CITY OF SYDNEY

2 September 2026

At 5.00 pm

Local Planning Panel

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Review of Determination: 446-458 Elizabeth Street, Surry Hills - RDU/1993/641/A**
4. **Development Application: 107-109 Darlinghurst Road, Potts Point - D/2025/1026**
5. **Development Application: 14 Hickson Road, Dawes Point - D/2026/208**
6. **Development Application: 21-25 Codrington Street, Darlington - D/2026/264**

CITY OF SYDNEY

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the LPP report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

At the start of each LPP meeting, the Chair may re-order agenda items so that those items with speakers can be dealt with first.

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Item 1.

Disclosures of Interest

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all Panel members are required to sign a declaration of interest in relation to each matter on the agenda.

Pursuant to the provisions of Clause 15 of Schedule 4B of the Environmental Planning and Assessment Act 1979, members of the Local Planning Panel are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Panel members are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

In both cases, the nature of the interest must be disclosed.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Local Planning Panel, which have been endorsed by the Panel Members and Chair of that meeting, are submitted for noting:

Meeting of 12 August 2026

Item 3.

Review of Determination: 446-458 Elizabeth Street, Surry Hills - RDU/1993/641/A

File Number: RDU/1993/641/A

Summary

Date of Submission:	19 June 2026
Applicant:	Chetan Kalra
Owner:	The Owners - Strata Plan No 44070
Planning Consultant:	CPS Planning
Cost of Works:	$9,000
Zoning:	The site is zoned MU1 - Mixed Use under the Sydney Local Environmental Plan 2012. The existing take away food and drink premises is permissible with consent within the zone.
Proposal Summary:	The applicant seeks a review by the Local Planning Panel under sections 8.2(1)(b) and 8.3(4)(c) of the Environmental Planning and Assessment Act 1979 of Council's refusal on 28 May 2026 of modification application DU/1993/641/B. The modification sought to extend the trading hours of the existing Pizza Hut takeaway food and drink premises to 11:30am – 3:00am daily. Prior to this, on 1 December 2025, Council had refused modification application DU/1993/641/A, which proposed trading hours until 12:00am Sundays to Wednesdays and until 2:00am Thursday to Saturday. The approved hours of operation (as per DU/1993/641) are between 11:30am and 10:00pm Sunday to Wednesday, and 11:30am to 12:00 midnight Thursday to Saturday. Council refused DU/1993/641/B on 28 May 2026 due to insufficient supporting information, unacceptable amenity impacts, and non-compliance with Sydney DCP 2012 controls relating to late night trading, and waste management.

In accordance with the City of Sydney Community Participation Plan 2025, the subject application for a review of the previous determination was notified in the same manner as the original 'Modification B' application.

The review application was notified for 14 days, between 23 June 2026 and 8 July 2026. All those who made a submission on the original application were also notified. A total of 581 properties and occupiers were notified and 18 submissions were received.

Submissions raised issues in relation to unauthorised trading hours, excessive noise and odours, waste generation, non-compliance with planning controls and the compliance history of the premises.

The compliance history of the premises has been poor since April 2025 when complaints were first received in relation to the premises trading outside of approved hours of operation. Complaints focussed on amenity impacts for residents of the subject mixed-use building including excessive noise from delivery riders and mechanical ventilation, waste management issues and cooking odours.

On 7 July 2026, Council's compliance officers issued an order under Division 9.3 of the Environmental Planning and Assessment Act 1979. The order requires the premises to comply with the planning approval for hours of operation under condition (4) of U93-00641 issued by the former South Sydney Council. The premises is currently not complying with the terms of the order.

Section 8.4(1) of the Act states that after conducting its review of a determination, the Local Planning Panel, as the consent authority, may confirm or change the original decision to refuse application number DU/1993/641/B.

Council officers are of the view that the original determination should be upheld on the basis the proposed hours of operation are outside of those permitted by the Sydney DCP and will unacceptably impact the residential amenity of neighbouring properties. Further, insufficient amendments have been made to the substance of the proposal to be satisfied the environmental impacts extended hours will be acceptable.

It is therefore recommended that the Local Planning Panel confirm the original decision, made under delegation, to refuse application number DU/1993/641/B.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

(i) Sydney Local Environmental Plan 2012 (SLEP 2012)

(ii) Sydney Development Control Plan 2012 (SDCP 2012)

(iii) City of Sydney Guidelines for Waste Management in New Developments

Attachments:

A. Planning report - refused application DU/1993/641/B

B. Refusal notice - DU/1993/641/B

C. Submissions

Recommendation

It is resolved that following a review under Division 8.2 the Environmental Planning and Assessments Act of the determination to refuse Application Number DU/1993/641/B for extended hours, the Local Planning Panel uphold the original determination to refuse the application for extended hours of operation.

Reasons for Recommendation

The recommendation to uphold the original determination to refuse extended hours is made for the following reasons:

(A) The reasons provided for the refusal of DU/1993/641/B remain valid. The applicant has not provided sufficient information with the review application to demonstrate amenity impacts for residential properties can be satisfactorily mitigated.

(B) The proposed hours of operation will result in unacceptable impacts on residential amenity and are inconsistent with the aims of the Sydney Local Environmental Plan 2012, particularly those relating to community amenity and neighbourhood character.

(C) The proposal is inconsistent with the Late Night Trading provisions of the Sydney Development Control Plan 2012, which recognise the site's location within a Local Centre Area and the proximity of surrounding residential uses.

(D) The applicant has not demonstrated compliance with the Waste and Recycling Management provisions of the Sydney Development Control Plan 2012, including through the submission of an adequate Waste Management Plan.

(E) The proposed hours of operation are contrary to the objectives of section 4.2.9 of the Sydney Development Control Plan 2012, which are to ensure non-residential development is compatible with, and does not detract from the amenity of residential development; and to ensure any impacts generated by non-residential development such as operating hours, noise, privacy, vehicular and pedestrian traffic are adequately managed to preserve the quality of life for residents in the area.

(F) As the proposal does not satisfy the relevant provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012, approval would not be in the public interest.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The applicant has requested a review of Council's previous determination, under delegated authority, of application number DU/1993/641/B.

2. The application was refused on 28 May 2026. The application sought consent to modify condition (4) of Development Consent DU/1993/641 relating to hours of operation to allow the premises to trade between 11:30am to 3:00am, daily.

3. The applicant requests the review of this refusal be undertaken by the Local Planning Panel rather than by Council's officers, in accordance with Sections 8.2(1)(b) and 8.3(4)(c) of the Environmental Planning and Assessment Act.

The Site and Surrounding Development

4. The subject tenancy is known as Lots 1 and 2 in SP44070 and is part of a larger site commonly known as 446-458 Elizabeth Street, Surry Hills. The overall site is irregular in shape with an area of approximately 1,318 square metres. It has a primary street frontage of 41 metres to Elizabeth Street and a secondary street frontage of 33.5 metres to Brumby Street.

5. The subject tenancy is located at the north-western corner of the overall site and has a ground level frontage to Elizabeth Street. A podium level is located above the subject tenancy. The podium contains a landscaped element and mechanical exhaust ventilation for the subject tenancy (Figure 6 below).

6. The site contains a part 7, part 8 storey mixed use building. Retail and commercial office tenancies are located at the ground and first floor levels of the building including the subject tenancy. Residential apartments are located on levels 2-7.

7. The surrounding area is characterised by a mixture of land uses, primarily being residential accommodation, commercial premises, and mixed-use developments. To the north and south are mixed use buildings with ground floor commercial and residential above. To the east is a multistorey residential flat building and across Elizabeth Street, to the west are mixed use buildings.

8. The site is not a heritage item, is not located within a heritage conservation area and is not affected by flooding.

9. A site inspection was carried out on 16 July 2026 with the assistance of the store manager. A second site inspection was carried out on 21 July 2026 with the assistance of the building Strata manager and apartment owners within the building who had made submissions. Photographs of the subject site and its surroundings are reproduced in the figures below.

Figure 1: Aerial view of site (red outline) and surrounds. The location of the subject tenancy is shaded yellow.

Figure 2: Site viewed from Elizabeth Street, looking east

Figure 3: Site viewed from Elizabeth Street footpath

Figure 4: Interior view of subject site

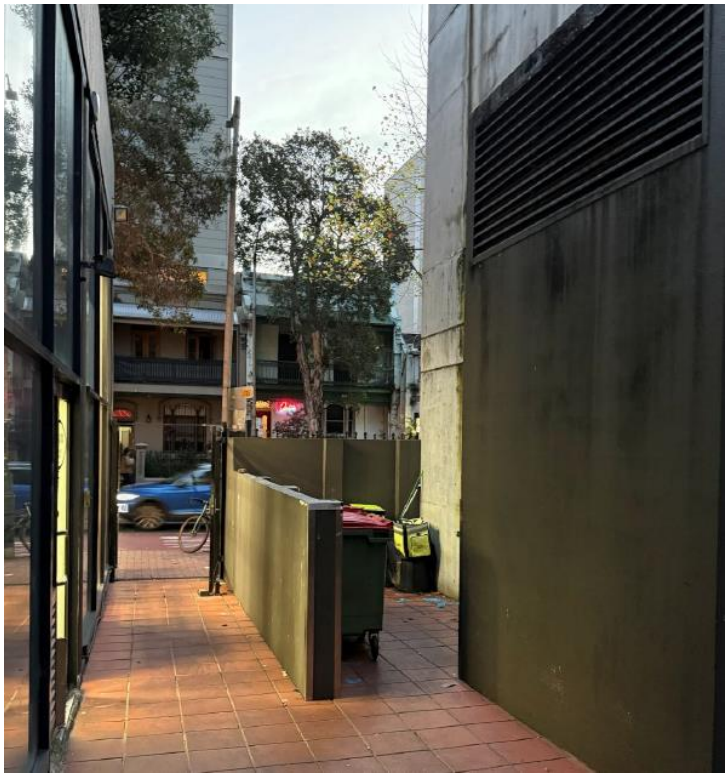


Figure 5: Shared waste storage area at northern edge of tenancy, looking west towards Elizabeth Street

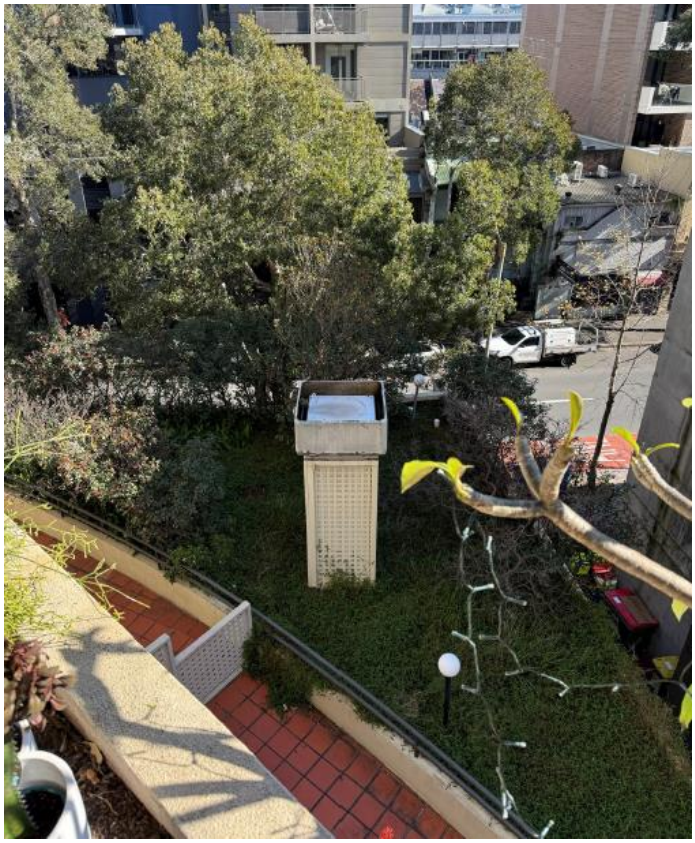


Figure 6: Mechanical exhaust vent for the premises, which is close to residential apartments, looking west towards Elizabeth Street

History Relevant to the Development Application

Development Applications

10. The following applications are relevant to the current proposal:

    (a) DU/1993/641: On 6 July 1993, consent was granted for the use of the subject tenancy as a takeaway food shop and delivery unit for Pizza Hut Australia. Approved hours of operation were between 11:30am and 10:00pm, Sunday to Wednesday, and 11:30am to 12:00am midnight, Thursday to Saturday.

    (b) DU/1993/641/A: On 1 December 2025, consent was refused to modify condition (4) of the consent for hours of operation, such that the premises could trade between 11:30am to 12:00am, Sundays to Wednesdays, and 11:30am to 2:00am, Thursday to Saturday.

    The application was refused due to unacceptable amenity impacts and insufficient information, including no waste management plan, acoustic report, or plan of management.

    (c) DU/1993/641/B: On 28 May 2026, consent was refused to modify condition (4) of the consent for hours of operation, such that the premises could trade between 11:30am to 3:00am, daily.

    The application was refused due to insufficient information, unacceptable amenity impacts for neighbouring residential properties and the application not being in the public interest.

11. The subject application, RDU/1993/641/A, seeks a review of the above refusal DU/1993/641/B.

Compliance Action

12. A search of the City's electronic records shows no complaints were registered in relation to the operation of the subject premises until 2 April 2025.

13. Since April 2025, numerous complaints have been received from residents living within the subject building and from the Strata managers on behalf of residents. The complaints relate to the premises trading outside of approved operating hours and impacts on residential amenity including noise, waste and odours.

14. The complaints raise the following issues:

    (a) April to September 2025: six complaints received relating to noise from ventilation fans and the premises trading until 4.15am

    (b) November 2025: complaints were received relating to sleep disturbance, noise from operation of the premises, large banners on the footpath, delivery bikes blocking the footpath and waste management

    (c) January and February 2026: a number of noise complaints resulting in sleep disturbance

    (d) March and April 2026: Odour complaints, with fan noise, delivery bike alarms, loud employees cleaning until 5:00am

15. In March 2026, Council's compliance officers issued a notice of intention to issue an order under Division 9.3 of the Environmental Planning and Assessment Act 1979, requiring the premises to comply with the planning approval for hours of operation under condition (4) of U93-00641 issued by the former South Sydney Council.

16. On 7 July 2026, Council's compliance officers issued an order under Division 9.3, Schedule 5 Part 1 of the Environmental Planning and Assessment Act 1979. The order requires the premises to comply with the planning approval for hours of operation under condition (4) of U93-00641 issued by the former South Sydney Council.

17. The premises is not complying with the terms of the order. At the time of reporting, Pizza Hut is advertising operating hours between 9:00am and 4:00am Fridays and Saturdays and between 9:00am and 12:00am Mondays to Thursday.

Amendments

18. Following a review of the subject application a request was sent to the applicant on 13 July 2026, requesting the following details:

    (a) an amended Statement of Environmental Effects (SEE) and drawings, identifying whether building works recommended by the acoustic report are proposed to be implemented as part of the subject DA application

    (b) a waste management plan, demonstrating how commercial and food waste will be handled by the site, including a calculation of the food waste generation for food scraps produced by the premises

    (c) an updated Operational Plan of Management including a floor plan of the premises referencing the waste management plan required (above); and outlining patron capacity (internal) for the premises

19. The applicant responded to the request on 29 July 2026, stating they would accept a condition of consent requiring the installation of the measures recommended by the acoustic report (see details below).

20. The applicant has not provided evidence of owner's consent being provided for works to common property that are recommended by the acoustic report. A document pertaining to Owner's Consent was lodged with the application, however it consists of a document prepared by a real estate agent. It does not contain a Strata Seal and may not be sufficient to confirm the requirements of the Strata Scheme Management Act.

21. No waste management plan or updated plan of management was provided. Instead, the applicant provided a list of seven other premises within the local government area that had not been asked by Council for the same details.

Proposed Development

22. The applicant requests a review by the Local Planning Panel of a determination by Council.

23. DU/1993/641/B to modify the existing consent for the use of the premises as a takeaway food shop and delivery unit for Pizza Hut was refused under delegation.

24. The application sought consent to modify Condition (4) of Development Consent U93/00641 relating to approved hours of operation to permit the premises to operate between 11:30am and 3:00am the following day, seven days per week.

25. The application was accompanied by an acoustic report, which states works may be undertaken, which may assist in reducing sound emanating from the operation of the premises. These include:

    (a) installing a 4m length of acoustic sheet metal duct between the fans and riser outlet, being 25 mm thick

    (b) installing silencers between the riser and all fans to which it connects, with specific sound levels to be reached

    (c) reducing the speed of all fans connected to the riser by 40%

    (d) additional controls including installing an automatic door to ensure that doors remain closed when not in use and that windows be kept closed during the proposed extended trading hours.

26. No owner's consent has been provided for these works, and they are not shown on any drawings lodged with the application.

27. The works recommended by the acoustic report are partly on common property. The subject site is a strata building and the application was not accompanied by strata approval.

Assessment

28. The subject review application has been assessed with consideration of sections 4.15 and 8.2 of the Environmental Planning and Assessment Act 1979 ('The Act').

Section 8.2 - Determinations and decisions subject to review

29. Sections 8.2(1)(b) and 8.3(4)(c) of the Act permits the applicant to request a review by the Local Planning Panel of the determination of an application for the modification of a development consent. In this case, the decision to refuse modification application number DU/1993/641/B.

30. The subject review request was made within the specified time period, per Section 8.2(2)(a) of the Act, which in this instance is within 6 months of the determination of DU/1993/641/B (28 May 2026).

31. The review application was notified to neighbouring properties in accordance with the City's Community Engagement Strategy and Community Participation Plan 2025–2029, in the same manner as the original application and with those making a submission to the original application being notified.

32. Section 8.3(3) of the Act states that in requesting a review, the applicant may amend the modification of the development consent. In this instance, the applicant has not amended the substance of the proposal. However, they have provided some additional information to support the review application (see amendments section above).

33. The proposed modifications in the review application are the same as those previously refused.

Addressing Reasons for Refusal of DU/1993/641/B

34. Section 8.4(1) of the Act allows the Local Planning Panel (LPP), as consent authority, to confirm or change the original refusal of DU/1993/641/B following its review.

35. The five reasons for refusal of DU/1993/641/B (refer Attachment B) have been reconsidered as part of this review.

Reason 1: Insufficient information provided with the application.

36. Information submitted with the refused application was insufficient to demonstrate that the proposed extension of hours would not result in adverse impacts. In particular a Plan of Management and a Waste Management Plan were not provided. As such, it was not possible to demonstrate there would be no significant environmental impacts on neighbouring properties (per 4.15(1)(b) of the EP&A Act), nor that the proposed modifications to the approved development would be suitable for the site (per 4.15(1)(c) of the EP&A Act).

37. A Plan of Management (POM) was lodged with the review application, however it fails to provide appropriate mitigation measures in relation to the operation of the premises (see Reason 2 for refusal of DU/1993/641/B below).

38. A Waste Management Plan (WMP) has not been provided. The WMP was requested to demonstrate how commercial and food waste generated by the proposed extended hours of operation will be handled by the site, such that its handling will not impact on the amenity of the site and other commercial and residential tenants (in relation to timing of waste disposal and number of bins required with the longer operating hours).

39. A calculation of food waste generation including food scraps produced by the premises was requested, noting that since 1 July 2026, the Protection of the Environment Legislation Amendment (FOGO Recycling) Act 2025 (Part 5A.2, Section 170F) requires collection of FOGO (Food Organics and Garden Organics) waste. This may require additional bins for food waste.

40. The applicant did not provide the requested details. Instead, they provided a letter dated 29 July 2026, detailing seven food and drink premises venues that were not required by Council to provide the same documents.

41. The request for a WMP is reasonable. It is relevant to Council's waste planning controls, the City of Sydney Guidelines for Waste Management in New Developments and the newly introduced requirements for FOGO recycling (effective since 1 July 2026). The request is also relevant to addressing waste issues raised in submissions and complaints received by Council in relation to the compliance history of the site.

42. The applicant advised during assessment they are happy to commit to any of the three measures given within the Acoustic Report and that the recommendations of the Acoustic Report could be incorporated into conditions of consent should the application be approved. As above, Council's officers are of the view owner's consent has not been provided for works recommended by the acoustic report.

Reason 2: Unacceptable Amenity Impacts

43. The second reason for refusal was that the proposal does not meet a key aim of the Sydney Local Environmental Plan 2012 at clause 1.2(h) of SLEP 2012, which is that development must enhance the amenity and quality of life of local communities.

44. The compliance history of the site indicates that the operation of the premises exceeding the conditions of consent have resulted in sustained and significant impacts for neighbouring properties, particularly during the last year. This is reflected in submissions received following the notification of the subject application.

45. The application seeks consent to operate the premises until 3:00am daily, however submissions and internet searches undertaken by Council's officers show that the premises frequently operates beyond that time (until at least 4:00am) before reopening the following day at 9:00am.

46. The environmental impacts caused by these hours are assessed as follows:

    Noise and odours

    (a) Mechanical ventilation vents are located close to residential apartments within the site (Figure 6 above). Whilst the applicant states they would accept a condition of consent requiring more acoustic baffles to be installed on existing mechanical ventilation, these measures in part require lining existing ventilation risers from the premises and may require strata consent. The application does not include strata consent.

    (b) Even if strata consent were obtained, and an acoustic lining to the riser was achieved, these works would not ameliorate late night and early morning cooking odours. Residents who are impacted by these odours advise they need to keep doors and windows closed at night, reducing ventilation amenity of apartments.

    (c) The currently approved hours of operation, 11:30am and 10:00pm, Sunday to Wednesday, and 11:30am to 12:00am midnight, Thursday to Saturday, provide a measure of relief for residents of neighbouring apartments in relation to noise and odour as the premises are not approved to operate beyond 10:00pm Sunday to Wednesday and 12:00am midnight Thursday to Saturday opening at 11:30am the following day.

    (d) Further, the store manager and internet searches verify the premises trades from 9:00am daily and is frequently open until 4:00am the following day. This provides only 4-6 hours of relief per day when noise from mechanical ventilation, and odours impacting neighbouring dwellings.

    Noise from delivery riders

47. Submissions raise concerns about electric bicycle delivery riders. The store manager has advised that most business involves delivery services and that more than 200 deliveries may be collected on busy nights between 10:00pm and 3:00am.

48. Whilst electric bikes are generally quiet and may be legally parked on footpaths, the layout of the premises requires riders to lock their bikes on the footpath before entering the store to pick up deliveries. Submissions state that bike alarms are loud and are disruptive to sleep. Submissions highlight that bikes must be locked and unlocked during each pick up for delivery and that bike alarms frequently malfunction, resulting in sleep disturbance late at night when Elizabeth Street has less vehicular traffic and when background noise levels are lower.

49. The plan of management lodged with the application contains a Traffic and Parking Management statement that references noise from delivery bikes. The statement does not provide any effective noise mitigation measures for e-bike deliveries. Instead, it contains broad statements including that:

    (a) delivery drivers, motorbikes and bicycles are expected to obey all road and traffic signs in the vicinity and are discouraged from parking on the footpath and

    (b) Pizza Hut commits to swift service to ensure no loitering of vehicles, assisted by tracking devices and alerts on the relevant delivery services.

50. No measures are proposed in the Plan of Management that would avoid or manage the situation where delivery bikes are locked and unlocked during deliveries, which causes sleep disturbance for residents late at night when Elizabeth Street is not affected by vehicle noise.

    Waste storage and collection

51. Submissions raise the issue of waste storage areas being dominated by waste bins and containers generated by the premises. This issue may be able to be resolved by increasing the frequency of waste collection, however the applicant has not provided a waste management plan as requested, detailing how the additional waste from the premises during extended hours would be managed.

Reasons 3 & 4: Non-compliance with the City's SDCP 2012 planning controls

52. The modification application was refused on the basis it fails to satisfy the relevant sections of Council's Development Control Plan 2012 (SDCP 2012) in relation to late night trading (Section 3.15). These allow for the approval of trading hours until 2:00am on a trial basis, where the premises has demonstrated effective management and compliance with a Plan of Management. Further, it fails to satisfy the relevant sections of SDCP 2012 in relation to waste (Section 3.14 and Section 4.2.6).

53. The review application has been assessed against the relevant DCP controls (see below SDCP 2012 section) and is recommended for refusal on the basis the proposal will have significant and ongoing negative impacts on the residential amenity of neighbouring properties.

Reason 5: Approval of the application is not in the Public Interest

54. The proposed amendments, if approved, will have unacceptable ongoing negative impacts on the amenity of neighbouring residential properties. There is sufficient evidence that the proposed hours of operation are not suitable for the site and the proposed modifications are not in the public interest.

Local Environmental Plans

Sydney Local Environmental Plan 2012

55. While the existing take away food and drink premises is permissible in the MU1 Mixed Use zone and has been trading for many years, the increased impacts from unauthorised extended hours of operation are inconsistent with Sections 1.2(h) and (j) of SLEP 2012 (The Aims of the Plan), which require development to enhance the amenity and quality of life of local communities and the existing or desired future character of particular localities.

Development Control Plans

Sydney Development Control Plan 2012

56. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 3.15: Late Night Trading Management

Late Night Trading Areas

57. The site is identified in the DCP as being located within a 'Local Centre Area' (shaded red - see Figure 7 below).

58. Schedule 3.1.3 of SDCP 2012 provides key defining elements for Local Centre Areas. These include that:

    (a) premises within Local Centre Areas will generally have shorter trading hours than their counterparts in other late night trading areas due to their proximity to sensitive residential land uses and their greater potential to impact upon the liveability of local residents; and

    (b) careful consideration must be given to the residential context of the area and existing hours of other late night trading premises in close proximity. The subject premises is in close proximity to residential premises within the site and those adjoining it.

59. Schedule 3.1.3 states that consideration must be given for whether a suitable plan of management has been provided. A plan of management lodged with the application fails to provide suitable mitigation measures for noise from operations through duct lining to a riser on common property, with associated strata owners consent. It also fails to offer suitable management of noise from delivery bikes.

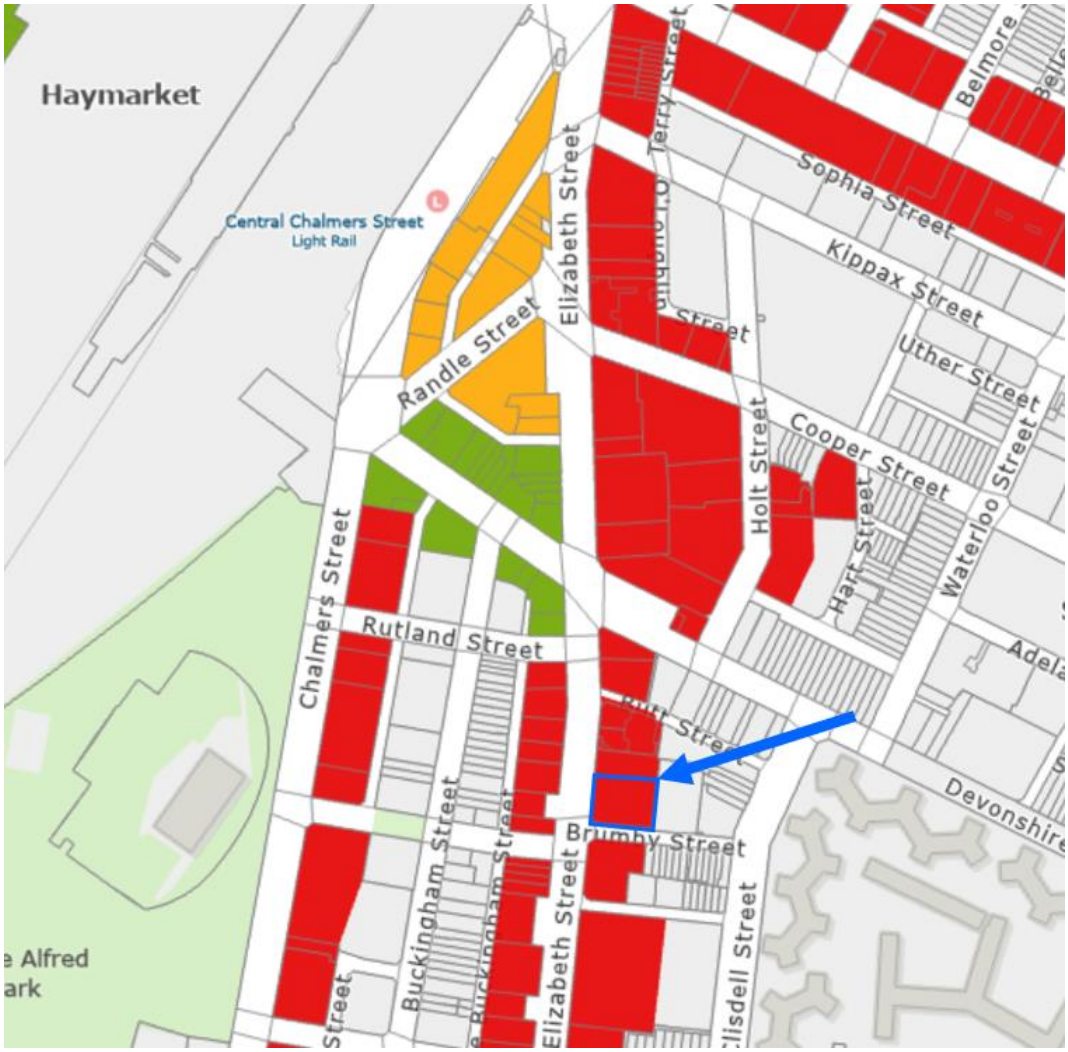


Figure 7: Site is located within a 'Local Centre' Late Night Trading Area (blue arrow)

Categories of Late Night Trading Premises

60. The Late Night Trading Area Provisions of SDCP 2012 provides three categories of premises, described as Category A, Category B and Category C Premises. The premises are ranked according to their capacity to impact neighbouring properties due to their operations late at night.

    (a) Category A - High Impact Premises include licensed venues and dedicated performance venues with larger patron numbers;

    (b) Category B Premises - Low Impact Premises include any other commercial premises, other than Category C premises, which in the opinion of the Council may impact on the amenity and safety of a neighbourhood resulting from its operation at night, including but not limited to, **food and drink premises, takeaway food and drink premises**, theatres, karaoke venues, convenience stores, entertainment facility and stand-alone gyms in buildings with residential accommodation and the like; or; and

(c) Category C Premises - Any retail premises or business premises which does not sell, supply or allow the consumption of liquor on or off the premises or hold any license under the Liquor Act 2007 and does not include convenience stores, **food and drink premises, takeaway food and drink premises**, gyms in buildings with residential accommodation, or adult entertainment venue or sex services premises.

61. The applicant contends that the premises should be classified as a 'Category C' premises because it does not hold a liquor licence, play music, or accommodate many patrons. The use is reasonably categorised as a Category B premises the following reasons:

    (a) 'Category C' premises include the most benign late night premises. The definition expressly **excludes** food and drink premises and takeaway food and drink premises due to their potential impact on nearby residential amenity.

    (b) By contrast, 'Category B' premises expressly **includes** food and drink premises and takeaway food and drink premises, recognising they may affect neighbourhood amenity and safety through late-night operations.

Late Night Trading Controls

62. Table 3.8 of SDCP 2012 permits late night trading hours for Category B premises within Local Centre Areas as follows:

    (a) 'base' hours of operation of between 7:00am and 11:00pm, daily; and

    (b) 'extended' hours between 7:00am and 12:00 midnight daily or up to 2:00am if Council is satisfied that entry and egress of all patrons will be onto a main street and not onto a laneway which abuts residential properties, or into a predominantly residential area.

63. The refused modification application sought to amend Condition (4) of consent DU/1993/641 to permit trading until 3:00am daily. The current approval allows operation from 11:30am to 10:00pm Sunday to Wednesday and 11:30am to midnight Thursday to Saturday.

64. The decision to refuse the previous modification application was consistent with the City's Late Night Trading controls.

65. Section 3.15.3 requires consideration of the premises' location, surrounding land uses, operating characteristics, proposed hours, and likely impacts on residential amenity, including noise and management of those impacts. The premises is surrounded by residential apartments that are adversely affected by its late-night operation.

66. Section 3.15.4 provides that trading beyond base hours is subject to a trial period and may only be approved where the premises has demonstrated effective management and compliance with a Plan of Management. This has not been demonstrated by current operations.

67. The proposed hours of operation for the premises will have unacceptable impacts on the residential amenity of neighbouring properties, particularly late at night and would be better suited to a 'Late Night Management Area' (shaded green) or a 'City Living Area' (shaded yellow).

68. The applicant highlights that there is a brothel located opposite the site that is approved to operate 24 hours per day. Notwithstanding this, the impacts of a brothel are not comparable to those of a takeaway food premises in relation to noise, odour and waste issues.

Section 4.2.3 Amenity

69. The provisions of section 4.2.3.11 (Acoustic privacy) state that a Noise Impact Assessment prepared by a suitably qualified acoustic consultant may be required when submitting a development application for commercial uses which may affect the acoustic privacy of adjacent residential uses.

70. An acoustic report was lodged with the application that recommends additional works to the existing mechanical ventilation riser, reducing the speed of the fans within the riser and installing automatic doors to the entry of the premises.

71. Whilst the applicant states they would accept a condition of consent requiring these works to be completed, they would not, in themselves, be sufficient to mitigate the impacts of the existing premises late at night or provide sufficient odour relief for neighbours to utilise balconies near to the risers. Nor would these measures ameliorate intrusive noise from delivery bikes that are not appropriately managed by the proposal.

Sections 3.14 and 4.2.6: Waste and recycling Management

72. The applicant has not provided a waste management plan (WMP) as requested both during the assessment of the previous 'Mod B' application and the current review application.

73. By not providing a WMP, the proposal is contrary to the relevant objectives of sections 3.14.1 and 4.2.6 of the DCP (Waste and recycling Management), which are to ensure waste from within developments can be collected and disposed of in a manner that is healthy, efficient, minimises disruption to amenity, and is conducive to the overall minimisation of waste generated; and to ensure buildings provide appropriate facilities to manage waste and maximise recovery of resources and ensure that residential amenity is not impacted by waste systems and collection.

74. Submissions received during the notification of the subject review application and the refused modification application demonstrate significant waste management impacts resulting from the operation of the premises. This includes overflowing waste bins.

Section 4.2.9 Non-residential development in the B4 Mixed Uses Zone

75. Section 4.2.9 of the DCP provides that in granting consent for non-residential development on sites within proximity to residential uses within the MU1 Mixed Use zone, the consent authority must have regard to the potential impacts on the amenity of existing residential uses with consideration of noise impacts and operating hours.

76. The proposed hours of operation, until 3.00 am, will result in unacceptable amenity impacts on neighbouring properties contrary to the objectives of section 4.2.9 of SDCP 2012, which are to ensure non-residential development is compatible with, and does not detract from the amenity of residential development; and to ensure any impacts generated by non-residential development such as operating hours, noise, privacy, vehicular and pedestrian traffic are adequately managed to preserve the quality of life for residents in the area.

Consultation

Internal Referrals

77. The application was discussed with Council's specialists, including environmental health, waste and late night trading specialists.

78. Council's environmental health officer did not raise any objections to the proposal, noting the acoustic report recommended measures that could be installed to mitigate noise from mechanical ventilation.

79. Council's waste and licenced premises specialists requested additional information to enable further consideration of the proposal, including an amended plan of management and a waste management plan (see above). These documents have not been provided.

External Referrals

NSW Police

80. The application was referred to NSW Police for comment. No response was received.

Advertising and Notification

81. In accordance with the City of Sydney Community Participation Plan 2025, the subject application for a review of the previous determination was notified in the same manner as the original application. The review application was notified for 14 days, between 23 June 2026 and 8 July 2026 and all those who made a submission on the original application were notified.

82. Eighteen (18) submissions were received including three (3) in support of the application. Submissions supporting the application highlight the premises is convenient for shift workers and residents in the area, that it supports local employment and reflects that Surry Hills is a busy inner-city area with a demand for services beyond standard daytime hours.

83. The submissions objecting to the proposal raised the following issues:

    Noise, cooking odours, and delivery bikes

    (a) The vast majority of delivery drivers are e-bikes from external delivery companies. They are alarmed every time they arrive and leave. Often these alarms get stuck in a loop before they can be turned off.

    (b) Residents already experience significant impacts from cooking odours and exhaust emissions generated by the premises. The exhaust outlet regularly causes odours to enter residential apartments and common areas, affecting residents' comfort and enjoyment of their homes. Extending operating hours would increase the duration for which residents are exposed to these odours to unacceptable levels.

Comment:

If approved, the proposal would have further noise and odour impacts on neighbouring properties with these issues being relevant to reasons of refusal for the previous application.

The applicant states they will accept conditions requiring works to be undertaken, as recommended by an acoustic report lodged with the application. However, these works require strata owner's consent, which was not provided with the application. The POM does not adequately address noise from delivery drivers or mitigate impacts caused by cooking odours for extended hours of operation.

Compliance history

(c) The business has not demonstrated compliance with its existing conditions of consent. Before any consideration is given to extending hours, the operator should first be required to demonstrate a sustained record of compliance with the hours already approved.

Comment:

The operators of the site have demonstrated a poor compliance record, as outlined in this report. They have failed to abide by the terms of an order that was recently served on the premises.

Waste

(d) Increased hours will make current waste management issues worse. There have been occasions where other businesses in our building have not been able to dispose of their rubbish because the bin area is full or overflowing. We see the rubbish after every weekend when Pizza Hut has been trading from 9:00am till 5.15 am.

(e) There have been repeated instances where security gates have been left open, waste bins unsecured and common area walkways inadequately cleaned and poorly maintained.

Comment:

Waste issues are relevant to the reasons the previous application was refused. An operational waste management plan has not been provided for assessment.

Inconsistency with planning controls

(f) The extended hours are inconsistent with planning controls relating to trading hours.

Comment:

The proposed extended hours of operation are beyond those permissible by the DCP and are likely to have further impacts on the residential amenity of neighbouring properties

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

84. The City of Sydney Development Contributions Plan 2015 applies to the site. The development would not generally be subject to a section 7.11 local infrastructure contribution under this Plan (if recommended for approval) on the basis there is no increase proposed to floor area.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

85. As the proposal isdevelopment for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, it would generally be excluded from paying a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

86. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

Relevant Legislation

87. Environmental Planning and Assessment Act 1979.

Conclusion

88. The applicant has not provided sufficient information with the review application to demonstrate amenity impacts for residential properties can be mitigated. For these reasons, the reasons provided for the refusal of DU/1993/641/B remain valid and the review is recommended for refusal.

89. The proposed extended hours of operation, beyond those permissible by the controls, will result in further residential amenity impacts for residents of the subject site and neighbouring sites and are contrary to key aims of the SLEP 2012, which are to enhance the amenity and quality of life of local communities and the objectives of the SDCP 2012 relating to non-residential development in Mixed Uses zones.

90. The extended hours of operation are contrary to the relevant Late Night Trading provisions of the SDCP 2012 and the operation of the premises is not consistent with the relevant Waste and Recycling Management provisions of the DCP.

91. Approval for a development that fails to satisfy the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 is not in the Public Interest.

BILL MACKAY

Manager Planning Assessments

Adrian McKeown, Senior Planner

Attachment A

Planning Report
Refused application DU/1993/641/B

CITY OF SYDNEY

Modification Application Assessment

Application Number:	DU/1993/641
Application Type:	Section 4.55(2)
Site Address:	446-458 Elizabeth Street, Surry Hills
Proposal:	Section 4.55(2) modification of consent for a takeaway food premises. The proposed change is to amend the hours of operation to 11:30am to 3:00am, Monday to Sunday.
Date of Lodgement:	24 February 2026
Notification:	25 February 2026 to 12 March 2026
Submission(s) (total):	16
Recommendation:	Refusal
Officer:	Max Di Rosario

Site and Surrounds

1. The subject site has a legal description of Lot 1 in Deposited Plan 828940, and is commonly known as 446-458 Elizabeth Street, Surry Hills. It is irregular in shape with an area of 1318 square metres. It has a primary street frontage of 41 metres to Elizabeth Street and a secondary street frontage of 33.5 metres to Brumby Street.

2. The site contains a part 7, part 8 storey mixed use building which contains a total of 8 retail/commercial tenancies on the ground floor, commercial tenancies at level 1, and residential units on levels 2-7 above ground floor. The site is not a heritage item or within a heritage conservation area.

3. The surrounding area is characterised by a mixture of land uses, primarily being residential accommodation, commercial premises, and mixed use developments. To the north and south are mixed use buildings with ground floor commercial and residential above. To the east is a multistorey residential flat building and across Elizabeth Street, to the west are mixed use buildings.

4. A site inspection was carried out on 29 April 2026, and photographs of the subject site and its surroundings are reproduced in the figures provided below.

Figure 1: Aerial view of the subject site (shown shaded in green) and its surroundings

Figure 2: View of the subject site from the western side of Elizabeth Street

Figure 3: Trading hours signage on the door of the subject premises

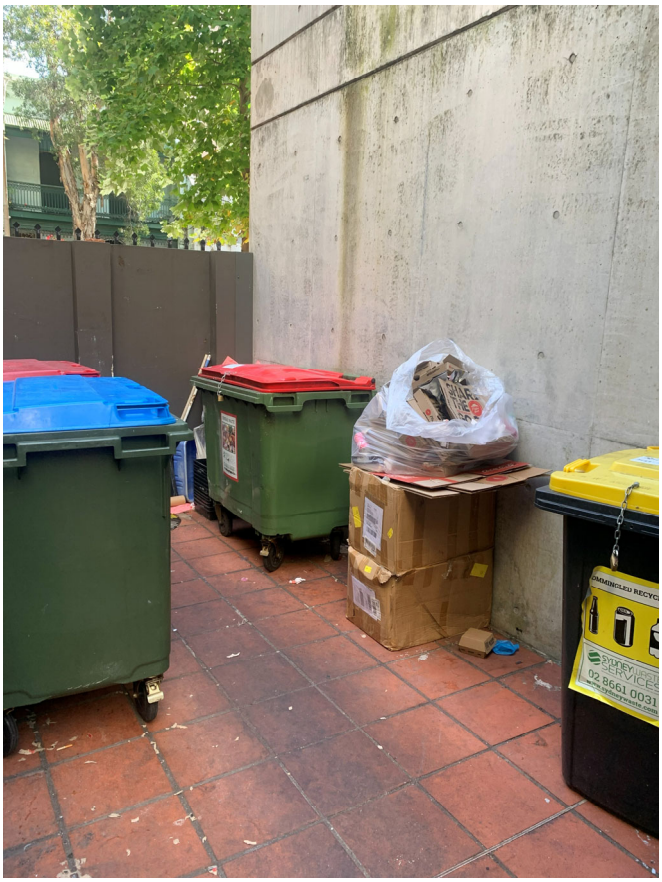


Figure 4: Waste area of the subject premises shared with other premises on the ground floor

Relevant Background

Relevant Applications

5. The following applications are relevant to the current proposal:

   (a) Development consent DU/1993/641 was granted on 6 July 1993 for the use of the premises as a takeaway food shop and delivery unit for Pizza Hut Australia with hours between 11:30am and 10:00pm, Sunday to Wednesday, and 11:30am to 12:00am midnight, Thursday to Saturday.

   (b) Modification application DU/1993/641/A for extended trading hours between 10pm and 12:00am, Sundays to Wednesdays, and 12:00am midnight to 2:00am, Thursday to Saturday was refused on 1 December 2025 due to unacceptable amenity impacts and insufficient information provided with application, including no waste management plan, acoustic report or plan of management.

Compliance Action

6. The site is subject to an ongoing compliance action which is still being investigated and is relevant to the subject application

7. The compliance action relates to the operation of the venue, particularly issues relating to waste and noise management, and non-compliance with the approved operating hours.

8. The submissions received by Council in objection to the proposed modifications outline issues with waste management, non-compliance with approved hours of operation, and noise resulting from extended trade.

9. Figure 5 is an amalgam of photographs provided by submitters, and figures 6, 7 and 8 indicate the premises non-compliance with its approved hours of operation.

Figure 5: Photographs from submitters depicting the waste storage area of the premises

Surry Hills
Shop 1-2, 450 Elizabeth St, Surry Hills, NSW, 2010
See Trading Hours

ORDER NOW >

Tue	**Pickup:**	**9:00 AM - 12:15 AM**
	Delivery:	**9:00 AM - 11:59 PM**
Wed	Pickup:	9:00 AM - 12:15 AM
	Delivery:	9:00 AM - 11:59 PM
Thu	Pickup:	9:00 AM - 12:15 AM
	Delivery:	9:00 AM - 11:59 PM
Fri	Pickup:	9:00 AM - 5:15 AM
	Delivery:	9:00 AM - 5:00 AM
Sat	Pickup:	9:00 AM - 5:15 AM
	Delivery:	9:00 AM - 5:00 AM
Sun	Pickup:	9:00 AM - 12:15 AM
	Delivery:	9:00 AM - 11:59 PM
Mon	Pickup:	9:00 AM - 12:15 AM
	Delivery:	9:00 AM - 11:59 PM

Figure 6: Operating hours according to the Pizza Hut website at https://www.pizzahut.com.au/stores (snippet taken on 19 May 2026)

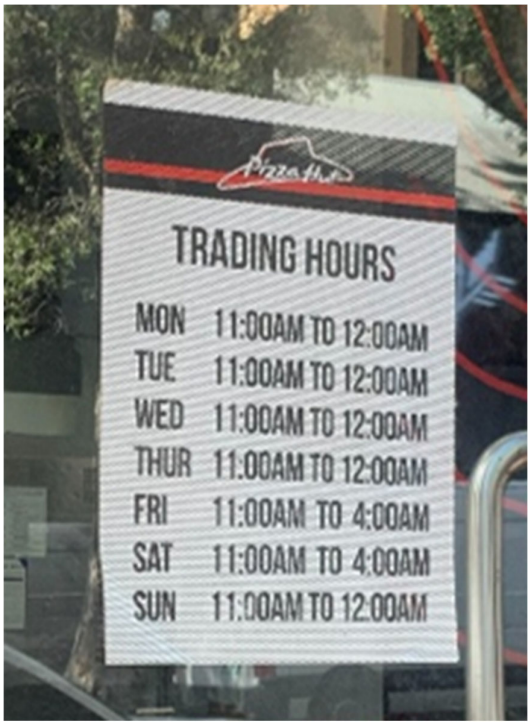


Figure 7: Operating hours according to the trading hours signage at the premises

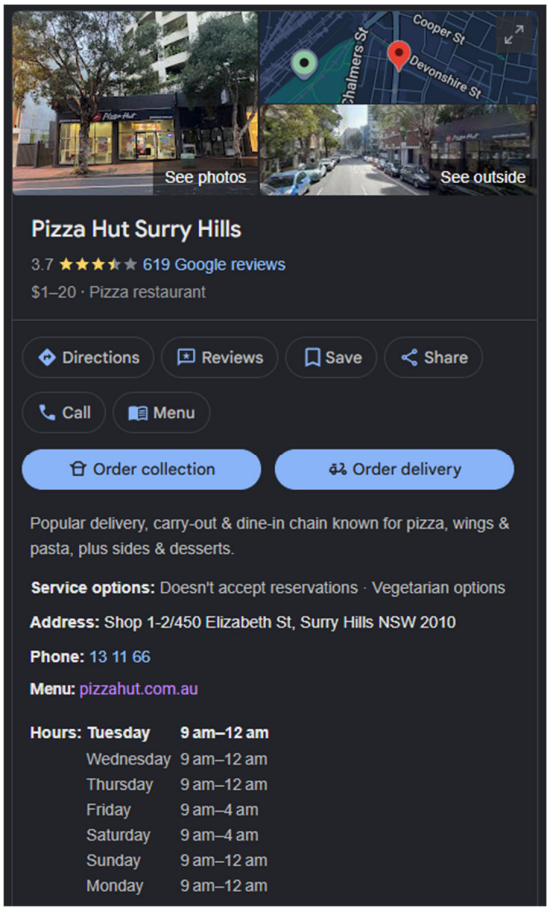


Figure 8: Operating hours according to the Google business profile (snippet taken on 19 May 2026)

Amendments

10. Following an assessment of the proposed development, a request for the preparation and submission of a waste management plan and a plan of management was sent to the applicant via email on the 26 March 2026. This information was requested as:

    (a) These documents were sought during the assessment of modification application DU/1993/641/A but were not provided by the applicant. The lack of information was a reason for refusal, as Council staff were not satisfied the proposed modifications to the approved development were suitable for the subject site.

    (b) The submission of the requested information would assist Council staff by demonstrating the likely impacts of the additional hours of operation sought are able to be appropriately managed, if the proposed modifications were approved.

    (c) Considerable evidence provided in submissions and formal complaints received, and compliance investigations and site visits by Council indicate the lack of adequate waste storage facilities for the tenancy, and lack of adequate management of its current trade.

(d) In the specific circumstances of the case, a waste management plan and plan of management are matters of relevance, particularly when considering the proposed modifications to the approved development intensify the approved use of the shop as a takeaway food premises by operating for additional hours and exacerbating ongoing management issues with the premises.

11. The applicant responded on 31 March 2026, indicating that a plan of management and waste management plan would not be provided.

Proposed Modifications

12. The application seeks to amend condition (4) of development consent DU/1993/641 to extend trading hours to between 11:30am to 3:00am, Monday to Sunday, representing an additional 29 hours per week, or a 36.48% increase in weekly operating hours.

Threshold Test

13. The development to which the proposed modifications relate is substantially the same as that originally granted.

14. There were no reasons cited for the granting of the original development consent.

Assessment

15. The proposed modifications are not supported for the following reasons:

    (a) The granting of additional hours is an intensification of the use of the premises as a takeaway food shop. In determining an application for the modification of a development consent, a consent authority must take into consideration matters of relevance in section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act), including relevant development control plan provisions per sub-section 4.15(1)(a)(iii).

    (b) The relevant provisions in the Sydney Development Control Plan 2012 (Sydney DCP 2012) of relevance are contained in Sections 3.14 and 3.15 relating to waste and late-night trading management.

    (c) Section 3.14.1 of the Sydney DCP 2012 sets out the requirements for the provision of a waste management plan during the assessment of an application and Section 3.14.3 relates to management of waste during operation. These sections of the Sydney DCP 2012 are considered of relevance considering the impacts associated with waste generated by the current trade of the premises, which already exceeds its approved hours.

    (d) Section 3.15.5 of the Sydney DCP 2012 states the following:

"Where the Council is of the opinion that proposals for late night premises have the potential to impact adversely on amenity and neighbourhood safety, applicants are required to prepare and submit with their application Plans of Management that include verifiable data and actions"

(e) Provision (1) (d) in Section 3.15.5.1 of the Sydney DCP 2012 requires a Plan of Management be provided where a Food and Drink Premises (A category B premises) seeks to extend its approved trading hours.

(f) Further, the proposed hours of operation extend beyond that of what is permitted for a takeaway food and drink premises (category B – Low Impact Premises), in Table 3.8 in 3.15.4 Trading hours and trial periods of the Sydney DCP. Permanent trade is permitted till 12:00am midnight, and extended hours till 2:00am if entry for patrons is on a main road in a Local Centre Area.

(g) The planning statement provided with the application indicates that no trial period is sought for the trade till 3:00am. Extending beyond permitted trading hours on a permanent basis is not supported, particularly considering the inadequate information provided with the application to determine the likely environmental impacts of the intensified development, in addition to the ongoing management and compliance issues associated with the premises.

(h) No waste management plan and plan of management have been provided to demonstrate that the business will be able to appropriately mitigate and manage impacts arising from extended hours of operation, an obligation pursuant to section 4.15(1)(b) of the EP&A Act.

(i) Without the above information, Council is unable to assess the environmental impacts and amenity impacts to the site surroundings and take into consideration whether the impacts resulting from the intensification of development can be managed appropriately.

16. The relevant planning instruments and policies have been taken into consideration in the assessment of the proposed modifications.

17. Besides the other matters discussed in this report, the previous assessment against the provisions of Section 4.15 of the EP&A Act are still relevant.

Notification

18. The proposed development was notified in accordance with the City of Sydney Community Engagement Strategy and Participation Plan.

19. Sixteen submissions were received, with 11 in objection to the proposed modifications, and 5 in support.

20. The submissions raised the following issues:

(a) **Issue:** Amenity impacts resulting from additional trading hours including noise, odour and sleep disturbance.

Response: The management of noise cannot be effective without an appropriate plan of management. Although an acoustic report has been prepared and provided with the application, its recommendations to mitigate noise are limited, and relate primarily with reducing noise generated from the mechanical riser exhaust system to comply with Council's standard commercial plant/industrial noise condition. Other noise sources, including that likely generated by the additional trade from deliveries, patrons and staff during extended hours of operation, are not addressed by a plan of management.

(b) **Issue:** Waste management issues

Response: No waste management plan has been provided despite a request to provide one.

(c) **Issue:** Non-compliance with current consent.

Response: The operation of the premises has been referred to Council's Health and Building compliance team to investigate.

(d) **Issue:** Acoustic report testing locations and validity.

Response: The testing locations are sufficient in providing an ambient background noise level akin to what is expected for the residential development in the mixed use building where the premises is located. It is worth noting that no access was provided to the acoustic consultant so no background level testing could be accommodated on the subject site.

(e) **Issue:** Impact on neighbourhood character.

Response: The immediate area is within a mixed use zone which allows late night trading till 12:00am, or 2:00am if on a main road. The zoning permits the use, and the controls allow late night trading on the proviso of no substantial impacts to residential or sensitive receivers. Notwithstanding this, the proposal contains insufficient information and details regarding waste and late night trading management, would likely result in negative impacts on the character of the neighbourhood, and is not supported.

(f) **Issue:** Support of proposal.

Response: Noted.

Financial Contributions

Contribution	Comment
Section 7.11 Development Contribution	The proposed modifications to the approved development will not modify the amount of contribution payable.
Section 7.12 Central Sydney Contribution	Not applicable as the Central Sydney Development Contributions Plan 2020 does not apply.
Affordable Housing Contribution	Not applicable.
Housing and Productivity Contribution	Not applicable.

Determination

21. The proposed modifications to the approved development have been assessed under Section 4.55 of the EP&A Act and are refused.

22. The subject application is determined under the delegated authority of the Council and its Chief Executive Officer by the Council's Area Planning Manager.

23. The undersigned declare to the best of their knowledge that they have no interest, pecuniary or otherwise, in this application or the persons associated with it, and have provided an impartial assessment.

Prepared by:

Max Di Rosario
Planner

Determined by:

David Reynolds
Acting Area Planning Manager

Attachment B

Refusal notice: DU/1993/641/B

CITY OF SYDNEY

City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000

+61 2 9265 9333
council@cityofsydney.nsw.gov.au
GPO Box 1591 Sydney NSW 2001
cityofsydney.nsw.gov.au

Notice of Determination for Modification of Development Consent

Application number	DU/1993/641/B PAN-615553
Applicant	Seck Enterprises Pty Ltd PO Box 1074 Broadway NSW 2007
Description of development	Section 4.55(2) modification of consent for a takeaway food premises. Proposed change is to amend the hours of operation to 11:30am to 3:00am, Monday to Sunday.
Property	446-458 and 450-452 Elizabeth Street , Surry Hills NSW 2010 Lot 1 DP 828940, Lots 1-25 SP 44070, Lots 27-122 SP 44070, Lots 123 SP 63502, Lot 3, Lot 2 DP 815185
Determination	Refusal Consent Authority ○ Council
Date of determination	28 May 2026

Refusal

Under section 4.55(2) of the EP&A Act and section 118(3)(a) of the EP&A Regulation, notice is given that the above application to modify DU/1993/641 has been refused, for the reasons specified below.

Reasons for refusal

Insufficient information provided with application

1. The likely environmental impacts on the surrounding environment cannot be established per 4.15(1)(b) of the EP&A Act, or satisfaction be reached that the proposed modifications to the approved development are suitable for the site per 4.15 (1)(c) of the EP&A Act, because requested documents, including a Plan of Management and a Waste Management Plan, were not provided during assessment of the application.

Unacceptable Amenity Impacts

2. The proposal does not meet aim (h) under clause 1.2 of the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) as the development, as proposed to be modified, will result in unacceptable amenity impacts.

3. The proposal fails to comply with the provisions and objectives of Section 3.15 of the Sydney Development Control Plan 2012 (Sydney DCP 2012) relating to late night trading management, particularly objectives (a), (b), (c),(k), and (l), provision (1) of Section 3.15.3, provisions (1), (2), (6) of Section 3.15.4, and provisions (1) and (2) of Section 3.15.5.1 Preparation – Plan of Management Requirements.

4. The proposal fails to comply with the provisons and objectives of Section 3.14 of the Sydney DCP 2012 relating to waste, particularly objective (c) and provison (1) of Section 3.14.1.

Public Interest

5. The proposed modifications are not in the public interest as the proposal is contrary to the provisions of Sydney DCP 2012, in addition to aim (h) of the Sydney LEP 2012, and Mixed-Use Zone objective (i) within the Sydney LEP 2012.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 Months from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this consent.

per
Graham Jahn AM
Executive Director - City Planning, Development & Transport

For further information, please contact Max Di Rosario by telephone during business hours on (02) 9246 4521, or by email at MDiRosario@cityofsydney.nsw.gov.au.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act, 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation, 2021*.

Council means the City of Sydney.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act, 1979.*

EP&A Regulation means the *Environmental Planning and Assessment Regulation, 2021.*

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means the City of Sydney Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

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.

Stormwater drainage system means all works and facilities relating to:

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

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act, 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act, 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Attachment C

Submissions

From: mark swinchatt [redacted]

Sent on: Friday, June 26, 2026 12:52:07 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am a resident of the apartment building at 446-458 Elizabeth Street. I have objected to the proposed extension to operating hours to 3 am previously. The reasons I gave remain the same
- the commercial tenant has a poor record for management of commercial waste on the site. Increased hours will increase rubbish left around the building and on the street outside. This is unsightly, insanitary and attracts vermin.
- Noise from customers and couriers is already a nuisance and will increase into early hours.
- the commercial tenant appears to not fully respect existing terms of licence and cannot be trusted to abide by any changes if granted.

Best regards, Mark Swinchatt

Mobile [redacted]

From: C Mc[redacted]

Sent on: Saturday, June 27, 2026 10:02:33 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council Planning Team,

I am writing to formally object to the proposal for extended operating hours for the Pizza Hut located near our residence.

Our family lives close to the store, and our six-year-old child's bedroom faces the street where delivery drivers frequently park their cars, motorbikes & bikes. The current activity already generates significant noise from vehicles, bikes (especially delivery ring tones), and people coming and going late at night. Extending trading hours until 3:00am every day would substantially increase this disturbance and negatively impact the amenity of nearby residents.

We are also continually concerned about ongoing litter and food scraps being left in front of the shop (& all streets neighbouring the shop), which has attracted rats in the area. Longer hours are likely to worsen these issues. I had to make another complaint as recently as 2 weeks ago due to all the litter from their shop piling outside on the pavement..

For these reasons, we respectfully request that the council decline the proposed operating hours to protect the wellbeing and quiet enjoyment of neighbouring residents.

Thank you for considering our submission.

Regards,
Chris McCartney

From: Sharon Williams [redacted]

Sent on: Monday, June 29, 2026 4:46:22 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am writing to express my concerns regarding the proposed extension of trading hours for Pizza Hut on Elizabeth St.

While I appreciate the value that local businesses bring to our community, I am concerned that extending operating hours, particularly into the early morning hours may result in increased noise and disturbance for nearby residents. Potential sources of noise not only relate to the mechanical equipment noise but also the following:-

- Customers congregating outside the premises.
- Vehicle arrivals, departures, and engine noise.
- Car doors slamming and conversations in the street.
- Delivery vehicles and associated loading and unloading activities.
- Increased litter collection and waste disposal occurring outside normal daytime hours.

As a nearby resident, I am concerned that these activities could negatively affect the quiet enjoyment of the residents within units and terraces particularly during times when residents are trying to sleep.

Regards

Sharon Williams

From: Santo Vitale [redacted]

Sent on: Monday, June 29, 2026 10:12:23 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hello Adrian,

RE: RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010

I have just concluded the Strata meeting for 446–458 Elizabeth Street, Surry Hills, and would like to provide my feedback regarding the application to extend operating hours.
I do not support this application. This position is based on ongoing non-compliance by the business (Pizza Hut) with the building's by-laws. There have been repeated instances where security gates have been left open and waste bins unsecured. In addition, it has been observed that the business is already operating outside of its approved trading hours.
There are also consistent concerns regarding the cleanliness of common area walkways and the overall management of waste, which appears to be inadequate and poorly controlled.
Given these issues, I do not support an extension of trading hours, as this would likely lead to further breaches of by-laws and increased disruption to adjoining residents. Please let me know if any further detail is required.

Kind regards,
S.Vitale

From: Mitchell Kelly [redacted]

Sent on: Tuesday, June 30, 2026 10:49:19 AM

To: dasubmissions@cityofsydney.nsw.gov.au

CC: Wife [redacted]>

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To the Assessment Officer,

I, as the owner of 8/8-14 Brumby Street, Surry Hills NSW 2010, write to object to the Development Application seeking approval for extended operating hours for the Pizza Hut premises.

While I acknowledge the importance of supporting local businesses, the proposed extension of trading hours is likely to exacerbate a number of existing amenity and public safety issues that are already being experienced by nearby residents and members of the public.

My concerns include the following:

1. Increased Noise Impacts

The premises already generates significant noise associated with customer activity, delivery drivers arriving and departing, vehicle movements, and staff operations. Extending the operating hours will inevitably prolong these impacts into later evening and night-time periods, reducing residential amenity and affecting nearby occupants' ability to enjoy reasonable peace and quiet.

2. Waste Management and Litter

The business has an ongoing history of waste and rubbish associated with its operations. This includes rubbish escaping from waste storage areas, food packaging, and general litter affecting the surrounding public domain.

Extended operating hours are likely to increase the volume of waste generated and the frequency of these impacts unless robust waste management measures are implemented and enforced. The existing issues do not give confidence that the additional impacts can be adequately managed.

3. Delivery Scooters and Public Safety

The operation relies heavily on delivery scooters and motorcycles. In practice, these vehicles frequently stop, queue, park or manoeuvre in ways that adversely affect pedestrian safety and traffic flow.

Their operation contributes to:

- obstruction of footpaths and pedestrian access;
- unsafe stopping and parking practices;

- increased conflict between pedestrians, cyclists and delivery riders; and
- additional noise associated with repeated arrivals, departures and idling.

These impacts would increase if trading hours are extended.

4. Impact on the Public Domain

The operation already affects the surrounding streetscape through customer congregation, delivery activity, noise and litter. Extended operating hours would prolong these impacts well beyond current operating times and diminish the amenity of the surrounding public spaces.

The cumulative effect extends beyond the site itself and materially affects neighbouring properties and users of the public footpath.

5. Insufficient Protection of Residential Amenity

A fundamental consideration of the planning framework is balancing commercial activity with the protection of neighbouring residential amenity.

In circumstances where existing impacts are already evident, extending operating hours would simply increase the duration of those impacts without addressing the underlying operational issues.

For these reasons, I respectfully request that Council refuse the application for extended operating hours.

Alternatively, if Council is minded to approve the application, I request that it impose stringent conditions including:

- no extension of delivery operations beyond existing approved hours;
- a comprehensive waste management plan with regular compliance monitoring;
- restrictions on delivery rider parking and waiting locations;
- requirements to keep adjoining footpaths free of obstructions and litter; and
- enhanced noise management measures.

Thank you for considering this submission.

Yours faithfully,

Mitchell Kelly

[redacted]

Sent from my iPhone

From: Belinda Cooper [redacted]

Sent on: Tuesday, June 30, 2026 11:57:51 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi There,

I am writing as a resident of 446/458 Elizabeth street and wish to file my objection to this application.

Having owned and lived in the building for over two years now I can attest to the fact that this business has been operating outside of approved opening hours constantly for the two years I've been there causing noise which carries up into my apartment as well as having a constant stream of food traffic across the footpath.
In addition to this there is constantly delivery bicycles parked illegally across the footpath at all hours as well as speeding past my building entrance, which concerns me as several times they have come close to hitting either myself, my child and my dog.
There is also rubbish constantly on the walkway, including food scraps which could make my dog very sick if eaten.

Approving this business to operate longer hours would be a detriment to the neighborhood.

Thanks,
Belinda

From: Harshvardhan Mehta [redacted]

Sent on: Wednesday, July 1, 2026 3:29:46 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To the Assessing Officer,

I am writing in support of the proposed amendment to extend the trading hours of the Pizza Hut takeaway premises at 446-458 Elizabeth Street, Surry Hills, to 11:30am–3:00am, Monday to Sunday.

As someone who often finishes work late at night, this Pizza Hut is one of the few quick, reliable food options available in the area after a long shift. Many people working evening and night shifts in and around Surry Hills in hospitality, healthcare, retail, and other industries rely on late-night food options like this one when they don't have the time or energy to cook after work.

Extending the hours would provide a genuine convenience to shift workers and residents in the area, support local employment during extended hours, and reflect the fact that Surry Hills is a busy, well-connected inner-city area with ongoing demand for services beyond standard daytime hours.

I would appreciate the Council's consideration of this application and hope the extended hours are approved.

Kind regards,
Harsh Mehta

From: Sasha Jensen [redacted]

Sent on: Sunday, July 5, 2026 2:48:40 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Subject: Objection to Proposed Extension of Trading Hours – Pizza Hut, 446–458 Elizabeth Street, Surry Hills NSW 2010 (DU/1993/641/B)

To: City of Sydney Council
Attention: DA team

Dear Sir/Madam,

I write as a committee member of **Strata Plan 44070**, located at 446–458 Elizabeth Street, Surry Hills, the same building in which this business operates, to formally object to the application seeking an extension of trading hours for Pizza Hut under Development Application **DU/1993/641/B**.

This objection is consistent with concerns I have previously raised with Council regarding the operation of this business. As noted in my earlier correspondence this year, the committee and residents have experienced ongoing impacts from the premises, including significant breaches of trading hours, cooking odours, noise, and poor operational practices. Unfortunately, these concerns remain unresolved and provide strong grounds for refusing the proposed extension.

Existing Non-Compliance with Approved Trading Hours

The most significant concern is that the business has already been operating outside its approved trading hours on a regular basis for an extended period. Residents have observed breaches occurring consistently despite numerous attempts to bring the matter to the attention of both Council and the operator.

It is difficult to understand how an extension of operating hours could be justified when the business has not demonstrated compliance with its existing conditions of consent. Before any consideration is given to extending hours, the operator should first be required to demonstrate a sustained record of compliance with the hours already approved.

Ongoing Resident Amenity Impacts

The committee has received multiple complaints from residents regarding the operation of the premises. Numerous complaints have also been submitted to Council, including matters recorded under**Council reference CSM3316136**.

These impacts include:

- Noise generated by customers congregating near the premises.
- Noise from delivery drivers arriving and departing throughout the day and evening.
- Noise associated with the operation of the business generally.
- Noise from mechanical equipment and extraction fans servicing the premises.

As the restaurant is situated directly beneath residential apartments, any extension of operating hours would inevitably prolong these disturbances and further diminish the amenity of residents.

Cooking Odours and Exhaust Emissions

Residents already experience significant impacts from cooking smells and exhaust emissions generated by the premises. The exhaust outlet regularly causes odours to enter residential apartments and common areas, affecting residents' comfort and enjoyment of their homes.

These issues have not been adequately resolved. Extending operating hours would increase the duration for which residents are exposed to these odours and further exacerbate an already unacceptable situation.

Poor Waste Management and Cleanliness

Residents also have ongoing concerns regarding the management of waste generated by the business.

The operator has failed to consistently maintain adequate cleanliness standards around the premises and waste storage areas. Food-related waste, litter, and general cleanliness issues have become a recurring concern. These matters negatively impact the presentation, hygiene, and amenity of the building and surrounding area.

Extending trading hours is likely to increase waste generation and place additional pressure on already inadequate waste management practices.

Conclusion

The business already causes significant and ongoing amenity impacts for residents living above and around the premises. The operator has not demonstrated compliance with existing trading conditions and has failed to adequately address long-standing concerns relating to noise, odour, waste management, and operational practices.

For these reasons, I respectfully request that the City of Sydney Council refuse the application to extend the trading hours of Pizza Hut at 446–458 Elizabeth Street, Surry Hills.

Thank you for your consideration of this submission.

Yours faithfully,

Sasha Jensen
Committee Member and owner of apartment 43/ 446-458 Elizabeth Street, Surry Hills, NSW 2010
Strata Plan 44070
446–458 Elizabeth Street
Surry Hills NSW 2010
[redacted]
5th August 2026

Regards
Sasha Jensen
[redacted]

From: Mark Brennan [redacted]

Sent on: Saturday, July 4, 2026 12:23:29 PM

To: council@cityofsydney.nsw.gov.au

Subject: RDU/1993/641/A

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Sir/Madam,
I'd like to oppose to application for extended hours for Pizza Hut.
This organisation is continuously leaving there rubbish at the front of the building and have no respect for occupants of this building.
I also find it quiet dangerous with multiple uber eats bikes park out the front on the pathway, where are the pedestrians suppose to walk?
The noise that comes out of this outlet late at night as well as the deteriorating of the footpath paving due to the high volume of traffic are major issues as well.
Unfortunately this company does not feel necessary to gain council approval to open for these hours as it all ready dose so.
Kind regards,
60/446-458 Elizabeth st
Surry Hills

Sent from my iPhone

From: Jaismeen Sangwan [redacted]

Sent on: Monday, July 6, 2026 2:46:45 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To the Assessing Officer,

I am writing as a regular customer of the Pizza Hut takeaway at 446–458 Elizabeth Street, Surry Hills, in support of its application to extend trading hours to 3:00am, Monday to Sunday.

As a customer, I value having a convenient and familiar food option available later at night. The store is particularly useful for people who finish work late, travel through the area after evening commitments, or simply need an affordable takeaway option when other businesses have closed. Extended hours would make the service more accessible to customers who already rely on it.

I also understand that the store has been making efforts to improve its operations and respond to concerns raised by nearby residents. It is important that businesses operating late take community feedback seriously, and I believe the steps being taken to address issues such as noise, cleanliness, and general management should be recognised.

The proposed extension would allow the business to better meet customer demand while continuing to operate responsibly within the local community. I respectfully support the application and hope the Council approves the requested trading hours.

Kind regard's

Jaismeen

From: Komal Kanger [redacted]

Sent on: Monday, July 6, 2026 2:54:37 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission-RDU/ 1993/641/A- 446-458 Elizabeth street Surry Hills NSW 2010- Attention

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Greetings

I am a customer of the Pizza Hut takeaway at 446–458 Elizabeth Street, Surry Hills, and I would like to support its request to trade until 3:00am, seven days a week.

For customers like me, the store provides a dependable option at times when there are very few places left open nearby. It is useful not only for late workers, but also for people returning home after travel, study, social commitments, or evening events. Extending the hours would allow customers to access food locally rather than having to travel further away late at night.

Given the location and the demand for late-night takeaway in the area, I believe the proposed hours are reasonable. I hope the Council gives favourable consideration to the application.

Kind regards,
Komal

From: J B [redacted]
Sent on: Tuesday, July 7, 2026 12:16:19 AM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To the Assessment Officer,

I am a resident of 450 Elizabeth Street, Surry Hills NSW 2010 and wish to object to the Development Application seeking approval for extended operating hours for the Pizza Hut premises.

While I support local businesses and recognise their contribution to the local economy, I do not support the proposed extension of operating hours due to the likely adverse impacts on residential amenity, public safety and the surrounding public domain.

The existing operation already generates a range of impacts that are regularly experienced by nearby residents. Extending the hours of operation would increase the duration and intensity of these impacts without adequately addressing the underlying issues.

Noise and Residential Amenity

The premises generates ongoing noise associated with customer activity, delivery riders, vehicle movements, staff operations and late-night patron movements. Extending operating hours would prolong these disturbances further into the evening and night-time period, adversely affecting the reasonable enjoyment of nearby residential properties and diminishing local amenity.

Waste, Cleanliness and Litter

There are ongoing concerns regarding waste management and litter associated with the operation, including food packaging, rubbish escaping waste storage areas and litter within surrounding streets and public spaces. Longer operating hours are likely to increase waste generation and place additional pressure on existing waste management arrangements.

Delivery Rider Activity and Public Safety

The operation relies heavily on delivery scooters and motorcycles. Delivery riders frequently congregate in the vicinity of the premises, resulting in footpath obstructions, unsafe stopping and parking practices, noise impacts and conflicts with pedestrians and other road users.

These activities have a direct impact on public safety and accessibility within an area already experiencing high pedestrian traffic. Extending operating hours would increase these impacts and further affect the safe and orderly use of the public domain.

Impact on the Public Domain

The cumulative impact of customer congregation, delivery operations, noise, litter and vehicle activity extends beyond the site itself and affects surrounding streets, footpaths and neighbouring properties. The proposal would effectively prolong these impacts into later hours, reducing the amenity of the area for residents and the broader community.

Planning Considerations

A fundamental objective of the planning framework is to balance commercial activity with the protection of residential

amenity and public safety. In circumstances where existing impacts are already evident, extending operating hours is inconsistent with this objective and would result in a greater burden on surrounding residents without demonstrable community benefit.

For these reasons, I respectfully request that Council refuse the application for extended operating hours. The proposal would unreasonably increase noise, waste, delivery rider activity and impacts on the public domain, to the detriment of nearby residents and the broader community. In my view, the application does not appropriately balance the interests of the business with the need to protect residential amenity and public safety within the surrounding area.

Thank you for considering this submission.

Yours faithfully,

JB

450 Elizabeth Street
Surry Hills NSW 2010

From: Charles Prouse [redacted]

Sent on: Monday, July 6, 2026 6:24:23 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I strongly object to this application - again. I live across the road from this Pizza Hut.

I registered my objection to this previously. Those objections still stand. Those being:

- It creates noise and associated poor conduct late at night, disrupting the opportunity for peaceful weeknights and sleep.
- It creates further delivery drivers parking their vehicles in spaces needed by residents.
- It creates additional waste in the area that locals like me have to face; and
- This is a residential area and sufficient food options are already available during normal weeknights.

They already operate late hours on weekends. It is unnecessary to operate long hours during the week, forcing residents to put up with the extra traffic, noise, rubbish, and disruption. Extending the hours only supports the business and doesn't benefit locals. If it does benefit anyone, it certainly isn't the majority of people who live in the area.

Thank you

Charles

From: [redacted]
Sent on: Monday, July 6, 2026 5:19:40 PM
To: City of Sydney <council@cityofsydney.nsw.gov.au>
Subject: RDU/1993/641/A - 446-458 Elizabeth Street, SURRY HILLS NSW 2010

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear CoS Planning Assessments Team,

I request that my full name and unit number to be withheld and kept private, not published - [redacted]

I strongly object to this application for all reasons previously submitted for DU/1993/641/A and DU/1993/641/B (added below).

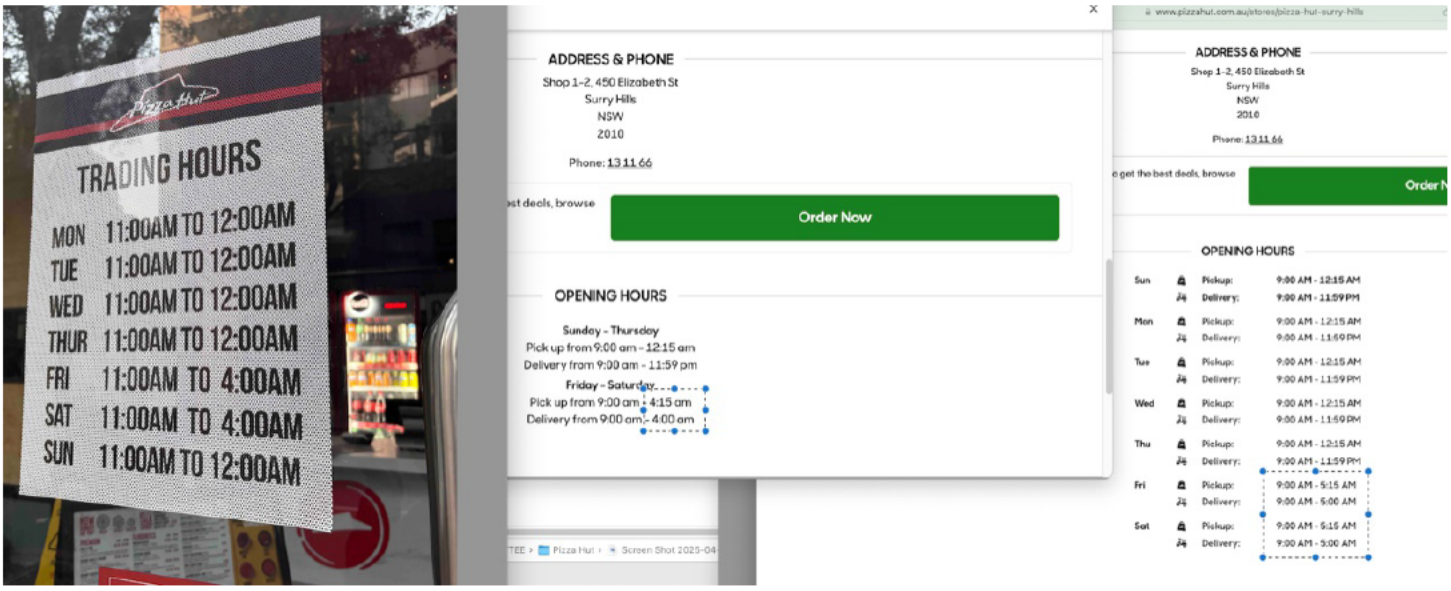
Additional to my previous submissions:

Security isn't maintained or respected, because the gate is regularly chocked open when there isn't a delivery in progress. It has been chocked open for extended periods of time too, either day or night, it varies.

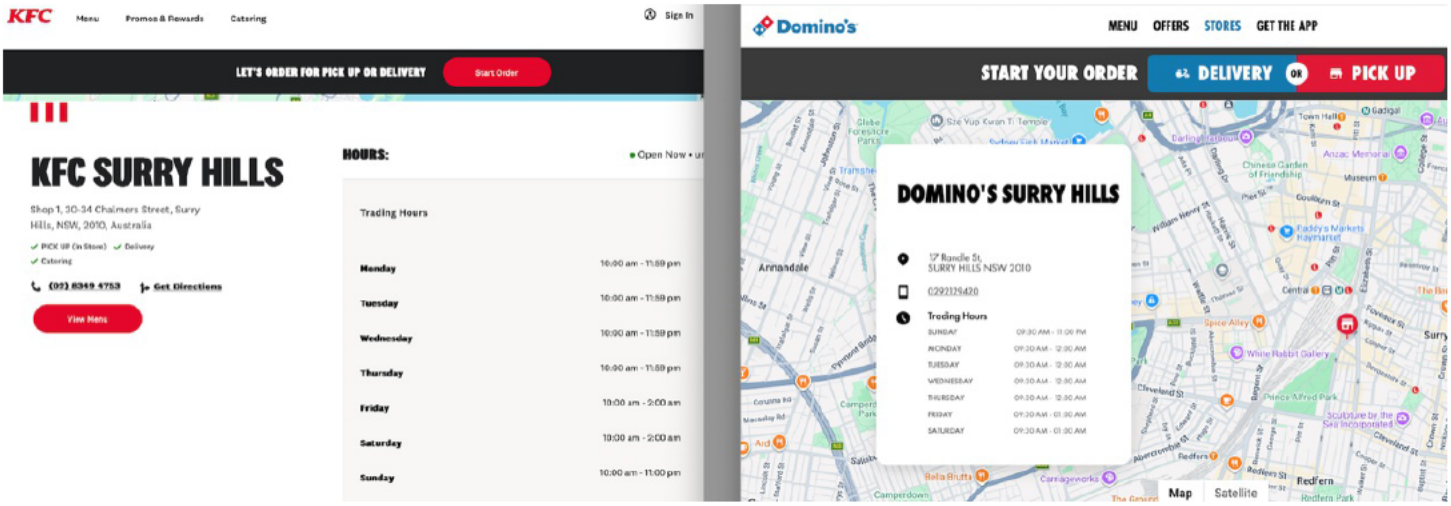
The extended hours Pizza Hut are seeking aren't suitable for it's current location. The kind of hours they want to operate are suitable for a different area/zone i.e. "Late night Management Area" or "City Living Area" zones.

Additional to trying to compare Pizza Hut with the brothel across the road, they are completely different businesses. Some major differences are that the brothel doesn't have residents living directly above it. The brothel does not have a noisy ventilation fan required for a food service. The brothel does not have delivery bikes frequently arriving/departing on both the road and footpath with alarms going off all the time.

Pizza Hut have progressively extended their hours of operation over time, and without any approvals. This demonstrates a pattern of behaviour that no doubt will continue, regardless of current approved hours. Refer to combined screenshot of door poster and website - the website screenshots are from 13-04-2025 and 05-07-2026.



I've also noticed that *neither* **KFC Surry Hills** or**Domino's Surry Hills** operate as late as Pizza Hut's unapproved trading times, and they are situated directly across from Central Station in the "City Living Area" zone, which is different to the "Local Centre Area" where Pizza Hut is situated.



I believe Pizza Hut should only operate to the current approved hours:

(4) That the hours of operation shall be restricted to between 11:30am to 10:00 pm Sundays to Wednesdays and 11.30 a.m. to 12.00 midnight Thursday to Saturday;

Kind regards
Resident
446-458 Elizabeth Street
SURRY HILLS NSW 2010

Previous submissions:

DU/1993/641/A:

I am writing to object to the proposed development for DU/1993/641/A - Site Address: 446-458 Elizabeth Street, SURRY HILLS NSW 2010

The reasons for my objection is the noise when residents are sleeping, the excessive rubbish it produces and footpath accessibility.

Pls note, Pizza Hut have been operating well outside the current approved hours for a very long time, and even while this DA is in review. Because of this, I believe there is absolutely no need for a "trial" of extended hours. Pls see screenshots at the end of this email showing their trading hours.

Noise issues

We constantly hear the "beeps" and "dings" of the delivery bike alarms when they arrive and leave. If the hours of extension are approved, the frequency of these bike alarms will only increase during the hours when most, if not all, residents, are sleeping. This wasn't considered or mentioned in the "Acoustic Impact Statement" by koikasacoustics document.

The ventilation fan is a requirement for Pizza Hut when operating, and this is noisey and can be heard by multiple residents, and currently affects their sleep during the unapproved trading hours (as mentioned above and in the screenshots below).

NB. As per NSW Legislation in Schedule 1 By laws:
An owner or occupier of a lot must not create any noise on the parcel likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.
The resulting noise at any extended hours will be in breach of this by law.

Rubbish

The amount of rubbish that will be produced will be greater if the requested extended hours are approved. There have been occasions where other businesses in our building have not been able to dispose of their rubbish because the bins are already full or overflowing. We see the rubbish after every weekend when Pizza Hut has been trading from 9am til 5.15am and it's excessive and poorly maintained.

Footpath accessibility

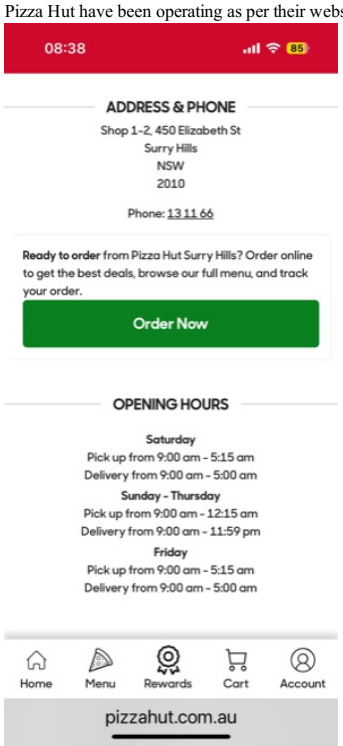
There are often times where there are multiple delivery bikes on the footpath out the front of Pizza Hut, they are obstacles. There are times when the bikes take up most of the of the footpath, and makes it more difficult for pedestrians to get through and would be totally inaccessible for people with certain disabilities.

This is a residential building and the requested extended hours go well beyond reasonable sleeping hours.

I believe Pizza Hut trading hours should remain as per the current approved hours of between 11.30am to 10.00pm Sundays to Wednesdays and 11.30am to 12.00 midnight Thursday to Saturday and Pizza Hut should understand they need to comply with the approved hours.

Screenshots

Pizza Hut have been operating as per their website hours:



This is well outside of the current approved hours:

(4) That the hours of operation shall be restricted to between 11:30am to 10:00 pm Sundays to Wednesdays and 11.30 a.m. to 12.00 midnight Thursday to Saturday;

The sign on their door has different hours again, also outside of the current approved hours:

DU/1993/641/B:

I strongly object to the proposed change to amend the hours of operation to 11.30am to 3.00am, Monday to Sunday for the below reasons.

Rubbish:

Pizza Hut currently don't manage their rubbish. Any extended hours will result in more rubbish which won't be managed based on the current poor management. On multiple occasions their rubbish hasn't been collected or it's been strewn accross the footpath. Images attached.

Non-compliance with the current approved hours of operation:

Pizza Hut have been operating well outside of the approved hours for a very long time. Screenshots from their website are attached. These screenshots are from a period of 01-11-25 to 07-03-26. For example, they operate from 9am to 5.15am the following morning every Friday and Saturday, however the approved hours for Friday and Saturday are 11.30am to 12am.

Noise:

Page 5 of the Acoustical Report:
"At night, activity typically slows and ambient noise levels reduce."
This is why all the various noises generated by Pizza Hut at night, when people are trying to sleep, is a major issue for residents. Noises are not only from the ventilation fan, but delivery bike alarms, staff communicating outside which can on occasion be quite loud, and the closing-up cleanup.

Page 5 of the Acoustical Report:
"This particular location was chosen as it was deemed to be representative of ambient noise levels experienced by those residences most sensitive to noise emitted by the development."
This location of the Noise Logger does not truly represent noise levels experienced by residents most sensitive. The Noise logging location was the furthest point from Pizza Hut - refer to Figure 1. Aerial image of the site page 5 of the Acoustical Report.
Pls note: the OC did not refuse access for testing, but the OC were unable to arrange access in the timeframe needed, and that timeframe wasn't advised to the OC.
I'd also like to know if they tried contacting any residents of 434, 432 or 481 Elizabeth Street, as they're closer than 6 Bedford Street.

Page 9 of the Acoustical Report:
"It has been found that, without additional noise attenuation measures, existing noise will exceed the acoustic requirements during the proposed extended hours. As such, acoustic controls have been identified and recommended in this report to reduce noise at the receiver locations to levels complying with the project acoustic requirements."
If Pizza Hut haven't complied with any by-law breaches or current approved hours over a very long time, I believe they will not implement or follow any of the recommendations either.

To address the 3x points on page 3 of the Creative Planning Solutions letter:
1.
The brothel, which also has a back entrance in little Buckingham Street, is a completely different business to Pizza Hut and therefore isn't a relevant comparison/point.

2. The vast majority of delivery drivers are not bicycles, they are e-bikes from external delivery drivers that are alarmed every time they arrive and leave. Often these alarms get stuck in a loop before they can be turned off.
"The noise impact would be similar to movements in and out of the nearby brothel, ..." - No, the noise impact is not similar in any way.

3. *"...little benefit would occur from imposing a trial period"* - I agree that there would be little benefit from imposing a trial period, but for a completely different reason. It's because Pizza Hut have already been operating well outside of the approved hours for a very long time (screenshots attached), hence the ongoing complaints and DA objections from multiple residents.

In Summary:

Pizza Hut have not abided by any of the approved hours as documented by the attached screenshots. This has resulted in many previous complaints to council. They have no regard for our residents or our community.

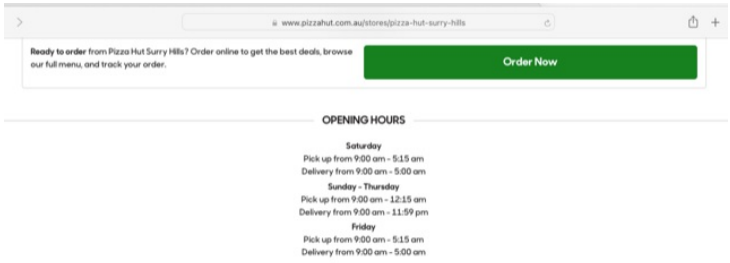
The proposed extended hours in this location will not *"contribute to vibrancy and vitality for a Global City"* [page 8 of Creative Planning Solutions letter] and it won't have a *"positive social impact"* [page 10 of Creative Planning Solutions letter] for the people who live in this building who are trying to sleep or who want to have their windows open without it smelling like pizza all the time.

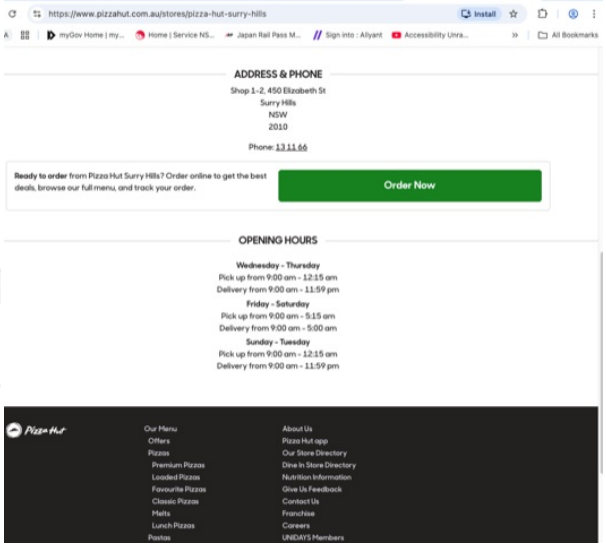
The only thing I do believe is that Pizza Hut will continue to operate well outside of any approved hours, not manage their constant mountains of rubbish, and continue to be the source of noise that disrupts many residents ability to sleep.

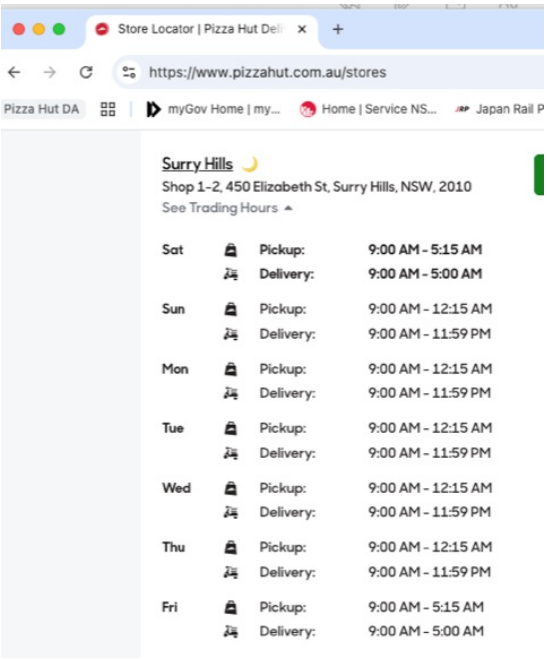
Finally, I also object to any trial period for the extended trading hours. This is because Pizza Hut have already been operating well outside of the current approved hours for a very long time and it hasn't been a positive experience.

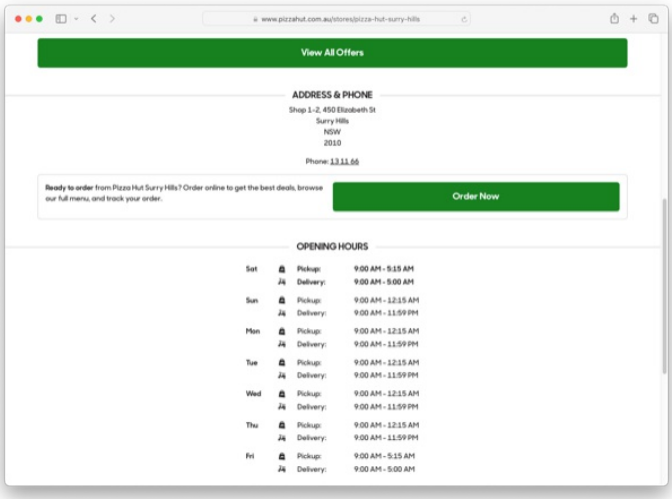
Kind regards

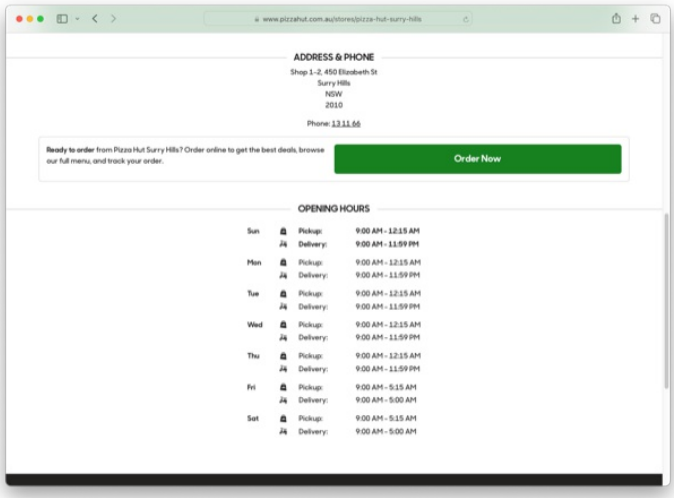
[redacted]

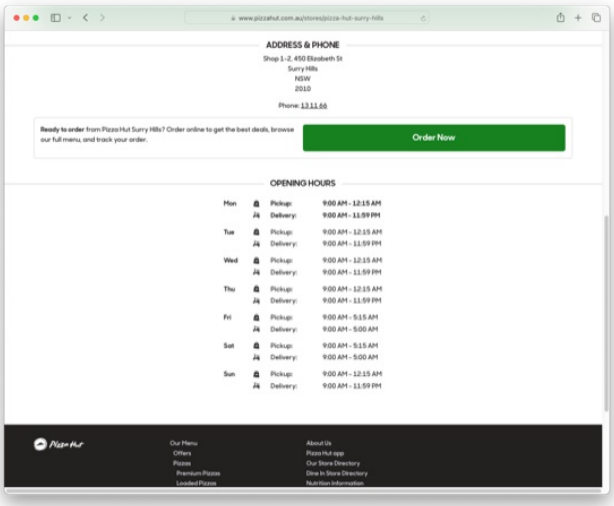





Store Locator | Pizza Hut Del
https://www.pizzahut.com.au/stores
Pizza Hut DA
myGov Home | my...
Home | Service NS...
Japan Rail P
Surry Hills
Shop 1-2, 450 Elizabeth St, Surry Hills, NSW, 2010
See Trading Hours
Sat Pickup: 9:00 AM - 5:15 AM
Delivery: 9:00 AM - 5:00 AM
Sun Pickup: 9:00 AM - 12:15 AM
Delivery: 9:00 AM - 11:59 PM
Mon Pickup: 9:00 AM - 12:15 AM
Delivery: 9:00 AM - 11:59 PM
Tue Pickup: 9:00 AM - 12:15 AM
Delivery: 9:00 AM - 11:59 PM
Wed Pickup: 9:00 AM - 12:15 AM
Delivery: 9:00 AM - 11:59 PM
Thu Pickup: 9:00 AM - 12:15 AM
Delivery: 9:00 AM - 11:59 PM
Fri Pickup: 9:00 AM - 5:15 AM
Delivery: 9:00 AM - 5:00 AM


View All Offers
ADDRESS & PHONE
Shop 1-2, 450 Elizabeth St
Surry Hills
NSW
2010
Phone: 13 11 66
Ready to order from Pizza Hut Surry Hills? Order online to get the best deals, browse our full menu, and track your order.
Order Now
OPENING HOURS


ADDRESS & PHONE
Shop 1-2, 450 Elizabeth St
Surry Hills
NSW
2010
Phone: 13 11 66
Ready to order from Pizza Hut Surry Hills? Order online to get the best deals, browse our full menu, and track your order.
Order Now
OPENING HOURS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Surry Hills
NSW
2010
Phone: 13 11 66
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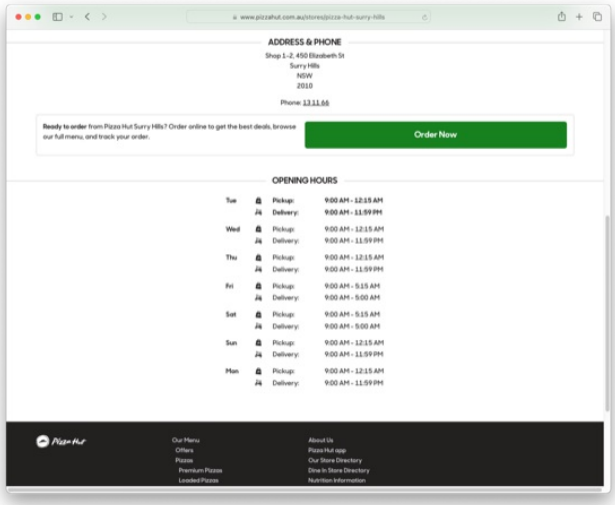
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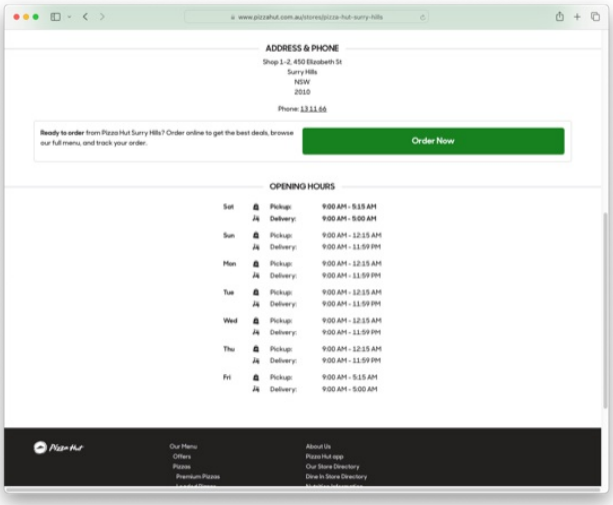
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NSW
2010
Phone: 13 11 66
Ready to order from Pizza Hut Surry Hills? Order online to get the best deals, browse our full menu, and track your order.
Order Now
OPENING HOURS

From [redacted]
Sent on [illegible]
To [illegible]
Subject [illegible]

Good [illegible]

[illegible]

Pizza Hut
pizzahut.com.au

m2

Previous response

PIZZA HUT HU 99364 /B

[illegible]

From: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au> on behalf of Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au> <Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>>
Sent on: Wednesday, July 8, 2026 4:42:26 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: DU/1993/641/B : Determination Notice - Refused

From: Rupert Burton [redacted]
Sent: Wednesday, 8 July 2026 2:51 PM
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>
Subject: Re: DU/1993/641/B : Determination Notice - Refused

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Re: Application RDU/1993/641/A

Hello,

I would like to object to this application shown above. Despite two previous applications that have been rejected the business continues to trade from 9.00 a.m - 4.00 a.m most nights of the week.

In my previous two objections I have listed numerous issues with the applicant trading through the night including pedestrian danger, resident disturbance, excess garbage and rodent issues, pavements & curbs being damaged and general noise.

Despite applying to trade for these extended hours the business has actually been opening longer hours leading to the issues I have outlined.

I would encourage the council strongly to reject this appeal and take steps to make this business trade to the hours that they are already allowed to.

Regards

Rupert Burton

On Fri, May 29, 2026 at 12:06 PM Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au> wrote:

> We refer to your submission about the above application. The matters you raised were considered when we assessed the application.
> The application has been refused. You can view the assessment report and notice of determination by entering the application number or address on the City of Sydney's website.
> The notice of determination contains reasons the application was refused.
> If you have any queries, contact the assessing officer whose details are in the notice of determination on the City of Sydney's website.
> Kind regards
> Planning Assessment Unit
>
> CITY OF SYDNEY
>
> contentmanager://record/?DB=CS&Type=6&Items=1&[Item1]&URI=19841303

cityofsydney.nsw.gov.au

The City of Sydney acknowledges
the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

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_____

From: <briad[redacted]
Sent on: Wednesday, July 8, 2026 4:01:57 PM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: RDU/1993/641/A

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Hello Adrian. Noting Council proposes to **make public** all submissions in regard to this issue, we feel we must refrain from officially approving/objecting to this closing time extension. However, the feeling of many residents in the area is that the noise factor and possible unwelcome street behaviour might increase. Perhaps a letter drop to the units in the area would have brought a valuable response of views to Council in its decision on this matter. Sure you understand. Regards,***Surry Hills Business Alliance.***

From: Kristina Simic [redacted]

Sent on: Wednesday, July 8, 2026 3:10:45 PM

To: dasubmissions@cityofsydney.nsw.gov.au

CC: James Lidis [redacted]

Subject: Submission - RDU/1993/641/A - 446-458 Elizabeth Street SURRY HILLS NSW 2010 - Attention Adrian McKeown

Attachments: Letter of Objection - RDU-1993-641-A - 446-458 Elizabeth Street.pdf (1.38 MB)

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Good Afternoon Adrian,

We are town planners acting on behalf of the Owners of Strata Plan 44070 located at 446-458 Elizabeth Street, Surry Hills.

Please accept the **attached** letter as a formal objection to RDU/1993/641/A for review of determination to extend hours for a takeaway food and drink premises on our client's behalf.

Should you have any questions or wish to discuss, please don't hesitate to contact us on 02 9262 3200.

Kind regards,

Kristina Simic – Town Planner
Design Collaborative
Town Planning and Liquor Licensing Consultants
Suite 802/99 York St, Sydney NSW 2000
Tel: (02) 9262 3200

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DESIGN COLLABORATIVE
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Town Planning and Liquor Licensing Consultants
www.designcollaborative.com.au

Managing Director
James Lidis
BTP (UNSW)
Registered Planner (PIA)

Director
David Rippingill
BEP (WSU)
Juris Doctor (UNE)
Registered Planner (PIA)

8 July 2026
Ref: 252212.1L
Adrian McKeown
City of Sydney Council
Via email: council@cityofsydney.nsw.gov.au

Public Objection to RDU/1993/641/A – Section 8.2(1)(b) Review of Determination of refusal to amend hours of operation for an existing takeaway food and drink premises – 446-458 Elizabeth Street, Surry Hills NSW 2010

We are town planners acting on behalf of the Owners of Strata Plan 44070 located at 446-458 Elizabeth Street, Surry Hills (***the Subject Site***). Our clients have instructed us to review and lodge and objection to RDU/1993/641/A (***the Application***). The Application is a Review of Determination made by way of s8.2(1)(b) of the *Environmental Planning and Assessment Act 1979* (***the Act***), and requests that the Sydney Local Planning Panel review the decision by City of Sydney Council to refuse DU/1993/641/B (***the modification application***).

The modification application sought to extend operational hours for an existing takeaway food and drink premises (known as 'Pizza Hut') from 11.30am to 3.00am, Monday to Sunday (***the Premises***). We have reviewed the materials submitted with the Application and associated modification application, and are of the view that the original refusal should be upheld on the following town planning grounds;

i) Non-compliance with Part 3.15 of Sydney DCP 2012 – The Application proposes extended trading hours that are beyond that are non-compliant for a 'Category B' Low Impact Premises and has not provided adequate justification for a variation from the controls.

ii) Incompatibility with Local Character – The Application is not compatible with the late-night character of the area as established by controls in Part 3.15 of Sydney DCP, and consequently has potential to generate significant physical impact that is presently mitigated against.

iii) Intensification of Use – The Application results in an intensification of use, that consequentially results in unacceptable impact without adequate mitigation measures in relation to noise, waste and social impacts.

iv) Insufficient Information – The Application does not provide sufficient information to be satisfied it is compliant with the relevant planning controls and building standards, or capable of operation without adverse impact.

v) History of Poor Management and Non-compliance - the Applicant has a demonstrated history of poor management in relation to use the Premises resulting in ongoing issues for our client and the community in relation to noise, odour and waste, as well as a history of operation outside the approved trading hours. This track record indicates that the Applicant

is not capable of managing the proposed development responsibly in a manner that mitigates adverse impact and would instead be likely to aggravate those impacts.

For the reasons above, the proposed development must be refused. Alternatively, Council must request the Applicant to withdraw the Application and significantly reconsider, redesign and reframe the proposal to permit a manageable intensity with strict operational conditions. A further discussion is provided under the headings below.

Subject Site and Surrounds

The Subject Site is addressed 446-458 Elizabeth Street, Surry Hills and is legally described as Strata Plan 44070. The Subject Site is owned by our clients. The pizza hut shop is located at the ground floor of the Subject Site in Shops 1-2. Refer to **Figure 1** below.

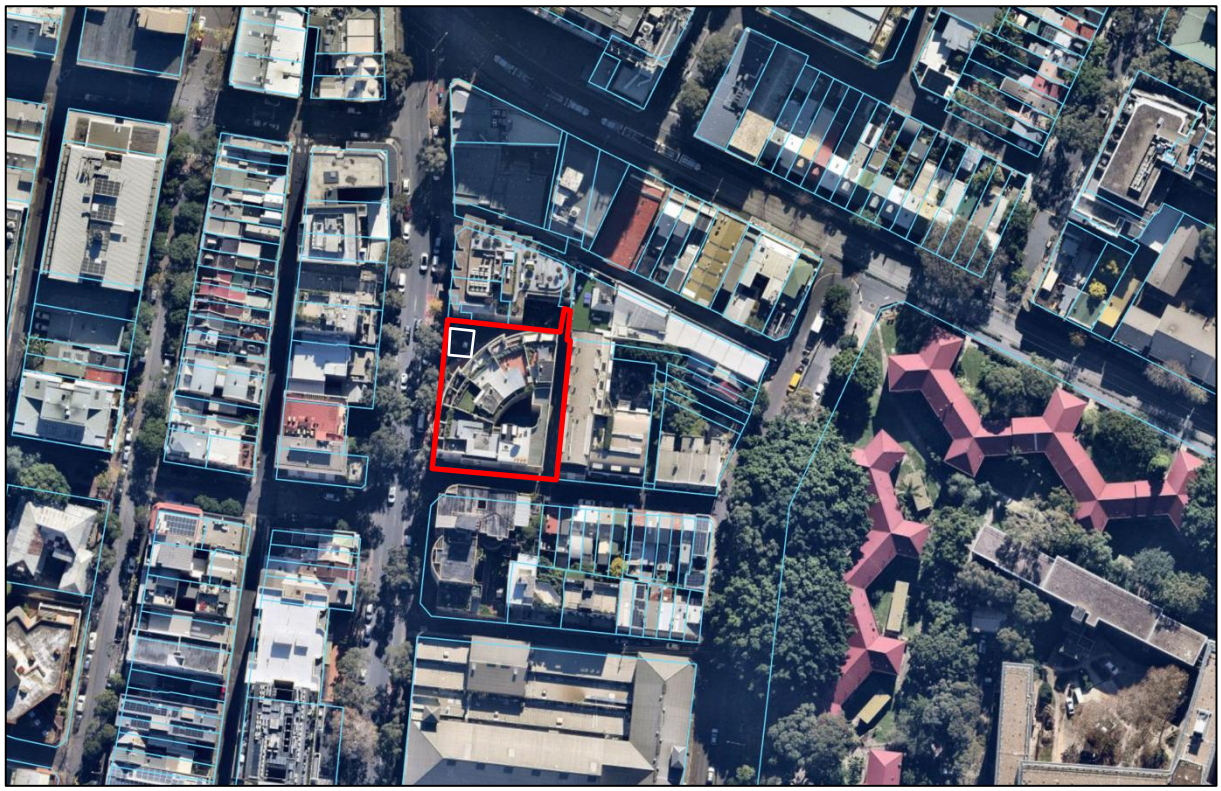


Figure 1. The Subject Site (white outline), our client's land (red outline).

The Subject Site is improved by a six storey (6) building comprising sixteen (16) ground floor commercial tenancies and eight (8) first floor commercial tenancies, with nineteen (19) residential units above. Most commercial tenancies within the building trade during daytime hours. Pedestrian access to commercial tenancies and residential units is via Elizabeth Street, whilst vehicular access is via Brumby Street. The Subject Site contains two (2) levels of basement parking with 71 spaces. The Subject Site is located approximately 350m walking distance from Central Station and Chalmers Street Light Rail Station.

The Subject Site is zoned 'MU1 Mixed Use' and located in a 'Local Centre' Late Night Trading Area under Sydney DCP 2012. It is predominantly surrounded by medium density residential development including multi-dwelling housing and residential flat buildings, with some commercial development at ground level. Adjoining the Subject Site to the north is a five (5)

storey building with ground floor commercial development and residential units above. Adjoining the Subject Site to the east is a five (5) storey residential flat building.

Development History

DU/1993/641 was approved on 17 August 1993 by City of Sydney Council via delegated authority for use and fit out of the Premises as a *'takeaway shop and delivery unit for Pizza Hut Australia generally in accordance with plans dated 1 July 1993'*. The hours of operation were restricted between 11.30am to 10pm, Sundays to Wednesdays and 11.30am to 12 midnight, Thursday to Saturday. Four (4) staff and two (2) basement parking spaces were proposed. The approved delivery driver waiting positions are shown in **Figure 2**.

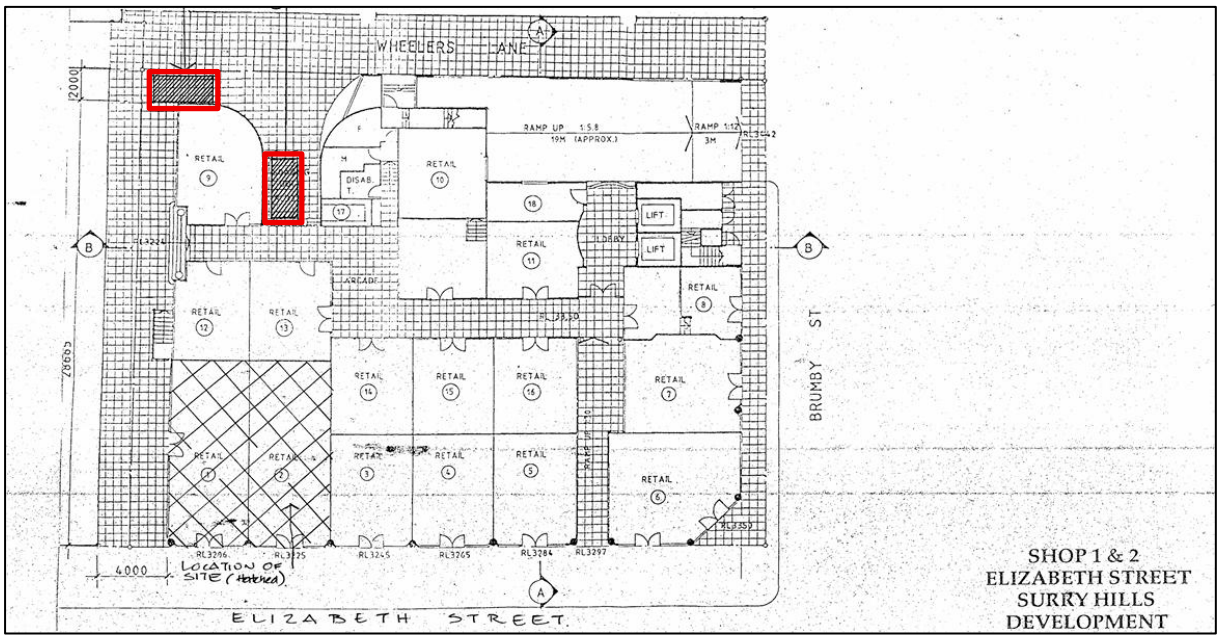


Figure 2. Approved Plans for DU/1993/641 with delivery driver waiting positions in red.

DU/1993/641/A was refused on 1 December 2025 by City of Sydney Council via delegated authority. The application sought to extend operational hours for the approved takeaway food and drink premises to 11.30am to 12.00am, Monday to Sunday on a permanent basis and 11.30am to 3am, Monday to Sunday on a trial basis. The Application received 11 submissions (9 objections and 2 in support), including a submission from our clients. The application was refused on the grounds of; (i) insufficient information; (ii) unacceptable amenity impact and (iii) not in the public interest.

DU/1993/641/B was refused on 28 May 2026 by City of Sydney Council via delegated authority. The application sought to extend operational hours for an existing takeaway food and drink premises to 11.30am to 3.00am, Monday to Sunday. The application received 16 submissions (11 in objection and 5 in support), including a submission from our clients. The application was refused for the same reasons as DU/1993/641/A.

The Proposal

The Applicant has requested a Review of Determination of DU/1993/641/B by way of s8.2(1)(b) of the Act. The request has been submitted with the following materials;

- Planning Statement by Creative Planning Solutions dated 14 June 2026;

- Plan of Management dated June 2026;
- Statement of Environmental Effects by Creative Planning Solutions dated 20 February 2026;
- Acoustic Report by Koikas Acoustics dated 14 December 2025; and
- Architectural Drawings by Quattro Design Group dated 1 July 1993.

The Applicant has not proposed amendments to the development subject of the original modification application. The Applicant has requested that the review be conducted by the City of Sydney Local Planning Panel pursuant to s8.3(4)(c) of the Act.

Reasons for Objection

1. Non-compliance with Part 3.15 of Sydney DCP 2012

The refusal should be upheld as the proposed trading hours are non-compliant with the maximum trading hours permissible for a 'Category B – Low Impact Premises' within a 'Local Centre' per s3.15.4 of Sydney DCP 2012. The Applicant is incorrect in their position that the premises should be categorised as a 'Category C' premises and therefore benefit from more lenient extended trading hours. The Applicant has not provided sufficient justification to warrant a variation from the controls by way of s4.15(3A)(b) of the Act.

Permissible Trading Hours

The base consent granted approval for use of the Subject Site as a takeaway shop and delivery unit. The equivalent land use characterisation under the *Sydney Local Environmental Plan 2012* is for a ***take away food and drink premises*** which means *premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.* A takeaway food and drink premises is clearly included as a 'Category B' premises and excluded as a 'Category C' premises for the purpose of Section 3.15 of Sydney DCP 2012 when the definitions are read in conjunction with one another. Refer to **Figure 3** below.

Category B – Low Impact Premises means any of the following premises:

(i) a hotel within the meaning of the Liquor Act 2007 that has a capacity of 120 patrons or less and is designated as a small bar or general bar licence;

(ii) premises that have a capacity of 120 patrons or less where the primary purpose is the sale or supply of liquor for consumption on the premises;

(iii) an on-premises licence within the meaning of the Liquor Act 2007;

(iv) any premises where the owner or occupier sells or supplies liquor for consumption on the premises that is not a Category A Premises;

(vi) any other commercial premises, other than Category C premises, which in the opinion of the Council may impact on the amenity and safety of a neighbourhood resulting from its operation at night, including but not limited to, food and drink premises, takeaway food and drink premises, theatres, karaoke venues, convenience stores, entertainment facility and stand-alone gyms in buildings with residential accommodation and the like; or

(vii) A dedicated performance venue, which may be licensed and includes theatres, cinema, music hall, concert hall, dance hall or other space that is primarily for the purpose of performance, creative or cultural uses, with the capacity of up to 250 patrons, but does not include a pub, bar, karaoke venue, small bar, nightclub, adult entertainment venue or registered club.

Category C – means any of the following premises:

(i) Any retail premises or business premises which does not sell, supply or allow the consumption of liquor on or off the premises or hold any license under the Liquor Act 2007. This may include premises selling groceries, personal care products, clothing, books/stationery, music, homewares, electrical goods and the like, or businesses such as drycleaners, banks and hairdressers and the like. It does not include convenience stores, food and drink premises, takeaway food and drink premises, gyms in buildings with residential accommodation, or adult entertainment venue or sex services premises.

Figure 3. Definition of 'Category B' and 'Category C' premises (Source: *Sydney DCP 2012*).

Generally, a 'Category B' premises is permitted to trade extended hours between 7am and 12 midnight within a 'Local Centre Area'. The Premises is already permitted to trade up until 12 midnight under the base consent. Additional hours are permitted between 7am and 2am, if it can be demonstrated that egress/ingress of patrons will be into a main street, and not a predominantly residential area to the satisfaction of Council. Refer to **Figure 4** below.

The southern portion of Elizabeth Street bounded by Devonshire Street and Belvoir Street is the relevant area for consideration under the above exemption. Elizabeth Street is a 'main street' within Sydney DCP 2012, however the area surrounding the Premises is predominantly residential in character given the presence of medium density multi-dwelling housing and residential flat buildings, with some small scale commercial development at ground level. It is distinguished from other comparable main streets in local centre areas such as Chalmers Street or the northern portion of Elizabeth Street bounded by Devonshire Street and Cooper Street, which exhibit a more dominant commercial character with offices and warehouses that are suited to accommodating later trading hours due to the absence of residences.

The Applicant has not provided any evidence or arguments to state otherwise, and as such the Premises is not entitled to the exemption. The proposed trading hours request an additional three (3) hours compared to what is permitted and are non-compliant with Sydney DCP controls. The Applicant has not demonstrated that notwithstanding non-compliance, the Application meets the objectives of the controls with reasonable alternatives, as required per s 4.15(3A) of the Act. As such the refusal should be upheld.

		Category A		Category B		*Category C Unlicensed premises Indoor*
		Indoor	Outdoor	Indoor	Outdoor	
Late Night Management Area	Base	6am to midnight	9am to 10pm	6am to 2am	7am to 10pm	24 hours
	Extended	24 hours	9am to 1am	24 hours	7am to 1am	
City Living Area	Base	7am to 11pm	9am to 10pm	7am to 1am	7am to 10pm	24 hours
	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	
Local Centre Area	Base	9am to 10pm	9am to 10pm	7am to 11pm	7am to 10pm	7am to 2am
	Extended	9am to midnight	9am to 10pm	7am to midnight*	7am to 10pm	

(2)	Notwithstanding Table 3.8, proposals for extended indoor hours of Category B premises in Local Centre Areas up to 2am may be approved but only if Council is satisfied that entry and egress of all patrons will be onto a main street and not onto a laneway which abuts residential properties, or into a predominantly residential area.

Figure 4. Permissible base and extended late night trading hours (Source: *Sydney DCP 2012*).

Classification as a Category C Premises

The Applicant argues that because the Premises exhibits operational characteristics closer to a 'Category C' premises, it should be classified in this manner, despite the clear wording of the definitions (discussed above). In the Statement of Environmental Effects and Planning Statement lodged with the Application, the town planners have cherry picked parts of each definition to support their argument. The operational characteristics include the absence of a liquor licence, that trading is restricted to indoors with persons not occupying the Subject Site for long, and no live entertainment provided. See below extract.

> *Part 3.15 of SDCP 2012 describes Category C Premises as retail premises or business premises which do not hold a liquor licence. This includes premises selling a range of good, including groceries, personal car products, and clothing. For reasons that are unclear, it also excludes any food and drink premises.*
>
> *Both the First Modification and the Second Modification have suggested that the existing Pizza Hut, which does not hold a liquor licence, plays no music, and accommodates very few people, is better captured by the controls that are relevant to Category C Premises.*[1]

It is noted that it is not a requirement to hold a liquor licence or provide live entertainment to be classified as a 'Category B' premises as is clear from points (vi) and (viii) of the definition. All that must be satisfied is that '*in the opinion of the Council* [the premises] *may impact on the amenity and safety of the neighbourhood resulting from operation at night*'. The reason why take away food and drink premises are excluded from 'Category C' and included in 'Category B' is that they have potential to generate more impact during late night hours compared to other types of low risk businesses such as banks, grocery stores, bookstores and the like.

The operation of a takeaway food and drink premises is not comparable to the other businesses cited by the Applicant. They can involve the operation of a kitchen with mechanical exhaust, they attract different types of patrons during late hours of operation (such as those intoxicated or in groups), and they can involve patrons and delivery drivers waiting on the street in intervals of up to 10-15 minutes whilst food is prepared. These factors generate a greater risk of impact, despite the absence of a liquor licence or live entertainment being provided and so warrant classification of the Premises as a 'Category B' premises.

Even if the Premises were classified as a 'Category C' premises, the hours proposed are beyond that which are permitted by the Sydney DCP 2012, which are between 7am to 2am, Monday to Sunday. The Applicant has not demonstrated that notwithstanding non-compliance, the Application meets the objectives of the controls with reasonable alternatives, as required per s4.15(3A) of the Act. As such the refusal should be upheld.

[1] Planning Statement prepared by Creative Planning Solutions, p.2

2. Incompatible with Local Character

The refusal should be upheld as the Application is incompatible with the existing or desired future character of the area established by s3.15 of Sydney DCP 2012 through controls for late night trading, per the planning principle in *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191* [24].

The Subject Site is located in a 'Local Centre' Late Night Trading Area as shown in **Figure 5**. Per Schedule 3 of Sydney DCP 2012, Local Centre Areas primarily cater to people who live and work in the locality (with a minor destination role), and are intended to have active and vibrant night-time economies that operate at a lower intensity and scale to other areas within the late-night hierarchy such as Late Night Management Areas and City Living Areas. Local Centre function as the last buffer between late-night trading zones and non-late-night trading zones.

There are ten (10) late-night trading premises within a 250m radius of the Subject Site as summarised in **Table 1**. Six (6) of those businesses are licensed premises and four (4) are takeaway food and drink premises. The late-night trading premises are concentrated northwards of the Subject Site along Devonshire Street and in close proximity to public transport. There are no premises trading past 12 midnight located south of Devonshire Street. The hours of operation for existing late-night trading premises are generally consistent with that permitted in each late night trading zone. Within the local area, the only types of premises that trade beyond 2am are licensed pubs located within the Devonshire Street 'Late Night Management' zone and the kebab shop that is located on the corner of Devonshire Street and Elizabeth Street.[2]

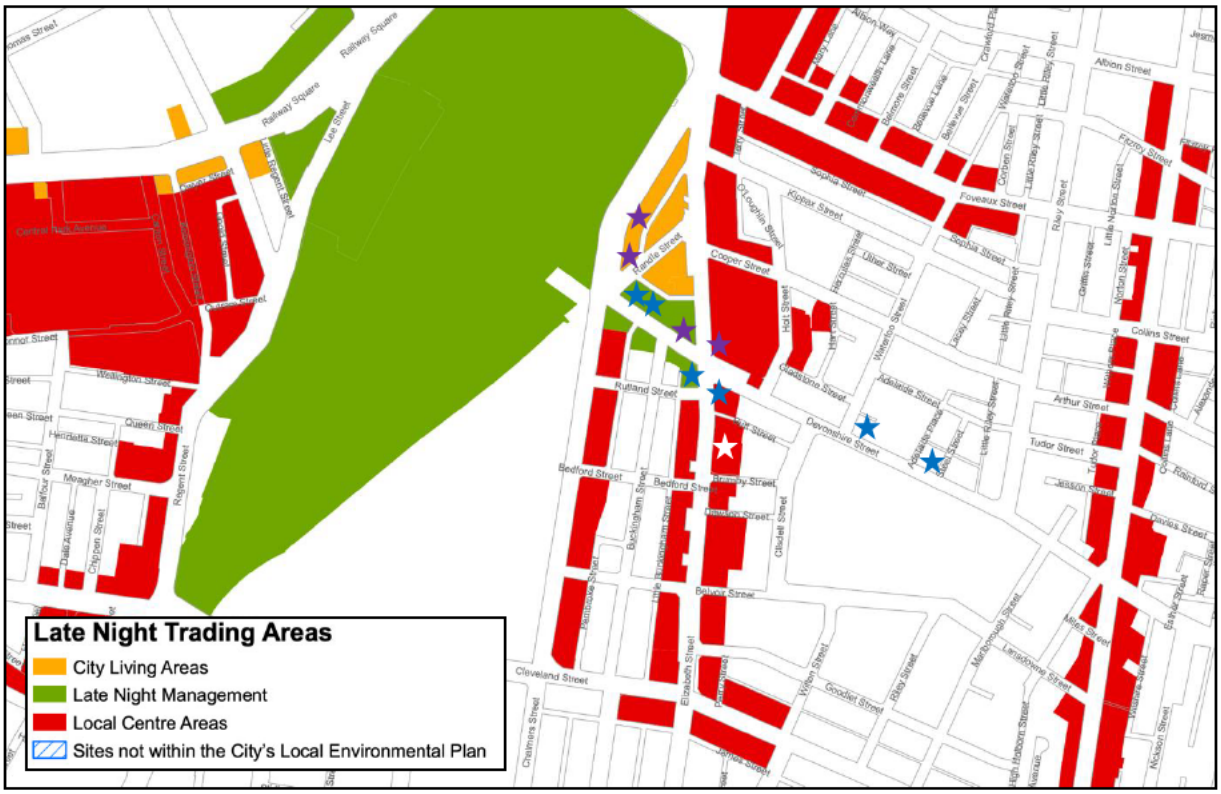


Figure 5. Late Night Trading Areas Map. Licensed Premises (*in blue*), Takeaway Food and Drink Premises (*in purple*) and Subject Site (*in white*) (*Source: Sydney DCP 2012*).

[2] No development consent could be located for this shop verifying these hours are approved.

Table 1. Late Night Trading Premises in the Vicinity		
Address	Use	Operation
453 Elizabeth Street, Surry Hills (The Strawberry)	Licensed Pub	• 10am to 4am, Monday to Saturday • 10am to 12am, Sunday
64 Devonshire Street, Surry Hills (Molly Malone's Irish Tavern)	Licensed Pub	• 10am to 4am, Monday to Sunday
52 Devonshire Street, Surry Hills (Madison Hotel)	Licensed Pub	• 5am to 5am, Monday to Sunday
156 Devonshire Street, Surry Hills (The Dove and Olive)	Licensed Pub	• 12pm to 10.30pm, Sunday to Wednesday • 12pm to 9pm, Wednesday • 12pm to 12am, Friday to Saturday
200 Devonshire Street, Surry Hills (Shakespeare Hotel)	Licensed Pub	• 11am to 10pm, Sunday to Monday • 11am to 11pm, Tuesday to Wednesday • 11am to 12am, Thursday to Saturday
420 Elizabeth Street, Surry Hills (Li'l Darlin Surry Hills)	Licensed Small Bar	• 12pm to 10pm, Tuesday to Thursday • 12pm to 12am, Friday to Saturday
2/414 Elizabeth Street, Surry Hills (Metro Kebab Surry Hills)	Takeaway food and drink premises	• 9am to 1am, Monday to Thursday • 9am to 5am, Friday • 10am to 5am, Saturday • 12pm to 1am, Sunday
86-88 Devonshire Street, Surry Hills (Subway)	Takeaway food and drink premises	• 8am to 11pm, Monday to Friday • 9am to 11pm, Saturday to Sunday
17 Randle Street, Surry Hills (Domino's Pizza)	Takeaway food and drink premises	• 9.30am to 12am, Monday to Thursday • 9.30am to 1am, Friday to Saturday • 9am to 11pm, Sunday
30-34 Chalmers Street, Surry Hills (KFC)	Takeaway food and drink premises	• 10am to 12am, Monday to Thursday • 10am to 2am, Friday to Saturday • 10am to 11pm, Sunday

Table 1. Late Night Trading Premises in the Vicinity.

The proposed hours of operation would encourage visitors of surrounding licensed pubs and travelling via Central on their way home to seek out the Premises for a late-night meal between the hours of 12 midnight and 3am, after other takeaway food and premises are closed. It would therefore draw groups of people (that are potentially intoxicated) into a local centre buffer area and increase the risk of impact to sensitive residential areas that are otherwise mitigated by the current controls such as noise and social impact (as discussed below).

In addition to the above, the Premises is a well known fast food chain that captures a certain type of market. There are no other 'Pizza Hut' or 'Dominos' stores within an 8km radius of the Subject Site that operate past 1am on a daily basis (aside from Pizza Hut Stanmore and Dominos CBD). During the proposed hours of operation, the Premises is therefore also likely to accommodate delivery demand over a catchment area that exceeds the locality of Surry Hills and extends to broader Sydney (as verified on the Uber Eats app). It therefore has potential to operate at a significantly larger scale and intensity, compared to what is expected of a local pizza shop. The operational hours proposed are not commensurate with the needs of the local community and a local centre, and for this reason even more likely to contribute to severity of impacts (as discussed below).

It is considered the Application's physical impacts on the surrounding development will not acceptable, and therefore on that basis it is not compatible with the existing or desired future character for the area per *Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191* [24], and a refusal should be upheld.

3. Intensification of Use and Environmental Impact

The refusal should be upheld as the Application results in an intensification of the existing use which is not compatible with the residential character of the area or constraints of the Subject Site and will consequently result in unacceptable environmental impact to our clients.

Noise Impact

- *Acoustic Methodology*

The following concerns are raised with respect to the acoustic assessment lodged with the Application.

1. It conducted noise monitoring on the awning of 6 Bedford Street, Surry Hills, rather than at a location closer to the most sensitive residential receivers above or adjoining the Premises 446-458 Elizabeth Street (our clients land) or 444 Elizabeth Street. Our clients have advised that the Applicant approached them to conduct noise monitoring on their land, and that our clients were amenable to further testing. However, the Applicant did not follow up this request or nominate a timeframe prior to lodgement. As such our clients are concerned that the acoustic report does not accurately capture background noise levels for the Premises and underestimates impact to their land.

2. It assesses the proposed operation in relation to mechanical plant equipment only. It does not assess the use of the premises in relation to patron noise and staff noise (including delivery drivers) even though this was requested by Council. Our clients have made multiple complaints to Council in relation to those matters and existing impacts to residences, and these should be addressed as part of the Application (as discussed above).

3. It does not assess compliance of the Application against Condition 23 of the base consent as follows:

   That the use of the premises shall not give rise to:

   (a) transmission of vibration to any place of different occupancy;

   (b) a sound level in any place of different occupancy greater than 3dB above the L90 background level in any octave band from 31.5 Hz to 8000 Hz centre frequencies inclusive; however, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for

The above concerns have significant bearing on the accuracy of the acoustic assessment with respect to ongoing operational impact of the proposal and its ability to comply with applicable noise criteria. As such, the consent authority cannot be satisfied that the proposal would operate without adverse impact until those matters are addressed.

- *Noise Generated from Mechanical Plant*

The Application proposes to intensify hours of operation beyond existing between 12 midnight and 3am. Mechanical exhaust will be operated during the proposed extended hours and has potential for sleep disturbance. The noise criteria that must be complied with for sleep disturbance are more stringent, and the Premises was only constructed in 1993, therefore unlikely having existing acoustic attenuation measures to mitigate such noise impact.

The Acoustic Report recommends physical upgrades to the mechanical riser in order to mitigate impact, however the appropriateness of those recommendations are drawn into question given the issues with the acoustic methodology raised above.

- *Noise Generated from Patrons and Staff*

The Application has potential to generate additional noise impact between 12 midnight to 3am as a result of patron and staff activities, including noise from staff in the kitchen talking and clanging utensils to make food, patrons shouting as they walk through the street, beeping sounds from delivery e-bikes, sound from delivery vehicle movement and slamming of car doors. Due to the small size of the shopfront, it is highly likely that activities of the Premises cannot be contained indoors and that patrons and delivery staff will be pushed onto the street whilst they wait for orders which can involve intervals of up to 10-15 minutes. Depending on the efficiency of food preparation time during those periods, and the scale of consumer demand this could result in a significant number of people loitering on the street whilst waiting for orders.

The Application does not propose any measures to manage impact of the Premises on the street within the immediate vicinity to mitigate the above concerns. It is noted that the Premises has been illegally trading beyond the hours approved in their development consent. During this period, our clients have made complaints and submissions to Council providing verifiable evidence of the above impacts, and that they are of legitimate concern and should not be dismissed lightly.

Social Impact

- *Crime Prevention Through Environmental Design*

As discussed above, the Application is considered to increase the risk of anti-social behaviour and crime impact to residences, as the Premises is likely to attract intoxicated groups of patrons seeking a quick meal into the surrounding area. The behaviour encouraged might include patrons yelling and shouting, drinking on the street, or littering. Due to the absence of other late-night trading business along the southern portion of Elizabeth Street or CCTV footage at the Premises, there is a lack of passive surveillance that would deter anti-social behaviour.

- *Lack of Management Measures*

The Application is lodged with a Plan of Management (***PoM***) for the Premises. This is a requirement for Category B premises per Part 3.15 of Sydney DCP 2012. The Plan of Management lacks detail and has not been prepared with adequate consideration to Schedule 3 of Sydney DCP 2012 as required by Control 3.15.5.1 of Sydney DCP 2012.

The following concerns are raised with the proposed Plan of Management;

- The PoM does not accurately describe the site and locality details. It omits reference to the fact that the Premises is located within a predominantly residential area.

- The PoM does not specify any limits on patron capacity nor strategies to 'manage patron departure' before closing time to protect the general amenity of the area. In the event the Premises was permitted to operate past 12 midnight, it is recommended a restriction be incorporated that does not permit patrons to access the Premises for pick-up or dine in orders to address the concerns raised above.
- The PoM does not specify the delivery catchment area for the Premises. Typically take away franchises operate within a delivery catchment area, so as not to impede on the business of other stores and ensure timely delivery of orders. It is recommended in the event that the Premises was permitted to operate after 12 midnight, the franchise catchment for the Premises should be nominated in food delivery applications (such as UberEats, Deliveroo, Doordash etc.) to ensure that the store is serving the local community only.
- The PoM does not specify the number of delivery staff that are employed at the Premises after 12 midnight. The number of delivery staff employed should be proportionate to demand, as determined by the size of the delivery catchment area and hours of operation. The Premises should have data from historic operations or other franchises which is able to predict this accurately. Delivery staff on food delivery applications can be limited by limiting the delivery catchment area.
- The PoM does not specify the waiting locations for delivery staff and notes they are '*discouraged from parking on the footpath*'. The approved Architectural Drawings for the site show the nominated waiting areas, however these are behind locked gates and not accessible. A suitable location should be nominated for delivery staff to park vehicles and wait for orders, that mitigates impact to residences.
- The PoM does not identify the location of the Waste Storage Area on a plan or specify the frequency at which waste collection will occur and at what times.

As such, the consent authority cannot be satisfied that adequate measures are in place to mitigate potential impacts of the proposed development with respect to noise, patron behaviour, delivery vehicles and general amenity. A refusal should be upheld on this basis.

Waste Impact

The Application does not provide sufficient facilities for the storage and servicing of waste generated by the proposal. The amount of waste and storage space required for the Premises is calculated in **Table 2** below in accordance with the *Better practice guide for resource recovery in residential developments*.

Premises type	Suggested generation (litres per unit per day)		Comments
	Waste	Paper, cardboard and commingled materials	
Food retail: takeaway (with sit-down area)	500	240	Per premises (80 m^2) – day operation only Note consideration must be given to the number of hours or operation.

Table 2. Waste Generation Rates			
Use	Rate	Waste Generated (weekly)	Bins Required (Total)
Food Retail (takeaway: sit down area)	(G) – 500L per day (R) – 240L per day	(G) – 3,500L per week (R) – 1,680L per week	(G) – 6 x 660L bins (R) – 3 x 660L bins

These guidelines form the best practice standard for waste management in New South Wales, and are more up to date than current City of Sydney Guidelines which do not contain rates for takeaway food and drink premises. For a takeaway food and drink premises that includes a sit-down area, such as the subject Pizza Hut, it is relevant to consider hours of operation in determining waste generation rates. Contrary to what is claimed within the Planning Statement, waste is a relevant consideration to the Application, as an intensification in hours of operation will also therefore require more space for waste storage.

If there is insufficient space within the communal waste area to accommodate the generation of waste per the above rates, it is the responsibility of the operator to include a waste storage within their tenancy which is compliant with best practice standards. Consent from the owner of the tenancy is required to enable this, not the owner's corporation. It is not acceptable to store commercial waste bins an area that is not enclosed or equipped with the appropriate infrastructure, as it can attract vermin and create odour impacts. Our clients have advised and provided evidence to Council that this is already an issue with the operation of the Premises.

There is also no legal onus for an Owners Corporation to provide more waste storage space for commercial tenancies. It is common that food and drink premises within stratum buildings organise their own waste storage arrangements, given these types of development have propensity to generate more waste compared to other uses or what the building was originally designed for. The Applicant must prepare a Waste Management Plan for the Subject Site which demonstrates the anticipated waste generation, bin requirements, collection frequencies and proposed storage areas.

4. Insufficient Information

The refusal should be upheld on the basis that insufficient information has been provided to Council in order to conduct and assessment of compliance with the relevant planning and buildings standards, as well as its merits. The following amended material needs to be provided to address the information gaps discussed above.

- **Updated Acoustic Report**. To address noise monitoring location and include assessment of noise generated from the use of the Premises.
- **Updated Plan of Management**. To incorporate more robust management measures in order to mitigate potential impact arising from late night operation.
- **Waste Plan of Management**. To calculate waste generation rates and determine waste storage area and bin requirements.
- **Odour Impact Assessment**. To respond to concerns previously raised by our client in response to smells generated from the Premises.

5. History of Poor Management and Non-compliance with Development Consent

We have been advised by our client that the Applicant has a history of complaints and operation beyond the approved hours listed in their development consent. Council has a record of these complaints dating 2 May 2025 to present, which raise ongoing issues in relation to noise, waste,

odour and operational hours. We note that even though the operator of the Premises has changed overtime, the current Applicant is still operating the Premises until 5am on Friday and Saturday in spite of the application currently before Council and previous. Refer to screenshots below taken 7 July 2026.

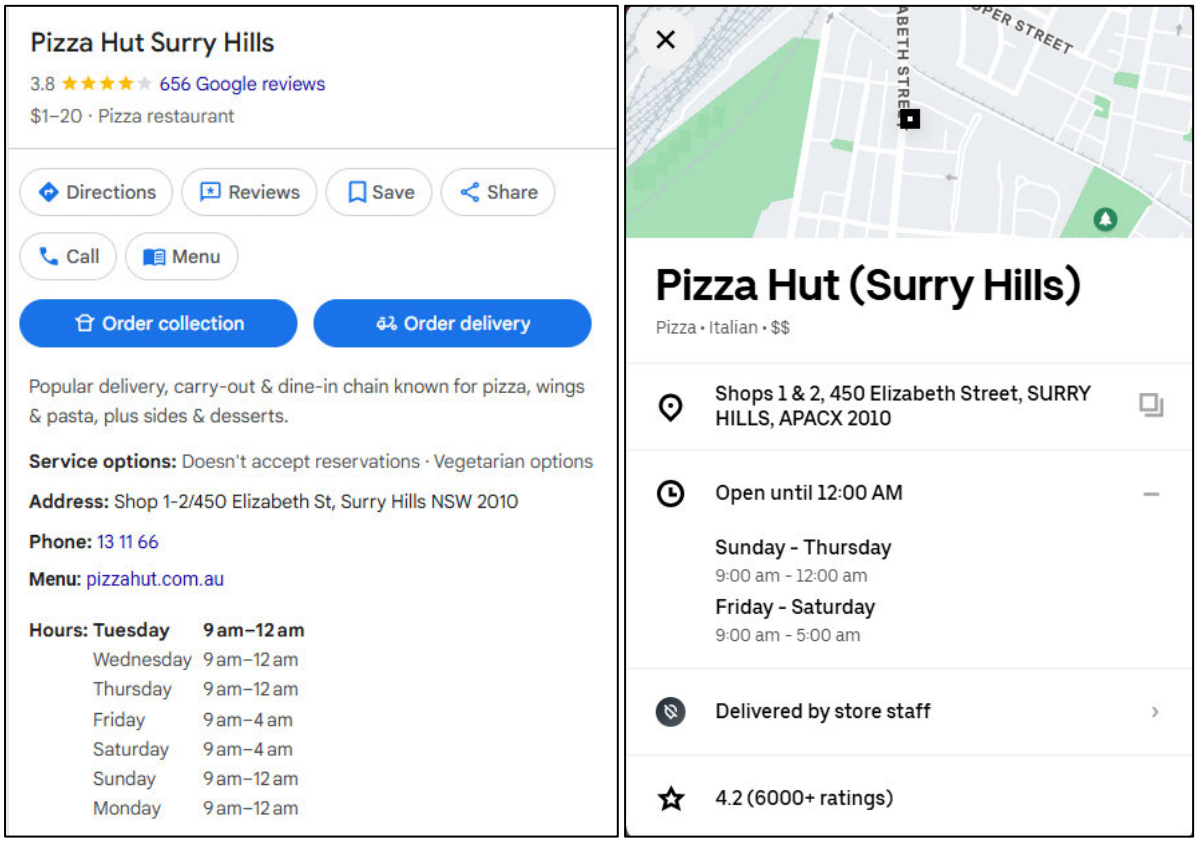


Figure 6. Current operational hours advertised for the Premises on Google and Uber Eats.

It is requested that Council issue the Applicant with a development compliance order for contravention of a planning approval in accordance with Schedule 5, Part 1 of the Act to stop using the Premises. The Applicant has continued to demonstrate a blatant disregard to the conditions of their development consent, and throughout the development approval process has not demonstrated a genuine intent to engage with the issues raised by Council (as reflected by various applications and refusals). As such further, more serious, compliance action is warranted.

It is requested that Council investigate the above matters, as they are a relevant indication that the Premises will be managed and operated poorly in future. It is considered that the Applicant has demonstrated a poor history of management, and therefore stricter operational conditions should be maintained on the development consent including the current trading hours. Further, if those issues are outstanding, they need to be resolved prior to the grant of consent or through the grant of consent consistent with the planning principle in *Randall Pty Ltd v Leichhardt Council* [2004] NSWLEC 277.

Conclusion

Our client objects to the Application as proposed for reasons set out in this submission. We are of the view that refusal of the Application should be upheld on the basis of non-compliance with the Sydney DCP 2012, incompatibility with local character, intensification of use that would

generate unacceptable impact, insufficient information and history of poor management and non-compliance.

Our client also reserves the right to inspect the additional information requested by Council for the Application (and any other further additional plans and information) and make further submissions to Council in respect of those plans and information.

Should you have any questions in relation to this letter, please don't hesitate to contact the author on 02 9262 3200.

Yours faithfully,
DESIGN COLLABORATIVE

[redacted]

James Lidis
Managing Director

Item 4.

Development Application: 107-109 Darlinghurst Road, Potts Point - D/2025/1026

File Number: D/2025/1026

Summary

Date of submission:	27 October 2025 (Amended plans received: 27 May & 21 August 2026).
Applicant:	Mr Peter McGregor
Architect/Designer:	McGregor Westlake Architecture
Owner:	Raben Footwear Pty Ltd
Planning consultant:	Daintry Associates Pty Ltd
Heritage consultant:	Zoltan Kovacs
Cost of works:	$10,234,400.00
Zoning:	E1 - Local Centre The mixed-use development is permissible with consent in the zone.
Proposal summary:	Consent is sought for alterations and additions to an existing mixed-use building above Kings Cross Station, including construction of 2 additional levels. The application principally proposes extension and upgrade of an existing backpacker accommodation, in addition to changes to several small-scale pocket retail tenancies within the street level arcade entrance to Kings Cross Station. The backpacker accommodation extends across 7 levels of the building as existing, including 3 basement levels. The DA proposes to add 2 additional levels atop of the existing building to extend the backpacker accommodation. New stair and lift access is also proposed. The occupancy of the backpacker accommodation is proposed to increase from 94 guests as existing to 113 guests and a manager's room.

Proposed changes to the retail arcade entrance to Kings Cross Station involve reconfiguration of the retail tenancies and existing coffee cart tenancy within the arcade which is adjacent to Darlinghurst Road.

The application was notified and advertised for 28 days between 4 November 2025 and 3 December 2025. As a result, 4 submissions were received.

The objections received raise concerns with the proposed backpacker accommodation use and proposed entrance off Earl Street, anti-social behaviour associated with the use and amenity impacts overflowing onto the surrounding streets / public domain, and acoustic impacts from mechanical plant.

The proposed development is in breach of the maximum height of buildings and floor space ratio development standards applying to the site, pursuant to Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012, by 2.91% and 56.16% respectively.

The application is reported to the Local Planning Panel for determination as it represents a significant departure from the floor space ratio development standard applying to the site. The application therefore sits outside Council's delegation and is required to be determined by the Local Planning Panel in accordance with Schedule 3 of the Local Planning Panels Direction.

Summary recommendation: The development application is recommended for deferred commencement approval.

Development controls:

(i) Sydney Local Environmental Plan 2012

(ii) Sydney Development Control Plan 2012

(iii) SEPP (Transport and Infrastructure) 2021

(iv) SEPP (Biodiversity and Conservation) 2021

Attachments:

A. Recommended conditions of consent

B. Selected drawings

C. Clause 4.6 variation - Height of buildings

D. Clause 4.6 variation - Floor space ratio

E. Submissions

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2025/1026 subject to the conditions set out in Attachment A to the subject report.

Reasons for recommendation

The application is recommended for approval for the following reasons:

(A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.

(B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

(i) the applicant has demonstrated that compliance with the height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the E1 Local Centre zone and the height of buildings development standard.

(C) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

(i) the applicant has demonstrated that compliance with the floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the E1 Local Centre zone and the floor space ratio development standard.

(D) The development is permissible with consent in the E1 - Local Centre zone and is consistent with the objectives of the zone.

(E) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the applicable Environmental Planning Instruments. Where non-compliances are proposed, they have been assessed in this

report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.

(F) The development will not detrimentally impact the heritage significance of the Potts Point Heritage Conservation Area.

(G) The development is consistent with the character of the Kings Cross locality.

(H) The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.

(I) The development, subject to conditions, will not unreasonably compromise the amenity of the surrounding area.

(J) The development, subject to conditions, is in the public interest.

Background

Reason the application is reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 6 March 2024 as being within the following category:

   - Departure from development standards

2. The development application falls within the category of Departure from development standards as it involves development that contravenes a development standard imposed by an environmental planning instrument by more than 10%. Specifically, the proposal contravenes the floor space ratio development standard (Clause 4.4) imposed by the Sydney Local Environmental Plan 2012 by 56.16%.

Site and surrounding development

3. The site has a legal description of Lot 1 and Lot 5 in Deposited Plan 802224, and is commonly known as 107-109 Darlinghurst Road, Potts Point. It is irregular in shape with an area of approximately 259 square metres.

4. Lot 1 has a size of 239.1 square metres, a frontage of 9.25 metres to Darlinghurst Road and a rear aspect of 4.6 metres to Earl Place. Lot 1 is located on the north-western side of Darlinghurst Road and currently accommodates a 7-storey building which includes 3 storeys of basement. The existing building was previously used as backpacker accommodation, however has been vacant since the onset of the COVID-19 pandemic.

5. Lot 5 has a size of 19.1 square metres and contains fire escape stairs for the building.

6. The site is subdivided in stratum with Lot 2, Lot 3 and Lot 4 of Deposited Plan 802224 owned by the Transport Asset Holding of NSW and known as 109A Darlinghurst Road, Potts Point. Lot 2 contains the pedestrian arcade from Darlinghurst Road into Kings Cross Station, at the ground floor / part of the first-floor void area. These lot holdings are situated within the same site boundaries but are unaffected by the proposed development and the application does not propose any works or changes to these areas.

7. The site is burdened by a rights of footway easement through the site to Kings Cross Station. The terms of this easement allow for access from 6:00am to 12:00am midnight daily. The site benefits from an easement providing for fire escape access for users to Earl Street. There are existing windows on the north-western property boundary adjacent to 220 Victoria Street, and there is an existing easement which benefits the site for access to light and air for these windows. A stormwater easement also traverses the site.

8. Adjoining to the north is 99-105 Darlinghurst Road, which is a five-storey mixed use residential building with retail uses at ground floor.

9. To the east is the row of 3-storey properties on the opposite side of Darlinghurst Road, primarily containing retail/entertainment uses at ground level and shop-top housing or commercial space above.

10. To the south is 113 Darlinghurst Road, which is a twenty-storey residential flat building known as 'Omnia' (or 'Crest Apartments'), with retail uses on the ground level.

11. To the west is 214-220 Victoria Street, a twelve-storey residential flat building with the Victoria Street station access to Kings Cross Station at ground level.

12. The surrounding area is generally characterised by a mixture of land uses, primarily retail at ground floor and generally residential or commercial uses on upper levels.

13. The site is not identified as a heritage item but is located within the Potts Point heritage conservation area (Map reference C51). The site is identified as a detracting building within the heritage conservation area.

14. The site is located within the Kings Cross locality and is identified as being subject to flooding along road frontages.

15. Site visits were carried out on 20 November 2025 and 31 July 2027.

16. Photos of the site and surrounds are provided below.

Figure 1: Aerial view of site (in red outline) and surrounds

Figure 2: Front of the site (dashed red) viewed from Darlinghurst Road, looking west

Figure 3: Looking north along Darlinghurst Road (site dashed red)

Figure 4: Looking south-west along Darlinghurst Road (site indicated within red arrow)

Figure 5: Rear of the site (dashed red) viewed from Earl Street, looking south

Figure 6: Ground level retail arcade looking from Darlinghurst Road towards Kings Cross Station entrance

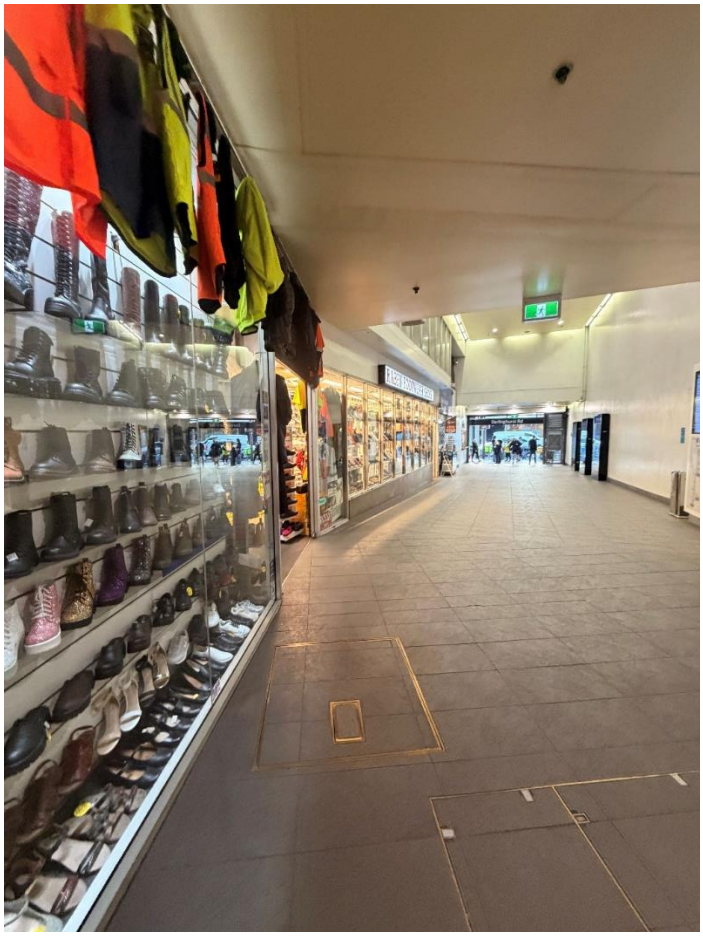


Figure 7: Ground level retail arcade looking from Kings Cross Train Station elevator towards Darlinghurst Road

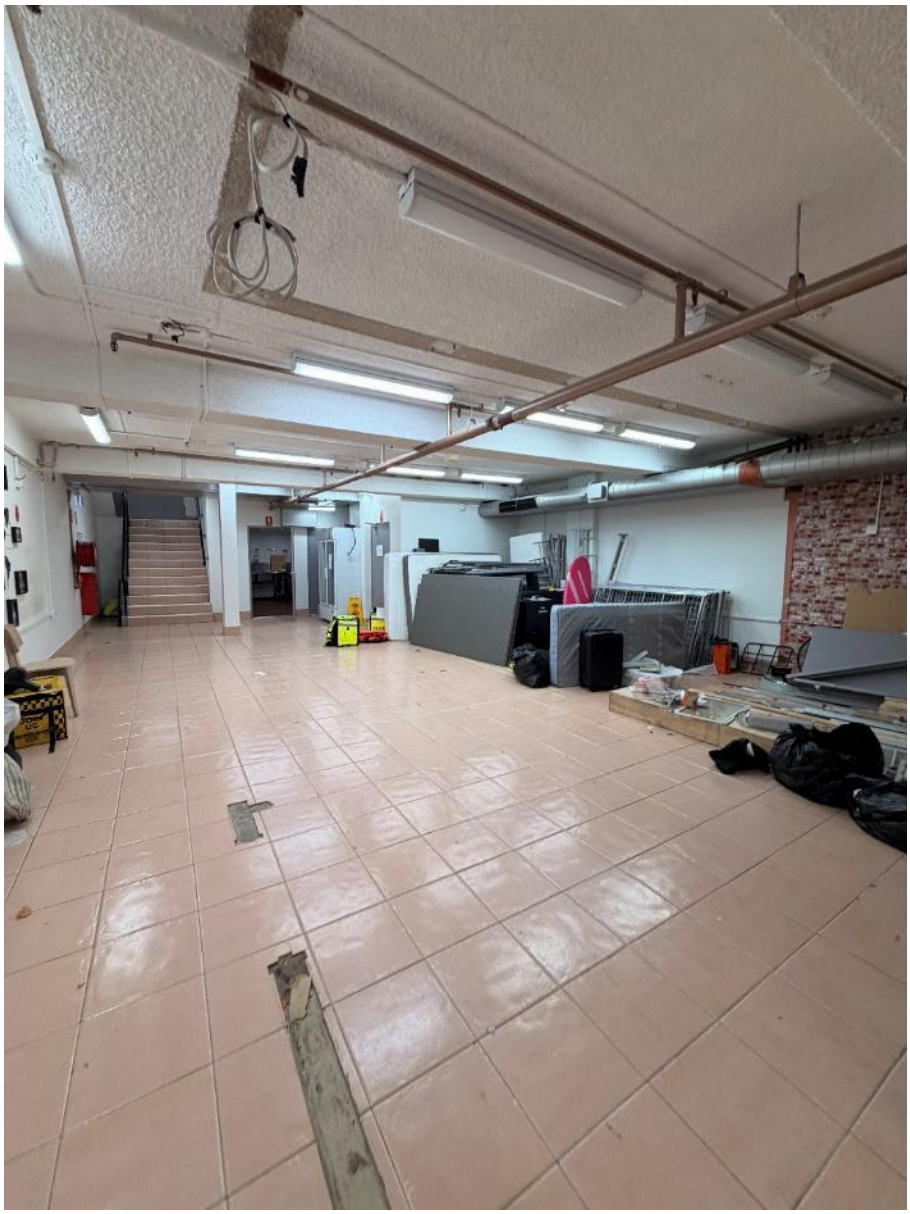


Figure 8: Existing basement level 2

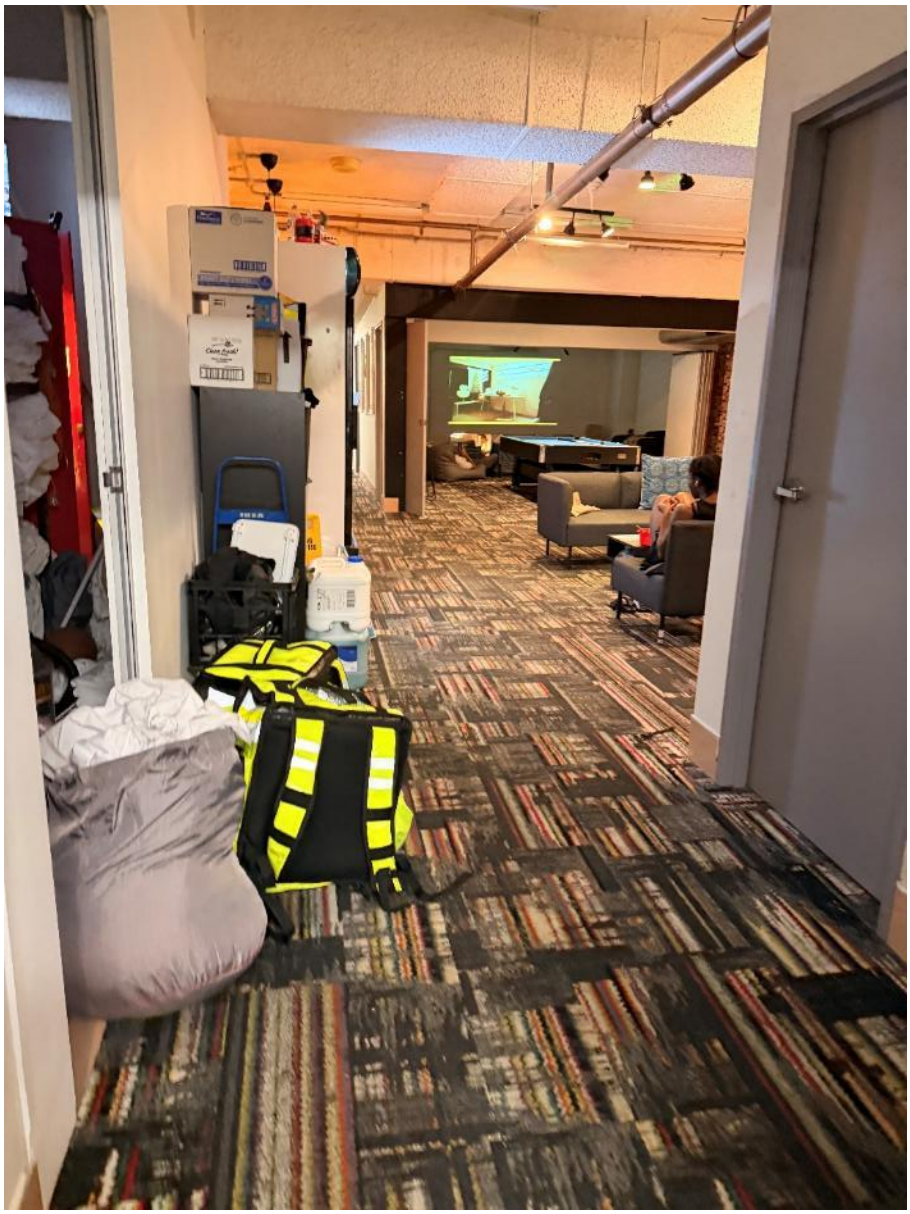


Figure 9: Existing basement level 1

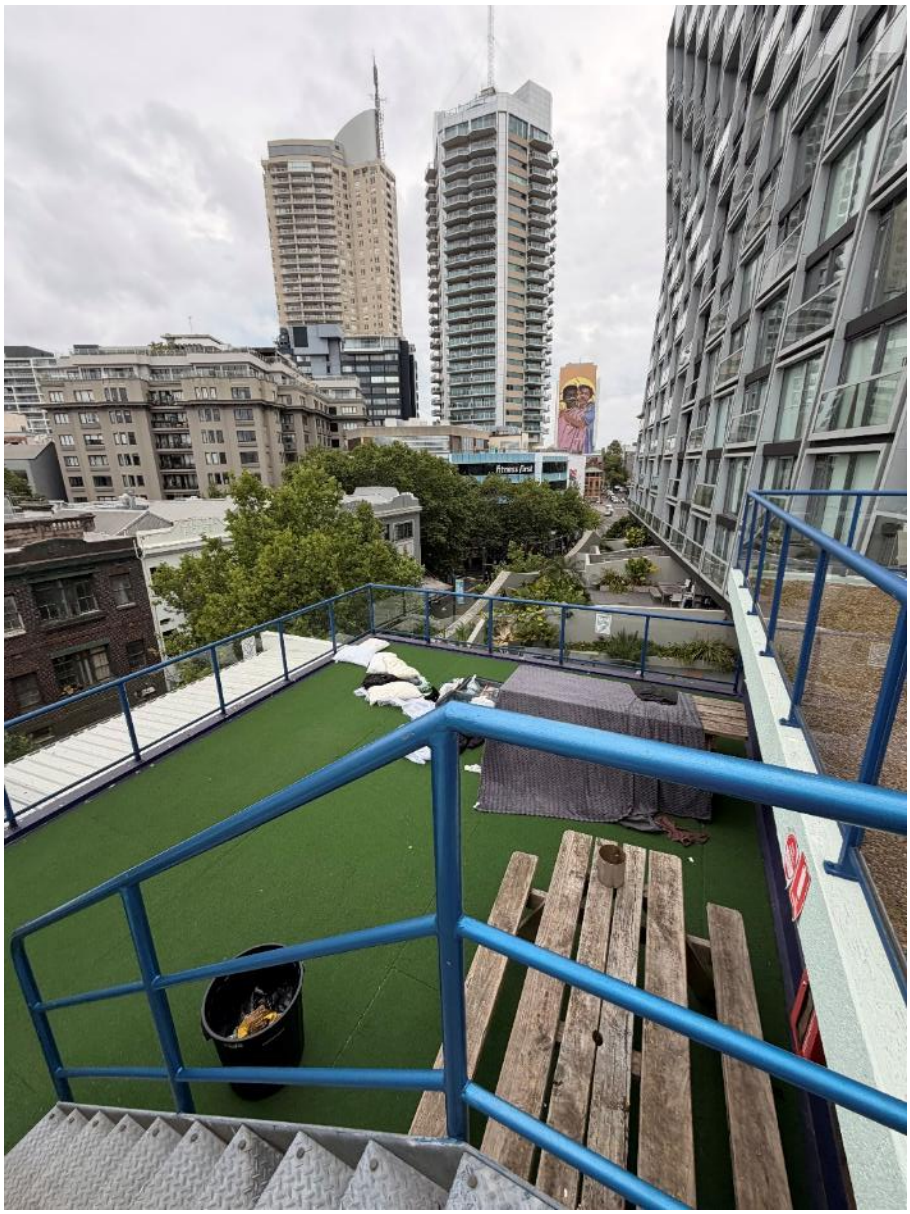


Figure 10: Eastern side of existing rooftop terrace at the front of the building looking south

Figure 11: Western side of existing rooftop terrace at the front of the building looking west

History relevant to the development application

Development applications

17. The following applications are relevant to the current proposal:

- **D/2022/1107** – Development consent was refused by the Local Planning Panel on 13 December 2023 for alterations and additions to an existing mixed use building, including two additional levels; consisting of a backpacker hostel accommodation split over 5 levels and several pocket retail tenancies within the street level arcade entrance to Kings Cross Station.

Under the refused scheme, although additional floor space was proposed, the occupancy of the backpacker accommodation was proposed to reduce from a maximum of 94 guest as existing to 91 guest and a manager's room.

The reasons for refusal of the previous DA were as follows:

- The proposal is in breach of the floor space ratio development standard applying to the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.

- The Clause 4.6 variation request is not supported as the proposal is inconsistent with the Floor Space Ratio development standard objectives of Clause 4.4 of the Sydney Local Environmental Plan 2012. The proposed variation of the development standard creates excessively bulk and massing, which will adversely impact upon the character of the locality, and adversely impacts upon the residential amenity of the locality by way of unacceptable overshadowing to adjoining properties.

- The applicant's written request to vary the Floor Space Ratio development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the Floor Space Ratio controls applying to the site or the zoning of the land.

- The proposal is in breach of the height of buildings development standard applying to the site pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.

- The applicant's written request to vary the Height of Buildings development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the zoning of the land.

- The proposed development causes unacceptable overshadowing of neighbouring residential properties, resulting in a non-compliance with the solar access provisions provided by Section 4.2.3.1 of the Sydney Development Control Plan 2012.

- The proposed development is in breach of the 4-storey street frontage height control applying to the site, pursuant to Section 4.2.1 of the Sydney Development Control Plan 2012.

- The design of the proposed development lacks cohesion, appears incongruous within the streetscape and fails to exhibit detailing appropriate to the building type and location, pursuant to the design excellence provisions established by Clause 6.21C(2)(a) the Sydney Local Environmental Plan 2012.

- The design of the proposed development, which exceeds the maximum height and floor space ratio standards, is of poor quality and fails to achieve the objectives of Division 4 Design Excellence of the Sydney Local Environmental Plan 2012, which is to deliver the highest standard of architectural, urban and landscape design.

- The development is considered unsatisfactory when assessed against the considerations contained in 6.21C (2) of the Sydney Local Environmental Plan 2012, particularly as it:

  (i) does not demonstrate that a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;
  (ii) does not demonstrate that the form and external appearance of the proposed development will improve the quality and amenity of the public domain; and
  (iii) will result in unacceptable overshadowing impacts to neighbouring properties.

Pre-development application advice (PDA/2024/72)

18. Pre-development application advice was sought by the applicant on 4 April 2024 in relation to a redesign for the previously refused development proposal under Development Application D/2022/1107. The architect for the previously refused scheme was James Burns Architect. Before seeking pre-DA advice for the revised scheme, the architect for the project was changed to McGregor Westlake Architecture.

19. In response, a site visit was undertaken and a meeting was held at Council offices on 29 April 2024 prior to Council issuing written advice on 22 May 2024 advising the following:

    - The continued use of the site as backpackers accommodation is supported. The proposal must be designed to respond to Section 4.2 and Section 4.4.8 of Sydney DCP 2012.

    - All operational matters should be detailed within a Plan of Management prepared in accordance with Schedule 3.2 of the Sydney DCP 2012.

    - The proposal presents a significant departure from the floor space ratio (FSR) control. The departure from the FSR development standard can be supported in principle by Council officers. Any future DA must be accompanied by a clause 4.6 variation request justifying the departure by clearly demonstrating 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.

    - The proposal also presents a minor departure to the height in metres control for the lift overrun. This departure is also supported in principle and should be accompanied by a clause 4.6 variation request as per the above.

    - The calculation of GFA and FSR on the GFA plans shall be revised to be in accordance with the definition of GFA in the Sydney LEP 2012.

    - An acoustic report should be submitted with any future development application to verify the acoustic performance of the building.

- Concerns remain with the proposal in relation to privacy and overlooking impacts, particularly considering the close proximity of the windows located on the north western elevation of the residential building at 99-105 Darlinghurst Road. Further treatment is required to these windows to address visual privacy.

- Any new windows on boundaries will be assessed carefully as part of any future DA, taking into account the uses of adjacent rooms within 220 Victoria Street, and noting that windows on boundaries cannot be protected in perpetuity.

- The modulation and materials proposed to the Earl Street elevation are supported in principle. However concerns are raised in relation to the proposed overhang of the solid portion of the building on levels 1 to 5 as this structure projects over Council owned land. As outlined in Schedule 4 of the Sydney DCP 2012, projections over or into public roads are accepted for balconies or bay windows if the projection extends not more than 450mm over the road/footpath alignment, comprises not more than 50% of any road frontage of the building at any level, is at least 3.2m above the footpath and at least 800mm from the face of the kerb. The proposed projection does not meet these requirements and is not supported.

- Further details are required with regard to the hydrant booster from a design and space perspective.

- The proposed level of demolition is supported, noting that the side walls and floors are proposed to be retained and new rear walls are built on top of existing retained rear walls. Structural drawings and certification supporting the proposed demolition and construction will be required as part of any DA.

- Justification is to be provided as to why the new front elevation walls are proposed across the front boundary, rather than entirely within the subject site.

- The proposed front fenestration proportions are compatible in the HCA. Consideration should be made to locating the balustrades at the glazing line rather than on the edge of the metal hood. The face brick finish to the front facade is also considered to be appropriate in the HCA. Detailed materials, finishes and colours should be submitted as part of any future DA, noting that full bricks should be used rather than brick slips, and glazing to the Darlinghurst Road facade is to be clear. Investigations should also be made as to whether an additional fire hydrant booster will be required to Darlinghurst Road.

- The Level 5 roof plan shows the communal open space setback approximately 3m from the front property boundary. The required balustrade must be integrated within the design of the top floor and shown on the relevant elevations, sections and perspectives.

- Information submitted demonstrates that the private open space areas of the Omnia building appears to achieve the required amount of solar access in accordance with the DCP and ADG. Information is to be provided as part of any future DA to assess the impacts of the proposed addition on the living room windows located on the north eastern elevation of the Omnia building.

- It is recommended that all communal areas proposed to be used by accommodation guests are located on floors that are accessible via the lift. Alternatively, a BCA Report outlining performance solutions must be submitted with any future DA.

- Any future DA must address waste storage and collection.
- All bicycle parking and end of trip facilities (such as lockers and showers for staff) should comply with DCP requirements and should be designed to comply to AS 2890.3:2015 standards for "Class B" parking facilities. Bicycle parking facilities appears to be accessed via stairs from the Earl Street lobby. The location of the bicycle parking should be reconsidered to provide better access to parking facilities, or clarification should be provided as to whether the facilities can be accessed via the lift. Loading servicing is proposed to be conducted from the kerb. Considering the scale of the development and its intended use, kerbside servicing may be acceptable.

Amendments

20. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 22 January 2026. Further details were requested with regard to the following:

    (a) the proposed maximum building height

    (b) gross floor area calculations

    (c) the provision of a Design Excellence Report

    (d) contextual information in relation to the front elevation wall proposed across the front boundary to Darlinghurst Road

    (e) details of easements for fire stair access and windows borrowing amenity across the north-western boundary

    (f) additional shadow diagrams and assessment of solar access

    (g) window operability

    (h) staff numbers and staffing arrangements

    (i) compliance with the provisions of Section 4.4.8.2 of the DCP which relate to backpackers accommodation

    (j) total floor area for the purpose of calculating affordable housing contributions in accordance with Clause 7.13 of the Sydney LEP

    (k) details of existing and proposed number of keys and beds, and detailed of both existing and proposed retail gross floor area for the purpose of calculating Section 7.11 development contributions

    (l) details of new gross floor area for the purpose of calculating the applicable Housing and Productivity Contribution

    (m) alignment of the services drawings and reports with the architectural drawings

    (n) flooding, stormwater and levels details.

21. The following amendments were also requested:

    (a) Toilets that are separate from shower facilities are to be provided on each level where there are backpacker rooms. This is to ensure that residents have adequate access to toilets while showers are occupied / in use.

    (b) A staff room is to be demonstrated on the plans.

    (c) Consideration given to the provision of a waste collection area within the boundary of the property to allow for a wheel-in wheel-out waste collection service.

    (d) Landscaping elements and a landscape plan to be provided for the communal roof terrace, including a safety review of roof terrace elements.

    (e) Bollards showing outside property boundary on Earl Street to be located within the site boundaries.

22. The applicant responded to the request on 9 and 25 March 2026, and submitted the following information**:**

    (a) updated Statement of Environmental Effects providing the requested additional detail

    (b) updated architectural drawings providing the requested additional detail and amendments, including a maximum height plane diagram, contextual information for neighbouring properties, additional shadow diagrams, and relocating the bollards in Earl Street to within the property boundaries. The proposed main entrance to the backpacker accommodation off Earl Street was also modified to accommodate a hydrant booster in this location

    (c) updated Plan of Management providing the requested additional detail

    (d) easement details

    (e) a Design excellence report

    (f) updated Clause 4.6 variation requests

    (g) a Site flood assessment report

    (h) updated access report

23. On 12 May 2026, following a review of the additional information and amendments submitted by the applicant, Council Officers requested that the roof form be redesigned to ensure adequate solar access is retained to the living room window of Unit 6-12 of the Omnia building at 113 Darlinghurst Road.

24. The applicant responded to this request on 27 May 2026 with updated architectural drawings (with the roof form amended) and shadow diagrams.

25. Further, on 23 May 2026, Council officers requested further changes to the proposal in relation to the following:

    (a) removing any encroachments onto neighbouring properties / lots under different land ownership

(b) corrections to gross floor area calculations

(c) update to the clause 4.6 variation report for building height to reflect the change to the proposed building height

(d) corrections to total floor area calculations

(e) updates to the Plan of Management to address NSW Police recommendations for the proposal and how access via the entrance off the Sydney Trains pedestrian arcade to the Kings Cross Train Station will be managed

(f) update to flood report to include the recommended flood planning level for the lift at the lower lobby which goes to Basement 2 level, and details of any additional flood protection measures required to protect the lifts

26. The applicant responded on 21 August 2026 with the following:

(a) updated architectural drawings removing encroachments onto neighbouring properties/lots under different ownership, relocating one of the fire stair egress doors to address CPTED concerns, and removing the accessible entrance and backpacker accommodation lobby at ground floor level adjacent to the Sydney Trains pedestrian arcade - this is instead proposed to be retained as a retail premises

(b) updated flood assessment report

(c) updated design excellence report

(d) updated stormwater drainage plan

Proposed development

27. The application seeks consent for alterations and additions to the existing mixed-use building above Kings Cross Train Station, including construction of two additional levels.

28. The application principally proposes an extension and upgrade of the existing backpacker accommodation, in addition to several small-scale pocket retail tenancies within the street level arcade entrance to Kings Cross Station.

29. The proposed scope of works consists of the following:

Extension and upgrade of backpacker accommodation

- construction of a two-storey addition atop of the existing building
- new communal roof terrace facing, but setback from, Darlinghurst Road
- upgrade of backpacker facilities across all levels, including new sleeping rooms, communal lounge/dining/kitchen areas, manager's office and sleeping room, reception, bathrooms and amenities. The maximum backpacker guest occupancy is increased from 94 guests to 113 guests

- changes to basement levels to provide a staff room, laundry room, waste/storage areas, a pump room, parking for 14 bicycles, bathrooms, lockers and amenities
- creation of an enlarged lightwell void from second floor extending up to roof level to improve amenity to sleeping rooms and circulation spaces
- the existing windows on the north-western site boundary are proposed to be enlarged, and new windows are proposed along this boundary on the new upper-level floors
- new stairs and lift access

Changes to Kings Cross Station entrance arcade

- no works are proposed within Stratum Lot 2 (being the pedestrian arcade connecting Darlinghurst Road and Kings Cross Station)
- reconfiguration of the retail tenancies accessible from the arcade
- retention of the existing coffee cart tenancy within the arcade adjacent to Darlinghurst Road
- demolition and reconstruction of part of the shopfront glazing at ground level within Lot 1 to enable changes to the shopfront glazing and reconfiguration of the retail tenancies and entrances.

Darlinghurst Road frontage

- demolition of existing facade, and construction of a new Saffron-coloured glazed brick facade to Darlinghurst Road
- new balustrades to the windows of the upper-levels fronting Darlinghurst Road
- retention of the existing fire stair entrance off Darlinghurst Road

Earl Street frontage

- demolition of existing facade, and construction of a new Saffron-coloured glazed brick and glass block facade to Earl Street
- a new main entrance to the backpacker accommodation off Earl Street
- new bollards are proposed in front of the Earl Street entrance, within the site boundaries
- a new kerb, gutter and pram ramp within the public domain is proposed at the end of Earl Street
- New fire stair ingress/egress doors to Earl Street, and infilling of the existing fire stair egress door to Lot 4 within Lot 1

30. Plans and elevations of the proposed development are provided below.

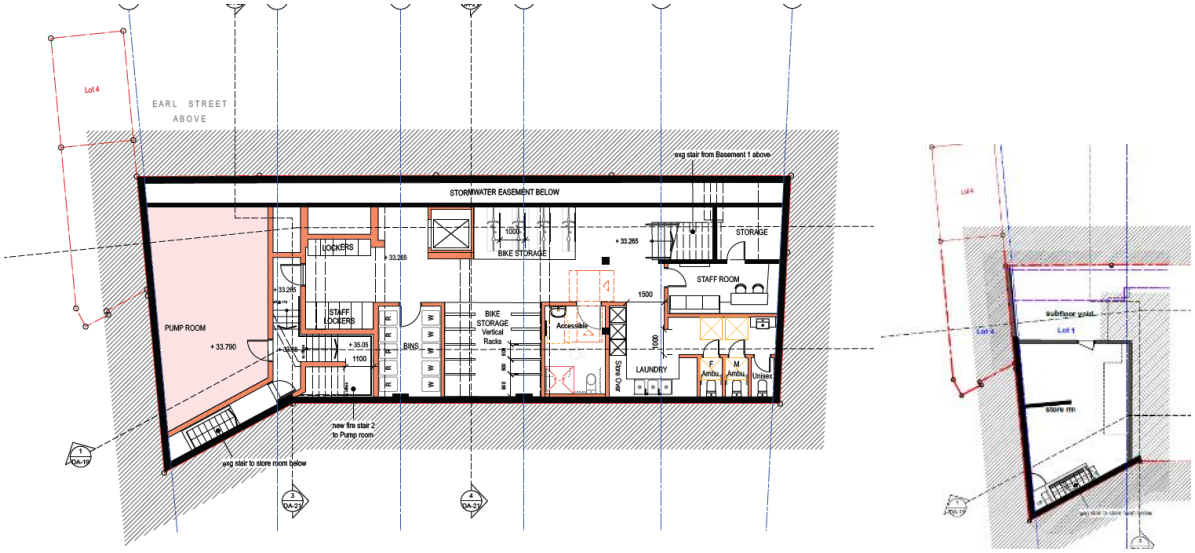


Figure 12: Proposed Basement Level 2 & 3 Floor Plans

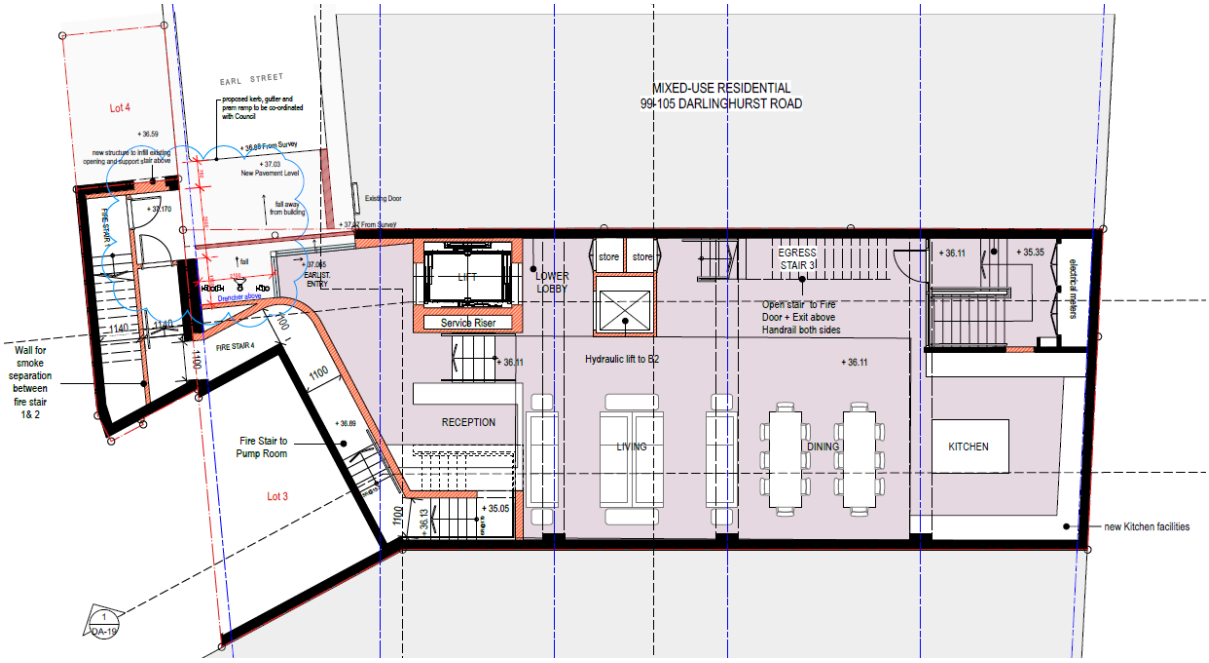


Figure 13: Proposed lower ground floor (Earl Street level) plan / Basement 1

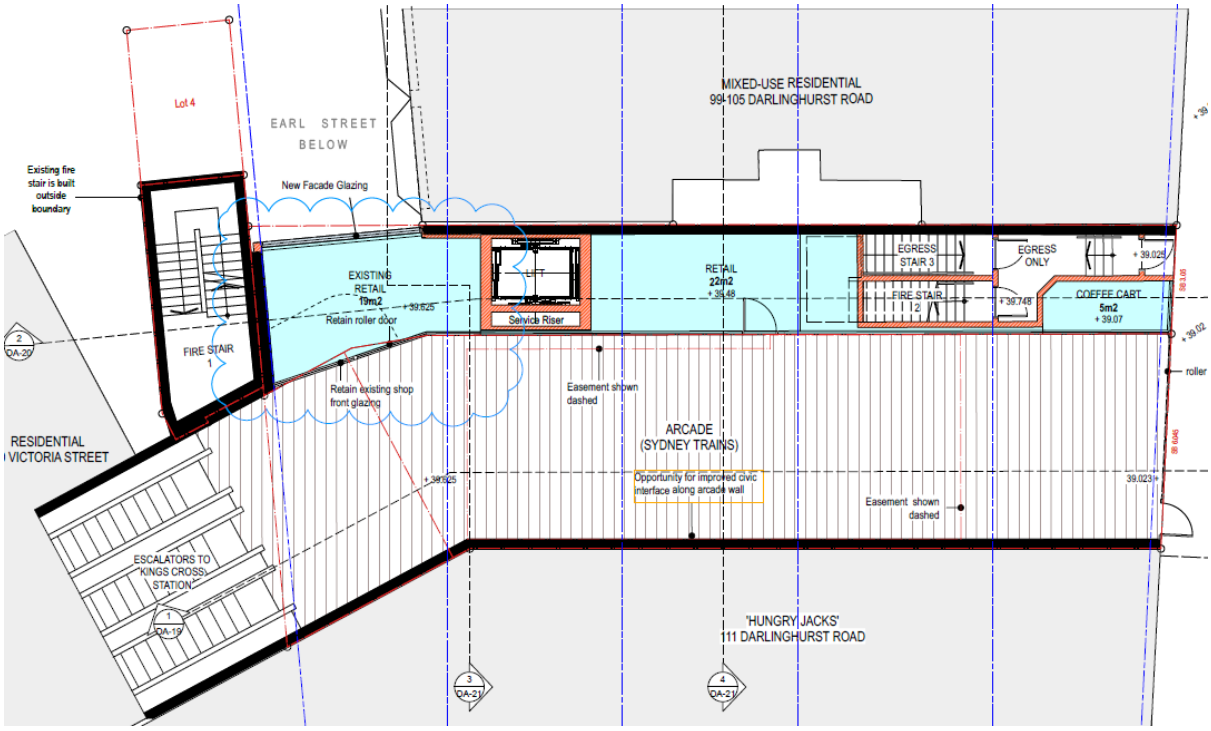


Figure 14: Proposed ground floor (Darlinghurst Road) plan

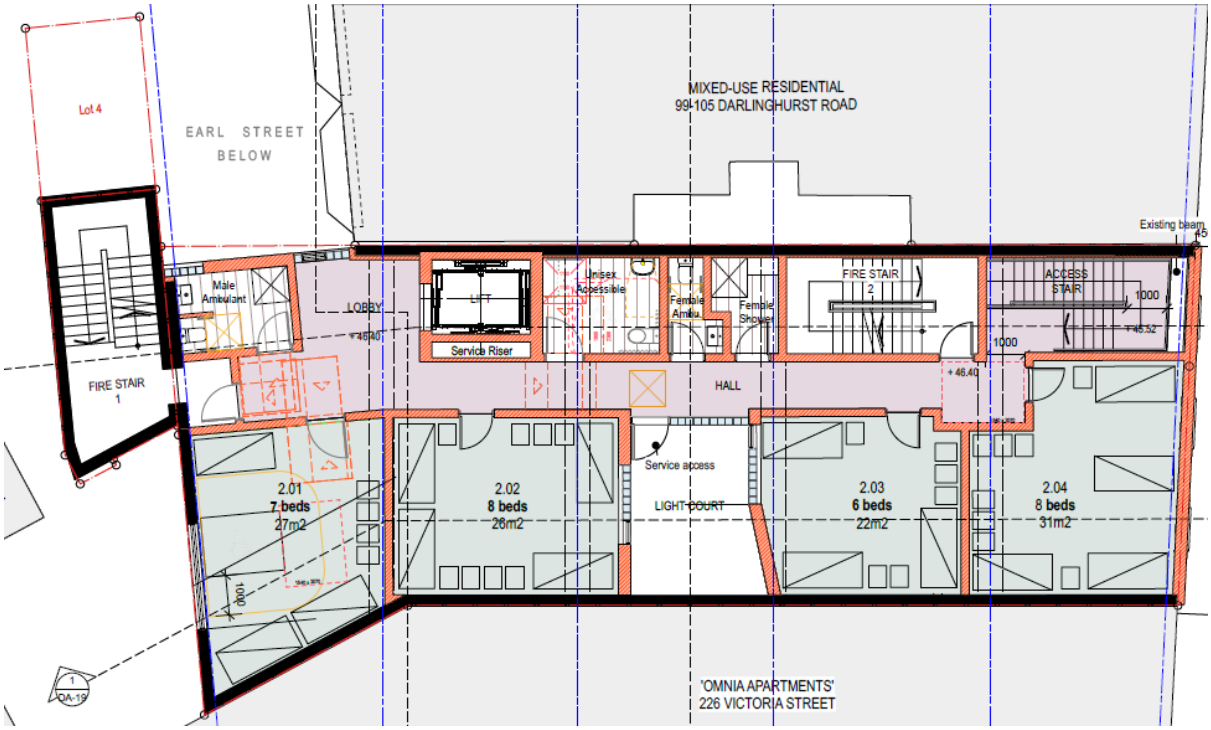


Figure 15: Proposed Level 2 plan

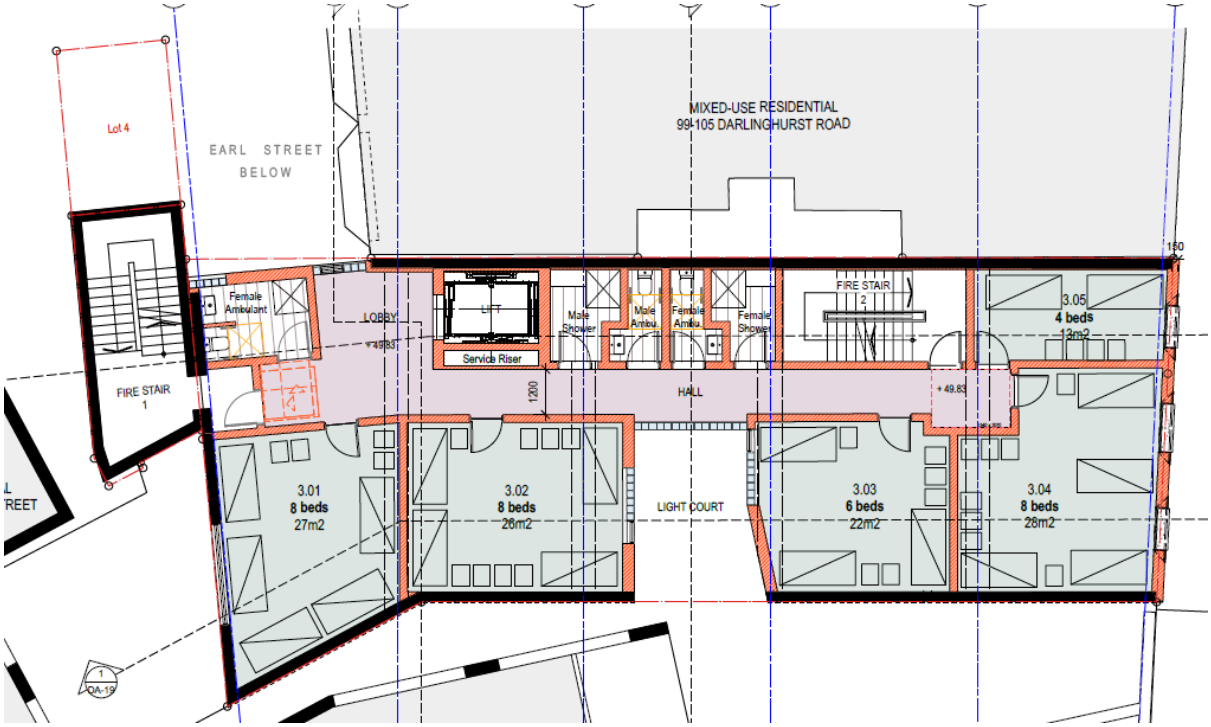


Figure 16: Proposed Level 3 plan

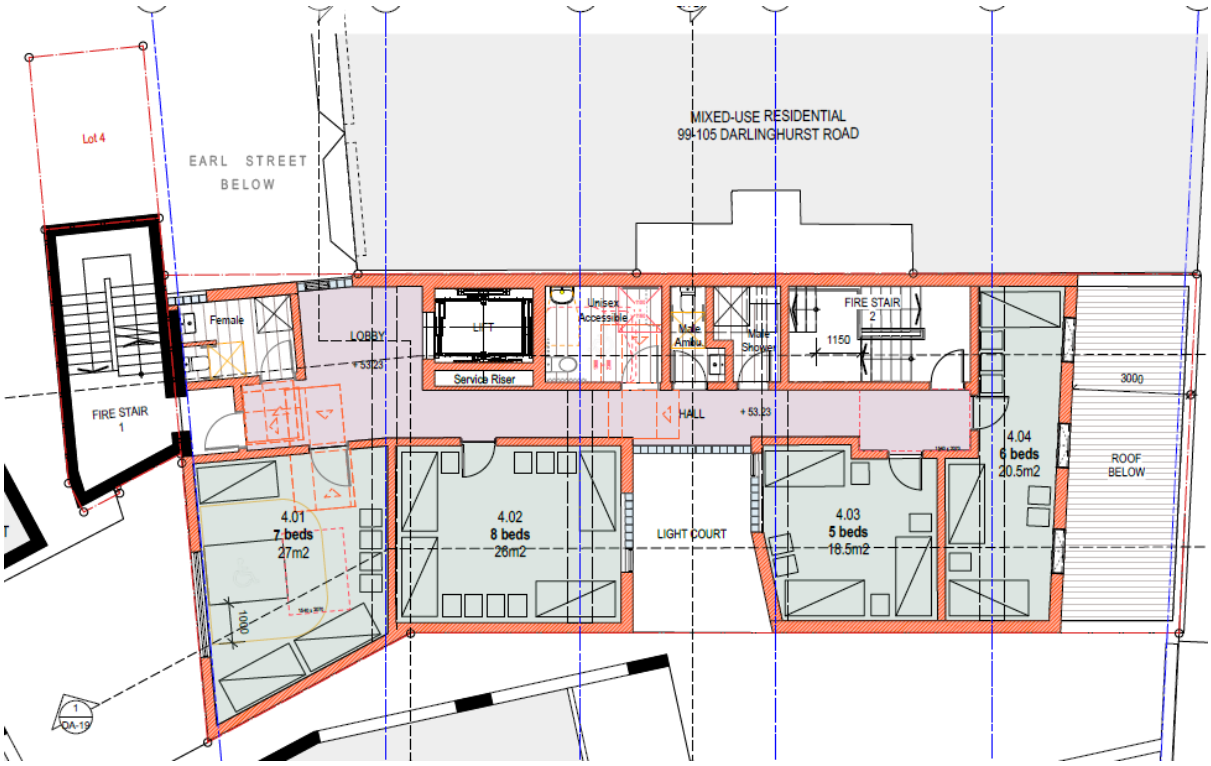


Figure 17: Proposed Level 4 plan

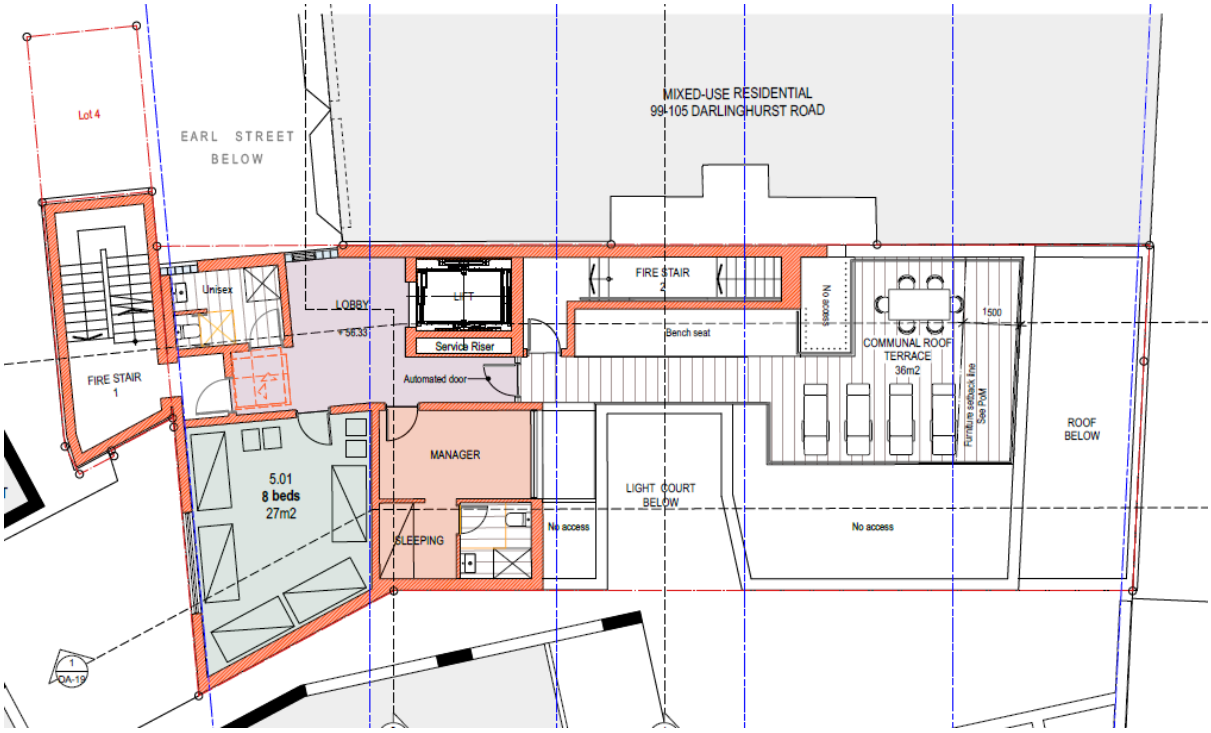


Figure 18: Proposed Level 5 plan

Figure 19: Proposed east elevation - Darlinghurst Road

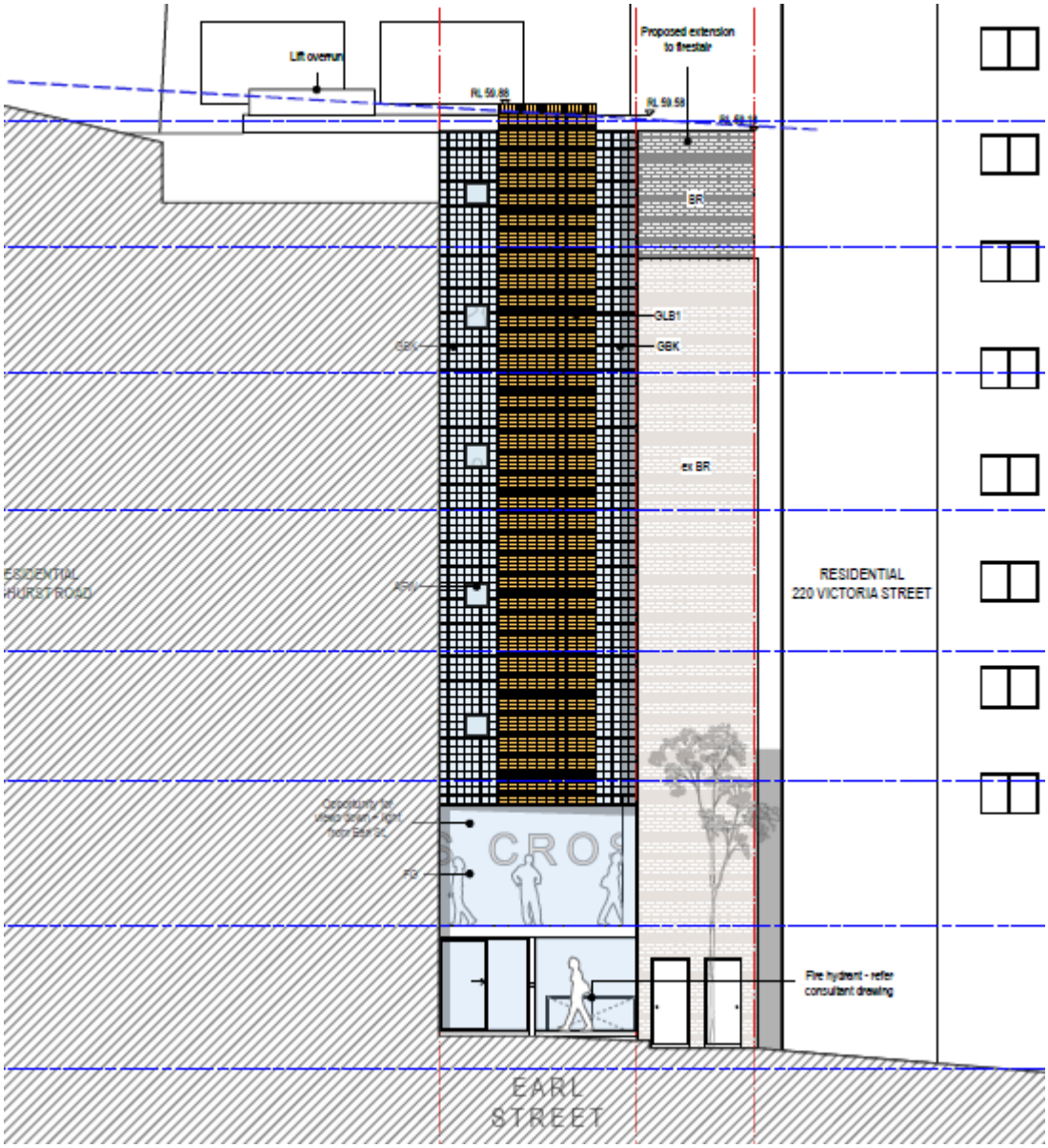


Figure 20: Proposed north elevation - Earl Street

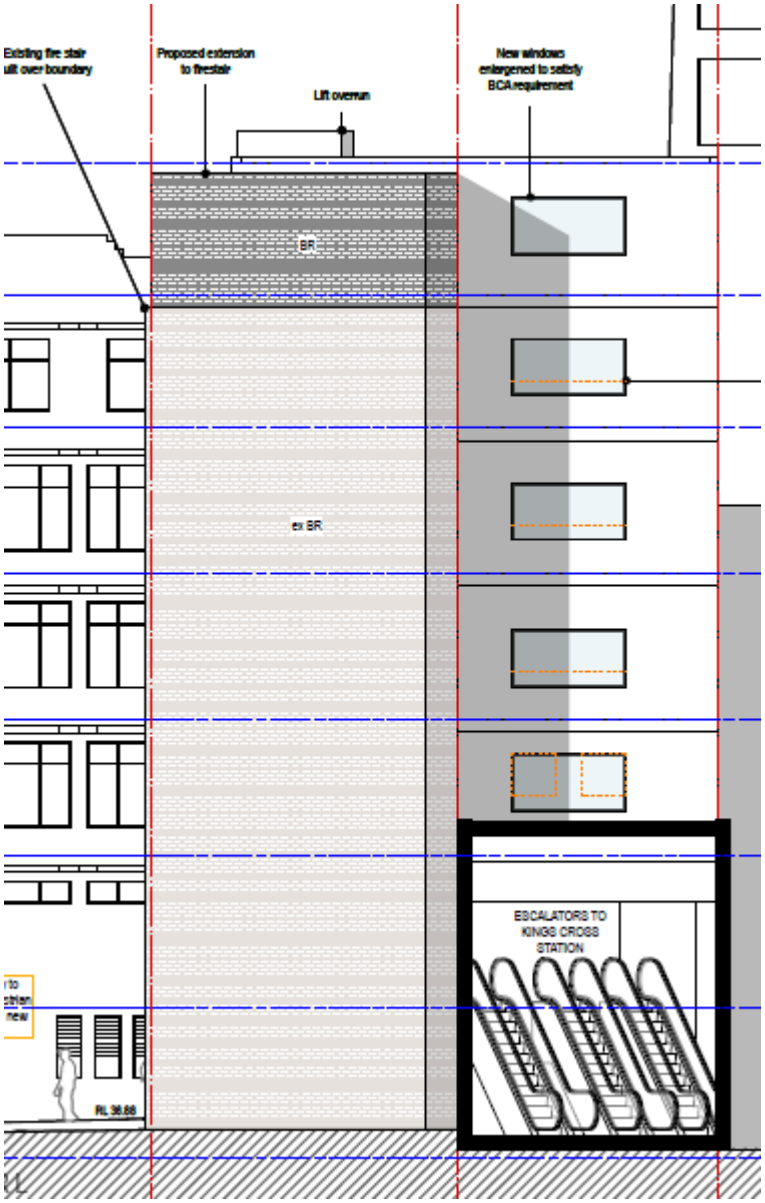


Figure 21: Proposed west elevation

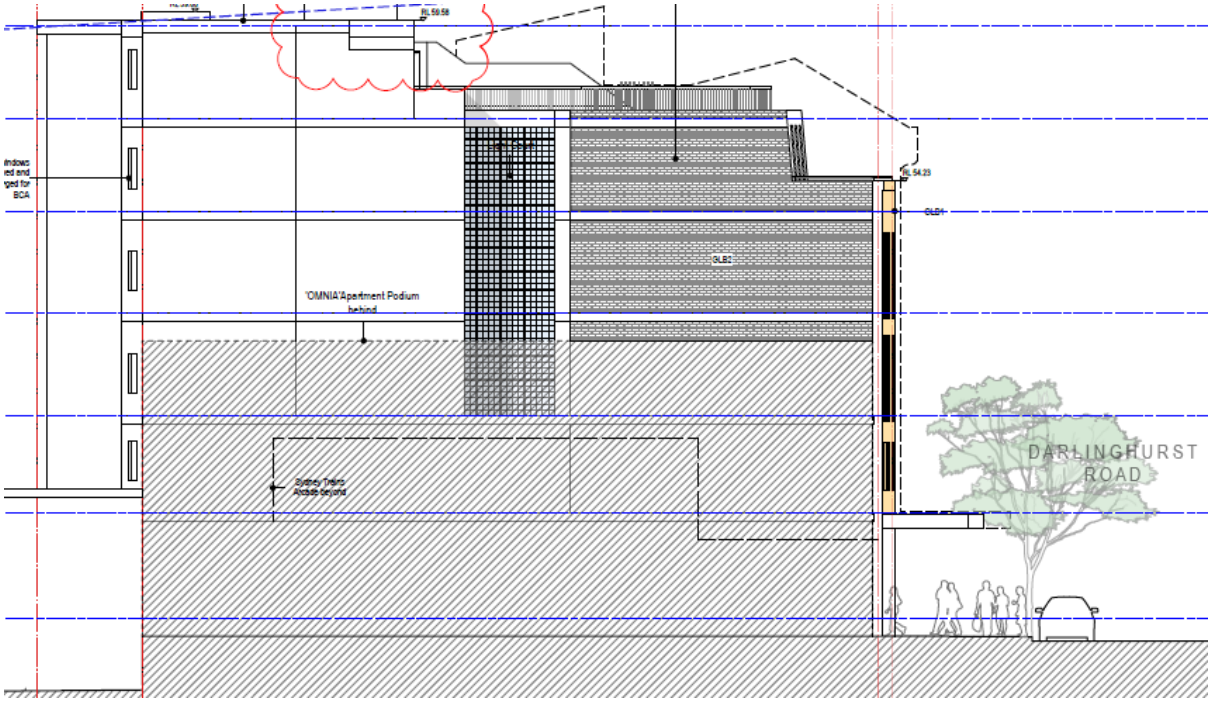


Figure 22: Proposed south elevation

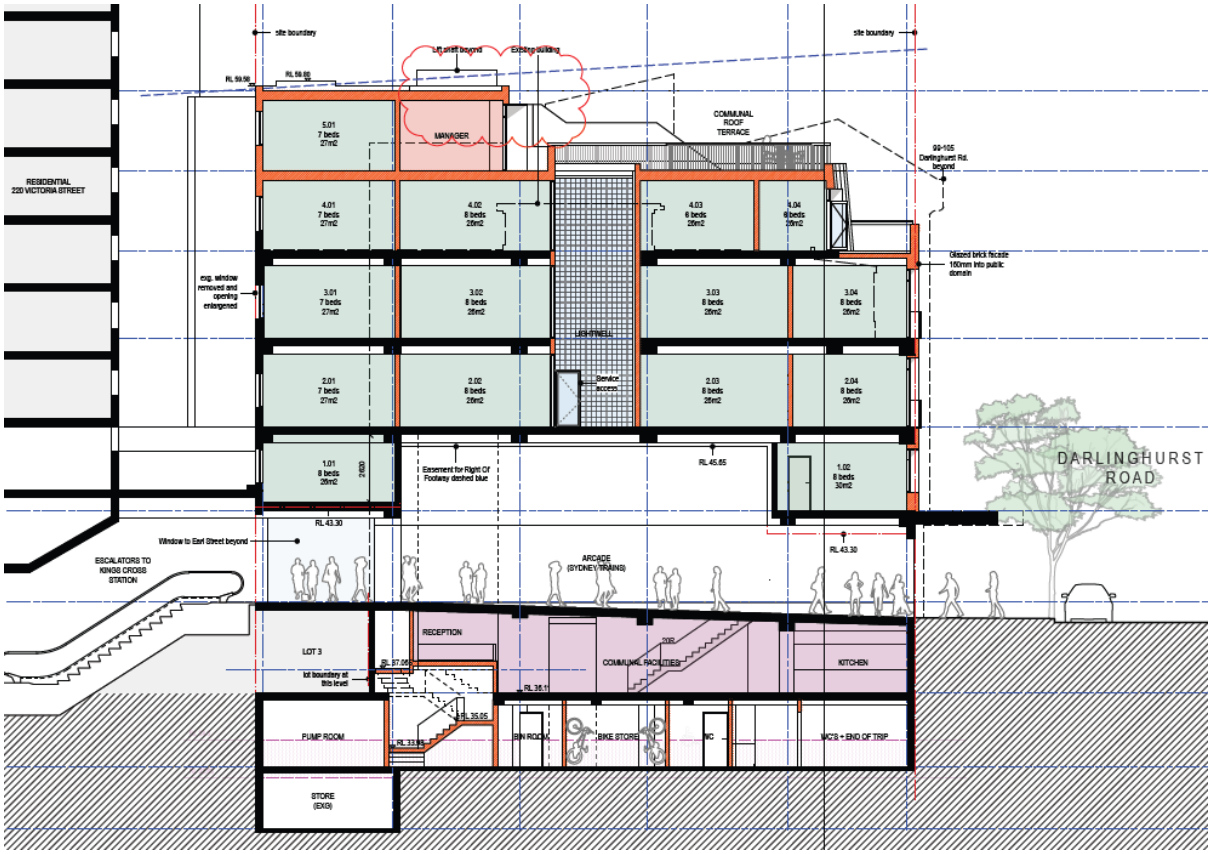


Figure 23: Proposed cross section through Sydney Trains pedestrian arcade

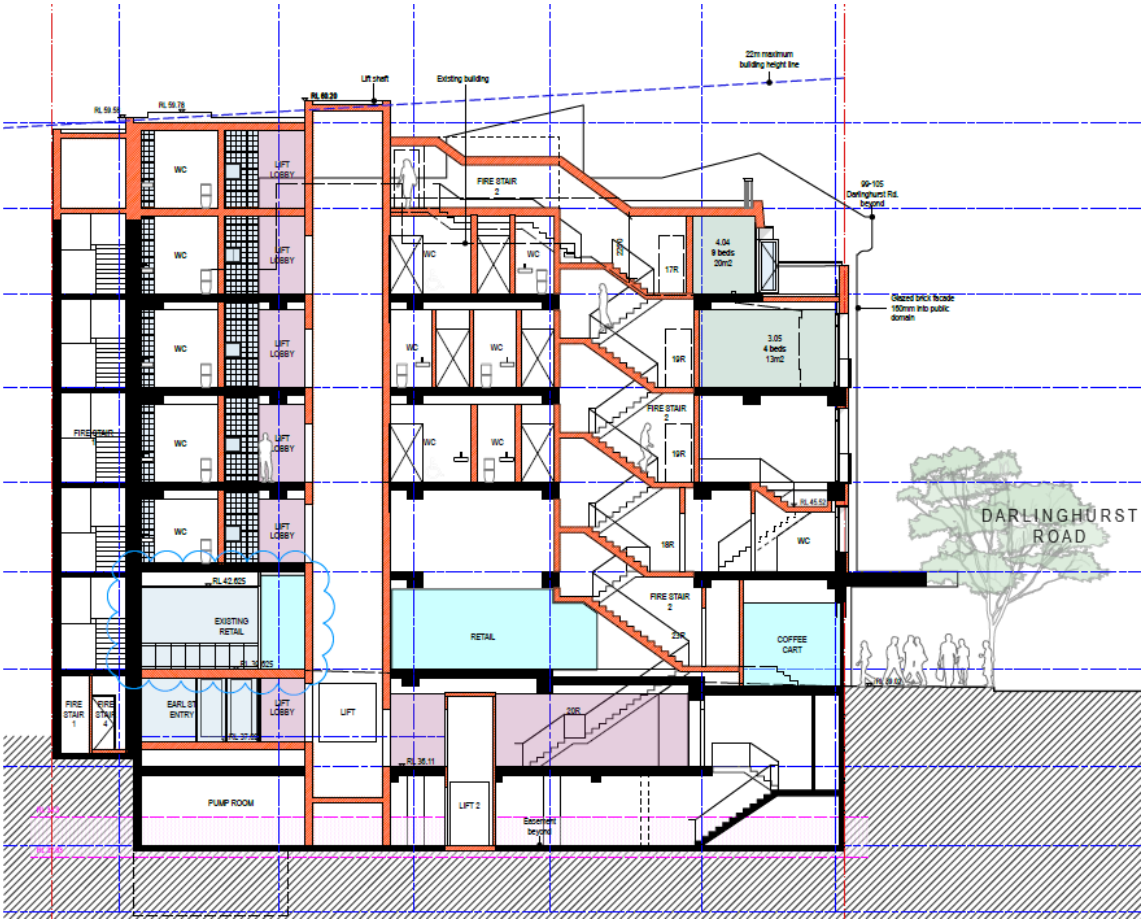


Figure 24: Proposed cross section

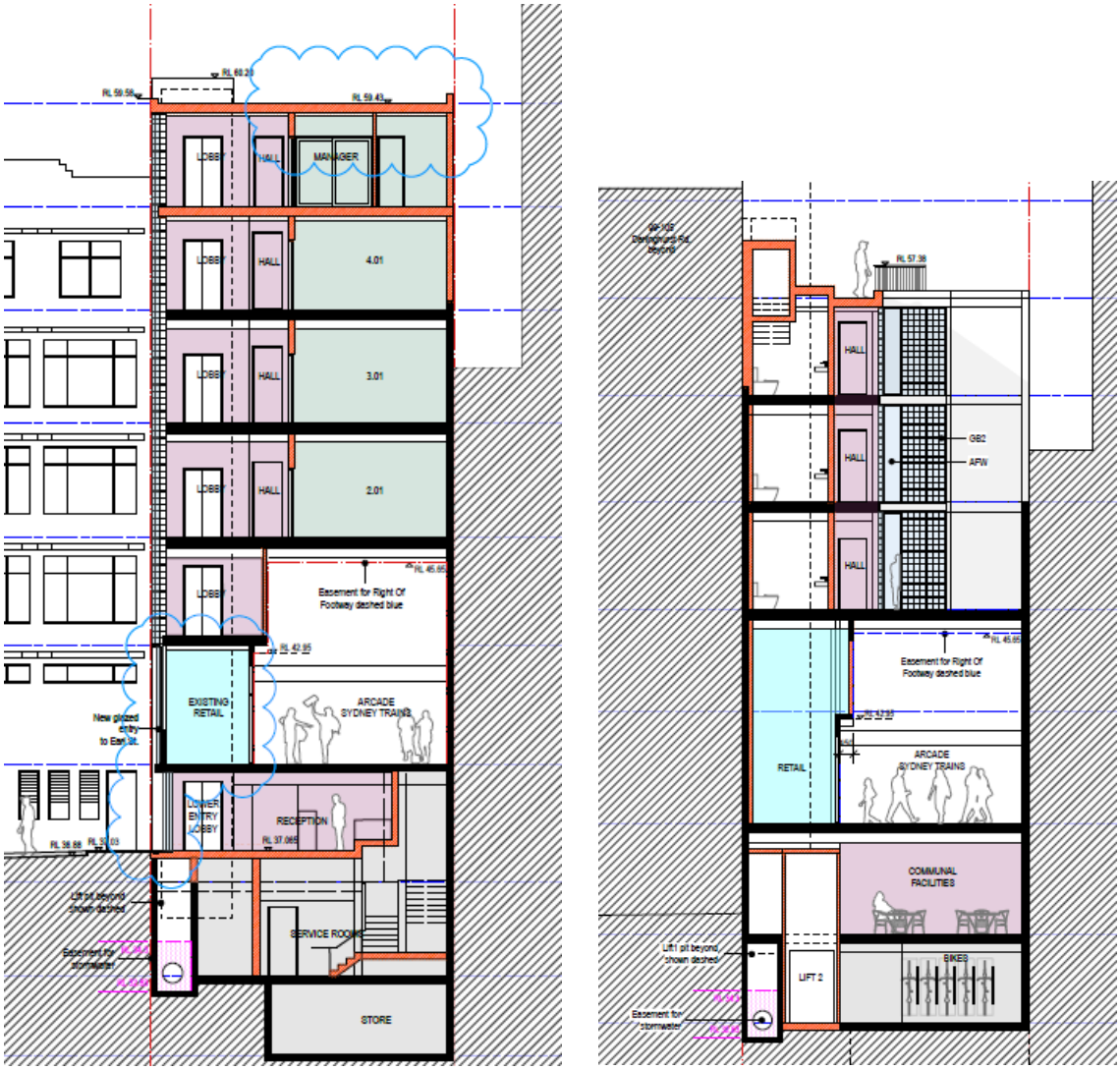


Figure 25: Proposed cross sections

Figure 26: Proposed photomontage as viewed from Darlinghurst Road

Figure 27: Proposed photomontage as viewed from Earl Street

Assessment

31. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Transport and Infrastructure) 2021

32. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.99 – Excavation in, above, below or adjacent to rail corridors

33. Under Clause 2.99 of the SEPP, the consent authority must not grant consent to development to which this section applies without the concurrence of the rail authority for the rail corridor to which the development application relates. This section of the SEPP applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within, below or above a rail corridor or within 25m of ground directly above an underground rail corridor.

34. As the application does not involve the penetration of ground, Clause 2.99 of the SEPP does not apply. In any regard, pursuant to subsection (5) of Clause 2.99, the consent authority may grant consent to development to which this section applies without the concurrence of the rail authority if 21 days have passed since the consent authority gave notice under subsection (2)(a) and the rail authority has not granted or refused to grant concurrence. Notice of the DA was given to Transport for NSW (Sydney Trains) in November 2025.

35. Sydney Trains have not commented on the merits of the proposal. It is noted that Sydney Trains provided concurrence to the previously refused scheme for the site (D/2022/1107) which is similar to the current proposal in its relationship to the rail corridor.

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

36. The site is adjacent to Darlinghurst Road which has an annual average daily traffic volume of more than 20,000 vehicles.

37. An acoustic report has been submitted with the application which considered Clause 2.120 of the SEPP, however it is noted that Clause 2.120 of the SEPP is not applicable given that the proposed development is for a type of tourist and visitor accommodation, and this clause of the SEPP only applies to development for the purposes of residential accommodation, a place of public worship, a hospital or an educational establishment or centre-based child care facility.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

38. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

39. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2022 - Chapter 3 Standards for non-residential development

40. As per Clause 3.1 of the SEPP, Chapter 3 only applies to non-residential development that involves:

    (a) The erection of a new building, if the development has an estimated development cost of $5 million or more, or

    (b) Alterations, enlargement or extension of an existing building, if the development has an estimated development cost of $10 million or more.

41. The proposal involves alterations and enlargement of an existing building, however the submitted cost estimate report identifies an estimated development cost of $9,304,000 for the proposal. As such, Chapter 3 of the SEPP which relates to non-residential development does not apply to the proposal.

Local Environmental Plans

Sydney Local Environmental Plan 2012

42. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the E1 - Local Centre zone. The proposed development is defined as a mixed-use development containing backpacker accommodation and retail premises, and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Acceptable, Clause 4.6 supported.	A maximum building height of 22 metres is permitted. A height of 22.641 metres is proposed. The proposed development does not comply with the maximum height of buildings development standard. A variation to the height of buildings development standard in accordance with clause 4.6 has been submitted in response and is supported. Refer to further information under the 'Discussion' section.
4.4 Floor space ratio	Acceptable, Clause 4.6 supported.	The site is subject to two different floor space ratio controls of 2:1 and 3:1 which applies over different parts of the site. Using the different floor space ratios, the permitted gross floor area (GFA) across the entire site has been calculated to be 599.3 square metres. 935.9 square metres of GFA is proposed. The proposed development does not comply with the maximum floor space ratio development standard applying to the site. A variation to the floor space ratio development standard in accordance with clause 4.6 has been submitted in response and is supported. Refer to further information under the 'Discussion' section, including an assessment of compliance against each of the individual Floor Space Ratio controls.
4.6 Exceptions to development standards	Yes, refer to discussion section	As discussed above, Clause 4.6 variations have been submitted in response to the exceedance of the height of building and floor space ratio development standards and is supported. Refer to further information in the Discussion section

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is located within the Potts Point heritage conservation area (C51) and the existing building is identified as 'detracting'. Council's heritage officer has raised no objection to the proposal. The proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area.
5.21 Flood planning	Yes	The site is identified as being subject to flooding. The applicant submitted a flood assessment dated 25 March 2026 which has been reviewed by the City's Public Domain Unit who confirmed that the recommended flood planning levels are acceptable. Conditions of consent are recommended in Attachment A requiring compliance with the levels in the submitted flood assessment and requiring details of flood risk management measures to be submitted to and approved by the Accredited Certifier.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area. The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the

Provision	Compliance	Comment
		surrounding area and future occupants. The development therefore achieves design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The proposed development involves alterations to an existing building that will result in the creation of more than 60 square metres of gross floor area that is intended to be used for a purpose other than residential accommodation, and therefore is subject to an affordable housing contribution. A condition requiring payment of an affordable housing contribution is included in the recommended conditions of consent in Attachment A.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

43. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

44. The site is located within the Kings Cross locality. The proposed development is in keeping with the unique character and the design principles of the Kings Cross locality. Specifically:

- The proposal responds to and complements the Potts Point heritage conservation area.
- The proposal maintains the built form structure of the neighbourhood.

- The proposal reinforces the urban form of Darlinghurst Road and provides upper-level setbacks from Darlinghurst Road to respect the existing street wall heights.
- The proposal will result in interesting development which references the socio-historic significance of Darlinghurst Road and supports community diversity and harmony.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	Conditions are included in Attachment A which will ensure that all new water fittings and fixtures such as shreds, water tap outlets, urinals and toilet cisterns are to be the highest Water Efficiency Labelling Scheme (WELS) star rating available at the time of development. Subject to these conditions, the development satisfies ecologically sustainable development requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 5.21 of the LEP above.
3.9 Heritage	Yes	The site is located within the Potts Point heritage conservation area (C51). The building is identified as a detracting building. The proposed development is consistent with the heritage character of the area. Council's heritage officer has raised no objection to the proposal.
3.11 Transport and Parking	Yes	The application proposes to allocate 14 bicycle parking spaces within the basement which meets the requirements of the DCP. Section 3.11.3 of the DCP requires that 1 personal locker be provided for each bike parking space, and 2 shower and change cubicles be provided for provision of 11 to 20 bike parking

Provision	Compliance	Comment
		spaces for non-residential uses. Lockers, one accessible bathroom, and separate individual male, female and unisex toilet facilities are provided on the Basement B2 level in proximity to the bike parking spaces. While these do not strictly meet the provisions of the DCP in relation to end of trip facilities for non-residential uses, it is acceptable given the nature of the non-residential use - being a backpackers accommodation, whereby additional lockers, and toilet and shower facilities are provided on the upper floors in association with the backpackers accommodation use. The application was referred to Council's Transport and Access Unit who raised no objection, subject to conditions which are included in Attachment A.
3.12 Accessible Design	Yes	The applicant has provided an access design review report which assesses the ability of the proposed building works to comply with the BCA. The accompanying access statement prepared by Jensen Hughes states that compliance with the relevant Australian access standards can be achieved. The application was referred to Council's Construction and Building Unit who raised no objection to approval of the development application, subject to recommended conditions of consent. On 21 August 2026, the proposal was amended to remove a proposed accessible entrance to the backpackers accommodation from the Sydney Trains pedestrian arcade. It is understood that this change was made to address concerns raised by Sydney Trains with regard to the use of the pedestrian arcade for an entrance to the backpackers accommodation, particularly given that the arcade is not open to the public on a 24-hour basis.

Provision	Compliance	Comment
		All aspects relating to performance solutions to address disability standards are required to be considered by the Certifying Authority prior to a Construction Certificate being issued for any consent. Council is satisfied that there are opportunities to provide an accessible entrance to the backpacker accommodation in the amended design which can be addressed at Construction Certificate stage.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The application was referred to Council's Cleansing and Waste Unit who observed that the proposed waste arrangements for the backpacker accommodation are not ideal in relation to waste storage or collection of bins due to the limitation of Earl Street for waste collection and the number of bins that can be presented in the laneway for collection, the size of the waste storage area, and the required frequency of collection. A waste collection area within the boundary of the property was recommended to allow for a wheel-in wheel-out waste collection service. However, due to the provision of a fire hydrant booster at the Earl Street entrance to the backpacker's accommodation, such a waste holding area cannot be accommodated given the limited space available. Section 9 (Waste Management) of the Plan of Management confirms that bins will only be transferred to Earl Street immediately prior to collection and returned to the waste storage area as soon as practicable following servicing. Site staff will be responsible for the presentation and return of bins for collection, ensuring that bins will not be

Provision	Compliance	Comment
		stored on Earl Street for long periods of time to minimise any impacts on public amenity. This approach is acceptable given that there are limited alternatives. Council's Cleansing and Waste Unit has raised no objection to the proposed waste arrangements subject to conditions. Furthermore, the submitted waste management plan has used waste generated rates based on a lower previous usage, rather than current guideline rates. Council's Cleansing and Waste Unit has advised that this is acceptable in this instance given the preference to reduce the number of bins presented on the street for collection. The waste and recycling collection service for the proposed development will continue to be provided by a private waste contractor. The waste management plan has stated that the waste management for the retail premises / coffee cart, which are accessed from the ground level arcade, will not be impacted by the proposed development. A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signs and Advertisements	Yes	Signage is depicted on the drawings which appears uncoordinated with the Sydney Trains existing signage. Conditions of consent are recommended in Attachment A stating that no signage is approved under this DA and that a separate development application is to be submitted seeking approval for a signage strategy for the building.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 6 storeys with a maximum street frontage height of 4 storeys. The proposed development is 6 storeys in height with a street frontage height of 4 storeys. Section 4.2.2.2 of the DCP requires a setback above the prescribed street frontage height is to be a minimum of 3m. The proposed upper two levels are setback 3m from the street wall along Darlinghurst Road, and as such the proposal complies with the street frontage height control.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed additional floors to the existing development achieve the minimum floor to ceiling height of 2.7m for habitable rooms in a mixed-use development for the additional floors proposed to the existing development. There are some minor shortfalls in the minimum floor to ceiling height under the DCP for habitable rooms on the existing floors of the development, and in respect of the minimum floor to floor height of 4.5m at ground floor. This is acceptable given that this is an existing situation, the floors/ceilings on these levels are proposed to be retained by the proposal, and the use of the site for retail / food and drink premises at ground floor and backpacker accommodation above is not proposed to change.
4.2.2 Building setbacks 4.2.2.2 Setbacks above the street frontage height	Yes	The proposal reinforces the areas desired future character by presenting a development which is consistent with the prescribed 4-storey street frontage height control applying to the site, and

Provision	Compliance	Comment
		the prescribed upper level setback as detailed below. Section 4.2.2.2 of the DCP requires a setback above the prescribed street frontage height is to be a minimum of 3m. The proposed upper two levels are setback 3m from the street wall along Darlinghurst Road, and as such the proposal complies with the street frontage height control.
4.2.3 Amenity		
4.2.3.1 Solar access	No, but acceptable	The proposed development is located to the north of a twenty-storey residential flat building known as 'Omnia' at 113 Darlinghurst Road. The DCP requires apartments within a development and neighbouring sites must achieve a minimum of 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1 square metres of living room windows and a minimum 50% of the required minimum area of private open space area. The applicant has provided shadow diagrams and view from the sun diagrams to facilitate assessment of overshadowing impacts. The submission demonstrates that the proposed development will create additional overshadowing to living room windows and private open space areas of some apartments within the Omnia Building, however the solar access impacts of the proposal are acceptable on balance. Refer to the further details provided under the sub-heading 'Overshadowing' in the ‘Discussion’ section below.

Provision	Compliance	Comment
4.2.3.2 Lightwells	Yes	The application proposes to create a lightwell void to improve light and amenity to bedrooms and areas of the backpacker accommodation. The lightwell is fully open to the sky. While it is the only source of daylight to the habitable rooms it adjoins, this is acceptable noting that the site is constrained by easements and comprises an existing building on a narrow, deep site which is built to the boundaries, limiting opportunities for daylight access to centrally located rooms. The drawings depict fixed windows to the internal lightwell and a reliance on mechanical ventilation. In this regard, it is not considered that the lightwell will generate undue noise impacts. Furthermore, the fixed windows are depicted as glass blocks which will which allow light into the rooms while minimising the opportunity for overlooking and visual privacy effects to the pedestrian arcade below.
4.2.3.6 Deep Soil	No, but acceptable	The proposed development provides no deep soil planting areas, however the non-compliance is acceptable in this instance as the site is fully occupied by the existing building which restricts opportunity for deep soil provision.
4.2.3.11 Acoustic privacy	Yes	The applicant has submitted an acoustic report with the application to assess the noise impacts of the backpacker accommodation impacting upon nearby residential receivers. The report indicates that appropriate controls can be incorporated into the building design to achieve a satisfactory accommodation environment, and that the development is capable of complying with relevant noise standards subject to detailed design for mechanical plant equipment at Construction Certificate stage and provided that the

Provision	Compliance	Comment
		recommendations as set out in the acoustic report are implemented. It is noted that the noise criteria set out in Section 4.2.3.11 of the DCP applies to residential buildings and serviced apartments only, which do not form part of the proposal. The submitted acoustic report has been reviewed by Council's Environmental Health Unit who have confirmed that the proposal can be supported subject to conditions requiring compliance with the acoustic report and certification of the acoustic design prior to issue of a relevant Construction Certificate. Additional conditions are also recommended in Attachment A requiring updates to the submitted Plan of Management, restricting the use and occupancy of the proposed rooftop area, including banning of amplified outdoor music, in order to minimise acoustic impacts of the space.

4.4 Other Development Types and Uses

4. **4.4.8 Visitor accommodation**

Provision	Compliance	Comment
4.4.8.1 General	Yes	The design of the proposed backpacker accommodation use provides acceptable levels of health, safety, cleanliness, amenity and administration for guests. It is appropriately located with good public transport links being that it is situated above Kings Cross Station and a Plan of Management has been submitted which generally demonstrates that the use can operate without adversely impacting on the amenity of the surrounding locality. Notwithstanding, a condition of consent is recommended in Attachment A requiring the Plan of Management to be updated to address a number of additional matters related to CPTED,

Provision	Compliance	Comment
		use of the rooftop communal space and lighting.
4.4.8.4 Additional provisions for backpacker accommodation	Yes	The proposed sleeping rooms of the backpacker accommodation provide adequate space for the proposed number of guests and no single room will accommodate more than 8 guests, in compliance with DCP requirements. A condition is recommended in Attachment A to ensure this is complied with on an ongoing basis. The plans also demonstrate that a range of room sizes and bed types are provided, as per Section 4.4.8.4(2)(e). The plans demonstrate adequate storage for the proposed occupant capacity of the premises. Communal recreation areas are to be provided at a rate of 0.75 square metres per person based on the maximum number of guests. This equates to a minimum communal recreation area requirement of 84.75 square metres in this instance. The DCP further states that communal recreation areas are to be provided internally where possible, and that communal outdoor facilities should generally be no greater than 20% of the total communal recreation area, be designed and located to ensure noise impacts to surrounding property are minimised and the use should be restricted to before 10pm. The submitted plans indicate that an indoor communal recreation area of 74.9sqm and an outdoor rooftop communal area of 28.5sqm is proposed. This is not strictly consistent with the DCP provisions as the total minimum communal recreation area is not provided entirely indoors and the outdoor communal facilities exceed 20% of the total communal recreation area - resulting in approximately 38% of the total communal recreation area. While the DCP seeks for communal recreation areas to be indoor where possible and in

Provision	Compliance	Comment
		addition to outdoor space, in this case, it is considered appropriate for a balance of indoor and outdoor space to be provided for the following reasons: • The proposed redevelopment of the site will result in a significant upgrade and amenity improvements of an existing dilapidated building which already accommodates a backpackers accommodation. • The site is heavily constrained by easements and stratum lots under different ownership. • The indoor communal recreational area makes the best use of the space available and is designed to be a functional and usable space. The proposed rooftop space has been designed to minimise acoustic impacts upon nearby residential properties and the submitted Plan of Management restricts the use of the space to between 7am and 10pm in accordance with the provisions of the DCP. The submitted acoustic report includes further recommendations for the use of this space to mitigate acoustic impacts. A condition of consent is recommended in Attachment A for the Plan of Management to be updated to reflect the recommendations in the acoustic report. The proposed layout of the backpacker accommodation provides adequate kitchen/dining areas, bathrooms and laundry facilities. A manager's office and sleeping room is identified on the proposed Level 5 plan for a resident on-site manager. A staff room is also identified on the Basement 2 floor plan.

Section 6 – Specific Sites

6.2.12 Darlinghurst Road, Potts Point

Provision	Compliance	Comment
6.2.12.1 Land Use	Yes	Provision 6.1.12.1(2) states that a minimum of 50% of the total gross floor area for each development must be for uses other than residential accommodation or serviced apartments for all development where a significant addition of floor space, a substantial change in the building envelope or a substantial change in land use is proposed. Residential accommodation and serviced apartments are not proposed.
6.2.12.2 Urban grain and active street frontages	Yes	The proposed development reflects the existing pattern of building arrangement and subdivision of Darlinghurst Road. An entry to the upper levels and vertical circulation core is provided. The proposed redevelopment of the building will result in an individually distinctive architectural language and expression of floor levels. The ground floor retail tenancies are accessed from the Kings Cross Train Station pedestrian arcade, rather than off Darlinghurst Road directly, The existing coffee cart has a window out to both the pedestrian arcade and Darlinghurst Road. No self-contained lower ground or basement tenancies are proposed.
6.2.12.3 Architectural character, articulation and materials	Yes	The proposed facade elements and window openings above ground floor level on Darlinghurst Road are proposed to be vertically proportioned. The window openings above the existing awning are limited to between 20% and 40% of the facade wall area. The materials and architectural details proposed are at least equal in quality to

Provision	Compliance	Comment
		the highest quality found in neighbouring contributory buildings and include materials and design detailing similar to those used in surrounding buildings. The proposed roof form is considered acceptable.
6.2.12.4 Awnings	Yes	The existing footpath awning over Darlinghurst Road is to be retained by the proposal.
6.2.12.7 Access	Yes	There is currently no vehicular access to the site, and no vehicular access is proposed.

Schedule 4 - Projections over or into public roads

45. Schedule 4 of the DCP applies to projections over or into public roads and seeks to prescribe maximum limits for decoration or sun shading devices and balconies and bay windows to project over the road/footpath alignment. In the case of balconies and bay windows, the projection must not extend more than 450mm over the rood/footpath alignment, not comprise more than 50% of the road frontage of the building at any level, and be at least 3.2m above the footpath and at least 800mm from the face of the kerb, and not result in adverse impacts on the amenity of adjoining property.

46. The proposed front elevation brickwork and windows in the front elevation extend 160mm over the front boundary above ground level. This encroachment is above the existing awning over the Darlinghurst Road footpath and is more than 3.2m above the footpath and more than 800mm from the face of the kerb. Furthermore, this element of the proposal will not result in adverse impacts on the amenity of adjoining property. The encroachment however comprises more than 50% of the road frontage of the building. On the request of Council, the applicant submitted contextual information to demonstrate the relationship of the proposed development with the as-built buildings on neighbouring properties - Refer to the images below.

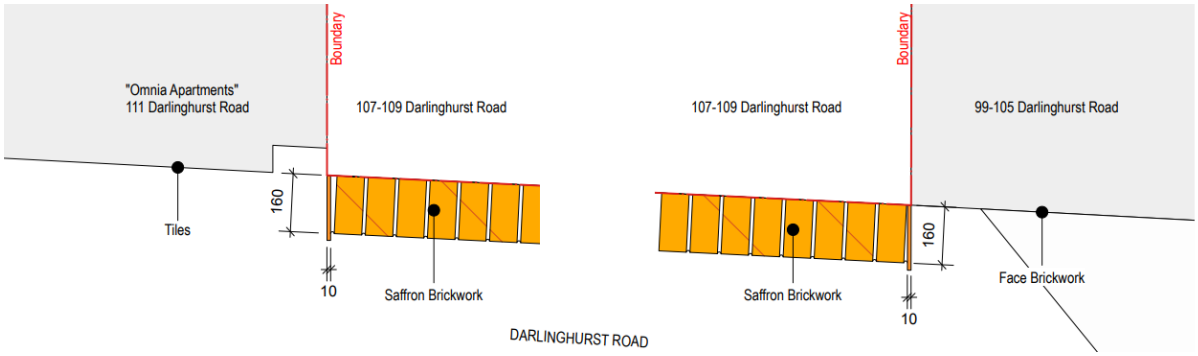


Figure 28: Contextual plan of projection over Darlinghurst Road

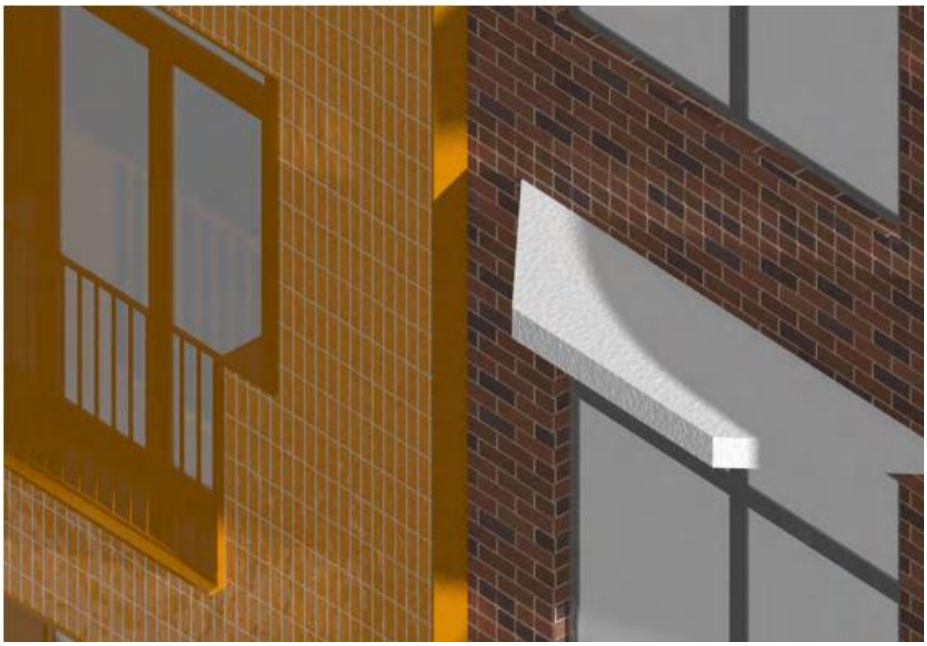


Figure 29: Contextual 3D perspective of projection over Darlinghurst Road site boundary

47. These contextual drawings indicate that the neighbouring property at 99-105 Darlinghurst Road also incorporates encroachments over the boundary above ground level of approximately 0.5m in depth. While these encroachments are not across the entirety of the boundary, it is clear that the minor encroachment for the proposed development of 160mm is not inconsistent with the surrounding development and will not pose any issue for the safe and efficient functioning of the public domain. In this regard, the proposed projection over front boundary is considered acceptable in this instance.

Discussion

Clause 4.6 Request to Vary a Development Standard - Floor Space Ratio

48. The site is subject to two different floor space ratio controls with a maximum floor space ratio of 2:1 and 3:1 applying over difference parts of the site, pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.

49. The permitted gross floor area across the site as a whole has been calculated to be 599.3 square metres.

50. This is calculated on the basis that the 3:1 Floor Space Ratio control applies across 82.9 sqm of the site area - equating to a permissible gross floor area of 248.7 sqm on that portion of the site, whilst the 2:1 Floor Space Ratio control applies across 175.3 sqm of the site area - equating to a permissible gross floor area of 350.6 sqm on that portion of the site. This provides for a total permissible gross floor area of 599.3 sqm across the total site area of 258.2 sqm. By dividing the total permissible GFA by the total site area, a maximum Floor Space Ratio of 2:32:1 can be derived for the site.

51. The proposed development does not comply with the maximum floor space ratio development standard applying to the site as a combined floor space ratio of 3.60:1 or 935.9 sqm of gross floor area is proposed across the site as a whole, which represents a 56.16% variation to the development standard.

52. Alternatively, assessing compliance against each of the individual Floor Space Ratio controls which apply to the site:

    - The permissible gross floor area on the 2:1 portion of the site is 350.6 sqm; and
    - The permissible gross floor area on the 3:1 portion of the site is 248.7 sqm.

53. The application proposes 663.8 sqm of gross floor area on the 2:1 portion of the site - representing an 89.33 % variation to the 2:1 development standard.

54. The application proposes 272.1 sqm of gross floor area on the 3:1 portion of the site - representing a 9.41 % variation to the 3:1 development standard.

55. Pursuant to the requirements of section 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

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

    (b) That there are sufficient environmental planning grounds to justify contravening the standard;

Applicant's regulation 35B document

56. The applicant seeks to justify the contravention of the floor space ratio development standard on the following basis:

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

        (i) The applicant submits that the objectives of the zone and development standard are achieved notwithstanding the non-compliance with the standard. The applicant's assessment against the objectives of the development standard is below:

            (i) **Objective:** to provide sufficient floor space to meet anticipated development needs for the foreseeable future.

            Applicant's comment: The proposal makes a modest contribution providing sufficient floor space to meet anticipated development needs for the foreseeable future.

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

            Applicant's comment: The development successfully regulates the density of development, built form, land use intensity, and controls the generation of vehicle and pedestrian traffic.

(iii) **Objective:** to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

Applicant's comment: There is no significant intensity of development, and the modest increase capacity is commensurate with the capacity of existing and planned infrastructure.

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

Applicant's comment: The modest additions reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

(ii) The applicant submits that, whilst the FSR exceptions already granted in the vicinity of the site do not amount to abandonment of the development standard, the FSR proposed nevertheless results in a bulk and scale that is subservient to larger buildings in the immediate vicinity and that is wholly consistent in its street wall heights of its northern neighbours.

(iii) The applicant submits that the prior consents in the locality inform the desired character and future streetscape and the proposal is consistent with these contemporary outcomes and consistent with the desired future character.

(iv) The applicant submits that it is unreasonable and unnecessary to require strict compliance with the development standard where there are no significant adverse impacts resulting from the variation, and where strict compliance would come with greater and more negative impacts in the redistribution of complying gross floor area, such as infilling the voids that were created to allow better internal amenity.

(v) The applicant submits that the burden placed on the future occupants of the development by requiring strict compliance with the development standard would be disproportionate to the non-existent or inconsequential adverse consequences attributable to the proposed non-compliant development.

(vi) The applicant submits that if strict compliance were required, it would undermine important statutory objectives that are relevant to the consideration of this matter, including the Objects of the EP&A Act and the Sydney LEP.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The applicant submits that contravention of the standard is justified as a significant amount of the gross floor area is in the existing basement levels of the development and does not contribute to the bulk and scale of the building. Furthermore, the building also accommodates the Kings Cross Train Station entry which constitutes a large volume of area (in part a double height space) that would normally be developable but in this circumstance has been given over for the public good.

(ii) The applicant submits that the bulk and scale of the proposed development is further attributable to the following:

a. Voids that provide for better internal amenity for the public users of the Railway Station concourse, in particular natural light that will enter the Railway Station concourse from the Earl Street elevation
b. Voids will allow natural light into the Railway Station concourse and provide views of Earl Street, significantly improving Crime Prevention Through Environmental Design (CPTED) for the area.
c. Voids that provide a significant improvement to the internal amenity of the building for occupants.
d. Voids that contribute to the activation and natural surveillance of the Earl Street elevation and access to the building from Earl Street and from the Railway Station concourse.
e. The lightwell and the articulation in the southern facade adjoining Omnia to mitigate solar access impacts and provide natural light and ventilation to the building.

(iii) The applicant submits that the design benefits of the proposal, improvements in CPTED and improved amenity and design outcomes mitigate and offset the impacts of additional floor space.

(iv) The applicant submits that the proposal is consistent with the objects of the EP&A Act.

(v) The applicant submits that the proposal is consistent with the aims of the LEP, zone and development standard.

(vi) The applicant submits that the proposal is contextually consistent with the contemporary buildings approved to the north, forming the desired future character within the immediate vicinity of the site.

(vii) The applicant submits that the proposal is consistent with existing and desired future character of the area.

(viii) The applicant submits that the proposed works will provide a BCA upgrade for the existing building.

(ix) The applicant submits that there are a lack of any unacceptable amenity impacts, and that the key impacts relating to the development standard, being loss of views, loss of privacy, overshadowing or visual intrusion, have all been minimised by the design of the proposal including an increase in the eastern front setback and reduction in the bulk and scale of the upper western elements of the building (when compared to the previously refused scheme for the site).

(x) The applicant submits that any reasonable development complying with the development standard will have similar, inevitable, and unavoidable impacts upon the southern neighbours that cannot be avoided without a loss of reasonable development potential for the site.

(xi) The applicant submits that the proposal provides excellent amenity outcomes for future occupants.

57. Precondition to granting consent where a development standard has been contravened. Where a development standard has been contravened, development consent must not be granted unless the consent authority is satisfied that 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 standard.

58. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons: As existing, 320.8 sqm of gross floor area is contained within the basement levels, as viewed from Darlinghurst Road, thereby not contributing to the overall bulk and scale of the development. Under the proposal, due to the reconfiguration of these floors, 241.6 sqm of gross floor area will remain within the basement levels.

59. The applicant's request to vary the floor space ratio development standard points to the fact that the existing building is already in breach of the standard as existing and therefore compliance with the standard is unreasonable.

60. Whilst it is accepted that it would be unreasonable for existing development on site to be reduced in order to achieve strict compliance with the standard, the application proposes a further variation of the standard beyond the existing breach (from 908.6 sqm / 3.52:1 FSR as existing to a proposed 935.9 sqm / 3.60:1 FSR) and therefore the objectives of the floor space ratio standard are a relevant consideration in determining whether the further variation can be supported.

61. The proposal is considered to be consistent with the objectives of the development standard. With regards to Objective (d) as the proposal is consistent with the desired character of the locality and minimises adverse impacts on the amenity of the locality. Specifically, a DCP-compliant 4-storey street wall height consistent with the development to the north is proposed and additional bulk is proposed to be introduced with a sufficient 3m setback from Darlinghurst Road. In this regard, the proposed additional floorspace has been distributed in a way that will not unreasonably impact upon the streetscape nor result in unacceptable bulk and scale. While the additional bulk and massing of the development will result in some additional overshadowing to the neighbouring residential apartments to the south, the solar access impacts are considered acceptable on balance as discussed under the 'Overshadowing impacts' subheading of the Discussion section below. Furthermore, the bulk and scale of the development is appropriate in the context of the development on surrounding sites and noting the site constraints with a narrow site width, easements burdening the site and the part of the ground floor accommodating the pedestrian arcade to the Kings Cross Train Station which have all constrained the distribution of floor space on the site.

62. Overall, the proposal is consistent with the objectives of the development standard.

63. The proposed floor space ratio variation will not materially contribute to unreasonable additional overshadowing to the neighbouring property to the south, as discussed in detail under the 'Overshadowing Impacts' subheading of the Discussion section below.

64. The new floor space and overall building design, including upper-level setbacks, are suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.

65. The proposed upper two levels are sufficiently setback from the street frontage, ensuring that are not highly visible from Darlinghurst Road. The proposed development achieves compliance with the street frontage height control applying to the site, pursuant to Section 4.2.1.1 of the Sydney Development Control Plan 2012.

66. The form and modulation of the additional floor space deliver an appropriate bulk and scale for the development on the site. Overall, the appearance of the proposal and the additional floor space will not adversely impact on the streetscape or the character of the heritage conservation area.

67. Noting the site's constraints in that it is a narrow site, burdened by easements, with the ground floor partially occupied by the pedestrian arcade to the Kings Cross Train Station, Council officers agree that any reasonable development complying with the development standard would have similar, inevitable impacts upon the neighbouring building to the south that cannot be avoided without a loss of reasonable development potential for the site.

Conclusion

68. For the reasons provided above the requested variation to the floor space ratio development standard is supported as the applicant has demonstrated the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Building Height

69. The site is subject to a maximum height of buildings control of 22 metres.

70. The proposed development has a maximum building height of 22.641 metres, representing a 2.91% variation of the height of buildings development standard applying to the site.

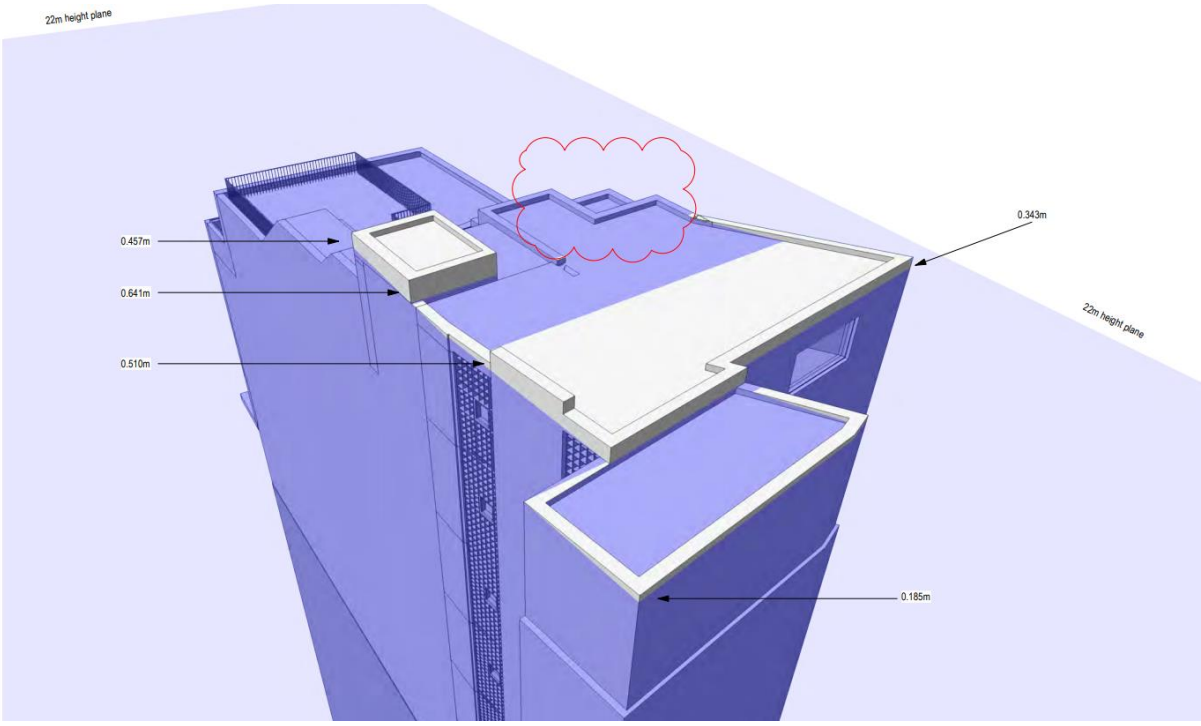


Figure 30: 3D perspective of the proposed development showing the 22m height plane

71. Pursuant to the requirements of section 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

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

    (b) That there are sufficient environmental planning grounds to justify contravening the standard;

Applicant's regulation 35B document

72. The applicant seeks to justify the contravention of the building height development standard on the following basis:

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

        (i) The applicant submits that the objectives of the development standard are met notwithstanding non-compliance with the standard. The applicant's assessment against the relevant objectives of the development standard is below:

            (i) **Objective:** to ensure the height of development is appropriate to the condition of the site and its context.

            Applicant's comment: The Omnia building to the south dominates the immediate vicinity towering above the site and other neighbours. The exceedance is limited in its footprint and with the height to a maximum exceedance of 2.91%, the proposal is consistent with the site and its context.

            (ii) **Objective:** to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.

            Applicant's comment: There are no buildings of any heritage significance within the immediate vicinity of the site that would be adversely affected by the proposal.

            (iii) **Objective:** to promote the sharing of views outside Central Sydney.

            Applicant's comment: Larger and taller buildings within the locality take out views and the additional storey will not remove any iconic or significant views.

        (ii) The applicant submits that, whilst the height of building exceptions already granted in the vicinity of the site do not amount to abandonment of the development standard, the building height proposed nevertheless is subservient to larger buildings in the immediate vicinity and that is wholly consistent in its street wall heights of its northern neighbours.

        (iii) The applicant submits that the prior consents in the locality inform the desired character and future streetscape and the proposal is consistent with these contemporary outcomes and consistent with the desired future character.

(iv) The applicant submits that it is unreasonable and unnecessary to require strict compliance with the development standard where there are no significant adverse impacts resulting from the variation.

(v) The applicant submits that the burden placed on the future occupants of the development by requiring strict compliance with the development standard would be disproportionate to the non-existent or inconsequential adverse consequences attributable to the proposed non-compliant development.

(vi) The applicant submits that if strict compliance were required, it would undermine important statutory objectives that are relevant to the consideration of this matter, including the Objects of the EP&A Act and the Sydney LEP.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The applicant submits that the proposal is consistent with the objects of the EP&A Act.

(ii) The applicant submits that the proposal is consistent with the aims of the LEP, zone and development standard.

(iii) The applicant submits that the proposal is contextually consistent with the contemporary buildings approved to the north, forming the desired future character within the immediate vicinity of the site.

(iv) The applicant submits that the proposal is consistent with existing and desired future character of the area.

(v) The applicant submits that the proposed works will provide a BCA upgrade for the existing building.

(vi) The applicant submits that there are a lack of any unacceptable amenity impacts, and that the key impacts relating to the development standard, being loss of views, loss of privacy, overshadowing or visual intrusion, have all been minimised by the design of the proposal including an increase in the eastern front setback and reduction in the bulk and scale of the upper western elements of the building (when compared to the previously refused scheme for the site).

(vii) The applicant submits that any reasonable development complying with the development standard will have similar, inevitable, and unavoidable impacts upon the southern neighbours that cannot be avoided without a loss of reasonable development potential for the site.

(viii) The applicant submits that the variation to the standard can be supported as the bulk of the GFA is located within basement levels that does not add to the external height, shape, bulk of scale of the building. Further to this, the building also accommodates the Kings Cross Station entry, (in part a double height space) and so has a large volume of area that would normally be developable but in these exceptional circumstances are given over for the public good.

(ix) The applicant submits that the proposal provides excellent amenity outcomes for future occupants.

Precondition to granting consent where a development standard has been contravened.

73. Where a development standard has been contravened, development consent must not be granted unless the consent authority is satisfied that 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 standard. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons: The proposed building height is appropriate to the condition of the site and its context, noting that taller buildings exist in the immediate vicinity of the site. The proposal is therefore consistent with objective (a) of the development standard.

74. The proposal is compatible with the character of the streetscape and surrounding heritage conservation area, specifically noting that the proposed development achieves compliance with the street frontage height control applying to the site, pursuant to Section 4.2.1.1 of the Sydney DCP, and the proposed upper two levels are sufficiently setback from the street frontage, ensuring they are not highly visible from Darlinghurst Road. The proposal is therefore consistent with objective (b) of the development standard.

75. The proposal presents a high-quality built form and that the elements of the development in breach of the height control have a negligible impact upon the amenity of its surroundings and impact upon the streetscape.

76. The additional height will not result in the loss of view sharing, noting that there are numerous taller buildings in the immediate vicinity of the site and no iconic views are currently obtained over that part of the site where the building height exceedance is proposed. The proposal is therefore consistent with objective (c) of the development standard.

77. The proposed height variation does not materially contribute to additional shadowing that causes unreasonable overshadowing to the site or adjoining properties, as discussed in detail under the 'Overshadowing Impacts' subsection of the Discussion section below. While there is some additional overshadowing to the neighbouring property to the south, the elements of the development in breach of the height of buildings standard are generally not attributed to the site or adjoining properties.

78. Additionally, the overall bulk and massing of the development is acceptable, noting that a compliant street wall height to Darlinghurst Road is provided and the upper levels are sufficiently setback to mitigate the perceived bulk and scale of the proposal.

79. The proposed building height exceedance will not result in view loss given that taller buildings exist in the immediate vicinity of the site, and no iconic views are currently obtained over the location of the building height exceedance.

80. The proposed building height exceedance will not result in unacceptable privacy impacts as no windows are proposed within that portion of the building which exceeds the maximum building height standard.

81. Whilst a significant portion of the building's GFA is located within basement levels that do not add to the external height, shape, bulk or scale of the building, this is of limited relevance to the proposed variation to the height of buildings development standard.

82. Noting the site's constraints in that it is a narrow site, burdened by easements, with the ground floor partially occupied by the pedestrian arcade to the Kings Cross Train Station, Council officers agree that any reasonable development complying with the development standard would have similar, inevitable impacts upon the neighbouring building to the south that cannot be avoided without a loss of reasonable development potential for the site.

Conclusion

83. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant has demonstrated written the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Overshadowing

84. Section 4.2.3.1 of the DCP sets out solar access requirements for proposed apartments and neighbouring developments to ensure an acceptable level of residential amenity is achieved.

85. The DCP requires apartments within a development and neighbouring sites must achieve a minimum of 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1 square metres of living room windows and a minimum 50% of the required minimum area of private open space area.

86. The applicant has provided shadow diagrams and view from the sun diagrams to facilitate assessment of overshadowing impacts.

87. The proposed development is located to the north of a twenty-storey residential flat building known as 'Omnia' at 113 Darlinghurst Road. The original DA for the conversion of this building from a hotel to residential development gave approval for 139 apartments. A number of these have since received approval to be amalgamated.

88. The information provided by the applicant for the subject DA demonstrates that the proposed development will cause additional overshadowing to living room windows and private open space areas of some apartments within the Omnia building.

89. While some of the apartments affected by additional overshadowing will maintain compliant 2 hours' solar access, there are 2 apartments which are affected by additional overshadowing where solar access is constrained to less than 2 hours, resulting in a non-compliance with the provisions of the DCP. These are the living room window of Unit 4-12 and the private open space raised terrace area of Unit 3-03 on the podium Level 3 of the Omnia building.

90. Notwithstanding, while the NSW Apartment Design Guide does not apply directly to the assessment of this development under the Housing SEPP, the solar access criteria contained within the ADG provides a recognised benchmark for acceptable residential amenity for residential apartment development, and is therefore considered as a useful reference point when evaluating the impacts of the proposal.

91. The overshadowing impacts of the proposal on the living room window of Unit 4-12 and the private open space area of Unit 3-03 which are affected by additional overshadowing from the proposal, resulting in a non-compliance with the provisions of the DCP, are assessed below.

Overshadowing to living room window of unit 4-12

92. Unit 4-12 currently receives 2 hours' direct solar access to its north facing living room windows between 10am and 12 midday on 21 June.

93. The proposed development and additional two levels proposed atop of the existing building will block all direct sunlight to these living room windows currently receive between 9am and 3pm on 21 June resulting in a non-compliance with the provisions of the DCP.

94. Overshadowing impacts to this living room window are demonstrated by Figures 31-35 below, with the visible portion of the living room windows in question shown in red outline.

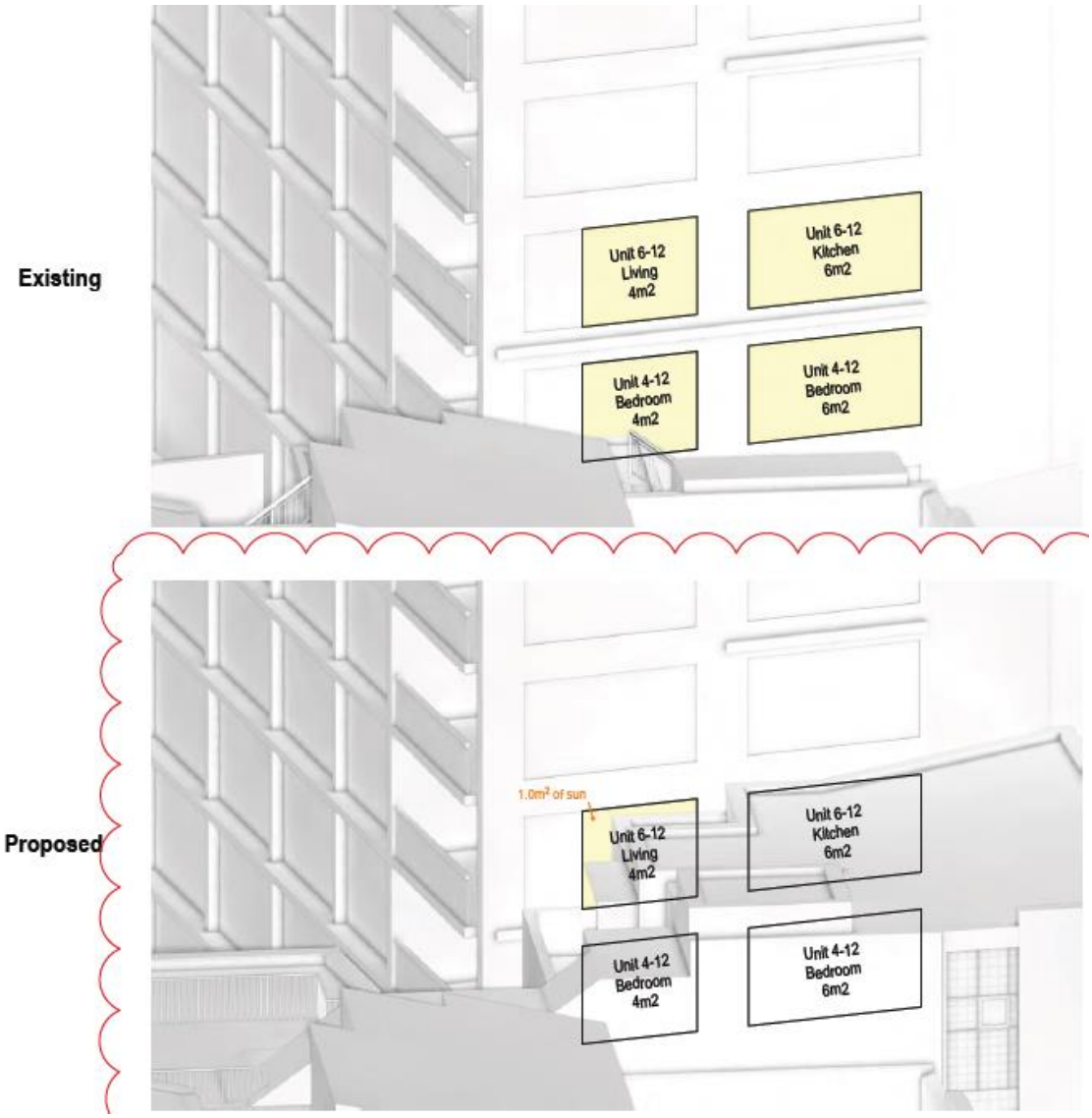


Figure 31: View from sun diagram at 9am, 21 June (Unit 4-12 living room window not visible)

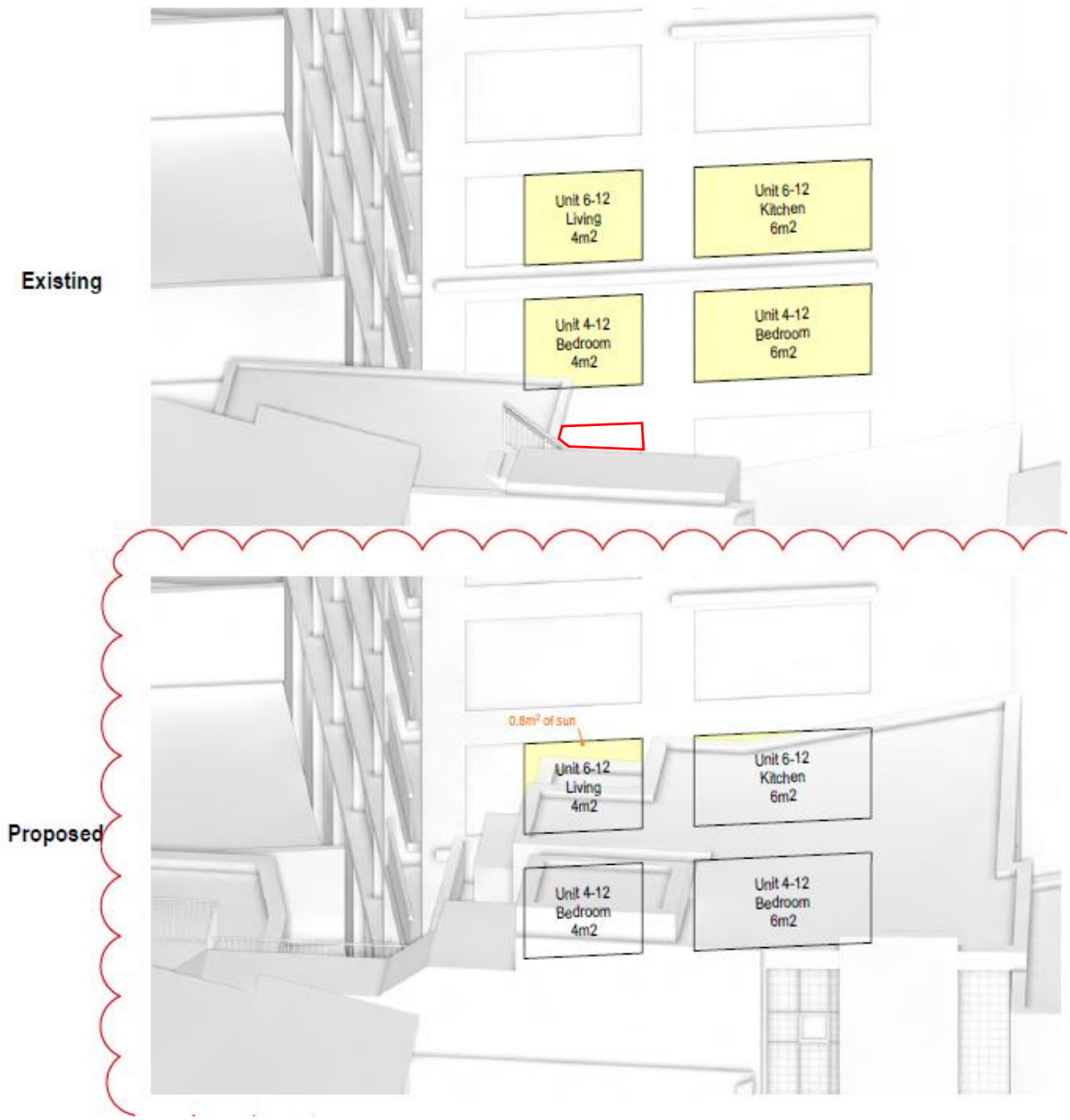


Figure 32: View from sun diagram at 10am, 21 June

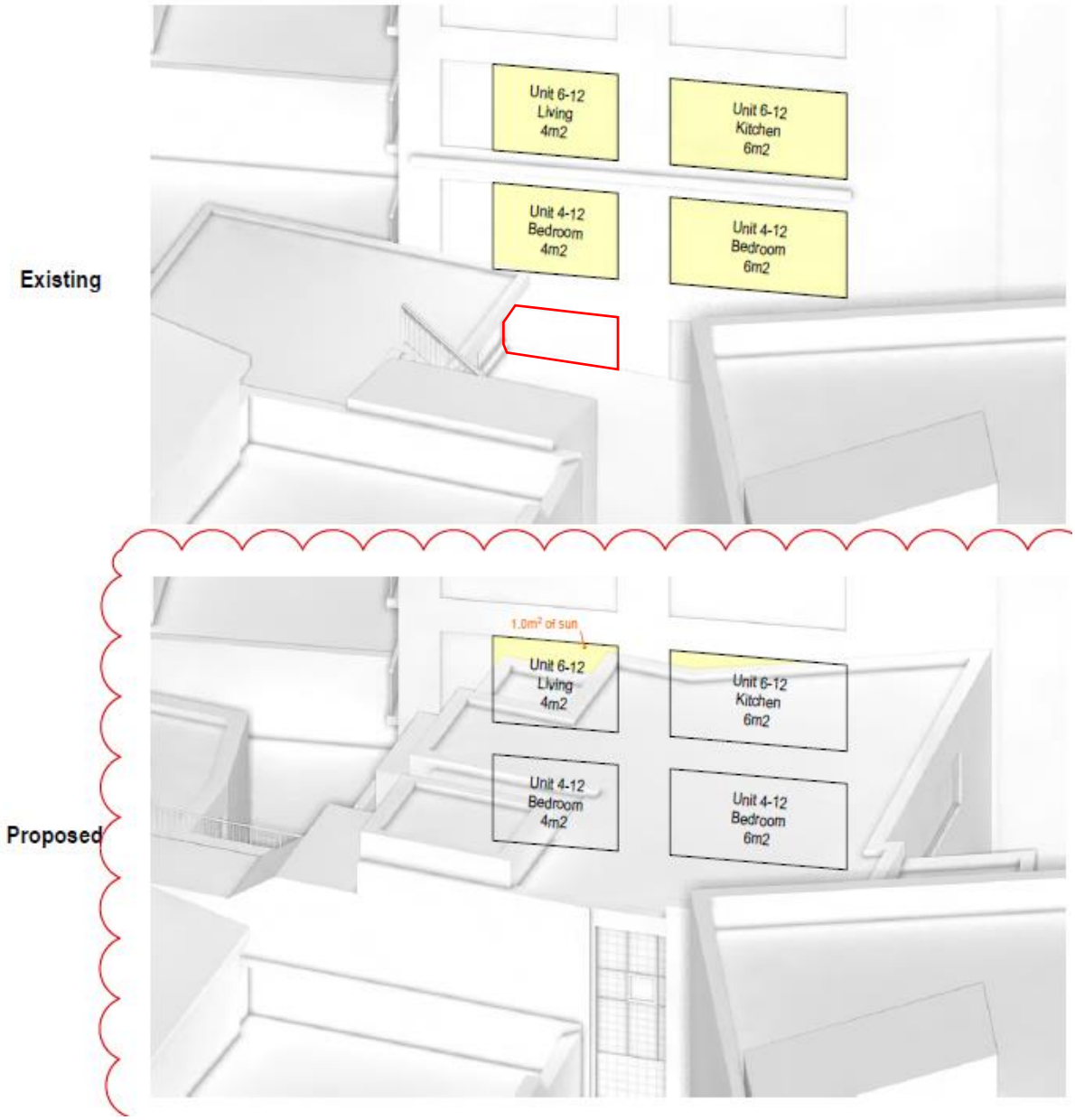


Figure 33: View from sun diagram at 11am, 21 June

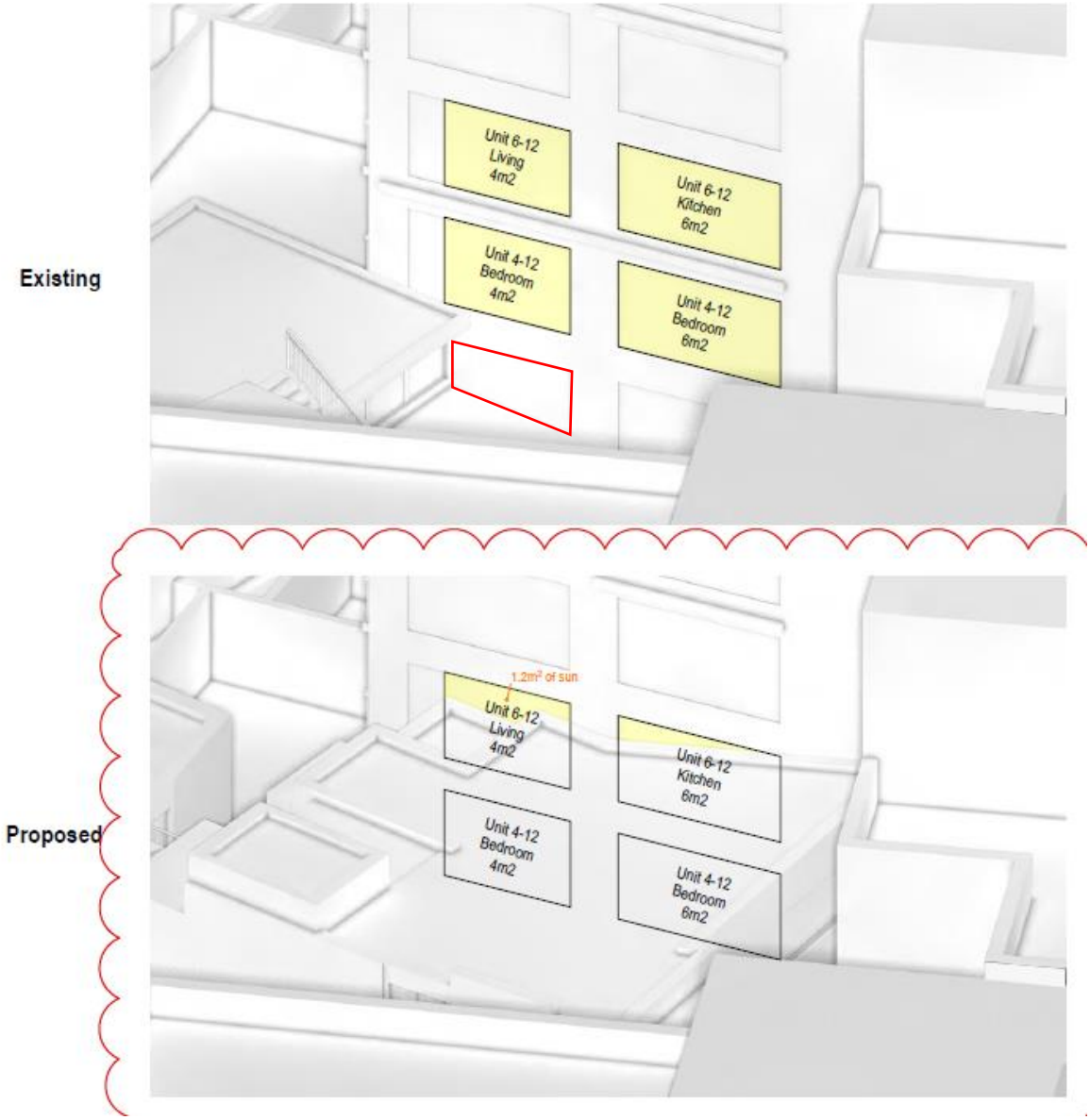


Figure 34: View from sun diagram at 12pm, 21 June

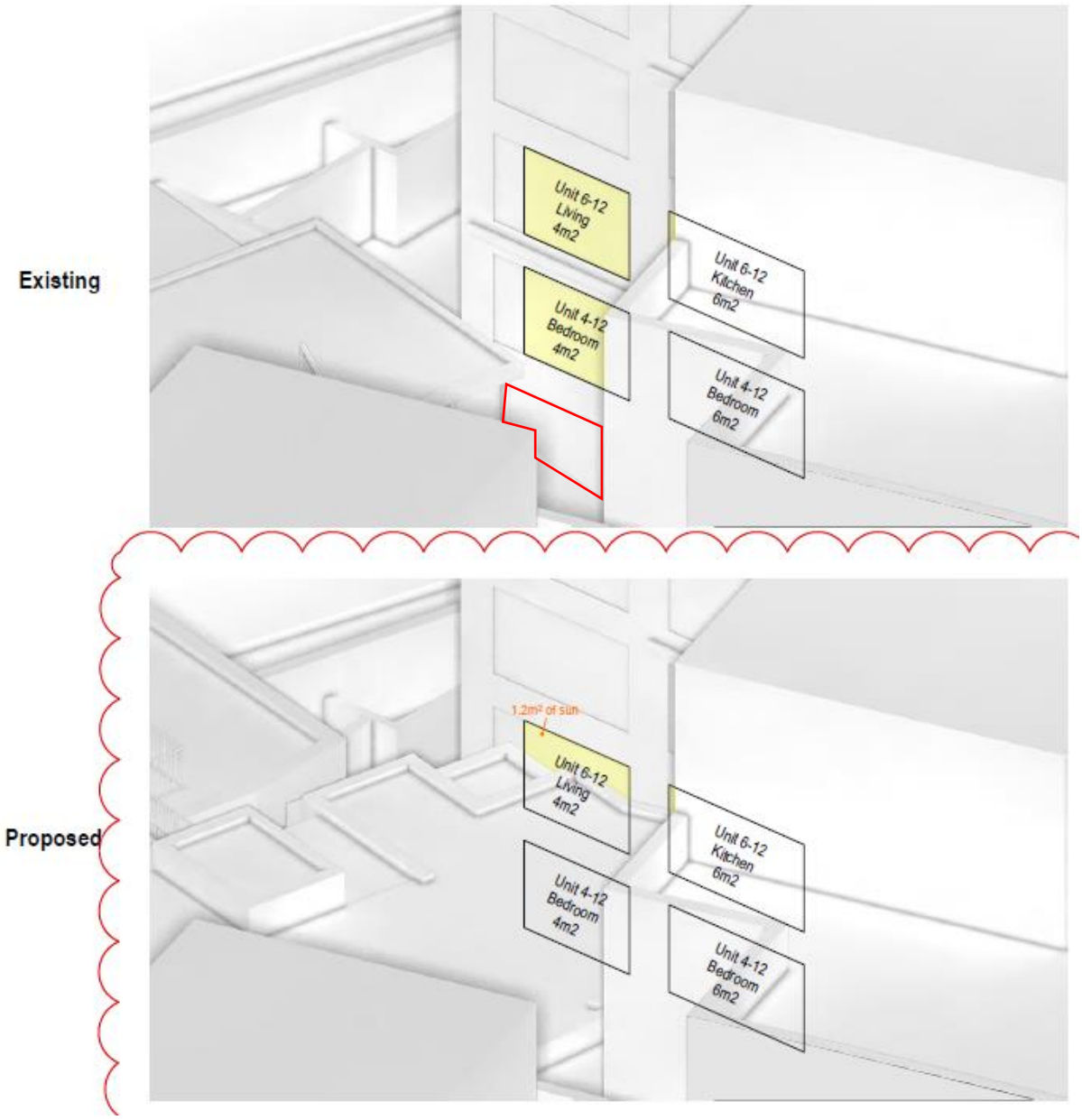


Figure 35: View from sun diagram at 1pm, 21 June

Overshadowing to private open space area of unit 3-03

95. The private open space terrace area of Unit 3-03 on the podium level of the Omnia building currently receives 2 hours' direct sunlight between 9am and 11am on 21 June.

96. As Unit 3-03 is a 2-bedroom apartment, the required minimum amount of private open space provision is 10 square metres in accordance with the provisions of Section 4.2.3.7(6) of the DCP and Objective 4E-1 of the NSW ADG.

97. Accordingly, the minimum solar access requirement to this terrace area is 2 hours' direct sunlight to at least 5 square metres, as this is 50% of the minimum required area pursuant to Section 4.2.3.1 of the Sydney DCP.

98. Whilst the applicant has not provided dimensions to measure existing solar access to this space, it is noted that the terrace measures 68 square metres and it is considered that the terrace will achieve the minimum 5 square metres' direct sunlight for at least 2 hours as existing.

99. The proposed development and additional two levels proposed atop of the existing building will block reduce direct sunlight to this private open space area from 9am to 1pm on 21 June, resulting in a non-compliance with the solar access requirements of the DCP.

100. Overshadowing impacts to the adjacent private open space terrace areas of the Omnia building are demonstrated by Figures 36-40 below, with the terraces of Unit 3-02 and Unit 3-03 highlighted in yellow, and any impacts directly attributed to the maximum building height exceedance highlighted in green.

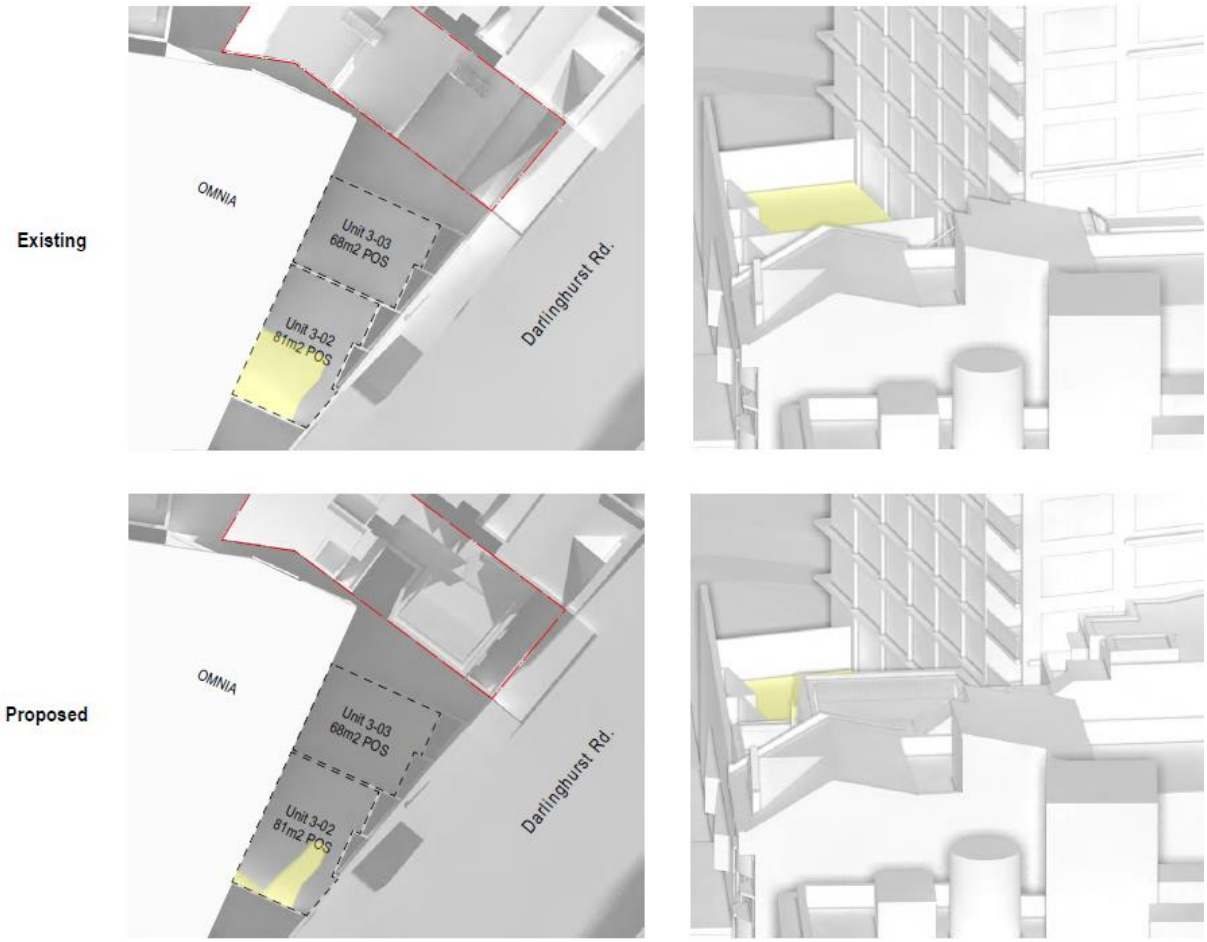


Figure 36: Plan and view from sun diagrams for private open space of Omnia building residential apartments at 9am, 21 June

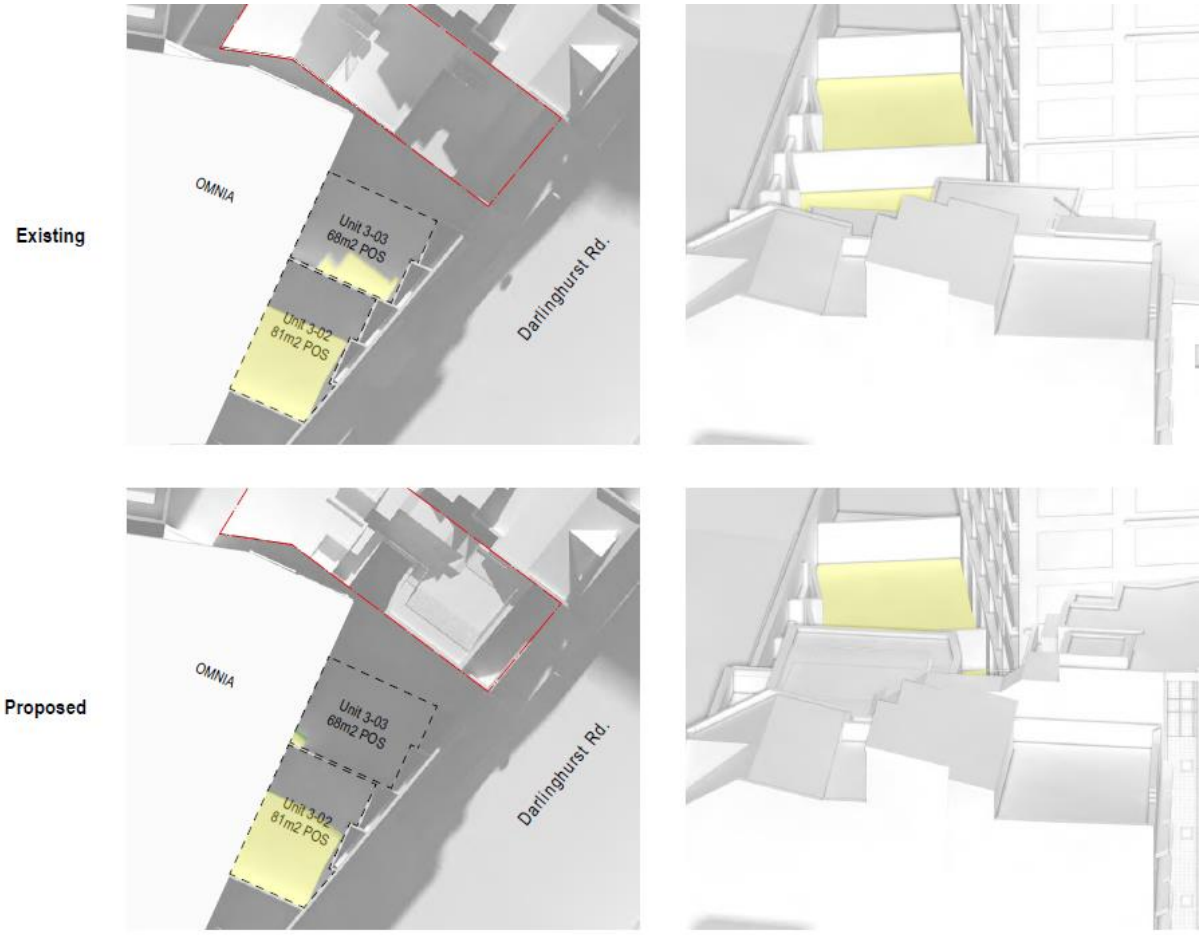


Figure 37: Plan and view from sun diagrams for private open space of Omnia building residential apartments at 10am, 21 June

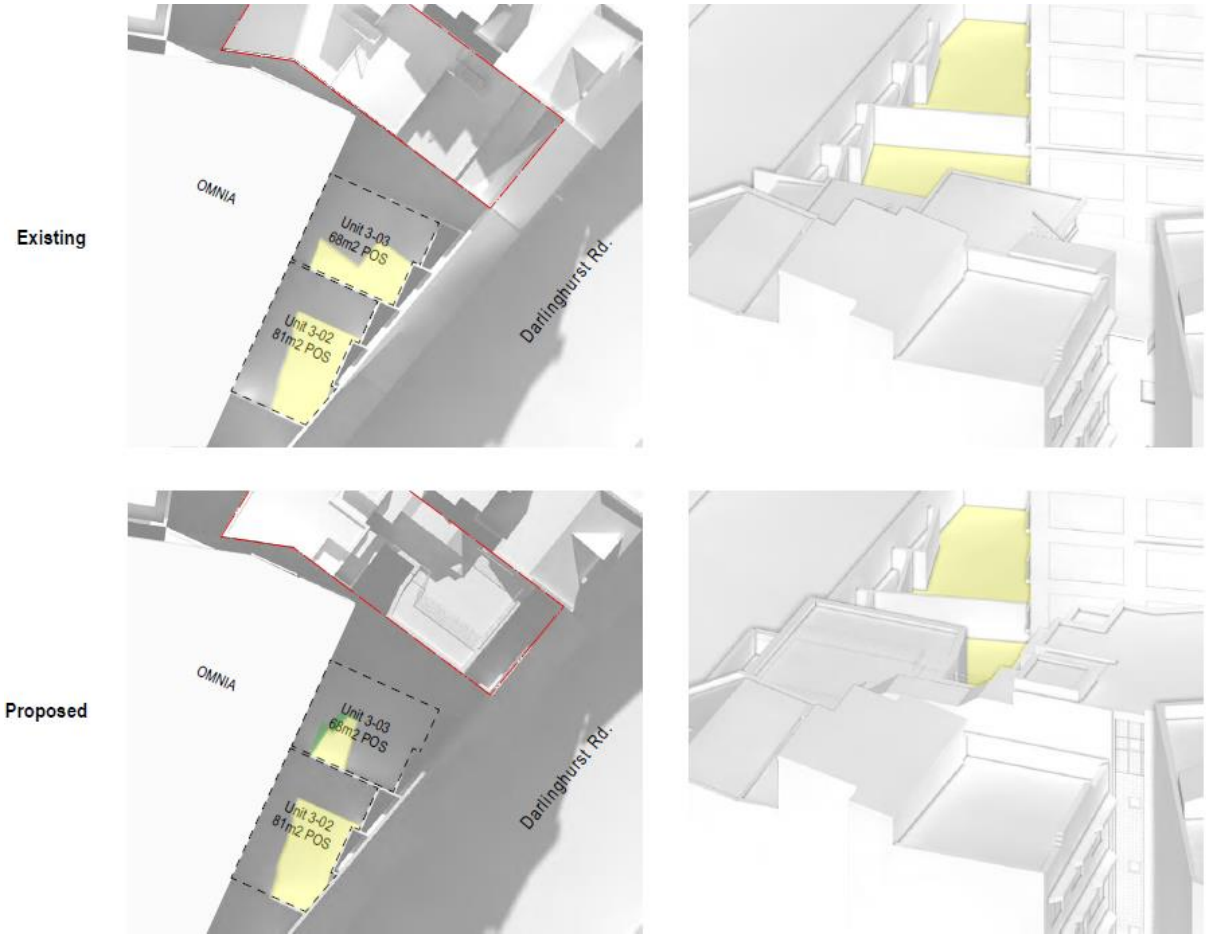


Figure 38: Plan and view from sun diagrams for private open space of Omnia building residential apartments at 11am, 21 June

Figure 39: Plan and view from sun diagrams for private open space of Omnia building residential apartments at 12pm, 21 June

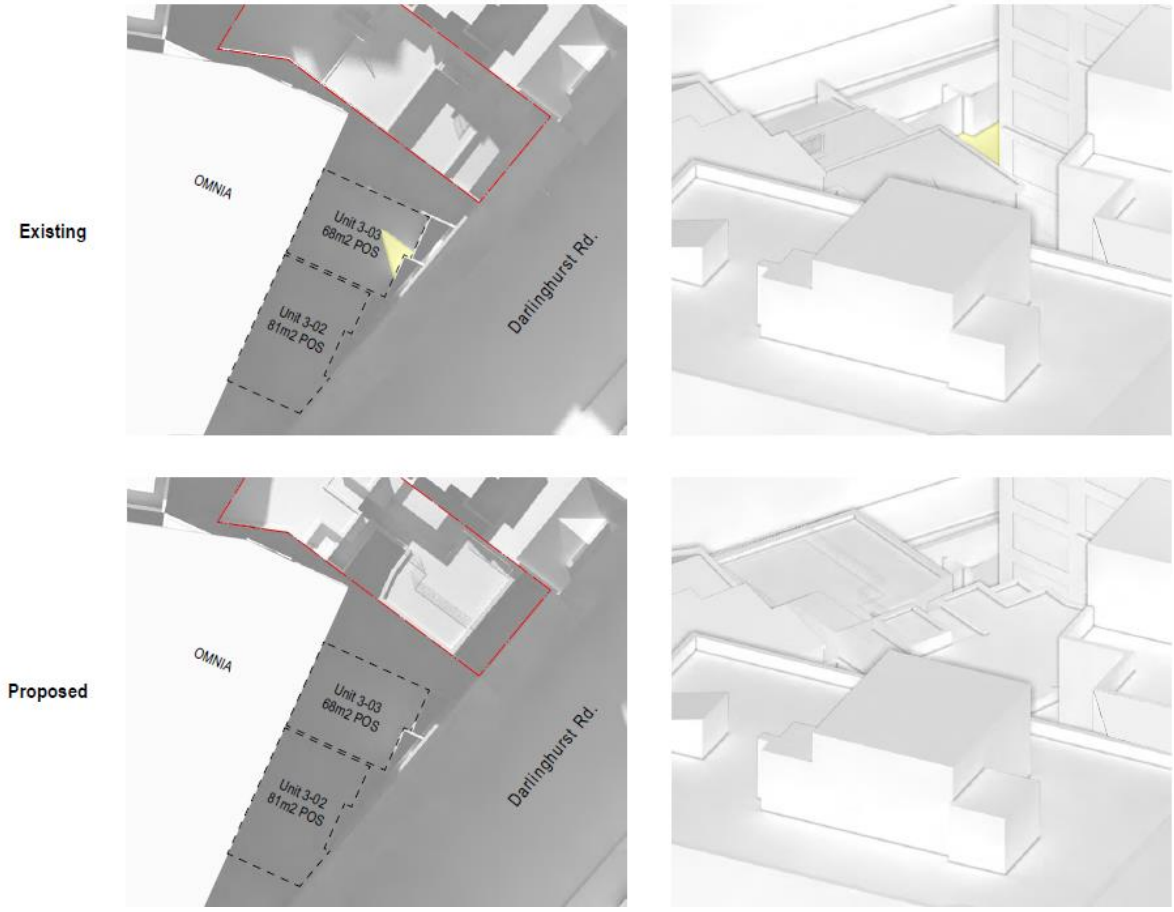


Figure 40: Plan and view from sun diagrams for private open space of Omnia building residential apartments at 1pm, 21 June

Summary of overshadowing impacts

101. A notation in the DCP confirms that Section 4.2.3.1 applies to at least 70% of apartments within a development.

102. In this regard, it is noted that the development consent for conversion of the former Crest Hotel into residential apartments (D/2015/331) - now known as the 'Omnia' building - permitted a non-compliance with the solar access provisions of the then Residential Flat Design Code. Only 65% of apartments within the approved development achieved 2 hours of direct sunlight to living room windows and only 66% of apartments within the building achieved 2 hours of direct sunlight to private open space areas at midwinter.

103. Accordingly, given the existing solar compliance of the Omnia building, the impact of any additional overshadowing could be considered more acute.

104. However, as stated above, the solar access criteria contained within the ADG provides a recognised benchmark for acceptable residential amenity for residential apartment development, and is therefore considered as a useful reference point when evaluating the impacts of the proposal.

105. Objective 4A-1 of the ADG states that private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9am and 3pm in midwinter. The design guidance for this objective further states that to maximise the benefit to residents of direct sunlight within private open spaces, a minimum of 1 sqm of direct sunlight, measured at 1m above floor level, is to be achieved for at least 15 minutes.

106. The shadow diagrams indicate that the private open space area for Unit 3-03 will continue to receive a minimum of 1sqm of direct sunlight for at least 15 minutes, for a minimum of 2 hours between 10am and 1pm in midwinter. This is compliant with the design guidance for solar access for residential apartment development in Objective 4A-1 of the ADG.

107. Additionally, the following is noted and considered relevant to the assessment of solar impacts on neighbouring development:

    (a) The proposed development is on a heavily constrained site, which is narrow in width and burdened by a number of easements, thereby constraining the site's development potential and impacting on how the site can be developed.

    (b) The proposal is in a densely developed location and is directly to the north of an apartment building which has been converted from a hotel which would not have been subject to the same solar access requirements as residential apartment development.

    (c) In relation to the living room window for Unit 4-12, this is a north-facing window which is approximately 0.7-1.5m from the northern site boundary shared with the subject site. Taking this into consideration as well as the constraints of the subject site, it is considered that solar access to this window would be challenging to retain by even a compliant development on the subject site. It is specifically noted that the building height exceedance does not result in the reduction in solar access to this window. In order to achieve compliant solar access to this window, a significant reduction in floor space would be required. While the proposal exceeds the maximum floor space ratio development standard, such a reduction in floor space is not considered reasonable in the circumstances of the case given the proportion of floor space that is currently provided in the basement levels of the subject site, the site constraints and that only a minor building height exceedance is proposed which does not result in the reduction in solar access to this window. Overall, the bulk and scale of the proposed development is consistent with the surrounding development. Furthermore, the living room of Unit 4-12 is dual aspect so it receives alternative access to daylight and sunlight through east-facing glazing.

    (d) The proposal has incorporated upper-level setbacks and an appropriately-located light court to reduce the solar access impacts of the proposed development to the private open space area of Unit 3-03 as far as practicable.

    (e) The private open space of Unit 3-03 of the Omnia building is located directly to the south of the subject site and proposed development. As such, any development of this site, including for a compliant development on the site, would likely result in overshadowing impacts to this terrace area.

(f) Any overshadowing impacts directly attributable to the building height exceedance are minor and do not result in the non-compliance with the DCP solar access controls in relation to private open space or living room windows on the neighbouring property.

108. In light of the above, the solar access impacts to the private open space of Unit 3-03 and the living room window of Unit 4-12 are considered acceptable on balance.

Privacy

109. New windows are proposed along the Darlinghurst Road and Earl Street frontages, to the proposed central lightwell and along the north-western boundary adjoining the site at 220 Victoria Street. In relation to visual privacy impacts, the following comments are made:

(a) A new façade with new windows is proposed to the Darlinghurst Road frontage. These provide passive surveillance over the street and do not enable overlooking into any sensitive uses due to the windows facing directly out towards the Darlinghurst Road carriageway.

(b) A glazed façade to Earl Street is proposed. From Level 1 up, the glazed façade largely constitutes glass blocks with a small window from the lift lobby of each level proposed. The glass blocks will allow light in while minimising the potential for overlooking into the windows on the north-western elevation of the residential building at 99-105 Darlinghurst Road which are in close proximity to the Earl Street façade of the proposal. The small windows are acceptable due to their size, fixed design and location being within lift lobbies which are used intermittently for short periods of time while people move through the space as opposed to habitable rooms. This is an acceptable visual privacy outcome. A full clear glazed façade is proposed on Earl Street at ground and lower ground / basement 1 levels. This is acceptable as no full-height / eye-level windows are located at the corresponding levels of the adjacent residential building at 99-105 Darlinghurst Road, and as such, opportunities for overlooking will be limited.

(c) A new centrally-located light court is proposed above the Kings Cross Train Station pedestrian arcade. Windows from hallways and bedrooms in the proposed development are proposed to this light court. These windows are depicted as fixed glass block windows, which will allow light in while minimising the potential for overlooking and adverse visual privacy impacts. The positioning of windows within the lightwell will also address visual privacy concerns within the proposal and to adjoining properties.

(d) There are existing windows (to be widened / enlarged) and new windows proposed on the north-western property boundary adjacent to 220 Victoria Street which is occupied by a residential building. The City's surveyor has reviewed the proposal and the existing easements which relate to the site and has noted that these windows appear to receive adequate access to light and air through a benefitting easement, and that no provisions have been identified in the terms of the easement that impose height restrictions on the access to light and air provided by the easement. As such, there are no concerns with regard to these windows borrowing amenity over this boundary, noting that this is already an existing situation in part and is adequately protected. In relation to visual privacy impacts, it is noted that there are existing windows in the residential building at 220 Victoria Street adjacent to the windows of the proposed development on the Level 3, 4 and 5 roof plans. While the rooms that these windows belong to have not been identified in the application, they belong to a residential development, are located approximately 5.2m from the boundary windows and could be impacted by overlooking and privacy impacts. As such, a condition of consent is recommended in Attachment A requiring that privacy film be installed to a height of 1.6m for each of the boundary windows on to minimise the potential for unacceptable privacy impacts over the boundary.

110. In light of the above, it is considered that the visual privacy impacts of the proposal will be acceptable.

Earl Street Interface

111. The submitted architectural drawings include an annotation that states that a proposed kerb, gutter and pram ramp is to be co-ordinated with Council within the public domain at the Earl Street entrance to the proposed development.

112. Council's Public Domain Unit has reviewed the proposal in detail and notes that the proposed pram ramp at the Earl Street entry is not shown on the submitted plans and is not considered acceptable for the following reasons:

- The ramp and extended footpath would conflict with the existing stormwater kerb outlets servicing both the subject site and the neighbouring property.
- The available space is insufficient to achieve the required design levels and compliant gradients for the site.

Notwithstanding, a condition requiring a Public Domain Plan to be submitted and approved by Council prior to the construction of any public domain works is recommended in Attachment A and if appropriate the above could be addressed as part of that condition.

Consultation

Internal referrals

113. The application was discussed with Council’s:

(a) Building Services unit

(b) Environmental Health unit

(c) Heritage and Urban Design unit

(d) Public Domain unit

(e) Safe City unit

(f) Surveyors

(g) Transport and Access unit

(h) Tree Management unit

(i) Landscaping unit

(j) Waste Management unit

114. The above-mentioned Council units advised that the proposal is generally acceptable and could be supported subject to conditions, with the exception of Council's Tree Management unit, Landscaping unit, Public Domain Unit and Safe City unit who requested additional information to complete their assessment.

115. Council's Landscaping unit raised concerns that the application does not include any landscaping elements and the applicant has not provided a Landscape Plan. Council's Tree Management unit recommended that the design be amended to allow for planting on structure (in the form of two planter bed areas with adequate soil volume) to achieve the required 15% tree canopy cover in accordance with Section 3.5.2 of the DCP. This information was not sought from the applicant as the site is already fully occupied by existing development and therefore tree planting and landscaping opportunities are severely limited.

116. Council's Landscaping unit recommended that a safety review be conducted of roof terrace elements, specifically the provision of loose furniture near building balustrades and the interface between the roof terrace and the sloping roof over the fire stairs. The applicant has made amendments and updated their Plan of Management to address these matters.

117. Council's Safe City unit raised concern about the use of Earl Street as the primary entry point for the backpackers accommodation as it is adjacent to sensitive land uses (residential apartments) and may encourage guests to congregate outside the premises, potentially resulting in noise impacts and reduced local amenity. Changes to the proposed entry point off Earl Street were not sought from the applicant as this element of the proposal is seeking to activate the rear laneway and the City supports the activation of rear laneways.

118. Council's Public Domain Unit indicated that the submitted stormwater concept drainage management plans have not adequately resolved the stormwater drainage servicing arrangement for the proposed development. A deferred commencement condition is therefore recommended in Attachment A stating that an updated stormwater drainage proposal shall be submitted to enable Council to assess the proposed stormwater drainage arrangements before the consent is to operate.

External referrals

NSW Police

119. The application was referred to NSW Police for comment.

120. A response was received raising no objections to the proposed development subject to the following considerations and implementation of appropriate CPTED-aligned improvements:

- strengthened access control for all guest floors, communal areas, and storage spaces
- enhanced CCTV coverage and lighting throughout internal and external areas
- clear signage outlining behavioural expectations, visitor rules, and safety information
- regular maintenance and security checks to ensure all safety features remain functional
- provision of guest information on e-bike safety and NSW road rules
- ongoing communication with local police regarding incidents and emerging issues
- operational practices that acknowledge the surrounding dense residential area, including measures to minimise noise, antisocial behaviour, and late-night disturbances

121. The applicant was requested to submit an updated Plan of Management which addresses the above matters, however this had not been received at the time of preparing this report. A condition requiring the Plan of Management to be updated to address these matters is included in Attachment A.

Sydney Trains

122. Whilst the application does not propose excavation, it does involve development above and adjacent to a rail corridor as the development is situated above Kings Cross Train Station. Accordingly, the application was referred to Transport for NSW (Sydney Trains) for comment.

123. Sydney Trains have not commented on the merits of the proposal, however in any regard, Sydney Trains provided concurrence to the previously refused scheme for the site (D/2022/1107) which is similar to the current proposal in its relationship to the rail corridor.

124. Concerns were however raised by Sydney Trains with regard to a requirement for landowners consent from the Transport Asset Manager of NSW (TAM). During the assessment of the application, the architectural drawings were amended to remove any encroachments onto lots owned by TAM. The amended architectural drawings have been reviewed by the City's surveyor to confirm this. Additionally, a condition of consent is recommended in Attachment A, specifying that no portion of the proposed structure shall encroach over adjoining land / lots in separate land ownership. On this basis, it is considered that landowners consent from TAM is not required to satisfy Clause 23 (1) of the Environmental Planning and Assessment Regulation 2021.

Advertising and notification

125. In accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2029, the proposed development was notified for a period of 28 days between 4 November 2025 and 3 December 2025. A total of 575 properties were notified and 4 submissions were received. During the assessment of this DA, amended plans were submitted to address Council comments and concerns. These amended drawings were not renotified as they were not considered to constitute any significant design changes, or create any new or increased environmental impacts.

126. The submissions raised the following issues:

    (a) **Issue:** Unacceptable concentration of backpackers accommodation within a 200m radius of the proposal.

    Response: The proposal relates to alterations and additions to an existing backpacker accommodation, rather than the establishment of a new backpacker accommodation is this locality. Notwithstanding, there are no planning controls which limit the number of backpacker accommodation uses in the area, and the proposal is considered acceptable having regard to the applicable planning framework - namely the provisions of the Sydney LEP and DCP.

    (b) **Issue:** Lack of amenity on the premises resulting in backpackers congregating on the streets, and causing associated issues with ignoring alcohol free zones and leaving rubbish on the streets.

    Response: Council has assessed the design of the premises against the provisions for backpackers accommodation in the Sydney DCP which seek to ensure that adequate onsite amenity is provided for guests. It is noted that the bedrooms, kitchen and laundry areas are all adequately sized for the proposed number of occupants/guests, and the total communal recreation area exceeds the minimum requirement for the number of guests accommodated onsite, when assessed against the provisions of the DCP. These areas are all of sizes and shapes that are functional for their purpose. There is insufficient evidence to indicate that the proposal would result in backpackers congregating on the streets. Compliance with alcohol restrictions in public areas is a matter for enforcement by the NSW Police. Notwithstanding, there is insufficient evidence to conclude that the proposal would result in unacceptable impacts in this regard. In regard to the concern about littering on the street, the waste management measures incorporated into the proposal have been assessed by Council and are considered acceptable. Furthermore, there is insufficient evidence to conclude that the proposal would result in unacceptable litter impacts on the surrounding streets.

    (c) **Issue:** Police inadequately resourced to manage the existing backpacker issues. The proposal will exacerbate issues.

Response: The existing backpacker accommodation on the site is a lawfully established use that is permissible in the zone. The proposal seeks consent for alterations and additions to the existing backpacker accommodation. Police resourcing is not a matter for consideration in the assessment of development applications under section 4.15 of the EP&A Act. NSW Police were notified of the proposal and invited to comment. Comments were received and a condition of consent is recommended in Attachment A, requiring the Plan of Management to be updated to address the NSW Police's concerns and recommendations. Subject to this condition, it is considered that the implementation of the Plan of Management will adequately address any potential issues that may arise as a result of the backpacker accommodation use.

(d) **Issue:** The area requires hotel accommodation more than another backpackers accommodation.

Response: The existing building accommodates a backpackers accommodation, and the proposal seeks alterations and additions to this backpackers accommodation. This use is permissible in the E1 Local Centre zone, and the need or preference for an alternative land use is not a matter that outweighs the proposal's consistency with the applicable planning controls and objectives, nor is it a reason for refusal.

(e) **Issue:** Backpackers have a significant number of bikes and motorcycles which are left on the street and in parking zones. The proposal will exacerbate this problem.

Response: The proposal includes adequate on-site bicycle parking in accordance with the provisions of the Sydney DCP. There is insufficient evidence to conclude that the proposal would result in significant adverse impacts arising from bicycle or motorcycle parking on surrounding streets. Should such issues occur, these may be addressed through parking, traffic management or compliance powers where appropriate.

(f) **Issue:** Noise impacts associated with rooftop mechanical plant.

Response: While the specific details of the mechanical plant for the proposal are not yet known, the acoustic report submitted with the application has recommended noise amelioration treatments and noise control measures for mechanical plant to achieve the requirements of the City of Sydney's standard "Noise - Commercial Plant/Industrial Development" condition and the NSW EPA Noise Policy for Industry's intrusive and amenity criteria. The acoustic report concludes that it is feasible that noise emissions from the subject site can comply with these criteria, subject to detailed design at Construction Certificate stage. Council's Environmental Health Unit has reviewed the acoustic report and considers it acceptable. Appropriate noise conditions of consent have been recommended and included in Attachment A. Subject to the above, no unacceptable noise impacts associated with rooftop mechanical plant are expected to arise from the proposal.

(g) **Issue:** Noise impacts associated with rooftop communal space.

Response: The acoustic report submitted with the application includes recommendations for managing and mitigating noise impacts on the rooftop communal space, such as limiting the number of people on the rooftop communal space to 14 at any one time, not allowing amplified music to be played on the rooftop at any time, not permitting parties on the rooftop, and limiting the hours of use from 7am to 10pm. Council's Environmental Health Unit has reviewed the acoustic report and considers it acceptable. Subject to the imposition of the recommended conditions of consent in Attachment A, the proposal is not expected to result in any unacceptable noise impacts associated with the rooftop communal space.

(h) **Issue:** Potential sunlight limitations for neighbouring property.

Response: Impacts on solar access have been assessed in the Discussion section of this report and are considered acceptable.

(i) **Issue:** Significant adverse amenity effects for nearby residents associated with the proposed relocation of the primary entrance, exit and reception of the backpackers accommodation to Earl Street and antisocial behaviour directly outside street level entrances.

Response: Council supports the proposed entrance to the premises on Earl Street. The submitted Plan of Management outlines how noise and anti-social behaviour is to be managed on the site. Potential impacts associated with patron behaviour are expected to be appropriately managed through the operation of the premises. An update to the Plan of Management to address a number of other matters is required by a recommended condition of consent in Attachment A, as is implementation of the Plan of Management during the ongoing operation of the premises once approved.

(j) **Issue:** Backpackers accommodations operating without any after-hours supervision.

Response: The Plan of Management submitted with the application sets out that reception and cleaning staff will be rostered to ensure the premises is adequately supervised. Reception staff will be rostered on during operating hours, and a manager will be available 24/7 (either onsite or by mobile phone). In this regard, Council is satisfied that the backpackers accommodation will not be operating without any after-hours supervision. An update to the Plan of Management to address a number of other matters is required by a recommended condition of consent in Attachment A, as is implementation of the Plan of Management during the ongoing operation of the premises once approved.

(k) **Issue:** The area immediately outside the proposed Earl Street entry being identified as a potential "square" on the architectural drawings, and how this would encourage congregation, loitering and late-night activity in Earl Street.

Response: While there is no public square outside the proposed Earl Street entry which forms part of the proposal, Council supports the proposed entrance to the premises on Earl Street and activation of this laneway. The proposal has been designed in accordance with CPTED principles in order to not create areas that encourage loitering and congregation in Earl Street. Potential impacts associated with guests congregating outside the premises have been considered and the proposal is not expected to result in unacceptable amenity impacts, subject to the recommended conditions of consent in Attachment A and the ongoing management of the premises.

Financial contributions

Contribution under Section 7.11 of the EP&A Act 1979

127. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.

128. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

129. The site is located within the residual land affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of $11,223.28 per square metre of total non-residential floor area [223.30] totalling $25,061.58. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Housing and Productivity Contribution

130. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

131. The site is located with the Greater Sydney region, the development is a type of commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.

132. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant legislation

133. Environmental Planning and Assessment Act 1979.

Conclusion

134. Approval is sought for alterations and additions to an existing mixed-use development above Kings Cross Train Station comprising ground floor retail tenancies and a backpackers accommodation, and including the construction of two additional levels.

135. The application has been assessed in accordance with section 4.15(1) of the Act and is considered satisfactory subject to the recommended conditions of consent at Attachment A.

136. The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012, and the applicable Environmental Planning Instruments. Where non-compliances are proposed, they have been assessed in this report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.

137. The proposal will achieve the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.

138. The proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in clause 6.21C of the Sydney Local Environmental Plan 2012.

139. Matters raised by internal and external referrals have been adequately addressed as discussed within this report.

140. The application was notified in accordance the requirements of the EP&A Regulations 2021 and the City's Community Engagement Strategy and Community Participation Plan 2025-2029. Issues raised in submissions have been addressed as discussed in this report.

141. The proposed development demonstrates a design that responds to the constraints of the site and will positively contribute to the desired future character of the Kings Cross locality.

142. Subject to the recommended conditions of consent in Attachment A, the proposed development is considered to be in the public interest and is recommended for deferred commencement approval.

ANDREW THOMAS

Executive Manager Planning and Development

Kerryanne Lewis, Senior Planner

Attachment A

Recommended conditions of consent

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

Under section 76(4) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Note: Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that it is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

A deferred commencement consent will lapse within the relevant period set out in sections 4.53(6)(a)-(c) of the EP&A Act, if the applicant fails to satisfy the consent authority as to the matter(s) specified in the deferred commencement condition.

PART A – DEFERRED COMMENCEMENT CONDITIONS

(A) The consent is not to operate until the following condition is satisfied:

(1) STORMWATER CONCEPT MANAGEMENT DESIGN PLAN

The stormwater concept drainage management plans (Dwg: STW-DA-100/revB, dated 10.02.2025) are not approved.

The following information must be provided as part of the submission:

(a) Delineation of the contributing catchment areas.

(b) Updated proposal for stormwater drainage connection to the existing drainage network in accordance with requirements of the City's DCP Section 3, Part 3.7.2 Drainage & Stormwater Management and Stormwater Drainage Manual.

(c) Details of the relevant existing pipe network, including capacity, pipe sizes, to justify compliance with the above requirements.

(d) Longitudinal section of the proposed connection, including control/boundary surcharge pit and the connection point, prepared in accordance with the City's design standards.

(e) Details of all existing and proposed drainage easements, including their dimensions and locations, to be clearly shown on the submitted plans.

(f) A DRAINS model report demonstrating that the proposed stormwater design is consistent with, and supports, the submitted design documentation.

All information must be provided to enable an assessment of the proposed stormwater drainage arrangements.

Reason

To ensure the site is adequately serviced for stormwater drainage

(B) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act, 1979.

(C) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below in Schedules 1 and 2.

PART B – CONDITIONS OF CONSENT

SCHEDULE 1

PART A - GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2025/1026 dated 27 October 2025 and the following drawings prepared by McGregor Westlake Architecture:

Drawing Number	Drawing Name	Date
03 (Revision J)	Demolition Plans	21/8/2026
04 (Revision J)	Demolition Sections	21/8/2026
05 (Revision I)	Basement 3	17/7/2026
06 (Revision H)	Basement 2	17/7/2026
07 (Revision L)	Lower Ground Floor Plan / Basement 1	21/8/2026
08 (Revision K)	Ground Floor Plan	21/8/2026
09 (Revision I)	Level 1 Plan	22/7/2026
10 (Revision H)	Level 2 Plan	17/7/2026
11 (Revision H)	Level 3 Plan	17/7/2026
12 (Revision H)	Level 4 Plan	17/7/2026
13 (Revision H)	Level 5 Plan	17/7/2026

Drawing Number	Drawing Name	Date
14 (Revision H)	Roof Plan	17/7/2026
15 (Revision H)	Streetscape Elevations – Darlinghurst Road	17/7/2026
16 (Revision H)	East Elevation – Darlinghurst Road	17/7/2026
17 (Revision H)	North Elevation – Earl Street	17/7/2026
18 (Revision H)	West Elevation	17/7/2026
19 (Revision H)	South Elevation	17/7/2026
20 (Revision H)	Section 1	17/7/2026
21 (Revision K)	Section 2	21/8/2026
22 (Revision L)	Section 3 & 4	21/8/2026
23 (Revision H)	Finishes Schedule	17/7/2026
53 (Revision H)	Secure Lockable Storage Facilities 1	17/7/2026
54 (Revision H)	Secure Lockable Storage Facilities 2	17/7/2026
57 (Revision H)	Bed Types and Room Sizes	17/7/2026

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

(2) DESIGN MODIFICATIONS

The development must be modified as follows:

(a) The kerb, gutter and pram ramp annotated on Earl Street are not approved under this development consent and must be removed from the architectural drawings.

(b) No demolition of the existing shopfront glazing which projects into Stratum Lot 2 (the Sydney Trains Pedestrian arcade) is approved. The existing ground floor demolition plan must be amended to reflect this and align with the approved proposed floor plan.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(3) WINDOWS – OBSCURE GLAZING AND PRIVACY FILM

(a) The windows to the lightwell and the lift lobby on Level 1 above the pedestrian arcade are to be installed with obscure glass blocks.

(b) The windows on the north-western boundary to rooms 1.01, 2.01, 3.01, 4.01 and 5.01 are to be installed with privacy film to a height of 1.6m above the finished floor level of each floor.

Reason

To achieve acceptable visual privacy protection.

(4) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – EAST PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

Contribution Category	Amount
Open Space	$128,078.86
Community Facilities	$2,467.65
Traffic and Transport	$4,343.47
Stormwater Drainage	$0.00
Total	$134,889.98

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

Cpayment = Cconsent x (CPIpayment ÷ CPIconsent)

Where:

Cpayment = Is the contribution at time of payment;

Cconsent = Is the contribution at the time of consent, as shown above;

CPIpayment = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

CPI1consent = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 102.49 for the June 2026 quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(5) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

(a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.

(b) The contribution is $25,061.58 (indexed at 24 August 2026). This is calculated by establishing the sum of the equivalent monetary contribution $11,223.28 multiplied by 1% of the total floor area for non-residential development (223.3sqm).

(c) If the contribution is paid after the indexation period in which the consent is granted, being March 2026 to February 2027, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.

(d) Contribution payable at Time of Payment = C x MDP2 / MDP1, where:

(i) C is the original total contribution amount payable to the City of Sydney as shown above;

(ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and

(iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being March 2026 to February 2027.

Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(6) HOUSING AND PRODUCTIVITY CONTRIBUTION

Before the issue of any Construction Certificate, the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	**Amount**
Housing and productivity contribution (base component)	$890.57
Transport project component	Nil
Total housing and productivity contribution	$890.57

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering *the Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Reason

To require contributions towards the provision of regional infrastructure.

(7) ASSOCIATED ROADWAY COSTS

All costs associated with the construction and rectification of any road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The public domain works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" and Standard Drawings including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(8) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

Reason

To ensure all associated roadway works costs are borne by the developer.

(9) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

(10) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

Reason

To ensure ground surface indicators, handrails and other elements required to provide access into the building/property are appropriately located.

(11) NO OBSTRUCTIONS

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel, then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any type of Occupation Certificate.

Reason

To ensure there are no obstructions on public footways and paths of travel

(12) NO STRUCTURES ON STREET-FACING ROOF PLANE

No solar hot water heater storage tanks, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on the street-facing roof plane of the building.

Reason

To ensure an appropriate heritage/streetscape outcome.

(13) PLAN OF MANAGEMENT

(a) The Plan of Management submitted with this application dated 19 March 2026 is not approved. The Plan of Management must be updated to include the minimum criteria as stipulated in Council's Sydney Development Control Plan 2012 – Section 4.4.8 and address the following:

(i) Provision of strengthened access control for all guest floors, communal areas, and storage spaces.

(ii) Provision of enhanced CCTV coverage and lighting throughout internal and external areas.

(iii) Provision of clear signage outlining behavioural expectations, visitor rules, and safety information.

(iv) Regular maintenance and security checks to ensure all safety features remain functional.

(v) Provision of guest information on e-bike safety and NSW road rules.

(vi) Ongoing communication with local police regarding incidents and emerging issues.

(vii) Operational practices that acknowledge the surrounding dense residential area, including measures to minimise noise, antisocial behaviour, and late-night disturbances.

(viii) Operational hours for the entrance to the backpacker accommodation entrance from the Sydney Trains pedestrian arcade and how this will be managed.

(ix) Deletion of reference to the arcade entry for the backpackers accommodation.

(x) The management measures outlined in the approved acoustic report, including hours of use limited to 7am-10pm for the rooftop communal space, maximum limit of 14 people within the rooftop communal outdoor area at any one time, no amplified music to be used in the outdoor communal area and no parties permitted on the rooftop area.

(xi) Details of lighting to the rooftop area, including type of lighting proposed, hours of operation, and specifying compliance with Australian Standard 4282-2023 "Control of the Obtrusive Effects of Outdoor Lighting".

The updated Plan of Management must be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate.

(b) The use must always be operated / managed in accordance with the approved Plan of Management.

Reason

To require amendments to the Plan of Management following assessment of the development.

(14) REPAIRS AND WORKS FOR MAKING GOOD

All new repairs and works for making good of existing building fabric are to be carried out on a like for like basis and match the existing in terms of materials, colours, finishes, sizes, profiles and properties.

Reason

To ensure repairs and works for making good are appropriate.

(15) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION

The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010 and regulations thereunder and *Sydney Development Control Plan 2012 – 4.4.8*.

Reason

To ensure the development operates as a tourist and visitor accommodation use.

(16) LENGTH OF STAY

The maximum length of stay for guests at the premises must not exceed 28 consecutive days.

Reason

To ensure the maximum length of stay is consistent with the controls.

(17) SIGNAGE STRATEGY

No signage is approved under this development consent. A separate development application is to be submitted seeking approval of a signage strategy for the approved development under this consent. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

Reason

To require separate consent to be obtained for a signage strategy.

(18) STORAGE FACILITIES

The development must provide individual, secure lockable storage facilities of a minimum capacity of 0.6 cubic metres per person within sleeping rooms, as per Provision 4.4.8.4(2)(d) of the Sydney Development Control Plan 2012.

Reason

To ensure the premises provides for guest to individually store baggage and travel items within the sleeping rooms.

PART B - BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

(19) APPROVED ACOUSTIC REPORT

The Renzo Tonin & Associates dated 24.02.2026, ref TP073-01F02 acoustic assessment for DA(r4), titled Acoustic Assessment for DA is approved.

Where there is a conflict between the approved acoustic report and this development consent, this consent prevails.

Reason

To specify an acoustic report for reference in other noise control conditions.

(20) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION CERTIFICATE

Prior to the issue of a relevant construction certificate, the Certifier must ensure the following:

(a) A suitably qualified acoustic consultant must be appointed in accordance with the definition noted in the City of Sydney – Environmental Noise Technical Requirements, dated October 2025.

(b) The consultant is required to review the relevant building plans, specifications, and associated documentation, and must:

(i) Verify that the construction plans, drawings, and construction methodology for the development are consistent with the approved acoustic report and comply with all relevant conditions and documentation of this consent.

(ii) Resolve any non-compliances through amended construction plans, drawings, and construction methodology as necessary.

(iii) Ensure that all requirements under this clause are completed to the written satisfaction of the Certifier.

(c) Following completion of the above tasks, the consultant must provide written notification to the Certifier outlining any identified non-compliances.

Reason

To ensure detailed construction and fit plans comply with the relevant standards in the approved acoustic report.

(21) NOISE - CERTIFICATION OF ACOUSTIC DESIGN AND CONTINUED INTEGRITY PRIOR TO CONSTRUCTION CERTIFICATE

Prior to the issue of a relevant construction certificate, the Certifier must ensure the following:

(a) A suitably qualified acoustic consultant must be appointed in accordance with the definition noted in the City of Sydney – Environmental Noise Technical Requirements, dated October 2025.

(b) The consultant must review the relevant building work plans and specifications and ensure that:

(i) The proposed works do not interfere with the functionality of, or reduce the effectiveness of, any existing noise mitigation measures at the premises.

(ii) The premises remains capable of meeting all applicable noise criteria as approved under development consent D/2025/1026.

(iii) Any necessary amendments are made to the final plans, drawings, and construction specifications to ensure compliance with this condition and any other relevant conditions of the consent.

(iv) These requirements are completed to the written satisfaction of the Certifier.

(c) Upon completion of the above tasks, the consultant must notify the Certifier in writing of any identified non-compliances.

Reason

To ensure the acoustic amenity of surrounding developments is maintained as a result of the development.

(22) BICYCLE PARKING AND END OF TRIP FACILITIES

(a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Backpackers	11	Spaces must be Class 2 bicycle facilities
Backpacker staff/ employee	3	Spaces must be Class 2 bicycle facilities
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	3	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

(b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(23) WASTE AND RECYCLING MANAGEMENT – GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(24) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Registered Certifier prior to the issue of a construction certification.

Reason

To ensure that dilapidation reports are prepared and to identify damage to for adjoining/nearby properties resulting from building work on the development site.

(25) STRUCTURAL CERTIFICATION FOR DESIGN – BUILDING CODE OF AUSTRALIA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a structural certificate for design by a qualified practising structural engineer and in accordance with Clause A5G3(1)(e) of the *Building Code of Australia* must be submitted to the satisfaction of the Registered Certifier.

Reason

To ensure structural certification is undertaken.

(26) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising registered structural engineer must provide structural certification to the Registered Certifier verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of the *Building Code of Australia* prior to any Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Reason

To ensure the existing structure can support the new loads.

(27) MECHANICAL VENTILATION

(a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings.*

(b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Registered Certifier prior to the issue of any Construction Certificate.

(c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

Reason

To ensure the ventilation complies with relevant standards.

(28) MATERIALS AND SAMPLES SCHEDULE

A detailed material, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to any Construction Certificate being issued.

The materials and samples schedule/board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Reason

To require the submission of a materials and samples board following assessment of the development.

(29) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

(a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to any Construction Certificate being issued.

(b) The approved plan must be complied with during any demolition and/or construction work.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure that the impacts of construction traffic is appropriately managed.

(30) PUBLIC DOMAIN DAMAGE BOND

(a) A Public Domain Damage Deposit calculated on the basis of 54 square metres of Concrete and Granite pavers unit Darlinghurst Road frontage and 5 square metres of concrete Earl Street frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.

(b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.

(c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with the City.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

(31) PROTECTION OF STONE KERBS

(a) The existing stone kerbs on the [Darlinghurst Road frontage of the site are to be retained and properly protected during demolition, excavation and construction works.

(b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.

(c) Note the following:

(i) all costs associated with the works are to be borne by the developer.

(ii) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.

(iii) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.

(iv) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.

(v) Council approval is required before kerbs are removed.

(vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(vii) Stone kerbs and gutters may be bonded in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

(viii) Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure the protection of stone kerbs.

(32) PUBLIC DOMAIN LEVELS AND GRADIENTS - MAJOR

Prior to the issue of any Construction Certificate, Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission must be prepared in accordance with the City's *Public Domain Manual* and submitted with a completed Application for *Public Domain Levels and Gradients*. Information on how to complete the submission can be downloaded from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

Any requirements to comply with Disability Discrimination Act and the recommended Flood Planning Level at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Approved Public Domain Levels and Gradient plans are to be included with the Public Domain Plan – Detailed Documentation for Construction condition submission.

Reason

To ensure public domain levels and gradients comply with Council's requirements.

(33) STORMWATER DRAINAGE DETAILED DESIGN

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced Civil Engineer must be submitted to and approved by the City's Public Domain Unit.

The plan must be submitted with an Application for Approval of Stormwater Drainage, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The submission must include:

A certified stormwater drainage design complying with:

(i) Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design;

(ii) Council's Sydney Streets Technical Specifications, Standard Drawings;

(iii) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;

(iv) Council's Stormwater Drainage Manual; and

(v) All relevant Australian Standards.

This information is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/public-domain-works/get-approval-connect-city-stormwater-system.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's underground drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.

Reason

To ensure stormwater drainage design complies with Council's requirements.

(34) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Table 2 Flood Planning Levels of the report titled 107-109 Darlinghurst Road Potts Point Site Flood Assessment prepared by WMAWater Pty Ltd, dated 25 March 2026.

Details must be submitted to the Registered Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

(35) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate, whichever is earlier, a photographic recording of the public domain site frontages, including the CCTV of the adjacent drainage network (per the Sydney Streets Technical Specifications - 4.6.3 CCTV Footage requirements. Temporary Works Application is required to access the pits), is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/designcodestechnicalspecifications/public-domainmanual

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(36) STORMWATER – BASEMENT PUMP TIMING

The stormwater basement pump out to kerb & gutter drainage system is subject to timed pumping between the hours of 12:00 midnight and 04:00 AM. The details of the pump out system, including timed pumping, must be included in the stormwater drainage detailed design for construction and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

Reason

To ensure the drainage system is operated in accordance with Council's requirements.

(37) UPDATED WASTE MANAGEMENT PLAN

Prior to the issue of a Construction Certificate, the Waste Management Plan is to be updated to align with the approved architectural drawings. Any amendments are to be limited to document alignment only and must not result in changes to the approved waste management strategy or collection arrangements.

Reason

To ensure the waste management plan is consistent with the approved architectural drawings.

(38) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the *Building Code of Australia*. Prior to the issue of any Construction Certificate and Occupation Certificate the Registered Certifier and the Principal Certifier must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the BCA; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

Reason

To ensure the external walls and cladding comply with relevant requirements.

(39) INSTALLATION OF DUAL-FLUSH TOILETS

All toilets installed within the development must be of water efficient dual-flush or other water-saving capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Registered Certifier, prior to a Construction Certificate being issued.

Reason

To ensure the provision of water efficient toilets.

(40) INSTALLATION OF WATER EFFICIENT URINALS

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Registered Certifier, prior to a Construction Certificate being issued.

Reason

To ensure the provision of water efficient urinals.

(41) INSTALLATION OF WATER EFFICIENT TAPS

All taps installed must be water efficient with at least a 5-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Registered Certifier, prior to any Occupation Certificate being issued.

Reason

To ensure the provision of water efficient taps.

(42) INSTALLATION OF WATER EFFICIENT SHOWER HEADS

All shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Registered Certifier, prior to any Occupation Certificate being issued.

Reason

To ensure the provision of water efficient shower heads.

PART C - BEFORE THE COMMENCEMENT OF BUILDING WORK

(43) ROAD OPENING APPLICATION

A separate road opening application under Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council prior to the commencement of any:

(a) excavation in or disturbance of a public way, or

(b) excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure that approval under the Roads Act is obtained.

(44) PUBLIC DOMAIN WORKS – CONSTRUCTION APPROVAL UNDER SECTION 138 ROADS ACT 1993

Prior to the construction of any public domain works, including stormwater drainage works, approval under Section 138 / 139 of the Roads Act 1993 must be issued by the City's Public Domain Unit.

Reason

To ensure relevant approvals for public domain work are obtained.

(45) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

(a) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council for such structures.

(b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding;* and the conditions of approval (Permit) granted including:

(i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;

(ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);

(iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);

(iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);

(v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);

(vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);

(vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);

(viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and

(ix) ensuring all required signage, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2017*).

Reason

To ensure the necessary approval is obtained for temporary structures over a public road.

(46) OTHER REQUIRED APPROVALS

Any structure, attachment or activity which is proposed to be undertaken in, on or above a road reserve or the public domain (including a public footway) must have separate approval(s) obtainable through the lodgement of an application under Section 68 of the Local Government Act 1993 and/or Section 138/139 of the Roads Act 1993 prior to the commencement of work/activities within the road reserve/public domain. Such activities include but not limited to:

(a) installation of construction-related temporary structures including hoardings/scaffolding;

(b) installation and/or alterations to advertising/business signs;

(c) installation and/or alterations to street awnings;

(d) crane operation and other hoisting activities;

(e) temporary works (e.g. barricading, road openings, mobile hoisting devices);

(f) works zones (for loading and unloading from the roadway); and

(g) temporary ground anchoring and shoring to support a roadway when excavating; and

(h) any other structure or encroachment including facade elements/architectural features.

Reason

To ensure use of a public place is managed appropriately.

PART D - WHILE BUILDING WORK IS BEING CARRIED OUT

(47) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992".

A separate Section 4.55 application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992*.

Reason

To ensure the acoustic amenity of surrounding developments is maintained.

(48) ASBESTOS REMOVAL WORKS

(a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence must be made available to any authorised Council officer on request within 24 hours.

(b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

(c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2017* and the NSW Government and SafeWork NSW document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW)* December 2011 and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines.*

(d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

(e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.

(f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.

(g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

(h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.

(i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

(i) contact person for the site;

(ii) telephone and facsimile numbers and email address; and

(iii) site activities and time frames.

Reason

To ensure that the handling and removal of asbestos from the site is appropriately managed.

(49) COMPLIANCE WITH NATIONAL CONSTRUCTION CODE

All proposed work must comply with the *National Construction Code (previously known as Building Code of Australia*).

Reason

(Prescribed condition - EP&A Regulation 2021 clause 69(1)).

(50) FLASHINGS TO BOUNDARY WALLS

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

Reason

To prevent water entering between the walls of adjoining properties

(51) SYDNEY WATER CERTIFICATE (TAP-IN)

(a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").

(b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

Reason

To ensure the development satisfies Sydney Waters requirements.

(52) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

Reason

To ensure the requirements of Sydney Water are met.

(53) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reason

To protect the amenity of the surrounding area.

(54) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

(55) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(56) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Reason

To ensure mobile cranes are used appropriately.

(57) PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.

The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the City prior to an approval being issued for the approval of the Public Domain Plan.

The bond will be retained in full until all public domain works, including rectification of damage to the public domain, are completed to City's standards and approval and the required works-as-executed documentation are approved. On satisfying the above requirements, and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

Reason

To ensure public domain works are completed and any damage to the public domain is rectified.

(58) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed drainage and service pit lids throughout the public domain must be to City of Sydney specifications and heel/bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

Reason

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

(59) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain upgrade work complies with the City's specifications and requirements, as outlined in documents such as City of Sydney's *Public Domain Manual*, *Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code and Sydney Streets Technical Specification*. The documentation must be *checked, accurate, and comply with specified requirement*s. Plans must be based on an accurate survey prepared, signed and dated by a registered surveyor, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be For Construction issue and will be approved under Section 138 of the Roads Act.

The Public Domain Manual and all other relevant documents are available for download from Council's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

To ensure the public domain complies with Council's requirements.

(60) HOLD POINTS

A set of hold point inspections will be included in the Public Domain works approval letter for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works. These hold point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Accredited Certifier.

Reason

To ensure hold points are adhered to during construction works.

(61) STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's underground drainage infrastructure system, an approved set of detailed stormwater construction plans must be submitted to the City's Public Domain Team with the Public Domain Plan Detailed Documentation for Construction for review and approval of stormwater drainage connection works.

Reason

To ensure approval of connection into the Council's drainage system is sought.

PART E – BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(62) VERIFICATION OF ACOUSTIC REPORT PRIOR TO OCCUPATION CERTIFICATE

Prior to the issue of any occupation certificate, the Certifier must ensure the following:

(a) A suitably qualified acoustic consultant must be appointed in accordance with the definition noted in the City of Sydney - Environmental Noise Technical Requirements, dated October 2025.

(b) The consultant must inspect and review the completed development and ensure that:

(i) The final building work is assessed for compliance with the relevant acoustic Construction Certificate(s), the approved acoustic report, and all applicable noise-related conditions and documentation of this consent.

(ii) Any non-compliances identified under (i) above are documented in writing, with specific reference to the relevant acoustic criteria, and must include a scope of work necessary to rectify the issues and achieve compliance.

(iii) All requirements under this clause are completed to the written satisfaction of the Certifier.

(c) Following completion of item (b), the consultant must notify the Certifier in writing of any identified non-compliances.

Reason

To ensure the development complies with construction and fit out plans and the relevant standards in the approved acoustic report.

(63) ACCOMMODATION - REGISTRATION AND CARETAKER

Prior to the issuing of any Occupation Certificate, Council's Health and Building Unit must be advised in writing of the business name, address, owner or company name, 24 hour contact details for the site manager, and the number of occupants approved for the premises. A caretaker/manager must be contactable 24 hours a day.

Reason

To provide Council with adequate details of the backpacker accommodation use prior to operation.

(64) BICYCLE PARKING SIGNAGE AND WAYFINDING PLAN

Signage directing users to the bicycle parking facilities are to be installed from the street level, between the bicycle riders entry point/s at the site boundary and the entry point to the bike parking and End of Trip facilities. Signage is to be generally in accordance with signage shown in *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*. The signage plan must be submitted to and approved by Council prior to the Occupation Certificate for the site being granted.

Signage is to be installed before the issue of any Occupation Certificate.

Reason

To ensure that the bicycle facilities are appropriately managed.

(65) PHYSICAL MODELS

(a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

(i) The models must be constructed in accordance with the Model Specifications available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's modellers must be consulted prior to construction of the model.

(ii) The models are to comply with all of the conditions of the Development Consent.

(iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

Reason

To ensure the provision of an appropriate physical model of the development.

(66) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

(a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.

(b) The data required to be submitted within the surveyed location must include and identify:

(i) building design above and below ground in accordance with the development consent;

(ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

(c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(67) PUBLIC DOMAIN WORKS COMPLETION

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval letter, stamped plans for Public Domain Levels and Gradients, Stormwater, Public Domain Lighting, the City's *Public Domain Manual,* Stormwater *Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification.*

The public domain work must be inspected and a Public Domain Work Letter of Completion Operational Acceptance must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

Reason

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

(68) PUBLIC DOMAIN COMPLETION – WORK AS EXECUTED DOCUMENTATION

Prior to a Public Domain Works Letter of Completion Operational Acceptance being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and road construction. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

Reason

To ensure Council receives works-as-executed documentation for public domain works.

(69) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

(a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason

To protect underground drainage system.

(70) CONSTRUCTED FLOOR LEVELS

A certification report prepared by a suitably qualified practitioner engineer (with a minimum of NER) must be submitted to the Accredited Certifier prior to issue of any Occupation Certificate stating that the development has been constructed and the required levels achieved in accordance with the recommendations of the report Table 2 Flood Planning Levels of the report titled 107-109 Darlinghurst Road Potts Point Site Flood Assessment prepared by WMAWater Pty Ltd, dated 25 March 2026.

Reason

To ensure the development achieves the required floor levels.

(71) FLOOD RISK MANAGEMENT

Prior to the issue of any Occupation Certificate, a certification report prepared by a suitably qualified practitioner engineer (with a minimum of NER), for flood risk management measures including flood planning level/s demonstrating compliance with the approved construction plans must be submitted to and be approved by the Accredited Certifier. A copy of the report must be provided to Council for record keeping purposes.

Reason

To ensure flood risk management measures are complied with.

(72) RESTRICTION ON DEVELOPMENT

A restrictive covenant is to be registered on the title of the development site, requiring development on site to be compliant with the report titled **107-109 Darlinghurst Road Potts Point Site Flood Assessment prepared by WMA Water Pty Ltd, dated 25 March 2026.**

The covenant is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier.
All costs of the preparation and registration of all associated documentation are to be borne by the applicant.

Reason

To ensure flood risk management measures are complied with.

PART F – OCCUPATION AND ONGOING USE

(73) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(74) MAXIMUM CAPACITY OF PERSONS

(a) The maximum number of persons (excluding staff) permitted in the premises at any one time is 113 persons.

(b) The manager is responsible for ensuring the number of persons in the premises does not exceed that specified above.

Reason

To ensure the premises can safely accommodate guests and staff and safeguard the amenity of the surrounding neighbourhood.

(75) MAXIMUM OCCUPANCY – SLEEPING ROOMS

The maximum number of persons to be accommodated in each sleeping room must not exceed 8 guests, as per Section 4.4.8.4(2)(b) of the Sydney DCP 2012.

Reason To ensure the premises can safely accommodate guests and ensure adequate internal amenity.

(76) MAXIMUM LENGTH OF STAY

The maximum length of stay for guests is 28 consecutive days, as per Section 4.4.8.4(2)(c) of the Sydney DCP 2012.

Reason

To ensure the premises can safely accommodate guests and is used for its intended approved use.

(77) SURVEILLANCE CAMERAS

(a) CCTV surveillance cameras must be strategically installed, operated and maintained throughout the premises with coverage to:

(i) All entrance/s and exits used by the public including a 10m radius of these entrance/s and exits;

(ii) all areas within the premise occupied by the public (excluding toilets).

(b) All CCTV recording equipment and cameras must be of high-grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.

(c) CCTV recordings must be retained for 28 days before being re-used, destroyed or deleted. Time and date must be automatically recorded. The CCTV recording equipment must be capable of reproducing a digital copy.

(d) All CCTV recording devices and cameras must be checked to ensure the equipment is operating correctly.

(e) When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.

Reason

To ensure the safety and security of staff, patrons and the surrounding neighbourhood is adequately monitored and maintained.

(78) COPIES OF CONSENTS AND MANAGEMENT PLANS

A copy of the current development consent(s) for the operation of the premises, and the Plan of Management must be kept on-site and made available to Authorised Officers.

Reason

To ensure all relevant approved documents are available on-site upon request.

(79) INACCESSIBLE ROOF AREAS

The inaccessible roof areas identified on the approved architectural drawings must remain inaccessible for the lifetime of the property.

Reason

To ensure inaccessible roof areas are not used for unintended purposes.

(80) HOURS OF OPERATION – OUTDOOR COMMUNAL AREA

The outdoor rooftop communal area is to be used only between the hours of 7:00am to 10:00pm daily, and in accordance with the approved Plan of Management.

Reason

To protect acoustic amenity.

(81) MAXIMUM OCCUPANCY – OUTDOOR COMMUNAL AREA

(a) The maximum number of people permitted to use the outdoor rooftop communal area is to be restricted to a maximum of 14 people at any one time, in accordance with the approved acoustic report.

(b) The manager is responsible for ensuring the number of persons using the outdoor rooftop communal area does not exceed that specified above.

Reason

To protect acoustic amenity.

(82) MANAGING NOISE

The premises must be operated and managed in accordance with the approved acoustic report for this consent.

All physical aspects of the building's structure must be installed to meet performance parameters in accordance with this condition, and requirements of this consent, must be maintained and correctly used at all times. Where there is a conflict with the approved acoustic report and a requirement of this development consent, this consent prevails.

Reason

To protect the amenity of the local area.

(83) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

(a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA *Noise Policy for Industry* 2017 (NPfI) unless agreed to by the City's Area Planning Manager. Further:

(i) Background noise monitoring must be carried out in accordance with the long-term methodology in *Fact Sheet B* of the NPfI unless otherwise agreed by the City's Area Planning Manager.

(ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.

(b) An $L_{Aeq,15\ minute}$ (noise level) emitted from the development must not exceed the $L_{A90,\ 15\ minute}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:

(i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.

(ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premises.

(c) Corrections in *Fact Sheet C* of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

Reason

To protect the acoustic amenity of surrounding properties.

(84) SCHEDULED COLLECTIONS – COMMERCIAL

(a) Commercial waste collection arrangement(s) are to be conducted in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, the developments Conditions of Consent and Local Approvals Policy for *Managing Waste in Public Places.*

(b) Waste and recycling stream(s) bins must not be placed at the nominated collection point more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection occurring.

Reason

To minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

(85) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties, including any lots under separate land ownership.

Reason

To protect neighbouring properties.

(86) ENCROACHMENTS – PUBLIC WAY

With the exception of the existing awning over the Darlinghurst Road footpath and the approved front façade projection over the Darlinghurst Road site boundary, no portion of the proposed structure, including but not limited to downpipes, roof gutters, gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

Reason

To protect the public way.

(87) EASEMENTS

The proposed development shall operate within the terms of all easements which relate to the site at all times.

Reason

To protect easement terms and rights.

(88) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of Completion. The date of Completion will be nominated by Council on the Public Domain Works – Letter of Completion Operational Acceptance.

Reason

To ensure all works to the City's public domain are protected under a liability period.

SCHEDULE 2

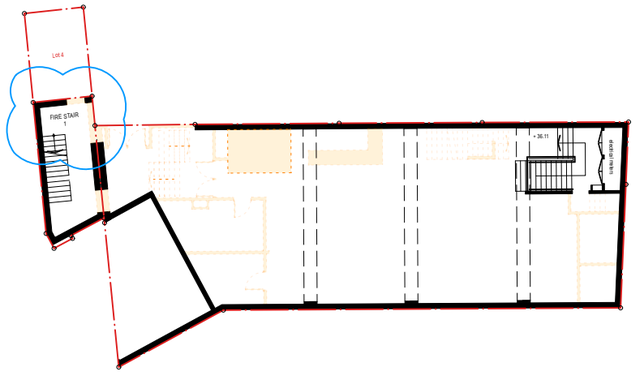
PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021* which apply to the development:

Refer to the NSW State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

Attachment B

Selected drawings



3 Ex. Basement 1
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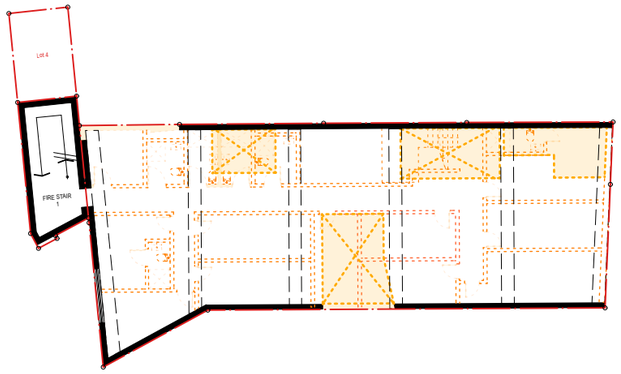

6 Ex. Level 2
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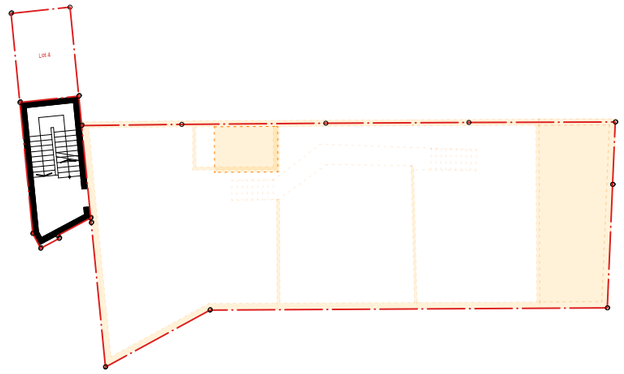

9 Ex. Roof
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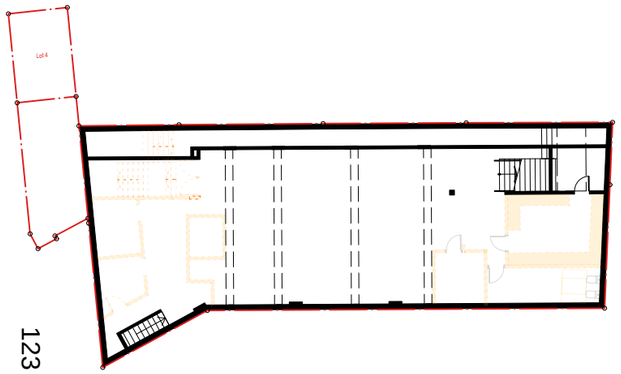

2 Ex. Basement 2
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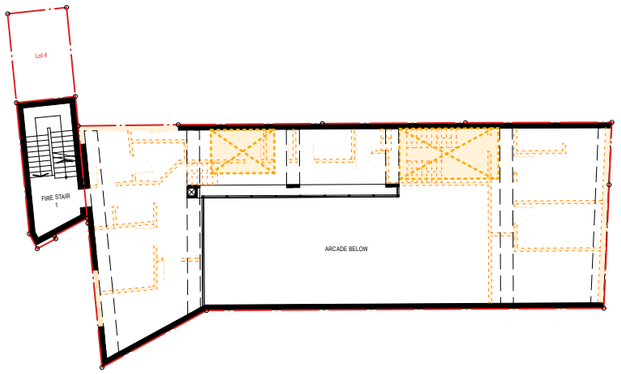

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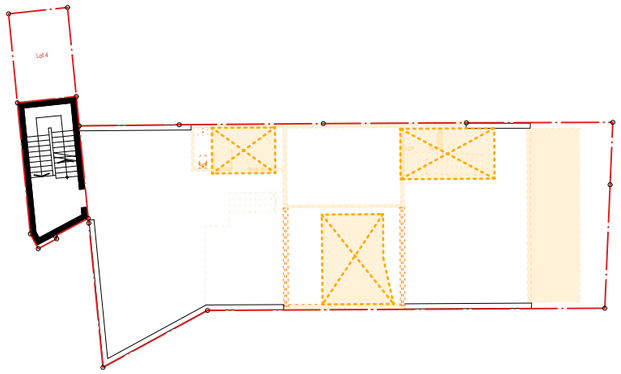

8 Ex. Level 4
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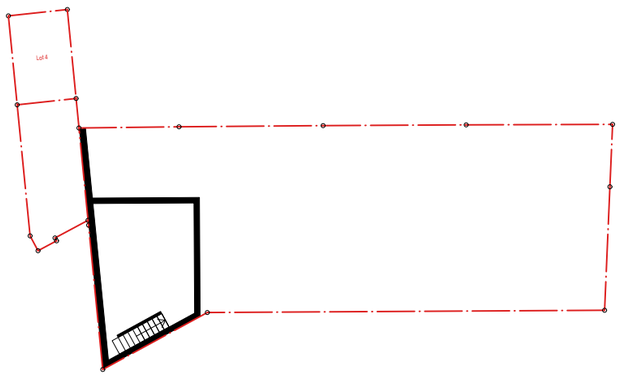

1 Ex. Basement 3
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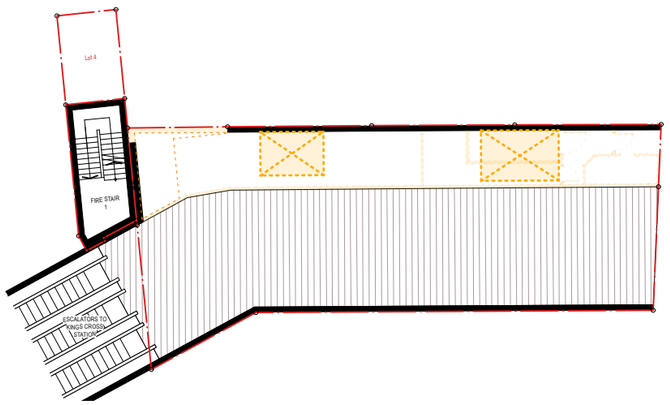

4 Ex. Ground Floor
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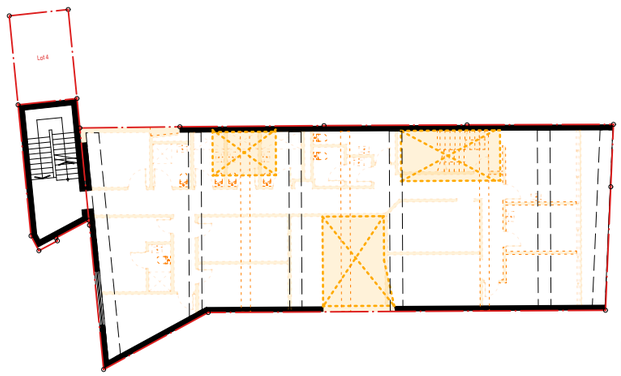

7 Ex. Level 3
scale 1:300 at A3

Retain

Demolished

Dashed over

McGregor Westlake Architecture

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REV	DATE	AMENDMENT
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal
I	3/8/2026	Revised for DA
J	21/8/2026	Upload to NSW Planning Portal

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Dimensions in millimetres.
Confirm all dimensions on site prior to commencing work.
Use figured dimensions only.
Do not scale.
If discrepancy exists notify architect.
If in doubt ask.

TN

PROJECT
107-109 Darlinghurst Road, Potts Point NSW

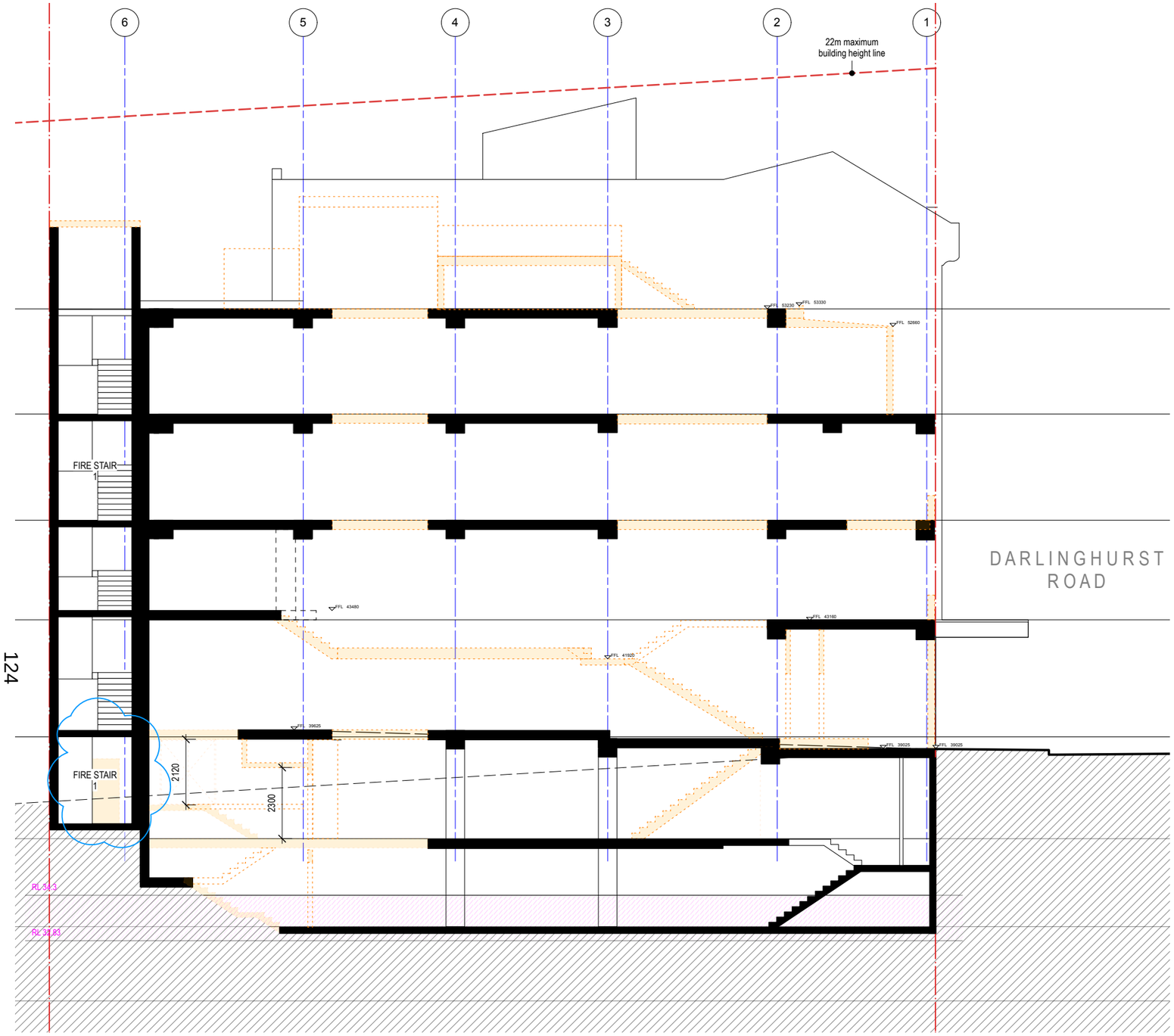
PROJECT #
240215

CLIENT
Raben Footwear Pty Ltd

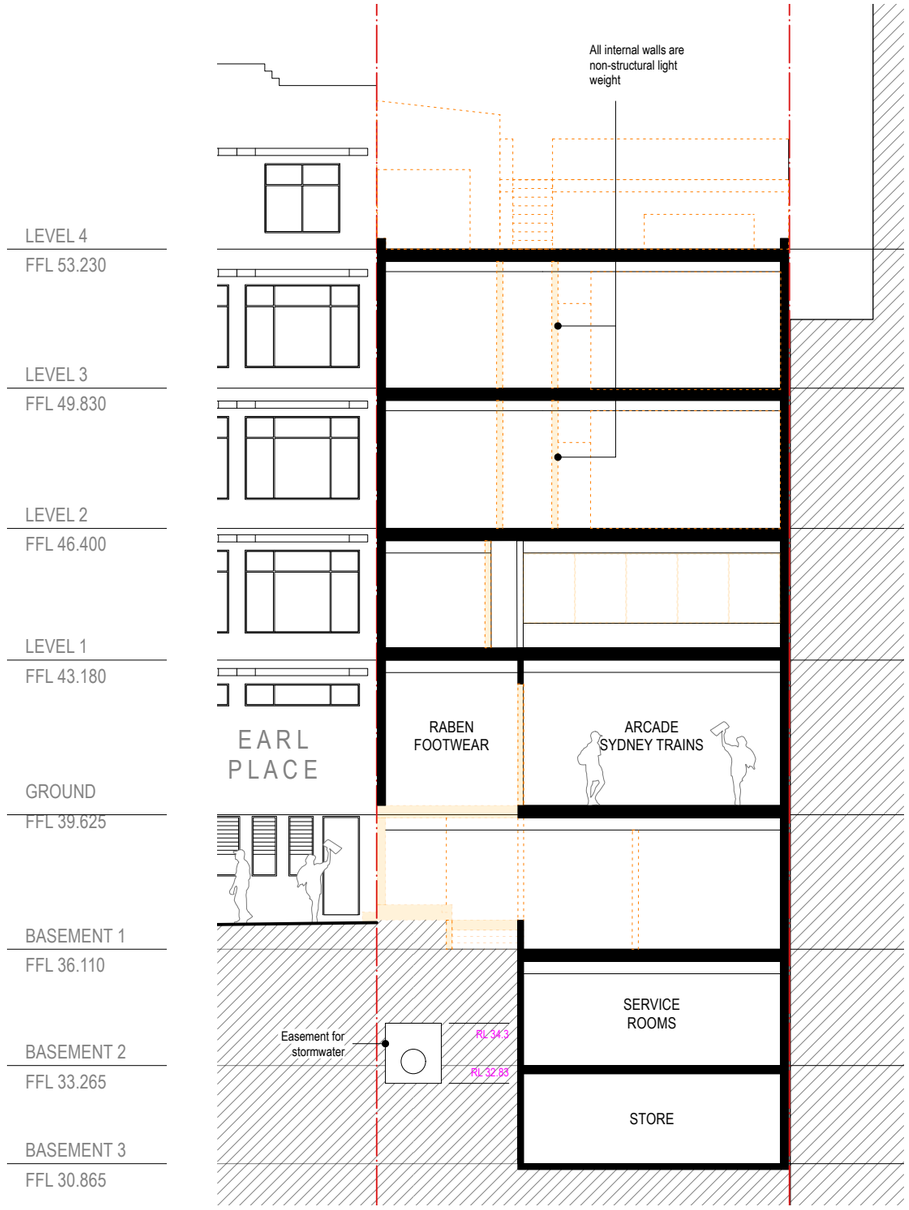
DWG #
03

DWG
Demolition Plans

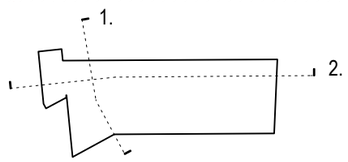
SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:300	FH	PM	21/8/2026	J



1 Ex. Section 1
scale 1:150 at A3



2 Ex. Section 2
scale 1:150 at A3



Retain

Demolished

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REV	DATE	AMENDMENT
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal
I	3/8/2026	Revised for DA
J	21/8/2026	Upload to NSW Planning Portal

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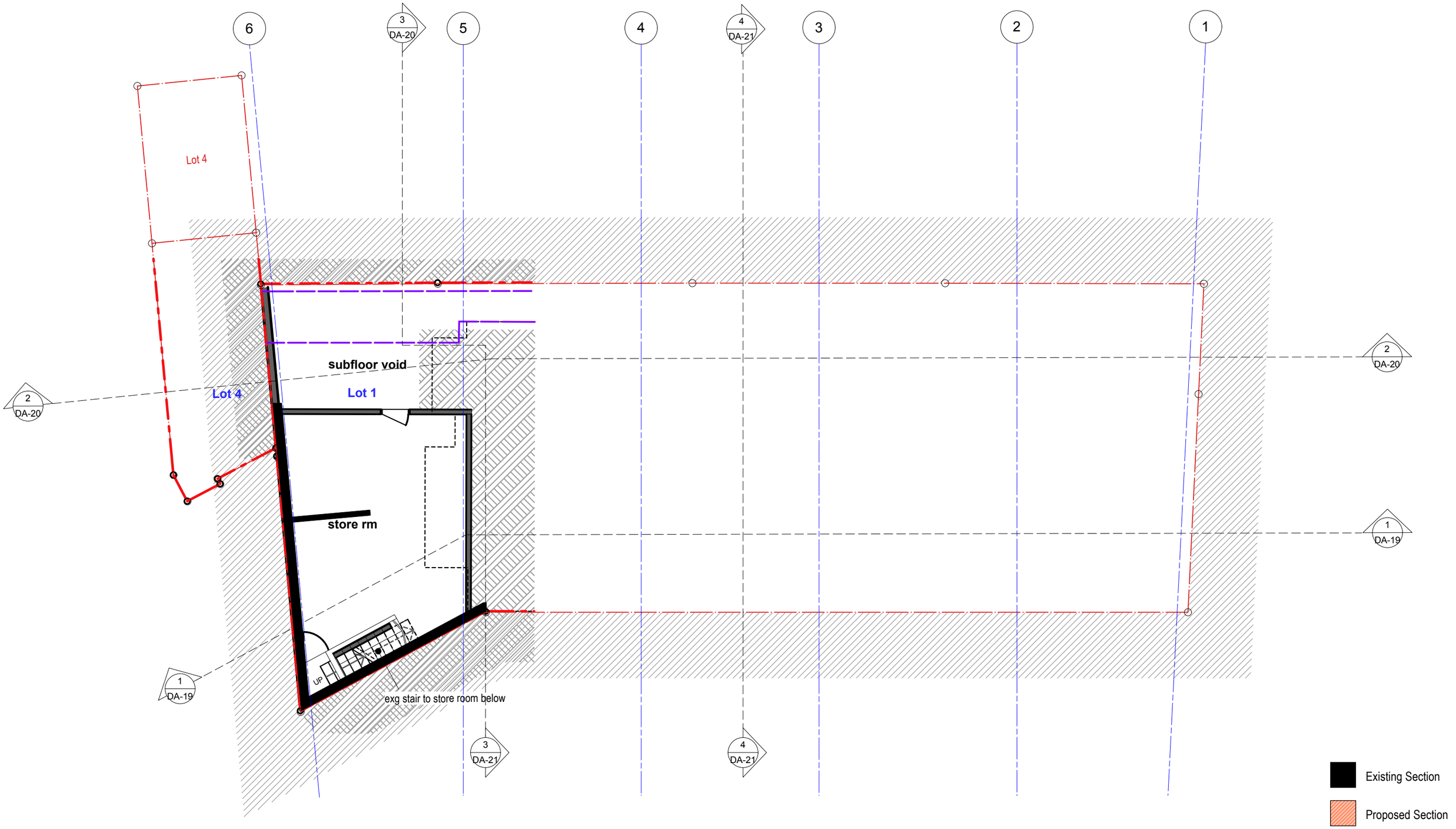
If in doubt ask.

PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	04
DWG	Demolition Sections
SCALE @ A3	1:150
DRAWN	FH
CHKD	PM
PLOT DATE	21/8/2026
REVISION	J



1 Basement Level 3
scale 1:100 at A3

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REV	DATE	AMENDMENT
F	4/3/2026	Response to RFI
G	25/3/2026	Final Response to RFI
H	27/5/2026	Issue to council
I	17/7/2026	Upload to NSW Planning Portal

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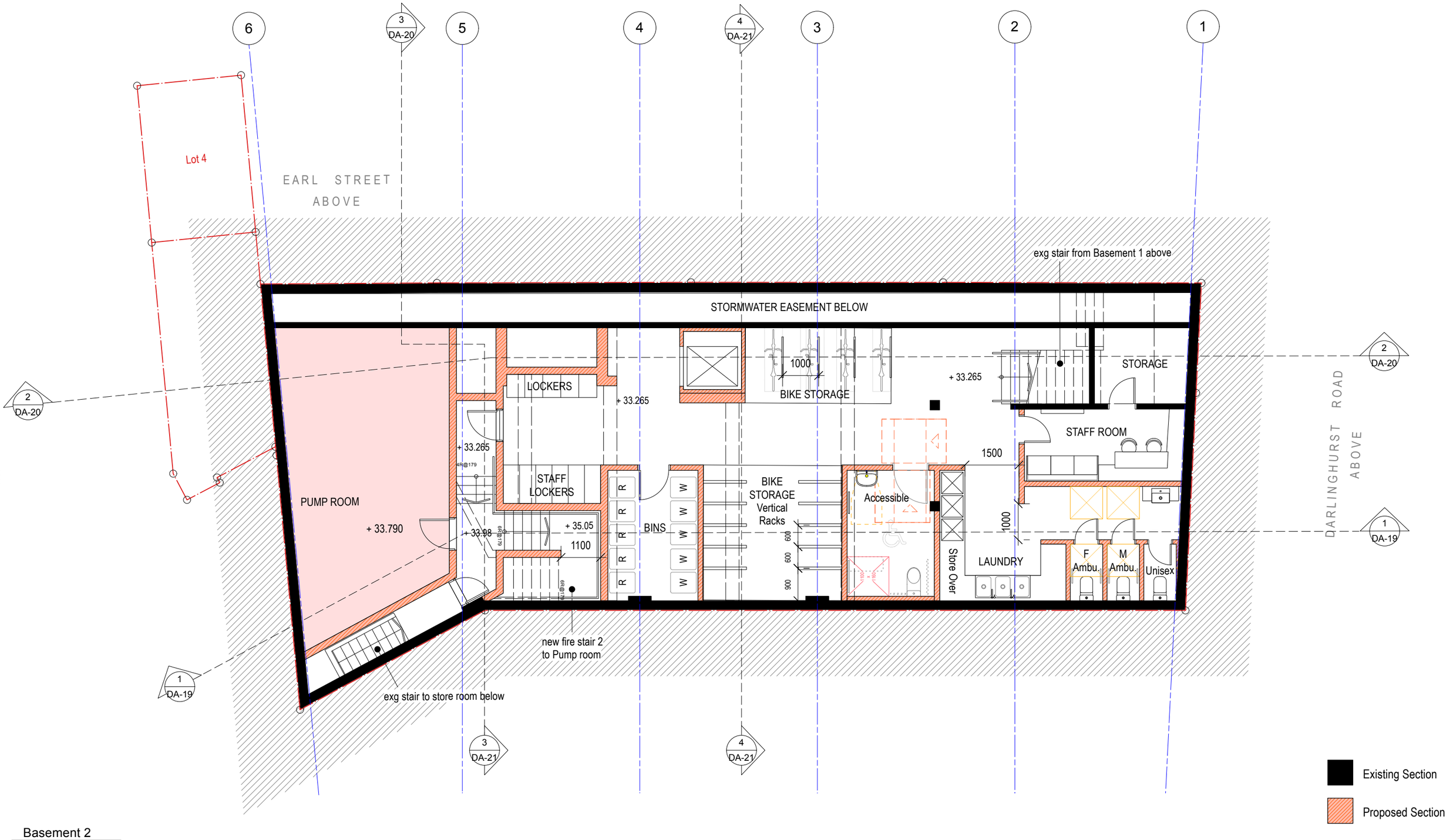
PROJECT	PROJECT #
107-109 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 05
DWG: Basement 3	

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:100	FH	PM	17/7/2026	I



1 Basement 2
scale 1:100 at A3

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E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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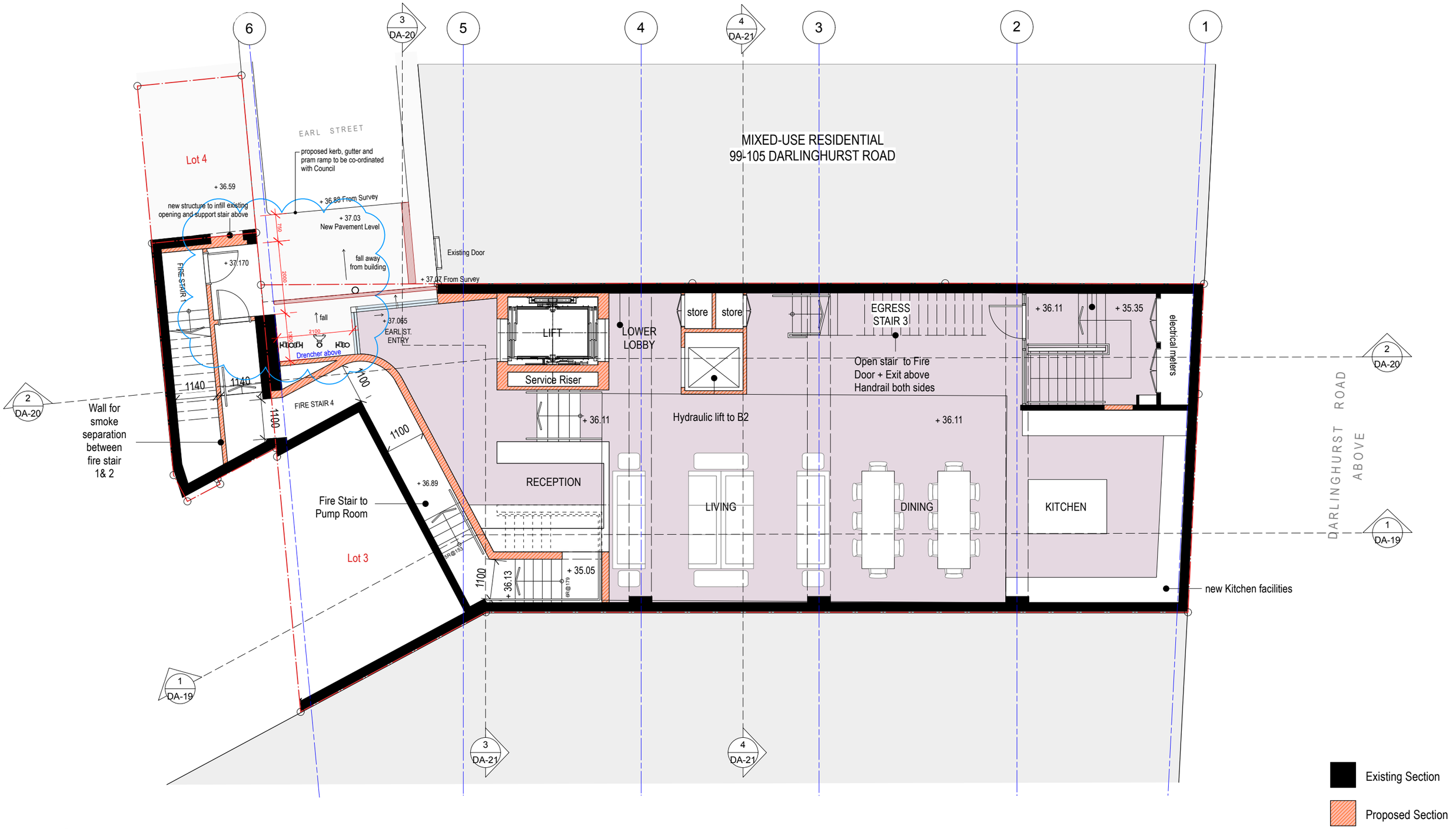
PROJECT: 107-109 Darlinghurst Road, Potts Point NSW
PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd
DWG #: 06
DWG: Basement 2

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:100	FH	PM	17/7/2026	H



1 Lower Ground Floor Plan
scale 1:100 at A3

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REV	DATE	AMENDMENT
I	3/8/2026	Revised for DA
J	14/8/2026	Upload to NSW Planning Portal
K	18/8/2026	Issue to Transport NSW
L	21/8/2026	Upload to NSW Planning Portal

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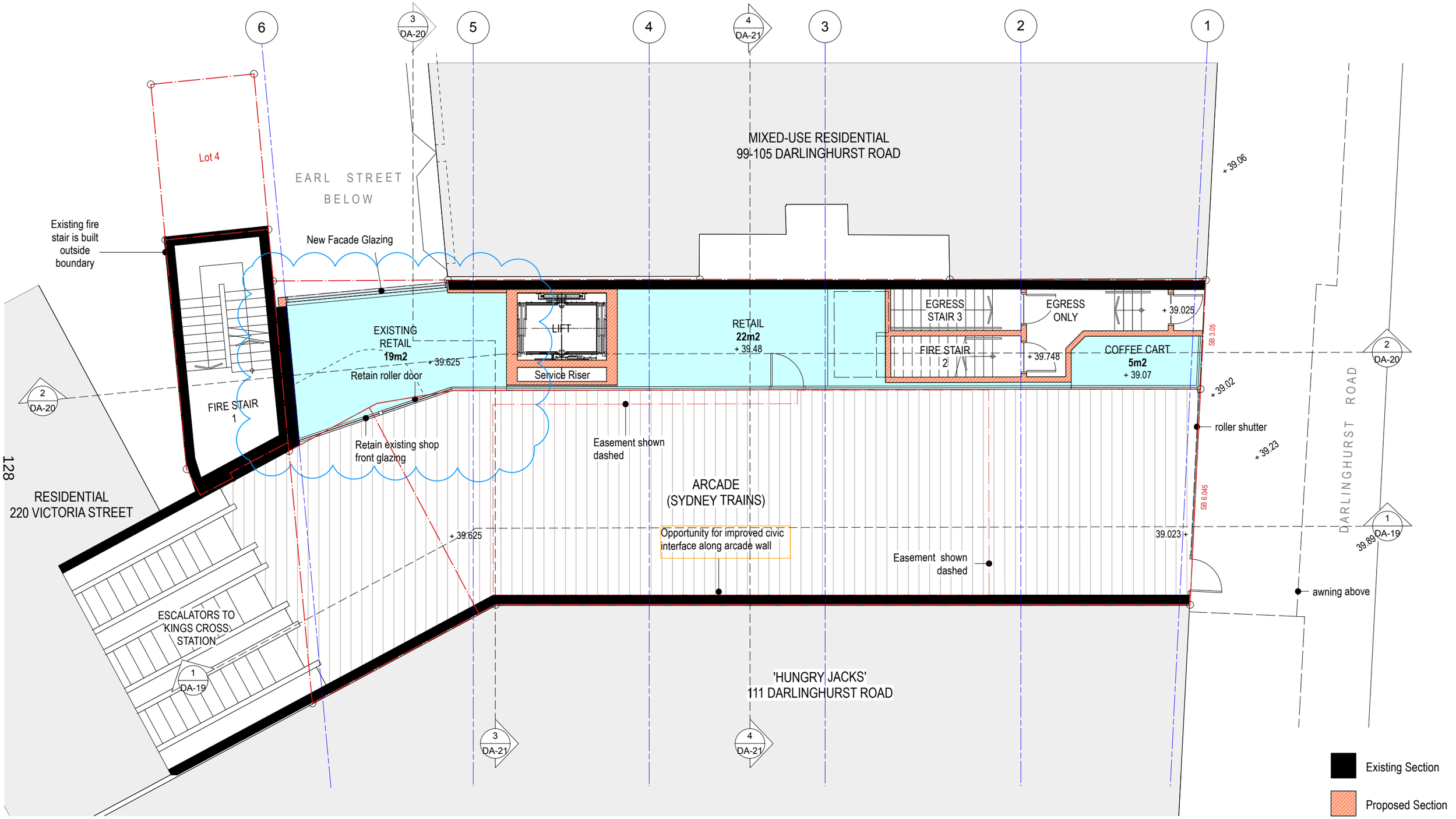
If in doubt ask.

TN

PROJECT	PROJECT #
107-109 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 07
DWG: Lower Ground Floor Plan / Basement 1	

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:100	FH	PM	21/8/2026	L



1 Ground Floor Plan
scale 1:100 at A3

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REV	DATE	AMENDMENT
H	17/7/2026	Upload to NSW Planning Portal
I	3/8/2026	Revised for DA
J	20/8/2026	Issue for TfNSW
K	21/8/2026	Upload to NSW Planning Portal

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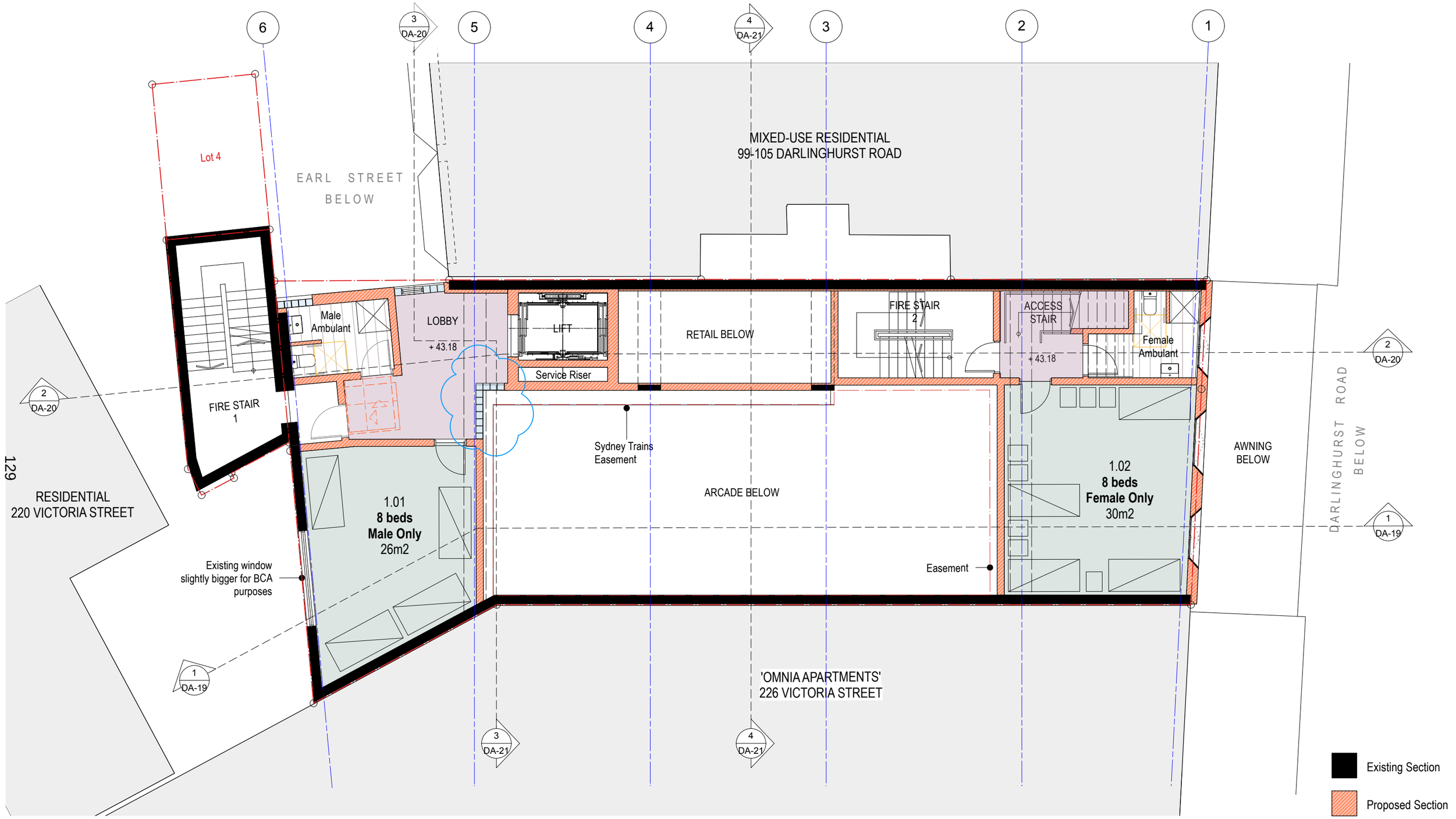
If in doubt ask.

TN

PROJECT	PROJECT #
107-109 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 08
DWG: Ground Floor Plan	

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:100	FH	PM	21/8/2026	K



1 Lvl 1 Plan
scale 1:100 at A3

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F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal
I	22/7/2026	Easement Revision

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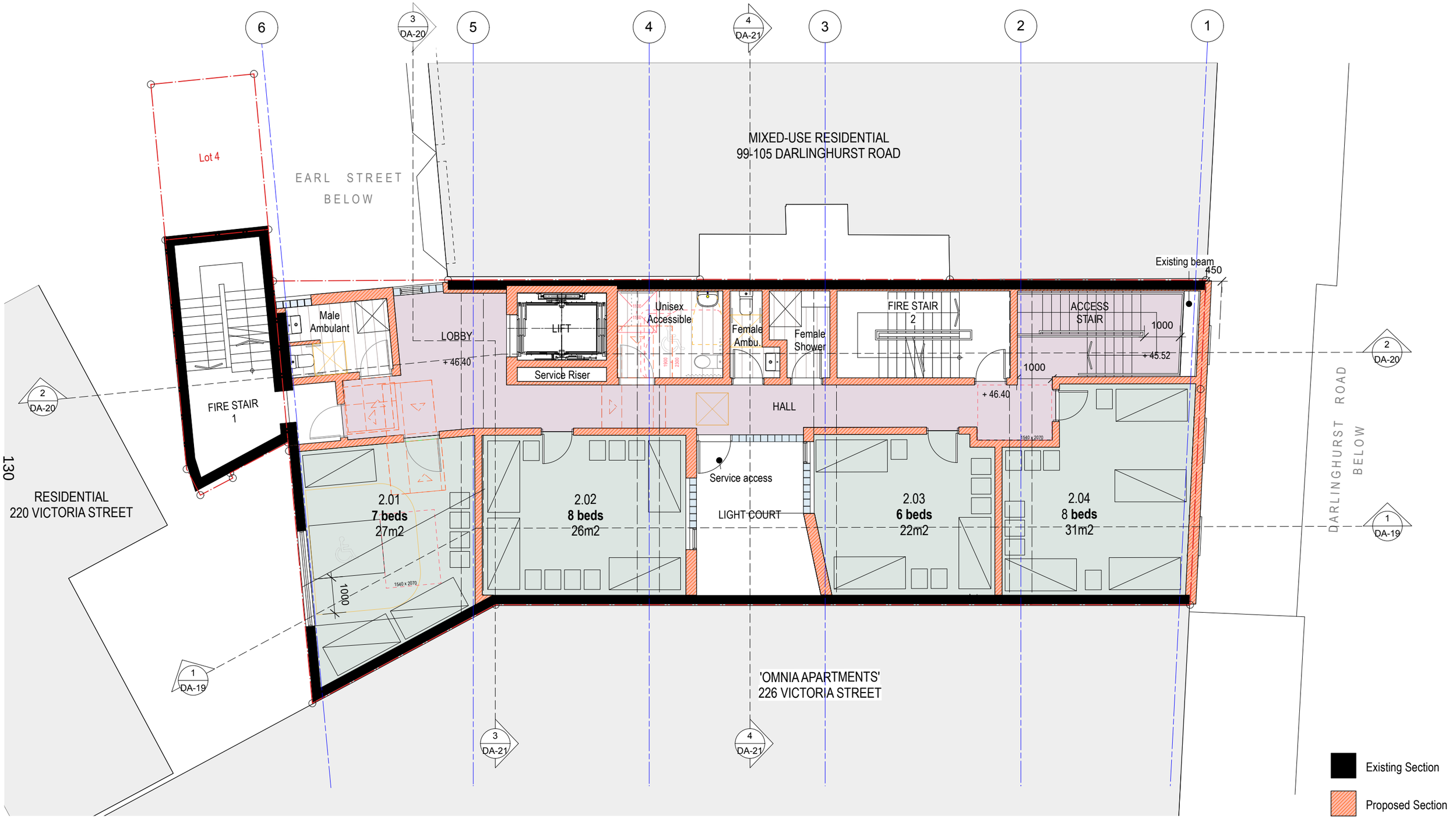
PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	09
DWG	Level 1 Plan
SCALE @ A3	1:100
DRAWN	FH
CHKD	PM
PLOT DATE	22/7/2026
REVISION	I



1 Lvl 2 Plan
scale 1:100 at A3

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E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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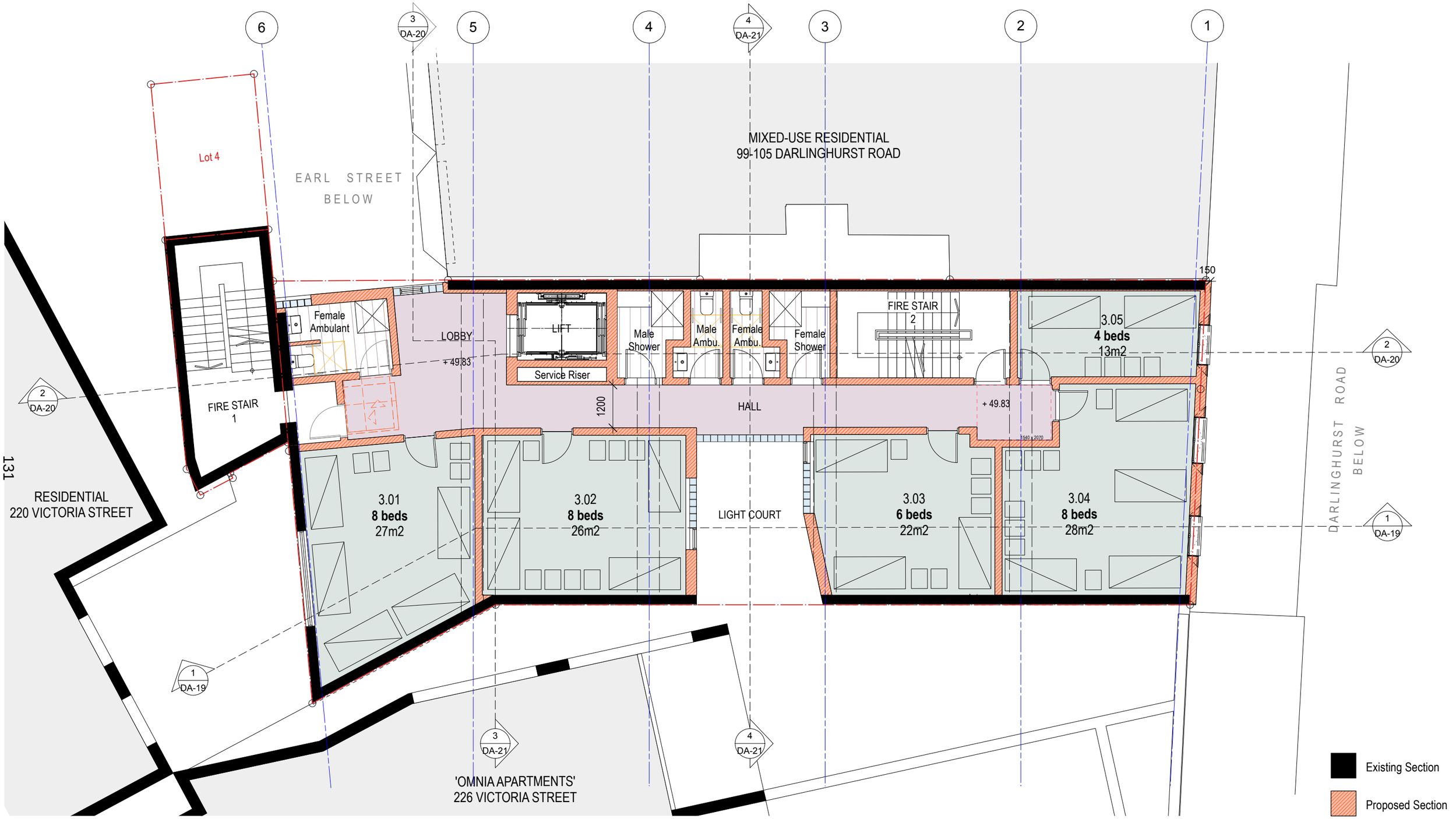
TN

PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	10
DWG	Level 2 Plan
SCALE @ A3	1:100
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H



1 Lvl 3 Plan
scale 1:100 at A3

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E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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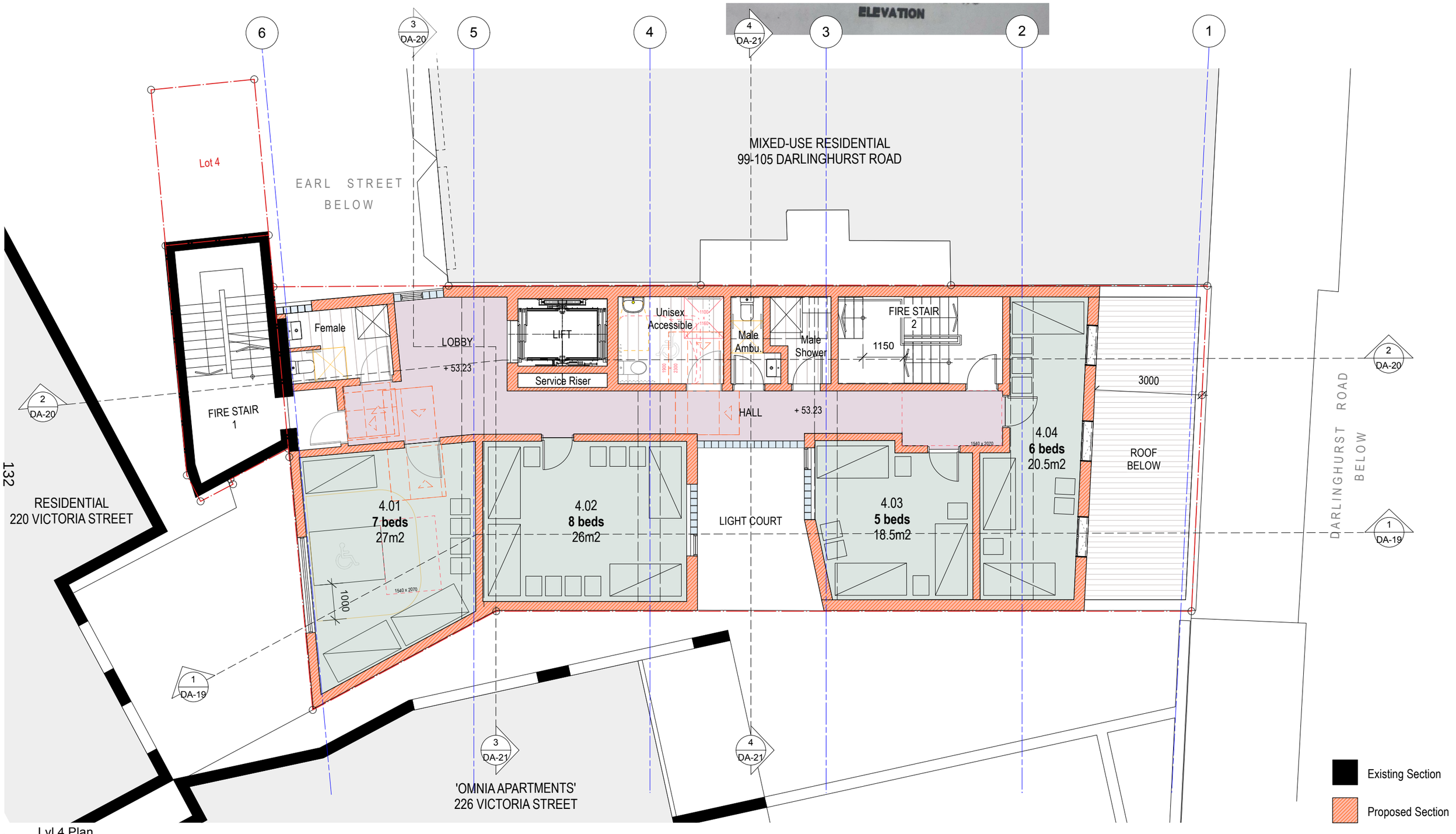
TN

PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	11
DWG	Level 3 Plan
SCALE @ A3	1:100
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H



1 Lvl 4 Plan
scale 1:100 at A3

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E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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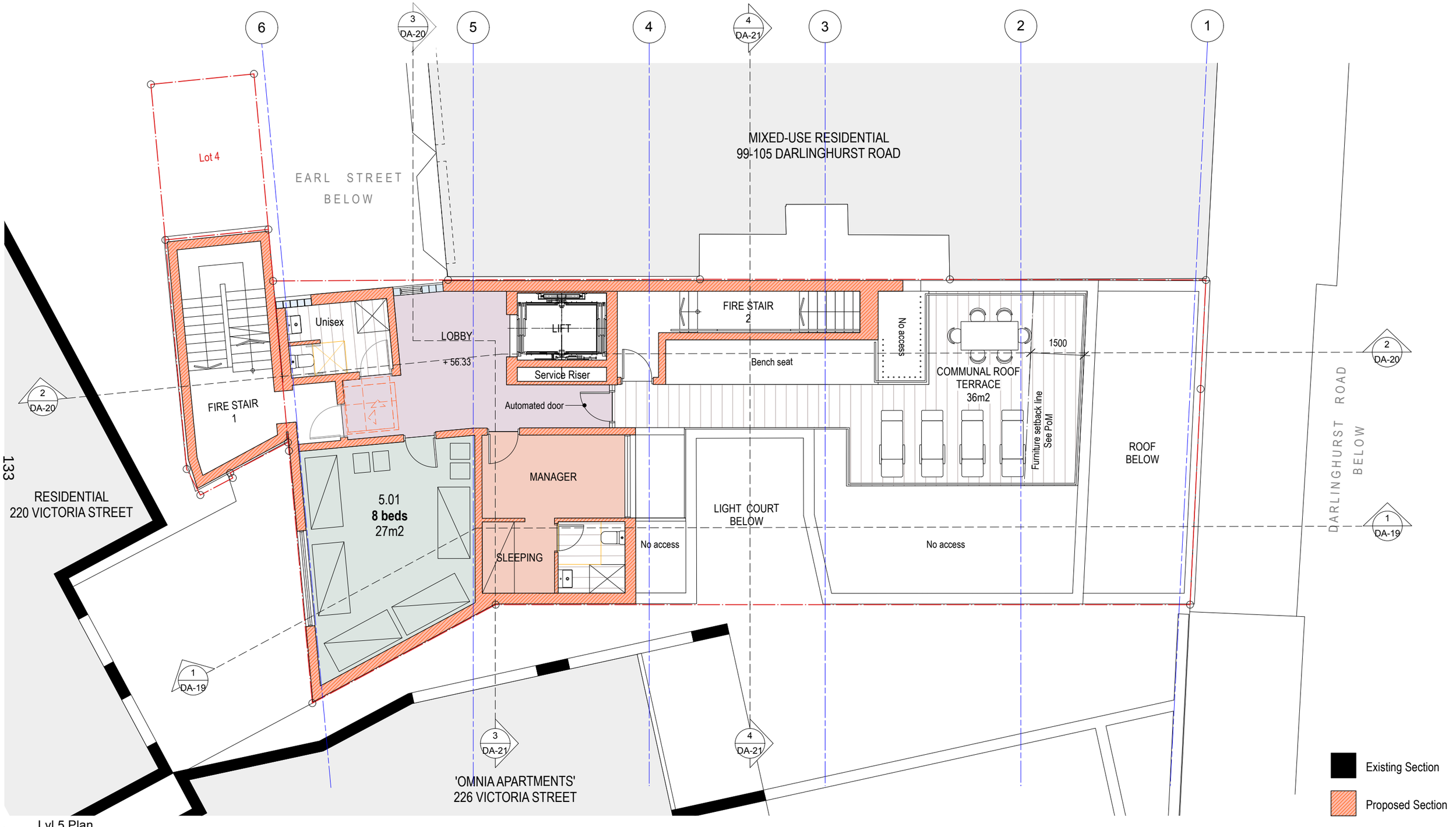
PROJECT 107-109 Darlinghurst Road, Potts Point NSW				PROJECT # 240215
CLIENT Raben Footwear Pty Ltd				DWG # 12
DWG Level 4 Plan				
SCALE @ A3 1:100	DRAWN FH	CHKD PM	PLOT DATE 17/7/2026	REVISION H



1 Lvl 5 Plan
scale 1:100 at A3

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REV	DATE	AMENDMENT
E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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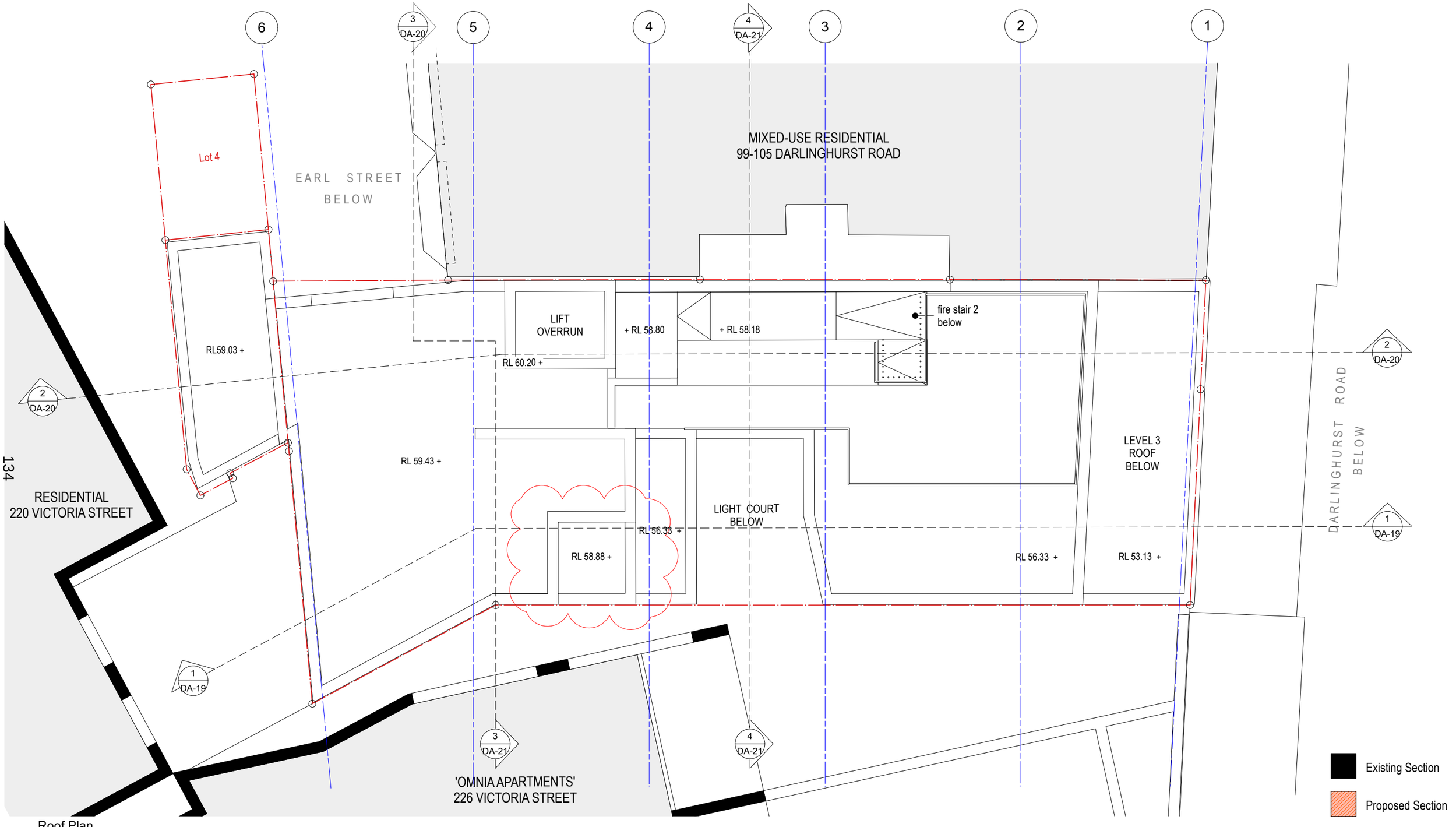
If in doubt ask.

TN

PROJECT: 107-109 Darlinghurst Road, Potts Point NSW
PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd
DWG #: 13
DWG: Level 5 Plan

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:100	FH	PM	17/7/2026	H



134

1 Roof Plan
scale 1:100 at A3

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E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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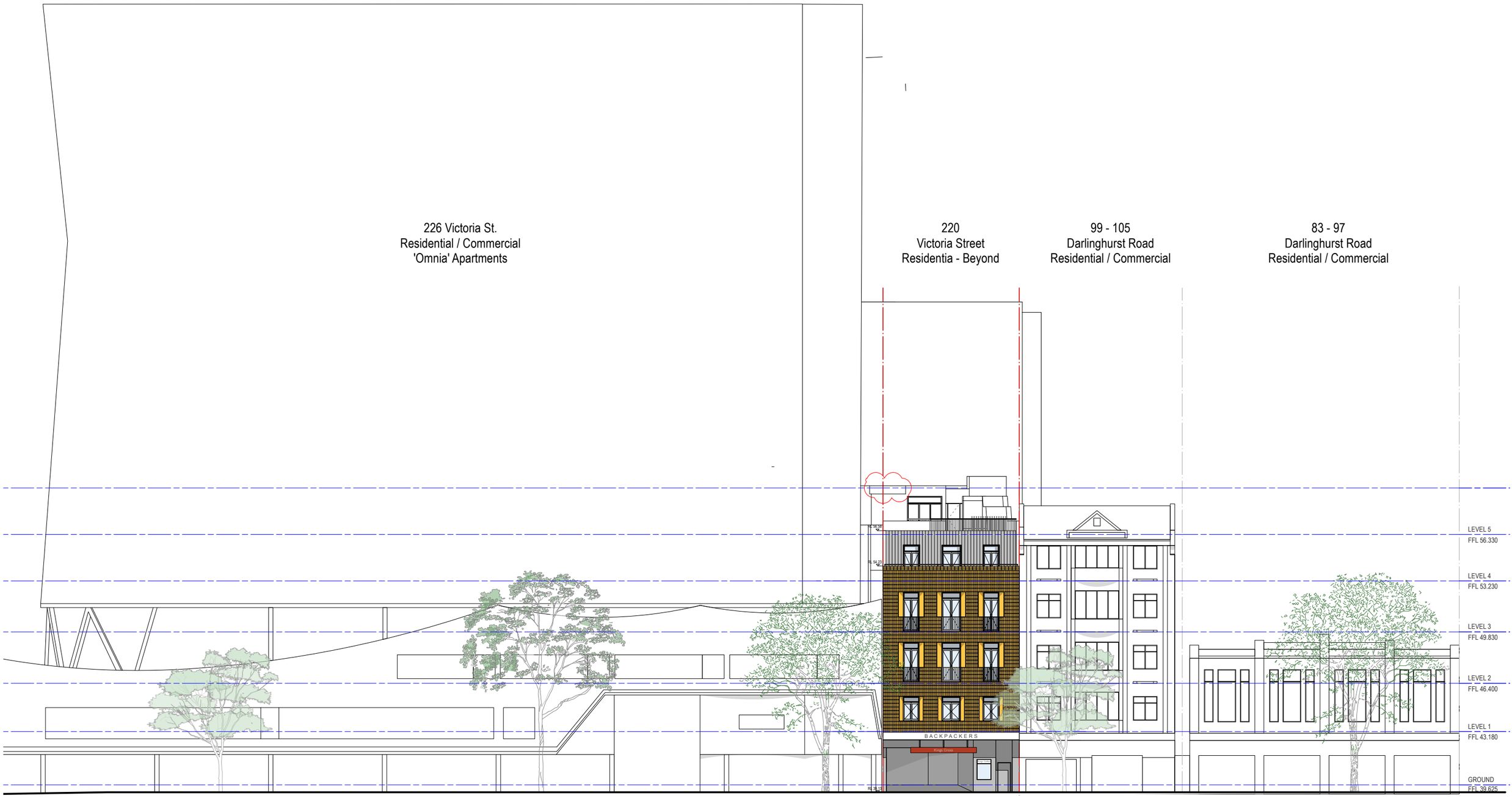
TN

PROJECT: 107-109 Darlinghurst Road, Potts Point NSW				PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd				DWG #: 14
DWG: Roof Plan				
SCALE @ A3: 1:100	DRAWN: FH	CHKD: PM	PLOT DATE: 17/7/2026	REVISION: H



Darlinghurst Rd.
scale 1:250 at A3

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REV	DATE	AMENDMENT
E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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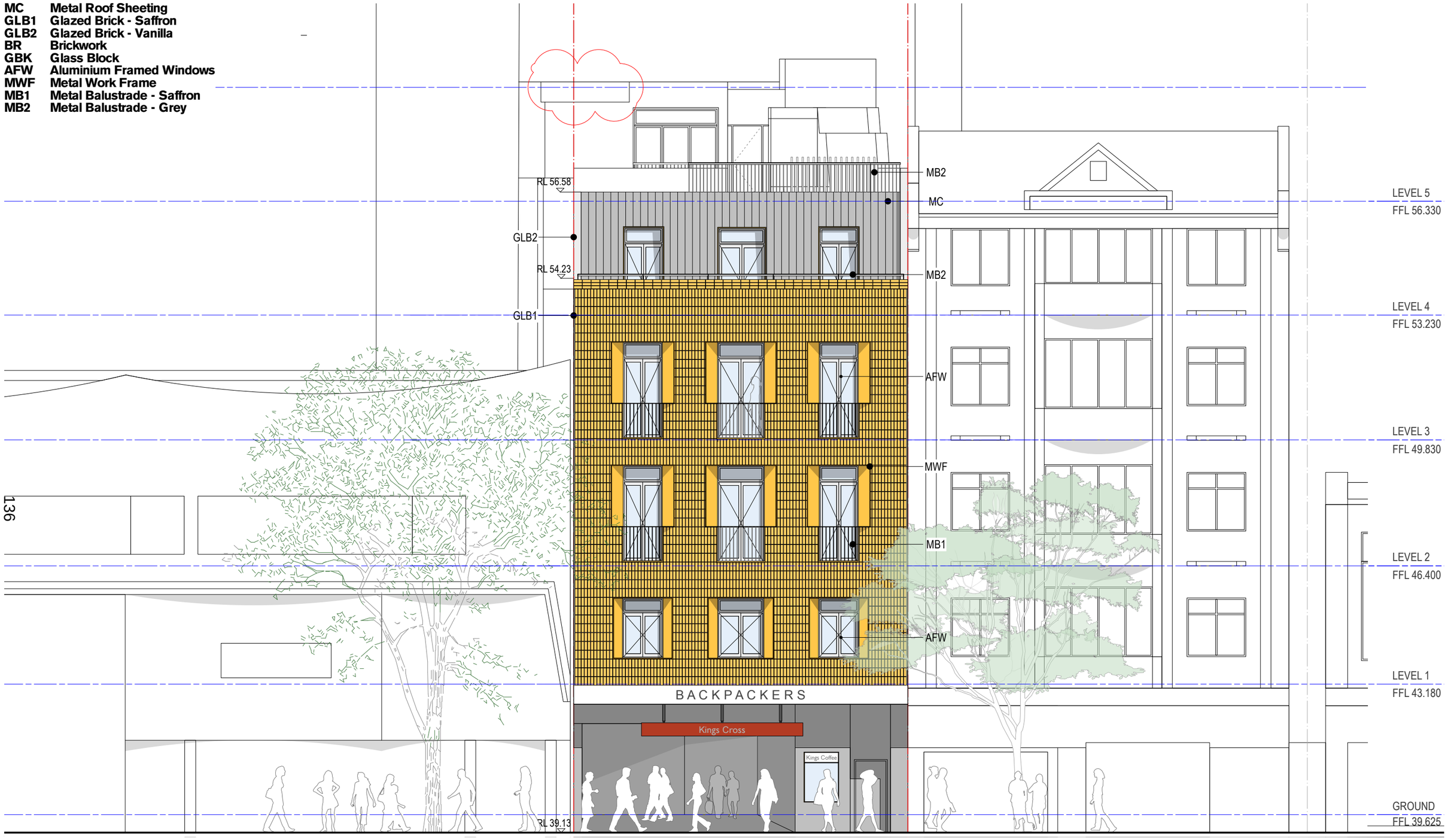
PROJECT: 107-109 Darlinghurst Road, Potts Point NSW
PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd
DWG #: 15
DWG: Streetscape Elevations - Darlinghurst Road

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:250	FH	PM	17/7/2026	H

Material Legend

MC	Metal Roof Sheeting
GLB1	Glazed Brick - Saffron
GLB2	Glazed Brick - Vanilla
BR	Brickwork
GBK	Glass Block
AFW	Aluminium Framed Windows
MWF	Metal Work Frame
MB1	Metal Balustrade - Saffron
MB2	Metal Balustrade - Grey



East Elevation
scale 1:100 at A3

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REV	DATE	AMENDMENT
E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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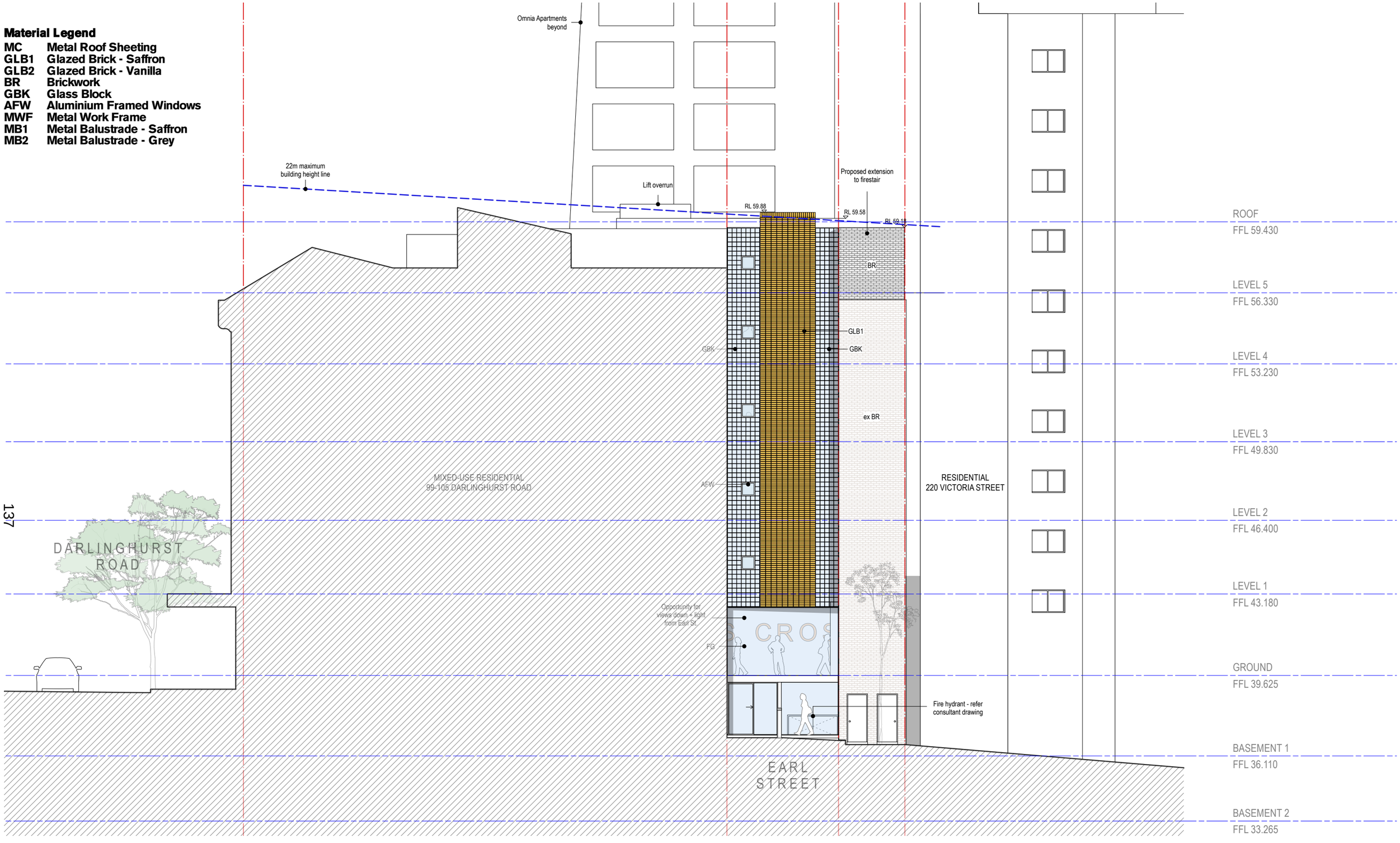
PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	16
DWG	East Elevation - Darlinghurst Road
SCALE @ A3	1:100
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H

Material Legend

MC	Metal Roof Sheeting
GLB1	Glazed Brick - Saffron
GLB2	Glazed Brick - Vanilla
BR	Brickwork
GBK	Glass Block
AFW	Aluminium Framed Windows
MWF	Metal Work Frame
MB1	Metal Balustrade - Saffron
MB2	Metal Balustrade - Grey



North Elevation
scale 1:150 at A3

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REV	DATE	AMENDMENT
E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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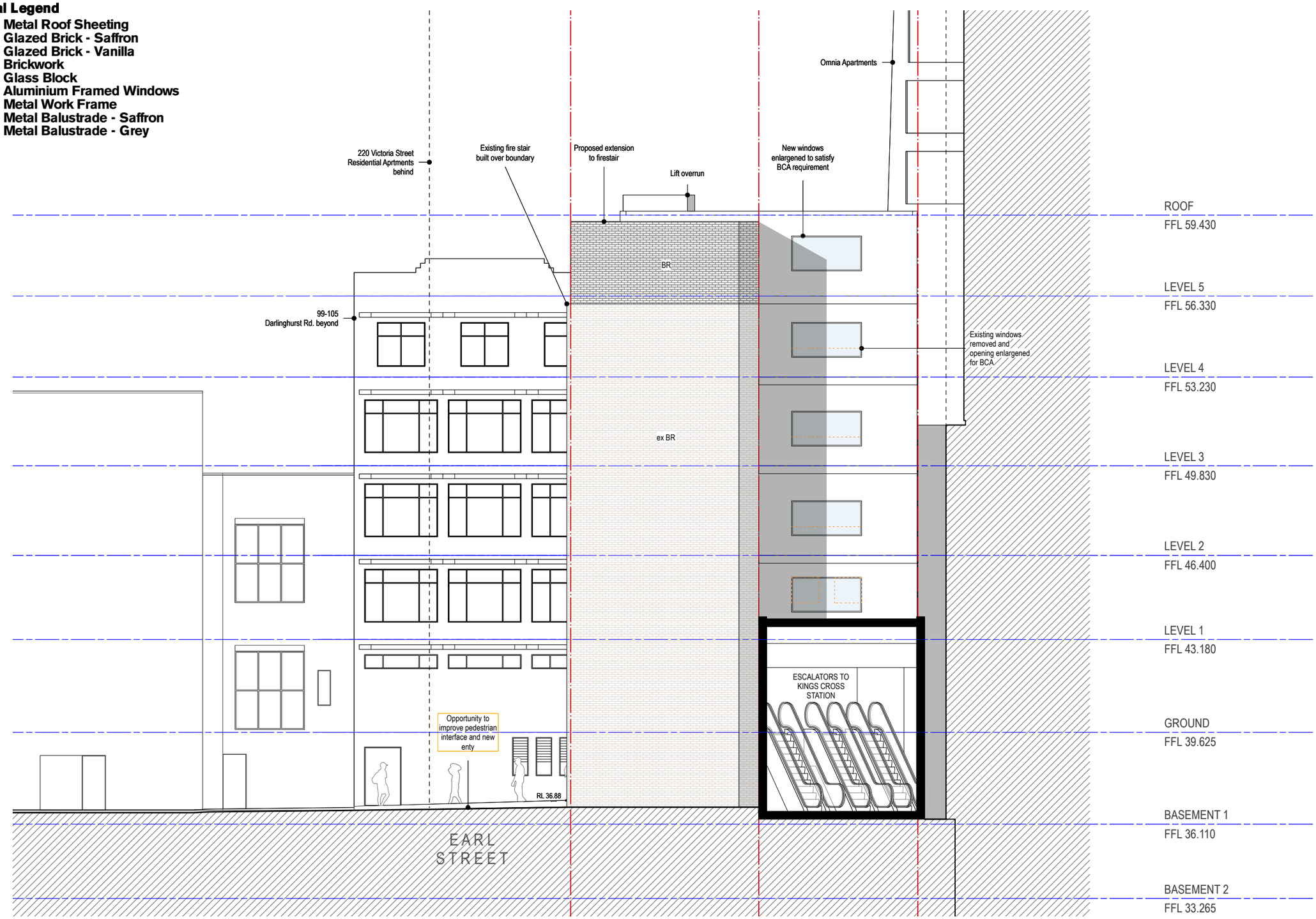
If in doubt ask.

PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	17
DWG	North Elevation - Earl Street
SCALE @ A3	1:150
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H

Material Legend

MC	Metal Roof Sheeting
GLB1	Glazed Brick - Saffron
GLB2	Glazed Brick - Vanilla
BR	Brickwork
GBK	Glass Block
AFW	Aluminium Framed Windows
MWF	Metal Work Frame
MB1	Metal Balustrade - Saffron
MB2	Metal Balustrade - Grey



West Elevation
scale 1:150 at A3

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REV	DATE	AMENDMENT
E	4/3/2026	Response to RFI
F	25/3/2026	Final Response to RFI
G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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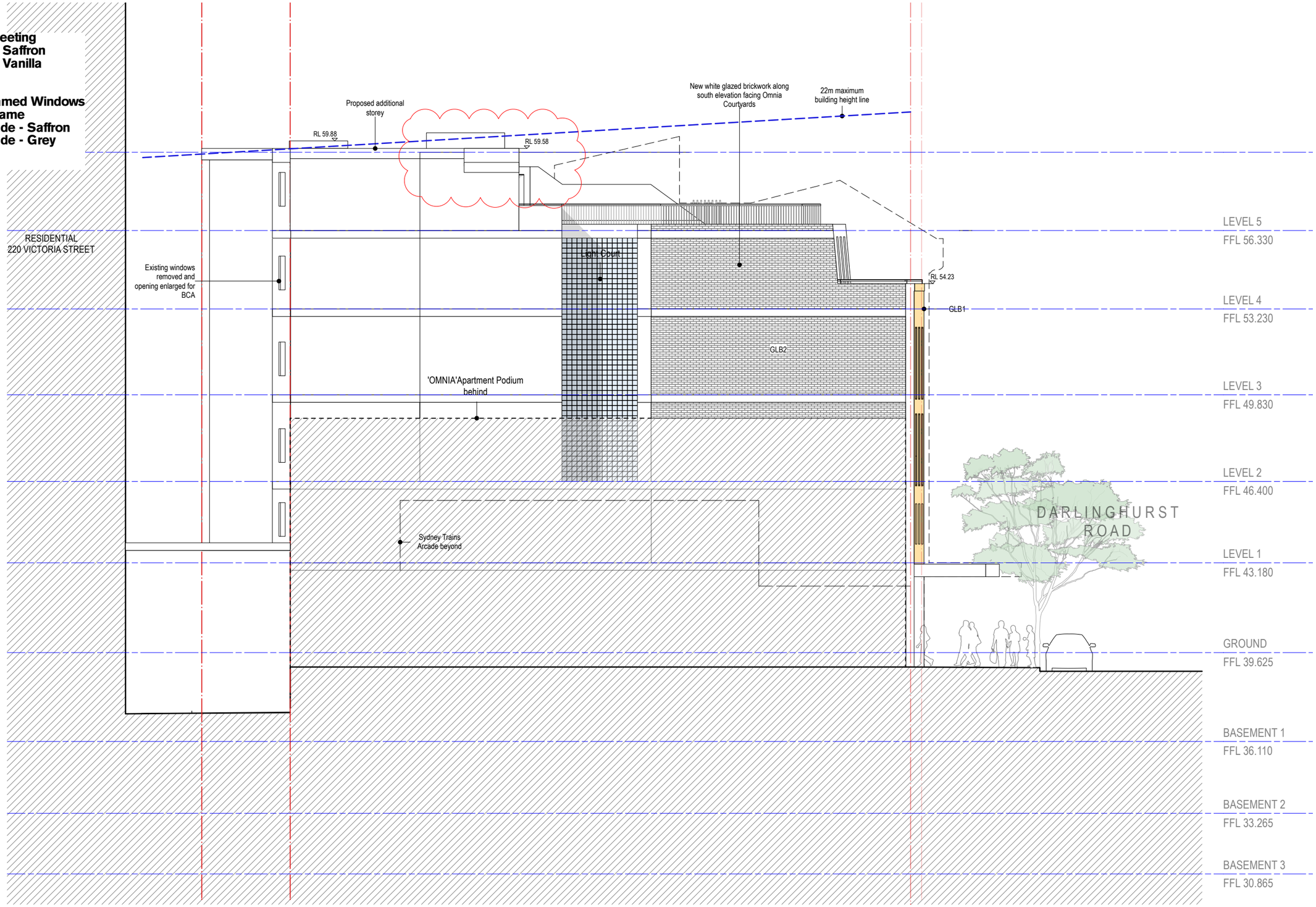
PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	18
DWG	West Elevation
SCALE @ A3	1:150
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H

Material Legend

MC	Metal Roof Sheeting
GLB1	Glazed Brick - Saffron
GLB2	Glazed Brick - Vanilla
BR	Brickwork
GBK	Glass Block
AFW	Aluminium Framed Windows
MWF	Metal Work Frame
MB1	Metal Balustrade - Saffron
MB2	Metal Balustrade - Grey



1 South Elevation
scale 1:150 at A3

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G	27/5/2026	Issue to council
H	17/7/2026	Upload to NSW Planning Portal

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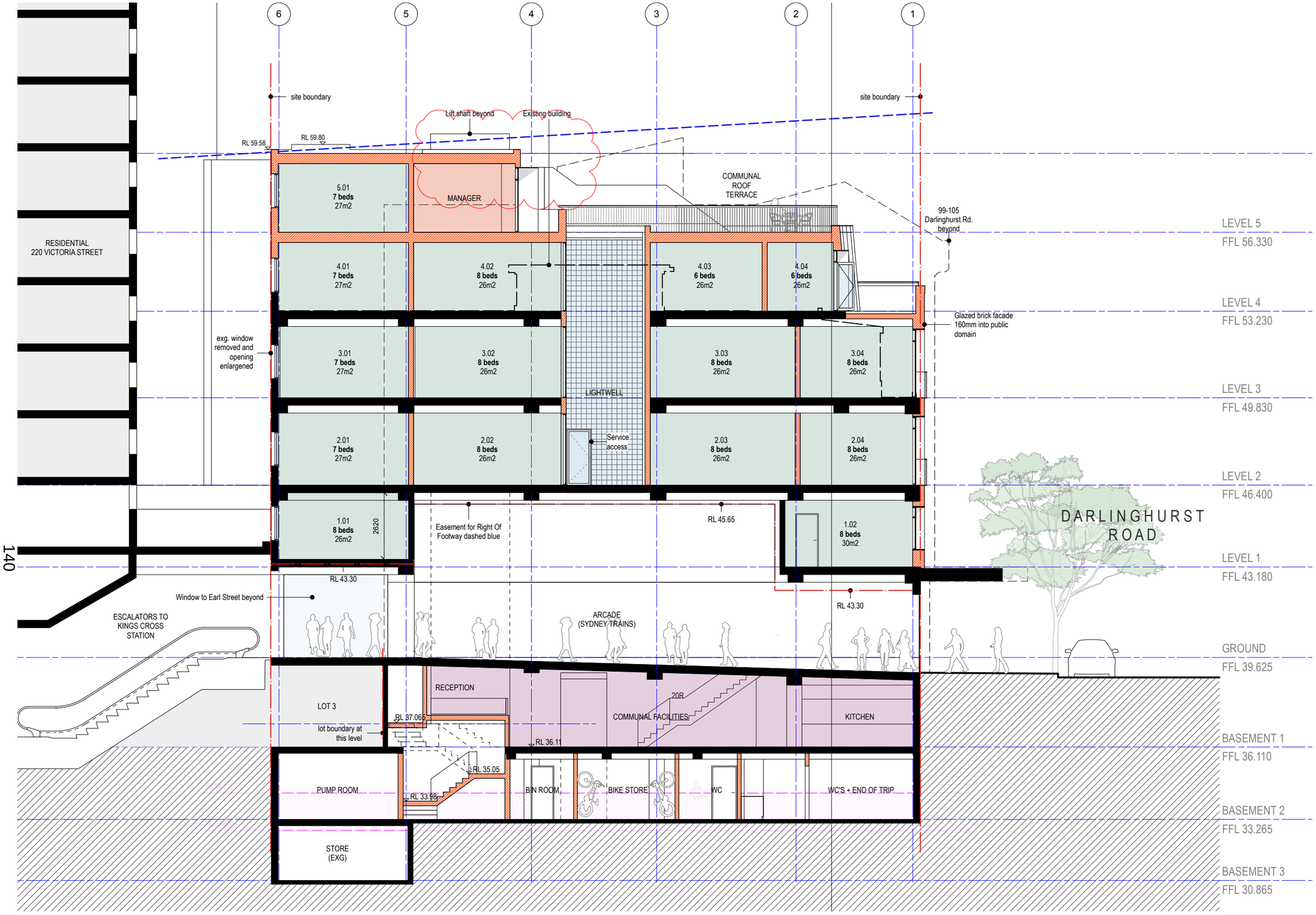
Use figured dimensions only.
Do not scale.
If discrepancy exists notify architect.
If in doubt ask.

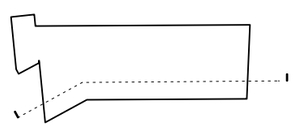
PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	19
DWG	South Elevation
SCALE @ A3	1:150
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H



1 Section 1
scale 1:150 at A3

Existing Section

Proposed Section



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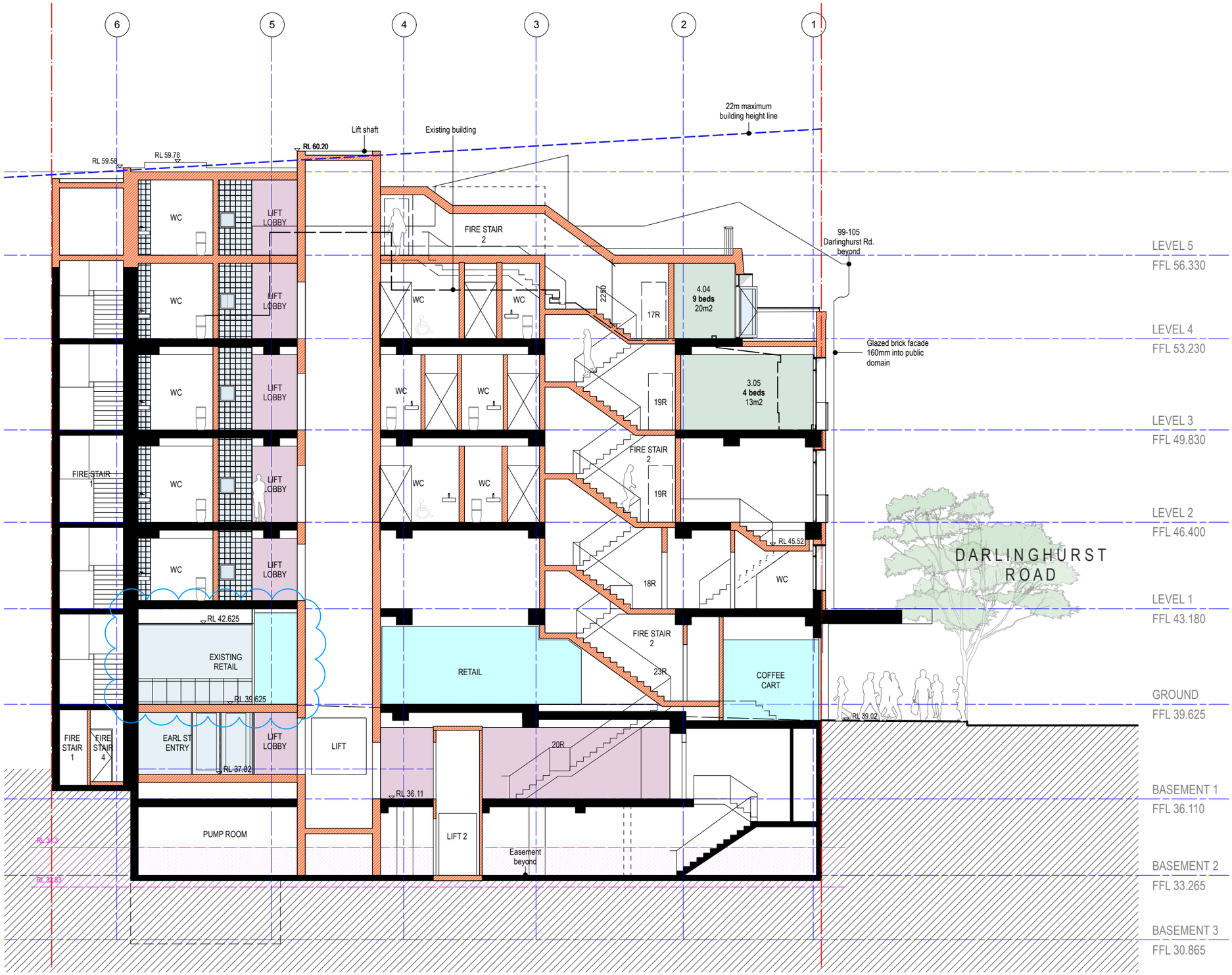
PROJECT	PROJECT #
107-109 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 20
DWG: Section 1	

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:150	FH	PM	17/7/2026	H



2 Section 2
scale 1:150 at A3

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H	17/7/2026	Upload to NSW Planning Portal
I	3/8/2026	Revised for DA
J	20/8/2026	Issue for TfNSW
K	21/8/2026	Upload to NSW Planning Portal

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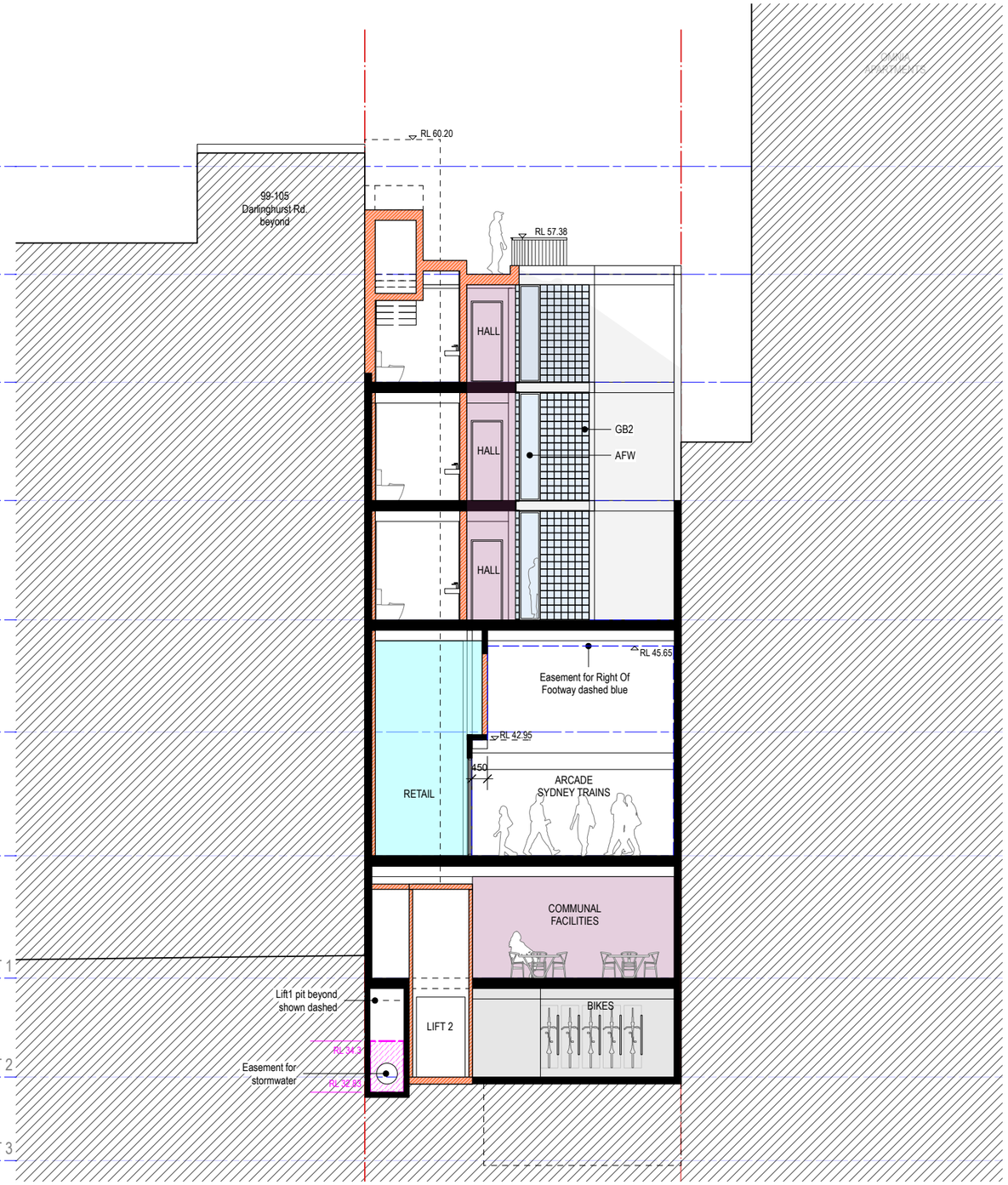
If in doubt ask.

PROJECT				PROJECT #
107-109 Darlinghurst Road, Potts Point NSW				240215
CLIENT				DWG #
Raben Footwear Pty Ltd				**21**
DWG				
Section 2				
SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:150	FH	PM	21/8/2026	K

3 Section 3
scale 1:150 at A3



4 Section 4
scale 1:150 at A3

Existing Section

Proposed Section

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REV	DATE	AMENDMENT
I	3/8/2026	Revised for DA
J	14/8/2026	Upload to NSW Planning Portal
K	20/8/2026	Issue for TfNSW
L	21/8/2026	Upload to NSW Planning Portal

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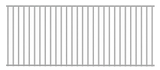
If in doubt ask.

PROJECT	PROJECT #
107-107 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 22
DWG: Section 3 & 4	

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:150	DM	PM	21/8/2026	L

1 Finishes Schedule
scale 1:100 at A3

FINISHES SCHEDULE

Code	Element		Description	Colour
MC	Metal Roof Sheeting		Lysaghts Standing Seam	Shale Grey
GLB1	Glazed Brick		Euroa Glazed Brick	Saffron
GLB2	Glazed Brick		Euroa Glazed Brick	Vanilla
BR	Face Brickwork			Match to existing
GBK	Glass Block		190 x 190 Glass Brick	NA
AFW	Aluminium framed windows and glazed doors - clear glass unless noted OG		Double-glazed system in configurations shown - clear glass unless noted	Clear anodised
MWF	Metal Window Frame		Sheet metal reveal and frame	Saffron- Epoxy Paint Finish
MB1	Metal Balustrade		Palisade Balustrade	Saffron - Epoxy Paint Finish
MB2	Metal Balustrade		Palisade Balustrade	Shale Grey - Epoxy Paint Finish

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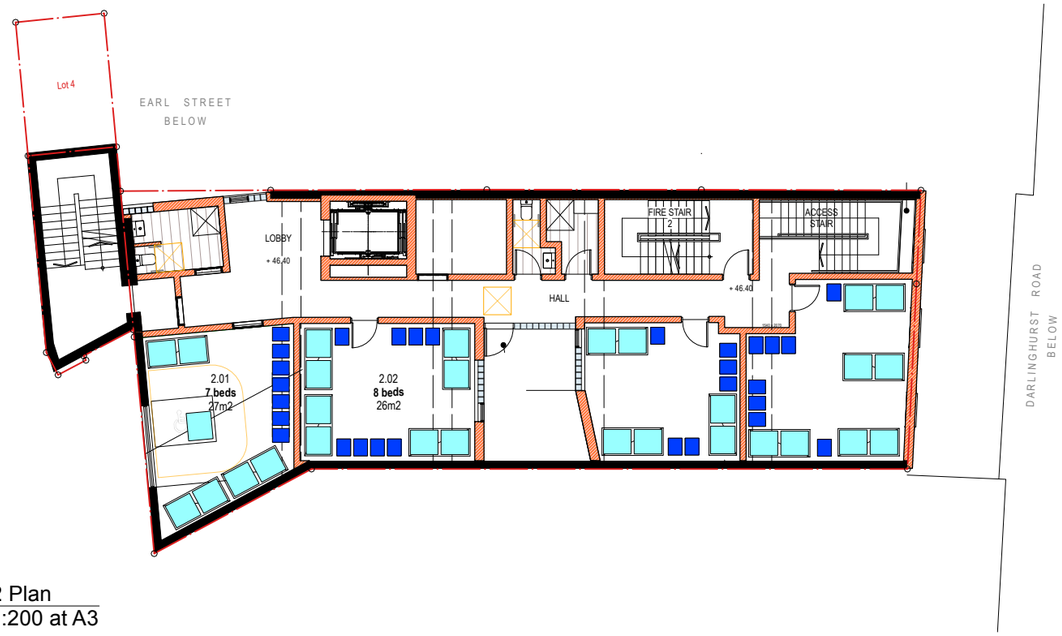
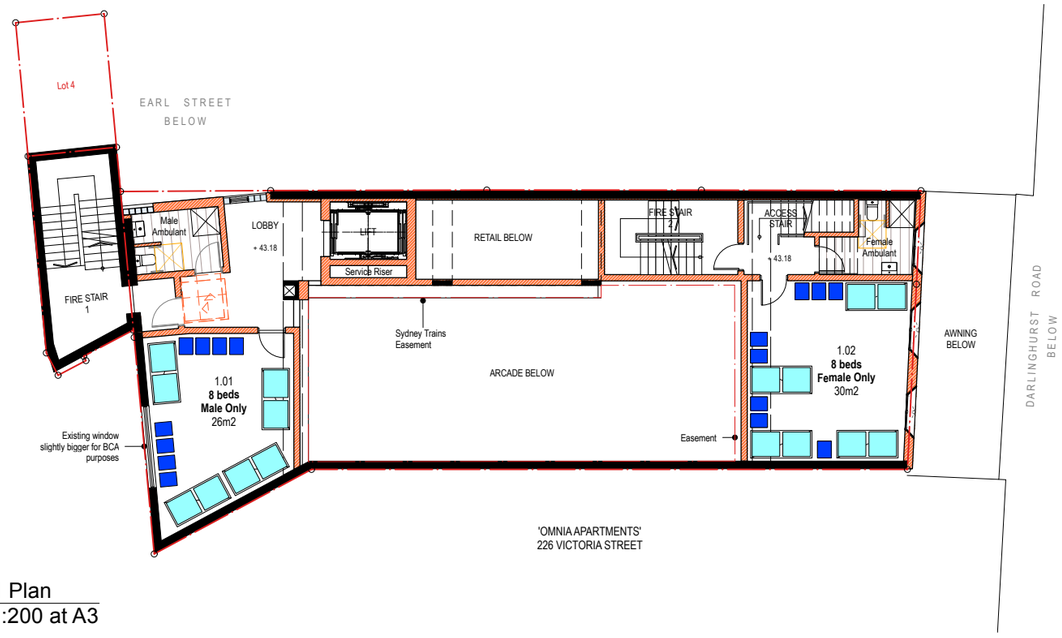
If in doubt ask.

PROJECT	107-109 Darlinghurst Road, Potts Point NSW
PROJECT #	240215
CLIENT	Raben Footwear Pty Ltd
DWG #	23
DWG	Finishes Schedule
SCALE @ A3	1:100
DRAWN	FH
CHKD	PM
PLOT DATE	17/7/2026
REVISION	H



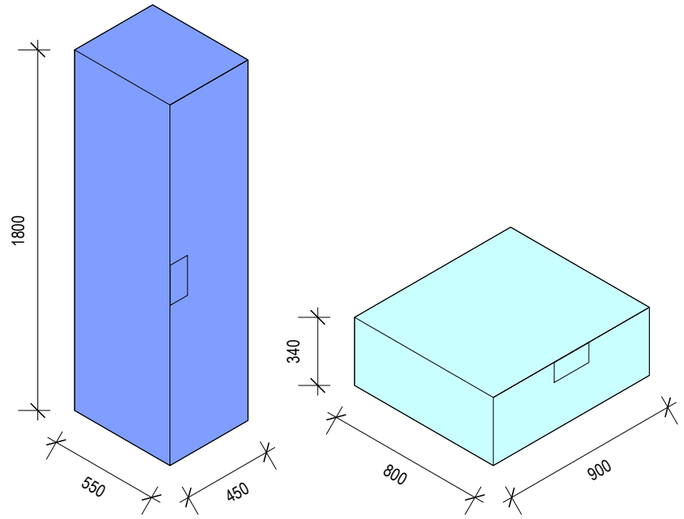
2 Level 2 Plan
scale 1:200 at A3



1 Level 1 Plan
scale 1:200 at A3

LOCKER QUANTITIES			
Room	Beds	Locker A (quantity)	Locker B (quantity)
1.01	8	8	8
1.02	"	"	"
2.01	7	7	7
2.02	8	8	8
2.03	6	6	6
2.04	8	8	8
3.01	"	"	"
3.02	"	"	"
3.03	6	6	6
3.04	8	8	8
3.05	4	4	4
4.01	7	7	7
4.02	8	8	8
4.03	5	5	5
4.04	6	6	6
5.01	8	8	8

*Sydney DCP 2012 4.4.8.3(4) requires **0.6m3** per person of individual, secure, lockable storage facilities within the sleeping room*



Locker A
Vertical storage
1 per person
0.45m3

equivalent to *Urban Hyve*
Backpackers / Hostel Metal
Storage Lockers

Locker B
Under-bed storage
1 per person
0.24m3

similar to *Direct Products*
Steel Slide Out Drawer
Underbed Storage Locker

Total = 0.69m3 per person

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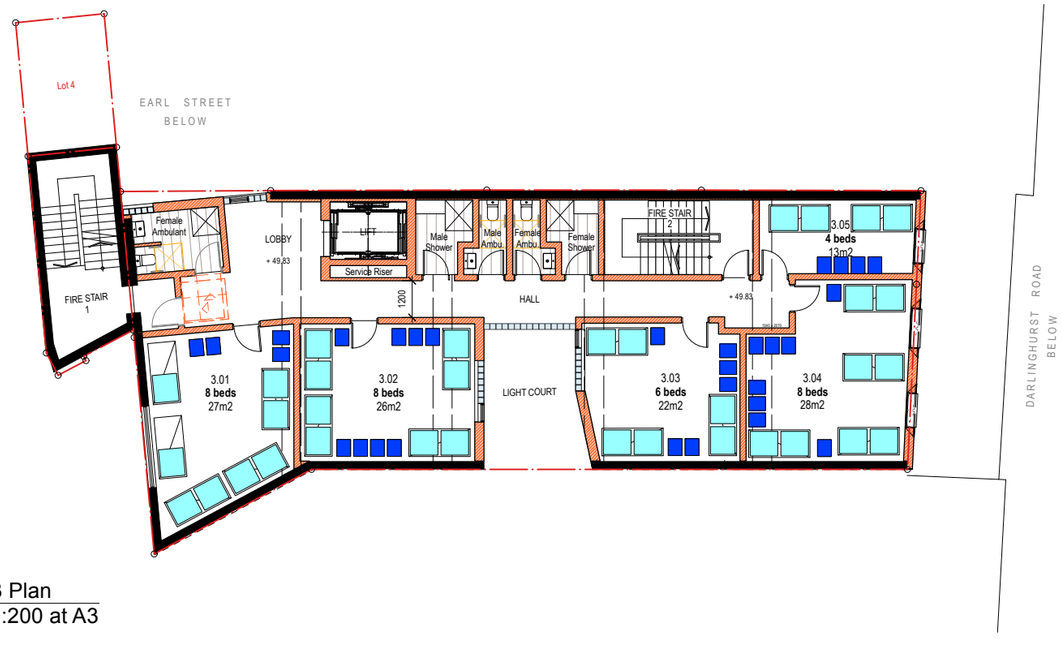
If in doubt ask.

TN

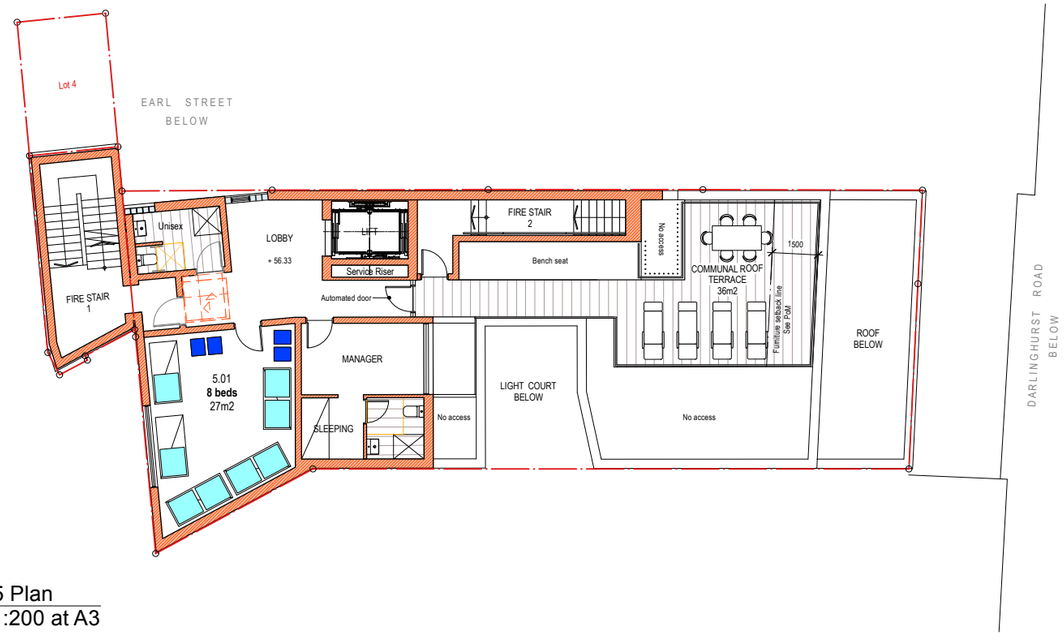
PROJECT: 107-109 Darlinghurst Road, Potts Point NSW
PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd
DWG #: 53
DWG: Secure Lockable Storage Facilties 1

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:200	AK	DM		H

4 Level 4 Plan
scale 1:200 at A3



3 Level 3 Plan
scale 1:200 at A3



5 Level 5 Plan
scale 1:200 at A3

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G	27/5/2026	Issue to council
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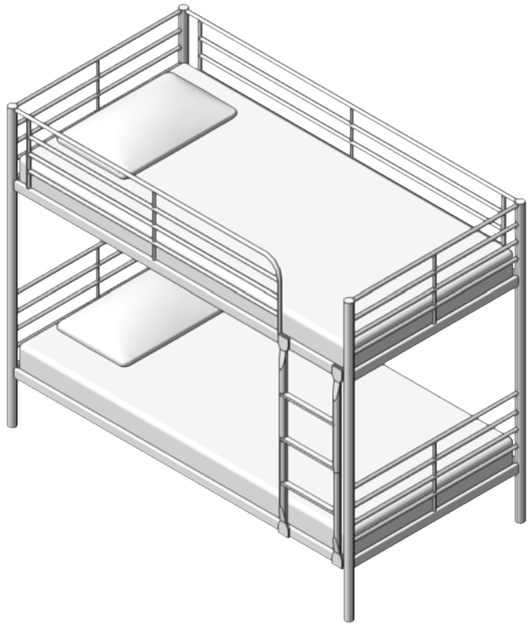
If in doubt ask.

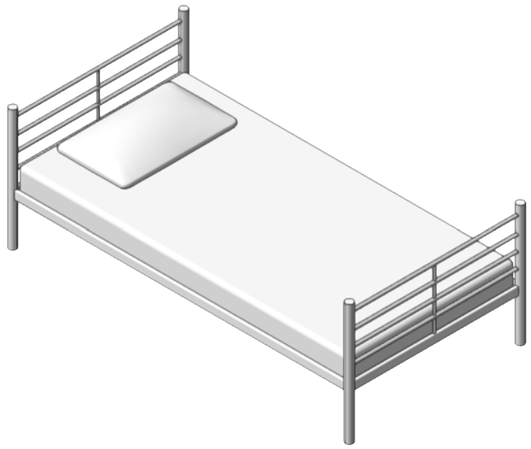
TN

PROJECT	PROJECT #
107-109 Darlinghurst Road, Potts Point NSW	240215
CLIENT: Raben Footwear Pty Ltd	DWG # 54
DWG: Secure Lockable Storage Facilties 2	

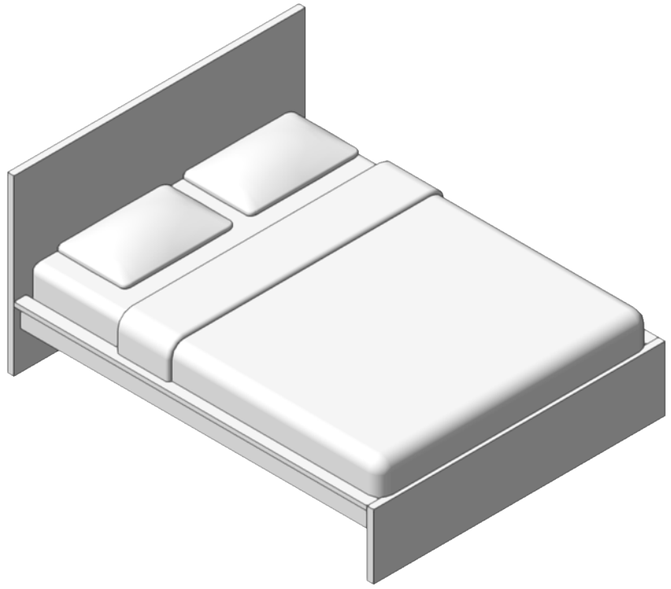
SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:200	AK	DM		H



Bed Type A
Bunk Bed
2 x single beds



Bed Type B
Individual Bed
1 x single bed



Bed Type C
Wheelchair Bed
1 x queen bed

146

BED TYPE (quantity)			
Room	A	B	C
1.01	4		
1.02	4		
2.01	3		1
2.02	4		
2.03	3		
2.04	4		
3.01	3	2	
3.02	4		
3.03	3		
3.04	4		
3.05	2		
4.01	3		1
4.02	4		
4.03	2	1	
4.04	3		
5.01	3	2	
	53	**5**	**2**
TOTAL	**60**		

Sydney DCP 2012 4.4.8.2(e) requires a range of bed types be provided

ROOM SIZE	
Room	No. of people
1.01	8
1.02	8
2.01	7
2.02	8
2.03	6
2.04	8
3.01	8
3.02	8
3.03	6
3.04	8
3.05	4
4.01	7
4.02	8
4.03	5
4.04	6
5.01	8
TOTAL	**113**

Sydney DCP 2012 4.4.8.2(e) requires a range of room sizes be provided

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If in doubt ask.

PROJECT: 107-109 Darlinghurst Road, Potts Point NSW
PROJECT #: 240215
CLIENT: Raben Footwear Pty Ltd
DWG #: **57**
DWG: Bed Types and Room Sizes

SCALE @ A3	DRAWN	CHKD	PLOT DATE	REVISION
1:25	AK	DM	17/7/2026	H

Attachment C

Clause 4.6 variation – Height of buildings

Our Ref: Project 972
Your Ref: Clause 4.6

19 March 2026

City of Sydney Local Planning Panel (**Panel**)

By email & planning portal

Dear Assessing Officer & Panel,

Re: Clause 4.6 Exception to Clause 4.3 of Sydney Local Environmental Plan 2012 (LEP)
The Site: 107-109 Darlinghurst Road, Potts Point (site)

I have been instructed by the Applicant to provide written justification for an exception to clause 4.3 of the LEP pursuant to clause 4.6(3) of the LEP taking a precautionary approach.

I rely upon:

1. The architectural plans and other supporting documents for the proposal have been relied upon. McGregor Westlake Architectures sections that demonstrate the HOB outcomes taking different approaches arising from several Commissioner judgements in the NSW Land & Environment Court (**NSWLEC**) demonstrate:
    a. Adopting the approach taken by the NSWLEC in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 (**Merman**) the Height of Building (HOB) would be measured from the lowest basement level to the highest point of the building above as shown in **Figure 1** this would result in a HOB of 28.935m a 6.935m (**31.52%**) exceedance).
    b. Adopting the approach taken by the NSWLEC in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 ('***Bettar***')the Height of Building (HOB) would be measured from the 22m interpolated height plan as shown in **Figure 2**, this would result in a HOB of 22.935, a 0.935m (**4.25%**) at the roof above the Manager's Quarters.
2. PS 18-003 – Department of Planning and Environment (Revokes PS17-006 (December 2017)
3. Varying Development Standards: A Guide August 2011 - NSW Department of Planning & Infrastructure.
4. Guidance provided by judgments of the Land & Environment Court (the Court) detailed by the methodology (**Annexure 1**).
5. The Development Application (DA) Plans, Statement of Environmental Effects (SoEE), Design Verification Statement (DVS), Design Quality Statement (DQS) and other expert reports annexed to the DA.
6. The following marked up Section 2 Drawing DA20 extract (**Figure 1**).

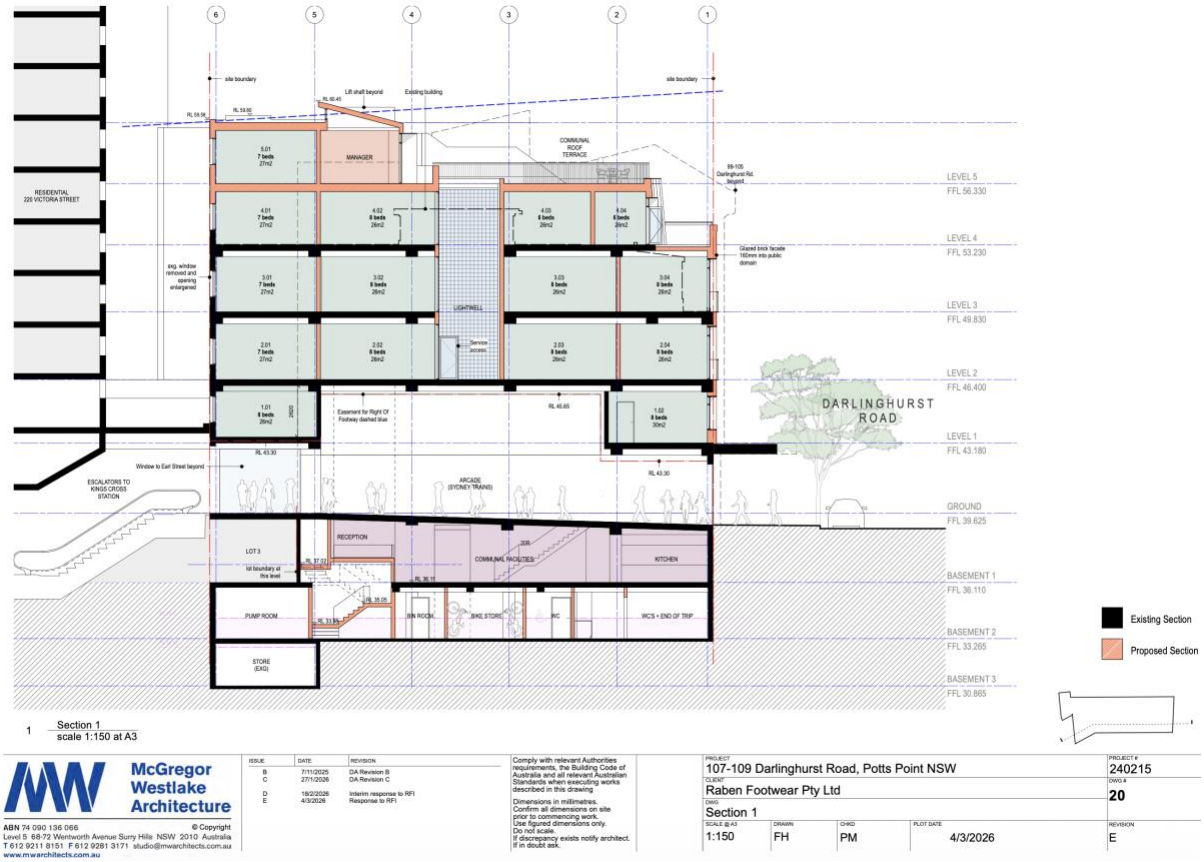

Figure 1 – Height of Building – Adopting Merman Approach (Extract Drawing DA20 -Section 1)

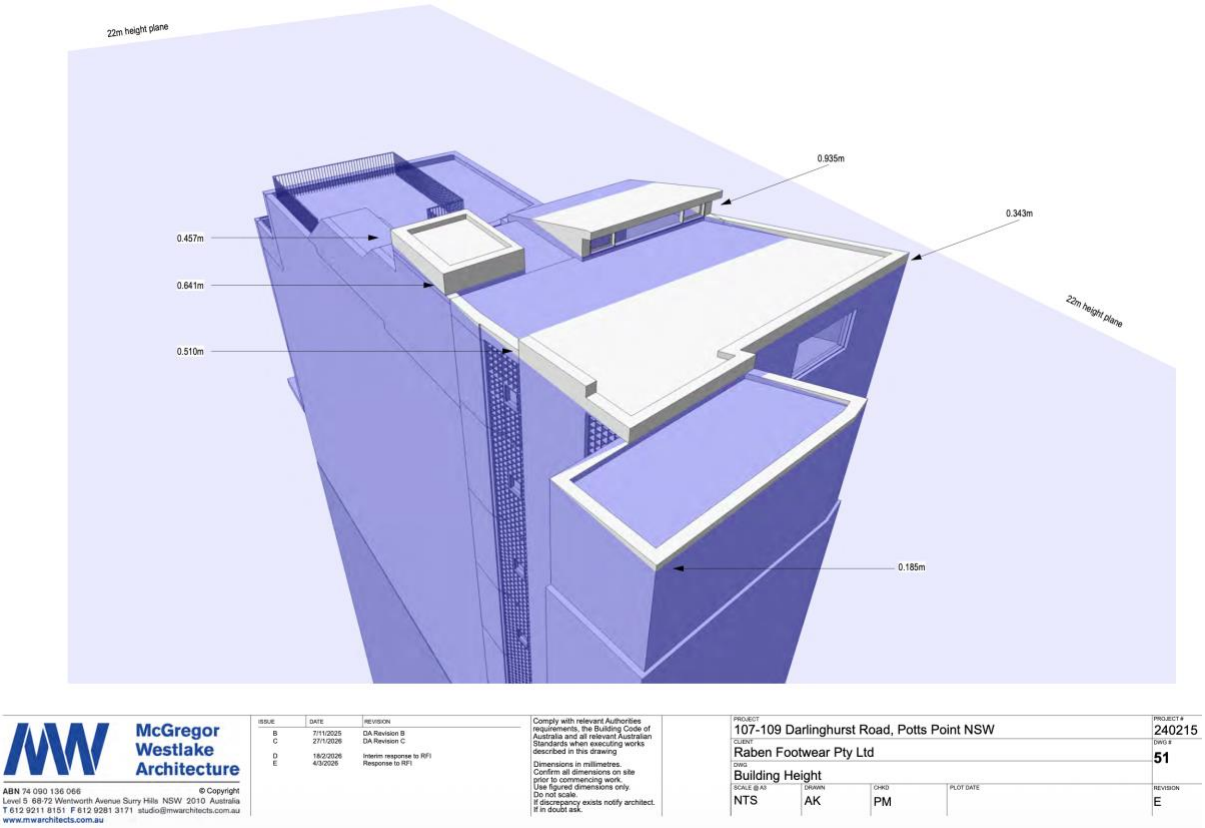

Figure 2 - 22m Height Plan adopting Bettar Approach

I observe at this point that there is some apparent conflict between the approaches the Court have taken to determination of HOB based upon the decisions of Commissioner O'Neill in ***Bettar*** and ***Merman***, and the approach accepted by acting Commissioner Bindon in ***Nicola***. Nevertheless, each are acceptable approaches based upon the circumstances of each case.

This clause 4.6 takes a precautionary approach in that it applies the worst-case scenario being that HOB is measured from the lowest basement floor level beneath the existing building adopting ***Merman***.

I address the requirements of clause 4.6 demonstrating that environmental planning justification is found in the application of Commissioner O'Neill's ***Merman*** observation at [74] "***prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane***" and the quantum and extent of the impacts are negligible apply the extrapolation/interpolation method in ***Nicola***.

Further justification relies upon the highly modified site levels and topography and context, as well as the accidence to Council's request that the building be moved further to the west to minimise amenity impacts upon the southern neighbours in the Bathers development.

The Site

This clause 4.6 adopts the site as detailed by the Statement of Environmental Effects.

The site has been excavated, is highly modified and GL(E) is lower than pre-existing ground levels, this attribute contributes to what I submit is, in the context a very minor height exceedance demonstrated by Figure 2 adopting a qualitative Bettar approach, albeit as a precaution we adopt Merman in a quantitative sense for the purposes of HOB.

Environmental planning justification for the exceedance of the HOB is found applying the Bettar approach, albeit taking a conservative approach this Clause 4.6 adopts the Merman approach.

Overall approach

This clause 4.6 request seeks to demonstrate that:

1. compliance with the development standard is <u>unreasonable or unnecessary</u>[1] in the circumstances of the case (cl 4.6(3)(a)), and

2. there are <u>sufficient environmental planning grounds</u> to justify contravening the development standard (cl 4.6(3)(b)).

Methodology

Guidance as to the proper clause 4.6 methodology is provided by judgments of the Land & Environment Court (LEC) and Court of Appeal (NSWCA) detailed by **Annexure 1** of this clause 4.6.

The Objectives of Clause 4.6

[1] Wehbe [42-51] – 5 Tests but not exclusive tests

The objective of Clause 4.6(1) of the LEP are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The Facts

1. What is the name of the environmental planning instrument that applies to the land? Sydney Local Environmental Plan 2012 (LEP)

2. What is the zoning of the land?

   E1

3. What are the objectives of the zone?

   - *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 maximise public transport patronage and encourage walking and cycling.*

4. What is the development standard being varied?

   Height of Building (HOB)

5. Under what clause is the development standard listed in the environmental planning instrument?

   Clause 4.3 - Height of buildings (HOB)

6. What are the objectives of the development standard? (Relevant to the site)

   (a) to ensure the height of development is appropriate to the condition of the site and its context,

   (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

   (c) to promote the sharing of views outside Central Sydney,

7. What is the numeric value of the development standard for **FSR** in the environmental planning instrument?

   22m from Ground Level (Existing) (GLE)

8. What is proposed numeric value of the development standard in your *development application?*

   28.935m a 6.935m exceedance.

9. What is the percentage variation (between the proposal and the environmental planning instrument)?

   a. Adopting the approach taken by the NSWLEC in *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 (**Merman**) the Height of Building (HOB) would be measured from the lowest basement level to the highest point of the building above as shown in **Figure 1** this would result in a HOB of 28.935m a 6.935m (**31.52%**) exceedance).

   b. Adopting the approach taken by the NSWLEC in *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 ('***Bettar***')the Height of Building (HOB) would be measured from the 22m interpolated height plan as shown in **Figure 2**, this would result in a HOB of 22.935, a 0.935m (**4.25%**) at the roof above the Manager's Quarters.

Clause 4.6 Submission

1. Compliance with the development standard is *unreasonable or unnecessary* [2] in the circumstances of the case (clause 4.6(3)(a)) on the following basis:

   a. the objectives of the development standard are achieved notwithstanding non-compliance with the standard: **1st Wehbe** test at [42] and [43].

      Submission:

      (a) to ensure the height of development is appropriate to the condition of the site and its context,

      Omnia dominates the immediate vicinity towering above the site and other neighbours. Noting that the existing basement RL's distorted the height plane and apply Bettar the exceedance is limited in its footprint and height to a maximum 2.2% the proposal is consistent with the the site and its context.

      (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

      There are no buildings of any heritage significance within the immediate vicinity of the site that would be adversely affected by the proposal.

      (c) to promote the sharing of views outside Central Sydney.

[2] Ibid [5].

Larger and taler buildings within the locality take out views and the additional storey will not remove any iconic or significant views.

b. the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: **2nd Wehbe** test at [45].].

   Submission: This test is not pressed as relevant to this proposal.

c. the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: **3rd Wehbe** test at [46].

   Submission: The development standard objectives are clearly stated, and one must not try to discern any objective different from the stated objectives. This test is not pressed as relevant to this proposal.

d. the development standard has been virtually abandoned or destroyed: **4th Wehbe** test at [46].

   Submission: In *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85, Robson J, on appeal, concluded that the previous development consents were relevant instruments to be considered for the purpose of s 39(4) of the *Land and Environment Court Act* 1979.

   Robson J held that prior consents on the same site or in the locality '*may be instructive for the purpose of an 'abandonment' argument* ***or in informing the desired character or future streetscape of a locality***'.

   It is my submission that contemporary consents and built form outcomes ***inform the desired character or future streetscape of a locality*'.**

   Whilst it is plain that the proposal is different from neighbours it is subservient to the immediate neighbours and representative of the desired future character.

   Consents and buildings around the site are more representative of the ***desired character and the future streetscape of this locality***'.

   This character includes Omnia and other larger buildings.

   A finding that a development standard has been abandoned requires evidence of a '***pattern of abandonment'*** such that the development standard can no longer be said to represent the existing and/or desired character of the locality would mean that the development standard had been "virtually abandoned or destroyed….It will be a matter of fact and degree in the circumstances of each case.'

   I do not submit that the exceptions already granted within the vicinity of this site can amount to abandonment, nevertheless, the HOB is subservient to larger buildings in the visual catchment and wholly consistent in its street wall heights with its northern neighbours.

   Nevertheless, importantly, prior consents in the locality inform the desired character and future streetscape and the proposal is ***consistent*** with these contemporary outcomes and ***consistent*** the desired future character.

e. the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: **5th Wehbe** at [48]

   Submission: I do not press this as relevant to this proposal.

f. In circumstances where there are no significant adverse impacts resulting from the variation, it is unreasonable and unnecessary to require strict compliance (given that strict compliance will come with greater and more negative impacts in redistribution of complying GFA, i.e. infilling the voids created to allow better internal amenity would be antipathetic to improving public and private access to natural light and ventilation). The design benefits are set out in more detail by the Design Excellence Report upon which this exception relies covering:

   i. Improved building forms and materiality to Darlinghurst Road

   ii. Improve amenity (including natural light penetration) to the railway concourse

   iii. Improved urban design and activation of Earl Street frontage,

   iv. mitigation of shadow impacts, and

   v. improved internal amenity.

g. The burden placed on the future occupants of the development (by requiring strict compliance with the development standard) would be disproportionate to the (non-existent or inconsequential) adverse consequences attributable to the proposed non-compliant development (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).

h. If strict compliance was required, it would undermine important statutory objectives that are relevant to the consideration of this matter, namely:

   The Act

   i. Section 1.3(a) of the Act: to promote the social and economic welfare of the community …'.

   ii. Section 1.3(b) of the Act: '[T]o facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (bold added)'.

   iii. Section 1.3(c) of the Act: 'to promote the orderly and economic use and development of land,'

   iv. Section 1.3(g) of the Act: 'to promote the proper construction and maintenance of buildings'.

   The LEP

v. Clause 1.2(b) of the LEP:

(b) to support the City of Sydney as an important location for business, educational and cultural activities and tourism,.

(f) to enable a range of services and infrastructure that meets the needs of residents, workers and visitors,

(h) to enhance the amenity and quality of life of local communities,

(i) to provide for a range of existing and future mixed-use centres and to promote the economic strength of those centres,

(j) to achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities,

The DCP

vi. The proposal achieves all relevant DCP objectives.

The proposal demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

2. Sufficient "*environmental planning grounds*"[3] to justify contravening the development standard (clause 4.6(3)(b)) are found on the following basis.

Environmental planning justification is found in the application of Commissioner O'Neill's ***Merman*** observation at [74] that "***prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane***".

This is demonstrated by environmental planning justification is also found the approach accepted by acting Commissioner Bindon in ***Nicola*** at [37], "… the *'extrapolation method' should be applied, based on the approach of selecting the levels located closest to the proposed stair enclosure. This is not inconsistent with the principle applied in Bettar and Stamford Properties, which by necessity had to rely on the footpath levels outside the property boundaries because the buildings, in those cases, occupied the whole of their respective sites. In the subject development proposal the known ground levels identified are also outside the building and also closest to its exterior walls.*" This is demonstrated **Figure 1**.

Note: This clause 4.6 takes a conservative approach adopting levels and HOB on the basis **Figure 1**.

(a) The proposal is consistent with the following objects of the Act:

(b) 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,

[3] Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26] and "*that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act*".

(c) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,

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

(e) to promote the delivery and maintenance of affordable housing,

(f) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities, and their habitats,

(g) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),

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

(i) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,

(j) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(k) to provide increased opportunity for community participation in environmental planning and assessment.

b. The proposal is consistent with the aims of the LEP addressed in detail above.

c. The proposal is consistent with the Zone and Development Standard as set out above.

d. The proposal is contextually consistent with the contemporary buildings to the north approved under this LEP and DCP, forming the desired future character within the *immediate vicinity* and this is shown in the following figures 3, 4 & 5 by reference to the Design Excellence Report

e. The proposal is consistent with existing and desired future character noting that the LEP provides no direct reference to the relevance of the desired future character under the DCP therefore, one must have regard to the desired future character informed by prior consents on the same site that in inform the desired character or future streetscape of the locality as found by Robson J, in *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85 at [39], "*Existing development consents either on the subject land or in the locality may be instructive for the purpose of an "abandonment" argument in Class 1 appeals in this Court, or in informing the desired character or future streetscape of a locality*."

f. The works will also provide a National Construction Code (NCC) – Building Code of Australia (BCA) upgrade, albeit due to many constraints performance solutions must be employed at the Construction Certificate stage and that detail will be provide at that stage.

g. There is a lack of any unacceptable amenity impacts and the key impacts that relate to HOB being; *loss of views, loss of privacy, overshadowing or visual intrusion*, have been ***minimised***[4] by the design changes including increasing the eastern front setback and reducing the bulk and scale at the upper western elements of the building.

h. The elements comply with the development standard and any reasonable development complying with the HOB will have similar, inevitable, and unavoidable impacts upon the southern neighbours that cannot be avoided without a loss of reasonable development potential for the site.

i. The proposal is consistent with all other objectives of LEP, the Coastal SEPP, SEPP 65 and the ADG.

j. These departures can be supported as the bulk of the GFA is located within basement levels that does not add to the external height, shape, bulk of scale of the building. Further to this, the building also accommodates the Kings Cross Station entry, (in part a double height space) and so has a large volume of area that would normally be developable but in these exceptional circumstances are given over for the public good.

k. Lastly, the proposal provides excellent amenity outcomes for future occupants and proper maintenance consistent with section 1.3(g), (h) of the Act, consistent with SEPP 65 and the ADG as disclosed by reference to the Design Verification Statement by Vic Lake Architects.

The proposal provides "sufficient environmental planning grounds" to justify contravening the development standard.

[4] See: *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2022] NSWLEC 1048 – at [**99**]: "I do not accept Mr Perdigao's evidence that for the impact to be **minimised** it would have to be reduced the smallest possible amount or degree. To do so would mean that there would be no impact at all. **The objective of the control contemplates some impact**, it just requires the impact to be minimised. I accept the submission of Mr To, for the Applicant, that to adopt this logic, there would always be a further reduction possible to the point of there being no breach and therefore no impact. **This is not what is contemplated by cl 4.6** of the WLEP. **It contemplates that the development standard will be breached**. **What has to be determined is if that breach is appropriate in the circumstances of the case**. I consider that it is."

Figure 3 –Streetscape

3. The concurrence of the Secretary of the Department can be assumed[5] under clause 4.6(4)(b). This is because:

    a. Concurrence may be assumed by written notice given to the consent authority (as per clause 64(1) of the *Environmental Planning and Assessment Regulation 2000*).

    b. Such written notice was given by means of planning circular PS 18-003 'Variations to development standards' dated 21 February 2018.

4. In any event (when considering the factors set out in clause 4.6(5):

    a. the contravention of the development standard does not raise any matter of significance for State or regional environmental planning;

    b. there is public benefit in ensuring the upgrading the building's amenity, its NCC-BCA compliance and its appearance and the range of improvements best summarised by the Design Excellence Report demonstrate that the benefits outweighs any contention that maintaining the development standard is more beneficial in the circumstances of this case.

[5] PS 18-003 – Department of Planning and Environment (Revokes PS17-006 (December 2017).

Conclusion

The proposal demonstrates and this written (clause 4.6(3)) request for an exception to the development standard justifies:

1. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)).

2. sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).

3. that the exception is in the public interest because it is consistent[6] with the objectives of the development standard and the objectives of the zone (clause 4.6(4)(a)(ii)), as detailed above.

4. We have assumed the Council continue to have assumed concurrence. The Court on appeal have assumed concurrence. (clause 4.6(4)(b)).

The proposal is consistent with the existing and desired future character providing sufficient environmental planning grounds to justify contravening the development standard. The proposed development is compatible with the bulk, scale, streetscape, and existing character of the locality.

The extent of the exceedance applying the approach accepted by in **Bettar**, is negligible in both a quantitative and qualitative sense.

The quantum of the exceedance sought to the HOB is further justified applying Commissioner O'Neill's ***Merman*** observation at [74] that "***prior excavation of the site (within the footprint of the existing building) distorts the maximum building height plane***".

The exception is in the public interest because it is consistent[7] with the objectives of the development standard and the objectives of the zone (clause 4.6(4)(a)(ii)), as detailed above.

Clause 4.6 of the LEP contemplates that the development standard will be exceeded. What must be determined is if that exceedance is appropriate in the circumstances of the case. I consider that it is.

I believe that the breach of cl 4.6 of the LEP is appropriate given the circumstances of the case.

This clause 4.6 exception should be considered favourably as it allows a merit assessment to proceed, ensuring that there are proper planning grounds to warrant the grant of consent, and that the contravention is justified.

I submit that this clause 4.6 exception should prevail to the extent that it allows a merit assessment to proceed as this clause 4.6 the consent authority can be satisfied that there are proper planning grounds to warrant the grant of consent, and that the contravention is justified.

Yours faithfully,

[6] Ibid [1].
[7] Ibid [1].

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Annexure 1 – Clause 4.6 Methodology

Guidance as to the proper clause 4.6 methodology is provided by judgments of the Land & Environment Court (LEC) and Court of Appeal (NSWCA) detailed by the methodology below. including:

a. *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115, (***SJD***) an appeal under s 56A of the Land and Environment Court Act 1979 ("the Court Act") with respect to SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 (**SJD**)

b. *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, (***RebelMH***)

c. *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 (***Baron***)

d. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 (***Al Maha***)

e. *Initial Action Pty Ltd v Woollahra Municipal* Council [2018] NSWLEC 118 (***Initial Action***) an appeal under s 56A of the Land and Environment Court Act 1979 ("the Court Act") with respect to *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734

f. *Gejo Pty Ltd v Canterbury-Bankstown Council* [2017] NSWLEC 1712 (**Gejo**)

g. *Randwick City Council v Micaul Holdings Pty Ltd*) 225 LGERA 94; [2016] NSWLEC 7 (***Micaul***)

h. *Moskovich v Waverley Council* [2016] NSWLEC 1015 (***Moskovich***)

i. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (***Four2Five***)

j. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (***Four2Five***)

k. *Wehbe v Pittwater Council (2007)* 156 LGERA 446; [2007] NSWLEC 827 (**Webhe**)

l. *Clearcut Homes Pty Ltd v City of Ryde Council [2020] NSWLEC 1249 at [24-25]* (**Clearcut***)*

m. Ricola Pty Ltd v Woollahra Municipal Council *[2021] NSWLEC 1047 (**Ricola**)*

n. *Big Property Pty Ltd v Randwick City Council [2021] (**Big Property**)*

o. *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] (**HPG**)*

p. *Abrams v The Council of the City of Sydney (No 2) [2018] NSWLEC 85, Robson J, (**Abrams**)*

q. *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2022] NSWLEC 1048* (***Pallas***) *– at [99]*

With respect to the guidance provided by the Courts above, there was apparent tension between the approach adopted by ***Al Maha*** and *Initial Action*. ***RebelMH*** and Baron further clarified the requirements for clause 4.6 requests and sought to unify the approaches in *Initial Action* and ***Al Maha***.

It now appears settled, at [51] in ***RebelMH*** that:

> "… in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i))."

Arising from ***Initial* Action**, In the second class 1 appeal in *Initial Action Pty Ltd v Woollahra Municipal Council* [2019] NSWLEC 1097 decided 12 March 2019.

A very concise summary of what is required is stated at [24-25] in **Clearcut**:

"24. Consistent with the decision of Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 ("*Initial Action*"), for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).

25. In accordance with the decision of the Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, the Court, in exercising the functions of the consent authority, must "in fact" be satisfied of the above matters. The state of satisfaction that compliance is "unreasonable or unnecessary" and that there are "sufficient environmental planning grounds" to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and in considering its adequacy. On the other hand, the state of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request."

Further the recent judgement in *Big Property Pty Ltd v Randwick City Council* [2021] (**Big Property**), and *HPG Mosman Projects Pty Ltd v Mosman Municipal Council* [2021] (**HPG**), both provide guidance and flexibility in terms of how to properly assess the '***desired future character'*** of an area.

This clause 4.6 submission specifically responds to the above guidance of the LEC and demonstrates it is also the public interest to support the exception.

The Objectives of Clause 4.6

The objective of Clause 4.6(1) of the LEP are as follows:

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

Preston CJ clarified the correct approach to the consideration of clause 4.6 requests including that clause 4.6 does not require that a development that contravenes a development standard must have a *neutral or better* environmental planning outcome than one that does not. (***Initial Action***)

In ***Al Maha***:

21. "A consideration of legal error should start by identifying the criterion as to which the Commissioner was to be satisfied. On a literal reading, subcl (4)(a)(i) merely required that she be satisfied that the applicant had taken two steps, namely, that it had, first, made a written request to be excused compliance with the development standard and, secondly, "adequately addressed" the matters set out in subcl (3). On that (narrow) reading, the Commissioner did not need to form any view herself about the justification for failing to comply with the development standard.

22. The alternative reading is that the matters would not be "adequately" addressed unless they in fact justified the non-conformity. In other words, the Commissioner had to be satisfied that there were proper planning grounds to warrant the grant of consent, and that the contravention was justified.

23. The second reading is attractive for three reasons. First, in its terms, it gives work to the evaluative requirement implicit in the need to be satisfied that certain matters have been "adequately" addressed. Secondly, this is not a gateway provision prior to public consultation or further assessment; it is a criterion for the ultimate grant of consent[8]. Thirdly, the narrow approach fails to give separate work to subcll (3) and (4). Thus, subcl (3) requires the consent authority to have "considered" the written request and identifies the necessary evaluative elements to be satisfied. That is, to comply with subcl (3), the request must demonstrate that compliance with the development standard is "unreasonable or unnecessary" and that "there are sufficient environmental planning grounds to justify" the contravention. It would give no work to subcl (4) to simply require the Commissioner to be satisfied that the

[8] Compare s.75H(2) (repealed in 2011) using a similar criterion with respect to an environmental assessment prior to public release.

demonstration required under subcl (3) had occurred. The additional step is that the request satisfied the Commissioner that it should be granted.

24. However, it is not necessary to resolve this issue in this case, because it should be accepted that the Commissioner did not form either state of satisfaction. Further, it is not appropriate to determine the issue in the absence of submissions as to the purpose and extent of the departures of the language of cl 4.6 from its predecessor, State Environmental Planning Policy No 1— Development Standards, cll 7 and 8."

The Court of Appeal decision in ***RebelMH*** and Preston CJ's decision in *Baron* support **Al Maha** and **Initial Action**. *Gejo Pty Ltd v Canterbury-Bankstown Council* [2017] NSWLEC 1712 (at [27-29]), suggested the following approach:

27. Clause 4.6 of the CLEP 2012 [a standard instrument LEP] allows development standards to be applied flexibly in certain circumstances. In *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, Preston CJ found that in applying the provisions of cl 4.6, the power to allow an exception to a development standard can be exercised where the Commissioner is satisfied that:

    3. the proposed development will be **consistent**[9] with the objectives of the zone (cl 4.6(4)(a)(ii)) (at [7]),

    4. the proposed development will be **consistent**[10] with the objectives of the standard in question (cl 4.6(4)(a)(ii)) (at [7]),

    5. the written request adequately demonstrates that compliance with the development standard is **unreasonable or unnecessary**[11] in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) (at [38]), and

    6. the written request adequately demonstrates that there are **sufficient environmental planning grounds** to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)) (at [38]).

    [bold and underlining added]

28. Clause 4.6(4)(a)(ii) presumes that if the proposed development is consistent [emphasis added] with the objectives of the zone and of the standard (i.e. meets (1) and (2) above), then it is in the public interest. I also note that

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[9] *Moskovich v Waverley Council* [2016] NSWLEC 1015 at 53:

> 53. The threshold of "**consistency**" is different to that of "**achievement**". The term "consistent" has been considered in judgements of the Court in relation to zone objectives and has been interpreted to mean "**compatible**" or "**capable of existing together in harmony**" (*Dem Gillespies v Warringah Council* (2002) 124 LGERA 147; *Addenbrooke Pty Ltd v Woollahra Municipal Council* [2008] NSWLEC 190) or "**not being antipathetic**" (*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21). Whichever interpretation is adopted the test of "**consistency**" is less onerous than that of "**achievement**".

[10] Ibid [3].

[11] Ibid Wehbe [42-51] and noting that in Initial Action [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 of 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."

nothing in cl 4.6 requires the consistency with the objectives to be established in or by the written request.

29. Further, in outlining (3) and (4) above, regarding the requirements for the written request, Preston CJ stated that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather "only indirectly by being satisfied that the applicant's written request has adequately addressed" those matters.

We note that the above observation at [29] has been further clarified by ***RebelMH*** and ***Baron***.

The most recent guidance of the LEC arises from ***SJD*** where Preston CJ held:

> 46. "… the provisions of a development control plan cannot be used to interpret the provisions of a local environmental plan unless the provisions of the local environmental plan expressly refer to the provisions of the development control plan for that purpose. …"
>
> 47. "The fact that the principal purpose of a development control plan is to provide guidance on certain matters referred to in s 3.42(1) of the EPA Act does not make it permissible to construe the provisions of a local environmental plan by reference to a development control plan.
>
> 49. " So understood, the Commissioner did not err on a question of law by not construing the "desired future character" in the objectives of the height and development standards in cl 4.3 and cl 4.4 and the objective of the B2 zone of WLEP by reference to the desired future character provisions of WDCP."

Therefore, this clause 4.6 will limit itself to the express objectives of the zone and development standard.

I note that Clay AC, in ***SJD*** *DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112, accepted the Applicant's position and found that the adjacent buildings which also exceeded the height controls should be considered when determining desired future character. Importantly, the Commissioner found that it is possible to meet the objectives of the height and FSR controls even if there is a breach of those controls. Commissioner Clay also clearly supported the use of clause 4.6 requests and said as follows:

> "*It should be noted cl4.6 of WLEP is as much a part of WLEP as the clauses with development standards. Planning is not, other than orderly, simply because there is reliance on cl 4.6 for an appropriate planning outcome*."

In In *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85, Robson J, (**Abrams**) on appeal, concluded that the previous development consents were relevant instruments to be considered for the purpose of s 39(4) of the *Land and Environment Court Act 1979*.

Robson J held that prior consents on the same site or in the locality '*may be instructive for the purpose of an 'abandonment' argument or in informing the desired character or future streetscape of a locality'*. In this case the latter applies.

In the **Big Property** case Commissioner O'Neil **held that the desired future character of an area is not determined solely by the development standards that control**

building envelopes for the area. Commissioner O'Neil specifically referenced **SJD** and further held:

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

In the more recent **HPG** case Commissioner O'Neil held

> "*The desired future character of the locality can be evaluated by reference to matters other than the development standards that determine the building envelope for the site, including the existing development that forms the built context of the site (Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [54]). The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (SJD DB2 at [62]-[63]). Development standards that determine building envelopes can only contribute to shaping the character of the locality (SJD DB2 at [53]-[54] and [59]-[60])*."

It was again also important that '*desired future character*' was not defined in the LEP itself. Indeed, the Council sought to define the '*desired future character*' by reference not even to a DCP, but to the 'Mosman Local Housing Strategy', a document which the Court noted 'postdates' the LEP, and could not therefore be relied upon to define terms used in the LEP.

In ***Pallas*** *Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2022] NSWLEC 1048 – at [99] Morris AC held:

> "I do not accept … evidence that for the impact to be ***minimised*** it would have to be reduced the smallest possible amount or degree. To do so would mean that there would be no impact at all. The objective of the control contemplates some impact, it just requires the impact to be minimised. I accept the submission of …, for the Applicant, that to adopt this logic, there would always be a further reduction possible to the point of there being no breach and therefore no impact. This is not what is contemplated by cl 4.6 of the WLEP. It contemplates that the development standard will be breached.

> What has to be determined is if that breach is appropriate in the circumstances of the case. …" [abridged]

The *Pallas* approach should be applied when considering objectives of standards that seek to *minimise* impacts.

Finally, the consent authority retains a very broad discretion under clause 4.6 and there are no numerical limits placed upon the dispensing power, either by clause 4.6 or by the interpretation of clause 4.6 by the Courts.

Attachment D

Clause 4.6 variation – Floor space ratio

Our Ref: Project 972
Your Ref: Clause 4.6

19 March 2026

City of Sydney Local Planning Panel (**Panel**)

By email & planning portal

Dear Assessing Officer & Panel,

Re: Clause 4.6 Exception to Clause 4.4 of Sydney Local Environmental Plan 2012 (LEP)
The Site: 107-109 Darlinghurst Road, Potts Point (site)

I have been instructed by the Applicant to provide written justification for an exception to clause 4.4 of the LEP pursuant to clause 4.6(3) of the LEP taking a precautionary approach.

I rely upon:

1. The architectural plans and other supporting documents for the proposal have been relied upon.
2. PS 18-003 – Department of Planning and Environment (Revokes PS17-006 (December 2017)
3. Varying Development Standards: A Guide August 2011 - NSW Department of Planning & Infrastructure.
4. Guidance provided by judgments of the Land & Environment Court (the Court) detailed by the methodology (**Annexure 1**).
5. The Development Application (DA) Plans, Statement of Environmental Effects (SoEE), Design Verification Statement (DVS), Design Quality Statement (DQS) and other expert reports annexed to the DA.
6. GFA and FSR Plans (**Figure 1**) in summary:
    a. Permissible GFA 599.3m^2 (FSR 2.32:1)
    b. Proposed GFA 935.8m^2 (FSR 3.60:1)
    c. Exceedance is 336.5m^2, That is a 56.15% exception..

Figure 1 – GFA & FSR Plans (Drawing 24A Rev E)

The Site

This clause 4.6 adopts the site as detailed by the Statement of Environmental Effects.

The site has been excavated, is highly modified and GL(E) is lower than pre-existing ground levels. The occupation and habitable use of basements means that substantial GFA is contained within the basement levels and does not contribute to the bulk and scale observable above ground.

Overall approach

This clause 4.6 request seeks to demonstrate that:

1. compliance with the development standard is <u>unreasonable or unnecessary</u>[1] in the circumstances of the case (cl 4.6(3)(a)), and

2. there are <u>sufficient environmental planning grounds</u> to justify contravening the development standard (cl 4.6(3)(b)).

[1] Wehbe [42-51] – 5 Tests but not exclusive tests

Methodology

Guidance as to the proper clause 4.6 methodology is provided by judgments of the Land & Environment Court (LEC) and Court of Appeal (NSWCA) detailed by **Annexure 1** of this clause 4.6.

The Objectives of Clause 4.6

The objective of Clause 4.6(1) of the LEP are as follows:

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

The Facts

1. What is the name of the environmental planning instrument that applies to the land?

   Sydney Local Environmental Plan 2012 (LEP)

2. What is the zoning of the land?

   E1

3. What are the objectives of the zone?

   - *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 maximise public transport patronage and encourage walking and cycling.*

4. What is the development standard being varied?

   Floor Space Ratio (FSR)

5. Under what clause is the development standard listed in the environmental planning instrument?

   Clause 4.4 - Floor Space Ratio

6. What are the objectives of the development standard? (Relevant to the site)

   - 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 maximise public transport patronage and encourage walking and cycling.

7. What is the numeric value of the development standard for **FSR** in the environmental planning instrument?

   2.32:1 (GFA 599.3m²) derived by apportionment for difference 2:1 and 3:1 FSRs by site area as detailed by Drawing 23 A)

8. What is proposed numeric value of the development standard in your *development application?*

   Proposed **GFA 935.8m²** (FSR 3.60:1)

9. What is the percentage variation (between the proposal and the environmental planning instrument)?

   The exceedance is **336.5m²**, That is a 56.15% exception..

Clause 4.6 Submission

1. Compliance with the development standard is *unreasonable or unnecessary* [2] in the circumstances of the case (clause 4.6(3)(a)) on the following basis:

   a. The objectives of the zone are achieved notwithstanding non-compliance with the standard.

   b. the objectives of the development standard are achieved notwithstanding non-compliance with the standard: **1st Wehbe** test at [42] and [43].

      Submission:

[2] Ibid [5].

(a) The proposal makes a modest contribution providing sufficient floor space to meet anticipated development needs for the foreseeable future,

(b) The development successfully regulates the density of development, built form, land use intensity, and controls the generation of vehicle and pedestrian traffic.

(c) There is no significant intensity of development, and the modest increase capacity is commensurate with the capacity of existing and planned infrastructure,

(d) The modest additions reflect the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

c. the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: **2nd Wehbe** test at [45].

   Submission: This test is not pressed as relevant to this proposal.

d. the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: **3rd Wehbe** test at [46].

   Submission: The development standard objectives are clearly stated, and one must not try to discern any objective different from the stated objectives. This test is not pressed as relevant to this proposal.

e. the development standard has been virtually abandoned or destroyed: **4th Wehbe** test at [46].

   Submission: In *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85, Robson J, on appeal, concluded that the previous development consents were relevant instruments to be considered for the purpose of s 39(4) of the *Land and Environment Court Act* 1979.

   Robson J held that prior consents on the same site or in the locality '*may be instructive for the purpose of an 'abandonment' argument* ***or in informing the desired character or future streetscape of a locality***'.

   It is my submission that contemporary consents and built form outcomes ***inform the desired character or future streetscape of a locality'.***

Whilst it is plain that the proposal is different from neighbours it is subservient to the immediate neighbours and representative of the desired future character.

Consents and buildings around the site are more representative of the ***desired character and the future streetscape of this locality***'.

This character includes Omnia and other larger buildings.

A finding that a development standard has been abandoned requires evidence of a '***pattern of abandonment'*** such that the development standard can no longer be said to represent the existing and/or desired character of the locality would mean that the development standard had been "virtually abandoned or destroyed….It will be a matter of fact and degree in the circumstances of each case.'

I do not submit that the exceptions already granted within the vicinity of this site can amount to abandonment, nevertheless, the FSR proposed **results in a bulk and scale that is subservient to larger buildings in the immediate vicinity (visual catchment)** and that is wholly consistent in its street wall heights of its northern neighbours.

Nevertheless, importantly, prior consents in the locality inform the desired character and future streetscape and the proposal is ***consistent*** with these contemporary outcomes and ***consistent*** the desired future character.

f. the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: **5th Wehbe** at [48].

   Submission: I do not press this as relevant to this proposal.

g. In circumstances where there are no significant adverse impacts resulting from the variation, it is unreasonable and unnecessary to require strict compliance (given that strict compliance will come with greater and more negative impacts in redistribution of complying GFA, i.e. infilling the voids created to allow better internal amenity would be antipathetic to improving public and private access to natural light and ventilation). The design benefits are set out in more detail by the Design Excellence Report upon which this exception relies covering:

   i. Improved building forms and materiality to Darlinghurst Road

   ii. Improve amenity (including natural light penetration) to the railway concourse

iii. Improved urban design and activation of Earl Street frontage,

iv. mitigation of shadow impacts, and

v. improved internal amenity.

h. The burden placed on the future occupants of the development (by requiring strict compliance with the development standard) would be disproportionate to the (non-existent or inconsequential) adverse consequences attributable to the proposed non-compliant development (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]).

i. If strict compliance was required, it would undermine important statutory objectives that are relevant to the consideration of this matter, namely:

The Act

i. Section 1.3(a) of the Act: to promote the social and economic welfare of the community …'.

ii. Section 1.3(b) of the Act: '[T]o facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (bold added)'.

iii. Section 1.3(c) of the Act: 'to promote the orderly and economic use and development of land,'

iv. Section 1.3(g) of the Act: 'to promote the proper construction and maintenance of buildings'.

The LEP

v. Clause 1.2(b) of the LEP:

(b) to support the City of Sydney as an important location for business, educational and cultural activities and tourism,

(f) to enable a range of services and infrastructure that meets the needs of residents, workers and visitors,

(h) to enhance the amenity and quality of life of local communities,

(i) to provide for a range of existing and future mixed-use centres and to promote the economic strength of those centres,

(j) to achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities,

The DCP

vi. The proposal achieves all relevant DCP objectives.

The proposal demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

2. Sufficient "*environmental planning grounds*" [3] to justify contravening the development standard (clause 4.6(3)(b)) are found on the following basis.

   a. The primary justification is that a significant amount of the GFA is buried and does not contribute to the bulk and scale of the building. This is wholly consistent with the observations within Council's **PDA 2024/72,** where the advice of Council was:

      "*The proposal presents a significant departure from the floor space ratio (FSR) control. It is understood and acknowledged that the FSR departure is largely because of existing gross floor area (GFA) that is located within basement levels of the building. This GFA is to be largely retained as part of the proposal, in addition to extra GFA proposed within the additional storeys. The departure from the FSR development standard can be supported in principle by Council officers. Any future DA must be accompanied by a clause 4.6 variation request justifying the departure by clearly demonstrating 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*."

   b. The bulk and scale of the building is further attributable to:

      i. Voids that provide for better internal amenity for the public users of the Railway Station concourse, in particular natural light that will enter the Railway Station concourse from the Earl Street elevation as shown in Drawing DA 07.

      ii. Voids will allow natural light into the Railway Station concourse and provide views of Earl Street, significantly improving Crime Prevention Through Environmental Design (CPTED) for the area. Kings Cross station recorded about 684,000 entries and exits in March 2025, averaging around 22,065 daily passengers. At least 11,000 passengers will observe Earl Street from the new building, offering a notable public benefit in terms of CPTED.

[3] Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26] and "*that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act*".

iii. Voids that provide a significant improvement to the internal amenity of the building for occupants as detailed by the Design Excellence Report.

iv. Voids that contribute to the activation and natural surveillance of the Earl Street elevation and access to the building from Earl Street and from the Railway Station concourse.

v. The lightwell and the articulation in the southern façade adjoining Omnia mitigate solar access impacts and provide natural light and ventilation to the building.

In summary, as to the design benefits, the better CPTED, amenity and deign outcomes mitigate and offset the impacts of the additional GFA(FSR) and HOB.

c. The proposal is consistent with the following objects of the Act:

i. The proposal promotes 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, in particular the proposal retains most of the building fabric and a use that is directly compatible with the building's location relative to Kings Cross Railway Station.

ii. It promotes the orderly and economic use and development of land, reusing the building and significantly improving the CPTED outcomes.

iii. It supports the delivery and maintenance of affordable housing, not in the strict sense of permanent housing but in the provisions of affordable tourist accommodation for backpackers. Backpackers support businesses more generally under the Working Holiday Visa (subclass 417) and the Work and Holiday Visa (subclass 462). These visas allow young people from eligible countries to holiday and work in Australia for up to one year (with extensions possible under certain conditions).

iv. The proposal has no environment or conservation impacts.

v. The proposal has no adverse impacts upon the built or cultural heritage, including Aboriginal cultural heritage.

vi. The proposal ensures good design (design excellence) and amenity of the built environment. The building's façades as well as the building functionality and level of safety will be significantly improved.

vii. It promotes the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants by implementing a full NCC-BCA upgrade as part of the alterations and additions. The building works will improve the health and safety for occupants of the building and over 11,000 users of the Railway Station Concourse every day.

d. The proposal is consistent with the aims of the LEP addressed in detail above.

e. The proposal is consistent with the Zone and Development Standard as set out above.

f. The proposal is contextually consistent with the contemporary buildings to the north approved under this LEP and DCP, forming the desired future character within the *immediate vicinity* and this is shown in the following figures 3, 4 & 5 by reference to the Design Excellence Report.

g. The proposal is consistent with existing and desired future character noting that the LEP provides no direct reference to the relevance of the desired future character under the DCP therefore, one must have regard to the desired future character informed by prior consents on the same site that in inform the desired character or future streetscape of the locality as found by Robson J, in *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85 at [39], "*Existing development consents either on the subject land or in the locality may be instructive for the purpose of an "abandonment" argument in Class 1 appeals in this Court,* ***or in informing the desired character or future streetscape of a locality***."

h. The works will also provide a National Construction Code (NCC) – Building Code of Australia (BCA) upgrade, albeit due to many constraints' performance solutions must be employed at the Construction Certificate stage and that detail will be provide at that stage.

i. There are a lack of any unacceptable amenity impacts and the key impacts that relate to HOB being; *loss of views, loss of privacy, overshadowing or visual intrusion*, have been ***minimised***[4] by the design changes including increasing the eastern front setback and reducing the bulk and scale at the upper western elements of the building.

[4] See: *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2022] NSWLEC 1048 – at [**99**]: "I do not accept Mr Perdigao's evidence that for the impact to be **minimised** it would have to be reduced the smallest possible amount or degree. To do so would mean that there would be no impact at all. **The objective of the control contemplates some impact**, it just requires the impact to be minimised. I accept the submission of Mr To, for the Applicant, that to adopt this logic, there would always be a further reduction possible to the point of there being no breach and therefore no impact. **This is not what is contemplated by cl 4.6** of the WLEP. **It contemplates that the development standard will be breached**. **What has to be determined is if that breach is appropriate in the circumstances of the case**. I consider that it is."

j. The elements comply with the development standard and any reasonable development complying with the HOB will have similar, inevitable, and unavoidable impacts upon the southern neighbours that cannot be avoided without a loss of reasonable development potential for the site.

k. The proposal is consistent with all other objectives of LEP, the Coastal SEPP, SEPP 65 and the ADG.

l. These departures can be supported as the bulk of the GFA is located within basement levels that does not add to the external height, shape, bulk of scale of the building. Further to this, the building also accommodates the Kings Cross Station entry, (in part a double height space) and so has a large volume of area that would normally be developable but in these exceptional circumstances are given over for the public good.

m. Lastly, the proposal provides excellent amenity outcomes for future occupants and proper maintenance consistent with section 1.3(g), (h) of the Act, consistent with SEPP 65 and the ADG as disclosed by reference to the Design Verification Statement by Vic Lake Architects.

The proposal provides "sufficient environmental planning grounds" to justify contravening the development standard.

Figure 2 –Streetscape

3. The concurrence of the Secretary of the Department can be assumed[5] under clause 4.6(4)(b). This is because:

    a. Concurrence may be assumed by written notice given to the consent authority (as per clause 64(1) of the *Environmental Planning and Assessment Regulation 2000*).

    b. Such written notice was given by means of planning circular PS 18-003 'Variations to development standards' dated 21 February 2018.

[5] PS 18-003 – Department of Planning and Environment (Revokes PS17-006 (December 2017).

4. In any event (when considering the factors set out in clause 4.6(5):

    a. the contravention of the development standard does not raise any matter of significance for State or regional environmental planning;

    b. there is public benefit in ensuring the upgrading the building's amenity, its NCC-BCA compliance and its appearance and the range of improvements best summarised by the Design Excellence Report demonstrate that the benefits outweigh any contention that maintaining the development standard is more beneficial in the circumstances of this case.

Conclusion

The proposal demonstrates and this written (clause 4.6(3)) request for an exception to the development standard justifies:

1. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)).
2. sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)).
3. that the exception is in the public interest because it is consistent[6] with the objectives of the development standard and the objectives of the zone (clause 4.6(4)(a)(ii)), as detailed above.
4. We have assumed the Council continue to have assumed concurrence. The Court on appeal have assumed concurrence. (clause 4.6(4)(b)).

The proposal is consistent with the existing and desired future character providing sufficient environmental planning grounds to justify contravening the development standard. The proposed development is compatible with the bulk, scale, streetscape, and existing character of the locality.

The extent of the exceedance is acceptable in both a quantitative and qualitative sense.

The exception is in the public interest because it is consistent[7] with the objectives of the development standard and the objectives of the zone (clause 4.6(4)(a)(ii)), as detailed above.

Clause 4.6 of the LEP contemplates that the development standard will be exceeded. What must be determined is if that exceedance is appropriate in the circumstances of the case. I consider that it is.

I believe that the breach of cl 4.4 of the LEP is appropriate given the circumstances of the case.

[6] Ibid [1].
[7] Ibid [1].

This clause 4.6 exception should be considered favourably as it allows a merit assessment to proceed, ensuring that there are proper planning grounds to warrant the grant of consent, and that the contravention is justified.

I submit that this clause 4.6 exception should prevail to the extent that it allows a merit assessment to proceed as this clause 4.6 the consent authority can be satisfied that there are proper planning grounds to warrant the grant of consent, and that the contravention is justified.

Yours faithfully,

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Annexure 1 – Clause 4.6 Methodology

Guidance as to the proper clause 4.6 methodology is provided by judgments of the Land & Environment Court (LEC) and Court of Appeal (NSWCA) detailed by the methodology below. including:

a. *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115, (***SJD***) an appeal under s 56A of the Land and Environment Court Act 1979 ("the Court Act") with respect to SJD DB2 Pty Ltd v Woollahra Municipal Council [2020] NSWLEC 1112 (**SJD**)

b. *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, (***RebelMH***)

c. *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 (***Baron***)

d. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 (***Al Maha***)

e. *Initial Action Pty Ltd v Woollahra Municipal* Council [2018] NSWLEC 118 (***Initial Action***) an appeal under s 56A of the Land and Environment Court Act 1979 ("the Court Act") with respect to *Initial Action Pty Ltd v Woollahra Council* [2017] NSWLEC 1734

f. *Gejo Pty Ltd v Canterbury-Bankstown Council* [2017] NSWLEC 1712 (**Gejo**)

g. *Randwick City Council v Micaul Holdings Pty Ltd*) 225 LGERA 94; [2016] NSWLEC 7 (***Micaul***)

h. *Moskovich v Waverley Council* [2016] NSWLEC 1015 (***Moskovich***)

i. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 (***Four2Five***)

j. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (***Four2Five***)

k. *Wehbe v Pittwater Council (2007)* 156 LGERA 446; [2007] NSWLEC 827 (**Webhe**)

l. *Clearcut Homes Pty Ltd v City of Ryde Council [2020] NSWLEC 1249 at [24-25] (***Clearcut***)*

m. Ricola Pty Ltd v Woollahra Municipal Council *[2021] NSWLEC 1047 (***Ricola***)*

n. *Big Property Pty Ltd v Randwick City Council [2021] (***Big Property***)*

o. *HPG Mosman Projects Pty Ltd v Mosman Municipal Council [2021] (***HPG***)*

p. *Abrams v The Council of the City of Sydney (No 2) [2018] NSWLEC 85, Robson J, (***Abrams***)*

q. *Pallas Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council [2022] NSWLEC 1048* (***Pallas***) *– at [99]*

With respect to the guidance provided by the Courts above, there was apparent tension between the approach adopted by ***Al Maha*** and *Initial Action*. ***RebelMH*** and Baron further clarified the requirements for clause 4.6 requests and sought to unify the approaches in *Initial Action* and ***Al Maha***.

It now appears settled, at [51] in ***RebelMH*** that:

> "… in order for a consent authority to be satisfied that an applicant's written request has "adequately addressed" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subcl (3) (which is the process required by cl 4.6(3)), the request must in fact demonstrate the matters in subcl (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i))."

Arising from ***Initial* Action**, In the second class 1 appeal in *Initial Action Pty Ltd v Woollahra Municipal Council* [2019] NSWLEC 1097 decided 12 March 2019.

A very concise summary of what is required is stated at [24-25] in **Clearcut**:

"24. Consistent with the decision of Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 ("*Initial Action*"), for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).

25. In accordance with the decision of the Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, the Court, in exercising the functions of the consent authority, must "in fact" be satisfied of the above matters. The state of satisfaction that compliance is "unreasonable or unnecessary" and that there are "sufficient environmental planning grounds" to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and in considering its adequacy. On the other hand, the state

of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request."

Further the recent judgement in *Big Property Pty Ltd v Randwick City Council* [2021] (**Big Property**), and *HPG Mosman Projects Pty Ltd v Mosman Municipal Council* [2021] (**HPG**), both provide guidance and flexibility in terms of how to properly assess the '***desired future character'*** of an area.

This clause 4.6 submission specifically responds to the above guidance of the LEC and demonstrates it is also the public interest to support the exception.

The Objectives of Clause 4.6

The objective of Clause 4.6(1) of the LEP are as follows:

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

Preston CJ clarified the correct approach to the consideration of clause 4.6 requests including that clause 4.6 does not require that a development that contravenes a development standard must have a *neutral or better* environmental planning outcome than one that does not. (***Initial Action***)

In ***Al Maha***:

21. "A consideration of legal error should start by identifying the criterion as to which the Commissioner was to be satisfied. On a literal reading, subcl (4)(a)(i) merely required that she be satisfied that the applicant had taken two steps, namely, that it had, first, made a written request to be excused compliance with the development standard and, secondly, "adequately addressed" the matters set out in subcl (3). On that (narrow) reading, the Commissioner did not need to form any view herself about the justification for failing to comply with the development standard.

22. The alternative reading is that the matters would not be "adequately" addressed unless they in fact justified the non-conformity. In other words, the Commissioner had to be satisfied that there were proper planning grounds to warrant the grant of consent, and that the contravention was justified.

23. The second reading is attractive for three reasons. First, in its terms, it gives work to the evaluative requirement implicit in the need to be satisfied that certain matters have been "adequately" addressed. Secondly, this is not a gateway provision prior to public consultation or

further assessment; it is a criterion for the ultimate grant of consent[8]. Thirdly, the narrow approach fails to give separate work to subcll (3) and (4). Thus, subcl (3) requires the consent authority to have "considered" the written request and identifies the necessary evaluative elements to be satisfied. That is, to comply with subcl (3), the request must demonstrate that compliance with the development standard is "unreasonable or unnecessary" and that "there are sufficient environmental planning grounds to justify" the contravention. It would give no work to subcl (4) to simply require the Commissioner to be satisfied that the demonstration required under subcl (3) had occurred. The additional step is that the request satisfied the Commissioner that it should be granted.

24. However, it is not necessary to resolve this issue in this case, because it should be accepted that the Commissioner did not form either state of satisfaction. Further, it is not appropriate to determine the issue in the absence of submissions as to the purpose and extent of the departures of the language of cl 4.6 from its predecessor, State Environmental Planning Policy No 1—Development Standards, cll 7 and 8."

The Court of Appeal decision in ***RebelMH*** and Preston CJ's decision in *Baron* support **Al Maha** and **Initial Action**. *Gejo Pty Ltd v Canterbury-Bankstown Council* [2017] NSWLEC 1712 (at [27-29]), suggested the following approach:

27. Clause 4.6 of the CLEP 2012 [a standard instrument LEP] allows development standards to be applied flexibly in certain circumstances. In *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, Preston CJ found that in applying the provisions of cl 4.6, the power to allow an exception to a development standard can be exercised where the Commissioner is satisfied that:

    3. the proposed development will be **consistent**[9] with the objectives of the zone (cl 4.6(4)(a)(ii)) (at [7]),

    4. the proposed development will be **consistent**[10] with the objectives of the standard in question (cl 4.6(4)(a)(ii)) (at [7]),

    5. the written request adequately demonstrates that compliance with the development standard is **unreasonable or unnecessary**[11] in the

[8] Compare s.75H(2) (repealed in 2011) using a similar criterion with respect to an environmental assessment prior to public release.

[9] *Moskovich v Waverley Council* [2016] NSWLEC 1015 at 53:

> 53. The threshold of "**consistency**" is different to that of "**achievement**". The term "consistent" has been considered in judgements of the Court in relation to zone objectives and has been interpreted to mean "**compatible**" or "**capable of existing together in harmony**" (*Dem Gillespies v Warringah Council* (2002) 124 LGERA 147; *Addenbrooke Pty Ltd v Woollahra Municipal Council* [2008] NSWLEC 190) or "**not being antipathetic**" (*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21). Whichever interpretation is adopted the test of "**consistency**" is less onerous than that of "**achievement**".

[10] Ibid [3].

[11] Ibid Wehbe [42-51] and noting that in Initial Action [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 of the ways. It may

circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) (at [38]), and

6. the written request adequately demonstrates that there are **sufficient environmental planning grounds** to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)) (at [38]).

[bold and underlining added]

28. Clause 4.6(4)(a)(ii) presumes that if the proposed development is consistent [emphasis added] with the objectives of the zone and of the standard (i.e. meets (1) and (2) above), then it is in the public interest. I also note that nothing in cl 4.6 requires the consistency with the objectives to be established in or by the written request.

29. Further, in outlining (3) and (4) above, regarding the requirements for the written request, Preston CJ stated that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather "only indirectly by being satisfied that the applicant's written request has adequately addressed" those matters.

We note that the above observation at [29] has been further clarified by ***RebelMH*** and ***Baron***.

The most recent guidance of the LEC arises from ***SJD*** where Preston CJ held:

> 46. "… the provisions of a development control plan cannot be used to interpret the provisions of a local environmental plan unless the provisions of the local environmental plan expressly refer to the provisions of the development control plan for that purpose. …"
>
> 47. "The fact that the principal purpose of a development control plan is to provide guidance on certain matters referred to in s 3.42(1) of the EPA Act does not make it permissible to construe the provisions of a local environmental plan by reference to a development control plan.
>
> 49. " So understood, the Commissioner did not err on a question of law by not construing the "desired future character" in the objectives of the height and development standards in cl 4.3 and cl 4.4 and the objective of the B2 zone of WLEP by reference to the desired future character provisions of WDCP."

Therefore, this clause 4.6 will limit itself to the express objectives of the zone and development standard.

I note that Clay AC, in ***SJD*** *DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112, accepted the Applicant's position and found that the adjacent buildings which also exceeded the height controls should be

---

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."

considered when determining desired future character. Importantly, the Commissioner found that it is possible to meet the objectives of the height and FSR controls even if there is a breach of those controls. Commissioner Clay also clearly supported the use of clause 4.6 requests and said as follows:

> "*It should be noted cl4.6 of WLEP is as much a part of WLEP as the clauses with development standards. Planning is not, other than orderly, simply because there is reliance on cl 4.6 for an appropriate planning outcome*."

In In *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85, Robson J, (**Abrams**) on appeal, concluded that the previous development consents were relevant instruments to be considered for the purpose of s 39(4) of the *Land and Environment Court Act 1979*.

Robson J held that prior consents on the same site <u>or in the locality</u> '*may be instructive for the purpose of an 'abandonment' argument or in informing the desired character or future streetscape of a locality'*. In this case the latter applies.

In the **Big Property** case Commissioner O'Neil **held that the desired future character of an area is not determined solely by the development standards that control building envelopes for the area.** Commissioner O'Neil specifically referenced **SJD** and further held:

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

In the more recent **HPG** case Commissioner O'Neil held

> "*The desired future character of the locality can be evaluated by reference to matters other than the development standards that*

determine the building envelope for the site, including the existing development that forms the built context of the site (Woollahra Municipal Council v SJD DB2 Pty Limited [2020] NSWLEC 115 (SJD DB2) at [54]). The desired future character of an area is not determined and fixed by the applicable development standards for height and FSR, because they do not, alone, fix the realised building envelope for a site. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality (SJD DB2 at [62]-[63]). Development standards that determine building envelopes can only contribute to shaping the character of the locality (SJD DB2 at [53]-[54] and [59]-[60])."

It was again also important that '*desired future character*' was not defined in the LEP itself. Indeed, the Council sought to define the '*desired future character*' by reference not even to a DCP, but to the 'Mosman Local Housing Strategy', a document which the Court noted 'postdates' the LEP, and could not therefore be relied upon to define terms used in the LEP.

In ***Pallas*** *Development Management Pty Limited trading as Fortis Development Group v Woollahra Municipal Council* [2022] NSWLEC 1048 – at [99] Morris AC held:

> "I do not accept … evidence that for the impact to be ***minimised*** it would have to be reduced the smallest possible amount or degree. To do so would mean that there would be no impact at all. The objective of the control contemplates some impact, it just requires the impact to be minimised. I accept the submission of …, for the Applicant, that to adopt this logic, there would always be a further reduction possible to the point of there being no breach and therefore no impact. This is not what is contemplated by cl 4.6 of the WLEP. It contemplates that the development standard will be breached. What has to be determined is if that breach is appropriate in the circumstances of the case. …" [abridged]

The *Pallas* approach should be applied when considering objectives of standards that seek to *minimise* impacts.

Finally, the consent authority retains a very broad discretion under clause 4.6 and there are no numerical limits placed upon the dispensing power, either by clause 4.6 or by the interpretation of clause 4.6 by the Courts.

Attachment E

Submissions

From: Stella Doumanis [redacted] > on behalf of Stella Doumanis [redacted] <Stella Doumanis [redacted]

Sent on: Tuesday, November 18, 2025 10:46:37 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/1026 - 107-109 Darlinghurst Road POTTS POINT NSW 2011 - Attention Kerryanne Lewis

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am writing as a resident on. Victoria st Potts Point.

I opposite this proposal on the basis that the area has an already unacceptable concentration of backpackers within a 200m radius of this proposal.

We currently are experiencing significant issue relating the the number of backpackers including:

1. Lack of amenity on their premises resulting in backpackers eating, drinking and socially congregating on the streets ignoring alcohol free zones and leaving their rubbish all over the streets
2. Police don't have adequate resources to manage existing backpacker issues and this will only exacerbate the problem
3. The area needs hotel accommodation more than another backpacker operation
4 the backpackers have a significant number of bikes and motorcycles which that leave all over the streets and in zones parking zones for hours on end. A backpacker proposal of this size will make the current unacceptable situation worse

What is being proposed will have a significant negative impact to our amenity as residents and we strongly oppose this proposal

Kind regards
Stella Doumanis
159 Victoria st Potts Point
Mob[redacted]
Sent from my iPhone

From: Kevin Lee <[redacted]> on behalf of Kevin Lee [redacted]> <Kevin Lee [redacted]>

Sent on: Tuesday, November 25, 2025 5:08:24 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/1026 - 107-109 Darlinghurst Road POTTS POINT NSW 2011 - Attention Kerryanne Lewis

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Kerryanne,

I would like to make a comment/complaint regarding the development of 107-109 Darlinghurst Road Potts Point.

I am living in the 'Omnia' apartment immediately adjacent to the proposed site. In particular, in the NE corner of my building and directly above the proposed site.

My concerns involved the mechanical plant(s) that would be on and around the rooftop. The Acoustic report suggests that 'details of the mechanical plant have not been finalised' which is

rather concerning because my bedroom(s) are situated directly in that corner of Omnia.

With the current Backpacker's building, the 'mechanical plants' situated on the roof top are already quite noisy. I have to sleep with a constant dull 'roar' all night long. The 'roar' never lets up

24 hours a day, 7 days a week. I fear that raising the building by an extra 2 stories will require the mechanical plants to be built even closer to my bedrooms and thus the noise can become

stressful with no respite. I suspect a 'bigger and better' building will probably require even more mechanical plants.

There are at least 5 apartments in the North East of my building that would also suffer increase noise. Not to mention potential sunlight limitations.

I would like to emphasise that I am not against the redevelopment, but I am against more noise pollution. Developers have a tendency to avoid dealing with mechanical plants on rooftops only

for them to rush ugly noisy machines at the last minute and exceeding the height limit on the assumption that it is a small matter. I want consideration for rooftop equipment to be extremely

sensitive to the neighbourhood buildings and all means to deflect/avoid extra noise should be implemented.

Thank You and Regards,

Kevin Lee

'Omnia" 1503/226 Victoria Street Potts Point NSW 2011

From: [redacted] > on behalf of [redacted] > [redacted]

Sent on: Tuesday, November 25, 2025 5:11:02 PM

To: council@cityofsydney.nsw.gov.au

Subject: Submission - D/2025/1026 - 107-109 Darlinghurst Road POTTS POINT NSW 2011 - Attention Kerryanne Lewis

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Kerryanne,

I would like my name and email address kept private. Thank you.

Overall I support the proposed like-for-like redevelopment of the site and I am pleased that it will continue to operate as a backpacker's hostel. Its location and service it provides is a valuable amenity in the area.

I am concerned about noise emissions from rooftop mechanical plant, and the rooftop common area. As I live in a neighbouring property which overlooks the rooftop I am directly affected.

Existing mechanical plant on the rooftop is very noisy and runs 24/7. Recently some changes were made where new plant was placed on the roof, believed to be A/C units which most likely service the hostel.

There are two other older exhaust fans which produce the most noise.

I note that the Acoustic Assessment report (Item 7) states "The rooftop area noise environment is dominated by mechanical plant and equipment servicing the current and neighbouring buildings (including retail F&B exhaust fans)."

The Renzo Tonin and Associates report "Acoustic Assessment for DA" dated 16 December 2024 provides detailed advice on:

Item 6.3 - noise control measures for mechanical plant

Item 7.1 - management of the outdoor communal space

To ensure that the developer takes steps to implement controls to reduce noise emissions, the DA approval must contain appropriate conditions as recommended in the Acoustic Assessment report, and that a detailed mechanical plant design is finalised before a Construction Certificate is issued.

Also, as part of the redevelopment, the developer must engage with the neighbouring buildings owners of their exhaust fans to ensure that those fans comply with the conditions to mitigate noise.

Kind regards

[redacted]

From: Kerryanne Lewis <KLewis@cityofsydney.nsw.gov.au> on behalf of Kerryanne Lewis <KLewis@cityofsydney.nsw.gov.au> <Kerryanne Lewis <KLewis@cityofsydney.nsw.gov.au>>
Sent on: Wednesday, December 24, 2025 3:39:53 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: D/2025/1026 - 107-109 Darlinghurst Road POTTS POINT NSW 2011

Hi,

Submission below for processing for D/2025/1026, please.

Thanks,
Kerryanne

Kerryanne Lewis
Senior Planner
Planning Assessments

CITY OF SYDNEY

Telephone: +612 9265 9140
cityofsydney.nsw.gov.au

The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

From: Terry [redacted]
Sent: Wednesday, 24 December 2025 3:27 PM
To: Kerryanne Lewis <KLewis@cityofsydney.nsw.gov.au>
Subject: D/2025/1026 - 107-109 Darlinghurst Road POTTS POINT NSW 2011

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Lewis,

Please accept my late submission in relation to the above Development Application.

As a resident in very close proximity to the proposal, specifically on Earl Street, I object to the proposed relocation of the primary entrance, exit and reception of the existing backpacker accommodation to Earl Street at the rear of the site.

Based on well-established experience with other backpacker accommodation in the immediate area, this change is extremely likely to result in significant adverse amenity impacts for nearby residents. Comparable backpacker developments with street-level access onto narrow residential streets (for example, Orwell Street) have demonstrably resulted in persistent late-night and all-night congregation of their guests, street drinking, illicit drug use and antisocial behaviour directly outside their entrances; a mini rave street party in effect. Notable examples include Springfield Gardens and the private forecourt of 145 Victoria Street.

These backpacker accommodations operate without any after-hours supervision. Hence, these entrance areas routinely become unmanaged gathering spaces, leading to ongoing noise disturbance, frequent police attendance and sustained impacts on residential amenity.

The submitted architectural drawings appear to acknowledge this risk by identifying the area immediately outside the proposed Earl Street entrance as a potential "square". In practice, this would actively encourage congregation,

loitering and extended late-night activity in a quiet rear street that is wholly unsuited to such use and directly adjoins multiple residential apartment buildings.

Relocating the primary access to Earl Street would fundamentally alter the function and character of the street, to the clear detriment of existing residents. Earl Street should not be required to absorb the operational impacts of a commercial backpacker use seeking a more discreet or convenient rear access point.

I strongly submit that Earl Street should remain limited to emergency egress only, as is currently the case, and that the primary entrance and exit to the backpacker accommodation remain on [far more appropriate] Darlinghurst Road.

Thank you for considering this submission.

Yours sincerely,
Terry Mooney
3 Earl Street, Potts Point
[redacted]

Item 5.

Development Application: 14 Hickson Road, Dawes Point - D/2026/204

File Number: D/2026/204

Summary

Date of submission:	23 March 2026
Applicant:	Robert Magid
Architect/Designer:	PopovBass
Owner:	Pier One Car Park Pty Ltd
Planning consultant:	Gyde Consulting Pty Ltd
Heritage consultant:	Urbis
Cost of works:	$20,536,726
Zoning:	The Sydney Local Environmental Plan 2012 does not apply. The primary Environmental Planning Instrument is Chapter 5 of State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 The site is located in Zone 1 of the Walsh Bay Conservation Zone.
Proposal summary:	Approval is sought for the construction of a 4-storey mixed use development comprising a ground level office tenancy and 6 residential units above, excavation for 3 levels of basement parking, provision of a temporary and permanent substation, conservation works and stratum subdivision. Car parking is to service the development and the hotel on the opposite side of Hickson Road. The proposal is Integrated Development requiring approval under the Heritage Act, 1977. The application has been referred to the Local Planning Panel for determination as it is considered sensitive development being Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.

The application was notified for a period of 28 days and received 2 submissions.

Summary recommendation: The development application is recommended for approval, subject to conditions.

Development controls:

(i) Environmental Planning and Assessment Act 1979

(ii) Heritage Act 1977

(iii) Sydney Water Act 1994 and Sydney Water Regulation 2017

(iv) Water Management Act 2000

(v) SEPP (Chapter 5 - Eastern Harbour City) 2021

(vi) SEPP (Housing) 2021

(vii) SEPP (Resilience and Hazards) 2021

(viii) SEPP (Transport and Infrastructure) 2021

(ix) SEPP (Biodiversity and Conservation) 2021

(x) SEPP (Sustainability) 2022

(xi) Sydney Development Control Plan 2012

Attachments:

A - Recommended conditions of consent

B - Selected drawings

C - Submissions

Recommendation

It is resolved that consent be granted to Development Application Number D/2026/208 subject to the conditions set out in Attachment A to the subject report.

Reasons for recommendation

The application is recommended for approval for the following reasons:

(A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.

(B) The proposal is consistent with Chapter 5 of the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021, being a permissible form of development within Zone 1 – Walsh Bay Conservation Zone. The proposal is also consistent with the matters for consideration under Clause 5.14 of the SEPP, as it responds appropriately to the heritage significance and urban design framework of Walsh Bay, retains significant public views, maintains public access to the foreshore and surrounding public domain, and will not result in adverse traffic or amenity impacts.

(C) The proposal has been assessed against the aims and objectives of the relevant planning controls including the Sydney Development Control Plan 2012, and State Environmental Planning Policy (Housing) 2021. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances or are to be resolved by the recommended conditions of consent.

(D) The proposed development has a form, bulk and scale that are appropriate to the site and its heritage setting and generally accords with the site-specific Conservation Management Plan building envelope while responding appropriately to the character and significance of the Walsh Bay and Dawes Point precinct.

Background

Reason the application is reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 6 March 2024 as being within the following category:

   - Sensitive Development

2. The development application falls within the category of Sensitive Development as it is development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.

Site and surrounding development

3. The site has a legal description of Lot 10 in Deposited Plan 737193, known as 14 Hickson Road, Dawes Point NSW 2000. It is triangular in shape with an area of approximately 676sqm. It has a primary street frontage of 48m to Hickson Road, and is bounded by Hickson Steps to the south and a sandstone escarpment with retaining walls and Lower Fort Street above to the east. Levels on the site fall by 0.5m.

4. The site comprises an open-air car park ancillary to Pier One Hotel, operated as valet parking for approximately 16 vehicles. An existing Ausgrid substation is located mid-way along the western boundary on Hickson Road, with a redundant ablutions block and water pump station at the northern tip and a small contemporary metal shed in the south-eastern corner.

5. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial. Bounded by Walsh Bay to the west and the Sydney Harbour Bridge and Cahill Freeway to the east, Dawes Point is predominantly residential, featuring terraces and low-rise apartments from Colonial, Victorian, Federation, and interwar periods. To the southwest lies the Walsh Bay Finger Wharves precinct, comprising residential apartments, commercial offices, restaurants, theatres and the Pier One Hotel to its north.

6. The subject site is located within the boundaries of three conservation areas identified under the following heritage listings:

   - Walsh Bay Wharves Precinct (SHR #00559)

   - Dawes Point Heritage Precinct (s170 Placemaking NSW)

   - Walsh Bay Wharves Precinct (SEPP Biodiversity and Conservation 2021 & SEPP (Precincts – Easter Harbour City) 2021

7. A site visit was carried out on 12 May 2026. Photos of the site and surrounds are provided below.

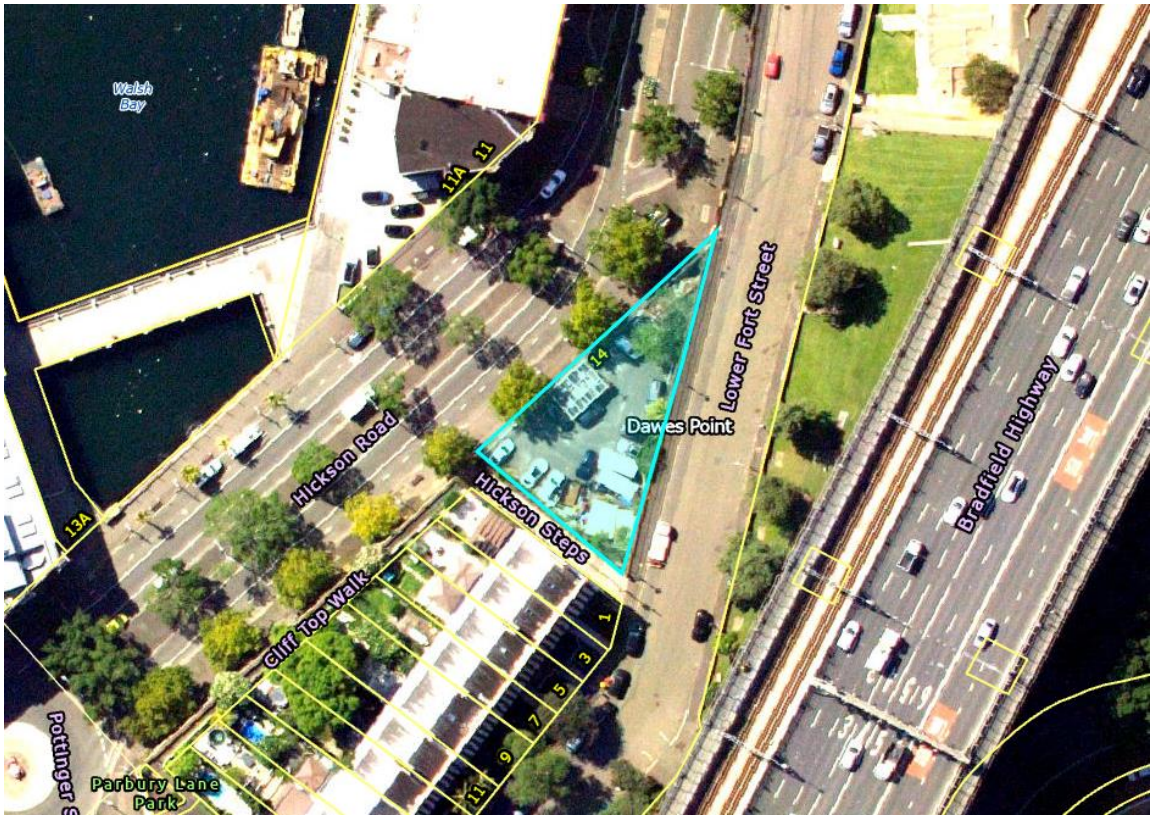


Figure 1: Aerial view of site and surrounds

Figure 2: Site viewed from Hickson Road facing east

Figure 3: Site viewed from Hickson Steps, facing north

Figure 4: Site viewed from Lower Fort Street, facing south

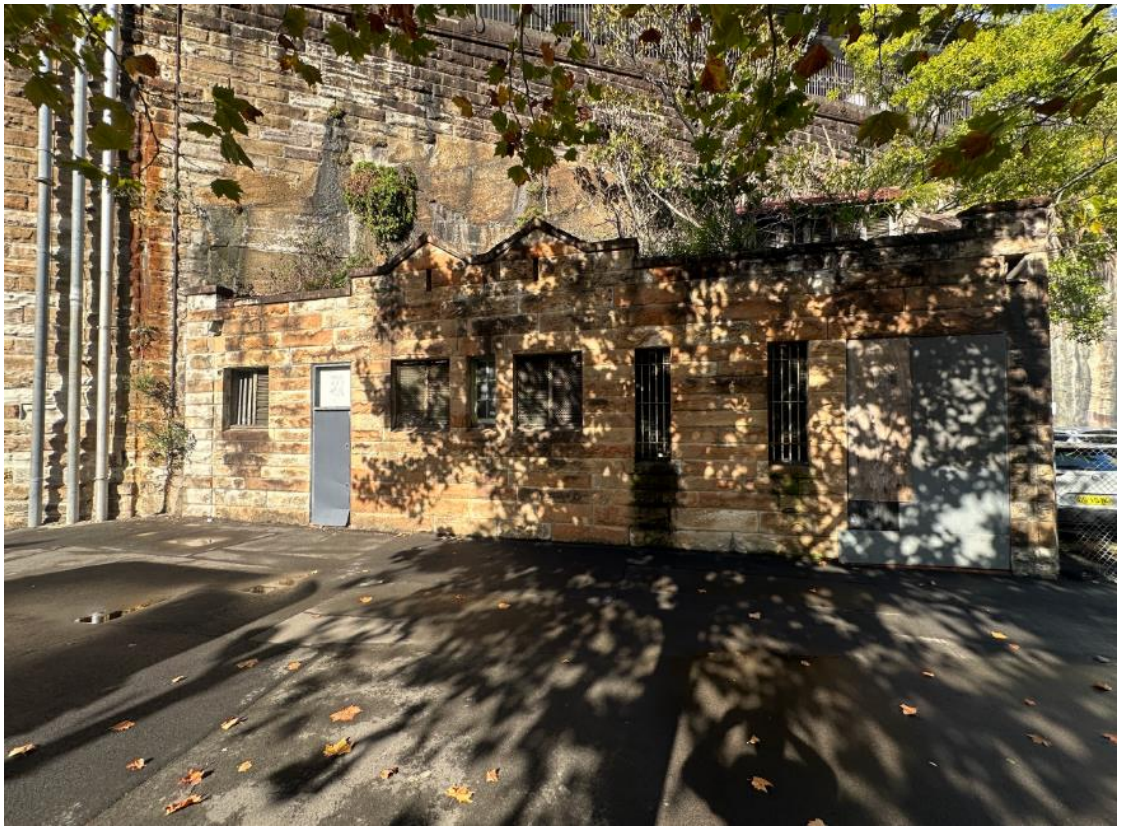


Figure 5: Existing historically significant ablutions block viewed from Hickson Road, facing east

Figure 6: Existing Substation viewed from Hickson Road, facing east

Figure 7: View from Hickson Steps looking west

Figure 8: Eastern boundary of subject site view from Lower Fort Street

Figure 9: South-Western neighbour of the subject site, 'Milton Terrace' viewed from Lower Fort Street

Figure 10: 'Pier One Hotel' located opposite/to the north on Hickson Road

Figure 11: Western boundary of 'Milton Terrace' to the south of the site viewed from Hickson Road

History relevant to the development application

Development applications

8. The following applications are relevant to the current proposal:

- **PDA/2025/14** – The proposal was subject to a formal pre-lodgement review by the City of Sydney and was reviewed by the Design Advisory Panel Residential Subcommittee in March 2025. Council's feedback focused on heritage considerations, compliance with the endorsed Conservation Management Plan (CMP) building envelope, residential amenity, communal open space, servicing and access arrangements, and the need for further consultation with Heritage NSW and WaterNSW. The matters raised through the pre-DA process have informed the ongoing refinement and development of the subject proposal.

Amendments

9. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 1 July 2026, as follows:

    (i) amendments to the architectural design, building presentation at ground elevation fronting Hickson Road, materiality and residential amenity outcomes; and

    (ii) revisions to the landscape design to protect identified public views.

Additional information relating to flood planning, public domain levels and access arrangements:

(iii) amendments to the Preliminary Public Art Plan

(iv) further clarification and revisions relating to waste management arrangements

(v) additional information regarding survey, subdivision and bicycle parking arrangements

(vi) further details regarding the operation and management of the proposed hotel parking and valet arrangements

10. The applicant responded to the request on 28 July 2026, and submitted amended plans and supporting documentation addressing the matters raised by Council, including minor revisions to the architectural and landscape design, provision of an active frontage, flood planning and access arrangements, public art, waste management, survey and subdivision details, bicycle parking, and hotel parking and valet operations.

11. The amended application is the subject of this assessment.

Proposed development

12. The application seeks consent for the following:

(a) demolition of Ausgrid electricity substation, fence along the western boundary to Hickson Road, internal walls of the existing ablutions block, and existing shed in the south eastern corner of the site

(b) removal of 5 trees

(c) site remediation and excavation to a depth of approximately 9.6m (RL - 6.1m)

(d) construct a 4-storey mixed use building with a maximum height of 13.66m with 3 basement levels accessed via Hickson Road

(e) development comprising a ground level office tenancy and 6 residential units above, 3 levels of basement parking (12 residential and 25 managed hotel parking spaces associated with the Pier One Hotel located directly opposite and to the north of the site) and provision of a temporary and permanent substation

(f) restoration of the existing sandstone ablutions block and pump station

(g) stratum subdivision of the site into 3 stratum lots

13. Selected plans and elevations of the proposed development are provided below. Additional drawings are included in Attachment B.

Figure 12: Proposed photomontage - looking north

Figure 13: Proposed photomontage - aerial

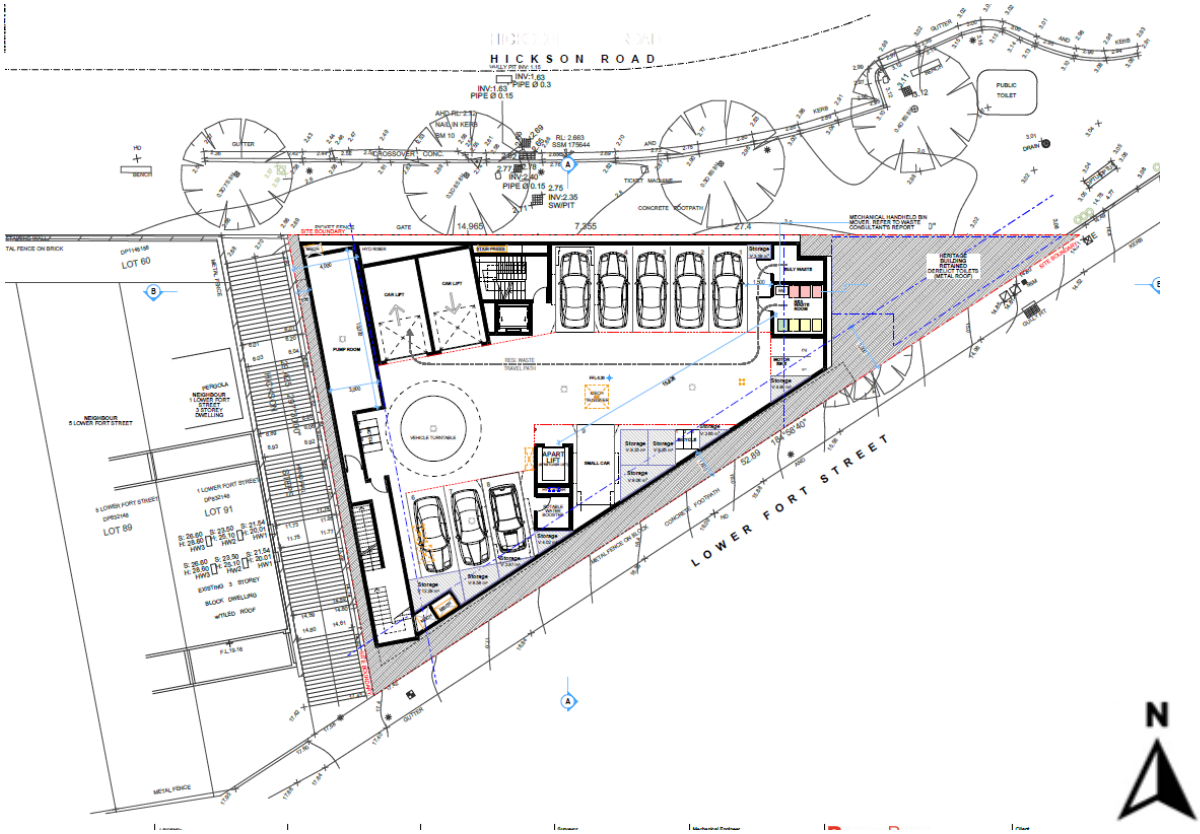


Figure 14: Typical basement floor plan

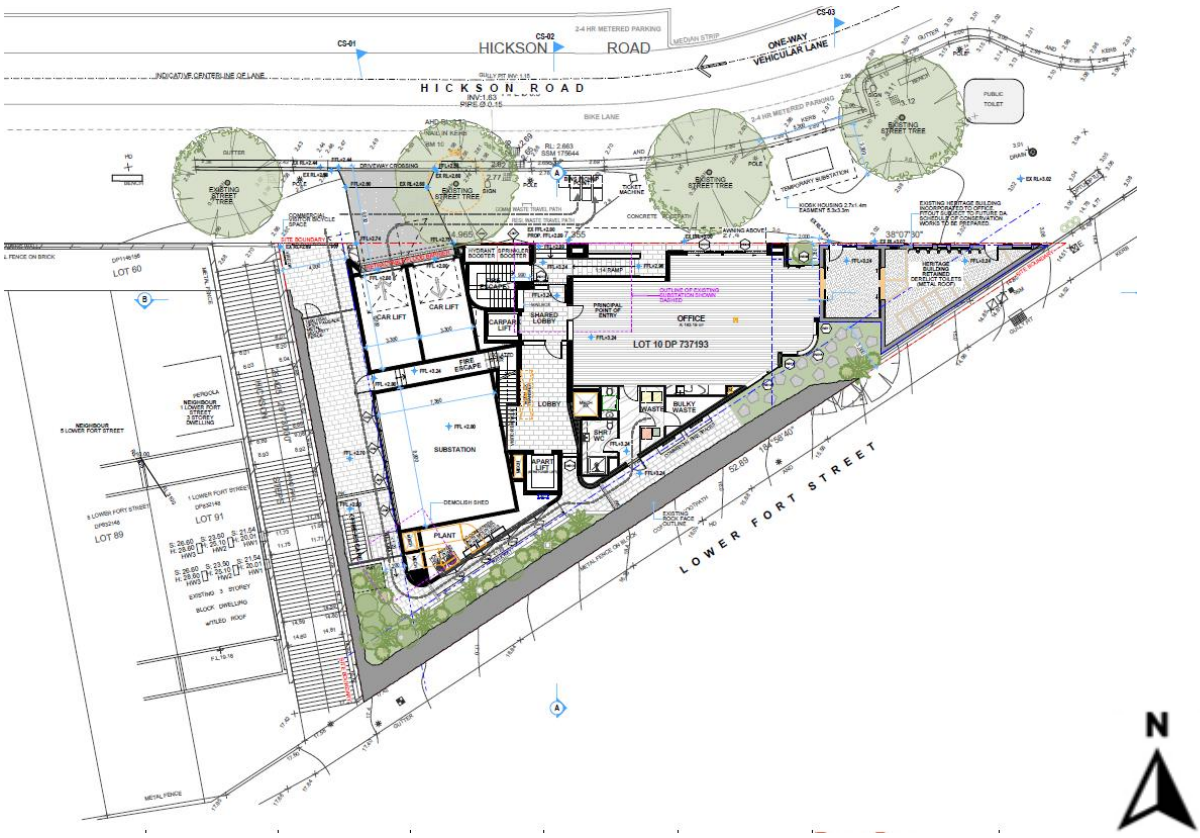


Figure 15: Proposed ground floor plan

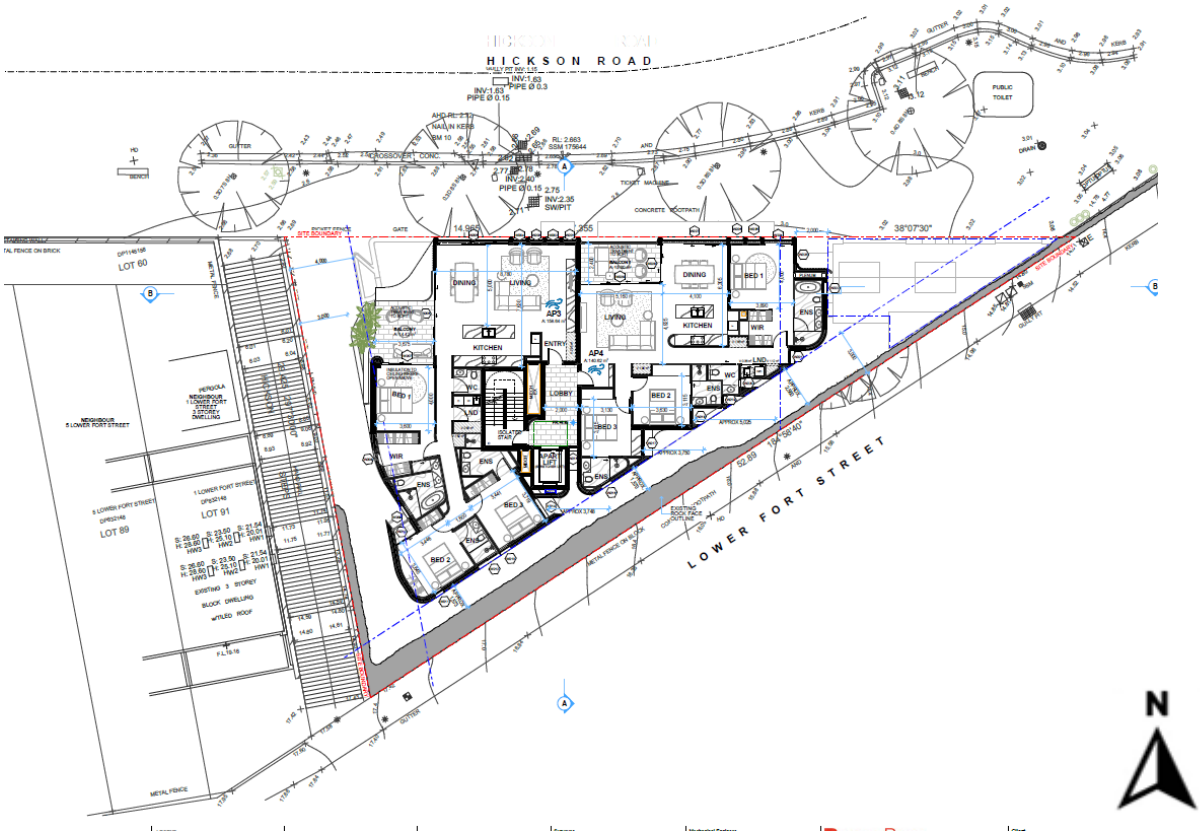


Figure 16: Typical floor plan (Level 2)

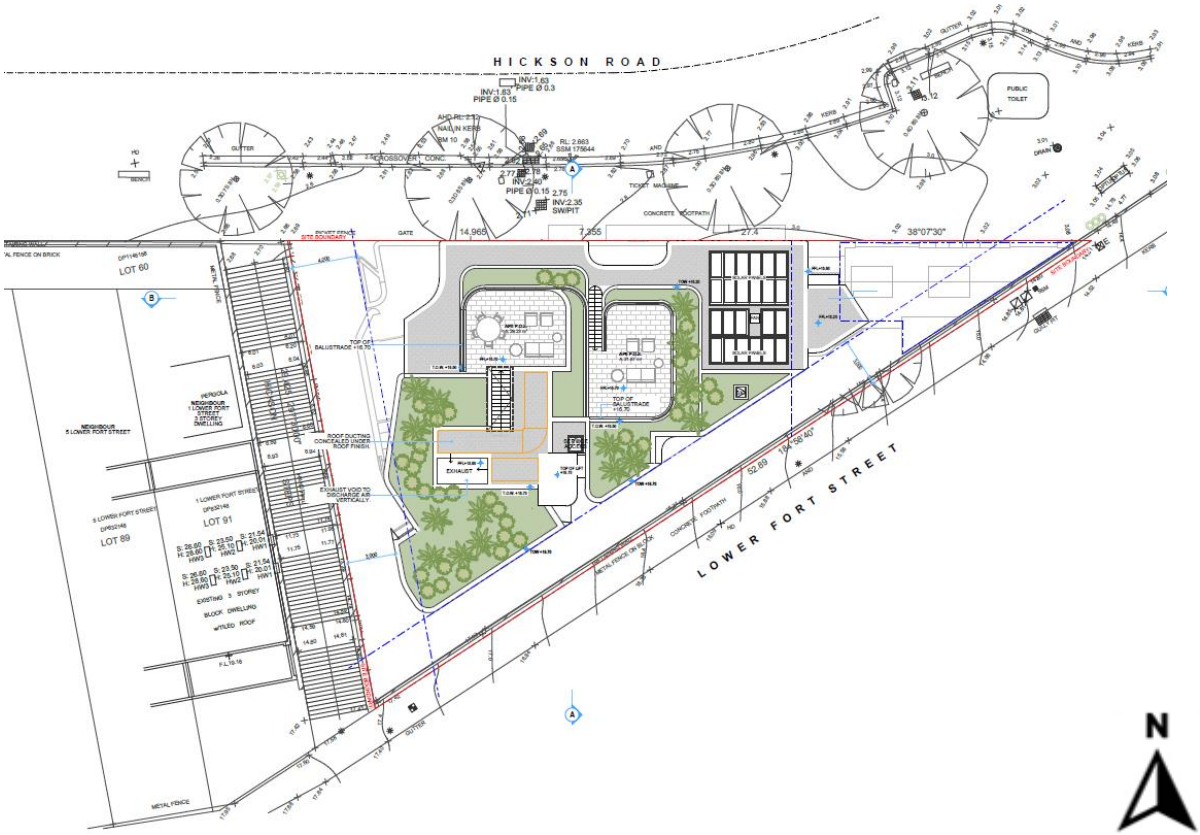


Figure 17: Proposed roof plan

Figure 18: Proposed front elevation to Hickson Road

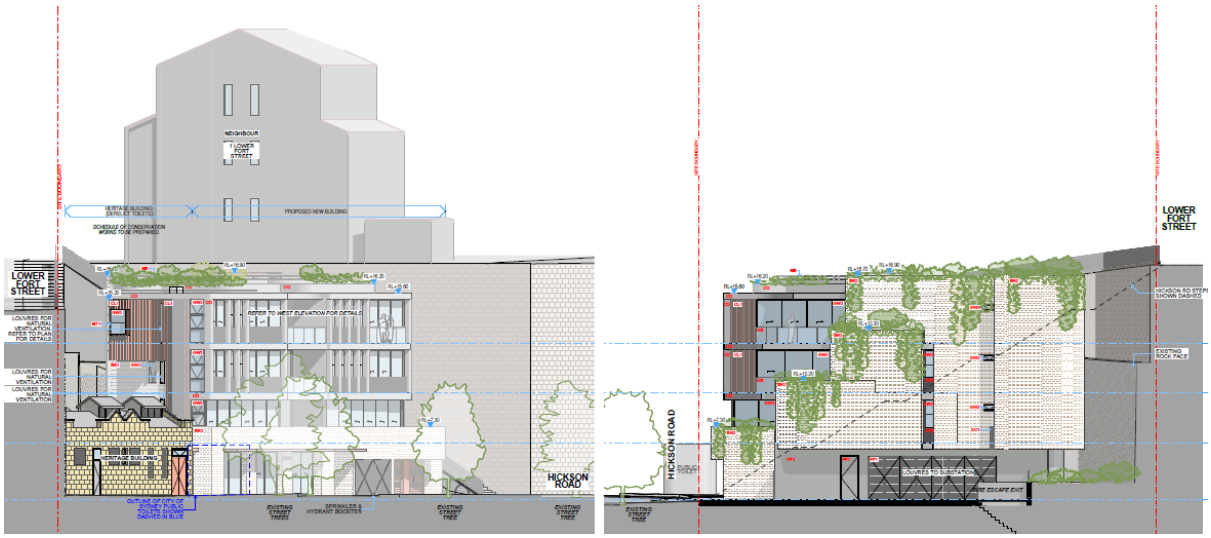


Figure 19: Proposed north (left) and south elevations (right)

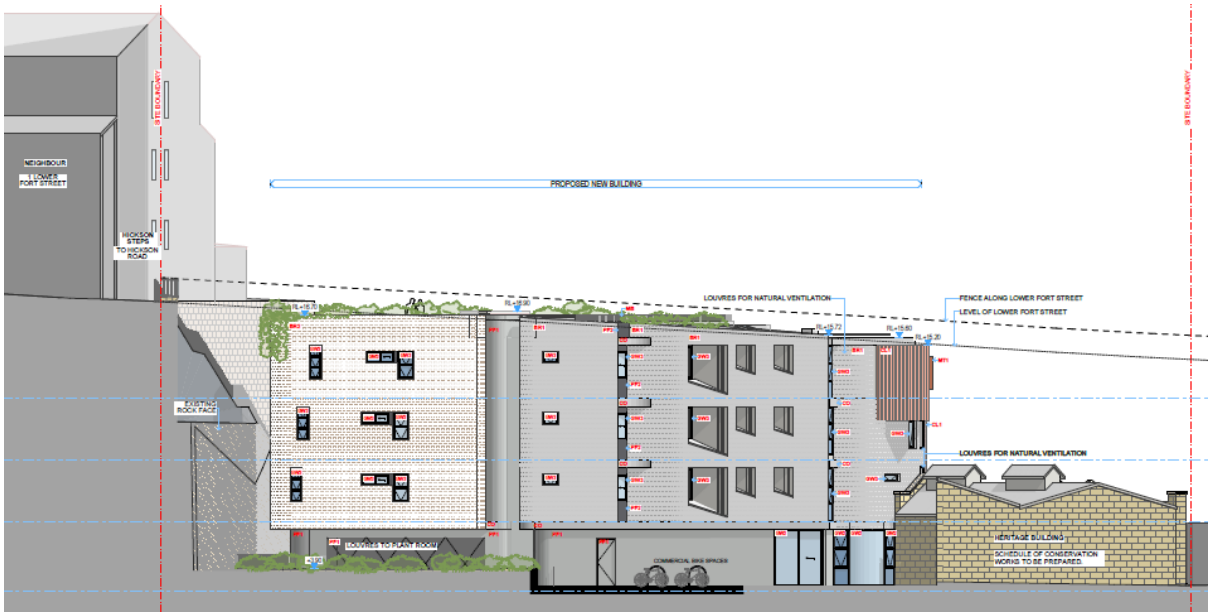


Figure 20: Proposed rear elevation - facing sandstone escarpment/retaining wall

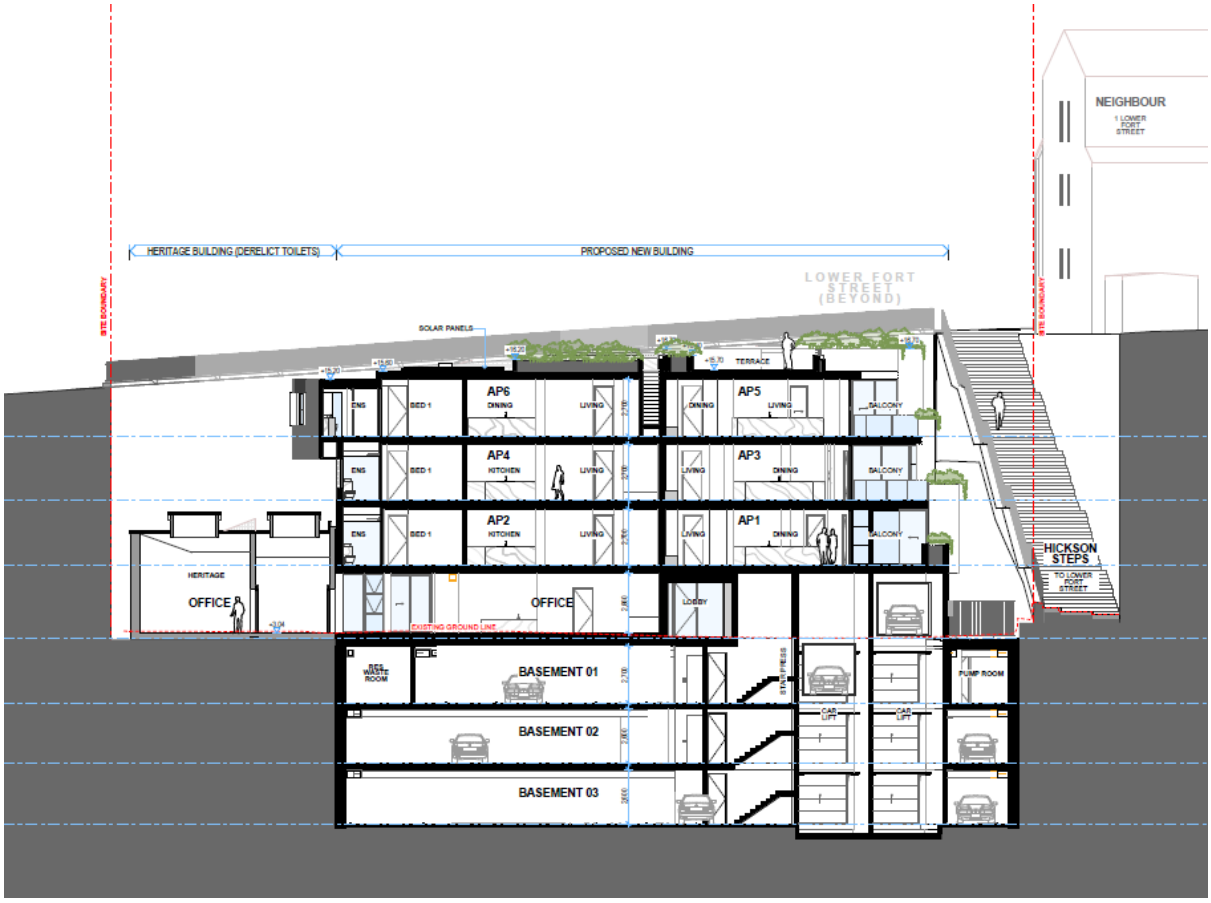


Figure 21: Proposed section

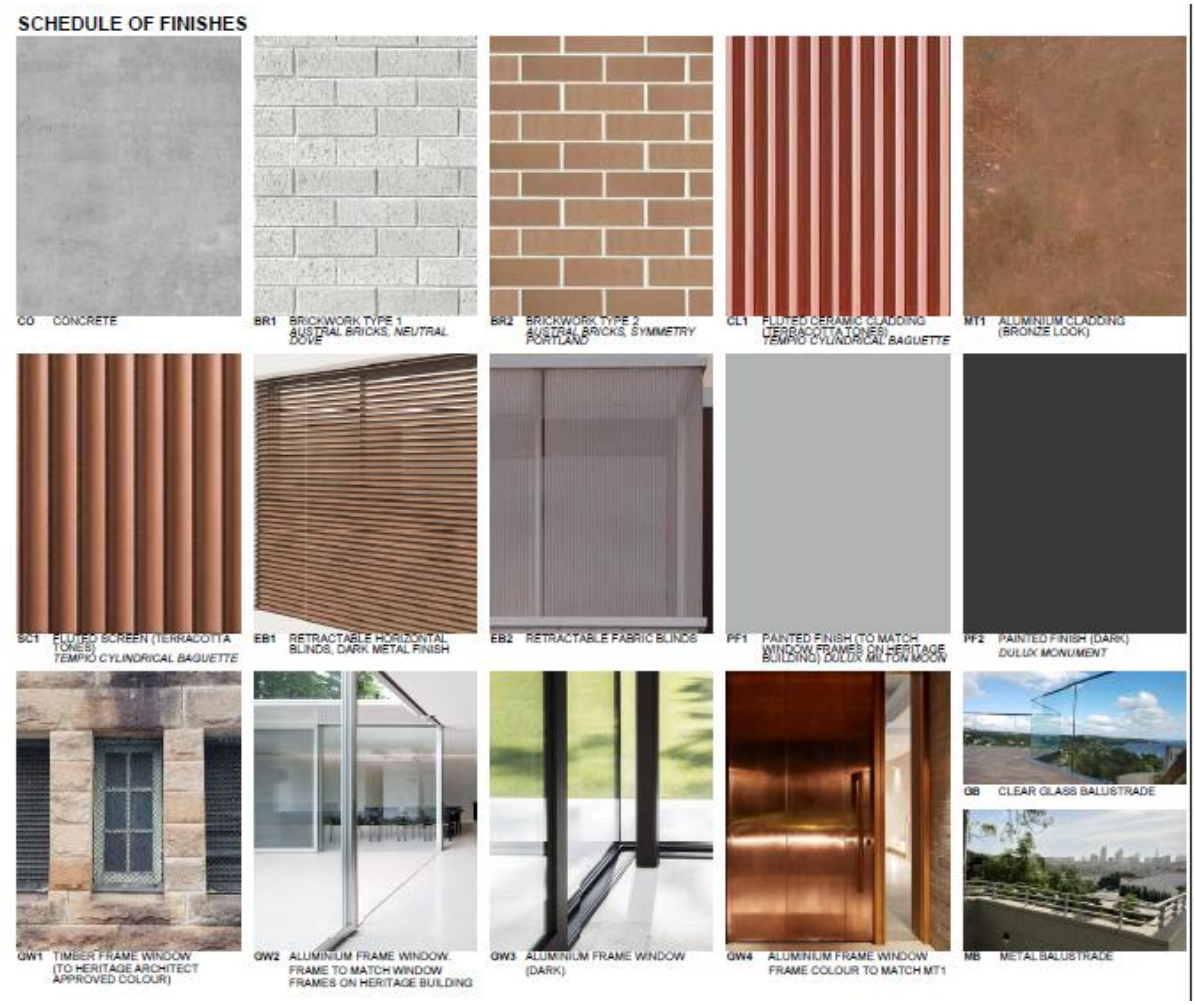


Figure 22: Proposed schedule of materials and finishes

Assessment

14. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Heritage Act 1977

15. The subject site is located within the Walsh Bay Wharves Precinct (SHR #00559) which is listed on the State Heritage Register under the Heritage Act 1977.

16. The site is subject to the 14 Hickson Road, Dawes Point Conservation Management Plan (CMP) prepared by Urbis and endorsed by the NSW Heritage Council on 4 September 2018. The CMP establishes a site-specific building envelope and conservation framework to guide the future redevelopment of the site, including the conservation and adaptive reuse of the former Sydney Harbour Trust ablutions building, retention of the sandstone escarpment and protection of significant views and heritage values within the Walsh Bay Wharves Precinct. The proposed development has been assessed having regard to the endorsed CMP, noting that while there are minor departures from the CMP building envelope, those departures are limited in extent, do not adversely affect significant heritage fabric, public views or the prominence of the sandstone escarpment, and are therefore acceptable on heritage grounds.

17. As Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to the Heritage Council on 26 March 2026 in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000. In correspondence dated 23 April 2026, the NSW Heritage Council was advised that the exhibition period had been completed and two submissions were received.

18. On 17 July 2026, the Heritage Council of NSW issued the General Terms of Approval (GTAs) subject to recommended conditions which are included in the Notice of Determination.

19. On 30 July 2026, in accordance with Section 37 of the Environmental Planning and Assessment Regulation 2021, a copy of the amended application received on 28 July 2026 (details under the heading "Amendments" above) was sent to the Heritage Council of NSW for review.

20. On 6 August 2026 the Heritage Council of NSW issued amended GTAs subject to recommended conditions which are included in the Notice of Determination. These amended GTAs supersede the original General Terms of Approval issued on 17 July 2026.

21. See further details under the sub-heading Heritage in the ‘Discussion’ section below.

Water Management Act 2000

22. The proposed development requires groundwater dewatering and therefore requires approvals under the Water Management Act 2000.

23. As Integrated Development requiring approval under the Water Management Act 2000, a copy of the application was referred to the Water NSW in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000.

24. On 24 June 2026 Water NSW issued the General Terms of Approval subject to recommended conditions which are included in the Notice of Determination.

State Environmental Planning Policies

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 – Chapter 5 Walsh Bay

25. The site is subject to the provisions of Chapter 5 - Walsh Bay of the above SEPP. The site is located within Zone 1 – Walsh Bay Conservation Zone. The works are permissible with consent and consistent with the objectives of the zone.

26. The matters for consideration under clause 5.14 have been taken into account, as follows:

Matter	Consistency	Comment
(a) any conditions imposed by the Heritage Council under section 63 of the Heritage Act 1977	Yes	The Heritage Council of NSW issued General Terms of Approval subject to recommended conditions which are included in the Notice of Determination.

Matter	Consistency	Comment
(b) in relation to any development within Zone 2 the impact of the development on commercial shipping, recreational boating and navigational issues on Sydney Harbour,	N/A	The subject site is not located in Zone 2.
(c) the “Walsh Bay Redevelopment Conservation Guidelines dated February 1988” prepared for the Maritime Services Board and appended to the “Walsh Bay Regional Environmental Study 1989”,	Yes	The proposal is consistent with The Walsh Bay Conservation Plan (Volume A), retaining and adaptively reusing the former ablutions block and pump station. While elements such as the corrugated metal roof, windows, doors and skylights have significantly deteriorated since the Conservation Statement was prepared in 1988, the proposal preserves the building's primary form and key heritage fabric while facilitating appropriate internal and external conservation and upgrade works.
(d) Any urban design guidelines designated as such and prepared by or on behalf of the consent authority in relation to land to which this Chapter applies and current on the date the development application is made,	Yes	The proposal has been assessed against the applicable urban design guidance, including the Walsh Bay Precinct Conservation Plan and the site-specific Conservation Management Plan. The development generally accords with the approved CMP building envelope, retains key public view corridors, conserves and adaptively reuses the heritage ablutions block, and responds appropriately to the heritage character and urban context of Walsh Bay.
(e) the “Walsh Bay Regional Environmental Study 1989” prepared by the Director of Planning and held in the Department of Planning,	Yes	The proposal is consistent with the Walsh Bay Regional Environmental Study 1989, facilitating the adaptive reuse of heritage fabric, preserving significant views, and providing compatible infill development that responds to the character and significance of the Walsh Bay precinct.
(f) the “Central Sydney Strategy 1988” published jointly by the Council of the City of Sydney and the Department of Planning,	Yes	The proposal is consistent with the Central Sydney Strategy 1988, providing compatible residential infill development, maintaining key public views from Lower Fort Street, and reinforcing the low-scale character and heritage significance of the Walsh Bay and Dawes Point precinct.

Matter	Consistency	Comment
(g) the adequacy of public access to the wharf aprons and to the foreshore,	Yes	The proposal will not affect public access to the wharf aprons, foreshore or surrounding public domain. Existing pedestrian access arrangements will be maintained.
(h) where the development is or provides a public transport facility, whether that facility integrates with existing public transport services in the City of Sydney and provides an adequate level of service,	N/A	Not applicable.
(i) whether the development affects the continued use of wharf No 4 or 5 as a theatre complex and certain sites for TfNSW purposes,	N/A	Not applicable.
(j) any plan which indicates the location of, or likely location of, any archaeological material prepared by the Heritage Council, and	N/A	Not applicable.
(k) whether the development generates traffic which adversely impacts on the amenity of the area, adjoining residential areas and the Sydney Cove Redevelopment Area.	Yes	In reviewing the submitted Traffic Impact Assessment the proposal will generate minimal additional traffic and can be accommodated within the existing road network without adverse impacts on traffic flow, road safety or the amenity of adjoining residential areas.

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

27. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

28. The Detailed Site Investigation (DSI) identified minimal amounts of contaminants present on the site. The DSI and Council review concluded a Remediation Action Plan is not required.

29. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.

30. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Housing) 2021

31. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

32. Section 7.32 of the Environmental Planning and Assessment Act 1979 enables the imposition of affordable housing contributions when authorised by an environmental planning instrument.

33. Clause 7.13 (Contribution for the purpose of affordable housing) of Sydney Local Environmental Plan 2012 applies to specified land identified within that instrument. The subject site is not governed by Sydney LEP 2012 and is not identified as land to which Clause 7.13 applies. Accordingly, no affordable housing contribution is required in this instance.

34. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 4 - Design of Residential Apartment Development

35. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.

36. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority take into consideration several matters relating to design quality, including the design quality principles as set out in Schedule 9.

37. The applicant has submitted a design verification statement and design report prepared by Brian Bass (ARB 6470) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.

38. An assessment of the proposal against the design quality is provided as follows:

    (a) Principle 1: Context and Neighbourhood Character

    The proposal responds appropriately to the character and heritage significance of the Dawes Point Heritage Precinct through its use of brick, references to the area's industrial heritage, and seeks to complement the ablutions block and the character of Dawes Point. The brick podium, refined concrete frame, and stepped landscaped elevations demonstrate a considered design response that complements the site's context and reinforces local neighbourhood character.

(b) Principle 2: Built Form and Scale

The proposal demonstrates an appropriate built form response by maintaining key public view corridors and remaining below the level of Lower Fort Street, consistent with the Conservation Management Plan. Its brick podium, stepped landscaped form, and contemporary terracotta elements draw upon the surrounding site's industrial heritage, surrounding sandstone escarpments, and adjoining waterfront industrial character, resulting in a design that is well integrated with its context.

(c) Principle 3: Density

The proposal achieves an appropriate density outcome by complying with the CMP-defined building envelope, which governs development on the site in lieu of an FSR control. It provides active ground-floor uses and six high-amenity residential apartments, while its accessibility to the CBD, public transport, and active transport networks supports a sustainable and contextually appropriate intensity of development.

(d) Principle 4: Sustainability

The proposal incorporates a range of sustainable design measures, including favourable solar access, natural cross-ventilation, external sun shading, rainwater reuse, and rooftop solar panels. The development is capable of achieving an average 7-star NatHERS rating and includes energy-efficient building elements and services, supporting strong environmental performance and occupant amenity.

(e) Principle 5: Landscape

The proposal demonstrates a strong integration of landscape and built form outcomes, with a conservation-led design that protects the heritage sandstone escarpment, utilises locally indigenous planting, and responds to site microclimates. The landscape strategy enhances biodiversity, environmental resilience and public domain amenity while maintaining the prominence and heritage significance of the harbour foreshore setting.

(f) Principle 6: Amenity

The proposal provides a high level of residential amenity through well-designed apartments that maximise solar access, natural cross-ventilation, harbour outlooks and functional private open space. The development also incorporates adequate storage and accessibility provisions, while its siting and height ensure no significant amenity impacts on the solar access, views or amenity of surrounding properties.

(g) Principle 7: Safety

The proposal incorporates appropriate safety and security measures through clearly identifiable and secure building entries, controlled access arrangements, and secure basement parking and storage areas. The design promotes passive surveillance of the public domain through street-facing balconies and active frontages, while maintaining visual permeability and applying CPTED principles to enhance the safety of residents and the surrounding public realm.

(h) Principle 8: Housing Diversity and Social Interaction

The proposal provides a boutique residential offering comprising six high-amenity apartments designed to meet the expectations of the local market. While no communal open space is provided on site, the combination of generous private open space, immediate access to Barangaroo Reserve and the Walsh Bay foreshore, and the small scale of the development (six dwellings) results in an acceptable residential amenity outcome.

(i) Principle 9: Aesthetics

The proposal provides an architectural response that is consistent with the established and desired future character of Dawes Point. Through its articulated built form, use of bricks, terracotta and contemporary materials, and references to the site's industrial and geological context, the development achieves a contemporary design outcome that respects the heritage significance of the precinct and complies with the Conservation Management Plan.

39. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2C Building Height	**Consistency**	**Comment**
Site-specific building envelopes and heights	Yes	No LEP height limit applies to this site. The proposed development generally complies with the maximum building envelope as outlined in the 14 Hickson Road Dawes Point Conservation Management Plan (CMP) (SHR 00559).

2D Floor Space Ratio	**Consistency**	**Comment**
FSR is to be coordinated with the building envelope	Yes	The site is not subject to an FSR control. A CMP defines the building envelope and setbacks. The proposal generally complies with this envelope.

2E Building Depth	**Consistency**	**Comment**
12-18m (glass to glass)	Yes	The proposed triangular building form creates shallow apartment depths and maximises perimeter wall length, providing apartments with extensive

2E Building Depth	Consistency	Comment
		external frontage. The proposed apartments benefit from windows on multiple elevations, allowing adequate access to natural daylight and cross-ventilation. The layout minimises deep internal floor spaces and ensures habitable rooms are located adjacent to external walls, achieving the objectives of ADG 2E and delivering a high level of residential amenity.

2F Building Separation	Consistency	Comment
Up to 4 storeys (approximately 12 metres): • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	Partial	The proposed setbacks generally comply with the CMP building envelope requirements. Balconies and primary living areas are oriented towards the Hickson Road frontage, providing an appropriate interface with the public domain. The proposal achieves an approximate building separation of 11 metres between habitable room windows and the closest southern neighbouring property at 1 Lower Fort Street, which is a dwelling house. Given the minor numerical variation from the relevant separation requirement, the non-compliance is considered acceptable and is not expected to result in any adverse amenity impacts.
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	Yes	The terrace row to the south of the site, on the opposite side of the steps, is zoned R1 General Residential. The proposal provides a 3-metre setback from the southern property boundary. In addition, the Hickson Road stairway provides further separation and acts as an effective buffer between the proposed development and the adjoining residential properties. Furthermore, the proposed building is located significantly below the level of the adjoining dwelling, which further mitigates potential impacts relating to visual bulk, outlook and perceived proximity. As such, the proposal is considered to maintain an

2F Building Separation	Consistency	Comment
		appropriate level of separation and amenity for neighbouring residents.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	No	While the proposal does not provide communal open space, this is considered acceptable given the small scale of the development (six dwellings), the provision of generous and compliant private open space to all apartments, and immediate access to high-quality public open spaces including the Walsh Bay foreshore, Barangaroo Reserve and Observatory Hill Park. The absence of communal open space is also a consequence of the site's heritage constraints, the endorsed CMP building envelope and the need to protect significant public views, which limit opportunities to provide a compliant and accessible rooftop communal area. Having regard to the high level of residential amenity achieved and the site's unique constraints, the departure from Part 3D is supported in this instance

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site	No	While the proposal does not comply with the ADG requirements for deep soil zones, the non-compliance is considered acceptable given the site's unique constraints. The development is subject to significant heritage considerations, a CMP-defined building envelope, limited opportunities for at-grade planting due to the site configuration, and shallow bedrock conditions that restrict the feasibility of deep soil landscaping. In lieu of deep soil planting, the development incorporates a substantial landscaped green roof, providing visual amenity when viewed from Lower Fort Street.

3E Deep Soil Zones	Consistency	Comment
		Accordingly, the departure from these controls is supported in this instance.

3F Visual Privacy	Consistency	Comment
Up to 4 storeys (12 metres): • 6m between habitable rooms / balconies • 3m between non-habitable rooms	Partial	A minor variation to the ADG visual privacy requirements is supported. The site's configuration, orientation of balconies and living areas towards Hickson Road, separation provided by the public stairway, and significant level difference with the adjoining dwelling ensure that reasonable visual privacy is maintained and no adverse overlooking impacts are expected.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	All northern apartments achieve compliant sunlight to the dining room windows, which is connected in an open plan arrangement to the living room. All southern apartments achieve complaint sun to their living room windows. All private open space balconies achieve compliant solar access.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	100% of apartments are naturally cross ventilated. It is noted that plenums have been incorporated into bedroom 1 of apartments 2, 4 and 6 to improve cross ventilation. A condition of consent is

4B Natural Ventilation	Consistency	Comment
		recommended requiring details of the plenum design be submitted to Council for approval prior to issue of a Construction Certificate.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	The proposal complies.
Non-habitable rooms: 2.4m	Yes	The proposal complies.

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.	Yes	All of the apartments exceed the minimum internal areas.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have a window with a minimum glass area greater than 10% of the floor area of the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The proposal complies.

4D Apartment Size and Layout	Consistency	Comment
8m maximum depth for open plan layouts.	Yes	The proposal complies.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	The proposal complies.
Living and living/dining rooms minimum widths: • Studio and one-bedroom: 3.6m • 2-bedroom or more: 4m	Yes	The proposal complies.
4m minimum width for cross over and cross through apartments.	Yes	None of the apartments are cross-over or cross-through configuration

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. 2 bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. 3 bed apartments are to have a minimum balcony area of	Yes	The proposal complies.

4E Private Open Space and Balconies	Consistency	Comment
12sqm with a minimum depth of 2.4m.		

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	There are maximum of 2 apartments off the circulation core on a single level.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal complies.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	The proposal complies.

4G Storage	Consistency	Comment
Minimum storage provision facilities: • Studio: $4m^3$ • 1 bed: $6m^3$ • 2 bed: $8m^3$ • 3 bed: $10m^3$ (Minimum 50% storage area located within unit)	Yes	The proposal complies.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and	Yes	The proposal complies.

4J Noise and Pollution	Consistency	Comment
addressed through careful siting and layout of buildings?		

State Environmental Planning Policy (Sustainable Buildings) 2022

40. The aims of this Policy are as follows—

    (a) to encourage the design and delivery of sustainable buildings,

    (b) to ensure consistent assessment of the sustainability of buildings,

    (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,

    (d) to monitor the embodied emissions of materials used in construction of buildings,

    (e) to minimise the consumption of energy,

    (f) to reduce greenhouse gas emissions,

    (g) to minimise the consumption of mains-supplied potable water,

    (h) to ensure good thermal performance of buildings.

Chapter 2 Standards for residential development - BASIX

41. A NatHERS Certificate (2TMC33H4RP) and a BASIX Certificate has been submitted with the development application 1834730M.

42. The certificates list measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Chapter 3 Standards for non-residential development

43. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:

    (a) the erection of a new building, if the development has an estimated development cost of $5 million or more, or

    (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of $10 million or more.

Section 3.2 Development Consent for non-residential development

44. Section 3.2 Development consent for non-residential development provides that:

    (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

    (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials

    (b) a reduction in peak demand for electricity, including the use of energy efficient technology

    (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design

    (d) the generation and storage of renewable energy

    (e) the metering and monitoring of energy consumption

    (f) the minimisation of the consumption of potable water

    (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

45. With regard to the above matters the applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. This includes the installation of energy efficient appliances and provision of green roofs.

State Environmental Planning Policy (Transport and Infrastructure) 2021

46. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

47. The application is subject to Clause 2.48 of the SEPP as the development proposes the decommissioning and relocation of the existing substation to be located on the western boundary.

48. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised. Ausgrid have recommended conditions which are included in the Notice of Determination.

49. The proposal includes a temporary substation to be used during construction of the new permanent substation. The temporary substation is proposed within the Hickson Road reserve, south of the recently constructed toilet block located to the north-west of the site. Installation of the temporary substation will be subject to a separate future application for works within the public road reserve, in accordance with Section 138 of the Roads Act 1993.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.98 –Development adjacent to rail corridors

50. The application is adjacent to the T1 rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

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

51. The application is subject to Clause 2.120 of the SEPP as the site is close to to Bradfield Highway which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.

52. The applicant provided an acoustic assessment confirming that appropriate acoustic treatments can be implemented to achieve the required internal noise criteria prescribed under this clause.

53. The application satisfies Clause 2.120 subject to conditions of consent.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

54. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.

55. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.

56. The site is located within the Walsh Bay Wharves Precinct, which is listed on the State Heritage Register and is therefore a heritage site and heritage conservation area. The proposal requires the removal of five trees, being a Moreton Bay Fig, Chinese Hackberry, Senegal Date Palm and two Hill's Weeping Figs. It is considered that these trees are of low or very low retention value, have limited landscape significance and are directly impacted by the proposed development footprint. The four London Plane street trees, being the most significant trees associated with the streetscape, are proposed to be retained and protected.

57. None of the trees proposed for removal possess identified heritage significance and their removal will not adversely affect the heritage significance of the Walsh Bay Wharves Precinct. The proposal retains the significant street tree planting and incorporates tree protection measures for retained vegetation. Accordingly, the vegetation removal is considered minor in nature and will not adversely impact the heritage significance of the heritage item or heritage conservation area. The proposal is therefore consistent with the requirements of the SEPP.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

58. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

59. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

60. The Sydney Local Environmental Plan 2012 is not applicable for this proposed development as the site is located outside the LEP boundary.

Development Control Plans

Sydney Development Control Plan 2012

61. Chapter 5 of State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021 allows for the adoption of a development control code (or DCP). The land covered by Sydney Development Control Plan 2012 includes the Walsh Bay area.

62. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed Preliminary Public Art Plan is supported. A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager prior to issue of any Construction Certificate for above ground works.
3.2. Defining the Public Domain	Yes	The proposal maintains the significant view corridors identified in the CMP, including views from Lower Fort Street and the Hickson Steps towards Walsh Bay. The building remains below the level of Lower Fort Street and does not obstruct key harbour views. The submitted view analysis demonstrates

Provision	Compliance	Comment
		that the proposal preserves, and in some instances enhances, public views towards Walsh Bay. Accordingly, the proposal satisfies the objectives of the public views control. As detailed in the amendments section the proposal has been amended to provide for an active frontage at the ground elevation fronting Hickson Road and in turn provides a positive contribution to the public domain.
3.5 Urban Ecology	Yes	The application identifies nine (9) trees on and adjacent to the site and is supported by an Arboricultural Impact Assessment prepared by a qualified arborist. The report assesses the health, retention value and development impacts on all identified trees and includes tree protection measures for retained trees. The proposal retains the four London Plane street trees and removes five trees on the subject site of low or very low retention value. The retained trees can remain viable subject to implementation of the recommended tree protection, pruning and construction management conditions of consent. As detailed within the ADG compliance table, the site is not able to provide deep soil planting nor the comply with the DCP requirement to provide a minimum 15% canopy cover within 10 years given the site's unique constraints. Accordingly, the departure from these controls is supported in this instance. Subject to relevant conditions of consent, the proposal is considered consistent with the objectives of Sections 3.5.1 Biodiversity and 3.5.3 Tree Management, as it retains significant street trees, protects vegetation adjacent the site and minimises impacts on the existing urban canopy.

Provision	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) and discussion section.
3.7 Water and Flood Management	Yes	The road adjacent to the south-western end of the site is identified as being subject to flooding. A flood report and accompanying letter prepared by JN Consulting were submitted with the application. The documentation demonstrates that the proposed development is capable of complying with the City's Interim Floodplain Management Policy and satisfies the relevant flood planning requirements. Council's Flood Engineer has reviewed the proposal and raises no objection to the development. The Flood Engineer is satisfied that the proposed flood mitigation measures, including the use of flood gates at the car park, provide an acceptable response to flood risk and will adequately protect the development during flood events. As such, the proposal is considered acceptable from a flood risk management perspective.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposed development involves the stratum subdivision of the site into three lots. There is no evidence of the original subdivision pattern and therefore the proposed stratum subdivision will not affect any historically significant lot pattern. The former ablutions block will be located wholly within the commercial stratum lot. The application was referred to Council’s Specialist Surveyor, who supported the proposal, subject to condition of consent.

Provision	Compliance	Comment
3.9 Heritage	Yes	The subject site is located within the boundaries of three conservation areas identified under the following heritage listings: • Walsh Bay Wharves Precinct (SHR #00559). • Dawes Point Heritage Precinct (s170 Placemaking NSW). • Walsh Bay Wharves Precinct (SEPP Biodiversity and Conservation 2021 & SEPP Precincts – Easter Harbour City 2021) See further detail under the 'Discussion' heading below.
3.11 Transport and Parking	Partial compliance	The proposal provides bicycle parking, motorcycle parking, visitor parking, EV charging infrastructure, mechanical parking systems and basement parking areas supported by a Transport and Parking Assessment and Traffic Impact Assessment. The proposal includes 7 bicycle parking spaces (6 residential, 1 commercial) in accordance with the DCP. Bicycle parking is provided in accordance with relevant Australian Standards, with visitor facilities at ground level and resident and employee facilities on the uppermost basement level. Mechanical parking, vehicle turntables and tandem parking arrangements have been designed to respond to the site's constraints and operate wholly within the site, while waste collection, loading and servicing arrangements accord with Council's waste management requirements subject to relevant condition. The proposed residential parking provision exceeds the parking rates that would ordinarily apply under the Sydney

Provision	Compliance	Comment
		LEP, see further detail under the 'Discussion' heading below.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The City of Sydney Guidelines for Waste Management in New Development allow residential developments with six dwellings or less to have kerbside collection. Kerbside collection is proposed given the small size of the site. The waste collection arrangement is supported by Council's Waste Management unit in principle, however, a condition of consent is recommended requiring further details regarding transfer path and kerbside posting are required to submitted prior to a Construction Certificate. General conditions of consent are recommended to ensure waste is managed appropriately on the site.
3.16 Signage and Advertising	Yes	Signage was not originally proposed as part of this application. However, the amended scheme includes a designated signage zone on the ground floor western elevation. While the extent of the proposed signage zone is supported in principle, insufficient detail has been provided regarding the proposed signage, including its type, construction, dimensions, and materiality. Accordingly, it is recommended that a condition of consent be imposed requiring the submission and approval of a detailed signage strategy by Council prior to the issue of a Construction Certificate.

Provision	Compliance	Comment
3.17 Contamination	Yes	The proposal is not considered to result in any significant risk of contamination subject to appropriate conditions of consent. Refer to above discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	No mapped DCP height in stories applies to this site. The proposed development generally complies with the maximum building envelope as outlined in the 14 Hickson Road Dawes Point Conservation Management Plan (CMP) (SHR 00559).
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The ground-floor commercial tenancy provides a floor-to-ceiling height of 2.7metres and a floor-to-floor height of 3.07 metres. While this represents a variation to the control (4.5m for the ground floor), compliance would require an increase in building height, resulting in an exceedance of the approved CMP building envelope. The variation is therefore considered acceptable. Habitable rooms comply with and exceed the minimum floor-to-ceiling height requirements of the ADG and DCP.
4.2.2 Building setbacks	Yes	No mapped building setback applies to this site. The proposal has been designed generally in accordance with the site-specific CMP, which establishes the approved building envelope and setbacks for the site. Minor variations to the southern and eastern setbacks, along with a small cantilever encroachment at Levels 1 and 2, are

Provision	Compliance	Comment
		considered acceptable given the site's constraints and proximity to the sandstone escarpment. Overall, the development remains consistent with the intent of the CMP and objectives of the DCP.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	All apartments achieve at least 2 hours of direct sunlight in mid-winter, with four apartments receiving 4 hours, exceeding ADG requirements. The proposal does not result in additional overshadowing of neighbouring dwellings. While limited overshadowing of portions of the Hickson Steps occurs at 12pm in mid-winter, this impact is considered minor and acceptable.
4.2.3.3 Internal common areas	Yes	All internal common areas, including corridors and lift lobbies, receive access to natural light through windows along the eastern boundary.
4.2.3.5 Landscaping	Yes	The development incorporates a substantial landscaped green roof with associated landscape plan, providing visual amenity when viewed from Lower Fort Street and is supported.
4.2.3.6 Deep Soil	No	The proposal does not comply with the deep soil provisions of Clause 4.2.3.6 of the Sydney DCP 2012. However, strict compliance is constrained by the site's unique heritage context, the CMP defined building envelope, the retained heritage building, and underlying bedrock conditions, which significantly limit opportunities for meaningful at-grade deep soil planting. In lieu of deep soil zones, the development incorporates extensive rooftop landscaping that enhances the visual amenity of the site, particularly when viewed from Lower Fort Street. Given these constraints and the limited scale of the six-dwelling development, the

Provision	Compliance	Comment
		variation is considered justified and acceptable in this instance.
4.2.3.7 Private open space and balconies	Yes	All balconies exceed the 10sqm with a minimum dimension of 2m requirement.
4.2.3.8 Common open space	No	While the proposal does not provide common open space in accordance with the DCP, this is considered acceptable given the small scale of the development (six dwellings), the provision of generous and compliant private open space to all apartments, and the site's proximity to Barangaroo Reserve, Observatory Hill Park and the Walsh Bay foreshore. The absence of common open space is also influenced by the site's heritage constraints, the endorsed CMP building envelope and the need to protect significant public views. Accordingly, the variation is considered reasonable and supported in this instance.
4.2.3.9 Ventilation	Yes	100% of apartments are naturally cross ventilated. As detailed in the ADG table, plenums have been incorporated into bedroom 1 of apartments 2, 4 and 6 to improve cross ventilation. A condition of consent is recommended requiring details of the plenum design be submitted to Council for approval prior to issue of a Construction Certificate.
4.2.3.10 Outlook	Yes	All apartments achieve a high level of residential amenity through generous outlooks, primarily to the west and north-west overlooking the Walsh Bay Finger Wharves.
4.2.3.11 Acoustic privacy	Yes	Given the site's proximity to the Bradfield Highway, an Acoustic Assessment was undertaken and confirms that appropriate acoustic treatments, including upgraded glazing and acoustic seals to doors and windows, a plenum to the northern elevation, can be incorporated to achieve the relevant internal noise and natural ventilation

Provision	Compliance	Comment
		criteria. Subject to the recommended mitigation measures and conditions of consent, the development will provide an acceptable level of acoustic amenity and privacy for future occupants.
4.2.3.12 Flexible housing and dwelling mix	No	This clause applies to buildings with more than 20 dwellings and is therefore not applicable.
4.2.6 Waste and recycling Management	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Discussion

Heritage

63. The site is located within the Walsh Bay Wharves Precinct, Dawes Point Heritage Precinct and Millers Point Heritage Conservation Area and contains the former Sydney Harbour Trust ablutions block and sandstone escarpment, both identified as significant heritage elements. The proposal will facilitate the long-term conservation of the dilapidated ablutions building through adaptive reuse, restoration of significant fabric and retention of the site's historic setting. Significant elements, including the sandstone walls, escarpment, retaining walls and key view corridors, are proposed to be retained and conserved.

64. While the proposal introduces substantial new built form within a currently undeveloped site, the design has been refined through consultation with Council officers, Heritage NSW and the Heritage Council Approvals Committee to minimise heritage impacts. The building is contained below the level of Lower Fort Street, maintains the prominence of the sandstone escarpment and retains significant public views to and from Walsh Bay and Sydney Harbour. The contemporary design adopts a material palette of brick, terracotta-toned ceramics, metal and concrete that references the industrial and maritime character of Walsh Bay while remaining identifiable as a contemporary intervention. The proposal also provides for the conservation and adaptive reuse of the former ablutions building, which is currently in poor to very poor condition and no longer viable for its original purpose.

65. The proposal includes two minor departures from the development envelope envisaged by the endorsed 2018 Conservation Management Plan (CMP), comprising a localised encroachment of approximately 1.05 metres along portions of the southern elevation at Levels 1 and 2 and a limited cantilever element above the northern portion of the site adjacent to the former ablutions building. These departures have been substantially reduced through the design development process, including the removal of the previously proposed rooftop lift overrun and further refinement of the rooftop and built form design following pre-da consultation with Heritage NSW. Importantly, the proposal remains below the level of Lower Fort Street, retains the significant view corridors identified by the CMP, conserves all significant heritage fabric and does not adversely affect the significance of the former ablutions building, sandstone escarpment, Hickson Steps or surrounding heritage precincts. The submitted heritage and view analysis demonstrates that the proposal achieves the underlying objectives of CMP Policies 36, 37 and 38 by responding appropriately to the site's topography, heritage setting and identified public views. In some instances, the final built form provides an improved view outcome when compared with the maximum envelope contemplated by the CMP. Accordingly, the departures are considered minor in extent, consistent with the intent of the CMP and acceptable on heritage grounds.

66. On balance, the proposal is considered to achieve a positive heritage outcome by securing the conservation and adaptive reuse of a deteriorating heritage structure while respecting the heritage significance of the surrounding conservation areas. Subject to conditions requiring archival recording, implementation of conservation works, preparation of a Heritage Interpretation Strategy and ongoing heritage specialist involvement during detailed design and construction, the heritage impacts are considered acceptable. The minor departures from the CMP are justified by the overall public and heritage benefits arising from the proposal, including the long-term conservation of the former ablutions building, retention of significant views and conservation of the site's important heritage landscape elements.

Traffic, parking and access

67. The site currently operates as an on-grade managed car park ancillary to the Pier One Hotel and accommodates approximately 16 parking spaces utilised by the hotel's valet parking service. The proposal retains this long-standing operational relationship while redeveloping the site with a mixed-use building comprising six residential apartments, a ground floor office tenancy and three basement levels of parking. While the proposal increases the number of spaces available for hotel valet parking from the existing arrangement, the parking remains ancillary to the operation of the Pier One Hotel and will continue to operate as a managed valet service rather than a public car park. The proposed parking arrangement also facilitates the orderly consolidation of parking within a purpose-built basement facility while delivering residential and commercial development on the site.

68. The proposal provides a total of 37 car parking spaces, comprising:

- 12 residential spaces (two spaces allocated to each of the six apartments)
- 25 managed valet parking spaces associated with the operation of the Pier One Hotel
- no dedicated office parking spaces.

69. The parking is distributed as follows:

    - Basement 1: 9 residential spaces
    - Basement 2: 14 spaces comprising 3 residential spaces and 11 hotel valet spaces
    - Basement 3: 14 hotel valet spaces.

70. As discussed throughout the report, the site is located within the Walsh Bay Precinct and is subject to Chapter 5 of the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021. The Sydney Local Environmental Plan 2012 does not apply to the site and there are no applicable numerical parking standards under the planning framework governing the land.

71. Whilst the proposed parking provision exceeds the parking rates that would ordinarily apply under the Sydney LEP for the residential component, those controls do not apply to the site. While they provide a useful benchmark, the assessment must primarily be undertaken against the statutory framework applying to Walsh Bay and the merits of the proposal. Similarly, while the City's sustainable transport objectives are relevant strategic considerations, they cannot be applied as a de facto parking standard where the applicable planning framework does not prescribe parking caps or maximum parking rates. The key assessment consideration is therefore whether the parking provision and associated traffic impacts are appropriate having regard to the site's existing parking function, the operational requirements of the Pier One Hotel and the broader merits of the proposal.

72. Importantly, the proposed hotel parking is not considered to represent an entirely new or unrelated land use. Rather, it formalises, consolidates and expands an existing managed valet parking operation that has historically operated from the site in connection with the Pier One Hotel. The submitted Plan of Management (POM) is supported in principle and demonstrates that hotel guests will continue to drop off and collect vehicles from the hotel, with vehicle storage occurring entirely within the basement levels. No public access is proposed to the parking areas and the operation will remain controlled by hotel staff. The proposed stratum subdivision and POM provide an appropriate framework to ensure the ongoing management of the hotel parking component and clearly delineate the areas allocated to residential, commercial and hotel parking uses.

73. The submitted Traffic Impact Assessment concludes that the development can be accommodated within the surrounding road network without adverse traffic impacts. The assessment estimates a combined peak hour generation of approximately 10 vehicle trips in the AM peak and 9 vehicle trips in the PM peak and concludes that these movements can be readily accommodated by the existing road network. The assessment further concludes that the proposed access arrangements, parking layout, car lifts and manoeuvring areas comply with the relevant Australian Standards.

74. Having regard to the site's established parking function, the managed nature of the proposed valet parking operation, the absence of applicable parking standards under the Eastern Harbour City SEPP, and the findings of the submitted Traffic Impact Assessment, the proposal is not expected to result in adverse impacts on traffic flow, road safety or the amenity of adjoining residential areas. On balance, the proposed parking provision is considered acceptable and consistent with the requirement to provide appropriate parking and traffic management within the Walsh Bay Precinct.

75. As stated above the submitted POM is supported in principle, however, further clarification regarding access form the public road & circulation arrangements are required. A condition of consent is recommended requiring an updated Hotel Drop-off and Valet Car Parking Management Plan is to be prepared and submitted to and approved by Council's Area Planning Manager prior to issue of a Construction Certificate.

Consultation

Internal referrals

76. The application was discussed with Council's:

    (a) Building Services Unit;

    (b) Environmental Health Unit;

    (c) Heritage and Urban Design Unit;

    (d) Public Art Unit;

    (e) Public Domain Unit;

    (f) Surveyors;

    (g) Transport and Access Unit;

    (h) Tree Management Unit; and

    (i) Waste Management Unit.

77. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External referrals

Ausgrid

78. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

79. Ausgrid raised no objections to the proposed development, subject to conditions which are included in Attachment A.

NSW Heritage Council

80. Pursuant to the Heritage Act 1977, the application was referred to NSW Heritage Council on 26 March 2026 for concurrence.

81. Copies of public submissions made to the City of Sydney during the notification period were forwarded to the NSW Heritage Council on 23 April 2026.

82. General Terms of Approval were issued by NSW Heritage Council on 6 August 2026 and have been included in the schedules within the recommended conditions of consent.

Transport for NSW

83. Pursuant to Section 2.98 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.

84. Comments were received on 8 April 2026. Conditions of consent were recommended which are included in the Notice of Determination.

Water NSW

85. The proposed development requires groundwater dewatering and therefore requires approvals under the Water Management Act 2000.

86. As Integrated Development requiring approval under the Water Management Act 2000, a copy of the application was referred to the Water NSW in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000.

87. On 24 June 2026 Water NSW issued the General Terms of Approval subject to recommended conditions which are included in the Notice of Determination.

Sydney Water

88. The application is subject to the requirements of Section 78 of the Sydney Water Act 1994 and was referred to Sydney Water for comment.

89. Sydney Water responded on 15 April 2026 and provided conditions which have been included in the recommended conditions of consent.

Advertising and notification

90. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 24 March 2026 and 22 April 2026. A total of 62 properties were notified and two submissions were received.

91. The submissions raised the following issues:

    (a) **Issue**: Location of the basement car park exhaust stack and potential air quality impacts on the adjacent dwelling at 1 Lower Fort Street.

    Response: The proposed basement car park exhaust has been assessed against the submitted mechanical services information and relevant ventilation standards. The exhaust outlet is located approximately 11 metres from the boundary of the adjoining dwelling at 1 Lower Fort Street, exceeding the 6 metre separation distance to property boundaries referenced in AS 1668.2. The proposed location is therefore considered satisfactory and unlikely to result in unreasonable amenity or air quality impacts. Conditions of consent will require ongoing compliance with the relevant Australian Standards and National Construction Code requirements.

(b) **Issue**: Potential impacts on public views to Walsh Bay and Sydney Harbour, including the height of parapets and rooftop landscaping.

Response: View analysis submitted with the application demonstrates that the significant public views identified in the CMP are retained. The proposal remains below the level of Lower Fort Street and is not considered to result in unacceptable impacts on public views.

(c) **Issue**: Bulk, scale and encroachment beyond the CMP building envelope.

Response: The proposal has been designed generally in accordance with the site-specific CMP. Minor departures from the CMP envelope have been assessed and are considered acceptable given the site's constraints, heritage context and overall consistency with the intent of the CMP.

(d) **Issue**: Heritage impacts and the relationship of the development to the Hickson Steps and surrounding heritage items.

Response: The application was accompanied by detailed heritage documentation and has been subject to consultation with Heritage NSW. The proposal retains the heritage building and is considered to appropriately respond to the heritage significance of the site and its surrounds.

(e) **Issue**: Overshadowing of the Hickson Steps and surrounding public domain.

Response: The submitted shadow analysis indicates that while the proposal results in some additional shadowing of portions of the Hickson Steps during mid-winter, the impact is limited and acceptable in the context of the site's location and development constraints.

(f) **Issue**: Architectural design quality and compatibility with the character of Walsh Bay and Millers Point.

Response: The architectural design has undergone an extensive design development and pre-lodgement review process with Council and Heritage NSW. The proposal is considered to achieve an appropriate design outcome, having regard to the site's prominent location, heritage context and CMP requirements.

(g) **Issue**: Lack of active street frontage and interface with the public domain along Hickson Road.

Response: The proposal incorporates a ground-floor commercial tenancy and pedestrian entry points that contribute to activity at street level. The proposal has been amended to provide an active frontage interface with the public domain and is considered to have a positive contribution to the streetscape.

(h) **Issue**: Provision of three basement levels and concerns regarding the scale of parking.

Response: The proposed parking provision has been assessed against the relevant planning controls and is considered acceptable. The parking is contained wholly within the building envelope and will not adversely affect the streetscape or heritage significance of the site.

Financial contributions

Contribution	Comment
Section 7.11 Development Contribution	Not applicable, as the site falls outside the area covered by the City of Sydney Development Contributions Plan 2015.
Section 7.12 Central Sydney Contribution	Not applicable, as the site falls outside the area covered by the Central Sydney Development Contributions Plan 2020.
Affordable Housing Contribution	Not applicable as the site falls outside the area covered under clause 7.13(1) of the LEP.
Housing and Productivity Contribution	Contribution payable.

Housing and Productivity Contribution

92. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

93. The site is located with the Greater Sydney region, the development is a type of residential and commercial use development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.

94. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant legislation

95. Environmental Planning and Assessment Act 1979.

96. Heritage Act 1977.

97. Sydney Water Act 1994

98. Water Management Act 2000

Conclusion

99. Approval is sought for the construction of a 4-storey mixed use development comprising a ground level office tenancy and 6 residential units above, excavation for 3 levels of basement parking, provision of a temporary and permanent substation, conservation works and stratum subdivision.

100. The application has been assessed in accordance with section 4.15(1) of the Act and is considered satisfactory subject to the recommended conditions of consent at Attachment A.

101. The proposal has been assessed against the aims and objectives of the relevant planning controls including the Chapter 5 of the Eastern Harbour City SEPP, the Housing SEPP, and the SDCP 2012. Where non-compliances are proposed, they have been assessed in this report as being acceptable in the circumstances of the case or can be resolved by the recommended conditions of consent.

102. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.

103. Matters raised by internal and external referrals have been adequately addressed as discussed within this report.

104. The application was notified in accordance with the requirements of the EP&A Regulations 2021 and the City's Community Participation Plan 2024. Issues raised in submissions have been addressed as discussed in this report.

105. The proposed development demonstrates a design that responds to the constraints of the site and will positively contribute to the desired future character of the Walsh Bay Conservation Zone. The proposal is consistent with and satisfies the objectives of the Walsh Bay Precinct Conservation Plan and the site-specific Conservation Management Plan.

106. Subject to the recommended conditions of consent, the proposed development is considered to be in the public interest and is recommended for approval.

ANDREW THOMAS

Executive Manager Planning and Development

James Cooper, Specialist Planner

Attachment A

Recommended conditions of consent

SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2026/208 dated 23 March 2026 and the following drawings prepared by PopovBass:

Dwg No	Dwg Title	Date	Rev
Project Name: Mixed-use Development 14 Hickson Road, Dawes Point			
DA100	Title Page	17/08/2026	4
DA101	Context Plan	17/08/2026	4
DA102	Street Character Analysis	17/08/2026	4
DA103	Site Analysis Plan	17/08/2026	4
DA104	CMP Envelope Analysis 01	17/08/2026	4
DA105	CMP Envelope Analysis 02	17/08/2026	4
DA106	Demolition Plan	17/08/2026	4
DA107	Basement 3 Plan	17/08/2026	4
DA108	Basement 2 Plan	17/08/2026	4
DA109	Basement 1 Plan	17/08/2026	4
DA110	Site/ Ground Floor Plan	17/08/2026	4
DA111	Level 1 Plan	17/08/2026	4
DA112	Level 2 Plan	17/08/2026	4
DA113	Level 3 Plan	17/08/2026	4
DA114	Roof Plan	17/08/2026	4
DA115	Elevations 1	17/08/2026	4
DA116	Elevations 2	17/08/2026	4
DA117	Elevations 3	17/08/2026	4
DA118	Section AA	17/08/2026	4
DA119	Section BB	17/08/2026	4
DA120	Schedule of Finishes	17/08/2026	4
DA121	3D Perspectives	17/08/2026	4
DA200	Shadow Diagram: 9:00am June 21	17/08/2026	4
DA201	Shadow Diagram: 12:00pm June 21	17/08/2026	4
DA202	Shadow Diagram: 3:00pm June 21	17/08/2026	4
DA203	Sun Eye Views	17/08/2026	4
DA300	Area Diagrams	17/08/2026	4
DA500	Window Schedule	17/08/2026	4
DA600	Ground level Cross-Sections	17/08/2026	4

and the following drawings prepared by Jane Britt Design:

Dwg No	Dwg Title	Date	Rev
Project Name: No.14 Hickson Road Dawes Point			
0	Cover Sheet	1/02/2026	B
1	Landscape Design Strategy Diagrams	1/02/2026	B
2	Landscape Design Statement	1/02/2026	B
101	Landscape Ground Floor Planting and Plant Schedule	30/06/2026	C
102	Landscape Level 1, 2 & 3 Planting Plans and Schedule	1/02/2026	B
103	Landscape Roof Level Planting Plan and Plant Schedule	13/07/2026	C
201	Landscape South Elevation	13/07/2026	C
202	Landscape Section A	1/02/2026	B
301	Landscape Details	1/02/2026	B
302	Landscape Details	1/02/2026	B
401	Plant Schedule and Specification	30/07/2026	C

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason

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

(2) HOUSING AND PRODUCTIVITY CONTRIBUTION

Before the issue of any Construction Certificate the housing and productivity contribution (HPC) set out in the table below is required to be made.

Housing and productivity contribution	**Amount**
Housing and productivity contribution (base component)	$65,003.56
Transport project component	$0.00
Total housing and productivity contribution	**$65,003.56**

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering *the Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Reason

To require contributions towards the provision of regional infrastructure.

(3) GENERAL HERITAGE

All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013.

(a) The proposed works are to be carried out in a manner that avoids or minimises demolition, alterations and new penetrations/fixings to the significant fabric of the former Ablutions Block.

(b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.

(c) New services are to be installed within the former Ablutions Block with minimal impact to heritage fabric and significant spaces. Where possible new services are to use existing service runs.

(d) Appropriately qualified tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.

(e) The external stonework of the formers former Ablutions Block is not to be painted, rendered or coated.

Reason

To ensure that the development does not result in adverse heritage impacts

(4) DESIGN MODIFICATIONS – BALSUTRADE DESIGN

Use of the material 'SC1 Fluted Screen (terracotta tones) *tempio cylindrical baguette'* as balustrades is not clearly detailed in the drawings. It is likely greater structure than depicted will be required to support this design. 1:20 plans, sections and elevations of the balustrades must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(5) ACOUSTICALLY TREATED, NATURALLY VENTILATED PLENUM DESIGN DETAILS

Details of the acoustically treated, naturally ventilated plenum to Bedroom 1 of "apartments 2, 4 and 6 are required.

The below documentation is to be provided to Council's Area Planning Manager prior to issue of a Construction Certificate to demonstrate the adequacy of the plenum:

(a) The plenum design must be demonstrated to comply with the following:

(i) No mechanical assistance is to be provided to the plenums and/or alternative façade treatments. The plenum must incorporate acoustic lagging, be accessible for cleaning and be fitted with an insect screen. The plenum must not incorporate baffles that choke airflow.

(ii) Scaled elevations, plans and sections of the plenum are to be provided at 1:10.

(iii) The plenum design must be captured by specific drawing detailing the construction of the plenum and a written document outlining the specifications, manufacturing requirements and performance requirements for the plenum.

(b) A suitably qualified ventilation expert must be engaged and prepare a Ventilation Assessment of the proposed plenums to demonstrate compliance with the City of Sydney's *Draft Alternative Natural Ventilation of Apartments in Noisy Environments: Performance Pathway Guideline*.

The below documentation is to be provided to Council's Area Planning Manager prior to issue of an Occupation Certificate to demonstrate the adequacy of the plenums:

(c) The plenum design must be certified by a written acoustic compliance statement prepared by a suitably qualified acoustic consultant which demonstrates the following:

(i) The plenum must have an acoustic performance requirement expressed in terms of 1/1 octave bands (centre frequencies 31.5Hz through 8 kHz) to afford compliance with the noise criteria below, whilst the ventilators are operating, and external windows and doors are closed.

(ii) LAeq, 1 hour 45 dB(A) in any main living area (24-hours) and LAeq, 1 hour 35 dB(A) in any bedroom (10:00pm-7:00am), as outlined in Section 4.2.3.11 of the Sydney Development Control Plan (SDCP) 2012.

(iii) The written acoustic compliance statement will form part of the NOISE - CERTIFICATION OF ACOUSTIC DESIGN AND CONTINUED INTEGRITY PRIOR TO CONSTRUCTION CERTIFICATE condition (Condition 52), as a report that must be certified and verified prior to a relevant construction and occupation certificate in accordance with the condition.

(d) A maintenance report prepared by a suitably qualified engineer which demonstrates how the plenums will be maintained for the life of the development must be submitted.

The plenums must be retained for the life of the development.

Where the requirements of this condition conflict with another report (for example a separate acoustic report), this condition prevails.

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(6) REPAIRS AND WORKS FOR MAKING GOOD

All new repairs and works for making good of existing building fabric of the former Ablutions Block are to be carried out on a like for like basis and match the existing in terms of materials, colours, finishes, sizes, profiles and properties.

Reason

To ensure repairs and works for making good of the former Ablutions Block are appropriate

(7) BUILDING HEIGHT

(a) The height of the building must not exceed RL 16.90 (AHD) to the top of the building.

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved height.

(8) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope.

Reason

To ensure the constructed development complies with the approved height.

(9) NO AIR CONDITIONING UNITS TO FACADE OR BALCONIES OF BUILDING

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building.

Reason

To clarify the scope of the consent.

(10) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(11) WASTE AND RECYCLING MANAGEMENT – GENERAL

(a) The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's Guidelines for Waste Management in New Developments 2018, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(12) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

Reason

To ensure ground surface indicators, handrails and other elements required to provide access into the building/property are appropriately located.

(13) NO OBSTRUCTIONS

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel, then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any type of Occupation Certificate.

Reason

To ensure there are no obstructions on public footways and paths of travel.

(14) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

(15) STRATA SUBDIVISION – APPROVAL OF STRATA PLAN REQUIRED

A separate application must be made to Council or a Registered Strata Certifier to obtain approval of the Strata Plan and issue of a Strata Certificate under the Strata Schemes Development Act 2015.

Reason

To ensure separate approval is obtained for approval of the Strata Plan.

(16) STRATA SUBDIVISION – DEVELOPMENT CONSENT

Any proposal for strata subdivision will require development consent and therefore the lodgement of a separate development application or complying development application and subsequent approval from Council, or an Registered Strata Certifier, of the Strata Plan – and issue of a Strata Certificate, under the Strata Schemes Development Act 2015.

Reason

To ensure separate development consent is sought for strata subdivision.

(17) COMPLIANCE WITH REG 63 OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2024

The subdivision plan must show offsets where appropriate to the final surfaces of the major structural components of the building that are located within one metre of any proposed or existing vertical, horizontal or inclined boundary or easement, sufficient to satisfy sub-clauses (i), (j), (k) & (l) of Reg 63 of the *Surveying and Spatial Information Regulation 2024* and to the satisfaction of Council. All structural components of the buildings located within one metre of any proposed or existing boundary must be fully completed, with their final surfaces applied or constructed, prior to the subdivision plan being finalised.

Reason

To ensure the integrity of the Cadastre, compliance with the Regulation, and to inform lot owners and other stakeholders.

(18) EASEMENTS RELATING TO STRATUM LOTS

Documentary reciprocal easements for future services, drainage, to access shared facilities, support and shelter, and emergency egress (and other similar easements as required), affecting the whole of each lot if so desired, must be created over the lots in the subdivision, pursuant to Section 88B of the *Conveyancing Act 1919* and to Council's satisfaction.

Reason

To ensure the orderly operation of the development.

(19) ADDITIONAL EASEMENTS

Any other documentary easements or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision must be created over appropriate lots in the subdivision, pursuant to Section 88B of the *Conveyancing Act 1919* and to Council's satisfaction.

Reason

For the orderly operation of the subdivision.

(20) SECTION 88B INSTRUMENT

The terms within the Section 88B must ensure that easements prevail over any building management statement.

Reason

To ensure easements have certainty.

(21) BUILDING/STRATA MANAGEMENT STATEMENT

The Building/Strata Management Statement must adequately address the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot to Council's satisfaction, and be submitted with the subdivision application.

(a) Shared driveways and loading docks must be covered by suitable easements defined on the subdivision plan to the satisfaction of Council, and not be dealt with only by means of an SMS or BMS.

(b) Garbage rooms must be covered by suitably dimensioned easements shown on the plan to Council's satisfaction, unless fully enclosed by walls, and garbage room doors kept closed at all times unless personnel are present.

(c) The Building / Strata Management Statement must not prevail over any easement, restriction on the use of land, or positive covenant that benefits Council.

Reason
For the orderly operation of the buildings, and clarity for owners and purchasers of future lots.

(22) STREET ADDRESSES OF LOTS

In accordance with the *Surveying and Spatial Information Regulation 2024*, the street addresses for each lot must be shown on the Administration Sheet for the final plan of subdivision. An application must be made to Council's Spatial Information Systems Team by email:

SpatialInformationSystemsTeam@cityofsydney.nsw.gov.au

prior to the lodgement of the subdivision application, to obtain the correct street address for each lot. The street addresses allocated by Council must be provided to the registered surveyor for inclusion in a schedule on the Administration Sheet.

Reason

To ensure street addresses are appropriately allocated, and subsequently issued to the State's emergency services divisions, police departments and postal service.

(23) SYDNEY WATER CERTIFICATE - SUBDIVISION

Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Accredited Certifier prior to a Subdivision Certificate being issued.

Reason

To ensure requirements of Section 73 under the Sydney Water Act 1994 are met.

(24) SURVEY INFRASTRUCTURE

Prior to the issue of the subdivision certificate, sufficient survey infrastructure, including reference marks and permanent marks, must remain in place in order to satisfy the requirements of the *Surveying and Spatial Information Regulation 2024*, and to the satisfaction of Council.

Reason

To ensure the integrity of the Cadastre.

(25) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY

Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

(a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or

(b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

Reason

To ensure the preservation of existing survey infrastructure.

(26) SURVEY INFRASTRUCTURE – RESTORATION

(a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:

(i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;

(ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre Subdivision Certificate works" have been complied with and;

(iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure all requirements for survey mark removal are complied with.

(27) ENCROACHING AND/OR SHARED SERVICES

If any pipes, ducts, service lines or the like, contained within any lot, encroach upon adjoining lots within the development, or are shared by more than one lot, appropriate easements must be created, pursuant to Section 88B of the Conveyancing Act 1919, over the pipes, ducts, service lines (or similar) where any such encroachment or shared situation occurs. Any future easements must be reciprocal in nature and in appropriate terms acceptable to Council with the Council being the authority to release, vary or modify the easement.

Reason

To ensure the orderly operation of the development.

(28) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

(a) Compelling drivers to stop before proceeding onto the public way

(b) Compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

Reason

To ensure the safety of surrounding pedestrians and cyclists.

(29) TRAFFIC SIGNAL SYSTEM - CAR LIFT

A system of traffic lights and/must be installed at the car lift door, to indicate traffic movement on the car lift. This system must be detailed in the application for the construction certificate of the first stage of the development. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry, and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway.

By default, the car lift will have to remain on standby at street level to provide priority to incoming vehicles. An appropriate traffic management and control system must be installed that is integrated to all the basement levels to minimise vehicle queuing at the site entry and ensure that outgoing vehicles wait within the basement parking area when the car lift is occupied.

The details must be submitted to and approved by the Registered Certifying Authority prior to the issuance of a Construction Certificate

Reason

To maintain the orderly operation of vehicle parking areas.

(30) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

Reason

To ensure all associated roadway works costs are borne by the developer.

(31) VEHICLE ACCESS

All vehicles are to enter and depart the site travelling in a forward direction.

Reason

To increase pedestrian safety at the site access.

(32) SMALL CAR PARKING SPACES

(a) The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to any Construction Certificate being issued.

(b) All small car spaces must be clearly marked and identifiable as small car spaces. The signs or line markings must be in place and approved by the Principal Certifying Authority prior to an Occupation Certificate being issued and must be maintained in good order at all times.

Reason

To ensure all parking areas are designed in accordance with the requirements of the Australian Standards and Council requirements.

(33) MECHANICAL PARKING FACILITIES (CAR LIFT AND TURNTABLE)

The following details must be submitted to and approved by the Registered Certifying Authority prior to the issuance of a Construction Certificate:

(a) A comprehensive review of the proposed installation by the manufacturer, ensuring its suitability for implementation according to the manufacturer's specifications. This includes, but is not limited to, compliance with the Preliminary Design Principles outlined in Part 2.3.1 and Part 3.5 of AS/NZS 2890.1 2004.

(b) Implementation of mechanisms to address potential safety concerns, including but not limited to:

- Noise and vibration levels as received by occupiers of the building including references to relevant Standards;

- By default, the car lift will remain on standby at street level to provide priority to incoming vehicles. An appropriate traffic management and control system must be installed and maintained to minimise vehicle queuing at the site entry and ensure that outgoing vehicles wait within the basement parking area when the car lift is occupied.

- The trip hazard posed by platforms to pedestrians within the car parking areas.

- The risk of vehicles traversing the platforms despite the activation of the anti-collision mechanism (e.g., cars reversing over the platforms while on the paths of travel).

(c) Management of the use and operation of the car stacker/turntable, covering:

- During periods of vehicle queuing.

- During any system failure.

- Consistency with the manufacturer's specifications.

- Manufacturer's documentation, including information on service rates.

- Any induction training required prior to use.

(d) Any further information requested by the Registered Certifying Authority.

Reason

To ensure the proposed mechanical parking facilities (car lift and turntable) are designed, installed and operated safely and efficiently in accordance with relevant Australian Standards and manufacturer requirements, while minimising risks to building occupants, pedestrians and vehicle movements.

(34) PUBLIC ART

Public art must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

(a) The public artwork must be in accordance with the Preliminary Public Art Plan, prepared by Creative Road , dated July 2026, the *Sydney DCP 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.

(b) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager to issue of any Construction Certificate for above ground works.

(c) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at https://www.cityofsydney.nsw.gov.au/public-art please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

Reason

To ensure public art is installed to the City's satisfaction.

(35) PAVING MATERIALS

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

Reason

To ensure appropriate and safe paving materials are used.

(36) TREE(S) APPROVED FOR REMOVAL

(a) The tree(s) detailed in Table below are approved for removal. Tree removal must not occur until the Construction Certificate has been issued.

Table 1 – Tree Removal:

Tree Number	Species:	Location
5	*Ficus macrophylla* (Moreton Bay Fig)	Within site - Eastern boundary
6	*Celtis sinensis* (Chinese Hackberry)	Within site - Eastern boundary
7	*Phoenix reclinata* (Senegal Date Palm)	Within site - Eastern boundary
8	*Ficus microcarpa* var. hillii (Hills Weeping Fig)	Within site - Eastern boundary
9	*Ficus microcarpa* var. hillii (Hills Weeping Fig)	Within Site - SW corner boundary adjacent to Hickson steps

(b) Tree removal works must be carried out by a qualified Arborist (minimum AQF Level 3) and in accordance with SafeWork's Code of Practice - Amenity Tree Industry.

Reason

To identify the trees that can be removed.

(37) TREE(S) THAT MUST BE RETAINED

(a) The tree(s) detailed in the table below must be retained and protected in accordance with the conditions throughout development works.

(b) Approval is NOT granted for the removal of the tree(s) detailed in the table below, which the City of Sydney has determined to be important landscape elements.

Table 2 – Tree Retention:

Tree Number	Species:	Location
1	*Platanus x acerifolia* (London Plane)	Street Tree - Hickson Rd
2	*Platanus x acerifolia* (London Plane)	Street Tree - Hickson Rd
3	*Platanus x acerifolia* (London Plane)	Street Tree - Hickson Rd
4	*Platanus x acerifolia* (London Plane)	Street Tree - Hickson Rd

Reason

To identify the trees that cannot be removed and must be retained and protected.

(38) SPECIAL CONDITION – STREET TREES AND DETAILED DESIGN APPLICATION

(a) All street trees surrounding the site must be included for retention with any subsequent detailed design development application.

(b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street tree to allow maturity of the tree to be achieved.

(c) The location of any new driveways shall ensure it does not require the removal of any existing street trees. The driveway shall be appropriately setback to ensure it does not adversely impact on any existing street trees both below and above ground.

Reason

To ensure the development is appropriately designed to accommodate existing street trees.

(39) USE - SEPARATE DA REQUIRED

No consent is granted or implied for the fit out or specific use of the office tenancy located on the Ground Floor.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fit out and use of the tenancy prior to that fit out or use commencing.

Reason

To require separate consent to be obtained for a use.

(40) SIGNS - SEPARATE DA REQUIRED

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

Reason

To require separate consent to be obtained for any additional signs.

(41) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

Reason

To ensure no element of the development obstructs the use of the public way.

(42) FLOOD RISK MANAGEMENT

(a) Details of proposed flood barriers and their operation to demonstrate:

(i) Flood control devices or systems can withstand flood-related forces including hydro static load and dynamic load and impacts in a probable maximum flood event.

(ii) Flood control devices or systems have been certified by an appropriately experienced engineer registered on the National Engineers Register (NER).

(iii) Flood control devices or systems are integrated into the driveway of a building to descend from above or ascend from below to exclude floodwater.

(iv) Automatic closure of flood control devices or systems, together with an anti-opening mechanism to prevent them from being opened in a flood event.

(v) Appropriate peripheral safety measures will be provided to support the operation of the flood control devices or systems, including, but not limited to:

a. an independent back-up power supply, to be used in the event of a power failure; and

b. audible and visual alarm systems to warn of the operation of the flood doors and barriers. The alarm system must be linked to the building management system which indicates the status of the failsafe operation and back-up supply power;

c. flood sensors linked to the alarm system to provide information on the status of the operation of the flood doors and barriers; and

d. passenger lift programming is to ensure that the lift is deactivated when flood doors and barriers are activated.

(b) All building structures are to be designed to ensure structural integrity for immersion and the impact of hydraulic forces of floodwaters and debris up to the 100 year flood level plus 0.5m or Probable Maximum Flood level, whichever is the greater. For example, where glass is used, it must be toughened glass to resist the impact of hydraulic forces of floodwaters and impact loading of debris. Details of these works shall be submitted to and shall be approved by the Principal Certifying Authority prior to the issue of the stage 2 Construction Certificate.

(c) Flood protection is required for all flood events up to and including the minimum flood planning levels applicable to the subject site.

(d) Flood proofing is to be maintained for the life of the development. The design of the flood proofing is to be certified by a suitably qualified practitioner engineer with experience in flood proofing and is to be compatible with the design of the development set out in this development consent. The certification must ensure compliance with the relevant Australian Standards and codes for structural engineering. The certification must be supplied by the Applicant to the Certifying Authority.

(e) All flood protection features requiring power to operate must have alternative backup power source.

(f) All electrical features including power points and other mechanical equipment must be set above the Flood Planning Level. This must be shown on the detailed plans prior to the issue of the Construction Certificate for the basement.

(g) A design certification report prepared by a suitably qualified practitioner engineer demonstrating compliance has been achieved of these requirements above shall be submitted to and shall be approved by the Principal Certifying Authority prior to the issue of any Occupational Certificate.

Reason

To ensure flood risk management measures are complied with.

(43) FLOOD EMERGENCY RESPONSE PLAN

(a) A Flood Emergency Response Plan is to be prepared by a suitably qualified flood engineer. The Flood Emergency Response Plan is to be implemented and operated by the building owner and/or Owners Corporation at all times.

(b) The Flood Emergency Response Plan must include all measures required to be implemented to ensure the ongoing management of flooding risk in relation to the building, including (but not limited to) the following:

(i) Describe the flood conditions in the vicinity of the site.

(ii) If appropriate, direct persons on the site to seek refuge above the Probable Maximum Flood level for all levels of the building that are flood affected. Shelters in place for flood affected parts of the building is not permissible.

(iii) Include a map directing residents and visitors to a refuge via a flood free pathway within the building.

(iv) Describe the audible and visual alarm system for the basement area, including the linkage of this system to the building management system, details of failsafe operations and alternate power arrangements.

(v) Provide details (as an appendix) of all proposed flood sensors, their purpose, operation and maintenance (including the frequency of maintenance).

(vi) Provide details of lift design and operation in the event of a flood and specify how the lift will be deactivated in the event of a flood.

(vii) Provide details of access to flood free areas for disabled persons.

(viii) Provide details of all flood protection design features of the building (flood doors and the like) and describe their operation, maintenance, repair and replacement arrangements. Repairs are to be completed to ensure that the flood doors/gates/barriers remain operational and effective at all times.

(ix) A pumping option needs to be shown, along with the location of pumps (in case mechanical failures of flood barriers occur). The pumps must be designed to pump out the full range of flood volumes within 6 hours after floodwaters have receded.

(x) Details of the operations and maintenance of the pumps are to be included. Any pumping equipment used to disperse flood waters should have the same maintenance schedule as the flood doors; and

(xi) Make provision for three monthly testing by the building owner and/or Owners Corporation.

(c) The building owner and/or Owners' Corporation must enter into a service arrangement by which all identified faults or defects to all flood designed features of the building must be repaired within 24 hours.

(d) No toxic or other hazardous materials are to be stored below the Flood Planning Level or in the basement levels.

(e) Prior to the issue of any Construction Certificate for the basement, the Flood Emergency Response Plan (FERP) is to be submitted to and approved by Principal Certifying Authority (PCA).

Reason

To ensure flood risk management measures are complied with.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(44) MATERIALS AND SAMPLES SCHEDULE

A detailed material, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.

The schedule is to reflect the requirements of the 'Design Modifications – Balustrade Design' condition of this consent.

The materials and samples schedule/board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Reason

To require the submission of a materials and samples board following assessment of the development.

(45) REFLECTIVITY

Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

Reason

To ensure the development does not result in adverse reflectivity impacts and to protect the amenity of the public domain.

(46) LETTERBOXES

(a) Details of the location and design of all letterboxes are to be submitted to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

(b) Letterboxes are to be discreetly located, must not obstruct and/or dominate the public way and must be of a type and specification that minimises opportunities for mail theft.

(c) Where possible, consideration should be given to locating letterboxes within secure building lobbies.

Note: The applicant is strongly advised to contact Australia Post to discuss how any letterboxes within the lobby will be accessed.

Reason

To ensure letterboxes are located in an appropriate location on the site to prevent mail theft.

(47) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Registered Certifier must ensure that all living rooms and bedrooms have a minimum finished floor to ceiling height of not less than 2.7 metres.

Reason

To ensure an adequate minimum floor to ceiling height to provide an acceptable level of amenity.

(48) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

(a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

(b) The approved plan must be complied with during any demolition and/or construction work.

Reason

To ensure that the impacts of construction traffic is appropriately managed.

(49) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

(a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of [insert affected properties] (and any other properties identified by the qualified structural engineer engaged to undertake the report) are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Registered Certifier and the Council prior to the issue of any Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

(b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

Reason

To ensure that dilapidation reports are prepared and to identify damage to adjoining/nearby properties resulting from building work on the development site.

(50) SANDSTONE RECYCLING (FOR LARGE SCALE DEVELOPMENTS INVOLVING EXCAVATION TO A DEPTH OF AT LEAST ONE BASEMENT LEVEL)

(a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of any Construction Certificate. The report is to include an investigation of the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.

(b) The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.

(c) Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.

(d) In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse or sold for conservation work. Storage may be able to be facilitated by the Council or NSW Public Works. The Minister's Stonework Program Manager at NSW Public Works can be contacted on 1300 00 88 88 to discuss procurement or storage of your stone.

(e) The programming of the works is to take into account, the above process.

Reason

To ensure that sandstone on the site that is of an appropriate quality is removed by cutting into quarry blocks for use as high quality building construction material, including for building conservation.

(51) BICYCLE PARKING AND END OF TRIP FACILITIES

(a) The minimum number of bicycle parking spaces and end of trip facilities to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	6	Spaces must be a class 1 bicycle locker or Class 2 bicycle facilities [1]
Residential visitor	1	Spaces must be Class 3 bicycle rails
Non-residential visitor	0	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	0	
Personal lockers	0	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

Notes:

(i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.

(b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(52) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development must comply with the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of any Construction Certificate.

Car Parking Type	Number
Residential spaces	12
Subtotal	
Motorcycle parking	4
Hotel parking (valet) (including 3 small car)	25
Total	

Reason

To ensure the allocation of parking is in accordance with the approved development.

(53) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Registered Certifier prior to any Construction Certificate being issued.

Reason

To ensure parking facilities are designed in accordance with the Australian Standards.

(54) HOTEL DROP-OFF AND VALET CAR PARKING MANAGEMENT PLAN

A Hotel Drop-off and Valet Car Parking Management Plan is to be prepared and submitted to and approved by Council's Area Planning Manager prior to issue of a Construction Certificate.

The Plan must include (but not limited to the following):

(a) Details of guest and visitor vehicle drop-off and pick-up arrangements (any pre-booking is required?);

(b) Details of valet parking operations, including the location of vehicle collection, storage and retrieval;

(c) Measures to ensure valet parking activities do not result in vehicle queuing on public roads or adversely affect the safe and efficient operation of the surrounding road network; and

(d) Measures to ensure safe and convenient pedestrian movement between the vehicle drop-off/pick-up location and the hotel entrance.

The approved Plan must be implemented and maintained at all times for the life of the development.

Reason

To ensure safe and efficient hotel drop-off, pick-up and valet parking operations with minimal traffic impacts.

(55) NOISE - CERTIFICATION OF ACOUSTIC DESIGN AND CONTINUED INTEGRITY PRIOR TO CONSTRUCTION CERTIFICATE

The Acoustic Report (ref: 20260024.1/1102A/R0/EM (rev1)) prepared by Acoustic Logic dated 25 February 2026 is approved.

Prior to the issue of a relevant construction certificate, the Certifier must ensure the following:

(a) A suitably qualified acoustic consultant must be appointed in accordance with the definition noted in the City of Sydney – Environmental Noise Technical Requirements, dated October 2025.

(b) The consultant must review the relevant building work plans and specifications and ensure that:

(i) The proposed works do not interfere with the functionality of, or reduce the effectiveness of, any existing noise mitigation measures at the premises.

(ii) The premises remains capable of meeting all applicable noise criteria as approved under development consent D/2026/208.

(iii) Any necessary amendments are made to the final plans, drawings, and construction specifications to ensure compliance with this condition and any other relevant conditions of the consent.

(iv) These requirements are completed to the written satisfaction of the Certifier.

(c) Upon completion of the above tasks, the consultant must notify the Certifier in writing of any identified non-compliances.

Reason

To ensure the acoustic amenity of surrounding developments is maintained as a result of the development.

(56) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site-specific noise management plan must be submitted to the Council for comment and approval prior to issue of any Construction Certificate.The Plan must be prepared by a suitably qualified acoustic consultant who is a person who possesses the qualifications to join the Australian Acoustic Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustic Consultants (grade of member firm).The plan must include but not be limited to the following:-

(a) identification of noise sensitive receivers near to the site.

(b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.(c) A representative background noise measurement ($L_{A90,\ 15\ minute}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.(d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.(e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.(f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.(g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.(h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Reason

To ensure an adequate construction noise and vibration management plan is prepared.

(57) MECHANICAL VENTILATION

(a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings.*

(b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Registered Certifier prior to the issue of any Construction Certificate.

(c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

Reason

To ensure the ventilation complies with relevant standards.

(58) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

(a) Before the issue of any Construction Certificate, a construction environmental management plan (CEMP) must be prepared for the site by a suitably qualified environmental consultant and submitted to the Certifier and Council.

(b) The CEMP must consider all potential environmental impacts from the approved works including but not limited to sediment and erosion control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

(c) All works must be undertaken onsite in accordance with the approved CEMP.

Reason

To ensure that construction is appropriately managed to prevent pollution impacts.

(59) DESIGN FOR ENVIRONMENTAL PERFORMANCE

(a) Prior to the issue of any Construction Certificate, the Registered Certifier must be satisfied that those matters listed in the following sections of the approved Design for Environmental Performance report prepared by Brian Bass dated Thursday, February 26, 2026 (Council Ref: 2026/109270) are incorporated into the relevant construction plans and accompanying documentation:

(i) Section 3 – BASIX

A copy of the required completed BASIX certificate(s) accepted as part of this consent/as amended above must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate(s) must be specified on the plans submitted with the Construction Certificate application.
Note: Any requirement detailed in the accompanying BASIX Certificate must be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Division 1 of Part 6 of the EP&A Regulation, 2021.

(ii) Section 4 – Energy Efficiency and Greenhouse Gas Emissions Abatement

(iii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design

(iv) Section 6 – On site Renewable Energy Generation and Storage

(v) Section 7 – Design for Resilience to Climate Change

(vi) Section 8 – Designing for mains potable water savings and water efficiency

(vii) Section 9 – Storm water quality

(viii) Section 10 - City Greening

(ix) Section 11 - Promoting Active Transport and Reducing Transport Emissions

(x) Section 12 - Materials, Embodie Carbon and Circularity

(xi) Section 13 - Waste Management and Resource Recovery

(xii) Section 14 - Third Party Certification and Design, Construction or Technology Innovations

(b) Changes to any commitments as listed in the approved Design for Environmental Performance report must be submitted to and approved by Council's Area Planning Manager/Coordinator prior to the issue of any relevant Construction Certificate.

Reason

To ensure the environmental performance of the development.

(60) PUBLIC DOMAIN DAMAGE BOND

(a) A Public Domain Damage Deposit calculated on the basis of 60 square metres of asphalt site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.

(b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.

(c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with the City.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

(61) PROTECTION OF STONE KERBS

(a) The existing stone kerbs on the Hickson Road frontage of the site are to be retained and properly protected during demolition, excavation and construction works.

(b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.

Note the following:

(c) All costs associated with the works are to be borne by the developer.

(d) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.

(e) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.

(f) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.

(g) Council approval is required before kerbs are removed.

(h) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(i) Stone kerbs and gutters may be bonded in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

(j) Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Road's for further information.

Reason

To ensure the protection of stone kerbs.

(62) PUBLIC DOMAIN CONCEPT PLAN

A public domain concept plan, showing all the site frontages and extending a minimum of 5m past the boundary and to the road centreline, must be prepared in accordance with the City's *Public Domain Manual* and *Sydney Streets* Code. It must be submitted to and approved by the City's Public Domain Unit prior to the issue of any Construction Certificate for the development other than for demolition or excavation.

Note: A detailed Public Domain Plan will be required prior to construction (refer to Public Domain Plan Detailed Documentation for Construction condition).

Reason

To ensure public domain works comply with Council's requirements.

(63) PUBLIC DOMAIN LEVELS AND GRADIENTS - MAJOR

The public domain levels and the alignment and location of the vehicle crossing shown on the Architectural Plans are not approved under this consent. Prior to the issue of any Construction Certificate, a Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission must be prepared in accordance with the City's *Public Domain Manual* and submitted with a completed Application for *Public Domain Levels and Gradients*. Information on how to complete the submission can be downloaded from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

Any requirements to comply with Disability Discrimination Act at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Public Domain Levels and Gradient plans are to be included with the Public Domain Plan – Detailed Documentation for Construction condition submission.

Reason

To ensure public domain levels and gradients comply with Council's requirements.

(64) STORMWATER DRAINAGE DESIGN

The stormwater drainage design submitted with the Development Application is not supported. All site stormwater is to be connected directly to the existing kerb inlet pit (KIP) at Hickson Road, subject to the approval.

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals must be submitted to and approved by the City's Public Domain Unit and must include:

(i) Council's Sydney Streets Technical Specifications, Part A4 Drainage Design;

(ii) Council's Sydney Streets Technical Specifications, Standard Drawings;

(iii) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;

(iv) Council's Stormwater Drainage Manual; and

(v) All relevant Australian Standards.

(vi) An investigation of the existing drainage infrastructure and incorporation into the stormwater drainage design of any works required to rectify identified defects, damage, blockages or capacity constraints.

This information is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.

Reason

To ensure stormwater drainage design complies with Council's requirements.

(65) STORMWATER ON-SITE DETENTION

The requirements of Sydney Water with regard to the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the approval must be submitted to Council prior to issue of any Construction Certificate other than demolition.

Where an OSD is not required by Sydney Water one may still be required by the City.

Reason

To ensure the requirements of Sydney Water are complied with.

(66) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(67) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

(a) The Operational Waste Management Plan accompanying this Development Application has not been approved by this consent. An Operational Waste Management Plan is to be submitted to Council's City Cleansing & Resource Recovery unit and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The plan must comply with Council's Development Control Plan and Guidelines for Waste Management in New Developments. The plan must address:

(i) Commercial bin transfer path to be amended to provide a shorter path of travel through the lobby.

(ii) Bins presented on kerbside to be lined in a single row. The bin presentation point to be updated on the architectural plans.

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

(68) WASTE AND RECYCLING MANAGEMENT – RESIDENTIAL

(a) The Operational Waste Management Plan accompanying this Development Application has not been approved by this consent. An Operational Waste Management Plan is to be submitted to and reviewed by Council's City Cleansing & Resource Recovery Unit and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The plan must comply with Council's Development Control Plan and Guidelines for Waste Management in New Developments. The plan must address:

(i) Residential bins to be transferred via the carpark lift as per the WMP. The residential transfer path must be updated on the architectural plans.

(ii) Bins presented on kerbside to be lined in a single row. The bin presentation point to be updated on the architectural plans.

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

(69) WASTE INFRASTRUCTURE – RESIDENTIAL

Prior to the issue of Construction Certificate, detailed plans, and specifications for the construction of waste management facilities must be submitted for review by Council's City Cleansing & Resource Recovery Unit and approved by Council's Area Planning Manager. The waste management facilities to be provided responsive to Council's controls, policies, and guidelines, including but not limited to:

(a) Waste and recycling stream(s) storage area(s) to be designed and constructed in accordance with Reference D of Council's Guidelines for Waste Management in New Developments. Floors to be waterproofed across all intersections that extend a minimum 1200mm high on the walls

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

(70) WASTE INFRASTRUCTURE – COMMERCIAL

Prior to the issue of Construction Certificate, detailed plans, and specifications for the construction of waste management facilities must be submitted for review by Council's City Cleansing & Resource Recovery Unit, and approved by Council's Area Planning Manager. The waste management facilities to be provided are to be responsive to Council's controls, policies, and guidelines, including but not limited to:

(a) Waste and recycling stream(s) storage area(s) to be designed and constructed in accordance with Reference D of Council's Guidelines for Waste Management in New Developments. Floors to be waterproofed across all intersections that extend a minimum 1200mm high on the walls.

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

(71) LANDSCAPE MAINTENANCE PLAN

Prior to the issue of a Construction Certificate, a detailed Landscape Maintenance Plan shall be submitted to and approved by the Principal Certifier.

The Landscape Maintenance Plan must include, but not be limited to, the following:

(a) Identification of all landscape areas subject to maintenance

(b) A maintenance schedule detailing the type, timing and frequency of maintenance activities required beyond the initial post-construction establishment period

(c) Provisions for replacement of failed, dead or diseased vegetation

(d) Details or diagrams of how each area will be safely accessed for regular and ongoing maintenance

(e) The landscape maintenance plan must be complied with during the ongoing occupation of the property

Reason

To ensure that a comprehensive and practical maintenance strategy is in place to support the long-term success of all proposed landscape works.

(72) STRUCTURAL AND WATERPROOFING CERTIFICATION FOR LANDSCAPE WORKS

Prior to the issue of any Construction Certificate, structural, hydraulic and waterproofing certification for the design of all areas of landscaping on structure and green roofs are to be submitted to and approved by the Principal Certifying Authority.

Reason

To ensure that engineering designs associated with approved landscape works have been completed prior to construction commencement.

(73) PROVISION OF UPDATED PLANS CLEARLY SHOWING TREES TO BE RETAINED AND THEIR TREE PROTECTION ZONES

(a) Prior to the issue of any Construction Certificate, the applicant must submit updated detailed architectural, building, engineering (structural, stormwater and drainage services), and landscape documentation. These updated plans must clearly show:

(i) The retention of trees as required by these conditions of consent;

(ii) The position of all tree trunks;

(iii) Structural Root Zones (SRZs) and Tree Protection Zones (TPZs) in accordance with AS 4970–2025;

(iv) Any tree protection measures to be implemented during construction.

(b) All updated plans must be submitted to and approved by the City of Sydney Urban Forest Team prior to the issue of the Construction Certificate.

Reason

To ensure the development appropriately protects existing trees, ensuring their structural stability and long-term viability.

(74) TREE PRUNING SPECIFICATION

(a) A Pruning Specification Report prepared by a qualified Arborist (minimum AQF Level 5) must be submitted to and approved by the City of Sydney Urban Forest Team prior to the issue of any Construction Certificate. The report must include:

(i) Branch numbers, orientation, diameter, and percentage of canopy to be pruned (maximum 5% canopy and 100mm branch diameter);

(ii) Photographs clearly marking individual branches recommended for pruning/removal (single vertical line markings will not be accepted);

(iii) Pruning specifications in accordance with *AS 4373 Pruning of Amenity Trees;*

(iv) No tree removal may be recommended in the report.

(b) All approved pruning must be undertaken by a qualified Arborist (minimum AQF Level 3) in accordance with SafeWork NSW Code of Practice – Amenity Tree Industry.

(c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning.

(d) Where pruning involves a neighbouring tree, works must only be undertaken from within the subject property unless neighbour consent is obtained. Entry onto neighbouring property is not authorised without consent.

(e) Consent from Council's Tree Management Officer is required prior to any additional pruning works beyond the approved report, including pruning of tree roots greater than 40mm in diameter.

Reason

To ensure the development appropriately protects existing trees, ensuring any pruning undertaken does not impact the trees structural stability and long-term viability.

(75) SPECIAL CONDITION – CONSTRUCTION ACCESS

Construction access and the location of the works zone must be planned to avoid adversely impacting any tree to be retained. Updated plans and methodology must be submitted and approved by the City's Urban Forest Team prior to the issue of any Construction Certificate. Alternative work zone locations must be provided, and suitable size cranes/machinery/equipment utilised to minimise tree pruning requirements. Only minor pruning works will be approved.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

(76) SPECIAL CONDITION – TREE ROOT INVESTIGATIONS

(a) Root investigations must be undertaken to determine the impact from the proposed driveway and layback on Tree 2 - Platanus x acerifolia (London Plane Tree) The root trench must be located along the proposed outer edge of layback and northern side of driveway within the TPZ of Tree 2 and to a depth of the maximum extent of excavations required for the works and be:

(i) undertaken using tree sensitive methods (i.e hand/air spade/hydrovac) with roots greater than 40mm diameter retained and protected. To prevent root damage, low pressures (i.e. below 900 psi) must be used to ensure the bark remains intact.

(ii) supervised by a qualified Arborist (minimum AQF Level 5).

(b) The results of the root investigations must be submitted and approved by the City of Sydney Urban Forest Team prior to the issuing of any Construction Certificate and include:

(i) an assessment and documentation of tree root size, number and condition a root map and clear photographs of the completed excavation line including points of reference to determine orientation and location on site.

(ii) a discussion on the number of roots that will need to be pruned for the works and the likely impact this will have on the longer-term viability of the tree. Site specific recommendations based on the findings including and design modifications required to ensure tree roots are maintained. Note: it is expected that roots greater than 40mm are retained and protected. Only minor root pruning will be approved.

(77) SPECIAL CONDITION – TREE BOND

(a) An $80,000 unconditional bond for Trees 1, 2, 3 & 4 must be submitted and approved by the City of Sydney to ensure the retention and protection of the tree(s) prior to the issuing of any Construction Certificate(s).

(b) The following formula will be used for the retention of all or part of the bond(s):

(i) An initial failure to comply with any tree protection condition – 20% of the bond for each tree.

(ii) A second of continuing failure to comply with any tree protection condition – 40% of the bond for each tree.

(iii) If after 40% of the bond is retained, further failure to comply with the tree protection conditions occur, the City of Sydney may instigate legal proceedings for the cessation of all works on the site.

(iv) Death of tree(s) due to non-compliance with the tree protection conditions – Total 100% of the bond and possible legal action by the City of Sydney.

(c) The unconditional bond will be retained by the City of Sydney for a minimum period of 12 months from the date of the issue of the Occupation Certificate. An Arboricultural Report prepared by a qualified Arborist (minimum AQF Level 5) must be submitted to the City of Sydney at the expiry of each bond period and prior to the bond being refunded. If the report indicates that the tree(s) require remedial works, the bond may be held until the satisfactory completion of the remedial work by the City of Sydney Urban Forest Team has been undertaken and the trees return to good health.

(78) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

Reason

To ensure that the provision of a substation to service the development is appropriately incorporated into the design of the building in a manner that minimises streetscape impacts.

(79) SIGNAGE STRATEGY

A signage strategy for the building is to be submitted to and approved by Council's Area Planning Manager prior to issue of a Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building. All signage must comply with the relevant requirements of Section 3.16 of the Sydney Development Control Plan 2012.

Reason

To require a signage strategy.

(80) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels of RL3.24m AHD indicated in the flood assessment letter prepared by Dylan Alexander of JN Engineering dated 13 August 2026

Details must be submitted to the Registered Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(81) PUBLIC DOMAIN WORK – CONSTRUCTION APPROVAL UNDER SECTION 138 ROADS ACT 1993

Prior to the construction of any public domain works, approval under Section 138 / 139 of the Roads Act 1993 must be issued by the City's Public Domain Unit.

Reason

To ensure relevant approvals for public domain work are obtained.

(82) STREET TREE PRUNING AND REMOVAL

(a) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 40mm diameter. Only minor pruning works will be approved by Council.

(b) Any pruning that has been approved by Council, must be carried out by an arborist with a minimum AQF Level 3 qualification in arboriculture and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure that approval is obtained for any pruning works to, or removal of, street trees and that such works are carried out in an appropriate manner.

(83) TREE PROTECTION ZONES (FOR STREET TREES)

(a) Tree Protection Zone(s) (TPZs) must be established in accordance with Australian Standard 4970 'Protection of trees on development sites' before the commencement of and until completion of the development works.

(b) The TPZ's are to be established in the location and manner outlined in the approved Arboricultural Impact Assessment (AIA), Tree Protection Specifications and/or Tree Protection Plan prepared by Earthscape Horticulture Services dated 6 February 2026.

(c) Tree trunk and major branch protection must be installed prior to the issuing of any Construction Certificate and maintained for the duration of all construction work, and must include:

(i) Tree trunk(s) and/or major branches to a height of 2 metres protected by wrapped thick underlay carpet or similar padding material to limit damage.

(ii) Timber planks (50mm x 100mm) placed around tree trunk(s). The timber planks must be spaced at 100mm intervals and must be fixed against the trunk with tie wire, or strapping. The thick carpet underlay or padding material and timber planks must not be fixed to the tree in any instance, or in any fashion.

(iii) Young street trees protected by the installation of three (3) wooden stakes around the edge of the tree pits or a minimum of 1 metre from the base of the trunk. Hessian must be wrapped around the stakes. If existing stakes or a metal tree guard are already in place, these suffice as tree protection.

(iv) Tree trunk and major branch protection must remain in place for the duration of the development works and be removed at the completion of the development works.

(d) Materials or goods, including sheds, must not be stored or placed:

(i) around or under the tree canopy or;

(ii) within two (2) metres of tree trunks or branches or any street trees.

(e) Temporary signs or any other items must not be fixed or attached to any street tree.

(f) Where installed, hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree pits. Supporting columns must not be placed on exposed tree roots.

(g) Existing sections of kerbs adjacent to any street tree must not be removed without approval from the City of Sydney Tree Team.

(h) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any Tree Protection Zone (TPZ). Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed.

(i) Any damage sustained to street tree(s) as a result of any construction activities (including demolition), must be immediately reported to the City of Sydney Urban Forest Team on 9265 9333. Any damage to street trees as a result of any construction activities may result in prosecution under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

(j) Compliance with this condition must be addressed in the Tree Protection Compliance Certificate prepared by a qualified Arborist (minimum AQF Level 5).

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure the protection and ongoing health of the street trees.

(84) SURVEY SETOUT

Prior to the commencement of construction all footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor.

The building shall be sufficiently set back to ensure that no component of the building (such as the roof, guttering, or downpipes) encroach upon or overhang the boundaries of the site.

The registered surveyor shall provide a survey and report to the Principal Certifier indicating the position of the footings, walls and floor slabs in relation to the boundaries of the allotment.

Reason

To ensure the development does not encroach onto neighbouring properties.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(85) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the surrounding area.

(86) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

(a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan.

(b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP)

Such periods must be set and agreed to by Council's Health and Building Unit.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure all parties are aware of the supporting documentation that applies to the development.

(87) USE OF INTRUSIVE APPLIANCES - NOT APPROVED

(88) This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992".

A separate Section 4.55 application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992.

Reason

To ensure the acoustic amenity of surrounding developments is maintained

(89) NOTIFICATION – NEW CONTAMINATION EVIDENCE

(a) Council and the Certifier (AND/OR ACCREDITED SITE AUDITOR IF REQUIRED) must be notified immediately of any new information which arising during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination.

(b) Once identified, remediation, demolition or construction work must immediately cease.

(c) A certified environmental consultant must be appointed to undertake an assessment of the potential contaminants and works required to make the site safe from potential human health and environmental harm.

(d) If the duty to report contamination to the NSW EPA under Section 60 of the Contaminated Land Management Act 1997 is triggered, the NSW EPA and Council must be notified immediately.

Reason

To ensure that any new contamination evidence or unexpected finds is reported and the site is appropriately remediated.

(90) IMPORTED FILL MATERIALS

(a) All fill material imported to the site must be certified and validated by a certified environmental consultant. It should be accompanied by documentation from the consultant that confirms its classification and suitability for the intended use. The fill must also be compatible with the existing soil characteristics to support site drainage.

(b) Imported fill must be limited to the following:

(i) Virgin excavated natural material (VENM), classified in accordance with the Protection of the Environment Operations Act 1997.

(ii) Excavated natural material (ENM), certified in accordance with the Protection of the Environment Operations (Waste) Regulation 2014.

(iii) Waste-derived materials subject to a Resource Recovery Exemption under Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 and recognised by the NSW EPA as “fit for purpose” for the proposed development.

(c) Any waste-derived material received under a resource recovery exemption must be accompanied by documentation from the NSW EPA confirming compliance with the exemption conditions. This documentation must be provided to the Certifier and Council:

(i) Upon request.

(ii) Before the commencement of works under the Protection of the Environment Operations Act.

(iii) Before the issue of a construction certificate or occupation certificate or

(iv) As part of the validation report for the remediation, as applicable.

(d) All imported fill must be accompanied by certification from the supplier confirming the material is not contaminated, based on analysis of the source site’s history and/or sampling and analysis must be conducted in accordance with the NSW EPA (2022) Sampling Design Guidelines.

(e) Any existing soils proposed for reuse onsite must be analysed and classified by a suitably qualified and experienced environmental consultant. This assessment must follow the relevant NSW EPA guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 1999 (as amended in 2013), to confirm suitability for the proposed land use. The results must be included in the validation report for the remediation

Reason

To ensure that imported fill is not contaminated.

(91) CLASSIFICATION OF WASTE

All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility or otherwise lawfully managed.

The classification, and the volume of material removed, and the receival facility's details must be reported to the Certifier or Council (where a Certifier is not required).

Reason

To ensure that waste from site is classified and disposed of appropriately.

(92) DISCHARGE OF CONTAMINATED GROUNDWATER

(a) Contaminated groundwater must not be discharged into the City's stormwater drainage system.

(b) Options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by an EPA NSW licensed liquid waste contractor and disposed of by transporter to an appropriate licensed waste treatment/processing facility.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure that the discharge of ground water is appropriately managed.

(93) STOCKPILES

(a) Soil or other materials must not be stockpiled on footpaths or nature strips without prior written approval from Council.

(b) All stockpiles must be managed to prevent contamination of the underlying soil.

(c) Potentially contaminated soil must be stockpiled on a hardstand surface or over polyethylene sheeting.

(d) Stockpiles must:

(i) Be bunded to prevent runoff of potentially contaminated materials.

(ii) Be stabilised through compaction and contouring to minimise wind exposure and allow access for water trucks.

(iii) Not exceed the height of perimeter fencing to assist in controlling dust and odour emissions.

(iv) Be clearly labelled with a unique identification number and include records of the soil's volume and origin to enable tracking from excavation to final disposal or reuse.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure that stockpiles of soil or other materials are appropriately managed.

(94) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN

(a) All works on site must undertaken in accordance with the Acid Sulphate Soil Management Plan

(b) If acid sulphate soil is removed or remediated, a validation report must be prepared or reviewed and approved by an appropriately qualified and certified environmental consultant and submitted to Council for approval.

Reason

To ensure that acid sulphate soils are appropriately managed to prevent their formation by avoiding any activities that result in soil drainage or excavation, to minimise environmental impacts.

(95) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

(96) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

(97) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure mobile cranes are used appropriately.

(98) PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.

The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the City prior to an approval being issued for the approval of the Public Domain Plan.

The bond will be retained in full until all public domain works, including rectification of damage to the public domain, are completed to City's standards and approval and the required works-as-executed documentation are approved. On satisfying the above requirements, and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

Reason

To ensure public domain works are completed and any damage to the public domain is rectified.

(99) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed drainage and service pit lids throughout the public domain must be to City of Sydney specifications and heel/bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

Reason

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

(100) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain upgrade work complies with the City's specifications and requirements, as outlined in documents such as City of Sydney's *Public Domain Manual*, *Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code and Sydney Streets Technical Specification*. The documentation must be *checked, accurate, and comply with specified requirement*s. Plans must be based on an accurate survey prepared, signed and dated by a registered surveyor, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be for Construction issue and will be approved under Section 138 of the Roads Act.

The Public Domain Manual and all other relevant documents are available for download from Council's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

To ensure the public domain complies with Council's requirements.

(101) HOLD POINTS

Prior to an approval being issued for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works, a set of hold points will be provided by the City's Public Domain Unit in accordance with the City's Public Domain Manual and Sydney Streets Technical Specification. The list of hold point inspections will be included in the Public Domain works approval letter.

These hold point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Principal Certifier.

Reason

To ensure hold points are adhered to during construction works.

(102) STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason

To ensure approval of connection into the Council's drainage system is sought.

(103) COMPLIANCE WITH ARBORIST'S REPORT

All recommendations, Tree Protection Specifications (TPS), Tree Protection Plan (TPP) and Methodology Statements contained in the approved Arboricultural Report prepared by Earthscape Horticultural Services, dated 2 February 2026, must be implemented during the demolition, construction and use of the development:

- Section 11 - Tree Protection Specification
- 11.1 Tree Protection Plan
- 11.2 Project Arborist

- 11.3 Prohibited Activities
- 11.4 Tree Damage
- 11.5 Tree Removal
- 11.6 Tree Protection Fencing
- 11.7 Tree Protection Signs
- 11.8 Ground Protection
- 11.9 Demolition Works within Notional Root Zones
- 11.10 Excavations within Notional Root Zones
- 11.11 Alternative Construction Methods
- 11.12 Underground Services
- 11.14 Temporary Scaffolding
- 11.15 Temporary Hoardings
- 11.16 Branch Protection
- Appendix 3 - Tree Health and Condition Assessment Schedule
- Appendix 4 - Impact Assessment Schedule
- Appendix 5 - Tree Location Plan
- Appendix 6 - Tree Protection Plan

Reason

To ensure that works affecting trees are carried out in an appropriate manner and in accordance with the approved arborist's report.

(104) TREE SENSITIVE EXCAVATION

(a) Excavation within the Tree Protection Zone(s) (TPZs) as detailed in Arboricultural Impact Assessment (AIA), Tree Protection Specifications and/or Tree Protection Plan prepared by Earthscape Horticultural Services dated 2 February 2026 must be undertaken using tree sensitive methods (i.e hand/air space/hydrovac) and supervised by a qualified Arborist (minimum AQF Level 5). To prevent root damage, low pressures (i.e. 900 maximum) must be used for hydrovac excavation with the bark remaining intact.

(b) Excavation must not occur within the SRZ. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately, and the excavation must be carried out in accordance with Council's direction.

(c) Roots greater than 40mm must not be severed or damaged within the TPZ without written approval from the City of Sydney Tree Team. As required, tree sensitive construction/installation methods (i.e. directional boring, redirection of services, pier and beam footings) must be used to ensure the retention and protection of roots greater than 40mm diameter.

Footings shall be relocated / realigned if any tree root greater than 40mm in diameter is encounter during excavations. A minimum of 150mm clearance shall be provided between the tree root and footing.

(e) Trenching must be backfilled as soon as possible, and exposed roots must be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

(f) Any approved root pruning must be carried out by a qualified Arborist (minimum AQF Level 5) in accordance with Australian Standard 4373 'Pruning of Amenity Trees'.

(g) Compliance with this condition must be addressed in the Tree Protection Compliance Certificate prepared by a qualified Arborist (minimum AQF Level 5).

Reason

To ensure that excavation works to trees are carried out in an appropriate manner.

(105) SITE SUPERVISION AND REPORTING

(a) A qualified Arborist (minimum AQF Level 5) must oversee various stages of work within the Tree Protection Zone(s) (TPZs) of any tree listed for retention.

(b) The Arborist must undertake every 2 monthly inspections through the development works.

(c) The Arborist must certify compliance with each key milestone detailed below:

(i) Installation of tree protection measures (i.e. tree protection fencing, trunk and branch protection, ground protection, tree protection signage) prior to the commencement of the development works;

(ii) Demolition of ground surface materials (pavers, concrete, grass etc.) or inground structures within the TPZs of any tree to be retained;

(iii) Excavation and trenching within the TPZs;

(iv) Construction of the driveway and layback within the TPZ of Tree 1;

(v) Landscape works within the TPZs;

(vi) Other times as specified in the Arboricultural Impact Assessment Report, Tree Protection Specifications (TPS) and Tree Protection Plan (TPP) or these conditions.

(d) A Tree Protection Compliance Report, which includes photographic evidence and provides details on the health and structure of tree(s), must be submitted within one week following each scheduled inspection and key milestone listed above. The report is to be submitted to, and acknowledged, by the City of Sydney Urban Forest Team. The Tree Protection Compliance Report must include:

(i) Confirmation that the tree protection measures have been installed in accordance with these conditions;

(ii) Details of any additional tree protection recommendations and subsequent implementation to ensure the tree(s) remain in a healthy condition;

(iii) Details of works undertaken on any tree to be retained or any works within the TPZs.

Reason

To ensure the protection and ongoing health of trees on the site.

(106) TREE PRUNING – FURTHER APPROVAL REQUIRED

(a) Consent from the City of Sydney Urban Forest Team must be obtained prior to undertaking the pruning of any tree to be retained, including trees roots greater than 40mm diameter.

(b) Construction access and the location of the works zone must be planned to avoid adversely impacting any tree to be retained. Alternative work zone locations must be provided and suitable size cranes/machinery/equipment utilised to minimise tree pruning requirements. Only minor pruning works will be approved by the City's Urban Forest Team.

(c) Any approved pruning must be carried out by a qualified Arborist (minimum AQF Level 3) in accordance with Australian Standard 4373 'Pruning of Amenity Trees' and the SafeWork's Code of Practice - Amenity Tree Industry.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' and the 'Code of Practice: Construction related Temporary Structures On and Above Roads' for further information.

Reason

To ensure that pruning works to trees are carried out in an appropriate manner.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

(107) REGISTRATION OF COVENANT – EMP/LEMP

(a) Before the issue of any occupation certificate, the applicant must register a covenant on the land title under the Conveyancing Act 1919, indicating that contaminated material has been contained onsite. The covenant must nominate Council as the sole authority with the power to release, vary, or modify its terms.

(b) The covenant must bind the current and future registered owners to the ongoing responsibility for maintenance, monitoring, and rehabilitation works, as required under any active or passive Environmental Management Plan. This includes managing any encapsulated or residual contamination, preventing the discharge of contaminants, and undertaking any works required by the NSW EPA.

(c) A copy of the updated certificate of title, showing the registered covenant, must be submitted to Council and the Certifier before the issue of any Occupation certificate.

Reason

To ensure that contamination is appropriately managed.

(108) LAND REMEDIATION – SITE AUDIT STATEMENT (STAGED)

(a) Before the issue of any Occupation certificate related to the built form of the development (excluding works directly associated with remediation), a Section A Site Audit Statement (SAS) must be obtained from a NSW Environment Protection Authority accredited Site Auditor. This statement must be submitted to the Council's Area Planning Manager via email hbapplications@cityofsydney.nsw.gov.au.

(b) The SAS must confirm that the site has been remediated in accordance with the approved Remediation Action Plan and must clearly state that the site is suitable for the proposed use.

(c) If the SAS includes conditions requiring ongoing review by the Auditor or Council, these conditions must be reviewed and approved in writing by Council before the statement is issued.

(d) If any conditions of the SAS are inconsistent with this development consent, the development must not proceed until the inconsistency is resolved to Council's satisfaction (e.g. Section 4.55 modification under the Environmental Planning and Assessment Act 1979).

(e) A Certifier must not issue an Occupation certificate unless the SAS has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

(109) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN

(a) Where the ongoing suitability of the land and the issuance of the final Section A Site Audit Statement is dependent on the implementation of an Environmental Management Plan (EMP) or Long Term Environmental Management Plan (LTEMP) for managing residual contamination, the EMP must be approved by the Site Auditor. A copy of the approved EMP must be submitted to Council before the release of the final Site Audit Statement.

(b) The EMP must be prepared, or reviewed and approved, by an appropriately qualified and certified environmental consultant.

(c) The EMP must comply with the relevant EPA guidelines for Site Auditors. It must clearly describe the nature and location of the residual contamination, outline the long-term management and monitoring measures, identify responsible parties, and specify the legal mechanism by which the plan will be enforced.

(d) The EMP must also include a contingency plan detailing the actions to be taken in the event of failure of any containment or management systems for the residual contamination.

Reason

To ensure that contamination is appropriately managed.

(110) SITE VALIDATION REPORT (No Site Auditor engaged - low level of risk)

Before the issue of any Occupation certificate, a Site validation report must be submitted to Council. The validation report is to be prepared by a suitably qualified environmental consultant with experience in land contamination and in accordance with the EPA NSW contaminated land legislation and guidelines including the Contaminated Land Management Act 1997. The report is to satisfactorily document the following:

(a) The extent of validation sampling, and the results of the validation testing.

(b) That the site is suitable for the proposed use.

Reason

To ensure that the site is appropriately remediated.

(111) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

Prior to the issue of an **Occupation Certificate**, the Principal Certifier is to ensure all waste management, collection, loading and supporting infrastructure is provided in accordance with the stamped plans, approved Operational Waste Management Plan and specifications approved at the Construction Certificate.

Reason

To ensure all on-site infrastructure has been provided to support scheduled collections responsive to the Council endorsed OWMP and requirements of the Guidelines for waste management in new developments 2018.

(112) WASTE AND RECYCLING MANAGEMENT – RESIDENTIAL

(a) Prior to the issue of an **Occupation Certificate**, Council's review and written approval of the as-built waste infrastructure, facilities, and vehicle access is required. The City Cleansing & Resource Recovery Unit of Council must be satisfied that:

(i) All waste management facilities, storage, and collection infrastructure comply with the stamped plans, approved Operational Waste Management Plan and Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.

(ii) All waste rooms, corridors, doors, and gates to be accessed by Councils collection contractor(s) are to be fitted and accessible via Council's master key system. Specifications of locks, barrels, and supporting infrastructure are to be submitted to Council's City Cleansing & Resource Recovery Unit.

(b) Site inspections are to be conducted by Council's City Cleansing & Resource Recovery Unit to review the site on-site waste collection, storage and loading bay infrastructure prior to the issue of an **Occupation Certificate**. The inspections are to be conducted a minimum 6-months prior to projects anticipated construction completion. Prior to the inspection an electronic copy of the latest architectural plans are to be submitted.

(c) An updated Operational Waste Management Plan is to be submitted to Council's City Cleansing & Resource Recovery Unit that aligns with the latest version of architectural plans and waste related updates identified during the site inspections. The plan is to be reviewed by Council's City Cleansing & Resource Recovery Unit and approved by Council's Area Planning Manager prior to the issue of an **Occupation Certificate**.

(d) The developer is to enter into a formal agreement with the City of Sydney Council for the utilisation of Councils Waste Collection Service. A signed agreement is to be submitted to Council's City Cleansing & Resource Recovery unit prior to the issue of an **Occupation Certificate**.

(e) The assigned strata manager for the development and direct contact details are to be provided to Council's City Cleansing & Resource Recovery Unit prior to the issue of an **Occupation Certificate**.

Reason

To ensure that facilities and arrangements are in place to enable the provision of a safe and efficient waste collection service responsive to Council's policies and contractual service provisions.

(113) WASTE AND RECYCLING COLLECTION CONTRACT - COMMERCIAL

Prior to the issue of an **Occupation Certificate** or commencement of the use, whichever is earlier, the building owner/tenant is to enter into a contract with a licensed waste service provider for the removal of all waste and recycling stream(s). A copy of the commercial waste and recycling contract and invoices are to be made available upon request by an authorised Council officer at any time.

Reason

To ensure arrangements are in place to manage commercial waste without reliance on public place or residential waste bins.

(114) PUBLIC DOMAIN WORKS COMPLETION

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval letter, stamped plans for Public Domain Levels and Gradients, Stormwater, Public Domain Lighting, the City's *Public Domain Manual,* Stormwater *Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification.*

The public domain work must be inspected and a Public Domain Work Letter of Completion Operational Acceptance must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

Reason

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

(115) PUBLIC DOMAIN COMPLETION – WORK AS EXECUTED DOCUMENTATION

Prior to a Public Domain Works Letter of Completion Operational Acceptance being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and road construction. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

Reason

To ensure Council receives works-as-executed documentation for public domain works.

(116) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

(a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

(b) A Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason

To protect underground drainage system.

(117) NOISE – VERIFICATION OF ACOUSTIC WORK AND CONTINUED INTEGRITY PRIOR TO OCCUPATION CERTIFICATE

Prior to the issue of any occupation certificate, the Certifier must ensure the following:

(a) A suitably qualified acoustic consultant must be appointed in accordance with the definition noted in the City of Sydney - Environmental Noise Technical Requirements, dated October 2025.

(b) The consultant must inspect the development and ensure that:

(i) The completed building works are reviewed for compliance with the relevant Construction Certificate(s) and supporting documentation.

(ii) The premises remains capable of complying with all noise-related conditions approved under development consent D/2026/208.

(iii) The development has not compromised the functionality or reduce the effectiveness of any existing noise mitigation measures at the premises.

(iv) The premises remains capable of ongoing compliance with the noise-related conditions of this consent.

(v) Recommendations are provided to address and rectify any identified non-compliances in the construction.

(vi) All of the above requirements are completed to the written satisfaction of the Certifier.

(c) After completing (b) above, the consultant must notify the Certifier in writing of any identified non-compliances.

Reason

To ensure the development complies with construction and fit out plans and the relevant standards in the approved acoustic report.

(118) PHYSICAL MODELS

(a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

(i) The models must be constructed in accordance with the Model Specifications available online at https://www.cityofsydney.nsw.gov.au/design-codes-technical-specifications/requirements-scale-models Council's modellers must be consulted prior to construction of the model.

(ii) The models are to comply with all of the conditions of the Development Consent.

(iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

Reason

To ensure the provision of an appropriate physical model of the development.

(119) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

(a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.

(b) The data required to be submitted within the surveyed location must include and identify:

(i) building design above and below ground in accordance with the development consent;

(ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

(c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at https://www.cityofsydney.nsw.gov.au/design-codes-technical-specifications/requirements-scale-models Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(120) SITE SUPERVISION AND REPORTING

A final Tree Protection Compliance Certificate, prepared by a qualified Arborist (AQF Level 5) demonstrating that all Tree Protection Compliance Reports have been submitted at each scheduled inspection and key milestone listed above must be submitted and approved by the City of Sydney Area Planning Manager prior to the issue of any Occupational Certificate.

Reason

To ensure the protection and ongoing health of trees on the site.

(121) RESTRICTION ON THE USE OF LAND - RESIDENTIAL DEVELOPMENT

The following restriction applies to buildings approved for residential use:

(a) The accommodation portion of the building must be used as permanent residential accommodation only and not for the purpose of a boarding house or hostel, hotel or motel accommodation, serviced apartments, tourist and visitor accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2012.

(b) A restriction on the use of land is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from residential accommodation as defined in the Sydney Local Environmental Plan 2012. The restriction is to be registered on title prior to any Occupation Certificate being issued or the use commencing, whichever is earlier. The restriction must contain terms reasonably required by Council and will be drafted by Council's solicitor, at the cost of the applicant, in accordance with the City's Fees and Charges.

(c) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.

(d) No person can advertise or organise the use of residential apartments approved under this consent for short term accommodation or share accommodation.

Reason

To ensure the residential accommodation portion of the site is used for permanent residential purposes.

(122) RESTRICTION ON USE OF CAR SPACES / STORAGE SPACES

(a) The on-site car parking spaces and/or storage spaces within Lot 100, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.

(b) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary Restriction on the Use of Land, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The Restriction is to be created to the benefit of Council, at no cost to and to the satisfaction of Council.

(c) If the building is to be strata subdivided, all car parking spaces and/or storage spaces within Lot 100, exclusive of service and visitor car spaces, must be allocated to a residential or commercial lot (as the case may be), consistent with planning controls, within the Strata Scheme.

(d) If the building is to be strata subdivided, a Restriction on the Use of Land must be created burdening all lots containing car parking spaces in the Strata Scheme, pursuant to section 88B of the *Conveyancing Act 1919,* to the effect of (a) above. The Restriction is to be created to the benefit of Council, at no cost to and to the satisfaction of Council.

Reason

To ensure the on-site car parking spaces and/or storage spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the building.

(123) SURVEY CERTIFICATE PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

Prior to the issue of any type of Occupation Certificate for the building, a Final Identification Survey prepared and signed by a Surveyor registered under the Surveying & Spatial Information Act 2002 must be submitted at the completion of the building work certifying the location of the building and showing offsets in relation to the boundaries of the allotment.

Any encroachments of the building including gutters and downpipes over the side boundaries or rear lane that are not approved in the DA must be removed, or where approved, appropriate easements under Section 88B of the Conveyancing Act 1919, with terms to the satisfaction of Council, must be lodged with the office of NSW Land Registry Services, and evidence of lodgement provided to the Principal Certifier prior to the issue of any type of Occupation Certificate. Encroachments upon public roads must, if supported, be approved by Council's Area Planning Manager prior to the issue of any type of Occupation Certificate.

Reason

To ensure that either the building does not encroach, or that any encroachments are formalised on title.

(124) CONSTRUCTED FLOOR LEVELS

A certification report prepared by a suitably qualified practitioner engineer (NPER) must be submitted to the Principal Certifier prior to issue of any Occupation certificate stating that the development has been constructed and the required levels achieved in accordance with the recommendations of the report titled flood assessment letter prepared by Dylan Alexander of JN Engineering dated 13 August 2026.

Reason

To ensure the development achieves the required floor levels.

(125) FLOOD RISK MANAGEMENT

Prior to the issue of any Occupation Certificate, a certification report prepared by a suitably qualified practitioner engineer (NPER), for flood risk management measures including flood planning level/s demonstrating compliance with the approved construction plans must be submitted to and be approved by the Principal Certifier. A copy of the report must be provided to Council for record keeping purposes.

Reason

To ensure flood risk management measures are complied with.

(126) FLOOD PROTECTION FEATURES

Prior to the issue of any Occupation Certificate, the proposed Flood Protection System including all its features are to be tested by an independent floodplain management consultant, and a report confirming the full operation of the system is to be submitted to and approved by Principal Certifying Authority.

Reason

To ensure flood risk management measures are complied with.

PART F – OCCUPATION AND ONGOING USE

(127) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(128) SCHEDULED COLLECTIONS – COMMERCIAL

(a) Commercial waste collection arrangement(s) are to be conducted in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, the developments Conditions of Consent and Local Approvals Policy for *Managing Waste in Public Places.*

(b) In accordance with the approved waste management plan, waste and recycling stream(s) bins must not be placed on the street for collection. The waste contractor must wheel the bins from the waste storage area of the property to the waste collection vehicle upon arrival and return them to the waste storage area following collection. Unimpeded access must be provided to the waste and recycling storage area(s) at all times.

(c) Unobstructed access is to be provided for waste collection vehicles to set down within 10m of the waste storage and collection area(s) during zone collection times on collection days.

(d) The collection of waste and recycling stream(s) is to only occur during designated zone collection times outlined within the Local Approvals Policy for *Managing Waste in Public Places* to minimise impacts to residential amenity.

Reason

To minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

(129) ONGOING WASTE MANAGEMENT – RESIDENTIAL

(a) The ongoing use of development must be in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.

(b) All general waste and recycling stream(s) materials emanating from the premises must be stored in the designated waste storage area(s) integrated within the built form and must not be stored outside the premises (including any public place) at any time.

(c) The property manager is responsible for lodging requests for damaged/broken bins, managing the rotation of bins, ensuring the full allocation of relevant bins are available for scheduled collections, management of odour and the routine cleaning and maintenance of all waste storage areas.

(d) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection arrangements, identifying clear roles and responsibilities outlined within the approved Operational Waste Management Plan.

(e) The property manager is responsible for the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney Council responsive to the approved Operational Waste Management plan.

(f) Commercial waste and recycling stream(s) and supporting infrastructure to be stored in a separate lockable, enclosed, and walled area free from the residential waste and recycling stream(s) rooms. The residential rooms to have relevant locks to inhibit commercial tenants access to Councils residential waste streams.

Reason

To support the safe and efficient scheduled Council waste collection service and ensure the impacts of waste management on the public domain and public health are minimised.

(130) SCHEDULED COLLECTIONS - RESIDENTIAL

(a) Scheduled collections and waste management arrangements of Council's residential waste stream(s) is to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan, the developments Conditions of Consent and the City's Local Approvals Policy Managing Waste in Public Spaces.

(b) Council's Domestic Waste Charge is applied to all residential rate accommodation properties in accordance with section 496 of the *Local Government Act 1993.* Residential accommodation is defined in accordance with the *Sydney Local Environmental Plan 2012* dictionary.

(c) Council's Domestic Waste Charge is applied to all residential rate accommodation properties in accordance with section 496 of the Local Government Act 1993. Residential accommodation is defined in accordance with the Sydney Local Environmental Plan 2012 dictionary

(d) Unobstructed access to be provided for Councils standard waste collection vehicles to access the waste and recycling storage area(s), loadings bays and supporting infrastructure between the hours 6am and 6pm on collection day(s) to support the provision of a safe and efficient waste collection service to the site.

Reason

To support the safe and efficient scheduled residential waste collection service and minimise the impacts on public amenity and safety.

(131) ONGOING WASTE MANAGEMENT – COMMERCIAL

(a) The ongoing use of development/tenancy must be in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.

(b) All general waste and recycling materials emanating from the premises must be stored in the designated waste storage area(s), must not be stored outside the premises (including the public domain) at any time.

(c) All waste and recycling stream(s) storage area(s) are to only be used for the purposes of storing waste and recycling from the premises in accordance with the original consent and approved Operational Waste Management Plan and not be converted to a different use.

(d) Scheduled collections and waste management arrangements of the development/tenancy is the responsibility of the business owner or property manager and are to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan and this consent. These arrangements include:

(i) arranging an adequate number of bins and the servicing regime matched to the needs of the premises.

(ii) actively managing waste streams and supporting infrastructure to ensure bins are not overflowing, damaged or leaking and lids are fully closed at all times.

(iii) routine cleaning and maintenance of waste storage area(s) to inhibit the permeation of odour and prevent litter and pests.

(iv) the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney.

(e) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection arrangements, identifying clear roles and responsibilities outlined within the approved Operational Waste Management Plan.

Reason

To promote good waste management arrangements and minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

(132) MANAGING NOISE

The premises must be operated and managed in accordance with the approved acoustic report for this consent.

All physical aspects of the building's structure must be installed to meet performance parameters in accordance with this condition, and requirements of this consent, must be maintained and correctly used at all times. Where there is a conflict with the approved acoustic report and a requirement of this development consent, this consent prevails.

Reason

To protect the amenity of the local area.

(133) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

Reason

To protect neighbouring properties.

(134) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

Reason

To protect the public way.

(135) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of Completion. The date of Completion will be nominated by Council on the Public Domain Works – Letter of Completion Operational Acceptance.

Reason

To ensure all works to the City's public domain are protected under a liability period.

SCHEDULE 2

PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021* which apply to the development:

Refer to the NSW State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

SCHEDULE 3

TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by *Heritage NSW* are as follows:

Approved Development

1. Development must be in accordance with:

(a) Architectural drawings, prepared by Popov Bass as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: Mixed-use Development 14 Hickson Road, Dawes Point			
DA100	Title Page	25/02/2026	1
DA101	Context Plan	25/02/2026	1
DA102	Street Character Analysis	25/02/2026	1
DA103	Site Analysis Plan	25/02/2026	1
DA104	CMP Envelope Analysis 01	25/02/2026	1
DA105	CMP Envelope Analysis 02	25/02/2026	1
DA106	Demolition Plan	25/02/2026	1
DA107	Basement 3 Plan	29/07/2026	2
DA108	Basement 2 Plan	29/07/2026	2
DA109	Basement 1 Plan	29/07/2026	2
DA110	Site/ Ground Floor Plan	29/07/2026	2
DA111	Level 1 Plan	29/07/2026	2
DA112	Level 2 Plan	29/07/2026	2
DA113	Level 3 Plan	29/07/2026	2
DA114	Roof Plan	29/07/2026	2
DA115	Elevations 1	29/07/2026	2
DA116	Elevations 2	29/07/2026	2
DA117	Elevations 3	29/07/2026	2
DA118	Section AA	29/07/2026	2
DA119	Section BB	29/07/2026	2
DA120	Schedule of Finishes	29/07/2026	2
DA121	3D Perspectives	29/07/2026	2
DA200	Shadow Diagram: 9:00am June 21	29/07/2026	2
DA201	Shadow Diagram: 12:00pm June 21	29/07/2026	2
DA202	Shadow Diagram: 3:00pm June 21	29/07/2026	2
DA203	Sun Eye Views	29/07/2026	2
DA300	Area Diagrams	25/02/2026	1
DA500	Window Schedule	29/07/2026	2
DA600	Ground level Cross-Sections	29/07/2026	2

(b) Landscape drawings, prepared by Jane Britt Design as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: No.14 Hickson Road Dawes Point			
0	Cover Sheet	1/02/2026	B
1	Landscape Design Strategy Diagrams	1/02/2026	B
2	Landscape Design Statement	1/02/2026	B
101	Landscape Ground Floor Planting and Plant Schedule	30/06/2026	C
102	Landscape Level 1, 2 & 3 Planting Plans and Schedule	1/02/2026	B
103	Landscape Roof Level Planting Plan and Plant Schedule	13/07/2026	C
201	Landscape South Elevation	13/07/2026	C
202	Landscape Section A	1/02/2026	B
301	Landscape Details	1/02/2026	B
302	Landscape Details	1/02/2026	B
401	Plant Schedule and Specification	30/07/2026	C

(c) Report: Heritage Impact Statement 14 Hickson Road, Dawes Point, prepared by Urbis, dated 26 February 2026

(d) Report: Historical Archaeological Assessment 14 Hickson Road, Dawes Point, prepared by Urbis, dated 26 February 2026

(e) Report: 14 Hickson Road Dawes Point, Response to Information Requestion – Subdivision, prepared by Urbis dated 29 June 2026

EXCEPT AS AMENDED by the General Terms of Approval:

Details to be submitted for approval

2. The following information is to be submitted with the Section 60 application for approval by the Heritage Council of NSW (or delegate):

(a) Architectural drawings demonstrating the protection of the southern wall of the ablutions block including the stone coping.

(b) Amended landscape plan that reconfigures the location of planting species so that there are no trailing plants along the side elevations.

(c) A Schedule of Conservation Works, including cyclical maintenance plan, for the heritage building and site. The Schedule is to be prepared by a suitably qualified heritage professional.

(d) A draft documentary Positive Covenant is to be created burdening all lots in the Subdivision Plan, pursuant to Section 88B of the Conveyancing Act 1919 and appurtenant to the Council of the City of Sydney, in terms to the satisfaction of Council requiring the compliance with the obligations and requirements of the Conservation Management Plan for 14 Hickson Road, Dawes Point, prepared by NBRS Architecture dated March 2018, or subsequently approved revision of this plan for the site. The plan is to guide future maintenance of the site which is to be carried out at regular intervals by the owners of all lots.

(e) The Council of the City of Sydney is to be the party nominated to release, vary or modify the terms of the covenant created.

Reason: The details requested *were not supplied during the assessment of the application. This is considered essential in order to obtain a good heritage outcome.*

Update of Conservation Management Plan

3. Prior to the issue of the Subdivision Certificate, the Conservation Management Plan (CMP) must be updated in an Addendum which addresses the recent alterations and additions carried out to 14 Hickson Road, Dawes Point and the proposed subdivision, and is to provide guidance to the lot owners on the corrective and cyclical maintenance to be carried out to the building and site. This is to include additional policies related to subdivision. A copy of the Addendum is to be lodged for approval by the Heritage Council of NSW and the Council of the City of Sydney.

   Reason: To provide guidance to owners on maintenance to be carried out on the building and site.

Schedule of Conservation Works

4. The Schedule of Conservation Works, including cyclical maintenance plan, for the former ablutions block should be implemented before an Occupation Certificate is granted.

   Reason: To ensure the conservation of the heritage building and site.

Rooftop Private Open Space

5. Objects placed with the private open spaces at rooftop level must not exceed the height of the building balustrade.

   Reason: To ensure that the identified significant views are retained and conserved.

Heritage consultant

6. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

   Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.

Site protection

7. Significant built and landscape elements including but are not limited to the former ablutions block, sandstone wall and escarpment and the pouched coral fern Gleichenia dicarpa (Pouched Coral Fern) growing in the cliff in the south-east corner of the site, are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

   Reason: To ensure significant fabric including vegetation is protected during construction.

Heritage Interpretation Plan

8. An interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) as part of the Section 60 application.

9. The interpretation plan must detail how information on the history and significance of the former ablutions block will be provided for the public, and make recommendations regarding public accessibility, signage and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.

10. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate

    Reason: Interpretation is an important part of every proposal for works at heritage places.

Photographic Archival Recording

11. A photographic archival recording must be prepared prior to the commencement of works and at the completion of works. This recording must be in accordance with the Heritage NSW publication 'Guidelines for preparing archival recordings of heritage items as a condition of consent' (2025). The digital copy of the archival record must be provided to Heritage NSW.

    Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.

Unexpected finds

12. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric such as works not identified in Historical Archaeological Assessment 14 Hickson Road, Dawes Point, prepared by Urbis dated 26 February 2026, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

    Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

Aboriginal objects

13. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

    Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

Compliance

14. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

    Reason: To ensure that the proposed works are completed as approved.

Section 60 application

15. An application under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

    Reason: To meet legislative requirements.

SCHEDULE 4

TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by *Water NSW* are as follows:

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

Condition Number	Details
GT0115-00001	**Dewatering** Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a)any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b)obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c)any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National

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

	WaterNSW, as part of the Completion Report
GT0174-00001	Construction phase monitoring bore requirements GTA: a) Monitoring bores are required to be installed and collecting data prior for at least 3 months prior to submitting a water supply work approval b) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. c) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW and should be submitted prior to the application for a water supply work approval. d) The monitoring bores should be used to develop a water table map for the site and its near environs. e) The monitoring bores must be protected from construction damage. Advisory note: no approval under the Water Management Act 2000 is required for these monitoring bores provided that they extract less than 3ML/water year.
GT0279-00001	A construction certificate can be issued for excavation work in accordance with a valid development consent, however dewatering cannot take place without an Approval being granted by Water NSW for any water supply works required by the development. If the excavation work will or is likely to require dewatering, the applicant must apply and obtain, an approval under the Water Management Act 2000 prior to any dewatering taking place and notify WaterNSW of the programme for the dewatering activity including the commencement and proposed completion dates of the dewatering activity. Advisory Note: An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0281-00001	A water access licence, for the relevant water source, must be obtained prior to extracting groundwater, unless an exemption applies. Advisory Note: See Schedule 4 of the Water Management (General) Regulation 2025.

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with D/2026/208 as provided by Council:

- Response to WaterNSW Request for Further Information, 14 Hickson Road, Dawes Point NSW,
- dated 22 June 2026, Ref. E25956.G99.01, EI Australia Pty Ltd.
- Pier One Developments Pty Ltd, Additional Geotechnical Investigation, 14 Hickson Road,
- Dawes Point NSW, E25956.G04_Rev1, 19 February 2026, EI Australia Pty Ltd.
- Gallagher Jeffs, Detailed Site Investigation, 14 Hickson Road, Dawes Point NSW,
- E25956.E02_Rev1, 26 February 2026, EI Australia Pty Ltd.
- Statement of Environmental Effects, 14 Hickson Road, Dawes Point, Mixed use development, basement parking, stratum subdivision, permanent and temporary substation and associated works, Submitted to City of Sydney Council

- on behalf of the Applicant – Pier One Car Park Pty Ltd as trustee for Pier One Car Park Trust, 3 March 2026, Gyde Consulting Pty Ltd.
- Architectural Plans, Pier One Car Park Pty Ltd, Mixed-Use Development 14 Hickson Road, Dawes Point Sydney NSW 2000, Rev 01, date 25/02/26, Drawn AW, PopovBass.

SCHEDULE 5

CONCURRENCE CONDITIONS

(136) The concurrence conditions, in accordance with Section 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) and as advised by Ausgrid, are as follows:

(137) AUSGRID UNDERGROUND CABLES ARE IN THE VICINITY OF THE DEVELOPMENT

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA).

In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels
from previous activities after the cables were installed.

Should ground levels change above Ausgrid's underground cables in areas such as footpaths and driveways, Ausgrid must be notified, and written approval provided prior to the works commencing.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

(138) AUSGRID CHAMBER SUBSTATION IN THE VICINITY OF THE DEVELOPMENT

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system

air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment, or 120/120/120 where there is no oil filled equipment and be constructed of noncombustible material.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHZ) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24-hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid's Network Standard 143.

(139) NEW DRIVEWAYS - PROXIMITY TO EXISTING POLES

Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance.

(140) NEW OR MODIFIED CONNECTION

To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; https://www.ausgrid.com.au/Connections/Get-connected

SCHEDULE 6

CONCURRENCE CONDITIONS

The concurrence conditions, in accordance Sydney Water Act 1994 Section 78 and as advised by Sydney Water, are as follows:

Section 73 Compliance Certificate

A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. The compliance certificate also identifies any applicable Infrastructure Contribution charges. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Prior to the issue of a Construction Certificate/Complying Development Certificate:

Building Plan Approval (including Tree Planting Guidelines)

The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in® to apply.
Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

Tree Planting

Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the Sydney Water Act specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the Sydney Water Act 1994, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within Sydney Water's Technical guidelines – Building over and adjacent to pipe assets.

SCHEDULE 7

CONCURRENCE CONDITIONS

The concurrence conditions, in accordance with Section 2.98 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP) and as advised by Sydney Trains, are as follows:

1. Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.

(141) The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:

1. oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
2. acts as the authorised representative of the Applicant; and
3. is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

2. Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

3. Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is central and they can be contacted via email on central _Interface@transport.nsw.gov.au

4. Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.

IMPORTANT ADDITIONAL INFORMATION

Advisory notes:

1. It is advised that the City of Sydney Neighbourhood Parking Policy may apply to this development. Eligibility for parking permits for residents or users of the development will be determined by the terms of this policy or subsequent future policies.

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a ***Construction Certificate*** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.

2. ***It is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application with Council. Please refer to Council's website for any further information about digital requirements and electronic files.***

   Note: ***All applications must be lodged via the NSW Planning Portal.***

3. Nominate a ***Principal Certifier*** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement. Appointment must be made through the Planning Portal https://www.planningportal.nsw.gov.au/

4. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.

5. Obtain an ***Occupation Certificate*** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

6. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:

   (a) building elements/façade features;
   (b) installation of hoardings/scaffolding;
   (c) installation and/or alterations to advertising/business signs and street awnings;
   (d) crane operation and other hoisting activities;
   (e) temporary works (e.g.: barricading, road openings, mobile hoisting devices);
   (f) works zone (for loading and unloading from the roadway); and
   (g) temporary ground anchoring and shoring to support a roadway when excavating.

   Application forms are available on the City's website.

7. Lodge an ***Application for Subdivision*** to obtain a ***Subdivision Certificate*** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain ***Strata Title Subdivision*** under the relevant Strata Titles Act if strata title of the development is proposed.

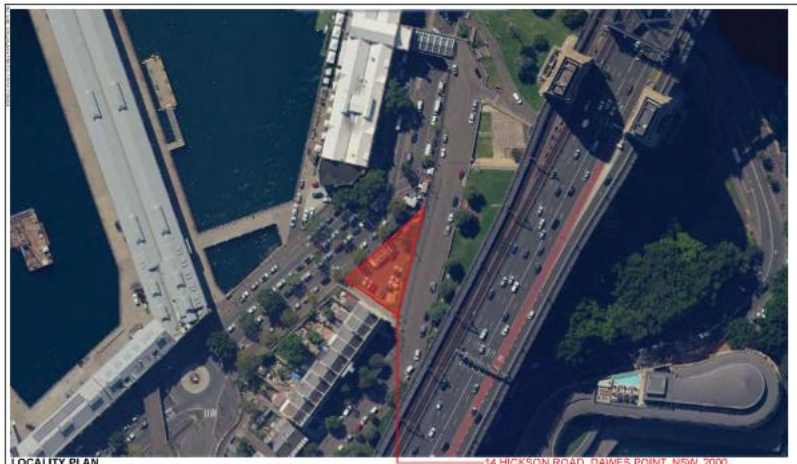
8. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.

9. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to www.sydneywater.com.au.

10. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

Attachment B

Selected Drawings



LOCALITY PLAN

MIXED-USE DEVELOPMENT

14 Hickson Road Dawes Point Sydney NSW 2000

DRAWING No.	DESCRIPTION	SCALE
DA100	Title Page	
DA101	Context Plan	
DA102	Street Character Analysis	
DA103	Site Analysis Plan	1:200
DA104	CMP Envelope Analysis 01	1:200
DA105	CMP Envelope Analysis 02	1:200
DA106	Demolition Plan	1:100
DA107	Basement 3 Plan	1:100
DA108	Basement 2 Plan	1:100
DA109	Basement 1 Plan	1:100
DA110	Site / Ground Floor Plan	1:100
DA111	Level 1 Plan	1:100
DA112	Level 2 Plan	1:100
DA113	Level 3 Plan	1:100
DA114	Roof Plan	1:100
DA115	Elevations 1	1:100
DA116	Elevations 2	1:100
DA117	Elevations 3	1:100
DA118	Section AA	1:100
DA119	Section BB	1:100
DA120	Schedule of Finishes	
DA121	3D Perspectives	
DA200	Shadow Diagram: 9:00am June 21	1:200
DA201	Shadow Diagram: 12:00pm June 21	1:200
DA202	Shadow Diagram: 3:00pm June 21	1:200
DA203	Sun Eye Views	1:1
DA300	Area Diagrams	1:200
DA500	Window Schedule	1:0.75
DA600	Ground Level Cross-Sections	1:50

NatHERS Construction & Insulation Specifications:

Building Component	*Construction Materials*		*Insulation*	*Colour - Solar Absorpt.*	*Other Detail/Requirements*
External Walls	Clad on Core-filled Concrete Block	Plasterboard lined	R1.8	As marked on plans	Brick, sandstone, ceramic cladding. As drawn.
	Core-filled Concrete Block	Plasterboard lined	R1.8	As marked on plans	No cladding. As drawn.
Internal walls (within)	Plasterboard on studs	Plasterboard lined	R1.8		
Interteneancy walls	Concrete Block cavity	Plasterboard lined	R1.8		Includes walls to stairs, corridors and lifts
Windows/Glazing*	Alum. DG Air Fill Clear/Clear. U = 4.8, SHGC = 0.33				All certified basement windows except below.
	Alum. DG Air Fill Clear/Clear. U = 4.8, SHGC = 0.59				All sliding and double hung windows, except below.
	Al. DG Thermally Broken Air Fill Clear/Clear. U = 3.0, SHGC = 0.47				APM W321, APS and APR all windows.
Roof/Ceiling	Concrete	Plasterboard lined	None	Medium (0.475 to 0.70)	All areas except below.
	Concrete	Plasterboard lined	R1.8	Medium (0.475 to 0.70)	APS, AFA, AFG and AFN areas to open air.
Floor Structure	Concrete	Plasterboard lined	None		All areas except below.
	Concrete	Plasterboard lined	R1.8		APS and AFA, AFG, Areas to open air.
Floor Covering	Ceramic Tiles				Wet areas
	Carpet				Bedrooms
	Timber				Living areas
Ceiling/Wall Penetrations	Must be sealed. Downlights in bathrooms with an opening window. Downlights do not break the insulation.				
External Shading Devices	As drawn. Retractable blinds on western windows.				
Roof Windows*	DG Clear. Operable. U = 3.53, SHGC = 0.73				
Skylights*	None				
Ceiling fans	APR and APG: 1 x 900mm diameter in kitchen/living room				
External Walls*	Walls are steel framed. Walls should be fastened as required to allow for insulation contraction.				
Construction note:	These construction and insulation specifications are for the NatHERS thermal performance requirements of this development. Designers, engineers and builders should ensure building construction satisfies the NCC requirements including, but not limited to, air tightness, fresh air ventilation, natural lighting, thermal bridging and condensation prevention.				
Glazing Notes:	U, U and SHGC values are according to NFRC. Alternate products may be used if the U value is the same or lower than that specified and the SHGC is within 3% of the above figures.				

129

04	17/08/2026	DEVELOPMENT APPLICATION	DJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	28/07/2026	DA PRE-LODGE	DJ	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB
Rev	**Date**	**Amendment**	**Drwn**	**Chck**

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
JN Engineers

Mechanical Engineer
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Electrical Engineer
AA Power Engineering

Landscape Architect
Jane Britt Design

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Title Page

Drawing No.
0640-DA100

Revision
04

Scale
at A1 size

Date
17/08/2026

130

Rev	Date	Amendment	Drn	Chk
03	17/08/2026	DEVELOPMENT APPLICATION	AM	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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Structerre Consulting

Structural Engineer
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Context Plan

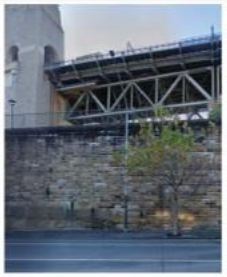
Drawing No.
0640-DA101

Revision
04

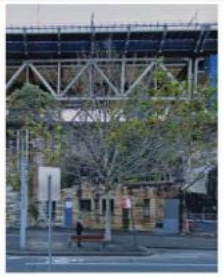
Scale
at A1 size

Date
17/08/2026

11 HICKSON RD (PIER 1) | 2 STOREY COMMERCIAL



LOWER FORT ST ROCK FACE



SUBJECT SITE | 14 HICKSON ROAD

HICKSON STAIRS

13 HICKSON RD (PIER 2) | 2 STOREY COMMERCIAL

25 LOWER FORT ST | HERITAGE LISTED 2 STOREYS

21-23 LOWER FORT STREET | HERITAGE LISTED 2 STOREYS

1-19 LOWER FORT STREET | HERITAGE LISTED 3 STOREYS

HICKSON STAIRS

SUBJECT SITE | VIEW FROM LOWER FORT ST

131

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Rev	Date	Amendment	Drn	Chk
02	17/08/2026	DEVELOPMENT APPLICATION	AM	DB
01	05/02/2026	DEVELOPMENT APPLICATION	AM	DB

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Surveyor
Structerre Consulting

Structural Engineer
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

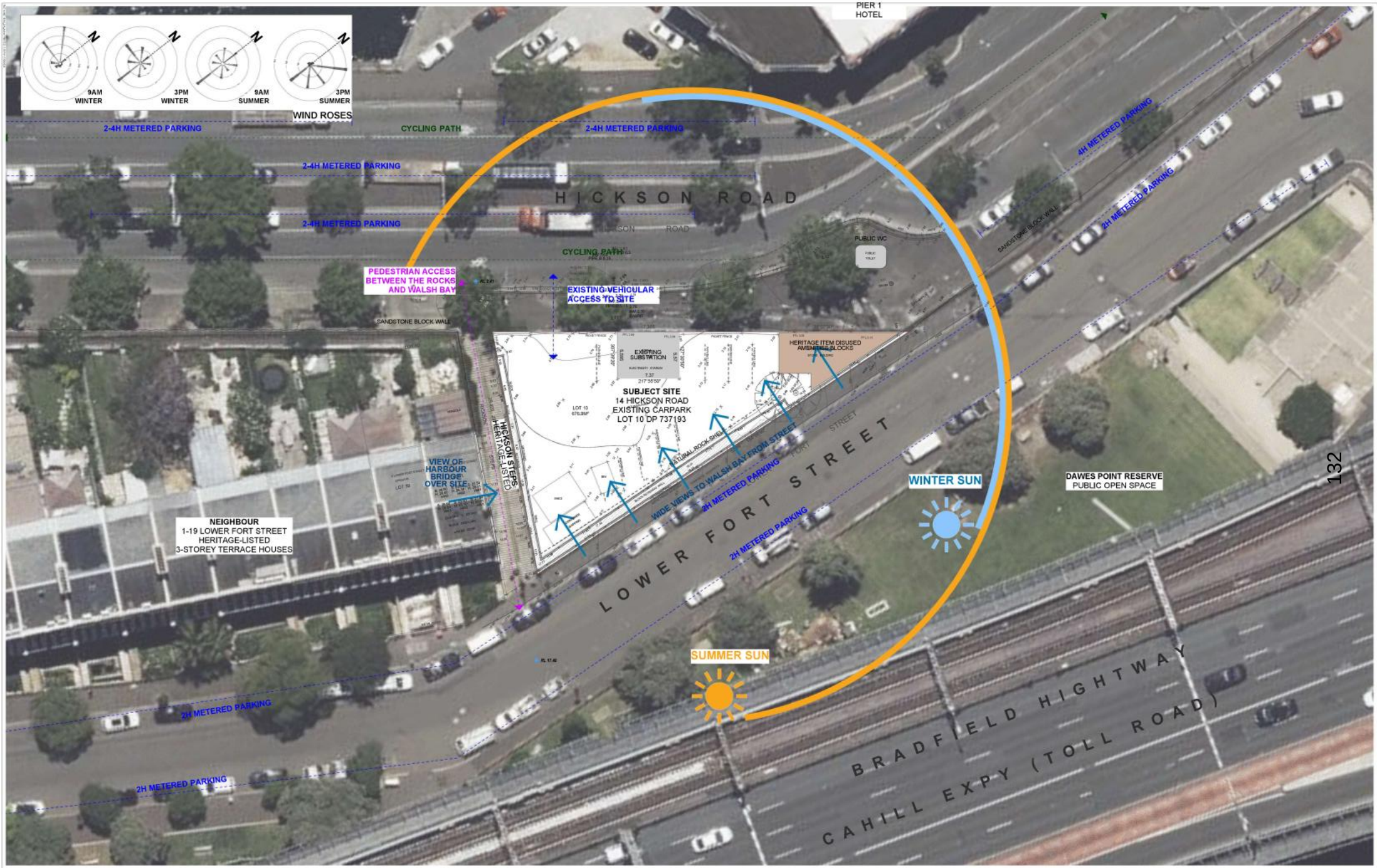
Title
Street Character Analysis

Drawing No.
0640-DA102

Revision
04

Scale
at A1 size

Date
17/08/2026



LEGEND:
- EXISTING BUILDING ELEMENTS
- DEMOLISHED BUILDING ELEMENTS
- PROPOSED BUILDING ELEMENTS
- PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Drn	Chk
02	17/08/2026	DEVELOPMENT APPLICATION	AM	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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Surveyor
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Structural Engineer
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

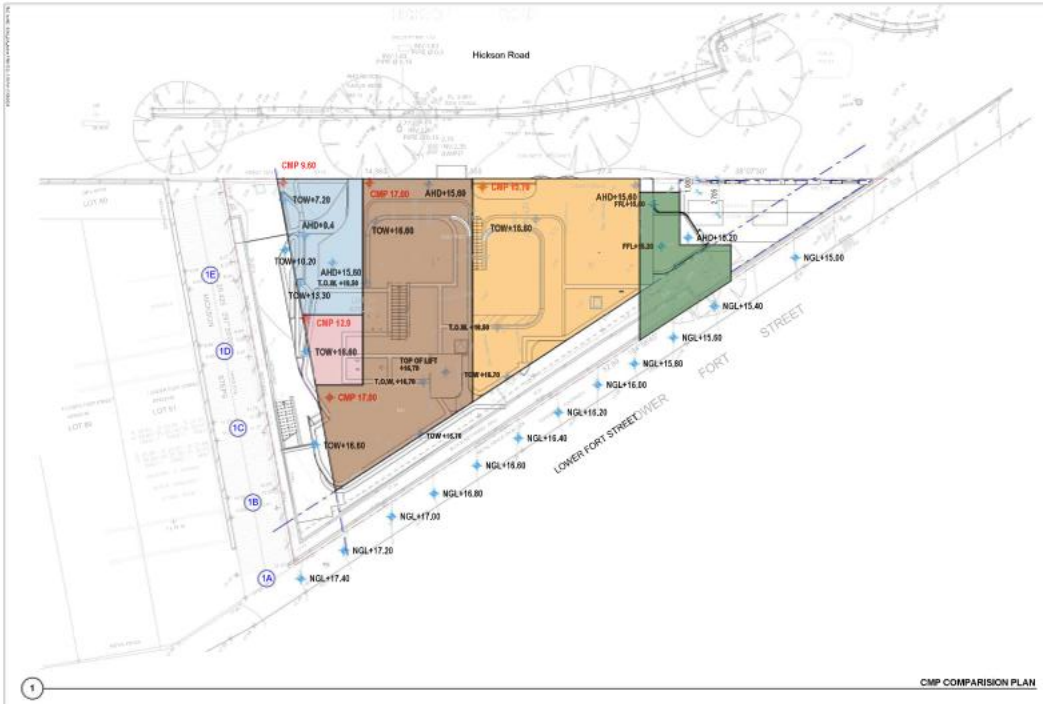
Title
Site Analysis Plan

Drawing No.
0640-DA103

Revision
04

Scale
1:200 at A1 size

Date
17/08/2026



1 CMP COMPARISION PLAN

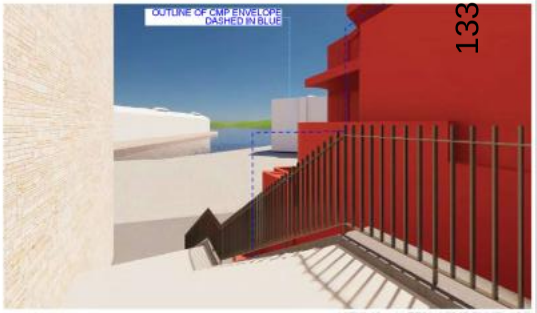
VIEW 1C - CMP ENVELOPE

VIEW 1C - ALTERNATIVE ENVELOPE

VIEW 1A - CMP ENVELOPE

VIEW 1A - ALTERNATIVE ENVELOPE

VIEW 1D - CMP ENVELOPE



VIEW 1D - ALTERNATIVE ENVELOPE

VIEW 1B - CMP ENVELOPE

VIEW 1B - ALTERNATIVE ENVELOPE

VIEW 1E - CMP ENVELOPE

VIEW 1E - ALTERNATIVE ENVELOPE

Rev	Date	Amendment	Drwn	Chck
00	17/06/2025	DEVELOPMENT APPLICATION	AM	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Surveyor
Structerre Consulting

Structural Engineer
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
CMP Envelope Analysis 01

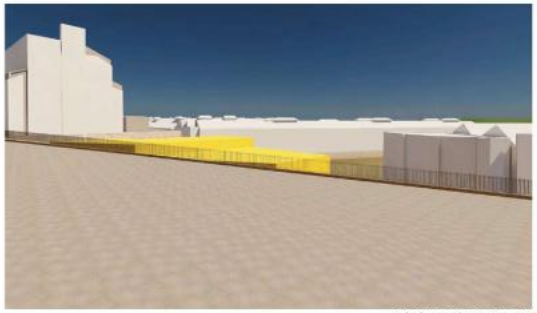
Drawing No.
0640-DA104

Revision
04

Scale
1:200 at A1 size

Date
17/08/2026

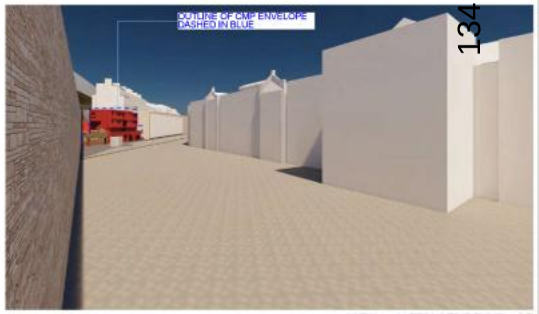
1 CMP COMPARISION PLAN



VIEW 2 - CMP ENVELOPE

VIEW 2 - ALTERNATIVE ENVELOPE

VIEW 3 - CMP ENVELOPE



VIEW 3 - ALTERNATIVE ENVELOPE

VIEW 4 - CMP ENVELOPE

VIEW 4 - ALTERNATIVE ENVELOPE

Rev	Date	Amendment	Drn	Chk
03	17/08/2026	DEVELOPMENT APPLICATION	AM	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Surveyor
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

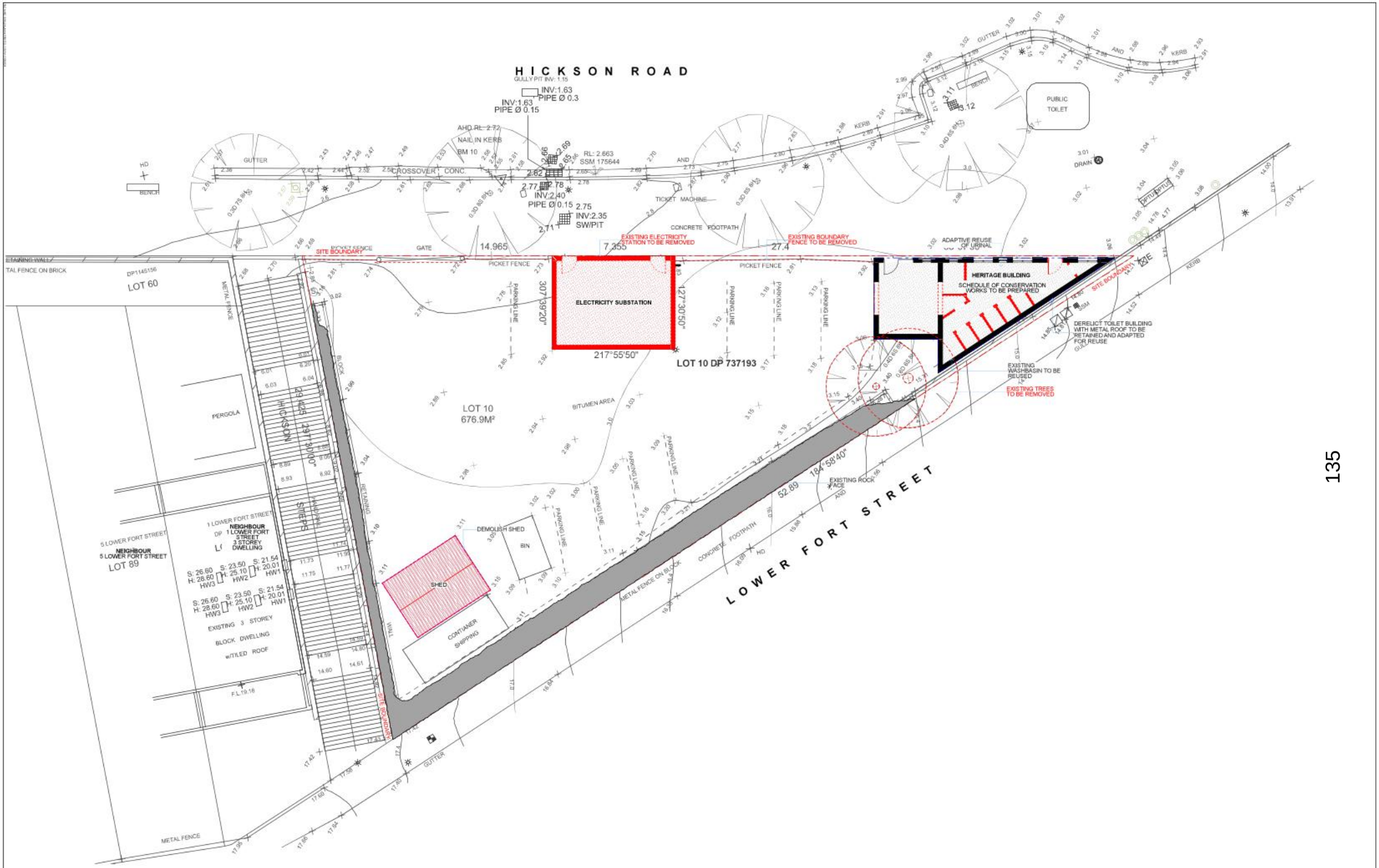
Title
CMP Envelope Analysis 02

Drawing No.
0640-DA105

Revision
04

Scale
1:200 at A1 size

Date
17/08/2026



LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Drn	Chk
04	17/08/2026	DEVELOPMENT APPLICATION	AM	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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Surveyor
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Client
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

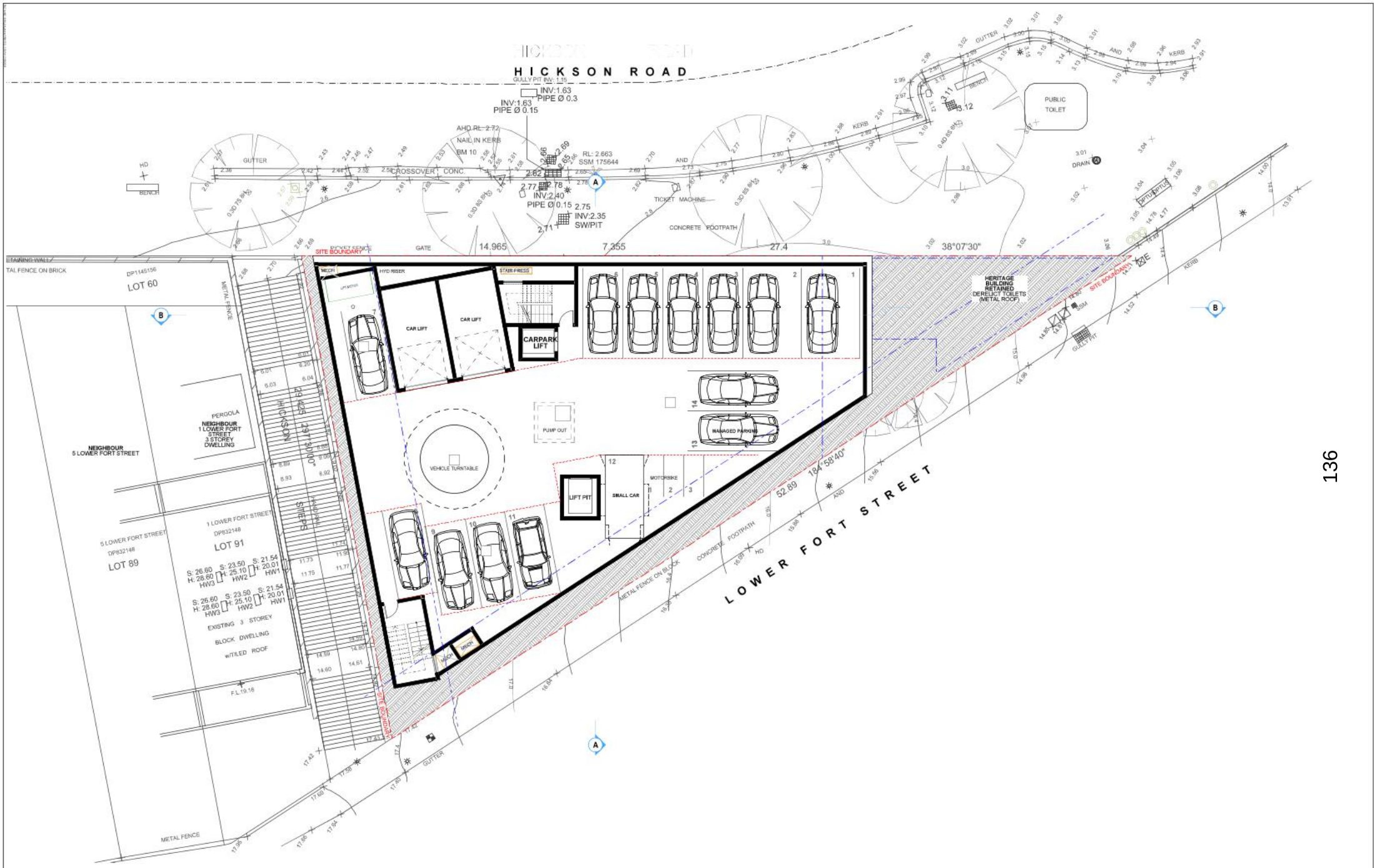
Title
Demolition Plan

Drawing No.
0640-DA106

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026



LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Surveyor	Mechanical Engineer
Structerre Consulting	JN Engineers
Structural Engineer	**Electrical Engineer**
-	AA Power Engineering
Hydraulic Engineer	**Landscape Architect**
JN Engineers	Jane Britt Design

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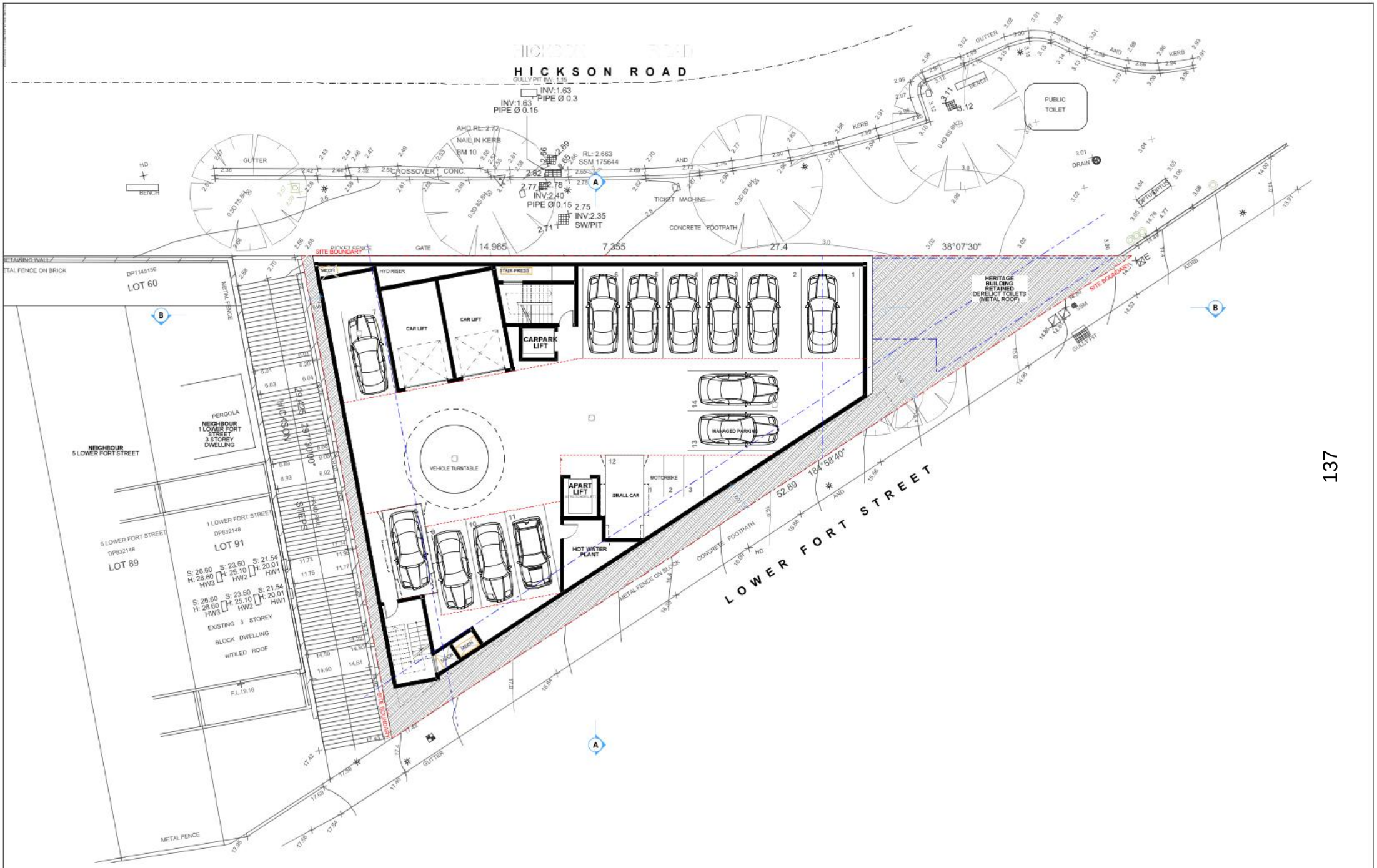
Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Basement 3 Plan

Drawing No.	Revision
0640-DA107	04
Scale	**Date**
1:100 at A1 size	17/08/2026



LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Drwn	Chk
04	17/08/2026	FLOOD LEVEL AMENDMENTS	DLI / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DLI / AM	DB
02	28/07/2025	DA RFI RESPONSE	SL	DB
01	25/02/2025	DEVELOPMENT APPLICATION	AM	AN

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Surveyor
Structerre Consulting

Structural Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

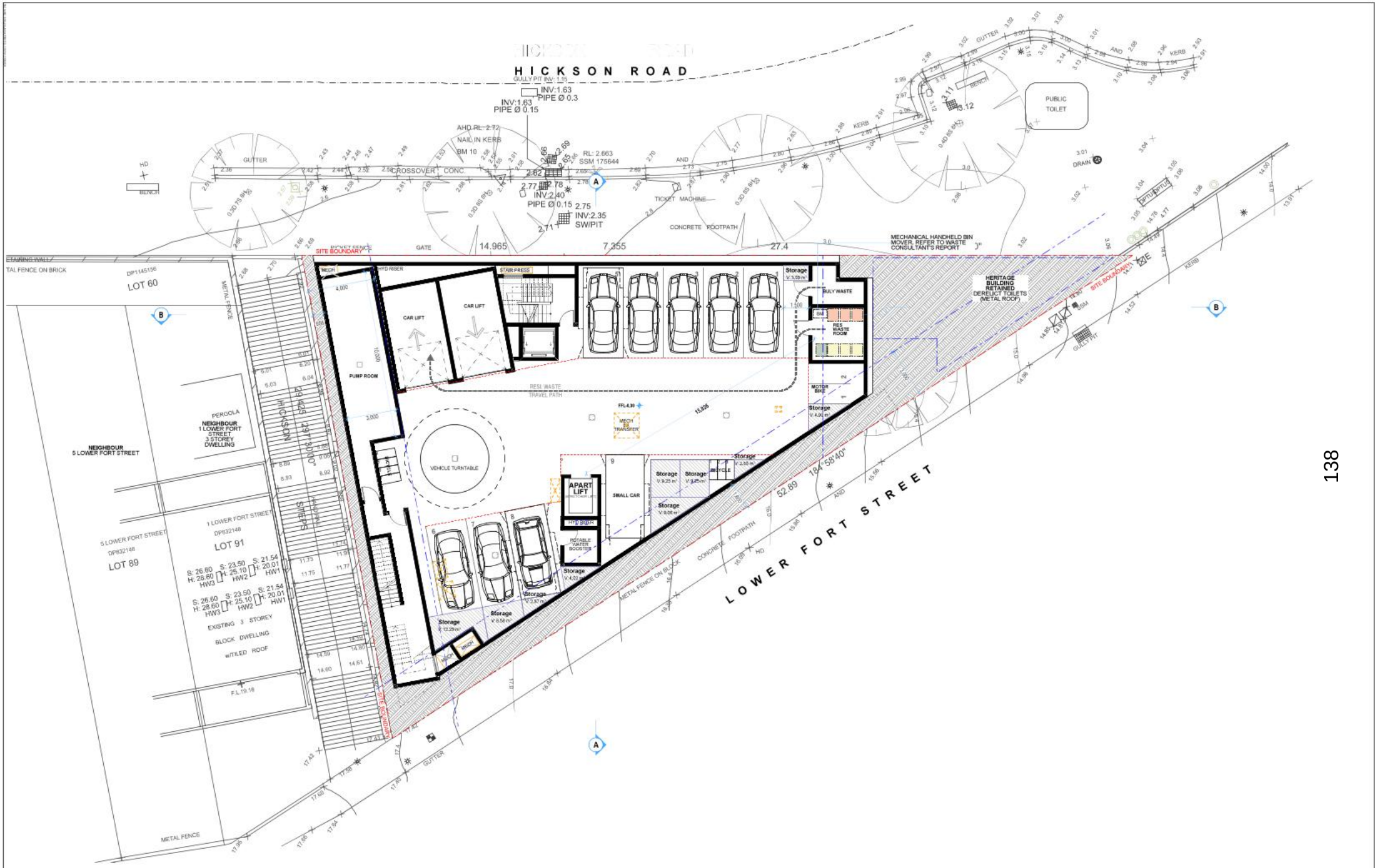
Title
Basement 2 Plan

Drawing No.
0640-DA108

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026



LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Drwn	Chk
04	17/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
03	02/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2025	DA RFI RESPONSE	SL	DB
01	25/02/2025	DEVELOPMENT APPLICATION	AM	AN

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Basement 1 Plan

Drawing No.
0640-DA109

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Rev	Date	Amendment	Drwn	Chk
04	17/06/2026	DRAFT DA FLOOR AMENDMENTS	DJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2025	DA RFI RESPONSE	DJ	DB
01	25/02/2025	DEVELOPMENT APPLICATION	AM	AN

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Surveyor
Structerre Consulting

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Site / Ground Floor Plan

Drawing No.
0640-DA110

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Rev	Date	Amendment	Drwn	Chk
04	17/08/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2026	DA RFI RESPONSE	SL	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	AN

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Surveyor
Structerre Consulting

Structural Engineer
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Hydraulic Engineer
JN Engineers

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Level 1 Plan

Drawing No.
0640-DA111

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Rev	Date	Amendment	Drn	Chk
04	17/08/2026	DA RFI RESPONSE	SL	SB
03	28/07/2026	DA RFI RESPONSE	SL	SB
02	20/07/2026	DA RFI RESPONSE	AM	AN
01	25/02/2026	DEVELOPMENT APPLICATION	AM	AN

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Surveyor
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Structural Engineer
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Client
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Level 2 Plan

Drawing No.
0640-DA112

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Rev	Date	Amendment	Drn	Chk
04	17/08/2026	DA RFI RESPONSE	SL	SB
03	28/07/2026	DA RFI RESPONSE	SL	SB
02	23/07/2026	DA RFI RESPONSE	AM	AN
01	25/02/2026	DEVELOPMENT APPLICATION	AM	AN

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Surveyor
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

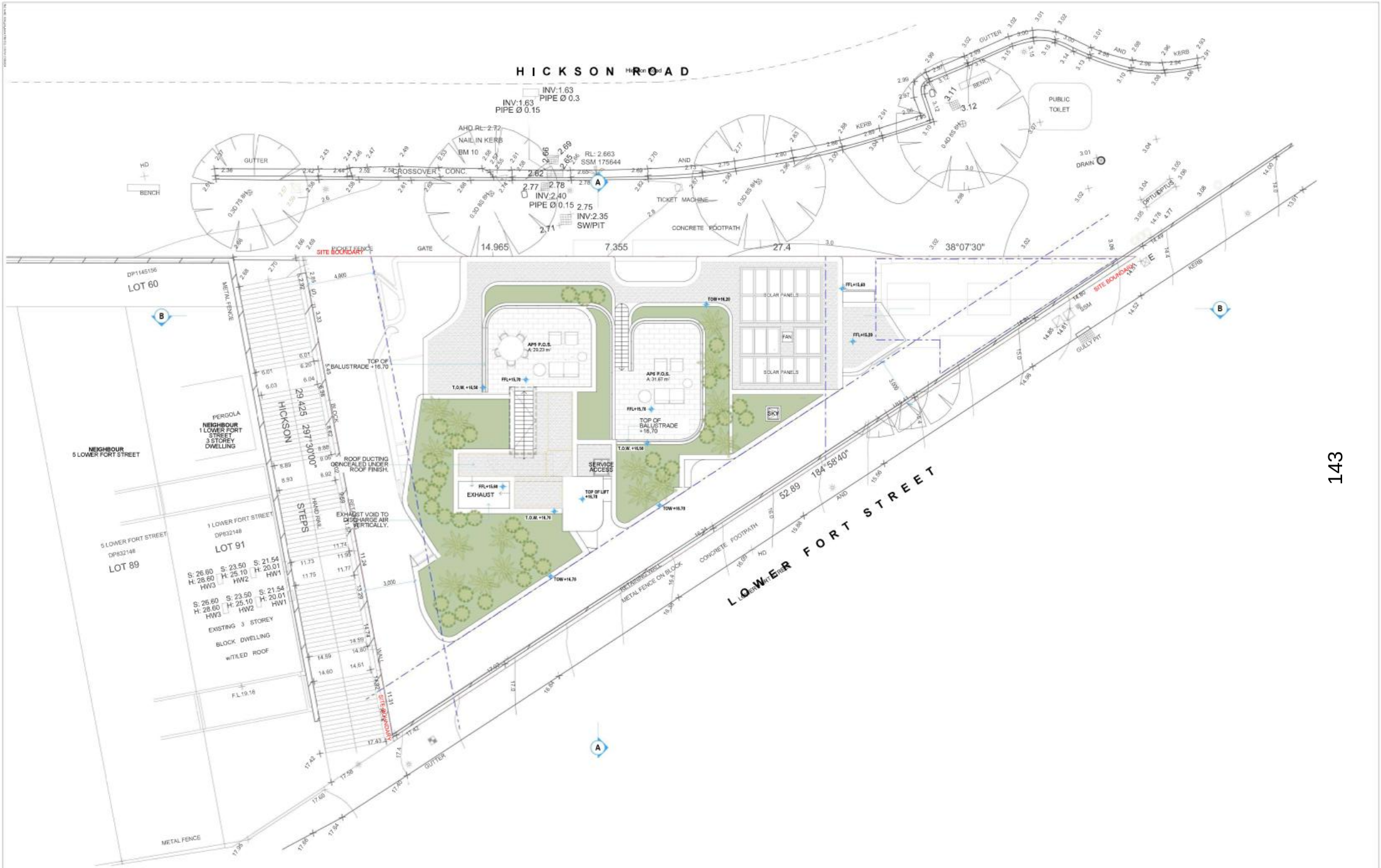
Title
Level 3 Plan

Drawing No.
0640-DA113

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026



LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Dr.	Ch.
04	17/08/2026	DA RFI RESPONSE	SL	SB
03	28/07/2026	DA RFI RESPONSE	SL	SB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	AN

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Roof Plan

Drawing No.
0640-DA114

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

144

Rev	Date	Amendment	Drwn	Chk
04	17/08/2026	DRAFT DA FLOOR AMENDMENTS	GJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	GJ / AM	DB
02	29/07/2026	DA PRE-RESPONSE	GJ	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

LEGEND:

BR1	BRICKWORK TYPE 1 (LIGHT)
BR2	BRICKWORK TYPE 2
CO	CONCRETE
CL1	FLUTED STONE CLADDING (TERRACOTTA LOOK)
DP	DOWNPIPE
GB	GLASS BALUSTRADE
GDR	GARAGE DOOR
GW1	TIMBER FRAME WINDOW
GW2	ALUMINIUM FRAME WINDOW (MATCH GW3)
GW3	ALUMINIUM FRAME WINDOW (DARK)
GW4	ALUMINIUM FRAME WINDOW (MATCH MT1)
GW5	ALUMINIUM FRAME WINDOW (MATCH MT1)
MB	METAL BALUSTRADE
MT1	METAL CLADDING (BRONZE LOOK)
PF1	PAINTED FINISH TYPE 1
PF2	PAINTED FINISH TYPE 2 (DARK)
SC1	FLUTED SCREEN (TERRACOTTA LOOK)
EB1	EXTERNAL BLIND TYPE 1
EB2	EXTERNAL BLIND TYPE 2

Surveyor
Structerre Consulting

Structural Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

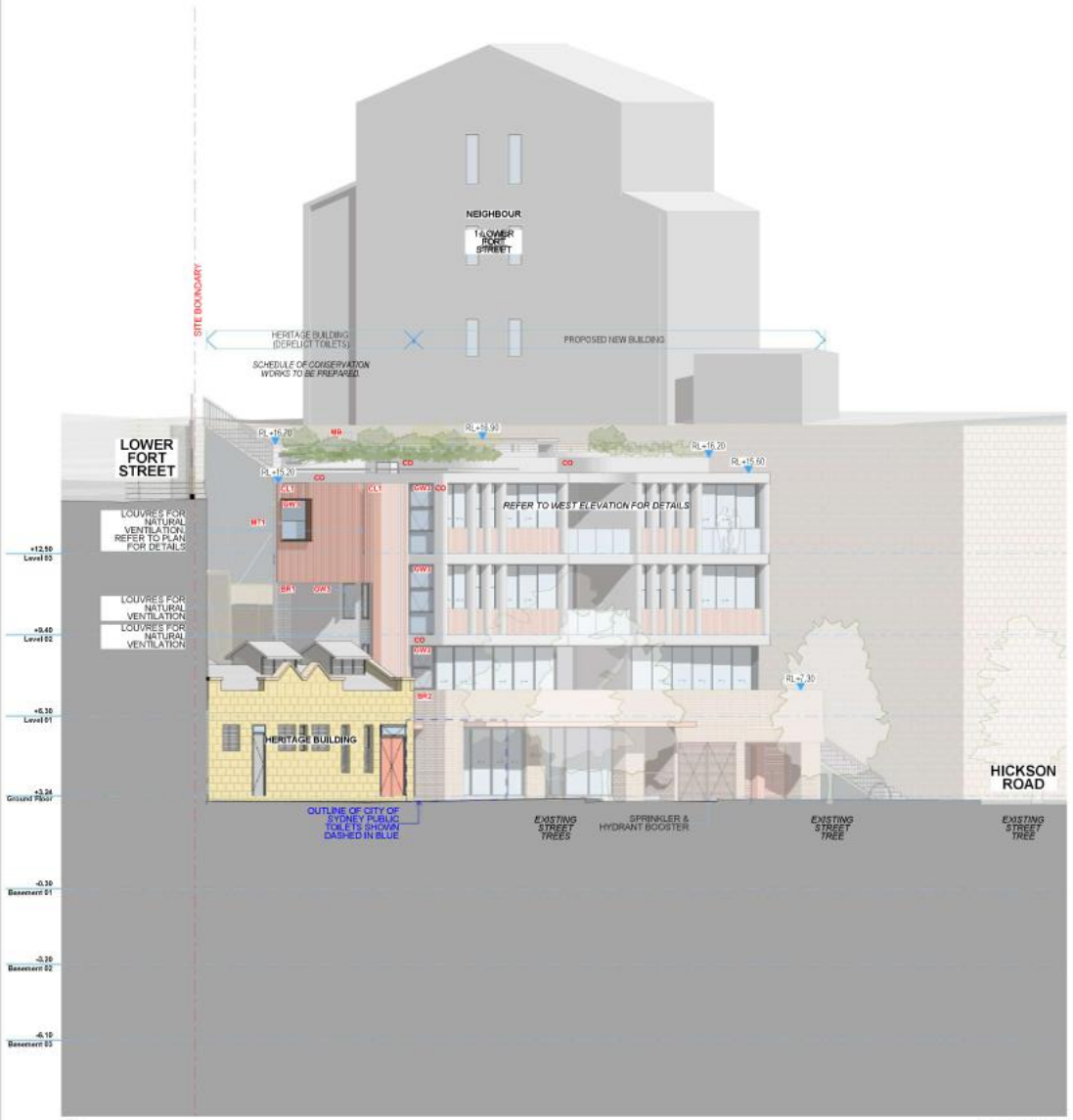
Title
Elevations 1

Drawing No.
0640-DA115

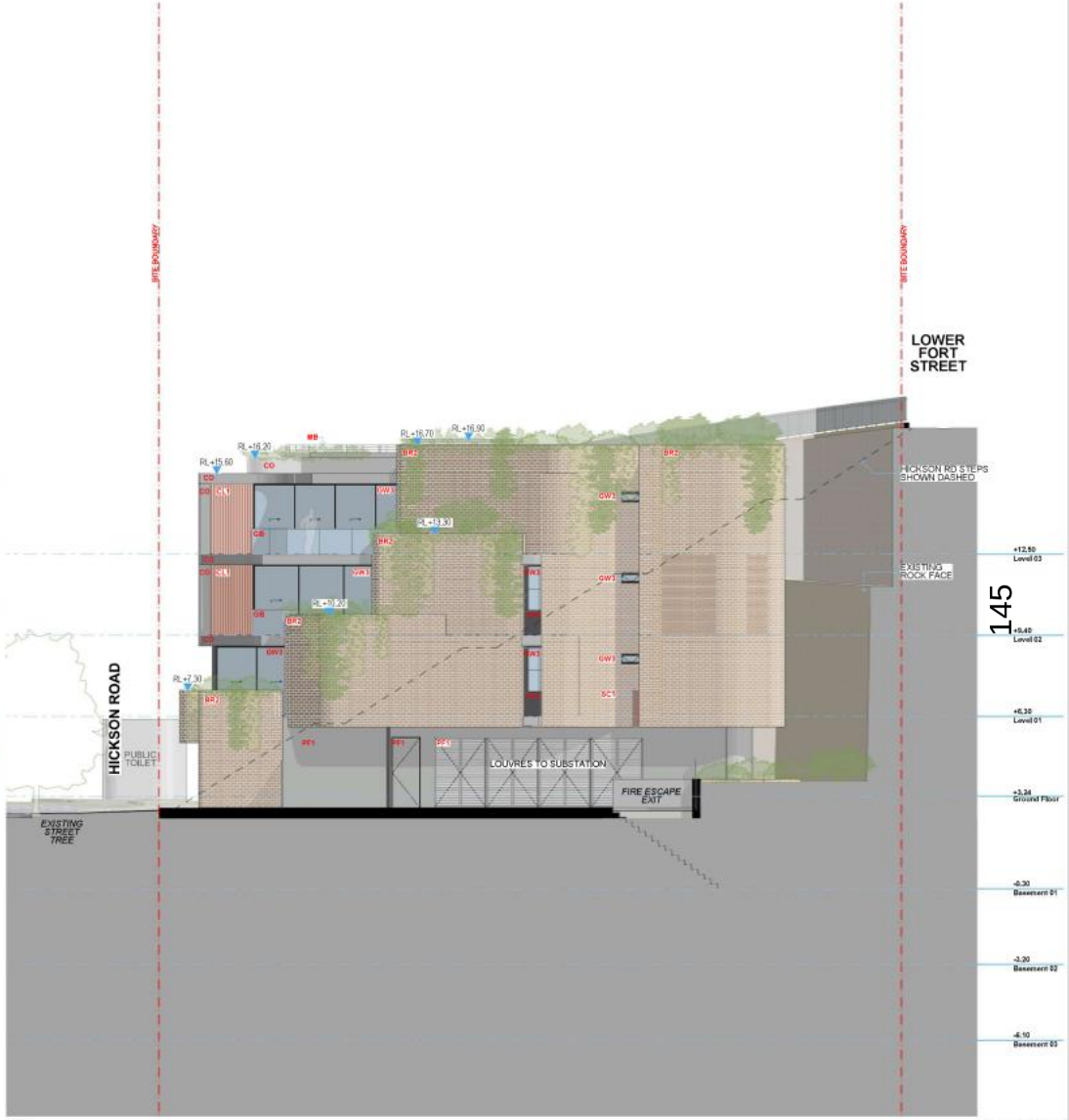
Revision
04

Scale
1:100 at A1 size

Date
17/08/2026



1 NORTH ELEVATION



2 SOUTH ELEVATION

Rev	Date	Amendment	Dwn	Chk
04	17/08/2026	DEVELOPER FLOOR AMENDMENTS	DJ / AM	DB
03	03/06/2026	FLOOR LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2026	SKETCH REISSUE	DJ	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

LEGEND:

BR1	BRICKWORK TYPE 1 (LIGHT)
BR2	BRICKWORK TYPE 2
CO	CONCRETE
CL1	FLUTED STONE CLADDING (TERRACOTTA LOOK)
DP	DOWNPIPE
GB	GLASS BALUSTRADE
GDR	GARAGE DOOR
GW1	TIMBER FRAME WINDOW
GW2	ALUMINIUM FRAME WINDOW (MATCH GW3)
GW3	ALUMINIUM FRAME WINDOW (DARK)
GW4	ALUMINIUM FRAME WINDOW (MATCH MT1)
GW5	ALUMINIUM FRAME WINDOW (MATCH MT1)
MB	METAL BALUSTRADE
MT1	METAL CLADDING (BRONZE LOOK)
PF1	PAINTED FINISH TYPE 1
PF2	PAINTED FINISH TYPE 2 (DARK)
SC1	FLUTED SCREEN (TERRACOTTA LOOK)
EB1	EXTERNAL BLIND TYPE 1
EB2	EXTERNAL BLIND TYPE 2

Surveyor
Structerre Consulting

Structural Engineer
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Hydraulic Engineer
JN Engineers

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Client
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Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Elevations 2

Drawing No.
0640-DA116

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

1 EAST ELEVATION

Rev	Date	Description	Drn	Chk
04	17/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2025	DA RFI RESPONSE	DJ	DB
01	25/02/2025	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

LEGEND:

BR1	BRICKWORK TYPE 1 (LIGHT)
BR2	BRICKWORK TYPE 2
CO	CONCRETE
CL1	FLUTED STONE CLADDING (TERRACOTTA LOOK)
DP	DOWNPIPE
GB	GLASS BALUSTRADE
GDR	GARAGE DOOR
GW1	TIMBER FRAME WINDOW
GW2	ALUMINIUM FRAME WINDOW (MATCH GW2)
GW3	ALUMINIUM FRAME WINDOW (DARK)
GW4	ALUMINIUM FRAME WINDOW (MATCH MT1)
GW5	ALUMINIUM FRAME WINDOW (MATCH MT1)
MB	METAL BALUSTRADE
MT1	METAL CLADDING (BRONZE LOOK)
PF1	PAINTED FINISH TYPE 1
PF2	PAINTED FINISH TYPE 2 (DARK)
SC1	FLUTED SCREEN (TERRACOTTA LOOK)
EB1	EXTERNAL BLIND TYPE 1
EB2	EXTERNAL BLIND TYPE 2

Surveyor
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MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

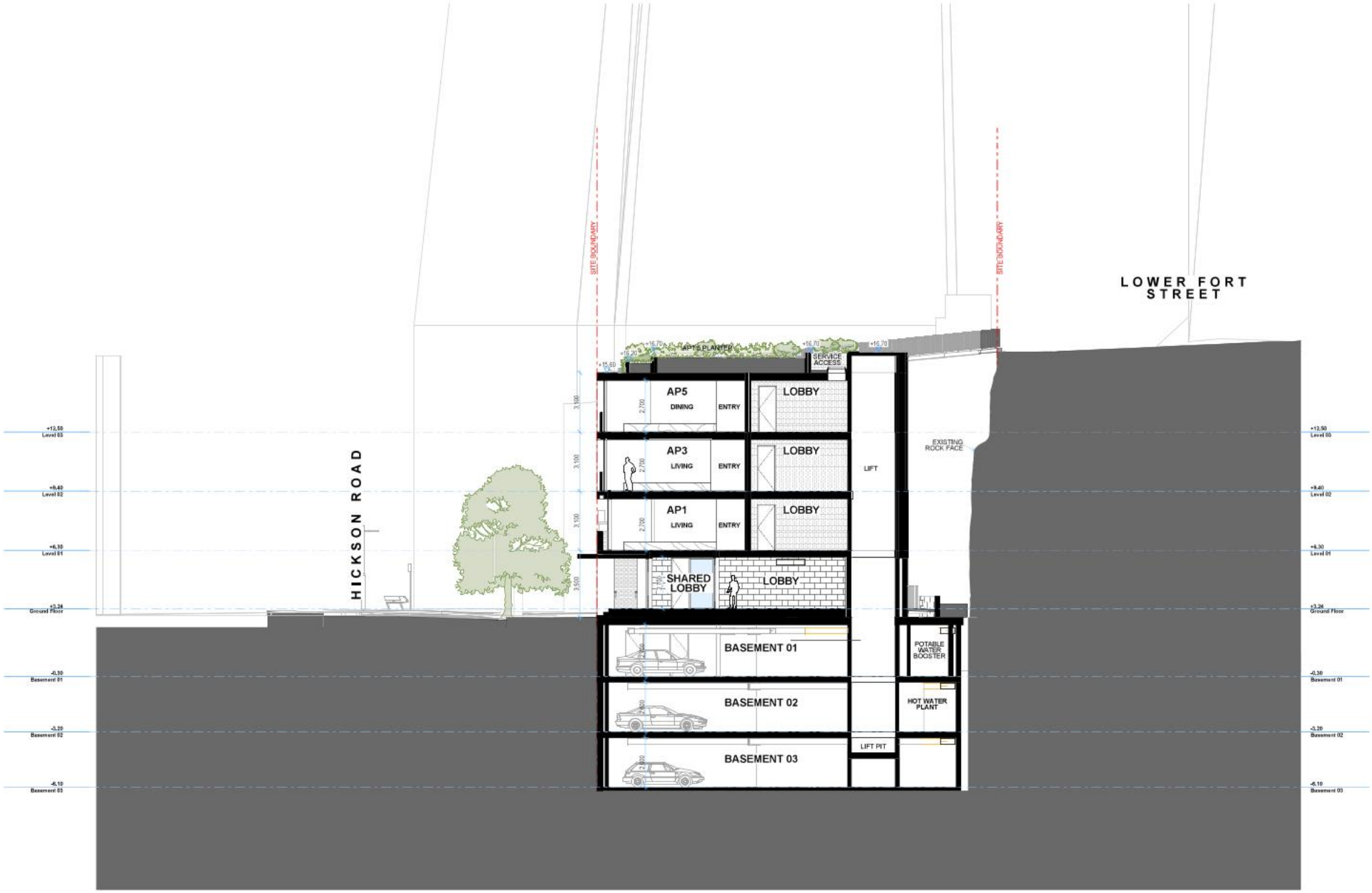
Title
Elevations 3

Drawing No.
0640-DA117

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026



Rev	Date	Amendment	Dwn	Chk
04	17/08/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
03	03/06/2026	FLOOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2026	DA RFI RESPONSE	DJ	DB
01	25/02/2026	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Surveyor
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Structural Engineer
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14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Section AA

Drawing No.
0640-DA118

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

Rev	Date	Amendment	Drwn	Chk
04	17/08/2026	TO DOD LEVEL AMENDMENTS	DJ / AM	DB
03	03/06/2026	TO DOD LEVEL AMENDMENTS	DJ / AM	DB
02	29/07/2025	DA PRESTRIKE	DJ	DB
01	25/02/2025	DEVELOPMENT APPLICATION	AM	DB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Surveyor
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Structural Engineer
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MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Section BB

Drawing No.
0640-DA119

Revision
04

Scale
1:100 at A1 size

Date
17/08/2026

SCHEDULE OF FINISHES

CO CONCRETE

BR1 BRICKWORK TYPE 1
AUSTRAL BRICKS, NEUTRAL DOVE

BR2 BRICKWORK TYPE 2
AUSTRAL BRICKS, SYMMETRY PORTLAND

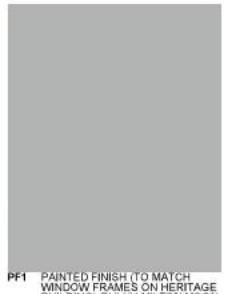
CL1 FLUTED CERAMIC CLADDING (TERRACOTTA TONES)
TEMPIO CYLINDRICAL BAGUETTE

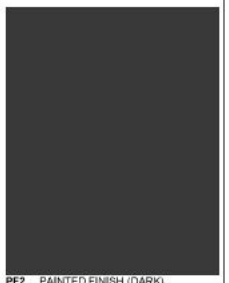
MT1 ALUMINIUM CLADDING (BRONZE LOOK)

SC1 FLUTED SCREEN (TERRACOTTA TONES)
TEMPIO CYLINDRICAL BAGUETTE

EB1 RETRACTABLE HORIZONTAL BLINDS, DARK METAL FINISH

EB2 RETRACTABLE FABRIC BLINDS


PF1 PAINTED FINISH (TO MATCH WINDOW FRAMES ON HERITAGE BUILDING) *DULUX MILTON MOON*


PF2 PAINTED FINISH (DARK)
DULUX MONUMENT

GW1 TIMBER FRAME WINDOW (TO HERITAGE ARCHITECT APPROVED COLOUR)

GW2 ALUMINIUM FRAME WINDOW. FRAME TO MATCH WINDOW FRAMES ON HERITAGE BUILDING

GW3 ALUMINIUM FRAME WINDOW (DARK)

GW4 ALUMINIUM FRAME WINDOW FRAME COLOUR TO MATCH MT1

GB CLEAR GLASS BALUSTRADE

MB METAL BALUSTRADE

CONTEXT MATERIALITY

SANDSTONE BLOCKS

DARK GREY FRAMING WITH CONCRETE

TERRACOTTA

BRICK

BRICK

04	17/06/2026	DESIGN FLOOR AMENDMENTS	CLJ / AM	DD
03	03/06/2026	FLOOD LEVEL AMENDMENTS	CLJ / AM	DD
02	20/07/2025	DA RFI RESPONSE	SL	DD
01	25/02/2025	DEVELOPMENT APPLICATION	AM	DD
Rev	Date	Amendment	Dwn	Chk

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LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

LEGEND:

BR1	BRICKWORK TYPE 1 (LIGHT)
BR2	BRICKWORK TYPE 2
CO	CONCRETE
CL1	FLUTED STONE CLADDING (TERRACOTTA LOOK)
DP	DOWNPIPE
GB	GLASS BALUSTRADE
GDR	GARAGE DOOR
GW1	TIMBER FRAME WINDOW
GW2	ALUMINIUM FRAME WINDOW (MATCH GW2)
GW3	ALUMINIUM FRAME WINDOW (DARK)
GW4	ALUMINIUM FRAME WINDOW (MATCH MT1)
MB	METAL BALUSTRADE
MT1	METAL CLADDING (BRONZE LOOK)
PF1	PAINTED FINISH TYPE 1
PF2	PAINTED FINISH TYPE 2 (DARK)
SC1	FLUTED SCREEN (TERRACOTTA LOOK)
EB1	EXTERNAL BLIND TYPE 1
EB2	EXTERNAL BLIND TYPE 2

Surveyor
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Structural Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

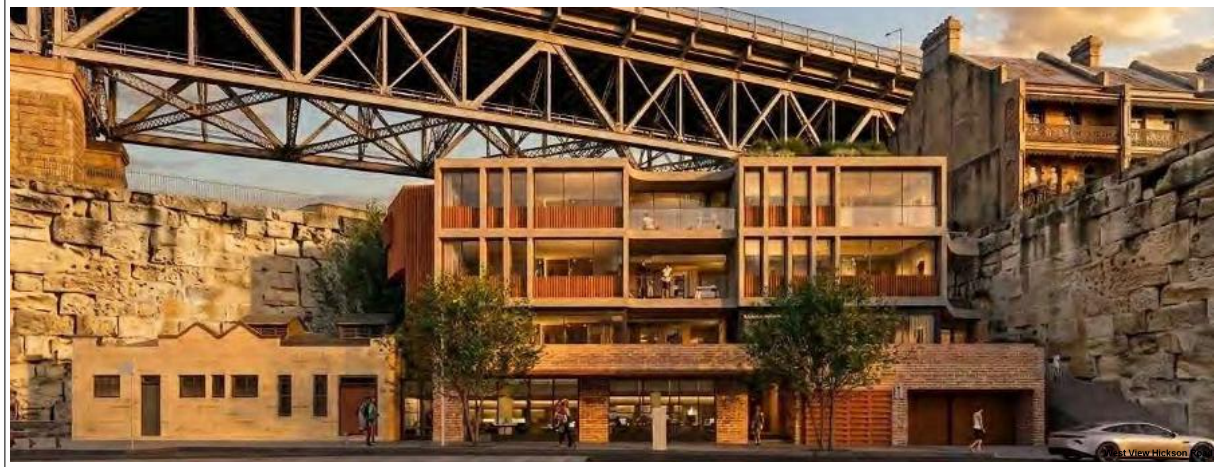
Title
Schedule of Finishes

Drawing No.	Revision
0640-DA120	04
Scale	Date
at A1 size	17/08/2026

View from Hickson Steps

View from Lower Fort Street

Viewpoint from Lower Fort Street


West View Hickson Road

View from Lower Fort Street

North View Hickson Road

Aerial View

South View Hickson Road

Rev	Date	Amendment	Drwn	Chkd
04	17/08/2026	GROUND FLOOR AMENDMENTS	GJ/AW	BB
03	12/06/2026	FLOOD LEVEL AMENDMENTS	GJ/AW	BB
02	20/07/2026	DA RFI RESPONSE	GL	BB
01	25/02/2026	DEVELOPMENT APPLICATION	AW	BB

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LEGEND:

- = EXISTING BUILDING ELEMENTS
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- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Surveyor
Structerre Consulting

Structural Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
3D Perspectives

Drawing No.
0640-DA121

Revision
04

Scale
at A1 size

Date
17/08/2026

150

Rev	Date	Amendment	Drwn	Chk
02	29/07/26	DA RFI RESPONSE	SL	DD
01	25/06/26	DEVELOPMENT APPLICATION	AM	DD

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LEGEND:
- PROPOSED MIXED USE DEVELOPMENT
- EXISTING SHADOWS CAST ON MIXED USE DEVELOPMENT
- EXISTING SHADOWS CAST ON SITE

Surveyor
Structerre Consulting

Structural Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Shadow Diagram: 9:00am June 21

Drawing No.
0640-DA200

Revision
02

Scale
1:200 at A1 size

Date
29/07/26

Rev	Date	Amendment	Drwn	Chck
02	29/07/26	DA RFI RESPONSE	SL	DD
01	25/06/26	DEVELOPMENT APPLICATION	AM	DD

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LEGEND:
- Proposed Main Envelope
- Existing Shadow Cast Moved
- Existing Shadow Cast Lost

Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
JN Engineers

Mechanical Engineer
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Shadow Diagram: 12:00pm June 21

Drawing No.
0640-DA201

Revision
02

Scale
1:200 at A1 size

Date
29/07/26

Rev	Date	Amendment	Drwn	Chck
02	29/07/26	DA RFI RESPONSE	SL	DD
01	25/06/26	DEVELOPMENT APPLICATION	AM	DD

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LEGEND:
- PROPOSED MIXED USE BUILDING
- EXISTING SHADOWS CAST BY PROPOSED
- EXISTING SHADOWS CAST BY EXISTING

Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
JN Engineers

Mechanical Engineer
JN Engineers

Electrical Engineer
AA Power Engineering

Landscape Architect
Jane Britt Design

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

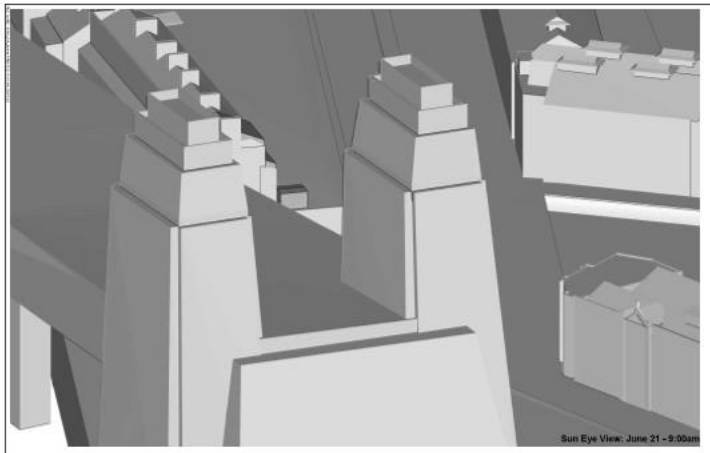
Title
Shadow Diagram: 3:00pm June 21

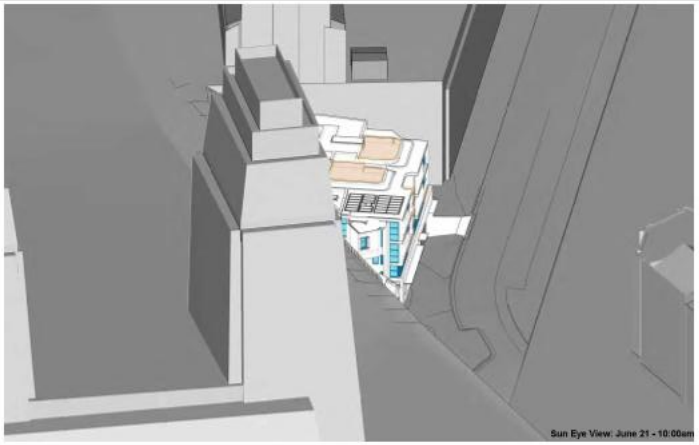
Drawing No.
0640-DA202

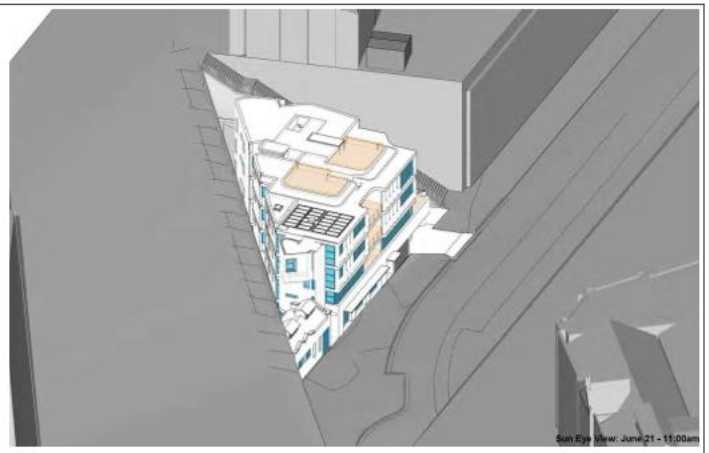
Revision
02

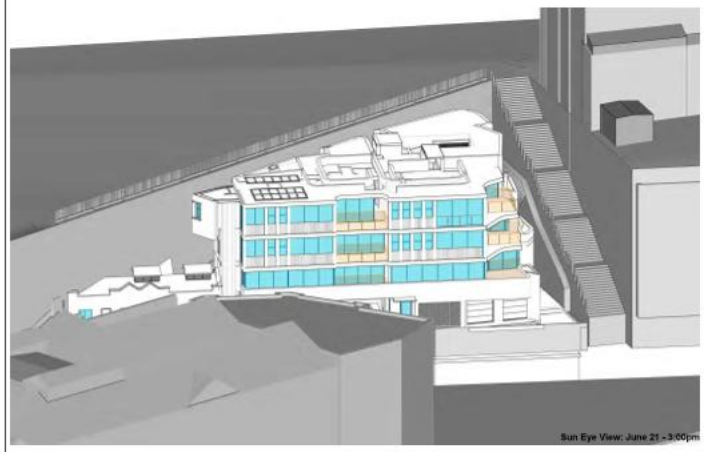
Scale
1:200 at A1 size

Date
29/07/26









Solar Access Tally at hourly intervals

EXISTING / PROPOSED

Subject site:	14 Hickson Rd, Dawes Point, NSW, 2000
Adjacent site:	3 Lower Fort St, Dawes Point, NSW, 2000

Infill orange cells using drop down menu options only:
Y = in sunlight
N = not in sunlight
H = min. 15 mins sunlight to habitable room only

Infill red cells manually

No. of Apt	Floor Level (Living)	Unique Apt ID	Room Name	9.00		10.00		11.00		12.00		1.00		2.00		3.00	Total Hours	≥ 2 hours sun to LIVING & P.O.S	NDS to HABITABLE ROOMS OR P.O.S
1	1	1	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4		
2	1	2	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4		
3	2	3	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	N	0	N	0	Y	1	Y	1	Y	2		
4	2	4	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4		
5	3	5	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	N	0	N	0	Y	1	Y	1	Y	2		
6	3	6	LIVING	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4	Y	No
			P.O.S	N	0	N	0	Y	1	Y	1	Y	1	Y	1	Y	4		

Total No. of Apts
6

≥ 2 hours sunlight	No Direct Sun
6	0
100.0%	0.0%

LEGEND:
- = AREA OF GLAZING RECEIVING SUN
- = AREA OF NEIGHBOUR GLAZING RECEIVING SUN
- = AREA OF PRIVATE OPEN SPACE RECEIVING SUN

Rev	Date	Amendment	Drn	Chk
02	29/07/26	DA RFI RESPONSE	SL	DD
01	25/02/26	DEVELOPMENT APPLICATION	AW	DD

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Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
JN Engineers

Mechanical Engineer
JN Engineers

Electrical Engineer
AA Power Engineering

Landscape Architect
Jane Britt Design

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

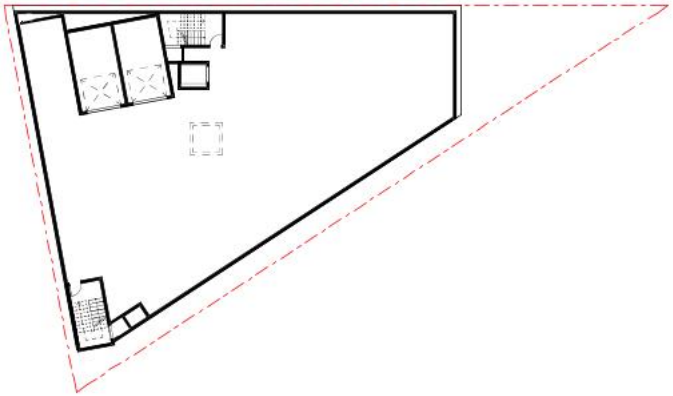
Title
Sun Eye Views

Drawing No.
0640-DA203

Revision
02

Scale
1:1 at A1 size

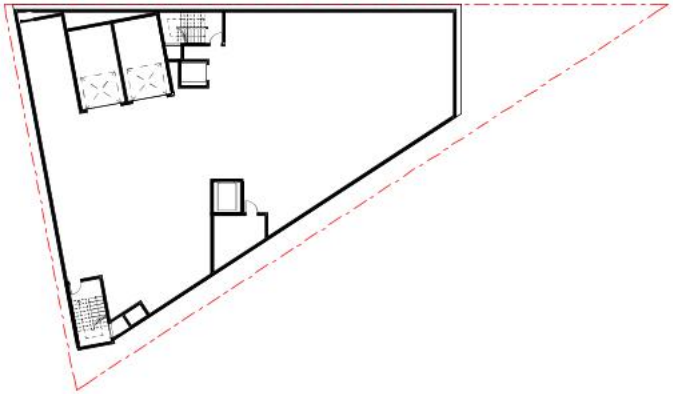
Date
29/07/26



1 Basement 03 GFA

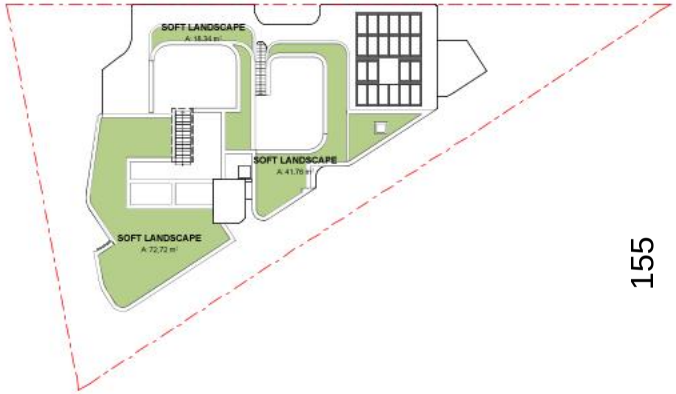
2 Ground Floor GFA

3 Level 03 GFA

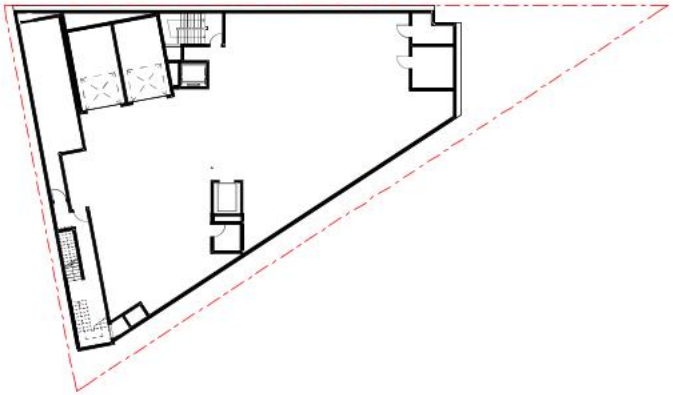


4 Basement 02 GFA

5 Level 01 GFA



8 Roof GFA



6 Basement 01 GFA

7 Level 02 GFA

ADG CALCULATIONS

LEVEL	UNIT No.	BEDROOMS	INTERNAL AREA (m2)	PRIVATE OPEN SPACE (m2)	INTERNAL STORAGE (m3)	GARAGE STORAGE (m3)	TOTAL STORAGE (m3)	ADAPTABLE	LIVABLE HOUSING SILVER	ACHIEVES CROSS VENTILATION
1	1	3	168.2	21.6	11.0	12.3	23.28	no	yes	yes
1	2	3	138.8	12.4	5.3	8.6	13.84	no	yes	yes
2	3	3	158.6	14.4	7.0	6.9	13.87	no	yes	yes
2	4	3	140.6	12.0	5.3	9.1	14.32	no	yes	yes
3	5	3	152.1	43.2	5.7	9.3	14.94	no	yes	yes
3	6	3	142.2	43.7	5.3	9.3	14.51	no	yes	yes

GFA CALCULATIONS

SITE AREA (m2)	718
FSR PERMITTED	NA
FSR CALCULATED	1.66

GFA CALCULATIONS	
Level	GFA
Basement 3	0.0
Basement 2	0.0
Basement 1	0.0
Ground Floor	232.4
Level 01	327.3
Level 02	322.3
Level 03	310.9
Roof	0.0
TOTAL GFA (m2)	1192.8

155

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME

Rev	Date	Amendment	Drwn	Chk
01	25/02/26	FOR FOR REVIEW	01	MB

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Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
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Mechanical Engineer
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Landscape Architect
Jane Britt Design

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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

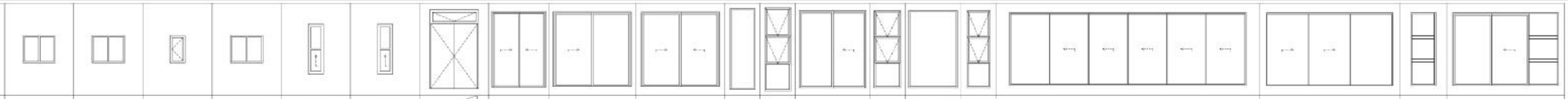
Title
Area Diagrams

Drawing No.
0640-DA300

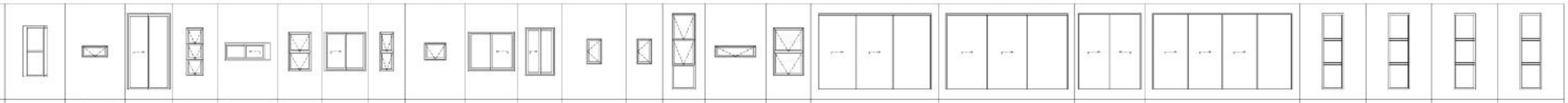
Revision
01

Scale
1:200 at A1 size

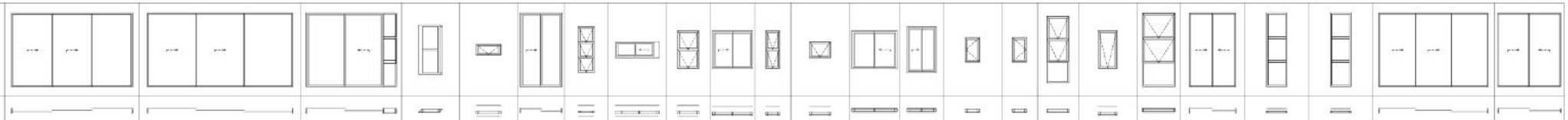
Date
25/02/26



WINDOW NUMBER	W001	W002	W003	W004	W005	W006	W007	W008	W009	W010	W012	W013	W014	W015	W016	W017	W101	W102	W103	W104
LOCATION	HERITAGE BUILDING	HERITAGE BUILDING	HERITAGE BUILDING	HERITAGE BUILDING	HERITAGE BUILDING	HERITAGE BUILDING	HERITAGE BUILDING	OFFICE	OFFICE		LOBBY	LOBBY	OFFICE	OFFICE	OFFICE	OFFICE	APT 1 LIVING	APT 1 DINING	APT 1 DINING	APT 1 BEDROOM 1
WINDOW TYPE							FIXED	SLIDING	SLIDING	SLIDING	FIXED	AWNING	SLIDING	AWNING	FIXED	AWNING	SLIDING	SLIDING	SLIDING	SLIDING
WINDOW W x H	1,197×1,000	1,197×1,000	560×1,000	1,197×1,000	560×1,850	560×1,850	1,800×2,590	2,000×2,800	2,895×2,790	2,905×2,790	918×3,000	960×3,100	2,479×2,860	955×2,860	1,807×2,860	861×2,860	8,780×2,700	4,695×2,700	921×2,700	3,925×2,700
WINDOW COVERING	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	EXTERNAL BLINDS	-	-	-
U-VALUE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4.8	4.8	4.8	4.8
SHGC	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.59	0.59	0.59	0.59
THERMALLY BROKEN	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	No	No	No	No



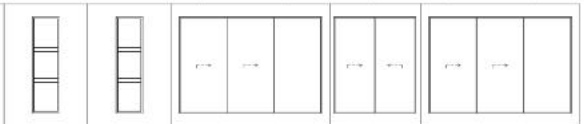
WINDOW NUMBER	W105	W106	W107	W108	W109	W110	W111	W112	W113	W114	W115	W116	W117	W118	W119	W120	W121	W122	W123	W124	W201	W202	W203	W204
LOCATION	APT 1 BED 1 ENS	APT 1 BED 2 ENS	APT 1 BED 2	APT 1 BED 2	APT 1 BED 3 ENS	APT 1 BED 3	APT 1 BED 3	LOBBY	APT 2 BED 3 ENS	APT 2 BED 3	APT 2 BED 2	APT 2 BED 23 ENS	APT 2 WC	APT 2 HALL	APT 2 BED 1 ENS	APT 2 BED 1	APT 2 BED 1	APT 2 DINING	APT 2 DINING	APT 2 LIVING	APT 3 LIVING	APT 3 LIVING	APT 3 LIVING	APT 3 LIVING
WINDOW TYPE	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	AWNING	SLIDING	SLIDING	SWING	SWING	AWNING	AWNING	AWNING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING
WINDOW W x H	665×1,800	900×400	1,524×2,790	600×1,700	1,620×600	600×1,400	1,480×1,400	500×1,400	774×500	1,685×1,400	1,055×1,700	525×900	525×900	815×2,700	1,450×400	1,069×1,700	4,020×2,700	4,347×2,700	2,244×2,790	4,960×2,700	750×2,700	750×2,700	750×2,700	750×2,700
WINDOW COVERING	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	EXTERNAL BLINDS	EXTERNAL BLINDS	-	-	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS
U-VALUE	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8
SHGC	0.59	0.51	0.59	0.51	0.59	0.51	0.59	0.51	0.51	0.59	0.59	0.51	0.51	0.51	0.51	0.51	0.59	0.59	0.59	0.59	0.59	0.59	0.59	0.59
THERMALLY BROKEN	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No



WINDOW NUMBER	W205	W206	W207	W208	W209	W210	W211	W212	W213	W214	W215	W216	W217	W218	W219	W220	W221	W222	W223	W224	W225	W226	W227	W228
LOCATION	APT 3 DINING	APT 3 DINING/KITCHEN	APT 3 BED 1	APT 3 BED 1 WR	APT 3 BED 1 ENS	APT 3 BED 2	APT 3 BED 2	APT 3 BED 2 ENS	APT 3 BED 3	APT 3 BED 2	LOBBY	APT 4 BED 3 ENS	APT 4 BED 3	APT 4 BED 2	APT 4 BED 2 ENS	APT 4 WC	APT 4 HALL	APT 4 BED 1 ENS	APT 4 BED 2	APT 4 BED 1	APT 4 BED 1	APT 4 BED 1	APT 4 DINING	APT 4 DINING
WINDOW TYPE	SLIDING	SLIDING	SLIDING	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	AWNING	SLIDING	SLIDING	SWING	SWING	AWNING	AWNING	AWNING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING
WINDOW W x H	4,430×2,700	5,320×2,700	3,310×2,700	665×1,600	900×400	1,535×2,700	600×1,700	1,620×600	800×1,400	1,480×1,400	500×1,400	774×600	1,685×1,400	1,065×1,700	525×900	525×900	815×2,460	700×1,400	1,200×2,700	1,717×2,700	753×2,700	753×2,700	4,000×2,700	2,285×2,700
WINDOW COVERING	EXTERNAL BLINDS	-	-	-	<Undefined>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	-
U-VALUE	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	3.6	4.8	4.8	4.8	4.8	4.8	4.8	4.8
SHGC	0.59	0.59	0.59	0.59	0.51	0.59	0.51	0.59	0.51	0.59	0.51	0.51	0.59	0.59	0.51	0.51	0.47	0.51	0.51	0.59	0.59	0.59	0.59	0.59
THERMALLY BROKEN	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	Yes	No	No	No	No	No	No	No

156

WINDOW NUMBER	W229	W301	W302	W303	W304	W305	W306	W307	W308	W309	W310	W311	W312	W313	W314	W315	W316	W317	W318	W319	W320	W321	W322	W323
LOCATION	APT 4 LIVING	APT 5 LIVING	APT 5 LIVING	APT 5 LIVING	APT 5 LIVING	APT 5 DINING	APT 5 DINING/KITCHEN	APT 5 BED 1	APT 5 BED 1 ENS	APT 5 BED 2	APT 5 BED 2	APT 5 BATH	APT 5 BED 3	APT 5 BED 3	LOBBY	APT 6 BED 3 ENS	APT 6 BED 3	APT 6 BED 2	APT 6 BED 2 ENS	APT 6 WC	APT 6 HALL	APT 6 BED 1 ENS	APT 6 BED 1	APT 6 BED 1
WINDOW TYPE	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	SLIDING	AWNING	AWNING	SLIDING	SLIDING	SWING	SWING	AWNING	SLIDING	AWNING	SLIDING
WINDOW W x H	4,960×2,700	750×2,700	750×2,700	750×2,700	749×2,700	4,430×2,700	6,403×2,700	2,217×2,700	900×400	1,530×2,700	600×1,700	1,620×600	800×1,400	1,316×1,400	500×1,400	774×600	1,665×1,400	1,055×1,700	525×900	525×900	815×2,700	992×1,600	1,200×2,700	1,717×2,700
WINDOW COVERING	-	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	EXTERNAL BLINDS
U-VALUE	4.8	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6
SHGC	0.59	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.47
THERMALLY BROKEN	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes



WINDOW NUMBER	W324	W325	W326	W327	W328
LOCATION	APT 6 BED 1	APT 6 BED 1	APT 6 DINING	APT 6 DINING	APT 6 LIVING
WINDOW TYPE	SLIDING	SLIDING	SLIDING	SLIDING	SLIDING
WINDOW W x H	753×2,700	753×2,700	4,000×2,700	2,295×2,700	4,010×2,700
WINDOW COVERING	EXTERNAL BLINDS	EXTERNAL BLINDS	EXTERNAL BLINDS	-	-
U-VALUE	3.6	3.6	3.6	3.6	3.6
SHGC	0.47	0.47	0.47	0.47	0.47
THERMALLY BROKEN	Yes	Yes	Yes	Yes	Yes

WINDOW NUMBER	SK01
LOCATION	APT 6 ENS
WINDOW TYPE	AWNING
SKYLIGHT W x H	665×665

GLAZING NOTES:
ALL WINDOWS, DOORS & SKYLIGHTS TO BE DOUBLE GLAZED

U AND SHGC VALUES ARE ACCORDING TO NFRC. ALTERNATE PRODUCTS MAY BE USED IF THE U VALUE IS THE SAME OR LOWER THAN THAT SPECIFIED AND THE SHGC IS WITHIN 5% OF THE ABOVE FIGURES.

Rev	Date	Amendment	Drn	Chk
02	29/07/26	SATP RESPONSE	SL	DD
01	25/02/26	DEVELOPMENT APPLICATION	AM	DD

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LEGEND:
- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
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Landscape Architect
Jane Britt Design

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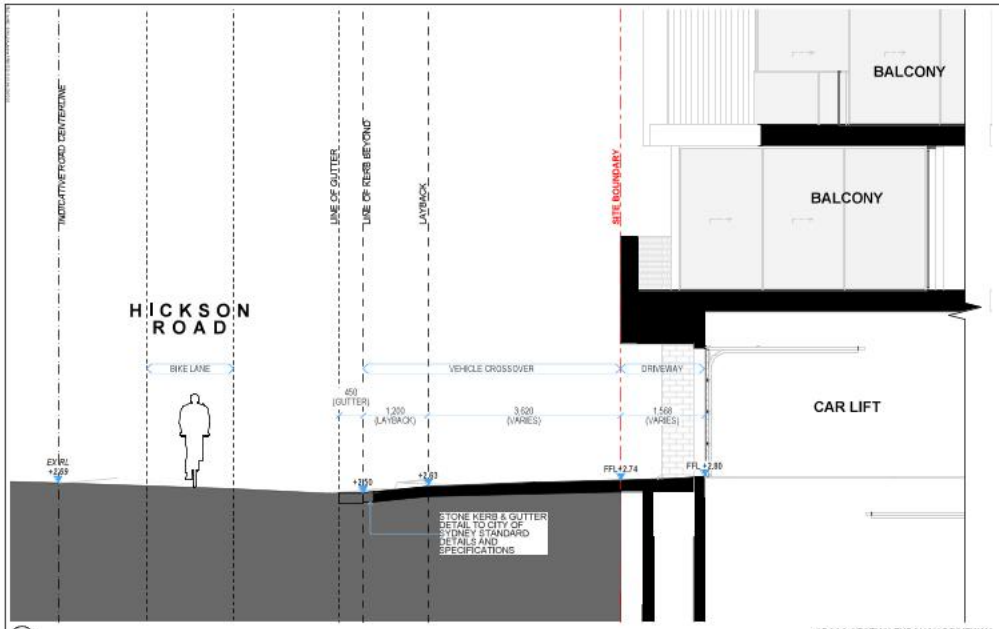
Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

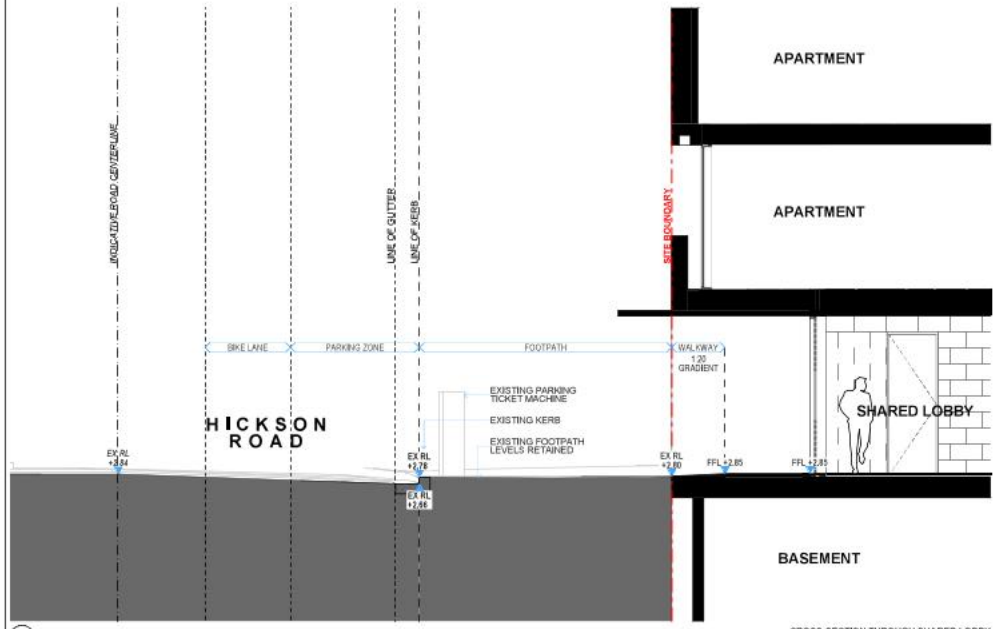
Status
DEVELOPMENT APPLICATION

Title
Window Schedule

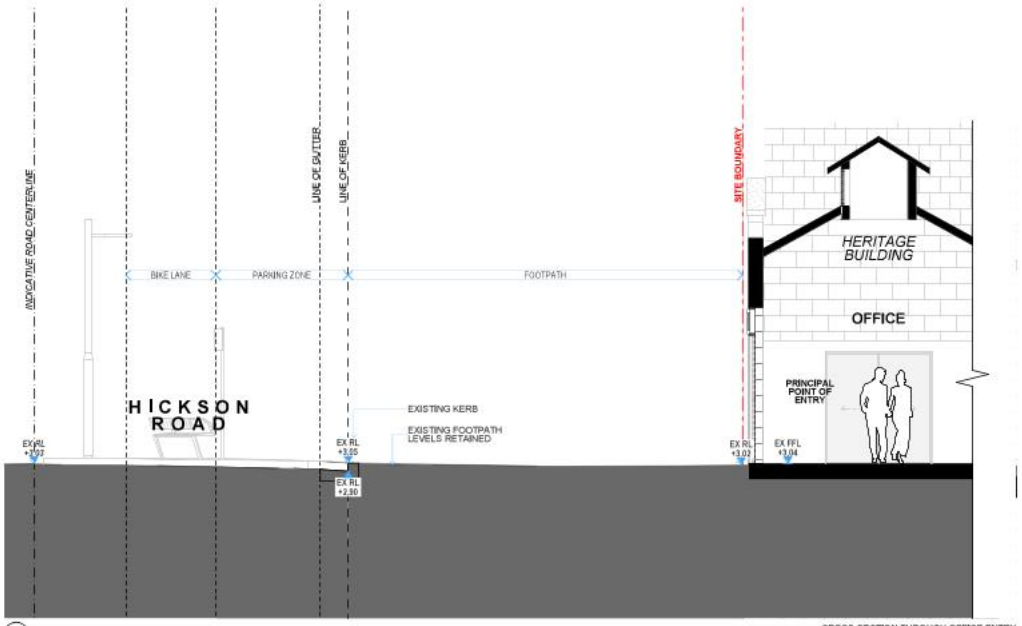
Drawing No. 0640-DA500
Revision 02
Scale 1:0.75 at A1 size
Date 29/07/26



CS-01 CROSS-SECTION THROUGH DRIVEWAY



CS-02 CROSS-SECTION THROUGH SHARED LOBBY



CS-03 CROSS-SECTION THROUGH OFFICE ENTRY

LEGEND:

- = EXISTING BUILDING ELEMENTS
- = DEMOLISHED BUILDING ELEMENTS
- = PROPOSED BUILDING ELEMENTS
- = PROPOSED STORAGE VOLUME
- = APARTMENTS WITH CROSS VENTILATION

NOTE: ROAD CENTRELINES AND RLS ARE INDICATIVE ONLY AND NOT BASED ON SURVEY DATA

Rev	Date	Amendment	Drn	Chk
02	29/07/26	DA RFI RESPONSE	DL	MB

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Surveyor
Structerre Consulting

Structural Engineer
-

Hydraulic Engineer
JN Engineers

Mechanical Engineer
JN Engineers

Electrical Engineer
AA Power Engineering

Landscape Architect
Jane Britt Design

PopovBass
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Client
Pier One Car Park Pty Ltd

Project
MIXED-USE DEVELOPMENT
14 Hickson Road Dawes Point Sydney NSW 2000

Status
DEVELOPMENT APPLICATION

Title
Ground Level Cross-Sections

Drawing No.
0640-DA600

Revision
02

Scale
1:50 at A1 size

Date
29/07/26

Attachment C

Submissions

From: Tasman Storey [redacted] > on behalf of Tasman Storey [redacted] <Tasman Storey [redacted]

Sent on: Thursday, April 16, 2026 4:07:10 PM

To: dasubmissions@cityofsydney.nsw.gov.au; James Cooper <JCooper@cityofsydney.nsw.gov.au>; Craig Jones [redacted]; Eddie Younes [redacted]

Subject: Letter of Objection and Declaration D/2026/2028. Hickson Road Mixed use development Dawes Point Sydney 200

Attachments: D 2026 20814 Letter of ObjectionProposed Development at Hickson Road^J Dawes Point .pdf (385.49 KB), Political Donations and Gifts Disclosure Statement.pdf (646.19 KB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

The General Manager
City of Sydney

We have been engaged by the owners of No 1 Lower Fort Street Dawes Point, to draft a letter of objection regarding the development proposal above.
The owners are the only neighbours and the first residence in the historic Milton Terrace row, a State Heritage item of high significance.
We have great concerns that the work on Hickson Road will adversely affect their rear garden lounge and dining room.
We have outlined those concerns and request that they receive the highest consideration possible.
In drafting this objection we support those concerns.

Yours Sincerely
Tasman Storey

Nominated Architect is Tasman Phillip Storey

Tasman Storey LFRAIA

Registered Architect
ARBNSW NO. 3144 BOAQ NO1953 ARBV NO 15173

TASMAN STOREY ARCHITECTS
ARCHITECTS INTERIOR DESIGNERS HERITAGE CONSULTANTS
2/1 Cammeray Road Cammeray NSW 2062
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TASMAN STOREY ARCHITECTS
ARCHITECTS INTERIOR DESIGNERS HERITAGE CONSULTANTS
2/1 Cammeray Road Cammeray NSW 2062
M: E:

16th April 2026

The General Manager

City of Sydney
Kent Street
Sydney 2000

LETTER OF OBJECTION

Proposed Development at Hickson Road, Dawes Point (D/2026/20814)

Construct a 4-storey mixed use development comprising a ground level office tenancy and 6 residential units above, excavation for 3 levels of basement parking, provision of a temporary and permanent substation, conservation works

We act on behalf of the owners of No 1 Lower Fort Street Millers Point, Mr & Mrs Younes, and have been engaged by them to review the application above, and comment on the possible adverse effects on their property.

The site, opposite the Hotel at Wharf, Pier 1, has lain dormant for many decades and its development is long overdue. It is a key site and the last remaining piece in the rejuvenation of the Walsh Bay Precinct, a joint venture by Mirvac and Transfield, started in 1996 and was completed by the NSW Government 4 years ago, with opening of the Walsh Bay Arts Precinct.

This site is therefore of extraordinary significance and rarity and reportedly the only one of its kind.

Any development that goes on this site must be of the highest standard and be a building befitting the gateway to the unique history of the working port, and its now, adaptive reuse.

The site has many difficult aspects and challenges which must be overcome to provide a successful economic outcome and that fact is acknowledged. However, it is our opinion that, based on our many years of experience in this precinct, that there some matters of concern which may be addressed by design refinement.

We raise the following:

ITEM 1 Relocation of the Car park Exhaust Stack

The Exhaust Stack from the car park has been relocated closer to the South Boundary from its original location in the building

The Exhaust takes a diversion below the roof and moves to the south close to the historic Hickson Steps a State Heritage Item, and No 1 Lower Fort Street, also a State Heritage Item.

It is our opinion that the Exhaust System outlet may have an adverse effect on the owners and occupiers of No 1 Lower Fort Street and in the interest of a healthy residential environment it should be kept well away from the residences adjacent.

The spirit of the Australian Standard and the NCC is to ensure that car park exhausts do not cause discomfort or health issue to the public and neighbours.

We note that to ensure compliance the carpark exhaust should be kept away from the boundary as per the National Construction Code (NCC) 2022 and referenced Australian Standards, specifically AS 1668.2, the position of a car park exhaust outlet on a roof must ensure that polluted air is discharged safely without re-entering the building or affecting surrounding areas.

Key Requirements for Roof-Mounted Car Park Exhaust Outlets:

- ***Discharge Location:*** *Exhaust must discharge to the outdoor air.*
- ***Separation Distances (AS 1668.2):***
  - ***Intake Air:*** *The exhaust outlet must be located a minimum distance from any air intake (HVAC, openable windows, or doors). This distance typically ranges from* ***5 to 10 meters*** *depending on the velocity of the exhaust and the type of intake, to prevent short-circuiting of polluted air.*
  - ***Boundary:*** *Outlets must typically be at least* ***6 meters*** *from any property boundary or* ***designed to prevent a nuisance.***
- ***Velocity and Height:*** *Exhaust must discharge at a high velocity to allow for dispersion, often with a vertical discharge nozzle to propel the air upwards away from the roof surface.*
- ***Structure/Condensation:*** *The discharge must not affect roof insulation or increase the risk of condensation.*

For compliance, a mechanical ventilation system for a car park must be designed according to ***AS 1668.2*** *to ensure CO levels remain within acceptable limits.*

The fact that the carpark exhaust must discharge at high velocity, adjacent and below No 1 Lower Fort Street, gives rise to concern as to the quality of the air at the adjacent garden and windows to the ground floor extension. We recommend that the car park exhausted be reviewed and further information provided to Council to ensure both compliance and suitable air quality for a residential zone.

We recommend a review and removal of this element from its current location

ITEM 2 Parapet Wall Height and Garden planting

The parapet wall, if it does not align with the street sandstone retaining wall, (see Roof Plan RLs) should be lowered to be aligned or below with the top of the sandstone retaining wall to avoid any visual impediment to the Walsh Bay Precinct which is a requirement of the Pre DA conditions.

The height of the plant's is designed to exceed 1 metre, and may appear as dense planting, which no doubt is the intention, and thus may obscures the views.

The Dawes Point Park adjacent does not have any exotic/ native planting The design should in our opinion take notice of the industrial nature of the Precinct which was part of the original SEPP 16.

The View Study appears to indicate that the walled garden is above the parapet while the architectural drawings sections by Popov Bass show the roof being below. Clarification is necessary to demonstrate that the retaining wall height is not above the existing Palisade fence and sandstone base.

The lowering of the garden and parapet walls will ensure that as far as is possible views to Hickson Road and the Walsh Bay precinct and Harbour are maintained.

ITEM 3 Bulk and Scale

In our opinion the design of the southern elevation may impinge on the Historic Hickson Steps forming a shaded tunnel effect at times and may disrupts the historic context of this important element of Walsh Bay and the Millers Point Conservation area.

The proposed bulk and scale have increased in comparison to the CMP Envelope

The proponent acknowledges that the works are outside the proscribed envelope.

The vistas and views are of high importance and the enclosing of the steps as they descend may influence these vistas.

While at certain times of the year the stair may be in shade past 12 noon when the effects of the Harbour Bridge have diminished. This will add to the "tunnel" effect.

Descending to Hickson Road the new building shades the stair and blocks afternoon sun. While it could be argued that this is an inevitable result of any development, we would suggest that this aspect could be reviewed by Council

We recommend a review of the design on the southern side at Hickson Road and overhanging of the heritage building.

Conclusion

In this Letter of Objection, we have made several recommendations on behalf of our clients, the owners of No 1 Lower Fort Street. These are matters which directly and adversely affect our client who are the only immediate residential property adjacent and most likely to be affected. We ask that they be investigated and that, where possible, amendments to the design are undertaken.

The owners are most concerned with the **location of the Car Park exhaust** and have requested it be moved as far away as possible from the boundary. High velocity car park exhaust on a nor 'easterly wind will undoubtable affect conditions immediately adjacent.

In this regard we would suggest that the Australian Standard and the NCC place, as important, matters of public health, the amelioration of potential adverse health issues and that should be a priority.

Regarding the **matter of parapets height** on the boundary the DA submission is confusing and not clear as the elevations show the roof level set away from the Lower Fort Street boundary, yet the visual character drawings appear to show the parapet walls above the boundary increasing as the street alignment falls. While the plan has different levels along the boundary.

We contend that the design does not need to have walls or gardens above the height of the palisade fence and its sandstone base.

The **planting proposed,** and the effects of the roof, will influence the views and vistas to Walsh Bay and beyond, despite statements to the contrary in the landscape plan.

This is a specific requirement of the Pre DA and Planning Committee assessment and goes to the need to keeping the parapets and a review the heights as illustrated.

The more difficult matters concern the relationship to the Hickson Steps and **the bulk and scale** of the building where it over hangs the heritage building.

It is understood that this development will have some unavoidable adverse effects and that the positive effects are that this site will now contribute to the completion of the Walsh Bay Redevelopment Precinct.

We have comment on the loss of views as one descends the steps and that the lower sections will be in shade.

We respectfully request that these matters above be reviewed to ensure that the spirit of the Precinct is maintained which is in part to ensure that all existing visas are not obscured.

Kind Regards

Tasman Phillip Storey LFRAIA
Registered Architect ARBNSW 3144

Political donations and gifts disclosure statement

CITY OF SYDNEY

About this form

You may use this form to make a political donations and gifts disclosure under Section 10.4(5) of the Environmental Planning Assessment Act 1979 for public submissions to a council.

Warning: A person is guilty of an offence under Section 10.4(11) of the Environmental Planning and Assessment Act 1979 in connection with the obligations under Section 10.4 only if the person fails to make a disclosure of a political donation or gift in accordance with Section 10.4 that the person knows, or ought reasonably to know, was made and is required to be disclosed under Section 10.4. The maximum penalty for any such offence is the maximum penalty under Part 6 of the Election Funding, Expenditures and Disclosures Act 1981 for making a false statement in a declaration of disclosures lodged under that Part. Note: The maximum penalty is currently 200 penalty units (currently $22,000) or imprisonment for 12 months, or both.

How to complete this form

1: Ensure that all fields have been filled out correctly.
2: Please note that fields on this form marked with an * are mandatory and must be completed before submitting the application.
3: Read the explanatory information below.
4: Once completed, please attach the completed declaration with your submission.

Part 1: Explanatory information

Making a public submission to council

Under Section 10.4(5) of the Act a person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined.

(a) all reportable political donations made to any local councillor of that council; and
(b) all gifts made to any local councillor or employee of that council.

A reference in Sections 10.4(5) of the Act to a reportable political donation made to a 'local councillor' includes a reference to a donation made at the time the person was a candidate for election to the council.

How and when do you make a disclosure?

The disclosure of a reportable political donation or gift under Section 10.4 of the Act is to be made:

(a) in, or in a statement accompanying, the relevant planning application or submission if the donation or gift is made before the application or submission is made; or
(b) if the donation or gift is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation or gift is made.

What information needs to be in a disclosure?

The information requirements of the disclosure are outlined in the Act under Section 10.4(9) for political donations and Section 10.4(10) for gifts.

Glossary of Terms

Please refer to Schedule 1 for a Glossary of Terms as defined under Section 10.4 of the Environmental Planning and Assessment Act 1979.

Office Use Only

Receiving Officer	DA / reference number	Date Received

Part 2: Person making this disclosure statement

Given Name/s *
Tasman Phillip

Family Name *
Storey

Position
Principal

Organisation
Tasman Storey Architects

Home Number

Business Number

Mobile Number

Email Address

Part 3: Declaration of Interest

Planning application reference (e.g. DA number, planning application title or reference; property address or other description)

Proposed Development at Hickson Road, Dawes Point (D/2026/20814)

Construct a 4-storey mixed use development comprising a ground level office tenancy and 6 residential units above, excavation for 3 levels of basement parking, provision of a temporary and permanent substation, conservation works

I have ben employed by the owners of the adjacent property at 1 Hickson Road Dawes Point Mr and Mr Yunos to prepare and objection on their behalf which identifies their concerns

Part 4: Details of reportable political donations or gifts

1. State below any reportable political donations or gifts you have made over the relevant period. If the donation or gift was made by an entity (and not by you as an individual) include the Australian Business Number of that entity (ABN).
2. State below any reportable political donations or gifts that you know, or ought reasonably to know, were made by yourself or an associate.

Donation or Gift? (D / G)	Name of donor (also include ABN for an entity)	Residential / Registered Address	Party / Person to whom the gift/ donation was made	Date donation/ gift was made	Amount / value of donation or gift
None	None				
None	None				
None	None				

If you require more space, please attach a separate sheet listing all details shown above for each donation/gift.
Tick here if you have attached a separate sheet or sheets ☐

Part 5: Declaration

By signing below, I / we hereby declare that all information contained within this statement is accurate at the time of signing, and if I / we become aware of any other donations or gifts that must be declared, we will immediately notify the Council.

Organisation (where applicable)

Tasman StoreyArchitects

Position within organisation (where applicable)

Principal

Name	Signature *	Date
		16th April 2026

Part 6: Lodgement Details

You should attach the completed disclosure statement when making a submission on ePlanning search https://eplanning.cityofsydney.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?e=y

This form should only be lodged as part of a submission about a specific matter to be considered by Council.

Part 7: Privacy & Personal Information Protection Notice

Purpose of collection: This information is being collected for the purpose of recording and publishing reportable political donations and their possible bearing on specific applications or submissions before council.

Intended recipients: City of Sydney employees. Any approved contractors required to provide this service.

Supply: The supply of this information is required by law. If you are unwilling to provide this information, the City of Sydney may be unable to provide access to City of Sydney services.

Access/Correction: Please contact Customer Service on 02 9265 9333 or at **council@cityofsydney.nsw.gov.au** to access or correct your personal information.

Storage: The City Planning, Development and Transport Unit at the City of Sydney, located at 456 Kent Street, Sydney NSW 2000, is collecting this information and the City of Sydney will store it securely.

Other uses: The City of Sydney will use your personal information for the purpose for which it was collected and may use it as is necessary for the exercise of other functions.

For further details on how the City of Sydney manages personal information, please refer to our Privacy Management Plan **cityofsydney.nsw.gov.au/policies/privacy-management-plan**.

Part 8: Glossary of Terms (under Section 10.4 of the Environmental Planning and Assessment Act 1979)

A full glossary of terms is contained in the Act - the most relevant terms are defined below.

Relevant planning application means:

a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site; or

b) a formal request to the Minister or the Director-General for development on a particular site to be made State Significant Development or State Significant Infrastructure declared a project to which Part 3A applies; or

c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project); or

d) an application for development consent under Part 4 (or for the modification of a development consent); or

e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application;

Continued ...

Relevant planning application does not include:

f) an application for (or for the modification of) a complying development certificate; or

g) an application or request made by a public authority on its own behalf or made on behalf of a public authority; or

h) any other application or request that is excluded from this definition by the regulations

Relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

Relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

Reportable political donation Is defined under Section 86 of the Election Funding, Expenditure and Disclosures Act 1981.

(1) For the purposes of the Election Funding, Expenditures and Disclosures Act 1981 a reportable political donation is:

(a) in the case of disclosures under this Part by a party, elected member, group, candidate or third-party campaigner - a political donation of or exceeding $1,000 made to or for the benefit of the party, elected member, group, candidate or third-party campaigner; or in the case of disclosures under this Part by a major political donor - a political donation of or exceeding $1,000 made by the major political donor to or for the benefit of a party, elected member, group, candidate or third-party campaigner.

(2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate, third-party campaigner or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).

(3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.

(4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

Financial interest a person has a financial interest in a relevant planning application if:

a) the person is the applicant or the person on whose behalf the application is made; or

b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it; or

c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange); or

d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

Associated persons persons are associated with each other if:

a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission); or

b) they are related bodies corporate under the Corporations Act 2001 of the Commonwealth; or

c) they are directors of the same body corporate, or they are directors of different bodies corporate that are related bodies corporate under the Corporations Act 2001 of the Commonwealth, or

d) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation; or

e) they have any other relationship prescribed by the regulations.

From: [redacted] on behalf of [redacted]

Sent on: Wednesday, April 22, 2026 8:45:32 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/208 - 14 Hickson Road DAWES POINT NSW 2000 - Attention James Cooper

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

The general concept of a mixed commercial and residential development of approximately this scale seems appropriate to me, and I would support the proposed use overall

I would like to raise a number of contentions

1. The street level facade is a hostile expanse of ventilation grates and garage doors. There is no meaningful attempt to engage with the public domain here.

2. The building design could have been copied from any generic 90s to current day apartment block in the suburbs

The architect has made no attempt to reference or harmonise with the unique heritage surrounds, which probably explains why there is no design statement or justification provided

More thoughtful architecture is required for this prominent/historic position

The flying toilets jutting out over the heritage building are a crass attempt to increase floor space

3. The fundamental conceptual flaw is that the development is essentially a giant car park, with an uninspired apartment block tacked on top, the only purpose of which is to offset the likely extortionate cost of constructing said car park below sea level
I note the name of the Applicant makes no attempt to conceal this fact: Pier One Car Park Pty Ltd

Hickson road should be the finest pedestrian promenade in all of Australia. It connects circular quay with Barangaroo, cuts through the Arts Precinct, and is of genuine Heritage and aesthetic importance
The area is extraordinarily well serviced by public transport, and I note there is also a push to put a Ferry stop at Walsh Bay

The state government and council have failed to maximise its potential, instead relegating it to a traffic sewer/car parking bay predominantly servicing the exploitative cruise ship industry, and uncivil individuals who use it as a race track at nights

The proposed development exacerbates this problem by further encouraging cars and driving in the area.
The hotel seems to have been operating perfectly well up until this point without a giant car park
A giant car park is therefore not in the public interest

However, better architecture (not facile "public art") and footpath activation may justify the use

Withhold my details thankyou

Item 6.

Development Application - 21-25 Codrington Street, Darlington - D/2026/264

File Number: D/2026/264

Summary

Date of submission:	3 April 2026
Applicant:	The University of Sydney
Developer:	The University of Sydney
Owner:	The University of Sydney
Architect/Designer:	nettletontribe
Planning consultant:	Colliers Urban Planning
Cost of works:	$5,628,758.00
Zoning:	SP2 - Educational Establishment. The proposed use is ancillary to the educational establishment use and is permissible with consent in the zone.
Proposal summary:	The proposed development comprises alterations and additions to the existing student accommodation building, including the construction of a new commercial kitchen and enclosed dining hall to serve the existing student population. The application is Crown development as it has been made by or on behalf of an Australian university. Council supports the development and recommends approval. However, the applicant has objected to the affordable housing contribution condition proposed under clause 7.13 of the Sydney Local Environmental Plan 2012 (Sydney LEP). Council considers the condition to be appropriate and justified, having regard to clause 7.13 of the Sydney LEP and the City of Sydney Affordable Housing Program.

	As agreement has not been reached on the proposed condition and as the application is Crown development, the matter has been referred to the Local Planning Panel pursuant to section 4.33 of the Environmental Planning and Assessment Act 1979 (EP&A Act) to consider the applicant's objection and whether the disputed condition should be referred to the Minister.
Summary recommendation:	Referral to Minister regarding affordable housing condition
Development controls:	Sydney Local Environmental Plan 2012 Sydney Development Control Plan 2012 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Housing) 2021
Attachments:	A - Council assessment report B - Recommended conditions of consent C - Selected drawings D - Applicant's objection to the affordable housing contribution condition E - City of Sydney Affordable Housing Program

Recommendation

It is resolved that, pursuant to section 4.33 of the Environmental Planning and Assessment Act 1979, the Local Planning Panel refer the applicant's objection to the affordable housing contribution condition to the Minister for consideration.

Reasons for Recommendation

(A) The application is Crown development for the purposes of section 4.33 of the EP&A Act, and the applicant has objected to the proposed affordable housing contribution condition.

(B) Pursuant to sections 4.33(1)(b) and 4.33(2A) of the EP&A Act, a condition objected to by the applicant cannot be imposed unless approved by the applicant or the Minister, and a disputed Crown development condition must first be referred to the applicable planning panel before referral to the Minister.

(C) As the applicant maintains its objection to the condition, the matter requires consideration by the Local Planning Panel and referral of the disputed condition to the Minister in accordance with section 4.33 of the EP&A Act.

(D) The Affordable Housing Program and clause 7.13 of the Sydney LEP apply to the proposed development, and Council considers the affordable housing contribution condition to be appropriate, justified and consistent with the applicable statutory framework.

(E) Council considers the disputed condition raises broader strategic and public interest considerations regarding the application of affordable housing contributions to university student accommodation developments that generate additional residential floor area. Affordable housing contributions are a key mechanism for implementing the City's adopted Affordable Housing Program and responding to the demonstrated need for affordable housing arising from ongoing development and growth within the local government area (LGA). Given the demonstrated need for affordable housing within the City of Sydney and the importance of maintaining a consistent contribution framework, Council considers it appropriate that the Minister consider whether the condition should apply in this instance.

Background

Reason the application is reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel because the applicant has objected to the proposed affordable housing contribution condition. As the application is Crown development, section 4.33 of the EP&A Act requires the proposal to be referred to the Local Planning Panel for consideration before it can be referred to the Minister.

Site and surrounding development

2. The subject site has a legal description of Lot 101 DP 1212817, Lot 103 DP 844695 and Lot 102 DP 1212817, commonly known as 21-25 Codrington Street, Darlington. It is rectangular in shape with an area of approximately 19,200 square metres (sqm). It has a primary street frontage to Abercrombie Street and secondary street frontages to Codrington Street and Darlington Lane.

3. The site forms part of the University of Sydney's Darlington Campus. The subject development application (DA) relates to a 6-storey student accommodation building on site known as the Abercrombie Student Accommodation which includes a stepped podium to Abercrombie Street with three individual tower elements.

4. Specifically, the DA relates to a portion of the ground floor level of this building including an internal common area and adjoining eastern courtyard. This area is internal facing to the site and is not directly visible from Abercrombie Street.

5. Refer to Council's assessment report (Attachment A) for a full description of the site and surrounding locality.

Figure 1: Aerial view of site and surrounds

Proposed development

6. The application seeks consent for alterations and additions to the existing student accommodation building including the construction of an enclosed dining hall and a new commercial kitchen.

7. The commercial kitchen will be operated by an external provider, and the dining hall will serve the existing student population only. The kitchen is expected to employ a total of 10 staff and will operate daily between 8:00am and 11:00pm.

8. Associated works include reconfiguring the existing common room to retain self-catering facilities for residents, modifications to the existing basement to accommodate revised bicycle and waste storage areas, and upgrades to building plant and services including the installation of new rooftop plant equipment.

9. The proposed development results in 238sqm of additional gross floor area (GFA).

10. Refer to Attachment C for plans, sections and elevations of the proposed development.

Background

11. This application has been made by or on behalf of an Australian university within the meaning of the Higher Education Act 2001 and under clause 294 of the Environmental Planning and Assessment Regulation. The application is therefore Crown development for the purposes of section 4.33 of the EP&A Act.

12. During the assessment of the application, amended plans and additional information were submitted to address issues raised by Council officers. Following a review of the amended application, Council formed the view that the development is acceptable and could be supported subject to conditions of consent.

13. Section 4.33 (1) (b) of the Act provides that a consent authority must not impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.

14. In accordance with section 4.33(1)(b) of the Act, draft conditions of consent were provided to the applicant on 14 July 2026 for review.

15. The draft conditions included an affordable housing contribution condition was included, in accordance with clause 7.13(1)(a)(ii) of the Sydney LEP (clause extract provided below):

    7.13 Contribution for purpose of affordable housing

    (1) This clause applies to the following development—

    (a) development on land at Green Square or Ultimo-Pyrmont, or on southern employment land or residual land that involves—

    (ii) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area that is intended to be used for the purpose of residential accommodation, or

> (2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution not exceeding the applicable affordable housing levy contribution for the development provided for in subclause (2A) or (2C).

16. On 27 July 2026, the applicant requested amendments to the draft conditions, including the removal of the affordable housing contribution condition and food and drink premises conditions, and revisions to conditions relating to mechanical ventilation and waste management.

17. On 31 July 2026, amended draft conditions were provided to the applicant (Attachment B). These incorporated all requested changes other than the removal of the affordable housing contribution condition (included as Condition 2 in Attachment B), which Council considers to be appropriate and justified. Further details are provided in Council's assessment report (Attachment A) and the 'Views of Council' section below. Council otherwise supports the development, and the affordable housing contribution condition is the only unresolved matter.

18. As the applicant maintains its objection to the affordable housing contribution condition, agreement has not been reached on all proposed conditions of consent. Pursuant to section 4.33(1)(b) of the EP&A Act, a condition objected to by an applicant cannot be imposed unless approved by either the applicant or the Minister. Section 4.33(2A) further requires a Crown DA to be referred to the Local Planning Panel before the disputed condition can be referred to the Minister.

19. Accordingly, the application is reported to the Local Planning Panel to consider referral of the Crown development application to the Minister under section 4.33 of the EP&A Act because of the applicant's objection to the affordable housing contribution condition.

Views of Applicant

20. The applicant, Sydney University, objects to the proposed affordable housing contribution condition and requests its removal from any consent issued for the development. The applicant has provided their reasoning for the request for deletion of the condition in their letter dated 23 July 2026, included as Attachment D.

21. The applicant has raised the following grounds in support of deleting the proposed affordable housing contribution condition. These matters are addressed by Council in the 'Views of Council' section under the corresponding sub-headings:

    (a) Absence of planning nexus

    (b) Statutory framework clause 7.12 and section 7.32

    (c) Consistency with established legal principles

    (d) Nature of the development and the public benefit

    (e) The University already contributes to affordable housing outcomes

    (f) Inconsistency with established practice

    (g) Broader public interest considerations

22. In summary, the applicant submits that, although clause 7.13 of the Sydney LEP is triggered by the proposal, the imposition of an affordable housing contribution remains discretionary and is not justified in the circumstances of the development.

23. The applicant contends that the proposal is limited to upgrades and alterations to an existing student accommodation building, including a new commercial kitchen, dining facilities and associated amenity improvements, and does not increase student accommodation capacity, student numbers, residential floor space, or demand for housing. As a result, the applicant submits that there is no planning nexus between the development and any need for affordable housing contributions.

24. The applicant further submits that the proposed contribution is unreasonable because the development does not generate private development uplift, does not create an identifiable affordable housing impact requiring mitigation, and delivers a public benefit through improvements to existing student accommodation infrastructure. The applicant also argues that the proposed condition is inconsistent with the treatment of comparable university, health and other Crown development projects, and notes its existing contribution to housing outcomes through the provision of student accommodation.

25. Accordingly, the applicant requests that the affordable housing contribution condition be deleted from the development consent.

Views of Council

26. Council has considered the applicant's grounds for objecting to the proposed affordable housing contribution condition and provides a response as follows:

(a) Absence of planning nexus

27. Council does not accept the applicant's submission that there is no planning nexus between the development and the affordable housing contribution.

28. The City of Sydney Affordable Housing Program (included at Attachment E) identifies residual lands as an area where development both reduces the availability of affordable housing and creates a need for affordable housing.

29. The Program explains that investment in public infrastructure, increasing levels of amenity and the growing desirability of inner-city living and working continue to place upward pressure on housing prices and rents across the LGA. In addition, employment growth within the City increases demand for housing and intensifies competition for an increasingly limited supply of lower-cost accommodation, resulting in the displacement of lower-income households and a corresponding need for additional affordable housing.

30. The Program further identifies residual lands as a significant source of future development, with approximately 35% of projected dwelling growth in the City anticipated to occur within these areas. The Program recognises that ongoing residential and employment growth within the City will continue to place upward pressure on housing costs beyond the means of very low, low and moderate income households unless additional affordable housing is provided.

31. Accordingly, the statutory nexus underpinning clause 7.13 of the Sydney LEP is not dependent on demonstrating that an individual development will increase occupancy or population. Rather, it arises from the relationship between additional development capacity within residual lands and the cumulative impact that development has on housing affordability, housing demand and the need for affordable housing across the local area. The proposal generates additional gross floor area in excess of the threshold prescribed by clause 7.13 and therefore falls within the contribution framework established by the Sydney LEP and the Affordable Housing Program.

(b) Statutory framework clause 7.12 and section 7.32

32. Council acknowledges that clause 7.13 of the Sydney LEP and section 7.32 of the EP&A Act do not in themselves mandate the imposition of an affordable housing contribution rather they provide for the circumstances in which such a condition may be imposed.

33. The proposal is located within the residual lands affordable housing contribution area and will create approximately 238sqm of additional gross floor area associated with residential accommodation, exceeding the 200sqm threshold in clause 7.13(1)(a)(ii) of the Sydney LEP. The City of Sydney Affordable Housing Program identifies a demonstrated need for affordable housing within the LGA and provides that development on residual lands exceeding the applicable threshold is subject to an affordable housing contribution unless specifically exempt.

34. The development is not exempt under Section 2.2 of the Affordable Housing Program and does not fall within an excluded category, being social housing or affordable housing.

35. Council is satisfied that the condition complies with section 7.32(3)(a) of the EP&A Act, as it is imposed consistently with section 15 of the Housing SEPP, and section 7.32(3)(c) of the Act, as the contribution is reasonable in the circumstances. The contribution is calculated only on the additional floor area generated by the proposal and not the existing development as a whole. The contribution payable is estimated at $80,470.92 (subject to indexation), representing approximately 1.43% of the total development cost. Council therefore considers the contribution to be proportionate to the scale of the development and the additional development capacity it facilitates.

36. The condition has been imposed following consideration of the statutory framework established by the EP&A Act, Housing SEPP, Sydney LEP and City of Sydney Affordable Housing Program; the identified need for affordable housing within the LGA; the absence of any applicable exemption or exclusion; and the reasonableness and proportionality of the contribution having regard to the scale of the development.

(c) Consistency with established legal principles

37. Council acknowledges the applicant's reliance on Freecity Alpha Development Pty Ltd v City of Sydney [2025] NSWLEC 1694, however, the decision is considered to be of limited relevance to the present application given the particular circumstances in which it was made and the materially different circumstances of the current proposal.

38. Council does not accept that the necessary nexus required by the Newbury principles (from Newbury District Council v Secretary of State for the Environment) is absent, as stated by the applicant. The condition fairly and reasonably relates to the development because the proposal creates additional residential floor area within an area identified as having a demonstrated need for affordable housing and falls within the affordable housing contribution framework established by clause 7.13 of the Sydney LEP and the

City of Sydney Affordable Housing Program. The contribution is calculated only on the additional floor area generated by the development and is therefore directly related to the development for which consent is sought.

(d) Nature of the development and the public benefit

39. Council acknowledges that the proposal relates to student accommodation operated by a public educational institution and that the development will deliver amenity improvements for existing residents. However, neither clause 7.13 of the Sydney LEP nor the City of Sydney Affordable Housing Program exempts development undertaken by public educational institutions from the affordable housing contribution framework.

40. Council does not accept that the absence of development profit, land value uplift or an increase in student numbers precludes the imposition of an affordable housing contribution. The statutory framework applies to development that generates additional floor area within identified contribution areas and is not dependent on whether the development is undertaken for a commercial purpose. The contribution is calculated solely on the additional floor area facilitated by the proposal and is directed toward addressing the demonstrated need for affordable housing within the LGA.

41. While the proposal will improve the quality and functionality of the University's student accommodation, Council does not consider that these public benefits outweigh or displace the objectives of the affordable housing contribution framework. The contribution forms part of a broader strategic approach to maintaining housing diversity and supporting affordable housing outcomes as development occurs within the City of Sydney.

(e) The University already contributes to affordable housing outcomes

42. Council acknowledges the University's role in providing student accommodation. However, student accommodation is not recognised as affordable housing under the applicable statutory planning framework. This development type is intended to accommodate a specific transient student cohort rather than provide long-term affordable housing for low to moderate income households.

43. While the proposal will improve the amenity and operation of an existing student accommodation facility, this does not alter the operation of clause 7.13 of the Sydney LEP, which applies where the prescribed floor area threshold is exceeded. Nor does the University's existing contribution to housing outcomes exempt the development from the affordable housing contribution framework established by the Sydney LEP and the City of Sydney Affordable Housing Program.

(f) Inconsistency with established practice

44. Council does not agree that the proposed condition is inconsistent with established practice. The appropriateness of an affordable housing contribution must be considered having regard to the applicable statutory framework, including clause 7.13 of the Sydney LEP, section 7.32 of the EP&A Act and the City of Sydney Affordable Housing Program.

45. Council has consistently recommended the imposition of affordable housing contributions on educational establishment and student accommodation developments where the relevant statutory provisions apply. The applicant has identified some Sydney University projects and other nearby Crown development projects where affordable housing contributions were not imposed, however these projects were determined by the Department of Planning, Housing and Infrastructure (the Department) rather than Council. The absence of a contribution in these approvals does not, of itself, establish that a contribution is inappropriate in the present case.

46. It is relevant that the Department's most recent approval of a University of Sydney project, the Ross Street Teaching and Learning Hub (SSD-57838709), included an affordable housing contribution. In that case, the Department's assessment report outlined that clause 7.13 of the Sydney LEP applied because the development involved the erection of a new building on residual land containing more than 200sqm of gross floor area, and section 7.32 of the EP&A Act enabled the imposition of a contribution towards affordable housing.

47. Imposition of the proposed condition is not considered to be a departure from established practice. Rather, it reflects the application of the statutory affordable housing contribution framework to a development that exceeds the threshold prescribed by clause 7.13 of the Sydney LEP and is not otherwise exempt from the Affordable Housing Program.

(g) Broader public interest considerations

48. Council acknowledges the public benefits associated with higher education infrastructure and student accommodation. However, the proposal is not exempt from the affordable housing contribution framework established by clause 7.13 of the Sydney LEP and the City of Sydney Affordable Housing Program.

49. It is considered that the consistent application of the affordable housing contribution framework is in the public interest. The framework has been adopted to respond to the demonstrated need for affordable housing within the City of Sydney and relies on contributions from eligible developments to assist in delivering affordable housing outcomes over time. While the contribution from an individual development may be limited, the cumulative application of the framework across eligible developments is an important mechanism for addressing housing affordability within the LGA.

50. Accordingly, it is not considered that the public benefits associated with the proposal warrant an exception to the contribution requirements that apply to the site.

Matters for Local Planning Panel's Consideration

51. The proposed development is supported in principle subject to conditions. Conditions have been agreed to with the applicant, with the exception of the proposed affordable housing contribution condition.

52. The matter before the Panel is therefore:

    (a) Whether or not the application should be approved without the imposition of an affordable housing contribution condition;

    Or

    (b) If the affordable housing contribution condition is warranted the matter be referred to the Minister in accordance with section 4.33 of the EP&A Act.

53. The application cannot be refused as the this requires the consent of the Minister.

54. In considering the matter relating to an affordable housing contribution condition the Panel should have regard to:

    - The applicant's submission that the affordable housing contribution condition is not justified in the circumstances of the proposed development;
    - Council's position that the condition is appropriate, reasonable and authorised under section 7.32 of the EP&A Act, clause 7.13 of the Sydney LEP and the City of Sydney Affordable Housing Program; and
    - The statutory requirements of section 4.33 of the EP&A Act governing disputed conditions of consent for Crown development applications.

55. If the Panel forms the view that the affordable housing contribution condition should be imposed, section 4.33 of the EP&A Act requires the matter be referred to the Minister.

56. Alternatively, if the Panel agrees with the applicant's objection and determines that the affordable housing contribution condition should not be imposed, section 4.33(3) of the EP&A Act permits the Panel, as the consent authority, to exercise the functions of Council and determine the DA, subject to section 4.33(1) of the Act.

Relevant legislation

57. Environmental Planning and Assessment Act 1979.

Conclusion

58. As agreement has not been reached with the applicant regarding the affordable housing contribution condition and the application is Crown development, the matter is referred to the Local Planning Panel for consideration under section 4.33 of the EP&A Act.

59. Council maintains that the condition should be retained and recommends referral of the disputed condition to the Minister.

60. Council considers that, in the context of the significant housing affordability challenges currently facing Sydney, the consistent application of affordable housing contributions to eligible developments is necessary to support the cumulative delivery of affordable housing and achieve the objectives of the City's adopted Affordable Housing Program.

BILL MACKAY

Manager Planning Assessments

Mia Music, Senior Planner

Attachment A

Council assessment report

CITY OF SYDNEY

Development Application Assessment

Application Number:	D/2026/264
Site Address:	21-25 Codrington Street, Darlington
Proposal:	Alterations and additions to existing student housing accommodation building
Date of Lodgement:	3 April 2026
Cost of Works:	$5,628,758.00
Notification:	7 April 2026 to 22 April 2026
Submission(s) (total):	0
Recommendation:	Approval subject to conditions
Officer:	Mia Music

Site and Surrounds

1. The subject site has a legal description of Lot 101 DP 1212817, Lot 103 DP 844695 and Lot 102 DP 1212817, commonly known as 21-25 Codrington Street, Darlington. It is rectangular in shape with an area of approximately 19,200sqm. It has a primary street frontage to Abercrombie Street and secondary street frontages to Codrington Street and Darlington Lane.

2. The site forms part of the University of Sydney's Darlington Campus. The subject DA relates to a 6-storey student accommodation building on site known as the Abercrombie Student Accommodation which includes a stepped podium to Abercrombie Street with three individual tower elements.

3. Specifically, the DA relates to a portion of the ground floor level of this building including an internal common area and adjoining eastern courtyard. This area is internal facing to the site and is not directly visible from Abercrombie Street.

4. The site is not a heritage item. It is adjacent to Golden Grove heritage conservation area (C18).

5. The surrounding area is characterised by a mix of land uses. Directly to the north and east is the H70 Belinda Hutchinson Building (formerly the Abercrombie Business School), to the west is Darlington Public School, and adjacent to the site across Abercrombie Street is a row of residential terraces.

6. A site inspection was carried out on 14 April 2026, and photos of the site and surrounds are provided below:

Figure 1: Aerial view of site and surrounds. Subject Abercrombie student accommodation building outlined in red.

Figure 2: View of site from Abercrombie Street facing east

Figure 3: View of site from Abercrombie Street facing west

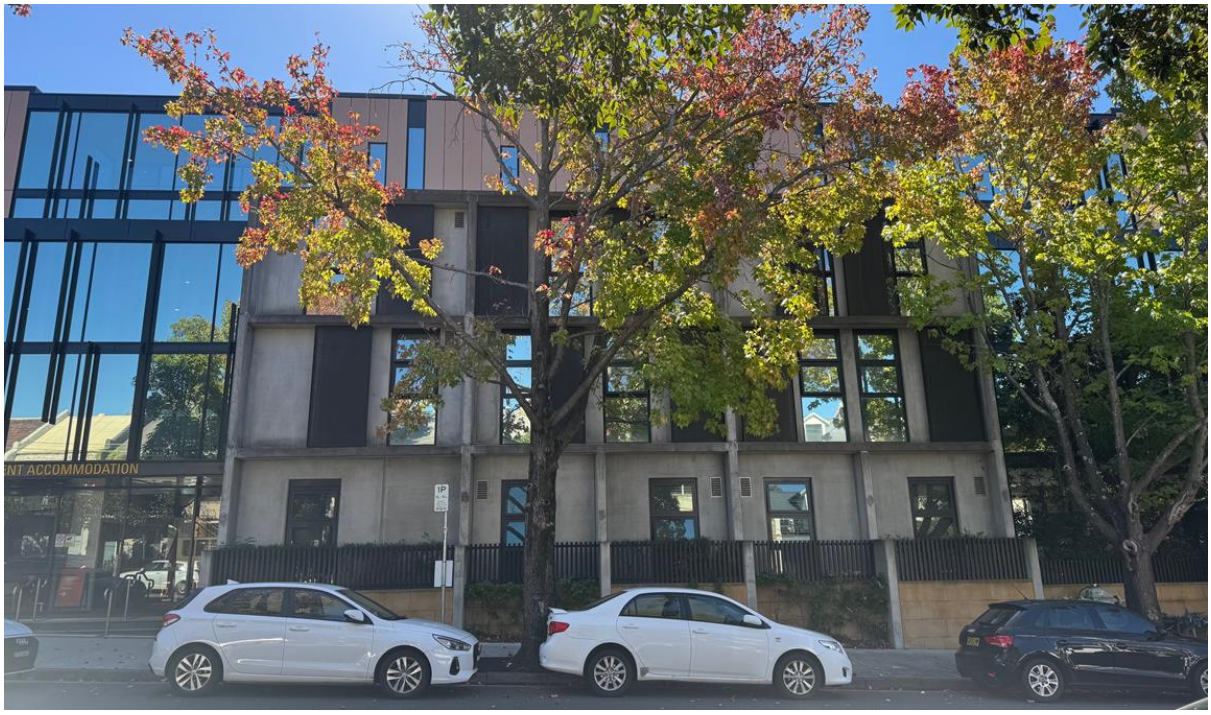


Figure 4: View of front facade of Abercrombie Student Accommodation

Figure 5: Internal view of existing common room

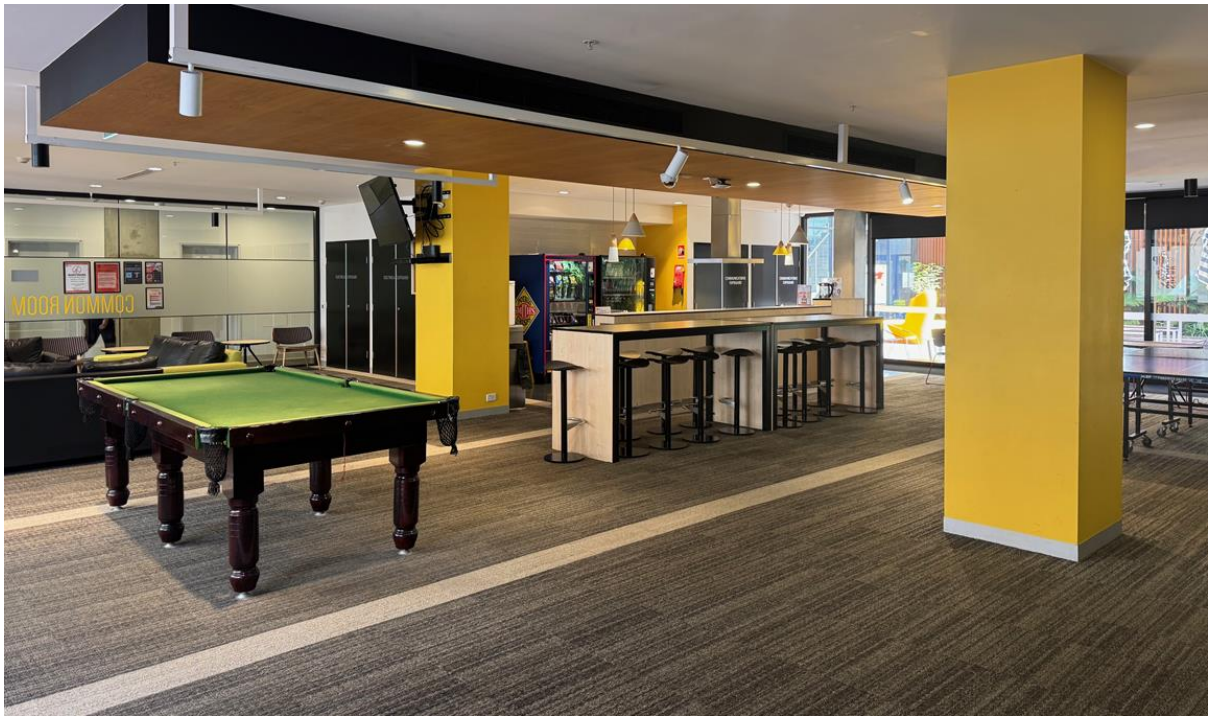


Figure 6: Internal view of existing common room

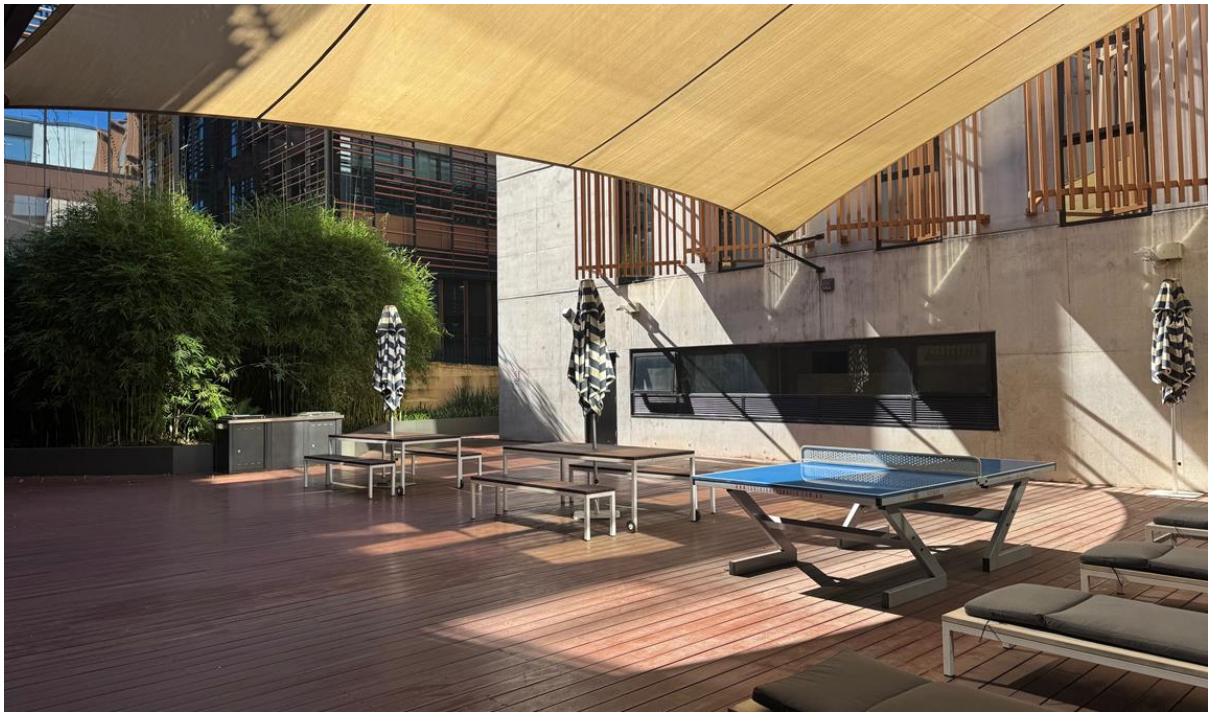


Figure 7: View of existing courtyard facing north

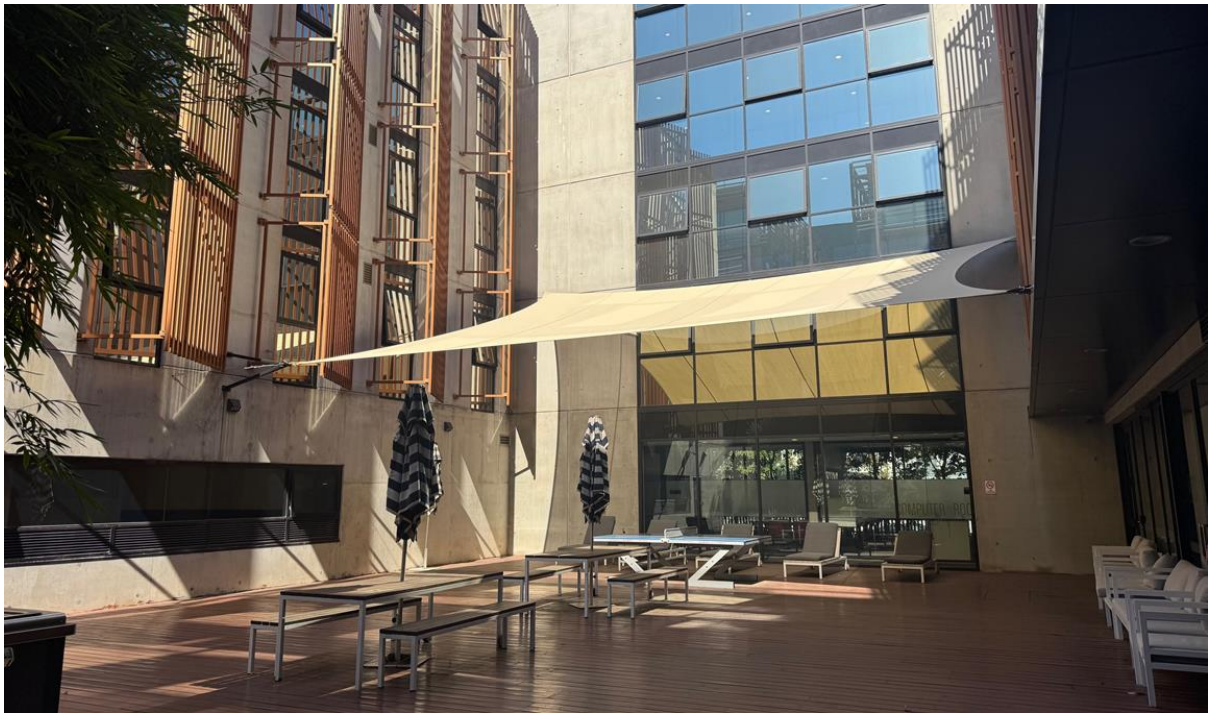


Figure 8: View of existing courtyard facing south

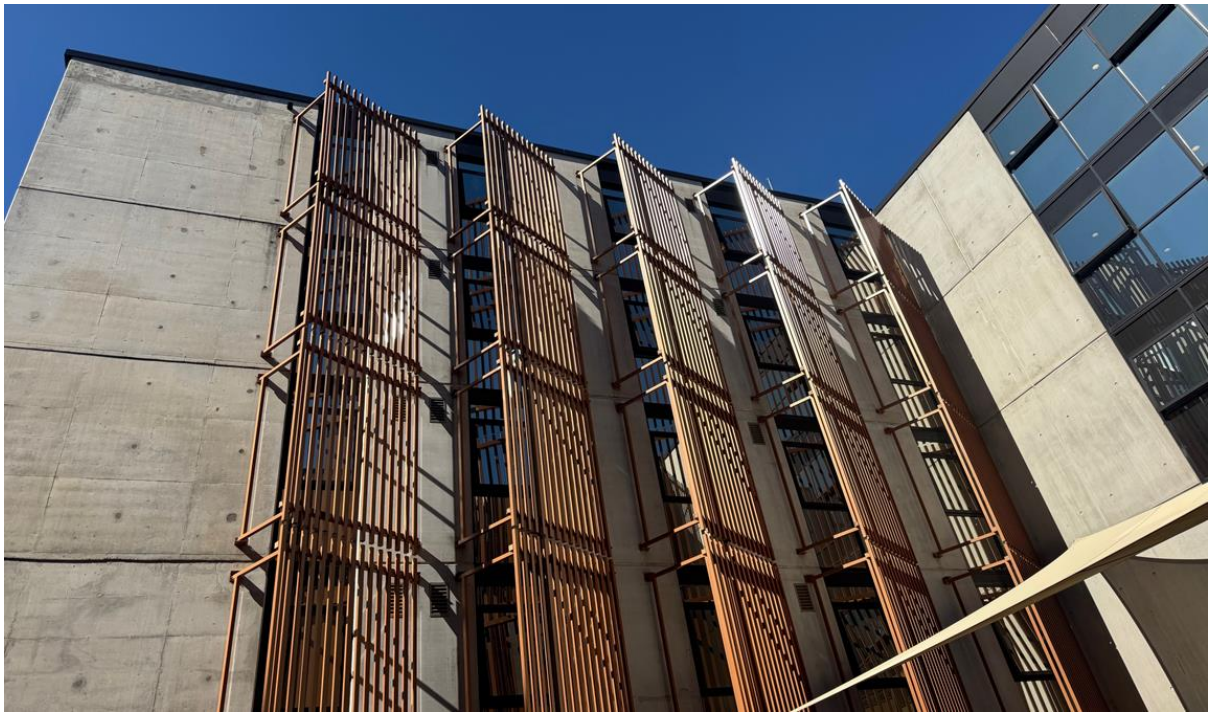


Figure 9: View towards roof

Figure 10: View of existing plant on roof

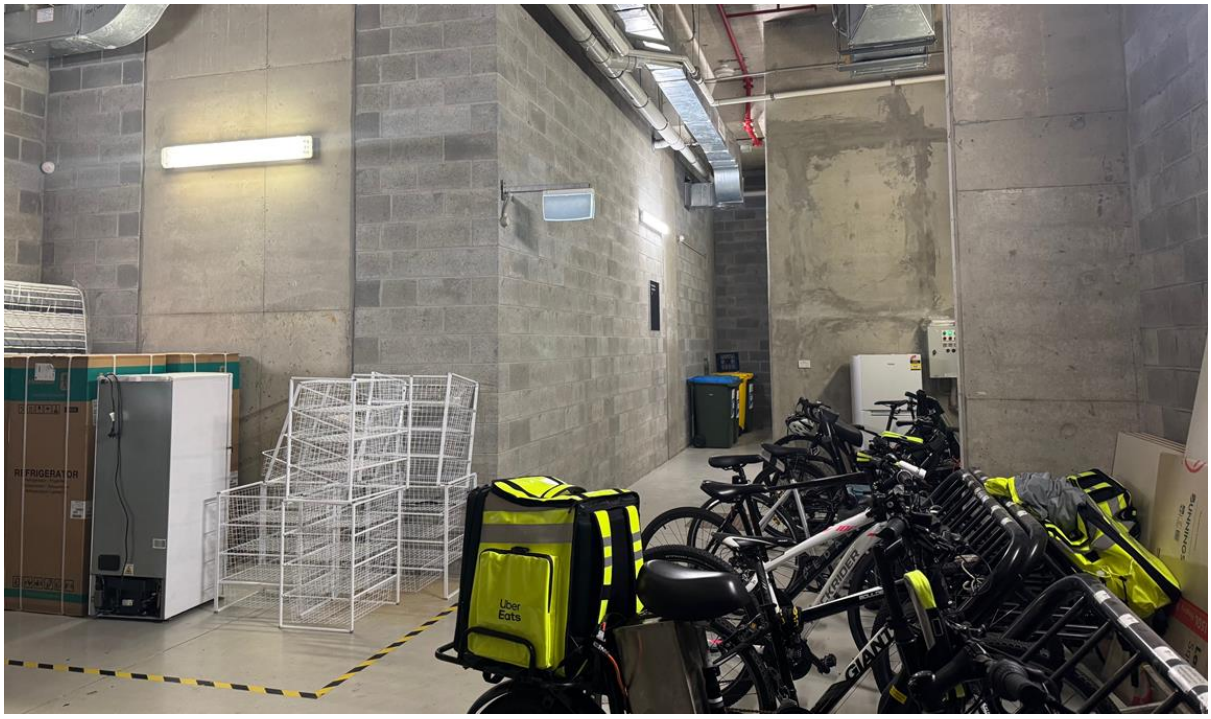


Figure 11: Existing basement including bike parking and garbage room

Relevant Background

Development Applications

7. The following applications are relevant to the current proposal:

   - **MP07_0158** – Development consent was granted on 16 November 2012 by the Planning Assessment Commission under Part 3A of the EP&A Act for the broader Abercrombie Precinct. This approval included the construction of a student accommodation building comprising 188 beds.

     The consent has since been modified on several occasions. Notably, Modification 3 approved a range of design changes to the student accommodation building, including an increase in capacity from 188 to 200 beds.

   - **PDA/2025/272** – Pre-lodgement advice was issued on 21 January 2026 for proposed internal and external alterations to the student accommodation building including the construction of a new commercial kitchen and enclosed dining room of existing level 1 eastern courtyard. The advice identified the documentation required to be submitted with any future development application.

Amendments

8. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 12 May 2026. Council requested the following:

   - Additional information to demonstrate compliance with the Transport & Infrastructure SEPP and Sydney DCP, including confirming that students will retain adequate access to communal open space following the conversion of the courtyard to an internal dining hall

   - An updated Statement of Environmental Effects (SEE) which addresses relevant design quality principles.

   - Further details and plans relating to materials and finishes and waste management arrangements

   - Floor area calculations to enable assessment of affordable housing contributions.

9. The applicant responded to the request on 2 June 2026 and 2 July 2026, with the submission of additional information including:

   - An updated SEE which addresses the relevant SEPP design quality principles and Sydney DCP requirements, confirming that the existing western courtyard will remain available to all residents with no reduction in communal open space.

- Revised architectural drawings and an amended Waste Management Plan addressing Council's requests, including lighter cladding materials, retention of the dual waste chute system, replacement of the 1100L organics bin with 3 x 240L bins, and the retention of the bulky waste room.

- A letter setting out the University of Sydney's objection to the imposition of an affordable housing contribution under clause 7.13 of the Sydney LEP 2012, stating that the proposed development is a minor ancillary upgrade that does not increase student numbers or generate additional demand for housing.

Proposed Development

10. The application seeks consent for alterations and additions to the existing student accommodation building. The proposed works include the demolition of the existing ground floor common room, café, and courtyard, and the construction of a new commercial kitchen and enclosed dining room.

11. The commercial kitchen will be operated by an external provider, and the dining room will serve the existing student population only. Meals will be provided in two sittings, with a maximum of 120 students per sitting. The kitchen is expected to employ a total of 10 staff and will operate daily between 8:00am and 11:00pm.

12. The southern portion of the existing common room is proposed to be reconfigured with new furniture and kitchen joinery to enable students to continue preparing their own meals, ancillary to the commercial kitchen.

13. Associated works include modifications to the existing basement to accommodate revised bicycle and waste storage areas, as well as upgrades to building plant and services, including the installation of new rooftop plant equipment.

Assessment

14. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Crown Development Applications

15. The subject application is assessed as a Crown development application as it is made by or on behalf of an Australian university within the meaning of the Higher Education Act 2001. Draft conditions of consent were provided to the applicant on 14 July 2026 to satisfy Section 4.33(1) of the EP&A Act.

16. On 27 July 2026, the applicant requested amendments to the draft conditions, including the removal of the affordable housing contribution condition and the food and drink premises conditions, and revisions to the conditions relating to mechanical ventilation and waste management.

17. On 31 July 2026, amended draft conditions were provided to the applicant. These incorporated all of the applicant's requested changes, except for the deletion of the affordable housing contribution condition (which is addressed in the Contributions section below).

18. Pursuant to section 4.33(1)(b) of the EP&A Act, a consent authority must not impose a condition of consent objected to by the applicant unless the condition is approved by either the applicant or the Minister. Section 4.33(2A) further provides that a Crown development application must not be referred to the Minister unless it is first referred to the applicable planning panel. Accordingly, the application must be referred to the Local Planning Panel (LPP). While Council does not support the removal of the affordable housing contribution condition, it is a matter for the LPP, as the consent authority, to determine the appropriate course of action under section 4.33 of the EP&A Act.

State Environmental Planning Policies

SEPP	Applicable	Compliance	Concurrence
Biodiversity and Conservation 2021	Yes	Yes	N/A
Housing 2021	Yes	Yes	N/A
Industry and Employment 2021	No	N/A	N/A
Planning Systems 2021	No	N/A	N/A
Resilience and Hazards 2021	No	N/A	N/A
Sustainable Buildings 2022 – Chapter 2	No	N/A	N/A
Sustainable Buildings 2022 – Chapter 3	No	N/A	N/A
Transport and Infrastructure 2021 – Chapter 2	No	N/A	N/A
Transport and Infrastructure 2021 - Chapter 3	Yes	Yes, refer to below for detail	Yes

State Environmental Planning Policy (Transport and infrastructure) 2021 – Chapter 3 Educational Establishments and Child Care Facilities

<u>Part 3.52 – Campus student accommodation</u>

19. The proposed alterations and additions to the campus student accommodation is permissible with consent in the zone pursuant to Section 3.52(1) of the SEPP.

20. The proposed development is acceptable when assessed against the design quality principles set out in Schedule 8, satisfying Section 3.52(3) of the SEPP, as discussed below.

Provision	Compliance	Comment
Principle 1 - context, built form and landscape	Yes	The proposed new dining room is located towards the rear of the site and will not be visible from the public domain.
Principle 2 - sustainable, efficient, and durable	Yes	The proposal involves an internal fitout and enclosure of an existing courtyard within the building, with design elements aligned to the building's orientation, incorporating solar panels and lightweight materials to support sustainability outcomes.
Principle 3 - accessible and inclusive	Yes	The proposed development will facilitate the provision of on-site catering to support the existing student accommodation population on site and is accessible.
Principle 4 - health and safety	Yes	The proposal delivers a new food offering to support student health. The retention of the western courtyard ensures that the provision of amenable outdoor space is maintained for students.
Principle 5 - amenity	Yes	The application is supported by a Noise Impact Assessment, which concludes that the operation of the proposed dining room and associated mechanical plant will not adversely affect the amenity of the on-site student accommodation or neighbouring properties. To ensure compliance, a condition of consent has been imposed requiring that both the construction (including appropriate sound insulation and specified glazing for the façade and roof) and ongoing operation of the development align with the recommendations and requirements outlined in the acoustic report.
Principle 6 - whole of life, flexible and adaptive	Yes	The proposed dining room may also be used for informal gatherings or meetings for the student residents.

Provision	Compliance	Comment
Principle 7 - Aesthetics	Yes	The proposed development will not be visible from the public domain and has been designed to respond to and integrate with the existing building.

Local Environmental Plans

Sydney Local Environmental Plan 2012

21. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 (the LEP) is provided below.

22. The site is zoned SP2, identified on the Land Zoning Map for the specific purpose of an educational establishment. The proposed development comprises alterations and additions to an existing campus student accommodation building, which is ancillary to the educational establishment use. Accordingly, the proposed development is permissible with development consent in the SP2 zone and is consistent with the objectives of the zone.

Provision	Compliance	Comment
4.3 Height of buildings	Yes	There is no prescribed maximum building height for the site. The proposed development maintains the height of the existing development, with the proposed plant being at the same height of the existing plant.
4.4 Floor space ratio (FSR)	Yes	There is no prescribed maximum floor space ratio for the site. The proposed development includes an additional 238sqm of gross floor area (GFA). This increase in floor area is considered acceptable given the additional floor area is confined entirely to the ground floor, is internally oriented within the site, and will not contribute to the building's perceived bulk or scale when viewed from the public domain.
5.10 Heritage conservation	Yes	The proposed development will not have unacceptable impacts on the significance of the adjacent heritage conservation area.
6.21C Design excellence	Yes	The proposed development exhibits design excellence.

Development Control Plans

Sydney Development Control Plan 2012

23. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 (the DCP) is provided in the following sections.

Provision	Satisfactory
2.3.5 University of Sydney and Royal Prince Alfred Hospital	Yes
3.11 Transport and Parking	Refer to discussion below.
3.12 Accessible Design	Yes
3.13 Social and Environmental Responsibilities	Yes
3.14 Waste	Yes
4.4.1 Boarding houses and Student Accommodation	Yes

Discussion

Bike Parking

24. The proposal includes a reduction in bike parking from 50 to 42 spaces. The draft amendments proposed for Section 4.4.1 of the DCP that are currently on exhibition prescribes bicycle parking rates for student accommodation as 1 per 5 rooms and 1 per 50 for visitors. The provision of 42 spaces is in accordance with this requirement and can be supported.

25. The existing bike parking is proposed to be replaced from horizontal rails to 2-tier dynamic racks to allow for other changes in the basement associated with the proposed development. The proposed bike parking design complies with the relevant Australian Standards (AS 2890.3), is located close to the lift access and is supported.

Notification

26. The proposed development was notified in accordance with the City of Sydney Community Engagement Strategy and Participation Plan. No submissions were received.

Financial Contributions

Contribution	Comment
Section 7.11 Development Contribution	The City of Sydney Development Contributions Plan 2015 does not apply as the proposal does not result in a net increase in population, as defined by the Contributions Plan. Under this Plan, the population yield for student accommodation is calculated based on the number of rooms (or keys). The proposed development does not increase the total number of rooms.
Section 7.12 Central Sydney Contribution	Not applicable.
Affordable Housing Contribution	Contribution payable, refer to below.
Housing and Productivity Contribution	Not applicable.

Affordable Housing Contribution

27. An affordable housing contribution is payable as:

- Section 14 of the Housing SEPP - there is a need for affordable housing
- Section 7.32(2) of the EP&A Act - discretion has been exercised to impose an affordable housing contribution condition
- Section 7.32(3)(a) of the EP&A Act - the affordable housing condition complies with all relevant requirements of Section 15 of the Housing SEPP
- Section 7.32(3)(b) of the EP&A Act - the condition is authorised to be imposed under Clause 7.13(1)(a)(ii) of the Sydney LEP 2012 and is in accordance with Council's Affordable Housing Program:
    - The proposal introduces an additional 238sqm of GFA to serve the existing student population.
    - 3% contribution at a rate of $11,223.28 per square metre of total floor area (239sqm) = $80,470.92 contribution payable.
- Section 7.32(3)(c) of the EP&A Act – the contribution imposed is reasonable.

Recommendation

28. The proposed development has been assessed under section 4.15 of the EP&A Act and is recommended for approval subject to the conditions of consent.

29. As the application is Crown development and the applicant has objected to a condition, the matter is required to be referred to the Local Planning Panel for consideration under section 4.33 of the EP&A Act. If the Panel determines that the condition should be imposed, the disputed condition must be referred to the Minister for determination and the development application deferred pending that decision. Alternatively, if the Panel determines that the condition should not be imposed, it may exercise the functions of the consent authority and determine the application in accordance with section 4.33(3) of the Act.

30. The undersigned declare, to the best of their knowledge that they have no interest, pecuniary or otherwise, in this development application or persons associated with it and have provided an impartial assessment.

Prepared by:

Mia Music
Senior Planner

Reviewed by:

Natasha Ridler
Area Planning Manager

Attachment B

Recommended conditions of consent

SCHEDULE 1

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2026/264 dated 3 April 2026 and the following drawings prepared by nettletontribe:

Drawing Number	Drawing Name	Date
005 Rev B	Site Plan	01.06.2026
050 Rev B	Demolition Plan – Basement	01.06.2026
051 Rev B	Demolition Plan – Level 1	01.06.2026
052 Rev B	Demolition Plan – Level 2	01.06.2026
053 Rev B	Demolition Plan – Level 3	01.06.2026
054 Rev B	Demolition Plan – Level 4	01.06.2026
055 Rev B	Demolition Plan – Level 5	01.06.2026
056 Rev B	Demolition Plan – Roof	01.06.2026
070 Rev B	Demolition Elevations – Sheet 1	01.06.2026
071 Rev B	Demolition Sections – Sheet 1	01.06.2026
072 Rev B	Demolition Sections – Sheet 2	01.06.2026
100 Rev B	GA Plan – Basement	01.06.2026
101 Rev B	GA Plan – Level 1	01.06.2026
102 Rev B	GA Plan – Level 2	01.06.2026
103 Rev B	GA Plan – Level 3	01.06.2026
104 Rev B	GA Plan – Level 4	01.06.2026
105 Rev B	GA Plan – Level 5	01.06.2026
106 Rev B	GA Plan – Roof Level	01.06.2026
201 Rev B	Elevations – Sheet 1	01.06.2026

Drawing Number	Drawing Name	Date
202 Rev B	Proposed Sections – Sheet 1	01.06.2026
203 Rev B	Proposed Sections – Sheet 2	01.06.2026

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

(2) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – CROWN DEVELOPMENT – PRIOR TO CONSTRUCTION

(a) In accordance with the City of Sydney Affordable Housing Program and prior to the commencement of construction, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.

(b) The contribution is $80,470.92 (indexed at 14 July 2026). This is calculated by establishing the sum of the equivalent monetary contribution $11,223.28 multiplied by 3% of the total floor area for residential development (239sqm).

(c) If the contribution is paid after the indexation period in which the consent is granted, March 2026 to February 2028, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.

(d) Contribution payable at Time of Payment = C x MDP2 / MDP1, where:

(i) C is the original total contribution amount payable to the City of Sydney as shown above;

(ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and

(iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being March 2026 to February 2028.

Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(3) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

BEFORE ISSUE OF CERTIFICATION

(4) BICYCLE PARKING AND END OF TRIP FACILITIES

(a) The minimum number of bicycle parking spaces to be provided within the site boundary for the development must comply with the table below.

Bicycle Parking Type	Number	Requirements
Residential	42	Spaces must be Class 2 bicycle facilities

All bicycle parking spaces must be provided on private land. The public domain cannot be used to satisfy this condition.

(b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Registered Certifier confirming prior to and form part of the certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure the allocation of bicycle parking onsite that is in accordance with Australian Standards and the Council's DCP.

(5) CONSTRUCTION TRAFFIC STANDARD REQUIREMENTS

The City of Sydney's Standard Requirements for Construction Traffic Management must be complied with at all times during any demolition and/or construction works.

Reason

To ensure that the impacts of construction traffic are appropriately managed.

Note: This condition does not require the preparation or approval of a Construction Traffic Management Plan. Instead, it requires compliance with the standard construction traffic behaviours set out in the document entitled City of Sydney Council Standard Requirements for Construction Traffic Management Plan, as published on the City's website.

(6) PREPARATION OF MECHANICAL VENTILATION PLANS

(a) Prior to the issue of any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person and submitted to the Registered Certifier. The plans must be in accordance with the following:

(i) Australian Standard 1668: - The use of ventilation and air conditioning in buildings; and

(ii) ensure all generate heated air, smoke, fumes, steam or grease vapours do not:

a. cause a nuisance to persons within or nearby to the premises,

b. or cause air pollution as defined under the NSW Protection of the Environment Operations Act 1997.

Reason

To ensure that detailed professional plans of the approved mechanical ventilation system are submitted prior to the issue of any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(7) MECHANICAL VENTILATION

(a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings.*

(b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Registered Certifier prior to the issue of any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(c) Prior to occupation or use and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

Reason

To ensure the ventilation complies with relevant standards.

(8) APPROVED ACOUSTIC REPORT

The ‘Noise & Vibration Impact Assessment For Development Application University Of Sydney Abercrombie Student Accommodation Extension’ dated 23 January 2026 and prepared by JHA Services is approved.

Where there is a conflict between the approved acoustic report and this development consent, this consent prevails.

Reason

To specify an acoustic report for reference in other noise control conditions.

(9) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising registered structural engineer must provide structural certification to the Registered Certifier verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of the *Building Code of Australia* prior to any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Reason

To ensure the existing structure can support the new loads.

(10) WASTE AND RECYCLING MANAGEMENT

The Operational Waste Management Plan dated 2 June 2026 and accompanying the Development Application has been approved by this consent responsive to architectural plans Issue B and dated 1 June 2026

Where amendments to the architectural plans may affect waste generation, storage, collection arrangements or servicing, an updated Operational Waste Management Plan must be submitted to the Registered Certifier for review prior to the issue of the relevant certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To document agreed waste management facilities and arrangements and ensure good waste management outcomes.

(11) WASTE INFRASTRUCTURE

Prior to the issue of certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), detailed plans, and specifications for the construction of waste management facilities must be submitted for review by the Registered Certifier. The waste management facilities to be provided are to be responsive to Council's controls, policies, and guidelines, including but not limited to:

(a) Waste and recycling stream(s) storage area(s) to be designed and constructed in accordance with Reference D of *Council's Guidelines for Waste Management in New Developments*. Floors to be waterproofed across all intersections that extend a minimum 1200mm high on the walls.

Reason

To allow for the safe and hygienic storage and collection of waste and recycling from the use of the building.

DURING BUILDING WORK

(12) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the surrounding area.

(13) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Note: Refer also to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

(14) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To protect the amenity of the public domain.

(15) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Refer to the City's 'Code of Practice: Hoisting and Construction Activities On and Above Roads' for further information.

Reason

To ensure mobile cranes are used appropriately.

BEFORE OCCUPATION OR USE

(16) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to occupation or use, whichever is earlier, the building owner/tenant is to enter into a contract with a licensed waste service provider for the removal of all waste and recycling stream(s). A copy of the commercial waste and recycling contract and invoices are to be made available upon reasonable request by an authorised Council officer.

Reason

To ensure arrangements are in place to manage commercial waste without reliance on public place or residential waste bins.

(17) WASTE AND RECYCLING MANAGEMENT

Prior to occupation or use, the Principal Certifier is to ensure all waste management, collection, loading and supporting infrastructure is provided in accordance with the stamped plans, approved Operational Waste Management Plan and specifications approved at certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure all on-site infrastructure has been provided to support scheduled collections responsive to the Council endorsed OWMP and requirements of the Guidelines for waste management in new developments 2018.

OCCUPATION AND ONGOING USE

(18) MANAGING NOISE

The premises must be operated and managed in accordance with the approved acoustic report for this consent.

All physical aspects of the building's structure must be installed to meet performance parameters in accordance with this condition, and requirements of this consent, must be maintained and correctly used at all times. Where there is a conflict with the approved acoustic report and a requirement of this development consent, this consent prevails.

Reason

To protect the amenity of the local area.

(19) SCHEDULED COLLECTIONS

(a) Waste collection arrangement(s) are to be conducted in accordance with the approved Operational Waste Management Plan, Council's Guidelines for Waste Management in New Developments, the City of Sydney's DCP, the developments Conditions of Consent and Local Approvals Policy for Managing Waste in Public Places.

(b) In accordance with the approved waste management plan, waste and recycling stream(s) bins must not be placed on the street for collection. Waste collection will occur within the site at all times. Unimpeded access must be provided to the waste and recycling stream(s) storage area(s) at all times.

(c) Existing unobstructed access is to be maintained for waste collection vehicles to set down within 10m of the waste storage and collection area(s) during zone collection times on collection days.

(d) The collection of waste and recycling stream(s) is to only occur during designated zone collection times outlined within the Local Approvals Policy for Managing Waste in Public Places to minimise impacts to residential amenity.

Reason

To minimise the impacts on amenity and safety caused by the presentation and collection of waste.

(20) ONGOING WASTE MANAGEMENT

(a) The use of development/tenancy must be in accordance with the approved Operational Waste Management Plan, Council's Guidelines for Waste Management in New Developments, the City of Sydney's DCP, and the developments Conditions of Consent.

(b) All general waste and recycling materials emanating from the premises must be stored in the designated waste storage area(s), must not be stored outside the premises (including the public domain) at any time.

(c) All waste and recycling stream(s) storage area(s) are to only be used for the purposes of storing waste and recycling from the premises in accordance with the original consent and approved Operational Waste Management Plan and not be converted to a different use.

(d) Scheduled collections and waste management arrangements of the development/tenancy is the responsibility of the business owner or property manager and are to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan and this consent. These arrangements include:

(i) arranging an adequate number of bins and the servicing regime matched to the needs of the premises.

(ii) actively managing waste streams and supporting infrastructure to ensure bins are not overflowing, damaged or leaking and lids are fully closed at all times.

(iii) routine cleaning and maintenance of waste storage area(s) to inhibit the permeation of odour and prevent litter and pests.

(iv) the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney.

(e) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection arrangements, identifying clear roles and responsibilities outlined within the approved Operational Waste Management Plan.

Reason

To promote good waste management arrangements and minimise the impacts on amenity and safety caused by the presentation and collection of waste.

SCHEDULE 2

PRESCRIBED CONDITIONS

The applicant must comply with all relevant conditions contained in Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021* which apply to the development:

Refer to the NSW State legislation for full text of the clauses under Part 4, Division 2, Subdivision 1 of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the *Conditions of development consent: advisory notes*. https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf The consent should be read together with the *Conditions of development consent advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.
Building work or subdivision work must not be carried out until a certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).
A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means the City of Sydney.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979.*

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021.*

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means the City of Sydney Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

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.

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

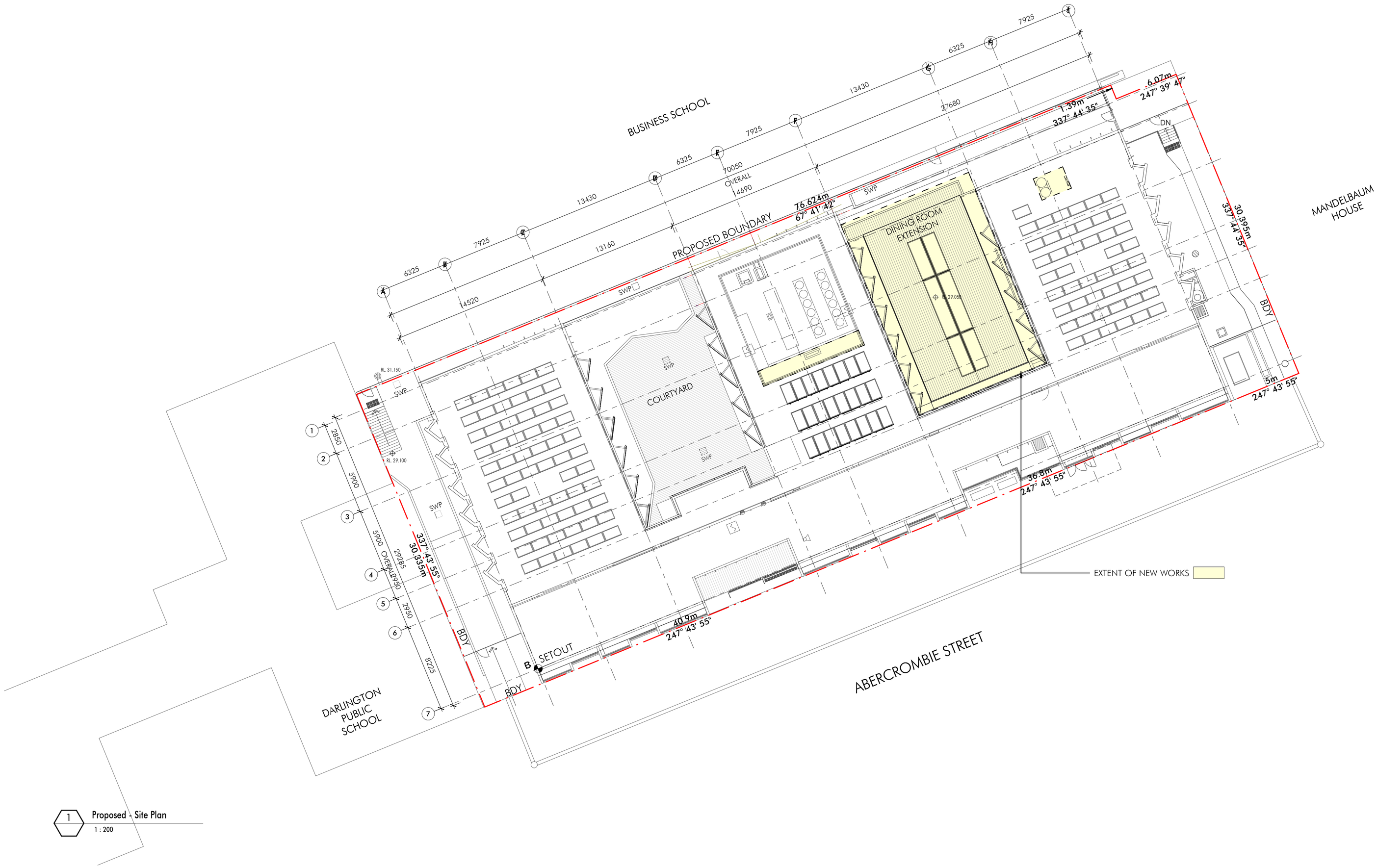
Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Attachment C

Selected Drawings



1 Proposed - Site Plan
1 : 200

REFERENCED SURVEY:
TITLE: PLAN OF TOPOGRAPHICAL SURVEY OF THE ABERCROMBIE PRECINCT OF THE UNIVERSITY OF SYDNEY
PROJECT No: 32607-03
PREPARED BY: FRANK M MASON & CO. PTY LTD
DATE: 17.09.2010

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 4000 10000

Drawing Title: **SITE PLAN**

Checker: **KN**
Sheet Size: **A1**
Scale:
Drawing Number: **14659_005**
Issue: **B**

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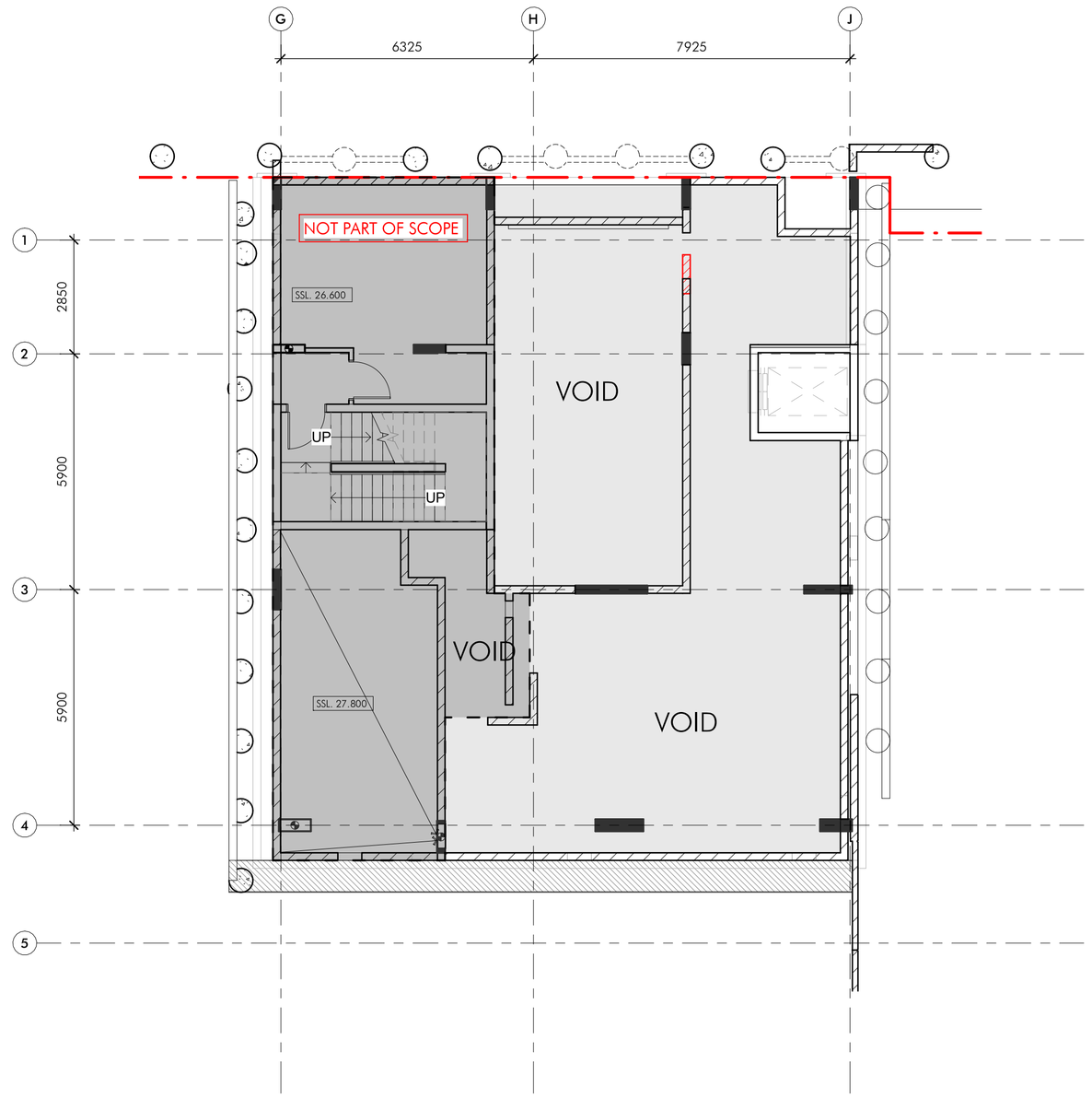
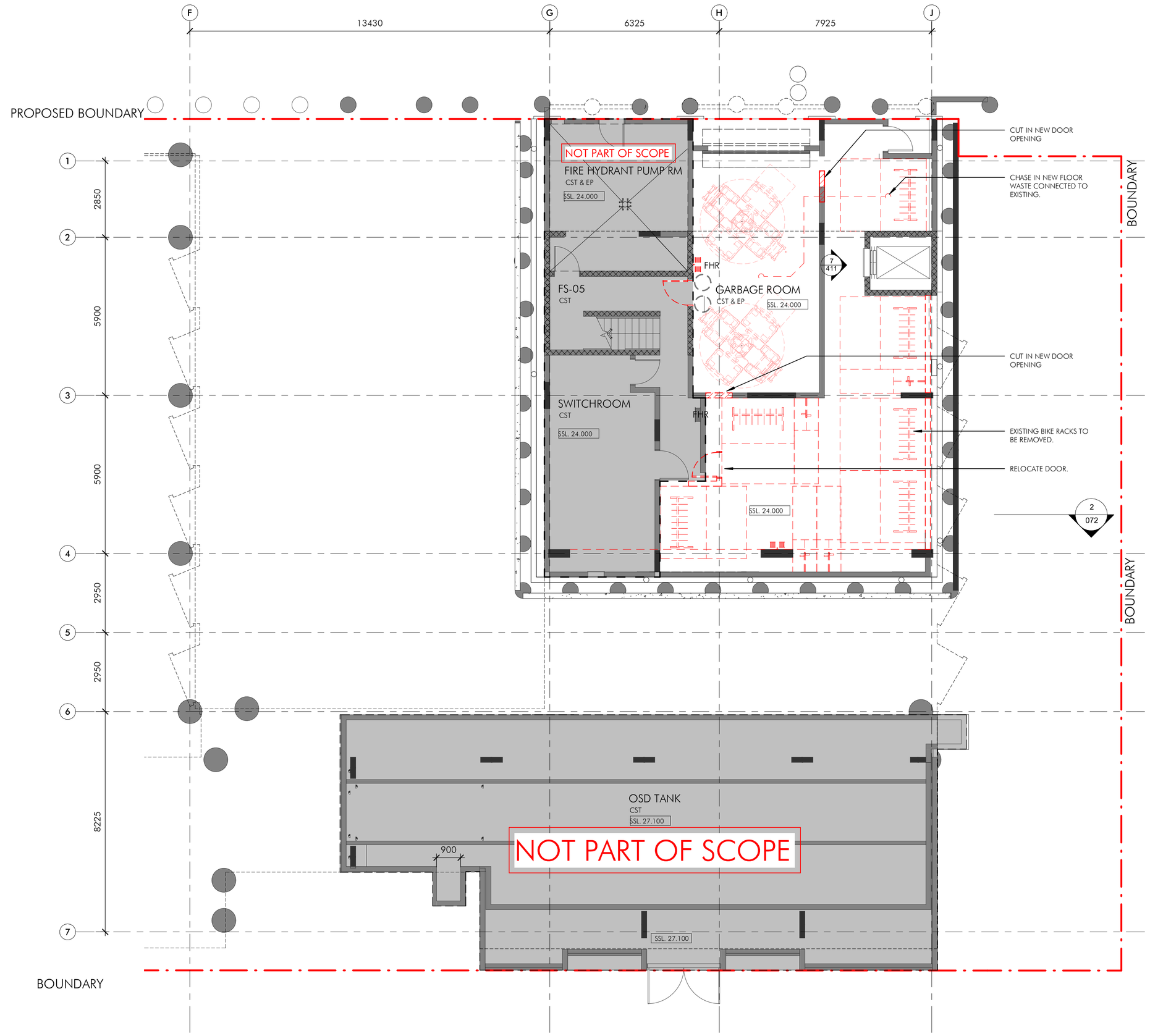


1 Demolition - Lower Ground
1 : 100



2 Demolition - Basement
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

SCOPE:

TO THE EXTENT SHOWN ON THE DRAWINGS:
- REMOVE EXISTING LIGHT WEIGHT PARTITIONS AND DOORS (SHOWN RED).
- REMOVE EXISTING FLOOR FINISHES TO THE EXTENT SHOWN AND NOTED.
- TERMINATE, CAP AND MAKE SAFE EXISTING ELECTRICAL, COMMUNICATION AND HYDRAULIC SERVICES.
- REFER MECHANICAL ENGINEER DRAWINGS FOR EXTENT OF MECHANICAL DEMOLITION INCLUDING GRILLS, SUPPLY AND RETURN AIR THERMOSTATS ETC.
- PATCH AND REPAIR ANY DISUSED CORE HOLES EXPOSED IN DEMOLITION
- REMOVE EXISTING REDUNDANT CABLING WITHIN CEILING.
- REMOVE EXISTING CEILING TILES AND CEILING GRID IN PREPARATION FOR NEW CEILING GRID AND TILES.
- CO-ORDINATE EXISTING WET AND DRY FIRE SERVICES TO BASE BUILD COMPLIANCE.
- MAINTAIN SECURITY CARD READERS, SECURITY DOOR HARDWARE AND FITTINGS AND HAND BACK TO THE BUILDING MANAGER.
- MAINTAIN ANY OTHER ITEMS NOMINATED BY THE UNIVERSITY.

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Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - BASEMENT

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_050**
Issue: **B**

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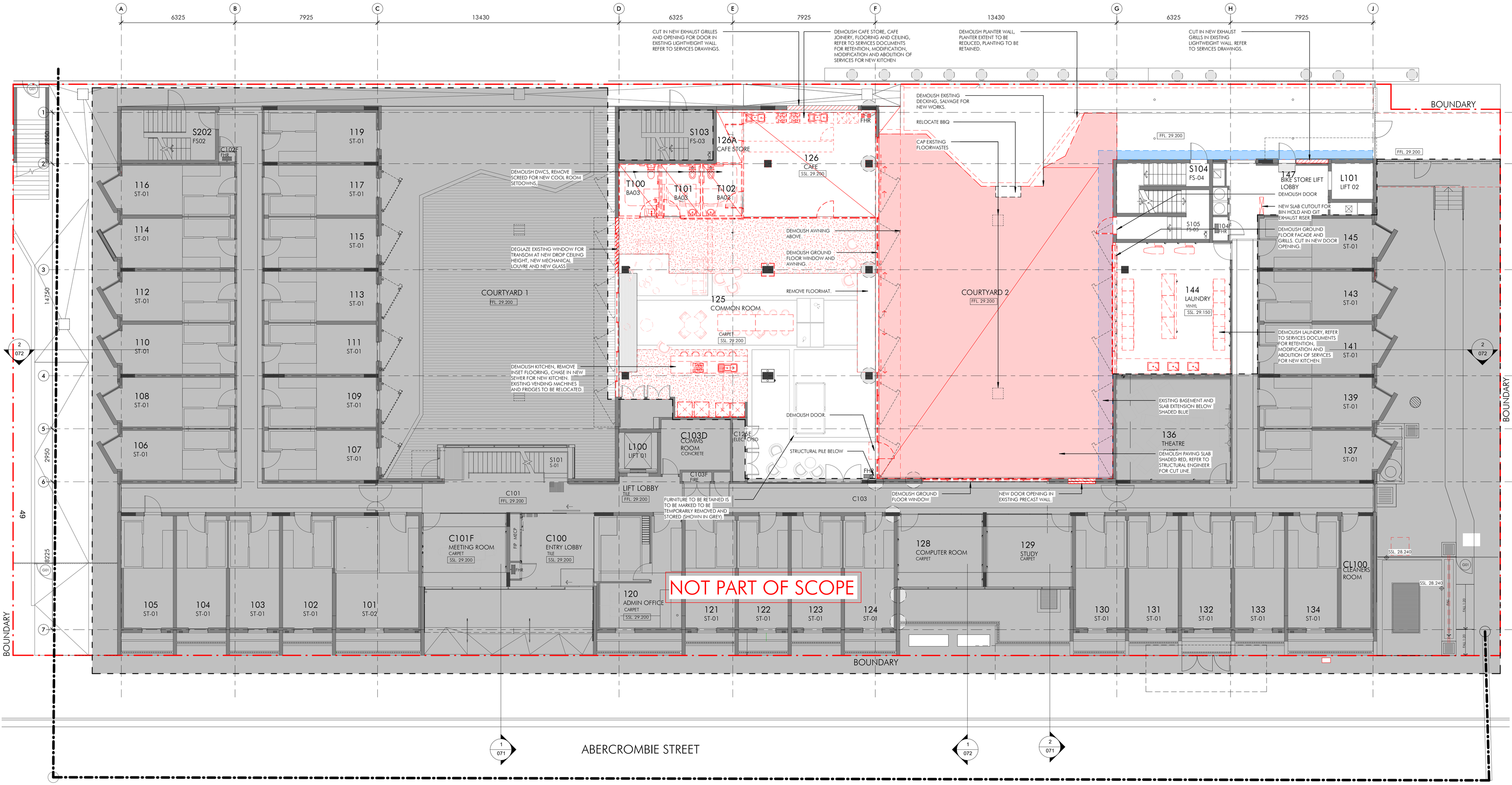

1 Demolition - Level 1
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - LEVEL 1

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_051**
Issue: **B**

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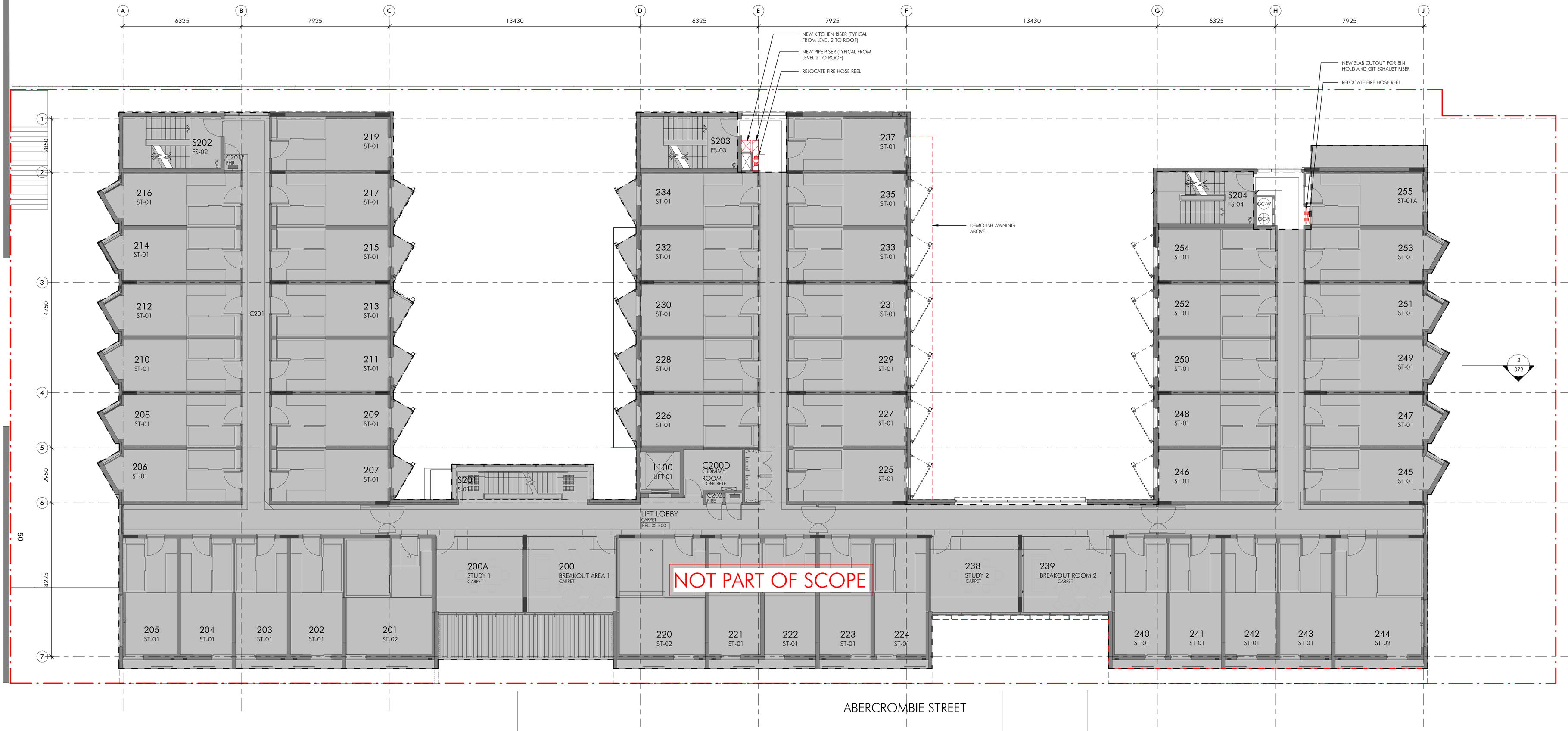

1 Demolition - Level 2
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - LEVEL 2

Checker:	Sheet Size:	Scale:
KN	A1	1:100

Drawing Number: **14659_052**
Issue: **B**

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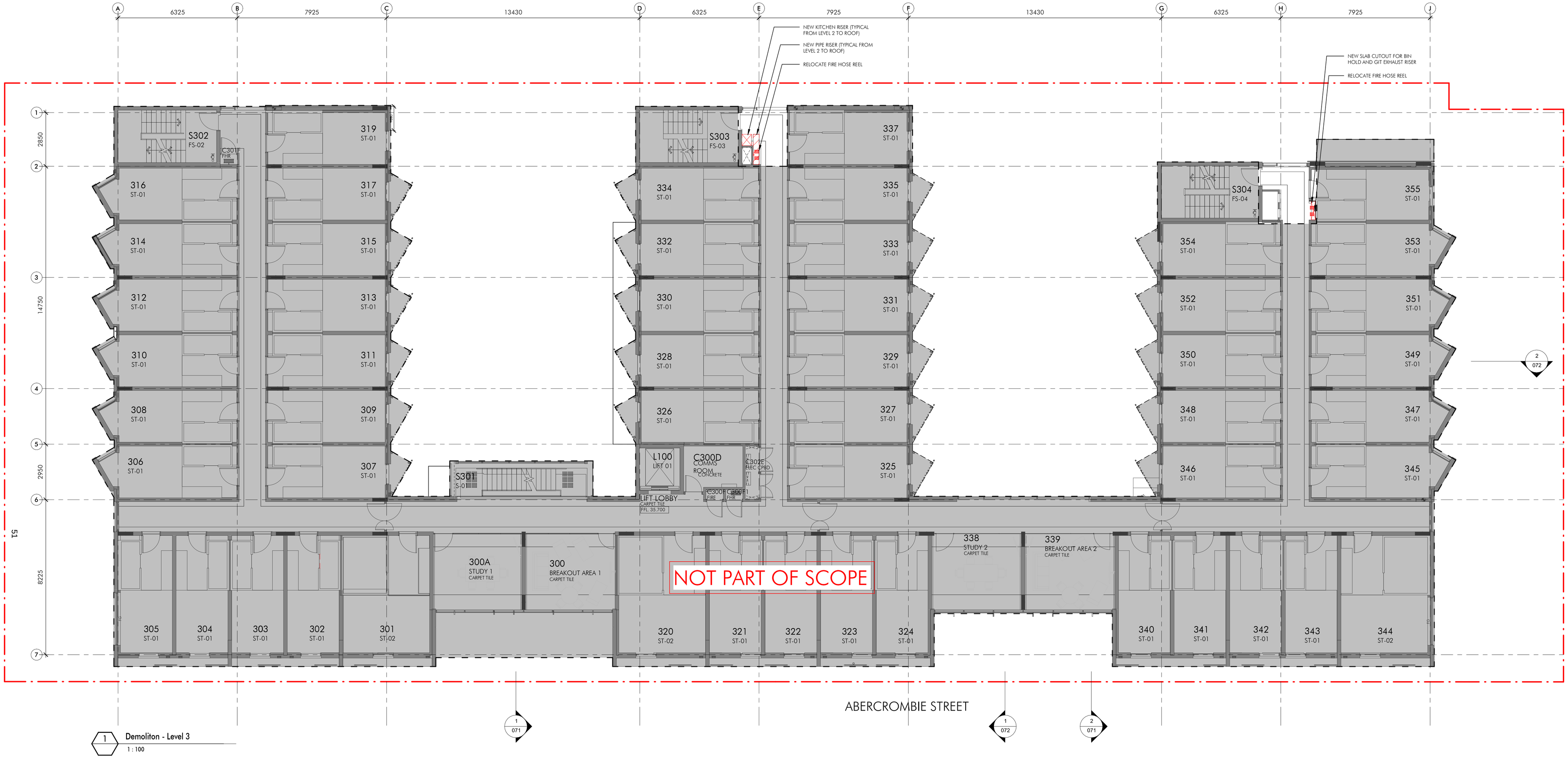

1 Demoliton - Level 3
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - LEVEL 3

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_053**
Issue: **B**

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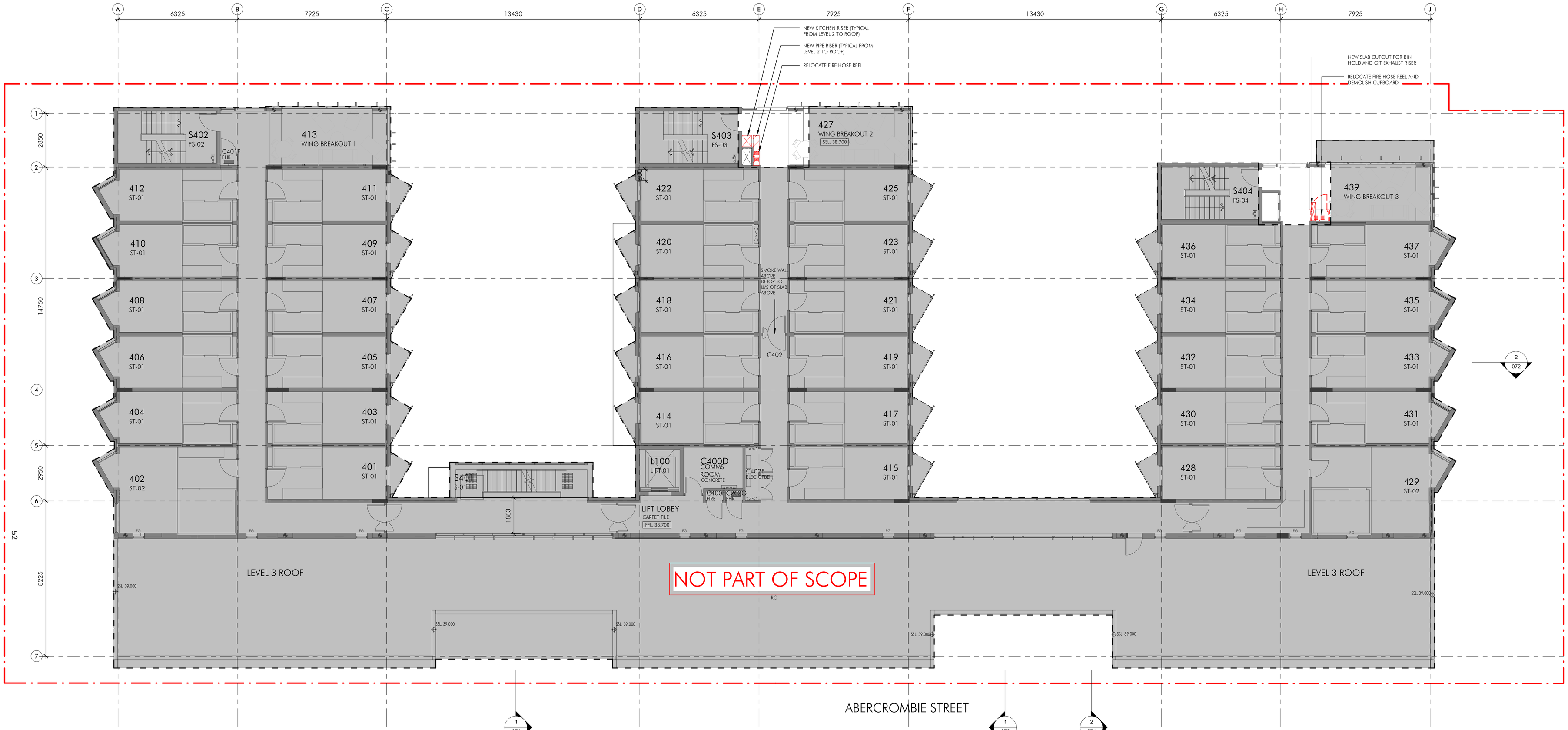

1 Demolition - Level 4
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - LEVEL 4

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_054**
Issue: **B**

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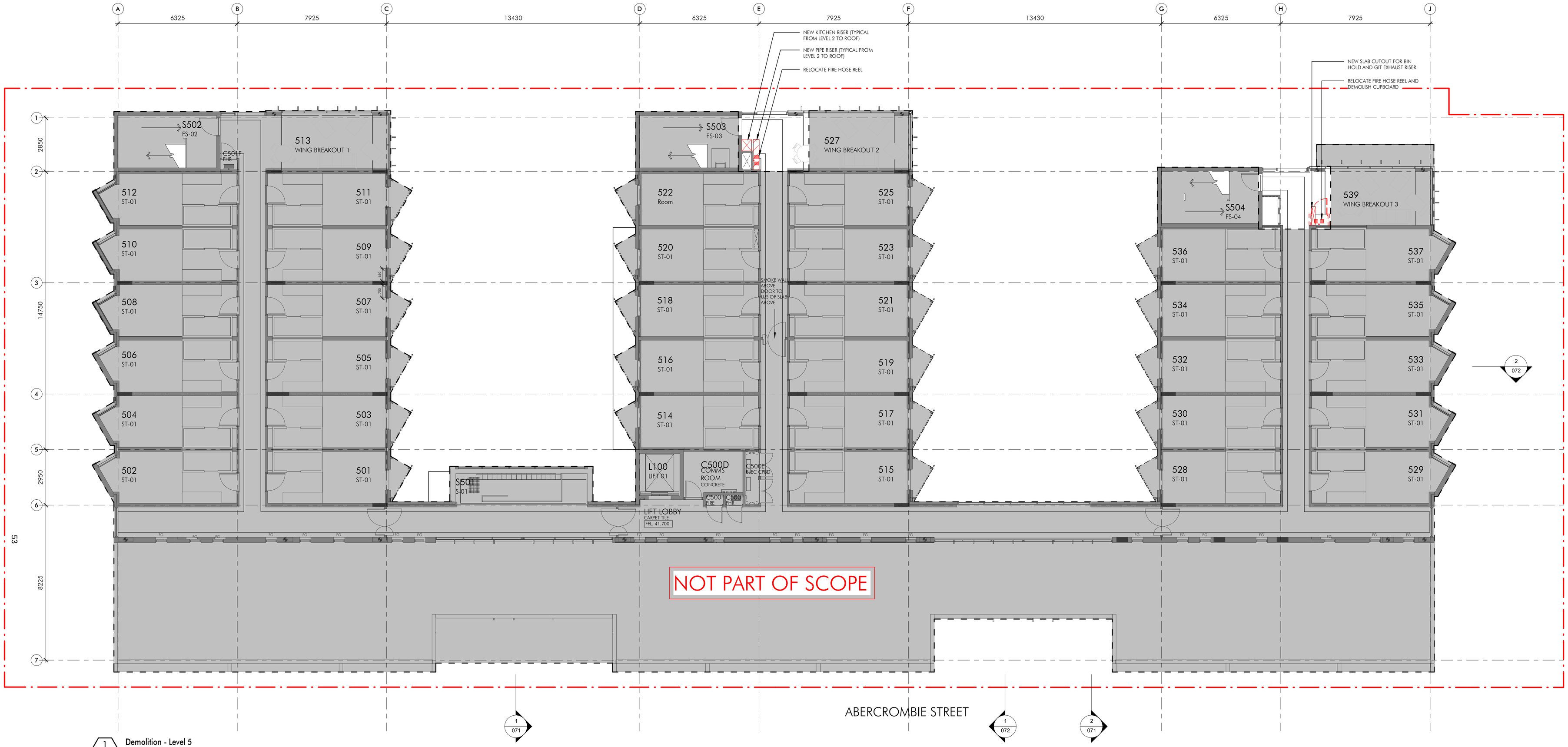

1 Demolition - Level 5
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
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Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - LEVEL 5

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_055**
Issue: **B**

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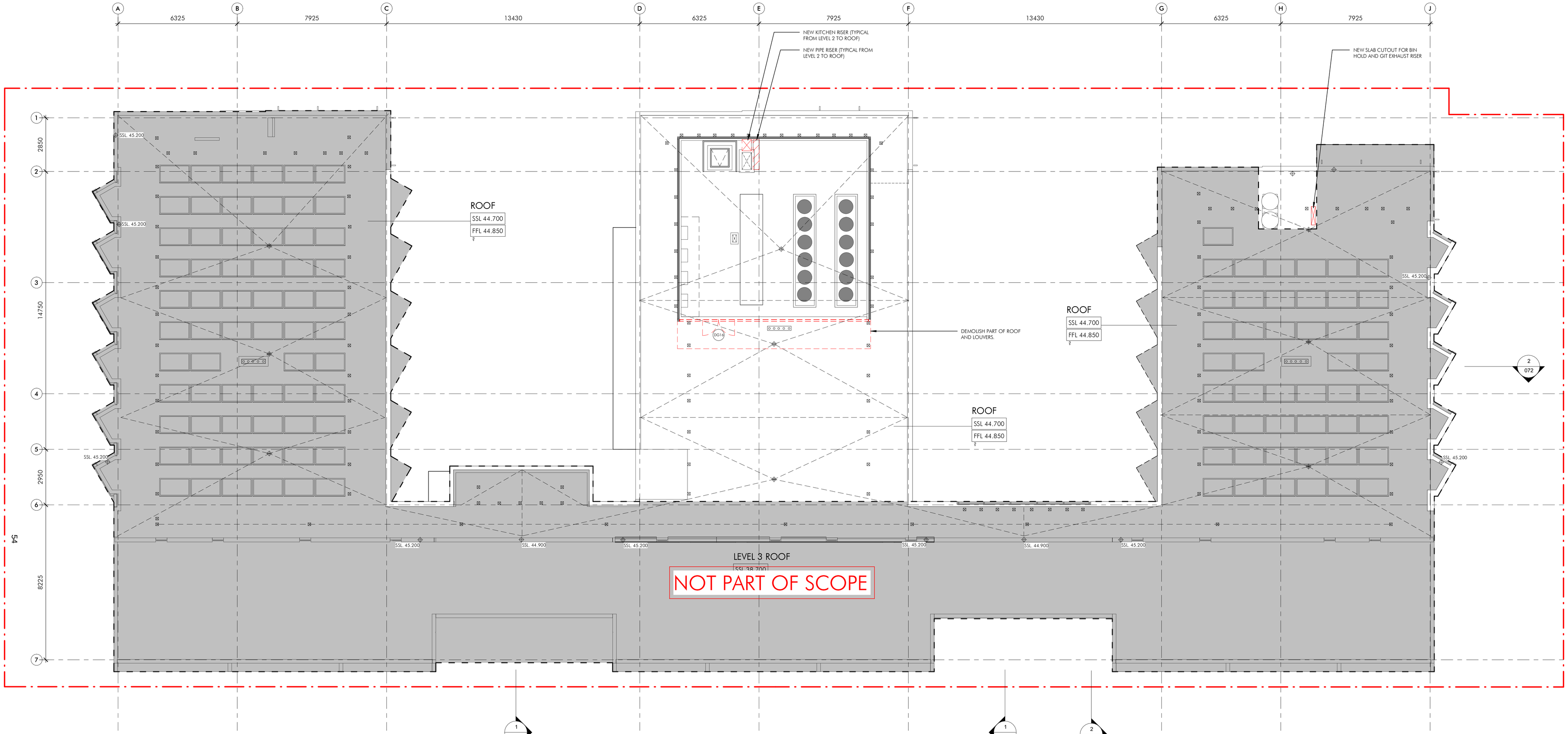

1 Demolition - Roof
1 : 100

LEGEND

- EXISTING PARTITION, DOOR, WALL TO BE DEMOLISHED.
- DEMOLITION EXTENT.
- PARTIAL DEMOLITION, CUTTING IN NEW OPENING ONLY.
- EXISTING PAVING SLAB TO BE DEMOLISHED.

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION PLAN - ROOF

Checker: KN
Sheet Size: A1
Scale: 1:100
Drawing Number: 14659_056
Issue: B

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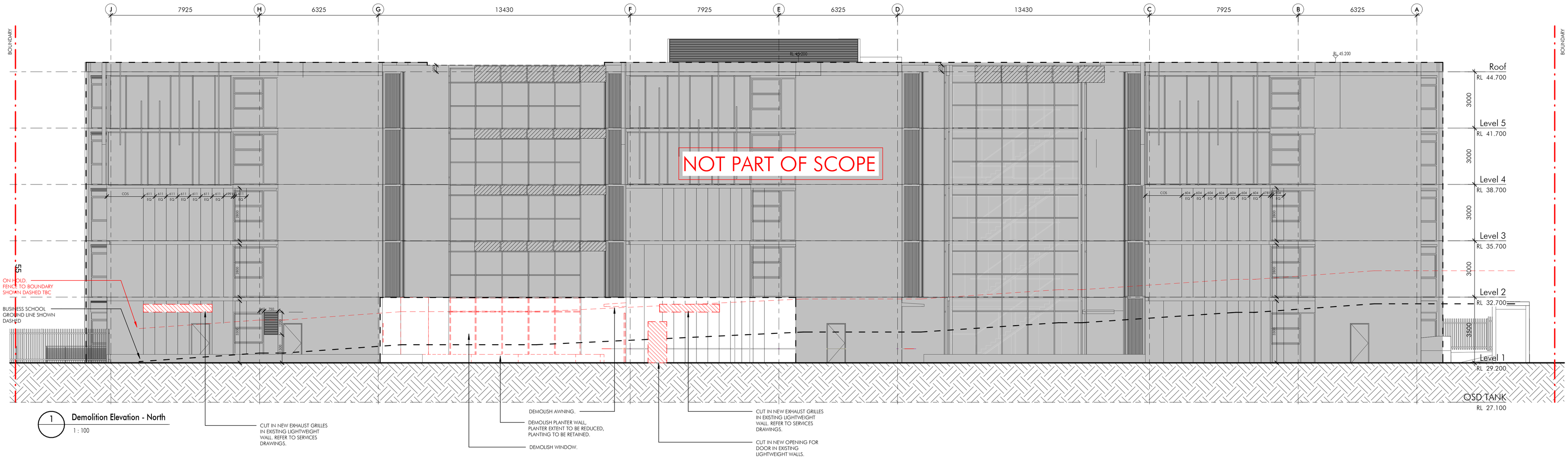

1 Demolition Elevation - North

1 : 100

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name

USyd Abercrombie Student Accomodation Extension

Project Address

401 Abercrombie St, Darlington NSW 2008

Key Plan

0 2000 5000

Drawing Title:

DEMOLITION ELEVATIONS - SHEET 1

Checker: **KN**

Sheet Size: **A1**

Scale: **1:100**

Drawing Number: **14659_070**

Issue: **B**

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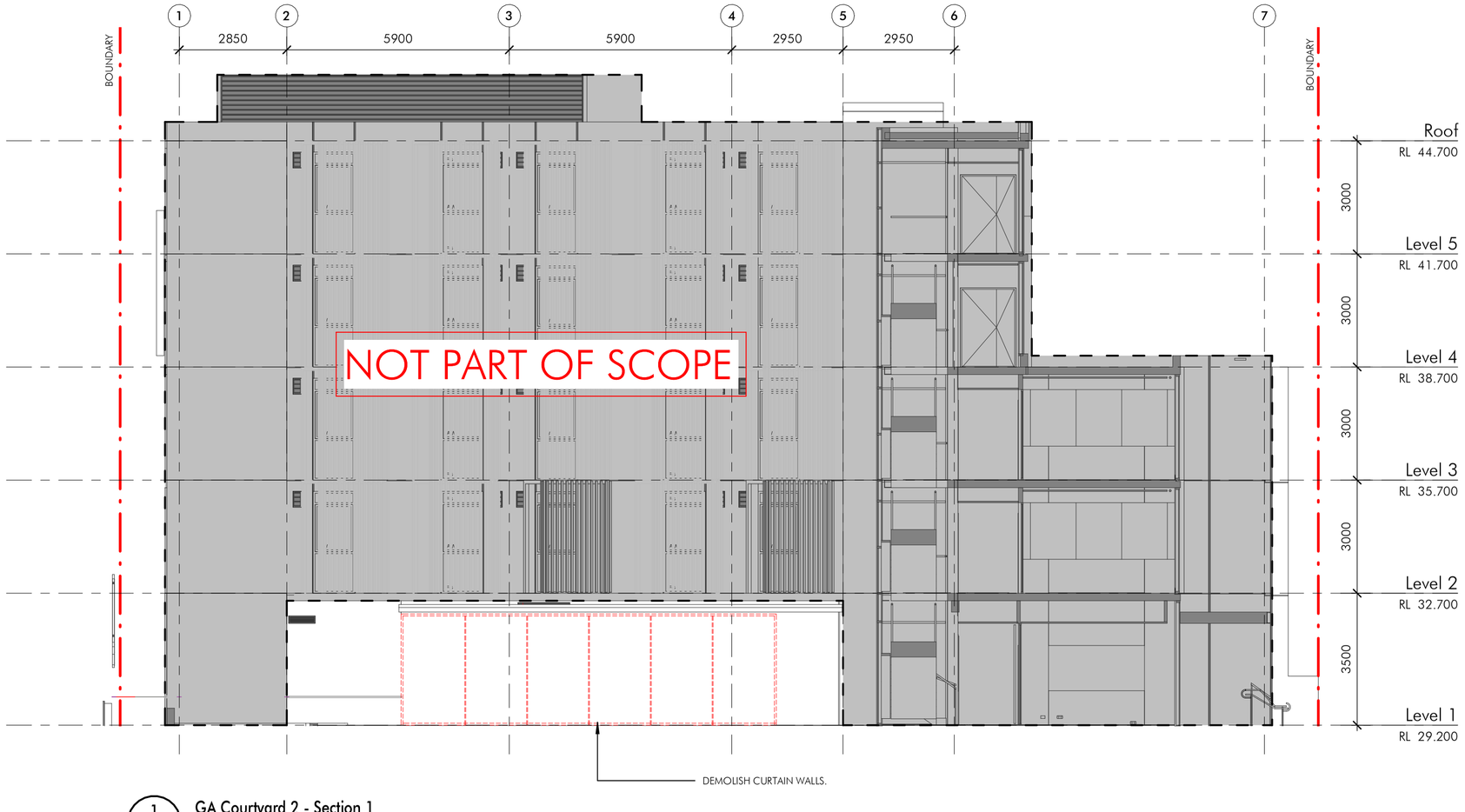
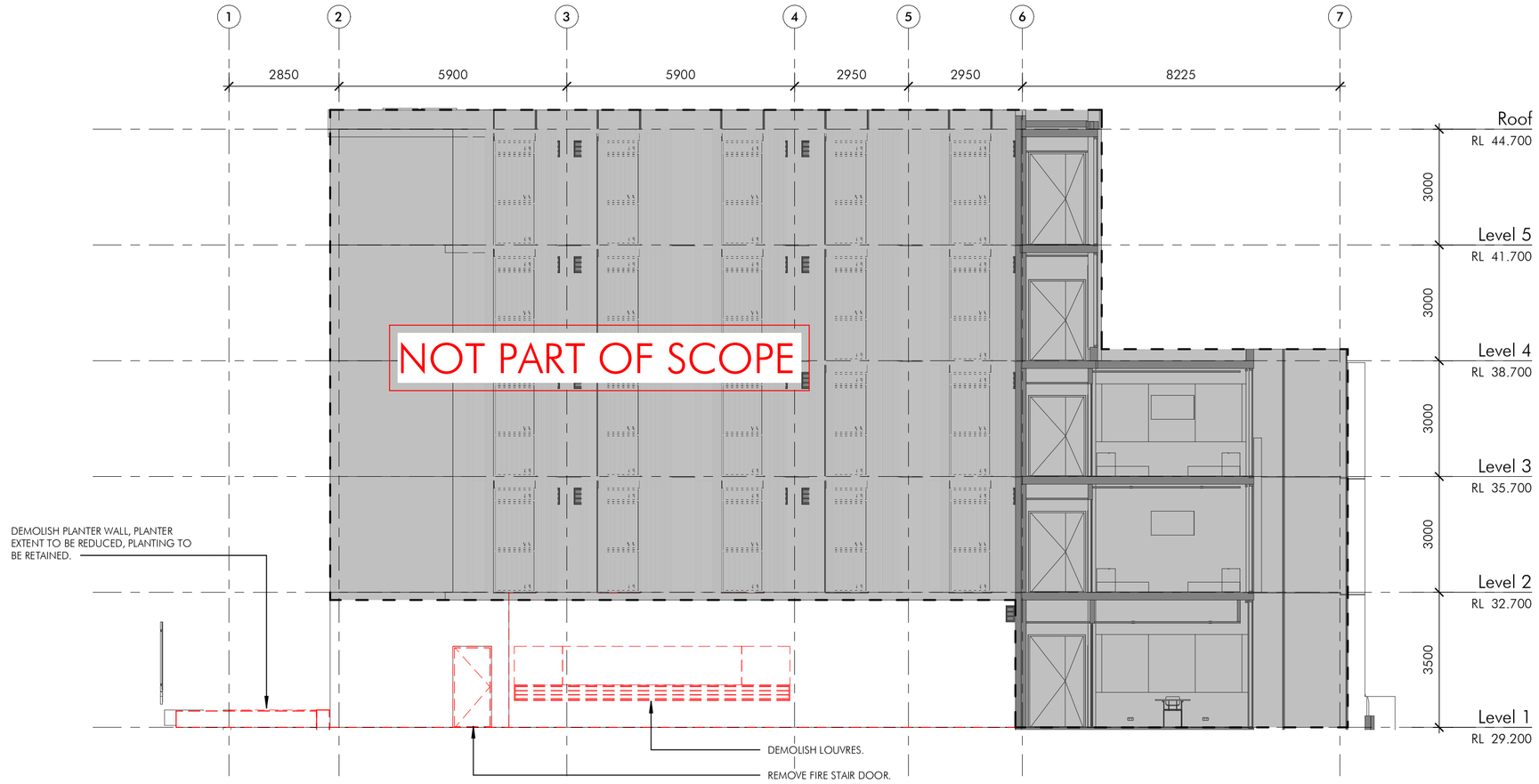


1 GA Courtyard 2 - Section 1

1 : 100



2 GA Courtyard 2 - Section 2

1 : 100

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Client

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Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name

USyd Abercrombie Student Accomodation Extension

Project Address

401 Abercrombie St, Darlington NSW 2008

Key Plan

0 2000 5000

Drawing Title:

DEMOLITION SECTIONS - SHEET 1

Checker: **KN**

Sheet Size: **A1**

Scale: **1:100**

Drawing Number: **14659_071**

Issue: **B**

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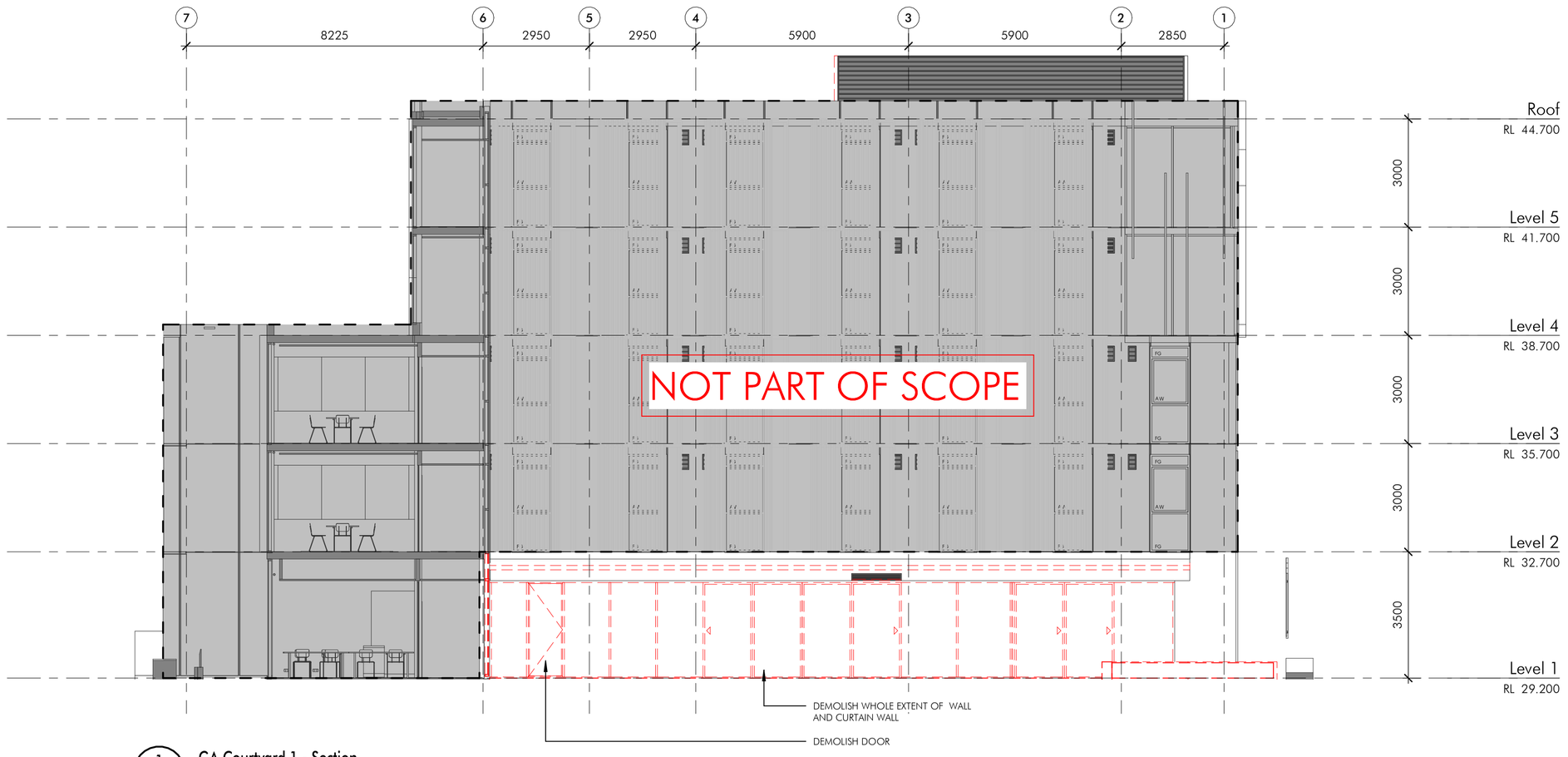
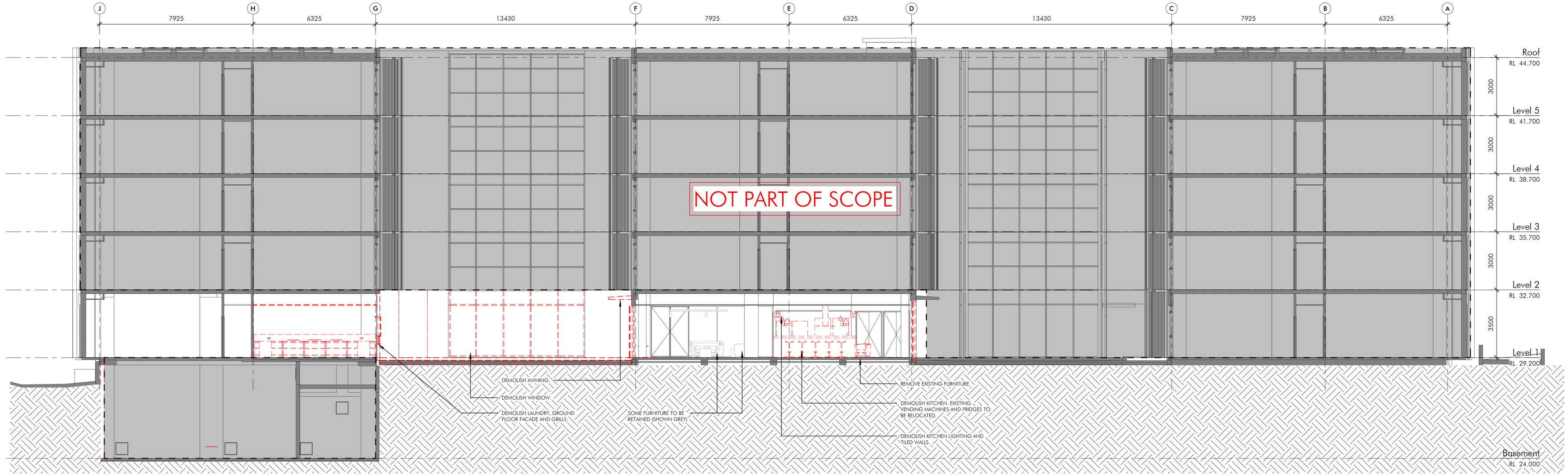


1 GA Courtyard 1 - Section
1 : 100



2 GA Building - Section 1
1 : 100

57

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Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
DEMOLITION SECTIONS - SHEET 2

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_072**
Issue: **B**

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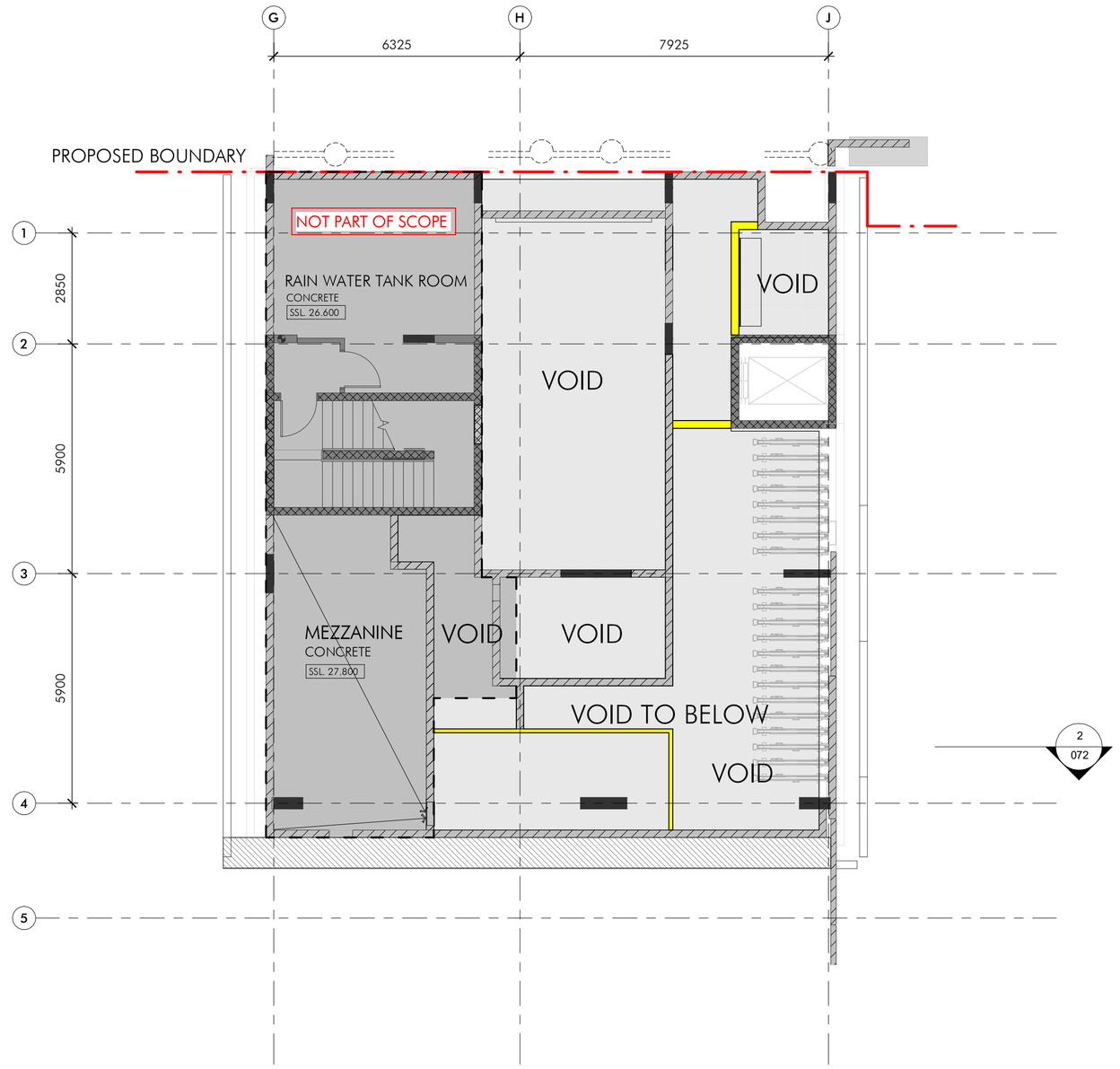
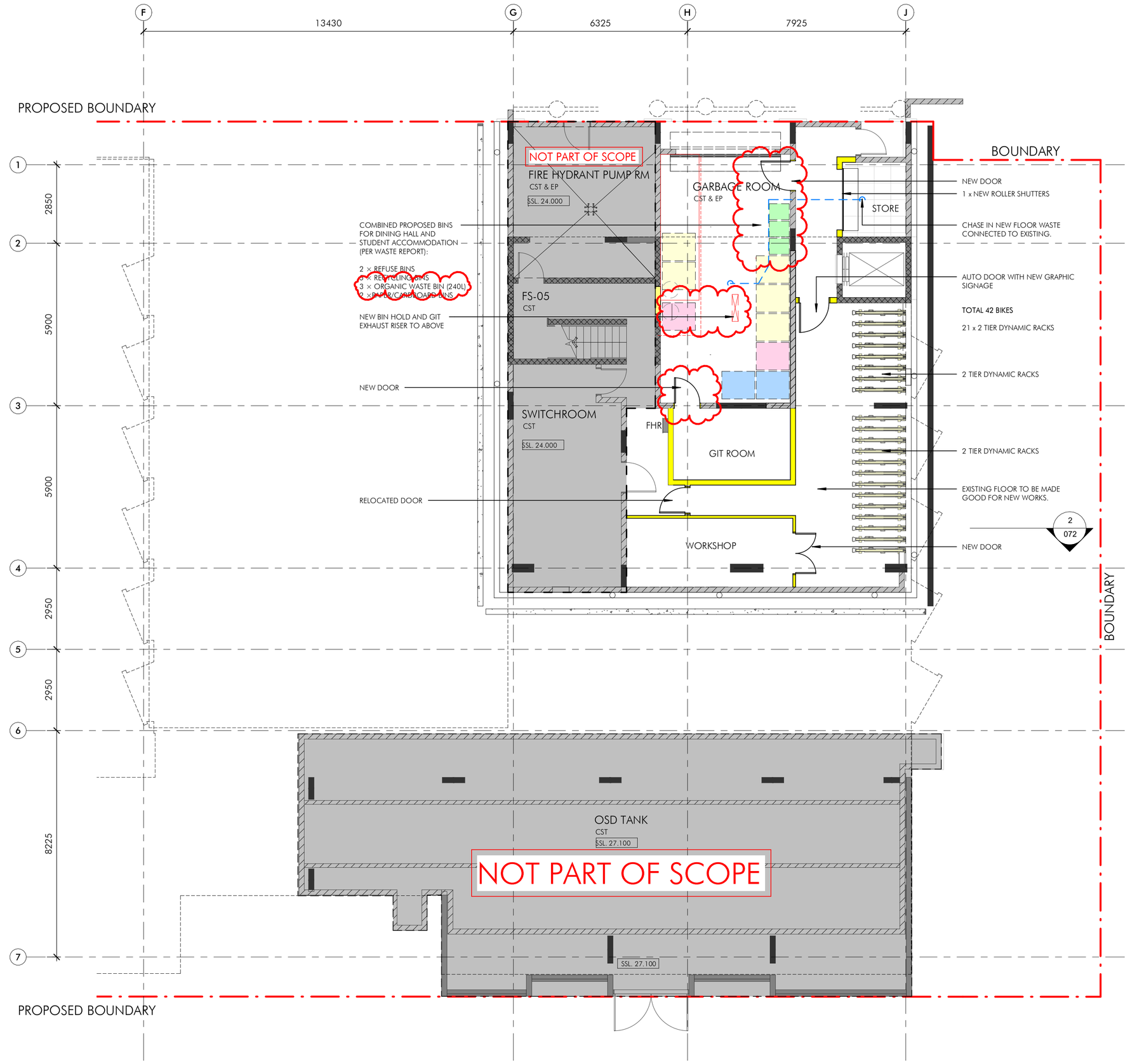
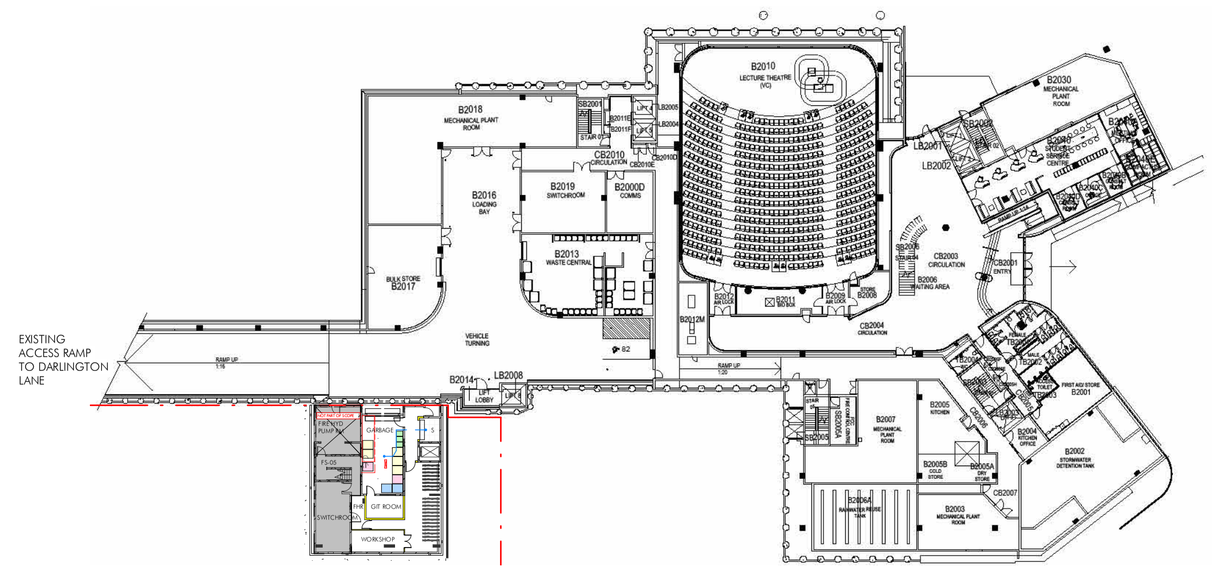


1 Proposed - Lower Ground
1 : 100



2 Proposed - Basement
1 : 100



3 Combined Student Accommodation and Business School Basement
1 : 500

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW FLOORING
- COOL ROOM PANEL

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - BASEMENT

Checker:	Sheet Size:	Scale:
KN	A1	1:100

Drawing Number: **14659_100**
Issue: **B**

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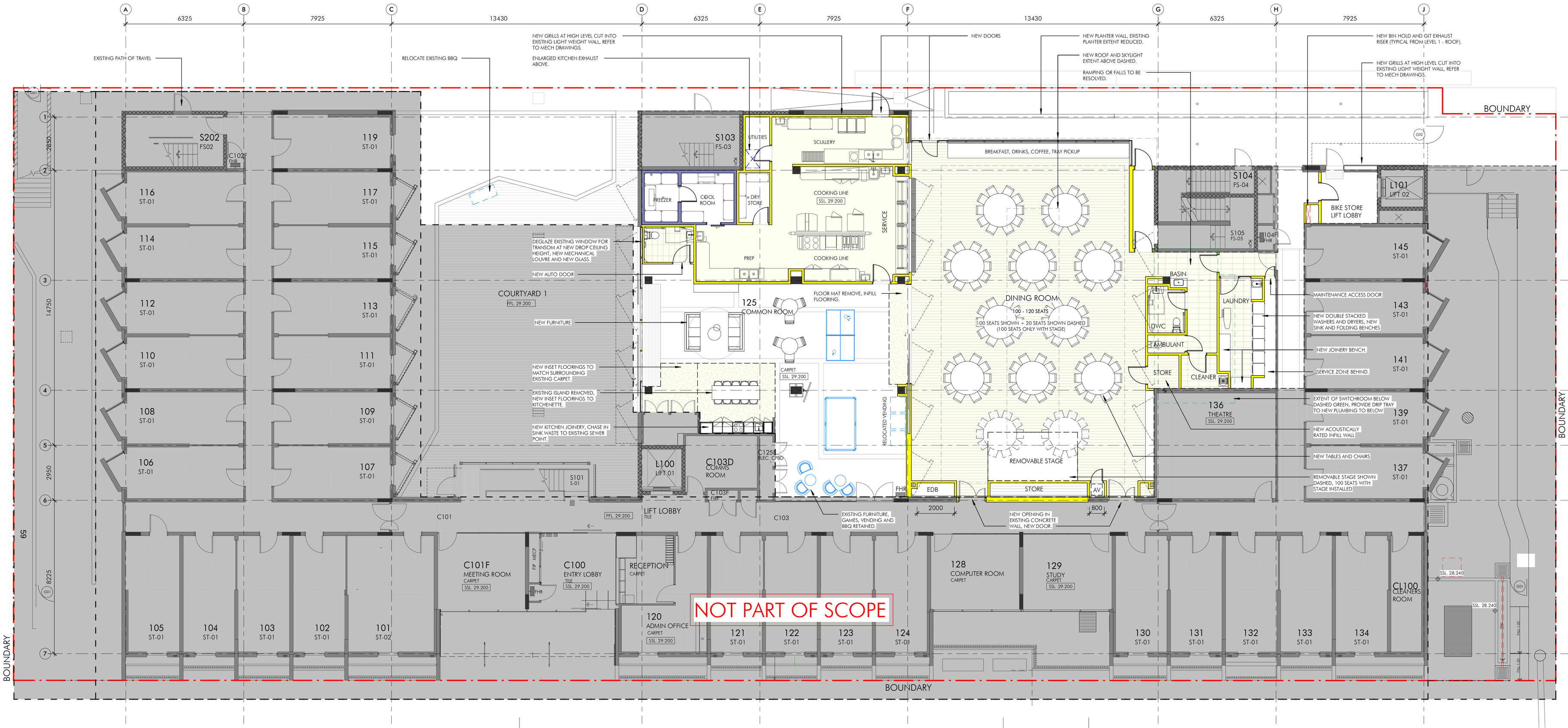

1 / 202

1 / 072

2 / 071

1 Proposed - Level 1
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW FLOORING
- COOL ROOM PANEL

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - LEVEL 1

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_101**
Issue: **B**

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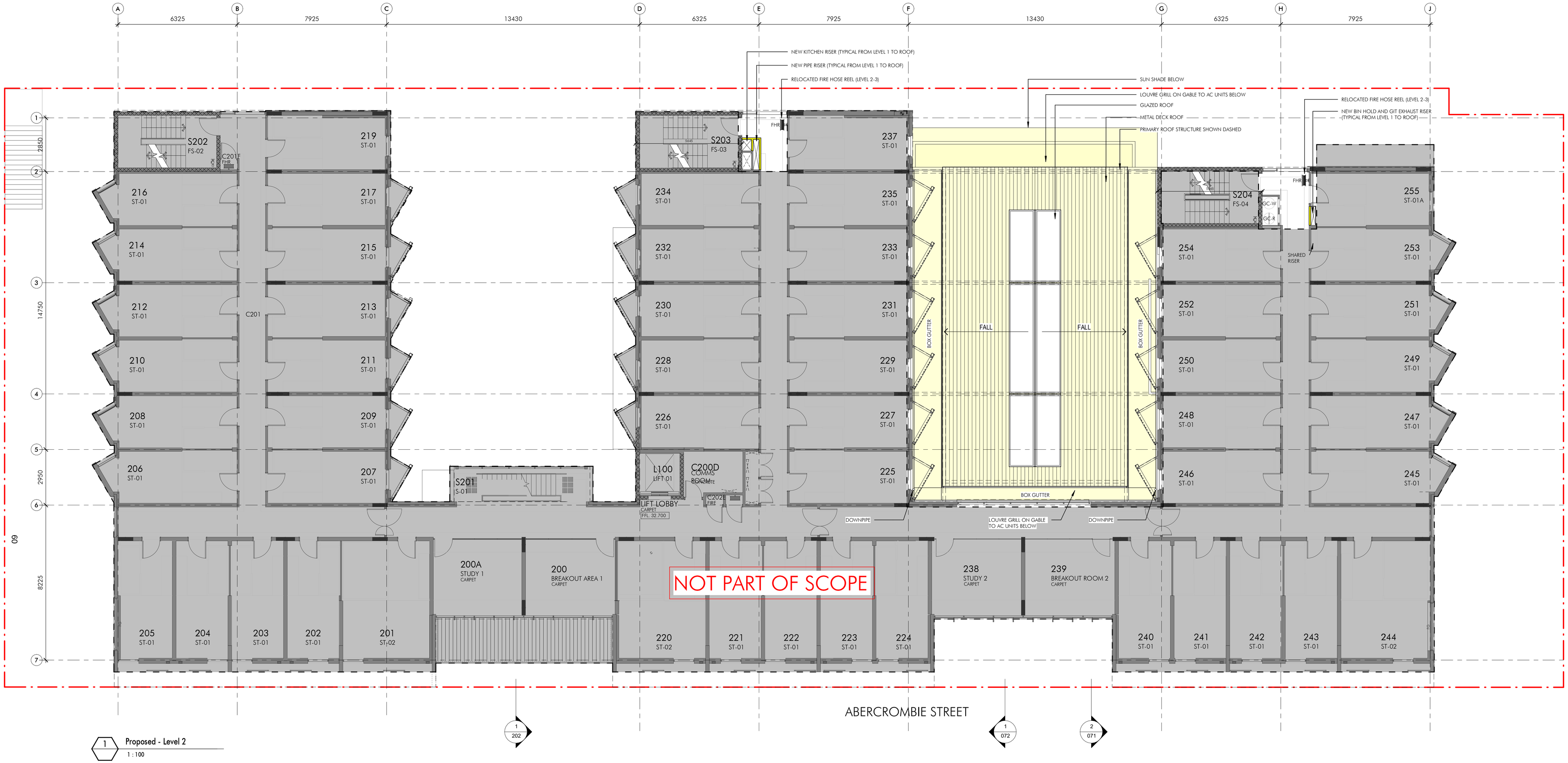

1 Proposed - Level 2
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW ROOF

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - LEVEL 2

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_102**
Issue: **B**

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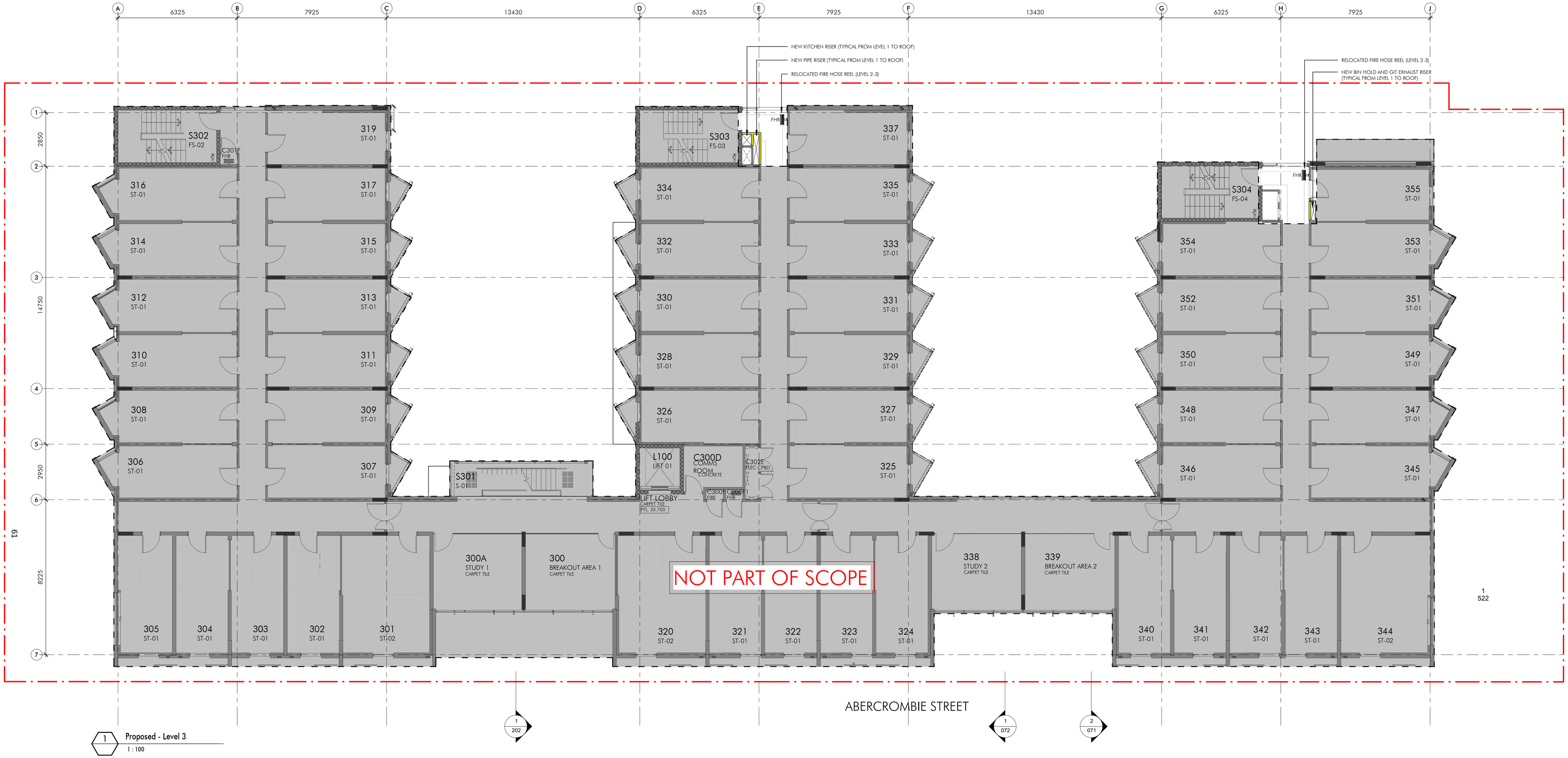

1 Proposed - Level 3
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW FLOORING
- COOL ROOM PANEL

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - LEVEL 3

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_103**
Issue: **B**

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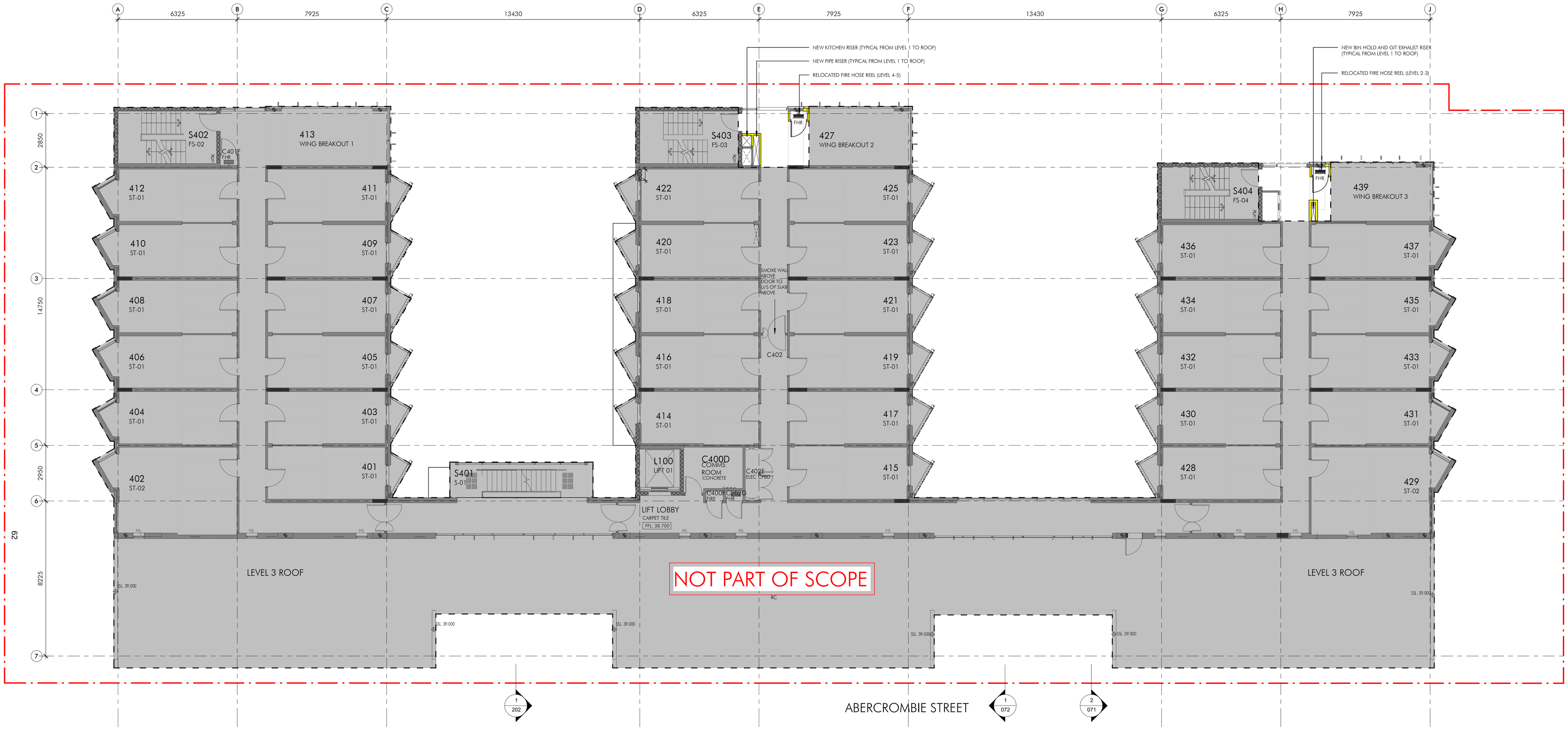

1 Proposed - Level 4
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW FLOORING
- COOL ROOM PANEL

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - LEVEL 4

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_104**
Issue: **B**

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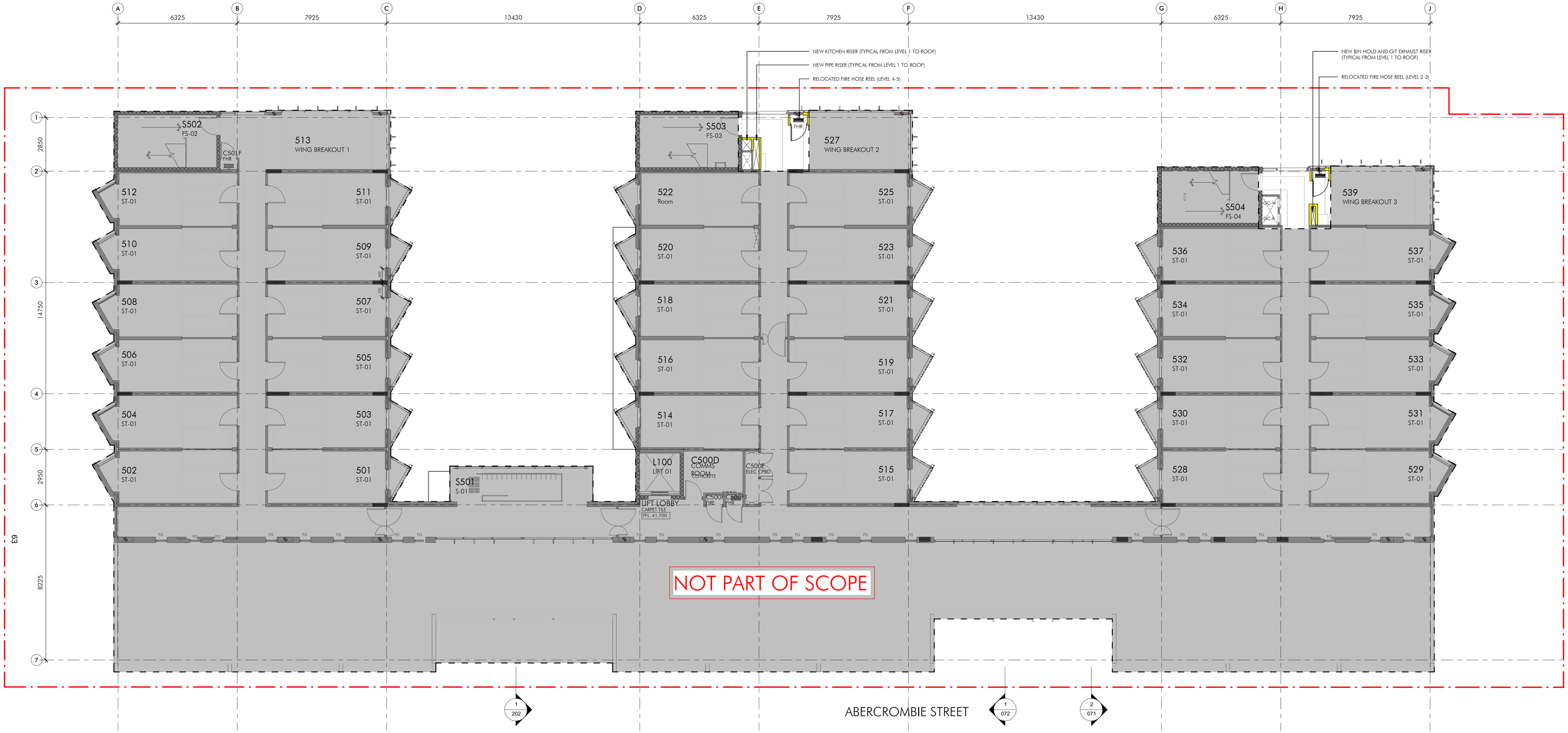

1 Proposed - Level 5
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW FLOORING
- COOL ROOM PANEL

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

Builder and/or subcontractors shall verify all project dimensions before commencing on-site work or off-site fabrication. Figured dimensions shall take precedence over scaled dimensions. This drawing is copyright and cannot be reproduced in whole or in part or by any medium without the written permission of Nettleton Tribe Partnership Pty Ltd.

Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - LEVEL 5

Checker: **KN**
Sheet Size: **A1**
Scale: **1:100**
Drawing Number: **14659_105**
Issue: **B**

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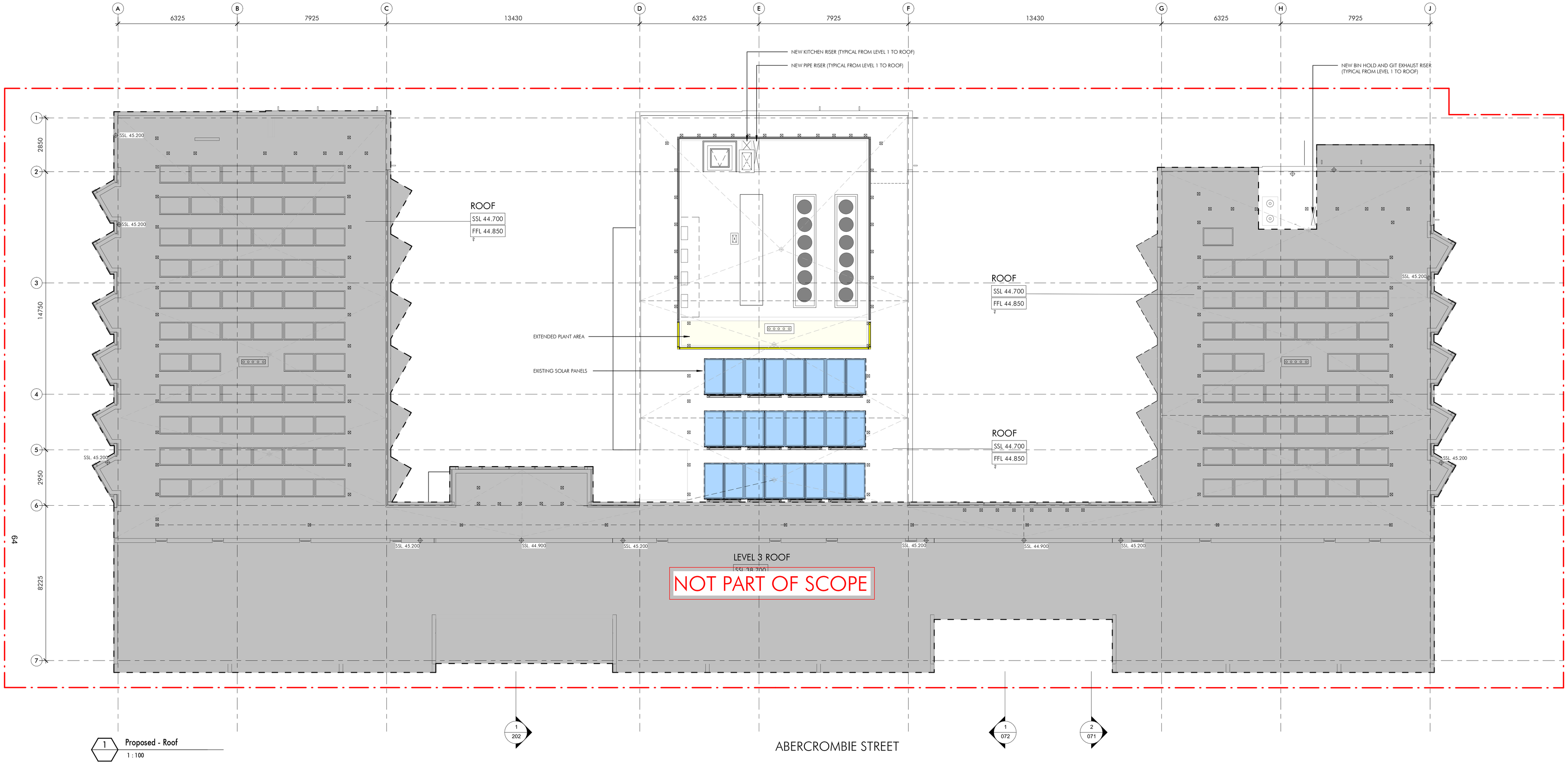

1 Proposed - Roof
1 : 100

LEGEND

- EXISTING STRUCTURE (INSITU)
- EXISTING STRUCTURE (PRECAST)
- EXISTING BLOCK WALL
- EXISTING LIGHT WEIGHT WALL
- NEW LIGHT WEIGHT WALL
- NEW ROOF

Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
GA PLAN - ROOF LEVEL

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Drawing Number: **14659_106**
Issue: **B**

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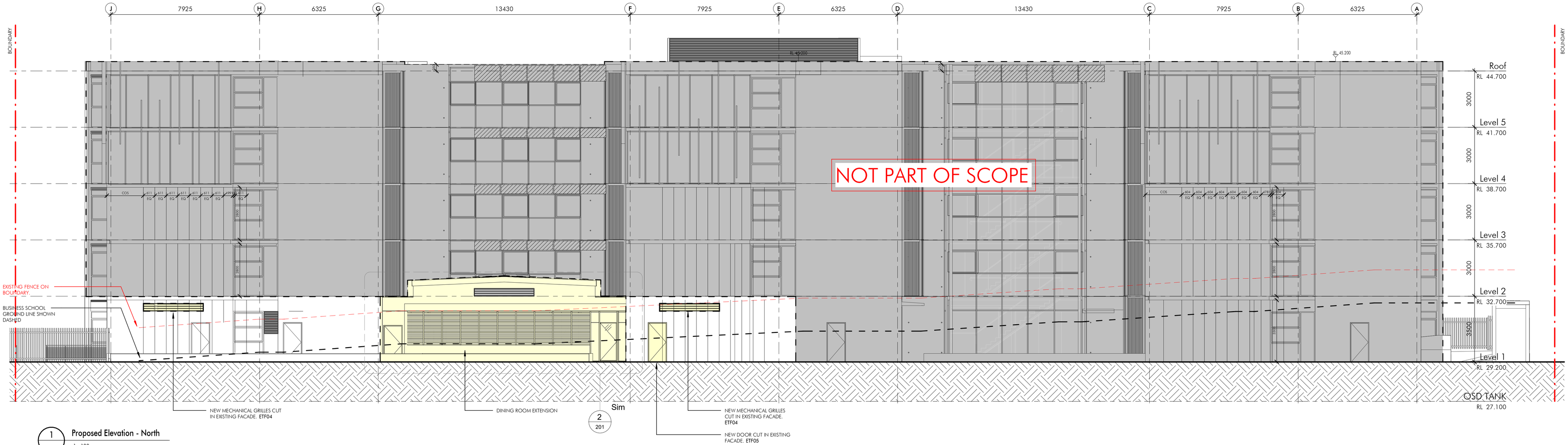

1 Proposed Elevation - North

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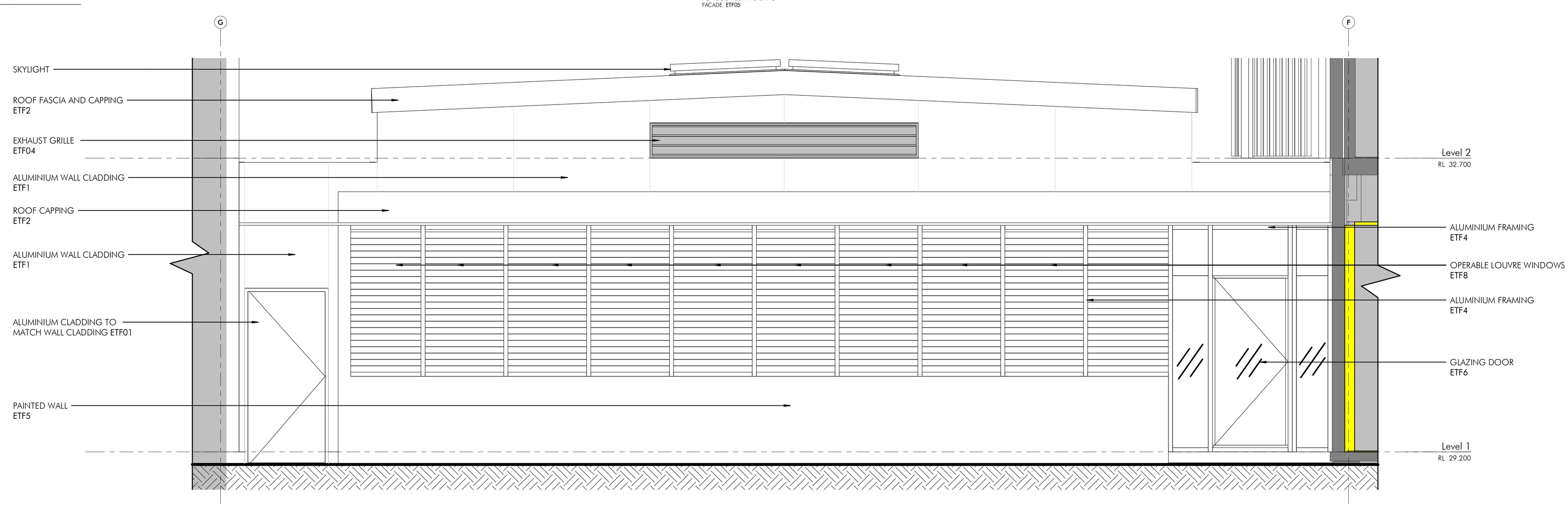

2 Proposed Elevation - Dining Room (North)

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65

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Client

THE UNIVERSITY OF SYDNEY

Issue	Description	Date
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A	DA Issue	03.02.26

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Builder

Project Name

USyd Abercrombie Student Accomodation Extension

Project Address

401 Abercrombie St, Darlington NSW 2008

Key Plan

Drawing Title:

ELEVATIONS - SHEET 1

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Scale: **1:100**

Drawing Number: **14659_201**

Issue: **B**

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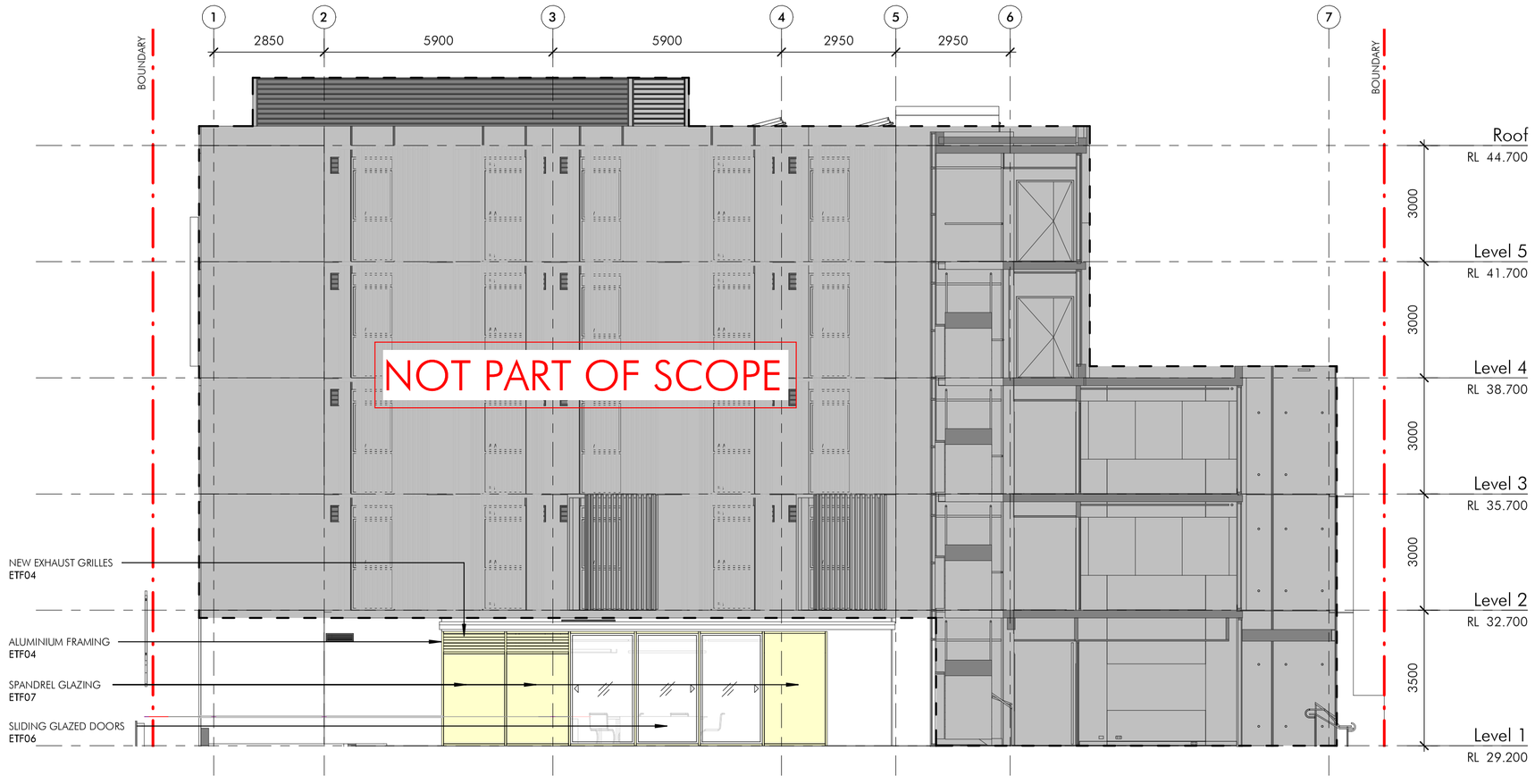

1 Proposed Section - Courtyard 1

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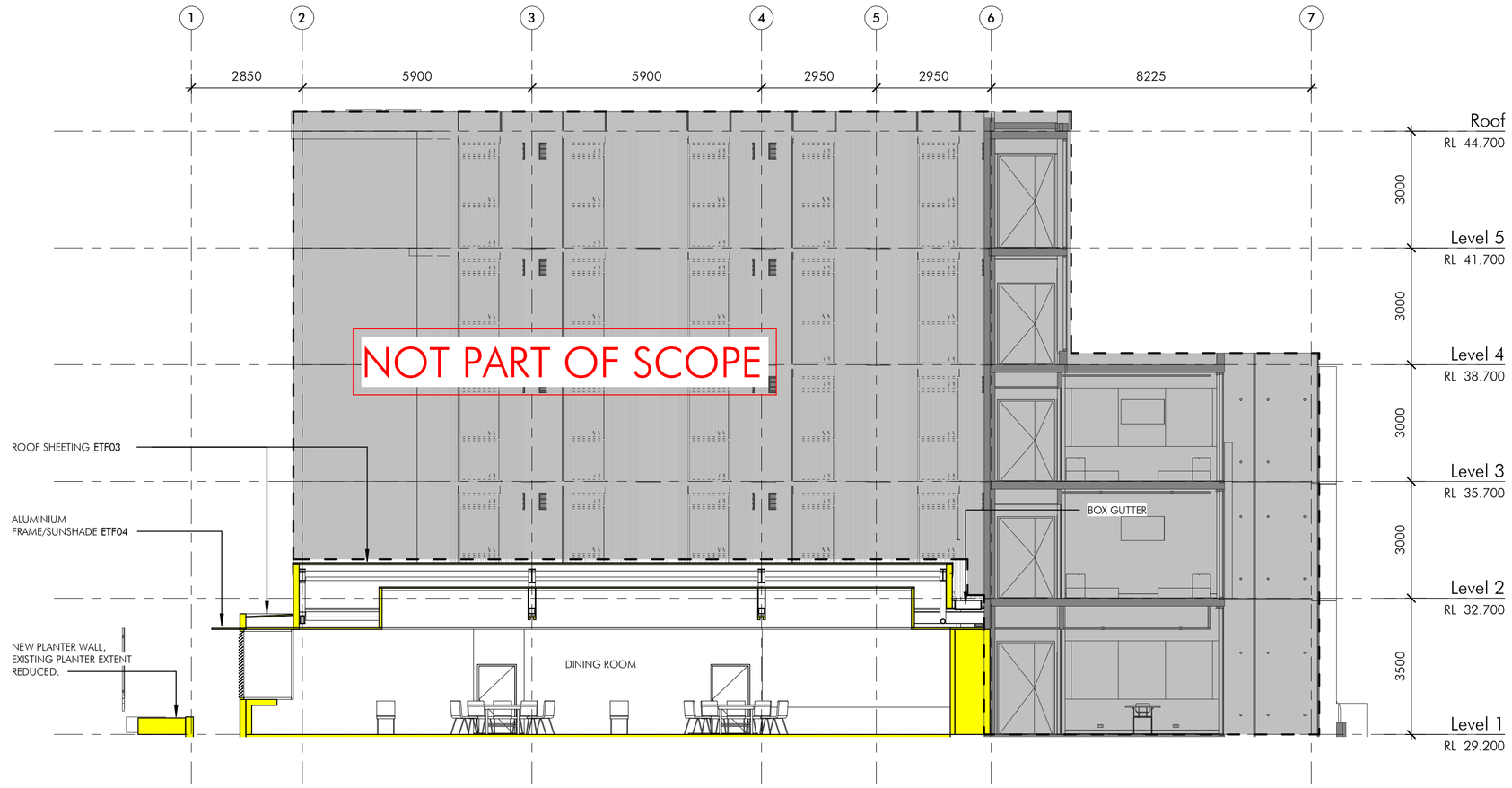


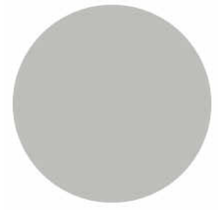
2 Proposed Section - Dining Room Extension (Prev. Courtyard 2)

1 : 100

EXTERNAL FINISHES SCHEDULE |

ETF1. FASCIA AND WALL CLADDING |
3mm SOLID ALUMINIUM TO MATCH EXISTING
(VITRADUAL VB9809 COPPER METALLIC)

ETF2. ROOF CAPPING |
VITRADUAL VB9809
COPPER METALLIC



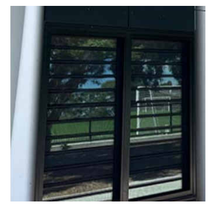
ETF3. ROOF |
COLORBOND "SHALE GREY"

ETF4. WINDOW FRAMES |
DULUX "ZEUS BLACK"

ETF5. PAINTED WALLS |
DULUX "MONUMENT"

ETF6.
CLEAR GLAZING

ETF7. SPANDREL GLAZING
BACK PAN |
ALUCOBOND ENIGMA
BLACK 9130



ETF8. OPERABLE LOUVRE WINDOWS |
BREEZEWAY ALTAIR IGLU DOUBLE
GLAZED LOUVERS

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Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name
USyd Abercrombie Student Accomodation Extension

Project Address
401 Abercrombie St, Darlington NSW 2008

Key Plan
0 2000 5000

Drawing Title:
PROPOSED SECTIONS - SHEET 1

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Drawing Number: **14659_202**
Issue: **B**

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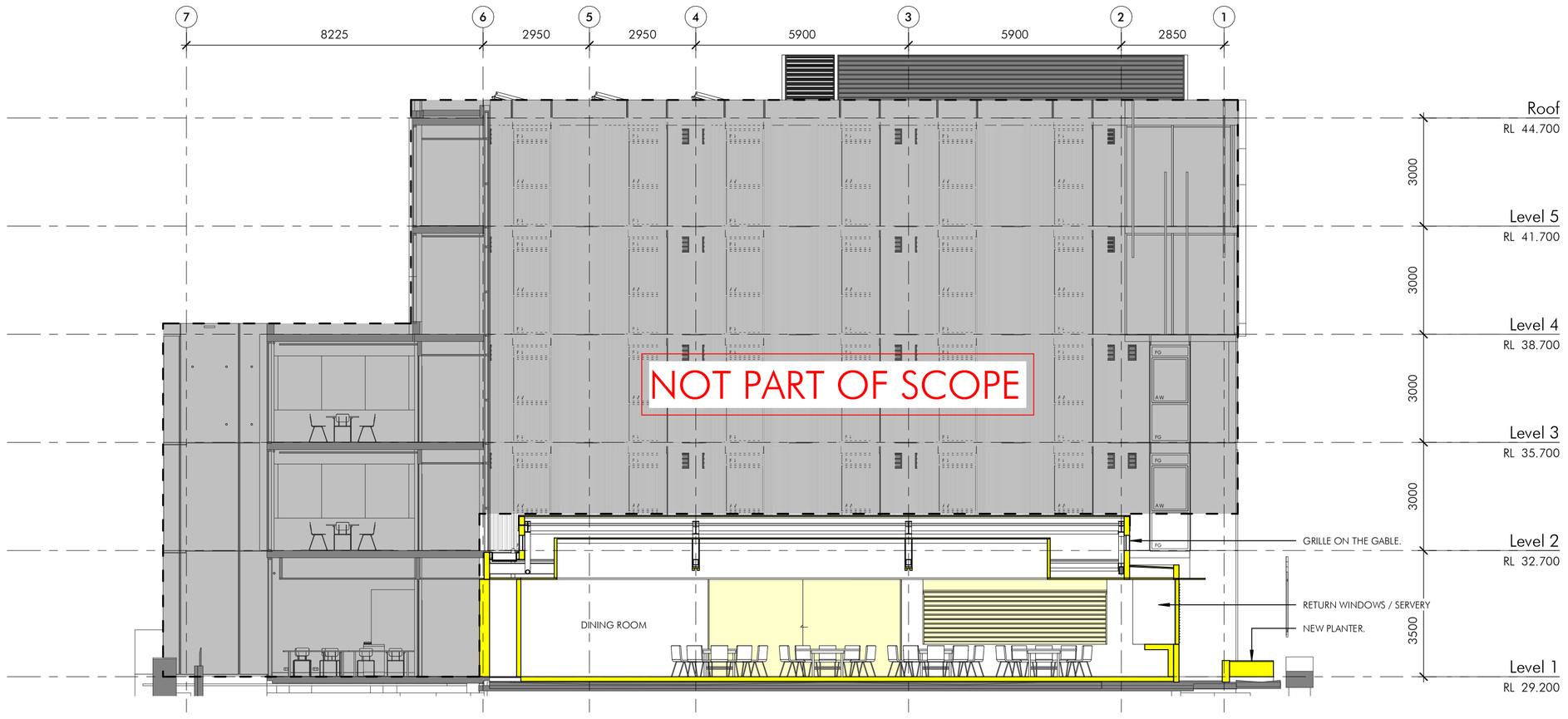
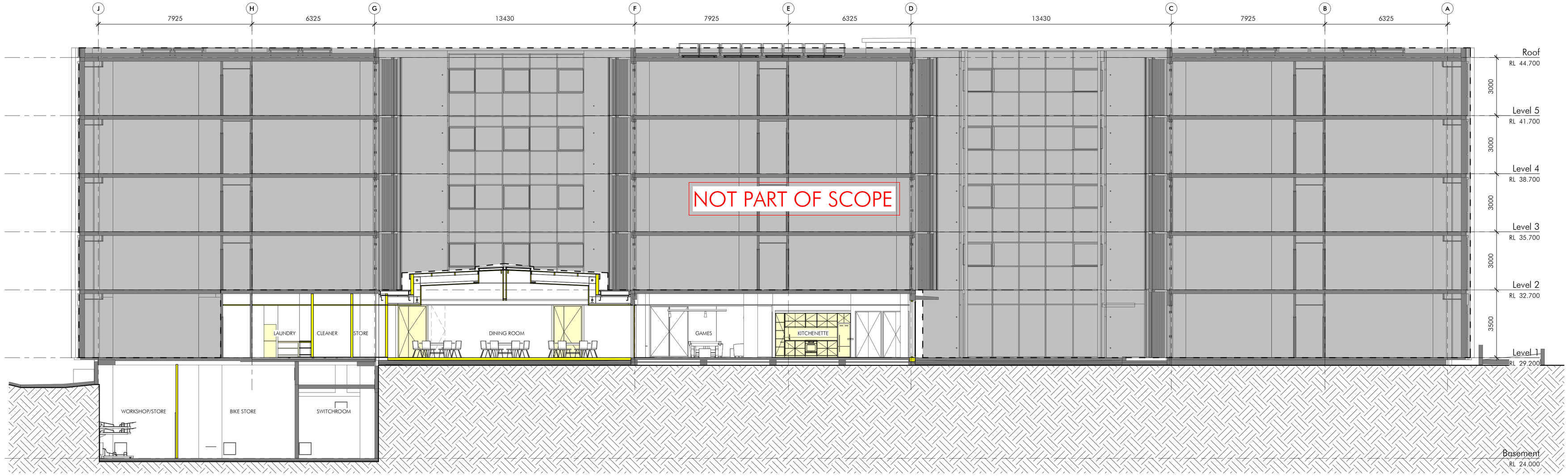


1 Proposed Section - Dining Room Extension 2 (Prev. Courtyard 2)

1 : 100



2 Proposed Section - Dining Room Extension 3

1 : 100

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THE UNIVERSITY OF SYDNEY

Issue	Description	Date
B	COUNCIL RFI RESPONSE	01.06.2026
A	DA Issue	03.02.26

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Builder

Project Name

USyd Abercrombie Student Accomodation Extension

Project Address

401 Abercrombie St, Darlington NSW 2008

Key Plan

0 2000 5000

Drawing Title:

PROPOSED SECTIONS - SHEET 2

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Drawing Number: **14659_203**

Issue: **B**

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Attachment D

Applicant's Objection to the affordable housing contribution condition

Docusign Envelope ID: 643EB401-03C8-803B-827F-BE970FAD2D3B

THE UNIVERSITY OF SYDNEY

23 July 2026

Mia Music
Senior Planner
Planning Assessments
City of Sydney
GPO Box 1591
Sydney 2001

RE: D/2026/264 - 391-401 ABERCROMBIE STREET, DARLINGTON (ABERCROMBIE STUDENT ACCOMMODATION)

REQUEST FOR DELETION OF DRAFT CONDITION 2 - AFFORDABLE HOUSING CONTRIBUTION

Dear Ms Music,

1. INTRODUCTION

We write on behalf of The University of Sydney **(the Applicant**) regarding the draft conditions of consent (**draft conditions**) issued for Development Application D/2026/264 relating to alterations and additions to the existing Abercrombie Student Accommodation building at 391-401 Abercrombie Street, Darlington (**the application**). The works comprise internal alterations, the provision of a new commercial kitchen, reconfiguration of communal facilities and the enclosure of an existing courtyard to provide an enhanced dining facility for existing student residents. The development does not involve the creation of any additional student accommodation rooms, increase the approved occupancy of the building or introduce any new residential floor space.

The University respectfully requests the deletion of Draft Condition 2, which requires the payment of an affordable housing contribution pursuant to clause 7.13 of the *Sydney Local Environmental Plan 2012* (**Sydney LEP 2012**) and the City of Sydney Affordable Housing Program. The draft condition requires payment of an affordable housing contribution presently calculated at $80,470.92 (indexed as at 14 July 2026).

While clause 7.13 of the Sydney LEP 2012 and section 7.32 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) provide a mechanism through which an affordable housing contribution may be imposed, the exercise of that power remains discretionary. In exercising that discretion, the consent authority must be satisfied that the contribution is justified having regard to the specific circumstances of the development and that it bears a reasonable relationship to the impacts arising from the proposal. In this instance, no such relationship exists.

2. ABSENCE OF PLANNING NEXUS

A fundamental principle underpinning the imposition of development contributions is that there must be a demonstrable relationship between the development and the need for the contribution.

The approved development does not generate additional demand for affordable housing. It is not a residential expansion project, does not create any new dwellings, does not increase accommodation capacity and does not result in any increase in the approved student population accommodated on the site. Rather, the proposal is limited to improving dining facilities and associated amenities for existing residents.

Specifically:

- the development does not introduce additional student accommodation beds;
- the development does not increase approved occupancy numbers;
- the development does not create additional residential floor space;
- the development does not increase demand for housing within the Sydney local government area; and
- the development involves only a negligible increase in employment associated with operation of the upgraded facilities.

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In these circumstances, there is no identifiable affordable housing impact requiring mitigation. Neither the proposal itself nor its anticipated operation creates any demand for affordable housing, reduces housing supply, displaces existing residents or contributes to housing affordability pressures. Accordingly, there is no planning nexus capable of supporting the imposition of the condition

3. STATUTORY FRAMEWORK CLAUSE 7.13 AND SECTION 7.32

The University's principal concern is that the condition appears to have been imposed solely because the development satisfies the technical trigger within clause 7.13 of the Sydney LEP 2012.

However, satisfaction of a statutory trigger does not, of itself, establish that a contribution should be imposed. Clause 7.13 identifies circumstances in which an affordable housing contribution may be considered. Similarly, section 7.32 of the EP&A Act provides a discretionary power to impose a contribution. Neither provision mandates that a contribution must be imposed merely because the threshold requirements have been satisfied.

The existence of a statutory power does not relieve the consent authority from considering whether the contribution is reasonable, proportionate and justified in the particular circumstances of the development.

In this case, there is no evidence that the development gives rise to any affordable housing impact which would warrant the exercise of that discretion. The existence of the statutory mechanism alone is therefore insufficient justification for retaining the condition.

4. CONSISTENCY WITH ESTABLISHED LEGAL PRINCIPLES

The New South Wales Land and Environment Court (**NSW LEC**) has confirmed that affordable housing contribution powers remain discretionary and must be exercised having regard to the particular circumstances of each development.

As recognised in *Freecity Alpha Development Pty Ltd v City of Sydney [2025] NSWLEC 1694*, the existence of an affordable housing contribution framework does not remove the requirement for the consent authority to properly justify the exercise of the power in a particular case.

Further, conditions of consent must satisfy the well-established principles derived from *Newbury District Council v Secretary of State for the Environment*, namely that a condition:

1. is imposed for a proper planning purpose;
2. fairly and reasonably relates to the development; and
3. is not so unreasonable that no reasonable consent authority would impose it.

While affordable housing generally serves a legitimate planning purpose, Condition 2 does not fairly and reasonably relate to the impacts of this development. The development generates no housing demand, no residential uplift and no identifiable affordable housing impact. As a consequence, the essential nexus required by the Newbury principles is absent.

5. NAUTRE OF THE DEVELOPMENT AND PUBLIC BENEFIT

The proposal relates to infrastructure operated by a public, not-for-profit educational institution that performs an essential public function.

The development is intended to improve the amenity, wellbeing and living experience of students already accommodated within the Abercrombie Student Accommodation facility. It represents an investment in student support infrastructure and forms part of the University's ongoing commitment to enhancing the quality of residential life on campus.

Unlike private commercial development, the proposal does not generate development profit, land value uplift or private commercial gain. Consequently, the affordable housing contribution does not operate as a mechanism to capture private development uplift. Rather, it operates as an additional cost imposed on public education infrastructure despite the absence of any housing-related impact arising from the development.

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The practical effect is the diversion of capital away from student services and educational infrastructure toward a contribution that bears no relationship to the development's impacts.

6. THE UNIVERSITY ALREADY CONTRIBUTES TO AFFORDABLE HOUSING OUTCOMES

The University is one of the largest providers of University student accommodation in New South Wales and has invested, and continues to invest significantly in the delivery and operation of student housing across its campuses.

Importantly, the application involves works to an existing student accommodation building. The proposal directly supports and enhances an established accommodation asset that already provides housing to students in close proximity to their place of study.

The University also continues to provide student accommodation at rents below equivalent market alternatives, thereby delivering outcomes that are consistent with the underlying objectives of affordable housing policy. As recognised in recent Court consideration (*Freecity Alpha Development Pty Ltd v City of Sydney [2025] NSWLEC 1694*), student accommodation can make a meaningful contribution toward addressing housing affordability outcomes.

In this context, the imposition of an affordable housing contribution upon works that improve the operation and amenity of an existing student accommodation facility is particularly difficult to justify.

7. INCONSISTENCY WITH ESTABLISHED PRACTICE

The proposed condition is inconsistent with the long-established treatment of comparable university, health and Crown development projects.

As documented in the University's Ross Street Teaching and Learning Hub Modification Application, numerous University of Sydney SSD approvals have proceeded without affordable housing contribution requirements, including major education, research and student accommodation projects. These include the Darlington Terraces development, Regiment Building student accommodation project and the original Abercrombie Student Accommodation approvals.

Similarly, the Sydney Biomedical Accelerator (SSD-55388456) and Royal Prince Alfred Hospital Redevelopment were not required to make affordable housing contributions notwithstanding their substantial scale. In each case it was recognised that the developments delivered public infrastructure and did not create demand for affordable housing that warranted such a contribution.

The application of an affordable housing contribution to a project that neither creates additional accommodation nor increases student numbers represents a significant departure from this established approach.

8. BROADER PUBLIC INTEREST CONSIDERATIONS

The public interest is best served when development contributions are imposed in a transparent, evidence-based and proportionate manner.

The University's concern extends beyond this application. If the same approach were applied consistently across future university projects, substantial funding could be diverted away from the delivery of educational facilities, research infrastructure and student accommodation.

The outcome would be contrary to broader public policy objectives that seek to encourage investment in higher education infrastructure, improve student housing supply and support the operation of strategic education precincts such as the University of Sydney.

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THE UNIVERSITY OF SYDNEY

9. CONCLUSION

For the reasons outlined above, the University submits that Draft Condition 2 should be deleted from any final consent issued for D/2026/264.

The proposed development:

- does not create any additional demand for affordable housing;
- does not increase accommodation capacity or student numbers;
- does not generate private development uplift;
- does not create any identifiable affordable housing impact requiring mitigation;
- is inconsistent with the rationale underpinning affordable housing contribution mechanisms;
- is inconsistent with the treatment of comparable university and Crown development projects; and
- delivers a clear public benefit through the enhancement of student accommodation infrastructure.

Accordingly, the University respectfully requests that Condition 2 be deleted in its entirety from the final consent.

We would welcome the opportunity to discuss this matter and resolve it promptly.

If you have any further questions in relation to any of the matters outlined above, please do not hesitate to contact me at mark.broomfield@sydney.edu.au, OR 0412 295 082.

Sincerely,

Signed by:
Mark Broomfield
2EFC44F32B634B0...

MARK BROOMFIELD
CHIEF UNIVERSITY INFRASTRUCTURE OFFICER (CUIO)
The University of Sydney

Attachment E

City of Sydney Affordable Housing Program

City of Sydney Affordable Housing Program

Adopted 26 June 2023

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1. About the Program

The City of Sydney Affordable Housing Program (this Program) is to provide the background, requirements and operational detail for various affordable contribution provisions in local environmental plans (LEPs) that operate in the City of Sydney.

This Program was adopted by Council on 26 June 2023 and came into effect on 24 November 2023.

1.1 Program Objectives

The objectives of this Program are to:

- recognise affordable rental housing as critical infrastructure necessary to support sustainable and diverse communities and long term economic growth in the City of Sydney local government area (city)
- ensure that, as the cost of housing increases in the city, affordable rental housing is provided for very low to moderate income households
- ensure there are opportunities for very low to moderate income households, who have an historical connection with the city, to live in the city
- ensure there are opportunities for very low to moderate income earners who work in the city to live in the community in which they are employed, and
- facilitate opportunities for government and community housing providers (CHP) to supply affordable housing within the city.

1.2 Relationship to other Programs

This Program, on the day it came into effect, repeals and replaces the City of Sydney Affordable Housing Program, adopted by Council 24 August 2020.

Any development applications determined prior to the commencement of this Program are not altered by the commencement of this Program.

1.3 Where does this Program apply?

This Program applies to land to which the *Sydney Local Environmental Plan 2012,* the *Sydney Local Environmental Plan (Green Square Town Centre) 2013* and *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2)* applies.

This Program also applies to 'Planning Proposal land' where it is identified in the abovementioned local environmental plans (LEPs) or any other Environmental Planning Instrument (EPI).

The Program may not apply to:

- development to which the Redfern-Waterloo Authority Affordable Housing Contributions Plan 2006 applies, where the plan is still in effect; and
- other land in the City of Sydney, unless otherwise identified as applying in another EPI, where *Sydney Local Environmental Plan 2012*, *Sydney Local Environmental Plan (Green Square Town Centre) 2013* or *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013* do not apply.

1.4 Legislative basis for affordable housing contributions

This Program applies in accordance with the requirements in the *Environmental Planning and Assessment Act 1979* (the Act).

The State Environmental Planning Policy (Housing) 2021 recognises that all local government areas within NSW are areas where there is a need for affordable housing.

Local environmental plans contain controls for the calculation, levying and management of affordable housing contributions in the City of Sydney.

1.5 Affordable Housing Principles

The City of Sydney affordable rental housing principles are:

- affordable rental housing is to be provided and managed in the City of Sydney LGA so that a socially diverse residential population, representative of all income groups, is maintained
- affordable rental housing that is provided is to be made available to a mix of households on very low to moderate incomes
- affordable rental housing that is provided is to be rented to very low to moderate income households at no more than 30% of gross household income
- dwellings provided for affordable rental housing are to be managed so as to maintain their continued use for affordable rental housing, and
- affordable rental housing is to consist of dwellings constructed to a standard which, in the opinion of the City, is consistent with other dwellings in the LGA.

1.6 Amending this Program

Amendment to this Program will generally require amendment to LEPs, or other EPIs, that directly refer to this Program as dated.

Amendment and/or update to the information provided at the appendices may occur from time to time and does not require an amendment to LEPs or EPIs.

1.7 Terms used in this Program

Affordable housing

Affordable housing is defined by the *Environmental Planning and Assessment Act 1979* as:

"housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument".

Affordable rental housing

Under this Program, **Affordable rental housing** or **Affordable rental dwelling** is **affordable housing** that is owned and managed by government, a **Recommended Community Housing Provider**, or an **Eligible Community Housing Provider** and rented to **very low to moderate income households**.

City of Sydney Local Government Area

The City of Sydney Local Government Area (LGA) refers to the area within the "LGA Boundary" shown in the *Sydney Local Environmental Plan 2012* Land Application Map, as published in the NSW Government Gazette on 14 December 2012, as updated from time to time.

Council / City / city

References to **City** are references to the City of Sydney organisation. References to the **Council** are references to the Council of the City of Sydney, that is, the elected representatives. References to the **city** are references to the City of Sydney local government area.

Development application

References to **development applications** in this Program refer to both development applications and any application for the modification of a development consent.

Distribution Plan

Distribution Plan refers to any plan adopted by the City of Sydney Council for the distribution of affordable housing contribution funds arising from this Program.

Eligible Community Housing Provider

Eligible Community Housing Providers are community housing providers that are classified as a Tier 1 or Tier 2 providers under the National Regulatory Code.

Environmental Planning Instrument (EPI)

An Environmental Planning Instrument (EPI) is a reference to a state or regional environmental planning policy or a local environmental plan.

Local Environmental Plan (LEP)

Reference to various **LEPs** in this Program apply to any LEP that replaces it, so long as the affordable housing provisions remain substantially unamended.

Recommended CHPs

Recommended CHPs are those providers identified in a Distribution Plan as Recommended CHPs.

Very low to moderate income households

Very low to moderate income households are those households whose gross incomes fall within the following ranges of percentages of the median household income for Greater Sydney—Greater Capital City Statistical Area or the Rest of NSW—Greater Capital City Statistical Area according to the Australian Bureau of Statistics:

- Very low income household - less than 50%
- Low income household – 50% or more but less than 80%
- Moderate income household – 80% to 120%

2 Affordable housing contributions

This Section describes how an affordable housing contribution may be satisfied, the equivalent monetary contribution amounts for the rates in the LEPs, how the contribution will be applied in the development application process and how it will be managed for the provision of affordable housing.

2.1 Contribution rates

Local environmental plans (LEPs), or another EPI, will establish the affordable housing contribution rate as it applies to the development. The rate varies across different areas and types of land.

2.1.1 Green Square, Southern Employment Lands and Ultimo-Pyrmont

On land in Green Square, on land in the Southern Employment Lands, and on land in Ultimo-Pyrmont the contribution rate is:

- 1 per cent of the total floor area that is to be used for non-residential uses, and
- 3 per cent of the total floor area that is to be used for residential uses.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.2 Central Sydney and residual lands

In Central Sydney and on residual land, on all development applications lodged after 1 July 2022, the contribution rate is:

- 1 per cent of the total floor area that is to be used for non-residential uses, and
- 3 per cent of the total floor area that is to be used for residential uses.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.3 Other land identified in an EPI where this Program is applied

On land identified in an EPI, where this Program is applied, the relevant affordable housing contribution rate will be set out in the EPI.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program.

2.1.4 Planning Proposal lands

On Planning Proposal land the contribution rate varies from site to site. The contribution rate, once determined through the planning proposal process, is specified in an LEP or other EPI.

The contribution may be satisfied by dedication of dwellings or by making an equivalent monetary contribution in accordance with this Program. The LEP, or other EPI, may specify how the contribution requirement must be satisfied.

The approach used to establish the appropriate contribution rate for Planning Proposal land is described at Appendix B.

2.1.5 Satisfying a contribution requirement by making an equivalent monetary contribution

An affordable housing contribution requirement may be satisfied by making an equivalent monetary contribution. This requirement may be satisfied by the payment of money.

The equivalent monetary contribution amount for the period of 1 March 2023 to 28 February 2024 is **$10,611.53 per square metre.**

Adjustments are made to the equivalent monetary contribution amount on an annual basis in accordance with this Program. The City of Sydney's website lists the current monetary contribution amounts as indexed.

2.1.6 Satisfying a contribution requirement by dedicating dwellings

An affordable housing contribution requirement may be satisfied by dedication, free of cost, of affordable housing dwellings. Affordable rental dwellings resulting from a contribution are to be provided in the development in accordance with the following requirements:

- affordable rental dwellings are to align with the Affordable Housing Principles at Section 1 of this Program
- affordable rental dwellings are owned by government or a nominated or Recommended and Eligible CHP or as otherwise provided for in any distribution plan adopted by Council
- affordable rental dwellings are provided in the city in perpetuity
- affordable rental dwellings are rented to very low, low and moderate income households for an absolute maximum of 30 per cent of gross household income
- where more than 10 affordable rental dwellings are being provided in the development, at least 25 per cent of dwellings are to be allocated to very low income households and 25 per cent of dwellings to low income households*
- all rent received from the affordable rental dwellings after deduction of management and maintenance costs will only be used for the purpose of improving, replacing, maintaining or providing additional affordable rental housing. This includes the investment of monies to meet cyclical maintenance costs and all rates and taxes payable in connection with the dwelling
- affordable rental dwellings are designed and constructed to a standard which, in the opinion of the City, is generally consistent with other dwellings in the city, that is, they are not differentiated as affordable housing compared with the design of other housing
- each affordable rental dwelling is to have a total floor area of not less than 35 square metres, with any remainder being paid as a monetary contribution to the City, and
- where multiple affordable rental dwellings are provided in the development, the amenity benchmarks established by the Apartment Design Guideline (or any subsequent Guideline that may apply from time to time) are to be generally achieved..

* This tenure mix applies at first occupation of the dedicated dwellings. Recognising that the income of residents can vary over time, the tenure mix need only be reviewed at change-over of tenants to ensure the mix remains as close as possible to the required mix. In the interim, a CHPs portfolio can be managed to meet the required tenure mix of very low, and moderate-income households across the City of Sydney LGA.

The location, size and quality of affordable housing dwellings are to be to the satisfaction of the City and the receiving CHP. If they are not to satisfaction of both parties, the City may require changes to the development application, or that the contribution be made by way of an equivalent monetary contribution.

Where part of a contribution is satisfied by dedicating dwellings, any remaining floor area must be paid as a monetary contribution.

All floor area to be dedicated for affordable housing is to be allocated as dwellings, that is, common circulation areas are not considered part of the contribution requirement. An

exception to this is where all the affordable housing floor area is provided as a full floor of a development or as a stand-alone building.

Appendix C details the process for dedicating dwellings for affordable housing unless otherwise provided for in any distribution plan adopted by Council.

2.1.7 Calculating the contribution in Ultimo-Pyrmont, Green Square and the Southern Employment Lands

In Ultimo/Pyrmont, Green Square and the Southern Employment Lands, the contribution requirement applies because the areas were rezoned. Over time, it is envisaged that all floor area in these areas will make a contribution to affordable housing, because all floor area has benefited from the rezoning.

The contribution is therefore calculated on all of the total floor area in the building to which the development application applies.

Example

A development application in Green Square for a new 10,000sqm development, comprises 1,000 square metres of non-residential total floor area and 9,000sqm of residential total floor area. The affordable housing contribution is calculated as:

(1% x 1,000sqm) + (3% x 9,000sqm) = 280sqm of dedicated floor area

or

(1% x 1,000sqm x $10,611) + (3% x 9,000sqm x $10,611) = $2,971,080 equivalent monetary contribution

Note: This is a simplified example. No exemptions have been applied.

Example

A development application for a warehouse conversion in the Southern Employment Lands includes a new mezzanine level comprising 1000sqm of non-residential total floor area. The existing total floor area in the warehouse is 2000sqm. The affordable housing contribution is calculated as:

(1% x 3,000sqm x $10,611) = $318,330

Note: This is a simplified example. No exemptions have been applied.

Note: In-kind contribution will not be suitable in a non-residential development.

2.1.8 Calculating the contribution in Central Sydney and on residual land

In Central Sydney and on residual land, the contribution requirement applies to new or more intensely used floor area only, because the areas were not rezoned at the time when the contribution was introduced.

The contribution is therefore calculated only on the floor space to which the development application directly relates.

Example

A development application on residual land for the demolition of an existing building and a new building comprising a total floor area of 10,000sqm of residential floor area will be calculated as:

3% x 10,000sqm = 300sqm of dedicated floor area

or

3% x 10,000sqm x $10,611= $3,183,300 equivalent monetary contribution

Note: Existing floor area that is demolished and replaced is not 'credited' against the contribution requirement.

Note: This is a simplified example. No exemptions have been applied.

Example

A development application, for a new mezzanine level comprising 200sqm of non-residential total floor area, is made for an existing commercial building. The existing total floor area in the warehouse is 2,000sqm. The affordable housing contribution is calculated as:

(1% x 200sqm x $10,611) = $21,222

Note: This is a simplified example. No exemptions have been applied.

Note: In-kind contribution will not be suitable in a non-residential development.

Example

A development application, for two new residential storeys on top of an existing building is made in Central Sydney. The new development comprises a total floor area of 800sqm. The affordable housing contribution is calculated as:

3% x 800sqm x $10,611= $254,664 equivalent monetary contribution

Note: This is a simplified example. No exemptions have been applied.

Note: An in-kind contribution will not be suitable in this situation because the contribution requirement is for less than 35sqm of floor area.

2.1.9 Calculating the contribution on Planning Proposal land

On Planning Proposal land, the method for calculating the amount is set out in the relevant LEP, or other EPI.

2.1.10 Calculating the contribution on other land identified in an EPI where this Program is applied

On other land identified in an EPI where this Program is applied, the method for calculating the amount is set out in the EPI or, where it is not set out in the EPI, then will be set out in a supplementary note / guideline to this Program, adopted by the Minister for Planning or their delegate.

2.2 Development that may be exempt from making a contribution, or may have a reduced contribution requirement

The consent authority may consider a case for exempting development from the requirement for an affordable housing contribution if the development application is for one or more of the following (and no other development):

- where the cost of construction is less than $100,000; or
- where the change of use is from:
  - a commercial use or light industrial use to a general industrial use or heavy industrial use; or
  - a general or heavy industrial use to another general industrial use or heavy industrial use.

Where the development would result in the affordable housing contribution amounting to more than 15 per cent of the agreed cost of construction, then the affordable housing contribution requirement will not exceed 15 per cent of the agreed cost of construction.

Where social/affordable housing floor space is being provided, in accordance with the Principles of this Program, a contribution requirement will not be applied to that floor space.

Where a building is predominantly affordable housing (with a small proportion of floorspace dedicated to ancillary non-residential uses), provided in accordance with the Principles of this Program, and does not include any market housing, a contribution requirement will not be applied to the entirety of the floor space in that building.

The following are some examples of when the LEP clause may or may not apply to specific types of development.

For example

The City receives a development application for a new 50sqm mezzanine in an office building in Central Sydney. The application will not give rise to an affordable housing contribution because the LEP clause does not apply to development that only results in the creation of less than 60sqm of non-residential floor area, and no other development.

For example

The City receives a development application in the Southern Employment Lands for a new 50sqm (non-residential) mezzanine and a change of use for the 100sqm of existing floor area from a warehouse (general industrial) to a retail use, and no other development.

The contribution requirement will apply because more than 60sqm of existing floor area is changing use.

For example

The City receives a development application in the residual lands for a change of use of 5,000sqm of existing commercial floor area to serviced apartments, and no other development.

The contribution requirement will apply because in Central Sydney (and on residual land) the contribution requirement applies where there is a change of use of existing floor area from a non-residential purpose to a residential purpose or tourist or visitor accommodation purpose, and serviced apartments are ‘tourist and visitor accommodation’.

For example

The City receives a development application in Green Square for a change of use of 2,000sqm of existing retail floor area to office floor area, and no other development.

The contribution requirement will apply to the entire development because in Green Square, any change of use will trigger the requirement for a contribution.

For example

The City receives a development application in Central Sydney for a change of use of 200sqm of existing retail floor area to office floor area, and no other development.

A contribution requirement will not apply because in Central Sydney, only where there is a change of use from a non-residential purpose to a residential purpose or tourist or visitor accommodation purpose, will a contribution be applied.

For example

The City receives a development application for the redevelopment of a large site in Green Square. The development will involve:

- the construction of seven 8-storey mixed use buildings for market housing and various non-residential uses; and
- one 6-storey mixed use building to be provided for affordable housing, with ground level retail.

A contribution requirement *will not* be applied to floor space in the entirety of the building to be provided for affordable housing, including the ground floor retail component. The contribution requirement *will* apply to the floor space in the remainder of the development.

2.3 Where a contribution has been previously paid

If an affordable housing contribution has already been made on existing total floor area, then a subsequent contribution is generally not required unless:

- it is being demolished and being replaced with floor space of the same or a different use. In this case, a contribution will be applied to all of the total floor area, including the replacement floor area;
- for existing floor space, the previous contribution was for a non-residential purpose and the new total floor area is for a residential purpose. In this case the difference in the contribution rates will apply.

2.4 Refunds

2.4.1 For demolition or changes of use

Local environmental plans require that the consent authority must not refund an affordable housing contribution to the applicant where there is a change in use or demolition of floor area.

The same applies where affordable housing dwellings are provided on site, in that the dwellings (as replaced) are to remain the property of a CHP.

2.4.2 Surrendered consents

The City is not obligated under legislation to refund an affordable housing contribution payment. Nevertheless, the City may consider refunding a development contribution payment to the original payee where the development has not commenced and the consent will not proceed, as directed in writing by the payee, or where the consent has lapsed. In this case of former, the applicant will need to surrender the consent in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

The City will only consider refunding the contribution when the City holds adequate contribution funds i.e., funds that have not yet been transferred to a Recommended CHP.

The applicant must apply for the refund in writing to the City.

Other than in exceptional circumstances, requests for refunds must be made within 12 months of paying the contribution for which the refund is sought.

2.5 Conditions of consent

A contribution requirement forms part of a development consent. In all instances the City will require evidence that the condition of development consent relating to affordable housing has been satisfied prior to the granting of any construction certificate.

In circumstances where no construction certificate is required, evidence that the condition of development consent relating to affordable housing will be or has been met will be required by the City before commencement of use/occupation.

2.6 How to make a payment

Payment will be by unendorsed bank cheque to the City prior to issue of any construction certificate. In circumstances where no construction certificate is required, payment is required prior to commencement of use/occupation. The procedure for making payment is provided in the condition of consent.

If a development requires multiple construction certificates, Council will require payment prior to the release of the first construction certificate relating to the development consent on which the contributions were levied.

2.7 Adjustment of equivalent monetary contribution amounts

Monetary contribution amounts are adjusted on an annual basis, being the first day of March, with reference to movements in the median strata dwelling price in the City of Sydney LGA as detailed in NSW Government Rent and Sales Report, Table: Sales Price – Greater Metropolitan Region – Strata.

The Rent and Sales Report is available on the NSW Government, Department of Communities and Justice website.

The formula for adjustment of the equivalent monetary contribution amount is:

New Contribution Rate = Current Contribution Rate x (MDP2/MDP1)

Where:

- **MDP1** is the median strata dwelling price used to establish the current contribution rate
- **MDP2** is the median strata dwelling price for the CURRENT period, being established by averaging the four most recently published Rent and Sales Report.

The City of Sydney's website contains the current monetary contribution amounts.

2.8 Adjustment of a monetary contribution amount on a development consent

Where a condition requiring a monetary contribution has been imposed, the contribution amount must be adjusted over time. That is, if a consent is issued in June 2021 and the applicant does not wish to pay the contribution and develop the site until August 2024, the contribution amount will need to be adjusted to the period in which it is paid.

Monetary contributions are adjusted by the City and confirmed with the applicant prior to payment being made.

The formula for adjusting a contribution amount in a condition if consent is:

Monetary Contribution = Base Contribution Amount x (R2/R1)

Where:

- **R1** is the contribution rate that applied at the time of consent.
- **R2** is the contribution rate that applies at the time of payment.

The Base Contribution Amount is the amount obtained from the Notice of Determination of the development application.

2.9 Use of contributions

2.9.1 How in-kind contributions are to be used

In-kind contributions of affordable housing dwellings are to be given/dedicated, free of cost, to a Recommended CHP, or as otherwise provided for in any distribution plan adopted by Council. Where dedication is in accordance with this Program, in the circumstances that no Recommended CHP is willing to accept the in-kind contribution, then it may instead be given/dedicated by the developer to another Eligible CHP according to the terms of any planning agreement. In-kind contributions are to remain affordable housing in perpetuity and to be owned and managed in accordance with this Program.

2.9.2 How monetary contributions are to be used

Monetary contributions are to be given to Recommended CHPs in accordance with an adopted Distribution Plan.

3 Affordable housing on suitable employment land

In the city, the proximity of some lands generally zoned for employment to amenities and services may make them suitable for affordable housing, provided that the development does not undermine the broader employment focused objectives of the zone. Sydney LEP 2012 identifies these areas in which affordable housing is permitted.

3.1 Requirements for affordable housing on suitable employment land

Monetary contributions are to be used for the sole purpose of providing and managing affordable housing in accordance with this Program.

Affordable rental housing developed on suitable employment land is to be provided in accordance with the Affordable Housing Principles set out in this Program. The Principles are satisfied where all the following conditions are met:

- affordable rental dwellings are owned by government or an eligible CHP
- affordable rental dwellings are provided in the LGA in perpetuity
- affordable rental dwellings are rented to very low, low and moderate income households for an absolute maximum of 30 per cent of gross household income
- up to 70 per cent of dwellings are to be allocated to income-eligible employed households
- all rent received after deduction of management and maintenance costs will be used only for the purpose of improving, replacing, maintaining or providing additional affordable rental housing. This includes the investment of monies to meet cyclical maintenance costs and all rates and taxes payable in connection with the dwelling
- affordable rental dwellings are designed and constructed to a standard which, in the opinion of Council, is generally consistent with other dwellings in the LGA, that is, they are not differentiated as affordable housing compared with the design of other housing.

3.2 Development applications

The Sydney LEP 2012 requires that any development for affordable housing is compatible with the existing uses and approved uses of land in the vicinity.

Proponents should seek pre-development application advice from the City on any proposal to develop affordable housing on employment land.

Appendix A - Background information and affordable housing needs analysis

1. Introduction

Sydney remains Australia's least affordable city. The high cost of housing is an important economic and social issue in Sydney, particularly within the city where housing prices are amongst the highest in Australia.

For a global city, a sustainable and diverse housing supply is fundamental to the cultural and social vitality, economic growth, and liveability of the city. For a city to maintain its global status it needs to maintain the delivery of essential social and physical infrastructure. Housing is a critical piece of that infrastructure; where it is located, its proximity to employment, its diversity in price and type and its quality, are things that require careful management.

A range of factors are placing upward pressure on housing costs, making it increasingly difficult for very low to moderate income households to afford to rent or buy in the local area.

It is expected that without intervention the market will continue to produce housing aimed at households on relatively high incomes. Lower income households will need to move out of the inner-city, away from their communities and their employment in the inner-city.

Housing affordability may affect a city's ability to attract and retain global businesses and a highly skilled workforce. Where relatively low paid key workers, who underpin and enable growth in high value sectors, and contribute to the efficient functioning of a city, cannot access appropriate and affordable housing, there is direct risk to metropolitan Sydney's global city status and by extension the Australian economy. These low paid key workers are employed across a range of sectors and include, amongst others, our health care technicians, cleaners, bus drivers, childcare workers, administrators, hospitality staff, tour guides, musicians and artists.

Encouraging and providing affordable housing is a complex issue requiring a range of planning and policy solutions. The community housing sector is central to delivering affordable rental housing, but so too is the development sector that creates opportunities for new affordable housing to be delivered.

This Program provides the framework for affordable housing to be provided in conjunction with the development that creates the demand for it.

2. What is affordable housing?

Affordable housing is defined by the *Environmental Planning and Assessment Act 1979* (Act) as "housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument."

In the City of Sydney, the private housing market is unlikely to deliver housing, for purchase or for rental, which does not put a very low to moderate incomes household in housing stress or crisis, which is, they are spending more than 30 per cent of their gross income on rental or mortgage costs. Where low cost housing can be found, the demand for it is so high that it is not necessarily target income groups who absorb it.

Therefore, in the context of the city, the term 'affordable housing' is taken to mean 'affordable rental housing' that is managed by a registered CHP and rented specifically to target income households.

3. NSW government and City of Sydney affordable housing objectives and targets

3.1 NSW government

The NSW government has long recognised the importance of providing affordable housing through the planning framework.

The Greater Cities Commission's Region and District Plans include targets and actions for the provision of affordable housing through the planning framework. The plan require~~s~~ councils to develop local housing strategies to address the range of housing needs in their local areas, including affordable housing.

3.2 City of Sydney Council

The City of Sydney has a target that 7.5 per cent of private housing will be social housing and 7.5 per cent of private housing will be affordable housing.

4. Affordable housing need analysis

4.1 Why do we need affordable housing?

Socio-economic impacts

Rising housing prices, driven by a range of factors including increased demand for inner-city living, population growth, foreign investment, federal and state government fiscal and taxation policies, and constrained land supply, all result in declining housing affordability across Australia, particularly in major cities.

In the city, climbing housing costs are expected to have an increasingly detrimental impact on its socio-economic diversity as low income households are pushed from the LGA because they cannot access affordable housing. The majority of households on low to moderate incomes who remain in the private housing market are increasingly in housing stress or crisis and will eventually be forced to move out as housing costs continue to escalate ahead of wage growth.

The loss of low income households is contrary to the aims of the District Plan and the *Sustainable Sydney 2030*, both of which promote the diverse and liveable socio-economic communities.

The relative inequality among those who can and cannot afford housing in the city has widened. There is a growing disconnect between affluent households able to afford private market housing and socio-economically disadvantaged households living in inner city social housing estates. This 'hollowing out of the middle' impacts on community sustainability.

The issue also has a dimension of generational inequality, as younger people (typically first home buyers) are increasingly priced out of the market.

Economic impacts

Declining socio-economic diversity in the inner city associated with inadequate social and affordable housing supply has significant economic impacts.

The ongoing loss of very low to moderate income households from inner Sydney, as they are forced to the outer suburbs of Sydney, makes it increasingly difficult for essential employment sectors to fill employment vacancies and staff shifts. On the city scale, this hampers business productivity and by extension the wider economic growth of Sydney.

4.2 Satisfying the requirements of the Act

This Program has been prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), that is, those matters that are required by the Act to be considered when applying a condition of consent, have been considered. Where a condition of consent is applied in accordance with this Program, it is consistent with the Act.

Section 7.32 of the *Environmental Planning and Assessment Act 1979* (the Act) allows for the collection of contributions for affordable housing where a need for affordable housing is identified in a planning instrument and where:

(a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
(b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or
(c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
(d) the regulations so provide[1].

The City of Sydney is identified in a state environmental planning policy (SEPP) as an area where there is a need for affordable housing.

Provided below is the rational and justification for applying a contribution requirement in various land in the city.

Central Sydney

Central Sydney is identified on the Locality and site identification map and zoned SP5 Metropolitan Centre (formerly B8) in the City's planning controls. All development in Central Sydney, that is not minor development, is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

All new development in Central Sydney will reduce the availability of affordable housing within the area.

As jobs growth occurs in Central Sydney, a proportion of the new working population will form part of a very low to moderate income household. As competition for affordable housing options increases, the overall availability of affordable housing will decrease. Given the substantial shortfall of affordable housing options within the City, any decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

All new development in Central Sydney will create a need for affordable housing within the area.

Ensuring the long term sustainable growth of Central Sydney is essential for a strong NSW and national economy. Declining socio-economic diversity in the inner city associated with inadequate social and affordable housing supply has significant economic and social impacts which represent a risk to this growth.

As demonstrated above, rising land and property prices, driven by a range of factors including population growth, constrained land supply and Commonwealth fiscal policy, have resulted in declining housing affordability in Australian cities, in particular Sydney. This trend is coupled with inadequate new supply of social and affordable housing in the inner city, both

[1] Development must only satisfy one of these conditions for Council to be able to require a contribution.

of which are necessary to mitigate market affordability impacts in maintaining accessibility of inner city housing to socio-economically diverse communities.

In the City, there is a growing disconnect between affluent households able to afford private market housing and highly socio-economically disadvantaged households living in inner city public housing estates. Gentrification of inner city neighbourhoods has exacerbated relative inequality among those who can and cannot afford housing. The purchase and rental housing market is becoming virtually inaccessible to those on very low to moderate incomes. This issue also has a dimension of generational inequality, as younger people are increasingly priced out of the market.

There are also substantial economic impacts where affordable housing cannot be accessed close to employment.

As residential growth occurs in Central Sydney, demand for services in which low income workers are employed will increase. These services include childcare, medical services, retail, cleaning, and hospitality and so on. There is a need to ensure some affordable housing is available to accommodate people on low incomes working in these services.

Evidence suggests the loss of low to middle income households from inner Sydney will result in essential sectors in the Australian economy finding it increasingly difficult to fill employment vacancies and staff shifts, hampering business productivity and economic growth.

As the relative economic importance of Central Sydney to the national economy continues to increase, cumulatively all new development will continue to create an economic and social need for affordable housing.

Ultimo-Pyrmont

To promote a socially diverse and sustainable community, it is crucial that affordable rental housing be provided so that very low to moderate income households can live in the area.

All development in Ultimo-Pyrmont is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Ultimo-Pyrmont will reduce the availability of affordable housing within the area.

The City West region of inner Sydney, comprising the suburbs of Pyrmont and Ultimo, was formally an industrial and port precinct that traditionally provided low-cost accommodation for people working in an around the area.

However, significant gentrification has occurred due to the urban renewal of the area, an accompanying investment in public infrastructure and a wider cultural shift towards inner-city living. As higher income households are attracted to the area, housing prices and rental costs are driven upwards, resulting in the reduction of rental stock availability for very low to moderate income households.

Development in Ultimo-Pyrmont will create a need for affordable housing

The planning controls in Ultimo-Pyrmont permit a range of commercial development to provide a variety of employment opportunities, including for lower paid occupations. The affordable housing provisions in Ultimo-Pyrmont reflect an expectation that people should be able to live and work within the same area.

New residents and workers in the area also generate a demand for services typically staffed by lower income earners, increasing the need for key workers such as cleaners, retail assistants, childcare workers and hospitality staff.

If affordable housing options are not provided in the area, the housing market will serve an increasingly smaller proportion of the population, narrowing the socio-economic diversity of Ultimo-Pyrmont and necessitating unsustainable travel behaviours for lower income workers.

Development in Ultimo-Pyrmont is allowed only because the land was rezoned

In the early 1990's a process of intense urban renewal was instigated with the rezoning of the area for high density residential development. The need to retain a proportion of affordable housing in the area was recognised at this time to ensure a socially diverse and sustainable community representative of all income groups.

The new planning provisions substantially affected and increased the development potential and land value of Ultimo-Pyrmont. This has been further impacted by the significant investment in infrastructure by the New South Wales and Commonwealth Governments to revitalise redevelop the area. All landowners have and will continue to benefit from this increase in land value.

The increased land value has an impact on the affordability of housing in Ultimo-Pyrmont, particularly for the traditional low and moderate income residents of the inner city, as higher value uses are found for the land.

Green Square

The Green Square urban renewal area will provide housing for around 63,000 residents to 2036. The District plan and *A Metropolis of Three Cities – the Greater Sydney Region Plan* highlight the importance of creating communities that are mixed and cohesive, where there is a greater mix of social and private housing.

To promote a socially diverse and sustainable community, it is crucial that affordable rental housing be provided so that very low to moderate income households can live in the area.

All development in Green Square is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Green Square will reduce the availability of affordable housing within the area.

Green Square and its immediate surrounds have historically provided relatively cheap housing for inner-city residents.

However, the urban renewal of the area, the investment in public infrastructure and the wider cultural shift towards a preference for inner-city has resulted in the gentrification of Green

Square. This has placed, and will continue to place, pressure on housing prices and rental costs as high income households are attracted to the area, pushing up house values and reducing the rental stock available for very low to moderate income households.

The jobs growth associated with the urban renewal of Green Square is also reducing the availability of affordable housing in the area. While there has been a significant change in the nature of employment in the area since it's rezoning in 1999, with a general trend towards higher value jobs, a number of lower paid jobs still locate in the area.

It is desirable that people employed in the area are able to find housing close to their place of employment. This will increase competition for the affordable housing options, decreasing the overall availability of affordable housing and increasing the cost of renting in these areas.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in Green Square will create a need for affordable housing

More specifically for Green Square, the ongoing urban renewal of the area, and its wider gentrification, will continue to produce upward pressures on property values and place further pressure on purchase and private rental accommodation costs beyond the means of low to moderate income groups.

Without provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing in the area, so that housing will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing in Green Square close to new employment opportunities.

The employment generated by the urban renewal of Green Square will also create a need for affordable housing. On completion, some of which will be for very low to moderate income earners who will seek affordable housing in the area.

Moreover, new residents and workers in the area will generate demand for services typically staffed by lower income earners, increasing the need for key workers such as cleaners, retail assistants, childcare workers and hospitality staff.

Development in Green Square is allowed only because the land was rezoned

In 1999 the majority of the Green Square urban renewal area was rezoned from industrial to mixed use. Substantial value was created on land at the time it was rezoned.

The affordable housing contribution requirement in Green Square was introduced when the land was rezoned. Therefore, any negative impact the contribution requirement might have had on the value of the land was more than mitigated by the increase in land value arising from the rezoning.

Over time land values have continued to increase in Green Square as the area has gentrified and has benefited from substantial investment in public infrastructure. This will continue to place upward pressure on the cost of housing and increase demand for affordable housing.

Southern Employment Lands

The Southern Employment Lands will undergo substantial change over the next 20 years as it transitions from an area characterised by traditional manufacturing industries and low density employment to more diverse employment. The changes will result in an increase in the number of workers in the area, placing an increase in the demand for affordable housing.

All development in the Southern Employment Lands is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in the Southern Employment Lands will reduce the availability of affordable housing within the area

The Southern Employment Lands are Sydney's oldest industrial areas. The 2015 rezoning of the area will result in more jobs that are typically higher in value than those that have traditionally located in the area.

This will place pressure on housing prices and rental costs in adjoining area as high income households are attracted to the area to live near where they work, pushing up underlying land values and reducing the rental stock available for very low to moderate income households.

It is desirable that people employed in the area are able to find affordable housing close to their place of employment. This will increase competition for the affordable housing in the area, decreasing the overall availability of affordable housing and increasing the cost of rents.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in the Southern Employment Lands will create a need for affordable housing within the area

Redevelopment in and around the Southern Employment Lands will continue to place upward pressure on property values and on purchase and private rental accommodation costs in the area beyond the means of very low and moderate income households.

Without the provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing products in the area, so that housing will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing ~~in~~ close to new employment opportunities.

Development in the Southern Employment Lands is allowed only because the land was rezoned

In 2015, much of the land in the Southern Employment Lands was rezoned. Previously the Southern Employment Lands were zoned for industrial purposes, generally permitting only uses that are industrial in nature, the new zones enabled a more flexible approach to employment generating uses by permitting a wider range of activities, such as commercial offices, retail and so on.

The affordable housing contribution requirement in the Southern Employment Lands was introduced when the land was rezoned. Any negative impact the contribution requirement might have had on the value of the land was therefore mitigated by the increase in land value arising from the rezoning.

Over time land values will continue to increase in the Southern Employment Lands, placing upward pressure on the cost of housing and increasing demand for affordable housing in the surrounding area.

Residual land

As the popularity of inner city living continues grow and with increasing employment opportunities across the city, the cost of housing will continue to climb, making it increasingly difficult for low income households to live in these areas.

On residual land, development for new floor area, or for a more intense use of existing floor area, is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in the residual lands will reduce the availability of affordable housing within the area

Investment in public infrastructure, increased amenity and the wider cultural shift towards a preference for inner-city has resulted in the gentrification in the LGA. This has placed, and will continue to place, pressure on housing prices and rents. Likewise, the increase in the number of jobs in the LGA, many offering relatively high salaries, increases the demand for housing and pushes up housing costs.

As the desirability of living and working in the local area increases, the demand for an ever-shrinking supply of lower cost housing increases, in-turn decreasing the overall availability of lower cost housing and pushing lower income households out to more affordable areas.

Given the shortfall of affordable housing options currently available in the city, any further decrease in the availability of affordable housing gives rise to an increased need for affordable housing.

Development in the residual lands will create a need for affordable housing within the area

The projected housing growth in the residual lands is shown at Figure 6. As at 2017, it was anticipated that approximately 35% of projected dwellings growth in the city will be in the residual lands.

Employment is also projected to grow in the LGA. The draft district plan projects 817,000 additional jobs across Greater Sydney, a large portion of which will be in the City's strategic

centres of the CBD and Green Square and Mascot where a respective 235,000 and 25,500 jobs are projected to 2036.

Job growth in the LGA and new development in the city's residual areas will continue to place upward pressure on housing prices and rents beyond the means of very low and moderate income households.

Without provision of more affordable forms of housing, the market can be expected to continue to produce more expensive housing in the area, so that it will only be affordable to households on relatively high incomes. Without the supply of more affordable rental dwellings, existing lower income households will continue to be forced out of the area, and new lower income households may be prevented from finding housing in the LGA close to new employment opportunities.

Planning Proposal land

Planning Proposal land is land that has been the subject of a planning proposal to change the planning controls that apply to the site to increase development capacity. Planning Proposal land is identified in LEPs.

On Planning Proposal land, all new residential floor area is subject to the requirement to contribute to affordable housing under Section 7.32 of the Act because:

Development in Planning Proposal land will reduce the availability of affordable housing within the area

The cost of land and fragmentation of ownership patterns are key impediments to development and renewal in existing urban areas. Current buildings that are functional and provide good economic utility can in many cases be too valuable to consolidate for redevelopment. Therefore, developers tend to target buildings that are aging and nearing the end of their economic lifecycle. As such, planning proposals in the City, that generally seek increased height or floor area, are associated with former industrial or commercial sites and older, lower quality houses that are then replaced by higher density residential uses.

Where redevelopment of a site replaces older residential stock with a new residential flat building, there is typically a direct loss of lower cost housing that is more likely to be within the means of lower income households.

Where renewal of a site replaces non-residential buildings at the end of their economic life, amenity increases, attracting more investment and higher income households to move into the area. This pushes up house values, placing further demand for rental properties and reduces the available stock of low cost housing.

Development on Planning Proposal land will create a need for affordable housing within the area

Changes to planning controls which permit higher order land uses and increased densities will place further pressure on purchase and private rental accommodation costs beyond the means of very low to moderate income households. Without provision of more affordable housing in the area housing will only be affordable to households on relatively high incomes. This will force existing low income households to move out of the area.

Furthermore, the overall growth in jobs generally across the LGA, coupled with the increased employment opportunities created by planning proposals that include mixed use development with retail tenancies on the street level, will increase the demand for unskilled and semi-skilled workers.

Development is allowed only because the land was rezoned

Planning Proposal land is land that has been the subject of a planning proposal to change the planning controls that apply to the site to increase development capacity. The contribution requirement will only be applied to the new development capacity that would not have been allowed without the changes to the planning controls.

This gives effect to the intent of the District Plan to provide affordable housing where there is an increase in development capacity on land, where need for affordable housing is identified and where development viability can be maintained.

The affordable housing contribution requirement will be introduced when the land is identified as Planning Proposal land in LEPs. Therefore, any negative impact the contribution requirement might have on the value of the land will be mitigated by the increase development potential brought about by the change to the planning controls.

5. Outcomes

The City's planning controls are estimated to deliver up to 1,950 additional affordable dwellings between 2016 to 2036. However, this estimate will be heavily impacted by other matters outside of the City's control, including, but not limited to:

- the property market i.e. the amount of development that occurs. This is highly influenced by the market conditions of the day;
- the ability of community housing providers to successfully leverage contribution funds and existing property portfolios;
- state government policy directions; and
- Federal and NSW Government investment in affordable housing (which may accelerate outcomes under this scheme when available funds are combined with levy funds).

Appendix B – Planning Proposal land

Where land is the subject of a planning proposal to change the planning controls that apply to the site, it may be identified on a schedule in an LEP, or another EPI, as being required to make an additional contribution for affordable housing.

This appendix is to provide guidance on how the contribution rate is established.

1. Where a planning proposal has increased Floor Space Ratio

Where there is a planning proposal to increase the Floor Space Ratio (FSR) of a site or sites, an affordable housing contribution requirement will be payable on the new floor area.

The affordable housing contribution rate that applies to the land will be identified on a schedule in an LEP or other EPI.

The 'listing' of Planning Proposal land on the LEP schedule, or in another EPI, occurs at the same time that the changes to the planning controls are 'made', that is, the LEP schedule / EPI will be amended when the amendment to the LEP / EPI to increase the FSR comes into effect.

On Planning Proposal land the contribution rate applied to new floor area achieved in the planning proposal to increase FSR is:

Precinct*	Contribution rate**
Central Sydney	13% subject to site specific viability testing
West precinct	12%***
South precinct	12%***
East precinct	21%***

* Note: The West, South and East precincts align with those shown in the City's development contribution plan 2015. The Central Sydney precinct aligns with those shown in Central Sydney Development Contributions Plan 2020. A map of precinct boundaries is available on the City's website

** The contr bution applies to new floor area that may be used for a residential purpose, that is, the contribution requirement will be applied to any additional floor area achieved on land zoned residential purposes, unless the whole of that site is restricted to a non-residential purpose.

*** Rates incorporate any requirement in an LEP-for a 3 per cent contribution. For example, the 12 per cent rate includes 9 per cent for new residential floor area on planning proposal land, plus 3 percent. Where no other contr bution requirement applies, the full 12 percent may be applied.

The above rates will be reviewed on an as needs basis and any changes will be published on the City's website.

The equivalent monetary contribution amount is provided in Section 2 of this Program.

Explanatory note

Planning Proposal land contribution rates

Planning Proposal land contribution rates have been tested by appropriately qualified land economics experts to ensure development viability is not negatively impacted. Testing takes into consideration all of the contribution requirements that already apply to the land including Section 7.11 contributions, Community Infrastructure floor area, and affordable housing contributions payable under LEPs.

Contribution rates to be applied to new floor area on Planning Proposal land will be reviewed and updated as needed to

While the contribution rates apply to proposals for new residential floor area, this does not preclude the City from working with proponents to identify an appropriate contribution rate that may be applied where a planning proposal results in an increase in non-residential floor area.

2. Where other public benefits are offered

Where it is a superior outcome, and where a landowner/developer has made an offer to enter into a planning agreement to provide affordable housing or other public benefit, a Planning Proposal land contribution may not be applied.

Appendix C – Process for dedicating dwellings

This appendix provides guidance on the process for satisfying an affordable housing contribution requirement by dedicating affordable housing dwellings.

Section 2 of this Program provides that where the dedication of affordable housing dwellings is proposed, then the location, size and quality of dwellings must be to the satisfaction of the City and the receiving CHP.

1. Consult with Recommended and Eligible providers

Where a developer intends to provide an in-kind affordable housing contribution by dedicating finished dwellings to a Recommended CHP, the developer must first consult with the provider to establish if they are willing to receive the dedicated dwellings.

In circumstances where no Recommended CHP agrees to accept the dedication, and confirmation of that position is provided in writing, the developer may consult with other eligible providers (Tier 1 or Tier 2) to establish an agreement for a community housing provider to accept the dedication of finished affordable housing dwellings.

The purpose of the consultation is to canvass potential issues and reach in-principle agreement about how the affordable housing dwelling/s are to be provided by the developer to the CHP. Key issues for discussion include, but are not limited to:

- the requirements of the community housing provider in regard to the finished dwelling, for example fit out requirements, preferred layouts, location of the dwelling in the development, and so on;
- the community housing provider is to have a full understanding of the likely strata requirements that will be in place once the development is complete;
- contractual arrangements with regards to the dedication of the dwellings, including discussion about what might be cause for terminating the agreement.

2. Development application

The development application to the City must:

- state the amount (the quantum of total floor area) of affordable housing to be dedicated, and any residual amount for which a monetary contribution is required to be paid;
- clearly identify on the plans the affordable rental dwellings proposed to be dedicated, noting the City must be satisfied that dwellings receive adequate amenity relative to the rest of the development i.e. it is not acceptable that all of the affordable housing in the development have the lowest amenity;
- demonstrate the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program;
- provide details of the agreement that has been reached between the developer and the community housing provider about the dedication of the dwellings or alternative arrangements in a relevant planning agreement.

- if it is not a Recommended CHP that will receive the contribution, evidence that all Recommended CHPs have declined to accept the dedication of the dwellings is required; and
- evidence that the receiving CHP has agreed to accept the dwellings, the terms of the agreement, and the requirements of the Program are understood, including the requirement for in perpetuity management of the dwellings for affordable housing to be rented to very low to moderate income households for no more than 30% of their income.

3. Assessment

The City will:

- undertake assessment of the appropriateness of the dwellings proposed for dedication, with reference to Section 2 of this Program and any comment provided by the Recommended CHP, and
- if necessary, where the proposed dwellings are not appropriate for the purpose of affordable housing, discuss with the developer amendments to improve the dwellings, or identify preferable dwellings, or instead require a monetary contribution.

4. Securing the dwellings

Where the dwellings proposed for dedication are supported, a condition of consent requiring dedication of the affordable housing dwelling(s) will be imposed by the consent authority.

Prior to transferring the affordable housing dwelling(s) to a Recommended CHP, the City will register on the title a covenant ensuring the affordable housing dwellings are:

- owned and managed by a CHP in accordance with the Program, and
- rented to very low to moderate income earners for no more than 30% of gross household income.