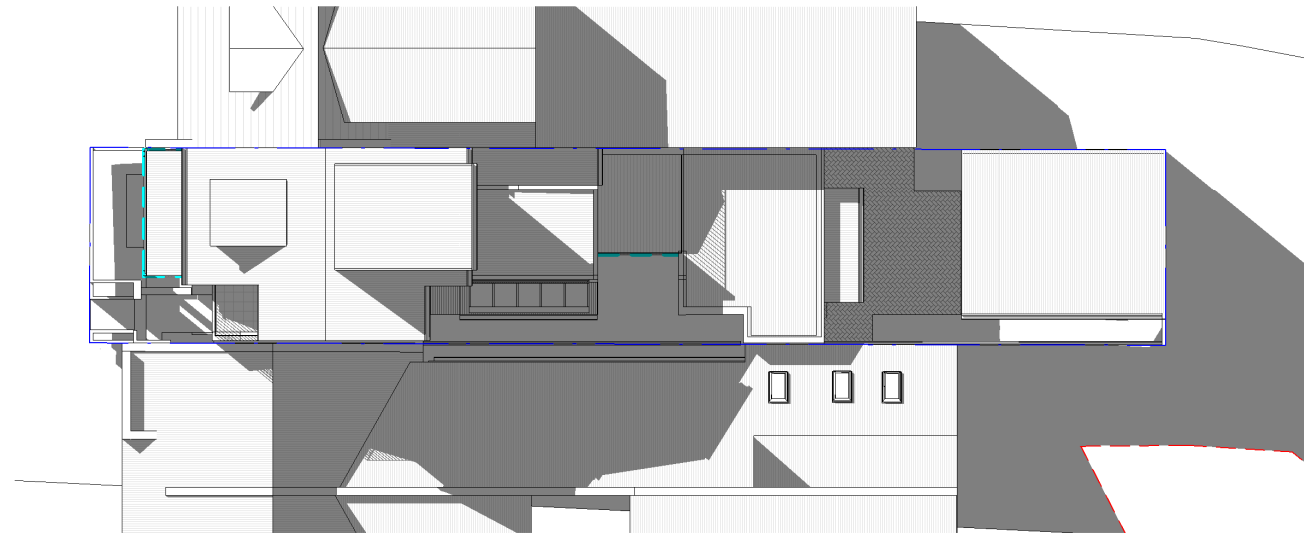
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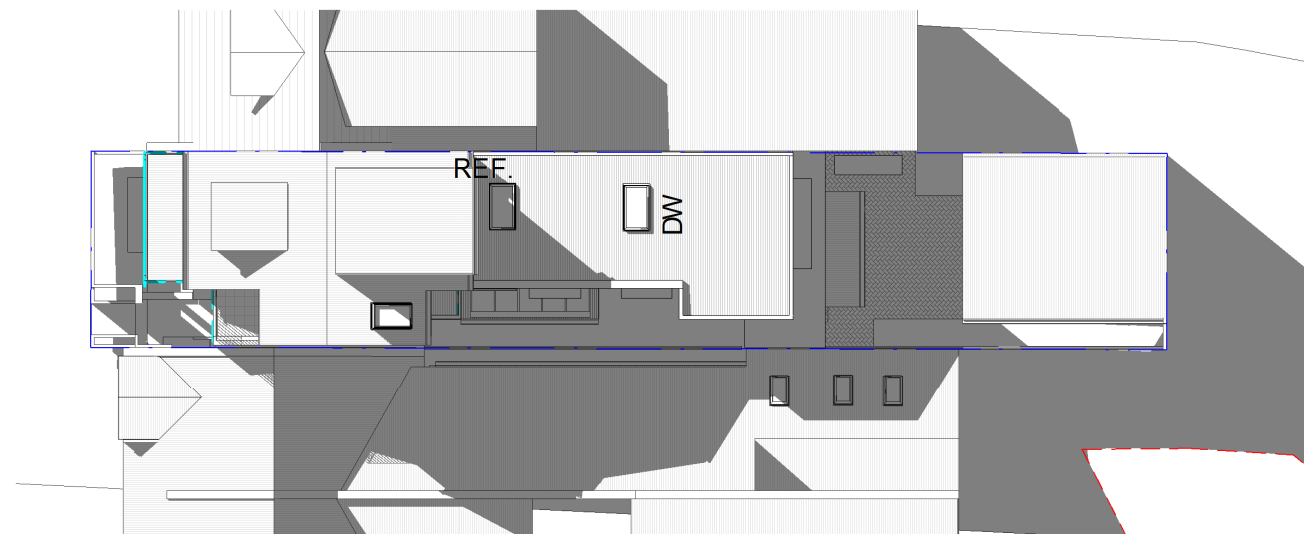
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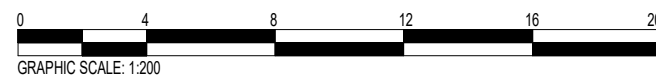
A3	DA ISSUE
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## SHADOW DIAGRAM 10AM - EXIST



## SHADOW DIAGRAM 10AM -NEW



Lot 71 Sec 11 DP 1952

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nom architect: W Farmilo Reg No 6390



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B	09/05/24	DA- Planning Review	
REV	DATE	DESCRIPTION	BY

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Project:  
RICH FAMILY RESIDENCE

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Shadow Diagrams - 21 June  
10 am

For:  
DEVELOPMENT  
APPLICATION

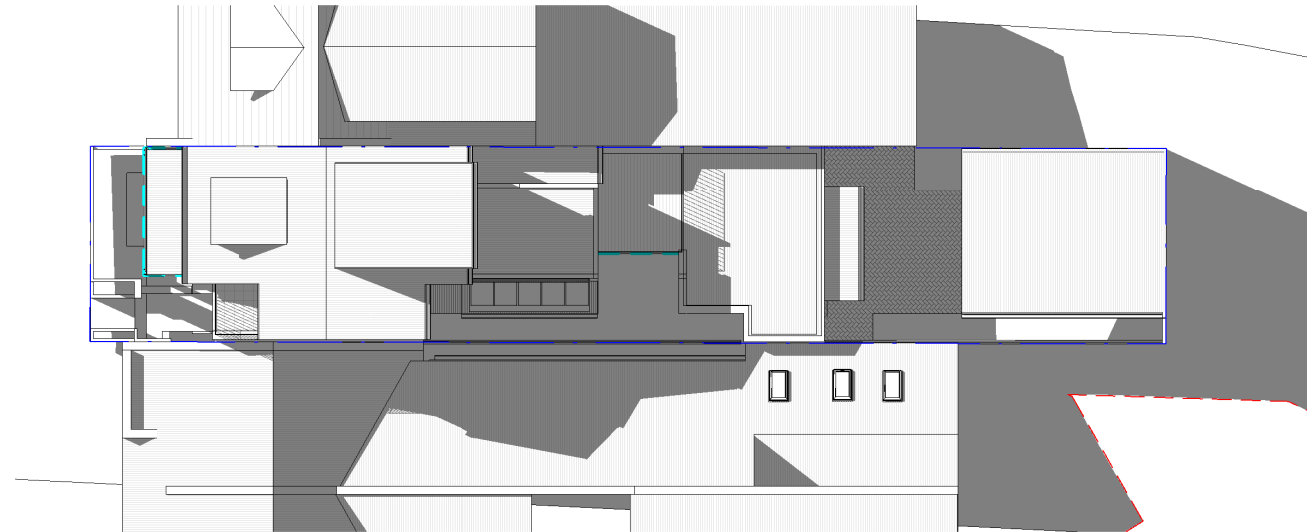
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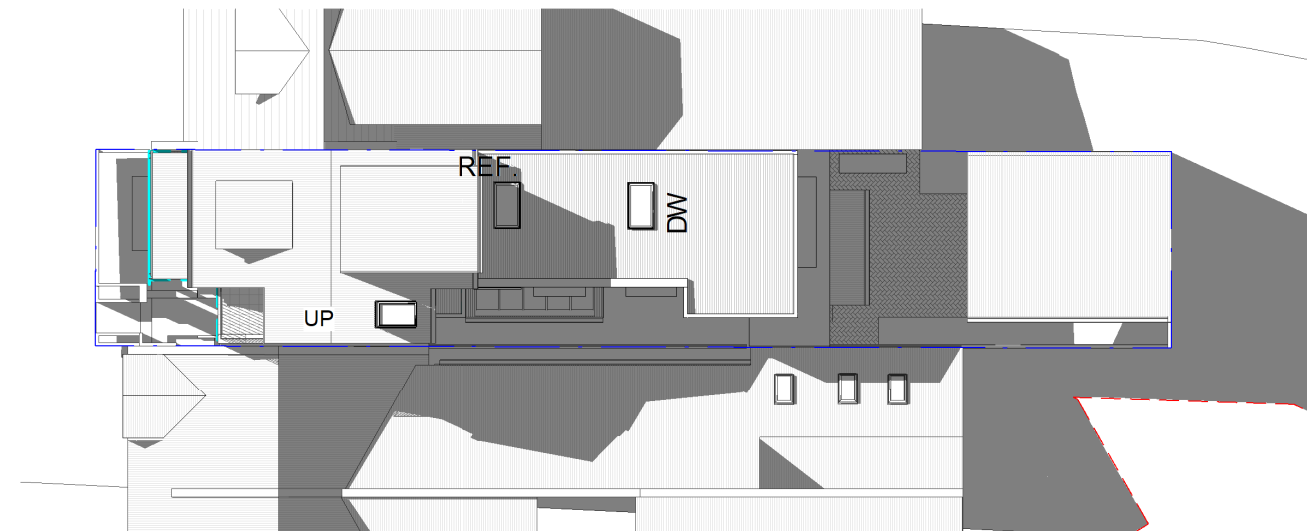
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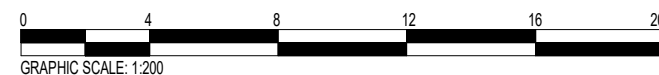
A3	DA ISSUE
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SHADOW DIAGRAM 11AM - EXIST



SHADOW DIAGRAM 11AM -NEW



Lot 71 Sec 11 DP 1952

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B	09/05/24	DA- Planning Review	
REV	DATE	DESCRIPTION	BY

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Project:  
**RICH FAMILY RESIDENCE**

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Shadow Diagram - 21 June  
11am

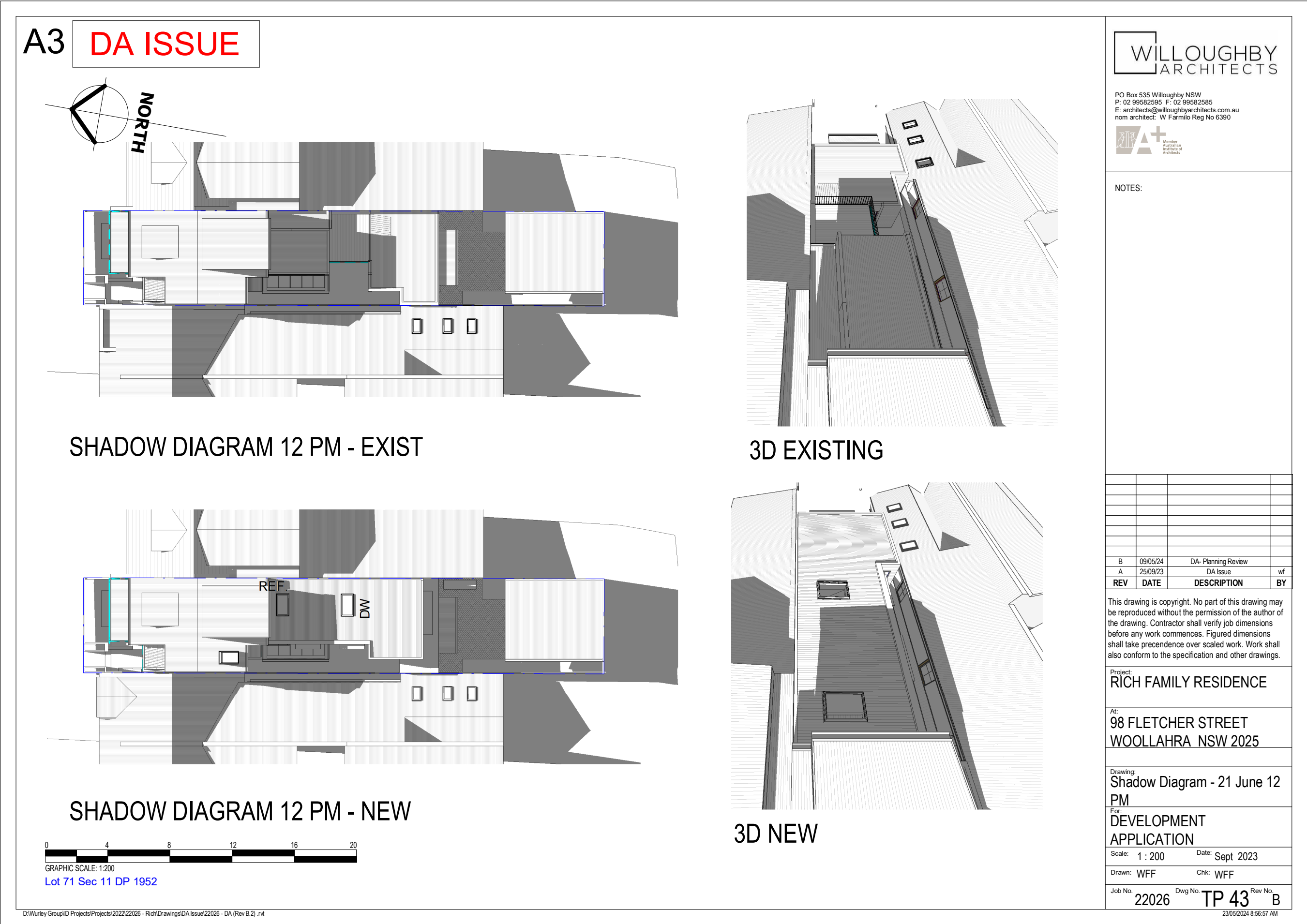
For:  
DEVELOPMENT  
APPLICATION

Scale: 1 : 200      Date: Sept 2023

Drawn: WFF Chk: WFF

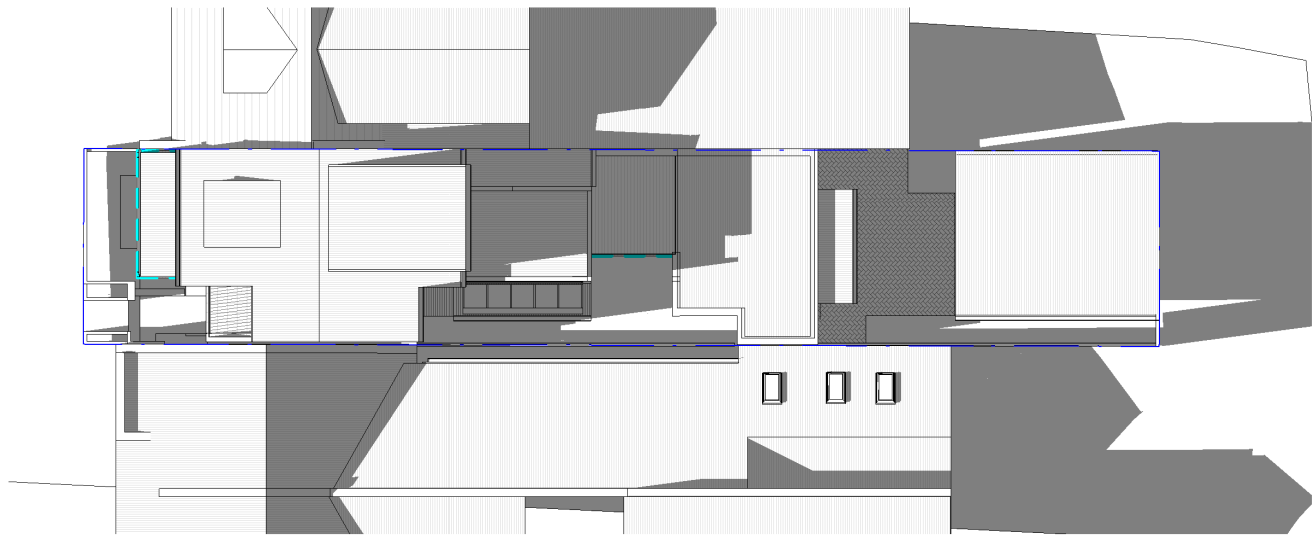
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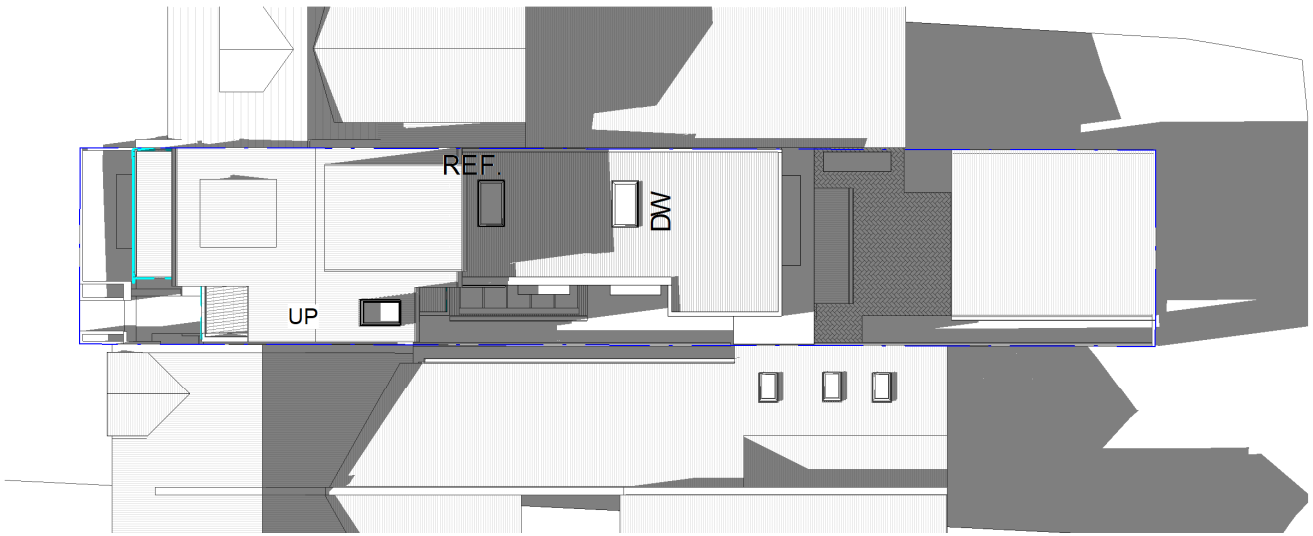


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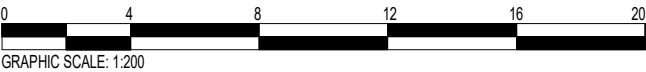
DA ISSUE



SHADOW DIAGRAM 1 PM - EXIST



SHADOW DIAGRAM 1 PM - NEW



Lot 71 Sec 11 DP 1952

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nom architect: W Farmilo Reg No 6390



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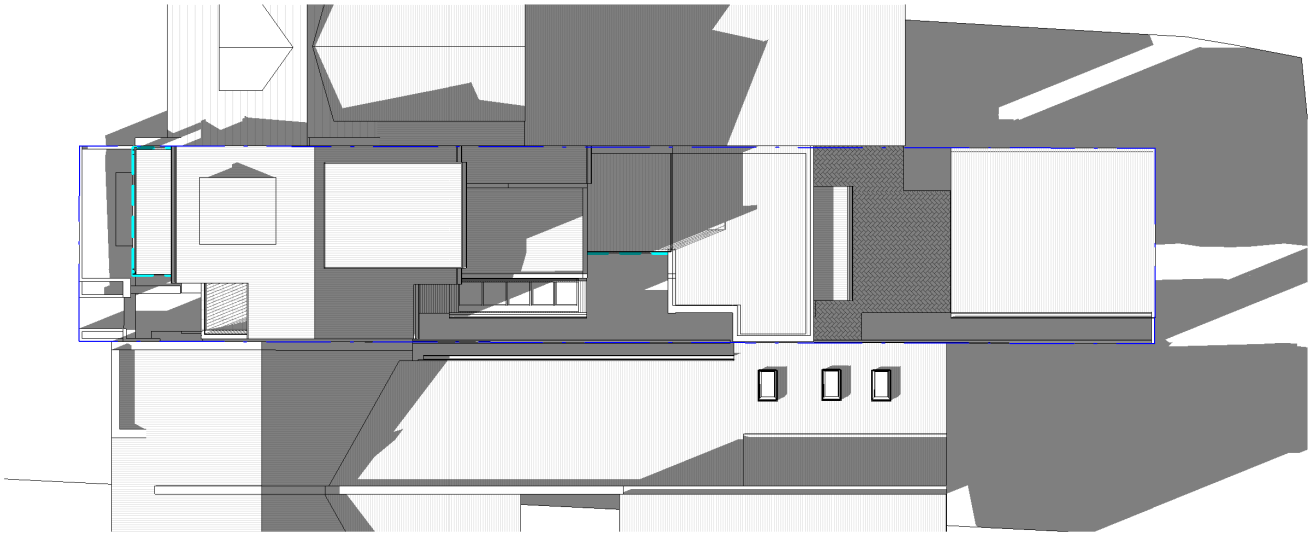
Project:	RICH FAMILY RESIDENCE		
At:	98 FLETCHER STREET WOOLLAHRA NSW 2025		
Drawing:	Shadow Diagram - 21 June 1 pm		
For:	DEVELOPMENT APPLICATION		
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Job No.	22026	Dwg No.	TP 44
		Rev No.	B

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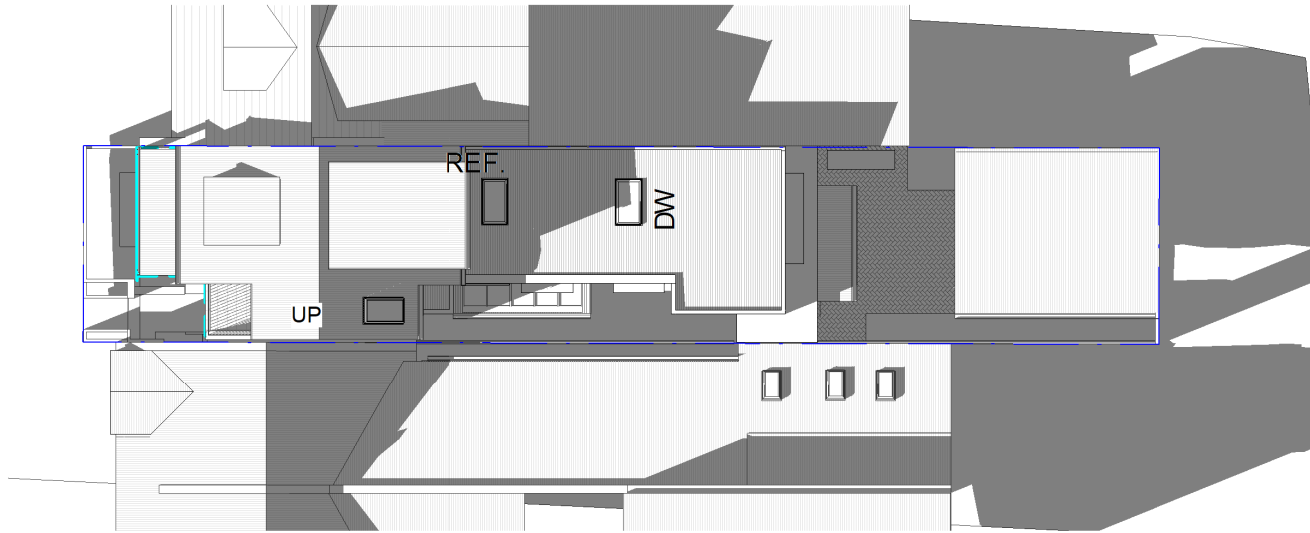


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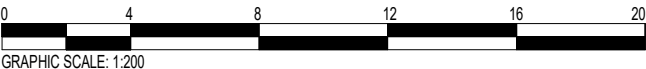
DA ISSUE



SHADOW DIAGRAM 2 PM - EXIST



SHADOW DIAGRAM 2 PM - NEW



Lot 71 Sec 11 DP 1952

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nom architect: W Farmilo Reg No 6390



NOTES:

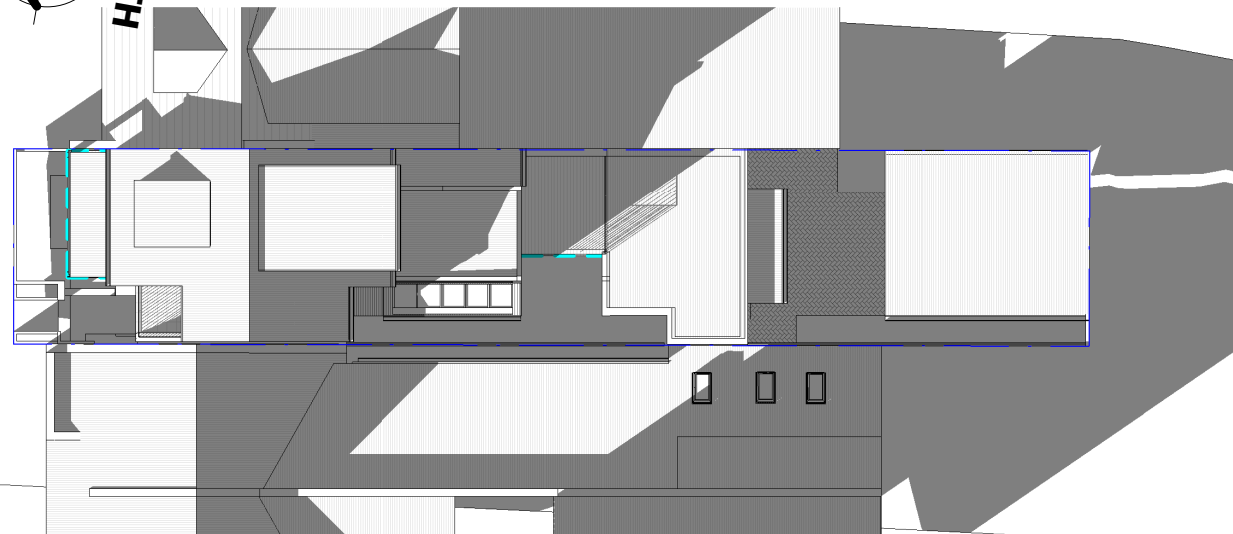
B	09/05/24	DA- Planning Review	
REV	DATE	DESCRIPTION	BY

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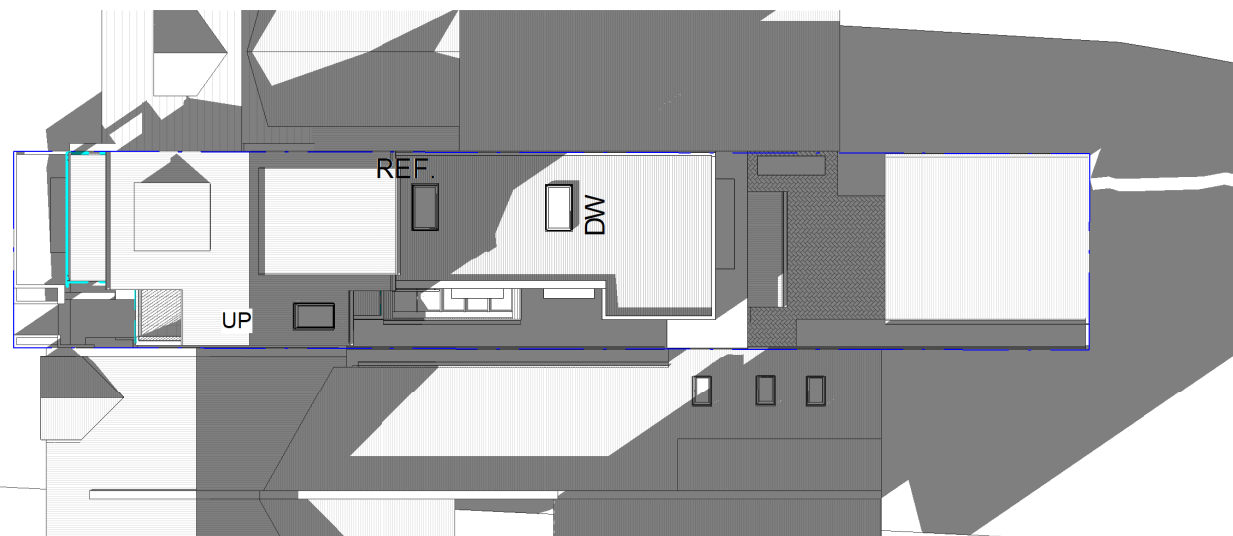
Project:	RICH FAMILY RESIDENCE		
At:	98 FLETCHER STREET WOOLLAHRA NSW 2025		
Drawing:	Shadow Diagram - 21 June 2 pm		
For:	DEVELOPMENT APPLICATION		
Scale:	1 : 200	Date:	Sept 2023
Drawn:	WFF	Chk:	WFF
Job No.	22026	Dwg No.	TP 45
		Rev No.	B

23/05/2024 8:56:59 AM





SHADOW DIAGRAM 3 PM - EXIST



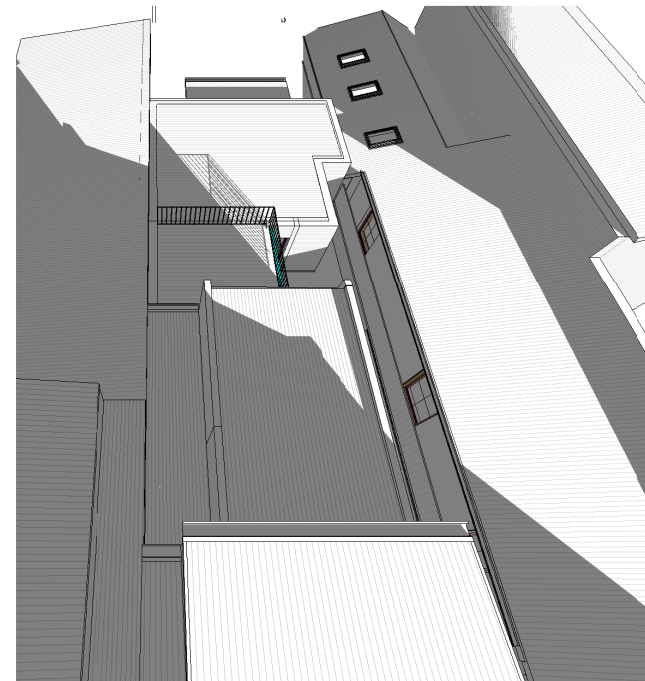
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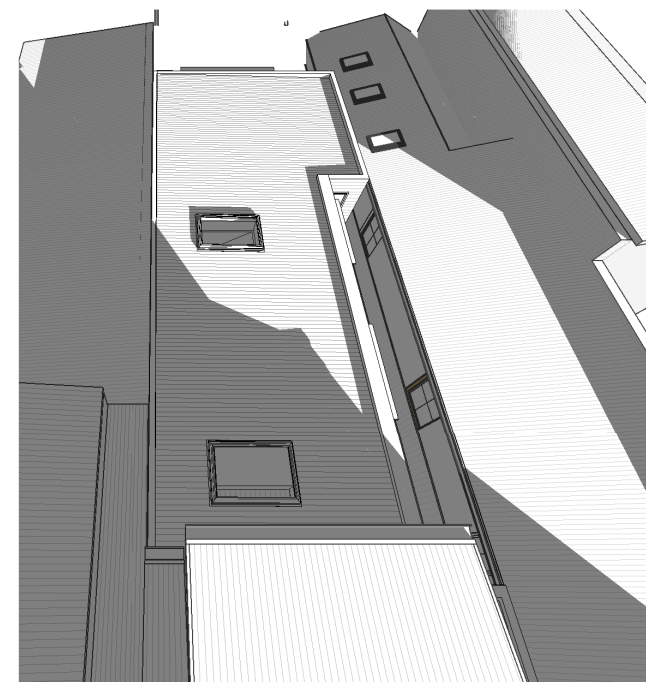
GRAPHIC SCALE: 1:200

Lot 71 Sec 11 DP 1952

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### 3D EXISTING



## 3D NEW



WILLOUGHBY  
ARCHITECTS

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NOTES:

B	09/05/24	DA- Planning Review	
A	25/09/23	DA Issue	wf
<b>REV</b>	<b>DATE</b>	<b>DESCRIPTION</b>	<b>BY</b>

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Project: **RICH FAMILY RESIDENCE**

At:  
98 FLETCHER STREET  
WOOLLAHRA NSW 2025

Drawing:  
Shadow Diagram - 21 June 3  
pm

For:  
DEVELOPMENT  
APPLICATION

Scale: 1 : 200      Date: Sept 2023

Drawn: WFF Chk: WFF

Job No. 22026 Dwg No. TP 46 Rev No. B

23/05/2024 8:57:00 AM



**98 Fletcher Street, Woollahra NSW 2025**

**REQUEST FOR VARIATION TO FLOOR SPACE RATIO OF BUILDINGS  
DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6(3) OF  
WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

This Clause 4.6 variation relates to a proposal for alterations and additions to the existing dwelling house on the subject site.

The proposal results in a non-compliance with clause 4.4 of the Woollahra Local Environmental Plan 2014 (**WLEP**) which relates to floor space ratio (**FSR**). As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the WLEP, which applies to the subject site.

The request demonstrates that compliance with the development standard relating to FSR is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the WLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be consistent with the objectives of the FSR development standard.

The nature of the exceedance to the development standard relating to FSR is set out below, followed by consideration of the relevant matters in clause 4.6 of the WLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

**Zoning of the site**

The zoning of the land is R2 – Low Density. The objectives of the R2 zone are:

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- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
- *To ensure development conserves and enhances tree canopy cover.*

#### **Clause 4.4 – Floor Space Ratio**

##### **The Standard**

The site has an area of 203.85m<sup>2</sup>.

Clause 4.4 of the WLEP and the associated map prescribe a maximum floor space ratio (FSR) of 0.65:1 (132.5m<sup>2</sup>) for this site.

The proposal seeks to provide a maximum FSR of 1.033:1 (210.6m<sup>2</sup>), providing a non-compliance of 78.1m<sup>2</sup> with this control. This equates to a percentage variation of 58.9%.

It is noted that the the dwelling already exhibits an FSR 0.858:1 (175.1m<sup>2</sup>), which equates to a FSR variation of 32.1% (42.6m<sup>2</sup>). The proposal increases this variation by 26.8%.

##### **The objectives of Clause 4.4**

The objectives of Clause 4.4(1)(a) are as follows:

- (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, tree canopy cover and areas of private open space,*

#### **Clause 4.6 - Exceptions to Development Standards**

Clause 4.6 of the WLEP allows for exceptions of Development Standards.

The objectives of this Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
  - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *there are sufficient environmental planning grounds to justify contravening the development standard.*

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

Clause 4.6(4) requires that Council keep a record of its assessment carried out under Clause 4.6(3).

**1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:**

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways<sup>1</sup>:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by the Court<sup>2</sup>. Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance<sup>3</sup>. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with<sup>4</sup>.

***Objective (i) to ensure the bulk and scale of new development is compatible with the desired future character of the area:***

***Comment:***

Desired future character is not defined in the WLEP. The Court has held when not defined explicitly, desired future character can be determined '*not only by the provisions of LEP, including the development standards themselves, but also other factors, including approved development that contravenes the development standard*<sup>5</sup>.'

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<sup>1</sup> see *Wehbe v Pittwater Council* [2007] NSWLEC 827

<sup>2</sup> *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

<sup>3</sup> *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

<sup>4</sup> *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

<sup>5</sup> *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115



In this regard, it is noted that other buildings exist on Fletcher Street that are of a similar form and which exhibit a bulk and FSR greater than that prescribed by the LEP standard. Some examples are provided in the table below:

Address	GFA	FSR	Recent DA	Approved on
136 Fletcher Street	163m <sup>2</sup>	0.78:1	DA262/2017	13 June 2018
106 Fletcher Street	113.06m <sup>2</sup>	0.74:1	DA334/2022	26 Sept. 2022
112 Fletcher Street	158m <sup>2</sup>	1:1	DA537/2015	10 Feb. 2015
12 Fletcher Street	226.9m <sup>2</sup>	1.4:1	DA461/2022	22 Feb. 2023

In accordance with the ruling in *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115, the existence of these developments shows that dwellings with variations to the FSR development standard are considered by Council to be consistent with the desired future character of the locality. Accordingly, the subject dwelling must also be considered consistent with character and the development meets objective (a)(i).

We note that the findings in *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 held that the desired future character objectives in the WDCP did not need to be considered<sup>6</sup>. Nevertheless, the proposal is compatible with these objectives, as shown in the table below

Part C2.2.5 – Desire Future Character Objectives of the Woollahra HCA.	
Objective	Comment
O1 To retain its heritage significance and its recognition as a rare and distinctive urban area.	The dwelling on site is essentially a late 20 <sup>th</sup> Century – Early 21 <sup>st</sup> Century infill development, with only the front portions of the party walls being from the original terrace on site. These sections of wall are retained. In addition, the proposal makes use of compatible colours and materials and the additional floor area is not visible from Fletcher Street and only marginally visible from Australia Lane.
O2 To retain and promote evidence of the historical development of the Woollahra HCA and its individual precincts and enables the interpretation of that historical development.	The proposal maintains the party wall sections, which are the only historic part of the dwelling. The works will not impact the treatment of any adjacent dwellings.

<sup>6</sup> *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 at [50]



<b>Part C2.2.5 – Desire Future Character Objectives of the Woollahra HCA.</b>	
<b>Objective</b>	<b>Comment</b>
O3 To maintain the residential character that has been predominant from the earliest phase of its development.	The works result in a residential dwelling house.
O4 To maintain the character and significance of its identified precincts.	The works are consistent with the objectives for Fletcher Street Precinct.
O5 To retain the distinctive building types characteristic of the area and its precincts.	The building is a terrace, which has been significantly modified. The portions of the original terrace that still exist on site are to be retained.
O6 To continue to cater for a variety of uses and building types within a predominantly residential area.	The proposal retains the residential use on site and will not affect any nearby uses.
O7 To exhibit contemporary design excellence.	The proposal makes use of design that is compatible with existing development on site and the additions exhibit an appropriate, low scale design and are compatible with the streetscape.

***Objective (ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain:***

*Comment:*

The proposal results in a building that preserves environmental amenity in a manner that is consistent with the existing situation.

In terms of privacy, the proposal does not include any openings on the eastern wall and windows on the western elevation do not overlook any windows or private spaces. In addition, the new west facing openings are screened or set above FFL and to hallways. The additions retain the residential use of the of the site and will therefore not generate unreasonable levels of noise or disturbance.

In terms of views, the proposed works at first floor level will not impact on views from either the private or public domain.

The proposal will not give rise to additional visual impacts when viewed from Fletcher Street, as the proposed additions are located at the rear and are not

discernible from the front. While partially visible from Australia Lane, the addition sits comfortably in its context, matching other developments that faces this laneway including at 133 Edgecliff Road, 102 Fletcher Street and the adjoining dwelling at No. 96 Fletcher Street.

In terms of solar access, the proposal will not reduce sunlight to the adjoining rear open spaces on the 21 June beyond that existing. The orientation of the lot ensures that north facing windows at adjacent sites continue to receive sunlight mid winter. In addition, the skylights to the rear of No. 100 Fletcher Street will receive solar access from 11am on 21 June.

Given the density of the area and the orientation of the site coupled with minimal setbacks and narrow allotment sizes, adjoining properties are particularly vulnerable to overshadowing. However, as demonstrated in the shadow plans, the proposed breach in FSR will not result in a greater degree of overshadowing beyond that currently existing and additional overshadowing will not affect windows or private open spaces.

Accordingly, there is an absence of environmental impacts and the proposal meets objective (ii).

***Objective (a)(iii) to ensure that development allows adequate provision on the land for deep soil planting, tree canopy cover and areas of private open space:***

**Comment:**

The proposal will retain existing landscaping and private open space. Accordingly, the breach in FSR does not impact on open space and the proposal is consistent with objective (iii).

**2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:**

The components proposed above the FSR control are:

- 78.1m<sup>2</sup> of GFA

In addition to the consistency of the proposal against the FSR objectives (see **Point 2 above**), in my opinion there are sufficient environmental planning grounds to justify contravening the development standard<sup>7</sup>.

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<sup>7</sup> see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

**1. There is an absence of environmental impacts as a consequence of the development:**

The proposal results in a building that preserves environmental amenity in a manner that is consistent with the existing situation.

In terms of privacy, the proposal does not include any openings on the eastern wall and windows on the western elevation do not overlook any windows or private spaces. In addition, the new west facing openings are screened or set above FFL and to hallways. The additions retain the residential use of the site and will therefore not generate unreasonable levels of noise or disturbance.

In terms of views, the proposed works at first floor level will not impact on views from either the private or public domain.

The proposal will not give rise to additional visual impacts when viewed from Fletcher Street, as the proposed additions are located at the rear and are not discernible from the front. While partially visible from Australia Lane, the addition sits comfortably in its context, matching other developments that faces this laneway including at 133 Edgecliff Road, 102 Fletcher Street and the adjoining dwelling at No. 96 Fletcher Street.

In terms of solar access, the proposal will not reduce sunlight to the adjoining rear open spaces on the 21 June beyond that existing. The orientation of the lot ensures that north facing windows at adjacent sites continue to receive sunlight mid winter. In addition, the skylights to the rear of No. 100 Fletcher Street will receive solar access from 11am on 21 June.

Given the density of the area and the orientation of the site coupled with minimal setbacks and narrow allotment sizes, adjoining properties are particularly vulnerable to overshadowing. However, as demonstrated in the shadow plans, the proposed breach in FSR will not result in a greater degree of overshadowing beyond that currently existing and additional overshadowing will not affect windows or private open spaces.

The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds<sup>8</sup>.

**2. The proposal maintains the established building envelope:**

All works proposed occur internally or within the existing footprint of the building on site. No works raise the height of the building. The works only alter

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<sup>8</sup> *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

setbacks beyond those existing in the WDCP to the rear at first floor level.  
The rear building line will not extend beyond that at ground floor level.

**3. Despite the exceedance in FSR, the proposal continues to apply with the majority of standards in the WDCP and WLEP:**

The proposal, despite its minor exceedance of the FSR continues to comply with all other key development control in the WDCP and WLEP, including those for height, open space and landscaping. In addition, as noted in the original DA assessment report, the proposal is suitable in the context of the heritage conservation area.

As detailed above, the proposal is satisfactory with regard to the amenity controls for views, privacy and solar access in the WDCP.

**4. Additional floor area is not visible from Fletcher Street and is consistent with local character:**

The addition is not visible from Fletcher Street and will therefore not derogate the character of this streetscape. While the addition is partially visible from Australia Lane, it matches other, similar additions that face this laneway, including at 133 Edgecliff Road, 102 Fletcher Street and the adjoining dwelling at No. 96 Fletcher Street.

The proposal makes use of a colour palate and materiality that is consistent with other dwellings on Fletcher Street. The use of Kliplok to the proposed roof is suitable given the roof profile proposed and will not be visible above the parapet.

**3. Clause 4.6(5)**

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

**Conclusion**

The proposal is consistent with the objects of Section 1.3 of the EP&A Act, 1979, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote good design and amenity of the built environment.

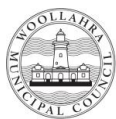
This submission is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development is consistent with the objectives of the FSR development standard under the WLEP, in which the development is proposed to be carried out.



Declan Hilferty Warren  
Town Planning Assistant  
[aSquare Planning Pty Ltd](#)

21 May 2024



Woollahra  
Municipal  
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1 July 2024

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Review Application: 363/2023/1

**ADDRESS:** 98 Fletcher Street WOOLLAHRA 2025

**PROPOSAL:** Alterations & additions to the existing dwelling including an extension to the first floor level

**FROM:** Kristy Wellfare

**TO:** Ms S Soliman

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### 1. DOCUMENTATION

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

- Drawing set by Willoughby Architects, dated 9/5/24, Revision B and numbered TP 01, TP12, TP15, TP20, TP21, TP25, TP 31.
- Heritage Impact Statement by Kemp and Johnson Heritage Consultants, dated 25 September 2023
- Review 8.2 Review Statement of Environmental Effects by aSquare Planning, dated May 2024
- Survey plan by DA Surveys, dated 23/3/23

### 2. SITE INSPECTION / RESEARCH

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

- The site was externally inspected on 2 July 2024 including the general locality.

Review of the following documents and photographic evidence:

- Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties.
- Council's photography files relevant to the immediate area
- Council's heritage inventory sheets
- Council's aerial photography and mapping database
- Google Maps – street view

### 3. STATUTORY AND POLICY DOCUMENTS

The following statutory and policy documents are relevant to the application:

- Heritage Act 1977 (as amended)
- Woollahra LEP 2014
- Woollahra DCP 2015

### 4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls





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## 5. SIGNIFICANCE OF SUBJECT PROPERTY/TO THE CONSERVATION AREA

The existing development on the site comprises a part two-storey and part-three storey terrace dwelling house with rear garage located in the C15 Woollahra Heritage Conservation Area. The existing dwelling house presents as two storeys with attic dormer to Fletcher Street and is of painted and rendered masonry construction with gable roof clad in concrete tiles.



Figure 1: (L) 98 Fletcher Street in 1982, undergoing substantial works. Source: Bondi Junction Field Survey (1982), Woollahra Local History Digital Archive (C & R) Current arrangements at 98 Fletcher Street, 2 July 2024. Source: Author

The original dwelling house on the site was a terrace house constructed in the early twentieth century. A review of Council's property system indicates that the site has been altered and added to over time, with the majority of the original fabric demolished in the 1980's. Further alterations and additions were made to the ground, first floor and attic/second floor level additions to the rear of the principal building form, carried out in 2006. The Heritage Impact Statement by Kemp & Johnson Heritage Consultants submitted with the original development application confirms that the majority of the original fabric of the earlier structure was demolished in the early 1980s, with only the two party walls remaining.

The site is not identified as a contributory item in Part C2 of the Woollahra Development Control Plan (DCP) 2015.

The subject site is within the Fletcher precinct of the Woollahra of the DCP and is located in a streetscape of a mix of modern infill, Victorian and Federation era houses. While the site is not identified as a Contributory building, there are several contributory buildings in the immediate vicinity of the subject site, including the Victorian house at 96 and a row of Federation terrace houses at 100-106 Fletcher Street.

### National Parks and Wildlife Act 1974

The site is not in an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was not required to be submitted with the current application.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) on 1 July 2024 from the Office of Environment & Heritage NSW (OEH) website has revealed that there is 1 recorded Aboriginal site recorded within a 200m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.



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The site does not contain landscape features that indicate the likely existence of Aboriginal objects as defined in Section 2, Step 2 p.12 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW ('Due Diligence Code') published by the Department of Environment, Climate Change and Water and dated 13 September 2010. The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The information submitted with the development application indicates that the proposal does not appear to involve excavation works, other than minimal excavation likely required for new footings for the rear addition. This is to be managed through the imposition of appropriate conditions relating to 'Due diligence' and 'Unexpected Findings'.

#### Woollahra LEP 2014

The subject site is not a listed heritage item in Schedule 5 of the *Woollahra Local Environment Plan 2014* (Woollahra LEP 2014) and there are no heritage items in the vicinity of the subject site. The site is located within the C15 Woollahra Heritage Conservation Area. The proposal has therefore been considered having regard to the following provisions of the Woollahra LEP 2014:

#### *Clause 1.2 Aims of Plan*

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

The proposal, as recommended, would not be contrary to the aims of the plan to conserve and enhance the environmental heritage of Woollahra.

#### *Clause 5.10 Heritage Conservation*

The proposal has been considered having regard to the provisions of Clause 5.10 of the Woollahra LEP 2014. The following commentary is provided:

- **Clause 5.10(1):** The proposed development, as recommended, conserves the heritage of Woollahra as it would not give rise to unacceptable impact on the heritage significance of the C15 Woollahra Heritage Conservation Area.
- **Clause 5.10(2) and (3):** Consent is required for the proposed works
- **Clause 5.10(4):** This referral constitutes an assessment under this clause. The effect of the proposal on the heritage significance of the item has been considered and the proposal is found to be acceptable on heritage grounds, subject to the conditions as recommended. The site is not located in the vicinity of any listed heritage items that would be adversely affected by the proposal.
- **Clause 5.10(5):** A heritage management document was submitted with the development application.
- **Clause 5.10(6):** A Conservation Management Plan has not been prepared for the site.
- **Clause 5.10(7) and (8):** The site is not identified as an archaeological site or a place of Aboriginal heritage significance.
- **Clause 5.10(9):** Demolition of a nominated State heritage item is not proposed.
- **Clause 5.10(10):** Conservation incentives are not being sought as part of this application.

#### Woollahra DCP 2015

The subject site is within the C15 Woollahra Heritage Conservation Area, and is located within the Fletcher precinct as identified in Chapter C2 Woollahra HCA of the Woollahra DCP.



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The subject site is not listed in Part C2.7 'Schedule of Contributory Items' of the Woollahra DCP 2015

#### **Part C – Heritage Conservation Areas – C2 Woollahra HCA DCP**

##### ***UNDERSTANDING THE CONTEXT***

Clause 2.2.5 Desired future character of the Woollahra HCA

Objectives O1, O2, O3, O4

- The subject dwelling has been so altered that it is not a contributory item in the precinct or the wider HCA. The proposal, as recommended, does not detract from the desired future character of the Woollahra HCA and is supported. Further discussion regarding specific elements is provided below.

##### ***PRECINCTS***

Clause 2.3.6 Fletcher Precinct

Objectives O4

- The existing dwelling house on the site has departed markedly from the predominantly Victorian and Federation single storey, semi-detached and terrace houses that characterise the precinct and little is proposed to improve the presentation of the existing dwelling house on the site. However, the proposal, as recommended, would not unduly detract from this character.

##### ***BUILDING TYPE CONTROLS***

Clause 2.4.2 Multi-storey dwelling houses

Objectives O1, O2

Controls C1, C2,

- The existing dwelling is not typical of the multistorey dwelling houses in the HCA as it is already compromised and dominated by the prior additions to the original main section which has been almost entirely removed.
- No increase in the number of storeys is proposed.
- The first floor level extension proposed retains the height of the existing element.
- The 960mm intrusion of the proposed bedroom 3 into the existing breezeway would not retain the existing breezeway arrangements in accordance with control C2 and are not supported. The side setback of bedroom 3 should be increase to not less than 1850mm from the western property boundary in order to retain the existing breezeway at first floor level. (Part C2 2.4.2 Control C2)

##### ***GENERAL CONTROLS FOR ALL DEVELOPMENT***

Clause 2.5.1 Building height, form and character

Objectives O1, O3,

Control C1, C6, C7, C8, C9

- The principal building form has been so altered that it is not consistent with the nearby contributory buildings and of the streetscape.
- The storey height of the first floor level addition proposed is consistent with that of the existing first floor level.
- The proposal includes an extension into the breezeway at ground and first floor levels. Despite the building being a non-contributory building in the HCA, the existing rear arrangements are in keeping with the prevailing forms that include breezeways at first floor level. A draft condition has been recommended requiring the retention of



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the breezeway at first floor level. Subject to the conditions as recommended, the proposal is considered to be acceptable in this regard.

- The existing rear alignment at both ground floor level and second floor levels are not proposed to be altered.
- The plans submitted with the s8.2 review have reduced the footprint of the first floor addition compared with the original application. There is no consistent rear alignment or built form in the vicinity of the subject site, and the proposed rear alignment would not protrude beyond that of other first floor level additions in the vicinity. No objections are raised to the proposed rear alignment.
- The plans submitted with the 8.2 Review have increased the area of glazing on the first floor rear elevation compared with the original proposal but have not resolved the treatment of the roof area immediately adjacent to the sliding doors to Bedroom 3 which does not show any proposed balcony or include any balustrading. To ensure a more appropriate solid-to-void ratio and to ensure occupant safety, door D20 is to be deleted from the plan and replaced with vertically proportioned window openings. A draft condition has been included to address this. The proposal, as recommended, is considered to be acceptable in this regard.
- The proposed roof form of the first floor level addition is a flat (2 degree) skillion for with low parapet which is consistent with the existing built form on the site and is acceptable.

#### Clause 2.5.4 Materials, finishes and colours

##### Objective O1

##### Control C1, C2, Table 1

- No objections are raised to the proposed materiality which draws from traditional materials for the walls of the proposed addition – painted brick and weatherboard.
- No objections are raised regarding the materiality of the proposed window openings, which are proposed to be timber except for W13 which is located on the western elevation and is identified as aluminium with a full height external screen.
- The use of Klip-lok metal roofing is identified as intrusive in Part C2 2.5.4 Table 1 and is not supported. The Shale grey colour proposed is not a mid or dark grey colour and is not supported. The roof cladding is to be changed to a traditional corrugated profile in a mid to dark grey colour in accordance with Table 1 of Part C 2.5.4. A draft condition has been recommended to address this non-compliance.

#### Clause 2.5.5 Roofs, skylights and chimneys

##### Objectives O1

##### Controls C1, C4

- As identified above, the proposed Klip-lok cladding is not supported. Any new metal roofing is to be of a traditional corrugated profile similar to Colorbond Custom Orb in a mid to dark grey colour in accordance with Part C2.5.5. A draft condition has been recommended to address this.
- No objections are raised to the skylights proposed to the roof of the (heavily altered) principal building form and the rear additions, subject to conditions requiring the new skylights be of a low profile and flush with the roof surface, with simple detailing and a frame colour to match the surrounding roof. This is addressed via a draft condition as recommended.

## 6. CONCLUSION

The proposal has been considered having regard to the applicable heritage legislation and the applicable provisions of the Woollahra Local Environmental Plan 2014, Woollahra Development



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Control Plan 2015. The existing building on the site is highly altered and is not a contributory building in the Woollahra HCA.

The effect of the proposal on the heritage significance of the site and the broader Woollahra HCA has been considered and the proposal is found to be acceptable on heritage grounds, subject to the conditions as recommended.

## 7. RECOMMENDATION

The proposal is generally acceptable and, as recommended, would not give rise to any undue impact on the heritage significance of the nearby contributory buildings or the broader Woollahra HCA. The proposal is therefore supported, subject to the following conditions:

### Standard Conditions

B. 1.	<p><b>Aboriginal Objects – Unexpected Findings</b></p> <p>While site work is being carried out, if unexpected Aboriginal objects or bones are found, you must:</p> <ul style="list-style-type: none"> <li>a) Not further disturb or move these objects or bones.</li> <li>b) Immediately cease all work at the particular location.</li> <li>c) In the case of suspected human remains, notify NSW Police.</li> <li>d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse Land Council (LALC) on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.</li> <li>e) Notify the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</li> <li>f) Not recommence any work at the particular location unless authorised in writing by the police (in the case of human remains) and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85. Additional assessment and approval under 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The Definition of Aboriginal object, as per the National Parks &amp; Wildlife Act 1974, is 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.</li> </ul> <p><b>Condition Reason:</b> To protect Aboriginal objects</p>
B. 2.	<p><b>Aboriginal Heritage Due Diligence Responsibilities</b></p> <p>While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks &amp; Wildlife Act 1974. Under the National Parks &amp; Wildlife Act 1974, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under</p>



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	<p>Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].</p> <p>It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.</p> <p><b>Condition Reason:</b> To protect Aboriginal heritage.</p>
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*Special Conditions*

<b>D</b>	<p><b>Modification of Details of the Development (section 4.17(1)(g) of the Act</b></p> <p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <ul style="list-style-type: none"> <li>a) The western side setback of bedroom 3 is to be increased to not less than 1850mm from the western property boundary in order to retain the existing breezeway at first floor level. <ul style="list-style-type: none"> <li>• Part C2 2.4.2 Control C2</li> </ul> </li> <li>b) D20 to the first floor rear addition at Bedroom 3 is not supported. To ensure that the solid to void ratios are in keeping with surrounding contributory buildings, the opening is to be amended to be vertically proportioned window opening. <ul style="list-style-type: none"> <li>• Woollahra DCP 2015, Chapter C2, Clause 2.5.1, Control C8</li> </ul> </li> <li>c) The Klip-lok metal roofing is to be deleted from the plan. The roofing is to be of a traditional corrugated profile similar to Colorbond Custom orb in a mid to dark grey colour. <ul style="list-style-type: none"> <li>• Woollahra DCP 2015, Chapter C2, Clause 2.5.4, Objective O1, Control C1, Table 1</li> <li>• Woollahra DCP 2015, Chapter C2, Clause 2.5.5, Objective O1, Control C1</li> </ul> </li> <li>d) The use of metal for the first floor openings along the rear and side elevations is not supported from a heritage perspective. The openings at first floor level are to be of timber construction in order to comply. <ul style="list-style-type: none"> <li>• Woollahra DCP 2015, Chapter C2, Clause 2.5.4, Objective O1, Controls C1, Table 1</li> </ul> </li> <li>e) The new skylights are to have a low profile and be flush with the roof surface. They are to be predominantly of glass, with simple, unobtrusive detailing. The frame colour must match the surrounding roof colour. <ul style="list-style-type: none"> <li>• Woollahra DCP 2015, Chapter C2, Clause 2.5.5, Objective O1, Control C4</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To require design changes and/or further information to be provided to address specific issues identified during the assessment under</p>
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	section 4.15 of the Act.
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Kristy Wellfare  
**Team Leader - Heritage**

5 July 2024  
**Completion Date**

## **LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	D4
<b>FILE No.</b>	DA174/2024/1
<b>ADDRESS</b>	9/317-319 Edgecliff Road WOOLLAHRA
<b>COUNCIL WARD</b>	Cooper Ward
<b>SITE AREA</b>	4,052m <sup>2</sup>
<b>ZONING</b>	R3 Medium Density Residential
<b>PROPOSAL</b>	Alterations to an existing townhouse constituting enclosing of the top floor balcony and reconfiguring of top floor internal layout
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$93,500.00
<b>DATE LODGED</b>	27/05/2024
<b>APPLICANT</b>	L Sprogyte
<b>OWNER</b>	L Sprogyte
<b>AUTHOR</b>	Ms S Soliman
<b>TEAM LEADER</b>	Mr Brett McIntyre
<b>SUBMISSIONS</b>	Nil
<b>RECOMMENDATION</b>	Conditional Approval

### **1. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)**

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

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

### **2. 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 (EP&A Act) 1979 and is recommended for approval because:

- It is considered to be satisfactory with all relevant planning policies including the objectives of Woollahra Local Environmental Plan (WLEP) 2014 and Woollahra Development Control Plan (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 non-compliant FSR will achieve the relevant objectives of the standard(s) and that of the zone where the site falls within. The submitted Clause 4.6 (CI 4.6) is considered to be well founded with sufficient planning grounds;
- The site is suitable for the proposed development; and
- The proposal is in the public interest.

### 3. LOCALITY PLAN



*View of Subject Site – Affected Area (Source: Page 7 of Statement of Environmental Effects, prepared by Damian O’Toole Town Planning & Heritage Services, dated May 2024)*

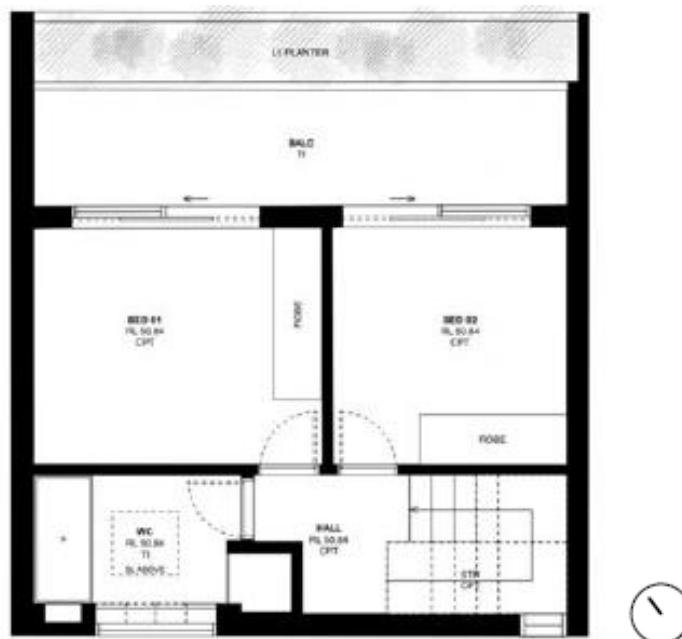


*View of Subject Site – Balcony proposed to be enclosed (Source: Page 9 of Statement of Environmental Effects, prepared by Damian O'Toole Town Planning & Heritage Services, dated May 2024)*

#### 4. PROPOSAL

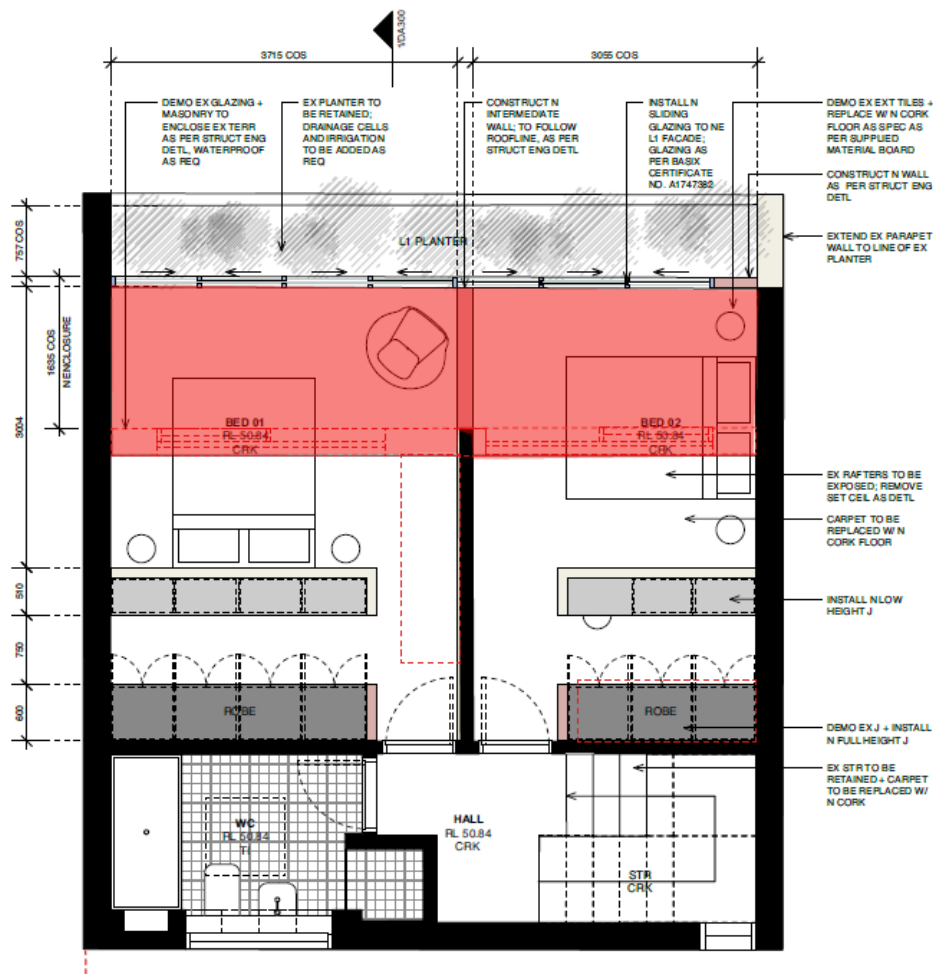
The development application (DA) proposes the following works:

- Partial demolition to the rear of an existing three storey unit to allow for the construction of a small rear extension at the upper-most level (Level 1), which will involve the enclosure of an existing balcony, and extension to the existing roof form and existing south-eastern parapet wall.
- The existing lower ground and ground levels, including an existing lower ground level courtyard, will remain unaffected.
- The new rear extension will accommodate additional space for adjacent bedrooms.
- As illustrated below, the new rear extension will not extend beyond an existing planter, which borders the existing balcony that is proposed to be enclosed.
- New sliding windows proposed to rear façade at Level 1.



*Existing Level 1 Floor Plan (Source: Page 10 of of Statement of Environmental Effects, prepared by Damian O'Toole Town Planning & Heritage Services, dated May 2024)*





Proposed Level 1 Floor Plan – Proposed rear extension denoted in 'red'

## 5. ISSUES

### 5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.4	Floor Space Ratio*	947.7m <sup>2</sup> or 35.98% departure from the 2633.8m <sup>2</sup> control	Satisfactory**

\*It is noted that the FSR of the existing building exceeds the statutory limit by more than 10%. The proposal seeks to increase the FSR by 12.5m<sup>2</sup>, which will predominantly be contained within the footprint of the existing building, apart from a small extension to the existing roof form to the rear.

\*\* The non-compliant FSR will achieve the relevant objectives of the standard(s) and that of the zone where the site falls within. The submitted CI 4.6 is considered to be well founded with sufficient planning grounds.

### 5.2. Primary Issues

Issue	Conclusion	Section
Floor space ratio	The proposal exceeds the floor space ratio standard established for the subject site in Clause 4.4 of the Woollahra LEP 2014 but satisfies the relevant objectives of the LEP and DCP, noting that the FSR of the existing building already exceeds the statutory limit by more than 10% and the proposal only seeks to increase the FSR by 12.5m <sup>2</sup> , which will predominantly be contained within the footprint of the existing building, apart from a small extension to the existing roof form to the rear.	13.4 & 13.5

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

Physical features & Existing Building
<p>The site is located on the eastern side of Edgecliff Road, north of its intersection with Roslyndale Avenue. The site has an area of 4,052m<sup>2</sup> and has a frontage to Edgecliff Road of approximately 62m. The depth of the site varies between 53m at the southern boundary to a maximum depth of 87.2m towards the north of the site.</p> <p>The site contains two blocks of Residential Flat Buildings. Block A is five storeys, contains 14 dwellings and is located towards the Edgecliff Road frontage of the site. Block B is three storeys, contains 6 dwellings and is located towards the rear (east) of the site.</p> <p>The subject site is a three storey townhouse, which forms part of the much larger complex. It is not readily visible from any public space and is accessed via a pathway approximately 30 metres away from the main street access. It forms part of a row of comparable three storey townhouses (Block B), some of which incorporate upper floor rear extensions. A rear courtyard is accommodated for at lower ground floor level.</p>
Topography
<p>The site falls approximately 13m from the Edgecliff Road frontage at the west to the rear of the site at the east.</p>
Surrounding Environment
<p>The surrounding area is predominantly residential and contains a mix of Residential Flat Buildings and dwelling houses. The subject site shares its rear boundary with a heritage item (Item 606) and is in the vicinity of a number of other heritage items including items 486, 487 and 288 as identified in the Woollahra LEP 2014.</p>

### 7. RELEVANT PROPERTY HISTORY

Current use
<p>The parent title contains a Residential Flat Building, which is made up of a series of townhouses including the subject site.</p>
Relevant Application History
<p>The following applications have involved alterations and additions to dwellings within the RFB complex, including minor increases in FSR:</p> <ul style="list-style-type: none"> <li>• <b>DA136/2016</b> - Unit 1/317 Edgecliff Road – involved additional 12m<sup>2</sup> gross floor area at second floor level, and alterations to the townhouse.</li> <li>• <b>DA174/2013</b> - Unit 11/317 Edgecliff Road – involved additional 21m<sup>2</sup> gross floor area at basement level and alterations to previously enclosed terrace</li> <li>• <b>DA415/2011</b> - Unit 319C Edgecliff Road – involved partial enclosure of a terrace</li> <li>• <b>DA680/2007</b> - Unit 319B Edgecliff Road – involved extension of first floor bedrooms into courtyard</li> <li>• <b>DA585/2001</b> - Unit 13/317 Edgecliff Road – involved additional 11m<sup>2</sup> of gross floor area.</li> <li>• <b>DA602/2017</b> - 319C/317-319 Edgecliff Road WOOLLAHRA – involved an extension to the ground floor level into an existing undercroft area to align with first floor above, resulting in increase of 5.6m<sup>2</sup> to the existing FSR.</li> </ul>
Requests for Additional Information and Replacement Applications
<p>Nil.</p>

### 8. REFERRALS

Referrals were not required.

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the EP&A Act 1979 include the following:



1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
  - i) Environmental impacts on the natural and built environments
  - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

## **9. ADVERTISING AND NOTIFICATION**

### **9.1 Submissions**

The application was advertised and notified from 19 June 2024 to 04 July 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No submissions were received in response to the notification process.

### **9.2 Statutory Declaration**

The applicant has completed the statutory declaration, dated 14 July 2024, declaring that the site notice for DA174/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2023.

## **10. STATE ENVIRONMENTAL PLANNING POLICY (SUSTAINABLE BUILDINGS) 2022**

This policy generally applies to all residential developments (excluding alterations and additions less than \$50,000) and all non-residential developments, except those excluded in Chapter 3.1 of the policy.

### **Chapter 2 Standards for residential development—BASIX**

Chapter 2 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The DA was accompanied by a BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard conditions of consent.

## **11 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

The provisions of SEPP (Resilience and Hazards) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

- Chapter 2 Coastal Management
- Chapter 4 Remediation of land

### **Chapter 2: Coastal Management**

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

The subject site is located wholly outside of the Coastal Environment Area (Clause 2.10) and the Coastal Use Area (Clause 2.11). On this basis, no further consideration is required under Chapter 2 of the SEPP.

#### Chapter 4: Remediation of Land

Under Clause 4.6(1)(a) of the SEPP, consideration has been given as to whether the subject site, on which the development is occurring, is contaminated.

The long term land use of the site, as well as surrounding adjoining land uses, has been and continues to be residential and is therefore considered unlikely to be contaminated. On this basis, further investigation was not considered necessary.

Accordingly, the proposal is satisfactory with regard to Chapter 4 of the SEPP.

### **12 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

The provisions of SEPP (Biodiversity and Conservation) 2021 that are relevant to the subject site and application involve managing development in terms of the following:

- Chapter 2 Vegetation in non-rural areas
- Chapter 6: Water Catchments

#### Chapter 2: Vegetation in non-rural areas

The provisions of this chapter require the consideration of the proposal with regard to tree impacts.

The DA does not propose to remove any vegetation. As such, no further consideration is required under Chapter 2 of the SEPP.

#### Chapter 6: Water Catchments

This chapter applies to land located within a regulated catchment being the Sydney Harbour Catchment.

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

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

The proposal does not contravene the relevant general requirements under Part 6.2 of the SEPP.

### **13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

#### **13.1 Part 1.2: Aims of Plan**

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

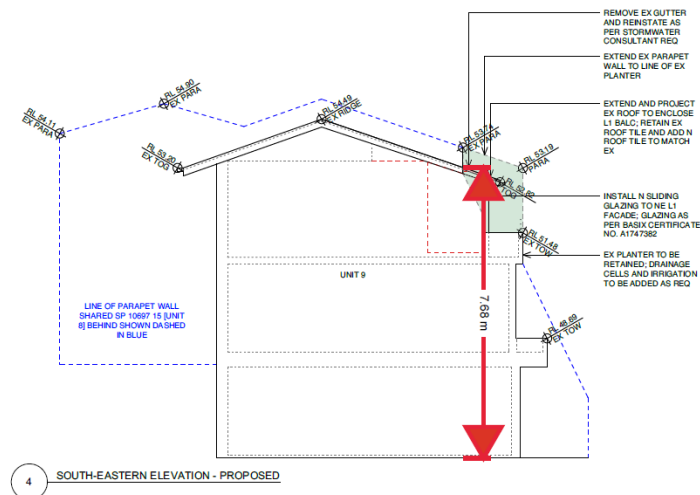
#### **13.2 Land Use Table**

The proposal is defined as alterations and additions to a residential flat building, which is a permitted use as listed within the R3 Medium Density Residential Zone. The proposal is acceptable with regard to the relevant objectives of the zone.

### 13.3 Part 4.3: Height of Buildings

Part 4.3 limits the development to a maximum building height of 10.5m.

	Existing	Proposed	Control	Complies
Height of Buildings	8.96m	7.68m	10.5m	Yes



*Proposed Maximum Building Height*

Accordingly, the proposal is acceptable with regard to Part 4.3 of the Woollahra LEP 2014.

### 13.4 Part 4.4: Floor Space Ratio

Part 4.4E limits development to a maximum floor space ratio of 0.65:1 for dwelling houses, dual occupancies and semi-detached dwellings in the R2 and R3 zones.

Site Area: 4,052m <sup>2</sup>	Existing	Proposed	Control	Complies
Floor Space Ratio	0.88:1 (3569m <sup>2</sup> )	0.88:1 Additional 12.5m <sup>2</sup> (3581.5m <sup>2</sup> )	0.65:1 (2633.8m <sup>2</sup> )	No*

\* The non-compliant FSR will achieve the relevant objectives of the standard(s) and that of the zone where the site falls within. The submitted CI 4.6 is considered to be well founded with sufficient planning grounds.

### 13.5 Part 4.6: Exceptions to Development Standards

#### 13.5.1. Part 4.6 of the WLEP 2014 & Part 35B of the EP&A Regulations 2021

Part 4.6(1) of the WLEP 2014 allows a contravention of a development standard given its objectives seek to allow for an appropriate degree of flexibility in applying certain development standard, and to achieve better outcomes for and from development.

Where a development application involves a contravention of a development standard, Part 35B(2) of the EP&A Regulation 2021 requires the DA to be accompanied by a document (written request) that sets out the grounds on which the applicant seeks to demonstrate the 'unreasonable and unnecessary' and 'sufficient environmental planning grounds' tests i.e. compliance with Part 4.6(3) of the WLEP 2014.

In this instance, the DA proposes to contravene the FSR development standard and has submitted a Clause 4.6 written request which has been provided at **Attachment 2** and has been assessed below.

### 13.5.2. Clause 4.6(3) – Assessment of Written Request

Part 4.6(3) stipulates a DA must not be approved if it contravenes a Development Standard unless Council is satisfied:

**(a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances.***

With respect to Clause 4.6(3)(a), the common ways to establish whether compliance with the development standard is unreasonable or unnecessary is known as the '5-part test' or the 'Wehbe test' (from the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The test can be summarised as follows:

Compliance with the development standard is unreasonable or unnecessary if:

- Test 1: The Objectives of the development standard are achieved notwithstanding the non-compliance.
- Test 2: The underlying objective or purpose is not relevant to the development.
- Test 3: The underlying objective or purpose would be defeated or thwarted if compliance was required.
- Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard.
- Test 5: The zoning of the land on which the development is proposed was unreasonable or inappropriate.

It is important to note that the applicant only needs to satisfy at least one part of the Wehbe test, not all 5 parts, to Council's satisfaction. The Clause 4.6 written request prepared by the applicant satisfies Test 1. A detailed assessment has been outlined below.

#### Test 1:

The objectives of Part 4.4 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, tree canopy cover and areas of private open space,*

The development has been determined as being consistent with the floor space ratio objectives for the following reasons:

- The proposed rear extension will not extend beyond an existing planter i.e. existing rear setback of the principal built form and will in turn ensure the overall development remains compatible with the desired future character of the Woollahra Heritage Conservation Area by way of bulk and scale.
- Similar enclosures of the upper level balconies have been carried out at units 1, 8 and 11, within the same complex. The proposal is consistent with what is occurring in its immediate surrounds.
- The works are not visible from the public domain.
- The proposed works are considered to be minor and will not result in any significant adverse amenity impacts to adjoining properties by way of overshadowing and overlooking.
- The proposal has not sought to remove any existing vegetation.

Further to the above, the applicant provides the following additional information:

*'In addition to demonstrating that the principles of Wehbe are satisfied, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of this case for the following additional reasons.*

*In the case of Moskovich v Waverley Council, the Land and Environment Court accepted that compliance with the standard (FSR in that case) was unreasonable and unnecessary because the design achieved the objectives of the standard and the respective zone, in a way that addressed the particular circumstances of the site, and resulted in a better streetscape and internal and external amenity outcome than a complying development. For the subject application, the proposed development which seeks to also vary the FSR standard, achieves a better response to the objectives of the subject R3 – Medium Density Residential Zone in that it provides a high level of amenity for occupants and because the street appearance of the dwelling is not affected.*

*Additionally, the LEP 2014 objectives for the R3 – Medium Density Residential Zone are noted as,*

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
- To ensure development conserves and enhances tree canopy cover.*

*The works are considered consistent with the objectives for the zone as the works will improve amenity on the site and allow for improved use of the dwelling by the owner-occupiers, without having any unreasonable adverse impact to the amenity of adjoining neighbours or to the visual amenity of the area.*

*On the basis of the above, compliance with the standard is considered to be unnecessary and would be unreasonable.'*

Council's delegate concurs with the above justification. Accordingly, compliance with the development standard is considered to be unreasonable and unnecessary in this instance.

**(b) That there are sufficient environmental planning grounds to justify the contravention of the development standard.**

Council's assessment of the written request against Clause 4.6(3)(b) is informed by the Initial Action Pty Ltd v Woollahra Municipal Council [2018] case. In this case Preston CJ provides (at para 23) the following guidance:

*'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.'*

Section 1.3 of the EP&A Act 1979 reads as follows:

*1.3 Objects of Act*

*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.*

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

**13.5.3. Conclusion**

The proposal is in the public interest as it is consistent with the relevant objectives of the Floor Space Ratio development standard and the objectives of the R3 Medium Density Residential Zone. A departure from the control is supported in this instance.

**13.6 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 proposed development is located within Woollahra Heritage Conservation Area. It is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014 in the following manner:

- The proposed works are considered to be minor and will be confined to an existing balcony, ensuring existing rear setbacks are retained.
- The proposed works will not be visible from the public realm and will generally retain the existing principal building.
- Council's Heritage Officer raised no concerns with the proposal.

Accordingly, the proposal is acceptable with regard to Part 5.10 of the Woollahra LEP 2014.



### 13.7 Part 5.21: Flood Planning

The subject site is not located within a flood planning area.

### 13.8 Part 6.1: Acid Sulfate Soils

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

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, a preliminary assessment is not required and it is unlikely that there will be any acid sulfate affectation. The proposal is therefore acceptable with regard to Part 6.1 of the Woollahra LEP 2014.

### 13.9 Part 6.2: Earthworks

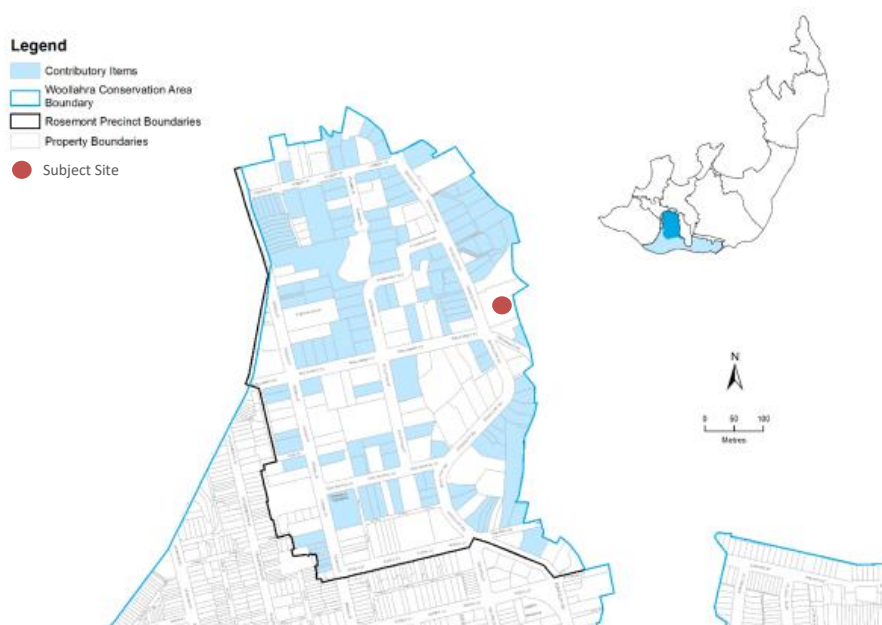
The proposal does not involve any earthworks.

## 14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 14.1 Chapter C2: Woollahra Heritage Conservation Area (HCA)

This chapter applies to land located within the Woollahra HCA. As illustrated below, the subject site is located within Precinct 1 (Rosemont) of the Woollahra HCA and has not been identified as a contributory item.

MAP 3 Rosemont Precinct – contributory items



The proposal is considered to be minor and in keeping with the relevant objectives of Part C2.3.1 of the Woollahra DCP 2015, as further evidenced through compliance with the below provisions.

### 14.1.1. Section C2.4.4 Terrace style housing

An assessment of the proposal against the relevant controls of Section C2.4.4 is detailed as follows:

Control	Assessment	Complies
C1 Alterations and additions to terrace houses must be consistent with the height, alignment, form, scale, breezeway pattern and architectural character of the group.	The proposal does not seek to alter the existing height and scale of the principal building and the proposed addition will retain existing rear setbacks and the architectural style of the group. All modifications are minor and will not be visible from the public realm.	Yes
C2 Additions to terrace houses must retain the profiles of original party walls and parapets.	The DA proposes a minor extension to the south-eastern party wall. Whilst it will be altered from original conditions, it constitutes minor works that will not have a detrimental impact upon the principal built form or its neighbours.	Yes
C5 Additions to a terrace must not extend beyond the established rear building setback at any level of the group or row.	Complies as noted against Control C1 above.	Yes
C6 The overall length of any addition must be less than the length of the principal building form and must appear secondary to the principal building form	Complies.	Yes
C7 The height of an additional storey to the rear of a single storey terrace must be 300mm below the ridgeline of the principal roof form. The linking structure should be located below the principal eaves line, and should use lightweight construction to differentiate the new work from the original.	The proposed addition will be confined to an existing balcony and whilst the proposal will involve an extension to the principal roof form, it is considered to be minor and acceptable in this instance.	Yes
C12 Additions to a terrace must retain traditional solid-to-void ratios on elevations visible from the public domain and must not incorporate large expanses of glass on the upper levels.	The proposed alterations will not be visible from the public domain. Further, new glazing to the rear will replace existing glazing.	Yes

In light of the above, the proposal is acceptable with regard to Part C2.4.4 of the Woollahra DCP 2015

### 14.1.2. Section C2.5.1 Building Height, Form and Character

An assessment of the proposal against the relevant controls of Section C2.5.1 is detailed as follows:

Control	Assessment	Complies
C1 Where there are uniform levels or setbacks within the streetscape, infill development and additions to existing buildings are to be consistent with the levels and setbacks of the adjoining buildings	Existing setbacks will remain unchanged.	Yes
C6 The rear setback should not extend beyond the established rear building setback and must allow sufficient space for a useable private open space area and landscaped area.		
C5 The minimum landscaped area requirements and open space requirements outlined in Section 2.5.6 must be met.	Existing landscaping will remain unaltered.	Yes

Control	Assessment	Complies
<p>C7 The height, bulk, scale, dominant roof forms, ridge line and building envelope of development must be consistent with those of contributory items in the streetscape that are a similar building type. The bulk of buildings should be distributed to minimise overshadowing of adjoining properties. In circumstances where the infill site adjoins a prominent building or a building of excessive height or intrusive design, conformity is not appropriate.</p> <p>C8 The character of development is to be consistent with the character of nearby contributory items and of the streetscape. Solid to void ratios of elevations are to be similar to those of nearby contributory items.</p> <p>C9 Storey heights must conform to those of adjacent contributory items. Three storeys may be permitted if the predominant contributory items in the streetscape are three storeys or more.</p>	<p>The proposed addition will not add to the existing overall height or scale of the principal building and is considered to be appropriate having regard to its adjoining neighbours.</p>	<p>Yes</p>
<p>C11 Development must not unreasonably obstruct existing principal views from the habitable rooms, balconies and private open space of neighbouring dwellings.</p>	<p>The proposed addition will not obstruct existing views.</p>	<p>Yes</p>

In light of the above, the proposal is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015

#### 14.1.3. Section C2.5.4 Materials, Finishes and Colours

An assessment of the proposal against the relevant controls of Section C2.5.4 is detailed as follows:

Control	Assessment	Complies
<p>C1 Materials, finishes, textures and colours must be appropriate to the building type and style. They must be similar to, but should not copy, the characteristic materials, finishes, textures and colours of the contributory items within the streetscape. Contemporary materials may be used where their proportions, detailing and quantities are consistent with the existing and desired future character of the precinct. New development must minimise its visual impact on the surroundings.</p>	<p>The addition will feature materials and colours to match the existing principal building, which is supported.</p>	<p>Yes</p>

In light of the above, the proposal is acceptable with regard to Part C2.5.4 of the Woollahra DCP 2015

#### 14.1.4. Section C2.5.6 Open Space and Landscaping

The DA has not sought to alter the existing provision of landscaping. As such, the proposal is acceptable with regard for Section C2.5.6 of the Woollahra DCP 2015.

#### 14.1.5. Section C2.5.12 Acoustic and Visual Privacy

The proposal will not result in any adverse acoustic or visual privacy impacts upon neighbouring properties. As such, the proposal is acceptable with regard to Part C2.5.12 of the Woollahra DCP 2015

## **14.2 Chapter E2: Stormwater and Flood Risk Management**

The proposal is acceptable with regard to Chapter E2 of the Woollahra DCP 2015.

## **14.3 Chapter E3: Tree Management**

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

## **14.4 Chapter E5: Waste Management**

The proposal is acceptable with regard to Chapter E3 of the Woollahra DCP 2015.

# **15. CONTRIBUTION PLANS**

## **15.1 Section 7.12 Contributions Plan**

Due to the cost of works being less than \$100,000, a levy does not apply to the DA.

## **15.2 Subdivision 4 Housing and Productivity Contributions**

Section 7.24 of the EP&A Act 1979 identifies that the object of this subdivision is to facilitate the provision of regional infrastructure that supports and promotes housing and economic activity in a region by enabling a housing and productivity contribution to be required.

Division 1 of the EP&A (Housing and Productivity Contribution) Ministerial Order 2023 sets out the classes of development, which require a housing and productivity contribution.

The proposal does not require a housing and productivity contribution.

## **15.3 Application of Contributions**

The consent authority cannot impose conditions under both Section 7.11 and Section 7.12 on the same development consent. In this instance, both Section 7.11 and 7.12 contributions do not apply.

# **16. APPLICABLE ACTS/REGULATIONS**

## **16.1 Environmental Planning and Assessment Regulation 2021**

### **Clause 61(1) Additional matters that consent authority must consider**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard condition.

# **17. THE LIKELY IMPACTS OF THE PROPOSAL**

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

# **18. THE SUITABILITY OF THE SITE**

The site is suitable for the proposed development.

# **19. THE PUBLIC INTEREST**

The proposal is considered to be in the public interest.

## 20. CONCLUSION

The proposal is acceptable against the relevant considerations under s4.15.

## 21. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is satisfied that the matters required to be addressed under Clause 4.6(4) of the Woollahra Local Environmental Plan 2014 have been demonstrated and that consent may be granted to the development application, which contravenes the Floor Space Ratio (FSR) development standard under Clause 4.4 of the Woollahra LEP 2014.

### AND

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, grant development consent to Development Application No. 174/2024/1 for alterations to an existing townhouse constituting enclosing of the top floor balcony and reconfiguring of top floor internal layout on land at 9/317 Edgecliff Road Woollahra, subject to the following conditions:

### ALL DEVELOPMENT TYPES

#### A. GENERAL CONDITIONS

A. 1.	<b>Conditions</b>
	<p>Consent is granted subject to the following conditions imposed under section 4.16 of the Environmental Planning and Assessment Act 1979 ("the Act"), and the provisions of the Environmental Planning and Assessment Regulation 2021 ("the Regulations") and the provisions of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 ("the Development Certification and Fire Safety Regulations"), such conditions being reasonable and relevant to the development as assessed under section 4.15 of the Act.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• 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.</li><li>• Where there is any breach Council may without any further warning:<ul style="list-style-type: none"><li>a) Issue Penalty Infringement Notices (On-the-spot fines);</li><li>b) Issue notices and orders;</li><li>c) Prosecute any person breaching this consent; and/or</li><li>d) Seek injunctions/orders before the courts to restrain and remedy any breach.</li></ul></li><li>• Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.</li><li>• 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.</li><li>• 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.</li></ul>

	<ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.</p>
A. 2.	<p><b>Definitions</b></p> <p>Unless specified otherwise, words have the same meaning as defined by the <i>Act</i>, the <i>Regulations</i>, the <i>Development Certification and Fire Safety Regulations</i> and the <i>Interpretation Act 1987</i> as in force at the date of consent.</p> <p><b>Applicant</b> means the applicant for this consent.</p> <p><b>Approved Plans</b> mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.</p> <p><b>Local native plants</b> means species of native plant endemic to Sydney's eastern suburbs.</p> <p><b>Owner-builder</b> has the same meaning as in the <i>Home Building Act 1989</i>.</p> <p><b>PC</b> means the Principal Certifier under the <i>Act</i>.</p> <p><b>Principal Contractor</b> has the same meaning as in the <i>Act</i>, or where a Principal Contractor has not been appointed by the Owner of the land being developed Principal Contractor means the Owner of the land being developed.</p> <p><b>Professional engineer</b> has the same meaning as in the BCA.</p> <p><b>Public place</b> has the same meaning as in the <i>Local Government Act 1993</i>.</p> <p><b>Road</b> has the same meaning as in the <i>Roads Act 1993</i>.</p> <p><b>SEE</b> means the final version of the Statement of Environmental Effects lodged by the Applicant.</p> <p><b>Site</b> means the land being developed subject to this consent.</p> <p><b>Site work</b> means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.</p> <p><b>Woollahra LEP</b> means <i>Woollahra Local Environmental Plan 2014</i></p> <p><b>Woollahra DCP</b> means <i>Woollahra Development Control Plan 2015</i></p> <p><b>Work</b> for the purposes of this consent means:</p> <ul style="list-style-type: none"> <li>the use of land in connection with development,</li> <li>the subdivision of land,</li> <li>the erection of a building,</li> <li>the carrying out of any work,</li> </ul>



	<ul style="list-style-type: none"><li>the use of any site crane, machine, article, material, or thing,</li><li>the storage of waste, materials, site crane, machine, article, material, or thing,</li><li>the demolition of a building,</li><li>the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,</li><li>the delivery to or removal from the <i>site</i> of any machine, article, material, or thing, or</li><li>the occupation of the <i>site</i> by any person unless authorised by an occupation certificate.</li></ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant definitions.</p>												
A. 3.	<p><b>Approved Plans and Supporting Documents</b></p> <p>Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.</p> <p>Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.</p> <table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>Drawing No’s. DA001, DA100 to DA103, DA200 &amp; DA300</td><td>Architectural Plans</td><td>All prepared by Studio Shand</td><td>All dated 25 May 2024</td></tr><tr><td>A1747382</td><td>BASIX Certificate</td><td>NSW Department of Planning, Industry and Environment</td><td>14 May 2024</td></tr></table> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.</li><li>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.</li></ul> <p><b>Condition Reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Reference	Description	Author	Date	Drawing No’s. DA001, DA100 to DA103, DA200 & DA300	Architectural Plans	All prepared by Studio Shand	All dated 25 May 2024	A1747382	BASIX Certificate	NSW Department of Planning, Industry and Environment	14 May 2024
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A1747382	BASIX Certificate	NSW Department of Planning, Industry and Environment	14 May 2024										
A. 4.	<p><b>Ancillary Aspects of Development (section 4.17(2) of the Act)</b></p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>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</li></ul>												

**Condition Reason:** To ensure all parties are aware of works required to public infrastructure and to ensure payment for works.

## DEMOLITION WORK

### B. BEFORE DEMOLITION WORK COMMENCES

<p><b>B. 1.</b></p>	<p><b>Construction Certificate Required Prior to Any Demolition</b></p> <p>Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" under section 6.6 of the Act.</p> <p>In such circumstance all conditions included at the following development stages of this consent must be satisfied prior to any demolition work:</p> <ul style="list-style-type: none"> <li>• Before issue of a construction certificate</li> <li>• Before building work commences</li> </ul> <p>This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the Act.</p> <p><b>Note:</b></p> <ul style="list-style-type: none"> <li>• See Over our Dead Body Society Inc v Byron Bay Community Association Inc [2001] NSWLEC 125.</li> </ul> <p><b>Condition Reason:</b> To ensure appropriate conditions are complied with for development for the alteration and extension of an existing building.</p>
<p><b>B. 2.</b></p>	<p><b>Erosion and Sediment Controls – Installation</b></p> <p>Before any site work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>• 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.</li> <li>• 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”.</li> </ul>

	<ul style="list-style-type: none"> <li>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.</li> </ul>
	<b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.
<b>B. 3.</b>	<b>Identification of Hazardous Material</b>
	<p>Prior to any site works, and in accordance with Australian Standard AS2601: The Demolition of Structures, all hazardous substances located on the site must be identified, including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc.</p> <p>In this regard, prior to any site works, Council must be provided with a written report prepared by a suitably qualified competent person detailing:</p> <ul style="list-style-type: none"> <li>all hazardous materials identified on the site,</li> <li>the specific location of all hazardous materials identified,</li> <li>whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and</li> <li>safety measures to be put in place.</li> </ul>
	<b>Condition Reason:</b> 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.
<b>B. 4.</b>	<b>Public Road Assets Prior to Any Work/Demolition</b>
	<p>Prior to any site works, a full record of the condition of the public infrastructure on public land adjacent to the development site must be submitted to Council.</p> <p>The report must include photographs and/or CCTV footage showing the current condition and any existing damage fronting and adjoining the site to the:</p> <ul style="list-style-type: none"> <li>road pavement,</li> <li>street signage including street lights,</li> <li>kerb and gutter,</li> <li>footway including pedestrian crossings, footpath, and driveways,</li> <li>retaining walls, or other significant structures,</li> <li>Heritage Items, including street name inlays,</li> <li>utility service items including historical utility covers, and</li> <li>drainage structures/pits/pipes (CCTV footage).</li> </ul> <p>The reports are to be supplied in electronic format in Word and if applicable accompanied by CCTV footage. Photographs are to be in colour, digital and date stamped.</p> <p>If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site works under this consent.</p>
	<b>Condition Reason:</b> To clarify the condition of the existing public infrastructure prior to the commencement of any site works.

B. 5.

Payment of Security and Fees

Prior to any site works, the following security and fees must be paid in full:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the Council	\$5,490	No	T115
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Security Deposit Administration Fee	\$235.00	No	T16
TOTAL SECURITY AND FEES	\$5,725		

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 any site works being undertaken, and

the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Notes:

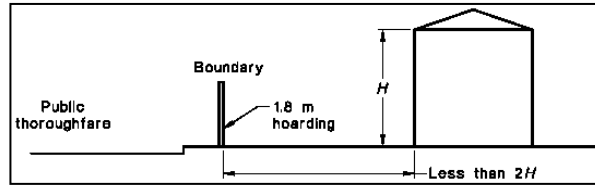
An application must be made to Council by the person who paid the security for release of the securities held under section 4.17 of the Act.

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

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

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

	<ul style="list-style-type: none"> <li>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.</li> <li>The Refund of Security Bond Application form can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul>
	<b>Condition Reason:</b> To ensure any relevant security and fees are paid.
<b>B. 6.</b>	<p><b>Works (Construction) Zone – Approval and Implementation</b></p> <p>If the Construction Management Plan relies upon a Works Zone, before any site work commences, a Works Zone application must be made.</p> <p>If the works zone is approved, all fees for the Works Zone must be paid before it can be installed.</p> <p>All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any site work. Signs are not erected until full payment of Works Zone fees is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>A minimum of four to six weeks must be allowed (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under clause 20 of the Transport Administration (General) Regulation 2018 to exercise those functions delegated by Transport for New South Wales under section 31(3) of the Transport Administration Act 1988.</li> <li>The enforcement of the Works Zone is at the discretion of Council's Rangers and the NSW Police Service. Any breach of the Works Zone must be reported to either Council or the NSW Police Service.</li> </ul>
	<b>Condition Reason:</b> To facilitate the efficient operation of construction projects and to minimise traffic disruption.
<b>B. 7.</b>	<p><b>Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection</b></p> <p>Before any site work commences, 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.</p> <div data-bbox="553 1619 1121 1794" data-label="Diagram"> </div> <p><b>Type A Hoarding</b></p> <p>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.</p>



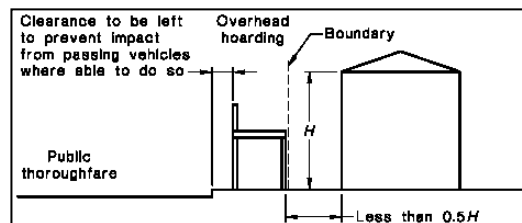
### Type B Hoarding

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

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

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

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



The overhead protective structures must be 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'

All fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection must be paid in full.

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 person with the benefit of this consent. The Creative Hoardings Policy can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)



	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of two (2) weeks from the date of making a hoarding application to determination must be allowed. Any approval for a hoarding or overhead protection under the Roads Act 1993 will be subject to its own conditions and fees.</li> <li>• 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: <ul style="list-style-type: none"> <li>A. Hoardings proposed on land zoned E1 Local Centre, or MU1 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more OR</li> <li>B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more OR</li> <li>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: <ol style="list-style-type: none"> <li>1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or</li> <li>2. the land is zoned R2 Low Density Residential, or</li> <li>3. the land is zoned R3 Medium Density Residential and the hoarding is located in a lane or street that does not have through traffic (e.g. a cul-de-sac or no through road).</li> </ol> </li> </ul> </li> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure public safety.</p>
<p><b>B. 8.</b></p>	<p><b>Site Signs</b></p> <p>Before any site work commences, the sign/s required by clauses 70 of the Regulation and 75 of the Development Certification and Fire Safety Regulation must be erected and maintained at all times.</p> <p>Clause 70 of the Regulation provides:</p> <p><b>Erection of signs</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out: <ol style="list-style-type: none"> <li>a) showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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</li> <li>c) stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>• 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.</li> <li>• 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.</li> </ul>

	<ul style="list-style-type: none"> <li>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.</li> </ul> <p>Clause 75 of the Development Certification and Fire Safety Regulation provides:</p> <p><b>Signs on development sites</b></p> <p>If there is a person who is the Principal Certifier or the Principal Contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:</p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 75 of the Development Certification and Fire Safety Regulations imposes a maximum penalty of 55 penalty units if these requirements are not complied with.</li> <li>If Council is appointed as the Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 70 of the Regulation and clause 75 of the Development Certification and Fire Safety Regulation.</li> </ul> <p><b>Condition Reason:</b> To ensure that contact details for the principal certifier and principal contractor are provided on a sign at the development site.</p>
<p><b>B. 9.</b></p>	<p><b>Toilet Facilities</b></p> <p>Before any site work commences, toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.</p> <p>Each toilet provided:</p> <ol style="list-style-type: none"> <li>must be a standard flushing toilet, and</li> <li>must be connected to a public sewer, or</li> <li>if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or</li> <li>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.</li> </ol> <p>The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>In this condition 'sewage management facility' and 'public sewer' are as defined by clause 25 of the Local Government (Approvals) Regulation 1999.</li> <li>This condition does not set aside the requirement to comply with SafeWork NSW requirements.</li> </ul> <p><b>Condition Reason:</b> To ensure toilet facilities are provided for workers at the work site.</p>

<b>B.</b>	<b>10.</b>	<b>Establishment of Boundary Location, Building Location and Datum</b>
		<p>Before any site work commences, a surveyor registered under the Surveying and Spatial Information Act 2002 must:</p> <ol style="list-style-type: none"> <li>set out the boundaries of the site by permanent marks (including permanent recovery points),</li> <li>set out the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (AHD) in compliance with the approved plans,</li> <li>establish a permanent datum point (bench mark) within the boundaries of the site relative to AHD, and</li> <li>provide a copy of a survey report, prepared by the registered surveyor, detailing the title boundaries, pegs/profiles, recovery points and bench mark locations as established under this condition to the Principal Certifier.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Where there is any discrepancy between the approved development consent and the Construction Certificate, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the site works must not proceed until the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.</li> <li>On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks must be considered by the registered surveyor.</li> </ul>
		<b>Condition Reason:</b> To ensure that the boundary locations, building location, and a datum point is established by a surveyor.
<b>B.</b>	<b>11.</b>	<b>Compliance with Australian Standard for Demolition</b>
		While site work is being carried out, the demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures.
		<b>Condition Reason</b> To control the risks of demolition work.

## REMEDICATION WORK

### C. ON COMPLETION OF REMEDIATION WORK

Nil.

## BUILDING WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<b>D.</b>	<b>1.</b>	<b>Payment of Long Service Levy</b>
		Before the issue of any construction certificate, the original receipt(s) for the payment of the following levy must be provided to the Principal Certifier:

Description				Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>						
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>				Contact LSL Corporation or use online calculator	No	
<p><b>Building and Construction Industry Long Service Payment</b> The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website <a href="http://www.longservice.nsw.gov.au">www.longservice.nsw.gov.au</a> or the Long Service Corporation on 131 441.</p> <p><b>How must the payments be made?</b> Payments must be made by:</p> <ul style="list-style-type: none"> <li>• cash deposit with Council,</li> <li>• credit card payment with Council, or</li> <li>• bank cheque made payable to Woollahra Municipal Council.</li> </ul> <p><b>Condition Reason:</b> To ensure any relevant levy is paid.</p>						
<b>D. 2. BASIX Commitments</b>						
<p>Before the issue of any construction certificate, BASIX Certificate No. A1747382 must be submitted to the Principal Certifier with any application for a construction certificate.</p> <p>All commitments in the BASIX Certificate must be shown on the construction certificate plans and specifications prior to the issue of any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Where there is any proposed change in the BASIX commitments the Applicant must submit a new BASIX Certificate to the Principal Certifier and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 19 and 20 of the Development Certification and Fire Safety Regulation) the Applicant will be required to submit an amended development application to Council under section 4.55 of the Act.</li> <li>• Clause 19(1)(a) of the Development Certification and Fire Safety Regulation 2021 provides: a certifier must not issue a construction certificate for building work unless: the relevant building work plans and specifications include the matters required by a relevant BASIX certificate, if any.</li> </ul> <p><b>Condition Reason:</b> To ensure all commitments in the BASIX Certificate are incorporated into the development.</p>						
<b>D. 3. Erosion and Sediment Control Plan – Submission and Approval</b>						
<p>Before the issue of any construction certificate, an erosion and sediment control plan, prepared by a suitably qualified person in accordance with the following documents, must be submitted to the Principal Certifier. The erosion and sediment control plan must comply with:</p>						

	<p>a) “Do it Right On Site, Soil and Water Management for the Construction Industry” and the accompanying factsheets published by the Southern Sydney Regional Organisation of Councils; and</p> <p>b) “Managing Urban Stormwater - Soils and Construction” 2004 published by the NSW Government (The Blue Book).</p> <p>Where there is any conflict The Blue Book takes precedence.</p> <p>The Principal Certifier must be satisfied that the erosion and sediment control plan complies with the publications above prior to issuing any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The International Erosion Control Association – Australasia <a href="http://www.austieca.com.au">www.austieca.com.au</a> 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.</li> <li>• The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>, and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>• Under clause 73(2)(a)(v) of the Development Certification and Fire Safety Regulation an Accredited Certifier may be satisfied as to this matter.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<b>D. 4.</b>	<p><b>Structural Adequacy of Existing Supporting Structures</b></p> <p>Before the issue of any construction certificate, a certificate from a professional structural engineer, certifying the adequacy of the existing supporting structure to support the additional loads proposed to be imposed by the development, must be provided to the Principal Certifier and submitted with the construction certificate application.</p> <p><b>Condition Reason:</b> To ensure that the existing structure is able to support the additional loads proposed.</p>
<b>D. 5.</b>	<p><b>Professional Engineering Details</b></p> <p>Before the issue of any construction certificate, the construction certificate plans and specifications, required under clause 7 of the Development Certification and Fire Safety Regulation, must include detailed professional engineering plans and/or specifications for all structural, electrical, hydraulic, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, and supporting documentation.</p> <p>Detailed professional engineering plans and/or specifications must be submitted to the Principal Certifier with the application for any construction certificate.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• This does not affect the right of the developer to seek staged construction certificates.</li> </ul> <p><b>Condition Reason:</b> To ensure professional engineering details and technical specifications are provided.</p>

<p><b>D. 6.</b></p>	<p><b>Stormwater Discharge to Existing Stormwater Drainage System</b></p> <p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared by a chartered professional civil engineer, which include the following:</p> <ol style="list-style-type: none"> <li>The stormwater management plans must specify any components of the existing drainage system to be retained and certified to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.</li> <li>Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.</li> <li>Detail any remedial works required to upgrade the existing stormwater drainage system.</li> <li>Internal stormwater drainage pipes and pits are to be designed for rainfall intensities up to and including the 1% AEP event if an unimpeded overland flow path to the street drainage system is not available. Design details and calculations must be included in the stormwater management plans.</li> <li>The discharge of stormwater from the site to the street kerb located within the frontage of the site. Only one stormwater outlet with a maximum discharge rate of 20 l/s in the 1% AEP storm event will be permitted. Full supporting calculations must be included in the stormwater management plans. The stormwater outlet pipe across the Council's property must have a minimum grade of 1% to comply with Council's DCP and AS3500.3.</li> <li>All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 of Council's DCP. Notation to this requirement must be clearly depicted on the drawings.</li> <li>Dimensions of all drainage pit and access grates must comply with AS3500.3 and Council's DCP.</li> <li>Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath; and General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> <li>General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> </ol> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><b>Layout plan</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>Location and dimensions of all downpipes.</li> <li>All invert levels reduced to Australian Height Datum (AHD).</li> <li>Location and dimensions of all drainage pits.</li> <li>Point and method of connection to Councils drainage infrastructure.</li> <li>Overland flow paths over impervious areas.</li> </ol> <p>Where 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 before the issue of any construction certificate.</p>
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<p>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).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</li> </ul>
<p><b>Condition Reason:</b> To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>

## E. BEFORE BUILDING WORK COMMENCES

<b>E. 1.</b>	<p><b>Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</b></p> <p>Before any building work commences, and under section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <ol style="list-style-type: none"> <li>that the work must be carried out in accordance with the requirements of the Building Code of Australia,</li> <li>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.</li> </ol> <p>This condition does not apply:</p> <ol style="list-style-type: none"> <li>to the extent to which an exemption is in force under the Home Building Regulation 2014, or</li> <li>to the erection of a temporary building.</li> </ol> <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>All new guttering is to comply with the provisions of AS3500.</li> </ul> <p><b>Condition Reason:</b> To ensure that works are carried out in accordance with the Building Code of Australia and any required contract of insurance is in force.</p>
<b>E. 2.</b>	<p><b>Erosion and Sediment Controls – Installation</b></p> <p>Before any building work commences, water pollution, erosion and sedimentation controls must be installed and maintained in accordance with:</p> <ol style="list-style-type: none"> <li>The Soil and Water Management Plan if required under this consent;</li> <li>"Do it Right On Site, Soil and Water Management for the Construction Industry" and accompanying factsheets published by the Southern Sydney Regional Organisation of Councils, and</li> <li>"Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).</li> </ol> <p>Where there is any conflict The Blue Book takes precedence.</p>

	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The International Erosion Control Association – Australasia (<a href="http://www.austieca.com.au/">www.austieca.com.au/</a>) lists consultant experts who can assist in ensuring compliance with this condition.</li> <li>• 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.</li> <li>• The “Do it Right On Site, Soil and Water Management for the Construction Industry” publication and the accompanying factsheets can be downloaded from <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> and The Blue Book is available at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a></li> <li>• 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.</li> <li>• 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”.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.</p>
<p><b>E. 3.</b></p>	<p><b>Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)</b></p> <p>Building work must not commence, until:</p> <ol style="list-style-type: none"> <li>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</li> <li>b) The person having the benefit of the development consent has: <ul style="list-style-type: none"> <li>• appointed a Principal Certifier for the building work, and</li> <li>• notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and</li> </ul> </li> <li>c) The Principal Certifier has, no later than 2 days before the building work commences: <ul style="list-style-type: none"> <li>• notified the consent authority and the Council (if the Council is not the consent authority) of his or her appointment, and</li> <li>• 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</li> </ul> </li> <li>d) The person having the benefit of the development consent, if not carrying out the work as an Owner-builder, has: <ul style="list-style-type: none"> <li>• 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</li> <li>• notified the Principal Certifier of any such appointment, and</li> <li>• 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</li> <li>• given at least 2 days’ notice to the Council of the person’s intention to commence the erection of the building.</li> </ul> </li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• <b>Building</b> 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.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>New building</b> 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.</li> <li>• The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 6.6(2) of the Act (including the need for a Construction Certificate) prior to any demolition work. See: <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [2001] NSWLEC 125.</li> <li>• Construction Certificate Application, PC Service Agreement and Notice of Commencement forms can be downloaded from Council's website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>• 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.</li> <li>• Under the Home Building Act 1989 any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.</li> </ul> <p><b>Condition Reason:</b> To ensure a construction certificate has been issued, a Principal Certifier is appointed, a Principal Contractor (if applicable) is appointed, and a notice of commencement has been submitted.</p>
E. 4.	<p><b>Notification of Home Building Act 1989 requirements</b></p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:</p> <ol style="list-style-type: none"> <li>a) In the case of work for which a Principal Contractor is required to be appointed: <ul style="list-style-type: none"> <li>• the name and licence number of the Principal Contractor, and</li> <li>• the name of the insurer by which the work is insured under Part 6 of that Act,</li> </ul> </li> <li>b) In the case of work to be done by an Owner-builder: <ul style="list-style-type: none"> <li>• the name of the Owner-builder, and</li> <li>• if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.</li> </ul> </li> </ol> <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.</p> <p>This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the Building Code of Australia.</p> <p>For the purposes of section 4.17(11) of the Act, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.</p> <p><b>Condition Reason:</b> To ensure Council is notified of the Home Building Acts 1989 requirements.</p>

## F. DURING BUILDING WORK

F. 1.	<p><b>Compliance with BCA and Insurance Requirements under the Home Building Act 1989</b></p> <p>While site work is being carried out:</p>
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		<p>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</p> <p>b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p> <p>This condition does not apply:</p> <p>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</p> <p>b) to the erection of a temporary building.</p> <p>In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.</p> <p>For the purposes of section 4.17(11) of the Act, the above condition is prescribed in relation to a development consent for development that involves any building work.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>All new guttering is to comply with the provisions of AS 3500.</li> </ul> <p><b>Condition Reason:</b> To ensure compliance with the BCA and Home building Act 1989.</p>
<b>F.</b>	<b>2.</b>	<p><b>Requirement to Notify about New Evidence</b></p> <p>While site work is being carried out, any new information that comes to light, which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifier.</p> <p><b>Condition Reason:</b> To ensure Council and the Principal Certifier are made aware of new information.</p>
<b>F.</b>	<b>3.</b>	<p><b>Critical Stage Inspections</b></p> <p>While site work is being carried out, critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the Act, the Development Certification and Fire Safety Regulation, and the Regulation.</p> <p>Work must not proceed beyond each critical stage until the Principal Certifier is satisfied that work is proceeding in accordance with this consent, the construction certificate(s) and the Act.</p> <p>Critical stage inspections means the inspections prescribed by the Development Certification and Fire Safety Regulations, and Regulations for the purposes of section 6.5 of the Act or as required by the Principal Certifier and any PC Service Agreement.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The Principal Certifier may require inspections beyond mandatory critical stage inspections in order that the Principal Certifier be satisfied that work is proceeding in accordance with this consent.</li> <li>The Principal Certifier may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2G2 of the BCA in relation to any matter relevant to the development.</li> </ul>

		<b>Condition Reason:</b> To ensure that building work progresses in accordance with the approved plans, conditions of consent, and requirements of the act.
<b>F.</b>	<b>4.</b>	<p><b>Hours of Work –Amenity of the Neighbourhood</b></p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> <li>No work must take place on any Sunday or public holiday.</li> <li>No work must take place before 7am or after 5pm any weekday.</li> <li>No work must take place before 7am or after 1pm any Saturday.</li> <li>The following work must not take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday: <ol style="list-style-type: none"> <li>piling,</li> <li>piering,</li> <li>rock or concrete cutting, boring or drilling,</li> <li>rock breaking,</li> <li>rock sawing,</li> <li>jack hammering, or</li> <li>machine excavation.</li> </ol> </li> <li>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.</li> <li>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.</li> <li>No rock excavation being cutting, boring, drilling, breaking, sawing , jack hammering or bulk excavation of rock, must occur without a 15 minute interval break within every hour.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>Each and every breach of this condition by any person may be subject to a separate penalty infringement notice or prosecution.</li> <li>The delivery and removal of plant, equipment and machinery associated with wide loads subject to Transport for NSW and NSW Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.</li> <li>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.</li> <li>NSW EPA Noise Guide is available at <a href="http://www.epa.nsw.gov.au/noise/nglg.htm">www.epa.nsw.gov.au/noise/nglg.htm</a></li> </ul> <p><b>Condition Reason:</b> To mitigate the impact of work upon the amenity of the neighbourhood.</p>
<b>F.</b>	<b>5.</b>	<p><b>Public Footpaths – Safety, Access and Maintenance</b></p> <p>While site work is being carried out, any person acting with the benefit of this consent must:</p>

- a) Not erect or maintain any gate or fence that swings out, or encroaches upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Any damage caused to the road, footway, vehicular crossing, nature strip or any public place must be immediately made safe and then repaired, to the satisfaction of Council.
- f) Not stand any plant and equipment upon the road or footway.
- g) If it is proposed to locate any site fencing, hoardings, skip bins or other articles upon any part of the footpath, nature strip or any public place, or operate a crane, hoist or concrete pump on or over Council land, an application must be submitted to and approved by Council beforehand.
- h) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- i) Protect heritage listed street name inlays located in the footpath, kerb and gutter, and any other structure, to ensure they are not removed or damaged during development.

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.

**Notes:**

- Section 148B of the Road Transport Act 2013 allows the NSW Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose.
- Section 138 of the Roads Act 1993 provides that a person must not:
  - erect a structure or carry out a work in, on or over a public road, or
  - dig up or disturb the surface of a public road, or
  - remove or interfere with a structure, work or tree on a public road, or
  - pump water into a public road from any land adjoining the road, or
  - connect a road (whether public or private) to a classified road,
  - otherwise than with the consent of the appropriate roads authority.
- Section 68 of the Local Government Act 1993 provides that a person may carry out certain activities only with the prior approval of the Council including:
  - 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.

**Condition Reason:** To ensure safe access is maintained to footpaths and roads during building works.



F.	6.	<p><b>Maintenance of Environmental Controls</b></p> <p>While site work is being carried out, the following monitoring, measures and controls must be maintained:</p> <ul style="list-style-type: none"> <li>a) erosion and sediment controls,</li> <li>b) dust controls,</li> <li>c) dewatering discharges,</li> <li>d) noise controls,</li> <li>e) vibration monitoring and controls, and</li> <li>f) ablutions.</li> </ul> <p><b>Condition Reason:</b> To ensure that environmental controls are maintained during building works to protect the public and surrounding environment.</p>
F.	7.	<p><b>Support of Adjoining Land and Buildings</b></p> <p>While site work is being carried out, a person must not to 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).</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>- the consent of the owners of such adjoining or supported land to trespass or encroach, or</li> <li>- an access order under the Access to Neighbouring Land Act 2000, or</li> <li>- an easement under section 88K of the Conveyancing Act 1919, or</li> <li>- an easement under section 40 of the Land and Environment Court Act 1979 as appropriate.</li> </ul> </li> <li>• 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).</li> <li>• Clause 17 of the Roads Regulation 2018 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.</li> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure that the support of adjoining land is not removed.</p>

F. 8.	<p><b>Disposal of Site Water During Construction</b></p> <p>While site work is being carried out:</p> <ul style="list-style-type: none"> <li>a) Prior to pumping any water into the road or public stormwater system, approval must be obtained from Council under section 138(1)(d) of the Roads Act 1993.</li> <li>b) Water pollution, as defined by the Protection of the Environment Operations Act 1997, must not occur as the result of the discharge to the road, public stormwater system or other place of any site water.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of stormwater and that site water does not cause erosion and water pollution.</p>
F. 9.	<p><b>Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum</b></p> <p>While site work is being carried out, a registered surveyor must carry out check surveys and provide 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.</p> <p>Work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the Principal Certifier's satisfaction:</p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</li> <li>g) Flood protection measures are in place confirming location, height and capacity.</li> </ul> <p><b>Condition Reason:</b> To ensure that development occurs in the location and at the height approved under this consent, which is critical to ensure that buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.</p>

F. 10.	<p><b>Placement and Use of Skip Bins</b></p> <p>While site work is being carried out, all waste storage containers, including but not limited to skip bins, must be stored within the site unless:</p> <ul style="list-style-type: none"> <li>a) Activity Approval has been issued by Council under section 68 of the Local Government Act 1993 to place the waste storage container in a public place; and</li> <li>b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.</li> </ul> <p><b>Condition Reason:</b> To ensure waste storage containers are appropriately located.</p>
F. 11.	<p><b>Prohibition of Burning</b></p> <p>While site work is being carried out, there must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW. All burning is prohibited in the Woollahra local government area.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Under the Protection of the Environment Operations (Clean Air) Regulation 2021 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.</li> </ul> <p><b>Condition Reason:</b> To ensure no burning of waste occurs.</p>
F. 12.	<p><b>Dust Mitigation</b></p> <p>While site work is being carried out, dust mitigation must be implemented in accordance with “Dust Control - Do it right on site” and the accompanying facts sheets published by the Southern Sydney Regional Organisation of Councils.</p> <p>This generally requires:</p> <ul style="list-style-type: none"> <li>a) Dust screens to all hoardings and site fences.</li> <li>b) All stockpiles or loose materials to be covered when not being used.</li> <li>c) All equipment, where capable, being fitted with dust catchers.</li> <li>d) All loose materials being placed bags before placing into waste or skip bins.</li> <li>e) All waste and skip bins being kept covered when not being filled or emptied.</li> <li>f) The surface of excavation work being kept wet to minimise dust.</li> <li>g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• “Dust Control - Do it right on site” and the accompanying factsheets can be downloaded from Council’s website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a></li> <li>• Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from <a href="http://www.safework.nsw.gov.au">www.safework.nsw.gov.au</a> and <a href="http://www.epa.nsw.gov.au">www.epa.nsw.gov.au</a>. Other specific conditions and advice may apply.</li> <li>• 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.</li> </ul>

	<p><b>Condition Reason:</b> To mitigate the impact of dust upon the amenity of the neighbourhood and prevent water pollution.</p>
<b>F. 13.</b>	<p><b>Site Waste Minimisation and Management – Demolition</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from demolition activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> <li>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),</li> <li>separate collection bins and/or areas for the storage of residual waste are to be provided,</li> <li>the purpose and content of the bins and/or storage areas are to be clearly 'signposted',</li> <li>measures to prevent damage by the elements, odour, health risks and windborne litter are to be implemented, and</li> <li>site disturbance must be minimised, and unnecessary excavation limited.</li> </ol> <p>When implementing the SWMMP the Applicant must ensure:</p> <ol style="list-style-type: none"> <li>footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,</li> <li>any material moved offsite is transported in accordance with the requirements of the Protection of the Environment Operations Act 1997,</li> <li>waste is only transported to a place that can lawfully be used as a waste facility,</li> <li>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</li> <li>evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Materials that have an existing reuse or recycling market must 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.</li> </ul> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from demolition activities.</p>
<b>F. 14.</b>	<p><b>Site Waste Minimisation and Management – Construction</b></p> <p>While site work is being carried out, in order to maximise resource recovery and minimise residual waste from construction activities:</p> <ol style="list-style-type: none"> <li>the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,</li> <li>deliveries of materials must be arranged so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,</li> <li>consideration must be given to returning excess materials to the supplier or manufacturer,</li> <li>an area must be allocated for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),</li> </ol>

	<p>e) the purpose and content of the storage areas must be clearly ‘signposted’,  f) contractors must be arranged for the transport, processing and disposal of waste and recycling and all contractors must be aware of the legal requirements for disposing of waste,  g) separate collection bins or areas for the storage of residual waste must be promoted,  h) measures to prevent damage by the elements, odour and health risks, and windborne litter must be implemented,  i) site disturbance must be minimised and unnecessary excavation limited,  j) all waste must be transported to a place that can lawfully be used as a waste facility, and  k) records demonstrating lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.</p> <p><b>Condition Reason:</b> To maximise resource recovery and minimise residual waste from construction activities.</p>
<p><b>F. 15.</b></p>	<p><b>Asbestos Removal</b></p> <p>While site work is being carried out, all asbestos removal work must be carried out safely according to NSW work health and safety legislation.</p> <p>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:</p> <ul style="list-style-type: none"> <li>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.</li> <li>b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.</li> <li>c) No asbestos products may be reused on the site.</li> <li>d) No asbestos laden skip or bins must be left in any public place.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• All removal, repair or disturbance of or to asbestos material must comply with: <ul style="list-style-type: none"> <li>- Work Health and Safety Act 2011,</li> <li>- Work Health and Safety Regulation 2017,</li> <li>- SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and</li> <li>- SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).</li> </ul> </li> <li>• For more information go to the SafeWork NSW website on asbestos <a href="http://www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos">www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos</a>, and <a href="http://www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice">www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice</a> or call 131 050</li> </ul> <p><b>Condition Reason:</b> To ensure the safe removal of asbestos and protect the health and safety of persons working on the site and the public.</p>

<b>F. 16.</b>	<b>Classification of Hazardous Waste</b>
	While site work is being carried out, and 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, Part1: Classifying Waste, 2014.
	<b>Condition Reason:</b> 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.
<b>F. 17.</b>	<b>Disposal of Asbestos and Hazardous Waste</b>
	While site work is being carried out, asbestos and hazardous waste, once classified in accordance with the hazardous waste classification condition must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.
	<b>Condition Reason:</b> 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.
<b>F. 18.</b>	<b>Asbestos Removal Signage</b>
	While site work is being carried out and when asbestos is being removed, 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.
	<b>Condition Reason:</b> To ensure awareness of any hazard to the health and safety of persons working on the site and public.
<b>F. 19.</b>	<b>Notification of Asbestos Removal</b>
	While site work is being carried out, 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.
	<b>Condition Reason:</b> To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.

## **G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

<b>G. 1.</b>	<b>Occupation Certificate (section 6.9 of the Act)</b>
	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.



	<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• New building includes an altered portion of, or an extension to, an existing building.</li> </ul> <p><b>Condition Reason:</b> To ensure the building is suitable to occupy.</p>
<b>G. 2.</b>	<p><b>Commissioning and Certification of Systems and Works</b></p> <p>Before the issue of any occupation certificate, works-as-executed (WAE) plans prepared by a registered surveyor, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA confirming that the works, as executed and as detailed, comply with the requirement of this consent, the Act, the Regulations, any relevant construction certificate, the BCA and relevant Australian Standards must be submitted to the satisfaction of the Principal Certifier.</p> <p>Works-as-executed plans, compliance certificates, and evidence of suitability in accordance with Part A5G1 of the BCA must include, but may not be limited to:</p> <ol style="list-style-type: none"> <li>a) All structural work.</li> <li>b) Such further matters as the Principal Certifier may require.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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).</li> <li>• The PC must submit to Council, with any occupation certificate, copies of WAE plans, compliance certificates and evidence of suitability in accordance with Part A5G1 of the BCA upon which the PC has relied in issuing any occupation certificate.</li> </ul> <p><b>Condition Reason:</b> To ensure that systems and works as completed meet development standards as defined by the Act, comply with the BCA, and this consent, and to ensure a public record of works as executed is maintained.</p>
<b>G. 3.</b>	<p><b>Fulfilment of BASIX Commitments – Clause 44 of the Development Certification and Fire Safety Regulation</b></p> <p>Before the issue of any occupation certificate, all BASIX commitments must be effected in accordance with the BASIX Certificate No. A1747382.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Clause 44 of the Development Certification and Fire Safety Regulation applies to an occupation certificate if a relevant BASIX certificate requires a certifier to monitor fulfilment of a commitment listed in the certificate in relation to a building. The certifier must not issue an occupation certificate for the building unless the commitment has been fulfilled.</li> </ul> <p><b>Condition Reason:</b> To ensure that sustainable building commitments, to reduce water and energy consumption, are fulfilled prior to the occupation.</p>
<b>G. 4.</b>	<p><b>Removal of Ancillary Works and Structures</b></p> <p>Before the issue of any occupation certificate for the whole of the building, The following articles must be removed from the land and any adjoining public place:</p> <ol style="list-style-type: none"> <li>a) the site sign,</li> <li>b) ablutions,</li> <li>c) hoarding,</li> </ol>

- d) scaffolding, and
- e) waste materials, matter, article or thing.

**Condition Reason:** To ensure that all ancillary matter is removed prior to occupation.

## H. OCCUPATION AND ONGOING USE

<b>H. 1.</b>	<b>Maintenance of BASIX Commitments</b>
	During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. A1747382.
	This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.
	<b>Condition Reason:</b> To ensure the approved environmental sustainability measures are maintained for the life of development.

## SUBDIVISION WORK

### I. BEFORE ISSUE OF A SUBDIVISION WORKS CERTIFICATE

Nil.

### J. BEFORE SUBDIVISION WORK COMMENCES

Nil.

### K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Nil.

## LAND SUBDIVISION

### L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE



Nil.

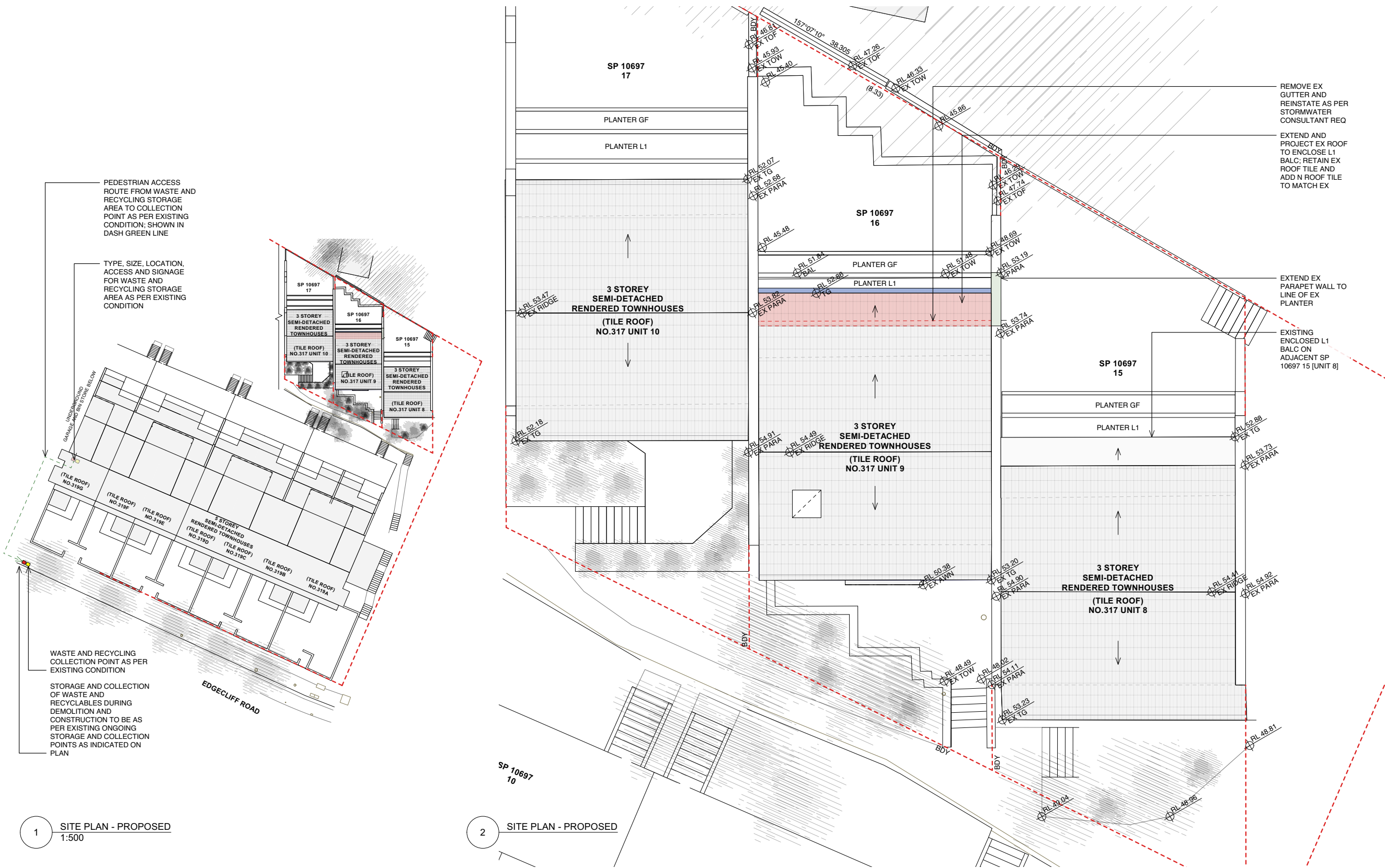
## STRATA SUBDIVISION

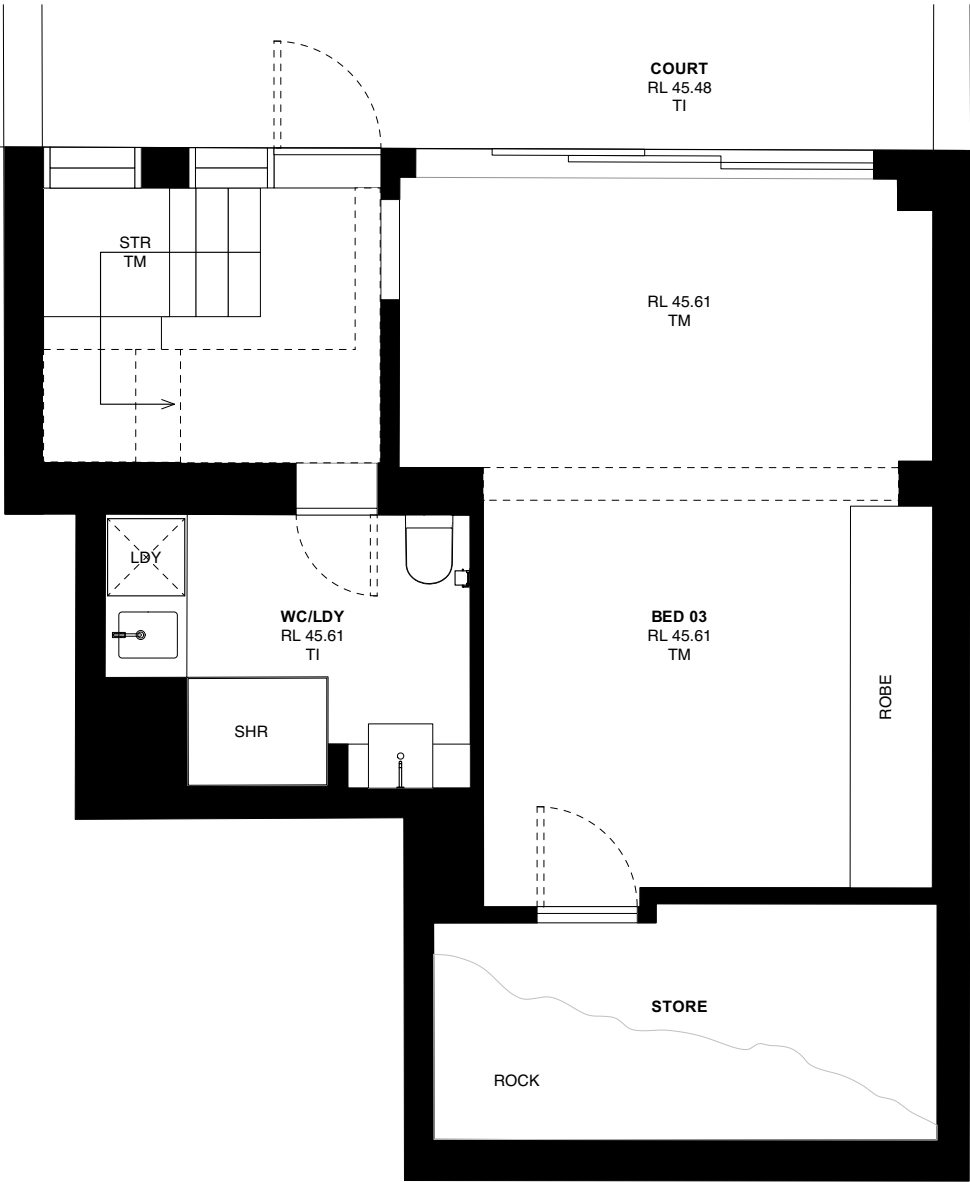
### M. BEFORE ISSUE OF A STRATA CERTIFICATE

Nil.

## Attachments

1. Plans, Sections and Elevations [!\[\]\(0d11e49c561fa84a6677bf9d4d629be0\_img.jpg\)](#) 
2. Clause 4.6 Written Request - Floor Space Ratio (FSR) [!\[\]\(6a2e00d457a4a9d0194df568dc2b3699\_img.jpg\)](#) 





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LG PLAN - PROPOSED [AS EX]

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shand

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legend

EXISTING

ROOF TILE

RENDER

TIMBER

METAL

GLASS

BRICK

STUD

CERAMIC TILE

CORK

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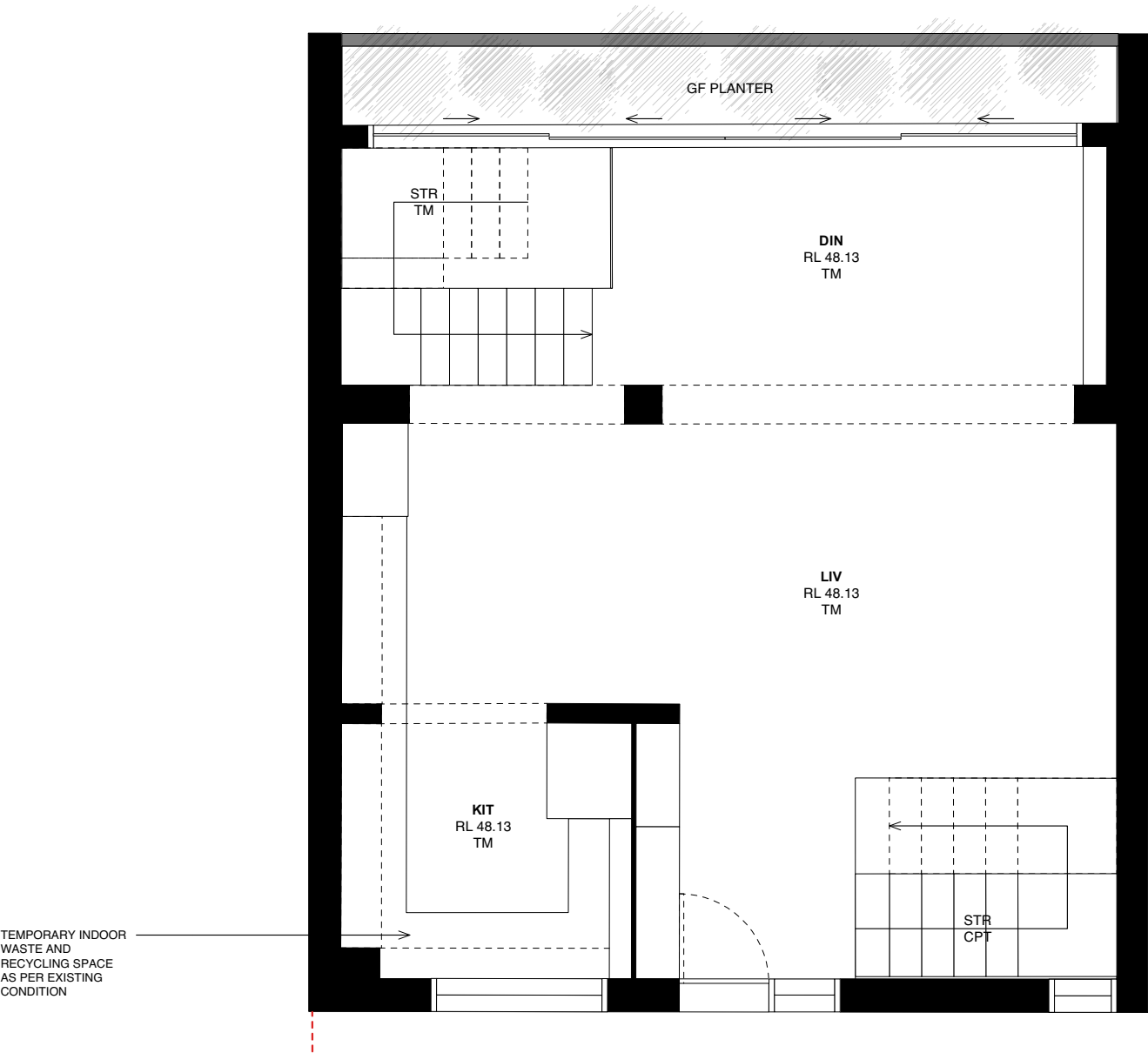
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2340  
project  
EDGECLIFF

issue  
FOR DA  
date  
21.05.24

dwg no.  
DA100  
rev.  
A

Attachment 1    Plans, Sections and Elevations

Page 330



1 GF PLAN - PROPOSED [AS EX]

studio  
shand

368 abercrombie st  
darlington nsw 2008  
studioshand.co  
info@studioshand.co

legend

EXISTING

ROOF TILE

RENDER

TIMBER

METAL

GLASS

BRICK

STUD

CERAMIC TILE

CORK

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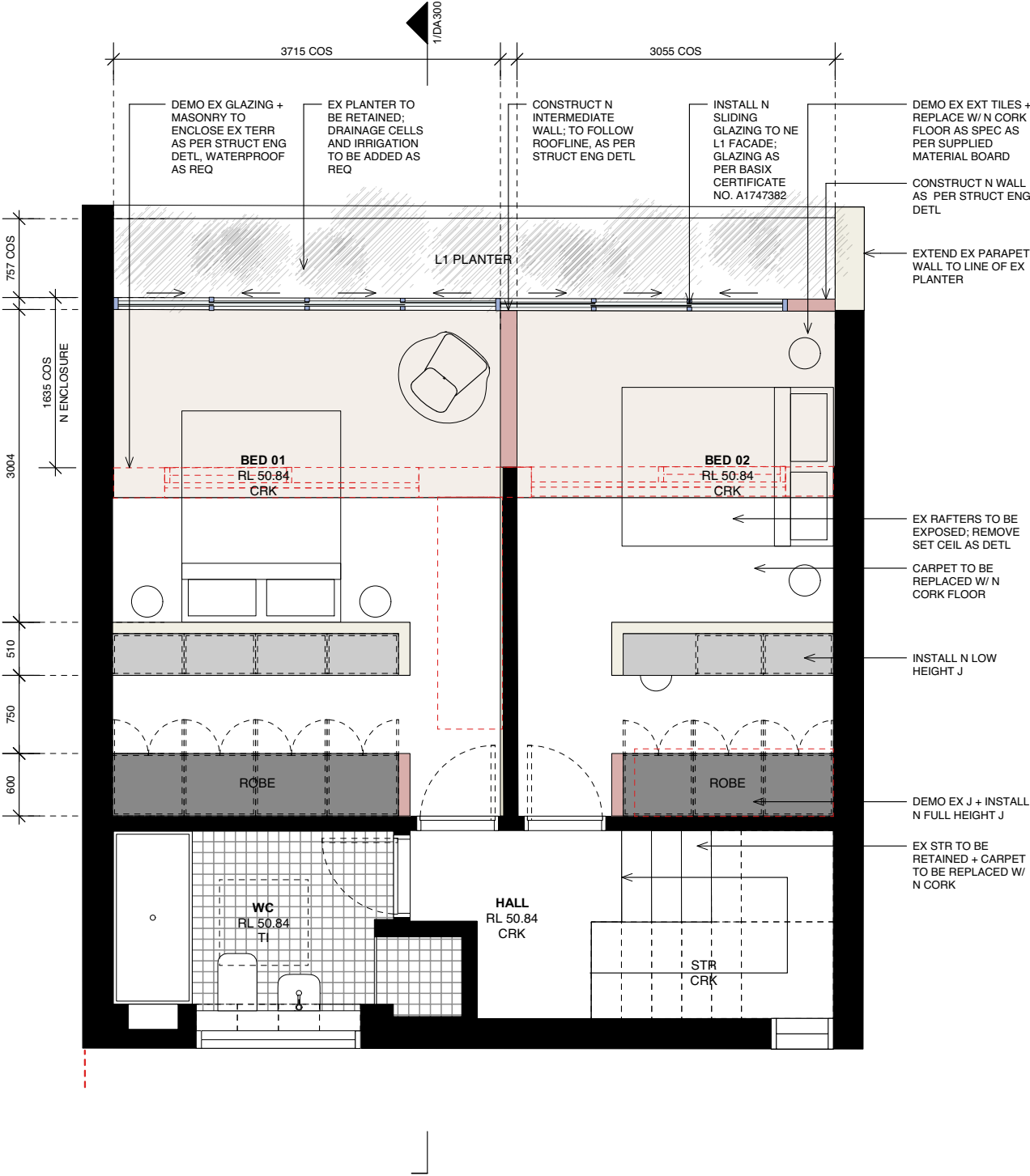
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dwg no.  
DA101  
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Attachment 1    Plans, Sections and Elevations

Page 331



1 L1 PLAN - PROPOSED



368 abercrombie st  
darlington nsw 2008  
studioshand.co  
info@studioshand.co

legend				
EXISTING	RENDER	METAL	BRICK	CERAMIC TILE
ROOF TILE	TIMBER	GLASS	STUD	CORK

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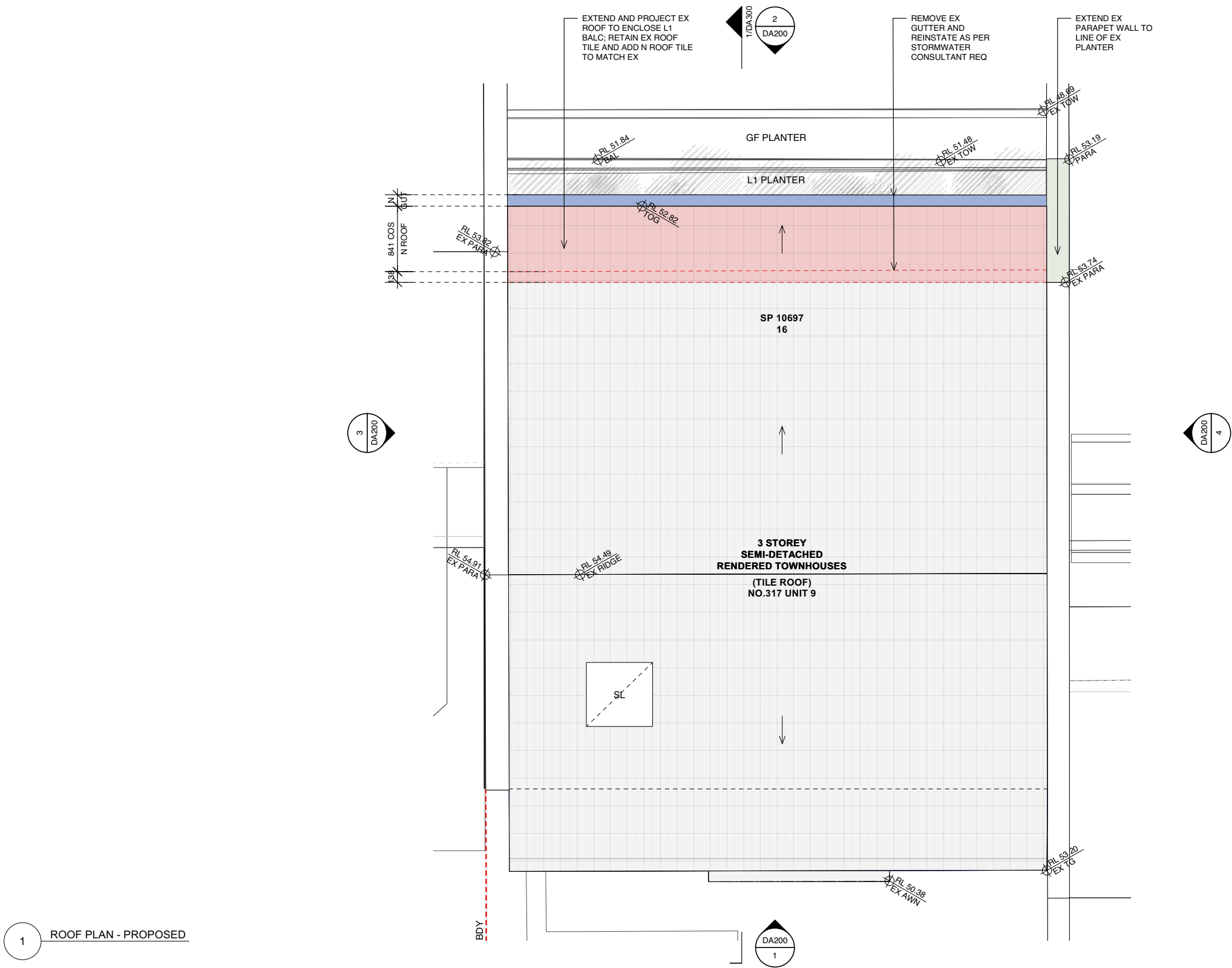
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DA102  
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1 ROOF PLAN - PROPOSED

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shand

368 abercrombie st  
darlington nsw 2008  
studioshand.co  
info@studioshand.co

legend

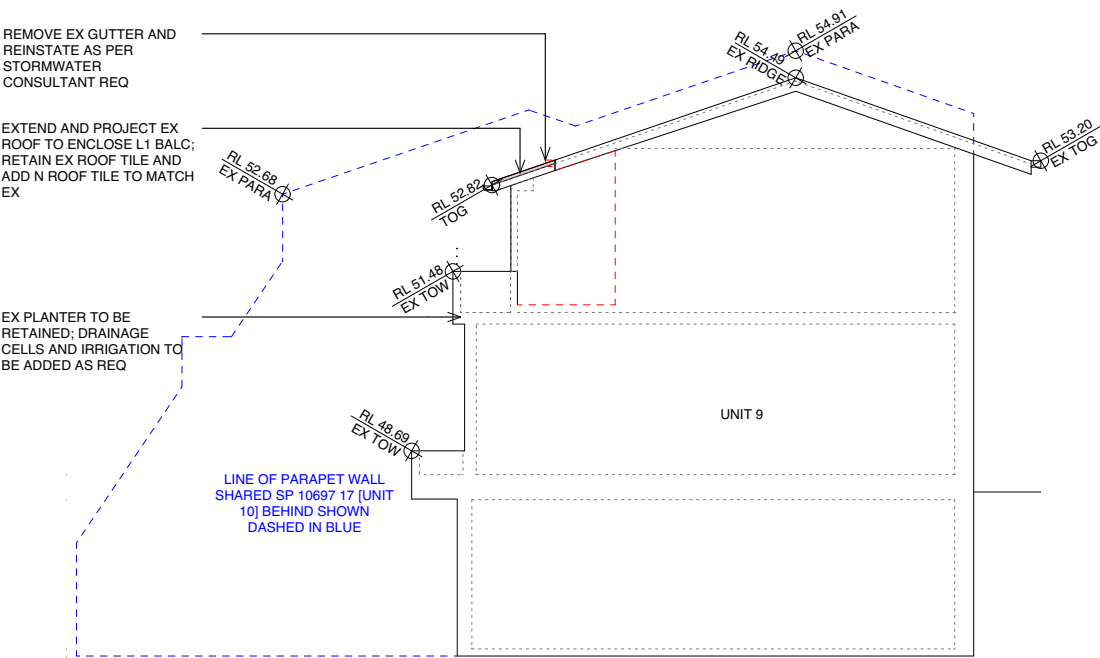
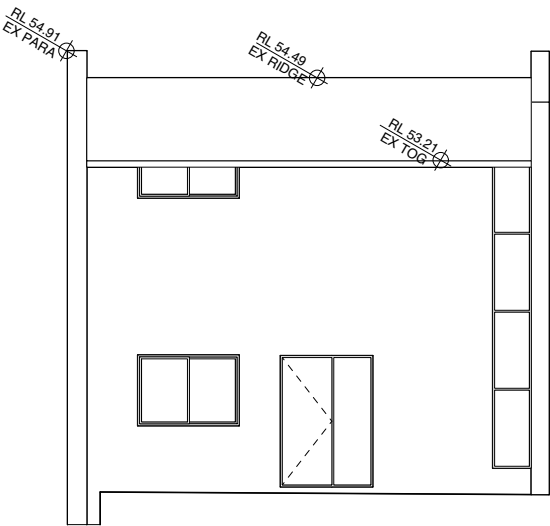
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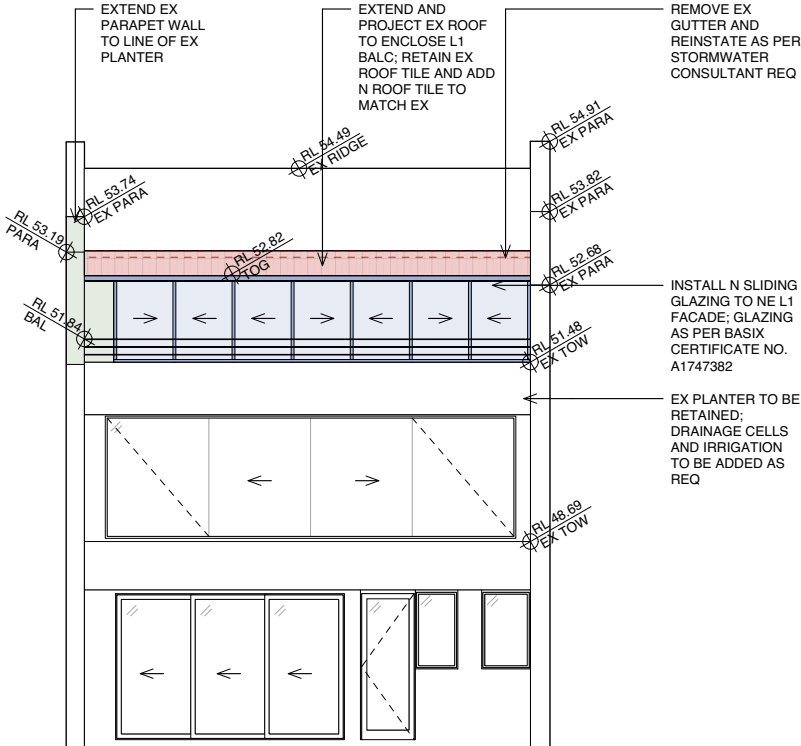
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DA103  
rev.  
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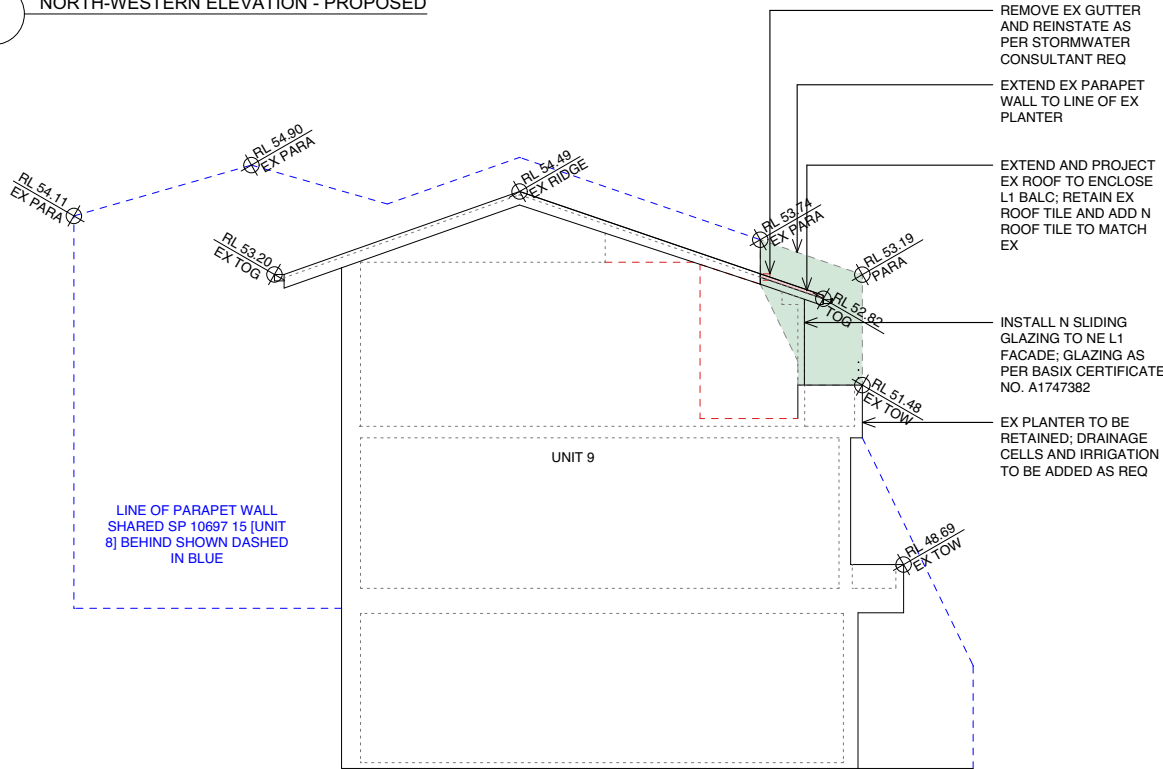


1 SOUTH-WESTERN ELEVATION - PROPOSED



2 NORTH-EASTERN ELEVATION - PROPOSED

3 NORTH-WESTERN ELEVATION - PROPOSED



4 SOUTH-EASTERN ELEVATION - PROPOSED

studio  
shand

368 abercrombie st  
darlington nsw 2008  
studioshand.co  
info@studioshand.co

legend

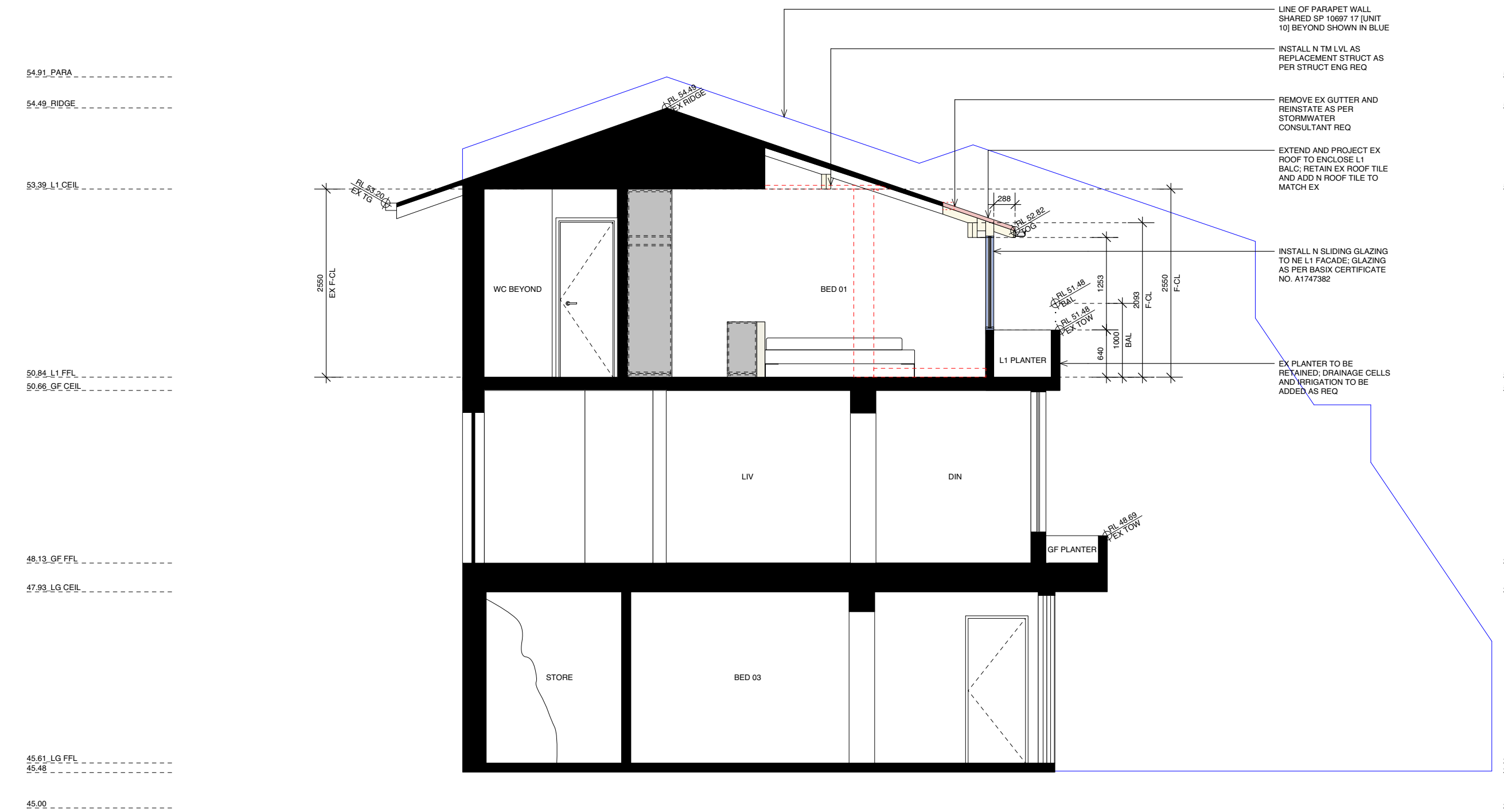
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job  
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EDGECLIFF

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date  
21.05.24

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DA200  
rev.  
A



studio  
shand

368 abercrombie st  
darlington nsw 2008  
studioshand.co  
info@studioshand.co

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DA300  
rev.  
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## SUMMARY OF BASIX COMMITMENTS

1. ENERGY SAVINGS  
MIN 40% OF NEW/ALTERED LIGHT FIXTURES ARE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT, OR LED LAMPS
2. THERMAL COMFORT  
R1.16 [OR R1.70 INCLUDING CONSTRUCTION] EXTERNAL WALL: BRICK VENEER  
R2.50 [UP]. ROOF: FOIL/SARKING - MEDIUM SOLAR ABSORPTANCE 0.475-0.70

Fixtures and systems	Show on DA Plans	Show on DC/DC Plans & specs	Diffuser Check
<b>Lighting</b> The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓

Glazing requirements						Show on DA Plans	Show on CC/CDC Plans & specs	Carliner Check
<b>Windows and glazed doors</b>								
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door:						✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:							✓	✓
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/air/clear glazing, or toned/air gap/air/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values must be calculated in accordance with National Federation Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.							✓	✓
For projections described as a ratio, the ratio of the projection from the wall to the height above the window or glazed door sill must be at least that shown in the table below.						✓	✓	✓
<b>Windows and glazed doors glazing requirements</b>								
Window/door number	Orientation	Area of glass including frame (m <sup>2</sup> )	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type		
W1	NE	7.99	0	0	projection/ height above sill ratio >=0.23	aluminum, single Lo- Eair Toal low-e, (U-value: 5.6, SHGC: 0.36)		




Building Sustainability Index www.basix.nsw.gov.au

## Alterations and Additions

Certificate number: A1747382

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

Secretary  
Date of issue: Tuesday, 14 May 2024  
To be valid, this certificate must be lodged within 3 months of the date of issue.





Project address	
Project name	Alterations at U9/317 Edgecliff Road, Woollahra, NSW
Street address	10 317 EDGECLIFF ROAD WOOLLAHRA 2025
Local Government Area	Woollahra Municipal Council
Plan type and number	Strata Plan SP10697
Lot number	8
Section number	-
Project type	
Dwelling type	Dwelling house (attached)
Type of alteration and addition	The estimated development cost for my renovation work is \$50,000 or more, and does not include a pool (and/or spa).
N/A	N/A
Certificate Prepared by <small>(please complete before submitting to Council or PCA)</small>	
Name / Company Name: Positive eco	
ABN (if applicable): 56896166590	


Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
<b>Insulation requirements</b> The applicant must construct the new or altered insulation (floor/s, walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m <sup>2</sup> , b) insulation specified is not required for parts of altered construction where insulation already exists.			

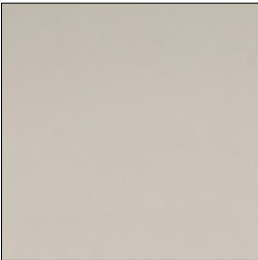



**Legend**

In these commitments, "applicant" means the person carrying out the development.

Commitments identified with a  in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Commitments identified with a  in the "Show on CCDCD plans & specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.

Commitments identified with a  in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate for the development may be issued.

				
EXTERNAL FINISHES				
DRAWING LEGEND				
DESCRIPTION	EXT PAINT FINISH	ROOF TILES	GLAZING	WINDOW FRAME
BRAND			ANEETA	CAPRAL
NAME			2 PANE HORIZONTAL SASHLESS	300 NARROWLINE - SINGLE GLAZED
SPECIFICATION NO				
COLOUR / FINISH				
	TO MATCH EXISTING IN TYPE/COL	TO MATCH EXISTING IN TYPE/COL	CLEAR	TBC
DIMENSIONS			10mm	D76mm x W35mm
QUANTITY				
SUPPLIERS DETAILS				
NOTES			AS PER BASIX CERTIFICATE NO. A1747382	AS PER BASIX CERTIFICATE NO. A1747382

**REQUEST TO VARY DEVELOPMENT STANDARD PURSUANT TO  
CLAUSE 4.6 OF WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

**TO ACCOMPANY A DEVELOPMENT APPLICATION TO  
WOOLLAHRA COUNCIL FOR ALTERATIONS AND ADDITIONS TO A DWELLING**

**Property:** 9/317 Edgecliff Rd Woollahra.

**Proposal:** Alterations to a dwelling.

**Zoning:** R3 Medium Density Residential.

**Development standard to which the request to vary the standard is taken:** Clause 4.4 of the Woollahra LEP 2014 (LEP 2014) prescribes a maximum floor space ratio of 0.65:1 applying to the site.

**The Aim of the request:** To allow the site to provide a FSR of 0.88:1 (noting that the proposal will increase GFA on the site by only 12.5m<sup>2</sup>). Note that the existing FSR is also 0.88:1.

The most recent DA for the site that addressed FSR noted that the existing GFA was 3569m<sup>2</sup> on a site of 4055m<sup>2</sup> which equates to a FSR of 0.88:1. The proposal will add an additional 12.5m<sup>2</sup>, resulting in an overall GFA of 3581.5m<sup>2</sup> and a FSR of 0.88:1.

Clause 4.6 of LEP 2014 allows the applicant to provide a request to vary the non-compliance with a development standard.

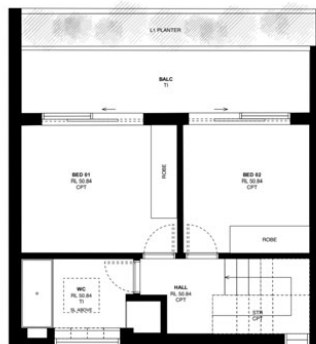


Fig 1 - Existing first floor level

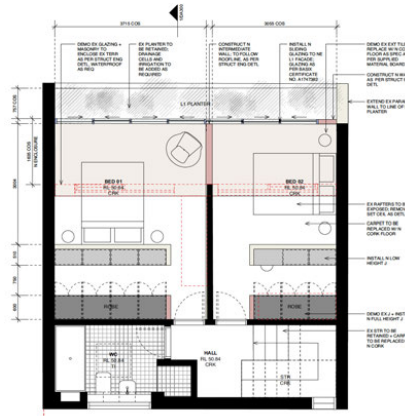


Fig 2 - Proposed first floor level. The additional GFA is shown within the shaded area.

**Application and Assessment of Clause 4.6 Exceptions to development standards**

Clause 4.6 of LEP 2014 is designed to provide the consent authority some flexibility in the strict compliance with the application of the development standard. There have been various Land and Environment Court judgments that have some relevance to addressing the application of Clause 4.6, among them being,



1. Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
2. Wehbe v Pittwater Council [2007] NSWLEC 827
3. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009; NSWLEC 90; NSWCA 248
4. Moskovich v Waverley Council [2016] NSWLEC 1015
6. Hansimikali v Bayside Council [2019] NSWLEC 1353
7. Rebel MH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

In the assessment of using Clause 4.6 it is particularly relevant to address parts (3) and (4) of the clause, being,

- (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.
- (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, and
  - (b) the concurrence of the Secretary has been obtained.

In assessment of the proposal against parts 3(a), 3(b) and 4(ii) the following is offered.

**How is strict compliance with the development standard unreasonable or unnecessary in this particular case?**

The NSW Land and Environment Court in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, considered how this question may be answered and referred to the earlier Court decision in *Wehbe v Pittwater Council* [2007] NSW LEC 827. Under *Wehbe*, the most common way of demonstrating that compliance is unreasonable or unnecessary, was whether the proposal met the objectives of the standard regardless of the non-compliance. Under *Four2Five*, whilst this can still be considered under this heading, it is also necessary to consider it under Clause 4.6 (3)(a).

The five part test described in *Wehbe* is therefore appropriately considered in this context.

- (1) The objectives of this clause are as follows—
  - (a) for development in Zone R3 Medium Density Residential—

9/317 Edgecliff Rd Woollahra

- (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, tree canopy cover and areas of private open space,

The works are considered to be consistent with the objectives for this clause noted above because;

- The bulk of the built form envelope is entirely reasonable. The additions relate to enclosing an upper level balcony which is accessed off two bedrooms. The works will add only 12.5m<sup>2</sup> of GFA to the existing GFA of 3569m<sup>2</sup> across the whole site. The degree of additional GFA is extremely minor.
- The works will not increase the building footprint but will extend the roof to allow for the area to be enclosed.
- The works do not affect deep soil planting or tree canopy cover.
- The works will not increase the perceived bulk of the townhouse or the complex as a whole.
- The proposed enclosing of the upper level balconies has been carried out at units 1, 8 and 11 within the complex and are consistent with allowing for development that conforms with the desired future character of the immediate area.
- The works are not visible from the public domain.
- The works do not increase overshadowing at all given the orientation.
- Neighbours' amenity is unaffected.

In light of the above, this request provides that the non-compliant FSR satisfies the objective in question.

2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Not applicable. The underlying objective or purpose of the standard is relevant to the development and is achieved.

3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The exception request does not rely on this reason.

4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

The exception request does not rely on this reason.

5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

9/317 Edgecliff Rd Woollahra

The zoning of the land is appropriate for the site. The exception request does not rely on this reason.

In addition to demonstrating that the principles of Wehbe are satisfied, strict compliance with the standard is considered to be unreasonable and unnecessary in the circumstances of this case for the following additional reasons.

In the case of *Moskovich v Waverley Council*, the Land and Environment Court accepted that compliance with the standard (FSR in that case) was unreasonable and unnecessary because the design achieved the objectives of the standard and the respective zone, in a way that addressed the particular circumstances of the site, and resulted in a better streetscape and internal and external amenity outcome than a complying development. For the subject application, the proposed development which seeks to also vary the FSR standard, achieves a better response to the objectives of the subject R3 – Medium Density Residential Zone in that it provides a high level of amenity for occupants and because the street appearance of the dwelling is not affected.

Additionally, the LEP 2014 objectives for the R3 – Medium Density Residential Zone are noted as,

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.
- To ensure development conserves and enhances tree canopy cover.

The works are considered consistent with the objectives for the zone as the works will improve amenity on the site and allow for improved use of the dwelling by the owner-occupiers, without having any unreasonable adverse impact to the amenity of adjoining neighbours or to the visual amenity of the area.

On the basis of the above, compliance with the standard is considered to be unnecessary and would be unreasonable.

#### **Sufficient environmental planning grounds to justify the contravention**

This request provides that there is sufficient environmental planning ground to justify the contravention. Such grounds include:

It has been demonstrated that the proposal and its FSR breach remains consistent with the objectives of the subject R3 – Medium Density Residential Zone as well as Clause 4.4 and 4.6 of the Woollahra LEP 2014, despite the numerical non-compliance.

The proposal would not compromise the character or nature of the area sought by the local environmental planning framework.

The non-compliant FSR does not result in any unreasonable visual or amenity impacts.

The non-compliant FSR does not result in any unreasonable overshadowing impacts.

The non-compliance assists with providing improved amenity for residents.

To seek a reduction in FSR by reducing the existing building envelope would be unreasonable and unnecessary and no benefits would result.

**Is the variation in the public interest?**

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest. The proposal is considered to 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 objectives of the standard have been addressed above and are demonstrated to be satisfied. The works are consistent with the requirements for the R3 – Medium Density Residential Zone because of significant improvements to the amenity of the dwelling that will arise following the works, with an improved design and the wider improvement to the amenity of the housing stock on the site.

**Is the variation well founded?**

This Clause 4.6 variation request is well founded as it demonstrates, as required by Clause 4.6 of the Woollahra LEP 2014, that:

Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development;

There are sufficient environmental planning grounds to justify the requested contravention;

The development achieves and is consistent with the objectives of the development standard and the objectives of the R3 – Medium Density Residential Zone;

The proposed development is in the public interest and there is no public benefit in maintaining the standard; and

The contravention does not raise any matter of State or Regional Significance.

9/317 Edgecliff Rd Woollahra

The variation is therefore considered well founded.

Prepared by Damian O'Toole Town Planning Pty Ltd



Damian O'Toole MPIA  
Director  
MA Town Planning  
Grad Dip Heritage Conservation

***May 2024***

## **LOCAL PLANNING PANEL**

### **SECTION 4.55 APPLICATION ASSESSMENT REPORT**

<b>ITEM No.</b>	D5
<b>FILE No.</b>	DA417/2022/2
<b>ADDRESS</b>	718 New South Head Road ROSE BAY
<b>COUNCIL WARD</b>	Vaucluse
<b>SITE AREA</b>	207.3m <sup>2</sup>
<b>ZONING</b>	E1 Local Centre
<b>EXISTING CONSENT</b>	Demolition of existing 2 storey building and the construction of a new 4 storey shop top housing development with ground floor commercial and 3 residential units above
<b>DATE OF CONSENT</b>	14 November 2023
<b>TYPE OF CONSENT</b>	Integrated development requiring approval under s90(2) of the <i>Water Management Act 2000</i>
<b>CONSENT AUTHORITY</b>	Woollahra Council
<b>PROPOSED MODIFICATION</b>	External modifications to the approved shop top housing development
<b>TYPE OF MODIFICATION</b>	Section 4.55(2)
<b>DATE S4.55 LODGED</b>	16/04/2024
<b>APPLICANT</b>	Miss M Martinez Galindo
<b>OWNER</b>	Lopana Pty Ltd
<b>AUTHOR</b>	Mr K Qi
<b>TEAM LEADER</b>	Mr M Moratelli
<b>SUBMISSIONS</b>	Nil
<b>RECOMMENDATION</b>	Approval

#### **1. REASON FOR REPORT TO LOCAL PLANNING PANEL (LPP)**

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

- Departure from development standards
  - a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% (Height of Buildings)

#### **2. REASONS FOR RECOMMENDATION**

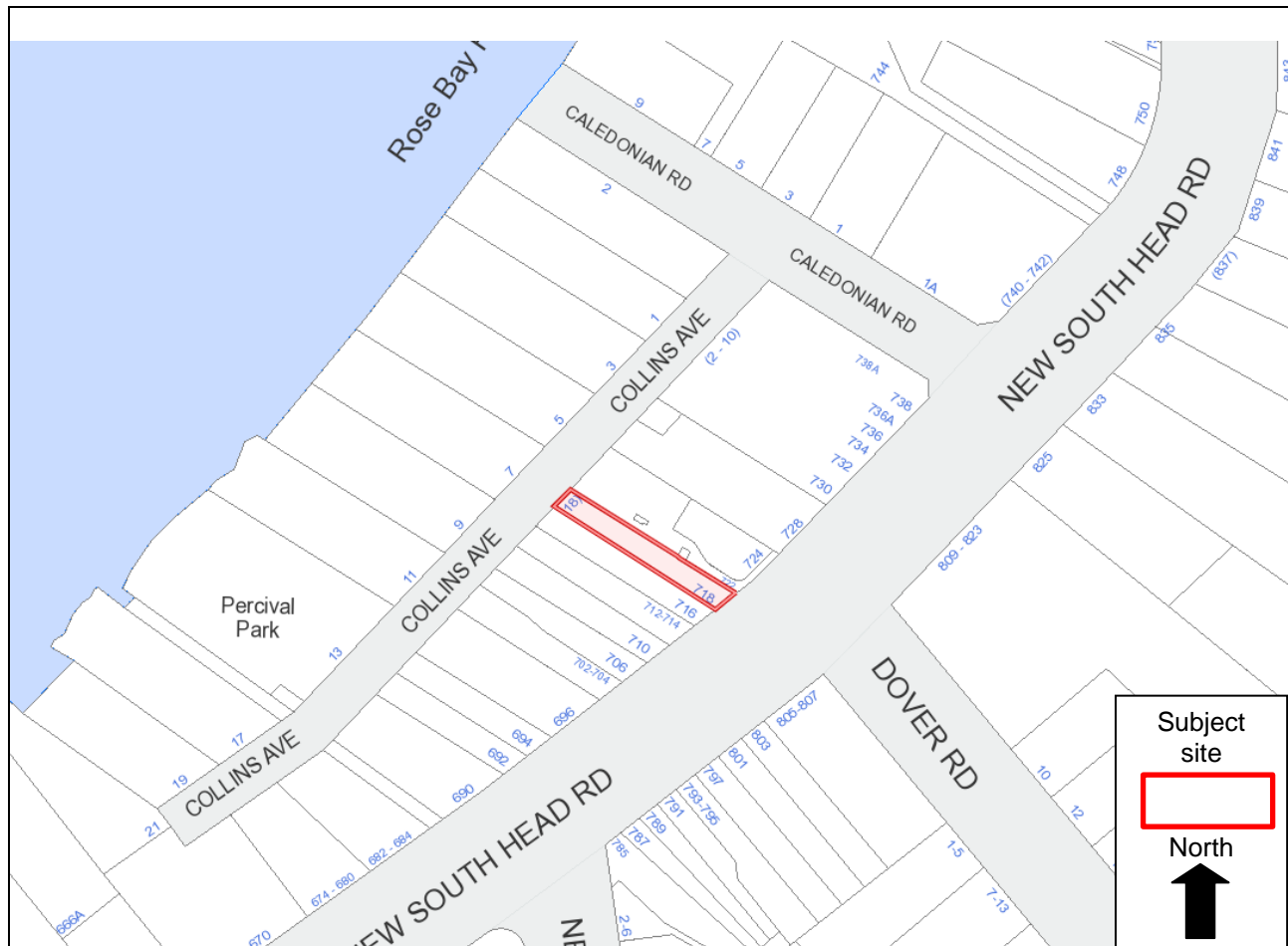
The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- The development consent as proposed to be modified, is considered to be substantially the same as the originally approved development;
- The proposal satisfies section 4.55 of the Environmental Planning and Assessment Act 1979;
- 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

### 3. LOCALITY PLAN



### 4. SUMMARY OF APPROVED DEVELOPMENT

The approved development involved the demolition of the existing 2 storey building and the construction of a new 4 storey shop top housing development with ground floor commercial and 3 residential units. Specifically, the approved development comprised the following works:

#### Ground Floor

- Commercial tenancy addressing New South Head Road;
- Courtyard addressing New South Head Road;
- Booster and meters;
- WC;
- Internal access stairs;
- Bin storage areas;
- Centralised courtyard with deep soil landscaped area;
- Services;
- Internal lift;
- 2 x commercial car parking spaces in a tandem arrangement;

- Pedestrian entry area; and
- 7 x bicycle spaces.

#### First, Second and Third Floor

- Each level will contain a three bedroom unit;
- Each unit will comprise of an open planned living, kitchen and dining area to the rear addressing Collins Avenue;
- Each unit will comprise of a balcony area addressing Collins Avenue;
- Each Unit will comprise of a bedroom and adjoining balcony addressing New South Head Road;
- Bathrooms are located throughout with select bedrooms also comprising ensuites;
- All bedrooms will comprise robe spaces; and
- Each unit will comprise internal access stairs and lift.

#### Roof Level

- Rooftop private open space dedicated to the Level 3 unit;
- Spa;
- Roof access hatch from the Level 3 unit;
- Green roofing/planters;
- Skylights; and
- 3 x AC condenser machines.

It was approved subject to the imposition of Condition C.1 as follows:

- a) *In order to protect the privacy of adjoining properties and to achieve compliance with Objectives O1, O2 and Control C1 of Part D6.6.4 of the Woollahra DCP 2015, north facing bathroom windows which face the void at levels 1, 2 and 4 are to be treated with translucent glazing for their full extent.*

## 5. SUMMARY OF PROPOSED MODIFICATION

The Section 4.55 application involves the following works:

#### Ground floor level

- Relocation of the recessed rear garage wall and door.

#### First, second and third floor levels

- Partial infill of central planter to increase internal corridor width of unit of each floor;
- South-eastern extension of bedroom 2 of each floor; and
- Proposed fenestration works of each floor.

#### Roof level

- The roof top terrace level is raised to RL 18.23;
- Amended roof terrace configuration to include new infinity pool and amended trafficable area and planters;
- Amendments of front and central roofs to accommodate changes to the floor levels below;
- Proposed new skylight; and
- Proposed kitchen discharge cowl.

## 6. ISSUES

None.

## PROPERTY DETAILS AND REFERRALS

### 7. SITE AND LOCALITY

#### Physical features

The subject site is located on the north-eastern side of New South Head Road near its junction with Dover Road. The subject site has a primary street frontage to New South Head Road and a secondary frontage to Collins Avenue at the rear. The subject site is an irregular shaped allotment with angled boundaries, and it comprises the following boundary lengths:

- 5.565m south-eastern street frontage to New South Head Road.
- The south-western splayed side boundary adjoining 716 New South Head Road has a total length of 39.885m.
- 5.055m north-western rear boundary to Collins Avenue.
- The north-eastern splayed side boundary adjoining 722-724 New South Head Road has a total length of 40.775m.

The site has an area of 207.3m<sup>2</sup>.

#### Topography

The site slightly slopes down from east to west in the order of 0.86m along the northern side of the property and 0.88m along the southern side of the property.

#### Surrounding Environment

The subject site is located in the Rose Bay Centre. The immediate locality comprises a mixture of land uses of varying densities and architectural styles.

The properties to the south-west of the site generally comprise commercial buildings. They present as two storeys to New South Head Road and one and two storeys with vehicular access to each respective property to Collins Avenue. Immediately opposite the subject site on the southern side of New South Head Road comprises a mixture of two storey commercial developments. To the south-east on the corner of New South Head Road and Dover Road is the three storey heritage-listed Hotel Rose Bay.

Development to the north-west on the opposite side of Collins Avenue is generally characterised by two storey dwelling houses within an R3 Medium Density Residential Zone with enclosed garage structures addressing Collins Avenue.



Fig. Subject site (Bakers Delight) viewed from New South Head Road – extract from Council's records



*Fig. Subject site viewed from Collins Avenue – extract from Council's records*



*Fig. 722-724 New South Head Road viewed from street – extract from Council's records*





Fig. 722-724 New South Head Road viewed from Collins Avenue – extract from Council's records



Fig. 716 New South Head Road viewed from street – extract from Council's records

## 8. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Commercial premises
<b>Relevant Application History</b>
<ul style="list-style-type: none"> <li><b>DA417/2022/1</b> – Demolition of the existing 2 storey building and the construction of a new 4 storey shop top housing development with ground floor commercial and 3 residential units above.</li> </ul> <p>This application was approved on 14 November 2023 by the Application Assessment Panel (AAP), subject to <b>Condition C1</b> requiring the following modification:</p> <p>a) <i>In order to protect the privacy of adjoining properties and to achieve compliance with Objectives O1, O2 and Control C1 of Part D6.6.4 of the Woollahra DCP 2015, north facing bathroom windows which face the void at levels 1, 2 and 4 are to be treated with translucent glazing for their full extent.</i></p>
<b>Requests for Additional Information and Replacement Applications</b>
<p>A Stop the Clock Letter dated 02 May 2024 was issued and requested the following:</p> <ul style="list-style-type: none"> <li>Owner(s) Consent</li> </ul> <p>This information was received on 02 May 2024.</p>

## 9. REFERRALS

No formal referrals required.

## ASSESSMENT UNDER SECTION 4.55

The application is assessed under Section 4.55 of the Environmental Planning and Assessment Act 1979.

### 10. SECTION 4.55(2): OTHER MODIFICATIONS

Section 4.55(2) relates to the modification of a development consent for all other modifications. The application involves external modifications to the approved shop top housing development.

The considerations in Section 4.55(2) require Council to consider the following:

- a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)*

The test for establishing whether a development is 'substantially' the same as that which was originally granted consent is established by the *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298; [1999] NSWLEC 280 judgement. The judgement provides the following:

- The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is 'essentially or materially' the same as the (currently) approved development.*
- The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).*
- ...

4. *Qualitatively appreciated, that difference is in respect of material and essential features of the approved development, that materiality involving the importance attributed to the physical features of the approved development sought to be modified.*

With regard to the above case law, an assessment is provided using the following quantitative and qualitative tests to determine whether the proposal is substantially the same development.

#### Quantitative Test

Considerations include changes such as:

- a. *the intensity of the development including any increase in gross floor area, the number of units including their size or number of bedrooms,***

The proposed modification increases the total gross floor area of the approved development by 27.42m<sup>2</sup> and therefore it is not compliant with Part 4.4 of the Woollahra LEP 2014. Notwithstanding this, the proposed floor space ratio is considered to satisfy the objective of the floor space ratio development standard under Clause 4.4 of the Woollahra LEP 2014.

The proposed modification does not increase the number of units including their number of bedrooms. Also, the size of each unit is not significantly altered. The proposal is sensitively located in such a way that it does not significantly exacerbate the overall bulk and scale of the proposal as viewed from surrounding properties and the streetscape.

- b. *height or number of storeys,***

The proposed modification would not alter the number of storeys, however it aims to increase the maximum building height by 0.964m. Notwithstanding this, the proposed maximum building height is considered to satisfy the objective of the building height development standard under Clause 4.3 of the Woollahra LEP 2014.

- c. *landscaped area, communal open space, or private open space***

The proposed modification would not significantly alter the landscaped area and the communal open space, and it improves the private open space directly accessible for each dwelling.

- d. *any other numerically quantifiable measure of the proposed modification.***

The proposed modification would not adversely alter any other numerically quantifiable measurement of the proposal as approved.

#### Assessment:

The does not result in any substantial quantitative variances from the originally approved development.

#### Qualitative Test Assessment:

- 1. *any change in the functionality of the development,***

The proposed modification maintains the same overall functionality of the shop top housing as approved.

- 2. *any material change in internal and expert amenity and environmental impacts,***

The proposed modification would not adversely impact the amenity of future residents of the subject site. This would be comparable to the approved condition. Also, the proposal is considered to provide reasonable amenity relationships with surrounding properties and would not have significant adverse streetscape impacts.



**3. *where the approved development previously complied with a development standard or control that was of material importance in the assessment of the DA, but is no longer compliant as proposed to be modified.***

It is considered that compliance with the relevant considerations under the Woollahra DCP 2015 is achieved subject to the recommended conditions of consent.

Conclusion

Based on the quantitative and qualitative observations made above, the proposal is considered to be substantially the same as that which was originally granted consent.

- b) *It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*
- c) *It has notified the application in accordance with:*
  - i) *The regulations, if the regulations so require, or*
  - ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*
- d) *It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be*

Planning Response:

Provision (b) is not relevant to this application. Provisions (c) and (d) have been satisfied as outlined in Section 12 of this assessment report.

Furthermore, consideration must be given to the reasons for why development consent was originally granted as is required by Section 4.55(3) which reads as follows:

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

In this regard reference has been made to the assessment report pertaining to DA417/2022/1 which considered the original application. The approved proposal was considered acceptable subject to the requirement of Condition C.1 and the proposed modification does not significantly alter any aspects of the development that were fundamental to the approval of the original application.

## **ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15**

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

- 1. The provisions of any environmental planning instrument
- 2. The provisions of any proposed instrument that is/has been the subject of public consultation
- 3. The provisions of any development control plan
- 4. Any planning agreement that has been entered into

5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
  - i) Environmental impacts on the natural and built environments
  - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

## **11. ADVERTISING AND NOTIFICATION**

### **11.1 Submissions**

The application was advertised and notified from 08 May 2024 to 07 June 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. No submission was received.

### **11.2 Statutory Declaration**

The applicant has completed the statutory declaration dated 12 June 2024 declaring that the site notice for DA417/2022/2 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## **12. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

SEPP (Building Sustainability Index: BASIX) 2004 applies to the proposed development. It relates to commitments within the proposed development in relation to thermal comfort, water conservation and energy efficiency sustainability measures.

The Section 4.55 application was accompanied by an updated BASIX Certificate demonstrating compliance with the SEPP. These requirements are imposed by standard condition.

## **13. SEPP (BIODIVERSITY AND CONSERVATION) 2021**

### **13.1 Chapter 6 – Water Catchments**

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

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

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

The proposed modification will have no significantly adverse impacts on the Sydney Harbour Catchment, subject to standard conditions including erosion and sedimentation, stormwater and flood risk management control of the original consent.

## **14. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021**

### Chapter 2 Coastal Management

The provisions of this chapter that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impact upon the harbour coastal locality and is therefore satisfactory with regard to the relevant provisions of the planning instrument subject to the original conditions of consent.

### Chapter 4 Remediation of Land

Under Clause 4.6(1)(a) of SEPP (Resilience and Hazards) 2021, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

The subject site has been identified as at risk of contamination per Council's GIS mapping system. The relevant matters under Clause 4.6 of the SEPP have been considered under the approved development, and the proposal is considered satisfactory under Chapter 4 of the SEPP subject to the original conditions of consent.

## **15. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **15.1. Part 1.2: Aims of Plan**

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

### **15.2. Land Use Table**

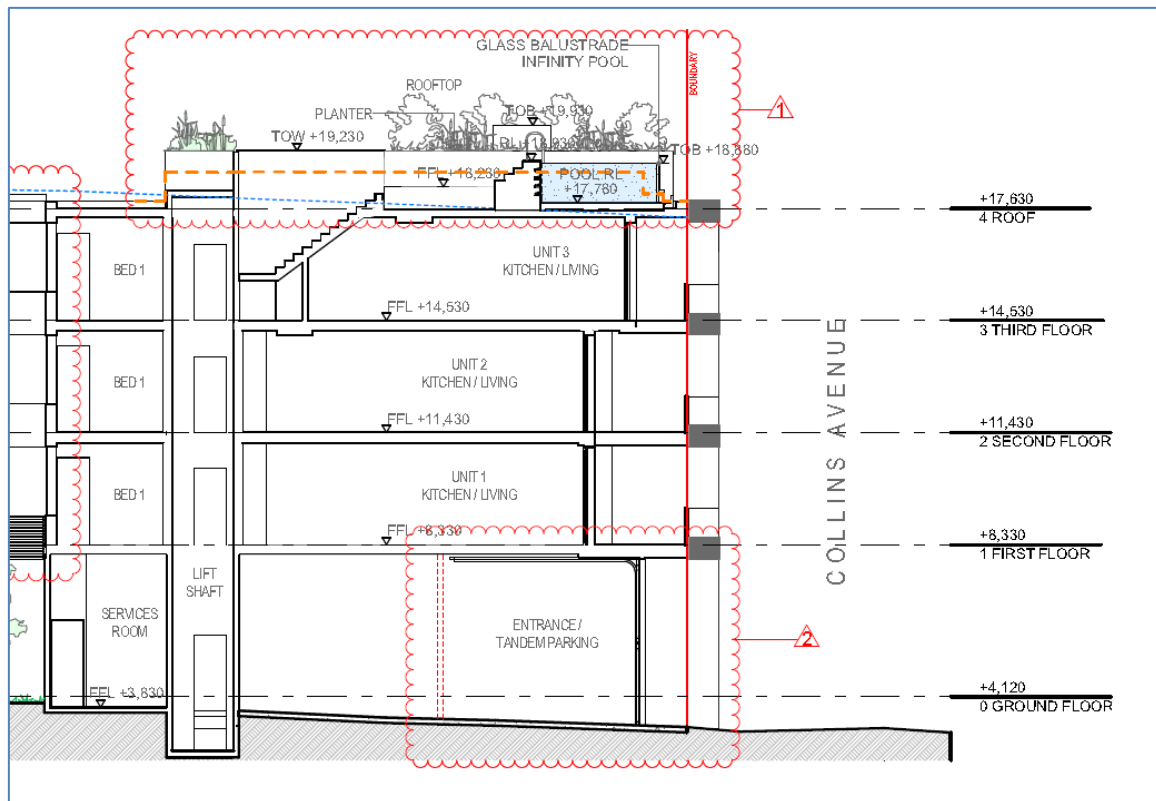
The proposed modification relates to a shop top housing development and is permitted and is consistent with the objectives of the E1 Local Centre zone.

### **15.3. Part 4.3: Height of Buildings**

Part 4.3 limits development to a maximum height of 14.1m.

	<b>Approved (under DA417/2022/1)</b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Maximum Building Height	15.5m	16.464m	14.1m	<b>No</b>

The proposed maximum building height is measured as 16.464m from the top of the pool balustrade to the existing ground level, as shown in the image below. Therefore, the proposed modification does not comply with Part 4.3 of the Woollahra LEP 2014.



It is noted that the approved application DA417/2022/1 was not compliant with the maximum building height development standard under Part 4.3 of the Woollahra LEP 2014. The proposed modification further exacerbates the existing non-compliance by 0.964m. An assessment against the objectives of clause (1) is provided below:

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

The proposed height variation is mainly limited to the rear roof terrace. The proposed modification will continue to present as a four storey building when viewed from New South Head Road from the front and Collins Avenue from the rear. The proposal does not significantly exacerbate the approved bulk and scale under DA417/2022/1 as viewed from surrounding properties and the streetscape. In general, the approved built form will be retained, and the proposed modification is considered to be compatible with the desired future character of the area.

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

Contextually, to the west of the subject site on Collins Avenue is a R3 Medium Density Residential Zone which has a 9.5m maximum building height limit. The immediate neighbouring developments along New South Head Road are in the E1 Local Centre Zone and have a height standard of 14.1m, except for sites in Area J which are subject to the 17.2m limit. The proposed modification is considered to be of an appropriate scale and form and it will continue to provide an appropriate transition in height, bulk and scale between the E1 and R3 zones.

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

The proposed modification will not result in any unreasonably adverse overshadowing impacts to adjoining properties. Accordingly, the non-compliance is considered to be consistent with the above-mentioned 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,*

Subject to **Condition C.1**, the proposed modification will not result in any significant view loss, loss of privacy, overshadowing or visual intrusion impacts upon adjoining properties. Accordingly, the above-mentioned objective is upheld.

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

The proposed modification will not result in any significant loss of public views and is considered to be consistent with the above-mentioned objective.

#### Conclusion

The non-compliance with clause (1) of Part 4.3 of the Woollahra LEP 2014 is considered to be consistent with the above-mentioned objectives of the building height development standard.

#### **15.4. Part 4.4: Floor Space Ratio**

Part 4.4 limits development to a maximum floor space ratio of 2:1.

Site Area: 207.3m <sup>2</sup>	Approved under DA417/2022/2	Proposed	Control	Complies
Floor Space Ratio	1.995:1 (413.64m <sup>2</sup> )	2.128:1 (441.06m <sup>2</sup> )	2:1 (414.6m <sup>2</sup> )	<b>No</b>

The proposed modification does not comply with Part 4.4 of Woollahra LEP 2014. An assessment against the objectives of clause (1) is provided below:

*(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 proposed modification is sensitively located in such a way that it does not exacerbate the overall bulk and scale of the amended proposal as viewed from surrounding properties and the streetscape and is considered compatible with the desired future character of the area. Notwithstanding the minor breach of the FSR development standard, the proposed modification does not have any significant adverse environmental and amenity impacts on the adjoining properties and public domain. The resultant bulk and scale of the overall development would remain compatible with the desired future character of the area.

#### Conclusion

The non-compliance with clause (1) of Part 4.4 of the Woollahra LEP 2014 is considered to be consistent with the above-mentioned objective of the floor space ratio development standard.

#### **15.5. 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 located within the Woollahra Heritage Conservation Area and is not identified as a heritage item under the Woollahra Local Environment Plan 2014. The application was reviewed by Council's Heritage Officer at the Development Application Review Committee (DARC) Stage and no objections were raised.

Therefore, subject to the original conditions of consent, the proposal is acceptable with regard to the Part 5.10 of the Woollahra LEP 2014.

## **15.6. Part 5.21: Flood Planning**

The objectives of Part 5.21 are:

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

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

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

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

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

The subject site is located in a flood planning area. The application was reviewed by Council's Drainage Engineer at the Development Application Review Committee (DARC) Stage and no objections were raised. Therefore, subject to the original conditions of consent, the proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014.

## **15.7. Part 6.1: Acid Sulfate Soils**

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

The subject site is located within a Class 3 area as specified in the Acid Sulfate Soils Map. Clause 6.1(2) & (3) state:

- (2) *Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.*

*Class 3:*

*Works more than 1 metre below the natural ground surface.*

*Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.*

- (3) *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.*



Subject to the original conditions of consent, the proposal is considered to be satisfactory with regard to the provisions of Clause 6.1 of Woollahra LEP 2014.

### **15.8. 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 does not involve any additional bulk excavation. Council's Development Engineer reviewed this application at the Development Application Review Committee (DARC) Stage and raised no objections.

Therefore, subject to the original conditions of consent, the proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

## **16. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **16.1. Chapter D6: Rose Bay Centre**

#### **16.1.1. Part D6.3: Urban Structure**

The subject site is located in the core area of the Rose Bay Centre.

#### **16.1.2. Part D6.4: Street Characters**

##### D6.4.1: New South Head Road

The subject site is located on the north-western side of New South Head Road in the core area of Rose Bay. The provisions of Part D6.4.1 of the Woollahra DCP 2015 stipulate the following:

- *Parapets encouraged*
- *Incorporate sound attenuation devices such as wintergardens*
- *Continuous awnings*
- *Build to the street alignment with glazed retail frontage at street level and commercial/residential above*
- *No vehicular crossings - vehicular access permitted at the rear*

The proposed modification is generally consistent with the desired future character for the north-western side of New South Head Road.

##### D6.4.9: Collins Avenue

The subject site is located on the south-eastern side of Collins Avenue. The provisions of Part D6.4.9 of the Woollahra DCP 2015 stipulate the following:

- *A variety of roof forms is encouraged*
- *Build to the street alignment with walls, windows, loggias, balconies and terraces above street level*
- *Protect privacy of residential neighbours opposite*
- *Typical profile of existing buildings*
- *Commercial/residential uses above street level*
- *Build to the street alignment with glazed retail frontage at street level*
- *Widen existing footpath*
- *Minimise vehicular crossings*

The proposed modification is generally consistent with the desired future character for the south-eastern side of Collins Avenue. The proposal is largely contained toward the New South Head Road frontage and would not significantly alter the relationship to Collins Avenue.

### 16.1.3. Part D6.5 Built Form Envelopes: Control Drawings

#### D6.5.4: Control Drawing 1

The subject site is identified on control drawing 1 of Part D6.5.4 of the Woollahra DCP 2015 which stipulates the required building envelope, setbacks, area for articulation, awnings, roof terrace and percentage of the area per floor that may be built on at the subject site.

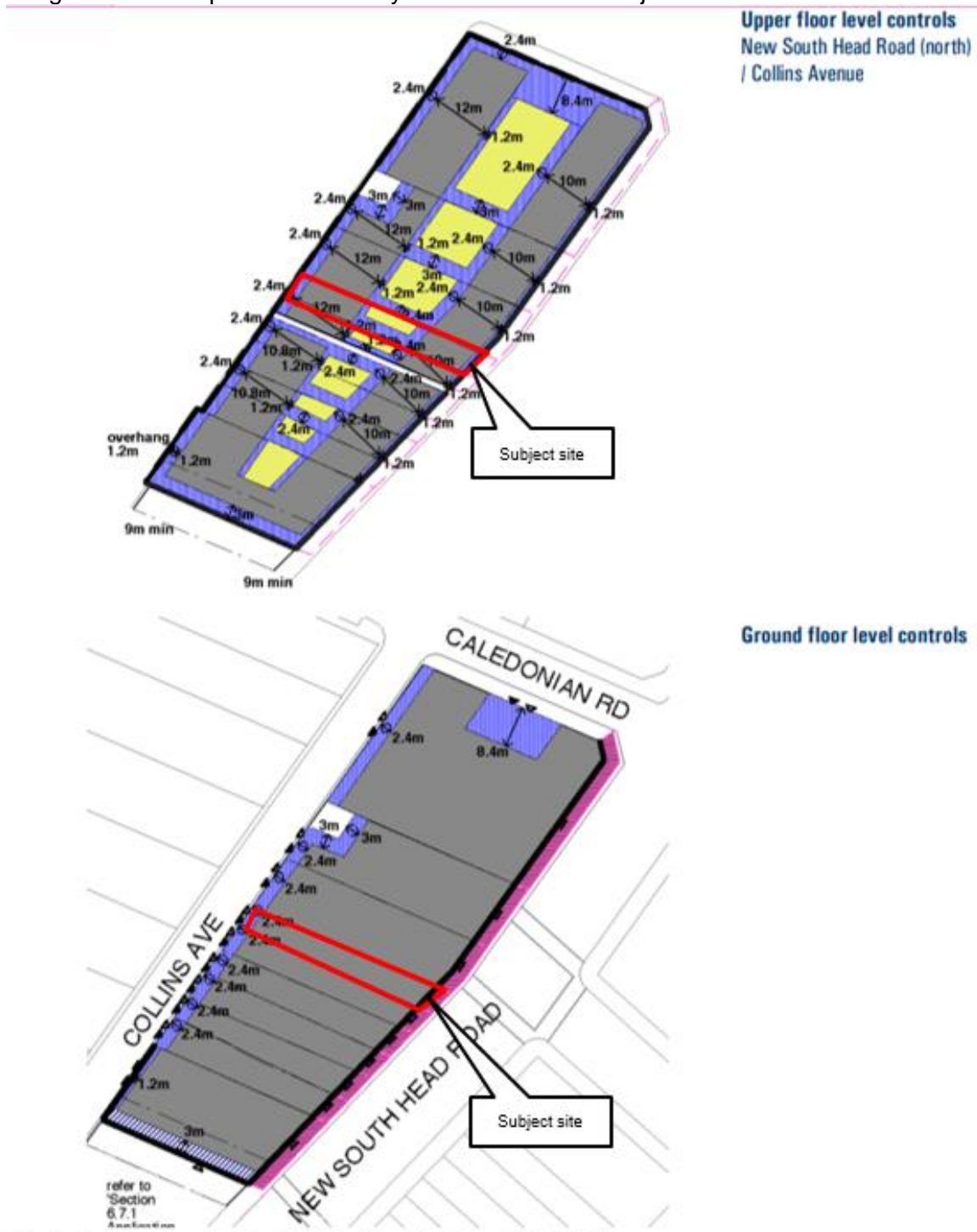


Fig. Control Drawing 1 of Part D6.5.4 of the Woollahra DCP 2015

#### **16.1.4. Part D6.6 Built Form Development Objectives and Controls**

##### **Part D6.6.2: Use**

The proposed modification is acceptable with regard to the objectives in Part D6.6.2 of the Woollahra DCP 2015.

##### **Part D6.6.3: Urban Character**

###### D6.6.3.1: Building Envelopes

*C1 Development may only occur within the building envelopes shown on the control drawings (see Sections 6.5.2-6.5.8).*

*C2 Well-designed buildings which achieve the maximum height are encouraged, to enhance the definition of the street edge.*

*C3 The maximum permissible building depth above ground level is 12m.*

- The proposed modification is non-compliant with the requirement of control drawing 1 as it involves the partial infill of the central void which aims to increase internal corridor width and extension of the permissible building depth. An assessment is provided below against the objectives in Part D6.6.3.1 of the Woollahra DCP 2015.

*O1 Enhance the urban village character of the Rose Bay centre by encouraging a coherent street character with consistent building types built to, or parallel to the street alignment.*

*O4 Create exterior garden and courtyard spaces.*

- The proposed modification maintains a positive response to the streetscape and the broader Rose Bay Centre. It does not significantly alter the approved envelope or external garden and open spaces, and it maintains a comparable bulk, scale and development outcome when compared to the completed development at 722-724 New South Head Road. Therefore, O1 and O4 are upheld.

###### D6.6.3.2: Setbacks

*C1 Building alignment should comply with the building lines shown on the control drawings (see Sections 6.5.2-6.5.8)*

*C4 Front setbacks are identified as building lines on the control drawings (see Sections 6.5.2-6.5.8). Front setbacks should:*

- a) define a coherent alignment to the public domain;*

*C5 Side setbacks should:*

- a) protect privacy to adjoining buildings;*
- b) protect access to natural light and ventilation;*
- c) provide pedestrian access to the rear of buildings;*
- d) facilitate views from the public domain to the harbour where possible; and*
- e) allow stormwater to flow towards the harbour.*

*C6 Rear setbacks should:*

- a) provide consolidated landscaped areas at the centre of blocks adjoining residential areas;*
- b) facilitate natural infiltration of stormwater;*
- c) protect privacy to adjoining buildings and gardens; and*
- d) facilitate solar access.*

- The proposed modification would not significantly alter the approved setback outcome. South-eastern corners of the proposed bedroom 2 extensions of the first, second and third floors are closer to the front boundary, and the proposed side and rear setbacks are considered consistent with the underlying objective. In general, the suitability of the proposed modification in the context of the control drawing 1 has already been discussed under Part D6.6.3.1 and for those same reasons is acceptable. Therefore, O1 is upheld.

*O1 Retain and enhance the predominant pattern of row buildings only in the Rose Bay Core, and row and free-standing buildings in the Transition Areas.*

#### 6.6.3.3 Building Articulation

*C1 To achieve high quality architectural resolution on frontages that address a street, the following percentages of internal and external space should be incorporated with the composition of the building for all floors above ground level.*

*Arrangement ONE – Street Façade Articulation of buildings in the Core area:*

- a) Buildings in the core area must provide 80% internal space and 20% external space in the SFAZ.*
- b) Where the control diagrams indicate that articulation on parts of the building envelope that are not in the SFAZ, the mix of internal and external space is discretionary.*

*Note: This variation requires that the majority of the SFAZ is expressed as solid producing a more building suited to the activity associated with the business core.*

*Arrangement TWO – Street Façade Articulation of buildings in the Transition Area:*

- a) Buildings in the Transition Area must provide 30% internal space and 70% external space in the SFAZ.*
- b) Buildings on New South Head Road should be designed to reduce amenity impacts from traffic noise. Bedrooms should be located away from noise sources.*
- c) Private open space elements such as balconies, should be predominantly north, east and west facing, and should be designed to ensure visual and acoustic privacy of occupants and neighbours.*
- d) Where the control diagrams indicate that articulation on parts of the building envelope that are not in the SFAZ, the mix of internal and external space is discretionary.*

*Note: This variation requires a far more open façade compared to the core with greater potential for larger residential balconies.*

- The proposed modification provides 26.55% internal space and 73.45% external space in the Street Façade Articulation Zone, and it also amends the solid to void ratio in the centre. The internal to external space ratio in the transition area facing Collins Avenue remains unchanged. An assessment is provided below against the objectives in Part D6.6.3.3 of the Woollahra DCP 2015.

*O1 Promote buildings of articulated design and massing, with building facades that contribute to the character of the street, and provide usable private external spaces.*

*O3 Utilise building articulation elements of appropriate scale to their use and context.*

*O4 Reinforce the development pattern of buildings on the street alignment in the Core.*

*O5 Reinforce the more open streetscape quality in the Transition Areas.*

- The proposed modification incorporates suitable and usable external areas of private open space for each unit, and it does not significantly alter the approved building articulation outcome. In general, the modification provides a reasonable degree of residential amenity whilst achieving articulated front and rear facades to promote a visual interest. Therefore, O1, O3, O4 and O5 are upheld.

#### D6.6.3.4: Heritage and conservation

The subject site is not located within the Woollahra Heritage Conservation Area and is not identified as a heritage item under the Woollahra Local Environment Plan 2014. The application was reviewed by Council's Heritage Officer at the Development Application Review Committee (DARC) Stage and no objections were raised.

#### D6.6.3.5: Architectural Resolution

The proposed modification would not significantly alter the approved architectural resolution outcome and therefore is acceptable with regard to Part D6.6.3.5.

#### D6.6.3.6: Roof Design

Although the proposed modification increases the height of the roof terrace to the rear of the building, it still incorporates a 0.2m high parapet to the rear building alignment along to Collins Avenue. In general, the proposed modification would not significantly alter the approved roof design outcome and therefore is acceptable with regard to Part D6.6.3.6.

#### D6.6.3.7: Awnings

The proposed modification would not amend the approved awning and therefore is acceptable with regard to Part D6.6.3.7.

### **Part D6.6.4: Visual and acoustic privacy**

*C1 Visual privacy is to be protected by providing adequate distance between opposite windows of neighbouring dwellings where direct view is not restricted by screening or planting (see Figure 23 Visual and acoustic privacy).*

*C2 Main living spaces are to be oriented to the street or rear garden to avoid overlooking between neighbouring properties. Living areas with primary openings facing the side boundary should be avoided.*

- The proposed modification would raise the finished floor level of the rooftop terrace from RL17.63 to RL18.23 and top of the spa from RL18.23 to RL18.93 with the top of the proposed northern privacy walls measured 1m above the rooftop terrace. In this instance, as recommended in **Condition C.1(b)**, the northern privacy walls of the roof terrace are to be raised to a height of 1.5m above finished floor level to minimise direct overlooking to adjoining property.

### **Part D6.6.5 Private Open Space**

#### D6.6.5.1: Landscaped area

The proposed modification would not significantly alter the approved deep soil landscaped area outcome.

#### D6.6.5.2: Above Ground Open Space

The proposal involves south-eastern extensions of bedroom 2 of the first, second and third floors, and it improves access to the private open space for each dwelling. No unreasonable bulk and scale impacts would occur as a result of the modified roof top terrace and associated elements, and they are not considered to have significant adverse visual impacts upon surrounding properties or the public domain.

### **Part D6.6.6 Solar Access and Natural Ventilation**

In general, the proposed modification does not significantly alter the approved solar access and natural ventilation outcome, and therefore it is acceptable with regard to Part D6.6.6.

### **Part D6.6.7 Parking and Servicing**

The proposed modification relocates the north-western external garage wall towards the rear boundary. Notwithstanding this, the proposal is not considered to significantly alter the approved parking configuration, and therefore it is acceptable with regard to Part D6.6.7.

### **Part D6.6.8 Geotechnology and Hydrogeology**

The proposed modification does not involve any additional bulk excavation. Council's Development Engineer reviewed this application at the Development Application Review Committee (DARC) Stage and raised no objections. Therefore, subject to the original conditions of consent, the proposal is acceptable with regard to Part D6.6.8.

### **Part D6.6.9 Site Facilities**

The proposal involves a new kitchen discharge cowl on the roof. In general, the proposal does not significantly alter the approved site facilities, and therefore it is acceptable with regard to Part D6.6.9.

## **16.2. Chapter E1: Parking and Access**

The proposed modification would not generate additional car parking demands nor would it alter the existing provision of car parking on the site.

## **16.3. Chapter E5: Waste Management**

The proposed modification is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015, subject to the original conditions of consent.

## **17. APPLICABLE ACTS/REGULATIONS**

### **17.1. Environmental Planning and Assessment Regulation 2021**

#### **Clause 61(1) Additional matters that consent authority must consider**

Clause 61(1) of the EPA Regulation 2021 requires Council to take into consideration Australian Standard AS 2601-2001: The demolition of structures. This requirement is addressed by Council's standard condition.

### **17.2. Swimming Pools Act 1992**

The Swimming Pools Act 1992, requires swimming pools to be surrounded by a child-resistant barrier, which separates the swimming pool from any residential building. The barrier must be designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations.

Additional provisions relate to:

- a) Swimming pool registration in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash discharge to the sewer



These requirements are imposed by standard condition.

## 18. 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.

## 19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

## 20. DISCLOSURE STATEMENTS

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

## 21. RECOMMENDATION PURSUANT TO SECTION 4.55 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, modify development consent to Development Application No. 417/2022/1 for demolition of existing 2 storey building and the construction of a new 4 storey shop top housing development with ground floor commercial and 3 residential units above on land at 718 New South Head Road Rose Bay, subject to the following:

### Modification Summary

DA Application Number (PAN Number)	Determination Date	Modification Description
DA417/2022/2 (PAN-425452)	1 August 2024	Addition of <b>Condition A.3A.</b> Amendments of <b>Condition C.1, C.3, H.1 and I.1.</b>

## 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)
DA100 (Rev 03)	Ground Floor + First Floor	Bureau SRH Architecture	4/09/2023
DA101 (Rev 03)	Second Floor + Third Floor		4/09/2023
DA102 (Rev 03)	Roof		4/09/2023
DA200 (Rev 03)	Elevations		4/09/2023
DA300 (Rev 03)	Sections		4/09/2023
DA400 (Rev 01)	Schedule of External Materials & Colours		22/07/2023
1305810M	BASIX Certificate	NSW Department of Planning and Environment	18 Jul 2022
2022.07.718NSH R.A0.1.L1 (Issue 01, Rev B) 2022.07.718NSH R.A0.1.RT (Issue 01, Rev B)	Landscape Plans	Ben Kaye Garden Design	July 2022
22022	Transport and Parking Impact Assessment, Issue Final B	Transport Strategies	Undated
P2208916JR02V02	Geotechnical Report	Martens	30/11/2022
220340 C01-5 C02-5 C03-5 C04-1 C05-1	Stormwater Management Plan	Greenview Consulting	18/01/2023 18/01/2023 18/01/2023 18/01/2023 18/01/2023
220340	Flood Risk Management Report	Greenview Consulting	29/06/2022

**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.3A Approved Amended (section 4.55) Plans and Supporting Documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended architectural approved plans to which is affixed a Council stamp "Approved" and supporting documents as submitted by the Applicant listed below otherwise than modified by further condition(s).

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

Reference	Description	Author/Drawn	Date(s)
DA100 (Rev 01)	Ground Floor + First Floor	SRH Architecture	27 March 2024
DA101 (Rev 01)	Second Floor + Third Floor		
DA102 (Rev 01)	Roof Plan		
DA200 (Rev 01)	Elevations		
DA201 (Rev 01)	Elevations		23 April 2024
DA300 (Rev 01)	Sections		27 March 2024
1305810M_05	BASIX Certificate	NSW Department of Planning, Industry and Environment	20 June 2024

**Note:** These plans and supporting documentation may be subject to conditions modifying the development imposed under section 4.17(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)  
Standard Condition: A6 (Autotext AA6)

*Added on 1 August 2024 under DA417/2022/2 (PAN-425452)*

### A.4 Transport for NSW

1. All buildings and structures, together with any improvements integral to the future use of the site (other than the pedestrian awning) are to be wholly within the freehold property (unlimited in height or depth), along the New South Head Road boundary.
2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on New South Head Road are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au)

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

3. A Road Occupancy Licence (ROL) shall be obtained from Transport Management Centre for any works that may impact on traffic flows on New South Head Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

### A.5 General Terms of Approval – *Water Management Act 2000* (WaterNSW)

The following general terms of approval have been imposed by WaterNSW:

## 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@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.
- 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.

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.

**Note:** These conditions have not been imposed by Council but are required to be incorporate 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.  
Standard Condition: A16 (AA16)

## **A.6 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.7 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.8 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, AS2890.2 and the Council's DCP.

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

### **B.1 Construction Certificate Required Prior to Any Demolition**

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the *Act*.

**Note:** See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.  
Standard Condition: B1 (Autotext BB1)

### **B.2 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.3 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.4 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

#### **B.5 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)

#### **B.6 Aboriginal Heritage Due Diligence Responsibilities**

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the Act. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Standard Condition: B12 (Autotext BB12)

## **B.7 Aboriginal Heritage Induction**

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the *National Parks and Wildlife Act 1974*;
  - b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and
  - c) Documentary evidence demonstrating compliance with a. and b. above being submitted to Council and the Principal Certifier.
- Standard Condition: B13 (Autotext BB13)

## **B.8 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 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) In order to protect the privacy of adjoining properties and to achieve compliance with Objectives O1, O2 and Control C1 of Part D6.6.4 of the Woollahra DCP 2015, north facing bathroom windows which face the void at levels 1, 2 and 4 are to be treated with translucent glazing for their full extent.
- b) In order to protect the privacy of adjoining properties and to achieve compliance with Objectives O1, O2 and Control C1 of Part D6.6.4 of the Woollahra DCP 2015, the northern privacy walls of the roof terrace must be raised to a height of 1.5m above finished floor level.

**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)

*Amended on 1 August 2024 under DA417/2022/2 (PAN-425452)*

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

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under <i>Building and Construction Industry Long Service Payments Act 1986</i>			
<b>Long Service Levy</b> <a href="http://www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator">www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the Council	\$71,460	No	T115
<b>Infrastructure Works Bond</b> – remedying any defects in any public work that arise within 6 months after the work is completed	\$27,500	No	T113
<b>DEVELOPMENT LEVY</b> under Woollahra Section 7.12 Development Contributions Plan 2021 This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>			
<b>Development Levy</b> (section 7.12)	\$28,484.99 + Index Amount	Yes, quarterly	T96
<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>			
Public Road/Footpath Infrastructure Inspection Fee	\$645	No	
Security Administration Fee	\$215	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$128,304.99 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](http://www.longservice.nsw.gov.au) or the Long Service Corporation on 131 441.

#### How must the payments be made?

Payments must be made by:

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

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

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

- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

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

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

**Do you need HELP indexing the levy?**

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

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

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

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

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

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

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

Standard Condition: C5

### **C.3 BASIX Commitments**

The Applicant must submit to the Certifying Authority BASIX Certificate No. 1305810M\_05 with any application for a Construction Certificate.

**Note:** Where there is any proposed change in the BASIX commitments the Applicant must submit of a new BASIX Certificate to the Certifying Authority and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (see: clauses 145 and 146 of the *Regulation*) the Applicant will be required to submit an amended development application to Council pursuant to section 4.55 of the *Act*.

All commitments in the BASIX Certificate must be shown on the Construction Certificate plans and specifications prior to the issue of any Construction Certificate.

**Note:** Clause 145(1)(a1) of the *Environmental Planning and Assessment Regulation 2000* provides:  
"A certifying authority must not issue a Construction Certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires".  
Standard Condition: C7

*Amended on 1 August 2024 under DA417/2022/2 (PAN-425452)*

#### **C.4 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 removal of the existing layback crossing including gutter in Collins Avenue and the construction of a new 3.5 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 layback crossing must be constructed at right angle to street kerb in plain concrete where the edge of the new layback must align with the north-eastern boundary. Design longitudinal sections along each side/edge of the layback crossing, starting from the road centreline to the parking slab shall be submitted to Council for assessment.
- b) The reconstruction of the existing full width footpath with Rose Bay pavers for the full frontage of the site in New South Head Road in accordance with Council's Specification for Roadworks, 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 3 metres intervals must be submitted for assessment.

##### **2. Drainage works**

- a) The construction of a new kerb inlet pit (KIP) with 0.9m precast lintel over the existing Council's underground drainage system in Collins Avenue. The new KIP must be located within the frontage of the site for the proposed stormwater connection. 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,
- b) 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 awning on Council's property. Note that construction joints must be provided for the proposed awning so that it is not integrated with the main building structure,
- b) Observe condition for the creation of positive covenant requirements.

4. Bond

- a) A bond of \$27,500 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 K13 in *Section K. Advising* of this Consent titled *Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

## C.5 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.6 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:

- a) “*Do it Right On Site, Soil and Water Management for the Construction Industry*” published by the Southern Sydney Regional Organisation of Councils, 2001; and  
b) “*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](http://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](http://www.woollahra.nsw.gov.au), and *The Blue Book* is available at [www.environment.nsw.gov.au/stormwater/publications.htm](http://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.7 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.8 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.9 Geotechnical and Hydrogeological Design, Certification and 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 0.3m 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.10 Ground Anchors

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.11 Vehicular Access and Parking Arrangement

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* and AS/NZS 2890.1:2004: *Parking Facilities - Off-Street Car Parking* respectively.

The plans must satisfy the following requirement(s):

- a) Signage be provided at access point to ensure that the proposed garage is for reverse in and forward out only. Such signage should be installed wholly within property boundary;
- b) Convex mirror be installed at entry point wholly within the boundary to improve visibility.
- c) All parking spaces must have minimum dimensions to comply with AS2890.1 and AS2890.2. These required dimensions and the design envelope around parked vehicles are to be clearly depicted on the drawings.

The proposed off-street parking spaces and vehicular access must be designed in compliance with AS2890.1 and AS2890.2. 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.

**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.12 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 220340, prepared by Greenview Consulting, dated 18/01/2023, other than amended by this and other conditions,
- b) the discharge of stormwater, by direct connection, to the proposed kerb inlet pit in Collins Avenue,
- c) The provision of a minimum 900x900 boundary junction pit shall be provided prior to discharging stormwater from the site to the street drainage system. 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,
- d) The installation of stormwater filtration /treatment system which includes but not limited to the installation of OceanGuard 200 filter basket and Jellyfish Unit (JF900-1-1HF) by Ocean Protect to achieve the minimum the water quality targets stipulated in Chapter E2.2.3 of Council's DCP;
- e) The installation of a pumpout system with a minimum storage capacity to be determined to comply with Section 8 of AS3500.3,
- f) All below ground structures are to be fully tanked. Notation to this requirement shall be clearly depicted on the drawings,
- g) The dimensions of all drainage pits and access grates must comply with AS3500,
- h) Compliance the objectives and performance requirements of the BCA, and
- i) 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.

For the 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.13 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 plans shall be installed in an areas frequented by the occupants such as the laundries and ground floor kitchen area.
- b) Permanent brass plaques shall be fixed in the basement indicating both the 1% flood level 3.7m AHD at Collins Street and 5.7m AHD at the NSH Road entry.
- c) A flood warning system shall be installed, the system is to be designed to alert residents when flood barriers are activated.
- d) The driveway entry shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 4.2m AHD.
- e) The front entry off NSH road entry shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 5.7m AHD.
- f) Permanent brass plaques shall be mounted adjacent to all mechanical flood barriers explaining their purpose and operation.
- g) All below ground construction shall be fully tanked.
- h) Emergency self-powered lights, indicting the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed on the ground floor.
- i) All habitable floors shall be above or protected from flooding to the flood planning level.
- j) Flood compatible materials shall be used for all flood exposed construction.
- k) All flood exposed electrical wiring and equipment shall be waterproofed.
- l) 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.14 Swimming and Spa Pools – Child Resistant Barriers

The Construction Certificate plans and specifications required by clause 139 of the *Regulation* must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act 1992* and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

**Note:** A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.  
Standard Condition: C55 (Autotext CC55)

### C.15 Swimming and Spa Pools – Backwash

The Construction Certificate plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The plans must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act 1997*. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act 1997*.  
Standard Condition: C56 (Autotext CC56)

### C.16 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.17 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 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.18 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 *Minimum Exhaust Ventilation Flow Rates of AS 1668.2-2012*. 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.19 Acoustics Assessment – Mechanical Plant Services

A qualified acoustic consultant shall undertake a detailed acoustic review of all selected mechanical plant services upon external receivers to evaluate compliance with Council's noise criteria for mechanical plant. The review shall detail all acoustic treatments to control noise emissions to satisfy project specific noise trigger levels.

### C.20 Acoustic Certification of Interior Noise Levels

Prior to the issue of a *Construction Certificate* an *Acoustic Report* must be provided to the *Principal Certifying Authority* confirming necessary acoustic control measures which must be incorporated into the design of the building. The acoustic measures must ensure compliance with the internal noise limits set out in Clause 2.120(3) of the *Transport and Infrastructure SEPP 2021* when applied inside any habitable room of the development with doors and windows closed and mechanical ventilation/air-conditioning operating.

Reason: To ensure that the proposed development provides appropriate noise control measures to achieve the minimum noise standards as set out in Clause 2.120(3) *Impact of road noise or vibration on non-road development* of the *SEPP (Transport and Infrastructure) 2021*

**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. 716 & 722-724 New South Head Road

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) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting the site

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 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.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.

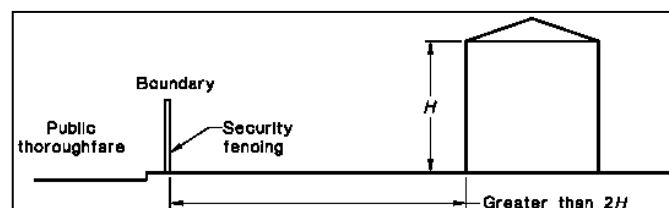
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are 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)

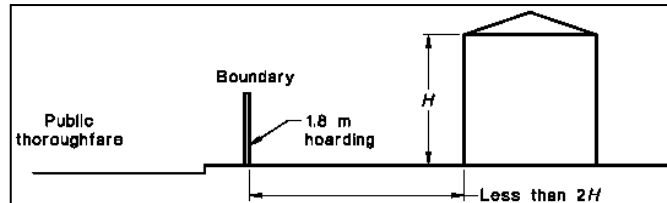
## D.8 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



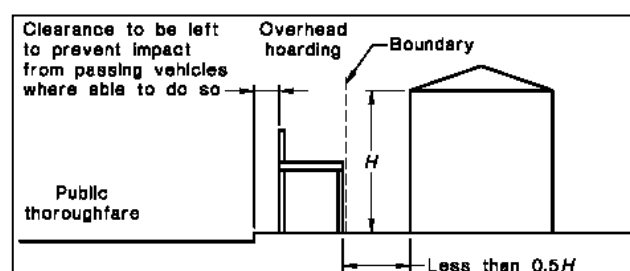
### Type B Hoarding

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:

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



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at

[www.safework.nsw.gov.au/data/assets/pdf\\_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf](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](http://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](http://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/](http://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](http://www.woollahra.nsw.gov.au) and *The Blue Book* is available at [www.environment.nsw.gov.au/stormwater/publications.htm](http://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](http://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 Notification of [Home Building Act 1989](#) requirements

- a) For the purposes of section 4.17(11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the [Home Building Act 1989](#).
- b) Residential building work within the meaning of the [Home Building Act 1989](#) must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - In the case of work for which a Principal Contractor is required to be appointed:
    - the name and licence number of the Principal Contractor, and
    - the name of the insurer by which the work is insured under Part 6 of that Act,
  - In the case of work to be done by an Owner-builder:
    - the name of the Owner-builder, and
    - if the Owner-builder is required to hold an Owner-builder permit under that Act, the number of the Owner-builder permit.
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- d) 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.  
Standard Condition: D17 (Autotext DD17)

### 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](http://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:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- 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*.

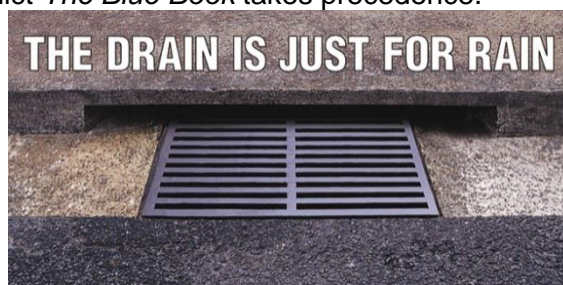
Standard Condition: E13 (Autotext EE13)

## E.11 Erosion and Sediment Controls – Maintenance

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

- the Soil and Water Management Plan required under this consent,
- "*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.



**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.12 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.13 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.14 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.15 Placement and Use of Skip Bins**

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 of the *Local Government Act 1993* to place the waste storage container in a public place; and
- b) where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules.

**Note:** Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

Standard Condition: E21 (Autotext EE21)

#### **E.16 Prohibition of Burning**

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) treated timber is prohibited in all parts of NSW.

All burning is prohibited in the Woollahra local government area.



**Note:** Pursuant to the *Protection of the Environment Operations (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.  
Standard Condition: E22 (Autotext EE22)

### E.17 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](http://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](http://www.safework.nsw.gov.au) and [www.epa.nsw.gov.au](http://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.18 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](http://www.woollahra.nsw.gov.au)  
Standard Condition: E24 (Autotext EE24)

### E.19 Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time.

Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

**Note:** This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.  
Standard Condition: E26

## **E.20 Site Waste Minimisation and Management – Demolition**

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

- a) the provisions of a 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.21 Soil Contamination**

Implementation of the recommendations detailed in section 7 of the *Preliminary Site Investigation: prepared by EI Australia – Report E26000.E01\_Revo – 02 May 2023*.

## **E.22 Site Waste Minimisation and Management – Construction**

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

- a) the provisions of a 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.23 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.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, Part1: 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 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.2 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 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 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.3 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.4 Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register.

- c) The Principal Contractor or Owner must either obtain a certificate of compliance issued pursuant to section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public pools must comply with the *NSW Health Public Swimming Pool and Spa Pool Guidelines* in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2010: *Swimming pool safety - Water recirculation systems*.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

**Note:** NSW Health guidelines and fact sheets are available at  
[www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx](http://www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx)  
Standard Condition: F13 (Autotext FF13)

## F.5 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.16**.

Standard Condition: F22 (Autotext FF22)

## F.6 Acoustic Certification of Interior Noise Levels

Prior to the issue of a Final Occupation Certificate an Acoustic Report must be provided to the Principal Certifying Authority confirming necessary acoustic control measures have been incorporated into the design of the building, as constructed. The acoustic measures must ensure compliance with the internal noise limits set out in Clause 2.120(3) of the SEPP (Transport and Infrastructure) 2021 when applied inside any habitable room of the development with doors and windows closed and mechanical ventilation/air-conditioning operating.

Reason: To ensure that the proposed development as-built has appropriate noise control measures achieving the minimum noise standards as set out in Clause 2.120(3) *Impact of road noise or vibration on non-road development* of the SEPP (Transport and Infrastructure) 2021.

## 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 Fulfillment of BASIX Commitments – clause 154B of the *Regulation***

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 1305810M\_05.

**Note:** Clause 154B(2) of the *Environmental Planning and Assessment Regulation 2000* provides: "A certifying authority must not issue a final Occupation Certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Standard Condition: H7 (Autotext HH7)

*Amended on 1 August 2024 under DA417/2022/2 (PAN-425452)*

### **H.2 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.3 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](http://www.woollahra.nsw.gov.au) or obtained from Council's customer service centre.

Standard Condition: H13 (Autotext HH13)

#### H.4 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) closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting the site.

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.5 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](http://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.6 Positive Covenant and 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](http://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.1 Maintenance of BASIX Commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1305810M\_05.

**Note:** This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.  
Standard Condition: I24

*Amended on 1 August 2024 under DA417/2022/2 (PAN-425452)*

### I.2 Ongoing Maintenance of the On-Site-Detention System

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

### I.3 Swimming and Spa Pools – Maintenance

Swimming and spa pools must be maintained:

- a) in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs,
- b) in compliance with the NSW Health "Public Swimming Pools and Spa Pools Advisory Document" in force at that time. Private pools are encouraged to comply with the same standards as applicable,
- c) in compliance with AS 1926.3-2010 *Swimming pool safety - Water recirculation and filtration systems*,
- d) with backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
  - before 8 am or after 8 pm on any Sunday or public holiday, or

- before 7 am or after 8 pm on any other day.

**Note:** Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

**Note:** The NSW Health public swimming pools and spa pools guidelines are available at [www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx](http://www.health.nsw.gov.au/environment/publicpools/Pages/default.aspx)  
Standard Condition: I30

#### I.4 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.5 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](http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government)  
Standard Condition: I59

#### 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*.

**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](http://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](http://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](http://www.cjc.nsw.gov.au).

**NSW Environment Protection Authority**— see “noise” section

[www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au).

**Australian Acoustical Society**—professional society of noise related professionals

[www.acoustics.asn.au](http://www.acoustics.asn.au).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals [www.aaac.org.au](http://www.aaac.org.au).

**Liquor and Gaming NSW**—[www.liquorandgaming.nsw.gov.au](http://www.liquorandgaming.nsw.gov.au).

Standard Condition: I56

## I.7 Provision of Off-Street Parking

- a. The owner and occupier, in compliance with AS2890.3:2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use	Number of spaces
Car parking (in tandem)	2

- b. Operation hours of the loading bay must avoid conflicts between the two parking spaces. The service vehicles are not to exit the site and occupy the public roadway to allow entry/exit of the staff vehicle in tandem.

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

## I.8 Parking Permits

Future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.

## J. Miscellaneous Conditions

Nil

## 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:

- Issue Penalty Infringement Notices (On-the-spot fines);
- Issue notices and orders;
- Prosecute any person breaching this consent; and/or
- 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](http://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 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](http://www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating)

Standard Condition: K5 (Autotext KK5)

## K.4 Building Standards - Guide to Standards and Tolerances

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

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



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

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

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

## K.5 SafeWork NSW Requirements

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

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

## K.6 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

**Note:** Further information can be obtained from the NSW Civil and Administrative Tribunal [www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing\\_fences.aspx](http://www.ncat.nsw.gov.au/Pages/cc/Divisions/dividing_fences.aspx)

**Note:** Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Around 75% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. To contact the Community Justice Centres go to [www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au) or call 1800 990 777. Standard Advising: K10 (Autotext KK10)

## K.7 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Valdis Aleidzans, Assessment Officer, on (02) 9391 7159.

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.8 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](http://www.woollahra.nsw.gov.au)

Standard Condition: K15 (Autotext KK15)

## **K.9 Recycling of Demolition and Building Material**

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

## **K.10 Owner-builders**

Under the *Home Building Act 1989* any property owner who intends undertaking construction work to a dwelling house or dual occupancy to the value of \$12,000 or over must complete an approved education course and obtain an owner-builder permit from NSW Fair Trading.

**Note:** For more information go to the NSW Fair Trading website [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 133 220.

Standard Condition: K18 (Autotext KK18)

## **K.11 Pruning or Removing a Tree Growing on Private Property**

The provisions of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the Woollahra Development Control Plan 2015 (DCP), Chapter E3 –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 Woollahra DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or call Council on 9391 7000 for further advice.

Standard Condition: K19 (Autotext KK19)

## **K.12 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 requested 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.13 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](http://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.14 Ausgrid

Care should be taken to ensure that construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

The following points should be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

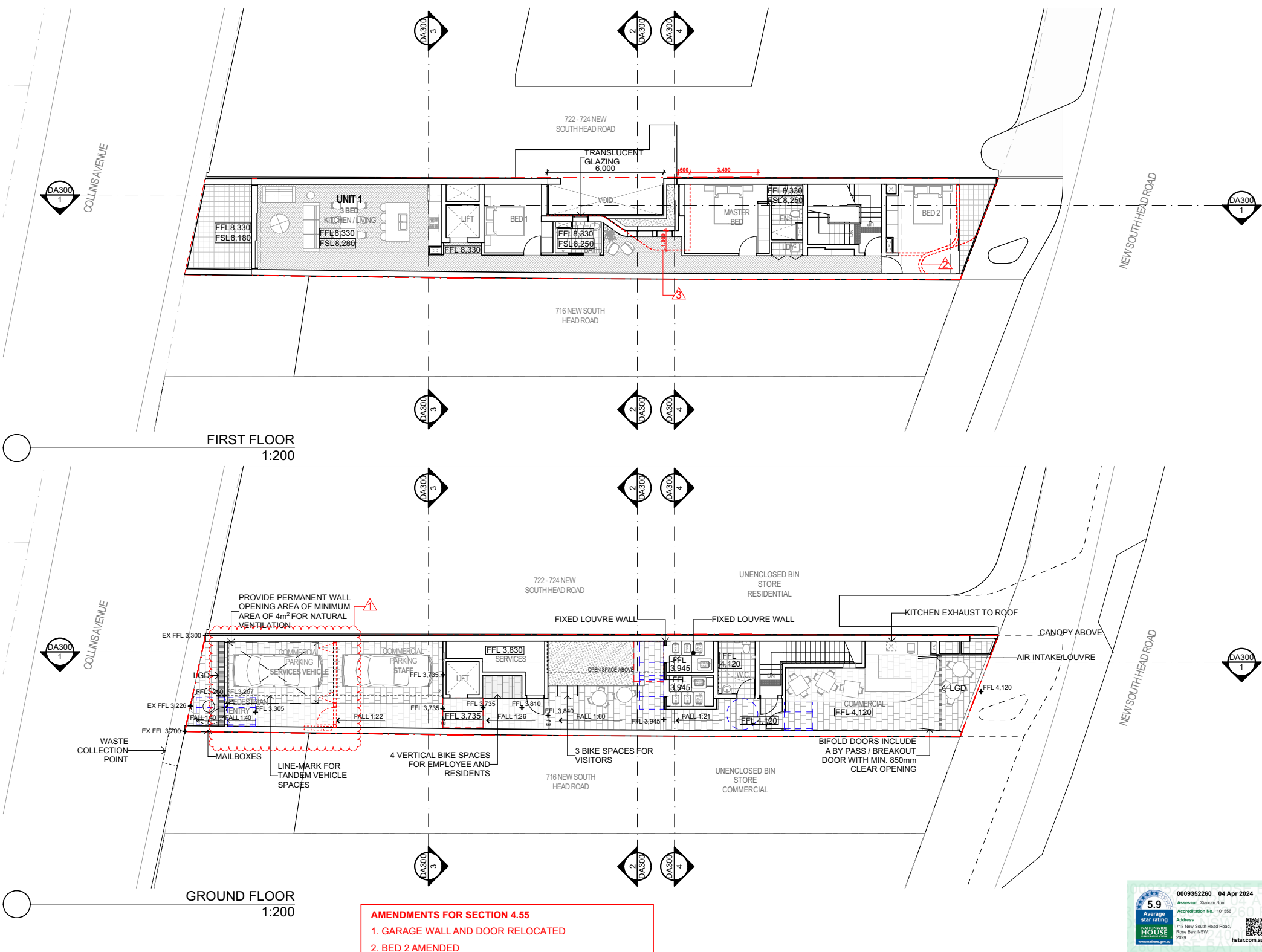
In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

- SafeWork Australia – Excavation Code of Practice.
- Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables. This document can be found by visiting the Ausgrid website via [www.ausgrid.com.au](http://www.ausgrid.com.au).

- The Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid
- Assets - Clearances”. This document can also be found by visiting the Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)

### Attachments

1. Plans, elevations, sections, shadow diagrams and site survey [↓](#) 



SRH Architecture Pty Ltd  
Level 1, 17-19 Brisbane Street, Surry Hills NSW 2010  
T: +612 6392 2001 office@srharchitecture.com  
Nominated Architect: Simon Hanson #6739

**General**

This drawing shall be read in conjunction with all other architectural and consultant drawings and specifications and with such other written instructions issued during the course of the contract. Notify architect of any discrepancies before proceeding with work. Materials and workmanship shall be in accordance with the specification, current SAA codes, building regulations and other statutory authorities. Verify all dimensions on site and notify architect of any discrepancies. Use figured dimensions only.

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**Notes/Legend:**

TOW: TOP OF WALL  
TOG: TOP OF GLASS  
TOB: TOP OF BALUSTRADE  
FLL: FINISH FLOOR LEVEL  
RL: RELATIVE LEVEL

REQUIRED DOOR LATCH CLEARANCES TO AS1428

REQUIRED CIRCULATION SPACE TO AS1428

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**

Scale @A3  
**1:200**

Drawing title  
**GROUND FLOOR + FIRST FLOOR**

Drawn	Checked	Approved
MG	HHH	SRH

Client  
**LOPANA P/L**

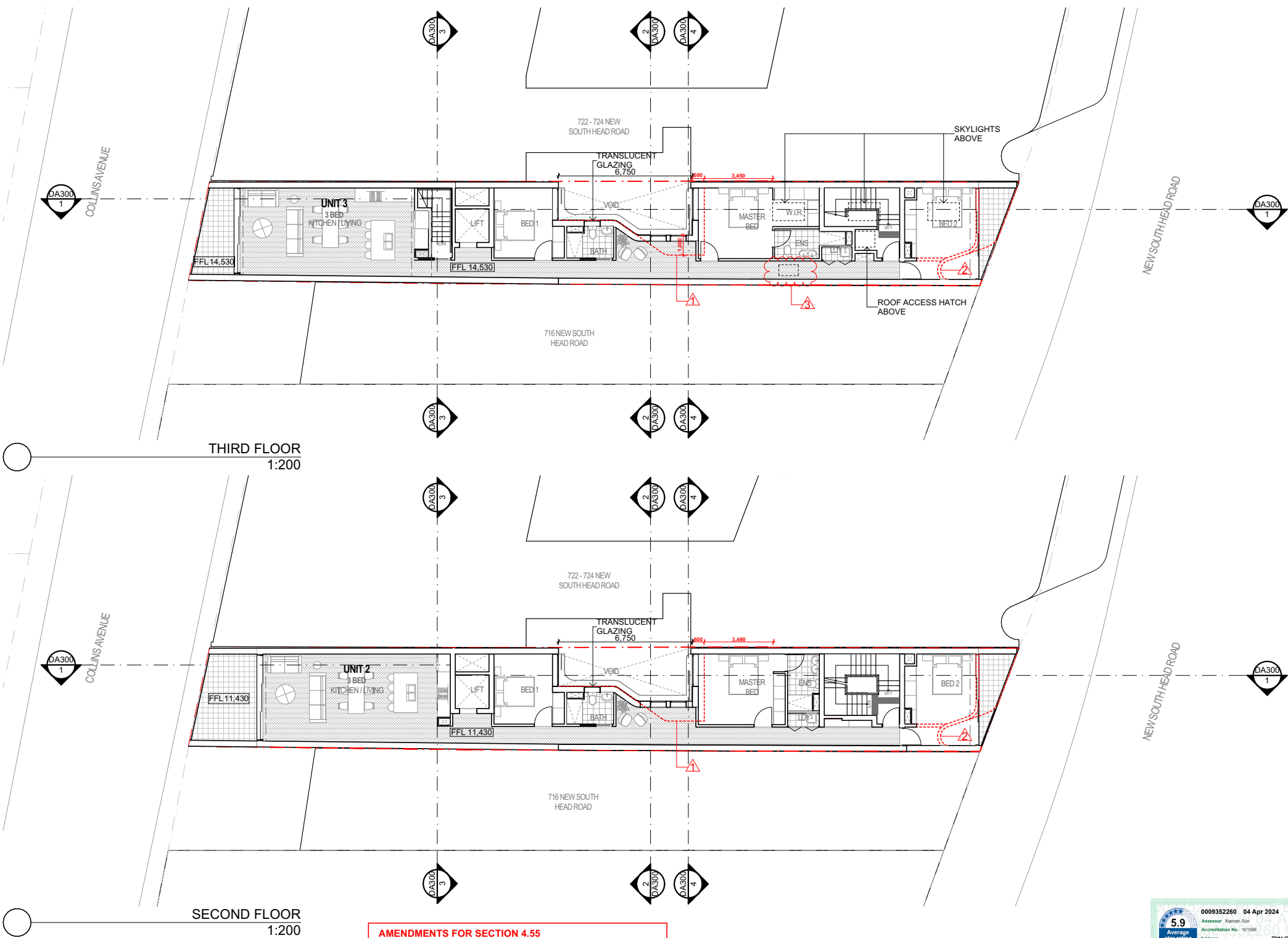
Date  
**27/03/2024**

PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.  
**22014**

Drawing No.  
**DA100**

Revision  
**01**



- AMENDMENTS FOR SECTION 4.55
1. CENTRAL VOID AMENDED

2. BED 2 AMENDED

3. NEW SKYLIGHT INCLUDED



SRH Architecture Pty Ltd  
Level 1, 17-19 Brisbane Street, Surry Hills NSW 2010  
T: +612 6392 2000 | office@srharchitecture.com  
Nominated Architect: Simon Hanson #6739

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REQUIRED DOOR LATCH CLEARANCES TO AS1428

REQUIRED CIRCULATION SPACE TO AS1428

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**



Drawing title  
**SECOND FLOOR + THIRD FLOOR**

Drawn	Checked	Approved
MG	HHH	SRH

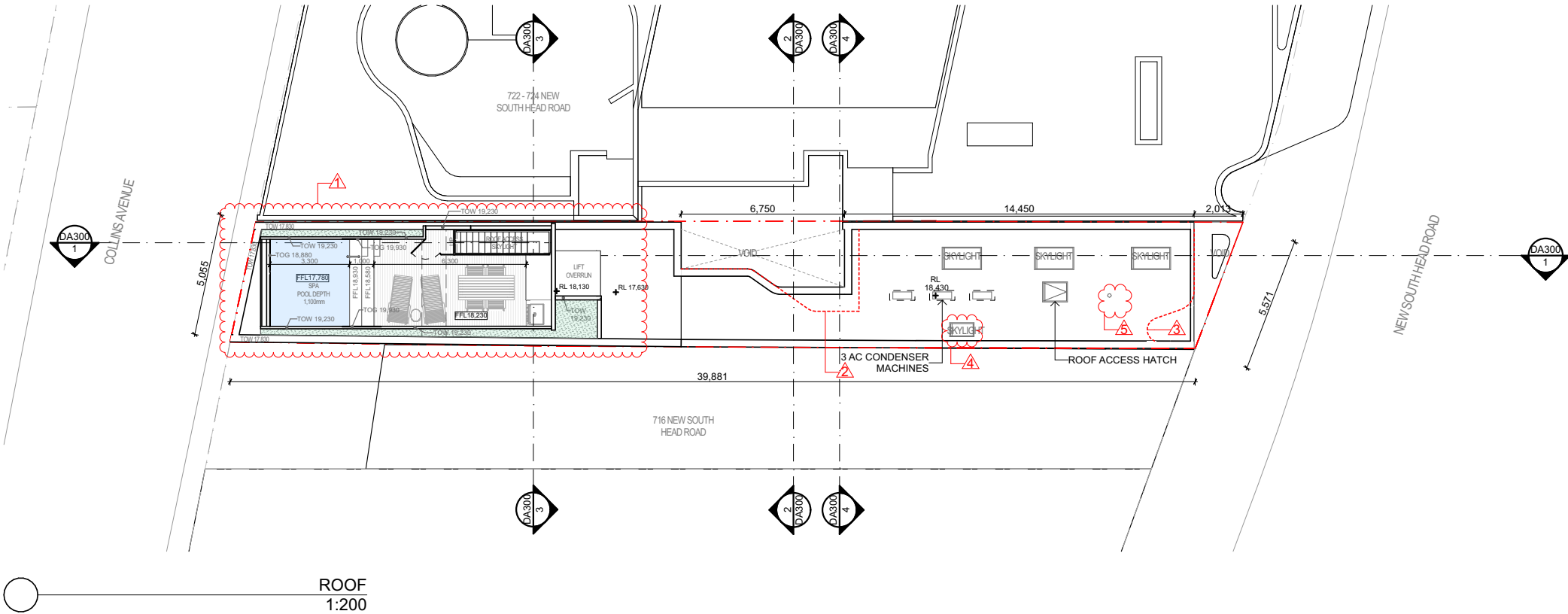
Client: LOPANA P/L      Date: 27/03/2024

PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.  
**22014**

Drawing No.  
**DA101**

Revision  
**01**



- AMENDMENTS FOR SECTION 4.55
1. ROOF TOP DESIGN AMENDED

2. CENTRAL VOID AMENDED

3. BED 2 AMENDED

4. NEW SKYLIGHT INCLUDED

5. KITCHEN DISCHARGE COWL ADDED



SRH Architecture Pty Ltd  
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T: +612 6392 2001 office@srharchitecture.com  
Nominated Architect: Simon Hanson #6739

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Notes/Legend:

TOW: TOP OF WALL  
TOG: TOP OF GLASS  
TOB: TOP OF BALUSTRADE  
FFL: FINISH FLOOR LEVEL  
RL: RELATIVE LEVEL

REQUIRED DOOR LATCH CLEARANCES TO AS1428

REQUIRED CIRCULATION SPACE TO AS1428

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
718 NEW SOUTH HEAD ROAD, ROSE BAY

Stage:  
SECTION 4.55

North

Scale @A3  
1:200

Drawing title  
ROOF PLAN

Drawn	Checked	Approved
MG	HHH	SRH

Client  
LOPANA P/L

Date  
27/03/2024

PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.  
22014

Drawing No.  
DA102

Revision  
01





- AMENDMENTS FOR SECTION 4.55
1. ROOF TOP DESIGN AMENDED

2. FACADE AMENDED

3. KITCHEN DISCHARGE COWL ADDED



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Notes/Legend:	
CR	CEMENT RENDER
BAL	RIBBING CONCRETE
GL	GLASS BALUSTRADE
BIF	ALUMINIUM FRAMED GLAZED DOORS AND WINDOWS
TOW	BIFOLD ALUMINIUM GLAZED DOOR
TOG	TOP OF WALL
TOB	TOP OF GLASS
FFL	TOP OF BALUSTRADE
RL	FINISH FLOOR LEVEL
- - - - -	RELATIVE LEVEL
- - - - -	PREVIOUSLY APPROVED BUILDING LINE
- - - - -	ENVELOPE HEIGHT LIMIT

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**

Scale @A3  
**1:200**

Drawing title  
**ELEVATIONS**

Drawn	Checked	Approved
MG	HHH	SRH

Client  
**LOPANA P/L**

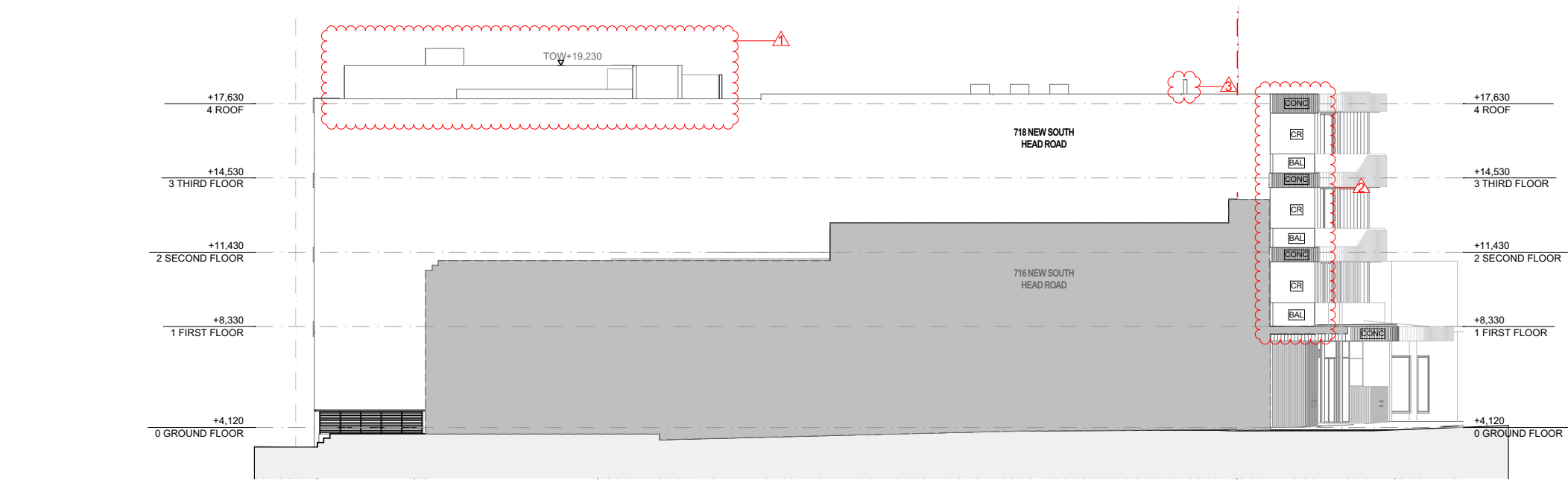
Date  
**27/03/2024**

PRELIMINARY  
NOT FOR CONSTRUCTION

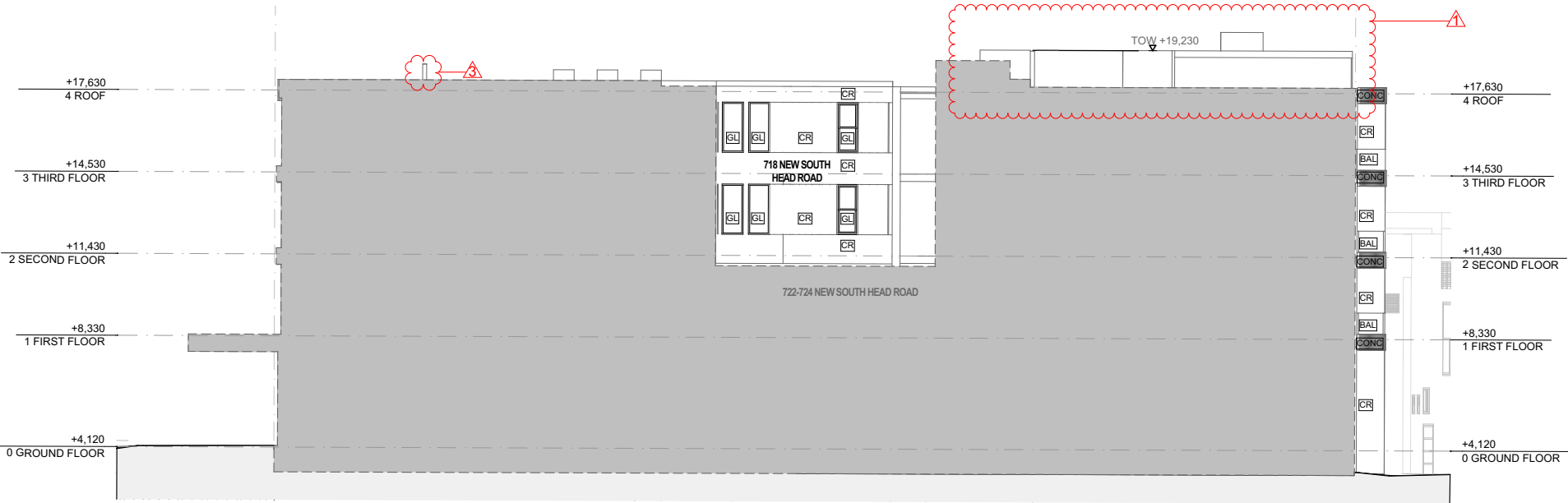
Project No.  
**22014**

Drawing No.  
**DA200**

Revision  
**01**



1 SOUTH WEST - ELEVATION  
1:200



2 NORTH EAST - ELEVATION  
1:200

- AMENDMENTS FOR SECTION 4.55
- 1. ROOF TOP DESIGN AMENDED
  - 2. FACADE AMENDED
  - 3. KITCHEN DISCHARGE COWL ADDED



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Notes/Legend:	
CR	CEMENT RENDER
CONC	RIBBING CONCRETE
BAL	GLASS BALUSTRADE
GL	ALUMINIUM FRAMED GLAZED DOORS AND WINDOWS
BIF	BIFOLD ALUMINIUM GLAZED DOOR
TOW	TOP OF WALL
TOG	TOP OF GLASS
TOB	TOP OF BALUSTRADE
FFL	FINISH FLOOR LEVEL
RL	RELATIVE LEVEL
- - -	PREVIOUSLY APPROVED BUILDING LINE
- - -	ENVELOPE HEIGHT LIMIT

Rev	Date	Description
01	23/04/2024	REQUEST FOR ADDITIONAL INFORMATION

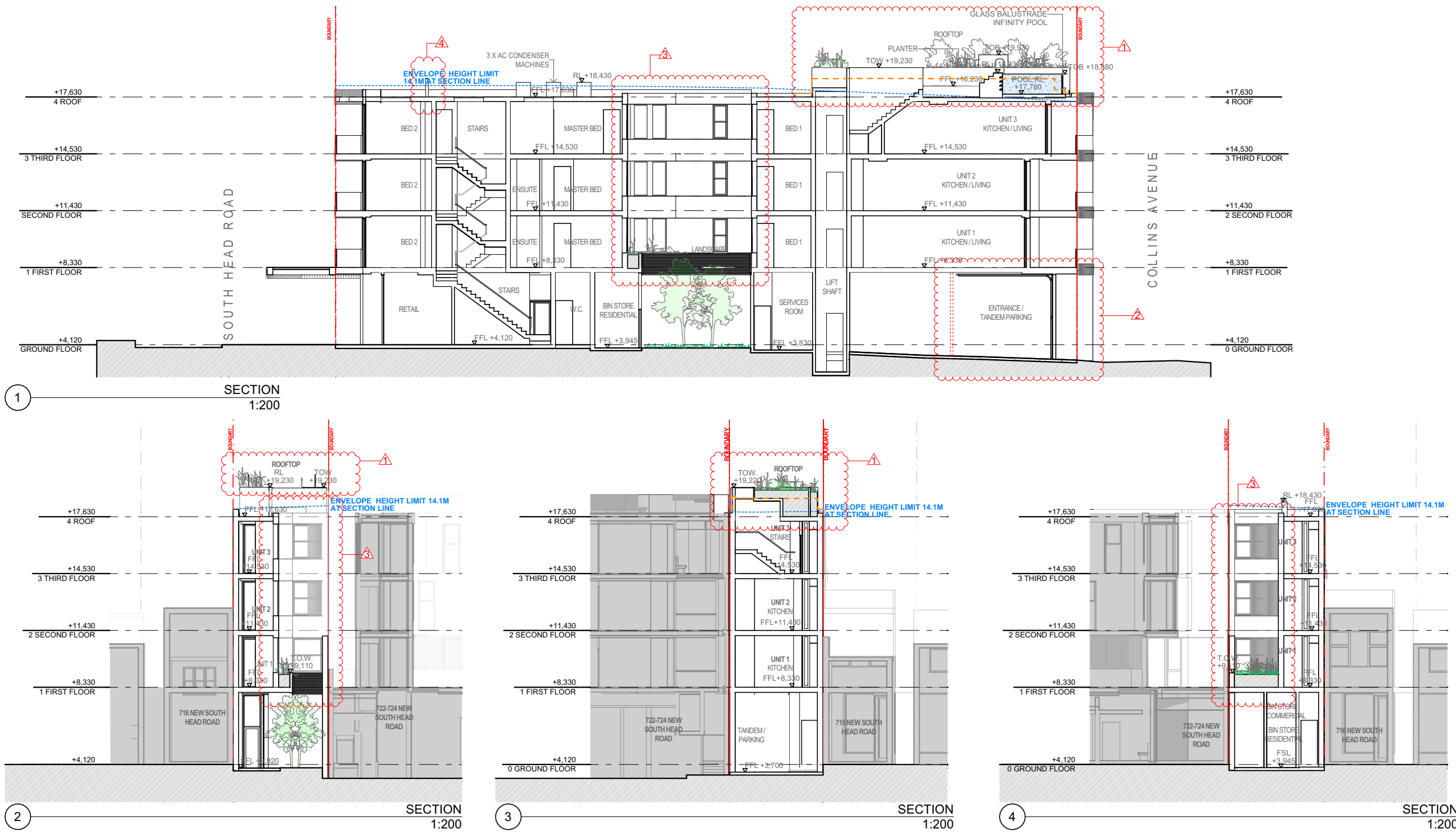
Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**

Scale @A3  
**1:200**

Drawing title ELEVATIONS		
Drawn	Checked	Approved
MG	HHH	SRH
Client	Date	
LOPANA P/L	23/04/2024	

PRELIMINARY NOT FOR CONSTRUCTION	
Project No.	22014
Drawing No.	DA201
Revision	01



- AMENDMENTS FOR SECTION 4.55
- 1. ROOF TOP DESIGN AMENDED
  - 2. GARAGE WALL AND DOOR RELOCATED
  - 3. CENTRAL VOID AMENDED
  - 4. KITCHEN DISCHARGE COWL ADDED



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Notes/Legend:

TOW TOP OF WALL  
TOG TOP OF GLASS  
TOB TOP OF BALUSTRADE  
FFL FINISH FLOOR LEVEL  
RL RELATIVE LEVEL  
--- PREVIOUSLY APPROVED BUILDING LINE  
- - - ENVELOPE HEIGHT LIMIT

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
718 NEW SOUTH HEAD ROAD, ROSE BAY

Stage:  
SECTION 4.55

Scale @A3  
1:200

Drawing title  
SECTIONS

Drawn	Checked	Approved
MG	HHH	SRH

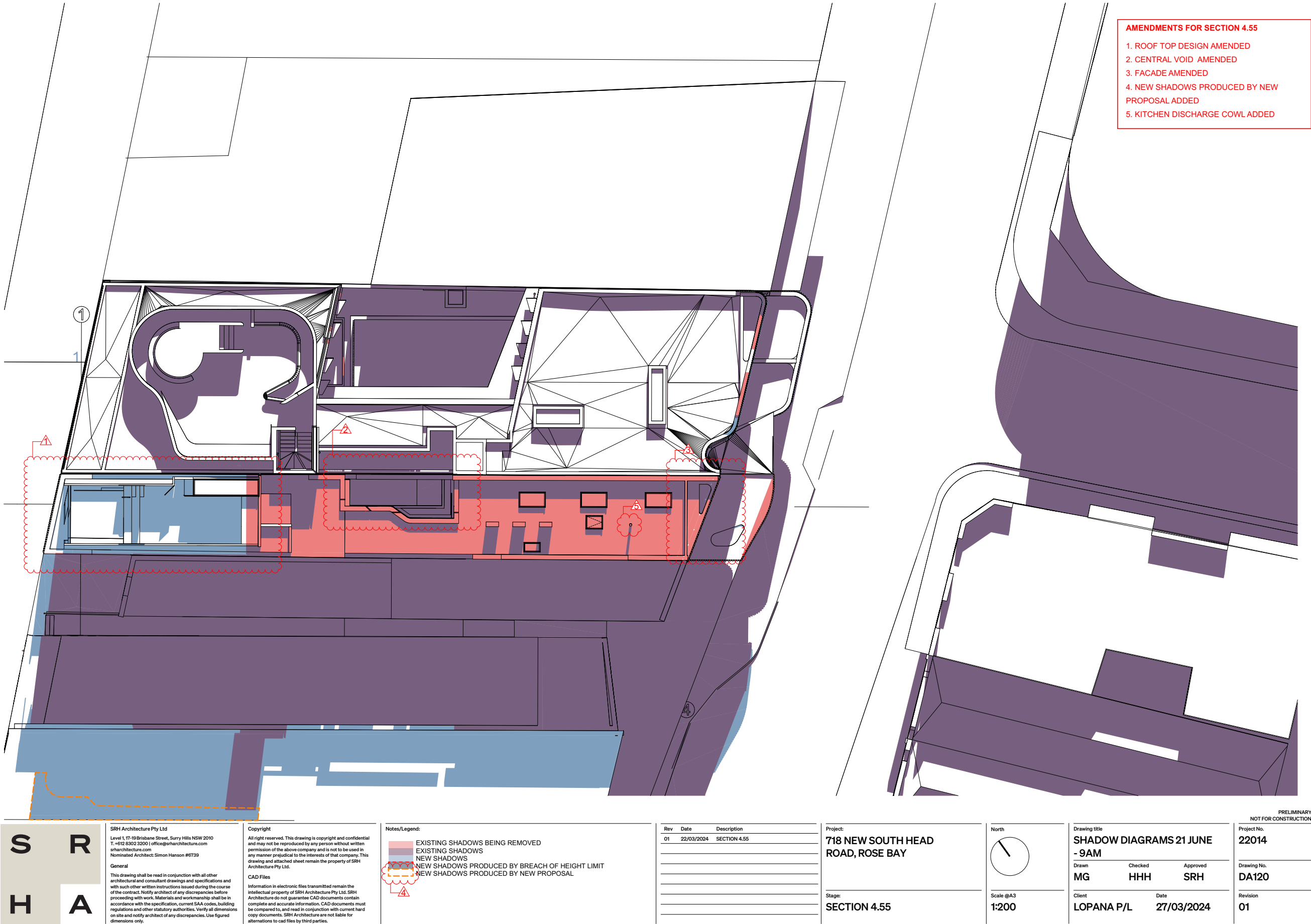
Client: LOPANA P/L Date: 27/03/2024

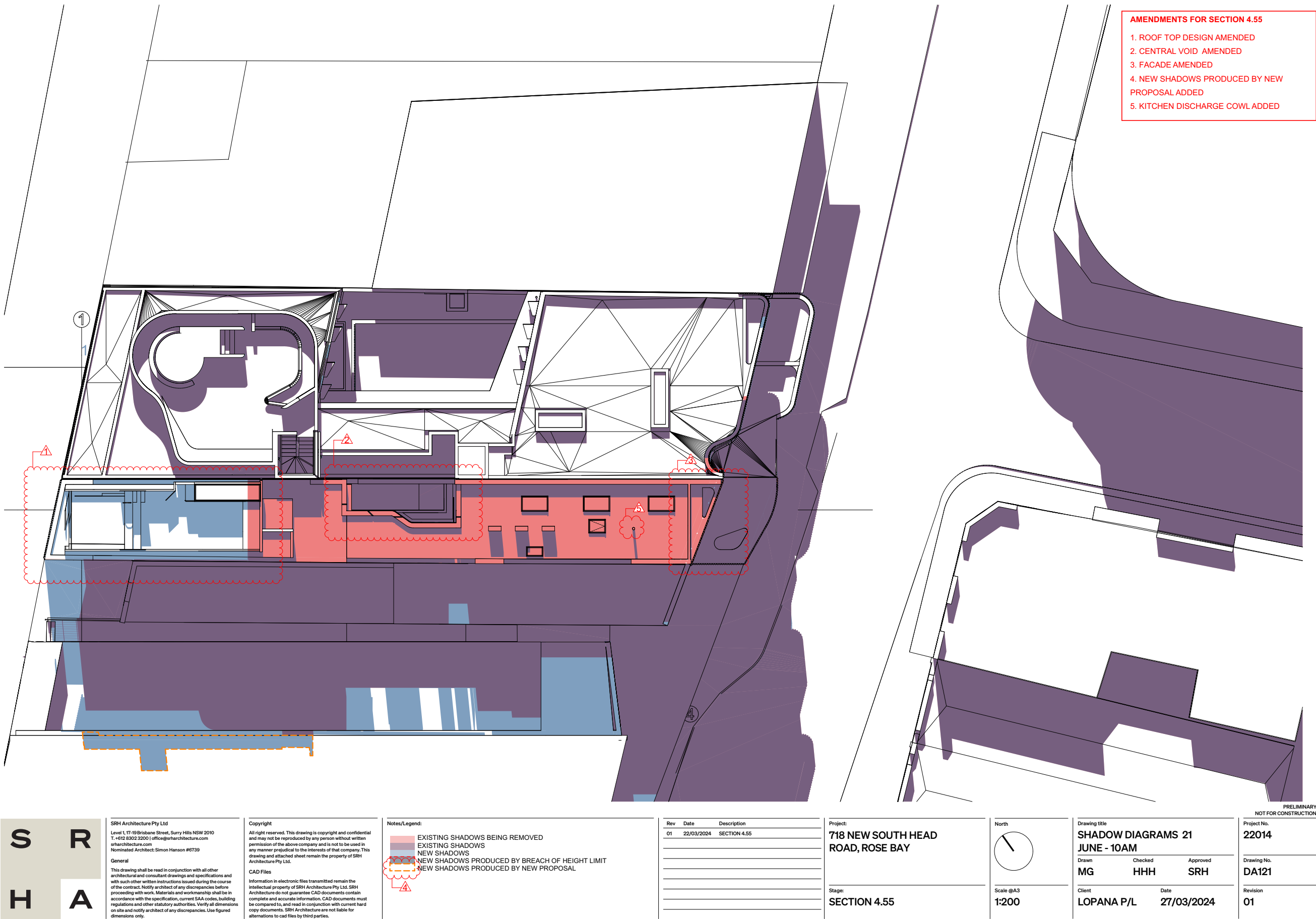
PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.  
22014

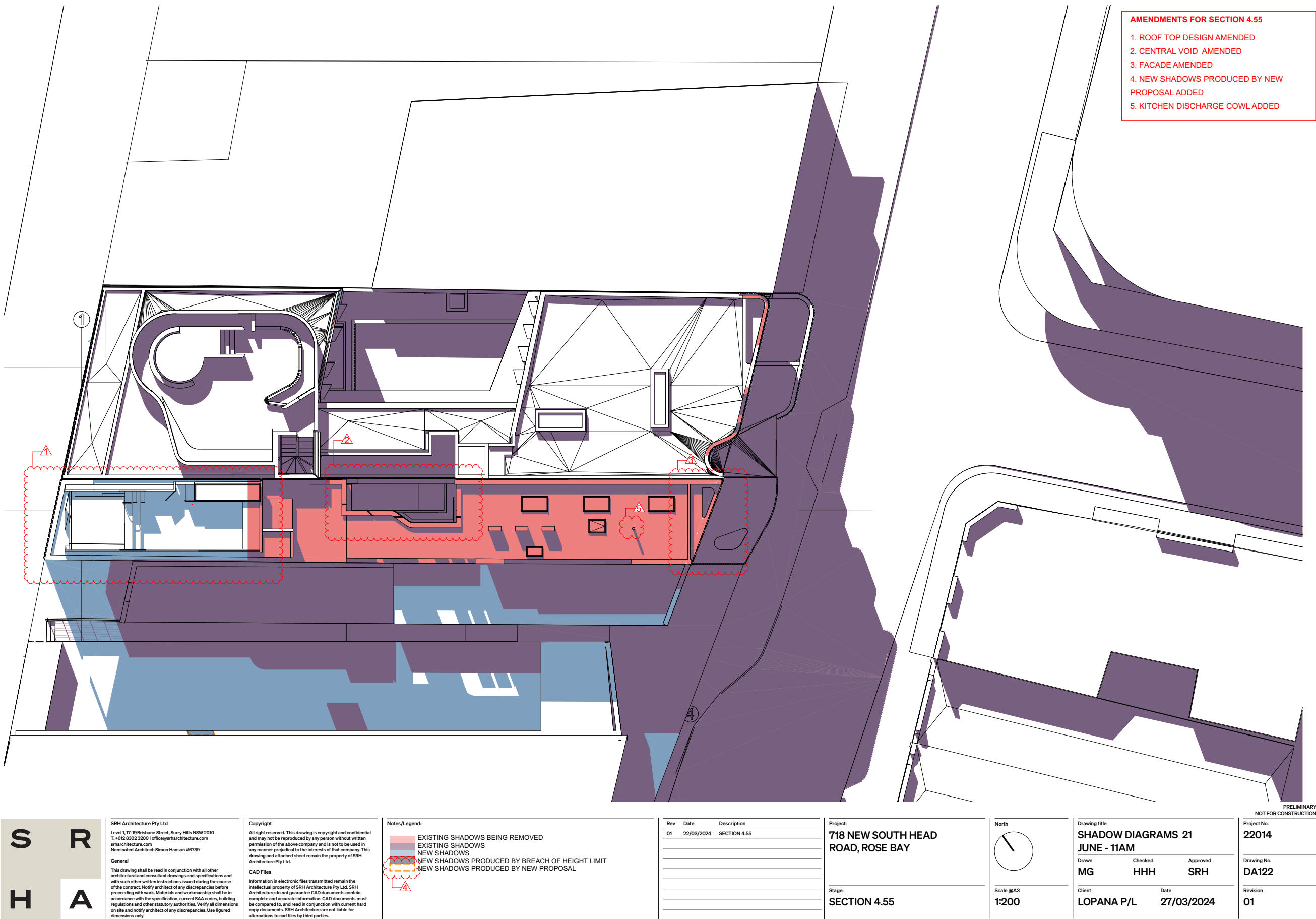
Drawing No.  
DA300

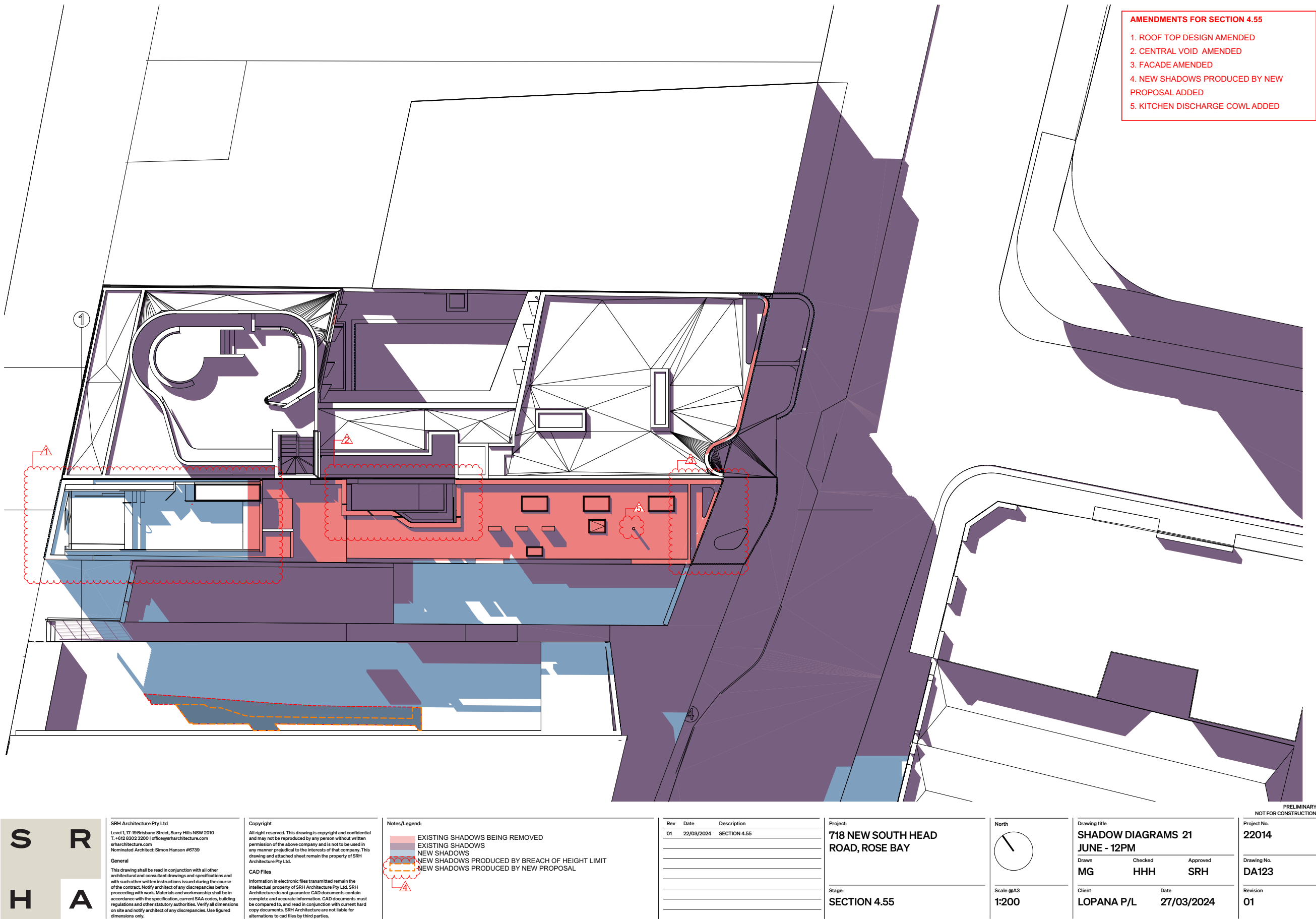
Revision  
01



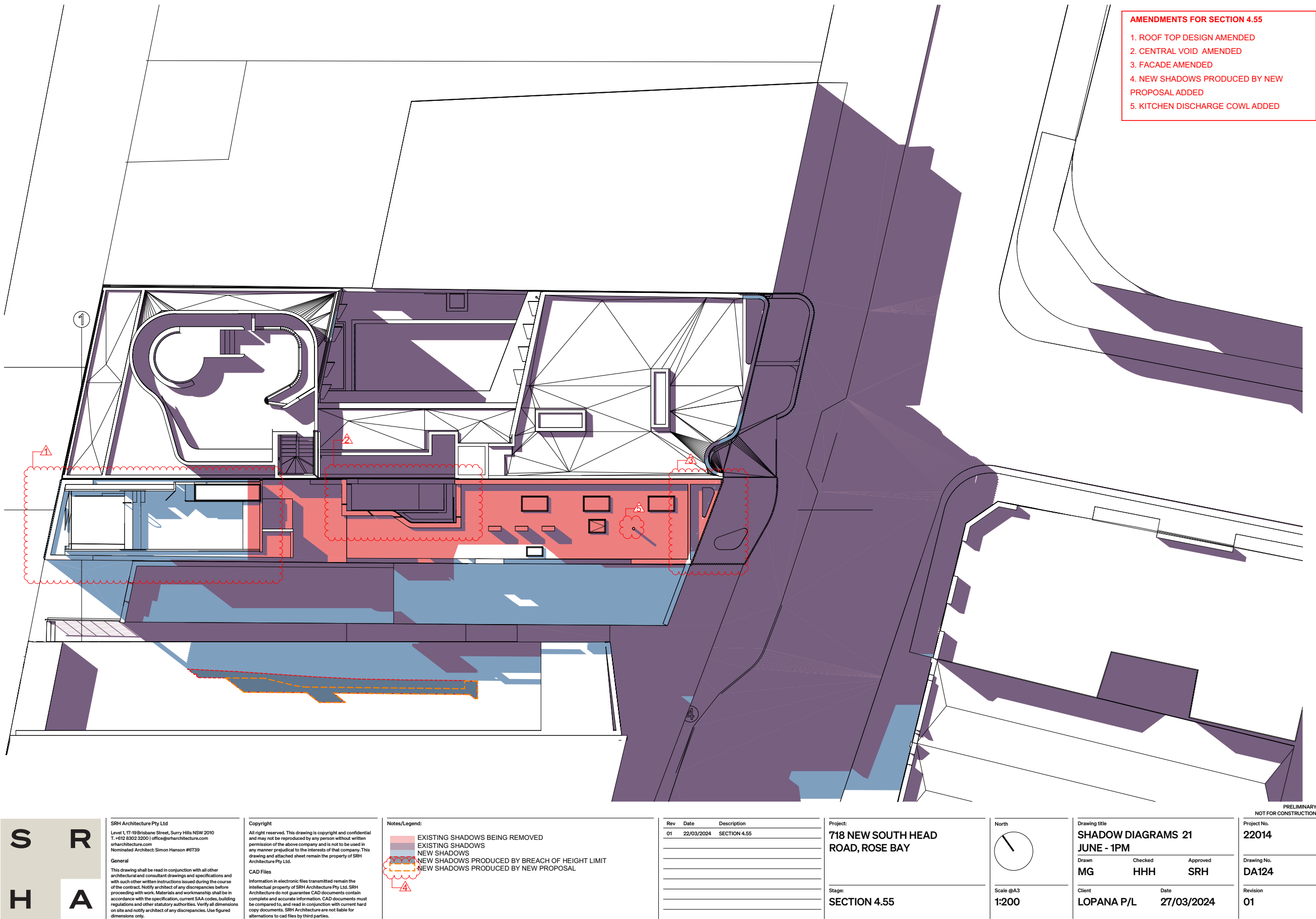


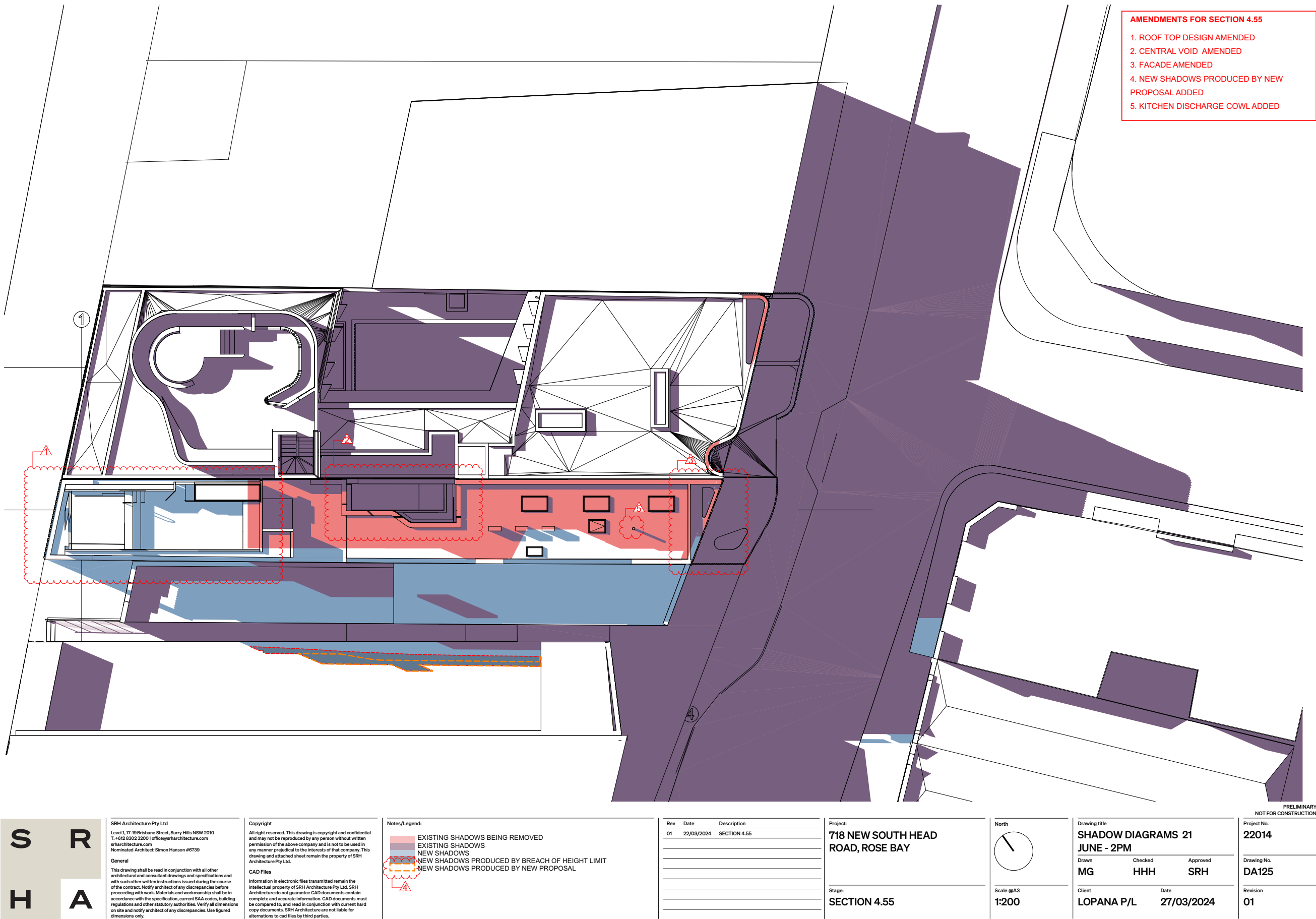


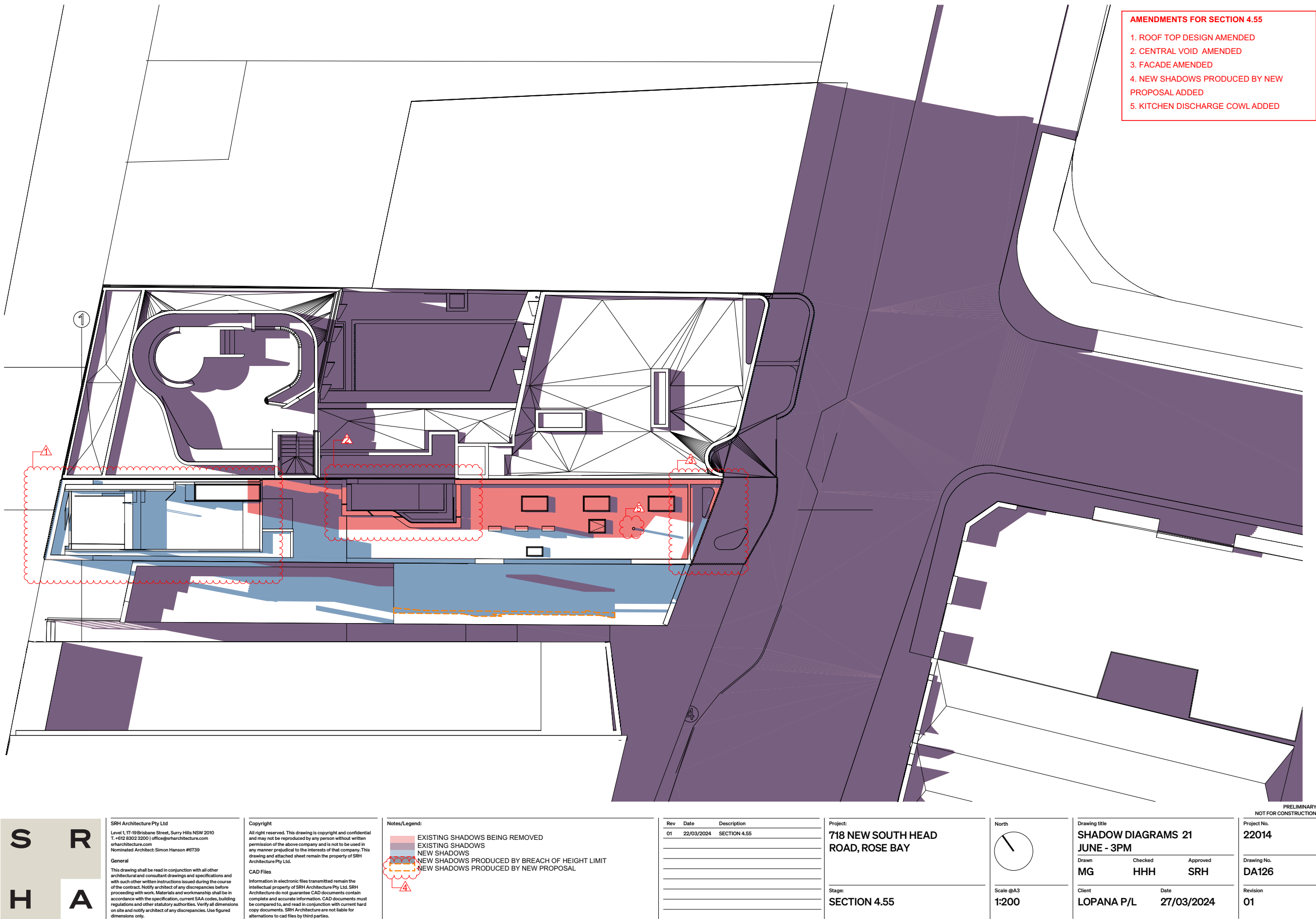


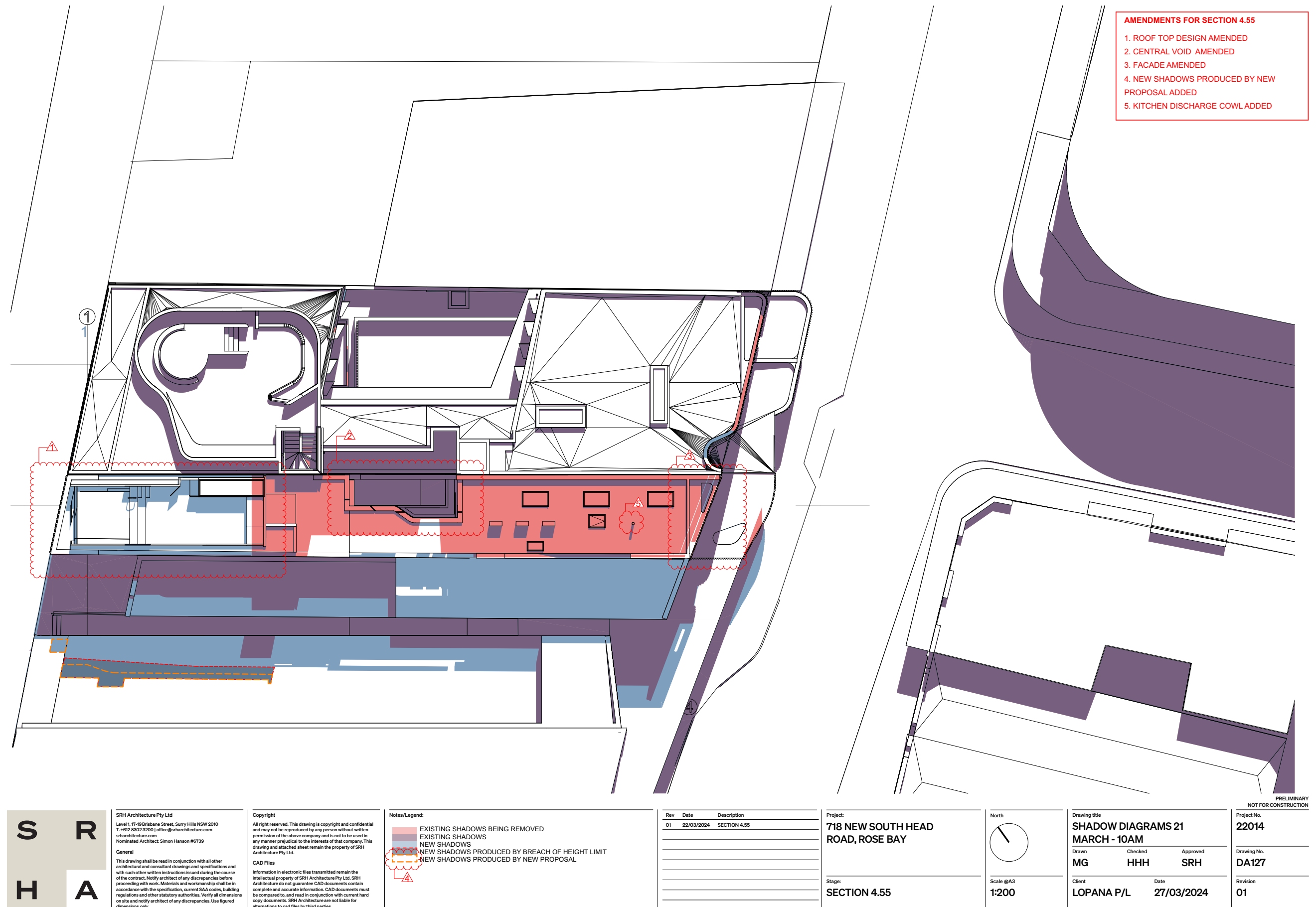




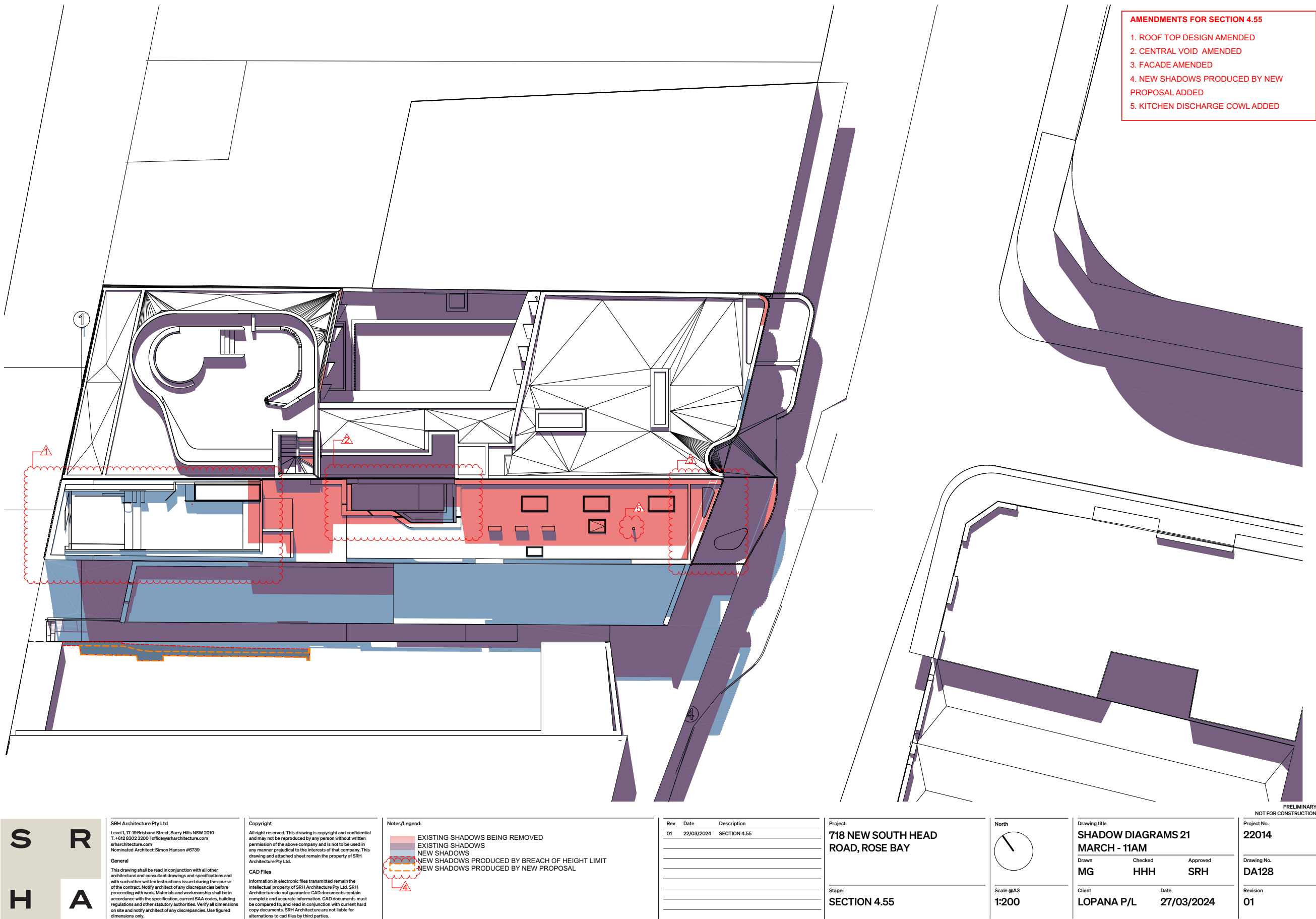


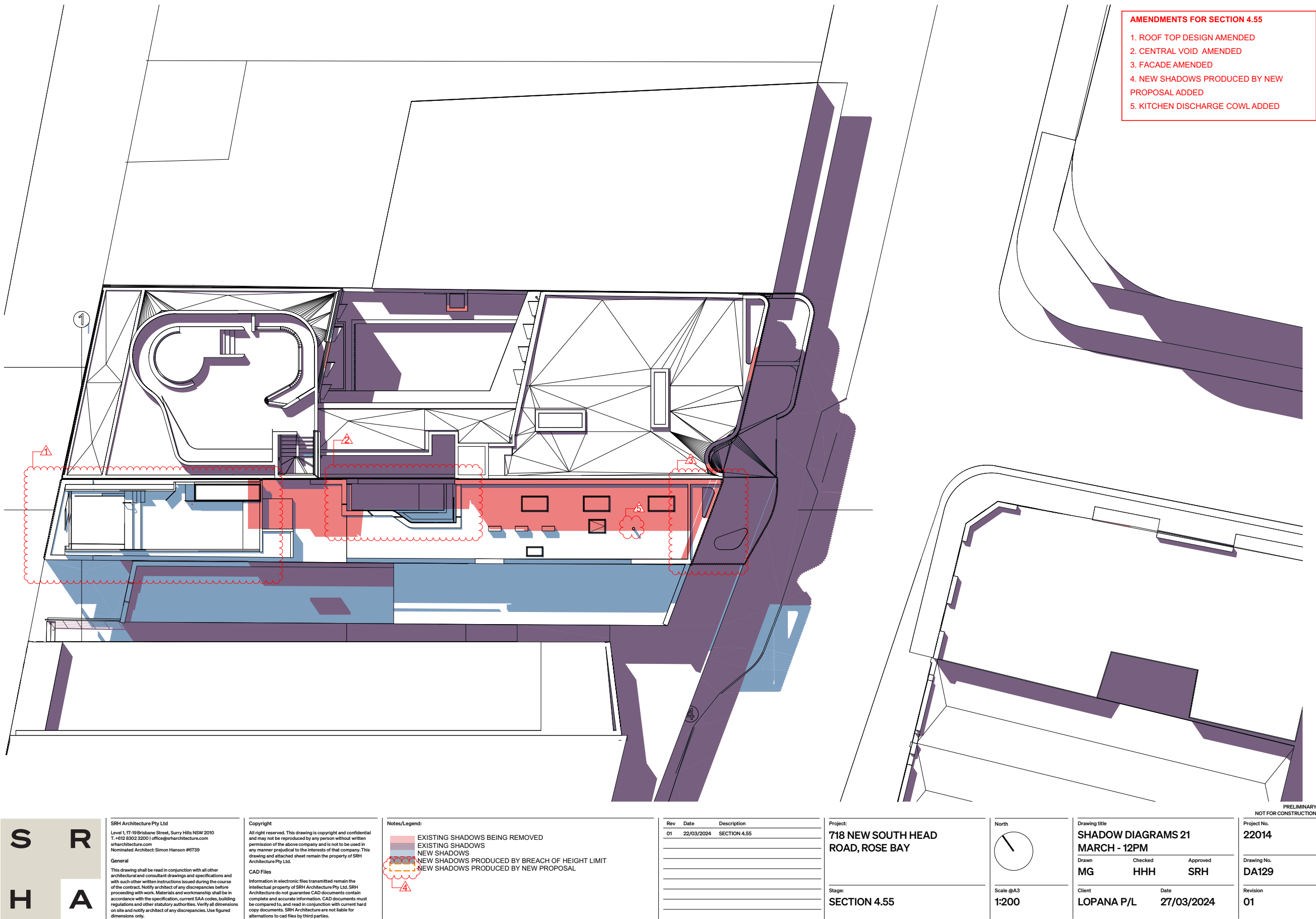


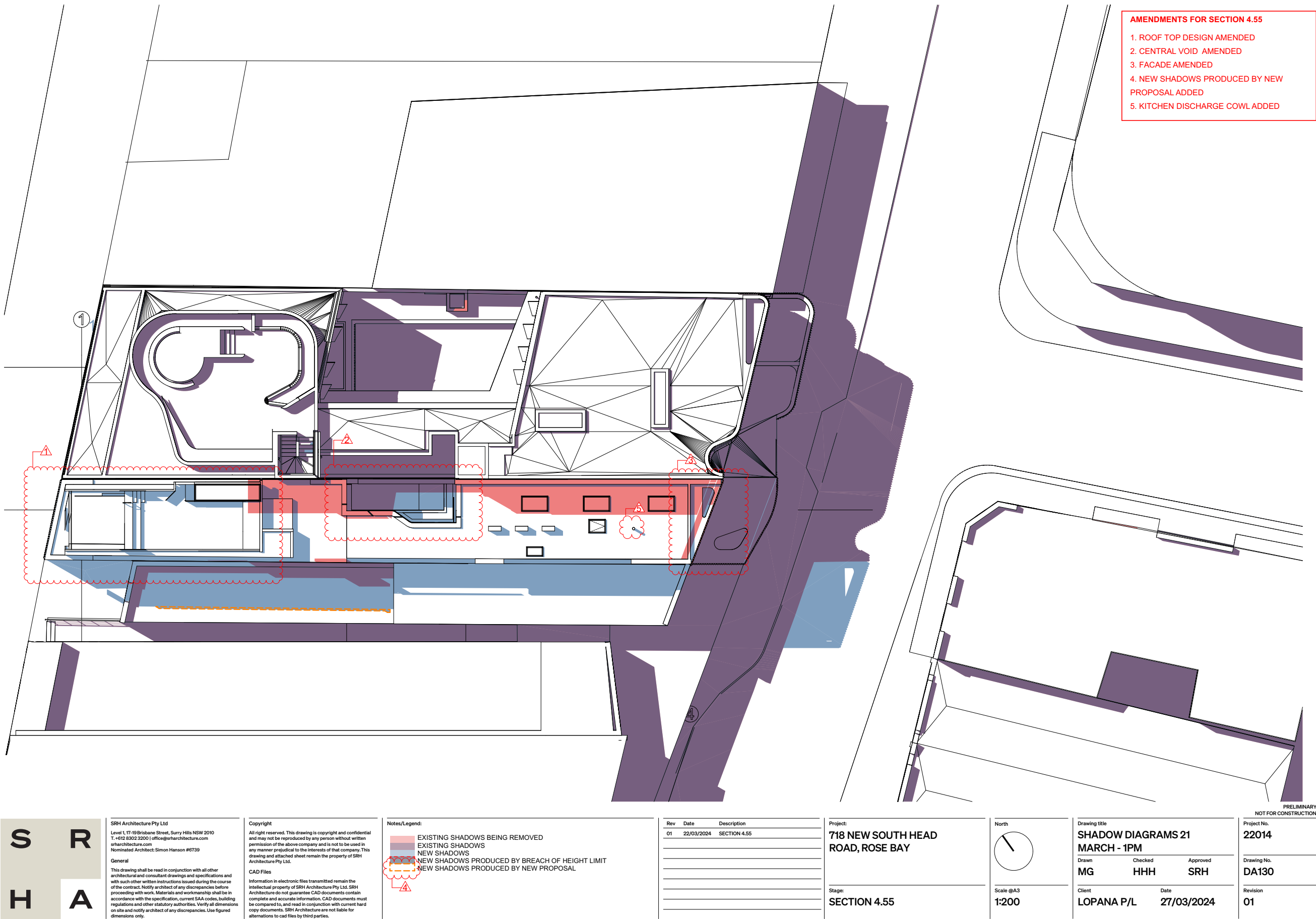




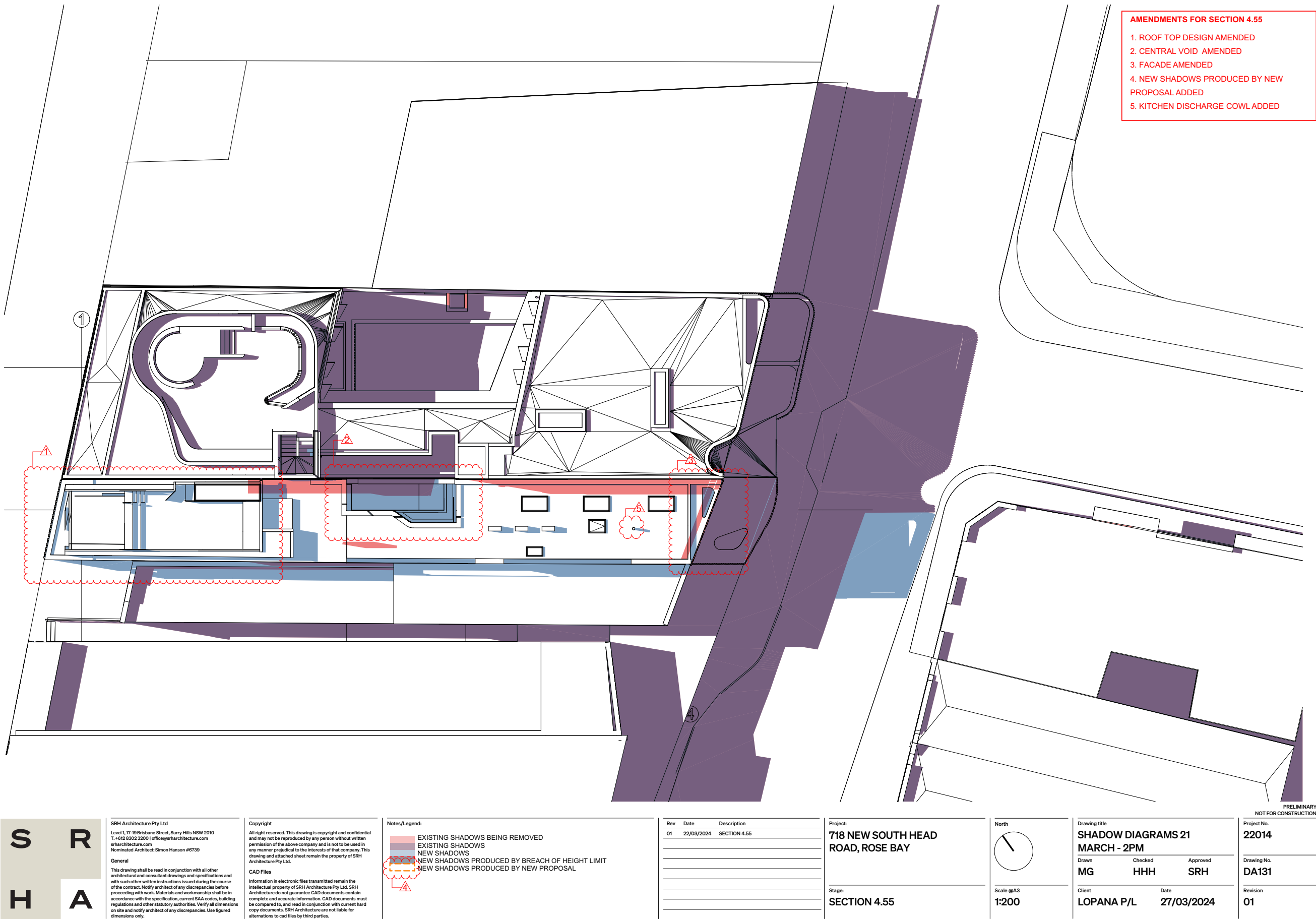


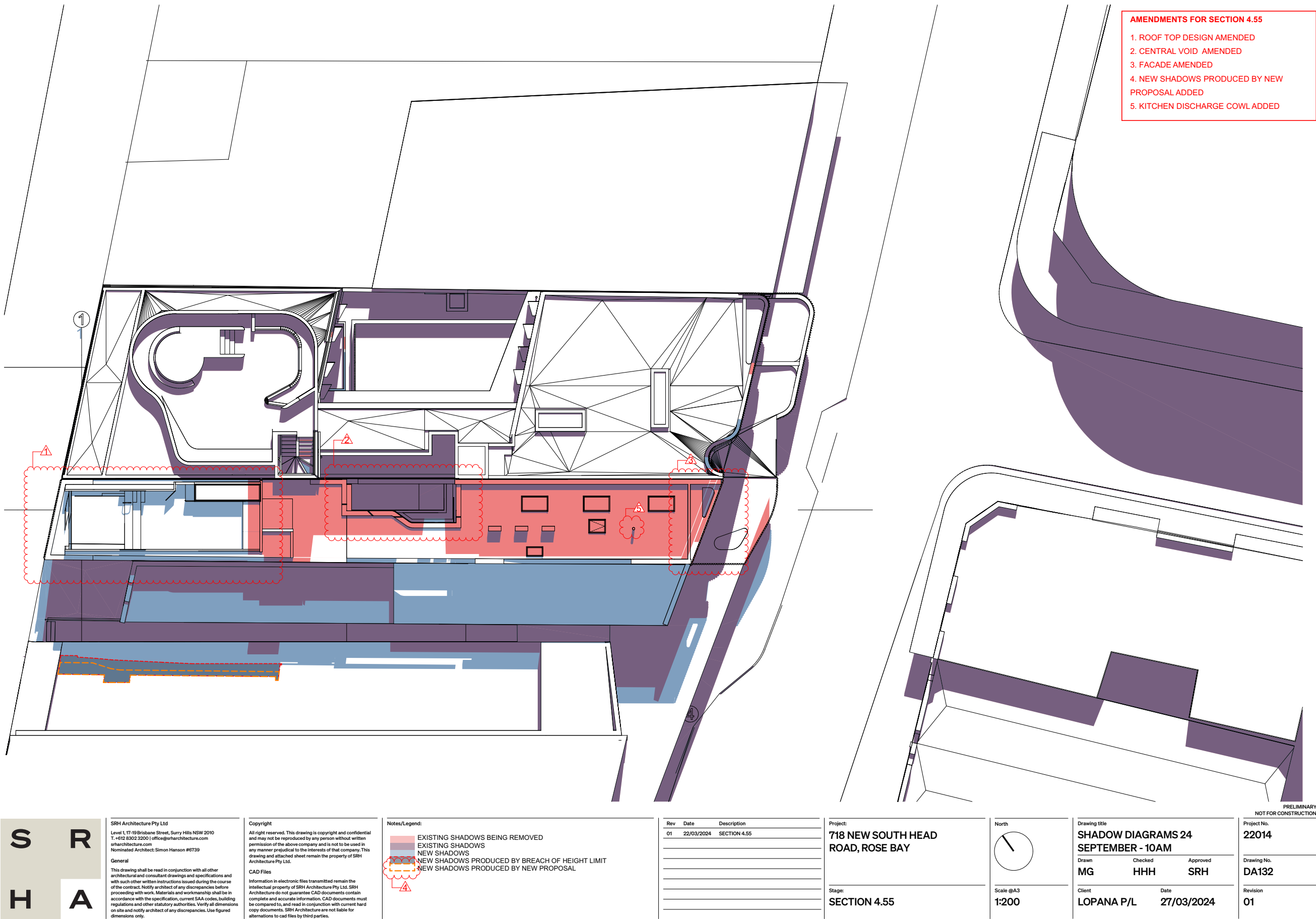


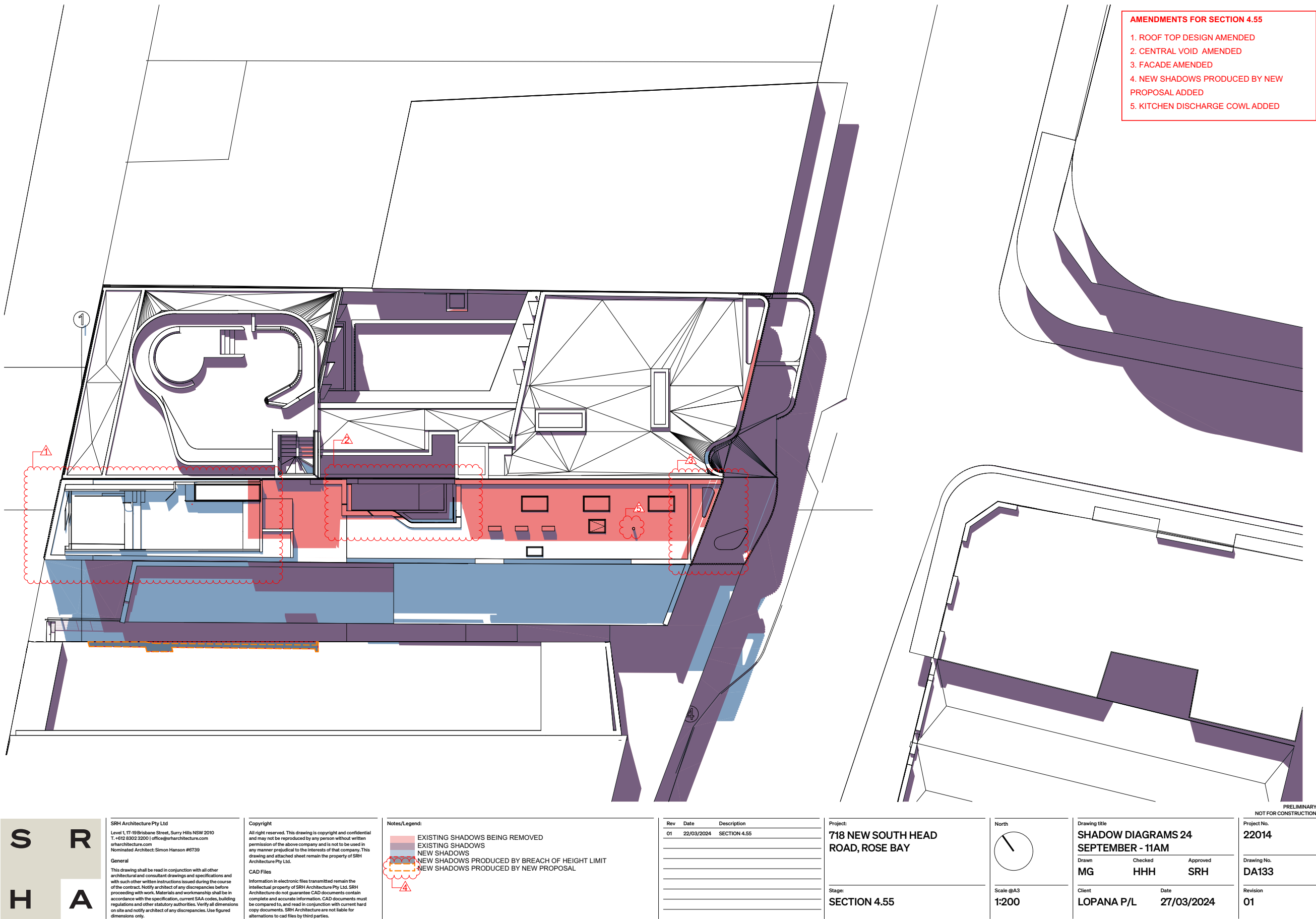


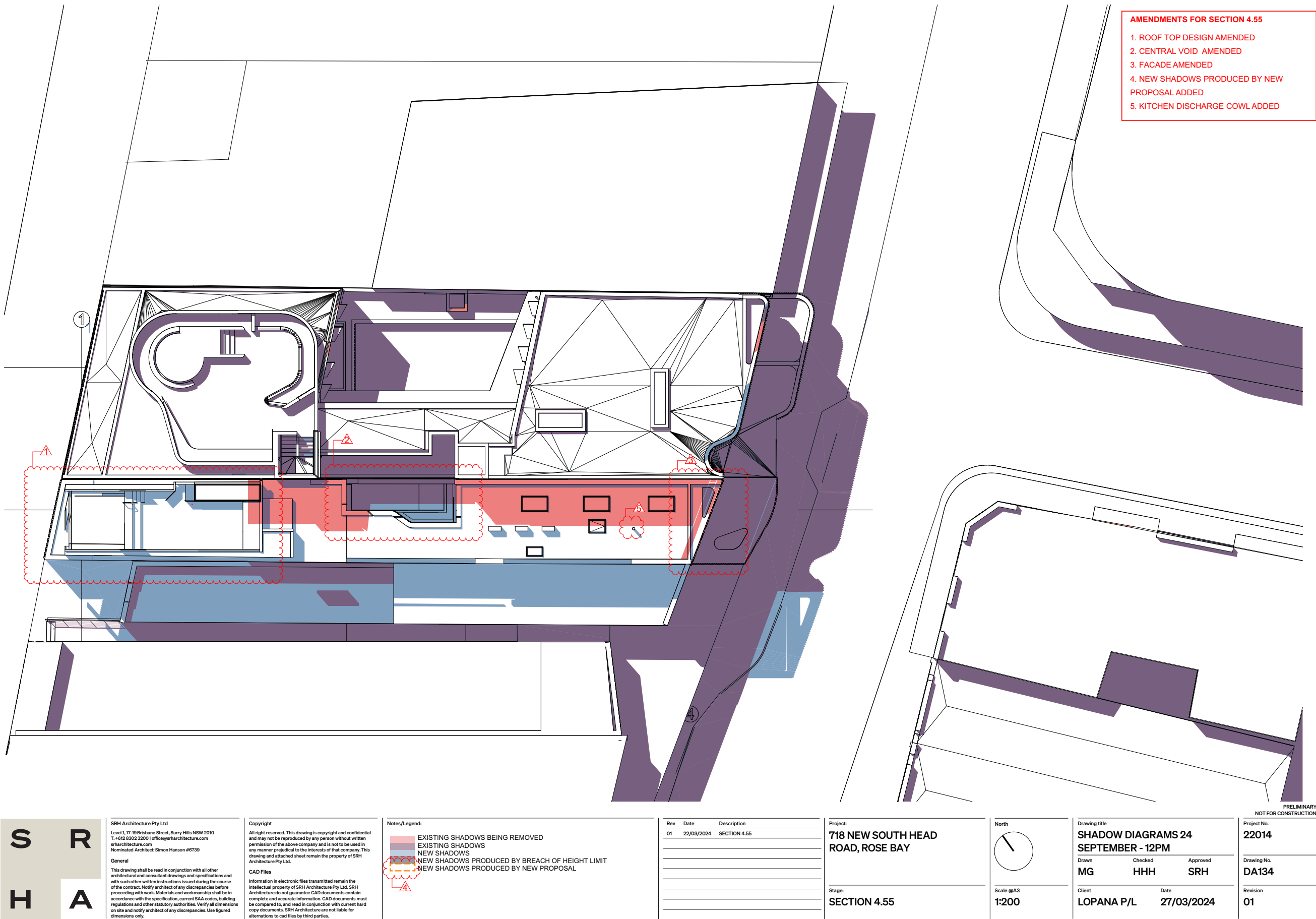




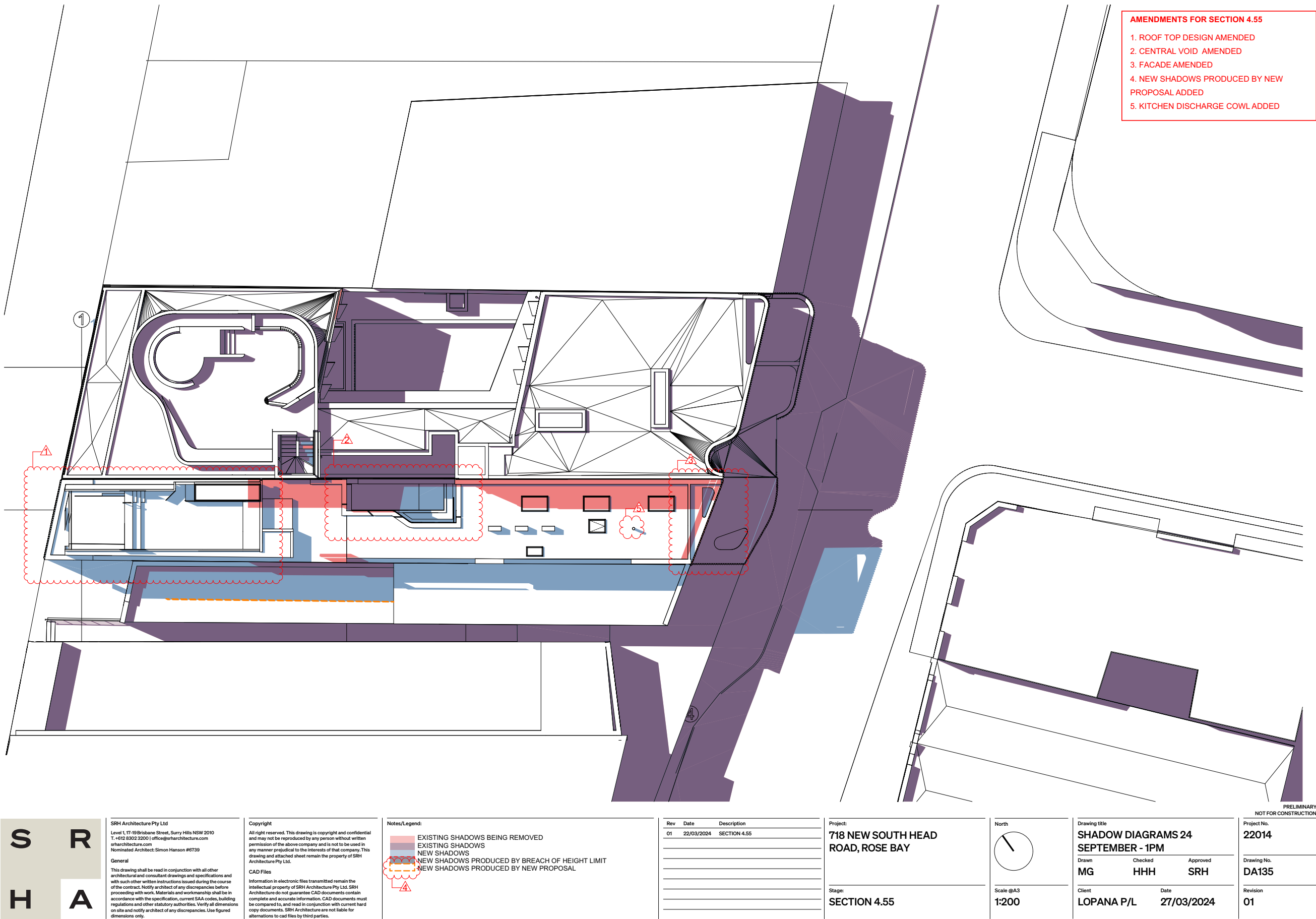


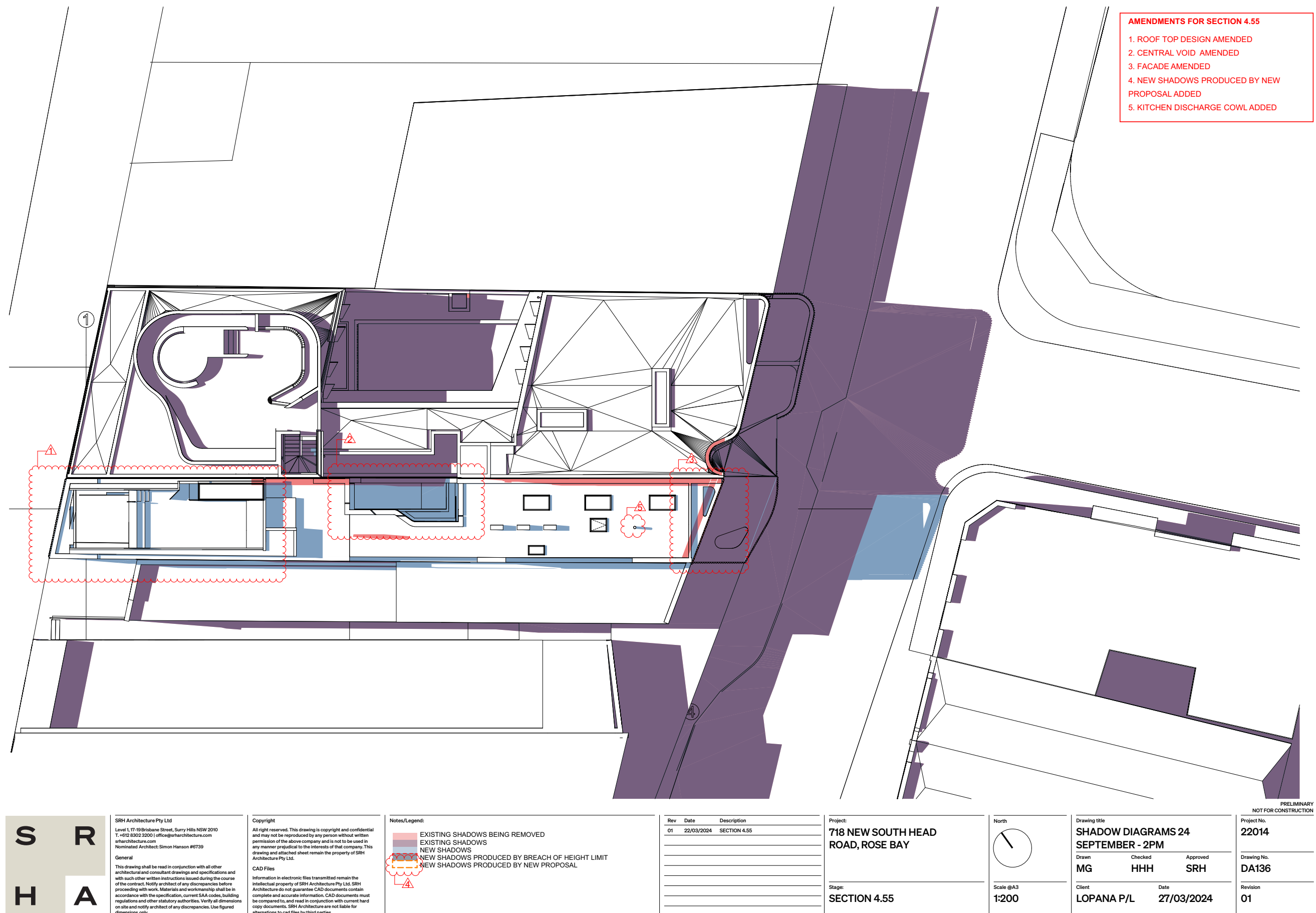


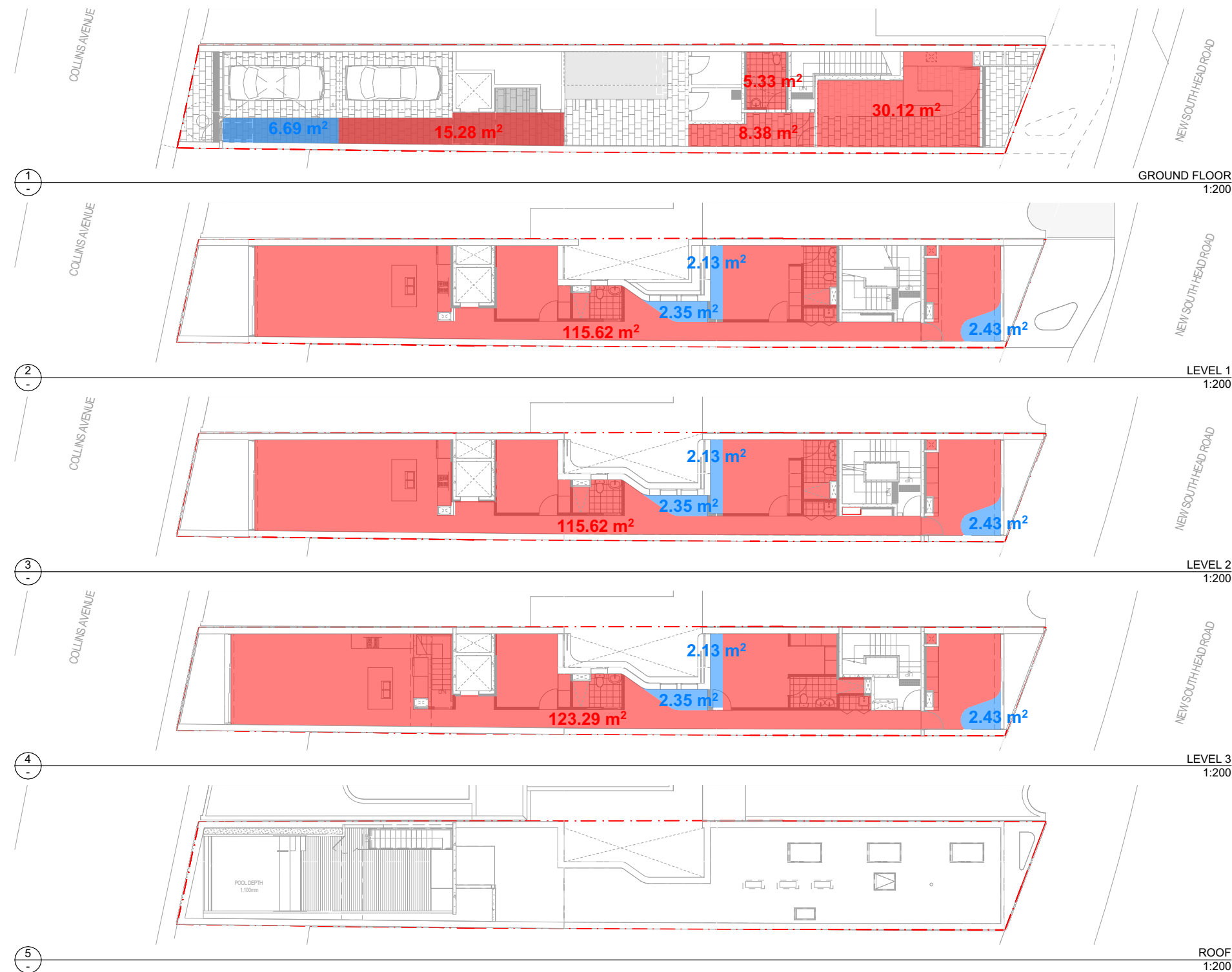










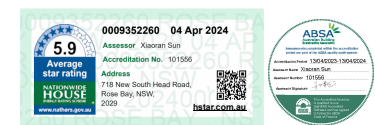


GFA	
FLOOR / UNIT	MEASURE AREA
GROUND FLOOR / RETAIL	65.8 m <sup>2</sup>
LEVEL 1 / UNIT 1	122.53m <sup>2</sup>
LEVEL 2 / UNIT 2	122.53m <sup>2</sup>
LEVEL 3 / UNIT 3	130.2 m <sup>2</sup>
ROOFTOP	0 m <sup>2</sup>
TOTAL	441.06 m <sup>2</sup>
	TOTAL AREA ADDED 27.42 m <sup>2</sup>

SITE AREA	207.3 m <sup>2</sup>
FSR	2.128 : 1

## AMENDMENTS FOR SECTION 4.55

1. PROPOSED ADDITIONAL AREA ADDED  
2. GFA AND FSR AMENDED



S	R
H	A

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Notes/Legend:

 PROPOSED ADDITIONAL AREA

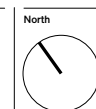
 DA APPROVED AREA

[illegible]

Project:  
**718 NEW SOUTH HEAD  
ROAD, ROSE BAY**

Stage:

**SECTION 4.55**



Scale @A3  
**1:200**

Drawing title

**AREA CALCULATIONS**

Drawn	Checked	Approved
<b>MG</b>	<b>HHH</b>	<b>SRH</b>

Client	Date
LOPANA P/L	27/03/2024

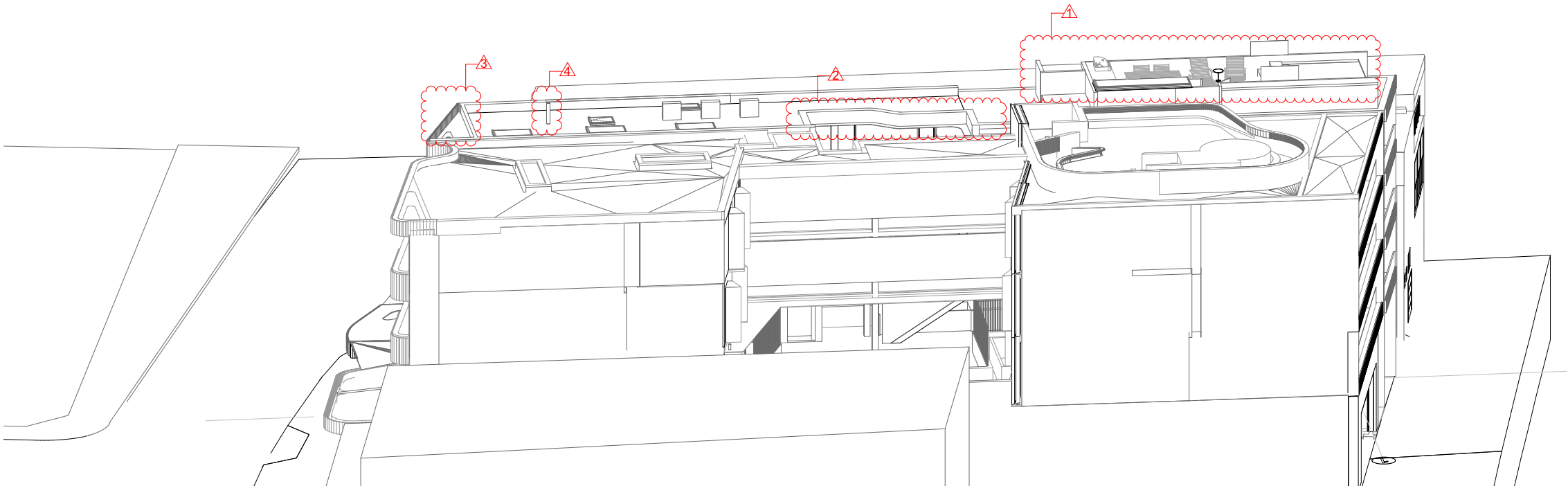
PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.  
**22014**

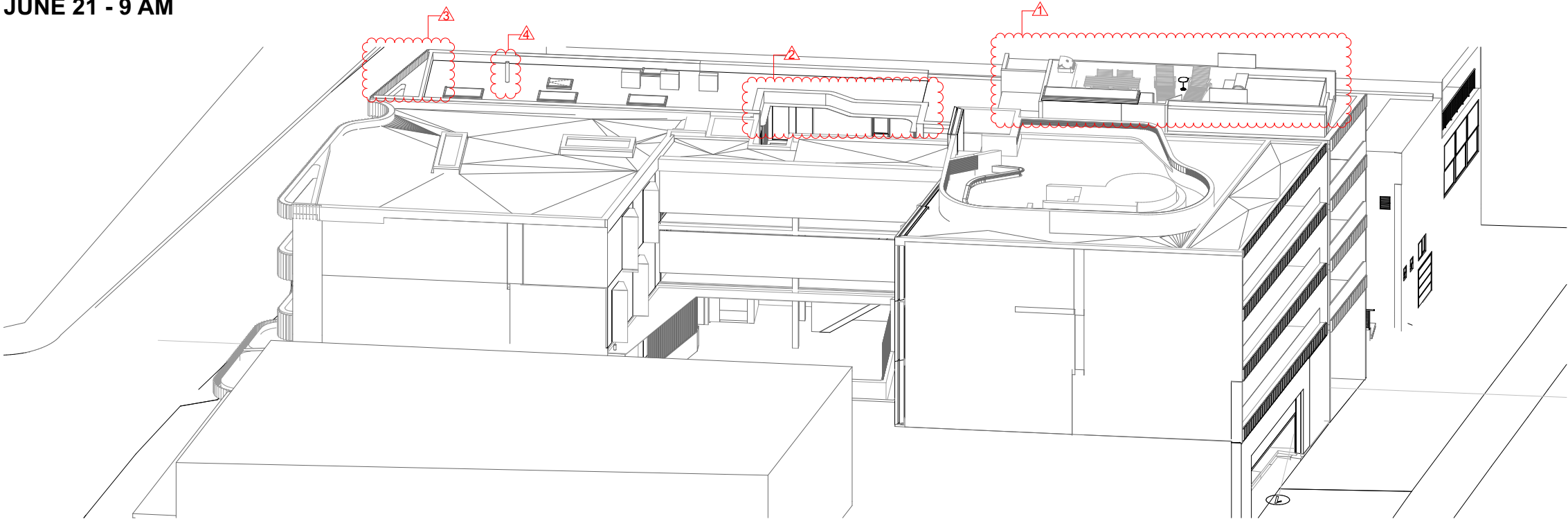
Drawing No.  
**DA150**

Revision  
01





JUNE 21 - 9 AM



JUNE 21 - 10 AM

- AMENDMENTS FOR SECTION 4.55
1. ROOF TOP DESIGN AMENDED

2. CENTRAL VOID AMENDED

3. FACADE AMENDED

4. KITCHEN DISCHARGE COWL ADDED



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Notes/Legend:

LIVING AREA WINDOWS OF PROPOSED DEVELOPMENT

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:

718 NEW SOUTH HEAD ROAD, ROSE BAY

Stage:

SECTION 4.55

Scale @A3

1:200

Drawing title

VIEWS FROM SUN 9 AM - 10 AM

Drawn	Checked	Approved
MG	HHH	SRH

Client

LOPANA P/L

Date

27/03/2024

PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.

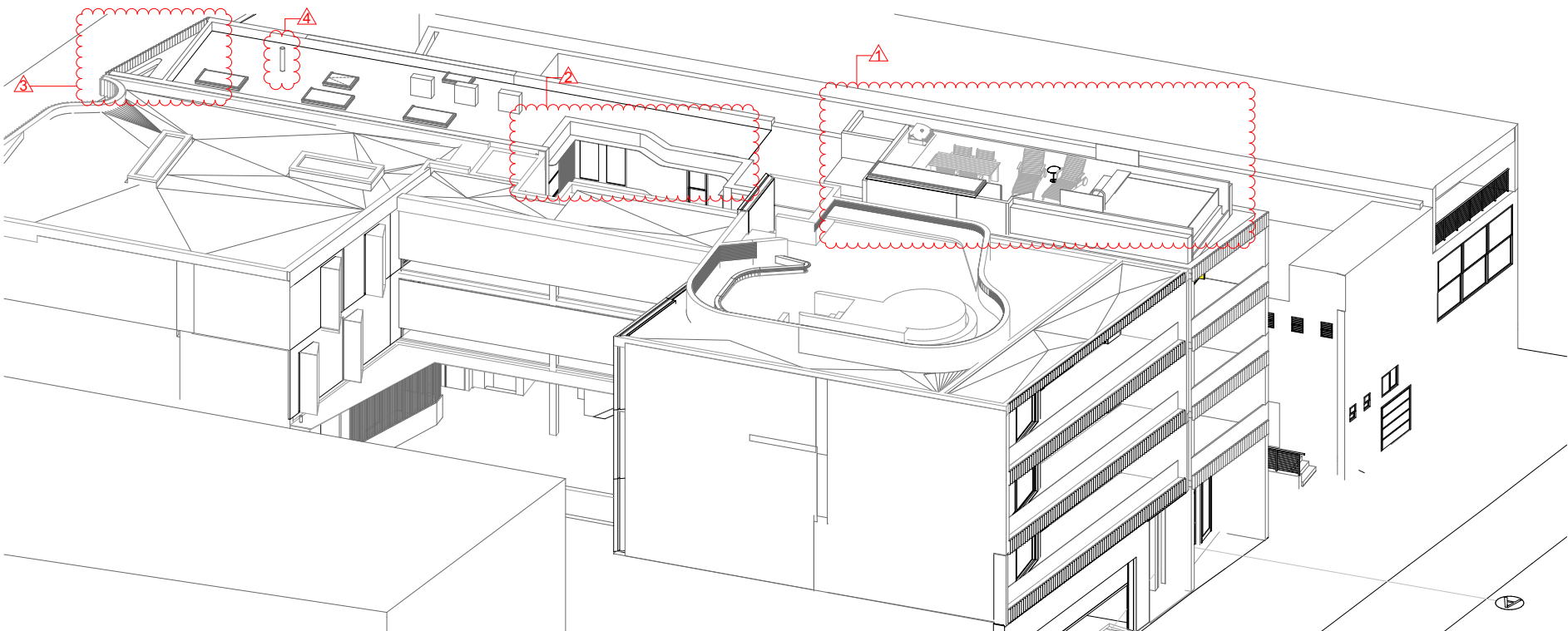
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Drawing No.

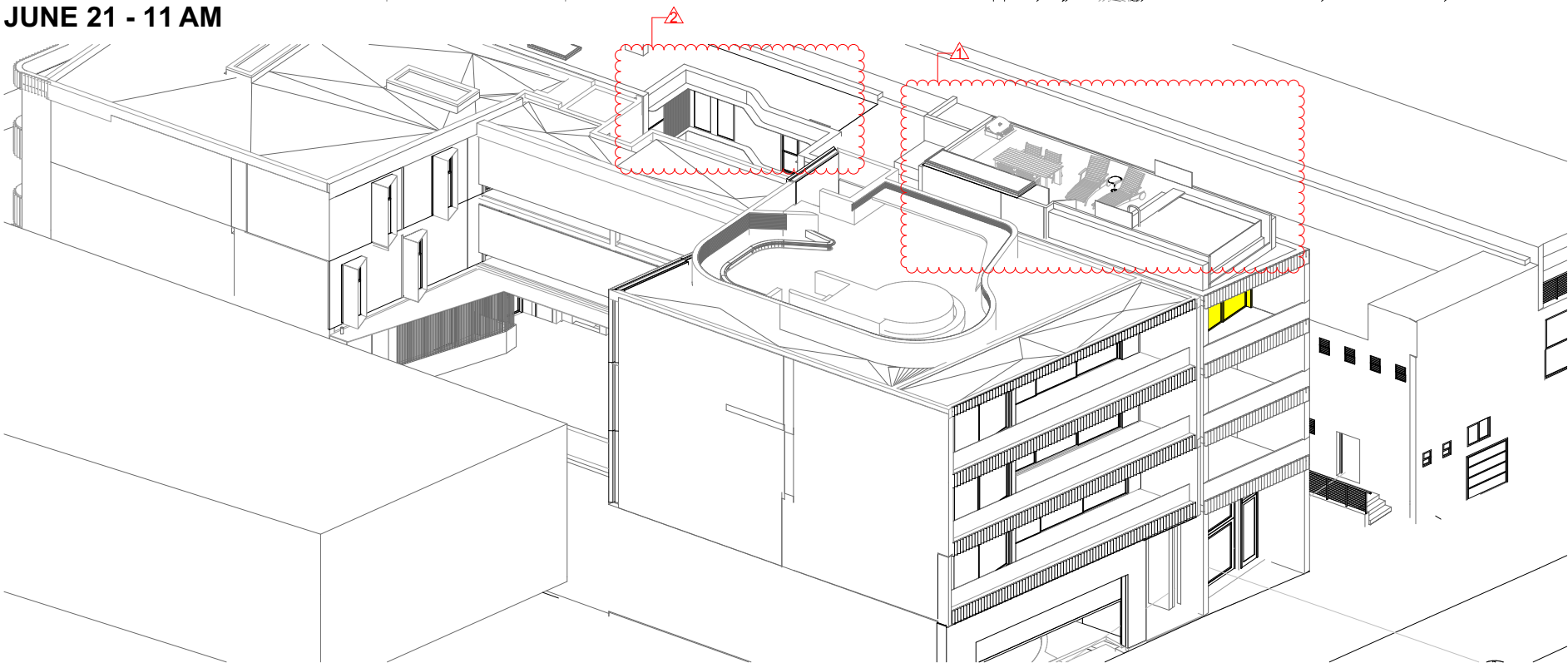
DA160

Revision

01



JUNE 21 - 11 AM



JUNE 21 - 12 PM

- AMENDMENTS FOR SECTION 4.55
1. ROOF TOP DESIGN AMENDED

2. CENTRAL VOID AMENDED

3. FACADE AMENDED

4. KITCHEN DISCHARGE COWL ADDED



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Notes/Legend:

LIVING AREA WINDOWS OF PROPOSED DEVELOPMENT

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:

718 NEW SOUTH HEAD ROAD, ROSE BAY

Stage:

SECTION 4.55

Scale @A3

1:200

Drawing title

VIEWS FROM SUN 11 AM - 12 PM

Drawn

MG

Checked

HHH

Approved

SRH

Client

LOPANA P/L

Date

27/03/2024

PRELIMINARY  
NOT FOR CONSTRUCTION

Project No.

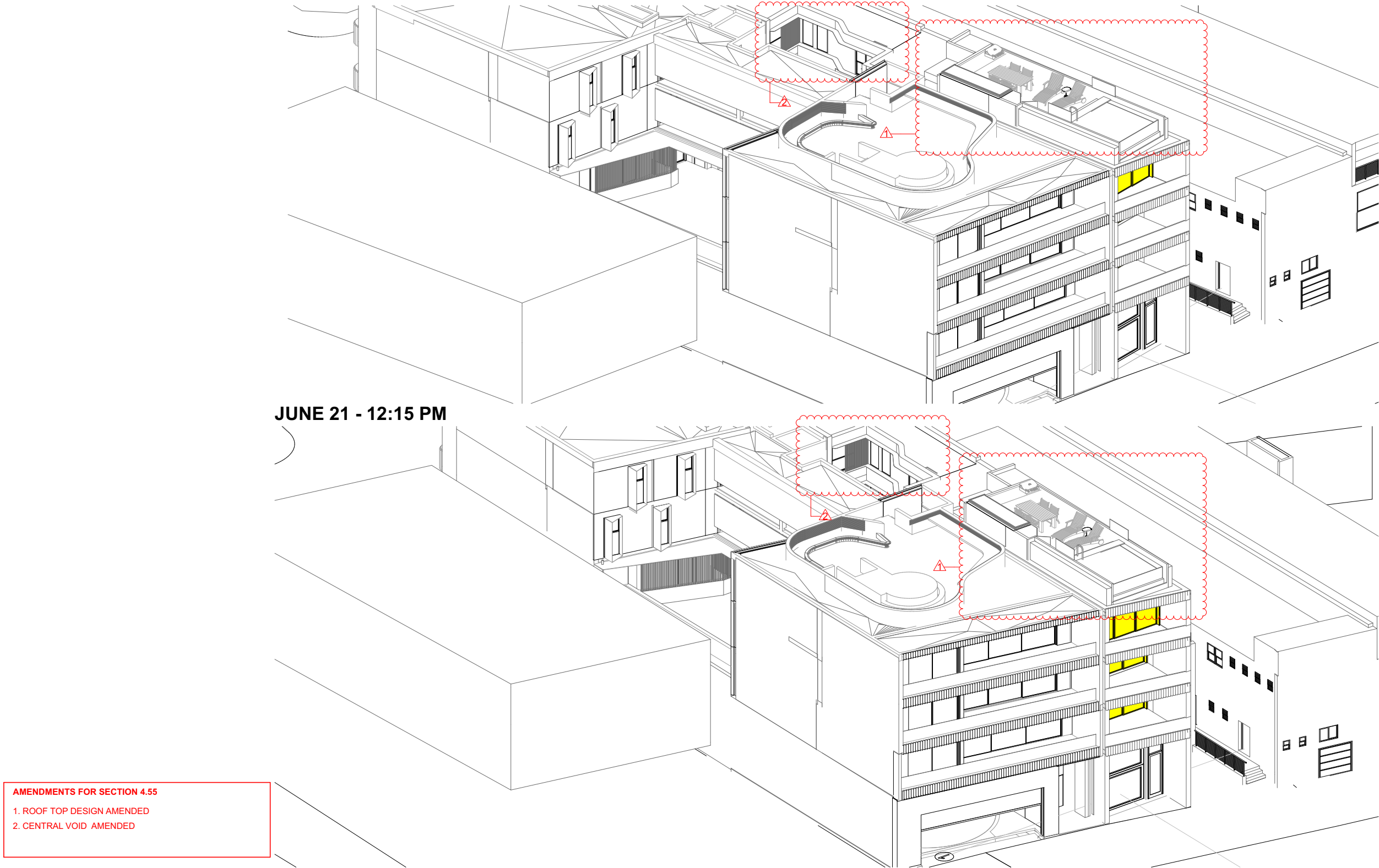
22014

Drawing No.

DA161

Revision

01



AMENDMENTS FOR SECTION 4.55

1. ROOF TOP DESIGN AMENDED

2. CENTRAL VOID AMENDED

JUNE 21 - 1 PM



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Nominated Architect: Simon Hanson #6739

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Notes/Legend:

 LIVING AREA WINDOWS OF PROPOSED DEVELOPMENT

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**

Scale @A3  
**1:200**

Drawing title  
**VIEWS FROM SUN 12:15 PM - 1 PM**

Drawn	Checked	Approved
MG	HHH	SRH

Client  
**LOPANA P/L**

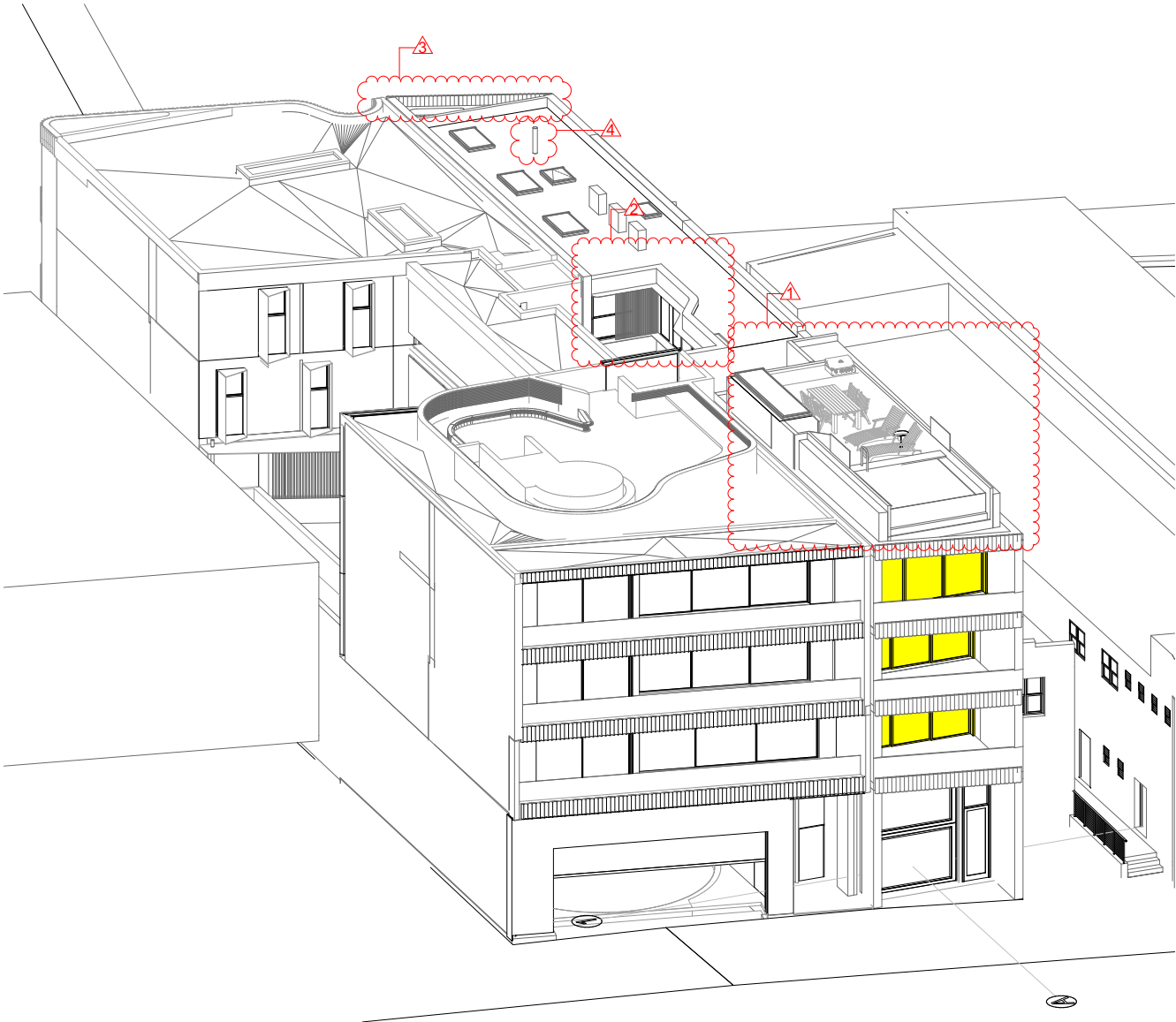
Date  
**27/03/2024**

PRELIMINARY  
NOT FOR CONSTRUCTION

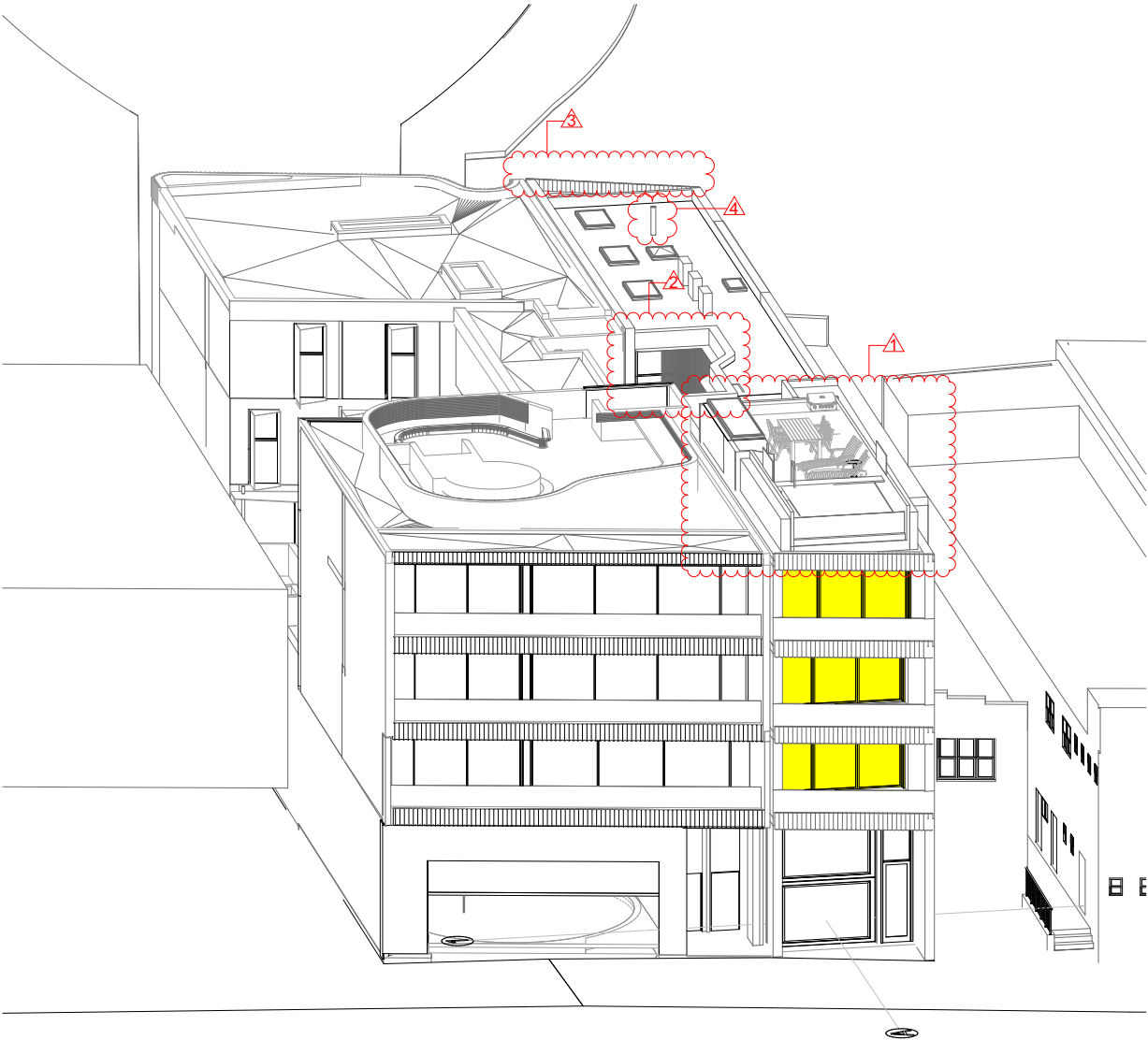
Project No.  
**22014**

Drawing No.  
**DA162**

Revision  
**01**



JUNE 21 - 2 PM



JUNE 21 - 3 PM

- AMENDMENTS FOR SECTION 4.55
1. ROOF TOP DESIGN AMENDED

2. CENTRAL VOID AMENDED

3. FACADE AMENDED

4. KITCHEN DISCHARGE COWL ADDED




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Nominated Architect: Simon Hanson #6739

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Notes/Legend:		
	LIVING AREA WINDOWS OF PROPOSED DEVELOPMENT	

Rev	Date	Description
01	22/03/2024	SECTION 4.55

Project:  
**718 NEW SOUTH HEAD ROAD, ROSE BAY**

Stage:  
**SECTION 4.55**

Scale @A3  
**1:200**

Drawing title		
<b>VIEWS FROM SUN 2 PM - 3 PM</b>		
Drawn	Checked	Approved
<b>MG</b>	<b>HHH</b>	<b>SRH</b>
Client	Date	
<b>LOPANA P/L</b>	<b>27/03/2024</b>	

PRELIMINARY NOT FOR CONSTRUCTION	
Project No.	<b>22014</b>
Drawing No.	<b>DA163</b>
Revision	<b>01</b>



