



# Woollahra Local Planning Panel (Public Meeting)

Thursday 3 October 2024  
1.00pm

## Agenda

### Woollahra Local Planning Panel (Public Meetings):

Woollahra Council will be holding Woollahra Local Planning Panel (WLPP) meetings using conferencing technology.

The Chair of the Panel, members of the Panel and staff will be participating in meetings in person and members of the public may attend via 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 be considered at a public meeting by the Panel.

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

- **To watch the meeting live or listen to the meeting live at 1.00pm**  
Visit Council's website at 1.00pm and watch live via the following link:  
<https://www.youtube.com/@woollahracouncil5355/streams>
- **To request to address the Panel (pre-register by 12noon the day before the meeting)**  
Pre-register to listen to the meeting live or request to address the Panel by 12noon the day before the meeting by using the relevant registration form on Council's website - <http://www.woollahra.nsw.gov.au>
- **To submit late correspondence (submit by 12noon the day before the meeting)**  
Members of the public may submit late correspondence on an agenda item being considered at a Panel Meeting. If you wish to make a written submission on an Item on the Agenda, please email your submission to [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by 12noon on the day before the meeting.

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

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

### Outline of Meeting Protocol & Procedure:

- The Chair will call the Meeting to order and ask the Panel/Staff to present apologies and/or late correspondence.
- The Chair will commence the Order of Business as shown in the Index to the Agenda.
- To register to speak at the meeting, you should register using the appropriate 'Register to address the Panel Application Form' as available on Council's website at: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) by **12noon on the day before the meeting**.
- Members of the Public who have pre-registered to listen or speak at a meeting will be sent an email with the audio-visual link prior to the meeting. Please **do not** share the audio-visual link with any third party/ies.
- Members of the Public who have pre-registered to speak will be allowed three (3) minutes in which to address the Panel, one (1) warning bell will be rung at the conclusion of two (2) minutes and two (2) warning bells rung at the conclusion of three (3) minutes. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated three (3) minutes, the speaker takes no further part in the debate unless specifically called to do so by the Chair.
- If there is more than one (1) person wishing to address the Panel from the same side of the debate, the Chair will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Panel will debate the matter (if necessary) in closed session, and arrive at a resolution.
- Minutes of the Woollahra Local Planning Panel (Public Meeting) will be posted to Council's website once finalised.

### Disclaimer:

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

Woollahra Council does not accept any liability for statements, comments or actions taken by individuals during a Council meeting.

Any part of the meeting that is held in closed session will not be recorded.

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

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

For further information please visit [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

### Woollahra Local Planning Panel Membership:

1 Chair, 2 Experts and 1 Community Representative

### Quorum:

3 Panel members



# Woollahra Municipal Council

## Notice of Meeting

25 September 2024

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

Dear Panel Members,

### Woollahra Local Planning Panel (Public Meeting) – 3 October 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Woollahra Local Planning Panel (Public Meeting)** meeting to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Thursday 3 October 2024 at 1.00pm.**

Members of the public may:

- Register to address the meeting by **no later than 12 noon on the day before the meeting** using the following Register to Speak Form  
<https://www.woollahra.nsw.gov.au/files/assets/public/v/3/forms/registration-form-to-address-planning-panels.pdf>.
- Submit late correspondence for consideration by the Panel by emailing [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by **no later than 12 noon on the day before the meeting**.
- Watch and listen to the meeting live via Council's website **from 1.00pm on the day of the meeting:**  
[https://www.woollahra.nsw.gov.au/council/meetings\\_and\\_committees/planning\\_panels/woollahra\\_local\\_planning\\_panel\\_wlpp/wlpp\\_agendas\\_audio\\_recordings\\_and\\_minutes](https://www.woollahra.nsw.gov.au/council/meetings_and_committees/planning_panels/woollahra_local_planning_panel_wlpp/wlpp_agendas_audio_recordings_and_minutes)

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

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

Regards,

Craig Swift-McNair  
General Manager



# Woollahra Local Planning Panel (Public Meeting)

## Agenda

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

### Items to be Decided by the Panel

D1	DA 31/2024/1 23 Spicer Street WOOLLAHRA - 24/174781 .....7 <b>*See Recommendation Page 26</b>	
D2	DA2024/141/1 - 2 Bay Street, Double Bay - 24/175352 .....139 <b>*See Recommendation Page 180</b>	
D3	DA 296/2023/1 7-9 McLaughlan Place PADDINGTON (aka 7 Walker Lane PADDINGTON) - 24/174400.....275 <b>*See Recommendation Page 324</b>	



## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D1
FILE No.	DA31/2024/1
ADDRESS	23 Spicer Street WOOLLAHRA
COUNCIL WARD	Cooper
SITE AREA	196.9m <sup>2</sup>
ZONING	R2 Low Density Residential
ORIGINAL PROPOSAL	Demolition of the existing building and the construction of a new two storey dwelling including off-street car parking, a pool/spa and associated landscaping
TYPE OF CONSENT	Local development
COST OF WORKS	\$980,913.00
DATE LODGED	24/01/2024
REPLACEMENT APPLICATION	<b>16/04/2024:</b> Variations to: external material finishes; fenestration to front façade; and <b>single garage deleted</b> (incl. driveway & crossing)
APPLICANT	Roth Architects Workshop Pty Ltd
OWNER	B C Hopkins & A L Bott
AUTHOR	George Lloyd
TEAM LEADER	George Fotis
SUBMISSIONS	12
RECOMMENDATION	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:

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

### 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
- The proposal is in the public interest

### 3. LOCALITY PLAN



### 4. PROPOSAL

**Amended plans were submitted on 16/04/2024** under a formal Replacement Application, which involved the deletion of the street facing garage (incl. driveway and crossing) and design amendments to the front façade and fenestration.

The proposal (as amended) involves demolition of the existing two-storey dwelling and the construction of a new two-storey dwelling with a rear sunken spa, outdoor patio and associated landscape works. The new dwelling is to comprise the following:

#### Ground Floor (FFL59.2):

- Central pedestrian access with a street facing rumpus room (prev. garage) on northern side and bedroom opposite (southern side).
- Central hallway with laundry and WC (southern side).
- New internal stairs connecting to the first floor;

- Open dining, living and kitchen.
- New rear outdoor entertainment area and covered spa.
- Associated landscaping works.

First Floor (FFL62.5):

- Two street-facing bedrooms
- Centrally located bathroom and study adjacent to the stairwell.
- Master bedroom with robe and ensuite and rear facing balconies.
- New skylights over the staircase and study room.

## 5. ISSUES

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

None.

### 5.2. Primary Issues

None.

## PROPERTY DETAILS AND REFERRALS

## 6. SITE AND LOCALITY

<b>Physical features</b>
The site is a regular shaped allotment having a 9.145m frontage to Spicer Street and identical rear boundary (adjoining No.26 Holdsworth St). The northern and southern side boundaries are almost identical at 21.635m. The site comprises a total area of 196.9m <sup>2</sup> .
<b>Topography</b>
The site is level.
<b>Existing buildings and structures</b>
The site is improved by a two-storey dwelling that is not identified as a contributory building under the Woollahra DCP 2015.
<b>Surrounding Environment</b>
The area is characterised by a mixture of two-storey Victoria terrace houses, interspersed with single-storey Victorian semi-detached houses.





## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Residential dwelling.
<b>Relevant Application History</b>
<p><b>24/01/24:</b> DA submitted to Council.</p> <p><b>7/02/24:</b> STC letter issued to applicant requesting: quantity survey; vehicle access &amp; parking information.</p> <p><b>13/02/24:</b> Requested information received including quantity surveyors report &amp; longitudinal sectional plans of vehicular accessway and garage.</p> <p><b>14/02 to 29/02/24:</b> Formal advertising/notification period. A total of 12 submissions have since been received, representing 8 different property owner/s.</p> <p><b>15/03/24:</b> Comments from Council's Heritage Officer determined the proposal to be unacceptable and requested amended plans to be submitted. Significantly, the submitted DA proposed the construction of a new driveway crossing to an internal garage that is prohibited in accordance with Chapter C2 of the Woollahra DCP 2015.</p> <p><b>16/04/24:</b> Replacement Application with amended plans lodged with Council. In addition to a number of design amendments, the garage and driveway crossings were removed from the proposal. The replacement application and associated plans and details were placed onto Council's website. No re-advertising was required to take place.</p>
<b>Relevant Compliance History</b>
Nil.
<b>Pre-DA</b>
None.
<b>Land and Environment Court Appeal(s)</b>
N/A.

## 8. REFERRALS

Referral	Summary of Referral Response	Annexure
Development Engineering	Satisfactory subject to conditions	3
Trees and Landscaping	Satisfactory subject to conditions	4
Heritage	Satisfactory subject to conditions	5

## 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

## 9. ADVERTISING AND NOTIFICATION

### 9.1. Submissions

The application was advertised and notified from 14/02/2024 to 29/02/2024, in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.

Twelve (12) submissions were received from:

1. Charlotte MacKenzie – 26 Holdsworth Street, Woollahra
2. Amy Merriman – 25 Spicer Street, Woollahra. **2 submissions received.**
3. Eileen Gleeson – 34 Spicer Street, Woollahra
4. Judith Milne – 29 Spicer Street, Woollahra. **2 submissions received.**
5. Graeme Prisk & Peter Thomason – 7 Morell Street, Woollahra. **2 submissions received.**
6. Jean Chu – 19 Spicer Street, Woollahra: **2 submissions received.**
7. Leslie Jesudason – 32 Spicer Street, Woollahra.
8. Amy Merriman – 36 Spicer Street, Woollahra.

The submissions raised the following issues:

Issue	Conclusion
Privacy and cross-viewing from upper floor windows into adjoining residence to the rear of the site.	The separation distance between the rear upper floor balustrade and the neighbouring property windows is >9m and considered suitable to maintain privacy and amenity of neighbouring properties.
Privacy concerns from upper floor windows into the adjoining northern residence.	Windows along the northern first-floor façade comprise a bedroom window, 2 x bathroom windows and a highlight master bedroom window with a sill height of 1.7m. <b>Condition D.1</b> requires the use of <b>fixed translucent glazing</b> for Bed 02 and the adjoining bathroom windows.

Issue	Conclusion
Adverse impact upon streetscape & heritage character of Spicer Street.	The modified plans that form part of the replacement application have been reviewed by Council's Heritage Officer and found to be suitable and consistent with the existing heritage characteristics of Spicer Street.
Bulk, size and scale of proposal.	The bulk and scale of the proposal is considered to suitably fulfil the relevant requirements of the Woollahra LEP and DCP as demonstrated in this report.
Reduction in on-street car parking.	N/A - The replacement application has deleted the proposed garage and driveway. The availability of on-street parking is no longer reduced.
Deletion of existing side boundary setbacks.	The ground floor footprint of the proposal extends into the existing northern and southern boundary setbacks on the ground floor only. The first floor has been setback along the northern boundary consistent with the existing residence. The siting and location of the proposed residence is consistent with adjoining and surrounding properties in this part of Woollahra.
Excessive overshadowing.	The extent of overshadowing has been assessed in accordance with the requirements of the Woollahra DCP 2015 and found to be compliant.
Removal of mature trees.	The extent of tree removal has been reviewed by Council's Tree and Landscape Officer who has raised no objections subject to conditions of consent.

## 9.2. Replacement Application

The replacement application noted in Section 4 was not renotified to surrounding residents or previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019, because the proposal, as amended, would have no greater impacts than the originally advertised development application. The replacement application was however made Public on Council's DA Tracking tool.

Additional submissions received following the receipt of the Replacement Application have been considered in Section 9.1 above.

## 9.3. Statutory Declaration

The applicant has completed the statutory declaration dated 4/03/2024, declaring that the site notice for DA31/2024/1 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

The replacement application was accompanied by BASIX Certificate No.1742292S (dated 3/04/2024), demonstrating compliance with the SEPP. These requirements have been imposed in the recommended conditions.

## 11. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

### Chapter 6 – Sydney Harbour Catchment

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 6 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

## 12. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

### 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) states:

*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.*

Having regard to the above, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

### Chapter 4 – Remediation of Land

The objectives 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.

## 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 a new dwelling house and is permitted and consistent with the objectives of the R2 Low Density Residential zone.

### 13.3. 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	8.7m (max)	8m (max)	9.5m	Yes

The proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. It is also acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014.

### 13.4. Part 4.4: Floor Space Ratio

The subject site is located within the Woollahra Heritage Conservation Area (Area C15). In accordance with cl.4.4E(4), provisions regarding the maximum floor space ratio for a dwelling house in the R2 Zone are not applicable for properties that are located within the Paddington, Watsons Bay or **Woollahra heritage conservation areas**.

### 13.5. 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 identified as a heritage item and is not located in the vicinity of any items of significance. It is however located within the West Woollahra precinct of the Woollahra Heritage Conservation Area and is not identified as a contributory item.

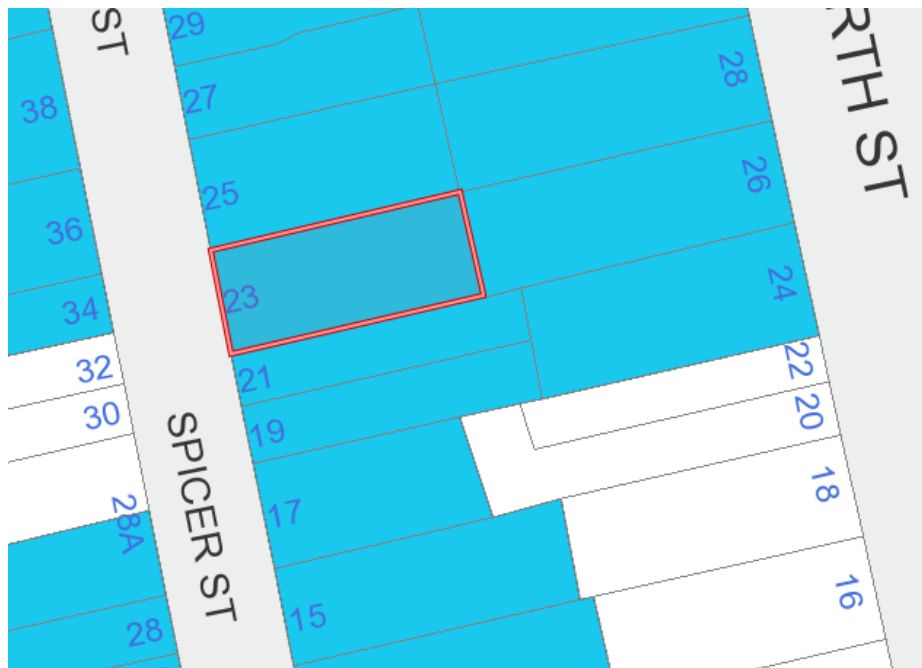
The properties on either side of the subject site, (Nos. 21 and 25 Spicer Street), are identified as contributory items, as are Nos. 24 and 28 Holdsworth Street.

The extent of works proposed under this DA has been reviewed by Council's Heritage Officer, who has raised no objections to the proposal subject to standard conditions.

The proposed development as submitted under the replacement application is therefore acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

### 13.6 Part 5.21: Flood Planning

The subject site is identified as being subject to flooding (see below).



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

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

The proposal has been reviewed by Council's Drainage Engineer who has determined that the proposal is satisfactory subject to standard conditions.

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

### **13.7. 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.

### **13.8. 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 involves excavations to accommodate a sunken spa adjoining the rear of the proposed dwelling which will measure approx. 16m<sup>3</sup>. The excavation extends to a maximum depth of <2m and is located to a minimum distance of 1.5m from the property boundaries. In accordance with Chapter B3.4 of the Woollahra DCP 2015, the proposal does not require the submission of a formal geotechnical report.

The following provides an assessment of the proposed excavation against the relevant objective set out under Part 6.2(1) of the Woollahra LEP 2014, and the matters of consideration set out under Part 6.2(3) of the Woollahra LEP 2014.

Part 6.2(1) states:

*The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

Part 6.2(3) states:

*In deciding whether to grant development consent for earthworks.... (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

- a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- b) *the effect of the development on the likely future use or redevelopment of the land,*
- c) *the quality of the fill or the soil to be excavated, or both,*
- d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- e) *the source of any fill material and the destination of any excavated material,*
- f) *the likelihood of disturbing relics,*



- g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The following comments are made in this regard:

- The extent, siting and location of the proposed excavations are not expected to cause a detrimental impact upon the amenity or environmental functions of surrounding land; and
- The relevant matters for consideration in part 6.2(3) above, have been suitably considered and reflected by the imposition of suitable conditions of consent.

In addition to the above, Council's Development Engineer has assessed the proposed excavations and has raised no objections on technical grounds subject to conditions.

Having regard to the above, the proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

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

### **Chapter C2: Woollahra Heritage Conservation Area**

As mentioned previously, the subject site is not identified as a heritage item and is not located in the vicinity of any items of significance. It is however located within the West Woollahra precinct of the Woollahra Heritage Conservation Area and is not identified as a contributory item.

Council's Heritage Officer provided comments in response to the originally submitted development proposal in a written referral dated 15/03/2024 (**Attachment 4**). In those comments, Council's Heritage Officer recommended that amended plans be submitted to address the numerous non-compliances with the Woollahra LEP and DCP.

On the 19/03/2024, the recommendation of Council's heritage Officer was forwarded to the applicant. The applicant then submitted a formal Replacement Application on 16/04/2024.

#### **Part C2.2.5: Desired Future Character of the Woollahra HCA**

The desired future character objectives of the Woollahra DCP HCA are:

- O1 *To retain its heritage significance and its recognition as a rare and distinctive urban area.*
- 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.*
- O3 *To maintain the residential character that has been predominant from the earliest phase of its development.*
- O4 *To maintain the character and significance of its identified precincts.*
- O5 *To retain the distinctive building types characteristic of the area and its precincts.*
- O6 *To continue to cater for a variety of uses and building types within a predominantly residential area.*
- O7 *To exhibit contemporary design excellence.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The existing dwelling is not contributory to the conservation area, and its demolition is supported. (O1) (O2) (O3) (O4)*
- *As discussed above, the proposed infill does not exhibit contemporary design excellence. This is further addressed below. (O7)*



Subject to compliance with recommended conditions, the proposal is considered to satisfy the objectives and controls in Part C2.2.5 of the Woollahra DCP 2015.

#### **Part C2.2.7: Contemporary Design in Woollahra**

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The design of the infill development does not achieve a cohesive relationship with existing historically significant fabric.*

The amended proposal as submitted under the Replacement Application is considered to satisfy the requirements in Part C2.2.7 of the Woollahra DCP 2015.

#### **Part C2.3.2: West Woollahra Precinct Controls**

The subject site forms part of the West Woollahra Precinct. The desired future character objectives of the West Woollahra Precinct are:

- O1 *To ensure the conservation of the culturally significant landscape elements and street tree plantings.*
- O2 *To conserve the strong pedestrian character of the precinct as reflected in the narrow streets and inter-connecting lanes.*
- O3 *To encourage rear lane access for parking.*
- O4 *To encourage new development, including infill to complement the predominantly Victorian character of the precinct.*
- O5 *To ensure the preservation of original front fences.*
- O6 *To retain and conserve contributory items.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The existing landscaping on site, and vegetation are not considered to be culturally significant, and their demolition is supported from a cultural heritage perspective. (O1)*
- *The proposed two-storey infill development, although consistent with the established front, side and rear setbacks, would appear incongruous in the streetscape for the reasons outlined above. (O4)*
- *The rear elevation of the proposed infill would not be visible from the public domain, and is supported. (O4)*

The amended proposal as submitted under the Replacement Application is considered to be acceptable with respect to maintaining the significant characteristics and conforming to the objectives as outlined in Part C2.3.2 of the Woollahra DCP 2015.

#### **Part C2.4.2: Multi-storey dwelling houses**

- O1 *To ensure that additions to multi-storey dwelling houses do not compromise or dominate the original main front section of the house, and are suited to the architectural style of the building.*
- O2 *To retain the curtilage, setting and principal building form, including original layouts and roof forms of the principal building form.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The proposed demolition of the existing dwelling is supported for the reasons outlined above. (O1) (O2)*

The amended proposal as submitted under the Replacement Application is considered to satisfy the requirements in Part C2.4.2 of the Woollahra DCP 2015.

#### **Part C2.4.12: Building Type – Infill development**

- O2 To ensure that new development on infill sites is designed and located to achieve a cohesive relationship between new and existing urban fabric and which retains and enhances the cultural significance of the area.*
- O3 To ensure that infill development respects the scale and setting of adjacent contributory items.*
- C1 Refer to the general controls in Section C2.5. These general controls apply to infill development.*
- C3 Infill development must:*
- a) maintain the significant features and qualities that combine to represent the character of the neighbourhood and area; and*
  - b) make a positive contribution to the character of the neighbourhood and area.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *As discussed above, the proposed infill would appear incongruous in the streetscape and be an unsympathetic response to the historical context of Woollahra HCA. (O1) (C1) (C3)*
- *The materials and details do not achieve a cohesive relationship between new and existing urban fabric, and do not enhance the cultural significance of the area. (O2) (O2) (C1) (C3)*

The proposal is consistent and compliant with the objectives and controls above for the following reasons:

- The extent of works will not adversely impact the cultural significance of the area.
- The proposal will not adversely impact the scale and setting of any adjacent contributory buildings.
- The application has also been assessed under the relevant objectives and controls under Section C2.5 – General Controls for All Development (below) and has been found to be compliant.
- The proposal will not result in any adverse impacts upon the immediate neighbourhood or area.
- The proposed works will result in a positive contribution to the streetscape within the immediate vicinity.

Having regard to the above, the proposal is acceptable with regard to Part C2.4.12 of the Woollahra DCP 2015.

#### **Part C2.5.1: Building Height, Form and Character**

<b>Site Area: 196.9m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Rear Setback	Not Extending Beyond	Not Extending Beyond	Yes
Maximum Number of Storeys	2 Storeys	2 Storeys	Yes
Solar Access to Ground Level Open Space of Adjacent Properties	Majority of additional overshadowing upon neighbouring building to the south	Minimum 50% For 2 hours	Yes

The objectives of this part of the DCP states:

- O1 *To ensure that the established historical pattern of development is continued in terms of siting, levels and front, side and rear building setbacks.*
- O2 *To locate buildings to ensure good aspect and orientation of indoor and outdoor living areas and the retention of existing trees.*
- O3 *To retain the patterns of height, bulk and scale distinctive to individual streetscapes and precincts.*
- O4 *To protect the privacy and amenity of adjoining or adjacent residential uses.*
- O5 *To encourage the retention or creation of useful open space at the rear of sites.*
- O6 *To protect and encourage views and vistas from public places, and encourage view sharing from private properties.*
- O7 *To minimise overshadowing of private and public open spaces.*

In addition to the above compliance table, Controls C7-C9 pertaining to building height and form states the following:

- 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.*
- 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.*
- 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.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The proposed infill is consistent with the front setbacks of the neighbouring contributory items. The rear setback is consistent with the adjacent contributory items, and is supported. However, the proposed materials, finishes and details are not supported for reasons outlined above. (C1) (C3) (C7)*
- *The character of the development is not consistent with nearby contributory items, for the reasons outlined above. Solid to void ratios of the street front elevation do not have the design consistency evident in neighbouring contributory items. (C8)*
- *Storey heights conform to those of adjacent contributory items, and are supported. (C9)*

The development is acceptable with regard to the objective and controls above for the following reasons:

- The proposal is consistent with the existing pattern of height, bulk and scale of the adjoining and surrounding residences.
- The siting and location of the proposed residence will not adversely impact upon the amenity of adjoining properties.
- The surrounding contributory items and their individual form and solid to void ratios are disparate to the residences which they currently adjoin. The proposal will not be intrusive in comparison to the adjoining contributory items.

Having regard to the above, the proposal is acceptable with regard to Part C2.5.1 of the Woollahra DCP 2015.

#### **Part C2.5.4: Materials, Finishes and Colours**

The objectives and controls under this part of the DCP pertaining to the development are:

*O1 To achieve external materials, finishes and colour schemes appropriate to the context.*

*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.*

*C2 External detailing, colour and finishes must minimise the apparent bulk of new development.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- As discussed above, the proposed materials, finishes, details and colours to the street front are inconsistent with the character of the street, and are not supported. (C1) (C2 ) Table 1*
- The materials, finishes, details and colours to the rear are supported. (C1) (C2 ) Table 1*
- The use of large expanses of the glazing to the rear is supported. (C1) (C2 ) Table 1*
- Colorbond Surfmist as the roofing material is supported. (C1) (C2 ) Table 1*
- The external walls, rendered and painted white, are supported. (C1) (C2 ) Table 1*
- Timber framed windows painted Dulux vivid white are supported to the rear, but not the street front. (C1) (C2 ) Table 1*

The development is acceptable with regard to the above objective and controls for the following reasons:

- The subject site comprises an existing infill, and is not significant or contributory to the Woollahra Heritage Conservation Area.
- The use of contemporary materials and finishes is considered acceptable is considered appropriate in this case and will not dominate the streetscape.
- The proposed solid to void ratios to the subject site are considered acceptable.
- The proposed detailing, colours and finishes will not result in any adverse impact to the proposed bulk.

Having regard to the above, the proposal is acceptable with regard to Part C2.5.4 of the Woollahra DCP 2015.

### **Part C2.5.5: Roofs and Skylights**

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Maximum Area of Transparent Material (C2)	<25%	25%	Yes

The objectives and controls under this part of the DCP pertaining to the development are:

*O1 To ensure new roofs and alterations to roofs fit in with the character, physical context and historical background of the streetscape, precinct and HCA as a whole.*

*C1 Where new development adjoins a contributory item, roof forms and cladding are to be consistent with those of the contributory item.*

*C2 No rear roof plane is to incorporate more than 25% transparent material including skylights and dormers.*

*C4 Skylights must have a low profile and must be flush with the roof surface. They should be predominantly of glass, with simple, unobtrusive detailing. The frame colour must match the surrounding roof colour.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- The proposed roof form of the infill would be consistent with the adjacent contributory items, and is supported. The proposed skylights are supported. (C1) (C2) (C4)*

The extent of the proposed skylights fulfils the above objective and complies with the prescriptive requirements of Controls C2 and C4.

Having regard to the above, the proposal is acceptable with regard to Part 2.5.5 of the Woollahra DCP 2015.

#### **Part C2.5.6: Open Space and Landscaping**

<b>Site Area: 196.9m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Deep Soil Landscaped Area	13% (26m <sup>2</sup> )	8% (15.75m <sup>2</sup> )	Yes
Private Open Space POS at Principal Rear	23% (46m <sup>2</sup> )	16% (31.5m <sup>2</sup> )	Yes

Having regard to the above, the proposal is considered acceptable and satisfies the relevant objectives of Part 2.5.6 of the Woollahra DCP 2015.

#### **Part C2.5.7: Fences, gates and retaining walls**

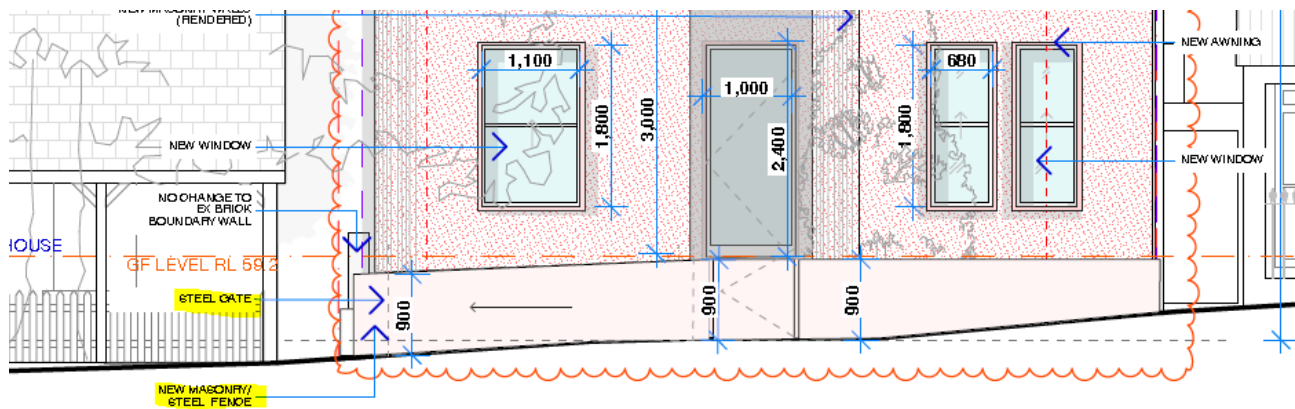
The objectives and controls under this part of the DCP pertaining to the development are:

- O1 *To ensure the removal, and prevent the construction, of non-original, intrusive tall masonry fences on street alignments.*
- O2 *To ensure fences, walls and gates contribute positively to the streetscape and improve safety and amenity for residents.*
- C1 *Fences and gates of non-contributory items and infill development are to be of contemporary design appropriate to the architectural style of the building. Materials should demonstrate an appropriate response to the physical context and historical background of the streetscape and precinct.*
- C3 *The height of a front fence is not to exceed 1.5m.*
- C4 *The height of a side or rear fence is not to exceed 1.8m. Where there is a difference in level from one side of the boundary to the other, the 1.8m limit is measured from the low side. Where there is a difference in ground levels at the boundary greater than 1.2m, the height of the fence must not exceed 1.2m measured from the high side.*
- C9 *When opening, new gates must not encroach over the footpath and the street carriageway.*

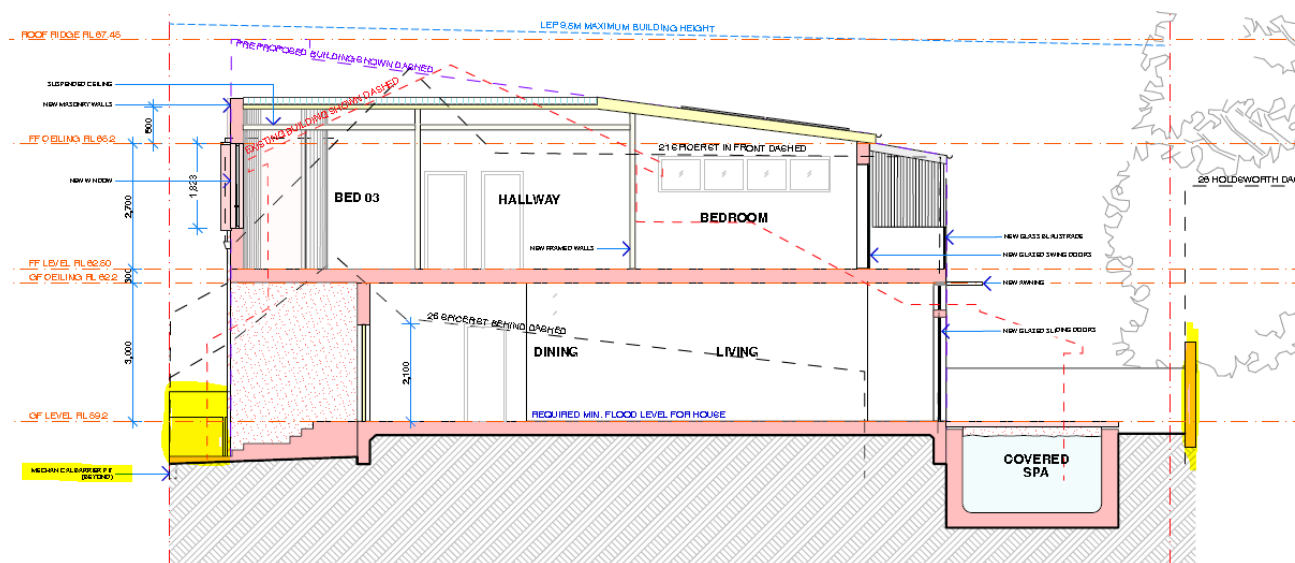
In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- The proposed batten fence to the front generally appears to be appropriate to the context, and is supported. The front gate would open inwards, and is supported. (C1) (C3) (C9)*
- No changes are proposed to the existing side or rear fencing and retaining walls. (C4)*

The plans accompanying the Replacement Application are somewhat ambiguous in terms of the plans and accompanying details in relation to the front and rear fences. For example, on the front elevation, the new masonry front fence is labelled as "new masonry steel fence" and the plans show the location of a steel gate. However, there are no elevational details of this part of the fence (see image below).



While the accompanying sectional plan shows the rear fence extending beyond the subject site and provides vague details regarding the proposed front fencing (see below).



So as to avoid any confusion, conditions of consent have been imposed requiring all works to take place within the subject site and that the front fence is to be constructed of masonry with an overall finished height <900mm (**Conditions A.4 and D.1(b)**).

Having regard to the above, the proposal is acceptable with regard to Part C2.5.7 of the Woollahra DCP 2015.

### Part C2.5.8: Parking and garages

- 01 To protect the amenity of the property, neighbouring properties and public open space in terms of visual and acoustic privacy and sunlight access.
- 02 To ensure that residential buildings, rather than vehicle access and parking structures, remain the dominant elements in the streetscape.
- 03 To ensure that on-site vehicle parking is not provided at the expense of soft landscaped area and useable open space.
- 04 To maintain and enhance the character of laneways where unsympathetic earlier development, such as high brick walls and full width garages, has eroded the quality of these urban spaces.
- 05 To allow safe and convenient vehicle access and to minimise vehicle and pedestrian conflict.
- 06 To only allow loft structures over a garage or studio which is located on the rear boundary of a property within Sisters Lane, or in the West Woollahra or Grafton Precinct.
- 07 To limit the height of garage or studio structures in order to minimise impact on the character of the Woollahra HCA.

*O8 To ensure loft structures over garages or studios are designed to sympathetically integrate with the character of laneways.*

*O9 To retain and conserve the original coach house and stable structures from the Victorian and Federation periods, and original detached garage buildings of Inter-War houses and flat buildings.*

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- The car parking space to street front within the building envelope would be screened by the sliding screen, and not be readable as a parking space from the public domain except when operational, however the concerns raised above regarding the materiality of the building must be addressed. (O2)

It is important to note that the original proposal included a new driveway crossing and for an internal garage as part of the new residence. This was entirely contrary to Control C3 in the part of the DCP which prohibits new vehicle crossovers off street frontages

The replacement application subsequently removed the crossover, driveway and garage, and is therefore compliant with Part 2.5.8 of the Woollahra DCP 2015.

#### **Part C2.5.10: Excavation**

The extent of excavations is for the proposed inground spa adjoining the rear of the building which is to be sited no closer than 1.5m to the nearest boundary and will be less than 2m in depth.

The extent of excavations complies with this part of the DCP and has been reviewed by Council's Development Engineer who has raised no objection to the proposal subject to conditions that have been included in the recommendation of this report.

In response to this part of the DCP, Council's Heritage Officer provided the following comments:

- *The proposed excavation is minor in nature and limited to the rear of the site, and is supported from a cultural heritage perspective.*

Having regard to the above, the proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015.

#### **Part C2.5.12: Acoustic and Visual Privacy**

	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Windows of Habitable Rooms of Adjacent Dwellings	>9m	9.0m	Yes
Bedroom Walls Adjoining Adjacent Dwellings	Not Adjoining Living Room/Garage	Not Adjoining Living Room/Garage	Yes

Having regard to the above, the proposal is considered acceptable and satisfies the relevant objectives of Part 2.5.12 of the Woollahra DCP 2015.

#### **Part C2.5.13: Site facilities**

Part of the proposal involves the installation of 12 photovoltaic cells onto the rear-facing roof.

The objectives of this part of the DCP states:

*O1 To retain the character of the original roofscape of the Woollahra HCA.*

*O2 To protect the original fabric and details of roofs and chimneys.*



- O3 To ensure that satellite dishes, aerials and similar devices, air-conditioning units, external condensers and other site facilities do not detrimentally impact on the character and significance of individual buildings and the streetscape.*
- O4 To ensure that adequate provision is made for essential site facilities.*
- O5 To ensure that the essential site facilities are functional, accessible and are easy to maintain.*
- O6 To ensure that site facilities are thoughtfully integrated into development and are unobtrusive.*
- O7 To minimise visual and acoustic impacts on adjoining properties.*

The siting and location of the rooftop cells will not be viewable from the streetscape or public domain and will be entirely consistent with the objectives of this part of the DCP.

The proposal is considered acceptable with regard to Part 2.5.13 of the Woollahra DCP 2015.

#### **Part B3.7.4: Swimming Pools**

The proposed sunken pool in the rear yard has been assessed against the relevant controls and objectives of Section 3.7.4 of the WDCP 2015, in accordance with the following:

- Control C2 states: Excavation beyond the controls identified within Part B3.4 is permitted to accommodate a backyard swimming pool, where the pool is outside the building envelope. The new swimming pool will be located outside the building envelope – **Complies**.
- Control C3 requires swimming pools (measured from the water edge) to be located at least 1.8m from property boundaries. The new swimming pool will be located >1.9m from all boundaries – **Complies**.
- Control C4 requires swimming pool surrounds to be no more than 1.2m above or below the existing ground level. The pool is located at ground level within the rear yard of the site – **Complies**.
- Control C5 requires swimming pools to be no deeper than 2m from the pool surround level. The new swimming pool will not exceed a depth of 2.0m – **Complies**.
- Control C6 requires the location and design of the swimming pool and associated works to not adversely impact on prescribed trees. As such, the proposal has been referred to Council's Tree & Landscape Officer who has determined the development proposal is satisfactory in terms of tree preservation and landscaping subject to conditions – **Complies**.

Having regard to the above, the proposed swimming pool is acceptable with regard to Part B3.7 of the WDCP 2015.

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

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

#### **Part E5.2: Demolition and Construction Phase**

Subject to standard conditions of consent, the proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

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

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

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

### Part 6.3: Sustainability – Solar Energy Systems

*O1 To minimise the amenity impacts of solar energy systems particularly in regard to streetscape impacts, scenic quality, visual impact and view loss.*

*C1 Solar energy system:*

- a) should not have an unreasonable visual impact on:*
  - i) the streetscape and scenic quality of the area;*
  - ii) the visual quality of the area when viewed from the harbour or a public recreation area;*
  - iii) the amenity of adjoining and adjacent properties;*
  - iv) existing harbour and city views obtained from private properties and*
- b) must not involve mirrors or lenses to reflect or concentrate sunlight.*

*C2 For buildings in a heritage conservation area and buildings which are local or State heritage items, the solar energy system must meet the following location requirements*

- a) Does not protrude more than 500mm from the building (as measured from the point of attachment).*
- b) Is not placed facing the primary road.*
- c) Is arranged neatly on the roof plane.*
- d) Does not have a negative impact on the heritage significance of the item or heritage conservation area.*

As stated previously, part of the proposal is for the construction of 12 photovoltaic cells onto the rear-facing roof.

In addition to the above, Council's Heritage Officer provided the following comments:

- *The proposed installation of the photovoltaic panels is supported. (C1)*

The siting and location of the rooftop cells will not be viewable from the streetscape or public domain and will be entirely consistent with the objectives and controls of Part 6.3 of the DCP.

### SECTION 7.12 DEVELOPMENT CONTRIBUTIONS PLAN 2022

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 7.12 Contributions Plan 2022. Refer to **Condition D.11**.

### 15. APPLICABLE ACTS/REGULATIONS

#### 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 2601-2001: The demolition of structures. This requirement is addressed by Council's standard condition.

#### Swimming Pools Act 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and

maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- a) The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash must be discharged to the sewer

All requirements in relation to the swimming pools have been addressed by standard conditions.

## 16. THE LIKELY IMPACTS OF THE PROPOSAL

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

## 17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

## 18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

## 19. CONCLUSION

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

## 20. DISCLOSURE STATEMENTS

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, grant development consent to DA31/2024/1 for demolition of the existing building and the construction of a new two storey dwelling, a pool/spa and associated landscaping on land at 23 Spicer Street WOOLLAHRA, subject to the following conditions:

### **ALL DEVELOPMENT TYPES**

#### **A. GENERAL CONDITIONS**

A. 1.	Conditions
	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><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> <p><b>Condition Reason:</b> To ensure all parties are aware of the relevant legislation that applies to the development.</p>
<p><b>A. 2.</b></p>	<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>

**Site** means the land being developed subject to this consent.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**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.

**Condition Reason:** To ensure all parties are aware of the relevant definitions.

**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 unless modified by any following condition.

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

Reference	Description	Author	Date
DA.04(N)	Proposed Ground Floor Plan	ROTH Architects	16/4/2024
DA.05(N)	Proposed First Floor Plan		
DA.06(N)	Proposed Roof Plan		
DA.10(N)	Front Elevation Street (West)		
DA.11(N)	Front Elevation (West)		
DA.12(N)	Rear Elevation (East)		
DA.13(N)	Side Elevation (North)		
DA.14(N)	Side Elevation (South)		
DA.15(N)	Section AA		
DA.16(N)	Section BB		
DA.21(N)	External Finishes		
22-117 D1-Rev C	Stormwater Management Plans	Soliman Hanna & Associates	19/12/2023
LA 1-10	Landscape Plan	Paterson Design Studio	20.12.23
5474/C	Arboricultural Impact Assessment Report	Tree Talk	Dec 23

	174229S	BASIX Certificate	NSW Department of Planning, Industry & Environment	3/04/2024
	<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>			
<b>A. 4.</b>	<b>All works within the subject site boundaries</b>			
	All development works are to take places within the legal surveyed boundaries of the subject site			
	<p><b>Condition Reason:</b> To ensure all works remain within the subject site.</p>			
<b>A. 5.</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>			
<b>A. 6.</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.			
	<p><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.</p>			

A. 7.

Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees must be retained:

Council Ref No	Species	Location	Dimension (metres)
1 & 2	<i>Cupressus macrocarpa</i>	Front Yard	8 x 2
3	<i>Plumeria acutifolia</i>	Front Yard	4 x 3
4 & 5	<i>Camellia sasanqua</i>	Northern Boundary	5 x 3

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

The species marked (\*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.

**Condition Reason:** To ensure all landscape works are undertaken in accordance with the approved plans and documents.

## 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 <i>Over our Dead Body Society Inc v Byron Bay Community Association Inc</i> [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>
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<p><b>B. 2.</b></p>	<p><b>Salvage Building Materials</b></p> <p>a) Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project.</p> <p>b) Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</p> <p><b>Condition Reason:</b> To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).</p>
<p><b>B. 3.</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> <p>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</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><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. 4.</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> </ul>

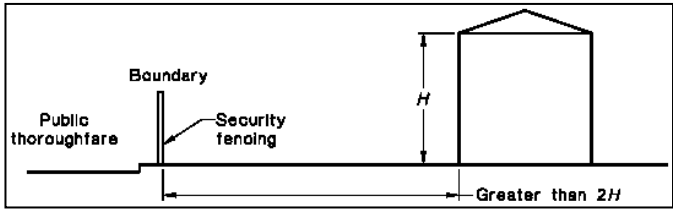
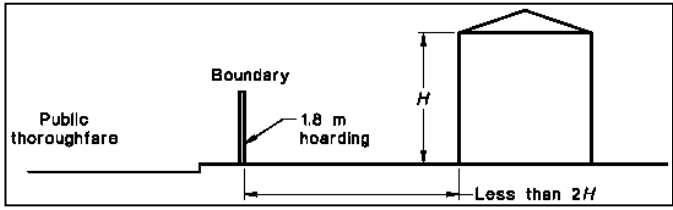
	<ul style="list-style-type: none"> <li>the specific location of all hazardous materials identified,</li> <li>whether the hazardous materials are to be removed from the site as part of the works to be undertaken, and</li> <li>safety measures to be put in place.</li> </ul> <p><b>Condition Reason:</b> To 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>
<b>B. 5.</b>	<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>B. 6.</b>	<p><b>Archaeological Features – Unexpected Findings</b></p> <p>While site work is being carried out, if a person reasonably suspects archaeological features are discovered, work must cease immediately in the affected area(s) and the Heritage Council must be notified.</p> <p>Site work may recommence at a time confirmed in writing by the Heritage Council or its delegate.</p> <p>Additional assessment and approval under the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity.</li> <li>Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks.</li> </ul>

	<ul style="list-style-type: none"> <li>During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).</li> </ul>
	<b>Condition Reason:</b> To protect archaeological features.
<b>B. 7.</b>	<p><b>Skeletal Remains</b></p> <p>While site work is being carried out, if any skeletal remains suspected of being human are found, work must cease immediately and no further disturbance of the site must occur. The following must be notified:</p> <ol style="list-style-type: none"> <li>NSW Police, and</li> <li>The person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</li> </ol> <p>Details of the remains and their precise location are to be provided.</p> <p>Site work may recommence at a time confirmed in writing by the NSW Police and the person who is the authority for the protection of Aboriginal objects under the National Parks and Wildlife Act 1974, section 85.</p>
	<b>Condition Reason:</b> To ensure the appropriate management of skeletal remains.
<b>B. 8.</b>	<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> <ol style="list-style-type: none"> <li>Not further disturb or move these objects or bones.</li> <li>Immediately cease all work at the particular location.</li> <li>In the case of suspected human remains, notify NSW Police.</li> <li>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>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>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> </ol> <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>
	<b>Condition Reason:</b> To protect Aboriginal objects

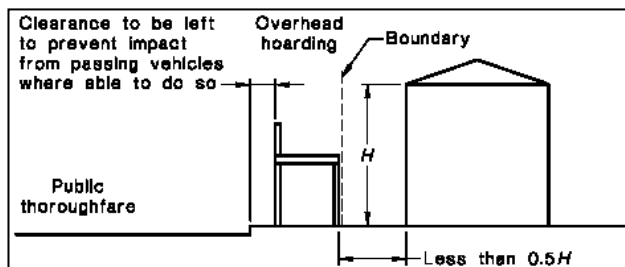
B. 9.	<b>Aboriginal Heritage Due Diligence Responsibilities</b>  While site work is being carried out, nothing in this approval allows to cause harm to an Aboriginal object as defined in the National Parks & Wildlife Act 1974. Under the National Parks & Wildlife Act 1974, it is an offence to harm Aboriginal '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.  <b>Condition Reason:</b> To protect Aboriginal heritage.																				
B. 10.	<b>Payment of Security and Fees</b>  Prior to any site works, the following security and fees must be paid in full: <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>\$21,720</td><td>No</td><td>T115</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><b>\$21,945</b></td><td></td><td></td></tr></table> <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></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	\$21,720	No	T115	Security Deposit Administration Fee	\$225.00	No	T16	<b>TOTAL SECURITY AND FEES</b>	<b>\$21,945</b>		
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	<ul style="list-style-type: none"> <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> <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. 11.</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> <ul style="list-style-type: none"> <li><b>a) No. 21 Spicer Street, Woollahra;</b></li> <li><b>b) No. 25 Spicer Street, Woollahra; and</b></li> <li><b>c) No.26 Holdsworth Street, Woollahra.</b></li> </ul> <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>
<b>B. 12.</b>	<p><b>Adjoining Buildings Founded on Loose Foundation Materials</b></p> <p>Before any site work commences, a professional engineer must determine 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 any reasonable direction of the professional engineer must be complied with.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A failure 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.</li> <li>• The person with the benefit of this consent is 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.</li> </ul> <p><b>Condition Reason:</b> To ensure professional engineering advice is obtained to confirm that appropriate underpinning and support to adjoining land is maintained.</p>
<b>B. 13.</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> </ul>

	<ul style="list-style-type: none"> <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>
<b>B. 14.</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>  <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>  <p><b>Type B Hoarding</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>the vertical height above footpath level of the structure being demolished is less than 4.0m; or</li> <li>the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.</li> </ol> <p>The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:</p> <ol style="list-style-type: none"> <li>extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,</li> <li>have a clear height above the footpath of not less than 2.1m,</li> <li>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</li> </ol>

- 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.
- 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 E1 Local Centre, or MU1 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:
    - 1. the capital investment value of the work to which the hoarding relates is less than \$1 million, or
    - 2. the land is zoned R2 Low Density Residential, or
    - 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).



	<ul style="list-style-type: none"> <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>
<b>B. 15.</b>	<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>showing the name, address and telephone number of the principal certifier for the work, and</li> <li>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>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></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> </ul>

	<ul style="list-style-type: none"> <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>
	<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.
<b>B. 16.</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.

### REMEDIATION WORK

#### C. ON COMPLETION OF REMEDIATION WORK

Nil

### BUILDING WORK

#### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

<b>D. 1.</b>	<b>Modification of Details of the Development (section 4.17(1)(g) of the Act</b>
	<p>Before the issue of any construction certificate, the approved plans and the construction certificate plans and specification, required to be submitted to the Principal Certifier under clause 7 of the Development Certification and Fire Safety Regulations, must detail the following amendments:</p> <p><b>a) Translucent windows:</b> The first-floor Bed 02 window and 2 x bathroom windows on the northern elevation are to be made of fixed translucent glazing.</p> <p><b>b) Front fence:</b> The front fence shall be constructed to a height no greater than 900mm as measured from the footpath below.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Clause 20 of the Development Certification and Fire Safety Regulations prohibits <b>the</b> issue of any construction certificate subject to this condition unless the Principal Certifier is satisfied that the condition has been complied with.</li> <li>Clause 19 of the Development Certification and Fire Safety Regulations prohibits the issue of any construction certificate that is inconsistent with this consent.</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 section 4.15 of the Act.</p>
<b>D. 2.</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></p> <p>The long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986, must be paid and proof of payment provided to the Principal Certifier prior to the issue of any construction certificate. The levy can be paid directly to the Long Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website <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></p> <p>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. 3. BASIX Commitments</b>				
<p>Before the issue of any construction certificate, BASIX Certificate No. 1742292S 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>				

D. 4.

Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:

- The installation of stormwater outlet pipe across the nature strip must be made by using 152mm x 76mm galvanised rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

Note: All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP.

- The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.
- Where a grass verge exists, the balance of the area between the footpath and the kerb 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 Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

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>Infrastructure Works Bond</b> - completing any public work required in connection with the consent.	\$ Nil	No	T113
<b>Infrastructure Works Bond</b> – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113
<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$674	No	T45
<b>TOTAL SECURITY AND FEES</b>	<b>\$674</b>		

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:**

- **Road** has the same meaning as in the Roads Act 1993.
- 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.
- 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). 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.
- Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

	<ul style="list-style-type: none"> <li>• Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> <li>• Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".</li> <li>• 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 must 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.</li> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.</li> <li>• When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.</li> <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> <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>• When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.</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> </ul> <p><b>Condition Reason:</b> To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
<p><b>D. 5.</b></p>	<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>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</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>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>
<p><b>D. 6.</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. 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. 7.</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. 8.</b></p>	<p><b>Geotechnical and Hydrogeological Design, Certification and Monitoring</b></p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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).</li> <li>Provide details of cut-off walls or similar controls 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.</li> <li>Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.</li> <li>Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> <li>will detect any settlement associated with temporary and permanent works and structures,</li> <li>will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),</li> <li>will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity),</li> <li>will detect groundwater changes calibrated against natural groundwater variations,</li> <li>details the location and type of monitoring systems to be utilised,</li> <li>details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,</li> <li>details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and</li> <li>details a contingency plan.</li> </ul> </li> </ol> <p><b>Condition Reason:</b> To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p> <p><b>Condition Reason:</b> To ensure parking facilities are designed in accordance with the Australian Standard.</p>
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<b>D. 9.</b>	<b>Stormwater Management Plan</b>
	<p>Before the issue of any construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ol style="list-style-type: none"> <li>General design in accordance with stormwater management plans, referenced 22-117-Rev C, prepared by Soliman Hanna &amp; Associates, dated 19/12/2023, other than amended by this and other conditions.</li> <li>All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement must be clearly depicted on the drawings.</li> <li>Discharge of stormwater from the site, by direct connection to the street kerb. The kerb discharge must be located within the frontage of the site. Only one stormwater outlet will be permitted.</li> <li>A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. 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>Internal stormwater drainage 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> <li>The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the boundary junction pit by gravity.</li> <li>Dimensions of all drainage pits and access grates must comply with AS3500.3.</li> <li>Compliance with the objectives and performance requirements of the BCA.</li> <li>General compliance with the Council's 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> 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 of proposed rainwater tanks.</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><b>Rainwater Reuse System Details:</b></p> <ol style="list-style-type: none"> <li>Any potential conflict between existing and proposed trees and vegetation.</li> <li>Internal dimensions and volume of the proposed rainwater storage.</li> </ol>

	<p>c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.</p> <p>d) Details of access and maintenance facilities.</p> <p>e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.</p> <p>f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks</p> <p>For Stormwater Drainage works on Council's property, 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> <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>
<b>D. 10.</b>	<p><b>Swimming and Spa Pools – Child Resistant Barriers</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 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.</p> <p>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' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure child-resistant swimming and spa pool barriers are provided.</p>
<b>D, 11.</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>

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.

Summary Schedule	
Development Cost	Levy Rate
• 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,
- whether any prejudice will be caused to the efficacy and operation of the Plan, and
- whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

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

- the guarantee is by an Australian bank for the amount of the total outstanding contribution,
- the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate,
- a time limited bank guarantee or a bank guarantee with an expiry date is not acceptable,
- the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent, and
- the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

	<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>
D, 12.	<p><b>Tree Protection Plan and Specification</b></p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> <li>shaded green where required to be retained and protected</li> <li>shaded red where authorised to be removed</li> <li>shaded yellow where required to be transplanted</li> <li>shaded blue where required to be pruned</li> </ul> <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> <li>Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected.</li> <li>The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.</li> <li>Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 &amp; 5 of AS4970, providing guidance for the implementation of tree protection methods.</li> <li>To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist.</li> </ul> <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p> <p><b>Condition Reason:</b> To ensure the construction certificate includes the approved tree management details, and all measures are implemented.</p>

<b>D. 13.</b>	<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,</p> <p><u>Floor levels</u></p> <p>b) All habitable floors shall be above or protected from flooding to the flood planning level,</p> <p><u>Flood Proof Material</u></p> <p>c) Flood compatible materials shall be used for all flood exposed construction,</p> <p><u>Electricals</u></p> <p>d) All flood exposed electrical wiring and equipment shall be waterproofed,</p> <p><u>Certification</u></p> <p>e) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p><b>Notes:</b></p> <p>a) 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.</p>
	<p><b>Condition Reason:</b> To ensure the development incorporates flood inundation protection measures.</p>

## **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>
	<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> <p>a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,</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 Home Building Regulation 2014, or</p> <p>b) to the erection of a temporary building.</p> <p>In this condition, a reference to the BCA is a reference to that code as in force on the date the application for the relevant Construction Certificate is made.</p> <p><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> <p>a) The Soil and Water Management Plan if required under this consent;</p> <p>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</p> <p>c) “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><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>

	<b>Condition Reason:</b> To prevent potential water pollution and dust nuisance.
<b>E. 3.</b>	<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 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>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>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>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> <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>

## F. DURING BUILDING WORK

<p><b>F. 1.</b></p>	<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> <ul style="list-style-type: none"> <li>a) work must be carried out in accordance with the requirements of the Building Code of Australia (BCA),</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> <p>This condition does not apply:</p> <ul style="list-style-type: none"> <li>a) to the extent to which an exemption is in force under the Development Certification and Fire Safety Regulations, or</li> <li>b) to the erection of a temporary building.</li> </ul> <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>
<p><b>F. 2.</b></p>	<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> </ul>

	<ul style="list-style-type: none"> <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. 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> <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> </ul> </li> </ul>

	<ul style="list-style-type: none"> <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> <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>
<b>F. 6.</b>	<p><b>Replacement/Supplementary trees which must be planted</b></p> <p>While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Plans.</p> <p>The project arborist must document compliance with the above condition.</p> <p><b>Condition Reason:</b> To ensure the provision of appropriate replacement planting.</p>
<b>F. 7.</b>	<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>
<b>F. 8.</b>	<p><b>Compliance with Geotechnical / Hydrogeological Monitoring Program</b></p> <p>While site work is being carried out, 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.</p>

	<p>The Principal Contractor and any sub-contractor must strictly follow the Geotechnical / Hydrogeological Monitoring Program for the development including, but not limited to:</p> <ul style="list-style-type: none"> <li>a) the location and type of monitoring systems to be utilised,</li> <li>b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and</li> <li>c) the contingency plan.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p><b>Condition Reason:</b> To ensure the geotechnical and/or hydrogeological impacts of the development are appropriately managed.</p>
<p><b>F. 9.</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> </ul>

	<ul style="list-style-type: none"> <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>
<b>F. 10.</b>	<p><b>Vibration Monitoring</b></p> <p>While site work is being carried out, vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.</p> <p>If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the Principal Contractor and any sub-contractor are easily alerted to the event.</p> <p>Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.</p> <p>Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the Principal Contractor and any sub-contractor clearly setting out required work practice.</p> <p>The Principal Contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.</p> <p>A copy of any written direction required by this condition must be provided to the Principal Certifier within 24 hours of any event.</p> <p>Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, Principal Contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li><b>Professional engineer</b> has the same mean as in Schedule 1 of the BCA.</li> <li><b>Building</b> has the same meaning as in section 1.4 of the Act i.e. "building includes part of a building and any structure or part of a structure...."</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Supported land</b> has the same meaning as in the Conveyancing Act 1919.</li> </ul>
	<p><b>Condition Reason:</b> To monitor and manage vibration impacts from development.</p>
<b>F. 11.</b>	<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>
<b>F. 12.</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>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> </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>

<p><b>F. 13.</b></p>	<p><b>Site Cranes</b></p> <p>While site work is being carried out, 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.</p> <p>Cranes must not swing or hoist over any public place unless the relevant approvals have been obtained under the Local Government Act 1993, Crown Lands Act 1989 or Roads Act 1993.</p> <p>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).</p> <p>No illuminated sign(s) must be erected upon or displayed upon any site crane.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Where it is proposed to swing a crane over a public place a separate application to Council must be made under section 68 of the Local Government Act 1993 and obtain activity approval from Council prior to swinging or hoisting over the public place.</li> <li>Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, 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 must be obtained. 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.</li> </ul> <p><b>Condition Reason:</b> To ensure site cranes are used safely with the relevant approvals.</p>
<p><b>F. 14.</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 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> </ol>

	<p>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.</p> <p>f) Stormwater drainage Systems are in place prior to back filling over pipes confirming location, height and capacity of works.</p> <p>g) Flood protection measures are in place confirming location, height and capacity.</p>
	<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. 15.</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. 16.</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> <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> </ul>



	<ul style="list-style-type: none"> <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. 17.</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. 18.</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>
<b>F. 19.</b>	<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</li> </ul>

	<p><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</p>
	<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. 20.</b>	<p><b>Classification of Hazardous Waste</b></p> <p>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.</p> <p><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.</p>
<b>F. 21.</b>	<p><b>Disposal of Asbestos and Hazardous Waste</b></p> <p>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.</p> <p><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.</p>
<b>F. 22.</b>	<p><b>Asbestos Removal Signage</b></p> <p>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.</p> <p><b>Condition Reason:</b> To ensure awareness of any hazard to the health and safety of persons working on the site and public.</p>
<b>F. 23.</b>	<p><b>Notification of Asbestos Removal</b></p> <p>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.</p> <p>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.</p> <p><b>Condition Reason:</b> To ensure that local residents are informed and have adequate contact details for incidents of asbestos removal.</p>

## 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.  <b>Notes:</b> <ul style="list-style-type: none"><li>• New building includes an altered portion of, or an extension to, an existing building.</li></ul>
	<b>Condition Reason:</b> To ensure the building is suitable to occupy.
<b>G. 2.</b>	<b>Amenity Landscaping</b>
	Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.  <b>Condition Reason:</b> To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.
<b>G. 3.</b>	<b>Landscaping</b>
	Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.  <b>Condition Reason:</b> To ensure that all landscaping work is completed prior to occupation.
<b>G. 4.</b>	<b>Arborists Documentation and Compliance Checklist – Prior to any occupation certificate</b>
	Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include: <ul style="list-style-type: none"><li>a) A record of the condition of trees to be retained prior to and throughout development.</li><li>b) Recommended actions to improve site conditions and rectification of non-compliance.</li><li>c) Recommendations for future works which may impact the trees.</li></ul> All compliance certification documents must be kept on site by the site Supervisor.  As a minimum the following intervals of site inspections must be made:

	<table><tr><td><b>Stage of arboricultural inspection and supervision</b></td><td><b>Compliance documentation and photos must include</b></td></tr><tr><td>Prior to the issue of any occupation certificate</td><td>Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.</td></tr></table>	<b>Stage of arboricultural inspection and supervision</b>	<b>Compliance documentation and photos must include</b>	Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.
<b>Stage of arboricultural inspection and supervision</b>	<b>Compliance documentation and photos must include</b>				
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.				
	<p>Inspections and compliance documentation must be made by an arborist with AQF Level 5 qualifications.</p> <p>Additional site visits must be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.</p> <p><b>Condition Reason:</b> To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.</p>				
<b>G. 5.</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> <ul 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></ul> <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>
G. 6.	<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. 1742292S.</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>
G. 7.	<p><b>Works within Public Land (including Council, State or Federal owned land or property)</b></p> <p>Before the issue of any occupation certificate, the following works within public land, whether new/existing/renewed 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 person with the benefit of this consents expense:</p> <ol style="list-style-type: none"> <li>a) stormwater pipes, pits, structures and connections to public stormwater systems within the road,</li> <li>b) driveways and vehicular crossings,</li> <li>c) renew/new retaining structures,</li> <li>d) overhang structures,</li> <li>e) encroachments or occupation or alienation of public land or property,</li> <li>f) removal of redundant driveways and any other structure,</li> <li>g) new footpaths, pathways, walkways, or dunny lanes,</li> <li>h) relocation of existing power/light pole, if applicable,</li> <li>i) relocation/provision of street signs, if applicable,</li> <li>j) new or replacement street trees, if applicable,</li> <li>k) verge landscape items, 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,</li> <li>l) new or reinstated kerb and guttering within the road, and</li> <li>m) new or reinstated road surface pavement within the road.</li> </ol> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.</li> <li>• Security held by Council under section 4.17(6) of the Act will not be released until compliance has been achieved with this condition. An application for the refund of security must be submitted with the occupation certificate to Council. This form can be downloaded from Council's website <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> or obtained from Council's customer service centre.</li> </ul>

	<b>Condition Reason:</b> To ensure road, drainage and miscellaneous works are completed to the satisfaction of Council prior to occupation.
<b>G. 8.</b>	<p><b>Works-As-Executed Certification of Stormwater Systems</b></p> <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> <li>a) compliance with conditions of development consent relating to stormwater,</li> <li>b) that all below ground structures are fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter in accordance with the approved stormwater drawings,</li> <li>c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,</li> <li>d) that the works have been constructed in accordance with the approved design,</li> <li>e) pipe invert levels and surface levels to Australian Height Datum, and</li> <li>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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li> </ul> <p><b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>

## H. OCCUPATION AND ONGOING USE

<b>H. 1.</b>	<p><b>Maintenance of BASIX Commitments</b></p> <p>During the occupation and ongoing use, all BASIX commitments must be maintained in accordance with the BASIX Certificate No. 1742292S.</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> <p><b>Condition Reason:</b> To ensure the approved environmental sustainability measures are maintained for the life of development.</p>
<b>H. 2.</b>	<p><b>Maintenance of Landscaping</b></p> <p>During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.</p> <p>This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.</p> <p><b>Notes:</b></p>

- This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.
- Owners must have regard to the amenity impact of trees upon the site and neighbouring land. Further, drought proof vegetation being native species endemic to the immediate locality is encouraged. Suggested native species endemic to the immediate locality are listed in the brochure "Local Native Plants for Sydney's Eastern Suburbs" published by Woollahra, Waverley, Randwick and Botany Bay Councils.

**Condition Reason:** To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.

### 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 Set, Landscape Plan & Survey [↓](#) 
2. Development Engineers Referral Response [↓](#) 
3. Tree & Landscaping Referral Response [↓](#) 
4. Heritage - Referral Response [↓](#) 
5. Heritage Re-Referral Response [↓](#) 



DEVELOPMENT APPLICATION

HOPKINS

23 SPICER STREET WOOLLAHRA NSW 2025

LOT 37 DP 1087100

WOOLLAHRA MUNICIPAL COUNCIL

DA DRAWING REGISTER		
DWG	DRAWING TITLE	SCALE
DA.00	COVER	
DA.01	SITE ANALYSIS PLAN	1:200
DA.02	DEMOLITION PLAN	1:100
DA.03	SITE PLAN	1:200
DA.04	PROPOSED GROUND	1:100
DA.05	PROPOSED FIRST	1:100
DA.06	PROPOSED ROOF	1:100
DA.07	BASIX PLANS	1:200
DA.08	COMPLIANCE LANDSCAPE	1:200
DA.09	COMPLIANCE POS	1:200
DA.10	FRONT ELEVATION STREET (WEST)	1:100
DA.11	FRONT ELEVATION (WEST)	1:100
DA.12	REAR ELEVATION (EAST)	1:100
DA.13	SIDE ELEVATION (NORTH)	1:100
DA.14	SIDE ELEVATION (SOUTH)	1:100
DA.15	SECTION AA	1:100
DA.16	SECTION BB	1:100
DA.17	SHADOWS 21 JUNE 9AM	1:200
DA.18	SHADOWS 21 JUNE 12PM	1:200
DA.19	SHADOWS 21 JUNE 3PM	1:200
DA.20	WASTE MANAGEMENT	1:100
DA.21	EXTERNAL FINISHES	
DA.22	3D VIEWS	

PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

COVER

AMENDMENTS  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS

ROTH  
ARCHITECTS

DA.00 (N)  
COVER

HOPKINS

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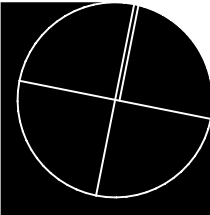
16/4/2024  
CHECKED BY AGR / DRAWN BY JW  
NTS @ A3



**SITE ANALYSIS PLAN**  
SCALE 1:200

**SITE ANALYSIS LEGEND**

- SUMMER SUN
- WINTER SUN
- EXISTING PRIVACY ISSUES
- EXISTING ACOUSTIC ISSUES
- POTENTIAL NOISE SOURCES
- PEDESTRIAN ACCESS TO SITE
- VEHICLE ACCESS TO SITE
- WIND



**PROJECT DETAILS**  
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**SITE ANALYSIS PLAN. 1:200**  
**AMENDMENTS**  
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L - DA SUBMISSION DRAWINGS



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**DA.01 (N)**

**SITE ANALYSIS PLAN**

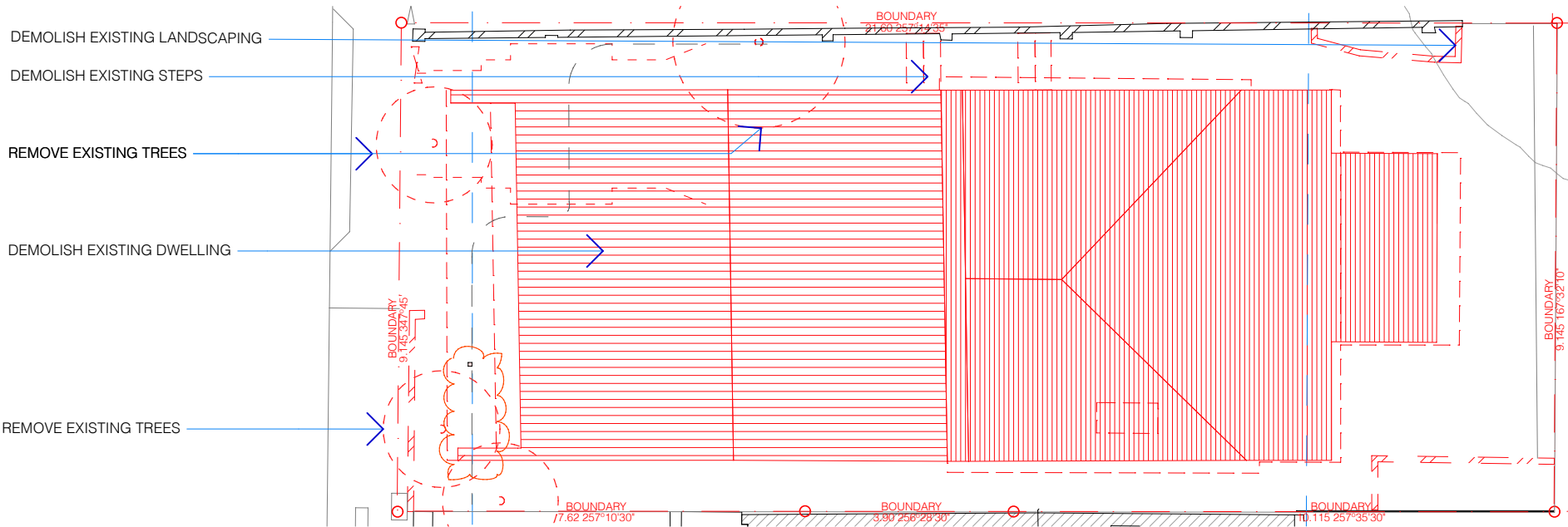
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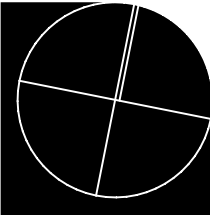
16/4/2024

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1:200 @ A3



**DEMOLITION PLAN**  
SCALE 1:100



**PROJECT DETAILS**

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**DEMOLITION PLAN. 1:100**

AMENDMENTS  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS



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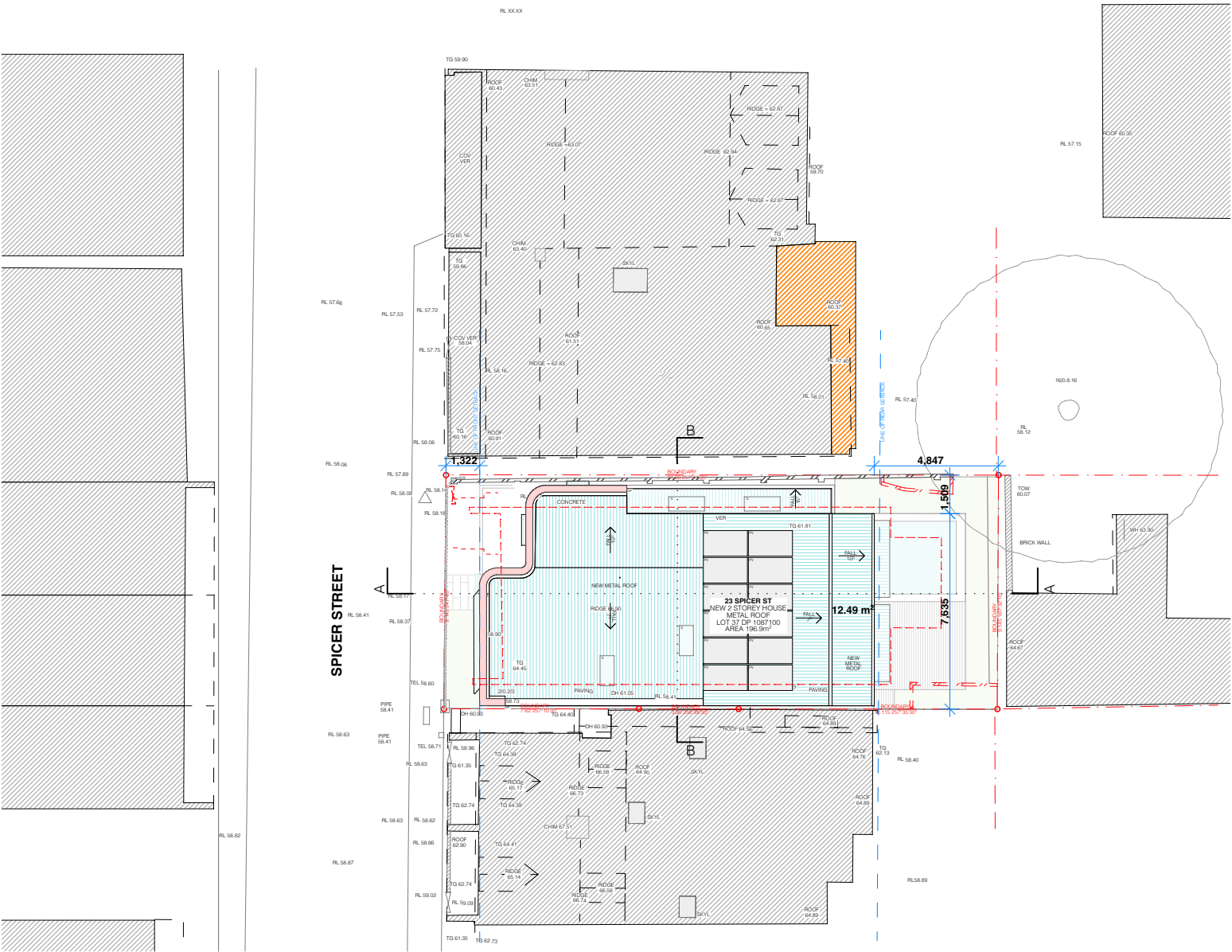
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**DA.02 (N)**  
**DEMOLITION PLAN**

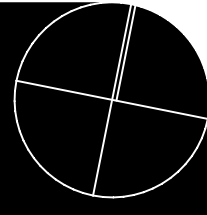
16/4/2024

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1:100 @ A3



**SITE PLAN**  
SCALE 1:200



**PROJECT DETAILS**  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**SITE PLAN. 1:200**  
**AMENDMENTS**  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS

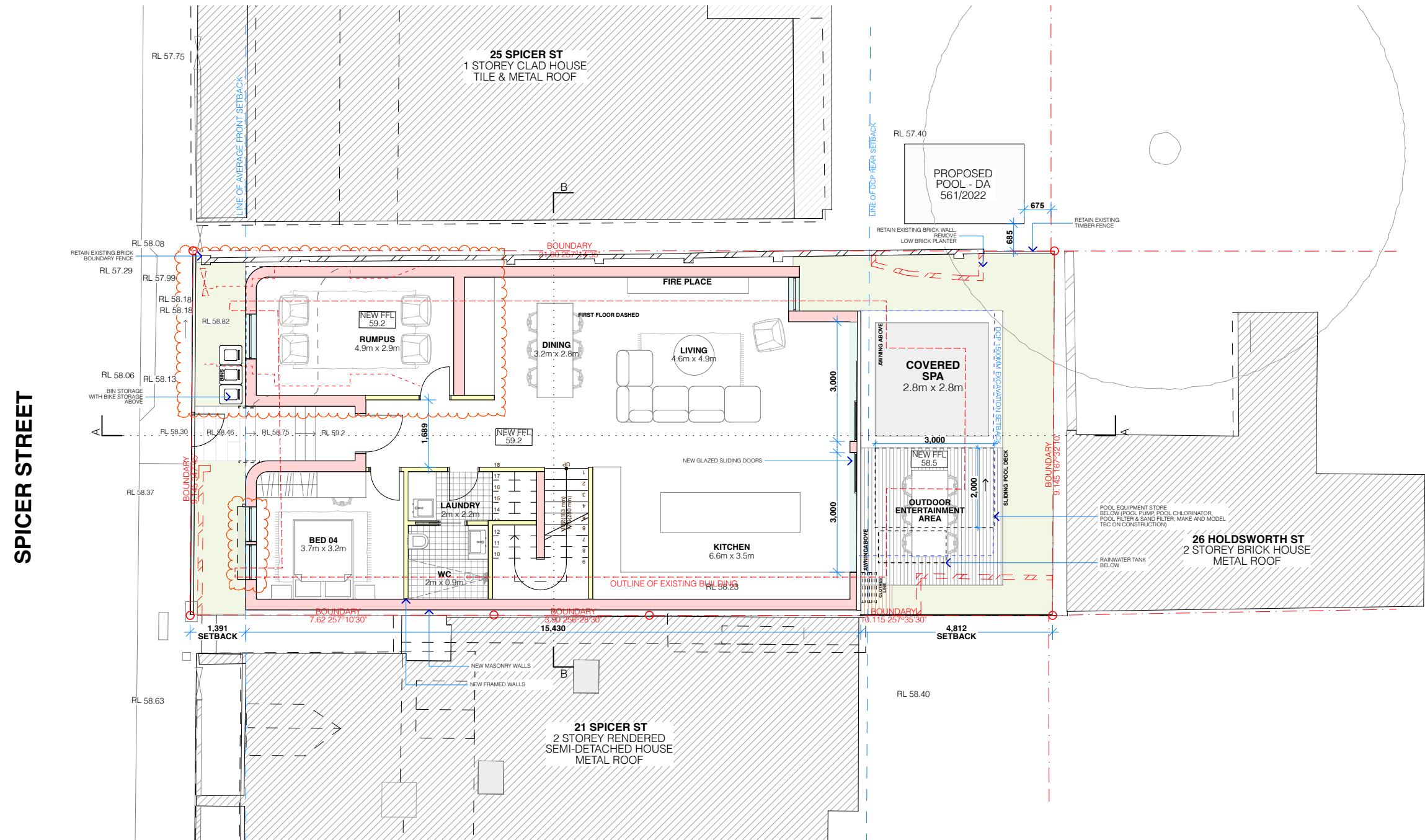


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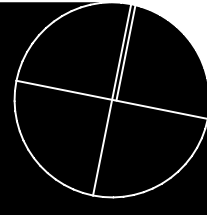
HOPKINS

**DA.03 (N)**  
**SITE PLAN**

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PROPOSED GROUND FLOOR PLAN  
SCALE 1:100



**PROJECT DETAILS**  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**PROPOSED GROUND. 1:100**  
**AMENDMENTS**  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS



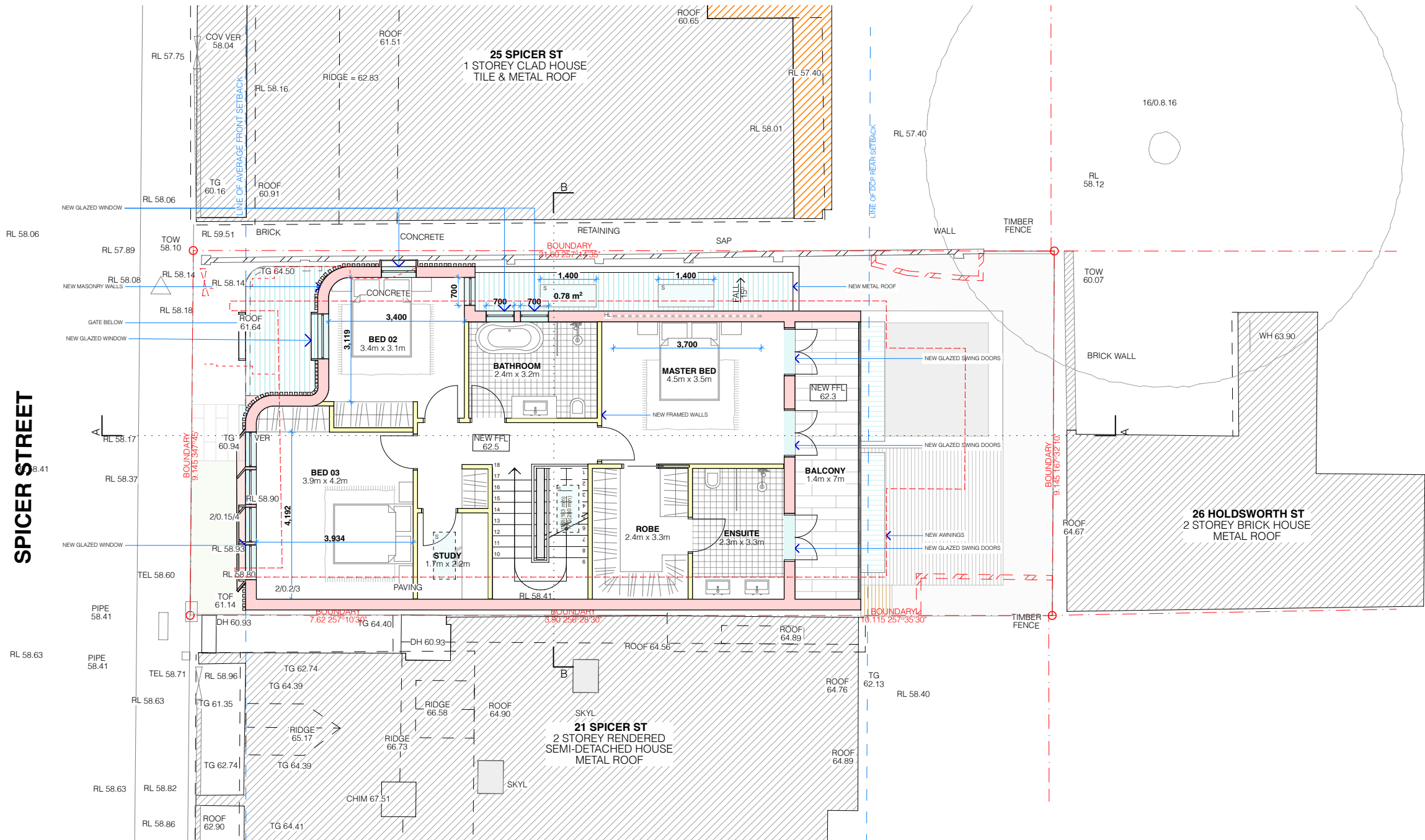
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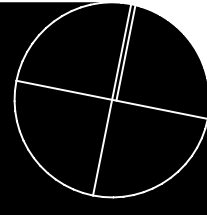
**DA.04 (N)**

**PROPOSED GROUND**

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PROPOSED FIRST FLOOR PLAN - DA RFI  
SCALE 1:100



**PROJECT DETAILS**  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**PROPOSED FIRST. 1:100**  
**AMENDMENTS**  
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M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS



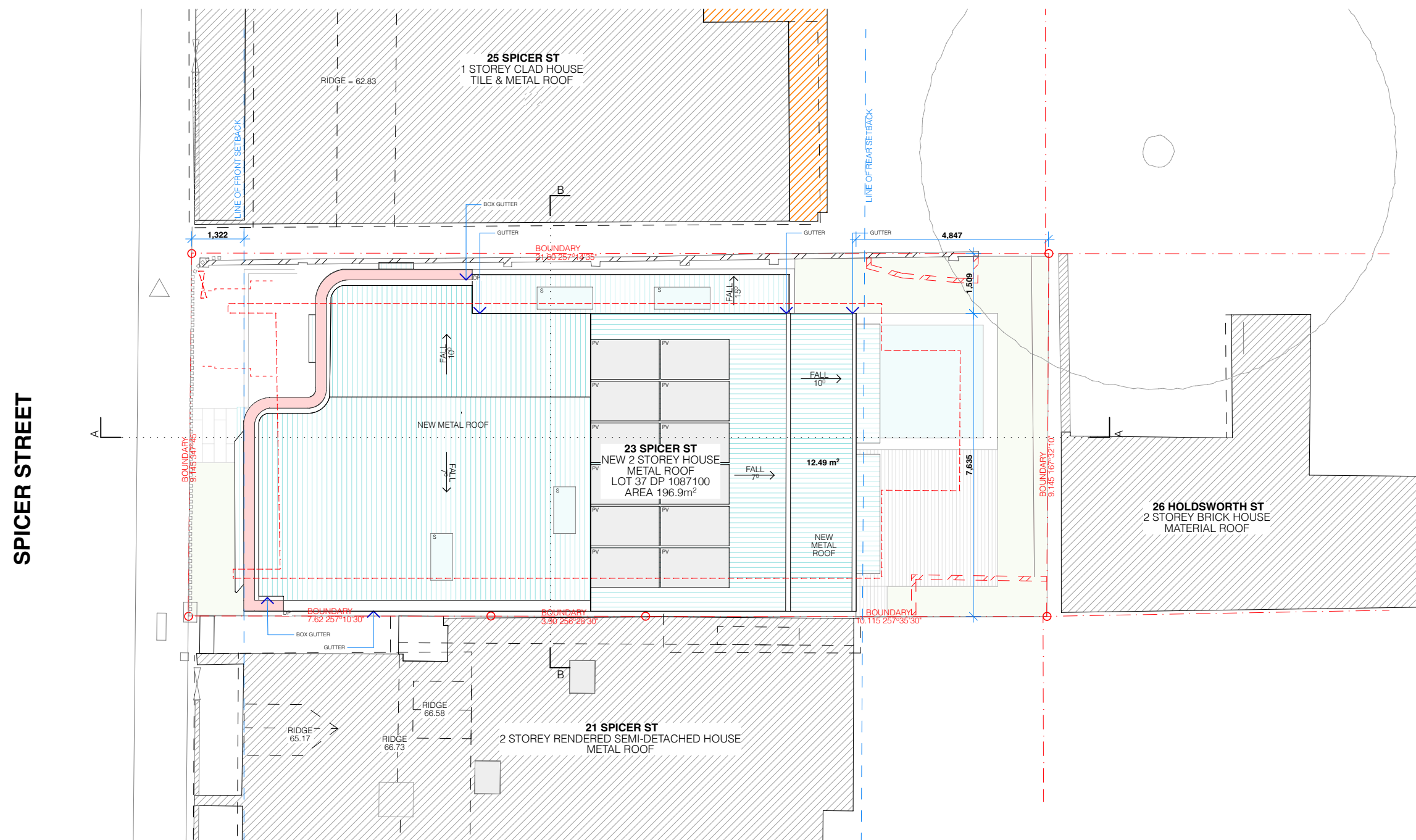
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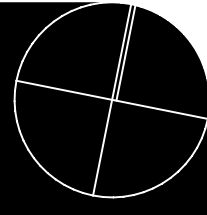
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**DA.05 (N)**  
**PROPOSED FIRST**

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PROPOSED ROOF PLAN  
SCALE 1:100



**PROJECT DETAILS**  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
L - DA SUBMISSION DRAWINGS

**PROPOSED ROOF. 1:100**  
**AMENDMENTS**  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS



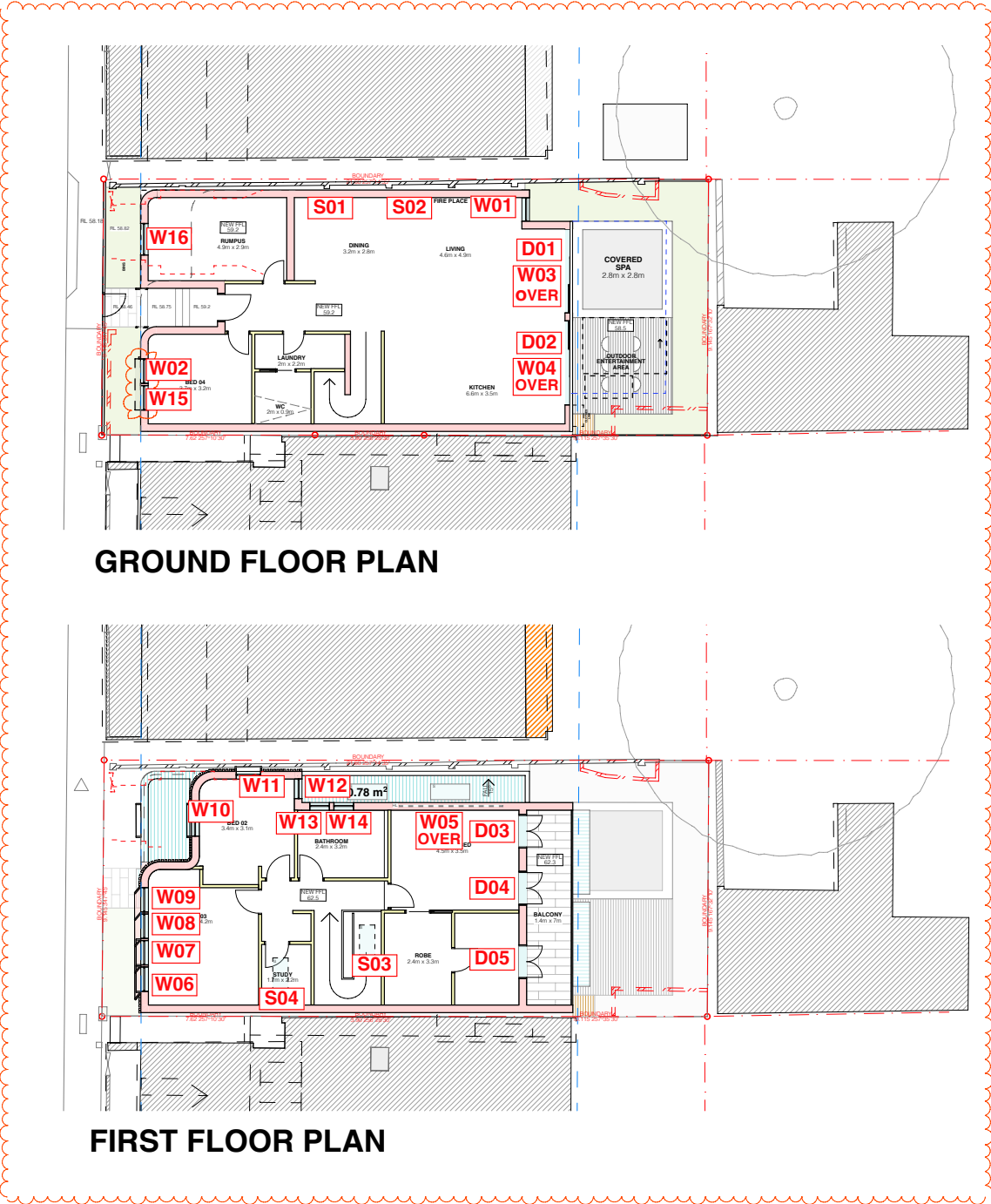
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**DA.06 (N)**  
**PROPOSED ROOF**

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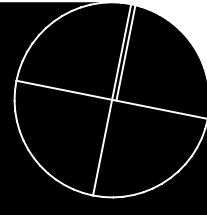
GROUND FLOOR PLAN

FIRST FLOOR PLAN

BASIX PLAN  
SCALE 1:200

BASIX COMMITMENTS

- LANDSCAPE**  
The applicant must plant indigenous or low water use species of vegetation throughout 16 square metres of the site.
- FIXTURES**  
The applicant must install shower heads with a minimum rating of 4 star (> 4.5 but <= 6 L/min plus spray force and/or coverage tests) in all showers in the development.  
The applicant must install a toilet flushing system with a minimum rating of 5 star in each toilet in the development.  
The applicant must install taps with a minimum rating of 5 star in the kitchen in the development.  
The applicant must install basin taps with a minimum rating of 5 star in each bathroom in the development.
- ALTERNATIVE WATER**  
The applicant must install a rainwater tank of at least 2000 litres on the site. This rainwater tank must meet, and be installed in accordance with the requirements of all applicable regulatory authorities.  
The applicant must configure the rainwater tank to collect rain runoff from at least 65 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).  
The applicant must connect the rainwater tank to:  
• the cold water tap that supplies each clothes washer in the development  
• at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)  
• a tap that is located within 10 metres of the outdoor spa in the development
- OUTDOOR SPA**  
The spa must not have a volume greater than 10.79 kiloliter and the spa must have a spa cover.
- GENERAL FEATURES**  
The dwelling must be a Class 1 dwelling according to the National Construction Code, and must not have more than 2 storeys.  
The conditioned floor area of the dwelling must not exceed 300 square metres.  
The dwelling must not contain open mezzanine area exceeding 25 square metres.  
The dwelling must not contain third level habitable attic room.
- Floor, walls and ceiling/roof**  
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the certificate tables.  
The applicant must adopt one of the options listed in the tables below to address thermal bridging in metal framed floor(s), walls and ceiling/roof of the dwelling.  
The applicant must show through receipts that the materials purchased for construction are consistent with the specifications listed in the certificate tables.
- CEILING FANS**  
The applicant must install at least one ceiling fan in at least one daytime habitable space, such as living room.  
The minimum number and diameter of ceiling fans in a daytime habitable space must be installed in accordance with the ABCB Housing Provisions (Part 13.5.2) of the National Construction Code .
- GLAZED WINDOWS, DOORS AND SKYLIGHTS**  
The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. Relevant overshadowing specifications must be satisfied for each glazed window and door.  
The dwelling may have 1 skylight (<0.7 square metres) which is not listed in the table.  
The following requirements must also be satisfied in relation to each window and glazed door:  
The applicant must install windows and glazed doors in accordance with the height and width, frame and glazing types listed in the table.  
• Each window and glazed door must have a U-value no greater than that listed and a Solar Heat Gain Coefficient (SHGC) within the range listed. Total system U values and SHGC must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.  
• Vertical external louvres and blinds must fully shade the glazed window or door beside which they are situated when fully drawn or closed.  
• Overshadowing buildings/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.  
The applicant must install the skylights described in the table below, in accordance with the specifications listed in the table. Total skylight area must not exceed 3 square metres (the 3 square metre limit does not include the optional additional skylight of less than 0.7 square metres that does not have to be listed in the table).
- HOT WATER**  
The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 6.5 stars.
- COOLING SYSTEM**  
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area and in at least 1 bedroom: 1-phase air conditioning; Energy rating: 3.5 Star (old label). The cooling system must provide for day/night zoning between living areas and bedrooms.
- HEATING SYSTEM**  
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area and in at least 1 bedroom: 1-phase air conditioning; Energy rating: 3.5 Star (old label) The heating system must provide for day/night zoning between living areas and bedrooms.
- VENTILATION**  
The applicant must install the following exhaust systems in the development:  
At least 1 Bathroom: individual fan, ducted to façade or roof; Operation control: manual switch on/off. Kitchen and Laundry: individual fan, ducted to façade or roof; Operation control: manual switch on/off
- ARTIFICIAL LIGHTING**  
The applicant must ensure that a minimum of 80% of light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting- diode (LED) lamps.
- NATURAL LIGHTING**  
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.  
The applicant must install a window and/or skylight in 2 bathroom(s)/toilet(s) in the development for natural lighting.
- OUTDOOR SPA**  
The applicant must install the following heating system for the spa in the development (or alternatively must not install any heating system for the spa): gas. The applicant must install a timer for the spa pump in the development.
- ALTERNATIVE ENERGY**  
The applicant must install a photovoltaic system with the capacity to generate at least 4.5 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.
- OTHER**  
The applicant must install a gas cooktop & gas oven in the kitchen of the dwelling.  
The applicant must install a fixed outdoor clothes drying line as part of the development.



PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

BASIX PLANS. 1:200

AMENDMENTS  
N - DA RFI - ISSUE  
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HOPKINS

DA.07 (N)

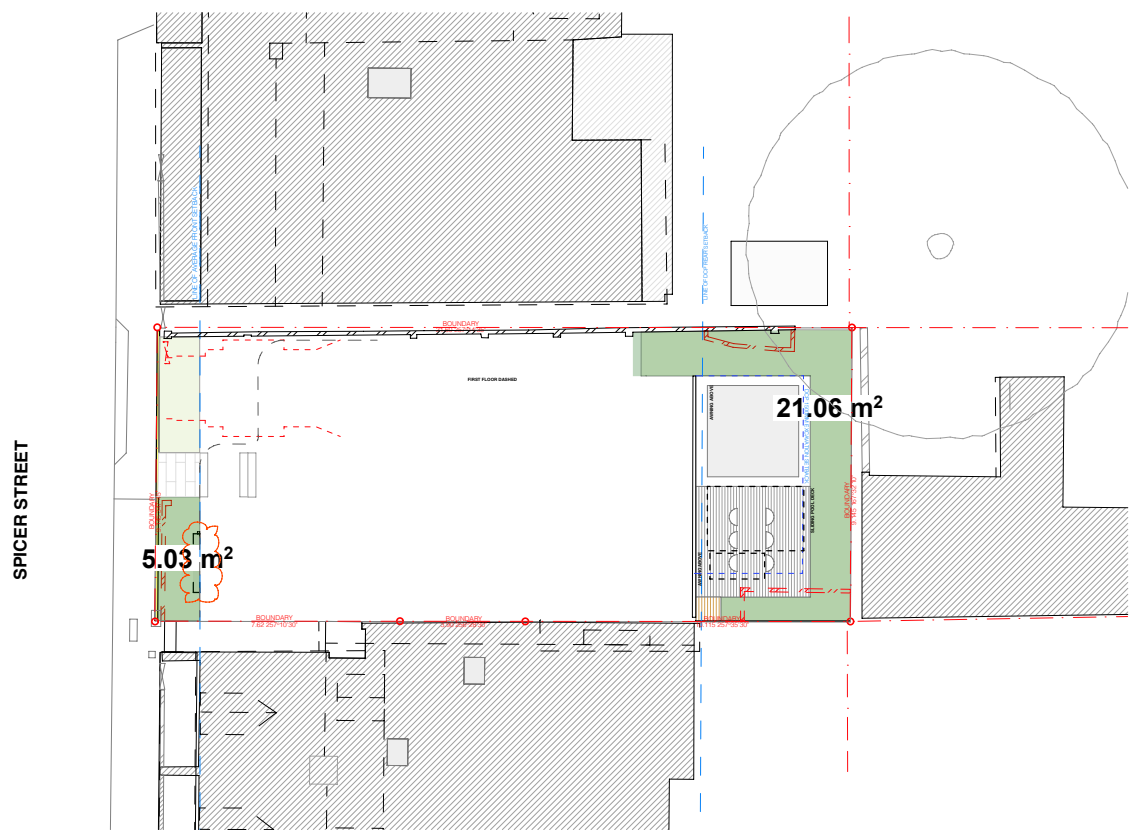
BASIX PLANS

16/4/2024

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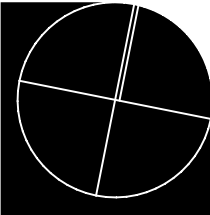


COMPLIANCE DIAGRAM  
SCALE 1:200

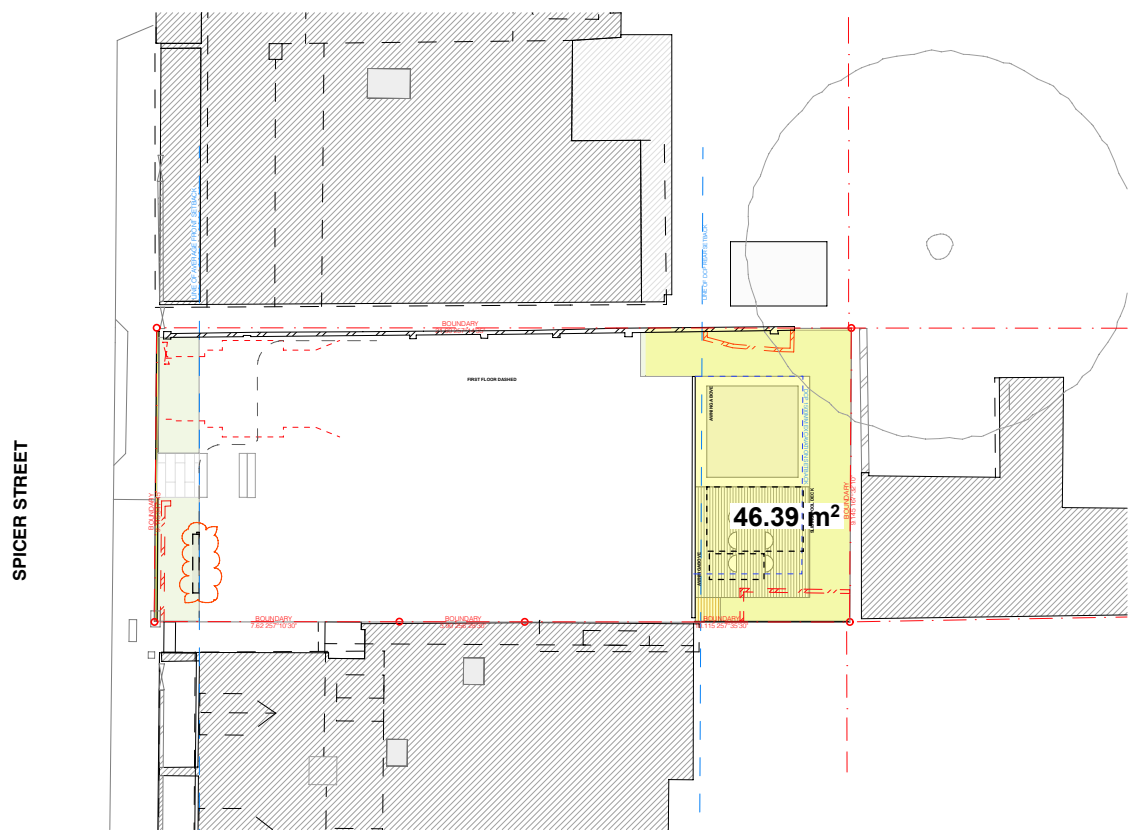
LANDSCAPED AREA

MINIMUM DEEP SOIL LANDSCAPED AREA = 8% OF SITE AREA  
EXISTING DEEP SOIL LANDSCAPED AREA = 10.6 m² = 6% OF SITE AREA  
  
PROPOSED DEEP SOIL LANDSCAPED AREA = 26.36 m² = 13.3% OF SITE AREA

COMPLIES 😊



<b>PROJECT DETAILS</b> NEW DWELLING & ASSOCIATED LANDSCAPING BEN HOPKINS & AMELIA BOTT 23 SPICER STREET WOOLLAHRA NSW 2025 LOT 37 DP 1087100	<b>COMPLIANCE LANDSCAPE. 1:200</b> <b>AMENDMENTS</b> N - DA RFI - ISSUE M - DA RFI SUBMISSION DRAWINGS L - DA SUBMISSION DRAWINGS	 <b>ROTH</b> ARCHITECTS	<b>DA.08 (N)</b>
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		<small>16/4/2024</small>	<small>CHECKED BY <b>AGR</b> / DRAWN BY <b>JW</b> 1:200 @ A3</small>



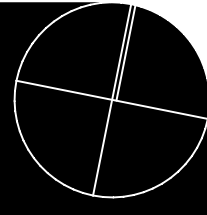
COMPLIANCE DIAGRAM  
SCALE 1:200

PRIVATE OPEN SPACE

MINIMUM PRIVATE OPEN SPACE = 16% OF SITE AREA = 31.5 m²

PROPOSED PRIVATE OPEN SPACE = 46.39 m² = 23.5%

COMPLIES 😊



PROJECT DETAILS  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

COMPLIANCE POS. 1:200  
AMENDMENTS  
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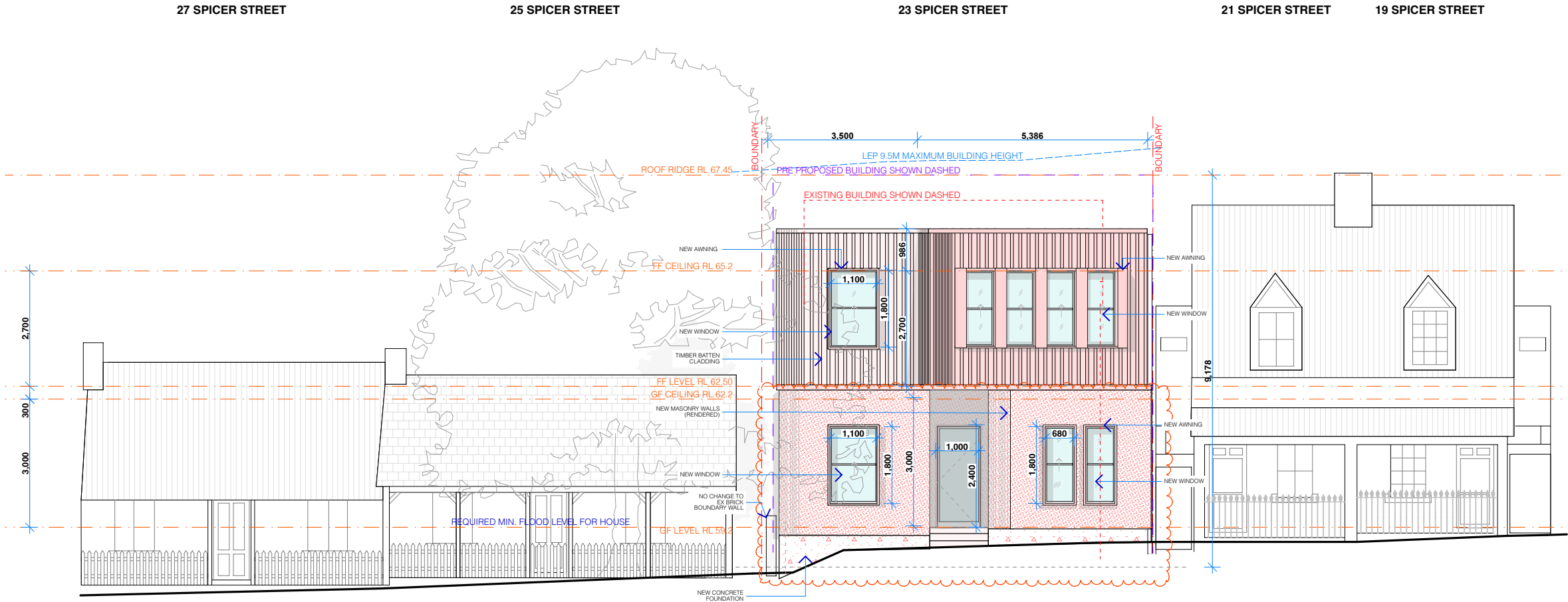
DA.09 (N)  
COMPLIANCE POS

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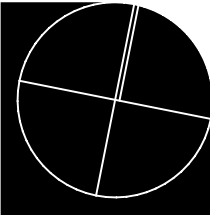


FRONT ELEVATION STREET (WEST)  
SCALE 1:100

<div><div></div><div><p><b>PROJECT DETAILS</b></p><p>NEW DWELLING &amp; ASSOCIATED LANDSCAPING BEN HOPKINS &amp; AMELIA BOTT 23 SPICER STREET WOOLLAHRA NSW 2025 LOT 37 DP 1087100</p></div></div>	<div><p><b>FRONT ELEVATION STREET (WEST). 1:100</b></p><p><b>AMENDMENTS</b> N - DA RFI - ISSUE M - DA RFI SUBMISSION DRAWINGS L - DA SUBMISSION DRAWINGS</p></div>	<div><div><div><p><b>ROTH</b> ARCHITECTS</p></div></div><div><p>WWW.ROTH.COM.AU NOMINATED ARCHITECT - ALEX ROTH, NSW REG 7276 P/ 02 9327 3577 M/ 0404 466 364 E/ ALEX@ROTH.COM.AU 1/80 QUEEN STREET WOOLLAHRA 2025 / PO BOX 386 WOOLLAHRA 1350</p></div></div>	<div><div>DA.10 (N)</div><div><p>HOPKINS</p><p><b>FRONT ELEVATION STREET (WEST)</b></p></div></div>	
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FRONT ELEVATION (WEST)  
SCALE 1:100



PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

FRONT ELEVATION (WEST). 1:100

AMENDMENTS  
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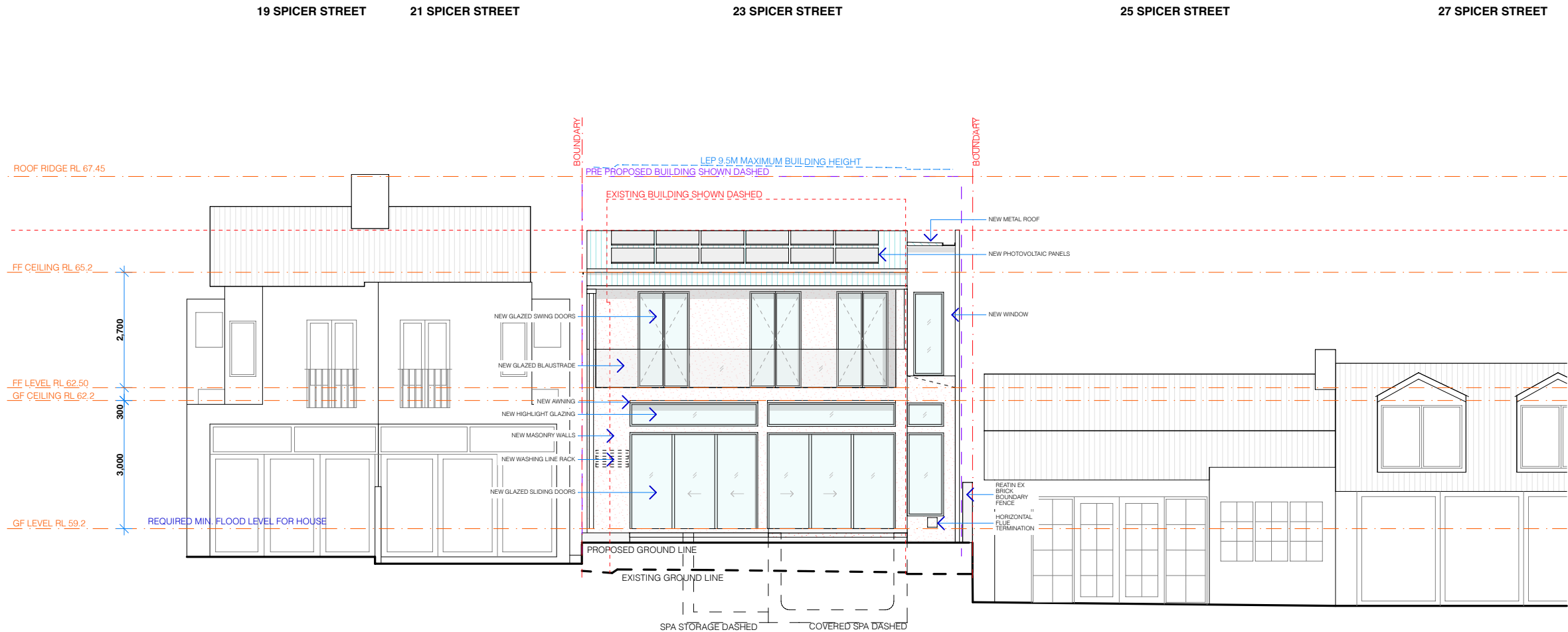
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FRONT ELEVATION (WEST)

**DA.11 (N)**

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REAR ELEVATION (EAST)  
SCALE 1:100

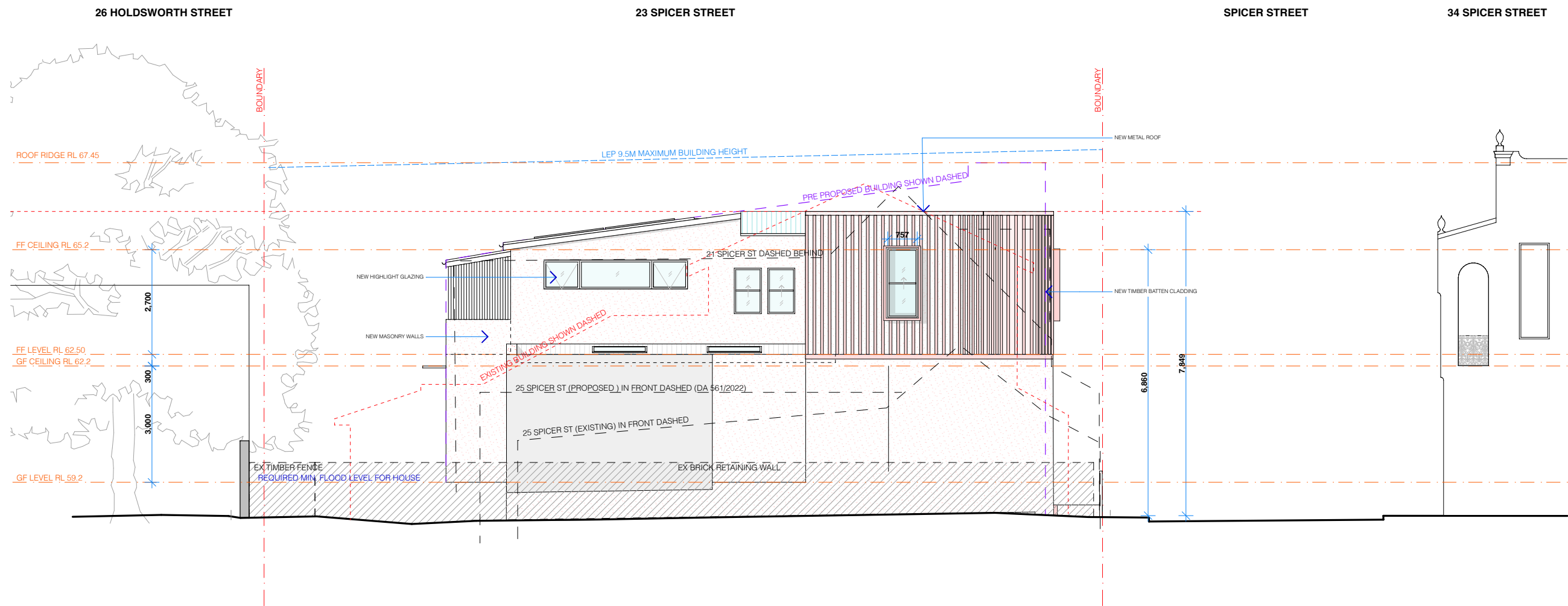
	<b>PROJECT DETAILS</b> NEW DWELLING & ASSOCIATED LANDSCAPING BEN HOPKINS & AMELIA BOTT 23 SPICER STREET WOOLLAHRA NSW 2025 LOT 37 DP 1087100	<b>REAR ELEVATION (EAST). 1:100</b> <b>AMENDMENTS</b> N - DA RFI - ISSUE M - DA RFI SUBMISSION DRAWINGS L - DA SUBMISSION DRAWINGS		<b>DA.12 (N)</b> <b>REAR ELEVATION (EAST)</b>
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HOPKINS

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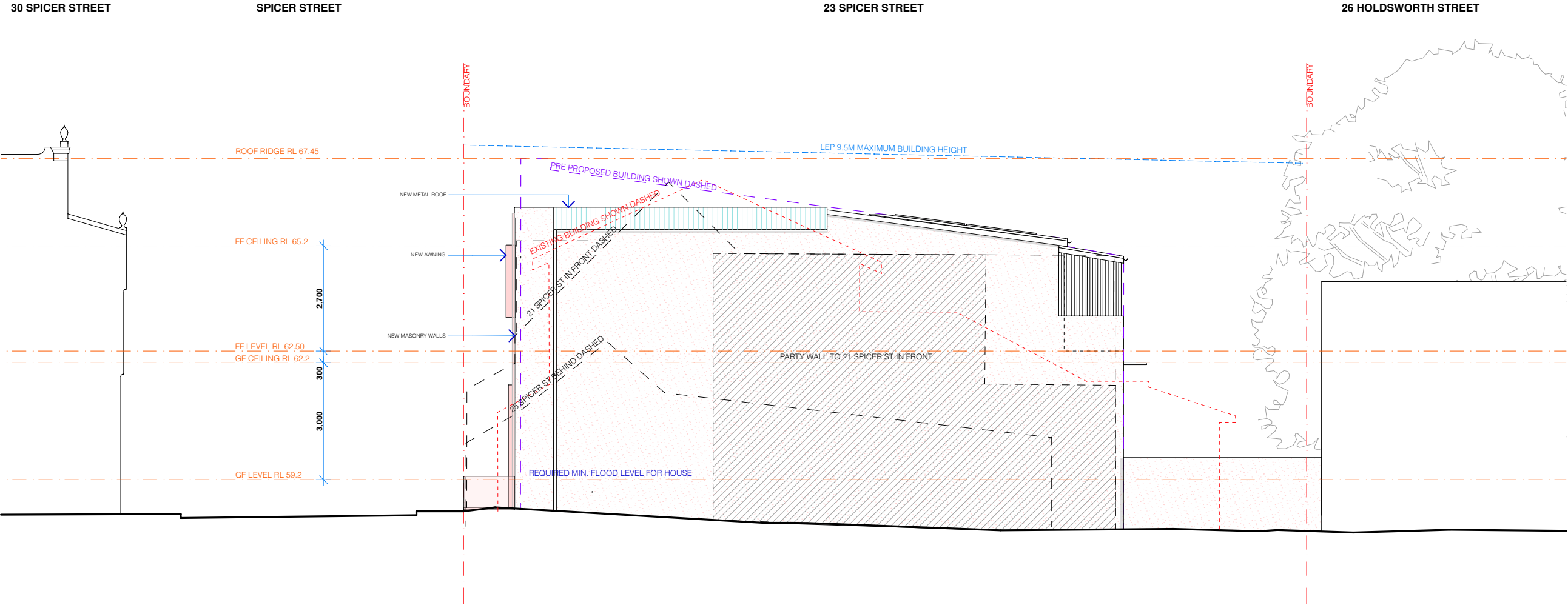
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SIDE ELEVATION (NORTH)  
SCALE 1:100

<div></div>	<b>PROJECT DETAILS</b> NEW DWELLING & ASSOCIATED LANDSCAPING BEN HOPKINS & AMELIA BOTT 23 SPICER STREET WOOLLAHRA NSW 2025 LOT 37 DP 1087100	<b>SIDE ELEVATION (NORTH). 1:100</b> <b>AMENDMENTS</b> N - DA RFI - ISSUE M - DA RFI SUBMISSION DRAWINGS L - DA SUBMISSION DRAWINGS	<div><div></div><div>ROTH ARCHITECTS</div></div>	DA.13 (N)		
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		16/4/2024			CHECKED BY AGR / DRAWN BY JW	1:100 @ A3





SIDE ELEVATION (SOUTH)  
SCALE 1:100

PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

SIDE ELEVATION (SOUTH). 1:100

AMENDMENTS  
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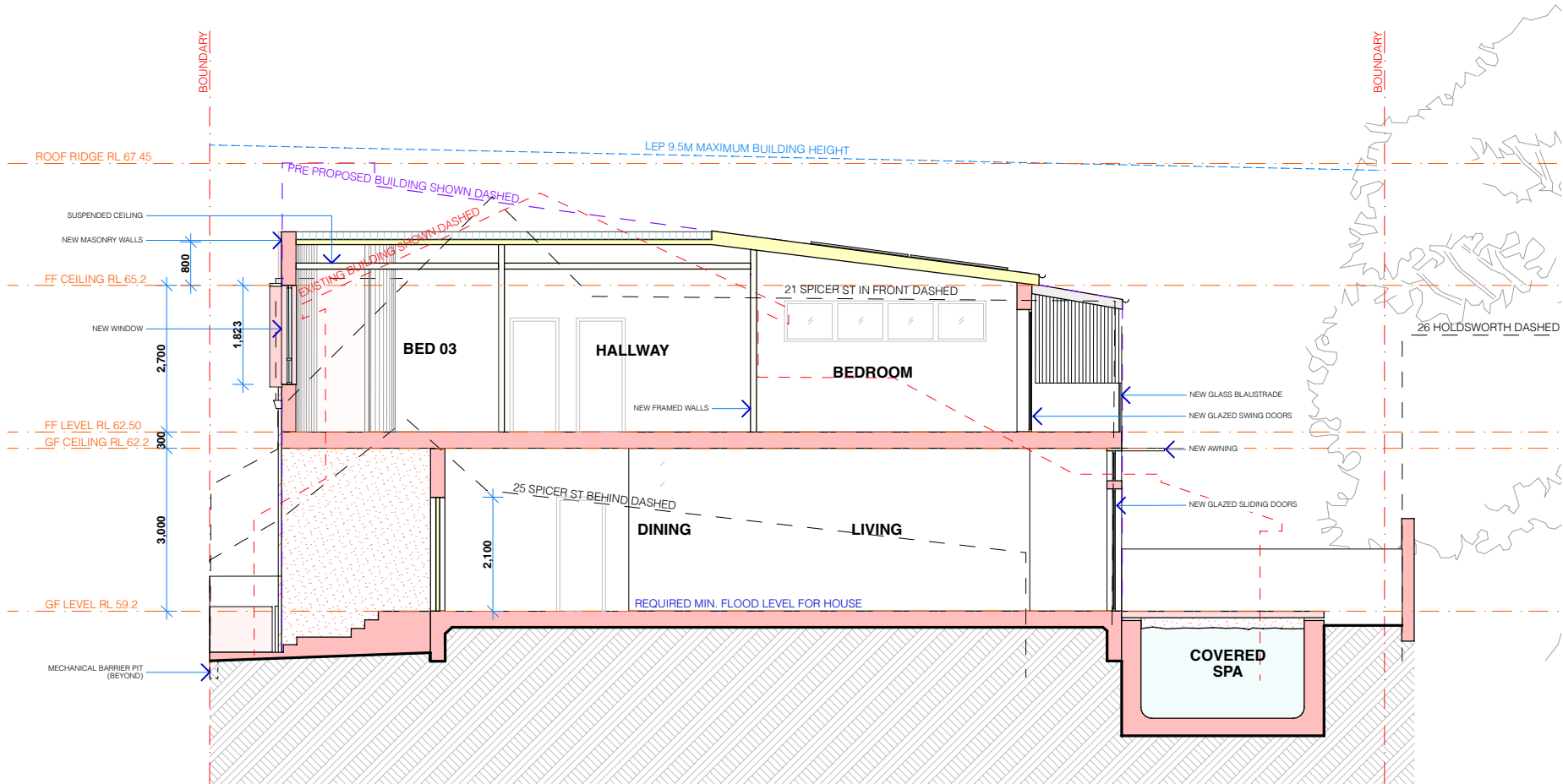
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SIDE ELEVATION (SOUTH)

DA.14 (N)

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SECTION AA  
SCALE 1:100

PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
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SECTION AA. 1:100

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L - DA SUBMISSION DRAWINGS



HOPKINS

DA.15 (N)  
SECTION AA

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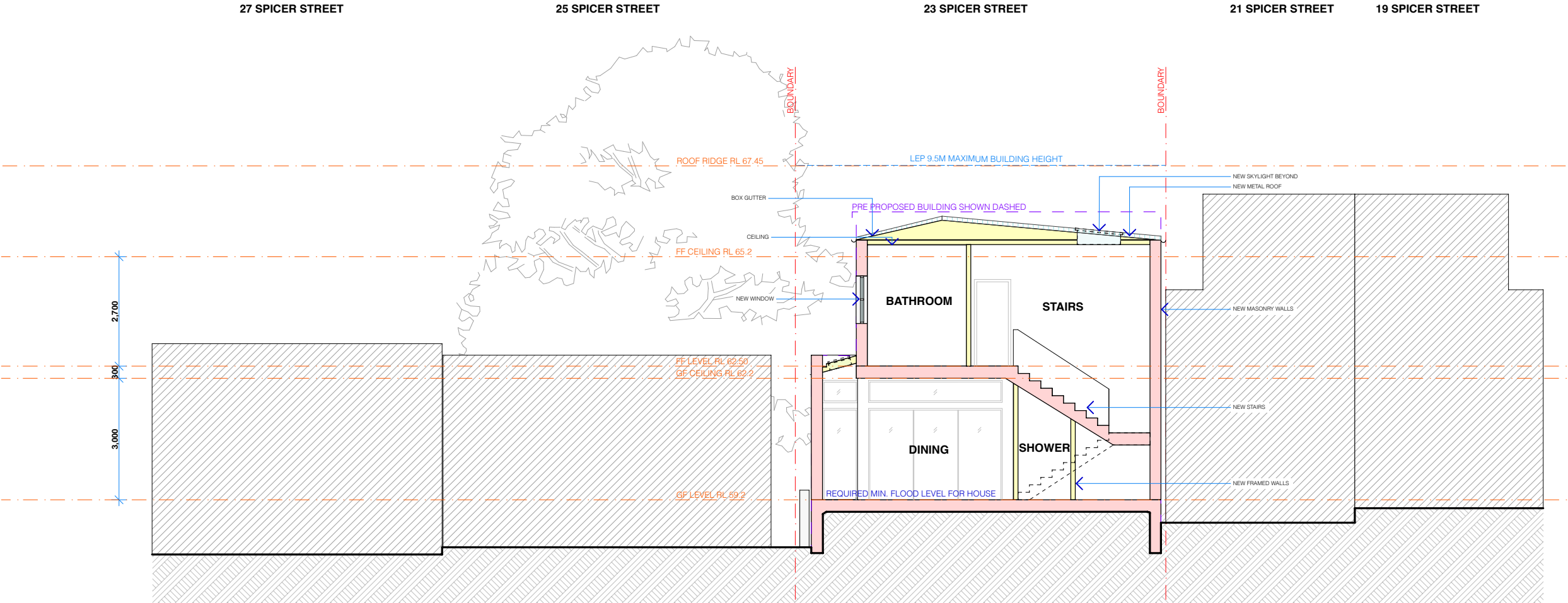
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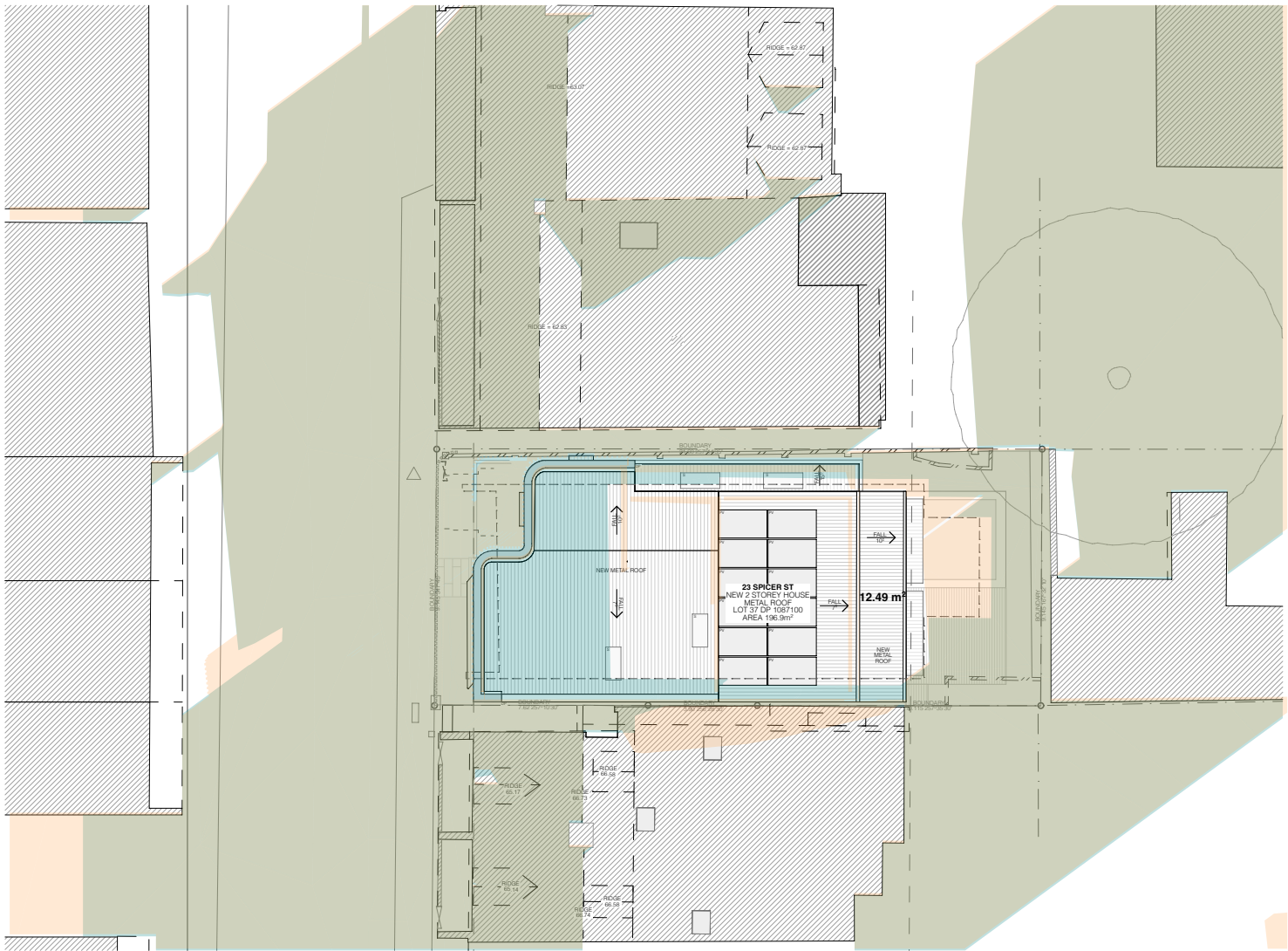
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SECTION BB  
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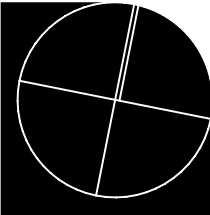
<p><b>PROJECT DETAILS</b></p> <p>NEW DWELLING &amp; ASSOCIATED LANDSCAPING BEN HOPKINS &amp; AMELIA BOTT 23 SPICER STREET WOOLLAHRA NSW 2025 LOT 37 DP 1087100</p>	<p><b>SECTION BB. 1:100</b></p> <p><b>AMENDMENTS</b> N - DA RFI - ISSUE M - DA RFI SUBMISSION DRAWINGS L - DA SUBMISSION DRAWINGS</p>	<p> <b>ROTH</b> ARCHITECTS</p> <p>WWW.ROTH.COM.AU NOMINATED ARCHITECT - ALEX ROTH, NSW REG 7276 P/ 02 9327 3577 M/ 0404 466 364 E/ ALEX@ROTH.COM.AU 1/80 QUEEN STREET WOOLLAHRA 2025 / PO BOX 386 WOOLLAHRA 1350</p>	<p><b>DA.16 (N)</b></p> <p><b>SECTION BB</b></p> <p>HOPKINS</p> <p>16/4/2024 CHECKED BY <b>AGR</b> / DRAWN BY <b>JW</b> 1:100 @ A3</p>
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21 JUNE - 9AM

SHADOW DIAGRAMS  
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

SHADOWS 21 JUNE 9AM. 1:200  
AMENDMENTS  
N - DA RFI - ISSUE  
M - DA RFI SUBMISSION DRAWINGS  
L - DA SUBMISSION DRAWINGS



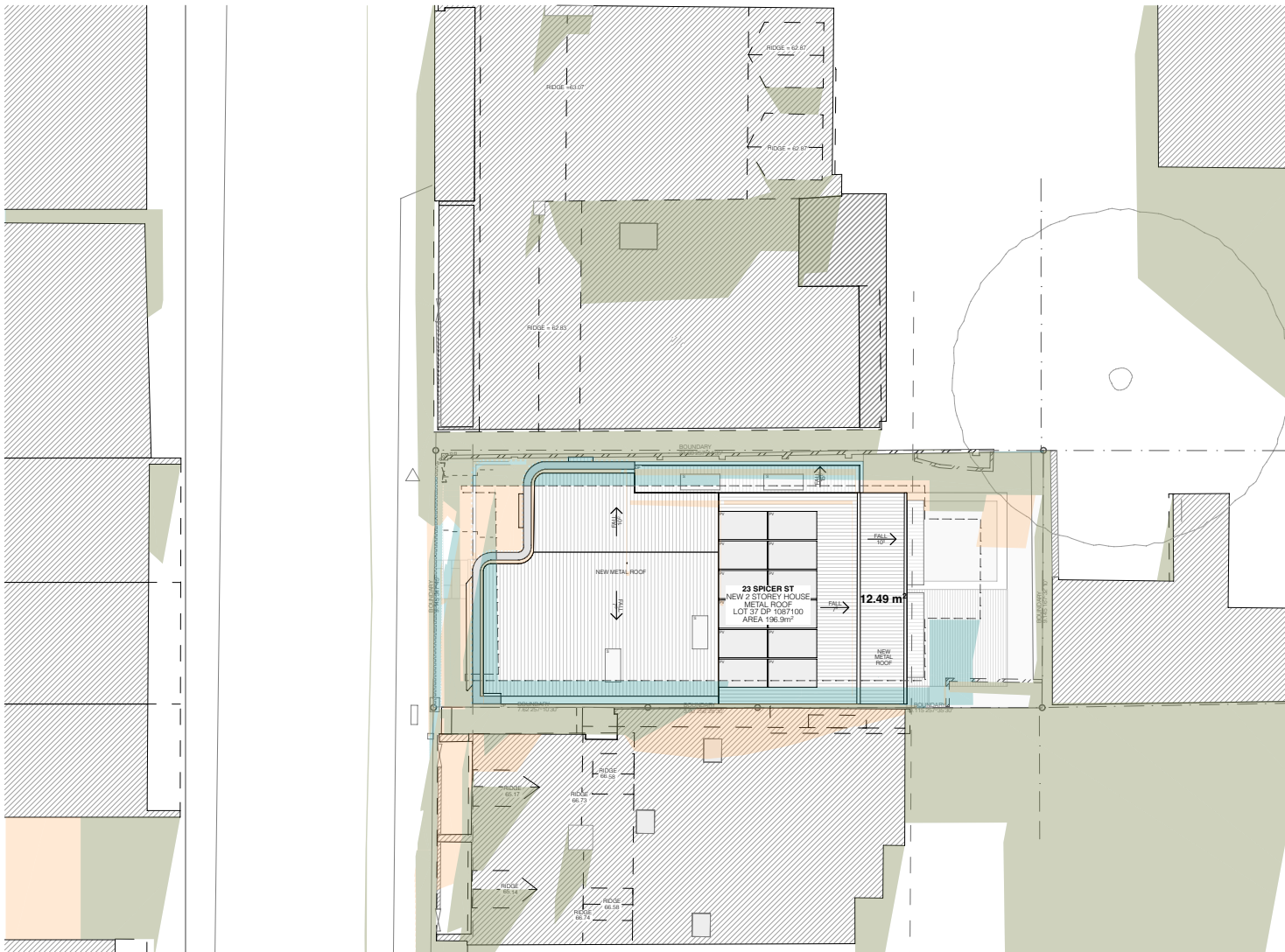
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HOPKINS SHADOWS 21 JUNE 9AM

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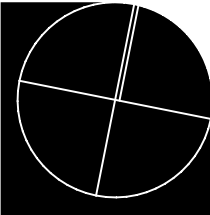
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21 JUNE - 12PM

SHADOW DIAGRAMS  
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

SHADOWS 21 JUNE 12PM. 1:200  
AMENDMENTS  
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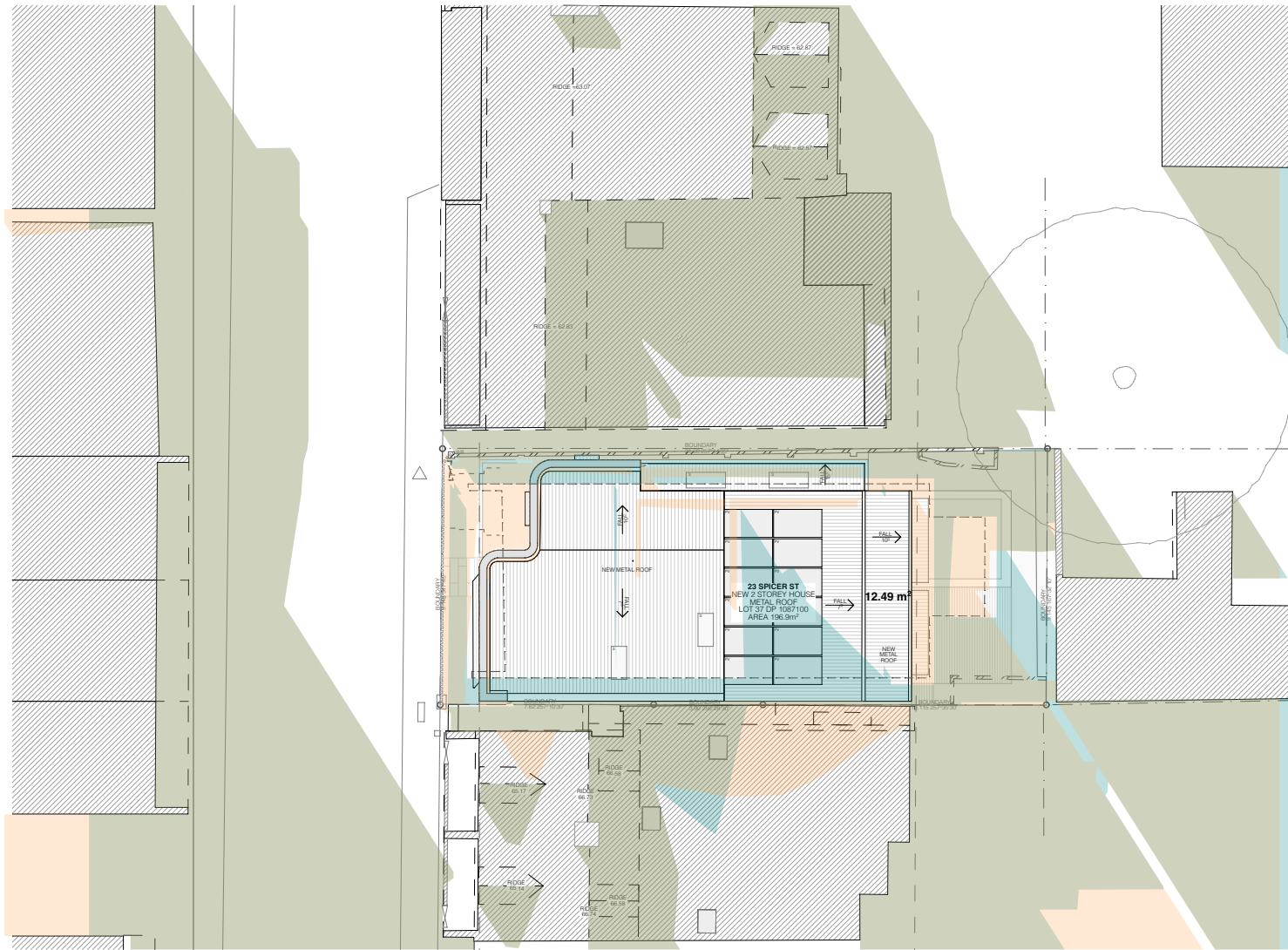
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HOPKINS SHADOWS 21 JUNE 12PM

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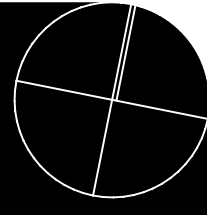
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21 JUNE - 3PM

SHADOW DIAGRAMS  
SCALE 1:200

- EXISTING SHADOW
- NEW SHADOW
- REMOVED SHADOW



PROJECT DETAILS  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

SHADOWS 21 JUNE 3PM. 1:200  
AMENDMENTS  
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L - DA SUBMISSION DRAWINGS



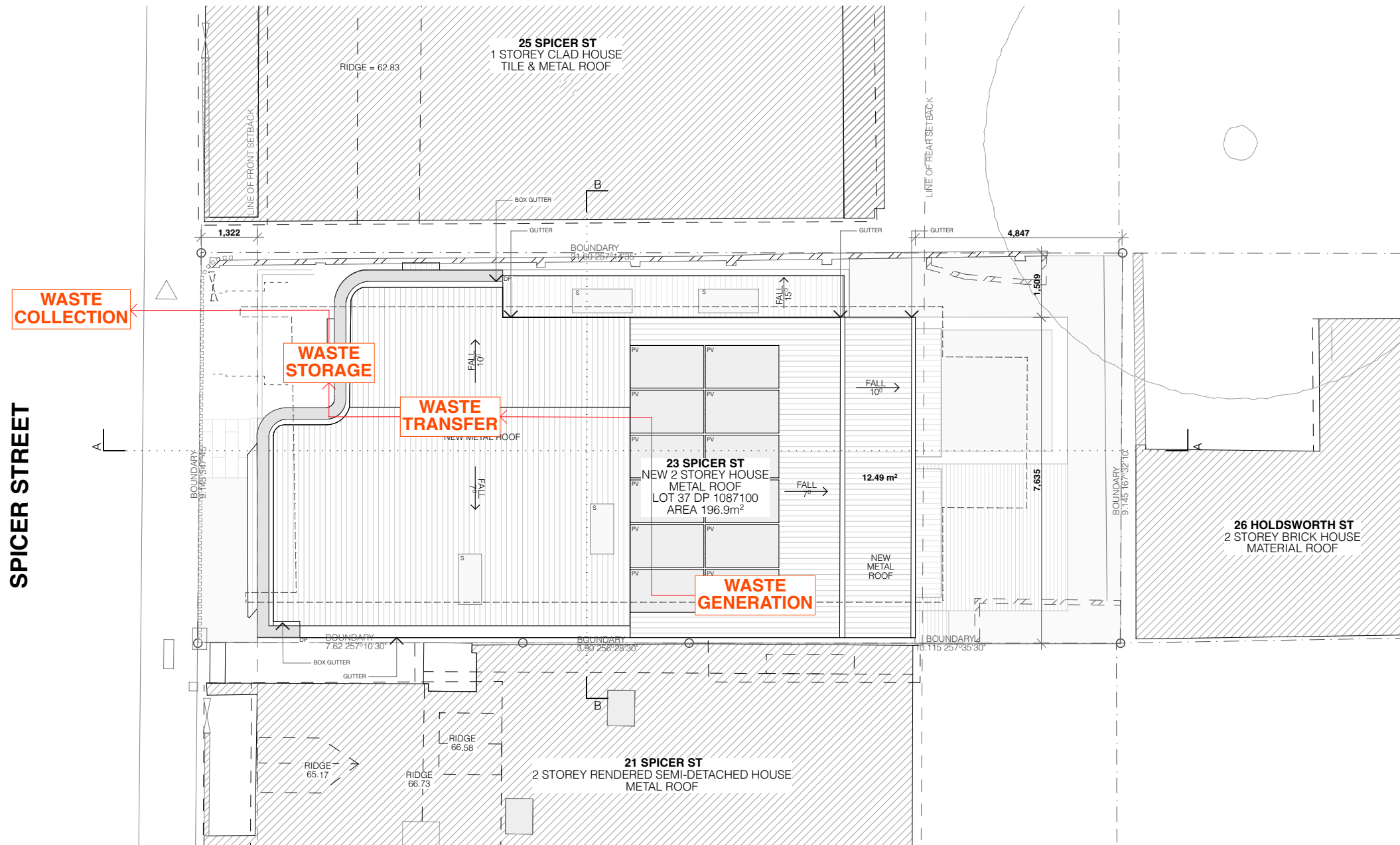
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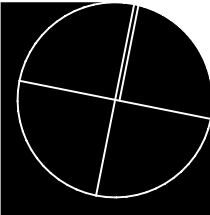
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**WASTE MANAGEMENT PLAN**  
SCALE 1:100



**PROJECT DETAILS**  
NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**WASTE MANAGEMENT. 1:100**  
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**WASTE MANAGEMENT**

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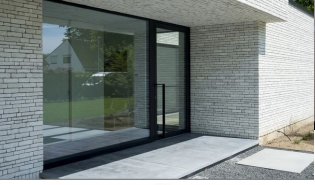


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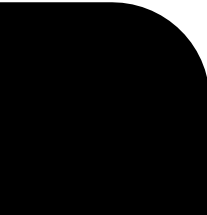
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EXTERNAL FINISHES SCHEDULE

ITEM	MATERIAL / FINISH	
ROOF	COLORBOND SURFMIST	
EXTERNAL WALLS	WHITE RENDERED MASONRY	
EXTERNAL WALLS	TIMER BATTERN CLADDING	
WINDOWS	BLACK PAINTED TIMBER FRAMED WINDOWS	
EXTERNAL DOORS	BLACK PAINTED TIMBER FRAMED DOORS	
SKYLIGHTS	VELUX FIXED SKYLIGHT GREY OUTER ALUMINIUM CAPPING, WHITE PAINTED TIMBER INTERIOR FRAME AND SASH	
BALUSTRADE	TIMBER BATTERN FENCING	



PROJECT DETAILS

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

EXTERNAL FINISHES

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DA.21 (N)

EXTERNAL FINISHES

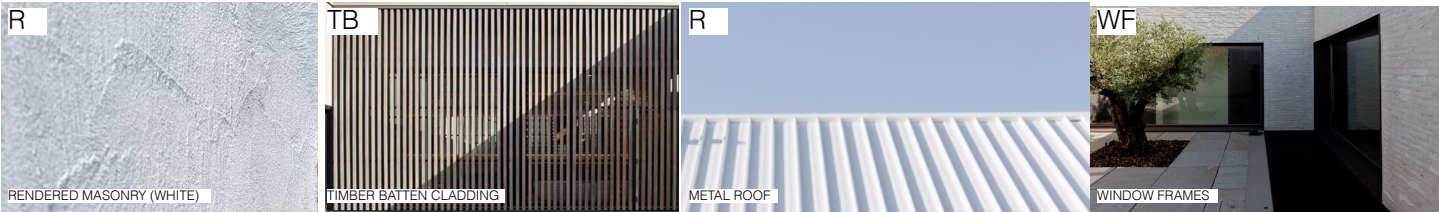
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DRAFTED 3D DARFI  
SCALE

**PROJECT DETAILS**

NEW DWELLING & ASSOCIATED LANDSCAPING  
BEN HOPKINS & AMELIA BOTT  
23 SPICER STREET WOOLLAHRA NSW 2025  
LOT 37 DP 1087100

**3D VIEWS.**

**AMENDMENTS**

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**DA.22 (N)**

**3D VIEWS**

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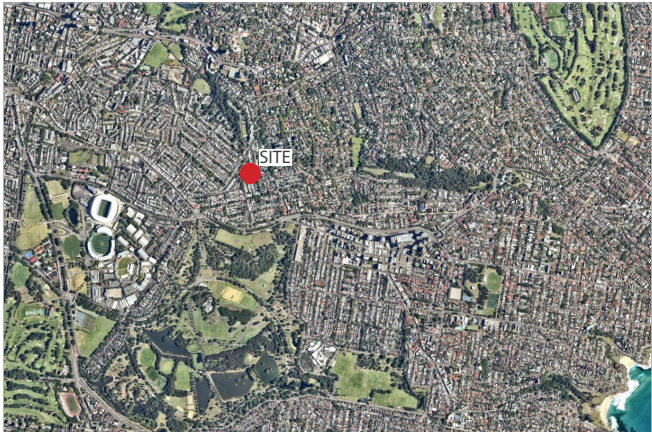
WOOLLAHRA HOUSE

23 SPICER STREET, WOOLLAHRA 2025

LANDSCAPE DEVELOPMENT APPLICATION

DRAWING LIST

LA 1	COVER PAGE
LA 2	REFERENCE SHEET
LA 3	LANDSCAPE SPECIFICATION
LA 4	LANDSCAPE SPECIFICATION
LA 5	MATERIAL PALETTE
LA 6	LANDSCAPE PLAN
LA 7	LANDSCAPE SECTION
LA 8	LANDSCAPE DETAILS
LA 9	PLANT SCHEDULE
LA 10	PLANT SCHEDULE



①

PLAN NOTES

This plan should be printed and read in colour and in conjunction with the **architectural, civil and hydraulics plans**. Work specific to these plans should be prepared in accordance to these plans, including specification and details prior to the installation of landscaping, and should not be altered or compromised during landscape construction.

Retaining wall details to engineers design.

This plan has been prepared for DA approval only, not for construction.

Planting proposed using commercially available plant species selected from local planting lists and the BASIX local plant list

DA approved landscape plan's are required to be constructed as approved to obtain occupancy certificate.

23 SPICER ST, WOOLLAHRA

COVER PAGE & LOCATION PLAN

DATE 20.12.2023		DWG NO LA-1	REV -	CLIENT HOPKINS	<div><div>PdS Paterson Design Studio</div><div>Landscape Architects / Urban Designers Registered Landscape Architect: Garth Paterson FAILA Reg#716 BLA (CANB) MLAUD (HARV) T + 61 2 9452 4911 admin@pdsdesign.com.au</div></div>
Rev -	Description Development Application Development Application	Date 21.03.23 20.12.23	Tel. 02 9452 4911 mob. 0419 501 681	admin@pdsdesign.com.	
A				ARCHITECT ROTH ARCHITECTURE	



1.0 SITE SURVEY

1.1 LANDSCAPE NOTES

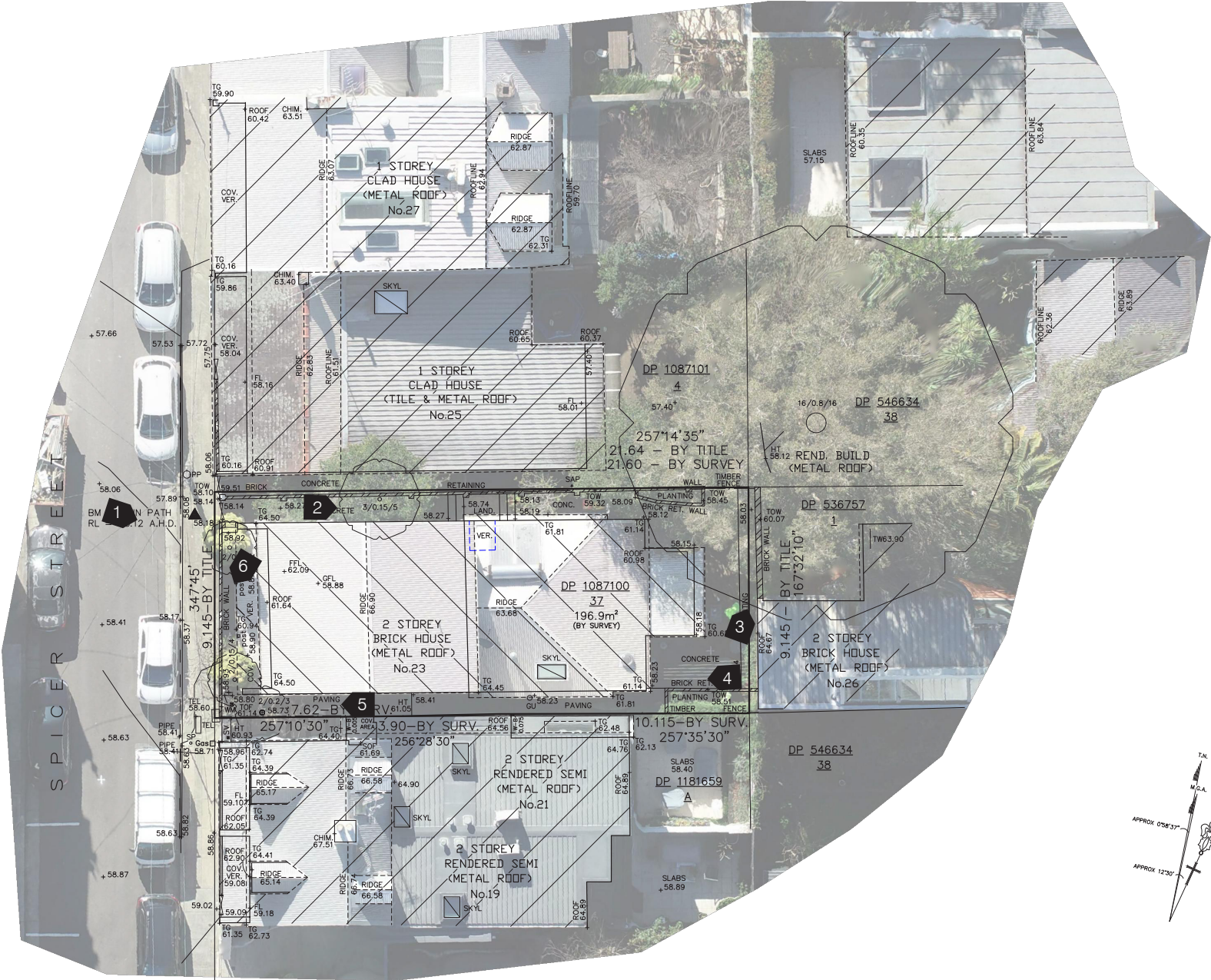
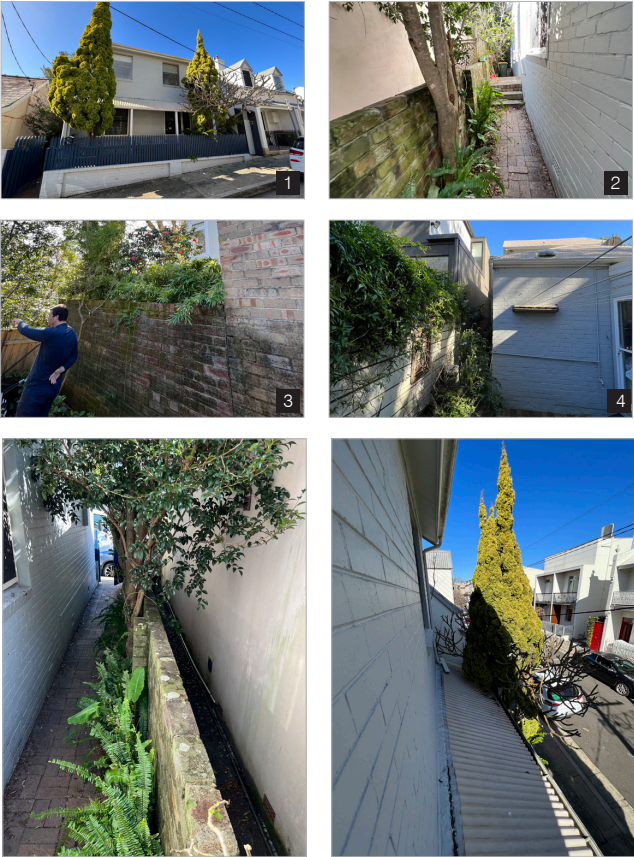
1.1.1 EXISTING SITE CONDITIONS: TO BE RETAINED OR REMOVED

Site conditions to be removed:

- Existing vegetation from both the front and rear yard.
- Existing hardscaped areas from the front and rear yards.

2.0 SITE

2.1 SITE VISIT



23 SPICER ST, WOOLLAHRA

REFERENCE PAGE

SCALE 1:100



DATE 20.12.2023

Rev - Description  
A Development Application  
Development Application

Date  
21.03.23  
20.12.23

DWG NO LA-2

Tel. 02 9452 4911  
mob. 0419 501 681

REV -

admin@  
pdsdesign.com.

CLIENT HOPKINS

ARCHITECT **ROTH**  
ARCHITECTURE

**pds** Paterson  
Design  
Studio  
Landscape Architects / Urban Designers  
Registered Landscape Architect: Garth Paterson FAILA  
Reg#716 BLA (CANB) MLAUD (HARV)  
T + 61 2 9452 4911 admin@pdsdesign.com.au



1.0 LANDSCAPE WORK SPECIFICATION

1.1 PRELIMINARIES

1.1.1 GENERAL

The following general conditions should be considered prior to the commencement of landscape works:

The landscape plans should be read in conjunction with the architectural plans, hydraulic plans, service plans and survey prepared for the proposed development.

All services including existing drainage should be accurately located prior to the commencement of landscape installation. Any proposed tree planting which falls close to services will be relocated on site under the instruction of the landscape architect.

Installation of conduit for required irrigation, electrical and other services shall be completed prior to the commencement of hardscape works and hardstand pours.

All outdoor lighting specified by architect or client to be installed by qualified electrician

Anomalies that occur in these plans should be brought to our immediate attention.

Where an Australian Standard applies for any landscape material testing or installation technique, that standard shall be followed.

1.1.2 PROTECTION OF ADJACENT FINISHES

The Contractor shall take all precautions to prevent damage to all or any adjacent finishes by providing adequate protection to these areas / surfaces prior to the commencement of the Works

1.1.3 PROTECTION OF EXISTING TREES

Existing trees identified to be retained shall be done so in accordance with NATSPEC Guide 2 "A Guide to Assessing Tree Quality". Where general works are occurring around such trees, or pruning is required, a qualified Arborist shall be engaged to oversee such works and manage tree health.

Existing trees designated on the drawing for retention shall be protected at all times during the construction period. Any soil within the drip-line of existing trees shall be excavated and removed by hand only. No stockpiling shall occur within the root zone of existing trees to be retained.

Any roots larger in diameter than 50mm shall only be severed under instruction by a qualified arborist. Roots smaller than 50mm diameter shall be cut cleanly with a saw.

Temporary fencing shall be installed around the base of all trees to be retained prior to the commencement of landscape works. Where possible this fencing will be located around the drip line of these trees, or a minimum of 3m from the trunk. The fencing shall be maintained for the full construction period.

1.1.4 EROSION & POLLUTION CONTROL

The Contractor shall take all proper precautions to prevent the erosion of soil from the subject site. The contractor shall install erosion & sediment control

barriers and as required by council, and maintain these barriers throughout the construction period. Note that the sediment control measures adopted should reflect the soil type and erosion characteristics of the site.

Erosion & pollution control measures shall incorporate the following:

- Construction of a sediment trap at the vehicle access point to the subject site.
- Sediment fencing using a geotextile filter fabric in the location indicated on the erosion control plan or as instructed on site by the landscape architect.
- Earth banks to prevent scour of stockpiles
- Sandbag kerb sediment traps
- Straw bale & geotextile sediment filter.

1.2 SOIL WORKS

1.2.1 MATERIALS

Specified Soil Conditioner (Generally to improve site soil)

The specified soil conditioner for site top-soil improvement shall be an organic mix, equal to "Botany Humus", as supplied by ANL. Note that for sites where soil testing indicates toxins or extremes in pH, or soils that are extremely poor, allow to excavate and supply 300mm of imported soil mix.

New gardens & proposed Planting

New garden and planting areas shall consist of a 50/50 mix of clean site soil (refer d) below) and imported "Organic Garden Mix" as supplied by ANL or approved equal. All mixes are to comply with AS 4419 Soils for landscaping & garden use, & AS 4454 Composts, Soil conditioners & mulches.

Specified Soil Mix - Turf

The specified soil mix for all turf areas shall be a min 75mm layer of imported soil mix consisting of 80% washed river sand (reasonably coarse), and 20% composted organic matter equivalent to mushroom compost or soil conditioner, or other approved lawn top dress.

Site Topsoil

Site topsoil is to be clean and free of unwanted matter such as gravel, cXXlay lumps, grass, weeds, tree roots, sticks, rubbish and plastics, and any deleterious materials and materials toxic to plants. The topsoil must have a pH of between 5.5 and 7. Use 100% imported soil mix when site when site topsoil runs out.

1.2.2 INSTALLATION

Establishing Subgrade Levels: Subgrade levels are defined as the finished base levels prior to the placement of the specified material (i.e. soil conditioner). The following subgrade levels shall apply:

Mass Planting Beds: 300mm below existing levels with specified imported soil mix.

Turf areas: 100mm below finished surface level. Note that all subgrades shall consist of a relatively free draining natural material, consisting of site topsoil placed previously by the Civil Contractor. No builders waste material shall be acceptable.

Subgrade Cultivation: Cultivate all subgrades to a minimum depth of 100mm in all planting beds and all turf areas, ensuring a thorough breakup of the subgrade into a reasonably coarse tilth. Grade subgrades to provide falls to surface and subsurface drains, prior to the placement of the final specified soil mix.

Drainage Works: Install surface and subsurface drainage where required and as detailed on the drawing. Drain subsurface drains to outlets provided, with a minimum fall of 1:100 to outlets and / or service pits.

Placement and Preparation of Specified Soil Conditioner & Mixes: Trees in turf & beds - Holes shall be twice as wide as root ball and minimum 100mm deeper - backfill hole with 50/50 mix of clean site soil and imported "Organic Garden Mix" as supplied by ANL or approved equal.

Mass Planting Beds: Install specified soil conditioner to a compacted depth of 100mm. Place the specified soil conditioner to the required compacted depth and use a rotary hoe to thoroughly mix the conditioner into the top 300mm of garden bed soil. Ensure thorough mixing and the preparation of a reasonably fine tilth and good growing medium in preparation for planting.

Turf Areas: Install specified soil mix to a minimum compacted depth of 75mm. Place the specified soil mix to the required compacted depth and grade to required finished soil levels, in preparation for planting and turfing.

1.3 PLANTING

1.3.1 MATERIALS

a) Quality and Size of Plant Material

All trees supplied above a 25L container size must be grown and planted in accordance with Clarke, R 1996 Purchasing Landscape Trees: A guide to

assessing tree quality. Natspec Guide No. 2. Certification that trees have been grown to Natspec guidelines is to be provided upon request of Council's Tree Management Officer.

Above - Ground Assessment:

The following plant quality assessment criteria should be followed:

Plant true to type, Good vigour and health, free from pest & disease, free from injury, self-supporting, good stem taper, has been pruned correctly, is

apically dominant, has even crown symmetry, free from included bark & stem junctions, even trunk position in pot, good stem structure

Below - Ground Assessment:

Good root division & direction, rootball occupancy, rootball depth, height of crown, non-suckering For further explanation and description of these assessment criteria, refer to Ross Clark's book.

All Plant material shall be to the type and size specified. No substitutions of plant material shall be permitted without written prior approval by theLandscape Architect. No plant shall be accepted which does not conform to the standards listed above.

b) Stakes and Ties

Provide min. 2 No. Stakes and ties to all plants identified as trees in the plant schedule. Stakes shall be sound, unpainted, straight hardwood, free of knots and pointed at one end. They shall be 2200mm x 50mm x 50mm Hardwood, or approved alternative. Ties shall be 50mm wide hessian webbing material.

c) Fertilisers

Fertilisers shall be approved slow release fertilisers suitable for the proposed planting types. Note that for native plants, specifically Proteaceae family plants including Grevillea species, low phosphorus fertilizers shall be used.

d) Mulch

Mulch shall be an approved equal to "Forest Blend" as supplied by ANL. Mulch shall be completely free from any soil, weeds, rubbish or other debris.

23 SPICER ST, WOOLLAHRA

DATE 20.12.2023		DWG NO LA-3		REV -	CLIENT HOPKINS
Rev	Description	Date	Tel. 02 9452 4911	admin@	ARCHITECT 
-	Development Application	21.03.23	mob. 0419 501 681	pdsdesign.com.	
A	Development Application	20.12.23			



Paterson Design Studio

Landscape Architects / Urban Designers  
Registered Landscape Architect: Garth Paterson FAILA  
Reg#716 BLA (CANB) MLAUD (HARV)  
T + 61 2 9452 4911 admin@pdsdesign.com.au

e) Turf Turf shall be "Windsor Couch" Couch Grass or equivalent (unless stated otherwise), free from any weeds and other grasses, and be in a healthy growing condition.

1.4 3.02 INSTALLATION

a) Setting Out

All planting set out shall be in strict accordance with the drawings, or as directed. Note that proposed tree planting located near services should be adjusted at this stage. Notify Landscape Architect for inspection for approval prior to planting.

b) Planting

All plant material shall be planted as soon after delivery as possible. Planting holes for trees shall be excavated as detailed and specified. Plant containers shall be removed and discarded, and the outer roots gently teased from the soil mass.

Immediately set plant in hole and backfill with specified soil mix, incorporating the approved quantity of fertiliser for each plant type. Ensure that plants are set plumb vertically and root balls set to the consolidated finished grades detailed on the drawings. Compact the backfilled soil and saturate by hand watering to expel any remaining air pockets immediately after planting.

c) Staking and Tying

Staking and tying shall be in strict accordance with the drawings and shall occur immediately following plant placement and soil backfilling. All plants identified as "Trees" on the planting schedule shall be staked with a min. 3 stakes.

d) Mulching.

Mulch should be spread so that a compacted thickness of 75mm is achieved after settlement in all planting beds and around each individual plant. Apply immediately following planting and watering in, ensuring that a 50mm radius is maintained around the trunk of each plant . There shall be no mixing of soil and mulch material.

e) Turfing

Moisten soil prior to the turf being laid. Turf shall be neatly butt jointed and true to grade to finish flush with adjacent surfaces. Incorporate a lawn fertilizer and thoroughly water in. Keep turf moist until roots have taken and sods/rolls cannot be lifted. Keep all traffic off turf until this has occurred. Allow for top dressing of all turf areas. All turf shall be rolled immediately following installation.

f) Steel Garden Edging The Contractor shall install stone edging as shown on the drawings, to all mass planting beds adjoining turf or gravel mulched areas, and where required. The resultant edge shall be true to line and flush with adjacent surfaces.

1.5 HARDSCAPE WORKS

1.5.1 GENERAL

The Contractor shall undertake the installation of all hardscape works as detailed on the drawing, or where not detailed, by manufacturers specification.

Paving - refer to typical details provided, and applicable Australian Standards. Permeable paving may be used as a suitable means of satisfying Council permeable

surface requirements, while providing a useable, hardwearing, practical surface. In most instances, the client shall nominate the appropriate paving material to be used.

Australian Standards shall be adhered to in relation to all concrete, masonry & metal

work. Some details are typical and may vary on site. All hardscape works shall be setout as per the drawings, and inspected and approved by the Landscape Architect prior to installation. All workmanship shall be of the highest standard. Any queries or problems that arise from hardscape variations should be bought to the attention of the Landscape Architect.

Your attention is directed to any obligations or responsibilities under the Dividing Fences Act, 1991 in respect of adjoining property owner/s which may arise from this application. Any enquiries in this regard may be made to the Crown Lands Division on (02) 8836 5332

1.6 IRRIGATION WORKS

1.6.1 5.01 GENERAL (PERFORMANCE SPECIFICATION)

An automated drip-irrigation system is to be installed to all gardens, planters and lawn areas in accordance with the approved Irrigation Design.

This system shall be designed and installed by a qualified and licensed irrigation specialist, to the highest industry standards and to maximise the efficient usage of water. The Installer is required to obtain all approvals necessary for the completion of works in accordance with the Laws of Australia, Laws of the State of NSW, Council

By-Laws and Ordinances.

Drawings:

he Landscape Contractor nominated Licensed Irrigation Specialist shall provide irrigation drawings for approval upon engagement.

Design Requirements: The irrigation system shall be installed prior to all planting works. It shall incorporate a commercially available irrigation system, with sub-surface dripper lines to irrigate all gardens, planters and lawn areas. It shall incorporate a suitable back flow prevention device for the scale of works, an in-line filter, check valves, and suitable high and low density poly hose fittings and PVC piping to achieve flow rates suitable for specified planting.

The irrigation application rate shall not exceed the infiltration rate of the soil or creates run-off.

The landscape contractor shall check the existing pressure available from the ring mains and size irrigation piping to suit. Supply shall be from local hose cock where available.

All piping and fittings shall be buried 50mm below the finished soil levels in garden and lawn areas, and secured in position at 500mm centres with galv wire pins.

Size of pipes shall be selected to ensure the working pressure at the end of the line does not decrease by more than 5%.

Services Co-ordination: Co-ordination required by Landscape Contractor or Project Manager to provide required conduit, pipe work and penetration through slabs and planter walls for water and power provisions.

The Landscape Contractor shall be engaged with the Irrigation Specialist to co-ordinate with the Project Manager to identify the preferred service and conduit locations.

Project Manager and Landscape Contractor to establish area suitable for irrigation control system with required area, power provision and water supply.

Testing & Defects: Upon completion of installation, the system shall be tested, including:

Main Line Pressure Test: The main line is pressurised to test for leaks. All valves are shut and the pressure is taken over a determined length of time.

Dripper Pressure Test: Measurement at flushing valves are taken and the pressure gauged to make sure it conforms to the manufacturer recommendations. The inlet

pressure is then tested under the same conditions to check it does not exceed 300Kpa.

All components are to be satisfactorily functional and operational prior to approval. Should any defect develop, or the capacity or efficiency of the system decline during the agreed maintenance system, then these faults shall be immediately rectified.

Warranty :

A full 12 month warranty shall be included to cover labour and all parts.

Further Documentation: On request, a detailed irrigation performance specification report can be issued.

1.7 12 MONTH MAINTENANCE

1.7.1 6.01 GENERAL

The consolidation and maintenance period shall be 12 months beginning from the approved completion of the specified construction work (Practical Completion). A

qualified landscape maintenance contractor shall undertake the required landscape maintenance works. Consolidation and maintenance shall mean the care and

maintenance of Contracted works by accepted landscaping or horticultural practices, ensuring that all plants are in optimum growing conditions and appearance at all

times, as well as rectifying any defects that become apparent in the contracted works.

This shall include, but not be limited to, the following items where and as required: Watering all planting and lawn areas / irrigation maintenance.

Clearing litter and other debris from landscaped areas.

Removing weeds, pruning and general plant maintenance.

Replacement of damaged, stolen or unhealthy plants. Make good areas of soil subsidence or erosion.

Topping up of mulched areas.

Spray / treatment for Insect and disease control.

Fertilizing with approved fertilizers at correct rates.

Mowing lawns & trimming edges each 14 days in summer or 18 days in winter Adjusting ties to Stakes

Maintenance of all paving, retaining and hardscape elements.

On the completion of the maintenance period, the landscape works shall be inspected and at the satisfaction of the superintendent or landscape architect, the

responsibility will be signed over to the client.xx

END OF SPECIFICATIONS

23 SPICER ST, WOOLLAHRA

DATE 20.12.2023

DWG NO LA-4

REV -

CLIENT HOPKINS

Rev	Description
-	Development Application
A	Development Application

Date	21.03.23
	20.12.23

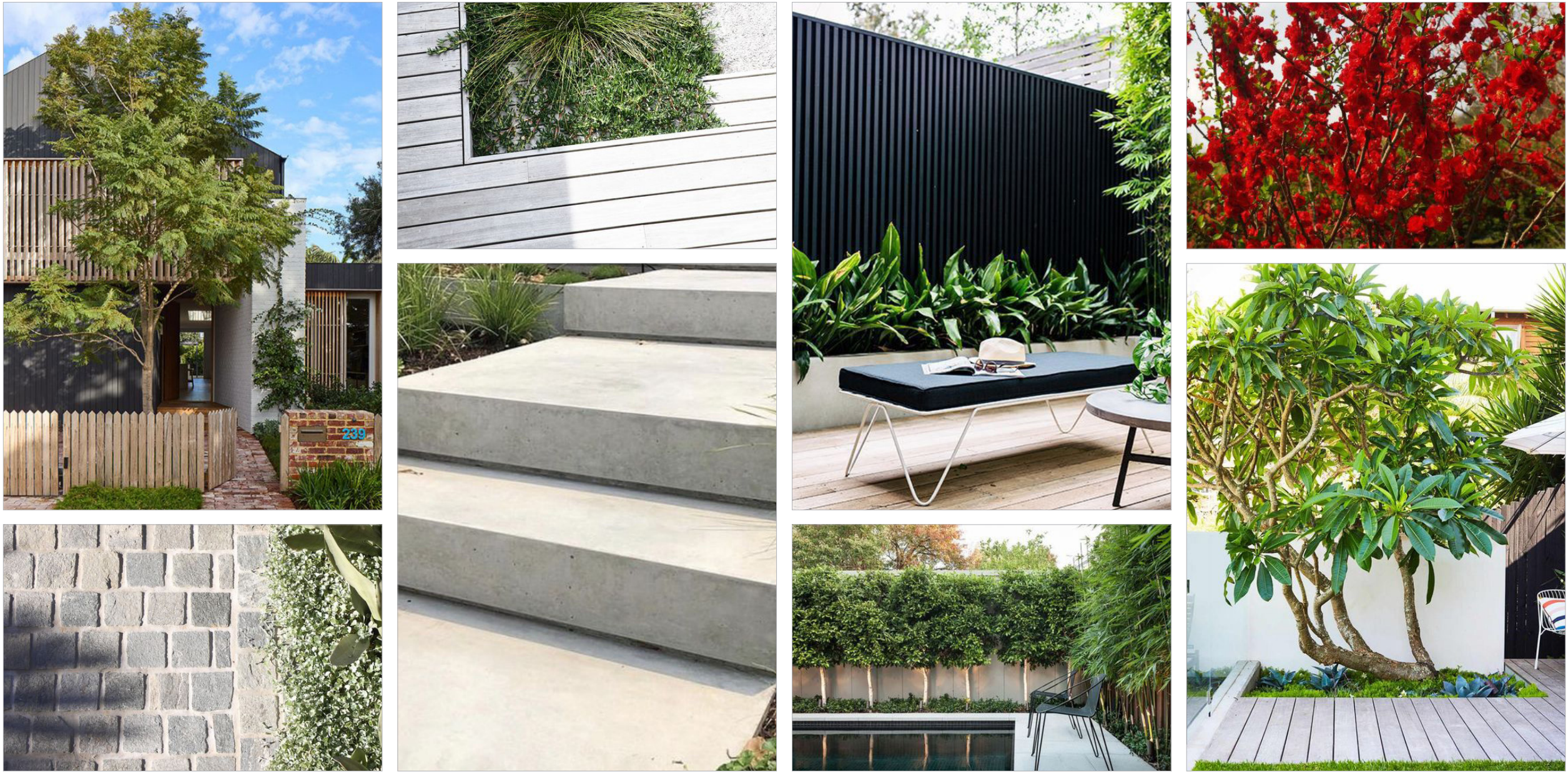
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	ARCHITECTURE

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DESIGN PRECEDENTS & MATERIAL PALETTE

- 1** Planting Precedent

A deciduous tree in the front garden helps create a visual buffer that evolves through seasons creating a subtle landscape frontage.
- 2** Material Precedent

Cobblestone paving proposed in the carport creates a robust floor while injecting a texture and pattern to help give the space character.
- 3** Material Precedent

The use of timber that reflects a soft ageing visual will help the deck blend into the tones of the house and let the planting catch your eye.
- 4** Planting Precedent

In-situ polished concrete stairs within the entry walkway create a thoughtful entry way while not taking away from the feature trees.
- 5** Material Precedent

Black charcoal fencing helps the bright green tones of the planting to stand out while giving the backyard a sleek, deep feel.
- 6** Planting Precedent

The use of pleached evergreen trees along the rear boundary allows for a hedge like approach while creating a more interesting backdrop.
- 7** Planting Precedent

The use of vibrant colourful hedges turns away from monotonous green hedges to add pops of colour against the dark backdrop.
- 8** Planting Precedent

The use of feature trees within the rear yard help to create layers of planting that provide users with a more engaging visual landscape.

23 SPICER ST, WOOLLAHRA

MATERIAL PALETTE / DESIGN PRECEDENTS

:

DATE 20.12.2023

DWG NO LA-5

REV -

CLIENT HOPKINS

Rev	Description
-	Development Application
A	Development Application

Date
21.03.23
20.12.23

Tel. 02 9452 4911
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ARCHITECT **ROTH** ARCHITECTURE

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23 SPICER ST, WOOLLAHRA

LANDSCAPE PLAN

SCALE 1:100



DATE 20.12.2023

Rev	Description
-	Development Application
A	Development Application

Date
21.03.23
20.12.23

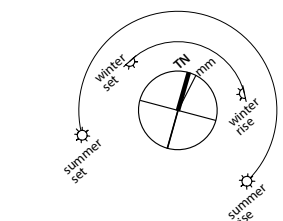
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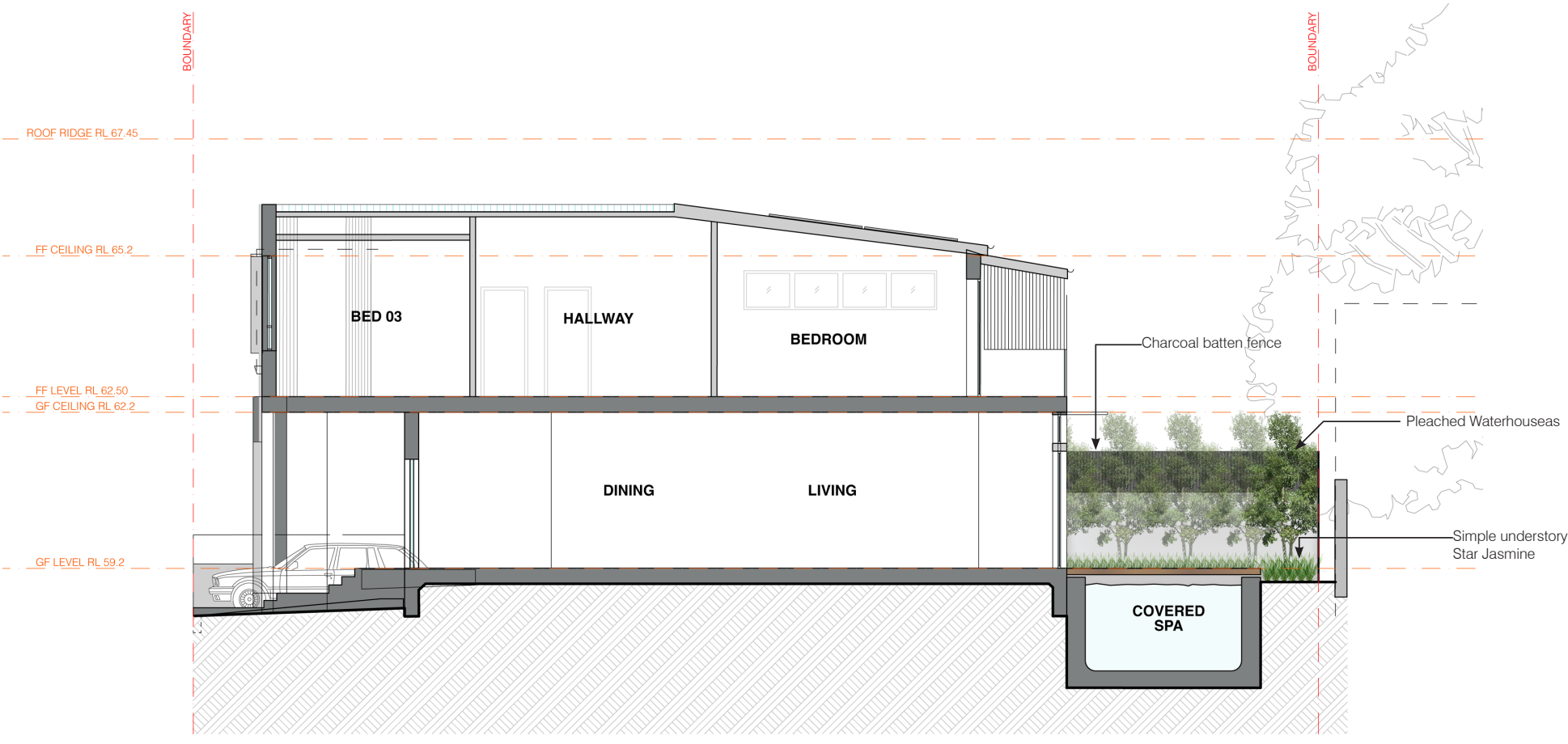
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LANDSCAPE SECTION A-A

23 SPICER ST, WOOLLAHRA

LANDSCAPE SECTION A-A

SCALE 1:100



DATE 20.12.2023

Rev	Description
-	Development Application
A	Development Application

Date  
21.03.23  
20.12.23

DWG NO LA-7

Tel. 02 9452 4911  
mob. 0419 501 681

REV -

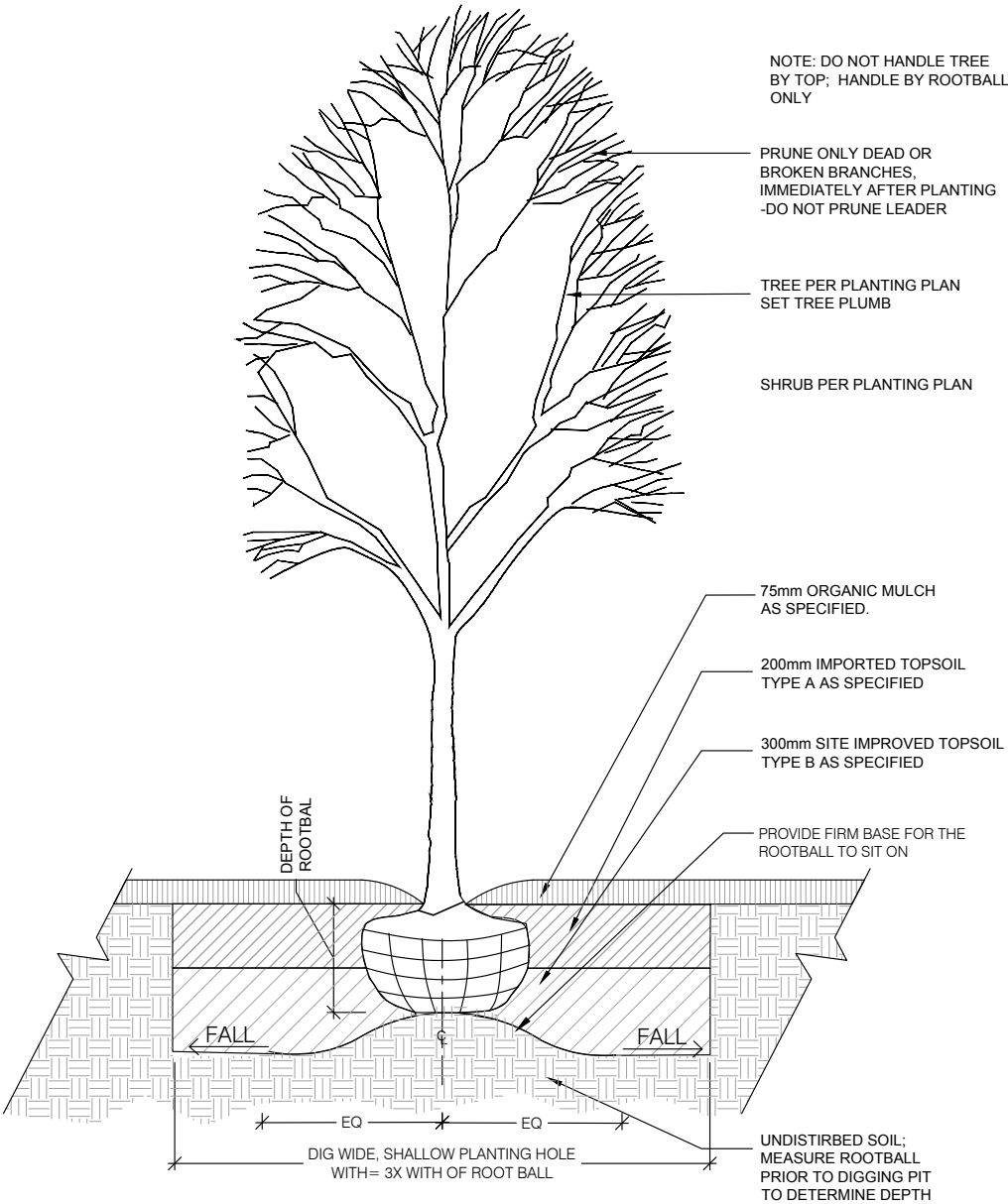
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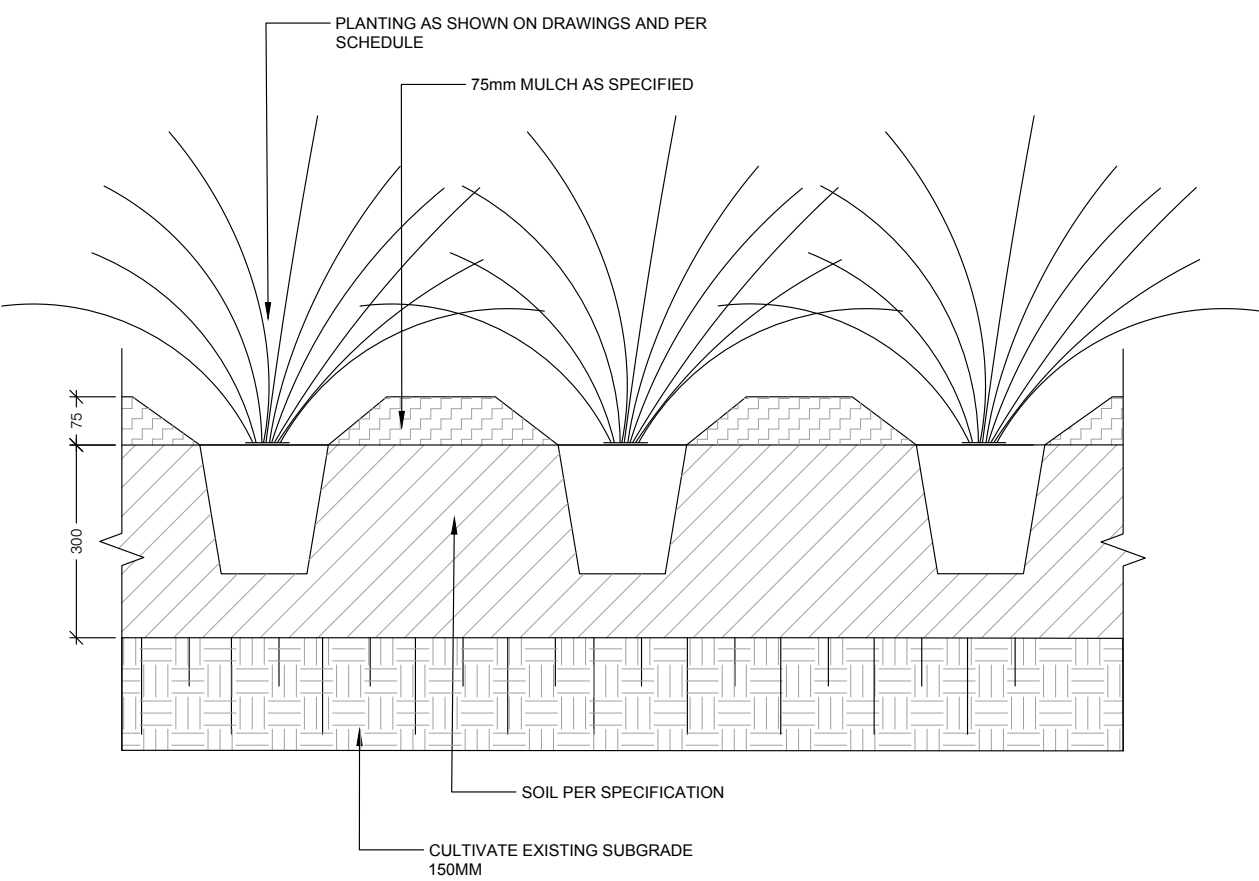
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DETAIL 1 - TYPICAL TREE PLANTING DETAIL  
SCALE 1:20



DETAIL 2 - TYPICAL PLANTING DETAIL  
SCALE 1:10

23 SPICER ST, WOOLLAHRA  
LANDSCAPE DETAILS

SCALE AS SHOWN

DATE 20.12.2023

DWG NO LA-8

REV -

CLIENT HOPKINS

Rev  
-  
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Description  
Development Application  
Development Application

Date  
21.03.23  
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FRONT YARD PLANTING SCHEDULE  
PROPOSED TREES & UNDERSTOREY

Code	Botanical Name	Common Name	Images	Height x Spread	Native (Y/N)	Proposed Pot Size	Height at Planting	Description	Seasonal/ Special Feature	Preferred Soil Conditions	Drought/Frost Tolerance	Pest & Disease Susceptibility	Maintenance Requirement	Availability	Nuisance	Longevity/ Growth Rate	Root Damage Potential
Lag ind	Lagerstroemia indica x fauriei 'Natchez'	Crepe Myrtle		8m	6m	200L	3.5m	Smooth greyish trunk and spreading branches. Dark green foliage, produces clusters of white flowers during summer.	White flowers from early January to April. Mid green foliage turning yellow, orange & scarlet in Autumn.	Moderately heavy clays & moist but well-drained alluvial soils.	Tolerant of light frosts to minus 3°C.	Susceptible to powdery mildew in high humidity.	Leaf fall in autumn. Relatively small leaflets.	Long-lived – 50 years plus in urban areas. Moderate growth rate.	Root system is not considered to be extensive or overly vigorous.	No known susceptibility to branch shedding.	Deciduous – suitable where solar access in winter is required.
Tra Jas	Trachelospermum jasminoides	Star jasmine, Confederate jasmine		0.2-5m	1-3m	200mm Pot	N/A	Evergreen climbing and twining plants.	Fragrant white flowers in summer to autumn.	Suitable to most soil types, however, will perform best in rich, well-drained soil.	Drought and frost hardy.	Mealy bug or scale if plant is stressed.	Water well until established, once established the plant is moderately drought tolerant.	Fast in growing season and warm climates	Not considered to be extensive or overly vigorous	Fast in growing season and warm climates.	Evergreen climber if used on a pergola once established can block out summer sun.

23 SPICER ST, WOOLLAHRA  
PLANT SCHEDULE

DATE 20.12.2023

DWG NO LA-9

REV -

CLIENT HOPKINS

Rev - A  
Description Development Application  
Development Application

Date 21.03.23  
20.12.23

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BACKYARD PLANTING SCHEDULE

PROPOSED TREES, HEDGES, UNDERSTOREY & GROUNDCOVERS

Code	Botanical Name	Common Name	Images	Height	Spread	Proposed Pot Size	Height at Planting	Description	Seasonal/ Special Feature	Preferred Soil Conditions	Drought/Frost Tolerance	Pest & Disease Susceptibility	Maintenance Requirement	Availability	Nuisance	Longevity/ Growth Rate	Root Damage Potential
Wat flo	Waterhousea floribunda	Weeping Lilly Pilly	 	8 m	5-6 m	100L	2.5m	This erect large tree has a brown trunk with drooping branches that form a dense rounded crown.	Fuffy cup-shaped white flowers are arranged in clusters and appear from late spring to mid summer.	Well drained sandy to clay loam, tolerates most soil types.	It has a medium water requirement.	Chinese & white wax scale, pimple psyllid, brown loopier.	Removal of lower branches over time to create pleached form.	Readily available from most commercial nurseries.	Root system is not considered to be extensive or overly vigorous.	No known susceptibility to branch shedding.	Root system is not considered to be extensive or overly vigorous.
Plu rub	Plumeria rubra	Frangipani	 	4-6m	5m	200L	2.5m	This small deciduous tree has a broad rounded crown with irregular smooth grey fleshy branches.	. It has large glossy green textured leaves and the fragrant white, yellow centred funnel-shaped flowers appear in a cluster during summer.	Very well drained sandy loam, organic rich, moderately fertile.	It is drought, salt and deer resistant but is frost tender and dislikes wet soils.	Long-horned beetle, rust, rots from overwatering, leaf nematodes, mealybugs.	Leaf fall in autumn.	To be transplanted from front yard.	Susceptible to fungal root rot in wet winters.	It establishes in 5 to 7 years and dislikes pruning.  Slow growth rate.	Root system is not considered to be extensive or overly vigorous.
Cha spe	Chaenomeles speciosa	Japanese Flowering Quince	 	2 - 3 m	2 m	300mm Pot	0.5m	This sucker-ing deciduous shrub has upright stems and horizontal branches that form a low rounded habit.	It has glossy dark green ovate leaves and the solitary white to red saucer-shaped flowers appear from late winter to early spring.	Well drained fertile moist sandy to clay loam, tolerates alkaline soil.	Semi-shade to full sun, drought and frost tolerant when established, open position.	Leaf spot, canker, aphids, scale insect, crown gall, fireblight, rust.	Remove old wood and unwanted suckers after flowering, moderately deer resistant.	Generally available from commercial nurseries.	Root system is not considered to be extensive or overly vigorous.	Medium growth rate.	Root system is not considered to be extensive or overly vigorous.
Ble gib	Blechnum gibbum	Silver Lady Fern	 	.5-1m	.5-1m	300mm Pot	NA	Lush, compact fern with architectural foliage.	Texture and verdant green of new fronds.	Moist sandy loam to clay loam.	Frost will damage leaves. Leaf burn in hot summer sun with lack of water.	None of note.	It has a medium water requirement once established.	Readily available from commercial nurseries in various sizes.	No specific nuisance issues known.	Moderate rowth rate.	Root system is not considered to be extensive or overly vigorous.
Ste flo	Stephanotis floribunda	Split-leaf philodendron	 	0.2-5m	1-3m	200mm Pot	NA	Evergreen climbing and twining plants.	Fragrant white flowers in summer to autumn.	Suitable to most soil types, however, will perform best in rich, well-drained soil.	low maintenance trim if it starts getting out of hand or requires shaping . Best to prune after flowering.	Mealy bug or scale if plant is stressed.	Water well until established, once established the plant is moderately drought tolerant.	Readily available from commercial nurseries.	not considered to be extensive or overly vigorous.	Fast in growing season and warm climates.	evergreen clim-er if used on a pergola once estab;ished can block out sum-mer sun
Tra Jas	Trachelospermum jasminoides	Star jasmine, Confederate jasmine	 	0.2-5m	1-3m	200mm Pot	N/A	Evergreen climbing and twining plant.	Fragrant white flowers in summer to autumn.	Suitable to most soil types, however, will perform best in rich, well-drained soil.	Drought and frost hardy.	Mealy bug or scale if plant is stressed.	Water well until established, once established the plant is moderately drought tolerant.	fast in growing season and warm climates.	not considered to be extensive or overly vigorous.	Fast in growing season and warm climates.	evergreen clim-er if used on a pergola once estab;ished can block out sum-mer sun.

23 SPICER ST, WOOLLAHRA

PLANT SCHEDULE

DATE 20.12.2023

DWG NO LA-10

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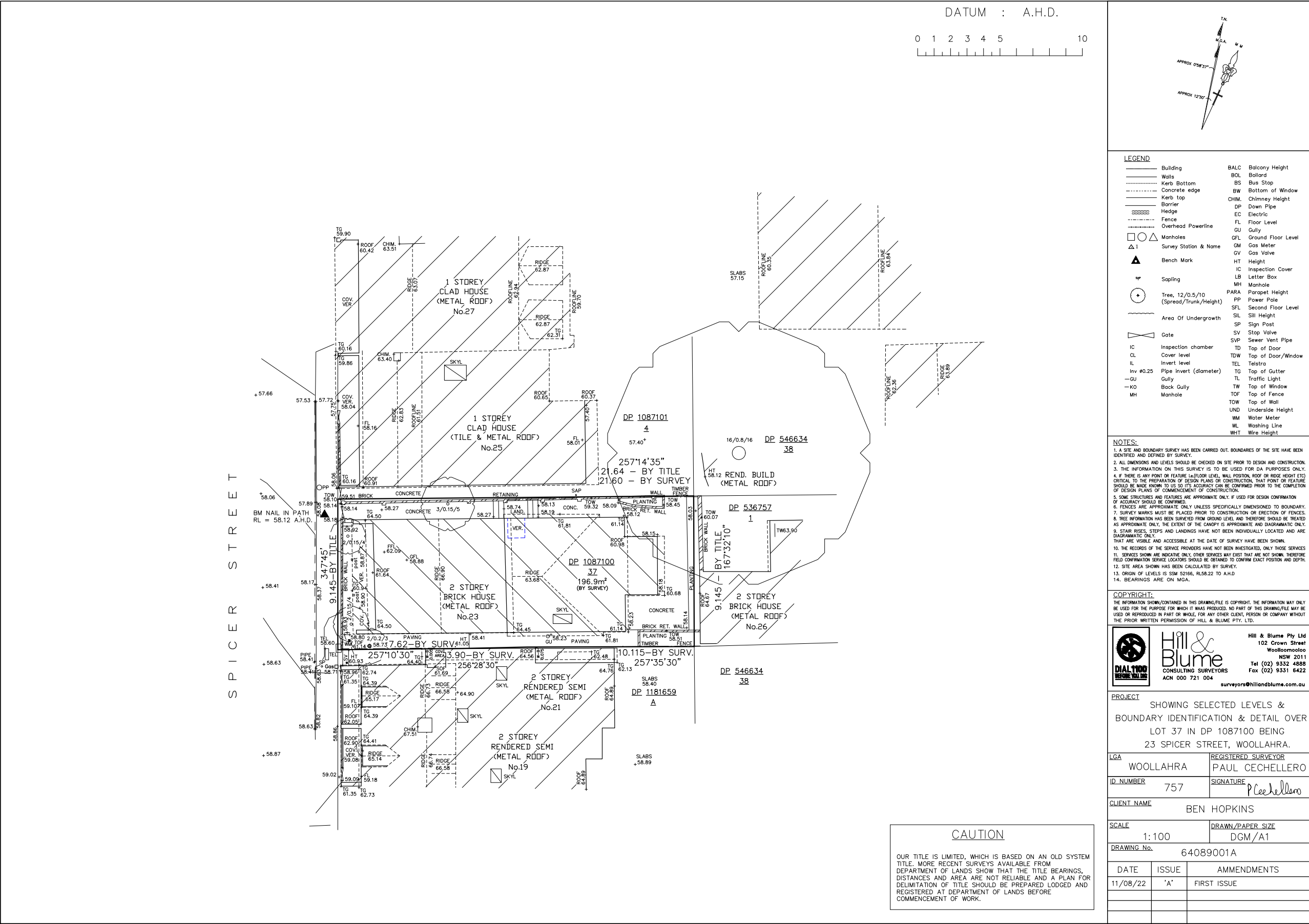
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Development Application  
Development Application

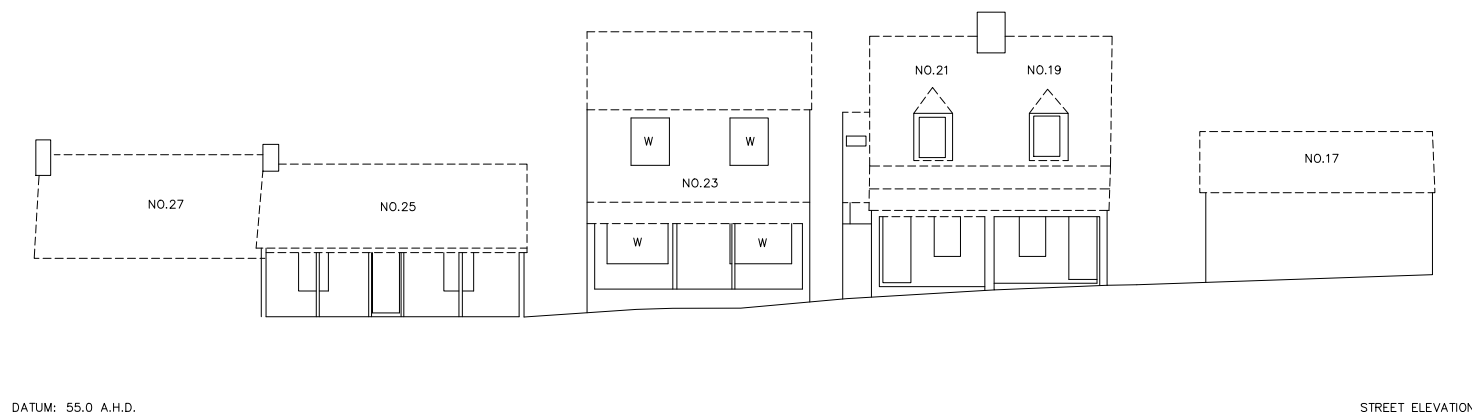
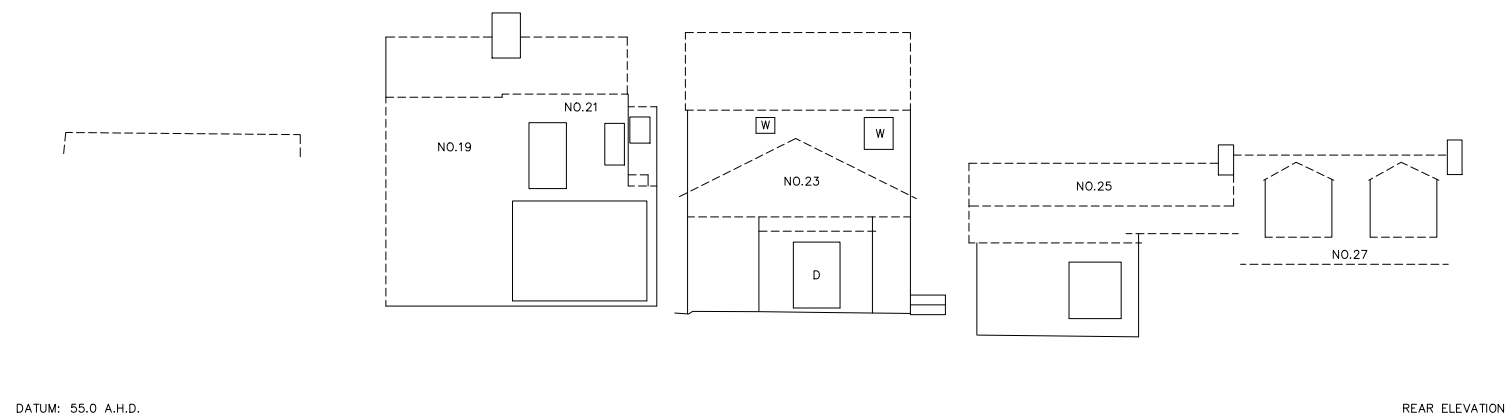
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20.12.23  
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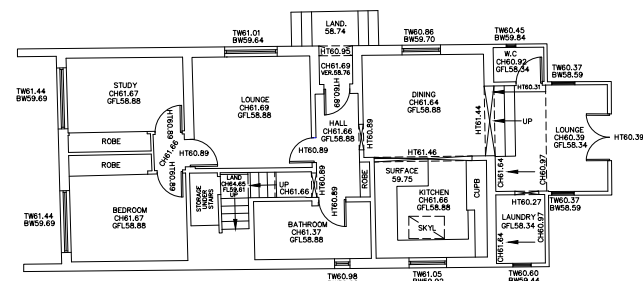
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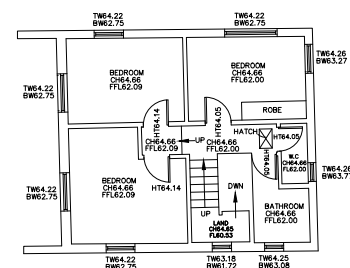




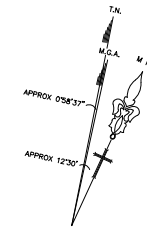
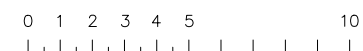
GROUND LEVEL



FIRST FLOOR LEVEL



DATUM : A.H.D.



LEGEND

	Building	BALC	Balcony Height
	Walls	BOLL	Bollard
	Kerb Bottom	BS	Bus Stop
	Concrete edge	BW	Bottom of Window
	Kerb top	CHIM.	Chimney Height
	Barrier	DP	Down Pipe
	Hedge	EC	Electric
	Fence	FL	Floor Level
	Overhead Powerline	GU	Gully
	Manholes	GFL	Ground Floor Level
	Survey Station & Name	GM	Gas Meter
	Bench Mark	GV	Gas Valve
	Sapling	HT	Height
	Tree, 12/0.5/10 (Spread/Trunk/Height)	IC	Inspection Cover
	Area Of Undergrowth	LB	Letter Box
	Gate	ML	Manhole
IC	Inspection chamber	PARA	Parapet Height
CL	Cover level	PP	Power Pole
IL	Invert level	SFL	Second Floor Level
Insv #0.25	Pipe Invert (diameter)	SIL	Sill Height
-GU	Gully	SP	Sign Post
-KO	Back Gully	SV	Stop Valve
MH	Manhole	SVP	Sewer Vent Pipe
		TD	Top of Door
		TDW	Top of Door/Window
		TEL	Telestra
		TG	Top of Gutter
		TL	Traffic Light
		TOP	Top of Fence
		TOW	Top of Wall
		UD	Underside Height
		WM	Water Meter
		WL	Washing Line
		WHT	Wire Height

NOTES:

1. SITE AND BOUNDARY SURVEY HAS BEEN CARRIED OUT. BOUNDARIES OF THE SITE HAVE BEEN IDENTIFIED AND DEFINED BY SURVEY.
2. ALL DIMENSIONS AND LEVELS SHOULD BE CHECKED ON SITE PRIOR TO DESIGN AND CONSTRUCTION. THE SURVEYOR'S RECORDS SHOULD BE USED FOR DATA PURPOSES ONLY.
3. THE SURVEYOR SHOULD BE AWARE OF THE FOLLOWING:
  - A. IF THERE IS ANY POINT OR FEATURE (A LEVEL, WALL POSITION, ROSE OR HOIST HOLE ETC) CRITICAL TO THE PREPARATION OF DESIGN PLANS OR CONSTRUCTION, THAT POINT OR FEATURE SHOULD BE IDENTIFIED AND THE SURVEYOR SHOULD BE INFORMED PRIOR TO THE COMPLETION OF DESIGN PLANS OF COMMENCEMENT OF CONSTRUCTION.
  - B. SOME STRUCTURES AND FEATURES ARE APPROPRIATE ONLY IF USED FOR DESIGN CONFORMATION PURPOSES.
  - C. FENCES ARE APPROPRIATE ONLY UNLESS SPECIFICALLY DIMENSIONED TO BOUNDARY. DIMENSIONS OF FENCES SHOULD BE CHECKED ON SITE PRIOR TO CONSTRUCTION.
  - D. TREE INFORMATION HAS BEEN SURVEYED FROM GROUND LEVEL AND THEREFORE SHOULD BE TREATED AS APPROXIMATE ONLY. THE EXTENT OF THE CANOPY IS APPROPRIATE AND DIAGRAMMATIC ONLY.
  - E. BUILDINGS AND LANDINGS HAVE NOT BEEN INDIVIDUALLY LOCATED AND ARE DIAGRAMMATIC ONLY.
4. THAT ARE VISIBLE AND ACCESSIBLE AT THE DATE OF SURVEY HAVE BEEN SHOWN.
5. THE SITE SURVEYOR SHOULD BE AWARE OF THE FOLLOWING:
  - 1. SERVICES SHOWN ARE INDICATIVE ONLY. OTHER SERVICES MAY EXIST THAT ARE NOT SHOWN. THEREFORE FIELD CONFIRMATION SERVICE LOCATORS SHOULD BE OBTAINED TO CONFIRM EXACT POSITION AND DEPTH.
  - 2. THE AREA SHOWN HAS BEEN CALCULATED BY SURVEY.
  - 3. ORIGIN OF LEVEL IS 50M SL22.00, RISE 22.2 TO A.L.D.
  - 4. BEARINGS ARE ON MAG.

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[surveyors@hillandblume.com.au](mailto:surveyors@hillandblume.com.au)

PROJECT
---------

SHOWING SELECTED LEVELS,  
DETAIL AND ELEVATIONS OVER  
LOT 37 IN DP 1087100 BEING  
23 SPICER STREET, WOOLLAHRA.

<u>LGA</u> WOOLLAHRA	<u>REGISTERED SURVEYOR</u> PAUL CECHELLERO
<u>ID NUMBER</u> 757	<u>SIGNATURE</u> <i>P Cechellero</i>

CLIENT NAME	BEN HOPKINS
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SCALE	DRAWN/PAPER SIZE
1:100	DGM/A1

DRAWING No.	64089002A
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DATE	ISSUE	AMMENDMENTS
11/08/22	'A'	FIRST ISSUE





Woollahra  
Municipal  
Council

26 March 2024

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 31/2024/1

**ADDRESS:** 23 Spicer Street WOOLLAHRA 2025

**PROPOSAL:** Demolition of the existing building and the construction of a new two storey dwelling including a pool/spa and associated landscaping

**FROM:** Mr W Huynh

**TO:** Mr G Lloyd

---

### 1. ISSUES

- None

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, unreferenced, prepared by Roth Architects, dated 08/12/2023.
- Architectural Plans, referenced-Issue N, prepared by Roth Architects, dated 16/04/2024.
- Survey Plan, referenced 64089001A-Rev A, prepared by Hill & Blume, dated 11/08/2022.
- Stormwater Management Plan, referenced 22-117-Rev C, prepared by Soliman Hanna & Associates, dated 19/12/2023.

### 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

*This proposal is located within the Council's on-site stormwater detention (OSD) exemption area, in which case the installation of OSD system is not required as per Chapter E2.2.4 of the Council's DCP. It is noted from the submitted stormwater management plan that stormwater runoff will be discharged to the street kerb, in which case conditions will be imposed to ensure all below ground structures are fully tanked or appropriately constructed so that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter.*

*Council's Infrastructure and Sustainability Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.*



Woollahra  
Municipal  
Council

**b. Flooding & Overland Flow comments**

*Council's Drainage Engineer has determined that the development proposal is generally satisfactory, subject to condition D.54 in section 4 of this referral response.*

**c. Impacts on Council Infrastructure comments**

*No impacts other than the construction of a kerb outlet, to be conditioned accordingly.*

**d. Traffic comments**

*Not relevant*

**e. Vehicle Access & Accommodation comments**

*According to the replacement application, there are no proposed off-street parking.*

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

*It appears from the submitted architectural plans that there is minimal excavation proposed as part of this application. Given that the depth of the proposed excavation does not exceed 2m and is located at a minimum distance of 1.5m from the property boundaries, the submission of a geotechnical report at the DA stage is not required as per Chapter B3.4 of Council's DCP. Relevant conditions will be imposed accordingly.*

*Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.*

**4. RECOMMENDATION**

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

**A. GENERAL CONDITIONS**

**A.5 Approved Plans and Supporting documents**

Reference	Description	Author	Date
22-117 D1-Rev C	Stormwater Management Plans	Soliman Hanna & Associates	19/12/2023

**A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)**

**A.31 No Underpinning Works**

**B. BEFORE DEMOLITION WORK COMMENCES**

**B.4 Erosion and Sediment Controls - Installation**

**B.7 Public Road Assets Prior to Any Work/Demolition**





Woollahra  
Municipal  
Council

#### B.14 Payment of Security and Fees

Property Damage Security Deposit (\$138)	\$21,720	No	T115
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<b>B. 16.</b>	<b>Dilapidation Reports for Existing Buildings</b>
	<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> <ul style="list-style-type: none"> <li>a) No. 21 Spicer Street</li> <li>b) No. 25 Spicer Street</li> <li>c) No. 26 Holdsworth Street</li> </ul> <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>

#### B.18 Adjoining buildings founded on loose foundation materials

#### B.21 Work (Construction) Zone – Approval & Implementation

#### C. ON COMPLETION OF REMEDIATION WORK

Nil



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**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

<b>D 13.</b>	<p><b>Road and Public Domain Works</b></p> <p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <p>a) The installation of stormwater outlet pipe across the nature strip must be made by using 152mm x 76mm galvanised rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.</p> <p>Note: All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP.</p> <p>b) The reinstatement of all damaged footpath, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.</p> <p>c) Where a grass verge exists, the balance of the area between the footpath and the kerb 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 Couch turf.</p> <p>Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:</p> <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>Infrastructure Works Bond</b> - completing any public work required in connection with the consent.</td> <td>\$ Nil</td> <td>No</td> <td>T113</td> </tr> <tr> <td><b>Infrastructure Works Bond</b> – remedying any defects in any public work that arise within 6 months after the work is completed</td> <td>\$ Nil</td> <td>No</td> <td>T113</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>Public Road and Footpath Infrastructure Inspection Fee</td> <td>\$ 674</td> <td>No</td> <td>T45</td> </tr> <tr> <td><b>TOTAL SECURITY AND FEES</b></td> <td>\$ 674</td> <td></td> <td></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> </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>Infrastructure Works Bond</b> - completing any public work required in connection with the consent.	\$ Nil	No	T113	<b>Infrastructure Works Bond</b> – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113	<b>INSPECTION FEES</b> under section 608 of the <i>Local Government Act 1993</i>				Public Road and Footpath Infrastructure Inspection Fee	\$ 674	No	T45	<b>TOTAL SECURITY AND FEES</b>	\$ 674		
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<b>TOTAL SECURITY AND FEES</b>	\$ 674																												





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- 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:**

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



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	<p>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.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Any adjustments required from the garage slab and the street levels are to be carried out internally on private property</li> <li>• Drainage design works must comply with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> <li>• Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy".</li> <li>• 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 must 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.</li> <li>• 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 <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.</li> <li>• When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.</li> <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> <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>• When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.</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> </ul> <p><b>Condition Reason:</b> To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
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**D.25 Erosion and Sediment Control Plan – Submissions & Approval**  
**D.36 Professional Engineering Details**  
**D.37 Engineer Certification**



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<p><b>D 40.</b></p>	<p><b>Geotechnical and Hydrogeological Design, Certification and Monitoring</b></p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, a detailed geotechnical report prepared and certified by a Geotechnical Engineer with National Engineering Register (NER) credentials in accordance with Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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).</li> <li>Provide details of cut-off walls or similar controls 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.</li> <li>Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.</li> <li>Provide a Geotechnical and Hydrogeological Monitoring Program that: <ul style="list-style-type: none"> <li>will detect any settlement associated with temporary and permanent works and structures,</li> <li>will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),</li> <li>will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity),</li> <li>will detect groundwater changes calibrated against natural groundwater variations,</li> <li>details the location and type of monitoring systems to be utilised,</li> <li>details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,</li> <li>details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and</li> <li>details a contingency plan.</li> </ul> </li> </ol> <p><b>Condition Reason:</b> To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
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#### D.41 Ground Anchors

<b>D 51.</b>	<p><b>Stormwater Management Plan</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 and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> <li>a) General design in accordance with stormwater management plans, referenced 22-117-Rev C, prepared by Soliman Hanna &amp; Associates, dated 19/12/2023, other than amended by this and other conditions.</li> <li>b) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement must be clearly depicted on the drawings.</li> <li>c) Discharge of stormwater from the site, by direct connection to the street kerb. The kerb discharge must be located within the frontage of the site. Only one stormwater outlet will be permitted.</li> <li>d) A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. 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>e) Internal stormwater drainage 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> <li>f) The installation of rainwater tank (RWT) to comply with BASIX certificate. Overflow from the RWT must be directed to the boundary junction pit by gravity.</li> <li>g) Dimensions of all drainage pits and access grates must comply with AS3500.3.</li> <li>h) Compliance with the objectives and performance requirements of the BCA.</li> <li>i) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> </ul> <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> <ul style="list-style-type: none"> <li>a) All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>b) Location of proposed rainwater tanks.</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>
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**Rainwater Reuse System Details:**

- a) Any potential conflict between existing and proposed trees and vegetation.
- b) Internal dimensions and volume of the proposed rainwater storage.
- c) Plans, elevations and sections showing the rainwater tanks, finished surface level and adjacent structures.
- d) Details of access and maintenance facilities.
- e) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products.
- f) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the rainwater tanks

For Stormwater Drainage works on Council's property, 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).

**Notes:**

- The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

**Condition Reason:** To ensure that site stormwater is disposed of in a controlled and sustainable manner.

**D 54.**

**Flood Protection**

Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must include a Flood Risk Management Plan on the basis of the Flood Planning Level (FPL).

Flood Warning:

- a) A permanent flood risk management plan shall be installed in an area frequented by the residents,

Floor levels

- b) All habitable floors shall be above or protected from flooding to the flood planning level,

Flood Proof Material

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

Electricals

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



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	<p><b>Certification</b></p> <p>e) All flood protection measures shall be inspected and certified as fit for purpose after construction is complete by an engineer experienced in flood mitigation,</p> <p>Flood protection is to comply with Woollahra DCP 2015, Part E General Controls for All Development, Chapter E2 –Stormwater and Flood Risk Management.</p> <p><b>Notes:</b></p> <p>a) 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.</p> <p><b>Condition Reason:</b> To ensure the development incorporates flood inundation protection measures.</p>
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## **E. BEFORE BUILDING WORK COMMENCES**

### **E.14 Erosion and Sediment Controls – Installation**

## **F. DURING BUILDING WORK**

### **F.7 Public Footpaths – Safety, Access and Maintenance**

### **F.11 Maintenance of Environmental Controls**

### **F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

### **F.13 Support of Adjoining Land and Buildings**

### **F.14 Vibration Monitoring**

### **F.15 Erosion and Sediment Controls – Maintenance**

### **F.17 Disposal of Site Water during Construction**

### **F.19 Site Cranes**

### **F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

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

### **G.7 Commissioning and Certification of Systems and Works**

### **G.29 Works within Public Land (including Council, State or Federal owned land or property)**

<b>G 32.</b>	<p><b>Works-As-Executed Certification of Stormwater Systems</b></p> <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p>
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	<p>b) that all below ground structures are fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter in accordance with the approved stormwater drawings,</p> <p>c) that only one stormwater outlet pipe to kerb has been constructed within the frontage of the site,</p> <p>d) that the works have been constructed in accordance with the approved design,</p> <p>e) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li></ul> <p><b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>
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#### H. OCCUPATION AND ONGOING USE

Nil

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

Nil



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27 February 2024

## REFERRAL RESPONSE – TREES AND LANDSCAPING

**FILE NO:** Development Applications: 31/2024/1

**ADDRESS:** 23 Spicer Street WOOLLAHRA 2025

**PROPOSAL:** Demolition of the existing building and the construction of a new two storey dwelling including off-street car parking, a pool/spa and associated landscaping

**FROM:** Sam Knight

**TO:** Mr G Lloyd

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### 1. ISSUES

None.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Survey Plans, drafted by Hill & Blume, dated 11 August 2022
- Architectural Drawings, drawn by Roth Architects, dated 14 February 2024
- Arboricultural Impact Assessment Report, written by Tree Talk, dated December 2023
- Landscape Plans, designed by Paterson Design Studio, dated 20 December 2023

A site inspection was carried out on 14 July 2023.

### 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
- 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





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- 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 existing dwelling and construction of a new dwelling with pool/spa and associated landscaping.

A total of four (4) trees have been identified within the site that will be affected by the proposal. All trees are proposed for removal.

The Tree and Landscape team has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the below Conditions of Consent.

#### 5. COMMENTS

Inspection of the site and a review of the plans and documentation has revealed four (4) trees within the site will be affected by the proposal.

The following tree numbering has been adopted from the Arboricultural Impact Assessment prepared by Tree Talk dated November 2022.

Tree 1 & 2 – have been identified as *Cupressus macrocarpa* (Monterey Cypress Pines) located in the front yard. The trees were noted in good health and fair condition.

The trees are proposed for removal as they are located within the footprint of the new building and off-street parking space. The tree and Landscape team supports removal of the trees subject to replacement planting being undertaken in accordance with the submitted Landscape Plans.

Tree 3 – has been identified as a *Plumeria acutifolia* (Frangipani) located in the front yard. The tree is less than 5 metres in height and is not protected by the provisions of the WMC DCP Chapter E.3 – Tree Management and can be removed without Council consent regardless of the proposed development.

Tree 4 – has been identified as two (2) *Camellia sasanqua* (Camellia) located on the northern boundary of the property. The tree was noted in fair health and condition. the trees are growing in a narrow garden strip against the boundary fence.

The trees are proposed for removal as they are located within the footprint of the new building. The tree and Landscape team supports removal of the trees subject to replacement planting being undertaken in accordance with the submitted Landscape Plans.

#### 6. RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.



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## A. GENERAL CONDITIONS

A. 1.

Approved Plans and Supporting Documents

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

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

Reference	Description	Author	Date
LA 1-10	Landscape Plan	Paterson Design Studio	20.12.23
5474/C	Arboricultural Impact Assessment Report	Tree Talk	Dec 23

Notes:

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

Standard Condition A.2 (Autotext 2A)

A. 2.

Tree Preservation and Landscaping Works

While site work is being carried out, all landscape works must be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

a) The following trees may be removed:

Council Ref No	Species	Location	Dimension (metres)
1 & 2	<i>Cupressus macrocarpa</i>	Front Yard	8 x 2
3	<i>Plumeria acutifolia</i>	Front Yard	4 x 3
4 & 5	<i>Camellia sasanqua</i>	Northern Boundary	5 x 3

The tree/s that may be removed must appear coloured red on the Construction Certificate plans.

The species marked (\*) is exempt from the WMC DCP 2015 and can be removed without requiring consent from Council.



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**Condition Reason:** To ensure all landscape works are undertaken in accordance with the approved plans and documents.

Standard Condition A.22 (Autotext 22A)

**B. BEFORE DEMOLITION WORK COMMENCES**

Nil

**C. ON COMPLETION OF REMEDIATION WORK**

Nil.

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

<p><b>D 1.</b></p>	<p><b>Tree Protection Plan and Specification</b></p> <p>Before the issue of any construction certificate, the Principal Certifier must ensure the measures for tree protection detailed in this consent are in place. The construction certificate plans and specifications must show the following information:</p> <p>a) Trees to be numbered and coloured in accordance with these conditions:</p> <ul style="list-style-type: none"> <li>shaded green where required to be retained and protected</li> <li>shaded red where authorised to be removed</li> <li>shaded yellow where required to be transplanted</li> <li>shaded blue where required to be pruned</li> </ul> <p>b) Tree Protection Plan and Specification prepared by an arborist with a minimum qualification of AQF 5 including the following:</p> <ul style="list-style-type: none"> <li>Tree Location Plan (to scale) based on/overlaid with the approved plans, indicating trees to be retained, removed or transplanted, and the location of tree protection zones (TPZ) and structural root zones (SRZ) of trees to be retained and protected.</li> <li>The plan must also include site specific tree protection recommendations such as fencing, ground and trunk protection and other protection devices.</li> <li>Tree Protection Specification (written document) with tree protection requirements included from this consent and in accordance with sections 4 &amp; 5 of AS4970, providing guidance for the implementation of tree protection methods.</li> <li>To minimise construction damage, the plan must show specific areas requiring works to be done under direct supervision of the project arborist.</li> </ul> <p>c) References to applicable tree management plan, arborists report or transplant method statement.</p> <p>This plan must be kept on site until the issue of the occupation certificate for the whole building.</p>
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**Condition Reason:** To ensure the construction certificate includes the approved tree management details, and all measures are implemented.

Standard Condition D.30 (Autotext 30D)

**E. BEFORE BUILDING WORK COMMENCES**

Nil.

**F. DURING BUILDING WORK**

<b>F</b>	<b>1.</b>	<b>Replacement/Supplementary trees which must be planted</b>
		While site work is being carried out, any replacement or supplementary tree must be grown in accordance with Tree stock for landscape use (AS 2303). The replacement tree/s must be planted in deep soil landscaped area and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it becomes a prescribed tree in accordance with Chapter E.3 of Council's Development Control Plan, it must be replaced with another of the same species, which complies with the approved Landscape Plans.  The project arborist must document compliance with the above condition.
		<b>Condition Reason:</b> To ensure the provision of appropriate replacement planting.  Standard Condition F.46 (Autotext 46F)

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

<b>G</b>	<b>1.</b>	<b>Amenity Landscaping</b>
		Before the issue of any occupation certificate, all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) and replacement/supplementary tree planting must be installed in accordance with the approved plans and documents and any relevant conditions of consent.
		<b>Condition Reason:</b> To ensure that the environmental impacts of the development are mitigated by approved landscaping prior to the occupation of the development.  Standard Condition G.6 (Autotext 6G)
<b>G</b>	<b>2.</b>	<b>Landscaping</b>
		Before the issue of any occupation certificate, the Principal Certifier and Council must be provided with a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the landscaping and replacement/supplementary tree planting works comply with this consent.



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**Condition Reason:** To ensure that all landscaping work is completed prior to occupation.

Standard Condition G.26 (Autotext 26G)

G

3.

**Arborists Documentation and Compliance Checklist – Prior to any occupation certificate**

Before the issue of any occupation certificate, the project arborist must provide written certification that all tree protection measures and construction techniques relevant to this consent have been implemented. Documentation for each site visit must include:

a) A record of the condition of trees to be retained prior to and throughout development.

b) Recommended actions to improve site conditions and rectification of non-compliance.

c) Recommendations for future works which may impact the trees.

All compliance certification documents must be kept on site by the site Supervisor.

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

Stage of arboricultural inspection and supervision	Compliance documentation and photos must include
Prior to the issue of any occupation certificate	Ensure all trees conditioned to be planted as part of this consent have been planted in accordance with the details prescribed in this consent.

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

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

**Condition Reason:** To ensure that all tree protection measures and construction techniques relevant to this consent are implemented.

Standard Condition G.34 (Autotext 34G)

#### H. OCCUPATION AND ONGOING USE

<b>H</b>	<b>1.</b>	<b>Maintenance of Landscaping</b>
		During the occupation and ongoing use, all landscaping must be maintained in general accordance with this consent.
		This condition does not prohibit the planting of additional trees or shrubs subject that they are native species endemic to the immediate locality.
		<b>Notes:</b>



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	<ul style="list-style-type: none"><li>• This condition also acknowledges that development consent is not required to plant vegetation and that over time additional vegetation may be planted to replace vegetation or enhance the amenity of the locality.</li><li>• Owners must have regard to the amenity impact of trees upon the site and neighbouring land.</li></ul>
	<b>Condition Reason:</b> To ensure that the landscaping design intent is not eroded over time by the removal of landscaping or inappropriate exotic planting.
	Standard Condition H.25 (Autotext 25H)

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

Nil.

**J. BEFORE SUBDIVISION WORK COMMENCES**

Nil.

**K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)**

Nil.

**L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)**

Nil.

**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

Nil.

Sam Knight  
Tree Officer

8 March 2024  
Completion Date



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15<sup>th</sup> March 2024

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 31/2024/1

**ADDRESS:** 23 Spicer Street WOOLLAHRA 2025

**PROPOSAL:** Demolition of the existing building and the construction of a new two storey dwelling including off-street car parking, a pool/spa and associated landscaping

**FROM:** Sagar Chauhan

**TO:** Mr G Lloyd

---

### 1. DOCUMENTATION

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

- Drawing set by Roth Architects, dated 10/01/2024
- Heritage Impact Statement by Cracknell & Lonergan Architects Pty Ltd, dated 20/12/2023
- Statement of Environmental Effects by Roth Architects, dated 08/12/2023
- Survey plan by Hill & Blume, dated 11/08/2022

The following documentation provided by the applicant for previous iteration of the design as part of DA2023/156/1 has been examined for this referral response:

- Drawing set by Roth Architects, dated 18/04/2023, and numbered DA.00 – DA.20
- Heritage Impact Statement by Cracknell & Lonergan Architects Pty Ltd, dated 18/04/2023
- Statement of Environmental Effects by Roth Architects, dated 08/03/2023
- Survey plan by Hill & Blume, dated 11/08/2022

### 2. SITE INSPECTION / RESEARCH

The review of the following documents and photographic evidence was undertaken in the preparation of this assessment:

- 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:

- National Parks & Wildlife Act 1974
- Woollahra LEP 2014
- Woollahra DCP 2015



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#### 4. ASSESSMENT OF HERITAGE IMPACT

Compliance with the relevant legislative framework and planning controls

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

Located east of Spicer St, the site is a rectangular lot comprising of a freestanding painted brick dwelling with a two-storey presentation to the front and a single-storey to the rear. The front verandah over a poorly landscaped area, is clad in corrugated metal sheeting. The two-storey section of the house has a pitched roof clad in corrugated metal sheeting and aluminium windows to both levels. The single storey hip-roofed section to the rear has an attached sunroom, both clad in metal roofing.

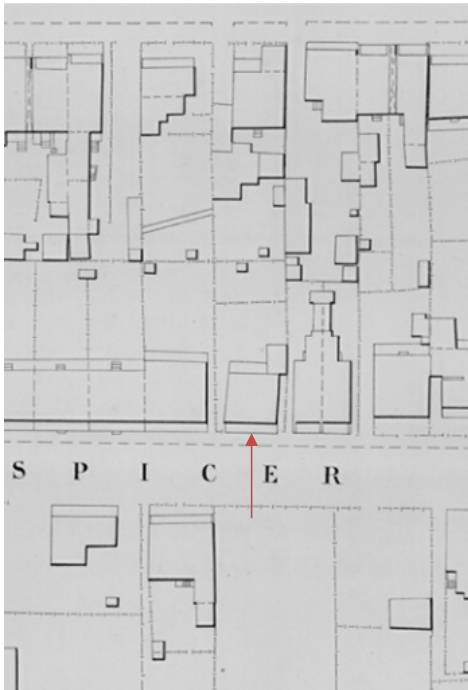
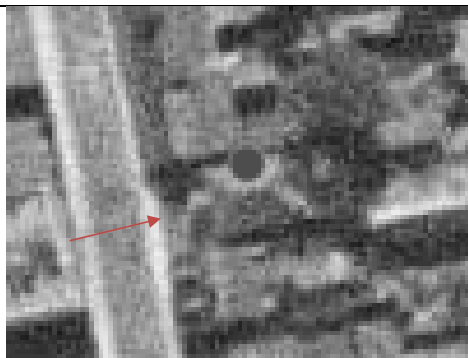


Figure 1. The subject site in 1887 (indicated by red arrow). (Source: Metropolitan detail series, *Woollahra Sheet 6*, historic survey map, 1887, Surveyor General's Office, National Library of NSW, Record identifier: 74VKqv5pXe4b)



Figure 3. The subject site in 1982 (Source: Anon., *West Woollahra Field Survey 1982*, 23 *Spicer Street, Woollahra*, photograph, National Trust of Australia (NSW) and Perumal, Wrathall & Murphy Pty Ltd, Woollahra Libraries)





A black and white photograph of a small, single-story house with a gabled roof and a chimney. A utility pole stands in the foreground, and a car is partially visible on the left. The house has a dark exterior and a light-colored roof. A large tree is visible to the right of the house. The scene is viewed from the street, with a sidewalk and a curb in the foreground.

Figure 4. The subject site in 1977. (Source: BA1977/975)

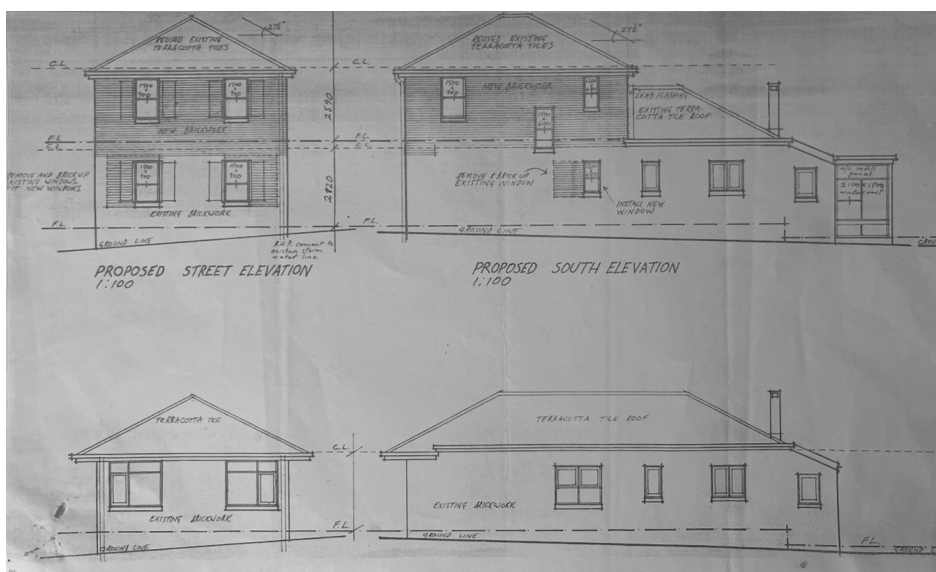


Figure 5. The single-storey dwelling prior to modifications proposed under BA1977/975.

The first dwelling on the site, most likely constructed in the 1870s, featured a principal building with a front verandah and a modest rear wing.<sup>1</sup> (Figure 1) By 1943, the site was occupied by a single-storey dwelling which featured a hipped roof and no rear wing, over a footprint with a large setback from the street in comparison to 1887, indicating that the original dwelling had been demolished by this time. (Figures 1 and 3) The two front bedrooms were constructed under BA1960/66. The hipped roof was also reconstructed and extended over this extension. A sunroom to the rear was constructed under BA1977/975. The hipped roof at this time was finished in terracotta tiles, and the terracotta tiles to the demolished section of the roof were reused to clad the new pitched roof to the first-floor addition. The internal staircase was constructed to provide access to the



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additional level. The front verandah with a skillion roof was also constructed. The two tall cypress trees to the front appear to have been planted after 1982. The HIS states, “as with many other dwellings on Spicer Street, it is possible that along with its double-fronted presentation it had a front central entry, which has now been bricked up and filled in with wardrobes for the two first floor bedrooms”<sup>ii</sup>

The dwelling does not have a cohesive architectural style or defining features – internally or externally. The recessed setting, side setbacks and vegetation to the front allow the dwelling to sit comfortably with the modest worker’s cottages to the north, single-storey Victorian terraces to the south, and Victorian terraces and cottages across the street. It makes a neutral contribution to the streetscape.



Figure 6. A view of the front of the subject site, c.2022. (Source: Anon., *23 Spicer Street, Woollahra, NSW 2025*, photograph, c.2022, <https://www.realestate.com.au/sold/property-house-nsw-woollahra-138768815>)



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Figure 7. Floor plans, c.2022. (Source: Anon., 23 Spicer Street, Woollahra, NSW 2025, floor plans, c.2022, <https://www.realestate.com.au/sold/property-house-nsw-woollahra-138768815>)



Figure 8. A view of the site from north along the street, April 2020. (Source: Google street view)



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#### National Parks and Wildlife Act 1974

The site is in not an area of Potential Aboriginal Heritage Sensitivity. Therefore, an Aboriginal Heritage Impact Assessment was required as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

The proposal includes minor excavation for the proposed covered spa. Relevant conditions of consent to protect Aboriginal cultural heritage would be provided in response to an updated DA.

#### Woollahra LEP 2014

##### *Clause 1.2 Aims of Plan*

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

The site is not a heritage item, but is within Woollahra HCA.

The proposed demolition of the non-contributory item would not contravene the aims of the LEP, and is supported. However, the proposed infill dwelling does not respect the cultural significance of the conservation, contrary to the aims of the LEP.

The setbacks and height of the infill are complementary to the low scale built character of the streetscape, including adjoining dwellings.

No objections are raised to the overall form of the proposed infill dwelling house, however, concerns are raised regarding the following aspects of the proposal:

- The exclusive application of timber battens, shown differently as widely spaced in the perspectives and closely spaced in the materials schedule, would present the dwelling as bulky and detracting in the streetscape.
- The use of light-brown timber battens would not complement white painted windows and doors.
- The fenestrations to front façade lack a consistency in size, setback, and detail, including application of wide fins/awnings.

Incorporation of diverse materials to the street front that complement in detail, finish and colour may reduce visual bulk, may create a more dynamic streetscape. A mix of textures such as wood, metal, stone, concrete and glass may add depth and achieve better aesthetic cohesion. An enhanced landscape treatment to the street front may soften the visual impact of built elements.

The car parking space to street front within the building envelope would be screened by the sliding screen, and not be readable as a parking space from the public domain except when operational, however the concerns raised above regarding the materiality of the building must be addressed.

##### *Clause 5.10 Heritage Conservation*

The proposed demolition would not contravene the objectives of Woollahra LEP 2015 Clause 5.10.

As discussed above, the infill would detract from the character of the conservation area due to its uncomplimentary material expression, and is not supported.





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*Significance of items in the vicinity*

There are not listed heritage items in close proximity that would be adversely affected by the proposal.

Woollahra DCP 2015

The subject site is not a heritage item in the Woollahra LEP 2014 but exists within Woollahra Heritage Conservation Area (HCA). The HCA is listed as an item (C15) of local heritage significance under Part 2 of Schedule 5 of the LEP. The site is not a contributory item to the HCA in the Woollahra DCP 2015 Part C Chapter C2.

**PART C : HERITAGE CONSERVATION AREAS  
CHAPTER C2 – WOOLLAHRA HERITAGE CONSERVATION AREA**

**SECTION C2.2 UNDERSTANDING THE CONTEXT**

Clause 2.2.5 Desired future character of the Woollahra HCA

Objectives: O1, O2, O3, O4, O7

- The existing dwelling is not contributory to the conservation area, and its demolition is supported. (O1) (O2) (O3) (O4)
- As discussed above, the proposed infill does not exhibit contemporary design excellence. This is further addressed below. (O7)

Clause C2.2.7 Contemporary design in Woollahra

- The design of the infill development does not achieve a cohesive relationship with existing historically significant fabric.

Clause C2.3.2 West Woollahra Precinct

Objectives: O1, O4

- The existing landscaping on site, and vegetation are not considered to be culturally significant, and their demolition is supported from a cultural heritage perspective. (O1)
- The proposed two-storey infill development, although consistent with the established front, side and rear setbacks, would appear incongruous in the streetscape for the reasons outlined above. (O4)
- The rear elevation of the proposed infill would not be visible from the public domain, and is supported. (O4)

**SECTION C2.4 BUILDING TYPE CONTROLS**

Clause C2.4.2 Multi-storey dwelling houses

Objectives: O1, O2

- The proposed demolition of the existing dwelling is supported for the reasons outlined above. (O1) (O2)

Clause C2.4.12 Infill development

Objectives: O1, O2, O3

Controls: C1, C3

- As discussed above, the proposed infill would appear incongruous in the streetscape and be an unsympathetic response to the historical context of Woollahra HCA. (O1) (C1) (C3)
- The materials and details do not achieve a cohesive relationship between new and

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existing urban fabric, and do not enhance the cultural significance of the area. (O2)  
(O2) (C1) (C3)

#### **SECTION C2.5 GENERAL CONTROLS FOR ALL DEVELOPMENT**

Clause 2.5.1 Building height, form and character

Objectives: O1, O3

Controls: C1, C3, C7, C8, C9

- The proposed infill is consistent with the front setbacks of the neighbouring contributory items. The rear setback is consistent with the adjacent contributory items, and is supported. However, the proposed materials, finishes and details are not supported for reasons outlined above. (C1) (C3) (C7)
- The character of the development is not consistent with nearby contributory items, for the reasons outlined above. Solid to void ratios of the street front elevation do not have the design consistency evident in neighbouring contributory items. (C8)
- Storey heights conform to those of adjacent contributory items, and are supported. (C9)

Clause C2.5.4 Materials, finishes and colours

Objectives: O1,

Controls: C1, C2, Table 1

- As discussed above, the proposed materials, finishes, details and colours to the street front are inconsistent with the character of the street, and are not supported. (C1) (C2 ) Table 1
- The materials, finishes, details and colours to the rear are supported. (C1) (C2 ) Table 1
- The use of large expanses of the glazing to the rear is supported. (C1) (C2 ) Table 1
- Colorbond Surfmist as the roofing material is supported. (C1) (C2 ) Table 1
- The external walls, rendered and painted white, are supported. (C1) (C2 ) Table 1
- Timber framed windows painted Dulux vivid white are supported to the rear, but not the street front. (C1) (C2 ) Table 1

Clause C2.5.5 Roofs, skylights and chimneys

Objectives: O1

Controls: C1, C2, C4

- The proposed roof form of the infill would be consistent with the adjacent contributory items, and is supported. The proposed skylights are supported. (C1) (C2) (C4)

Clause C2.5.7 Fences, gates and retaining walls

Objectives: O1, O2

Controls: C1, C3, C4, C9

- The proposed batten fence to the front generally appears to be appropriate to the context, and is supported. The front gate would open inwards, and is supported. (C1) (C3) (C9)
- No changes are proposed to the existing side or rear fencing and retaining walls. (C4)

Clause C2.5.8 Parking and garages

Objectives: O2

- The car parking space to street front within the building envelope would be screened by the sliding screen, and not be readable as a parking space from the



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public domain except when operational, however the concerns raised above regarding the materiality of the building must be addressed. (O2)

**Clause C2.5.10 Excavation**

Objectives: O1

Controls: C1, C3, C4, C9

- The proposed excavation is minor in nature and limited to the rear of the site, and is supported from a cultural heritage perspective. (O1)

**PART E: GENERAL CONTROLS FOR ALL DEVELOPMENT**

**CHAPTER E6 – SUSTAINABILITY**

Clause E6.3 Solar energy systems (including solar panels, solar hot water systems and solar heating systems)

Objectives: O1

Controls: C1

- The proposed installation of the photovoltaic panels is supported. (C1)

**CONCLUSION**

National Parks and Wildlife Act 1974

Relevant conditions would be provided in response to an updated proposal.

Woollahra LEP 2014

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

*Part 5.10*

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

**RECOMMENDATION**

1. The proposal is unacceptable as it does not comply with the relevant statutory and policy documents and would have an unsatisfactory impact. Non-compliance relates to:
  - a) Woollahra LEP 2014, Clause 1.2 (2) (f); and
  - b) Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b);
  - c) Woollahra DCP 2015, Part C Chapter C2, Clause C2.2.5, Objective O7;
  - d) Woollahra DCP 2015, Part C Chapter C2, Clause C2.2.7;
  - e) Woollahra DCP 2015, Part C Chapter C2, Clause C2.3.2, Objective O4;
  - f) Woollahra DCP 2015, Part C Chapter C2, Clause C2.4.12 Objectives O1, O2 and O3; and Controls C1, C2 and C3;
  - g) Woollahra DCP 2015, Part C Chapter C2, Clause C2.4.12 Objectives O1, O2; and Controls C1 and C3;
  - h) Woollahra DCP 2015, Part C Chapter C2, Clause C2.5.1 Control C8; and





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2. Amended plans and/or additional information is required to address the following:
  - a) The exclusive application of timber battens, shown differently as widely spaced in the perspectives and closely spaced in the materials schedule, would present the dwelling as bulky and detracting in the streetscape.
  - b) The use of light-brown timber battens would not complement white painted windows and doors.
  - c) The fenestrations to front façade lack a consistency in size, setback, and detail, including application of wide fins/awnings.
  - d) The car parking space to street front within the building envelope would be screened by the sliding screen, and not be readable as a parking space from the public domain except when operational, however the concerns raised above regarding the materiality of the building must be addressed.
3. Incorporation of diverse materials to the street front that complement in detail, finish and colour may reduce visual bulk, may create a more dynamic streetscape. A mix of textures such as wood, metal, stone, concrete and glass may add depth and achieve better aesthetic cohesion. An enhanced landscape treatment to the street front may soften the visual impact of built elements.

The following conditions are likely to be provided in response to the updated DA:

*Standard conditions*

1. B.8 Archaeological Features – Unexpected Findings
2. B.10 Aboriginal Objects – Unexpected Findings
3. B.12 Aboriginal Heritage Due Diligence Responsibilities

*Special conditions*

4. Salvage Building Materials

- |   |
|---|
| <ol style="list-style-type: none"><li>a) Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project.</li><li>b) Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling.</li></ol> |
|---|

<b>Condition Reason:</b> To maximise reuse of existing fabric.
--

Sagar Chauhan  
**Heritage Officer**

19<sup>th</sup> March 2024  
**Completion Date**

<sup>i</sup> Cracknell & Lonergan Architects Pty Ltd, *Statement of Heritage Impact: 23 Spicer Street, Woollahra*, 18<sup>th</sup> April 2023, p.11

<sup>ii</sup> Cracknell & Lonergan, *Statement of Heritage Impact*, p.20

**Lauren Williams**

---

**From:** Tristan Ryan  
**Sent:** Friday, 24 May 2024 9:02 AM  
**To:** George Lloyd  
**Cc:** George Fotis  
**Subject:** Heritage Re-Referral Response - DA2024/31/1 - 23 Spicer Street, Woollahra

Dear George,

I have reviewed the revised plans prepared by the applicant for this development application.

I am satisfied that the changes to the design resolve the heritage concerns raised by my colleague Sagar Chauhan in his original referral.

Approval is recommended with the following conditions.

1. B.8 Archaeological Features – Unexpected Findings
2. B. 9 Skeletal Remains
3. B.10 Aboriginal Objects – Unexpected Findings
4. B.12 Aboriginal Heritage Due Diligence Responsibilities

*Special conditions*

5. Salvage Building Materials

- |   |
|---|
| a) Elements to be demolished such as bricks, stone, timber flooring, skirting, tiles, doors, windows must be salvaged and where possible reused on the project.                       |
| b) Salvaged building materials surplus to the project must either be stored on site for future reuse, or transferred to an established second building material dealer for recycling. |

<b>Condition Reason:</b> To promote the use of ecologically sustainable building materials in accordance with O2 of Clause E6.1.4 Woollahra DCP 2015 and to enable the conservation of other heritage buildings in accordance with the Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b).
--

Please let me know if you have any further questions.



**Tristan Ryan**  
**Senior Strategic Heritage Officer**

Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 02 9184 1030  
e: [Tristan.Ryan@woollahra.nsw.gov.au](mailto:Tristan.Ryan@woollahra.nsw.gov.au) w: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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

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



**From:** George Lloyd  
**Sent:** Tuesday, 19 March 2024 8:58 AM  
**To:** Alex Roth <alex@roth.com.au>  
**Cc:** ben@futuurocapital.com.au  
**Subject:** DA-31/2024/1 - 23 Spicer Street, Woollahra

Hello Alex,

Below is a copy of Council's Heritage Officers' recommendation who has requested certain design amendments to your development proposal.

### RECOMMENDATION

1. The proposal is unacceptable as it does not comply with the relevant statutory documents and would have an unsatisfactory impact. Non-compliance results in:
  - a) Woollahra LEP 2014, Clause 1.2 (2) (f); and
  - b) Woollahra LEP 2014, Clause 5.10 Heritage Conservation, 1(a), (b);
  - c) Woollahra DCP 2015, Part C Chapter C2, Clause C2.2.5, Objective 1;
  - d) Woollahra DCP 2015, Part C Chapter C2, Clause C2.2.7;
  - e) Woollahra DCP 2015, Part C Chapter C2, Clause C2.3.2, Objective 1;
  - f) Woollahra DCP 2015, Part C Chapter C2, Clause C2.4.12 Objective 1; Controls C1, C2 and C3;
  - g) Woollahra DCP 2015, Part C Chapter C2, Clause C2.4.12 Objective 2; Controls C1 and C3;
  - h) Woollahra DCP 2015, Part C Chapter C2, Clause C2.5.1 Control C8.

2. Amended plans and/or additional information is required to address the following:
  - a) The exclusive application of timber battens, shown differently as wide perspectives and closely spaced in the materials schedule, would prove bulky and detracting in the streetscape.
  - b) The use of light-brown timber battens would not complement white painted doors.
  - c) The fenestrations to front façade lack a consistency in size, setback, application of wide fins/awnings.
  - d) The car parking space to street front within the building envelope would be sliding screen, and not be readable as a parking space from the public operational, however the concerns raised above regarding the materials must be addressed.
3. Incorporation of diverse materials to the street front that complement in colour may reduce visual bulk, and create a more dynamic streetscape. A mix of wood, metal, stone, concrete and glass may add depth and achieve better results. An enhanced landscape treatment to the street front may soften the visual elements.

**Can you please submit amended plans as soon as practicable.**

Thanks and regards,  
George



**George Lloyd**  
**Assessment Officer**

Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 02 9391 7059  
e: [George.Lloyd@woollahra.nsw.gov.au](mailto:George.Lloyd@woollahra.nsw.gov.au) w: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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





## LOCAL PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	D2
<b>FILE No.</b>	DA141/2024/1
<b>ADDRESS</b>	2 Bay Street DOUBLE BAY (previously known as 2-10 Bay Street and 294-296 New South Head Road DOUBLE BAY)
<b>COUNCIL WARD</b>	Double Bay
<b>SITE AREA</b>	1,860m <sup>2</sup>
<b>ZONING</b>	E1 Local Centre
<b>PROPOSAL</b>	Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and swimming pool
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$904,970.00
<b>DATE LODGED</b>	01/05/2024
<b>APPLICANT</b>	2 Bay Street Pty Ltd
<b>OWNER</b>	2 Bay Street Pty Limited
<b>AUTHOR</b>	C Hartas
<b>TEAM LEADER</b>	T Wong
<b>SUBMISSIONS</b>	13
<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:

- Contentious development Development that:
    - (a) is the subject of 10 or more unique submissions by way of objection
- AND**
- Departure from development standards
    - (a) Development that contravenes a development standard imposed by an environmental planning instrument by more than 10%

### 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 site is not suitable for the proposed development
- The proposal is not in the public interest

### 3. LOCALITY PLAN



**Note:** Additional objections have been received including the Double Bay Residents Association, which is not shown on the above map.

### 4. PROPOSAL

Development Application DA141/2024/1 (**DA**) seeks approval for the change of use from an approved commercial building under DA280/2022/1 (NSWLEC 1222), as so modified by DA280/2022/3 (as approved on 15 August 2024) (**Consent**), to a mixed use development comprising shop top housing, accommodating a single residential apartment at the top floor with associated works including a new roof terrace and a new swimming pool at No 2 Bay Street, Double Bay, identified as Lot 1 DP1286687 (**Proposal**).

The Proposal relies, in part, upon the works of the approved development under the Consent, which include:

- Three (3) levels of basement car parking (93 spaces) and associated motorcycle parking (10 spaces), bicycle parking (60 spaces), lifts x3, plant rooms, fire stairs and garbage areas.
- 1,031m<sup>2</sup> of retail gross floor area (GFA) allocated to three (3) retail tenancies at Ground Lower, Ground Upper and Level 1.
- 3,816m<sup>2</sup> of commercial GFA allocated to Ground Upper, Level 1, Level 2 and Level 3.



- Vertical circulation space including: 3x internal lifts providing access up to and from Level 4; Fire Stair 1 providing access up to and from Level 4; and Fire Stair 2 providing access up to and from Level 3.
- Voids/ducts for the provision of services.

In addition, the Proposal involves the following elements:

- New residential garbage area at Ground Lower.
- 611m<sup>2</sup> of residential GFA allocated to one (1) single residential unit at Level 4, comprising: four (4) bedrooms and associated ensuites; library/drawing room; family room; formal dining and great room with associated bar/cellar; open plan kitchen/family dining/living; external private open space area at Level 4, including a swimming pool and WC; and roof terrace with associated bar, spa, sauna, planters and WC.
- Mechanical plant, skylights and voids added to roof.
- Amendments to approved fenestration at the north and west elevations at Level 4.
- New windows at the south and east elevations at Level 4.
- New planters added to south and east elevations at Level 4.



**Image 1.** Photomontage as viewed from New South Head Road. *Source:* Lawton Hurley



**Image 2.** Photomontage as viewed from Bay Street. *Source:* Lawton Hurley

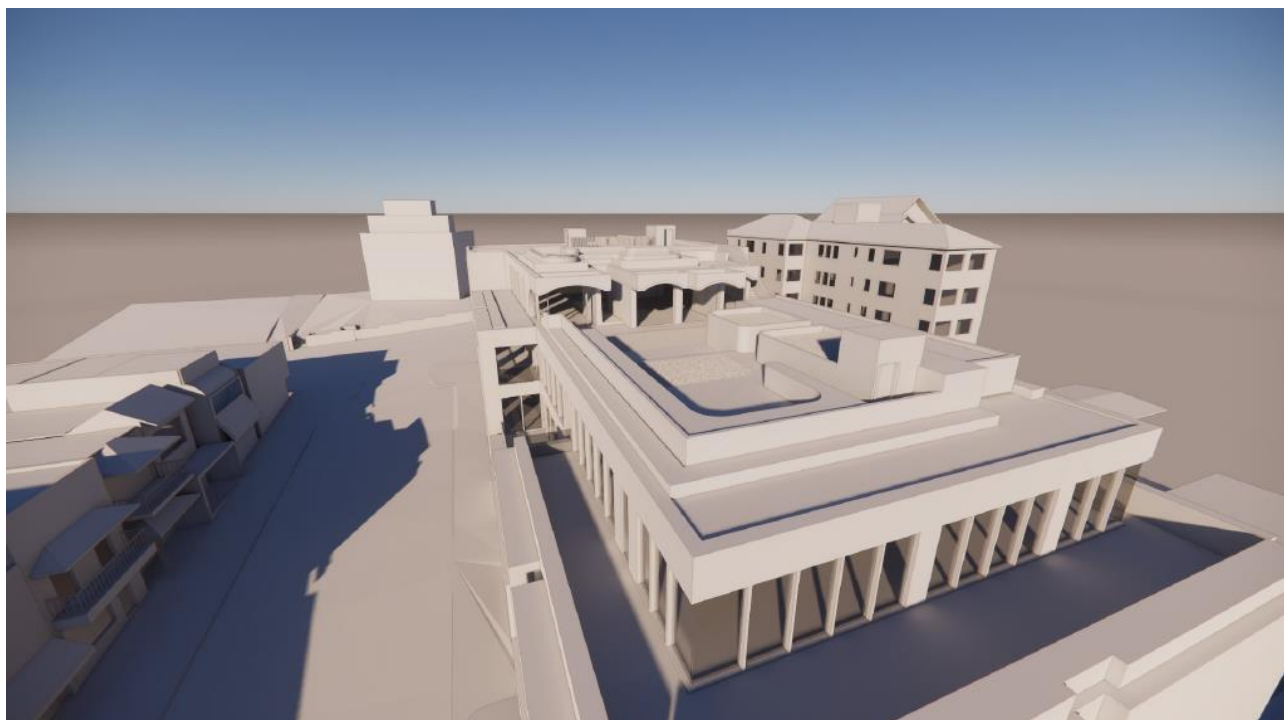


**Image 3.** 3D view from Bay Street. *Source:* Lawton Hurley



**Image 4.** 3D view from New South Head Road. *Source:* Lawton Hurley





**Image 5.** 3D aerial view facing south-west. *Source:* Lawton Hurley



**Image 6.** 3D aerial view facing south. *Source:* Lawton Hurley



Image 7. 3D aerial view facing south-east. Source: Lawton Hurley

## 5. ISSUES

### 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	6.3m or 42.8% departure from the 14.7m control	Unsatisfactory
Part 4.4	Floor Space Ratio	484.25m <sup>2</sup> or 13.3% departure from the 3620.75m <sup>2</sup> control	Unsatisfactory
Part 4.4A	Exceptions to Floor Space Ratio (Areas 1 and 1A Double Bay)	109.8m <sup>2</sup> or 8.8% departure from the 1243.2m <sup>2</sup> control	Unsatisfactory

### 5.2 Primary Issues

Issue	Conclusion	Section
View Loss	<b>Unsatisfactory.</b> Insufficient information has been provided to determine the extent of view loss from surrounding properties.	15.2
Non-compliance with the Height of Buildings development standard under cl. 4.3 - Section 4.6 Request not well founded	<b>Unsatisfactory.</b> The submitted written request to vary the Height of Buildings development standard under Clause 4.3 of Woollahra LEP 2014 is not well founded.	14.5
Non-compliance with the Floor Space Ratio development standard - Section 4.6 Request not well founded	<b>Unsatisfactory.</b> The submitted written request to vary the Floor Space Ratio development standard under Clause 4.4 of Woollahra LEP 2014 is not well founded.	14.5
Inconsistency with the Desired Future Character of the Double Bay Centre	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	14.2

### 5.3 Summary of Submissions

Issue	Conclusion	Section
View Loss	<b>Unsatisfactory.</b> Insufficient information has been provided to determine the extent of view loss from surrounding properties.	15.2
Acoustic impacts arising from the use of the proposed roof terrace and swimming pool	<b>Satisfactory.</b> The DA is recommended for refusal, however, this matter, in isolation, does not warrant refusal of the DA.	15.11
Unreasonable height, bulk and scale	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	Throughout the report
Potential for abandonment of development controls	<b>Acknowledged.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	Reasons
Lack of residential entrance and interface/address	<b>Satisfactory.</b> The DA is recommended for refusal, however, this matter, in isolation, does not warrant refusal of the DA.	NA
No dedicated residential parking provision	<b>Satisfactory.</b> The DA is recommended for refusal, however, Council's Traffic Engineer has not raised any issue with the proposed parking provision.	15.17
Inadequate residential waste collection provision	<b>Satisfactory.</b> The DA was accompanied by a detailed Operational Waste Management Plan that was found to be satisfactory	15.20
Insufficient information regarding roof terrace plantings, shade structures and furniture	<b>Acknowledged.</b> The DA is recommended for refusal. Refer to Reasons for Refusal	Reasons
Inconsistency with the Aims of the Woollahra LEP	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	14.1
Inconsistency with the Objectives of zone E1 Local Centre	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	14.2
Non-compliance with the Height of Buildings Development Standard under Clause 4.3 of the Woollahra LEP	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	14.3 & 14.5
Non-compliance with the Floor Space Ratio Development Standard under Clause 4.4 of the Woollahra LEP	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	14.4 & 14.5
Impacts to the Heritage gardens within Overthorpe	<b>Satisfactory.</b> The potential for overshadowing is unlikely to have an adverse impact on the Overthorpe Gardens in the area indicated in the shadow diagrams, as all groundcover species are shade tolerant, and are currently shaded by the present canopy species for extended periods.	14.6
Unreasonable height increase resulting from roof top plant and equipment	<b>Unsatisfactory.</b> In order to avoid unreasonable acoustic impacts arising from the proposed A/C condenser units, the submitted Acoustic Report prepared by Acoustic Logic requires a solid acoustic barrier to be erected around the western side of the proposed condenser units, further exacerbating the proposed Height of Buildings non-compliance. No details have been provided as to the location or scale of the required acoustic barrier.	14.5
Overdevelopment	<b>Unsatisfactory.</b> The DA is recommended for refusal. Refer to Reasons for Refusal.	Throughout the report
Overshadowing	<b>Satisfactory.</b> The DA is recommended for refusal, however, the submitted shadow diagrams were found to be satisfactory.	15.13

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

<b>Physical features</b>
<p>The subject site is located on the north-west corner of Bay Street and New South Head Road at No 2 Bay Street, Double Bay, identified as Lot 1 DP1286687 (<b>the Site</b>).</p> <p>The Site has recently been consolidated from a number of allotments formerly known as 2 and 4-10 Bay Street, 294-296 and 298 New South Head Road, Double Bay.</p> <p>The south-east corner of the Site (formerly Lot B in DP 955406, known as 298 New South Head Road) is subject to a maximum Floor Space Ratio (FSR) of 3:1, in recognition of its prominent corner location. This area of the Site measures 414.4m<sup>2</sup> in extent.</p> <p>The remaining area, measuring 1,448.3m<sup>2</sup> in extent, is subject to a maximum FSR of 2.5:1.</p> <p>The Site has a combined total site area of 1,862.7m<sup>2</sup> and is of a roughly rectangular shape comprising of street frontages to New South Head Road (south), Bay Street (east) and Brooklyn Lane (west).</p>
<b>Topography</b>
<p>Bulk excavation has commenced and appears to be completed on the Site, pursuant to Development Consent DA2021/69/1 NSWLEC 1697 (<b>Surrendered Consent</b>).</p> <p>Prior to the bulk excavation described above, the Site sloped down from the highest point at the south-western corner down to the lowest point located at the north-eastern corner, with a south-to-north and west-to-east cross fall, ranging from RL 13.70 AHD to RL 5.49 AHD which equates to a fall of approximately 8.2m.</p>
<b>Existing buildings and structures</b>
<p>All buildings on the Site have been demolished and the Site is currently under construction.</p> <p>Prior to the demolition and excavation works approved under the Surrendered Consent, the Site accommodated the following structures:</p> <ul style="list-style-type: none"><li>• 2 Bay Street, contained a single-storey commercial building;</li><li>• 4-10 Bay Street, contained a four-storey commercial building, including a single level of basement parking;</li><li>• 294-296 New South Head Road, contained a part four/part five-storey commercial building;</li><li>• 298 New South Head Road, contained a three-storey commercial building.</li></ul> <p>The original parking across the Site comprised of basement level parking and at-grade hardstand car parking area providing a total of approximately thirty-six (36) car spaces accessed via Bay Street and Brooklyn Lane.</p>
<b>Surrounding Environment</b>
<p>The Site is located at a prominent corner location on the northern side of New South Head Road and the western side of Bay Street, being the consolidated corner allotment at the north-western corner of New South Head Road and Bay Street.</p> <p>It is bound by road reserves on three of its boundaries, being: New South Head Road, to the south; Bay Street, to the east; and part of Brooklyn Lane, to the west.</p> <p>The Site forms part of the 'New South Head Road', 'Bay Street (south)' and 'The Lanes' precincts of the Double Bay commercial centre as described in Chapter D5 of the Woollahra Development Control Plan 2015 (<b>WDCP</b>).</p> <p>Development surrounding the Site comprises a mixture of uses and buildings, including:</p> <ul style="list-style-type: none"><li>• Immediately to the north is a two-storey terrace style commercial building at No. 12 Bay Street.</li><li>• No. 14 Bay Street is a two-storey terrace style commercial building that is identified as character building in Chapter D5 of the WDCP. Further to the north beyond is a four-storey contemporary</li></ul>



shop-top housing building at No 18 Bay Street. This building has a three-storey street wall height with a recessive fourth-storey with a further recessed upper fifth level to provide access to roof-terraces. No 2A Cooper Street benefits from a development consent under DA2021/68/1, which has commenced and is largely completed. It comprises a five-storey commercial development.

- On the other side across New South Head Road to the south are the state heritage listed gardens and associated vegetation to the former house "Overthorpe" at No. 337-349 New South Head Road (**Overthorpe**).
- Immediately to the east are a mix of older and contemporary two-storey commercial buildings, at No's 3-17 Bay Street, fronting Bay Street and two (2) three-storey commercial buildings, at No's 302-310 New South Head Road. The buildings at No's 9, 11, 13 and 15 Bay Street, are identified as character buildings within the WDCP.
- Immediately to the west is development fronting New South Head Road predominantly consisting of residential flat buildings ranging from five (5) storeys at No's 286 & 290 New South Head Road and up to seven (7) storeys in height at No. 282 New South Head.
- To the north-east, 19-27 Bay Street is currently a construction site with ground works underway. Even further, to the north-east is a group of three (3) two-storey terrace style buildings at Nos 29-33 Bay Street, which are identified as character buildings within the WDCP.
- To the north-west, along Brooklyn Lane, is primarily the rear access points to the residential dwellings and residential flat buildings located within the adjoining R3 Medium Density Residential zone.



Aerial Image. Subject Site highlighted red. Source: Nearmap





Subject site viewed from the southern side of New South Head Road. *Source: WMC*



Subject site viewed from corner of New South Head Road and Bay Street. *Source: WMC*





Subject site viewed from eastern side of Bay Street. *Source: WMC*



Subject site viewed from the adjoining RFB at 290 New South Head Road. *Source: WMC*



## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Construction is currently underway on the subject site relating to DA Consent 2022/280/1 (Original Consent). The approved development under the Original Consent is for the construction of a five (5) storey commercial building over (3) three levels of car parking.
<b>Relevant Application History</b>
<ul style="list-style-type: none"> <li>• <b>DA69/2021/1</b> – A Development Application for the “<i>Demolition of the existing buildings and construction of a new shop top housing development</i>” was refused by the Woollahra Local Planning Panel (WLPP) on 19 August 2021. The DA was subsequently approved by the Land and Environment Court via a Section 34 Conference (<i>Loftex Commercial Pty Ltd v Woollahra Municipal Council [2021] NSWLEC 1697</i>) for the demolition of the existing buildings on the site and construction of a five-storey (plus 1 lower ground and 1 basement level) shop-top housing development comprising residential and retail uses on 17 November 2021.</li> <li>• <b>DA69/2021/2</b> – A Section 4.56 Modification Application for “<i>Extension of basement of the approved shop top housing</i>” was approved on 13 July 2022 under staff delegated authority.</li> <li>• <b>DA69/2021/3</b> – A Section 4.56 Modification Application for Modifications to Part C of development consent including the heading and seeks modifications to the wording of various conditions of the development consent to refer to ‘relevant’ rather than ‘any’ construction certificate to allow for Construction Certificate staging was approved on 3 August 2022 under staff delegated authority.</li> <li>• <b>DA69/2021/4</b> – A Section 4.56 Modification Application for Modifications to Part C of development consent including the heading and sought modifications to the wording of various conditions of the development consent to allow for Construction Certificate staging was approved on 30 November 2022 under staff delegated authority.</li> <li>• <b>DA 280/2022/1</b> – A DA for the “<i>Construction of a five (5) storey commercial building over (3) three levels of car parking</i>” was approved via a Section 34 Conference [<i>2 Bay Street Pty Ltd v Woollahra Municipal Council [2023] NSWLEC 1222</i>] on 11 May 2023.</li> <li>• <b>DA 280/2022/2</b> – A Section 4.56 Modification Application for “<i>Modification of conditions relating to deferred commencement and staging of construction certificates</i>” was approved on 16 August 2023 under staff delegated authority.</li> <li>• <b>DA 280/2022/3</b> – A Section 4.56 Modification Application for “<i>Internal and external modifications to approved commercial development</i>” was approved by the Woollahra Local Planning Panel on 15 August 2024.</li> <li>• <b>DA 141/2024/1</b> – A DA for “<i>Change of use Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor</i>” is currently under assessment and yet to be determined. The proposal is the subject of a Class 1 Appeal (deemed refusal) which was lodged with the Land and Environment Court (Case No.2024/261723) on 16 July 2024. The matter is listed for a first directions on 13 August 2024.</li> </ul>
<b>Relevant Compliance History</b>
None relevant to the scope of the Proposal
<b>Pre-DA</b>
Nil
<b>Requests for Additional Information and Replacement Applications</b>
<p>On 16 May 2024, a Stop the Clock (<b>STC</b>) letter was sent to the Applicant requesting the following additional information:</p> <ol style="list-style-type: none"> <li>1. Stormwater Management Plans</li> <li>2. Flooding Study – Protection of Property</li> <li>3. View Impact Assessment</li> <li>4. Acoustic Report</li> </ol> <p>On 30 May 2024, the Applicant provided the following documents in response to the STC letter:</p> <ol style="list-style-type: none"> <li>1. Noise impact assessment prepared by Acoustic Logic.</li> <li>2. Stormwater Management Plans and accompanying letter prepared by at&amp;l.</li> <li>3. View Impact Assessment and accompanying letter prepared by AE Design.</li> <li>4. Response to RFI letter prepared by GSA Planning.</li> </ol>

Land and Environment Court Appeal(s)
On 16 July 2024, the Applicant filed an Application Class 1 Appeal (Case number 2024/00261723) with the Land and Environment Court ( <b>Court</b> ) against the deemed refusal of the DA. A s34 conference has been scheduled for 25 October 2024.

## 8. REFERRALS

Referral	Summary of Referral Response	Annexure
Development Engineering	<b>Satisfactory</b> , subject to Conditions of Consent.	4
Drainage Engineer	<b>Satisfactory</b> , subject to Conditions of Consent.	5
Traffic & Parking Engineer	<b>Satisfactory</b> , subject to Conditions of Consent.	6
Environmental Health	<b>Satisfactory</b> , subject to Conditions of Consent.	7
Transport for NSW (TfNSW)	<b>Satisfactory</b> , subject to Conditions of Consent.	8

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (**the Act**) 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 22 May 2024 to 6 June 2024 in accordance with Chapter 6 of the Woollahra Community Participation Plan. Submissions were received from:

1. Double Bay Residents Association
2. Yvonne Severn – 2/337 New South Head Road, Double Bay
3. Alex and Annette Koutzoumis – 17/337 New South Head Road, Double Bay
4. Lawrence Chan – 6/337 New South Head Road, Double Bay
5. Henri & Robin Aram – 29/337 New South Head Road, Double Bay
6. Eva Santo – 8/337 New South Head Road, Double Bay
7. Michael Green – 16/337 New South Head Road, Double Bay
8. Peter & Megan Benjamin – 5/337 New South Head Road, Double Bay
9. Deborah & Ian Neal – 4/337 New South Head Road, Double Bay
10. Prof Timothy F Rohl AM – 11/337 New South Head Road, Double Bay
11. Sarah Granger – 41/18 Bay Street, Double Bay
12. Susan Hauser – 14/337 New South Head Road, Double Bay
13. Patricia Wall – 14/290 New South Head Road, Double Bay

The submissions were all by way of objection and the issues raised have been summarised in Part 5.3 of this report.

## 9.2 Statutory Declaration

The applicant has **not** completed the required statutory declaration declaring that the site notice for DA141/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

The proposal fails to satisfy the notification requirements under Schedule 1 of the Woollahra Community Participation Plan and is listed as a reason for **refusal**.

## 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.

### 10.1 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 No. 1744989M demonstrating compliance with the Chapter 2.

### 10.2 Chapter 3 Standards for non-residential development

*This chapter applies to development, other than development for the purposes of residential accommodation, that involves –*

- *the erection of a new building with a capital investment value of \$5 million or more, or*
- *alterations, enlargement or extension of an existing building resulting in a capital investment value of \$10 million or more, and*

The Proposal relates to the change of use and alterations and additions and to the approved commercial development, currently under construction on the Site and is valued at less than \$10 million. Therefore, Chapter 3 is not applicable to the Proposal.

## 11. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

### 11.1 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 State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6. .*

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

## **11.2 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*

No further excavation is required under the Proposal. Furthermore, site remediation has been extensively considered and addressed under the Surrendered Consent.

## **12. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

### **12.1 Chapter 10 – Sydney Harbour Catchment**

The development is obscured from the waterway and the foreshores by existing development and landscaping. The Site is not a land/water interface development but notwithstanding, Division 2 of Part 10.3 Foreshores and Waterways Area prescribes matters for consideration for interrelationship of waterway and foreshore uses as well as maintenance, protection and enhancement of views.

The proposal does not result in any detrimental impact on the wetlands or cause pollution or siltation of the waterway. It does not detrimentally impact on existing vegetation or drainage patterns and does not obstruct vistas of the waterway from the public domain.

The proposal therefore satisfies the relevant criteria prescribed by Chapter 10 – Sydney Harbour Catchment of the Biodiversity and Conservation SEPP 2021.

## **13. STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021**

### **13.1 Division 17: Roads and traffic**

Division 17: Roads and traffic of Part 2.3 under Chapter 2 – Infrastructure of the Transport and Infrastructure SEPP 2021, applies to the development based on its location adjacent to a road that has an average daily traffic volume of more than 40,000 vehicles. The subject site is located with a frontage to New South Head Road, a classified road.

The relevant considerations are:

Clause 2.118: Development on Proposed Classified Road

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

Clause 2.119: Development with Frontage to Classified Road

Clause 2.119 requires consideration of the impact upon the safety, efficiency and ongoing operation of New South Head Road, including the design of the vehicular access, the emission of smoke or dust, the nature, volume or frequency of vehicles.

Clause 2.119 (2) states:

- “(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
    - (i) the design of the vehicular access to the land, or*
    - (ii) the emission of smoke or dust from the development, or*
    - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
  - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.”*

Vehicular access will be maintained from Brooklyn Lane as approved under the original consent. No additional vehicular access is proposed, nor any works within New South Head Road. Comment was sought from Transport for NSW (**TfNSW**) in this regard. TfNSW determined that the Proposal was satisfactory.

Further, Proposal includes a number mitigating measures detailed at section 8.2 entitled Building Envelope of the supporting Noise Impact Assessment.

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

Clause 2.120 requires Council to form the positive opinion that adequate levels of acoustic amenity are provided to development for the purposes of residential accommodation.

Clause 2.120(2) states:

- (2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.*

Clause 2.120(3) states:

- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
  - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*



The Proposal is supported by a Noise Impact Assessment prepared by Acoustic Logic, Revision 0, dated 27 May 2024. The Assessment concludes that:

*This report summarises the potential noise impact assessment undertaken for the proposed residential penthouse development to be located at 2-10 Bay Street & 294-298 New South Head Road, Double Bay. External noise impacts on the development and operational noise impacts from the development have been assessed and suitable recommendations and mitigation controls have been presented.*

- An assessment of external noise impacts has been undertaken in accordance with the State Environmental Planning Policy (Transport and Infrastructure) 2021 guidelines. Traffic noise impacts from the surrounding road networks have been considered.*
- An assessment of operational noise emissions has been undertaken using the Noise Policy for Industry guidelines. Site noise emissions from the development have been predicted and assessed against criteria adopted from the project trigger levels determined using the Policy.*
- It is concluded that with the implementation of the mitigation in Section 8 operational noise emissions from the proposed development can comply with the noise criteria established for the site.*

The proposal therefore satisfies the relevant criteria prescribed by Division 17, Subdivision 2 – Development in or adjacent to road corridors and road reservations of the Transport and Infrastructure SEPP 2021.

## **14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **14.1 Part 1.2: Aims of Plan**

the Proposal is contrary to aims (a), (g), (j) and (l) in Clause 1.2(2) Aims of Plan of the WLEP 2014, as it does not ensure that growth occurs in a planned and co-ordinated way, nor does it promote a high standard of design in the private and public domain, it would not protect and enhance amenity and the natural environment, nor achieve the desired future character of the area.

The proposal fails to satisfy the abovementioned Aims and is listed as a reason for **refusal**.

### **14.2 Land Use Table**

The Proposal involves the proposed change of use from an approved commercial building to a mixed use development, comprising shop top housing, accommodating a single residential apartment at the top floor.

Development for the purposes of shop top housing is permissible in the E1 zone. However, for the reasons referred to below and throughout this assessment report, the Proposal is considered to be inconsistent with the following zone objectives:

- To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- To ensure development is of a height and scale that achieves the desired future character of the local centre.*

### Desired Future Character

The desired character within the Double Bay Centre is expressed by the prescribed built form envelopes determined by relevant development standards and controls in the WLEP 2014 and WDCP 2015, together with the pattern of existing and approved developments on the Site and within the visual catchment of the Site.

The Proposal is not compatible with the desired future character as expressed by the local controls because:

- i. The additional height, bulk, and scale, in particular the rooftop terrace, includes plant and services, but also has the appearance of and presents as plant (e.g. the rooftop toilet and sauna), which is inconsistent with Objectives O1 and O4 and Control C6 of 5.6.3.7 in the WDCP,
- ii. The proposed roof elements, including the rooftop toilet, further exacerbate the approved non-compliances with the FSR and Height of Buildings development standards and would result in additional view loss and visual impact to adjoining private properties, and
- iii. The design of the rooftop area and pool is inconsistent with other rooftop developments in the Double Bay Centre and generates increased visual intrusion compared to the existing non-compliant building under the Consent.
- iv. For the reasons outlined above, the Proposal is contrary to aims (a), (g), (j) and (l) in Clause 1.2(2) Aims of Plan of the WLEP 2014, as it does not ensure that growth occurs in a planned and co-ordinated way, nor does it promote a high standard of design in the private and public domain, it would not protect and enhance amenity and the natural environment, nor achieve the desired future character of the area.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.

### **14.3 Part 4.3: Height of Buildings**

Pursuant to Clause 4.3 of the WLEP and the Height of Buildings Map, the height of buildings on the Site must not exceed 14.7m.

	Approved	Proposed	Control	Complies
Maximum Building Height	20.15m	21m	14.7m	<b>No</b>

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 14.5 of this assessment report.

### **14.4 Part 4.4: Floor Space Ratio**

Pursuant to Clause 4.4 of the WLEP and the FSR Map, the majority (1,448.3m<sup>2</sup>) of the Site is subject to a FSR of 2.5:1.

Pursuant to Clause 4.4A of the WLEP and the FSR Map, Area 1, being the southeast corner (414.4m<sup>2</sup>) of the Site, is subject to an FSR of 3:1.

### **Site area formerly known as 294-296 New South Head Road & 2-10 Bay Street**

Site Area: 1448.3m <sup>2</sup>	Approved	Proposed	Control	Complies
Floor Space Ratio	2.81:1 (4063m <sup>2</sup> )	2.83:1 (4105m <sup>2</sup> )	2.5:1 (3620.75 m <sup>2</sup> )	<b>No</b>

### Site area formerly known as 298 New South Head Road (Area 1 on the FSR Map)

Site Area: 414.4m <sup>2</sup>	Approved	Proposed	Control	Complies
Floor Space Ratio	3.25:1 (1348m <sup>2</sup> )	3.26:1 (1353m <sup>2</sup> )	3:1 (1243.2m <sup>2</sup> )	No

The proposal does not comply with Part 4.4(2) of Woollahra LEP 2014 as detailed and assessed in Part 14.5 of this assessment report.

## 14.5 Section 4.6: Exceptions to Development Standards

### Departures

1. With a height of 21m, the proposal involves a 6.3m (42.85%) non-compliance with the 14.7m height of buildings statutory development standard under section 4.3 of the Woollahra LEP 2014.
2. With a floor space ratio of 2.83:1, the proposal involves a 484.25m<sup>2</sup> (13.3%) non-compliance with the 2.5:1 floor space ratio statutory control under section 4.4 of the Woollahra LEP 2014.
3. With a floor space ratio of 3.26:1, the proposal involves a 109.8m<sup>2</sup> (8.8%) non-compliance with the 2.5:1 floor space ratio statutory control under section 4.4A of the Woollahra LEP 2014.

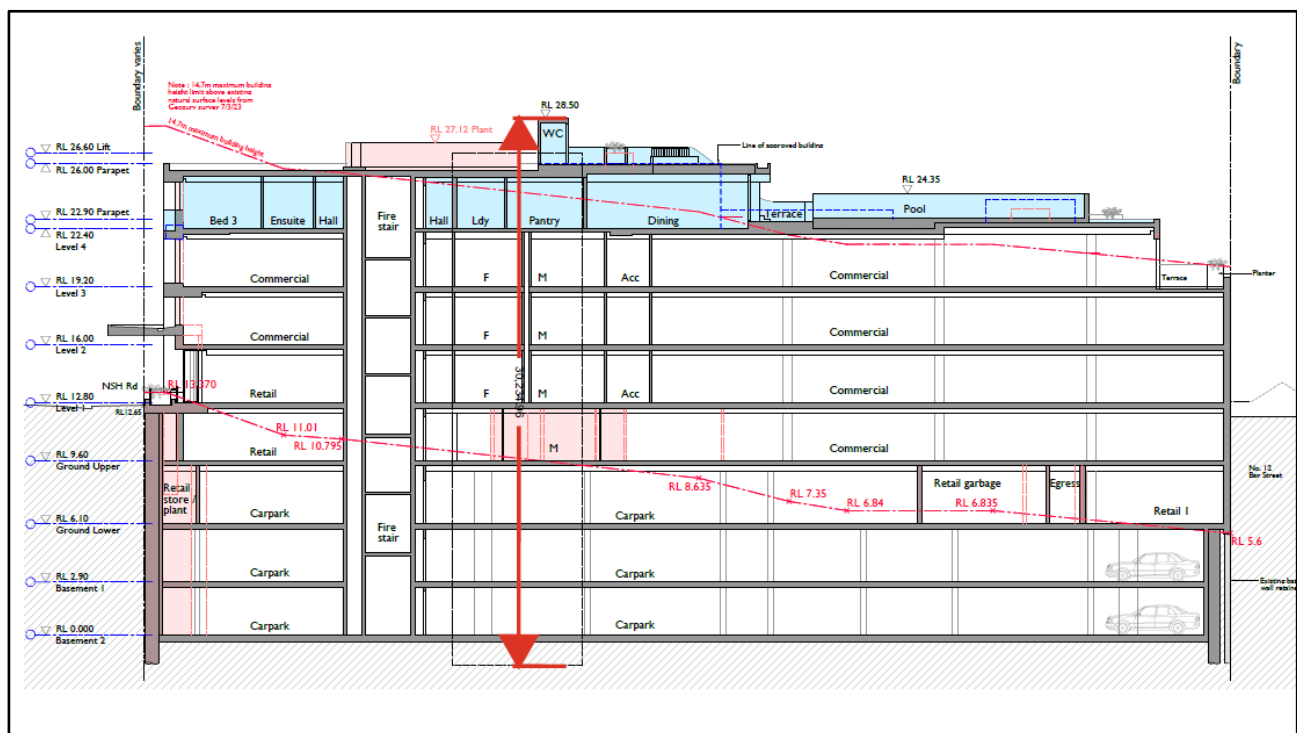


Figure 1. Section showing proposed height from excavated level. Source: Lawton Hurley. Annotated: WMC



Figure 2. GFA diagrams. Source: Lawton Hurley

## 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—

- compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- 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 Requests

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 two (2) written requests in accordance with Section 35B of the *Environmental Planning and Assessment Regulation 2021*. The first to vary the Height of Buildings development standard (**HOB Written Request**) and the second to vary the FSR development standard (**FSR Written Request**). These are attached at **Annexures 2 and 3**.

## 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?
- 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)?
- Is the correct LEP or SEPP section (and objectives if relevant) referenced?
- Is the extent of the variation correctly identified?

### Assessment:

The Applicant's Written Requests do not correctly identify the extent of the variation. In making this determination, the following statutory definitions are relied upon:

1. WLEP provides the following definition of building height:

**'building height (or height of building) means—**

- (a) *in relation to the height of a building in metres—the vertical distance from **ground level (existing)** to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.'*

2. WLEP provides the following definition of ground level (existing):

**'ground level (existing) means the existing level of a site at any point.'**

3. The WLEP provides the following definition of GFA:

*'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—...*

*but excludes—*

*...*

(e) **any basement—**

**(i) storage, and**

**(ii) vehicular access, loading areas, garbage and services, and**

4. The WLEP provides the following definition of basement:

*'basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).'*

Is the extent of the variation correctly identified in the HOB Written Request?

The HOB Written Request relies upon existing ground levels extracted from a Survey Plan prepared by Geosurv, dated 14 February 2023 and 7 March 2023.

However, the Survey Plan submitted with the DA is dated 9 May 2017, and was subsequently amended numerous times up to 27 April 2022, but not on 14 February 2023. It was also prepared by SDG Pty Ltd, not Geosurv. Therefore, it is unclear on what basis the existing ground levels have been calculated and, thus, the true extent of the height exceedance.

The HOB Written Request, submitted Survey Plan and submitted Architectural Plans do not appear to reflect the ground level (existing), following the bulk excavation described earlier in this assessment report. As the bulk excavation described has already been completed, the proposed maximum building height is estimated to be 30m measured from existing ground level (i.e. the excavated level) directly below the proposed rooftop WC.

The resultant numerical non-compliance with the Height of Buildings development standard under Clause 4.3 of WLEP would be approximately 15.3m or 104%.

Is the extent of the variation correctly identified in the FSR Written Request?

The FSR Written Request relies upon the GFA diagrams contained in the submitted Architectural Plans prepared by Lawton Hurley, dated April 2024.

However, the FSR Written Request, submitted Survey Plan, and submitted Architectural Plans do not clearly reflect the ground level (existing) following the bulk excavation described earlier in this assessment report.

Therefore, there is insufficient information to determine the accuracy of the numerical non-compliance with the FSR development standard, as it appears that some changes to the Consent sought by the DA include a basement which may not, in fact, be below ground level (existing).

**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.*

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?
- Has the applicant used another method to justify that the variation is unreasonable or unnecessary?
- Are the arguments put forward by the applicant, to demonstrate compliance is unreasonable or unnecessary in the circumstances, supported and why?

#### Assessment:

In both instances, the Applicant's Written Requests adopt Test 1, asserting 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.

However, the Applicants Written Requests fail to adequately demonstrate that compliance is unreasonable or unnecessary because:

- It is unclear whether the Written Requests have assessed the Proposal with reference to the correct ground level and, therefore, cannot be considered well-founded.
- The Proposal does not achieve objective (a) of Clause 4.3 'to establish building heights that are consistent with the desired future character of the neighbourhood' nor (d) to 'minimise the impacts of new development on adjoining or nearby properties from disruption of views,

*loss of privacy, overshadowing or visual intrusion', because:*

- a. The submitted View Impact Assessment does not demonstrate that the application minimises the impact on adjoining or nearby properties from disruption of views, particularly harbour views from Overthorpe and views from apartments at 290 New South Head Road,
- b. The additional height sought by the Proposal exacerbates the approved non-compliance by the Consent for the purpose of non-essential facilities for the proposed residential apartment, in particular, the terrace that includes:
  - i. rooftop toilet amenities,
  - ii. a sauna, and
  - iii. fencing.
- c. The Architectural Plans relied upon fail to contemplate the additional height of the acoustic barrier that is recommended to be installed on the roof, which would further exacerbate the visual intrusion and view impacts to adjoining properties.
- d. The additional bulk resulting from the Proposal would not achieve objective 1(b) of Clause 4.4 *'to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale'*, in particular the increased bulk associated with the northern extension of level 4.

**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.*

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

Assessment:

The Written Requests rely on the following environmental planning grounds:

Ground 1: Consistency with the Context (Desired Future Character)

Both Written Requests assert that the Proposal will be consistent with existing and approved buildings along Bay Street, thereby achieving consistency with the E1 zone objectives.

Ground 2: Previous Approval

Both Written Requests rely upon the existing Consent asserting that the Proposal remains generally within the approved building envelope, ensuring minimal visibility from the public domain and surrounding residential properties.

The above environmental planning grounds advanced in the Written Requests are not considered sufficient to justify the proposed variations because:

- The height exceedance is not consistent with desired future character or context, noting that the rooftop configuration is inconsistent with other roof forms in the area.
- The analysis of previous approvals along Bay Street and on the Site itself does not provide sufficient justification, nor does it outline how the particular elements above the HOB development standard achieve consistency with the surrounding context, particularly noting that no existing or approved buildings along the southern part of Bay Street provide a similar rooftop configuration.
- Additionally, the Court approved development on the Site under DA2021/69/1 complied with the FSR development standard, and other examples provided in the analysis do not contain roof top terraces with area contributing to GFA.
- Reliance on the current Consent on the Site is not sufficient to justify the contravention in this instance, as the Consent was for a different design and use at Level 4.
- The basis of the FSR exceedance is not consistent in the context, noting that the rooftop configuration and pool are inconsistent with other roof forms in the area.

- Reliance on the current Consent on the Site is not sufficient to justify the contravention in this instance, as the Consent was for a different design and use at Level 4.
- The additional GFA attributed to Level 4 and the Roof of the Proposal is not informed, nor consistent with recent approvals or existing development and is not required to achieve consistency with the desired future character of the southern part of Bay Street.

## 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.

The Applicant's Written Requests are not considered to be well founded and are, therefore, listed as a reason for **refusal**.

## 14.6 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 Proposal is not located in a Heritage Conservation Area, nor are there any items of Heritage significance located on the Site.

Items of Heritage significance in close proximity to the subject site include:

Suburb	Item name	Address	Property description	Significance	Item no
Double Bay	Gardens to former "Overthorpe", including 3 Small-Leaved Figs, Coolamon or Watermelon Tree, Silver Quandong, 2 Moreton Bay Figs, Bunya Pine, Queen Palm, Cabbage Palms, 9 Canary Island Date Palms, service driveway, front retaining wall and fence, gates	337-347 New South Head Road	SP 20175	State	206
Double Bay	Vegetation associated with the gardens of the former house "Overthorpe", including Silver Quandong, Norfolk Island Pine, Bunya Pine, rainforest specimen, Bangalow Palms, Queen Palms, Cabbage Palms	349 New South Head Road	SP 62056	Local	207
Double Bay	Weeping Lilli Pilli, all Bangalow Palms (approx 30), Washingtonia Palm, Queen Palms, Cabbage Palms	5 Manning Road	Lot 6, DP 15038	Local	205
Double Bay	Gaden House including interiors	2A Cooper Street	Lots 11 and 12, DP 4606	Local	681

The proposal is unlikely to impact upon significant fabric or curtilage of the above Heritage items. Furthermore, Council's Heritage Officer reviewed the application at DARC and determined that the proposed modifications were acceptable and did not require heritage referral.

Accordingly, the Proposal is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

## 14.7 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*

Council's Drainage Engineer has determined that the Proposal is acceptable with regard to Part 5.21 of Woollahra LEP 2014, subject to relevant Conditions of Consent.

#### **14.8 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.

#### **14.9 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.

Earthworks/excavation does not form part of the Proposal and, therefore, it is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

## 15. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

### 15.1 Chapter D5: Double Bay Centre

#### 15.2 D5.1.3 Objectives

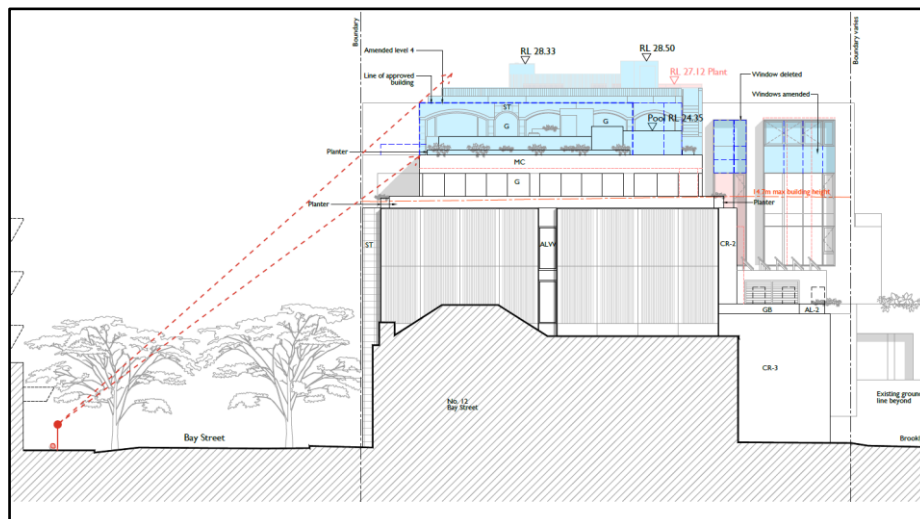
Relevant objectives of this chapter are:

*O8 To ensure that new development is compatible with the existing built form, and streetscape and village character.*

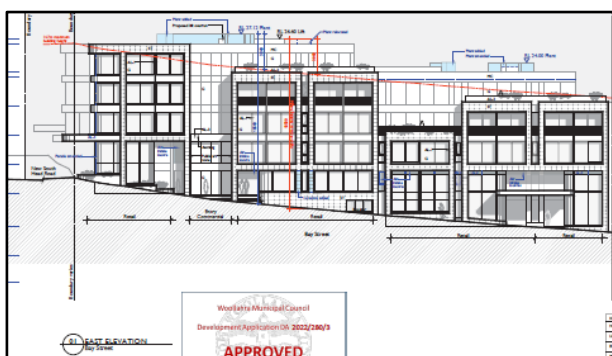
*O9 To encourage view sharing and individual privacy.*

The Proposal would not achieve consistency with O8 and O9 because:

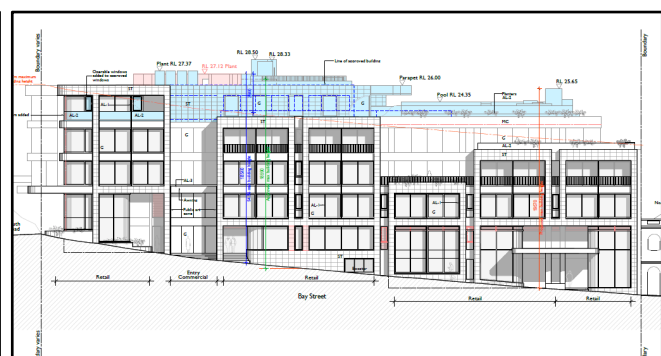
- The additional building bulk attributable to the Proposal only increases its visibility from Bay Street, unlike the examples relied upon in the submitted Written Requests, which have adequately setback the upper level such that they would not be readily discernible from Bay Street. Refer to the sightline analysis below:



**Figure 3.** Sightline from eastern side of Bay Street of the upper level of the Proposal. Source: Lawton Hurley. Sightline added by: WMC



**Figure 4.** Approved eastern elevation. Source: Lawton Hurley

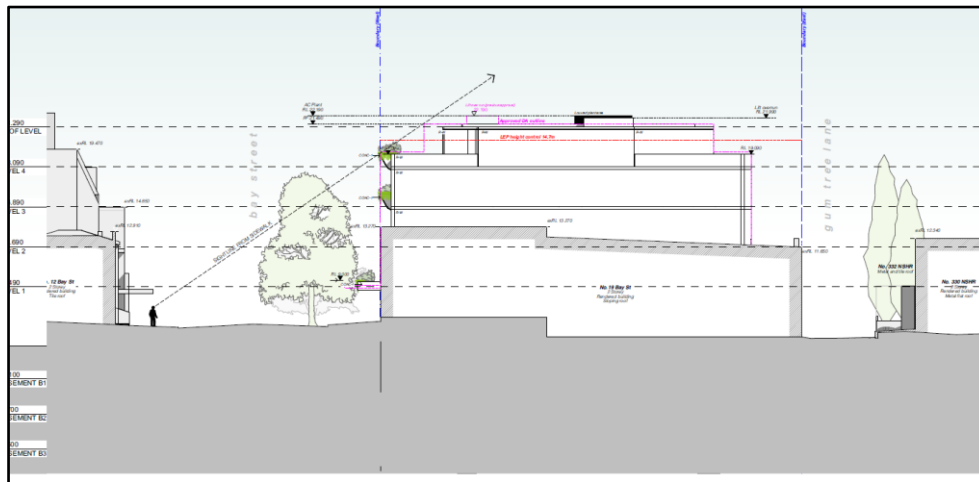


**Figure 5.** Proposed eastern elevation. Source: Lawton Hurley

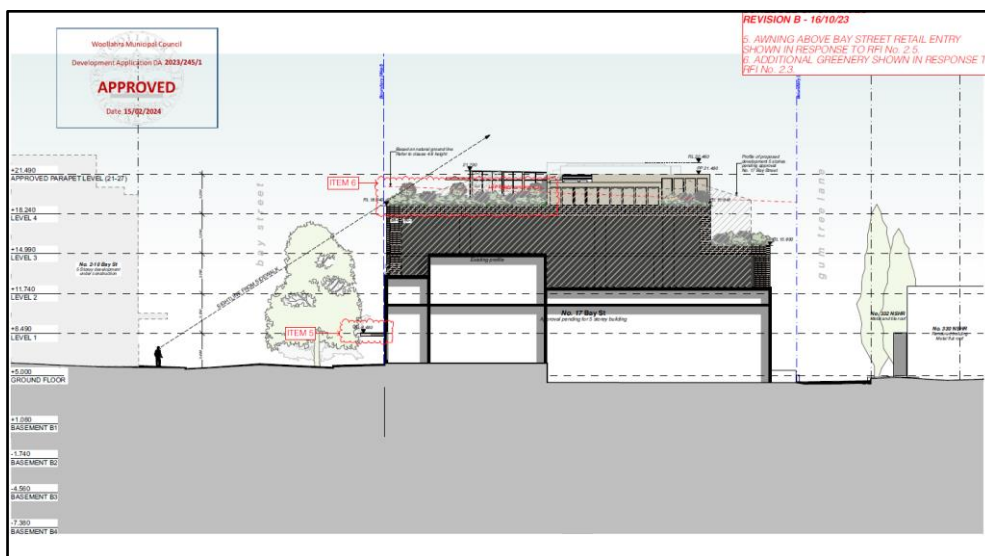




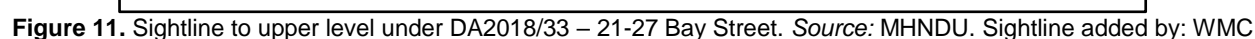
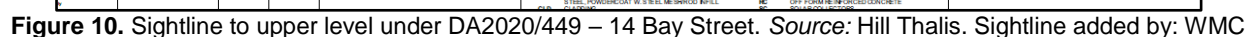
**Figure 6.** DA2012/138 – 18-22 Bay Street (also showing 3D image of the Consent). *Source:* WMC Mapping



**Figure 7.** Sightline to upper level under DA2021/14 – 21-27 Bay Street – *Source:* MHNDU



**Figure 8.** Sightline to upper level under DA2023/245 – 19-27 Bay Street. *Source:* MHNDU



- A number of objectors residing at Overthorpe have raised issues relating to view loss resulting from the Proposal. The submitted View Impact Assessment provides only a single perspective view from an unspecified location/unit within the property known as Overthorpe (Figure 12) and fails to assess the property as a whole, particularly from some objectors' properties on the upper levels of the north building. It is therefore insufficient to determine the extent of any possible view impact to adjoining properties.



Figure 12. Submitted single perspective view. Source: Submitted View Impact Assessment

- Views potentially impacted include: water; land/water interface; Bradleys Head and the horizon beyond; and foreground district views, all of which can be considered valuable.
- The Proposal would exacerbate an approved non-compliant building height, which has the potential to further disrupt and intrude on valuable views enjoyed by occupants of Overthorpe, in particular because of the rooftop terrace, toilet, fencing and required acoustic barrier.
- In the absence of a comprehensive View Impact Assessment, Council cannot be satisfied that the Proposal would provide adequate view sharing, because:
  - It would not achieve the aims in Part 1.2(2)(g) of the WLEP in that it does not protect and enhance amenity and the natural environment;
  - It would not achieve objective (d) under Clause 4.3 of WLEP to 'minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion'
  - It would not achieve Objective O9 in Part D5.1.3 under Chapter D5 of the WDCP 2015.
  - It would not achieve consistency with Strategy 5(h) in Part D5.3.2 of the WDCP 2015.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.



### **15.3 D5.4.3 New South Head Road**

Desired future character objectives:

- a) *Accentuate the curved street geometry of New South Head Road with four and five storey buildings.*
- b) *Retain green vistas at each end of New South Head Road.*

The Proposal maintains consistency with the above Objectives and is considered acceptable with regard to Part D5.4.3 of Woollahra DCP 2015.

### **15.4 D5.4.4 Bay Street (south)**

Desired future character objectives:

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

No works are proposed to the commercial/retail portion at Ground Lower through Level 3.

The Proposal would not impact upon the approved façade articulation and vertical proportions that reflect the modest lot widths along Bay Street (a)), (b)). Furthermore, the Proposal would not impact upon existing character buildings along Bay Street (c)), and would maintain street trees (d)).

### **15.5 D5.4.8 The Lanes**

Desired future character objectives:

- a) *Facilitate the service role of lanes, while encouraging increased active retail frontage.*
- b) *Improve pedestrian amenity by providing adequate footpaths, limiting the width and numbers of vehicle crossovers, setting buildings back on one side and preserving natural daylight to the lanes.*
- c) *Enhance the spatial definition of lanes with ground and first floor building lines and buildings up to two storeys in height.*

The Proposal would generally maintain the approved setbacks and vehicle access along Brooklyn Lane.

The proposed addition of external access stairs would reduce the Level 5 western setback, but would remain adequately separated (18m) from adjoining residential buildings.

The Proposal maintains consistency with the above Objectives and is considered acceptable with regard to Part D5.4.8 of Woollahra DCP 2015.

### **15.6 D5.6.3 Urban Character**

Objectives:

- O1 *Development should contribute to the desired future character of streetscapes with appropriate and consistent building forms.*

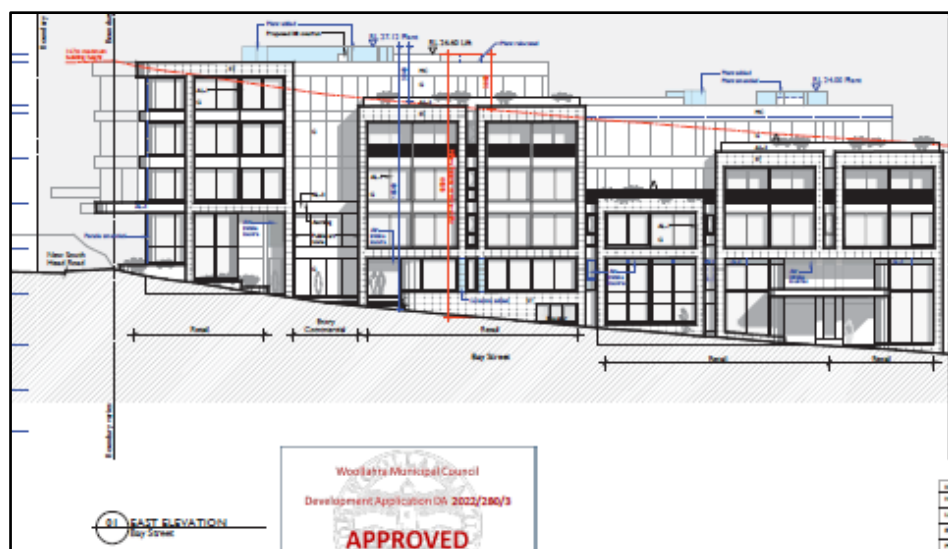
## Controls:

**C1 Development must occur within the building envelopes shown on the Built Form Envelopes: Control Drawings, Section 5.5.5—5.5.11.**



**Figure 13. Control Drawing 5. Source: Chapter D5 of WDCP 2015**

Whilst a portion of the Proposal would comply with the four (4) storey requirement under Control Drawing 5, a significant portion of the Proposal, specifically the northern extension, will result in non-compliance with C1. See Figures 14 and 15 for a comparison of the Proposal against the approved development under the Consent.



**Figure 14. Eastern elevation of the approved development under the Consent. Source: Lawton Hurley**

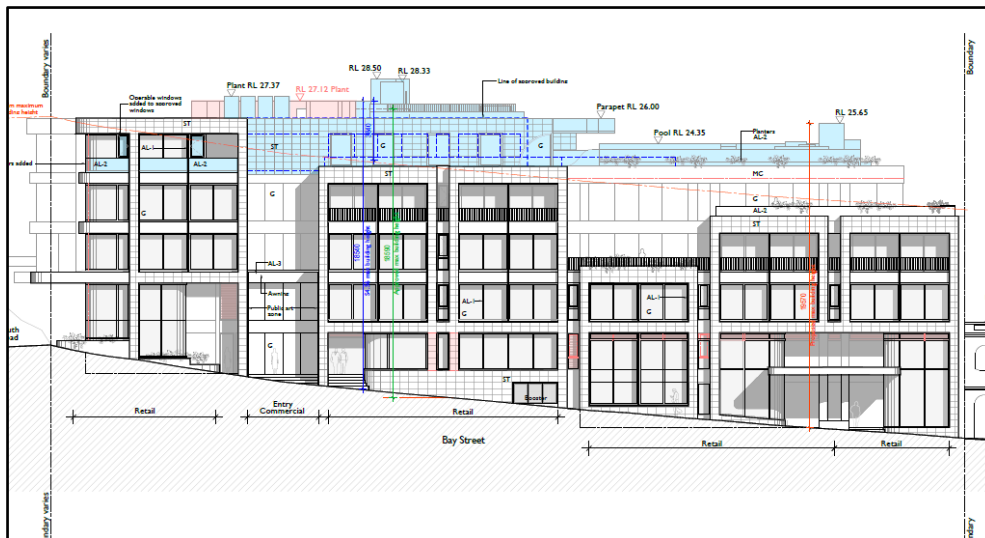


Figure 15. Eastern elevation of the Proposal. Source: Lawton Hurley

An increase to the approved non-compliant building envelope is considered excessive and, for the reasons referred to previously, would not achieve consistency with O1.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.

### 15.7 5.6.3.2 Height

#### Objectives:

- O1 *Encourage buildings to achieve the heights along street and lane frontages described by the control drawings.*
- O2 *Provide floor to floor heights that provide amenity to building users and allow adaptable reuse of levels.*

#### Controls:

- C2 *To achieve a variety of roof forms the floor level of the uppermost habitable storey must be at least 3.5m below the maximum permissible building height.*
- C3 *The building (including lift tower machinery plant rooms and storage space) must be contained within the envelope height, with the following exclusions: chimneys, flues, masts, flagpoles communication devices, satellite dishes and antennae.*

The Proposal would result in non-compliance with C2 and C3 of this part and is considered to be inconsistent with O1 because:

- Contrary to O1, the proposal does not seek to minimise the bulk and scale of the existing non-compliant fifth level. Instead, it would exacerbate the existing non-compliance resulting in additional building bulk visible from the public domain, and at a height not contemplated for the Site under WLEP 2014 or WDCP 2015.
- The additional height, bulk, and scale, in particular the rooftop terrace, includes plant and services, but also has the appearance of and presents as lift machinery plant (e.g. the rooftop toilet and sauna), which does not minimise the visual impact of the proposed rooftop terrace and associated elements.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.



## **15.8      5.6.3.4 Setbacks**

### Objectives:

O1    O1 Encourage consistent building lines to provide coherent streetscapes.

### Controls:

C1 Building alignment must comply with the building lines shown on the Built Form Envelopes: Control Drawings, Section 5.5.5—5.5.11.

The Proposal would result in non-compliance with C1 and is considered to be inconsistent with O1 because:

- The Proposal would increase the bulk and scale of the existing non-compliant fifth level at a height not contemplated for the Site under WLEP 2014 and WDCP 2015.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.

## **15.9      5.6.3.7 Roof Design**

### Objectives:

O1    O1 Encourage highly articulated roof design that responds to building orientation and the location and character of Double Bay.

O4    Discourage the provision of air conditioning plant and equipment on the roofs of buildings to minimise visual impact of these services.

### Controls:

C6 Air conditioning plant and equipment must be concealed from the exterior and be within the building. When roof plant is proposed it must be screened from neighbours and be integrated with the design of the roof and the composition of the building.

The Proposal would result in non-compliance with C6 and is considered to be inconsistent with O4 because:

- The additional height, bulk, and scale, in particular the rooftop terrace, includes plant and services, but also has the appearance of and presents as plant (e.g. the rooftop toilet and sauna), which does not minimise the visual impact of the proposed rooftop terrace and associated elements.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.

## **15.10      5.6.5.1 Visual Privacy**

### Objectives:

O1    Ensure development protects the privacy of adjacent residential neighbours.

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

The Proposal would maintain adequate separation between adjoining residential buildings and is considered acceptable with regard to part D5.6.5.1 of Woollahra DCP 2015.

## 15.11 5.6.5.2 Acoustic Privacy

### Objectives:

- O2 *Protect the acoustic privacy of residential neighbours adjacent to the centre.*
- O3 *Ensure the viability of housing, and greatly increase the amenity of dwellings, by minimising the impact of external noise sources.*

A Noise Impact Assessment accompanies the DA. Council's Environmental Health Officer has reviewed the Proposal and provides the following comment:

*The applicant engaged Acoustic Logic to assess whether proposed changes will comply with the relevant noise criteria and regulations. Acoustic Logic identified a few sites as sensitive receivers:*

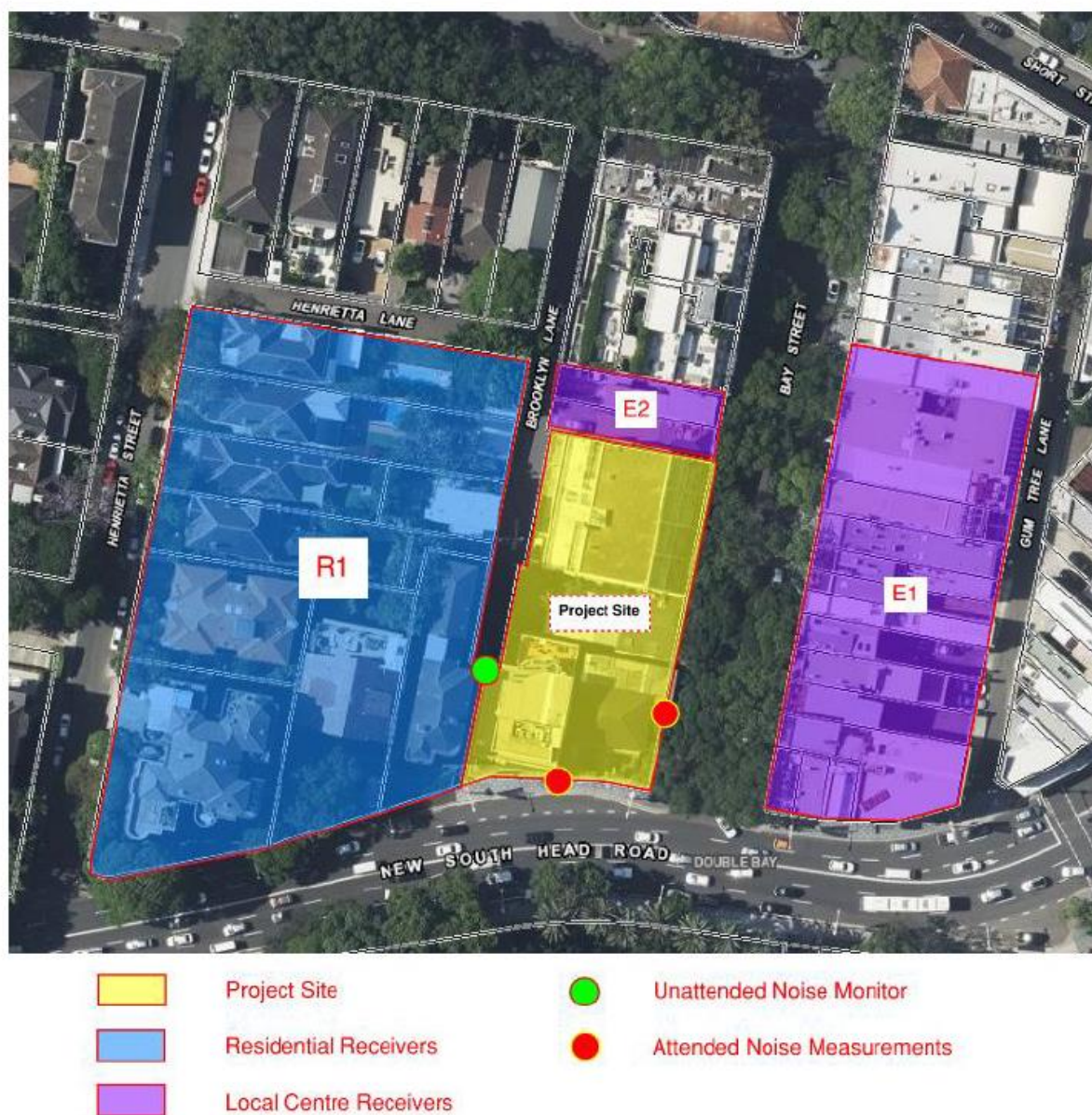


Figure 1 – Site Map and Local Context (Source: SixMaps)

*The acoustic consultants used the following legislation and guidelines in their assessment:*

1. *NSW EPA 'Noise Policy for Industry' 2017*
2. *State Environmental Planning Policy (Transport and Infrastructure) 2021*
3. *NSW Department of Planning Policy*
4. *NSW EPA 'Road Noise Policy'*
5. *Woollahra DCP 2015*

*The acoustic consultant provided mechanical plant noise emission objectives for nearby sensitive receivers in Table 5 of the Report. It is noted that measurements for mechanical plant were assessed on a worse case cumulative scenario.*

*A discussion held with Jamie Tang of Acoustic Logic on 12 June confirmed that Woollahra Council's historically adopted noise criteria (background noise level + 0 dBa) had been applied to this assessment and compliance with Woollahra's DCP will be achieved.*

The Proposal is considered acceptable with regard to part D5.6.5.2 of Woollahra DCP 2015.

## **15.12 D5.6.5.4 Private Open Space**

### Objectives:

- O1 Ensure every dwelling in the Double Bay Centre has direct access to private open space.*
- O2 Encourage occupied roof areas with roof gardens behind parapets where private open space at ground level is not available.*

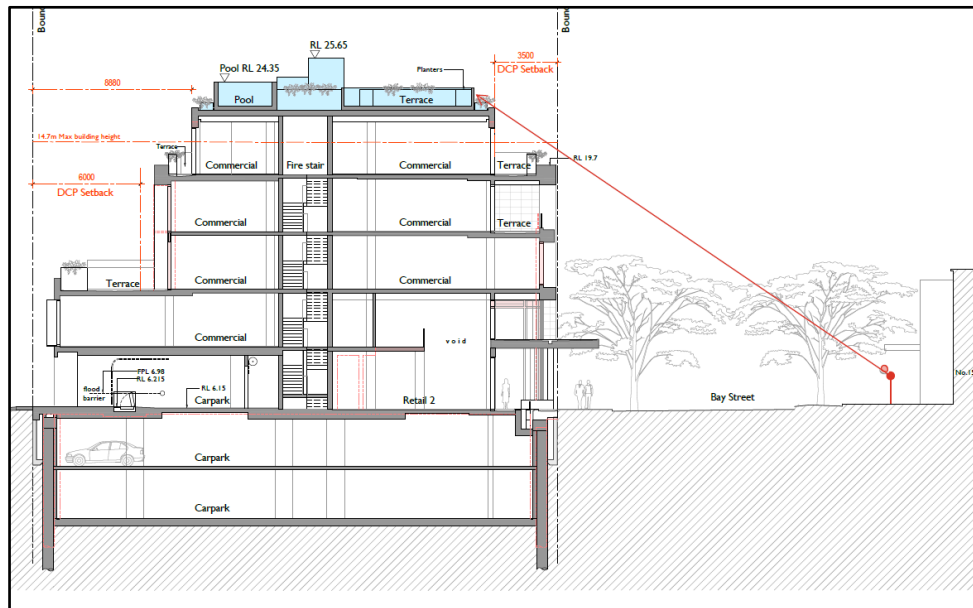
### Controls:

- C4 Lightweight pergolas, sunscreens, privacy screens and planters are permitted on roof terraces provided they do not increase the bulk of the building. These elements should not significantly affect the views available from adjoining properties, the immediate vicinity or on the nearby ridges.*
- C5 The profile and silhouette of parapets, eaves and roof top elements must be considered in roof terrace design to provide an attractive building finish when viewed from the public and private domain.*

Private open space at ground level would not be available, therefore, O2 encourages occupied roof areas. This is subject to C4 and C5 which seek to minimise associated building bulk, amenity impacts, and streetscape impacts.

The Proposal would result in non-compliance with C4 and C5 and, although roof terraces are contemplated, would not achieve O2 because:

- The Proposal would only increase upon the visual bulk of the approved building, further exacerbating the approved non-compliant building envelope.
- Proposed planters would contribute to the increased building bulk and would be visible from the public domain along Bay Street, albeit to a minor degree. See Figure 11



**Figure 11.** Section showing sightline to proposed planters. *Source:* Lawton Hurley. Sightline added by: WMC

- The design of the proposed rooftop and rooftop private open space areas would result in visually intrusive elements (e.g. the rooftop toilet and sauna), particularly when viewed from surrounding residential buildings. Further, these elements would contribute to the additional non-compliance with the FSR development standard and are considered excessive.

The Proposal fails to satisfy the abovementioned Objectives and is listed as a reason for **refusal**.

### 15.13 D5.6.6 Solar Access and Natural Ventilation

#### Objectives:

*O1 Minimise overshadowing of adjoining properties or publicly accessible spaces.*

Although the Proposal would result in increased overshadowing, it would only be minor and is not considered unreasonable.

The Proposal maintains consistency with the above Objectives and is considered acceptable with regard to Part D5.6.6 of Woollahra DCP 2015.

### 15.14 D5.6.8 Parking and Site Facilities

#### 15.15 D5.6.8.2 Vehicular Access

The proposed modifications would not alter the approved vehicular access from Brooklyn Lane and no additional vehicle access points are proposed.

#### 15.16 D5.6.8.4 Site Facilities

#### Objectives:

*O2 Ensure site facilities are accessible, functional and unobtrusive.*

Controls:

*C6 Air conditioning units and other plant equipment should not be readily visible from the public domain.*

The proposed rooftop plant and equipment is to be centrally located and is unlikely to be readily discernible from the public domain (O2).

The Proposal maintains consistency with the above Objectives and is considered acceptable with regard to Part D5.6.8.4 of Woollahra DCP 2015.

## 15.17 Chapter E1: Parking and Access

Council's Traffic Engineer has provided the following assessment:

*The parking provision for the proposed development has been assessed in accordance with Council's DCP 2015 Chapter E1 Parking and Access.*

*It is understood that previously approved commercial component under DA280/2022 (Level 4, consisting 564m<sup>2</sup> of GFA) is replaced by a four-bedroom unit. By comparison, car parking demand is reduced by seven (7) spaces, as shown in below table.*

Table 1: Car Parking Provision (Change of Use)

Component	Quantity	DCP Requirement	DCP Required Parking
<b>Reduced Non-Residential (Minimum Requirement)<sup>1</sup></b>			
Office	564m <sup>2</sup>	2.5 spaces per 100m <sup>2</sup>	8.5 (9)
<b>Increased Residential (Maximum Requirement)</b>			
3 bedrooms or more	1	1.5 per unit	1.5 (2)
Visitor	1	0.2 per unit	0.2 (0)
Total			2
Shortfall			

Note: Multiplier 0.6 applied for Double Bay Centre E1 Zone

*The proposed retention of 93 car parking spaces is therefore considered acceptable. Should the development be approved, signage/pavement marking should be provided to ensure two (2) car parking spaces are allocated to residential component and should be clearly depicted on the architectural drawings.*

Table 2: Bicycle and Motorbike Parking Provision (Change of Use)

<b>BICYCLE</b>			
<b>Increased Mixed Use – Residential Use</b>			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	1	1 per dwelling	1
Residential Visitors	1	1 per 10 dwellings	0.1 (0)
Total Required			1
<b>Reduced Mixed Use – Non-Residential Use</b>			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Office employees	564m <sup>2</sup>	1 per 150m <sup>2</sup> GFA	3.8 (4)

Office visitors	564m <sup>2</sup>	1 per 400m <sup>2</sup> GFA	1.4 (1)
Total required			5
<b>MOTORBIKE (reduced)</b>			
	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
Car Spaces	7	1 per 10 car spaces	0.7 (1)
Total required			1

*It is clear from the table that comparing to previously approved use, this proposal generates a reduced bicycle and motorbike parking demand by four (4) and one (1) space. The proposed retention of 60 bicycle parking spaces and 9 motorbike parking spaces complies with DCP's minimum requirement and is deemed satisfactory.*

### **Traffic Generation**

*Traffic generation from the proposed development has been calculated in accordance with RMS Guide to Traffic Generating Developments 2002, and RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a.*

### **Net Change**

#### *Office (Reduced)*

- Weekday peak hour vehicle trips:  $564\text{m}^2 \times 1.2\text{-}1.6 \text{ per } 100\text{m}^2 = 6.6\text{-}8.7 \text{ trips}$
- Daily vehicle trips:  $564\text{m}^2 \times 11 \text{ per } 100\text{m}^2 = 60.1 \text{ trips}$

#### *Medium Density Residential – Larger Units (Increased)*

- Weekday peak hour vehicle trips:  $1 \text{ dwellings} \times 0.5\text{-}0.65 \text{ per dwelling} = 0.5\text{-}0.65 \text{ trips}$
- Daily vehicle trips:  $1 \text{ dwelling} \times 5.0\text{-}6.5 \text{ per dwelling} = 5\text{-}6.5 \text{ trips}$

#### *Total (Reduced)*

- Weekday peak hour vehicle trips =  $6.1\text{-}8.05 \text{ trips}$
- Daily vehicle trips =  $53.6\text{-}55.1 \text{ trips}$

*Based on the above calculation, this proposal is calculated to generate less traffic and is unlikely to generate unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.*

### **Service Vehicles & Vehicular Access**

*On-site loading bay, car park layout and vehicular access have been previously assessed and considered acceptable. The proposal is anticipated to result in some reduction in commercial traffic and minor increase of residential traffic. The proposed retention of the car park and access design is considered acceptable to accommodate future traffic.*

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

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

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

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



No details have been provided of electric circuitry. Notwithstanding, this matter, in isolation, does not warrant refusal of the DA.

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

Council's Drainage Engineer has determined that the proposal is satisfactory, subject to Conditions of Consent relating to flood protection.

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

## **15.20 Chapter E5: Waste Management**

The objectives of this chapter are:

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

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

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

A detailed *Operational Waste Management Plan* prepared by Elephants Foot Consulting was submitted in support of the Proposal and was found to be satisfactory.

## **16. THE LIKELY IMPACTS OF THE PROPOSAL**

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

## **17. THE SUITABILITY OF THE SITE**

The site is not suitable for the proposed development.

## **18. THE PUBLIC INTEREST**

The proposal is not considered to be in the public interest.

## **19. CONCLUSION**

Based on the assessment contained within this report, the Proposal is unacceptable with regard to the relevant matters for considerations under Section 4.15 of the EP&A Act 1979 and is therefore recommended for refusal.

## **20. DISCLOSURE STATEMENTS**

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

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

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, is not 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 which contravenes the Height of Buildings and Floor Space Ratio development standard(s) under Clause(s) 4.3, 4.4, and 4.4A of the Woollahra Local Environmental Plan 2014.

### **AND**

THAT the Woollahra Local Planning Panel, exercising the functions of Council, as the consent authority, refuse development consent to Development Application No. 141/2024/1 for Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and swimming pool on land at 2 Bay Street DOUBLE BAY, for the following reasons:

#### **1. Woollahra Local Environmental Plan 2014 (WLEP 2014) Part 1 Clause 1.2: Aims of Plan**

The proposal is inconsistent with the aims in Part 1.2(2) because:

- It does not ensure that growth occurs in a planned and co-ordinated way (a),
- It does not promote a high standard of design in the private and public domain (g)
- It does not protect and enhance amenity and the natural environment (j), and
- It does not to ensure development achieves the desired future character of the area, as required in sub-clause (l),

#### **2. Woollahra Local Environmental Plan 2014 (WLEP 2014) Land Use Table**

The proposal is inconsistent with the relevant objectives of the E1 Local Centre zone because:

- The proposal is not compatible with the character and amenity of the surrounding neighbourhood.
- The proposal is not of a height and scale that achieves the desired future character of the neighbourhood.

#### **3. Woollahra Local Environmental Plan 2014 (WLEP 2014) Part 4 – Clause 4.3 Height of Buildings**

- The Proposal is excessive in height and fails to comply with the Height of Buildings development standard under cl. 4.3 of the Woollahra LEP 2014.
- The proposed development is inconsistent with objectives of the Height of Buildings development standard as prescribed in Clause 4.3 of the Woollahra LEP 2014.
- The development is of a height, bulk and scale that does not achieve the desired future character of the area.

- The Applicant's Written Request seeking to justify contravention of cl. 4.3 Height of Buildings development standard in Woollahra LEP 2014 does not demonstrate:
  - a) that compliance with the development standard is unreasonable or unnecessary [cl. 4.6(3)(a)]; and
  - b) that there are sufficient environmental planning grounds to justify contravening the development standard [cl. 4.6(3)(b)].

Therefore, cl. 4.6(3)(a) and (b) of Woollahra LEP 2014 is not satisfied.

4. **Woollahra Local Environmental Plan 2014 (WLEP 2014) Part 4 – Clause 4.4 Floor Space Ratio and Clause 4.4A Exceptions to floor space ratio (Areas 1 and 1A—Double Bay)**

- The proposal is excessive in bulk and fails to comply with the FSR development standards under cl. 4.4 and cl. 4.4A of the Woollahra LEP 2014.
- The proposed development is inconsistent with objective of the FSR development standard as prescribed in cl. 4.4 and cl. 4.4A of the Woollahra LEP 2014.
- The development is of a bulk and scale that does not achieve the desired future character of the area.
- The Applicant's Written Requests seeking to justify contravention of cl. 4.4 and cl. 4.4A FSR development standards in Woollahra LEP 2014 do not demonstrate:
  - a) that compliance with the development standard is unreasonable or unnecessary [cl. 4.6(3)(a)]; and
  - b) that there are sufficient environmental planning grounds to justify contravening the development standard [cl. 4.6(3)(b)].

Therefore, cl. 4.6(3)(a) and (b) of Woollahra LEP 2014 is not satisfied.

5. **Woollahra Development Control Plan 2015 (WDCP 2015), Chapter D5 Double Bay Centre**

**a. Part D5.1.3 Objectives**

- The proposal does not achieve consistency with objectives O8 and O9, prescribed in Woollahra DCP 2015 under Part *D5.1.3 Objectives*.

**b. Part D5.6.3 Urban Character**

- The proposal does not comply with Control C1 and does not achieve the underlying Objective O1 outlined in Part D5.6.3 of the WDCP 2015.

**c. Part D5.6.3.2 Height**

- The proposal does not comply with Controls C2 and C3 and does not achieve the underlying Objective O1 outlined in Part D5.6.3.2 of the Woollahra DCP 2015.

**d. Part D5.6.3.4 Setbacks**

- The proposal does not comply with Control C1 and does not achieve the underlying Objective O1 outlined in Part D5.6.3.4 of the Woollahra DCP 2015.

**e. Part D5.6.3.7 Roof Design**

- The proposal does not comply with Control C6 and does not achieve the underlying Objective O4 outlined in Part D5.6.3.7 of the Woollahra DCP 2015.

**f. Part D5.6.5.4 Private Open Space**

- The Proposal does not comply with Controls C4 and C5 and does not achieve the underlying Objective O2 outlined in Part D5.6.5.4 of the Woollahra DCP 2015.









**6. Statutory Declaration**

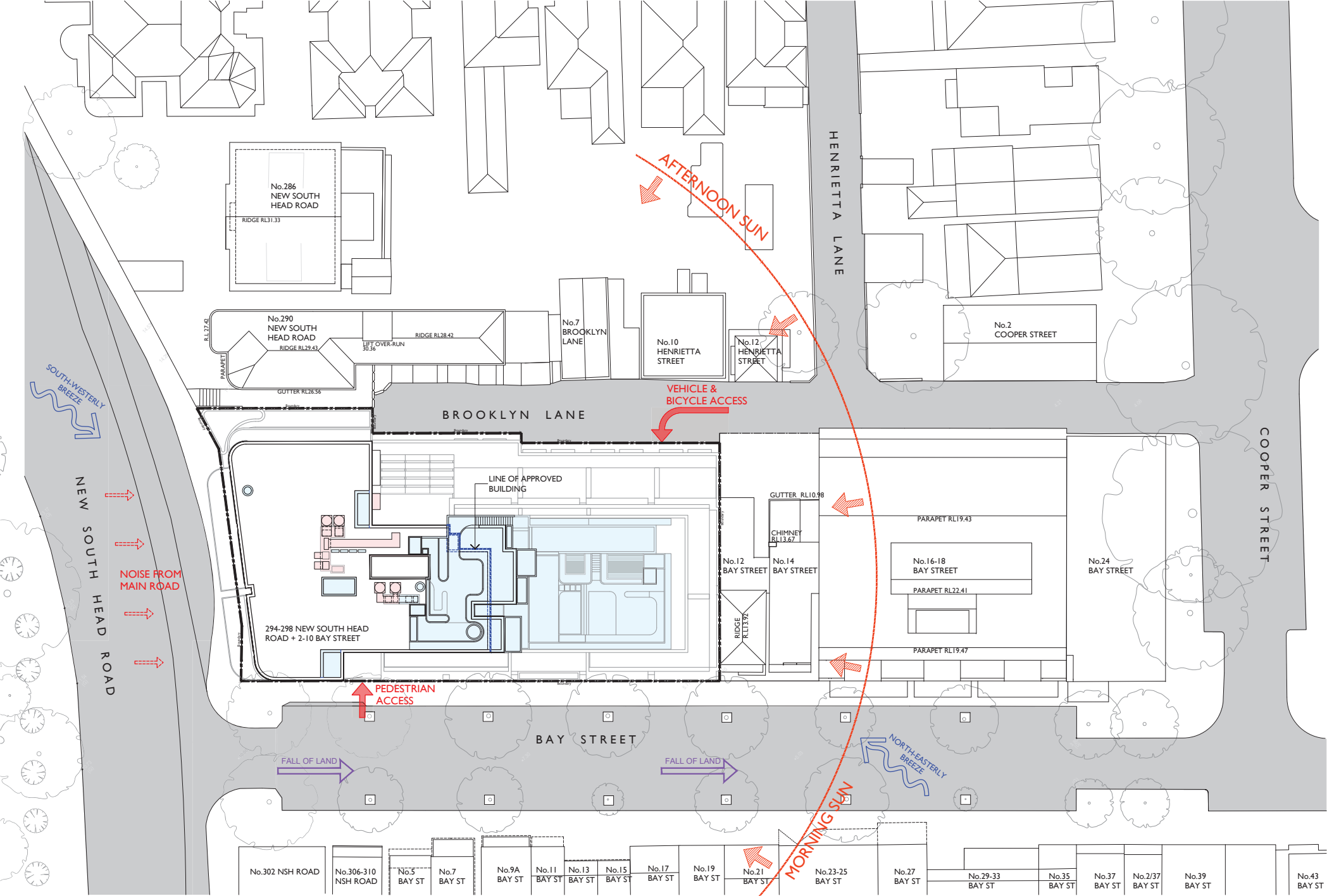
The applicant has **not** completed the required statutory declaration declaring that the site notice for DA141/2024/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan.

**7. Public Interest**

The proposal is not in the public interest.

**Attachments**

1. Plans, Elevations & Sections [↓](#) 
2. Section 4.6 Written Request (Height) [↓](#) 
3. Section 4.6 Written Request (FSR) [↓](#) 
4. Referral Response Development Engineering [↓](#) 
5. Referral Response Drainage [↓](#) 
6. Referral Response Traffic and Parking [↓](#) 
7. Referral Response Environmental Health [↓](#) 
8. Referral Response TfNSW [↓](#) 



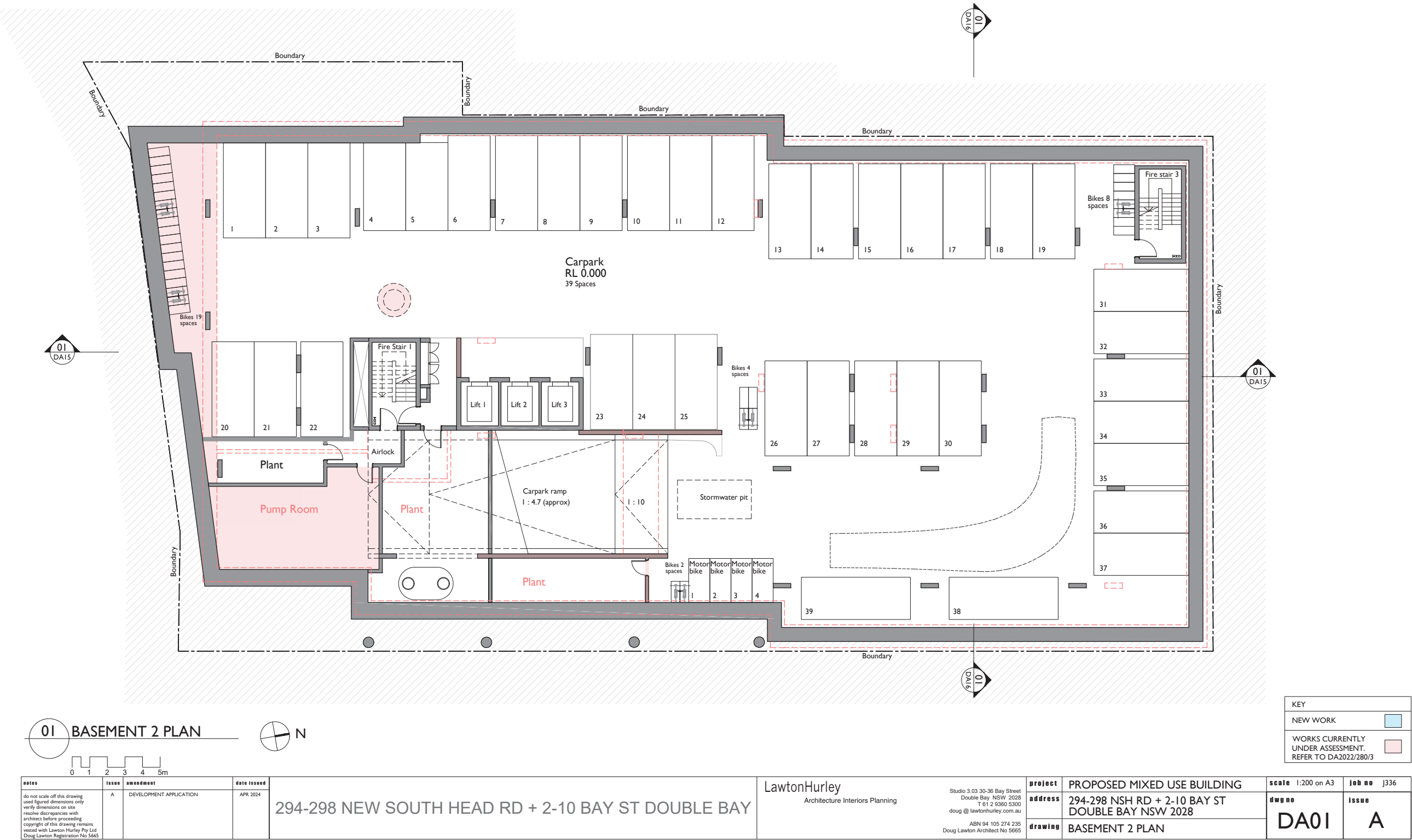
ABBREVIATIONS	
AL-1	POWDERCOATED METAL SHROUD
AL-2	POWDERCOATED PLANTER BOX
AL-3	POWDERCOATED METAL CLADDING
AL-4	ALUMINIUM AWNING
ALW	ALUMINIUM WINDOW
CONC	CONCRETE
CR-1	CEMENT RENDER 1
CR-2	CEMENT RENDER 2
CR-3	CEMENT RENDER 3
G	GLAZED WINDOW
GB	GLASS BALUSTRADE
LG	LOUVRE GRILLE
MC	METAL CAPPING
MG-1	METAL GRILLE 1
MG-2	METAL GRILLE 2
MS	SOLID METAL SCREEN
OG	OBSCURE GLASS
PC	PRECAST CONCRETE PANEL
R	RENDER
ST	STONE WALL CLADDING

DRAWING	DESCRIPTION
DA00	SITE + SITE ANALYSIS PLAN
DA01	BASEMENT 2 PLAN
DA02	BASEMENT 1 PLAN
DA03	GROUND LOWER PLAN
DA04	GROUND UPPER PLAN
DA05	LEVEL 1 PLAN
DA06	LEVEL 2 PLAN
DA07	LEVEL 3 PLAN
DA08	LEVEL 4 PLAN
DA09	ROOF PLAN
DA11	EAST ELEVATION
DA12	NORTH ELEVATION
DA13	WEST ELEVATION
DA14	SOUTH ELEVATION
DA15	SECTION LOOKING WEST
DA15.1	SECTION LOOKING WEST WITHOUT DIMENSIONS
DA16	SECTION LOOKING NORTH
DA17	EXTERNAL FINISHES
DA18	GFA PLANS
DA19	SHADOW DIAGRAMS
DA20	PROPOSED VIEWS FROM THE SUN 1
DA21	PROPOSED VIEWS FORM THE SUN 2
DA22	LEP ENVELOPE STUDY

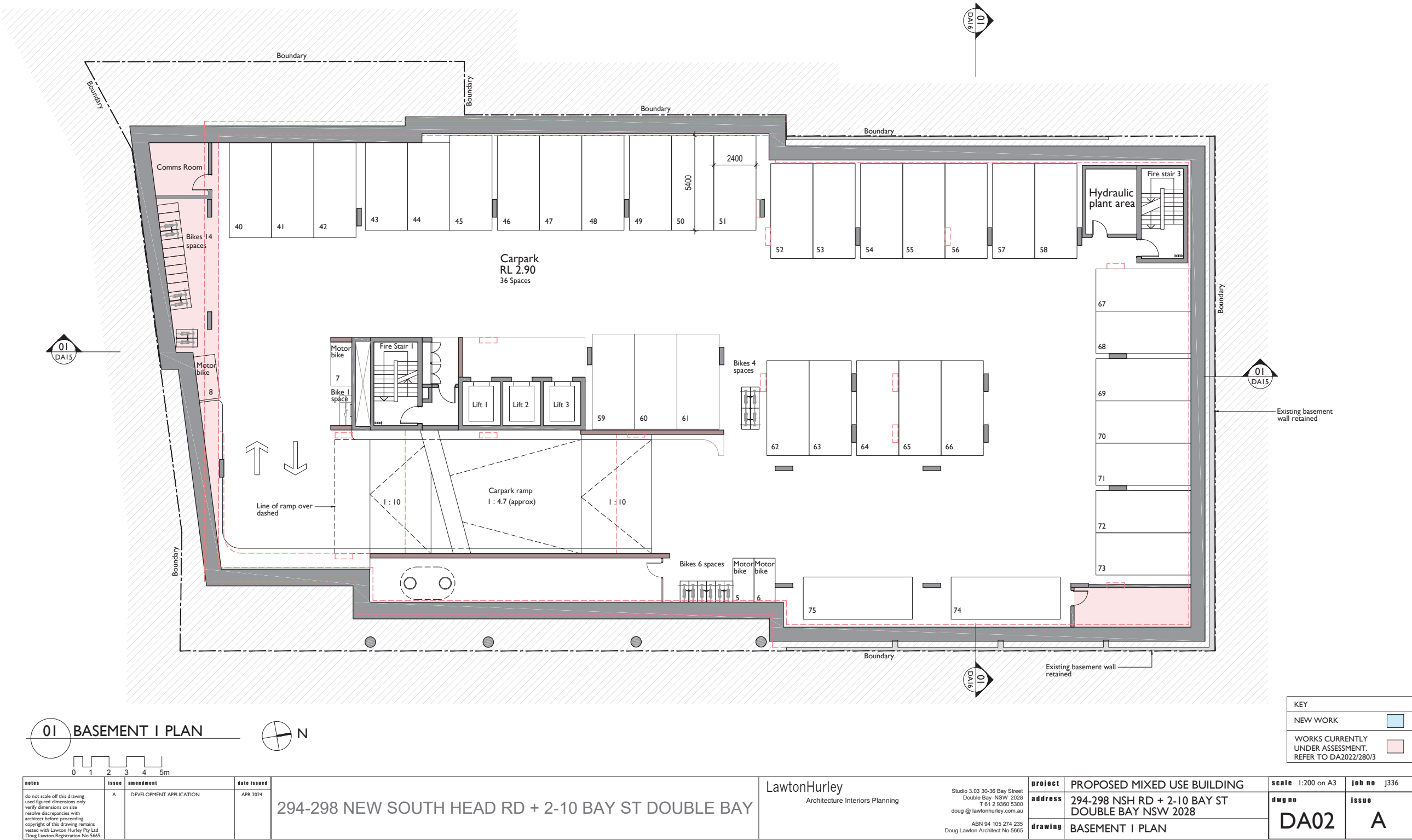
01 SITE & SITE ANALYSIS PLAN

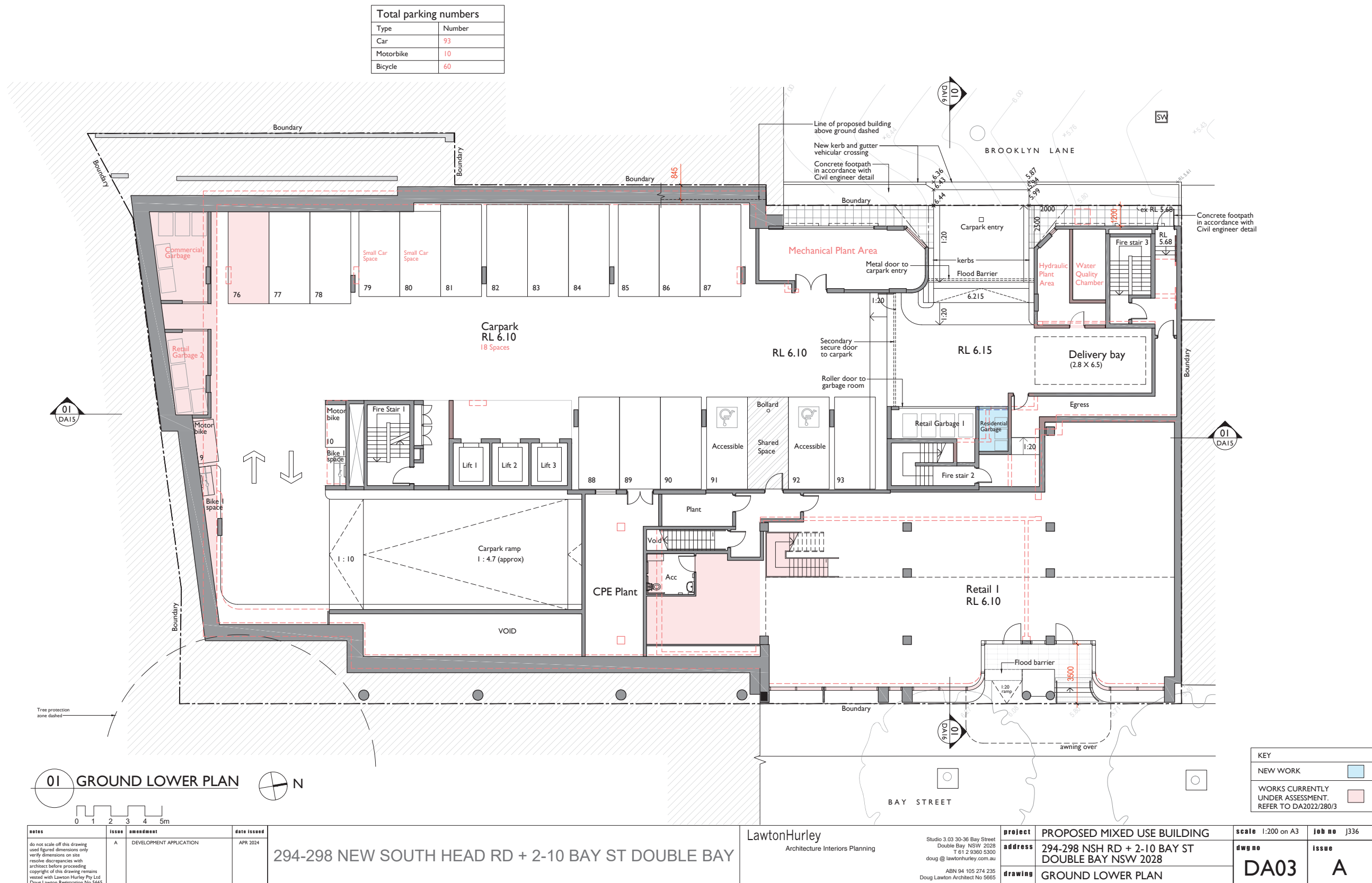
KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

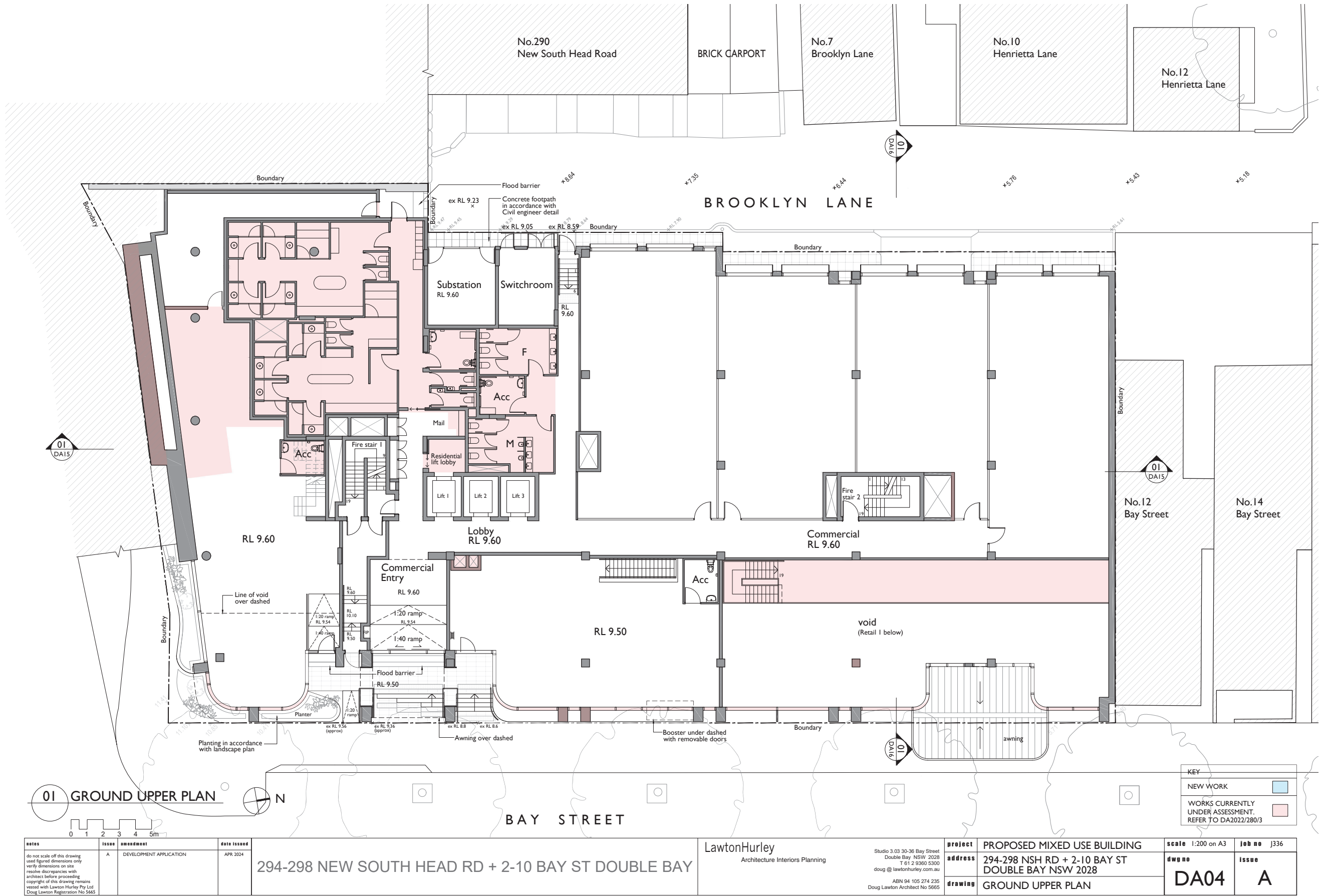
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do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	A	DEVELOPMENT APPLICATION	APR 2024				address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwno	DA00	issue	A
							drawing	SITE PLAN				

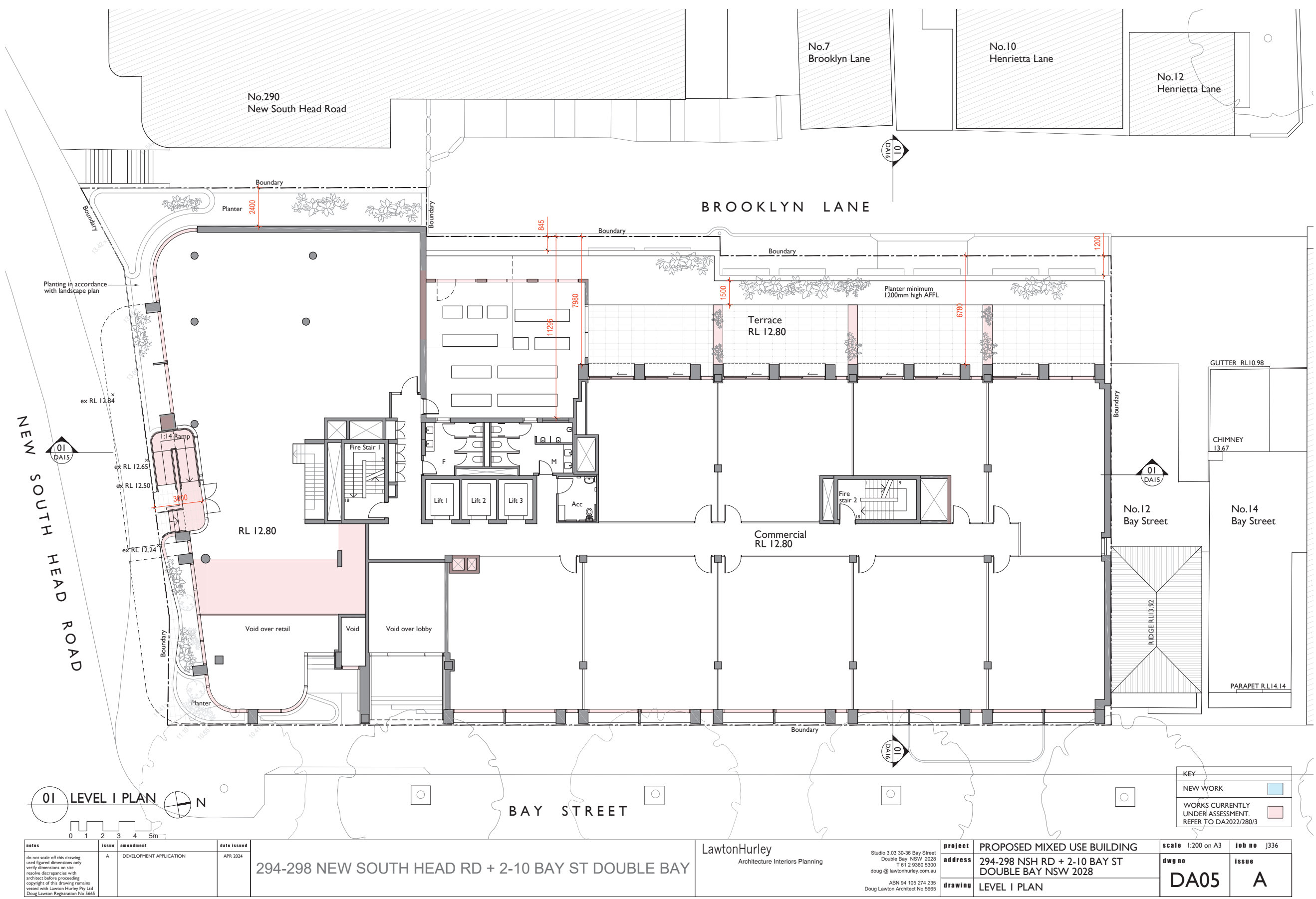


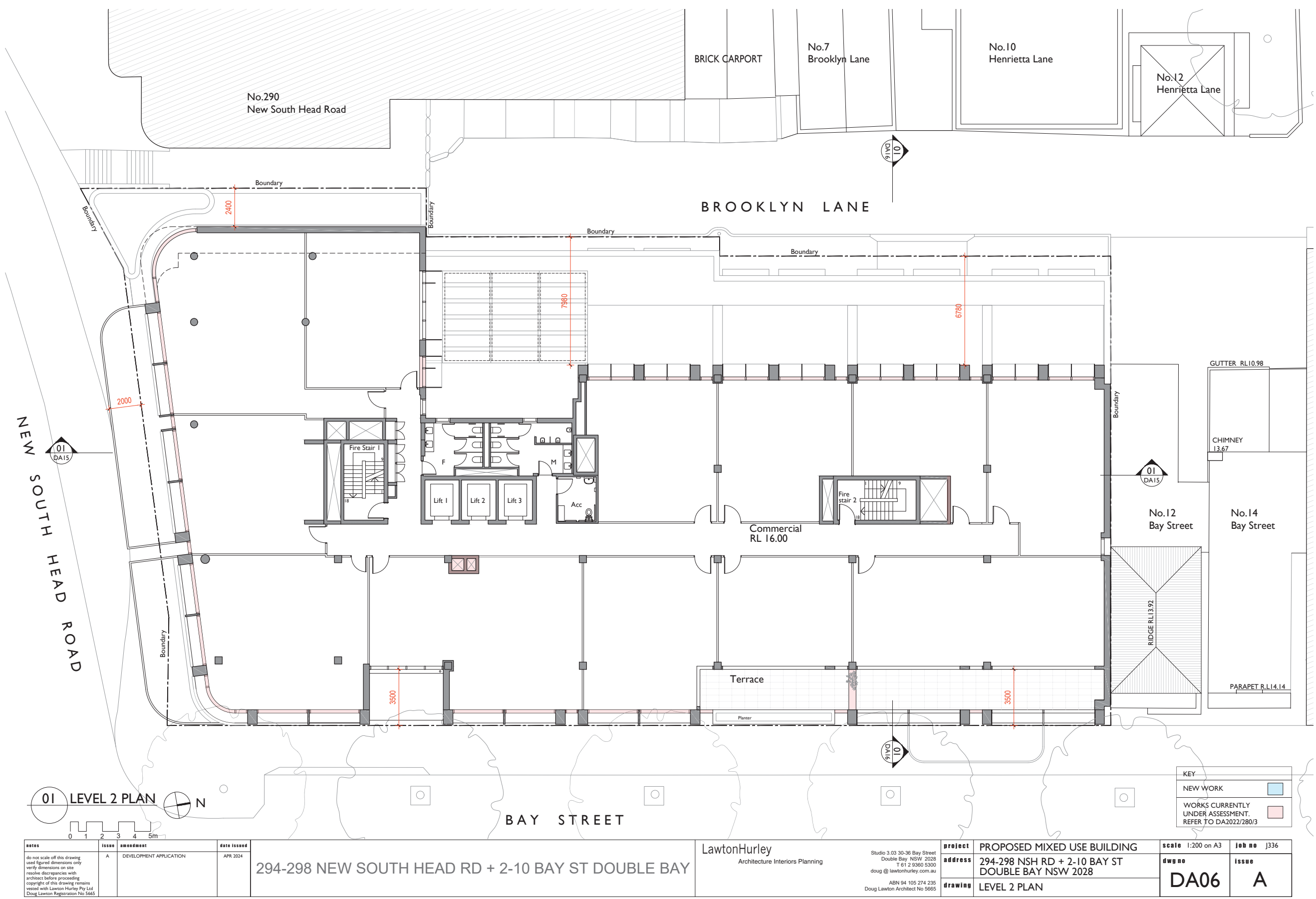




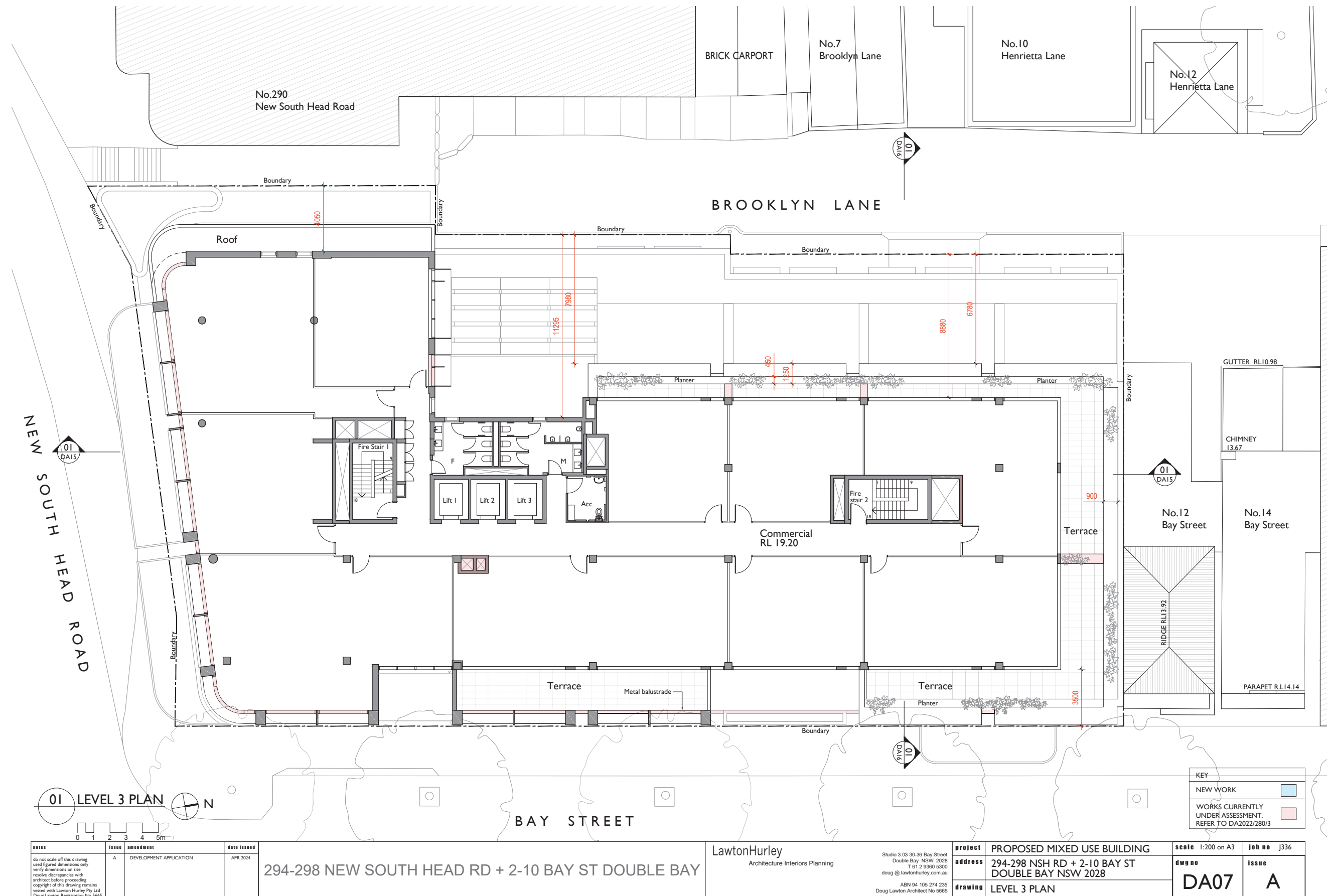




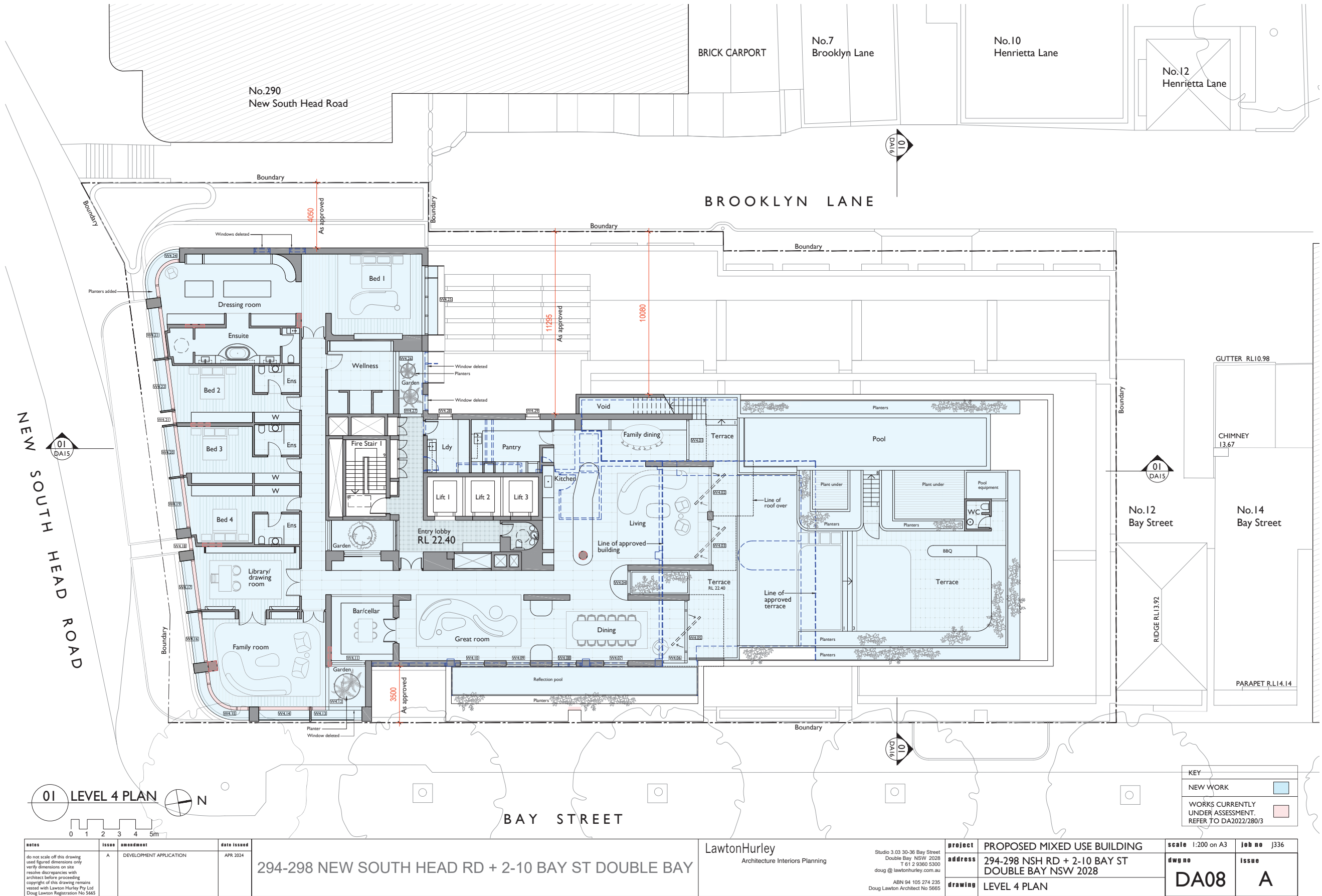


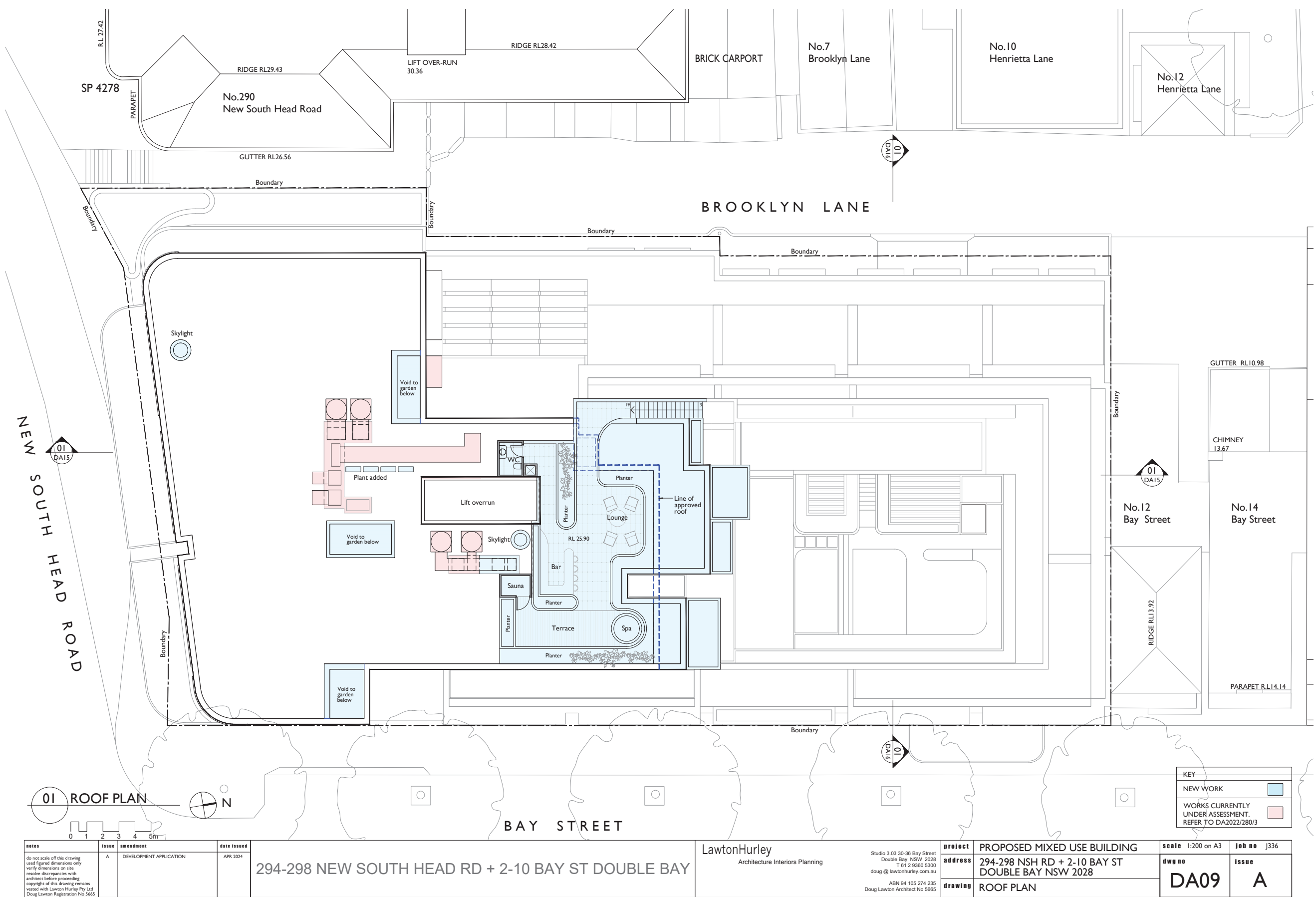


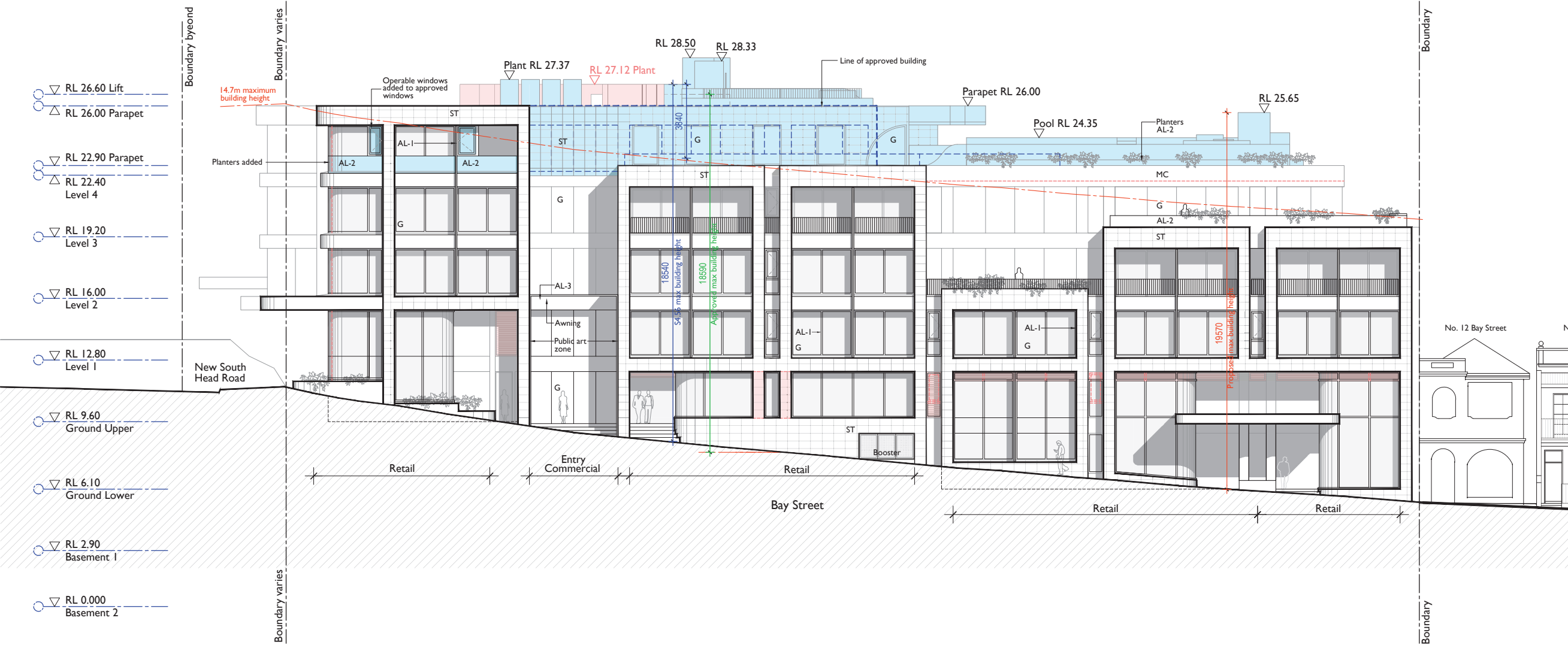












01 EAST ELEVATION  
Bay Street

KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

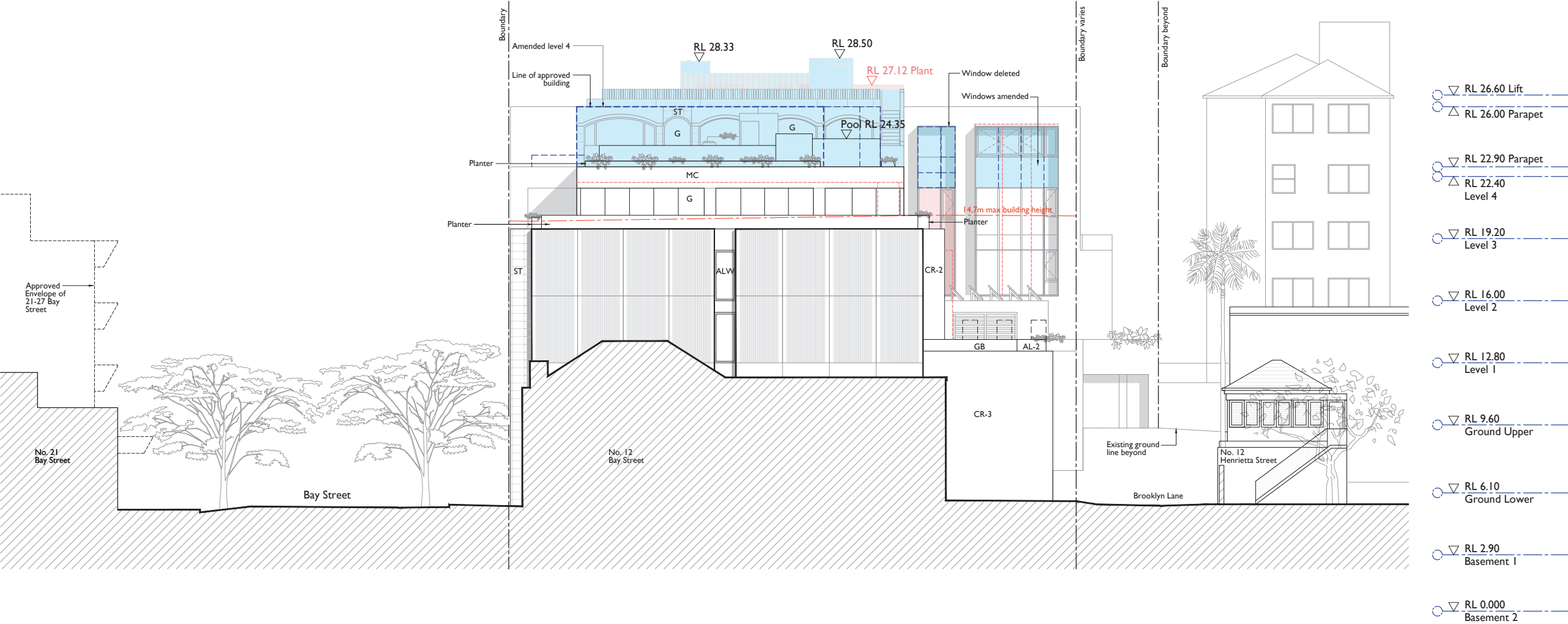
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do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5665	A	DEVELOPMENT APPLICATION	APR 2024

294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

LawtonHurley  
Architecture Interiors Planning

Studio 3.03 30-36 Bay Street  
Double Bay NSW 2028  
T 61 2 9360 5300  
doug @ lawtonhurley.com.au  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

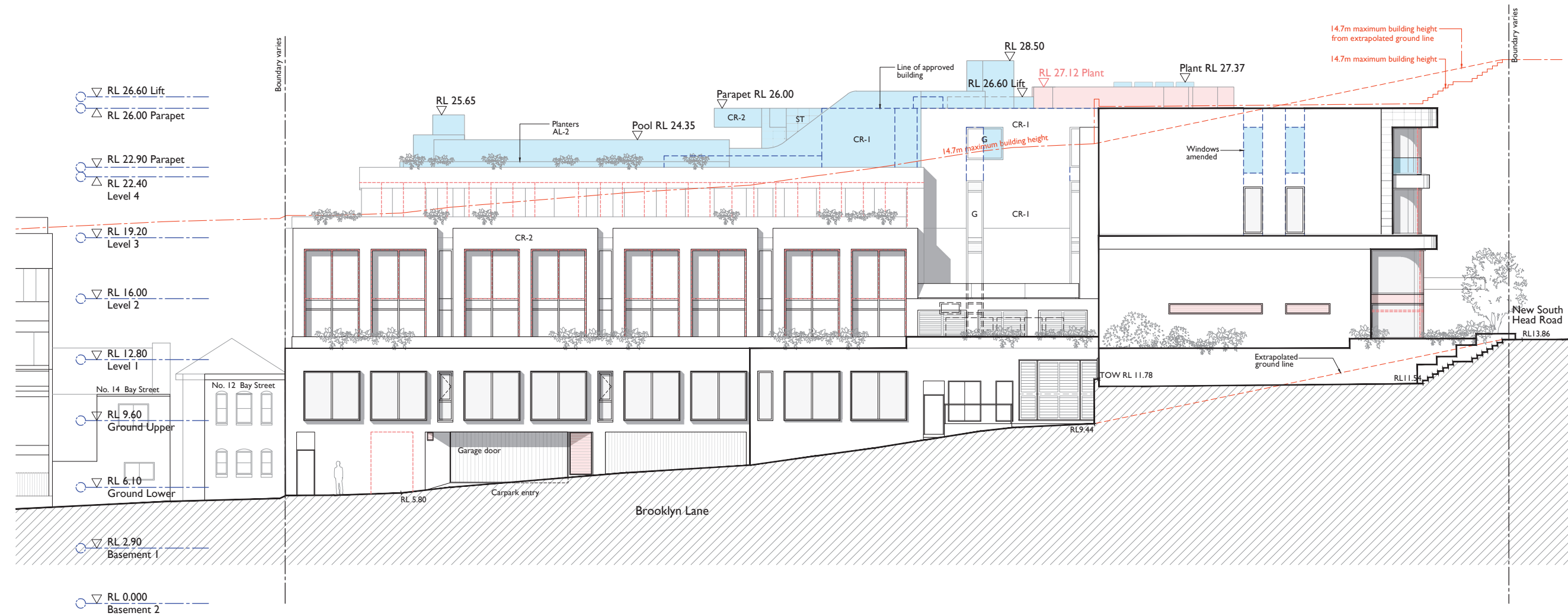
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address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no	DA11	issue	A
drawing	EAST ELEVATION				



01 NORTH ELEVATION

KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

notes	issue	amendment	date issued	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY		project	address	scale	job no
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5465	A	DEVELOPMENT APPLICATION	APR 2024			LawtonHurley Architecture Interiors Planning	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	1:200 on A3	J336
						Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no DAI2	issue A
							NORTH ELEVATION		



01 WEST ELEVATION  
Brooklyn Lane

KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

notes	issue	amendment	date issued
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5665	A	DEVELOPMENT APPLICATION	APR 2024

294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

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Architecture Interiors Planning

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Double Bay NSW 2028  
T 61 2 9360 5300  
doug @ lawtonhurley.com.au  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

project	PROPOSED MIXED USE BUILDING	scale	1:200 on A3	job no	J336
address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no	DAI3	issue	A
drawing	WEST ELEVATION				



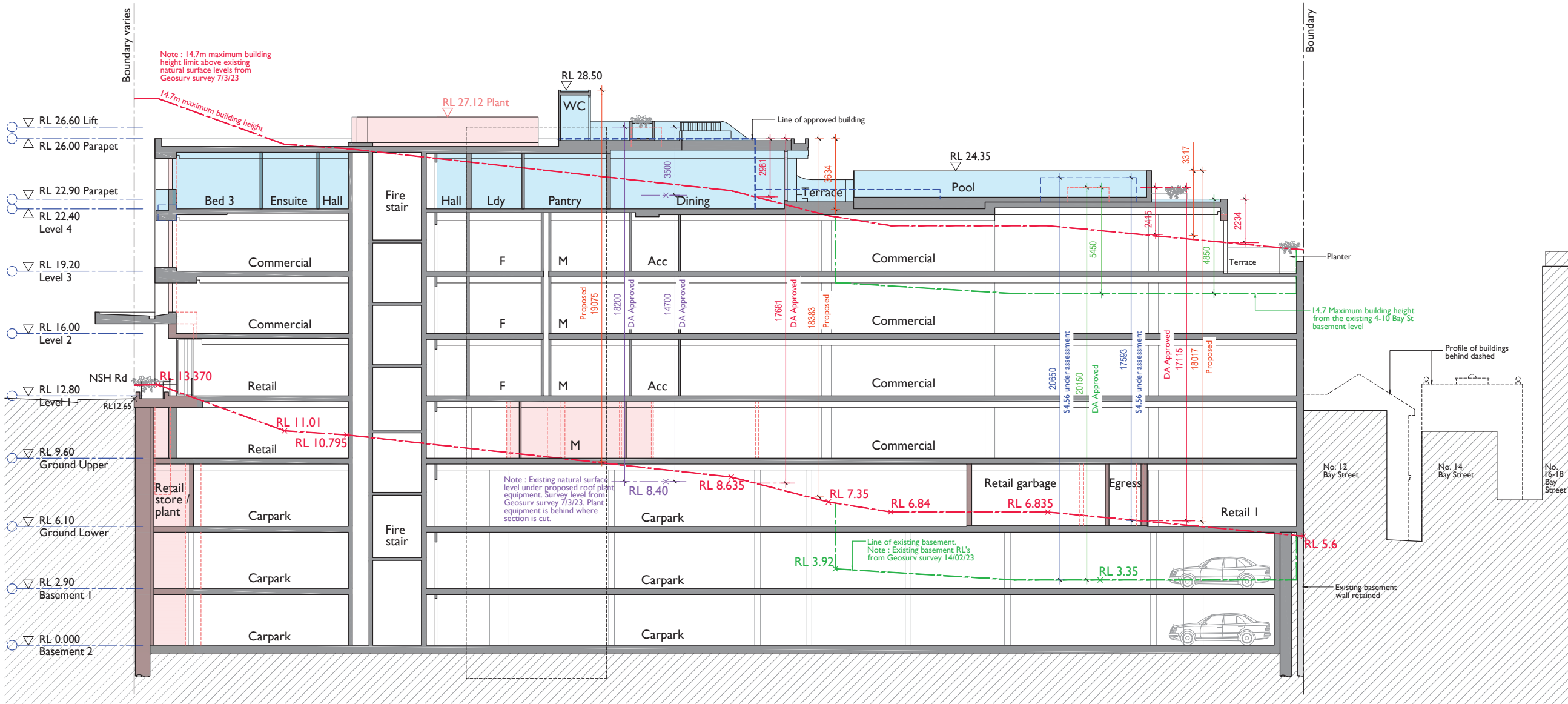


01 SOUTH ELEVATION  
New South Head Road

KEY	
NEW WORK	<div></div>
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	<div></div>

notes	issue	amendment	date issued	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY		LawtonHurley Architecture Interiors Planning Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug@lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665		project	scale	job no
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5665	A	DEVELOPMENT APPLICATION	APR 2024					address	1:200 on A3	J336
								294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no DAI4	issue A
								SOUTH ELEVATION		





01 SECTION  
Looking West

KEY	
NEW WORK	<span style="background-color: #ADD8E6; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span>
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	<span style="background-color: #FFB6C1; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span>

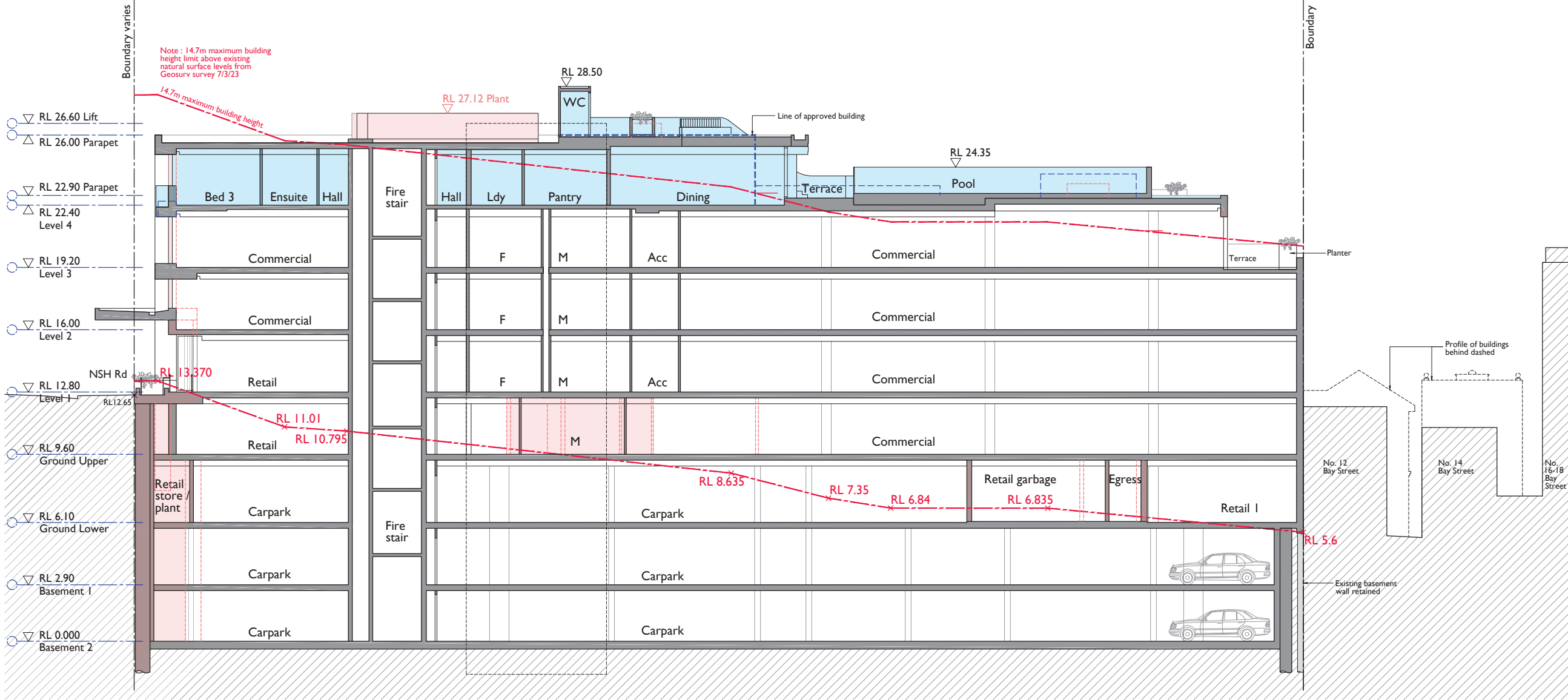
notes	issue	amendment	date issued
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5465	A	DEVELOPMENT APPLICATION	APR 2024

294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

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Studio 3.03 30-36 Bay Street  
Double Bay NSW 2028  
T 61 2 9360 5300  
doug @ lawtonhurley.com.au  
  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

project	PROPOSED MIXED USE BUILDING	scale	1:200 on A3	job no	J336
address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no	DA15	issue	A
drawing	SECTION LOOKING WEST				



01 SECTION  
Looking West

NOTE : HEIGHT DIMENSIONS  
(APPROVED, UNDER  
ASSESSMENT AND PROPOSED)  
ARE NOT SHOWN. SEE DA15  
FOR DIMENSIONS

KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

notes	issue	amendment	date issued
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5465	A	DEVELOPMENT APPLICATION	APR 2024

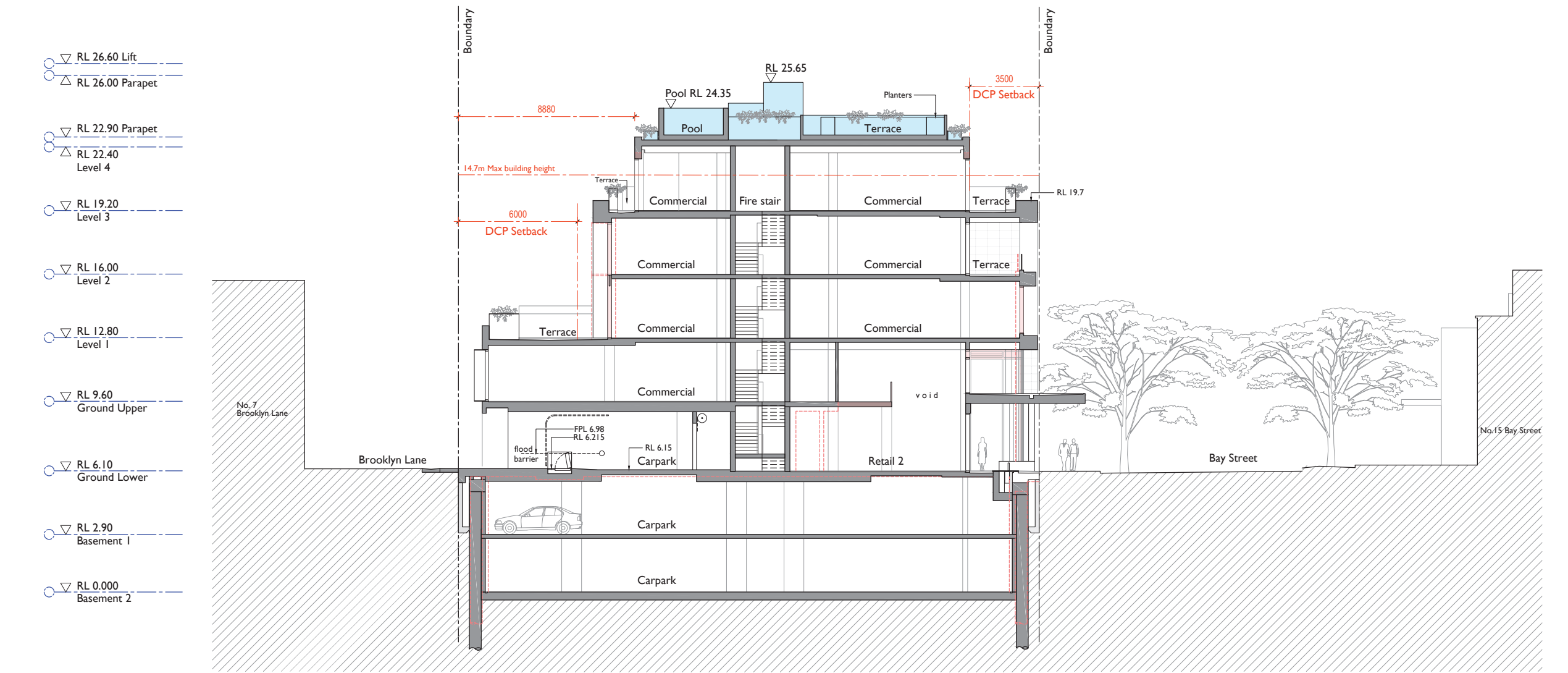
294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

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Architecture Interiors Planning

Studio 3.03 30-36 Bay Street  
Double Bay NSW 2028  
T 61 2 9360 5300  
doug @ lawtonhurley.com.au  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

project	PROPOSED MIXED USE BUILDING
address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028
drawing	SECTION LOOKING WEST

scale	1:200 on A3	job no	J336
dwg no	DA15.1	issue	A



01 Section  
Looking North

KEY	
NEW WORK	
WORKS CURRENTLY UNDER ASSESSMENT. REFER TO DA2022/280/3	

notes	issue	amendment	date issued
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 3465	A	DEVELOPMENT APPLICATION	APR 2024

294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

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Architecture Interiors Planning

Studio 3.03 30-36 Bay Street  
Double Bay NSW 2028  
T 61 2 9360 5300  
doug@lawtonhurley.com.au  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

project	PROPOSED MIXED USE BUILDING	scale	1:200 on A3	job no	J336
address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no	DA16	issue	A
drawing	SECTION LOOKING NORTH				





EXTERNAL FINISHES SCHEDULE		
1	ST	STONE WALL CLADDING - LIMESTONE
2	CR-2	CEMENT RENDER PAINTED TO MATCH ST
3	AL-1 AL-2 AL-3 AL-4 ALW MC	POWDERCOATED ALUMINIUM BLACK
4	CR-1	CEMENT RENDER PAINTED DARK GREY
5	CR-3	CEMENT RENDER PAINTED DARK GREY
6	G	GLASS
7	MS	SOLID METAL SCREEN POWDERCOATED BLACK
8	MG-1 MG-2	LOUVRE GRILLE POWDERCOATED TO MATCH CR-3
9	PC	PRECAST CONCRETE PANEL

TO BE READ IN CONJUNCTION WITH THE ROOF PLAN (DA09) + ELEVATIONS (DA11-DA14)

notes	issue	amendment	date issued	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY			LawtonHurley			project	PROPOSED MIXED USE BUILDING	scale	1:200 on A3	job no	J336	
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5665	A	DEVELOPMENT APPLICATION	APR 2024				Architecture Interiors Planning			Studio 3.03 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 doug @ lawtonhurley.com.au	address	294-298 NSH RD + 2-10 BAY ST DOUBLE BAY NSW 2028	dwg no	DAI7	issue	A
										ABN 94 105 274 235 Doug Lawton Architect No 5665	drawing	EXTERNAL FINISHES				



RESIDENTIAL CHANGE OF USE AREAS		
	GFA (SQM)	GFA (SQM)
FLOOR SPACE RATIO	2.5	3
BASEMENT 2	0	0
BASEMENT 1	0	0
GROUND LOWER	364	0
GROUND UPPER	1006	271
LEVEL 1	905	203
LEVEL 2	836	300
LEVEL 3	675	287
LEVEL 4	318	287
ROOF	5	5
Sub total	4105	1358
TOTAL GFA	5458	
EXTRA GFA (OVER APPROVED)	307	
FSR 3 : 1 (298 New South Head Rd)		
SITE AREA (sqm)		414.4
MAXIMUM ALLOWABLE GFA (sqm)		1243.2
PROPOSED GFA (sqm)		1353
PROPOSED FSR		3.26 : 1
FSR 2.5 : 1 (294-296 New South Head Rd + 2-10 Bay St)		
SITE AREA (sqm)		1448.3
MAXIMUM ALLOWABLE GFA (sqm)		3621
PROPOSED GFA (sqm)		4105
PROPOSED FSR		2.83 : 1

S4.56 AREAS		
	GFA (SQM)	GFA (SQM)
FLOOR SPACE RATIO	2.5	3
BASEMENT 2	0	0
BASEMENT 1	0	0
GROUND LOWER	364	0
GROUND UPPER	1006	271
LEVEL 1	905	203
LEVEL 2	836	300
LEVEL 3	675	287
LEVEL 4	277	287
Sub total	4063	1348
TOTAL GFA	5411	
EXTRA GFA (OVER APPROVED)	260	
FSR 3 : 1 (298 New South Head Rd)		
SITE AREA (sqm)		414.4
MAXIMUM ALLOWABLE GFA (sqm)		1243.2
PROPOSED GFA (sqm)		1348
PROPOSED FSR		3.25 : 1
FSR 2.5 : 1 (294-296 New South Head Rd + 2-10 Bay St)		
SITE AREA (sqm)		1448.3
MAXIMUM ALLOWABLE GFA (sqm)		3621
PROPOSED GFA (sqm)		4063
PROPOSED FSR		2.81 : 1
SITE AREA COMBINED (sqm)		1862.7

LEC APPROVED		
GROSS FLOOR AREA APPROVED		
	GFA (SQM)	GFA (SQM)
FLOOR SPACE RATIO	2.5	3
BASEMENT 2	0	0
BASEMENT 1	0	0
GROUND LOWER	450	0
GROUND UPPER	744	267
LEVEL 1	889	162
LEVEL 2	826	296
LEVEL 3	673	285
LEVEL 4	274	285
Sub total	3856	1295
TOTAL GFA	5151	
FSR 3 : 1 (298 New South Head Rd)		
SITE AREA (sqm)		414.4
MAXIMUM ALLOWABLE GFA (sqm)		1243.2
PROPOSED GFA (sqm)		1295
PROPOSED FSR		3.13 : 1
FSR 2.5 : 1 (294-296 New South Head Rd + 2-10 Bay St)		
SITE AREA (sqm)		1448.3
MAXIMUM ALLOWABLE GFA (sqm)		3621
PROPOSED GFA (sqm)		3856
PROPOSED FSR		2.66 : 1
SITE AREA COMBINED (sqm)		1862.7

notes	issue	amendment	date issued
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No. 5465	A	DEVELOPMENT APPLICATION	APR 2024

294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY

LawtonHurley  
Architecture Interiors Planning

Studio 3.03 30-36 Bay Street  
Double Bay NSW 2028  
T 61 2 9360 5300  
doug @ lawtonhurley.com.au  
  
ABN 94 105 274 235  
Doug Lawton Architect No 5665

project PROPOSED MIXED USE BUILDING  
address 294-298 NSH RD + 2-10 BAY ST  
DOUBLE BAY NSW 2028  
drawing GFA PLANS

scale 1:200 on A3  
dwg no DA18

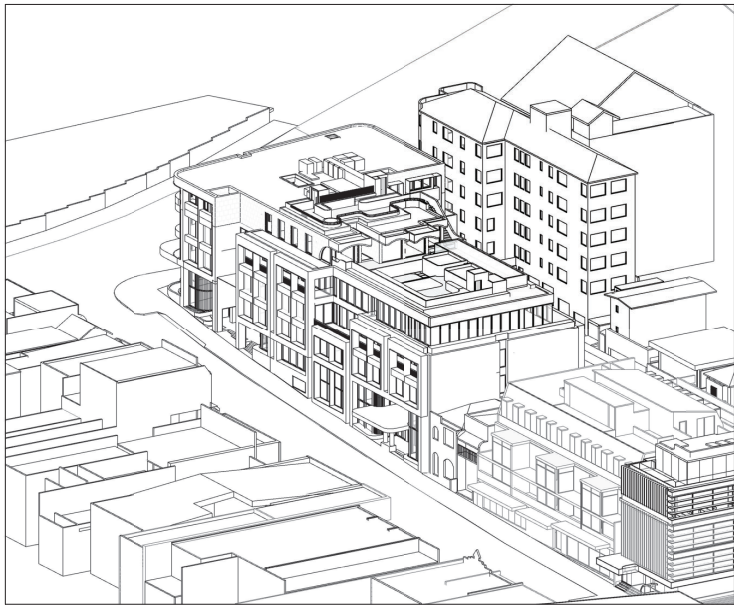
job no J336  
issue A



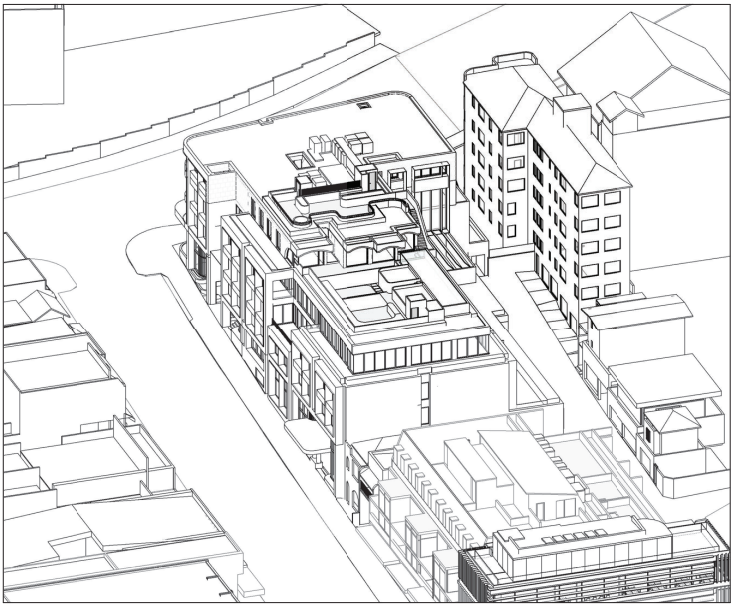


<b>notes</b> do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	<b>issue</b>	<b>amendment</b>	<b>date issued</b>	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	Lawton Hurley Architecture Interiors Planning Studio 3.03, 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 info @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	<b>project</b>	PROPOSED MIXED USE BUILDING	<b>scale</b>	NTS	<b>job no</b>	J336
	A	DEVELOPMENT APPLICATION	APR 2024			<b>address</b>	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	<b>dwg no</b>		<b>issue</b>	
						<b>drawing</b>	SHADOW DIAGRAMS	DA19		A	





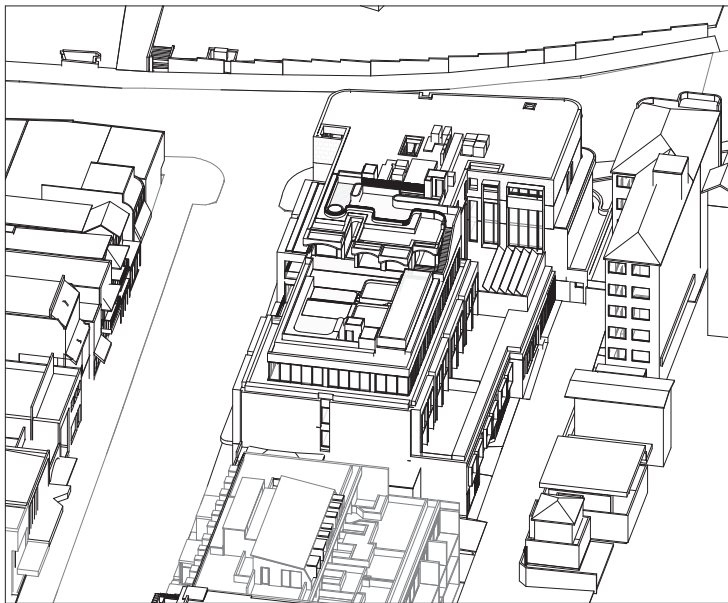
1 VIEW FROM THE SUN - 9am



2 VIEW FROM THE SUN - 10am

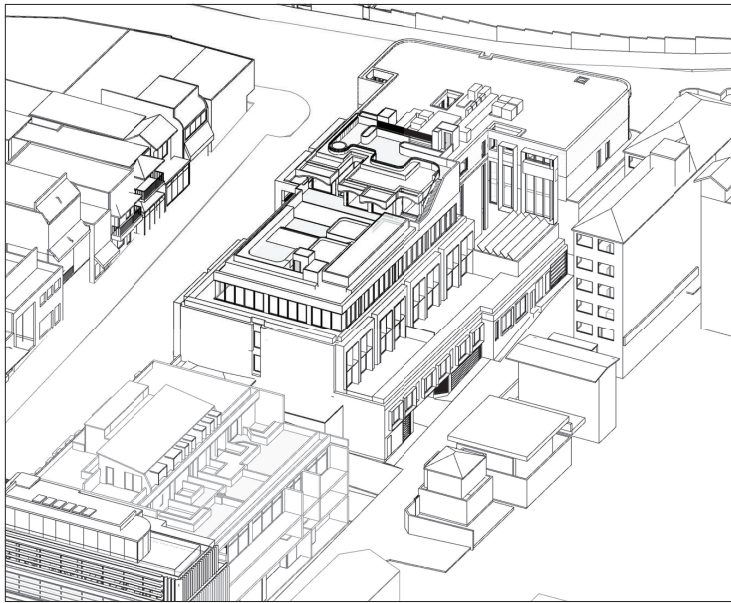


3 VIEW FROM THE SUN - 11am

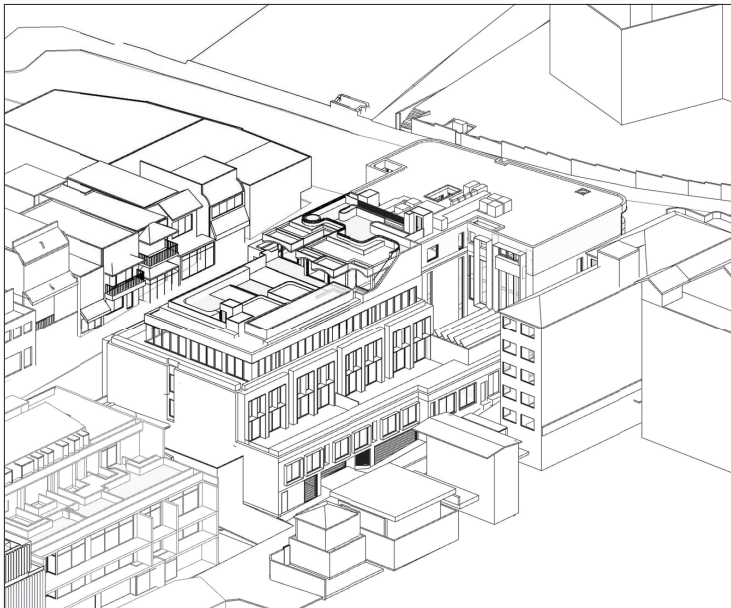


4 VIEW FROM THE SUN - 12pm

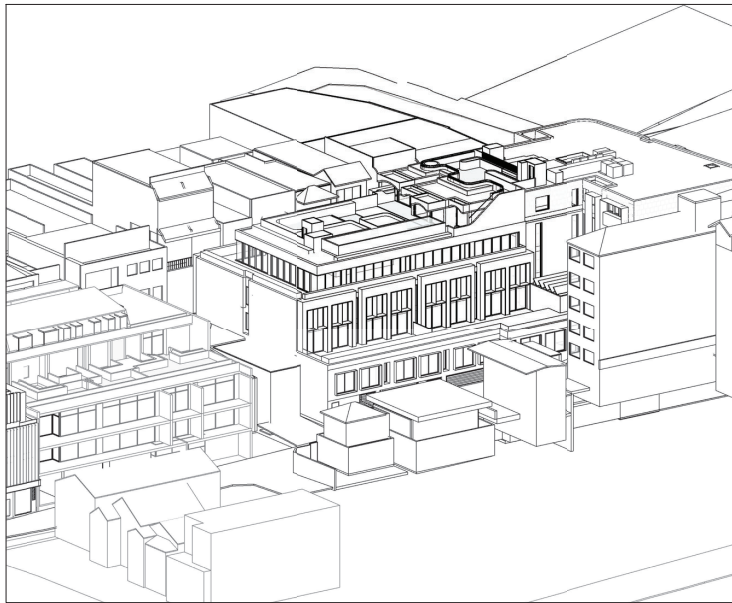
notes	issue	amendment	date issued	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	Lawton Hurley Architecture Interiors Planning Studio 3.03, 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 info @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	project	PROPOSED MIXED USE BUILDING	scale	NTS	job no	J336
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	A	DEVELOPMENT APPLICATION	APR 2024			address	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	dwg no	DA20	issue	A
						drawing	PROPOSED VIEWS FROM THE SUN 1				



1 VIEW FROM THE SUN - 1pm



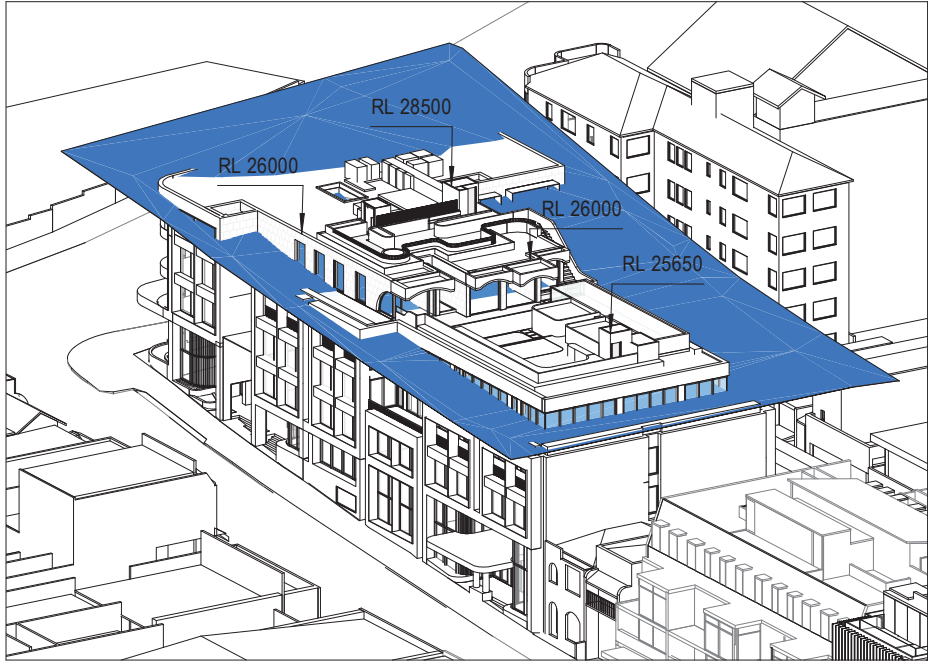
2 VIEW FROM THE SUN - 2pm



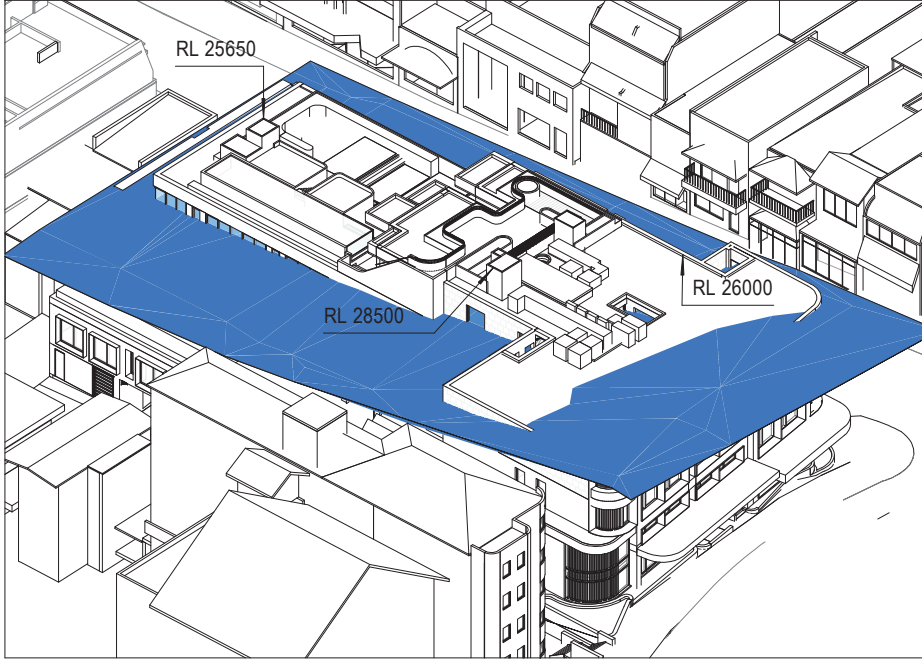
3 VIEW FROM THE SUN - 3pm

notes	issue	amendment	date issued	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	Lawton Hurley Architecture Interiors Planning Studio 3.03, 30-36 Bay Street Double Bay NSW 2028 T 61 2 9360 5300 info @ lawtonhurley.com.au ABN 94 105 274 235 Doug Lawton Architect No 5665	project	PROPOSED MIXED USE BUILDING	scale	NTS	job no	J336		
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	A	DEVELOPMENT APPLICATION	APR 2024			address	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	dwg no	DA21	issue	A		
						drawing	PROPOSED VIEWS FROM THE SUN 2						

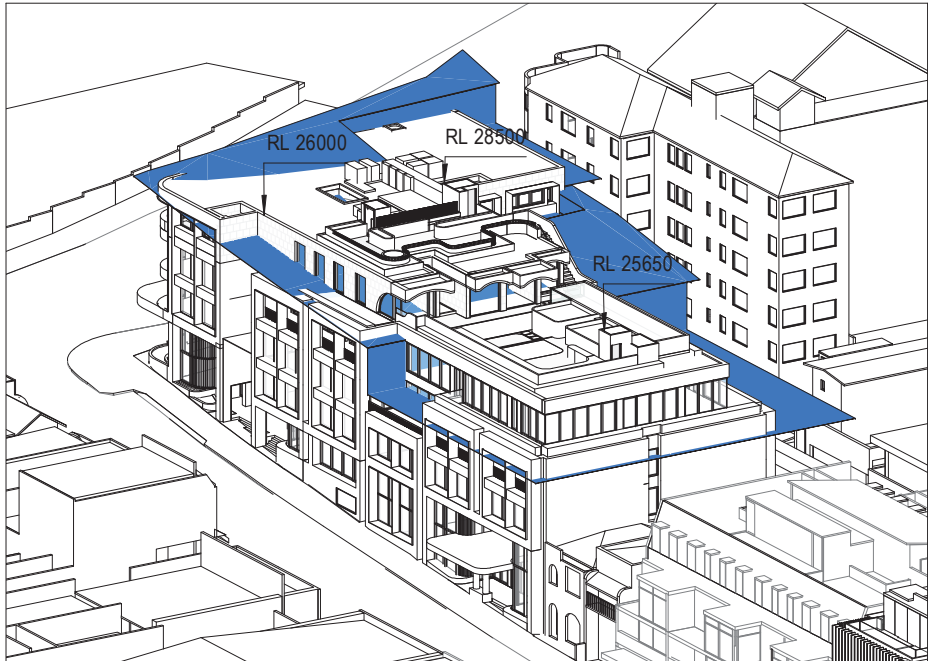




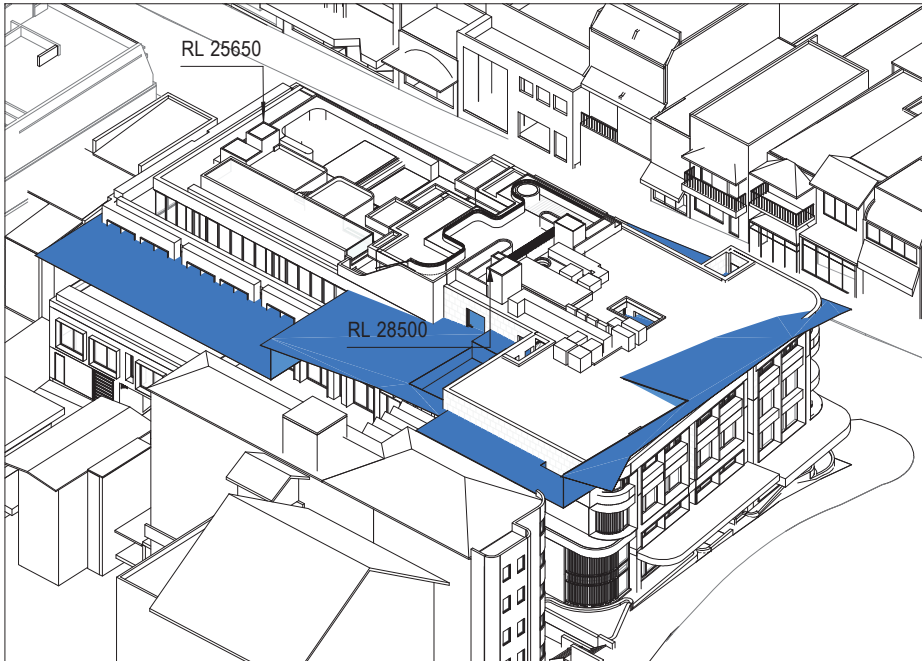
1 ENVELOPE STUDY 1 - LEP Height limit per Bettar



2 ENVELOPE STUDY 2 - LEP Height limit per Bettar



3 ENVELOPE STUDY 3 - LEP Height limit from existing basement



4 ENVELOPE STUDY 4 - LEP Height Limit from existing basement

notes	issue	amendment	date issued			project	PROPOSED MIXED USE BUILDING	scale	NTS	job no	J336
do not scale off this drawing used figured dimensions only verify dimensions on site resolve discrepancies with architect before proceeding copyright of this drawing remains vested with Lawton Hurley Pty Ltd Doug Lawton Registration No 5665	A	DEVELOPMENT APPLICATION	APR 2024	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY		address	294-298 NEW SOUTH HEAD RD + 2-10 BAY ST DOUBLE BAY	dwg no		issue	
							drawing	LEP ENVELOPE STUDY	DA22	A	





## **Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)**

Proposed Change of Use and Alterations and Additions to  
the Approved Development at

**Nos. 294-298 New South Head  
Road & Nos. 2-10 Bay Street,  
Double Bay**

Prepared for:

**2 Bay Street Pty Ltd**  
L5, No. 30-36 Bay Street  
Double Bay NSW 2028

Prepared by:

**GSA PLANNING**  
Urban Design, Environmental & Traffic Planners  
(A.B.N 89 643 660 628)  
95 Paddington Street, Paddington NSW 2021  
p: 02 9362 3364  
e: [info@gsaplanning.com.au](mailto:info@gsaplanning.com.au)

JOB NO. 22005  
April 2024

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**WOOLLAHRALOCAL ENVIRONMENTAL PLAN (LEP) 2014  
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

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**APPLICANT'S NAME:** 2 Bay Street Pty Ltd

**SITE ADDRESS:** Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay

**PROPOSAL:** Change of Use and Alterations and Additions to the Approved Development

**1. (i) Name of the applicable planning instrument which specifies the development standard:**

Woollahra Local Environmental Plan (LEP) 2014

**(ii) The land is zoned:**

E1 Local Centre. The objectives of the E1 Local Centre are as stated:

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

**(iii) The number of the relevant clause therein:**

Clause 4.4 – Floor Space Ratio which is stated as follows:

**4.4 Floor space ratio**

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

(a) for development in Zone R3 Medium Density Residential—

(i) to ensure the bulk and scale of new development is compatible with the desired future character of the area, and

(ii) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and

(iii) to ensure that development allows adequate provision on the land for deep soil planting, 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. (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.



(2A) (Repealed)

And;

Clause 4.4A – Exceptions to floor space ratio (Areas 1 and 1A – Double Bay), for which the relevant objective is stated:

**4.4A Exceptions to floor space ratio (Areas 1 and 1A – Double Bay)**

- (1) *The objective of this clause is to encourage the development of prominent corner buildings in Double Bay.*
- (2) *This clause applies to land identified as "Area 1" and "Area 1A" on the Floor Space Ratio Map.*
- (3) *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—*
  - (a) *in respect of Area 1—3:1, or*
  - (b) *in respect of Area 1A—4.5:1,*

*if the consent authority is satisfied that the development will be compatible with the desired future character of the zone in terms of building bulk and scale.*

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

**1. Overview**

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

**2. Context or Background**

On **25 February 2021**, a development application (DA No. 69/2021) was lodged with Woollahra Council for the demolition of the existing buildings and construction of a shop-top housing development comprising residential and commercial uses at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **17 November 2021**, the Development Application was approved in the Land and Environment Court (*Loftex Commercial Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1697) subject to conditions. The proposal resulted in an approved building height of 19.5m. Subsequently, a number of Section 4.56 Modification applications were lodged and approved in relation to this DA.

On **7 July 2022**, a Development Application (DA No. 280/2022) was submitted with Woollahra Council for demolition of existing buildings and construction of a new commercial building with basement parking at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **11 May 2023**, the application was approved in the Land and Environment Court.

On **27 July 2023**, a Section 4.56 Application (DA No. 280/2022/2) was submitted with Woollahra Council for modification of conditions relating to deferred commencement and staging of construction certificates at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **16 August 2023**, the application was approved by Council.

On **31 October 2023**, a development application (DA No. 403/2023) was submitted with Woollahra Council for Subdivision (Strata) of Lot 1 in DP1286687 into 5 lots at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **14 December 2023**, the application was approved by Council.

On **16 February 2024**, a Section 4.56 Application (DA No. 280/2022/3) was submitted with Woollahra Council for internal and external modifications to approved commercial development at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. This modification application is currently under assessment.

This new DA relates to alterations and additions to the approved commercial development (DA No. 280/2022) at lower ground level (minor internal change only), Level 4 (change from commercial tenancy to a single residential apartment with associated works to the terrace, internal areas and façade) and Level 5 (new rooftop terrace and associated facilities and plant equipment).

### 3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.4A of the LEP – Floor Space Ratio; and Clause 4.4A – Exceptions to floor space ratio (Areas 1 and 1A – Double Bay). This Clause operates in conjunction with the FSR Map, which indicate a maximum FSR of 2.5:1 applies to the subject site at No. 294-296 New South Head Road and Nos. 2-10 Bay Street; and a maximum FSR of 3:1 applies to the subject site at No. 298 New South Head Road (Area 1). Clause 4.4 and 4.4A are consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The most recent approval on the subject site (DA 280/2022) exceeds the FSR standards. The approved new commercial development with basement parking has a total Gross Floor Area (GFA) of 5,151m<sup>2</sup> across the combined site and associated combined FSR of 2.77:1. The Section 4.56 Modification currently under assessment relating to the approved DA increases the GFA of the development to a total of 5,411m<sup>2</sup> with associated combined FSR of 2.9:1.

The proposal for a change of use and alterations and additions to accommodate a residential apartment instead of the approved commercial tenancy at Level 4, occur primarily at Levels 4 and 5 (roof), with minor internal changes at lower ground associated with the bin room. The internal lower ground changes have no impact on the approved GFA at that level. The proposed works will have a GFA of 611m<sup>2</sup> for the residential component, comprising 605m<sup>2</sup> of internal area at Level 4 and 6m<sup>2</sup> of internal area at Level 5.

Across the broader approved development and site, the proposal will result in a total combined GFA of 5,458m<sup>2</sup> and associated FSR of 2.93:1. A GFA of 1,353m<sup>2</sup> is proposed at No. 298 New South Head Road and a GFA of 4,105m<sup>2</sup> is proposed at Nos. 294-296 New South Head Road and Nos. 2-10 Bay Street (inclusive of the approved commercial levels below) (see **Figure 1** on the following page).

This equates to a Floor Space Ratio (FSR) of 3.26:1 at No. 298 New South Head Road (Area 1 to the south) which is an 8.7% departure; and an FSR of 2.83:1 at Nos. 294-296 New South Head Road and Nos. 2-10 Bay Street (the northern part) which is a 13.2% departure, to the FSR standards of 3:1 and 2.5:1, respectively.



Source: Lawton Hurley

**Figure 1: Proposed GFA Plans**

A numeric comparison of the proposed new works in relation to works approved and under assessment are illustrated below (see **Table 1**).

DA No.	Status	FSR at No. 298 (2.5:1 Standard)	FSR at Nos. 294-296 & Nos. 2-10 (3:1 Standard)
280/2022	LEC Approved (DA)	2.66:1	3.13:1
280/2022/3	Under Assessment (S4.56)	2.81:1	3.25:1
New DA	<b>Proposed</b>	<b>2.83:1</b>	<b>3.26:1</b>

We reiterate the commercial development is already approved with construction works underway, and a subsequent Section 4.56 Modification is currently under assessment, both with FSR departures on each allotment. The proposal will result in an envelope similar to that of the approved, and is thoughtfully designed to ensure the additional internal space will not be readily discernible or bulky from the surrounding public domain and private properties, maintaining consistency in the area.

#### 4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.*

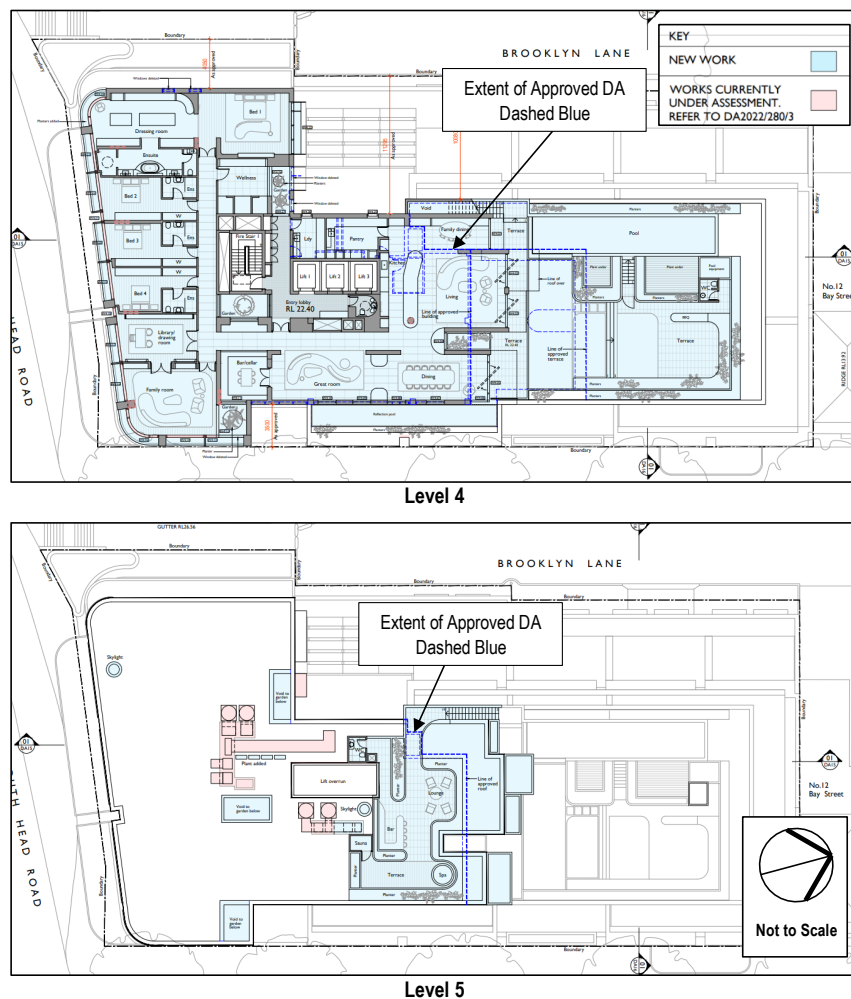
However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the FSR development standard to the proposed development in the circumstance of this particular case, as the built form's external envelope is similar to what was previously approved on the site, as well as nearby developments. Development in the Double Bay Centre comprises an evolving mix of development, with a variety of commercial and residential uses. A number of approved and recently constructed buildings in the surrounding area have exceeded Council's development standards.

Flexibility in this circumstance will achieve a better outcome both for and from the development. Whilst the development will continue to present an attractive façade to the primary frontages to New South Head Road and Bay Street as well as Brooklyn Lane, the proposal will result in having a well-designed penthouse that diversifies the approved land uses on site in accordance with the zone objectives. Despite additional floor space at the residential and rooftop levels, the FSR non-compliance is largely attributed to approved commercial and retail tenancies at the lower levels rather than the proposed works at Level 4 and 5.

Given the location of the additional GFA compared to the approved areas of GFA, being restrained to the upper levels and centrally located or otherwise setback from the site boundaries (see **Figure 2** on the following page), it is unlikely to be readily discernible compared to approved when viewed from the surrounding public domain and private properties.



Source: Lawton Hurley

**Figure 2:** Diagram Showing Proposed New Works, Section 4.56 Under Assessment Works, and DA Approved Works

Reducing the proposed FSR would unreasonably restrict the development sought on the site, without any noticeable benefits to surrounding properties. The proposal retains the approved retail and commercial tenancies at the lower levels, with an elegantly designed residential penthouse to replace the approved commercial tenancy at the uppermost levels – all of these uses are in high demand within the Double Bay Centre, and generate places for people who work, live and visit the centre.

Accordingly, the proposal provides an improved planning outcome both for and from the development.

## 5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, inter alia:

- (3) *Development consent must not be granted 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.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

### 5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

*These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

#### **Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;**

Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal achieves the desired density and mixed use character of the area. The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls, or otherwise the approved development which is underway on the site. As the subject site is zone E1 Local Centre, the relevant development standard objective for the site at Nos. 294-296 New South Head Road and Nos. 2-10 Bay Street where the 2.5:1 FSR is applicable, is (b) which is stated as follows:

#### **(b) for buildings in Zone E1 Local Centre and Zone MU1 Mixed Use—to ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.**

The site is within the immediate vicinity of a number of recently approved five to six storey developments with FSRs in excess of the LEP standard, some of which have been constructed. This is inclusive of the approved five storey commercial development on the subject site, to which this application seeks to amend.



These developments form part of the desired future character of the area in terms of bulk and scale. The proposal maintains the surrounding area's amenity with a development of a height, bulk, scale and type compatible with the desired future character.

The proposal's FSR is consistent with the built form in the Double Bay Centre area. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], which also related to a development in the Double Bay Centre, Preston CJ states, inter alia:

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

Accordingly, the desired future character is shaped by the LEP and recent approvals in the vicinity. Along with the multitude of approvals in the broader Double Bay Centre, which is one way to observe the 'neighbourhood' or 'area', there are a number of recently approved FSR exceedances in the immediate streetscape and 'precinct' defined as the Bay Street (South) area in the DCP. The precinct is an alternate way to define the neighbourhood, in accordance with Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2023] NSWLEC 1005, where Commissioner Gray states, inter alia:

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

These are detailed in **Table 1**, with approvals in the precinct in black text and approvals in the broader Double Bay Centre in grey text:

Table 2: Approved FSR Non-Compliances in Double Bay Centre					
DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
280/2022	Subject Site (Commercial Approval)	0m	2.5:1 & 3:1	2.66:1 & 3.13:1	Varies
14/2021	21-27 Bay Street	10m	2.5:1	3.25:1	30%
245/2023	19-27 Bay Street	10m	2.5:1	2.73:1	9%
138/2012	18-22 Bay Street	10m	2.5:1	3.15:1	26.2%
68/2021	24 Bay Street	40m	3:1	3.35:1	11.7%
289/2019	30-36 Bay Street	70m	3:1	3.33:1	14%
305/2021	2 Guilfoyle Avenue	102m	2.5:1	3.46:1	38%
390/2015	20-26 Cross Street	146m	2.5:1	3.51:1	40%
571/2014	16-18 Cross Street	150m	2.5:1	3.29:1	32%
617/2017	28-34 Cross Street	150m	2.5:1	3.54:1	42%
40/2021	55 Bay Street	190m	3:1	3.5:1	17%
452/2020	10 Cross Street	190m	2.5:1	3.5:1	24%
321/2020	19-27 Cross Street	220m	2.5:1	3.49:1	40%
58/2021	53 Cross Street	230m	3:1	3.9:1	30%

The approvals within the Bay Street South precinct inform the desired future character of the immediate area and are particularly relevant to the proposal on the subject site (see **Figure 3** on the following page demonstrating five to six storey approvals with FSR breaches in the Double Bay Centre and relevant precinct of the subject site).



Source: AE Design Partnership

**Figure 3: Approvals in the Neighbourhood/Area**

The proposed FSR will facilitate a building envelope similar to that previously approved on the subject site, with the additional GFA associated with the extensions at the upper levels associated with the penthouse residential use. The upper levels remain stepped down the site from south to north in response to the sloping topography, and are setback from the north, west and eastern boundaries similar to the approved. The proposed massing retains a predominantly four storey building with the uppermost level continuing to be setback from the Bay Street frontage.

The proposal maintains the approved building footprint and only involves changes to the approved building envelope that are unlikely to be readily discernible when compared to the approved envelope. The built form will remain consistent with the predominantly three to five storey character of Bay Street, and the contemporary design of recent developments in the Double Bay Centre.

The proposed FSR will facilitate a building envelope similar to that of the approval (see **Figure 4** on the following page). The additional GFA at Level 5 associated with the secondary terrace facilities is minor (6m<sup>2</sup>) and located at the centre of the roof level, ensuring it is not readily discernible from the public domain. The additional GFA at Level 4 resulting from extension of the approved internal areas to accommodate the four bedroom apartment is setback from the north, west, and eastern boundaries (similar to the approved), minimising visual impacts.



Source: Lawton Hurley

**Figure 4:** Approved and Proposal East Elevation (Bay Street)  
Demonstrating General Consistency with Approved DA

In addition, the proposed areas of new GFA have been sensitively designed to minimise additional overshadowing to neighbouring developments' windows or private open space on 21 June, when compared to the approved development. The negligible areas of additional shadow occur over the roadway and footpath, with partial overshadowing of two east-facing side windows to No. 290 New South Head Road at 9:00am not a direct result of built form areas included as additional GFA (instead attributed to an external stair and pool).

Generous separation distances to neighbouring development are also retained by the proposed works associated with additional GFA, to minimise potential privacy impacts and visual intrusion to residential neighbours. The location of the additional GFA predominantly at the northern portion of the site also ensures potential view impacts from 'Overthorpe' to the south are minimised.

Accordingly, although the proposal will exceed the FSR standard, this is unlikely to have any significant adverse impacts as the design is largely contained within the approved building envelope. Minor areas of additional GFA outside the approved envelope are setback from the site boundaries to minimise impacts on the streetscape and neighbouring development, and achieve the desired future character of the area.

The development standard objective for the site at No. 298 New South Head Road where the 3:1 FSR is applicable, is as follows:

**(1) The objective of this clause is to encourage the development of prominent corner buildings in Double Bay.**

The proposal involves additional works to the northern portion of the approved development at Level 4 and a minor increase at the centre of the rooftop level (Level 5). This indicates the additional GFA (compared to approved) is located predominantly outside Area 1 (No. 298 New South Head Road), which makes this objective less relevant in terms of building envelope. Nevertheless, the proposed whole floor residential use at Levels 4 and 5 and the additional GFA will assist in creating a prominent corner building when looking at the development holistically, when viewed from both Bay Street and New South Head Road.

Accordingly, although the proposal will exceed the FSR standard applicable to each portion of the site, this will have no significant adverse impacts compared to the approval in terms of character, and remains consistent with the relevant objectives of the development standards.

**5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard**

There are a number of environmental planning grounds that justify the additional FSR in this particular circumstance. In addition to compliance with the objectives of the zone and development standard; environmental planning grounds include the consistency in the context and the previous approval. These are discussed below:

**Consistency with Context (Desired Future Character)**

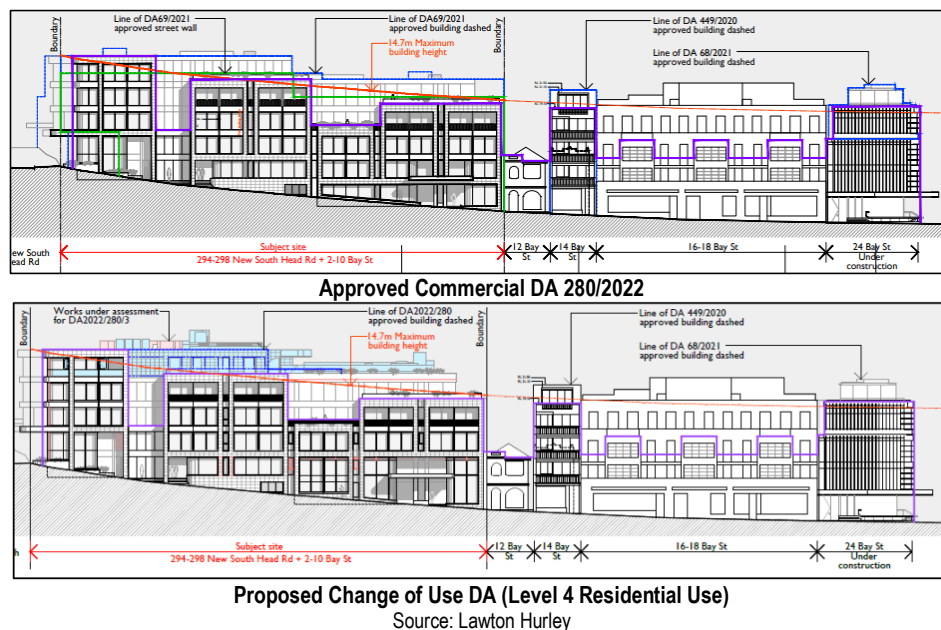
The proposal will present as a four storey development, with stepped back fifth level, which is consistent with the context. A number of recently approved and constructed developments in the visual catchment also exceed the FSR development standard as demonstrated in **Table 2**. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

*I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).*

The previous approval on the subject site and various nearby commercial approvals are defined as being within the neighbourhood of the subject site (in the Bay Street South precinct, as defined in Chapter 5.4.4 of the DCP), and therefore inform the scale, context and desired future character of the area. These approvals are as follows (and demonstrated in **Figure 3** of this report):

- DA 69/2021 – Nos. 294-298 New South Head Road & 2-10 Bay Street (subject site, shop-top housing approval)
- DA 280/2022 – Nos. 294-298 New South Head Road & 2-10 Bay Street (subject site, commercial approval under construction)
- DA 449/2020 – No. 14 Bay Street
- DA 33/2018 – Nos. 21-27 Bay Street
- DA 14/2020 – Nos. 21-27 Bay Street
- DA 245/2023 – Nos. 19-27 Bay Street
- DA 138/2012 – Nos. 18-22 Bay Street (older DA approval)
- DA 68/2021 – No. 24 Bay Street

Although not all of these approvals resulted in an FSR non-compliance, their height, bulk and scale are consistent with that of the proposed development, inclusive of the new works, on the subject site. Accordingly, the existing approval on the subject site and approvals nearby inform the context and desired future character of this precinct of Double Bay, with the western side of Bay Street South characterised by five storey existing or approved developments (see **Figure 5** on the following page). We note the eastern side of Bay Street South has a character that differs from that of the western side. The eastern side has a mix of 2-3 storey terraces and commercial buildings, with a larger five storey development approved at Nos. 19-27 Bay Street. The proposal retains the approved overall five storey height (with ancillary structures at the roof plane) and general massing, ensuring a bulk and scale consistent with existing and approved developments along the western side of Bay Street South.



**Figure 5: Bay Street South Precinct - Western Side (East Elevation)**

The proposal provides a similar bulk and scale to the approved scheme, which in granting approval the Court deemed is contextually compatible in the locality. This approval informs the desired future character of the area. The proposal will continue to provide a strong built form that addresses the corner site, with design changes to suit the residential use proposed. Furthermore, approvals and the associated FSRs indicated in the table on the previous pages demonstrate an emerging built form character with higher density. The proposed additional FSR will provide a highly sought after elegant and well-designed residential apartment in a central location. In addition to the upper level being stepped in, a number of design features will reduce the perceived scale of the development. This includes presenting articulated facades with soft landscaping to the proposed private open space, and the use of a variety of materials to break up the built form.

Lastly, the proposed FSR achieves the objectives of the E1 Zone as follows:

**Objective:** *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*

**Response:** The proposed works resulting in additional GFA are required to facilitate an appropriate residential use at the upper levels of the site, which increases the diversity of new housing stock in the area and on the site. Retail and office uses will be maintained at the lower levels, as approved.

**Objective:** *To encourage investment in local commercial development that generates employment opportunities and economic growth.*

**Response:** Employment opportunities will be maintained as the commercial uses will be retained at the lower levels. Further, the proposal will provide employment in the provision of maintenance services once the new residential apartment is occupied.

**Objective:** *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*

**Response:** The proposed change of use which results in additional GFA above the standard and approved FSR diversifies the approved uses on site, contributing to creating a vibrant and active local centre. The approved active tenancies on the lower levels will continue to address the Bay Street frontage.

**Objective:** *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

**Response:** The proposal will retain the approved non-residential land uses on the ground floor.

**Objective:** *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

**Response:** The proposal remains compatible with the height, bulk and scale of other built forms in the area, maintaining the approved levels of amenity for surrounding developments.

**Objective:** *To ensure development is of a height and scale that achieves the desired future character of the local centre.*

**Response:** The overall bulk and scale of the development will remain similar to the approved, indicating consistency with the desired future character of the area.

**Objective:** *To encourage development that is compatible with the local centre's position in the centres hierarchy.*

**Response:** The proposal will remain compatible with local centre's position in the centres hierarchy as it maintains the lower level commercial uses. The proposed changes resulting in additional GFA are limited to Levels 4 and 5 only.

**Objective:** *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.*

**Response:** The proposed FSR maintains the approved retail and commercial uses at the ground and lower levels that activate the street frontage.

**Objective:** *To maximise public transport patronage and encourage walking and cycling.*

**Response:** The subject site is highly accessible by public and active transport networks. There are a range of public transport options in close proximity including bus, train and ferry services. The high level of pedestrian amenity in Double Bay encourages walking and cycling to access the residential apartment. Bicycle storage and end of trip facilities, which will be maintained, will further promote active transport modes.



**Objective:** *To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.*

**Response:** The proposal involves enhanced greenery in the forms of lawns on slab, gardens and planters at the upper levels, contributing to increasing the visual appeal and reducing urban heat island effect.

#### **Previous Approval**

The new works generating additional GFA above the FSR standard as well as the approved FSR are in part a result of the existing approval on site, which has an approved maximum FSR of 2.66:1 and 3.13:1 to the two portions of the site. The approved FSR is in part a result of greater floorplates required for the retail and commercial levels below. In any case, the additional floorspace at Level 4 is positioned away from the site boundaries and the building edge to Bay Street, ensuring it does not result in undue bulk and scale in the streetscape. At Level 5, the proposal only involves minor structures servicing the residential tenancy below as well as the secondary private open space on the rooftop. The new works resulting in negligible additional GFA at Level 5 (roof) are located central to the building footprint and site, to ensure generous separation distance and minimal visibility from the surrounding public and private domain.

Furthermore, as indicated throughout this report, the proposed new works are largely retained within the approved envelope of the commercial development which is currently underway on the site. The additional areas of GFA that extend beyond the approved envelope remain setback from the site or building edges to ensure the overall bulk and scale of the development will remain consistent to that of the approved. Therefore, despite the numeric increase to the approved FSR, the development will remain generally consistent with the approved envelope and appearance.

Accordingly, in our opinion, the non-compliance will remain consistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

#### **6. Conclusion**

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 3** on the following page).

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the E1 Local Centre Zone pursuant to the LEP. On that basis, the request to vary Clause 4.4 and 4.4A should be upheld.

Table 3: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.4: FSR; and Clause 4.4A Exceptions to FSR	
12	What is the control	1 & 2	2.5:1 and 3:1	
14	<b>First Precondition to Enlivening the Power</b> – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	<b>1<sup>st</sup> Positive Opinion</b> – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	<b>First Aspect is Clause 4.6(3)(a)</b> – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> <li>The objectives of the standard are achieved notwithstanding the non-compliance with the standard.</li> </ul>	YES
23-24	<b>Second Aspect is Clause 4.6(3)(b)</b> – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: a) The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. b) The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole.	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> <li>The proposed FSR facilitates a development that achieves the planning objectives of the area;</li> <li>The additional FSR remains consistent in the context; and</li> <li>The proposed FSR is in part a result of the approved commercial development on site (construction underway).</li> </ul>	YES

**\*Note:** 2<sup>nd</sup> Positive Opinion (the public interest), and Second Precondition to Enlivening the Power, are no longer applicable due to the repeal of relevant Clauses 4.6(4)[a] and [b].

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## **Woollahra LEP 2014 Clause 4.6 Exceptions to Development Standards – Height of Buildings**

Change of Use and Alterations and Additions to the  
Approved Development at

**Nos. 294-298 New South  
Head Road & Nos. 2-10  
Bay Street, Double Bay**

Prepared for:

**2 Bay Street Pty Ltd**  
L5, 30-36 Bay Street  
Double Bay NSW 2028

Prepared by:

**GSA PLANNING**  
Urban Design, Environmental & Traffic Planners  
(A.B.N 89 643 660 628)  
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JOB NO. 22005  
April 2024

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**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN (LEP) 2014  
CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

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**APPLICANT'S NAME:** 2 Bay Street Pty Ltd

**SITE ADDRESS:** Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay

**PROPOSAL:** Change of Use and Alterations and Additions to the Approved Development

**1. (i) Name of the applicable planning instrument which specifies the development standard:**

Woollahra Local Environmental Plan (LEP) 2014

**(ii) The land is zoned:**

E1 Local Centre. The objectives of the E1 Local Centre are as stated:

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

**(iii) The number of the relevant clause therein:**

**4.3 Height of buildings**

- (1) The objectives of this clause are as follows—
- (a) to establish building heights that are consistent with the desired future character of the neighbourhood,
  - (b) to establish a transition in scale between zones to protect local amenity,
  - (c) to minimise the loss of solar access to existing buildings and open space,
  - (d) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
  - (e) to protect the amenity of the public domain by providing public views of the harbour and surrounding areas.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2A) Despite subclause (2) and clause 4.3A, the maximum height of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.

*(2B) Despite subclause (2) and clause 4.3A, the maximum height of a building on a battle-axe lot on land in Zone R3 Medium Density Residential is 9.5 metres.*

This Clause 4.6 Exception to Development Standards should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by GSA Planning.

## 1. Overview

This Clause 4.6 Exception to Development Standards has been prepared in accordance with the most recent case law. In our opinion, the variation achieves the objectives of the zone and development standard and has demonstrated there are sufficient environmental planning grounds to justify contravening the development standard.

## 2. Context or Background

On **25 February 2021**, a development application (DA No. 69/2021) was lodged with Woollahra Council for the demolition of the existing buildings and construction of a shop-top housing development comprising residential and commercial uses at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **17 November 2021**, the Development Application was approved in the Land and Environment Court (*Loftex Commercial Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1697) subject to conditions. The proposal resulted in an approved building height of 19.5m. Subsequently, a number of Section 4.56 Modification applications were lodged and approved in relation to this DA.

On **7 July 2022**, a Development Application (DA No. 280/2022) was submitted with Woollahra Council for demolition of existing buildings and construction of a new commercial building with basement parking at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **11 May 2023**, the application was approved in the Land and Environment Court.

On **27 July 2023**, a Section 4.56 Application (DA No. 280/2022) was submitted with Woollahra Council for modification of conditions relating to deferred commencement and staging of construction certificates at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **16 August 2023**, the application was approved by Council.

On **31 October 2023**, a development application (DA No. 403/2023) was submitted with Woollahra Council for Subdivision (Strata) of Lot 1 in DP1286687 into 5 lots at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. On **14 December 2023**, the application was approved by Council.

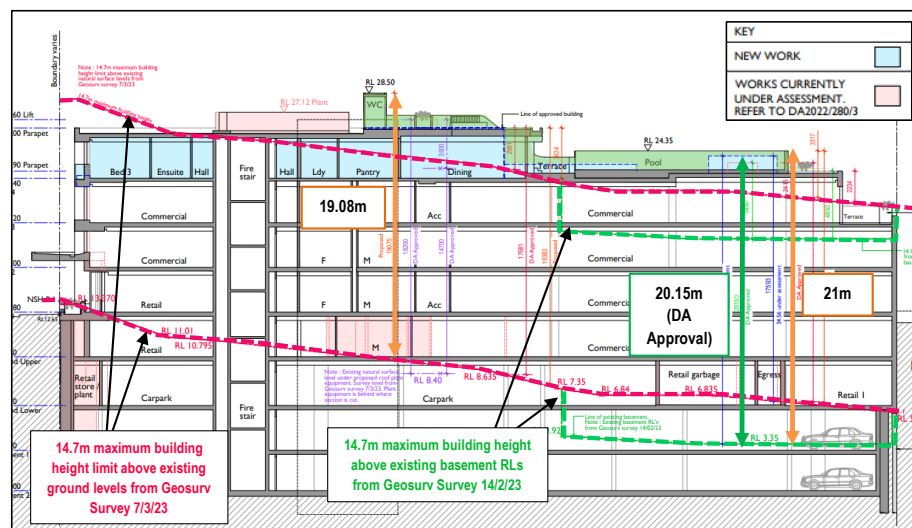
On **16 February 2024**, a Section 4.56 Application (DA No. 280/2022) was submitted with Woollahra Council for internal and external modifications to approved commercial development at Nos. 294-298 New South Head Road & Nos. 2-10 Bay Street, Double Bay. This modification application is currently under assessment.

This new DA relates to alterations and additions to the approved commercial development (DA No. 280/2022) at lower ground level (minor internal change only), Level 4 (change from commercial tenancy to a single residential apartment with associated works to the terrace, internal areas and façade) and Level 5 (new rooftop terrace and associated facilities and plant equipment).

### 3. Specify the nature of Development Standard sought to be varied and details of variation:

The development standard to which this request for variation relates is Clause 4.3 of the LEP - Height of Buildings. This Clause operates in conjunction with the height Map which indicates a maximum 14.7m applies to the subject site. Clause 4.3 is consistent with the definition for a development standard under Section 1.4 of the Environmental Planning and Assessment Act 1979 (EPA Act).

The most recent approval on the subject site (DA 280/2022) exceeded the height limit with a maximum height of 20.15m at the northern portion of the site, and an RL of 23.50 AHD at the southern roof. This approved development is currently underway on the subject site with a maximum RL of 26.60 AHD for the lift overrun. For this new proposal, the design changes will result in a maximum building height of 19.08m at the southern portion of the site associated with the Level 5 (roof) WC, which remains below the overall approved maximum height, to 21m at the northern portion of the site associated with the new pool. This is a relatively minor 0.85m addition in height compared to approved (see **Figure 1**). In the diagram below, areas shaded red demonstrate works currently under assessment by way of a Section 4.56 Modification (DA 280/2022/3), and areas shaded blue relate to new works to the approved development sought in this new DA. Areas of new work above the LEP height standard and outside the current approved envelope are in green below.



Source: Lawton Hurley

**Figure 1: Section Demonstrating Approved, Under-Assessment, and Proposed Height**

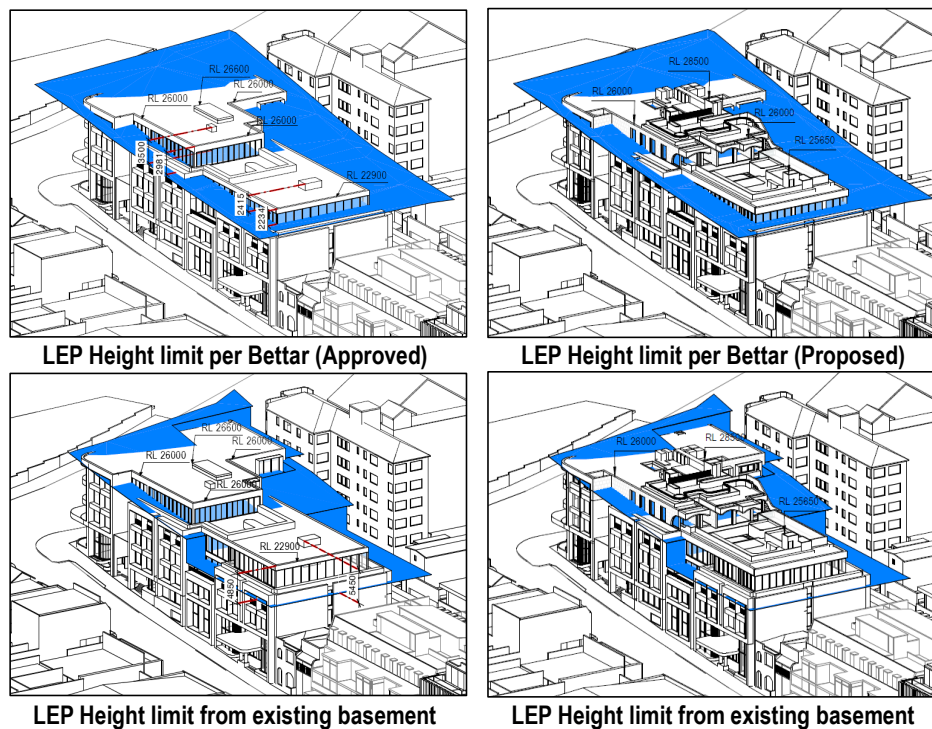
The interpretation of height has been considered by the Court in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (*Bettar*). In *Bettar*, the Court dealt with a site with similar characteristic to the subject site in that a basement existed on some parts of the site and not others. The Court took the approach of measuring height with the intent, in part, of relating the development proposal to its context and made the following relevant comments:

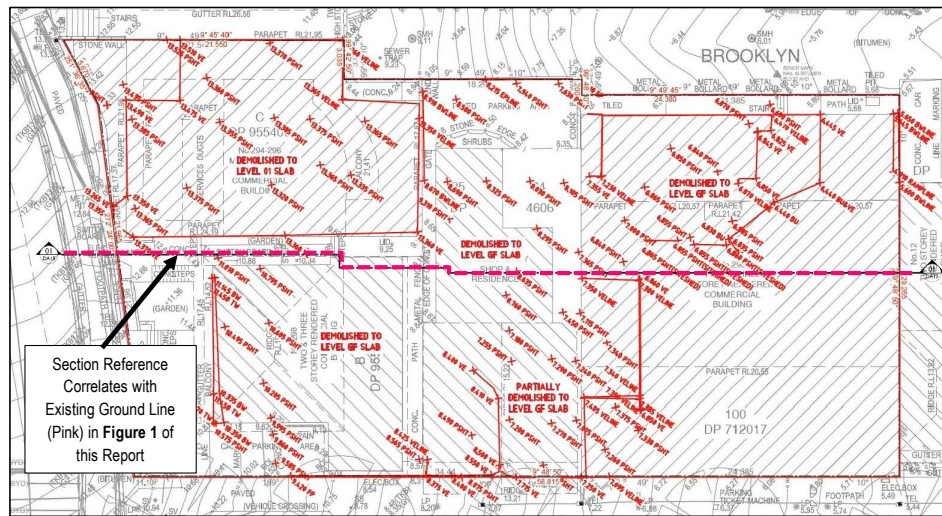
*It is relevant to consider the objectives of the building height development standard in considering how best to determine the maximum height of the building using the dictionary definitions in LEP 2012. As one of the purposes of the development standard is to relate the proposal to its context, it follows that **the determination of the existing ground level should bear some relationship to the overall topography that includes the site...** (emphasis added)*



As discussed, a similar approach can be undertaken in relation to the subject site given the excavation undertaken at the time of the most recent survey, with a focus on how the development will be perceived from the public domain and surrounding properties. The works to Level 4 and above remain significantly setback, including along the northern boundary to the neighbouring residential development, to reduce the perceived scale, consistent with the approach taken in the approved commercial development. Therefore, with consideration of *Bettar*, the proposal responds to the sloping topography of the site and streetscape (see **Figure 2**).

A comparison of the approved and proposed development and the associated areas above the maximum 14.7m LEP height standard are clearly demonstrated in the height blanket diagrams in **Figure 2**.





**Figure 3: Excerpt of Survey Plan (7/3/23) With Reference for Section Looking West**

Despite the additional height of the proposal when measured from existing basement level, this will not be discernible when viewed from the public domain. Further, the works will enhance the viability of commercial and retail uses on the site.

The proposed works have been thoughtfully designed, incorporating setbacks along the western, northern, and eastern boundaries which are largely consistent to that of the approved development. The new works with the highest RL are positioned at the centre of the development, to minimise their visibility in the street and ensure generous separation from neighbouring development. Furthermore, the new condensers to the roof are accommodated amongst other plant equipment (as proposed in the Section 4.56 modification application currently under assessment), concealing these elements from neighbouring view and further ensuring consistency in the streetscape and context will be maintained.

Therefore, when viewed from the surrounding public domain and neighbouring properties, the design approach will reduce the perceived height, bulk and scale and the development remains consistent within the context of Double Bay Centre.

#### 4. Consistency with Objectives of Clause 4.6

The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. In the Court determination in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] 236 LGERA 256 (*Initial Action*), Preston CJ notes at [87] and [90]:

*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development...In any event, Clause 4.6 does not give substantive effect to the objectives of the clause in Clause 4.6(a) or (b). There is no provision that requires compliance with the objectives of the clause.*

However, it is still useful to provide a preliminary assessment against the objectives of the Clause. The objectives of Clause 4.6 and our planning response are as follows:

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

Flexibility is sought in the application of the height development standard to the proposed development in the circumstance of this particular case. The areas of additional height will provide a new residential apartment and associated facilities at the upper levels, increasing land use diversity compared to the approval on-site, which is desirable in the locality. The proposal provides the same number of storeys as approved with additional works to Levels 4 and 5 (roof), and despite the minor height increase, the development continues to respond to the natural land topography, whilst providing a high-quality mixed-use building addressing the main street frontages.

The proposed maximum building height is generally consistent with the approved building height; and areas of additional height occur at the pool (minor portion of terrace area only) and the central area of the upper roof, minimising any visual impact to neighbours and the public domain. The upper level residential areas will remain well-setback from the boundaries to reduce visibility and bulk, when viewed from the street. The development will therefore have similar characteristics when viewed from the surrounding public domain and private properties.

Strict compliance with the height development standard would not result in a better planning outcome. The proposed height will allow a well-designed penthouse that will be consistent with, and contribute to, the evolving character of the Double Bay Centre, whilst maintaining amenity of the neighbouring properties in terms of compliant solar access, privacy, and views.

## 5. Justification of Variation to Development Standard

Clause 4.6(3) outlines that a written request must be made seeking to vary a development standard and that specific matters are to be considered. The Clause states, *inter alia*:

- (3) *Development consent must not be granted 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.*

This written request justifies the contravention of the development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances; and there are sufficient environmental planning grounds to justify the non-compliance. These matters are discussed in the following sections.

### 5.1 Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. In *Wehbe v Pittwater Council* (2007) 156 LGERA 446 (*Wehbe*), Preston CJ established five potential tests for determining whether a development standard could be considered unreasonable or unnecessary. This is further detailed in *Initial Action* where Preston CJ states at [22]:

*These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

It is our opinion that the proposal satisfies Test 1 established in *Wehbe* and for that reason, the development standard is unreasonable and unnecessary in this instance. The relevant test will be considered below.

**Test 1 - The objectives of the standard are achieved notwithstanding non-compliance with the standard;**

Despite the proposed development's non-compliance with the applicable height development standard, the proposal achieves the desired medium density character of the area. The proposal provides a height, bulk and scale that is generally consistent with that envisaged by Council's controls. Reasons why the proposed development achieves the objectives of the height standard are explained below.

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

The proposal's height is consistent with the built form in the Double Bay Centre area. Surrounding developments are an eclectic mix of residential flat buildings, commercial, and mixed use developments that vary between two to six storeys. In *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 [63], which also related to a development in the Double Bay Centre, Preston CJ states, inter alia:

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

Accordingly, the desired future character is shaped by the LEP and recent approvals in the vicinity. Along with the multitude of approvals in the broader Double Bay Centre, which is one way to observe the 'neighbourhood', there are a number of recently approved height exceedances in the immediate streetscape and 'precinct' defined as the Bay Street (South) area in the DCP. The precinct is an alternate way to define the neighbourhood, in accordance with *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2023] NSWLEC 1005, where Commissioner Gray states, inter alia:

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

These are detailed in **Table 1** on the following page, with approvals in the precinct in black text and approvals in the broader Double Bay Centre in grey text:

TABLE 1: Approved Height Non-Compliances in Double Bay Centre					
DA No.	Location	Approx. Distance from Subject Site	Development Standard	DA Consent	Final Variation
69/2021	Subject Site (Shop-Top Approval)	0m	14.7m	19.5m	33%
280/2022	Subject Site (Commercial Approval)	0m	14.7m	20.15m	37.1%
449/2020	14 Bay Street	51m	14.7m	21.15m	43.88%
33/2018	21-27 Bay Street	10m	14.7m	Bay Street: 17.25m	17.35%
14/2021	21-27 Bay Street	10m	14.7m	17.72m	20.5%
245/2023	19-27 Bay Street	10m	14.7m	18.13m	23.3%
138/2012	18-22 Bay Street	10m	13.5m	18.1m	25.4%
68/2021	24 Bay Street	40m	14.7m	21.32m	45%
261/2021	357-359 New South Head Road	90m	14.7m	16.21m	10.3%
289/2019	30-36 Bay Street	90m	18.1m	20.84m	15%
279/2022	356-366 New South Head Road	150m	14.7m	20.075m	36.56%
371/2022	49-53 Bay Street	175m	14.7m & 18.1m	21.79m	20.39%
617/2017	28-34 Cross Street	180m	14.7m	21.21m	44%
390/2015	20-26 Cross Street	190m	14.7m	21.21m	44%
571/2014	16-18 Cross Street	210m	14.7m	20.7m	41%
40/2021	55 Bay Street	210m	18.1m	18.7m	3.9%
453/2022	55 Bay Street	210m	18.1m	21.6m	23.48%
452/2020	10 Cross Street	230m	14.7m	20.6m	40.1%
355/2019	14 Cross Street	220m	14.7m	20.19m	37.35%
58/2021	53 Cross Street	240m	18.1m	23.27m (above ground)	29%
321/2020	19-27 Cross Street	255m	14.7m	22.05m	50%
450/2020	426-432 New South Head Road	350m	14.7m	15.89m	8.9%
489/2016	434-440 New South Head Road	360m	14.7m	16.8m	14.29%

The approvals within the Bay Street South precinct inform the desired future character of the immediate neighbourhood and are particularly relevant to the proposal on the subject site (see **Figure 4** on the following page demonstrating five to six storey approvals in the Double Bay Centre and relevant precinct of the subject site).





Source: AE Design Partnership

**Figure 4: Approvals in the Neighbourhood and Visual Catchment Area**

On the subject site, Commissioner Horton was previously satisfied with a similar height (and associated envelope) proposed in DA280/2022. In *Lofrex Commercial Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1697, Commissioner Horton states at [18], inter alia:

*In respect of objective (a), the height request asserts:*

1. *The proposal's height is consistent with the built form in the Double Bay Centre area, as articulated in Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115, at [63], wherein desired future character is understood to be shaped by both development standards, and approved development that contravenes the standard, such as those depicted in the visual catchment, at Figure 6 of the height request.*
2. *Relatedly, the proposed built form steps back at upper levels to present a predominantly four-storey form when viewed from the public domain, and fully complies with the height standard at the New South Head Road frontage.*

As the proposal is subject to an approval on the site, and approvals on nearby sites, with a similar height non-compliance the assessment is transferrable to this proposal.



The proposal results in no external change to the approved development below Level 4 when viewed from New South Head Road, Bay Street, Brooklyn Lane or surrounding development. Proposed works to Level 4 and 5 (roof) remain setback from the primary frontage to Bay Street, as well as Brooklyn Lane. This will result in areas above the height standard not contributing to the perceived bulk and scale as viewed along Bay Street and the rear laneway. Accordingly, the proposal will appear as predominantly four storeys from the public domain.

The proposed built form remains consistent in terms of articulation and envelope, similar to that of nearby approved developments in the Double Bay Centre and Bay Street South precinct, with these approvals informing the desired future character of the area in terms of bulk and scale. The retention of the stepped back upper level above the height standard, and architectural style to accommodate the residential use at Level 4 and above, incorporates articulated elements, increased planters and landscaping, generous private open space, and a swimming pool. The design approach for the residential apartment and associated amenities is sympathetic to the nearby approved and constructed residential and mixed use buildings in the area.

The approvals and heights indicated in the table on the previous pages demonstrate an emerging higher density built form character. The proposed additional building height will provide additional recreational facilities including a pool and terrace areas, as well as required plant equipment and additional internal space required to accommodate a high-end residential apartment on the site.

In addition, Council or the Court has supported a number of DAs in the Double Bay Centre breaching the height standard as a result of a new roof terrace to an existing or approved development. This includes the following, which inform the desired future character of Double Bay:

- On 31 January 2022, a Development Application (DA No. 34/2022) was approved by the Local Planning Panel for alterations and addition to the development for a new pergola on the existing roof terrace at **No. 2 Guilfoyle Avenue, Double Bay**, directly adjoining the subject site. The approval will see the addition of a significant pergola structure, in relation to the roof terrace, exceeding the maximum building height at 16.75 metres. This approval is particularly relevant given it is within the same precinct (Bay Street Centre) and general visual catchment as the subject site. We note that construction has not commenced in relation to the roof terrace pergola approval.
- On 4 February 2022, a Development Application (DA No. 452/2020) was approved by the Land and Environment Court for partial demolition of existing structure and construction of a shop top housing development at **No. 10 Cross Street, Double Bay**. This resulted in an approved six storey shop top housing with a roof terrace at a maximum height of 20.6 metres, on a site with a height standard of 14.7m.
- On 26 May 2022, a Development Application (DA No. 355/2019) was approved by Land and Environment Court for demolition of existing structures and construction of a new five storey shop top housing with ground floor retail and residential parking at **No. 14 Cross Street, Double Bay**. This resulted in an approved five storey shop top housing with a roof terrace at a maximum height of 17.97 metres, on a site with a height standard of 14.7 metres.
- On 10 August 2022, a Section 4.55 Modification (DA No. 321/2020/2) was approved by the Sydney Eastern City Planning Panel for internal and external modifications to the approved shop top housing development with basement parking at **Nos. 19-27 Cross Street, Double Bay**. This resulted in an approved built form with a maximum height of 22.05 metres, on a site with a height standard of 14.7 metres.

Therefore, the new secondary terrace at Level 5 (roof) above the height standard is not inconsistent with that of other roof terraces approved and constructed in the Double Bay Centre

Accordingly, despite the variation to the height development standard, the proposal remains consistent with the desired future character of the neighbourhood

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

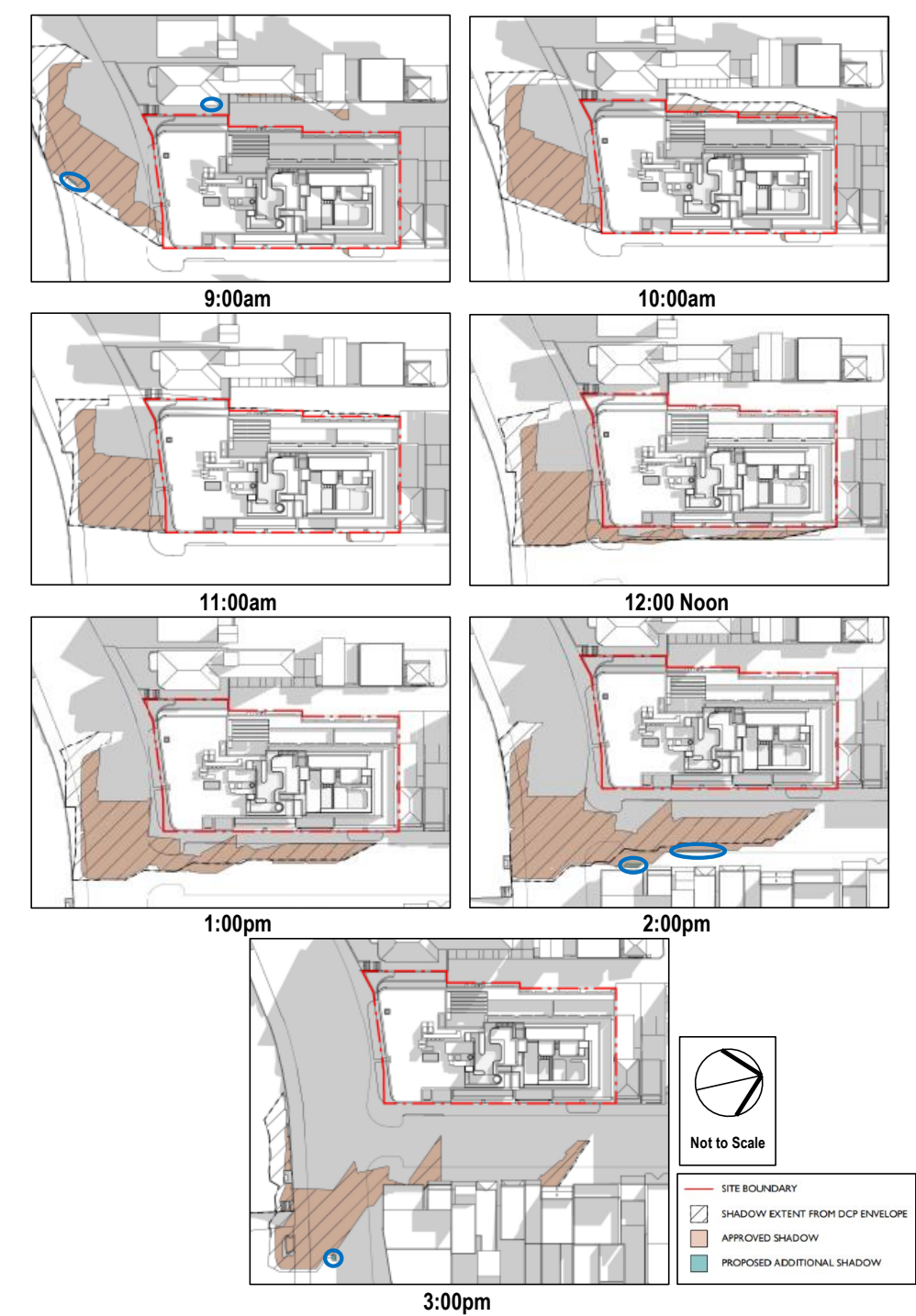
The subject site is adjacent to an R3 Medium Density Residential zone. Opposite and to the west of the site on New South Head Road lies residential development typically comprising tall apartment buildings varying in height from four to eight storeys. These sites have permissible heights up to 19.5m under the LEP.

The proposed height associated with the residential component will be generally consistent with the approved height, bulk and scale. The areas of additional height are well-setback from western, northern, and eastern boundaries, ensuring the proposed works continue to provide an appropriate transition to surrounding residential development. This also ensures that surrounding local amenity is protected, as discussed in the following paragraphs.

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

To assess the impact of the proposed development in terms of solar access, hourly shadow diagrams and views from the sun have been prepared for the winter solstice (June 21). These diagrams indicate that in comparison to the approved DA and Section 4.56, the proposed development will result in negligible overshadowing at 9:00am, 2:00 pm, and 3:00pm, to small areas of the roadway and footpaths (see **Figure 5** on the following page).

The only additional impact on neighbouring windows or private open space as a result of the new areas above the height standard occur at 9:00am, where two narrow side windows to No. 290 New South Head Road are partially impacted. In any case, these windows continue to achieve solar access at this time, and are not north facing windows therefore not relevant in terms of DCP compliance.



Source: Lawton Hurley

**Figure 5: Proposed Solar Access Diagrams (Additional Shadow Circled Blue)**

The relevant DCP control for solar access is as follows:

*Development which does not comply with the control drawings must maintain existing solar access to existing development for at least three hours between 9am and 3pm on 21 June to north facing windows of habitable rooms, and at least two hours to at least 50% of the private open space.*

The proposed areas of additional height above the LEP standard results in negligible additional shadow to the roadway and footpath, and two side east-facing windows. The works will maintain three hours solar access to habitable room north facing windows and two hours solar access to private open space, in accordance with the requirement above. The extent of overshadowing as a result of the additional height above the LEP standard is generally consistent with the previously approved development.

Accordingly, surrounding properties will maintain three hours solar access on the winter solstice in accordance with the DCP control. The proposed height maintains therefore minimises loss of solar access.

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

As the proposal maintains a similar height and configuration of uses to that already approved, it is unlikely to generate an unreasonable additional impact on neighbouring amenity. View sharing, privacy, overshadowing and visual intrusion will now be assessed individually.

**View Sharing**

Due to the location of the subject site, lot orientation and scale of surrounding buildings, there are limited significant views available across the site from surrounding development. There are no significant views across the subject site from the public domain in the vicinity of the site.

Wireframes and view modelling were undertaken by AE Design Partnership as part of DA 280/2022, which demonstrated the effect of the now approved built form on the subject site, in conjunction with the impact of an LEP-compliant building envelope; the former shop-top approval on the subject site (DA 69/2021); the approved developments at No. 14 Bay Street and No. 24 Bay Street; and the constructed development at Nos. 30-36 Bay Street. This previous view modelling for the commercial development to which this new DA is altering, reproduced in **Figure 6** on the following page, demonstrates that view impacts have been minimised, in accordance with *Ricola Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1047, where Commissioner Gray states the following, inter alia:

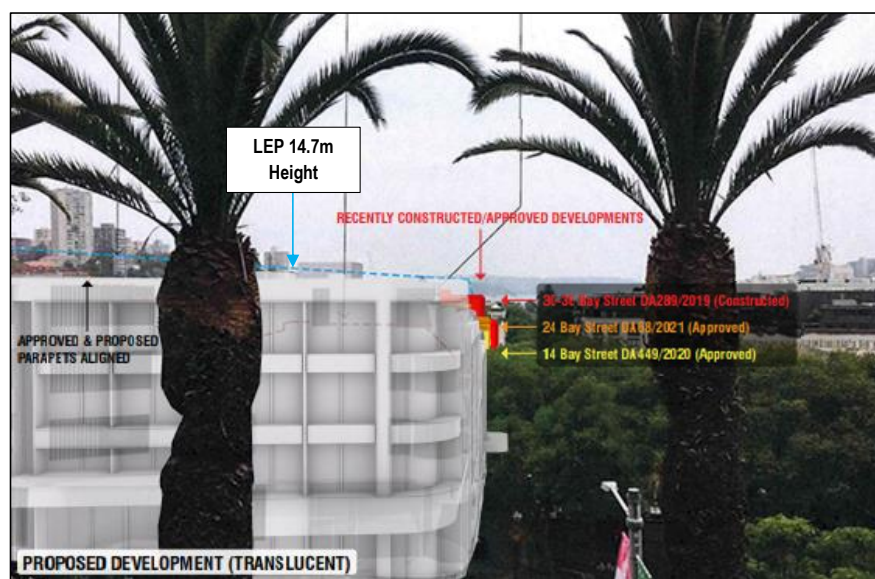
*95... As such, to demonstrate that the objectives are met notwithstanding the non-compliance, the request needs to put forward the means by which the proposed development will "minimise impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion".*

The term "minimise" may appear to be more quantitative in nature however, an "impact" is qualitative in nature. The two words work together in dealing with the objective of the clause. In this regard, it is the quality of the view needs to be considered in understanding the impact, in addressing objective (d).

In comparison to views achieved by a LEP height-compliant building envelope, the view anticipated to be impacted by the proposed new areas of non-compliance is not a significant one. It does not comprise any significant landmarks such as the iconic elements of the Harbour Bridge or Opera

House; water views; or land water interface views compared to a compliant height (see **Figure 6** on the following page).

In the existing context, the constructed development at Nos. 30-36 Bay Street blocks any water views previously obtained from 'Overthorpe' across the subject site. Compared to the approved commercial development, we anticipate no additional impacts on views of the headland resulting from the proposed areas of additional height associated with the residential apartment at Levels 4 and 5 (roof), and in any case these views would be similarly impacted by a building envelope compliant with the LEP height standard (see **Figure 6**). It can be assumed that the potential impact resulting from the proposed new works above the height standard would result in loss of outlooks to the sky, and potentially buildings in the distance, which are not highly valued views under *Tenacity*.



Previously Approved Commercial Development Overlay (DA 280/2022)

Source: AE Design Partners hip

**Figure 6:** View Analysis Photomontage of Previous Approval, from 'Overthorpe' Looking North

Accordingly, there is no anticipated additional impact on water, headland, and land water interface views as a result of the proposed areas of height in comparison to the approved commercial envelope on the site. The proposed areas of additional height will minimise impacts on views, therefore achieving the objective.

### **Privacy**

The design and layout of the proposal above the height limit will maintain aural and visual privacy for residents of neighbouring sites. The approved windows on the western elevation, where the dressing room (of master bedroom) were previously approved are to be infilled, which is expected to improve privacy between dwellings to the west. Other windows, private open space, and the pool and sauna at Level 4 and Level 5 (rooftop area), above the height standard, are setback well over 12m from neighbouring residential development to the west, ensuring privacy will be maintained.



#### **Overshadowing**

As discussed under Objective (c), the proposed additional height will result in a negligible overshadowing at 2:00pm and 3:00pm. only. The additional shadow resulting from the proposal in comparison to the approved commercial development on-site will not impact any neighbouring windows or private open space, instead affecting small areas of the roadway and footpaths only. Therefore, the proposal is considered to be appropriate in this regard and minimises overshadowing.

#### **Visual Intrusion**

The non-compliant portion, being at the centre and towards the north of the site, will not be discernible from the public domain compared to the approval and will therefore not contribute to visual intrusion in this regard. With regard to neighbouring development, the design measures implemented to minimise impacts on visual intrusion to neighbours include the following:

- Upper levels remain well-setback along Bay Street, New South Head Road, and from the northern side boundary;
- Articulated, architecturally designed facades to Level 4;
- Inclusion of soft landscaping at the building edges of Level 4;
- New structures at Level 5 (roof) being located at the central portion of the site with generous separation (>12m) to neighbouring residential windows.

Accordingly, in our opinion, the proposed new works above the height standard in comparison to the approved development will minimise impacts on views, overshadowing, privacy and visual intrusion to neighbouring development and the public domain.

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

N/A - No public views of the harbour are identified from the subject site.

Accordingly, although the proposal will exceed the height control, the area of additional height has been thoughtfully designed to ensure consistency with the desired future character of the area, and minimise amenity impacts to neighbours. Therefore, the additional height is consistent with the relevant objectives of the development standard.

#### **5.2 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard**

There are a number of environmental planning grounds that justify the additional height in this particular circumstance. In addition to compliance with the objectives of the zone and development standard; environmental planning grounds include the 'consistency in the context' and the 'previous approval'. These will now be addressed.

#### **Consistency with Context (Desired Future Character)**

As discussed under the Development Standard Objective (a) above, the proposed works will allow the building to continue to present as a predominantly four storey development, with recessed upper levels which is consistent with the context. A number of recently approved and constructed developments in the vicinity also exceed the height limit as demonstrated in **Table 1**. In *Initial Action v Woollahra Municipal Council* [2019] NSWLEC 1097, Commissioner O'Neill states at [42] that:

*I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described*

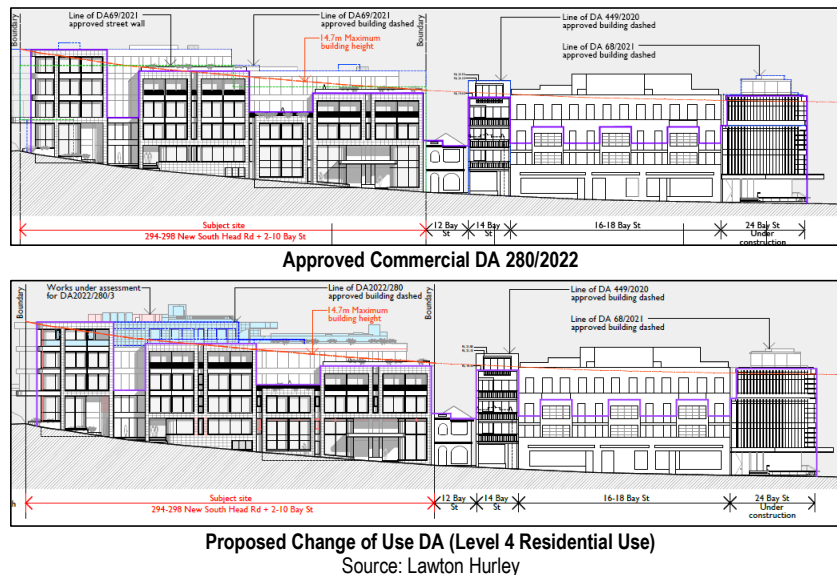


*as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome (see s 1.3(g) of the EPA Act).*

The previous shop-top housing approval and commercial approval (under construction) on the subject site and various nearby commercial approvals are defined as being within the neighbourhood of the subject site (in the Bay Street South precinct, as defined in Chapter 5.4.4 of the DCP), and therefore inform the scale, context and desired future character of the area. These approvals are as follows (and demonstrated in **Figure 4** of this report):

- DA 69/2021 – Nos. 294-298 New South Head Road & 2-10 Bay Street (subject site, shop-top housing approval)
- DA 280/2022 - Nos. 294-298 New South Head Road & 2-10 Bay Street (subject site, commercial approval under construction)
- DA 449/2020 – No. 14 Bay Street
- DA 33/2018 – Nos. 21-27 Bay Street
- DA 14/2020 – Nos. 21-27 Bay Street
- DA 245/2023 – Nos. 19-27 Bay Street
- DA 138/2012 – Nos. 18-22 Bay Street (older DA approval)
- DA 68/2021 – No. 24 Bay Street

Accordingly, the existing approval on the subject site and approvals nearby inform the context and desired future character of this precinct of Double Bay, with the western side of Bay Street South characterised by five storey existing or approved developments (see **Figure 7**). We note the eastern side of Bay Street South has a character that differs from that of the western side. The eastern side has a mix of 2-3 storey terraces and commercial buildings, with a larger five storey developments approved at Nos. 21-27 Bay and 19-27 Bay Street. The proposal retains the approved overall five storey height (with ancillary structures at the roof plane), ensuring a height and scale consistent with existing and approved developments along the western side of Bay Street South.



**Figure 7: Bay Street South Precinct – Western Side (East Elevation)**

In terms of bulk and scale, the proposal provides a similar height to the approved scheme, which in granting approval the Court deemed is contextually compatible in the locality. This approval informs the desired future character of the area. The proposal will continue to provide a strong built form that addresses the corner site, with design changes to suit the residential use proposed. Furthermore, approvals and heights indicated in the table on the previous pages demonstrate an emerging built form character with higher density. The proposed additional building height will provide a highly sought after elegant and well-designed residential apartment in a central location.

In addition to the upper level being stepped in, a number of design features will reduce the perceived scale of the development. This includes presenting articulated facades with soft landscaping to the proposed private open space, and the use of a variety of materials to break up the built form.

Lastly, the proposed height achieves the objectives of the E1 Zone as follows:

*Objective:* To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.

**Response:** The proposed works above the height standard facilitate a residential use which increases the diversity of new housing stock in the area and on the site. Retail and office uses will be maintained at the lower levels, as approved.

*Objective:* To encourage investment in local commercial development that generates employment opportunities and economic growth.

**Response:** Employment opportunities will be maintained as the commercial uses will be retained at all levels below Level 4. Further, the proposal will provide employment in the provision of maintenance services once the new residential apartment is occupied.

*Objective:* To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.

**Response:** The proposed change of use which occurs partially above the height standard diversifies the approved uses on site, contributing to creating a vibrant and active local centre. The approved active tenancies on the lower levels will continue to address the Bay Street frontage.

*Objective:* To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

**Response:** The proposal will retain the approved non-residential land uses on the ground floor.

*Objective:* To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.

**Response:** The proposal remains compatible with the height, bulk and scale of other built forms in the area, maintaining the approved levels of amenity for surrounding developments.

*Objective:* To ensure development is of a height and scale that achieves the desired future character of the local centre.

**Response:** The overall bulk and scale of the development will remain similar to the approved, indicating consistency with the desired future character of the area.

*Objective:* To encourage development that is compatible with the local centre's position in the centres hierarchy.

**Response:** The proposal will remain compatible with local centre's position in the centres hierarchy as it maintains the lower level commercial uses. The proposed changes are limited to Levels 4 and 5 only.

**Objective:** *To ensure development provides diverse and active ground floor uses to contribute to vibrant and functional streets and public spaces.*

**Response:** The proposed height maintains the approved retail and commercial uses at the ground and lower levels that activate the street frontage.

**Objective:** *To maximise public transport patronage and encourage walking and cycling.*

**Response:** The subject site is highly accessible by public and active transport networks. There are a range of public transport options in close proximity including bus, train and ferry services. The high level of pedestrian amenity in Double Bay encourages walking and cycling to access the residential apartment which is partially located above the height standard. Bicycle storage and end of trip facilities, which will be maintained, will further promote active transport modes.

**Objective:** *To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.*

**Response:** The proposal involves enhanced greenery in the forms of lawns on slab, gardens and planters at the upper levels above the height standard, contributing to increasing the visual appeal and reducing urban heat island effect.

Accordingly, despite the variation to the height development standard, the proposal is consistent with the desired future character of the Double Bay Centre.

#### Previous Approval

The new works above the LEP height standard are in part a result of the existing approval on site, which has an approved maximum height of 20.15m. The approved height is in part a result of greater floor to floor heights required for the retail and commercial levels below. In any case, the Level 4 roof parapet at RL 26.00 AHD will be maintained as approved in DA 280/2022 as part of this new proposal. At Level 5, the proposal only involves minor structures servicing the residential tenancy below as well as the secondary private open space on the rooftop.

The new works at Level 5 (roof) are located central to the building footprint and site, to ensure generous separation distance and minimal visibility from the surrounding public and private domain. Furthermore, as indicated throughout this report, the proposed new works above the height standard will have a similar maximum building height to the previous commercial approval, ensuring the overall bulk and scale of the development will remain consistent to that of the approved. Therefore, despite the numeric increase to the maximum height and highest RL, the development will remain generally consistent with the approved envelope.

Accordingly, in our opinion, the non-compliance will remain consistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard in the circumstances of this case, as required in Clause 4.6(3)(b).

#### 6. Conclusion

This written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the compliance matrix prepared in light of *Initial Action* (see **Table 2** on the following pages).

gsa planning

We are of the opinion that the consent authority should be satisfied that the proposed development will be in the public interest because it achieves the objectives of the standard and the development objectives of the E1 Local Centre Zone pursuant to the LEP. On that basis, the request to vary Clause 4.3 should be upheld.

Table 2: Compliance Matrix

Para (Initial Action)	Requirement	Section of this Report	Summary	Satisfied
10	Is it a development standard (s.1.4)	1	Yes	
11	What is the development standard	1	Clause 4.3: Height of Buildings	
12	What is the control	1 & 2	14.7m	
14	<b>First Precondition to Enlivening the Power</b> – Consent authority must form 2 positive opinions:		Both positive opinions can be formed as detailed below.	YES
15, 25	<b>1<sup>st</sup> Positive Opinion</b> – That the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by Clause 4.6(3). There are two aspects of that requirement.	5	The Clause 4.6 variation has adequately addressed both matters in Clause 4.6(3) by providing a detailed justification in light of the relevant tests and planning considerations.	YES
16-22	<b>First Aspect is Clause 4.6(3)(a)</b> – That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. Common ways are as set out in <i>Wehbe</i> .	5.1	The proposal satisfies Tests 1 of <i>Wehbe</i> : <ul style="list-style-type: none"> <li>The objectives of the standard are achieved notwithstanding the non-compliance with the standard.</li> </ul>	YES
23-24	<b>Second Aspect is Clause 4.6(3)(b)</b> – The written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied that the written request has adequately addressed this matter. The environmental planning grounds must be "sufficient" in two respects: <ol style="list-style-type: none"> <li>The environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.</li> <li>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.</li> </ol>	5.2	Sufficient environmental planning grounds include, inter alia: <ul style="list-style-type: none"> <li>The proposed height facilitates a development that achieves the planning objectives of the area;</li> <li>The area of additional height remains consistent in the context; and</li> <li>The proposed height is in part a result of the approved commercial development on site (construction underway).</li> </ul>	YES

**\*Note:** 2<sup>nd</sup> Positive Opinion (the public interest), and Second Precondition to Enlivening the Power, are no longer applicable due to the repeal of relevant Clauses 4.6(4)[a] and [b].

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**From:** [Robert Lam](#)  
**To:** [Chris Hartas](#)  
**Cc:** [Brett McIntyre](#)  
**Subject:** DA141/2024/1 - 294-298 New South Head Road & 2-10 Bay Street Double Bay - Engineering Conditions  
**Date:** Tuesday, 13 August 2024 10:29:22 AM  
**Attachments:** [image003.jpg](#)  
[image001.jpg](#)  
[image002.jpg](#)

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Hi Chris,

Apologies the late reply.

Please be advised that Council's Development Engineers have no objections to this application from an engineering perspective.  
Note that comments/conditions from the Council's Drainage Engineer have not been included in this email. Please refer the referral response from the Council's Drainage Engineer separately. (HPE24/102071)

The following engineering conditions are recommended.

**A. GENERAL CONDITIONS**

**A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)**

**B. BEFORE DEMOLITION WORK COMMENCES**

**B.7 Public Road Assets Prior to Any Work/Demolition**

**B.14 Payment of Security and Fees**

Property Damage Security Deposit (S138)	\$75,410	No	T115
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**B.21 Work (Construction) Zone – Approval & Implementation**

**C. ON COMPLETION OF REMEDIATION WORK**

Nil

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

**D.35 Structural Adequacy of Existing Supporting Structures**

**D.36 Professional Engineering Details**

**D.51 Stormwater Management Plan**



<b>D 51.</b>	<p><b>Stormwater Management Plan</b></p> <p>Before the issue of the construction certificate, the applicant must submit, for approval by the Principal Certifier, detailed stormwater management plans prepared and certified by a chartered professional civil engineer, which detail the following:</p> <ul style="list-style-type: none"> <li>a) A general design consistent with the stormwater management plans approved under DA280/2022,</li> <li>b) Internal stormwater drainage 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> <li>a) All below ground structures are to be fully tanked such that subsoil drainage/seepage water is NOT discharged to the kerb and gutter to comply with Chapter E2.2.5 and E2.2.10 of the Council's DCP. Notation to this requirement must be clearly depicted on the drawings.</li> <li>c) Compliance with the objectives and performance requirements of the BCA,</li> <li>d) The dimensions of all drainage pits and access grates must comply with AS3500.3 and Council's DCP.</li> <li>e) General compliance with the Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.</li> </ul> <p>The Stormwater Management Plan must also include the following specific requirements:</p> <p><u>Layout plan</u></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> <ul style="list-style-type: none"> <li>f) All pipe layouts, dimensions, grades, lengths and material specification.</li> <li>g) Location of proposed rainwater tanks.</li> <li>h) All invert levels reduced to Australian Height Datum (AHD).</li> <li>i) Location and dimensions of all drainage pits.</li> <li>j) Point and method of connection to Councils drainage infrastructure.</li> <li>k) Overland flow paths over impervious areas.</li> </ul> <p>All Stormwater Drainage System work within any road or public</p>
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	<p>place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works (2012).</p> <p><b>Notes:</b></p> <p>l) The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".</p>
	<p><b>Condition Reason:</b> To ensure that site stormwater is disposed of in a controlled and sustainable manner.</p>

#### D.52 Non-gravity Drainage Systems

### E. BEFORE BUILDING WORK COMMENCES

Nil

### F. DURING BUILDING WORK

#### F.7 Public Footpaths – Safety, Access and Maintenance

### G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

#### G.7 Commissioning and Certification of Systems and Works

##### G.32 Works-As-Executed Certification of Stormwater Systems

G 32.	Works-As-Executed Certification of Stormwater Systems
	<p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <p>a) compliance with conditions of development consent relating to stormwater,</p> <p>b) that all below ground structures are fully tanked such that subsoil drainage/ seepage water is NOT collected and</p>

	<p>discharged into the kerb and gutter in accordance with the approved stormwater drawings,</p> <p>c) pipe invert levels and surface levels to Australian Height Datum, and</p> <p>d) 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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li></ul>
	<p><b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>


**H. OCCUPATION AND ONGOING USE**

Nil

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

Nil

Thanks



Robert Lam  
Team Leader - Development Engineering  
Woollahra Municipal Council  
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t: 02 9391 7136  
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Our Values: Respect | Open | Accountable | Responsive | Excellence  
We acknowledge the Gadigal and Birrabirragal people as the traditional custodians of the land in our local area.

Local Government Week 2024



**From:** Chris Hartas <Chris.Hartas@woollahra.nsw.gov.au>  
**Sent:** Wednesday, 31 July 2024 9:04 AM

**To:** Robert Lam <Robert.Lam@woollahra.nsw.gov.au>; Ever Fang  
<Ever.Fang@woollahra.nsw.gov.au>; Kristina Pakhomova  
<Kristina.Pakhomova@woollahra.nsw.gov.au>; Michael Casteleyn  
<Michael.Casteleyn@woollahra.nsw.gov.au>  
**Cc:** Thomass Wong <Thomass.Wong@woollahra.nsw.gov.au>; Brett McIntyre  
<Brett.McIntyre@woollahra.nsw.gov.au>  
**Subject:** Class 1 Application - Deemed Refusal - DA141/2024/1 - 294-298 New South Head Road  
& 2-10 Bay Street Double Bay

Hi all,

I hope you're doing well.

As you are likely aware, Council has been served with the attached appeal. I've been advised that the first directions hearing for this matter is on 13 August 2024, with the Statement of Facts and Contentions (SOFAC) due (according to the LEC Practice Note) by 8 August.

Would you please provide me with any contentions you have for inclusion in the SOFAC.

Happy to discuss.

Kind regards,



Chris Hartas  
Assessment Officer  
Woollahra Municipal Council  
536 New South Head Road, Double Bay NSW 2028  
t: 02 9391 7098  
e: [Chris.Hartas@woollahra.nsw.gov.au](mailto:Chris.Hartas@woollahra.nsw.gov.au) w:  
[www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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

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12 June 2024

**REFERRAL RESPONSE – DRAINAGE**

**FILE NO:** Development Applications: 141/2024/1

**ADDRESS:** 2 Bay Street DOUBLE BAY 2028

**PROPOSAL:** Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and swimming pool

**FROM:** Michael Casteleyn

**TO:** C Hartas

---

**1. ISSUES**

None.

**2. DOCUMENTATION**

I refer to the following documents received for this report:

- 22/61216 Document - Flood Study - DA2021/69/2 - 2, 4-10 Bay Street, 294-296 and 298 New South Head Road DOUBLE BAY
- 24/72867 Plan - Architectural Plans - DA2024/141/1 - 2-10 Bay Street, DOUBLE BAY
- 24/94100 Document - StormwaterManagementPlan - DA2024/141/1 - 2-10 Bay Street,

**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:

<b>D 1.</b>	<b>Flood Protection</b>
	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).



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Flood Warning:

- a) A permanent flood risk management plan shall be installed in a prominent area of the basement carpark,
- b) A permanent flood risk management plan shall be installed in an area frequented by the residents such as the laundry,

Below Ground Car parking

- a) The driveway entry shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 6.98m AHD,
- b) Permanent brass plaques shall be mounted adjacent to all automatic mechanical flood barriers explaining their purpose and operation,
- c) All below ground construction shall be fully tanked,
- d) Emergency self-powered lights, indicating the safe exit to a flood free area above the probable maximum flood (PMF) shall be installed in the car parking area.

Floor levels

- a) The pedestrian entry to retail 2 shall be protected by an automatic mechanical flood barrier with the threshold set to the flood planning level of 6.58m AHD,

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.





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Michael Casteleyn  
Drainage Engineer

12 June 2024  
**Completion Date**

Completion Date: 19 August 2024

## REFERRAL RESPONSE – TRAFFIC

**FILE NO:** Development Applications: 141/2024/1  
**ADDRESS:** 2 Bay Street DOUBLE BAY  
**PROPOSAL:** Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and swimming pool  
**FROM:** Ms E Fang  
**TO:** Mr W Perdigao

I refer to the memo from the Planning Department dated 27 July 2023 requesting comments in relation to the above.

### 1. ISSUES

Nil.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, referenced 22005, prepared by GSA Planning, dated April 2024.
- Traffic & Parking Impact Assessment, referenced 22023, prepared by TTPP, dated 24 April 2024.
- TfNSW's referral response, referenced SYD24/00952, dated 7 June 2024.
- Architectural Drawings, referenced J336, Issue A, prepared by Lawton Hurley, dated April 2024.

### 3. ASSESSMENT

#### 3.1 Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter E1 Parking and Access*.

It is understood that previously approved commercial component under DA280/2022 (Level 4, consisting 564m<sup>2</sup> of GFA) is replaced by a four-bedroom unit. By comparison, car parking demand is reduced by seven (7) spaces, as shown in below table.

*Table 1: Car Parking Provision (Change of Use)*

Component	Quantity	DCP Requirement	DCP Required Parking
<b>Reduced Non-Residential (Minimum Requirement)<sup>1</sup></b>			
Office	564m <sup>2</sup>	2.5 spaces per 100m <sup>2</sup>	8.5 (9)
<b>Increased Residential (Maximum Requirement)</b>			
3 bedrooms or more	1	1.5 per unit	1.5 (2)
Visitor	1	0.2 per unit	0.2 (0)
Total			2
Shortfall			

Note: Multiplier 0.6 applied for Double Bay Centre E1 Zone

The proposed retention of 93 car parking spaces is therefore considered acceptable. Should the development be approved, signage/pavement marking should be provided to ensure two (2) car parking spaces are allocated to residential component and should be clearly depicted on the architectural drawings.

*Table 2: Bicycle and Motorbike Parking Provision (Change of Use)*

<b>BICYCLE</b>			
<b>Increased Mixed Use – Residential Use</b>			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Residential Residents	1	1 per dwelling	1
Residential Visitors	1	1 per 10 dwellings	0.1 (0)
Total Required			1
<b>Reduced Mixed Use – Non-Residential Use</b>			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Office employees	564m <sup>2</sup>	1 per 150m <sup>2</sup> GFA	3.8 (4)
Office visitors	564m <sup>2</sup>	1 per 400m <sup>2</sup> GFA	1.4 (1)
Total required			5
<b>MOTORBIKE (reduced)</b>			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	7	1 per 10 car spaces	0.7 (1)
Total required			1

It is clear from the table that comparing to previously approved use, this proposal generates a reduced bicycle and motorbike parking demand by four (4) and one (1) space. The proposed retention of 60 bicycle parking spaces and 9 motorbike parking spaces complies with DCP's minimum requirement and is deemed satisfactory.

### 3.2 Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

### Net Change

#### Office (Reduced)

- Weekday peak hour vehicle trips:  $564\text{m}^2 \times 1.2\text{-}1.6 \text{ per } 100\text{m}^2 = 6.6\text{-}8.7 \text{ trips}$
- Daily vehicle trips:  $564\text{m}^2 \times 11 \text{ per } 100\text{m}^2 = 60.1 \text{ trips}$

#### Medium Density Residential – Larger Units (Increased)

- Weekday peak hour vehicle trips:  $1 \text{ dwellings} \times 0.5\text{-}0.65 \text{ per dwelling} = 0.5\text{-}0.65 \text{ trips}$
- Daily vehicle trips:  $1 \text{ dwelling} \times 5.0\text{-}6.5 \text{ per dwelling} = 5\text{-}6.5 \text{ trips}$

#### Total (Reduced)

- Weekday peak hour vehicle trips =  $6.1\text{-}8.05 \text{ trips}$
- Daily vehicle trips =  $53.6\text{-}55.1 \text{ trips}$

Based on the above calculation, this proposal is calculated to generate less traffic and is unlikely to generate unacceptable adverse impacts on the surrounding road network in terms of traffic flow efficiency and road safety considerations.

### 3.3 Service Vehicles & Vehicular Access

On-site loading bay, car park layout and vehicular access have been previously assessed and considered acceptable. The proposal is anticipated to result in some reduction in commercial traffic and minor increase of residential traffic. The proposed retention of the car park and access design is considered acceptable to accommodate future traffic.

## 4. RECOMMENDATION

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

### A. GENERAL CONDITIONS

A. 5	<b>Approved Plans and Supporting Documents</b>								
	Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.								
	Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.								
	<table><tr><th>Reference</th><th>Description</th><th>Author</th><th>Date</th></tr><tr><td>22023</td><td>Traffic &amp; Parking Impact Assessment</td><td>TTPP</td><td>24 April 2024</td></tr></table>	Reference	Description	Author	Date	22023	Traffic & Parking Impact Assessment	TTPP	24 April 2024
	Reference	Description	Author	Date					
22023	Traffic & Parking Impact Assessment	TTPP	24 April 2024						
<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>									

**A.14 General Terms of Approval – Roads Act 1993 (TfNSW - Classified Roads)**

<b>A. 14</b>	<b>General Terms of Approval – Roads Act 1993 (TfNSW - Classified Roads)</b>
	<p>The following general terms of approval have been imposed by Transport for NSW (TfNSW) in relation to classified roads.</p> <ul style="list-style-type: none"> <li>A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on New South Head Road during construction activities. A ROL can be obtained via <a href="https://myrta.com/oplinc2/pages/security/oplincLogin.jsf">https://myrta.com/oplinc2/pages/security/oplincLogin.jsf</a>.</li> </ul>
	<b>Condition Reason:</b> To ensure all parties are aware of the general terms of approval.

**B. BEFORE DEMOLITION WORK COMMENCES**

<b>B. 20.</b>	<b>Construction Traffic Management Plan</b>
	<p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>Identify local traffic routes to be used by construction vehicles.</li> <li>Identify ways to manage construction works to address impacts on local traffic routes, particularly during school pick-up and drop-off hours.</li> <li>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.</li> <li>Detail how construction workers will travel to and from the site and parking arrangements for those that drive.</li> <li>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.</li> <li>Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.</li> <li>Provide for the standing of vehicles during construction.</li> <li>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</li> </ol>

	<p>devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).</p> <p>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.).</p> <p>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.</p> <p>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.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>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.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must 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.</p> <p>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).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved.</li> <li>• Failure to comply with this condition may result in fines and proceedings to stop work.</li> <li>• Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.</li> <li>• If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.</li> <li>• Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on <a href="mailto:eastsubtraffic@police.nsw.gov">eastsubtraffic@police.nsw.gov</a></li> </ul> <p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>
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<b>B. 21</b>	<b>Works (Construction) Zone – Approval and Implementation</b>
	<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>
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#### C. ON COMPLETION OF REMEDIATION WORK

Nil.

#### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D 13	<b>Road and Public Domain Works</b>
	<p>Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:</p> <ol style="list-style-type: none"> <li>The removal of redundant vehicular crossings including layback and gutter and the construction of a 5.6 metres wide vehicular crossing in accordance with Council's Crossing Specification, standard driveway drawing RF2_D and to the satisfaction of Council's Assets Engineers. The new vehicular crossing must be constructed at a right angle to the street kerb in plain concrete where the centreline of the new crossing must align with the centreline of the internal driveway at the property boundary.</li> <li>Design longitudinal surface profiles along each side/edge for the proposed driveway, starting from the road centreline to the parking slab must be submitted for assessment.</li> <li>Other conditions imposed by Council's Development Engineers.</li> </ol> <p><b>Condition Reason:</b> To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.</p>
D 45	<b>Parking Facilities</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 detailed plans and</p>

	<p>specifications for all bicycle, car and commercial vehicle parking in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6: Parking facilities - Off-street parking for people with disabilities, AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking and AS 2890.2: Off-Street Parking: Commercial Vehicle Facilities respectively.</p> <p>The plans must satisfy the following requirement(s):</p> <ol style="list-style-type: none"> <li>Sight distance requirements must comply with Clause 3.2.4 and Figure 3.3 of AS2890.1:2004;</li> <li>A 2m x 2.5m sight splay be provided, kept clear of any obstruction to visibility, along both sides of the access driveway;</li> <li>Delivery bay must have a minimum dimension of 2.8m x 6.5m to accommodate largest service vehicles anticipated to attend the site;</li> <li>Accessible parking space, including the adjacent shared area, should be designed to comply with AS 2890.6. Bollard and pavement marking should be provided for the shared area to ensure impeded access;</li> <li>Signage and/or pavement marking be provided for residential parking, commercial parking and small car parking.</li> </ol> <p>Access levels and grades must comply with access levels and grades required by Council under the Roads Act 1993.</p> <p>The Principal Certifier 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.</p> <p><b>Condition Reason:</b> To ensure parking facilities are designed in accordance with the Australian Standard.</p>
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#### E. BEFORE BUILDING WORK COMMENCES

Nil.

#### F. DURING BUILDING WORK

<b>F</b>	<b>3.</b>	<b>Compliance with Construction Traffic Management Plan</b>
		<p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times. A copy of the CTMP must be kept on-site at all times and made available to the Principal Certifier on request.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Irrespective of the provisions of the Construction Traffic Management Plan the provisions of traffic and parking legislation prevails.</li> </ul> <p><b>Condition Reason:</b> To ensure compliance with the Construction Management Plan.</p>

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

Nil.

## H. OCCUPATION AND ONGOING USE

H	21.	<b>Provision of Off-street Public and Visitor Parking</b>												
<p>During the occupation and ongoing use, in compliance with AS2890.3: Parking Facilities - Bicycle Parking Facilities, AS 2890.6: Parking facilities - Off-street parking for people with disabilities and AS/NZS 2890.1: Parking Facilities - Off-Street Car Parking, unimpeded public access to off-street parking must be maintained as follows:</p>														
<table><tr><th>Use</th><th>Number of spaces</th></tr><tr><td>Car Parking (Commercial)</td><td>56 (including 2 small car parking spaces)</td></tr><tr><td>Car Parking (Retail)</td><td>35 (including 2 accessible parking spaces)</td></tr><tr><td>Car Parking (Residential)</td><td>2</td></tr><tr><td>Bicycle Parking</td><td>60</td></tr><tr><td>Motorbike Parking</td><td>10</td></tr></table>			Use	Number of spaces	Car Parking (Commercial)	56 (including 2 small car parking spaces)	Car Parking (Retail)	35 (including 2 accessible parking spaces)	Car Parking (Residential)	2	Bicycle Parking	60	Motorbike Parking	10
Use	Number of spaces													
Car Parking (Commercial)	56 (including 2 small car parking spaces)													
Car Parking (Retail)	35 (including 2 accessible parking spaces)													
Car Parking (Residential)	2													
Bicycle Parking	60													
Motorbike Parking	10													
<p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.</li><li>• Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at <a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a> or call 4428 4100.</li></ul>														
<p><b>Condition Reason:</b> To ensure adequate on-site parking is maintained.</p>														

H	23.	<b>Provision of Off-street Commercial Vehicle Facilities</b>				
<p>During the occupation and ongoing use, in compliance with AS 2890.2: Parking facilities - Off-street commercial vehicle facilities, unimpeded access to off-street parking must be maintained as follows:</p>						
<table><tr><th>Use</th><th>Number of spaces</th></tr><tr><td>Loading Bay (6.5m in length)</td><td>1</td></tr></table>			Use	Number of spaces	Loading Bay (6.5m in length)	1
Use	Number of spaces					
Loading Bay (6.5m in length)	1					
<p>All deliveries to and dispatch from the site, excluding retail sales, must occur within the curtilage of the development and within the commercial vehicle parking facilities required to be maintained by this condition.</p>						
<p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the Local Government Act 1993.</li><li>• Further information can be obtained from Council's Compliance Team by calling 9391 7000 or from the Office of Local Government at <a href="http://www.olg.nsw.gov.au">www.olg.nsw.gov.au</a> or call 4428 4100.</li></ul>						
<p><b>Condition Reason:</b> To ensure that commercial vehicles use loading facilities within the site to reduce impacts on the neighbourhood including noise and parking impacts.</p>						

H	61.	<b>Parking Permits</b>
		During the occupation and ongoing use, future tenants and residents of the proposed development will not be eligible for resident or visitor parking permits.
		<b>Condition Reason:</b> To minimise the impact of the development upon on street car parking.

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

**Nil.**

**J. BEFORE SUBDIVISION WORK COMMENCES**

**Nil.**

**K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)**

**Nil.**

**L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)**

**Nil.**

**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

**Nil.**

Ever Fang  
Traffic & Transport Team Leader

19/08/2024  
**Completion Date**



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11 June 2024

## REFERRAL RESPONSE – ENVIRONMENTAL HEALTH

**FILE NO:** Development Applications: 141/2024/1

**ADDRESS:** 2 Bay Street DOUBLE BAY 2028

**PROPOSAL:** Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and swimming pool

**FROM:** K Pakhomova

**TO:** C Hartas

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### 1. ISSUES

- 

### 2. DOCUMENTION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 22005, prepared by GSA Planning, dated April 2024.
- Acoustic Report, referenced 20220527.6/2705A/R0/JHT, prepared by Acoustic Logic, dated 27 May 2024.

### 3. RESEARCH

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

- A site inspection was carried out on the following date: *#Insert/delete as appropriate*

### 4. SUMMARY OF PROPOSAL

Change of use from an approved new commercial development (under DA280/2022, NSWLEC 1222) to a shop top housing development to accommodate a single residential apartment at the top floor with associated works including new roof terrace and

### 5. ASSESSMENT

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

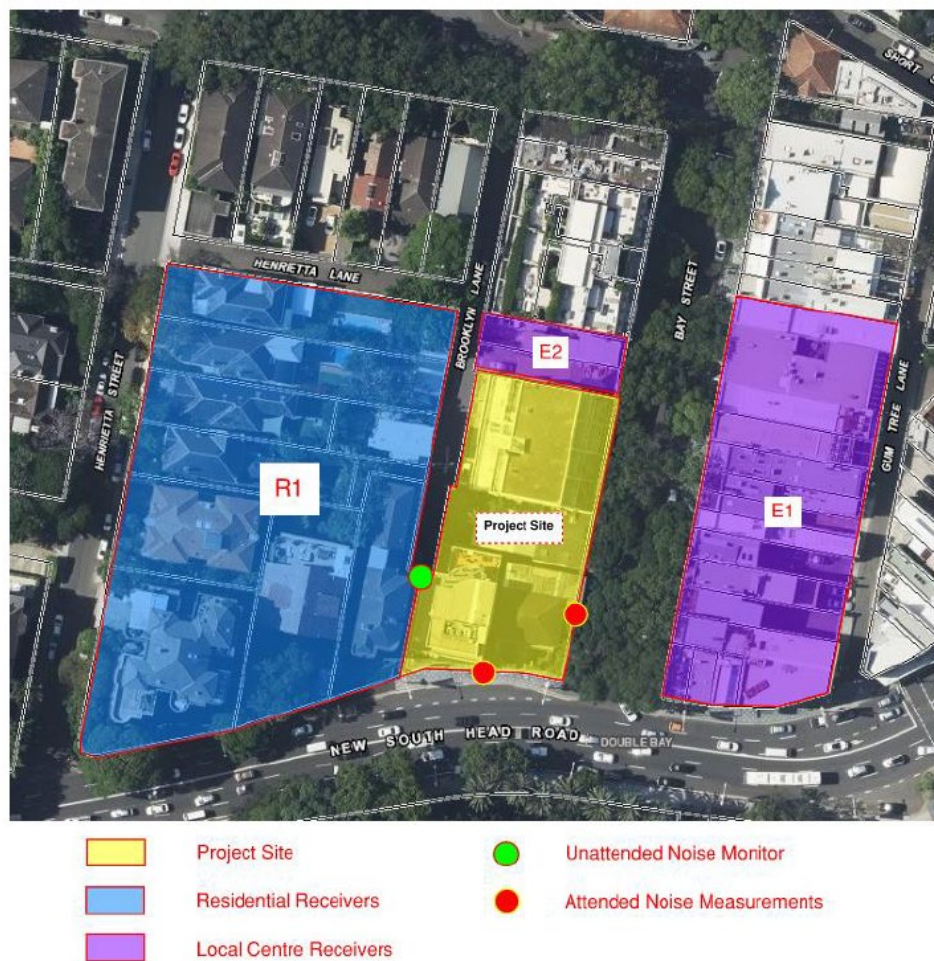


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**a) Acoustics**

**Comments:**

the applicant engaged Acoustic Logic to assess whether proposed changes will comply with the relevant noise criteria and regulations. Acoustic Logic identified a few sites as sensitive receivers:



**Figure 1 – Site Map and Local Context (Source: SixMaps)**

The acoustic consultants used the following legislation and guidelines in their assessment:

1. NSW EPA 'Noise Policy for Industry' 2017
2. State Environmental Planning Policy (Transport and Infrastructure) 2021





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3. NSW Department of Planning Policy
4. NSW EPA 'Road Noise Policy'
5. Woollahra DCP 2015

The acoustic consultant provided mechanical plant noise emission objectives for nearby sensitive receivers in Table 5 of the Report. It is noted that measurements for mechanical plant were assessed on a worse case cumulative scenario.

A discussion held with Jamie Tang of Acoustic Logic on 12 June confirmed that Woollahra Council's historically adopted noise criteria (background noise level + 0 dBa) had been applied to this assessment and compliance with Woollahra's DCP will be achieved.



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## 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 both the architectural plans to which is affixed a Council stamp “Approved” and supporting documents listed below unless modified by any following condition.

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

Reference	Description	Author	Date
	Acid Sulphate Soil Management Plan		
20220527.6 /2705A/R0/ JHT	Acoustic Report	Acoustic Logic	27 May 2024
	Architectural Plans		
	Contaminated Land - Initial Site Investigation Report (Stage 1)		
	Contaminated Land - Detailed Site Investigation Report (Stage 2)		
	Contaminated Land - Remedial Action Plan (Stage 3)		
	Plan of Management		
	Noise Management Plan		

Notes:

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

These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

Condition Reason:

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

### B. BEFORE DEMOLITION WORK COMMENCES

### C. ON COMPLETION OF REMEDIATION WORK

### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE



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D 1.	<p><b>Swimming and Spa Pools – Child Resistant Barriers</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 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.</p> <p>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' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure child-resistant swimming and spa pool barriers are provided.</p>
D 2.	<p><b>Swimming and Spa Pools – Backwash</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 detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> </ul> <p><b>Condition Reason:</b> To ensure swimming and spa pool backwash is connected to Sydney Waters sewer.</p>
D 3.	<p><b>Light and Ventilation</b></p>



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	<p>Before the issue of any construction certificate, the construction certificate plans and specifications required under clause 7 of the Development Certification and Fire Safety Regulation, must detail all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1.</p> <p>If an alternate solution is proposed then the construction certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability.</p> <p>This condition does not set aside the mandatory requirements for 'Legionella Control' under the Public Health Act 2010 and Public Health Regulation 2022 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Clause 69 of the Regulation requires compliance with the BCA. Clause 19 of the Development Certification and Fire Safety Regulation prevents the issue of a construction certificate unless the Principal Certifier is satisfied that compliance has been achieved.</li> <li>• Part 3, Division 1 of the Development Certification and Fire Safety Regulation details what information must be submitted with any construction certificate. It is the Applicant's responsibility to demonstrate compliance through the construction certificate application process.</li> <li>• 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.</li> <li>• Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.</li> </ul> <p><b>Condition Reason:</b> To ensure the development is provided with adequate light and ventilation.</p>
<p><b>D 4.</b></p>	<p><b>Acoustic Certification of Mechanical Plant and Equipment</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 be accompanied by a certificate from a professional acoustic engineer certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level, at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed.</p>



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	<p>For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p>Where sound attenuation is required this must be detailed.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Further information including lists of Acoustic Engineers can be obtained from: <ul style="list-style-type: none"> <li>- Australian Acoustical Society - professional society of noise-related professional <a href="http://www.acoustics.asn.au">www.acoustics.asn.au</a></li> <li>- Association of Australian Acoustical Consultant - professional society of noise related professionals <a href="http://www.aaac.org.au">www.aaac.org.au</a></li> </ul> </li> </ul>
	<p><b>Condition Reason:</b> To ensure the development does not result in any unreasonable acoustic impacts.</p>

<b>D 5.</b>	<p><b>Design Sound Levels for Building Interiors</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 provide details showing how the recommendations of the Acoustic Report, prepared by Acoustic Logic will be implemented.</p> <p>Design sound levels for building interiors must not exceed the recommended maximum design sound levels, LAeq, dB(A) specified by AS 2107, Acoustics - Recommended design sound levels and reverberation times for building interiors.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The design sound levels given in AS 2107 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the BCA is mandatory.</li> </ul> <p><b>Condition Reason:</b> To ensure the development achieves interior design sound levels.</p>
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<b>D 6.</b>	<p><b>Noise Control - Swimming pool/spa pool pumps and associated equipment</b></p> <p>Before the issue of any construction certificate, the siting of the swimming pool/spa pool pump(s) and associated equipment are to be located as far as possible from the neighbour's dwelling to minimise the impact on adjoining</p>
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	residents. The pump(s) and associated equipment are to be housed in an acoustically treated enclosure so noise from the operation of the pump(s) and associated equipment are not audible beyond the boundaries of the site.
	<b>Condition Reason:</b> To ensure the development does not result in any unreasonable acoustic impacts.

<b>D 7.</b>	<b>Noise Control - Acoustic Protection of adjoining residential units- Operation of Air Conditioning Plant</b>
	Before the issue of any construction certificate, the applicant must ensure that the operation of the proposed Air Condition System and associated plant does not create interior noise intrusion and vibration to occur within any adjoining residential unit.
	<b>Condition Reason:</b> To ensure the development does not result in any unreasonable acoustic impacts.

#### E. BEFORE BUILDING WORK COMMENCES

#### F. DURING BUILDING WORK

<b>F 1.</b>	<b>Swimming and Spa Pools – Temporary Child Resistant Barriers and other Matters</b>
	<p>While site work is being carried out, 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.</p> <p>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.</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>This condition does not prevent Council from issuing an order under 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.</li> </ul>
	<b>Condition Reason:</b> To ensure access to swimming pools is effectively restricted to maintain child safety.





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## G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

<p><b>G 1.</b></p>	<p><b>Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters</b></p> <p>Before the issue of any occupation certificate, and prior to filling any swimming pool, as defined by the Swimming Pools Act 1992:</p> <ul style="list-style-type: none"> <li>a) Permanent child-resistant barriers must be installed in compliance with the Swimming Pools Act 1992 and the Building Code of Australia.</li> <li>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.</li> <li>c) The Principal Contractor or Owner must either obtain a certificate of compliance issued under section 22D of the Swimming Pools Act 1992 or an appropriate occupation certificate authorising use of the swimming pool.</li> <li>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.</li> <li>e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3: Swimming pool safety - Water recirculation systems.</li> </ul> <p>Backwash must be discharged to the sewer in compliance with AS/NZS 3500.</p> <p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• NSW Health guidelines and fact sheets are available at <a href="http://www.health.nsw.gov.au">www.health.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure that the swimming pool maintains public safety and to manage the amenity impacts of swimming pools.</p>
<p><b>G 2.</b></p>	<p><b>Swimming Pool Fencing</b></p> <p>Before the issue of any occupation certificate, swimming pool fencing is to be constructed in accordance with AS1926: Australian Standard Swimming Pool Safety Part 1 – Safety Barriers for Swimming Pools.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• Pools commenced or completed after May 2013 must meet the BCA and AS1926.</li> </ul> <p><b>Condition Reason:</b> To ensure swimming pool safety.</p>

## H. OCCUPATION AND ONGOING USE



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<b>H 1.</b>	<b>Swimming and Spa Pools – Maintenance</b>
	<p>During the occupation and ongoing use, swimming and spa pools must be maintained:</p> <ul style="list-style-type: none"> <li>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,</li> <li>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,</li> <li>c) in compliance with AS 1926 Swimming pool safety - Water recirculation and filtration systems,</li> <li>d) with backwash being discharged to the sewer in compliance with AS/NZS 3500, and</li> <li>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): <ul style="list-style-type: none"> <li>• before 8 am or after 8 pm on any Sunday or public holiday, or</li> <li>• before 7 am or after 8 pm on any other day.</li> </ul> </li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• The NSW Health public swimming pools and spa pools guidelines are available at <a href="http://www.health.nsw.gov.au">www.health.nsw.gov.au</a></li> </ul> <p><b>Condition Reason:</b> To ensure public health and safety.</p>

<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> <p><b>Condition Reason:</b> To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p>

<b>H 3.</b>	<b>Outdoor Lighting – Roof Terraces</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>



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	<p>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.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>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.</li> </ul> <p><b>Condition Reason:</b> To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting.</p>
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<p><b>H 4.</b></p>	<p><b>Noise Control</b></p> <p>During the occupation and ongoing use, the use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Council will generally enforce this condition in accordance with the Noise Guide for Local Government (<a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a>) and the NSW Industrial Noise Policy (<a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise">www.epa.nsw.gov.au/your-environment/noise/industrial-noise</a>) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the Protection of the Environment Operations Act 1997.</li> <li>Useful links: <ul style="list-style-type: none"> <li>Community Justice Centres—free mediation service provided by the NSW Government <a href="http://www.cjc.nsw.gov.au">www.cjc.nsw.gov.au</a>.</li> <li>NSW Environment Protection Authority— see “noise” section <a href="http://www.environment.nsw.gov.au/noise">www.environment.nsw.gov.au/noise</a>.</li> <li>NSW Government legislation- access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2017 is available at <a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a>.</li> <li>Australian Acoustical Society—professional society of noise related professionals <a href="http://www.acoustics.asn.au">www.acoustics.asn.au</a>.</li> <li>Association of Australian Acoustical Consultants—professional society of noise related professionals <a href="http://www.aaac.org.au">www.aaac.org.au</a>.</li> <li>Liquor and Gaming NSW—<a href="http://www.liquorandgaming.nsw.gov.au">www.liquorandgaming.nsw.gov.au</a>.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
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<p><b>H 5.</b></p>	<p><b>Maintenance of Sound Attenuation</b></p> <p>During the occupation and ongoing use, sound attenuation must be maintained in accordance with the acoustic report.</p> <p><b>Condition Reason:</b> To protect the amenity of the neighbourhood.</p>
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Woollahra  
Municipal  
Council

H 6.	<b>Noise from Mechanical Plant and Equipment</b>
	<p>During the occupation and ongoing use, the noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the background noise level. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed background noise level at any time.</p> <p>The background noise level is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Words in this condition have the same meaning as in the Noise Policy for Industry (2017) <a href="http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)">www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)</a> and Noise Guide for Local Government (2013) <a href="http://www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government">www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government</a></li> </ul>
	<b>Condition Reason:</b> To protect the amenity of the neighbourhood.

H 7.	<b>Noise Control - Swimming pool/spa pool pumps and associated equipment</b>
	<p>During the occupation and ongoing use, the swimming pool/spa pool pump(s) and associated equipment are not to operate during the hours stipulated in the Protection of the Environment Operations (Noise Control) Regulation 2008 as follows:</p> <p>a) Before 8am or after 8pm during Saturdays, Sundays and public holidays; b) Before 7am or after 8pm on any other day.</p>
	<b>Condition Reason:</b> To protect the amenity of the neighbourhood.

Kristina Pakhomova  
Environmental Health Officer

14/6/2024  
Completion Date

## Transport



7 June 2024

TfNSW Reference: SYD24/00952  
Council's Reference: DA/141/24 (CNR-69034)

Mr Craig Swift-McNair  
General Manager  
Woollahra Municipal Council  
PO Box 61  
Double Bay NSW 1360

Attention: Chris Hartas

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**PROPOSED CHANGE OF USE AND ALTERATIONS TO APPROVED DEVELOPMENT APPLICATION 280/20022 TO  
ACCOMMODATE A SINGLE RESIDENTIAL APARTMENT AT LEVEL 4  
294-298 NEW SOUTH HEAD ROAD & 2-10 BAY STREET, DOUBLE BAY**

Dear Mr Swift-McNair,

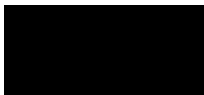
Reference is made to Council's referral of 20 May 2024 regarding the abovementioned application, which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 2.119 of the *State Environment Planning Policy (Transport and Infrastructure) 2021*.

TfNSW has reviewed the application and provides the following suggested condition for consideration by Council:

- A Road Occupancy Licence (ROL) should 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>

For more information, please contact Narelle Gonzales, Development Assessment Officer, 0409541879, by email at [development.sydney@transport.nsw.gov.au](mailto:development.sydney@transport.nsw.gov.au).

Yours sincerely,



**James Hall**  
**Senior Land Use Planner**  
**Land Use Assessment Eastern**  
**Planning and Programs, Greater Sydney Division**

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4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150  
PO Box 973 Parramatta CBD NSW 2124

W [transport.nsw.gov.au](https://transport.nsw.gov.au)

OFFICIAL





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

<b>ITEM No.</b>	D3
<b>FILE No.</b>	DA296/2023/1
<b>ADDRESS</b>	7-9 McLaughlan Place PADDINGTON (aka 7 Walker Lane PADDINGTON)
<b>COUNCIL WARD</b>	Paddington
<b>SITE AREA</b>	285.65m <sup>2</sup>
<b>ZONING</b>	R2 Low Density Residential
<b>PROPOSAL</b>	Extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$2,922,882.00
<b>DATE LODGED</b>	23/08/2023
<b>APPLICANT</b>	Studio McQualter Pty Ltd
<b>OWNER</b>	Rarkang Pty Ltd
<b>AUTHOR</b>	Mr V Aleidzans
<b>TEAM LEADER</b>	Mr G Fotis
<b>SUBMISSIONS</b>	Thirty-two (32) with multiple submissions received from some objectors
<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:

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

### **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 site is not suitable for the proposed development.
- The proposal is not in the public interest.

### 3. LOCALITY PLAN



*Note: Refer to Section 9 of this assessment report for a complete list of objectors.*

### 4. PROPOSAL

The proposal involves extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building. Notably, the proposal does not involve any changes to the operational aspects of the premises including staff levels and hours of operation.

#### Basement Level

- New basement level to accommodate storage areas.
- New internal access stairs.

#### Ground Floor

- Showroom space accommodating change rooms, shelving, display and hanging spaces along with storage area, toilets, kitchenette and entry area.
- Enlargement of existing window and door openings.
- New internal access stairs.

#### First Floor

- Showroom space accommodating change rooms, seating, display and hanging spaces and plant area toward No. 5 McLaughlan Place.
- New window and door openings.

#### Roof Level

- Skylights over the ground floor level.

## 5. ISSUES

### 5.1 Primary Issues

Issue	Conclusion	Section
View loss.	The proposal is considered to have negligible and minor to moderate view loss impacts. Furthermore, the applicant has not demonstrated whether a more skilful design option could improve view corridors without compromising the amenity of the proposal.	15.1
Visual and acoustic privacy impacts.	The proposed development will result in adverse visual and acoustic privacy impacts upon surrounding properties.	15.1
Bulk, scale, form and sense of enclosure	The proposal will create an exacerbated sense of enclosure upon surrounding residential properties which is considered excessive and unreasonable in the circumstances of the case.	15.1
Location of plant area	The proposed plant area location is unacceptable in the context of the subject site and surrounding locality.	15.1

## PROPERTY DETAILS AND REFERRALS

## 6. SITE AND LOCALITY

<b>Physical features</b>
The subject site is a corner allotment which is bound by Walker Lane to the north and McLaughlan Place to the west. It is legally defined as Lot 1 in Deposited Plan 66505.
The site is an irregular shaped allotment with an angled frontage to Walker Lane. In terms of dimensions, the site's northern boundary to Walker Lane measures 13.145m in length with the western boundary to McLaughlan Place equalling 20.917m in length. The site's rear boundary length measures 12.28m with the eastern boundary length equalling 25.603m. Overall, the site area measures 285.65m <sup>2</sup> .
<b>Topography</b>
At present the building footprint occupies the entire site area. The surrounding topography generally slopes from south to north.
<b>Existing buildings and structures</b>
The subject site is occupied by a single storey painted brick industrial style building with metal roof, noting there is an internal mezzanine level. At present there is no car parking or vehicle access to the subject site. Pedestrian access is available via McLaughlan Place.
<b>Surrounding Environment</b>
The subject site is surrounded by low density residential dwellings. To the east, the site adjoins the rear yards of terraces which address Elfred Street. On the opposite side of McLaughlan Place the site adjoins Nos. 1 and 3 Liverpool Street with No. 5 McLaughlan Place adjoining the subject site to the rear. This development typology is reflective of the R2 Low Density Residential zone in which the subject site is located.



Image 1: Aerial view of the subject site



Image 2: Subject site viewed from Walker Lane





Image 3: Subject site viewed from McLaughlan Place

## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Commercial – showroom and fashion office as approved under DA58/2011/1.
<b>Relevant Application History</b>
N/A
<b>Relevant Compliance History</b>
Unauthorised building works were reported on 01 August 2024 pertaining to the front façade addressing Walker Lane. This specifically related to replacement of the storage door and dismantling of the bricks around the opening along with the storage of building materials associated with these demolition works. The works ceased and the area was boarded up with materials removed. Reference CRM 97928.
<b>Pre-DA</b>
N/A
<b>Requests for Additional Information and Replacement Applications</b>
<p>A Stop the Clock letter was issued dated 06 September 2023 which requested additional information pertaining to:</p> <ul style="list-style-type: none"> <li>- Traffic requirements and demonstrating the required delivery and parking implications associated with the proposal.</li> </ul> <p>The requested information was submitted on 21 September 2023.</p> <p>A further request was made to the applicant on 12 June 2024 pertaining to:</p> <ul style="list-style-type: none"> <li>- View loss</li> <li>- Sense of enclosure</li> <li>- Visual and acoustic privacy impacts</li> <li>- Light spill</li> <li>- Reduced solar access</li> <li>- Reflectivity of materials</li> </ul> <p>No additional information to this request was submitted.</p>
<b>Land and Environment Court Appeal(s)</b>
N/A

## 8. REFERRALS

Referral	Summary of Referral Response	Annexure
Development Engineering	Satisfactory, subject to conditions if approval were recommended.	2
Traffic	Satisfactory, subject to conditions if approval were recommended.	3
Heritage	Satisfactory, subject to conditions if approval were recommended.	4
Fire Safety	Satisfactory, subject to conditions if approval were recommended.	5

## 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

## 9. ADVERTISING AND NOTIFICATION

### 9.1 Submissions

The application was advertised and notified from 13/09/2023 to 28/09/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. Submissions were received from:

1. Dong Jie Chen – 16 Elfred Street, Paddington (2 x Submissions)
2. Dr Hoomis Pahos (116 Terry Street, Kyle Bay), Mrs Connie Gistavidis (3 Liverpool Street, Paddington), Ms Valantia Gistavidis (26 Clempton Avenue, Clempton Park) – on behalf of 3 Liverpool Street, Paddington
3. Peter Sourris – 17 Elfred Street, Paddington
4. Rachel Dear – 6 Elfred Street, Paddington
5. Vivian Hanich and Michael Ramsey – 32 Gipps Street, Paddington
6. Angela You – Elfred Street, Paddington
7. Jian – Paddington
8. Ping Chen – No address provided
9. Will Mrongovius – The Paddington Society
10. Cathy Johnson & Denise O Sullivan – 1 Liverpool Street, Paddington
11. Stuart Dear – 6 Elfred Street, Paddington
12. Sarita Russell – 21 Heeley Street, Paddington
13. Grahame Bond and Kate Parker – 18 Elfred Street, Paddington (2 x submissions)
14. Margaret Scott – 8 Elfred Street Paddington
15. Judy Hitchen – 28 Gipps Street, Paddington
16. Mark Johnston – 1 Brown Street, Paddington (2 x submissions)
17. Kate Denny – 4/72 New South Head Road, Vaucluse



18. Kokona Gistavidis and C. Gistavidis (known as Valantia Poulos) – 3 Liverpool Street, Paddington
19. Laura Gerrie on behalf of – 14 Elfred Street, Paddington (2 x Submissions)
20. Lindsay Allen – 10 Elfred Street, Paddington
21. Nicholas Forward – 12 Elfred Street, Paddington (2 x submissions)
22. Anthea England – 12 Elfred Street, Paddington
23. Petition – 73 Signatures (counted as 1 x submission)
24. Alan Johnson – 3 Margaret Place, Paddington
25. Pamela Watson – 13 Elfred Street, Paddington
26. Sandra Chipchase – 5 McLaughlan Place, Paddington
27. Andrew Starr – 11 Prospect Street, Paddington

The submissions raised the following issues:

Issue	Conclusion	Section
Public interest.	The proposal in its current form is not considered to be in the public interest as is reflected in the reasons for refusal.	21
View loss.	The proposal is considered to have negligible and minor to moderate view loss impacts. Furthermore, the applicant has not demonstrated whether a more skilful design option could improve view corridors without compromising the amenity of the proposal.	15.1
Reduced solar access and consequential amenity impacts along with Inaccurate shadow diagrams.	There is insufficient information to make an accurate assessment as to the associated impacts from the proposal in the current context as is reflected in the reasons for refusal.	15.1
Visual and acoustic privacy impacts.	The proposed development will result in adverse visual and acoustic privacy impacts upon surrounding properties.	15.1
Bulk and scale impacts along with sense of enclosure.	The proposal will create an exacerbated sense of enclosure upon surrounding residential properties which is considered excessive and unreasonable in the circumstances of the case.	15.1
Site suitability and incompatibility with the residential area.	For the reasons outlined in the recommendation the proposal is considered unsuitable for the site in its current form.	20
Impacts associated with excavation including but not limited to vibration, stability of private properties and public infrastructure, disruption to services, dust, noise, traffic, stability of the site, need for further geotechnical studies, water and land stability/subsidence.	The proposal is considered to have acceptable impacts associated with the proposed excavation noting that these would be suitably managed by conditions of consent if approval were being recommended. The proposal was reviewed by Council's Development Engineer who did not raise any concerns regarding the proposed excavation works on technical grounds.	14.6, 15.1 and Annexure 2
Increased congestion traffic impacts, traffic safety, loss of on-street parking, inadequate traffic report.	Council's Traffic Engineer has reviewed the proposal and raises no objections from a traffic perspective. It should be noted that operational aspects for example operating hours and staff numbers of the premises remain unchanged by the proposal.	15.2 and Annexure 3
Reduced amenity from intensified use.	The proposal is considered to reduce the residential amenity of nearby sites in the locality as is reflected throughout this assessment report and outlined in the reasons for refusal.	15.1
Construction impacts including potential damage to properties, behaviour of trades	It is considered that general matters relating to construction would be suitably managed by conditions of consent if approval were being recommended.	N/A

Issue	Conclusion	Section
people, timing of construction, access.		
Blocking of driveways from existing customers and illegal parking of existing customers and delivery vehicles.	Driver behaviour outside of the subject site is a matter that can be dealt with under the Road Rules 2014 if appropriate.	N/A
Appropriateness of the prescribed building height.	The proposal achieves compliance with the prescribed 9.5m height of building development standard per the Woollahra LEP 2014.	14.3
Loss of property values.	The impact of the proposed development on property values is not a relevant consideration under s4.15 of the Act which requires consideration of economic impacts in the locality. It is the long standing position of the Land and Environment Court that the loss of property values to individual owners is not a relevant planning consideration ( <i>Alphatex Australia v the Hills Shire Council</i> ) [2009].	N/A
Need for a traffic management plan.	The requirements of a Construction Management Plan would have been included as a condition of consent if approval were being recommended to suitably manage construction impacts in consideration of the site's context and the surrounds.	N/A
Suggestions to overcome traffic issues, impacts from deliveries, waste removal and construction impacts.	As above, the requirements of a Construction Management Plan would have been included as a condition of consent if approval were being recommended to suitably manage construction impacts in consideration of the site's context.  The proposal does not seek to alter the already approved operational aspects of the subject site and business.	N/A
Incompatible with the heritage context and residential character of the area.	The proposal is considered acceptable from a heritage perspective, however, would have unsupportable amenity impacts upon surrounding properties in the locality.	15.1 and Annexure 4
Missing information regarding the use of the site.	The operational aspects of the proposal remain unchanged by the proposal. However, further details regarding what happens once the premises ceases trading for the day is required to determine if there would be any 'after hours' light spillage impacts as a consequence of the new first floor windows and skylights.	24
Insufficient information including as it pertains to operational aspects of the premises.	Where there is insufficient information to allow a proper assessment of the development application this is reflected in the reasons for refusal. Notably, the proposal does not seek to alter the already approved operational aspects of the subject site and business.	24
The character and significance of the existing building would be diminished.	Council's Heritage Officer concludes that the proposal would not adversely impact the significance of the existing building and is therefore supported in this regard.	Annexure 4
Increased transparency through new windows deters from the heritage character.	Council's Heritage Officer concludes that the proposal comprises suitable solid to void ratios.	Annexure 4
Design suggestions.	It is noted that the application must be assessed in the form in which it has been submitted.	N/A
Reflectivity of metal walls.	The proposed materiality is not considered to generate any unreasonably adverse reflectivity concerns and would not be out of character with the overall architecture of the built form and locality.	15.1
Acoustic and visual impact from mechanical plant equipment	It is considered that acoustic impacts associated with mechanical plant equipment could be addressed by conditions of consent if approval were being recommended. However, from a design perspective the proposed plant room/area location is not supported.	15.1

Issue	Conclusion	Section
Increased light pollution/spill	The applicant has not provided sufficient information to allow an adequate assessment of this issue.	24
Suitable fire separation.	Council's Fire Safety Officer has reviewed the application and raises no concerns subject to conditions of consent that would have been imposed if approval were being recommended.	Annexure 5
Incompatible materials and finishes.	Council's Heritage Officer concludes that the proposed materials and finishes are acceptable.	15.1 and Annexure 4
Inappropriate behaviour of staff.	The behaviour of staff is an on-site management issue and is outside the scope of this assessment. It is considered that inappropriate staff behaviour would be addressed either by Council's Building Compliance Team and or NSW Police if necessary.	N/A
Request to install bollards to protect properties and deter customers mounting the kerb.	This was not recommended by the submitted traffic documentation nor was this advised to be necessary by Council's Traffic Engineer. This assessment is thereby satisfied that no such provision is necessary.	Annexure 3
The proposal does not comply with the Woollahra LEP 2014 and the Woollahra DCP 2015.	For the reasons outlined in the reasons for refusal, the proposal does not satisfy the relevant considerations of the WLP2014 and the DCP 2015.	14 and 15
Insufficient notification period.	The application was advertised and notified from 13/09/2023 to 28/09/2023 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019.	9
Issue of permissibility.	The proposal is permissible within the zone per Clause 6.6 of the WLEP2014.	14.7
Wellbeing impacts.	The proposal is considered to generate adverse amenity impacts as is reflected in the reasons for refusal.	15.1 and 24
Non-compliance with Clause 5.4 of the Woollahra LEP 2014 and the maximum area requirement for a shop.	The provisions of Clause 5.4 are not considered to be applicable in this instance.	N/A
Need for swept path analysis.	Council's Traffic Engineer did not require a swept path analysis to complete their assessment.	Annexure 3
Need for on-site waste storage.	The proposal does not seek to alter the already approved operational aspects of the subject site and business.	N/A
Hours of operation.	The proposal does not seek to alter the already approved operational aspects of the subject site and business.	N/A
Solar panels should not be permitted.	There are no solar panels shown on the architectural plans.	Annexure 1
There is a precedent of not altering roof forms at 14 Elfred Street, Paddington (DA2018/557/1).	Council's Heritage Officer concludes that the proposal would not adversely impact the significance of the building including roof form.	15.1 and Annexure 4
No contribution to the provision of private open space.	The proposal provides a first floor balcony/terrace area.	15.1
The survey report identifies a small patch of land as a 'relic lane' when in fact this is part of the backyard for the exclusive use of 16 Elfred Street.	All works are proposed within the boundary of the subject site.	N/A

Issue	Conclusion	Section
Loading dock not shown on the architectural plans.	No loading dock is proposed and the proposal does not seek to alter the already approved operational aspects of the subject site and business.	N/A
Emergency vehicles would not be able to access properties due to illegal parking activity and construction.	Driver behaviour outside of the subject site is a matter that can be dealt with under the legislative Road Rules 2014 if appropriate.  Having regard to the submitted traffic documents and advice of the traffic referral response, this assessment is satisfied that the future congestion impacts are acceptable.	Annexure 3
Removal of potential archaeological significance.	This issue would be addressed by standard conditions if approval were being recommended per Council's Heritage Officers referral response.	Annexure 4
The submitted heritage impact assessment is insufficient.	Council's Heritage Officer raised no objection to the submitted Heritage Impact Assessment Report which was deemed satisfactory.	Annexure 4
Adverse impacts upon the Paddington Heritage Conservation Area.	Council's Heritage Officer concludes that the proposal would not adversely impact the significance of the Paddington Conservation Area.	15.1 and Annexure 4
Inappropriate waste management procedures.	The proposal does not seek to alter the already approved operational aspects of the subject site and business.	N/A

## 9.2 Replacement Application

The additional information noted in Section 7 was not renotified to surrounding residents and previous objectors under Schedule 1 of the Woollahra Community Participation Plan 2019 because the proposal, as amended, will have no greater impacts than the previously advertised application.

## 9.3 Statutory Declaration

The applicant has completed the statutory declaration dated 29/09/2023 declaring that the site notice for DA296/2023/1 was erected and maintained during the notification period in accordance with Schedule 1 of the Woollahra Community Participation Plan 2019.

## 10. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

### 10.1 Chapter 2 Coastal Management

The provisions of this planning instrument 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 will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the planning instrument.

### 10.2 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 is identified as being potentially contaminated by Council's GIS data, and is currently occupied by a commercial land use.

A Stage 1 Preliminary Assessment report was submitted with the application. The objective of this assessment was to:

- *Assess the potential for contamination to be present on the site as a result of past and current land use activities;*
- *Provide advice on whether the site would be suitable (in the context of land contamination) for any proposed future land use setting; and*
- *Provide recommendations for further investigation, management and/or remediation (if warranted).*

Based on the Stage 1 Preliminary Assessment the following conclusions were made:

- *One (1) area of potential environmental concern (AECs) has been identified for the site and will presumably be assessed during bulk excavation works proposed;*
- *Based on the assessments undertaken as part of this investigation, SE has concluded that the site is generally suitable for the proposed land use.*

Overall, it is considered that the land does not require further consideration under Clause 4.6(1) (b) and (c) of SEPP (Resilience and Hazards) 2021. The proposal is therefore acceptable with regard to SEPP (Resilience and Hazards) 2021.

## **11. STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021**

### **11.1 Chapter 3 Advertising and Signage**

There is no detailed signage proposed per this application and no further consideration of Chapter 3 is considered necessary.

## **12. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021**

### **12.1 Chapter 2 Vegetation in non-rural areas**

The proposal does not involve any tree removal nor is it considered to have any adverse tree or landscaping impacts. Accordingly, the proposal is considered to be acceptable having regard to Chapter 2 of the SEPP.

### **12.2 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 and the proposal is therefore considered to be acceptable having regard to Chapter 6 of the SEPP.

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

SEPP (Building Sustainability Index: BASIX) 2004 is not applicable as the development relates to a commercial development.

## **14. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **14.1 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:

- The proposal fails to achieve aim (a) as it would not ensure that growth occurs in a planned and coordinated way.
- The proposal fails to achieve aim (g) as it would have an unacceptable impact on the amenity of surrounding properties.
- The proposal fails to achieve aim (j) as it does not constitute a high standard of design within the private domain.

The above are reflected in the reasons for refusal.

### **14.2 Land Use Table**

The proposed commercial land use is prohibited within the R2 Low Density Residential zone, however, the land use is permissible under Part 6.6 of the Woollahra LEP 2014 which is addressed further below.

### **14.3 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	5.925m	8.770m	9.5m	Yes

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

### **14.4 Part 5.10: Heritage Conservation**

The subject site is not identified as a heritage item, however, it is located within the Paddington Heritage Conservation Area.

This assessment has had regard to Council's Heritage Officers referral response which is supportive of the proposal subject to conditions of consent which would have been imposed if approval were being recommended.

It was concluded that the proposal would have an acceptable impact upon the cultural significance of the Paddington Heritage Conservation Area.

There are no heritage items within proximity of the subject site that would be adversely impacted by the proposal.

The subject site is not in an area of Potential Aboriginal Heritage Sensitivity and any potential impacts would have been managed by conditions of consent if approval were being recommended.

Overall, the proposal is acceptable with regard to the objectives in Part 5.10 of the Woollahra LEP 2014.



## 14.5 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.

## 14.6 Part 6.2: Earthworks

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

The proposal involves excavation with a maximum depth of approximately 2.5m from the existing ground surface for the proposed basement.

The geotechnical report indicates that the subsurface conditions consists of:

- a) *Fill comprising silty sand to a depth of 0.7m and 0.6m in BH2 and BH4 respectively.*
- b) *Depth of residual silty clay with various density from a depth beneath the fill to a termination depth of 1.2m and 1.3m in BH2 and BH4 respectively.*
- c) *Sandstone bedrock was inferred beneath the natural sand at depth ranging between 1.2m and 1.3m.*
- d) *Groundwater was not observed during the investigation.*

The following provides an assessment of the proposed excavation against the relevant objective set out under Part 6.2(1) of the Woollahra LEP 2014, and the matters of consideration set out under Part 6.2(3) of the Woollahra LEP 2014.

Part 6.2(1) states:

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Part 6.2(3) states:

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- b) the effect of the development on the likely future use or redevelopment of the land,
- c) the quality of the fill or the soil to be excavated, or both,
- d) the effect of the development on the existing and likely amenity of adjoining properties,
- e) the source of any fill material and the destination of any excavated material,
- f) the likelihood of disturbing relics,
- g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The following comments are made in this regard:

- Council's Development Engineer has reviewed the relevant documents and is satisfied that the proposal would not have a detrimental effect on drainage patterns or soil stability in the locality. Council's Development Engineer has recommended conditions of consent requiring structural certification and the like prior to issuing of a construction certificate, ensuring structural risk/s to adjoining property, and impacts are minimised. These would have been imposed if approval were being recommended which satisfies (a).
- The proposed excavation is not considered to effect the likely future use or redevelopment of the land which satisfies (b).
- Subsurface conditions have been assessed in Sections 10.2 and 14.5 of this assessment report where Chapter 4 in Resilience and Hazards SEPP 2021 and Part 6.1 Acid Sulfate Soils of the WLEP 2014 are addressed, respectively. Conditions would have been imposed to ensure that appropriate protection measures are adhered to prior to and during development work which satisfies (c).
- Excavation works are considered to be temporary in nature, thereby minimising associated noise, vibration, dust and other amenity impacts arising from jackhammering, rock breaking, truck movements, and the like to the short-term. Standard conditions requiring noise and dust mitigation measures would have been imposed in order to ensure impacts on amenity are minimised which satisfies (d).
- The application is accompanied by a Site Waste Minimisation and Management Plan which details that excavated material would be taken to a recycling outlet and no fill is proposed. The suitability of the submitted SWMMP would have been reinforced by way of conditions if approval were being recommended which satisfies (e).
- Council's Heritage Officer has not raised any concerns relating to the potential for disturbing relics and relevant conditions of consent would have been recommended which manage any potential impacts which satisfies (f).
- The subject site is not located proximate to any drinking water catchments and de-watering is not required. Council's Development Engineer is satisfied the submitted Stormwater Management Plan is acceptable with regards to Chapter E2 of the WDCP 2015. The site is not identified as being located within an environmentally sensitive area which satisfies (g).
- Conditions of consent would have been recommended requiring structural certification prior to issuing of a construction certificate and vibration monitoring to be in place during work. These would have ensured structural risk/s to adjoining property and impacts are minimised which satisfies (h).

The proposal is acceptable with regard to Part 6.2 of the Woollahra LEP 2014 which would have been reinforced by way of conditions of approval were being recommended.

#### **14.7 Part 6.6: Use of Existing Non-Residential Buildings in Residential Zones**

*(1) The objective of this clause is to enable buildings and land in a residential zone to be developed for non-residential purposes only in certain circumstances.*

The proposal would continue the non-residential use of the building. However, the proposed works are not considered to be sympathetically integrated into the existing circumstance noting the adverse amenity impacts that would arise. O1 is therefore not satisfied in this case.

*(2) This clause applies to development on land in a residential zone.*

The subject site is zoned R2 Low Density Residential and the clause is therefore applicable.

*(3) Despite any other provision of this Plan, development consent must not be granted to development to which this clause applies for the purposes of business premises, a community facility, an information and education facility, office premises, a public administration building or a shop unless—*

- (a) *the whole or part of the development has a history of a lawfully commenced non-residential use, whether or not that use has been discontinued, abandoned or interrupted, and*
- (b) *the whole or part of the development was originally lawfully carried out with a non-residential design or was lawfully altered or adopted to a non-residential design, and*
- (c) *the consent authority is satisfied that the development—*
  - (i) *will not adversely affect the enjoyment by an occupier of the land adjoining or in the neighbourhood of the land on which the development is situated, and*
  - (ii) *if located in a heritage conservation area—will not adversely affect the heritage significance of the building in which, or the land on which, the development is situated, or the heritage conservation area.*

In response to 3(a) and (b) the whole of the site has a history of a lawfully commenced non-residential use noting that this has occurred within a building that is of a non-residential design. DA508/2011/1 was approved on 24 January 2012 for internal alterations and change of use to showroom and fashion office with trading hours from 9am – 6pm Monday to Sunday. Condition 1.2 of that consent did not allow trading on Sundays or public holidays.

With respect to 3(c)(i) the proposal would adversely affect the enjoyment of adjoining and surrounding properties which is not supported.

With regard to potential view loss, having regard to the relevant considerations under Part C1.4.9 of the Woollahra DCP 2015 and the planning principle established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*, the proposal is considered to have minor - moderate impacts and as it pertains to some properties these are negligible. However, the applicant is required to explore the option of a more skilful design which has not been demonstrated. The proposal is therefore not supported on the basis of view sharing and forms the reasons for refusal.

Concern is raised regarding the adverse visual impacts and exacerbated sense of enclosure that the proposal would create upon surrounding residential properties which is considered excessive and unreasonable in the circumstances of the case. This is considered to adversely affect the enjoyment by an occupier of the land adjoining the subject site.

With respect to visual and acoustic privacy, windows along the eastern and western elevations have been treated with obscure glazing to a height of 1.62m to mitigate opportunities for overlooking. The proposed first floor balcony is considered to result in overlooking impacts to surrounding properties which address Liverpool Street and Brown Street to the north and north-east. As it pertains to properties which address Elfred Street, a 1.6m high privacy screen is provided along the eastern edge of the balcony to deter view lines.

In terms of acoustic privacy, the location and size of the proposed balcony is deemed to be contextually inappropriate within the locality which is dominated by residential land uses and would generate exacerbated acoustic amenity impacts when in use beyond what would be reasonably expected in the site's context.

With regard to exacerbated light spill/light pollution the submitted documentation has not provided any details in relation to what occurs during evening/nighttime hours once the premises closes after each day. It is noted that the Council has received a number of objections in relation light spill impacts, which potentially have unacceptable impacts on the amenity of surrounding residential properties. The applicant has not provided sufficient information to allow for an adequate assessment of this issue.

Having regard to the submitted shadow diagrams these demonstrate that that properties which address Elfred Street would retain an acceptable degree of solar access between 10am and 12pm on 21 June and that the proposal would not impact north facing habitable room windows which is acceptable.

However, it should be acknowledged that one of the objections raised concerns with the submitted shadow diagrams noting that existing fencing has not been accounted for. It is uncertain as to whether boundary fences of the surrounding properties have been accounted for in the analysis. Therefore, there is insufficient information to make an accurate assessment as to the associated impacts from the proposal in the current context as is reflected in the reasons for refusal.

Per 3(c)(ii) noting the subject site is within the Paddington Heritage Conservation Area, Council's Heritage Officer has undertaken an assessment of the proposal and deems it to be satisfactory from a heritage perspective noting it is not considered to alter the heritage significance of the building or the land on which it is located upon, nor would it have any adverse impacts upon the conservation area.

For the reasons detailed above, the proposal does not satisfy all of the relevant considerations under this part which is reflected in the reasons for refusal.

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

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

#### **C1.2.4 Desired Future Character**

Whilst Council's Heritage Officer considers the proposal to be acceptable from a heritage perspective, it is considered to generate adverse amenity impacts which are contrary to the following desired future outcomes.

- The proposal fails to achieve objective (d) as it would not retain a cohesive development character.
- The proposal fails to achieve aim (j) as it would have unsupportable view sharing impacts upon surrounding properties.
- The proposal fails to achieve aim (k) as it does not exhibit contemporary design excellence.

#### **C1.3.3 Corner Buildings**

The proposal is satisfactory with regard to objectives O1, O2, O3 and controls C1, C2 and C3 of Section C1.3.3 of the Woollahra DCP 2015. The proposal will not remove any significant fabric and will maintain an acceptable presentation to McLaughlan Place and Walker Lane. However, it is acknowledged that the bulk and scale will compromise the enjoyment of surrounding properties as it reflected in the reasons for refusal.

#### **C1.3.8 Commercial and Industrial Buildings Including Shops**

The proposal is satisfactory with regard to objective O1 and controls C1, C3 and C4 of Section C1.3.8 of the Woollahra DCP 2015.

Past alterations and additions at the subject site are deemed to have diminished the original character of the built form currently situated at the subject site. The structure is not designed in a particular architectural style nor does it exhibit any features of architectural merit. Council's Heritage Officer considers that its industrial character is embodied in the utilitarian construction. Given the limited cultural significance of the site and its contribution to the overall character of the conservation area the proposed works are deemed acceptable in this circumstance.

Although diminished, the industrial character would remain discernible in the context of the proposed works. The proposed upper level is set back from the northern, eastern and southern boundaries which reaffirms the original form.

The pitched roof of the upper level is setback from Walker Lane and includes a staggered presentation due to the proposed balcony.

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

The proposal is satisfactory with regard to objective O1, O4, O9, O12, O13 and control C1 of Section C1.4.1 of the Woollahra DCP 2015.

From a Heritage perspective, the utilitarian building would be retained with the proposed alterations and additions having a sympathetic response to the existing building at the subject site. The proposed demolition of the original roof form and proposed excavation is supported by Council's Heritage Officer. The internal demolition works would not remove any significant or culturally valuable fabric with the mezzanine floor not being original.

The upper level addition along with its setback from Walker Lane would be complementary to the existing building form. The proposed works to previously altered elevations are supported so too is the internal fit-out.

Materials, finishes and detailing would promote a lightweight appearance for new elements which would allow them to be readily distinguished from the existing fabric which is supported.

Council's Development Engineer has raised no technical concerns with the proposed excavation works subject to the conditions which would have been imposed if approval were being recommended to address O9.

#### **C1.4.2 Side Elevations and Side Additions**

Council's Heritage Officer has raised no concerns regarding the proposed works to the side elevation which addresses McLaughlan Place having regard to objective O1 and controls C1, C2 and C3. Noting that the proposal would not adversely impact upon the original fabric of side elevations with the proposal offering an acceptable response to the architecture and character of the current built form. The demolition works to the roof form are supported.

Despite the above, concern is raised with regard to the impacts that would be generated upon surrounding properties in terms of an exacerbated sense of enclosure and view loss from an inappropriate bulk and scale. This is contrary to objectives O3, O4, O5 and controls C12(b), C13 and C14.

#### **C1.4.4 Roofs and Roof Forms**

The proposal is satisfactory with regard to objective O1, O3 and controls C1, C3, C6, C8 and C10 of Section C1.4.4 of the Woollahra DCP 2015.

The proposed roof form and materiality to the upper level addition is consistent with that exhibited by the existing building and surrounding properties. This element is therefore supported. The original roof form would remain discernible as part of the proposed works. Council's Heritage Officer has not raised concerns with demolition works associated with the original roof form which is supported.

No objections have been raised to the new strip skylights along the eastern roof plane of the existing roof by Council's Heritage Officer. These pertain to a portion of the original roof area which is being modified (made flat) by the proposal.

#### **C1.4.5 Building Height, Bulk, Form and Scale**

Council's Heritage Officer has not raised any concerns with regard to the overall bulk of the upper most level concluding that it responds appropriately to the existing context having regard to its overall form, bulk, character and sitting having regard to C3 and objectives O1, O3 and O4.

However, concern is raised regarding the adverse visual impacts, view loss and exacerbated sense of enclosure that it would create upon surrounding residential properties which is considered excessive and unreasonable in the circumstances of the case. This is also contrary to O6 which requires that the amenity of adjoining properties be protected.

Having regard to the submitted shadow diagrams these demonstrate that that properties which address Elfred Street would retain an acceptable degree of solar access between 10am and 12pm on 21 June and that the proposal would not impact north facing habitable room windows which achieves compliance.

However, it should be acknowledged that one of the objections raised concerns with the submitted shadow diagrams noting that existing fencing has not been accounted for. It is uncertain as to whether fences of the surrounding properties have been accounted for in the analysis. Therefore, there is insufficient information to make an accurate assessment as to the associated impacts from the proposal in the current context as is reflected in the reasons for refusal.

#### **C1.4.6 Site Coverage, Setbacks and Levels**

The proposal is satisfactory with regard to objective O1, O2, O3, O4 and controls C1, C2, C3, C4 and C7 of Section C1.4.6 of the Woollahra DCP 2015.

The proposal will maintain a complete site coverage and will maintain the existing setbacks along street frontages. It will not be built forward of the existing building line. Noting that the subject site is somewhat of an anomaly in the immediate area it is not reflective of any established setback pattern and therefore the proposed first floor would not compromise this aspect. Concern is raised regarding the adverse visual impacts, view loss and exacerbated sense of enclosure that it would create upon surrounding residential properties which is considered excessive and unreasonable in the circumstances of the case

Although the site is not substantially sloping, the proposed levels would be consistent with those established by surrounding development.

#### **C1.4.7 Excavation**

The proposal will comply with controls C1, C2, C3 and will achieve the relevant objectives O1, O2, O3, O4, O5, O6, O7, O9 and O10.

The proposed excavation would not occur under common walls or footings, under any part of adjoining land nor would it occur under or forward of the front façade. In accordance with the submitted geotechnical report, the proposal involves excavation with a maximum depth of about 2.5m from the existing ground surface levels for the proposed basement.

The submitted Geotechnical Report identified the following subsurface conditions:

- a) *Fill comprising silty sand to a depth of 0.7m and 0.6m in BH2 and BH4 respectively.*
- b) *Depth of residual silty clay with various density from a depth beneath the fill to a termination depth of 1.2m and 1.3m in BH2 and BH4 respectively.*
- c) *Sandstone bedrock was inferred beneath the natural sand at depth ranging between 1.2m and 1.3m.*
- d) *Groundwater was not observed during the investigation.*



The greatest depth of excavation will occur at 1.5m from side boundaries which complies with the minimum side setback requirement to property boundaries.

Removal of the existing flooring is required to accommodate the basement level, however, this is already significantly altered and demonstrates no original significance.

Rooms at the basement are not considered habitable and therefore their amenity is not compromised by their location.

Per C2, the proposal is not considered to cause any damp problems to party walls noting the separation of excavation from such areas.

Groundwater was not encountered during the geotechnical investigation. However, appropriate stormwater management conditions would have been incorporated if approval were being recommended which is deemed acceptable by Council's Development Engineer to satisfy C3.

A Geotechnical Report accompanied this application and no objections have been raised to this aspect of the proposal by Council's Development Engineer.

Furthermore, Council's Heritage Officer has recommended a condition pertaining to unexpected archaeological finds which would have been included if approval were being recommended.

#### **C1.4.8: Private Open Space, Swimming Pools, Courtyards and Landscaping**

At present there are no areas of private open space or deep spoil landscaping across the site. The non-provision of landscaping as existing would be replicated.

The proposed first floor balcony is considered to result in adverse privacy impacts to surrounding properties which address Liverpool Street and Brown Street which are not supported in this case as reflected in the reasons for refusal. This is contrary to objectives O6, O8 and controls C11 and C12.

#### **C1.4.9: Views**

The proposal is not considered to give rise to any view loss impacts from the public domain.

The issue of view loss was raised in the objections from Nos:

- 1 Liverpool Street, Paddington
- 3 Liverpool Street, Paddington
- 5 McLaughlan Place, Paddington
- 6 Elfred Street, Paddington
- 8 Elfred Street, Paddington
- 10 Elfred Street, Paddington
- 12 Elfred Street, Paddington
- 14 Elfred Street, Paddington
- 18 Elfred Street, Paddington
- 1 Brown Street, Paddington

It should be noted that the objection received from 11 Prospect Street, Paddington made reference to views being impacted in Elfred Street, Flinton Street and Gipps Street. However, no specific addresses or photographs were included in this objection.

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah* (2004) NSWLEC 140 which has established a four step assessment of view sharing.

1. *The assessment of the views affected*

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

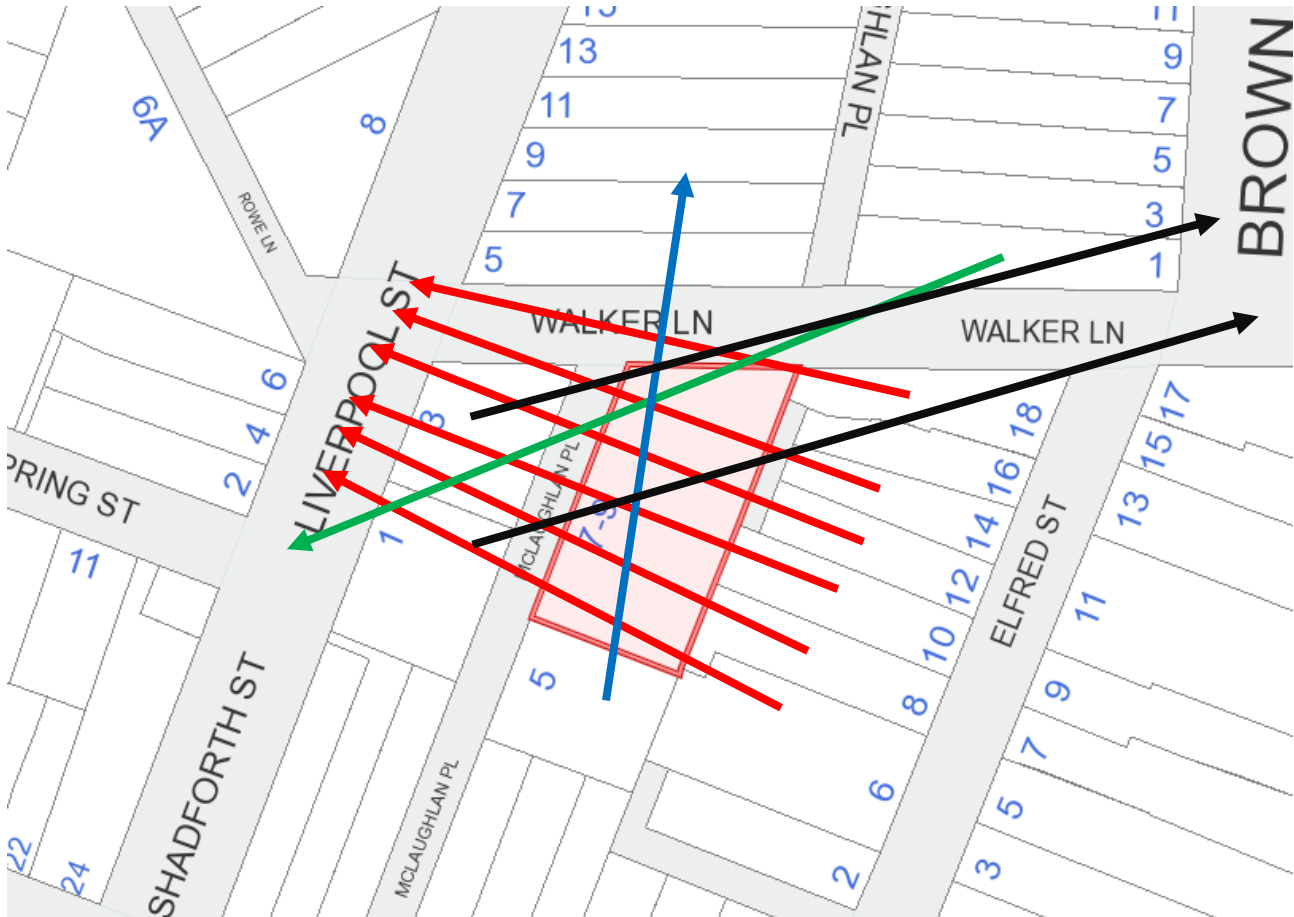


Image 4: Aerial map indicating the orientation of views from affected properties towards the subject site which is highlighted in red

**No. 1 Liverpool Street, Paddington**

Of concern is the interruption of district and land views, however, the view is dominated by residential buildings in the locality. There are no water, whole or iconic views achieved across the subject site.

**Table 1 – Views currently obtained from 1 Liverpool Street, Paddington towards the subject site**



Photo 1: Attic level standing



Photo 2: Attic level sitting



**No. 3 Liverpool Street, Paddington**

Of concern is the interruption of district views which is dominated by the subject site and residential buildings in the locality. There are no water, land, whole or iconic views achieved across the subject site.

**Table 2 – Views currently obtained from 3 Liverpool Street, Paddington towards the subject site**



Photo 1: First floor bedroom standing



Photo 2: First floor bathroom standing

**No. 6 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.

**Table 3 – Views currently obtained from 6 Elfred Street, Paddington towards the subject site**



Photo 1: Attic level standing



Photo 2: First floor bedroom standing





Photo 3: First floor bedroom sitting

**No. 8 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.

**Table 4 – Views currently obtained from 8 Elfred Street, Paddington towards the subject site**



Photo 1: Attic level standing





Photo 2: Attic level sitting



Photo 3: First floor bathroom standing



Photo 4: First floor balcony standing



Photo 5: First floor balcony sitting





Photo 6: First floor study standing



Photo 7: First floor study sitting



**No. 10 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.

**Table 5 – Views currently obtained from 10 Elfred Street, Paddington towards the subject site**



Photo 1: First floor balcony standing



Photo 2: First floor balcony sitting





Photo 3: First floor bedroom standing

**No. 12 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.

**Table 6 – Views currently obtained from 12 Elfred Street, Paddington towards the subject site**



Photo 1: First floor bedroom standing





Photo 2: First floor bedroom sitting



Photo 3: First floor rear balcony standing





Photo 4: First floor rear balcony sitting

**No. 14 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.

**Table 7 – Views currently obtained from 14 Elfred Street, Paddington towards the subject site**



Photo 1: First floor bedroom standing



Photo 2: First floor bedroom sitting





Photo 3: First floor balcony standing



Photo 4: First floor balcony sitting



Photo 5: First floor bathroom standing

**No. 18 Elfred Street, Paddington**

Of concern is the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site.



**Table 8 – Views currently obtained from 18 Elfred Street, Paddington towards the subject site**



Photo 1: First floor attic standing



Photo 2: First floor attic sitting





Photo 3: First floor balcony standing



Photo 4: First floor study standing



**No. 5 McLaughlan Place, Paddington**

Of concern is the interruption of land, water and partial whole views toward Sydney Harbour. There are no iconic views across the subject site that would be impacted by the proposal.

**Table 9 – Views currently obtained from 5 McLaughlan Place, Paddington towards the subject site**



Photo 1: First floor bedroom standing



Photo 2: First floor courtyard standing



Photo 3: First floor courtyard sitting





Photo 4: First floor study standing



Photo 5: First floor study sitting



Photo 6: First floor study standing (zoomed view for context)

**No. 1 Brown Street, Paddington**

Of concern is the interruption of district views which are dominated by residential built forms. There are no water, whole or iconic views achieved across the subject site.

**Table 10 – Views currently obtained from 1 Brown Street, Paddington towards the subject site**



Photo 1: First floor habitable room standing



Photo 2: Attic skylight standing

2. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

**No. 1 Liverpool Street, Paddington**

The views over the subject site identified in Table 1 are obtained from an attic space and are across a rear boundary. Both standing and sitting views have been considered.

**No. 3 Liverpool Street, Paddington**

The views over the subject site identified in Table 2 are obtained from a first floor bedroom and first floor bathroom and are across a rear boundary. Only standing views have been considered as from a sitting position no views were available.

**No. 6 Elfred Street, Paddington**

The views over the subject site identified in Table 3 are obtained from an attic space and a first floor bedroom across the rear boundary. Both standing and sitting views have been considered. It should be noted that limited sitting views were available from the attic space given the sill height of this window.



**No. 8 Elfred Street, Paddington**

The views over the subject site identified in Table 4 are obtained from an attic space, a first floor bathroom, first floor study and first floor balcony across the rear boundary. Both standing and sitting views have been considered. It should be noted that limited sitting views were available from the bathroom given the sill height of this window.

**No. 10 Elfred Street, Paddington**

The views over the subject site identified in Table 5 are obtained from the first floor bedroom and first floor balcony across the rear boundary. Both standing and sitting views have been considered.

**No. 12 Elfred Street, Paddington**

The views over the subject site identified in Table 6 are obtained from the first floor bedroom and first floor balcony across the rear boundary. Both standing and sitting views have been considered.

**No. 14 Elfred Street, Paddington**

The views over the subject site identified in Table 7 are obtained from a first floor bathroom, first floor bedroom and first floor balcony across the rear boundary. Both standing and sitting views have been considered. It should be noted that limited sitting views were available from the bathroom given the sill height of this window.

**No. 18 Elfred Street, Paddington**

The views over the subject site identified in Table 8 are obtained from an attic space, a first floor study and first floor balcony across the rear boundary. Both standing and sitting views have been considered. It should be noted that views from the first floor study and balcony were obstructed by landscaping from a standing position and therefore would also be obstructed from a sitting position.

**No. 5 McLaughlan Place, Paddington**

The views over the subject site identified in Table 9 are obtained from a first floor bedroom, first floor courtyard and first floor study across a side boundary. Both standing and sitting views have been considered. It should be noted that there are limited sitting views from the first floor courtyard with these being largely obstructed by the external wall.

**1 Brown Street, Paddington**

The views over the subject site identified in Table 10 are obtained from a first floor habitable room and attic skylight across a side boundary. Only standing views have been considered from this property noting that comparable sitting views would be obtained from the first floor and no sitting views are available from the attic space.

3. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*



It should firstly be acknowledged that no formal photomontages or view analysis was provided by the applicant with respect to these nominated properties. Whilst a preliminary analysis was prepared this has not been finalised and at the applicants request has not been relied upon to inform this assessment.

To best understand the height the proposal and contextual relationship, the most comparable RL is the ridge height of the adjoining property at No. 5 McLaughlan Place which is at RL64.53. With the maximum RL of the proposal set at RL64.53 all available views below this RL would be lost as a consequence of the proposed development. This is best demonstrated in the Section excerpt below.

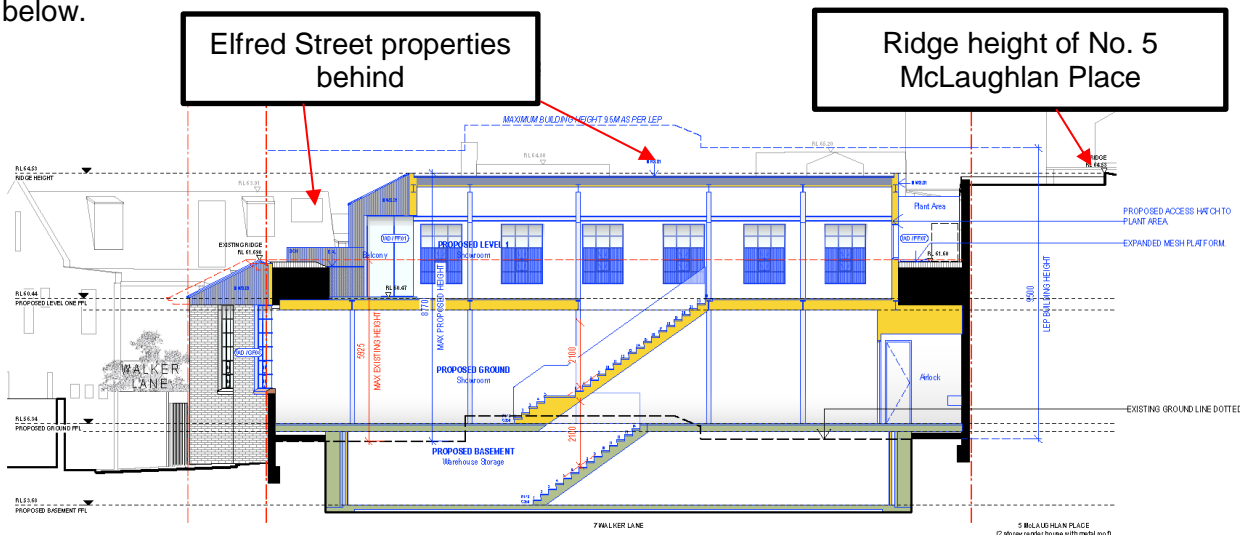


Image 5: Section excerpt showing proposed building height

### **No. 1 Liverpool Street, Paddington**

Views from No. 1 Liverpool Street would be affected by the proposed development which includes the interruption of district and land views, however, the view is dominated by residential buildings in the locality. The views are from an attic space and not from primary living, dining or kitchen areas. These are obtained across the rear boundary.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor.

### **No. 3 Liverpool Street, Paddington**

Views from No. 3 Liverpool Street would be affected by the proposed development, however, these are district views which is dominated by the subject site and residential buildings in the locality. There are no water, land, whole or iconic views achieved across the subject site. These are obtained across the rear boundary.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as negligible.

### **No. 6 Elfred Street, Paddington**

Views from No. 6 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather a bedroom and attic space. Views from both a standing and sitting position would be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor – moderate.

**No. 8 Elfred Street, Paddington**

Views from No. 8 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather a bedroom and attic space. Views from both a standing and sitting position would be impacted

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor – moderate.

**No. 10 Elfred Street, Paddington**

Views from No. 10 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather a bedroom and adjoining balcony space. Views from both a standing and sitting position would be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor – moderate.

**No. 12 Elfred Street, Paddington**

Views from No. 12 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather a bedroom and adjoining balcony space. Views from both a standing and sitting position would be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor – moderate.

**No. 14 Elfred Street, Paddington**

Views from No. 14 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline including Centre Point Tower. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather a bedroom and adjoining balcony space along with bathroom. Views from both a standing and sitting position would be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as minor – moderate.

**No. 18 Elfred Street, Paddington**

Views from No. 18 Elfred Street would be affected by the proposed development which includes the interruption of views toward the Sydney CBD skyline. There are no water or whole views achieved across the subject site. These views are obtained across a rear boundary, however, are not obtained from living, dining or kitchen areas rather an attic, bedroom and adjoining balcony space. It should be noted that views from the first floor study and balcony were obstructed by landscaping and views of the Centre Point Tower would remain unaffected.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as negligible – minor.

#### **No. 5 McLaughlan Place, Paddington**

View from No. 5 McLaughlan Place would be affected by the proposed development which includes the interruption of land, water and partial whole views toward Sydney Harbour. There are no iconic views across the subject site that would be impacted by the proposal. Views are obtained from a first floor bedroom, first floor courtyard and first floor study across a side boundary and not from living, dining or kitchen areas. Both standing and sitting views would be impacted.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as moderate.

#### **1 Brown Street, Paddington**

Views from No. 1 Brown Street would be affected by the proposed development, however, these are district views which are dominated by the subject site and residential buildings in the locality. There are no water, land, whole or iconic views achieved across the subject site.

In light of the above and given the nature of the affected views the impacts can be qualitatively described as negligible.

#### **4. The reasonableness of the proposal that is causing the impact**

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The Court poses two questions in *Tenacity Consulting vs Warringah (2004) NSWLEC 140*. The first step is to determine whether a non-compliance with one or more planning controls results in view loss.

Although there are non-compliances, these are not considered to be of an extent that would create unreasonably adverse view sharing impacts.

The second consideration is whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

In this regard, a more skilful design should be explored with respect to the proposed built form. The applicant has not adequately demonstrated whether more skilful design options are available to them without compromising their proposed amenity whilst potentially reducing the impacts of views to surrounding properties.

Overall, having regard to the relevant considerations under Part C1.4.9 of the Woollahra DCP 2015 and the planning principle established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*, the proposal is considered to have minor – moderate impacts respect to view loss and as it pertains to some properties these are negligible. However, the applicant has not explored the option of a more skilful design in this instance. The proposal is therefore not supported on the basis of view sharing and forms the reasons for refusal.

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

The proposal does not satisfy objectives O1, O2 or controls C4 and C5.

Windows along the eastern and western elevations have been treated with obscure glazing to a height of 1.62m which is supported. However, the proposed first floor balcony is considered to result in overlooking impacts to surrounding properties which address Liverpool Street and Brown Street to the north and north-east which are not supported in this case. As it pertains to properties which address Elfred Street, a privacy screen is provided along the eastern edge of the balcony to deter view lines.

In terms of acoustic privacy, the location and size of the proposed balcony is deemed to be contextually inappropriate within the locality which is dominated by residential land uses and is deemed to generate increased acoustic amenity impacts when in use.

#### **C1.5.1: Dormers and Skylights**

The proposed skylights are considered acceptable from a heritage perspective and having regard to objectives O1 and controls C23, C28 and C29.

Whilst the proposed strip of skylights would be contained to a side facing portion of the building where works to the original roof form are proposed and would be greater than 1.5m<sup>2</sup> in size these would essentially sit flush with the amended roof form. It is considered that the skylights would not adversely impact the appearance or compromise the fabric of the principal roof form which is supported.

#### **C1.5.3 Windows, Doors, Shutters and Security**

The proposal is satisfactory with regard to objective O3, control C4 and Table 8 of Section C1.5.8 of the Woollahra DCP 2015.

The proposed windows to Walker Lane and McLaughlan Place are consistent with the overall character of the built form which is supported. No objections have been raised by Council's Heritage Officer in this regard.

#### **C1.5.4 Verandahs and Balconies**

Control C7 requires that new rear upper floor balconies and verandahs be designed with regard to the amenity of adjoining and adjacent properties. The proposed first floor balcony is considered to result in overlooking impacts to surrounding properties which address Liverpool Street and Brown Street which are not supported in this case as reflected in the reasons for refusal. A privacy screen has been shown along the eastern elevation which would deter view lines toward properties which address Elfred Street.

In terms of acoustic privacy, the location and size of the proposed balcony is deemed to be contextually inappropriate within the locality which is dominated by residential land uses and is deemed to generate increased acoustic amenity impacts when in use.

Overall, the proposed balcony area would result in unsupportable privacy and acoustic amenity impacts upon surrounding properties.

#### **C1.5.8 Materials, Finishes and Details**

The proposal is satisfactory with regard to objective O2 and controls C4, C5 and Table 8 of Section C1.5.8 of the Woollahra DCP 2015.

The proposed materials, colours, details and finishes are consistent with the overall industrial/commercial style of the development and are therefore supported.

#### **C1.5.9 Exterior Colours**

The proposed colour scheme is acceptable with objective O1 and controls C1, C3, C4 and C6 under Section C1.5.9 of the Woollahra DCP 2015 which is supported by Council's Heritage Officer.

#### **C1.5.10: Gardens and Trees**

At present there is no landscaping at the site with this condition being upheld by the proposal having regard to Section C1.5.10 of the Woollahra DCP 2015.

#### **C1.5.11 Satellite Dishes, Aerials, Air Conditioning Units and Other Site Facilities**

The proposal does not achieve compliance with objectives O1, O2, O3 and O4 nor controls C2, C3 and C4 of Section C1.5.11 of the Woollahra DCP 2015.

The proposed plant area is not located internally within the building which does not satisfy C2.

The proposed plant area would be visible from the public domain and its location is not considered to minimise noise impacts upon adjoining properties which is contrary to C3.

The proposed plant area would be visible from adjoining properties and is of an inappropriate design which is not positively integrated within the building which is contrary to C4.

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

This assessment has had regard to Council's Traffic Engineering referral response which supports the proposal subject to conditions of consent which would have been imposed if approval were being recommended.

In terms of on-site parking provision, the following table is copied from Council's Traffic Engineering referral response.

<b>Non-Residential Component</b>	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
<b>Existing</b>			
Retail premises	309m <sup>2</sup>	3.3 spaces per 100m <sup>2</sup>	10.2 (10)
Parking provision			0
<b>Proposal</b>			
Retail premises	427m <sup>2</sup>	3.3 spaces per 100m <sup>2</sup>	14.1 (14)
Parking provision			0

The proposal would exacerbate the non-provision of on-site parking by four (4) spaces. Noting that there is no vehicle access to the subject site with the footprint of the existing built form occupying the entirety of the subject site, it is considered unrealistic to require strict compliance in this regard.

This is reinforced by the fact that the overall intensity of the current operations would remain unchanged with no increase to staffing. Furthermore, surrounding streets comprise timed parking restrictions and resident parking schemes which are deemed to deter long term parking by staff. The proposed non-provision of on-site parking is therefore supported in this case.

With regard to bicycle and motorbike parking, the following table is copied from Council's Traffic Engineering referral response.

<b>BICYCLE</b>			
	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
Retail Employees	118m <sup>2</sup>	1 per 250m <sup>2</sup>	0.5 (1)
Retail Customers	118m <sup>2</sup>	2 + 1 per 100m <sup>2</sup> over 100m <sup>2</sup> GFA	2.2 (2)
Total required			3
<b>MOTORBIKE</b>			
	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
Car Spaces	4	1 per 10 car spaces	0.4 (0)
Total required			0

The proposal would exacerbate the shortfall of on-site bicycle parking by 3 spaces versus the existing configuration. However, it is acknowledged that the proposal would not increase staffing levels and it is reasonable that additional bicycle parking demand could be accommodated in the surrounding streets noting the minor demand that is generated.

Having regard to traffic generation, Council's Traffic Engineer considers that the additional traffic generated by the proposal would unlikely cause unacceptable adverse impacts on the surrounding road network in terms of efficiency and safety. The proposal is therefore supported in this regard.

In terms of delivery and servicing, this will take place along kerbside locations within Walker Lane via a maximum of 6.4m SRV's which is in keeping with the current configuration. The proposal will not intensify current operations and it is therefore considered acceptable.

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

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

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

### **15.4 Chapter E3: Tree Management**

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

### **15.5 Chapter E4: Contaminated Land**

Having considered the conclusions of the submitted Stage 1 Preliminary Site Investigation report the application is deemed acceptable and it pertains to site contamination noting that no further investigation or site remediation is necessary. This is also discussed in Section 10.2 of this assessment report.

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



## **15.6 Chapter E5: Waste Management**

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

### **Part E5.2: Demolition and Construction Phase**

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

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

The existing operational waste management aspects of the subject site remain unchanged and the proposal is therefore considered acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

### **Part E5.6: Commercial and Non-Residential Developments**

The existing operational waste management aspects of the subject site remain unchanged and the proposal is therefore considered acceptable with regard to Part E5.6 of the Woollahra DCP 2015.

## **15.7 Chapter E6: Sustainability**

The proposal does not involve any additional sustainable measures for example solar panels at the subject site. However, passive heating and cooling will be achieved via new window openings and their orientation. The proposal is acceptable with regard to Chapter E6 of the Woollahra DCP 2015.

## **16. DRAFT AMENDMENTS TO POLICIES AND PLANS**

None relevant.

## **17. CONTRIBUTION PLANS**

Contributions plans allow funds to be raised from approved development applications. The funds are used for the intended provision, extension or augmentation of public facilities, or towards recouping the cost of facilities that have been provided, extended or augmented. These contributions relate to sections 7.11 and 7.12 of the EP&A Act, formerly known as section 94 and section 94A.

### **17.1 Section 7.12 Contributions Plan**

A 1% levy applies with the monies being used for a variety of works as outlined in Schedule 1 of the Section 7.12 Contributions Plan 2022. This would have been addressed by a condition of consent if approval were being recommended.

### **17.2 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, Section 7.12 contributions are relevant. Accordingly, Section 7.11 contributions are not applicable.

## **18. APPLICABLE ACTS/REGULATIONS**

### **18.1 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 if approval were being recommended.

#### **Clause 64: Consent authority may require upgrade of buildings**

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

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Attachments 5**. The specific fire safety related requirements would have otherwise been addressed by conditions of consent if approval were being recommended.

## **19. 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.

## **20. THE SUITABILITY OF THE SITE**

The site is not suitable for the proposed development.

## **21. THE PUBLIC INTEREST**

The proposal is not considered to be in the public interest.

## **22. CONCLUSION**

The proposal is unacceptable against the relevant considerations under Section 4.15.

## **23. 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.

## **24. 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. 296/2023/1 for extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building on land at 7-9 McLaughlan Place PADDINGTON (aka 7 Walker Lane PADDINGTON), for the following reasons:

## 1. View Loss

- a) The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 and will result in view loss impacts upon surrounding properties:
- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (a), (g), (j)
  - Woollahra Local Environmental Plan 2014: Clause 6.6(1), 6.6(3)(c)(i)
  - Woollahra DCP 2015: Chapter C1, Section C1.2.4, Objectives (j)
  - Woollahra DCP 2015, Chapter 1, Section C1.4.9, Objectives O1, O2 and Control C1
  - The four step assessment of view sharing established by *Tenacity Consulting v Warringah (2004) NSWLEC 140*

## 2. Visual and Acoustic Privacy Impacts

- a) The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 and will result in adverse visual and acoustic privacy impacts upon surrounding properties:
- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (a), (g) (j)
  - Woollahra Local Environmental Plan 2014: Clause 6.6(1), 6.6(3)(c)(i)
  - Woollahra DCP 2015, Chapter 1, Section C1.4.8, Objectives O6, O8 and Controls C11, C12
  - Woollahra DCP 2015, Chapter 1, Section C1.4.10, Objectives O1, O2 and Controls C4, C5
  - Woollahra DCP 2015, Chapter 1, Section C1.5.4, Control C7

## 3. Bulk, Scale, Form and Sense of Enclosure

- a) The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 as it will generate an exacerbated sense of enclosure upon surrounding properties from an inappropriate bulk, scale and form:
- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (a), (g) (j)
  - Woollahra Local Environmental Plan 2014: Clause 6.6(1), 6.6(3)(c)(i)
  - Woollahra DCP 2015: Chapter C1, Section C1.2.4, Objectives (d), (k)
  - Woollahra DCP 2015: Chapter C1, Section C1.4.2, objectives O3, O4, O5 and controls C12(b), C13, C14
  - Woollahra DCP 2015: Chapter C1, Section C1.4.5, Objectives O1, O3, O4, O6 and Control C3

## 3. Location of Plant Area

- a) The proposed development should be refused as it is contrary to the following provisions in the Woollahra LEP 2014 and DCP 2015 as the plant area is in an inappropriate location:
- Woollahra Local Environmental Plan 2014: Clause 1.2 – Aims (a), (g) (j)
  - Woollahra DCP 2015: Chapter C1, Section C1.2.4, Objectives (d), (k)
  - Woollahra DCP 2015: Chapter C1, Section C1.4.11, Objectives O1, O2, O3 and O4 and Controls C2, C3, C4

## 4. Site Suitability

The subject site is not suitable for the proposed development.






## 5. Public Interest

The proposed development is not in the public interest.

## 6. Insufficient Information

- (a) The submitted shadow diagrams do not provide for an accurate assessment of the impacts toward properties which address Elfred Street as it is unclear whether boundary fencing has been accounted for in the submitted shadow diagrams. This needs to be clarified and amended accordingly in order to allow an accurate assessment of these properties against Controls C4 and C5 within Chapter C1, Part C1.4.5 of the Woollahra DCP 2015.
- (b) Photomontages and/or wire frame diagrams should be prepared in order to assess the view impacts having regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing and Chapter C1, Section C1.4.9 of the Woollahra DCP 2015. The applicant has not adequately demonstrated whether more skilful design options are available to them without compromising their proposed amenity whilst potentially reducing the impacts of views to surrounding properties.
- (c) With regard to light spill/light pollution, the submitted documentation has not provided any details in relation to what occurs during evening/nighttime hours once the premises closes after each day. The applicant has not provided sufficient information to allow for an adequate assessment of this issue.

## Attachments

- 1. Architectural Documentation and Site Survey [↓](#) 
- 2. Technical Services Referral Response [↓](#) 
- 3. Traffic Referral Response [↓](#) 
- 4. Heritage Referral Response [↓](#) 
- 5. Fire Referral Response [↓](#) 


PATRICK JOHNSON SHOWROOM EXTENTION  
7 WALKER LANE PADDINGTON, NSW 2021

DEVELOPMENT APPLICATION


DRAWING REGISTER

Drwg #	Drwg Title	Scale	Sheet
000	Covering Page, Material Board & Site Location	NTS	A3
001	Existing Site & SWMM Plan	1:200	A3
002	Proposed Site & SWMM Plan	1:200	A3
Existing & Demolition Drawings			
010	Existing & Demolition Plan Ground Floor	1:100	A3
011	Existing & Demolition Plan First Floor	1:100	A3
012	Existing & Demolition Plan Roof	1:100	A3
013	Existing Elevation North	1:100	A3
014	Existing Elevation South	1:100	A3
015	Existing Elevation East	1:100	A3
016	Existing Elevation West	1:100	A3
017	Existing & Demolition Section Short	1:100	A3
018	Existing & Demolition Section Long	1:100	A3
General Arrangement Plans			
100	Proposed Plan Basement	1:100	A3
101	Proposed Plan Ground Floor	1:100	A3
102	Proposed Plan First Floor	1:100	A3
103	Proposed Plan Roof	1:100	A3
Sections			
200	Proposed Section Short	1:100	A3
201	Proposed Section Long	1:100	A3
Elevations			
300	Proposed Elevation North	1:100	A3
301	Proposed Elevation South	1:100	A3
302	Proposed Elevation East	1:100	A3
303	Proposed Elevation West	1:100	A3
Shadow Diagrams			
400	Shadow diagrams Winter Solstice 9AM	1:200	A3
401	Shadow diagrams Winter Solstice 10AM	1:200	A3
402	Shadow diagrams Winter Solstice 11AM	1:200	A3
403	Shadow diagrams Winter Solstice 12PM	1:200	A3
404	Shadow diagrams Winter Solstice 1PM	1:200	A3
405	Shadow diagrams Winter Solstice 2PM	1:200	A3
406	Shadow diagrams Winter Solstice 3PM	1:200	A3
Diagrams			
500	Walker Lane Sight Line Diagram and Perspective	1:200	A3
501	Proposed Private Open Space Sight Line Diagrams	Various	A3
502	Gross Floor Area Calculations	1:200	A3


MATERIAL BOARD




MRS.01 : corrugated roof sheeting



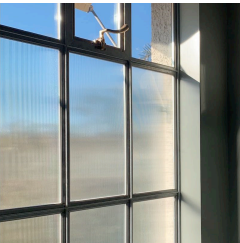
MET.01 : SS mesh balustrade




ALUC : Alluminium window clear



STWC : steel windows - clear



STWO : steel windows - obscure



BW.01 : Bagged brickwork. Colour and texture to match existing.


LEGEND

AW	Acoustic wall	STWO	Steel window obscure
ALUC	Aluminium window clear	SW	Stormwater system
BG	Box gutter to hydraulic engineer detail	TF.01	Floor tile
BAL.01	Galvanised steel and mesh balustrade	HYD. ENG.	Hydraulic engineer
BW.01	New brick wall to match existing	STR. ENG.	Structural engineer
DP	New galvanised downpipe	GEO. ENG.	Geotechnical engineer
EXBW	Existing brick wall painted		
EXSK	Existing skylight		
EXA/C	Existing air conditioning unit		
MET.01	Galvanised steel		
MRS.01	Corrugated roof sheeting		
MWS.01	Corrugated wall sheeting		
RH	New galvanised rainhead		
PMP	Pump out system		
SK.01	Skylight		
SS	Stainless steel		
STWC	Steel windows & doors clear		

CONSULTANTS

Discipline.	Consultant / Company	Contact
Town planner	GSA Planning - Elliott Doumanis	0498 880 847
Surveyor	C & A Surveyors - Tristan Smyth	(02) 9630 9299
Heritage	Zoltan Kovacs Architect	0418 607 952
Access	Ergon Consulting - Costa Miroforidis	(02) 9557 0007
Hydraulic	Adcar - Matt Adam	0404 881 256
Structural	Partridge - Shane Denvir	(02) 3460 9000
Geotechnical	JK Geotechnics - Linton Speechley	(02) 9888 5000
BCA	Credwell - Dyan Artesano	0438 264 372
Acoustic	Acoustic Logic	(02) 8339 8000
Environmental	Sydney Enironmental Group	1300 884 164
Quantity Surveyor	QS Plus	0412 733 734

LOCATION PLAN



1

LOCALITY PLAN  
NOT TO SCALE

N

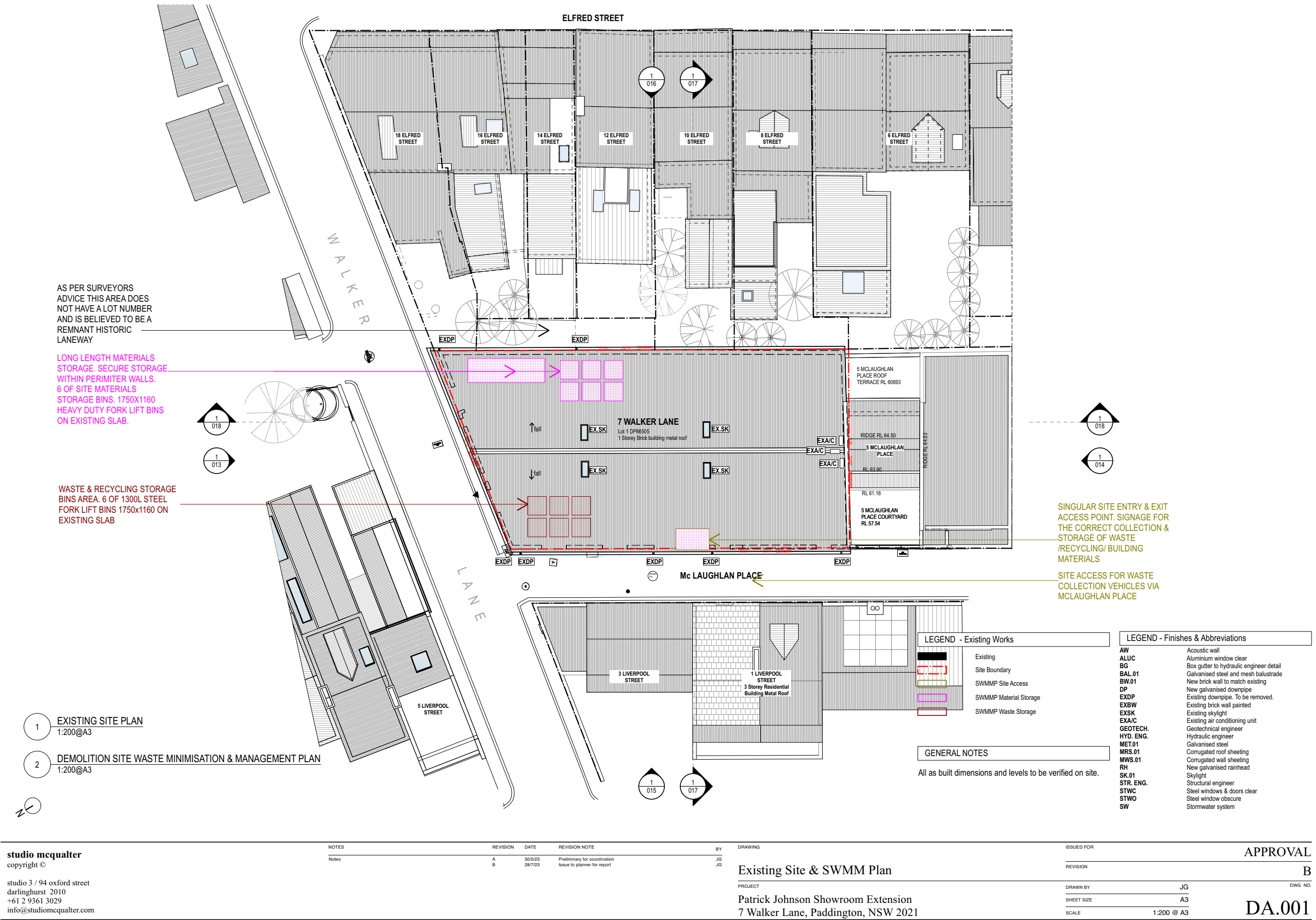
SUBJECT SITE: 7 WALKER LANE PADDINGTON NSW 2021

GENERAL NOTES

Copyright: All drawings remain the Copyright of Studio McQualter  
All works to be carried out in accordance with the Building Code of Australia, Asutrian Standards, Local Council requirements and all other relevant by laws and authorities.  
Approval: No building works to be undertaken prior to Building Apprival by a registered Certifier.  
Consultants: Drawings shall be read in conjunction with all consultant documentation  
Dimensions: Do not scale off drawings - use figured dimensions only. All dimensions to be confirmed on site, and any discrepancies referred to Designer.  
Setout: All building setout and confirmation of setbacks and height to be carried out by a Licensed Surveyor. Nofooting or wall to encroach the title boundary.

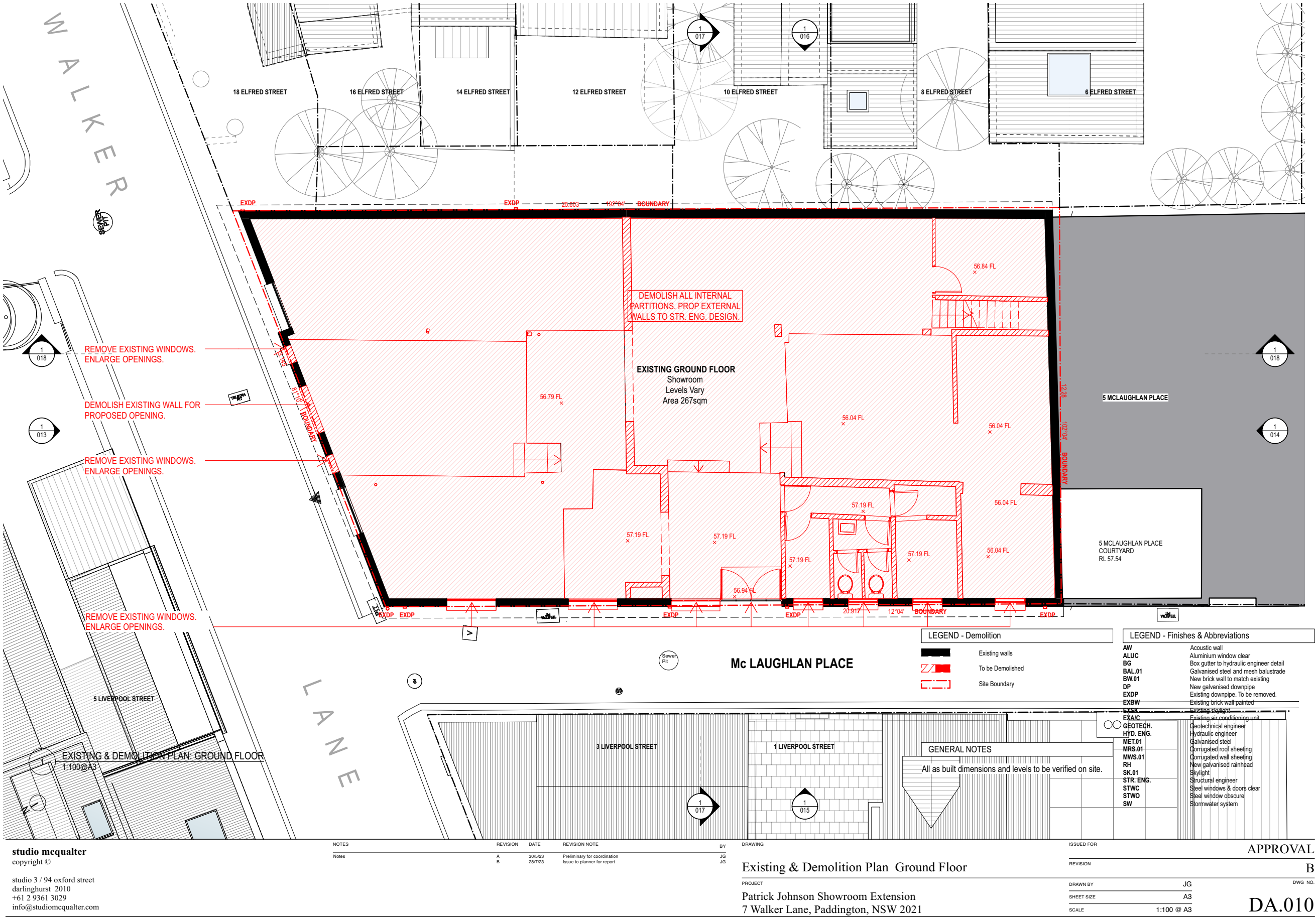
<b>studio mcqualter</b> copyright ©  studio 3 / 94 oxford street darlinghurst 2010 +61 2 9361 3029 info@studiomcqualter.com	NOTES	REVISION	DATE	REVISION NOTE	BY	DRAWING	ISSUED FOR	APPROVAL
	Notes	A	30/5/23	Preliminary for coordination	JG	Covering Page, Material Board & Site Location		
		B	7/7/23	Preliminary for coordination	JG			
		C	26/7/23	Issue to planner for report	JG			
		D	4/8/23	Issue to planner for report	JG			
						PROJECT	DRAWN BY	DWG. NO.
						Patrick Johnson Showroom Extension	JG	
						7 Walker Lane, Paddington, NSW 2021	SHEET SIZE	
							A3	
							SCALE	
							NTS	

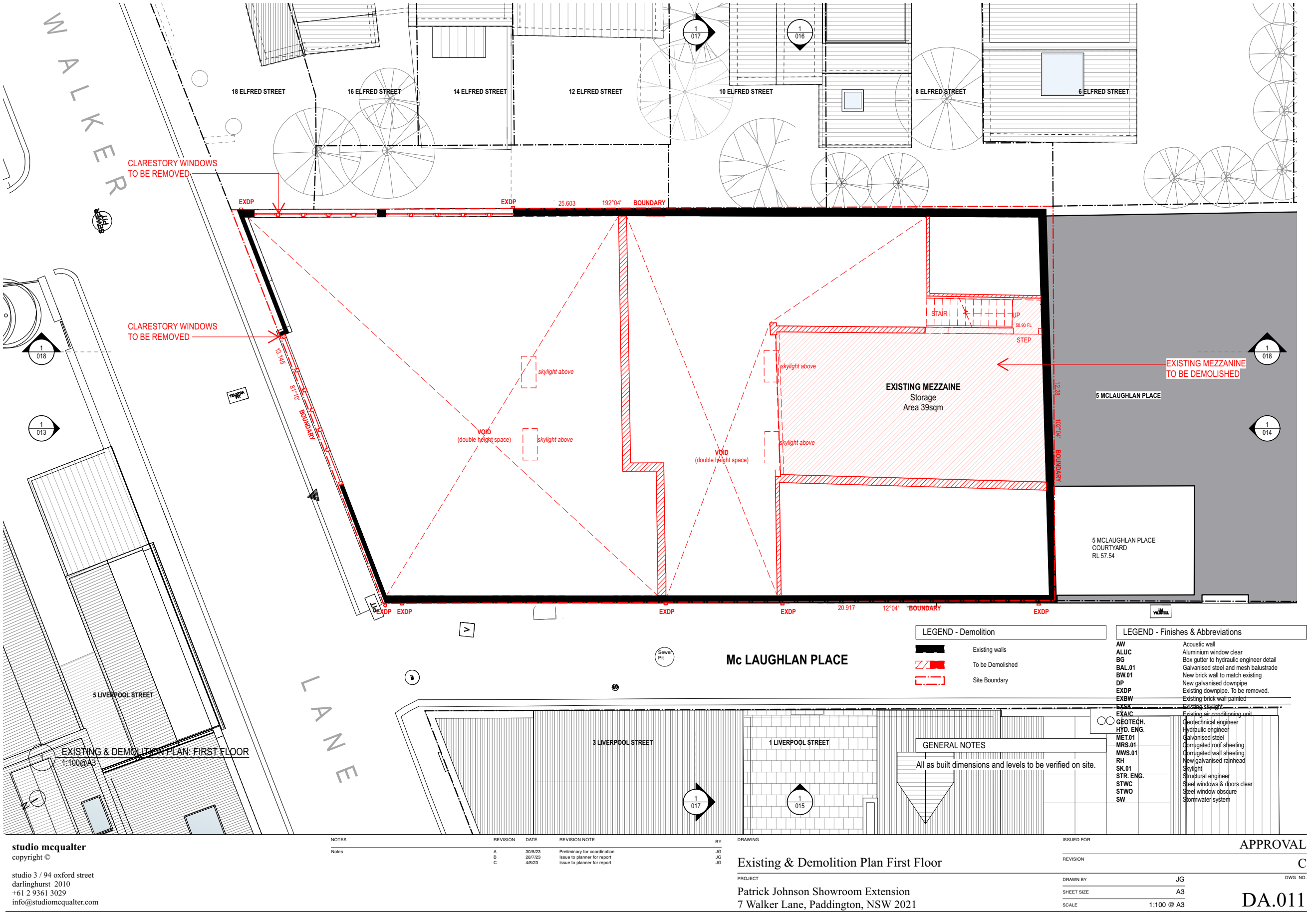




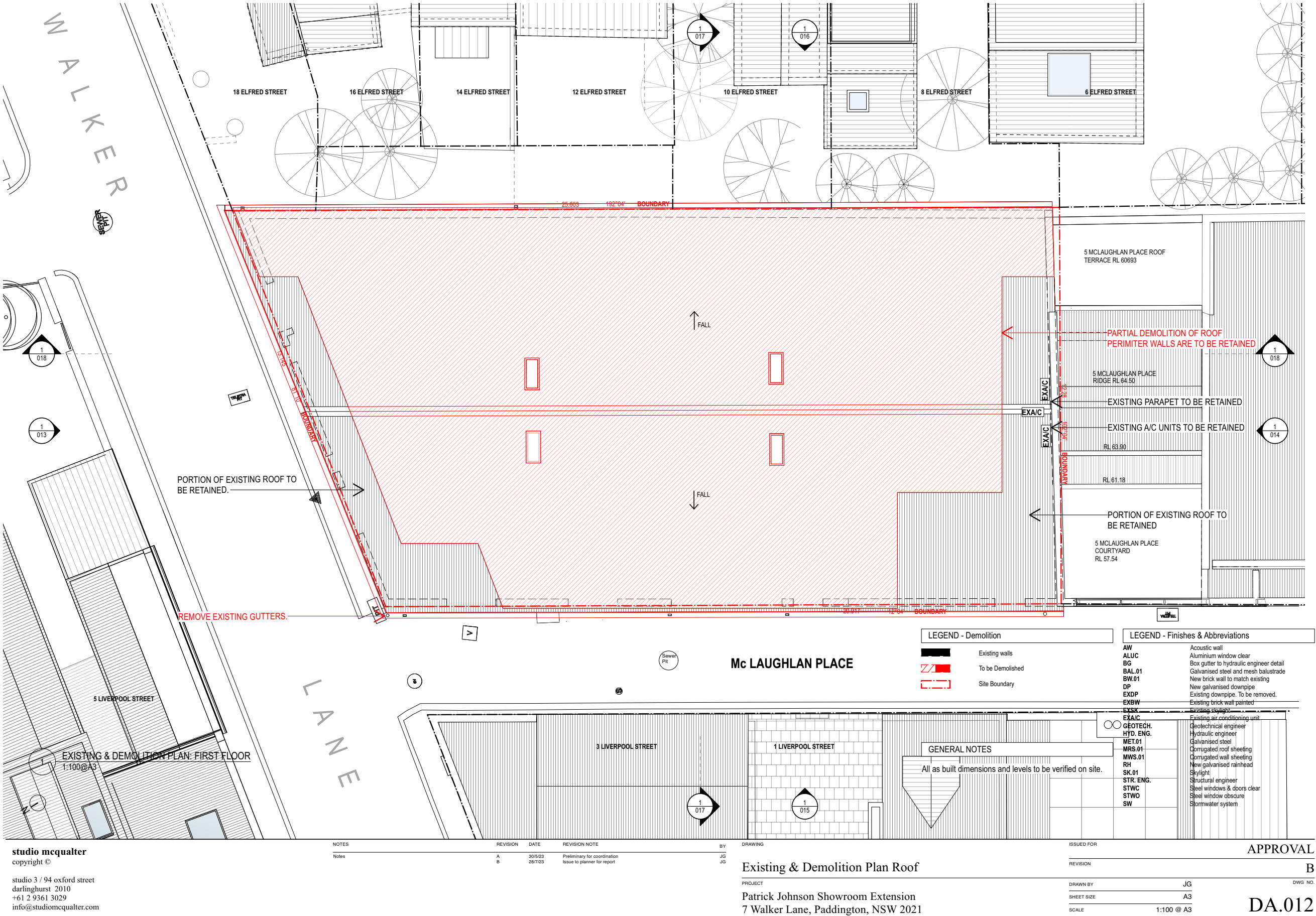


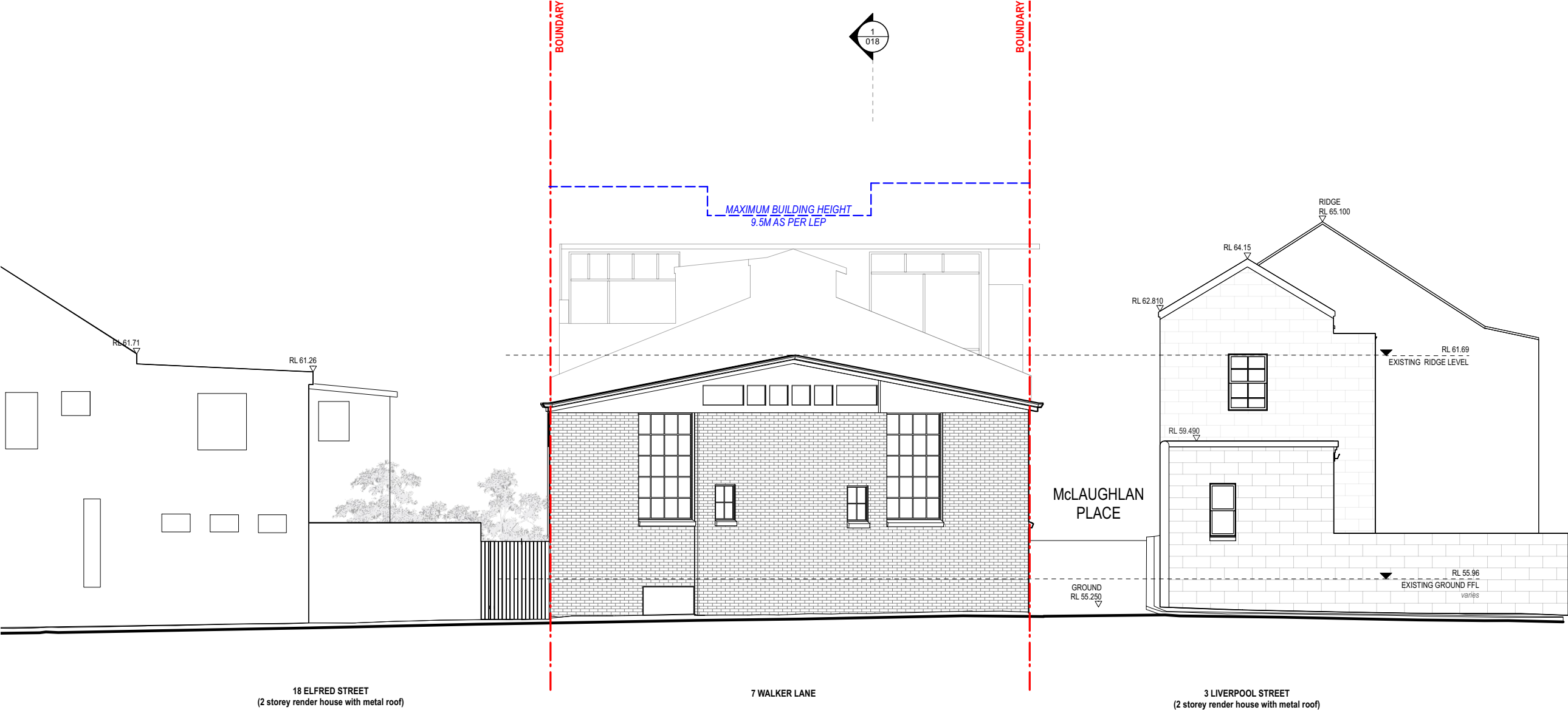






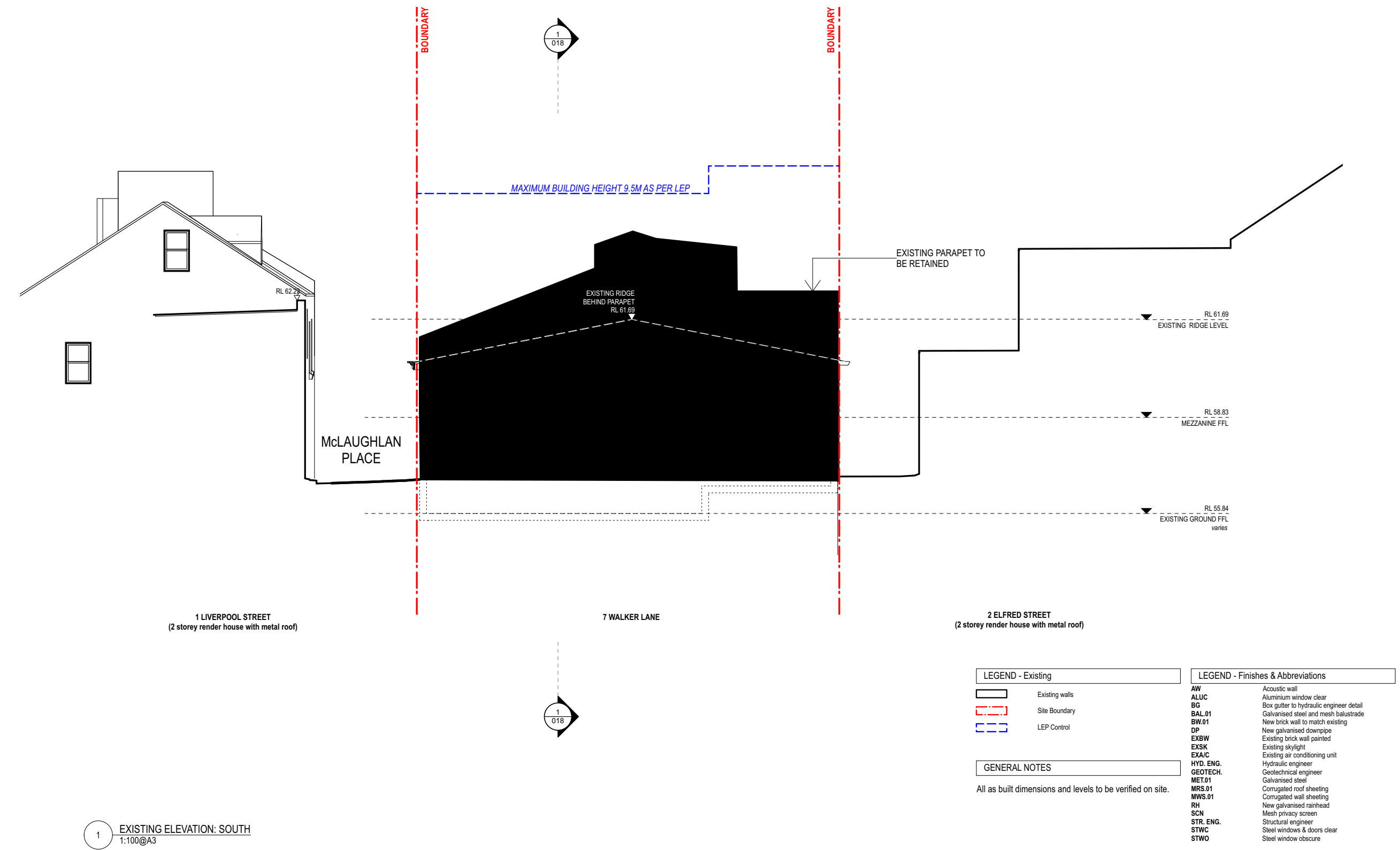






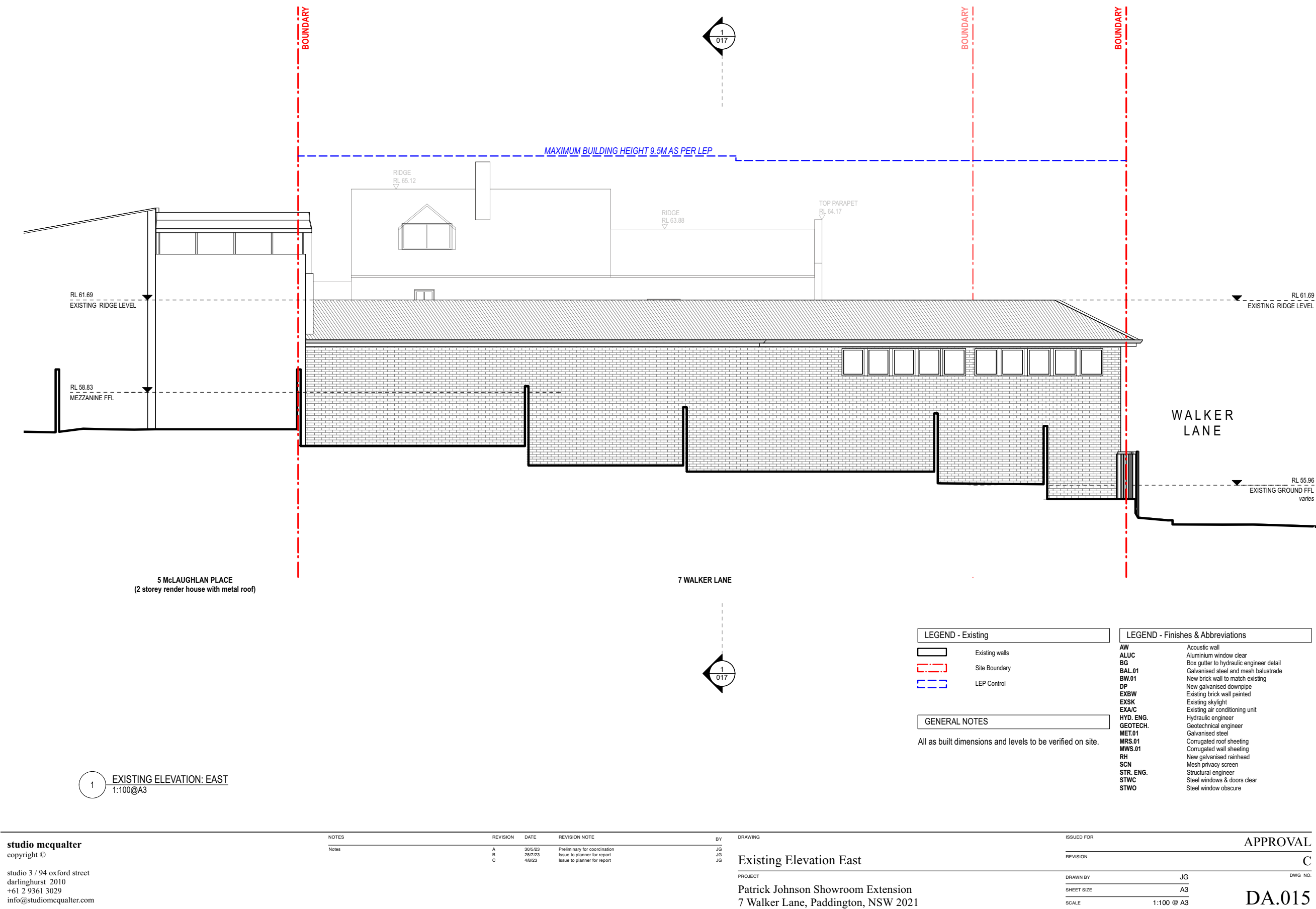
LEGEND - Existing		LEGEND - Finishes & Abbreviations	
	Existing walls	AW	Acoustic wall
	Site Boundary	ALUC	Aluminium window clear
	LEP Control	BG	Box gutter to hydraulic engineer detail
<div>GENERAL NOTES</div> <p>All as built dimensions and levels to be verified on site.</p>		BAL.01	Galvanised steel and mesh balustrade
		BW.01	New brick wall to match existing
		DP	New galvanised downpipe
		EXBW	Existing brick wall painted
		EXSK	Existing skylight
		EXA/C	Existing air conditioning unit
		HYD. ENG.	Hydraulic engineer
		GEOTECH.	Geotechnical engineer
		MET.01	Galvanised steel
		MRS.01	Corrugated roof sheeting
		MWS.01	Corrugated wall sheeting
		RH	New galvanised rainhead
		SCN	Mesh privacy screen
		STR. ENG.	Structural engineer
		STWC	Steel windows & doors clear
		STWO	Steel window obscure

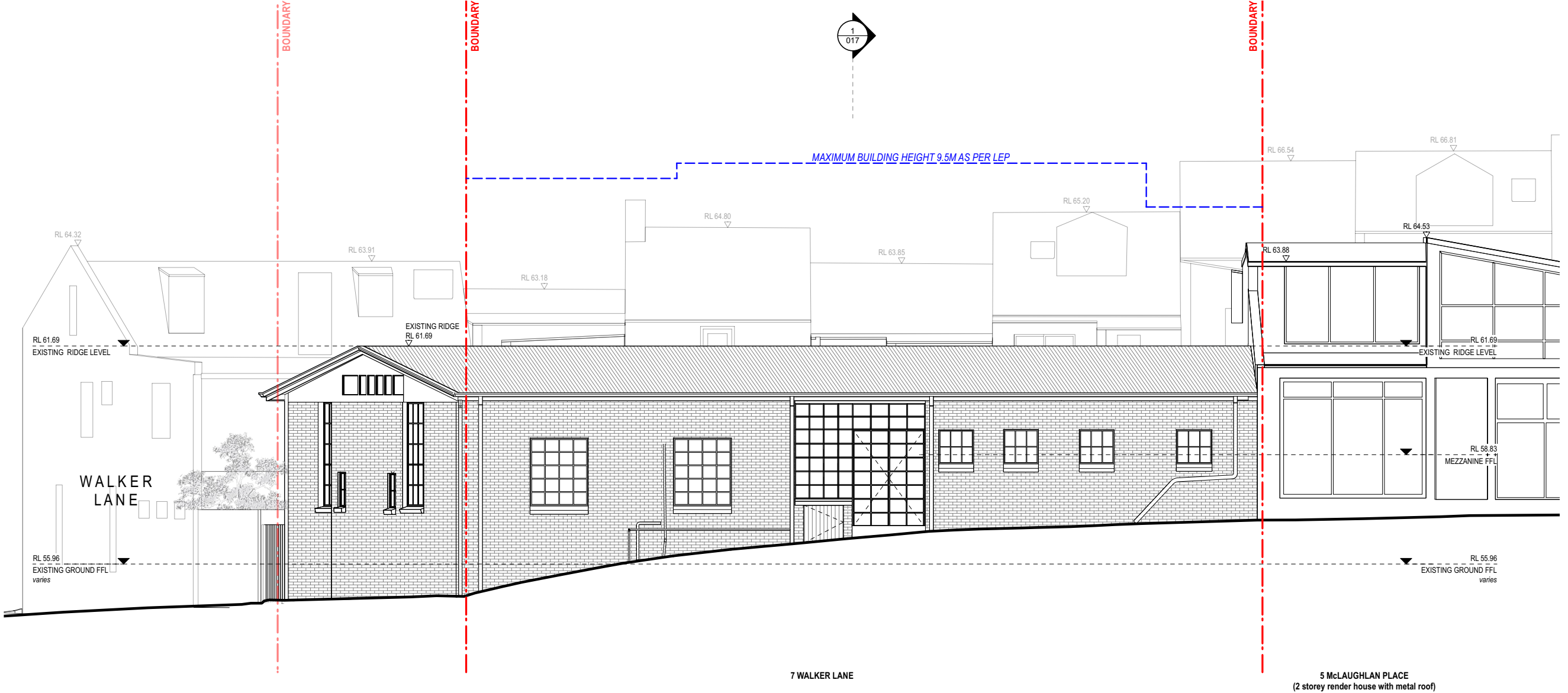
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	Notes		A					REVISION					
			B					DRAWN BY					
			C					SHEET SIZE					
								SCALE					
				</									



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	Notes		A	30/5/23	Preliminary for coordination	JG	Existing Elevation South	REVISION		C
			B	28/7/23	Issue to planner for report	JG				
			C	4/8/23	Issue to planner for report	JG				
PROJECT							DRAWN BY	JG	DWG. NO.	
Patrick Johnson Showroom Extension										
7 Walker Lane, Paddington, NSW 2021							SHEET SIZE	A3		
							SCALE	1:100 @ A3	DA.014	







LEGEND - Existing

Existing walls

Site Boundary

LEP Control

LEGEND - Finishes & Abbreviations

AW

ALUC

BG

BAL.01

BW.01

DP

EXBW

EXSK

EXA/C

HYD. ENG.

GEOTECH.

MET.01

MRS.01

MWS.01

RH

SCN

STR. ENG.

STWC

STWO

Acoustic wall

Aluminium window clear

Box gutter to hydraulic engineer detail

Galvanised steel and mesh balustrade

New brick wall to match existing

New galvanised downpipe

Existing brick wall painted

Existing skylight

Existing air conditioning unit

Hydraulic engineer

Geotechnical engineer

Galvanised steel

Corrugated roof sheeting

Corrugated wall sheeting

New galvanised rainhead

Mesh privacy screen

Structural engineer

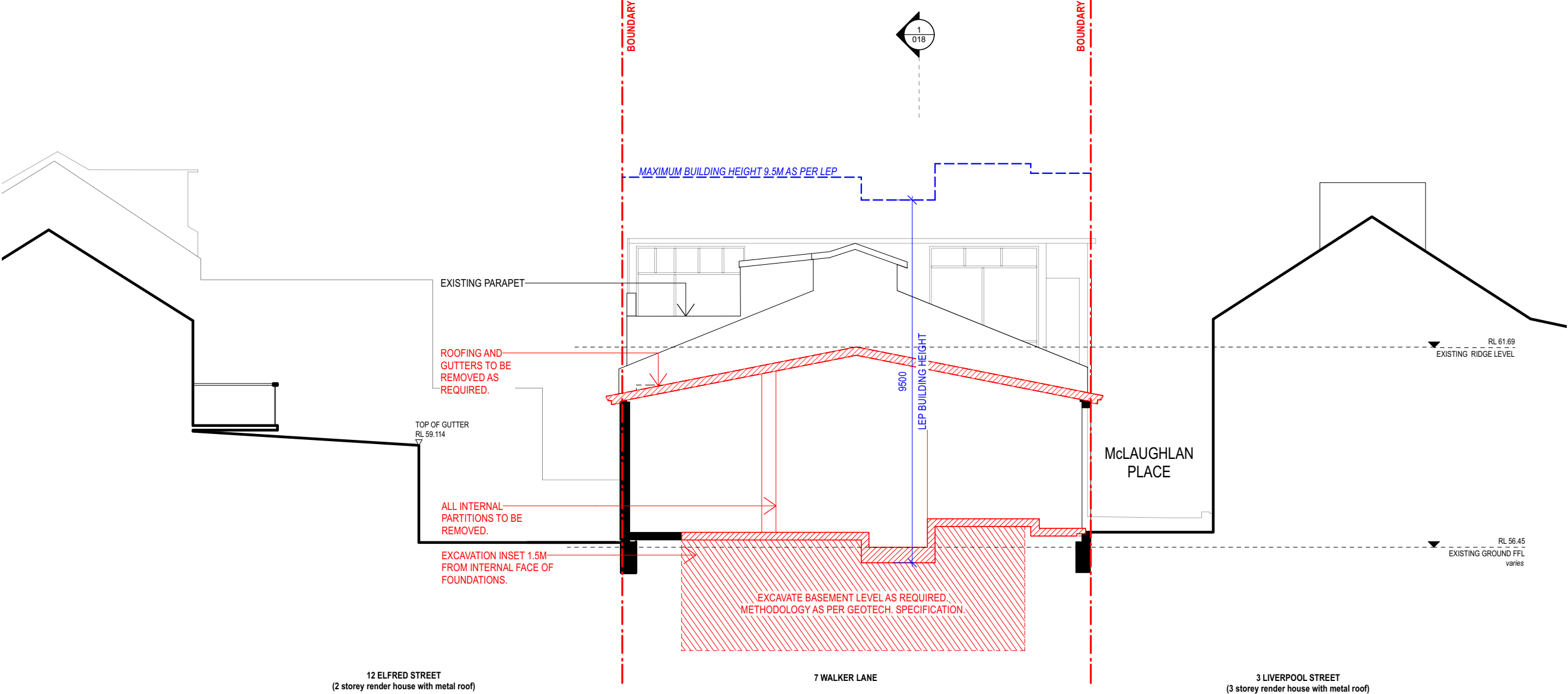
Steel windows & doors clear

Steel window obscure

GENERAL NOTES

All as built dimensions and levels to be verified on site.

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	Notes		A		30/5/23		Preliminary for coordination		JG		Existing Elevation West		REVISION		C												
			B		28/7/23		Issue to planner for report		JG				DRAWN BY		JG												
			C		4/8/23		Issue to planner for report		JG		PROJECT		SHEET SIZE		A3												
												5 Walker Lane, Paddington, NSW 2021		SCALE		1:100 @ A3											
																DA.016											



1 EXISTING SECTION: AA  
1:100@A3

LEGEND - Existing

- Existing walls
- Site Boundary
- LEP Control

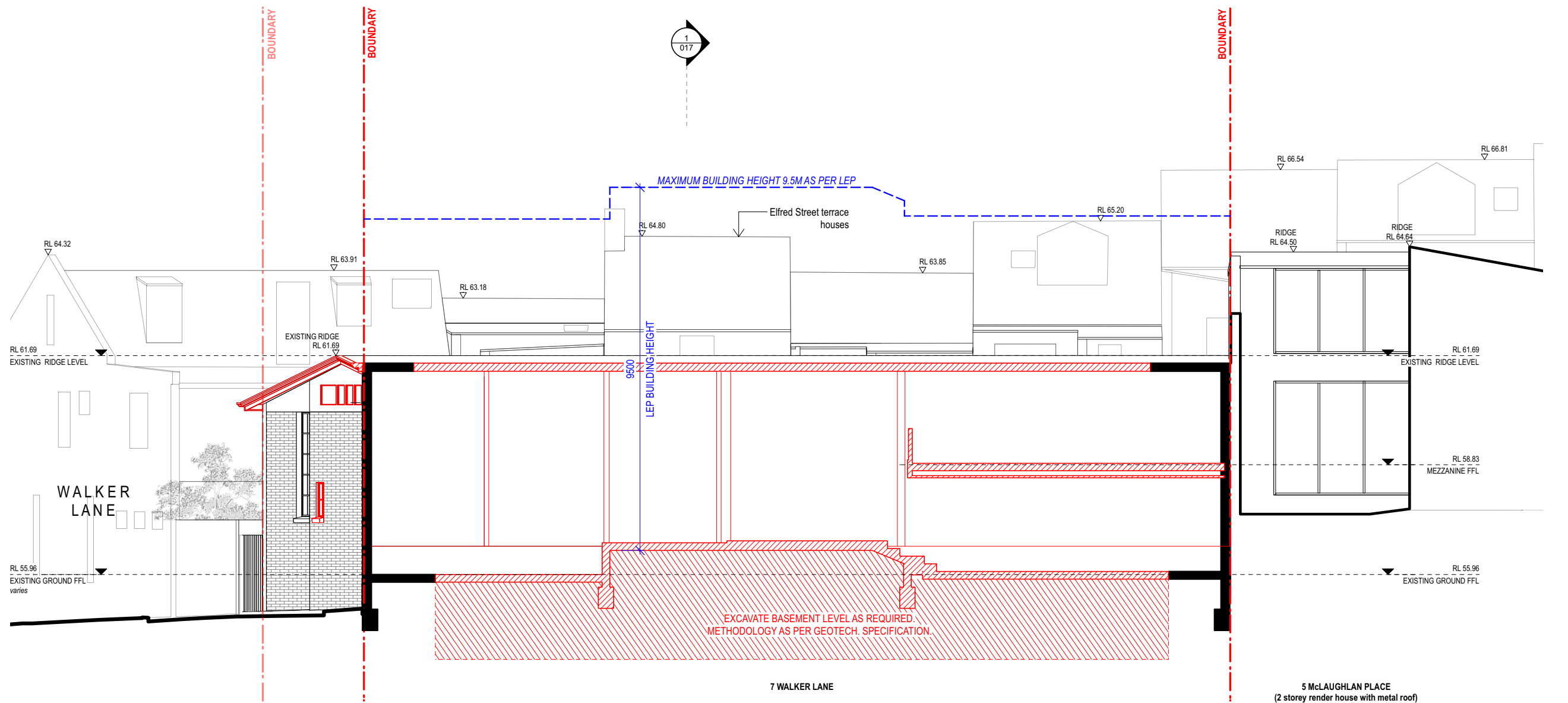
GENERAL NOTES

All as built dimensions and levels to be verified on site.

LEGEND - Finishes & Abbreviations

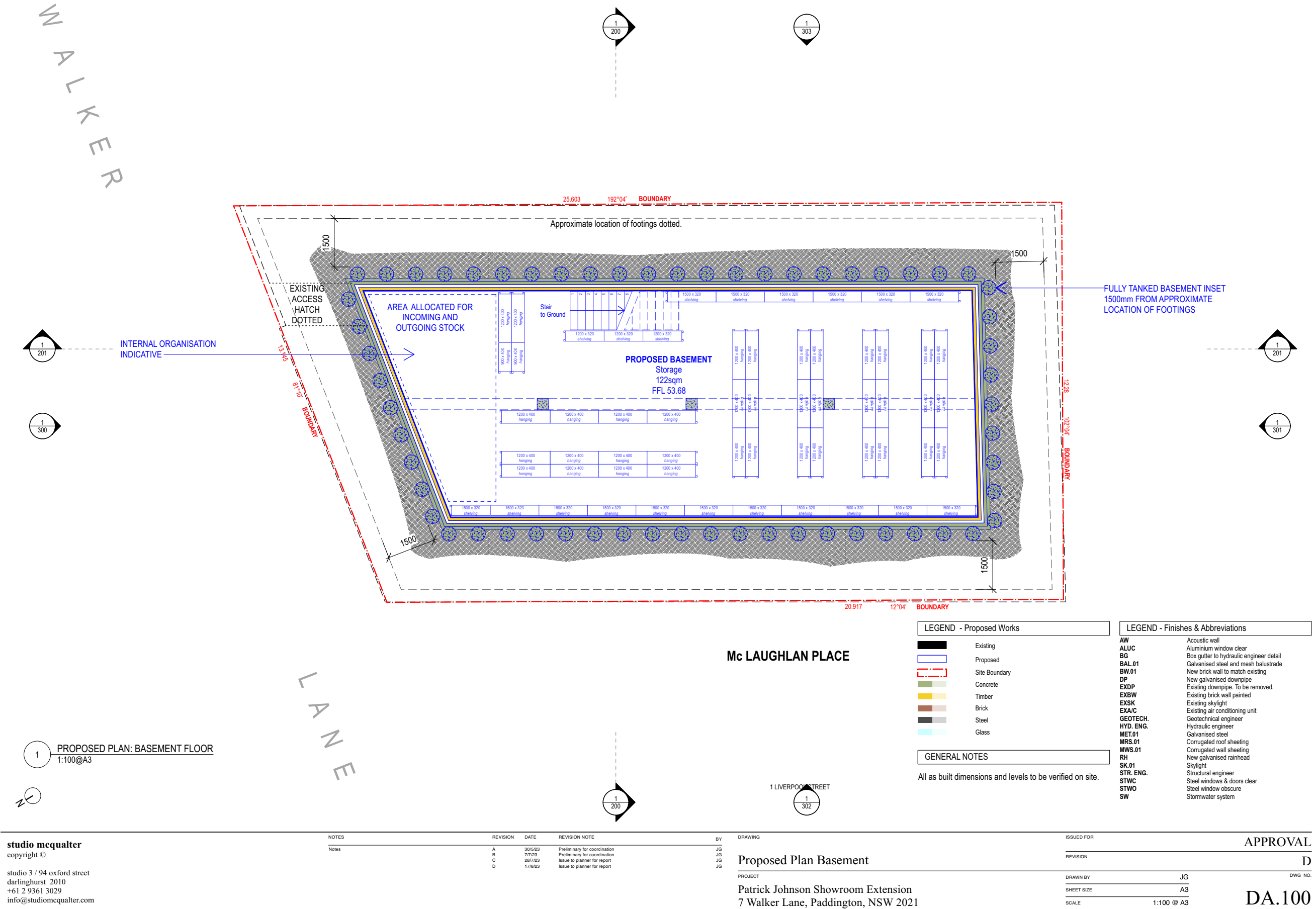
- AW Acoustic wall
- ALUC Aluminium window clear
- BG Box gutter to hydraulic engineer detail
- BAL.01 Galvanised steel and mesh balustrade
- BW.01 New brick wall to match existing
- DP New galvanised downpipe
- EXBW Existing brick wall painted
- EXSK Existing skylight
- EXA/C Existing air conditioning unit
- HYD. ENG. Hydraulic engineer
- GEOTECH. Geotechnical engineer
- MET.01 Galvanised steel
- MRS.01 Corrugated roof sheeting
- MWS.01 Corrugated wall sheeting
- RH New galvanised rainhead
- SCN Mesh privacy screen
- STR. ENG. Structural engineer
- STWC Steel windows & doors clear
- STWO Steel window obscure

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	Notes		A	30/5/23	Preliminary for coordination	JG	Existing & Demolition Section Short			C
			B	28/7/23	Issue to planner for report	JG				
			C	4/8/23	Issue to planner for report	JG				
			PROJECT				DRAWN BY		JG	DWG NO
			Patrick Johnson Showroom Extension				SHEET SIZE		A3	DA.017
			7 Walker Lane, Paddington, NSW 2021				SCALE		1:200 @ A3	

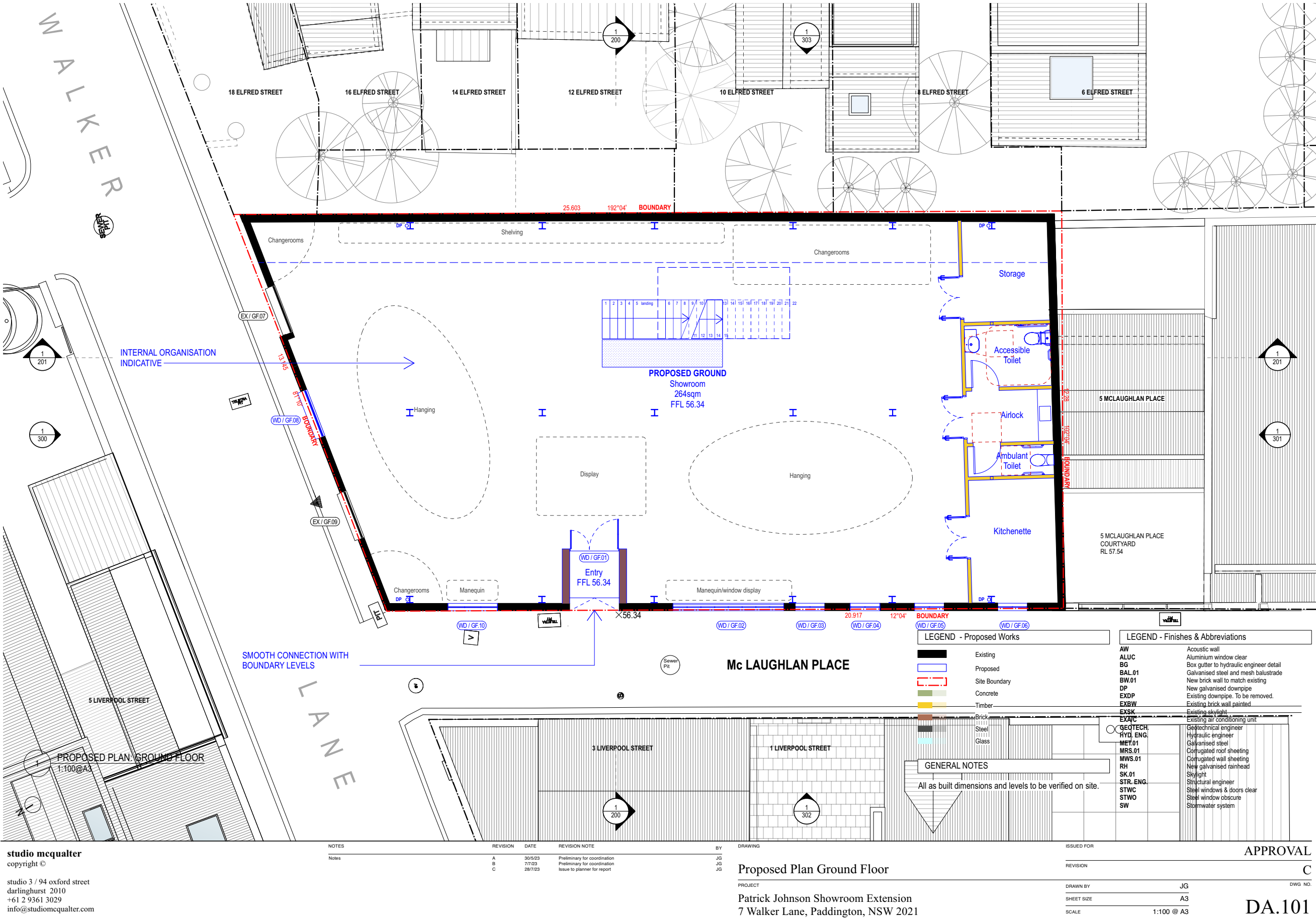


LEGEND - Existing		LEGEND - Finishes & Abbreviations	
	Existing walls	AW	Acoustic wall
	Site Boundary	ALUC	Aluminium window clear
	LEP Control	BG	Box gutter to hydraulic engineer detail
<div>GENERAL NOTES</div> <p>All as built dimensions and levels to be verified on site.</p>		BAL.01	Galvanised steel and mesh balustrade
		BW.01	New brick wall to match existing
		DP	New galvanised downpipe
		EXBW	Existing brick wall painted
		EXSK	Existing skylight
		EXA/C	Existing air conditioning unit
		HYD. ENG.	Hydraulic engineer
		GEOTECH.	Geotechnical engineer
		MET.01	Galvanised steel
		MRS.01	Corrugated roof sheeting
		MWS.01	Corrugated wall sheeting
		RH	New galvanised rainhead
		SCN	Mesh privacy screen
		STR. ENG.	Structural engineer
		STWC	Steel windows & doors clear
		STWO	Steel window obscure

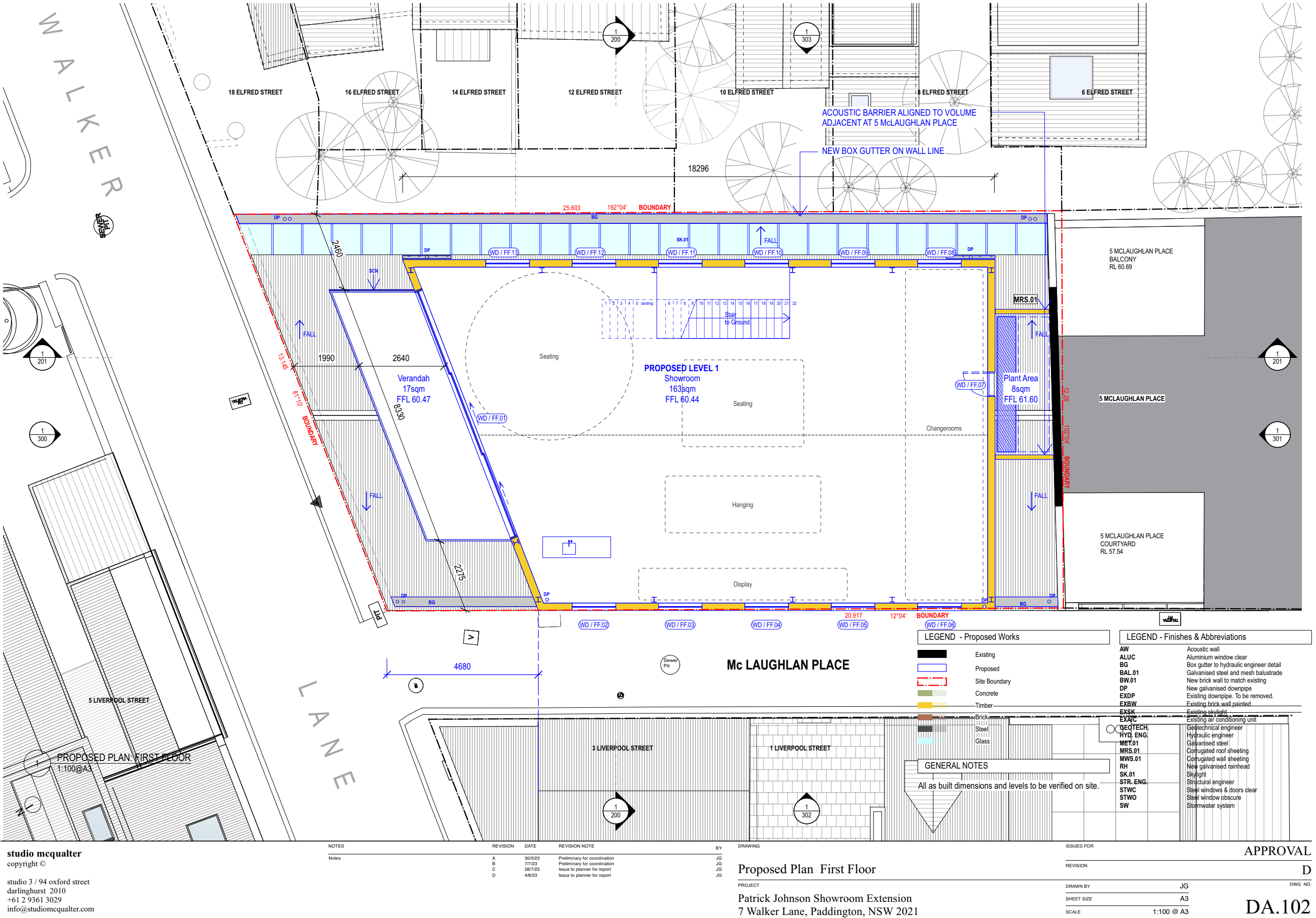
<div>studio mcqualter</div> <div>copyright ©</div> <div>studio 3 / 94 oxford street darlinghurst 2010 +61 2 9361 3029 info@studiomcqualter.com</div>	NOTES		REVISION	DATE	REVISION NOTE	BY	DRAWING	ISSUED FOR		APPROVAL
	Notes		A	30/5/23	Preliminary for coordination	JG	Existing & Demolition Section Long	REVISION		C
			B	28/7/23	Issue to planner for report	JG				
			C	4/8/23	Issue to planner for report	JG				
							PROJECT	DRAWN BY	JG	DWG NO.
							Patrick Johnson Showroom Extension	SHEET SIZE	A3	
							7 Walker Lane, Paddington, NSW 2021	SCALE	1:200 @ A3	

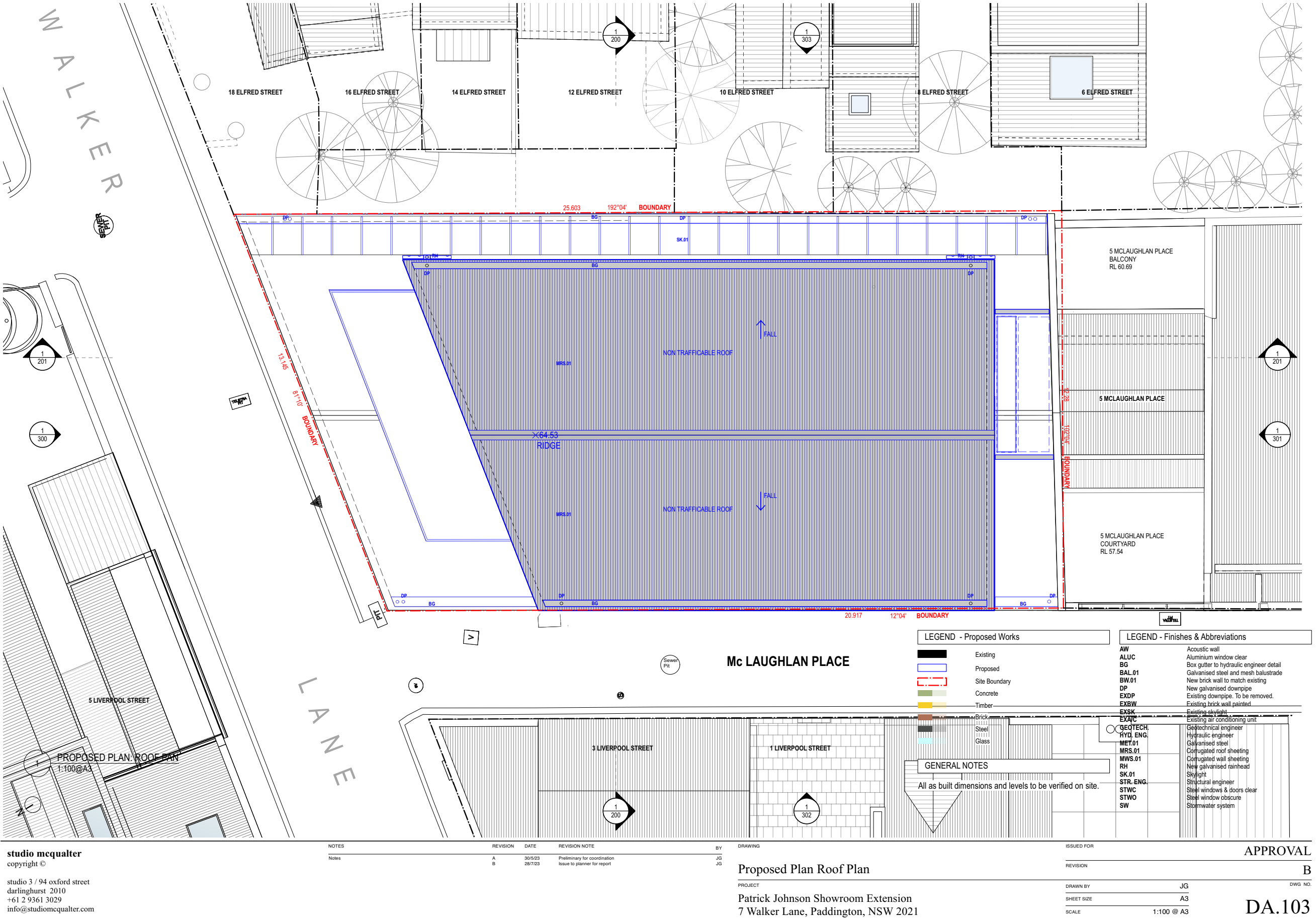


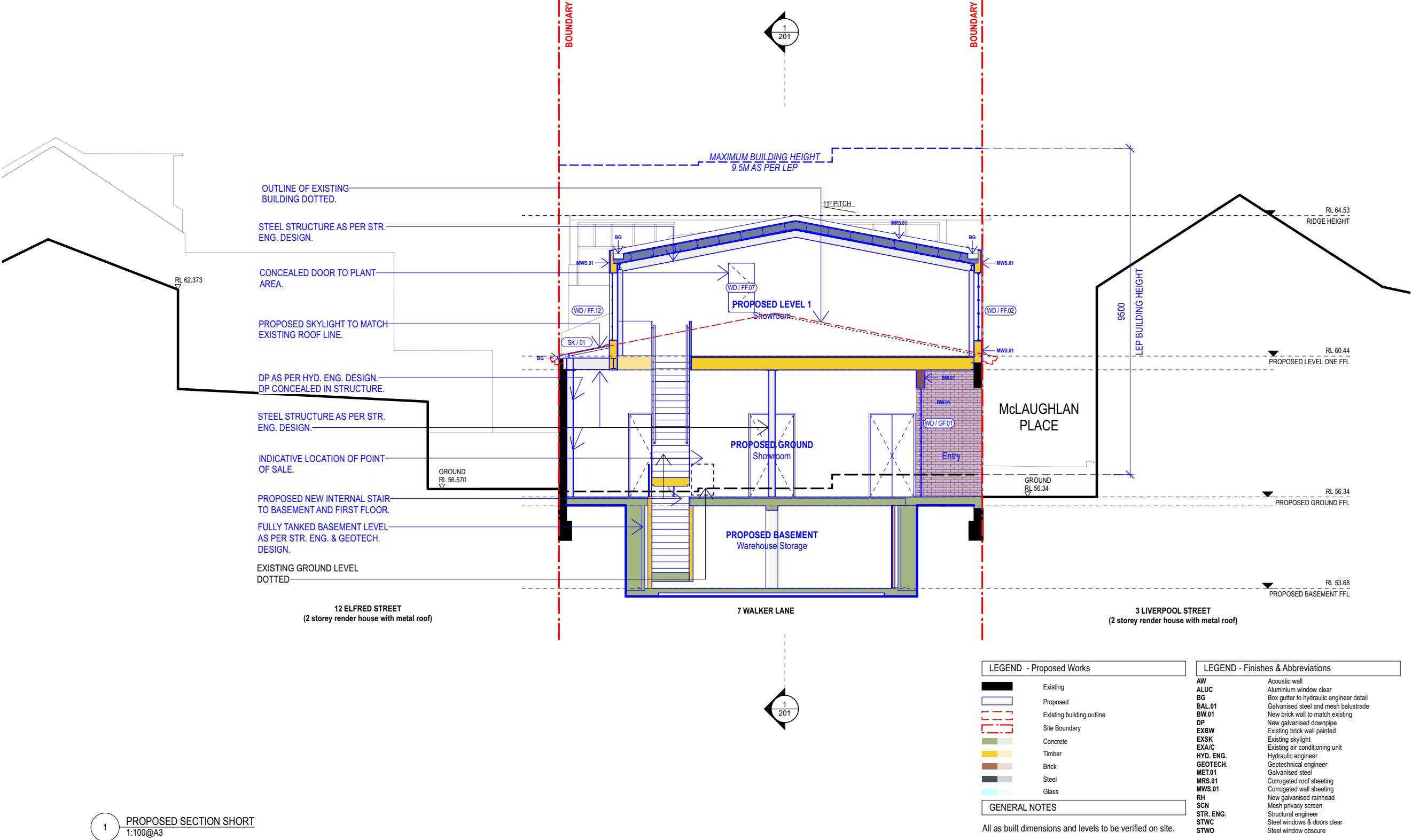




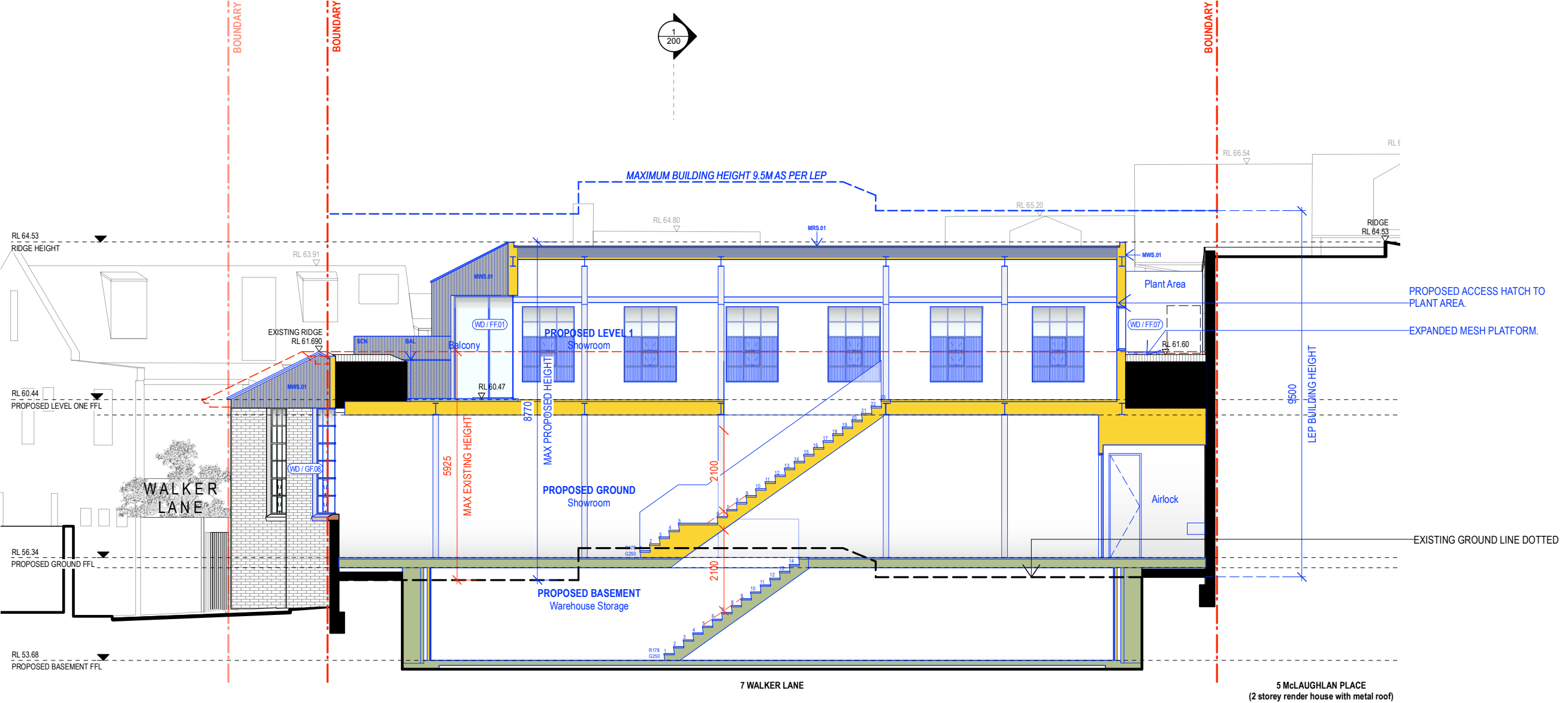








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	Notes		A	30/5/23	Preliminary for coordination	JG	Proposed Section Short	REVISION		E	
			B	7/7/23	Preliminary for coordination	JG		DRAWN BY		JG	DWG NO.
			C	26/7/23	Issue to planner for report	JG		SHEET SIZE		A3	DA.200
			D	4/6/23	Issue to planner for report	JG		SCALE		1:100 @ A3	
		E	17/8/23	Issue to planner for report	JG	PROJECT		Patrick Johnson Showroom Extension 7 Walker Lane, Paddington, NSW 2021			



1 PROPOSED SECTION LONG  
1:100@A3

LEGEND - Proposed Works

Existing

Proposed

Existing building outline

Site Boundary

Concrete

Timber

Brick

Steel

Glass

LEGEND - Finishes & Abbreviations

AW

ALUC

BG

BAL.01

BW.01

DP

EXBW

EXSK

EXA/C

HYD. ENG.

GEOTECH.

MET.01

MRS.01

MWS.01

RH

SCN

STR. ENG.

STWC

STWO

Acoustic wall

Aluminium window clear

Box gutter to hydraulic engineer detail

Galvanised steel and mesh balustrade

New brick wall to match existing

New galvanised downpipe

Existing brick wall painted

Existing skylight

Existing air conditioning unit

Hydraulic engineer

Geotechnical engineer

Galvanised steel

Corrugated roof sheeting

Corrugated wall sheeting

New galvanised rainhead

Mesh privacy screen

Structural engineer

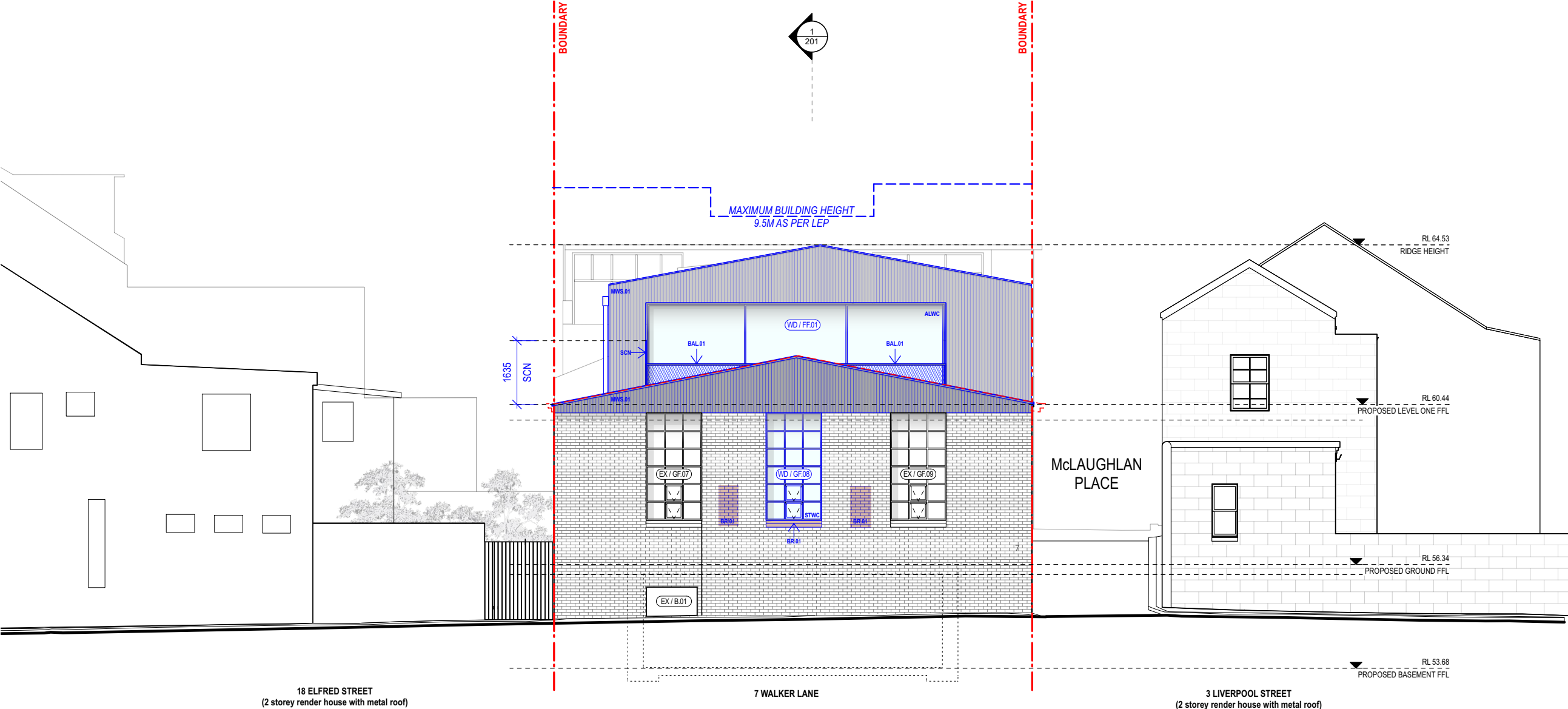
Steel windows & doors clear

Steel window obscure

GENERAL NOTES

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	Notes		A		30/5/23		Preliminary for coordination		JG		Proposed Section Long		REVISION		E			
			B		7/7/23		Preliminary for coordination		JG									
			C		28/7/23		Issue to planner for report		JG									
			D		4/8/23		Issue to planner for report		JG									
			E		17/8/23		Issue to planner for report		JG									
											PROJECT		DRAWN BY		JG		DWG. NO.	
											Patrick Johnson Showroom Extension		SHEET SIZE		A3		DA.201	
											7 Walker Lane, Paddington, NSW 2021		SCALE		1:100 @ A3			



1 PROPOSED ELEVATION: NORTH  
1:100@A3

LEGEND - Proposed Works

	Existing
	Proposed
	Existing building outline
	Site Boundary
	Concrete
	Timber
	Brick
	Steel
	Glass

GENERAL NOTES

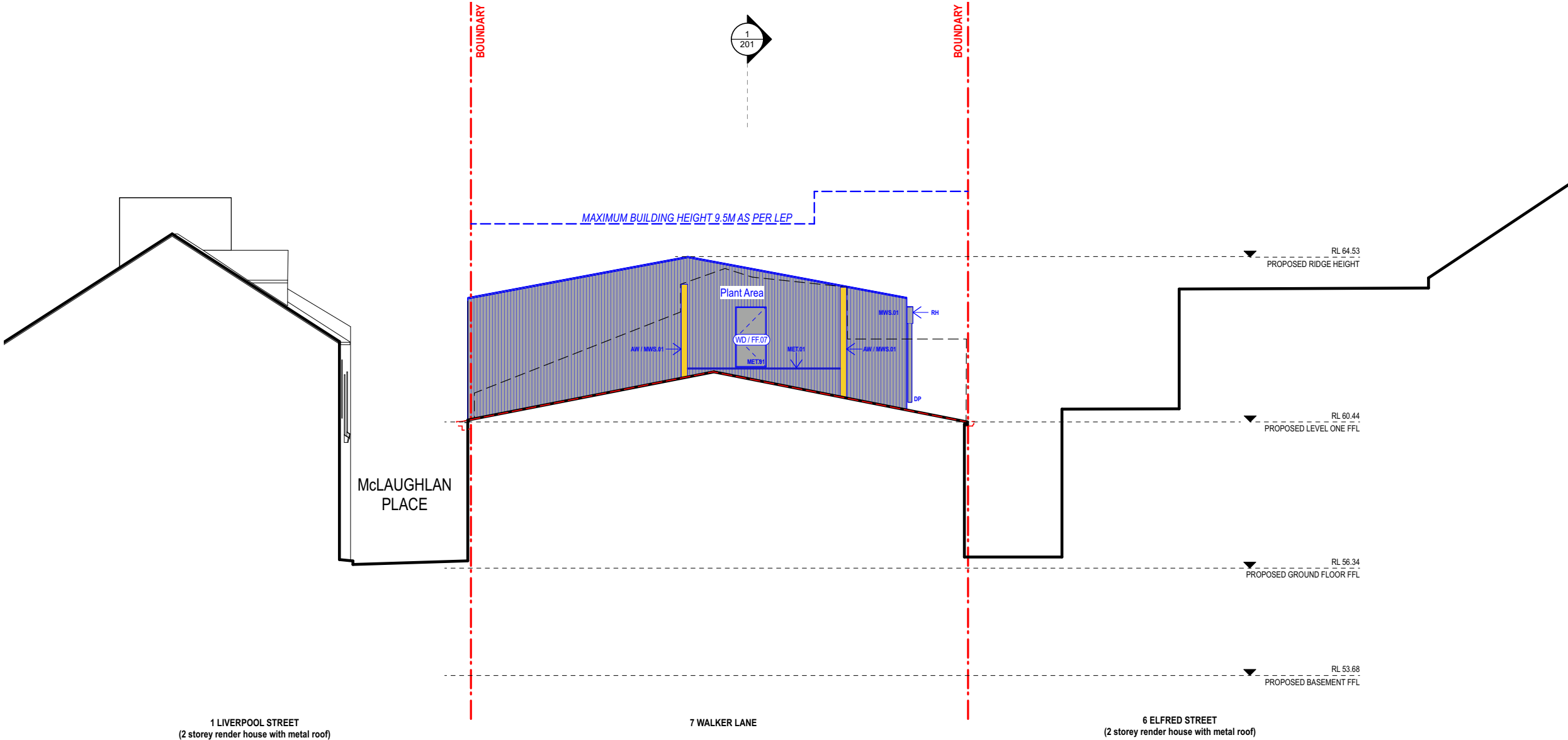
All as built dimensions and levels to be verified on site.

LEGEND - Finishes & Abbreviations

AW	Acoustic wall
ALUC	Aluminium window clear
BG	Box gutter to hydraulic engineer detail
BAL.01	Galvanised steel and mesh balustrade
BW.01	New brick wall to match existing
DP	New galvanised downpipe
EXBW	Existing brick wall painted
EXSK	Existing skylight
EXA/C	Existing air conditioning unit
HYD. ENG.	Hydraulic engineer
GEOTECH.	Geotechnical engineer
MET.01	Galvanised steel
MRS.01	Corrugated roof sheeting
MWS.01	Corrugated wall sheeting
RH	New galvanised rainhead
SCN	Mesh privacy screen
STR. ENG.	Structural engineer
STWC	Steel windows & doors clear
STWO	Steel window obscure

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	Notes		A		30/5/23		Preliminary for coordination		JG		Proposed Elevations North		REVISION		D		
			B		28/7/23		Issue to planner for report		JG		PROJECT		DRAWN BY		JG		
			C		4/8/23		Issue to planner for report		JG		Patrick Johnson Showroom Extension		SHEET SIZE		A3		
			D		17/8/23		Issue to planner for report		JG		7 Walker Lane, Paddington, NSW 2021		SCALE		1:100 @ A3		
														DWG NO.		DA.300	



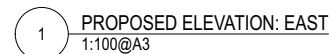











1 PROPOSED ELEVATION: SOUTH  
1:100@A3

LEGEND - Proposed Works		LEGEND - Finishes & Abbreviations	
	Existing	AW	Acoustic wall
	Proposed	ALUC	Aluminium window clear
	Existing building outline	BG	Box gutter to hydraulic engineer detail
	Site Boundary	BAL.01	Galvanised steel and mesh balustrade
	Concrete	BW.01	New brick wall to match existing
	Timber	DP	New galvanised downpipe
	Brick	EXBW	Existing brick wall painted
	Steel	EXSK	Existing skylight
	Glass	EXA/C	Existing air conditioning unit
GENERAL NOTES		HYD. ENG.	Hydraulic engineer
All as built dimensions and levels to be verified on site.		GEOTECH.	Geotechnical engineer
		MET.01	Galvanised steel
		MRS.01	Corrugated roof sheeting
		MWS.01	Corrugated wall sheeting
		RH	New galvanised rainhead
		SCN	Mesh privacy screen
		STR. ENG.	Structural engineer
		STWC	Steel windows & doors clear
		STWO	Steel window obscure

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	Notes	A	30/5/23	Preliminary for coordination	JG	Proposed Elevation South		
		B	28/7/23	Issue to planner for report	JG		REVISION	D
		C	4/8/23	Issue to planner for report	JG			
		D	17/8/23	Issue to planner for report	JG			
PROJECT							DRAWN BY	JG
Patrick Johnson Showroom Extension							SHEET SIZE	A3
7 Walker Lane, Paddington, NSW 2021							SCALE	1:100 @ A3
								DWG. NO.
								DA.301





LEGEND - Proposed Works		LEGEND - Finishes & Abbreviations	
	Existing	<b>AW</b>	Acoustic wall
	Proposed	<b>ALUC</b>	Aluminium window clear
	Existing building outline	<b>BG</b>	Box gutter to hydraulic engineer detail
	Site Boundary	<b>BAL.01</b>	Galvanised steel and mesh balustrade
	Concrete	<b>BW.01</b>	New brick wall to match existing
	Timber	<b>DP</b>	New galvanised downpipe
	Brick	<b>EXBW</b>	Existing brick wall painted
	Steel	<b>EXSK</b>	Existing skylight
	Glass	<b>EXA/C</b>	Existing air conditioning unit
<b>GENERAL NOTES</b>		<b>HYD. ENG.</b>	Hydraulic engineer
All as built dimensions and levels to be verified on site.		<b>GEOTECH.</b>	Geotechnical engineer
		<b>MET.01</b>	Galvanised steel
		<b>MRS.01</b>	Corrugated roof sheeting
		<b>MWS.01</b>	Corrugated wall sheeting
		<b>RH</b>	New galvanised rainhead
		<b>SCN</b>	Mesh privacy screen
		<b>STR. ENG.</b>	Structural engineer
		<b>STWC</b>	Steel windows & doors clear
		<b>STWO</b>	Steel window obscure

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NOTES	REVISION	DATE	REVISION NOTE	BY
Notes	A	30/5/23	Preliminary for coordination	JG
	B	28/7/23	Issue to planner for report	JG
	C	4/8/23	Issue to planner for report	JG
	D	17/8/23	Issue to planner for report	JG

PROJECT

Patrick Johnson Showroom Extension

7 Walker Lane, Paddington, NSW 2021

SCALE1:100 @ A3

DRAWING

ISSUED FOR

REVISION

DRAWN BY

SHEET SIZE

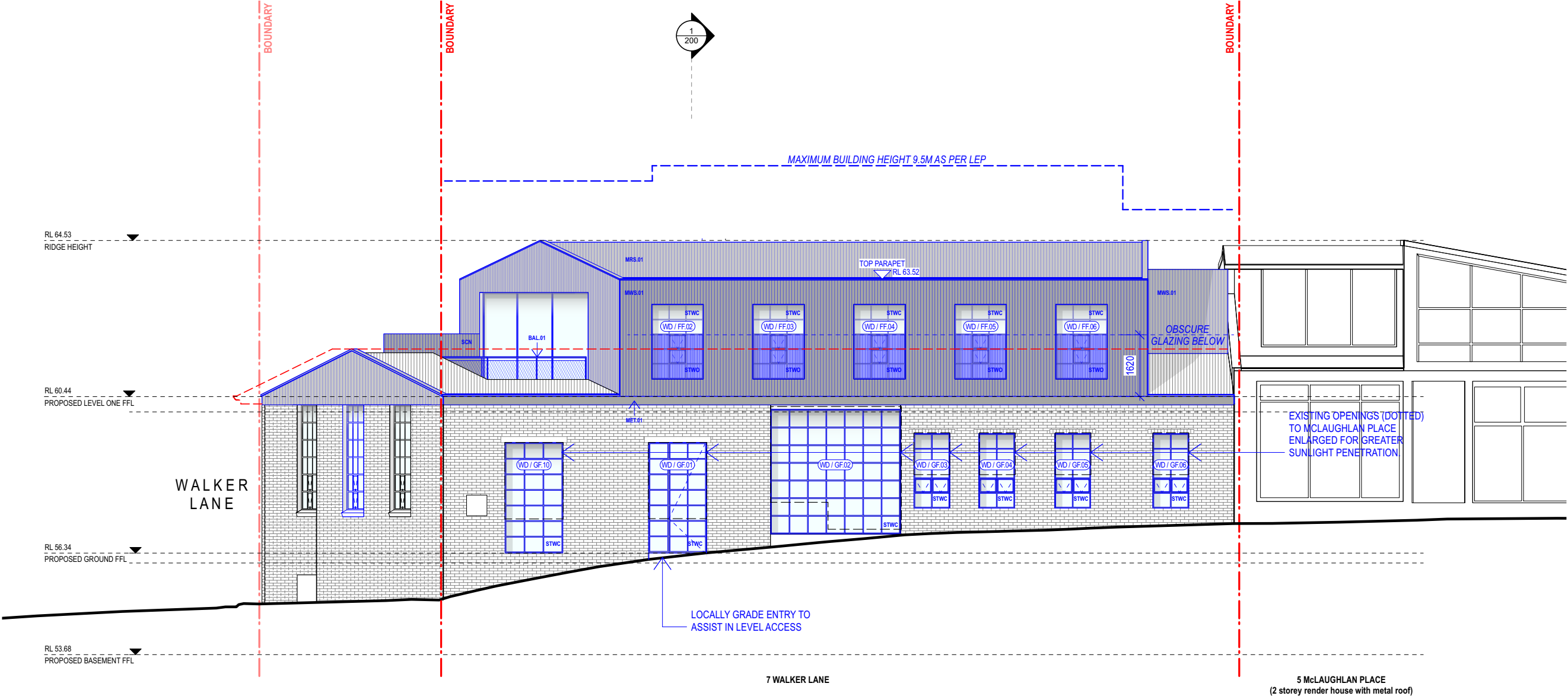
SCALE

APPROVAL

D

DWG NO.

DA.302



1 PROPOSED ELEVATION: WEST  
1:100@A3

LEGEND - Proposed Works

	Existing
	Proposed
	Existing building outline
	Site Boundary
	Concrete
	Timber
	Brick
	Steel
	Glass

GENERAL NOTES

All as built dimensions and levels to be verified on site.

LEGEND - Finishes & Abbreviations

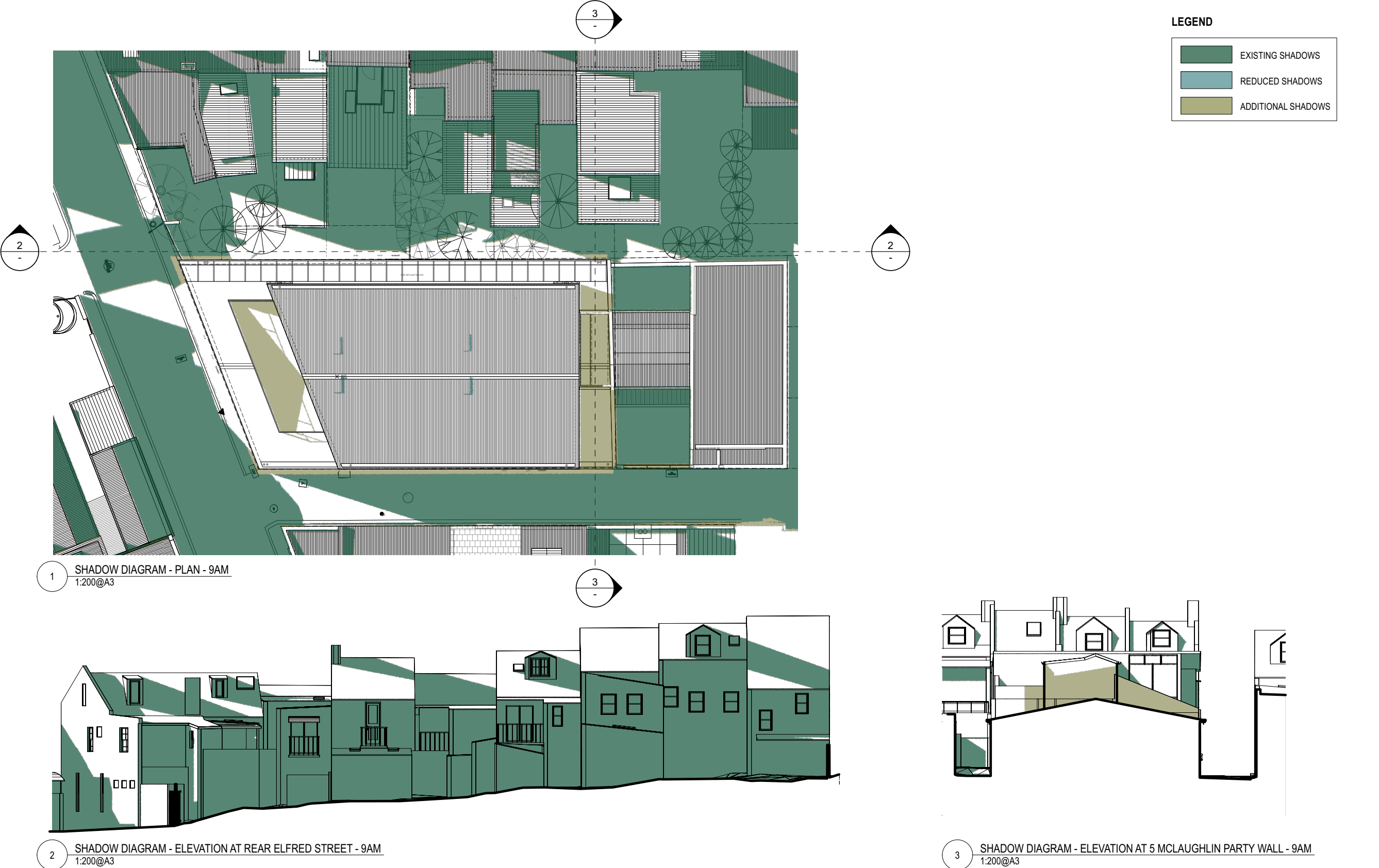
AW	Acoustic wall
ALUC	Aluminium window clear
BG	Box gutter to hydraulic engineer detail
BAL.01	Galvanised steel and mesh balustrade
BW.01	New brick wall to match existing
DP	New galvanised downpipe
EXBW	Existing brick wall painted
EXSK	Existing skylight
EXA/C	Existing air conditioning unit
HYD. ENG.	Hydraulic engineer
GEOTECH.	Geotechnical engineer
MET.01	Galvanised steel
MRS.01	Corrugated roof sheeting
MWS.01	Corrugated wall sheeting
RH	New galvanised rainhead
SCN	Mesh privacy screen
STR. ENG.	Structural engineer
STWC	Steel windows & doors clear
STWO	Steel window obscure

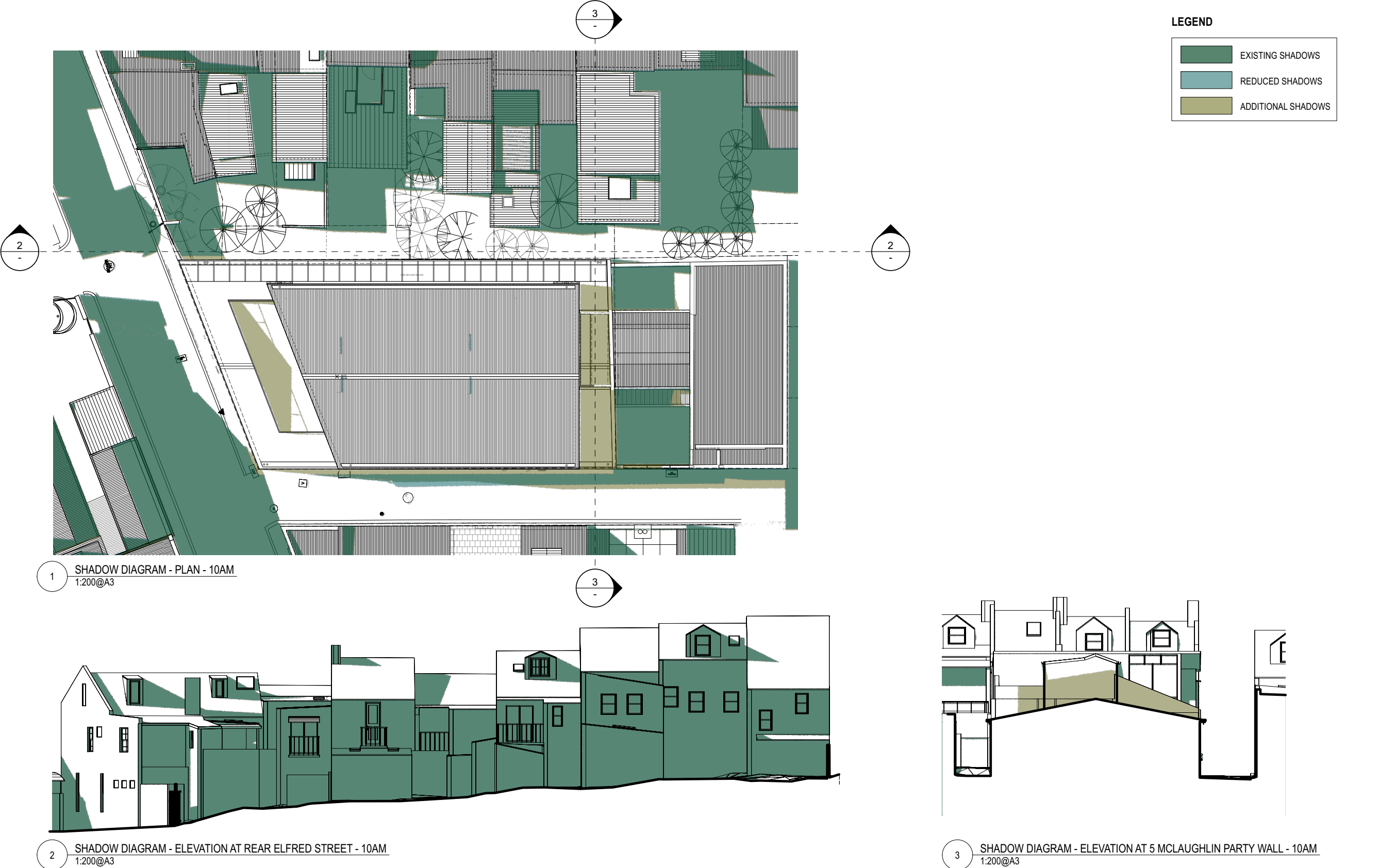
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NOTES	REVISION	DATE	REVISION NOTE	BY
Notes	A	30/5/23	Preliminary for coordination	JG
	B	28/7/23	Issue to planner for report	JG
	C	4/8/23	Issue to planner for report	JG
	D	17/8/23	Issue to planner for report	JG

DRAWING  
  
Proposed Elevation West  
  
PROJECT  
Patrick Johnson Showroom Extension  
7 Walker Lane, Paddington, NSW 2021

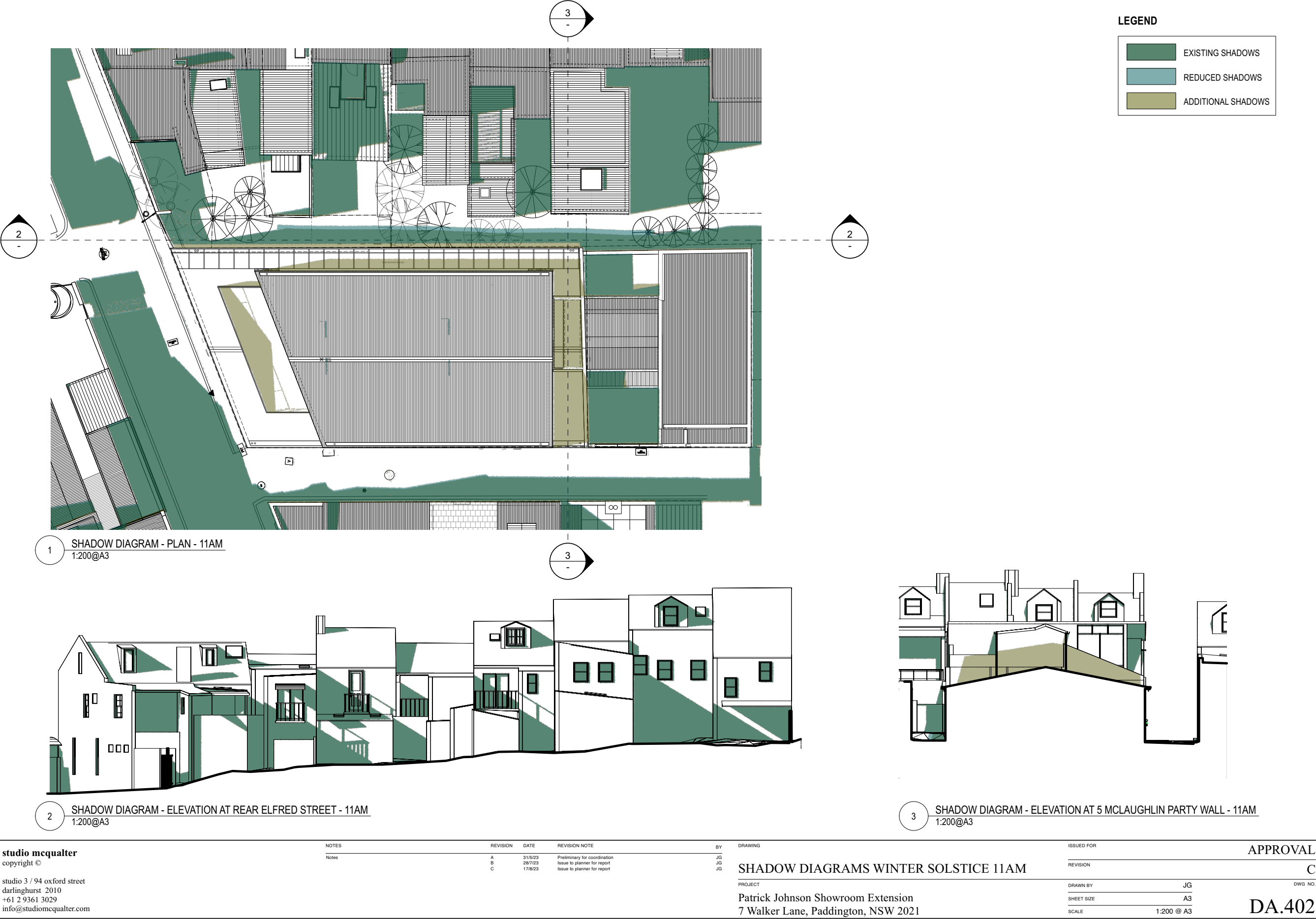
ISSUED FOR  
  
REVISION  
  
DRAWN BY  
SHEET SIZE  
SCALE  
JG  
A3  
1:100 @ A3  
  
APPROVAL  
  
D  
  
DWG. NO.  
DA.303

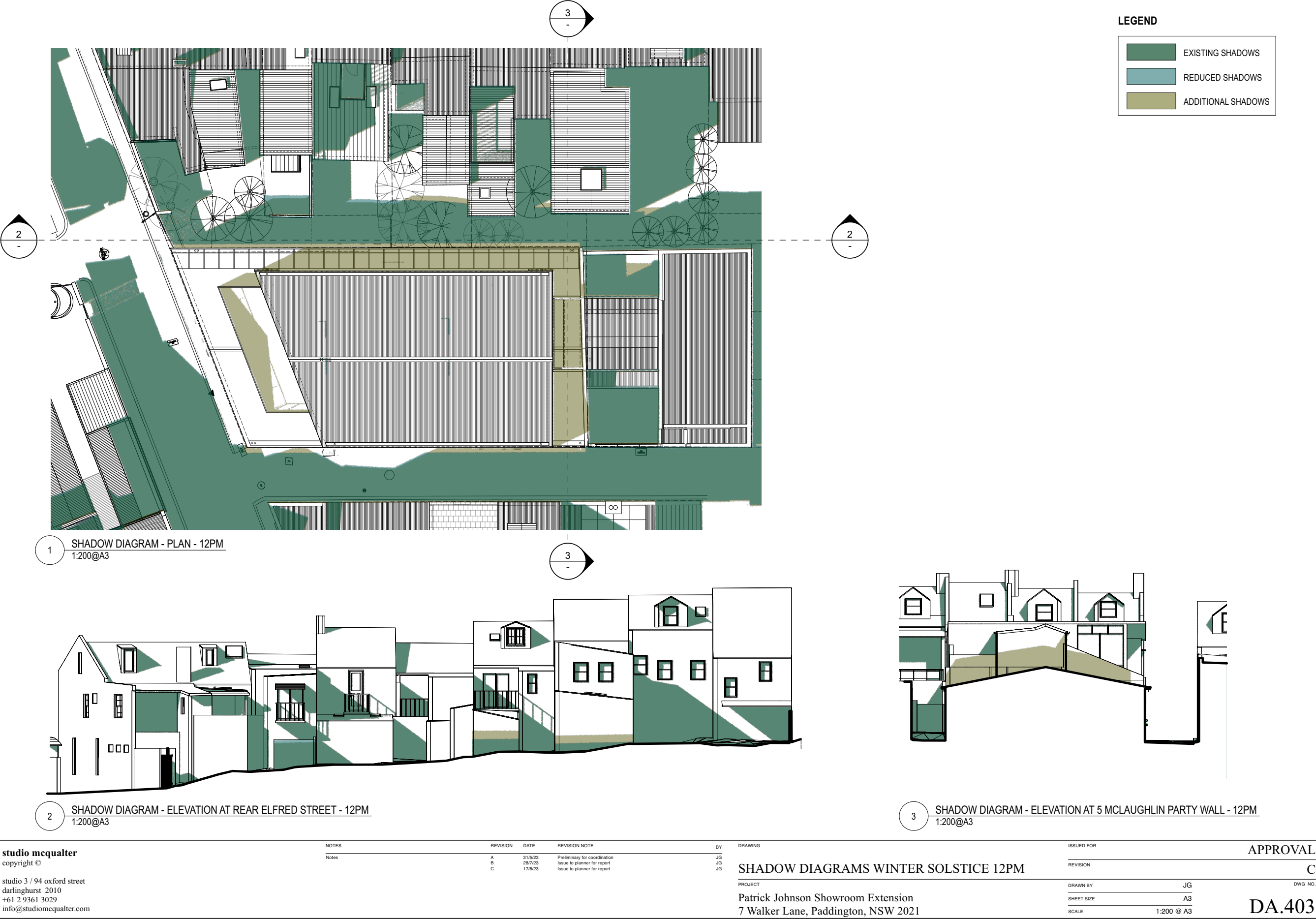




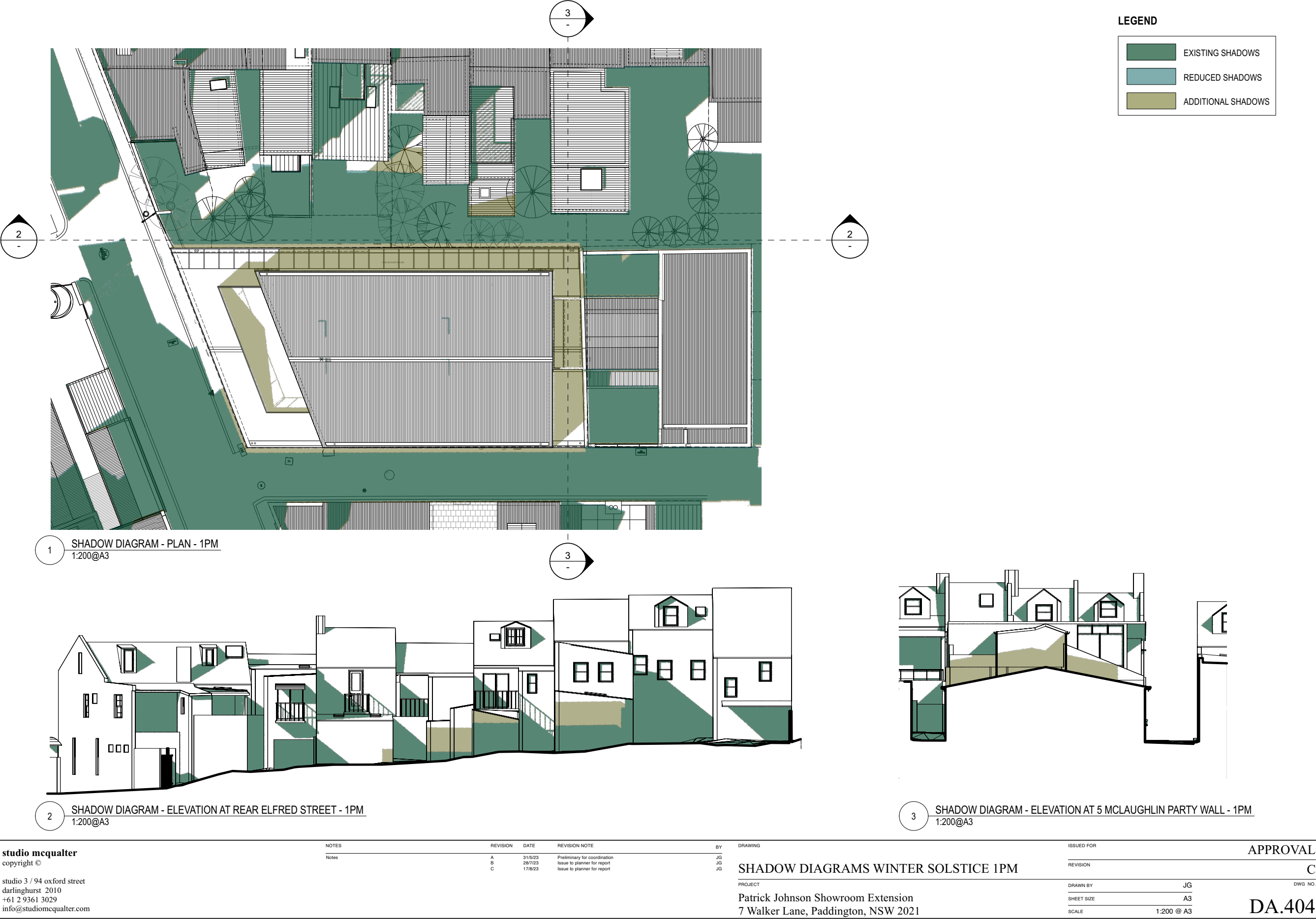
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	Notes		A	31/5/23	Preliminary for coordination	JG	SHADOW DIAGRAMS WINTER SOLSTICE 10AM				
			B	28/7/23	Issue to planner for report	JG				C	
			C	17/8/23	Issue to planner for report	JG					
								PROJECT			DWG NO.
								Patrick Johnson Showroom Extension			
								7 Walker Lane, Paddington, NSW 2021			
								DRAWN BY	JG		
								SHEET SIZE	A3		
								SCALE	1:200 @ A3		
									DA.401		











3

-

2

-



3

SHADOW DIAGRAM - ELEVATION AT 5 MCLAUGHLIN PARTY WALL - 1PM  
1:200@A3

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NOTES

Notes

REVISION	DATE	REVISION NOTE	BY
A	31/5/23	Preliminary for coordination	JG
B	28/7/23	Issue to planner for report	JG
C	17/8/23	Issue to planner for report	JG

DRAWING

SHADOW DIAGRAMS WINTER SOLSTICE 1PM

PROJECT

Patrick Johnson Showroom Extension  
7 Walker Lane, Paddington, NSW 2021

ISSUED FOR

APPROVAL

REVISION

DRAWN BY

JG

SHEET SIZE

A3

SCALE

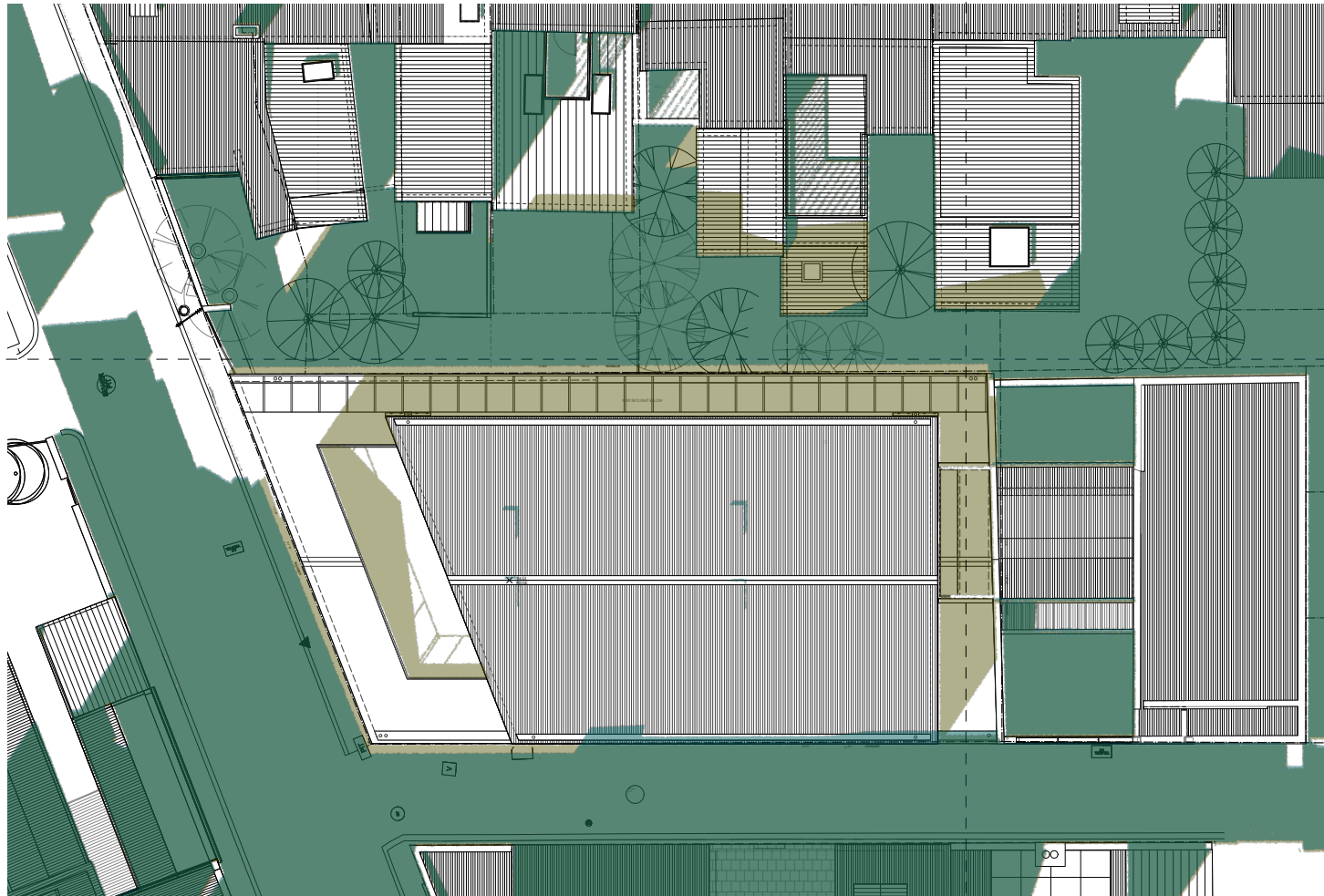
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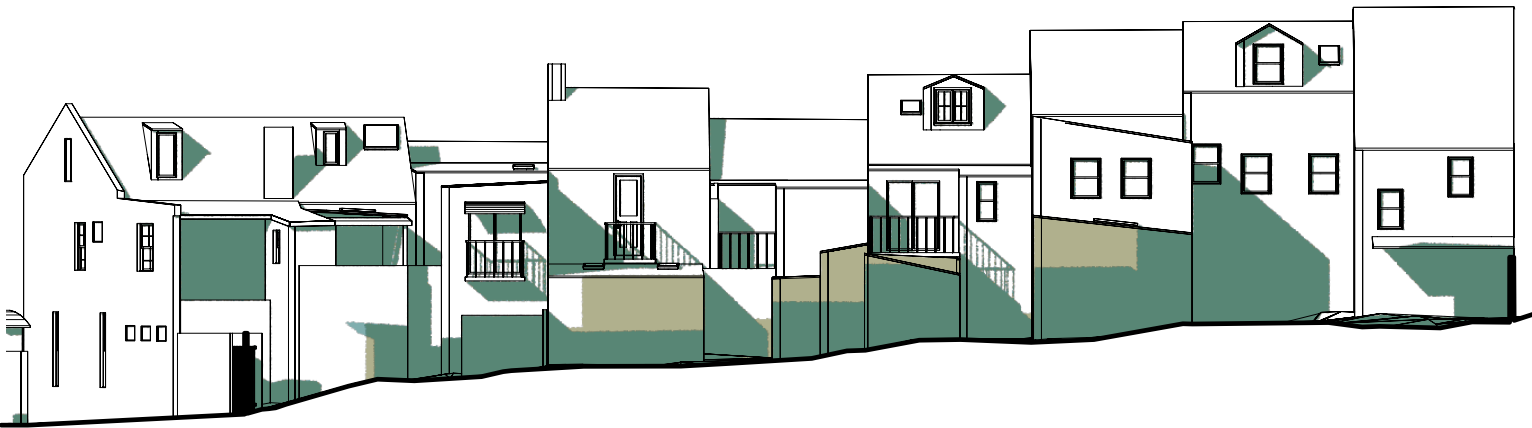
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LEGEND

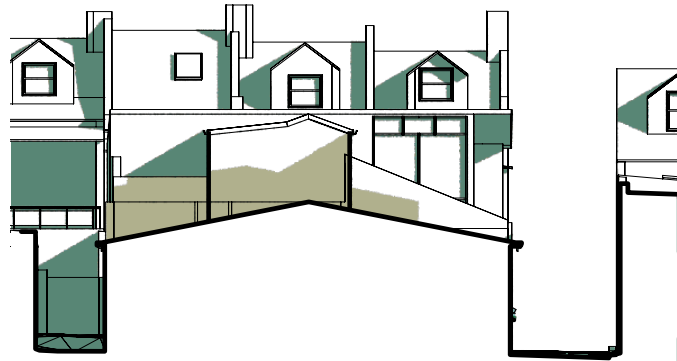
EXISTING SHADOWS
REDUCED SHADOWS
ADDITIONAL SHADOWS



1 SHADOW DIAGRAM - PLAN - 2PM  
1:200@A3



2 SHADOW DIAGRAM - ELEVATION AT REAR ELFRID STREET - 2PM  
1:200@A3



3 SHADOW DIAGRAM - ELEVATION AT 5 MCLAUGHLIN PARTY WALL - 2PM  
1:200@A3

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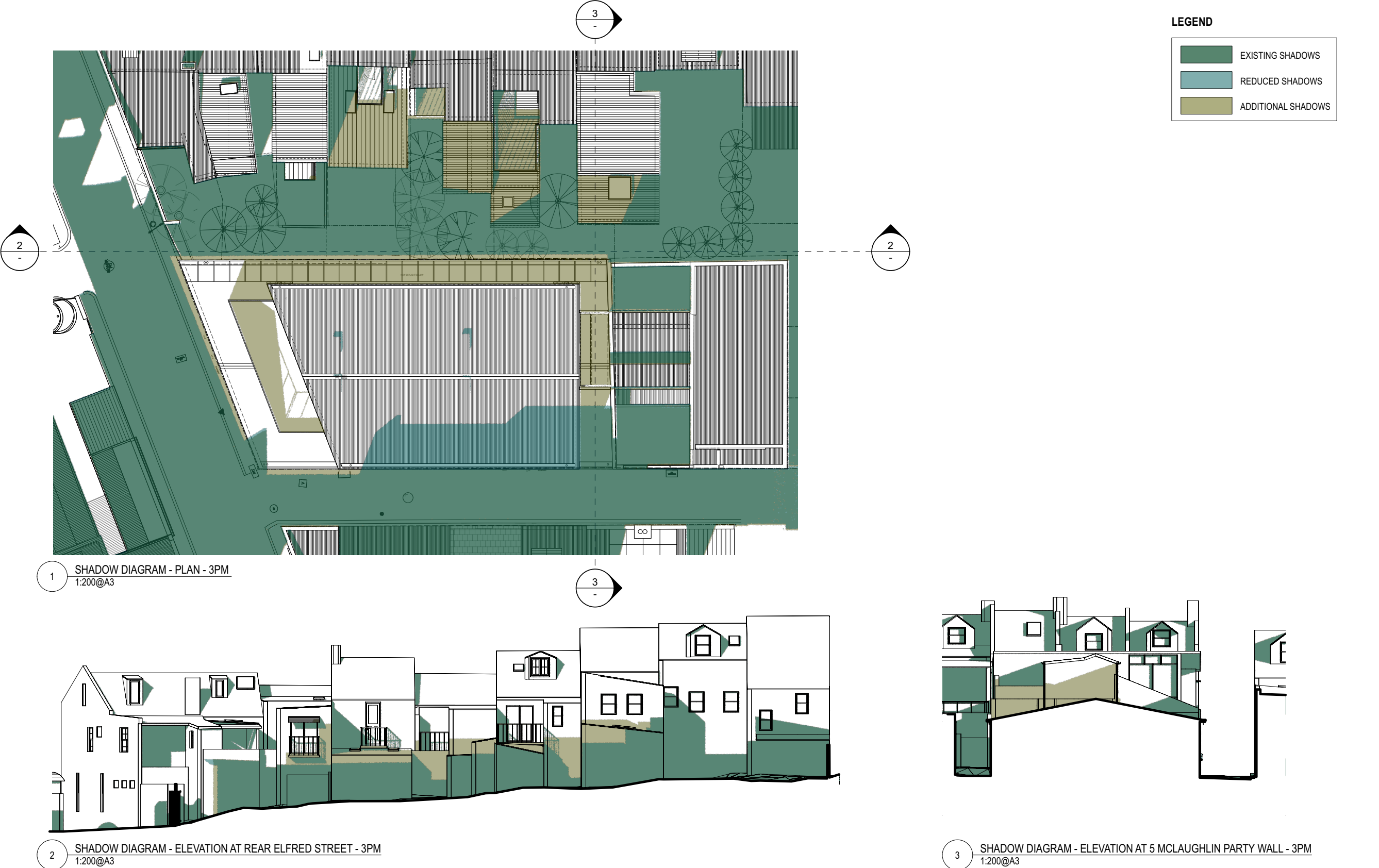
NOTES	REVISION	DATE	REVISION NOTE	BY
Notes	A	31/5/23	Preliminary for coordination	JG
	B	28/7/23	Issue to planner for report	JG
	C	17/8/23	Issue to planner for report	JG

DRAWING  
  
SHADOW DIAGRAMS WINTER SOLSTICE 2PM

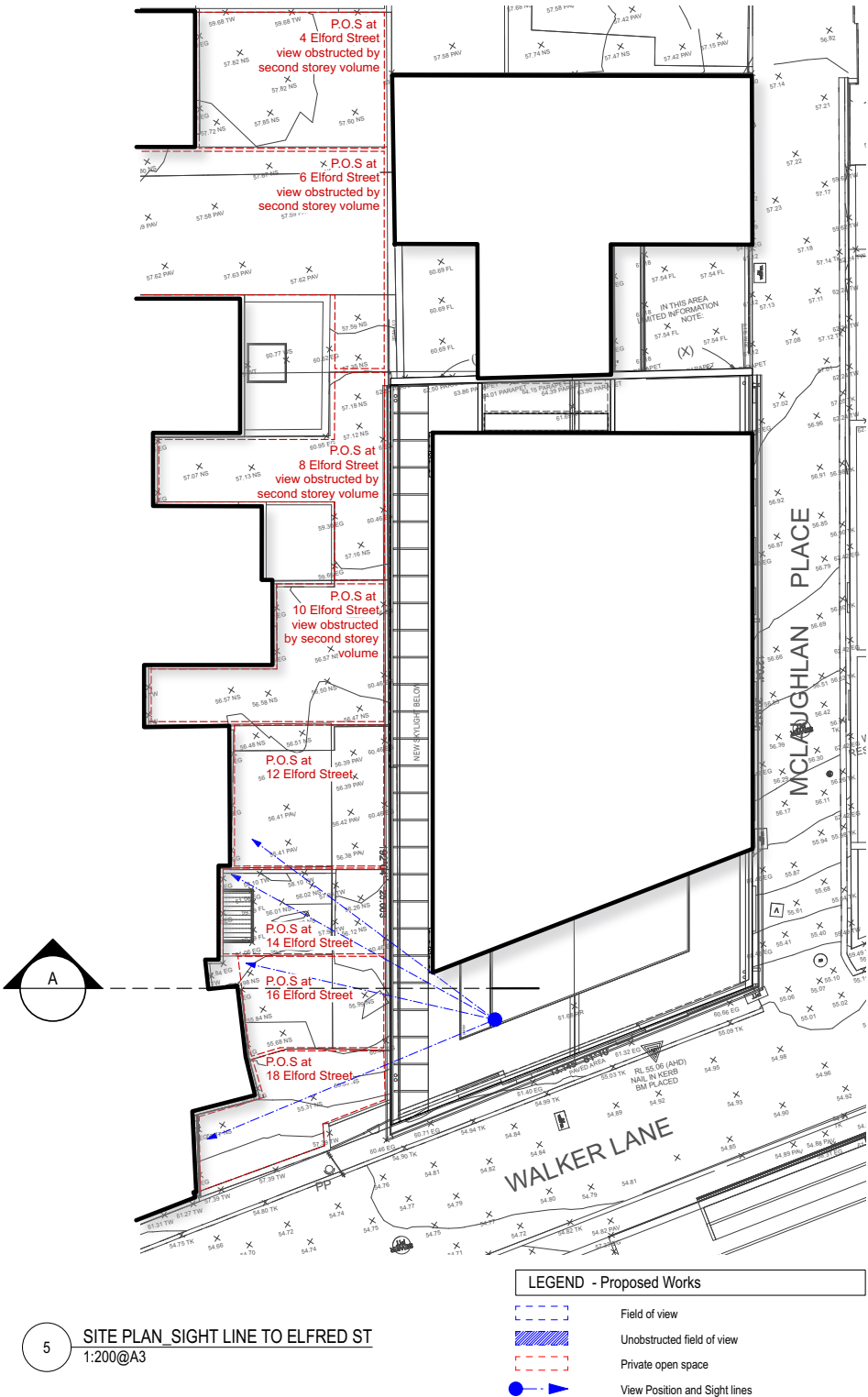
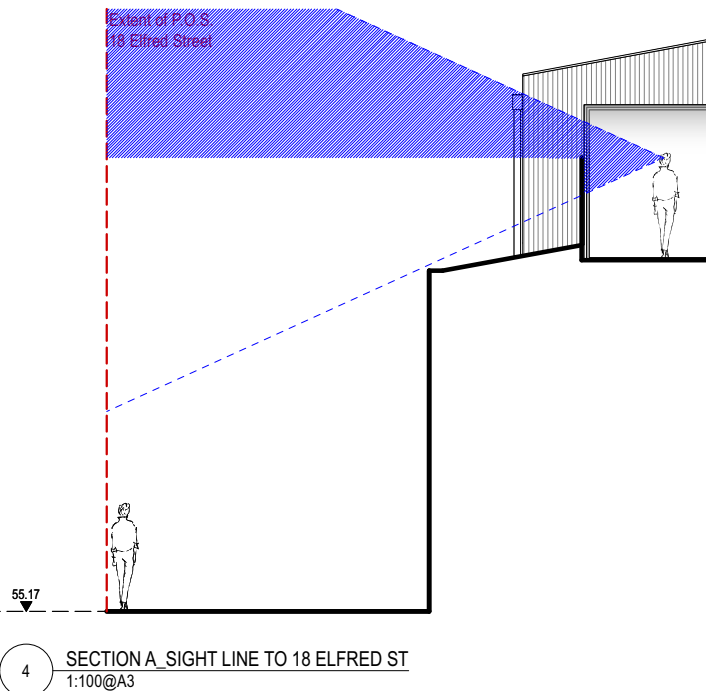
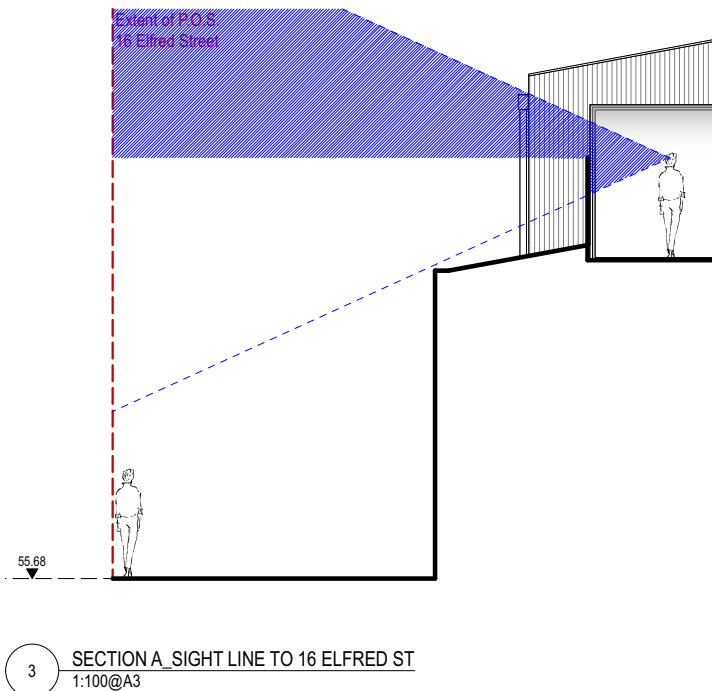
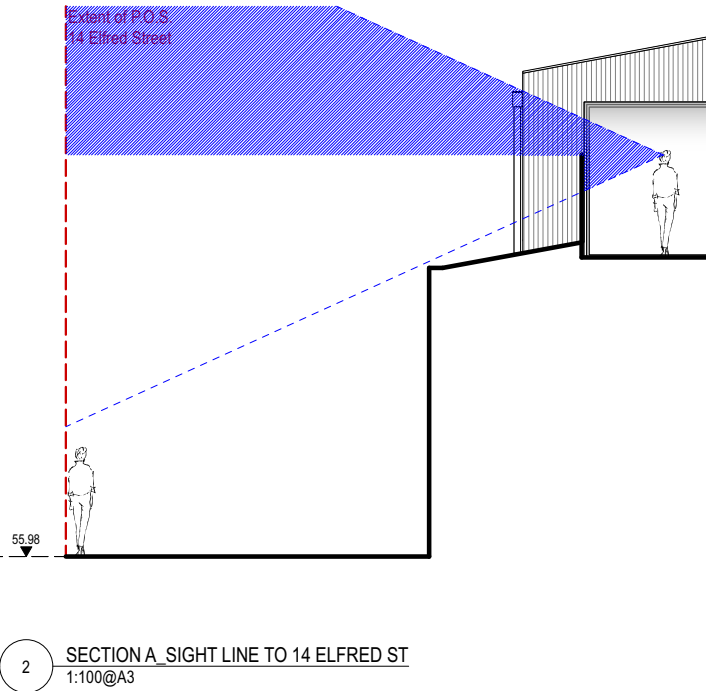
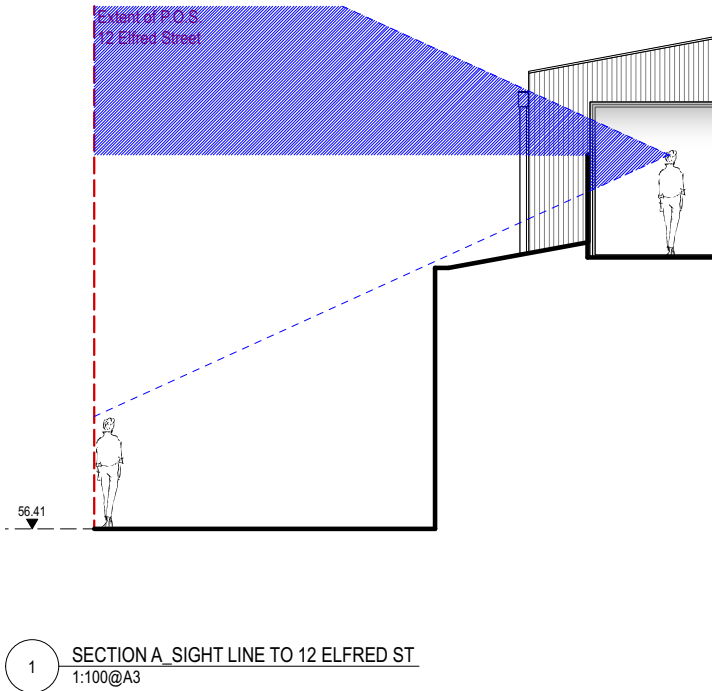
PROJECT  
Patrick Johnson Showroom Extension  
7 Walker Lane, Paddington, NSW 2021

ISSUED FOR	APPROVAL
REVISION	C
DRAWN BY	JG
SHEET SIZE	A3
SCALE	1:200 @ A3

DA.405

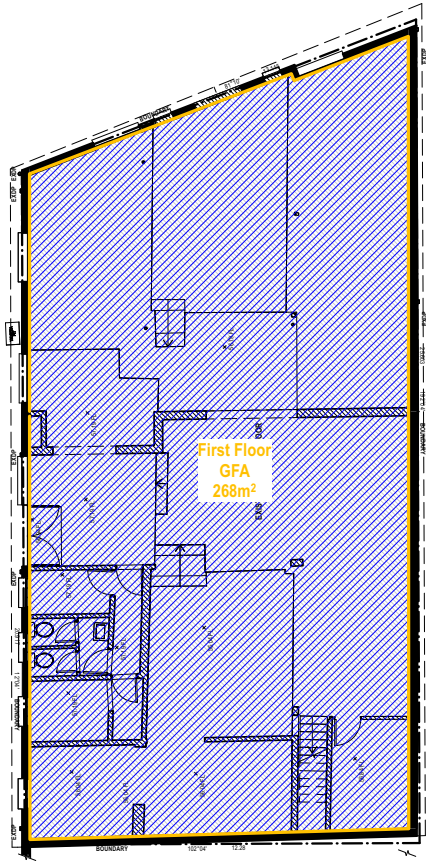


<div>studio mcqualter copyright ©  studio 3 / 94 oxford street darlinghurst 2010 +61 2 9361 3029 info@studiomcqualter.com</div>	NOTES		REVISION		DATE	REVISION NOTE	BY	DRAWING	ISSUED FOR		APPROVAL
	Notes		A		31/5/23	Preliminary for coordination	JG	SHADOW DIAGRAMS WINTER SOLSTICE 3PM	REVISION		C
			B		28/7/23	Issue to planner for report	JG				
			C		17/8/23	Issue to planner for report	JG				
								PROJECT	DRAWN BY		JG
							Patrick Johnson Showroom Extension	SHEET SIZE		A3	DA.406
							7 Walker Lane, Paddington, NSW 2021	SCALE		1:200 @ A3	

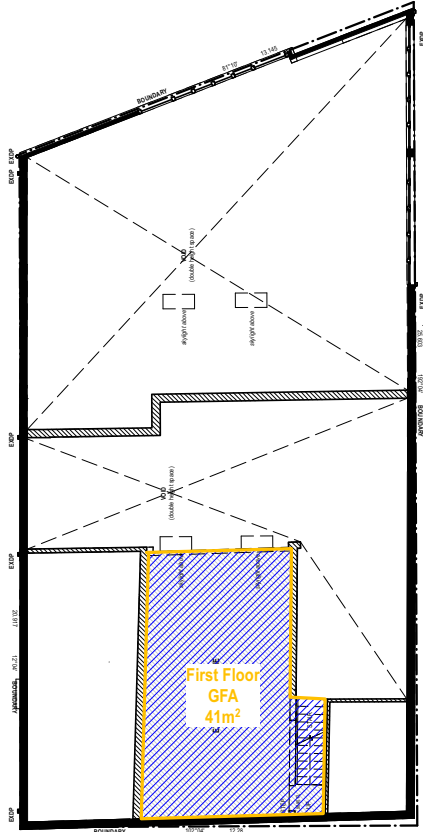


<div>studio mcqualter</div> <div>copyright ©</div> <div>studio 3 / 94 oxford street darlinghurst 2010 +61 2 9361 3029 info@studiomcqualter.com</div>	NOTES		REVISION	DATE	REVISION NOTE	BY	DRAWING	ISSUED FOR	APPROVAL
	Notes		A	30/5/23	Preliminary for coordination	JG	Proposed Private Open Space Sight Line Diagrams	REVISION	C
			B	28/7/23	Issue to planner for report	JG			
			C	4/8/23	Issue to planner for report	JG			
PROJECT							DRAWN BY	JG	DWG. NO.
Patrick Johnson Showroom Extension							SHEET SIZE	A3	DA.501
7 Walker Lane, Paddington, NSW 2021							SCALE	Various @ A3	

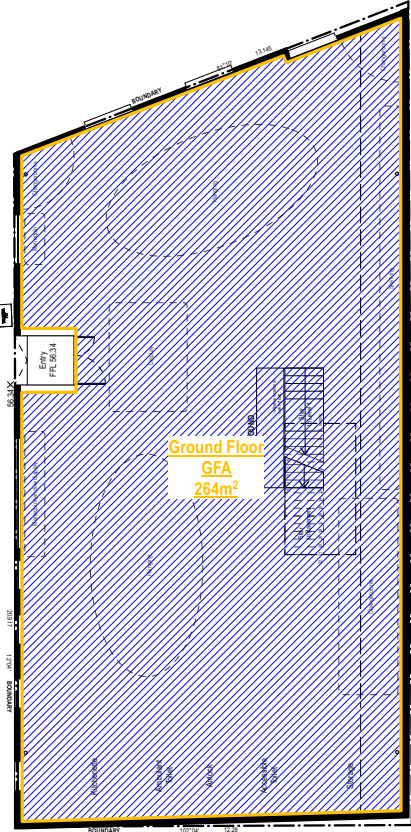




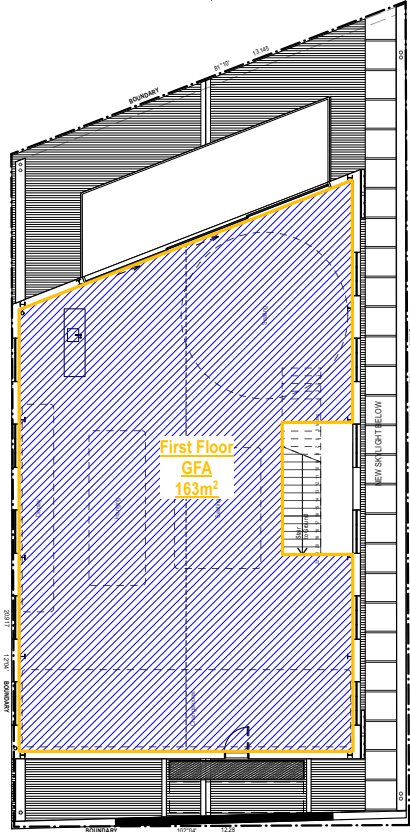
1 EXISTING GFA: GROUND FLOOR  
1:200@A3



2 EXISTING GFA: MEZZANINE FLOOR  
1:200@A3



3 PROPOSED GFA: GROUND FLOOR  
1:200@A3



4 PROPOSED GFA: FIRST FLOOR  
1:200@A3

GROSS FLOOR AREA CALCULATIONS

	EXISTING	PROPOSED
BASEMENT	None	Not applicable
GROUND	268m²	264m²
FIRST FLOOR	41m²	163m²
TOTAL	309m²	427m²

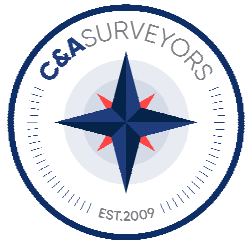
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NOTES	REVISION	DATE	REVISION NOTE	BY
Notes	A	17/8/23	Issue to planner for report	JG

DRAWING  
  
Gross Floor Area Calculations  
  
PROJECT  
Patrick Johnson Showroom Extension  
7 Walker Lane, Paddington, NSW 2021

ISSUED FOR  
  
APPROVAL  
  
REVISION  
  
A  
  
DRAWN BY  
JG  
SHEET SIZE  
A3  
SCALE  
1:100 @ A3  
  
DWG NO.  
  
DA.502





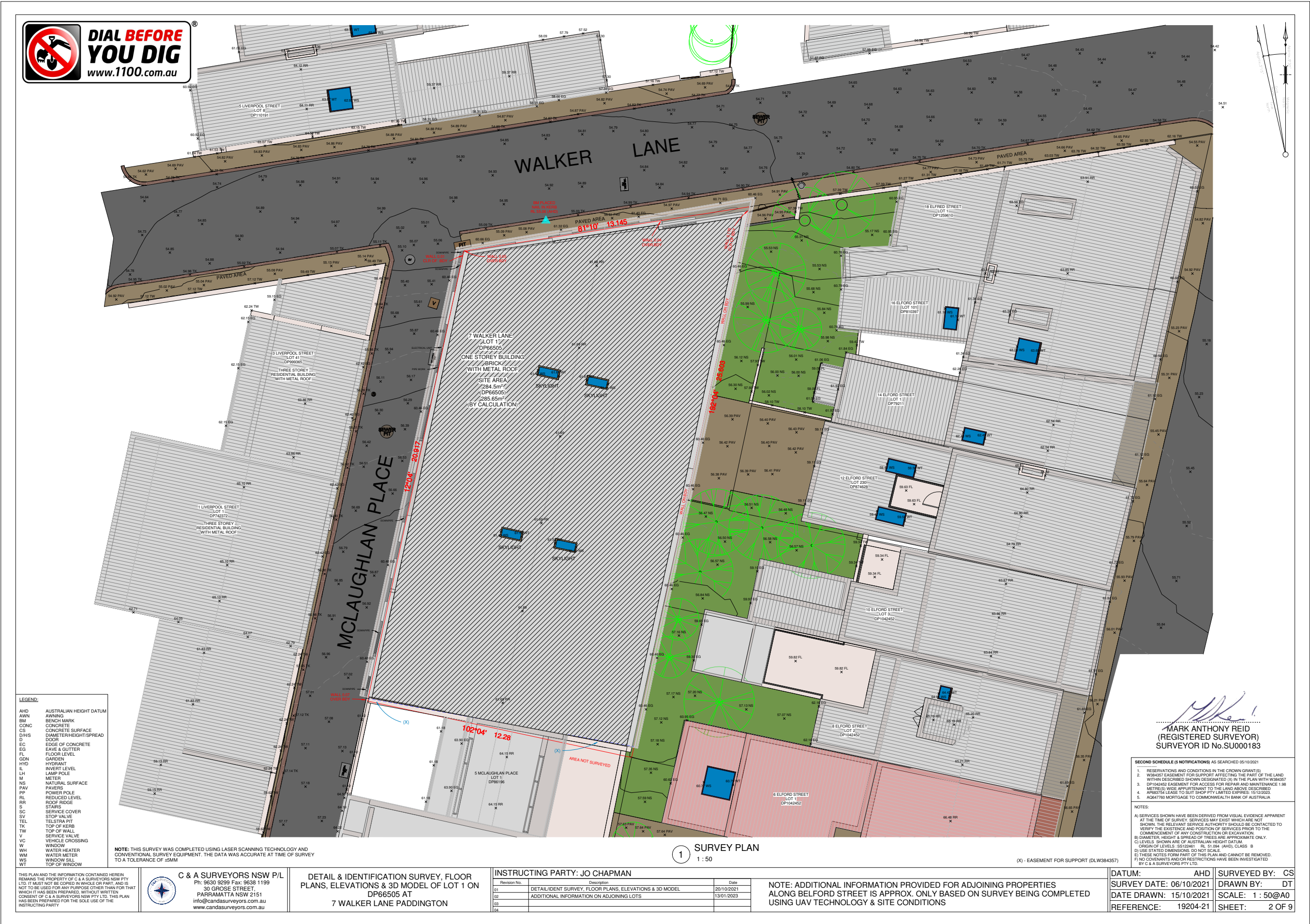
# C&A SURVEYORS

ABN: 79160 054 473  
E: [info@candasurveyors.com.au](mailto:info@candasurveyors.com.au)  
W: [candasurveyors.com.au](http://candasurveyors.com.au)

PROJECT NAME:	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	REVISION:	2
CLIENT NAME:	JO CHAPMAN	MODELER:	DT/EC
PROJECT NO.	19204-21	CHECKED BY:	MR
PROJECT ADDRESS:	7 WALKER LANE PADDINGTON	ISSUE DATE:	20/10/2021



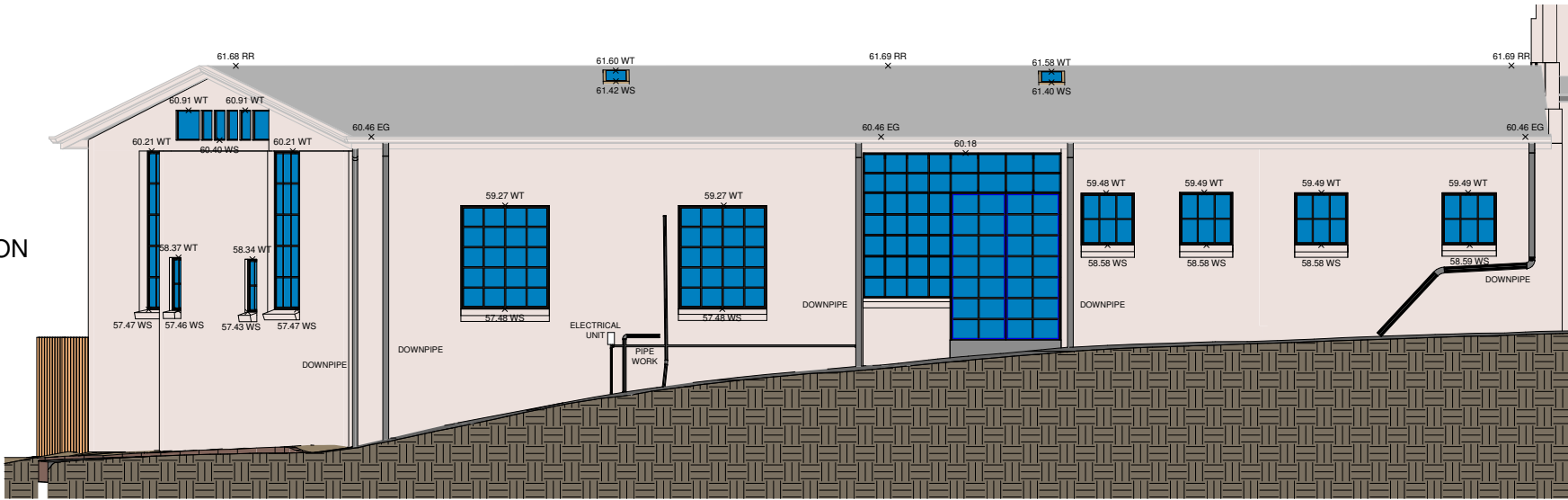
NOTES: This model is made using a combination of 3D laser scanning and conventional survey instruments. It should be noted that the accuracy of the model is based on the selection made when completing the C & A modeling checklist



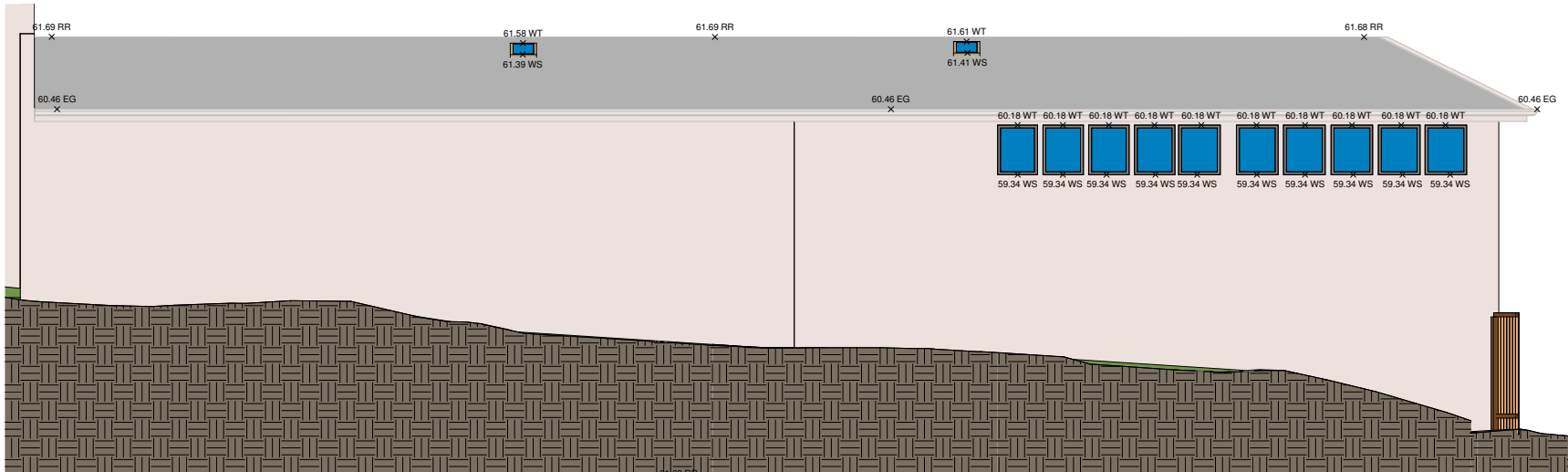




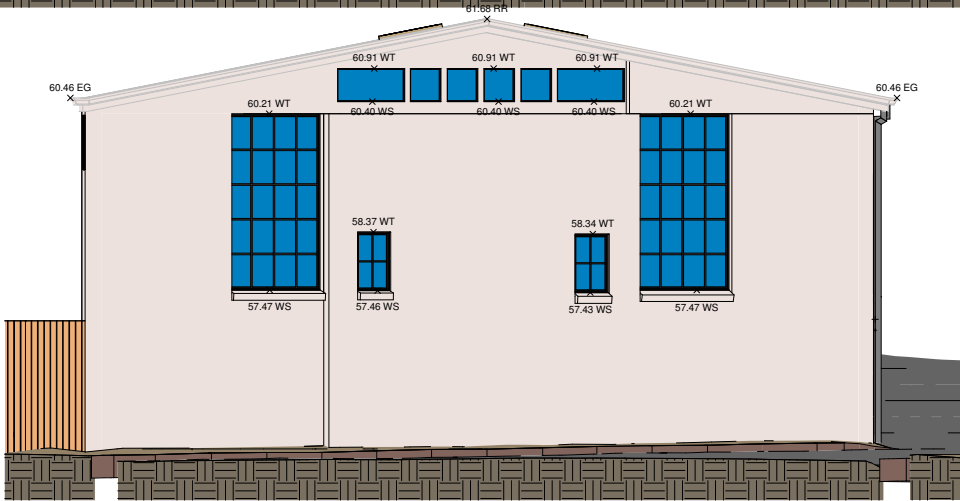
1 7 WALKER LANE FRONT ELEVATION  
1 : 50



2 7 WALKER LANE REAR ELEVATION  
1 : 50



3 7 WALKER LANE LEFT ELEVATION  
1 : 50



LEGEND:

AHD	AUSTRALIAN HEIGHT DATUM
AWN	AWNING
BM	BENCH MARK
CONC	CONCRETE
CS	CONCRETE SURFACE
DIH/S	DIAMETER/HEIGHT/SPREAD
D	DOOR
EC	EDGE OF CONCRETE
EG	EAVE & GUTTER
FL	FLOOR LEVEL
GDN	GARDEN
HYD	HYDRANT
IL	INVERT LEVEL
LH	LAMP POLE
M	METER
NS	NATURAL SURFACE
PAV	PAVERS
PP	POWER POLE
RL	REDUCED LEVEL
RR	ROOF RIDGE
S	STAIRS
SC	SERVICE COVER
SV	STOP VALVE
TEL	TELSTRA PIT
TK	TOP OF KERB
TW	TOP OF WALL
V	SERVICE VALVE
VC	VEHICLE CROSSING
W	WINDOW
WH	WATER HEATER
WM	WATER METER
WS	WINDOW SILL
WT	TOP OF WINDOW

NOTE: THIS SURVEY WAS COMPLETED USING LASER SCANNING TECHNOLOGY AND CONVENTIONAL SURVEY EQUIPMENT. THE DATA WAS ACCURATE AT TIME OF SURVEY TO A TOLERANCE OF ±5MM

SECOND SCHEDULE (5 NOTIFICATIONS) AS SEARCHED 05/10/2021

1.	RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2.	W384357 EASEMENT FOR SUPPORT AFFECTING THE PART OF THE LAND WITHIN DESCRIBED SHOWN DESIGNATED (X) IN THE PLAN WITH W384357
3.	DP1042452 EASEMENT FOR ACCESS FOR REPAIR AND MAINTENANCE 1.98 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
4.	AP683754 LEASE TO SUIT SHOP PTY LIMITED EXPIRES: 15/12/2023.
5.	AQ647760 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTES:

A) SERVICES SHOWN HAVE BEEN DERIVED FROM VISUAL EVIDENCE APPARENT AT THE TIME OF SURVEY. SERVICES MAY EXIST WHICH ARE NOT SHOWN. THE RELEVANT SERVICE AUTHORITY SHOULD BE CONTACTED TO VERIFY THE EXISTENCE AND POSITION OF SERVICES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR EXCAVATION.

B) DIAMETER, HEIGHT & SPREAD OF TREES ARE APPROXIMATE ONLY.

C) LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM.

D) USE STATED DIMENSIONS. DO NOT SCALE.

E) THESE NOTES FORM PART OF THIS PLAN AND CANNOT BE REMOVED.

F) NO COVENANTS AND/OR RESTRICTIONS HAVE BEEN INVESTIGATED BY C & A SURVEYORS PTY LTD.

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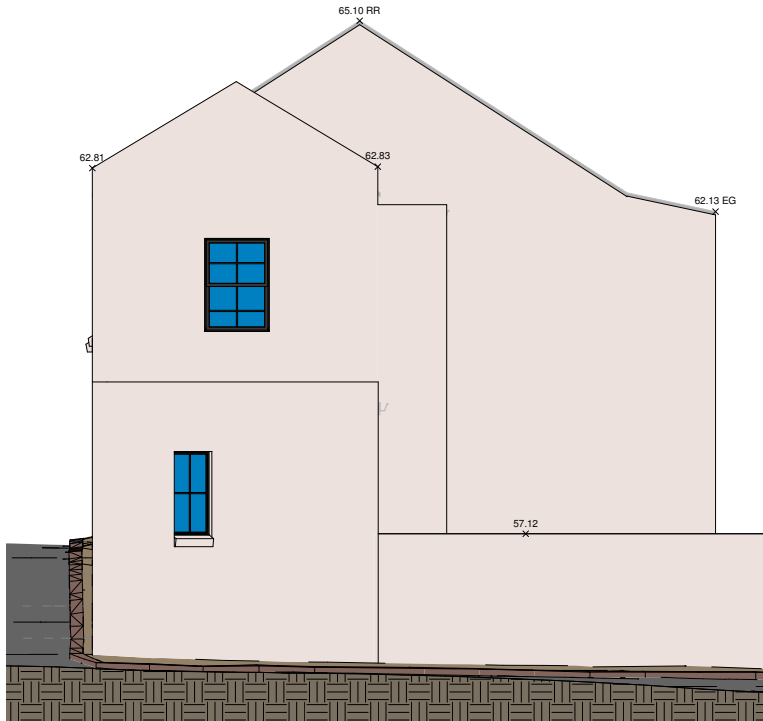


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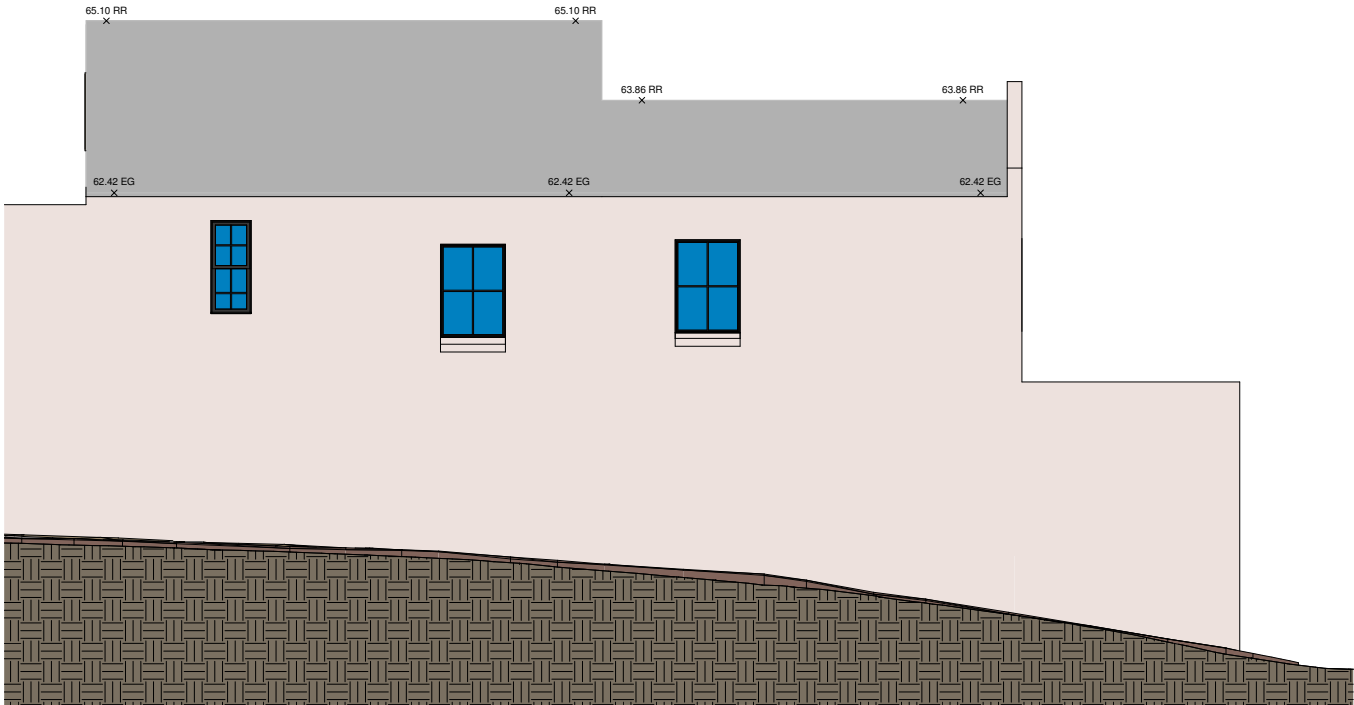
DETAIL & IDENTIFICATION SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL OF LOT 1 ON DP66505 AT 7 WALKER LANE PADDINGTON

INSTRUCTING PARTY: JO CHAPMAN		
Revision No.	Description	Date
01	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	20/10/2021
02	ADDITIONAL INFORMATION ON ADJOINING LOTS	
03		
04		

DATUM:	AHD	SURVEYED BY:	CS
SURVEY DATE:	06/10/2021	DRAWN BY:	DT
DATE DRAWN:	15/10/2021	SCALE:	1 : 50@A1
REFERENCE:	19204-21	SHEET:	4 OF 9



1 3 LIVERPOOL STREET LEFT ELEVATION  
1 : 50



2 3 LIVERPOOL STREET REAR ELEVATION  
1 : 50



3 18 ELFRED STREET RIGHT ELEVATION  
1 : 50

LEGEND:

AHD	AUSTRALIAN HEIGHT DATUM
AWN	AWNING
BM	BENCH MARK
CONC	CONCRETE
CS	CONCRETE SURFACE
DIH/S	DIAMETER/HEIGHT/SPREAD
D	DOOR
EC	EDGE OF CONCRETE
EG	EAVE & GUTTER
FL	FLOOR LEVEL
GDN	GARDEN
HYD	HYDRANT
IL	INVERT LEVEL
LH	LAMP POLE
M	METER
NS	NATURAL SURFACE
PAV	PAVERS
PP	POWER POLE
RL	REDUCED LEVEL
RR	ROOF RIDGE
S	STAIRS
SC	SERVICE COVER
SV	STOP VALVE
TEL	TELSTRA PIT
TK	TOP OF KERB
TW	TOP OF WALL
V	SERVICE VALVE
VC	VEHICLE CROSSING
W	WINDOW
WH	WATER HEATER
WM	WATER METER
WS	WINDOW SILL
WT	TOP OF WINDOW

NOTE: THIS SURVEY WAS COMPLETED USING LASER SCANNING TECHNOLOGY AND CONVENTIONAL SURVEY EQUIPMENT. THE DATA WAS ACCURATE AT TIME OF SURVEY TO A TOLERANCE OF ±5MM

THIS PLAN AND THE INFORMATION CONTAINED HEREIN REMAINS THE PROPERTY OF C & A SURVEYORS NSW PTY LTD. IT MUST NOT BE COPIED IN WHOLE OR PART, AND IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN FOR THAT WHICH IT HAS BEEN PREPARED. WITHOUT WRITTEN CONSENT OF C & A SURVEYORS NSW PTY LTD. THIS PLAN HAS BEEN PREPARED FOR THE SOLE USE OF THE INSTRUCTING PARTY



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info@candasurveyors.com.au  
www.candasurveyors.com.au

DETAIL & IDENTIFICATION SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL OF LOT 1 ON DP66505 AT 7 WALKER LANE PADDINGTON

INSTRUCTING PARTY: JO CHAPMAN

Revision No.	Description	Date
01	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	20/10/2021
02	ADDITIONAL INFORMATION ON ADJOINING LOTS	
03		
04		

DATUM:	AHD	SURVEYED BY:	CS
SURVEY DATE:	06/10/2021	DRAWN BY:	DT
DATE DRAWN:	15/10/2021	SCALE:	1 : 50@A1
REFERENCE:	19204-21	SHEET:	5 OF 9

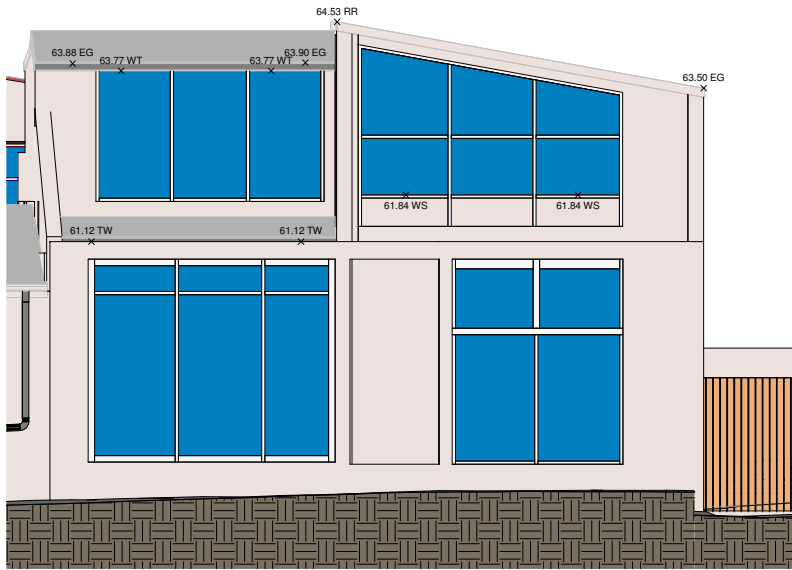
SECOND SCHEDULE (5 NOTIFICATIONS) AS SEARCHED 05/10/2021

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- W384357 EASEMENT FOR SUPPORT AFFECTING THE PART OF THE LAND WITHIN DESCRIBED SHOWN DESIGNATED (X) IN THE PLAN WITH W384357
- DP1042452 EASEMENT FOR ACCESS FOR REPAIR AND MAINTENANCE 1.98 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED AP683754 LEASE TO SUIT SHOP PTY LIMITED EXPIRES: 15/12/2023.
- AP683754 LEASE TO SUIT SHOP PTY LIMITED EXPIRES: 15/12/2023.
- AQ647760 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

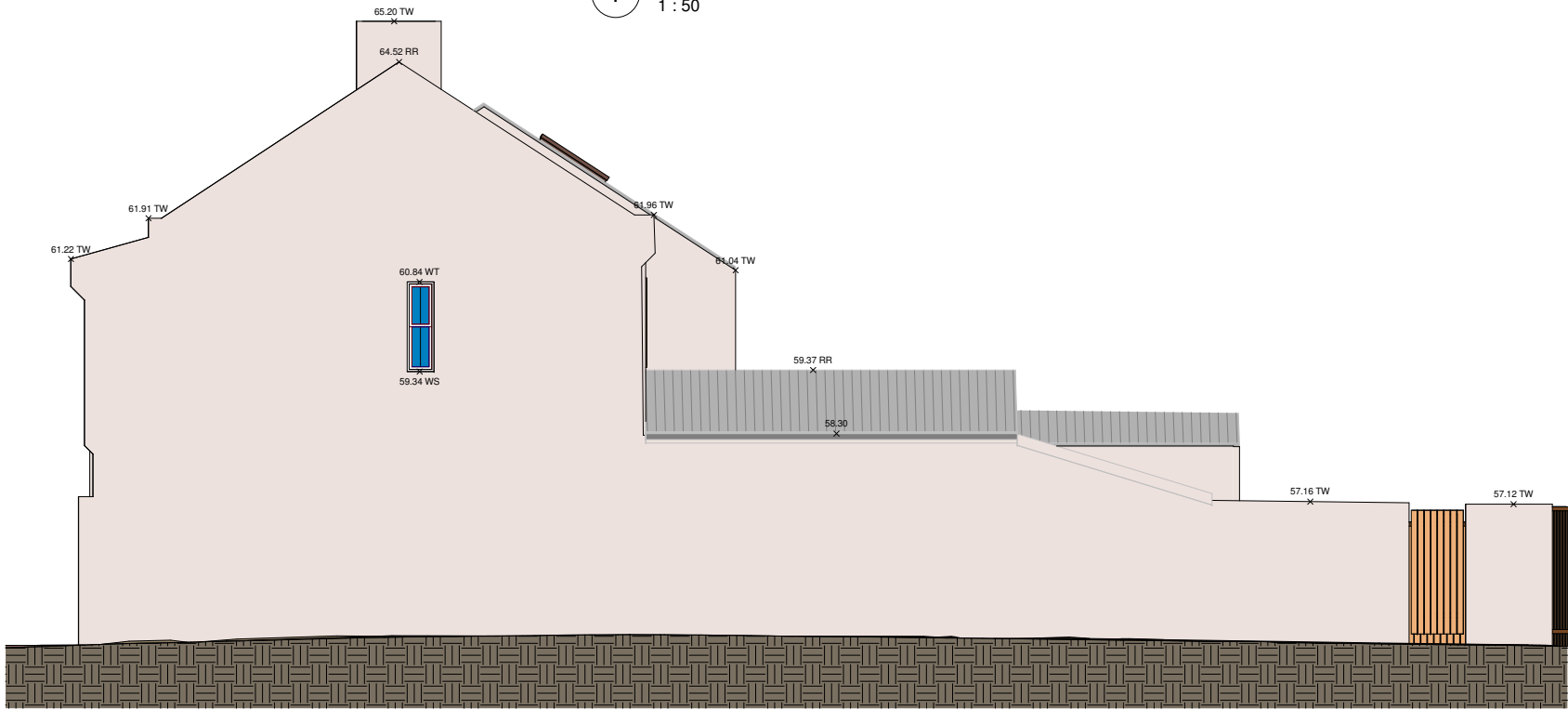
NOTES:

- A) SERVICES SHOWN HAVE BEEN DERIVED FROM VISUAL EVIDENCE APPARENT AT THE TIME OF SURVEY. SERVICES MAY EXIST WHICH ARE NOT SHOWN. THE RELEVANT SERVICE AUTHORITY SHOULD BE CONTACTED TO VERIFY THE EXISTENCE AND POSITION OF SERVICES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR EXCAVATION.
- B) DIAMETER, HEIGHT & SPREAD OF TREES ARE APPROXIMATE ONLY.
- C) LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM. ORIGIN OF LEVELS: 55122441 RLS1.094 (AHD), CLASS B
- D) USE STATED DIMENSIONS. DO NOT SCALE.
- E) THESE NOTES FORM PART OF THIS PLAN AND CANNOT BE REMOVED.
- F) NO COVENANTS AND/OR RESTRICTIONS HAVE BEEN INVESTIGATED BY C & A SURVEYORS PTY LTD.





1 5 McLAUGHLAN PLACE ELEVATION  
1 : 50



2 5 LIVERPOOL STREET LEFT ELEVATION  
1 : 50

LEGEND:

AHD	AUSTRALIAN HEIGHT DATUM
AWN	AWNING
BM	BENCH MARK
CONC	CONCRETE
CS	CONCRETE SURFACE
DIH/S	DIAMETER/HEIGHT/SPREAD
D	DOOR
EC	EDGE OF CONCRETE
EG	EAVE & GUTTER
FL	FLOOR LEVEL
GDN	GARDEN
HYD	HYDRANT
IL	INVERT LEVEL
LH	LAMP POLE
M	METER
NS	NATURAL SURFACE
PAV	PAVERS
PP	POWER POLE
RL	REDUCED LEVEL
RR	ROOF RIDGE
S	STAIRS
SC	SERVICE COVER
SV	STOP VALVE
TEL	TELSTRA PIT
TK	TOP OF KERB
TW	TOP OF WALL
V	SERVICE VALVE
VC	VEHICLE CROSSING
W	WINDOW
WH	WATER HEATER
WM	WATER METER
WS	WINDOW SILL
WT	TOP OF WINDOW

NOTE: THIS SURVEY WAS COMPLETED USING LASER SCANNING TECHNOLOGY AND CONVENTIONAL SURVEY EQUIPMENT. THE DATA WAS ACCURATE AT TIME OF SURVEY TO A TOLERANCE OF ±5MM

SECOND SCHEDULE (5 NOTIFICATIONS) AS SEARCHED 05/10/2021

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- AQ647760 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

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- B) DIAMETER, HEIGHT & SPREAD OF TREES ARE APPROXIMATE ONLY.
- C) LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM.
- ORIGIN OF LEVELS: 550122461 RLS1.084 (AHD), CLASS B
- D) USE STATED DIMENSIONS. DO NOT SCALE.
- E) THESE NOTES FORM PART OF THIS PLAN AND CANNOT BE REMOVED.
- F) NO COVENANTS AND/OR RESTRICTIONS HAVE BEEN INVESTIGATED BY C & A SURVEYORS PTY LTD.

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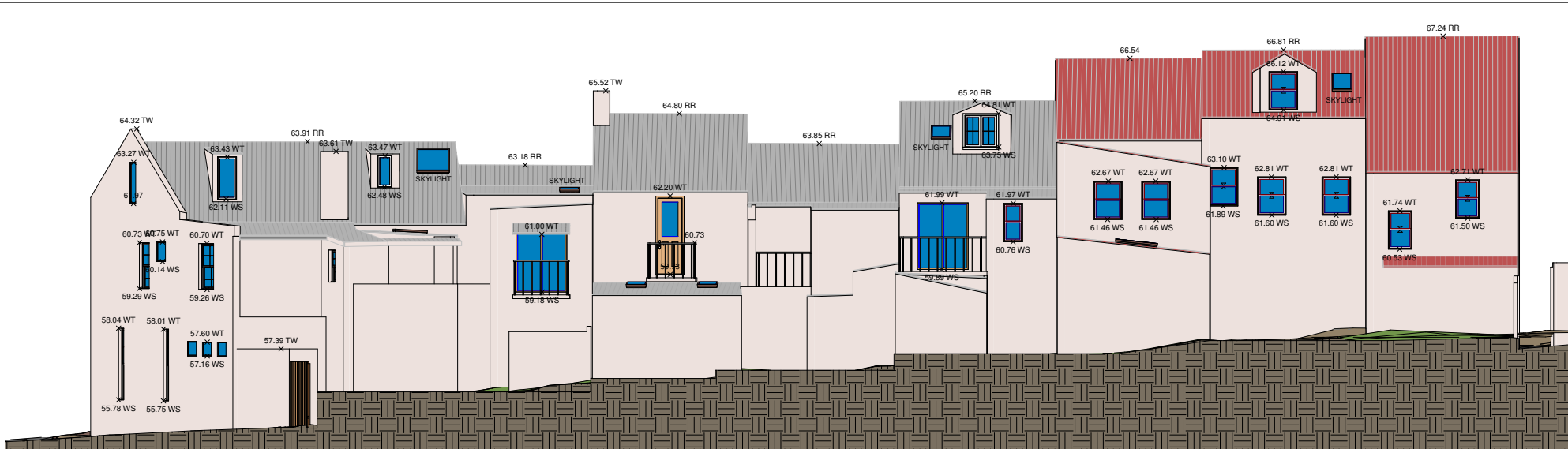
C & A SURVEYORS NSW P/L  
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30 GROSE STREET,  
PARRAMATTA NSW 2151  
info@candasurveyors.com.au  
www.candasurveyors.com.au

DETAIL & IDENTIFICATION SURVEY, FLOOR  
PLANS, ELEVATIONS & 3D MODEL OF LOT 1 ON  
DP66505 AT  
7 WALKER LANE PADDINGTON

INSTRUCTING PARTY: JO CHAPMAN

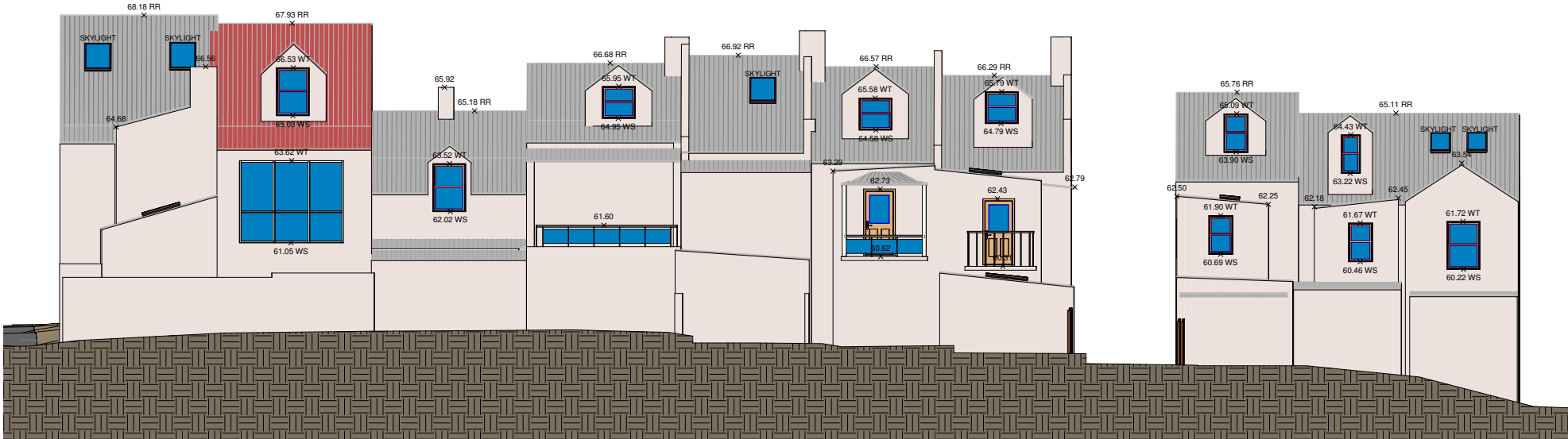
Revision No.	Description	Date
01	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	20/10/2021
02	ADDITIONAL INFORMATION ON ADJOINING LOTS	
03		
04		

DATUM:	AHD	SURVEYED BY:	CS
SURVEY DATE:	06/10/2021	DRAWN BY:	DT
DATE DRAWN:	15/10/2021	SCALE:	1 : 50@A1
REFERENCE:	19204-21	SHEET:	6 OF 9



1  
1 : 80

ELFRED STREET REAR ELEVATION



2  
1 : 80

GIPPS STREET FRONT ELEVATION

LEGEND:

AHD	AUSTRALIAN HEIGHT DATUM	PP	POWER POLE
AWN	AWNING	RL	REDUCED LEVEL
BM	BENCH MARK	RR	ROOF RIDGE
CONC	CONCRETE	S	STAIRS
CS	CONCRETE SURFACE	SC	SERVICE COVER
D/H/S	DIAMETER/HEIGHT/SPREAD	SV	STOP VALVE
D	DOOR	TEL	TELSTRA PIT
EC	EDGE OF CONCRETE	TK	TOP OF KERB
EG	EAVE & GUTTER	TW	TOP OF WALL
FL	FLOOR LEVEL	V	SERVICE VALVE
GDN	GARDEN	VC	VEHICLE CROSSING
HYD	HYDRANT	W	WINDOW
IL	INVERT LEVEL	WH	WATER HEATER
LH	LAMP POLE	WM	WATER METER
M	METER	WS	WINDOW SILL
NS	NATURAL SURFACE	WT	TOP OF WINDOW
PAV	PAVERS		

NOTE: THIS SURVEY WAS COMPLETED USING LASER SCANNING TECHNOLOGY AND CONVENTIONAL SURVEY EQUIPMENT. THE DATA WAS ACCURATE AT TIME OF SURVEY TO A TOLERANCE OF ±5MM

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DETAIL & IDENTIFICATION SURVEY, FLOOR  
PLANS, ELEVATIONS & 3D MODEL OF LOT 1 ON  
DP66505 AT  
7 WALKER LANE PADDINGTON

INSTRUCTING PARTY: JO CHAPMAN

Revision No.	Description	Date
01	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	20/10/2021
02	ADDITIONAL INFORMATION ON ADJOINING LOTS	
03		
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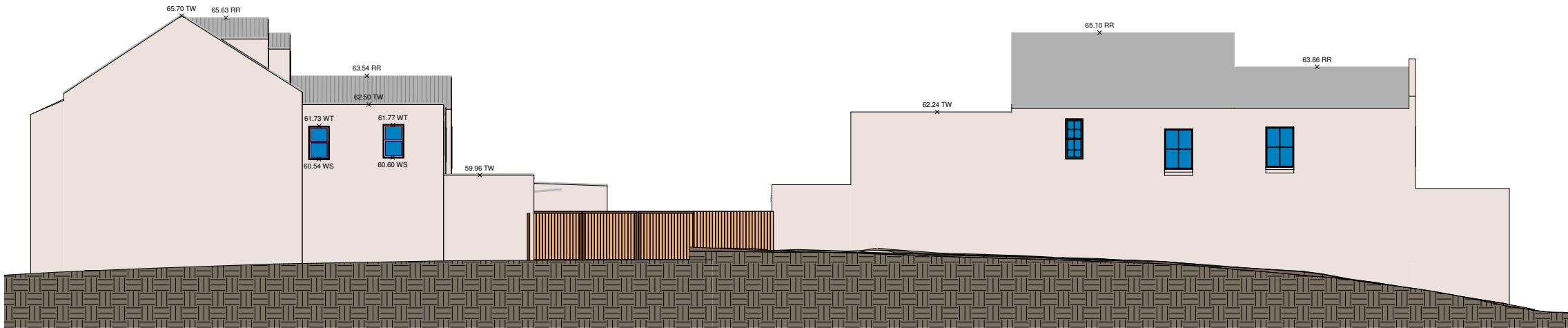
SECOND SCHEDULE (5 NOTIFICATIONS) AS SEARCHED 05/10/2021

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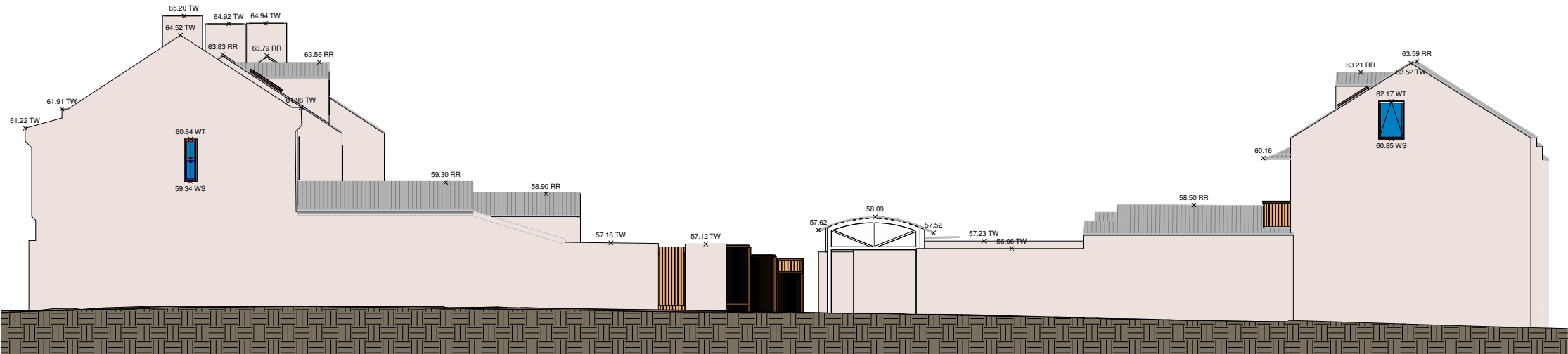
NOTES:

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- B) DIAMETER, HEIGHT & SPREAD OF TREES ARE APPROXIMATE ONLY.
- C) LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM.  
ORIGIN OF LEVELS: 55122401 RLS1.004 (AHD), CLASS B
- D) USE STATED DIMENSIONS. DO NOT SCALE.
- E) THESE NOTES FORM PART OF THIS PLAN AND CANNOT BE REMOVED.
- F) NO COVENANTS AND/OR RESTRICTIONS HAVE BEEN INVESTIGATED BY C & A SURVEYORS PTY LTD.

DATUM:	AHD	SURVEYED BY:	CS
SURVEY DATE:	06/10/2021	DRAWN BY:	DT
DATE DRAWN:	15/10/2021	SCALE:	1 : 80@A1
REFERENCE:	19204-21	SHEET:	7 OF 9



1 MCLAUGHLAN PLACE STREET ELEVATION  
1 : 80



2 WALKER LANE STREET ELEVATION  
1 : 80

LEGEND:		
AHD	AUSTRALIAN HEIGHT DATUM	PP
AWN	AWNING	RL
BM	BENCH MARK	RR
CONC	CONCRETE	S
CS	CONCRETE SURFACE	SC
D/H/S	DIAMETER/HEIGHT/SPREAD	SV
D	DOOR	TEL
EC	EDGE OF CONCRETE	TK
EG	EAVE & GUTTER	TW
FL	FLOOR LEVEL	V
GDN	GARDEN	VC
HYD	HYDRANT	W
IL	INVERT LEVEL	WH
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	STOP VALVE	
	TELSTRA PIT	
	TOP OF KERB	
	TOP OF WALL	
	SERVICE VALVE	
	VEHICLE CROSSING	
	WINDOW	
	WATER HEATER	
	WATER METER	
	WINDOW SILL	
	TOP OF WINDOW	

NOTE: THIS SURVEY WAS COMPLETED USING LASER SCANNING TECHNOLOGY AND CONVENTIONAL SURVEY EQUIPMENT. THE DATA WAS ACCURATE AT TIME OF SURVEY TO A TOLERANCE OF ±5MM

SECOND SCHEDULE (5 NOTIFICATIONS) AS SEARCHED 05/10/2021

1. RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2. W384357 EASEMENT FOR SUPPORT AFFECTING THE PART OF THE LAND WITHIN DESCRIBED SHOWN DESIGNATED (X) IN THE PLAN WITH W384357
3. DP1042452 EASEMENT FOR ACCESS FOR REPAIR AND MAINTENANCE 1.98 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
4. AP683754 LEASE TO SUIT SHOP PTY LIMITED EXPIRES: 15/12/2023.
5. AQ647760 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTES:

- A) SERVICES SHOWN HAVE BEEN DERIVED FROM VISUAL EVIDENCE APPARENT AT THE TIME OF SURVEY. SERVICES MAY EXIST WHICH ARE NOT SHOWN. THE RELEVANT SERVICE AUTHORITY SHOULD BE CONTACTED TO VERIFY THE EXISTENCE AND POSITION OF SERVICES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION OR EXCAVATION.
- B) DIAMETER, HEIGHT & SPREAD OF TREES ARE APPROXIMATE ONLY.
- C) LEVELS SHOWN ARE OF AUSTRALIAN HEIGHT DATUM.
- D) USE STATED DIMENSIONS. DO NOT SCALE.
- E) THESE NOTES FORM PART OF THIS PLAN AND CANNOT BE REMOVED.
- F) NO COVENANTS AND/OR RESTRICTIONS HAVE BEEN INVESTIGATED BY C & A SURVEYORS PTY LTD.

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DETAIL & IDENTIFICATION SURVEY, FLOOR  
PLANS, ELEVATIONS & 3D MODEL OF LOT 1 ON  
DP66505 AT  
7 WALKER LANE PADDINGTON

INSTRUCTING PARTY: JO CHAPMAN

Revision No.	Description	Date
01	DETAIL/IDENT SURVEY, FLOOR PLANS, ELEVATIONS & 3D MODEL	20/10/2021
02	ADDITIONAL INFORMATION ON ADJOINING LOTS	13/01/2023
03		
04		

DATUM:	AHD	SURVEYED BY:	CS
SURVEY DATE:	06/10/2021	DRAWN BY:	DT
DATE DRAWN:	15/10/2021	SCALE:	1 : 80@A1
REFERENCE:	19204-21	SHEET:	8 OF 9



**LEGEND:**

- |       |                         |
|-------|-------------------------|
| AHD   | AUSTRALIAN HEIGHT DATUM |
| AWN   | AWNING                  |
| BM    | BENCH MARK              |
| CONC  | CONCRETE                |
| CS    | CONCRETE SURFACE        |
| D/H/S | DIAMETER/HEIGHT/SPREAD  |
| DO    | DOOR                    |
| EO    | EDGE OF CONCRETE        |
| EG    | EAVE & GUTTER           |
| FL    | FLOOR LEVEL             |
| GDN   | GARDEN                  |
| HYD   | HYDRANT                 |
| IL    | INVERT LEVEL            |
| LH    | LAMP POLE               |
| M     | METER                   |
| NS    | NATURAL SURFACE         |
| PAV   | PAVERS                  |
| PP    | POWER POLE              |
| RL    | REDUCED LEVEL           |
| RR    | ROOF RIDGE              |
| S     | STAIRS                  |
| SC    | SERVICE COVER           |
| SV    | STOP VALVE              |
| TELC  | TELEPHONE PIT           |
| TK    | TOP OF KERB             |
| TW    | TOP OF WALL             |
| V     | SERVICE VALVE           |
| VC    | VEHICLE CROSSING        |
| W     | WINDOW                  |
| WH    | WATER HEATER            |
| WM    | WATER METER             |
| WS    | WINDOW SILL             |
| WT    | TOP OF WINDOW           |

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DATUM:	AHD
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SURVEY DATE:06/10/2021

DATE DRAWN: 15/10/2021

REFERENCE: 19204-21

SURVEYED BY: CS
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<p>DRAWN BY: DT</p>
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SCALE: @A1

SHEET: 9 OF 9





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19 September 2023

## REFERRAL RESPONSE – DEVELOPMENT ENGINEERING

**FILE NO:** Development Applications: 296/2023/1

**ADDRESS:** 7-9 McLaughlan Place PADDINGTON 2021

**PROPOSAL:** Extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building

**FROM:** Mr W Huynh

**TO:** Mr V Aleidzans

---

### 1. ISSUES

- Please refer to comments/conditions from Council's Traffic Engineer separately.

### 2. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21506-Rev A, prepared by GSA Planning, dated 18/08/2023.
- Architectural Plans, unreferenced, prepared by Studio McQualter, dated 17/08/2023.
- Survey Plan, referenced 19204-21, prepared by C&A Surveyors, dated 20/10/2021.
- Geotechnical Report, referenced 36090LCrptRev1, prepared by JK Geotechnics, dated 07/08/2023.
- Structural Drawings, referenced 2023S0332-Rev P1, prepared by Partridge Structural, dated June 2023.
- Structural Letter, unreferenced, prepared by Partridge Structural, dated 25/07/2023.
- Access Report, unreferenced, prepared by Ergon Consulting, dated 05/06/2023.

### 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

*The subject property has a total site area of less than 500m<sup>2</sup>, in which case the installation of on-site stormwater detention (OSD) system is not required. Stormwater runoff will be discharged to the street kerb, in which case conditions will be imposed to ensure all below ground structures are fully tanked or appropriately constructed so that subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter.*





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*Council's Infrastructure and Sustainability Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.*

**b. Flooding & Overland Flow comments**

*Not relevant*

**c. Impacts on Council Infrastructure comments**

*Not relevant*

**d. Traffic comments**

*Please refer to comments from Council's Traffic Engineer separately.*

**e. Vehicle Access & Accommodation comments**

*There are no existing on-site parking arrangements and there are no proposals for on-site parking.*

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

*A Geotechnical Report by JK Geotechnics, Ref: 36090LCrptRev1, dated 7 August 2023, has been submitted in support of the application. The proposal involves excavation with a maximum depth of about 2.5 metres from the existing ground surface for the proposed basement.*

*The report identified that the subsurface conditions as:*

- a) Fill comprising silty sand to a depth of 0.7m and 0.6m in BH2 and BH4 respectively.*
- b) Depth of residual silty clay with various density from a depth beneath the fill to a termination depth of 1.2m and 1.3m in BH2 and BH4 respectively.*
- c) Sandstone bedrock was inferred beneath the natural sand at depth ranging between 1.2m and 1.3m.*
- d) Groundwater was not observed during the investigation.*

*The report made comments and recommendations on the following:*

- Shoring and support,*
- Vibration Monitoring,*
- Excavation method,*
- Further Geotechnical input.*

*Council's Infrastructure & Sustainability Services Division has no objections to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.*

**4. RECOMMENDATION**

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



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## A. GENERAL CONDITIONS

### A.5 Approved Plans and Supporting documents

Reference	Description	Author	Date
36090LCrptRev1	Geotechnical Report	JK Geotechnics	07/08/2023

### A.8 Ancillary Aspects of Development (section 4.17(2) of the Act)

#### A.31 No Underpinning Works

## B. BEFORE DEMOLITION WORK COMMENCES

### B.7 Public Road Assets Prior to Any Work/Demolition

### B.14 Payment of Security and Fees

Property Damage Security Deposit (\$138)	\$73,200	No	T115
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<b>B. 16.</b>	<b>Dilapidation Reports for Existing Buildings</b>
	<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> <ul style="list-style-type: none"> <li>a) 5 McLaughlan Place</li> <li>b) 6 Elfred Street</li> <li>c) 8 Elfred Street</li> <li>d) 10 Elfred Street</li> <li>e) 12 Elfred Street</li> <li>f) 14 Elfred Street</li> <li>g) 16 Elfred Street</li> <li>h) 18 Elfred Street</li> </ul> <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>



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- 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.
- This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- 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.
- Council will not become directly involved in disputes between the developer, its contractors and the owners of neighbouring buildings.

**Condition Reason:** 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><b>B. 17.</b></p>	<p><b>Dilapidation Reports for Public Infrastructure</b></p> <p>Before any site work commences, to clarify the existing state of public infrastructure prior to the commencement of the development (including prior to any demolition), a dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site must be prepared.</p> <p>The dilapidation report must be submitted to Council prior to the commencement of any site work and include:</p> <ol style="list-style-type: none"> <li>a) photographs showing any existing damage to the road pavement fronting the site,</li> <li>b) photographs showing any existing damage to the kerb and gutter fronting the site,</li> <li>c) photographs showing any existing damage to the footway including footpath pavement fronting the site,</li> <li>d) photographs showing any existing damage to street signs, heritage name plates, and historical items,</li> <li>e) the full name and signature of the Chartered Professional Engineer.</li> </ol> <p>The report is to be supplied in both paper copy and electronic format in PDF. Photographs are to be in colour, digital, and date stamped.</p> <p>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 site work. If the required report is not submitted, Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any site work under this consent.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• If a dilapidation report is not submitted as required by this condition, and damage is occasioned to public assets, which adjoin the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure.</li> <li>• Nothing in this condition prevents Council making any claim against security held for this purpose.</li> </ul>
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**Condition Reason:** To establish and document the structural condition of public land for comparison as site work progresses and is completed and ensure Council is provided with the dilapidation report.

**B.18 Adjoining buildings founded on loose foundation materials**  
**B.21 Work (Construction) Zone – Approval & Implementation**

**C. ON COMPLETION OF REMEDIATION WORK**

Nil

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

D 13.

Road and Public Domain Works

Before the issue of any construction certificate, a separate application under Section 138 of the Roads Act 1993 is to be made to, and be approved by Council, for the following infrastructure works. The infrastructure works must be carried out at the applicant's expense:

a) The installation of stormwater outlet pipe across the nature strip by using 150mm x 75mm galvanised rectangular hollow section (RHS) in accordance with Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.  
Note: 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.

b) The reinstatement of the existing, kerb and gutter and road pavement to Council's Specification for Roadworks, Drainage and Miscellaneous Works and to the satisfaction of Council's Assets Engineers.

c) Where a grass verge exists, the balance of the area between the footpath and the kerb 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 Couch turf.

Before the issue of any construction certificate, the principal certifier must be provided with the original receipt(s) for the payment of all of the following security bonds and fees:

Description	Amount	Indexed	Council Fee Code
SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Infrastructure Works Bond - completing any public work required in connection with the consent.	\$ Nil	No	T113
Infrastructure Works Bond – remedying any defects in any public work that arise within 6 months after the work is completed	\$ Nil	No	T113



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INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Road and Footpath Infrastructure Inspection Fee	\$ 645	No	T45
<b>TOTAL SECURITY AND FEES</b>	\$ 645		

#### 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:

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





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- 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). 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.
- 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 must 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).
- When an application under the Roads Act is required, then four (4) weeks is to be allowed for assessment.
- 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.
- When determining whether the works within public land are satisfactory, Council will consider the ownership, construction quality, maintenance, operations, and public utility of such item/s.
- 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.

**Condition Reason:** To ensure the design of the road, footpaths, driveway crossings and public stormwater drainage works are detailed and approved under section 138 of the Roads Act 1993 and to ensure the works are completed to Council's satisfaction.



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**D.25 Erosion and Sediment Control Plan – Submissions & Approval**  
**D.35 Structural Adequacy of Existing Supporting Structures**

<b>D 36.</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. In particular, all preliminary geotechnical reports must be reviewed and certified by an appropriately qualified Geotechnical Engineer who is NER registered with a minimum of 10 years practice in the geotechnical field in the last 15 years. 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>
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**D.37 Engineer Certification**

<b>D 40.</b>	<p><b>Geotechnical and Hydrogeological Design, Certification and Monitoring</b></p> <p>Before 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 Chapter E2.2.10 of Council's DCP and Council's document "Guidelines for Preparation of Geotechnical and Hydrogeological Reports". The report must include a Geotechnical / Hydrogeological Monitoring Program together with civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, prepared by a professional engineer, who is suitably qualified and experienced in geotechnical and hydrogeological engineering.</p> <p>These details must be certified by the professional engineer to:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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).</li> <li>Provide details of cut-off walls or similar controls 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.</li> </ol>
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	<p>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.</p> <p>d) Provide tanking to below ground structures to prevent the entry of seepage water such that subsoil drainage/ seepage water is NOT collected and discharged to the kerb and gutter.</p> <p>e) Provide a Geotechnical and Hydrogeological Monitoring Program that:</p> <ul style="list-style-type: none"> <li>• will detect any settlement associated with temporary and permanent works and structures,</li> <li>• will detect deflection or movement of temporary and permanent retaining structures (foundation walls, shoring bracing or the like),</li> <li>• will detect vibration in accordance with AS 2187.2 Appendix J including acceptable velocity of vibration (peak particle velocity),</li> <li>• will detect groundwater changes calibrated against natural groundwater variations,</li> <li>• details the location and type of monitoring systems to be utilised,</li> <li>• details the pre-set acceptable limits for peak particle velocity and ground water fluctuations,</li> <li>• details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and</li> <li>• details a contingency plan.</li> </ul> <p><b>Condition Reason:</b> To ensure that geotechnical and hydrogeological impacts are appropriately managed.</p>
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#### D.41 Ground Anchors

D 51.	<p><b>Stormwater Management Plan</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 detail the following:</p> <p>a) The discharge of stormwater from the site, by direct connection to street kerb. The kerb discharge must be located within the frontage of the site. Only one stormwater outlet will be permitted.</p> <p>b) All below ground structures are to be fully tanked or appropriately designed such that subsoil drainage/seepage water is NOT collected and 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.</p> <p>c) A minimum 450mm x 450mm boundary junction pit must be provided prior to discharging stormwater from the site to the street drainage system. 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.</p> <p>d) Surface runoff from all areas must drain by gravity to a minimum 450mm x 450mm boundary junction pit prior to discharging to the street kerb by gravity.</p> <p>e) 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.</p>
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- f) 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.
- g) Detail any remedial works required to upgrade the existing stormwater drainage system.
- h) Internal stormwater drainage 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.
- i) Dimensions of all drainage pits and access grates must comply with AS3500.3.
- j) Compliance with the objectives and performance requirements of the BCA.
- k) 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) Location of proposed rainwater tanks.
- 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 Council's drainage infrastructure.
- f) Overland flow paths over impervious areas.

For Stormwater Drainage works on Council's property, 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).

**Notes:**

- The collection, storage and use of rainwater is to be in accordance with Standards Australia HB230 "Rainwater Tank Design and Installation Handbook".

**Condition Reason:** To ensure that site stormwater is disposed of in a controlled and sustainable manner.

**E. BEFORE BUILDING WORK COMMENCES**

**E.14 Erosion and Sediment Controls – Installation**



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## **F. DURING BUILDING WORK**

### **F.7 Public Footpaths – Safety, Access and Maintenance**

#### **F.11 Maintenance of Environmental Controls**

#### **F.12 Compliance with Geotechnical/Hydrogeological Monitoring Program**

#### **F.13 Support of Adjoining Land and Buildings**

#### **F.14 Vibration Monitoring**

#### **F.15 Erosion and Sediment Controls – Maintenance**

#### **F.17 Disposal of Site Water during Construction**

#### **F.19 Site Cranes**

#### **F.20 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

#### **F.33 Shoring and Adequacy of Adjoining Property**

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

### **G.7 Commissioning and Certification of Systems and Works**

#### **G.29 Works within Public Land (including Council, State or Federal owned land or property)**

<b>G 30.</b>	<b>Dilapidation Report for Public Infrastructure Works</b>
	<p>Before the issue of an occupation certificate for the whole of the building, a follow up dilapidation report, prepared by a chartered professional engineer, on Council's infrastructure within and near the development site upon completion of the work must be submitted to Council.</p> <p>The dilapidation report must include:</p> <ol style="list-style-type: none"> <li>photographs showing any existing damage to the road pavement fronting the site,</li> <li>photographs showing any existing damage to the kerb and gutter fronting the site,</li> <li>photographs showing any existing damage to the footway including footpath pavement fronting the site,</li> <li>photographs showing any existing damage to street signs, heritage name plates, and historical items,</li> <li>the full name and signature of the professional engineer.</li> </ol> <p>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.</p> <p>Before the issue of an occupation certificate for the whole building, written correspondence must be obtained from Council attesting to this condition being appropriately satisfied, and be provided to the Principal Certifier.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>If the dilapidation report required by this condition is not provided 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.</li> </ul>





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	<p><b>Condition Reason:</b> To ensure that any damage to public infrastructure is identified and rectified prior to the occupation of the whole building.</p>
<p><b>G 32.</b></p>	<p><b>Works-As-Executed Certification of Stormwater Systems</b></p> <p>Before the issue of an occupation certificate for the whole of the building, and on the completion of construction work, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings supplied to the Principal Certifier detailing:</p> <ul style="list-style-type: none"> <li>a) compliance with conditions of development consent relating to stormwater,</li> <li>b) that all below ground structures are fully tanked and subsoil drainage/seepage water is NOT collected and discharged into the kerb and gutter in accordance with the approved stormwater drawings,</li> <li>c) that all stormwater is conveyed by gravity to the street kerb,</li> <li>d) that only one stormwater outlet pipe has been constructed in accordance with the approved stormwater plans,</li> <li>e) that the works have been constructed in accordance with the approved design,</li> <li>f) pipe invert levels and surface levels to Australian Height Datum, and</li> <li>g) 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.</li> </ul> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• The occupation certificate for the whole of the building must not be issued until this condition has been satisfied.</li> </ul> <p><b>Condition Reason:</b> To ensure the certification and ongoing maintenance of the stormwater system prior to the occupation of the whole building.</p>

#### H. OCCUPATION AND ONGOING USE

Nil

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

Nil

Completion Date: 20 December 2023

### REFERRAL RESPONSE – TRAFFIC

**FILE NO:** Development Applications: 296/2023/1  
**ADDRESS:** 7-9 McLaughlan Place PADDINGTON  
**PROPOSAL:** Extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building  
**FROM:** Ms E Fang  
**TO:** Mr V Aleidzans

I refer to the memo from the Planning Department dated 27 September 2023 requesting comments in relation to the above.

#### 1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environmental Effects, referenced 21506, prepared by GSA Planning, dated August 2023;
- Delivery and Parking Assessment, referenced 23.461r01v02, prepared by Traffix, dated 21 September 2023;
- Architectural Drawings, Rev D, unreferenced, prepared by Studio McQualter, dated 4 August 2023.

#### 2. ISSUES

Nil.

#### 3. ASSESSMENT

##### 3.1 Parking Provision

The parking provision for the proposed development has been assessed in accordance with Council's *DCP 2015 Chapter C1 Paddington Heritage Conservation Area* and *Chapter E1 Parking and Access*:

Table 1: Car Parking Provision

Non-Residential Component	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
<b>Existing</b>			
Retail premises	309m <sup>2</sup>	3.3 spaces per 100m <sup>2</sup>	10.2 (10)
Parking provision			0
<b>Proposal</b>			
Retail premises	427m <sup>2</sup>	3.3 spaces per 100m <sup>2</sup>	14.1 (14)
Parking provision			0

It is clear from Table 1 that non-provision of on-site parking would create an additional shortfall of four (4) parking spaces than DCP's minimum requirement. It is however acknowledged that this site is located within Paddington Heritage Conservation Area, where onsite parking structures and servicing areas are not mandatory. It is also understood that the existing retail premise would remain the current operations with no increase of staffing

levels. Surrounding streets consist of timed parking restrictions and resident parking scheme which are anticipated to deter long-term parking from staff. Non-provision of onsite parking is therefore considered acceptable.

*Table 2: Additional Bicycle and Motorbike Parking Provision*

<b>BICYCLE</b>			
	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
Retail Employees	118m <sup>2</sup>	1 per 250m <sup>2</sup>	0.5 (1)
Retail Customers	118m <sup>2</sup>	2 + 1 per 100m <sup>2</sup> over 100m <sup>2</sup> GFA	2.2 (2)
Total required			3
<b>MOTORBIKE</b>			
	<b>Quantity</b>	<b>DCP Minimum Requirement</b>	<b>DCP Minimum Required Parking</b>
Car Spaces	4	1 per 10 car spaces	0.4 (0)
Total required			0

In response, the proposal does not include provision of bicycle parking, which would result in an additional shortfall of three (3) bicycle parking spaces than the existing. It is however noted that given the retail premise will not increase the number of staff, the additional bicycle parking demand from customers is anticipated to be minor and can be accommodated in the surrounding streets.

### 3.2 Traffic Generation

Traffic generation from the proposed development has been calculated in accordance with *RMS Guide to Traffic Generating Developments 2002*, and *RMS Guide to Traffic Generating Developments Updated traffic surveys TDT 2013/04a*.

#### Net Increase

##### *Retail*

- Weekday peak hour vehicle trips:  $118\text{m}^2 \times 0.75 \times 10.7 \text{ per } 100\text{m}^2 \text{ GLFA} = 9.5$  trips
- Daily vehicle trips:  $118\text{m}^2 \times 0.75 \times 55.5 \text{ per } 100\text{m}^2 \text{ GLFA} = 49.1$  trips

Based on the above calculations, the additional traffic generated by the proposal is unlikely to generate unacceptable adverse impact on the surrounding road network in terms of safety and efficiency.

### 3.3 Service Vehicles

It is noted in the delivery and parking assessment that all delivery and servicing will be undertaken along kerbside locations within Walker Lane via a maximum of 6.4m SRVs, as per existing. It is also noted that the proposal would not require intensifying the current operations and scheduled deliveries would continue to occur outside of peak hours. These arrangements are considered satisfactory.

#### 4. RECOMMENDATION

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

##### A. GENERAL CONDITIONS

A. 1.

Approved Plans and Supporting Documents

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

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

Reference	Description	Author	Date
23.461r01v02	Delivery and Parking Assessment	TRAFFIX	21 September 2023

**Notes:**

- Warning to Principal Certifier – You must always insist on sighting the original Council stamped approved plans. You must not rely solely upon the plan reference numbers in this condition. Should the Applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plans.
- These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the Act modifying or amending the development.

**Condition Reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

##### B. BEFORE DEMOLITION WORK COMMENCES

<b>B. 1.</b>	<p><b>Construction Management Plan</b></p> <p>Before any site work commences, and as a result of the site constraints, limited space and access, a Construction Management Plan (CMP) is to be submitted to Council for approval. Also, due to lack of on-street parking a Work Zone may be required during construction.</p> <p>An application for the CMP must be submitted for approval, and all associated application fees must be paid.</p> <p>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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>Identify local traffic routes to be used by construction vehicles.</li> <li>Identify ways to manage construction works to address impacts on local traffic routes, particularly during school pick-up and drop-off hours.</li> <li>Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments.</li> </ol>
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	<p>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.</p> <p>e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.</p> <p>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.</p> <p>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.</p> <p>h) Provide for the standing of vehicles during construction.</p> <p>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.).</p> <p>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.).</p> <p>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.</p> <p>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.</p> <p>m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.</p> <p>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.)</p> <p>o) Show the location of any proposed excavation and estimated volumes.</p> <p>p) When demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work must 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.</p> <p>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).</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>• A minimum of eight weeks will be required for assessment. Site work must not commence until the Construction Management Plan is approved.</li> <li>• Failure to comply with this condition may result in fines and proceedings to stop work.</li> <li>• Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.</li> <li>• If you partial or full close a road without compliance with Council and NSW Police</li> </ul>
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	<p>requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.</p> <ul style="list-style-type: none"> <li>Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov</li> </ul>
	<p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects, minimise traffic disruption, and protect the public, and the surrounding environment, during site works and construction.</p>

<b>B. 2.</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> <p><b>Condition Reason:</b> To facilitate the efficient operation of construction projects and to minimise traffic disruption.</p>
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**C. ON COMPLETION OF REMEDIATION WORK**

Nil.

**D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

Nil.

**E. BEFORE BUILDING WORK COMMENCES**

Nil.

**F. DURING BUILDING WORK**

<b>F 3.</b>	<p><b>Compliance with Construction Management Plan</b></p> <p>While site work is being carried out, all development activities and traffic movements must be carried out in accordance with the approved Construction</p>
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	<p>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 on request.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.</li></ul> <p><b>Condition Reason:</b> To ensure compliance with the Construction Management Plan.</p>
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**G. BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

Nil.

**H. OCCUPATION AND ONGOING USE**

Nil.

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

Nil.

**J. BEFORE SUBDIVISION WORK COMMENCES**

Nil.

**K. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (subdivision works)**

Nil.

**L. BEFORE ISSUE OF A SUBDIVISION CERTIFICATE (no subdivision works)**

Nil.

**M. BEFORE ISSUE OF A STRATA CERTIFICATE**

Nil.

Ever Fang  
Traffic & Transport Engineer

20/12/2023  
**Completion Date**



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26<sup>th</sup> October 2023

## REFERRAL RESPONSE - HERITAGE

**FILE NO:** Development Applications: 296/2023/1

**ADDRESS:** 7-9 McLaughlan Place PADDINGTON 2021

**PROPOSAL:** Extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building

**FROM:** Sagar Chauhan

**TO:** Mr V Aleidzans

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### 1. DOCUMENTATION

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

- Drawing set by Studio McQualter, dated 04/08/2023
- Heritage Impact Statement by Zoltan Kovacs Architect, dated May 2023
- Statement of Environmental Effects by GSA Planning, dated August 2023
- Survey plan by C & A Surveyors, dated 20/10/2021

### 2. SITE INSPECTION / RESEARCH

The review of the following documents and photographic evidence was undertaken in the preparation of this assessment:

- 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:

- National Parks & Wildlife Act 1974
- 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 subject site is occupied by a utilitarian, painted brick building with a pitched metal roof. The building does not represent a particular architectural style, or defining features other than its original external form representative of its industrial/commercial character distinctive to the neighbouring residential buildings.



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It is noted in the HIS that:

*The building appears to have been built in 1918 at the end of the Great War for a pastry cook, S. P. Bray, who first used it as his stables.*

*By 1940 the building was used as the factory for Delta Manufacturing Pty Ltd who made refrigeration equipment. In the 1960 the building was used as a warehouse, then in 1967 it became a photographic studio.*

*Clive Evatt QC established Hogarth Galleries at 7 Walker Lane, Paddington in late 1972 after he was disbarred as a barrister. While running the gallery Evatt completed a Fine Arts thesis on Mike Brown and the Annandale Realists. He was an iconoclast and under his management the Hogarth Galleries revelled in art hoaxes and contradictions and the gallery was both popular and notorious in Sydney's art world. Evatt's fascination with surrealism and dada introduced issues of gender and race ahead of his time. In later years the gallery concentrated on Aboriginal arts and supported emerging Indigenous artists. After nurturing many talents Evatt closed the Gallery in 2010.*

*In 2011 the building was adapted to a fashion house with Internal alterations and change of use to showroom and fashion office.*



Figure 1. The subject site in 1972 as Delta Manufacturing Co. Pty. Ltd. (Source: Anon., *Studio C, Walker Lane Paddington*, photograph, Accession no: pf005446, Woollahra Libraries)

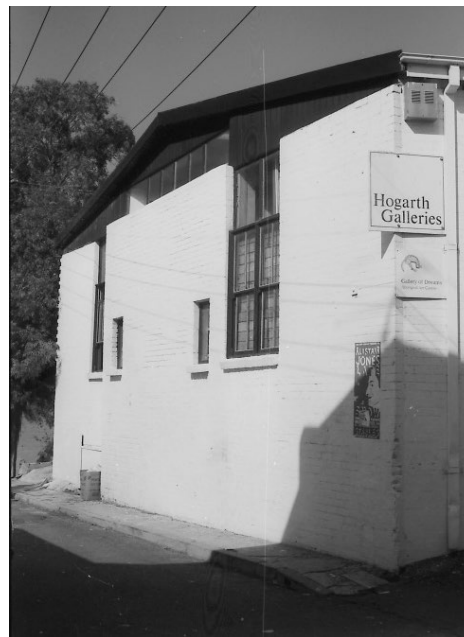


Figure 2. The site in 1982 as Hogarth Galleries. (Source: Anon., *Paddington Field Survey 1982, 7-9 McLaughlin Place, Paddington*, photograph, National Trust of Australia (NSW) and Perumal, Wrathall & Murphy Pty Ltd for Woollahra Municipal Council, Woollahra Libraries)

The building has been subject of numerous building and development applications – BA1954/702, BA1955/118, BA1966/172, BA1966/268, BA1966/508, BA1967/226 (City of Sydney Archives & History Resources), and BA1970/1473, BA1971/682, BA1972/231, BA1972/813, BA1973/722, BA1973/1304, BA1973/1363, DA2005/536 and DA2011/508



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(Woollahra Municipal Council). Internal and external alterations and additions have led to extensive loss of original fabric and character. The Walker Ln and McLaughlan Plc elevations have been altered in terms of window openings, joinery and brickwork. Despite alterations and additions, the building does not detract from the streetscape and neighbouring residential developments, and continues to be discernible as an industrial/commercial building.

#### 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 as part of the DA to ascertain whether potential Aboriginal cultural heritage will be impacted by the proposal.

A basic search conducted on AHIMS (Aboriginal Heritage Information Management System) database of Heritage NSW on 31/10/2023 from) website has revealed that there are 0 recorded Aboriginal sites recorded within a 50m buffer in or near the above location and 0 Aboriginal sites within a 0m buffer in or near the above location.

The subject site is considered to be on 'disturbed land' as per the definition outlined in the Due Diligence Code, p. 18.

The proposal includes excavation for a basement, and relevant conditions of consent to manage Aboriginal Cultural Heritage are provided below.

#### Woollahra LEP 2014

##### *Clause 1.2 Aims of Plan*

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

The subject site is not a heritage item in Woollahra Local Environment Plan 2014 'the LEP' and is within Paddington heritage conservation area (HCA).

The proposal would have an acceptable impact on the cultural significance of the conservation area, subject to conditions. This is further discussed below.

##### *Clause 5.10 Heritage Conservation*

The proposal would have an acceptable impact on the cultural significance of the conservation area, subject to conditions. This is further discussed below.

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

There are no listed heritage items in close proximity that would be adversely affected by the proposal.

#### Woollahra DCP 2015

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

#### **PART C: HERITAGE CONSERVATION AREAS CHAPTER C1 - PADDINGTON HERITAGE CONSERVATION AREA SECTION C1.2 UNDERSTANDING THE CONTEXT**





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**Clause C1.2.4 Desired future character**

- The proposed works would have an acceptable impact on the cultural significance and character of the HCA, subject to conditions of consent provided in this referral.

**SECTION C1.3 BUILDING TYPES**

**Clause C1.3.8 Commercial and industrial buildings including shops**

Objectives: O1

Controls: C1, C3

- As noted earlier, the past alterations and additions have diminished the original character of the subject structure. The structure is neither designed in a particular architectural style nor does it present any features of architectural merit. Its commercial / industrial character is embodied in the utilitarian construction of painted brick walls, metal windows and metal structure, including roof. Based on the limited cultural significance of the site and its contribution to the character of the conservation area, the proposed alterations and additions are considered acceptable. (O1) (C1) (C3)
- The industrial/commercial character, albeit diminished, would remain discernible with the proposed alterations and additions. The upper level addition is set back from north, east and south boundaries which reaffirms the original form of the structure while providing necessary separation from adjoining structures. (O1) (C1) (C3)
- The pitch-roofed upper-level addition is set back from Walker Ln, and has a staggered presentation to this lane due to inclusion of balcony. This would allow the bulk of the addition to be broken down in views from Walker Ln. The addition would not appear overbearing on either the subject structure or neighbouring concerns of complementary height. (O1) (C1) (C3)
- The west façade of the upper level addition would align with the McLaughlan Plc boundary, and would be complementary to other structures of two-storey presentation to the lane. (O1) (C1) (C3)

**SECTION C1.4 GENERAL CONTROLS FOR ALL DEVELOPMENTS**

**Clause C1.4.1 Principal building form and street front zone of contributory buildings**

Objectives: O1, O4, O9, O10, O12

Controls: C1

- The utilitarian building would be retained with sympathetic alterations and additions. The partial demolition of the original roof form is supported. The proposed excavation is supported. The demolition of interiors of no significant cultural value and non-original mezzanine floor is supported. The upper-level addition, set back from Walker Ln, is complementary in size and height to the existing building, and neighboring structures. The proposed modifications to the previously altered elevations are supported. The new internal fit-out is supported. The proposed materials, finishes and details result in a lightweight appearance for new elements which would be readily distinguishable from existing fabric, and this is supported. (C1)

**Clause C1.4.2 Side elevations and side additions**

Objectives: O1

Controls: C1, C2, C3

- As discussed above, the alterations and additions to the side elevation to McLaughlan Place are supported. (C1) (C2) (C3)

**Clause C1.4.4 Roofs and roof forms**

Objectives: O1, O3

Controls: C3, C6, C8

- The roof, including form and material, to the upper-level addition is consistent with the existing roof of the subject building and neighbouring buildings. The original roof form

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would remain discernible in the proposed partial demolition. The new strip skylight along the east roof plane of the existing roof is supported. (C3) (C6) (C8)

Clause C1.4.5 Building height, bulk, form and scale

Objectives: O1, O3, O4

Controls: C3

- Proposed upper-level addition responds to the context in terms of siting, form, bulk and character, and is supported. (C3)

Clause C1.4.7 Excavation

Objectives: O1, O2, O3, O6, O7, O10

- The proposed excavation is supported, subject to conditions. (O1) (O2) (O3) (O6) (O7) (O10)

### **C1.5 SPECIFIC POLICY FOR BUILDING AND SITE ELEMENTS**

Clause C1.5.3 Windows, doors, shutters and security

Objectives: O3

Control: C4, Table 8

- The proposed windows and doors to Walker Ln and McLaughlan Plc elevations are consistent with the character of the building, and are supported. The infilling of the clerestory windows to east elevation is supported. (C4) Table 8

Clause C1.5.8 Materials, finishes and details

Objectives: O2

Controls: C4, C5, Table 8

- The proposed materials, colours, details and finishes are consistent with the industrial / commercial character of the subject structure, and are supported. (C4) (C5) Table 8

Clause C1.5.9 Exterior colours

Objectives: O1

Controls: C1, C4, C6

- The proposed colour scheme is supported. (C1) (C4) (C6)

## **6. CONCLUSION**

### National Parks & Wildlife Service Act, 1979

Appropriate conditions of consent to manage Aboriginal Cultural Heritage are provided below.

### Woollahra LEP 2014

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

### *Part 5.10*

- Clause 1(a) The development does conserve the heritage of Woollahra, subject to conditions.
- Clause 1(b) The impact upon the heritage significance of the conservation area will be neutral, subject to conditions.
- Clause 4 This referral constitutes an assessment under this clause.



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## 7. RECOMMENDATION

The proposal complies with the relevant statutory and policy documents and would have a satisfactory impact, subject to following conditions:

### *Standard Conditions*

- B.8 Archaeological Features – Unexpected Findings
- B.10 Aboriginal Objects – Unexpected Findings
- B.12 Aboriginal Heritage Due Diligence Responsibilities
- C.35 Structural Adequacy of Existing Supporting Structures
- C.36 Professional Engineering Details

Sagar Chauhan  
**Heritage Officer**  
31<sup>st</sup> October 2023



Woollahra  
Municipal  
Council

16 July 2024

## REFERRAL RESPONSE – FIRE SAFETY

**FILE NO:** Development Applications: 296/2023/1

**ADDRESS:** 7-9 McLaughlan Place PADDINGTON 2021

**PROPOSAL:** Extensive alterations and additions including a new basement level and first floor addition to the existing commercial (retail) building

**FROM:** A Wang

**TO:** Mr V Aleidzans

---

### 1. DOCUMENTATION

I refer to the following documents received for this report:

- Statement of Environment Effects, referenced 21506 prepared by GSA Planning, dated 18.08.23.
- Architectural Plans, referenced DA.001 – DA.002, DA.010 – DA.018, DA.100 – DA.103, DA.200 – DA.201 & DA.300 – DA.303, prepared by Studio McQualter, dated 28/7/23,
- BCA Compliance Review, referenced 230588-1, prepared by Credwell Consulting, dated 27 July 2023.

### 2. RESEARCH

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

- A site inspection was carried out on the following date: 26 September 2023

### 3. LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2021*.

- ☐ Clause 62 – Change of Use – ‘Fire safety and other considerations’
- *Category 1 fire safety provisions required*
- ☒ Clause 64 – ‘Consent authority may require buildings to be upgraded’
- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
  - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings
- ☐ Clause 63 – ‘Fire safety and other considerations applying to erection of temporary structures’



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- fire protection and structural capacity of the structure will be appropriate to the proposed use of the structure, and the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.

#### 4. BUILDING DESCRIPTION

Type of Construction: B

Class: 6

Number of Storeys: 3

Rise in Storeys: 3

Effective Height: < 12 metres

#### 5. ASSESSMENT

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

#### 6. RECOMMENDATION

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

##### A. GENERAL CONDITIONS

Nil

##### B. BEFORE DEMOLITION WORK COMMENCES

Nil

##### C. ON COMPLETION OF REMEDIATION WORK

Nil

##### D. BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

D	1.	Building Upgrade (clause 64 of the Regulation)
		<p>Before the issue of any construction certificate, the construction certificate plans and specification required to be submitted to the Principal Certifier, under clause 7 of the Development Certification and Fire Safety Regulation, must ensure the existing building is brought into total or partial conformity with the BCA, by detailing all building upgrade works required by this condition.</p> <p>The Principal Certifier must be satisfied that such work, to be implemented as part of the development, will upgrade the building to bring it into compliance with the following provisions of the BCA as in force at the date of the construction certificate application:</p>





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	<p>a) Existing walls, openings in existing walls, and roof portion proposed to be retained are required to comply with Performance Requirements C1P1 and C1P2, or Section C Specification 5, of the BCA</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>The measures contained in the building are inadequate: <ul style="list-style-type: none"> <li>a) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and/or</li> <li>b) to restrict the spread of fire from the building to other buildings nearby.</li> </ul> </li> <li>The Principal Certifier issuing the construction certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this conditions specifies compliance with performance requirements of the BCA the Principal Certifier, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the Act.</li> <li>This condition does not set aside the Principal Certifier's responsibility to ensure compliance with clause 14 of the Development Certification and Fire Safety Regulation in relation to Fire Protection and Structural Adequacy.</li> </ul> <p><b>Condition Reason:</b> To ensure that, in accordance with clause 64 of the Regulation, that the existing building be upgraded to total or partial conformity with the BCA.</p>
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#### E. BEFORE BUILDING WORK COMMENCES

Nil

#### F. DURING BUILDING WORK

Nil

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

<p><b>G</b></p> <p><b>1.</b></p>	<p><b>Fire Safety Certificates</b></p> <p>Before the issue of any occupation certificate to authorise a person:</p> <p>a) to commence occupation or use of a new building, or</p> <p>b) to commence a change of building use for an existing building, the Principal Certifier must be satisfied that a final fire safety certificate has been issued for the building.</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>In this condition: <ul style="list-style-type: none"> <li><b>interim fire safety certificate</b> has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.</li> <li><b>final fire safety certificate</b> has the same meaning as it has in Part 11 of the Development Certification and Fire Safety Regulation.</li> <li><b>new building</b> has the same meaning as it has in section 6.1 of the Act.</li> </ul> </li> </ul> <p><b>Condition Reason:</b> To ensure that a final fire safety certificate is issued prior to occupation.</p>
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**H. OCCUPATION AND ONGOING USE**

<b>H</b>	<b>1.</b>	<b>Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)</b>
		During the occupation and ongoing use, each year, an annual fire safety statement must be provided to Council and the Commissioner of Fire and Rescue NSW. The annual fire safety statement must be prominently displayed in the building.  <b>Notes:</b> <ul style="list-style-type: none"><li>• <b>essential fire safety measure</b> has the same meaning as in Schedule 2 of the Development Certification and Fire Safety Regulation.</li><li>• <b>annual fire safety statement</b> has the same meaning as in clause 88 of the Development Certification and Fire Safety Regulation.</li><li>• Visit Council's website for additional information in relation to fire safety <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a>.</li></ul>
		<b>Condition Reason:</b> To ensure public safety.

A Wang  
Fire Safety Officer

16 July 2024  
Completion Date