

DATE: 13 September 2022

A meeting of the **WAVERLEY LOCAL PLANNING PANEL** will be held by video conference at:

12.00PM WEDNESDAY, 21 SEPTEMBER 2022

QUORUM: Three Panel members.

APOLOGIES: By email to WLPP@waverley.nsw.gov.au

AGENDA

WLPP-2209.A Apologies

WLPP-2209.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-2209.1 PAGE 4

39 Glenayr Avenue, NORTH BONDI NSW 2026- Demolition of existing buildings and construction of two semi-detached dwellings and Torrens title subdivision into 2 lots . (DA-144/2022)

Report dated 8 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Refused for the reasons contained in the report.

WLPP-2209.2 PAGE 48

3 Portland Street, DOVER HEIGHTS NSW 2030 - Alterations and additions to existing dwelling including a new rear attic level. (DA-119/2022)

Report dated 8 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

WLPP-2209.3 PAGE 93

35-37 Hall Street, BONDI BEACH NSW 2026 - Demolition of building and construction of a new four storey shop top housing building with basement level services, retail on the ground floor and residential units above. (DA-306/2021)

Report dated 12 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Deferred Commencement consent for the reasons contained in the report.

WLPP-2209.4 PAGE 196

22-24 Birrell Street, BONDI JUNCTION NSW 2022 - Alterations and additions to semi-detached dwelling at 24 Birrell Street including first floor addition, and boundary adjustment to the boundary of 22 and 24 Birrell Street. (DA-123/2022)

Report dated 8 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

WLPP-2209.5 PAGE 248

4/81-83 O'Brien Street, BONDI BEACH NSW 2026 - Alterations and additions to Unit 4, including rear balcony, new second floor roof addition and rear terrace. (DA-180/2022)

Report dated 8 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Refused for the reasons contained in the report.

WLPP-2209.6 PAGE 288

3 Ormond Street, BONDI BEACH NSW 2026 - Alterations and additions to existing three storey dwelling including rear additions, demolition of existing garage and carport, excavation for construction of a new garage with turn table, replacement of existing swimming pool and associated landscape works. (DA-494/2021)

Report dated 9 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Approved for the reasons contained in the report.

WLPP-2209.7 PAGE 358

362-384 Oxford Street, BONDI JUNCTION NSW 2024 - Demolition of the existing buildings and construction of a 14 storey shop top housing development including basement carparking, 39 apartments, swimming pool and child care centre. The proposal includes modifications to the approved shop top housing development at 362-374 Oxford Street Bondi Junction (DA-89/2016). (DA-157/2022)

Report dated 12 September 2022 from the Development and Building Unit.

Council Recommendation: That the application be Refused for the reasons contained in the report.





Report to the Waverley Local Planning Panel

Application number	DA-144/2022		
Site address	39 Glenayr Avenue NORTH BONDI		
Proposal	Demolition of existing buildings and construction of two semi-detached dwellings and Torrens title subdivision into 2 lots		
Date of lodgement	12 April 2022		
Owner	Mr & Mrs Levy		
Applicant	Mrs A Levy		
Submissions	Eleven (11) submissions received		
Cost of works	\$1,309,000		
Principal Issues	 Non-compliance with minimum lot size Non-compliance with maximum floor space ratio Front and rear building lines Streetscape and visual impact Solar access Car parking Dual occupancy development allotment size 		
Recommendation	That the application be REFUSED for the reasons contained in the report.		

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for demolition of the existing dwelling and construction of two semi-detached dwellings and Torrens title subdivision into 2 lots at the site known as 39 Glenayr Avenue NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

- Non-compliance with minimum lot size
- Non-compliance with maximum floor space ratio
- Front and rear building lines
- Streetscape and visual impact
- Solar access
- Car parking
- Dual occupancy development allotment size.

The assessment finds these issues unacceptable.

A total number of eleven (11) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

1.2. Site and Surrounding Locality

A site visit was carried out on 18 August 2022.

The site is identified as Lot 12 in DP 11821, known as 39 Glenayr Avenue NORTH BONDI.

The site is on the western side of Glenayr Avenue and is rectangular in shape with a frontage measuring 13.4m. It has an area of 433.8m² and is generally flat.

The site is occupied by a single storey detached dwelling house with vehicular access provided from Glenayr Avenue.

The site is adjoined by a single storey detached dwelling to the north and two storey residential flat buildings to the south. The locality is characterised by a variety of low density residential development.

Figures 1 to 4 are photos of the site and its context.



Figure 1: Existing dwelling on the subject site. Given the trees on the nature street a full view of the street frontage cannot be obtained.



Figure 2: Neighbouring two storey residential flat buildings to the south of the site at 41 and 43 Glenayr Avenue



Figure 3: The eastern side of Glenayr Avenue streetscape dwellings at 34, 36 and 38 Glenayr Avenue showing a predominance of single storey pitched roof dwellings.



Figure 4: The western side of Glenayr Avenue streetscape, dwellings at 35, 33, 31 and 29 Glenayr Avenue showing a predominance of single storey semi-detached dwellings with a first floor set back from the front building line

1.3. Relevant Development History

A search of Council's records revealed a Pre-DA was lodged for the subject site (PD-44/2020) on 29 September 2020. The application was reviewed by an assessing officer, however the applicant advised on 14 October 2020 that the assessing officer should not look at the plans initially lodged with the Pre-DA as a new set would be lodged. Amended plans were submitted on 4 December 2020 seeking advice on a scheme for demolition of the existing dwelling and construction of a two-storey dual occupancy. On 15 December 2020, the applicant withdrew PD-44/2020 before a meeting and any written pre-DA advice on the scheme could be provided.

1.4. Proposal

The development application seeks consent for demolition of the existing dwelling and construction of two dwellings and Torrens title subdivision into 2 lots, specifically the following:

- A two-storey dwelling on each lot each with private open space at the rear; and
- Vehicle access provided by separate driveway and hardstand car parking space on each lot.



Figure 5: Photomontage of proposed development viewed from Glenayr Avenue



Figure 6: Perspectives of proposed development, showing front (top left), rear (top right) and side views.

1.5. Background

The development application was lodged on 12 April 2022. On 2 May 2022, the Assessing Officer requested additional information. The Officer's calculations indicated that the proposed development resulted in a non-compliance with the FSR development standard when calculated on the existing parent lot. Given the FSR non-compliance, the Assessing Officer advised the applicant that a written request pursuant to Clause 4.6 of WLEP 2012 was required to be submitted in order to vary the FSR development standard. The applicant sought clarification on the matter a number of times and the Clause 4.6 for the FSR non-compliance was provided to Council on 19 August 2022.

On 24 August 2022, the Assessing Officer wrote to the applicant advising that the application cannot be supported in its current form and the only recommendation that can be made is that the application be refused. It was noted that Council would not be accepting amendments to the application because the issues are not minor and addressing them will result in significant changes to the proposal. The applicant was advised that under Clause 38 of EP&A Regulation 2021, amendments to a DA before it is determined may only be made with the agreement of the consent authority. The applicant was invited to withdraw the application, with a partial fee refund. The applicant advised on 31 August 2022 that they do not wish to withdraw the application.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

SEPP (Building Sustainability Index – BASIX) 2004 has been considered acceptable in the assessment of this development application:

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	The proposal is not consistent with the Aims of the Plan
Part 2 Permitted or prohibited de	velopment	
2.6 Subdivision – consent requirements	Yes	Clause 2.6(1) states Land to which this Plan applies may be subdivided, but only with development consent. The proposal seeks development consent for Torrens title subdivision of the site into two (2) lots.
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as dual occupancy development, which is permitted with consent in the R2 zone.
Part 4 Principal development stan	dards	
 4.1 Minimum subdivision lot size 325m² 	No	The proposal seeks to subdivide the site into two (2) Torrens title lots, proposing a lot size of 216.8sqm and 216.9sqm. Which is a variation of 108.18sqm or 33.29% and 108.067sqm or 33.25%.
4.3 Height of buildings • 8.5m	Yes	The proposal has a maximum height of 7.65m, which complies.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.6278:1	No	As existing: Lot size – 433.8m² Maximum FSR – 0.6278:1 (272.34m²) Proposed FSR – 0.82:1 (358m²) Resulting in a non-compliance of 85.66m² equating to a 31.4% variation. Proposed subdivision: Lot 39 size – 216.816m² Lot 39A size – 216.933m² Maximum FSR – 0.866:1 for each lot Proposed FSR Lot 39 – 0.83:1 (180m²) Proposed FSR Lot 39A – 0.82:1 (178m²) The proposed FSR complies for each individual lot, should Torrens title subdivision be supported.

Provision	Compliance	Comment
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the minimum lot size and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards – Minimum Lot Size

The application seeks to vary the minimum subdivision lot size in clause 4.1 under Waverley LEP 2012.

The site is subject to a minimum lot size development standard of 325m². The proposed development has lot sizes of 216.8sqm and 216.9sqm, resulting in variations of 108.18sqm and 108.067sqm, or 33.29% and 33.25%, respectively.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the minimum lot size 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 objectives of the minimum lot size development standard are achieved.
 - (ii) The proposed allotments reflect and reinforce the predominant subdivision pattern of the area.
 - (iii) The proposal has setbacks that respond to the adjoining properties and achieve a cohesive form in the locality.

- (iv) The proposal sits comfortably within the streetscape within which the site is located. The proposed setbacks, height, bulk and scale are compatible within the locality where there is no predominant architectural style or character.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The new Torrens title lots are consistent with, reflect and reinforce the predominant subdivision pattern of the area
 - (ii) Having regard to the acceptable environmental impacts, and the merits of the proposed development, it is considered that the public interest is being met by the proposed development, despite the non-compliance.

Consideration of Applicant's Written Request – Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. It is not considered that the objectives of the development standard are achieved by the proposed development, as discussed below.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant advises that the proposal sits comfortably within the streetscape and the setbacks, height, bulk and scale are compatible with the locality. Furthermore, the applicant seeks to justify the non-compliance stating there are no visual privacy impacts or overshadowing impacts as a result of the development. These statements and justifications are not correct as the development will result in adverse streetscape and amenity impacts.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the minimum lot size development standard are as follows:

(a) to ensure that subdivisions reflect and reinforce the predominant subdivision pattern of the area,

The applicant has provided a table which details the Lot Area and Lot Frontage of lots within the vicinity of the site. The table states the data is from RP Data and it does not clearly differentiate between the western and eastern side of Glenayr Avenue, although this can be assumed from the even and odd numbers. A streetscape analysis, which demonstrates the predominant subdivision pattern of the area in plan form, has not been provided in this DA. It is difficult to determine whether the predominant subdivision pattern is reflected and reinforced by the proposal without a streetscape analysis.

(b) to minimise the likely impact of subdivision and development on the amenity of neighbouring properties.

The proposed development does impact the amenity of neighbouring properties. The proposal has visual and acoustic privacy impacts in that the proposed windows do not protect the visual privacy of adjoining dwellings. The shadow diagrams submitted indicate that the neighbouring buildings will be overshadowed by the proposal. The proposed bulk and scale of the development is not in character with the streetscape and the front and rear building lines are inconsistent with the predominant building lines. Given the proposal is not visually compatible with the streetscape context and has an impact on the amenity of neighbouring properties, the proposal does not meet the objectives of the minimum lot size development standard.

The objectives of the R2 Low Density Residential zone are as follows:

• To provide for the housing needs of the community within a low density residential environment.

The proposal seeks to provide a dual occupancy development which provides for the housing needs of the community.

• To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Not applicable.

To maximise public transport patronage and encourage walking and cycling.

The proposal includes one car parking space per dwelling, which is consistent with the car parking rates in WDCP B8 and adequate space is provided for storage of bicycles on site.

Conclusion

For the reasons provided above the requested variation to the minimum lot size development standard is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of the minimum lot size development standard and the R2 Low Density Residential zone.

Clause 4.6 Exceptions to Development Standards – Floor Space Ratio

The applicant maintains that once the site is Torrens title subdivided, each lot will comply with the floor space ratio development standard. Notwithstanding this, the development application is assessed in its entirety and the Torrens title subdivision has not yet occurred, so the application does seek to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6278:1. The proposed development has a FSR of 0.82:1, exceeding the standard by 85.66m² equating to a 31.4% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) A maximum FSR of 0.866:1 is permitted on each of the proposed allotments. The proposed development complies with the maximum FSR permitted under Clause 4.4A of WLEP 2012 for the subdivided lots.
 - (ii) The proposal is consistent with the objectives of the FSR development standard and the R2 low density residential zone.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal will not create overshadowing of any living room windows of properties adjoining the site.
 - (ii) A compliant dwelling house of the "parent lot" would have a greater impact on neighbouring properties than the proposal.
 - (iii) The proposal does not have visual privacy impacts.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

<u>Does the written request adequately address those issues at clause 4.6(3)(a)?</u>

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard:
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. While the applicant relies on the fact that once subdivided, the development will comply with the maximum FSR for each individual lot. However, as discussed in other areas of this report, the proposed dwellings on each lot are not compatible with the streetscape, have amenity impacts and are inconsistent with the predominant front and rear building lines. The objectives of the FSR development standard are not achieved by the proposed development.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

Is the development in the public interest?

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

The objectives of the FSR development standard are as follows:

The objectives of the minimum lot size development standard are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,
 - Not applicable
- (b) to provide an appropriate correlation between maximum building heights and density controls,
 - The proposal complies with the maximum building height under WLEP 2012 of 8.5m. While the applicant maintains that the FSR is compliant when calculated for each lot, the development does not consider other density and building envelope controls or the General Objectives of WDCP 2012. In particular, the proposal does not meet WDCP 2012 Part C2 Section 2.0 Objective (a) which seeks to ensure that the scale of lower density residential accommodation is appropriate for allotment sizes and other dwellings in the vicinity; and Objective (b) which seeks to ensure that lower density residential accommodation does not significantly detract from the amenity, privacy and views of other dwellings; and Objective (d) which seeks to ensure

that new development and alterations and additions to existing lower density residential accommodation is sympathetic in bulk, scale and character with the desired future character of the area. More specifically, the proposal does not result in a building envelope that is consistent with the WDCP controls, this is discussed in further detail in other areas of this report.

(c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,

The application seeks to maximise the FSR of each dwelling, providing compliance with the maximum FSR for each lot once the lots are subdivided, however, the proposal is not visually compatible with the streetscape context. The development does not respond to the essential elements that make up the character of the surrounding area, which is single storey semi-detached dwellings with a first floor set back from the street frontage. The development dominates the character of the streetscape and is therefore incompatible with the bulk and scale of the desired future character of the locality.

(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The proposal does not preserve the environmental amenity. It results in additional overshadowing on the properties to the south, namely 41, 43 and 45 Glenayr Avenue. Furthermore, it has visual privacy impacts given the proposed windows directly face windows at neighbouring properties.

The objectives of the R2 Low Density Residential zone are as follows:

• To provide for the housing needs of the community within a low density residential environment.

The proposal seeks to provide a dual occupancy development which provides for the housing needs of the community.

 To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Not applicable.

• To maximise public transport patronage and encourage walking and cycling.

The proposal includes one car parking space per dwelling, which is consistent with the car parking rates in WDCP B8 and adequate space is provided for storage of bicycles on site.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported, while the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
5. Vegetation Preservation	Yes	Council's Tree Management Officer visited the site and determined that the two trees on the nature strip, one (1) Agonis flexuosa (Willow Myrtle) and one (1) Schefflera arboricola (Umbrella Tree) are in poor health and their removal is supported. To ensure maximum street tree canopy and continuity of the streetscape, one (1) new street tree is to be planted on the nature strip. Should the application be supported, conditions regarding which species of tree and where it is to be planted, including the requirement for a Tree Bond would have been included.
6. Stormwater	Unclear	At the time of writing this report, comments from Council's Stormwater Engineers had not been received. Should the application be supported, standard conditions of consent may have been imposed.
8. Transport	Yes	The proposal provides for 2 car spaces, resulting in one car space for each dwelling.
Minimum parking rate: • Nil Maximum parking rate: • 2 spaces for 3 or more bedrooms.	No	Its design and location are unsatisfactory, as discussed in Table 3 in this report.
13. Subdivision	No	Unsatisfactory. The proposed subdivision does not result in development that maintains the established character of the locality. An adequate streetscape analysis has not been provided, so it cannot be determined whether the proposed subdivision respects the predominant development pattern of the locality.

Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment
2.0 General Objectives		
	No	The proposal does contravene the general objectives of this part of the DCP, particularly Objectives (a), (b) and (d).
2.1 Height		
Flat roof dwelling house ■ Maximum wall height of 7.5m	Yes	The proposal has a maximum wall height of 6.4m.
2.2 Setbacks		
 2.2.1 Front and rear building lines Predominant front building line Predominant rear building line at each floor level 	No	The proposed front and rear building lines are inconsistent with the predominant building lines. The applicant has not provided an adequate streetscape analysis. Control 2.2.1(b) requires the predominant building line to be determined separately for each level. The front first floor building line cantilevers over the ground floor to protrude forward. This is entirely inconsistent with the streetscape, which primarily includes single storey pitched roof semi-detached dwellings, with a first-floor addition set back from the front ground floor building line. The applicant's site analysis plan appears to draw an ineffectual line along the rear ground floor building line in an attempt to demonstrate that the proposed development is consistent with the predominant building line. However, there is no context with regards to the ground and first floor rear building lines of other properties within the streetscape.
2.2.2 Side setbacks • Minimum of 0.9m (for height up to 8.5m)	Yes	The proposal maintains a 900mm setback from the northern and southern boundary. The proposed development has nil setback between the two new dwellings which is consistent with the pattern of semi-detached development.
2.3 Streetscape and visual imp	pact	
New development to be compatible with streetscape context	No	The proposal does not provide quality design that corresponds harmoniously with the surroundings, does not facilitate lower density residential accommodation of a high architectural and aesthetic standard that acknowledges and does not respond to the architectural style, scale, materials and character of the existing built environment. As such, the proposal is contrary to Objectives (a) and (b) of this Part.

Development Control	Compliance	Comment
		The proposal does not comply with Control (a) as the proposal is not visually compatible with the streetscape context, and it does not respond to essential elements that make up the character of the surrounding area. More specifically, the development provides a flat roof form with a first floor that protrudes towards the street while the prevailing pattern of the streetscape context is single storey semi-detached dwellings with a pitched roof and where there are first floor additions, these are setback from the front building line. Furthermore, the proposal does not comply with Control (d) in that the development dominates and erodes the character of the streetscape. This is particularly valid when viewed from Glenayr Street looking south as the first floor of the development will clearly protrude beyond the first floor, and even the ground floor, of the predominant front building line within the streetscape.
2.4 Fences		
 Front: Maximum height of 1.2m Solid section no more than 0.6m high Side and Rear: Maximum height of 1.8m 	Yes	The proposal includes a 1.2m front fence. Side and rear fences have not been shown on the plans, this would need to be resolved should the application be supported.
2.5 Visual and acoustic privacy	,	
 Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design Maximum size of balconies: 10m² in area 1.5m deep Roof tops to be non-trafficable unless predominant in the immediate vicinity 	No	The proposal provides full height windows to both the ground and first floors on the each side elevations. The windows directly align with windows on each neighbouring property, being the side elevation of the single dwelling at 37 Glenayr Avenue and the rear elevation of the flat buildings at 41 and 43 Glenayr Avenue. The proposal includes 3sqm balconies to the rear at first floor level. These include screening which is appropriate from a visual privacy perspective. However, as discussed in other areas of this report the rear building line has not been adequately resolved and therefore is not supported.

Development Control	Compliance	Comment
2.6 Solar access		
 Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to at least 50% I of principal open space areas of adjoining properties on 21 June. Avoid unreasonably overshadowing of solar collectors (including habitable windows). 	No	The proposal is accompanied by a shadow diagram in plan form. The diagrams indicate that the proposed development will cause additional overshadowing on 21 June to all north facing (rear) windows at the residential flat buildings at 41, 43 and 45 Glenayr Avenue. The application does not include shadow diagrams in elevation form so it cannot be determined whether all windows will be overshadowed by the proposal. The applicant argues that all north facing windows to these units are to laundries and bathrooms, however submissions raise that this is untrue as the units at 41 Glenayr Ave have north facing windows to sunrooms or studies that would be overshadowed by the proposed development. The proposal entirely overshadows the privacy open space for all 16 units at 41 and 43 Glenayr Avenue between 10am and 3pm.
2.8 Car parking		
 2.8.1 Design Approach Parking only allowed where site conditions permit Designed to complement the building and streetscape Car parking structures to be behind the front building line Driveways are to be located to minimise the loss of on street parking Parking to be provided from secondary streets or lanes where possible. 	No	The proposed car parking is not located behind the front building line and the driveways have not been designed to minimise the loss of onstreet parking. The proposed development is contrary to controls (c) and (d).
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.3 LocationBehind front building line for new dwellings	No	The car parking is not located behind the front building line. Given the proposal is for new dwellings, control (a) requires that all on-site car parking is to be located behind the front building line.

Development Control	Compliance	Comment
		Control (d) states that hardstands forward of the building line may be permitted where the site is of sufficient width where the car space will not dominate, i.e. does not exceed 45% of the width of the site frontage. The 3m wide hardstand car space is 46% of the width of the site frontage at the northern allotment, which does not comply.
 2.8.4 Design Complement the style, massing and detail of the dwelling Secondary in area and appearance to the design of the residences No part of the façade is to be demolished to accommodate car parking Gates to have an open design 	No	Control (b) requires car parking to be sympathetically integrated into the design of residences and be secondary in area and appearance to the primary residence and related site. The proposal seeks to provide a car parking space in front of the ground floor building line and cantilever the first floor over the space. This results in a design that is entirely incompatible with the streetscape and does not comply with Section 2.8.4.
2.8.5 Dimensions5.4m x 2.4m per vehicle	Yes	The dimensions comply
 2.8.6 Driveways Maximum of one per property Maximum width of 3m at the gutter (excluding splay) Crossings not permitted where 2 on street spaces are lost 	No	The proposal incorporates angled driveways, which are not appropriate. The driveways are required to be aligned to be perpendicular to the street. However, if the driveways are to be adjusted to be perpendicular to the street in their current location, the distance between the two proposed driveways would only be 3.8m, which is too short to accommodate an on-street car parking space. The result would be a net loss of 2 on street car parking spaces as a consequence to this development.
2.9 Landscaping and open spa		As suisting.
 Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided 	Yes	As existing: Lot size – 433.8m² Proposed open space = 233m² or 53.7% Proposed landscaped area = 149m² or 34.3% Lot 39 size – 216.816m² Proposed open space = 116m² or 53.5% Proposed landscaped = 74 or 34.13% Lot 39A size – 216.933m² Proposed open space = 117m² or 53.9% Proposed landscaped = 75 or 34.57%

Development Control	Compliance	Comment
Outdoor clothes drying area to be provided	No	Private open space is provided in each dwelling measuring 5x5m (25m²) Each dwelling provides 25m² or 71.4% of the front building setback area as open space. Of this, 10.9m2 is landscaped, which is only 43.6%
2.15 Dual Occupancy Developr	ment	
Objectives Ensure size and bulk of dual occupancy development is in character with streetscape Ensure size and bulk of new dwellings and alterations and additions to dual occupancy developments do not result in unreasonable impacts	No	The proposed development is inconsistent with both objectives (a) and (b). The proposal is entirely out of character with the surrounding development and streetscape in that it is a flat roof building where the first floor cantilever forward over the ground floor building line. The streetscape pattern largely consists of single storey semi-detached development with a pitched roof and first floor addition set back from the front building line. Furthermore, as discussed in other areas of this report, the proposed dual occupancy development has unreasonable impacts on neighbouring properties.
 Min 450m² for attached dwellings Attached dual occupancy development should be designed to have the appearance from the street of a single dwelling. Dual occupancy development must provide a single vehicle crossing to the street 	No	The lot size is 433.8m² which is undersized for an attached dual occupancy development. The proposed development does not have the appearance from the street of a single dwelling. The proposal includes two vehicle crossings to the street, which are incorrectly aligned with the street frontage as discussed in other areas of this report.

2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

2.4. Any Submissions

The application was notified for 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of eleven (11) unique submissions were received from properties identified in **Table 4** of this report.

Table 4: Number of and where submissions were received from.

Property Address
28 Plowman Street NORTH BONDI – 2 submissions
7/41 Glenayr Avenue NORTH BONDI
30 Plowman Street NORTH BONDI
3/41 Glenayr Avenue NORTH BONDI – 2 submissions
43 Glenayr Avenue NORTH BONDI – 5 submissions

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Visual privacy from windows
- Overshadowing
- · Car parking arrangements and loss of on street car parking spaces
- Landscape impacts
- Building form
- Side and rear fence height or replacement.

All other issues raised in the submissions are summarised and discussed below.

Issue: Impacts of potential asbestos materials during demolition

Response: The application is recommended for refusal, however, should the application be supported, standard conditions of consent would have been included relating to hazardous materials and demolition requirements.

2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest, and is recommended for refusal.

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Traffic and Development

Council's Service Manager – Traffic and Transport advised that the proposed angled driveways are not supported. The driveways should be realigned to be perpendicular to the street. However, when the driveways were adjusted to be perpendicular to the street in their current location, the distance between the two proposed driveways would only be 3.8m, which is too short to accommodate an onstreet car parking space. This would result in a net loss of 2 on-street car parking spaces, which is not supported. It was recommended that the driveways be relocated to the side boundary of each property so as to allow a 6.4m separation distance between the driveways to accommodate an on-street car parking space. These recommended modifications require a redesign of the front of the dwelling and therefore would be required to be submitted prior to determination rather than via a condition of consent.

3.2. Stormwater

At the time of writing this report, comments from Council's Stormwater Engineers had not been received. Should the application be supported, standard conditions of consent may have been imposed.

3.3. Tree Management

Council's Tree Management Officer visited the site and determined that the two trees on the nature strip, one (1) *Agonis flexuosa* (Willow Myrtle) and one (1) *Schefflera arboricola* (Umbrella Tree) are in poor health and their removal is supported. To ensure maximum street tree canopy and continuity of the streetscape, one (1) new street tree is to be planted on the nature strip. Should the application be supported, conditions regarding which species of tree and where it is to be planted, including the requirement for a Tree Bond would have been recommended.

3.4. Land Information / GIS

Should the application be supported, a standard condition regarding the allocation of street numbers would have been recommended.

4. CONCLUSION

The development application seeks consent for demolition of the existing dwelling and construction of two semi-detached dwellings and Torrens title subdivision into 2 lots at the site known as 39 Glenayr Avenue NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

Non-compliance with minimum lot size

- Non-compliance with maximum floor space ratio
- Front and rear building lines
- Streetscape and visual impact
- Solar access
- Car parking
- Dual occupancy development allotment size.

The assessment finds these issues unacceptable.

A total number of eleven (11) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for refusal.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 23 August 2022 and the DBU determined:

(b) The application is not acceptable and should be refused for the reasons in Appendix A. DBU members: *A Rossi, B McNamara, B Magistrale and T Sneesby*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
Anofign	A.
Emma Finnegan	Ben Magistrale
Senior Development Assessment Planner	Manager, Development Assessment (Area 2)
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 8 September 2022	Date: 8 September 2022

Reason for WLPP referral:

- 1. Contentious development (10 or more objections)
- 2. Departure from any development standard in an EPI by more than 10%

APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15 (1) of the *Environmental Planning and Assessment Act 1979 (the Act)* the development application (the application) is refused for the following reasons:

- 1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it contrary to the following provisions of *Waverley Local Environmental Plan* (WLEP) 2012:
 - a. Clause 4.1 Minimum Subdivision Lot Size

The application does not achieve the minimum lot size development standard of 325sqm and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposed subdivision is not considered to reflect and reinforce the predominant subdivision pattern of the area and the proposed development does not minimise the likely impact on the amenity of neighbouring properties contrary to clause 4.3 (1) (a) and (d) of WLEP.

b. Clause 4.4 Floor Space Ratio

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 0.6278:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of Waverley LEP

Details: The proposal is considered an overdevelopment of the site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1) (d) of WLEP.

2. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:

Part B13 Subdivision

a. Objective (b) under this Part, as the subdivision does not respect the predominant development pattern of the locality.

Part C2 Low Density Residential Development

- b. Section 2.2 Setbacks, specifically objectives (a) and (f) and control (a) and (b) as the proposed development has front and rear setbacks that are inconsistent with the predominant building lines of the streetscape.
- c. Section 2.3 Streetscape and visual impact, specifically objectives (a) and (b) and control (a) and (d) as the proposed development does not facilitate a high architectural and aesthetic standard that acknowledges and responds to the architectural style, scale, materials and character of the existing built environment. Furthermore, the proposal is

not visually compatible with the streetscape context and does not respond to the essential elements that make up the character of the surrounding area and the development dominates and erodes the character of the streetscape.

- d. Section 2.5 Visual and acoustic privacy, specifically objectives (a) and (c) and control (b) as the proposed development has windows to habitable rooms that directly face windows to habitable rooms or open space at neighbouring dwellings.
- e. Section 2.6 Solar Access, specifically objectives (a), (b) and (d) and controls 2.8.1 (a) to (d) and controls 2.8.3 (a) and (d) as the proposed car parking is located forward of the building line and exceeds 45% of the width of the site frontage; control 2.8.4 (d) as the proposed car parking is not sympathetically integrated into the design of the dwellings; and control 2.8.6 as the proposed driveways are not perpendicular to the street.
- f. Section 2.15 Dual Occupancy Development, specifically objectives (a) and (b) and controls (a) and (b) as the proposed size and bulk of the dual occupancy development is not in character with the surrounding development and streetscape, the allotment area is less than 450sqm which is undersized for an attached dual occupancy development, and the appearance from the street is not of a single dwelling.
- 3. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
- 4. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
- 5. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
- 6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

SUBDIVISION INTO 2 LOTS: NEW SEMI-DETACHED DWELLING ON EACH NEW LOT

39 GLENAYR AVE, NORTH BONDI NSW 2026

RECEIVED Waverley Council

Application No: DA-144/2022

Date Received: 11/04/2022





Location Map NTS



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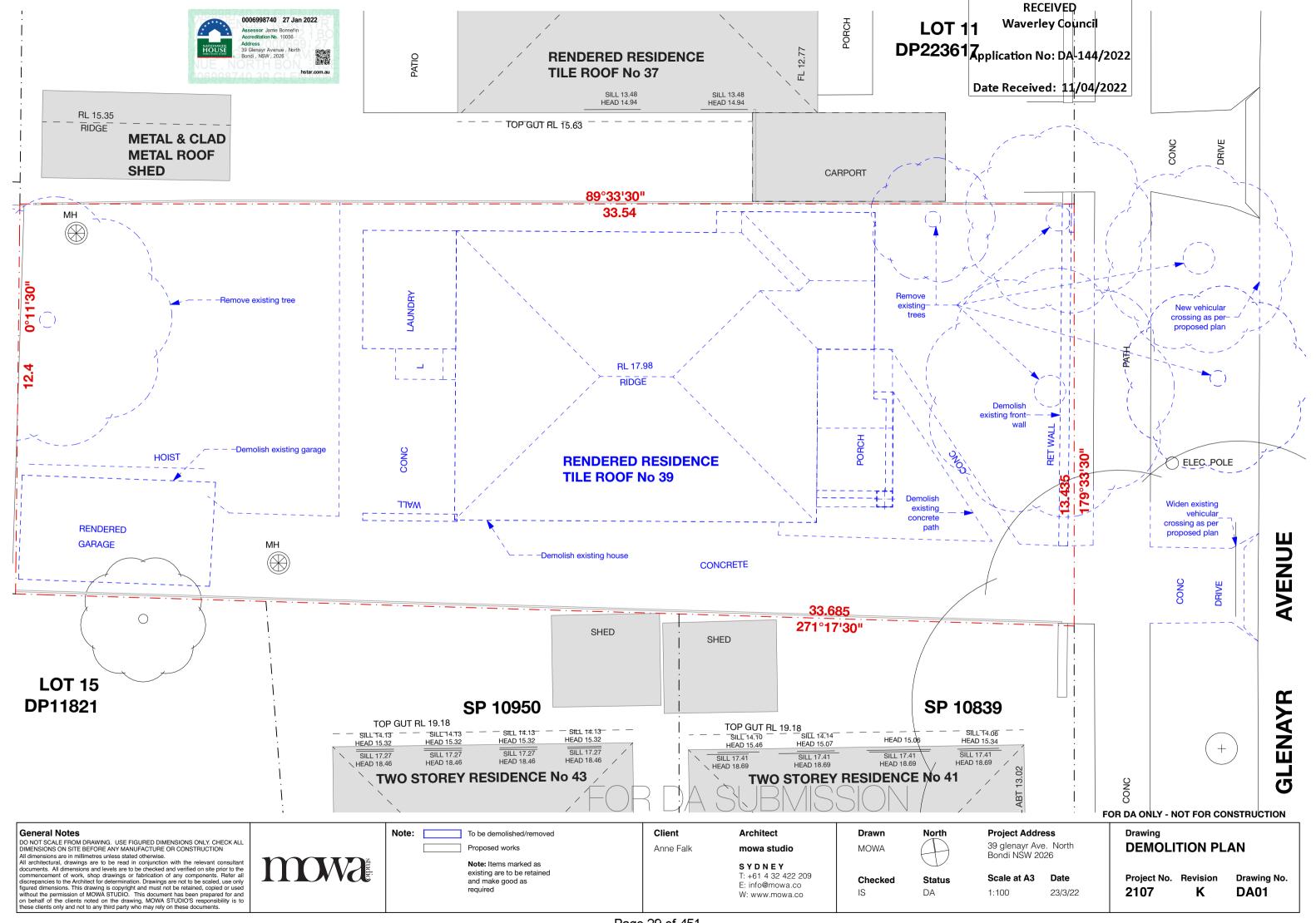
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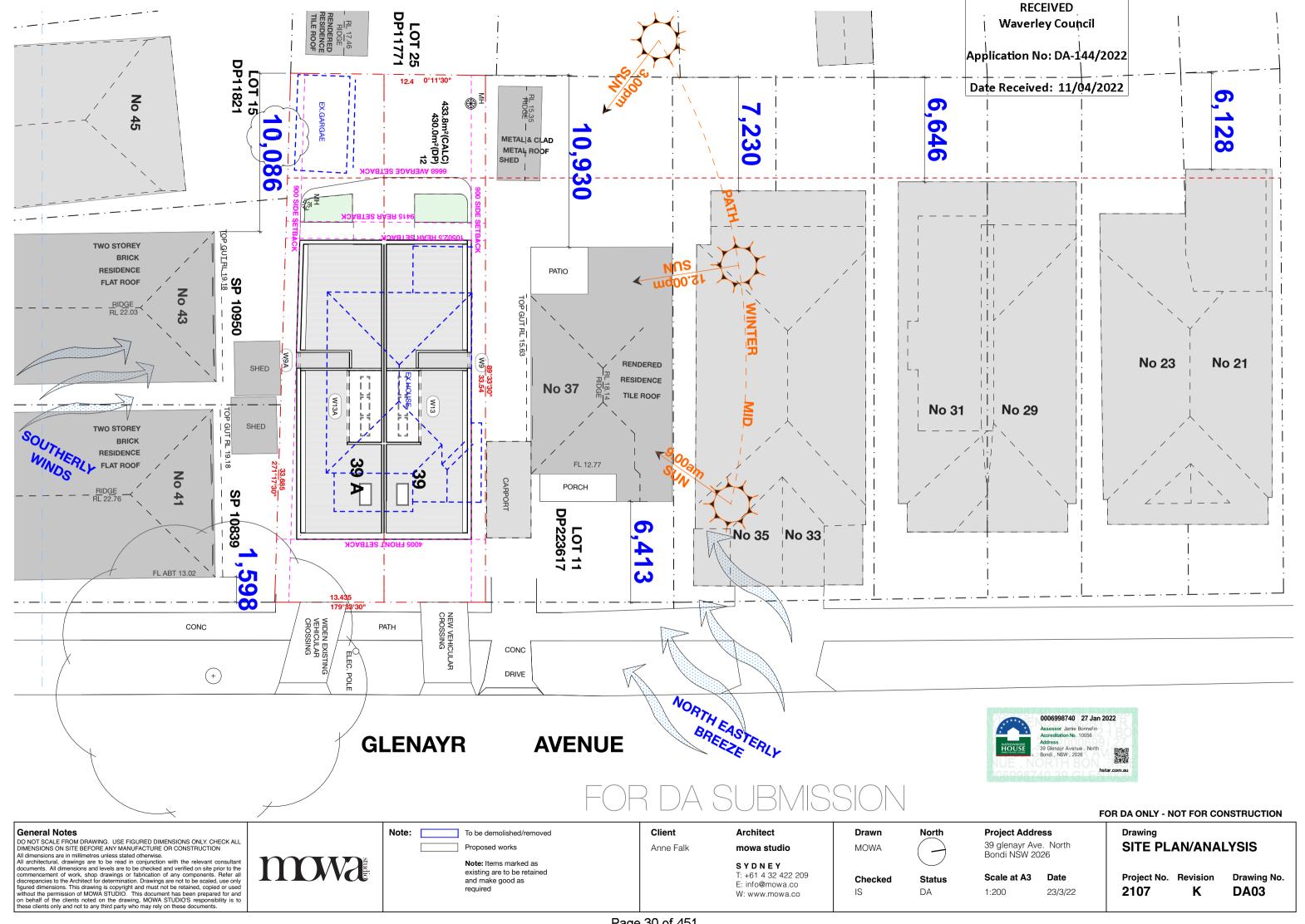
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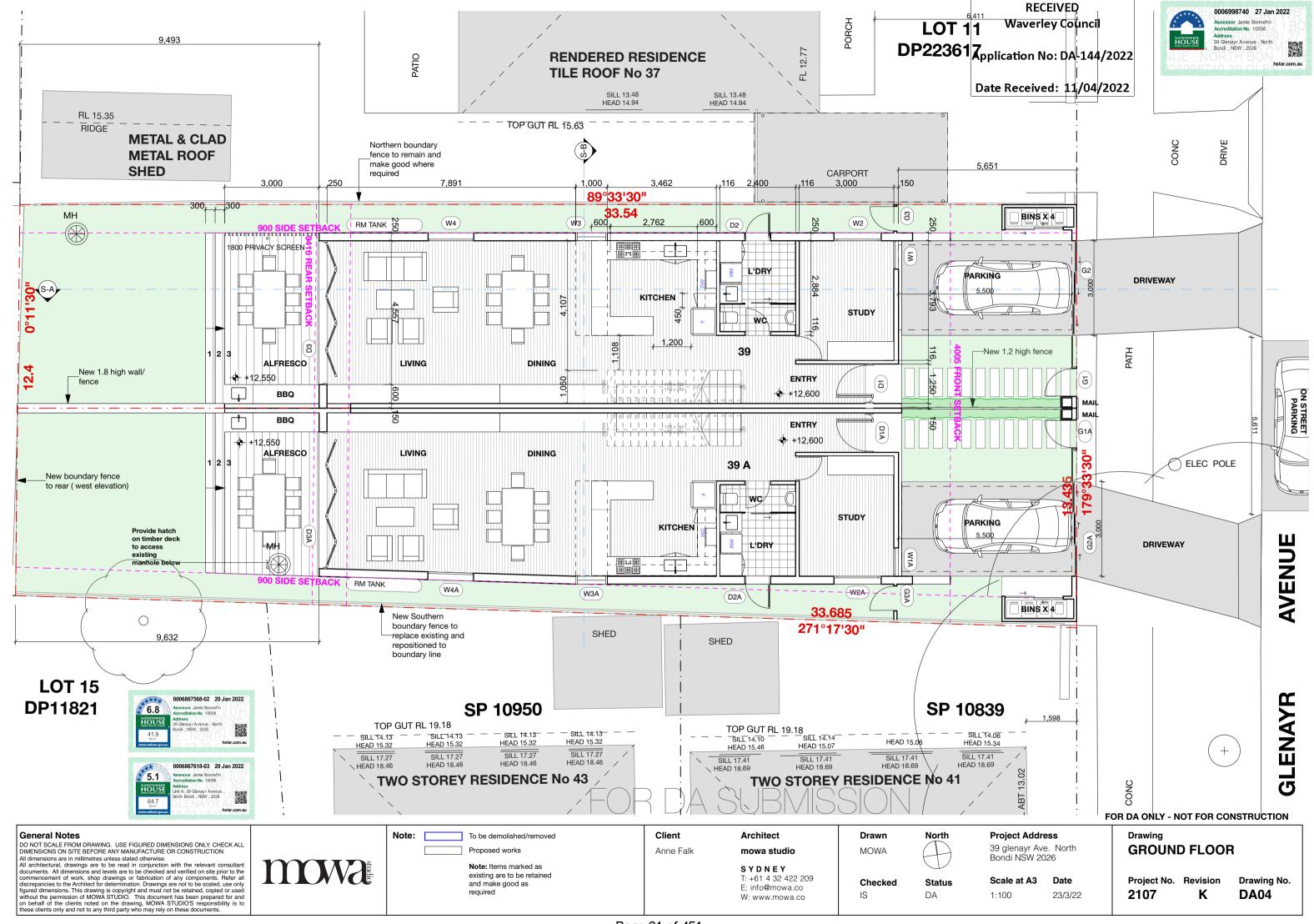
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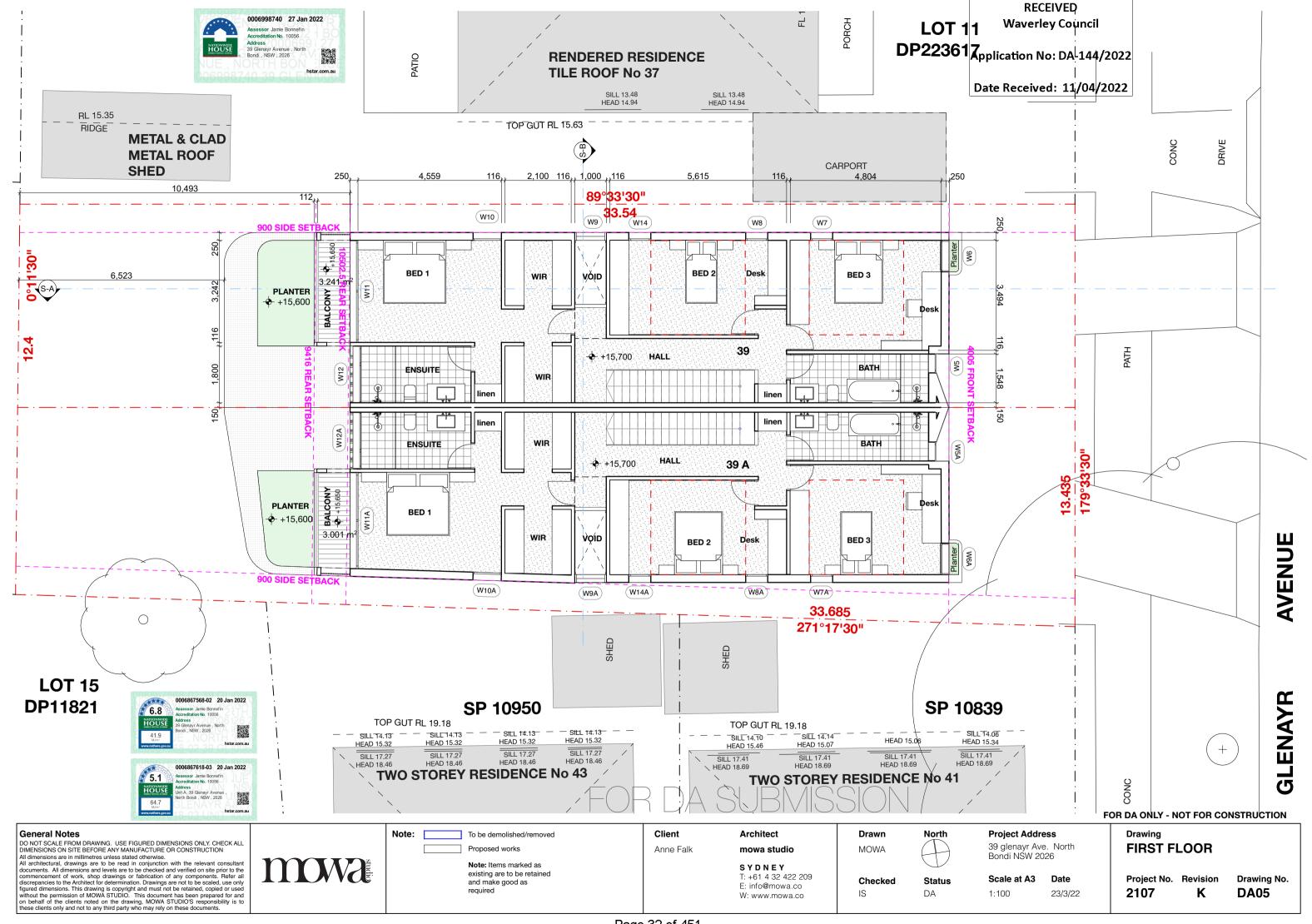


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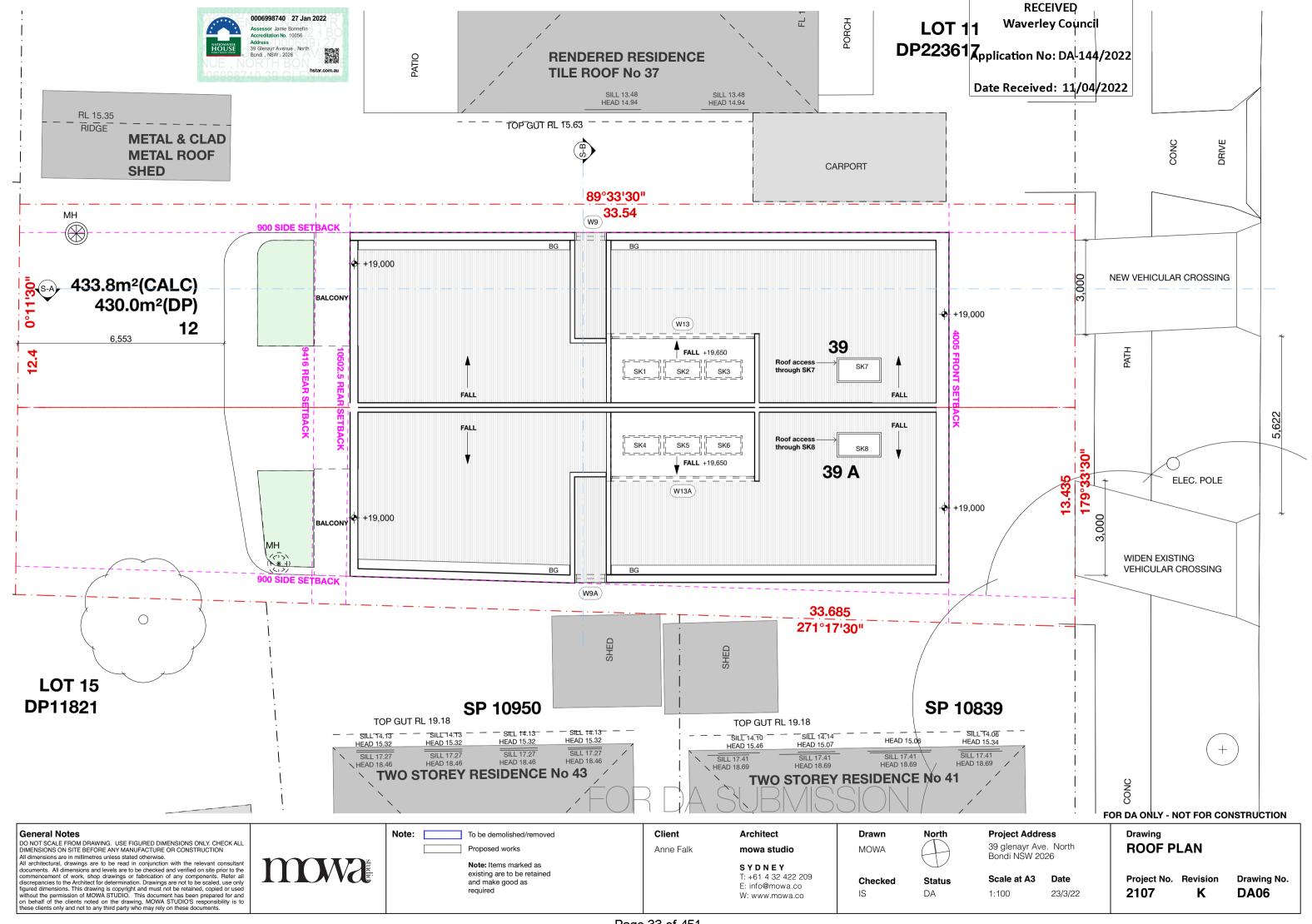




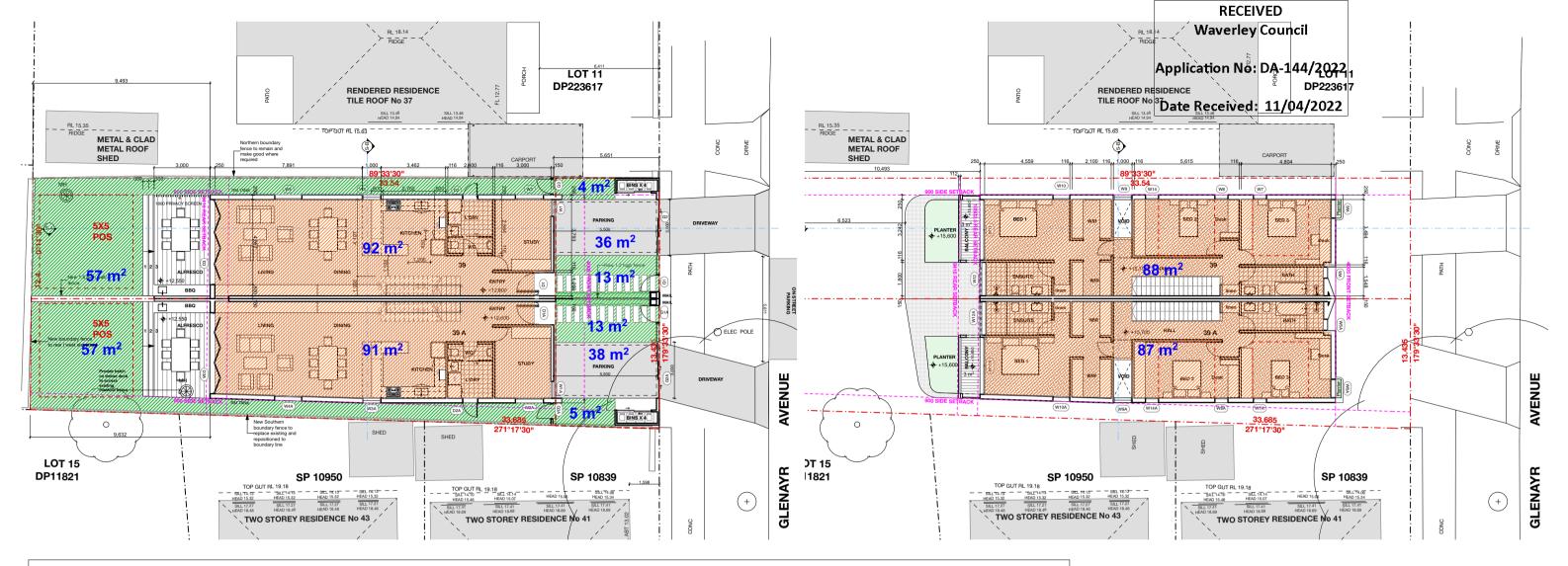
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CALCULATIONS

SITE AREA = 430.0 BY DP AND 433.8 BY CALC

NEW LOT 39 = 216.816 M2

39

GF FSR - 92 M2 **FF FSR -** 88 M2

TOTAL - 180 M2 = 0.830:1

ALLOWABLE FSR = 0.86:1

LANDSCAPE AREA

15% REQUIRED = 32.52 M2 AND 16.26 AT FRONT PROPOSED - 74 M2 (17 M2 AT FRONT) = 34.13%

OPEN SPACE

40% REQUIRED = 86.7 M2 AND 34.64 AT FRONT PROPOSED 116 M2 (Inclusive of Alfresco and Parking space) 36M2 AT FRONT

PRIVATE OPEN SPACE

5X5M

CALCULATIONS

SITE AREA = 430.0 BY DP AND 433.8 BY CALC

NEW LOT 39A = 216.933 M2

39A

GF FSR - 91 M2 **FF FSR -** 87 M2

TOTAL - 178 M2 = 0.82:1

ALLOWABLE FSR = 0.86:1

LANDSCAPE AREA

15% REQUIRED = 32.53 M2 AND 16.265 AT FRONT PROPOSED - 75 M2 (18 M2 AT FRONT) = 34.57%

OPEN SPACE

40% REQUIRED = 86.7 M2 AND 34.64 AT FRONT PROPOSED 117 M2 (Inclusive of Alfresco and Parking space) 38M2 AT FRONT

PRIVATE OPEN SPACE

5X5M



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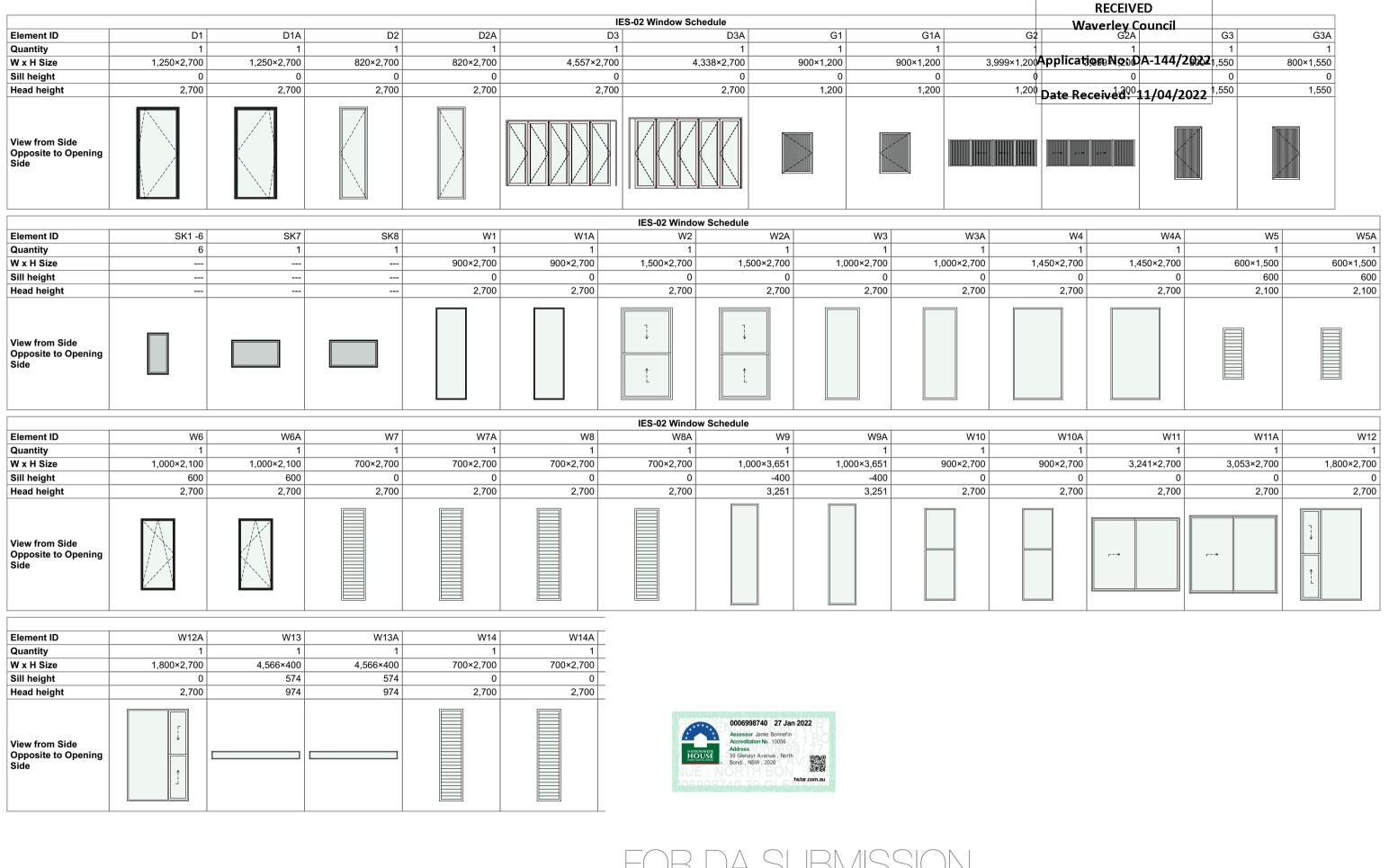
Project Address 39 glenayr Ave. North Bondi NŚW 2026 Scale at A3 Date

23/3/22

Drawing **CALCULATIONS**

Project No. Revision 2107

Drawing No. K **DA07**



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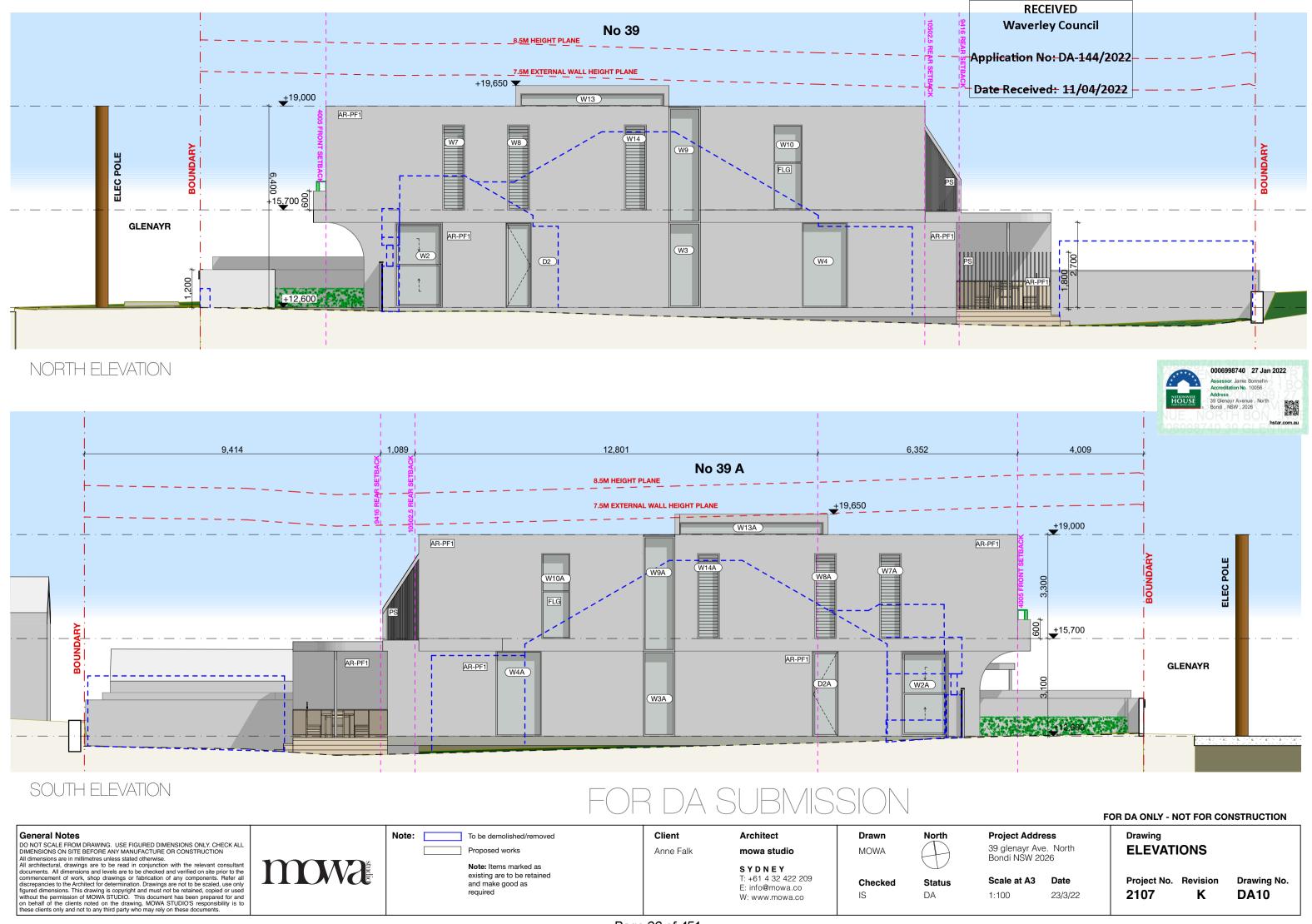
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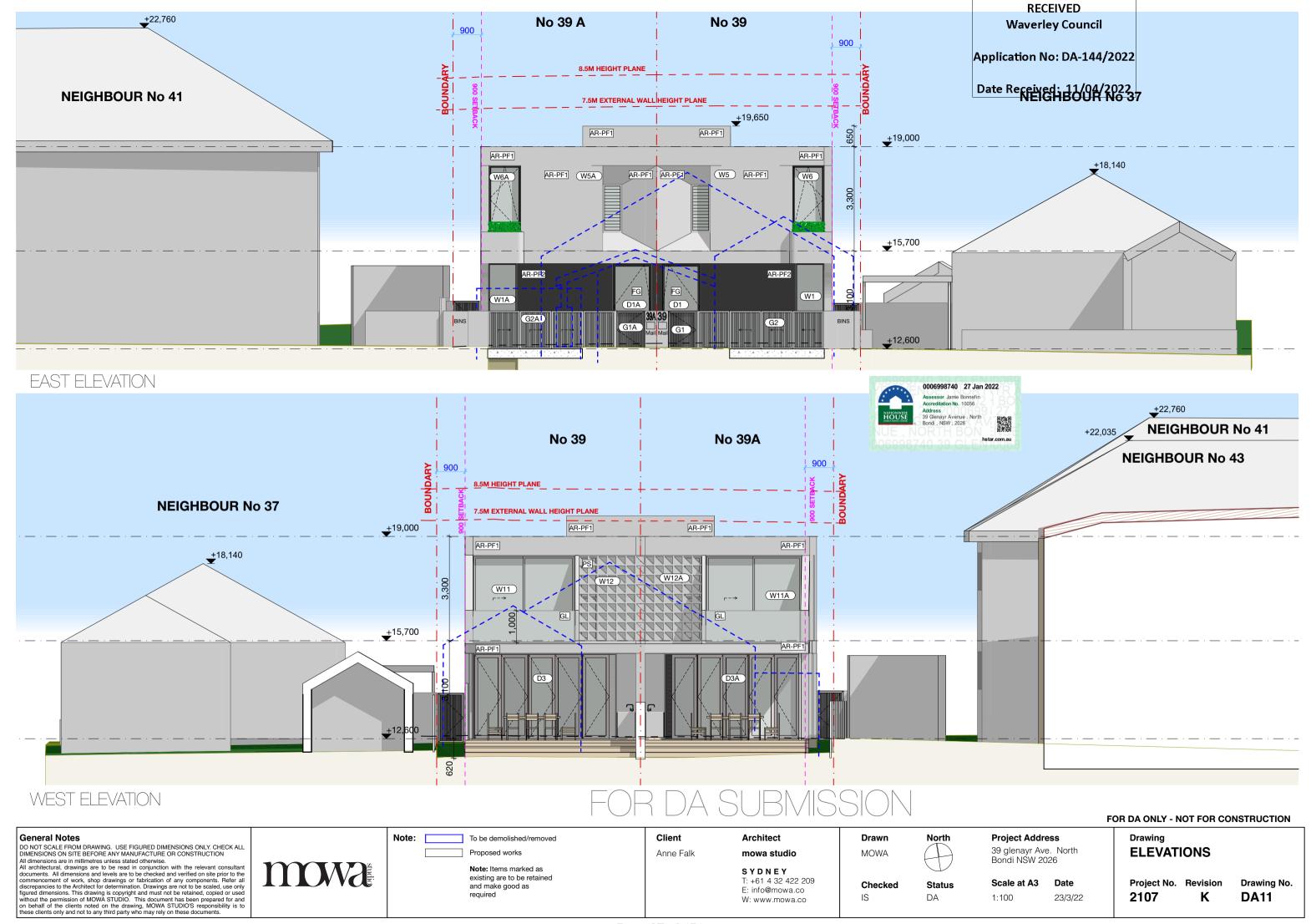
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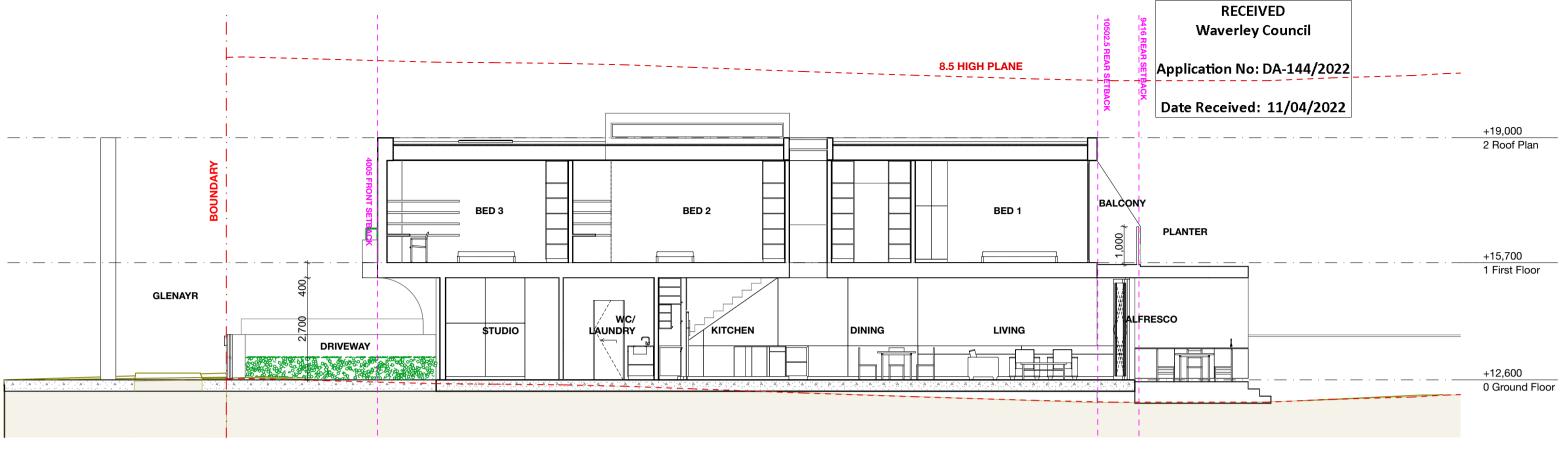
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Drawing **SCHEDULE**

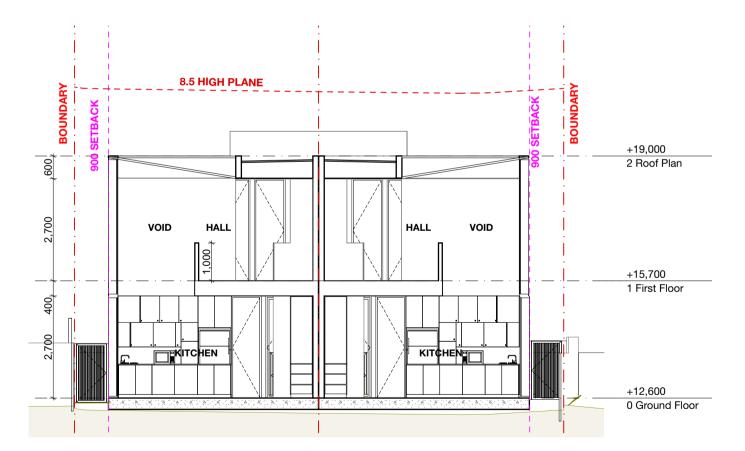
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SECTION A





SECTION B

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1:100

Drawing **SECTIONS**

> Project No. Revision Drawing No. **DA12** 2107 Κ











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General Notes

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Project Address

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PERSPECTIVES

Project No. Revision 2107

Drawing No. K **DA29**

BASIX Project Commitments BASIX Number: 1263955M Dual Occupancy Proposed: 39 Glenayr Avenue, North Bondi Lot No / DP: 12/11821

Water	
Fixtures	Specification
Shower head rating	4 star (> 4.5 but <= 6 L/min)
Toilet rating	4 star
Kitchen taps rating	4 star
Bathroom taps rating	4 star
Alternative water details	
Rainwater tank size	Individual 1000L
Connected to: Garden and lawn areas	Yes
All tailata	Voc

Thermal Comfort	Accreditation Number:	HERA 10056		NatHERS Number:	0006998740	
External walls		Requirements				
AAC cavity panel on battens		Light colour	R2.7	Bulk + Anti-glare foil		
AAC cavity panel on battens	Ground Floor on east elevation	Dark colour	R2.7	Bulk + Anti-glare foil		

Internal walls		
Cavity wall, direct fix plasterboard	Unit 39A	R2.0 Bulk insulation

_	rattion wans	
AAC, plasterboard		No insulation
	Ceiling	
	External ceiling - Plasterboard	R3.5 Bulk insulation
	Internal ceiling - Plasterboard	No insulation

Roof	
Corrugated iron	Light Colour (solar absorptance < 0.475)
Corrugated Iron	R1.8 Bulk + Reflective side down, No air gap above (Anticon 75, 80mm)

	R1.8 Bulk + Reflective side down, No air gap above (Al
	Light Colour (solar absorptance < 0.475)

No insul	terproofing membrane	
NO IIISUI	terprooning membrane	No insula

Laundry

Floors		
Concrete slab on ground		No insulation
Suspended concrete slab	Exposed areas only	R2.0 Bulk insulation

Windows	
Aluminium frame ALM-001-04	Single low-e glazing with U-value 5.6 and SHGC 0.36 for Group A windows (awning, bifold, casement and
Aluminium frame Alivi-001-04	tilt 'n' turn type windows/doors)
Aluminium frame ALM-002-04	Single Clear glazing with U-value 6.7 and SHGC 0.7 for Group B windows (double hung, fixed, louvres and
Aluminum frame ALW-002-04	sliding type windows/doors)
Alternatives for an ALAA 003 04	Double air-fill clear glazing with U-value 4.8 and SHGC 0.51 for Group A windows (awning, bifold, casemer

Aluminium frame ALM-003-04	
Adminiant frame Activi-003-04	and tilt 'n' turn type windows/doors)
Aluminium frame ALM-004-04	Double air-fill low-e glazing with U-value 4.9 and SHGC 0.33 for Group B windows (double hung, fixed,
Aluminium frame Alivi-004-04	louvres and sliding type windows/doors)

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Downlights	
Downlight Covers	Approved fireproof downlight covers must be installed to all downlights in ceilings where insulation is

Downlight Covers	installed.
Lighting specification	Dwelling is rated without downlight

Overshadowing details	Adjoining units calculated into model calculations

Site	
Orientation of nominal north elevation	As shown on plans

Orientation of nominal north elevation	As snown on plans	AS SHOWN ON Plans			
Energy					
Hot water	Specification	Rating			
Individual system	Electric heat pump - air	31 to 35 STCs			
Ventilation					
Bathroom exhaust	Individual fan, not ducted				
Control switch	Manual switch on/off				
Kitchen exhaust	Individual fan, not ducted	Individual fan, not ducted			
Control switch	Manual switch on/off				
Laundry	Individual fan, not ducted	Individual fan, not ducted			
Control switch	Manual switch on/off				
Cooling					
Individual systems - living areas	1-phase airconditioning	4 star			
Individual systems - bedroom areas	1-phase airconditioning	4 star			
Heating					
Individual systems - living areas	1-phase airconditioning	4 star			
Individual systems - bedroom areas	1-phase airconditioning	4 star			

No

Yes No No

RECEIVED Waverley Council

Application No: DA-144/2022

Date Received: 11/04/2022



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General Notes

Appliances Cooktop/oven Ventilated fridge space

Private outdoor clothes drying line

Zoned Air-conditioning

Private Indoor or sheltered clothes drying line

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North Status

DA

39 glenayr Ave. North Bondi NSW 2026

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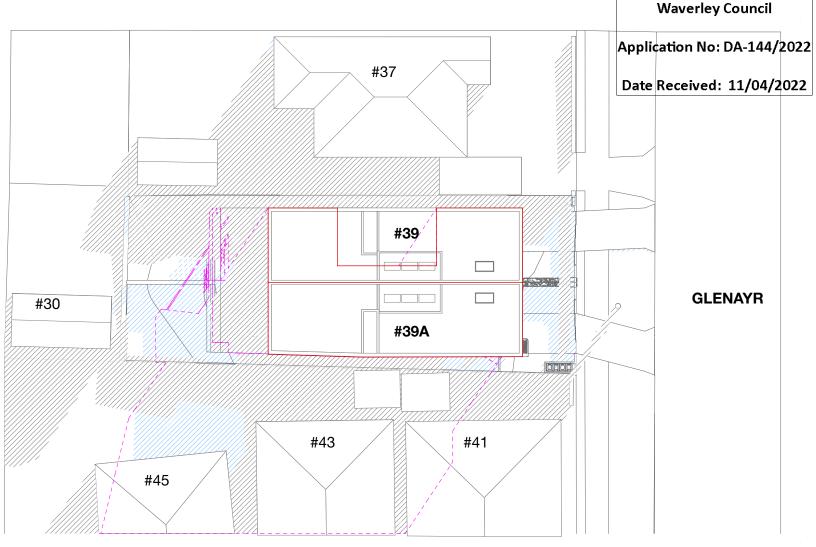
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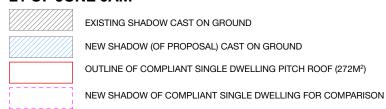
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BASIX SUMMARY

Project No. Revision Drawing No. **DA30** 2107 K



21 OF JUNE 9AM



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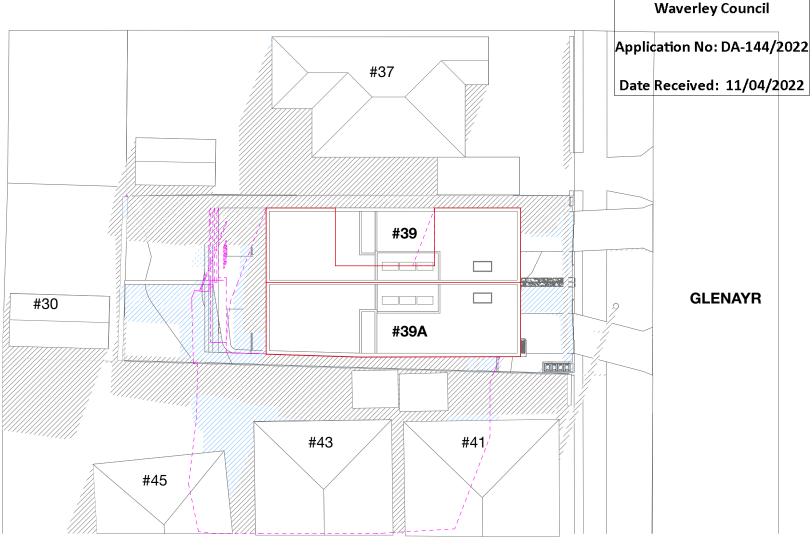
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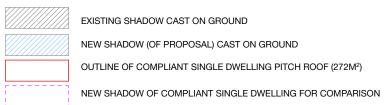
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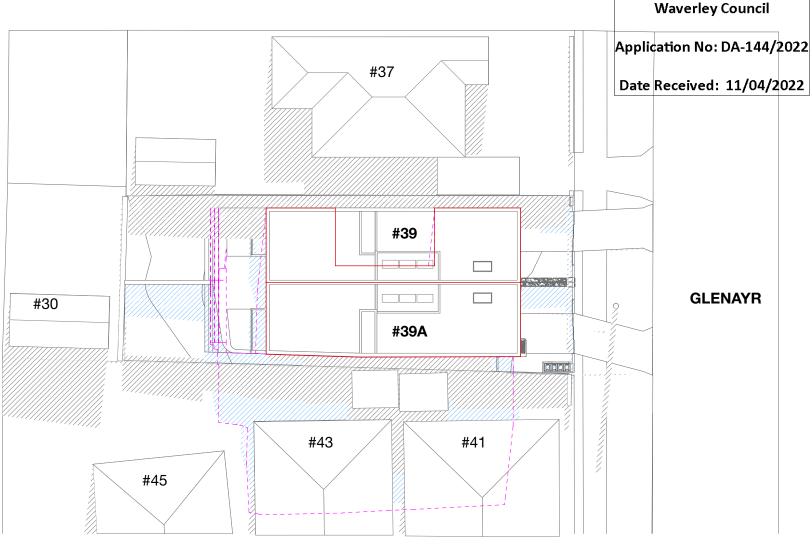
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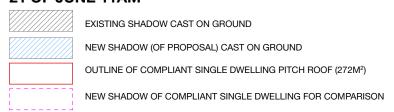
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21 OF JUNE 11AM



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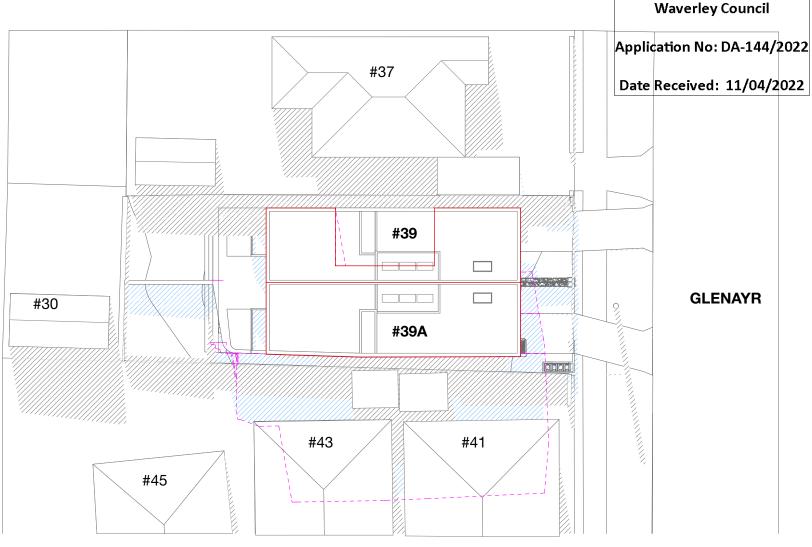
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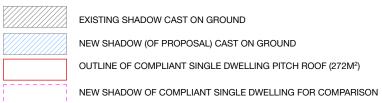
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21 OF JUNE 12PM



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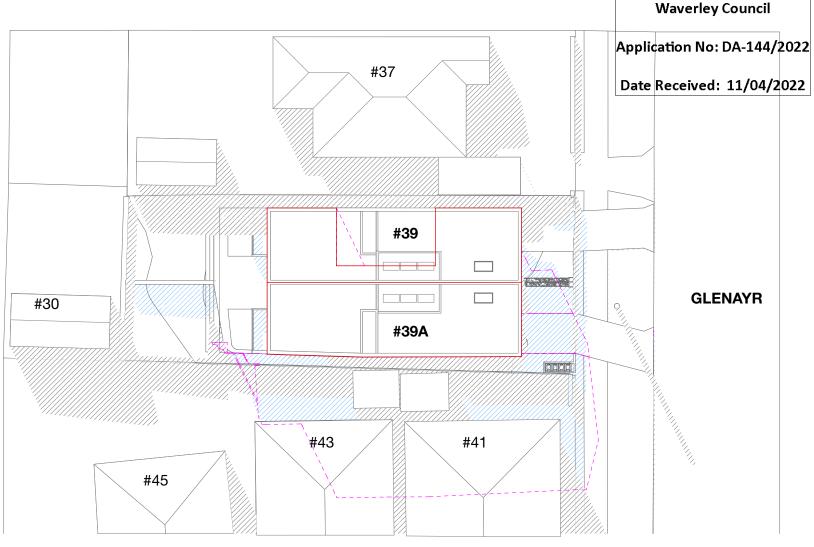
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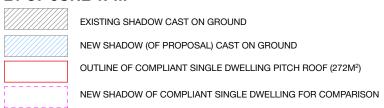
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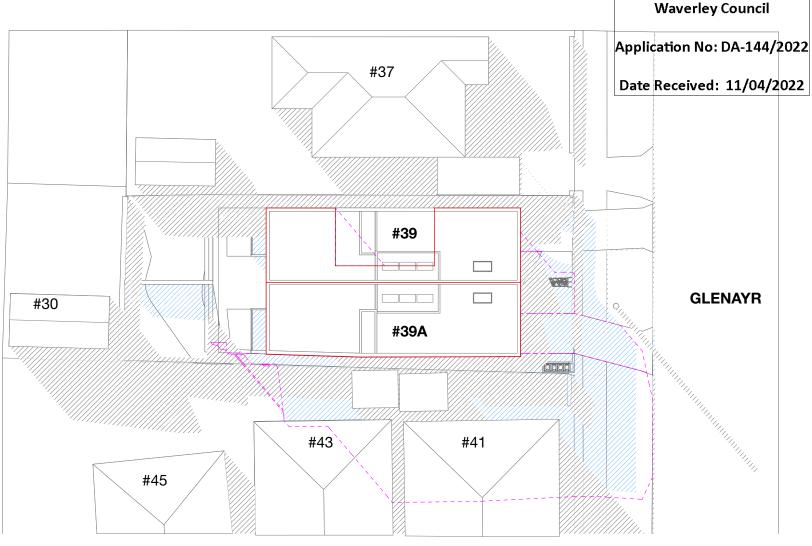
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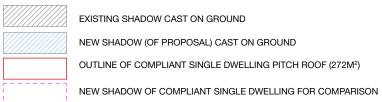
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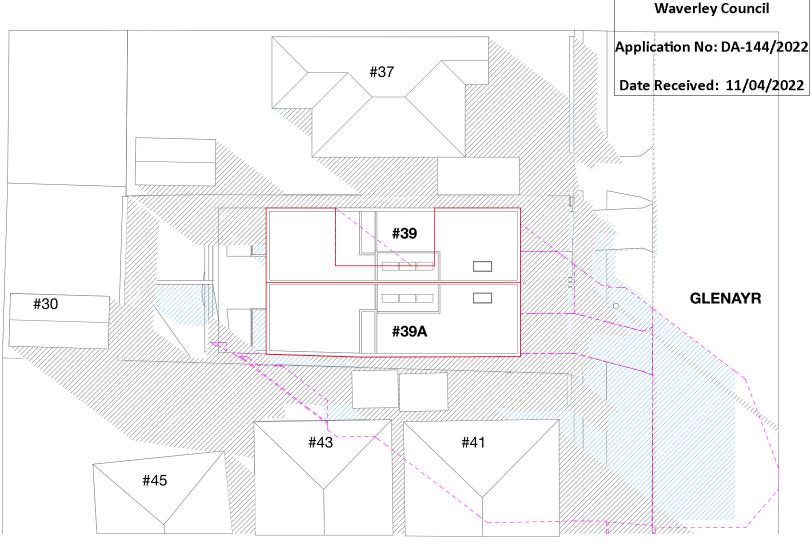
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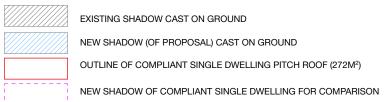
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21 OF JUNE 3PM



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Report to the Waverley Local Planning Panel

Application number	DA-119/2022	
Site address	3 Portland Street, Dover Heights	
Proposal	Alterations and additions to existing dwelling including a new rear attic level	
Date of lodgement	31 March 2022	
Owner	Mr P F Williams	
Applicant	Mr P F Williams	
Submissions	Three (3) submissions	
Cost of works	\$104,000	
Principal Issues	Building heightFSR	
Recommendation	That the application be APPROVED in accordance with the conditions contained in the report.	

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for alterations and additions to the existing dwelling including an attic addition with a balcony to the rear at the site known as 3 Portland Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- Building height; and
- Floor Space Ratio (FSR).

The assessment finds these issues acceptable as the proposed built form of the attic addition does not result in any unreasonable privacy impacts and no additional overshadowing impacts on adjoining properties and is consistent with relevant controls under the Waverley DCP 2012. The Clause 4.6 written requests seeking variation to the height of buildings and FSR development standards are considered to be well founded as the proposed bulk and scale of the dwelling is compatible with the character of surrounding dwellings and the streetscape, and will preserve the environmental amenity of surrounding properties.

A total number of three (3) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

1.2. Site and Surrounding Locality

A site visit was carried out on 3 June 2022.

The site is identified as Lot 32 in DP6242, known as 3 Portland Street, Dover Heights.

The site is rectangular in shape with a frontage to Portland Street, measuring 15.245m. It has an area of 794.6m² and has a fall of approximately 1.73m from the front to rear boundary.

The site is occupied by a two storey dwelling house with vehicular access provided from Portland Street.

The site is adjoined by two and three storey dwellings immediately to the north at No. 1 Portland Street and Nos. 25 and 27 Lancaster Road, and to the south at No. 5 Portland Street. A two storey dual occupancy development with swimming pools at the rear adjoin the western (rear) boundary of the site at Nos. 4a and 4b Gilbert Street.

The locality is characterised by a variety of two and three storey low density residential developments. **Figures 1** to **4** are photos of the site and its context.



Figure 1: View of subject site and adjoining dwellings, looking west from Portland Street



Figure 2: View of rear of existing dwelling, looking east from rear yard/swimming pool

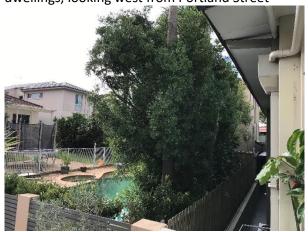


Figure 3: View of adjoining properties to the north of subject site, looking east along northern side setback



Figure 4: View of subject site and city skyline behind existing roof, looking west from Dudley Page Reserve

1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-438/2005 for alterations and additions to the existing dwelling including a new swimming pool and landscape works was approved on 6 March 2006; and
- DA-168/2007 for construction of a new boundary fences, swimming pool and air conditioning was approved on 25 May 2007.

1.4. Proposal

The development application seeks consent for alterations and additions to the existing two storey dwelling including a new attic level with a rear balcony and landscaping, specifically the following:

Ground Floor

• Internal alterations to construct new stairs to the new attic level and two voids above Bedroom 2 and the hallway.

Attic Level

- New master bedroom with walk-in-robe and ensuite;
- A study and lounge room; and
- · Rear balcony with awning over, accessed from master bedroom and lounge; and
- Non trafficable planters adjacent to the rear balcony and the western window of ensuite.

1.5. Background

The development application was lodged on 31 March 2022 and deferred on 26 July 2022 for the following reasons:

- 1. Bulk and scale of the attic addition result in additional shadow impacts on adjoining properties and is not supported.
- 2. The submitted Clause 4.6 written justification does not adequately demonstrate that the proposal preserves the environmental amenity of surrounding properties.
- 3. The western balcony accessed from the master bedroom on the attic level exceeds the maximum depth and area permitted under the Waverley DCP 2012. The balcony in its current form is not supported and a reduction in depth and area is recommended to minimise privacy and amenity impacts on adjoining properties.
- 4. The proposed balcony access from the ensuite will provide views across the northern side boundary and result in additional amenity impacts on adjoining properties. The balcony is not supported and is recommended to be deleted from the architectural plans.
- 5. Amended shadow diagrams including view from the sun diagrams are required to be submitted demonstrating the proposed attic addition does not result in any additional shadow impacts to habitable room window and principal private open space.

On 19 August 2022, amended plans and additional information were submitted to address the issues raised above. The amended plans include a reduction of gross floor area and bulk and scale of the attic roof form along the southern side boundary and no additional overshadowing impacts to habitable room windows and private open space of adjoining properties.

As a result of the amended plans, a revised Clause 4.6 for variation to the FSR development standard was submitted for consideration and a Clause 4.6 written request seeking variation to the height of buildings development standard has been submitted for consideration.

ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.2. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1st March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Resilience and Hazards) 2021

2.2.1. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.2.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment	
Part 1 Preliminary			
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the plan.	
Part 2 Permitted or prohibited de	velopment		
Land Use Table ■ R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a dwelling, which is permitted with consent in the R2 Low Density Residential zone.	
Part 4 Principal development standards			
4.3 Height of buildings ■ 8.5m	No	The existing dwelling has a ridge height of 9.01m (RL79.73) which exceeds the height of building development standard by 500mm (6% variation).	

Provision	Compliance	Comment	
		The proposed attic level does not exceed the existing ridge height of RL79.73 and results in a 6% variation to the height of building development standard.	
 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio 0.5:1 	No	The proposal has a gross floor area of 615.7m ² and FSR of 0.77:1 which presents a variation of 55% to the maximum FSR development standard. The existing dwelling has a gross floor area of 553.7m ² and FSR of 0.7:1 (variation of 39% to the maximum FSR development standard). The proposal seeks an additional 62m ² of gross floor area which is predominantly contained within the new attic addition.	
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of building and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.	

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards - Height of Buildings

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of building development standard of 8.5m. The proposed development has a building height of 9.01m, exceeding the standard by 501mm equating to a 6% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of building 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 existing dwelling exceeds the 8.5m height development standard. The proposal does not exceed the existing height of the dwelling and does not result in any further variation of the development standard.
 - (ii) The proposed alterations and additions achieve the objectives of the R2 Low Density Residential zone.
 - (iii) The proposal satisfies the objective of the development standard as it preserves the environmental amenity of adjoining properties and does not result in any additional privacy or overshadowing impacts, and does not impact iconic views from surrounding properties or the public domain.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposed attic addition is substantially set back from the front, side and rear property boundaries and does not change the appearance of the existing roof form or building bulk as viewed from Portland Street.
 - (ii) The proposal maintains views from surrounding properties and the public domain, particularly views of the city skyline from Dudley Page Reserve.
 - (iii) The proposal does not result in any additional overshadow impacts to habitable room windows or private open space of adjoining properties between 9am and 3pm on 21 June.
 - (iv) The proposal is compatible with the existing bulk and scale of surrounding dwellings, the character of the streetscape and desired future character of the area.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in Wehbe v Pittwater Council (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The justification provided by the applicant has adequately demonstrated that the relevant objectives of the height of buildings development standard are achieved notwithstanding the variation. In particular, the proposed attic addition does not exceed the height of the existing dwelling, is sympathetic to the bulk and scale of surrounding properties and preserves the environmental amenity of surrounding properties with no additional overshadowing impacts to habitable room windows or private open space between 9am and 3pm on 21 June and does not result in any adverse visual or acoustic privacy impacts.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. As discussed above, notwithstanding the variation to the height of building development standard, the proposal is sympathetic to the built form and scale of surrounding developments and will not detract from the existing character of the streetscape. The proposal will preserve the environmental amenity of surrounding properties and within the public domain as the extent of the variation to the development standard will not cause additional overshadowing to habitable room windows or private open space, view loss or unreasonable privacy impacts for adjoining properties.

Is the development in the public interest?

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

The objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The extent of the variation to the maximum building height control comprises of the underside of the ceiling, the flat roof form and part of the slope roof to the attic addition. The attic addition is contained to the rear of the existing dwelling, appropriately set back from the property boundaries, and does not contribute to unreasonable bulk and scale that detracts from the character of the streetscape or amenity within the public domain.

The proposal has demonstrated that objectives (a) and (d) of the height of building development standard have been satisfied as the extent of the variation does not result in any additional environmental or view loss impacts on adjoining properties and the public domain.

Objectives (b) and (c) relate to development within the Bondi Junction Centre. The objectives are not relevant to the proposal as the site is not located within the Bondi Junction Centre.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposed is consistent with the objectives of the R2 Low Density Residential zone as the existing detached dwelling is retained and is sympathetic to the low density residential character of the surrounding locality.

Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R2 Low Density Residential zone.

Clause 4.6 Exceptions to Development Standards – FSR

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.5:1 (397.3m²). The existing dwelling has an FSR of 0.7:1 (553.7m²) and a 39% variation to the development standard. The proposed development presents an additional gross floor area of 62m², has an FSR of 0.77:1 (615.7m²) exceeding the standard by 218.4m², equating to a 55% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR 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 attic addition does not alter the existing roof form of the dwelling when viewed from the street and does not exceed the existing height of the dwelling.
 - (ii) The proposal does not result in any additional overshadowing of adjoining habitable room windows or private open space and satisfies the objective of the development standard to preserve the environmental amenity of adjoining properties.

- (iii) The proposal does not impact on existing views from surrounding properties to the west (city skyline) or the views from Dudley Page Reserve.
- (iv) The proposal is consistent with relevant objectives of the development standard and the R2 Low Density Residential zone.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The attic addition complies with setback controls, does not exceed the existing height of the dwelling and is commensurate in bulk and scale to surrounding developments within the streetscape. The proposal is compatible with the desired future character of the locality.
 - (ii) The proposal does not detract from the predominant appearance of the dwelling as two storeys when viewed from the public domain and surrounding properties and provides an appropriate correlation between height and density controls.
 - (iii) The proposal does not result in any additional overshadowing or privacy impacts to surrounding properties.
 - (iv) The proposal does not obstruct existing views from surrounding properties and Dudley Page Reserve.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; an
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant has adequately demonstrated that the relevant objectives of the FSR development standard have been achieved as the attic addition does not exceed the existing building height of the dwelling and does not result in excessive building bulk that is out of character with the scale of adjoining properties. The extent of the variation to the FSR development standard will not result in any adverse amenity impacts or view loss and satisfies the objective to preserve the environmental amenity of surrounding properties and the locality.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the proposal has demonstrated that the attic addition will not be visually prominent and is sympathetic in bulk and scale to surrounding properties when viewed from the public domain or adjoining properties as the existing front roof form is retained and the addition is compliant with side and rear setback controls under the Waverley DCP 2012. The proposal will not result in any additional overshadowing impacts to habitable room windows or private open space of adjoining properties, privacy impacts or view loss from surrounding properties or the public domain, particularly Dudley Page Reserve.

Is the development in the public interest?

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

The objectives of the FSR development standard are as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,
- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,

(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The applicant has adequately demonstrated that the proposal satisfies objectives (b), (c) and (d) as the extent of the variation, which does not exceed the existing height of the dwelling, presents a built form and scale that is compatible with surrounding developments and does not detract from the character of the area. The proposal also preserves the environmental amenity of surrounding properties as there will be no additional overshadowing impacts to habitable windows or private open space, and no adverse privacy impacts or view loss for adjoining properties.

It is noted that objective (a) of the FSR development standard is not applicable to the proposal as the subject site is not located within the Bondi Junction Centre.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The applicant has demonstrated that the proposal satisfies the objectives of the R2 Low Density Residential zone as the existing detached dwelling is retained and the attic addition does not detract from the style and built form of dwellings within the streetscape and surrounding area. The proposal is contextually appropriate with the desired future character of the area comprising of low density residential developments.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

2.2.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
Ecologically Sustainable Development	Yes	Satisfactory.
5. Vegetation Preservation	Yes	No tree is proposed to be removed as part of this application.
6. Stormwater	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.

Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

Yes The proposal does not contravene the general objectives of this part of the DCP.
No – The attic addition results in a wall height of 7.8n on the southern side elevation which exceeds the maximum wall height of 7m. See discussion below this table.
No – The proposal has a wall height of 8.7m measured
otable on on the northern side elevation. See discussion nerit below this table.
Yes The proposed attic addition is set back 22.83n from the front boundary, is located behind the existing front roof form of the dwelling and is no
ne No ota

Development Control	Compliance	Comment	
Predominant rear building line at each floor level	Acceptable on merit	Immediately surrounding dwellings comprise mix of two and three storey dwellings. Th properties immediately to the south of the site d not comprise consistent rear building lines t determine a predominant rear building line for th attic level.	
		The proposed rear building line at the attic level is considered acceptable on merit and will not result in any unreasonable building bulk or amenity impacts on adjoining properties, as it is set back from the gutter line of the existing rear roof and is set back between 17.9m (balustrade to the balcony) and 19.5m (western external wall) from the rear property boundary.	
2.2.2 Side setbacks Minimum of 1.2m (height non-compliant 2 storey dwelling)	Yes	The external wall of the proposed attic addition is setback a minimum 1.5m from the northern side boundary and 3.6m from the southern side boundary, and complies with the minimum side setback controls.	
2.3 Streetscape and visual imp	pact		
New development to be compatible with streetscape context	Yes	The proposed attic level at the rear of the existing two storey dwelling is sympathetic to the bulk and scale of surrounding two and three storey dwellings. The proposal does not detract from the character of the streetscape, local area or amenity of surrounding properties and is acceptable.	
Significant landscaping to be maintained.	Yes	No change is proposed to existing landscaping of the site.	
2.5 Visual and acoustic privac	V		
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design		The proposed windows on the attic level on the northern side elevation are to an ensuite and a void below and will not result in any loss of privacy impacts for adjoining properties. The proposed south-east facing window is located above the gutter line of the adjoining dwelling to the south and will not result in any direct views to habitable windows. The proposed bi fold doors on the western elevation opening to the rear balcony is sufficiently set back from the rear boundary and will not result in any unreasonable privacy impacts on the balance of view sharing of the city skyline to the west.	
Maximum size of balconies:	Yes	The rear balcony from the master bedroom has been amended to measure a maximum depth of 1.5m with an area of 9.7m ² which complies with	

Development Control	Compliance	Comment
10m² in area 1.5m deep		the maximum dimensions for balconies under the DCP. The balcony is accessed from a bedroom which is considered a low use area of the dwelling and will not be used for entertaining. As such, the balcony will not have any unreasonable noise impacts on surrounding properties. To further minimise privacy impacts on adjoining properties, a wraparound planter is proposed along the western and southern sides of the balcony, 1.4m and 1.1m in depth, respectively.
		The proposed planter area immediately adjacent to the western window (W03) of the ensuite has a depth of 0.9m and an area of 0.9m. The planter area comprises balustrades and a fixed awning above and it is unclear from the plans if access is provided from W03. The planter is not considered appropriate in this location and is not necessary for the amenity of the ensuite or adjoining properties. As such, a condition to delete the planter and awning, and amendment to W03 to ensure no access is provided to the adjacent roof has been included in the Recommendation.
2.6 Solar access		
 Minimum of three hours of sunlight to living areas and principal open space areas on 21 June Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June. Avoid unreasonably overshadowing of solar collectors (including habitable windows). 	Yes	As shown by the amended shadow diagrams and view from the sun diagrams, the proposal does not result in any change to solar access to habitable room windows, solar collectors or principal open space of adjoining properties between 9am and 3pm on 21 June, particularly the dwelling to the south at No. 5 Portland Street.
2.7 Views	l ,,	
Views from the public domain are to be maintained	Yes	The proposed attic addition will not adversely impact on existing views from the public domain, particularly western views of the city skyline from Dudley Page Reserve on the eastern side of Portland Street.
 Development to be designed and sited so as to enable a sharing of views with surrounding 	Yes	The proposal will not have any additional impacts on existing views or view sharing from surrounding properties.

Development Control	Compliance	Comment
dwellings particularly from habitable rooms and decks.		
2.9 Landscaping and open spa	ce	
 Overall open space: 40% of site area Overall landscaped area: 15% of site area Minimum area of 25m² for private open space Front open space: 50% of front building setback area Front landscaped area: 50% of front open space provided Outdoor clothes drying area to be provided 	Yes	No change is proposed to existing open space and landscaping contained within the front and rear building setbacks (approximately 43% of the site area). The existing principal private open space at the rear of the site exceeds 25m². No change is proposed. The proposal seeks to provide additional private open space at the attic level with the rear balcony measuring 9.7m², which complies with the balcony provisions and is acceptable. The planter adjacent to the balcony contributes to additional landscaping and enhances the amenity for adjoining properties and is acceptable.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Building Wall Height

The proposed attic addition results in a wall height measuring 8.7m on the northern elevation and 7.8m on the southern elevation, measured from the existing ground level of the dwelling.

The northern portion of the attic addition has a parapet wall and flat roof that exceeds the maximum wall height control of 7.5m under the DCP. The attic addition is set back 22.83m from the front property boundary and between 1.5m and 2.6m from the northern side boundary. The maximum height of the parapet wall on the northern elevation (RL79.36) does not exceed the height of the existing roof ridge and is situated below the gutter line of the dwelling immediately to the north at No. 1 Portland Street. The proposed building wall height on the northern elevation does not result in adverse building bulk and will not be visually prominent when viewed from the public domain. The northern section of the attic addition does not result in any view loss, privacy or overshadowing impacts from adjoining properties or the public domain.

The attic addition along the southern elevation has a pitched roof form and results in a wall height of 7.8m that is set back 3.6m from the southern side boundary. The proposed wall height on the southern elevation exceeds the maximum wall height control of 7m for a flat roof addition under the DCP. The southernmost portion of the attic addition on the southern elevation that projects 1.1m above the slope of the existing roof but does not exceed the roof ridge. The addition is set back 28m from the front property boundary and does not contribute to unreasonable building bulk or loss of views of the city

skyline from the public domain, particularly western views from Dudley Page Reserve directly opposite and to the east of the subject site. The proposed built form of the attic addition does not result in any additional overshadowing impacts to habitable room windows or private open space of adjoining properties, loss of privacy or views and is acceptable.

Having regard to the various two and three storey developments immediately surrounding the subject site, the proposed attic addition which is contained to the rear of the existing dwelling, is considered contextually appropriate as it does not result in adverse views or amenity impacts on adjoining properties.

2.3. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.4. Suitability of the Site for the Development

The site is considered suitable for the proposal.

2.5. Any Submissions

The application was notified for 14 days between 6 and 24 April 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- Reduction in building bulk and increase in southern side setback;
- Reduction in depth and area of rear balconies;
- Increase depth of non trafficable planter to the western side of rear balcony; and
- Amended shadow diagrams and view from the sun diagrams showing no additional shadow impacts on habitable room windows or principal open space between 9am and 3pm on 21 June.

A total of three (3) unique submissions were received from the following properties:

- 1 Portland Street, Dover Heights;
- 4a Gilbert Street, Dover Heights; and
- 4b Gilbert Street, Dover Heights.

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- FSR;
- Bulk and scale; and
- Acoustic and visual privacy impacts from attic level rear balconies.

2.6. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Stormwater

The proposal was reviewed by Council's Stormwater Engineer who raised no objection, subject to imposition of relevant stormwater management conditions which have been included in the Recommendation.

4. CONCLUSION

The development application seeks consent for alterations and additions to the existing dwelling including an attic addition with a balcony to the rear at the site known as 3 Portland Street, Dover Heights.

The principal issues arising from the assessment of the application are as follows:

- Building height; and
- FSR.

The assessment finds these issues acceptable as the proposed built form of the attic addition does not result in any unreasonable privacy impacts and no additional overshadowing impacts on adjoining properties and is consistent with relevant controls under the Waverley DCP 2012. The Clause 4.6 written requests seeking variation to the height of buildings and FSR development standards are considered to be well founded as the proposed bulk and scale of the dwelling are compatible with the character of surrounding dwellings and the streetscape, and will preserve the environmental amenity of surrounding properties.

A total number of three (3) submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received.

The Executive Manager, Development Assessments declared a conflict of interest for this application and has been excluded from the Development and Building Unit review of the application and the determination process.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 26 July 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *T Sneesby, B McNamara and B Magistrale*.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
P. Darg	A.	
Peggy Wong	Ben Magistrale	
Senior Development Assessment Planner	Manager, Development Assessment (Area 2 –	
	North Bondi, Dover Heights, Waverley,	
	Vaucluse)	
	(Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 24 August 2022	Date: 8 September 2022	

Reason for WLPP referral:

3. Departure from any development standard in an EPI by more than 10%

APPENDIX A - CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Studio Dass of Project No: 2032 including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
A.01, Rev B	Site Plan	15/08/2022	19/08/2022
A1.01, Rev A	Lower Ground & Ground Floor	10/02/2022	30/03/2022
	Plan		
A1.02, Rev B	Attic Floor Plan	18/08/2022	19/08/2022
A2.01, Rev B	Section A & B	18/08/2022	19/08/2022
A3.02, Rev B	Elevations North & East	15/08/2022	19/08/2022
A3.01, Rev B	Elevations South & West	15/08/2022	19/08/2022

- (b) BASIX Certificate.
- (c) The Site Waste and Recycling Management Plan (SWRMP) Part 1, received by Council on 20 March 2022.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The planter and awning adjacent to the ensuite window (Window W03) on the western elevation are not approved and are to be deleted from the architectural plans.
- (b) Details of Window W03, including the type of opening and sill height that does not provide access to the adjacent roof, are to be shown on the western elevation drawing.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

GENERAL REQUIREMENTS

3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

4. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

CONTRIBUTIONS, FEES & BONDS

5. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:
 - "Waverley Council Cost Summary Report"; or,
 - (ii) Where the total development cost is \$500,000 or more: "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
 - (i) A development valued at \$100,000 or less will be exempt from the levy;
 - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
 - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$3,800 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

7. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

CONSTRUCTION MATTERS

8. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

9. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

10. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

11. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

STORMWATER & FLOODING

12. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by Waterdesign Civil Engineers Pty Ltd, Job No. 2022-007, Drawing No. SW1, SW2 and SW3, Issue 0, dated 08/03/2022 are considered conceptual.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The stormwater management plan must clearly specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- b) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- c) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in[™] for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure
 any additional damage or unauthorised works within the Council property, not conditioned
 above. Council will reserve the right to withhold the cost of restoring the damaged assets from
 the security deposit should the applicant fail to restore the defects to the satisfaction of
 Council.
- Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

13. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

ENERGY EFFICIENCY & SUSTAINABILITY

14. BASIX

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

WASTE

15. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

LANDSCAPING & TREES

16. GREEN ROOF LANDSCAPING DETAILS

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

TRAFFIC MANAGEMENT

17. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent_

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

PRIOR TO ANY WORKS

18. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

DEMOLITION & EXCAVATION

19. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

20. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

CONSTRUCTION MATTERS

21. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

22. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

23. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

24. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

25. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

TREE PROTECTION AND REMOVAL

26. TREE PROTECTION

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

27. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning* and Assessment Act 1979 have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

28. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

29. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repair/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

AD6. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

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This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Alterations and Additions behindored dated 60" (D20" IT published by the Department. This document is available at twee, basix-nsw.gov.au			Type of alteration and My renovation work is valued at \$50,000 or more, and does not include a pool (and/or spa).			0 or more, a).					
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Application No: DA-119/2022

Date Received: 23/08/2022

CALCULATION AREAS

LOT AREA BY SURVEY 794.6m²
Zone R2 Low Density Residential
FSR: 0.5:1 max 397.3m²
MAX HEIGHT 8.5m

EXISTING BUILT AREA: LOWER GROUND FLOOR 259.6m²

GROUND FLOOR

TOTAL EXISTING BUILT AREA 553.7m² EXISTING FSR 0.7:1

294.1m²

ATTIC FLOOR 62.0m²
TOTAL BUILT AREA 615.7m²
PROPOSED FSR 0.77:1

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PROJECT NO: 2032

DATE: JANUARY 2022

PROJECT: 3 PORTLAND STREET

DOVER HEIGHTS

CLIENT: PATRICK WILLIAMS

ISSUE: DA

DRAWING LIST:

A0.00 COVER SHEET (THIS SHEET)
A0.01 SITE PLAN / ROOF PLAN

A1.01 GROUND LEVEL FLOOR PLAN
A1.02 FIRST LEVEL FLOOR PLAN
A1.03 ATTIC FLOOR PLAN

A2.01 SECTION A-A & B-B

A3.01 ELEVATION SOUTH & WEST

DRAWING LEGEND

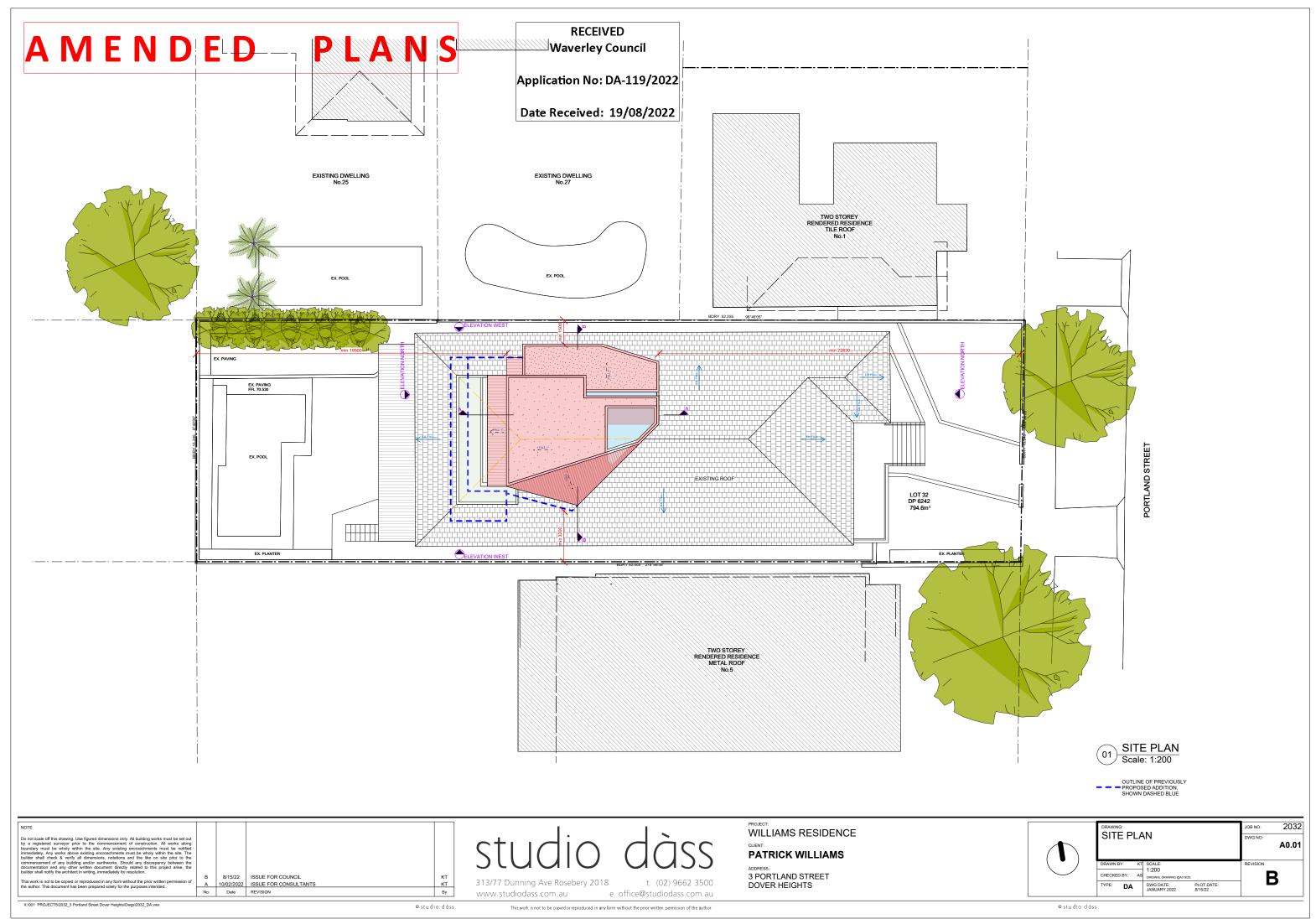
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AWNING WINDOW REDUCED LEVEL SLIDING DOOR SIDE GATE CL CR+P CLADDING CEMENT RENDER AND PAINT CERAMIC TILE CARPET SL SP STRUCTURAL LEVEL STONE PAVING CONC CONCRETE TC TD TF DOWNPIPE TIMBER CLADDING GL GD FD/T FD/A GLASS LOUVRES GARAGE DOOR TIMBER DECK TIMBER FLOOR FOLDING DOOR / TIMBER
FOLDING DOOR / ALUMINIUM TS FW TIMBER SCREEN FIXED WINDOW FG FB FIXED GLASS SMG SLIDING METAL GATE SLIDING DOOR ALUMINIUM CONCRETE ROOF TILES FACE BRICKWORK FLOOR LEVEL CRT STC LAWN METAL RAIL FENCE STONE CLADDING RL FFL RELATIVE LEVEL METAL DECK ROOF FINISH FLOOR LEVEL FINISH CEILING LEVEL

ELEVATION NORTH & EAST

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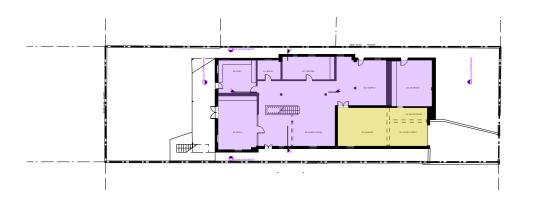
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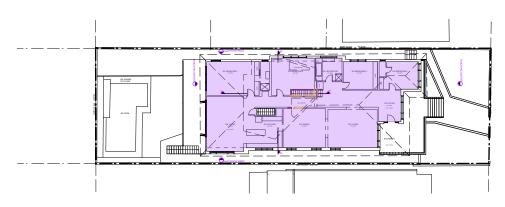


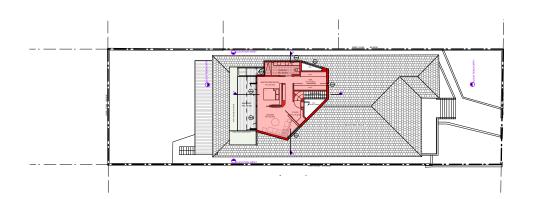
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Application No: DA-119/2022

Date Received: 30/03/2022







LOWER GROUND FLOOR

EXISTING AREA 259.6m2
GARAGE, PATIO AND BIN STORAGE 60.2m2 not included in GFA

TOTAL 259.6m2

GROUND FLOOR

EXISTING AREA 294.1m2

ATTIC FLOOR

PROPOSED AREA 63.8m2

TOTAL GFA EXISTING TOTAL GFA PROPOSED 553.7m2 617.5m2

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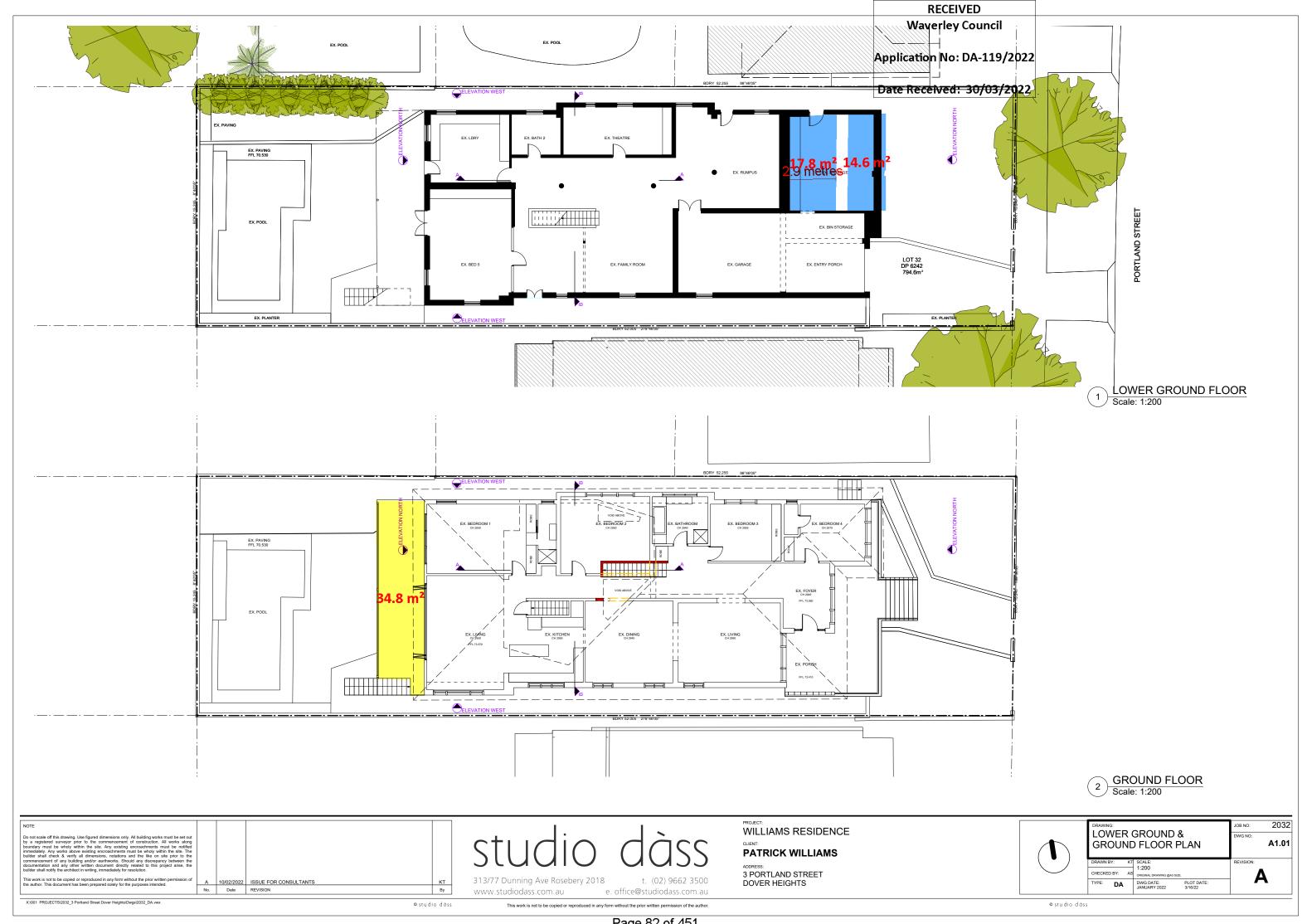
ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS



2032

A0.03

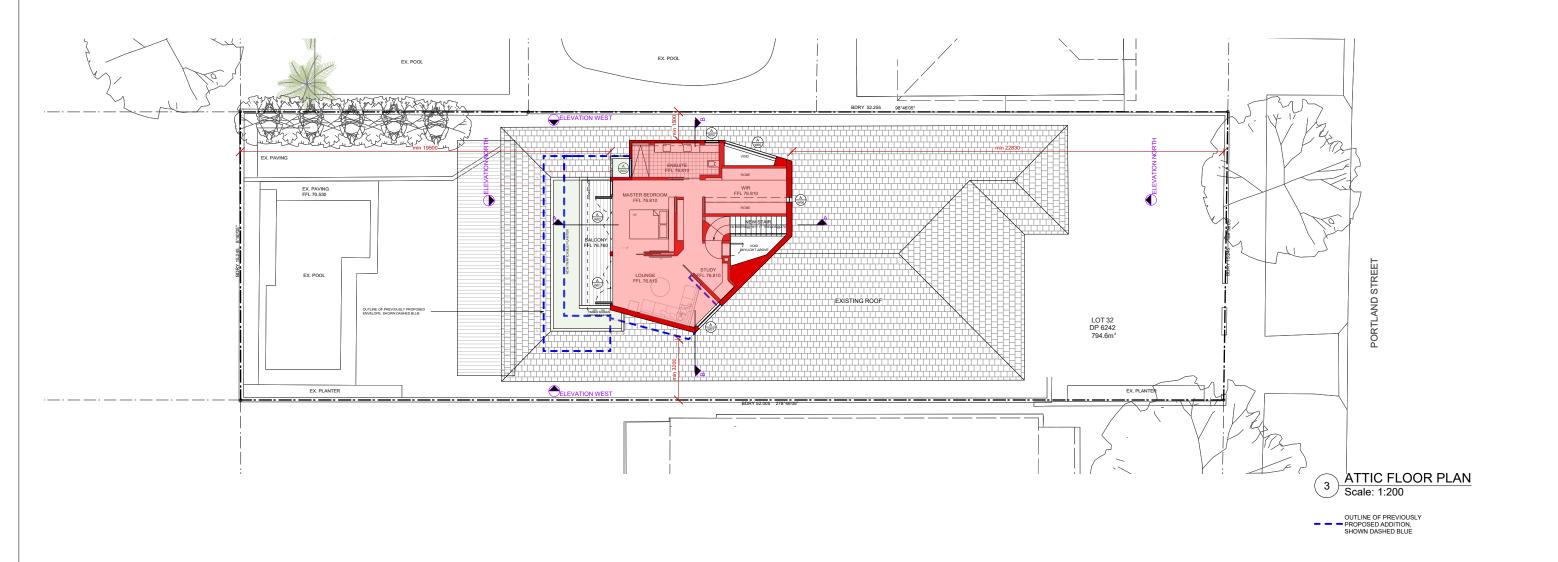
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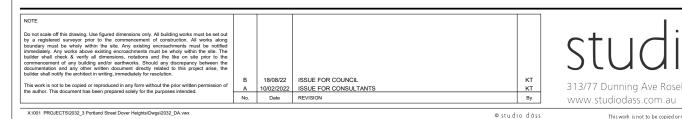


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Application No: DA-119/2022

Date Received: 19/08/2022







PROJECT: WILLIAMS RESIDENCE PATRICK WILLIAMS ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS

DRAWN BY: KT SCALE: 1:200
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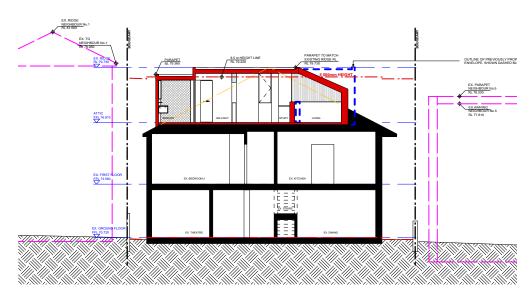
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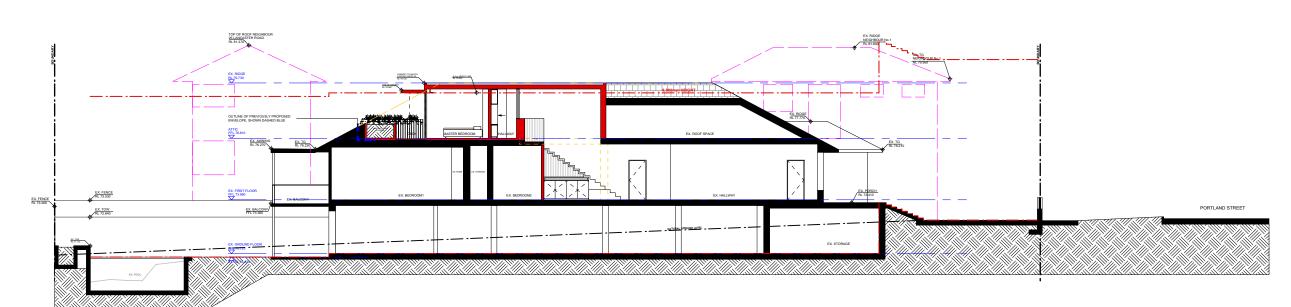
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Application No: DA-119/2022

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2 SECTION B Scale: 1:200



SECTION A Scale: 1:200

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OUTLINE OF PREVIOUSLY
PROPOSED ADDITION,
SHOWN DASHED BLUE

NOTE				
Do not scale off this drawing. Use figured dimensions only. All building works must be set out by a registered surveyor prior to the commencement of construction. All works along boundary must be wholy within the site. Any existing encroachments must be notified immediately. Any works above existing encroachments must be wholy within the site. The commencement only the prior of the standard way to the prior the top of the prior of				
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PATRICK WILLIAMS

PROJECT: WILLIAMS RESIDENCE

ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS

DRAWING:			JOB NO:	2032
SECTION A & B			DWG NO:	A2.01
DRAWN BY: KT	SCALE: 1:200		REVISION:	
CHECKED BY: AS			В	
TYPE: DA	DWG DATE: JANUARY 2022	PLOT DATE: 8/18/22		

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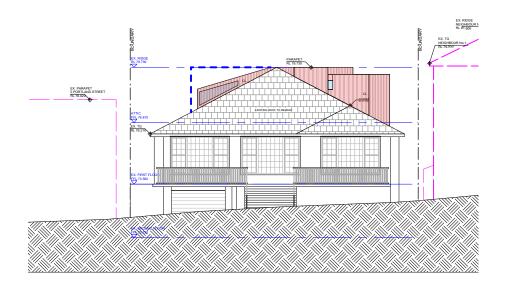
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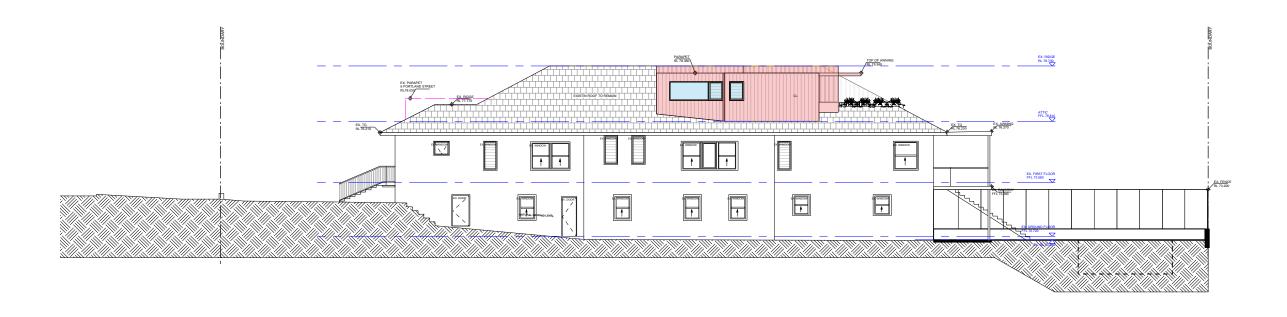
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ELEVATION EAST
Scale: 1:200



ELEVATION NORTH Scale: 1:200

OUTLINE OF PREVIOUSLY
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 No.
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PROJECT: WILLIAMS RESIDENCE PATRICK WILLIAMS

ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS

2032 **ELEVATIONS NORTH & EAST** A3.02 DRAWN BY: KT SCALE: 1:200
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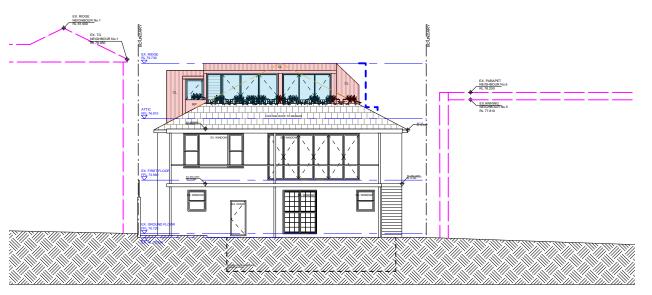
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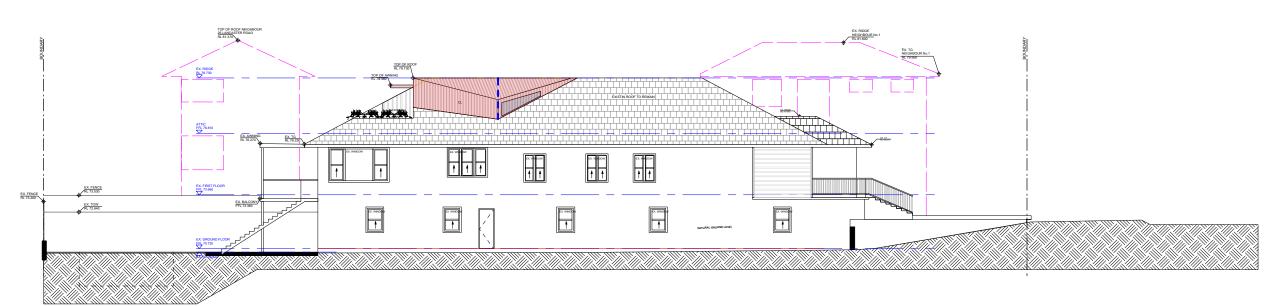
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Application No: DA-119/2022

Date Received: 19/08/2022



2 ELEVATION WEST Scale: 1:200



1 ELEVATION SOUTH Scale: 1:200

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PROPOSED ADDITION,
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PROJECT:
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CLIENT:
PATRICK WILLIAMS

ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS DRAWING:
ELEVATIONS SOUTH &
WEST

DRAWN BY: KT
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TYPE: DA
JOB NO: 2032
DWG NO:
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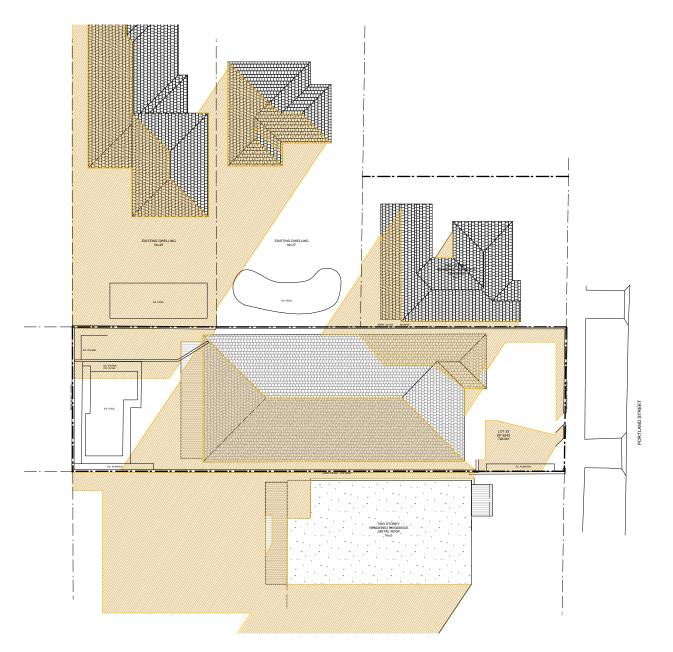
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Application No: DA-119/2022

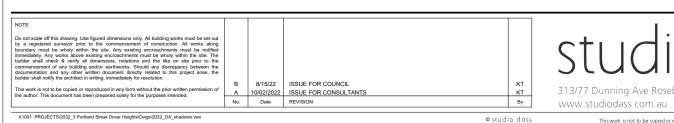
Date Received: 19/08/2022



OUTLINE OF PREVIOUSLY PROPOSED ADDITION, SHOWN DASHED BLUE

EXISTING SHADOWS 21 JUNE 9AM

PROPOSED SHADOWS 21 JUNE 9AM



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PROJECT:
WILLIAMS RESIDENCE
CLIENT:
PATRICK WILLIAMS
ADDRESS:
3 PORTLAND STREET
DOVER HEIGHTS

DRAWING:
SHADOW DIAGRAMS
9am 21 June

DRAWIN BY: KT
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TYPE: DA DWG DATE:
JANUARY 2022 8/15/22

JOB NO: 2032

DWG NO:
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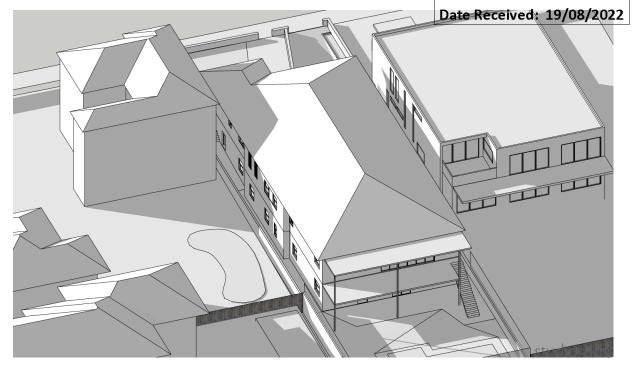
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PLANS AMENDED

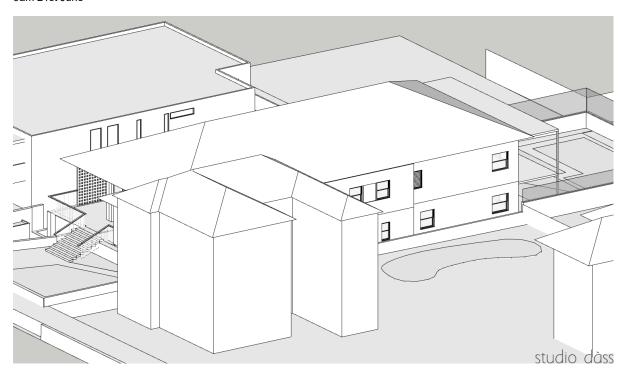
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Application No: DA-119/2022 AXONOMETRY PROPOSED

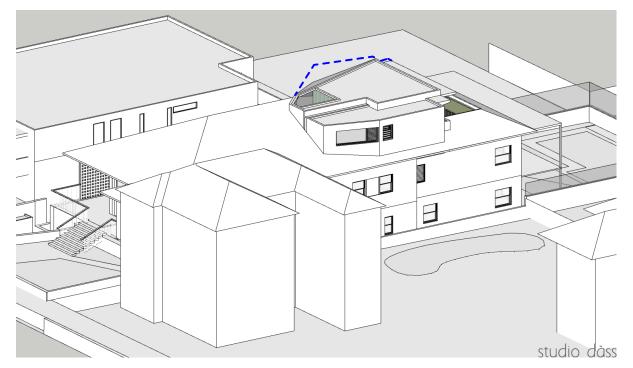




SUN EYE EXISTING CONDITIONS 9am 21st June

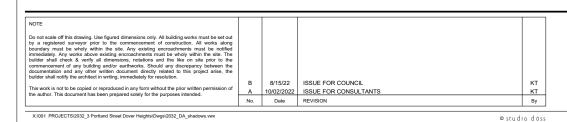


SUN EYE PROPOSED 9am 21st June



SUN EYE DIAGRAM 21 JUNE 9AM

OUTLINE OF PREVIOUSLY PROPOSED ADDITION, SHOWN DASHED BLUE



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PROJECT: WILLIAMS RESIDENCE PATRICK WILLIAMS 3 PORTLAND STREET DOVER HEIGHTS

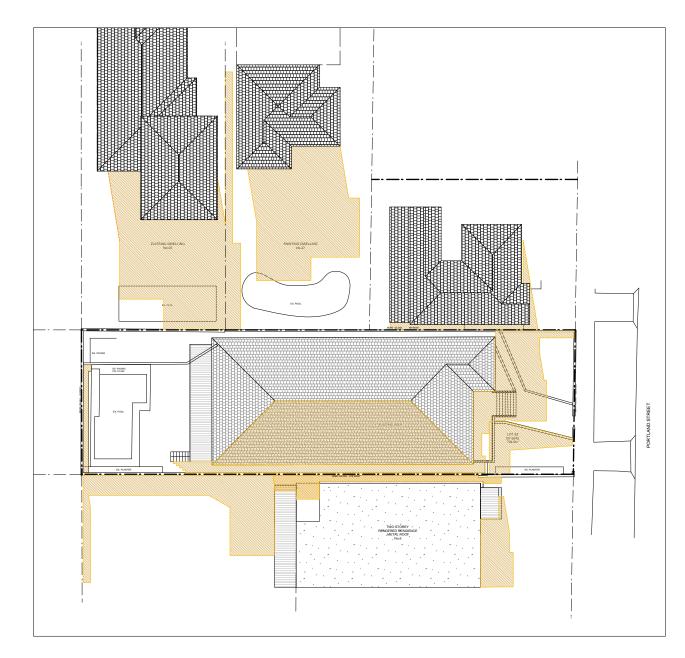
2032 SUN EYE DIAGRAMS A4.04 9am 21 June DRAWN BY: KT SCALE: NTS
CHECKED BY: AS ORIGINAL В TYPE: DA DWG DATE: JANUARY 2022 PLOT DATE: 8/15/22

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Application No: DA-119/2022

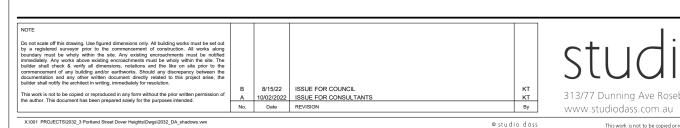
Date Received: 19/08/2022



1 EXISTING SHADOWS 21 JUNE 12PM

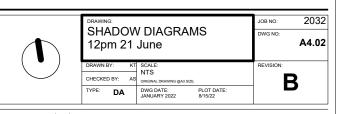


PROPOSED SHADOWS 21 JUNE 12PM



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PROJECT:
WILLIAMS RESIDENCE
CLIENT:
PATRICK WILLIAMS
ADDRESS:
3 PORTLAND STREET
DOVER HEIGHTS



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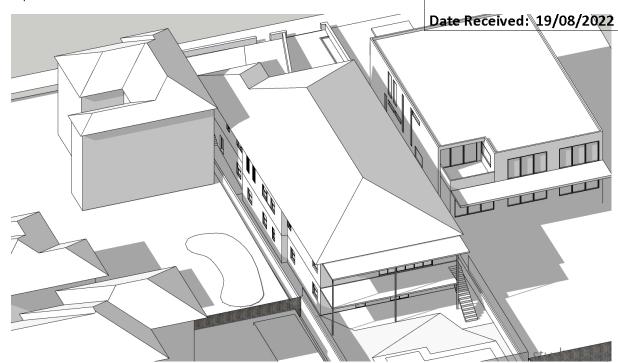
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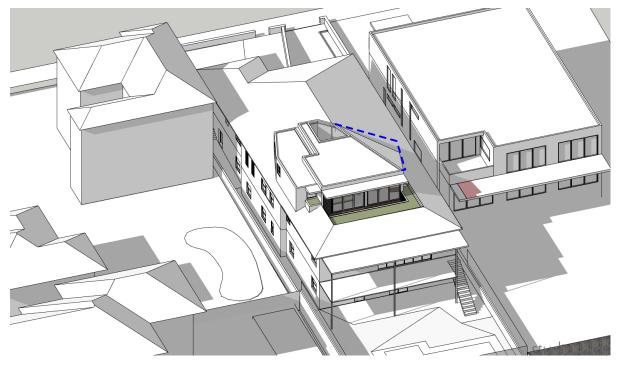
AXONOMETRY EXISTING CONDITIONS

RECEIVED Waverley Council

Application No: DA-119/2022

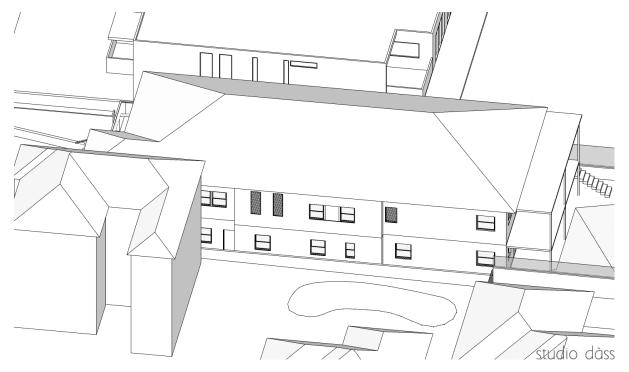
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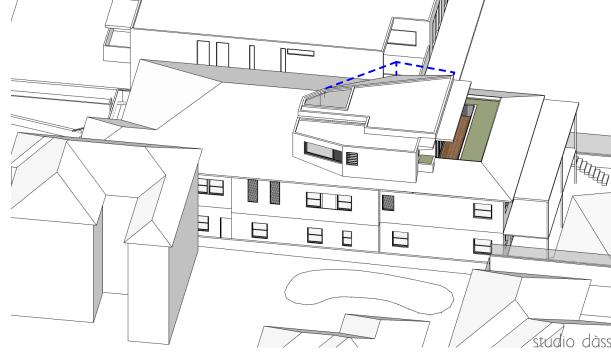




SUN EYE EXISTING CONDITIONS 12pm 21st June

SUN EYE PROPOSED 12pm 21st June





SUN EYE DIAGRAM 21 JUNE 12PM

OUTLINE OF PREVIOUSLY PROPOSED ADDITION, SHOWN DASHED BLUE

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PATRICK WILLIAMS ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS

PROJECT: WILLIAMS RESIDENCE

SUN EYE DIAGRAMS 12pm 21 June В TYPE: DA DWG DATE: JANUARY 2022

2032

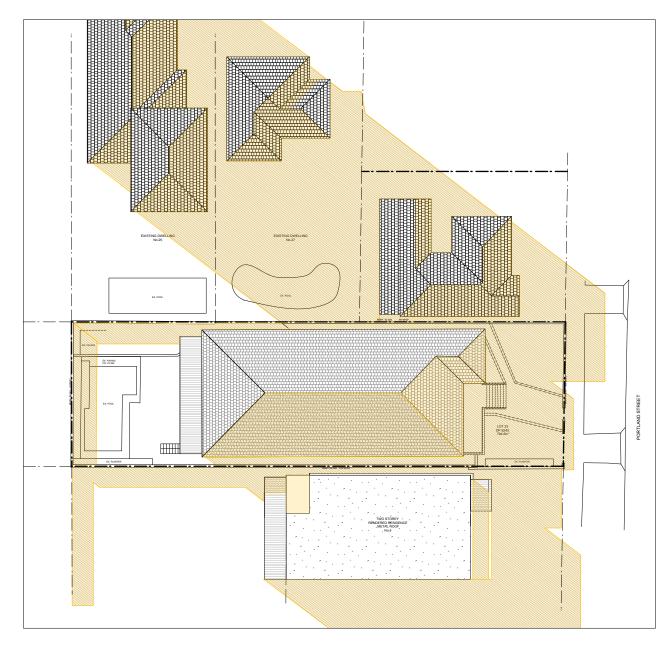
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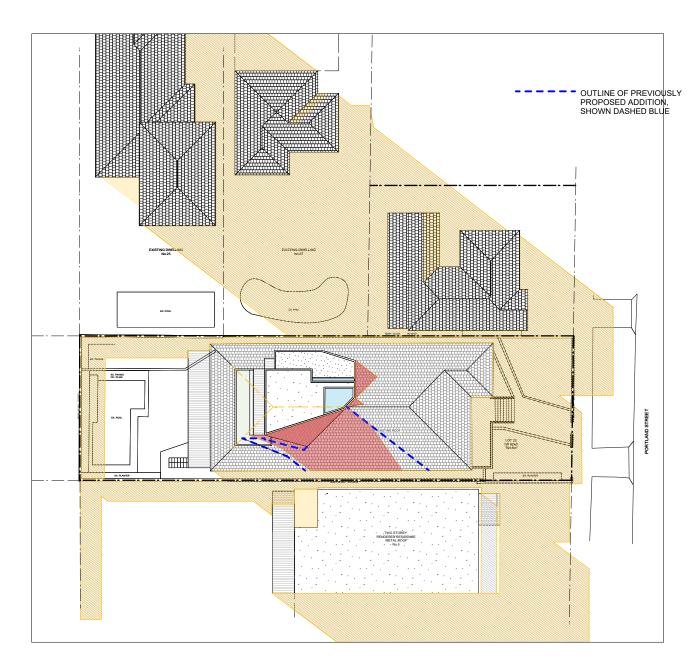
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Waverley Council

Application No: DA-119/2022

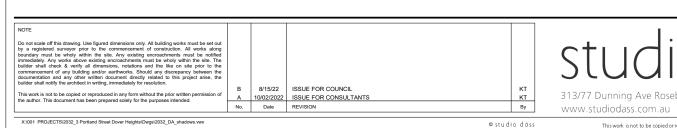
Date Received: 19/08/2022



(1) EXISTING SHADOWS 21 JUNE 3PM



PROPOSED SHADOWS 21 JUNE 3PM



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PROJECT:
WILLIAMS RESIDENCE
CLIENT:
PATRICK WILLIAMS
ADDRESS:
3 PORTLAND STREET
DOVER HEIGHTS

DRAWING:
SHADOW DIAGRAMS
3pm 21 June

DRAWN BY: KT
CHECKED BY: AS
TYPE: DA
DWG DATE:
JOHN DATE:
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BY15/22

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AXONOMETRY EXISTING CONDITIONS

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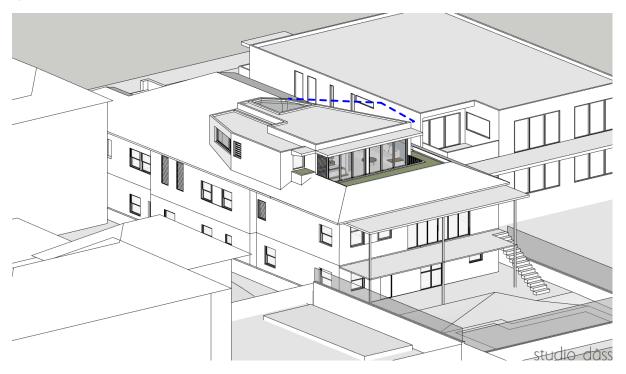
Application No: DA-119/2022 AXONOMETRY PROPOSED

Date Received: 19/08/2022

SUN EYE EXISTING CONDITIONS 3pm 21st June

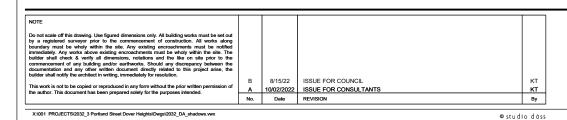
SUN EYE PROPOSED 3pm 21st June





SUN EYE DIAGRAM 21 JUNE 3PM

OUTLINE OF PREVIOUSLY PROPOSED ADDITION, SHOWN DASHED BLUE



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PROJECT: WILLIAMS RESIDENCE PATRICK WILLIAMS ADDRESS: 3 PORTLAND STREET DOVER HEIGHTS

2032 SUN EYE DIAGRAMS A4.06 3pm 21 June B TYPE: DA DWG DATE:
JANUARY 2022 PLOT DATE: 8/15/22

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Report to the Waverley Local Planning Panel

Application number	DA-306/2021			
Site address	35-37 Hall Street, BONDI BEACH NSW 2026			
Proposal	Demolition of building and construction of a new four storey shop top housing building with basement level services, retail on the ground floor and residential units above			
Date of lodgement	6 August 2021			
Owner Kemhall Pty Limited				
Applicant	MHNDU			
Submissions	Original: 2 Amended: Nil			
Cost of works	\$5,210,596			
Principal Issues	 Building Height Landscaped Area Remediation of land 			
Recommendation	That the application be granted a DEFERRED COMMENCEMENT consent in accordance with the conditions contained in the report.			

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application, as amended, seeks consent for demolition of building and construction of a new four storey shop top housing building with basement services, retail on the ground floor and residential units above at the site known as 35-37 Hall Street, BONDI BEACH.

The principal issues arising from the assessment of the application are as follows:

- Building height non-compliance;
- Excavation to western side boundary;
- Landscaped area;
- Satisfaction of SEPP 55 requirements.

The assessment finds these issues acceptable as the exceedance of the building height does not result in any adverse impacts to surrounding properties. Standard conditions are recommended to be imposed with regards to the excavation works. A condition is recommended to be imposed for the entirety of the rear setback area to be genuine landscaping. The requirements of Clause 7 of the SEPP 55 requires the site to be deemed suitable for the intended use and subsequently these aspects are considered appropriate in the circumstances to be dealt with via a Deferred Commencement consent.

A total number of 2 submissions were received in response to the original plans submitted and no submissions were received in response to the amended plans. The issues raised in the submissions have been considered and addressed in this report and in the Recommendation

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for granting of a Deferred Commencement consent to address SEPP 55, along with recommended conditions of consent for imposition once the consent is activated.

1.2. Site and Surrounding Locality

A site visit was carried out on 9 December 2021.

The site is identified as Lot 15, Section 4 in DP 747, known as 35-37 Hall Street, BONDI BEACH.

The site is rectangular in shape with a frontage to Hall Street, measuring 12.19m. It has an area of 583.3m² and is falls from the front towards the rear by approximately 1.55m.

The site located to the northeast side of Hall Street and is occupied by a two storey mixed use building containing two shops at the ground floor level fronting Hall Street and 'Bondi Backpackers'

accommodation at the rear and above. The existing building constructed circa 1938/39 replaced previous Federation period single storey housing. No existing vehicle access is provided to the site.

The site is adjoined by a single storey retail premises (Bondi Hardware – food and drink premises) on the western side and a two-storey former bank building erected circa 1938 (local heritage item) to the east. The locality is characterised by a variety of mixed use and medium-high density residential development and is within the Hall Street Town Centre.

Figures 1 to 3 are photos of the site and its context.



Figure 1: Site frontage to Hall Street (building identified as 'Surfside').





Figure 2: Rear setback area as photographed from the rear of 31 Hall Street.

Figure 3: Rear of existing building as photographed from the roof of 85 Hall Street.

1.3. Relevant Development History

The following recent development history of the neighbouring, heritage listed property, operating as 'Australia Post' office at No 31 Hall Street, Bondi Beach is applicable to the assessment of the subject application:

• DA-305/2021:

A development application (DA) at 31 Hall Street was lodged concurrently with the subject application. This DA at 31 Hall Street proposed alterations and additions to the existing building, including demolition of the rear section and outbuilding and the construction of a new five storey shop top housing development to the rear. The new rear addition comprised of basement level services, new ground floor commercial/retail premises and residential apartments above (4 levels of apartments). The front section of the building onsite (heritage listed property now trading as 'Australia Post' office) remains unchanged.

The two proposals (31 Hall St and the subject proposal at 33-35 Hall St), were designed by the same architectural firm (though the sites remain under different ownership). At 31 Hall Street, the existing heritage listed building has a nil northern setback and a 1.3m southern setback. As part of the proposal at 31 Hall Street, a pedestrian access way was provided along the southern setback to a lobby and entry court providing access to the new rear portion of the site. This access way and court well is adjacent to the pedestrian arcade proposed in the current scheme for the subject DA.

The applicant for this adjacent DA at 31 Hall Street lodged a deemed refusal with the Land and Environment Court. As part of the appeal process, amended plans have been filed and the matter progressed to a hearing (23-25 May 2022). On the 27 July 2022, an Interim Judgement was handed down by Commissioner Horton with the following directions:

For the reasons set out at [107], I consider it appropriate to direct parties to provide the Court with certain documents to permit the final consideration of matters in accordance with s 4.15 of the EPA Act and, if appropriate, the final form of conditions of consent.

The Court directs that:

- (1) Within 21 days of these orders, the Applicant is to file and serve a Detailed Site Investigation of the land concerned carried out in accordance with the contaminated land planning guidelines, and
- (2) Within 28 days of these orders, the parties are to provide the Court with agreed conditions of consent responsive to the preliminary findings in this decision and incorporating any recommendations resulting from the further investigation at order (1).

Therefore, at the time of finalising this assessment, the final determination for DA-305/2021 at 31 Hall Street has not been made.

1.4. Proposal

The development application, as amended, seeks consent for demolition of building and construction of a new four storey shop top housing building with basement level services, retail on the ground floor, 10 \times 1 bedroom units and 3 \times 2 bedroom residential units located above. The development specifically involves the following:

Basement Level

 Excavation for a basement to accommodate bike storage, mechanical plant, accessible WC and bin storage.

Ground Floor Level

- Construction of two retail spaces separated by an internal courtyard that has lift and staircase access to the residential units above and basement level below.
 - Retail tenancy 1: 130m²
 - Retail tenancy 2: 145m²
- Construction of a pedestrian arcade along the eastern side boundary (adjacent to 31 Hall St).
- Courtyard and communal open space area provided at rear of Retail Tenancy 2 within the rear setback area.

First Floor Level

Construction of 4 x 1 bedroom units (2 units to the frontage, 2 units to the rear).

Second Floor Level

- Construction of 4 x 1 bedroom units (1 unit to the frontage, 3 units to the rear);
- Construction of 1 x 2 bedroom, 2 bathroom unit located at the front of the site.

Third Floor Level

- Construction of 2 x 1 bedroom unit located at the front and rear of the site.
- Construction of 2 x 2 bedroom, 2 bathroom units (1 unit to the frontage, 1 unit to the rear);

Roof

- Area for PV panels
- Location of ducts and AC units identified
- Installation of 3 skylights.

1.5. Background

The development application was lodged on 6 August 2021 and deferred on 30 September 2021 for the following reasons:

- 1. Amenity
 - (a) Solar access non-compliance.
 - (b) Privacy to bedrooms facing internal courtyard.
- 2. Setbacks
 - (a) Rear setback to comply with Hall Street Town Centre controls.
 - (b) Side setback should only be nil for first 10m of the development.
- 3. Streetscape and relationship to adjoining heritage item
- 4. Excavation to be setback 1.5m
- 5. Acoustic report to be submitted
- 6. One bicycle parking space on the ground floor for visitors to be provided
- 7. Design Excellence Advisory Panel (DEAP) recommended amendments relating to:
 - (a) Amenity
 - (b) Sustainability
 - (c) Landscape
 - (d) Safety & Security
 - (e) Communal Open Space
 - (f) Aesthetics

- 8. Documentation addressing the requirements of SEPP 55 (Remediation of Land) to be submitted for assessment by Environmental Health
- 9. Waste Management
- 10. Stormwater

Amended plans and documentation were submitted on 13 December 2021 however, they did not adequately address the comments raised in Council's letter. In particular, further amendment was required to be made to the side setbacks of the building and its relationship to the adjoining heritage item.

Discussions were held between Council and the applicant regarding the side setback where the following had to be provided as a compromise as communicated via email on 22 July 2022:

A setback is to be provided to the front eastern portion of the development to ensure a clear separation from the Heritage Item. Therefore, Council is willing to accept the development for the full width of the site on the basis that further consideration is given to the heritage of the adjoining property and the amenity of the proposed units.

- Specifically, Council is willing to accept development the full width of the site, provided that the screened corner element of the balconies is either setback from the street frontage (a minimum of one metre) and/or curved/chamfered around into the arcade. Setback of the proposed 'screened' corner to the new building is recommended as a means of maintaining visual prominence of the return cornice to the adjacent listed building and to enhance the establish form of the listed building.
- Council is also only willing to accept development the full width of the site if the amenity of the units is improved. As raised in the original deferral letter, this will require a number of units to be amalgamated.

The applicant proceeded to formally lodge amended plans and documentation on 6 August 2022 that went towards addressing Council's concerns. The following assessment report is based on some material from the amended documentation submitted on 13 December 2021 as well as further amended plans submitted on 6 August 2022. How the applicant has addressed Council's concerns is discussed in this report.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004.
- SEPP 55 Remediation of Land (since repealed Savings provisions apply)
- SEPP 65 (Design Quality of Residential Apartment Development).

A detailed discussion is provided for relevant SEPPs as follows:

SEPP 55 Remediation of Land

Clause 7 of the SEPP 55 requires Council to consider whether a site is contaminated. Part of the site is currently used as backpackers accommodation, and is therefore not currently used for residential accommodation and may be contaminated. Therefore, the provisions of SEPP 55 apply to the application.

Council's Environmental Health Officer has reviewed the additional document submitted, by eiaustralia Preliminary Site Investigation Report Number: E24953.E01_Rev0 dated 26 November 2021 and has provided the following comments:

The report does not conclude that the site can be made suitable of the proposed use. Further investigation is required as per section 6 of this report. Including a stage 2 Detailed Site Investigation which is:

1. The document is to be peer reviewed by a NSW EPA accredited site auditor, a letter/interim advice from the accredited site auditor stating that the RAP is practical & will result in the site being made suitable for the intended use.

or

2. A Site Audit Statement prepared by a NSW EPA accredited site auditor clearly stating that the site is/or will be suitable for the intended use.

Note: Notwithstanding the above, a Site Audit Statement prepared by a NSW EPA accredited Site Auditor clearly stating the site is suitable for the proposed use must be submitted prior to commencement of work. This information is required prior to development consent being granted.

Therefore, the consent authority must be satisfied that the site can be made suitable for the intended purposes, as part of its assessment, prior to the granting of consent. In this respect, it is recommended

that this issue be dealt with as a Deferred Commencement to ensure these aspects are satisfied prior to the activation of the consent. This is consistent with Council's approach towards similar development in this respect.

SEPP 65 (Design Quality of Residential Apartment Design)

The plans originally lodged with the application were referred to the Waverley Design Advisory Excellence Panel (DEAP) on 8 September 2021. The DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment are set out in **Table 1** of this report.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment	Planning Comment
1. Context and Neighbourhood	 The streetscape response has a strong parapet line that recognizes the heritage item (Australia Post) next door and various 3 storey conservation zone buildings further east. While there is a complementary height relationship the new façade is deliberately contemporary, and the opportunity has been taken to successfully use the access laneway void to define the separation of new and old built forms and expression. With the scope to open up the interior of the site for active ground level uses, this laneway access is a shared passage that will require consideration of the range of retail and residential users at different times of day and night with consequent management and amenity issues. At the rear of the site there are residential units in a 2 storey building, and an adequate setback for deep soil zone and landscaping has been allowed to create a necessary buffer. 	The comments by the Panel are noted. A condition is recommended to be imposed for greater landscaped area to be provided in the rear courtyard.
2. Built form and Scale	The strongly expressed contemporary built form to Hall Street is considered a satisfactory response, but it was questioned whether this had been analysed adequately in terms of ADG	The application has been amended to comply with solar access requirements that is acceptable.

Principle	Panel's Comment	Planning Comment
	compliance for solar access to the units facing Hall St. With reliance on skylights and side wall niches that could be built out, it was recommended that an alternative unit layout or duplex arrangement over 2 levels might enable a more compliant outcome. • Location of bedrooms adjacent to the central courtyard would create amenity conflicts due to access adjacent, so further review of the lift and stairwell could improve their amenity while enabling a more open and appealing stair that would encourage use instead of the lift. • Ground level retail at the rear was of concern in terms of the type of tenant that might attract, and also create conflicts in use of the rear communal space. • There are large areas of side boundary walls on the west that would be visible from adjacent properties and public domain, and more resolution of these facades is required.	 The arrangement of access to the units has been amended to reduce the transmission of noise to the bedrooms located adjacent to the internal courtyard. The location of the lift and stairwell have also been amended. The issues raised by The Panel have therefore been resolved. The future use of the retail tenancy at the rear would be subject to a future DA. No amendments to the use of materials on the western side façade have been made in response to this comment made by The Panel. The use of materials is considered to be consistent with other recent approvals in the immediate area such as 43-45 Hall Street and the proposal is therefore not considered to be incompatible with the streetscape.
3. Density	 The proposed increase in density is achieved within the FSR control and height limit, and a limitation to only 1 bedroom units appears acceptable given the market and liveability conditions in this location. No parking is proposed this is supported, with allowance for bike parking as shown in a secure basement storage and good 	A greater unit mix has now been provided with the amended plans.
4. Sustainability	 access to local amenities and transport. Indicated location of A/C condensers on balconies may be acceptable subject to acoustic 	Standard conditions are recommended to be imposed on the consent to ensure

Principle	Panel's Comment	Planning Comment
	 compliance and detailing of enclosures. Provision of ceiling fans to living and bedrooms is supported. Allowance for solar PV Cells on roof to power common areas is supported. Rainwater capture for use in irrigation would be encouraged. 	sustainability features of the development are compliant.
5. Landscape	 While the side, central and rear landscaping is limited in terms of deep soil provision, there appears to be potential for a reasonable outcome that can benefit the residents and tenants if integrated as proposed and maintained adequately. Scope for green walls to 	 A condition is recommended to be imposed for additional landscaped area to be provided. The applicant has not opted to
	complement the perimeter landscape areas is encouraged.	provide green walls.
6. Amenity	 Concern was raised about the potential conflicts between residential and hospitality retail, and further understanding of acoustic and servicing requirements is needed. Provision for natural cross 	An acoustic report has been submitted with the amended application that has been reviewed and is discussed further in this report.
	ventilation appears reasonable but would be contingent on windows being open to possible noise sources unless retail uses are subject to limited times.	
7. Safety	 A thorough CPTED study and report is required to ensure that any impacts from the restricted laneway access does not create security issues. Location and potential impacts 	The applicant has provided the following response to accompany the amended plans: Shared access to a mixed use development's lobby and courtyard
	from a possible substation must be considered.	areas is the predominant and safest integration of residential and commercial uses in these localities. Access to the upper level residential areas is via a lift and/or stair that will be swipe key (or similar) access only, restricting commercial visitors to enter private areas. There is also an access gate at the front of the site that will be closed outside of commercial trading hours that allows resident access with

Principle	Panel's Comment	Planning Comment
		similar swipe key access outside of those times. The design of the building allow these details to be reconciled as part of the CC documentation and market delivery of the project. This reasoning is considered to be acceptable. Advice from Ausgrid has been submitted confirming that no
8. Housing Diversity and Social Interaction	 While limitation to just single bedroom units may be acceptable in the market for this location, some provision for a few 2 bedroom units might be possible if there is a duplex configuration on the upper level facing Hall Street. Provision for COS to the rear courtyard does not appear adequate for the density, and more allocation or clarification is needed on how this would be addressed. 	 A greater unit mix has been provided with amended plans. The following response has been provided by the applicant in response to the communal open space: The building is well serviced with communal areas in addition to the excellent proximity to recreation areas in Bondi Beach and the Hall Street Local Centre. In addition, each unit is provided with independent private open space areas. Hall Street is an area of high local resident engagement and interaction. This attribute, along with the communal areas provided, offer excellent social engagement opportunities such that the proposal meets the ADG criteria. The reasoning provided by the applicant is agreed with and the amended scheme has allowed for a secondary private open space area to be provided for the units to the internal courtyard.
9. Aesthetics	The contemporary expression on Hall St and along the east elevation is supported but may not be necessary for the rear north	The following responses have been provided by the Applicant that is considered satisfactory: • The projects have been designed to
	facing façade where solar access is more critical. Treatment of the retail access and laneway appears well resolved but will require further detail on	be constructed either independently or together. Their integration is not a prerequisite to their individual success. If combined, the physical work to achieve this would be the removal of a portion of the central dividing

Principle	Panel's Comment	Planning Comment
	 integration with the site at 31 Hall St if that proceeds in parallel. Scope for inclusion of some form of urban art to the laneway would be encouraged, with potential involvement of indigenous contributions related to the area. 	fence and potential cross easements that would be a civil matter post development. There is scope to investigate (public art) during detailed design development as part of the Construction Certificate process.

Apartment Design Guide

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment
3F Visual privacy		
 Min separation distances from buildings to side and rear boundaries: Up to 12m (4 storey) – 6m habitable & 3m non-habitable Increased separation of 3m where adjoins a lower density zone 	Yes	The development is located within the Hall Street Town Centre where development to the side boundaries for shop-top housing is permitted. The development is adequately equipped with screening and has been considerably setback from the rear that is an R3 zone to enhance privacy for surrounding residents.
4A Solar and daylight access		
 Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight 	Merit Assessment	9 of 13 units (70%) units receive at least 2 hours solar access during mid-winter however, 4 units located at the front of the site receive no direct solar access (30%) during mid-winter. This is considered to be acceptable due to the lot

Design Criteria	Compliance		Comment	
between 9am-3pm mid- winter • A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.		therefore unavous made to combin 70% solar access that is considered units that do not dual aspect be development its. The proposal is objectives of the combine to the co	oidable. Amendne units to achieve s for 2 hours do ed acceptable. For receive any direct ut are overshalelf. The consistent with its part of the Allies is satisfactory a	pattern and is nents have been we a minimum of uring mid-winter furthermore, the ct sunlight are all adowed by the the remaining DG ensuring that and incorporating
4B Natural ventilation				
 All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: At least 60% of units naturally ventilated 	Yes	one window • All units have units can be The proposal use openable door	for natural vent ve dual aspects naturally cross v ses a combination s, skylights and ieve appropriate	and 100% of the
4C Ceiling heights				
Habitable rooms – 2.7mNon-habitable rooms – 2.4m	Yes	The ceiling heigh minimum requir		s comply with the
4D Apartment size and layout				
The following minimum internal areas apply: • Studio = 35 m ² • 1 Bed = 50 m ²				n excess of the as summarised
• $2 \text{ Bed} = 70 \text{ m}^2$		Unit No.	Config.	Internal Area
• Add 5m ² for each		Unit 1	1 bed 1 bath	57m²
additional bathroom		Unit 2	1 bed 1 bath	57m ²
(above 1)		Unit 3	1 bed 1 bath	60m²
		Unit 4	1 bed 1 bath	55m ²
Every habitable room must have		Unit 5	1 bed 1 bath	51m ²
a window in an external wall	Yes	Unit 6	1 bed 1 bath	51m ²
with a total minimum glass area		Unit 7	1 bed 1 bath	51m ²
of not less than 10% of the floor area of the room.		Unit 8	1 bed 1 bath	55m ²
area of the room.		Unit 9	2 bed 2 bath	94m ²
		Unit 10	2 bed 2 bath	94m ²
		Unit 11	1 bed 1 bath	50m ²
		Unit 12	2 bed 2 bath	75m ²
		Unit 13	1 bed 1 bath	55m ²
		In this regard, th are acceptable.	e proposed units	s sizes and layout

Design Criteria	Carali	
Design Criteria	Compliance	Comment
		The Applicant states the proposal achieves compliance with the minimum glazed area to each habitable room.
		All bedrooms meet the minimum requirements in terms of dimensions and area.
		All kitchens are separate to the circulation spaces.
		All robes are a minimum of 1.5m.
		The proposal is consistent with the objectives of this part of the ADG.
4E Private open space and balco	nies	
All apartments provide primary balcony as follows: • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth		100% of the units are provided with a balcony accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.
	Yes	The primary balconies are accessed from the main living area. The units at the rear of the site have their primary balconies facing north and the units at the front of the south have their primary balconies facing south to Hall Street. The two bedroom units to the front of the site are provided with a secondary private balcony to the internal courtyard that faces south. This is considered to be acceptable due to the siting and lot orientation.
		The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The finishes of the balconies is consistent with the contemporary palette of materials in the building overall. Screens are provided to enhance privacy.
4F Common circulation and space	es	
Max of 8 units accessed off a circulation core on a single level	Yes	A maximum of 5 units is proposed on a single level.
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided: • 1-bed – 6m ³ • 2-bed – 8m ³	Yes	The proposal provides separate storage within each apartment and a storage cage including bike storage located in the basement. The storage provided meets the requirements and objectives of the ADG. Condition imposed to ensure compliance in this respect.

2.1.2. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
Part 2 Permitted or prohibited development		
2.6 Subdivision – consent requirements	N/A	Strata subdivision is not sought as part of this application.
Land Use Table B4: Mixed Use Zone	Yes	The proposal is defined as shop-top housing, which is permitted with consent in the B4 zone.
Part 4 Principal development star	ndards	
4.3 Height of buildings • 13m	No	Height: 13.62m (front building roof at rear) Variation: 620mm (4.8%)
 4.4 Floor space ratio FSR: 2:1 GFA: 1,166.6m² 	Yes	Proposed GFA: 1,111m ² Proposed FSR: 1.9:1
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the building height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site adjoins an item of local heritage significance and the amended proposal was referred to Council's Heritage Advisor for comment. See discussion below.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	Earthworks to a depth of 2.93m are proposed to construct a basement level below the front portion of the development. The proposed excavation is not considered to adversely impact upon environmental processes or surrounding properties. The proposed earthworks are discussed further in this report.
6.9 Design excellence	Yes	The site is on land identified as a 'key site' and the application was referred to the DEAP who supported the proposed design. Amendments have been made to the design of the development to better relate to the streetscape and its context adjacent to a heritage item at 31 Hall Street. The unit mix of the proposal has been diversified. The proposal is not considered to result in any unreasonably environmental amenity impacts to surrounding properties and is of an acceptable

Provision	Compliance	Comment
		bulk and scale. Therefore, the development is
		considered to maintain design excellence.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum building height development standard of 13m. The proposed development has a maximum building height of 13.62m as measured at the north-western corner of the front building, exceeding the standard by 0.62m equating to a 4.8% variation. Other minor variations are as follows:

- the eastern parapet 170-270mm (1.3-2%);
- the stair core on the western side 125mm (0.96%); and
- the roof towards the rear 65mm to 80mm (0.5-0.6%).

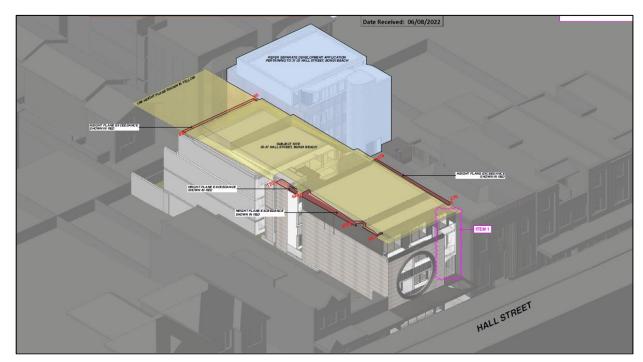


Figure 4: Height plane diagram submitted with the application demonstrating the areas in breach of Council's maximum building height limit in red.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

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 environmental amenity of the adjoining properties is preserved. The solar access assessment by the architects demonstrates that the areas of non-compliance with the standard cause no further impact on the neighbouring properties than would otherwise be afforded by strict compliance with the controls. The negligible additional overshadowing falls onto the roof of the adjoining heritage item and the side wall of the proposed building to the east, in addition to self-shading of the subject site's roof. This negligible and indiscernible impact does not unreasonably impinge of the amenity of these properties.
 - (ii) Privacy is preserved to the extent anticipated by the controls, with all balconies and windows proposed below the height standard. There are no further visual privacy impacts and no greater outlook to adjoining properties caused by the variations.
 - (iii) In relation to the preservation of views, there are no views available over the site that are impacted by the proposed built form, inclusive of limited areas where there is a technical breach of the standard. This is due to the topography of this section of Hall Street and the taller buildings towards the east on Gould Street and Campbell Parade which terminate the eastern vista.
 - (iv) The proposed development would also still allow the adjoining property to the west to be redeveloped with a building envelope that maximises the development potential of the property, noting it would provide the completion of the built form for this section of Hall Street, between this proposed building and the development site to its west at 43-45 Hall Street which is under construction.
 - (v) Similarly, the adjoining property to the east can be redeveloped and maximise the potential on their site, as is explored in the concurrently lodged application on that site by the same architects and team as this proposal.
 - (vi) The preservation of the environmental amenity of public spaces is specifically facilitated by the proposed development and respect to the built form controls in the WDCP which anticipate a 3 storey street wall and a fourth level that is set back behind the parapet. The building height complies with the standard as viewed from the street, as well as these WDCP controls.

- (vii) The parts of the building that contravene the height standard will not be visible from in front of the site. They may be available at oblique angles in Hall Street to the west as viewed over the neighbouring site (and only whilst that site remains undeveloped) however they are the result of technical non-compliance from the sloping side passages and the building will appear to have a consistent height from the public domain one that complies at the street frontage. The slope of the site towards the rear does not cause a casual observer to distinguish a height breach, nor does it represent an unreasonable or jarring height in the context of the surrounding buildings.
- (viii) Hall Street is predominantly three storeys, but does contain some elements of four-storey forms with similar heights as the proposal, including the four storey podium of the Adina development at 61-69 Hall Street and the approved development at 43-45 Hall Street to the west of the site.
 - (ix) Based on the height of buildings development standard and the building envelope diagram in Annexure E3-3 of the WDCP, the desired future character of the Hall Street Town Centre is a street wall of three storeys with a parapet and a fourth storey over set back from the street façade. This description was the agreed position of the Council's expert and Applicant's experts, endorsed by Commissioner O'Neill, in the judgement at 43-45 Hall Street (see paragraphs 43-44).
 - (x) The proposed building form follows the building envelope controls in the WDCP which ensures it is compatible with the desired future character of the Hall Street Town Centre. The scale of the building is commensurate with surrounding approved and existing development, and will facilitate an appropriate infill development on the adjoining sites to the west that will conclude an arrangement of building envelopes for this section of the street. This is illustrated overleaf.
 - (xi) The proposal positively contributes to the physical definition of the street network and public spaces, through its presentation of a street wall and upper level setback as per the WDCP, as well as an active street frontage.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The aspect of the development that contravenes the standard provides is in accordance with the building envelope controls in the WDCP and provides the best response to the site to achieve satisfaction of the height standard and zone objectives whilst also complying with the FSR development standard.
 - (ii) The variation is caused by sloping components of the site that are not discernible by the casual observer and cause the edges of the building to exceed the controls whereby the principal form at the relative levels does not.
 - (iii) The set back nature of the uppermost level is visually recessive and indiscernible from the street.
 - (iv) The materials, finishes and setback are respectful and responsive to the building envelope controls in the WDCP as well as the heritage significance of the adjoining site to the east, noting that site is being proposed for redevelopment concurrently by the same project team and architects to provide a cohesive development across two properties.

- (v) The proposal promotes the economic use and development of the land and the sustainable management of built heritage with regards to its design integration with the adjoining property to the east, (1.3(c) and 1.3(f) of the EP & A Act).
- (vi) The design satisfies the Object 1(g) of the EP&A Act 1979 which seeks to promote good design and amenity of the built environment.
- (vii) The scale of the building is consistent with building envelope controls outlined in the DCP that dictate the future desired character, particularly with regards to the preservation of a 3 storey street wall form to Hall Street.
- (viii) The scale of the building is consistent with the part 4/ part 5 storey buildings to the west of the site, inclusive of the recent Land and Environment Court approved development at 43-45 Hall Street.
 - (ix) That despite the non-compliance, the building satisfies the objectives of the development standard and the zone.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and

(e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is considered to be adequate justification as is it agreed that the proposed breach of Council's building height limit for portions of the roof parapet would not add any significant bulk and scale to the building and is compatible with other development in Hall Street. No adverse amenity impacts result from the proposed breach. The development is generally consistent with Council's controls for development within the Hall Street Town Centre as discussed in detail in this report.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The reasoning provided is generally agreed with and it is reiterated that the development is consisted with the desired future character of the Hall Street Town Centre.

Is the development in the public interest?

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

The objectives of the building height development standard are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.

The proposed breach of Council's maximum building height development standard results from a small portion of the roof parapet whereby majority of the development maintains compliance with Council's control. The proposed breach would add significant scale to the building when viewed from Hall Street and surrounding properties and does not result in adverse amenity impacts to surrounding properties as discussed in detail throughout this report.

The proposed breach does not compromise the ability of the development to meet the objectives of the building height development standard as it enables a suitable mixed use development to be provided on

site that has a high level of internal amenity for occupants and visitors. Therefore, the proposal is consistent with the objectives of the development standard and is satisfactory in this regard.

The objectives of the B4: Mixed Use Zone are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The proposal meets the objectives of the B4: Mixed Use Zone and is consistent with the desired future character of the Hall Street Town Centre.

Conclusion

For the reasons provided above the requested variation to the building height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of building height development standard and the B4 zone. The proposal generally complies with the building height control, with the exception of small portions of the roof parapet. Variations that result from roof elements including lift overruns is not uncommon in this locality and is evident in other examples in the vicinity. The variance is minor and located in parts of the roof where any associated impact is negligible.

Clause 5.10 Heritage

The adjoining former Commonwealth Bank building to the east of the site, constructed in Egyptianate/Art Deco Inter- War Style, is listed as an Item of local heritage significance in WLEP 2012 and retains significant internal and external detailing and streetscape contribution. The amended proposal was referred to Council's Heritage Advisor who provided the following comments:

- The existing building on the subject site of 35-37 Hall Street forms part of a cohesive streetscape, but is not identified as of heritage significance.
- The amended proposal continues to engender a strong streetscape addition particularly in the proposed 'oculus' opening to the street elevation. This is a device with a long history of application appearing regularly in the later Modernist works of 20th Century Architects Louis Kahn and Mario Botta and in Sydney within Post Modern interpretations including the UTS Law School Sydney and a commercial office building at Gordon.

- The amended street elevations, with a recess at the interface with the listed building to the east, is considered to better enhance the three dimensional qualities of the Egyptianate Inter- War Bank building at 31-33 Hall Street, enabling views of the northern return side of the elevation from the street
- The proposed 'oculus' opening to the street elevation appears more resolved in terms of dimensions and the related street awning.
- Articulation to the street facade now provides a more cohesive relationship with the adjacent form and articulation of 31-33 Hall Street.
- It is noted that the perspective image of the proposal included in the amended application appears to show the original design and not the amended development.
- Other aspects of the proposal likely to impact on the listed building are inherently linked to the proposed usage and servicing of the development. These remain noted as:
 - Potential for the colonnade to be obstructed limiting access to the rear areas of the subject and adjacent listed site.
 - Impact of garbage disposal provisions on both sites including bins occupying extensive areas of the footpath on garbage pick-up days.
 - Signage
 - Fire egress provisions from the proposed development given the indicated seating along the colonnade
 - Security and safety lighting
 - o Acoustic impact.

The above comments by Council's Heritage Advisor are noted and agreed with. It is noted that the perspective image provided by the applicant does not reflect the amendments made to the eastern side setback as shown in plan form however, an updated perspective has not been requested as this diagram is not to be stamped. Therefore, the amended scheme is considered to remain sympathetic to the adjoining heritage item.

2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Recommended Conditions	Council's Sustainable Waste Manager has reviewed the proposal and has noted that the DA proposes a huge number of bins for street collection. Council's Waste Manager therefore only supports the proposal if the residential and commercial bins are presented on separate days. Conditions are recommended to be imposed to reflect this concern.

Development Control	Compliance	Comment
2. Ecologically Sustainable	Yes	Satisfactory.
Development 3. Landscaping and		
Biodiversity	Yes	Satisfactory.
5. Vegetation Preservation	Yes	There are currently no trees on site. Council's Tree Management Officer has reviewed the Arborist report submitted with the application and has noted that as the existing site is at a lower RL to the neighbouring properties and has a concrete slab, there will be no impact to the roots of neighbouring trees. Standard conditions for tree protection are recommended to be imposed.
6. Stormwater	Recommended Conditions	Unsatisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
7. Accessibility and		Satisfactory.
Adaptability	Yes	,
8. Transport Zone 2 Minimum parking rate:	Recommended Conditions	The proposal provides for no car parking on site. Given that the site and surrounds is heavily serviced by public transport, the provision of no parking on site is considered to be acceptable. Similarly, no motorcycle parking is provided. All units are provided with 1 secure bicycle locker and 3 bicycle parking spaces are provided for retail employees (1 space) and visitors (2 spaces). No bicycle parking is proposed for residential visitors. Conditions are recommended to be imposed for the following: • The commercial visitor bicycle spaces are to be provided on the ground level as it is impractical to provide commercial visitor bicycle spaces within the basement level. • The proposed development requires 2 bicycle parking spaces for the residential visitors. It is recommended to allocate the two bicycle parking racks in the basement level to residential visitors. Therefore, the proposal is considered to be satisfactory, subject to conditions.
9. Heritage	Yes	Satisfactory. See comments above.
10. Safety	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	Merit Assessment	The proposed excavation is to be setback 1.5m from the eastern side boundary that is compliant however, excavation is proposed with a nil side setback to part of the western side boundary. The areas of the nil setback of the basement

Development Control	Compliance	Comment
		excavation are limited to provide a fire stair and the circulation core (lift). Given the narrow site frontage (12.19m), the non-compliance at the western side boundary is considered to be acceptable on merit as the excavation is unlikely to adversely impact upon the adjoining property at 39 Hall Street.
16. Public Domain	Yes	Satisfactory.

Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.3 Setbacks		
3.3.1 - Street setbacks	Yes	Refer to discussion in Table 7 below regarding
3.3.2- Side and rear setbacks	Yes	setbacks required for development within the Hall Street Town Centre.
3.4 Length and depth of build	lings	
 Maximum building length: 24m Façade to be articulated Maximum unit depth: 18m 	Yes	The length of the building does not extend beyond 24m and each unit has a depth of approximately 14.25m.
3.5 Building design and street	tscape	
Respond to streetscapeSympathetic external finishes	Yes	The development is a suitable design response to the Hall Street streetscape and provides high quality materials and finishes that would not unreasonably impose upon the adjoining heritage item at 31 Hall Street.
3.6 Attic and roof design		
	Yes	The proposed flat roof form is acceptable.
3.7 Fences and walls		
Side fence:Maximum height: 1.8mRear fence:Maximum height: 1.8m	Yes	Side and rear boundary fencing is demonstrated to be 1.8m in height, with the exclusion of the pedestrian arcade that is to be constructed across the subject site and 31 Hall Street.
3.8 Pedestrian access and ent	ry	
 Entry at street level and respond to pattern within the street Accessible entry Separate to vehicular entry Legible, safe, well-lit 	Yes	The amended proposal is considered to provide safe and accessible pedestrian entries to both the residential and retail components of the development. The proposal provides a wide pedestrian arcade across the eastern side boundary for access through the site.
3.9 Landscaping		
 Comply with part B3- Landscaping and Biodiversity 	Recommended condition	The development provides 61m ² (12%) of landscaped area primarily at the rear of the site that is non-compliant. The rear setback area is primarily made up of concrete courtyard

Development Control	Compliance	Comment
 Minimum of 30% of site area landscaped: 174.99m² 50% of the above is to be deep soil: 87.495m² 		paths/ramps. A condition is recommended to be imposed for the entirety of the rear setback area to be landscaped with planting (approximately 70m²). This would result in a total landscaped area of 93.7m² (16%) that will also be 100% deep soil planting that will comply with the required deep soil planting across the site.
3.10 Communal open space		
 Minimum dimensions: 6m x 6m Minimum of 30% of communal area must receive three hours of sunlight Accessible 	Merit Assessment	Due to the north-south orientation of the site, only part of the communal open space (<30%) at the rear receives some solar access at noon. However, this space receives more than 90% solar access from 3PM onwards. This is acceptable on merit due to the orientation of the site and development in the surrounds. It is also noted that all units are provided with adequate private open space (balconies) where majority of units will experience adequate solar access during mid winter.
3.11 Private Open Space		
 3.11.2 – Balconies/decks Balcony additions to match the character of the building Should not dominate the façade No wrap around balconies Located to maximise solar access and privacy Balustrades to allow views and casual surveillance of the street & privacy 	Yes	The proposed balconies are suitably designed and well-integrated with the overall design of the building. The balustrades are proposed to match the character of the proposed building and is acceptable.
3.13 Solar access and oversha	dowing	
 New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter. Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June. 	Yes	The development results in overshadowing to Hall Street, to the adjoining property at 39 Hall Street at 9AM that is currently a single storey development and to the adjoining property at 33 31 Hall Street from noon onwards. This additional overshadowing during mid-winter is considered to be acceptable for the following reasons: • The additional overshadowing caused by elements of the parapet in breach of Council's maximum development height standard falls upon the roof of 39 Hall Street at 9AM. This adjoining property is also located in the B4 Zone and it is considered that this minimal additional overshadowing would not

Development Control	Compliance	Comment
Development Control	Compliance	unreasonably hinder future development of a similar scale on this adjoining site. • The additional overshadowing to the heritage item at 31 Hall Street is unavoidable due to the siting and orientation of the subdivision pattern. The additional overshadowing to the western side elevation results from the built form of the development that is compliant with Council's maximum building height development standard and setback controls for the Hall Street Town Centre. • There would also be additional overshadowing to the approved development at the rear of 31 Hall Street under DA-305/2021 however, any such overshadowing would fall upon the approved western blank wall. Therefore, the resulting overshadowing is considered to be acceptable on merit.
3.14 Views and view sharing		considered to be acceptable on ment.
 Minimise view loss through design Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface. Views from public spaces to be maintained. 	Yes	The development is not anticipated to result in any adverse view loss impacts from surrounding properties.
3.15 Visual privacy and securit	:v	
 Dwellings to be orientated to the street with entrances and street numbering visible Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened Privacy be considered in relation to context density, separation use and design. Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	Yes	As previously discussed, the development is located within the Hall Street Town Centre where development to the side boundaries for shop-top housing is permitted. The development is adequately equipped with screening and has been considerably setback from the rear that is an R3 zone to enhance privacy for surrounding residents. Overlooking within the internal courtyard has been limited through the use of highlight windows and the siting of the rear of the development at a lower level.

Development Control	Compliance	Comment
 Roof tops are to be non- trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site. 		
3.19 Acoustic privacy		
Internal amenity by locating noisy areas away from quiet areas	Yes	The amended application is considered to maintain reasonable acoustic privacy for residents of the subject site and surrounding properties. Upon the retail/commercial tenancies being set up, it is envisaged that their proposed future uses have the potential to impact on acoustic privacy to nearby properties (eg food and drink premises). Subsequently, a condition is recommended for imposition that the design and fitout of these spaces be considered in light of future impacts and mitigated as part of the overall construction phase now, where possible (eg glazing standard, materials)
3.21 Building services		
 Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures Outdoor Communal clothes drying area to be provided Plant rooms away from entry communal and private open spaces and bedrooms. Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge 	Yes	The building services are well-integrated with the design of the building. Furthermore, the proposed air conditioning plant area on the roof is suitably sited away from the building edge. There is space at the rear for outdoor clothes drying facilities however, all units are provided with an internal laundry space.

Table 6: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Other Policies, Strategies and Standards		
1.2 Design		

Development Control	Compliance	Comment
1.2.1 Frontages	Yes	The proposed shop frontage to the retail space fronting Hall Street consists of clear glazing that promotes casual surveillance. The second retail space at the ground floor level at the rear of the site is also to be glazed to provide casual surveillance of the internal courtyard.
1.2.2 Awnings	Yes	A continuous awning is provided in accordance with Council's controls.
1.2.3 Lighting	Recommended Condition	No details on lighting is provided however, provisions for street lighting have been assessed by Council's Public Domain Engineers and a condition of consent is recommended to be imposed to require this detail at a later stage in accordance with Council's controls.
1.2.3 General Amenity	Yes	The design of the retail tenancies are considered to maintain adequate amenity for residents of the subject site and surrounding properties. A condition is recommended for future provisions and services to be integrated into the design where possible (eg acoustic mitigation, sanitary facilities etc).
1.2.4 Noise	Yes	Council's Environmental Health Officer has reviewed the Acoustic Report submitted and raised no objections.

Table 7: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

Development Control	Compliance	Comment
3.1 Specific controls		
3.1.7 - Hall Street Town Centre	Yes	See comments below.
3.2 Generic controls		
3.2.1 Land uses	Yes	The development maintains the small shop character of the town centre and provides a high quality design.
3.2.2 Public domain interface	Yes	The development complies with Council's controls and would encourage an active street frontage.
3.2.3 Built form	Yes	The development complies with Council's built form controls.
3.2.4 Building facade articulation	Yes	The proposed building has been articulated to respect the proportions of similar buildings in the streetscape.
3.2.5 Buildings of historic character	Yes	The existing building is not of historic character.
3.2.6 Building services and site facilities	Yes	Details of adequate building services have been provided on the plans as previously discussed.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Hall Street Town Centre Built Form & Setbacks

The subject site is located within the Hall Street Town Centre and is subject to the relevant village centre controls and desired future character objectives. These controls identify that where four storey development within the Hall Street Town Centre adjoins lower density residential development to the rear, the following setback of the building is to apply:

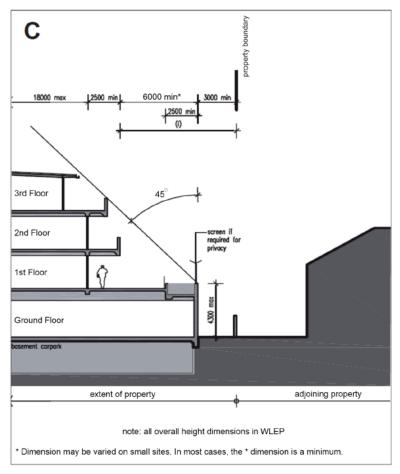


Figure 5: Rear setback diagram applicable to the subject development.

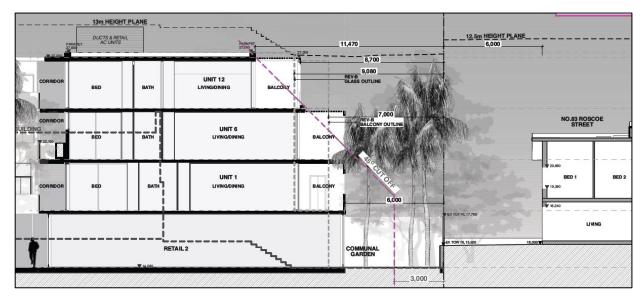


Figure 6: Proposed interface of rear setback to 83 Roscoe Street.

The proposed development provides a rear setback of the retail space at the ground floor level of 6m that complies with rear setback control for development within the Hall Street Town Centre. Reduction of the rear bulk at the ground floor level has minimised bulk and scale impacts as well as amenity impacts to the residential flat buildings located at the rear on Roscoe Street.

The proposal has been amended to largely comply with the 45° plane to produce a rear setback across the residential levels of the development that is a suitable design response to the increased rear setback provided to the ground floor level. It is noted that the awning of the balconies at the rear of the second and third floor level units results in a minor encroachment of this 45° plane however, this is considered to be acceptable as this minor encroachment does not contribute to the overall bulk of the building that is otherwise envisaged on the site in accordance with **Figure 5** above. Furthermore, it is also noted that the proposed building does not exceed the rear setback proposed at the adjoining property at 31 Hall Street under **DA-305/2021**.

Therefore, the development is consistent with surrounding development, sympathetic to the adjoining heritage item and meets the desired future character objectives for the Hall Street Town Centre. The development is considered to enhance the quality of built form elements within the Hall Street streetscape and is acceptable.

2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

2.4. Any Submissions

The original application was notified for 21 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was re-notified for 21 days as the location of the lift core had changed along the western side boundary.

Two (2) submissions were received in response to the original notification and no objections were received in response to the amended scheme as summarised below:

Table 8: Number of and where submissions were received from.

Count	Property Address	
1.	Unit 14, 85 Roscoe Street, BONDI BEACH	
2.	93 Arthur Street, STRATHFIELD	

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Heritage impacts to 31 Hall Street; and
- Excavation.

All other issues raised in the submissions are summarised and discussed below.

Issue: The development will have a significant adverse effect on the culture of Bondi Beach as a peaceful village. The address 35 - 37 Hall Street is only a few hundred metres from the Heart of Bondi which is the Gateway and the Pavilion. A building of this size and shape is out of proportion and not in harmony with the tradition which we have inherited and enjoyed for so long.

Response: The development is compatible with the desired future character of the area and the Hall Street Town Centre controls.

2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Sydney Water

Due to the presence of a sewerage pipe at the rear, the application was referred to Sydney Water for comment. No objections were raised, subject to conditions.

3.2. Traffic and Development

No objections, subject to conditions. See discussion in section 3.2.1 of this report.

3.3. Stormwater

The amended plans and documentation have been reviewed by Council's Stormwater Department and the following comments have been made:

• The Waverley LGA Flood Study 2021 presents the depth and extent of flooding during the 1% Annual Exceedance Probability (AEP) event as seen in the image below;

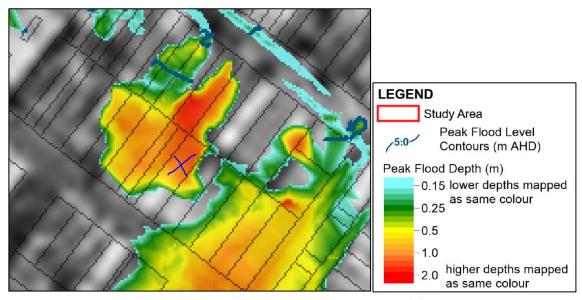


Figure 7: Flood map with subject site marked as 'X'.

• The Waverley LGA Flood Study 2021 defines flood levels in various events outlined in the table below.

Flood Event	Flood Levels (m AHD)	
1% AEP	15.745	
PMF	16.960	

Therefore, to comply with Council's DCP, the finished floor level (FFL) of any new habitable areas of the proposed development needs to be at least 16.045 m AHD or higher. It is noted that the FFL of the proposed Retail Tenancies are 14.580 m AHD, and the FFL of the first floor is 18.050 m AHD. During the 1% AEP event, the depth of flooding within the Retail Tenancies is predicted to be approx. 1.165 m. The applicant should strongly consider floodproofing measures;

- Under the current Council DCP, there is requirement for 300mm freeboard above the 1% AEP
 level for habitable areas and a minimum 150mm freeboard above the adjacent ground level for
 non-habitable floor areas. Under current standards, the proposed shopfront tenancy would be
 considered a non-habitable room as its predicted humans would not occupy this space for
 significant amounts of time, nor is it used for permanent occupancies.
- The Waverley LGA Flood Study 2021 identifies the area as predominately flood storage with a minor portion of flood fringe during the 1% AEP event, as seen in the image below. There appears to be no calculations supplied demonstrating that there is no loss of flood storage, and so, the development in its current form shouldn't be supported without these calculations.
- The Waverley LGA Flood Study 2021 identifies the hazard rating of the flood waters during the 1% AEP event as ranging from H1 to H4. This means that flood waters could be unsafe for all people and vehicles.
- As per Council's DCP, the basement shall be offset 900mm from the property's boundary for adequate drainage and excavation purposes.

Planning Comment

The comments in relation to the flooding of Retail Tenancy 2 is noted and conditions are recommended to be imposed for the FFL's to be amended accordingly and appropriate emergency flooding response plans to be put in place. The officer's comment regarding excavation to the side boundary is also noted however, the location of excavation to the boundary has been minimised to key circulation core areas of the development and is therefore unable to be further redesigned due to the limited site width. Therefore, the proposed excavation to part of the side boundary is acceptable on merit.

3.4. Tree Management

No objections, subject to conditions. See discussion in section 3.2.1 of this report.

3.5. Waste Management

No objections, subject to conditions. See discussion in section 3.2.1 of this report.

3.6. Public Domain

No objections, subject to conditions. See discussion in section 3.2.1 of this report.

3.7. Environmental Health

The application was referred to Council's Environmental Health Officer who provided the following comment:

This section does not support the placement of A/C units on the roof top without an acoustic

enclosure and prior to the acoustic report for mechanical plant and equipment being submitted to

Council.

A condition is recommended to be imposed for the A/C units on the roof to be fitted with an acoustic

enclosure and be supported by an Acoustic Report for mechanical plant and equipment that is to be

submitted to and approved by Council's Manager, Building Certification & Compliance (or delegate)

prior to the issue of any Construction Certificate. Other conditions relating to the remediation of land

and noise management are recommended to be imposed on the consent.

4. CONCLUSION

The development application, as amended, seeks consent for demolition of building and construction of

a new four storey shop top housing building with retail on the ground floor and units above at the site

known as 35-37 Hall Street, BONDI BEACH.

The principal issues arising from the assessment of the application are as follows:

Building height non-compliance;

Excavation to western side boundary;

Landscaped area;

Satisfaction of SEPP 55 requirements.

The assessment finds these issues acceptable as the exceedance of the building height does not result

in any adverse impacts to surrounding properties. Standard conditions are recommended to be imposed

with regards to the excavation works. A condition is recommended to be imposed for the entirety of the

rear setback area to be genuine landscaping. SEPP 65 requirements can be satisfied via Deferred

Commencement conditions.

A total number of 2 submissions were received in response to the original plans submitted and no

submissions were received in response to the amended plans. The issues raised in the submissions have

been considered and addressed in this report and in the Recommendation

The application has been assessed against the relevant matters for consideration under section 4.15(1)

of the Act. It is recommended for approval subject to conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 22 July 2022 and the DBU determined:

(a) The application is acceptable and should be granted a deferred commencement consent, subject

to the conditions in Appendix A.

DBU members: M Reid, T Sneesby, B McNamara B Magistrale

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5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be granted a DEFERRED COMMENCEMENT consent by the Waverley Local Planning Panel subject to addressing the matters in Appendix A and conditions in Appendix B.

Report prepared by:

Application reviewed and agreed on behalf of the Development and Building Unit by:

Blijah

ı

Judith Elijah

Senior Development Assessment Planner

Date: 7 September 2022

Reason for WLPP referral:

4. Sensitive development:

(a) SEPP 65 development

Angela Rossi

Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)

Date: 12 September 2022

APPENDIX A

The consent authority must be satisfied as to the following matters before the consent can operate.

DEFERRED COMMENCEMENT

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

1. Clause 7, State Environmental Planning Policy 55 - Remediation of Land ('SEPP 55')

The submitted report [Preliminary Site Investigation Report by eiaustralia (number: E24953.E01_Rev0) dated 26 November 2021] to address the provisions of SEPP 55 does not conclude that the site can be made suitable of the proposed use. Further investigation is required as per section 6 of this report, including a stage 2 Detailed Site Investigation which is:

a. The document is to be peer reviewed by a NSW EPA accredited site auditor, a letter/interim advice from the accredited site auditor stating that the RAP is practical & will result in the site being made suitable for the intended use.

or

b. A Site Audit Statement prepared by a NSW EPA accredited site auditor clearly stating that the site is/or will be suitable for the intended use.

Note: Notwithstanding the above, a Site Audit Statement prepared by a NSW EPA accredited Site Auditor clearly stating the site is suitable for the proposed use must be submitted prior to commencement of work. This information is required prior to activation of any development consent being granted.

These conditions must be satisfied within 1 year of the date of this consent.

APPENDIX B – CONDITIONS OF CONSENT

Upon satisfying the consent authority as to the matters in Appendix A, the following conditions will apply.

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by MHNDUnion of Project No: 20-055 including the following:

Plan Number	Rev	Plan Description	Plan Date	Date received by Council
DA 0000	D	Cover Page	02/08/2022	9 September 2022
DA 1002	D	Site & Roof Plan	02/08/2022	9 September 2022
DA 2000	D	Basement Plan	02/08/2022	9 September 2022
DA 2001	D	Ground Floor Plan	02/08/2022	9 September 2022
DA 2002	D	Level 1 Floor Plan	02/08/2022	9 September 2022
DA 2003	D	Level 2 Floor Plan	02/08/2022	9 September 2022
DA 2004	D	Level 3 Floor Plan	02/08/2022	9 September 2022
DA 2005	D	Roof Plan	02/08/2022	9 September 2022
DA 3000	D	Elevation East & West	02/08/2022	9 September 2022
DA 3001	D	Elevation North & South	02/08/2022	9 September 2022
DA 3100	D	Section A	02/08/2022	9 September 2022
DA 3101	D	Section B & C	02/08/2022	9 September 2022
DA 9203	D	Pre & Post Adaptable Apartments – Unit 1	02/08/2022	9 September 2022
DA 9204	D	Pre & Post Adaptable Apartments – Unit 2	02/08/2022	9 September 2022
DA 9205	D	Pre & Post Adaptable Apartments – Unit 3	02/08/2022	9 September 2022
DA 9206	D	Pre & Post Adaptable Apartments – Unit 4	02/08/2022	9 September 2022

- (b) BASIX and NatHERs Certificates
- (c) Access Report prepared by Design Confidence dated 17 March 2021, and received by Council on 5 August 2021
- (d) Acoustic Report prepared by Renzo Tonin & Associates dated 1 December 2021, and received by Council on 6 August 2022
- (e) Adaptable Housing Assessment Report prepared by Design Confidence dated 17 March 2021, and received by Council on 5 August 2021
- (f) Arborist Report prepared by Dr. Treegood dated March 2021, and received by Council on 5 August 2021
- (g) BCA Report prepared by Design Confidence dated 15 March 2021, and received by Council on 5 August 2021
- (h) Geotechnical Report prepared by eiaustralia dated 26 March 2021, and received by Council on 5 August 2021

- (i) Traffic & Transport Management Plan prepared by TEF Consulting dated 10/02/2021, and received by Council on 5 August 2021
- (j) Schedule of external finishes and colours received by Council on 6 August 2022
- (k) The Site Waste and Recycling Management Plan (SWRMP) Part 1 (05/08/2021)

Except where amended by the following conditions of consent.

Note: Conditions contained in Condition 1 may be updated upon activating of the consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) Landscaped Area:

The landscape plans are to be amended to provide increased opportunities for deep soil landscaping on site. In this regard, the paved areas within the communal open space area at the rear are to be deleted and the entirety of the rear setback area is to be soft landscaped.

(b) Bicycle parking:

- (i) The commercial visitor bicycle spaces are to be relocated and provided on the ground level and easily accessible for visitors to use.
- (ii) The development requires 2 bicycle parking spaces for the residential visitors. A minimum of two bicycle parking racks in the basement level are to be allocated to residential visitors (ensuring compliance is achieved overall with bicycle parking, set out in conditions of this consent).

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

3. MULTI UNIT HOUSING DEVELOPMENT DESIGN

The approved design (including any element or detail of that design) or materials, finish or colours of the building must not be changed without the written approval of Council.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

GENERAL REQUIREMENTS

4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

CONTRIBUTIONS, FEES & BONDS

5. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:
 - "Waverley Council Cost Summary Report"; or,
 - (ii) Where the total development cost is \$500,000 or more:
 "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
 - (i) A development valued at \$100,000 or less will be exempt from the levy;
 - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
 - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

6. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$104,211.92 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

7. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

PLAN DETAILS

8. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION (SEPP 65 BUILDINGS)

The preparation of the construction certificate plans shall be supervised and be to the satisfaction of an architect who is registered in accordance with the *Architects Act 2003* (i.e. a qualified designer) in accordance with the requirements of the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

In accordance with the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification statement from a qualified designer which verifies that the construction certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development*.

9. ARCHITECTURAL DETAILING

Further details of the architectural detailing of the building are required to be submitted for review and approval of Council's Manager, Development Assessment (or delegate) which address the following matters:

- (a) A schedule of external materials and finishes and design details of all elements of the building façade, including materials for structure on the roof terrace;
- (b) Large-scale detailed sections illustrating the construction of the roof, facades, method of

fixing privacy screens, shading devices, balconies, planters and balustrades and major junctions between materials;

(c) Detailed drawings of the shop fronts, entry foyers, awnings, window operation.

This may also require a referral to the Waverley Design Excellence Advisory Panel with a referral fee to be paid at the time of lodgement. Please contact the assessment planner to clarify this prior to lodging documentation to satisfy this condition.

10. PLACEMENT OF AIR CONDITIONING UNITS ON ROOFTOP

The A/C units on the roof must be fitted with an acoustic enclosure and be supported by an Acoustic Report for mechanical plant and equipment.

The amendments and documentation are to be submitted to and approved by **Council's Executive Manager, Compliance (or delegate)** prior to the issue of any Construction Certificate.

11. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES

Adequate provision shall be made within the confines of the building, for the installation of a mechanical exhaust system for future food/commercial use/s within the building.

12. SEPARATE APPLICATIONS FOR NON-RESIDENTIAL USE

Specific development consent is required for each individual retail tenancy in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises.

In this regard, compliance with the BCA in respect to the provision of sanitary facilities shall be provided for each retail tenancy. It is recommended that sufficient services for future sanitary facilities be provided to each tenancy to meet future requirements.

Having regard to the close proximity to residential uses, it is recommended the design and materials of future retail/commercial premises fitouts be considered and where possible, integrated into the overall design of the development, to minimize ad hoc additions to mitigate acoustic privacy impacts.

13. VERMIN AND RAT CONTROL

A *Pest and Vermin Control Management Plan* prepared by a suitable qualified person outlining measures to be taken to reduce rat/vermin populations is to be submitted for the approval of **Council's Manager**, **Health and Compliance (or delegate)** prior to the issue of a Construction Certificate for the demolition of existing buildings.

14. BASEMENT STORAGE

The basement level/s are to provide separate and secure storage areas (in the form of lockable storage cages or the like), allocated to each apartment in the development for larger bulkier items (surfboards, boxes, camping equipment etc.) which are not suited to be stored within each individual apartment. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012 (Amendment 9).

Details to be shown on the architectural plans satisfying this condition, prior to the issue of the relevant Construction Certificate.

15. ADAPTABLE HOUSING

A minimum of 20% of the apartments in the development are to be provided as 'adaptable housing' within the development, with at least 1 car space allocated to each of these apartments. Adaptable apartments must be certified as 'adaptable housing units' by an independent suitably qualified person, confirming compliance with the relevant Australian Standards.

16. UNIVERSAL HOUSING

Apartments in the development are to be provided with universal design features (as outlined in the *Liveable Housing Design Guidelines*) to meet the changing need of occupant's over their lifetimes in accordance with Part B7 of the *Waverley Development Control Plan 2012*.

CONSTRUCTION MATTERS

17. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

18. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

19. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

20. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

21. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report, regarding the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works, is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises. The report is to be submitted prior to the issue of the relevant Construction Certificate and commencement of any such works on the site.

22. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED-USE DEVELOPMENTS

Evidence is to be provided to the Principal Certifier that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

23. NOISE MANAGEMENT PLAN - DEMOLITION EXCAVATION & CONSTRUCTION

A site specific Noise Management Plan, prepared by a suitably qualified acoustic consultant (as defined in the advisory section of this consent) must be submitted to the satisfaction of **Council's Executive Manager, Compliance (or delegate)** for demolition, excavation and construction works.

For further information on the requirements, refer to Council's website:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent_

TRAFFIC MANAGEMENT

24. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development applications/post determination/development applications - conditions of consent

25. BICYCLE PARKING

A total of 18 bicycle parking spaces are to be provided within the development, allocated in the following manner:

- (a) 13 residential bicycle spaces
- (b) 2 visitor bicycle spaces
- (c) 1 retail bicycle space

- (d) 2 retail visitor bicycle space
- (e) The two retail visitor spaces are to be located at ground level.

The bicycle spaces are to be designed in accordance with Australian Standard AS2890.3 - 2015 Parking Facilities - Bicycle Parking.

The bicycle spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area. Signage and line-marking (way finding) is to be provided to guide visitors to the allocated bicycle parking spaces to ensure a safe path of travel to the bicycle spaces (separate to cars). Details of this are to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate prior to the issue of the relevant Construction Certificate.

STORMWATER & FLOODING

26. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all Public Infrastructure plans, stormwater inclusive and inspection of the completed works in the public domain, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

27. STORMWATER MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide additional details of the proposed On-Site Stormwater Detention (OSD) system and its details e.g. updated pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, OSD plaque, OSD warning sign and catchment plan. The current design is also considered fully submerged during a 1% AEP storm event, which is not compliant to the current Council standards, consideration shall be made to amend the outlet invert of the OSD system. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be resubmitted and amended to reflect any changes.
- b) If the design proceeds with a below ground tank, a certificate from a registered structural engineer certifying the structural adequacy of any OSD tank structure is to be provided.
- c) Any proposed OSD system shall be designed to allow for the detention of stormwater runoff resulting from a 1% Annual Exceedance Probability (AEP) storm event.

- d) A minimum of two double opening square access grates shall be installed over any proposed below OSD tank. This is to provide adequate ventilation to prevent the accumulation of noxious odours and to provide convenient access for routine maintenance and inspection of the tank. One grate shall be placed over OSD outlet pipe and orifice plate.
- e) Any proposed OSD system is designed to allow for the system to be free draining with the invert of the orifice higher than the Hydraulic Grade Line (HGL) at the discharge point (to prevent a drowned orifice).
- f) Show an alarm system in the event of the basement pump-out system failing. A warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement. A minimum freeboard of 150 mm from the pump out system to all parking spaces, full hydraulic details and pump manufacturers specification are to be provided.
- g) To protect the underground basement from possible inundation by surface waters from the street gutter and footpath overflows, a crest shall be installed at the boundary.
- h) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- i) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- j) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the 1% AEP storm event shall be provided.
- k) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system)
- Where a connection to Council's below ground drainage infrastructure is proposed, a long section of the connection shall be provided and its details must be included (e.g. the location of existing services crossing and the clearances, existing surface levels, obvert and invert of existing pipe and invert level of the outlet pipe).
- m) All proposed conduits within the Hall Street road reserve shall be constructed using minimum Class 3 reinforced concrete pipes (RCPs) with a minimum diameter of 375 mm and minimum 1% fall. A pit shall be installed at all junctions, changes of gradient and changes of direction in the pipeline. The proposed stormwater drainage infrastructure within the road reserve shall be designed and constructed to Council's satisfaction. Details are to form part of the Construction Certificate documentation. All associated costs shall be borne by the applicant.
- n) The development must at all times maintain the water quality system to achieve the following minimum pollutant removal targets for the entire site in perpetuity as per Council's Water Management Manual 2021:
 - Required percentage reductions in post development average annual load of pollutants

Pollutant	% post development pollutant reduction targets
Gross Pollutants	90
Total Suspended Solids	80
Total Phosphorous	55
Total Nitrogen	40

The applicant must submit plans and specifications for the proposed Stormwater Quality Improvement device (SQID). The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer showing complete and detailed SQID design including with cross-sections. The practising Civil Engineer to demonstrate the hydraulics for proposed SQID. MUSIC model to be provided to Council for assessment.

o) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The checklist as set out on pages 68-76 on Council's Water Management Technical Manual (Oct 2021) available online shall be completed and submitted with any revision of Construction Certificate Plan Submission.
- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap inTM for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday)

28. GROUND ANCHORS

Where any ground anchors (ie. rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by **Council's Executive Manager, Infrastructure Services (or delegate)** and will be subject to fees. For further information regarding this, please contact assets@waverley.nsw.gov.au on 9083 8886. Certification shall be submitted and acknowledged by Council prior to installation and after detensioning prior to Occupation Certificate.

29. FLOODING REQUIREMENTS

The development must have a net neutral effect on flood behaviour. This includes increasing flood effects elsewhere, loss of flood storage, changes in flood levels, flows and velocities caused by alterations to the flood conveyance, and the cumulative impact of neighbouring developments. To ensure this has been considered, the submitted architectural plans will need to be updated to reflect the following:

a) A suitably qualified and practising Engineer must provide a report certifying that development will not increase flood effects elsewhere having regard to loss of flood storage.

- b) The minimum habitable finished floor level of the habitable level of any new building must be set at a minimum level of 16.045 m AHD.
- c) All new building material must be flood resistant or flood compatible to a height of 16.045 m AHD.
- d) All new internal electrical switches, power points or similar utilities liable to flood damage must be set at a minimum level of 16.045 m AHD.
- e) A suitably qualified engineer must certify that any new structure can withstand the forces of floodwater, scour debris and buoyancy up to and including 16.045 m AHD.
- f) A storage area is to be provided above the RL of 16.045 m AHD for the storage of goods that can be damaged or mobilised by flooding, or goods that have potential to cause pollution during flooding.
- g) Any proposed fencing must be built using flood compatible material.
- h) There is to be no filling of the land within the property.

Details and certification must accompany the Construction Certificate and be submitted to Waverley Council's Manager, Infrastructure Services (or delegate) for approval prior to the issue of the relevant Construction Certificate.

PUBLIC DOMAIN

30. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be upgraded along Hall Street frontage for the development site in accordance with the current Waverley Council Development Control Plan (DCP) Part E3: Local Village Centres, and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to, and approved by the Executive Manager, Infrastructure Services prior to the issue of the relevant Construction Certificate.

- Pedestrian footpath
- Vehicular Crossing
- Road pavement
- Kerb and gutter
- Stormwater infrastructure located within the Council Public Domain
- Undergrounded utility connections and street lighting (Electrical, Communications inclusive)

31. PUBLIC INFRASTRUCTURE WORKS

All Public infrastructure works traversing the development frontage must be completed to Council's satisfaction at no cost to Council.

Full engineering design drawings must be prepared by a suitably qualified engineering professional, submitted to Council and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Domain Engineer:

(a) <u>Road Pavement:</u> The full renewal and reconstruction of the asphalt pavement for half road width within the Hall Street frontage of the development site. Details of the road pavement treatments and sub-grade details to be liaised with Council prior to CC.

- (b) <u>Footpath, Kerb and Gutter:</u> The existing footpath, kerb and gutter traversing Hall Street frontage to be reconstructed and upgraded in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. The footpath paving must maintain a 2.5% cross fall towards the road and maintain the same longitudinal grade of the adjacent road.
- (c) <u>Street Trees:</u> A minimum of one (1) street tree must be planted along the Hall Street frontage. All new trees proposed within the Council verge will require the installation of suitable tree pits and surrounds as per the Waverley Council Public Domain Technical Manual. The chosen tree species and location shall be liaised with Council prior to construction.
- (d) <u>Street lighting:</u> Make provision for a new street light and integrated EV charging station serviced by metered underground power, on a multifunction pole (MFP) on Hall Street. The consultant shall liaise with Council in obtaining Councils requirements and specifications for the street column and components including the appropriate LED luminaires. The column and all components shall be supplied and installed to meet pedestrian compliance standards.
 - Plans shall be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to Councils Public Domain Engineer for approval prior to lodgement of the scheme with Ausgrid for their approval. This will include both the street lighting requirements and the private meter supply to the lighting system.
- (e) <u>Undergrounded Utility Connections</u>: All mains electrical connections to the development must be routed underground. Council will not accept the erection of any new above ground electricity columns/pillars within the Council's public domain to support the new development. All necessary pillars must be located within the development boundary. If required, an easement on the property shall be organised with the relevant Authority.

32. PUBLIC DOMAIN ENGINEERING INSPECTIONS

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required and compliance certificates must be obtained from Council's Engineer for the following hold points:

Kerb and Gutter, Stormwater Infrastructure & Footpath Paving

- After completion of formwork and prior to casting of concrete base slab
- After full completion and restoration

Road Pavement

- Subgrade trim and compacted
- Binder course spread & consolidated
- After Wearing course laid and full completion

<u>Landscape</u>

- After the excavation and installation of root cells
- After full completion and restoration

Street Lighting

- Prior to backfilling all underground conduits
- Installation of concrete light base
- After full completion

All applicable engineering inspection fees in accordance with Council's Management Plan are to be fully paid prior to issue of Construction Certificate for the works. A minimum 48 hours' notice will be required when booking for the site inspections.

ENERGY EFFICIENCY & SUSTAINABILITY

33. BASIX

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

34. ENERGY EFFICIENCY

An Energy Assessment Report is to be submitted in accordance with the *Waverley Development Control Plan 2012*, which recommends design solutions to reduce the predicted operational energy demand and greenhouse gas emissions of the proposed development by 30% less than a reference building (i.e. NCC, Section J compliant only). The report is to be submitted and be to the satisfaction of **Council's Executive Manager, Environmental Sustainability (or delegate)** prior to the issue of a Construction Certificate for any works above ground level.

The construction certificate plans are to incorporate the recommendations of the approved Energy Assessment Report.

WASTE

35. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

36. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins and storage for the development:

Residential (16 units)

- 6 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly)
- 6 x 240L MGBs for paper and cardboard recycling (collected fortnightly)
- 6 x 240L MGBs for container recycling (collected fortnightly)

Commercial: area 1 (135m²) and area 2 (130m²)

- 14 x 240L Mobile Garbage Bins (MGBs) or 5 x 660L MGBs for general waste (based on bins collected weekly)
- 10 x 240L MGBs or 3 x 660L MGBs for comingled recycling (based on bins collected weekly)

All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

LANDSCAPING & TREES

37. GREEN ROOF LANDSCAPING DETAILS

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* (Amendment 9) including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

NOISE

38. NOISE - ACOUSTIC REPORT

Upon selection of mechanical plant an Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of **Council's Executive Manager, Compliance (or delegate)**.

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent

COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

PRIOR TO ANY WORKS

39. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

40. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

PUBLIC DOMAIN

41. PRE-CONSTRUCTION DILAPIDATION REPORT

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Street Lights
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

42. NOTIFICATION OF ADJOINING OWNERS & OCCUPIERS

The Applicant shall provide the adjoining owners and occupiers' written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

43. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING

To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's engineering inspector/s prior to works commencing on site.

DEMOLITION & EXCAVATION

44. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

45. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

46. SITE RECTIFICATION WORKS

The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the permitter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

- (i) Require certain works including but not limited to:
 - (a) make the building/site safe and of an appearance acceptable to Council.
 - (b) Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - (c) For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.
 - (d) AND to call on such bank guarantee to cover the cost thereof.
- (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.

47. DEMOLITION - ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) Particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

48. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

49. REMEDIAL ACTION PLAN

Pending the advice contained in satisfying the Deferred Commencement matters, the site is to be remediated in accordance with the RAP (if required), that has been peer reviewed by the NSW DECC

accredited site auditor. Prior to the execution of works associated with the built form of the development (excluding building work directly related to remediation) a Site Audit Statement is to be submitted to Council clearly indicating that the site is suitable for the proposed use. Conditions on the Site Audit Statement shall form part of the consent.

NOTE: Where the Site Audit Statement is subject to conditions that require on going review by the Auditor or Council these should be discussed with Council before the Site Audit Statement is issued.

Prior to the exportation of waste (including fill or soil) from the site the material should be classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW DECC Environmental Guidelines "Assessment, Classification and Management of Non-Liquid Wastes". The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporter, if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW DECC.

50. SITE CONTAMINATION - REMEDIATION WORKS

- (a) Remediation and validation works shall be carried out in accordance with a specially prepared Remediation Report prepared by a suitably qualified person and current letter/ interim advice from a NSW accredited site auditor,
- (b) Any variation to the Remedial Action Plan shall be approved by the Accredited Site Auditor and Council in writing prior to the commencement of any work. The applicant must inform the PCA in writing of any proposed variation to the remediation works. The PCA shall approve these variations in writing prior to commencement of works.
- (c) Prior to the commencement of any work, other than demolition or excavation in association with remediation of the site, a Site Audit Statement is to be submitted to and approved by Council clearly stating that the site is suitable for the proposed use.

51. REMEDIATION REQUIREMENTS

The following requirements apply to the remediation works (where remediation is required) on-site:

- (a) A sign displaying the contact details of the remediation contractor (and site facilitator if different to remediation contractor) shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works. Owners and/or occupants of the premises adjoining the site shall be notified, in writing, at least seven days prior to the commencement of remediation works.
- (b) Remediation work shall not be carried out within 4 metres of the base of a tree, or adversely affect the appearance, health or stability of a tree, where works affecting the tree require Council approval.
- (c) Remediation work shall not be undertaken on land containing an item of environmental heritage where the consent of Council is required.
- (d) A covenant being registered on the title of the land giving notice of the former use and contamination of the site and the existence of the encapsulated cells containing contaminated material.

(e) A covenant being registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from any contaminants or for any works required by the NSW Environment Protection Authority (EPA).

52. SITE CONTAMINATION - VALIDATION REPORT

- (a) After completion of the remedial works, a copy of the Validation Report shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Validation Report. The report shall be prepared with reference to the NSW Environment Protection Authority (EPA) guidelines, Consultants Reporting on Contaminated Sites and shall include:
- (b) Description and documentation of all works performed;
- (c) Results of validation testing and monitoring;
- (d) Validation results of any fill imported on to the site;
- (e) Details of how all agreed clean-up criteria and relevant regulations have been complied with; and
- (f) Clear justification as to the suitability of the site for the proposed use and the potential for offsite migration of any residual contaminants.

53. REMEDIATION WORKS REQUIRED

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works. Remediation work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am and 1pm on Saturdays with no work to be carried out on Sundays or public holidays.

54. HAZARDOUS MATERIALS

A hazardous materials survey is to be carried out by a suitable qualified consultant/ occupational hygienist prior to any demolition works.

Should any hazardous or intractable wastes arising from the above survey be identified on site, it must be handled, removed and disposed of in accordance with the requirements NSW WorkCover Authority and the DECC, and in accordance with the provisions of:

- (a) New South Wales Occupational Health and Safety Act, 2000;
- (b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- (c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- (d) Protection of the Environment Operations Act 1997 (NSW) and
- (e) DECC's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).

55. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

56. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2009. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

57. USE OF FILL ON SITE

All fill imported on to the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported on to the site should be validated by either one or both of the following methods during remediation works;

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material should be conducted in accordance with the DECC Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

58. HAZARDOUS MATERIALS AUDIT

A Hazardous Materials Audit (HMA) must be carried out by a suitably qualified practitioner prior to site demolition (where remediation of the site is required). The HMA must assess the presence of structural and residual building materials that may be of environmental concern. The HMA must also ensure that

hazardous materials that may have been used within the structural components of all buildings are adequately addressed to protect site personnel from risk of exposure.

59. SITE HEALTH & SAFETY PLAN

A Site Health & Safety Plan is to be prepared prior to the commencement of remediation works by a person competent to do such Plan. All works are to be carried out in accordance with this Plan. This Plan shall include:

- (a) hazard identification and control
- (b) site security
- (c) personal protective equipment
- (d) work zones and decontamination procedures
- (e) contingency plans and incident reporting environmental monitoring

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

CONSTRUCTION MATTERS

60. FINISHED FLOOR LEVEL OF ANY NEW BUILDING

The minimum floor level of the habitable levels of the new building must be constructed at a level no lower than 16.045 m AHD. The floor level must be certified by a registered surveyor prior to placing of the concrete floor slab or installation of flooring (where there is no slab).

61. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

62. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

63. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment* (Quality of Construction) Act 2002, clause 162A of

the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

64. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

65. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

66. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

67. AWNINGS

- (a) Awnings shall be a minimum of 3.5m above the footpath level and offset a minimum of 600mm behind the kerb.
- (b) Awnings shall provide cut outs for to allow for existing and future tree growth for the street trees.
- (c) Awnings to be provided to the Hall Street frontage for the entire width of the site.

TREE PROTECTION AND REMOVAL

68. TREE PROTECTION

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

69. STREET TREES TO BE RETAINED/TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and

(g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.

Soil levels are not to be changed around any trees.

To prevent compaction within the root zone, excavation undertaken within the specified radius of the trunks of the following trees must be hand dug. Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed. Any hand excavation must be carried out in the presence of experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

If tree roots are required to be removed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.

If any trees on neighbouring properties require pruning, then permission must be gained from the owner of the tree(s) and an application to Prune, or Remove Trees on Private Property is then to be presented to Council for processing.

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

CERTIFICATION AND LICENCES

70. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

71. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

72. CERTIFICATION OF APPROVED DESIGN

In accordance with the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate, to authorise a person to commence occupation or use of the development unless it has received a design verification statement from an architect who is registered in accordance with the Architects Act 2003 (i.e. qualified designer) that verifies that the building achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

73. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

74. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

75. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

(a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, the detention facility and other drainage related infrastructure. An original or a colour copy

must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.

(b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

76. CREATION OF POSITIVE COVENANT – OSD AND FLOOD REQUIREMENTS

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for any On-Site Stormwater Detention (OSD) system and also the Flooding Requirements for the site (as detailed in conditions 29, 60 and 93), under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) of Council, prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

77. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

78. CREATION OF SITE FLOOD EMERGENCY RESPONSE PLAN

Before occupation or prior to the issue of any Occupation Certificate, a site flood emergency response plan must be prepared, and any required flood warning system must be installed and fully tested. A copy of this plan must be submitted to the Private Certifier and to Waverley Council.

Certification from a suitably qualified engineer to the effect that this plan has been prepared and where required, the flood warning system has been installed and tested, must be included with the Occupation Certificate.

79. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

Prior to the issue of any Occupation Certificate, a final Compliance Certificate shall be obtained from Council confirming that all works in the road reserve including all public domain infrastructure works and restoration, have been completed to Council's satisfaction.

80. WORK-AS-EXECUTED PLAN - PUBLIC DOMIAN

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed (WAE) plan of the works, prepared by a registered surveyor is to be submitted to the Principal Certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

81. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in various sections of the acoustic report prepared by Renzo Tonin & Associates [Reference No. TM461-01F02 Acoustic Assessment for DA (r1) dated 1 December 2021 shall be implemented.

82. CERTIFICATION OF ACOUSTIC PERFORMANCE

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic conditions of consent (including the operational conditions) as well as the recommendations made in the acoustic report have been satisfied

83. REFRIGERATION UNITS & MECHANICAL PLANT

Air conditioning units, refrigeration motors/units and other mechanical plant are not to be installed outside the building without the prior consent of Council in order to assess the cumulative impacts of noise to adjoining properties. All plant is to be installed within the confines of the building and be acoustically treated to ensure that it within the acceptable limits.

84. MECHANICAL VENTILATION SYSTEMS

The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

85. CERTIFICATION OF ALL MECHANICAL PLANT

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

86. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact with the Coordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

87. WAVERLEY DIGITAL MODEL

Prior to the issue of an Occupation Certificate an accurate 'as built' digital model of the building must be submitted to Council's Waverley Futures Department for use in the Waverley Digital Model.

- (a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
 - (i) a building envelope which includes all elements affecting shadow analysis;
 - (ii) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
 - (iii) a ground level terrain showing accurate RLs extending to site boundaries.
- (b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling / Urban Design) Officer.

Notes:

- This model will update previous version/s submitted at Development Application stage.
- Any future modifications (under Section 4.55 of the Environmental Planning and Assessment Act) that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

MANAGEMENT PLANS

88. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted and approved by **Council's Executive Manager, Environmental Sustainability (or delegate)** prior to the issue of an Occupation Certificate and include the following where relevant.

(a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)

- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided).
- (d) Clear signage identifying the different bin types and storage area for bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (g) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan.
- (i) At no times shall bins be stored on the public domain (e.g. footpaths).
- (j) To ensure there is sufficient area on the footpath in front of the property for commercial/retail waste and recycling bins to be presented for the collection, commercial/retail waste and recycling collection must not occur on the same day as Council's scheduled residential waste/recycling collection day.
- (k) Sufficient arrangements must be in place to accommodate alternate days for waste/recycling collection for a mixed-use development where the combined bins from both premises (residential and commercial) exceed a total of 14 x 240Lbins, i.e.:
 - (a) commercial waste bins are collected on a different day to commercial recycling bins
 - (b) all commercial bins are collected on a different day to the residential waste/recycling collection day.

OTHER MATTERS

89. STREET NUMBERS

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering:

No. 37 Hall Street - primary address site number and location.

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level and be clearly visible on the site boundary that fronts Hall Street.

- Shop G1 and Shop G2 for the commercial sub-address sites within the building correlating with retails lots 1 and 2 on the floor plans for the building,
- Nos. 3-18 for the residential sub-address site within the building correlating with Nos. 1-16 on the floor plans for the building.

The address number for a sub-address site shall not consist of the primary address number on its own. Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

E. OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

GENERAL MATTERS

90. AIR EMISSIONS

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997.

91. NOISE EMISSIONS

- (a) The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

92. NOISE - MECHANICAL PLANT (COMMERCIAL PREMISES)

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

AMENITY & SAFETY

93. ONGOING FLOODING REQUIREMENTS

- a) Materials which may be damaged by flood waters, materials which may be mobilised during flooding and materials which may cause pollution must be stored above 16.045 m AHD.
- b) There must be no modifications made to flood compatible fencing.
- c) The site flood emergency response warning systems and plan are to be regularly maintained, reviewed and/or updated and should be in good working order at all times.

94. WASTE MANAGEMENT PLAN REVIEW

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

PARKING AND ACCESS

95. ADJUSTMENTS TO STREET SIGNS

Any street signs required to be removed as a result of the works shall be relocated at the applicant and/or owner's expense in accordance with Council's requirements.

96. PARKING PERMITS

Occupants of the building are not to be eligible for resident parking permits under Council's Residents Preferential Parking Permits scheme.

F. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD5. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

AD6. BONDI - ROSE BAY SAND BODY

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

AD7. SEPARATE APPLICATIONS FOR USE/FIT OUT

Specific development applications are to be lodged for the approval of Council in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises, unless otherwise permitted under SEPP (Exempt and Complying Development Codes) 2008.

AD8. FOOD PREMISES

The fitout of the any food premise must be in accordance with the *Waverley Council Policy for Fit-out* and *Construction of Food Premises* available on Council's website, as well as any other relevant legislation.

https://www.waverley.nsw.gov.au/building/compliance_and_regulations/environmental_health_regulations/food_safety

AD9. SEPARATE APPLICATION FOR SIGNAGE

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

AD10. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

AD11. PUBLIC UTILITIES AND SERVICE ALTERATIONS

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations. Upon notifying Council, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

Written approval from the applicable Public Authority shall be submitted to Council along with the Public Domain design plans submission.

AD12. SYDNEY WATER ADVISORY

Water Servicing

- Potable water servicing should be available via a 100mm CICL watermain (laid in year) on Hall Street.
- Amplifications, adjustments, and/or minor extensions may be required.

Wastewater Servicing

- Wastewater servicing should be available via a 225mm VC wastewater main (laid in 1978) at the rear of the property.
- Adjustments to the 225mm wastewater main may be required. Further details will be provided if or when the application is referred to Sydney Water for a Section 73.

AD13. SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application** must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

AD14. SYDNEY WATER - BUILDING PLAN APPROVAL

The approved plans must be submitted to the Sydney Water Tap in[™] online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Tap in[™] service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams

- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at:

https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm

Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

AD15. OUTDOOR DINING

Any proposal to utilise an area external of the building for dining will be subject to a separate application to Council and if approved will require the applicant and/or owners to sign a lease agreement.

AD16. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

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

PROJECT

THIRTEEN NEW APARTMENTS, TWO RETAIL TENANCIES AND ASSOCIATED LANDSCAPING WORKS

35-37 Hall Street, **BONDI BEACH, NSW 2026**

AMENDED PLANS

RECEIVED Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022

- CORNER OF FACADE TO HALL STREET STEPPED BACK 1.2M.
 - APARTMENTS 9 & 10 UPDATED TO SINGLE LEVEL DWELLINGS.

- SLIDING DOORS AT GROUND FLOOR FACING HALL STREET AMENDED.

DRAWING LIST	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
DA 0000	COVERPAGE
DA 1000	SITE CONTEXT
DA 1001	SITE ANALYSIS PLAN
DA 1002	SITE & ROOF PLAN
DA 2000	BASEMENT PLAN
DA 2001	GROUND FLOOR PLAN
DA 2002	LEVEL 1 FLOOR PLAN
DA 2003	LEVEL 2 FLOOR PLAN
DA 2004	LEVEL 3 FLOOR PLAN
DA 2005	ROOF PLAN
DA 3000	ELEVATION EAST & WEST
DA 3001	ELEVATION NORTH & SOUTH
DA 3100	SECTION A
DA 3101	SECTION B & C
DA 6000	EXTERNAL FINISHES
DA 6001	PHOTOMONTAGE - HALL STREET LOOKING NORTH-WEST
DA 9000	GFA CALCULATION
DA 9001	LANDSCAPE AREA CALCULATION
DA 9002	HEIGHT PLANE DIAGRAM
DA 9100	SOLAR ACCESS & CROSS VENTILATION
DA 9101	VIEWS FROM THE SUN 9am-12pm
DA 9102	VIEWS FROM THE SUN 1pm-3pm
DA 9200	WASTE MGT PLAN
DA 9201	NOTIFICATION PLAN
DA 9203	PRE AND POST ADAPTABLE APARTMENTS - UNIT 1
DA 9204	PRE AND POST ADAPTABLE APARTMENTS - UNIT 2
DA 9205	PRE AND POST ADAPTABLE APARTMENTS - UNIT 3
DA 9206	PRE AND POST ADAPTABLE APARTMENTS - UNIT 4
DA 9301	ARCADE STUDY - FLOOR PLAN
DA 9302	ARCADE STUDY Cam 1
DA 9303	ARCADE STUDY
DA 9303	COURTYARD
······	







COVERPAGE

DRAWING TITLE:

PROJECT ADDRESS: 35-37 Hall St, BONDI BEACH 2026 SCALE: NTS ISSUE DATE:

CHECKED: REVISION:

D 02/08/22 PROJECT NUMBER: DWG NUMBER:

20-055

DA 0000





REV	DESCRIPTION	DATE
Α	DEVELOPMENT APPLICATION	20/07
В	RESPONSE TO DEFERRAL LETTER	11/11
С	AMENDED ARCH DRAWINGS	29/03
D	RESPONSE TO COUNCIL CHANGES	02/08



ARCHITECT:

MHNDU 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com

DRAWING TITLE:

SITE CONTEXT

PROJECT ADDRESS:

35-37 Hall St, BONDI BEACH 2026

SCALE: NTS ISSUE DATE: 02/08/22

CHECKED: REVISION:

DWG NUMBER:

PROJECT NUMBER:

20-055 DA 1000



DEVELOPMENT APPLICATION 20/07/21 RESPONSE TO DEFERRAL LETTER 11/11/21 RESPONSE TO COUNCIL CHANGES 02/08/22



ARCHITECT:

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DRAWING TITLE:

SITE ANALYSIS PLAN

PROJECT ADDRESS: 35-37 Hall St, BONDI BEACH 2026

NTS

SCALE: ISSUE DATE:

CHECKED:

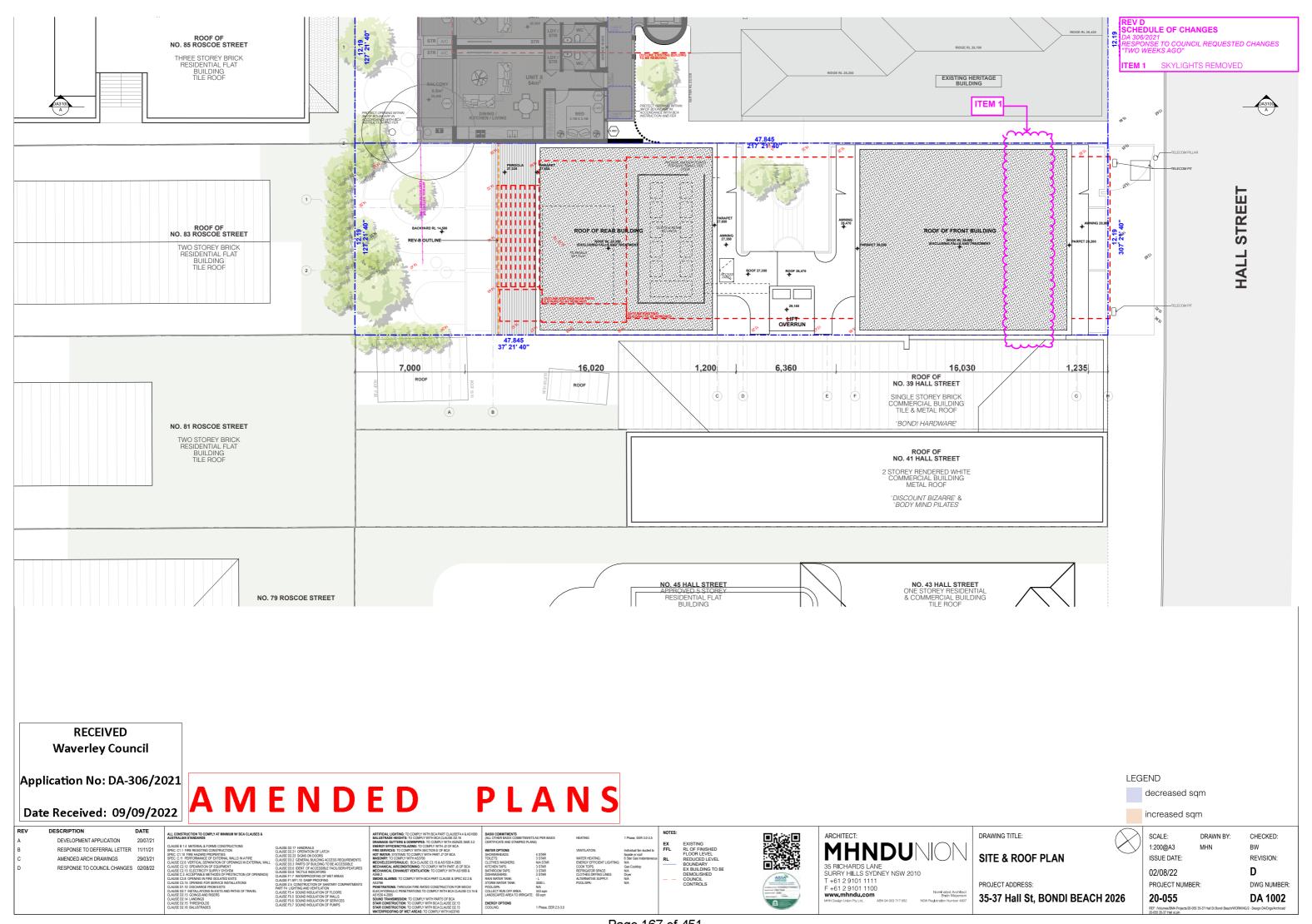
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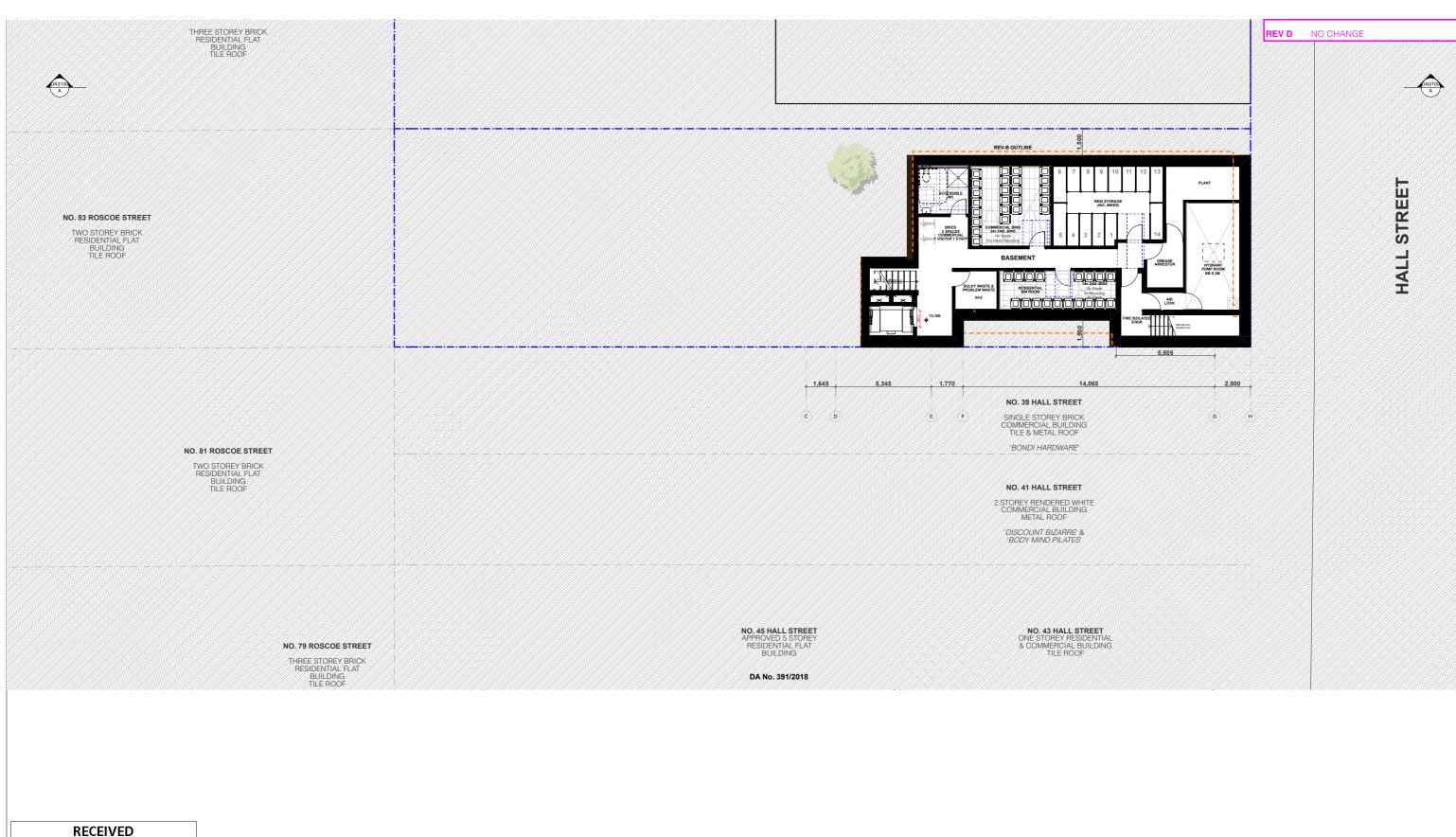
DWG NUMBER:

D

02/08/22 PROJECT NUMBER:

20-055 DA 1001





Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022

PLANS AMENDED

REV	DESCRIPTION	DATE
Α	DEVELOPMENT APPLICATION	20/07/21
В	RESPONSE TO DEFERRAL LETTER	11/11/21
С	AMENDED ARCH DRAWINGS	29/03/21
D	RESPONSE TO COUNCIL CHANGES	02/08/22

4 STAR 3 STAR NIA STAR 3 STAR 3 STAR 3 STAR - L 3000 L NIA 343 sqm E: 69 sqm ENERGY OPTIONS COOLING:

35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 35-37 Hall St, BONDI BEACH 2026

DRAWING TITLE: **BASEMENT PLAN**

PROJECT ADDRESS:

SCALE: 1:200@A3 02/08/22

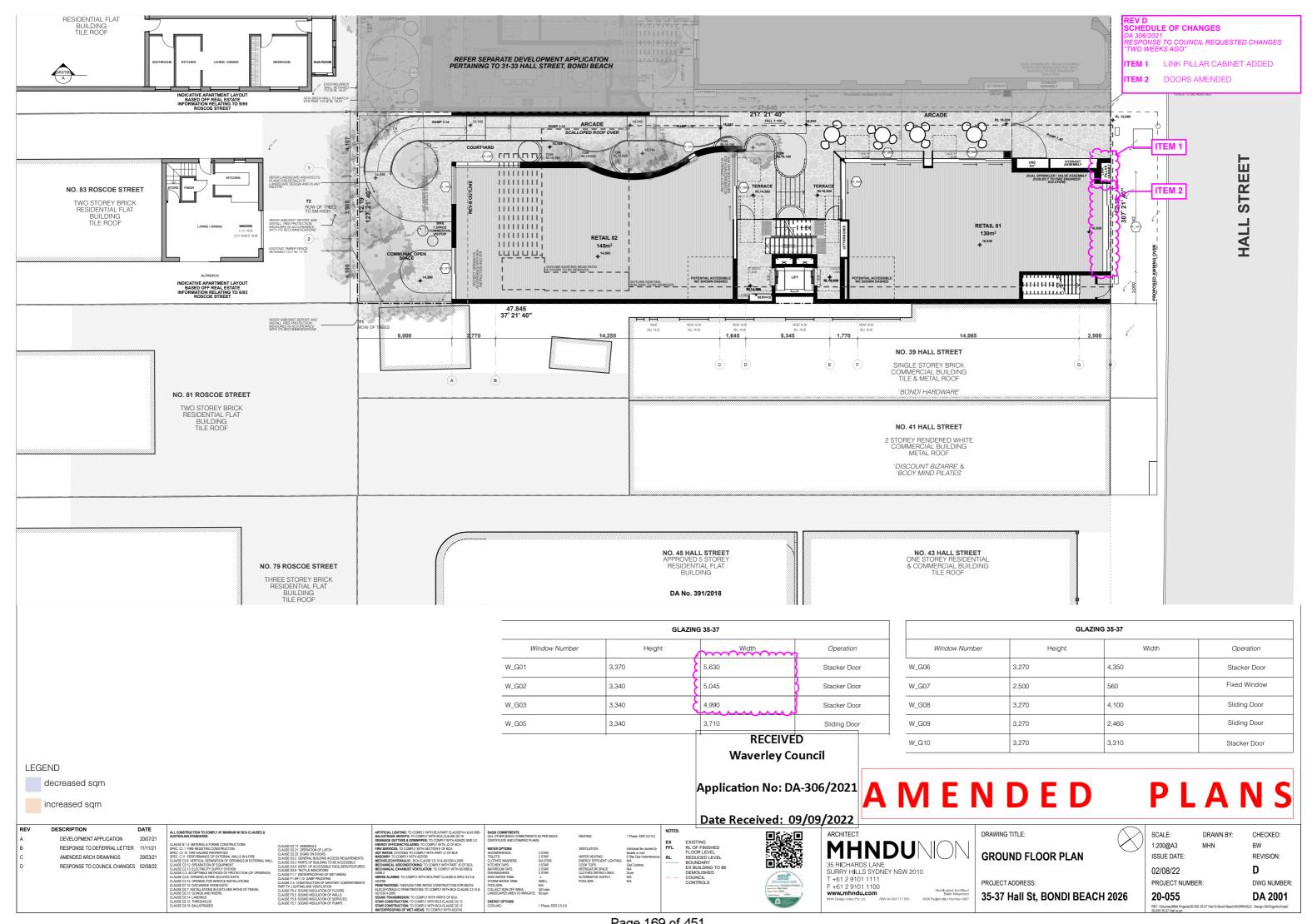
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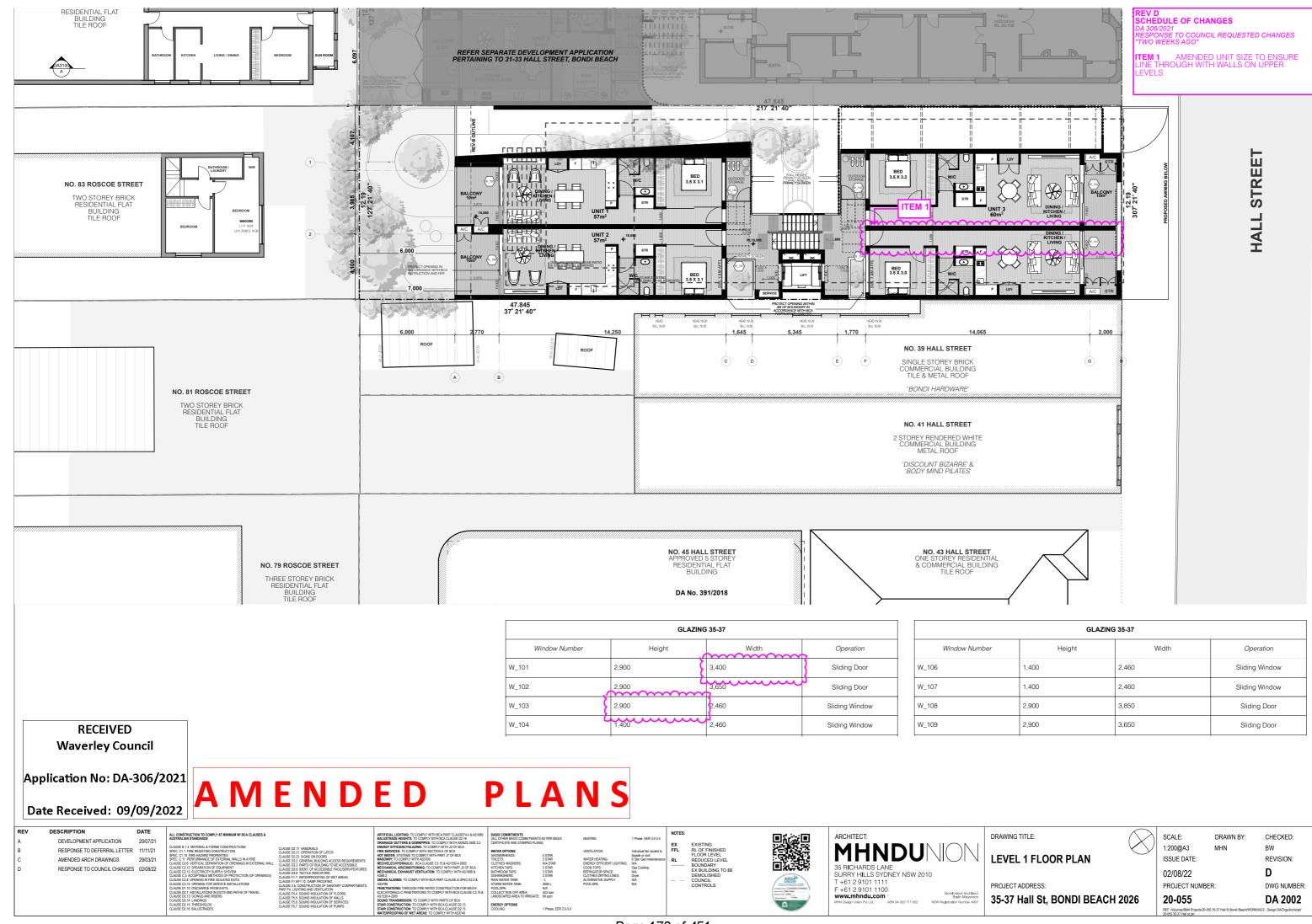
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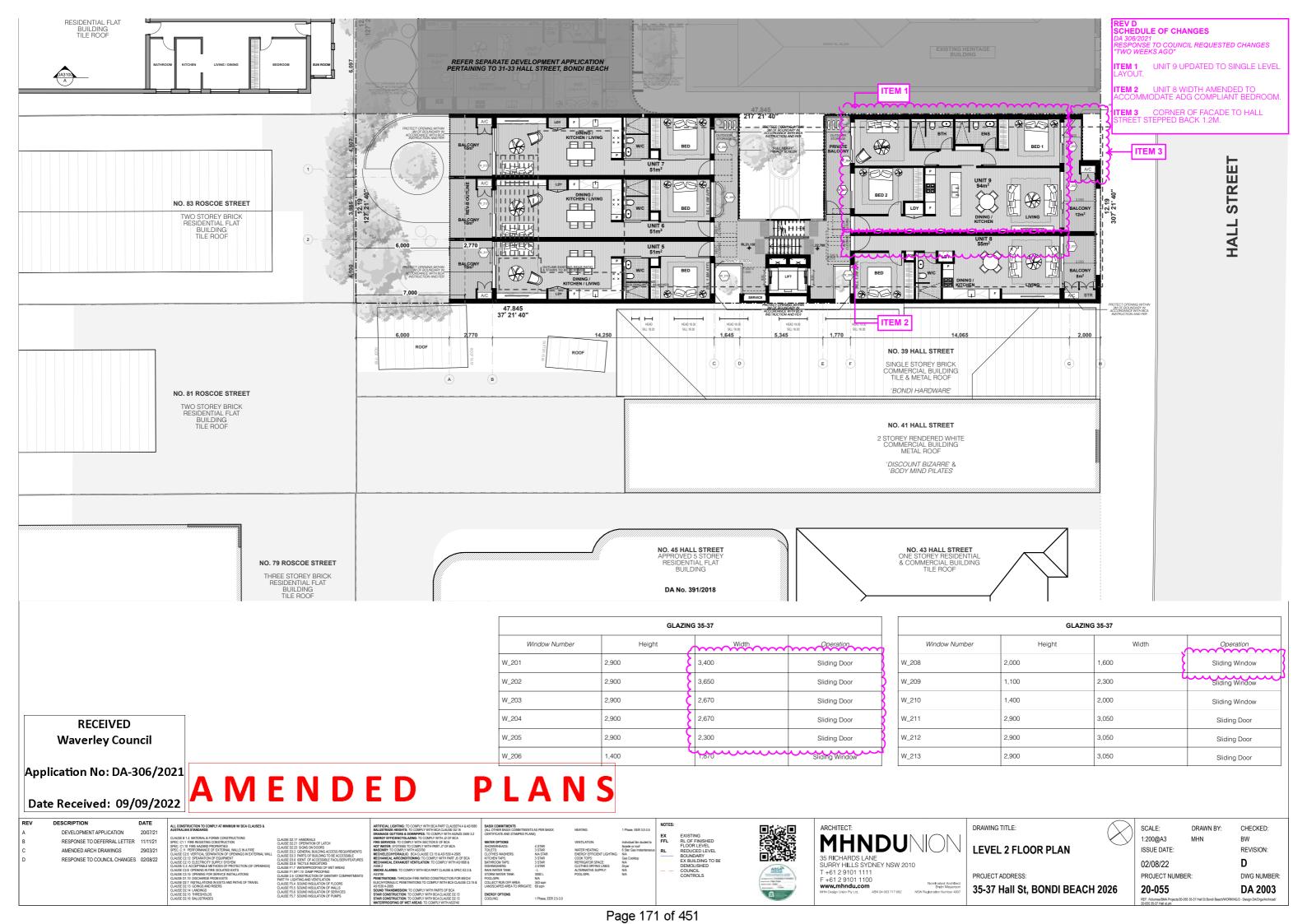
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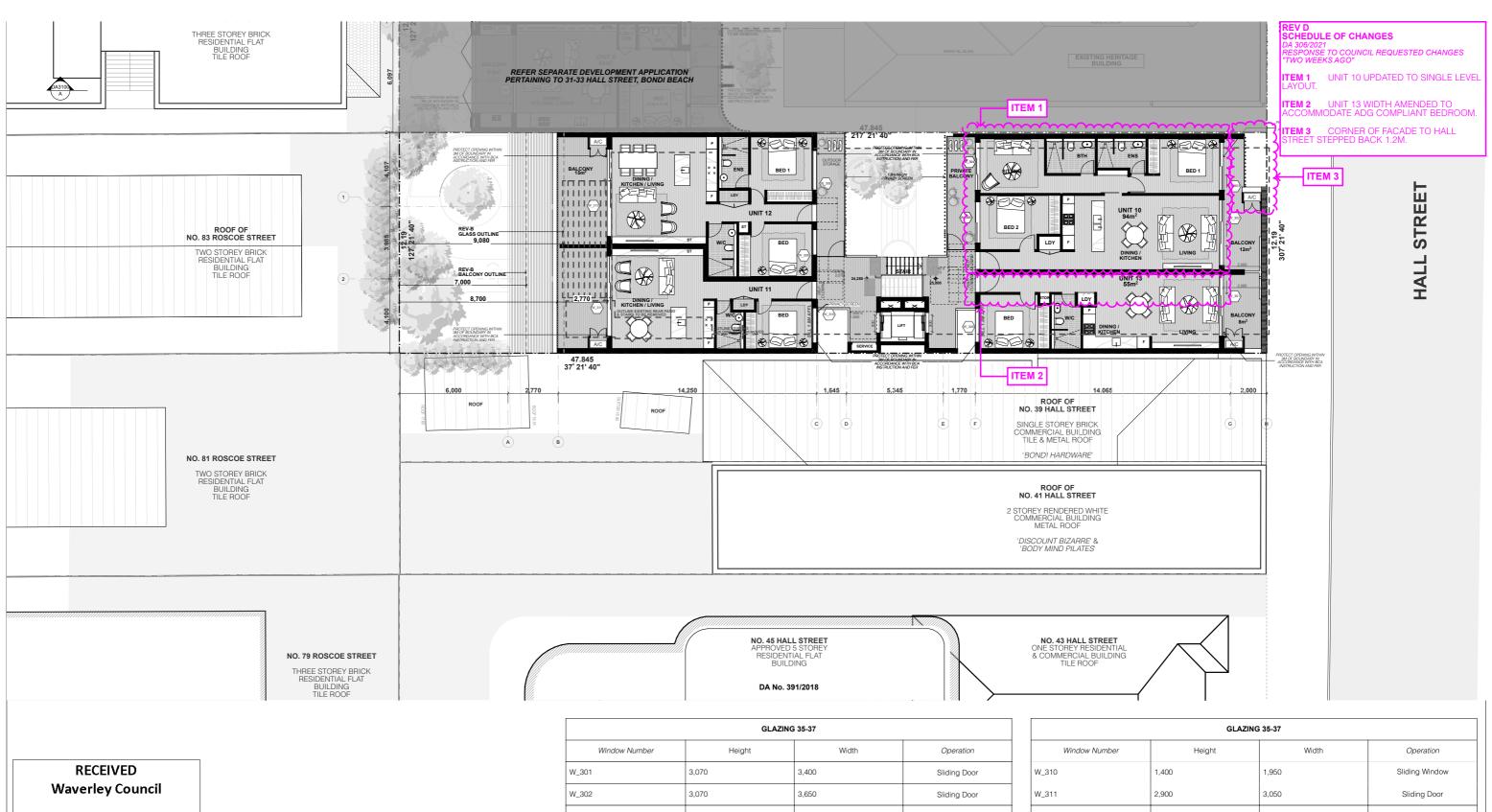
20-055 DA 2000

NOTES:









Application No: DA-306/2021

Date Received: 09/09/2022

GLAZING 35-37			
Window Number	Height	Width	Operation
W_301	3,070	3,400	Sliding Door
W_302	3,070	3,650	Sliding Door
W_303	3,070	2,670	Sliding Door
W_304	2,470	2,670	Sliding Window
W_305	2,470	2,300	Sliding Window
W_306	970	1,870	Sliding Window
W_308	2,900	2,200	Sliding Window
W_309	2,900	1,425	Sliding Window

GLAZING 35-37				
Window Number	Height	Width	Operation	
W_310	1,400	1,950	Sliding Window	
W_311	2,900	3,050	Sliding Door	
W_312	2,900	3,050	Sliding Door	
W_313	2,900	4,845	Sliding Door	

PLANS AMENDED

REV	DESCRIPTION	DATE
Α	DEVELOPMENT APPLICATION	20/07/21
В	RESPONSE TO DEFERRAL LETTER	11/11/21
С	AMENDED ARCH DRAWINGS	29/03/21
D	RESPONSE TO COUNCIL CHANGES	02/08/22

4 STAR 3 STAR NIA STAR 3 STAR 3 STAR - L 3000 L NIA 343 sqm E: 69 sqm



35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

LEVEL 3 FLOOR PLAN

35-37 Hall St, BONDI BEACH 2026

PROJECT ADDRESS:

DRAWING TITLE:

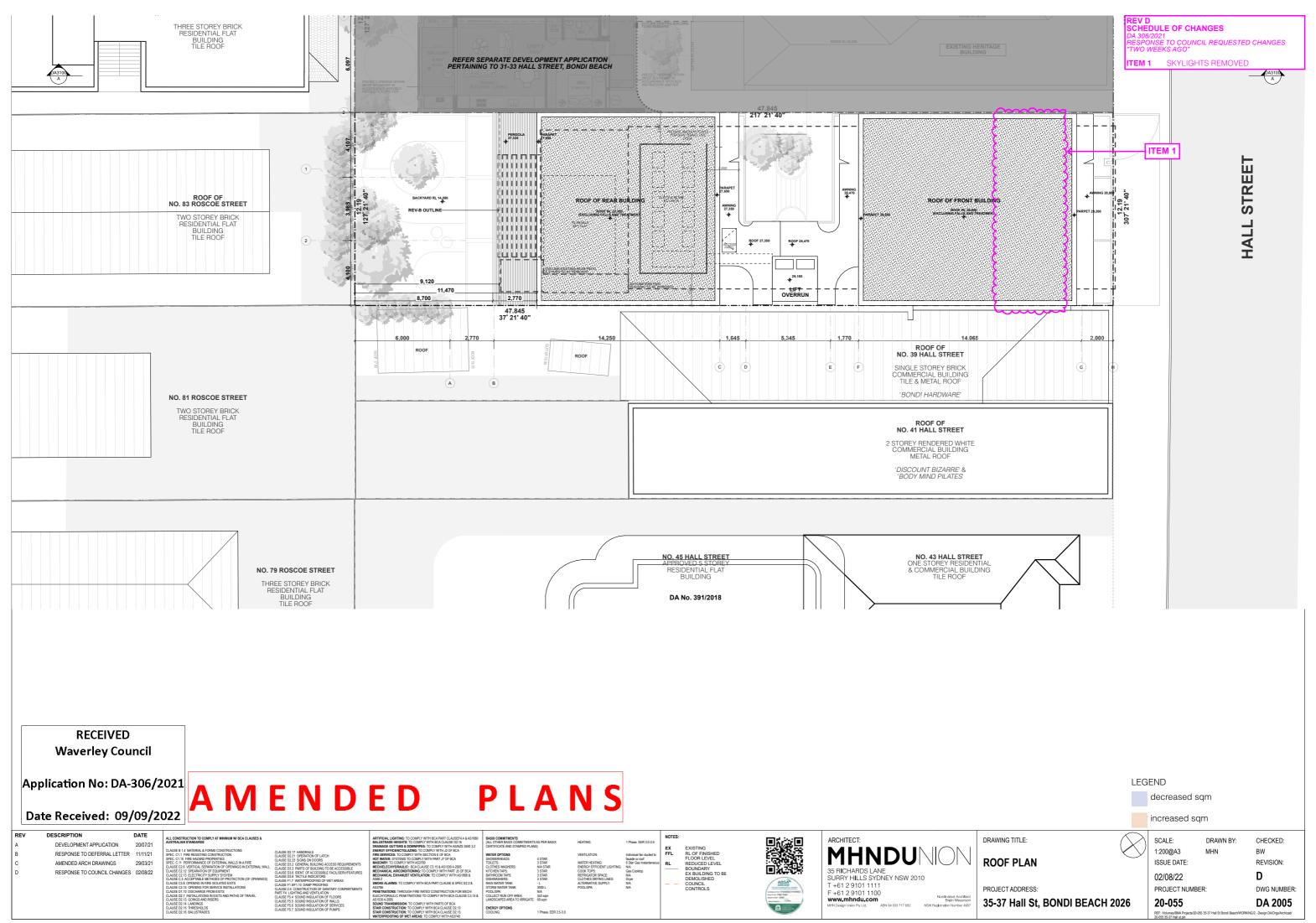
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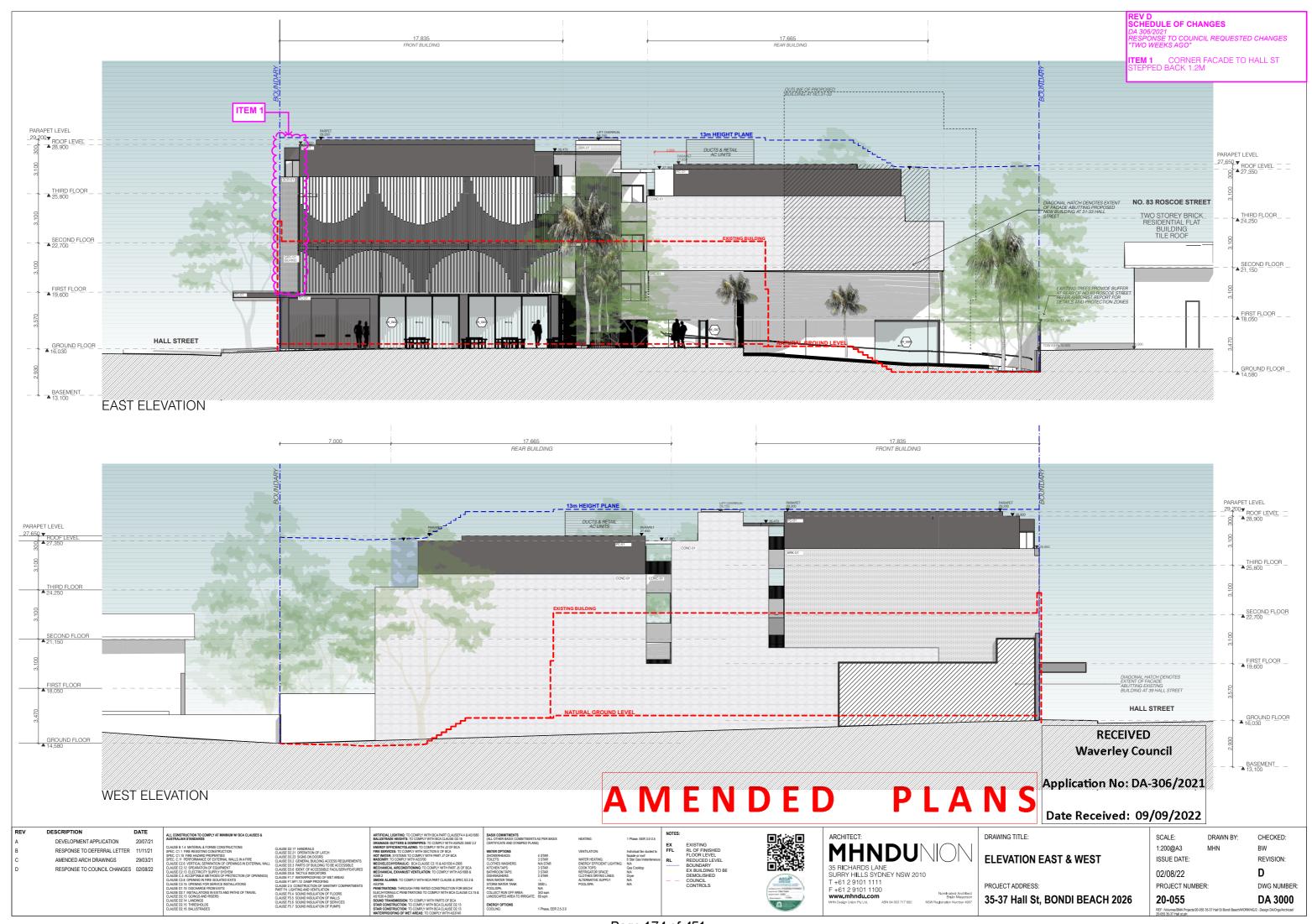
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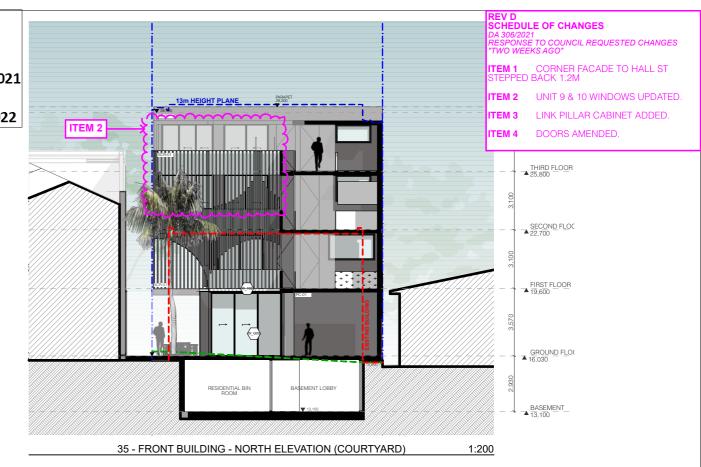
02/08/22 PROJECT NUMBER:

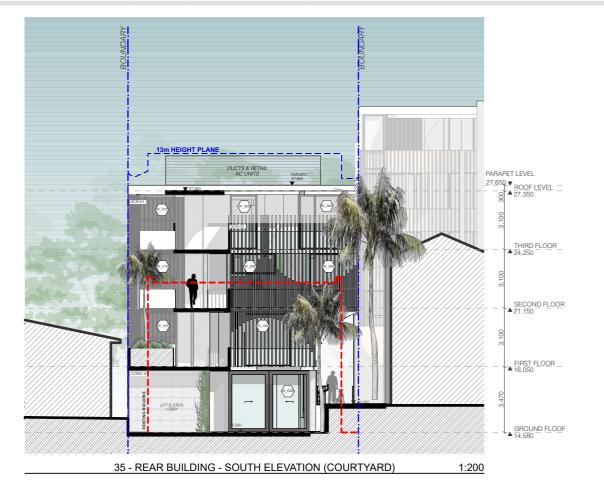
D DWG NUMBER:

20-055 **DA 2004**













REAR BUILDING

















DRAWING TITLE:

ELEVATION NORTH

ELEVATION NORTH & SOUTH
PROJECT ADDRESS:

02/08/22 PROJECT N

SCALE:

1:200@A3

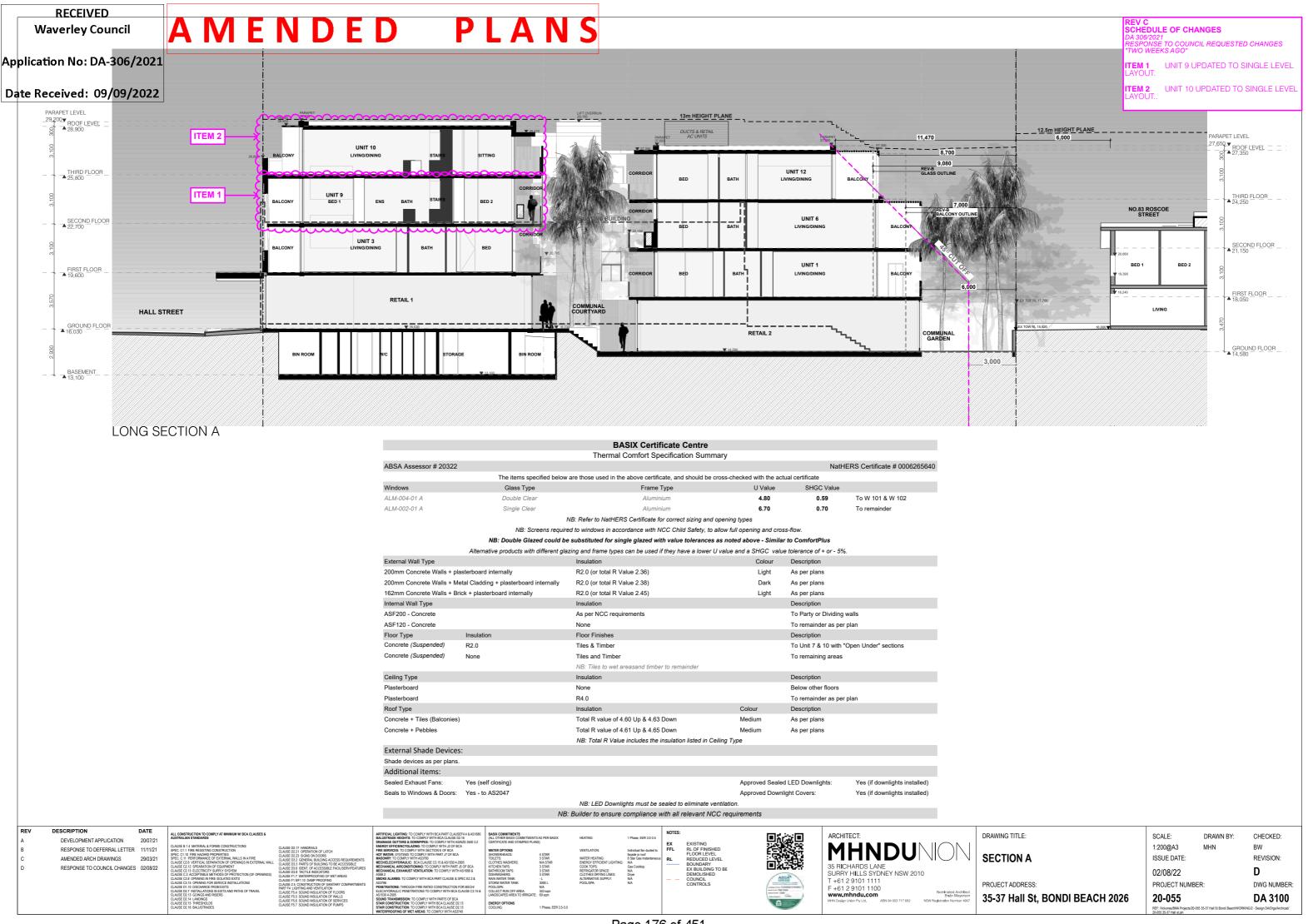
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35-37 Hall St, BONDI BEACH 2026 20-0

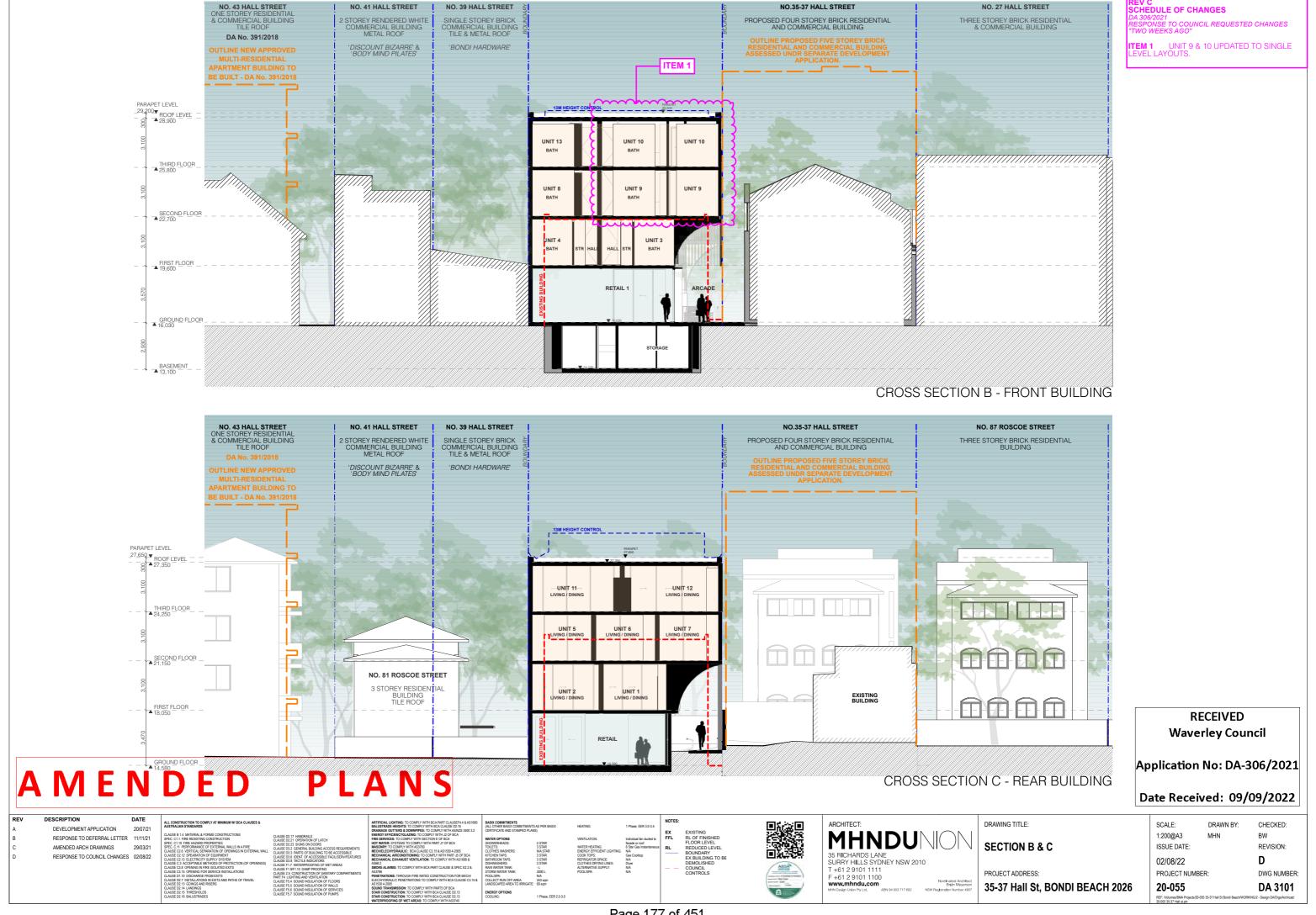
ISSUE DATE: REVISION:
02/08/22 D
PROJECT NUMBER: DWG NUMBER:

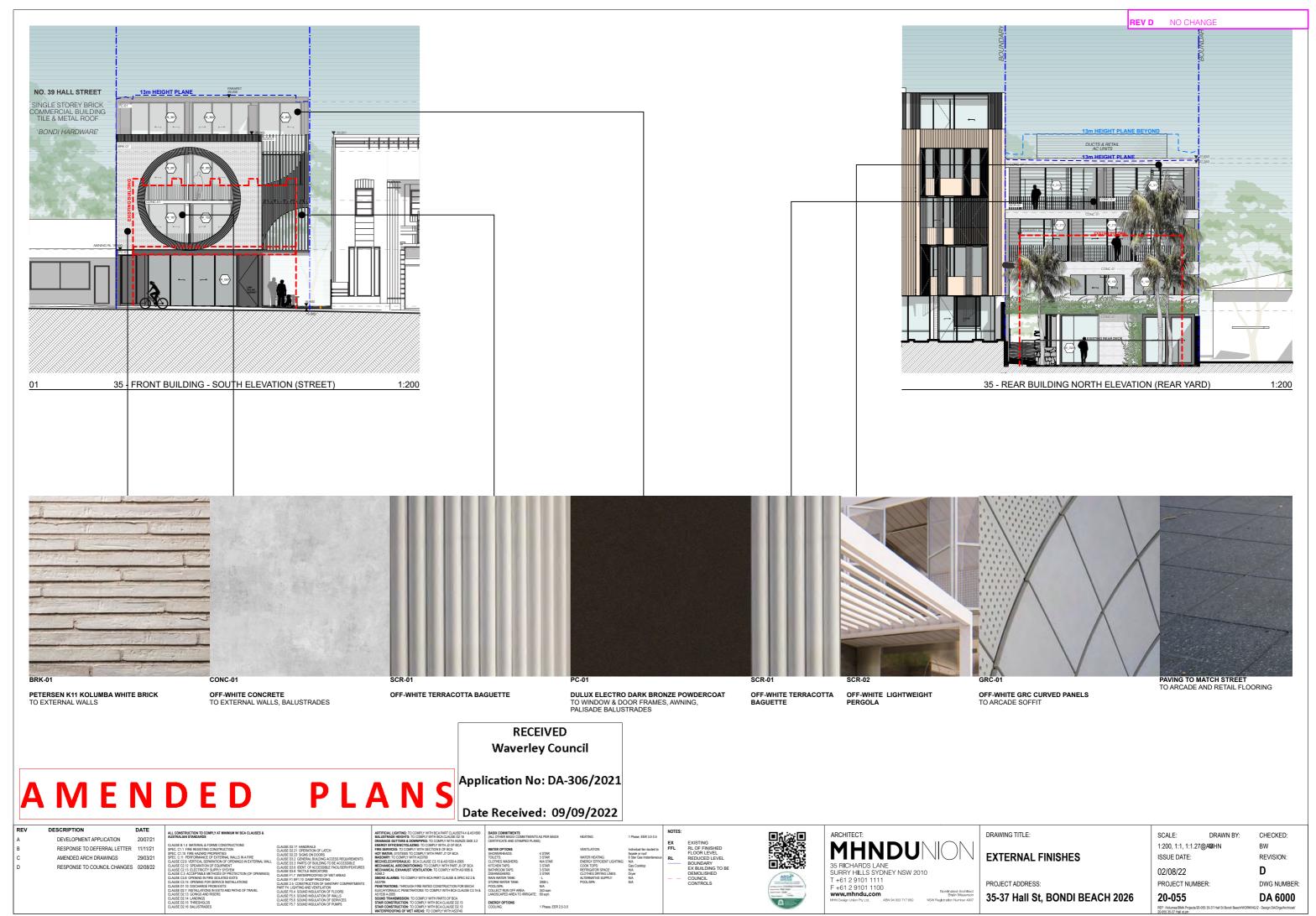
20-055 DA 3001

REF: Notumes IBMA Projects (20-055 35-37 Hall St Bondi BeachWORKING) 2 - Design DA/Drgs/Archicad/

CHECKED:









RESPONSE TO DEFERRAL LETTER 11/11/21

Page 179 of 451

PHOTOMONTAGE - HALL STREET LOOKING NORTH-WEST

35-37 Hall St, BONDI BEACH 2026

PROJECT ADDRESS:

ISSUE DATE: REVISION: D 02/08/22

@A3

PROJECT NUMBER: DWG NUMBER:

20-055 DA 6001

GFA CALCULATION

WAVERLEY COUNCIL LEP 2012 GFA Definition:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- the area of a mezzanine, and
- habitable rooms in a basement or an attic, and
- any shop, auditorium, cinema, and the like, in a basement or attic.

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- any basement:
- storage, and
- vehicular access, loading areas, garbage and services, and
- (f) plant rooms. lift towers and other areas used
- exclusively for mechanical services or ducting, and (g) car parking to meet any requirements of the consent
- authority (including access to that car parking), and any space used for the loading or unloading of goods
- (including access to it), and terraces and balconies with outer walls less than 1.4
- metres high, and
- voids above a floor at the level of a storey or storey above.

GFA CALCULATIONS

BASEMENT: $0m^2$ GROUND FLOOR: 276m² FIRST FLOOR: 237m² SECOND FLOOR: 315m² THIRD FLOOR: 283m² **TOTAL GFA** 1111m²

FSR

	2.0002		
SITE AREA:	583.3m²	583.3m²	
TOTAL GFA:	1166.6m ²	1111m²	
FSR:	2:1	1.90:1	

B4 CONTROL PROPOSED

PREVIOUS CALCULATIONS

GFA CALCULATIONS

BASEMENT: $0m^2$ GROUND FLOOR: 276m² FIRST FLOOR: 237m² SECOND FLOOR: 315m² THIRD FLOOR: 283m² **TOTAL GFA** 1111m²

FSR

SITE AREA:	583.3m²	583.3m ²
TOTAL GFA:	1166.6m ²	1111m²
FSR:	2:1	1.90:1

B4 CONTROL PROPOSED

RECEIVED Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022

PLANS AMENDED

EV	DESCRIPTION	DATE	
	DEVELOPMENT APPLICATION	20/07/21	
	RESPONSE TO DEFERRAL LETTER	11/11/21	
:	AMENDED ARCH DRAWINGS	29/03/21	
1	RESPONSE TO COUNCIL CHANGES	02/08/22	

4 STAR 3 STAR NIA STAR 3 STAR 3 STAR - L 3000 L N/A 343 sqm



35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

DRAWING TITLE: **GFA CALCULATION**

LEVEL 3

PROJECT ADDRESS: 35-37 Hall St, BONDI BEACH 2026

SCALE: DRAWN BY: CHECKED: 1:300@A3 ISSUE DATE: REVISION: 02/08/22

NO CHANGE

1:300

1:300

1:300

1:300

1:300

GROUND

AREA: 129 m²

LEVEL 1 AREA: 118 m²

LEVEL 2

LEVEL 3

BASEMENT

AREA: 147 m²

LEVEL 1 AREA: 119 m²

日日

AREA: 161 m²

LEVEL 3

AREA: 129 m²

111111111

GROUND

LEVEL 1

LEVEL 2

D PROJECT NUMBER: DWG NUMBER 20-055 **DA 9000**

LANDSCAPE AREA CALCULATION

WAVERLEY COUNCIL LEP 2012 Landscaped Area Definition:

landscaped area is a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

- (a) To preserve and enhance native wildlife populations and habitat through appropriate planting of indigenous vegetation.
 (b) To encourage mature and substantial tree planting to improve the amenity of developments
- (c) To allow for landscaping to provide screening between buildings.
- (d) To ensure landscaped areas are useable and maintainable spaces that contribute to the existing landscape character of the street.
- (e) To minimise the extent of impervious areas and facilitate rainwater infiltration.
- (f) To influence the microclimate of open space within the development.

DCP Controls

- (a) Development is to comply with the provisions of Part B3 Landscaping and Biodiversity.
- (b) 30% of the site area is to be provided as landscaped area.
- (c) 50% of the landscaped area must be deep soil zone.
- (d) Where site conditions allow, the deep soil zone is to be consolidated as one area to assist the ease of drainage and to allow for effective deep soil planting.
- (e) Landscaping must relate to the building scale and assist integration of the
- development with the existing street character.

 (f) All development proposals are to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and bushland.
- (g) For developments with podium landscaping, compliance with Section B3 Landscaping and Biodiversity is required.

LANDSCAPE AREA

SITE AREA	DCP CONTROL	PROPOSED	COMPLIES
583.3m²	$30\% = 175m^2$	61m² (12%)	NO

DEEP SOIL

SITE AREA CONTROL REQUIRED 583.3m² 50% of Landscape area

PROPOSED 61m²

PREVIOUS LANDSCAPE AREA

SITE AREA DCP CONTROL **PROPOSED COMPLIES** 583.3m² $30\% = 175m^2$ 69m² (12%) NO

PREVIOUS DEEP SOIL

SITE AREA 583.3m²

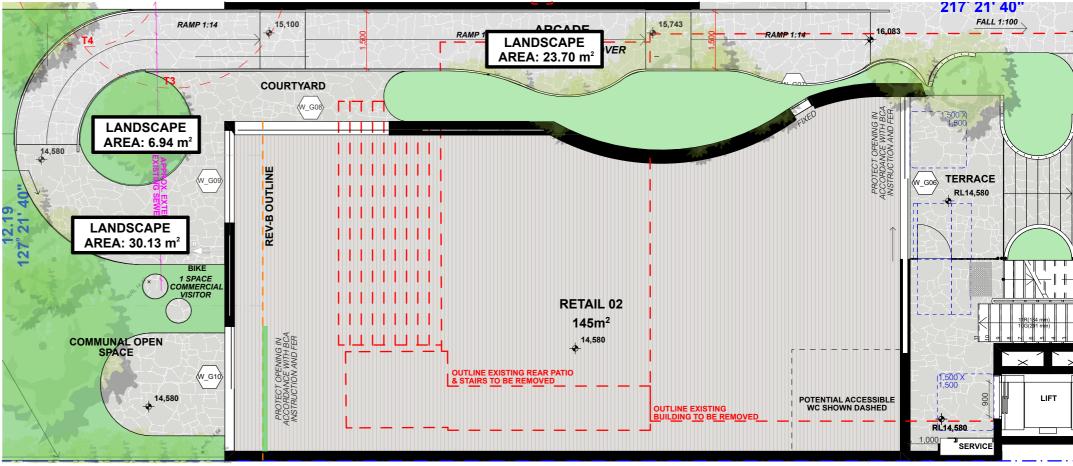
CONTROL REQUIRED 50% of Landscape area $50\% \times 175\text{m}^2 = 87.5\text{m}^2$

 $50\% \times 175\text{m}^2 = 87.5\text{m}^2$

PROPOSED

COMPLIES NO

COMPLIES NO



1:100 DEEP SOIL **GROUND FLOOR PLAN**

AMENDED PLAN

RECEIVED Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022

REV	DESCRIPTION
Α	DEVELOPMEN
В	RESPONSE TO
С	AMENDED ARC
D	RESPONSE TO

NT APPLICATION 20/07/21 O DEFERRAL LETTER 11/11/21

4 STAR 3 STAR N/A STAF 3 STAR 3 STAR - L 3000 L N/A

35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

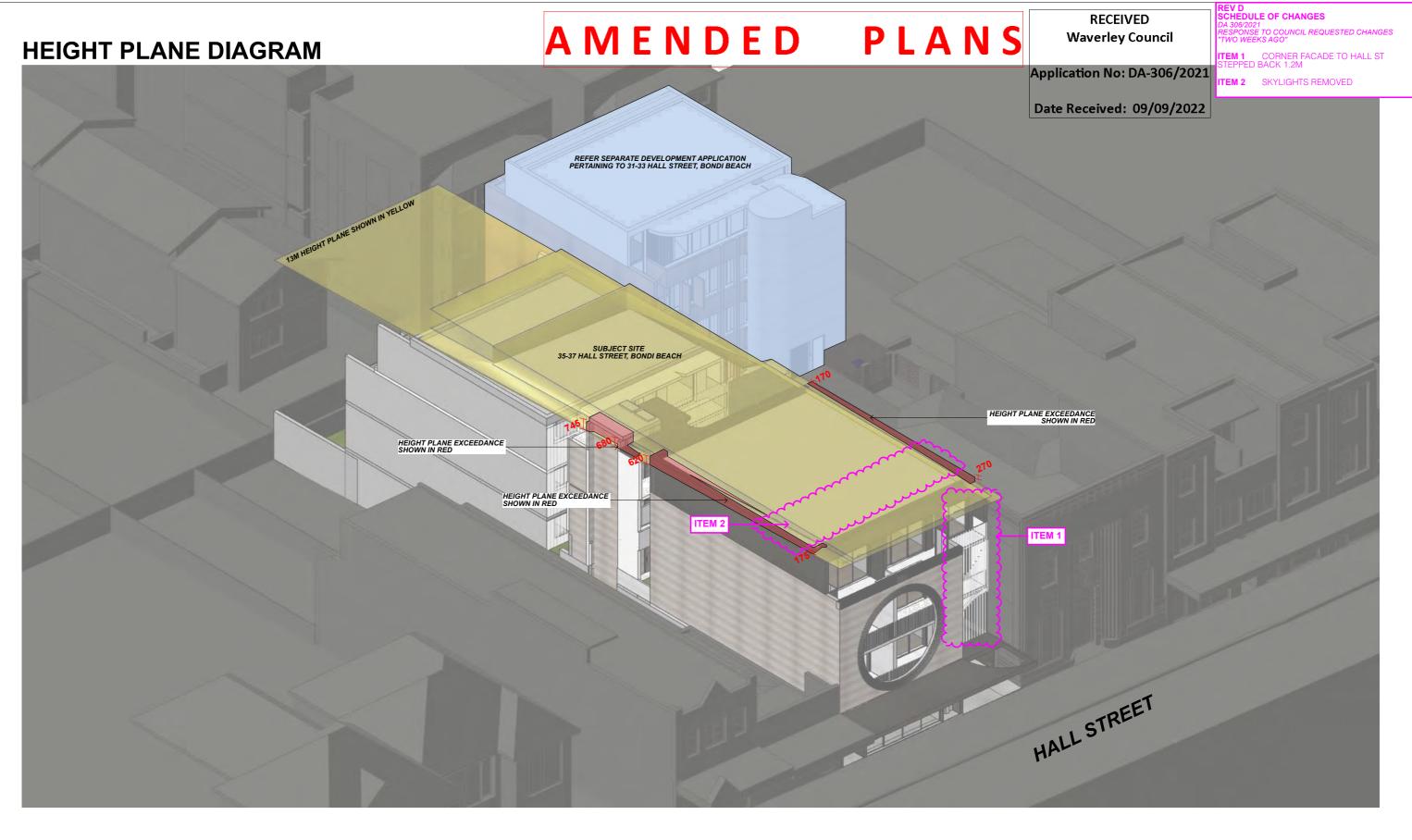
DRAWING TITLE LANDSCAPE AREA CALCULATION

35-37 Hall St, BONDI BEACH 2026

PROJECT ADDRESS:

SCALE: DRAWN BY CHECKED: 1:100@A3 ISSUE DATE: REVISION: 02/08/22 D

PROJECT NUMBER: DWG NUMBER 20-055 DA 9001



HEIGHT PLANE AXONOMETRIC

DEVELOPMENT APPLICATION 20/07/21 RESPONSE TO DEFERRAL LETTER 11/11/21



ARCHITECT:

MHNDU

DRAWING TITLE:

HEIGHT PLANE DIAGRAM

PROJECT ADDRESS:

35-37 Hall St, BONDI BEACH 2026

SCALE: CHECKED: @A3 ISSUE DATE: REVISION: 02/08/22

D PROJECT NUMBER: DWG NUMBER: 20-055 DA 9002

SOLAR ACCESS & CROSS VENTILATION

SOLAR ACCESS & CROSS VENTILATION

	SOLAR ACCESS (2hs Solar Access 9am-3pm 21st June)	CROSS VENTILATION
UNIT 1	YES	YES
UNIT 2	YES	YES
UNIT 3	NO	YES
UNIT 4	NO	YES
UNIT 5	YES	YES
UNIT 6	YES	YES
UNIT 7	YES	YES
UNIT 8	NO	YES
UNIT 9	YES	YES
UNIT 10	YES	YES
UNIT 11	YES	YES
UNIT 12	YES	YES
UNIT 13	NO	YES

13 OF 13 9 OF 13 **70% COMPLIES** 100% COMPLIES (CONTROL 60%) (CONTROL 70%)

LEGEND

ACHIEVES 2 HOURS SOLAR ACCESS 9AM-3PM 21 JUNE

ACHIEVES NATURAL CROSS VENTILATION

RECEIVED Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022

PLANS MENDED







DRAWING TITLE: **VENTILATION** PROJECT ADDRESS:

LEVEL 1

SOLAR ACCESS & CROSS 35-37 Hall St, BONDI BEACH 2026

SCALE: 02/08/22

CHECKED: 1:250@A3 ISSUE DATE: REVISION:

EV D CHEDULE OF CHANGES

ETO COUNCIL REQUESTED CHANGES

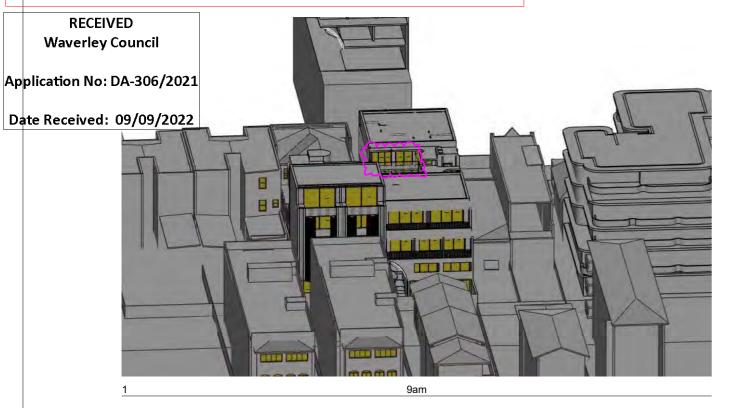
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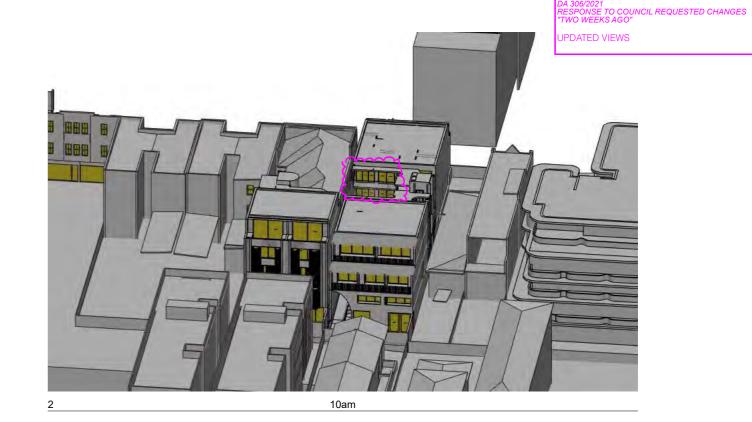
UNIT 9 UPDATED TO SINGLE LEVEL

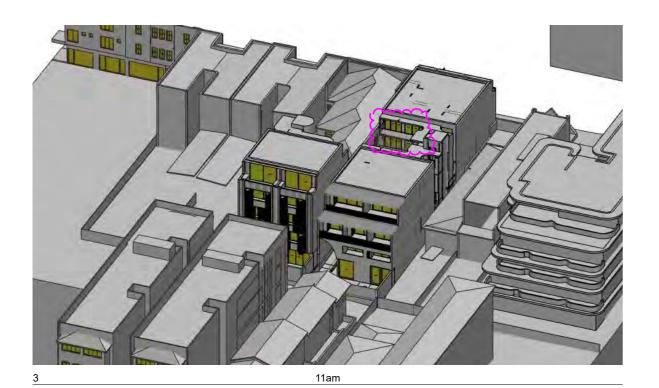
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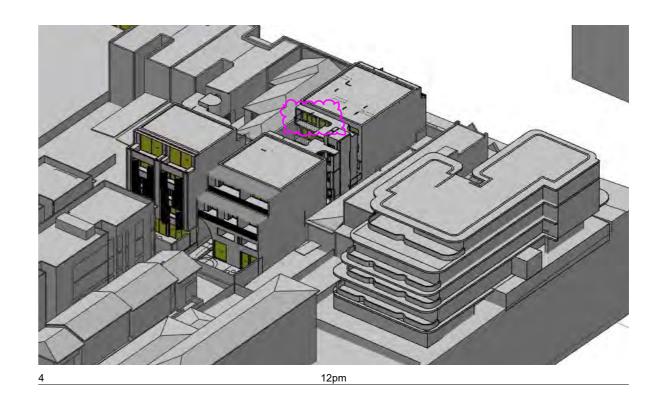
Page 183 of 451

PLANS AMENDED









REV	DESCRIPTION	DATE
Α	DEVELOPMENT APPLICATION	20/07/2
В	RESPONSE TO DEFERRAL LETTER	11/11/2
С	AMENDED ARCH DRAWINGS	29/03/2
D	RESPONSE TO COUNCIL CHANGES	02/08/2



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VIEWS FROM THE SUN 9am-12pm PROJECT ADDRESS:

35-37 Hall St, BONDI BEACH 2026

DRAWING TITLE:

1:200@A3 ISSUE DATE:

02/08/22 20-055

SCALE:

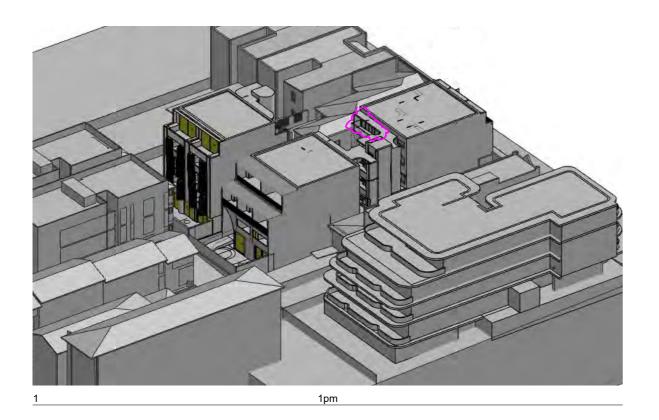
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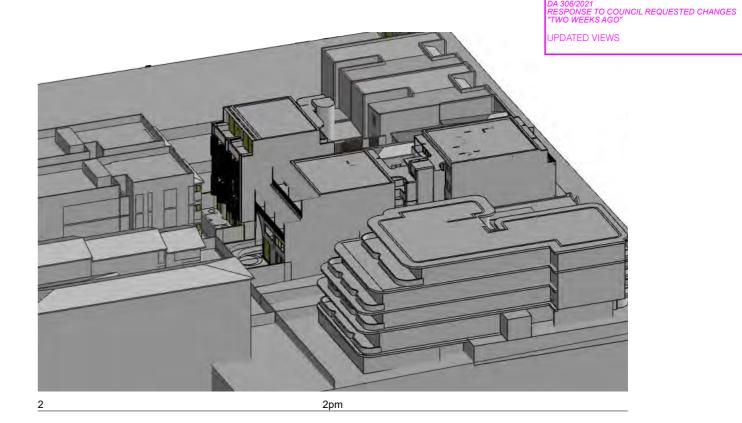
REV D SCHEDULE OF CHANGES

D DWG NUMBER: DA 9101

CHECKED:

REVISION:







AMENDED **PLANS**

RECEIVED Waverley Council

REV D SCHEDULE OF CHANGES

Application No: DA-306/2021

Date Received: 09/09/2022

CHECKED:

REVISION: D

DWG NUMBER:

DA 9102

DEVELOPMENT APPLICATION RESPONSE TO DEFERRAL LETTER 11/11/21





VIEWS FROM THE SUN 1pm-3pm

DRAWING TITLE:

PROJECT ADDRESS:

35-37 Hall St, BONDI BEACH 2026

02/08/22 PROJECT NUMBER: 20-055

1:200@A3

ISSUE DATE:

WASTE MGT PLAN

WAVERLEY COUNCIL DCP 2012

Annexure B1-2

Waste and Recycling Generation Rates

Based on a survey of waste and recycling generation rates used across Sydney and Melbourne Councils in 2018, the approximate waste and recycling generation rates for residential

dwellings are	as follows:		
Generation F	lates		
Dwelling type	Generation rate rubbish (L/dwelling/week)	Generation rate recycling - containers (L/dwelling/week)	Generation rate Recycling - paper cardboard (L/dwelling/week)
Single Unit Dwelling (House)	120L	60	60
1 bedroom or studio	80L	40	40
2 + bedroom unit	120L	60	60

The above generation rates are based upon rates sourced from Randwick City Council's Waste Management Plan Guidelines, City of Melbourne Council's Waste Generation Rates (2015) and Sutherland Shire Council's Waste Collection Specification for new Multi-Unit Dwellings and

Use the figures above to estimate total waste generation over a week and recycling generation over a fortnight. This will assist you to calculate the number of bins and hence the storage space required.

WASTE CALCULATION - MULTI RESIDENTIAL

MULTI-RESIDENTIAL BUILDINGS

6 x 240 L WASTE BINS 80 L RED garbage per dwelling 6 x 240 L RECYCLING BINS 40 L YELLOW recycling per dwelling 6 x 240 L PAPER BINS 40 L BLUE paper recycling per dwelling

WASTE CALCULATION - COMMERCIAL

Shop	(greater	than	100m²	50L/100m ² floor area/day	50L/100m ² floor area/day
floor	area)				

COMMERCIAL BUILDINGS - COUNCIL BIN ALLOCATION

RETAIL	01
400	. ^ 1

130m2 x 0.5L WASTE / m2 65L x 7 Days 130m2 x 0.5L RECYCLING / m2 65 L / Day 65L x 7 Days

RETAIL 02 135m2 x 0.5L **WASTE** / m2 67.5L x 7 Days 135m2 x 0.5L RECYCLING / m2

67.5L x 7 Days

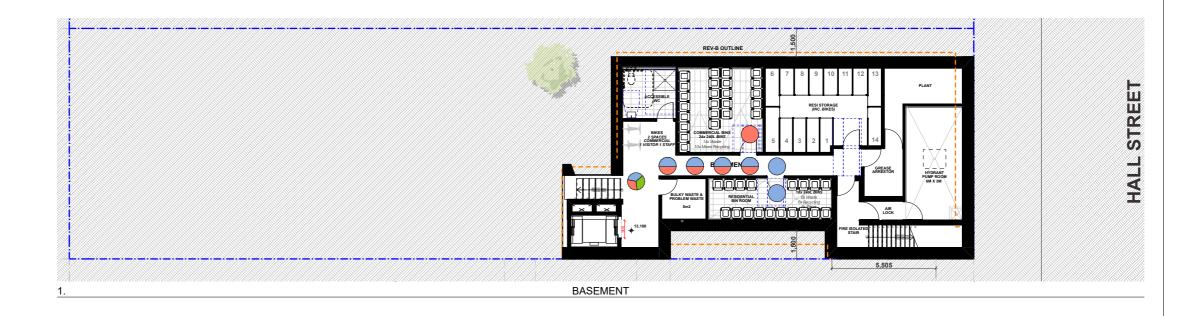
TOTALS 927.5 L / week for WASTE 927.5 L / week for RECYCLING 65 L / Day 455 L / Week

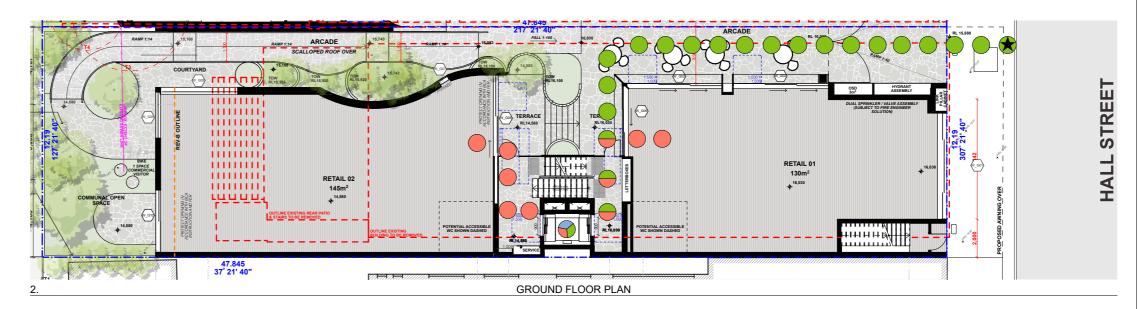
455 L / Week

67.5 L / Day 472.5 L / Week

67.5 L / Day 472.5 L / Week

4 x 240L WASTE Bins 4 x 240L WASTE





LEGEND



COLLECTION POINT

PATH OF TRAVEL FROM LIFT TO KERB SIDE COLLECTION POINT

PATH OF TRAVEL FROM LIFT TO GARBAGE BIN ROOM

PATH OF TRAVEL FROM COMMERCIAL STORE TO COMMERCIAL GARBAGE BIN ROOM

RECEIVED Waverley Council

Application No: DA-306/2021 **PLANS**

Date Received: 09/09/2022

REV	DESCRIPTION	DATE	
A	DEVELOPMENT APPLICATION	20/07/21	
3	RESPONSE TO DEFERRAL LETTER	11/11/21	
0	AMENDED ARCH DRAWINGS	29/03/21	
)	RESPONSE TO COUNCIL CHANGES	02/08/22	



AMENDED

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DRAWING TITLE:

PROJECT ADDRESS:

WASTE MGT PLAN

35-37 Hall St, BONDI BEACH 2026

SCALE: 1:200@A3 ISSUE DATE: 02/08/22

REVISION: D PROJECT NUMBER: DWG NUMBER: 20-055 DA 9200

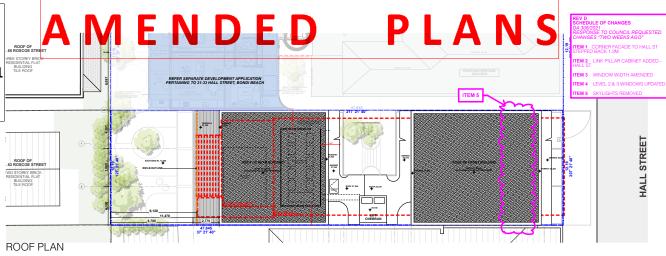
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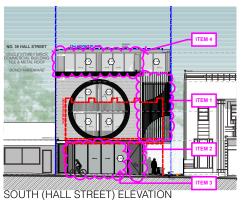
NOTIFICATION PLAN

RECEIVED Waverley Council

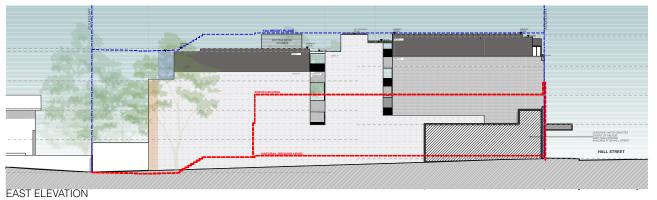
Application No: DA-306/2021

Date Received: 09/09/2022















DRAWING TITLE:
NOTIFICATION PLAN

PROJECT ADDRESS:
35-37 Hall St, BONDI BEACH 2026

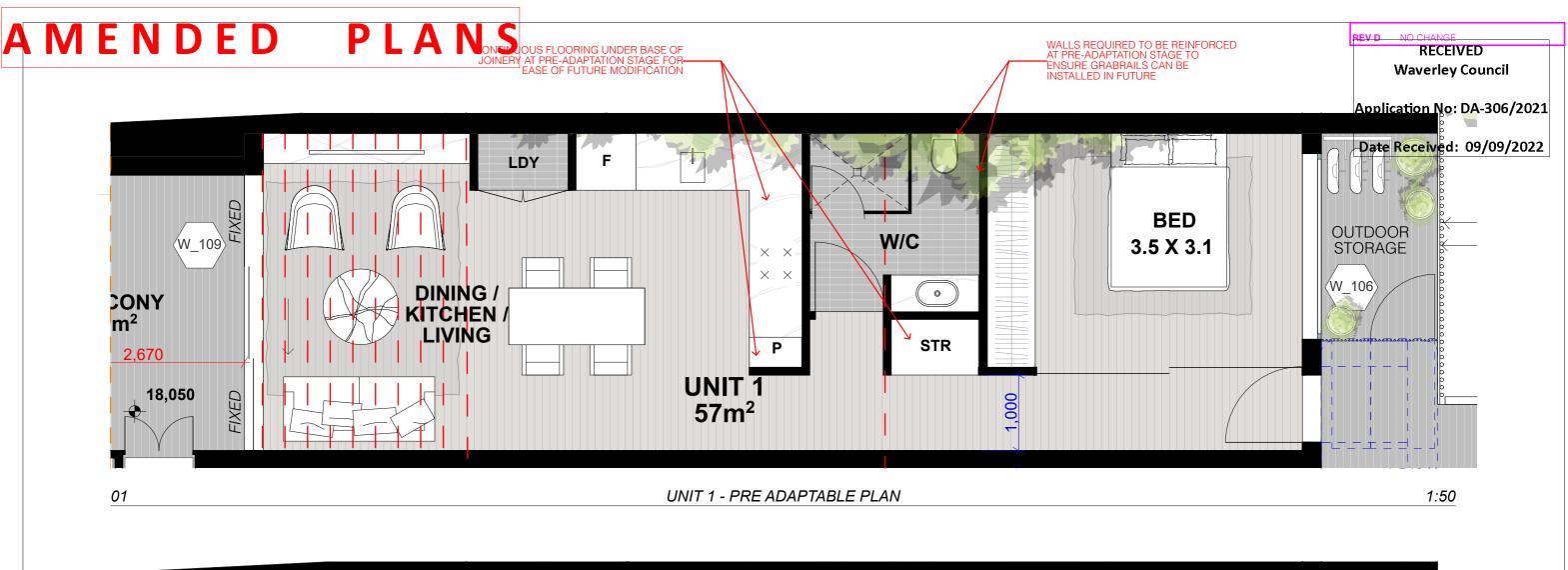
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Architect 20 55 3-57 Hall st glip.

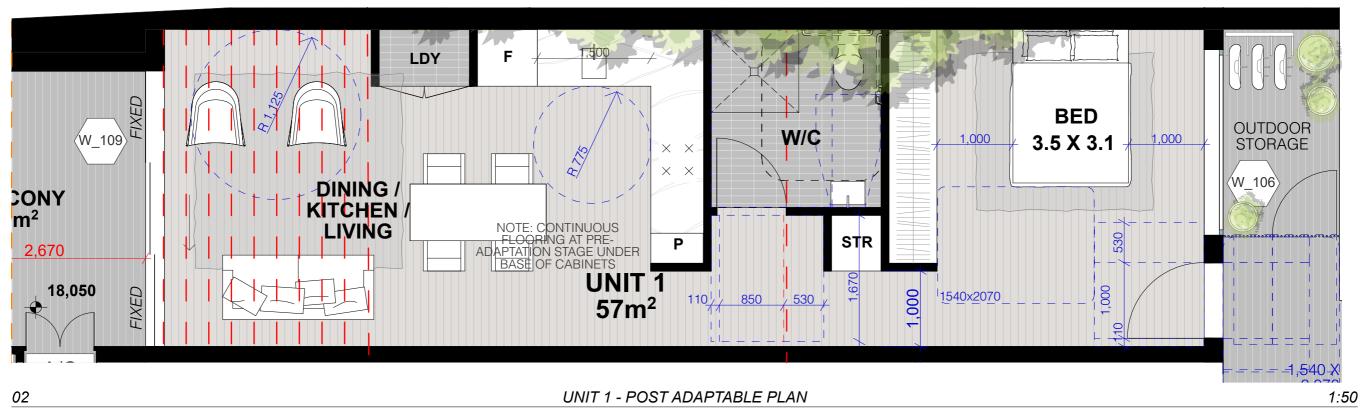
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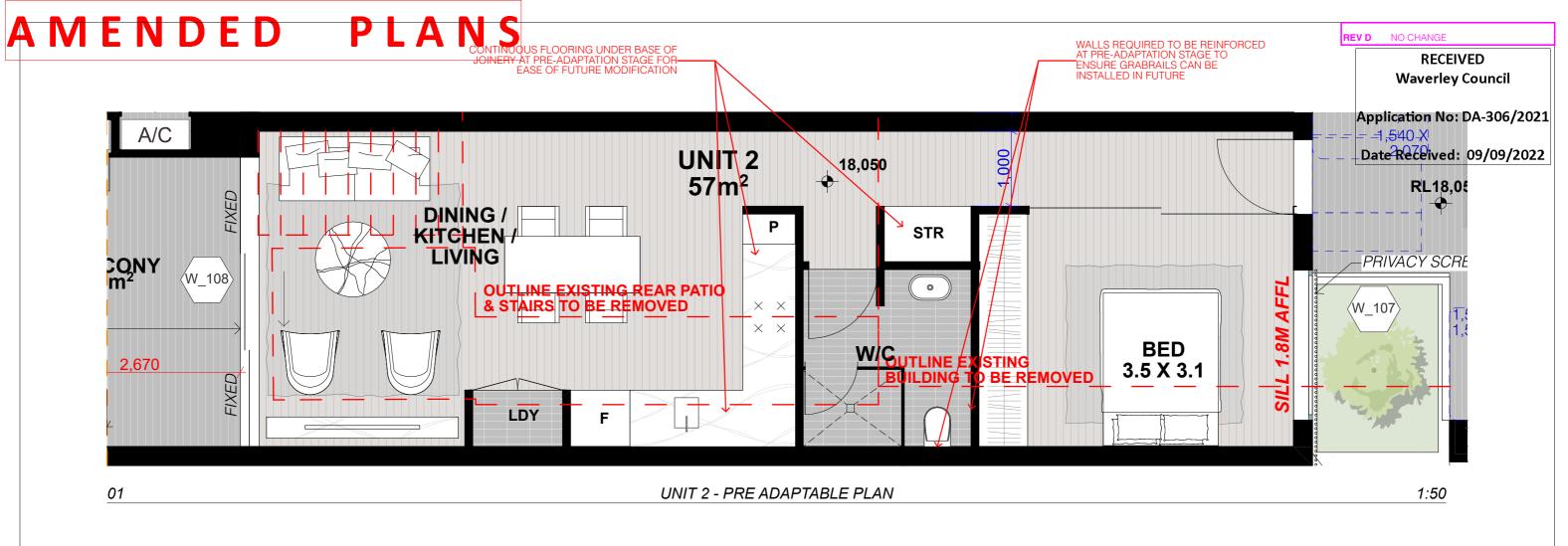
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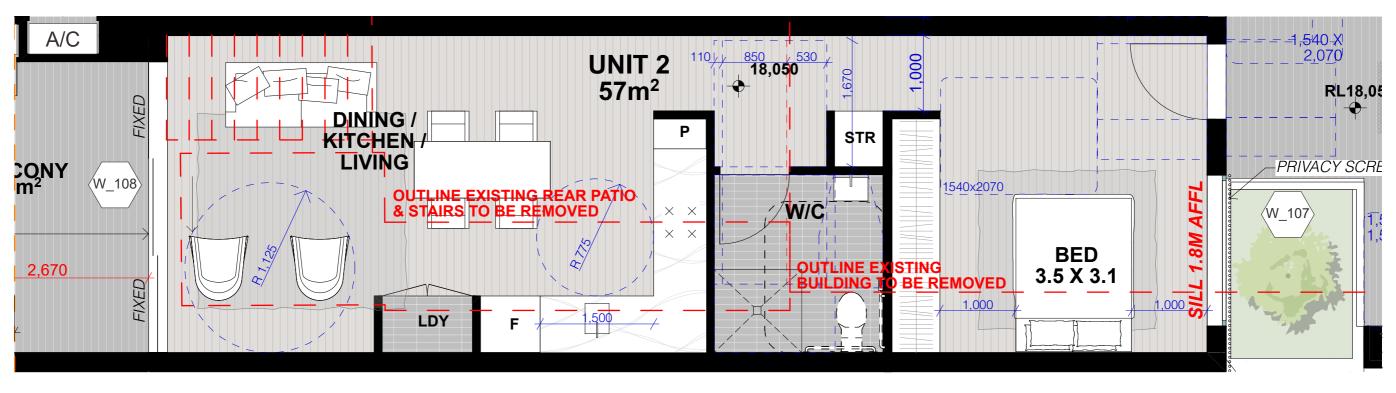
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20-055 DA 9201

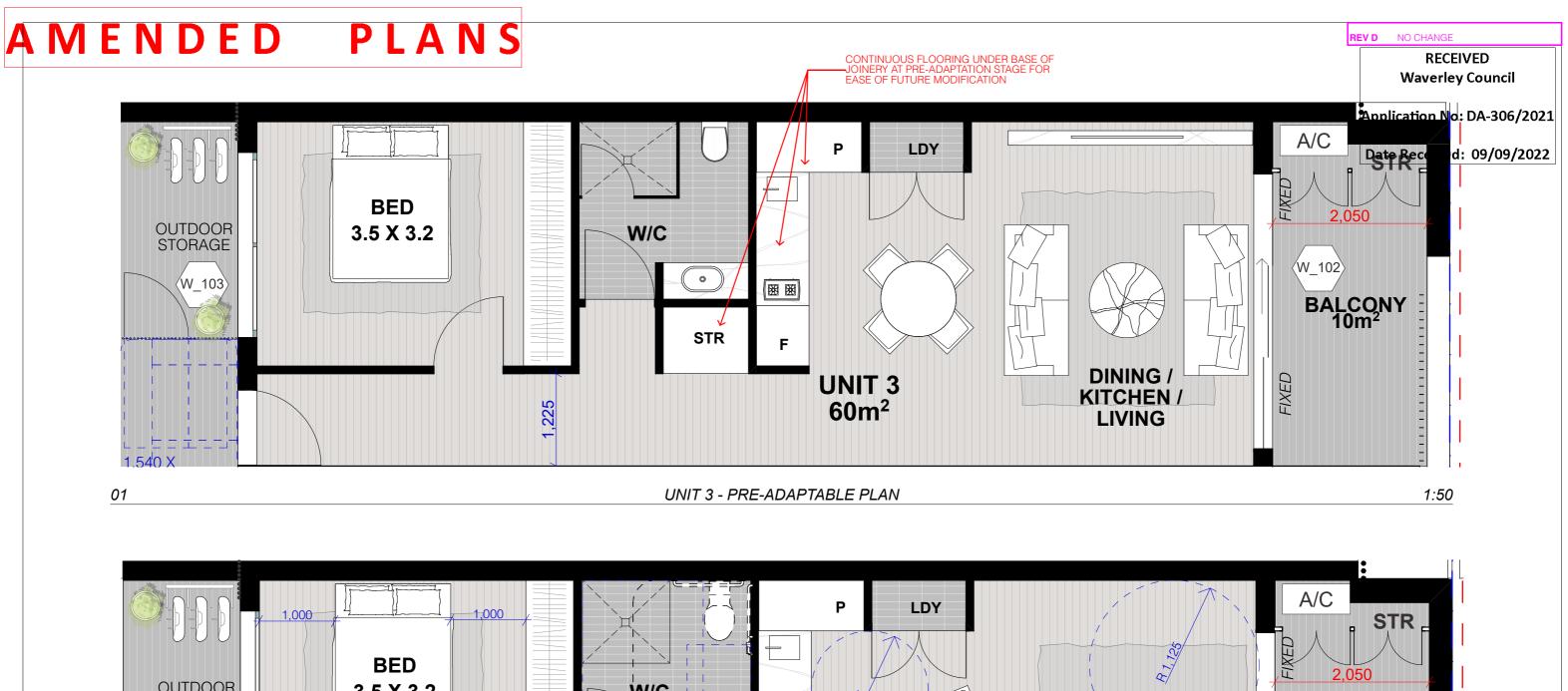


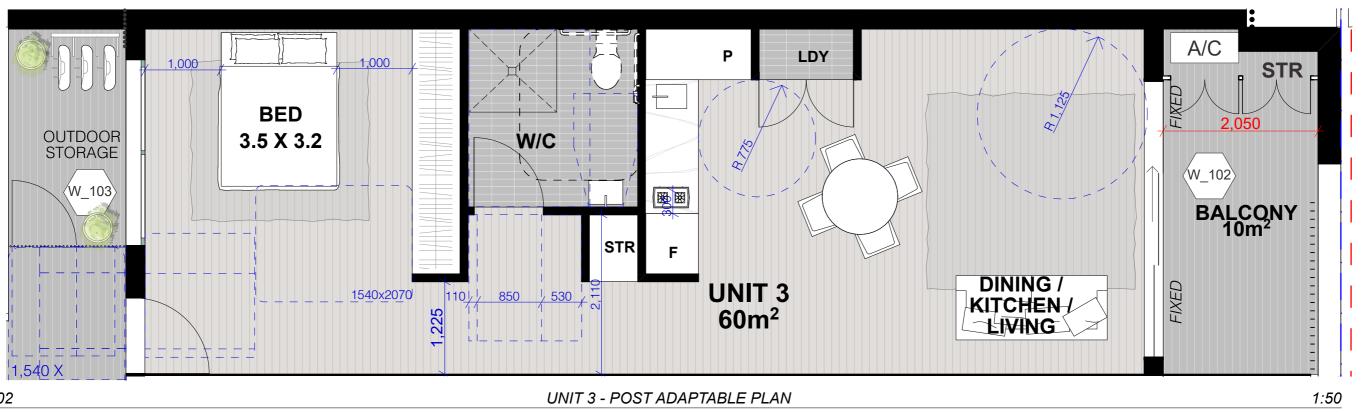


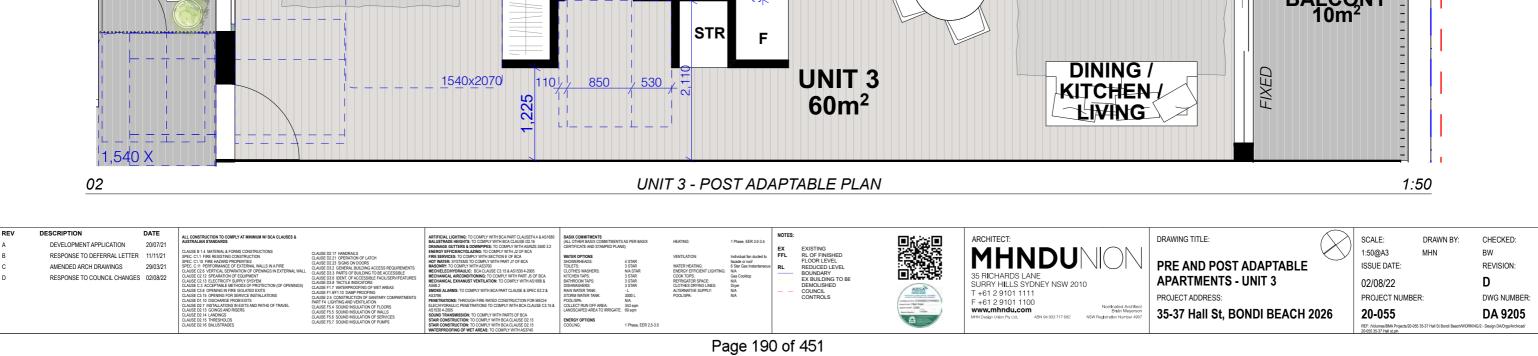


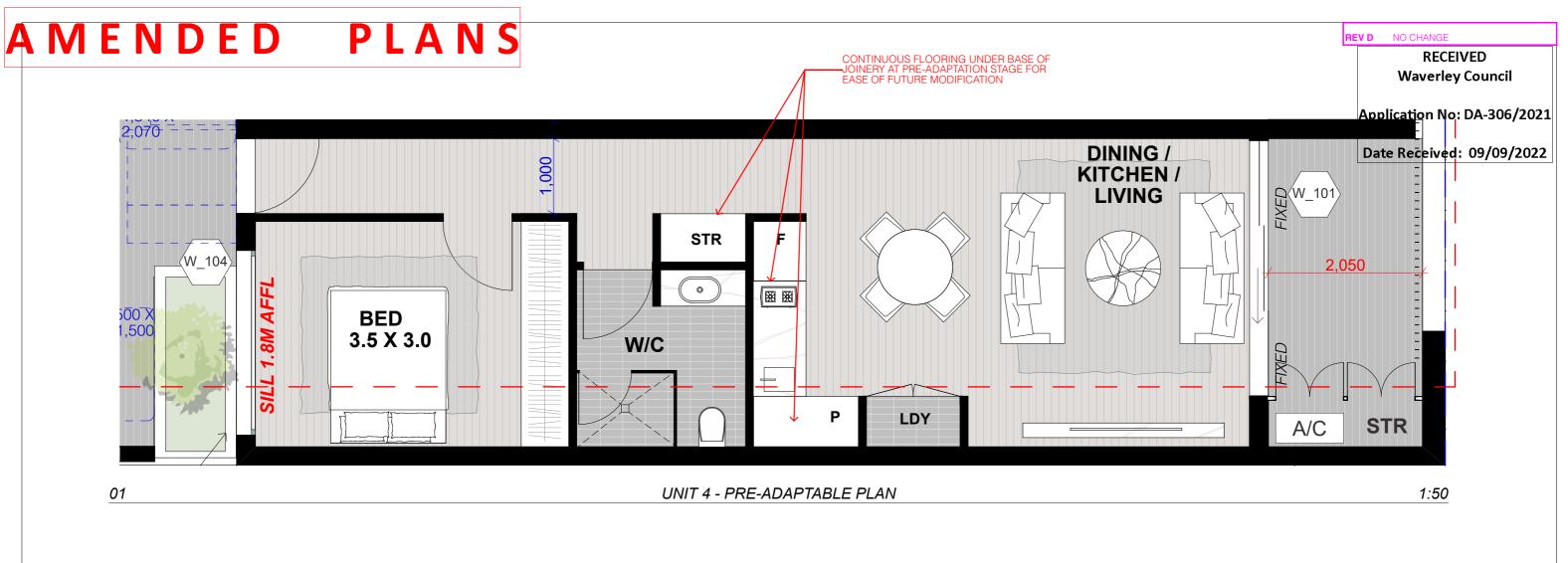


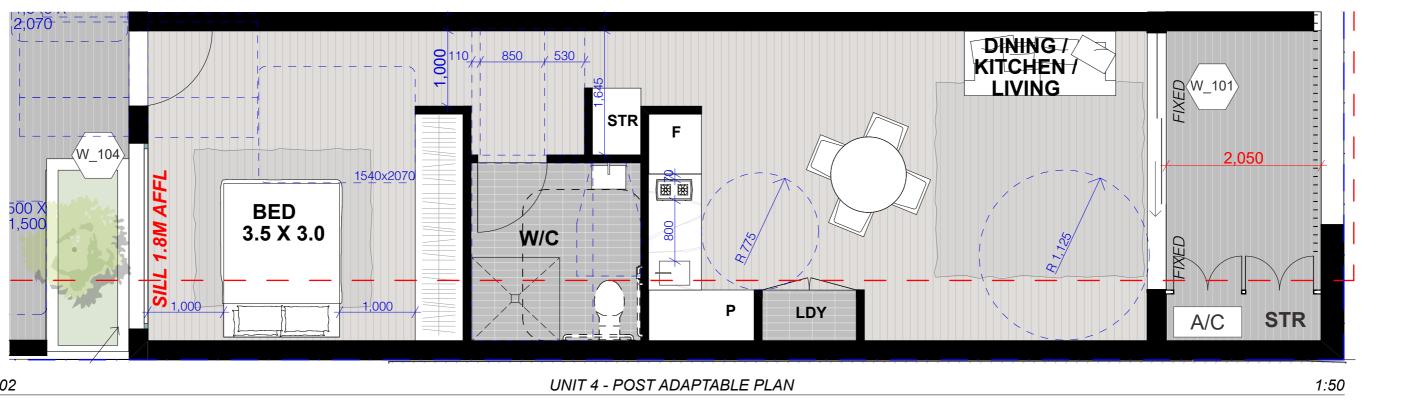
02 UNIT 2 - POST ADAPTABLE PLAN 1:50 DESCRIPTION DRAWING TITLE: SCALE: DRAWN BY: CHECKED: DEVELOPMENT APPLICATION 20/07/21 MHNDUNO 1:50@A3 RESPONSE TO DEFERRAL LETTER 11/11/21 PRE AND POST ADAPTABLE ISSUE DATE: REVISION: 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 RESPONSE TO COUNCIL CHANGES 02/08/22 **APARTMENTS - UNIT 2** 02/08/22 D PROJECT ADDRESS: PROJECT NUMBER: DWG NUMBER 35-37 Hall St, BONDI BEACH 2026 20-055 DA 9204 Page 189 of 451

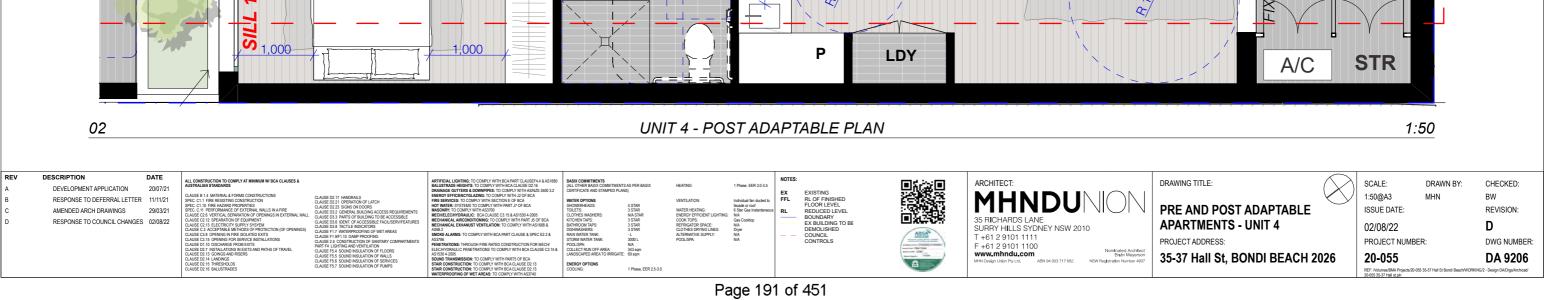


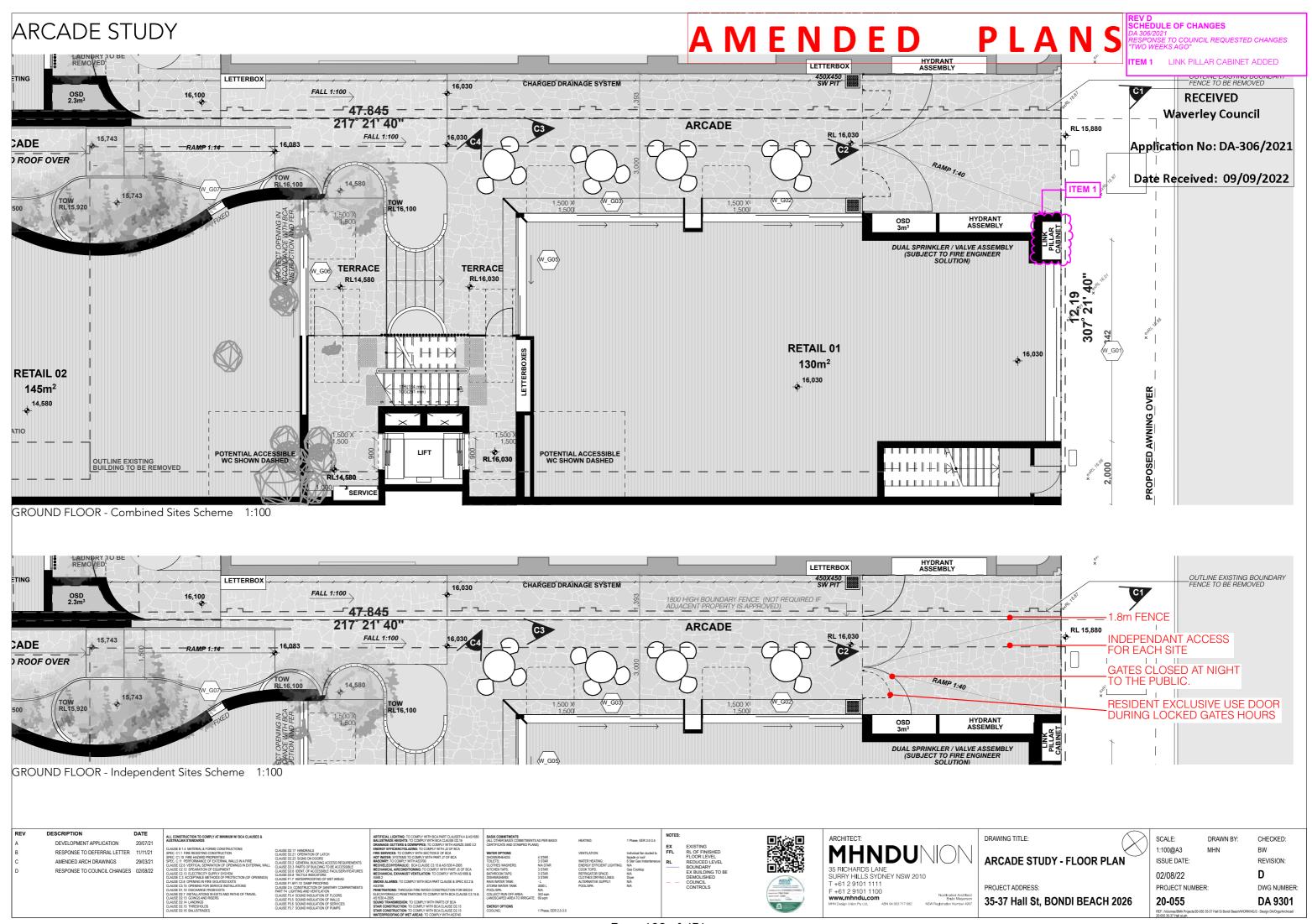












AMENDED PLANS

RECEIVED Waverley Council

Application No: DA-306/2021

Date Received: 09/09/2022





NIGHT - Combined Sites Scheme



DAY - Independent Sites Scheme

EV	DESCRIPTION	DATE	T
	DEVELOPMENT APPLICATION	20/07/21	
	RESPONSE TO DEFERRAL LETTER	11/11/21	
;	AMENDED ARCH DRAWINGS	29/03/21	
1	RESPONSE TO COUNCIL CHANGES	02/08/22	
			1



NIGHT - Independent Sites Scheme

PROJECT ADDRESS:

ARCADE STUDY Cam 1

DRAWING TITLE:

35-37 Hall St, BONDI BEACH 2026

02/08/22 PROJECT NUMBER:

20-055 DA 9302

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CHECKED:

ARCADE STUDY



CAM 2 - Independent Sites Scheme



CAM 3 - Independent Sites Scheme





+28,900 7 ROOF

ITEM 1

+25,800 6 LEVEL 3

+22,700 5 LEVEL 2

+19,600 4 LEVEL 1

+16,200

+13,100 2 BASEMENT

3 GROUND



ARCADE ELEVATION - Independent Sites Scheme

35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100

AMENDED PLANS

No. 35 HALL ST.

UNIT 10

UNIT 9

UNIT 3

RETAIL

BASEMENT

DRAWING TITLE: PROJECT ADDRESS:

3,000

▼16,030

ARCADE STUDY

35-37 Hall St, BONDI BEACH 2026

1.8m FENCE

1,390

SCALE: 1:100@A3 ISSUE DATE: 02/08/22

20-055

EXISTING COMMERCIAL TENANCY

EXISTING RETAIL

TEM 1 UNITS 9 & 10 UPDATED TO SINGLE LEVEL LAYOUTS.

No. 3Application No: DA-306/2021

HALL ST.

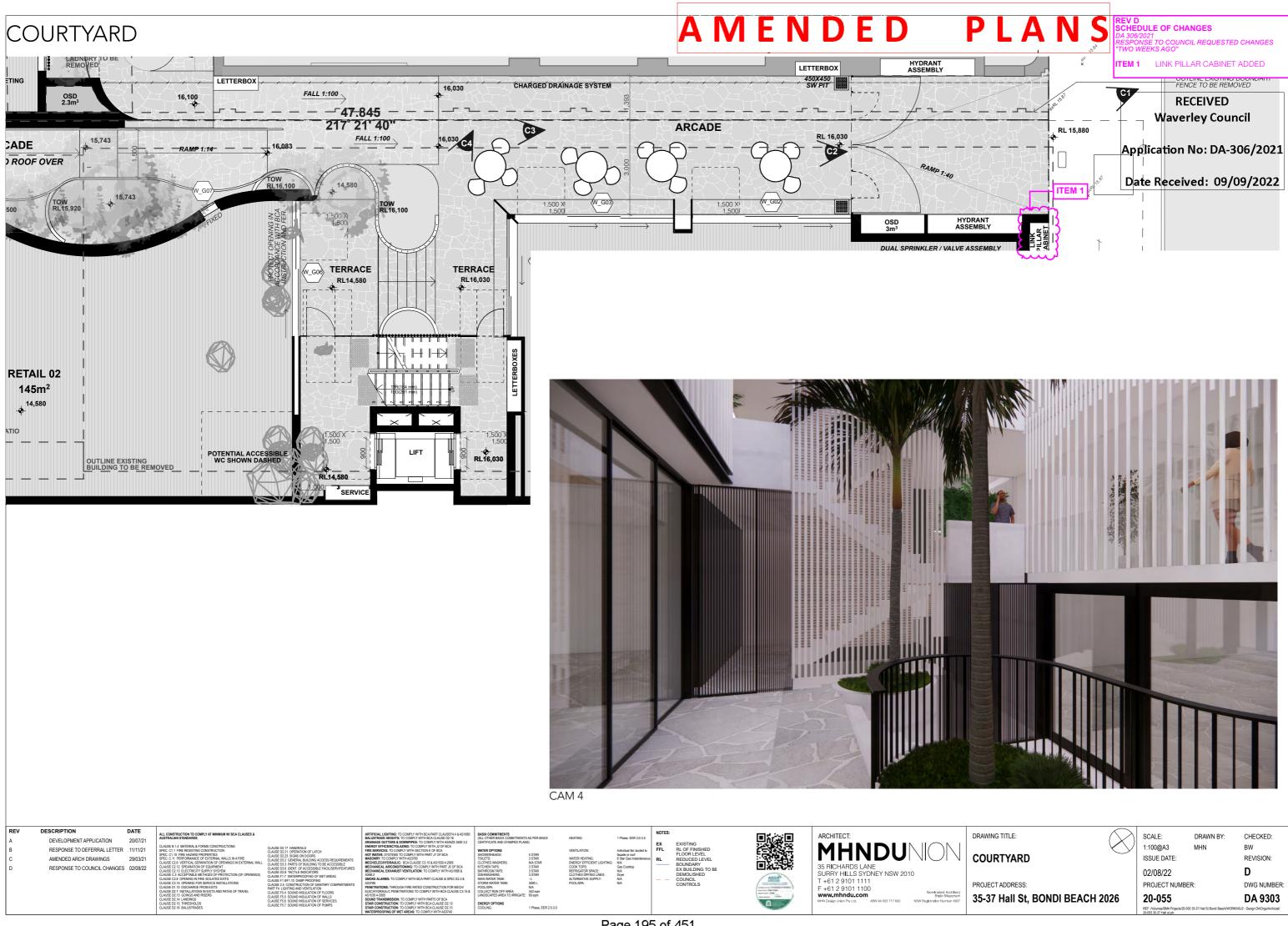
RECEIVED **Waverley Council**

Date Received: 09/09/2022

CHECKED: REVISION:

D PROJECT NUMBER: DWG NUMBER: DA 9303

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Report to the Waverley Local Planning Panel

Application number	DA-123/2022		
Site address	22 & 24 Birrell Street, Bondi Junction		
Proposal Alterations and additions to semi-detached dwelling at 24 Birrolling including first floor addition, and boundary adjustment to the of 22 and 24 Birrell Street			
Date of lodgement	4 April 2022		
Owner Mr K M D Ryou, Ms H K Song, Mr A S & Mrs C H Collingwood-Boot			
Applicant	Mr D M Kyung		
Submissions	Eight submissions received		
Cost of works	\$788,845		
 Non-compliance the minimum lot size development standard Principal Issues Proposed setbacks from the rear boundary Proposed setbacks from the side boundary 			
Recommendation That the application be APPROVED in accordance with the co-contained in the report.			

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for alterations and additions to the existing semi-detached dwelling, including a first-floor addition, at the site known as 24 Birrell Street, Bondi Junction. In addition, the application seeks consent for a realignment of the boundary between 22 and 24 Birrell Street.

The principal issues arising from the assessment of the application are as follows:

- Non-compliance the minimum lot size development standard;
- Proposed setbacks from the rear boundary; and
- Proposed setbacks from the side boundary.

The assessment finds these issues acceptable subject to conditions of consent.

A total number of eight submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

1.2. Site and Surrounding Locality

A site visit was carried out on 15 June 2022.

The sites are identified as Lots 1 and 2 of DP 850629, known respectively as numbers 22 and 24 Birrell Street, Bondi Junction.

The development application primarily relates to alterations and additions at 24 Birrell Street. The application also relates to 22 Birrell Street, as a boundary readjustment is proposed between these two properties.

The lot containing 24 Birrell Street is irregular in shape, has a southern frontage to Birrell Street, and no secondary street frontage. It has an area of 150.6m².

The lot containing 22 Birrell Street is irregular in shape, has a primary street frontage to Birrell Street, and a secondary street frontage to an unsealed laneway to the west.

The sites consist of a pair of single-storey semi-detached dwellings, one on each lot. The lot containing number 22 also features a single storey outbuilding within the rear yard.

The boundary between 22 and 24 Birrell Street is not straight, and cuts to the east at the rear elevation of the semi detached dwellings, and then is angled to the west toward the northern boundary. The boundary cuts through the existing outbuilding at the rear of number 22. The existing fence between the properties does not follow the boundary line.

Levels on the site fall approximately 2.5m from the rear to the front. The footpath at Birrell Street is a further 1m below the level of the front yards of the properties.

There is a two-storey dwelling house No. 26 to the east of the subject site No. 24, and an unsealed laneway to the west of No. 22. The site sits within a row of dwelling houses, semi-detached dwellings, and attached dwellings, with minimal or nil setbacks from side boundaries.

Figures 1 to 4 are photos of the site and its context.



Figure 1: 22 Birrell Street (left of photo) and 24 Birrell Street (right of photo) viewed from Birrell Street, looking north east



Figure 2: Rear of 24 Birrell Street, looking south west



Figure 3: Rear yard of 24 Birrell Street, looking north



Figure 4: View from ground floor rear kitchen window of 26 Birrell Street, looking north west toward the subject site

1.3. Relevant Development History

Council is currently assessing a development application for alterations and additions, including a first-floor addition, to 22 Birrell Street (DA-108/2022).

1.4. Proposal

The development application seeks consent for alterations and additions to the existing semi-detached dwelling, including a first-floor addition, at the site known as 24 Birrell Street, Bondi Junction.

In addition, the application seeks consent for a realignment of the boundary between 22 and 24 Birrell Street. The lot size at 22 Birrell Street will decrease by $0.75m^2$ to $144.11m^2$, and the lot size at 24 Birrell Street will increase by $0.75m^2$ to $151.36m^2$.

1.5. Background

The development application was lodged on 4 April 2022.

A 'stop the clock' request for the following additional information was made on 28 April 2022:

- a) Written requests to comply with Waverley Local Environmental Plan 2012 (WLEP 2012) clause 4.6 for exceptions to the minimum lot size development standard.
- b) Proposed plan of subdivision relating to the proposed boundary adjustment.

The requested information was provided on 2 May 2022.

The application was deferred on 8 August 2022, with the following requests made to the applicant:

- (i) Deletion of the proposed boundary-to-boundary roof structure above first floor level, to reduce impacts on 26 Birrell Street; and
- (ii) Reduction in the height of the eastern boundary wall of the addition to 2.1m at the boundary, to reduce impacts on 26 Birrell Street.

Amended plans were received on 22 August 2022. The amended plans included the changes requested at (i) above, but not the change requested at (ii) above.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1st March 2022 and have been considered acceptable in the assessment of this development application:

• SEPP (Building Sustainability Index - BASIX) 2004

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.1.3. Waverley LEP 2012

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment				
Part 1 Preliminary						
1.2 Aims of plan	Yes	Satisfactory.				
Part 2 Permitted or prohibited de	Part 2 Permitted or prohibited development					
2.6 Subdivision – consent requirements	Yes	The consent requirements are met subject to the application being approved.				
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as alterations and additions to a semi-detached dwelling, which is permitted with consent in the zone.				
Part 4 Principal development star	ndards					
4.1 Minimum subdivision lot size		The proposal includes a boundary adjustment for the two lots at 22 and 24 Birrell Street.				
• 232m²	No	The lot size at 22 Birrell Street will decrease by $0.75m^2$ to $144.11m^2$, resulting in a 37.88% breach of the minimum lot size control.				
		The lot size at 24 Birrell Street will increase by 0.75m² to 151.36m², resulting in a 34.76% breach of the minimum lot size control.				
4.3 Height of buildings • 9.5m	Yes	Satisfactory. The proposal has a maximum height of 8.5m.				
 4.4 Floor space ratio and 4.4A Exceptions to floor space ratio 0.94:1 GFA of 142.05 	Yes	The proposal has an FSR of 0.93:1, and a GFA of 141.51m ² , and complies.				
4.6 Exceptions to development standards		The application is accompanied by a satisfactory written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the minimum subdivision lot size development standard.				
	Yes - see discussion	A detailed discussion of the variation to the development standard is presented below this table.				

Provision	Compliance	Comment				
Part 5 Miscellaneous provisions	Part 5 Miscellaneous provisions					
5.10 Heritage conservation		22 and 24 Birrell Street are a locally listed heritage item (I142) named <i>Semi-detached dwellings</i> .				
		The site is located within the locally identified Mill Hill heritage conservation area (C12).				
	Yes	The proposed first floor addition to No. 24 respects the characteristics of the heritage item and conservation area through the provision of a substantial first floor setback from the front boundary, which reduces the appearance of the addition when viewed from Birrell Street and the public domain.				
		The proposed detailing and materials respect the characteristics of the existing building, and the heritage value of the building will be retained.				

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the minimum subdivision lot size in clause 4.1 under Waverley LEP 2012.

The site is subject to a minimum subdivision lot size control of 232m².

The existing lot size at 22 Birrell Street is proposed to decrease by 0.75m² to 144.11m², resulting in a 37.88% or 87.89m² breach of the minimum lot size control.

The existing lot size at 24 Birrell Street is proposed to increase by 0.75m² to 151.36m², resulting in a 34.76% or 80.64m² breach of the minimum lot size control.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the minimum subdivision lot size development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the development standard are met as set out below:
 - (i) Objective (a), to ensure that subdivisions reflect and reinforce the predominant subdivision pattern of the area, is met as the proposal has no material impact on the subdivision pattern of the area, and as the existing subdivision pattern is generally of sites of less than 232m².
 - (ii) Objective (b), to minimise the likely impact of subdivision and development on the amenity of neighbouring properties, is met as the realignment of the boundary will not result in any amenity impacts to adjoining properties.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The boundary adjustment corrects an existing anomaly and straightens out the boundary between the 22 and 24 Birrell Street;
 - (ii) Alteration to the existing site areas is minor, being only $0.75m^2$ at each site.
 - (iii) The non-compliance will have no adverse impact on neighbouring properties or the public domain.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;

- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant has adequately demonstrated that the objectives of clause 4.1 are met, as:

- (a) The proposal has no material impact on the subdivision pattern of the area, and as the existing subdivision pattern is generally of sites of less than 232m².
- (b) The proposed realignment of the boundary and associated breach of the development standard will not result in any amenity impacts to adjoining properties.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed boundary realignment results in a minor change of 0.75m² to the site area of each lot. It corrects the existing boundary anomaly and has no environmental planning impact.

Is the development in the public interest?

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

The objectives of the clause 4.1 development standard have been addressed under the headings Applicant's Written Request - Clause 4.6(3)(a) and (b) and Does the written request adequately address those issues at clause 4.6(3)(a) above.

The objectives of the R3 Medium Density Residential zone are as follows:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposed development is consistent with the objectives of the zone, and the proposed breach of the minimum subdivision lot size development standard will have no environmental planning impacts.

Conclusion

For the reasons provided above the requested variation to the minimum subdivision lot size is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of minimum subdivision lot size and the R3 Medium density residential zone.

2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment	
1. Waste	Yes	Satisfactory.	
Ecologically Sustainable Development	Yes	Satisfactory.	
Landscaping and Biodiversity	Yes	Satisfactory.	
5. Vegetation Preservation	Yes	Satisfactory.	
6. Stormwater	Yes	Satisfactory.	
9. Heritage	Yes	This has been discussed above.	
10. Safety	Yes	Satisfactory.	
12. Design Excellence	Yes	Satisfactory.	

Table 3: Waverley DCP 2012 - Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment
2.0 General Objectives		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
2.1 Height		
Pitched roof dwelling houseMaximum external wall height of 7m	Yes	Satisfactory.
2.2 Setbacks		
2.2.1 Front and rear building lines		

Development Control	Compliance	Comment	
 Predominant front building line Predominant rear building line at each floor level 	Yes Acceptable subject to conditions of consent	The proposal is set back 9.34m from the front boundary, significantly behind the predominant front building line. The proposal extends beyond the predominant rear building line at first floor level. The proposed non-compliance with the setback control is acceptable in the circumstances of the site. See further discussion below.	
2.2.2 Side setbacks Minimum of 0.9m (for height up to 8.5m)	Acceptable subject to conditions of consent	The proposal has nil setbacks from the side boundaries. The proposed non-compliance with the setback control is acceptable in the circumstances of the site. See further discussion below.	
2.3 Streetscape and visual imp	pact		
 New development to be compatible with streetscape context Replacement windows to complement the style and proportions of 	Yes	The proposed 9.34m setback from the front boundary and the proposed 8.4m setback from the front verandah ensure the first floor addition will have a minimal streetscape impact. The proposed windows, and other detailing, is considered appropriate for the modern addition	
existing dwelling		to the heritage item.	
2.4 Fences			
Side:Maximum height of 1.8m	Acceptable on merit	The proposed east side boundary fence with 26 Birrell Street is primarily 1.8m in height, with a small section increasing to 2m in height due to varying ground levels. The proposed minor non-compliance is acceptable in the context of the varying ground levels, and as the proposed fence is generally lower than the existing fence.	
2.5 Visual and acoustic privace			
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other	Yes	The proposed first floor windows, including the side-facing window are screened by timber battens to protect visual privacy for neighbours.	
appropriate measures are incorporated into the design			
are incorporated into the			

Development Control	Camplianas	Communit
Development Control	Compliance	Comment
and principal open space areas on 21 JuneMinimum of three hours	Yes	compliance is acceptable in the context of the site, as the lack of solar access is caused by an existing high fence at the rear boundary.
of sunlight maintained to at least 50% of principal open space areas of adjoining properties on		The proposal does not result in any additional overshadowing of any neighbouring private open space. The proposal retains extensive solar access to the
 Avoid unreasonably overshadowing of solar collectors (including habitable windows). 	Yes	rear windows of 26 Birrell Street at every hour at midwinter except at 3pm, when limited solar access is retained. The proposal does not affect solar collectors of any other properties.
2.7.1/2002		any other properties.
 Views Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	Yes	Satisfactory.
2.9 Landscaping and open spa		
Overall open space: 40% of site areaOverall landscaped area:	Acceptable on merit Yes	The proposal results in 37% of the site being retained as open space. The minor noncompliance is acceptable in the context of the
 15% of site area Minimum area of 25m² for private open space 	Yes	small site area, and due to the need to locate the bulk of the proposed additions to the rear of the dwelling to protect the characteristics of the heritage item when viewed from the street.
Front open space: 50% of front building setback area	Yes	20% landscaped area is achieved. 41m² private open space is achieved.
		100% of the front setback is open space.
 Front landscaped area: 50% of front open space provided 	Acceptable on merit	20% of the front open space is landscaped area. This is acceptable on merit, as the application does not propose any changes to the front
Outdoor clothes drying area to be provided	Yes	setback.
2.13 Semi-detached dwellings	and terrace styl	
2.13.1 - Built form	Yes	The proposed first floor addition is set back
Additions to match the style of the original semi- detached dwelling		9.34m from the front boundary and is located behind the principal ridgeline.

Development Control	Compliance	Comment
Existing roof form maintained forward of principal ridgeline		
Front verandah to be maintained.		
2.13.2 - First floor additions to semi-detached dwellings	Yes	The proposal complies with the DCP controls. The proposed first floor addition is set back
First floor addition to be setback from the principal street frontage and maintain the existing front roof slope		9.34m from the front boundary, is located behind the principal ridgeline, and the bulk of the addition is located toward the rear of the dwewlling to limit the streetscape impact.
Uncharacteristic roof forms and details are not considered appropriate if these impact on the streetscape character of adjoining or nearby semidetached dwellings.		The proposed first floor roof slope replicates the original slope of the ground floor roof, and the proposal forms a symmetrical pair with the proposed first floor addition at 22 Birrell Street in terms of roof form and setbacks when viewed from Birrell Street.
Limit the rise of the interface with adjoining semi-detached dwelling to 600mm		
First floor additions should match the style of the additions on the adjoining semi.		
Where symmetry is the dominant aspect of the original semi-detached dwelling pair, this is to be acknowledged in first floor additions.		
2.13.3 - Material finishes and detail for semi-detached dwellings	Yes	The proposed materials, finishes and detailing respect the characteristics of the original dwelling.
Finishes and detailing are to be cohesive with the existing dwelling		The proposed first floor addition is set back 9.34m from the front boundary and 8.4m from the front verandah to minimise appearance of the addition when viewed from the public
Historic features of the roofscape are to be incorporated into the addition		the addition when viewed from the public domain. The notably modern elements of the proposal, including timber screening, large windows, and painted frame structure are primarily located at

Development Control	Compliance	Comment
 New windows to have a similar proportion to the existing 		the rear of the building away from the most significant heritage fabric at the front of the site.
 Upper wall finishes to reflect the style and character of the original building. 		

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

First floor rear setback

The proposed first floor setback from the rear boundary does not comply with Waverley DCP 2012 section 2.2.1 *Front and rear building lines* subsection (a), as the proposed first floor addition extends toward the rear boundary further than all other two storey buildings along the north side of Birrell Street. However, the proposed first floor rear setback is acceptable on merit, in accordance with Waverley DCP 2012 section 2.2.1 subsection (d), and in the specific circumstances of the site, as set out below.

The proposal complies with the Waverley LEP 2012 FSR and height of buildings development standards for the site, and complies with the Waverley DCP 2021 controls relating to side setbacks at first floor level, landscaped area, private open space, and solar access. The proposal is 1m lower than the height of buildings development standard, has a 300mm greater setback than the minimum 900mm DCP requirement from the side boundary with number 26 at first floor level, has no solar access impacts on adjacent private open spaces, and retains extensive solar access to adjacent windows throughout the majority of the day.

The proposed first floor rear setback is further justified by the need to locate the bulk of the first floor addition to the rear of the dwelling to protect the heritage significance of the building when viewed from the public domain.

Additional constraints are presented by the need to protect the root system of the *Melaleuca quinquenervia* (Broadleaved Paperbark) tree located in the rear yard of 26 Birrell Street. The presence of roots in the rear yard of the subject site precludes the ground floor rear addition from extending further to the rear, and justifies the proposed overhanging first floor addition.

In summary, the proposed first floor rear setback is acceptable due to its minimal amenity impacts on neighbours, its compliance with relevant development standards and development controls, and due to the specific heritage and arboricultural constraints of the site.

Side setback

The proposal primarily has nil setbacks from side boundaries at ground and first floor levels, except for the proposed 1.2m first-floor setback from the boundary with number 26 adjacent to that property's private open space.

The majority of the proposal complies with Waverley DCP 2012 section 2.2.2 *Side setbacks* which requires 900mm setbacks unless there is an adjacent building built to the boundary. Most of the proposal is adjacent to the existing two storey building at number 26 or the proposed two storey building at number 22, both of which have nil setbacks.

The areas of non-compliance with the controls are a 2.2m-long section of the proposal at ground-floor level adjacent to the private open space of number 26, and a 2.6m-long section of the proposal at first-floor level adjacent to a single storey part of the proposed development at number 22. The non-compliances are discussed below in detail.

Non-compliance setback adjacent to number 26

The non-compliance with the side setback control at ground-floor level adjacent to number 26 is acceptable on balance, as it will have no impact on solar access to number 26, and it will not have a significant impact on outlook or sense of enclosure. The proposal complies with the floor space ratio and height of buildings development standards for site and the proposed ground floor setback from the rear boundary is greater than the predominant setback along the row of dwellings on the northern side of Birrell Street (figure 5).

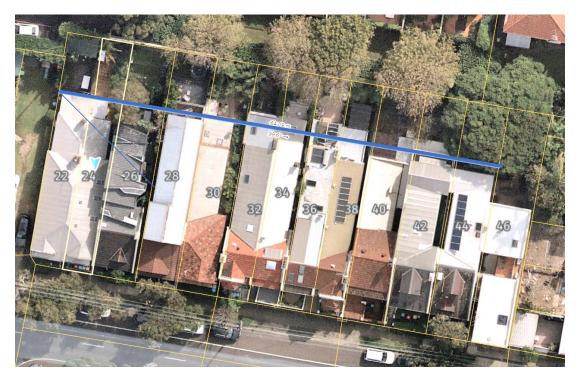


Figure 5: The alignment of the proposed ground floor setback from the rear boundary is represented by the blue line. The proposed alignment is set back further from the rear boundary than the predominant rear building line.

During the course of the assessment, Council did request the applicant to lower the wall height along the eastern boundary from approximately 3m to approximately 2m. However, the applicant subsequently demonstrated the single storey structure does not have a significant impact on amenity for number 26 (figure 6), and that the proposed reduction in height would result in a substantial impact on the useability of the proposed living area at the subject site by partially lowering the internal ceiling height to 1.8m.

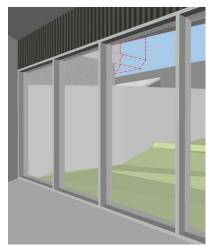


Figure 6: Proposed outlook from kitchen window of 26 Birrell Street

Non-compliant setback adjacent to number 22

The non-compliance with the side setback control at first-floor level adjacent to number 22 is acceptable on balance, as it will not have a significant impact on amenity for occupants of number 22, and as the non-alignment of the proposed rear first-floor setbacks at numbers 22 and 24 is a consequence of number 22 allocating GFA to a single storey outbuilding resulting in the reduced scale of the proposed first floor addition at that site.

2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

2.4. Any Submissions

The application was notified from 12 April to 2 May 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified due to the deletion of the originally proposed rear frame structure.

A total of eight submissions were received from the following properties:

- Six submissions were received from 26 Birrell Street
- Two submissions were received from 28 Birrell Street

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Proposed rear setbacks
- Proposed side setbacks adjacent to number 26
- Solar access for neighbouring properties at number 26 and number 28
- Non-compliance with the minimum open space controls (referred to as the "landscape area control" by the objector)
- Visual privacy

All other issues raised in the submissions are summarised and discussed below.

Issue: The solar access diagrams are incorrect.

Response: Amended solar access diagrams have been received during the course of the assessment. Extensive solar access is retained for adjacent buildings. Further discussion regarding solar access in relation to the proposed setbacks is found under the headings *First floor rear setbacks* and *Side setbacks* in this report above.

Issue: Approval of the proposal will set an undesirable precedent.

Response: The proposal has been assessed against the relevant controls and on the merits of the application.

Issue: The proposal has an unacceptable visual impact when viewed from 26 Birrell Street.

Response: The impact of the proposal on 26 Birrell Street is considered reasonable. Further discussion regarding impacts in relation to the proposed setbacks is found under the headings *First floor rear setbacks* and *Side setbacks* in this report above.

2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

REFERRALS

The following internal and external referral comments were sought:

3.1. Stormwater

The application was referred to Council's stormwater engineers, who provided recommended conditions

of consent, which include on-site stormwater detention. The conditions were further discussed with

Council's stormwater engineers, who acknowledged the on-site stormwater conditions were

recommended in error. Standard stormwater conditions are instead included in the recommended

conditions of consent at Appendix A.

3.2. Tree Management

Council's tree management officer supports the proposal subject to tree protection conditions of

consent.

3.3. Heritage

Council's heritage officer supports the amended proposal.

4. CONCLUSION

The development application seeks consent for alterations and additions to the existing semi-detached

dwelling, including a first-floor addition, at the site known as 24 Birrell Street, Bondi Junction. In addition,

the application seeks consent for a boundary adjustment between 22 and 24 Birrell Street.

The principal issues arising from the assessment of the application are as follows:

Non-compliance the minimum lot size development standard;

Proposed setback from the rear boundary; and

Proposed setback from the side boundary.

The assessment finds these issues acceptable subject to conditions of consent.

A total number of eight submissions were received and the issues raised in the submissions have been

considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1)

of the Environmental Planning and Assessment Act 1979. It is recommended for approval subject to

conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 2 August 2022 and the DBU determined:

(a) The application should be deferred and amendments required to reduce the bulk of the building

at the rear. An amended proposal was received on 22 August 2022 in response to the request.

DBU members: B Magistrale and Tim Sneesby

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
Mand Was	
David Knight	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 5 September 2022	Date: 8 September 2022

Reason for WLPP referral:

^{1.} Departure from any development standard in an EPI by more than 10%

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Kreis Grennan Architecture including the following:

Plan Number	Plan description	Plan Date	Date received by
and Revision			Council
DA-100-B	Ground floor plan	17/08/2022	22/08/2022
DA-101-B	First floor plan	17/08/2022	22/08/2022
DA-102-B	Roof plan	17/08/2022	22/08/2022
DA-200-A	Elevations	09/03/2022	31/03/2022
DA-201-B	Elevations	17/08/2022	22/08/2022
DA-202-A	Elevations	09/03/2022	31/03/2022
DA-203-B	Elevations	17/08/2022	22/08/2022
DA-303-A	Long section	09/03/2022	31/03/2022
DA-301-A	Short section	09/03/2022	31/03/2022

- (b) Landscape Plan No. DA-26-A prepared by Kreis Grennan Architecture dated 09/03/2022 and received by Council on 31/03/2022
- (c) BASIX Certificate
- (d) Stormwater Details and documentation prepared by Kreis Grennan Architecture dated 09/03/2022 and received by Council on 31/03/2022
- (e) Arborist Report prepared by Elizabeth Looije Arborliz dated 24/02/2022, and received by Council on 31/03/2022
- (f) Draft Proposed Boundary Adjustment plan 900-B prepared Kreis Grennan Architecture dated 21/04/2022 and received by Council on 02/05/2022
- (g) Schedule of external finishes and colours received by Council on 31/03/2022

Except where amended by the following conditions of consent.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

GENERAL REQUIREMENTS

2. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

3. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

CONTRIBUTIONS, FEES & BONDS

4. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:
 - "Waverley Council Cost Summary Report"; or,
 - (ii) Where the total development cost is \$500,000 or more:
 "Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
 - (i) A development valued at \$100,000 or less will be exempt from the levy;
 - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
 - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

5. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$23,550 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

6. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

CONSTRUCTION MATTERS

7. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

8. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

9. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

10. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

11. EXISTING PARTY WALL IS TO BE EXTENDED

The existing separating wall is to be extended to the underside of the roof in accordance with the requirements of the National Construction Code. All work to the separating wall must be contained within the boundaries of the subject site only, unless agreement between neighbours for work affecting both sides of a separating wall, including written consent of all owners of all properties upon which work will take place has been obtained.

12. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

(a) Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

STORMWATER & FLOODING

13. STORMWATER MANAGEMENT

- (a) Stormwater plans and details shall be prepared by a suitably qualified hydraulics engineer to ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system.
- (b) The plans and details shall be prepared in accordance with Council's *Water Management Technical Manual* and must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate), prior to the issue of any Construction Certificate. For further information regarding this, please contact assets@waverley.nsw.gov.au, phone 9083 8886 or visit Council's website for details:

https://www.waverley.nsw.gov.au/ data/assets/pdf file/0010/2503/WaterManagementTech nicalManual2014-FINAL.pdf

ENERGY EFFICIENCY & SUSTAINABILITY

14. BASIX

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

WASTE

15. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the

SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

SYDNEY WATER REQUIREMENTS

16. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact with the Coordinator, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

TRAFFIC MANAGEMENT

17. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent

18. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

PRIOR TO ANY WORKS

19. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

DEMOLITION & EXCAVATION

20. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

21. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

22. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

23. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

CONSTRUCTION MATTERS

24. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

25. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

26. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

27. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

28. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

29. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

30. STRUCTURAL STABILITY OF ADJOINING SEMI-DETACHED DWELLING'S ROOF

Adequate measures are to be undertaken to ensure structural stability and water proofing of the existing roof over the adjoining semi-detached dwelling having particular regard to the following:

- (a) Adequate measures are undertaken to secure the existing rafters and ridge to the brickwork of the party wall; and
- (b) Adequate measures are undertaken to ensure that the roof where it abuts the extended party wall is water proofed.

TREE PROTECTION AND REMOVAL

31. TREE PROTECTION AND REMOVAL

Trees shall be protected and removed as per the Arboricultural Impact Assessment Report prepared by Elizabeth Looije Arborliz dated 24/02/2022, as set out in the table below.

Tree	Species	Location	Action
No.			
T 1	Melaleuca quinquenervia (broadleaved paperbark)	Neighbouring property	Retain & Protect
T 2	Archontophoenix sp. (king palm species)	On site	Remove as per arborist report
Т3	Melaleuca salicina (willow bottlebrush)	Street tree	Retain & Protect

T 4	Melaleuca quinquenervia	Street tree	Retain & Protect
	(broadleaved paperbark)		

T1 *Melaleuca quinquenervia* tree located within the neighbouring property at number 26 Birrell Street is to be protected for the duration of the construction works.

To prevent compaction within the root zone, excavation undertaken within the specified radius of the trunks of the following trees T1 *Melaleuca quinquenervia* must be hand dug. Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed. Any hand excavation must be carried out in the presence of experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

If any tree roots are exposed during any approved works, then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.

32. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- a) Do not store harmful or bulk materials or spoil under or near trees;
- b) Prevent damage to bark and root system;
- c) Do not use mechanical methods to excavate within root zones;
- d) Do not add or remove topsoil from under the drip line;
- e) Do not compact ground under the drip line;
- f) Do not mix or dispose of liquids within the drip line of the tree; and
- g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.

- Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.
- The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

 TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.

Tree Bond

- A bond of \$5,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the street tree at the front of the property. The bond is to be lodged prior to the issue of a Construction Certificate.
- The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded 12 months from the issue of the Occupation Certificate subject to the satisfaction of Council.

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

33. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

34. SUBDIVISION CERTIFICATE

A Subdivision Certificate must be obtained from Council in accordance with of the *Environmental Planning and Assessment Act 1979* prior to the registration of the subdivision plans.

35. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

36. CERTIFICATION OF STORMWATER SYSTEM

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

37. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

AD2. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential

services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD4. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

AD5. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

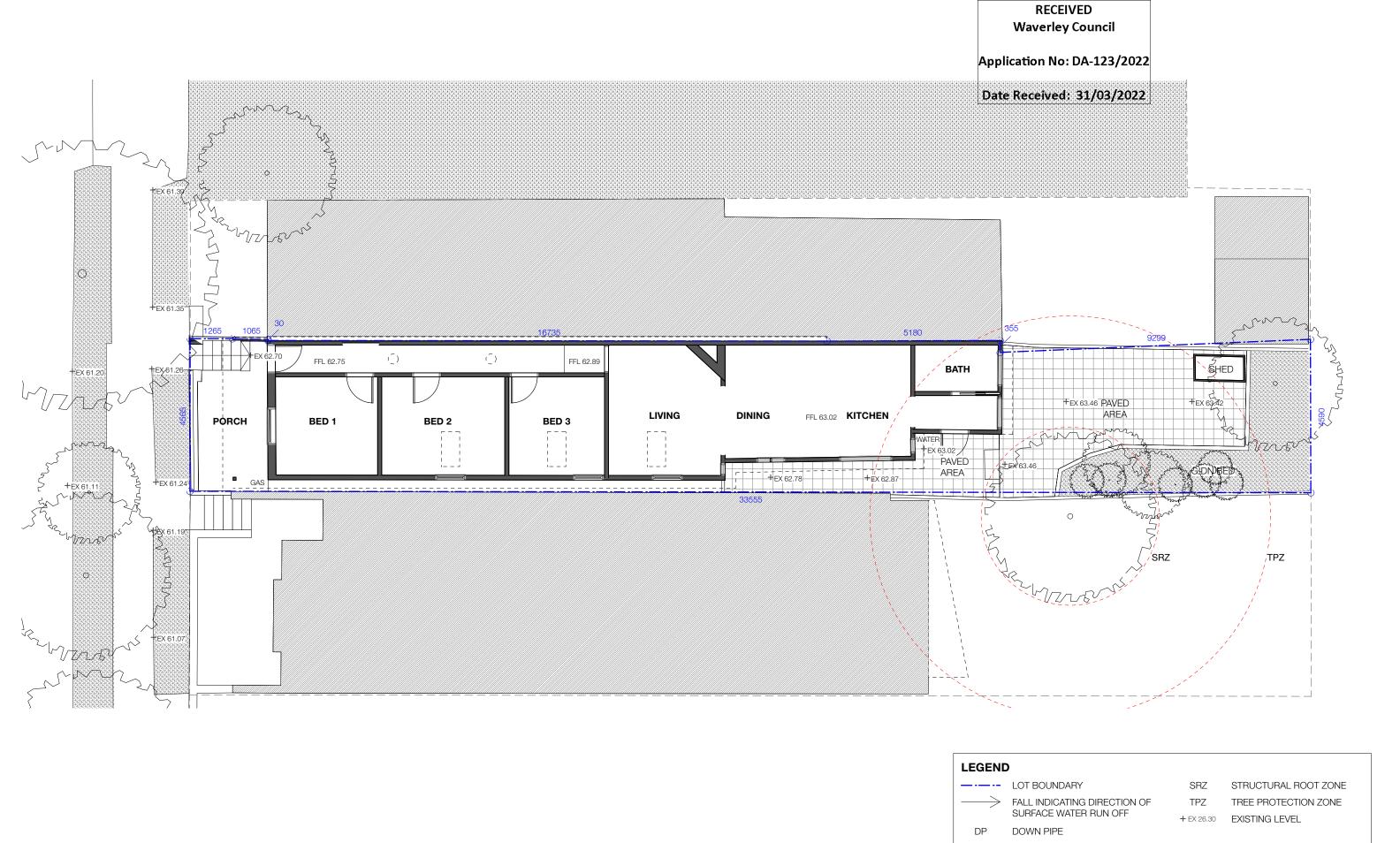
AD6. BONDI - ROSE BAY SAND BODY

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

AD7. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.





94 Illawarra Road Marrickville, NSW 2204 info@kreisgrennan.com.au p: 02 9560 0888

Nominated Architect: Christian Grennan NSW Architect #8036

Kreis Grennan Architecture

TO BE READ IN CONJUNCTION WITH ALL DOCUMENTS.

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PROJECT:
ALTERATIONS AND ADDITIONS, 24
BIRRELL STREET BONDI
JUNCTION, NSW 2022 - LOT 2 DP
850629
CLIENT:
DANIEL RYOU & HYE KYUNG

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REV DATE DESCRIPTION DRAWING TITLE:

A 09/03/22 DEVELOPMENT APPLICATION EXISTING FLOOR PLAN

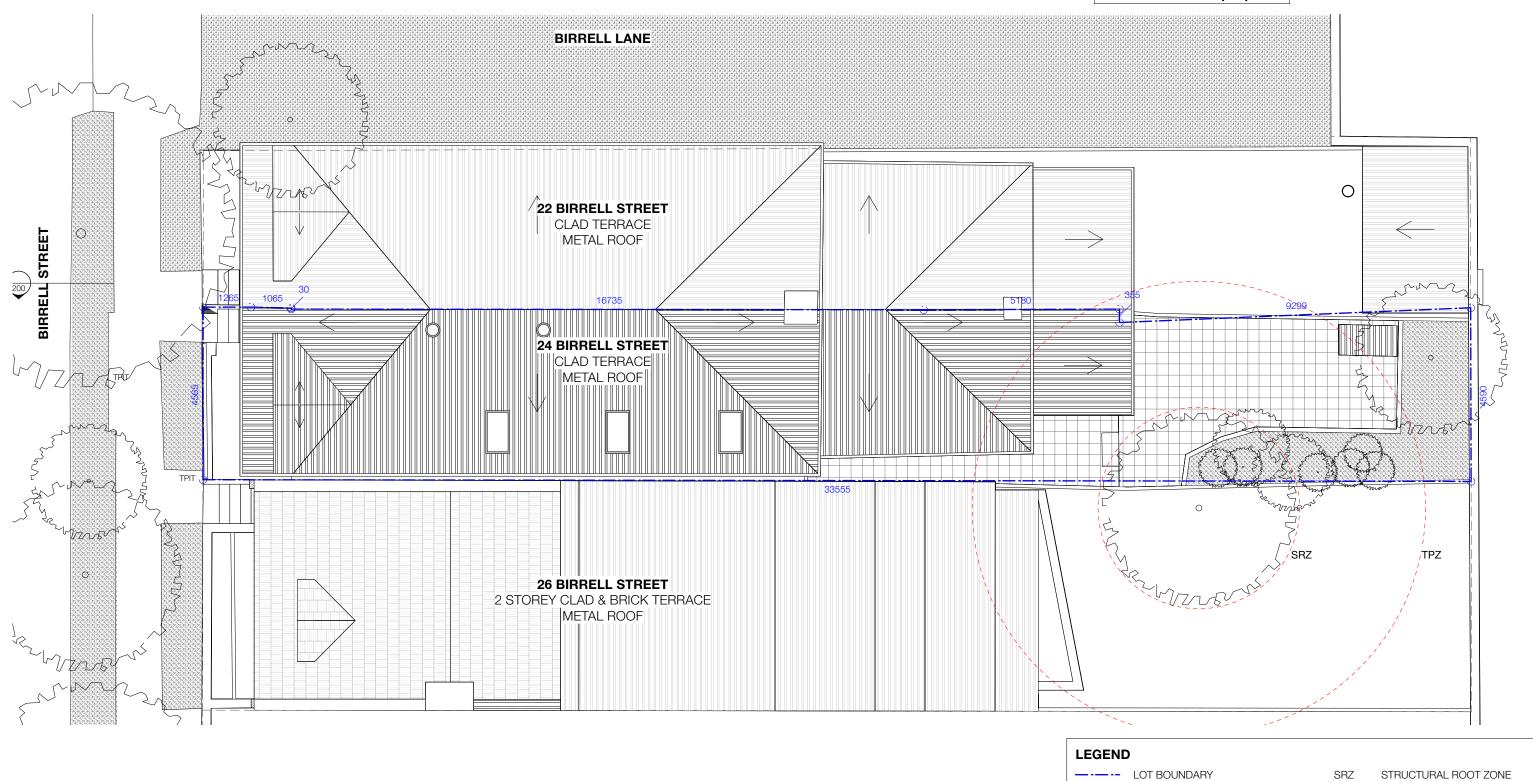
PROJECT PEEERPENCE: DRAWAY

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD A3

SCALE: ISSUE: REVISION: DWG #: 1:100 DA A 011

Application No: DA-123/2022

Date Received: 31/03/2022





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DANIEL RYOU & HYE KYUNG

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DESCRIPTION 09/03/22 DEVELOPMENT APPLICATION

DOWN PIPE

FALL INDICATING DIRECTION OF

SURFACE WATER RUN OFF

DRAWING TITLE: **EXISTING ROOF PLAN**

PROJECT REFERENCE: DRAWN: SIZE: RD А3 21 - 164 REVISION: DWG #: SCALE: 012 1:100 DA Α

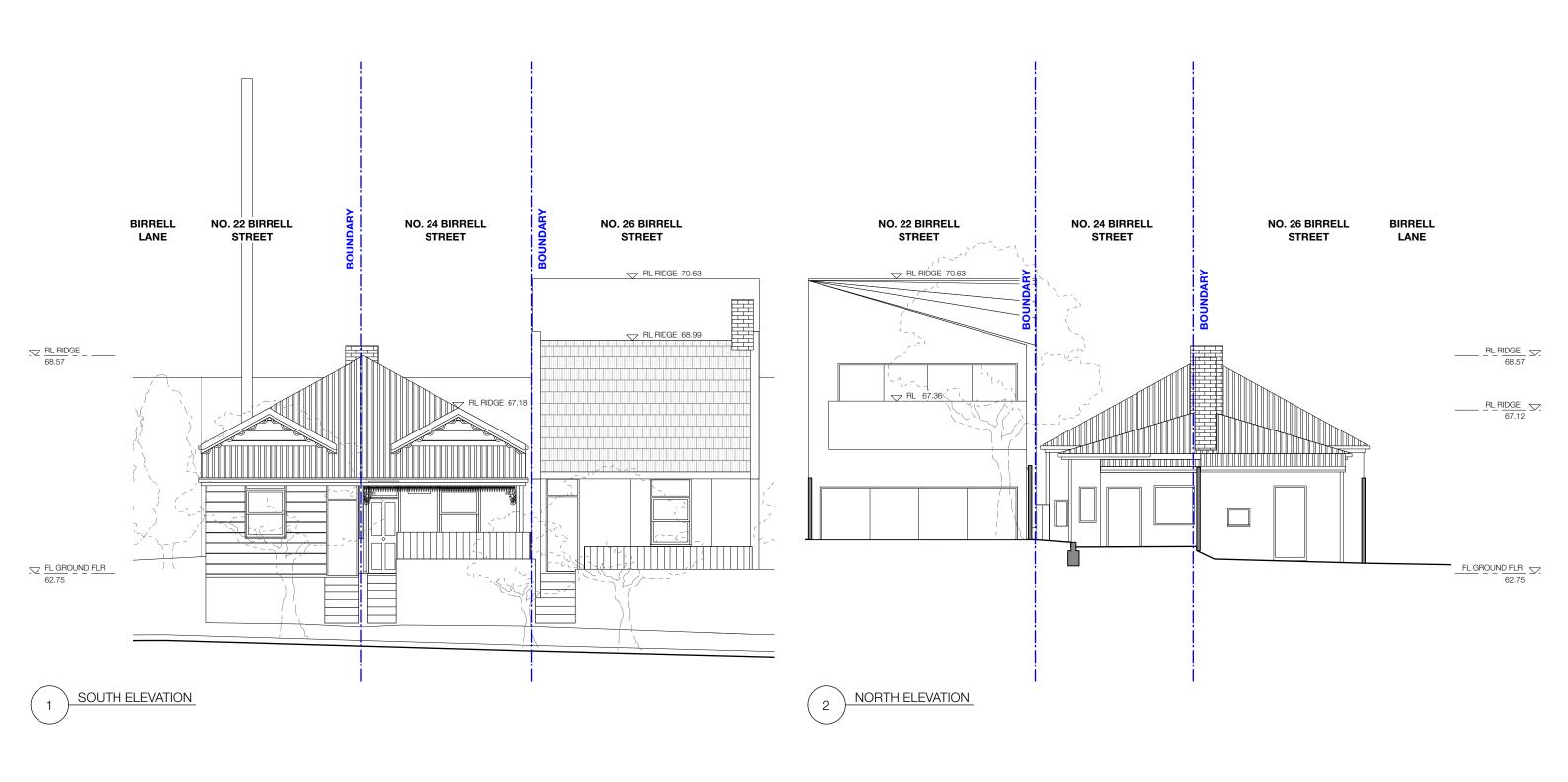
+ EX 26.30

TREE PROTECTION ZONE

EXISTING LEVEL

Application No: DA-123/2022

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ALTERATIONS AND ADDITIONS, 24
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DANIEL RYOU & HYE KYUNG
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REV DATE DESCRIPTION

A 09/03/22 DEVELOPMENT APPLICATION

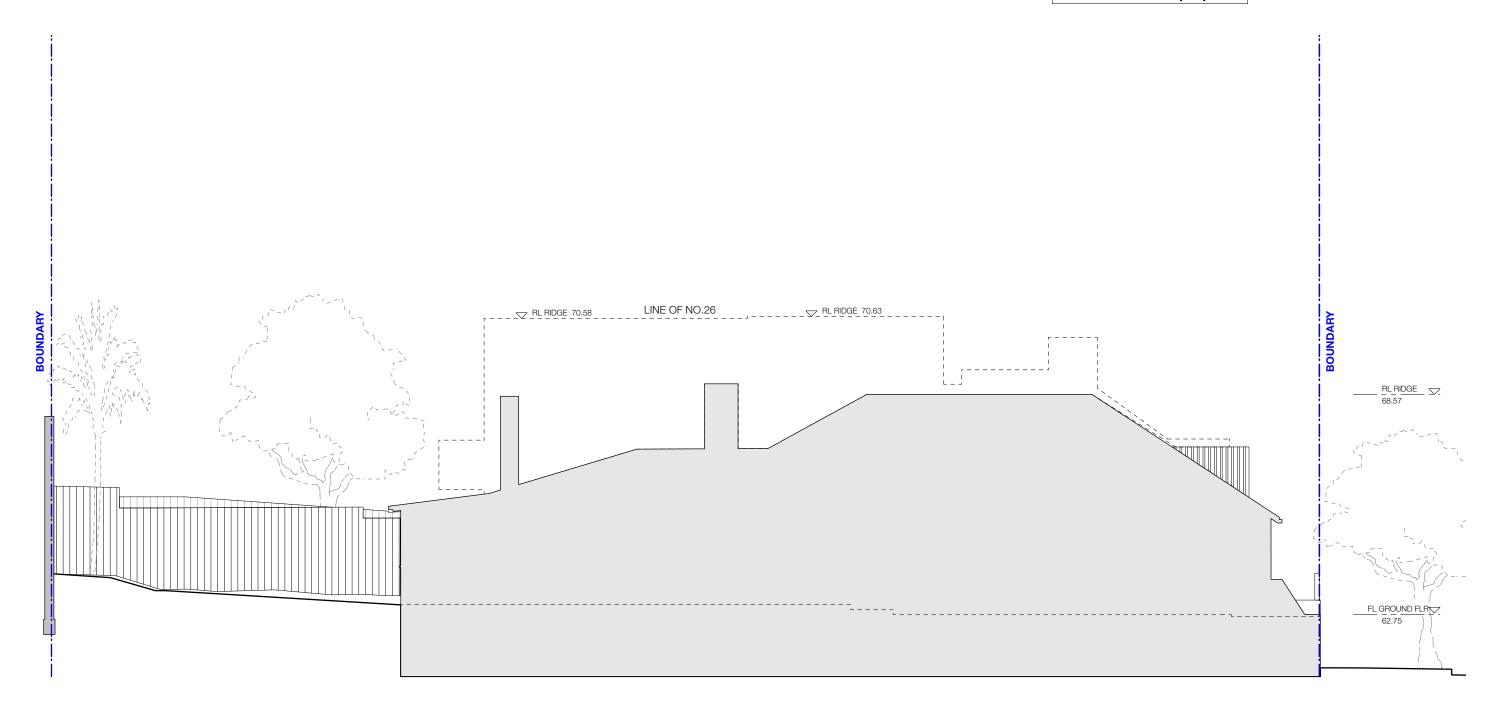
DRAWING TITLE: **EXISTING ELEVATIONS**

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD A3

SCALE: ISSUE: REVISION: DWG #: 1:100 DA A 013

Application No: DA-123/2022

Date Received: 31/03/2022





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BIRRELL STREET BONDI
JUNCTION, NSW 2022 - LOT 2 DP
850629
CLIENT:
DANIEL RYOU & HYE KYUNG

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REV DATE DESCRIPTION

A 09/03/22 DEVELOPMENT APPLICATION

DRAWING TITLE: **EXISTING ELEVATIONS**

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD A3

SCALE: ISSUE: REVISION: DWG #: 1:100 DA A 014

Application No: DA-123/2022

Date Received: 31/03/2022





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DANIEL RYOU & HYE KYUNG

DESCRIPTION

09/03/22 DEVELOPMENT APPLICATION

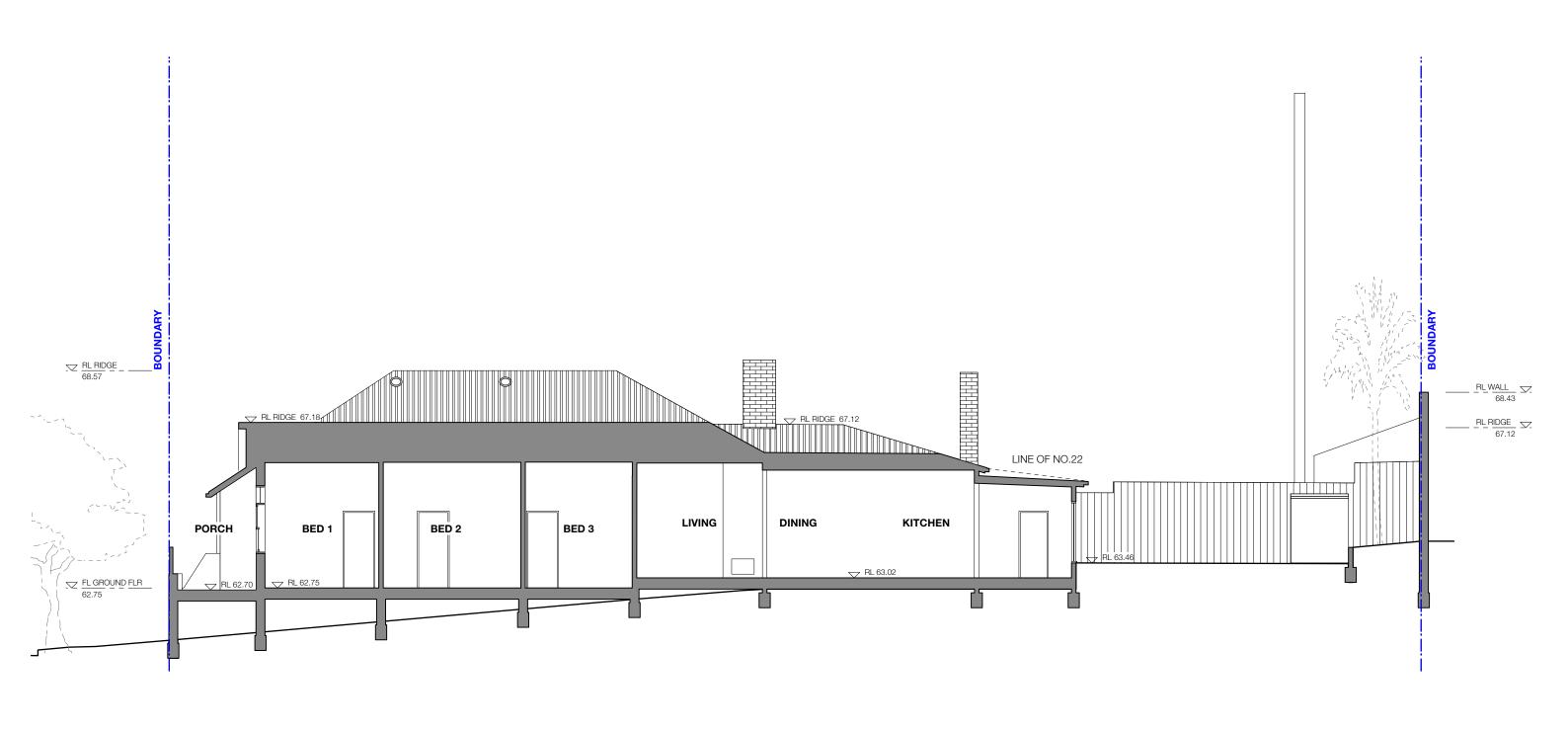
DRAWING TITLE:

EXISTING ELEVATIONS

PROJECT REFERENCE: 21 - 164	DRAWN: RD		SIZE:
SCALE: 1:100	ISSUE:	REVISION:	DWG #:

Application No: DA-123/2022

Date Received: 31/03/2022





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850629 DANIEL RYOU & HYE KYUNG Page 231 of 451

DRAWING TITLE:

DESCRIPTION

09/03/22 DEVELOPMENT APPLICATION

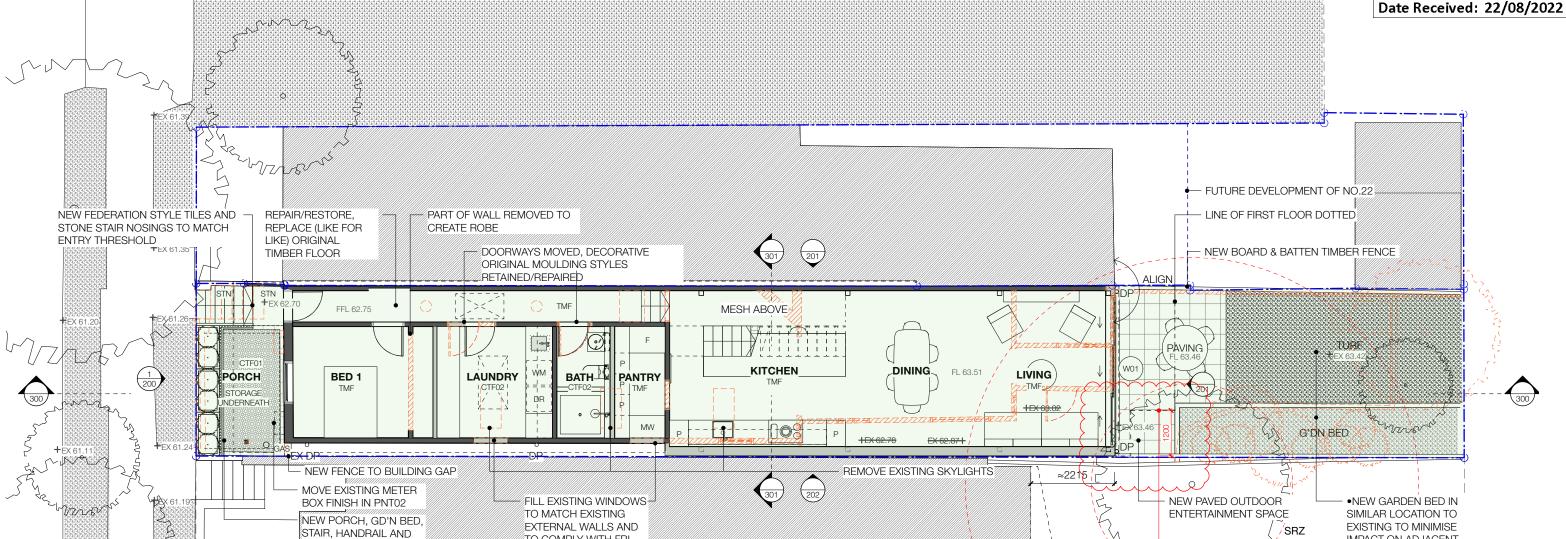
EXISTING SECTIONS

PROJECT REFERENCE: DRAWN: SIZE: АЗ RD 21 - 164 REVISION: DWG #: SCALE: 1:100 DA Α 016

PLANS AMENDED

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Application No: DA-123/2022





LINE OF FIRST FLOOR AMENDED

REVISION B:



O

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TO COMPLY WITH FRL

REQUIRED AS PER BCA

DANIEL RYOU & HYE KYUNG Page 232 of 451

DESCRIPTION DATE DEVELOPMENT APPLICATION 17/08/22 DA AMENDMENT

DRAWING TITLE: **GROUND FLOOR PLAN**

PROJECT REFERENCE: DRAWN: SIZE: RD А3 21 - 164 REVISION: DWG #: SCALE: В 1:100 DA 100

IMPACT ON ADJACENT

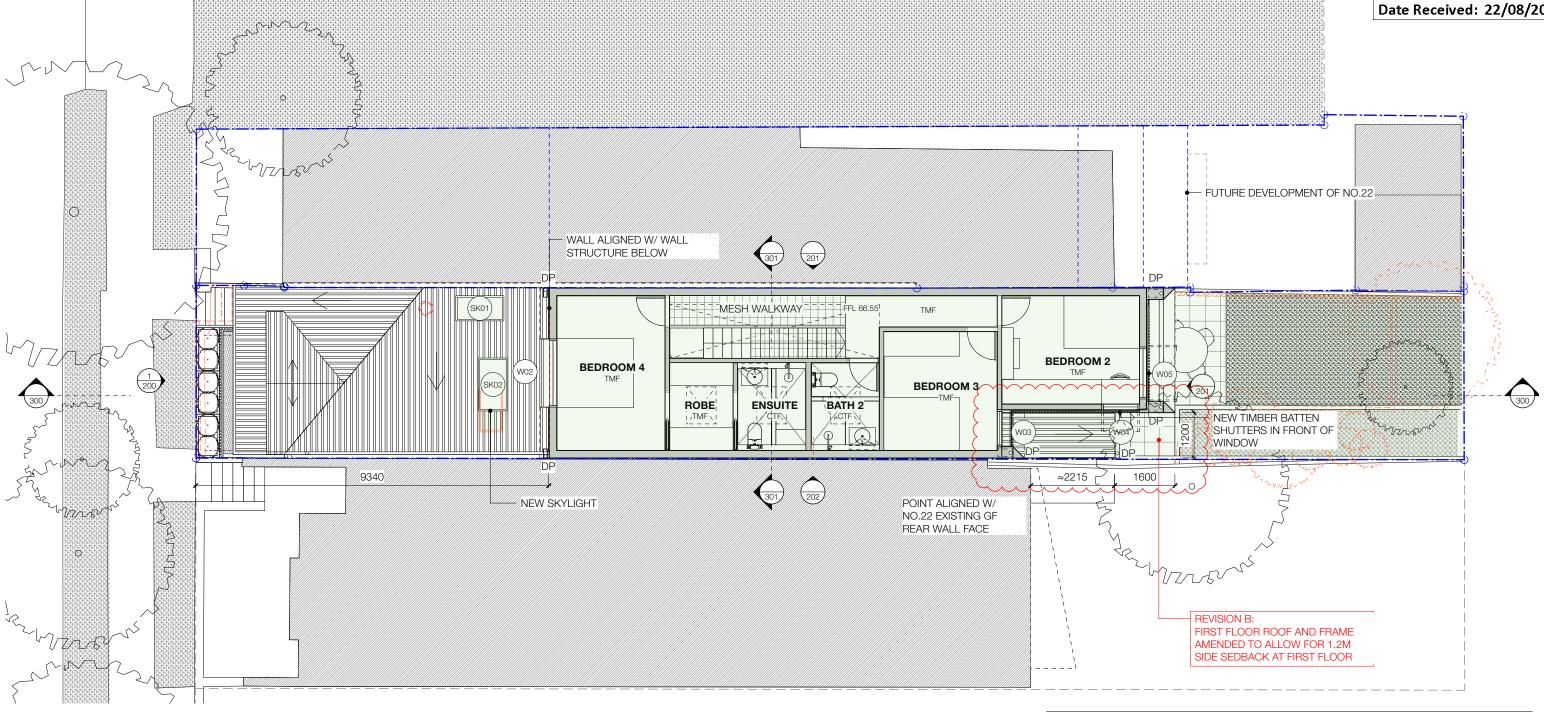
•NEW TURFED AREA

AMENDED **PLANS**

RECEIVED Waverley Council

Application No: DA-123/2022









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Nominated Architect: Christian Grennan NSW Architect #8036

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DANIEL RYOU & HYE KYUNG

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DESCRIPTION DEVELOPMENT APPLICATION 17/08/22 DA AMENDMENT

DRAWING TITLE: **FIRST FLOOR PLAN**

PROJECT REFERENCE: DRAWN: SIZE: RD А3 21 - 164

REVISION: SCALE: 1:100 DA

В

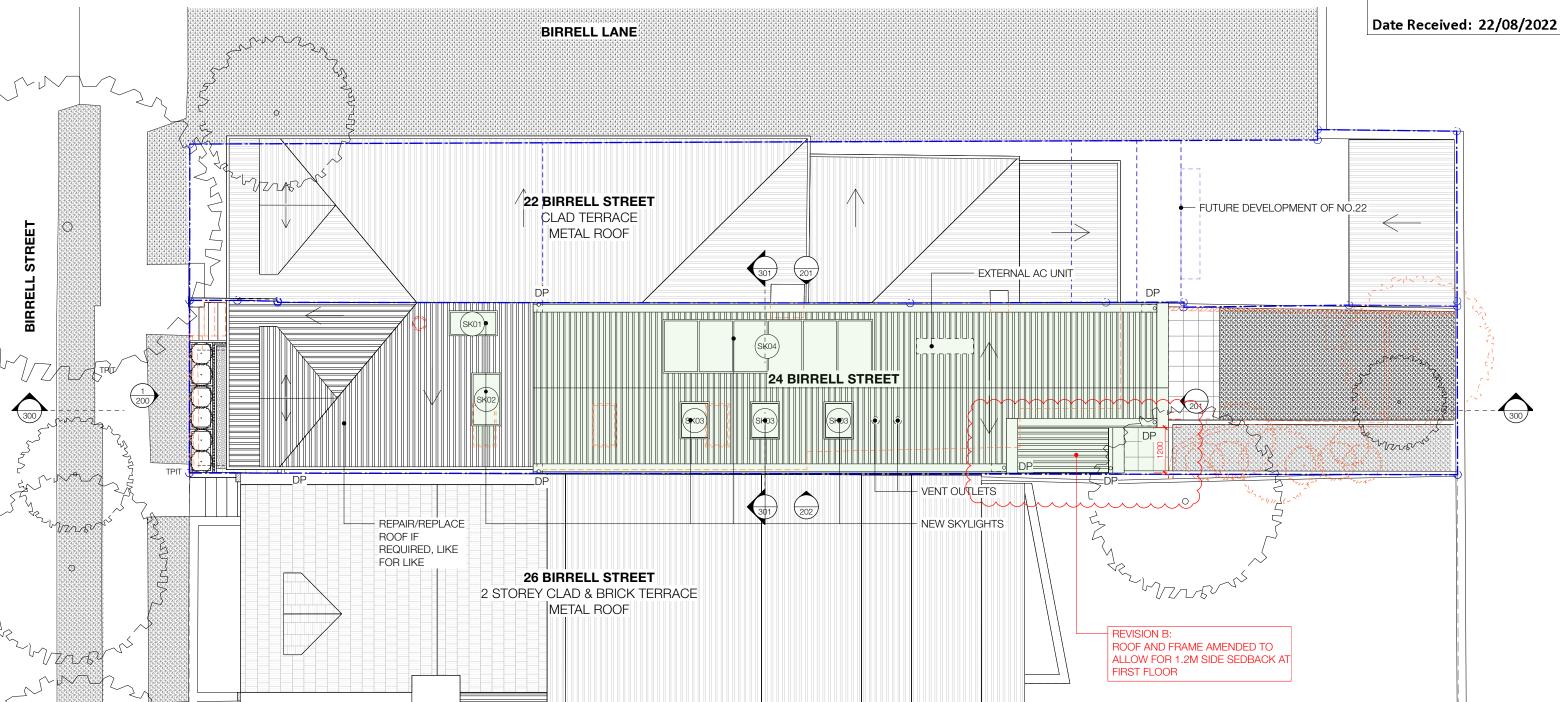
DWG #:

101

AMENDED PLANS

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Application No: DA-123/2022







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JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG

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DESCRIPTION DEVELOPMENT APPLICATION 17/08/22 DA AMENDMENT

DRAWING TITLE: **ROOF PLAN**

PROJECT REFERENCE: DRAWN: SIZE: RD А3 21 - 164 REVISION: DWG #:

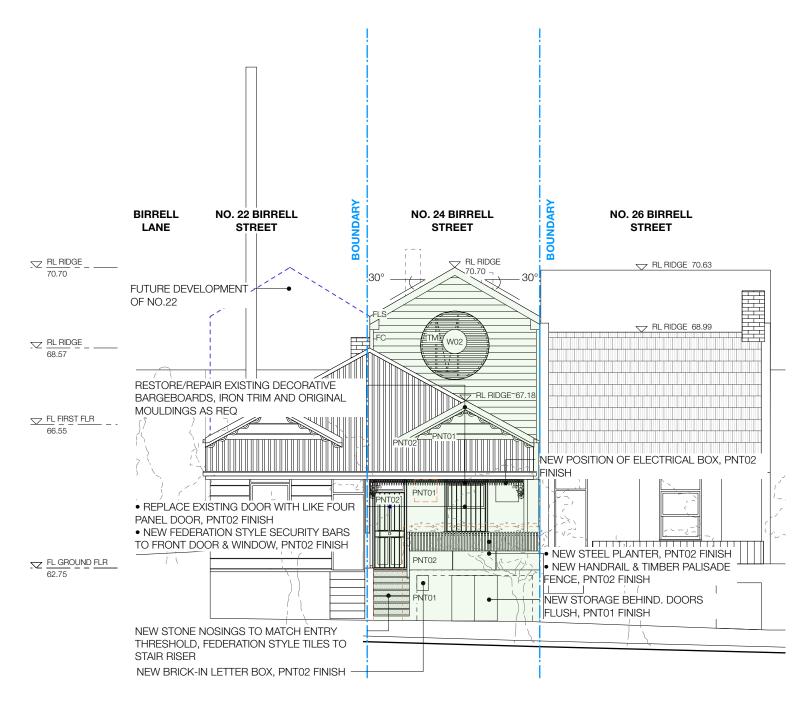
SCALE: 1:100 DA

В

102

Application No: DA-123/2022

Date Received: 31/03/2022



VIEW ACROSS STREET - 1.8M SIGHT LINE (SEE DWG 450)

SOUTH ELEVATION

NOTE: SEE DWG 350 FOR FACADE COLOURS AND MATERIALS



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COMMENCEMENT OF WORK.

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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP

DANIEL RYOU & HYE KYUNG

DESCRIPTION DATE 09/03/22 DEVELOPMENT APPLICATION LEGEND — · — · EX LOT BOUNDARY [] TO BE DEMOLISHED ----- PRO LOT BOUNDARY NEW WORK

DRAWING TITLE: **ELEVATIONS**

PROJECT REFERENCE: DRAWN: SIZE: RD А3 21 - 164 REVISION: DWG #: SCALE: 200 1:100 DA Α

Kreis Grennan Architecture

850629

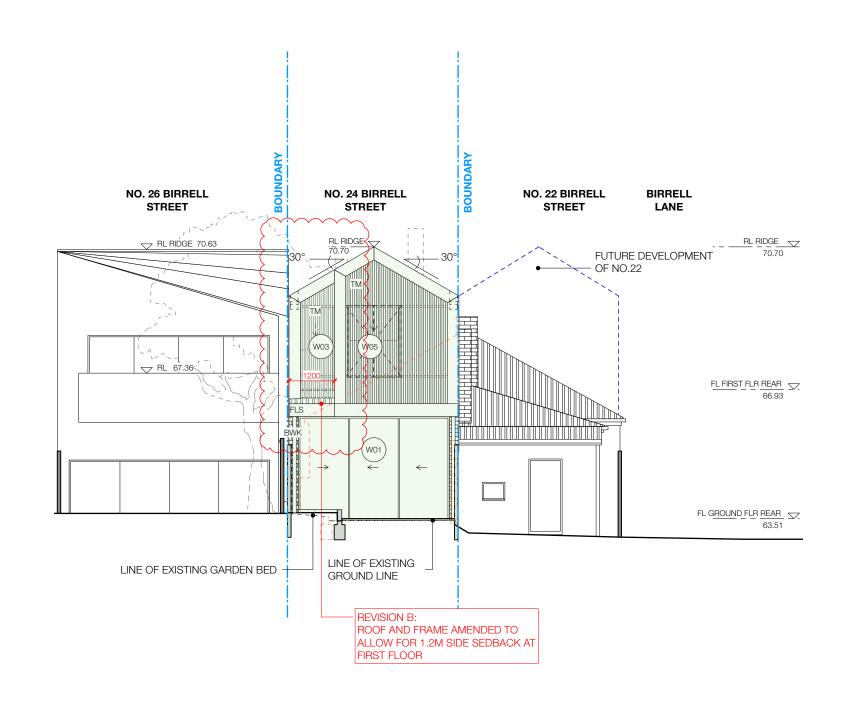
Page 235 of 451

AMENDED **PLANS**

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Application No: DA-123/2022

Date Received: 22/08/2022





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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

Page 236 of 451

DANIEL RYOU & HYE KYUNG

DESCRIPTION 09/03/22 DEVELOPMENT APPLICATION 17/08/22 DA AMENDMENT

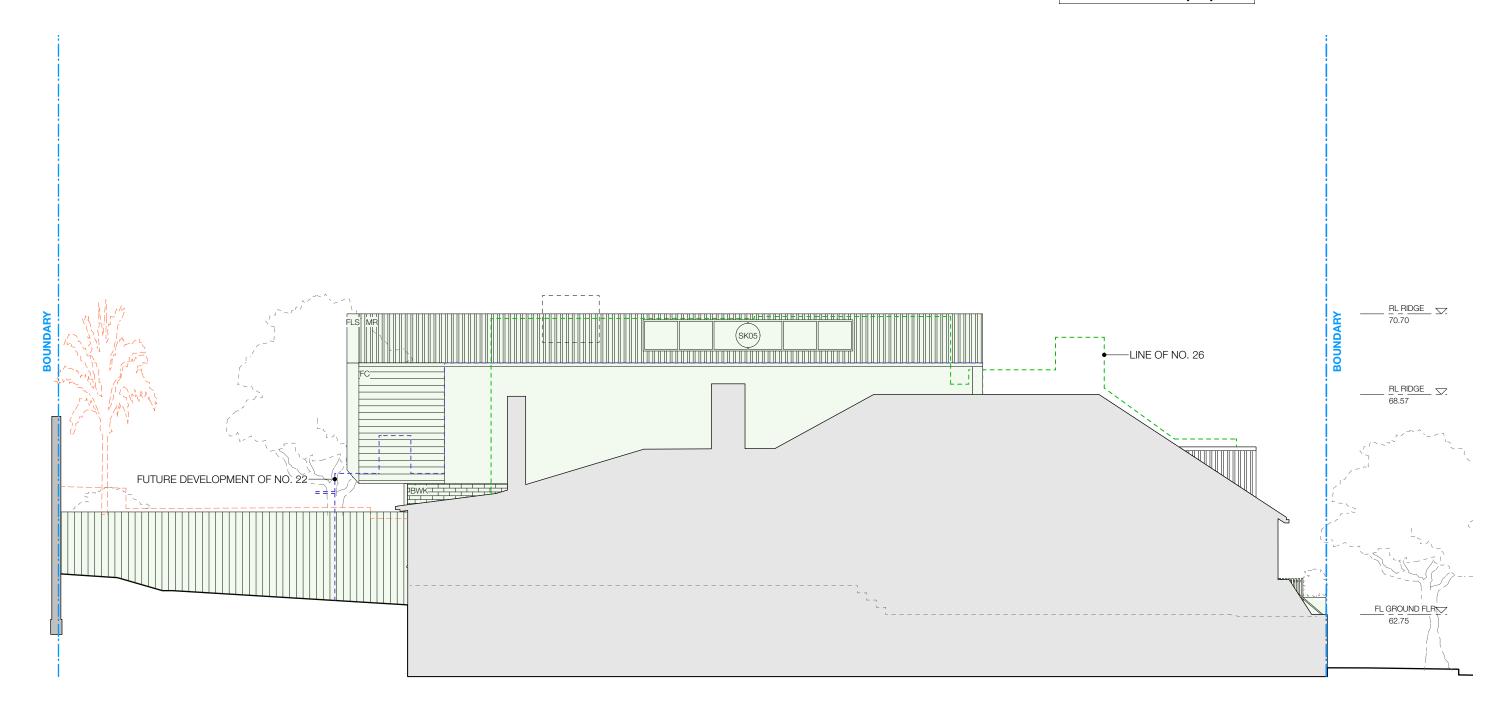
---- EX LOT BOUNDARY [] TO BE DEMOLISHED ----- PRO LOT BOUNDARY NEW WORK

DRAWING TITLE: **ELEVATIONS**

PROJECT REFERENCE: DRAWN: SIZE: RD АЗ 21 - 164 REVISION: DWG #: SCALE: В 1:100 201 DA

Application No: DA-123/2022

Date Received: 31/03/2022





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DANIEL RYOU & HYE KYUNG Page 237 of 451

LEGEND ---- EX LOT BOUNDARY [] TO BE DEMOLISHED ---- PRO LOT BOUNDARY NEW WORK

DRAWING TITLE: **ELEVATIONS**

DESCRIPTION

09/03/22 DEVELOPMENT APPLICATION

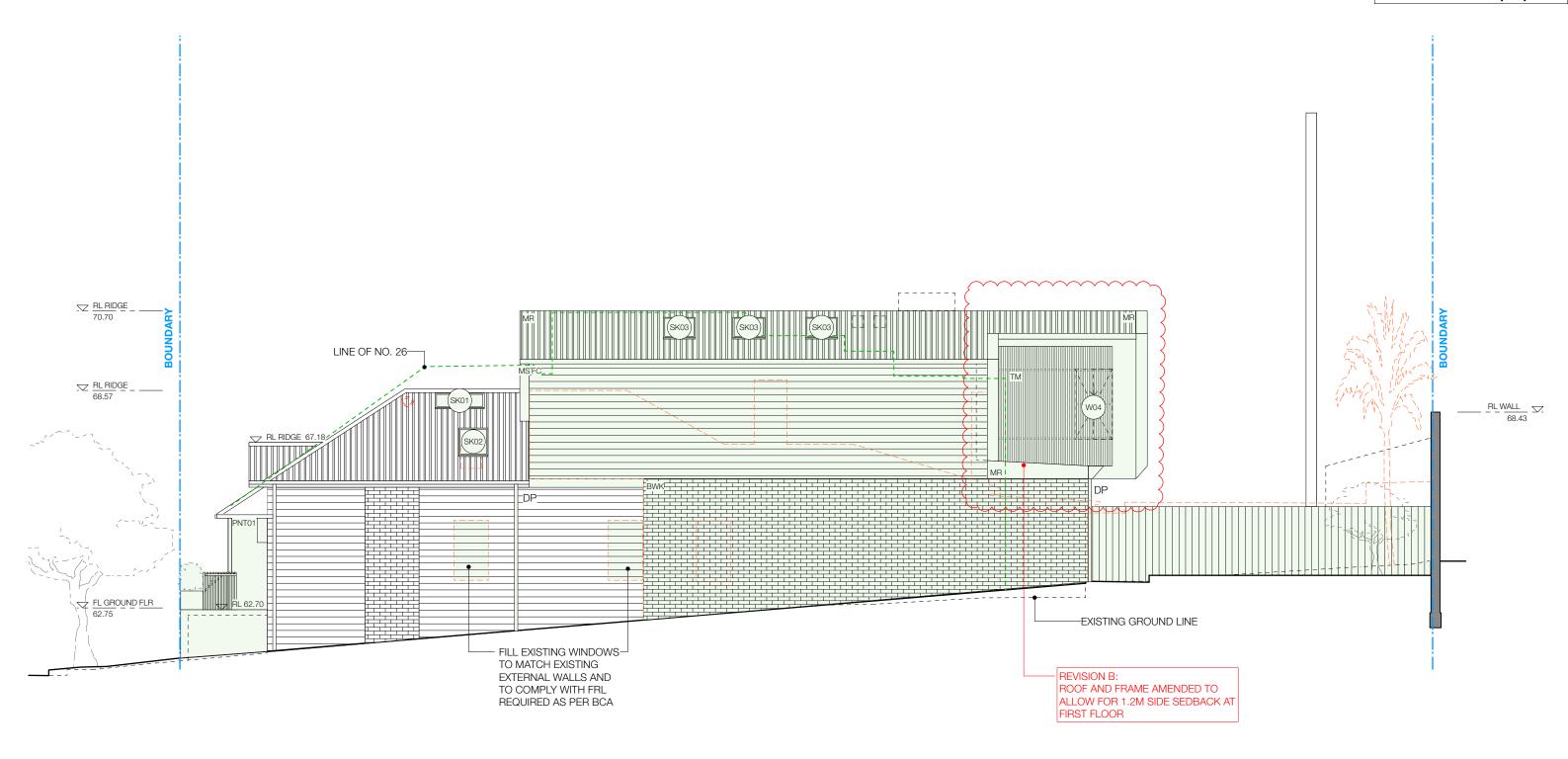
PROJECT REFERENCE: DRAWN: SIZE: АЗ RD 21 - 164 REVISION: DWG #: SCALE: 202 1:100 DA Α

AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-123/2022

Date Received: 22/08/2022





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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

Page 238 of 451

CLIENT:

DANIEL RYOU & HYE KYUNG

REV DATE DESCRIPTION

A 09/03/22 DEVELOPMENT APPLICATION
B 17/08/22 DA AMENDMENT

LEGEND
----- EX LOT BOUNDARY [] TO BE DEMOLISHED
----- PRO LOT BOUNDARY NEW WORK

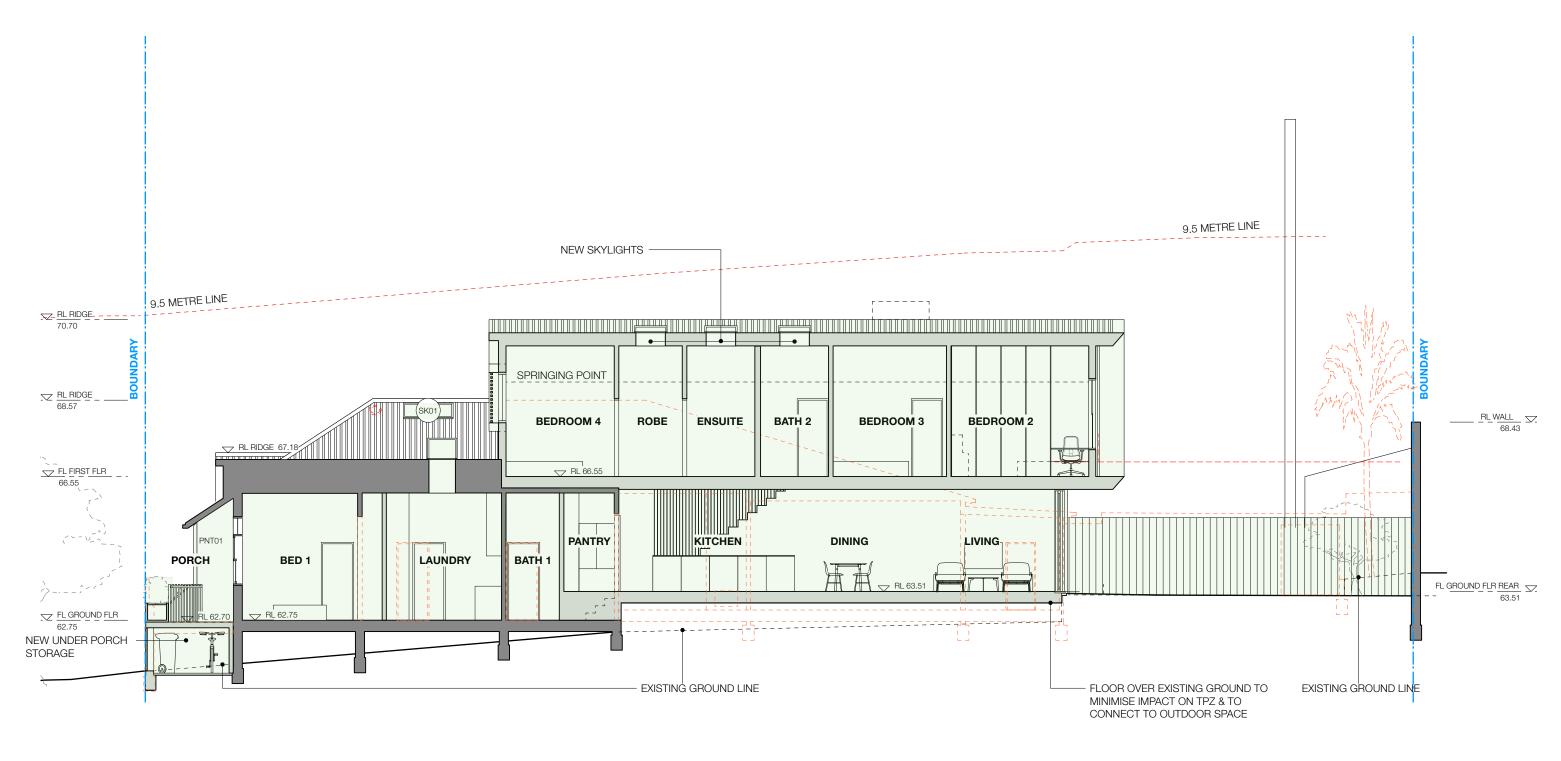
DRAWING TITLE: **ELEVATIONS**

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD A3

SCALE: ISSUE: REVISION: DWG #: 1:100 DA B 203

RECEIVED Waverley Council Application No: DA-123/2022

Date Received: 31/03/2022





94 Illawarra Road Marrickville, NSW 2204 info@kreisgrennan.com.au p: 02 9560 0888

Nominated Architect: Christian Grennan NSW Architect #8036

Kreis Grennan Architecture

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PROJECT: ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG Page 239 of 451

LEGEND — · — · EX LOT BOUNDARY [] TO BE DEMOLISHED ----- PRO LOT BOUNDARY NEW WORK

DRAWING TITLE: **LONG SECTION**

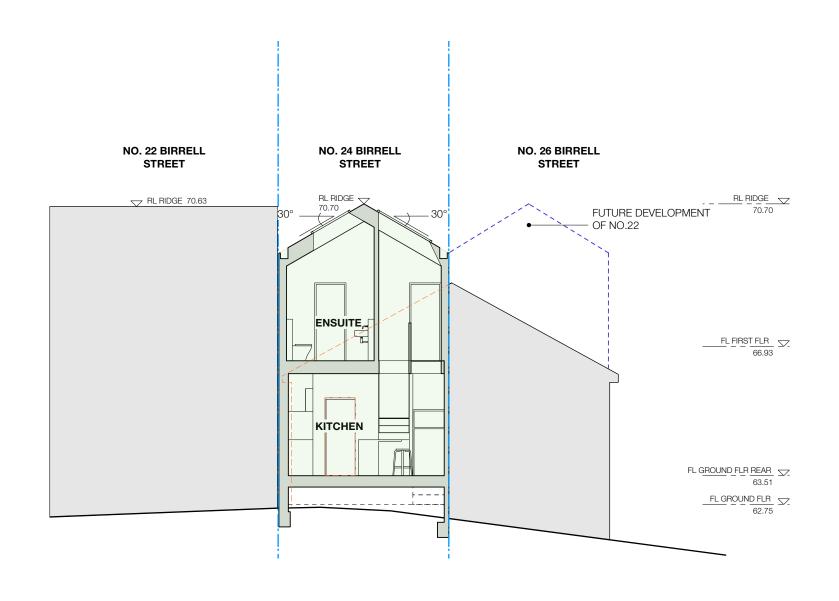
DESCRIPTION

09/03/22 DEVELOPMENT APPLICATION

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD АЗ REVISION: DWG #: SCALE: 300 1:100 DA Α

Application No: DA-123/2022

Date Received: 31/03/2022





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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629 DANIEL RYOU & HYE KYUNG

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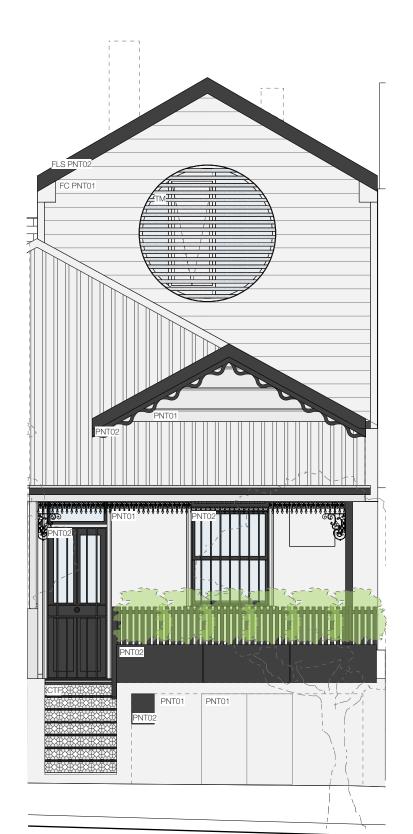
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DRAWING TITLE: **SHORT SECTION**

PROJECT REFERENCE: DRAWN: SIZE: RD 21 - 164 АЗ REVISION: DWG #: SCALE: 1:100 DA Α 301

Application No: DA-123/2022

Date Received: 31/03/2022





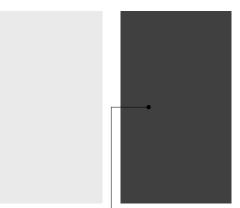
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PNT01 - PAINT HERITAGE 'MERINO' OR SIMILAR

PNT02 - PAINT DARK GREY TO MATCH EX DECORATIVE BARGBOARD



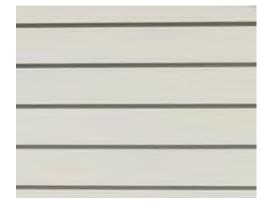
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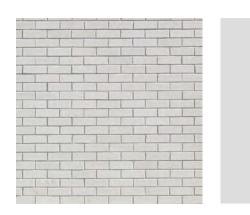
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CTF01 - PORCH TILES STN -STAIR NOSINGS GREY & WHITE FEDERATION STYLE TESSELLATED TILE W/ BULLNOSE STONE NOSINGS TO MATCH EXISTING ENTRY THRESHOLD



FC WEATHERBOARD FINISHED IN PNT01



BWK - BRICKS WHITE/GREY

DESCRIPTION 09/03/22 DEVELOPMENT APPLICATION



REFERENCE IMAGE - TIMBER FENCE



TM - TIMBER BATTENS LIGHT GREY



MR - METAL ROOF LIGHT GREY



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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG Page 241 of 451

DRAWING TITLE:

SCHEDULE OF COLOURS & FINISHES

PROJECT REFERENCE: DRAWN: SIZE: RD 21 - 164 **A**3 REVISION: DWG #: SCALE: NAS DA 350 Α

AMENDED PLANS

RECEIVED
Waverley Council

Application No: DA-123/2022

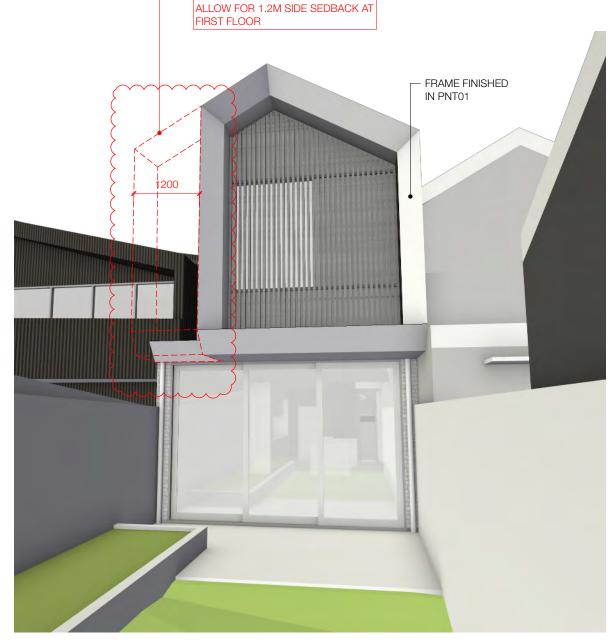
Date Received: 22/08/2022



1 VIEW ACROSS STREET - 1.8M SIGHT LINE



FIRST FLOOR FRONT FACADE RENDER



REVISION B:

ROOF AND FRAME AMENDED TO

REAR FACADE RENDER

LEGEND:

LINE OF VOLUME REMOVED

NOTE:

3D VISUALISATIONS SHOW THE PROPOSAL WITH FUTURE DEVELOPMENT AT NUMBER 22 BIRRELL STREET



94 Illawarra Road Marrickville, NSW 2204 info@kreisgrennan.com.au p: 02 9560 0888

Nominated Architect: Christian Grennan NSW Architect #8036

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ROJECT:

ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

CLIENT:

DANIEL RYOU & HYE KYUNG Page 242 of 451 REV DATE DESCRIPTION
A 04/03/22 DEVELOPMENT APPLICATION

17/08/22 DA AMENDMENT

DRAWING TITLE: **3D VIEWS**

PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 RD A3

SCALE: ISSUE: REVISION: DWG #: NA B 450

AMENDED PREVISIONA:

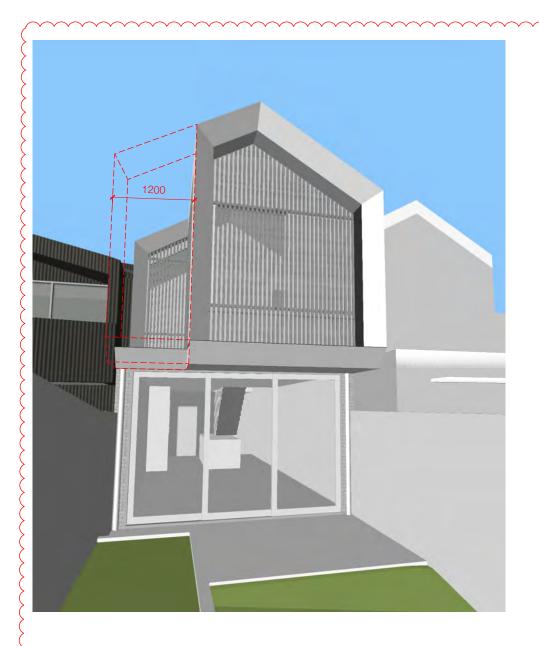
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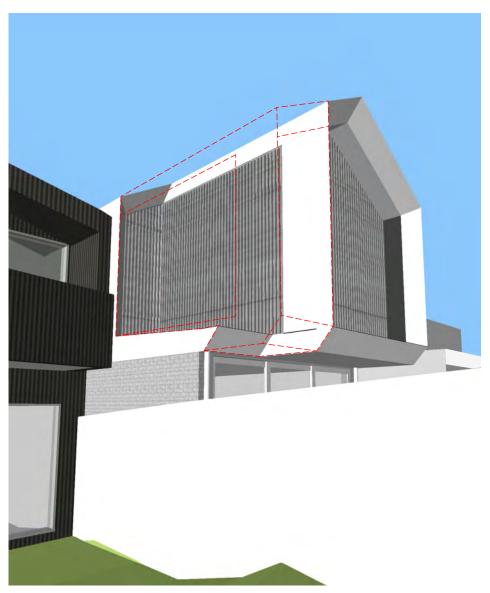
REVISION A:
ROOF AND FRAME AMENDED TO
ALLOW FOR 1.2M SIDE SEDBACK AT
FIRST FLOOR

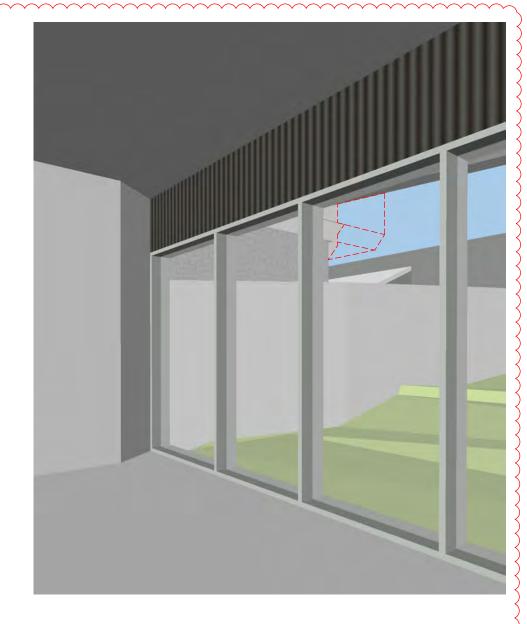
RECEIVED
Waverley Council

Application No: DA-123/2022

Date Received: 22/08/2022







REAR FACADE VIEW

VIEW FROM 26 BIRRELL STREET BACKYARD

3 INTERNAL VIEW FROM 26 BIRRELL STREET

LEGEND:

LINE OF VOLUME REMOVED

NOTE:

3D VISUALISATIONS SHOW THE PROPOSAL WITH FUTURE DEVELOPMENT AT NUMBER 22 BIRRELL STREET



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ROJECT:

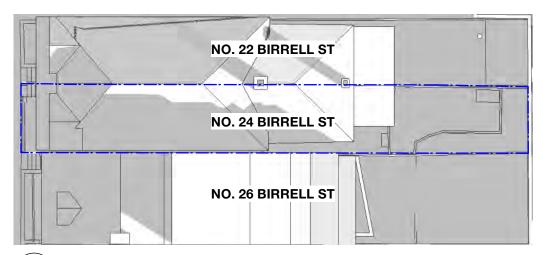
ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG Page 243 of 451 REV DATE DESCRIPTION
A 17/08/22 DA AMENDMENT

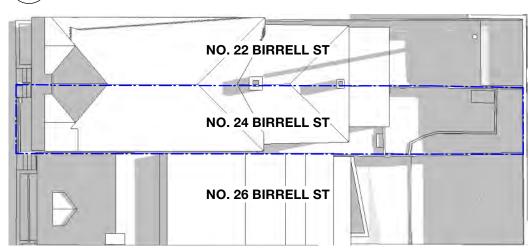
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PROJECT REFERENCE: DRAWN: SIZE: 21 - 164 FZ A3

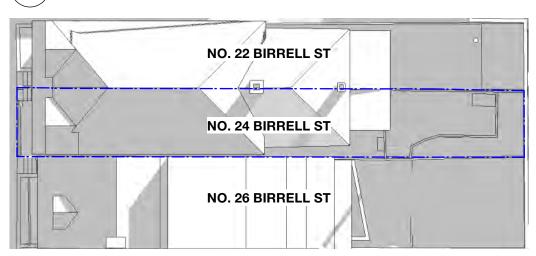
SCALE: ISSUE: REVISION: DWG #: A 451



EXISTING JUNE 21 - 09:00



EXISTING JUNE 21 - 12:00



EXISTING JUNE 21 - 15:00 3



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Christian Grennan NSW Architect #8036

Nominated Architect:

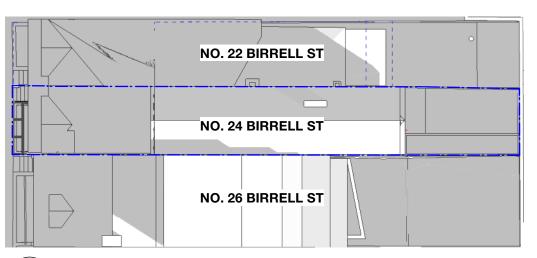
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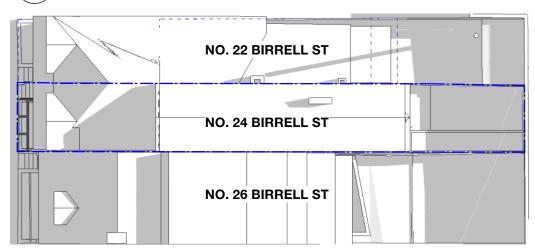
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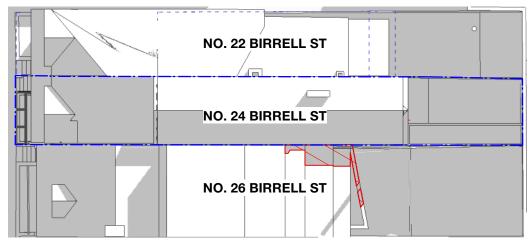
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PROPOSED JUNE 21 - 09:00



PROPOSED JUNE 21 - 12:00 5



REV

DATE

PROPOSED JUNE 21 - 15:00

ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG Page 244 of 451

SHADOW DIAGRAMS LEGEND

LEGEND

---- LOT BOUNDARY

ADDITIONAL SHADOW CAST BY PROPOSAL

DRAWING TITLE:

NA

DESCRIPTION

13/05/22 AMENDED SHADOW

DIAGRAMS

09/03/22 DEVELOPMENT APPLICATION

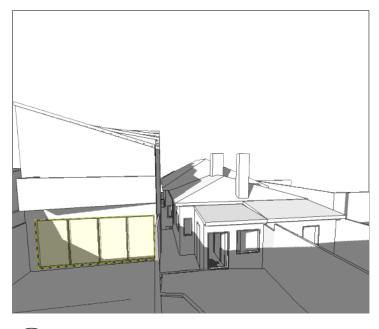
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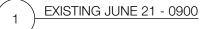
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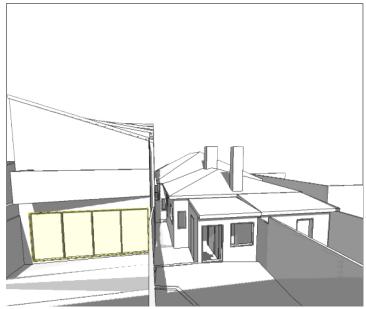
Kreis Grennan Architecture



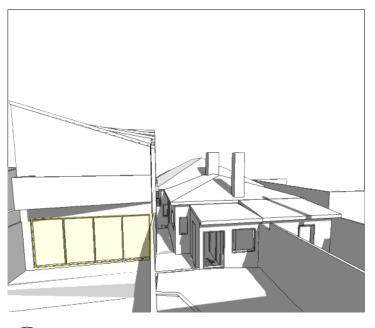




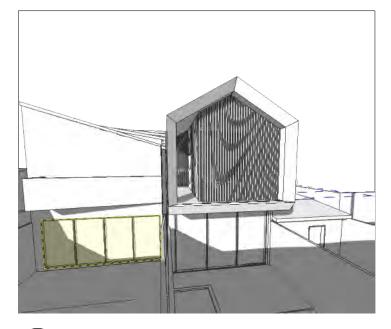
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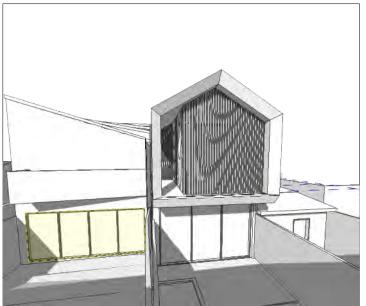
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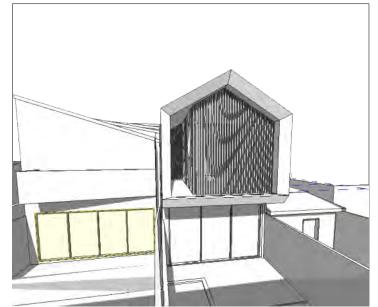
EXISTING JUNE 21 - 1200



PROPOSED JUNE 21 - 0900



PROPOSED JUNE 21 - 1000



PROPOSED JUNE 21 - 1100



PROPOSED JUNE 21 - 1200

NOTE
CURRENTLY 26 BIRRELL STREET ACHIEVES A MINIMUM OF 2
HOURS DIRECT SUNLIGHT BETWEEN 9AM AND 3PM ON THE
21ST JUNE ONTO AT LEAST 1SQM OF LIVING ROOM
WINDOWS. THIS IS MAINTAINED IN THE PROPOSAL.

REV

NO.26 LIVING ROOM WINDOW

ADDITIONAL SHADOW CAST BY PROPOSAL



94 Illawarra Road Marrickville, NSW 2204 info@kreisgrennan.com.au p: 02 9560 0888

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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

DANIEL RYOU & HYE KYUNG Page 245 of 451

DATE DESCRIPTION

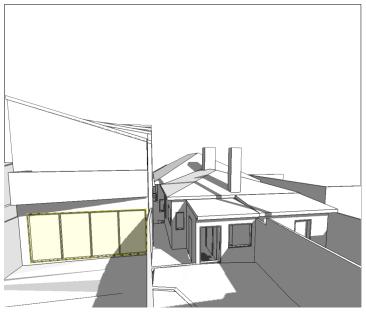
09/03/22 DEVELOPMENT APPLICATION 13/05/22 AMENDED SHADOW DIAGRAMS

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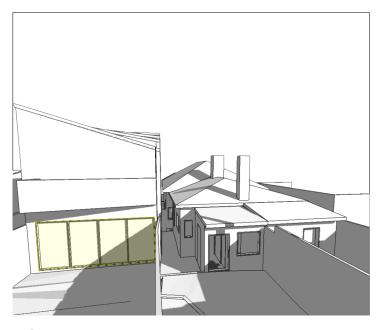
LEGEND

SHADOW DIAGRAMS - REAR FACADE

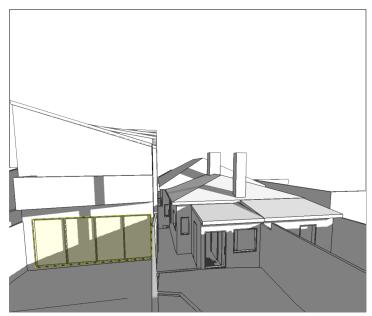
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SCALE:	ISSUE:	REVISION:	DWG #



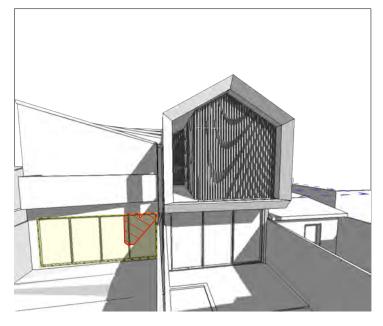




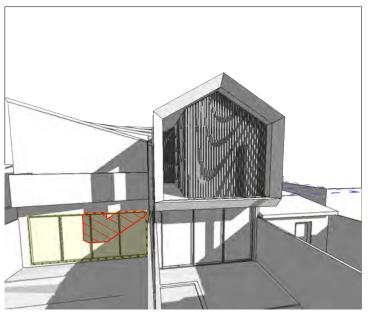
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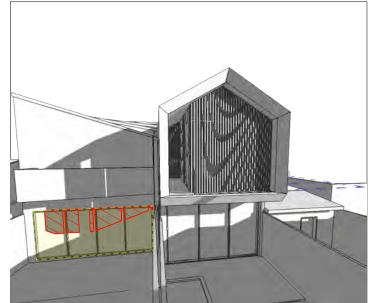
5 EXISTING JUNE 21 - 1500



PROPOSED JUNE 21 - 1300



4 PROPOSED JUNE 21 - 1400



PROPOSED JUNE 21 - 1500

NOTE

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LEGEND

NO.26 LIVING ROOM WINDOW

ADDITIONAL SHADOW CAST BY PROPOSAL



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ALTERATIONS AND ADDITIONS, 24 BIRRELL STREET BONDI JUNCTION, NSW 2022 - LOT 2 DP 850629

CLIENT:

DANIEL RYOU & HYE KYUNG Page 246 of 451 REV DATE DESCRIPTION

13/05/22 AMENDED SHADOW DIAGRAMS

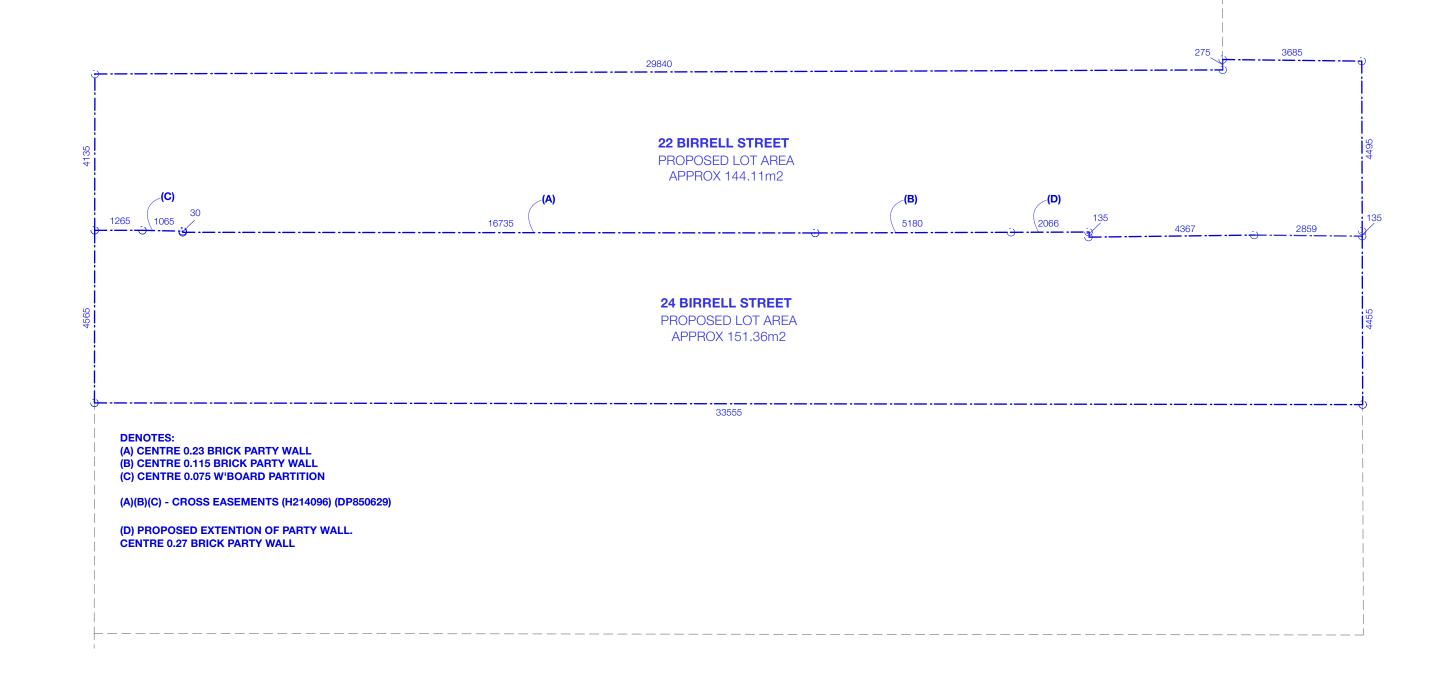
DRAWING TITLE:

SHADOW DIAGRAMS - REAR FACADE

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Application No: DA-123/2022

Date Received: 02/05/2022





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PROJECT:
ALTERATIONS AND ADDITIONS, 24
BIRRELL STREET BONDI
JUNCTION, NSW 2022 - LOT 2 DP
850629
CLIENT:
DANIEL RYOU & HYE KYUNG

Page 247 of 451

REV DATE DESCRIPTION

A 19/4/22 DA ADDITIONAL INFORMATION

B 21/4/22 DA ADDITIONAL INFORMATION UPDATE

DRAWING TITLE: PROPOSED BOUNDARY ADJUSTMENT

 PROJECT REFERENCE:
 DRAWN:
 SIZE:

 21 - 164
 FZ
 A3

 SCALE:
 ISSUE:
 REVISION:
 DWG #:

 1:100
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 900

Kreis Grennan Architecture





Report to the Waverley Local Planning Panel

Application number DA-180/2022		
Site address	4/81-83 O'Brien Street, BONDI BEACH	
Proposal	Alterations and additions to Unit 4, including rear balcony, new second floor roof addition and rear terrace	
Date of lodgement	9 May 2022	
Owner	Mr J R Nadel & Ms E M Foley	
Applicant	Mr J R Nadel	
Submissions	Nil	
Cost of works	\$466,950	
Principal Issues	Floor space ratio exceedance; bulk and scale; design excellence; inter-war buildings.	
Recommendation That the application be REFUSED for the reason contained in the report.		

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for alterations and additions to Unit 4, including a rear balcony at Level 1, new second floor roof addition and rear terrace, at the site known as 81-83 O'Brien Street, BONDI BEACH.

The principal issues arising from the assessment of the application are as follows:

- Floor space ratio (FSR) exceedance;
- Bulk and scale;
- Design excellence; and
- Impact on the inter-war building.

The assessment finds these issues unacceptable because the proposal would give rise to a further exceedance of the FSR development standard, increasing the existing exceedance of 10.3% to 24.69%, with the whole of the new upper level to Unit 4 representing non-compliant GFA. The clause 4.6 FSR variation statement does not adequately address the requirements of clause 4.6 (1)(b), (3)(a) and (b) and (4)(a) and the breach in FSR will result in an unacceptable outcome for the site. Accordingly, the applicant's Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR) does not demonstrate that compliance with the development standard is unreasonable or unnecessary, nor does it establish sufficient environmental planning grounds to justify the exceedance.

In addition, the proposal would give rise to adverse bulk and scale, and privacy and amenity impacts for neighbouring properties. The proposal is not consistent with the controls for Inter-war buildings and does not exhibit design excellence. The asymmetrical design and skillion roof addition is not in keeping with the built form of the existing inter-war building and is considered to detract from the streetscape character.

No submissions were received during notification. The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act and it is recommended for refusal.

1.2. Site and Surrounding Locality

A site visit was carried out on 14 June 2022.

The site is identified as Unit 4 in SP 8546, known as 81-83 O'Brien Street, BONDI BEACH.

The site is rectangular in shape with a frontage to O'Brien Street, measuring 11.485m. It has an area of 455.1m² and falls from the south-western frontage towards the north-eastern rear boundary by approximately 4.2m.

The site is occupied by a two-storey inter-war residential flat building (RFB), comprising four units with vehicular access provided from Rudolph Lane to the rear. Unit 4 is located on the second floor on the

south-eastern side of the RFB and entry is at street level. Entry to the ground floor units is via stairs in the front setback of the RFB.

The site is adjoined by two storey semi-detached dwellings on either side. The locality is characterised by a variety of low to medium density residential development.

Figures 1 to 4 are photos of the site and its context.



Figure 1: Subject site frontage as viewed from O'Brien Street.



Figure 2: Subject site from the rear as viewed from Rudolph Lane.



Figure 3: Neighbouring semi-detached dwelling to the north-west.



Figure 4: Neighbouring semi-detached dwelling (No. 79) to the south-east.

1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- CD-65/2015, Complying Development Certificate for a carport to be accessed via Rudolph Lane to the rear of the site. The application was withdrawn on 4 May 2015.
- PD-14/2015, Pre-DA for construction of three carports based on the same design as the existing carport.
- DA-86/2018, Alterations and additions including two additional carports at the rear of the existing RFB. The application was approved on 3 August 2018.

- CCB-65/2019, Application for a Construction Certificate was approved on 15 March 2019.
- DA-420/2021, Alterations and additions to Unit 4 within the existing RFB, including a roof level addition and internal alterations. On 15 November 2021, Council advised the applicant that the application would not be supported as the existing RFB exceeds the FSR development standard and a further exceedance cannot be supported, the Clause 4.6 Report did not establish sufficient environmental planning grounds to justify a further exceedance of the FSR development standard, the additional level was not within the existing building envelope and presented as an additional floor, potential visual privacy and acoustic impacts resulting from the proposed balcony and terrace had not been adequately resolved and the submitted solar diagrams did not clearly demonstrate additional or extent of shadowing associated with the proposal. The application was subsequently withdrawn on 22 November 2021.

1.4. Proposal

The development application seeks consent for alterations and additions to Unit 4 including the following:

Level 1:

- Internal reconfiguration of front of unit, including two bedrooms with wardrobes;
- New bathroom;
- Internal reconfiguration to the rear including open plan kitchen, built in laundry, dining and lounge room;
- New rear facing balcony with an area of 5.5m²; and
- Internal stair to access new second level.

New Level 2:

- Master bedroom, wardrobe and ensuite to the front;
- Non-trafficable deck at front south-eastern corner of unit to accommodate mechanical services;
- Non-habitable storage space within existing roof cavity at front south-western corner;
- Living area to the rear; and
- New terrace with a trafficable area of 13.7m² to the rear accessed from the living room with a 5.7m² landscaped planter around perimeter.

Roof:

- New flat roof, set back behind front parapet; and
- Six operable skylights.

1.5. Background

The development application was lodged on 9 May 2022. On 17 May 2022, Council wrote to the applicant and advised the following:

'...DA-180/2022 submitted to Council on 6 May 2022 seeks to further exceed an existing exceedance of the floor space ratio (FSR) development standard. The application is not

supported due to there being an existing exceedance (14.35%) and a further exceedance (24.69%) would give rise to an undesirable precedent of development that is considered unacceptable and not in the public interest. In addition, the application does not meet the objectives of FSR development standard.

The application seeks an additional level on Unit 4 side of the RFB, creating an asymmetrical addition to the RFB, which does not meet the design excellence objectives and controls in the Waverley DCP 2012. The minor amendments made to the application from DA-420/2021 are noted however the application presents much the same as what was submitted under DA-420/2021, with a minor reduction in FSR, a small increase of the rear setback and a larger balcony planter.

In this regard, the comments made by Council with respect to the unacceptable precedent of a further exceedance to the FSR development standard stand. A further exceedance of the FSR development will not be supported on this site.'

The applicant was given the option of withdrawing the application or proceeding with a determination, which would be a recommendation to the Waverley local Planning Panel (WLPP) for refusal. On 19 May 2022, the applicant advised that they would proceed with a determination.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

The applicable SEPPs have been considered in the assessment of the application.

A BASIX Certificate was submitted with application, satisfying the requirements of SEPP (Building Sustainability Index – BASIX) 2004.

With respect to SEPP 65 (Design Quality of Residential Apartment Development) 2002, the application was not referred to the Waverley Design Excellence Advisory Panel (DEAP) given the nature of the works proposed. Notwithstanding, an assessment against the nine design quality principles under Schedule 1 of SEPP 65 has been undertaken as set out in **Table 1**.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Planning Comment
Context and Neighbourhood	The proposal is not considered to respond to or contribute to its context. The existing RFB, comprises four units and sits between

Principle	Planning Comment
	low scale, semi-detached development on either side. The nature of development in the immediate vicinity, particularly to the west and rear of the site is of a similar scale and the proposal is not considered to enhance the qualities and identity of the area. The proposal may give rise to an undesirable precedent of development.
2. Built form and Scale	The proposal would give rise to bulk and scale impacts as a result of the additional level above the existing second floor of the RFB. The asymmetrical design of the addition is not in keeping with the architecture of the surrounding area.
3. Density	The proposal seeks to increase the density of development on a site that has an already exceeded floor space ratio. Increasing the density on the site is therefore not supported.
4. Sustainability	If the application was approved, the design of the additional level is likely to achieve good natural cross ventilation, as a result of the operable skylights and configuration of openings.
5. Landscape	The proposal includes a landscaped planter around the perimeter of the second floor terrace.
6. Amenity	If the application was to be approved, the proposal would achieve good internal amenity for the occupants of Unit 4. However, the development would impact the amenity of other occupants within the RFB.
7. Safety	Satisfactory.
8. Housing Diversity and Social Interaction	Satisfactory.
9. Aesthetics	The asymmetrical design of the addition does not respond to the existing or desired future context of the locality.

Apartment Design Guide

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment
4A Solar and daylight access		
Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm midwinter.	Yes	The proposal would not alter solar access within the RFB.
4B Natural ventilation		
All habitable rooms are naturally ventilated	Yes	All habitable rooms are provided with at least one window for natural ventilation.
4C Ceiling heights		
 2 storey units: 2.7m main level (living) & 2.4m upper floor where its area does not exceed 50% of the unit area 	No	The proposal seeks to lower the existing ceiling height of the main living level to 2.6m. The upper level proposes a ceiling height of 2.4m. The existing unit has a total area of 76.26m ² and the upper level an area of 39.2m ²
		(excluding the stairs). The upper level therefore exceeds 50% of the unit area design criteria.
4D Apartment size and layout		
The following minimum internal areas apply: • 3 Bed = 90 m ² • Add 5m ² for each additional bathroom	Yes	Unit 4 has an existing floor area of 76.26m ² and proposes an additional area of 39.27m ² , increasing the total floor area to 115.53m ² . The proposal complies with minimum internal area requirements.
(above 1) Every habitable room must have a window in an external	Yes	Each habitable room comprises a window that has a total minimum glass area of not less than 10% of the floor area of the room.
wall with a total minimum glass		The kitchen is separate to the circulation space.
area of not less than 10% of the floor area of the room.		All robes are a minimum length of 1.5m.
4E Private open space and balcor	nies	
All apartments provide primary balcony as follows: • 3+bed – 12m² & 2.4m depth	Yes	The application includes a new balcony off the kitchen at the rear of the existing unit and a new upper floor terrace to the rear. These exceed the minimum requirement for balconies within a new development. A new planter is proposed around the perimeter of the upper floor terrace, as well as a bench seat and BBQ.

Design Criteria	Compliance	Comment
		While the proposal complies with the spatial requirements, given that the balconies are proposed only for Unit 4, extending across two levels (existing first floor and proposed upper floor), the addition to the rear of the RFB is considered disproportionate and is likely give rise to bulk and scale impacts and potential privacy concerns.
4F Common circulation and space	es	
 Max of 8 units accessed off a circulation core on a single level 	Yes	There is no change to the common circulation space within the RFB.
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided: • 3+bed – 10m ³	No	The proposal does not meet the requirements for storage, providing approximately 5m ³ . A lack of adequate storage does not form a reason for refusal.

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment	
Part 1 Preliminary			
1.2 Aims of plan	Yes	The proposal is not inconsistent with the aims of the LEP	
Part 2 Permitted or prohibited de	velopment		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is defined as alterations and additions to a 'residential flat building', which is permitted with consent in the R3 zone.	
Part 4 Principal development star	Part 4 Principal development standards		
4.3 Height of buildings9.5m	Yes	The proposal has a maximum height of 9.48m.	
4.4 Floor space ratio • 0.6:1 (273.06m²)	No	The existing RFB has a total GFA of 301.21m ² and a non-compliant FSR of 0.66:1.	

Provision	Compliance	Comment
		The proposal seeks an additional 39.27m ² of GFA, equating to a total GFA of 340.48m ² and FSR of 0.75:1.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6:1. The existing building exceeds the FSR development standard by 28.15m² equating to an existing variation of 10.3%. The proposed development has an FSR of 0.75:1, giving rise to a further exceedance of the standard by 67.42m², equating to a 24.69% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) Despite the proposed development's non-compliance with the applicable FSR development standard, the proposal is consistent with the desired medium density character of the area.
 - (ii) The proposal provides a bulk and scale that is generally consistent with that envisaged by Council's controls.

- (iii) ...the proposal will provide an appropriate correlation between existing and emerging development in the area, in particular the height and FSR non-compliant built forms at Nos. 79 and 122 O'Brien Street.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal is also compatible with the areas desired future character established by Council approvals. The sympathetic design accommodates floor space within the maximum building height, maintaining a similar appearance to the street and providing new areas of private open space which enhance the overall amenity of Unit 4 (who given current exclusive use agreements have no access to open space on site).
 - (ii) As the location of the massing ensures consistency with the locality's height, bulk, scale and eclectic developments, the proposal's size and scale will be compatible with the desired future character of the area.
 - (iii) As the proposed floor space is below the maximum building height and situated behind the existing parapet with a skillion roof form, the proposal will appear compatible within the streetscape.
 - (iv) We therefore consider contravening the development standard to provide residential accommodation with a high level of internal and external amenity within the existing FSR non-compliant residential flat building is justified as sufficient environmental planning grounds.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. The applicant has primarily focussed their commentary on the first justification of *Wehbe vs Pittwater Council (2007) LEC 156 LGERA 446827* that the objectives of the development standard are achieved despite the non-compliance with that standard. The relevant objectives of the FSR development standard (Clause 4.4 of the Waverley LEP 2012), are:

(b) to provide an appropriate correlation between maximum building heights and density controls,

- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The existing building has a FSR of 0.66:1 (301.21m²), exceeding the development standard by 10.3%. Accordingly, the existing building is larger than the development standard allows, and despite being constructed in the inter-war period, Council is of the view that the existing RFB already achieves the maximum FSR permitted on the site. Any further increase must be carefully considered in light of the bulk and scale, site suitability and impacts on adjoining properties and the locality.

The applicant seeks to justify that the proposed FSR variation and increase in GFA, benefiting a single unit within the RFB, will not result in adverse impacts and is similar to other alterations and additions to RFB's in the immediate vicinity that have been approved with FSR variations. While there are other examples of FSR non compliances in the locality, the examples provided by the applicant are historical applications and different development propositions. Accordingly, Council must have regard to the impacts of the built form of the subject application specifically, irrespective of a perceived precedent.

The applicant states that the proposed development will be compatible with the surrounding context and will maintain a reduced scale compared to other RFBs in the area. The applicant further argues that the floor space variation will maintain or improve the relationship with surrounding development.

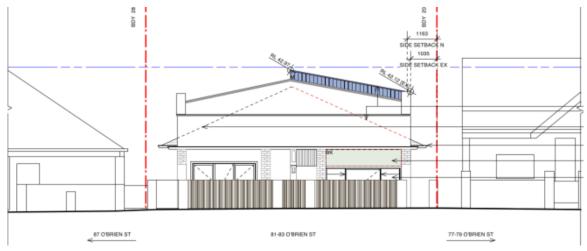


Figure 5: Proposed front (south) elevation

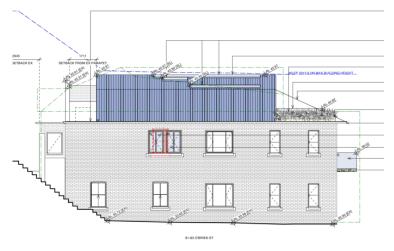


Figure 6: Proposed east elevation



Figure 7: Proposed rear (north) elevation

The proposal seeks a significant 24.69% variation to the FSR development standard, with the whole of the new upper level to Unit 4 representing non-compliant GFA. As identified in the figures above, the additional massing alters the building envelope by adding an additional level to the roof profile and seeks to lower the existing ceiling height of the main living area by approximately 200mm, in order to accommodate necessary floor to ceiling heights of the upper floor level.

The additional level results in an asymmetrical design, adding excessive bulk and scale to one side of the building. The bulk and scale of the proposal is further exacerbated by the addition of the balcony and large rear facing terrace to the upper floor, which is entirely out of keeping with the rear elevation of the existing RFB and the adjoining property to the west, and is inconsistent with objective (c). The additional level is considered to have a significant impact on the visual character of the inter-war RFB, is out of proportion with the remainder of the building and does not meet the design excellence objectives set out in Waverley DCP 2012.

The applicant's *Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)* has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary, as the proposed development is inconsistent with the desired future character of the

locality. The proposed development is unable to be achieved without adding a further breach to the FSR development standard, which raises issues of equity given that the proposal serves to benefit a single unit/residence within the RFB.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The existing RFB is larger than the development standards permit, and the proposed development would increase the extent of the variation to 24.69% over the permitted FSR. Although the additional level complies with the 9.5m height limit, the extent of the FSR variation demonstrates that the proposed bulk and scale is excessive and does not provide an appropriate correlation between maximum building height and density controls, and therefore inconsistent with objective (b).

The 'plan view' solar access diagrams do not clearly identify the full extent of shadow impacts. While plan view solar diagrams appear to indicate the impact is not unreasonable, the full extent of impact, particularly on the western elevation of No. 79 O'Brien Street, has not been demonstrated in the submitted diagrams, as is required.

The applicant states that the proposal would not give rise to privacy impacts, as a result of the proposed planter to the terrace on the upper level, which may obscure views to an extent. However, overlooking may still occur at this level, within the site and towards neighbouring properties to the east and west. In addition, no privacy treatment is shown on the east elevation to the smaller balcony on the existing level of Unit 4. While privacy screens may be provided to the sides of the balconies, these elements are likely to add to the bulk and disproportion of the addition, particularly to the rear.

The applicant notes that the ground floor units within the RFB have an exclusive use agreement for use of the rear yard which also allows the upper level units to seek a rear balcony addition. Should the upper floor units seek to develop rear facing balconies off the main living areas and lodge a development application for these works, this would be considered on its merit and does not require a new floor level to accommodate an acceptable and compliant area of private open space.

The proposed breach of the FSR development standard, being a 24.69% variation, serving just one unit within the block of four, demonstrates that the development fails to meet the objectives of the FSR development standard and is an overdevelopment of the site.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with both the objectives of the particular development standard (as set out above) and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the R3 Medium Density zone are as follows:

• To provide for the housing needs of the community within a medium density residential environment.

- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

While the proposal would provide for the housing needs of the community within a medium density residential environment, the exceedance of the FSR standard and the built form outcome on the site to achieve the objectives is unacceptable and not supported. The unacceptability of the breach to the standard is further exacerbated by the application serving to benefit one owner only within the RFB. The current building represents the bulk and scale envisaged under the LEP, albeit an existing exceedance and therefore varying the standard further is not in the public interest.

The FSR variation does not adequately address the requirements of clause 4.6 (1)(b), (3)(a) and (b) and (4)(a). The breach in FSR will result in an unacceptable outcome for the site, does not demonstrate that compliance with the development standard is unreasonable or unnecessary, does not establish sufficient environmental planning grounds to justify the exceedance, is inconsistent with the objectives of the FSR development standard and is not in the public interest.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR development standard and the R3 Medium Density Residential zone.

2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste and Recycling Management plan has been submitted with the application to address waste disposal during construction. Should the application be approved, conditions addressing waste management can be provided.
Ecologically Sustainable Development	Yes	The application includes a BASIX certificate setting out the energy efficiency and water conservation targets as required under the SEPP.

Development Control	Compliance	Comment
3. Landscaping and Biodiversity	Yes	The proposal includes a planter around the perimeter of the rear terrace. No other landscaping is proposed.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	N/A	As existing. No change.
10. Safety	Yes	Satisfactory.
12. Design Excellence	No	The proposal does not exhibit design excellence. The FSR variation would result in unacceptable bulk and scale impacts and is not compatible with the streetscape context. See below for further discussion.
17. Inter War Buildings	No	The proposal is not a sympathetic to the character of the inter-war building and fails to preserve its integrity. See below for further discussion.

Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment		
3.2 Height				
Maximum external wall height: R3/9.5m – 7m	No	The proposal has a maximum wall height of 8.6m, measured at the east elevation.		
3.3 Setbacks				
3.3.1 - Street setbacksConsistent street setback	No	The front setback from the existing parapet to the street remains unchanged. The upper level addition to Unit 4 is proposed behind the front parapet and is setback 6.6m from the front boundary. Despite the upper level being setback, the proposal is not consistent with the neighbouring front building line to the east and does not integrate with the established setback character of the street.		
 3.3.2- Side and rear setbacks Minimum side setback: 1.5m Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback 	No Yes	The existing RFB has an eastern side setback of 1m which will retained at the upper floor side setback. The rear setback measured from the northern edge of the roof to the rear boundary is 8.6m.		
3.5 Building design and street	3.5 Building design and streetscape			
Respond to streetscape	No	The design of the building does not respond to the streetscape context. The proposal includes a		

Development Control	Compliance	Comment
 Sympathetic external finishes Removal of original architectural features not supported. 	No Yes	skillion roof addition to the existing pitched roof, which is out of keeping with the roof profile and architecture of the existing RFB and the neighbouring semi-detached building. The proposed metal clad roof is not in keeping with the existing tiled pitched roof. The existing front parapet would be retained under the proposal.
3.6 Attic and roof design		
 Not exceed 50% of the floor of area of the floor below Not contain independent 	No Yes	The applicant's SEE states that the proposal comprises an attic addition, however the upper level addition constitutes an additional level above the existing roof and is not an attic addition.
dwellings and must be accessed via internal stairsBe naturally ventilated	Yes	The upper level exceeds 50% of the unit area design criteria.
Minimum room width: 3m	Yes	The proposal comprises one dwelling, with internal stairs and is naturally ventilated.
Minimum floor to ceiling height for at least 2/3 of the floor area: 2.4m	Yes	The width of the upper floor level is 4.3m. The proposed new ceiling height of the main living level is 2.6m and the upper level proposes a ceiling height of 2.4m.
3.9 Landscaping		
 Comply with part B3- Landscaping and Biodiversity Minimum of 30% of site area landscaped: 	No No	No Landscape Plan was submitted with the application. The application includes a 5.7m ² planter box along the rear and eastern side of the upper level terrace. No plant species have been proposed.
 136.53m² 50% of the above is to be deep soil: 68.26m² 	No	The applicant's SEE states that the existing site has a total landscaped area of 92.29m². The plans submitted show common area but not the extent of deep soil landscaped area. The provision of deep soil is not being altered under the proposal.
3.10 Communal open space		
 Minimum 15% communal (R3 zone): 68.26m² Minimum dimensions: 6m x 6m 	No No	As set out above, the applicant's SEE notes that the ground floor units have an exclusive use agreement for use of the rear yard. In this case, the site comprises no communal open space and is considered an existing non-compliance.
Minimum of 30% of communal area must receive three hours of sunlight	Yes Yes	The rear yard would receive a minimum of three hours sunlight. The rear yard can be accessed at grade from Rudolph Lane, and via the side stairs of the RFB.
Accessible	103	, ,

Development Control	Compliance	Comment
3.11 Private Open Space	Compilation	55
3.11.2 – Balconies/decksBalcony additions to match the character of	No	Given that the two new balconies are only proposed to Unit 4, the balcony additions are not considered to match the character of the building in terms of scale and proportionality.
the buildingShould not dominate the façadeNo wrap around	N/A N/A	The balconies are at the rear of the site and while they do not dominate the front façade, the additions are considered to dominate the rear of
balconiesLocated to maximise	Yes	the building.
solar access and privacy Balustrades to allow	Yes	Due to the north facing orientation, solar access would be received.
views and casual surveillance of the street & privacy		The upper floor terrace proposes a balustrade.
3.13 Solar access and overshad	dowing	
Minimum of three hours of sunlight to a minimum	Yes	Unit 4 would receive a minimum of three hours of sunlight on 21 June.
of 70% of units in the development on 21 June		If the application was to be approved, the north facing orientation of the rear terrace and upper
Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.	Yes	floor level would maximise solar penetration to the new living room and level below.
3.14Views and view sharing		
Minimise view loss through design	Yes	The application would not give rise to view loss impacts, nor would there be views from public spaces that would be impacted by the proposal.
Views from public spaces to be maintained.	Yes	spaces that would be impacted by the proposal.
3.15 Visual privacy and securit	у	
Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened	Partial	Overlooking would be possible from the proposed new balcony at the existing Unit 4 level and the new terrace to the upper floor. The proposed planter would assist in obscuring views within the site and towards neighbouring properties; however given the elevated height of
 Privacy be considered in relation to context density, separation use and design. 	No	the these spaces, some privacy impacts would remain. Given the reduced side setback and separation between the RFB and adjoining neighbours, some
Prevent overlooking of more than 50% of private	No	privacy and overlooking is inevitable, however the impacts relating to privacy and impact on the

Development Control	Compliance	Comment
open space of lower level dwellings in same		amenity of adjoining properties is directly attributable to the extent of the upper floor level.
 Roof tops are to be non-trafficable, unless there is a predominance of roof 	N/A	Overlooking of more than 50% of the private open space of the lower level units is likely, given the height and extent of private open space sought by the proposal.
terraces in the immediate vicinity of the site.		While the upper floor terrace is not strictly a roof terrace, as it proposes access from the upper floor level, it would however align with the existing roof of adjoining Unit 3. The height at which this private open space would be configured is likely to exacerbate overlooking to lower levels and across site boundaries.
3.16 Dwelling size and layout (refer to ADG)	
3.17 Ceiling Heights (refer to A	DG)	
3.18 Storage (refer to ADG)		
3.19 Acoustic privacy		
Internal amenity by locating noisy areas away	Partial	The proposed layout of the unit is considered to address this requirement.
from quiet areas		The new areas of private open space have the potential to give rise to acoustic privacy impacts for adjoining neighbours.
3.20 Natural Ventilation (refer	to ADG)	
3.21 Building services		
 Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire 	N/A	The waste storage facilities are located at the rear of the site along the north eastern boundary fence, which would not be altered by the proposal.
hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures		The plans do not indicate an outdoor clothes drying area however given the exclusive use agreement, it may not be accessible to the subject Unit 4.
 Outdoor Communal clothes drying area to be provided 	No	Mechanical services are identified within the non-trafficable deck at the front of the new upper floor addition. The plans indicate this would be acoustically screened as required to
Plant rooms away from entry communal and private open spaces and bedrooms.	Yes	achieve compliance.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Inter-war Buildings and Design Excellence

The subject RFB is an inter-war building. The applicants SEE does not address the inter-war controls, as required under the Waverley DCP 2012. The SEE and plans do not identify the style of the building or its key design elements and characteristics, nor does it effectively demonstrate how the proposed design maintains and enhances the style and key design elements of the existing RFB.

The DCP requires development to preserve the integrity of the building and to minimise alterations and additions. While the existing front parapet would be retained under the proposal, to the rear of the parapet the integrity of the built form would be severely compromised by the additional level and the proposed skillion roof form and materiality. Alterations and additions to inter-war buildings are to be complimentary and secondary to the existing building design, which is not achieved by the proposed design. The proposed upper level dominates the roof profile from the side of the dwelling and particularly to the rear. The asymmetrical design is not in keeping with adjoining inter-war building and is considered to detract from the streetscape character.

With respect to design excellence, the FSR variation would result in unacceptable bulk and scale impacts making it difficult for the building to achieve design excellence. Part B12, Section 12.1, sets out the relevant controls in relation to design excellence. The proposal is not considered to achieve a high standard of architectural design and the design solution is not appropriate to the building type, as required under the DCP. The development does not appropriately consider the relationship of the development and other development on the subject site and neighbouring sites, particularly with respect to urban form.

2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

2.4. Any Submissions

The application was notified from 24 May to 7 June 2022, in accordance with the *Waverley Community Development Participation and Consultation Plan*.

No submissions were received.

2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest and is recommended for refusal.

REFERRALS

The following internal and external referral comments were sought:

3.1. Stormwater

The stormwater management plans submitted with the application are considered satisfactory. Conditions of consent were recommended in the event of an approval.

3.2. Fire Safety

An assessment of the proposal revealed that there may be a number of non-compliances with the Building Code of Australia (BCA) including, but not limited to fire separation issues between existing residential sole occupancy units and common areas (i.e. Section C of BCA).

All new building works must comply with the BCA, in particular, protection of openings and fire resistance levels of building elements.

Accordingly, a building upgrade is likely to be required to ensure compliance with the BCA. Conditions of consent were recommended in the event of an approval.

4. CONCLUSION

The development application seeks consent for alterations and additions to Unit 4, including a rear balcony, new second floor roof addition and rear terrace, at the site known as 81-83 O'Brien Street, BONDI BEACH.

The principal issues arising from the assessment of the application are as follows:

- Floor space ratio exceedance;
- Bulk and scale;
- Design excellence; and
- Impact on inter-war buildings.

The assessment finds these issues unacceptable because the proposal would give rise to a further exceedance of the FSR development standard, increasing the existing exceedance of 10.3% to 24.69%, with the whole of the new upper level to Unit 4 representing non-compliant GFA. The FSR variation does not adequately address the requirements of clause 4.6 (1)(b), (3)(a) and (b) and (4)(a) and the breach in FSR will result in an unacceptable outcome for the site. Accordingly, the applicant's *Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)* does not demonstrate that compliance with the development standard is unreasonable or unnecessary, nor does it establish sufficient environmental planning grounds to justify the exceedance.

In addition, the proposal would give rise to adverse bulk and scale, and privacy and amenity impacts for neighbouring properties. The proposal is not consistent with the controls for inter-war buildings and does not exhibit design excellence. The asymmetrical design and skillion roof addition is not in keeping

with the built form of the existing inter-war building and is considered to detract from the streetscape character.

No submissions were received during notification. The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act and it is recommended for refusal.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
H	
Alana Jelfs	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 2 September 2022	Date: 8 September 2022

Reason for WLPP referral:

1. Departure from any development standard in an EPI by more than 10%

APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15(1) of the *Environmental Planning and Assessment Act 1979* the development application is refused for the following reasons:

- 1. The proposal does not satisfy the objectives of the *Environmental Planning and Assessment Act* 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design and amenity of the built environment.
- 2. The proposal does not satisfy section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, as the proposal does not satisfy the provisions of the *State Environmental Planning Policy No.65 Design Quality of Residential Apartment Development* and the *apartment Design Guide*, in particular the following provisions:
 - a. Clause 2 Aims, objectives etc, subclauses (3)(a)(ii) and (iii), (b) and (d), as the proposed development does not meet the objectives of the urban planning policies of the local context, does not achieve a better built form outcome for the streetscape and does not maximise amenity for the wider community.
 - b. The proposal is inconsistent with Part 4 Application of Design Principles, in particular Principle 1 Context and Neighbourhood, Principle 2 Built Form and Scale, Principle 3 Density, Principle 6 Amenity and, Principle 9 Aesthetics.
- 3. The proposal does not satisfy section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, as the proposal does not satisfy the following provisions of the *Waverley Local Environmental Plan 2012*:
 - a. Clause 4.4 Floor space ratio (1)(b), (c) and (d), because the proposal breaches the floor space ratio development standard, seeking to maximise the height of the building whilst increasing the density to well over the permissible FSR which would give rise to a development with excessive bulk and scale that is not compatible with the desired future character of the locality, contrary to objectives (b) and (c). The proposal will reduce the environmental amenity of neighbouring properties, including other occupants of the RFB and locality, contrary to objective (d).
 - b. Clause 4.6 Exceptions to development standards (1)(b), (3)(a) and (b) and (4)(a), because the proposed development will not result in a better outcome for the site. The applicant's Clause 4.6 Exceptions to Development Standards Floor Space Ratio (FSR) fails to adequately justify that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the significant breach to the already exceeded floor space ratio development standard. The proposed development is inconsistent with the objectives of the development standard and is not in the public interest.
- 4. The proposal does not satisfy section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as the proposed development is contrary to the following provisions of the Waverley Development Control Plan 2012:

a. Part B – General Provisions

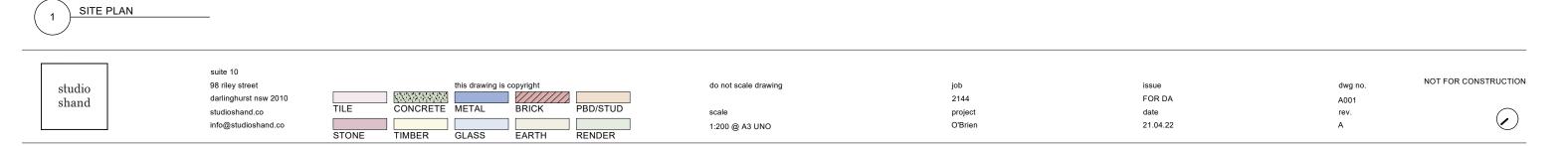
- i. Part B12 *Design Excellence*, 12.1 *Design*, specifically objectives (a) and (d) and controls (a) and (e), and 12.2 *Context Analysis* specifically objectives (a), (b), (c) and (d) because the proposal fails to achieve a high standard of architectural design and detailing appropriate to the inter-war residential building. The proposal fails to consider the suitability of the land for development, the relationship of the development to other development (existing or proposed) on the same site or on neighbouring sites in terms of setbacks, amenity and urban form and does not consider bulk, massing, and modulation of the building. The development does not demonstrate an understanding of an appropriate response to the specific conditions, nor does it identify the key contextual; features and characteristics of the surrounding urban form to which the design should respond.
- ii. Part B17 Inter war buildings, specifically objectives (b) and (d) and controls (b), (c), (f), (g), (k), (l) and (o), as the proposal fails to identify the RFB and its historical features as an inter-war building and fails to demonstrate how the design maintains and enhances the key design elements. The proposal does not preserve the integrity of the building and the extent of alterations and additions are not considered minimal. The proposal does not preserve the building's contribution to, and relationship with the streetscape and the alterations and additions are not complementary to the existing building design.

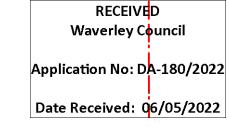
b. Part C3 – Other Residential Development

- i. Section 3.5 *Building Design and Streetscape*, specifically objectives (a), (c), (d) and controls (a), (c) and (d), as the proposal does not respond to the streetscape character of the area and the proposed alterations and additions do not demonstrate architectural compatibility with the existing building.
- ii. Section 3.6 Attic and Roof Design, specifically objective (c) and control (a) and (b), because the proposed skillion roof design does not contribute to the architectural design of the development, nor does it respond to the streetscape character of the area.
- 5. The proposed development does not satisfy section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, as the proposal will have an adverse environmental impact as the proposed development results in an unacceptable planning outcome because the proposal is an overdevelopment of the site and is only achievable with a significant exceedance of the FSR development standard and would adversely impact upon the amenity of neighbouring properties and the locality.
- 6. The proposal is contrary to 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*, as the development is not considered suitable for the subject site as the proposal results in a poor planning outcome providing for a built form that is excessive in terms of bulk and scale, results in undesirable and unacceptable impact on the amenity of neighbouring properties and the locality.
- 7. The proposal is not considered to be in the public interest for the reasons outlined above, contrary to Section 4.15 (1)(e) of the *Environmental Planning and Assessment Act 1979*.

Application No: DA-180/2022 N TM DECK; NON-TRAFFICABLE LOCATION FOR MECH SERVICES AS PER CONSULTANT SPEC; SET 150 Date Received: 06/05/2022 OFF BOUNDARY AND SPECIFIED TO ACHIEVE COMPLIANT DB LEVELS ACCESS ROUTE FOR WASTE COLLECTION VEHICLES. - ALL WASTE MUST COMPLY WITH THE SWRMP ALL WASTE MUST BE STORED WITHIN THE CONFINES OF THE PROPERTY BDY PERMIT REQ TO STORE WASTE AND RECYCLING STORAGE CONTAINERS OR SKIPS IN A PUBLIC AREA ONLY WHERE THERE IS NO STORAGE AVAILABLE WITHIN THE PROPERTY BDY ALL MEASURES HAVE BEEN TAKEN TO ENSURE THERE IS NO IMPACT TO THE APPLICABLE LEGISLATION INCLUDING THE PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997 FALL FALL FALL UPPER LEVEL N FACING WINDOW TO 77-79 O'BRIEN STREET [SILL HEIGHT NOT SURVEYED] FLAT ROOF 2 STOREY BRICK SEMI FALL BUILDING BRICK CARPORT 17277 METAL ROOF EX REAR SETBACK OWS 77-79 O'BRIEN STREET [WEST FACING BINS O'BRIEN STREET RUDOLPH LANE FALL S.P. 8546 METAL CARPORT 81-83 O'BRIEN STREET 2 STOREY BRICK APARTMENT BUILDING FALL o i 39.625 28°55'00 85-87 O'BRIEN STREET RENDERED & BRICK GARAGE METAL ROOF 2 STOREY BRICK SEMI FALL BUILDING

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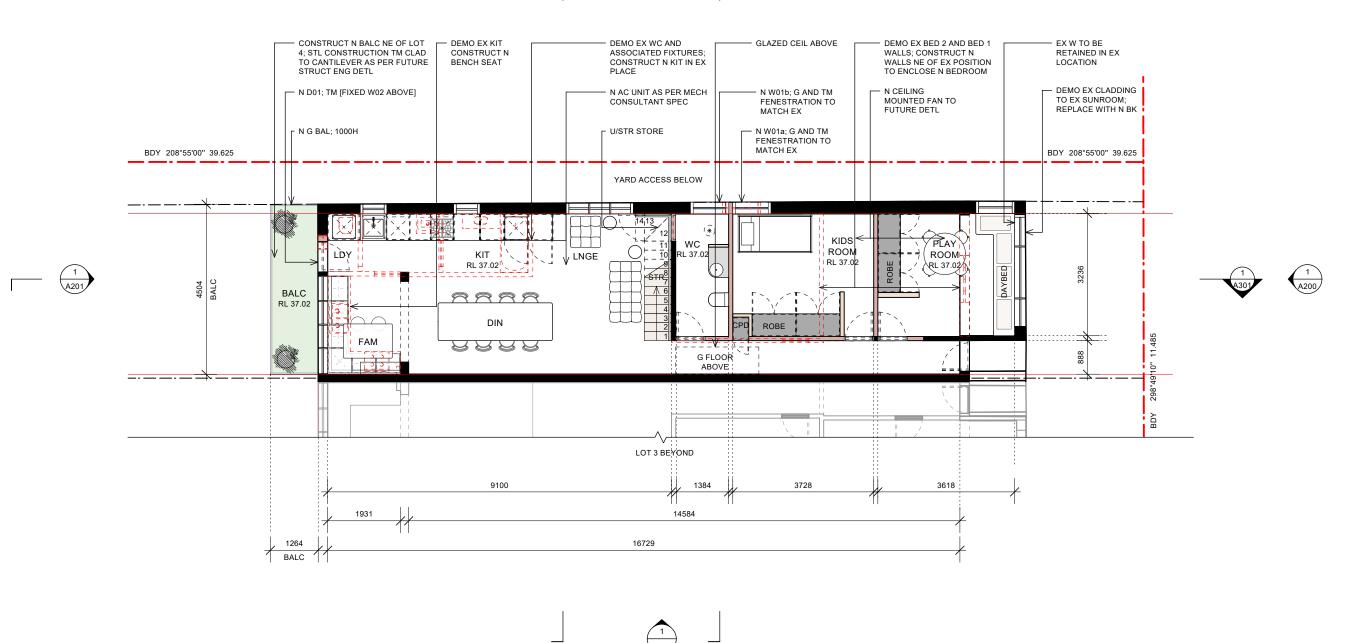


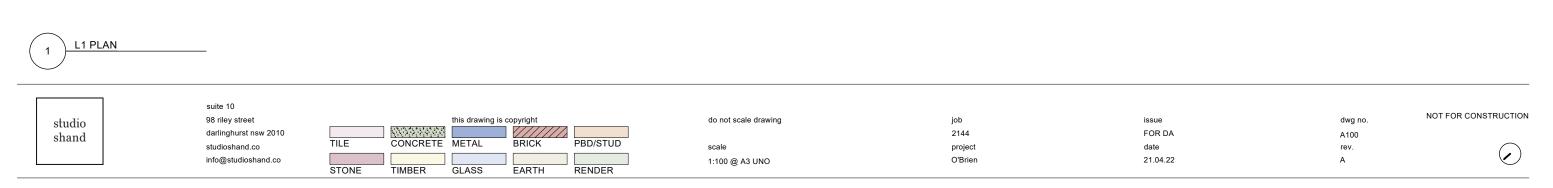


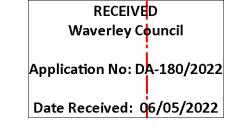


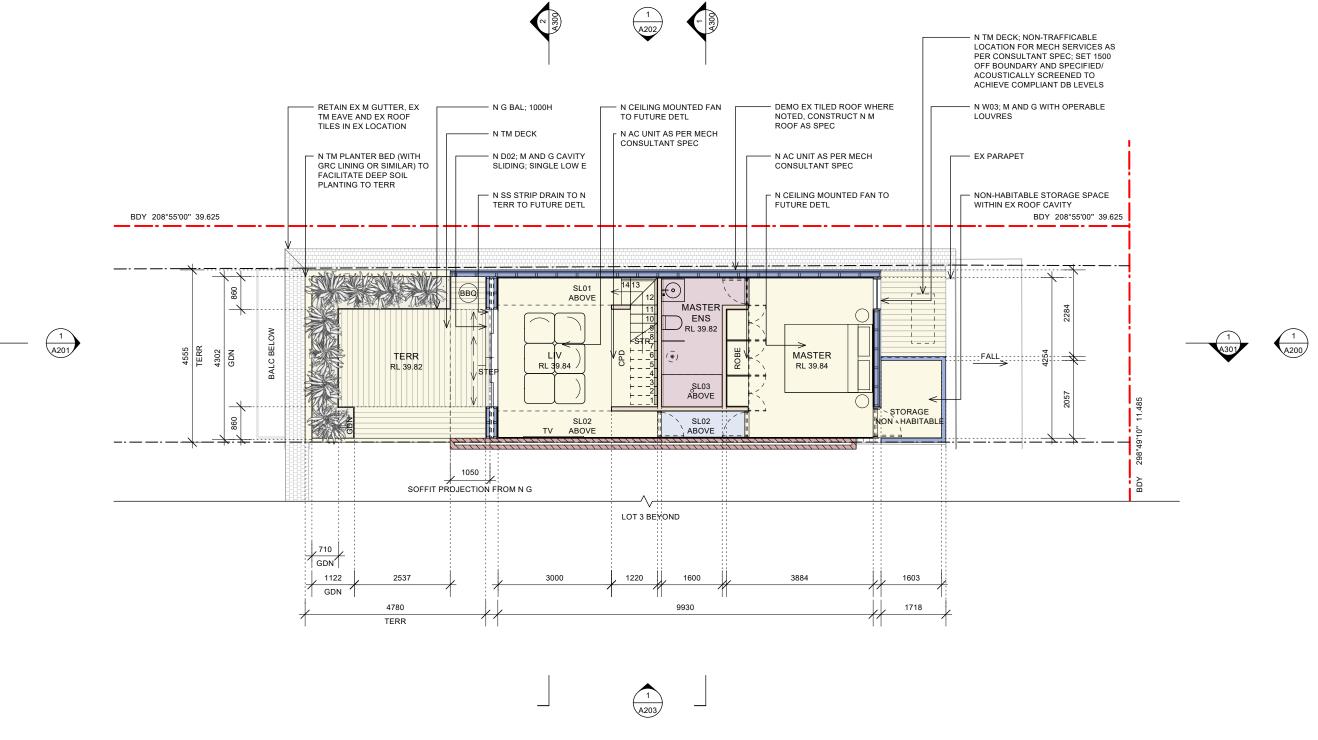


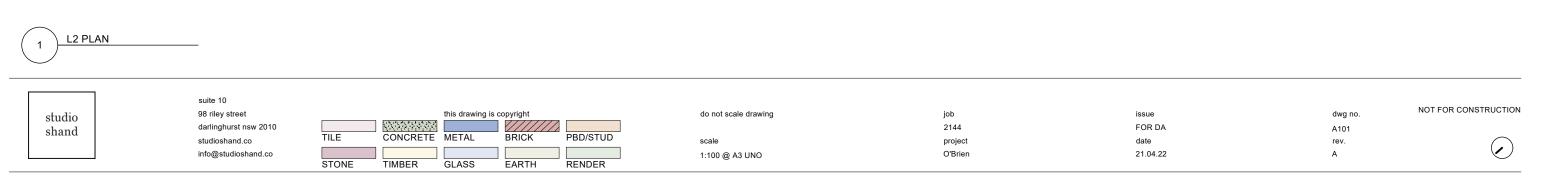


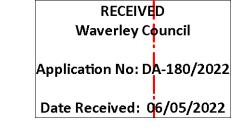




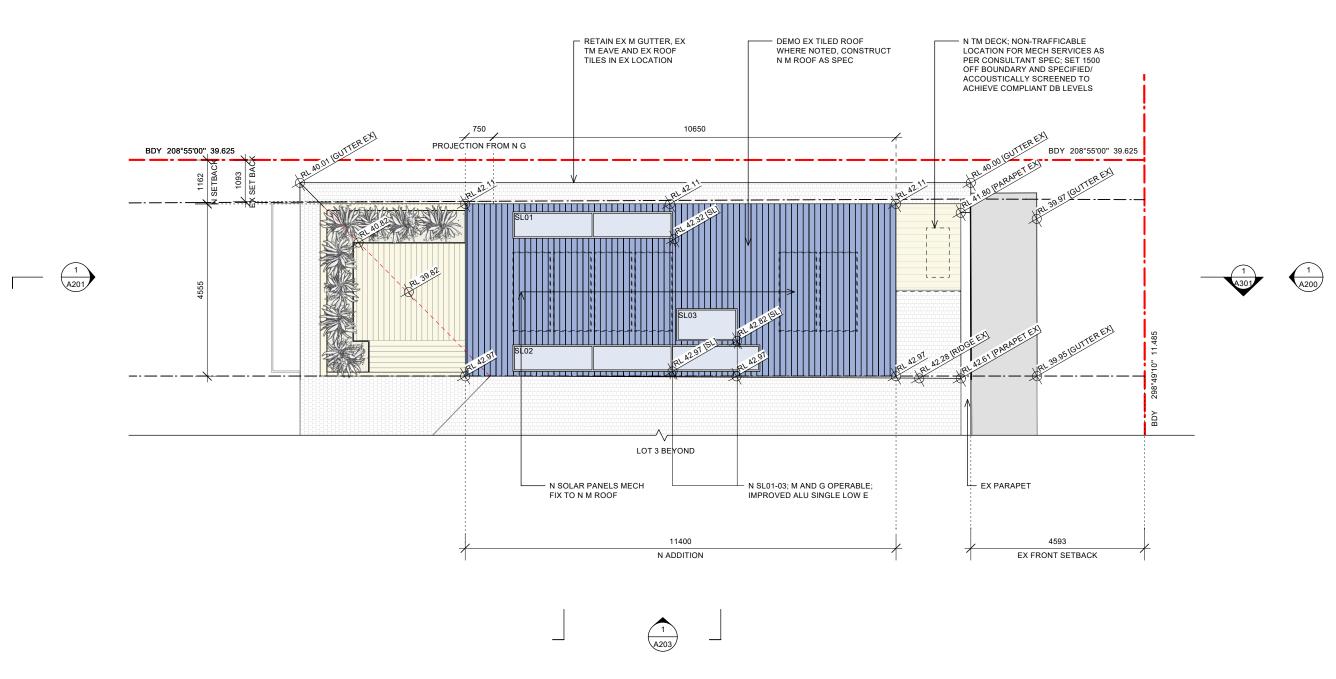


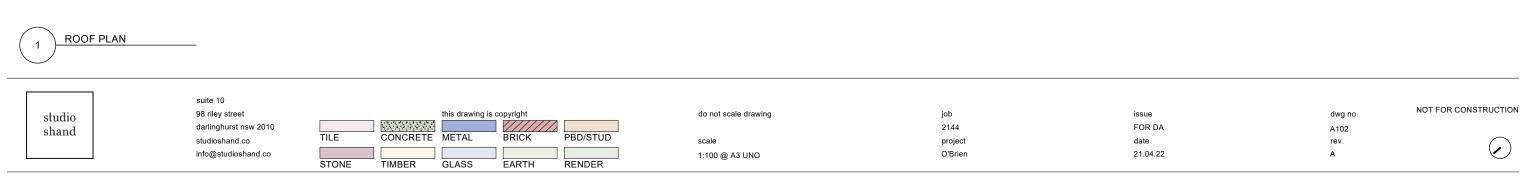


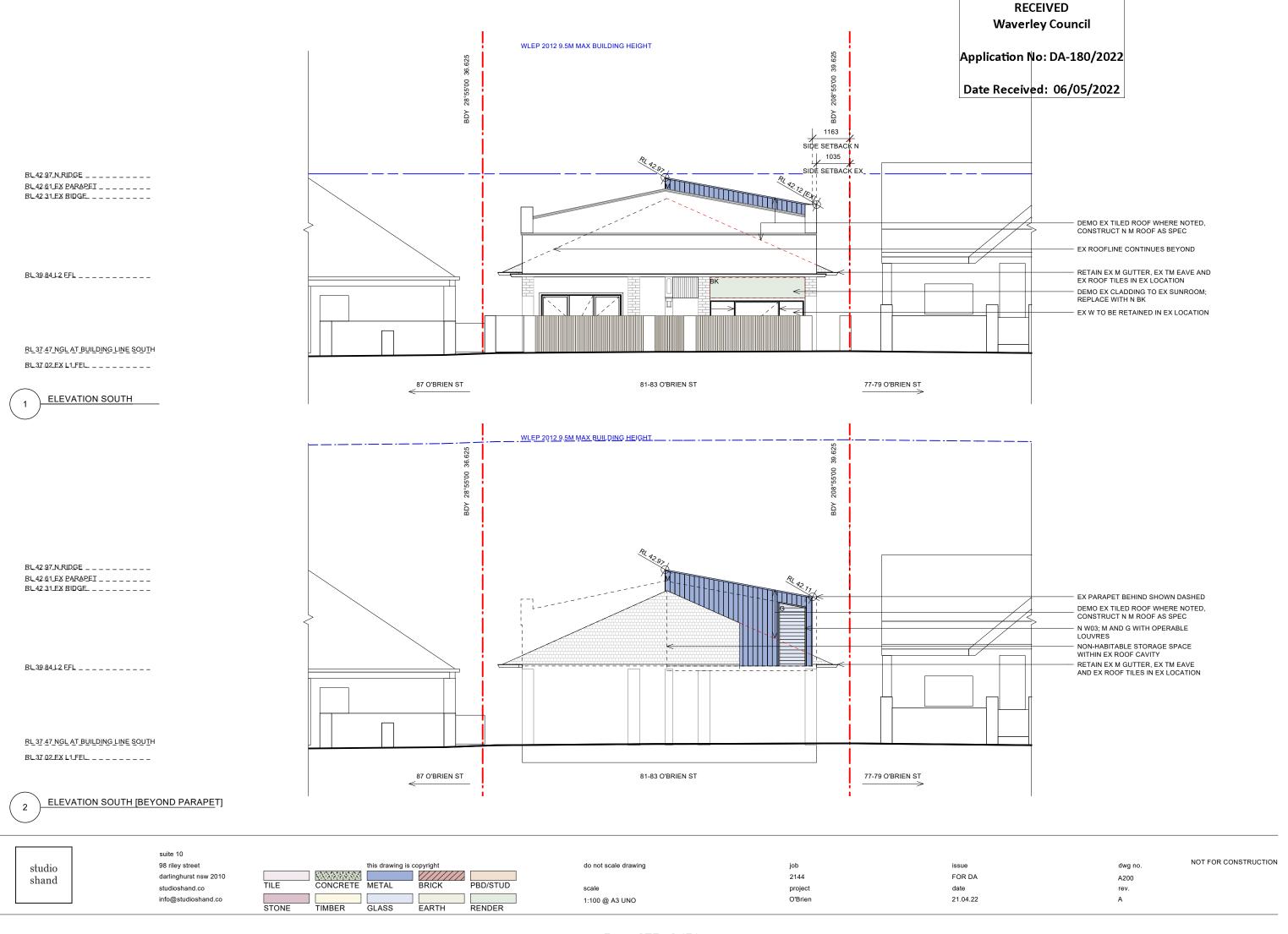












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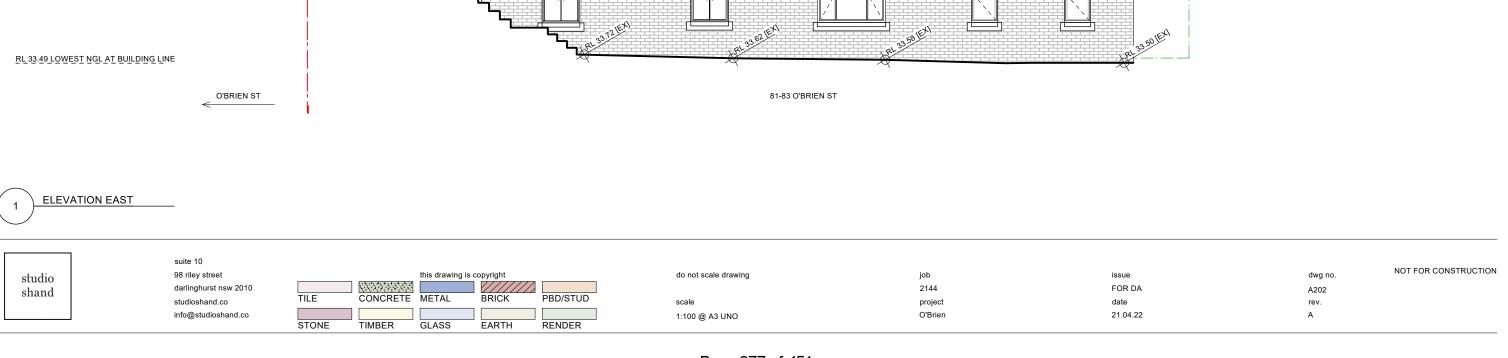
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Application No: DA-180/2022

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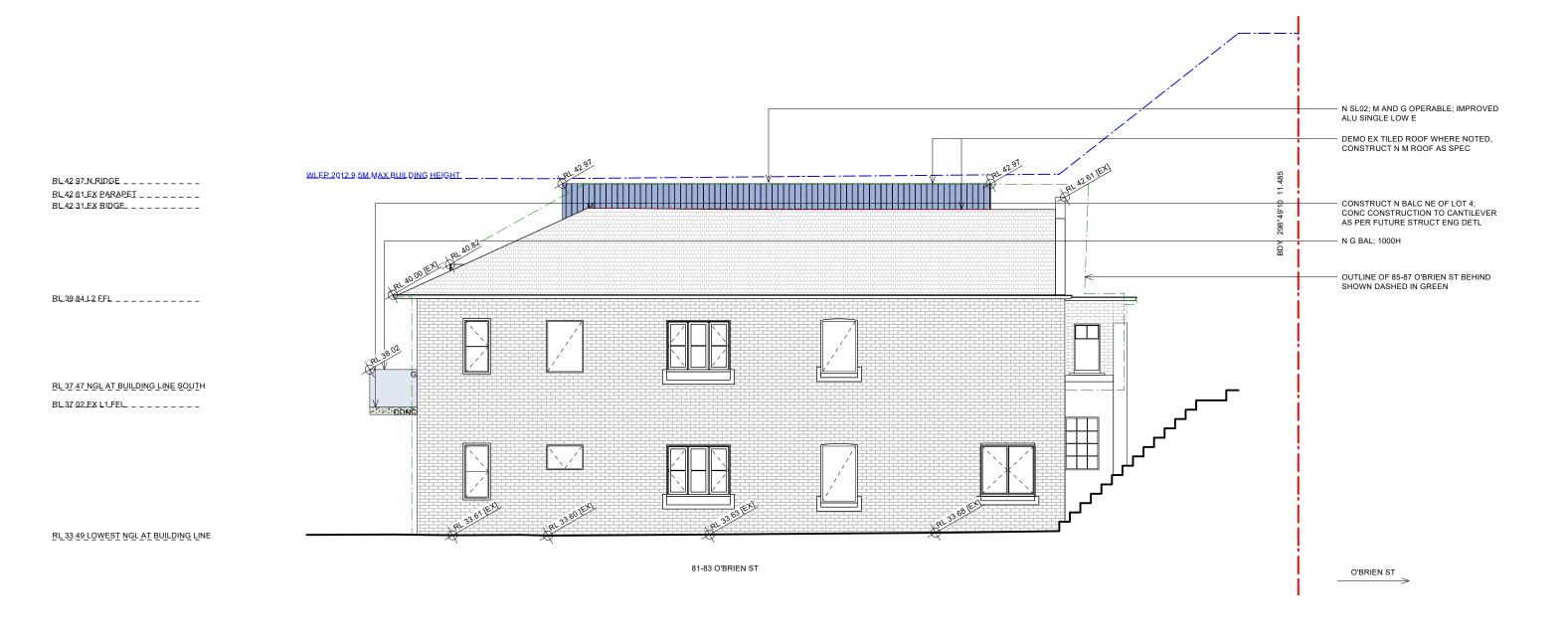
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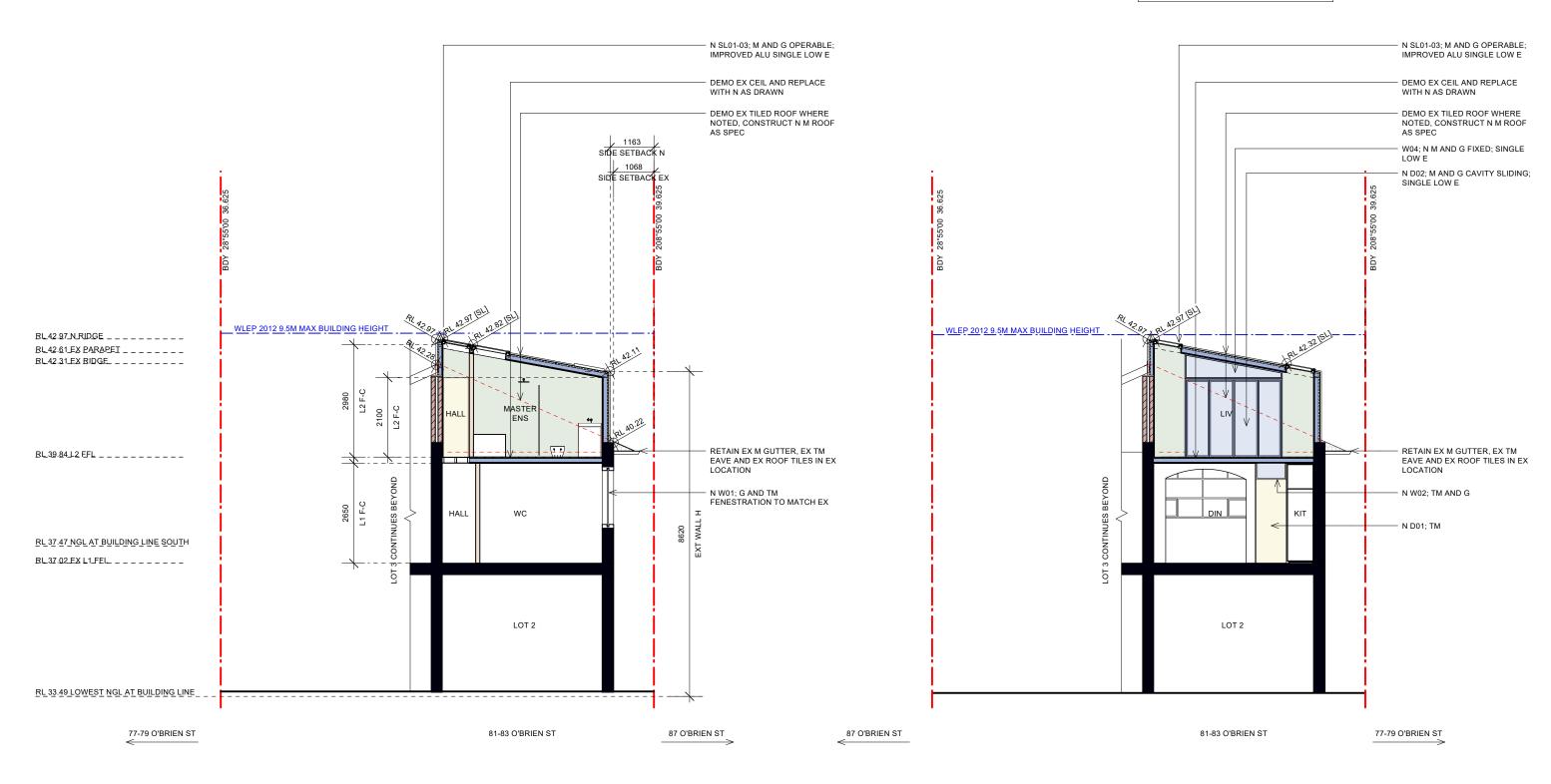
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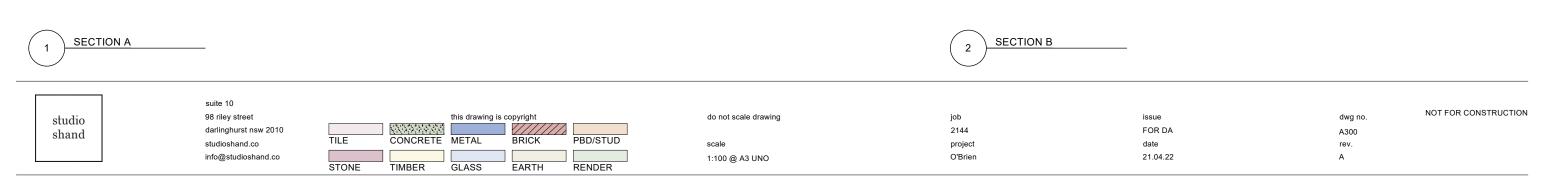
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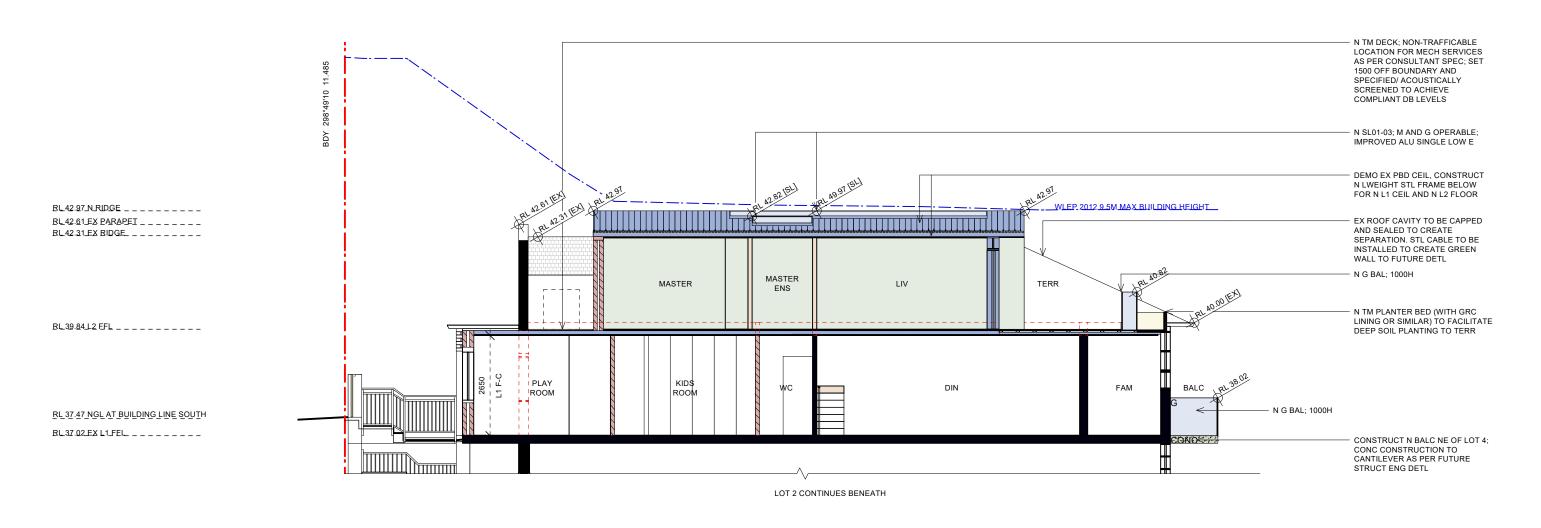
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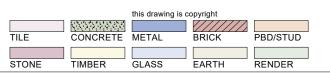


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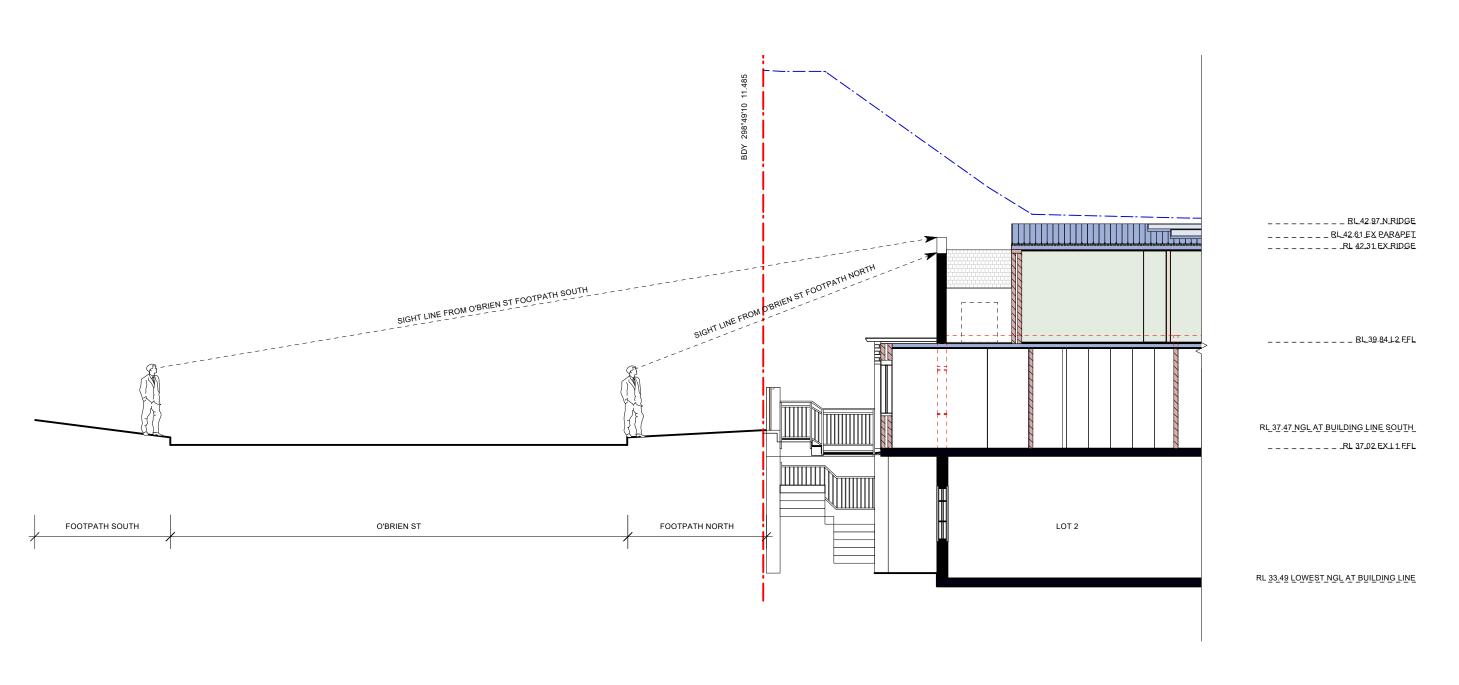
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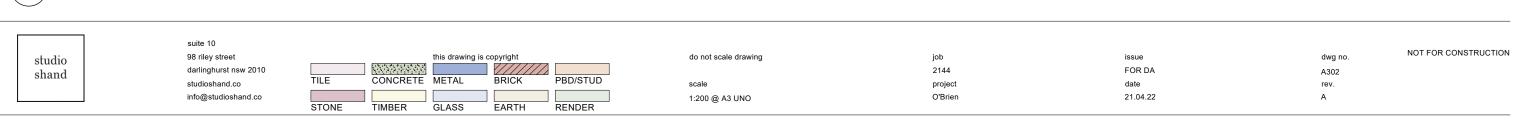
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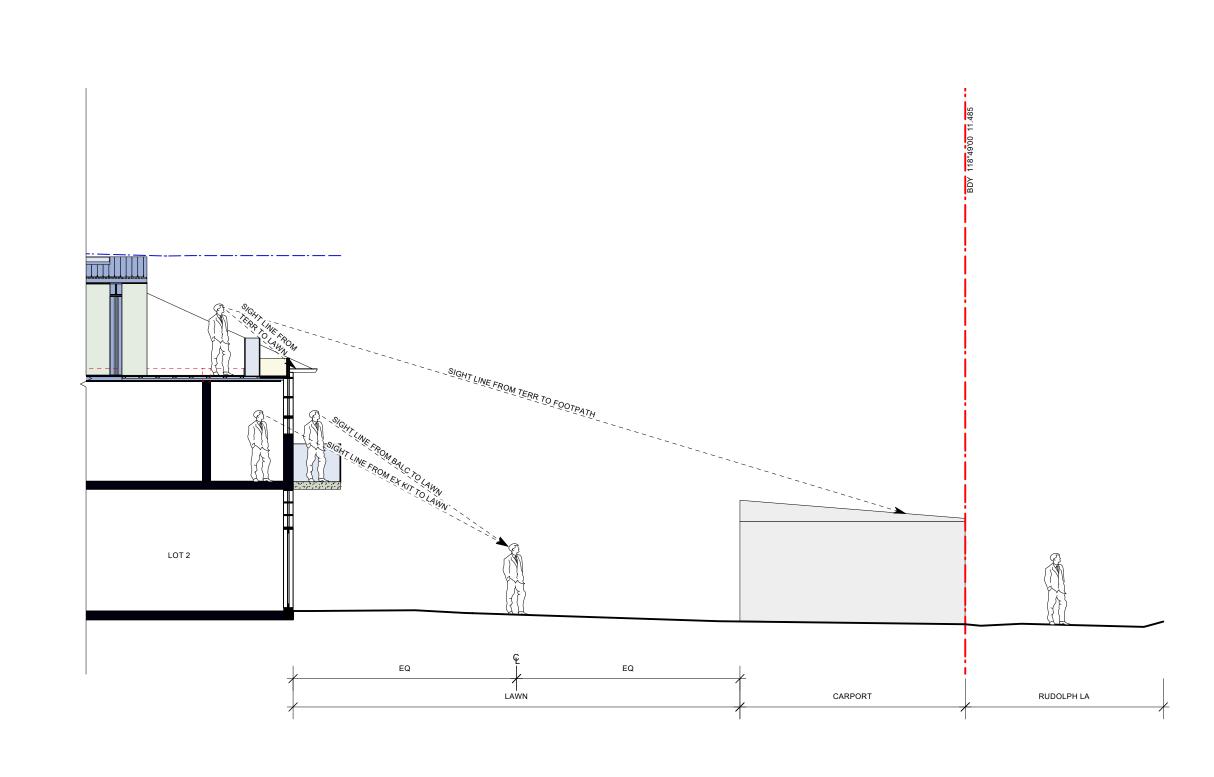






Application No: DA-180/2022

Date Received: 06/05/2022



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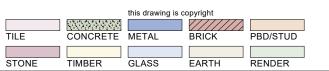
RL 37.47 NGL AT BUILDING LINE SOUTH
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RL 33.49 LOWEST NGL AT BUILDING LINE

SECTION C [SIGHT LINE B]

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SUMMARY OF BASIX COMMITTMENTS

R1.30 [OR R1.70 INCLUDING CONSTRUCTION] EXTERNAL WALL

R1.74 INSULATION TO PITCHED ROOF. INSTALLATION OF FOIL BACKED BLANKET [55MM] AND USE OF A MEDIUM FINISH MATERIAL [SOLAR ABSORBANCE 0.475-0.70]

3 STAR RATED NEW/ ALTERED SHOWERHEADS [FLOW RATE NO GREATER THAN 9L/ MINUTE] 3 STAR RATED NEW/ ALTERED TOILETS [FLOW RATE NO GREATER THAN 4 L/ FLUSH]

3 STAR RATED NEW/ ALTERED TAPS [FLOW RATE NO GREATER THAN 9L/ MIN]

3. ENERGY SAVINGS

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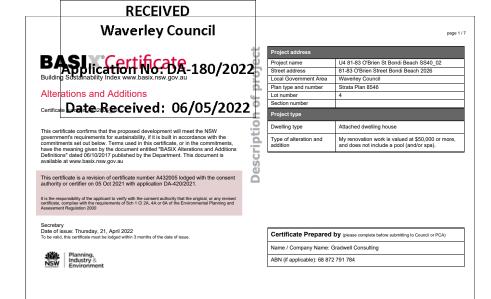
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MIN 40% NEW/ ALTERED LIGHT FIXTURES ARE FITTED WITH FLUORESCENT, COMPACT FLUORESCENT OR LED LAMPS

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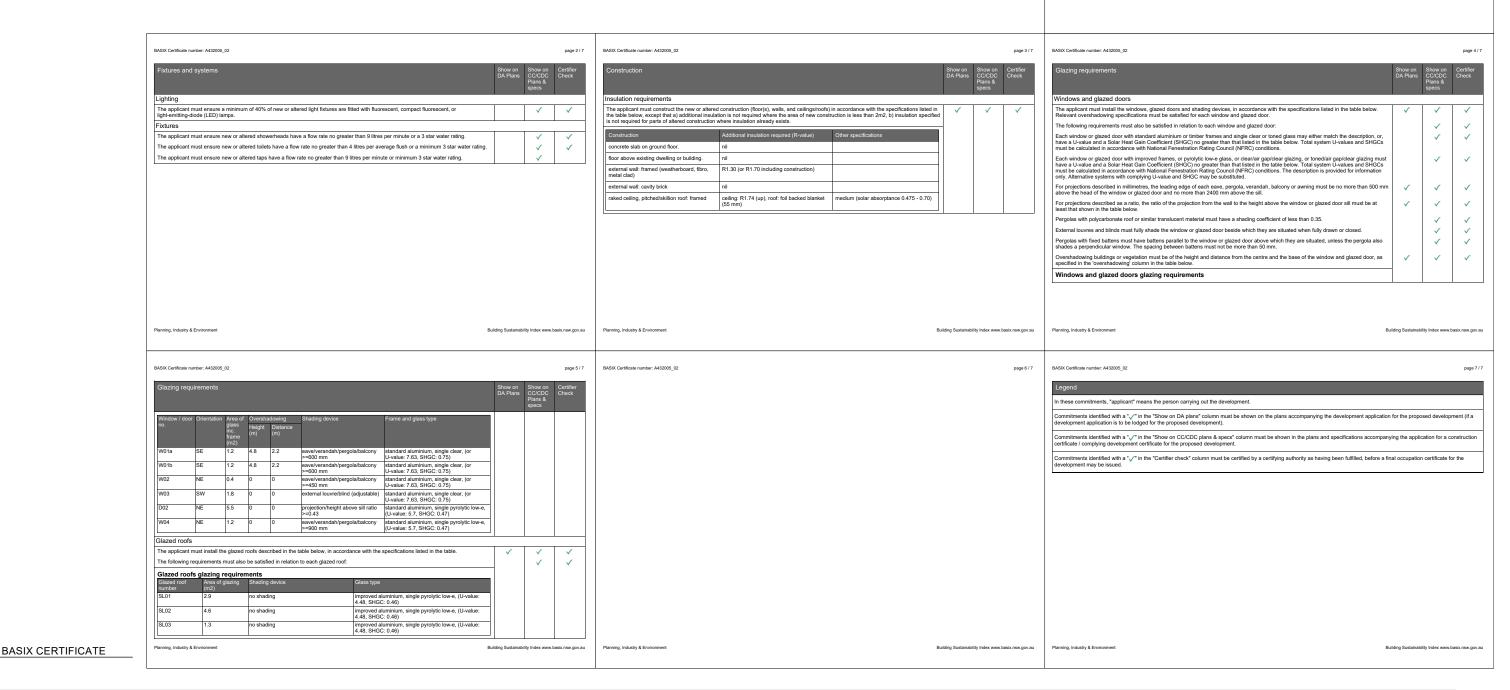


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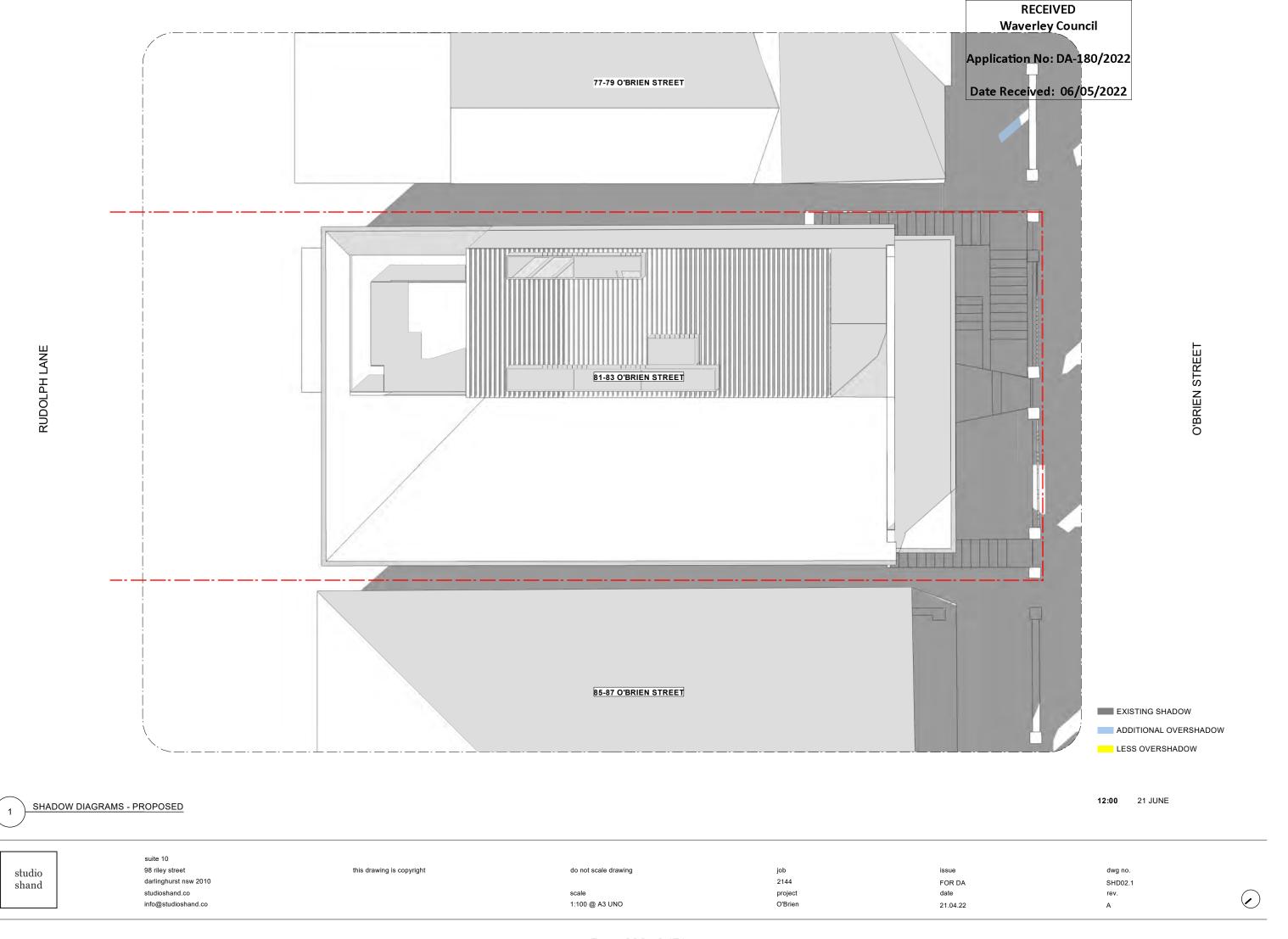
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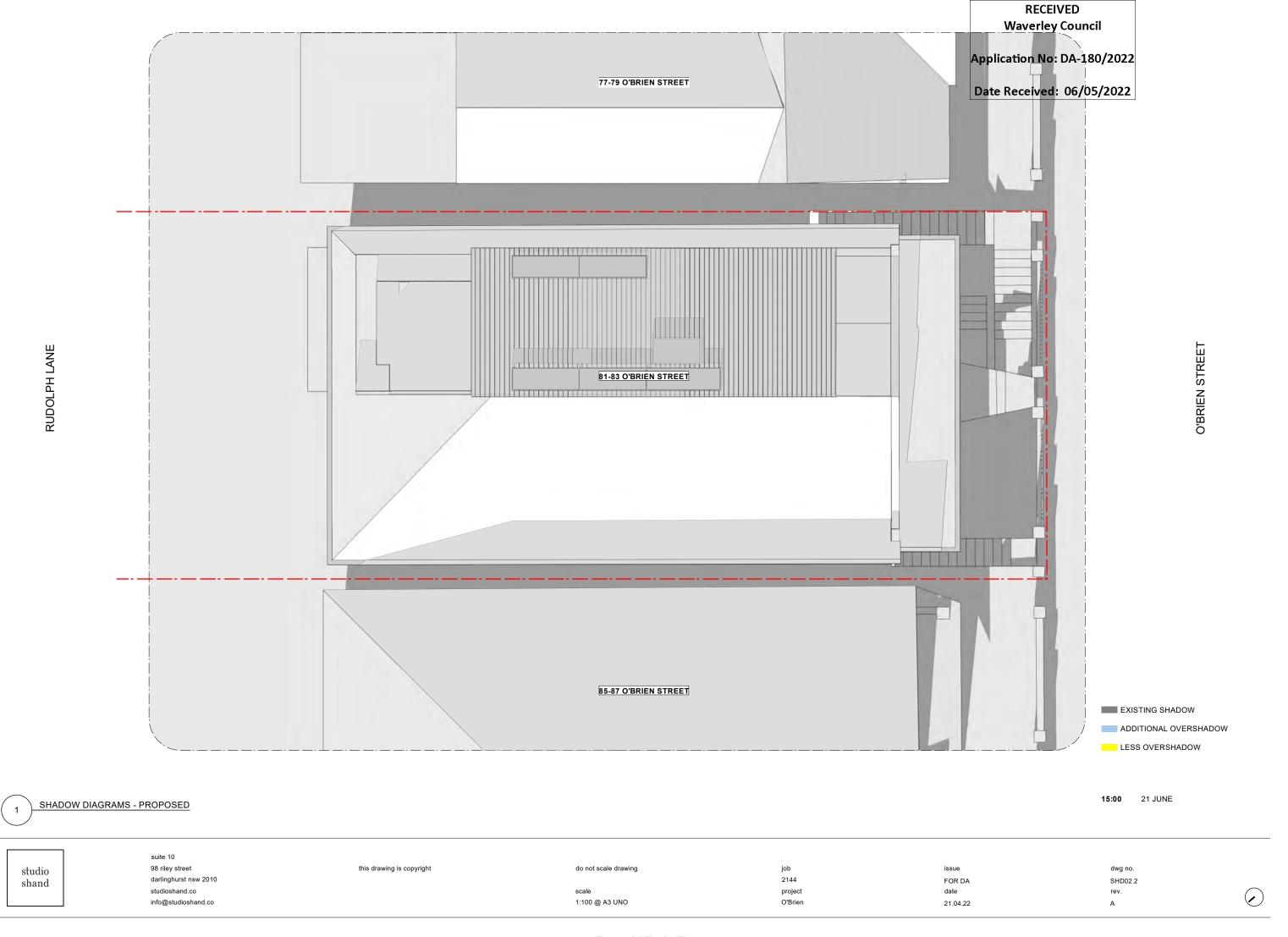
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Report to Waverley Local Planning Panel

Application number	DA-494/2021
Site address	3 Ormond Street, Bondi Beach
Proposal	Alterations and additions to existing three storey dwelling including rear additions, demolition of existing garage and carport, excavation for construction of a new garage with turn table, replacement of existing swimming pool and associated landscape works.
Date of lodgement	19 November 2021
Owner	Mr W J Bakewell
Applicant	Luigi Rosselli Pty Ltd
Submissions	Three submissions
Cost of works	\$3,213,655
Principal Issues	Building HeightFSR
Recommendation	That the application be APPROVED subject to conditions.

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for alterations and additions to the existing heritage listed dwelling, including rear ground and first floor additions, demolition of existing garage and carport, construction of a new garage with turntable on the existing driveway, alterations to the existing 'widows walk', and replacement of existing swimming pool and landscape works at the site known as 3 Ormond Street, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- Building Height; and
- FSR.

The assessment finds these issues acceptable, as the proposed alterations and additions do not exceed the height of the existing dwelling, are sympathetic to the existing bulk and scale of the dwelling and surrounding developments and will not detract from the heritage significance of the site or adjoining properties. The proposal will not result in any additional privacy impacts on surrounding properties as the proposed rear balconies and the widows walk are reduced in dimension and area, and additional privacy screening is proposed to minimise direct overlooking of adjoining private open space and habitable windows.

The submitted Clause 4.6 written justifications seeking variation to the height of buildings and FSR development standards are considered well founded as the applicant has demonstrated that despite the variations, the proposal achieves the objectives of the development standards and the R2 Low Density Residential zone and does not result any unreasonable environmental impacts on adjoining properties and is consistent with the desired future character of the local area.

A total number of three submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received. There is no declared conflict of interest for this application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

1.2. Site and Surrounding Locality

A site visit was carried out on 12 April 2022.

The site is identified as Lot 5 in DP 13236, known as 3 Ormond Street, Bondi Beach.

The site is located on the western side of Ormond Street, is irregular in shape with a frontage to Ormond Street, measuring 26.2m and a shared boundary with 1 Ormond Street to the north, 5 Ormond Street to the south, 56 Sir Thomas Mitchell Road to the west and Nos 53 and 55 Francis Street to the south-west.

The site has an area of 944.3m² and falls from the south to the north (along the front boundary) by approximately 4m.

The site is occupied by a three storey heritage listed dwelling house with vehicular access to a garage and carport provided at the north-eastern corner of the site from Ormond Street.

The site is adjoined by one and two storey detached dwellings to the north and south, a two storey residential flat building to the west, two and three storey dwellings to the south-west and three to four storey residential flat buildings to the east across Ormond Street.

The locality is characterised by a variety of low to medium density residential developments within a residential neighbourhood.

Figures 1 to 13 are photos of the site and its context.

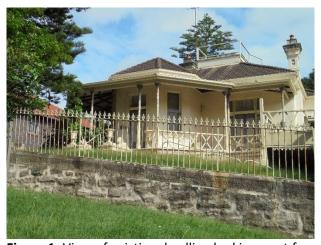


Figure 1: View of existing dwelling looking west from Ormond Street



Figure 3: View of existing structures looking north within front building line



Figure 2: View of existing vehicular access, garage and carport looking west from Ormond Street



Figure 4: View of rear elevation of existing dwelling from rear yard looking east



Figure 5: View of existing swimming pool at the northwestern portion of site



Figure 7: View of deck and stairs along the southern side boundary looking west



Figure 9: View of existing attic level, terrace and widow walk above



Figure 6: View of dwelling, garage and carport looking east along the northern side setback



Figure 8: View south from existing attic level terrace



Figure 10: View north from widows walk



Figure 11: View south-west from widow's walk



Figure 13: View west from rear yard



Figure 12: View of the rear of No. 55, 57 and 59 Francis Street looking south-west from rear yard

1.3. Relevant Development History

A search of Council's records revealed there is no recent or relevant development history for the site.

1.4. Proposal

The development application seeks consent for alterations and additions to the existing heritage listed dwelling house including rear ground and first floor additions, demolition of existing garage and carport, construction of a new garage with turntable on the existing driveway, alterations to existing widows walk, replacement of existing swimming pool and landscape works, specifically the following:

Ground Floor

- Demolition of existing garage and carport adjacent to the northern side boundary and construction of a new 2 car garage with internal access to dwelling;
- Extensions to ground floor and internal reconfiguration to provide a new mudroom, bathrooms, guest bedroom, gym, playroom, cellar, open plan living areas and stairs to first floor;
- New fireplace in rear living room; and
- Vergola and retractable blinds to north-western terrace accessed from dining room.

First Floor

- Demolition of rear verandah and construction of rear addition including reconfiguration of internal layout for 4 bedrooms, 3 ensuites, sitting room, an office, laundry, storage and new stairs to attic level;
- New rear balcony with operable shutters on the north and west elevations; and
- New chimney adjacent to western side of rear balcony

<u>Attic</u>

- Demolition of existing studio, rear terrace and external stair access to widows walk;
- Construction of new addition comprising a parent's retreat, bar area, fireplace, bathroom, stairs/ladder access to widows walk above and storage within existing roof space;
- New external access from external stairs on the first floor; and
- Rear deck with perimeter planter boxes.

Roof

- Replace existing irregular shaped widow's walk with oval shaped widow's walk;
- Replace existing tiles to front of dwelling with slate tiles;
- Slate tiles to roof of new rear additions; and
- Solar panels and 2 skylights.

External Works

- Installation of vehicle turntable on existing driveway;
- New bin storage area adjacent to northern side boundary and driveway;
- New sliding vehicle access gate;
- Reconfiguration of entry path from front boundary to existing porch;
- New inground trampoline, swimming pool with spa, pool decking, rainwater tank;
- Pool plant equipment with acoustic screening adjacent to swimming pool;
- 1.8m high timber fence along north and south side boundary;
- Retention of existing retaining wall on western boundary and replacement of existing balustrades with new metal balustrades;
- New retaining wall along south-western boundary adjacent to outdoor sitting area;
- Replace existing external stairs within the southern side setback with new stairs;
- Green roof above ground floor addition adjacent to southern side boundary and new garage.
- Removal of three trees along the front boundary; and

 New landscape works including new plantings within the front, side and rear setbacks, screen planting and trees along the side boundaries.

1.5. Background

The development application was lodged on 19 November 2021 and deferred on 15 March 2022, for the following reasons:

- 1. Council's Heritage Advisor required amendments to the proposal to improve the cohesiveness of the new building works with the existing character and significance of the dwelling, including:
 - Retention of the original articulation of the front verandah and building entry;
 - Articulate the new balustrade with detailing that interprets the location and dimensions of the original entry;
 - Provide details of the pattern of iron filigree proposed to the existing balustrade and any changes to the existing cast iron columns;
 - Provide details of cast iron filigree pelmets to the verandah beams;
 - Provide details of metal picket gates to the vehicle entry;
 - Provide overall schedules of conservation works to retained internal and external fabric including colour schedules and types of paint finishes; and
 - Set the widows walk at or behind the ridgeline and not projecting over the ridgeline.
- The proposal accommodates three on site car parking spaces which exceeds the maximum permitted car parking provision of two car spaces for the dwelling under the Waverley DCP 2012.
 It is recommended that the eastern single garage door be replaced with a solid wall to prevent vehicular access to the garage.

On 18 March 2022, the applicant submitted draft amended plans seeking comments from Council's Heritage Advisor who advised that the scope of the amendments satisfactorily address the issues raised.

On 22 March 2022, the applicant agreed to amend the architectural plans to replace the eastern single garage door with a fixed panel as recommended by Council's Traffic Engineer. However, the applicant wishes to retain the proposed turntable to enhance vehicle movement and safety. Amended plans were submitted on 1 April 2022 for consideration.

On 12 July 2022, further clarification of FSR and building height calculations was sought by Council's assessment officer. The applicant was also advised that the Clause 4.6 written justification seeking variation to the height of buildings and FSR development standards were to be revised to reflect calculations in accordance with the definitions for gross floor area (GFA) and building height.

On 26 July 2022, further amended plans and revised clause 4.6 written justifications were submitted for consideration.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1st March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 1: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the plan.
Part 2 Permitted or prohibited de	velopment	
Land Use Table ● R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a dwelling, which is permitted with consent in the R2 Low Density Residential zone.
Part 4 Principal development star	dards	
4.3 Height of buildings8.5m	No	The existing dwelling, measured to the top of the balustrade of the widow's walk, has a building height of 10.9m, equating to a 28% variation to the development standard.
		The proposal reduces the finished floor level of the attic and widow's walk to the west

Provision	Compliance	Comment
		resulting in an overall reduction of building height by 300mm to 10.6m, measured to the top of the balustrade. Notwithstanding the reduction in height of the dwelling, the proposal has a 25% variation to the height of building development standard.
4.4 Floor space ratio (FSR) and 4.4A Exceptions to floor space ratio		The existing dwelling has a FSR of 0.48:1 (450m²) and complies with the maximum FSR development standard.
• 0.5:1	No	The proposal seeks consent for alterations and additions predominantly to the rear with a proposed FSR of 0.53:1, equating to a variation of 27m ² or 6% to the FSR development standard.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation		The existing dwelling is identified as a Victorian Villa and is a heritage item (No. I122) of local significance under Schedule 5 of the Waverley LEP 2012.
	Yes	The site immediately adjoins Nos. 5 and 7 Ormond Street which are 1930s style bungalows and are also identified as heritage items (No. I123) of local significance under Schedule 5 of the Waverley LEP 2012.
		The site is not located within a heritage conservation area.
		The proposed scope of works, including the retention and restoration of original building elements particularly the eastern elevation fronting Ormond Street, does not detract from the heritage significance of the building and is supported by Council's Heritage Advisor.
Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The site is classified as containing Class 5 Acid Sulfate soils. The site is not located within 500m of an adjacent class of acid Sulfate soils and the extent of works will not have any impact on the water table.

Provision	Compliance	Comment
6.2 Earthworks	Yes	Excavation is proposed within the front setback to provide an entry pathway from the street to the ground floor and construction of a new garage.
		Fill is proposed at the rear of the site to replace part of the area currently occupied by an inground swimming pool. The filled area will comprise additional garden/lawn within the private open space.
		The proposed earthworks are unlikely to result in any detrimental environmental impacts on the locality or amenity for adjoining properties. The proposal is capable of satisfying the matters for consideration under Clause 6.2(3) of the Waverley LEP 2012, subject to conditions that have been included in the recommendation.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Clause 4.6 Exceptions to Development Standards – Height of Buildings

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of buildings development standard of 8.5m. The existing dwelling has a building height of 10.9m measured to the top of the widow's walk balustrade. Part of the existing roof located behind the front roof slope currently exceeds the height of building development standard as shown in **Figure 14** below. The proposed development results in an overall reduction in building height by 300mm with a maximum building height of 10.6m, given the reduction of the finished floor level of the attic and windows walk. Notwithstanding the reduction in building height, the proposal exceeds the development standard by 2.1m, equating to a 25% variation.

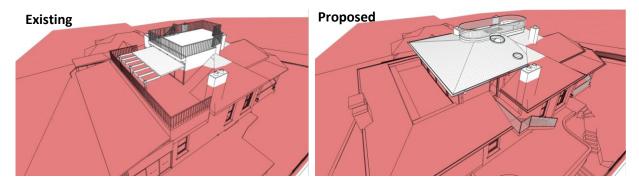


Figure 14: 8.5m building height plane (shown in red)

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of buildings 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 proposal does not result in any additional loss of privacy or overshadowing to window openings or private open space of adjoining properties compared to a compliant built form.
 - (ii) The height of the roof and the setbacks of the rear addition comply with the development standard and development controls when viewed from Ormond Street.
 - (iii) The proposal satisfies the objectives of the height of building development standard and R2 Low Density Residential zone.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal results in a reduction of existing overshadowing to the northern elevation of the adjoining property at No. 5 Ormond Street, particularly to existing openings between 10am and 12noon on 21 June.
 - (ii) The proposed additional shadows cast to the rear open space of adjoining properties is contained within the expected shadow impacts of a compliant building envelope, and does not result in any unreasonable overshadowing impacts having regard to the topography of the site and adjoining properties.
 - (iii) The proposal does not result in any additional loss of privacy or amenity impacts on adjoining properties as the rear additions include reduced balcony areas with new privacy screening to minimise sightlines and overlooking of adjoining properties. The proposal improves the privacy for adjoining properties.
 - (iv) The attic addition is predominantly contained within the existing building footprint. The new pitched roof form and reduced area of the widow's walk complements the original roof form of the dwelling and contributes to the presentation of the dwelling to the streetscape.
 - (v) The proposal does not result in any loss of significant trees or non-compliance with open space or landscaping requirements for the site and contributes to the character of the area.

(vi) The dimension of the widow's walk has been reduced and is lower in height than the existing structure. The proposal reduces the visual prominence of the widows walk when viewed from the public domain and surrounding properties.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) and (d) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant has adequately demonstrated that the proposal satisfies justification (a) as the proposal does not result in any additional overshadowing of adjoining properties beyond the expected shadows cast by a compliant built form and does not result in any adverse environmental impacts on the amenity of adjoining properties.

The exceedance in building height is predominantly contained within the existing building envelope comprising of the existing roof form and widow's walk. In this circumstance, the extent of the variation does not contribute to unreasonable bulk and scale and does not detract from the character of the locality or streetscape. The proposal does not have any additional impact on existing views from surrounding properties or the public domain.

In regard to justification (d), the applicant submits that the height development standard for this site has been abandoned or destroyed by the existing dwelling which has a building height of 10.9m equating to a variation of 28%. The applicant has also identified three properties with development consents that contravene the building height development standard between 8.6% and 31%. The properties identified by the applicant are as follows:

- 12 Forest Knoll Avenue, Bondi Beach (DA-229/2019, 31% variation approved on 23 October 2019);
- 31 Wellington Street, Bondi Beach (DA-100/2021, 17% variation approved on 22 June 2021); and
- 81 Edward Street, Bondi Beach (DA-85/2021, 8.6% variation approved on 16 June 2021).

The identified properties are not suitable to demonstrate that Council has abandoned the development standard, as the properties are located more than 100m from the subject site, is not in the immediately surrounding locality and consists of different site constraints such as topography and the built form of existing structures. As such, the applicant's argument that Council has abandoned the development standard is not well founded and is not an acceptable justification that compliance with the development standard is unreasonable or unnecessary in this circumstance.

Whilst the applicant's justification (d) is not supported, the justification provided to (a) is considered well founded and satisfies the requirement in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 which requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case against one or more of the justifications listed above.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the extent of the variation is compatible with the bulk and scale of the existing dwelling and surrounding developments, will improve privacy between the site and adjoining properties and not result in any additional overshadowing impacts on habitable room windows of adjoining properties. The proposal does not result in any unreasonable overshadowing impacts to the private open space of adjoining properties as the shadows caused by the extent of the variation does not exceed the shadow impacts resulting from a compliant built form.

Is the development in the public interest?

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

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The applicant has adequately demonstrated that the proposal, notwithstanding the variation to the height of buildings development standard, achieves the relevant objectives of the development standard as the additions to the dwelling do not result in any unreasonable privacy or overshadowing impacts beyond the impacts of a compliant built form. The proposal has demonstrated that it does not have any additional impacts on existing views from adjoining properties or the public domain, reduces direct overlooking to adjoining dwellings and private open spaces, and does not result in overshadowing impacts that exceed the reasonable overshadowing cast by a compliant built form.

The extent of the variation to the height of building development standard is predominantly located behind the existing roof form and has a building height lower than the existing dwelling. The proposal does not visually dominant the dwelling or detract from the streetscape and is considered compatible with the bulk and scale of the surrounding developments.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The applicant has adequately demonstrated that the proposal is consistent with the objective to housing within the low density residential zone as the existing detached dwelling is retained. The alterations and additions sought improves the amenity for occupants of the dwelling and contributes to meeting the housing needs of the community.

Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R2 Low Density Residential zone.

Clause 4.6 Exceptions to Development Standards – FSR

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.5:1. The proposed development has a FSR of 0.53:1, exceeding the standard by 27m² equating to a 6% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR 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 proposed built form complies with the maximum building height, setback and landscaping controls;
 - (ii) The proposal maintains the presentation of the existing two storey dwelling fronting Ormond Street with three storeys at the rear which is consistent with the bulk and scale of surrounding development;
 - (iii) The additional floor space is predominantly contained within the existing building footprint and is a result of infilling existing covered areas of the dwelling;
 - (iv) The proposed variation to the FSR development standard provides an appropriate correlation with the proposed building height, which does not exceed the height of the dwelling measured to the top of the widow's walk.
 - (v) The proposal does not result in any adverse visual bulk or privacy impacts on adjoining properties; and
 - (vi) The proposal satisfies the relevant objectives (b), (c) and (d) of the FSR development standard and will contribute to the streetscape and desired future character of the area.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal does not result in any loss of significant trees or existing open space and landscaping of the site that contributes to the character of the area;
 - (ii) The proposal presents a high design standard that is consistent with the desired future character of the surrounding area;
 - (iii) The proposed built form reduces the extent of overshadowing to the northern elevation of the adjoining property at No. 5 Ormond Street and does not result in any additional overshadowing of adjoining private open spaces that extend beyond the expected shadow impacts from a compliant building envelope; and

(iv) The proposal comprises limited new openings, a reduction in the area of rear balconies and additional privacy screening to reduce direct overlooking of adjoining properties. Notwithstanding the variation to the FSR development standard, the proposal will enhance privacy for adjoining properties.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justification (a) and (d) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012.

The applicant's justification that the objectives of the development standard are achieved notwithstanding the variation sought is sound as it has been demonstrated that the proposed bulk and scale of the additions are sympathetic to the built form of the existing dwelling and immediately adjoining two and three storey dwellings to the north, south and south west of the site, and residential flat buildings on the eastern side of Ormond Street.

The submitted shadow diagrams and the Clause 4.6 written justification have adequately demonstrated that the proposal enhances the amenity of the adjoining properties with improvements to solar access to openings on the northern elevation of No. 5 Ormond Street compared to the existing dwelling between 9am and 3pm on 21 June and lesser overshadowing impacts to the rear private open spaces of No. 5 Ormond Street, Nos. 53 and 55 Francis Street compared to a compliant built form. As the bulk and scale of the proposal is predominantly contained within the existing built form and results in lesser overshadowing or privacy impacts on adjoining properties, the proposal does not have any unreasonable amenity impacts on surrounding properties and satisfies the objective to preserve the environmental amenity of neighbouring properties.

The applicant's justification that the FSR development standard has been abandoned or destroyed by Council's approval of surrounding developments relies on the development consents of the properties as follows:

- 5 Sir Thomas Mitchell Road (DA-102/2019, 4% variation approved on 2 September 2019);
- 89 Frances Street (DA-51/2019, 1% variation approved on 24 September 2019);
- 51 Imperial Avenue (DA-209/2020, 4% variation approved on 21 October 2020);
- 140 Hewlett Street, Bronte (DA-100/2021, 31.6% approved 22 June 2021);
- 43 Phillip Street (DA-169/2021, 23.7% approved on 30 June 2021);
- 68 Sir Thomas Mitchell Road (DA-23/2021, 20% variation approved on 23 June 2021); and
- 8 Tasman Street (DA-432/2021, 2.68% variation approved on 7 December 2021).

The scope of works approved for the properties identified by the applicant exceed the FSR development standard for each site however, the justification that the numerical non-compliance for each of the development consents represents Council abandoning the development standard is not well founded as each proposal was supported by a well-founded Clause 4.6 written justification that adequately demonstrated that the objectives of the development standard and the relevant zone were achieved and that compliance in each circumstance was unreasonable or unnecessary as there were sufficient environmental planning grounds for the variations sought.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the bulk and scale of the rear addition does not exceed the height of the existing dwelling and is sympathetic to form and character of the dwelling and immediately surrounding properties. The proposal is compliant with setback, landscaping and open space controls and will not detract from the character of the streetscape or locality. The proposal will not result in any additional privacy impacts or unreasonable overshadowing impacts on adjoining properties and is acceptable in this circumstance as the objectives of the FSR development standard and R2 Low Density Residential zone have been achieved.

Is the development in the public interest?

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

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

- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

The proposed built form and scale of the additions are predominantly at the rear of the dwelling and behind the existing front roof form, and do not detract from the character of the dwelling, immediately adjoining dwelling or the streetscape. As discussed above, the applicant has adequately demonstrated that the proposal will not result in any additional privacy or overshadowing impacts on adjoining properties that exceed any impacts expected from a compliant built form. In this circumstance, the proposal is considered to satisfy objectives (b), (c) and (d) of the development standard and is acceptable.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

The proposal satisfies the objectives of the R2 Low Density Residential zone as the existing detached dwelling is retained and the alterations and additions will meet the needs for housing in the area by enhancing the amenity for occupants with a more functional internal layout.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard] and the R2 Low Density Residential zone.

2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) - Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
		Satisfactory.
Ecologically Sustainable Development	Yes	New fireplaces are shown on the architectural plans and are acceptable, subject to the installation of gas fireplaces; wood burning fireplaces are not permitted.
		Three trees located along the front boundary are proposed to be removed (Tree Nos. 1, 2 and 3. Trees 2 and 3 are less than 5m in height, are therefore exempt species and can be removed without consent.
5. Vegetation Preservation	Yes	Tree 1 is a <i>Citharexylum spinosum</i> , commonly known as Fiddlewood, with a height and spread of 7m. Whilst the tree is mature and in fair condition, it is not identified as a significant tree under Council's Significant Tree Register and is not a native species. The Arborist Report has concluded the tree is in poor form has the canopy is skewered over Ormond Street and its roots are causing damage to the front fence.
		Council's Tree Management Officer has reviewed the proposal and raises no objection to the recommendations in the Arborist Report including removal of Trees 1, 2 and 3 and retention and protection of existing trees on the site and adjoining properties. Relevant tree protection conditions included in the recommendation.
		The proposal provides new planting within the front building setback and along the side and rear boundaries that contribute to the landscaped character of the locality and complements the setting of the existing dwelling.
6. Stormwater	Yes	Satisfactory.
8. Transport Minimum parking rate: Nil Maximum parking rate: 2 spaces for 3 or more bedrooms.	Yes	The proposal provides a garage for two car parking spaces. Its design and location are satisfactory.
9. Heritage	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.

Development Control	Compliance	Comment
14. Excavation	Yes	Satisfactory.

Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table

Development Control	Compliance	Comment
2.0 General Objectives		
 Appropriate bulk and scale of development for the site and surrounding developments 	Yes	The proposal does not contravene the general objectives of this part of the DCP.
Does not detract from the amenity of adjoining properties and the public domain		
Ecologically sustainable development		
Sympathetic to desired future character of the area		
High design standards		
2.1 Height		
Pitched roof dwelling house	Partial	The rear ground and first floor addition has an
Maximum external wall height of 7m	compliance – acceptable on	external wall height of 5.9m and does not exceed the maximum wall height control.
	merit	The proposed attic extension has an external wall height of 8.3m, exceeding the 7m wall height control by 1.3m. The proposed built form is predominantly contained within the existing attic level footprint and building envelope, including the rear balcony and pergola with a setback of 11.6m from the northern side boundary, 7.1m from the southern side boundary and 9.4m from the western rear boundary.
		Given that the addition is contained within the existing footprint of the attic level and is sufficiently setback from side and rear boundaries, the non-compliant external wall height, which does not exceed the maximum building height control of 8.5m, will not result in excessive visual bulk or additional amenity impacts on adjoining properties and is acceptable in this circumstance.

Development Control	Compliance	Comment
2.2 Setbacks		
 2.2.1 Front and rear building lines Predominant front building line 	Acceptable on merit	The subject site and immediately surrounding properties on the western side of Ormond Street have a predominant front building line of approximately 5m. The existing dwelling and carport area are setback 7.5m and 1.2m respectively to the front boundary, respectively and presents an anomaly within the streetscape.
		The proposed demolition of the existing carport and garage and construction of a new garage within the front building line results in a setback between 0.8m and 1.42m to the front boundary. As the bulk of the garage will be aligned with the existing dwelling and is predominantly below height of the existing front fence. The proposed location of the garage within the front building line provides open space and greater building separation between the site and the property to the north, enhancing the appearance of the site from the public domain and is acceptable.
		The existing dwelling has a ground floor rear building line of 8.7m and a first floor rear building line of 9m from the western boundary. The external wall of the attic level has a setback of 14.5m and the balcony is setback between 8.7m and 9.5m from the western boundary.
Predominant rear building line at each floor level	Yes	Immediately adjoining properties to the north and south of the subject site have irregularly shaped lots and do not consist of a predominant rear building line. No. 1 Ormond Street has a rear building line measuring between 1.735m and 2.56m and No. 5 Ormond Street has a rear building line measuring 6.4m. Dwellings further to the south (Nos. 7 to 11A Ormond Street) have rear building lines between 4.53m and 5.96m.
		In this circumstance, the proposed rear ground floor building line of 4.6m to the western boundary is not out of character with the existing rear building line of immediately adjoining properties and is unlikely to result in any unreasonable amenity impacts on surrounding properties as the topography of the site falls to the rear and the ground floor level is obscured from surrounding properties by boundary fences and existing mature trees and landscaping.
		Having regard to the existing building envelope where the ground and first floor rear setbacks are

Development Control	Compliance	Comment
		aligned, the proposal consisting of a rear first floor balcony aligned with the ground floor rear setback results in a similar built form and will not result in any unreasonable bulk and scale or amenity impacts on adjoining properties. In particular, the size of the first floor rear balcony has been reduced and privacy screening is proposed along all sides to minimise overlooking and loss of privacy between the site and adjoining properties.
		The proposed attic addition has a rear setback of 11.7m which is contained within the building footprint of the existing attic and is acceptable.
2.2.2 Side setbacksMinimum of 1.2m	Yes	The northern side setback of the dwelling is maintained at 6m. The proposed northern ground floor terrace area, adjacent to the swimming pool is setback 7.3m from the northern side boundary.
		The proposal maintains a minimum 1.2m setback to the southern side boundary.
		The proposal complies with the minimum side setback control of 1.2m and is acceptable.
2.3 Streetscape and visual im	pact	
 New development to be compatible with streetscape context Replacement windows to complement the style 	Yes Yes	The proposed additions are sympathetic to the existing character of the dwelling and will not detract from the heritage significance of the dwelling within the streetscape. The proposal is also consistent with the bulk and scale of
and proportions of existing dwelling		surrounding dwellings within the street. No changes are proposed to existing windows
Significant landscaping to be maintained.	Yes	fronting the street. New windows on the north, south and west elevations are proportionate to existing windows and are acceptable.
		The proposal seeks to retain substantial landscaped areas within the site and proposes to increase deep soil/lawn areas within the rear private opens space. A new green roof above the proposed garage and planter boxes adjacent to the first floor and attic level balconies will also contribute to the landscaped character of the area and enhance visual amenity for surrounding properties.
2.4 Fences		
Front:Maximum height of1.2m		The existing front boundary fence comprises of a stone base and palisade balustrades above to a height of 2.2m. The existing front boundary fence

Development Control	Compliance	Comment
 Solid section no more than 0.6m high Side and Rear: Maximum height of 1.8m 	No - Acceptable on merit Yes – subject to conditions	is to be retained with a new sliding palisade style gate across the driveway with a stone column to match the existing front fence. Given the retention of the existing front fence, the height of the stone column and metal gate are acceptable as it maintains the presentation of the site from the public domain and will not detract from the existing dwelling or streetscape.
		1.8m high timber boundary fences are proposed along the northern and southern side boundaries and are acceptable behind the existing front building line as it provides privacy between the site and adjoining properties.
		However, the continuation of a 1.8m timber fences along the side boundaries within the front setback is out of character with existing fencing for the site and will detract from the sitting of the heritage item and the streetscape. A condition requiring new boundary fencing along the northern and southern side boundaries within the front building setback to taper from 1.8m to the top of the front fence of the adjoining properties and comprise open/transparent design that complements the architectural character of the dwelling and adjoining properties.
		New metal balustrades to replace existing balustrades above the existing retaining wall along the western (rear) boundary retains the overall height of the boundary fence and is acceptable.
2.5 Visual and acoustic privac	c y	
Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into	Yes	The proposal does not have any new habitable window openings that are directly aligned with existing habitable windows of adjoining properties. New window openings to habitable rooms on the first floor are substantially setback from the northern and western boundaries and will have external privacy screens to the adjacent balcony minimising direct overlooking and loss of privacy for adjoining properties.
 the design External stairs are not acceptable. 	No – Acceptable on merit	The site currently has two sets of external stairs including stairs within the side setback providing access from the front garden and rear yard, and stairs providing external access from the first floor to the attic level. The proposal seeks to reconfigure and reconstruct existing stairs along

Development Control	Compliance	Comment
Maximum size of balconies: 10m² in area 1.5m deep	No -Acceptable on merit	the southern side setback. Given the location of the stairs will be substantially the same, there will be no additional impacts on adjoining properties. The proposed rear first floor balcony has a depth of 1.3m and area of 23.4m² as it extends the length of the rear addition and wraps around to the northern elevation. Whilst the proposal exceeds the maximum balcony dimensions, it represents a substantial reduction in the depth and area of the existing first floor balcony which has a depth of 2.8m and an area of 55.5m², wrapping around from the western elevation along the length of the northern elevation. As the proposal includes reconfiguration of the internal layout, the first floor rear balcony is no longer adjacent to principal living areas and is accessed from two bedrooms. Bedrooms are considered 'low use' areas and the adjacent balcony is unlikely to be used for entertaining purposes. The balcony consists of privacy screens along the north, south and western sides which will reduce direct overlooking and enhance privacy for adjoining properties.
Roof tops to be non-trafficable unless predominant in the immediate vicinity	No – Acceptable on merit	The existing attic level balcony has a depth of between 3.4m and 3.6m and an area of 41.3m². The proposed attic level balcony measures 2.4m in depth with an area of 19m², is bounded by planters on all sides and is centrally located within the roof form of the first floor immediately below. In this circumstance, the proposed attic level balcony is a better design than the existing balcony and will reduce direct overlooking and amenity impacts on adjoining properties and is acceptable. The proposed widow's walk has a depth of 2.6m, is oval in shape and has an area of approximately 18m². Whilst roof top open space is not generally encouraged, the proposal replaces an existing widow's walk that is irregular in shape, occupies a large area and is greater in height than the proposed design. The proposal is consistent with the architectural character of the heritage building and results in a more refined design when viewed from the public domain. Council's Heritage Advisor supports the design of the widow's walk and is satisfied the proposal

2.6 Solar accessMinimum of three hours		complements the heritage significance of the dwelling.
Minimum of three hours		
of sunlight to living areas and principal open space areas on 21 June	Yes	The proposed living areas and private open space will receive more than 3 hours of sunlight between 9am and 3pm on 21 June and is satisfactory.
Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.	Yes	The proposal will provide the minimum required solar access to the private open space at No. 5 Ormond Street, No. 53 Francis Street and No. 55 Francis Street. Any additional overshadowing of the private open spaces between 9am and 3pm on 21 June is contained within the expected shadow impacts resulting from a complaint
 Avoid unreasonably overshadowing of solar collectors (including 	Yes	building envelope and does not result in unreasonable amenity impacts.
habitable windows).		The proposal will result in a reduction in overshadowing to the northern elevation of No. 5 Ormond Street between 9am and 2pm on 21 June and enhances the amenity of adjoining occupants.
2.7 Views		
 Views from the public domain are to be maintained Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks. 	Yes Yes	No existing views from the public domain or adjoining properties will be impacted by the proposal.
2.8 Car parking		
2.8.1 Design ApproachParking only allowed where site conditions	Yes	No change is proposed to the location of the existing driveway. The proposal seeks to provide parking for 2 vehicles within the new garage.
 permit Designed to complement the building and streetscape 	Yes	The new garage is located within the front building setback and will be partly obscured from view as it will be located behind the front fence and will comprise a green roof to integrate the
Car parking structures to be behind the front building line	No – acceptable on merit Yes	garage with the landscaping within the front yard. The proposed garage will not be visually prominent or detract from the appearance of the heritage dwelling when viewed from Ormand Street and is acceptable.

Development Control	Compliance	Comment
Driveways are to be located to minimise the loss of on street parking		
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
Existing development to be in accordance with the hierarchy of preferred car parking locations	No - acceptable on merit	The proposal maintains the provision of car parking within the front building setback as per the existing conditions of the site. The proposed design of the garage reduces the visual bulk of structures visible when viewed from the public domain and is a preferred design outcome.
Complement the style, massing and detail of the dwelling	Yes	The existing car parking on the site is located forward of the front building line. The proposal retains parking within the front building line but the relocation of the garage will improve building separation to the northern side setback and
Secondary in area and appearance to the design of the residences	Yes	reduce visual building bulk when viewed from the street and is acceptable.
No part of the façade is to be demolished to accommodate car parking	Yes	The proposed garage does not result in the demolition of the front façade of the dwelling and comprises a palisade gate which complements the existing character of the dwelling.
Gates to have an open design	Yes	
2.8.5 Dimensions • 5.4m x 2.4m per vehicle	Yes	The proposal provides an internal garage dimension of 5.5m x 5.7m which is greater than the minimum garage dimensions for a double garage and is acceptable.
2.8.6 Driveways		No change is proposed to the existing vehicle
Maximum of one per property	Yes	crossing on Ormond Street and is acceptable as it will not result in any further loss of street parking spaces.
 Maximum width of 3m at the gutter (excluding splay) 	Yes	
Crossings not permitted where 2 on street spaces are lost	Yes	
2.9 Landscaping and open spa		
• Overall open space: 40% (377.72m²) of site area	Yes	The proposal provides 562m ² of open space equating to 60% of the site area.

Development Control		Compliance	Comment			
	verall landscaped area: 5% (141.65m²) of site	Yes	The proposal provides 386m² of landscaping equating to 41% of the site area.			
• M	Area Minimum area of 25m² for private open space Front open space: 50% (95m²) of front building setback area Front landscaped area:	Yes	The proposal provides private open space exceeding 235.2m² that is immediately adjacent to internal living areas and comprises, outdoor seating areas, swimming pool and landscaped gardens.			
		Yes				
se • Fr		Yes	The proposal comprises 147m ² oof open space within the front building line, equating to 77% of the front building line.			
op	0% (73.5m²) of front pen space provided	Notes	The proposal provides 111m ² of landscaping within the front building setback, equating to			
	Outdoor clothes drying area to be provided	Not shown	76% of front open space.			
			An outdoor clothes drying area has not been shown on the architectural plans. However, the site comprises sufficient private open space and is capable of accommodating outdoor clothes drying to meet the needs of occupants.			
	2.10 Swimming pools and spa pools					
	ocated in the rear of roperty	Yes	The location of the new swimming pool at the north-western corner of the site is consistent with the location of the existing swimming pool.			
bo	ool decks on side oundaries must onsider visual privacy	Yes	The setback of the pool to the north and west boundaries comprises screen planting and 1.8m high timber boundary fences. The proposed pool deck along the east and south perimeter of the swimming pool will be approximately 1.8m below the top of the boundary fence and will not result in any direct overlooking or loss of privacy for adjoining properties.			

2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

2.4. Any Submissions

The application was notified 21 days between 25 November and 20 December 2021 and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The proposal reduces the number of on-site car parking spaces from 3 to 2 spaces;
- The proposal seeks to retain and enhance original features of the dwelling particularly on the front elevation; and
- The proposed widows walk is setback further from the front roof slope to minimise impact on the existing roof form.

A total of three unique submissions were received from the following properties:

- 5 Ormond Street, Bondi Beach
- 58 Sir Thomas Mitchell Road, Bondi Beach
- 62 Sir Thomas Mitchell Road, Bondi Beach

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Excessive building height
- Excessive FSR
- Alteration and additions detract from the heritage significance of the building
- Loss of acoustic and visual privacy on adjoining properties
- Tree removal

All other issues raised in the submissions are summarised and discussed below.

Issue: Insufficient information submitted demonstrating compliance with safety requirements under the Swimming Pools Act.

Response: The proposed alterations and additions to the swimming pool in the rear private open space are consistent with the objectives and controls for swimming pools in the Waverley DCP 2012. Conditions requiring construction and use of the pool in accordance with relevant Australian Standards and registration with the NSW Swimming Pool Register have been included in the recommendation.

Issue: Vehicle turntable will have noise and vibration impacts on neighbouring properties.

Response: The proposed vehicle turntable is unlikely to result in adverse noise impacts on adjoining properties given the low frequency use associated with the subject dwelling. However, acoustic conditions have been included in the recommendation to ensure that acoustic performance will not result in any unreasonable noise impacts on adjoining properties.

Issue: 1.8m high southern boundary fence will impact solar access and views from adjoining property and will impact on the appearance of the dwellings from the street.

Response: A condition has been included in the recommendation requiring amendment to the height and design of the side boundary fences within the front building line. The portion of the side boundary

fences within the front building line is required to tapers to the front property boundary, comprises an open design and complement the architectural character of the dwelling and adjoining properties.

2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Traffic and Development

The proposal was referred to Council's Traffic Engineer who raises no objection to the proposal subject to conditions that have been included in the recommendation.

3.2. Stormwater

The proposal was referred to Council's Stormwater Engineer who raises no objection to the proposal subject to conditions that have been included in the recommendation.

3.3. Tree Management

The proposal was referred to Council's Tree Management Office who raises no objection to the removal of three trees in the front building setback as two of the three trees (Tree Nos 2 and 3) are exempt and Tree No. 1, which overhangs the adjacent footpath, is in poor form with its roots damaging the front fence. No objection is raised to the proposed landscape planting on the site, subject to conditions that have been included in the recommendation.

3.4. Heritage Advisor

The proposal was referred to Council's Heritage Advisor who raises no objection to the proposal as the amended design does not detract from the significance of the heritage item, surrounding properties or the streetscape.

4. CONCLUSION

The development application seeks consent for alterations and additions to the existing dwelling including rear ground and first floor additions, demolition of existing garage and carport, construction of a new garage with turntable on the existing driveway, alterations to existing widows walk, and replacement of existing swimming pool and landscape works at the site known as 3 Ormond Street, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- Building Height; and
- FSR.

The assessment finds these issues acceptable as the proposed alterations and additions do not exceed the height of the existing dwelling, is sympathetic to the existing bulk and scale of the dwelling and surrounding developments and will not detract from the heritage significance of the site or adjoining properties. The proposal will not result in any additional privacy impacts on surrounding properties as proposed rear balconies and the widows walk are reduced in dimension and area, and additional privacy screening is proposed to minimise direct overlooking of adjoining private open space and habitable windows.

The submitted Clause 4.6 written justifications seeking variation to the height of buildings and FSR development standards are considered well founded as the applicant has demonstrated that despite the variations, the proposal achieves the objectives of the development standards and the R2 Low Density Residential zone and does not result any unreasonable environmental impacts on adjoining properties and is consistent with the desired future character of the local area.

A total number of three submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation. No Councillor submissions have been received. There is no declared conflict of interest for this application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 30 August 2022 and the DBU determined:

(a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, Karis Keenan, Joseph Somerville*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:	
P. Day		
Peggy Wong	Bridget McNamara	
Senior Development Assessment Planner	Manager, Development Assessment	
	(Reviewed and agreed on behalf of the	
	Development and Building Unit)	
Date: 30 August 2022	Date: 9 September 2022	

Reason for WLPP referral:

1. Departure from any development standard in an EPI by more than 10%

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Luigi Rosselli of Project No: 2140 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DA02, Issue 02	Site Plan	1 April 2022	1 April 2022
DA03, Issue 02	Ground Floor Plan	1 April 2022	1 April 2022
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DA04, Issue 02	First Floor Plan	1 April 2022	1 April 2022
DA05, Issue 01	Attic Plan	2 November 2021	16 November 2021
DA06, Issue 02	Elevation - East	1 April 2022	1 April 2022
DA08, Issue 03	Elevation – North & Pool Plan	25 July 2022	26 July 2022
DA09, Issue 02	Elevation – South	25 July 2022	26 July 2022
DA10a, Issue 03	Sections – AA & BB	25 July 2022	26 July 2022
DA10b, Issue 01	Section - CC	25 July 2022	26 July 2022
DA19, Issue 02	Schedule of External Finishes	1 April 2022	1 April 2022
DA20, Issue 01	Demolition Plan – Ground Floor	1 April 2022	1 April 2022
DA21, Issue 01	Demolition Plan – First Floor	1 April 2022	1 April 2022
DA22, Issue 01	Demolition Plan – Attic	1 April 2022	1 April 2022

- (b) Landscape Plan Nos. L100 to L105, inclusive, and documentation prepared by Bates Landscape, dated 4 November 2021 and received by Council on 16 November 2021
- (c) BASIX Certificate
- (d) Stormwater Details Drawing Nos. DR-000 and DR-003 (Revision 0) dated 2 November 2021, and DR-001 and 002 (Revision 1) dated 4 November 2021, prepared by Stellen Consulting, and received by Council on 16 November 2021
- (e) Arborist Report prepared by Jackson Nature Works dated 4 November 2021, and received by Council on 16 November 2021
- (f) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council on 16 November 2021

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The north and south side boundary fences located between the front building setback and eastern (front) boundary are to comprise of transparent style fencing that complement the architectural character of the dwelling and streetscape. The side boundary fences within the front building setback are to taper down from west to east and are not to exceed the height of existing front fences at Nos. 1 and 5 Ormond Street, Bondi Beach.

The amendments are to be approved by the **Executive Manager, Development Assessment or delegate** prior to the issue of any Construction Certificate. An electronic copy of the amended plans or additional information (see website for electronic document requirements) addressing this condition, including a covering letter shall be provided to Council for review.

3. DOMESTIC HEATERS

The provision of solid fuel heating is prohibited.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

GENERAL REQUIREMENTS

4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

5. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

CONTRIBUTIONS, FEES & BONDS

6. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:

"Waverley Council Cost Summary Report"; or,

(ii) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;
 - (i) A development valued at \$100,000 or less will be exempt from the levy;
 - (ii) A development valued at \$100,001 \$200,000 will attract a levy of 0.5% of the full cost of the development; or
 - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the <u>full</u> cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

7. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$64,273.10 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

8. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

<u>Note</u>: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

CONSTRUCTION MATTERS

9. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

10. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

11. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

12. ENGINEERING CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

13. STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to the issue of a Construction Certificate, a report or certification from a practicing structural engineer must be submitted to the Principal Certifying Authority to explain how the retained building elements, such as building facades or chimneys are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

STORMWATER & FLOODING

14. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by Stellen Consulting, Drawing No. DR-000 (Revision 0, dated 02/11/2021), DR-001 (Revision 1, dated 04/11/2021), DR-002 (Revision 1, dated 04/11/2021) & DR-003 (Revision 0, dated 02/11/2021), is considered <u>unsatisfactory</u>.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- (c) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- (d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- (e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- (f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- (g) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath shall be provided.
- (h) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to
 ensure any additional damage or unauthorised works within the Council property, not
 conditioned above. Council will reserve the right to withhold the cost of restoring the
 damaged assets from the security deposit should the applicant fail to restore the defects
 to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: <u>assets@waverley.nsw.gov.au</u> or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

15. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council. An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

ENERGY EFFICIENCY & SUSTAINABILITY

16. BASIX

All requirements of the BASIX Certificate are to be shown on the Construction Certificate plans and documentation.

WASTE

17. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) - Part 2 is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the SWRMP Part 2 is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

LANDSCAPING & TREES

18. GREEN ROOF LANDSCAPING DETAILS

The construction certificate landscape plans are to comply with the controls for green roofs in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2-1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (c) The green roof is to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

HERITAGE

19. EXTERNAL FINISHES FOR HERITAGE BUILDING OR BUILDINGS OF CHARACTER

A schedule of external finishes shall be submitted for Council's consideration and approval, prior to the release of the relevant Construction Certificate.

The schedule shall include details of proposed external walls and roofing materials in the form of either trade brochures or building samples. The schedule shall also include window fenestration and window frame colour details, as well as fencing, paving and balustrading details and guttering colour and profile.

Any works to the retained building (which has historical value) including any paint or render finishes are to be subject to Council's written approval. Materials and finishes are to be restricted to the range of heritage colours sympathetic to the historical character of the area.

20. ARCHIVAL RECORDING OF EXISTING HERITAGE BUILDING/S (WHERE REQUIRED BY HERITAGE ARCHITECT)

An archival record (at a minimum the front and rear elevations, details of notable elements of each building e.g. the awning and foyers) shall be prepared of the existing building for deposit in Waverley Council's Archive. This record must be carried out prior to the removal of any significant building fabric or furnishings from the site and must be submitted to Council prior to the commencement of any demolition work. The record is to comply with the NSW Heritage Office Guidelines for digital archival recording.

21. HERITAGE ARCHITECT

The applicant is to commission an experienced conservation architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. The applicant is to commission experienced trades persons (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works.

NOISE

22. NOISE - ACOUSTIC REPORT

An Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the external vehicle turntable and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

For further information on the requirements, refer to Council's website:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent

TRAFFIC MANAGEMENT

23. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent_

24. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

PRIOR TO ANY WORKS

25. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

DEMOLITION & EXCAVATION

26. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

27. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

28. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

29. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition or a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

CONSTRUCTION MATTERS

30. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations* (Noise Control) Regulation 2017.

31. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

32. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

33. CERTIFICATE OF SURVEY - LEVELS

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

34. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

35. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

36. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete.
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 Wiring Rules.
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit.
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure.

(e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

TREE PROTECTION AND REMOVAL

37. TREE PROTECTION

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

- TPZ A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.
- If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.
- If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).
- It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.
- If any trees on neighboring properties require pruning, then permission must be gained from the owner of the tree(s) and an application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

- If any trees on Council owned land require pruning, the applicant is to supply an tree pruning report from an Arborist with AQF level 5 qualification or above with photos showing the branches that need to be removed.
- If approval is granted the applicant may prune the tree at their expense, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

38. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

39. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

40. CERTIFICATION OF ACOUSTIC PERFORMANCE

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic recommendations (including noise from mechanical plant) and conditions of consent (including the operational conditions) have been incorporated into the development and can be satisfied.

41. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

42. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical

Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

43. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant

44. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (http://www.swimmingpoolregister.gov.au);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine

whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

AD5. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

AD6. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

AD7. BONDI – ROSE BAY SAND BODY

This site may be located within the Bondi – Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

AD8. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

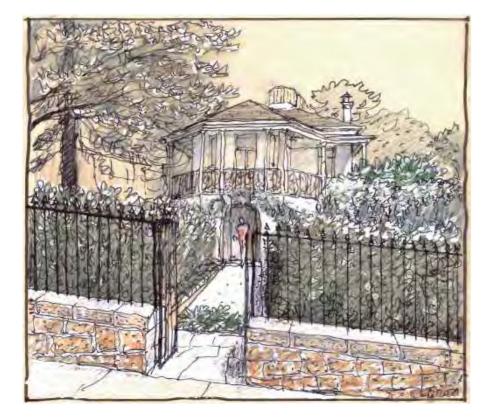
AD9. RAINWATER HARVESTING AND REUSE

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

AD10. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

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

alterations & additions





RECEIVED Waverley Council

Application No: DA-494/2021

Date Received: 01/04/2022

ref: 2140

1/04/2022

site details

3 Ormond Street Bondi Beach NSW Postcode 2026

BASIX certificate:

The applicant must comply to the requirements of the Basix certificate no. A435987

BASIX Notes:

Pool and Spa
- Must install a rainwater tank of at least 3040L on the site. This rainwater tank must meet,

- and be installed in accordance with the requirements of all applicable regulatory authorities. - The swimming pool must be outdoors and not have a capacity greater than 35 kilolitres.
- The space must not have a capacity greater than 7 kilolitres.

Hot Water

- Must install the solar (gas-boosted) hot water system that is eligible to create Renewable Energy Certificates under the Commonwealth Renewable Energy Electricity Regulations 2001.

- Must construct the new or altered construction in accordance with the specifications listed in the table on page 4 of BASIX Certficate, except that:
- a) additional insulation is not required where the area of new construction is less than 2m²;
- b) insulation specified is not required for parts of alterted construction where insulation already exists.

Windows & Glazed Doors

- Must install the windows, glazed doors and shading devices inaccordance with the specifications listed in the table on page 6,7 & 8 of BASIX certificate
- Relevant overshadowing specifications must be satisfied for each window and glazed door.
- For projections desribed in meillimetres, the leading edge of each eace, pergola, verandah, balcony or awning must be no more than 500mm above the head of the window or glzed door and no more than 2400mm above the sill.
- Overshadowing buildings or vegetation must be of the hegiht and distance from the centre and the base of the window and glazed door as specified in the 'overshadowing' column.
- Must install the skylights in accordance with the specifications listed in the table on page 8 of

drawing list

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	cover	
DA01	site & context analysis plan	01
DA02	site plan	02
DA03	ground floor plan	02
DA04	first floor plan	02
DA05	attic plan	01
DA06	elevation east	02
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DA10	sections	02
DA11	area calculation internal existing	01
DA12	area calculation internal proposed	01
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DA17	shadows winter solstice 12:00	01
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DA19	schedule of external finishes	02
DA20	demolition plan ground floor	01
DA21	demolition plan first floor	01
DA22	demolition plan attic	01

finishes & notations legend

	_		
a/c	- air conditioning + ducted heating equipment	hwu	- hot water unit
AHD	- Australian Height Datum	j	- joinery
al	- aluminium	mir	- mirror
ARL	 approximate rock level under (extrapolated 	mr	 metal roof sheeting
	from geotech report)	mt	- mosaic tiles
bwk	- brickwork	nts	- not to scale
bwp	- brickwork painted	р	- paint finish
cj	- construction joint	pb	 plasterboard
conc	- concrete	rc	 rough cast render
cos	- check on site (nominal dimension only)	re	- rammed earth
cpt	- carpet	RL	 relative level to AHD
cr	- cement render	rt	 roofing tiles
ct	- ceramic tiles	rwh	 rain water head
D	- door	sk	- skylight
dck	- timber decking	sr	- slate roof
dp	- down pipe	SS	- shower screen
dpc	- damp proof course	s/s	 316 grade stainless steel
dr	- tumble dryer	st	 stone block facing
dw	- dishwasher	sts	- stone slab
(e)	- existing	stt	- stone tiles
EGL	 existing ground level to AHD 	tmb	- timber
eoc	- exposed off form concrete	tmbl	- timber v groove lining boar
eq.	- equal	tr	- towel rail
fb	- face brickwork	tph	 toilet paper holder
fc	- fibre cement sheet	typ	- typical
FFL	- finished floor level to AHD	W	- window
fr	- refrigerator	wm	 washing machine
fw	- floor waste	maw	 waterproof membrane

note: image for illustrative purposes only

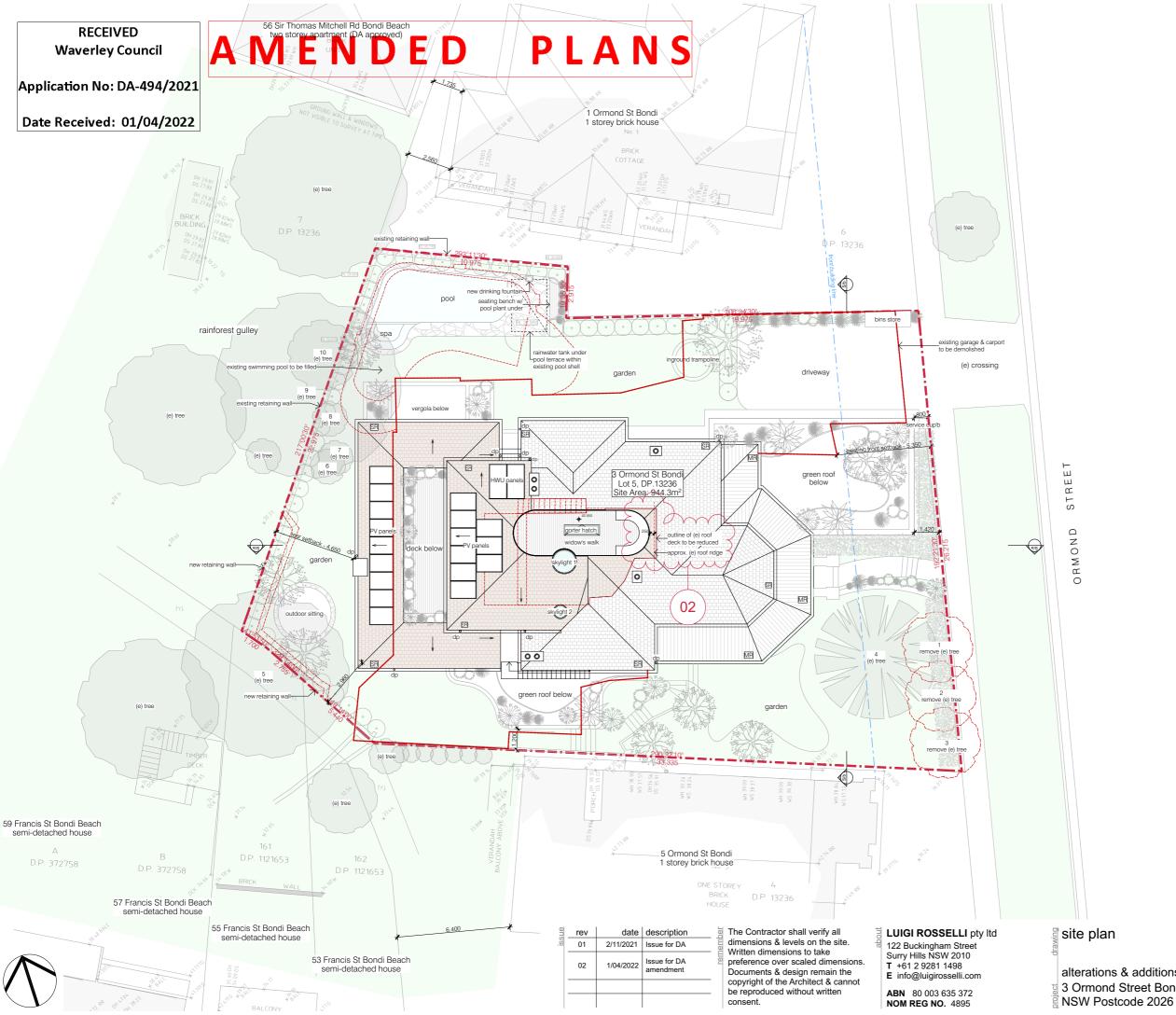
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ABN 80 003 635 372 **NOM REG NO.** 4895



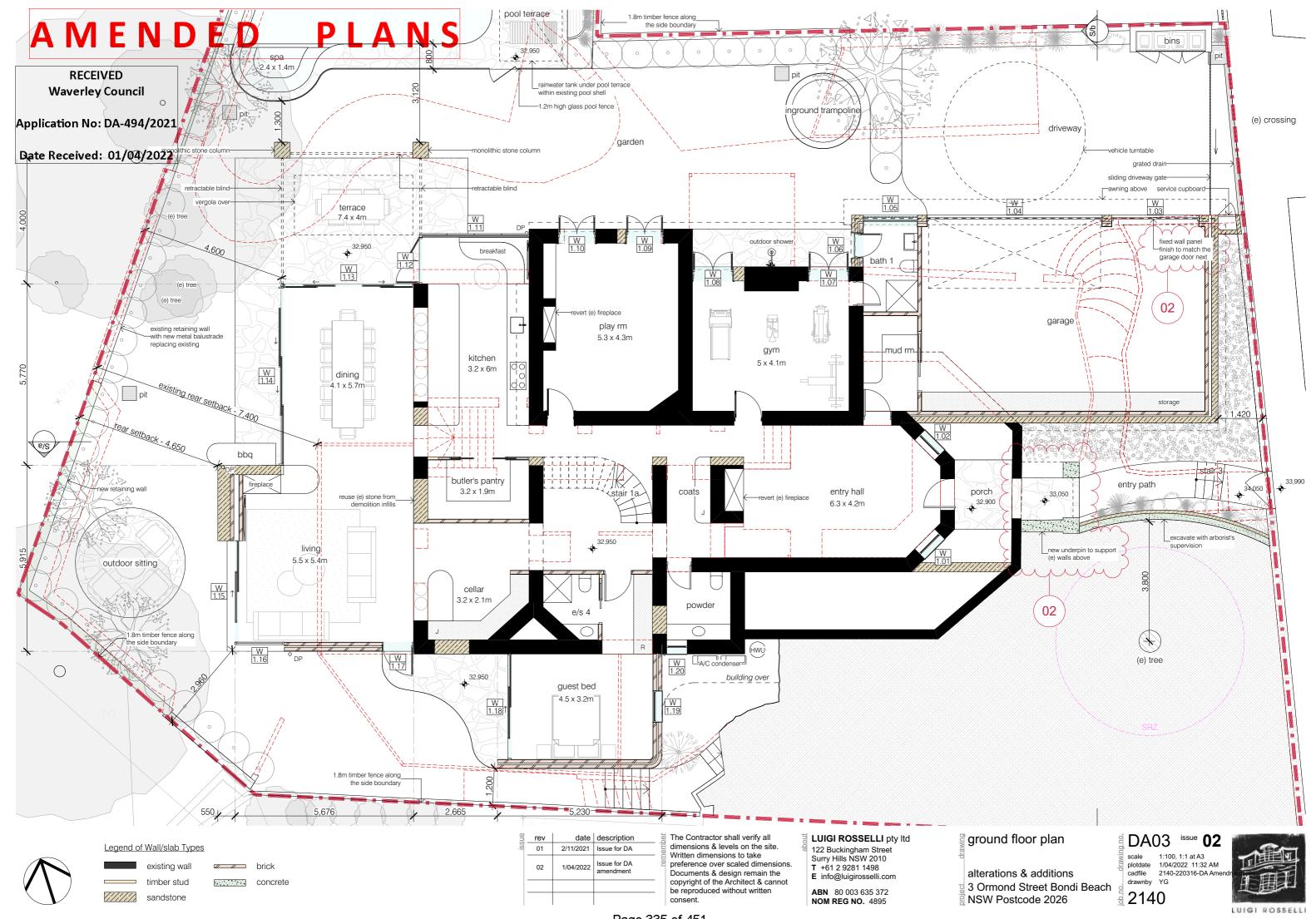


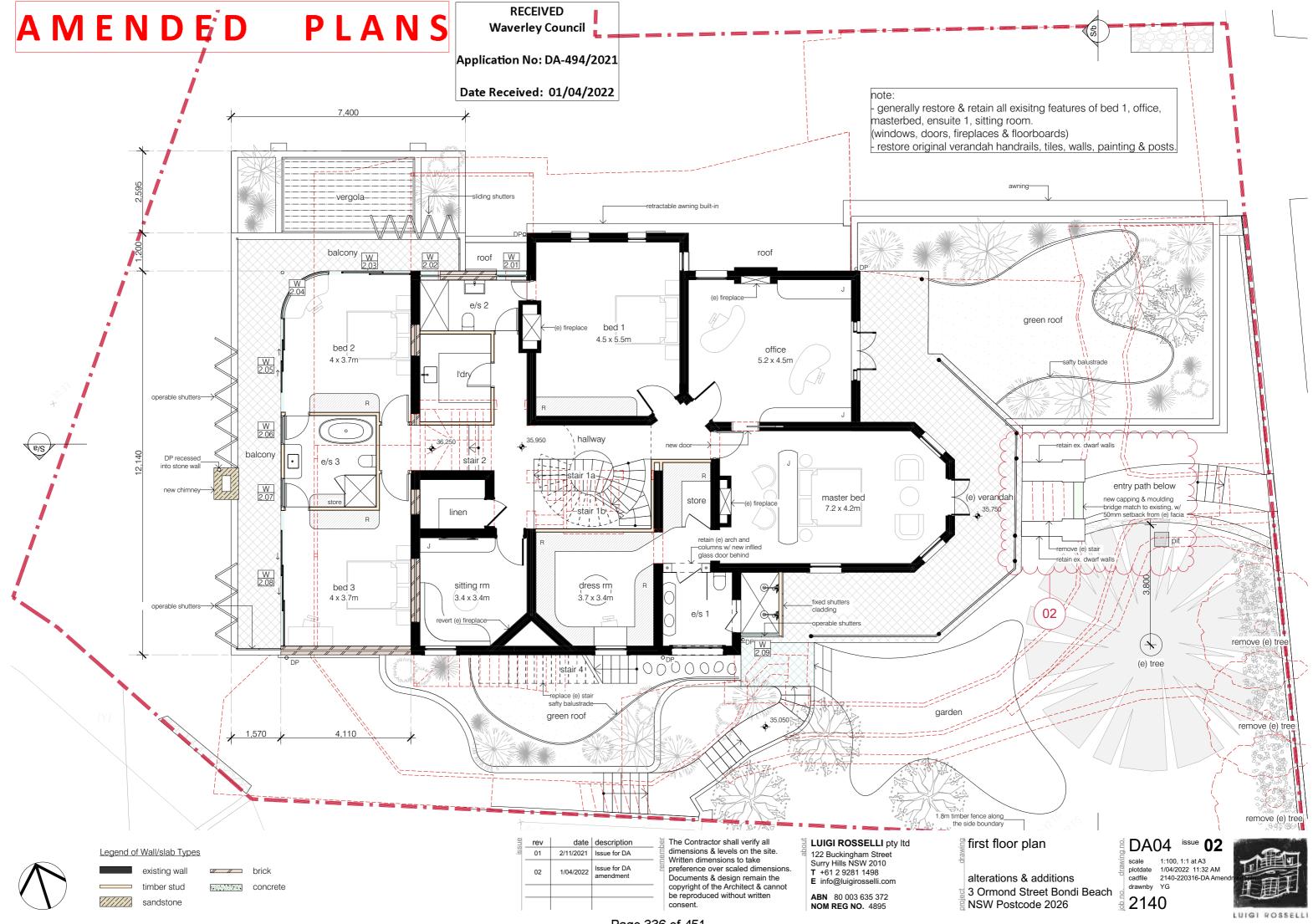
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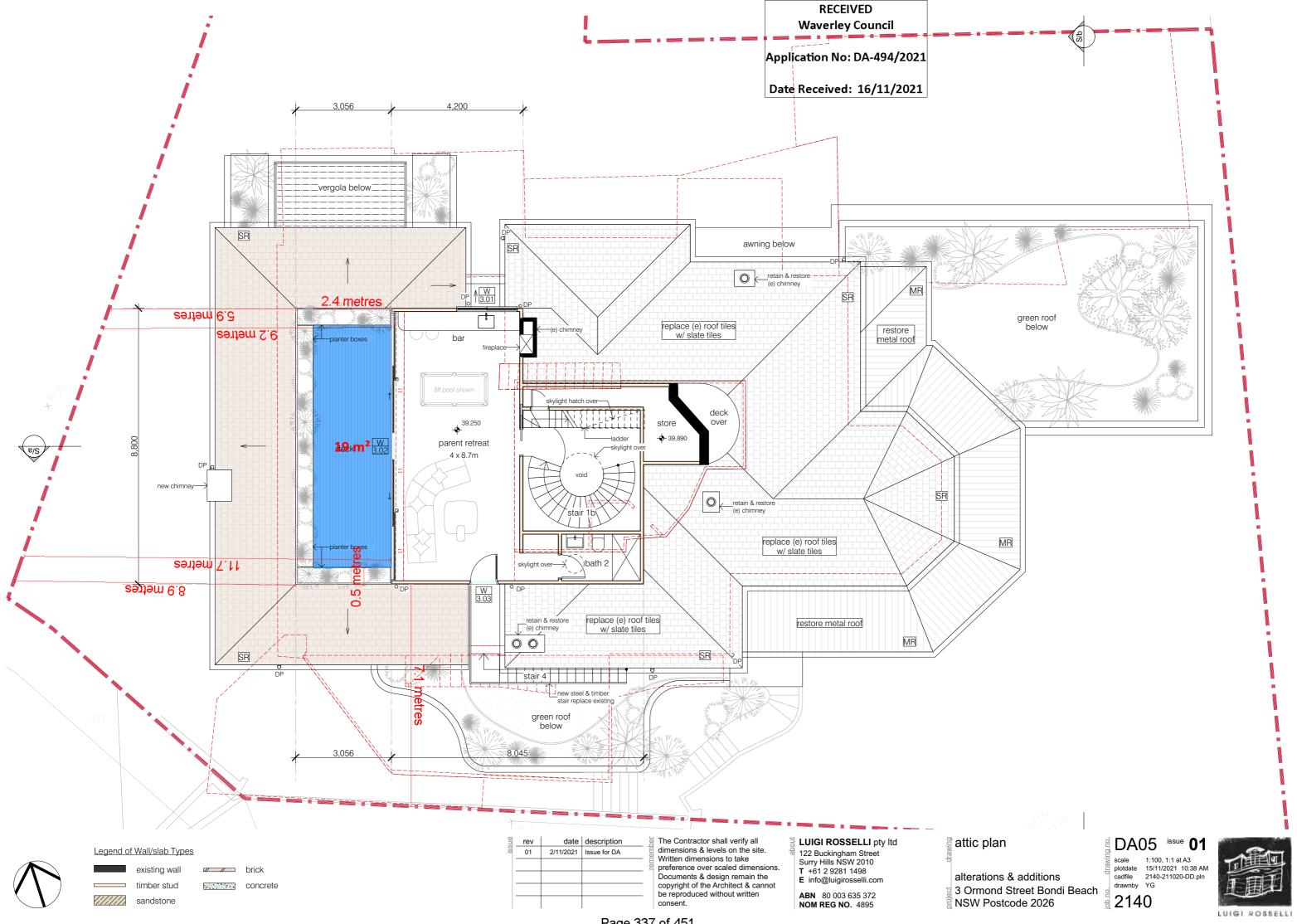
alterations & additions 3 Ormond Street Bondi Beach

DA02 issue **02**

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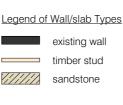
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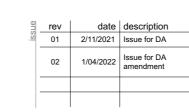






brick

concrete



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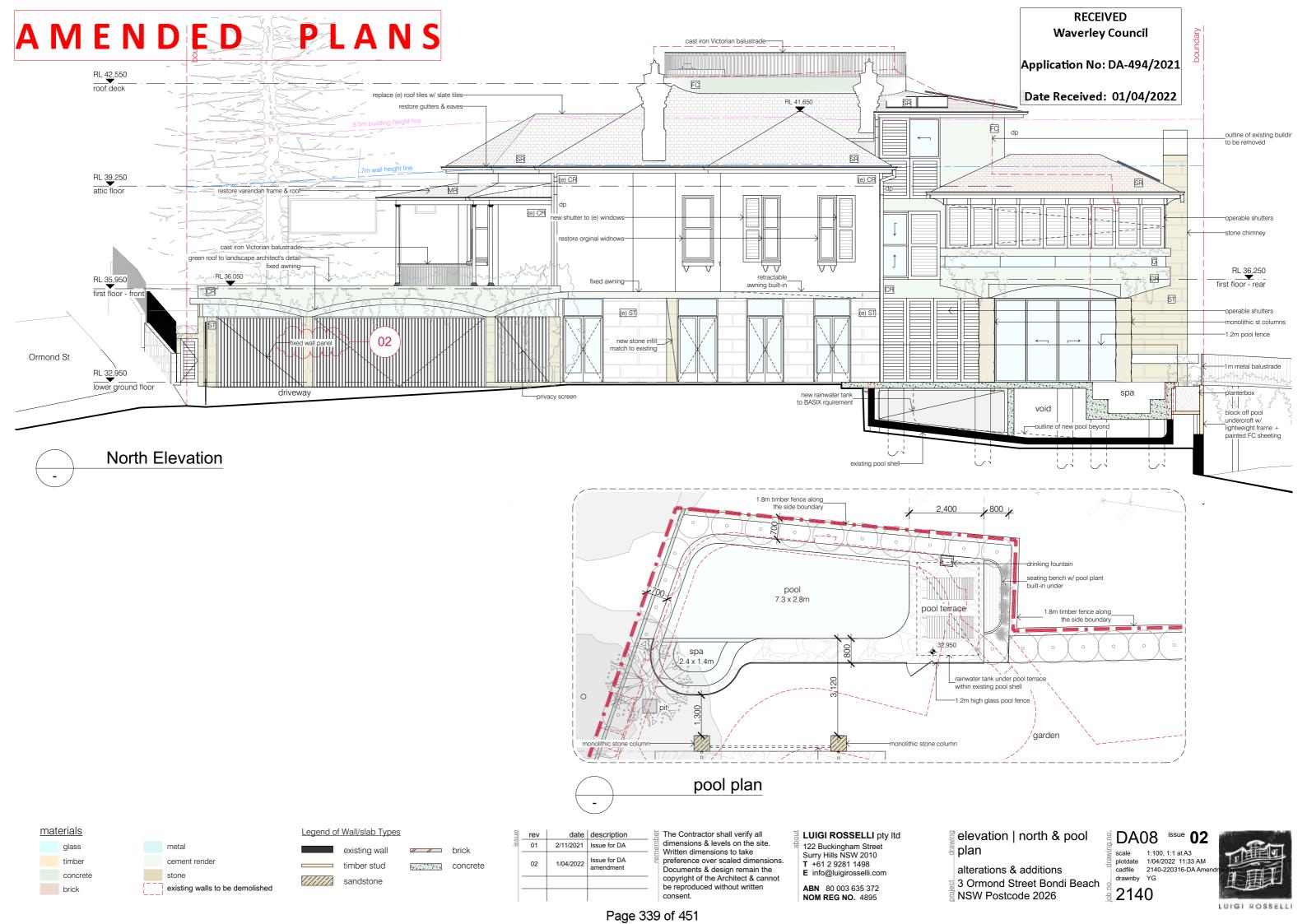
ABN 80 003 635 372 NOM REG NO. 4895

elevation | east

alterations & additions 3 Ormond Street Bondi Beach NSW Postcode 2026



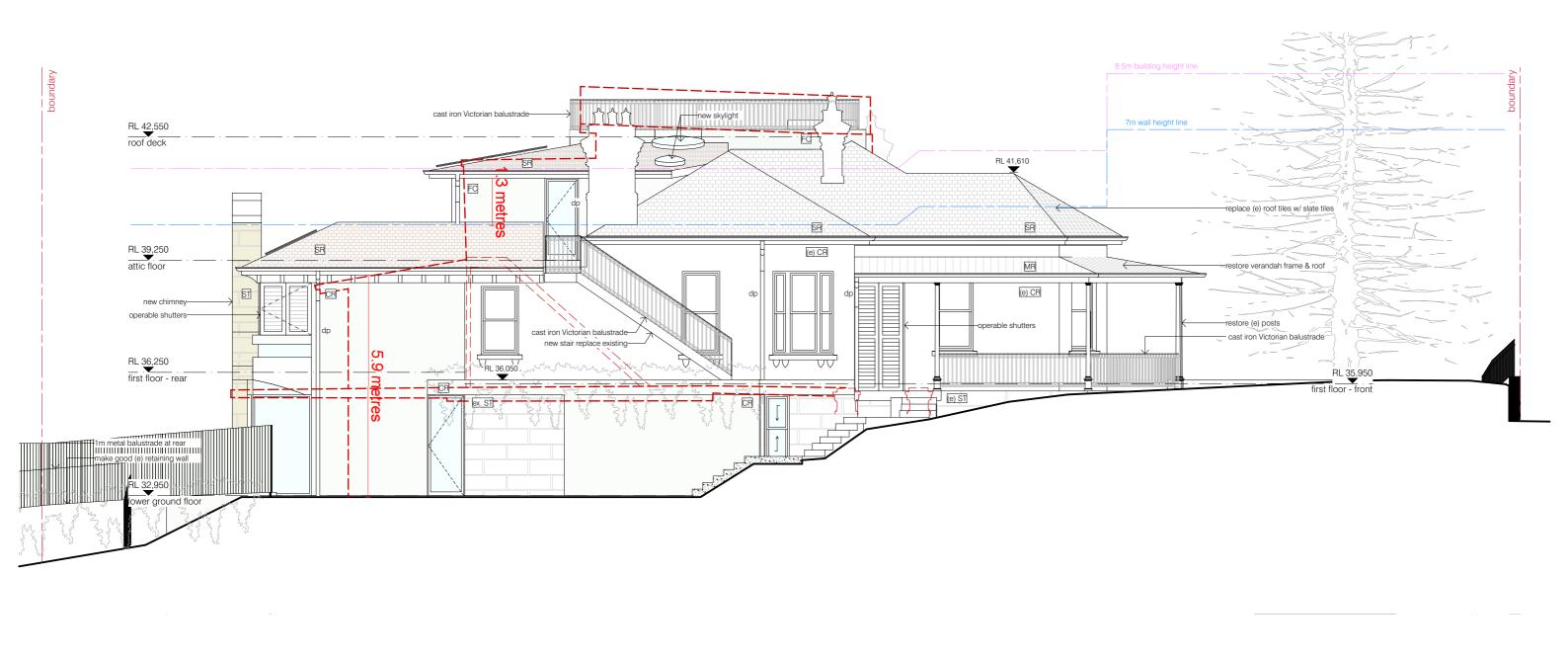
drawnby YG



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Application No: DA-494/2021

Date Received: 26/07/2022





	rev	date	description	_ oer
	01	2/11/2021	Issue for DA	eml
	02	25/07/2022	Issue for DA additional info	rem

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ABN 80 003 635 372 NOM REG NO. 4895

elevation | south

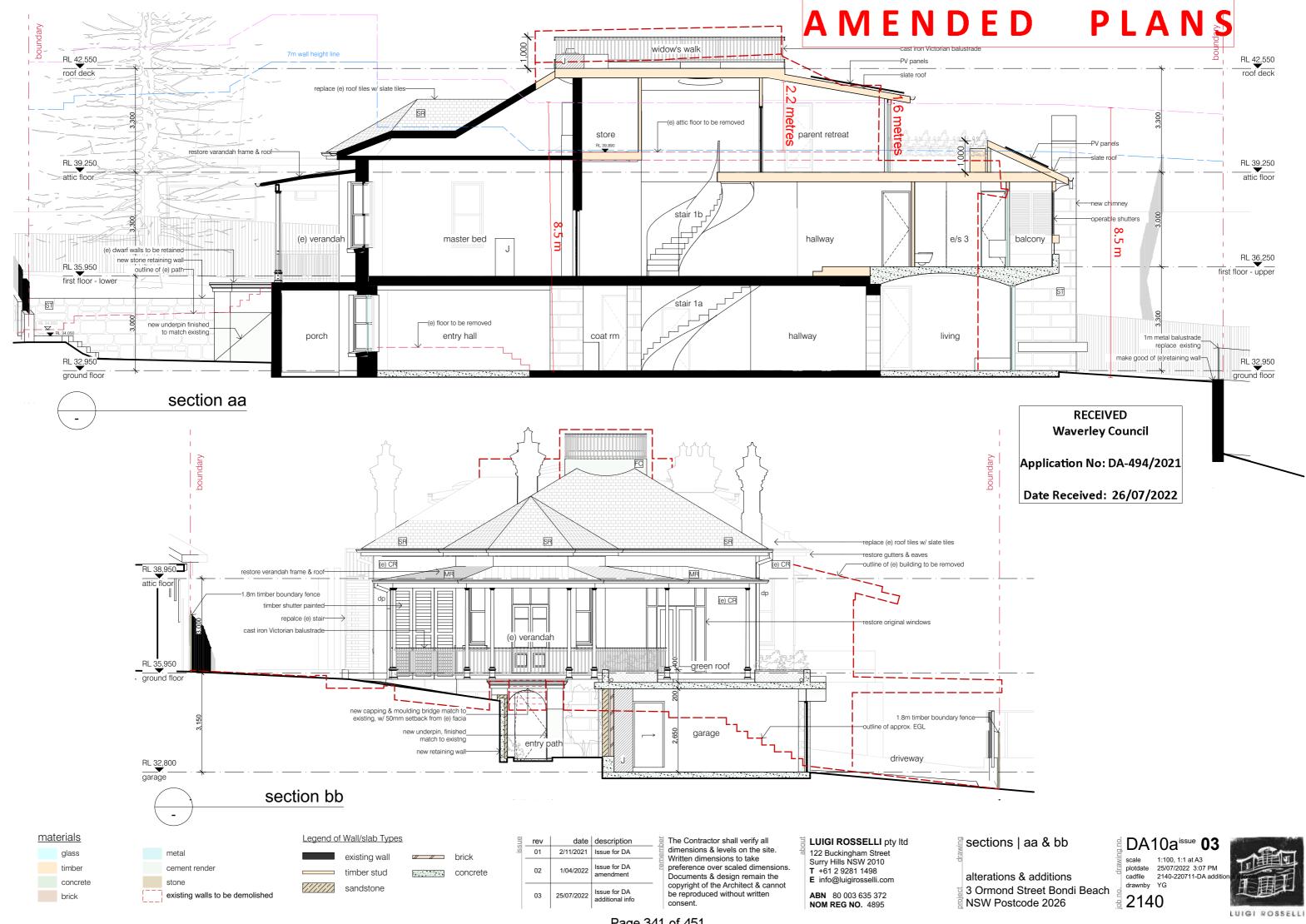
alterations & additions 3 Ormond Street Bondi Beach NSW Postcode 2026

DA09 issue **02**

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drawnby YG 2140

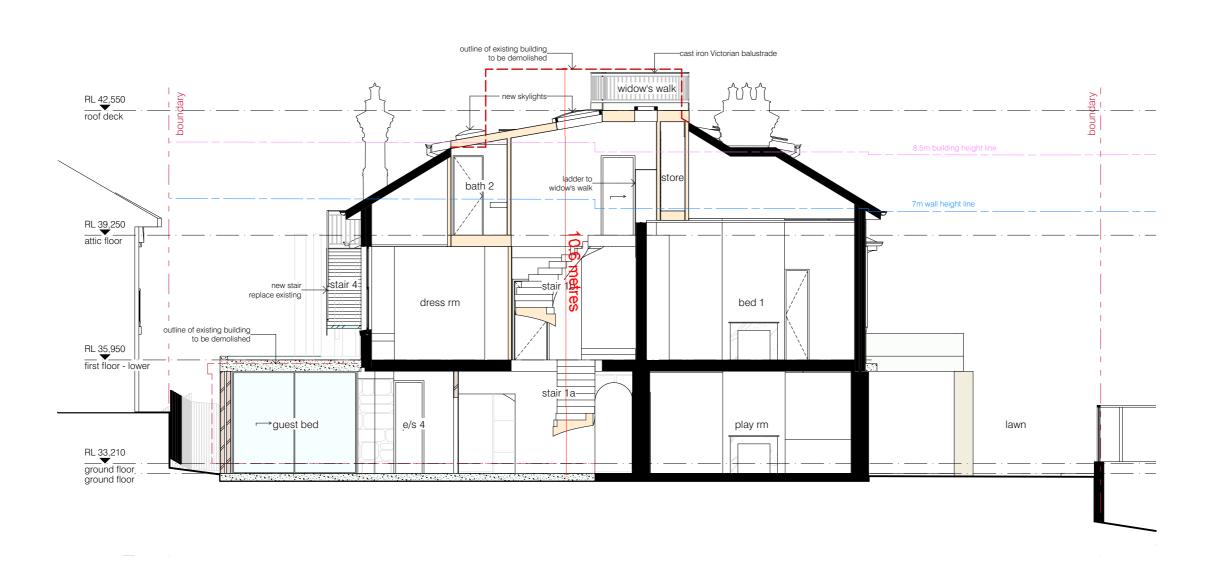




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Application No: DA-494/2021

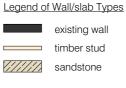
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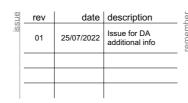






brick

concrete



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ABN 80 003 635 372 NOM REG NO. 4895

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alterations & additions 3 Ormond Street Bondi Beach NSW Postcode 2026

DA10b^{issue} **01**

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Waverley Council







slat roof green roof

lime render—

shutters

(e) stone wall/metal fence



-Victoria metal balustrade



timber window/door-



aluminium window/door-



sandstone -



The Contractor shall verify all dimensions & levels on the site. Written dimensions to take preference over scaled dimensions. Documents & design remain the copyright of the Architect & cannot be reproduced without written

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schedule of external finishes

alterations & additions 3 Ormond Street Bondi Beach NSW Postcode 2026

¶ DA19 issue **02**

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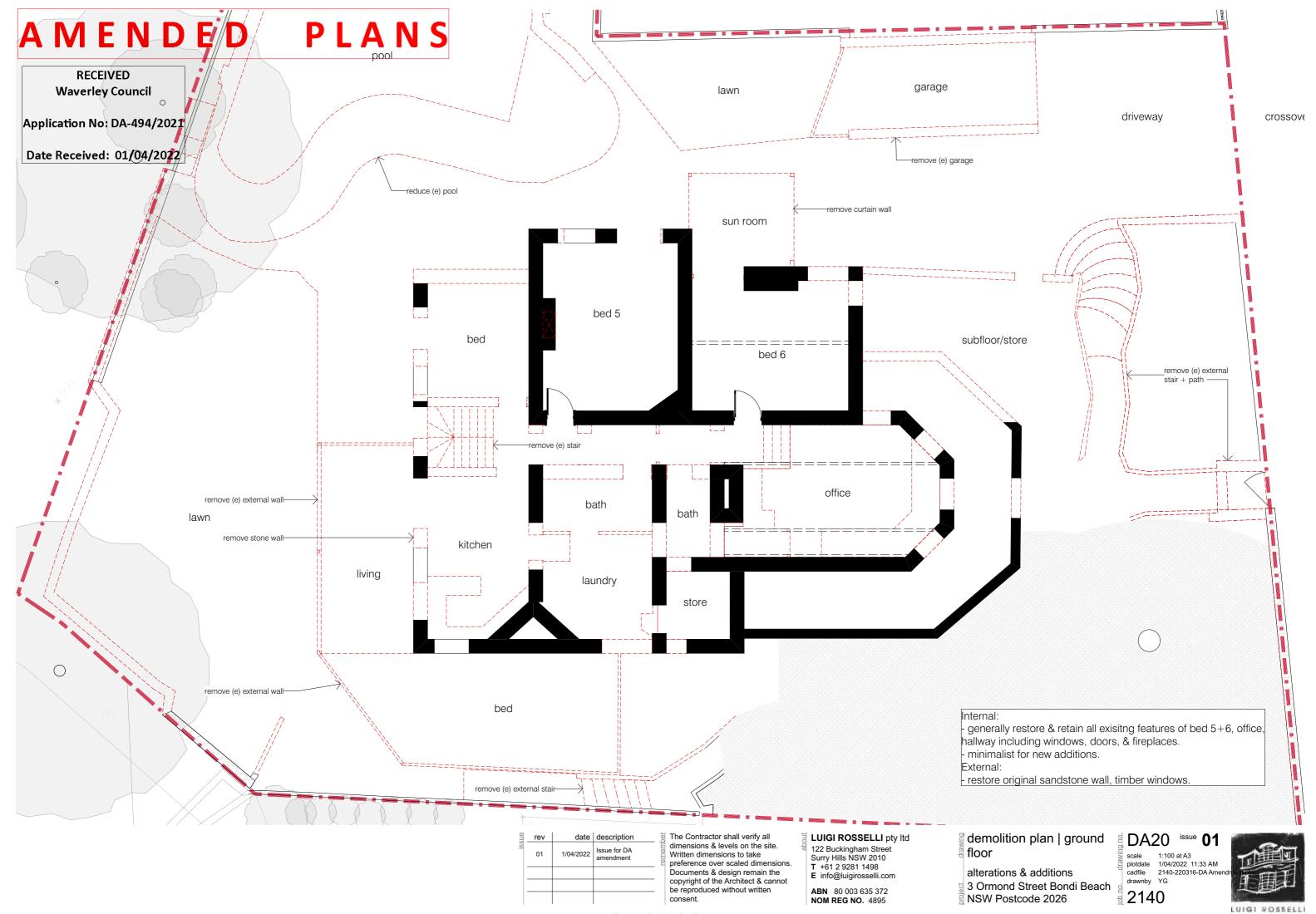
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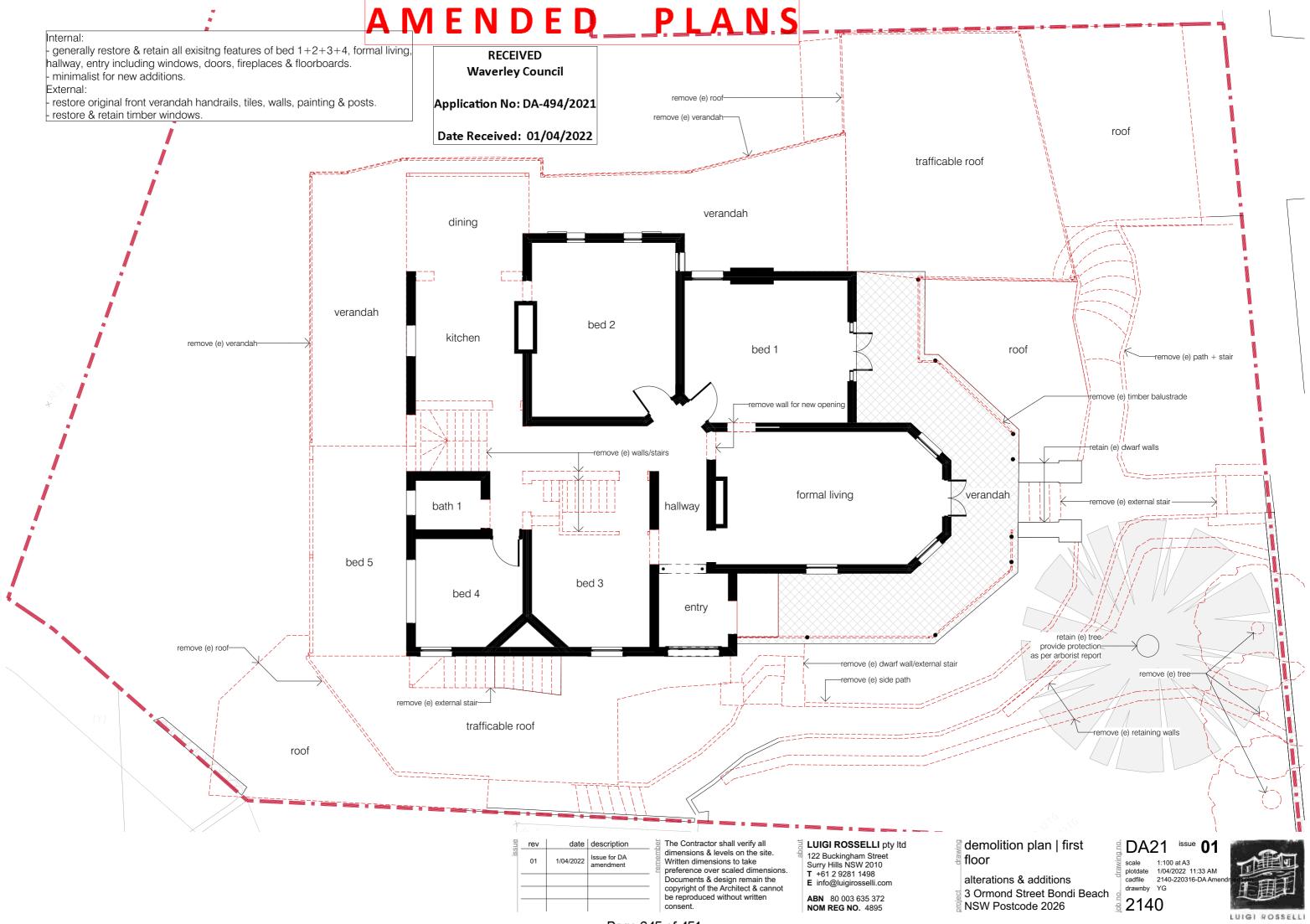
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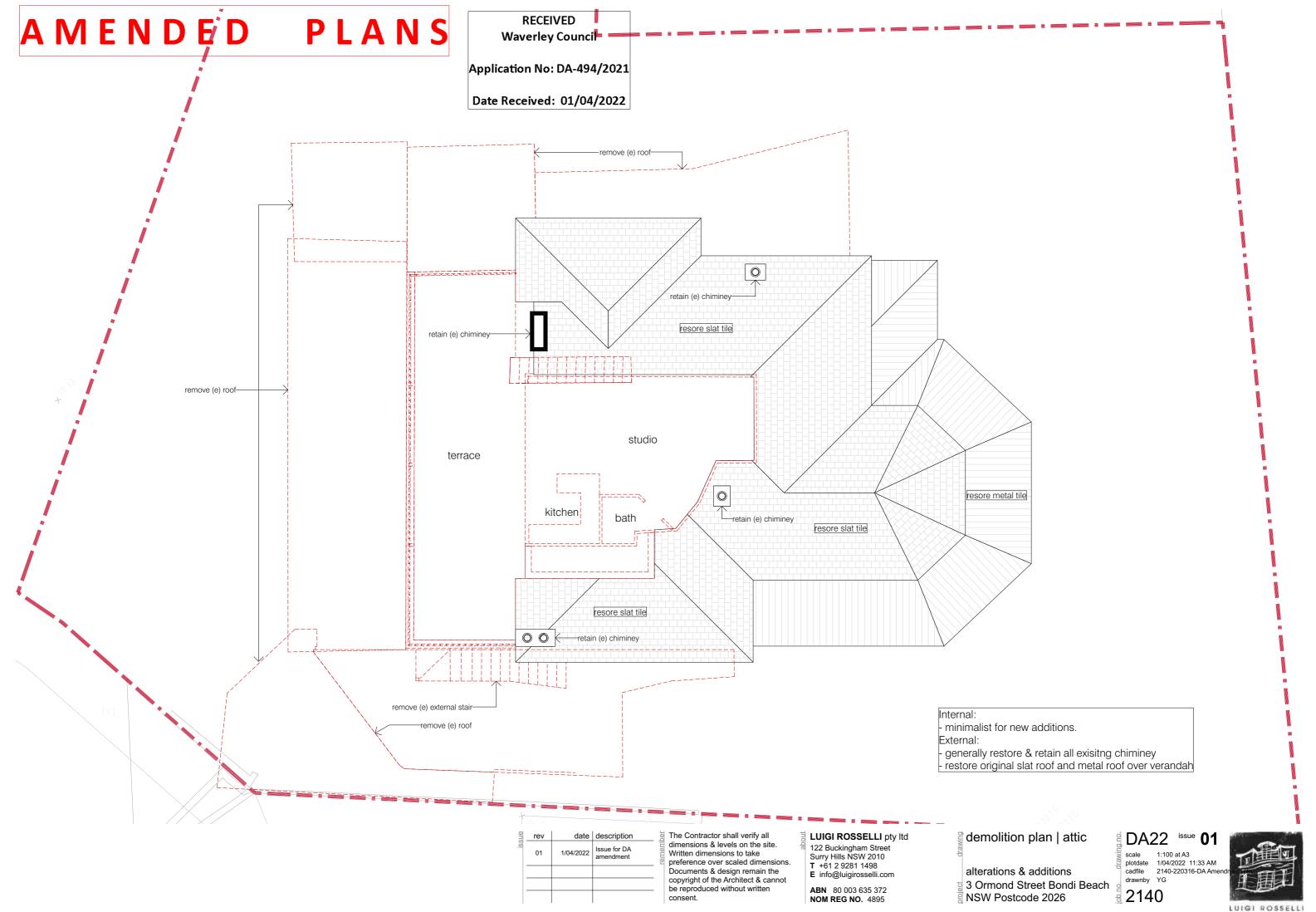
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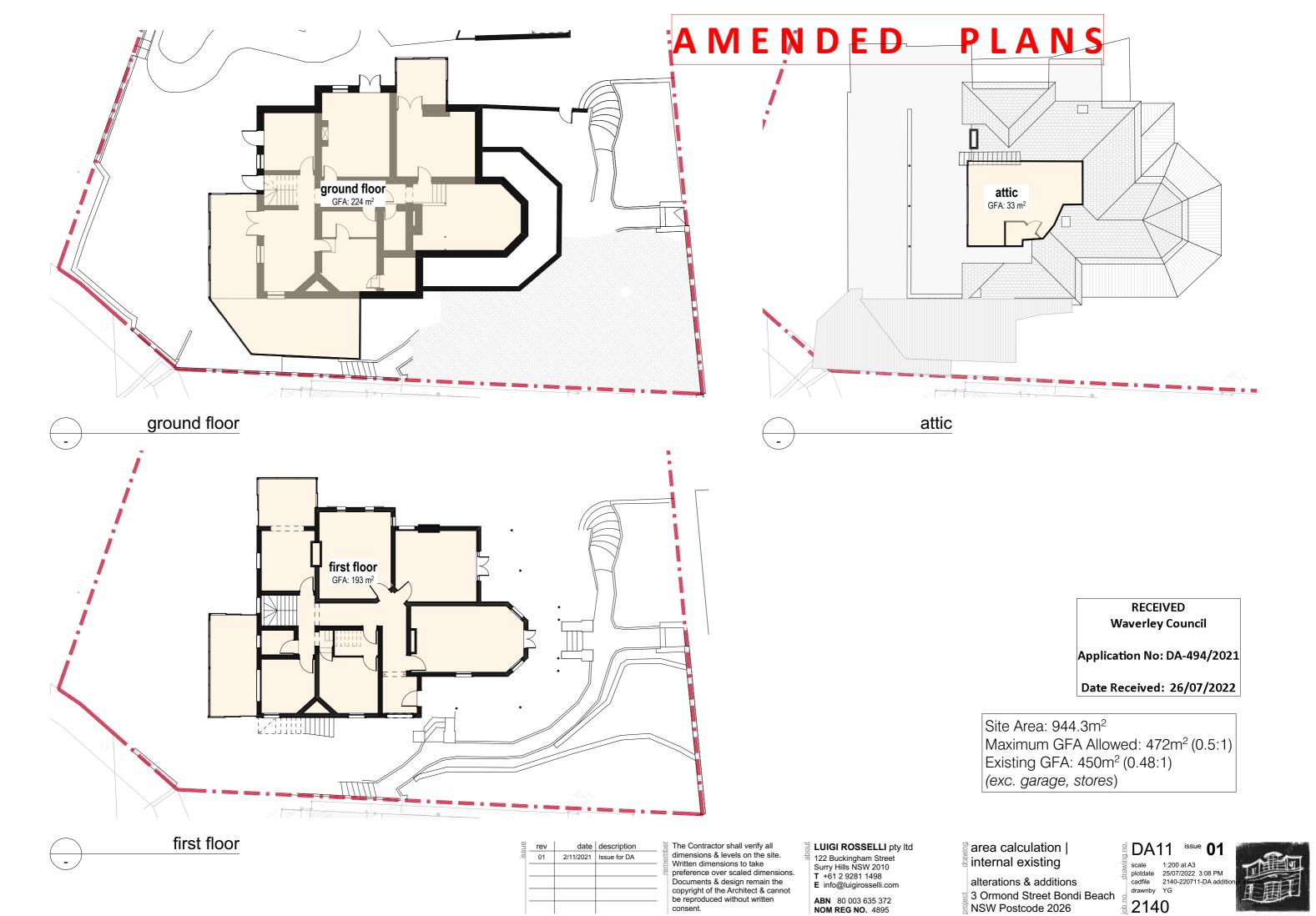
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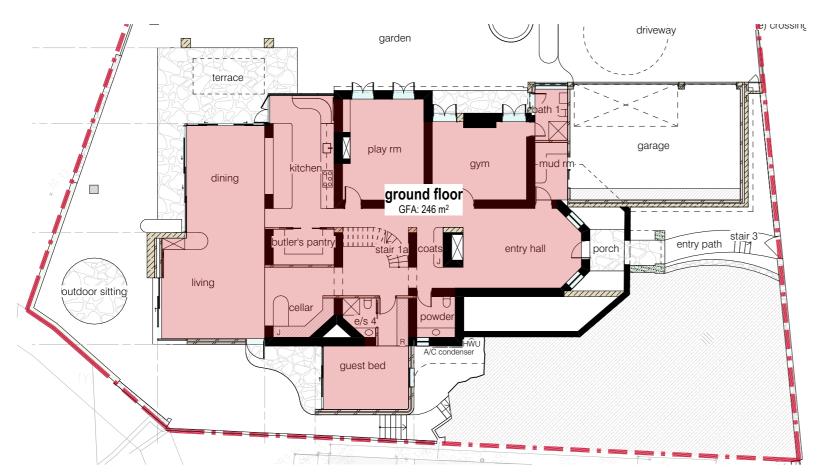
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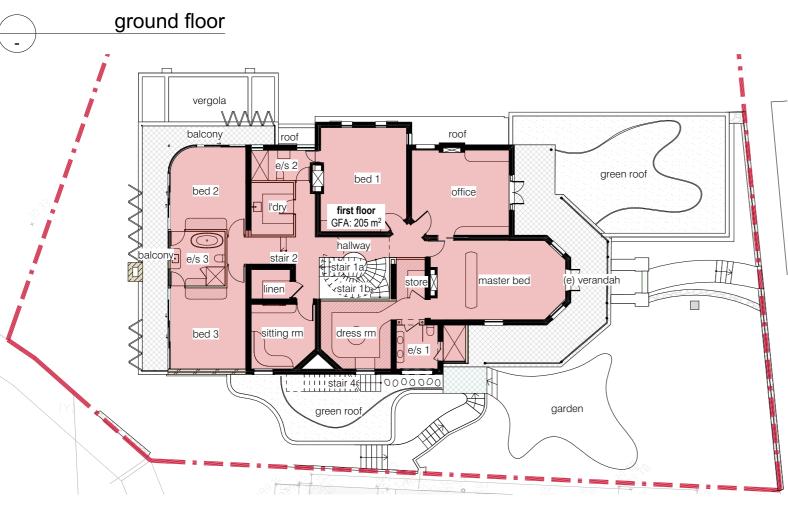




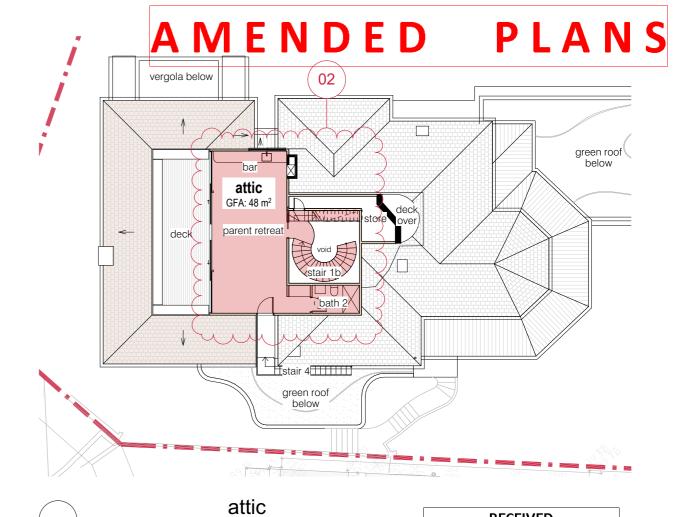








first floor



Waverley Council

RECEIVED

Application No: DA-494/2021

Date Received: 26/07/2022

Site Area: 944.3m²

Maximum GFA Allowed: 472m² (0.5:1)

Proposed GFA 499m² (0.53:1)

(exc. garage, stores)

02

rev date description
01 2/11/2021 Issue for DA
02 25/07/2022 Issue for DA additional info

The Contractor shall verify all dimensions & levels on the site. Written dimensions to take preference over scaled dimensions. Documents & design remain the copyright of the Architect & cannot be reproduced without written

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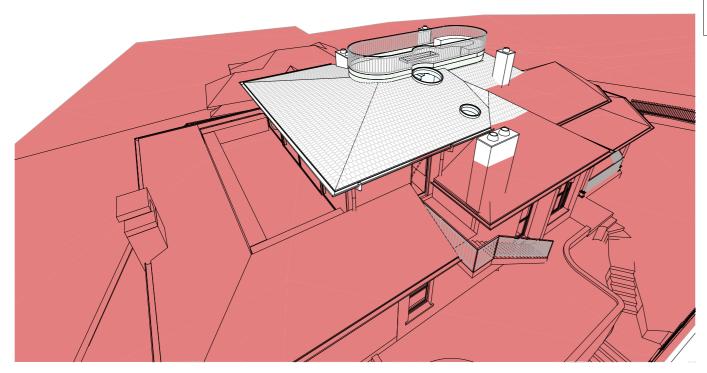
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alterations & additions
3 Ormond Street Bondi Beach
NSW Postcode 2026

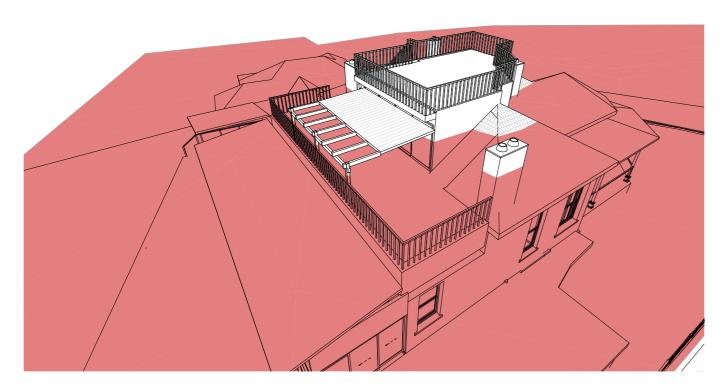
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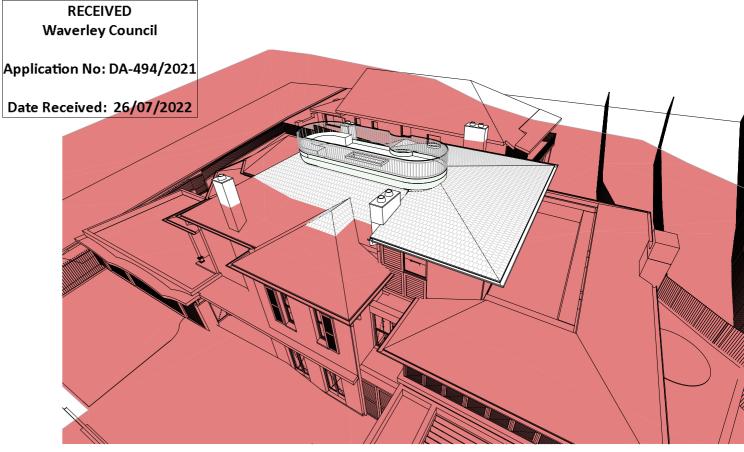




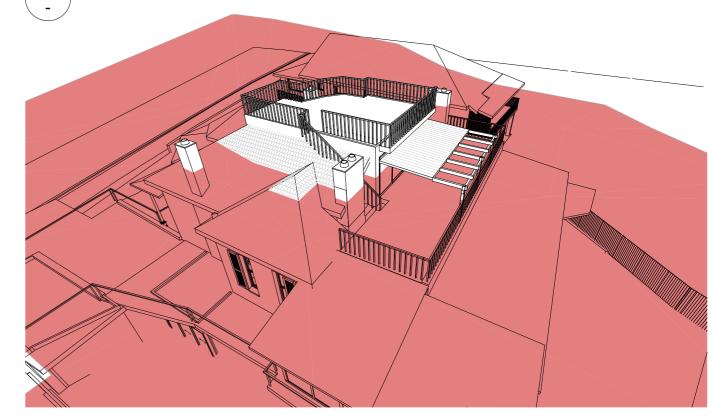
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8.5m building height | existing | 1



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8.5m building height | existing | 2



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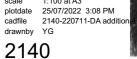
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> **ABN** 80 003 635 372 NOM REG NO. 4895

height analysis | building height

alterations & additions 3 Ormond Street Bondi Beach NSW Postcode 2026

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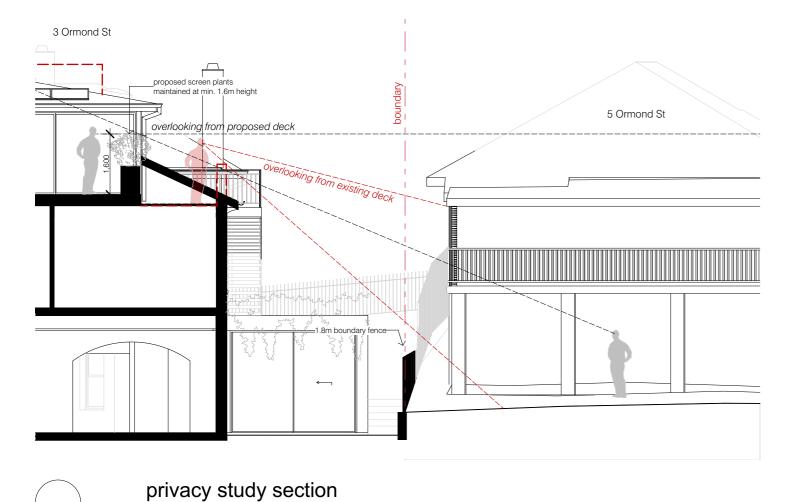


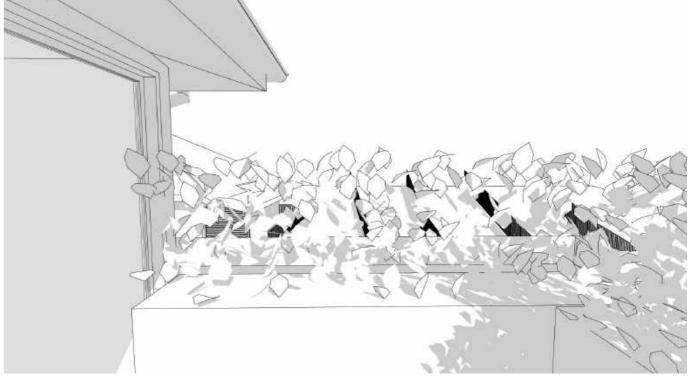


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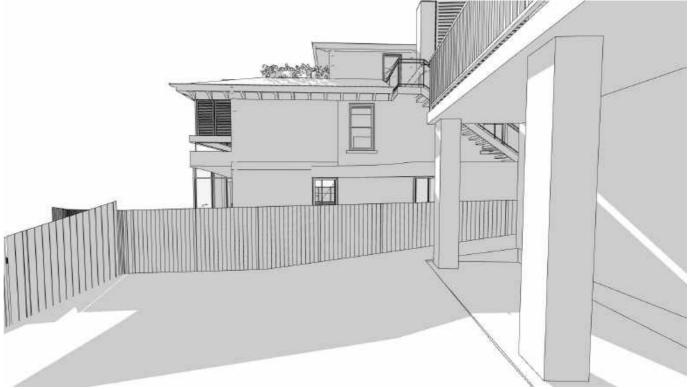
Application No: DA-494/2021

Date Received: 26/07/2022





view from Parents Retreat deck



view from No5 backyard

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SS	01	25/07/2022	Issue for DA additional info	raman

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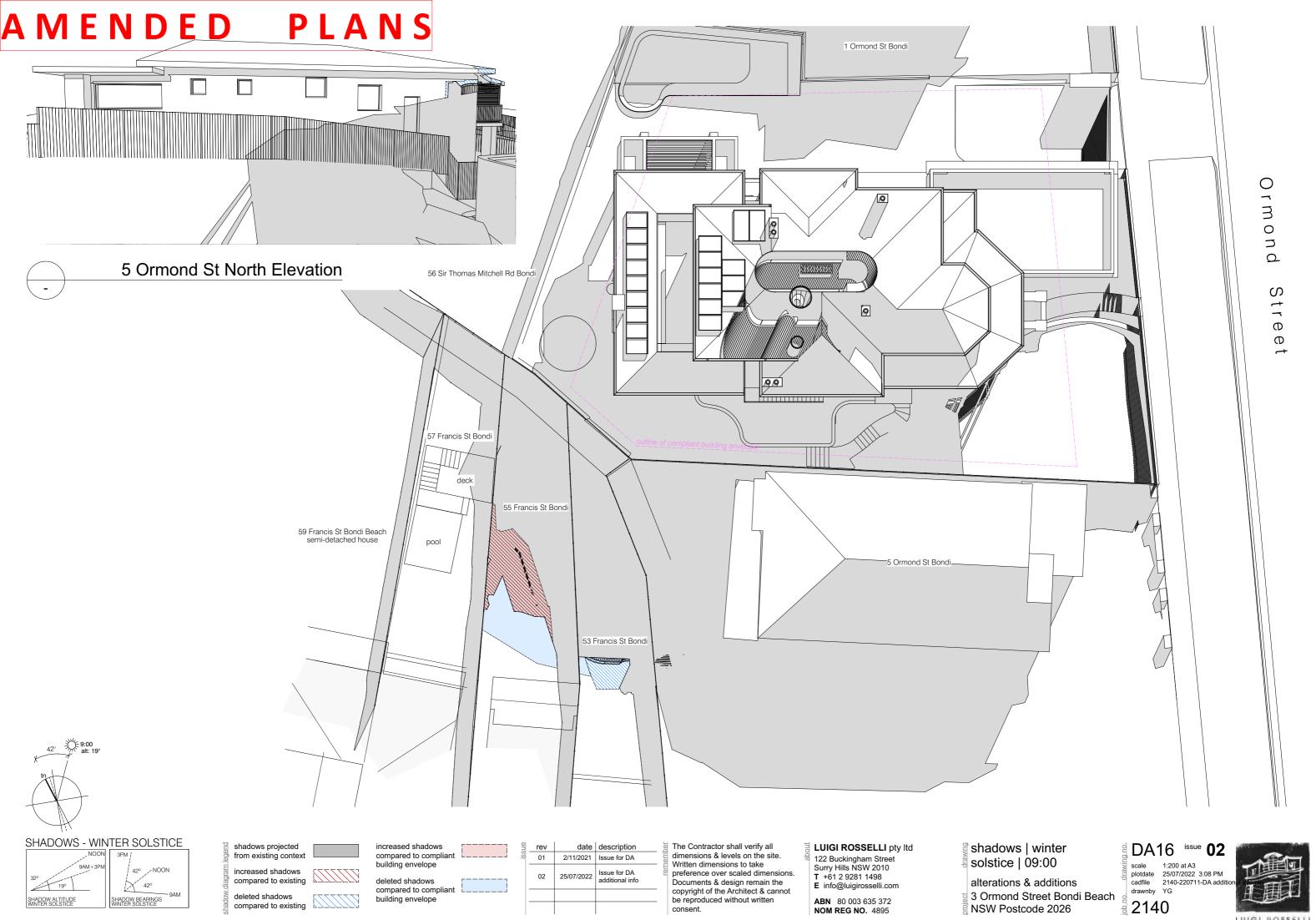
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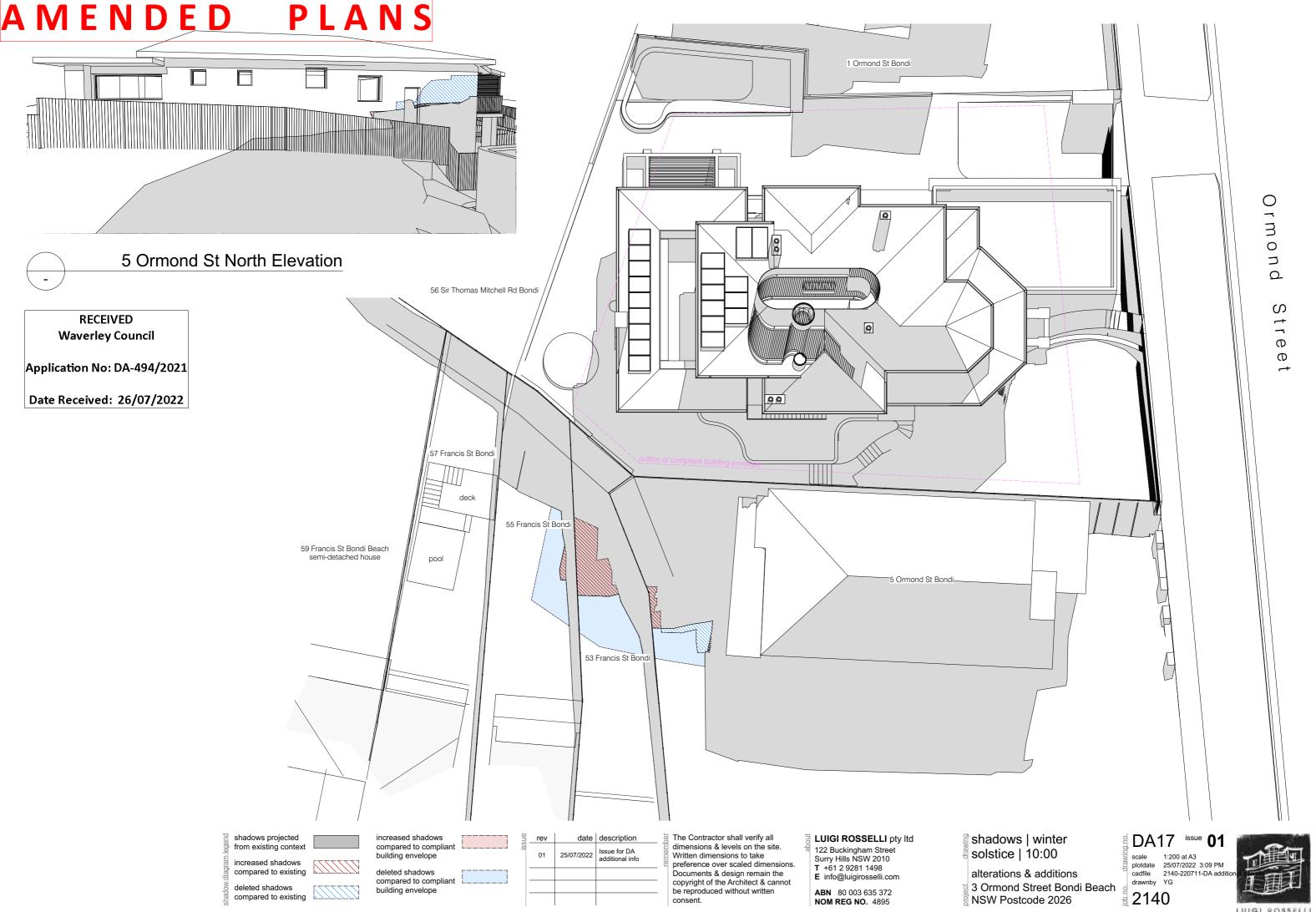
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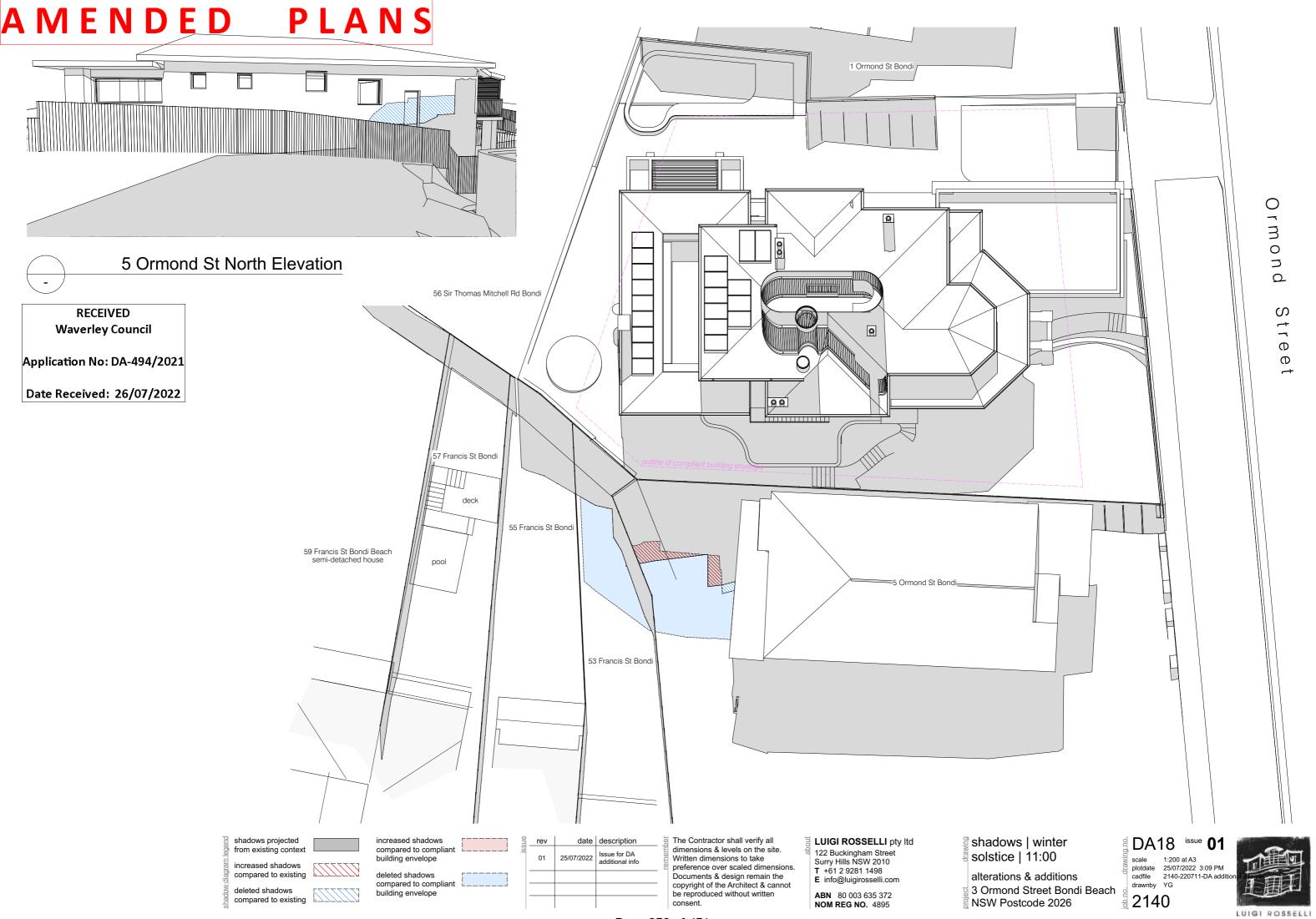
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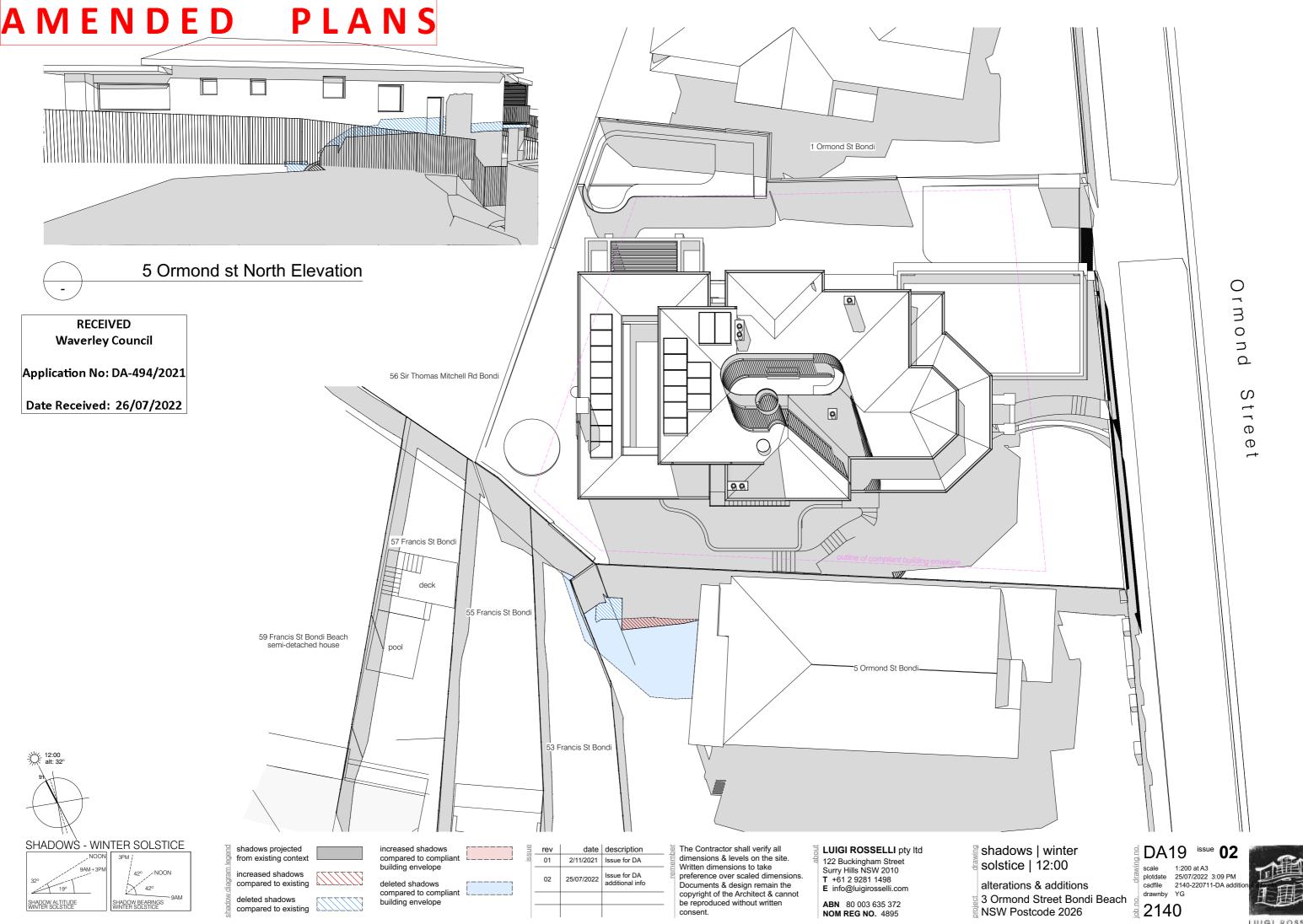
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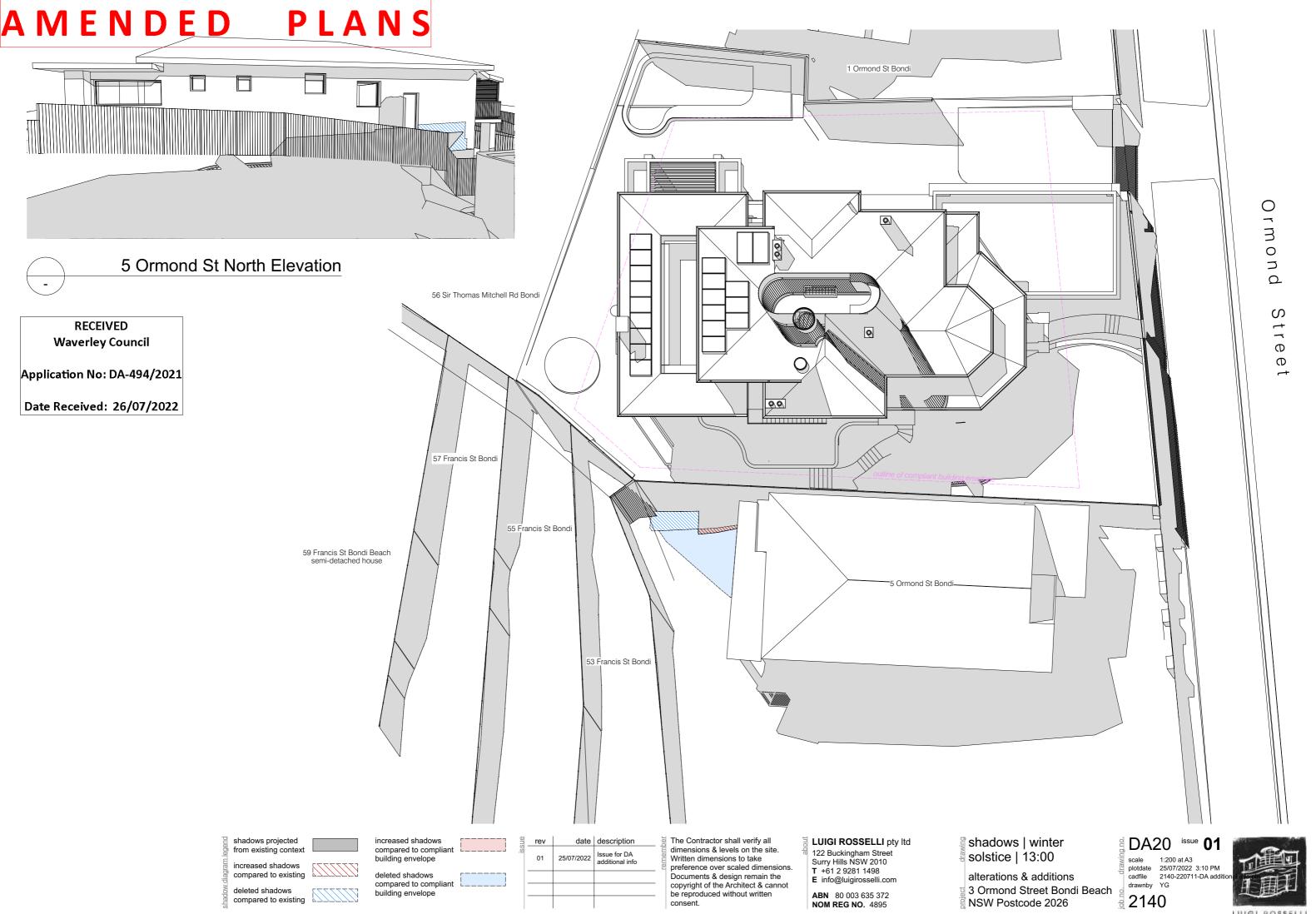


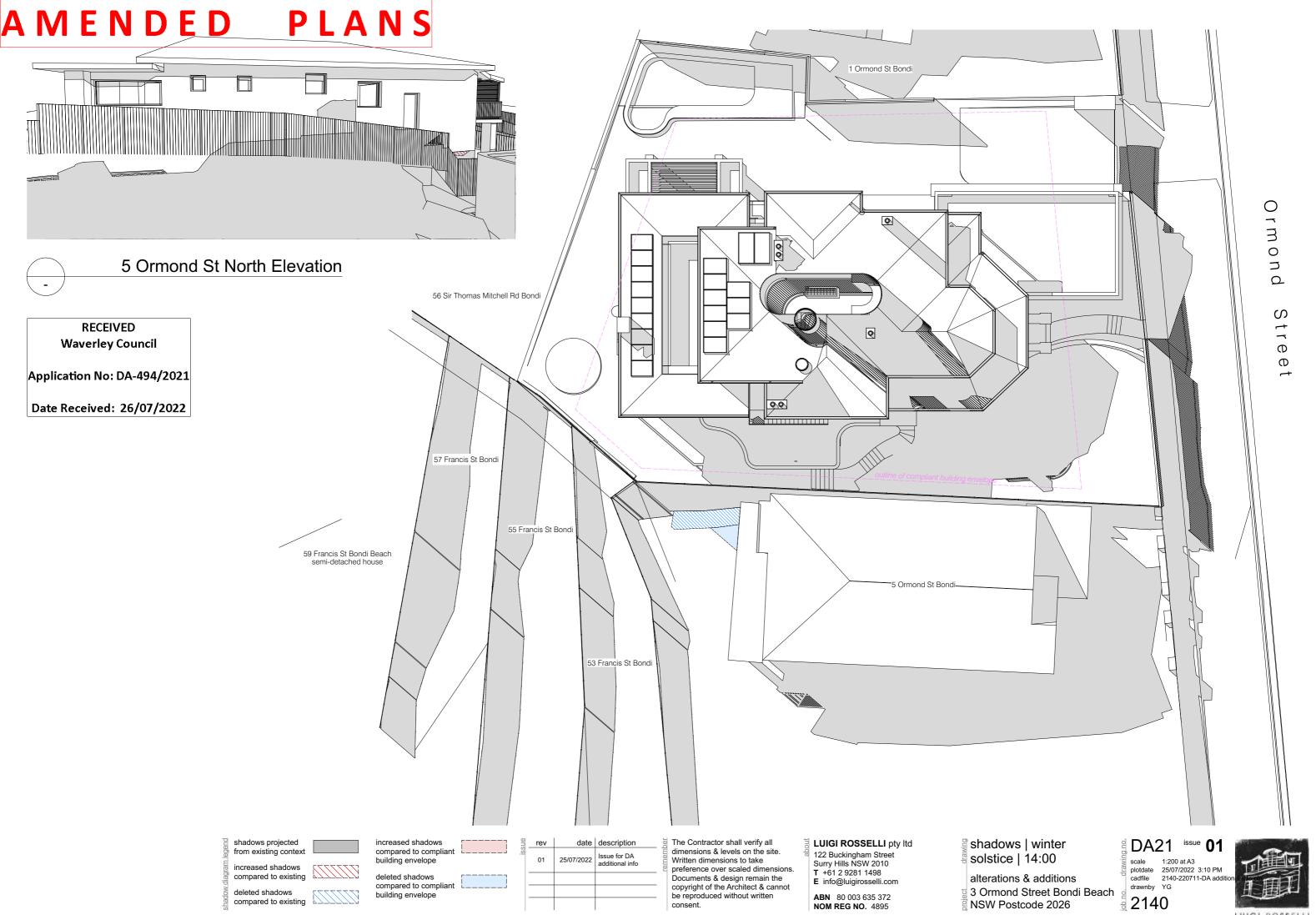


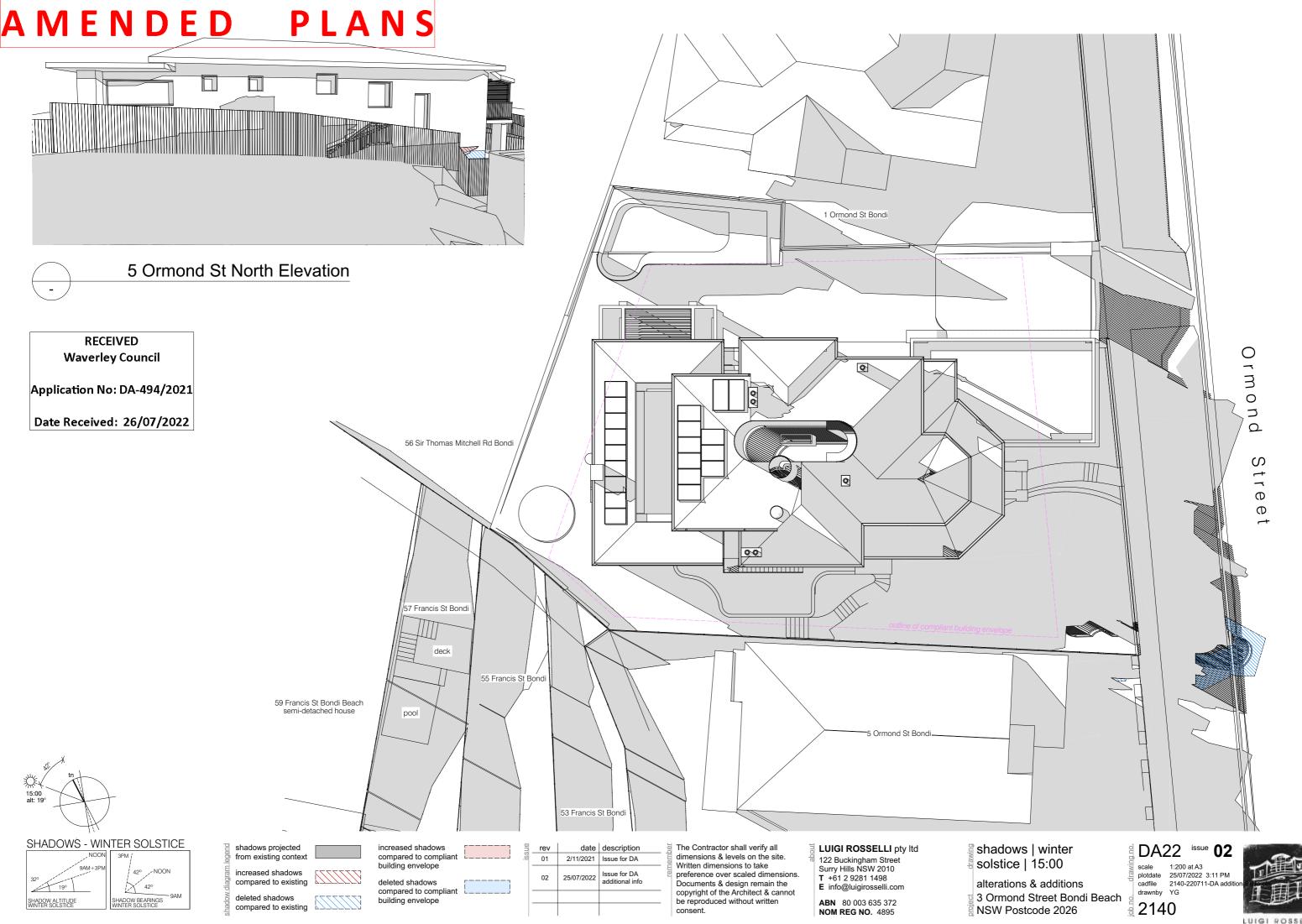
















Report to the Waverley Local Planning Panel

Application number	DA-157/2022		
Site address	362-384 Oxford Street BONDI JUNCTION		
Proposal	Demolition of the existing buildings and construction of a 14 storey shop top housing development including basement carparking, 39 apartments, swimming pool and child care centre. The proposal includes modifications to the approved shop top housing development at 362-374 Oxford Street Bondi Junction (DA-89/2016).		
Date of lodgement	26 April 2022		
Owner	Cassa-Nova Pty Ltd		
Applicant	Cassa Blanka Pty Ltd		
Submissions	Two submissions		
Cost of works	\$17,540,099		
Principal Issues	 Floor Space Ratio Height of Buildings ADG compliance Urban Design Non-residential floor space Energy Assessment View Loss Overshadowing 		
Recommendation That the application be REFUSED for the reasons contained in t			

SITE MAP



1. PREAMBLE

1.1. Executive Summary

The development application seeks consent for demolition of the existing buildings and construction of a 14 storey shop top housing development including basement carparking, 39 apartments, swimming pool and childcare centre. The proposal includes modifications to the approved shop top housing development at 362-374 Oxford Street Bondi Junction (DA-89/2016) at the site known as 362-384 Oxford Street BONDI JUNCTION.

The principal issues arising from the assessment of the application are as follows:

- Floor Space Ratio
- Height of Buildings
- ADG compliance
- Urban Design
- Non-residential floor space
- Energy Assessment
- View Loss
- Overshadowing

The assessment finds these issues unacceptable.

A total number of two submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

1.2. Site and Surrounding Locality

A site visit was carried out on 30 August 2022.

The site is identified as Lot 4 in DP 508369, Lot 5 & Lot 6 & Lot 7 in DP 39086, Lot 1 in DP 163647, Lot 10 in DP 1128739 and Lot 12 in DP 717346, known as 362-384 Oxford Street, BONDI JUNCTION.

The site is rectangular in shape with a southern frontage to Oxford Street measuring 50.6m, eastern frontage to Newland Street measuring 25.44m, northern frontage to Rowe Lane measuring 44.995m. There is a significant fall from south (Oxford Street) to north (Rowe Lane) b y13.06m.

The site is occupied by a two to four storey building at 376-384 Oxford Street, fronting Oxford Street, Newland Street and Rowe Lane. 362-370A Oxford Street is occupied by two storey buildings. Part of the site is listed as Heritage Item I216 "Imperial Building" at 356-374 Oxford Street under Waverley Local Environmental Plan 2012 (Waverley LEP 2012) Schedule 5.

The site is adjoined by a shop top housing development to the west. Opposite the site to the east is the Oxford Street pedestrian mall. The locality is characterised by a variety of commercial development and high residential development and is within the Bondi Junction commercial centre.

Figures 1 to 6 are photos of the site and its context.



Figure 1: Site viewed from the corner of Oxford Street and Newland Street looking north west



Figure 3: Site frontage to Oxford Street



Figure 7: Site frontage to Rowe Lane looking south east



Figure 2: Site viewed from the corner of Newland Street and Rowe Lane looking south west



Figure 4: Site frontage to Newland Street looking west



Figure 6: Site frontage to Rowe Lane looking south

1.3. Relevant Development History

DA-89/2016 relating to the sites at 362-374 Oxford Street BONDI JUNCTION (the western portion of the subject site), was approved by the Sydney Central Planning Panel on 24 August 2017. DA-89/2016 granted consent for the demolition of buildings, construction of a 14 storey mixed use building, including six levels of basement car parking, 14 serviced apartments, 70 residential apartments, six ground floor retail shops, first floor commercial tenancies, five levels of basement parking and a Planning Agreement. The approved building exceeds the height development standard by 14.29m (38%) and the floor space ratio (FSR) development standard by 669m² (14.9%). It is noted that the subject development application includes all properties that formed part of DA-89/2016, plus an additional two properties being 376-382 Oxford Street and 384 Oxford Street.



Figure 7: Photomontage from Oxford Street of approved building at 362-374 Oxford Street (approved under DA-89/2016)



Figure 8: Photomontage from Rowe Lane of approved building at 362-374 Oxford Street (approved under DA-89/2016)

1.4. Proposal

The development application seeks consent for minor changes to the approved, yet to be constructed, building at 362-374 Oxford Street. The development granted consent under DA-89/2016 on 24 August 2017 approved the following:

- Demolition of existing site structures;
- Construction of a 14 storey shop top housing building including residential units, services apartments, retail and commercial premises;
- Six levels of basement parking; and
- A Planning Agreement for part of the overall gross floor area (GFA) of the development that exceeds the FSR standard. The development contribution constitutes \$2,026,313 pursuant to Condition 13 of DA-89/2016.

The subject development application (DA-157/2022) seeks consent for:

- Demolition of all structures on site
- Amalgamation of Lot 4 in DP 508369 (362 Oxford Street), Lot 5 in DP 39086 (364 Oxford Street),
 Lot 6 in DP 39086 (366 Oxford Street), Lot 7 in DP 39086 (368 Oxford Street), Lot 1 in DP 163647 (370-374 Oxford Street), Lot 10 in DP 1128739 (376-382 Oxford Street) and Lot 12 in DP 717346 (384 Oxford Street);
- Five levels of basement parking connecting to the approved basement at 362-374 Oxford Street and associated redesign;
- Additional retail tenancy on the north east corner of 376-384 on Basement 1 and retail tenancy on the south-east corner on the ground floor;
- Two residential lobbies on Basement level 1 and the ground floor to the new building with pedestrian access from Oxford Street;
- Provision of a 14-storey building at 376-384 Oxford Street, with connecting corridors on all residential levels to the approved building at 362-374 Oxford Street. The new building comprises 39 apartments including 17 x 1 bedroom units, 6 x 2 bedroom units and 16 x 3 bedroom units;
- Communal rooftop open space landscaping;
- Provision of a 60-place cold-shell centre based childcare centre on level 2. Details regarding the fit out and operation of the centre have not been provided or assessed as part of this application; and
- Amendments to the approved lift core and servicing in 362-374 Oxford Street.



Figure 9: Photomontage of approved building (left) and proposed building (right)



Figure 10: Photomontage of proposed building on the corner of Oxford Street and Newland Street



Figure 11: Photomontage of proposed building, Newland Street frontage

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1st March 2022 and have been considered unacceptable in the assessment of this development application:

- SEPP (Building Sustainability Index BASIX) 2004
- SEPP (Resilience and Hazards) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP 65 (Design Quality of Residential Apartment Development) 2002

A detailed discussion is provided for relevant SEPP as follows:

SEPP (Building Sustainability Index - BASIX) 2004

A BASIX Certificate has been submitted with the development application. However, it references 376-384 Oxford Street and does not include the modifications sought for the building at 362-374 Oxford Street. Furthermore, the submitted BASIX Certificate does not reference the Lot and DP numbers or include the correct number of apartments proposed.

SEPP (Resilience and Hazards) 2021

Chapter 4 of SEPP (Resilience and Hazards) 2021 promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires Council to consider whether a site is contaminated. The application is accompanied by a Preliminary Environmental Site Assessment (PESA) (Stage 1) prepared by Eiaustralia dated 25 March 2022 document number PSIE22849.E01.Rev1, which reveals there is a low potential for contamination on the site based on the previous and current uses and makes recommendations relating to a Hazardous Materials Survey on existing site structures prior to demolition. Should the application be approved, standard conditions of consent could be included requiring the recommendations of the PESA to be implemented. However, for other reasons outlined in this report, the application is recommended for refusal.

SEPP (Transport and Infrastructure) 2021

The site is identified within the 'railway corridor' and therefore SEPP (Transport and Infrastructure) 2021 applies to the assessment of the application. The application was referred to Transport for NSW (Sydney Trains) for concurrence in accordance with Clause 2.98 and 2.99 of the SEPP. At the time of writing this report, concurrence from Sydney Trains had not been confirmed. Given the application is recommended for refusal, concurrence is not required. However, should the Panel resolve to approve the application, it will need to be deferred until such time as concurrence from Sydney Trains has been received.

It is noted that the proposal includes a childcare centre within the development. It is identified as 'cold-shell' meaning that should development consent be granted; separate development consent will be sought for the fit-out and operation of the centre. As such, assessment against SEPP (Transport and Infrastructure) 2021 Part 3.3 *Early education and care facilities – specific development controls* has not been undertaken at this stage.

SEPP 65 (Design Quality of Residential Apartment Design)

The application was referred to the Waverley Design Advisory Excellence Panel (DEAP) on 8 June 2022. The DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment are set out in **Table 1** of this report.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment	Planning Comment
1. Context and Neighbourhood	The proposal does achieve this principle in the following ways:	Noted.
	 The proposed retail frontage is well considered and provides a high-quality retail frontage that includes articulation and activation to the street The proposal activates the rear lane with pedestrian 	The proposed development does not comply with LEP, DCP and ADG and results in an
	entries and minimizes services on the predominant Oxford Street frontage. Consolidation of the two sites will benefit the reduction in services and vehicles to frontages	excessively bulky built form that does not align with the controls and has a poor relationship with the streetscape context and
	The proposal does not achieve this principle in the following ways:	
	The proposal does not respond to the location at the end of the Oxford Street mall public domain in any positive way. With further consideration of how additional GFA is configured, a stepping form that lowers the new wing may be an appropriate way to reduce scale to the public domain to the east.	neighbourhood.

Principle	Panel's Comment	Planning Comment
	The proposed awnings announce entries to the rear lane. This strategy should be adopted on the Oxford Street frontage also to help wayfinding to entries.	
	The relationship between the approved building and the new building would be better if the older part was amended to adopt / respond to the new design concept	
2. Built form and Scale	 The proposal does achieve this principle in the following ways: The retail frontage scale and articulation is consistent with the predominant Oxford street scale and rhythm and is supported Tower setbacks and articulation between the two tower forms in the new proposal are supported The proposal does not achieve this principle in the following ways: The proposal does not demonstrate how it will address the public domain of Oxford Street mall and massing to east satisfactorily 	Noted. Comments from Council's Urban Designer advise that the proposed arches do not respond to the heritage façade to the west of the site. In addition, the openings are too large which is not aligned with the proportions of solids and voices which forms part of the streetscape.
3. Density	 The proposal does achieve this principle in the following ways: The proposal is in an amenity rich location and provides resident amenity in the form of pools, gyms and retail / commercial uses, and transport options. The proposal does not achieve this principle in the following ways: The panel notes the proposal exceeds the GFA controls for the site and requires the GFA diagrams to be confirmed as it does not believe enclosed portions of the corridors should be excluded from GFA. Any exceedance of GFA should not be accepted unless there is clear public benefit and negligible impacts resulting from the additional building mass. 	Noted. The exceedance of the FSR development standard is discussed in other areas of this report.
4. Sustainability	 The proposal does not achieve this principle in the following ways: The proposal should ensure inclusion of strategies for water reuse, ceiling fans in residences, P/V energy, EV vehicles charging. 	Noted.

Principle	Panel's Comment	Planning Comment
5. Landscape	 The proposal does/does not achieve this principle in the following ways: Section 1501 shows childcare outdoor space on top of a planter. This should be confirmed, together with clear indication of how suitable environs for childcare can be ensured. Planters shown in section 1510 to apartment levels look inadequate. Viability should be confirmed The communal roof terraces should have a covered BBQ cooking facility and a male/female ambulant toilet facility. 	Noted.
6. Amenity	 The proposal does not achieve this principle in the following ways: An accessible toilet should be provided at rooftop for resident amenity No provision for Serviced Apartment concierge / lobby at entry has been shown 	Noted.
7. Safety	No comments included from the Panel.	
8. Housing Diversity and Social Interaction	 The proposal does achieve this principle in the following ways: The proposal includes a range of housing types and sizes including serviced apartments and a range of apartment types. 	Noted.
9. Aesthetics	 The proposal does achieve this principle in the following ways: The proposed retail frontage is well considered and provides a high quality retail frontage that includes articulation, appropriate materials and activation to the street. The proposal does not achieve this principle in the following ways: The proposal references a conceptual approach based on 'connection to country' and in particular the banksia theme. The minor bumps shown on the balconies in limited locations of the tower do not support this concept The proposal would be better if both the approved and the proposal towers responded to the design concept in a more cohesive way. The existing approval does not appear to be of the same quality as the new proposal 	Council's Urban Design comments note that the podium and arches do not respond to the character of the heritage buildings in the streetscape.

Apartment Design Guide

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment		
3F Visual privacy				
 Min separation distances from buildings to side and rear boundaries: Up to 12m (4 storey) – 6m habitable & 3m non-habitable Increased separation of 3m where adjoins a lower density zone 	No	The proposal does not comply. Setbacks are less than 3m across most of building. Furthermore, the ADG states separation distances between buildings on the same site should combine required building separations, the proposal does not comply with this requirement.		
4A Solar and daylight access				
 Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm midwinter A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	No No	Applicant states 70% of units receive at least 2 hours mid-winter. However, the proposal reduces compliance of the already approved building from 70% to 60%. The proposed building states 87% of apartments receive solar access. More analysis is required to confirm. 17% of apartments receive no solar access, which exceeds the maximum control of 15% and does not comply.		
4B Natural ventilation	4B Natural ventilation			
All habitable rooms are naturally ventilated	No	The applicant states they comply. However, the proposal reduces the natural cross ventilation of the approved building from 60% to 59% of		

Design Criteria	Compliance	Comment
 Number of units with natural cross ventilation is maximised: 		apartments. More analysis is required to compliance with the ADG standard.
 At least 60% of units naturally ventilated 		
4C Ceiling heights		
Habitable rooms – 2.7m	Yes	The required ceiling heights are provided.
• Non-habitable rooms – 2.4m		
2 storey units – 2.7m main level (living) & 2.4m upper floor where its area does not exceed 50% of the unit area		
Attics – 1.8m at edge of room with a 30 ⁰ min ceiling slope		
4D Apartment size and layout		
The following minimum internal areas apply: • Studio = 35 m² • 1 Bed = 50 m² • 2 Bed = 70 m² • 3 Bed = 90 m² • Add 5m² for each additional bathroom (above 1) • Add 12m² for each additional bedroom Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Yes	All units have internal areas in excess of the minimum ADG requirements. In this regard, the proposed unit sizes and layout are acceptable. However, for other reasons outlined in this report the proposal is not supported.
4E Private open space and balco		1000/ (1)
All apartments provide primary balcony as follows: • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth	Yes	100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.
 Ground level, min 15m² & 3m depth 		The balconies and courtyards are accessed from the main living area and face south, east and north.
		The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The

Design Criteria	Compliance	Comment
		finishes of the balconies are consistent with the contemporary palette of materials in the building overall. Screens or solid side walls are provided to enhance privacy.
4F Common circulation and space	es	
Max of 8 units accessed off a circulation core on a single level	Yes	The proposal complies.
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided: • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³	Yes	The applicant advises that they meet the requirements and objectives of the ADG. Should the application be supported, a condition could be imposed to ensure compliance in this respect.

2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

2.1.3. Waverley LEP 2012

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	The proposal is inconsistent with the Aims of the Plan.
Part 2 Permitted or prohibited de	velopment	
Land Use Table		The proposal is defined as a mixed use
B4 Mixed Use Zone	Yes	building, which is permitted with consent in the B4 zone.
Part 4 Principal development star	ndards	
4.3 Height of buildings		The applicant states the proposed building
• 38m	No	measures 48.88m, which is a 10.88m or 28.6% variation. The assessing officer disagrees with this.
		The existing ground level is not shown on the plans. The survey indicates an existing ground level of approximately RL72.50 across much of

Provision	Compliance	Comment
		the site, with a proposed maximum building height of RL125.00. This results in a proposed building height of 52.50m, which is a 14.5m or 38.15% variation.
4.4 Floor space ratio • 5:1		The applicant has provided calculations for the whole site, as well as calculations for both the approved building and the proposed building individually.
		The applicant states the proposal results in a FSR of 5.746:1 for the amalgamated site, which is a variation of 1,160sqm or 14.9%.
		The existing approved building at 362-374 Oxford Street has a FSR of 5.74:1, which is a variation of 669sqm or 14.9%. The proposal seeks to reduce the non-compliance of the approved building to 626sqm or 13.9%, however, the proposal seeks a non-compliance for the new building of 543sqm of 16.3%.
	No	It is noted that the proposal seeks to exceed the maximum residential car parking rates as specified in WDCP 2012 Part B8. In accordance with the GFA definition, car parking beyond the requirements of the consent authority is to be included in the calculation of GFA. This will further exacerbate the FSR non-compliance.
		The comments from the DEAP state there are areas of the buildings which the applicant has excluded from the GFA calculations, such as enclosed portions of corridors, which should be included. As outlined below, the Clause 4.6 request (and therefore the application as a whole) is not recommended to be supported. However, should the Panel resolve to support the application, clarification surrounding the GFA calculation and inclusion of the additional car parking spaces should be provided by the applicant.
4.5 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the Height and Floor Space Ratio development standards. A detailed discussion of the variation to the development standards is presented below this table.

Provision	Compliance	Comment			
Part 5 Miscellaneous provisions	Part 5 Miscellaneous provisions				
5.10 Heritage conservation	No	Part of the site at 362-374 Oxford Street is listed has a heritage item "Imperial Building". The proposed podium façade and arches do not respond to this heritage façade. The openings are too large and are not aligned with the proportions of solids and voids which forms part of the character of the streetscape.			
Part 6 Additional local provisions					
6.2 Earthworks	Yes	The applicant proposes excavation for the basement. There is no objection to the excavation for basement levels; however, the application is recommended for refusal for other reasons outlined in this report.			
6.5 Active street frontages in the Bondi Junction Centre	No	The proposal does not adequately address its corner location facing the Oxford Street mall public domain, as noted by the DEAP above.			
6.7 Solar access to public spaces in Bondi Junction	Yes	Shadow diagrams submitted by the applicant indicate that the proposal will not cause additional overshadow impact at 12 noon on 21 June to Oxford Street Mall.			
6.9 Design excellence	No	The proposal is not considered to demonstrate design excellence in accordance with Cl 6.9 given issues with bulk, massing, modulation and relationship with adjoining development in terms of separation, setbacks and amenity.			
6.12 Development on certain land in Bondi Junction	No	This clause applies as the proposal relates to a new building on land shown in the Key Sites Map. See discussion below this table.			

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

Development on certain land in Bondi Junction

The objective of Waverley LEP 2012 Clause 6.12 is to maintain the amount of non-residential floor space on certain land in Bondi Junction in the B4 Mixed Use zone. This Clause applies to the proposed development because it involves erection of a new building on land shown on the Key Sites Map.

Clause 6.12(3) states that development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the non-residential gross floor area of the building will be the same as or greater than the total non-residential gross floor area of all buildings on the site

on 1 January 2021. It is noted that in this clause, non-residential gross floor area of a building means the gross floor area of a building proposed to be used for purposes other than the following:

- (a) Residential accommodation,
- (b) Tourist and visitor accommodation,
- (c) Self-storage units,
- (d) Car parks

The applicant has considered only the proposed building at 376-384 Oxford Street in isolation, given that the building at 362-374 Oxford Street was approved under DA-89/2016 prior to Clause 6.12 being in effect.

The applicant advises that on 1 January 2021, the non-residential GFA in all buildings on the site at 376-384 Oxford Street was 1,039.5sqm. The proposal only provides 552sqm of non-residential floor space. The proposal reduces the amount of non-residential floor space by 487.5sqm.

The applicant argues the deficiency is acceptable as the proposed retail tenancy is double height and designed to house a showroom, the approved non-residential floor space at 362-374 Oxford Street (under DA-89/2016) is only 669sqm, and there is a diverse mix of non-residential uses approved and proposed at the site including retail tenancies, services apartments, and a childcare centre. This justification is not supported.

In accordance with Clause 6.12(3), development consent must not be granted because the consent authority cannot be satisfied that the non-residential gross floor area will be the same as or greater than the total non-residential GFA of all buildings on site on 1 January 2021.

Clause 4.6 Exceptions to Development Standards - Height

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height development standard of 38m. The proposed development has a height of 52.5m, exceeding the standard by 14.5m equating to a 38.15% variation. It is noted that the applicant does not indicate the existing ground level on the plans and notes the proposal measures 48.88m, exceeding the standard by 10.88m equating to a 28.6% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the 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 objectives of the development standard are achieved notwithstanding the non-compliance with the standard.
 - (ii) The impact of the development on overshadowing, view loss, wind is acceptable
 - (iii) The height of buildings development standard has been virtually abandoned by Council's own actions in granting development consents departing from the standard, hence the standard is unreasonable and unnecessary.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The non-compliance development does not result in any meaningful additional adverse environmental impact and instead provides a built form that achieves the desired future character for the area and is consistent with the objectives of Clause 4.3
 - (ii) The development, notwithstanding the non-compliance with the height standard, better achieves important statutory goals. The superior outcome in terms of statutory planning goals, combined with the absence of meaningful additional adverse environmental impacts are environmental planning grounds that justify the contraventions.
 - (iii) The non-compliance with the height of buildings development standard results in a better urban design and planning outcome for the site and Bondi Junction Town Centre compared to a compliant scheme.
 - (iv) The approved and proposed height of the buildings means a range of compatible land uses can be accommodated in the buildings including residential apartments, serviced apartments (approved in DA-89/2016), retail tenancies and centre based childcare centre.
 - (v) The development in its proposed height positively contributes to the town centre by recognising its role as a key strategic centre serving the east of Sydney. This is provided through marking the entry to the Oxford Street pedestrian mall, the activation of the Oxford and Newland Street frontages with 0 metre setback and retail uses.
 - (vi) The non-compliance with the height standard does not contribute to adverse environmental impacts including visual impact, overshadowing, views and wind. The proposal retains the heritage façade (approved in DA-89/2016), retains the existing street trees and delivers opportunities for passive surveillance of the pedestrian mall to the east of the site.
 - (vii) The contravention does not detract from the development's achievement of the objective of the height development standard and the objectives of the zone.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

(a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justifications (a) and (d) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This justification is not adequate as the objectives of the height development standard are not achieved, specifically Objective (a) which is to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces, and if appropriate, the sharing of views. The proposal does not preserve the environmental amenity of neighbouring properties.

With regards to justification (d), the applicant is seeking to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. The applicant provides some examples, approved in 2018 and 2019, of instances where Council has approved development which varies the height development standard by 14% to 32%. This application is seeking a 38.15% variation to the maximum height development standard. The development standard has not been virtually abandoned or destroyed by the Council's own actions as there are examples where non-compliance with the development standards have not been approved, such as DA-482/2017/A at 57-75 Grafton Street BONDI JUNCTION.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the height development standard are as follows:

- (1) The objectives of this clause are as follows—
 - (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,

The proposal does not preserve the amenity of neighbouring properties or provide for the sharing of views. The shadow diagrams submitted indicate that the proposal has overshadowing impacts on surrounding properties. Furthermore, the view analysis provided by neighbouring properties indicates that there will be an impact on views.

The applicant describes the overshadowing and view loss impacts as "not adverse" however, Objective (a) requires that environmental amenity to be *preserved*. Given the environmental amenity is not preserved, the objectives are not met, and the height non-compliance cannot be supported.

Overshadowing impacts

The proposal has a significant impact in terms of overshadowing on neighbouring properties. The shadow diagrams submitted by the applicant indicate that the additional shadow caused by the parts of the building over the 38m height development standard cause a substantial additional impact as opposed to a building of compliant height. At 9am to 12 noon, the proposed development overshadows the properties opposite the site on Oxford Street and extends beyond to the properties on the southern side of Spring Street. At 1pm to 3pm, the proposed development overshadows Oxford Mall and the properties fronting Oxford Mall. Given the non-compliant setbacks of the building, the overshadowing impacts on Oxford Mall after 1pm on 21 June are exacerbated. The applicant's submitted shadow diagrams indicate that the proposal, in particular the portions of the building which exceed height development standard, do cause an overshadowing impact and therefore do not preserve the environmental amenity.

View Loss

The applicant states that the view loss impacts are "not adverse". However, view analysis provided as part of the objection from properties at 1 Newland Street and 113-137, 141, 143 Oxford Street indicates that the non-compliant parts of the proposed building, i.e. those parts of the building which extend beyond the Waverley LEP 2012 and Waverley Development Control Plan 2012 (Waverley DCP 2012 compliant building envelope, do in fact result in a devasting impact on views from the above listed properties. A view loss analysis is provided below which clearly demonstrates the proposal, particularly the portions of the building

which exceed the height development standard, do cause view loss impacts and therefore the environmental amenity of neighbouring properties is not preserved.



Figure 12: Excerpt from the submission on behalf of 1 Newland Street and 113-137, 141, 143 Oxford Street which indicates the outline of a WLEP 2012 and WDCP 2012 compliant building envelope, which affords the property at 1 Newland Street water and district views. (Source: Submission from Civic Assessments Urban Planners and Urbaine Design Group)



Figure 13: Excerpt from the submission on behalf of 1 Newland Street and 113-137, 141, 143 Oxford Street which indicates the outline of the proposed development, highlighting in green the portion of the building which exceeds the 38m height development standard. Highlighted in purple and pink is the portion of the buildings which do not comply with the WDCP 2012 tower setback control of 6m. The portion of the building which exceeds the height development standard entirely removes the water and district view from 1 Newland Street. (Source: Submission from Civic Assessments Urban Planners and Urbaine Design Group)

(b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,

The applicant seeks to justify the height non-compliance as the proposed building is providing "a range of compatible land uses". However, the proposal results in only 552sqm of non-residential floor space in the proposed building at 376-384 Oxford Street, which is 487.5sqm less than the non-residential floor space at the site on 1 January 2021. Given the proposal reduces the retail and commercial floor space, it is impossible that the proposal can be consistent with Objective (b) of the height development standard which seeks to increase and accommodate retail and commercial floor space growth. This is discussed in further detail above (Waverley LEP 2012 Clause 6.12 *Development on certain land in Bondi Junction*).

- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,Not applicable. The site is located in the B4 Mixed Use zone.
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.

The objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.
 - The proposal provides retail uses and a childcare centre on site, along with serviced apartments and residential accommodation. While the mix of land uses is compatible, it is an overall reduction in the amount of non-residential gross floor area on site.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - The proposal does not provide business or office development within the site. The proposal is not considered to adequately meet this objective as it does not integrate business and office development in this location. As discussed in other areas of this report, the proposal will reduce the amount of non-residential floor space on site, which is contrary to Waverley LEP 2012 Clause 6.12.
- To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.
 - Land to the east of the site, on the opposite side of Newland Street, which fronts Oxford Mall is in the B3 Commercial Core. The proposal seeks to retain the heritage streetscape façade at 362-374 Oxford Street (as approved under DA-89/2016). However, as discussed in other areas of this report, the proposal does not encourage commercial uses on site given it will result in a reduction in non-residential floor space. The proposed development is inconsistent with this Objective of the B4 Mixed Use zone.

Conclusion

For the reasons provided above, the requested variation to the height is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of height development standard and the B4 Mixed Use zone.

Clause 4.6 Exceptions to Development Standards - Floor Space Ratio

The application seeks to vary the floor space ratio (FSR) development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum floor space ratio development standard of 5:1. The applicant provides a breakdown of gross floor area calculations for the site, which have been included below.

ELEMENT	APPROVED DA-89/2016	PROPOSED		
	362- 374 OXFORD STREET	362- 374 OXFORD STREET	376- 384 OXFORD STREET	TOTAL
Retail GFA	293m²	261m² (32m² reduction)	428m²	689m²
Commercial GFA	428m²	Unchanged from DA-89/2016	124m²	552m²
Residential GFA	4,292m²	Unchanged from DA-89/2016	3,252m²	7,544m²
Communal GFA	154m²	144m² (10m² reduction)	0m²	144m²
Total GFA	5,168m ² Note : approved 669m ² of 14.9% variation of the standard		Note: proposed	1,160m ² or
Total FSR	5:74:1	5.69:1	5.82:1	5.746:1

Figure 14: Excerpt from the Clause 4.6 written request to vary the Floor Space Ratio development standard provided by the applicant, indicating the gross floor area calculations for the site.

Essentially, the applicant is slightly reducing (by 42sqm) the approved GFA at 362-374 Oxford Street and proposing a 534sqm variation at 376-384 Oxford Street. Across the total site, the proposed development has a floor space ratio of 5.746:1 exceeding the standard by 1,160m² equating to a 14.9% variation.

It is noted that the DEAP and assessing officer raise concern about the accuracy of the GFA calculations. There are areas of the buildings which the applicant has excluded from their calculations, such as enclosed portions of corridors, which should in fact be included. Should the application be approved, further clarification surrounding the calculations should be provided and an amended Clause 4.6 submitted to ensure the applicant has stipulated the correct floor space ratio.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

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 objectives of the development standard are achieved notwithstanding non-compliance with the standard.
 - (ii) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The scale of the proposal is commensurate with that approved in DA-89/2016 which forms part of the site in this subject DA, being a proposed overall FSR of 5.746:1 verses the approved 5.74:1, The amalgamated site is capable of accommodating the proposed density. Overall, the non-compliant development is commensurate with the emerging and desired future character of the Bondi Junction Town Centre in that it is consistent with approvals granted by Council in proximity of the site.
 - (ii) The approved GFA for 362-374 Oxford Street is in fact marginally decreased in this application by 42sqm and redistributed in the proposed new building, meaning on balance the FSR is comparable to that originally approved in DA-89/2016. The GFA accommodates a range of compatible land uses including residential apartments, serviced apartments (approved in DA-89/2016), retail tenancies and centre based childcare.
 - (iii) The development in its proposed density positively contributes to the town centre by recognising its role as a key strategic centre serving the east of Sydney. This is provided through marking the entry to the Oxford Street pedestrian mall, the activation of the Oxford and Newland Street frontages with 0 metre setback and retail uses (approved and proposed). The site is highly accessible by public transport being 210m from the Bondi Junction Interchange and thus encourages active modes of transport.
 - (iv) The non-compliance with the FSR standard does not contribute to adverse environmental impacts including visual impact, overshadowing, views and wind. The proposal retains the heritage façade (approved in DA-89/2016), retains the existing street trees and delivers opportunities for passible surveillance of the pedestrian mall to the east of the site.
 - (v) The applicant is open to negotiation with Council to provide public benefit through a Planning Agreement Offer to deliver public infrastructure which considers the proposed additional floor area beyond the permissible development standard. This is consistent with DA-89/2016.
 - (vi) The contravention does not detract from the development's achievement of the objective of the FSR development standard and the objectives of the zone.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being 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; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

The applicant specifically relies upon justifications (a) and (d) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This justification is not adequate as the objectives of the floor space ratio development standard are not achieved, specifically Objective (d) which is to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality. The proposal does not preserve the environmental amenity of neighbouring properties, as discussed in Clause 4.6 Exceptions to Development Standards - Height above.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the floor space ratio development standard are as follows:

- (1) The objectives of this clause are as follows—
 - (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,

The development will have an abundance of residential floor space, however, will result in a significant reduction in non-residential floor space in the Bondi Junction Centre. As such, the development does not meet Objective (a) as it does not ensure sufficient non-residential floor space to meet foreseeable future needs of Bondi Junction Centre within the context of a B4 Mixed Use zone.

- (b) to provide an appropriate correlation between maximum building heights and density controls,
 - The proposal results in a significant non-compliance (14.5m or 38.15% variation) with the height development standard. There is not an appropriate correlation between the maximum building height and density controls, as the proposal seeks to exceed both. The development application is essentially seeking to alter the height and floor space ratio development standards through a development application.
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,

The applicant is relying heavily on the existing consent (DA-89/2016) at 362-374 Oxford Street as justification for the non-compliance with the development standards. While it is acknowledged that DA-89/2016 has been approved, it is not a development that is indicative of the desired future character of the locality. The proposal will further exacerbate the already approved non-compliant built form.

(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

As discussed in *Clause 4.6 Exceptions to Development Standards - Height* above, the proposal does not preserve the amenity of neighbouring properties or provide for the sharing of views. The shadow diagrams submitted indicate that the proposal has overshadowing impacts on surrounding properties. Furthermore, the view analysis provided by neighbouring properties indicates that there will be an impact on views.

The applicant describes the overshadowing and view loss impacts as "not adverse" however, Objective (d) requires that environmental amenity to be *preserved*. Given the environmental amenity is not preserved, the objectives are not met, and the variation to the floor space ratio development standard cannot be supported.

The objectives of the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses.
 - The proposal provides retail uses and a childcare centre on site, along with serviced apartments and residential accommodation. While the mix of land uses is compatible, it is an overall reduction in the amount of non-residential gross floor area on site.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

The proposal is not considered to adequately meet this objective as it does not integrate business and office development in this location. As discussed in other areas of this report, the proposal will reduce the amount of non-residential floor space on site, which is contrary to Waverley LEP 2012 Clause 6.12.

 To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.

Land to the east of the site, on the opposite side of Newland Street, which fronts Oxford Mall is in the B3 Commercial Core. The proposal seeks to retain the heritage streetscape façade at 362-374 Oxford Street (as approved under DA-89/2016). However, as discussed in other areas of this report, the proposal does not encourage commercial uses on site given it will result in a reduction in non-residential floor space. The proposed development is inconsistent with this Objective of the B4 Mixed Use zone.

While no formal offer has been made, the applicant has advised that they are willing to enter into a planning agreement to provide a monetary contribution for public works identified in Waverley Planning Agreements Policy 2014 (Amendment 4). The Policy states:

Council will not enter a Planning Agreement unless it is satisfied that the proposed development is acceptable on planning grounds having regard to the general heads of consideration set out in Section 4.15 of the Act. Development that is unacceptable on planning grounds will not be given consent because of benefits offered by a developer. It is noted that any exceptions to relevant development standards will be assessed in accordance with the provisions set out in cl.4.6 of WLEP 2012.

Notwithstanding the applicant's potential offer to enter into a planning agreement with Council, the proposal does not satisfy the required provisions for the variation of a development standard against Clause 4.6 of WLEP 2012 and therefore Council cannot be satisfied that the proposed development is acceptable on planning grounds.

Conclusion

For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of floor space ratio development standard and the B4 Mixed Use zone.

2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	No	The application was referred to Council's Waste and Recycling team who recommended amendments to the submitted Site Waste and Recycling Management Plan.
Ecologically Sustainable	No	Unsatisfactory. The submitted BASIX certificate does not have the correct Lot and DP number or the correct number of apartments. Furthermore, the NatHERS certificate or stamp is not provided on the plans. Council's Sustainable Development team have
Development		advised that the submitted Energy Assessment Report for the commercial component of the building is not satisfactory with regarding to details surrounding hot water systems, the HVAC system or internal lighting.
3. Landscaping and Biodiversity	Yes	Satisfactory.
6. Stormwater		At the time of writing this report, comments from Council's Stormwater Engineers had not been provided. Should the application be approved, conditions may be imposed.
7. Accessibility and Adaptability	Yes	Satisfactory.
8. Transport Maximum parking rate:	No	 The proposal provides for: 94 residential car parking spaces, including 16 accessible spaces 17 residential visitor car parking spaces, including 1 accessible space 2 serviced apartment parking spaces 11 retail car parking spaces, including 1 accessible space 10 childcare parking spaces, including 1 accessible space 1 carshare space 132 bicycle parking spaces 33 motorcycle parking spaces 1 loading bays The proposed number of car parking spaces for the residential component does not comply. In accordance with the definition of GFA in WLEP 2012, car parking beyond the requirements is to

Development Control	Compliance	Comment
		be included in the GFA calculation. This further exacerbates the FSR non-compliance.
		The number of accessible parking spaces provided does not satisfy this section of WDCP. The provision for electric vehicle charging does not comply. The provision for motorcycle parking has a shortfall of 11 spaces.
		The access driveway is 5.5m at 5% from the property boundary. This is less than the 6m required by AS2890.1.
9. Heritage	Yes	The proposal does not seek to alter the approved retention of the heritage façade at 362-374 Oxford Street. However, as noted above, the façade proportions of the proposed building at 376-384 Oxford Street has an impact on the heritage items which has not been resolved.
10. Safety	Yes	Satisfactory
12. Design Excellence	No	The proposal is not considered to demonstrate design excellence. The form of the development does not improve the quality and amenity of the public domain. The development has a poor presentation with the corner of Oxford Street and Newland Street and a poor relationship with Oxford Mall. The development is inconsistent with Clause 12.1(e) in that the relationship of the development to other development on the same site or neighbouring site is not considered satisfactory in terms of separation, setbacks, amenity and urban form.
14. Excavation	Yes	Satisfactory.
16. Public Domain No		The proposal has a poor relationship with Oxford Mall and does not provide a high level of visual connectivity and physical accessibility.

Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.3 Setbacks		
3.3.1 - Street setbacksConsistent street setback	No	The ground and first floor provide a two storey street wall, which is consistent with controls in other section of WDCP and the predominant streetscape pattern. However, the tower form above the podium is required to have a 6m setback, which is not

Development Control	Compliance	Comment
		provided. The applicant is relying on the approved building at 362-374 Oxford Street in providing only a 3m setback above the 2/3 storey street wall. However, the predominant setback pattern on Oxford Street is a 2/3 storey built form to the street, with a 6m front setback for the levels above, as provided at 350 Oxford Street, 332-342 Oxford Street 310-330 Oxford Street, 306 Oxford Street, and 292-302 Oxford Street. The proposal is inconsistent with the predominant front setback. On Newland Street, the proposal provides nil setback to the entire building. This is inconsistent with the predominant building line setback on Newland Street.
3.5 Building design and streets	scape	
 Respond to streetscape Sympathetic external finishes Corner sites to address both streets as primary frontages Removal of original architectural features not supported. 	No	The proposal is not considered to respond to the existing streetscape character of the area. The tower has insufficient setbacks. The proposal does not adequately address the street corner nor provide an appropriate presentation to Oxford Mall.
3.8 Pedestrian access and entre	У	
 Entry at street level and respond to pattern within the street Accessible entry Separate to vehicular entry Legible, safe, well-lit 	Yes	The pedestrian entrances to the building are consistent with the controls.
3.9 Landscaping		
 Comply with part B3- Landscaping and Biodiversity 	Yes	Landscaping on site is satisfactory given the context
3.10 Communal open space		
 Min 25% site area communal Minimum dimensions: 6m x 6m Minimum of 30% of communal area must 	Yes	The proposal includes 95.7sqm of communal open space on the rooftop of 376-384 Oxford Street. The approved building at 362-374 Oxford Street provides 530.6sqm, and this proposal seeks to provide an additional 24.7sqm. In total, the communal open space on the roof is 651sqm or 41.8% of the site area.

Development Control	Compliance	Comment
receive three hours of sunlight • Accessible		Given its location on the rooftop, the communal area receives adequate solar access. It is accessible via a lift, however the DEAP raised concern about the lack of accessible toilet facilities on the rooftop.
3.12 Vehicular access and park	ing	
 Car parking to be integrated into the design of the development Max 1 x 2 way vehicle access point Provided from secondary street or lane Pedestrian safety considered Basement parking should not contravene deep soil zone controls 	No	The proposed vehicle entry off Rowe Street is satisfactory. As discussed in WDCP 2012 Part B8, the proposal is non-compliant in terms of allocated car parking spaces. Furthermore, the access driveway is 5.5m at 5% from the property boundary. This is less than the 6m required by AS2890.1.
3.13 Solar access and overshad	lowing	
 New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid winter. Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June. 	No No	The proposal has a significant impact in terms of overshadowing on neighbouring properties. The applicant has not provided elevation shadow diagrams, however from the submitted plan shadow diagrams it is evident that on the 21 June: At 9am to 12 noon, the proposed development overshadows the properties opposite the site on Oxford Street and extends beyond to the properties on the southern side of Spring Street. At 1pm to 3pm, the proposed development overshadows Oxford Mall and the properties fronting Oxford Mall. Given the non-compliant setbacks of the building, the overshadowing impacts on Oxford Mall after 1pm on 21 June are exacerbated. The diagrams submitted indicate that the additional shadow caused by the parts of the building over the 38m height development standard are substantial and do cause an impact.
3.14 Views and view sharing		
 Minimise view loss through design Landscaping on sites adjacent to a Council park or reserve should be 	No	The proposal has view loss impacts on adjoining dwellings. This is discussed below this table.

Development Control	Compliance	Comment
sympathetic to soften the public/private interface.		
Views from public spaces to be maintained.		
3.21 Building services		
Services are to be integrated into the design of buildings (garbage rooms, mailboxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures	Yes	The building services are integrated into the design of the building.

Table 6: Waverley DCP 2012 – Part E1 Bondi Junction Compliance Table

Development Control	Compliance	Comment
1.2 Urban form		
 2/3 storey shop front facade on Oxford St and Bronte Rd 6 storey wall on other streets Tower to be setback from street edge Slender tower 	No	A three storey podium is provided to the proposed building, which is consistent with the approved podium at DA-89/2016. This section of the WDCP requires the tower to be setback 6m from the street in areas where there is a 2/3 storey street wall. The proposed tower is not considered to be slender. The setbacks from the street edges is significantly less than the required 6m: - 3.27m to Oxford St frontage (south) - Nil to Newland St frontage (east) - 0.9-1.3m to Rowe Lane (north) - 3-6m to approved building at 362-374 Oxford Street.
1.3 Building use		
Oxford Street and Newland Street are Primary Shopping Streets. Ground floor to be designed and used for retail purposes. First floor to be designed and used for commercial	Yes	The proposal includes a retail tenancy on Basement 1 plan which addresses the corner of Newland Street and Rowe Lane. A double height retail space is proposed on the ground floor with access from Oxford Street. The second floor includes a childcare centre.

Development Control	Compliance	Comment
purposes but not limited to retail.		
1.4 Access and movement		
1.4.1 Arcades, through-site links and squares	N/A	The site is not required to have provide a through site link as shown on Figure 3 in Clause 1.4.1.
1.4.2 Vehicular and service access to lots	Yes	The proposal provides vehicle entry off Rowe Lane which is consistent with Clause 1.4.2.
1.4.3 Pedestrian overpasses and underpasses	N/A	The proposal does not include a pedestrian underpass or overpass.
1.4.4 On-site parking	Yes	The car parking is located underground.
1.5 Subdivision		
Design of buildings is to interpret the small lot subdivision pattern on street i.e. 6m grid	No	The proposed building does provide a design that interprets the small lot subdivision pattern along the street front. Council's Urban Designer advised that the proposed podium façade does not respond to the heritage façade of the adjacent building. The openings are too large and are not aligned with the proportions of solids and voids which forms part of the character of the streetscape.
1.6 Heritage and buildings of	historic characte	er
1.6.1 Buildings of historic character	No	DA-89/2016 involved the retention of the heritage item façade at 362-374 Oxford Street. The proposal does not seek to alter this. The applicant fails to acknowledge that along with the listed heritage item at 362-374 Oxford Street, WDCP 2012 Part E1 Clause 1.6.1 Figure 7 identifies the building at 376-384 Oxford Street as a building of historic character. Clause 1.6.1 requires Lots identified with buildings of historic character to retain as a
		minimum the façade (for a depth of 2m) of the building or preferably the whole building. Control (b) notes that where the façade cannot be retained the new buildings are to interpret the scale, façade modelling including the location and percentage of glass to solid wall and the vertical and horizontal proportions of the existing building. The proposal does not do this. In addition, the proposal is not consistent with Controls (e), (f) or (g) in that the new building

Development Control	Compliance	Comment
		does not display proportions that are sympathetic to the historic character of adjacent heritage items, nor does it draw on the predominant pattern of the streetscape.
1.6.2 Street with heritage and buildings of historic character	Yes	The proposal retains a 2/3 storey façade along the street.
1.7 Active street frontages		
Primary shopping street frontage: Oxford Street and Newland Street Potential for active frontages to laneways: Rowe Lane	No	The proposal includes an active street frontage to Oxford Street and the corner of Rowe Lane and Newland Street. However, the frontage to Newland Street does not provide any active frontage in terms of pedestrian access. The only access to this retail tenancy is via Oxford Street.
1.8 Building Orientation		
 Podiums to address the street Tower forms to front and rear Bathroom, laundry & ancillary windows to side boundaries 	Yes	The podium and tower are orientated towards the street frontages.
1.9 Street alignment		
Figure 12 and 14 indicate that the subject site requires a 2/3 storey street wall with storeys above to be set back 6m to both Oxford Street and Newland Street	No	The proposal provides a 2/3 storey street wall, with the storeys above being setback only 3.27m to Oxford Street and a nil setback to Newland Street. This does not comply.
1.10 Separation distances		
Figure 16 indicates that separation distances between residential living areas are to be 12m from ground floor to level 5, and 24m from level 6 and above.	No	The proposal provides grossly insufficient setbacks between the approved building at 362-374 Oxford Street and the proposed building at 376-384 Oxford Street. Levels 3-7 provide a 3m setback between the northern side of the building and a 6m setback between the southern side of the building. Levels 8-14 provide a 6m setback between the buildings.

Development Control	Compliance	Comment
1.17 Designing Buildings for Fle		Comment
Design the podium component of buildings to permit adaptation for other future uses, with minimal structural and service alteration	Yes	The podium levels are adaptable in its design given the large floor plates.
1.18 Ceiling Heights		
 Coordinate internal ceiling heights and slab levels with external height datum lines such as datum and parapet lines set by surrounding existing buildings. Increase the sense of space in rooms through provision of well-proportioned rooms. Use tall windows or highlight windows, as well as light shelves and fan lights to reflect natural light deeper into a floorplate. Stack wet areas from floor to floor to allow taller floor to ceiling heights in habitable areas. Commercial and retail ceiling height Min 4m floor to ceiling heights at Ground Floor 3.3m floor to ceiling heights at First Floor and above 	Yes	The floor to ceiling height of the ground floor is 5.8m and the first floor is 3.4m, which complies.
1.19 External Living Areas		
 External living area is to be screened to achieve visual privacy if located less than 4m from a side boundary The rooftops of developments can be 	Yes	The balconies facing the side boundary with the approved building at 362-374 Oxford Street are screened. The rooftop has been provided as communal open space.

Development Control	Compliance	Comment
used to provide external living areas. Detail and design balconies or terraces in response to the local climate and context		
1.20 Wind Mitigation		
Buildings greater than 9 storeys, wind tunnel study is required	Yes	The applicant has provided a Pedestrian Level Wind – Wind Tunnel Testing report (Ref: 30N-21-0487-TRP-24086-0) by ViPAC dated 17 November 2021, which concludes that the proposed design fulfils the recommended criterion.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

View Loss

The applicant has provided a view analysis from the property at 121-125 Oxford Street (also known as 1 Newland Street). The view analysis is modelled, rather than in photograph form and the applicant determines that the view loss is acceptable because the development is compatible in scale to the approved building at DA-89/2016 and the site is in the heart of Bondi Junction Town Centre and proposal reflects the strategic centre location of the development. The applicant also notes that other recently approvals that are taller than the subject site also result in view loss. The applicant's 'assessment' is not satisfactory.

An assessment of view loss caused by the proposed development has been undertaken in accordance with the four steps applied in the NSW Land and Environment Court planning principle on view sharing arising from the case of *Tenancy Consulting vs. Warringah* [2004] LEC 140. The assessment is set out below.

1. Identify the views to be affected.

Figures 8-21 include photos provided in the submission from Civic Assessments Urban Planners and Urbaine Design Group, which show the composition and extent of views available from the south of the subject site across Oxford Street, being 1 Newland Street.

1 Newland Street BONDI JUNCTION



Figure 15: Standing view from Level 5 looking north across the subject site



Figure 16: Standing view from level 9 looking north across the subject site



Figure 17: Standing view from Level 10, looking north across the subject site.



Figure 18: Standing view from Level 11, looking north across the subject site.



Figure 19: Standing view from the Roof level, looking north.

133 Oxford Street BONDI JUNCTION

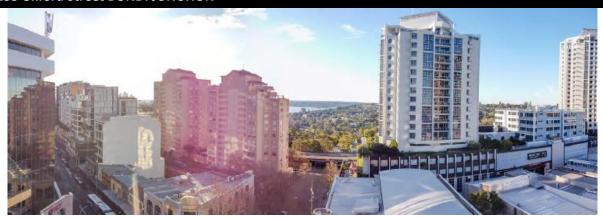


Figure 20: Level 10 equivalent (taken by drone) looking north west across the subject site



Figure 21: Level 12 equivalent (taken by drone) looking north west across the subject site

As shown in the photos above, the buildings at 1 Newland Street and 133 Oxford Street enjoy both partial water views and district land views across the subject site. In this regard, 1 Newland Street and 133 Oxford Street are considered to enjoy views that are considered worthy of retention or protection as per the view sharing planning principle.

2. Consider from what part of the property the views are obtained.

Figures 15-21 notate which level of the affected properties the views are enjoyed from and that they are from standing positions.

3. Assess the extent of the impact.

The view loss impact has been modelled by the objector through the photomontage analyses to indicate the impact on views caused by the proposed development. The modelling provided also shows the view loss impact from a WLEP 2012 and WDCP2012 compliant building envelope. **Figures 22-36** include extracts of the photomontage analyses in the objector's view analyses report.

1 Newland Street BONDI JUNCTION



Figure 22: Level 5 and photomontage of proposed building



Figure 23: Level 5 photomontage indicating in pink the portion of the building that is noncompliant with the WDCP 6m tower setback control



Figure 24: Level 9 and photomontage of proposed building

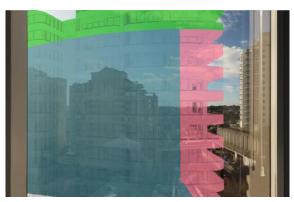


Figure 25: Level 9 photomontage indicating in pink the portion of the building that is noncompliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard



Figure 26: Level 10 and photomontage of proposed building



Figure 27: Level 10 photomontage indicating in pink the portion of the building that is non-compliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard



Figure 28: Level 11 and photomontage of proposed building

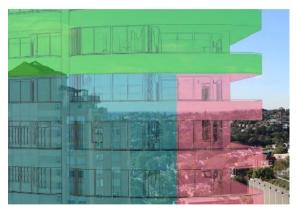


Figure 29: Level 11 showing photomontage indicating in pink the portion of the building that is non-compliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard



Figure 30: Roof level view of photomontage of proposed building



Figure 31: Roof level showing photomontage indicating in pink the portion of the building that is non-compliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard

133 Oxford Street BONDI JUNCTION



Figure 33: Level 10 equivalent showing photomontage of proposal



Figure 34: Level 10 equivalent showing photomontage indicating in pink the portion of the building that is non-compliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard



Figure 35: Level 12 equivalent showing photomontage of proposal



Figure 36: Level 12 equivalent showing photomontage indicating in pink the portion of the building that is non-compliant with the WDCP 6m tower setback control and in green the portion of the building that exceeds the LEP height standard

As indicated in **Figures 22-36**, the proposed development, the already approved building at 362-374 Oxford Street will result in view loss impacts including loss of water views. The proposed building at 376-384 Oxford Street will result in moderate impacts on views enjoyed by 1 Newland Street as it results in a loss of views north along Newland Street.

4. Assess the reasonableness of the proposal that is causing the impact.

The following sentences from the view sharing planning principle are relevant to the assessment of the reasonableness of the view impact caused by the proposed development *Tenacity Consulting v Warringah* [2004] NSWLEC 140 29:

"Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours."

The proposed development exceeds the height of buildings development standard and provides inadequate setbacks to both Oxford Street and Newland Street. This is significant as it is the portion of the building which encroaches on the 6m setback from Newland Street (above the 2/3 storey street wall) which has the greatest impact on view loss from 1 Newland Street.

The impact on views is a result of non-compliance with one or more planning controls, and therefore, with respect to the view sharing planning principle, a moderate impact on views is considered unreasonable. As such, the application is recommended for refusal.

2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

2.4. Any Submissions

The application was notified and advertised for 21 days between 11 May and 1 June 2022 and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of two unique submissions were received from the following properties:

- 81 Grafton Street BONDI JUNCTION
- 1 Newland Street and 113-137, 141, 143 Oxford Street BONDI JUNCTION (lodged as 1 submission)

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation for refusal:

- Car parking
- View Loss
- Overshadowing
- Non-compliance with the height development standard
- Non-compliance with the FSR development standard
- Non-compliance with the DCP envelope controls including setbacks

2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest, and is recommended for refusal.

3. REFERRALS

The following internal and external referral comments were sought and their comments are discussed in the body of the report and/or the Recommendation for refusal:

- Stormwater
- Public Domain
- Public Art
- Green Travel Plan
- Heritage
- GIS
- Community Development
- Environmental Health
- Tree Management
- Biodiversity
- Traffic and Development

- Sustainable Development
- Waste and Recycling
- Urban Design

4. CONCLUSION

The development application seeks consent for demolition of the existing buildings and construction of a 14 storey shop top housing development including basement carparking, 39 apartments, swimming pool and child care centre. The proposal includes modifications to the approved shop top housing development at 362-374 Oxford Street Bondi Junction (DA-89/2016) at the site known as 362-384 Oxford Street BONDI JUNCTION.

The principal issues arising from the assessment of the application are as follows:

- Floor Space Ratio
- Height of Buildings
- ADG compliance
- Urban Design
- Non-residential floor space
- Energy Assessment
- View Loss
- Overshadowing

The assessment finds these issues unacceptable.

A total number of two submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

Development and Building Unit (DBU) Decision:

The application was reviewed by the DBU at the meeting on 16 August 2022 and the DBU determined:

(a) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: M Reid, A Rossi, B McNamara, B Magistrale, T Sneesby

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
Antign	
Emma Finnegan	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment
	(Reviewed and agreed on behalf of the
	Development and Building Unit)
Date: 7 September 2022	Date: 12 September 2022

Reason for WLPP referral:

- 1. Departure from any development standard in an EPI by more than 10%
- 2. Sensitive development:
 - (a) SEPP 65 development

APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15 (1) of the *Environmental Planning and Assessment Act 1979 (the Act)* the development application (the application) is refused for the following reasons:

- 1. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it contrary to the following provisions of Waverley Local Environmental Plan (WLEP) 2012:
 - a. Clause 4.3 Height of Buildings

The application exceeds the maximum allowable height of 38m and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposed height is not considered compatible with the height, bulk and scale of the desired future character of the locality and does not preserve the environmental amenity of neighbouring properties by causing view loss and overshadowing contrary to clause 4.3 (1) (a) and (d) of WLEP.

b. Clause 4.4 Floor Space Ratio

The application exceeds the maximum allowable Floor Space Ratio (FSR) of 5:1 and the applicant's written request under clause 4.6 of WLEP has failed to adequately address the required matters under subclauses 4.6 (3)(a) and (b) of WLEP.

Details: The proposal is considered an overdevelopment of the site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1) (d) of WLEP.

- 2. The application does not satisfy section 4.15 (1)(a)(i) of the Act as it is contrary to the following environmental planning instruments:
 - a. State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65) as the application fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - i. Principle 1 Context and neighbourhood as the proposed development exceeds the height of buildings and floor space ratio development standard under Waverley Local Environment Plan (WLEP) 2012, contrary to the existing and desired urban form and built form qualities of the surrounding neighbourhood.
 - ii. *Principle 2 Built form and scale* as the building envelope of the proposed development is excessive and constitutes overdevelopment of the site.
 - iii. Principle 3 Density as the density of the proposed development is significantly greater than what can be suitably and reasonably achieved based on the site's area and dimensions and not all units will be afforded with a high level of amenity for future occupants of the development.

- b. State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 as the application fails to provide a valid BASIX certificate.
- c. Waverley Local Environmental Plan 2012 (or WLEP) as the application is contrary to the following provisions:
 - i. Clause 1.2 Aims of Plan, specifically the aims expressed under clause 1.2(2).
 - ii. *Clause 6.9 Design Excellence* as the proposed development fails to exhibit design excellence.
 - iii. Clause 6.12 Development on certain land in Bondi Junction as the proposed development fails to maintain the amount of non-residential floor space on site
- 3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan (WDCP) 2012, in respect to the following provisions:

Part B8 Transport

a. Section 8.2.2 *Car Parking Provision rates*, specifically objectives (a)-(c) and controls (g) and (h), as the proposed development provides excessive off-street car parking spaces.

Part B12 Design Excellence

a. Section 12.1 Design, specifically objectives (a)-(d) and controls (b) to (e), as the proposed development does not improve the quality and amenity of the public domain. The development has a poor presentation to Oxford Mall and Newland Street and has an impact on view corridors. The proposal is inconsistent with control (e)(iv) in that the relationship of the development to other development on the same site and neighbouring sites is not considered satisfactory in terms of separation, setbacks, amenity and urban form.

Part C3 Other Residential Development

- a. Section 3.1 Setbacks, specifically objective (a) and control (a) as the proposed development is set back 3m from the Oxford Street boundary and has nil setback to the Newland Street boundary, which falls short of the minimum setback requirement of 6m.
- b. Section 3.5 Building Design and Streetscape, specifically objective (a) and (b) and control

 (a) and (b) as the proposed development does not respond to the existing streetscape character of the area.
- c. Section 3.13 Solar Access and Overshadowing, specifically objective (d) as the proposed development does not minimise impacts of development on surrounding properties.

Part E1 Site Specific Development Bondi Junction

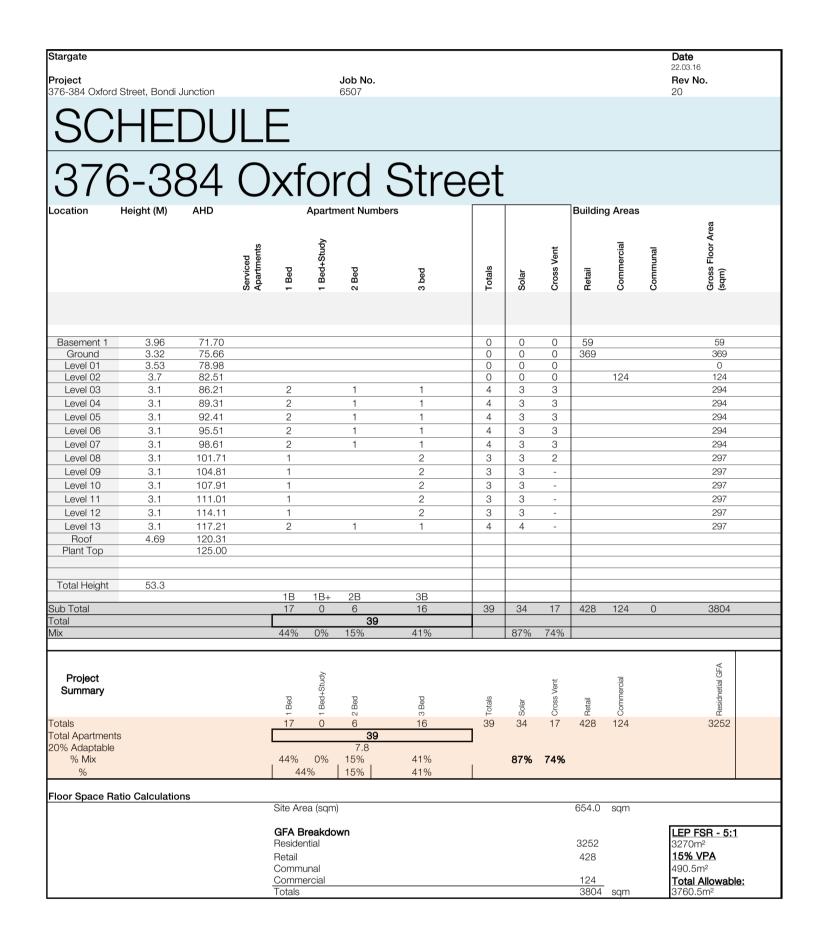
a. Section 1.2 Urban Form, specifically objective (d) to (h) and control (a) and (c) as the proposed development is not sensitive to the streetscape character and views, and the tower form is not setback from the street edge sufficiently.

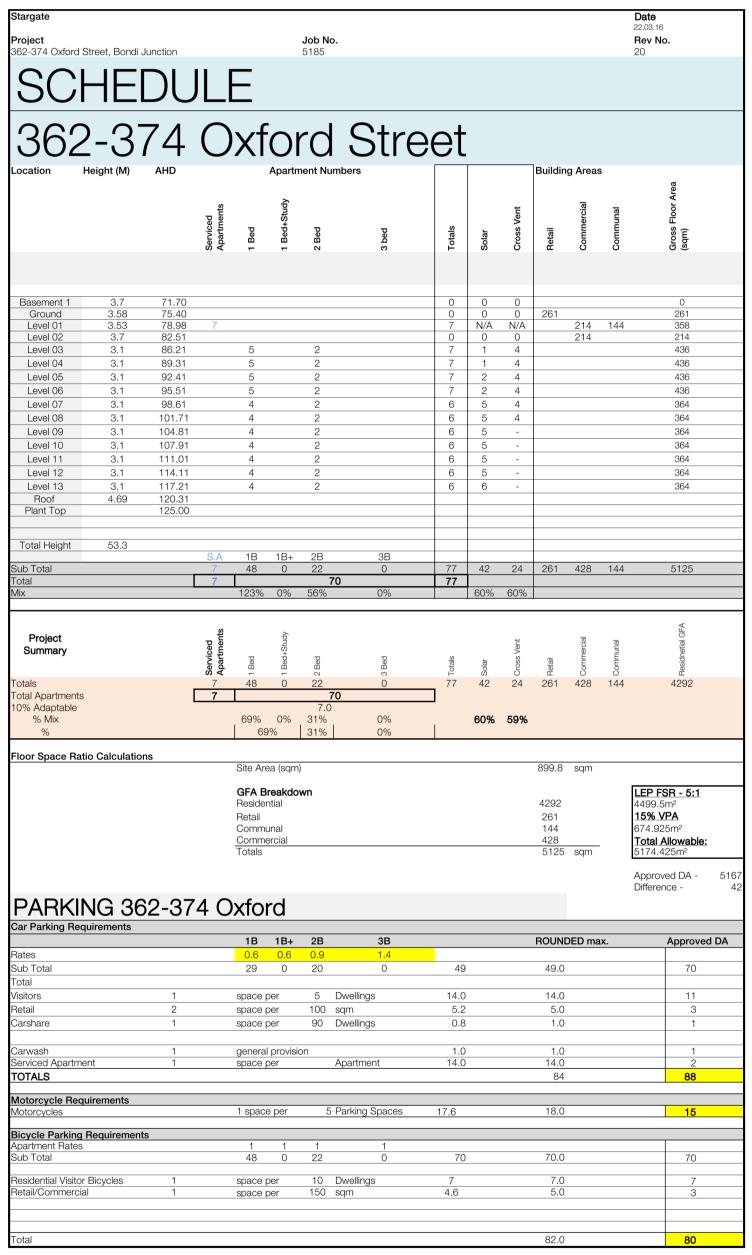
- b. Section 1.6 Heritage and buildings of historic character, specifically objective (b) and (c) and control (c) to (g) as the proposed development does not provide a façade that is sympathetic to the proportions or predominant pattern of the streetscape.
- c. Section 1.7 Active Street Frontages, specifically control (a) as the building does not provide an active frontage to Newland Street.
- d. Section 1.9 Street Alignment, specifically objective (f) and control (a), (f) and (h) as the proposed development does not provide a 6m setback to the levels above the podium.
- e. Section 1.10 Separation Distances, specifically objectives (a) to (d) and control (a) as the proposed development does not provide adequate separation distances between the approved building and the proposed building.
- f. Section 1.13 Number of Storeys, specifically objectives (a) and control (c) as the proposed development exceeds 12 storeys in height.
- 4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development is excessive in terms of its building massing, bulk and scale relative to the site area and dimensions, and consequently results in unacceptable amenity and streetscape impacts upon the locality and surrounding built environment.
- 5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development.
- 6. The application is contrary to section 4.15 (1)(d) of the Act in relation to matters raised in the public submissions received that object to the proposed development.
- 7. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as it is not compatible with the existing and desired future character of the locality and the broader Waverley local government area.

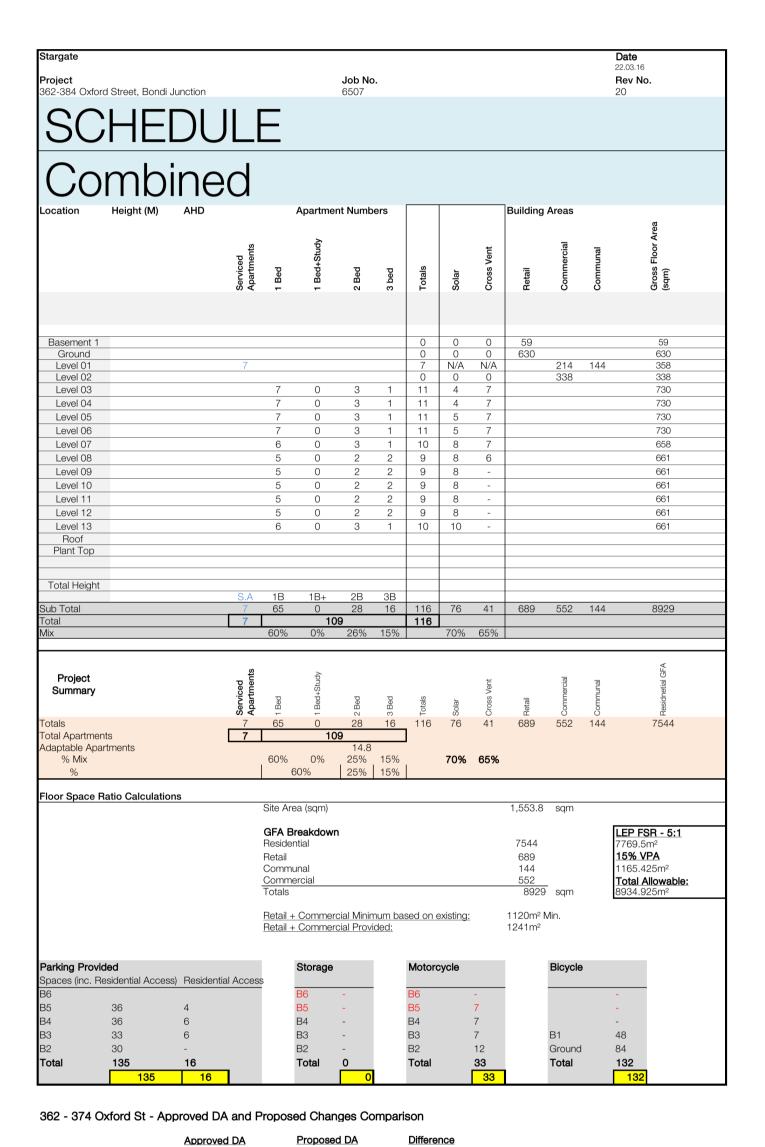
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376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

STARGATE Level 2, 490 Crown Street

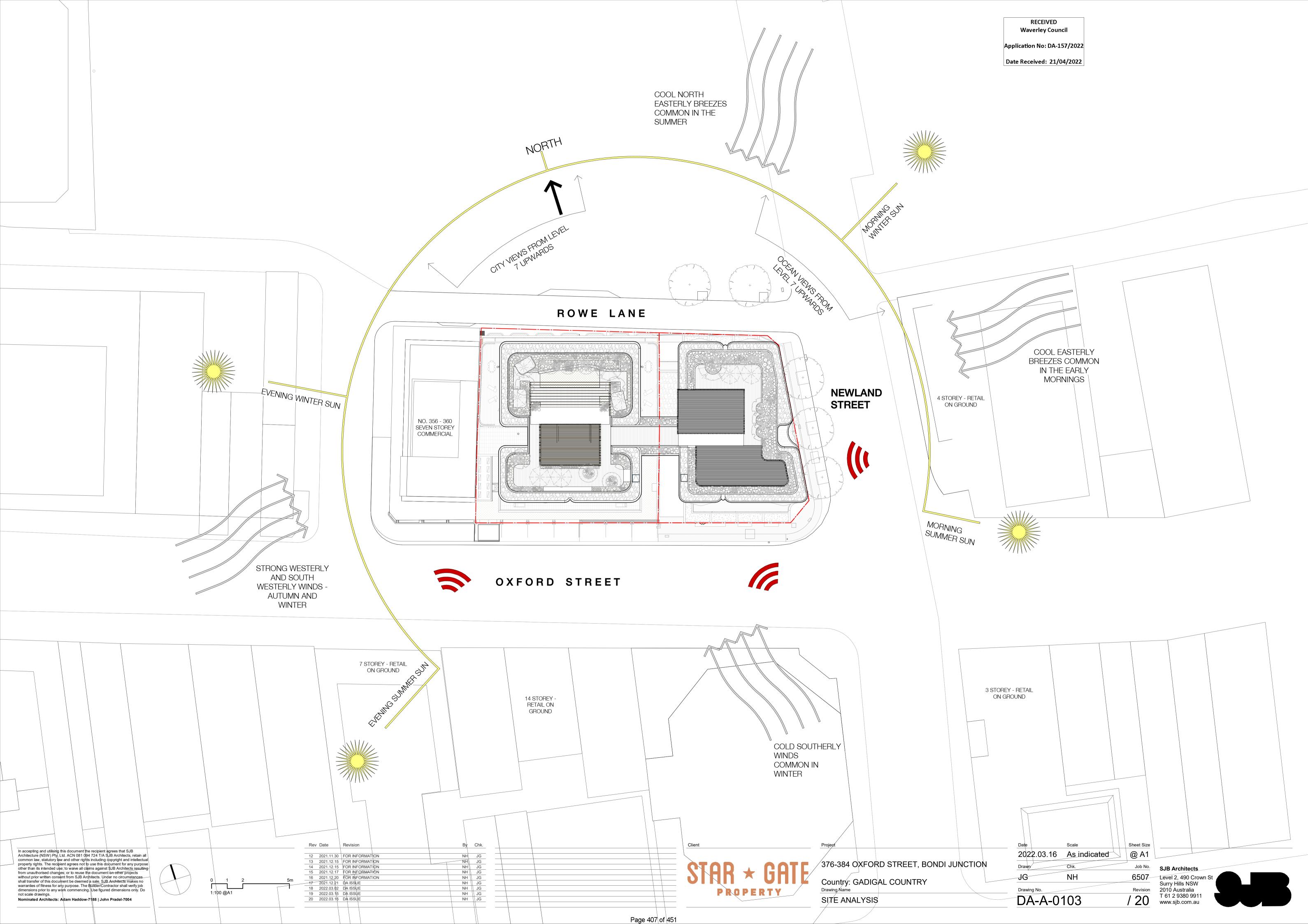
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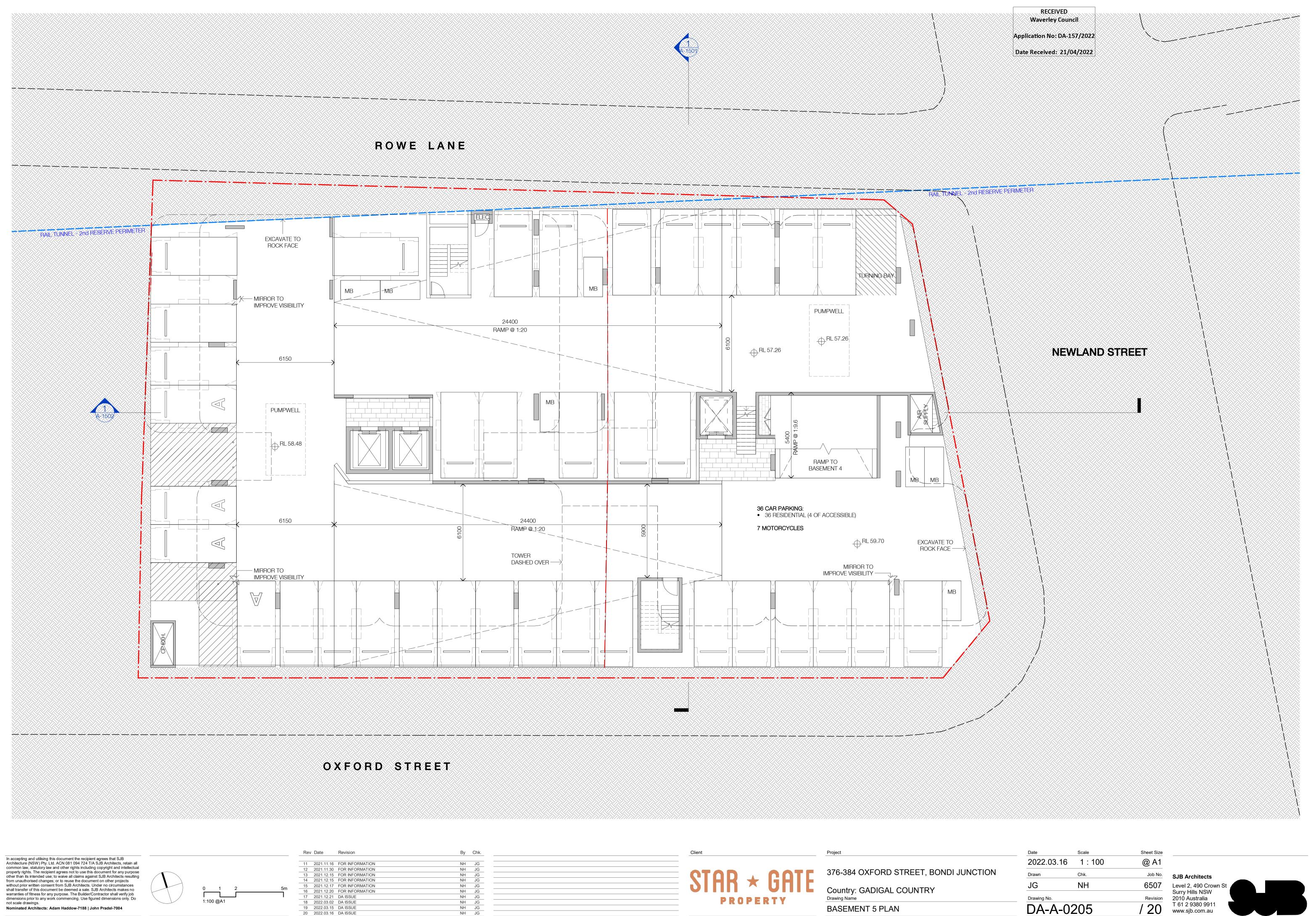
Project Number: 6507
Date: 2022.03.16
Client: STARGATE

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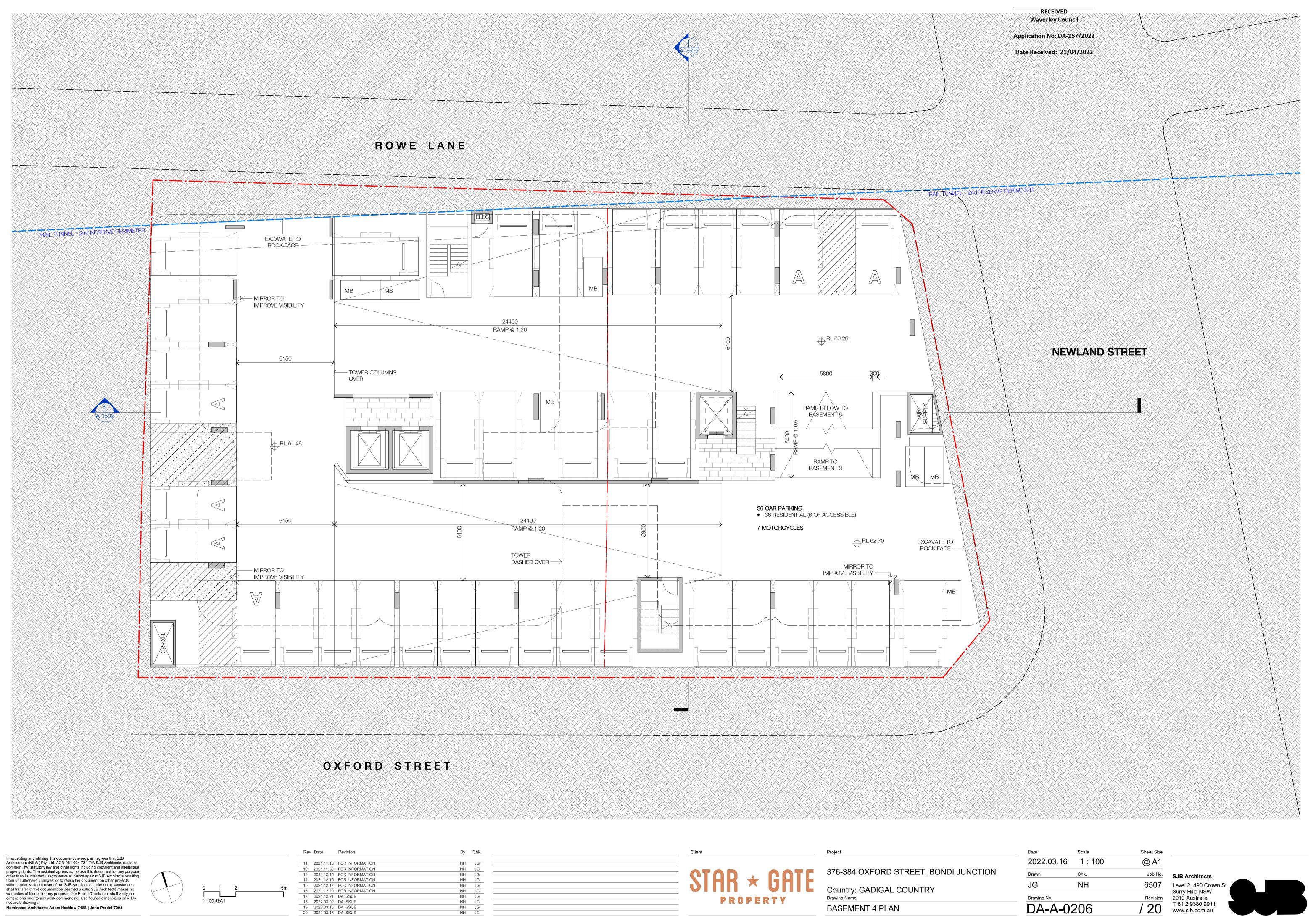






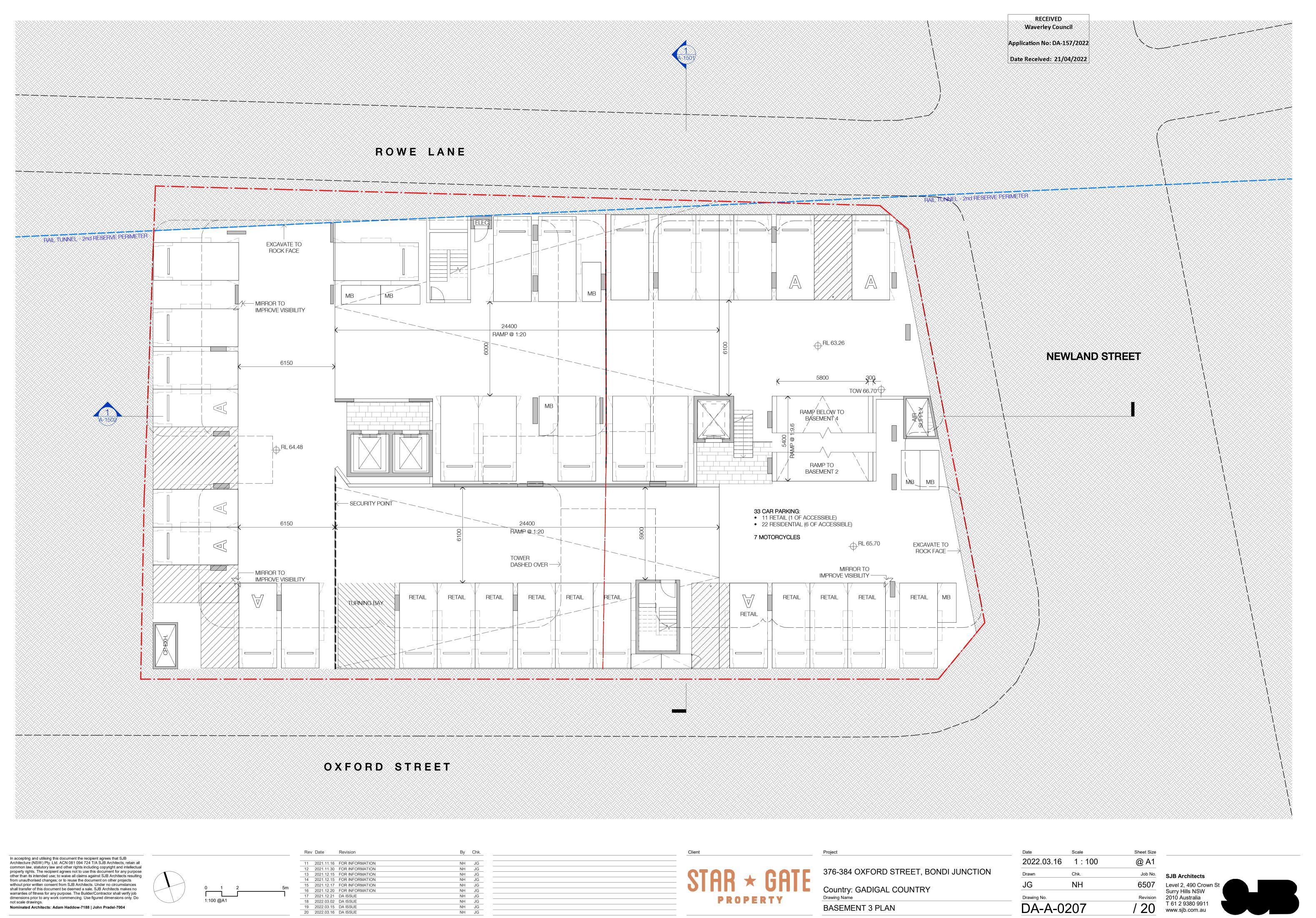
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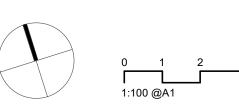


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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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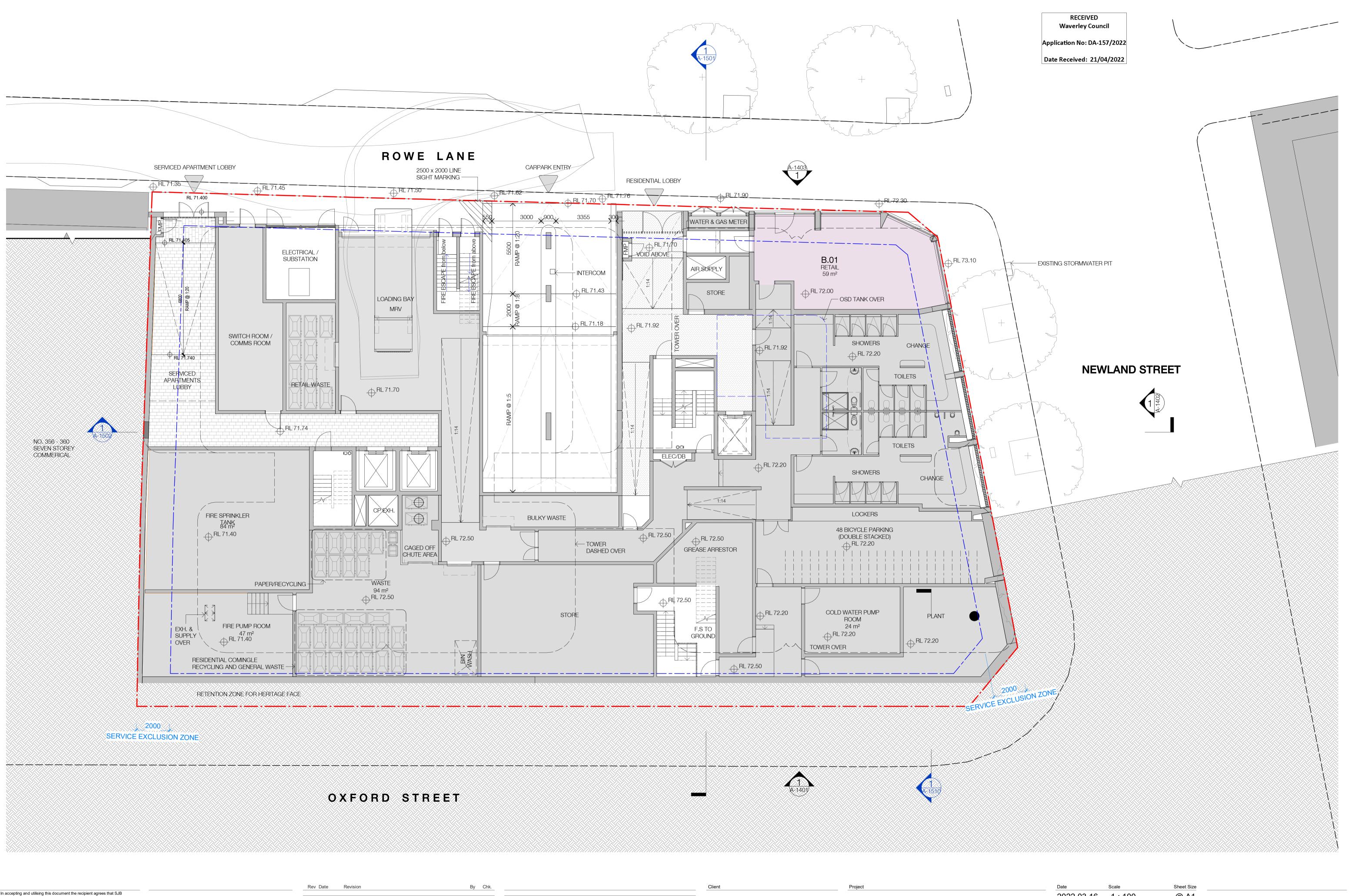
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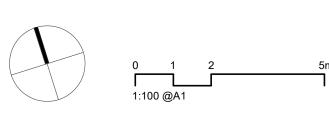
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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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11	2021.11.16	FOR INFORMATION	NH	JG
12	2021.11.30	FOR INFORMATION	NH	JG
13	2021.12.15	FOR INFORMATION	NH	JG
14	2021.12.15	FOR INFORMATION	NH	JG
15	2021.12.17	FOR INFORMATION	NH	JG
16	2021.12.20	FOR INFORMATION	NH	JG
17	2021.12.21	DA ISSUE	NH	JG
18	2022.03.02	DA ISSUE	NH	JG
19	2022.03.15	DA ISSUE	NH	JG
20	2022.03.16	DA ISSUE	NH	JG



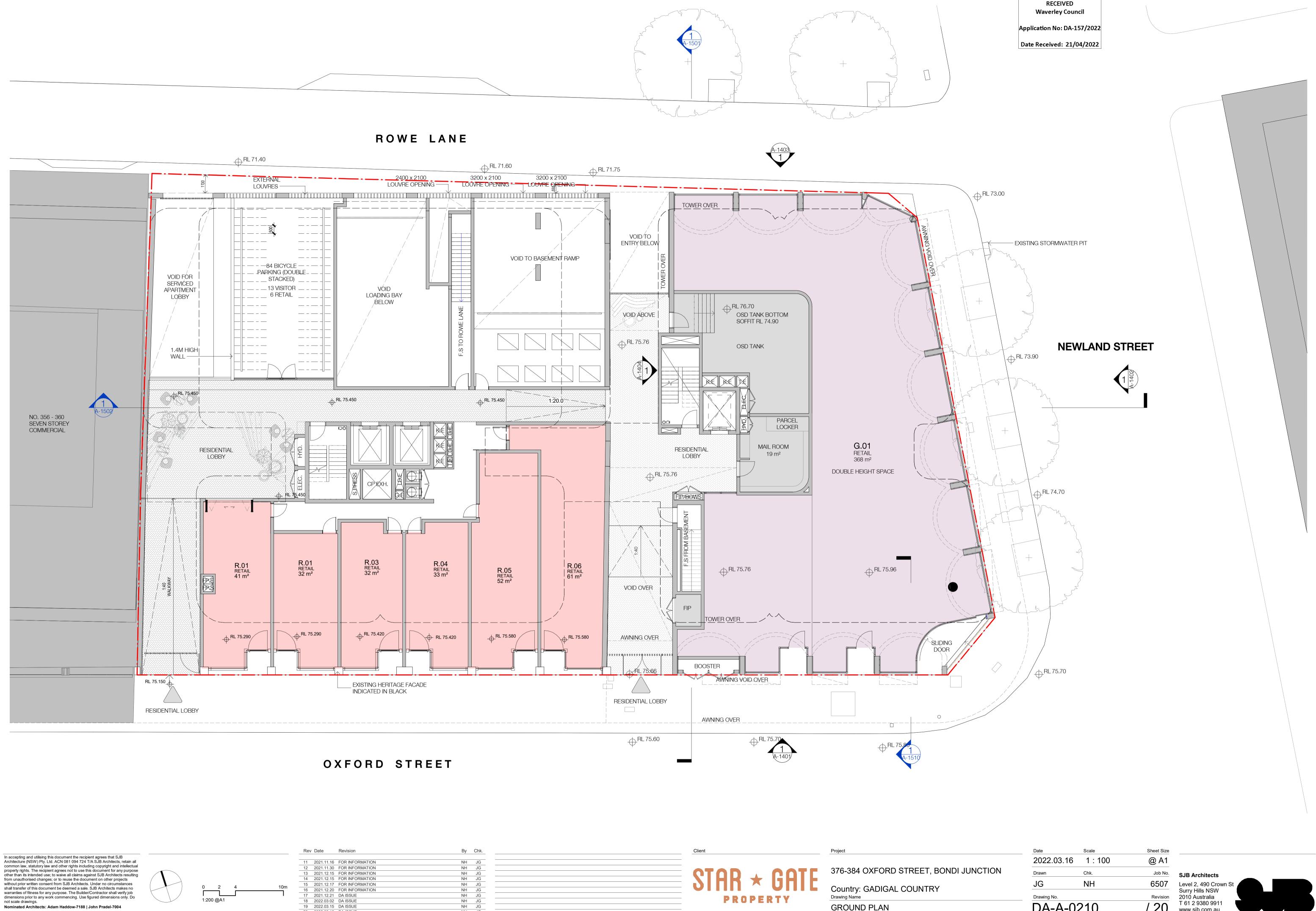
376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

Drawing Name

DA-A-0209		/ 20
Drawing No.		Revision
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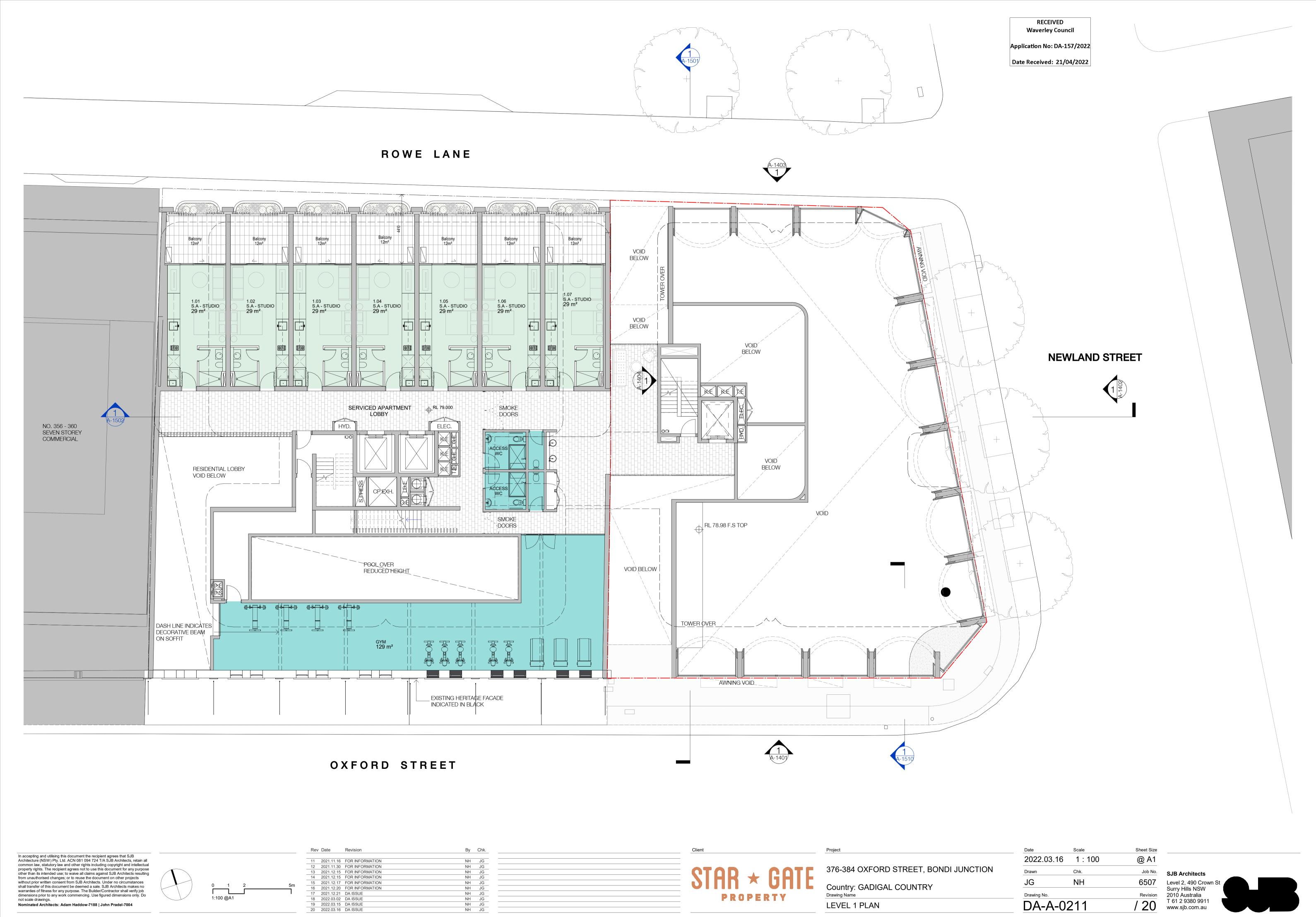
Nominated Architects: Adam Haddow-7188 | John Pradel-7004

not scale drawings.

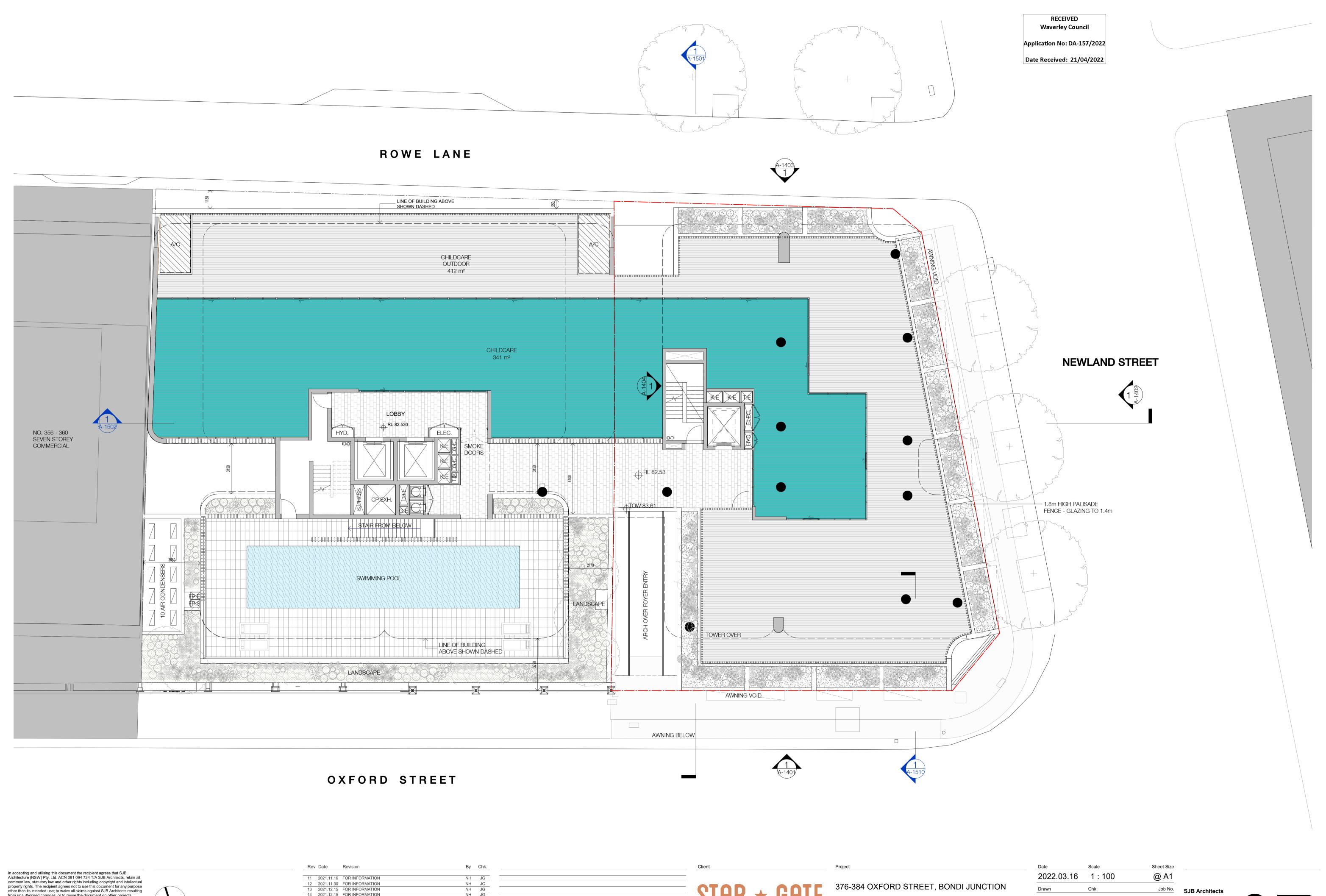
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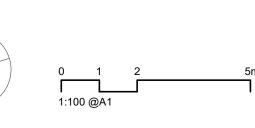
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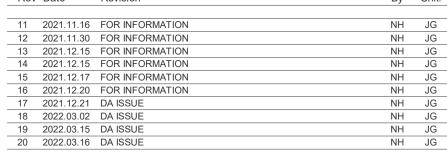


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Country: GADIGAL COUNTRY Drawing Name

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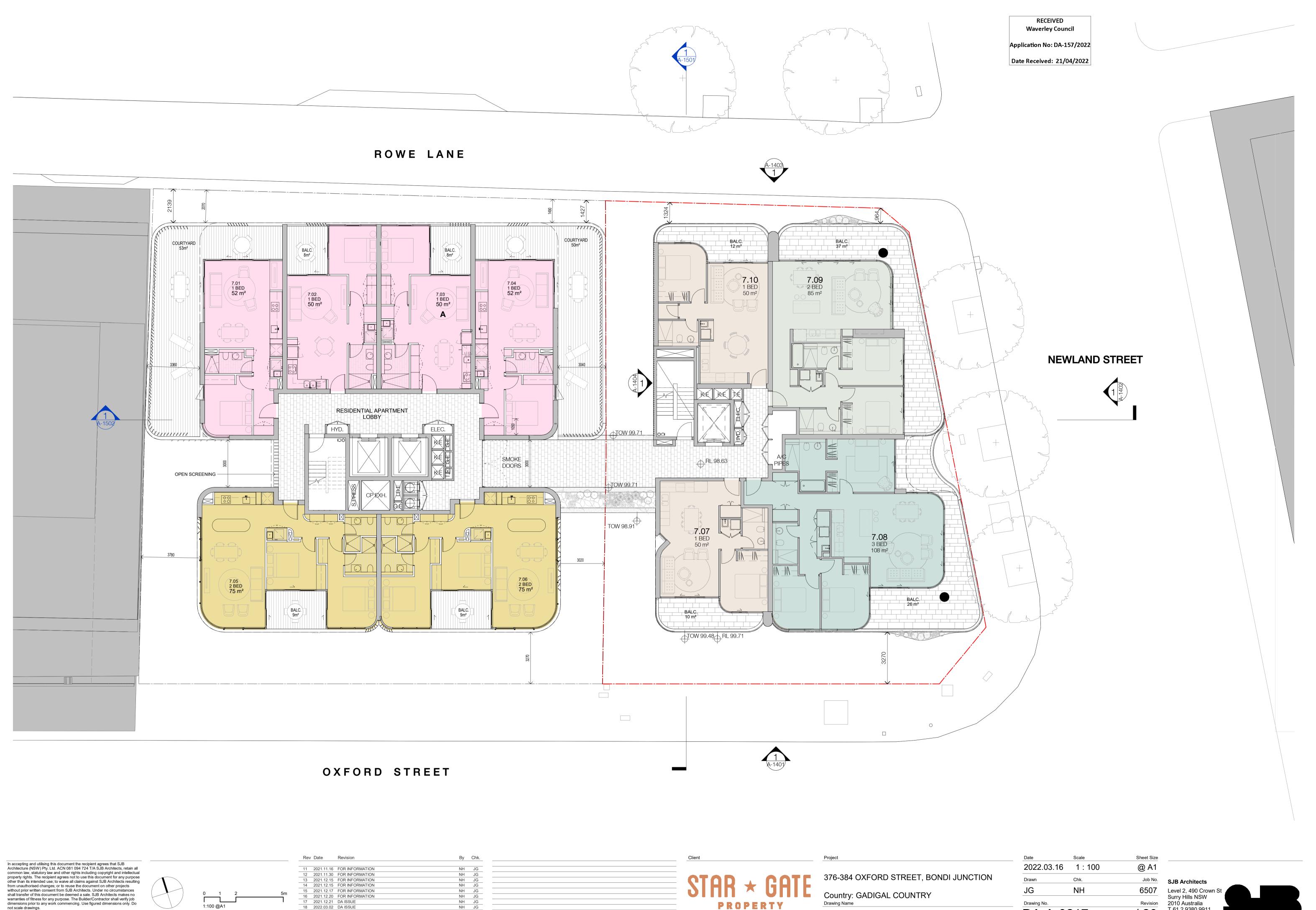
Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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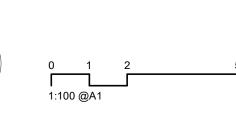
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NH JG Drawing No. DA-A-0213

Level 2, 490 Crown St Surry Hills NSW 2010 Australia T 61 2 9380 9911 www.sjb.com.au



not scale drawings. Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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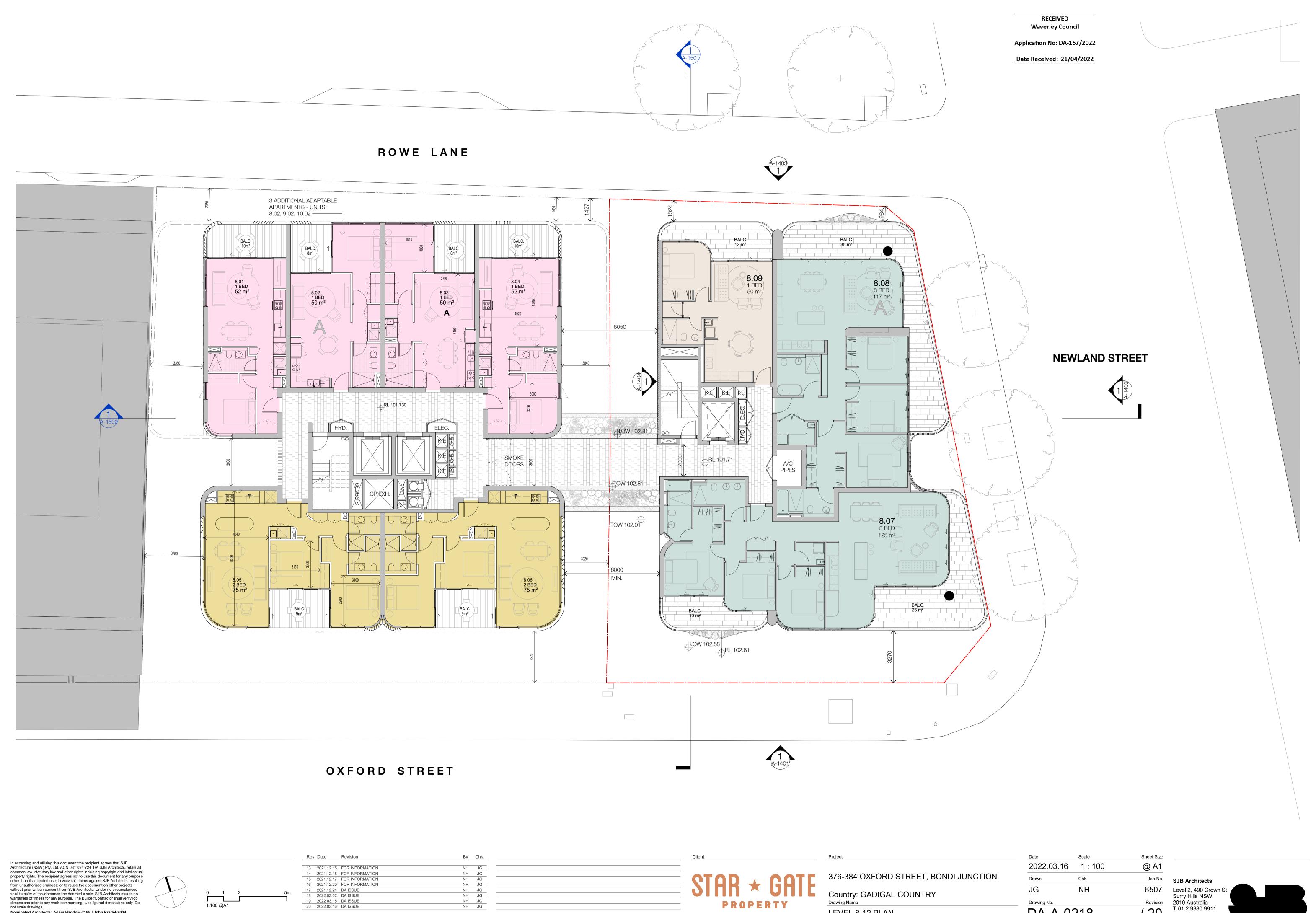
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Drawing Name

LEVEL 7 PLAN

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DA-A-02	217	/ 20





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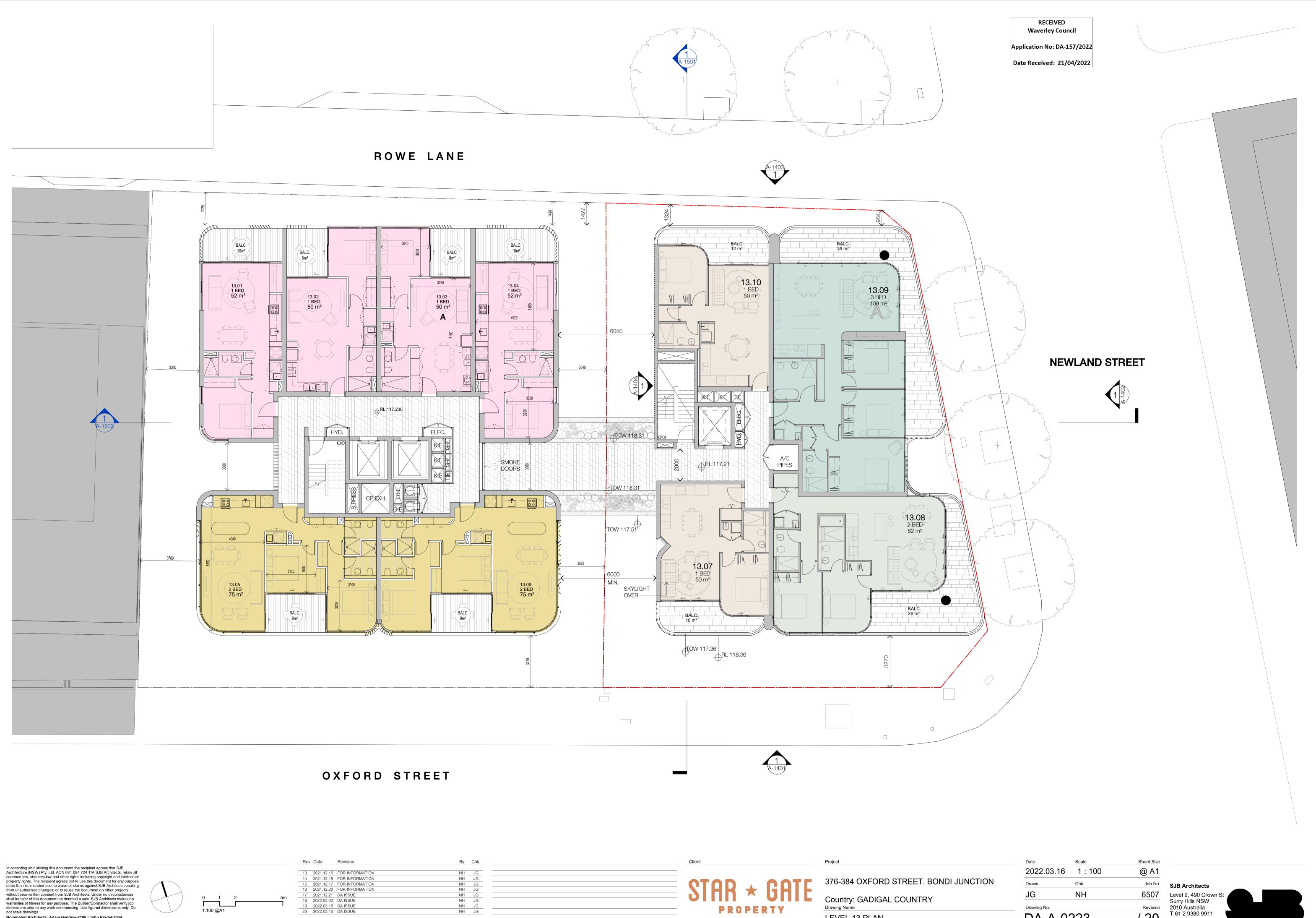
not scale drawings.

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

PROPERTY LEVEL 8-12 PLAN

Drawing No. DA-A-0218

Surry Hills NSW 2010 Australia T 61 2 9380 9911 www.sjb.com.au



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not scale drawings.

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PROPERTY

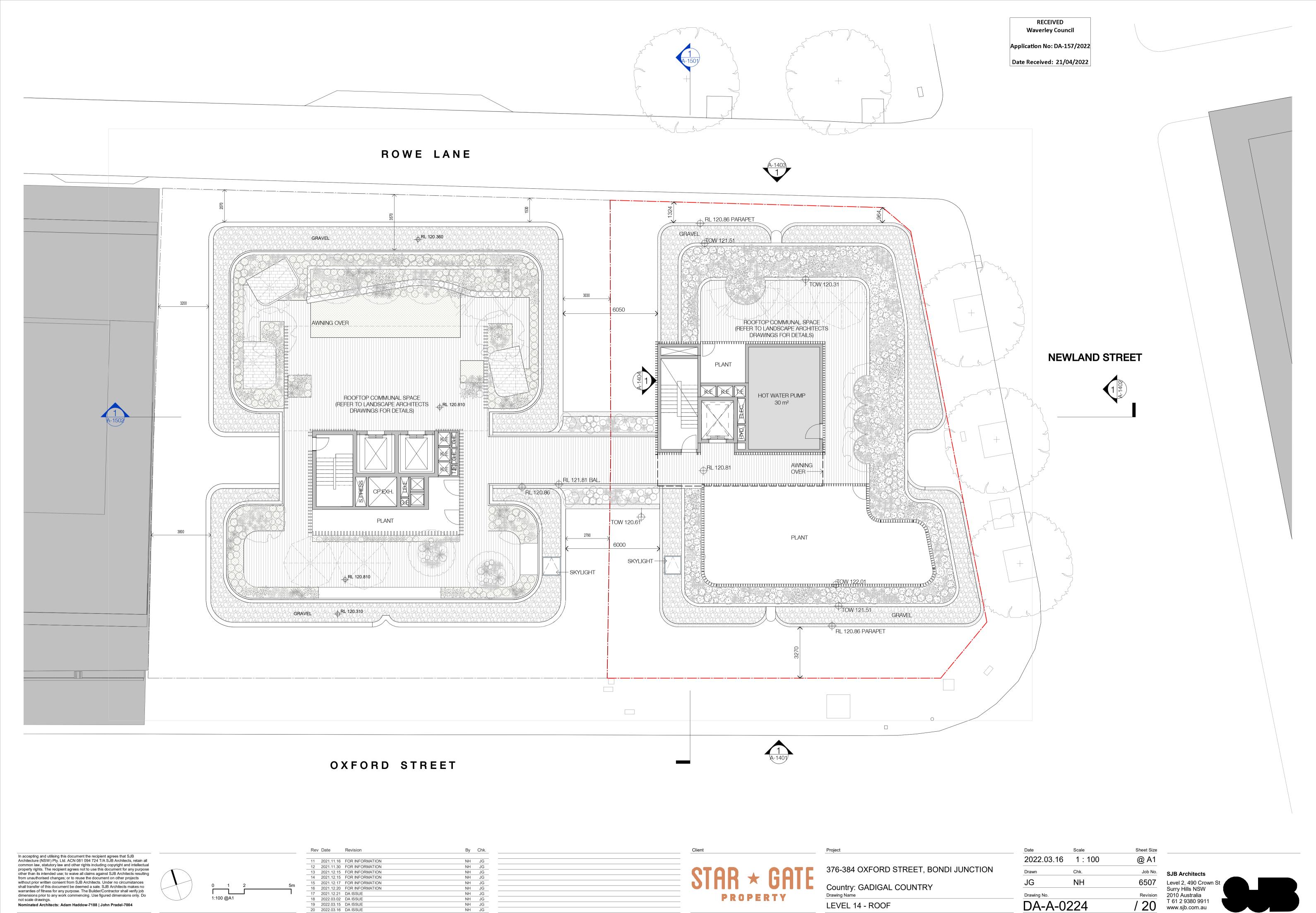
Country: GADIGAL COUNTRY

Drawing Name

LEVEL 13 PLAN

NH JG Drawing No. DA-A-0223

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376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

Drawing Name

OXFORD ST ELEVATION

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 As indicated
 @ A1

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 JG
 NH
 6507

 Drawing No.
 Revision

 DA-A-1401
 / 20



RECEIVED **Waverley Council** Application No: DA-157/2022

FINISHES

Fixed metal privacy screen (Natural Bronze Colour)

Metal trims powder coated (Natural Bronze Colour)

Fixed metal blades (Natural Bronze Colour)

Fixed metal battens (Natural Bronze Colour)

Metal trims powder coated (Grey to

Metal trims powder coated (Black)

Steel painted - Murobond "Hemp"

Metal framed clear glazing to retail

Metal framed clear glazing to

Metal framed glass balustrade

Metal framed glass balustrade (bronze handrail colour)

Concrete Stain - Nawkaw "Thredbo Sky" Concrete Stain - Nawkaw "Graphite"

External paint colour equal to DULUX "Raku"

External paint colour equal to DULUX "Caviar"

External paint colour equal to DULUX "Flooded Gum" External paint colour equal to DULUX "Silkworth" External paint colour equal to DULUX "Grey Master"

External paint colour equal to DULUX "Malay Grey"

External paint colour equal to DULUX "Black Caviar"

Concrete - Smooth Natural Finish

Concrete - Vertical Grooves

Face Brick - Tan Colour

Natural Sandstone - Panels

Glass Brick - Amber

Blackish "Metal"

Cementel Facade Panels - Surround

(black frame colour)

residential apartments

(black handrail colour)

(black frame colour)

match concrete upstands

Metal

Glass

Paint

Concrete

CN3

Masonry

P6

S1

Finishes Schedule

Date Received: 21/04/2022

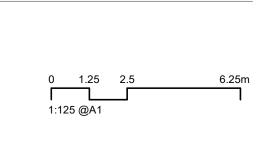


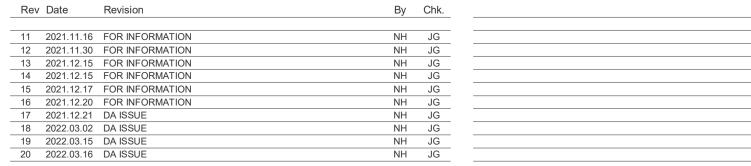
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FINISHES Waverley Council Application No: DA-157/2022 Metal Fixed metal privacy screen (Natural Bronze Colour) Date Received: 21/04/2022 Fixed metal blades (Natural Bronze Colour) Fixed metal battens (Natural Bronze Colour) Metal trims powder coated (Grey to match concrete upstands Metal trims powder coated (Natural Bronze Colour) Metal trims powder coated (Black) RL 125.20 ROOF Steel painted - Murobond "Hemp" RL 125.00 PLANT ROOF _______ Glass RL 123.01 **─** M3 Metal framed clear glazing to retail TOW 122.01 RL 121.51 PLANTER (black frame colour) G3 Metal framed clear glazing to RL 120.86 PARAPET RL 120.61 RL 120.46 PARAPET residential apartments (black frame colour) Metal framed glass balustrade (black handrail colour) **S1** Metal framed glass balustrade (bronze handrail colour) Paint Concrete Stain - Nawkaw "Thredbo Sky" Concrete Stain - Nawkaw "Graphite" 38M HEIGHT PLANE External paint colour equal to DULUX "Raku" External paint colour equal to DULUX "Caviar" G2 External paint colour equal to DULUX "Flooded Gum" External paint colour equal to DULUX "Silkworth" External paint colour equal to DULUX "Grey Master" (+P1) External paint colour equal to DULUX "Malay Grey" **P3** External paint colour equal to DULUX "Black Caviar" 38M HEIGHT PLANE CN1 +P1 Concrete Concrete - Smooth Natural Finish M4 Cementel Facade Panels - Surround Blackish "Metal" CN3 Concrete - Vertical Grooves -(CN1) +P1 Masonry Face Brick - Tan Colour +P2 Glass Brick - Amber Natural Sandstone - Panels Finishes Schedule _______ — G2 — M1 P6 — 1.8m HIGH PALISADE FENCE -RL 83.61 TOW GLAZING TO 1.4m LEVEL 2 82510 **─**(M2) M7 - AIR INTAKE LOUVRE -RL 79.23 +P2 GROUND 75660 BASEMENT 1 - METAL AWNING RETAIL SUPPLY RESIDENTIAL SITE OF STREET STR CARPARK ENTRY LOADING DOCK SUBSTATION SERVICED L P9 APARTMENTS H & 2400 x 2100 STAIR PRESSURIZATION AIR FEATURE FEATURE LOBBY BOOSTER ENTRY DOOR ENTRY DOOR -LOUVRE OPENING — PROPOSED SITE NEWLAND STREET VERNON STREET **362-374 OXFORD STREET** Sheet Size Rev Date Revision By Chk. In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 094 724 T/A SJB Architects, retain all 2022.03.16 As indicated @ A1 11 2021.11.16 FOR INFORMATION common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose 12 2021.11.30 FOR INFORMATION 376-384 OXFORD STREET, BONDI JUNCTION 13 2021.12.15 FOR INFORMATION 14 2021.12.15 FOR INFORMATION Chk. Job No. other than its intended use; to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances SJB Architects 15 2021.12.17 FOR INFORMATION
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19 2022.03.15 DA ISSUE NH JG Level 2, 490 Crown St 0 1.25 2.5 6.25m Country: GADIGAL COUNTRY shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job Surry Hills NSW Revision 2010 Australia Drawing No. dimensions prior to any work commencing. Use figured dimensions only. Do 1:125 @A1 not scale drawings. T 61 2 9380 9911 DA-A-1403 Nominated Architects: Adam Haddow-7188 | John Pradel-7004 ROWE LANE ELEVATION

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20 2022.03.16 DA ISSUE



RECEIVED Waverley Council

Application No: DA-157/2022

M1 Fixed metal privacy screen (Natural Bronze Colour)

M2 Fixed metal blades (Natural Bronze Colour)

FINISHES

Metal

M3 Fixed metal battens (Natural Bronze Colour)

M4 Metal trims powder coated (Grey to

match concrete upstands

M5 Metal trims powder coated (Natural Bronze Colour)M6 Metal trims powder coated (Black)

M7 Steel painted - Murobond "Hemp"

Glass

G1 Metal framed clear glazing to retail (black frame colour)

G2 Metal framed clear glazing to residential apartments

G3 Metal framed glass balustrade (black handrail colour)

(black frame colour)

G4 Metal framed glass balustrade

(bronze handrail colour)

Paint

Concrete Stain - Nawkaw "Thredbo Sky"

Concrete Stain - Nawkaw "Graphite"

P3 External paint colour equal to DULUX "Raku"

P4 External paint colour equal to DULUX "Caviar"

External paint colour equal to DULUX "Flooded Gum"

External paint colour equal to DULUX "Silkworth"External paint colour equal to DULUX "Grey Master"

External paint colour equal to DOLOX Grey was

External paint colour equal to DULUX "Malay Grey"

External paint colour equal to DULUX "Black Caviar"

Concrete

CN1 Concrete - Smooth Natural Finish

CN2 Cementel Facade Panels - Surround Blackish "Metal"

CN3 Concrete - Vertical Grooves

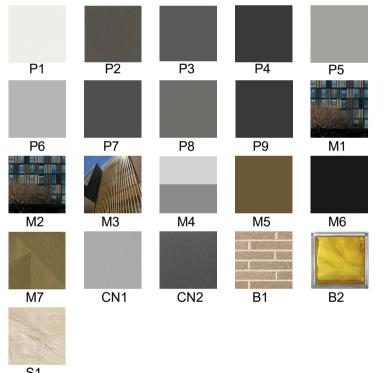
Masonry

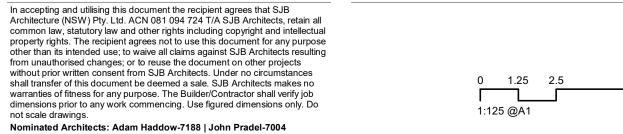
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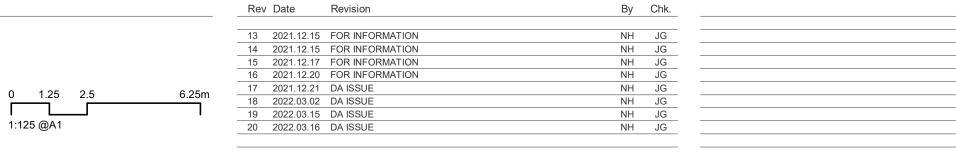
B2 Glass Brick - Amber

Natural Sandstone - Panels

Finishes Schedule









376-384 OXFORD STREET, BONDI JUNCTION

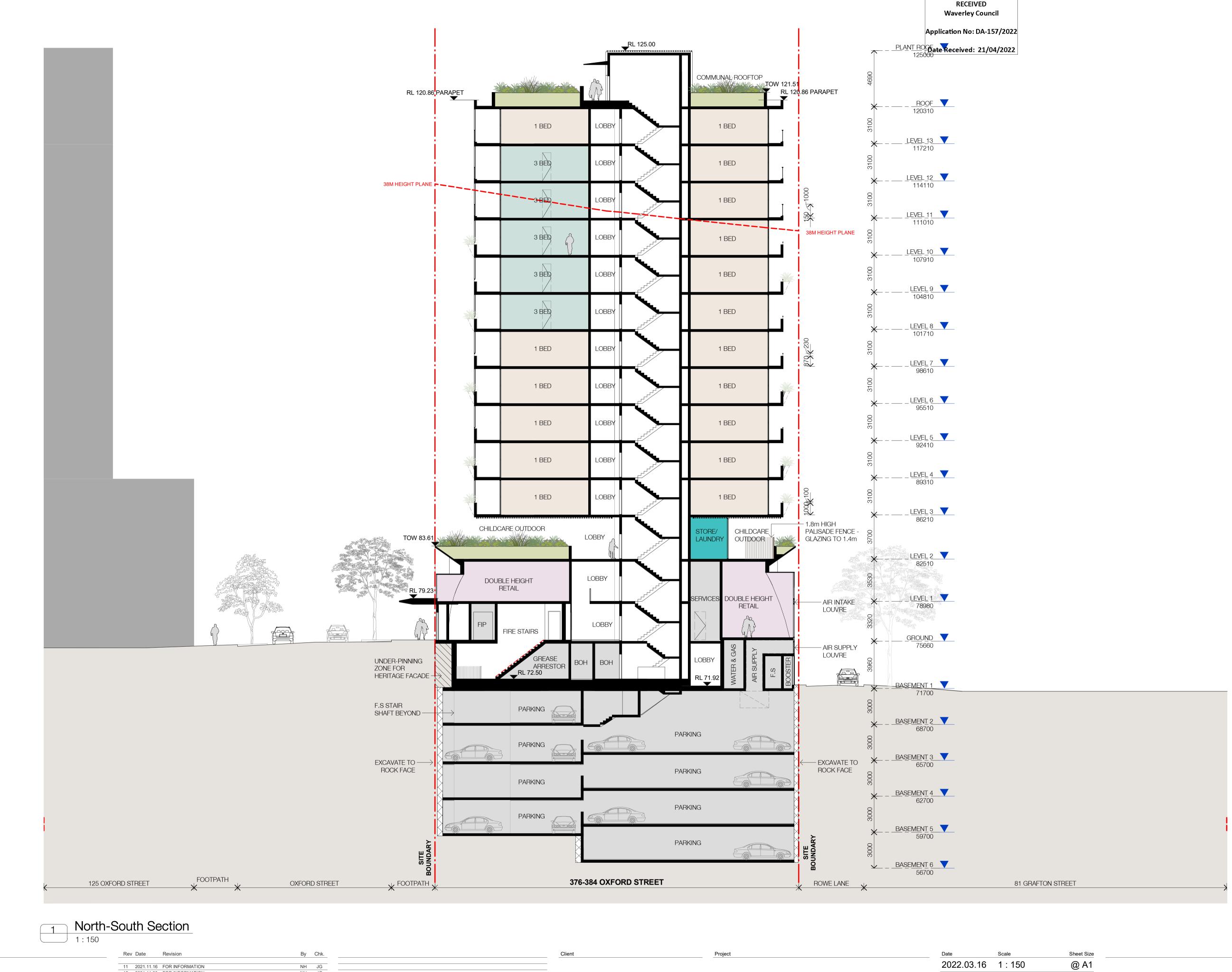
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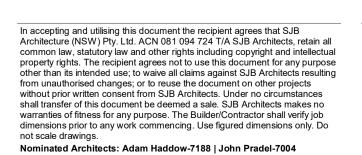
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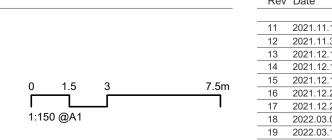
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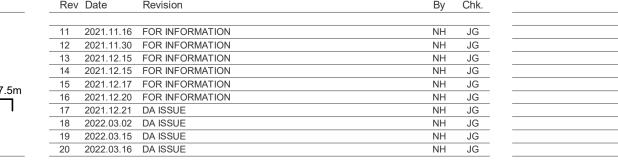
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376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

Drawing Name

SECTION SHEET 1

2022.03.16 1:150 @ A1

Drawn Chk. Job No.

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Drawing No. Revision

DA-A-1501 / 20





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376-384 OXFORD STREET, BONDI JUNCTION Country: GADIGAL COUNTRY Drawing Name SECTION SHEET 2

2022.03.16 1:150 @ A1 Drawn Chk. Job No. JG NH Drawing No. DA-A-1502

SJB Architects Level 2, 490 Crown St Surry Hills NSW Revision 2010 Australia T 61 2 9380 9911 www.sjb.com.au

__<u>LEVEL 5</u> 92410 APT. 4.09 ∠ BALCONY PLANTER POCKET -APT. 3.09 ∠ BALCONY LEVEL 3 V 86210 COL. 1.8m HIGH PALISADE FENCE -GLAZING TO 1.4m — CHILDCARE OUTDOOR LEVEL 2 82510 ANGLED SOFFIT -CEILING /
TRANSFER ZONE _RL 81.60 ARCH RETAIL FRONTAGE -DOUBLE HEIGHT RETAIL AWNING -<u>GROUND</u> 75660 — SLAB STEP BEYOND COL. FOOTPATH STREET BASEMENT 1 (SERVICES) UNDER-PINNING ZONE FOR HERITAGE FACADE COL. EXCAVATE TO -F.S SHAFT BEYOND ROCKFACE ← SLOPED SLAB BASEMENT 2 V DETAIL SECTION Rev Date Revision By Chk. In accepting and utilising this document the recipient agrees that SJB Architecture (NSW) Pty. Ltd. ACN 081 094 724 T/A SJB Architects, retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use; to waive all claims against SJB Architects resulting from unauthorised changes; or to reuse the document on other projects without prior written consent from SJB Architects. Under no circumstances shall transfer of this document be deemed a sale. SJB Architects makes no warranties of fitness for any purpose. The Builder/Contractor shall verify job dimensions prior to any work commencing. Use figured dimensions only. Do not scale drawings.

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RECEIVED **Waverley Council** Application No: DA-157/2022

Date Received: 21/04/2022



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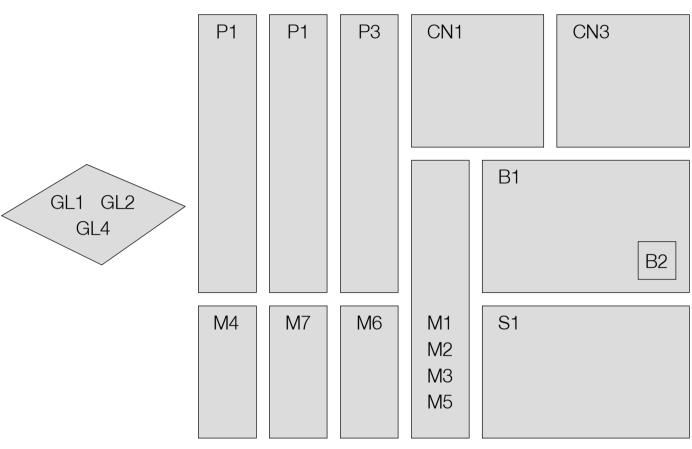
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JG	NH	6507
Drawing No.		Revision
DA-A-1510		/ 20







CONCRETE

Natural Concrete

Natural Concrete (Vertical Grooves)

METALWORKS

Fixed Metal Privacy Screen (M5 Applied) Fixed Metal Blades (M5 Applied)

Fixed Metal Battens (M5 Applied)

Powder Coat (Grey) Powder Coat (Natural Bronze)

Powder Coat (Black)

Powder Coat (Murobond Hemp)

MASONRY

B1 B2 Face Brick - Tan Colour Glass Brick - Amber Natural Sandstone Panels S1

GLAZING

Clear Glazing to Retail (M6 Frame) G1 G2 Clear Glazing to Residential (M6 Frame) Clear Glazing to Balustrade (M5 Rail) G4

EXTERNAL PAINT

Concrete Stain - Nawkaw "Thredbo Sky" Concrete Stain - Nawkaw "Graphite" P3 External Paint Colour Equal to DULUX "Ruku"

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Rev	Date	Revision	Ву	Chk.
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19	2022.03.15	DA ISSUE	NH	JG
20	2022.03.16	DA ISSUE	NH	JG



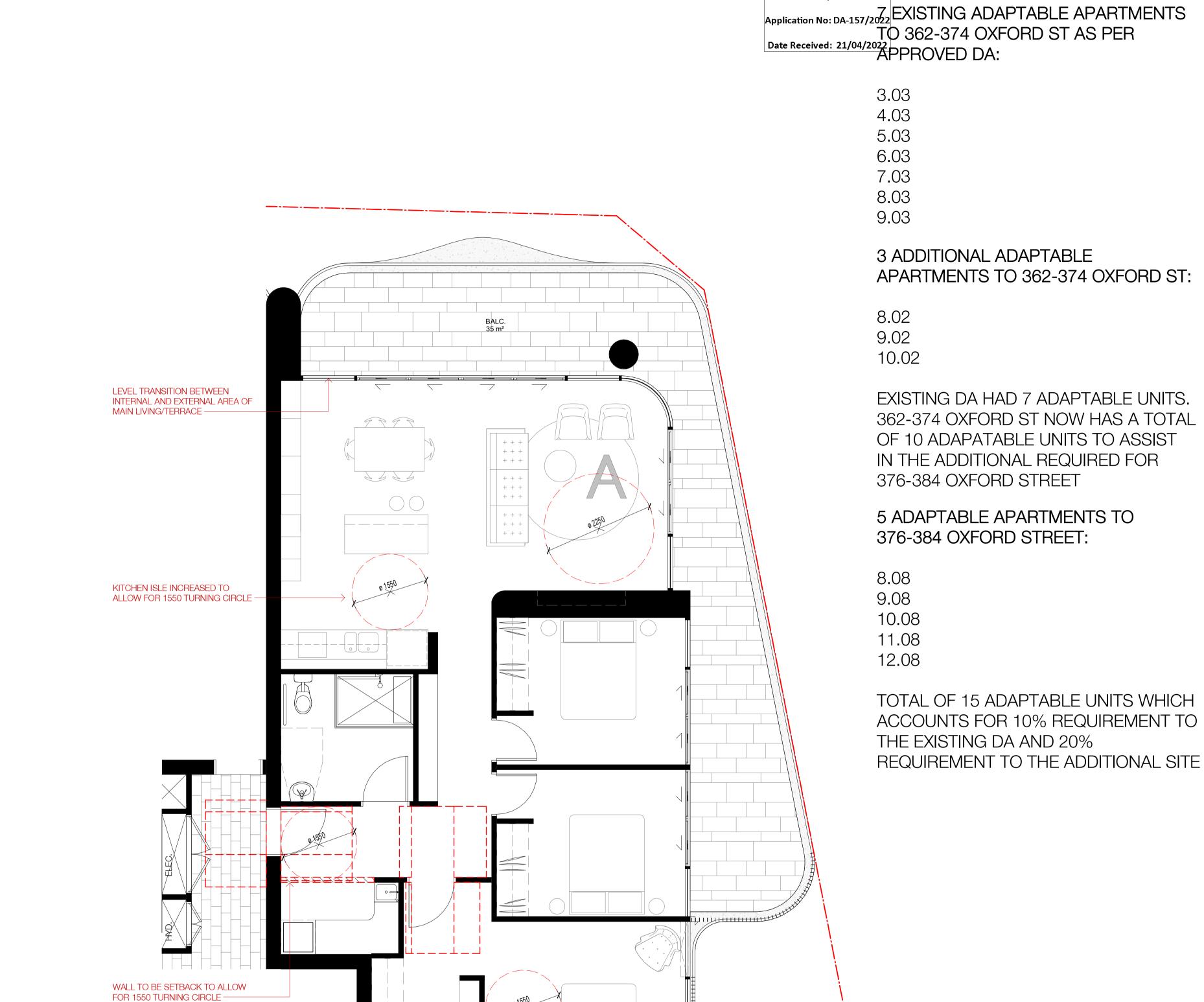


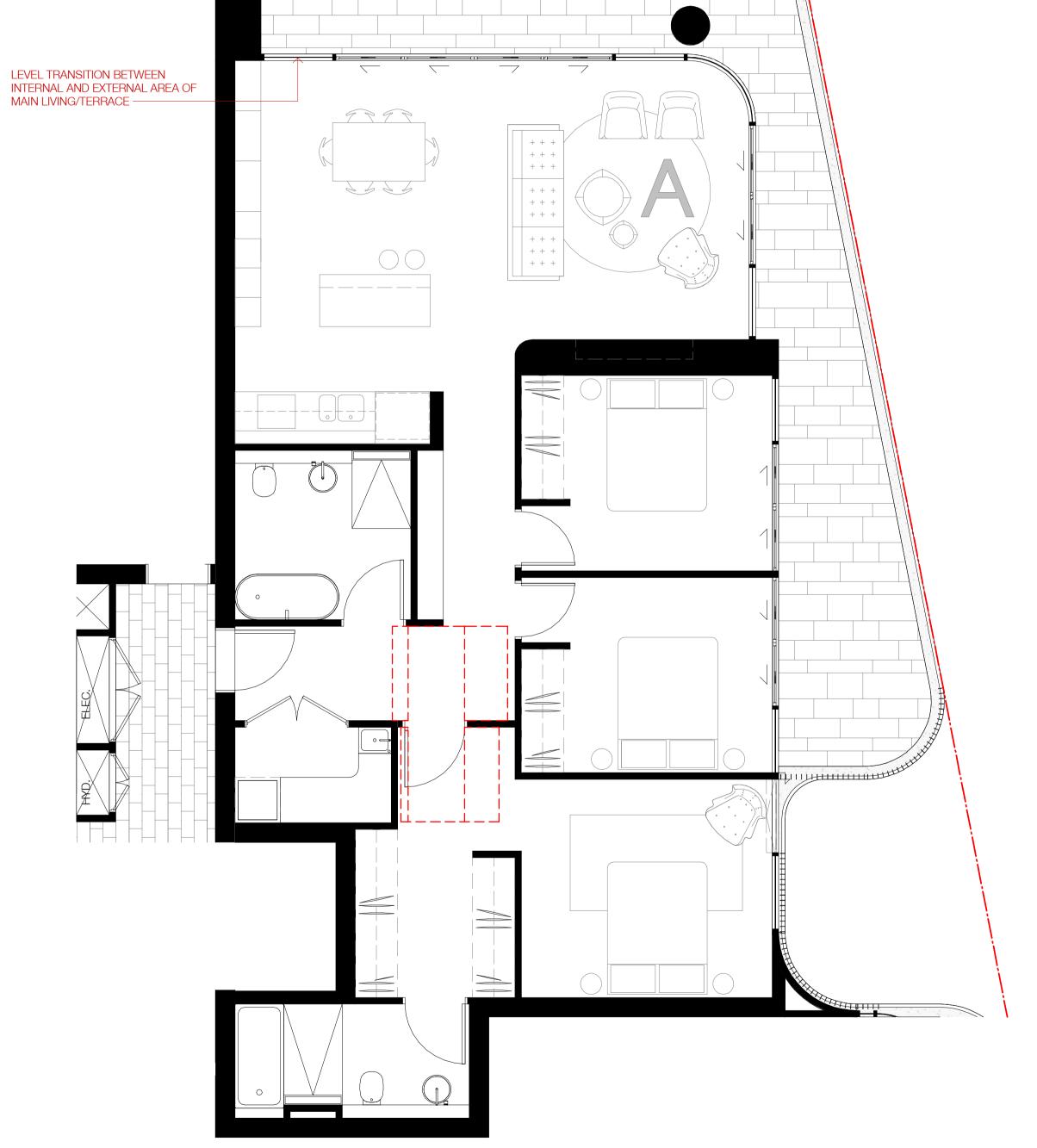
376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

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376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

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Drawing No.		Revision
JG	NH	6507
Drawn	Chk.	Job No
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Date	Scale	Sheet Size

RECEIVED **Waverley Council**



LEGEND

2 HRS
MIN 2 HOURS SUNLIGHT TO
LIVING ROOM & PRIVATE OPEN
SPACE RECIEVED ON THE 21ST JUNE BETWEEN 9AM - 3PM.

MINIMUM 15 MINUTES SUNLIGHT >15 MINS
TO LIVING ROOM & PRIVATE OPEN SPACE RECIEVED ON THE 21ST JUNE BETWEEN 9AM - 3PM.

TOTAL: 76/109 = 70%

TOTAL: 14/109 = 13%

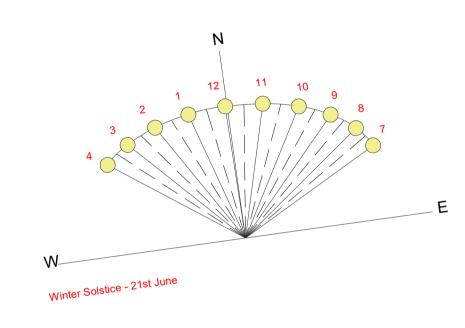
LESS THAN 15 MINUTES
SUNLIGHT TO LIVING ROOM &
PRIVATE OPEN SPACE RECIEVED
ON THE 21ST JUNE BETWEEN 9AM - 3PM.

TOTAL: 19/109 = 17%

ADG DESIGN CRITERIA

- LIVING ROOMS AND PRIVATE OPEN SPACES OF AT LEAST 70% OF APARTMENTS IN A BUILDING TO RECIEVE A MINIMUM OF 2 HOURS DIRECT SUNLIGHT BETWEEN 9AM AND 3PM AT MIN WINTER.

- A MAXIMUM OF 15% OF APARTMENTS IN A BUILDING TO RECIEVE NO DIRECT SUNLIGHT BETWEEN 9AM AND 3PM AT MID WINTER.





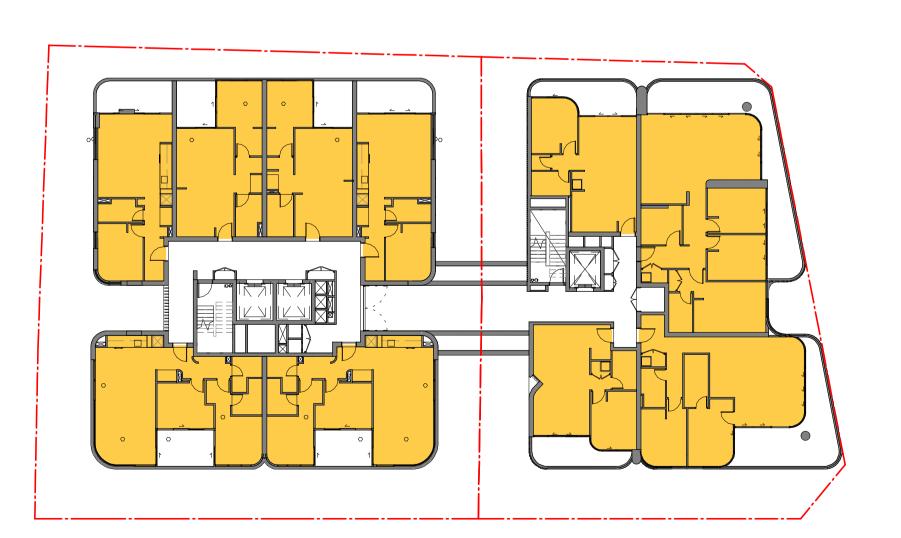
LEVEL 3-4 - SOLAR

2 HRS=8 >15 MINS=8 <15 MINS=6



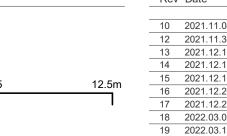
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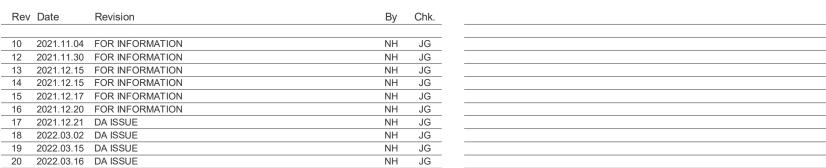
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LEVEL 13 - SOLAR

2 HRS=10 >15 MINS=0 <15 MINS=0



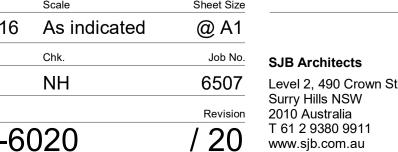


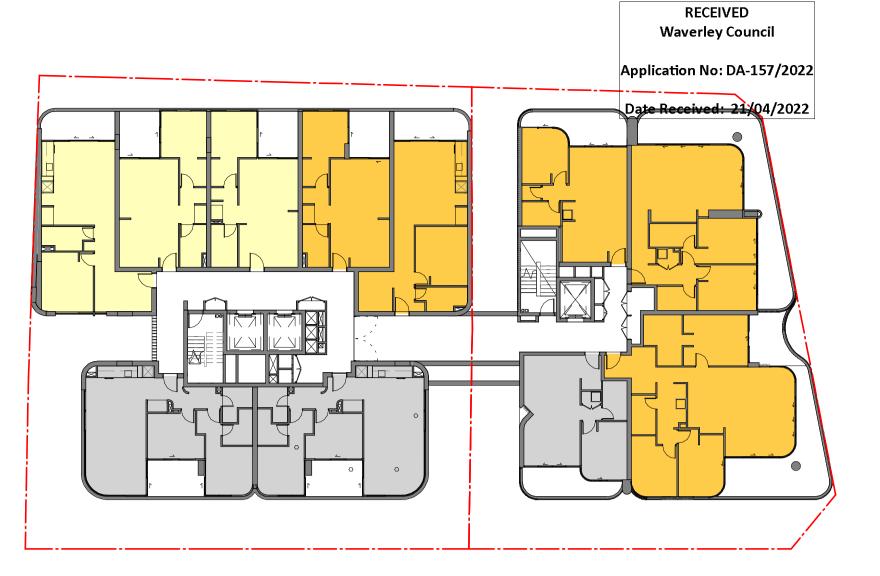




Country: GADIGAL COUNTRY **Drawing Name**

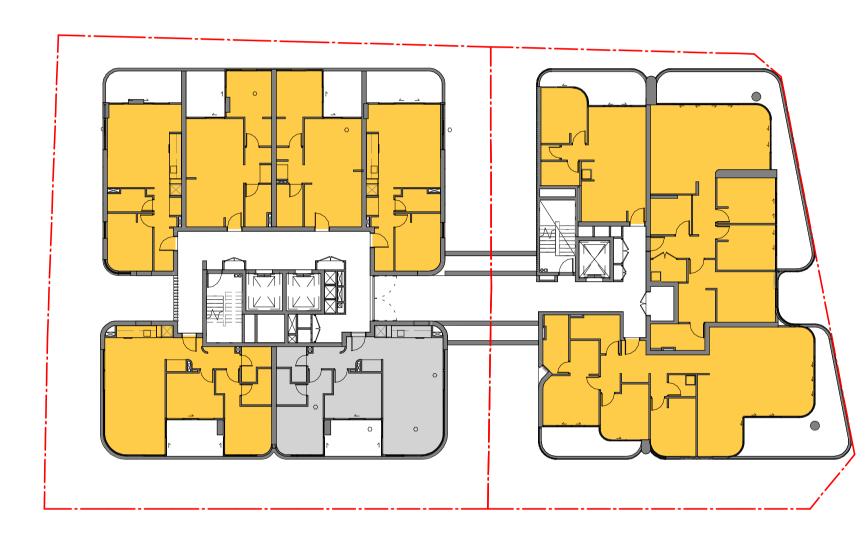
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As indicated	@ A1	
Chk.	Job No.	
NH	6507	
	Revision	
DA-A-6020		
	As indicated Chk. NH	





LEVEL 5-6 - SOLAR

2 HRS=10 >15 MINS=6 <15 MINS=6



LEVEL 8-12 - SOLAR

2 HRS=40 >15 MINS=0 <15 MINS=5

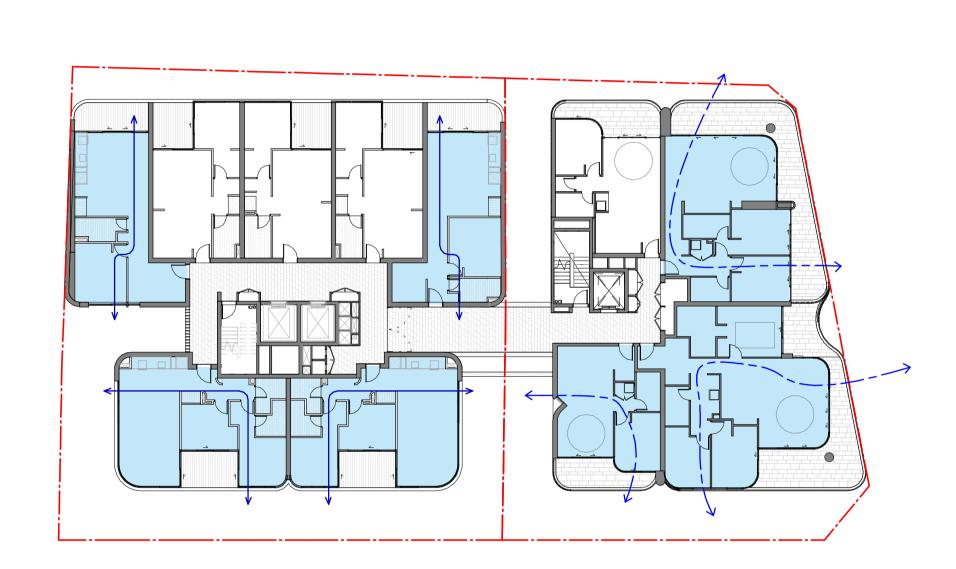
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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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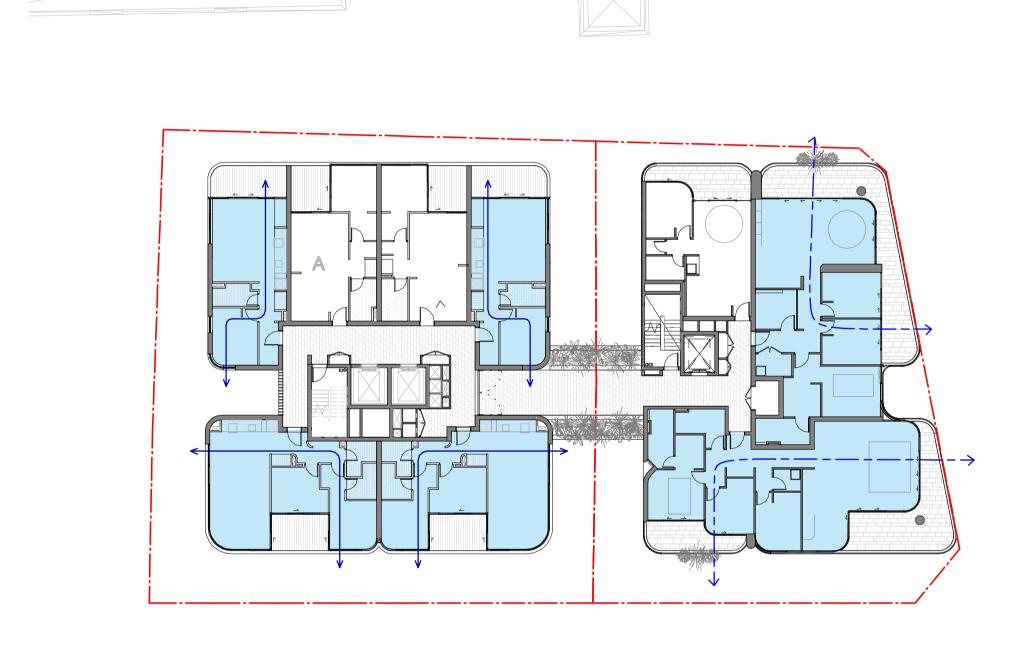
LEVEL 3-7 - CROSS VENT

TOTAL CROSS-VENTILATED APARTMENTS= 35

Cross Vent up to level 8 (9th storey): **(41/63) = 65**%

ADG DESIGN CRITERIA

AT LEAST 60% OF APARTMENTS ARE NATURALLY CROSS VENTILATED IN THE FIRST NINE STOREYS OF THE BUILDING.

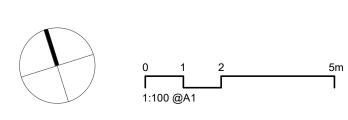


LEVEL 8 - CROSS VENT

TOTAL CROSS-VENTILATED APARTMENTS= 6

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Nominated Architects: Adam Haddow-7188 I John Pradel-7004 Nominated Architects: Adam Haddow-7188 | John Pradel-7004



Rev	Date	Revision	Ву	Chk.
13	2021.12.15	FOR INFORMATION	NH	JG
14	2021.12.15	FOR INFORMATION	NH	JG
15	2021.12.17	FOR INFORMATION	NH	JG
16	2021.12.20	FOR INFORMATION	NH	JG
17	2021.12.21	DA ISSUE	NH	JG
18	2022.03.02	DA ISSUE	NH	JG
19	2022.03.15	DA ISSUE	NH	JG
20	2022.03.16	DA ISSUE	NH	JG



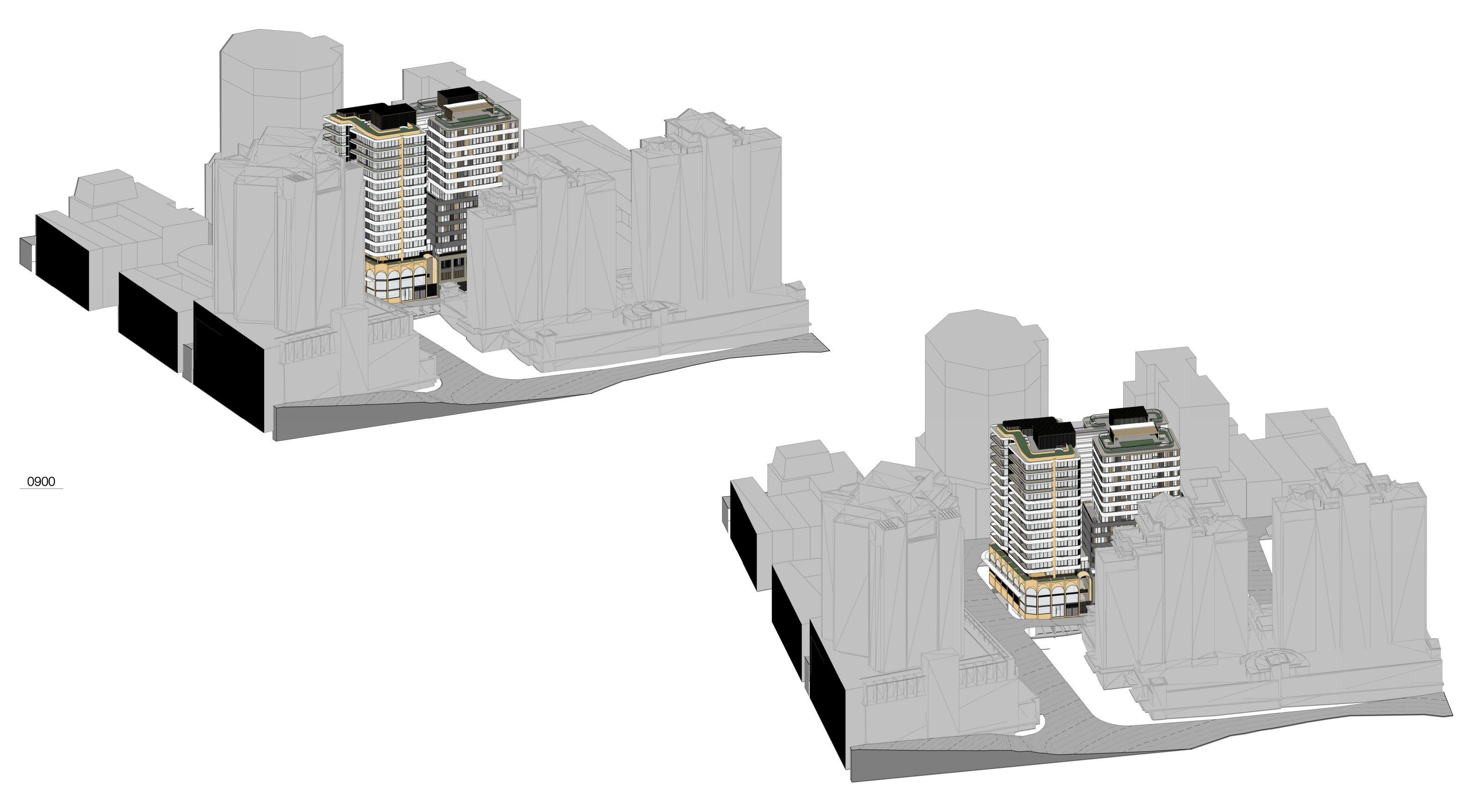
376-384 OXFORD STREET, BONDI JUNCTION Country: GADIGAL COUNTRY

CROSS VENTILATION ANALYSIS

DA-A-6	021	/ 20
Drawing No.		Revision
JG	NH	6507
Drawn	Chk.	Job No.
2022.03.16	1:250	@ A1
Date	Scale	Sheet Size



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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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12	2021.11.30	FOR INFORMATION	NH	JG
13	2021.12.15	FOR INFORMATION	NH	JG
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20	2022.03.16	DA ISSUE	NH	JG



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Country: GADIGAL COUNTRY

Drawing Name

SOLAR POV

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DA-A-6030		/ 20	

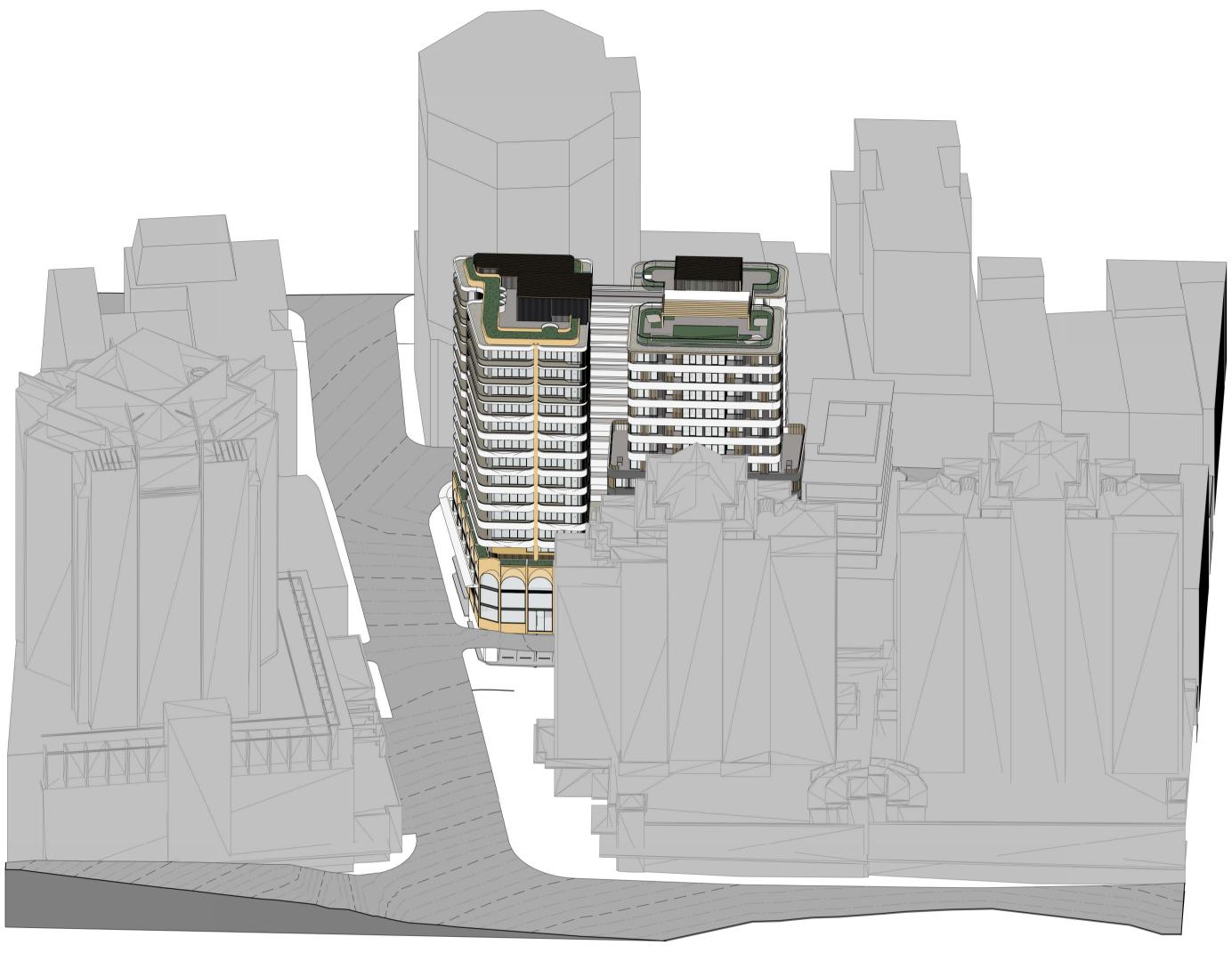


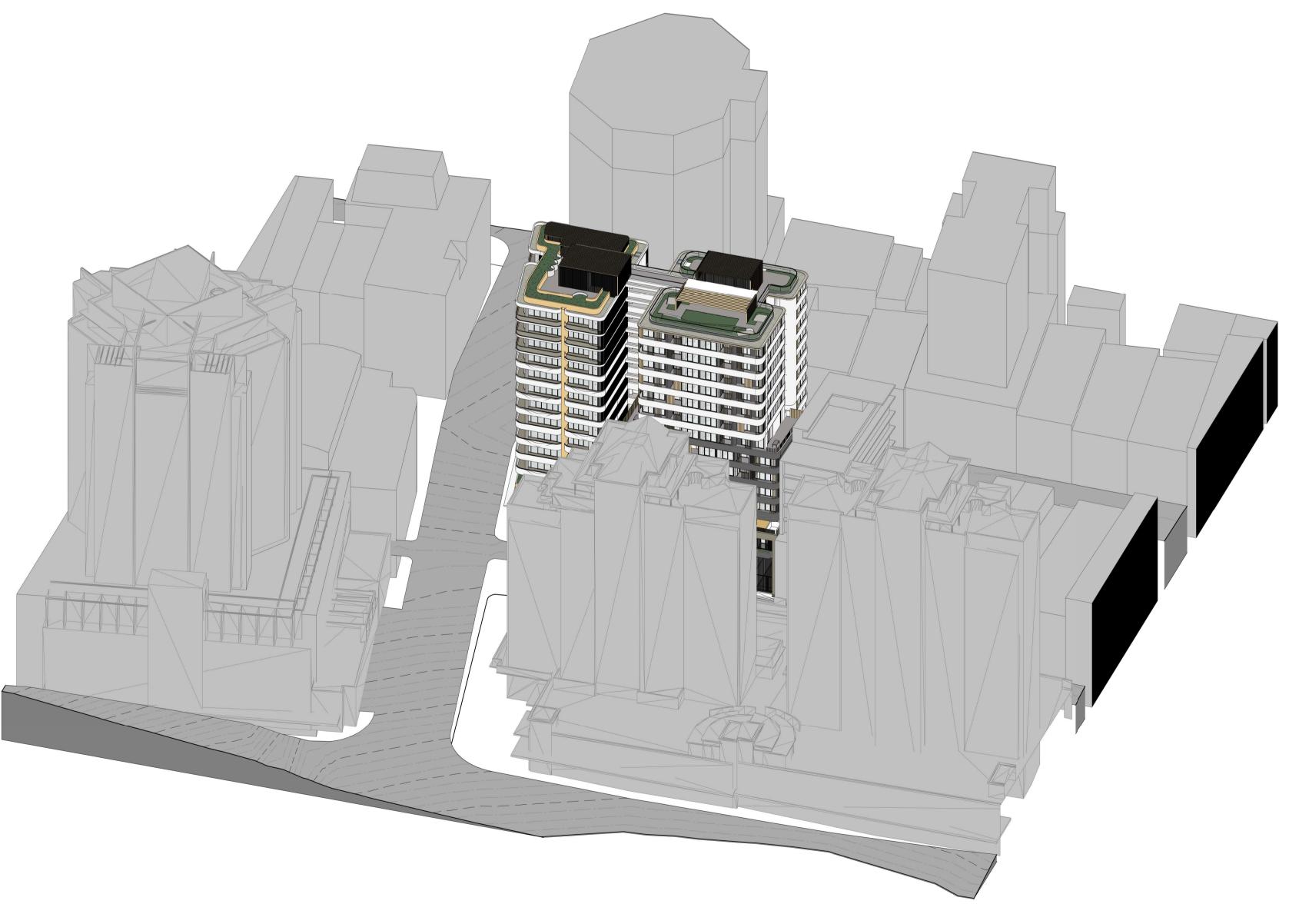
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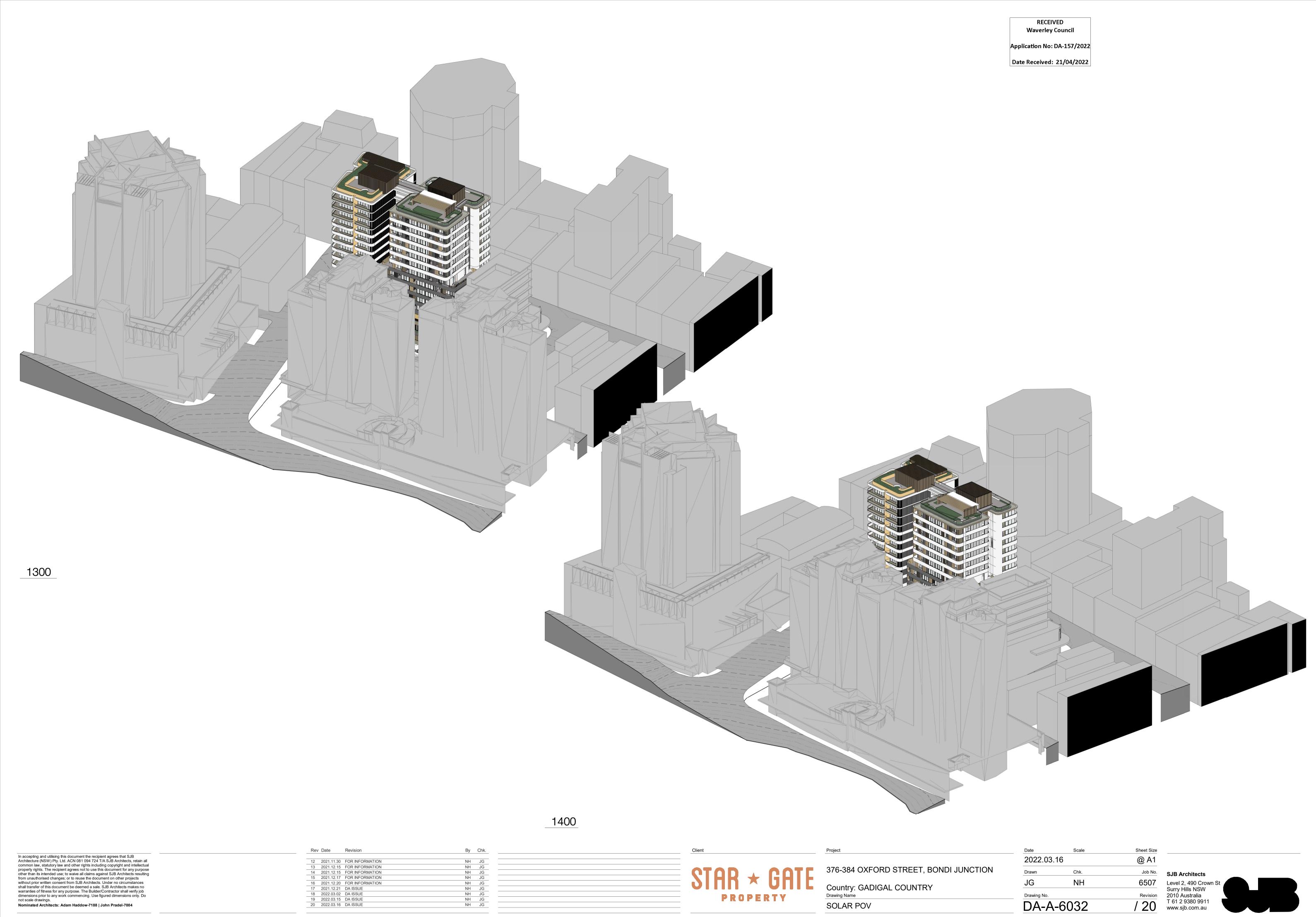
Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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Drawing No.		Revision
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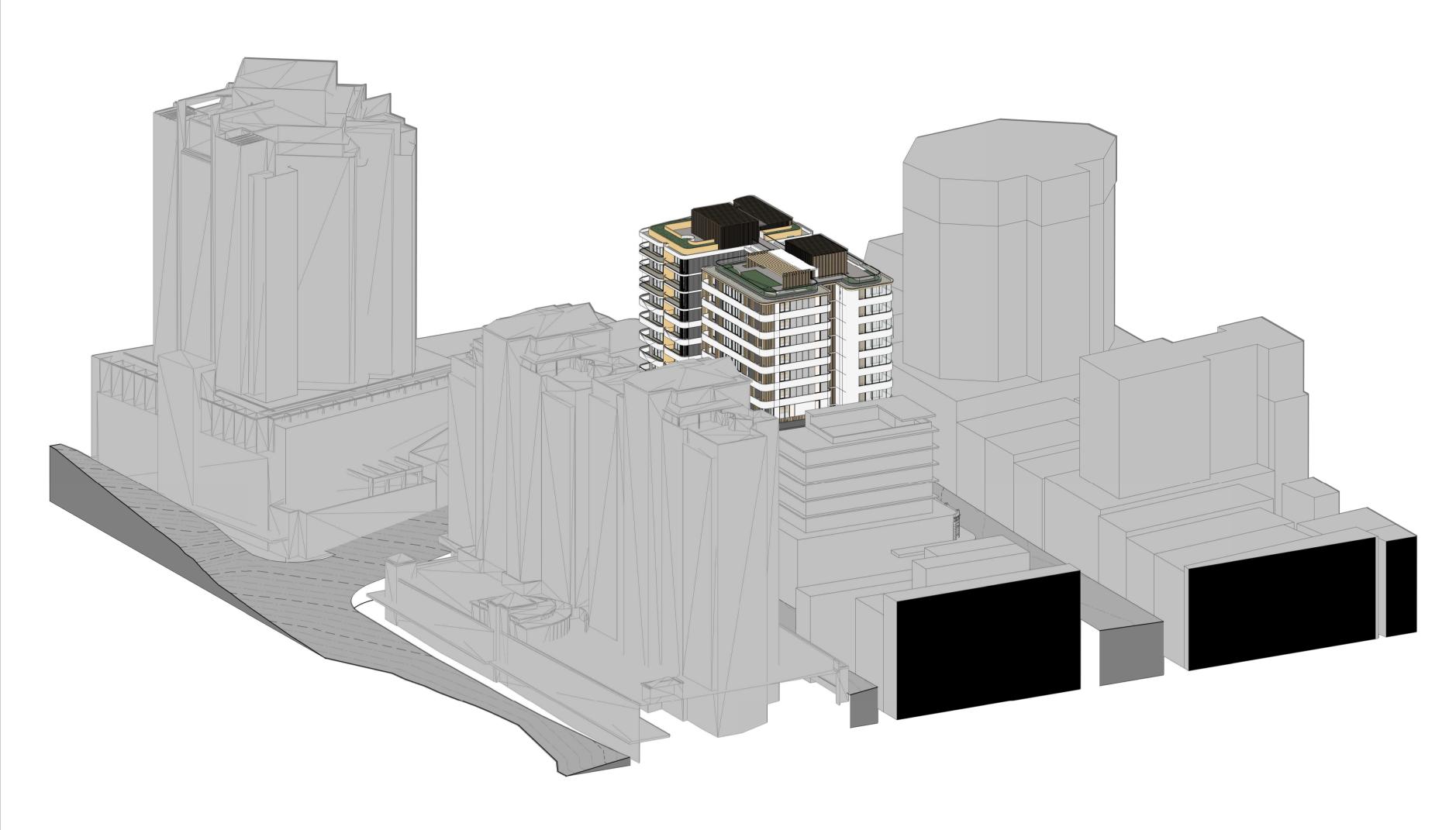


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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

 Rev Date
 Revision
 By Chk.

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 NH JG

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376-384 OXFORD STREET, BONDI JUNCTION

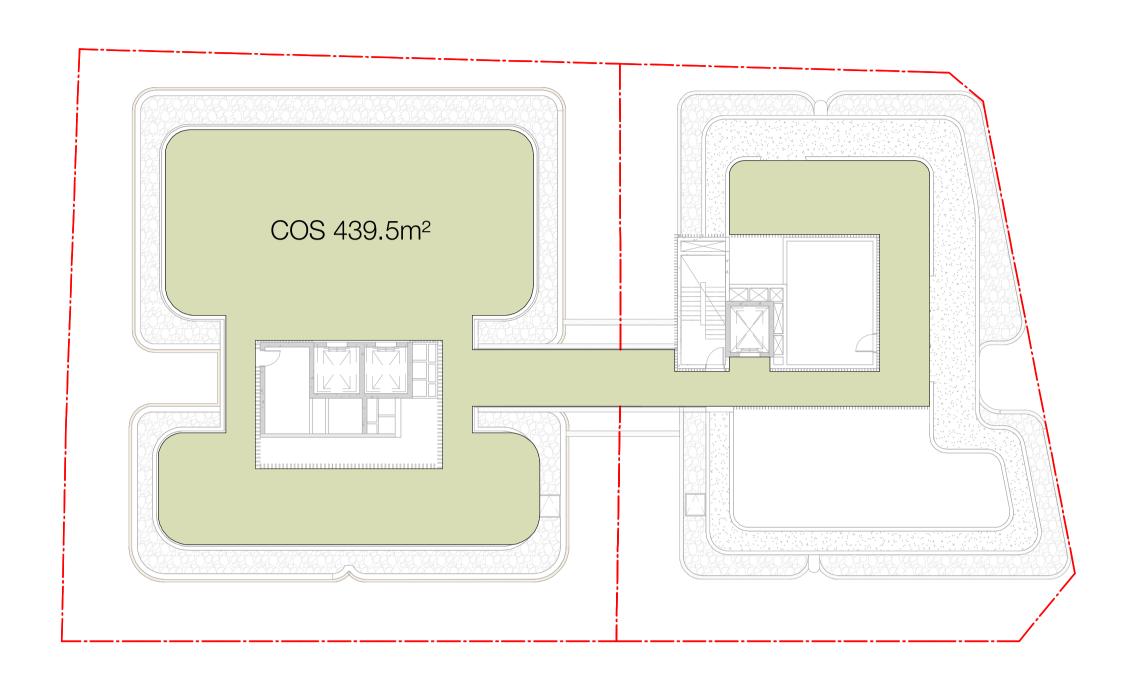
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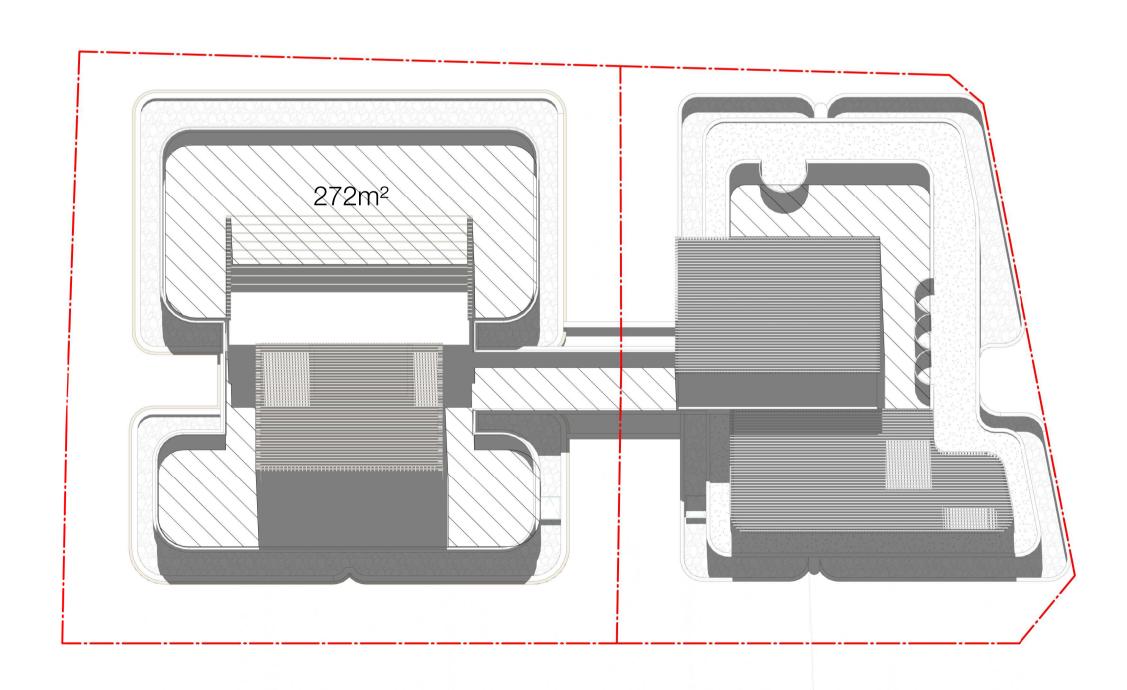
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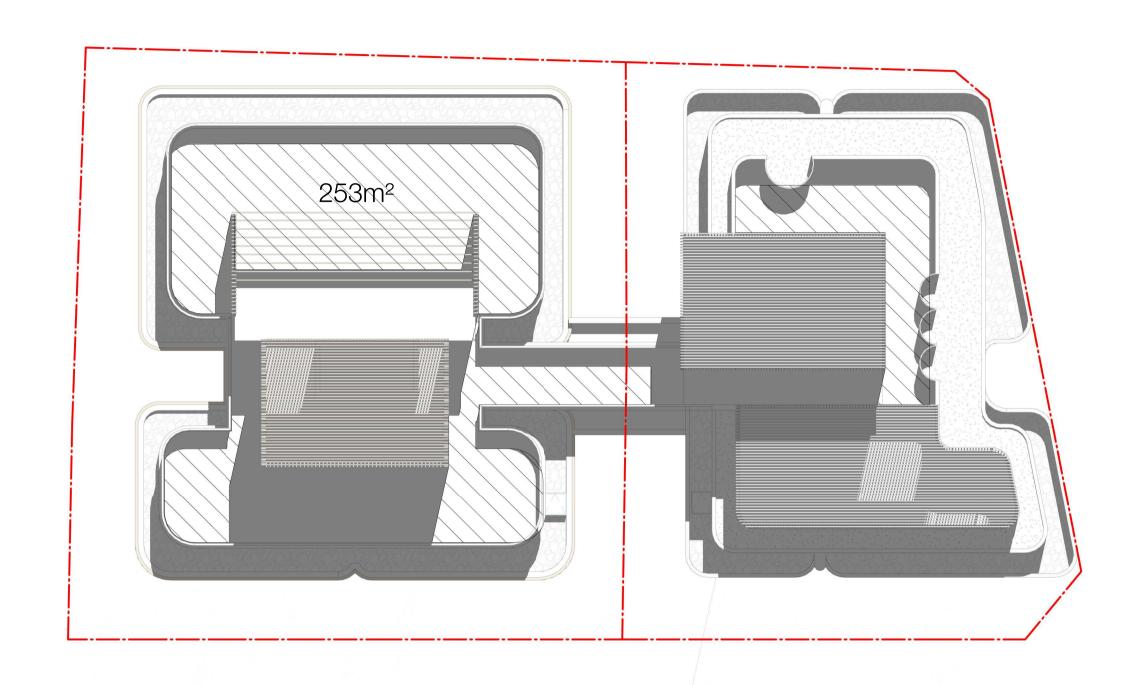


ROOF COMMUNAL OPEN SPACE

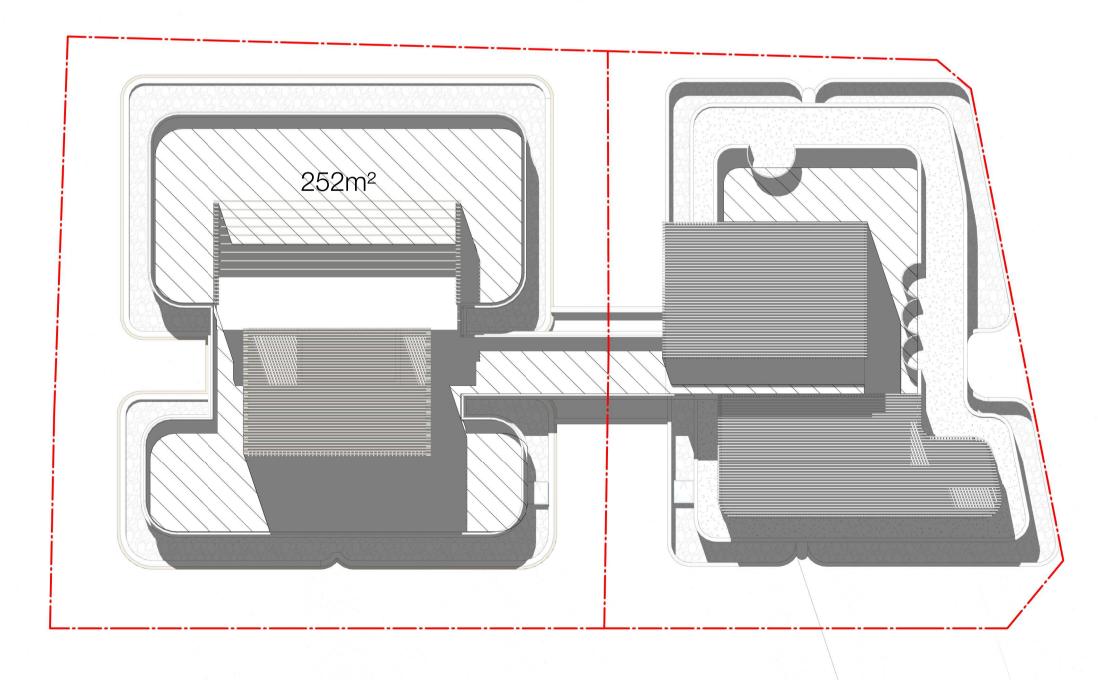
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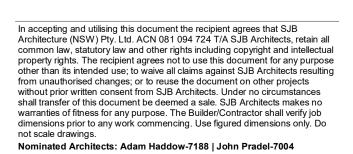
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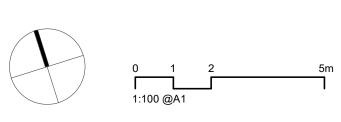


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ROOF_SHADOW 1200





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9	2022.03.15	DA ISSUE	NH	JG
)	2022.03.16	DA ISSUE	NH	JG



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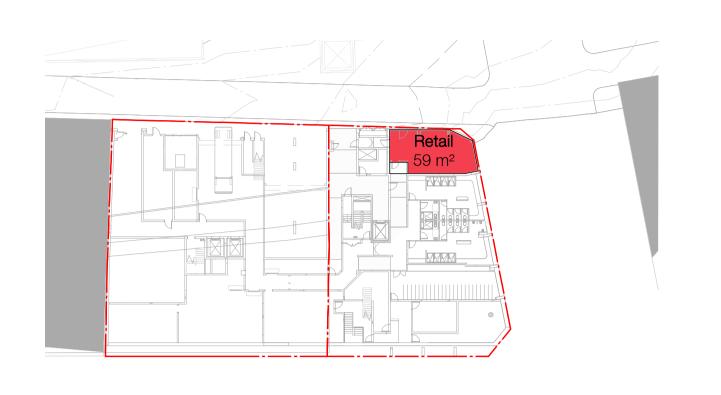
376-384 OXFORD STREET, BONDI JUNCTION

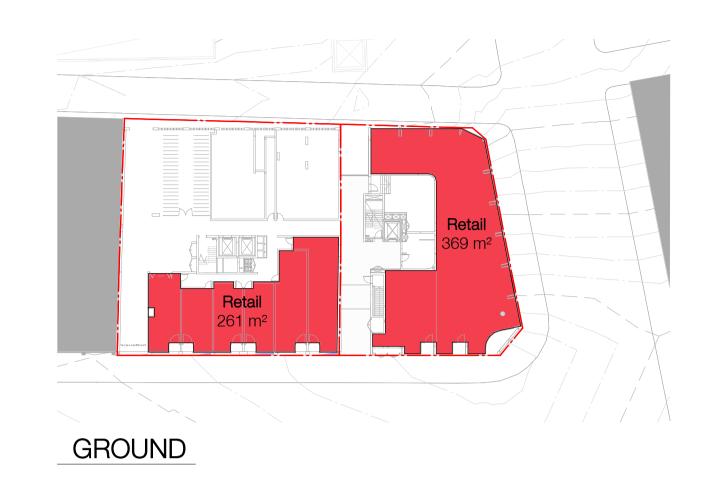
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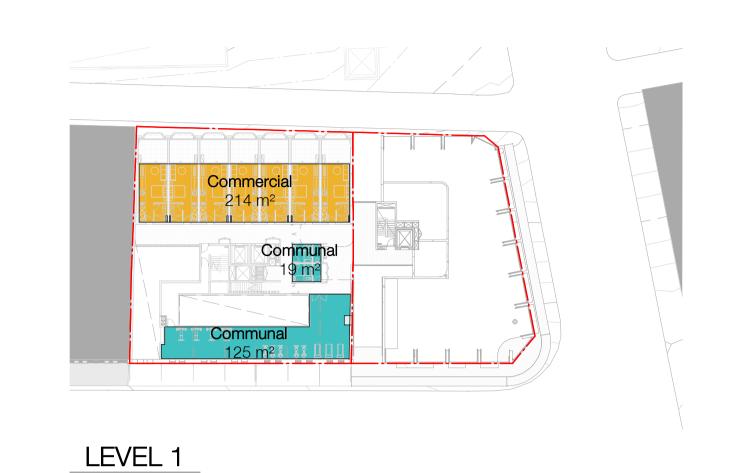
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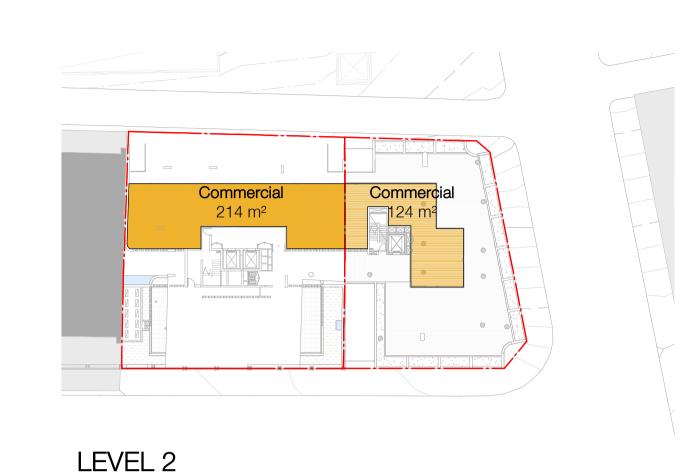
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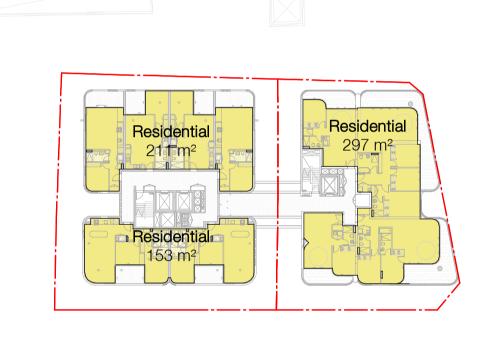












LEVI

LEVEL 8-12

Area Schedule	e (GFA) - 362-384	Oxford St
Level	Name	Area
BASEMENT 1	Retail	59 m ²
GROUND	Retail	630 m ²
		0.50

Level	Name	Area
GROUND	Retail	261 m ²
LEVEL 1		358 m ²
LEVEL 2	Commercial	214 m ²
LEVEL 3	Residential	436 m ²
LEVEL 4	Residential	436 m ²
LEVEL 5	Residential	436 m ²
_EVEL 6	Residential	436 m ²
LEVEL 7	Residential	364 m ²
LEVEL 8	Residential	364 m ²
LEVEL 9	Residential	364 m ²
LEVEL 10	Residential	364 m ²
LEVEL 11	Residential	364 m ²
LEVEL 12	Residential	364 m ²
LEVEL 13	Residential	364 m ²

Level	Name	Area
BASEMENT 1	Retail	59 m ²
GROUND	Retail	369 m ²
LEVEL 2	Commercial	124 m ²
LEVEL 3	Residential	294 m ²
LEVEL 4	Residential	294 m ²
LEVEL 5	Residential	294 m ²
LEVEL 6	Residential	294 m ²
LEVEL 7	Residential	294 m ²
LEVEL 8	Residential	297 m ²
LEVEL 9	Residential	297 m ²
LEVEL 10	Residential	297 m ²
LEVEL 11	Residential	297 m ²
_EVEL 12	Residential	297 m ²
_EVEL 13	Residential	297 m ²
	1 tooldortial	201 111

Level	Name	Area
	'	
BASEMENT 1	Retail	59 m ²
GROUND	Retail	630 m ²
LEVEL 1		358 m ²
LEVEL 2	Commercial	338 m ²
LEVEL 3	Residential	730 m ²
LEVEL 4	Residential	730 m ²
LEVEL 5	Residential	730 m ²
LEVEL 6	Residential	730 m ²
LEVEL 7	Residential	658 m ²
LEVEL 8	Residential	661 m ²
LEVEL 9	Residential	661 m ²
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LEVEL 11	Residential	661 m ²
LEVEL 12	Residential	661 m ²
LEVEL 13	Residential	661 m ²
		8929m²

LEVEL 13

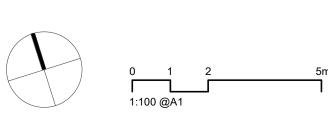
LEVEL 14

LEVEL 3-6

BASEMENT 1

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004



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12	2021.11.30	FOR INFORMATION	NH	JG
13	2021.12.15	FOR INFORMATION	NH	JG
14	2021.12.15	FOR INFORMATION	NH	JG
15	2021.12.17	FOR INFORMATION	NH	JG
16	2021.12.20	FOR INFORMATION	NH	JG
17	2021.12.21	DA ISSUE	NH	JG
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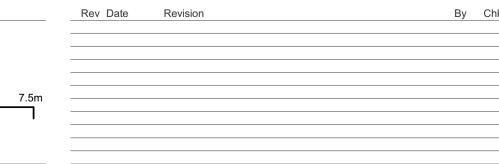
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Drawing No.		Revision
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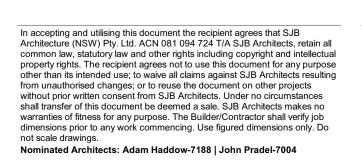
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 DA-A-6201

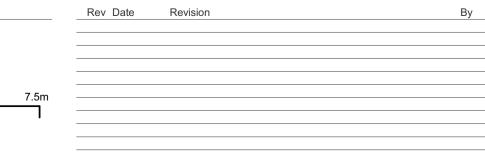






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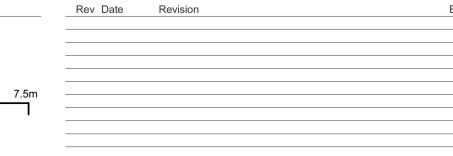
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376-384 OXFORD STREET, BONDI JUNCTION

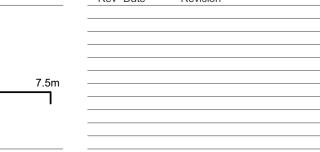
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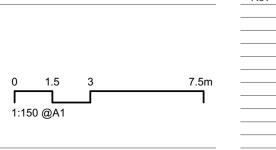
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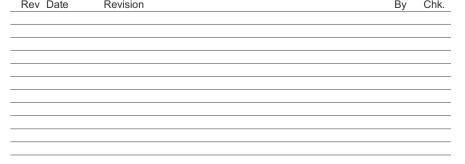




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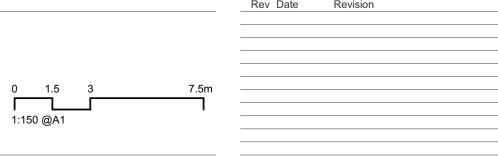




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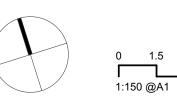


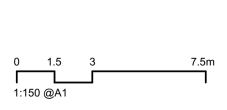


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376-384 OXFORD STREET, BONDI JUNCTION	Drawn	Chk.	Job No.
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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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Country: GADIGAL COUNTRY

3D PERSPECTIVE

DA-A-7011		/ 20
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 2021.12.21
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 18
 2022.03.02
 DA ISSUE
 NH JG

 19
 2022.03.15
 DA ISSUE
 NH JG

 20
 2022.03.16
 DA ISSUE
 NH JG



376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

Drawing Name

3D PERSPECTIVE

Date	Scale	Sheet Size
2022.03.	16	@ A1
Drawn	Chk.	Job No.
JG	NH	6507
Drawing No.		Revision
DA-A-7012		/ 20





Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Rev Date Revision By Chk. 12 2021.11.30 FOR INFORMATION
13 2021.12.15 FOR INFORMATION
14 2021.12.15 FOR INFORMATION
15 2021.12.17 FOR INFORMATION
16 2021.12.20 FOR INFORMATION
17 2021.12.21 DA ISSUE
18 2022.03.02 DA ISSUE
19 2022.03.15 DA ISSUE
20 2022.03.16 DA ISSUE



376-384 OXFORD STREET, BONDI JUNCTION Country: GADIGAL COUNTRY

3D PERSPECTIVE

Date	Scale	Sheet Size
2022.03.	16	@ A1
Drawn	Chk.	Job No.
JG	NH	6507
Drawing No.		Revision
DA-A-7013		/ 20





GROUND LEVEL VIEW FROM 121-125 OXFORD STREET



MIDDLE LEVEL VIEW FROM 121-125 OXFORD STREET EXISTING



TOP LEVEL VIEW FROM 121-125 OXFORD STREET

EXISTING

NH NH NH	
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Application No: DA-157/2022



MIDDLE LEVEL VIEW FROM 121-125 OXFORD STREET PROPOSED



TOP LEVEL VIEW FROM 121-125 OXFORD STREET PROPOSED

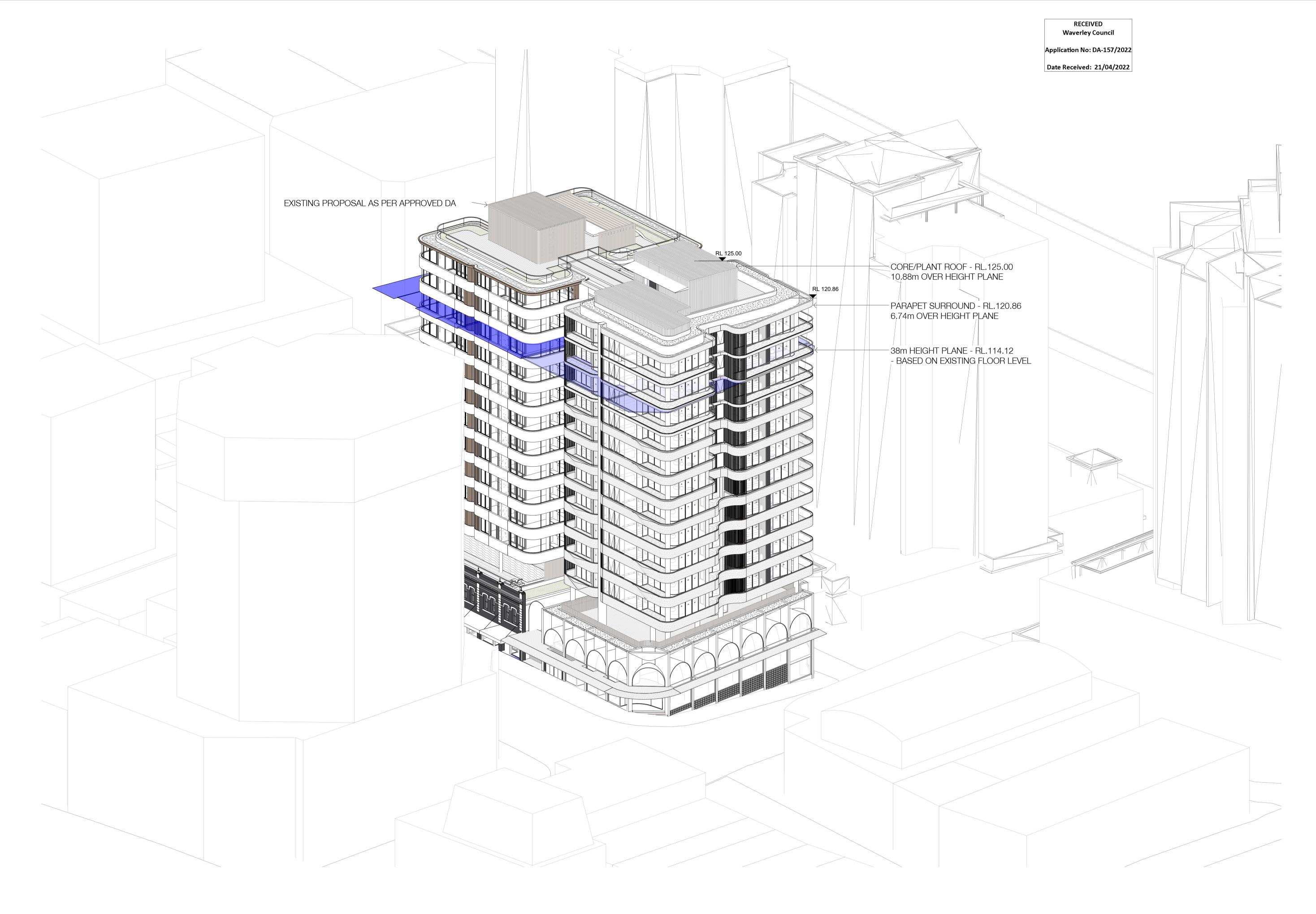
376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY Drawing Name VIEW IMPACT

Date	Scale	Sheet Size
2022.03.16		@ A1
Drawn	Chk.	Job No.
JG	NH	6507
Drawing No.		Revision
DA-A-7020		/ 20



Nominated Architects: Adam Haddow-7188 | John Pradel-7004



Rev DateRevisionBy Chk.20 2022.03.16DA ISSUENH JG



376-384 OXFORD STREET, BONDI JUNCTION

Country: GADIGAL COUNTRY

Drawing Name

HEIGHT PLANE DIARGAM

Date	Scale	Sheet Size
2022.03.16		@ A1
Drawn	Chk.	Job No.
JG	NH	6507
Drawing No.		Revision
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