



4 December 2019

A meeting of the **WAVERLEY LOCAL PLANNING PANEL** will be held on level 3, Waverley Council Chambers, Cnr Bondi Road and Paul Street, Bondi Junction at:

12.00 PM WEDNESDAY 11 DECEMBER 2019

QUORUM: Three Panel members.

APOLOGIES: By e-mail to WLPP@waverley.nsw.gov.au

OR

Late notice by telephone to the WLPP Co-ordinator on 9083 8273.

AGENDA

WLPP-1912.A Apologies

WLPP-1912.DI Declarations of Interest

The Chair will call for any declarations of interest.

WLPP-1912.1 PAGE 4 22 Kimberley Street, Vaucluse - Section 8.2 review of refusal for alterations and additions to a dwelling house, including an upper level addition (DA-17/2019/1)

Report dated 27 November 2019 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.

WLPP-1912.2 PAGE 38 21 Curlew Street BONDI BEACH - Review of refusal for demolition of existing single storey commercial building and construction of a four-storey commercial building (DA-320/2018/1)

Report dated 2 December 2019 from the Development and Building Unit.

Recommendation: That the application be granted deferred commencement consent in accordance with the conditions contained in the report.

WLPP-1912.3 PAGE 122 28-30 Bourke Street, QUEENS PARK - Alterations and additions to childcare facility including construction of a cot room and new signage (DA-232/2019)

Report dated 28 November 2019 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.

WLPP-1912.4

PAGE 154

18 Carlton Street, Waverley - Section 8.3 review of refusal for alterations to verandah and front fence and the construction of a hardstand (DA-199/2019/1)

Report dated 16 November 2019 from the Development and Building Unit.

Recommendation: That the application be refused in accordance with the reason contained in the report.

WLPP-1912.5

PAGE 173

113 MacPherson Street, Bronte - Change of use to a supermarket including consolidation of retail tenancies to a single tenancy and associated fit out (DA-231/2019)

Report dated 29 November 2019 from the Development and Building Unit.

Recommendation: That the application be approved in accordance with the conditions contained in the report.



Report to the Waverley Local Planning Panel

Application number	DA-17/2019/1
Site address	22 Kimberley Street, Vaucluse
Proposal	Section 8.2 review of refusal for alterations and additions to a dwelling house, including an upper level addition.
Date of lodgement	13 September 2019
Owner	JG Prats
Applicant	GSA Planning
Submissions	Five (5)
Cost of works	\$392,520
Issues	View loss
Recommendation	That the application be APPROVED



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 22 October 2019.

The site comprises two lots and is identified as lots 17 and 18 DP 976698 and is known as 22 Kimberley Street, Vacluse. The site has a northern street frontage of 12.19m and a total area of 334.2m². The site falls from the rear to the front and also has a cross fall from the west down to the east. The site is located on the slope of Kimberley Street.

The site is occupied by a single storey dwelling house with a garage below and built to the street alignment.

Adjoining the site to the east, is a two storey dual occupancy with two garages at ground level. To the west is a two storey dual occupancy with two garages built to the street alignment. Opposite, across Kimberley Street, is a 10 storey residential flat building. To the rear (south east), at 1 and 3 Ray Street are a pair of part 1 and part 2 storey semi-detached dwellings. At 2 Ethel Street (south west) is a two storey dwelling house.

The locality is characterised by a variety of residential developments, including semi-detached dwellings, dwelling houses and residential flat buildings.



Figure 1: Subject site frontage

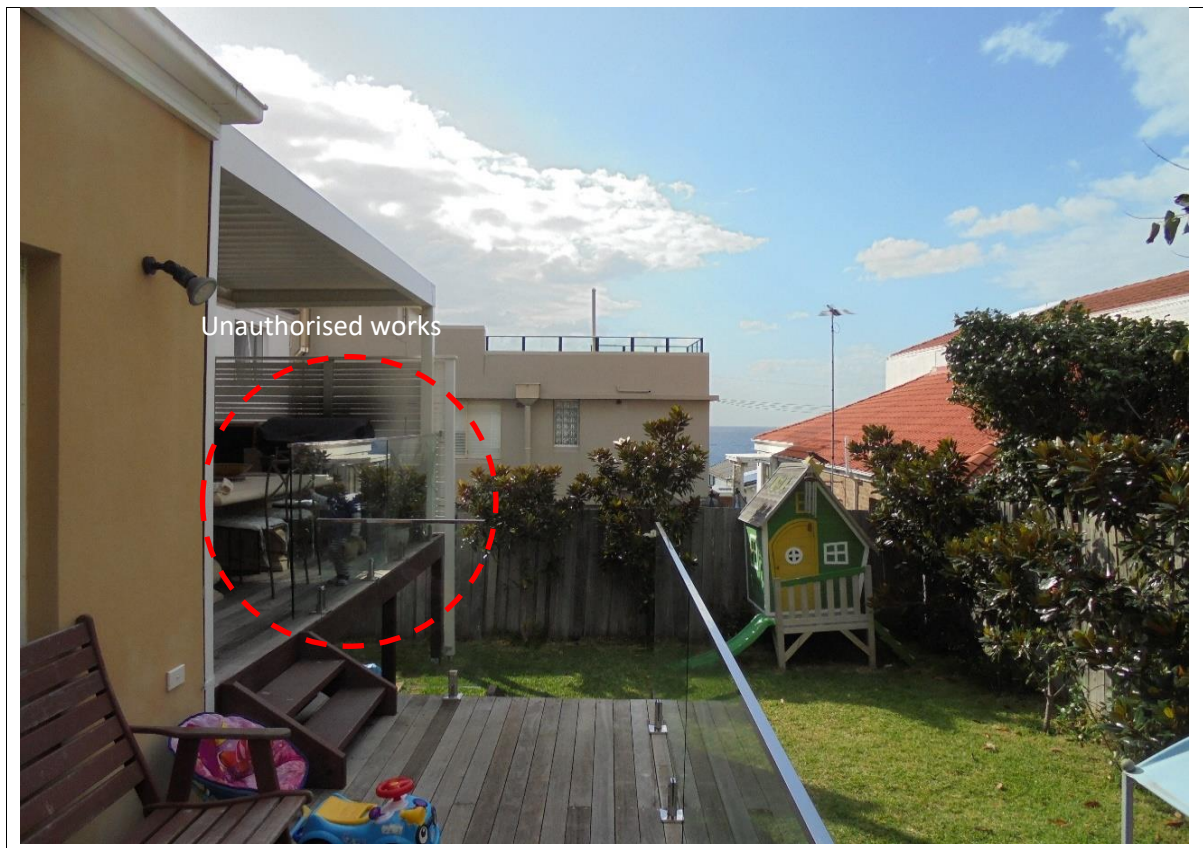


Figure 2: Rear of site looking east

1.2 Relevant History

DA-310/2003: Alterations and additions including a first floor addition and conversion to dual occupancy; Refused.

DA-78/2005: Enclosure of rear courtyard to create additional bedroom and deck (western); Approved 6 February 2006.

DA-17/2019: Alterations and additions to dwelling house including a first floor addition; Refused by WLPP at its meeting on 24 July 2019 for the following reasons:

1. *The application is contrary to the height development standard and the clause 4.6 variation written request has not been substantiated.*
2. *The Panel does not consider that the objectives of the zone and standard have been met and accordingly the variation is not in the Public interest.*
3. *Inadequate information in relation to view loss and view sharing have been provided to allow a proper assessment.*

It is noted that there is a deck to the rear, on the eastern side of the dwelling. This was built without consent and is unauthorised. Council's Compliance unit has issued an order for the removal of the external door, deck, pergola and privacy screen at the rear of the dwelling. These elements do not form part of this application.

1.3 Proposal

Alterations and additions to dwelling house, including upper level addition.

The proposal includes two balconies, one to the front north eastern corner and one to the rear eastern side of the dwelling.

To address the reasons for the refusal, the proposal has been amended as follows:

- Roof pitch decreased from 26 to 18 degrees;
- Overall height of building lowered from 9.81m (RL 56) to 8.49m (RL 55.35);
- 1.6m high translucent glass privacy screen to the eastern elevation of the front balcony; and
- 1.6m high translucent glass privacy screen to the eastern elevation of the rear balcony.

Floor space ratio, setbacks and landscape area calculations remain as previously considered.

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 Section 8.2 Reviews Considerations

In accordance with Section 8.2(1) the following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:

- (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
- (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
- (c) the decision of a council to reject and not determine an application for development consent.*

In accordance with Section 8.3(5) the review of a determination or decision made by a Local Planning Panel is to be conducted by the Panel.

In accordance with Section 8.3(3), in requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The applicant has provided an amended proposal with the review application, which are described above, and the amended proposal is considered to be substantially the same development as the original application.

2.2 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.

2.2.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

2.2.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.2.3 SEPP (Coastal Management) 2018

The SEPP applies to the subject site as it is wholly located within the Coastal Environment Area (Clause 13) and a Coastal Use Area (Clause 14) according to the SEPP.

Clause 13 states that development within the coastal environment area, must not be granted development consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

The above matters have been considered and are considered satisfactory in the context of the subject application.

Clause 14 states that development consent must not be granted for development on land within the coastal use area unless the consent authority;

- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) Aboriginal cultural heritage, practices and places,*
 - (v) cultural and built environment heritage, and*

- (b) *is satisfied that:*
- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

The above matters have been considered and are considered satisfactory in the context of the subject application.

Clause 15 states *Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

The proposal will not increase the risk of coastal hazards on the site or other land.

2.2.4 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 development		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a dwelling house, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings • 8.5m	Yes	The proposal has a compliant height of 8.496m.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 0.73:1	Yes	The proposal has a compliant FSR of 0.7:1.
Part 6 Additional local provisions		
6.4 Terrestrial biodiversity	NA	The proposal is limited to a first floor level addition and will not impact upon existing landscaped areas.

2.2.5 Waverley Development Control Plan 2012 (Amendment 6)

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	Not determined	A Site Waste & Recycling Management plan has not been submitted with this application. A condition of consent will be imposed regarding ongoing waste on site.
2. Ecologically sustainable Development	Yes	The application is BASIX certified and a suitable condition of consent is recommended.
3. Landscaping and Biodiversity	Acceptable	<p>The site is located in a Habitat Corridor.</p> <p>The site does not contain remnant vegetation which are listed as threatened in the Environment Protection and Biodiversity Conservation Act 1999, and in the NSW Biodiversity Conservation Act 2016.</p> <p>Landscape plans have not been provided as there is no change to the existing landscaping on the site. ; therefore, Council's Urban Ecology Coordinator has not undertaken a biodiversity assessment. Notwithstanding this, the proposal does not impact upon existing landscaped areas, therefore conditions regarding landscaping are not required.</p>
6. Stormwater	No	<p>Submitted stormwater management plans are not satisfactory and do not comply with the Water Management Technical Manual. This matter can be addressed as a condition of consent.</p> <p>The site is not flood prone.</p>

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

The proposal is defined as a "Dwelling House" in the LEP.

Development Control	Compliance	Comment
2.0 General Objectives		
<ul style="list-style-type: none"> Appropriate scale Does not detract from amenity of other dwellings or view corridors 	Yes	<p>The proposal accords with the general objectives of this part of the DCP.</p> <p>The proposed alterations and additions are in keeping with the scale of surrounding development.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> ESD has been considered Alterations & additions are sympathetic in bulk & scale to the character of the area High design standard 		
2.1 Height		
Pitched Roof dwelling house <ul style="list-style-type: none"> Maximum external wall height of 7m 	On merit	Wall heights measure up to 7.85m, which is supported, as the proposal complies with the height of building development standard. Those walls exceeding 7m in height are set in from the ground floor to provide additional visual relief.
2.2 Setbacks		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> Predominant front building line Predominant rear building line at each floor level 	Yes	The proposed addition is in-line with the front building line of both adjoining buildings and provides a transition between the varied rear setbacks of both adjoining buildings. The proposed upper level addition is set-in 2.6m from the rear of the existing ground floor level.
2.2.2 Side setbacks <ul style="list-style-type: none"> Minimum of 0.9m 	Yes	The proposal is setback from side boundaries a minimum of 0.918m.
2.3 Streetscape and visual impact		
<ul style="list-style-type: none"> New development to be compatible with streetscape context Replacement windows to complement the style & proportions of existing dwelling Significant landscaping to be maintained. Porticos only permitted where a character of the streetscape 	Yes	The proposal is generally compatible with the streetscape character.
2.5 Visual and acoustic privacy		
<ul style="list-style-type: none"> Windows to habitable rooms are not to directly face windows to habitable rooms and / or open space of neighbouring dwellings unless direct views are 	Yes (on merit)	Upper level east and south facing windows are clear glazed and set within 1.5m of the finished floor level. These windows are to rooms of low use i.e. bedrooms, where privacy impacts are low and accordingly, considered satisfactory. Upper level west facing windows comprise of 1.5m high sill heights, measured from finished

Development Control	Compliance	Comment
<p>screened or other appropriate measures are incorporated into the design.</p> <ul style="list-style-type: none"> External stairs are not acceptable. Maximum size of balconies: <i>10m² in area</i> <i>1.5m deep</i> 	<p>NA</p> <p>No</p>	<p>floor level. These windows are to rooms of low use i.e. bathrooms and landing and are considered satisfactory.</p> <p>No external stairs are proposed.</p> <p>Proposed balconies have a depth of 1.5m and are both less than 6m² in area.</p> <p>The rear east-facing balcony comprises 1.6m high opaque privacy screen to its eastern elevation, thereby restricting views in an easterly direction. The inclusion of a screening device is positive; however, it does not restrict views into the rear private open spaces of adjoining properties. Therefore, it is recommended via a general modification condition that the rear east-facing balcony be deleted and the east façade be replaced with either a solid wall or highlight windows to limit privacy impacts between sites. Subject to this amendment, the proposal is considered to reasonably satisfy visual privacy objectives.</p>
<ul style="list-style-type: none"> Roof tops to be non-trafficable unless predominant in the immediate vicinity 	NA	<p>The proposal does not include a roof top terrace.</p>
2.6 Solar access		
<ul style="list-style-type: none"> 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 living areas and principal open space areas of adjoining properties on 21 June 	Yes	<p>Shadow diagrams have not been submitted for the amended proposal. Notwithstanding this, original shadow diagrams demonstrated compliance with DCP controls. As the amended proposal sits lower on the site, impacts will be reduced.</p> <p>The subject site is north-south in orientation.</p> <p>The proposal is a height, FSR and side setback compliant development.</p>
2.7 Views		
<ul style="list-style-type: none"> 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 	Yes (on merit)	<p>Refer discussion below this table.</p>

Development Control	Compliance	Comment
from habitable rooms and decks.		
2.9 Landscaping and open space		
<ul style="list-style-type: none"> • 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 	Existing	Existing landscaped and open space areas are unchanged by the proposal.

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

View Loss

Planning Principle – View Loss Assessment Tests (Tenacity)

Clause 2.7 of the Waverley DCP 2012 – Views, refers to the general acceptance that views do not ‘belong’ to anyone or any property, nor is a view the exclusive right to any one property or to certain individuals and that ‘view sharing’ is an important principle to consider when developing a property.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment.

Lower density residential accommodation is to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.

In order to make a planning decision regarding the potential view loss, the judgment in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140* sets down four steps that should be undertaken to reach a decision on whether a view impact is reasonable; these steps form part of the following discussion.

Property to west (20 Kimberley Street, dual occupancy (attached))

Available views are in a north-east to south-east direction and are to the water. The interface between land and water is not visible.

Views are from sitting and standing positions obtained from a front balcony, rear balcony and various non-habitable room windows across the side boundary, see below images.

Study off bedroom:

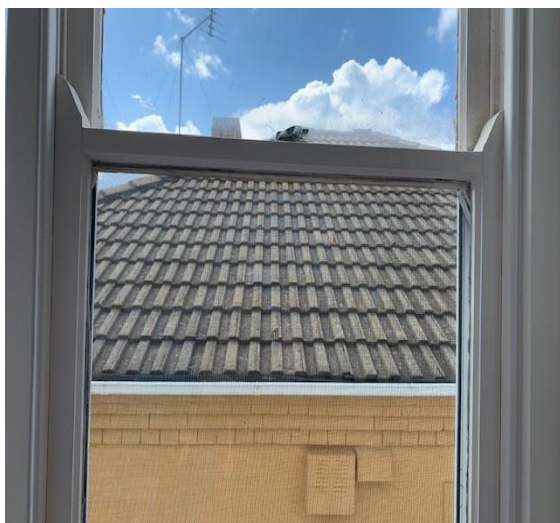


Ground level (looking north-east)



First floor level (looking north-east)

Study off bedroom:



Ground level (looking east)



First floor level (looking east)

Dining area:



Ground level (front north-east corner)



First floor level (front north-east corner)

Kitchen:



Ground level (looking east)



First floor level (looking south-east)

First Floor Level Side Balcony:



Looking north-east



Looking south-east

As demonstrated by the above images, there will be some loss of water views across the eastern side boundary.

The existing ridgeline is to be increased 1.67m to RL 55.35 and the addition sits within the existing building footprint. The proposal complies with height of building and floor space ratio development standards as set out in the WLEP 2012 and is therefore considered reasonable.

The applicant submits that the first floor level of 2/20 Kimberley Street will retain water views from a number of windows, with the below image showing the reduction in views from the first floor level balcony.



The applicant argues that the reduction in view from this balcony area should be given little weight in the assessment of this review, for the following reasons:

- (a) This is a recently approved balcony (DA-256/2015) that overlooks 22 Kimberley Street and could be impacted by any additions or new building on sites to the east;
- (b) It is reasonable to expect that the subject site could also become two storeys;
- (c) Views are available from other parts of that unit;
- (d) The proposal complies with the 8.5m height development standard;
- (e) Tenacity parameters confirm that views over side boundaries cannot necessarily be retained; and
- (f) Views are not iconic and there is no loss of land/water interface.

On balance, it is concluded that the proposal enables view sharing in accordance with the objectives of clause 2.7 of the WDCP 2012.

2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will 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 to be suitable for the proposed development.

2.5 Any Submissions

The application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Five submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 4: Summary of property addresses that lodged a submission

Property
1/20 Kimberley Street, Vaucluse
2/20 Kimberley Street, Vaucluse
24 Kimberley Street, Vaucluse
26/33 Kimberley Street, Vaucluse
1 Ray Street, Vaucluse

Issue: Height of building

Response: The proposal has an overall height of 8.49m above existing ground level, which complies with the height of building development standard control of 8.5m.

Issue: Inaccurate survey plan

Response: The submitted survey plan has been prepared by a suitably qualified and registered surveyor.

Issue: Roof form and pitch

Response: Submissions have been made that the proposal should be redesigned to include a flat roof design; however, further submissions have expressed a desire for continuity in roof form noting that this section of the streetscape comprises hipped roofs. The proposal is compatible with the streetscape.

Issue: FSR

Response: The proposal has an FSR of 0.7:1, which complies with the permissible FSR development standard control of 0.73:1.

Issue: Visual privacy

Response: Refer discussion under section 2.2.5 of this report.

Issue: Solar access

Response: Refer discussion under section 2.2.5 of this report.

Issue: Increased traffic and parking demand

Response: The proposal complies with parking rates as set out in the WDCP and does not result in the loss of on-street parking.

Issue: Construction and noise impact from development

Response: Short term impacts are common during construction. Standard conditions relating to construction hours are included in the recommendation.

Issue: Incorrect information provided to support development

Response: Refers to the applicants' comments regarding the imposition of conditions requiring obscured balustrading to 1.6m to be installed to the balcony of 2/20 Kimberley Street. A review of past development applications/consents associated with the development site and those adjoining has taken place as part of the assessment.

Issue: Streetscape Elevation is fabricated and misleading

Response: Concern has been raised that whilst heights of neighbouring buildings are correct, the buildings are not drawn in proportion and are therefore misleading.

The streetscape elevation has been checked against the submitted survey plan and elevations and is considered an appropriate representation of the development within its streetscape setting.

Issue: The use of polystyrene cladding which is a highly flammable product

Response: This is not a matter for planning consideration, rather it will be considered against the Building Code of Australia at the Construction Certificate stage and the materials are not approved..

Issue: View loss

Response: Refer discussion under section 2.2.5 of this report.

Issue: Unauthorised works

Response: Council has issued a notice to the owners of the land with regards to unauthorised works, including external door, raised deck and screening device to the rear of the building.

Included in the recommendation is a note that these matters have not been assessed and do not form part of the consent.

2.6 Public Interest

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

3. REFERRALS

3.1 Biodiversity

Landscape plans were not requested as the proposal does not alter existing landscaped areas.

3.2 Stormwater

Drawings do not comply with the Waverley Development Control Plan 2012 in reference to Waverley Council's Water Management Technical Manual.

Recommended conditions to ensure compliance with the Water Management Technical Manual are included in Appendix A of this report.

4. SUMMARY

The original application (DA-17/2019) seeking consent to undertake alterations and additions, including upper level addition was REFUSED under by the Local Planning Panel on 24 July 2019.

Subsequently, an application to review a determination of development consent per section 8.3 of the EP&A Act 1979 has been lodged, with an amended design that lowers the height of the building and incorporated screening to eastern elevations of proposed balconies.

Public notification resulted in the receipt of five submissions. Issues of concern have been discussed within the report and are either addressed through the imposition of condition or deemed unjust.

No Councillor submissions were received.

No conflicts of interest were declared in relation to the site/application.

The proposal complies with the height of building and floor space ratio development standard and is substantially compliant with relevant DCP controls.

The proposal has been assessed against the matters for consideration under section 4.15 of the Act and is recommended for approval, subject to the imposition of conditions.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 5 November 2019 and the DBU determined:

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

DBU members: M Reid, B McNamara, B Matlawski, 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:**

Fiona Koutsikas
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 22 November 2019

Date: 27 November 2019

Reason for referral:

- 1 Previous Refusal by WLPP

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 Addbuild Master Builders Pty Ltd, as follows:

Plan description	Date received by Council
2 – Site & Site Analysis Plan	13 September 2019
4 – Ground Floor Plan - Demolition	13 September 2019
5 – First Floor Plan - Proposed	13 September 2019
6 – East & North Elevations	13 September 2019
7 – South & West Elevations	13 September 2019
8 – Section A.A & B.B	13 September 2019
9 – Streetscape Elevation	13 September 2019

- (b) BASIX and NatHERs Certificate as amended.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The application is approved subject to the following amendments:

- (a) To reduce privacy impacts upon neighbouring properties, the rear first floor level balcony and associated door opening must be deleted, and the east façade door replaced with a solid wall or wall with highlight window(s) with sill heights of a minimum of 1.5m above finished floor level.

The amendments are to be approved by the **Executive Manager, Building Waverley** (ore delegate) prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

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. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of certification or 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. This will require compliance with the planning controls, including SEPP (Building Sustainability Index: BASIX) 2004.

4. UNAUTHORISED WORKS

Unauthorised works to the rear of the dwelling, including the deck, and door to the deck do not form part of this consent and are not approved.

5. APPROVED USE - DWELLING HOUSE

This application approves the use of the building on the site for single dwelling house.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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 & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & 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.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principal Certifying Authority.

7. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and 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:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) 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 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:
 - (a) A development valued at \$100,000 or less will be exempt from the levy.
 - (b) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR

- (c) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of the 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.

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

8. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$8,405.00** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit

9. 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 to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: 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.

10. HOARDING REQUIRED

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**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

11. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW

Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book). A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be included in the plan for any construction site with vehicles entering and existing the site.

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

12. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP 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.

13. ENGINEERING DETAILS

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

14. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

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

15. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

16. ON-SITE STORMWATER DETENTION DETAILS

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approval by Council prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc.

17. BASIX

The undertakings provided in the amended BASIX Certificate and NatHERS documentation shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate.

If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Regulation 2000 clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

18. SOLID FUEL HEATING

In accordance with the Part B2 of the Waverley DCP 2012 – Amendment 6 the use of solid fuel heating is not permitted to ensure that the renewable energy and energy efficiency targets of the Council are met.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

19. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

20. 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 applicant requirements of Part 6, before any work commences.

21. 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.

22. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

23. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

24. 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).

25. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

26. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared 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. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

28. 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 2014. 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.

29. 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:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) 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 2000.

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

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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.

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

31. TEMPORARY DIVERSION OF ROOF WATERS

Stormwater from roof areas shall be linked via a temporary downpipe to Council's stormwater system immediately after completion of the roof area. Inspection of the building frame will not occur until this is completed.

32. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

33. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the National Construction Code is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certificate.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections for a **DWELLING HOUSES including (Class 1 and 10 Buildings)** are:

- (a) at the commencement of building work;
- (b) prior to pouring any in-situ reinforced concrete building element;
- (c) prior to covering of the framework for any floor, roof or other building element;
- (d) prior to covering any waterproofing in any wet areas;
- (e) prior to covering any stormwater drainage connections; and
- (f) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required (if relevant to the development) to be undertaken by the PCA:

- (a) foundation material prior to undertaking building work;
- (b) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (c) steel reinforcement, prior to pouring concrete;
- (d) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns.

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the National Construction Code and standards of construction.

34. CERTIFICATE OF SURVEY – LEVELS

All construction works shall be strictly 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.

35. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

36. STREET TREES TO BE RETAINED

No existing street trees shall be removed without Council approval, (other than those shown for approval in this consent, where relevant). A 1.8m high chain link wire fence or the like shall be erected around the existing street trees to protect them from damage during construction.

37. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

38. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

39. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied.

40. STORMWATER MANAGEMENT

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.

Area Calculations:

Site Area -- 334.2 m² (Lot 17 & 18)
 Existing Ground Floor Area -- 137.5 m²
 Existing Other Structure -

Existing Gross Floor Area. -- 137.5 m²
 Existing Floor Space Ratio (FSR) -- 0.42 : 1

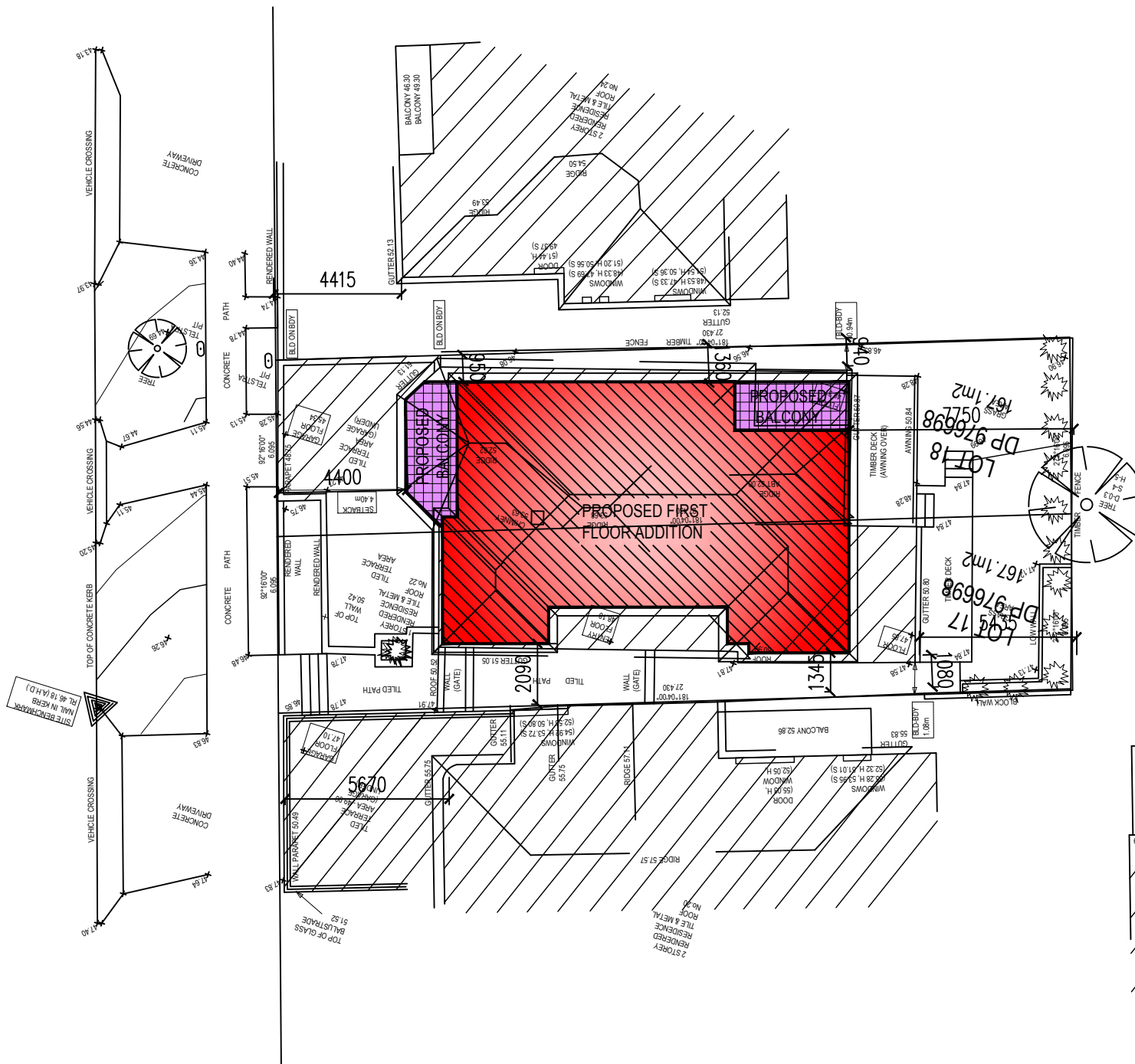
Total Existing Site Coverage -- 235.8 m² or 70.0 %
 Total Existing Landscape Area -- 98.4 m² or 30.0 %

Proposed Ground Floor Area. -- 137.5 m²
 Proposed First Floor Area. -- 98.0 m²
 Proposed Gross Floor Area. -- 235.5 m²
 Proposed Floor Space Ratio (FSR) -- 0.70 : 1

Total Existing Site Coverage -- 235.8 m² or 70.0 % (Not Affected By Proposal)
 Total Existing Landscape Area -- 98.4 m² or 30.0 % (Not Affected By Proposal)

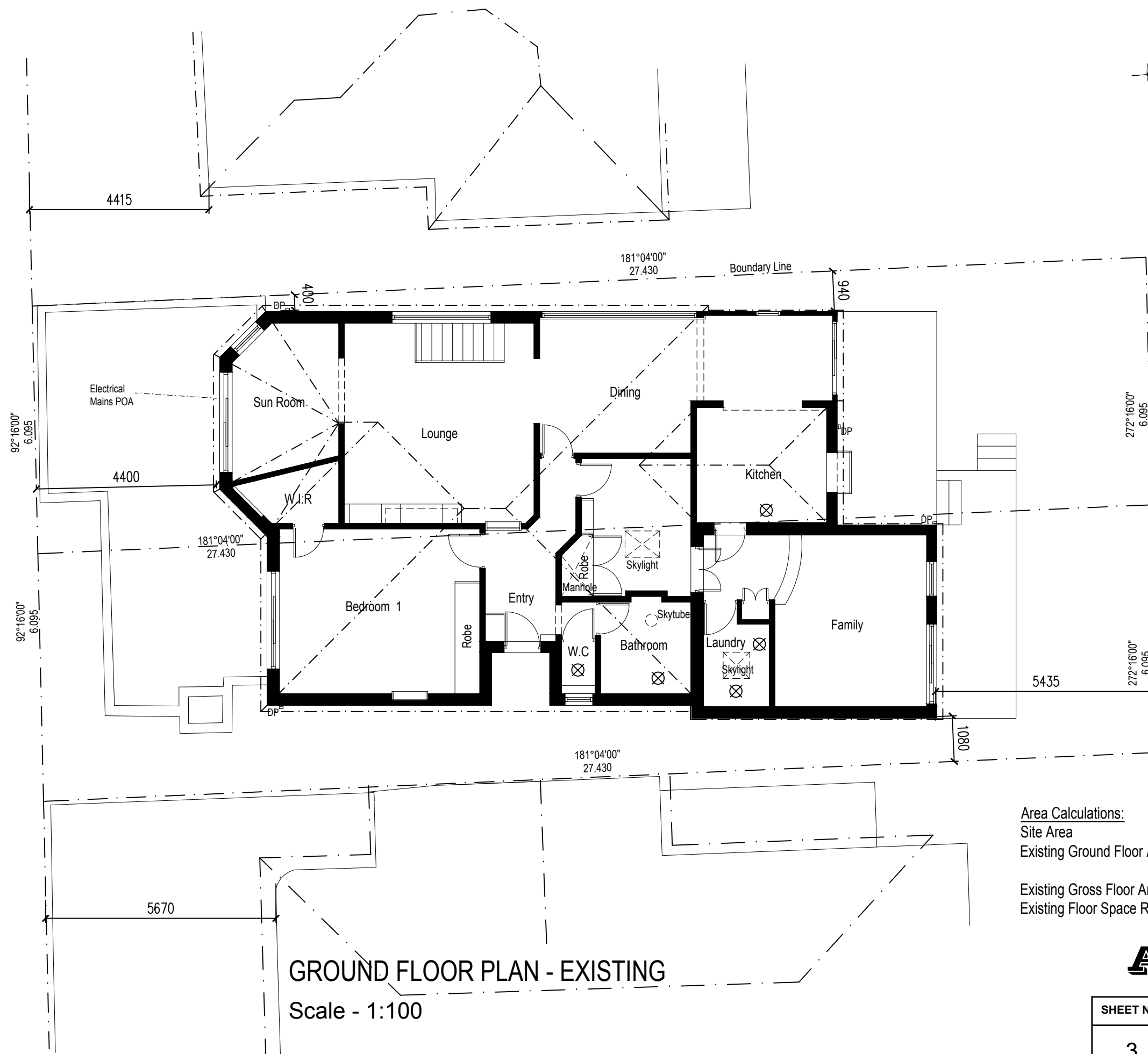
SITE & SITE ANALYSIS PLAN

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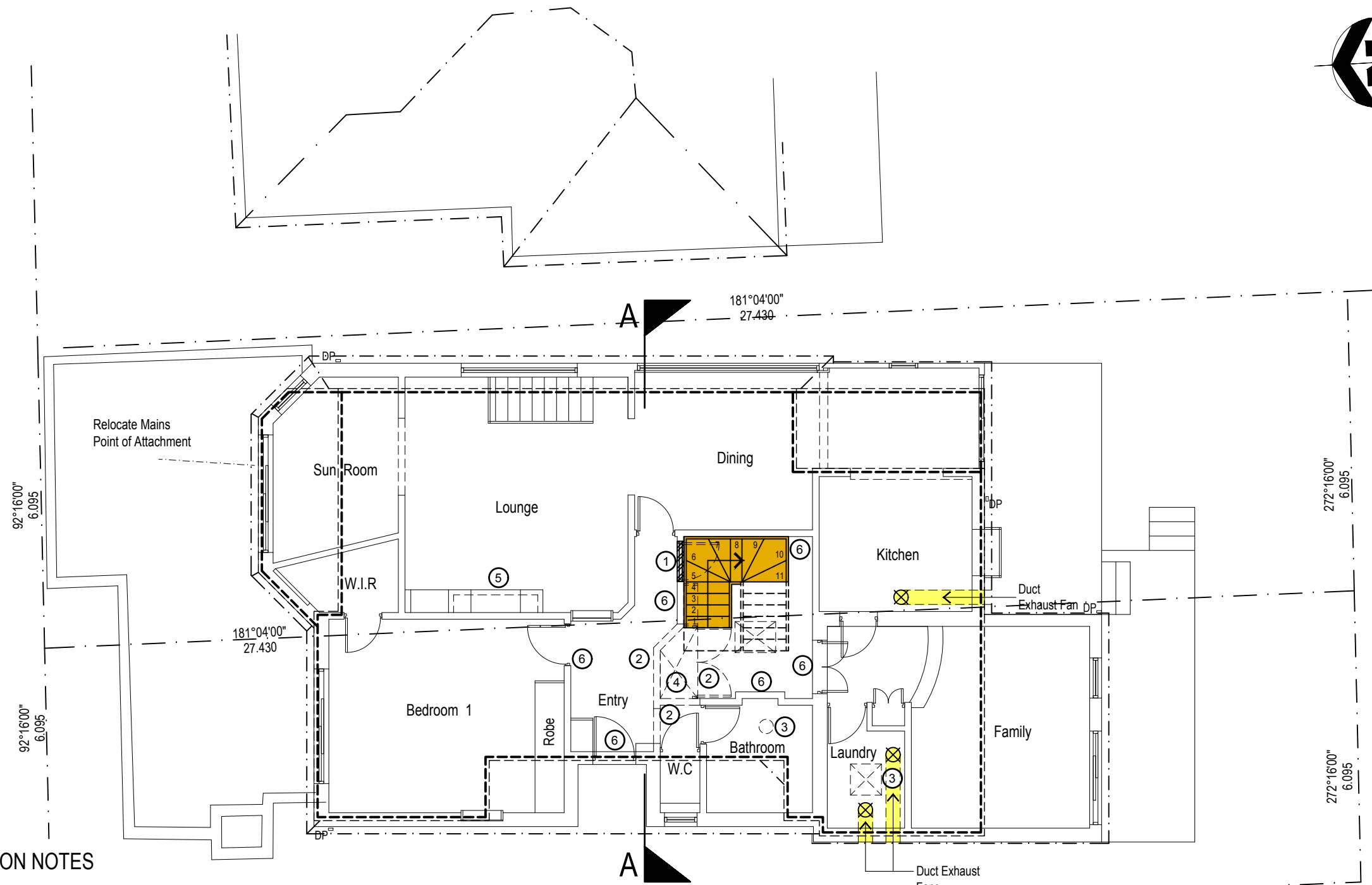
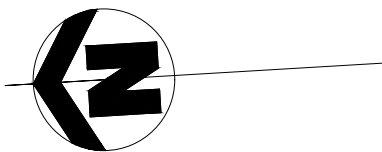
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 Waverley Council
 Application No: DA-17/2019/1
 Date Received: 13/09/2019

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SHEET NO	FOR: Ms. Jessica PRATS	JOB NO
2	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	1780/5.3



Existing Gross Floor Area. -- 137.5 m2
Existing Floor Space Ratio (FSR) -- 0.42 : 1

SHEET NO	FOR: Ms. Jessica PRATS	JOB NO
3	AT: No.22 Kimberley Street, VAUCLUSE. NSW. 2030	1780/53



GROUND FLOOR DEMOLITION NOTES

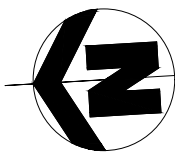
- 1 REMOVE EXISTING HINGED DOOR INCLUDING DOOR JAMBS AND BLOCK UP OPENING IN INTERNAL SINGLE BRICK WALL AS SHOWN AND REPAIR WALL SURFACES..
- 2 DEMOLISH AND REMOVE EXISTING INTERNAL SINGLE BRICK WALLS AND WARDROBE. MAKE GOOD FLOOR WITH ONE PIECE OF TIMBER FLOORING LAID IN THE SAME DIRECTION OF THE WALL BEING DEMOLISHED. REPAIR WALL AND CEILING SURFACES.
- 3 REMOVE EXISTING SKYLIGHT AND SKYTUBE AND BLOCK UP EXITING OPENING TO CEILING.
- 4 FRAME EXISTING OPENING (MANHOLE) AND BLOCK UP OPENING TO CEILING.
- 5 DEMOLISH CHIMNEY AND SEAL OFF FLUE.
- 6 REMOVE EXISTING CORNICE IN ENTRY AND STAIR ROOM AND REPLACE WITH NEW 250mm DECORATIVE CORNICE.

Area Calculations:
Proposed Ground Floor Area. -- 137.5 m2

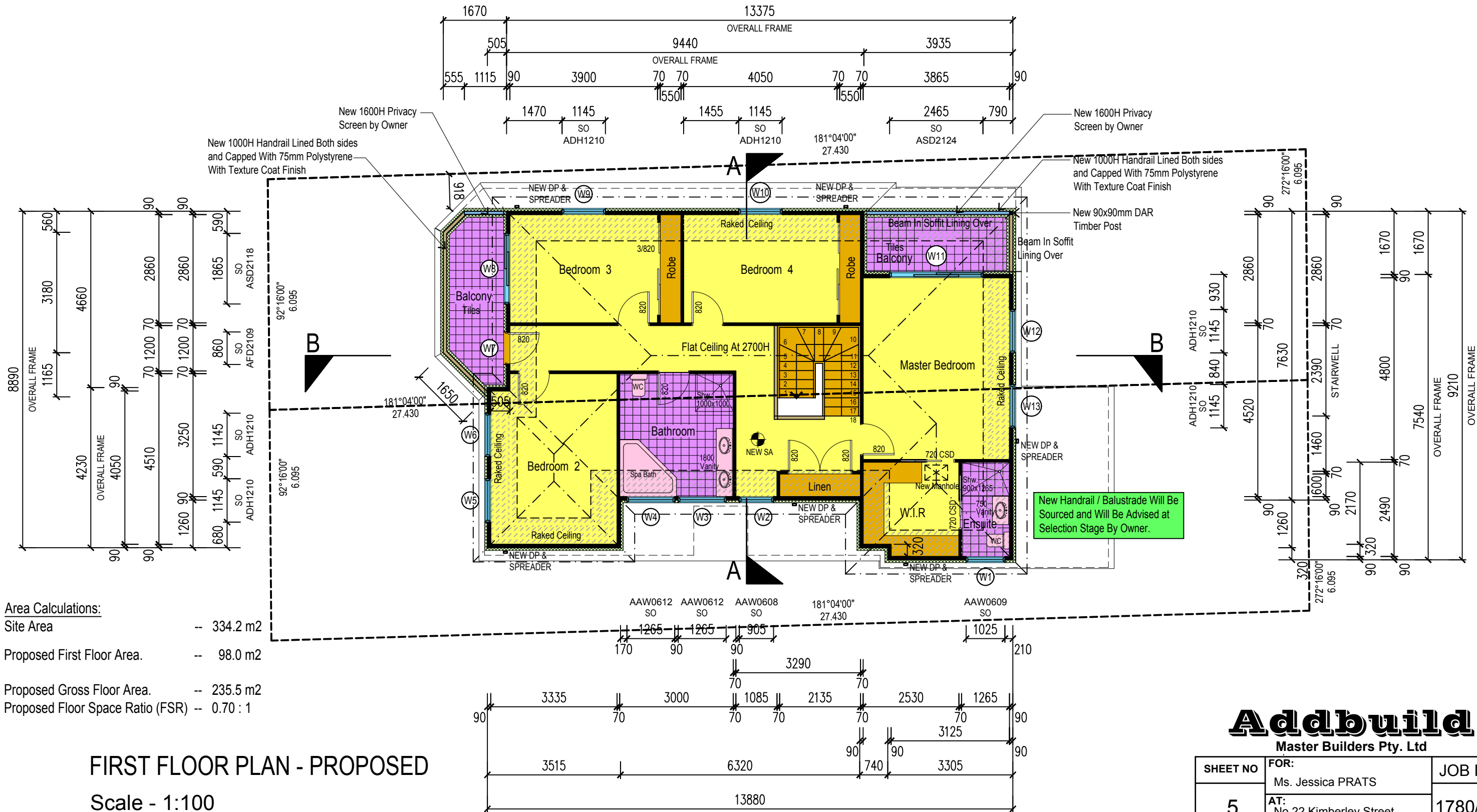
GROUND FLOOR PLAN - DEMOLITION
Scale - 1:100

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SHEET NO	FOR:	JOB NO
4	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	

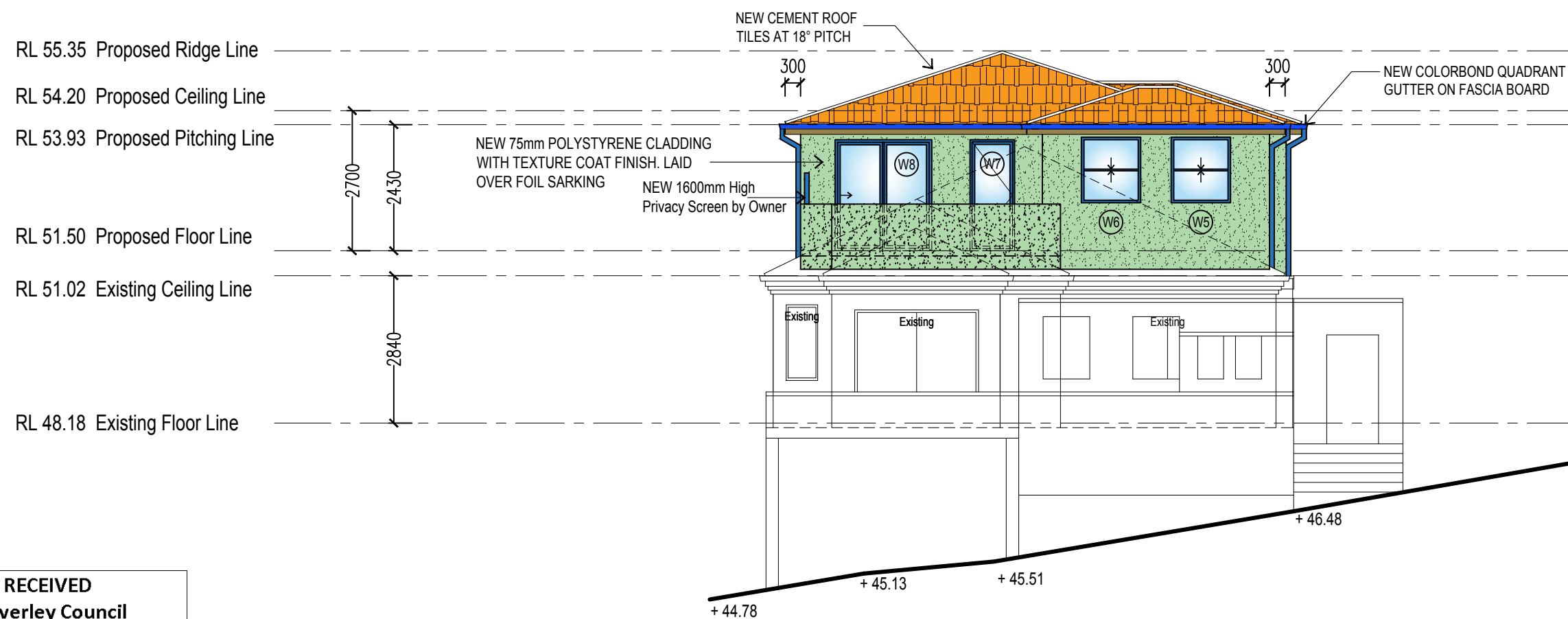
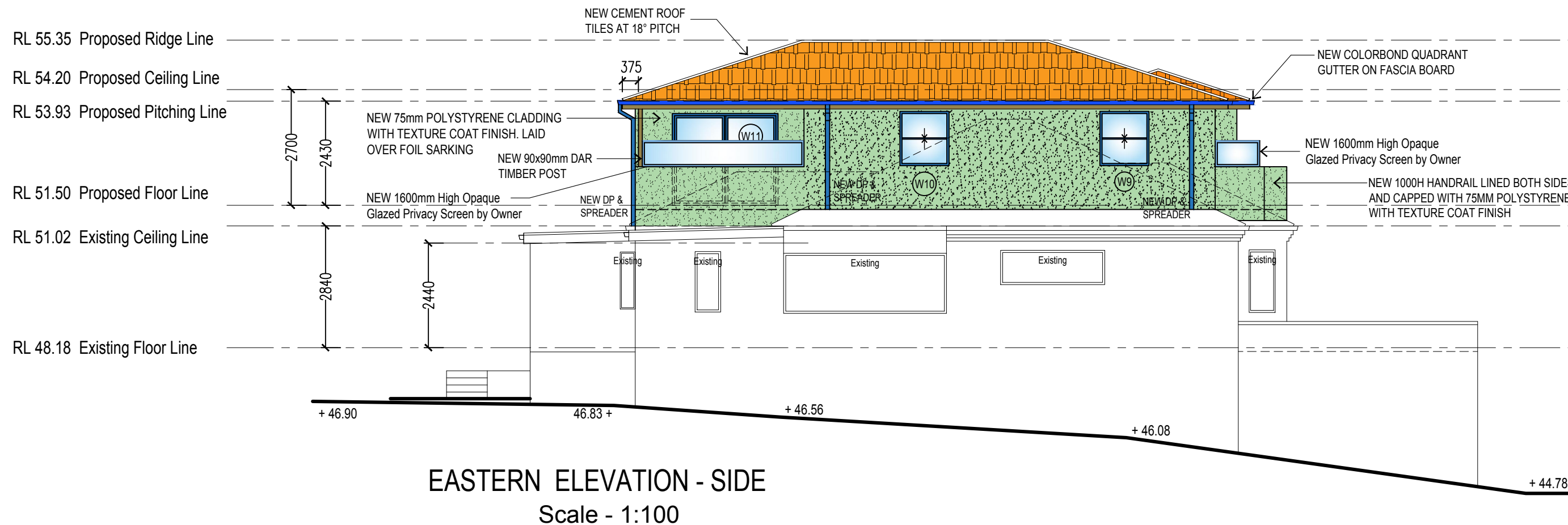


WINDOW & DOOR SCHEDULE													
WINDOW NO.	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13
CODE	AAW 0609 / 1	AAW 0608 / 1	AAW 0612 / 1	AAW 0612 / 1	ADH 1210 / 1	ADH 1210 / 1	ADF 2109	ASD 2118	ADH 1210 / 1	ADH 1210 / 1	ASD 2124	ADH 1210 / 1	ADH 1210 / 1
STUD OPENING	665 x 1025	665 x 905	665 x 1265	665 x 1265	1265 x 1145	1265 x 1145	2140 x 860	2140 x 1865	1265 x 1145	1265 x 1145	2140 x 2465	1265 x 1145	1265 x 1145
FRAME SIZE	600 x 970	600 x 850	600 x 1210	600 x 1210	1200 x 1090	1200 x 1090	2100 x 820	2100 x 1810	1200 x 1090	1200 x 1090	2100 x 2410	1200 x 1090	1200 x 1090
REVEALS	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm	100 mm
RESTRICTED OPENING	NO	NO	NO	NO	YES	YES	NO	NO	YES	YES	NO	YES	YES
BASIX					Pyrolytic low-e	Pyrolytic low-e	Pyrolytic low-e	Pyrolytic low-e	Pyrolytic low-e	Pyrolytic low-e			
NOTES													



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5	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	33



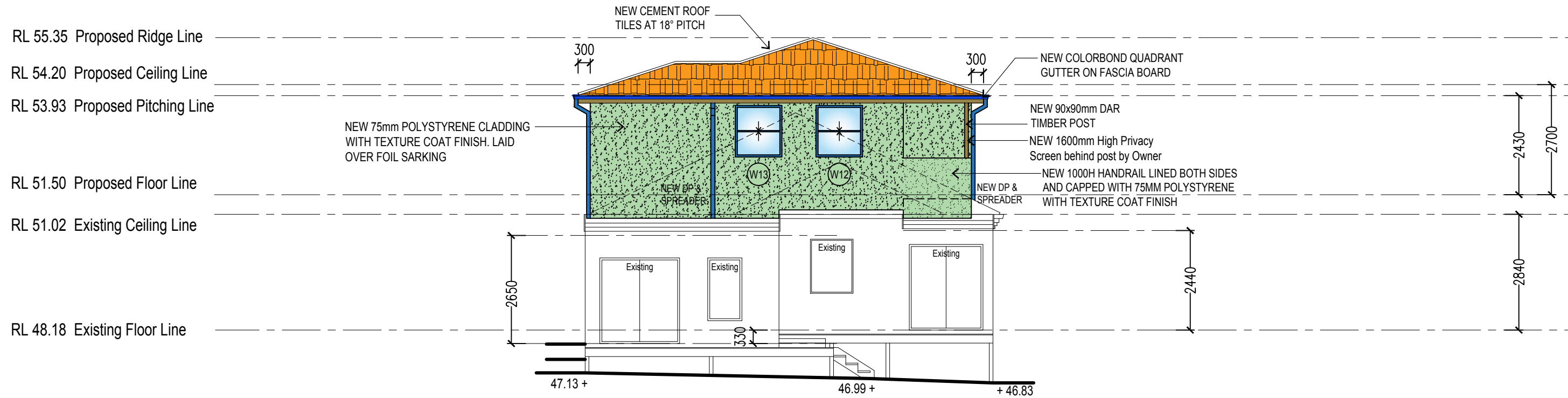
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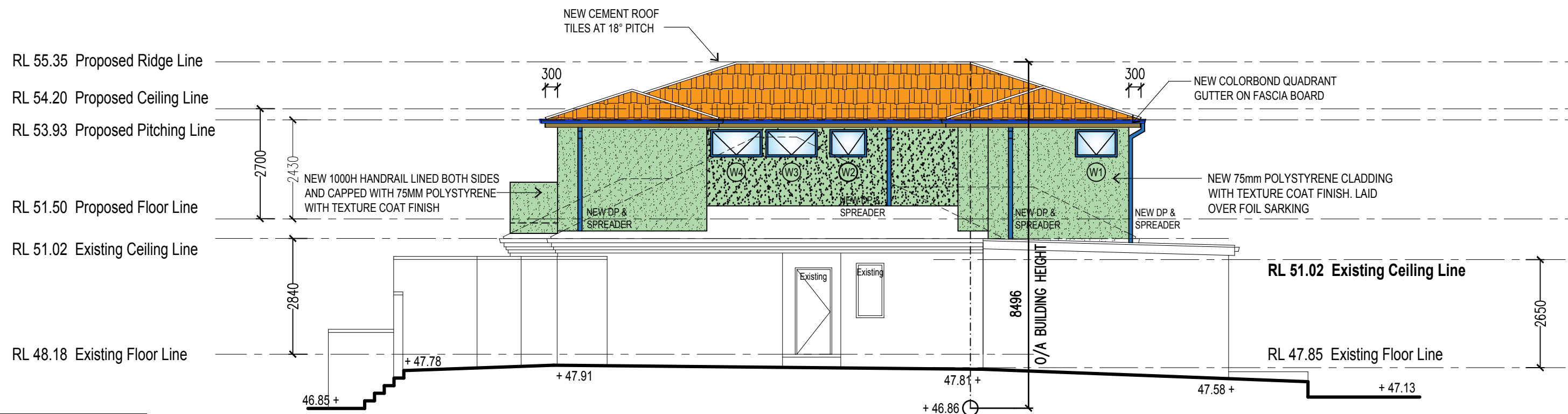
Date Received: 13/09/2019

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6	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	34



SOUTHERN ELEVATION - REAR



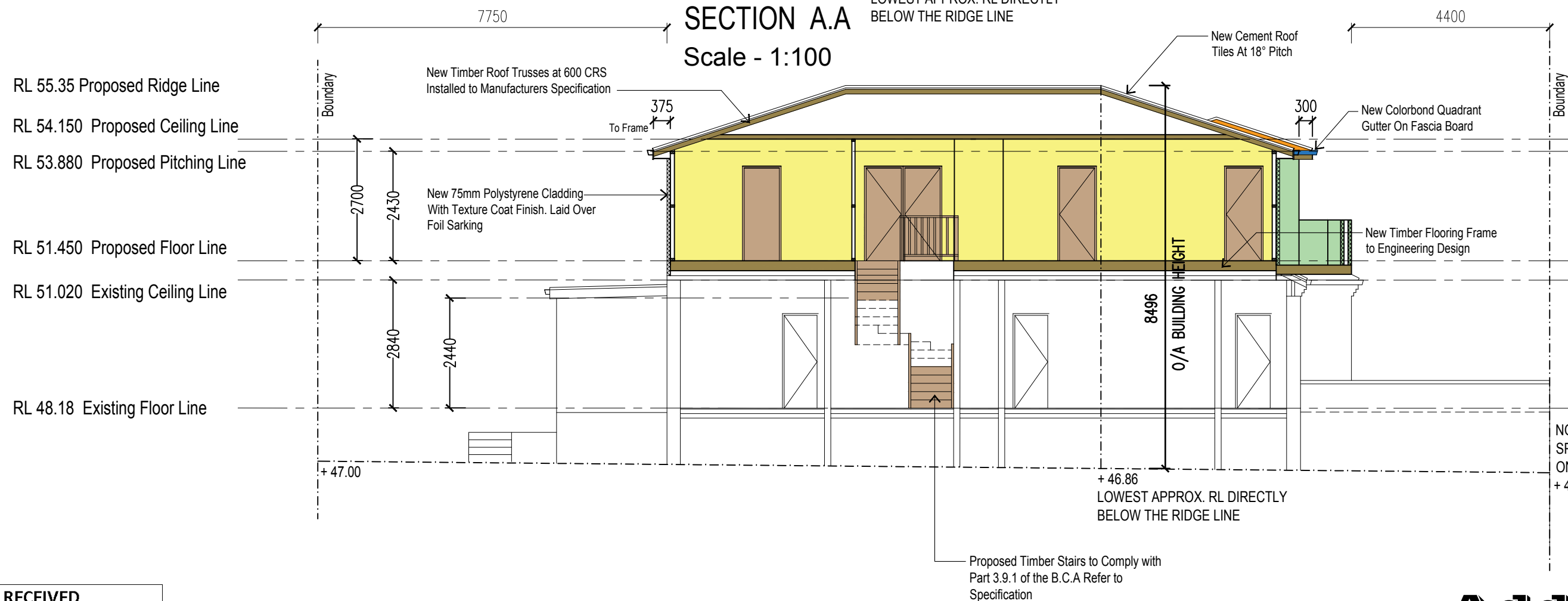
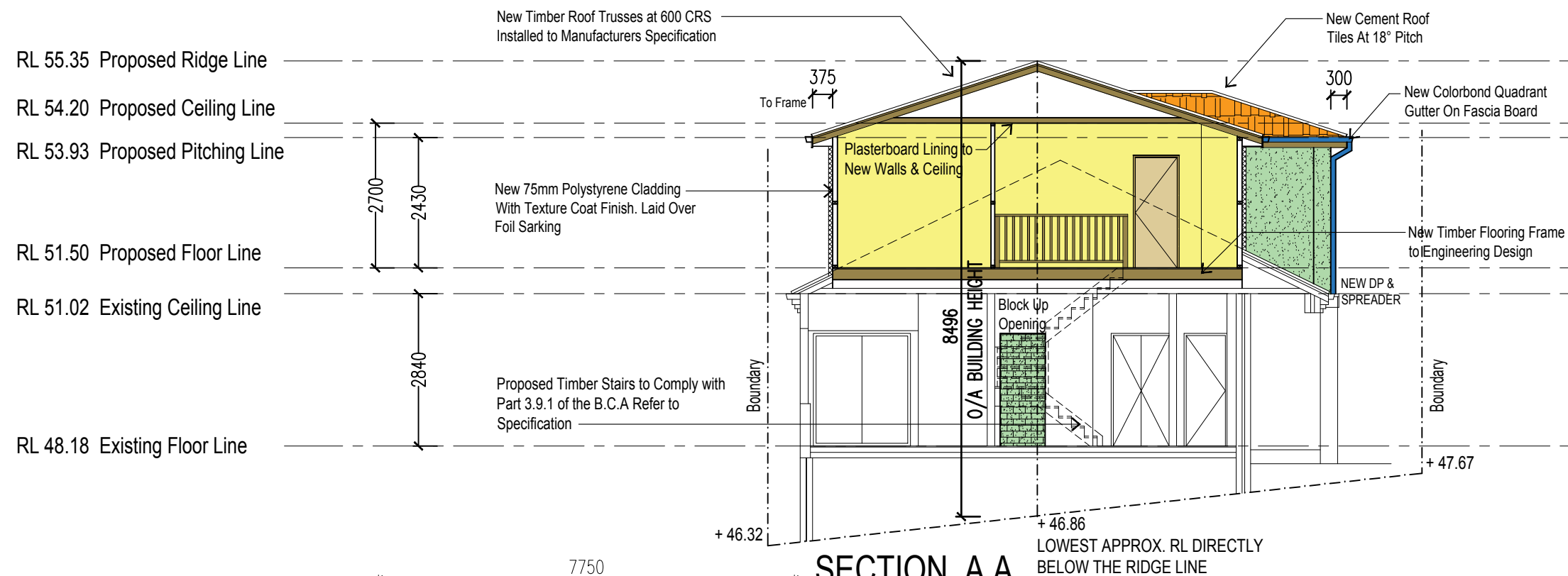
WESTERN ELEVATION - SIDE

Scale - 1:100

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SHEET NO	FOR:	JOB NO
7	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	35



SECTION B.B
Scale - 1:100

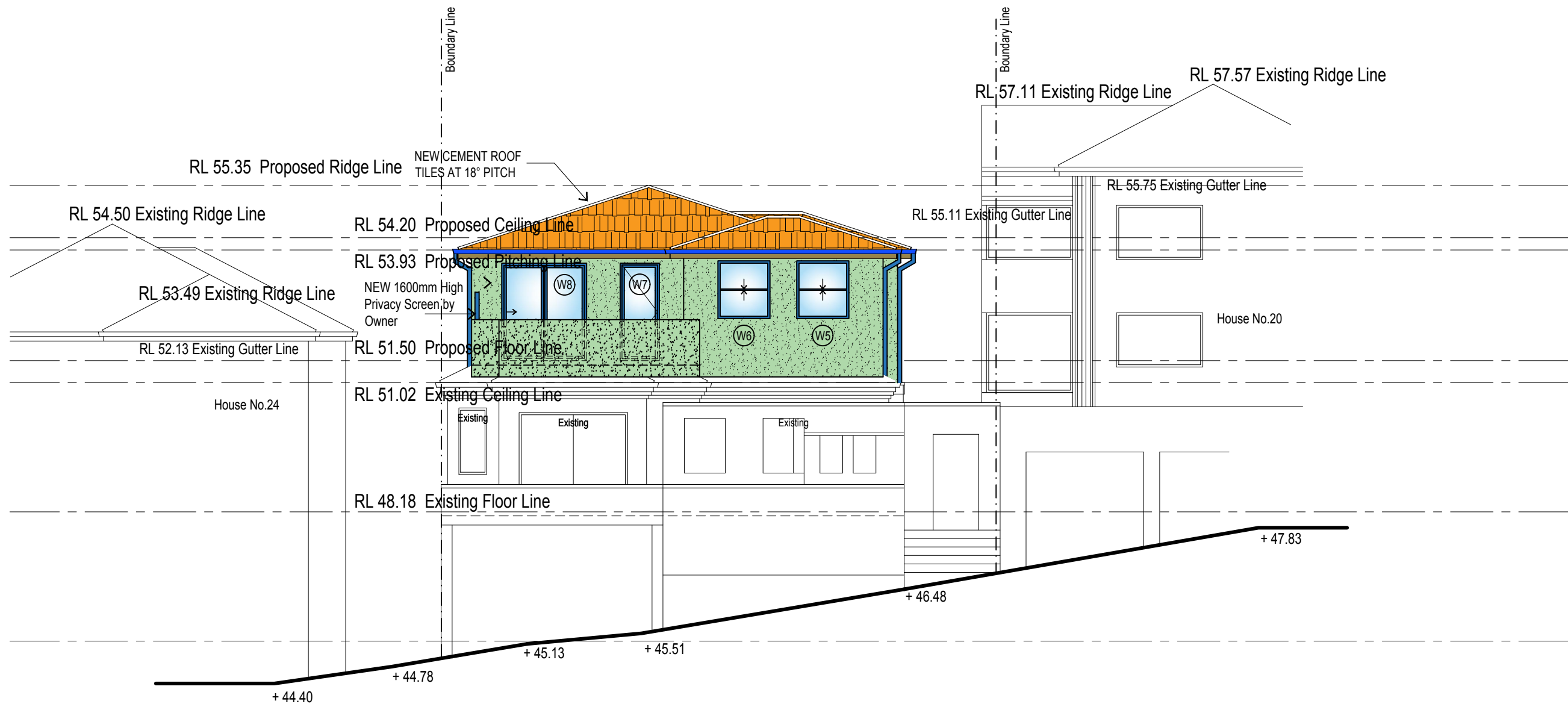
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SHEET NO	FOR:	JOB NO
8	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	36

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Application No: DA-17/2019/1

Date Received: 13/09/2019



STREETSCAPE ELEVATION - (Kimberley Street)
Scale - 1:100

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Application No: DA-17/2019/1

Date Received: 13/09/2019

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9	Ms. Jessica PRATS	1780/5.3
	AT: No.22 Kimberley Street, VAUCLUSE, NSW, 2030	



Report to the Waverley Local Planning Panel

Application number	DA-320/2018/1
Site address	21 Curlewis Street BONDI BEACH
Proposal	Review of refusal for demolition of existing single storey commercial building and construction of a four-storey commercial building
Date of lodgement	18 September 2019
Owner	Blank Super Pty Ltd
Applicant	MHN Design Union
Submissions	Five
Cost of works	\$850,757
Issues	FSR, overshadowing impacts, built form
Recommendation	That the application be granted a DEFERRED COMMENCEMENT

Site Map
(zoning map)



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 26 November 2019.

The site is identified as Lot 1 in DP 307122, known as 21 Curlewis Street, BONDI BEACH. The subject site is located on the southern side of Curlewis Street, approximately 100m from the intersection of Old South Head Road and Curlewis Street.

The site is rectangular in shape with a front northern boundary measuring 7.01m, side eastern and western boundaries measuring 16.765m respectively and a rear southern boundary measuring 7.01m. The site has an area of 117.5m² and falls from the rear towards the front by approximately 2m.

The site is occupied by a single storey commercial building. There is no on-site car parking provided.

The subject site is adjoined by a three-storey residential flat building with neighbourhood shop (mixed use) development to the east (No 23 Curlewis St) and a single storey semi-detached dwelling to the west (No 19 Curlewis St). The subdivision pattern is such, that the subject site has a depth half of its western neighbour as evident in the zoning map above. The locality is characterised by a variety of commercial and residential development, whereby the site is located on a zone boundary between B4 zone (subject site zoning) and R3 (zoning to the south and east).



Figure 1: Subject site frontage



Figure 2: Site viewed from the rear communal open space of No. 180 Wellington Street – photo taken facing north towards subject site.

1.2 Relevant History

DA-320/2018: The original development application sought consent for demolition of the existing single storey commercial building and construction of a four-storey commercial building for use as retail (ground floor) and co-working office space (levels 1-3). It was lodged with Council on 10 September 2018. The application was publicly notified for 14 days and 12 submissions were received.

The application was deferred on 5 April 2019 to provide the applicant an opportunity to address concerns relating to the submission of a deficient Clause 4.6, non-compliant FSR, amenity impacts to No. 19 Curlewis Street (side) and 180 Wellington Street (rear), as well as to address comments provided by the Design Excellence Panel. It was also requested that the applicant give further consideration to the provisions prescribed in Part E3 of the Waverley Development Control Plan 2012 (DCP), in particular Annexure E3-2, Diagram C (Three storey rear setback details without rear laneway), which requires stepping of the built form from the rear property boundary.

Amended plans were received by Council on 20 June 2019, which partially addressed the above-mentioned concerns. The application was recommended for refusal by the Development and Building Unit because the proposed development was not in the public interest because it was considered inconsistent with the objectives of the FSR development standard, and the variation to the FSR development standard resulted in a cumulative effect on the proposals ability to comply with the Desired Future Character Objectives of the Old South Head Road – Blair Street Intersection Neighbourhood Centre. In addition, the proposal did not satisfy amenity considerations and had impacts on adjoining sites, specifically having regard to the excessive bulk at the rear of the building and overshadowing.

DA-320/2018 was ultimately refused by the Waverley Local Planning Panel on 28 August 2019 for the following reasons:

1. *The Panel is unable to support the applicant's written clause 4.6 variation in relation to the FSR development standard and as such the application must be refused.*
2. *The proposal is in breach of section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in particular the following provisions:*
 - a. *Clause 4.4(1) of the WLEP 2012 as the proposed is inconsistent with Objectives (b)-(d) as the proposal does not provide appropriate correlation between maximum building height and density controls; the proposal building is not compatible with the height, bulk, streetscape and desired future character of the locality; and the proposal does not preserve the environmental amenity of neighbouring properties.*
 - b. *Clause 4.6(3)(a) of the WLEP 2012 as the applicant has not demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, as the proposal is inconsistent with Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.*
 - c. *Clause 4.6(3)(b) of the WLEP 2012 as the applicant has not demonstrated that there are sufficient environmental planning grounds to justify contravening the floor space ratio development standard as the proposal will result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality.*
 - d. *Clause 4.6(4)(a)(ii) of the WLEP 2012, as the consent authority is not satisfied that the request is in the public interest as the proposal is not consistent with the Objectives (b)-(d) of Clause 4.4 Floor Space Ratio.*
3. *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 in the built environment.*
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 Waverley Development Control Plan 2012, in respect to the following provisions:*
 - a. *Part D1 – Commercial and Retail Development.*
 - i. *Section 1.2 Noise, specifically controls (d), as the location of the air conditioner units on the rear facing terraces will likely result in adverse acoustic privacy impacts.*
 - b. *Part E3 – Local Village Centres*
 - i. *Section 3.1.6 Old South Head Road Neighbourhood Centre, specifically, control (a), as the proposal does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.*
 - ii. *Section 3.2.3 Built Form, specifically Objective (a), as the proposed building is not of an appropriate scale and does not achieve the desired future character of the Old South Head Road Neighbourhood Centre.*
 - iii. *Section 3.2.3 Built Form, specifically Control (d), as the proposal does not provide a 2m deep soil zone within the rear setback.*

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 in the locality as it represents an overdevelopment of the subject site, is excessive in terms of bulk and scale and has an undesirable and unacceptable impact on surrounding residential properties.*
6. *The proposal is contrary to 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, as the proposal is considered an overdevelopment of the site and is therefore considered unsuitable for the site.*
7. *The proposal is not considered to be in the public interest for the reasons outlined above and contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.*

DA-320/2018/1: The subject review application was lodged with Council on 18 September 2019 seeking a review of previous refusal determination. The application was publicly notified for 14 days and 5 submissions were received. This proposal has been amended primarily to reduce the bulk and overshadowing extent to the rear of the site (see below for more detail).

1.3 Proposal

The subject Section 8.3 application seeks a review of the determination made under DA-320/2018.

In a response to the refusal of the application, the applicant has made the following amendments:

1. Reconfigured the rear of the building on the Ground Floor to Level 3
2. Increase the setbacks from the side boundaries at the rear
3. Incorporate planter boxes with landscape and acoustic screening for the air-conditioning units to replace the trafficable above ground level terraces
4. Incorporate a deep soil zone (2 metres in width) along the rear setback

The above amendments result in a reduction in the gross floor area.

Original proposal Received: 10 September 2018	GFA: 294sqm FSR: 2.5:1 Non-compliance: 117.75sqm or 66.8%
Amended proposal Received: 20 June 2018	GFA: 272sqm FSR: 2.3:1 Non-compliance: 95.75sqm or 54.3%
Review application Received: 18 September 2019	GFA: 265sqm FSR: 2.25:1 Non-compliance: 88.75sqm or 50.3%

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 SEPP (Building Sustainability Index – BASIX) 2004

The proposal is for a commercial building. Therefore BASIX does not apply.

2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

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 development		
Land Use Table B4 Zone	Yes	The proposal is defined as a commercial premises, which is permitted with consent in the B4 zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none">13m	Yes	According to the submitted architectural plans, the proposal does not exceed the prescribed building height of 13m. An assessment of the submitted survey and RL's provided on architectural plans reveal compliance is achieved.
4.4 Floor space ratio and <ul style="list-style-type: none">117.5m²1.5:1 (176.25m²)	Yes	The proposed GFA is 265sqm with a FSR of 2.25:1, which equates to a 88.75sqm or 50.35% variation.
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 floor space ratio development standard. A detailed discussion of the variation to the development standard is presented below this table.

Part 6 Additional local provisions		
6.1 Acid sulfate soils	Yes	The development is unlikely to disturb, expose or drain acid sulfate soils and cause environmental damage.

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

Exceptions to Development Standards

Clause 4.4 Floor space ratio

The subject application seeks to vary the floor space ratio (FSR) development standard prescribed by Clause 4.4 of the Waverley LEP 2012.

The site is subject to a maximum FSR control of 1.5:1 (which equates to 176.25² of gross floor area). The amended proposed development has a FSR of 2.25:1, exceeding the standard by 88.75m² equating to a 50.35% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 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.

Applicants 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) The applicant has established that compliance with the FSR development standard is unreasonable and unnecessary by demonstrating that the objectives of the standard are met:
 - (i) Objective (b) - To provide an appropriate correlation between maximum building heights and density controls.

Applicant's comment: The FSR and building height development standards are numerical measures, which set the scale of development and its resultant impact on the streetscape and surrounding developments. The proposed development will comply with the LEP height control of 13 metres.

The height has been shown to be reasonable and appropriate in its context, in the streetscape and when considered against the objectives in the LEP and DCP. The proposal has also been designed to ensure no environmental or amenity impacts on adjoining developments in terms of overshadowing and view loss.

- (ii) Objective (c) - To ensure that buildings are compatible with the bulk, scale, streetscape and the desired future character of the locality.

Applicant's comment - The site is a narrow and short site in comparison to the surrounding sites. Surrounding developments include two to three-storey dwellings, three-storey residential flat buildings, shop-top housing developments and commercial developments. Adjoining the site to the southeast is No. 23 Curlewis Street, which contains a mixed-use development. Adjoining the site to the northwest is No. 19 Curlewis Street, which contains a two-storey semi-detached dwelling.

If the site were to be developed with a complying FSR, this would result in a small building that would not be consistent with the streetscape, surrounding development or the desired future character for this street block within the B4 zone.

The proposal has a compliant building height and the proposed bulk of the building will blend in with the streetscape, surrounding development and the desired future character for this street block. The proposed bulk and scale of the building is compatible with the size and shape of the allotment.

In this regard it is noted that all allotments to the west of the site are longer and when these sites are redeveloped, it will be possible to provide buildings of compliant FSR up to the height limit. The subject site is an anomaly due to its short length. If FSR compliance were achieved on this site it would result in a lower and anomalous building in the future development of this street block.

The proposal, as amended, provides separation from the rear to ensure an appropriate level of amenity for the adjoining properties, particularly the residential flat building at 180 Wellington Street to the south-east of the subject site (see comments under Objective (d) below). In addition, the rear building line does not extend beyond that on the adjoining site at 23 Curlewis Street.

The proposed bulk and scale of the development is appropriate to its context and will not appear out of character when viewed in its context of other buildings in the vicinity.

The proposed development represents an efficient and appropriate use of land that is compatible with the environmental capacity of the site and its B4 Mixed Use Zoning.

- (iii) Objective (d) - To establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.

Applicant's comment – The proposal seeks to preserve environmental amenity and minimise adverse impacts.

The amended proposal reduces the bulk and scale of the development and involves reconfiguring the rear of the building on the Ground Floor to Level 3 to alleviate the blank wall and sense of enclosure for No. 19 Curlewis Street and to reduce the overshadowing impacts to No. 19 Curlewis Street.

The amended proposal involves reducing the FSR of the original proposal from 2.49 (GFA: 294m²) to 2.25:1 (GFA: 265m²) and increasing the setbacks of Level 1 to Level 3 of the

north-western side boundary adjoining No. 19 Curlewis Street (Level 1 is setback 1.5m from the north-western side boundary and Level 2 and Level 3 are setback 2.3m from the north-western side boundary).

The amended proposal incorporates planters at the rear of the building on Level 2 and Level 3 and a 2m deep soil zone within the rear setback.

These amendments promote good design and will ensure that the environmental amenity of neighbouring properties is preserved.

It has been demonstrated that there would be no adverse overshadowing of adjoining properties and acoustic and visual privacy, having regard to Council's DCP requirements. The proposal will also have no adverse impact on views from any adjoining properties.

As demonstrated in the accompanying shadow diagrams and the street elevation shadows, the additional impacts of the FSR variation beyond a complaint built form is reasonable.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The proposed FSR breach will meet the objectives of the FSR development standard in that the proposal provides an appropriate correlation between maximum building height and density controls and will be compatible with the height, bulk, streetscape and desired future character of the locality. The amended proposal ensures that the environmental amenity of neighbouring properties is preserved, in particular 19 Curlewis Street.*
 - (ii) *The proposed FSR can be achieved without adverse impacts for the following reasons:*
 - a. *The proposal will not result in the loss of views from surrounding development;*
 - b. *The proposal will not result in unreasonable overshadowing of adjoining properties;*
 - c. *The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained; and*
 - d. *The proposal will provide a development that is compatible with the scale of the adjoining developments, consistent with the desired future character of the locality and is of an appropriate visual bulk for the locality.*
 - (iii) *The proposal will provide a suitable design and of suitable amenity in terms of the built environment and represents the orderly and economic use and development of land, which are identified as objects of the Act (Section 1.3 of the EP&A Act, 1979) and the building envelope and design of the proposal responds appropriately to the unique opportunities and constraints of the site.*
 - (iv) *The aspect of the development that breaches the FSR control, i.e 88.75sqm of the GFA of the proposed building, can be justified as the proposal provides a compatible scale with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome.*
 - (v) *Reduction in the FSR will not result in improved amenity for adjoining properties. The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds.*

Consideration of Applicants 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 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 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 justification 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;*
- 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 justification provided within the written request adequately demonstrates that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, to a certain extent. The proposal seeks a new commercial building that complies with the building height development standard and extends to all boundaries at ground level, with setbacks on levels 1-3 above to the rear and western side on levels 1 and above. The site is a relatively small site comprising a 7.01m frontage and site area of 117.5m², particularly when compared to its immediate adjoining properties. In addition, it should be noted that the adjoining properties to the west (including 19 Curlewis St) is a single storey semi-detached dwelling that benefits from existing use rights (zoned B4 where 'residential accommodation' is prohibited). Thus the 'future character' contained in objective (c) of this zone when analysed within this immediate locality is that of a mixed use nature, with a development scale of 3-4 storeys built forms and FSR of 1.5:1.

In reviewing the clause 4.6 justification, it is important to comprehend the controls applicable for the site, in the context of the proposed development. Therefore, a comparison between a compliant built form (based on a FSR maximum of 1.5:1), a DCP compliant built form (based on the setback

controls stipulated in Part E3 Local Villages of the DCP), the originally refused proposal and the current review proposal are shown below:

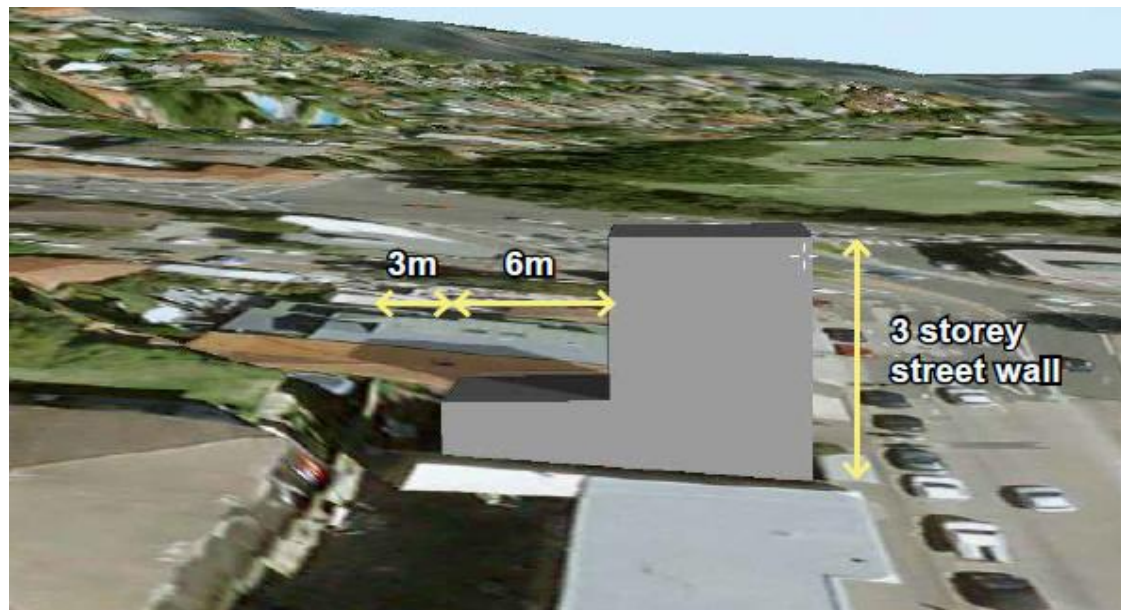


Figure 3 (above): Compliant building envelope based on LEP compliance with the FSR development standard of 1.5:1 (prepared by Council's Urban Design team)



Figure 4 (above): Compliant building envelope based on DCP compliance with the setback controls stipulated in the Part E3 Local Villages (prepared by Council's Urban Design team). If these setbacks were to be applied, the FSR is approximately 1.77:1.

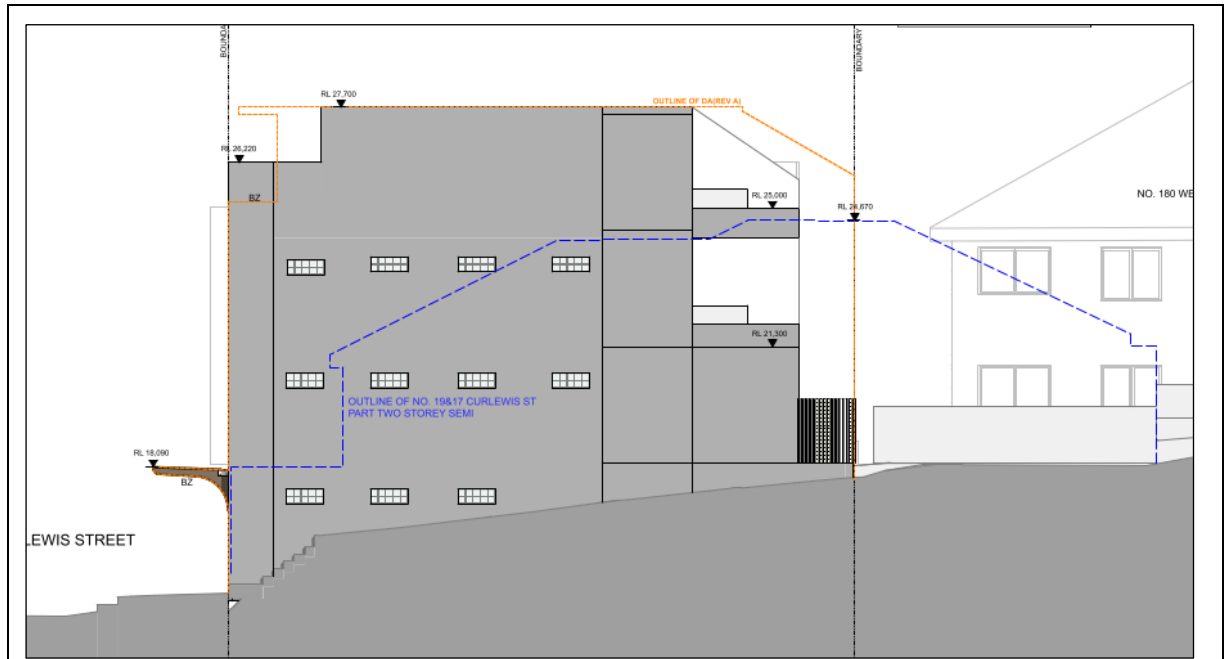


Figure 5 (above): West elevation of refused architectural plans in DA-320/2018 (Source: applicant)

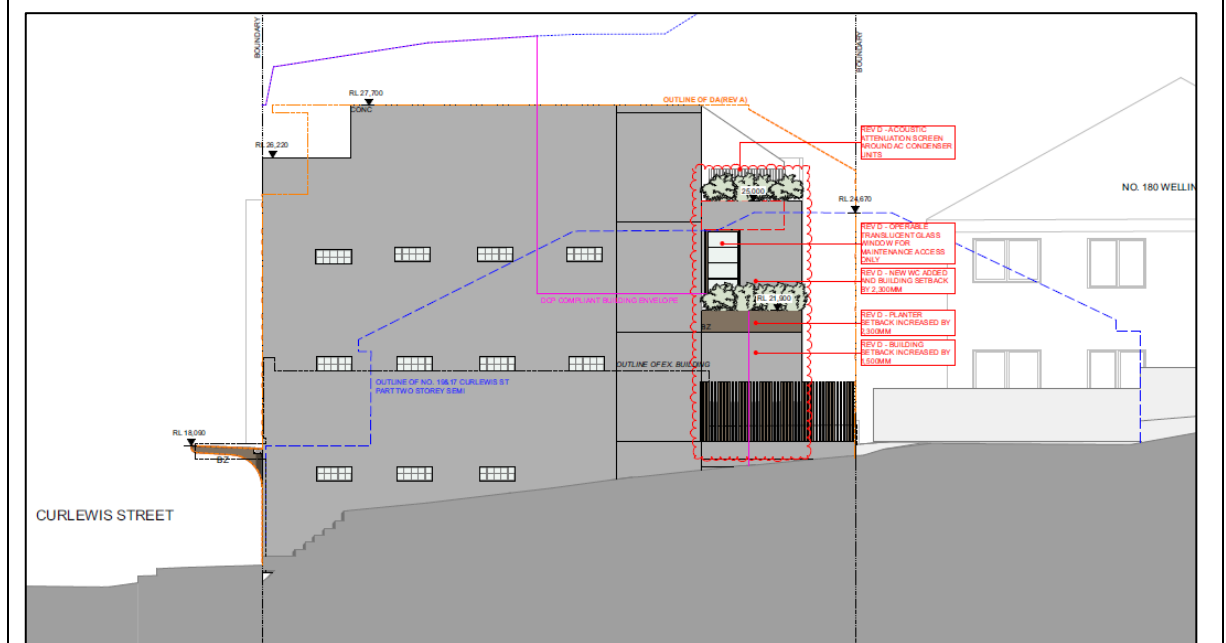


Figure 6 (above): West elevation of proposal in current review application in DA-320/2018/1 (Source: applicant)

Based on analysis of the proposal in light of the relevant controls, it is acknowledged that a compliant FSR building form (of 1.5:1) does not and can not achieve compliance with the DCP controls stipulated in Part E3 Local Villages. This is largely due to the small size of the site and the unworkable floor plates of a top 4th floor if compliance with the DCP setback controls were encouraged. Furthermore, the resultant impacts from this DCP compliant form (principally overshadowing) do not align with the

objectives of the LEP, specifically objective (d) that seeks to 'preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality'.

It is acknowledged that neighbouring properties will achieve adequate solar access in accordance with WDCP 2012 amenity controls, however, the proposal does not 'preserve' their current environmental amenity. A thorough analysis was conducted with Council's assessment team, Urban Design team and the applicant to comprehend the additional impact of a FSR compliant building form, versus the proposed building form. The principle impact of the non compliance with the FSR development standard is solar access to the adjoining property (19 Curlewis St) to the west and 180 Wellington Street (communal open space area of a residential flat building directly to the rear (south). The impact occurs between 9.30am – 11am, whereby additional shadowing does occur as a direct result of the non compliance. As mentioned above, overall, compliance with solar access controls is achieved, however the 'preservation' of the amenity (that is, no greater impact from existing) does occur during this morning time window on the 21st June (winter solstice).

Therefore, following an analysis with Council's Urban Design team having regard to the additional impact of the proposal, in order to 'preserve' the amenity of neighbouring properties, it is recommended that levels 1 and 2 at the rear be reduced in form to extend no further to the rear than the southern wall of the lift (approx. 4.2m from rear boundary). This will result in a minor redesign of the stairwell to be relocated more internal to the building and the accessible toilet to also be relocated. Landscaping would be increased at the rear and the opportunity for a window opening to the rear elevation into the lobby is available, providing increased natural light to the workspaces (and satisfying comments received from the Design Excellence Panel). Further, it is recommended that the whole upper level (level 3) be deleted. The resultant effect provides for a FSR of 1.64:1, equating to a reduction in gross floor area of approximately 17m² or 9.9% over the FSR standard of 1.5:1, as depicted in the diagram below:



Figure 7 (above): Built form based on recommendation to increase rear setback at levels 1 and 2, as well as delete top level.

This merit assessment takes into account the constraints of the site and adjoining properties built form, while keeping important elements of the DCP controls (including maintaining a 3 storey street wall) while observing the provisions and controls of the LEP and assessment of the non compliances through the clause 4.6 justification avenue. The resultant effect will largely remove the additional overshadowing impacts and ensure that environmental amenity is preserved. The recommended condition (via deferred commencement) is discussed in further detail below.

It should be noted however, that should the adjoining development (19 Curlewis Street) develop to a complaint scale envisaged for the future character of this locality (that is, FSR of 1.5:1 and building height of 13m), the overshadowing impacts of the current proposal on the subject site would be removed. This is due largely to the size of this neighbouring site (No 19) that is anticipated would cast greater shadows over the same area to which we are trying to preserve in this current proposal.

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

The submitted clause 4.6 written request has satisfied clause 4.6(3)(b) in that the applicant has provided environmental planning grounds to justify contravening the development standard.

The justification provided within the written request demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard.

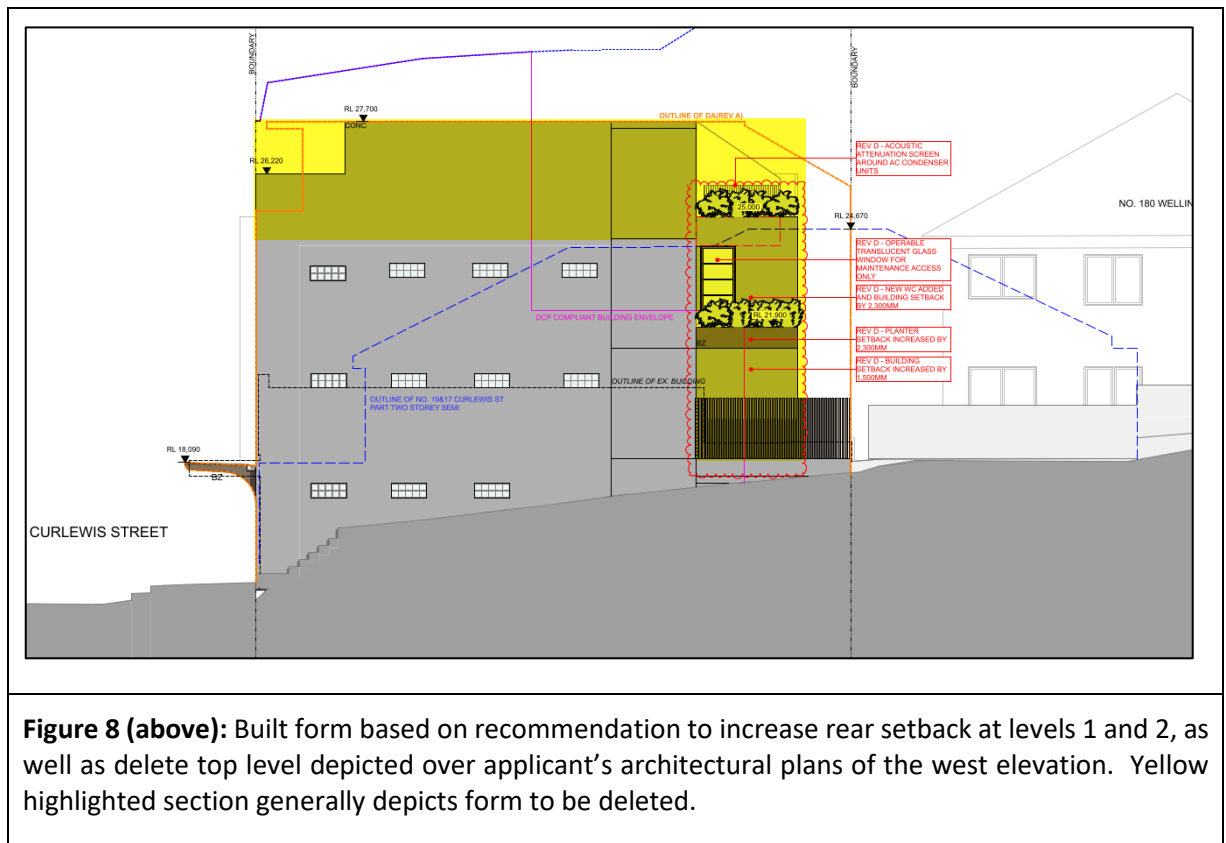
Council in its own analysis of the LEP controls also acknowledges that strict compliance with the development standard is challenging, to ensure the proposal will not result in an unreasonable environmental impact upon neighbouring properties as well as the desired future character of the locality. As discussed above, a deferred commencement is recommended to increase the rear setback and delete the upper level, to ensure that environmental amenity of neighbouring properties is preserved. Subsequently, it is acknowledged that the building height development standard (13m) may not be achievable on this site when taking into account the proposal and the associated environmental impacts.

Is the development in the public interest?

Subject to the recommended condition being imposed, the proposed development will be in the public interest because it is consistent with the objectives of the FSR standard. In particular, as conditioned, the proposed development will preserve the environmental amenity of neighbouring properties and is compatible with the height, bulk and scale of the desired future character of the locality. This is discussed in further detail below.

The submitted clause 4.6 states that the *non-compliant FSR will not be visually obtrusive and will not result in adverse amenity impacts to surrounding properties in terms of overshadowing, privacy or view loss*. This has been discussed with Council's Urban Designers who agree that the subject site is an anomaly due to its short length. If FSR compliance were achieved on this site it would result in a lower and anomalous building in the future development of this block, which is inconsistent with the desired future character the WDCP Local Village Controls.

The amended scheme reduces the visual bulk and scale when viewed from the surrounding residential properties, in particular No. 19 Curlewis Street. Furthermore, the recommended conditions to increase the rear setback of Levels 1 and 2 to be in line with the rear wall of the lift and the deletion of the upper level (level 3) will minimise the visual bulk and scale of the development as depicted in the image below:



Importantly, Council's approach to the provision of commercial floorspace is that it provides a far greater ability to deliver public benefits, and hence promote the public interest, than a one-off cash contribution (eg through a Voluntary Planning Agreement). The floorspace will be used for a co-working office space that enables employment opportunities for local residents.

Discussions with Council's Strategic team, Council's Community Services and Cultural Services teams revealed that there is a high need for accessible and reasonably affordable venues either for long term or once off bookings that offer spaces for meetings; working together; workshops, seminars, or outreach offices/engagement spaces for regional services supporting local community. There is strong support for increased provision of community spaces that could support many different functions across age groups and create a stronger community hub in an area experiencing population growth.

Accordingly, the proposal is considered to be in the public interest, subject to conditions.

Conclusion

For the reasons provided above, the requested variation to the FSR is supported to an extent. The applicant's written request has adequately addressed the matters required to be addressed by cl 4.6(3) of the Waverley Local Environmental Plan 2012. However, a deferred commencement is recommended to increase the rear setback of Levels 1 and 2 to be in line with the rear wall of the lift, and that the upper level (level 3) be deleted to preserve environmental amenity to neighbouring properties including overshadowing. Subject to the recommended conditions, the proposed development is in the public interest because it is consistent with the objectives of the FSR standard.

Amendments by way of conditions of deferred commencement will result in a recalculation of the floor space (non compliance reduces to FSR of 1.64:1, being 17m² or 9.9% over the FSR control). In this regard, a condition of deferred commencement is recommended for the deletion of the upper level

and also that the rear setback be increased, to overcome shadowing impacts are included in Appendix A.

Built form

The original application was deferred (5 April 2019) in an attempt to address the threshold issues of the Clause 4.6 variation, excessive FSR, separation from boundaries and amenity impacts on neighbouring properties. The amended scheme (received 20 June 2019) did make improvements on the proposal to reduce these issues and impacts, however greater reduction was necessary to enable Council Officer's support. The original application was ultimately refused on this basis. The original Officer's report did state that *greater setbacks are deemed necessary at the rear of the building (that is, reduce bulk to the rear), privacy impacts mitigated and increased landscaping to alleviate the issues of Council.*

Amendments have been made to the proposed development, lodged as part of this subject S8.3 Review application. The balconies at the rear have been deleted, which mitigates the privacy impacts. Landscaping has been increased to an extent, with the level one setback allowing for increased landscaping and an upper level planter box. Notwithstanding these amendments, the proposed development still does not reduce the bulk to the rear sufficiently to ensure that the development preserves the environmental amenity of neighbouring properties with regards to overshadowing (Objective (d) of WLEP 2012 Clause 4.4 *Floor Space Ratio*).

In this regard, it is recommended that a condition be imposed requiring design modifications. It is recommended that the rear setback of levels 1 and 2 be increased to ensure that the rear building line does not extend beyond the rear building line of the lift. This will require relocation of the stairs on every level, relocation of the toilets on level 1 and 2 and relocation of the air conditioning units on level 3. It is recommended that the stairs be moved to the north of the existing stair location, and the toilets be relocated adjacent to the new stairs. A rear facing window, with privacy treatment on the upper levels should be included to the lobbies on levels 1 and 2. This will allow natural light into the lobby area and rear of the co-working space of each floor in accordance with the advice of the design excellence panel. Furthermore, the relocation of the toilet on Level 1 will allow direct access to the landscaped area at the rear, rather than it being accessible from the toilet. This improves amenity for future occupants. It is also recommended that skylights be included within the landscaped slab, which will allow natural light into the ground floor lobby and bicycle storage area.

Furthermore, it is recommended the upper level (level 3 be deleted) to address overshadowing impacts, to ensure the environmental amenity of neighbouring properties is preserved.

The recommended design amendments via condition of consent will reduce the overall GFA of the development to approximately 17m², which equates to a non-compliance of 9%. This non-compliance is considered acceptable as it results in a development that is consistent with the desired future character of the locality, preserves the environmental amenity of neighbouring properties and demonstrates design excellence.

2.1.4 Waverley Development Control Plan 2012 - Amendment No 6 (Waverley DCP 2012)

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	The proposal is capable of complying with the DCP commercial waste and recycling generation rates. A standard condition has been imposed relating to a revised Site Waste and Recycling Management Plan (SWMRP).
2. Energy and water conservation	Yes	The proposed development will be designed to be energy efficient across a range of parameters including the choice of building materials and the incorporation of energy efficient appliances. It is recommended that the Energy Efficiency Evaluation Report by Partners Energy submitted with the original DA be approved.
6. Stormwater	No	An amended stormwater management plan has not been submitted. Council's stormwater engineer reviewed the original proposal and advised that the stormwater management plan submitted at that time was not satisfactory. Standard conditions of consent are included to ensure compliance in this respect.
7. Accessibility and adaptability	Yes	A lift providing access from the ground floor to the upper levels is included in the development. Standard conditions of consent relating to compliance with the BCA have been included.
8. Transport	Yes	<p>The subject site is located within Parking Zone 2. The minimum number of parking spaces required for Zone 2 is nil. No car parking spaces are proposed, which is acceptable having regard to the public transport options in close proximity and number of patrons expected to utilise the site.</p> <p>The rate of bicycle parking for a commercial and retail development is one parking space for each 150sqm of GFA. The proposed GFA is 265sqm, which requires two bicycle spaces. Two bicycle parking spaces are provided in the storage area on the ground floor adjacent to the lift. This is considered appropriate.</p>

Table 3: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Design		

Development Control	Compliance	Comment
<p>1.1.1 Frontages</p> <p>Front windows and openings shall be designed to be sympathetic with the overall proportion of the building.</p> <p>Front windows shall be designed to promote an active street level frontage and have a display function.</p> <p>Premises should have an awning. Continuous weather protection for pedestrians should be provided by premises located within shopping strips.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Front windows and openings are designed to be sympathetic with the overall proportion of the building. The Design Excellence Panel raised no concerns relating to the proportion of front windows and openings.</p> <p>Front windows promote an active street frontage.</p> <p>An awning is proposed at street level. Awning design is sympathetic to the architectural style of the building.</p>
<p>1.1.2 Lighting</p> <p>Under awning lighting should be provided in accordance with the relevant Australian Standard.</p>	<p>Yes</p>	<p>The submitted SEE states that lighting will be provided in accordance with DCP requirements. Ordinarily a condition of consent would be imposed to provide under awning lighting details prior to the issue of a construction certificate.</p>
<p>1.1.3 Amenity</p> <p>All new retail, commercial and mixed developments shall incorporate within the building plant rooms and any associated facilities required for the future use of the premise (e.g. ducting, vents, air conditioners, refrigerator units, mechanical plant, etc).</p>	<p>No</p>	<p>A kitchen exhaust is not shown on amended plans for the ground floor retail component. However, it can be accommodated via a shaft to the roof. A standard condition is imposed to ensure that a shaft is included to accommodate a future food use.</p> <p>Air-conditioners are shown to be within an acoustically treated screen on the rear at Level 3. As a result of the recommended design modification condition, the units will need to be relocated. Providing they are within an acoustically treated screen, there are no amenity concerns from placing the units either on the roof or at first floor level within the landscaped setback. A condition is imposed requiring a suitable location to be found which has minimal impacts on neighbouring properties.</p>
1.2 Noise		
<p>Applicants must demonstrate to Council how acoustic privacy will be maintained</p>	<p>Yes</p>	<p>The amended proposal removes the rear above ground terraces, which alleviates Council's concern regarding the previous proposal which</p>

Development Control	Compliance	Comment
<p>between residential and non-residential uses in a building and between adjoining buildings.</p> <p>Air conditioning units and cool-room equipment must be located in a plantroom or acoustic enclosure to remove the potential for any associated noise escaping from the subject property.</p>	Yes	<p>would likely result in acoustic privacy impacts for surrounding residential properties.</p> <p>The amended proposal also includes an acoustically treated screen to the air conditioner units which will further minimise adverse acoustic privacy impacts. It is acknowledged that given the condition relating to design modifications is being imposed, the location of the air conditioner units may change. It is recommended that their location be approved as part of the requested design modifications.</p>
1.3 Hours of operation		
<p>General base trading hours for the B4 Mixed Use zone are:</p> <ul style="list-style-type: none"> Monday to Saturday: 7.00am to 11.00pm; and Sunday: 7.00am to 10.00pm. 	Yes	<p>The SEE submitted with the original application states that trading hours will not extend beyond the DCP prescribed hours. A condition is included restricting the hours of operation to the DCP prescribed hours. It is also noted that a condition is imposed requiring a separate application to be lodged for the fit-out of the retail component, where specific details of operation would be submitted.</p>

Table 4: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

Development Control	Compliance	Comment
3.1 Specific controls – Old South Head Road Neighbourhood Centre – Blair Street Intersection		
<p><i>Desired Future Character Objective</i></p> <p>To accommodate a potential increase in the general scale of development in this section of the centre, subject to appropriate site consolidation and satisfying amenity considerations and impacts on adjoining sites.</p>	Yes	<p>The proposal, as amended by the recommended condition, does achieve the desired future character of the Old South Head Road Neighbourhood Centre as it satisfies amenity consideration and impacts on adjoining sites.</p> <p>The scale of the development is appropriate to the character of the Old South Head Road Neighbourhood Centre. The street wall with upper level set back is consistent with the desired future character for this street block.</p>
3.2 Generic controls		
<p>3.2.1 Land uses</p> <p>Residential and low scale commercial office uses are acceptable at first floor level.</p>	Yes	<p>Commercial office uses are proposed at Levels 1-3.</p>
3.2.2 Public domain interface		

Development Control	Compliance	Comment
Buildings are to be located to the front street alignment, with the exception of recommended upper level setbacks, nominated in the controls for each of the individual centres.	Yes	The building is proposed to be located to the front street alignment. The upper level has been recessed at the street frontage.
Individual buildings are to have a clear street address where entries to upper levels are well defined at the ground floor address.	Yes	The proposed building has a clear street address and entries are clearly defined.
Shop fronts are to be made up predominantly of clear glazing with sill heights to be a maximum of 700mm above finished footpath level along street frontages.	Yes	The submitted architectural plans show that the shop front will be predominantly glazed.
<p>3.2.3 Built form</p> <p>Objective To ensure new and refurbished buildings are of an appropriate scale and design quality, achieving the desired future character of each of the centres.</p> <p>Ground floor retail depth must allow for adequate display and sales area as well as essential back-of-house storage and loading facilities. In total this must be a minimum of 8 - 10m in depth.</p> <p>Sites in local village centres that adjoin residential development at the rear are to provide deep soil zones within the rear setback area with a minimum depth of 2 metres from the boundary.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed building is of an appropriate scale. The proposal achieves the desired future character of the Old South Head Road Neighbourhood Centre as it satisfies amenity consideration and impacts on adjoining sites, subject to the recommended design modification condition to increase the rear setback. Subject to the condition, the proposed development will not have unreasonable impacts on the amenity of neighbouring sites.</p> <p>Depth of ground floor retail is approximately 9m.</p> <p>At ground level, the proposal has a nil setback, extending to the rear boundary. This is considered acceptable because at the rear boundary, the ground floor is entirely subterranean due to the topography of the site. On the level above (Level 1), a 2m rear setback is proposed from the rear boundary to the stairs and approximately 4.2m setback to the lift.</p>

Development Control	Compliance	Comment
		<p>In accordance with the recommended design modification condition, the rear setback to levels 1 to 3 is to increase to be in line with the rear wall of the lift. This results in a landscaped area within the rear setback area with a depth of 4.2m, which is considered to provide improved amenity to neighbouring properties and occupants of the proposed development.</p> <p>It is noted that details of planting have not been included, however details will be required to be submitted to council for approval via a condition of consent.</p>
<p>3.2.4 Building facade articulation</p> <p>New buildings should display proportions which respect and build upon proportions similar to the adjoining streetscape and building forms.</p> <p>Balconies to the street facade are to be recessed behind the principal building facade.</p> <p>Balustrades to balconies fronting the street are to be predominantly solid with minimal or no glass.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal respects the proportions of the adjoining mixed use building at No 23 Curlewis Street.</p> <p>Upper floor balcony to the street façade is recessed behind the principal building façade.</p> <p>A solid balustrade is proposed to the upper level balcony facing the street.</p>
<p>3.2.6 Building services and site facilities</p> <p>Garbage and recycling storage and collection areas, and the structures in which they are contained, are not to be visible from the public domain.</p>	<p>Yes</p>	<p>A garbage room is provided within the building and will not be visible from the public domain.</p>

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




Overshadowing




The threshold issue resulting in refusal of the original application related to overshadowing of the neighbouring properties, namely the windows on the eastern façade of 19 Curlewis Street and the rear open space of the residential flat building at 180 Wellington Street. Subject to the recommended




design modifications discussed above, the development is considered acceptable with regards to overshadowing impacts for the following reasons:

- When modelled by both the applicant and Council's Urban Designer, a DCP compliant form creates a worse shadow impact than the proposed built form.
- At 9am on the winter solstice, any new development whether complying with the DCP or LEP controls will overshadow the adjoining property at 19 Curlewis Street. From 10am onwards, the eastern elevation self-shadows the east facing windows.
- Similarly, any new development whether complying with the DCP or LEP controls will overshadow the rear yard of 180 Wellington Street. The variance between a complying development and the proposed development (as conditioned) is primarily over a portion of the yard which largely self-shadows by existing vegetation and boundary fencing.
- Modelling by Council's Urban Designer indicates that the recommended design modifications (via condition) to increase the rear setback to 4.2 metres from the rear boundary and deletion of the upper level minimises overshadowing in the northern portion of the open space of 180 Wellington Street between 9.30am – 11am. See diagrams illustrating the improved shadow impacts below (Figure 9).
- Between 11am and 2pm on the winter solstice, solar access is achieved by at least 50% of the communal open space at 180 Wellington Street. At 3pm, the existing development at 19 Curlewis Street and boundary fencing largely overshadows the open space. Waverley DCP 2012 Medium Density Residential Development (Part C3) Clause 3.10 (g) requires at least 30% of the communal open space to receive 3 hours of direct sunlight between 9am and 3pm on 21 June. Therefore, the communal open space at 180 Wellington Street receives greater than the minimum required solar access under Waverley Council's current controls.

Figure 9 (below): Overshadowing diagrams of shadows cast over existing site, LEP compliant building form based on FSR only (note, building height is modelled one level less than the 13m control) and the built form taking into account the recommendations of increasing rear setback and deleting upper level. (blue = shadows cast by building on subject site)

9.00am, 21 June	
Existing	
LEP building envelope with 3 storeys and 1.5:1 FSR	
Built form based on recommended conditions (increased rear setback, delete upper level)	

10.00am, 21 June	
Existing	
LEP building envelope with 3 storeys and 1.5:1 FSR	
Built form based on recommended conditions (increased rear setback, delete upper level)	

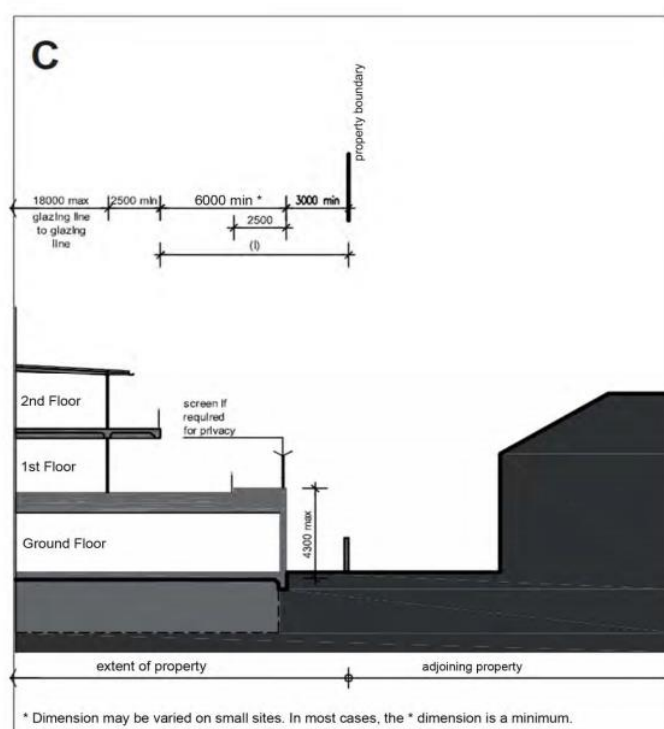
11.00am, 21 June	
Existing	
LEP building envelope with 3 storeys and 1.5:1 FSR	
Built form based on recommended conditions (increased rear setback, delete upper level)	

Annexure E3-2 – Typical Built Form for Three Storey Centres

Annexure E3-2 contained within Part E3 Local Village Centres, of the DCP provides typical built forms for development within the Old South Head Road Neighbourhood Centre. It is acknowledged that Annexure E3-2 largely reflects the 6m building separation prescribed by the Apartment Design Guide. However, the proposal is wholly for a commercial building which does not require building separation. The annotation in Annexure E3-2 states that the 6 metre setback dimension may be varied on small sites. Given the site measures only 17 meters in length with a total area of 117sqm, it is considered a small site and varying the setback is considered appropriate in this instance.

The amended proposal provides a minimum of 1.5 metre setback on the first and second floor, and a two metre setback on the top floor. The recommended design modification condition will increase the rear setback on levels 1 and 2 to approximately 4.2m (in line with the rear wall of the lift) and the upper level deleted to address shadow impacts. Given the site dimensions and adjoining context, this setback is considered appropriate.

Three (3) storey rear setback details without rear laneway



Design Excellence

The amended s8.3 application was referred to the Design Excellence Panel on 21 October 2019. The Panel's comments are summarised below.

Panel's Comment	Planning Comment
<i>The Panel considered that the additional floor space being sought has the potential to make a positive contribution to the area particularly now that overshadowing and other impacts are reduced. Given the</i>	Agreed. However, as discussed in other areas of this report, it is recommended that the rear setback be increased to further reduce the overshadowing impact on neighbouring

Panel's Comment	Planning Comment
<i>proposal would assist in creating much needed space for local employment, this could provide further substantiation for the FSR exceedance.</i>	properties. This will reduce the GFA non compliance in order to assist with overcoming amenity impacts to neighbouring properties.
<i>The Panel is concerned about the lack of amenity within the proposal and suggests that the entry should be improved by the introduction of a lightwell down to ground floor level (open to the sky and landscaped) in the south eastern corner of the site.</i>	The south eastern corner of the site will receive no solar access and therefore this location is not desirable to provide a lightwell or landscaping. The recommended condition discussed in other areas of this report includes increasing the rear setback which will increase the landscaped area on the first floor. Relocation of the toilet on the first floor will also mean that the landscaped area is directly accessible from the lobby, rather than through the toilet area. A window to the rear elevation (lobby areas) on levels 1 and 2 will provide natural light into the lobby and rear of the co-working space. It is also recommended that sky lights be included within the landscaping which will provide natural light into the ground floor lobby and storage area. This will improve amenity within the proposal.
<i>The Panel expressed that the stair could possibly be an open stair if a fire engineered solution was pursued.</i>	Disagree. Given the refusal of the original application related to amenity impacts including privacy and overlooking, the suggestion of open stairs is flawed. The stairs do not count towards gross floor area and therefore providing open stairs would not serve any purpose in reducing the FSR non-compliance. Further, open stairs would create amenity impacts to neighbouring properties in terms of acoustic and visual privacy.
<i>All amenities (male, female, accessible) should be provided at Ground Level.</i>	A unisex accessible toilet is provided at ground level. Providing male and female toilets in addition to the accessible toilet will drastically reduce the retail floor space, which has an impact on the usability of the tenancy. The unisex accessible toilet at ground level is acceptable.
<i>All commercial space should have natural light and ventilation to the north and south.</i>	Agreed. The recommended condition to increase the rear setback and relocate the toilets on levels 1 and 2 will allow for a window to be provided on the south

Panel's Comment	Planning Comment
	elevation to the lobby on each floor. This will provide natural light and ventilation to the rear of the commercial spaces.
<i>All AC units should be on the roof.</i>	Noted. Given the recommended condition, the proposed air conditioning units will be required to be relocated. A standard condition will be included regarding their location having minimal impact on the neighbouring properties.
<i>As the side wall to the north-west will likely be a blank façade until the adjacent property is developed, there needs to be some consideration of relief. Good quality brickwork may provide a solution</i>	<p>Noted. The proposal has been amended to reduce the overall length of the façade on the western boundary. The recommended condition further reduces the rear building line which provides relief to the western neighbour. As a result of the condition, the proposed building will extend no further towards the rear than the existing building.</p> <p>The comments regarding materiality and replacing the concrete finish with brickwork conflict Council's Urban Designer's advice. Council's Urban Design advises that the proposed material and colour palette is supported. As such, it is recommended that the proposed materiality be approved.</p>

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will 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 to be suitable for the proposed development.

2.4 Any Submissions

The application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

5 submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 5: Summary of property addresses that lodged a submission

Property
19 Curlewis Street, BONDI BEACH
5/180 Wellington Street, BONDI BEACH
4/180 Wellington Street, BONDI BEACH
2/2 Simpson Street, BONDI
No property address provided

Issue: Bulk and scale and excessive floor space ratio

Response: Acknowledged. It is recommended that a design modification condition be imposed requiring a reduction in the bulk at the rear which reduces the floor space ratio.

Issue: Overshadowing impacts

Response: Acknowledged. The recommended design modification condition will reduce the bulk at the rear of the building and therefore reduce overshadowing to akin to a compliant building form.

Issue: Building too close to the boundaries, with a vast blank wall

Response: The amended proposal provided greater setback from the boundaries. However, the recommended design modification increases the rear setback.

Issue: Built form inconsistent with neighbouring properties and has streetscape impacts

Response: The built form is consistent with the desired future character for this street block within the B4 zone.

Issue: Privacy and noise concerns due to terrace overlooking neighbouring gardens

Response: The submitted plans lodged with the Review application deleted the upper level rear terrace. The terrace on the top floor fronts Curlewis Street, overlooking the public domain and is considered appropriate.

Issue: Noise from mechanical air conditioning and lift

Response: The proposed air conditioning units are to be enclosed in an acoustically treated structure. A condition is included to ensure that any mechanical plant located on the roof is within an acoustically treated structure.

Issue: There will be too many people on the site, and it will be illegally used as accommodation

Response: The submitted application refers to a proposal for retail and office uses. Should there be unauthorised residential use in the future this will be referred to Council's Compliance Team.

Issue: Lack of parking

Response: Waverley Development Control Plan 2012 provides minimum and maximum parking rates. There is no requirement for car parking to be included in the development (that is, the proposal is compliant with the relevant DCP controls on parking).

2.5 Public Interest

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

3. REFERRALS

3.1 Design Excellence Panel

The review application was referred to the Design Excellence Panel on 21 October 2019. The comments provided by the Panel are discussed under *Design Excellence* above.

3.2 Waste and Recycling – Environmental Sustainability

The Sustainable Waste Officer advised that the amended plans have resulted in a change to the floor space of difference components of the development, and therefore the applicant will need to submit a revised Site Waste and Recycling Management Plan (SWMRP). A condition of consent has been imposed.

3.3 Stormwater – Infrastructure Services

The Stormwater Engineer advised that the comments provided for the original assessment apply. The stormwater plans prepared by NB Consulting Engineers, Job No. 180870, Drawing No. D01 (Revision A), dated October 2018 have been checked considered ***not satisfactory*** with respect to stormwater details. Relevant conditions of consent have been included to ensure compliance in this respect.

3.4 Urban Design – Urban Planning, Policy and Strategy

Council's Urban Designer has advised that while the development does not comply with the numerical FSR development standard, the proposed bulk and scale is aligned with the existing built form of the local area. The built form is appropriate for the area and compatible with the streetscape character. The arcs in the façade provide the appropriate response to the rhythm present in the street, while introducing new element. The proposal is considered to demonstrate design excellence.

4. SUMMARY

The application seeks a review of the refusal of DA-320/2018, which sought consent for demolition of the existing single storey commercial building and construction of a four-storey commercial building for use as retail (ground floor) and co-working office space (levels 1-3). In response to the refusal of the application, the applicant has made amendments to reduce the issues regarding excessive FSR, separation and amenity impacts on neighbouring properties. Notwithstanding these amendments, the proposed development still does not reduce the bulk to the rear of the building to the extent to ensure that the development *preserves* the environmental amenity of neighbouring properties with regarding to overshadowing.

It is recommended deferred commencement be granted to increase the rear setback and delete the upper level which will mitigate the additional overshadowing impacts on neighbouring properties and further reduce the FSR non-compliance. Modelling to assess the overshadowing has been undertaken by Council's Urban Designer to assist in the formulation of the recommended condition. Subject to the recommended design modification condition, the proposed development is considered acceptable.

Five submissions were received. Many concerns raised in the submissions have been resolved via the recommended design modification condition. Other matters raised in the submissions are considered unjustified and have been discussed above.

The application is recommended for DEFERRED COMMENCEMENT, subject to conditions of consent.

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the Development Application be granted a DEFERRED COMMENCEMENT by the Waverley Local Planning Panel subject to the Conditions in Appendix A:

Report prepared by:



Emma Finnegan
Senior Development Assessment Planner

Date: 29/11/2019

**Application reviewed and agreed on behalf of
the Development and Building Unit (MR, BMcN,
AR) by:**



Angela Rossi
Manager, Development Assessment (Central)

Date: 2/12/2019

Reason for referral:

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

Review application

APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

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:

1) DESIGN CHANGES AND AMENDED PLANS

- (a) The upper most level, Level 3 is not approved and shall be deleted from the plan. The building (including height of the street wall of the proposal and the roof level) shall not extend above RL 26.220. Only the roof plant/services, including the lift overrun and mechanical risers as indicated on the plans shall be permitted to extend above RL 26.220 but no higher than RL 27.700. Any skylights and/or solar panels shall be flush with the roof or extend no higher than RL 27.220.
- (b) The rear setback of Levels 1 and 2 are to be increased so that the rear wall extends no further south than the proposed rear wall of the lift. In this regard, the fire stairs are to be relocated to the north of the fire stairs shown on the plans and the toilets are to be relocated to the north of the stairs.
- (c) A window to provide natural light and ventilation is to be provided to the lobby on level 2. A pedestrian access door is to be provided on the first floor (level 1) providing access directly from the lobby to the landscaped area.
- (d) Two skylights are to be provided within the landscaped area at the rear to provide natural light into the ground floor lobby area and the storage area below.

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.

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 Attachment A, the following conditions will apply.

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) The following architectural plan prepared by MDNDU:

Plan description	Revision No / Date	Date received by Council
DA 2000 Ground Floor	Rev D / 11 September 2019	18 September 2019
DA 2001 Level 1	Rev D / 11 September 2019	18 September 2019
DA 2002 Level 2	Rev D / 11 September 2019	18 September 2019
DA 2003 Level 3	Rev D / 11 September 2019	18 September 2019
DA 2004 Roof Plan	Rev D / 11 September 2019	18 September 2019
DA 3000 North Elevation	Rev D / 11 September 2019	18 September 2019
DA 3001 East Elevation	Rev D / 11 September 2019	18 September 2019
DA 3002 West Elevation	Rev D / 11 September 2019	18 September 2019
DA 3003 South Elevation	Rev D / 11 September 2019	18 September 2019
DA 3100 Long Section	Rev D / 11 September 2019	18 September 2019

(b) Building Code of Australia Compliance Assessment Report (Report No. Project 8622) prepared by AED Group, Revision 1, dated 4 September 2018, and received by Council on 10 September 2018. Any changes to the external fabric as a result of necessity to comply with an alternate/fire engineered solution will require the prior approval of a s4.55 application;

(c) Energy Efficiency Evaluation Section J of BCA 2016 (Reference No. 20339) prepared by Partners Energy, Revision 1, dated 3 September 2018, and received by Council on 10 September 2018.

(d) Schedule of external finishes, drawing number DA 6000, Rev A, prepared by MHNDU and received by Council on 29 March 2019; and

(e) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

2. LANDSCAPE PLAN TO BE SUBMITTED

A landscape plan is to be submitted and approved by Council with a plant species list, showing the botanical and common names of plants, pot size of plants and number of plants, prior to the issue of the relevant Construction Certificate.

3. APPROVED DESIGN

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

4. BONDİ - ROSE BAY SAND BODY

This site is 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. Works may resume on the site pending receipt of express written permission from the NSW National Parks and Wildlife Service. 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.

5. SEPARATE APPLICATION FOR USE, SIGNAGE AND FITOUT

The use, fit-out, signage or proposed hours of operation for the retail component of the development has not been proposed in this application, therefore these elements require the separate approval from Council, unless deemed Exempt Development under the SEPP (Exempt and Complying Development) 2008. The use shall be limited to either *retail premises* or *business premises* as defined under the *Waverley Local Environmental Plan 2012*, so as to ensure compliance with the approved permitted use.

In this regard, compliance with the NCC 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.

6. SIGNAGE

The following shall apply to any future signage for the site;

- (a) The use of flashing lights, flashing illuminated signs and the like is prohibited.
- (b) No advertising signs or notices are to be affixed to the windows of the premises.
- (a) Portable signs or goods for sale or display must not be placed on the footway or other public areas, without the prior approval of Council.
- (b) Signage is to be erected/supported in a secure manner for safety purposes;
- (c) Signage, must not be installed in a manner which would cause irreversible damage to the building; and,
- (d) Shall be a minimum of 2.6m above the footpath level and be offset a minimum of 600mm behind the kerb.

7. INSTALLATION OF AIR CONDITIONING

Any air conditioning unit(s) installed within the building shall:

- (a) shall be relocated to within the development to minimise impact/s on neighbouring properties in accordance with the following relevant conditions of consent. Alternatively, they may be relocated to the centre section of roof, provided they occupy a maximum of 20% of the roof plane and are enclosed in a suitable designed acoustic enclosure/screening.
- (b) Be located a minimum of 1.5 metres from a boundary.
- (c) Be located behind the front building line and if visible suitable screened and located in an appropriate location.
- (d) Not be adjacent to neighbouring bedroom windows.

- (e) Not reduce the structural integrity of the building.
- (f) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - i. Before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday;
or
 - ii. Before 7.00am and after 10.00pm on any other day.
- (g) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (f).

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. 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 & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & 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.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principal Certifying Authority.

9. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and 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:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) 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 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;
 - (a) A development valued at \$100,000 or less will be exempt from the levy.
 - (b) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
 - (c) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of the 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.

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

10. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$26,650** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit

11. ADDITIONAL DA FEE REQUIRED

Council considers the estimated cost of the proposed building work indicated on the development application to be understated. In this regard, an accurate cost summary report is required to be submitted and any required additional development application fee is to be paid, prior to the issue of the Construction Certificate.

12. 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 to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: 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.

13. GROUND ANCHORS

Prior to works commencing on site, a plan, showing the location and type of all ground anchors that will be required to extend beyond any of the existing or proposed boundaries of the site shall be submitted to Council for the approval of the Executive Manager, Creating Waverley. Any ground anchors that are proposed to extend beyond the property boundary into adjoining land, must provide Council with written evidence of owner's consent (from affected properties) for such works.

Please note, a fee will be applied for each anchor approved to extend into a road reserve.

14. ESSENTIAL SERVICES - NEW BUILDING

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) Basis of design;
- (b) Standard to which the system is to be installed; and

- (c) All relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

- (a) Inspection, testing and commissioning details;
- (b) Date of inspection, testing and commissioning;
- (c) The name and address of the individual who carried out the test; and
- (d) A statement that the service has been designed, installed and is capable of operating to the above standard.

15. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities (water, gas, electricity) regarding any possible modification to the service authority's infrastructure prior to the issue of a Construction Certificate.

16. IMPACT ON EXISTING UTILITY INSTALLATIONS

Should proposed or conditioned works located within Council's road reserve be located where it is likely to disturb or impact upon a utility installation (eg power pole, Telstra pit etc) written confirmation from the affected utility provider (eg. AusGrid/Telstra) that they have agreed to the proposed impacts shall be submitted to the Principal Certifying Authority, prior to the release of the Construction Certificate.

17. COST OF ADJUSTMENT TO PUBLIC UTILITIES TO BE BORNE BY APPLICANT/DEVELOPER

The arrangements and costs associated with any adjustment to public utility services, including these in the footpath and road areas to suit new development levels shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifying Authority which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required, prior to the release of the Construction Certificate.

18. PUBLIC INFRASTRUCTURE WORKS

Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for approval by the Executive Manager, Infrastructure Services prior to the issue of the Construction Certificate.

The applicant must submit plans and specifications for the following infrastructure works to Councils Public Domain Engineer:

- a) Footpath, Kerb and Gutter: Replace all footpath, kerb and gutter traversing Curlewis Street frontage. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage.

Designs shall be submitted to Council showing the proposed and existing cross sections. The proposed footpath material and street furniture details traversing the frontage to be advised by Council at the time of engineering plan approval.

- b) Any existing or proposed utility pillars on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.
- c) All mains electrical connections to the development must be routed underground. Council will not accept the erection of newly placed electricity columns within the Council's public domain to support the new development.
- d) Communicate the relocation/adjustment of all public utility 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. All the requirements of the relevant Public Authority shall be complied with.

Notes:

- Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- 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 public domain design submissions; however Council's title block shall not be replicated.
- Council reserve the right to ask for any additional work required on areas damaged by the construction of the building.
- Council's contact for public domain: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday).

19. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES

Adequate provision shall be made for the installation of a mechanical exhaust system for future premises where food is prepared. This includes the provision of a shaft that complies with the Building Code of Australia, to the roof for the ductwork and the flue of the system.

20. HOARDING REQUIRED

To ensure the site is contained during construction, a hoarding may be required for the approved works. If required, the hoarding shall be designed and constructed in accordance with the requirements of **Safe Work NSW**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding

are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

21. GEOTECHNICAL ENGINEERS REPORT

A Geotechnical Engineers Report is to be submitted which assesses the following;

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The report must make recommendations and conclude that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works.

The report is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises prior to the issue of a Construction Certificate and commencement of any such works on the site.

22. ENGINEERING DETAILS

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

23. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural 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. The Report shall be submitted to the Principal Certifying Authority, Council and the owners of adjoining properties prior to the issue of a Construction Certificate.

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.

24. EROSION, SEDIMENT AND POLLUTION CONTROL

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

25. ON-SITE STORMWATER DETENTION DETAILS

On-Site Stormwater Detention (OSD) tank and its details are required to be submitted and approved by Council prior to the issue of a Construction Certificate. Details to include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice etc.

26. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate.

27. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) shall be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP at all times during demolition and construction. At least one copy of the SWRMP is to be available on site at all times during demolition and 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.

28. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point for the minimum rates provided in WDCP 2012 Annexure B1-2;
- (b) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012. All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (c) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (d) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets that is off the public domain.
- (e) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.

- (f) All new developments are to provide adequate storage for waste to accommodate future change of uses.
- (g) Composting facilities must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (h) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, 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.
- (i) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (j) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- (k) All waste and recycling must be presented with lids closed to reduce littering, storm water pollution, odour and vermin. Waste and recycling not presented in the correct manner will not be collected.
- (l) All waste and recycling bins must be put out for collection no earlier than the night before collection and brought in the same day as the collection service.

The above matters are to be shown in the Construction Certificate drawings and submitted to the satisfaction of the appointed Principal Certifying Authority prior to the issue of a Construction Certificate.

29. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) 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.

- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

30. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

Prior to the issue of a Construction Certificate, the applicant is to submit a "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) for the approval of the Executive Manager, Creating Waverley

The CVPPM shall provide details of the following:

- a) The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- b) The type and size of demolition/construction vehicles. Trucks with dog trailers and semi-trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- e) The location and materials of construction of temporary driveways providing access into and out of the site.
- f) The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- g) The hours of operation of demolition/construction vehicles.
- h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - i. The route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route
 - ii. Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - iii. The type(s) of material on which pedestrians will be required to walk
 - iv. The width of the pathway on the route
 - v. The location and type of proposed hoardings
 - vi. The location of existing street lighting

31. LANDSCAPED SLABS

Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is proposed.

32. AWNINGS OVER THE PUBLIC DOMAIN

- (a) A continuous awning along the entire frontage of the site to Curlewis Avenue (that is, extending from north to south side boundaries) shall be provided for weather protection for pedestrians.
- (b) Awnings shall be a minimum of 3.5m above the footpath level and offset a minimum of 600mm behind the kerb.
- (c) Awning design shall match the building façade materials and finishes.
- (d) Awnings shall provide cut outs for to allow for existing and future tree growth for the street trees.
- (e) The support columns for the awning shall be constructed so as not to encroach forward of the property boundary.

Details to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

33. SIDE WALLS VISIBLE FROM CURLEWIS STREET

Side walls visible from Curlewis Avenue are to be of a high architectural standard and treated to provide visual interest and present as “wall art” with dynamic/ animated façade treatment utilising a variation of maintenance free materials, colours, and textures. Full coloured elevational details and sections are to be provided for the prior approval of the Council prior to issue of a Construction Certificate.

34. ACCESS

The development shall be provided with access and facilities for people with disabilities in accordance with AS1428.1-2009 Design for Access and Mobility Part 1: General Requirements for Access. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

35. ACCESSIBLE SIGNAGE

Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.2.

36. BICYCLE PARKING

A total of **2** (minimum) bicycle parking spaces are to be provided on the ground floor. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

37. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) The name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) The name and permit number of the owner/builder who intends to do the work; and
- (c) Any change to these arrangements for doing of the work.

38. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) A hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) The work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) A hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

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. TOILET FACILITIES

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

41. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

The applicant must ensure that the waste generated during the demolition and construction phase complies with the following;

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
 - (i) Landfill waste;

- (ii) Recyclable waste;
- (iii) Materials to be re-used on-site; and / or
- (iv) Excavation materials.

See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.

- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012.
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and www.nsw.gov.au/fibro and www.workcover.nsw.gov.au.
- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

42. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared 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 WorkCover 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.

43. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2011;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2009.

44. 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).

45. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400m x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

46. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

All site works complying with the occupational health and safety requirements of WorkCover NSW.

47. SOIL AND WATER MANAGEMENT PLAN

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

48. FOOTPATH PROTECTION

The footpaths in front of the site must have a protective cover e.g. duckboards or plates to ensure these are not damaged during the course of demolition and/or construction. The protective measure is to be installed prior to the commencement of any works on the site.

49. 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:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

50. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or modification application.

During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

51. 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.

52. EXCAVATION BELOW FOOTINGS

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) Preserve and protect the building from damage; and
- (b) If necessary, must underpin and support the building in an approved manner; and
- (c) Must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

53. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

54. POTENTIAL DEWATERING OF THE SITE

Should dewatering of the site be required, the onus is on the developer to:

- (a) Undertake the necessary site investigations prior to construction;
- (b) Prove that a water table is present or absent;
- (c) Assess the feasibility of alternative construction methods;
- (d) Assess the potential contaminated site, acid sulphate soil and saline intrusion issues;
- (e) Design an appropriate and safe dewatering system;
- (f) Apply for a dewatering licence,
- (g) Provide a detailed geotechnical and hydrogeological report regarding construction dewatering and monitoring;
- (h) Design and implement a monitoring program;
- (i) Monitor, analyse, interpret and report on dewatering to Council. DWE and possibly DECC throughout construction;
- (j) Inform Council of unexpected site conditions (such as water tables or high seepage rates) and subsidence issues.

55. USE OF HEAVY EARTH MOVEMENT EQUIPMENT

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.

56. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES

Where there is a strong community reaction to noise associated with demolition, excavation and/or construction, Council may require respite periods by restricting the hours that the specific noisy activity can occur.

Notes: If this is imposed, Council will take into account:

1. Times identified by the community when they are less sensitive to noise
2. If the community is prepared to accept a longer period of construction in exchange for restrictions on construction times.

57. NATIONAL CONSTRUCTION CODE

All building work must be carried out in accordance with the requirements of the National Construction Code (formerly known as the Building Code of Australia).

58. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION ACT) - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

[Delete those not applicable]

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls); and
- (g) swimming pool fencing prior to filling pool.

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

59. FIRE SAFETY - EXITS

Exits and paths of travel to exits are to be kept clear and at all times to provide clear access to exits and provide a safe passage for occupants to open space in accordance with Section D of the BCA.

60. FIRE SAFETY MAINTENANCE

Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

61. CERTIFICATE OF SURVEY - LEVELS

All construction works shall be strictly 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.

62. 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 actual situation 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.

63. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

64. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

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

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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.

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

66. ENCROACH BEYOND THE BOUNDARIES

No portion of the proposed building including the footings and roof eaves, but not including public domain works / proposed awnings as shown on the approved plans, are to encroach beyond the boundaries of the subject property.

67. NEW FOOTPATH PAVING

The existing concrete footpath paving on both frontages shall be demolished and new full width paved pathway shall be installed along the full frontage at the applicant's expense.

68. FINISHED PAVING LEVELS

Paving within the site shall be finished to match the existing footpath level on both road frontages.

69. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be upgraded on the Curlewis Street frontage for the development site in accordance with the current Waverley Council Development Control Plan (DCP) 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 Council's Executive Manager, Infrastructure Services during construction and prior to the issue of the Occupation Certificate.

- Pedestrian footpath
- Road pavement
- Kerb & gutter
- Stormwater infrastructure located within the Council kerb and/or footpath
- Street furniture
- Landscape and street tree plantings.

70. 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 the Executive Manager, Infrastructure Services, 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.

71. PUBLIC AREAS AND RESTORATION WORKS

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council's Executive Manager, Infrastructure Service).

72. WORKS ON PUBLIC ROADS

Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road/Footpath Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

73. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS

Prior to commencement of the public domain works notice shall be submitted to Council's Public Domain Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

74. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering and public domain plans 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.

75. 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, up to 100m either side of the development site, 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
- 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.

76. 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.

77. 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.

78. 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 & Footpath Paving

- After formwork installation and prior to casting of all drainage structures e.g pits, lintels and surface grates
- After completion of formwork and prior to casting of concrete
- After full completion and restoration

Landscape

- After completion of plantings
- After completion of formwork and prior to casting of proposed retaining walls or slope stabilisation systems
- After full completion and restoration

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.

The Principal Certifying Authority shall not issue any Occupation Certificate until Council has conducted a final inspection of the completed works and has issued a final compliance certificate certifying satisfactory completion of the works.

79. 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.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

80. OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied.

81. STORMWATER MANAGEMENT

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.

82. SYDNEY WATER

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 www.sydneywater.com.au/customer/urban/index or telephone 13 20 92.

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.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the subdivision plan/occupation of the development.

83. NOISE ATTENUATION CERTIFICATE

On completion of any building containing residential units and prior to the issue of the Occupation Certificate the applicant shall:

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with Condition 19; and
- (b) Lodge with Council for public record, the noise attenuation star rating results.

84. PUBLIC DOMAIN WORKS COMPLETED

All footpath upgrades and public domain works are to be completed to the agreed design and standard for the satisfaction of the Executive Manager, Creating Waverley prior to the issue of an Occupation Certificate.

85. FIRE SAFETY WORKS

The Occupation Certificate shall not be released by Council or an accredited certifier, until all fire safety works are completed and a Final Fire Safety Certificate has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:-

- (a) Has been assessed by a properly qualified person; and
- (b) Has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

86. 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) Officer, Shaping Waverley.

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.

87. WASTE AND RECYCLING STORAGE AND COLLECTION - USE

- (a) Composting facilities onsite must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (b) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (c) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (d) The path for bins between the waste and recycling storage area and the vehicle collection point must be free of steps and kerbs.
- (e) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.
- (f) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).

- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, 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.
- (h) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (i) 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.
- (j) Should a collection vehicle be required to drive onto the property to collect waste and recycling bins, the site must be designed to allow collection vehicles to enter and exit the property in a forward direction and have adequate vehicle clearance. In addition, all access roads and driveways must comply with BCA, AS and Annexure B1-3 in the Waverley Development Control Plan 2012.

The above matters are to be detailed and submitted to the satisfaction of the Principal Certifying Authority prior to the occupation of the development.

88. DISPLAY OF WASTE MANAGEMENT PLAN

The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan shall be displayed in a secure, visible and accessible position within or adjacent to the waste storage area. The approved Waste Management Plan must be complied with at all times during occupation.

89. LANDSCAPE PLAN

The site is to be landscaped and turfed in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

90. GROUND FLOOR LANDSCAPED AREA

The outdoor landscaped area to the rear of the commercial premises is to be kept clear at all times, and regularly maintained and kept clean and tidy, to allow unimpeded access and pleasant outlook.

91. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.

- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

92. TACTILE NUMBER IN LIFT

The applicant is advised that with regard to the provision of the lift in the building, it will be necessary for tactile numbers to be placed on each level of the building and within the lift to assist visually impaired people.

93. NOISE COMPLAINTS

If, during on-going use of the premises, substantiated complaints of breaches of noise emission conditions and/or the Protection of the Environment Operations Act, 1997 occur, an acoustic report assessing the impact of the operation will be required to be carried out by a suitably qualified and experienced acoustic engineer. The report is to be submitted to the satisfaction of Council's Safe Waverley sub-program within 60 days of written request. The investigation shall include, but not be limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal;
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and accordance with relevant Australian Standards and NSW Environment Protection Authority (EPA) requirements);
- (c) The noise criteria in these conditions;
- (d) The identification of operational noise producing facets of the use and the subsequent measurement and/or predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the prediction procedures must be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation;
- (e) A statement indicating that the operation of the premises complies with the relevant criteria together with details of acoustic control measures that will be incorporated into the development/use, will not create adverse noise impacts to surrounding development.

94. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of premises numbers:

- No. 21 - primary address site number
- Curlewis Street - primary address 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 Bondi Road.

- As the redevelopment has multi-level sub addressing the following sub addressing will apply;
 - All sub premises numbers must be unique,

- The floor/level number will represent the first number of the sub address and the last two digits in the sub address shall be unique on each level,
- For clarity, a zero will be interposed in the number of the first nine sub address levels ie Level 3 unit 7 =307,
- Level at ground and below ground shall also be identified by prefixes to distinguish these levels ie Ground =G, Lower Ground = LG Basement + B, B1 Etc

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation/Subdivision Certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation/Subdivision Certificate

Any variation to the above premises numbering requires a new application to be lodged with Council.

95. PARKING PERMITS

In accordance with Council's Policy, Residents Preferred Parking permits will **not** be issued for this development when completed.

96. 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 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.

97. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

98. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's engineer. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

Notes:

- The issue of a Compliance Certificate from the Council officer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.

- The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.
- To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

99. HOURS OF OPERATION

The hours of operation for the commercial office area of the premises are restricted to:

Monday to Saturday: 7.00am to 11.00pm; and
Sunday: 7.00am to 10.00pm.

The hours of operation for the retail tenancy is subject to a future DA for the fit out and use.

100. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes.

Should increased security be desired, then consideration should be given to applying shatter-resistant film or replacing existing shop window glass with laminated glass.

101. NEIGHBOURHOOD AMENITY

The management of the premises:

- (a) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- (b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
- (c) Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided
- (d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

102. KITCHEN EXHAUST SYSTEM FOR FOOD PREMISES

This approval does not permit cooking to be undertaken on the premises. Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

103. NO SPRUIKERS

Spruikers (with or without sound amplification) shall not operate without the prior written consent of Council.

104. DELIVERY OF GOODS

Loading and unloading of vehicles and delivery of goods to the land shall at all times be carried out within the approved hours of operation, accessed via the street frontage.

105. NOISE - MECHANICAL PLANT

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.
- (d) A Certificate is to be submitted at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment complies with the terms of approval in relation to noise.

106. NOISE EMISSIONS

The use of the premises shall not give rise to:

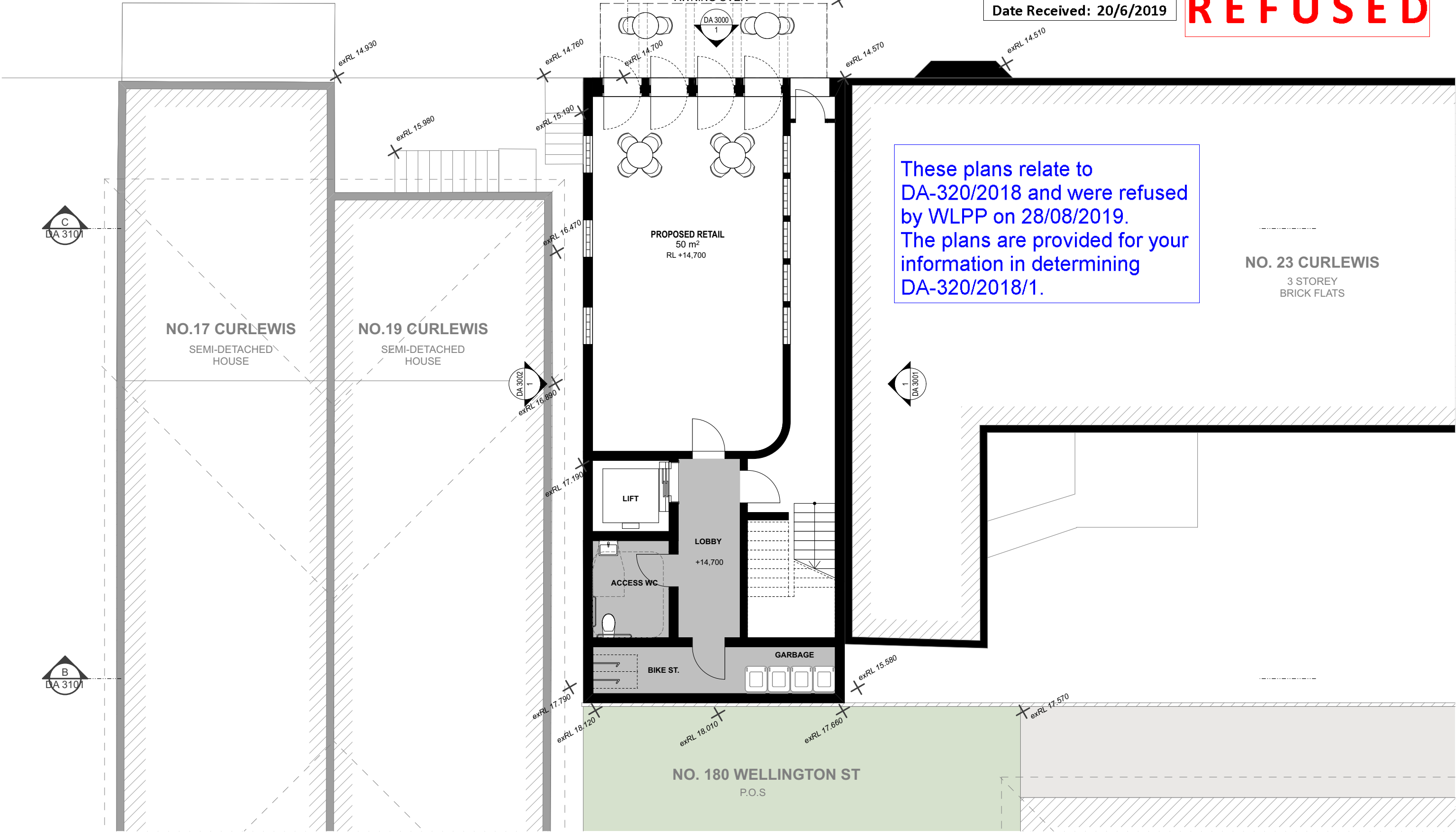
- (a) Transmission of "Offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy;
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more 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.

AMENDED PLANS

curlewis street

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED



REVISIONS		
A	DA SUBMISSION	10/09/18
B	DA SUBMISSION	30/04/19

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TOG - TOP OF GUTTER
TOW - TOP OF WALL

MATERIALS

BZ - BRONZE
OC - OFF-FORM CONCRETE
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MF - METAL SHEET ROOFING - DARK BRONZE
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PROJECT: CURLEWIS
21 CURLEWIS ST BOND
NSW
PROJECT NO: 18-020
DRAWN BY: MHN
TO SCALE: 1:100@A3
DRAWING NO: REV:B

DRAWING:
GROUND FLOOR

Nominated Architect
Brian Meyerson
NSW Registration Number 4907

100

AMENDED PLANS

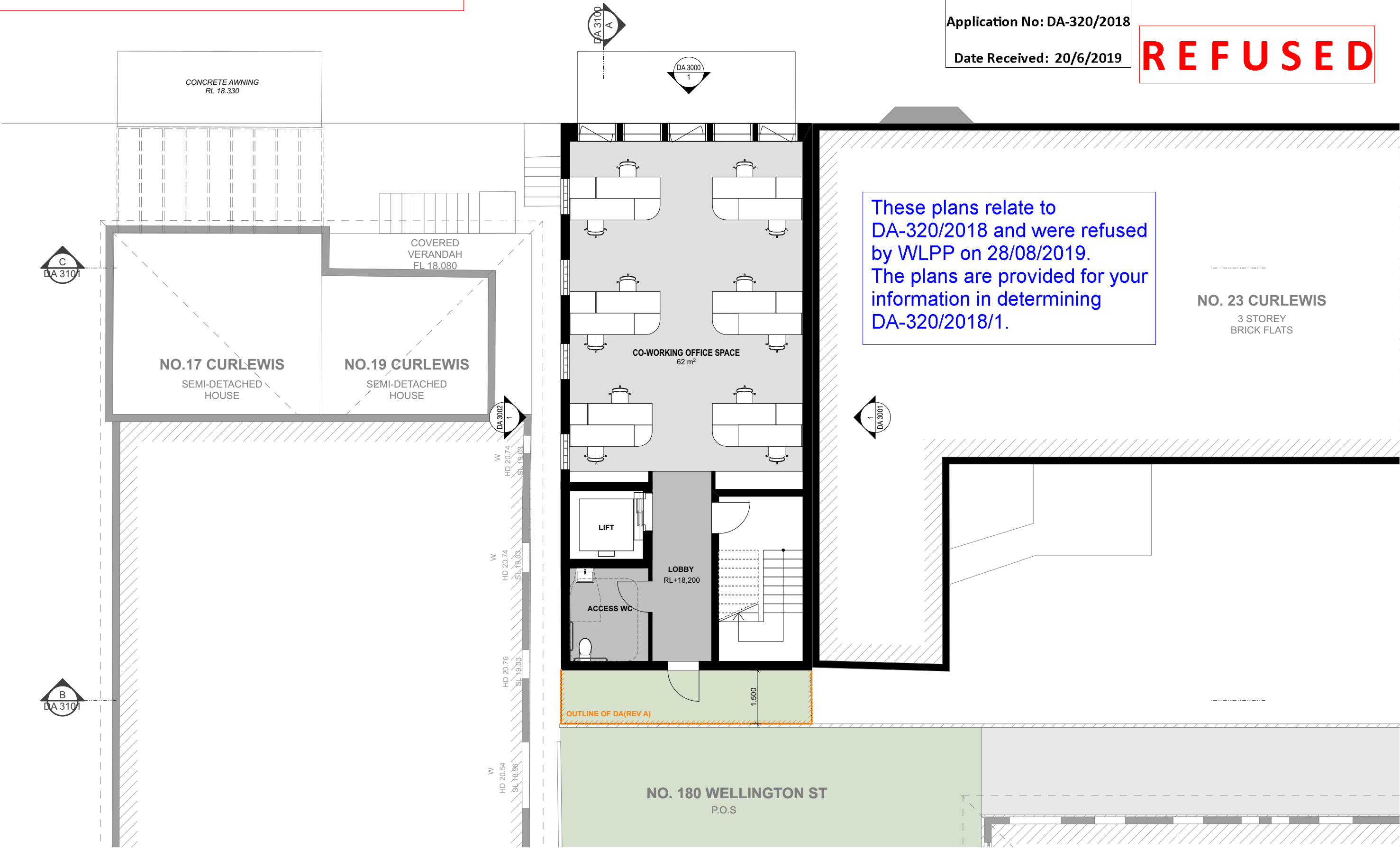
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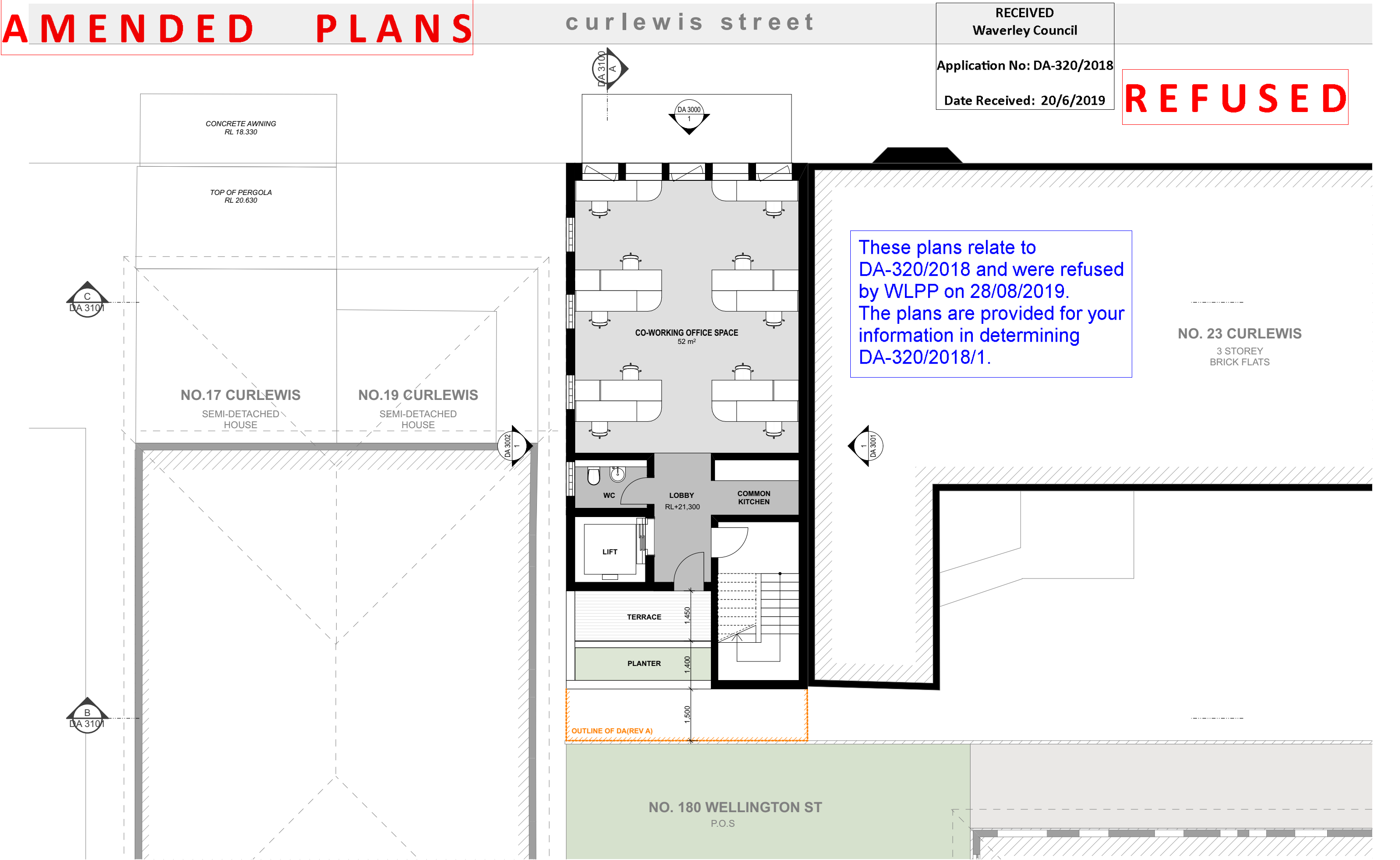
PROJECT:
CURLEWIS
21 CURLEWIS ST BONDI
NSW

DRAWING:
LEVEL 1

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
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21 CURLEWIS ST BONDI NSW	DRAWN BY: MHN
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	DRAWING NO: REV:B

DRAWING:
LEVEL 2

AMENDED PLANS

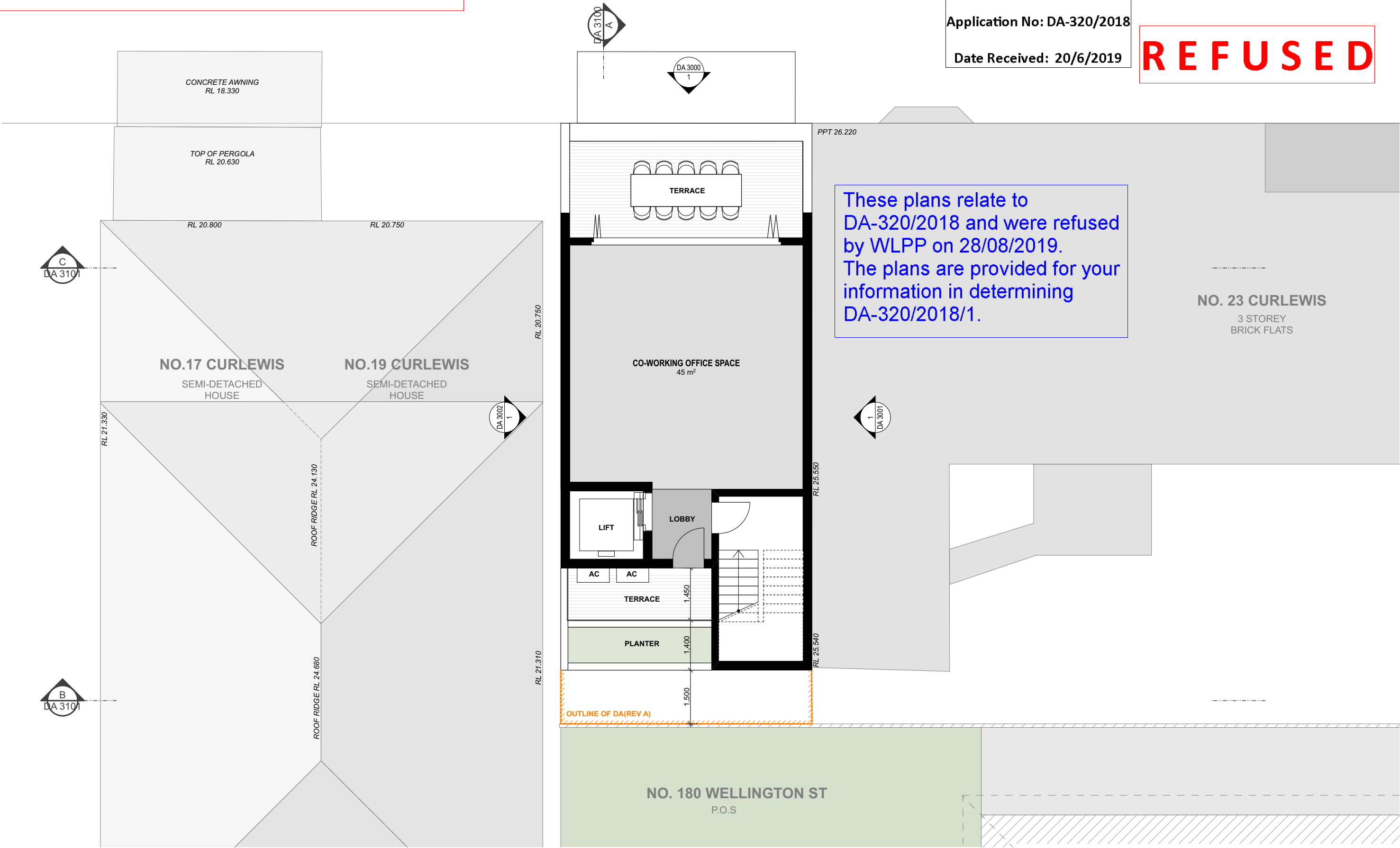
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MhN Design Union Pty Ltd. ABN 94 003 717 682 Nominated Architect Brian Meyerson NSW Registration Number 4907

PROJECT:
CURLEWIS

21 CURLEWIS ST BONDI
NSW

PROJECT NO: 18-020

DRAWN BY: MHN

TO SCALE: 1:100@A3

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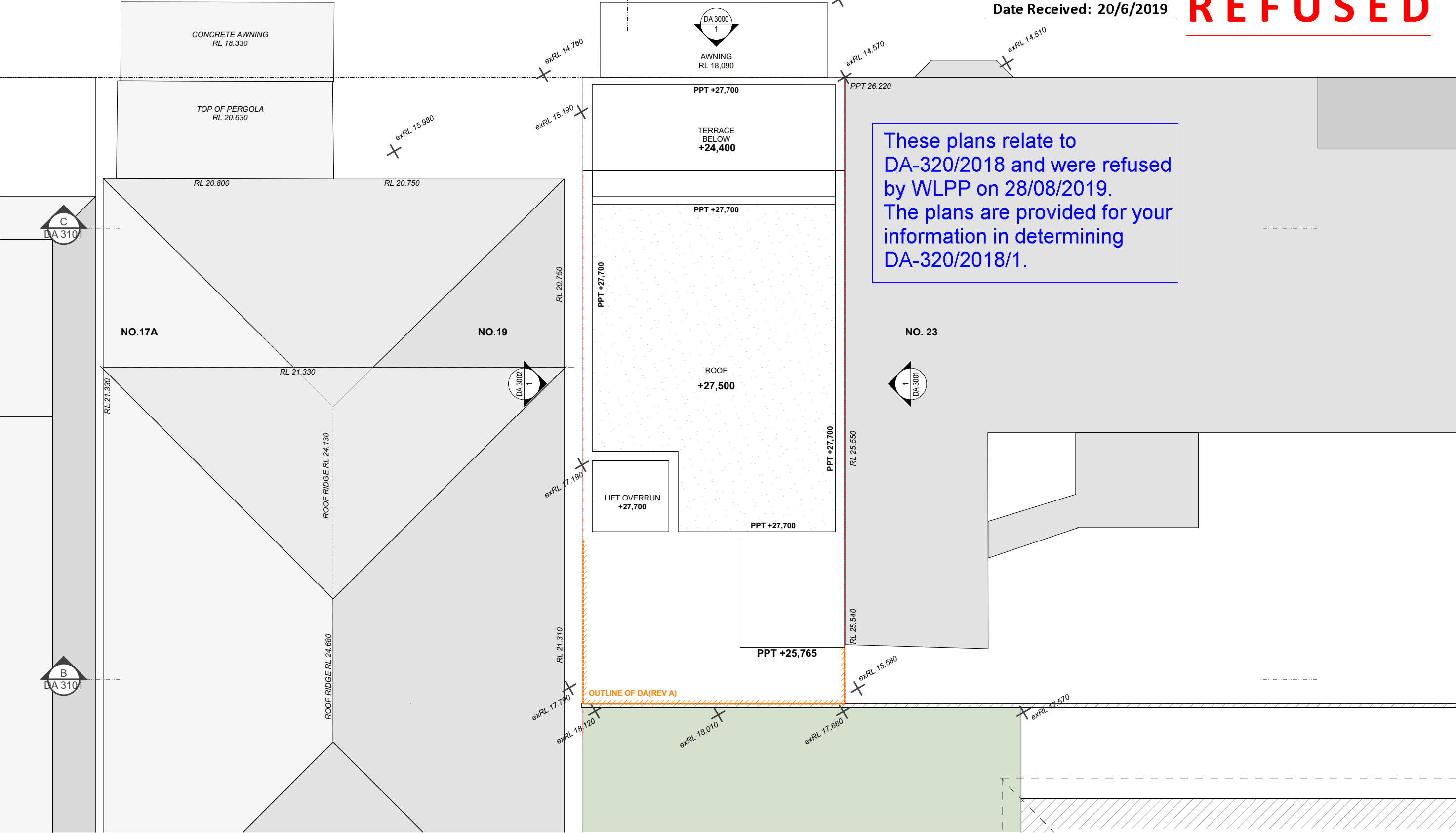
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AMENDED PLANS

curlewis street

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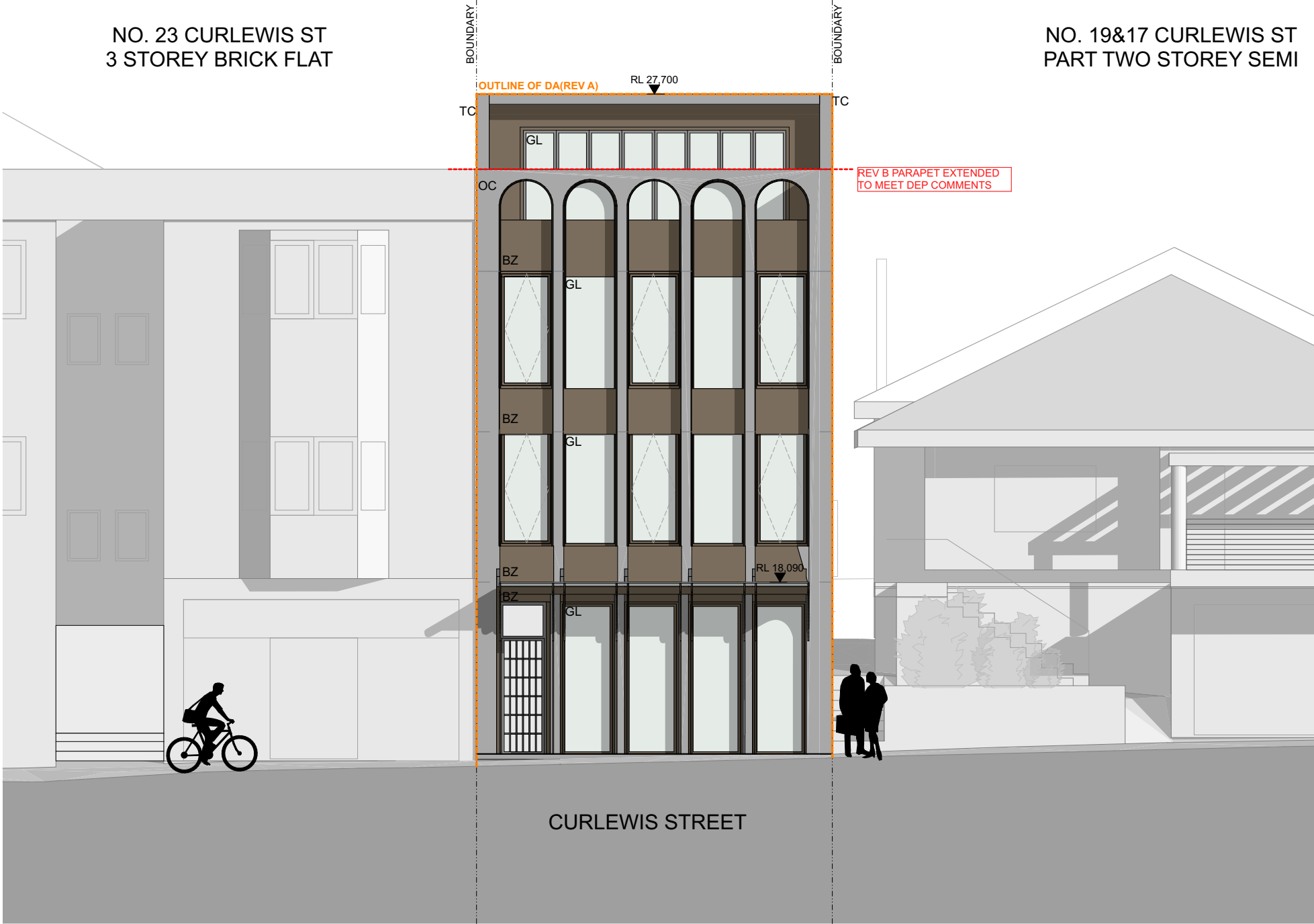
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TO SCALE: 1:100@A3
DRAWING NO: REV:B

DRAWING:
ROOF PLAN

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED



These plans relate to DA-320/2018 and were refused by WLPP on 28/08/2019. The plans are provided for your information in determining DA-320/2018/1.

REVISIONS		
A	DA SUBMISSION	10/09/18
B	DA SUBMISSION	30/04/19

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RL - REDUCED LEVEL	TOW - TOP OF WALL	OC - OFF-FORM CONCRETE	
TD - TRENCH DRAIN		TC - TEXTURED CONCRETE FORMWORK	
CL - CLEANERS STORE		MF - METAL SHEET ROOFING - DARK BRONZE	
SR - SERVICES RISER		PT - CONCRETE RENDER	
ST - STORAGE		GL - GLAZING	

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PROJECT: CURLEWIS
21 CURLEWIS ST BOND
NSW

DRAWING: NORTH ELEVATION

PROJECT NO: 18-020
DRAWN BY: MHN

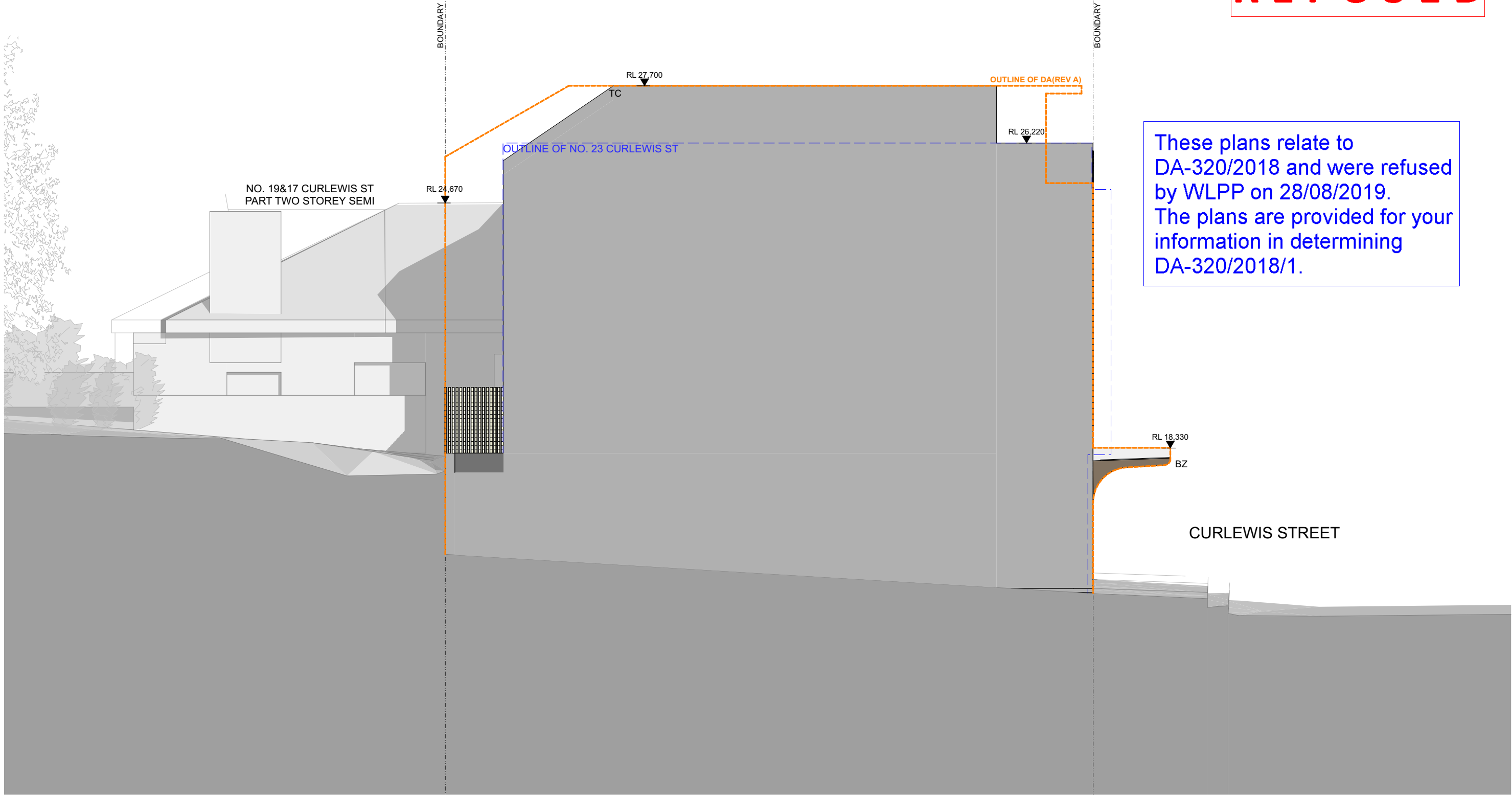
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DRAWING NO: REV:B

105

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED



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TD - TRENCH DRAIN		TC - TEXTURED CONCRETE FORMWORK	
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SR - SERVICES RISER		PT - CONCRETE RENDER	
ST - STORAGE		GL - GLAZING	

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Nominated Architect
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PROJECT: CURLEWIS
21 CURLEWIS ST BOND
NSW

DRAWING: EAST ELEVATION

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
DRAWING NO: REV:B

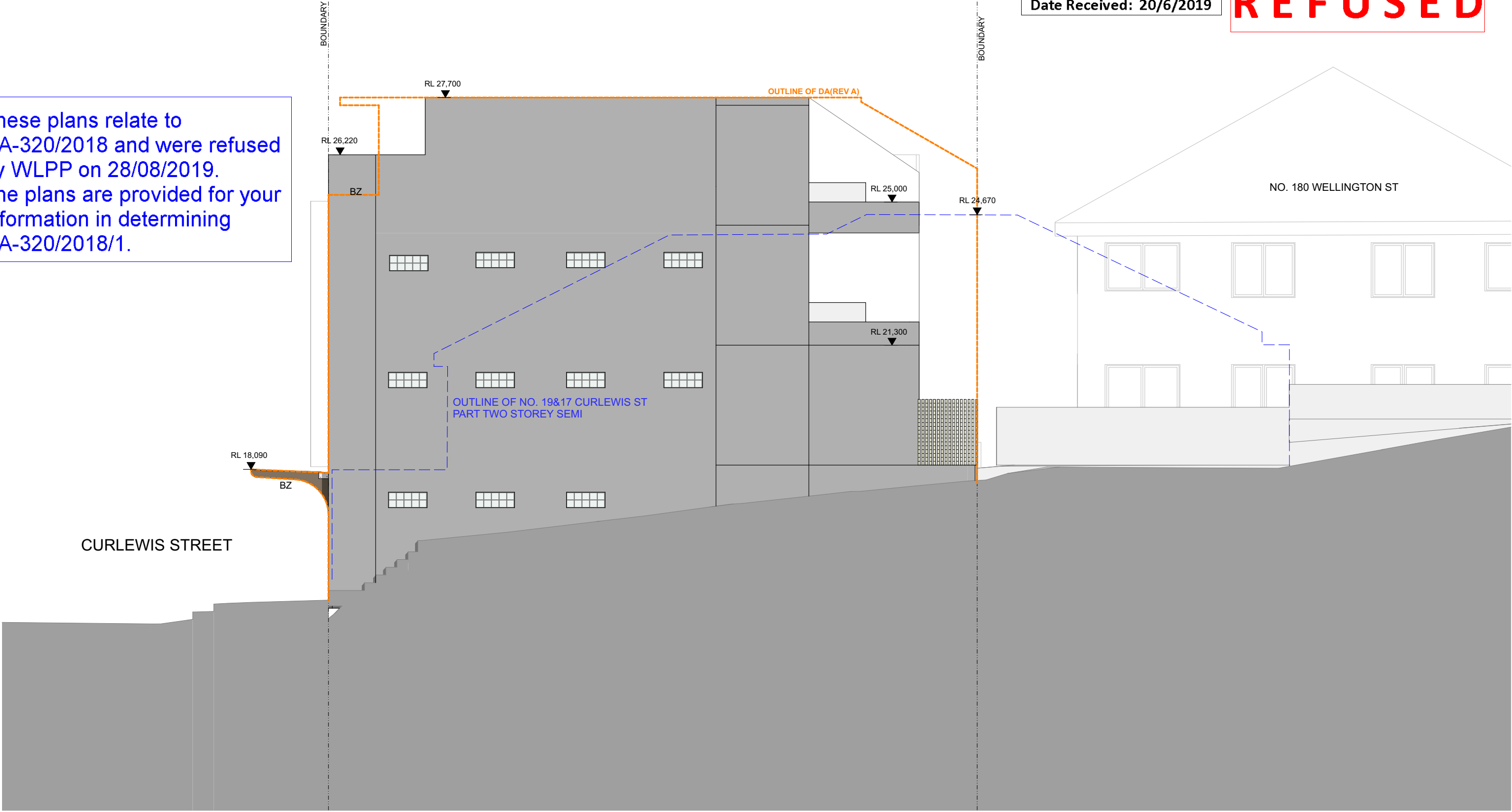
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AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED

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PROJECT: CURLEWIS
21 CURLEWIS ST BOND
NSW

DRAWING: WEST ELEVATION

PROJECT NO: 18-020
DRAWN BY: MHN

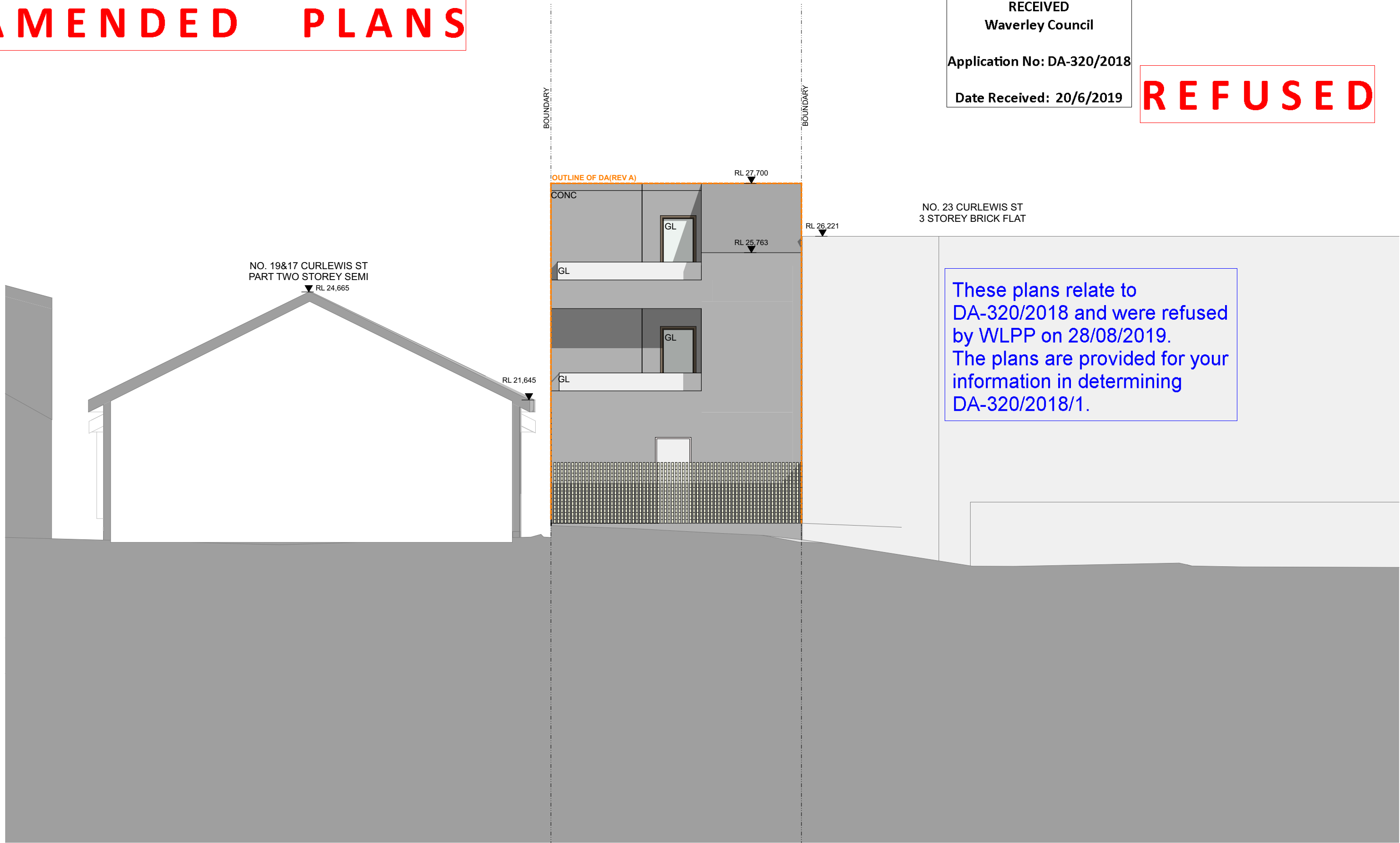
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DRAWING NO: REV:B

1072

AMENDED PLANS

RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED



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B	DA SUBMISSION	30/04/19

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ST - STORAGE		GL - GLAZING	

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Nominated Architect
Brân Meyerson

MhN Design Union Pty Ltd. ABN 94 003 717 682 NSW Registration Number 4907

PROJECT:
CURLEWIS

21 CURLEWIS ST BONDI
NSW

DRAWING:
SOUTH ELEVATION

PROJECT NO: 18-020
DRAWN BY: MHN

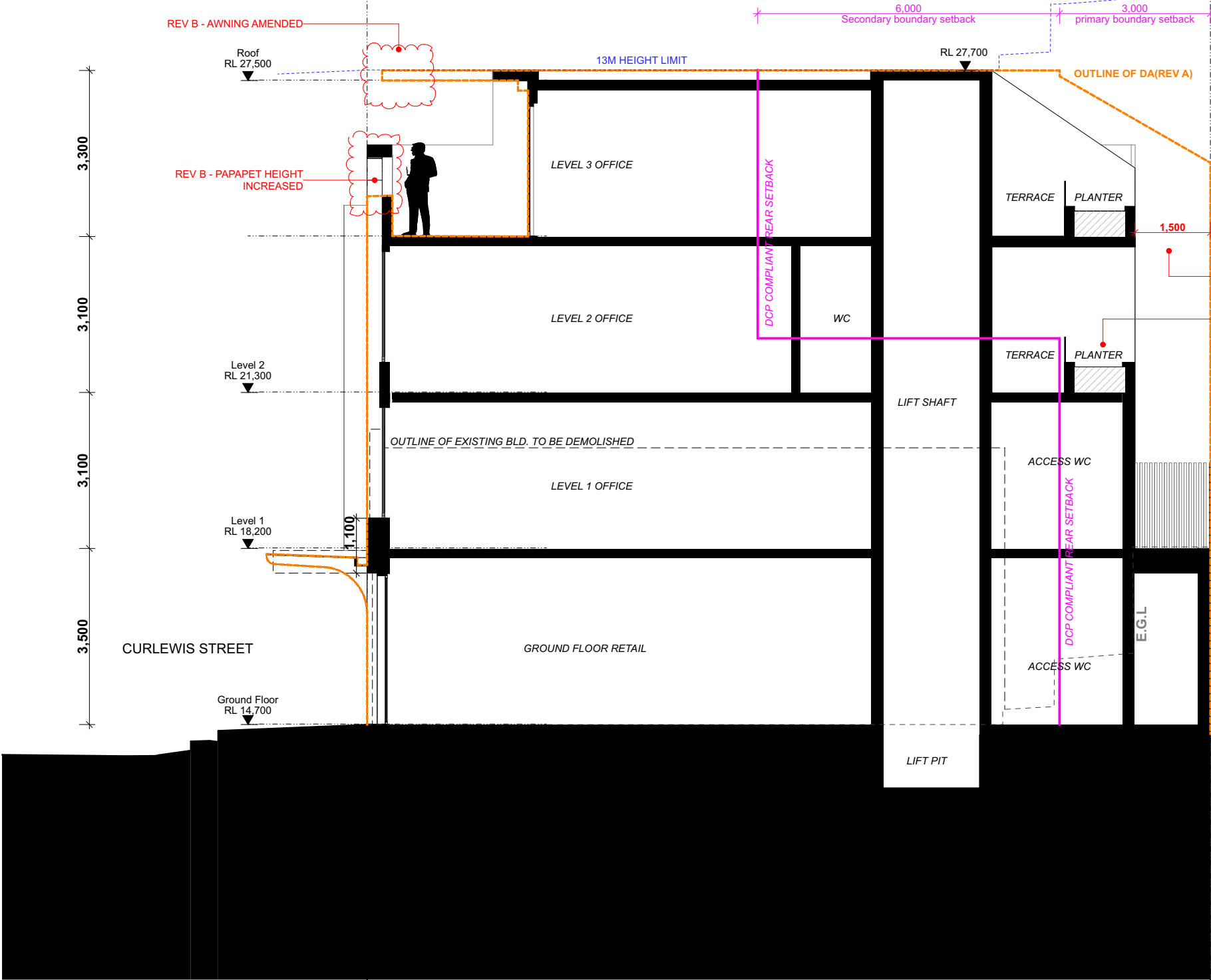
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DRAWING NO: REV:B

1083

AMENDED PLANS

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Waverley Council
Application No: DA-320/2018
Date Received: 20/6/2019

REFUSED



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B	DA SUBMISSION	30/04/19

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RL - REDUCED LEVEL
TD - TRENCH DRAIN
CL - CLEANERS STORE
SR - SERVICES RISER
ST - STORAGE
TOG - TOP OF GUTTER
TOW - TOP OF WALL

MATERIALS

BZ - BRONZE
OC - OFF-FORM CONCRETE
TC - TEXTURED CONCRETE FORMWORK
MF - METAL SHEET ROOFING - DARK BRONZE
PT - CONCRETE RENDER
GL - GLAZING

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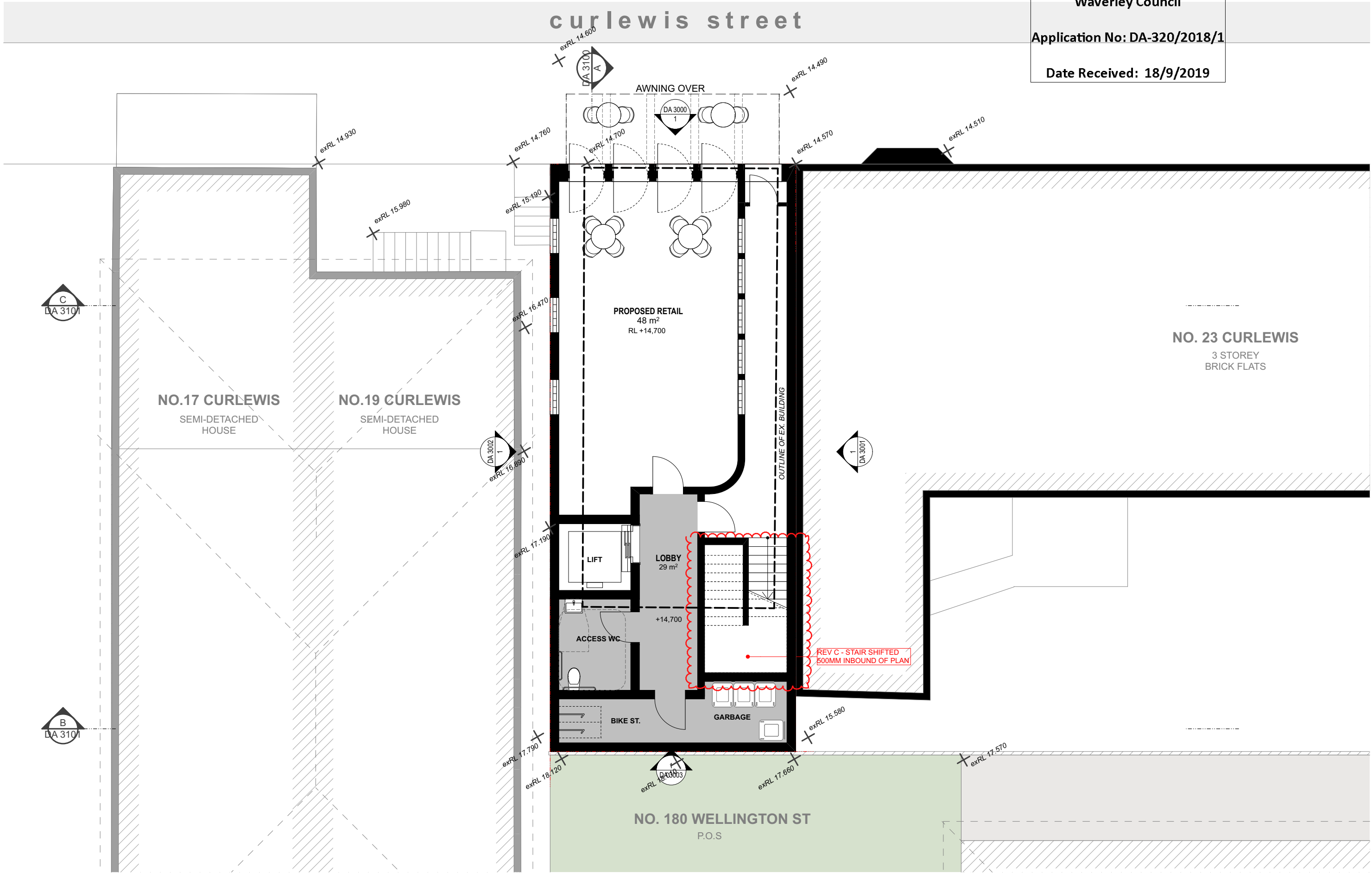
MhN Design Union Pty Ltd. ABN 94 003 717 682

PROJECT:
CURLEWIS
21 CURLEWIS ST BONDI
NSW

DRAWING:
LONG SECTION

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100, 1:1@
DRAWING NO: REV:B



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B	DA SUBMISSION	30/04/19
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RL - REDUCED LEVEL
TD - TRENCH DRAIN
CL - CLEANERS STORE
SR - SERVICES RISER
ST - STORAGE

TOG - TOP OF GUTTER
TOW - TOP OF WALL

MATERIALS

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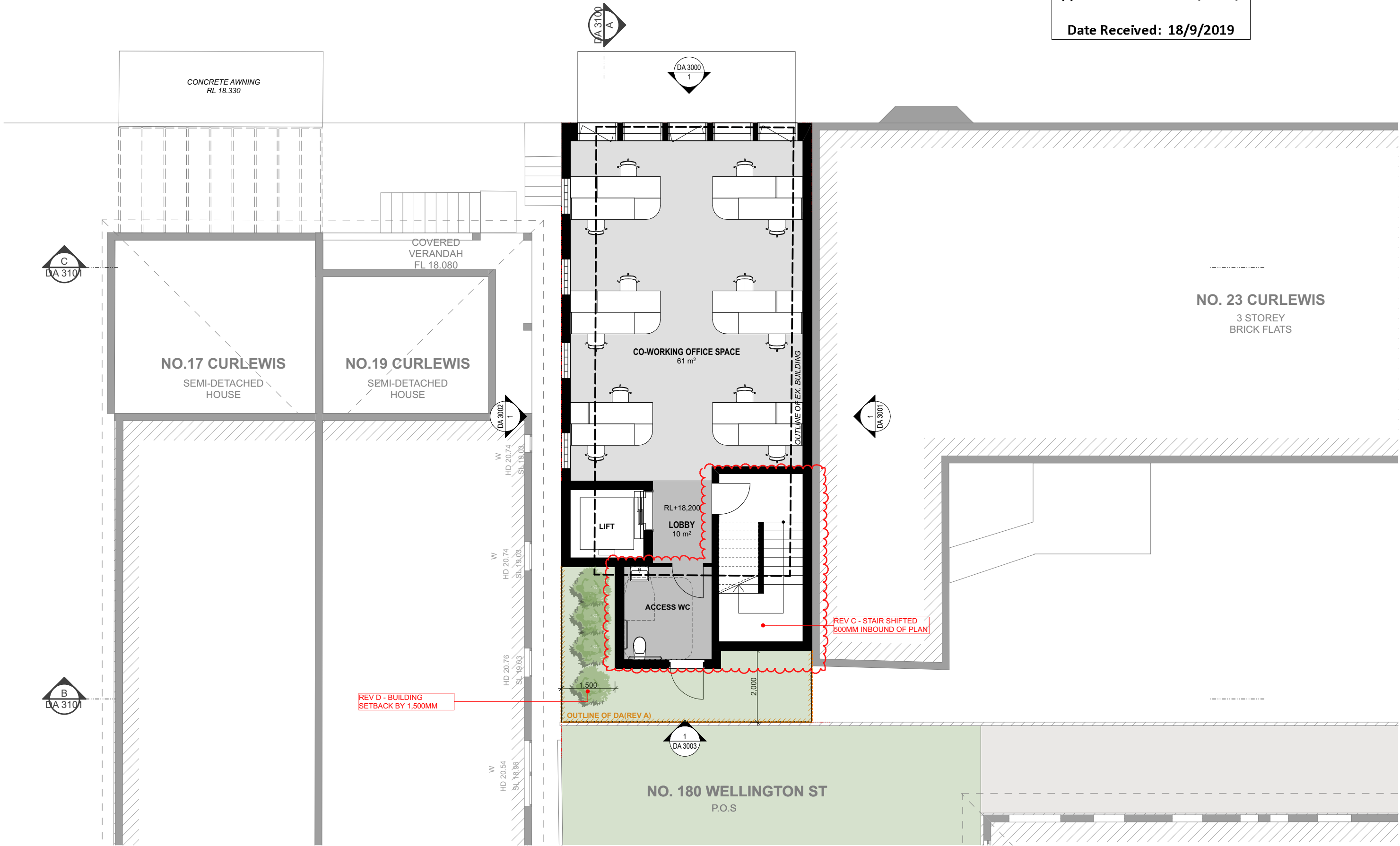
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PROJECT: CURLEWIS
21 CURLEWIS ST BONDI NSW

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
DRAWING NO: REV:D

DRAWING:
GROUND FLOOR



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TD - TRENCH DRAIN
CL - CLEANERS STORE
SR - SERVICES RISER
ST - STORAGE
TOG - TOP OF GUTTER
TOW - TOP OF WALL

MATERIALS

BZ - BRONZE
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GL - GLAZING

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PROJECT: CURLEWIS
21 CURLEWIS ST BONDI NSW

DRAWING: LEVEL 1

PROJECT NO: 18-020
DRAWN BY: MHN

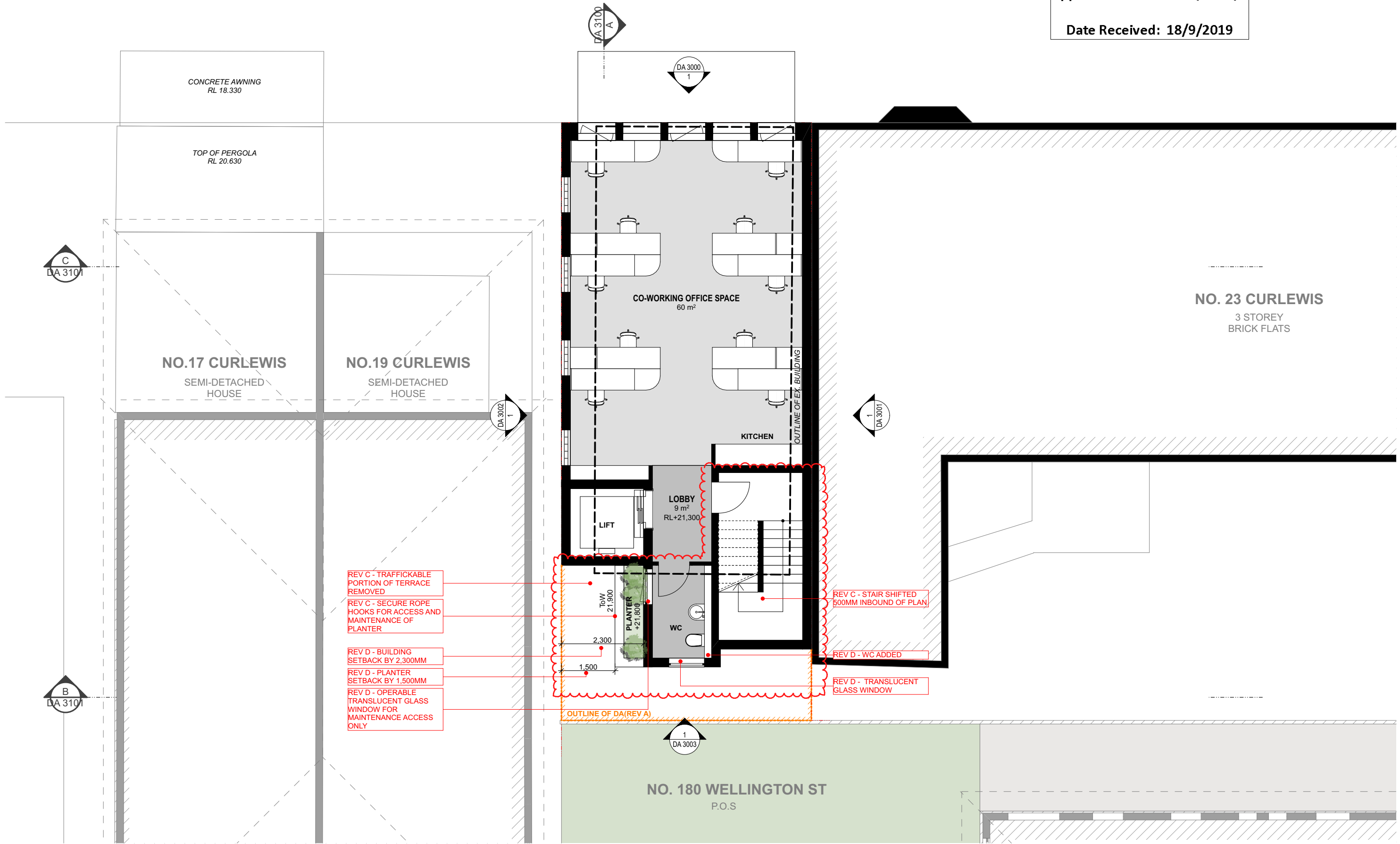
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DRAWING NO: REV:D

curlewis street

RECEIVED
Waverley Council

Application No: DA-320/2018/1

Date Received: 18/9/2019



REVISIONS		
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RL - REDUCED LEVEL	TOW - TOP OF WALL		
TD - TRENCH DRAIN			
CL - CLEANERS STORE			
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MATERIALS	
BZ - BRONZE	
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GL - GLAZING	

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TO SCALE: 1:100@A3	
DRAWING NO: REV:D	

DRAWING:
LEVEL 2

11202

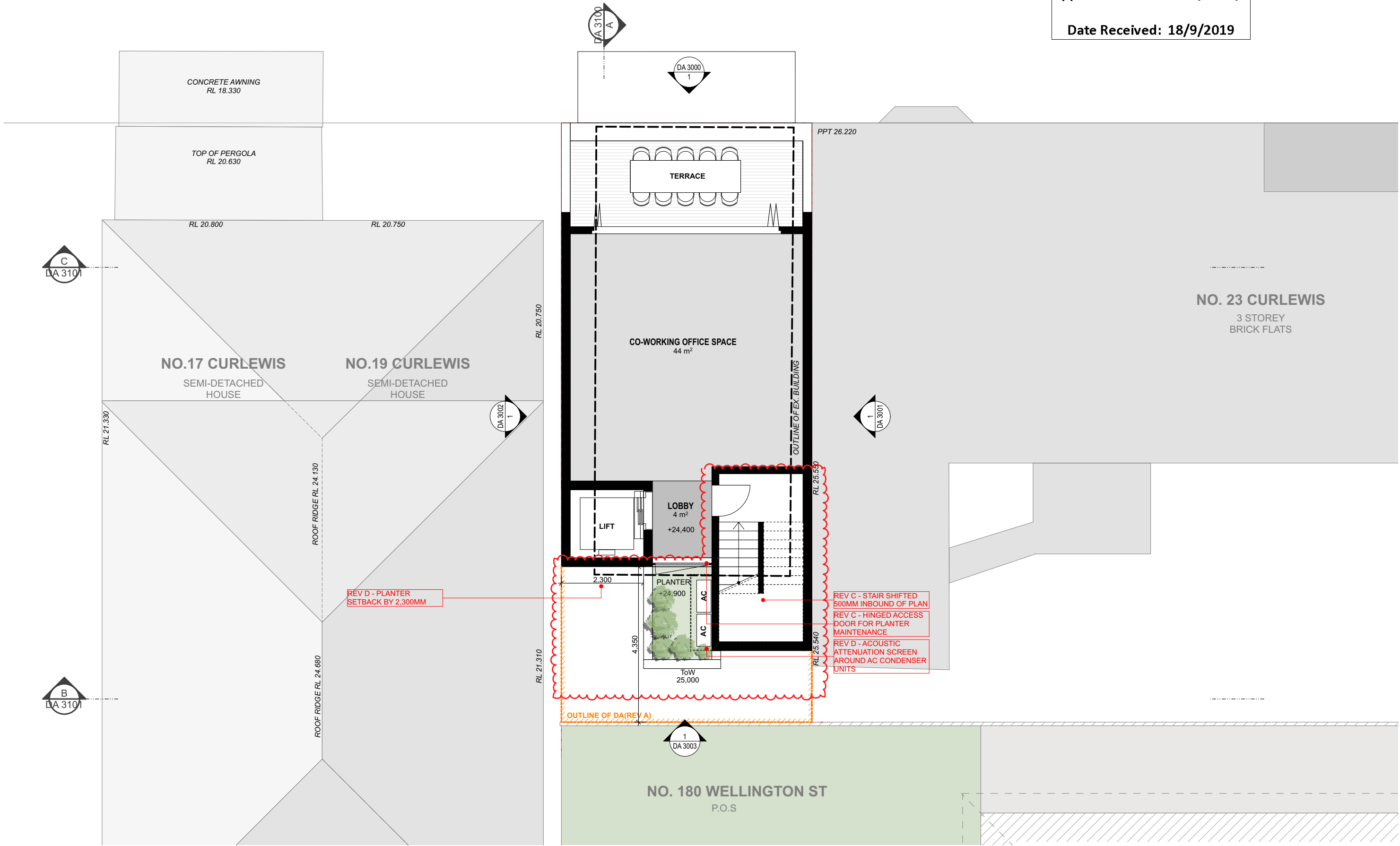
curlewis street

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Waverley Council

Application No: DA-320/2018/1

Date Received: 18/9/2019



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C	DA SUBMISSION	20/08/19
D	DA SUBMISSION	11/09/19

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NOTES

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RL - REDUCED LEVEL

TD - TRENCH DRAIN

CL - CLEANERS STORE

SR - SERVICES RISER

ST - STORAGE
- TOG - TOP OF GUTTER

TOW - TOP OF WALL

MATERIALS

- BZ - BRONZE

OC - OFF-FORM CONCRETE

TC - TEXTURED CONCRETE FORMWORK

MF - METAL SHEET ROOFING - DARK BRONZE

PT - CONCRETE RENDER

GL - GLAZING

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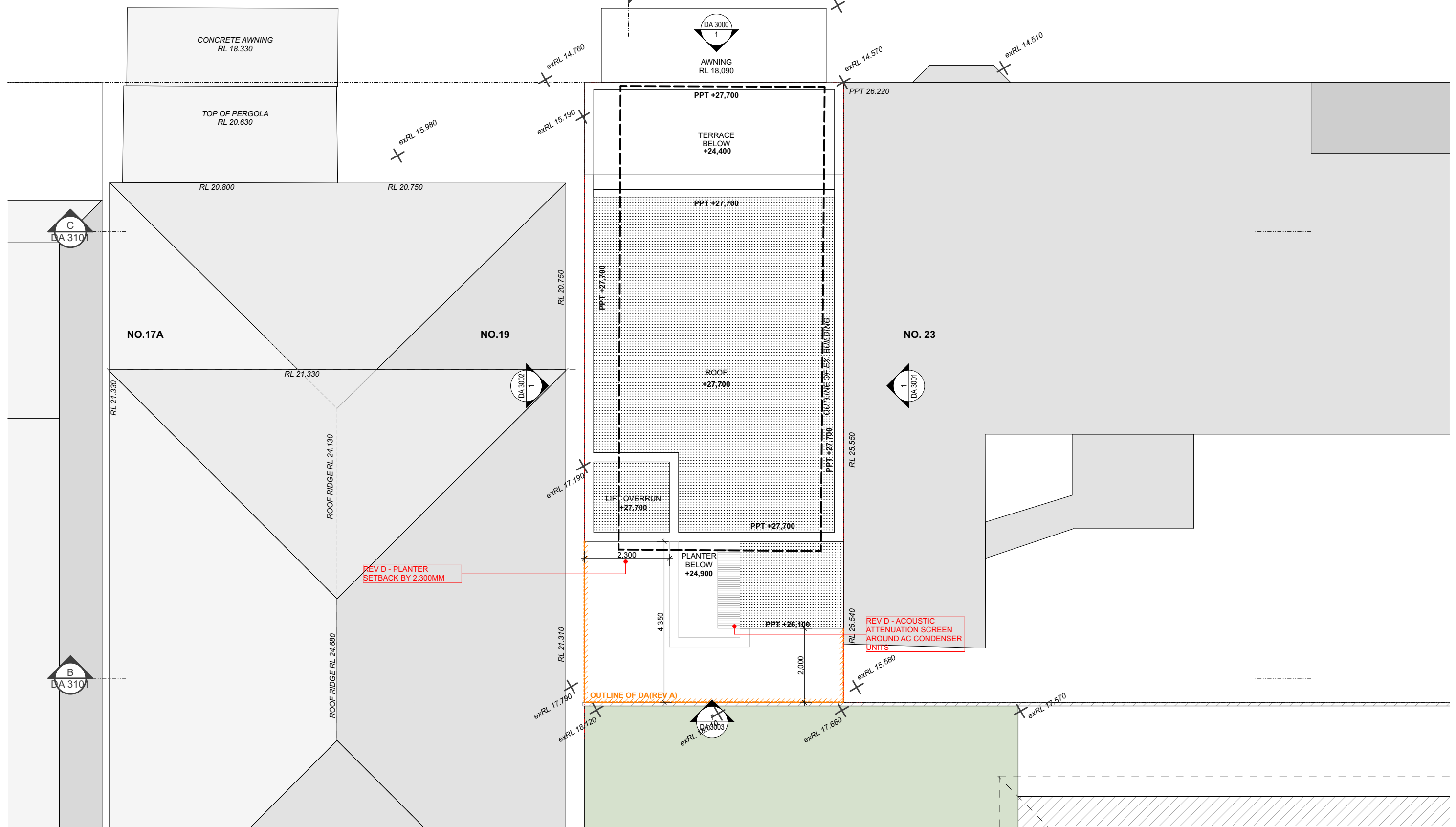
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PROJECT:
CURLEWIS
21 CURLEWIS ST BONDI
NSW

DRAWING:
LEVEL 3

PROJECT NO: 18-020
DRAWN BY: MHN

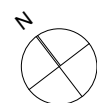
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REVISIONS

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RL - REDUCED LEVEL TOW - TOP OF WALL
TD - TRENCH DRAIN
CL - CLEANERS STORE
SR - SERVICES RISER
ST - STORAGE

MATERIALS

BZ - BRONZE
OC - OFF-FORM CONCRETE
TC - TEXTURED CONCRETE FORMWORK
MF - METAL SHEET ROOFING - DARK BRONZE
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GL - GLAZING

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MHN Design Union Pty Ltd. ABN 94 003 717 682

PROJECT: CURLEWIS	PROJECT NO: 18-020 DRAWN BY: MHN
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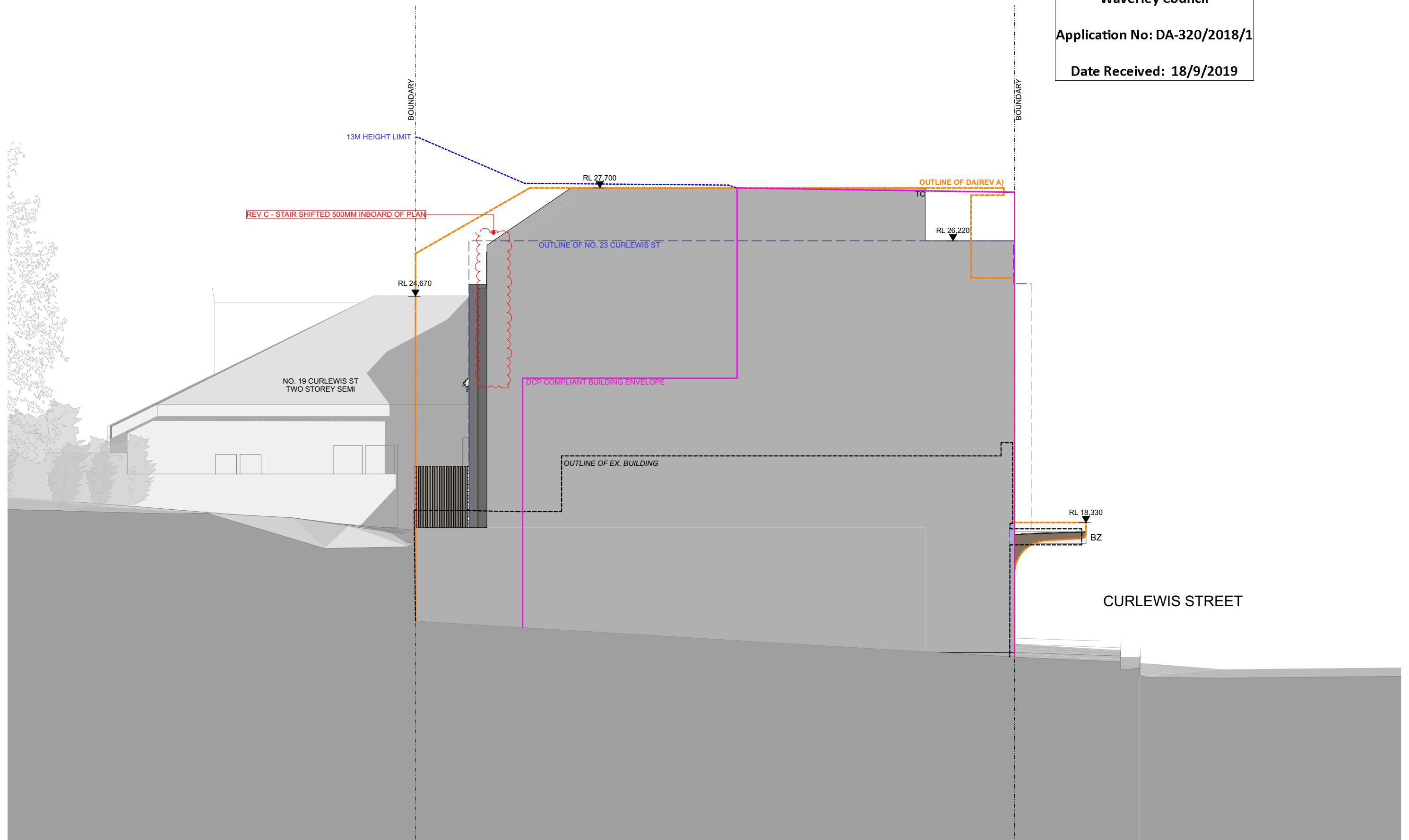
21 CURLEWIS ST BONDI
NSW

TO SCALE: 1:100@A3
DRAWING NO: REV:D

**DRAWING:
ROOF PLAN**

Registration Number 4907

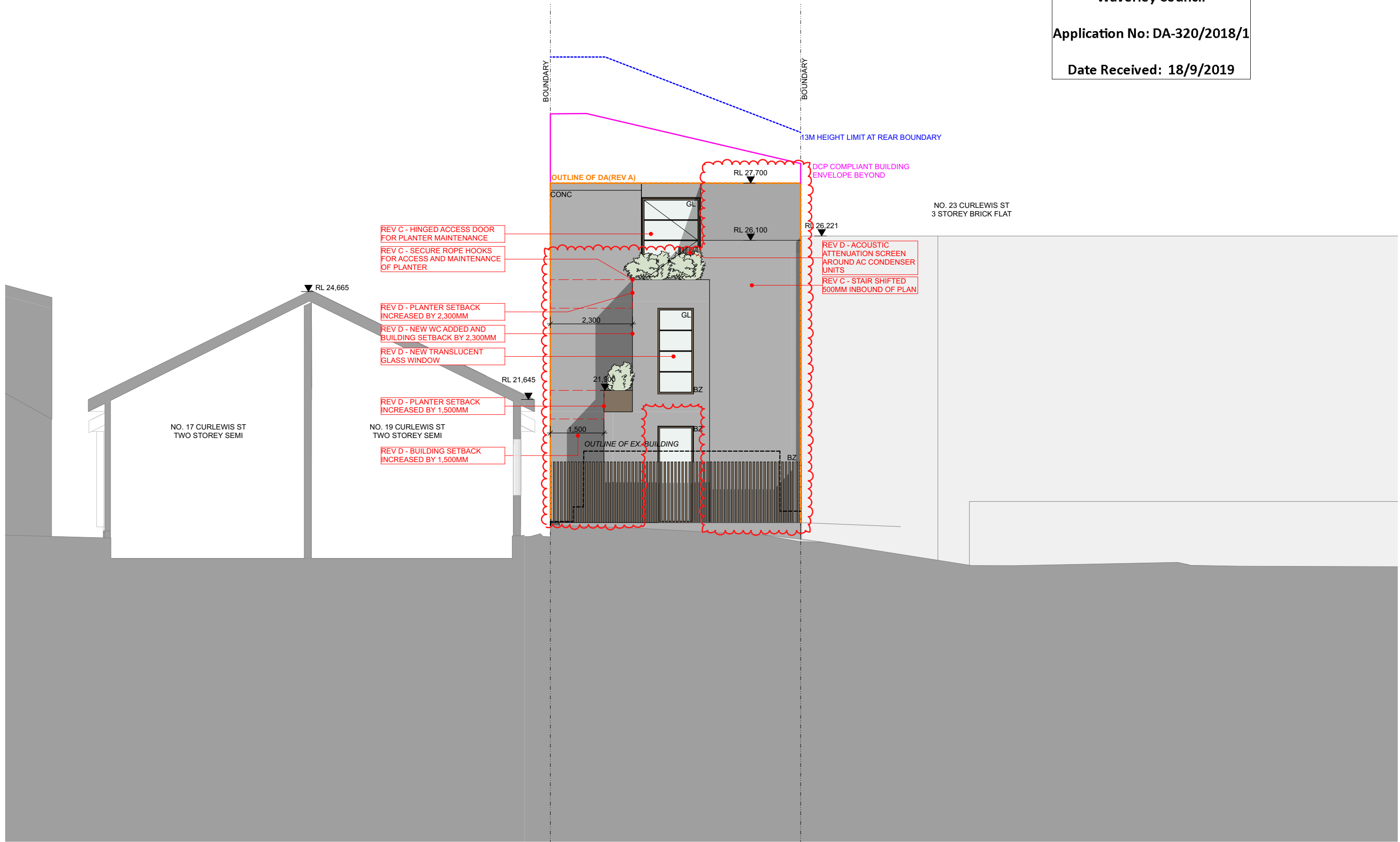
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REVISIONS		
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C	DA SUBMISSION	20/08/19
D	DA SUBMISSION	11/09/19

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RL - REDUCED LEVEL	TOW - TOP OF WALL	TC - TEXTURED CONCRETE FORMWORK	MF - METAL SHEET ROOFING - DARK BRONZE
TD - TRENCH DRAIN		PT - CONCRETE RENDER	GL - GLAZING
CL - CLEANERS STORE			
SR - SERVICES RISER			
ST - STORAGE			

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Brân Meyerson
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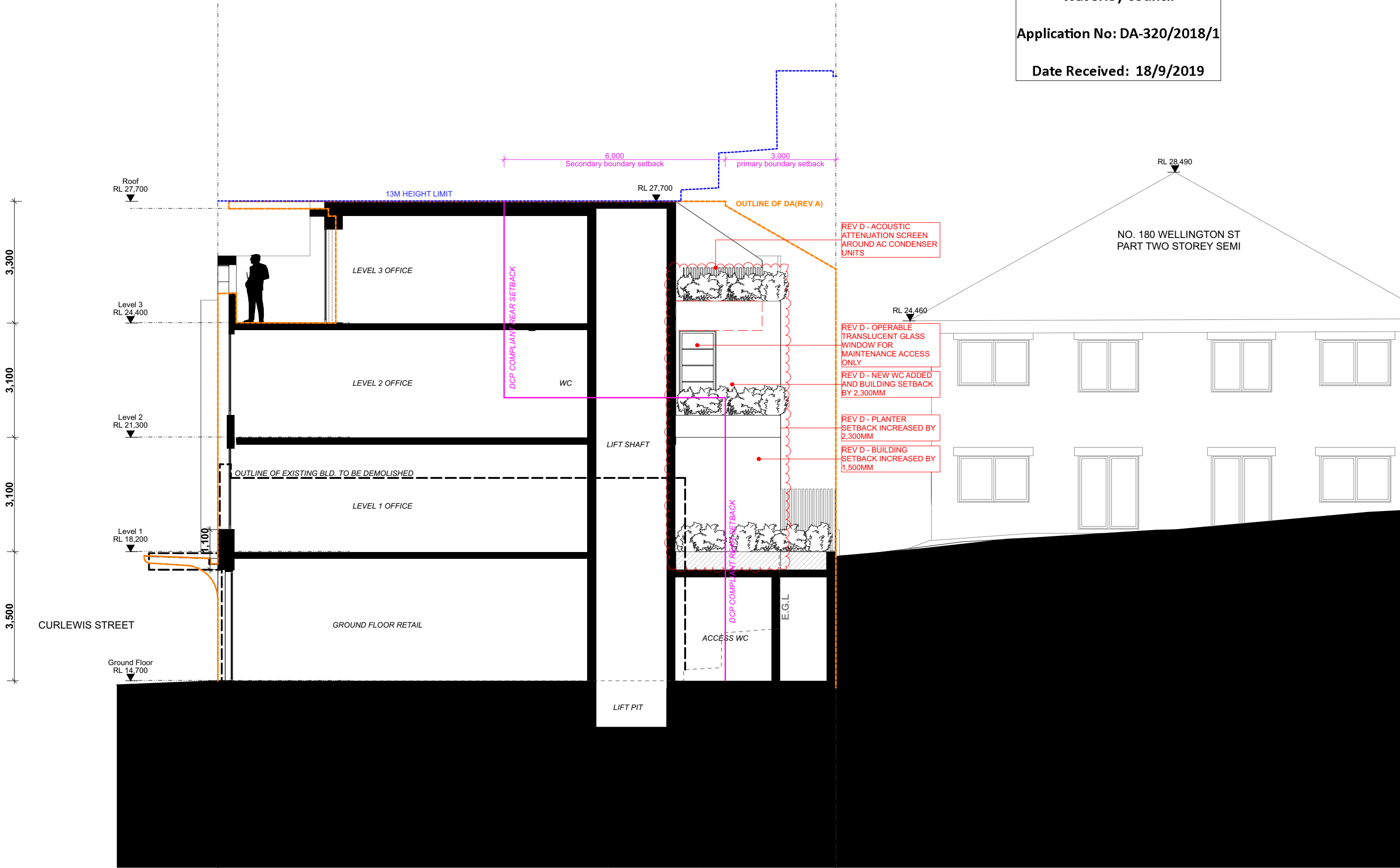
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21 CURLEWIS ST BOND
NSW

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100@A3
DRAWING NO: REV:D

DRAWING:
SOUTH ELEVATION

11803



REVISIONS		
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Brân Meyerson

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PROJECT: CURLEWIS

21 CURLEWIS ST BONDI NSW

PROJECT NO: 18-020
DRAWN BY: MHN

TO SCALE: 1:100, 1:1@
DRAWING NO: REV:D

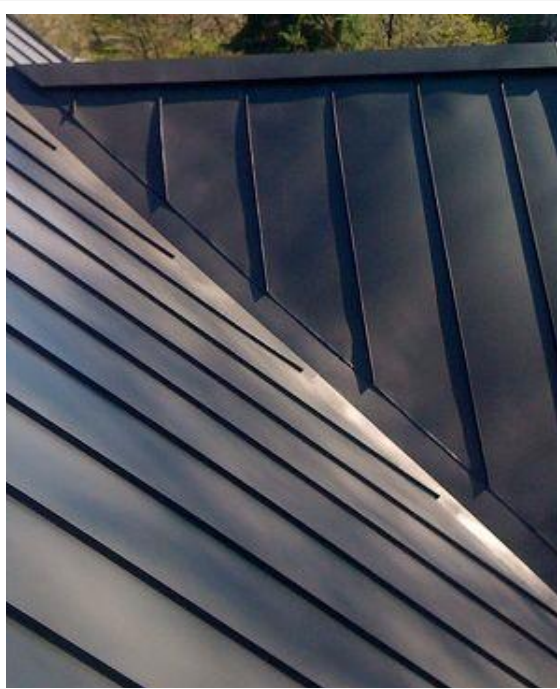
DRAWING: LONG SECTION

11900

MATERIALS
A SIMPLE PALETTE OF MATERIALS IS PROPOSED. A COMPOSITION OF OFF FORM CONCRETE WITH BRONZE REVEALS AND BRONZE INFILL CLADDING IS USED TO CREATE A HIGH QUALITY FACADE.

THE MATERIALS PROPOSED ASSIST IN CREATING A COMMERCIAL IDENTITY FOR THE BUILDING AND ARE SELECTED FOR THEIR ROBUST PROPERTIES TO MINIMISE MAINTENANCE REQUIRED OVER TIME.

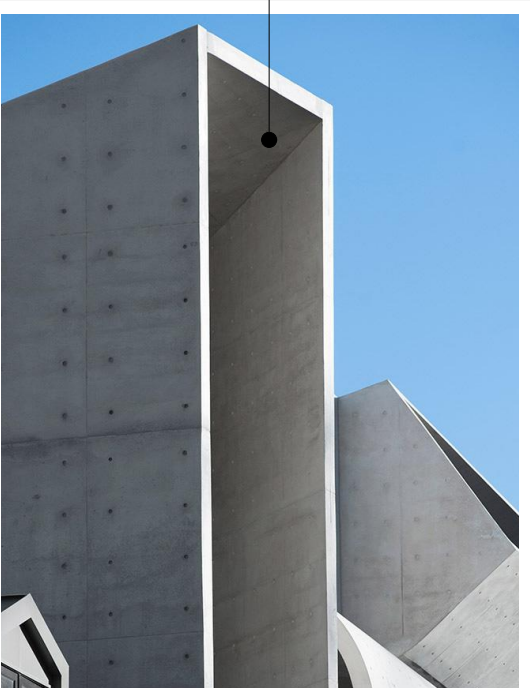
RECEIVED
Waverley Council
Application No: DA-320/2018
Date Received: 10/09/2018



MF - METAL SHEET ROOFING - DARK BRONZE



BZ - BRONZE DETAILING



OC - OFF-FORM CONCRETE



TC - TEXTURED CONCRETE FORMWORK

REVISIONS		PLOTTED: 6/09/2018
A	DA SUBMISSION	

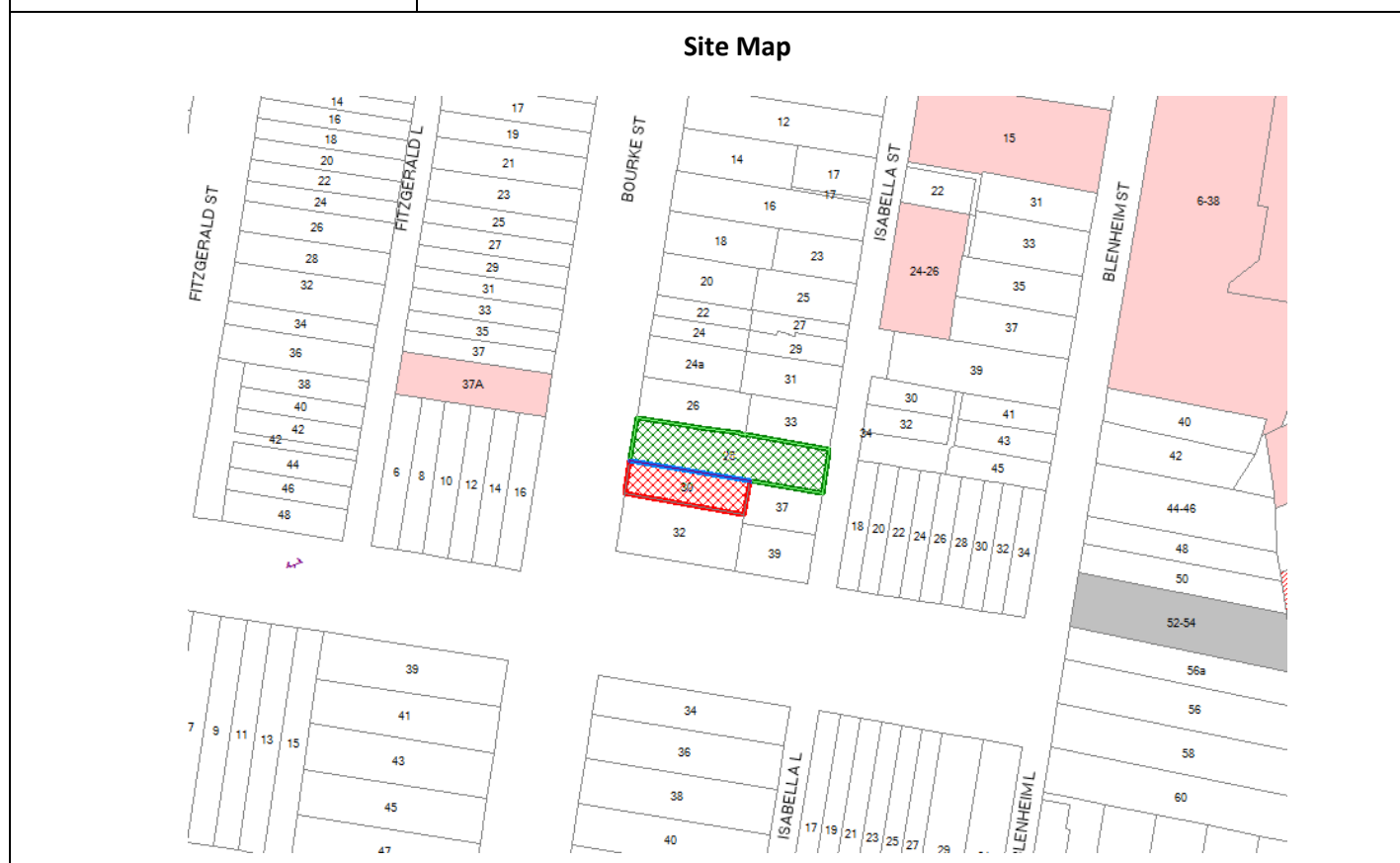
NOTES		MATERIALS		<div>MHNDUNION</div> <div>29 HUTCHINSON STREET SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com <small>MHN Design Union Pty Ltd. ABN 94 003 717 682 Nominated Architect Brian Meyerson. NSW Registration Number 4907</small></div>		<div>PROJECT:</div> <div>CURLEWIS</div> <div>21 CURLEWIS ST BONDI NSW</div> <div><div>DRAWING:</div><div>EXTERNAL FINISHES</div></div>		<div>PROJECT NO: 18-020</div> <div>DRAWN BY: MHN/ @A3</div> <div>TO SCALE:</div> <div>REV:</div> <div><div>120</div><div>PA 100</div></div>	
FFL - FINISHED FLOOR LEVEL	TOG - TOP OF GUTTER	BZ - BRONZE							
RL - REDUCED LEVEL	TOW - TOP OF WALL	OC - OFF-FORM CONCRETE							
TD - TRENCH DRAIN		TC - TEXTURED CONCRETE FORMWORK							
CL - CLEANERS STORE		MF - METAL SHEET ROOFING - DARK BRONZE							
SR - SERVICES RISER		PT - CONCRETE RENDER							
ST - STORAGE		GL - GLAZING							





Report to the Waverley Local Planning Panel

Application number	DA-232/2019
Site address	28-30 Bourke Street, QUEENS PARK
Proposal	Alterations and additions to childcare facility including construction of a cot room and new signage
Date of lodgement	22 July 2019
Owner	Mr M Shirley
Applicant	N Lyons
Submissions	Four (4)
Cost of works	\$20,000
Issues	FSR Non-Compliance, Signage, Side Setback
Recommendation	That the application be APPROVED



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 3 October 2019.

The site is identified as Lot 1 in DP 620728 and Lot 10 in DP 778434, known as 28-30 Bourke Street, WAVERLEY. It is located on the eastern side of Bourke Street between Birrell Street and Cuthbert Street.

The site is 'L shaped' with a northern side boundary measuring 34.74m, a combined eastern rear boundary measuring 14.91m, southern side boundary measuring 18.495m and western front boundary measuring 16.82m. The site has an area of 596.2m² and the site falls from the rear towards the front.

The site has a primary frontage to Bourke Street and a secondary frontage to Isabella Street. The site is occupied by a two-storey building with a childcare centre known as 'Gingerbread Kindergarten' located on the ground floor level and residential apartments located on the first-floor level. No vehicular access or parking facilities are located on the site. Two (2) existing signs are present at the front of the site relating to the childcare facilities.

The site is not listed as heritage item, however is located within the Queens Park Heritage Conservation Area, C14 as per Schedule 5 of the WLEP 2012.



Figure 1: Subject site frontage to Bourke Street.



Figure 2: Subject site frontage to Isabella Street demonstrating the previously approved elevated deck at the rear and general location of the proposed chicken coop.

1.2 Relevant History

Previous Applications

- **DA-133/1987** An application for alterations and additions for a preschool and two dwellings was approved on 24 November 1987. Condition 18 of the consent authorised the pre-school to operate between to 8:30am-4:30pm, Monday to Friday.
- **DA-729/2010 A11/0127** A development application for the construction of an elevated outdoor play area and an increase in number of children from 44 to 51 at the child care centre was approved by the Land and Environment Court on 21 April 2011, subject to the following special conditions regarding the elevated play platform:

2. ELEVATED PLAY PLATFORM

The elevated play platform may only be used in conjunction with the approved childcare centre at No. 28 Bourke Street, in accordance with the conditions of this consent and the conditions of Development Consent No. 133/87, as modified. The elevated play platform is not to be used by the residents on the Site or for any other purpose. The

elevated play platform is to be removed upon the cessation of use of No. 28 Bourke Street as a childcare centre.

30. USE OF ELEVATED PLAY PLATFORM

The use of the elevated play platform is to be fully supervised by staff at all times.

The elevated play platform is only to be used for children's passive recreation during two (2) forty-five (45) minute periods during the hours of 8.30am and 5.30pm, Monday to Friday, in accordance with the approved plan of management.

Current Application

- **4 October 2019** The application was deferred to request additional information to adequately assess the application as follows:
 1. Floor space calculation diagrams and a clause 4.6 statement.
 2. Revisions to the proposed signage including a reduction of the proposed sign on the western (street) elevation and deletion of the proposed sign on the southern elevation.
 3. A Plan of Management for the chicken coop and photographs.
 4. Revised Statement of Environmental Effects addressing the relevant controls of the proposal.
- **23 October 2019** A change of Applicant was requested.
- **1 November 2019** The Applicant submitted the relevant documentation as outlined in Council's letter dated 4 October 2019. The application was not required to be renotified.

1.3 Proposal

The application seeks consent for alterations and additions to a childcare facility including the construction of a cot room and new signage. Details of the proposal are as follows:

- Construction of a cot room on the ground floor level with dimensions of 1.88m x 2.4m.
- Placement of a chicken coop with dimensions of 2.6m x 1.4m on the rear boundary of No. 28 Bourke Street.
- Installation of one (1) business identification sign on the street frontage with dimensions of 4m x 1.2m and located on top of the front fence (approximately 1.56m above the footpath level).

Note: No change to the maximum capacity of the premises is proposed.

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 SEPP (Educational Establishments and Child Care Facilities) 2017

This SEPP applies as the application proposes a child care facility. Part 3 relates to Early Education and Care facilities.

Clause 22 requires the concurrence of the Regulatory Authority if the floor area of the building does not comply with the regulation 107 (Indoor unencumbered space requirements) of the *Education and Care Services National Regulations* or the outdoor space requirements in accordance with regulation 108 of the same Regulation.

Clause 23 states that the consent authority must take into consideration any applicable provisions of the *Child Care Planning Guideline*, in relation to the proposed development. An assessment of the proposal against the Child Care Centre Planning Guide is below.

Child Care Planning Guidelines	Compliance	Comment
Matters for Consideration		
3.1 – Site selection and location	Yes	The childcare facility is existing.
3.2 – Local character, streetscape and the public domain interface	Yes	The proposed cot room would not be visible from the Bourke Street or Isabella Street streetscapes.
3.3 – Building orientation, envelope and design	Merit Assessment	Refer to comments regarding ‘Setbacks’ further in this report.
3.4 - Landscaping	Yes	The proposed cot room is to be constructed over an existing awning and would not impact upon landscaped area on the site.
3.5 – Visual and acoustic	Yes	The proposal does not seek to increase the maximum capacity of the premises therefore, no additional adverse noise impacts are anticipated that would be unreasonable for the R2: Low Density Residential Zone.
3.6 – Noise and air pollution	Yes	
3.7 – Hours of operation	Yes	No change to the existing hours of operation are proposed.
The National Regulations		
4.1 - Indoor space requirements 3.25m ² per child	N/A	The proposal seeks consent for the construction of a cot room and does not seek to increase the maximum capacity of patrons on the site. Therefore, no change is proposed or required to the existing facilities provided on site.
4.2- Laundry and hygiene facilities	N/A	
4.3- Toilet and hygiene facilities	N/A	
4.4- Ventilation and natural light	N/A	
4.5 - Administrative space	N/A	
4.6- Nappy change facilities	N/A	

Child Care Planning Guidelines	Compliance	Comment
4.7 – Design to facilitate supervision	N/A	
4.8 – Emergency and evacuation procedures	N/A	
4.9 Outdoor space requirements – 7m ² per child	N/A	
4.10- Natural Environment	N/A	
4.11- Shade	N/A	
4.12- Fencing	N/A	

The matters which do not comply with the guidelines are discussed in the issues section later in this report.

2.1.2 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

2.1.3 SEPP 64 Advertising and Signage

In accordance with clause 8 of SEPP 64, Council must not grant development consent unless it is satisfied that the proposed signage is consistent with the objectives of the SEPP in Clause 3 (1)(a) and the signage satisfies the assessment criteria specified in schedule 1.

With regard to the policy aims in Clause 3(1)(a), the signage:

- i. is compatible with the desired amenity and visual character of an area, and
- ii. provides effective communication in suitable locations, and
- iii. is of high quality design and finish

The assessment criteria in Schedule 1 is outlined below and in summary, the proposed business identification sign is acceptable, subject to conditions to reduce its scale and appropriately relocate it on the front fence of the property.

Criteria	Comment
1. Character of the Area	The site is located within the Queens Park Conservation Area and the proposed signage is considered to detract from the character of the area. The application has also been discussed with Council's Heritage Advisor and the proposed signage is not supported in its current form. It is considered that the signage is to be reduced in size to fit within the 2.1m fencing as well as lowered so that it is positioned on the façade of the front fence. This will also reduce adverse impacts on the Bourke Street streetscape.
2. Special Areas	Refer to comments above.
3. Views and Vistas	No significant views are present.
4. Streetscape, setting or landscape	Refer to comments above.

5. Site and Building	Refer to comments above.
6. Associated devices and logos with advertisements and advertising structures	N/A
7. Illumination	N/A
8. Safety	The proposed signage, in its current form, would reduce sightlines to and from the front setback area of the childcare centre and the public domain that is not considered to be a suitable outcome for the site. However, the signage, as amended by the comments above to be reduced in scale and appropriately positioned on the front fence would maintain safety for those accessing the site.

2.1.4 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 development		
Land Use Table R2 Zone	Yes	The proposal is defined as a ' <i>centre based childcare facility</i> ' that is permitted with consent in the R2: Low Density Residential Zone. No works to the residential accommodation on the first floor level of the building is proposed.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 8.5m 	Yes	The proposed works would not exceed the maximum building height limit applicable to the site.
4.4 Floor space ratio <ul style="list-style-type: none"> 0.5:1 298.1m² 	No	Existing GFA: 372m ² Existing FSR: 0.624:1 Existing Variation: 73.9m ² (24%) Proposed GFA: 376m ² (Cot Room approx. 4m ²) Proposed FSR: 0.63:1 Proposed Variation: 77.9m ² (26%)
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.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Recommended Conditions	The site is located in the Queens Park Heritage Conservation Area. The revised

Provision	Compliance	Comment
		application was referred to Council's Heritage Advisor who does not support the proposed signage as amended. Conditions are recommended for the proposed signage to be reduced in scale and appropriately positioned on the front fence. Refer to discussions throughout this report for further details on the signage proposed.

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.

The site is subject to a maximum FSR control of 0.5:1. The proposed development has a FSR of 0.63:1, exceeding the FSR development standard, equating to a 26% variation.

A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 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.

Applicants 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 existing building has a non-compliant FSR. The combined floor area of 372m² (212m² ground floor and 160m² first floor) which equates to an FSR of 0.624:1 already existing.
 - (ii) The site contains an existing approved childcare centre.
 - (iii) The additional floor area proposed is very minor and represents an increase of just 0.95% or 4m².
 - (iv) The addition of the cot room will not impact upon the adjoining property and is not visible from the street.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The existing building has a non-compliant FSR.

- (ii) The combined floor area of 372m² (212m² ground floor and 160m² first floor) which equates to an FSR of 0.624:1.
- (iii) The site contains an existing approved childcare centre.
- (iv) The additional floor area proposed is very minor and represents an increase of just 0.95% or 4m².
- (v) The addition of the cot room will not impact upon the adjoining property and is not visible from the street.

Consideration of Applicants 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 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 justification 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;*
- 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.*

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 standard. The proposal is consistent with the objectives of the development standard and objectives of the zone as outlined below:

R2: Low Density Residential Zone Objectives

- *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.*

Comment: The proposal results in additional 4m² of GFA for the construction of a cot room to the existing childcare centre that continues to provide for the needs of the development within the low density residential environment. The proposal does not seek to increase the patron capacity of the childcare centre therefore, the proposal is not considered to adversely impact upon other land uses or facilities in the locality. The proposal is considered to be suitable within the low density residential zone.

Clause 4.4 Floor Space Ratio Objectives

(1) The objectives of this clause 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, scale, streetscape and 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 minimise the adverse impacts on the amenity of the locality.*

Comment: The proposed cot room is single storey in nature and is sited below the maximum building height applicable to the site. The proposed works would not be visible from the streetscape or surrounds and is therefore not anticipated to cause adverse bulk and scale impacts. Furthermore, due to the nature and scale of the proposed addition and its location within an existing awning, the proposal is unlikely to cause adverse overshadowing. The proposal does not seek to increase the maximum capacity of the childcare centre therefore, it is considered unlikely that the proposal would generate any additional unreasonable noise and/or visual privacy impact to surrounding properties. Therefore, despite the minor further non-compliance of the FSR development standard, the proposal is considered to be consistent with the objectives of the FSR 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 standard and the objectives for development within the zone in which the development is proposed to be carried out as detailed above.

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 cl 4.6 of the Waverley Local Environmental Plan 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.

2.1.5 Waverley Development Control Plan 2012 - Amendment No 6 (Waverley DCP 2012)

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 Design Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. Condition of consent will be imposed regarding ongoing waste on site.
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.
3. Landscaping and Biodiversity	N/A	The proposal would not alter the existing landscaping on the site.
7. Accessibility and adaptability	Yes	Conditions of consent are recommended to ensure that the proposed works comply with the access standards.
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP.
15. Advertising and Signage	Recommended Condition	The site is located within the R2: Low Density Residential Zone and appropriately relates to the ongoing use of the site as a childcare centre. However, the proposed signage would have dimensions of 4m x 1.2m and would be sited approximately 1.5m above the footpath level and is therefore too large in the site context that adversely impacts upon the streetscape, the character of the conservation area and safety for those who access the site. As previously discussed, it is recommended that a condition be imposed for the sign to be reduced in length to 2.1m and placed within the vertical posts along the front of the existing fence.
15.1 Design and location		
15.2 Site Specific Controls <ul style="list-style-type: none"> ○ Residential Zones 		

Waverley DCP 2012 – Part F3 Child Care Centres Compliance Table

This part of the DCP refers to the Child Care Planning Guideline, established by the Department of Planning. The consideration and controls in the guideline were addressed in the consideration of the SEPP (Educational Establishments and Child Care Centres) 2017 earlier in this report.

The following is a detailed discussion of the issues identified in the tables above in relation to either the DCP or the Child Care Planning Guideline.

Setbacks

With regards to the relevant objectives in Section 3.3 Building Orientation, Envelope and Design of the Child Care Planning Guideline, the development is to ensure that setbacks from the boundary of a childcare facility are consistent with the predominant development within the immediate context. The proposed cot room is to be constructed with an approximate setback of 190mm to the southern

side boundary adjoining 32 Bourke Street that is considered to be suitable in the site circumstances for the following reasons:

- The proposed cot room follows the existing side setback of the building that is already non-compliant with the required 900mm standard.
- The proposed cot room would be constructed within an existing awning on the site and would therefore not result in any additional overshadowing impacts to the adjoining property.
- The proposal does not seek to increase the capacity of the childcare centre therefore, it is unlikely that the proposal would result in adverse noise or visual privacy impacts that would be unsuitable for the low density residential zone.
- The proposed cot room is single storey in height and would not be visible from the public domain.
- The proposed cot room would not result in adverse bulk and scale impacts.

Furthermore, it is noted that the proposed chicken coop on the rear boundary of the site is not considered to result in any adverse impacts. Therefore, the proposal is considered to be suitable on merit and acceptable in the site circumstances.

2.2 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

It is considered that the proposal will 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 to be suitable for the proposed development.

2.4 Any Submissions

The application was notified for 14 days and in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Due to the nature and scale of the changes on the revised plans submitted, renotification of the application was not undertaken.

Three (3) submissions were received. The issues raised in the submissions are summarised and discussed below.

Table 3: Summary of submissions received

Property
32 Bourke Street, QUEENS PARK
37 Bourke Street, QUEENS PARK
37A Bourke Street, QUEENS PARK
37 Isabella Street, QUEENS PARK

Issue: Scale of the signage will impact upon the Heritage Conservation Area.

Response: As discussed throughout this report, the proposed signage has been amended and the sign at the front of the property is recommended to be reduced in size and repositioned on the façade of the fence to reduce adverse impacts upon the streetscape and character of the heritage conservation area.

Issue: *Signage on southern elevation will cause overshadowing.*

Response: The signage on the southern elevation has been deleted with the revised plans.

Issue: *Noise from the cot room located on the boundary.*

Response: As discussed throughout this report, the proposal does not seek to increase the maximum capacity of the premises therefore, the proposal is considered to be satisfactory in maintaining adequate acoustic amenity within the context of the low density residential environment.

Issue: *Non-compliant setback of cot-room.*

Response: Acceptable on merit. Refer to previous discussion in this report.

Issue: *FSR non-compliance.*

Response: Acceptable on merit. Refer to previous discussion in this report.

Issue: *Increased capacity of the facility will impact upon traffic and parking.*

Response: The maximum capacity of the premises is not sought to be increased with the proposal.

Issue: *Setback of chicken coupe from side boundary.*

Issue: *Chicken Coupe will attract vermin.*

Issue: *The existing chicken coupe does not meet the Councils conditions that:*

- *The keeping of chickens must not create a nuisance or danger to health including but not limited to vermin, odour or noise.*
- *The keeping of chickens must be kept clean and free from offensive odours at all times.*
- *The floors of the chicken coup must be paved with concrete or mineral asphalt underneath the roosts or perches. This waste water must not enter the stormwater system and must be appropriately disposed of to sewer.*
- *Chicken feed should be stored in sealed metal containers and scraps should not be left in the yard so as to attract vermin.*
- *Requires a distance from the boundary of 3 meters.*

Response: A Plan of Management (POM) has been submitted that is considered to be suitable in managing the proposed chicken coop. It is also noted that the POM states that only four (4) chickens are to be housed in the chicken coupe that is not anticipated to generate adverse environmental or amenity impacts to surrounding properties and is therefore suitable for the low density residential nature of the locality. The benefits of providing a chicken coop for the enjoyment and education of the children is also considered positive. On balance, the proposed chicken coop is considered to be satisfactory.

2.5 Public Interest

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

3. REFERRALS

3.1 Heritage – Shaping Waverley

The application was referred to Council's Heritage Officer who did not support the proposed signage at the front of the site. It is recommended that this sign be reduced in size and repositioned on the façade of the front fence to reduce adverse impact upon the character of the conservation area.

3.2 Fire Safety – Building & Compliance

The application was referred to Council's Fire Safety Officer who recommended appropriate conditions be imposed with regards to compliance with the BCA, should the application be supported.

4. SUMMARY

The application seeks consent for alterations and additions to an existing childcare facility including the construction of a cot room and new signage. The original application was notified and received four (4) submissions raising concerns regarding the FSR non-compliance, setback of the proposed cot room, noise impacts and the proposed chicken coop on the rear boundary. The application was amended and the proposed signage was reduced to one (1) sign only at the western/street elevation.

The proposal increases GFA on the site by 4m² which further exacerbates the existing non-compliance with Council's FSR development standard. Nevertheless, the proposal is considered to be acceptable on merit, given that the proposal does not seek to increase the capacity of the childcare centre and no adverse impacts such as overshadowing would result from the proposal.

The proposed setback of the cot room is considered to be acceptable on merit, given that it follows the existing setback of the building to the southern side boundary, maintains a single storey height and is contained within an existing awning so as to not result in additional overshadowing impacts.

The application was referred to Council's Heritage Advisor who recommended that the proposed signage at the street elevation be reduced in size and repositioned on the façade of the front fence to reduce any adverse impacts upon the character of the Queens Park Conservation Area. Furthermore, rescaling and repositioning the signage would also result in an acceptable streetscape presentation to Bourke Street as well as maintain adequate sightlines for those who access the site from the public domain.

Therefore, the proposal is recommended to be approved, subject to conditions to amend the size and location of the signage at the front of the site.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 21 November 2019 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, B McNamara, B Matlawski

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:



Judith Elijah
Development Assessment Planner

Date: 22 November 2019

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



Angela Rossi
Manager, Development Assessment (Central)

Date: 28 November 2019

Reason for 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 Plan Ahead Designs as follows:

Drawing No.	Dated	Date Received by Council
296.3-19	29/10/19	1 November 2019
296.1-19	29/10/19	1 November 2019
296.2-19	29/10/19	1 November 2019

(b) Chicken Coupe Management Plan, received by Council on 1 November 2019.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS - SIGNAGE

To maintain the character of the heritage conservation area, minimise impacts upon the streetscape, ensure safety and compliance with Council's objectives and controls for signage, the application is approved subject to the following amendments;

(a) The business identification sign on the western (street) elevation is to be amended to be no greater than 2.1m in length and is to be relocated so that it is sited on the front vertical posts (between piers) of the front fence.

The amendments are to be approved by the **Principal Certifying Authority (PCA)** prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

3. ALTERATIONS AND ADDITIONS ONLY

This consent is for alterations and additions to the existing building only and should during the course of certification or 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. This will require compliance with the planning controls, including SEPP (Building Sustainability Index: BASIX) 2004.

4. USE AND OPERATION – CHILD CARE FACILITY

The use and operation of the child care facility shall be in accordance with previous development consents granted for the site. In this regard, no approval is granted or implied in this development consent for any change to the use and operation, specifically with regard to patron/child numbers or hours of operation.

5. COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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 & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & 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.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principal Certifying Authority.

7. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and 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:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) 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 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;
 - (a) A development valued at \$100,000 or less will be exempt from the levy.
 - (b) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% OR
 - (c) A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

Prior to the issue of the 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.

- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended.

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

8. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$1,588.70** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit

9. 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 to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: 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.

10. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared in accordance with Waverley Council's Water Management Technical Manual and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction (Blue Book).

This Plan shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

The approved Soil and Water Management Plan must be kept on site, measures shall be implemented prior to commencement of any works or activities and maintained at all times. A copy of the Soil and Water Management Plan must be made available to the Principal Certifying Authority & Council officers on request.

11. SITE WASTE AND RECYCLING MANAGEMENT PLAN

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP 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.

12. ENGINEERING DETAILS

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

13. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

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

14. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) 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.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

15. ESSENTIAL SERVICES – EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and

- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

16. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

17. 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.

18. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

19. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

20. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process are to be removed and disposed of in accordance with the requirements **SafeWork NSW** and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2017;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2014;

21. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared 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.

22. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a Licence in accordance with the requirements of SafeWork NSW. Fire damaged asbestos materials can only be cleaned up by licensed asbestos removalists with a Class A (friable) asbestos removal licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by SafeWork NSW and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

23. 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:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) 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 2000.

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

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

25. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

26. QUALITY OF CONSTRUCTION ACT - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and
- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) steel reinforcement, prior to pouring concrete;
- (c) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

27. CERTIFICATE OF SURVEY – LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.

28. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

29. NO WORKS BEYOND BOUNDARIES

No portion of the proposed works is to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

30. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied.

31. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.

32. NEIGHBOURHOOD AMENITY

The management of the premises:

- (a) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- (b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.
- (c) Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided
- (d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

33. WASTE MANAGEMENT - OPERATIONAL

Bin Storage Area

- a) The waste and recycling storage area needs to be undercover.
- b) The waste and recycling storage areas must be bunded to the sewer and be equipped with a supply of hot and cold water mixed through a centralised mixing valve with a hose cock. The waste storage receptacles must be maintained in good order and repair at all times.
- c) The waste and recycling storage areas must be able to accommodate all bins, with all bins simultaneously accessible.
- d) Provide a suitable storage area effectively bunded for chemicals, pesticides and cleaning products.

Amenity

All garbage and recycling must be inside Council approved bins or skips, with lids closed to reduce littering, stormwater pollution, odour and vermin.

Management

- a) All waste and recycling must be collected from the frontage of the development.
- b) The applicant must enter into a commercial waste collection contract.
- c) Waste collection frequency may need to be increased in peak periods.

34. FIRE SAFETY – EXITS

Exits and paths of travel to exits are to be kept clear and at all times to provide clear access to exits and provide a safe passage for occupants to open space in accordance with Section D of the BCA.

35. FIRE SAFETY MAINTENANCE

Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

36. NOISE EMISSIONS

The use of the premises shall not give rise to:

- (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 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.

37. EMISSIONS

No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.

38. NO FLASHING SIGNS

The use of flashing lights, flashing illuminated signs and the like is prohibited.

39. LOCATION OF SIGNS

No advertising signs or notices are to be affixed to the windows of the premises.

40. ERECTION OF SIGNS

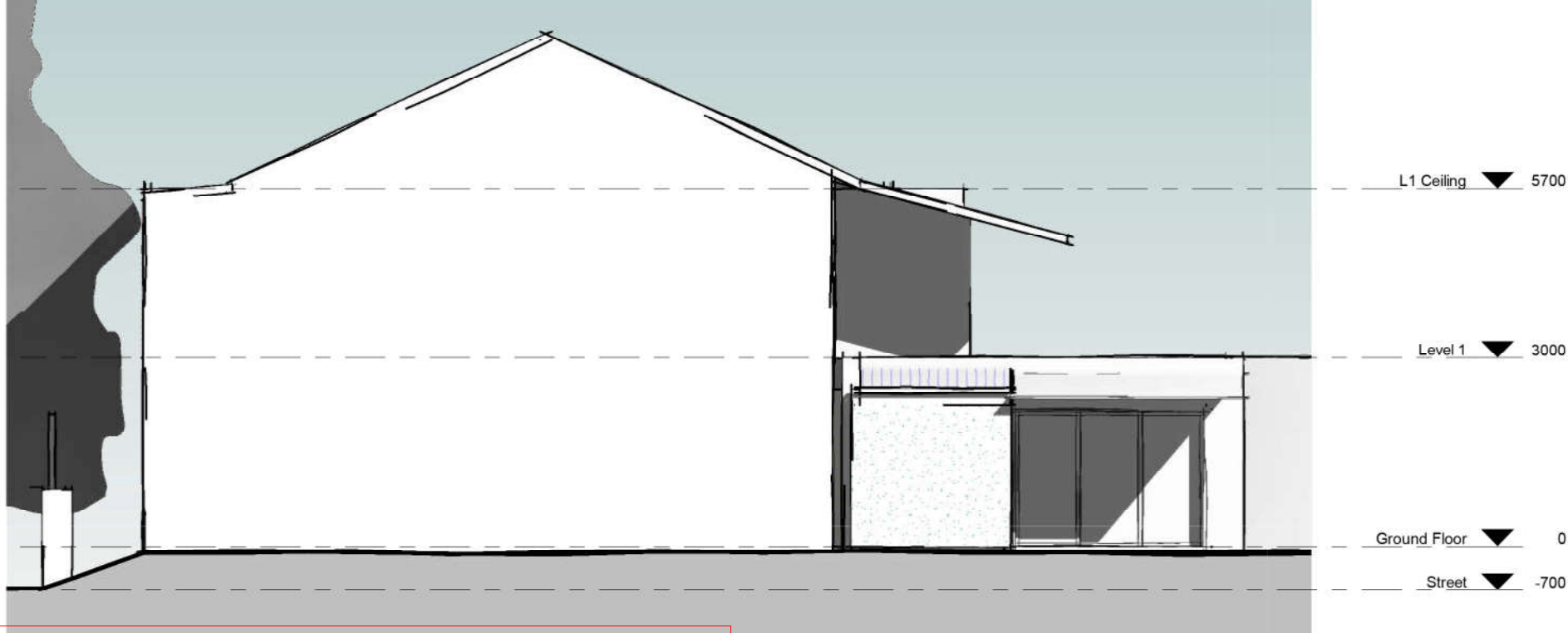
The erection of the sign is to satisfy the following requirements:

- (a) Be subject to development consent of Council:
- (b) Be erected/supported in a secure manner for safety purposes;

- (c) Does not cause measures that would cause irreversible damage to the building; and,
- (d) Shall be a minimum of 2.6m above the footpath level and be offset a minimum of 600mm behind the kerb.

41. NO SIGNS OR GOODS ON PUBLIC AREA

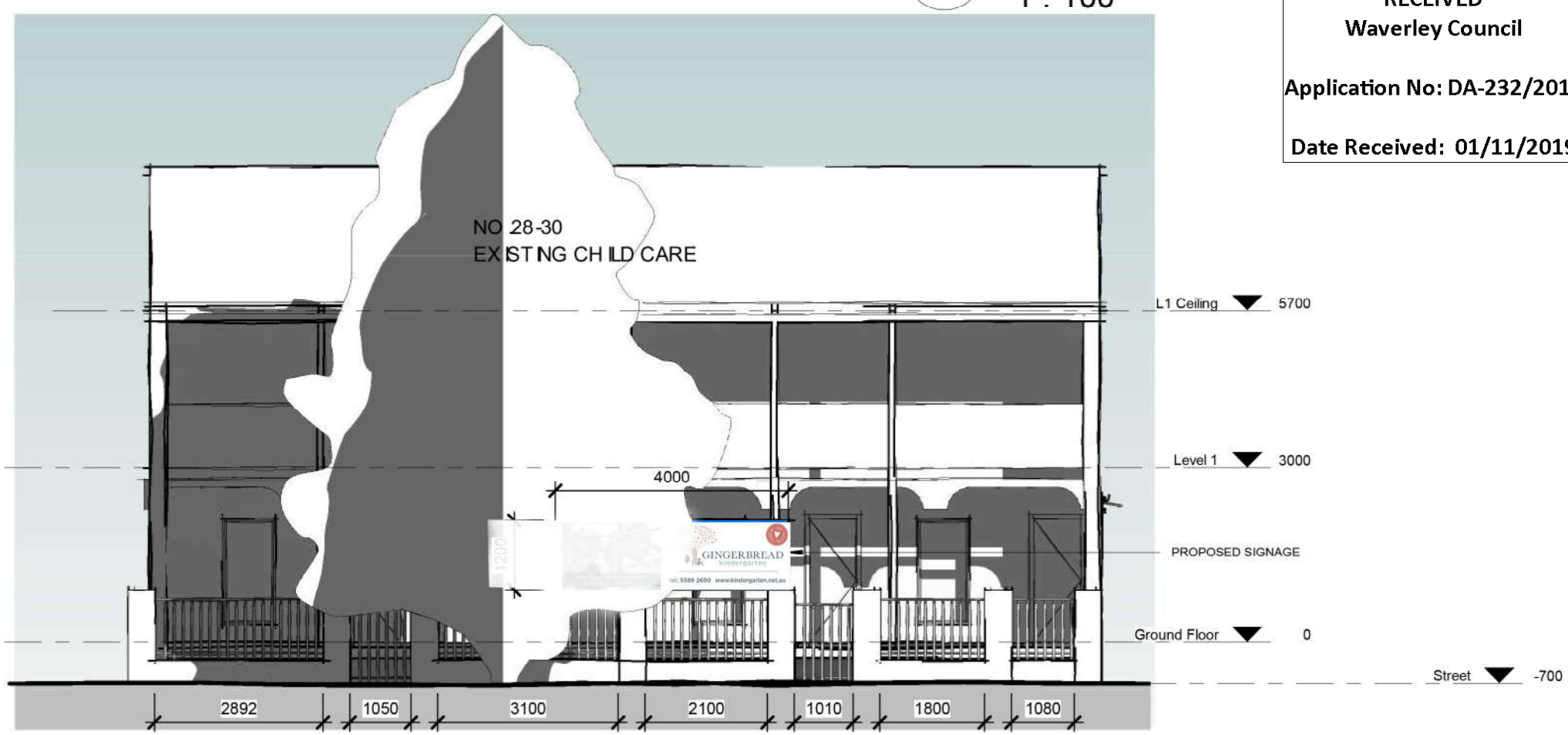
Portable signs or goods for sale or display must not be placed on the footway or other public areas, without the prior approval of Council.



AMENDED PLANS

1 South Elevation
1 : 100

RECEIVED
Waverley Council
Application No: DA-232/2019
Date Received: 01/11/2019



2 West (Street) Elevation
1 : 100



3 East Elevation
1 : 100

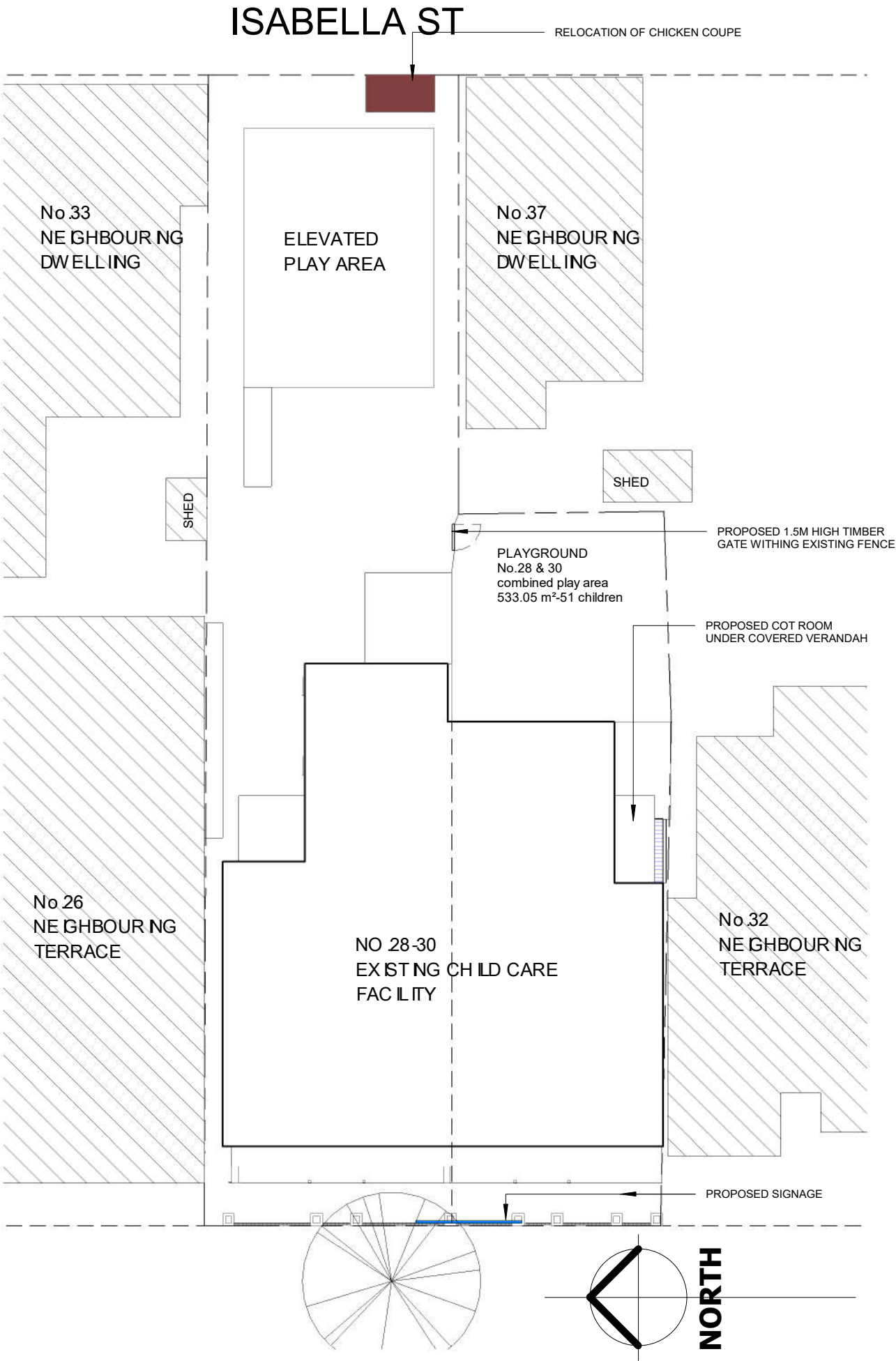


PROPOSED SIGNAGE AT NO.28-30
BOURKE ST, QUEENS PARK

PO BOX 464 BONDI JUNCTION
N.S.W 1355
M 0414 387 500
www.planahead.com.au

GINGERBREAD KINDERGARTEN			296.3-190
Project number	296-19		
Date	29/10/19		
Drawn by	ROC		
Checked by	PAD	Scale @ A3	

29/10/2019 9:44:58 AM



Area calculation:

Location	Floor Area	Sqm per child	No. of children
Indoor space	170	3.25	51
Outdoor space	358.04	7.00	51
Shade Audit	156.50	2.5	51



PROPOSED SIGNAGE AT NO.28-30
BOURKE ST, QUEENS PARK

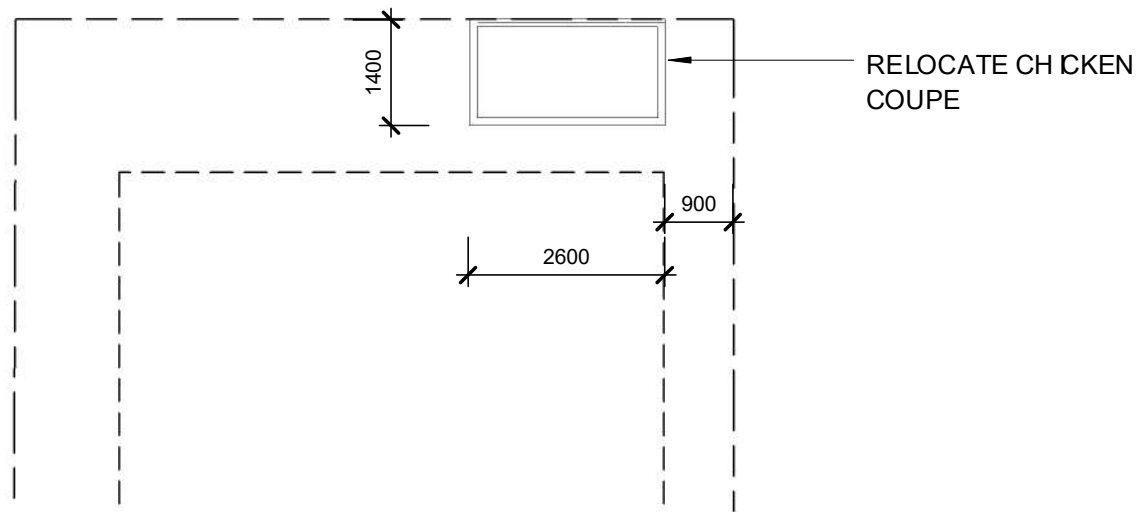
PO BOX 464 BONDI JUNCTION
N.S.W 1355
M 0414 387 500
www.planahead.com.au

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Project number	296-19
Date	29/10/19
Drawn by	ROC
Checked by	PAD

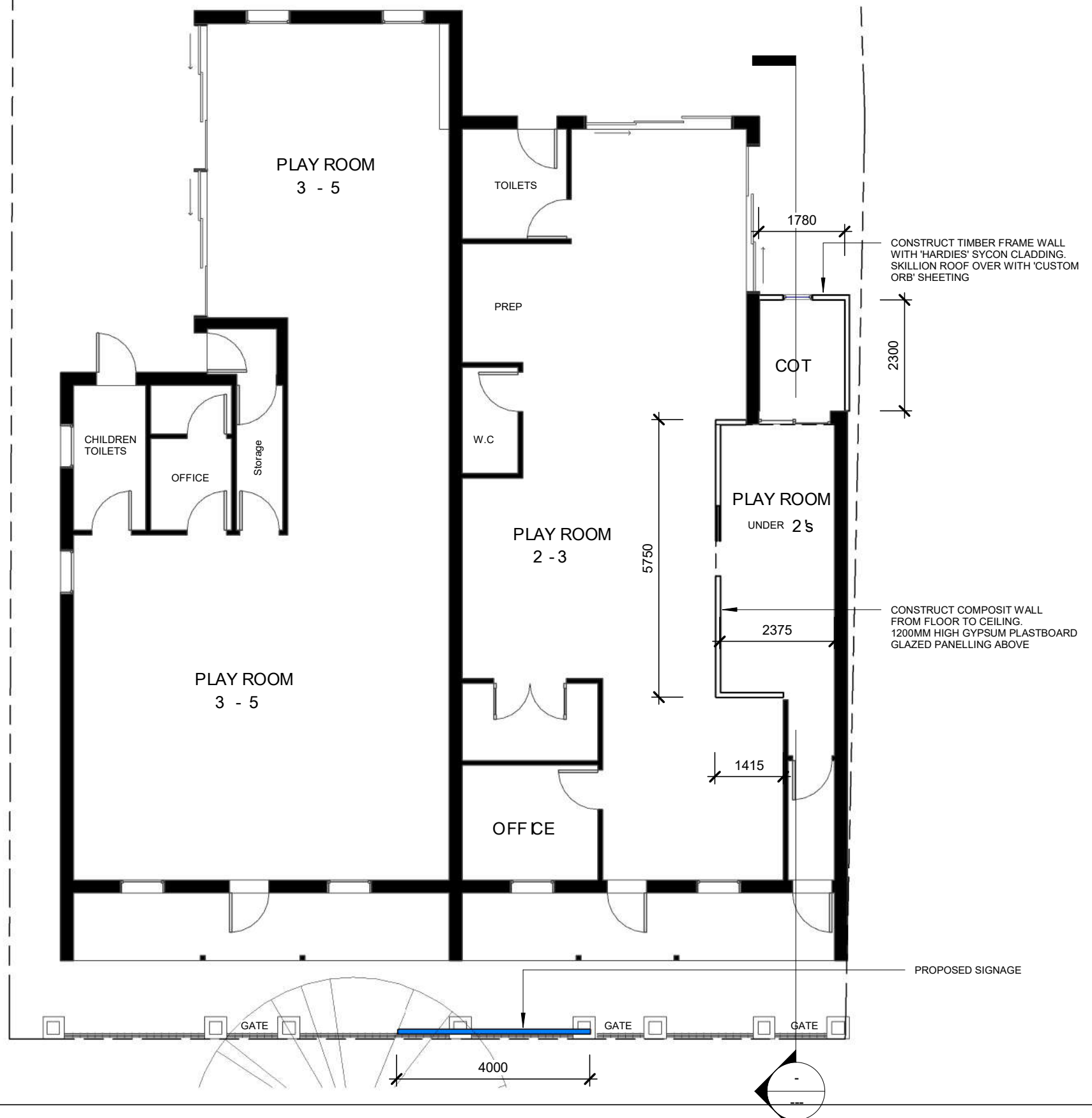
296.1-191

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RECEIVED
Waverley Council
Application No: DA-232/2019
Date Received: 01/11/2019

AMENDED PLANS



PROPOSED SIGNAGE AT NO.28-30
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GINGERBREAD KINDERGARTEN

Project number 296-19

Date 29/10/19

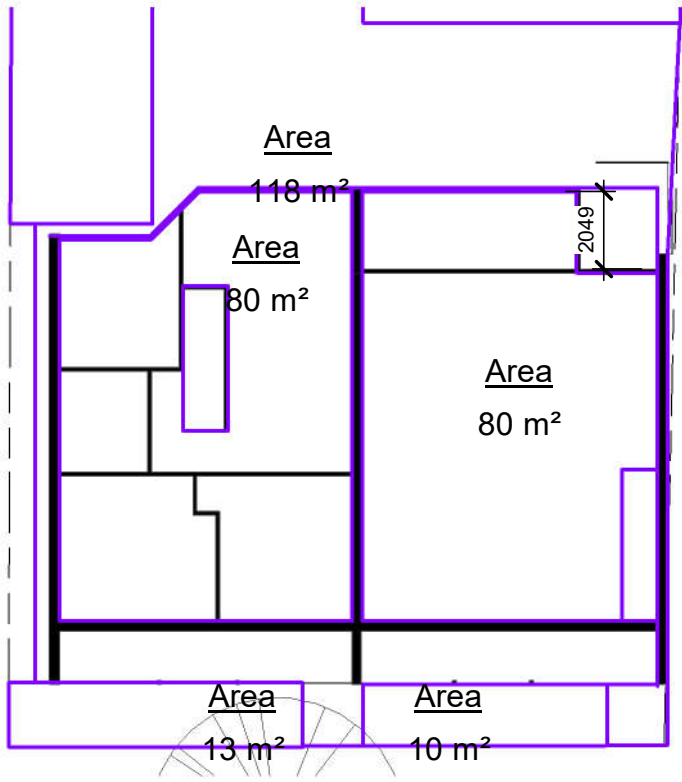
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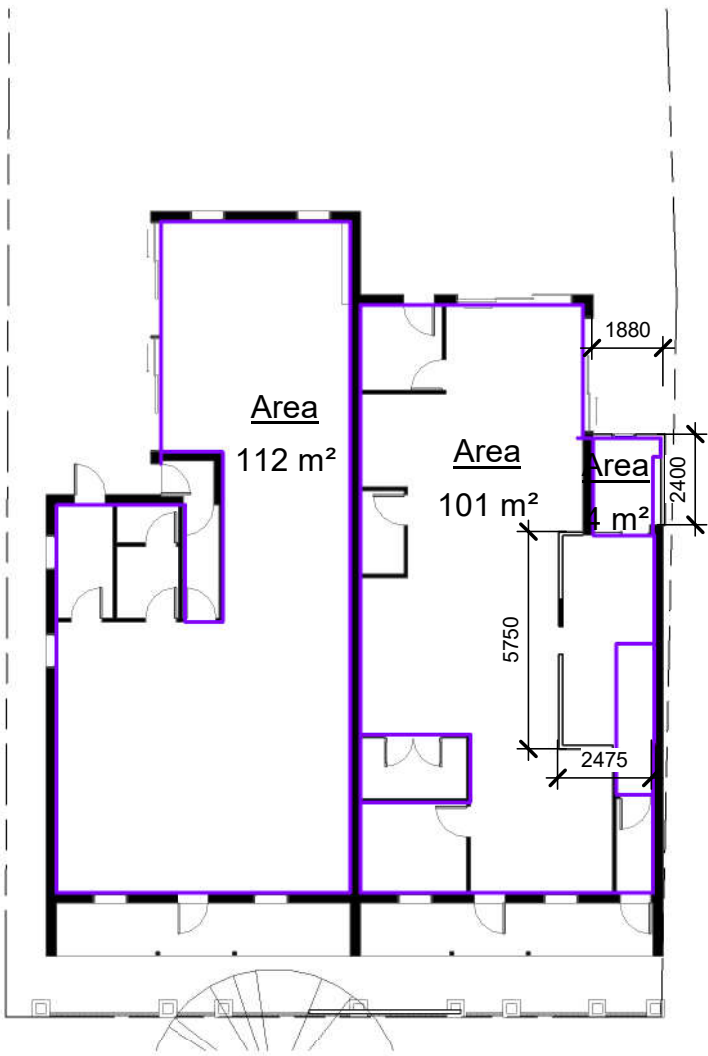
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2

Level 1

1 : 200



1

Ground Floor

1 : 200

SITE ANALYSIS

SITE AREA	596.2	M ²
FLOOR AREA		
	EXISTING	ADDITIONAL(PROPOSED) M ²
GROUND FLOOR	212M ²	4M ²
FIRST FLOOR	160M ²	0M ²
TOTAL FLOOR AREA		376M ²
FLOOR SPACE RATIO		0.63 : 1



PROPOSED SIGNAGE AT NO.28-30
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N.S.W 1355
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www.planahead.com.au

GINGERBREAD KINDERGARTEN

Project number 296-19

Date 29/10/19

Drawn by ROC

Checked by PAD

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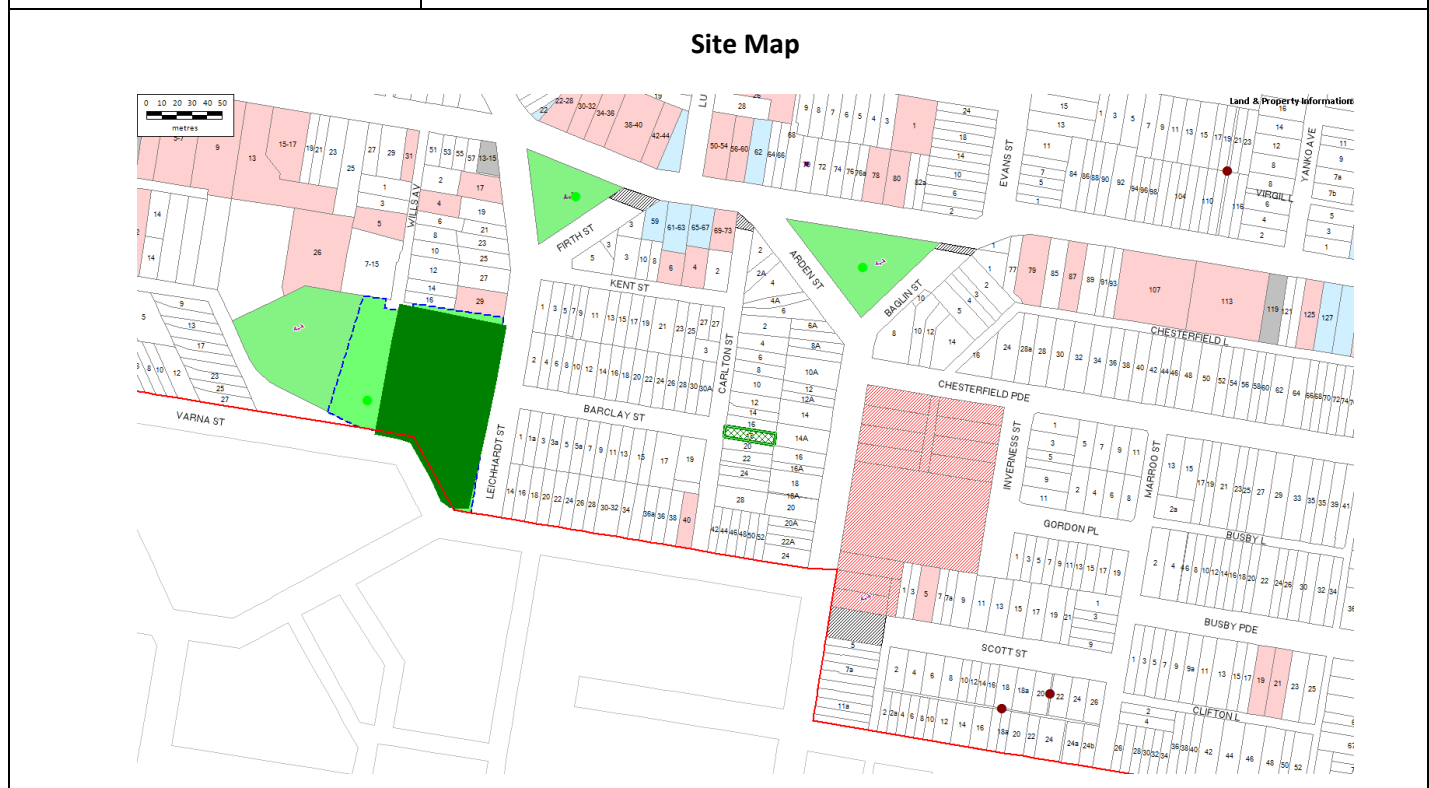
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Report to the Waverley Local Planning Panel

Application number	DA-199/2019/1
Site address	18 Carlton Street, Waverley
Proposal	Section 8.3 review of refusal for alterations to verandah and front fence and the construction of a hardstand.
Date of lodgement	21 October 2019
Owner	MR & VR Pusey
Applicant	Casa Calidad
Submissions	Nil
Cost of works	\$27,060
Issues	Partial demolition of verandah; parking within front setback; parking dimensions
Recommendation	That the application be REFUSED



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 20 November 2019.

The site is identified as Lot A in DP 398031, known as 18 Carlton Street, WAVERLEY. The site is rectangular in shape with a west street frontage measuring 7.57m, east rear boundary measuring 7.52m, and south and north side boundaries measuring 33.22m. The site has an area of 247.7m² and falls from its rear north-east corner towards its front south-west corner by approximately 2.89m.

The site is occupied by a two storey semi-detached dwelling.

The subject site is adjoined on either side by a semi-detached and detached dwelling house. The locality is characterised by a variety of low density residential developments including semi-detached and detached dwellings.



Figure 1: Subject site frontage. Existing carport can be seen at 16 Carlton Street.

1.2 Relevant History

- **CCB-91/2006:** Alterations and additions including additional storey extension to the rear of the existing premises; Approved by Private Certifier 7 March 2006.
- **TPO-298/2009:** Pruning of *Jacaranda mimosifolia* (Jacaranda) and *Banksia integrifolia* (Coastal Banksia); Approved 31 July 2009.

- **TPO-336/2010:** Pruning of *Banksia integrifolia* (Coastal Banksia) adjacent to front porch; Approved 30 July 2010.
- **DA-702/2010:** Rear extension and new retaining wall at rear of dwelling; Approved 7 January 2011.
- **TPO-427/2012:** Pruning of *Banksia integrifolia* (Coastal Banksia) within front yard; Approved 12 December 2012.
- The *Banksia integrifolia* (Coastal Banksia) located within front yard and subject to three (3) applications has been removed from the site; timing of its removal is unknown; however, based on Google Maps Street view, it was present in July 2014 but not in November 2015.
- **DA-199/2019:** Alterations to verandah and front fence, construct new retaining wall, access stairs and carport; Refused by Development & Building Unit on 6 September 2019 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 on amenity in the built environment.*
 2. *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 Waverley Development Control Plan 2012, in respect to the following provisions:*
 - a. *Part B8 - Transport*
 - i. *Clause 8.2, control (a), as the car park design does not accord with the relevant Australian Standard.*
 - ii. *Clause 8.2.1, control (m), as the dimension, i.e. depth of the car space is not in accordance with the relevant Australian Standard.*
 - b. *Part C2 – Low Density Residential Development;*
 - i. *Clause 2.8.1, control (a), as site and locality conditions do not support on-site parking.*
 - ii. *Clause 2.8.3, control (iv), as the distance between the building and the front property boundary is less than the minimum 5.4m.*
 - iii. *Clause 2.8.4, control (c), as it is proposed to remove elements of the street façade, i.e. verandah to accommodate car parking.*
 - iv. *Clause 2.8.5, control (a), as the proposed carport does not comply with minimum dimensions, i.e. 5.4m minimum depth.*
 - v. *Clause 2.8.5, control (b), as the proposal does not accommodate a vehicle without it overhanging into the public domain.*
 3. *The proposed development does not satisfy section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, as the proposal will have undesirable and unacceptable impact on the streetscape.*
 4. *The proposal is not considered to be in the public interest for the reasons outlined above and is therefore contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.*

It is noted that **16 Carlton Street**, the adjoining semi-detached dwelling to the north, has an existing hardstand with carport, and that the verandah has been cut in to. A garage was previously located in this position, as shown in **Figure 2** as at 2009 (no approval for the garage can be found in Council's records) and therefore was undertaken prior to the current controls. This has now been amended to a carport as shown in **Figure 3** below, and it is also noted that the car on the site over hangs Council's footpath, which is not authorised.



Figure 2: Street view from Google maps from 2009 of 16 Carlton Street, showing a garage, which is now an undersized carport.



Figure 3: 16 Carlton Street, showing the carport and car intruding on to Council's footpath.

It is noted that the site to the south, **18 Carlton Street**, has a carport as shown in **Figure 4** below. This carport was approved over an existing hardstand space on 5 March 2018 (DA-494/2017). The carport provides for a compliant length of 5.53m.



Figure 4: The carport at 20 Carlton Street.

1.3 Proposal

Application to review a determination of development consent under section 8.3 of the EP&A Act 1979. DA-199/2019 was REFUSED under delegation on 6 September 2019.

The proposal has been amended to delete the carport structure and minimises alterations to the façade of the building.

The proposal now seeks consent to undertake the following:

- Demolition of 2.9m section of front fence;
- Base of verandah to be undercut to create clearance;
- Removal of vegetation;
- Construct 4.5m long hardstand (two concrete wheel strips with permeable surface between);
- Construct 910mm high retaining wall between lawn and hardstand area;
- Construct access stairs and retaining wall to southern side of dwelling;
- Construct crossover measuring 2.7m at the gutter (excluding splay).

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 Section 8.2 Reviews Considerations

In accordance with Section 8.2(1) the following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:

- (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
- (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
- (c) the decision of a council to reject and not determine an application for development consent.*

In accordance with Section 8.3(4) the review of a determination or decision made by a delegate of council is to be conducted by the Panel.

In accordance with Section 8.3(3), in requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

The applicant has provided an amended proposal with the review application, which are described above, and the amended proposal is considered to be substantially the same development as the original application.

2.2 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.

2.2.1 SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used for residential purposes. Accordingly, site land contamination is considered unlikely and no further investigation is necessary.

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 does not contravene the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a semi-detached dwelling, which is permitted with consent in the R2 zone.
Part 4 Principal development standards		
4.3 Height of buildings • 8.5m	Yes	Complies
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio	Existing	The proposal does not contribute towards gross floor area and therefore the existing floor space ratio remains unchanged.

2.2.3 Waverley Development Control Plan 2012 - Amendment No 6

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	A Site Waste & Recycling Management plan has been submitted with the application to address waste disposal during construction. The waste and recycling storage area is located in an area convenient for users of the site.
3. Landscaping and Biodiversity	Not determined	The site does not contain remnant vegetation which are listed as threatened in the Environment Protection and Biodiversity Conservation Act 1999, and in the NSW Biodiversity Conservation Act 2016. The site is located in Habitat Corridor.
6. Stormwater	Yes	The site is not flood prone and the design complies with the Water Management Technical Manual.

Development Control	Compliance	Comment
<p>8. Transport</p> <p>8.2 On-site Parking</p> <p>Ensure parking is usable, safe and integrated into design of building.</p> <p>(a) Car park design must be in accordance with relevant Australian Standards.</p> <p>(b) Car space dimensions, driveway grades, vehicle ramp width/grades and passing bays must be in accordance with the relevant Australian Standards. Vehicle ramps less than 20m long within developments and parking stations must have a maximum grade of 1 in 5 (20%).</p>	No	<p>The proposal does not comply with the minimum required dimensions and other technical requirements and will adversely impact on pedestrian amenity and safety.</p> <ul style="list-style-type: none"> The proposed hardstand does not comply with the minimum depth requirement of 4.91m for a B85 vehicle. The proposed hardstand measures 4.45m in depth i.e. 460mm less than the minimum specified for B85 vehicles within AS/NZS 2890.1:2004. <p>Refer discussion below this table.</p>
12. Design Excellence	No	By providing a car space in front of the dwelling and cutting in to the verandah, the proposal does not contribute to design quality within Waverley.

Table 3: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
2.8 Car Parking		
<p>2.8.1 Design approach</p> <ul style="list-style-type: none"> Designed to complement building 	No	The proposal undercuts the existing verandah.
<p>2.8.2 Parking rates</p> <p><i>Maximum rates:</i></p> <ul style="list-style-type: none"> 2 spaces for 3 or more bedrooms 	Yes	The proposal provides on-site parking for one vehicle.
<p>2.8.3 Location</p> <ul style="list-style-type: none"> Existing development to be in accordance with the hierarchy of preferred car parking locations 	No	<p>The proposal does not satisfy control (d)(iv), as it is less than 5.4m.</p> <p>Refer discussion below this table.</p>

Development Control	Compliance	Comment
2.8.4 Design <ul style="list-style-type: none"> • Complement the style, massing and detail of the dwelling • Secondary in area & 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 	<p>No</p> <p>Yes</p> <p>No</p> <p>Yes</p>	<ul style="list-style-type: none"> • The proposal includes undercutting the verandah to provide a space which is insufficient for a car to be parked. • The proposed hardstand is secondary to the dwelling. • Alterations to the façade by undercutting the verandah are required to create a hardstand area which is 4.5m in length. • Gates are not proposed.
2.8.5 Dimensions <ul style="list-style-type: none"> • 5.4m x 2.4m per vehicle 	No	The proposed hardstand measures 3m x 4.509m. Refer discussion below this table.
2.8.6 Driveways <ul style="list-style-type: none"> • Maximum of one per property • Maximum width of 3m at the gutter (excluding splay) • Crossings not permitted where 2 on street spaces are lost 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> • The proposal results in one driveway. • The proposed crossover measures 3m at the gutter (excluding splay). • The proposal results in the loss of one on-street parking space.
2.9 Landscaping and open space		
<ul style="list-style-type: none"> • Overall landscaped area: 15% of site area • Front open space: 50% of front building setback area • Front landscaped area: 50% of front open space provided 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> • The proposal reduces landscaped areas to 48.1m² or 19.4% of the site area. • 100% of the front building setback remains open. • 62.2% of the front open space is landscaped.

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

Car Parking – Location & Design

The primary objective of Part B8 clause 2 of the WDCP 2012 is to ensure on-site parking is useable, safe and integrated into the design of the building. In this regard, control (a) states that car park design must be in accordance with relevant Australian Standards.

AS/NZ S 2890.1:2004 refers to a B85 standard design vehicle as being 4.91m in length. The proposed hardstand has a length of 4.5m and cannot accommodate a standard design vehicle without overhanging into the footpath.

The applicant correctly asserts that clause A6.1 of AS/NZ S 2890.1:2004 applies a minimum depth of 4.45m for B35 percentile vehicles; however, Council applies the requirements of B85 standard design vehicles to low density residential developments.

Further, Part C2 clause 2.8.3, control (d)(iv) of the WDCP 2012 states, a hardstand forward of the building line may be permitted where, the distance between the building and the front property boundary is a minimum of 5.4m, as reiterated in clause 2.8.5, control (a). The proposal is 900mm short of the required length and cannot accommodate a B85 standard design vehicle without overhanging into the public domain.

It is acknowledged that the adjoining semi-detached dwelling has a carport which measures 4.5m in length; however, this was approved as part of DA-674/2009 (and CCB-387/2010), which replaced an existing garage structure sited forward of the building line of similar dimensions. It is noted that the car here overhangs the public domain as shown in **Figure 4** above. The carport at 20 Carlton Street was approved as part of DA-494/2017, as it was confirmed by a survey plan to provide a compliant length of 5.5m between the building and the front property boundary for the parking of a vehicle. The hardstand was already in place.

Limitation of use to a small car (B35 vehicle) via condition is not supported as it will require on-going resources to ensure compliance.

Therefore, the initial assessment and refusal that the proposed hardstand is not sufficient in length to accommodate the parking of a vehicle (within the site) is reaffirmed.

Off-street parking is not appropriate for the site.

2.3 Other Impacts of the Development

The proposed development is capable of complying with the BCA.

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

2.4 Suitability of the Site for the Development

The site is not considered to be suitable for the proposed development.

2.5 Any Submissions

The application was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

No submissions were received.

2.6 Public Interest

It is considered that the proposal will have a detrimental effect on the public interest and is recommended for refusal.

3. REFERRALS

3.1 Transport & Development

The length of the proposed space (4.5m in length) is considered insufficient to allow a B85 standard design vehicle (4.91m in length) to park without overhanging into the Carlton Street footpath.

It is recommended that this application be REFUSED.

4. SUMMARY

The original application (DA-199/2019) seeking the construction of a carport, associated driveway together with alterations to the façade of the building was REFUSED under delegation on 6 September 2019.

Subsequently, an application to review a determination of development consent per section 8.3 of the EP&A Act 1979 has been lodged, with an amended design that deletes the carport structure and now seeks consent to undertake the following:

- Demolition of 2.9m section of front fence;
- Undercutting of the base of the verandah to create clearance;
- Removal of vegetation;
- Construct 4.5m long hardstand (two concrete wheel strips with permeable surface between);
- Construct 910mm high retaining wall between lawn and hardstand areas;
- Construct access stairs and retaining wall to southern side of dwelling; and
- Construct crossover measuring 2.7m at the gutter (excluding splay).

The amended proposal contravenes a number of controls contained within Part B8 and Part C2, clause 2.8 of the WDCP 2012 and does not comply with design criteria as set out in the relevant Australian Standard.

Public notification did not result in the receipt of submissions.

No conflicts of interest were declared in relation to the subject site/application.

The application has been assessed against the WLEP 2012, WDCP 2012 and provisions of Section 4.15 of the EP&A Act 1979.

DBU Decision

The application and assessment report was reviewed by the DBU at the meeting on 5 November 2019 and the DBU determined:

- (a) The application is not acceptable and should be refused, subject to the reasons in Appendix A.

DBU members: M Reid, B McNamara, B Matlawski, A Rossi

5. RECOMMENDATION TO WAVERLEY DEVELOPMENT ASSESSMENT PANEL

That the Development Application be **REFUSED** by the Waverley Development Assessment Panel for the following reasons:

Report prepared by:

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

Fiona Koutsikas
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment (North /
South)**

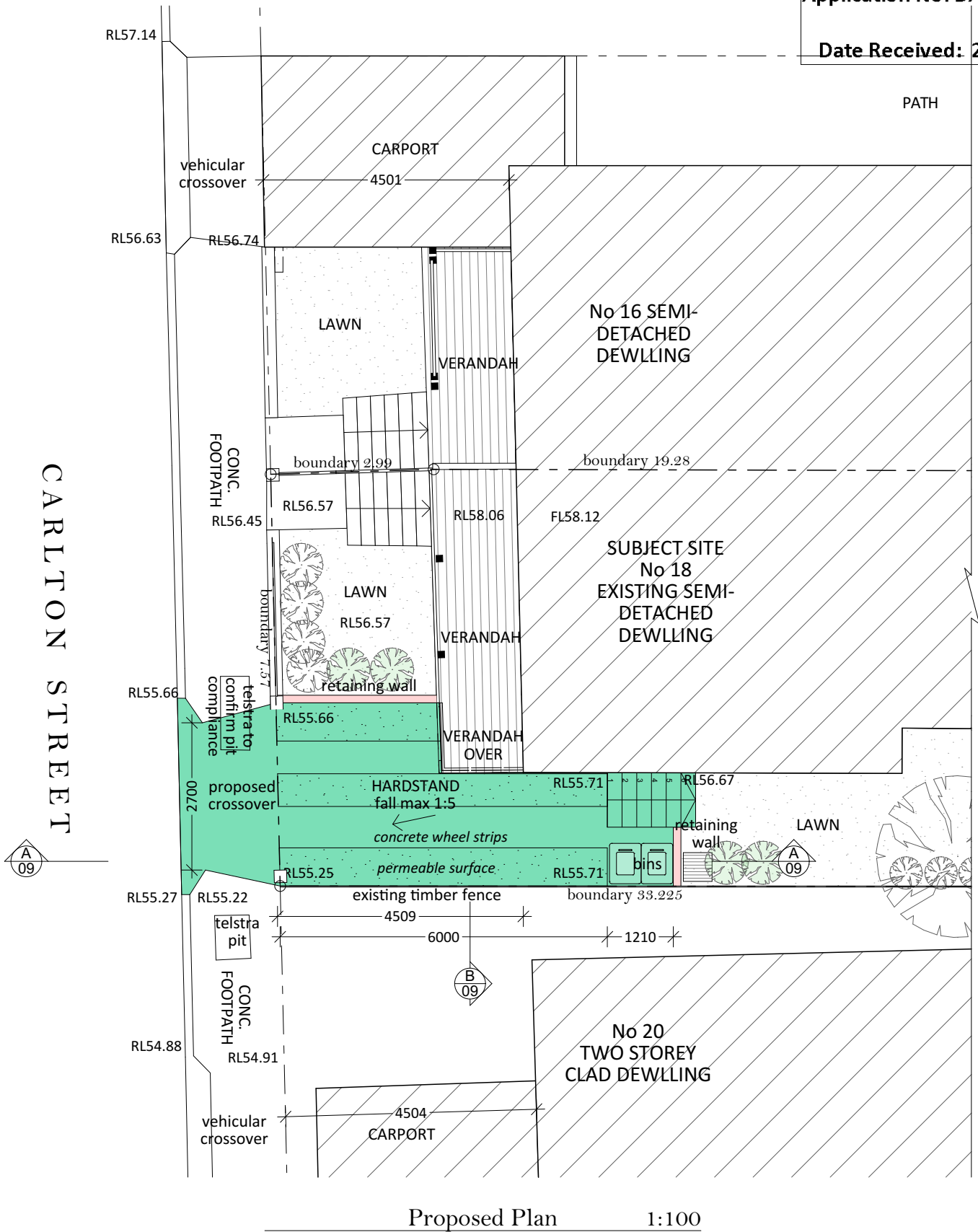
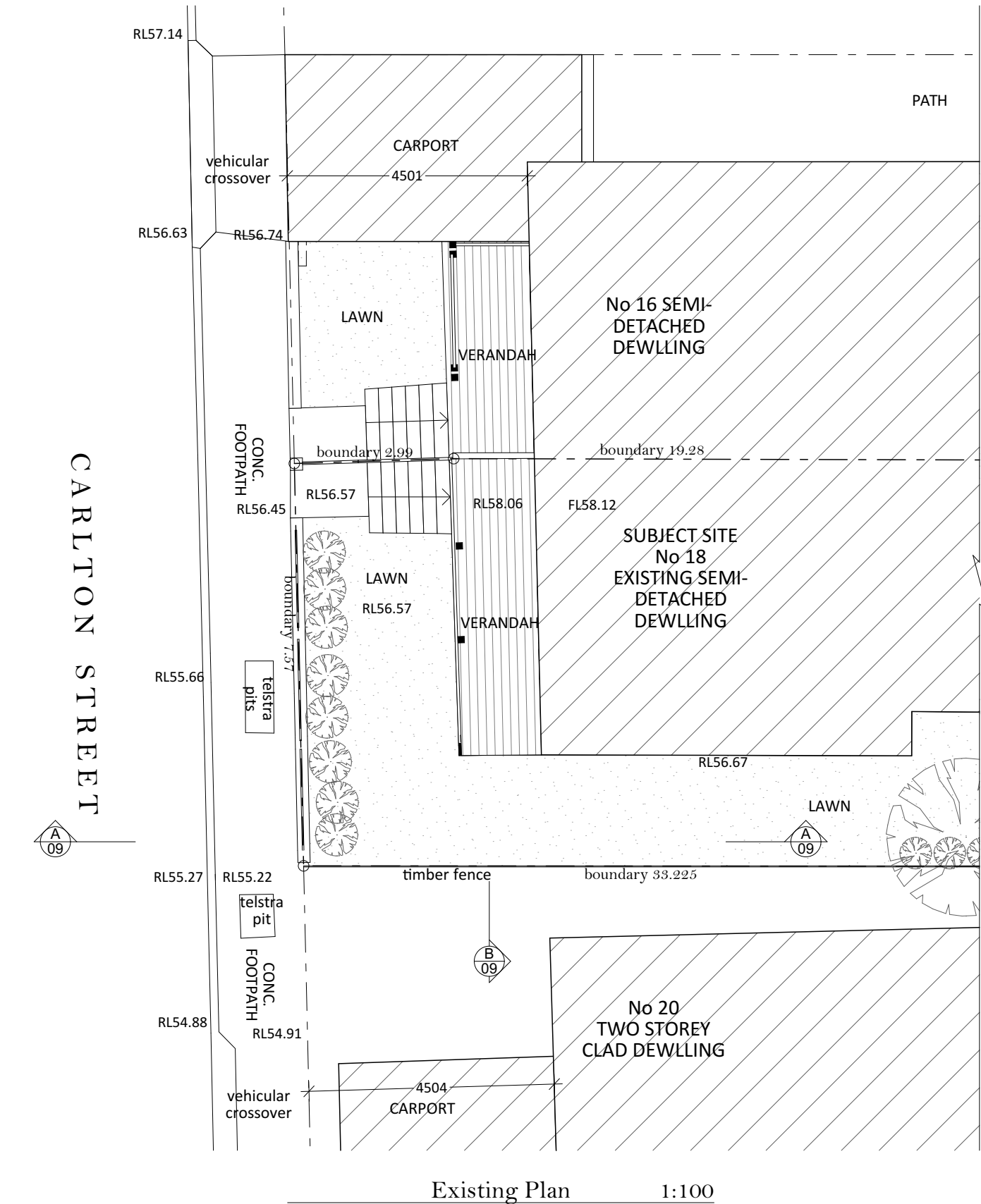
Date: 21 November 2019

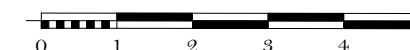
Date: 25 November 2019

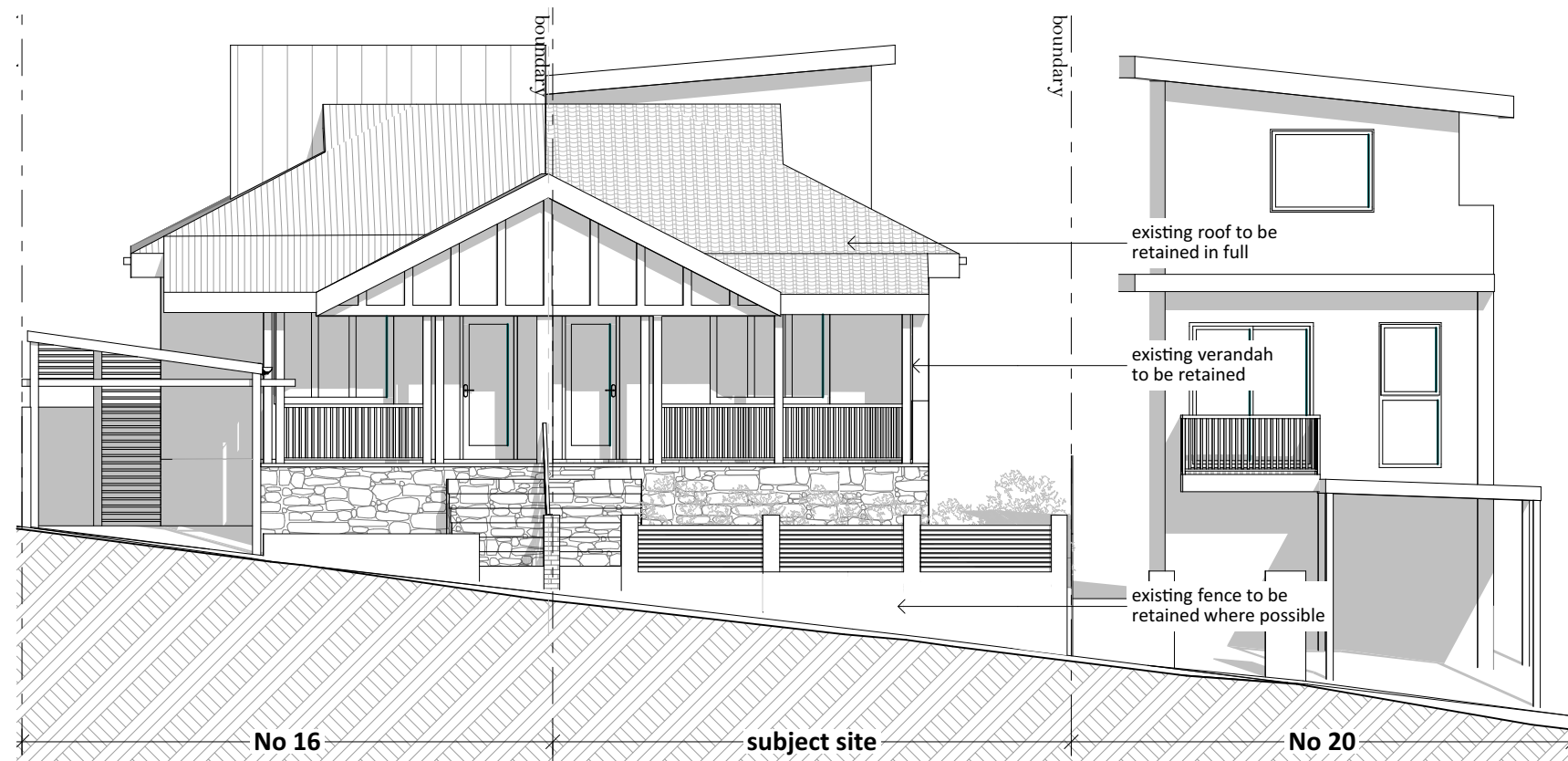
APPENDIX A – REASONS FOR REFUSAL

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

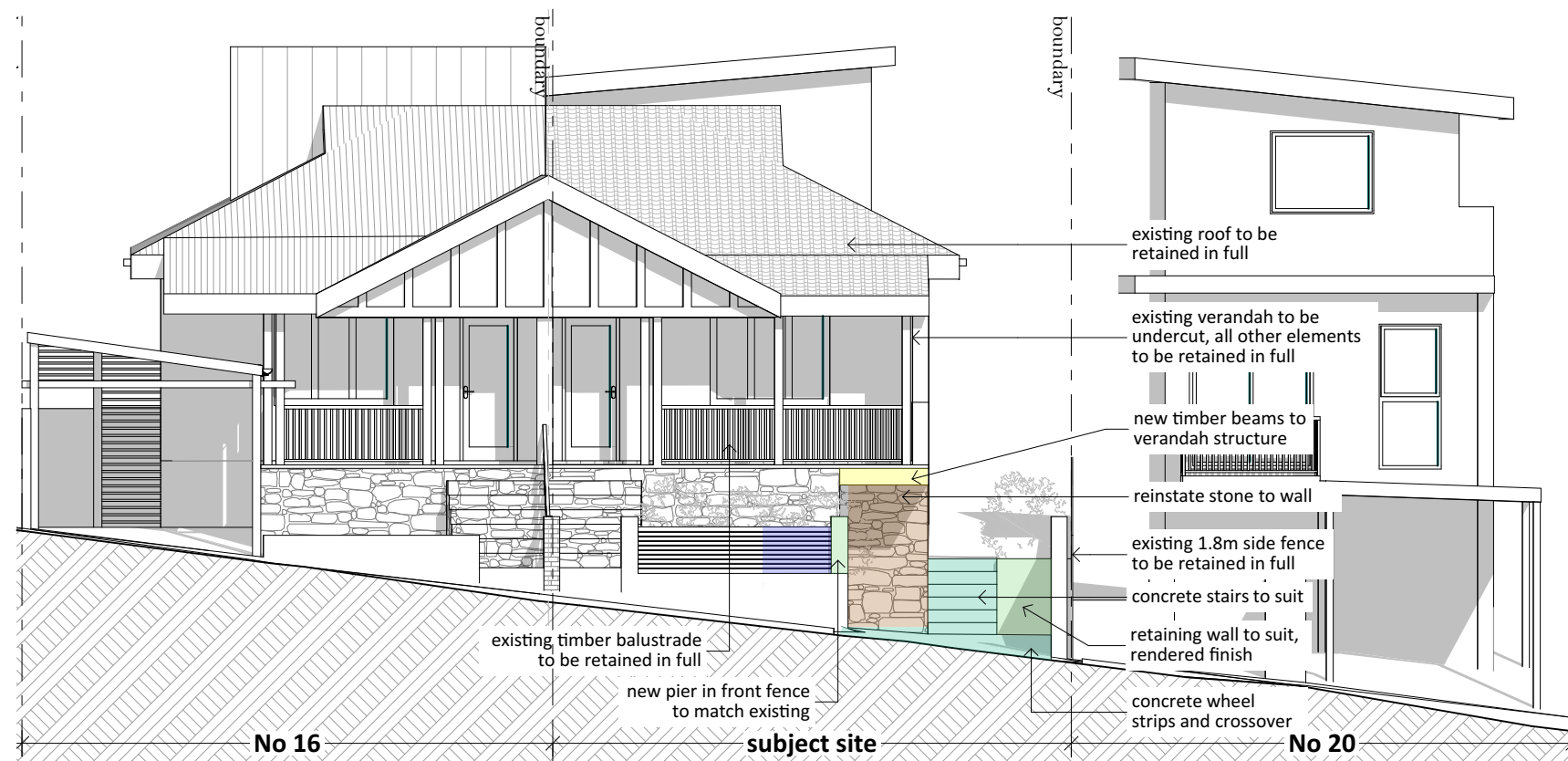
1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design on amenity in the built environment.
2. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
 - a. Part B8 - Transport
 - i. Clause 8.2, control (a), as the car park design does not accord with the relevant Australian Standard.
 - ii. Clause 8.2.1, control (m), as the dimension, i.e. depth of the car space is not in accordance with the relevant Australian Standard.
 - b. Part C2 – Low Density Residential Development;
 - i. Clause 2.8.1, control (a), as site and locality conditions do not support on-site parking.
 - ii. Clause 2.8.3, control (iv), as the distance between the building and the front property boundary is less than the minimum 5.4m.
 - iii. Clause 2.8.4, control (c), as it is proposed to remove elements of the street façade, i.e. verandah to accommodate car parking.
 - iv. Clause 2.8.5, control (a), as the proposed hardstand does not comply with minimum dimensions, i.e. 5.4m minimum depth.
 - v. Clause 2.8.5, control (b), as the proposal does not accommodate a vehicle without it overhanging into the public domain.
3. The proposal is not considered to be in the public interest for the reasons outlined above and is therefore contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979.







Existing West Elevation 1:100



Proposed West Elevation 1:100



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ISSUE	DATE	DESCRIPTION
A	2019.06.10	DA Issue to Council
B	2019.10.15	S8.2 Issue to Council

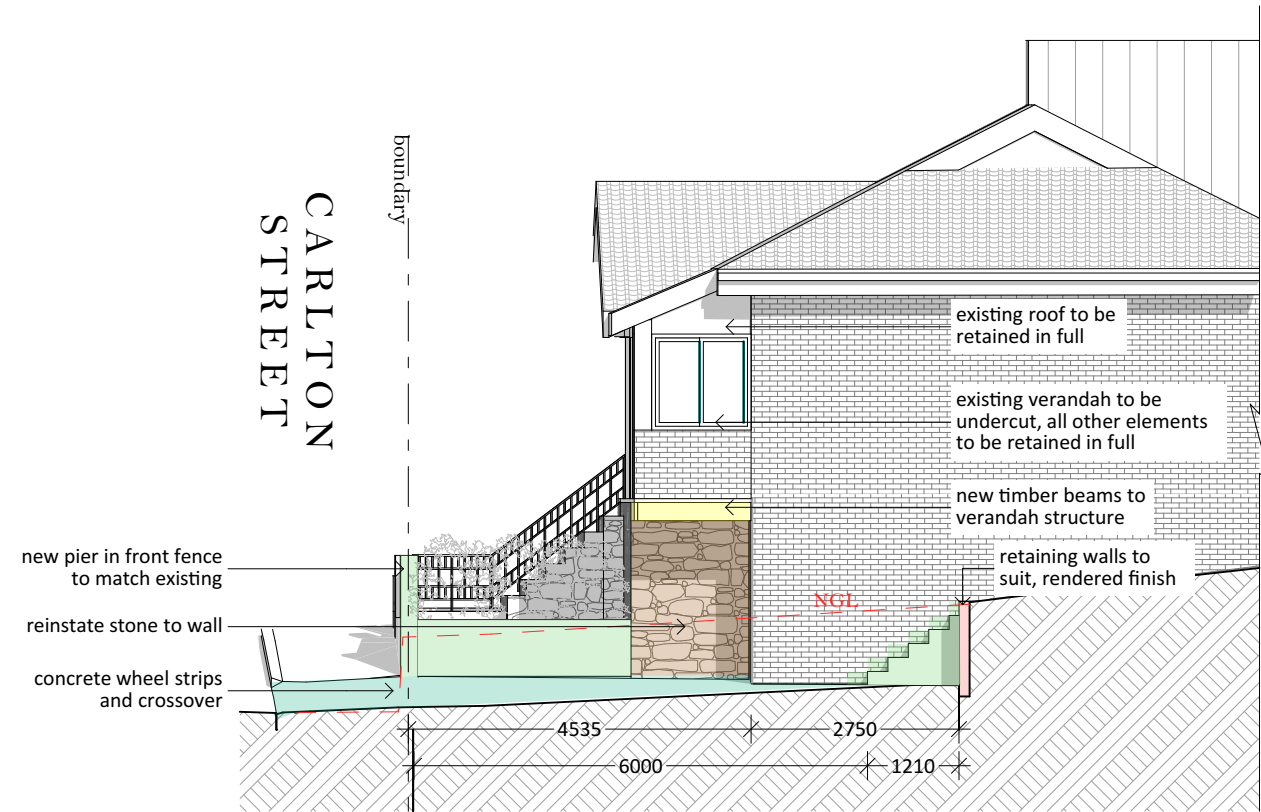
PROJECT:
Proposed Carport and
associated works
18 Carlton Street, Waverley

CLIENT:
18 Carlton Street, Waverley

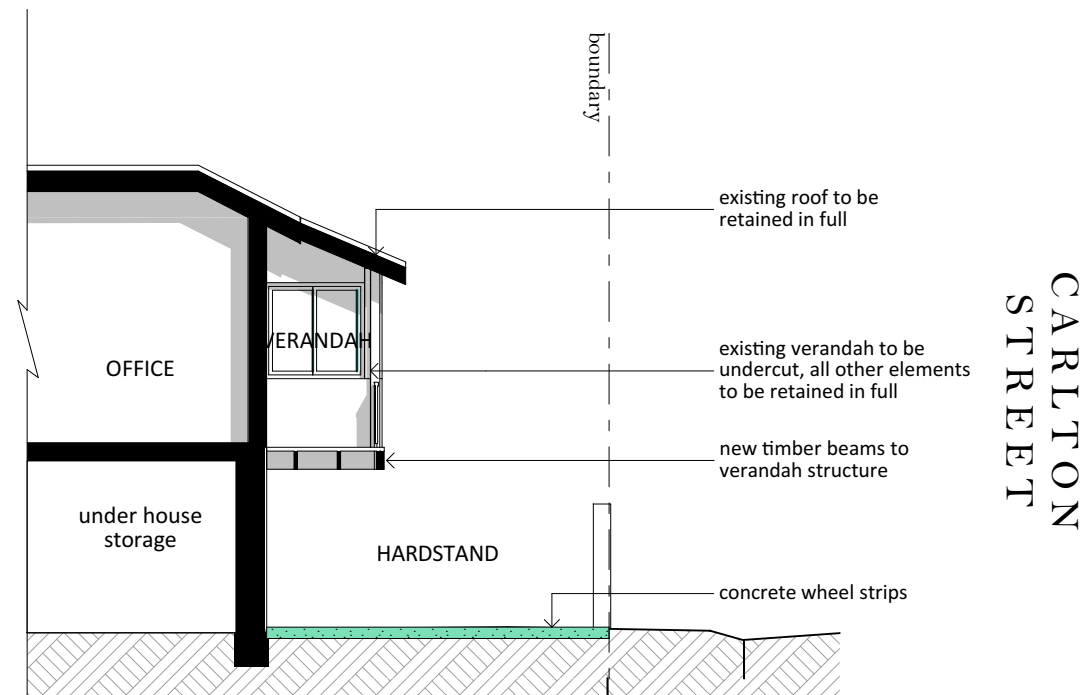
SHEET TITLE:
Carlton Street (West) Elevation

SCALE: 1:100 @ A3
DRAWN: BAJ

SHEET SIZE: A3
DWG NO: DA05 b
REVISION:



Proposed South Elevation 1:100



Proposed North Elevation 1:100



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ISSUE	DATE	DESCRIPTION
A	2019.06.10	DA Issue to Council
B	2019.10.15	S8.2 Issue to Council

PROJECT:
Proposed Carport and associated works
18 Carlton Street, Waverley

CLIENT:
18 Carlton Street, Waverley

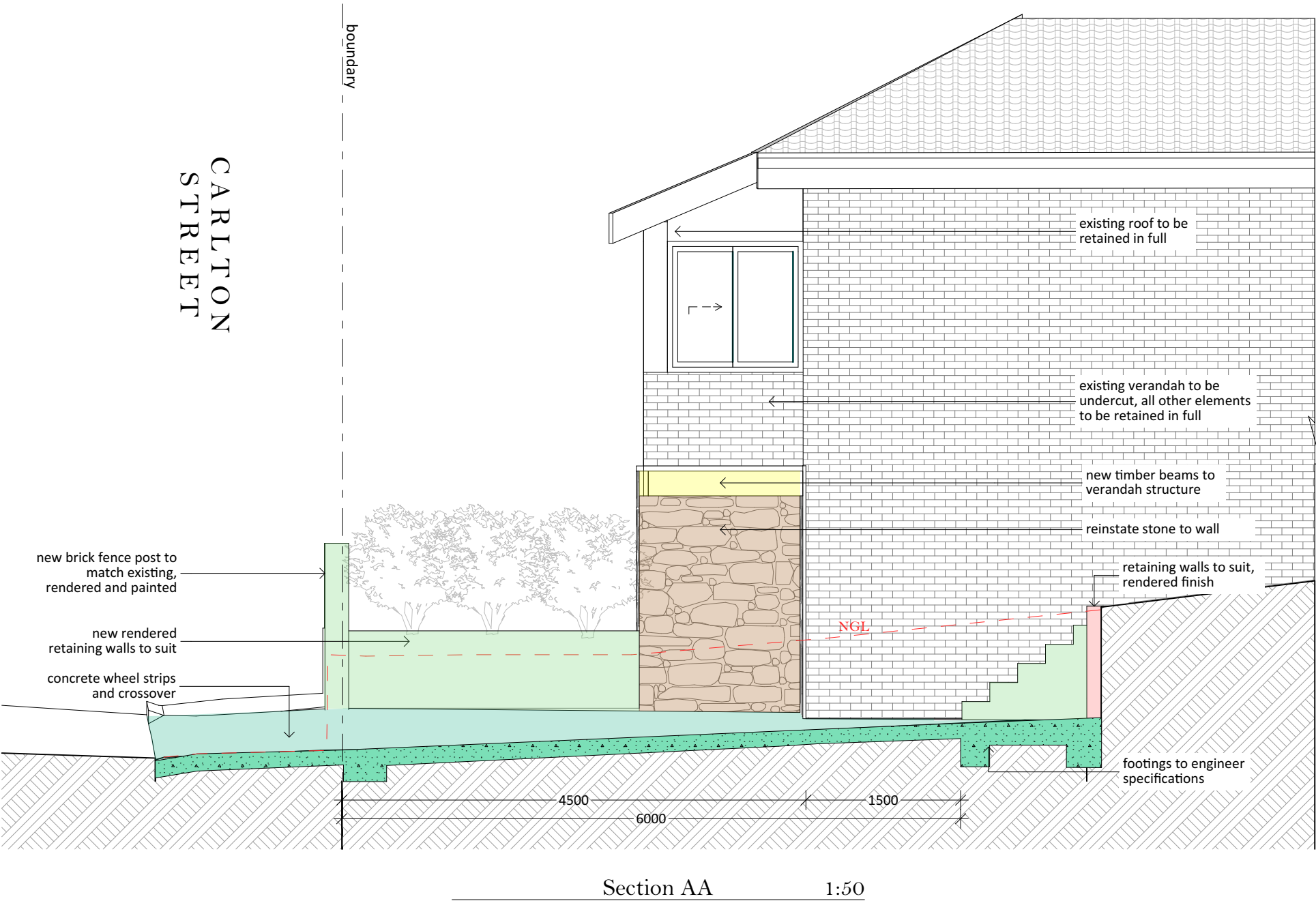
SHEET TITLE:
North & South Elevations

SCALE: 1:100 @ A3
DRAWN: BAJ

SHEET SIZE: A3

DWG NO: DA06 b

REVISION:



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ISSUE	DATE	DESCRIPTION
A	2019.06.10	DA Issue to Council
B	2019.10.15	S8.2 Issue to Council

PROJECT:
Proposed Carport and associated works
18 Carlton Street, Waverley

CLIENT:
18 Carlton Street, Waverley

SHEET TITLE:
Proposed Section AA

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DRAWN: BAJ

SHEET SIZE:

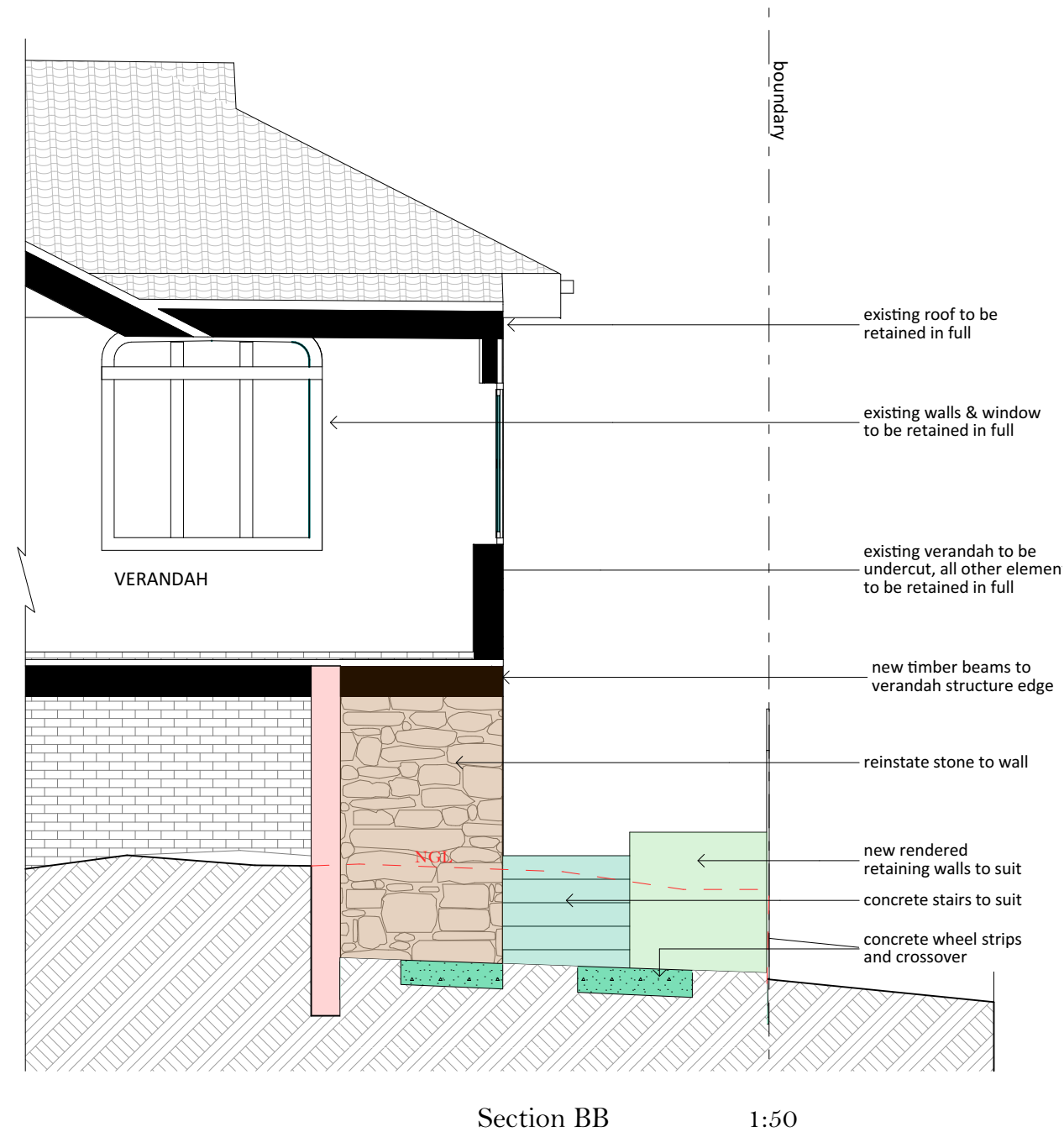
A3

DWG NO:

DA07 b

REVISION:

171



ISSUE	DATE	DESCRIPTION
A	2019.06.10	DA Issue to Council
B	2019.10.15	S8.2 Issue to Council

PROJECT:
Proposed Carport and associated works
18 Carlton Street, Waverley

CLIENT:
18 Carlton Street, Waverley

SHEET TITLE:
Proposed Section BB

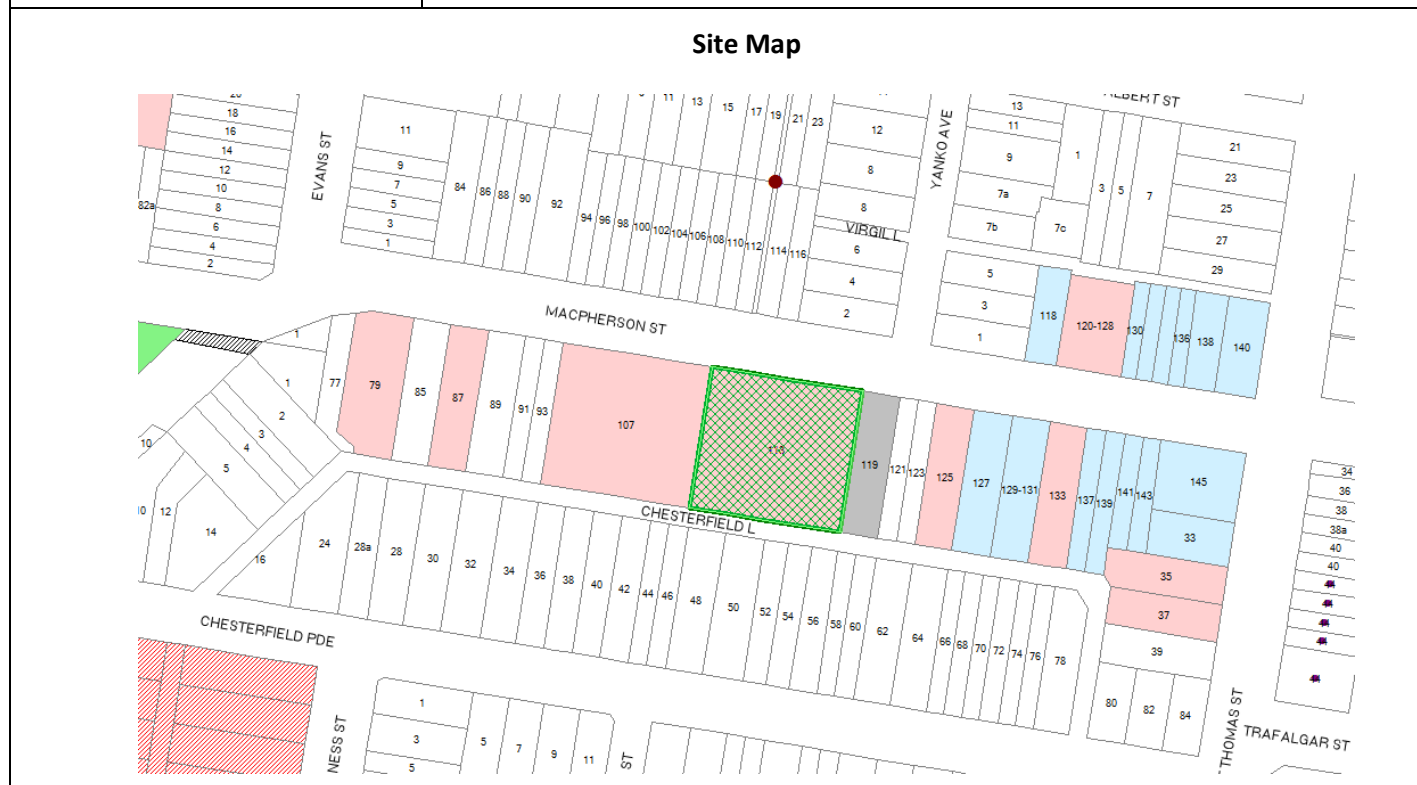
SCALE: 1:50, 1:100 @ A3 SHEET SIZE:
DRAWN: BAJ

DWG NO: REVISION:



Report to the Waverley Local Planning Panel

Application number	DA-231/2019
Site address	113 MacPherson Street, BRONTE
Proposal	Change of use to a supermarket including consolidation of retail tenancies to a single tenancy and associated fit out.
Date of lodgement	19 July 2019
Owner	The Owners of Strata Plan No 99129
Applicant	Woolworths Pty Ltd
Submissions	A total of 131 submissions, including five submissions in support.
Cost of works	\$1,777,399
Issues	Non-compliance with the floor space ratio development standard; traffic, parking, delivery and loading arrangements; and noise impacts.
Recommendation	That the application be APPROVED subject to conditions of consent.



1. PREAMBLE

1.1 Site and Surrounding Locality

A site visit was carried out on 20 September 2019.

The site is legally described as SP 99129 and is known as 113 MacPherson Street Bronte.

The site comprises a shop top housing development with three ground floor shops fronting MacPherson Street, residential apartments above on levels 1, 2 and 3, all above two levels of 'basement' parking that is accessed from Chesterfield Lane.

The subject application relates to the three shop tenancies on street level and 'basement' parking levels.

To the west of the site is the ten storey 'Oceanview Apartments', an anomalous building, built in the 1960s that formally operated as the Charles Hotel, but was converted to residential in the mid-1990s. To the east of the site are two storey residential buildings including dwellings, duplexes and residential flat buildings.

On the opposite side of Macpherson Street, are single storey dwellings, some detached and some semi-detached. To the rear across Chesterfield Lane are residential dwellings, some detached and some semi-detached which face Chesterfield Street. There is an emerging development trend for these properties to have two storey secondary structures presenting to Chesterfield Lane.



Figure 1: Subject site frontage, looking south-east from the northern side of MacPherson Street



Figure 2: Area proposed for goods hoist/lift adjacent to the far eastern residential entry of the development



Figure 3: Southern part of 'basement' car park level where mechanical plant is proposed

1.2 Relevant history

The site has a complex and detailed development history. Of relevance to this application, DA-264/2015 was granted deferred commencement consent on 16 December 2015, allowing redevelopment of the former Bronte RSL site for a new mixed-use building. A notice was issued to the application on 3 May 2016 that the deferred commencement matters were satisfied, and the consent became operative on that day.

Various modifications were requested post-consent in the form of section 96 applications (now known as section 4.55) and amending development applications. These were determined by Council and/or the NSW Land and Environment Court (LEC). The current form of the consent is DA-264/2015/C [LEC Appeal No. 17/273413] and is hereafter referred to as the 'parent consent' in this assessment report.

A separate development application, known as DA-218/2018, for Stratum subdivision into 2 Lots – 'Residential' and 'Retail' was approved on 28 November 2018.

Of specific relevance to the subject application, a pre-development application, known as PD-10/2019, was submitted to Council to gain advice on the main planning issues for the amalgamation of the retail tenancies of the development for the purposes of a neighbourhood supermarket. The main matters in the advice communicated with the applicant on 24 April 2019 are as follows:

- encouragement of the applicant to engage and consult with the surrounding community regarding the proposal prior to the lodgement of a development application for the proposal;
- justification of the notional increase of floor space from conversion of existing plant rooms;
- encouragement of submitting a standalone development application (DA) rather than an amending DA to seek consent for the proposal;
- limiting the size of signage and discouraging signage to impede on the activate frontage of the shopfront; and
- recommending a plan of management be submitted to detail the loading operations and acoustic impacts of the proposed supermarket and to prohibit the use of trolleys for the supermarket given the target customer base for the supermarket.

1.3 Proposal

The application seeks development consent for a change of use of the three ground/street level retail tenancies of the existing development into a 'neighbourhood supermarket' to be operated by *Woolworths Metro*, specifically:

- consolidation and fit-out works of the three tenancies into one to:
 - comprise trading floor area, a café component and back of house storage areas;
 - convert three existing plant rooms into back of house storage areas, thereby increasing the gross floor area and floor space ratio of the existing development; and
 - alter the shopfront and replace the originally approved bi-fold doors glazing system with fixed glazing and automatic sliding doors in the centre of the shopfront and a sliding window and coloured tiles below that are adjacent to the café component.
- installation of business identification signage in the following forms:
 - two under awning signs;

- one sign on the fascia of the awning; and
- three series of window signs on the shopfront.
- internal alterations and additions to Basement Level 1 of the development, including:
 - formalised communications room and staff/team refreshment/dining room;
 - relocation of accessible retail car parking spaces that are adjacent to the toilets to the northern edge of the car park;
 - new freezer room for frozen goods/products, where one of the accessible retail car parking spaces exists;
 - new plant enclosure to accommodate refrigeration equipment for the proposed neighbourhood supermarket.
- installation of a scissor lift (i.e. hoist) to serve ground floor level and Basement Levels 1 and 2 of the development adjacent to the eastern fire stair of the development;
- outdoor seating for the café, comprising two tables and two chairs (within the boundaries of the site);
- hours of operation of 7am to 10pm, seven days a week; and
- a maximum staff capacity of eight people at any given time.

A Plan of Management (PoM) has been submitted with the application, detailing the management practices of the premises. The following aspects of the PoM are noted:

- the use of trolleys are prohibited;
- car parking is reserved for staff only in the designated retail spaces in the basement car park of the development, therefore there is no off-street car parking available for customers;
- a primary loading zone outside of the site that was anticipated when consent was granted to the redevelopment of the site (DA-264/2015); however, has never eventuated and not been formally endorsed by the Waverley Traffic Committee and approved by the elected Council;
- a proposed secondary loading zone to accommodate delivery vehicles with a length up to 11m and an anticipated delivery frequency of twice daily between 9am and 2:30pm, seven days per week; and
- waste collection of 4-5 x 600L bins for general and recycling waste from Chesterfield Lane (as per condition 110 of DA-264/2015/C. Cardboard collection in 'bales' to be collected 2-3 times per week from MacPherson Street (commercial waste).

A comparison of floor plans of the approved configuration and layout of the retail tenancies (current form associated with the parent consent, DA-264/2015/C) and the proposed consolidation and fit-out (as per this subject application) are detailed below in **Figures 4 and 5**.

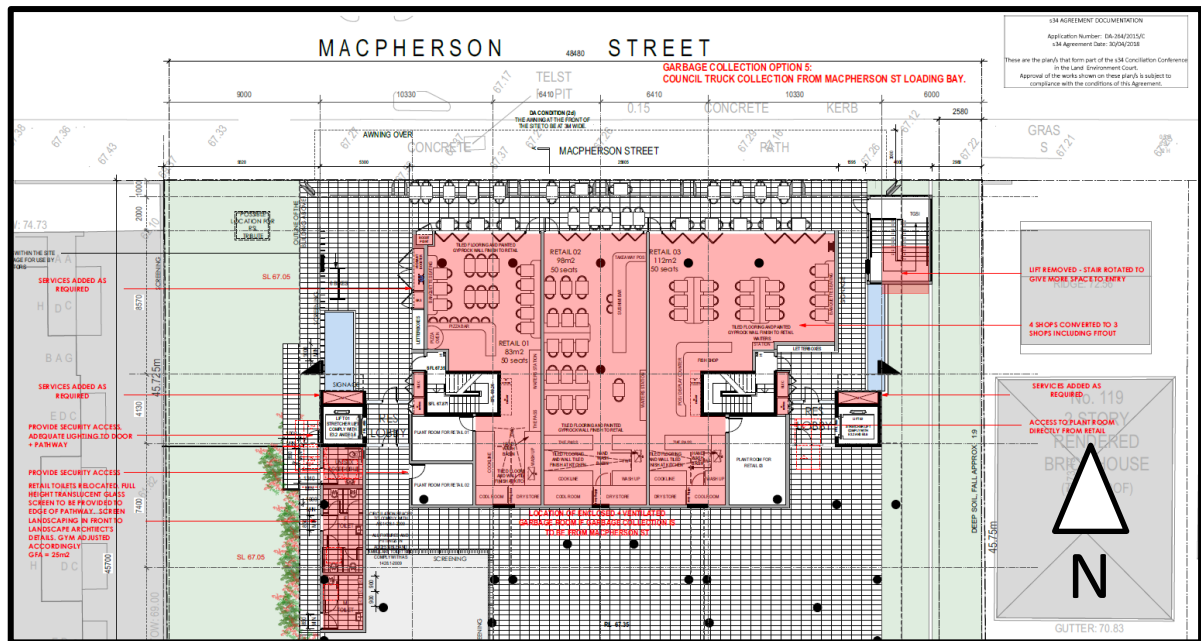


Figure 4: Approved ground floor plan of the development (associated with parent consent DA-264/2015/C)

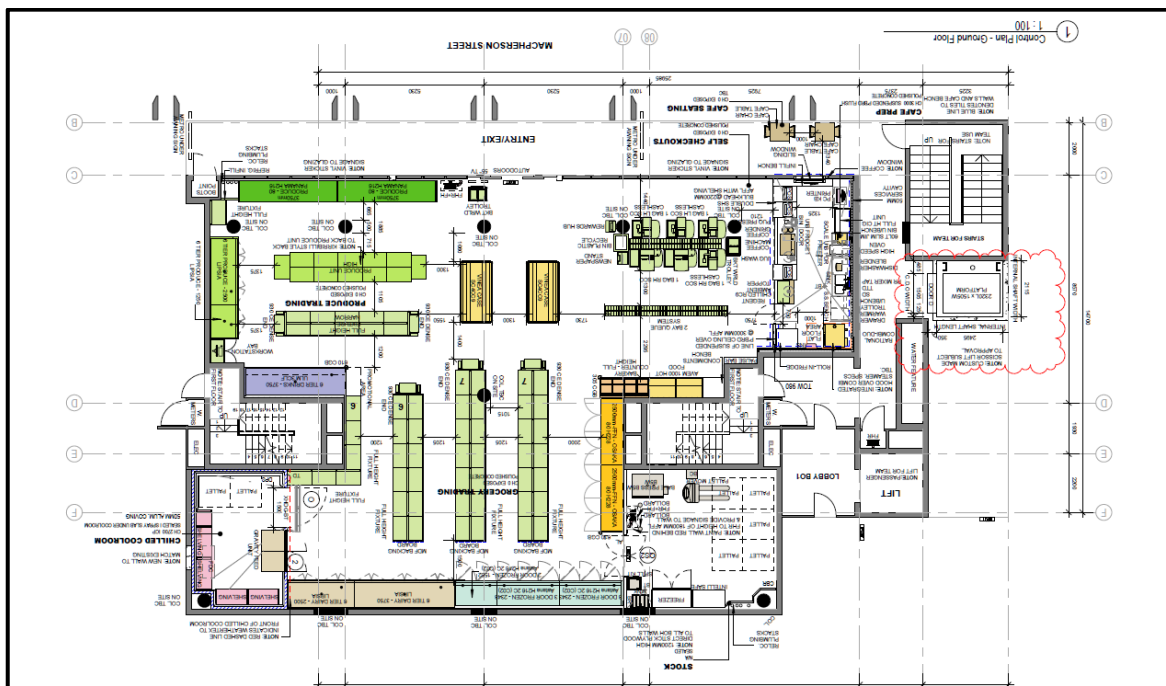


Figure 5: Floor plan of proposal as part of this subject application

1.4 Relevant background

The subject application was submitted to Council on 19 July 2019. During the assessment of the application, the responsible Council assessment officer clarified with and requested additional information from the applicant in relation to the following:

Matter: The specific location of new plant room in Basement Level 1 of the development in terms of clarifying the predicated acoustic impacts arising from the plant equipment upon adjacent residences.

Resolution: Revised floor plans showing the full contextual information to accurately determine location were submitted by the applicant.

Matter: Operational and aesthetical details of the goods hoist/lift proposed adjacent to the far eastern side entry point of the development.

Resolution: Revised floor plans and separate elevation drawings and indicative specification drawings and schedules to detail the hoist were submitted by the applicant. The applicant indicates the finishes will be similar to those of the existing building and that this would be demonstrated at the construction certificate stage. An addendum to the acoustic report originally submitted with the application was provided to address potential noise impacts arising from the use of the hoist.

The additional information submitted in response to the matters outlined above were not required to be publicly notified as per the terms under section 2.6.1 of Part A2 of Waverley Development Control Plan 2012 (Waverley DCP 2012). The additional information did not represent changes to the scope and essence of the proposal that would result in greater impacts than that of the proposal exhibited to the public during the notification period conducted in July-August 2019. In this regard, the information was not required to be publicly notified.

Further to the above, the application was referred to Council's Infrastructure Services department for advice on the acceptability of the proposed loading zone in front of the premises and on the southern side of MacPherson Street. That department and the Development Assessment department jointly recommended this matter be referred to the Waverley Traffic Committee for consideration. The matter was referred to the meeting of the Waverley Traffic Committee (the Committee) on 28 November 2019

The Council Officer's Proposal to the Committee was as follows:

1. A 15.5 metre truck zone replacing the existing taxi zone outside 113 MacPherson Street, Bronte is not recommended.
2. A 15.5 **metre** loading zone replacing the existing taxi zone during certain periods is acceptable.
3. Delivery trucks using the zone to access the site at 113 McPherson Street would be restricted to a maximum length of 10 metres.
4. Restrictions for the loading and taxi zone activities would be:
 - (a) Loading Zone, vehicles under 10 metres only – 9am to 2pm, Monday to Saturday.
 - (b) Taxi zone – at other times.
5. Use of pallets to transfer goods from trucks to and from the site at 113 McPherson Street are not supported. Use of trolleys is supported.
6. Changes to the parking restrictions in the vicinity of the site will be subject to a separate report to Council's Traffic Committee should the development be approved, and the proposal would be assessed on its merits at that time.

The Committee adopted the proposal (as outlined above) at the meeting held on 28 November 2019, with the following amendments to items 2, 4 and 5 of the Council Officer's Proposal:

2. A 15.5 ~~metre loading~~ **loading truck** zone replacing the existing taxi zone during certain periods is acceptable.
4. Restrictions for the ~~loading~~ **loading truck** and taxi zone activities would be:
 - (a) ~~Loading~~ **Truck** Zone, vehicles under 10 metres only – 9am to ~~2~~ **12**pm, Monday to Saturday.

(b) Taxi zone – at other times.

5. Use of pallets to transfer goods from trucks to and from the site at 113 McPherson Street are ~~not~~ supported. ~~Use of trolleys is supported.~~

As per normal practise, the elected Council are to adopt the minutes arising from the meeting of the Committee at the next available Council meeting in December 2019 to give effect to implementation of the truck zone. The decision of the elected Council to adopt the recommendation of the truck zone by the Committee is independent of the determination of this development application by the Waverley Local Planning Panel and vice versa.

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 SEPP 55 Remediation of Land

SEPP 55 was dealt with appropriately in the assessment and determination development application for the redevelopment of the site. The site is suitable for the intended use of the ground floor tenancies of the development as a neighbourhood supermarket in relation to SEPP 55 considerations.

2.1.2 SEPP 64 Advertising and Signage

In accordance with clause 8 of SEPP 64, Council must not grant development consent unless it is satisfied that the proposed signage is consistent with the objectives of the SEPP and the assessment criteria set out under Schedule 1 of the SEPP. See **Table 1** below for an assessment against these criteria under Schedule 1 of the SEPP.

Table 1: SEPP 64 Advertising and Signage Compliance Table

Assessment Criteria	Compliance	Comment
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes	Yes. The site is within an established village centre and business identification signs are permitted in the B1 zone and consistent with Council's policies on signage as articulated in Waverley DCP 2012. Therefore, the proposal is consistent with the existing and desired future character of the locality.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	N/A	There is no particular theme for signage and outdoor applying to the site and area.

Assessment Criteria	Compliance	Comment
2 Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Yes	No. The signs are modest in size and design, and therefore would not detract from the amenity or visual quality of the adjacent heritage item on the opposite side of MacPherson Street and to the north of the site and the surrounding residential and neighbourhood locality.
3 Views and vistas		
Does the proposal obscure or compromise important views?	Yes	No.
Does the proposal dominate the skyline and reduce the quality of vistas?	Yes	No.
Does the proposal respect the viewing rights of other advertisers?	N/A	The site and proposal do not comprise third-party advertising structures.
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes	Yes. The signs are modest and well-integrated business identifications signs that were envisaged and expected in the original design of the development.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes	Yes. The proposed signs are sleek and modern and contribute to the contemporary architecture of the development.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes	Yes, in that the proposal consolidates three retail tenancies into one, therefore reducing potential cluttering of signage (if the three separate tenancies were to remain).
Does the proposal screen unsightliness?	NA	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes	No.
Does the proposal require ongoing vegetation management?	N/A	No.
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the	Yes	Yes. The signs are sleek and modern and contribute to the contemporary architecture of the development.

Assessment Criteria	Compliance	Comment
proposed signage is to be located?		
Does the proposal respect important features of the site or building, or both?	Yes	Yes. It respects its contemporary architecture.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	The design of the signs shows some level of innovation, however is largely designed to be consistent with the contemporary architecture of the building.
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Yes	Yes. The signs incorporate the general Woolworths logo, which appropriately identifies the business of the premises (as expected for business identification signs).
7 Illumination		
Would illumination result in unacceptable glare?	Yes	The illuminated signs are the under awning and fascia signs that would not be visible from residential apartments above in the same development and would not be expected to result in unacceptable light spill to adjacent residences.
Would illumination affect safety for pedestrians, vehicles or aircraft?	Yes	No.
Would illumination detract from the amenity of any residence or other form of accommodation?	Yes	No.
Can the intensity of the illumination be adjusted, if necessary?	Yes	The applicant advises that the illumination of the signs can be adjusted.
Is the illumination subject to a curfew?	N/A	No.
8 Safety		
Would the proposal reduce the safety for any public road?	Yes	No, as the signs are conventional forms and sizes of signage that would have negligible impacts on safety of MacPherson Street.
Would the proposal reduce the safety for pedestrians or bicyclists?	Yes	No (same reason as above).
Would the proposal reduce the safety for pedestrians, particularly children, by	Yes	No (same reason as above).

Assessment Criteria	Compliance	Comment
obscuring sightlines from public areas?		

Given the above assessment of the proposed signs, the proposal satisfies the assessment criteria specified in Schedule 1 of SEPP 64 and is consistent with the objectives set out in clause 3(1)(a) of SEPP 64. The proposed signs are therefore acceptable.

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 2: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal is consistent with the relevant aims of Waverley LEP 2012.
Part 2 Permitted or prohibited development		
<p>Land Use Table</p> <p>B1 Neighbourhood Centre Zone</p> <p>The objectives of the zone are as follows:</p> <ul style="list-style-type: none"> <i>To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.</i> <i>To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises having regard to building design, operation and activities, transport, traffic generation and the car parking capacity of local roads.</i> <i>To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.</i> 	Yes	<p>The proposal is defined as 'neighbourhood supermarkets' and incorporates 'business identification signs', which are permitted with consent in the B1 Neighbourhood Centre Zone. The proposal also incorporates an ancillary café and outdoor dining area. These uses would be broadly defined as 'food and drink premises', which is a permitted use in the B1 zone.</p> <p>The proposal is considered consistent with the objectives of the zone, primarily as it is a small-scale neighbourhood supermarket that targets people (i.e. customers) who live or work in the surrounding neighbourhood. A further discussion on the consistency of the proposal against these zone objectives is provided below this table.</p>

Provision	Compliance	Comment
<ul style="list-style-type: none"> To provide retail facilities and business services for the local community commensurate with the centre's role in the local retail hierarchy. 		
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 13m 	N/A	The proposal does not affect the overall building height of the development. Further, none of the proposed works are measurable in terms of building height.
4.4 Floor space ratio <ul style="list-style-type: none"> 1:1 (maximum allowable GFA is 2,231m²) 	No	<ul style="list-style-type: none"> The gross floor area (GFA) of the existing (approved) development is 2,231m², achieving a floor space ratio (FSR) of 1:1. The proposal involves conversion of three existing plant rooms into 'back of house' storage area for the neighbourhood supermarket, thereby increasing the GFA of the overall development by 46.69m² to 2,277.69m². Therefore, the FSR changes from 1:1 to 1.02:1. The proposal varies the FSR development standard by 46.69m² or 2%.
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.
Part 5 Miscellaneous provisions		
5.4 Controls relating to miscellaneous permissible uses (7AA) Neighbourhood supermarkets - if development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed 1,000 square metres	Yes	The proposed neighbourhood supermarket has a gross floor area of 360.69m ² . It therefore complies with this clause of the LEP.
5.10 Heritage conservation	Yes	The site does not contain a heritage item and is not located within a heritage conservation area. However, it is located to the south and on the opposite side of MacPherson Street from a heritage item at 2 Yanko Avenue,

Provision	Compliance	Comment
		Bronte, which is known as a 'Federation style bungalow' (identified as Item No. I349 under Schedule 5 of the LEP). The proposal does not change the perceived building envelope nor materially alter the appearance and aesthetics of the development. Therefore, the proposal will not result in any detrimental impacts on the significance of this adjacent heritage item.
Part 6 Additional local provisions		
6.2 Earthworks	N/A	No excavation proposed.
6.8 Maximum gross floor area of retail premises on certain land in Bronte <i>(3) Development consent must not be granted to development for the purpose of retail premises on land to which this clause applies if the gross floor area of the retail premises exceeds 500 square metres.</i>	Yes	The site is within the area marked with a '1' on the Key Sites Map of the LEP, and therefore, this clause applies to the site and proposal. The proposal, broadly defined as a 'retail premises', comprises a total gross floor area of 360.69m ² . It therefore complies with this clause of the LEP.

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 FSR development standard in Clause 4.4 of Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 1:1. The proposal results in the development having an overall FSR of 1.02:1, exceeding the standard by 46.69m², equating to a 2% variation. The reason for the exceedance is the conversion of three plant rooms (i.e. non-calculable GFA) to 'back of house' storage areas (i.e. calculable GFA) as part of the fit-out works for the proposed neighbourhood supermarket.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of the 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.

Applicants 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 application relies on the First Method in *Wehbe v Pittwater Council (2007) 156 LGERA 446*, which argues that objectives of the standard are achieved notwithstanding non-compliance with the standard. The proposal satisfies and is consistent with the relevant objectives of the FSR development standard despite non-compliance with the development standard.
 - (ii) The proposal effectively converts non-calculable GFA to calculable GFA within the existing development and does not result in any changes to the building envelope of the development.
 - (iii) The proposal includes an ancillary café component with outdoor seating, which will positively contribute to improving the streetscape, amenity and vibrancy of the locality.
 - (iv) The proposal maintains the existing articulation of the street façade of the development, that is the vertical columns that establish and reflect the historical 6m wide subdivision rhythm and pattern of the area.
 - (v) The proposal preserves the environmental amenity of neighbouring properties as it does not result in discernible built form impacts due to the building envelope of the development remaining unchanged.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) **Efficient and orderly use of existing floor space.** The proposed neighbourhood supermarket does not warrant retention of plant rooms at ground floor level. Conversion to storage area at ground floor area is an efficient and orderly use of the existing (built) floor space at ground level.
 - (ii) **No additional bulk or scale.** The GFA exceedance will not result in any additional bulk or scale impact as it represents a notional/technical non-compliance as a result of converting non-calculable to calculable GFA.

Consideration of Applicants 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 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 justification 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;*
- 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.*

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 standard referencing the 'First Method' or justification in the *Wehbe* test by demonstrating that the objectives of the FSR development standard are achieved notwithstanding the non-compliance of the development standard. The non-compliance is notional and technical in that the proposal converts non-calculable GFA to calculable GFA without altering or expanding the building envelope of the existing development. Therefore, the proposal will not result in any built form related impact upon neighbouring properties and the surrounding locality.

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 standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposal is consistent with the relevant objectives of the B1 Neighbourhood Centre Zone (outlined in **Table 2** above) in that:

- the neighbourhood supermarket is a small-scale format that serves the needs of residents and workers who live or work within the immediate locality;
- the conversion of the plant rooms to store rooms has inconsequential impacts on the amenity of existing and future residences in terms of building design, operation and activities, transport, traffic generation or the car parking capacity of local roads;
- the neighbourhood supermarket contributes to the viability of Waverley's existing business centres; and
- the neighbourhood supermarket is a retail premises that provides for the local community, consistent with the centre's role in the local retail hierarchy within the Waverley local government area.

The relevant 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, scale, streetscape and 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 minimise the adverse impacts on the amenity of the locality.*

The subject site is not contained within the area designated as the Bondi Junction Centre and as such, objectives (a) does not apply.

An assessment against each objective of the FSR development standard is provided below.

- (b) to provide an appropriate correlation between maximum building heights and density controls,*

The non-compliance is notional and technical in nature and does not manifest in built form impacts as the perceived building envelope of the existing development remains unchanged.

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

The proposal does not alter or expand the perceived building envelope of the existing development. It includes an ancillary café component with outdoor seating, which will positively contribute to improving the streetscape, amenity and vibrancy of the locality. The proposal will not alter the existing arrangement of vertical columns along the MacPherson Street façade of the development, which reflects the historical 6m wide subdivision rhythm of the area. In this regard, the proposal will continue to reflect and maintain 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 minimise the adverse impacts on the amenity of the locality.*

The non-compliance is notional/technical and nominal and only arises due to the proposed conversion of plant room (i.e. non-calculable GFA) to 'back of house' storage (i.e. calculable GFA). The proposal will not change the perceived building envelope of the development. On this basis, there will be no discernible built form related impact on the amenity of neighbouring properties.

Overall, the proposal satisfies the relevant objectives of the FSR development standard.

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 cl 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 B1 Neighbourhood Centre Zone.

2.1.4 Waverley Development Control Plan 2012 - Amendment No 6 (Waverley DCP 2012)

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

Table 3: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
<p>1. Waste</p> <p>1.4.1.1 Storage</p> <ul style="list-style-type: none"> Bin storage area to be provided with rates in B1-2 1.4.1.3 – Commercial 1.4.1.4 – Mixed Use Development 1.4.2 – Access and Collection 1.4.3 – Amenity 1.4.4- Management 	<p>Partial compliance</p>	<p>The applicant has advised the following in the PoM submitted with the application:</p> <ul style="list-style-type: none"> waste collection of 4-5 x 660L bins for general and recycling waste from Chesterfield Lane (as per condition 110 of the parent consent, DA-264/2015/C); and cardboard collection in ‘bales’ to be collected 2-3 times a week from MacPherson Street (commercial waste). <p>The existing development already incorporates space on Basement Level 2 of the development to store retail waste and recycling bins and the proposal will utilise this existing provision of waste/recycling bin storage. The proposal also relies on this existing and approved waste /collection arrangement that are restricted by condition 110(d) of the parent consent, which states the following:</p> <p><i>Garbage vehicles shall enter and exit the site in a forward direction at all times. Garbage / waste collection shall be undertaken by an approved private waste contractor utilising a Small Rigid Vehicle (SRV) truck ONLY and only between the hours of 7.00am and 8.00pm daily. Details of the contract and truck specifications noting these conditions are to be submitted to Council prior to issue of an Occupation Certificate. Access (entry) is to be via the western door only and egress is to be via the eastern door ONLY with all movements external to the site being in a forward direction only.</i></p> <p>The applicant seeks to collect ‘bale’ compressed cardboard from MacPherson Street three times a week; however, there is no detail on the predicted quantum of this type of waste being generated by the premises and whether it could be collected by Small Rigid Vehicle trucks. Waste collection is not anticipated from MacPherson Street, but rather from Chesterfield Lane, subject</p>

Development Control	Compliance	Comment
		<p>to restrictions imposed by condition 110 of the parent consent.</p> <p>The application was referred to Council's Environmental Sustainability department, which advised that a separate site waste and recycling management plan (SWRMP) should be prepared and implemented during the life of the development consent that identifies and confirms the specific waste/recycling generation demand for the proposed neighbourhood supermarket and the frequency of deliveries required. They are; however, satisfied with the size of the existing retail bin room in the basement of the development to accommodate the anticipated number of bins for the neighbourhood supermarket, especially when the retail tenancies are going from three to one.</p> <p>A condition of consent is recommended to this effect to require a SWRMP be submitted for the approval of Council's Environmental Sustainability department prior to the issue of a construction certificate.</p> <p>Further, a separate condition of consent is recommended regarding the ongoing waste management practices for the neighbourhood supermarket, including reiterating the terms of condition 110(d) of the parent consent to limit waste/recycling collection procedures in Chesterfield Lane.</p>
2. Ecologically sustainable Development	Yes	Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.
7. Accessibility and adaptability	Yes (by condition)	Conditions of consent are recommended to ensure that the proposed works comply with the access standards.
8. Transport 8.1 – Streetscape 8.2 – On Site Parking Zone 2	Yes	<p>The proposal does not change the appearance and aesthetics nor the vehicular access to and from the basement car park of the existing development.</p> <p>The proposed relocation of the two accessible car parking spaces results in a net loss of one retail car parking space to a total of ten retail car parking spaces provided on Basement Level 1.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Vehicle Access Car parking Provision Rates <ul style="list-style-type: none"> Minimum: Nil Maximum: 6.5 or 7 spaces (based on 2spaces per 100m² of GFA). Motorcycle Parking Bike Parking <p>8.3 – Loading Facilities</p> <p>8.4 – Pedestrian/Bicycle Circulation and Safety</p> <p>8.5 – Green Travel Plan</p> <p>8.6 - Traffic and transport Management Plan</p> <p>8.7 – Car Share</p> <p>8.8 – Electric Vehicle Charing Points</p>	See discussion	<p>Condition 110(h) of the parent consent, DA-264/2015/C, states the following:</p> <p><i>The 11 retail parking spaces within the site be for the sole use of business operators and their staff only and access to the spaces be via secure access from Chesterfield Lane. There is to be no provision for retail visitor parking within the site.</i></p> <p>The proposal respects the requirements of condition 110(h) of the parent consent by not allocating/allowing car parking spaces to be used for customers of the proposed development. The neighbourhood supermarket is intended for customers who live and work within the immediate vicinity/area of the site and would access the premises by foot rather than by car.</p> <p>This restriction is reflected in the PoM, which will be an enforceable document and will regulate the operations of the premises during the life of the consent. Further, a condition of consent is recommended to prohibit customer parking inside the basement car park of the development.</p> <p>The retail spaces provided in the existing development will be used for staff of the neighbourhood supermarket.</p> <p>See discussion below this table on loading and delivery arrangements for this proposal.</p>
10. Safety	Yes	The proposal does not contravene the objectives of this part of the DCP and will provide an active street frontage.
12. Design Excellence	Yes	The proposal does not change the built form qualities and overall aesthetics of the development. The new shopfront contributes to the contemporary architecture of the development.
<p>15. Advertising and Signage</p> <p>15.1 Design and location</p>	Partial compliance	<ul style="list-style-type: none"> The proposed range and style of signs are modest and complementary to the overall aesthetics and appearance of the development. The signs are in appropriate and reasonable locations of the retail component of the development. While the overall combined area of the signs is 26.73m² and exceeds the maximum area control of 20m², the volume and extent of

Development Control	Compliance	Comment
<p>15.2 Site Specific Controls</p> <ul style="list-style-type: none"> ○ Neighbourhood shops ○ Mixed Development Buildings 	Yes	<p>signage is not considered excessive particularly given that the proposal consolidates three tenancies into one and equally spaces out and rationalises all signs across the retail component of the development.</p> <ul style="list-style-type: none"> • The proposal does not incorporate third party advertising and signage above the street awning. • The proposal largely complies with controls under section 15.2.5 of Part B15 of the DCP, except for having two under awning signs instead of one that is restricted by these controls. Given that three separate commercial tenancies exist within the development which were expected to each have under awning signs, the two proposed under awning signs are not deemed unreasonable. Notwithstanding, the signs are spatially separated by considerable distances (i.e. greater than 3m) across the shopfront to avoid a perception of clutter.
15.3 Sign specific controls	Partial compliance	<p>Under awning signs:</p> <ul style="list-style-type: none"> • will be clear 2.6m above footpath level • not extend above the awning and beyond the fascia of the awning • have maximum dimensions of 1.8m by 0.3m • be set back more than 600mm from the footpath edge. <p>Awning fascia sign:</p> <ul style="list-style-type: none"> • will project 145mm from the awning fascia, be illuminated and incorporate the Woolworths logo (i.e. product identification). While contrary to controls (a) and (d) under section 15.3.3, the sign will not extend above or below the awning fascia. The sign is modest in size and will not dominate the overall shopfront appearance and street façade of the development from MacPherson Street. <p>Window signs</p> <ul style="list-style-type: none"> • The proposed window signs are vinyl stickers and will be applied to the external face of the glazing of the shopfront. The stickers will

Development Control	Compliance	Comment
		maintain most of the transparency of the shopfront. The content of the signs identifies the general type of services and production available at the neighbourhood supermarket, which is part of the broad definition of the signs as 'business identification signs'.
16. Public Domain		
16.1 Improving the public domain	Yes	
16.2 Active Street frontages	Yes	<ul style="list-style-type: none"> The proposal retains an 'active street frontage'.
16.3 Arcades and through site links	N/A	<ul style="list-style-type: none"> No arcade and through-site link in this development/site.
16.4 Awnings and colonnades	Yes	<ul style="list-style-type: none"> No changes to the street awnings other than to accommodate signage.
16.5 Reflectivity	N/A	<ul style="list-style-type: none"> The perceived street colonnade and the street awnings of the existing development remain unchanged.
16.6 Shopfront security	Yes	<ul style="list-style-type: none"> The shopfront is considered secure. A condition of consent is recommended to prohibit installation of roller shutters to the shopfront.
16.7 Minor Encroachments	Yes	<ul style="list-style-type: none"> There are no encroachments of the public domain (i.e. footway).

Table 4: 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		
1.1.1 Frontages	Yes	<ul style="list-style-type: none"> Much of the proposed shopfront is glazed and transparent to promote active street frontage. It will provide casual surveillance to the street. The style of the window and door frames reflect the contemporary architecture/ character of the existing development.
1.1.2 Awnings	N/A	The proposal does not alter the street awnings other than to fix signs.
1.1.3 Lighting	Yes	Under awning lights currently exists. The applicant indicates appropriate lighting will be provided inside the premises to ensure visibility and site accessibility.

Development Control	Compliance	Comment
1.1.3 General Amenity	Yes	<ul style="list-style-type: none"> The proposed plant equipment has been relocated from ground floor level to Basement Level 1 and is still contained within the building envelope of the existing development. The proposed goods hoist/lift shaft is attached to the rear of the eastern egress stairwell of the development and infills the space under the roof overhang of the eastern egress stairwell, which was previously existed in the originally approved form of the development (prior to the most recent modification to the send by DA-264/2015/C). It will not present discernible visual bulk and amenity impacts upon neighbouring properties and the streetscape. A condition of consent is recommended to restrict the hours of use of the goods hoist/lift between 7am and 7pm, seven days in order to protect the amenity of surrounding residences. The shopfront of the ancillary café and associated outdoor dining area do not encroach on Council's footpath.
1.1.4 Noise	Yes	The application was accompanied by an acoustic assessment of the use and associated plant equipment and goods hoist/lift conducted/prepared by Acoustic Logic. Council's Senior Environmental Health Officer has reviewed this assessment and is satisfied with the proposal, subject to conditions of consent.
1.3 Hours of operation		
B1 Neighbourhood Centre (a) General base trading hours: (i) 7.00am to 10.00pm, 7 days a week	Yes	The proposed hours of operation of the neighbourhood supermarket are 7am to 10pm, seven days a week. The proposal complies with the general base trading hours specified by the DCP and condition 7 of the parent consent, DA-264/2015/C, which restricts hours of operation for the retail tenancies of the development between 7am to 10pm, seven days a week.
1.4 Restricted premises		
	N/A	The proposal is not defined as a 'restricted premises'.

Table 5: Waverley DCP 2012 – Part D2 Outdoor Dining Compliance Table

Development Control	Compliance	Comment
2.1 Location		
<ul style="list-style-type: none"> • Minimum setback of 1.5m from kerb • 45 degree splay from corner of building • Minimum width of 2.5m for clear unobstructed pedestrian footpath • No furniture located within 3m of a bus stop or taxi rank 	Yes	The outdoor dining area for the ancillary café is within confines of the property and not on Council's footpath.
2.2 Furniture and accessories		
2.2.1 Accessories	N/A	None proposed.
2.2.2 Umbrellas	N/A	None proposed.
2.2.3 Barriers and landscape planters	N/A	None proposed.
2.2.4 Heaters	N/A	None proposed.
2.2.5 Lighting	N/A	None proposed.
2.2.6 Advertising and logos	N/A	None proposed.
2.3 Management		
2.3.1 Hour of operation and noise	Yes	The outdoor seating is within hours of operation for the proposed neighbourhood supermarket. A condition of consent is recommended to restrict hours of operation of the overall premises (i.e. neighbourhood supermarket and ancillary café).
2.3.2 Tenancy approvals	Yes	Satisfactory.
2.3.3 Toilet and sanitary conveniences	Yes	Toilets for the retail premises of the development will provide adequate sanitary facilities for customers of the proposed ancillary café.
2.4 Designated footpath seating locations		
	N/A	The site is not in a designated footpath seating location.

Table 6: Waverley DCP 2012 – Part E3 Local Village Centres Compliance Table

Development Control	Compliance	Comment
3.1 Specific controls		
3.1.2- Bronte (Macpherson Street) Neighbourhood Centre	Yes	The site is located within the Bronte (MacPherson Street) Neighbourhood Centre.

Development Control	Compliance	Comment
		The desired future character objectives for the Centre deal mainly with built form aspects of development, which remain unchanged. While the proposal seeks to consolidate the three separate street retail tenancies of the development, the overall design of the street façade and shopfront of the development is somewhat reminiscent of historical subdivision pattern and small shop character at street level. The proposal maintains the colonnade and rhythm of columns to emulate the fine grain shops.
3.2 Generic controls		
3.2.1 Land uses	Yes	The proposal maintains an active and non-residential land use of the street/ground floor level of the development.
3.2.2 Public domain interface	Yes	The proposal maintains the existing public domain interface of the development.
3.2.3 Built form	N/A	The proposal does not change the built form qualities of the existing development.
3.2.4 Building facade articulation	N/A	The proposal does not change the building façade articulation of the existing development.
3.2.5 Buildings of historic character	N/A	The existing development is not of historic character.
3.2.6 Building services and site facilities	Yes	No additional building services/site facilities will be overly visible from the street as the majority will be contained within the building envelope and within the basement levels of the development. The proposed goods lift/hoist is for the most part, obscured by the existing eastern egress stairwell and will not materially alter the perceived building bulk and scale of the development across its eastern elevation.

Table 7: Waverley DCP 2012 – Part E4 - 113 Macpherson Street, Bronte Compliance Table

Development Control	Compliance	Comment
4.1 Public Domain		
(a) Macpherson Street and Chesterfield Lane are to be landscaped to Council's requirements (b) Street furniture and renewal of paving is to be provided to Macpherson Street and Chesterfield Lane to Council's requirements	N/A	The proposal does not alter the public domain embellishments surrounding the development.
4.2 Generic controls		
(a) Development is to be in accordance with the envelope illustrated in figure 62 and 63.	N/A	The proposal does not change the building envelope of the development.
(b) Comply with Part B16 Public Domain	-	See discussion against Part B16 of the DCP in Table 3 .
(c) Awnings are to be provided to the Macpherson Street frontage (i) Min 3m wide (ii) Min 3.1m between underside of awning and footpath (iii) Include lighting	N/A	The proposal does not alter the size and design of the street awning of the development, other than to include under awning and awning fascia signs. The appropriateness of these signs has been assessed against relevant signage controls.
(d) Buildings are to be built to the street and lane alignments	N/A	The proposal does not change the street and lane alignments of the development.
(e) No less than 90% of the building is to be aligned to the street boundary for the ground and first floor to Macpherson Street	N/A	The proposal does not change the street alignments of the development.
(f) and (g) Provide setbacks in accordance with figures 62-63.	Yes	The proposal does not change the setbacks of the development. The proposed goods hoist/lift shaft will not extend further than the eastern side setback of the development.

Development Control	Compliance	Comment
(h) Each retail unit must present to Macpherson Street with a frontage no greater than 6m wide.	No (acceptable on merit)	The purpose of this control is to ensure that new development matches the historical subdivision pattern and established rhythm of the main street retail buildings located east of the site. The design and architecture of the existing development achieves this. The consolidation of the three tenancies into one will have no discernible effect on the visual presentation of the street façade of the development, as the proposal maintains the arrangement and rhythm of vertical columns, which are separated by almost 6m between each street-facing column.
(i) The Macpherson Street facade must be articulated to reflect the established 6m/12m rhythm of the existing	N/A	The proposal does not change the overall articulation of the street façade of the development.
4.3 Active Street frontages		
(a) Active street frontages to Macpherson Street	Yes	The proposal maintains an active street frontage appearance and activity of the development.
(b) Not more than 10% of the Macpherson Street frontage can be blank walls or service areas.	Yes	The proposed changes to the shopfront of the retail component of the development do not result in any 'blank walls' and additional 'service areas'.
(c) Uses providing passive surveillance of Chesterfield Lane must be provided for the majority of the width of the ground and first storey fronting Chesterfield Lane. Car parking must be sleeved by a commercial or residential use.	N/A	The proposal does not change the Chesterfield Lane interface of the development.
4.4 Transport		
4.4.1 - Loading facilities		
(a) Driveway entry and exit to commercial and loading docks is restricted to Macpherson Street	No	No on-site loading facilities are provided (other than waste collection) in the existing development. See discussion below this table.
(b) N/A		

Development Control	Compliance	Comment
(c) Loading facilities must be located internally on site. They must not front Macpherson Street.	No	No on-site loading facilities are provided (other than waste collection) in the existing development. See discussion below this table.
<i>4.4.2 Driveways and Car Parking Access</i>		
(a) Driveway on Macpherson St no greater than 9m wide	N/A	No vehicular access is proposed from MacPherson Street. A loading zone is proposed on MacPherson Street, which is discussed below this table.
(b) N/A		
(c) Access to residential parking is permitted from Chesterfield Lane	Yes	Parking for residents is via Chesterfield Parade and this remains unchanged.
(d) Access to commercial, retail and RSL club parking is not permitted from Chesterfield Lane	No (acceptable on merit)	The retail car spaces in the development are reserved for staff of the proposed neighbourhood supermarket and not for retail customers. Condition 110 of the parent consent regulates the use of Chesterfield Lane and a condition of consent is recommended to relay the requirements of condition 110.
(e) Provide a max gradient of 1 in 20 (5%) for the car park access driveway for the first 6m within the site.	N/A	This control applies to a driveway accessed off MacPherson Street and is not relevant to the existing development.
(f) N/A		
<i>4.4.3 Non residential parking rates</i>		
(a) Of the total number of non-residential parking spaces provided, 80% is to be allocated for visitors/short stay parking and 20% is to be allocated for employee/long stay parking	Yes	The proposal respects and accords with condition 110(h) of the parent consent that does not allow customer or visitor parking for the retail premises of the development.
<i>4.4.4 Bicycle Parking</i>		
(a) Provide a minimum of 50% of the required bicycle parking for non-residential premises at an acceptable grade location near the main	N/A	No change to the existing provision of bicycle parking in the development.

Development Control	Compliance	Comment
pedestrian Macpherson Street entries.		

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

Traffic, parking, loading/delivery arrangements

The proposed neighbourhood supermarket is intended for customers within the immediate residential catchment of the area, who are generally expected to access the premises by foot.

The proposal respects the restrictions placed on the parent consent, specifically condition 110, for the existing development in terms of not providing customer or 'retail visitor' parking. This complies with the parking provision rates specified under section 8.2.2 of Part B8 of the Waverley DCP 2012, which sets a nil minimum parking requirement for retail premises. Further, the proposal is consolidating three retail tenancies, currently approved as 'food and drink premises' to one single tenancy. On this basis, the proposed neighbourhood supermarket would not be expected to generate greater parking demand than that of three separate food and drink premises. In this regard, the net parking demand arising from the proposal is not deemed unreasonable and would not have an adverse impact on the capacity of the surrounding road network.

The requirements of condition 110 of the parent consent in relation to the use of Chesterfield Lane are reiterated by way of an operational condition of consent included in the recommendation of the application.

In terms of deliveries, the applicant originally proposed two loading zones, which were later withdrawn before this matter was considered by the Committee on 28 November 2019. The recommendation of the Committee is for a 15.5m long truck zone to be provided at existing taxi zone between 9am and 12pm, Monday to Saturday, and a restriction on delivery trucks to a maximum length of 10m. The use of pallets to transfer goods from delivery trucks to the premises is supported by the Committee.

This recommendation would be required to be fully endorsed by the elected Council. Notwithstanding, the recommendation of the Committee is considered in the assessment of this application as an appropriate means to moderate the traffic and parking implications of the proposed neighbourhoods on the surrounding neighbourhood. Further to this, an operational condition of consent is recommended to restrict deliveries between 9am and 12pm, Monday to Saturday (or any other time that has been endorsed and signposted for the truck zone), which would be enforced by Council's Parking Rangers to ensure deliveries are undertaken within approved times. This would provide confidence and certainty to the local community that deliveries to the neighbourhood supermarket would be undertaken in a timely and orderly manner in order to not adversely affect traffic and parking on the surrounding road network.

2.2 Other Impacts of the Development

The proposal is considered against section 4.15(1)(b) of the Act relating to environmental, social or economic impacts on the locality.

2.2.1 Impacts on the natural and built environment

The proposal is not expected to result in adverse amenity impacts upon the natural and built environment of the locality for the reasons explained in this report. The applicant has submitted a PoM that outlines the operational measures of the proposed neighbourhood supermarket to ensure operations do not unduly affect the amenity of surrounding residencies. The PoM, subject to amendments to align with the recommended operational conditions of consent will become an enforceable document during the life of the consent.

2.2.2 Social impacts

The proposal is not expected to result in adverse social impacts on the locality.

2.2.3 Economic impacts

The proposal is not expected to result in adverse economic impacts on the locality. The assessment of this application is based on the land use of the proposal as a 'neighbourhood supermarket' rather than on the particular brand, reputation and nature of the operator of the neighbourhood supermarket, i.e. Woolworths. The planning assessment of this application cannot objectively anticipate nor calibrate the particular impacts of the proposal on the vitality of surrounding businesses within the MacPherson Street village based on the proposed neighbourhood supermarket being occupied and operated by a national supermarket chain.

On this basis, and having regard to the free market, the assessment of this application cannot be prejudiced based on the operator of the neighbourhood supermarket and the merit assessment of the application is objectively based on the land use, which is permitted in the B1 Neighbourhood Centre Zone under the LEP.

2.3 Suitability of the Site for the Development

The site is considered to be suitable for the proposed development.

2.4 Any Submissions

The application was notified for 14 days and a site notice erected on the site in accordance with Part A2 of Waverley DCP 2012.

A total of 131 submissions were received from individual properties (NB: the count is not based on submissions received from individuals) and the Bronte Beach Precinct Committee. All the submissions have been read, considered and analysed. Of the 131 submissions received, five submissions either supported or did not raise objection to the proposal. All other submissions objected to the proposal. Three of the 117 submissions objecting to the proposal did not identify their residential address in their submission. These submissions are still counted in the analysis; however, the issues raised in these submissions cannot be specifically understood and examined in the absence of the specific location/residence of these submitters.

Most submissions were received from properties within the suburb of Bronte, specifically in MacPherson Street and Chesterfield Parade. Submissions were also received from the suburbs of Clovelly, Randwick, Waverley, Tamarama and Bondi.

The principal issues that emerged from the analysis of the submissions and that are deemed planning related in accordance with the matters for consideration under section 4.15(1) of the Act are for the most part addressed in the body of this report. Notwithstanding, the main matters are summarised and discussed in **Table 8** below.

Table 8: Summary of and response to issues raised in the public submissions during the initial notification of the application

Issue	Response
The proposed neighbourhood supermarket is an inappropriate, unwanted and unwarranted use and does not meet and is contrary to the zone objectives. It does not respect the surrounding properties to the immediate south, east, north and west of the subject site that are zoned for residential purposes.	<p>The proposal is a permitted use in the B1 Neighbourhood Centre Zone and is considered consistent with the objectives of this zone. Further, the size of the neighbourhood supermarket (defined by gross floor area) complies with the maximum size restrictions prescribed in clauses 5.4 and 6.8 of the Waverley LEP 2012 for neighbourhood centres.</p> <p>Refer to section 2.1.3 of this report on discussion of the consistency of the proposal against the zone objectives.</p> <p>Consent cannot be refused to the application on the basis that the proposed use is surrounded by residential zones. The anticipated amenity impacts arising from the proposal on surrounding residences are deemed reasonable and operational conditions of consent are recommended to ensure the premises does not adversely disturb these surrounding residences.</p>
Additional traffic and parking impacts caused by the proposal, specifically by customers and delivery trucks. Safety concerns for pedestrians and motorists when deliveries occur.	Noted. Refer to discussion in section 2.1.4 of this report on traffic, parking, loading and delivery impacts of the proposal. The loading/delivery aspect of the proposal was referred to the Waverley Traffic Committee and this Committee recommended a truck zone shared with the existing taxi zone between certain times and days of the week to address traffic, parking and safety concerns for pedestrian and motorists regarding the proposal.
Customers should not use the car parking within the development that is accessed from Chesterfield Lane.	Agreed. The applicant has indicated in their Plan of Management to not allow retail visitor spaces within the development to be used by customers. A condition of consent is recommended to give effect to this restriction.
Noise and amenity impacts of the proposal.	Noted. The use is permitted in the B1 zone and its size and scale are appropriate on the basis that it does not exceed the maximum size/gross floor area controls under the Waverley LEP 2012. Further, the hours of operation are contained within the approved hours of operation under the parent consent of the existing development and within the base trading hours under the Waverley DCP 2012. In this regard, the noise and amenity impacts arising from the operations are not considered unreasonable. Further, the noise

Issue	Response
	impacts of mechanical and plant equipment have been assessed and considered reasonable, subject to conditions of consent.
<p>The proposal will have a negative effect on the vitality, viability and atmosphere of surrounding local business and shops.</p> <p>Council should refuse the application to show support for local and small business.</p>	Noted. Refer to section 2.23 of this report on discussion on the economic impacts of the proposal on surrounding businesses and shops.
Concern of potential future expansion of the proposed neighbourhood shop into the communal open space area at the rear of the retail component of the development.	This matter is pre-emptive. If this were to occur, development consent would be required to be sought for any such proposal.
Specific noise impacts resulting from waste/recycling collection from Chesterfield Lane.	Noted. The parent consent allows for all waste/recycling collection (both residential and retail components of the development) by Small Rigid Vehicles (SRV) trucks between certain hours of the day and the proposed neighbourhood supermarket will abide by these restrictions given that a condition of consent is recommended to reiterate these restrictions imposed by the parent consent.
Future trolley use.	The PoM states that no trolleys will be used for the neighbourhood supermarket. An operational condition of consent is recommended to prohibit the use of trolleys. The operator would need to seek development consent for future trolley use.
Lack of details of goods hoist/lift.	Agreed. The applicant was requested to provide further details on the type/specification and external appearance/profile of the proposed goods hoist/lift adjacent to the far eastern resident entry of the development. The applicant successfully met this request. A condition of consent is recommended to require the external finishes of the shaft to be complementary to the overall architecture and aesthetics of the existing development.
Odour and air pollution.	Noted. Appropriate conditions of consent are recommended to minimise potential odour impacts arising from the proposal.
The three separate retail tenancies street/ground floor level of the development should be maintained.	Noted. Council is entitled to consider this aspect afresh in the assessment of this development application despite a judgement from the NSW Land and Environment Court regarding the determination of modification application of the parent consent about this matter. Notwithstanding, there is no specific control to provide three separate retail tenancies in the development, albeit

Issue	Response
	an urban design control to emulate or reminisce the historical 6m wide subdivision pattern within the area. The street façade and perceived front colonnade of the existing development have been designed to achieve this urban design outcome and will remain unchanged by the proposal. The consolidation of the three tenancies to one is inconsequential to the appearance and aesthetical aspects of the development.
Notification process	Some of the submitters were not formally notified of the application by Council and some of the submissions have expressed this matter. The application has been placed on public exhibition since it was lodged in July 2019. Council is satisfied it has adequately followed the notification processes and procedures outlined in Part A2 of Waverley DCP 2012. The application is well-known to the immediate locality and ample time has been afforded to the public to formally submit their concerns and objections in writing about the application.

2.5 Public Interest

The proposal is considered consistent with the existing and desired future character of the locality given its satisfactory performance against relevant provisions, development standards and controls under Waverley LEP 2012 and Waverley DCP 2012 as evaluated in the body of this report. Therefore, the proposal is not considered to be contrary to the public interest, subject to appropriate conditions being imposed in any development consent.

3. REFERRALS

3.1 Compliance and Rangers - Environmental Health

Council's Senior Environmental Health Officer initially raised concerns with the conversion of approved/existing plant rooms at the rear of the ground floor/street retail tenancies and the provision of new plant rooms (i.e. refrigeration equipment and freezer condenser units) within Basement Level 1 of the development, which is above ground level and exposed to Chesterfield Lane. The concern was centred on potential noise impacts upon surrounding residences.

This matter was relayed to the applicant and a full basement floor plan was provided to clearly identify and clarify the specific location of the new plant equipment. Further, the applicant was asked to provide indicative details and specifications of the hoist/goods lift adjacent to the far eastern residential entry point of the development, including an addendum to the acoustic report, to address any predicted noise impacts arising from the use of the hoist/goods lift.

Council's Senior Environmental Health Officer is now satisfied with the proposal, based on this additional information, subject to conditions, including time restrictions on the use of the hoist/goods lift. The applicant advises that the hoist/goods lift would be used typically when deliveries are made; however, would also be used to transport goods between ground floor and basement levels and indicated a range of 7am and 7pm, seven days a week. A condition of consent is recommended to restrict the use of the hoist/goods lift between those times to ensure the hoist/goods lift does not give rise to unreasonable noise impacts upon surrounding residences.

3.2 Infrastructure Services – Traffic and Transport

Council's Development Assessment and Infrastructure Services departments jointly decided to refer the loading/delivery aspect of the development application to the Waverley Traffic Committee for an endorsement of the loading/truck zone on MacPherson Street to aid the assessment and determination of this application, given this is a salient point of objection expressed in the public submissions received in relation to the application. The outcomes of the meeting of the Waverley Traffic Committee is outlined in section 1.2 of this report and conditions of consent, including to amend the Plan of Management, have been recommended to reflect these outcomes.

Further to the above, Council's Professional Traffic Engineer recommended a construction vehicle and pedestrian plan of management be submitted prior to the issue of a construction certificate. A condition of consent is recommended to this effect.

3.3 Environmental Sustainability - Waste

Council's Waste Management Officer was not satisfied with the level of information on waste management practices and aspects of the proposal that are outlined in the Plan of Management submitted with the application and recommended a separate site waste and recycling management plan be prepared and submitted for the approval of Council's Environmental Sustainability department prior to the issue of a construction certificate. A condition of consent is recommended to this effect.

3.4 Building Certification and Compliance – Fire Safety

Council's Senior Building Surveyor – Fire Safety did not object to the proposal, subject to conditions of consent, including fire upgrading works to the street level retail tenancy and basement level in accordance with clause 94 of the *Environmental Planning and Assessment Regulation 2000*.

4. SUMMARY

The application seeks consent for consolidation of three existing retail tenancies of the ground/street level of the mixed-use development at 113 MacPherson Street, Bronte into one and change of use and fit-out for the purposes of a 'neighbourhood supermarket' to be operated by *Woolworths Metro*.

The proposed use is permitted with development consent in the B1 Neighbourhood Centre Zone, is consistent with the objectives of this zone and complies with the maximum gross floor area development standards for such use under relevant clauses of the Waverley LEP 2012. Notwithstanding, the proposal does result in varying the floor space ratio of the Waverley LEP 2012, which is supported by a written request by the applicant pursuant to clause 4.6 of the Waverley LEP 2012. The written request is considered sufficient and satisfies the matters for consideration under clause 4.6.

The main issues in the assessment of this application are:

- traffic, parking and loading/delivery arrangements; and
- noise impacts.

The assessment finds these issues acceptable and can be moderated and addressed appropriately by specific conditions of consent, as outlined and explained in this assessment report.

The application attracted a total of 131 public submissions, five of which expressed support for the application. The issues raised in the submissions that express objection to this application have been outlined and addressed in the body of this report, and in part, by recommended conditions of consent.

There are no declared conflicts of interest from Council's Development Assessment department staff regarding the assessment of this application; however, public submissions were received from Council staff in other departments who live in the Waverley local government area and a current member of the Waverley Local Planning Panel.

The application is referred to the Waverley Local Planning Panel for determination as it received more than 10 unique submissions by way of objection.

The application has been assessed against the matters for consideration under section 4.15 of the Act and is deemed reasonable and acceptable. The application is therefore recommended for approval.

DBU Decision

The application and assessment report were reviewed by the DBU at the meeting on 26 November 2019 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A and outcomes of the Waverley Traffic Committee meeting on 28 November 2019 regarding the loading zone on MacPherson Street.

DBU members: M Reid, A Rossi, B McNamara and B Matlawski.

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:**

Ben Magistrale
Senior Development Assessment Planner

Bridget McNamara
**Manager, Development Assessment
(North/South)**

Date: 29 November 2019

Date: 29 November 2019

Reason for referral:

- 1 Contentious development (10 or more objections)

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by The Retail Group Pty Ltd (TRG) as follows:

Drawing Number/ Rev	Plan description	Date	Received by Council
WA200 Amend. No. K	Control Plan	5 November 2019	6 November 2019
WA205 Amend. No. B	Area Plan	26 June 2019	19 July 2019
WA209 Amend. No. C	Floor Plan and Elevation	26 June 2019	19 July 2019
WA208 Amend. No. A	DA – Lift Elevation	22 November 2019	25 November 2019

- (b) Plan of Management for Woolworths Metro Store 113 MacPherson Street, Bronte dated June 2019, and received by Council on 19 July 2019;
- (c) Woolworth Metro, Bronte Development Application Acoustic Assessment prepared by Acoustic Logic, Reference No. 20190579.1/1806A/R0/VF, dated 18 June 2019 and received by Council on 19 July 2019;
- (d) Woolworths Metro, Bronte - Hoist Acoustic Assessment prepared by Acoustic Logic, Reference No. 20190579.1/1711A/R0/VF, dated 17 November 2019 and received by Council on 18 November 2019; and
- (e) Site Waste and Recycling Management Plan that accords with condition 12 of this development consent.

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The Plan of Management (PoM), identified in condition 1(b) of this development consent, shall be amended to reflect the approved operational aspects of the neighbourhood supermarket as follows:

- (a) Delivery management procedures to be updated to accord with the recommendation adopted at the meeting of the Waverley Traffic Committee on 28 November 2019, including (but not limited to):
- (i) A 15.5m truck zone replacing the existing taxi zone to access the site at 113 McPherson Street during the following times:
- i. Truck Zone, vehicles under 10 metres only – 9am to 12pm, Monday to Saturday.

ii. Taxi zone – at other times.

(ii) Delivery trucks using the zone would be restricted to a maximum length of 10 metres.

(iii) Use of pallets to transfer goods from trucks to and from the site at 113 McPherson Street can occur.

(b) Waste management procedures to accord with a separate Site Waste and Recycling Management Plan as required by condition 12 of this development consent.

(c) The use of the hoist/goods lift restricted to the hours between 7am and 7pm, seven days a week.

(d) A total patron capacity of four (4) for the outdoor seating area associated with the ancillary café.

(e) Any other aspect of the PoM that would misalign with and be contrary to operational conditions of this development consent.

The amendments are to be approved by Council's Executive Manager, Development Assessment (or delegate) prior to the issue of the relevant construction certificate under the *Environmental Planning and Assessment Act 1979*.

3. NO FLASHING SIGNS

The use of flashing illuminate lights and signs and the like is prohibited.

4. NO SIGNS OR GOODS ON PUBLIC AREA

Portable signs or goods for sale or display must not be placed on the footway or other public areas, without the prior approval of Council.

5. ROLLER SHUTTERS

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes. Should increased security be desired, then consideration should be given to applying shatter-resistant film or replacing existing shop window glass with laminated glass.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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 & Assessment Act, 1979; and

(b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the Environmental Planning & 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.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principal Certifying Authority.

7. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and 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:
 - (1) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (2) 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 may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the 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.
- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

8. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of **\$26,650** must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

This deposit (cash or cheque) or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property or rectification of unauthorised works on Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

9. 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 to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: 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.

10. ESSENTIAL SERVICES - EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

11. ACCESS TO MAIN ENTRY

Access in accordance with AS1428.1 shall be provided to and within the main entrance and exit points of the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

12. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) shall be submitted for the approval of Council's Executive Manager, Environmental Sustainability (or delegate) prior to the release of the relevant construction certificate.

SWRMP must include the following:

- (a) The waste and recycling rates expected, where the waste and recycling will be stored, and the ongoing management. The applicant must apply Waverley Council's Development Control Plan 2012 (Amendment 6), which has up to date waste and recycling generation rates for commercial developments.
- (b) Details of ongoing waste management strategy are to be documented within the SWRMP and reviewed every 5 years to employ updated waste reduction strategies and technologies.
- (c) The SWRMP must identify responsibility for cleaning of waste receptacles and storage areas and for transfer of bins within the property, to the collection point and back to the storage areas.

- (d) Information regarding the storage and collection of cardboard bales, specifically relating to the storage location, prior to collection.
- (e) Information regarding the storage and collection of bagged soft plastics which will be collected in-store, as demonstrated on the architectural drawings.

13. SITE WASTE AND RECYCLING MANAGEMENT PLAN (CHECKLIST 2)

Demolition and excavated material to be reused and/or recycled wherever possible and detailed in a Site Waste and Recycling Management Plan (SWRMP) Checklist 2 which is to be submitted to the Principal Certifying Authority for approval in accordance with Waverley DCP 2012 prior to the issue of the Construction Certificate.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP 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.

14. FIRE SAFETY UPGRADING WORKS

- (a) Pursuant to clause 94 of the *Environmental Planning and Assessment Regulation 2000*, the subject tenancy must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
 - (i) The subject tenancy must be fire separated from the Class 2 portion and associated internal common areas of the building in accordance with Section C (Fire Resistance);
 - (ii) Provision for escape (access and egress) - Part D1;
 - (iii) Construction of exits - Part D2;
 - (iv) Access for people with a disability – Part D3;
 - (v) Fire fighting equipment – Part E1;
 - (vi) Smoke hazard management – Part E2;
 - (vii) Emergency lighting, exit signs and warning systems - Part E4;
 - (viii) Sanitary and other facilities – Part F2;
 - (ix) Room heights – Part F3;
 - (x) Light and ventilation - Part F4;
 - (xi) Sound transmission and insulation - Part F5;
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

15. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

Prior to the issue of a Construction Certificate, the applicant is to submit a “Construction Vehicle and Pedestrian Plan of Management” (CVPPM) for the approval of Council’s Executive Manager, Infrastructure Services (or delegate).

The CVPPM shall:

- (a) Show the size and number of trucks to be used during the various stages of the development.
- (b) Show the route to be taken by trucks in (a) above within the Waverley Council area when gaining access to and from the site. Note, if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway in the vicinity of the site, the trucks may not be approved for use.
- (c) Show the location and length of any proposed Works/Construction Zones.
Note:
 - (i) Such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
 - (ii) It is illegal to park a truck exceeding 4.5tonnes on a roadway for more than one (1) hour unless signs are installed allowing such and illegal to barricade/ reserve a section of roadway without the prior approval of Council.
- (d) Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.

16. HOARDING REQUIRED

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**.

The hoarding is to be erected on the street alignments of the property prior to the commencement of building operations and be maintained during the course of building operations. Details of the hoarding are to be provided to Council for record and be to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

17. ENGINEERING DETAILS

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

18. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the existing infrastructure within the vicinity of the site prior to the issue of a Construction Certificate.

19. EXTERNAL FINISH OF THE GOODS HOIST/LIFT SHAFT

The finishes of the external elevations are to be complementary to the overall appearance and aesthetics of the overall development.

Details are to be submitted with the relevant construction certificate application.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

20. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

21. 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.

22. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building then a hoarding, fencing or awning must be provided to prevent injury and appropriately lit between sunset and sunrise.

23. COMPLIANCE WITH SAFE WORK NSW

All site works are to comply with the occupational health and safety requirements of SAFE WORK NSW.

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:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays
- (c) 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 2000.

25. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

The applicant must meet the following objectives for sustainable demolition and construction waste management;

- a) To minimise the amount of construction waste that is sent to landfill
- b) To minimise waste generated during demolition and construction.
- c) To increase efficiency of development and encourage sustainable practices.
- d) To maximise the re-use of clean excavated material, concrete, bricks and timber.
- e) To ensure the safe removal and disposal of hazardous building materials.

The applicant must ensure that the demolition and construction phase complies with the following;

- (a) A construction waste storage area is to be located within the property boundary and is to be identified on the site plans as part of the SWRMP.
- (b) Separate construction waste collection bins or construction waste storage areas are to be provided giving consideration to slope, drainage, vegetation, access and handling requirements and may include:
 - a. Landfill waste;
 - b. Recyclable waste;
 - c. Materials to be re-used on-site; and / or
 - d. Excavation materials (refer to Annexure B1-1 for common building materials that can be re-used and recycled).
- (c) Waste that can be recycled or reclaimed is to be identified in the SWRMP, as well as the intended methods for recovery and reclamation.
- (d) All sandstone must be re-used on site or reclaimed through an appropriate contractor.
- (e) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act 1997, in accordance with the provisions of Safe Work NSW, and Council's Asbestos Policy.
- (f) Materials that cannot be reused or recycled must be:
- (g) Disposed of at a State Government approved facility and specified in the SWRMP; and
- (h) Disposed of via a contractor that operates in accordance with the Proximity Principle outlined in State Government Legislation.
- (i) Records are to be retained on-site demonstrating lawful disposal of waste.

- (j) Easy vehicular access to waste and recycling material storage areas must be provided and detailed in the SWRMP.
- (k) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors. Skip bins are to be utilised and located in accordance with Council's building waste and hoardings policy.
- (l) All materials are to be stored in way that:
 - a. Prevents damage from the elements, and reduces odour, health risks and windborne litter; and
 - b. Prevents impacts to the environment under State Government Legislation (including stormwater pollution and runoff).

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

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

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

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

27. NATIONAL CONSTRUCTION CODE (NCC)

All building work must be carried out in accordance with the requirements of the National Construction Code.

28. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION ACT) - INSPECTIONS (COMMERCIAL CLASS 5, 6, 7, 8 AND 9)

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the *Environmental Planning and Assessment Regulation 2000*. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

In the case of a Class 5, 6, 7, 8 or 9 building:

- (a) at the commencement of the building work;
- (b) prior to covering any stormwater drainage connections; and

- (c) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

29. CONSTRUCTION AND FITOUT OF FOOD PREMISES

- (a) The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste.
- (b) The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other rigid, smooth-faced impervious material.
- (c) Ceilings within the food preparation and storage areas must be free of gaps and open joints and must be finished with an impervious sealed material. Drop in panels are not permitted in food preparation areas, food storage areas or areas where open food is displayed or served.
- (d) Hand wash basin/s, with hot and cold running water mixed through a common spout, hand wash soap and hand drying facilities must be provided in all food preparation/bar areas.
- (e) A double bowl sink or two compartment tub (the capacity of which must be capable of fitting all food contact equipment) must be provided in the food preparation area, in addition to the hand basin,

OR

A single bowl sink and a dishwasher must be provided in the food preparation or designated area, (where all the food contact equipment will fit in the dishwasher) in addition to the hand basin.

30. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

31. REFRIGERATION UNITS & MECHANICAL PLANT

All refrigeration motors/units and other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any plant and equipment associated with the use of the building.

32. COOLROOMS

The coolrooms shall be constructed in accordance with the Building Code of Australia, Section G1.2 Refrigerated Chambers, strong rooms and vaults.

33. KITCHEN EXHAUST SYSTEM

The cooking appliances require an approved air handling system designed in accordance with AS1668.1 and AS1668.2 or alternative solution satisfying the performance objectives of the Building Code of Australia.

The kitchen exhaust vent shall be designed to discharge the effluent air in a vertical direction one metre above the pitched roof and at least six metres from any fresh air intake vent or natural ventilation device in a position where no nuisance will be created.

34. LOCATION OF GREASE TRAP

Any required grease trap is not to be located in areas where food, equipment or packaging materials are handled or stored in accordance with the requirements of AS 4674-2004 "Design, Construction and Fitout of food premises". The grease trap room must have a piped connection to the boundary so that it can be emptied.

Note: Sydney Water also have requirements for grease arrestors that you need to comply with.

35. FIRE SAFETY

A building in respect of which there is a change of building use must comply with the Category 1 Fire Safety Provisions applicable to the proposed new use.

36. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

37. NO WORKS BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property.

38. MECHANICAL VENTILATION SYSTEMS

- (a) The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.
- (b) Any proposed mechanical ventilation system shall comply with the Australian Standard AS 1668 - 1991 (Parts 1 and 2). Prior to installation, the design is to be certified by a person competent to do so. At completion of the installation of the system and prior to the issue of the Occupation Certificate, the work shall be certified by a person competent to do so. The certification shall include:
 - (i) inspection, testing and commissioning details;
 - (ii) date of inspection, testing and commissioning details;
 - (iii) the name and address of the individual who carried out the test; and
 - (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

39. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, the Principal Certifying Authority must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the Environmental Planning & Assessment Act, 1979 have been satisfied.

40. FIRE SAFETY UPGRADE WORKS

The final occupation certificate cannot be released until all fire safety upgrade works have been completed in accordance with condition 14 of this development consent.

41. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in Section 7 of the acoustic report prepared by Acoustic Logic [Reference No.20190579.1/1806A/RO/VF] dated 16 June 2019 shall be implemented.

The recommendations made in letter prepared by Acoustic Logic dated 17 November 2019 [Reference No.20190579.1/1711A/RO/VF) relating to the installation of the Hoist shall be implemented in full.

A Certificate of Compliance prepared by a suitably qualified acoustic consultant is to be submitted to Council certifying that the recommendations made in the above report and letter have been satisfied and Council's noise criteria has been met prior to the issue of an Occupation Certificate.

42. FOOD PREMISES

The following requirements apply to premises that commercially provide food:

- (a) The premises must comply with the Food Act, 2003 and the Food Standards Code there under;
- (b) The applicant must arrange for an inspection by Council's Environmental Health Officer Surveyor prior to Occupation;
- (c) Notification of the businesses Food Safety Supervisor must be provided prior to operation.
- (d) The premises are to be registered with Council prior to the issue of the Occupation Certificate;
- (e) The premises must be constructed in accordance with the requirements of Council's "Policy for fit-out and construction of food premises". Copies of the policy can be purchased at Council's Customer Service Centre; and
- (f) The proprietor must pay any fees incurred by the carrying out of food safety inspections as determined by Council's Pricing Policy, Fees and Charges.

Note:

The premises are to use healthier oils such as mono or polysaturated oil to shallow and/or deep fry foods that are prepared, served, available and marketed to customers. This will assist in decreasing the availability of foods prepared for sale that contain high levels of saturated and trans fats.

43. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have storage for the required number of bins for general waste and comingled recycling for the neighbourhood supermarket as nominated in the approved Site Waste and Recycling Management Plan (SWRMP) that has satisfied the terms of condition 12 of this development consent.
- (b) The frequency of collection of bins for general waste and comingled recycling for the neighbourhood supermarket shall occur as nominated in the approved Site Waste and Recycling Management Plan that has satisfied the terms of condition 12 of this development consent.
- (c) Sufficient space must be allocated within the building for the storage of pressed cardboard bales prior to collection.
- (d) All waste and recycling storage rooms must be graded and drained to the sewerage system and approved by Sydney Water.
- (e) Provide a separate storage area for used and unused cooking oils suitably covered, banded and drained to the sewer.
- (f) Provide dry basket arresters to the floor wastes in the food preparation and waste storage areas.
- (g) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (h) Details of ongoing waste management strategy are to be documented within the SWRMP and reviewed every 5 years to employ updated waste reduction strategies and technologies.
- (i) Waste storage space is to be designed with flexibility to accommodate a future change in use to a use with a higher waste generation rate.
- (j) Liquid waste from grease traps must only be removed by licensed contractors approved by Sydney Water and NSW EPA.
- (k) Kitchens, office tea rooms, and the like are to be designed with sufficient space for the interim storage of recyclable, organic and regular waste in separate receptacles.
- (l) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.
- (m) Sufficient space must be allocated within the building for the storage of reusable items such as crates and pallets.
- (n) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of waste and recycling.
- (o) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, 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.

- (p) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (q) Sufficient space must be allocated within the building for the storage of reusable items such as crates and pallets.
- (r) The storage of bins on the kerbside on public land and kerbside is not permitted at any time.
- (s) Where a change of use, change of tenant or change in waste management practices will result in a variation to the SWRMP, an application is to be made to Council to revise the approved SWRMP.
- (t) On-site waste collection is to be accommodated within a basement or at grade within the building from a dedicated collection point or loading bay that does not impede pedestrian or vehicle movement within the development.
- (u) Garbage vehicles shall enter and exit the site in a forward direction at all times. Garbage / waste collection shall be undertaken by an approved private waste contractor utilising a Small Rigid Vehicle (SRV) truck ONLY and only between the hours of 7.00am and 8.00pm daily. Details of the contract and truck specifications noting these conditions are to be submitted to Council prior to issue of an Occupation Certificate. Access (entry) is to be via the western door only and egress is to be via the eastern door ONLY with all movements external to the site being in a forward direction only.
- (v) The on-site waste collection point is to be of a sufficient size to store all bins to be collected without interruption to the functioning of the development.

E. OPERATIONAL CONDITIONS DURING OCCUPATION

44. HOURS OF OPERATION

- (a) The overall trading hours of the premises (i.e. neighbourhood supermarket and ancillary café) are restricted to:

7.00am and 10.00pm, seven (7) days a week.

- (b) Pre-works and clean-up of the premises can exceed the trading hours, specified in sub-clause (a) above, up to a maximum of one hour before and one hour after trading hours, provided trading does not occur within this time.

45. OUTDOOR SEATING PATRON CAPACITY

The outdoor seating area of the ancillary café of the premises is restricted to a total capacity of **four (4)** patrons.

46. SIGNAGE TO BE DISPLAYED

- (a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state:

Approved trading hours:

7.00am and 10.00pm, seven (7) days a week.

*Outdoor Patron capacity for ancillary café:
4 patrons*

- (b) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises, in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

- (c) Signage specified in sub clauses (a) and (b) is to be erected prior to the commencement of operations.

47. CUSTOMER TROLLEYS PROHBITIED

The use of trolleys for customers shopping at the neighbourhood supermarket is prohibited.

48. NEIGHBOURHOOD SUPERMARKET DELIVERIES

- (a) Deliveries associated with the neighbourhood supermarket are strictly limited to between the hours of **9.00am and 12.00pm, Monday to Saturday** in the designated truck zone area on MacPherson Street, unless otherwise signposted.
- (b) Deliveries must **not** be placed on the street or left outside of the property boundaries or in common areas of the building.
- (c) Delivery vehicles must not at any time obstruct the public way.

49. HOURS OF USE OF GOODS LIFT

In order to protect the amenity of surrounding residences, the hours of use of the hoist/goods lift adjacent to the far eastern residential entry of the development shall be restricted to:

7.00am and 7.00pm, seven (7) days a week.

50. USE OF CHESTERFIELD LANE AND NO CUSTOMER PARKING

The requirements under condition 110 of the parent development consent, known as DA-264/2015/C, shall be abided by during the life of the subject development consent. This includes prohibiting any of the retail visitor car parking spaces in the basement of the development to not be used for parking for customers of the neighbourhood supermarket.

51. LIQUOR LICENCE APPLICATION (UNLICENSED)

The primary purpose of the premises is to be a neighbourhood supermarket with an ancillary cafe. An application to modify this consent under section 4.55 of the Environmental Planning and Assessment Act 1979 is to be submitted to, and approved by Council prior to serving liquor on the premises.

52. OPERATION IN ACCORDANCE WITH PLAN OF MANAGEMENT (POM)

- (a) The operation and management of the premises shall be in accordance with the approved PoM referred to in condition 1(b) and amended by condition 2 of this development consent at all times.
- (b) The approved PoM shall be adopted by the Management, and filed with Council and the Licensing Police of the Local Area Command prior to the commencement of operations
- (c) The plan shall be reviewed (at minimum) on an annual basis, and at any time there is a change in business ownership of the premises, to ensure harms that arise are mitigated.

53. COPIES OF CONSENTS AND MANAGEMENT PLANS

A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or OLGR Authorised Officers.

54. SURVEILLANCE CAMERAS TO BE MAINTAINED ON THE PREMISES

The Management must maintain a closed-circuit television (CCTV) system on the premises. The CCTV system must comply with the following requirements:

- (a) It must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times),
- (b) It must record in digital format and at a minimum of 15 frames per second,
- (c) Any recorded image must specify the time and date of the image;
- (d) The system's cameras must cover:
 - (i) all entry and exit points of the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) on the premises.
- (e) CCTV recordings must be retained for at least 30 days.
- (f) Signage shall be clearly displayed adjacent to the principal entry alerting persons entering the premises that CCTV is in operation.
- (g) Ensure that at least one member of staff is on the premises at all times the premises is trading who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage.
- (h) Provide any recordings made by the system to an Authorised Council or Police Officer within 24 hours of any request by an Authorised Council or Police Officer to provide such recordings

55. NEIGHBOURHOOD AMENITY

The management of the premises:

- (a) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- (b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
- (c) Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- (d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

56. NOISE - MECHANICAL PLANT

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.
- (d) A Certificate is to be submitted at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment complies with the terms of approval in relation to noise.

57. NOISE EMISSIONS

The use of the premises shall not give rise to:

- (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 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.

58. ENTERTAINMENT NOISE EMISSIONS

- (a) Noise caused by the approved use including music and other activities must comply with the following criteria:
- (b) The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.
- (c) The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.
- (d) Notwithstanding compliance with (a) and (b) above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.
- (e) The use of the premise must be controlled so that any emitted noise is at a level so as not to create an "Offensive Noise" as defined in the Protection of the Environment Operations Act, 1997 to any affected receiver.

59. NO BARBECUE OR CHARCOAL TYPE COOKING

This approval does not permit the installation of barbecue or charcoal type cooking appliances. Comprehensive details must be submitted with a formal application to Council for approval prior to the installation of any such equipment.

60. ODOURS

- (a) The following requirements apply to the development to ensure that odours do not impact on the amenity of the locality:
- (b) The premises must not give rise to any impurities or odour in contravention of the Protection of the Environment Operations Act 1997;
- (c) Any odours from the premises must not cause a public nuisance nor be hazardous or harmful to human health.

61. ODOUR COMPLAINTS

In the event of Council receiving odour complaints that cannot be solved by improving maintenance practices the owner shall, at their own cost, solicit the help of an odour specialist to upgrade their mechanical exhaust and odour control systems until the odour emissions are mitigated. Details of all kitchen exhaust system upgrades must be provided to Council for approval before being installed.

62. FIRE SAFETY - EXITS

Exits and paths of travel to exits are to be kept clear and at all times to provide clear access to exits and provide a safe passage for occupants to open space in accordance with Section D of the BCA.

63. FIRE SAFETY MAINTENANCE

Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

64. INTRUDER ALARM

Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

65. OUTDOOR SEATING

This approval relates strictly to the installation of seats within the confines of the site and the seats nominated outside which are within the property boundary of the site. Any proposal to utilise an area external of the property boundary and on Council's footway for dining will be subject to a separate footpath seating application to Council and if approved will require a lease agreement to be entered into with Council.

66. NO SMOKING WITHIN FOOD PREMISES OR APPROVED OUTDOOR DINING AREA

There is to be no smoking in the area to which this approval relates. Signs are to be prominently displayed at all times when the outdoor seating area is available for use which indicate by words and or diagram that no smoking is permitted within the footpath seating area. No ash trays are to be provided within the footpath seating area and the holder of this approval and its staff must not provide any lighter or matches or otherwise do anything which facilitates smoking within the footpath seating area. As soon as the operator or any of its staff become aware that a person is smoking within the footpath seating area they must require the person to stop smoking, inform the person that it is a condition of this approval that they not smoke in the footpath seating area and if the person continues to smoke they shall ask the person to leave the footpath seating area.

Council may issue a written warning to the holder of this approval in respect of any breach of this condition. That warning may be given to the holder of the approval or to any member of its staff.

67. NOISE COMPLAINTS

If, during on-going use of the premises, substantiated complaints of breaches of noise emission conditions and/or the Protection of the Environment Operations Act, 1997 occur, an acoustic report assessing the impact of the operation will be required to be carried out by a suitably qualified acoustic consultant. The report is to be submitted to the satisfaction of Council's Environmental Health Compliance Unit within 60 days of written request. The investigation shall include, but not be limited to:

- (a) The identification of sensitive noise receivers potentially impacted by the proposal;
- (b) The quantification of the existing acoustic environment at the receiver locations (measurement techniques and assessment period should be fully justified and accordance with relevant Australian Standards and NSW Environment Protection Authority (EPA) requirements);

- (c) The formation of a suitable assessment criteria having regard to the guidelines contained in the NSW EPA Industrial Noise Policy;
- (d) The identification of operational noise producing facets of the use and the subsequent predictions of resultant noise at the identified sensitive receiver locations from the operation of the use. Where appropriate the predication procedures must be justified and include an evaluation of prevailing atmospheric conditions that may promote noise propagation;
- (e) A statement indicating that the operation of the premises complies with the relevant criteria together with details of acoustic control measures that will be incorporated into the development/use, will not create adverse noise impacts to surrounding development.

Advisory note:

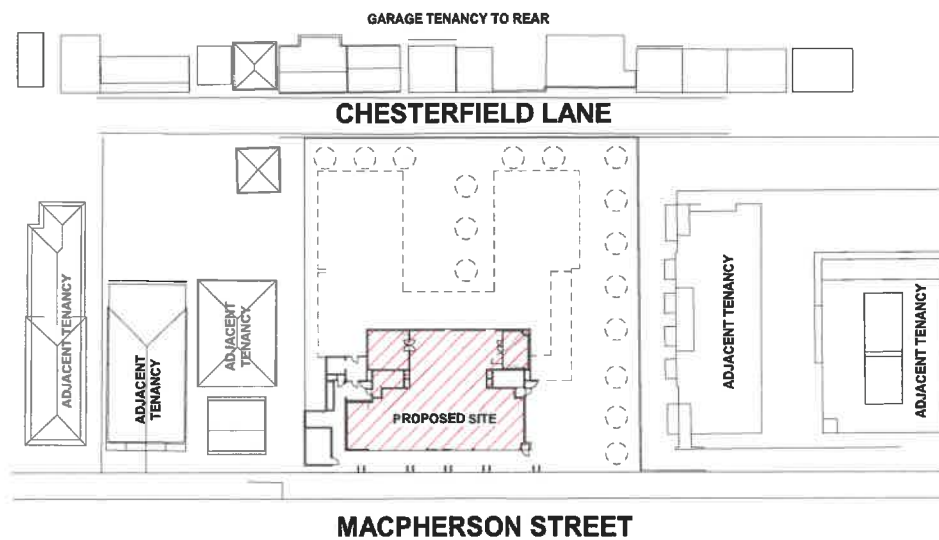
A modification application under section 4.55 of the Act should be made to remove conditions 131-146 of the parent consent, known as DA-264/2015/C, and modify any other relevant condition of that consent in order to remove discrepancy of operational conditions between this subject development consent (i.e. DA-231/2019) and the parent consent.

RECEIVED
Waverley Council
Application No: DA-231/2019
Date Received: 19/7/2019



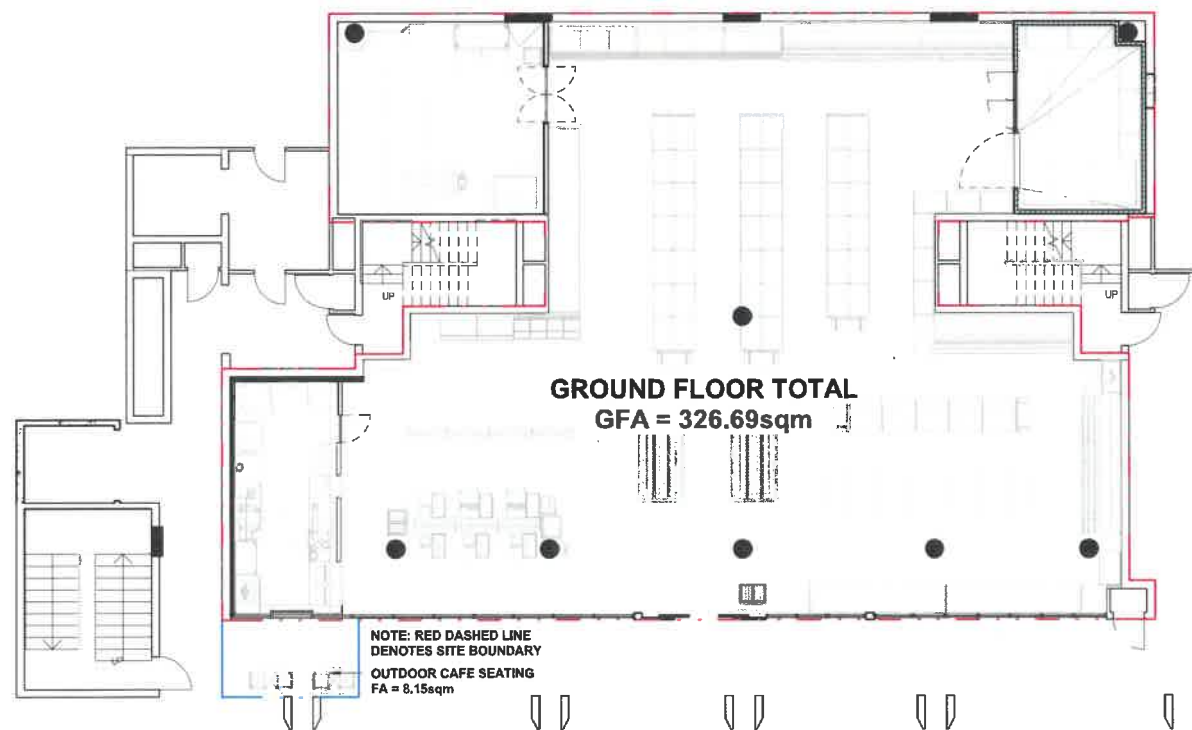
Location Map
1:500

PROPOSED SITE

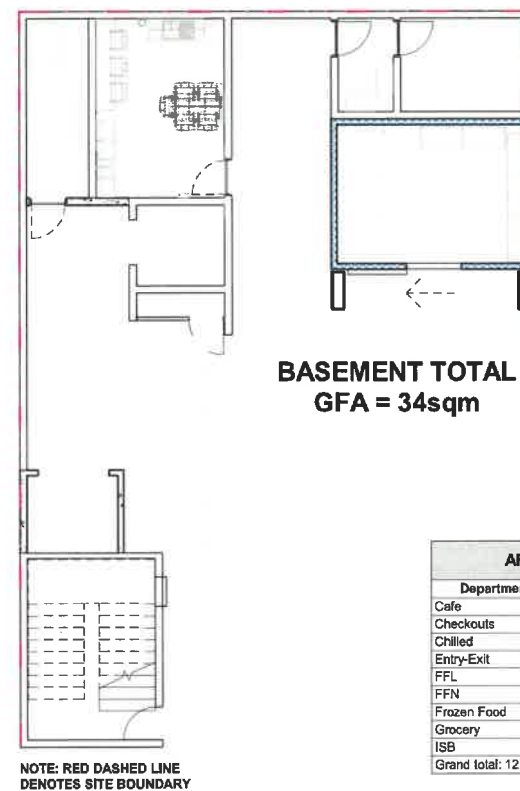


3 Site Plan
1:500

PLANT AREA
= 21sqm



1 Area Plan - GFA - Ground Floor
1:100



2 Area Plan - GFA - Basement
1:100

AREA - TRADING		
Department	Area	Ratio
Cafe	12.73 m ²	6%
Checkouts	54.88 m ²	19%
Chilled	9.05 m ²	3%
Entry-Exit	8.08 m ²	3%
FFL	3.47 m ²	1%
FFN	80.16 m ²	28%
Frozen Food	9.28 m ²	3%
Grocery	101.52 m ²	36%
ISB	3.16 m ²	1%
Grand total: 12	282.32 m ²	

AREA - NON TRADE		
Department	Area	Ratio
Admin-Misc	33.95 m ²	36%
Cafe	12.50 m ²	13%
Chilled	18.63 m ²	20%
Misc	29.56 m ²	31%
Grand total	94.64 m ²	

AREA - RATIO		
Type	Area	Ratio
Trading	282.32 m ²	75%
Non-Trade	94.64 m ²	25%
Total	376.95 m ²	

AREA - EXCLUDED		
Department	Area	Ratio
Frozen Food	21.87 m ²	42%
Plant	30.30 m ²	58%
Grand total	52.18 m ²	



DRAFTED BY:
KY-TRG

NOTES:

No.	DRAWING AMENDMENTS (REVISIONS)	DATE	BY
A	UPDATED TO REFLECT RECEIVED COMMENTARY FROM WAVERLEY COUNCIL FOR APPROVAL.	03/05/2019	KY-TRG
B	UPDATED SIGNAGE - CLEAR VINYL STICKER AS SHOWN, UPDATED SITE PLAN.	26/06/2019	KY-TRG

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PROJECT ADDRESS:
113 Macpherson St, Bronte, NSW 2024

KIT ISSUE:

DRAWN BY:
KY-TRG

PLANNING MGR:
M.MORGAN

PROJECT MGR:
ww

PROJECT:
METRO
BRONTE

DOC STAGE:200 | WA200 | FITOUT

DRAWING:
Area Plan

STORE No.



SCALE:
As indicated @
A1

ISSUE DATE:
26/06/2019

REGION / STATE
NSW

PROJECT No:
TBC

DRAWING No:
WA205

AMEND. No:
B

227



REFRIGERATION BAY COUNT			
Description	Count	Bays	Doors
Dairy			
6 TIER DAIRY - 2500	1	2	4
6 TIER DAIRY - 3750	1	3	6
Deli		5	10
RATIONAL COMBI-CLUB	1	1	0
Deli		1	0
WINE & CIGAR 50-4215B	2	4	0
		4	0
Del - Self Service			
ATTEM 1000 HOT FOOD	2	2	0
		2	0
Drinks			
6 TIER DRINKS - 3750	1	3	0
		3	0
PRODUCE			
6 TIER PRODUCE - 1250	1	1	2
6 TIER PRODUCE - 2500	1	2	4
		3	6
CHEESE & DOORS - 2500	2	4	8
		4	8
GRAND TOTAL:	12	22	24

[illegible]

Department	Area	Ratio
Admin-Misc	32.72 m ²	35%
Cafe	12.50 m ²	13%
Chilled	18.83 m ²	20%
Misc	29.56 m ²	32%
Grand total	93.41 m²	

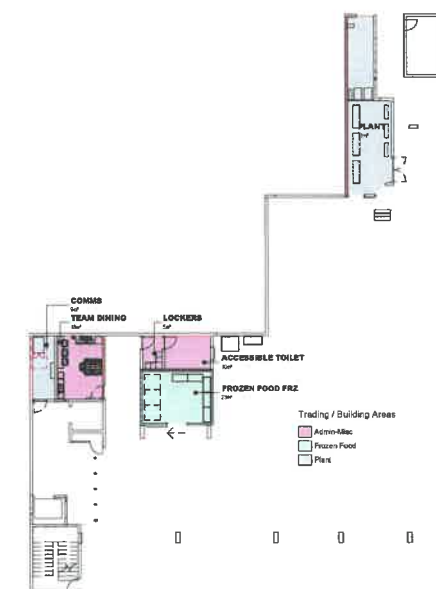
Department	Area	Rat
Cafe	12.73 m ²	5%
Checkouts	54.88 m ²	10%
Child	9.05 m ²	3%
Entry-Exit	8.08 m ²	3%
FFL	3.47 m ²	1%
FFN	80.16 m ²	28%
Frozen Food	9.28 m ²	3%
Grocery	101.92 m ²	36%
ISB	3.16 m ²	1%
Grand total: 12	282.32 m²	

AREA - RATIO		
Type	Area	Ratio
Non-Trade	282.32 m ²	75%
Total	93.41 m ²	25%

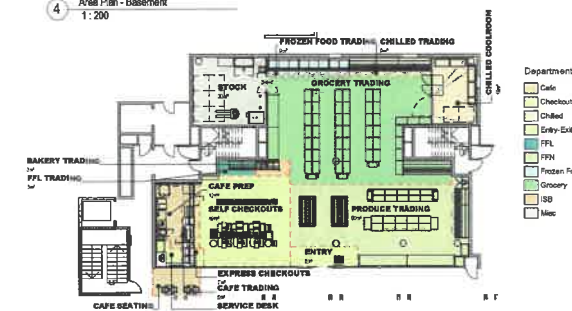
AREA - TRADING - FRESH/NON		
Use	Area	Ratio
Admin-Misc	49.61 m ²	14%
Fresh	13.5 m ²	1%
Front-of-Store	62.95 m ²	16%
Grocery	133.58 m ²	38%
Total Trading Area	354.72 m ²	100%

AREA - EXCLUDED		
Department	Area	Ratio
Frozen Food	22.76 m ²	31%
Plant	49.61 m ²	69%
Grand total	72.40 m ²	

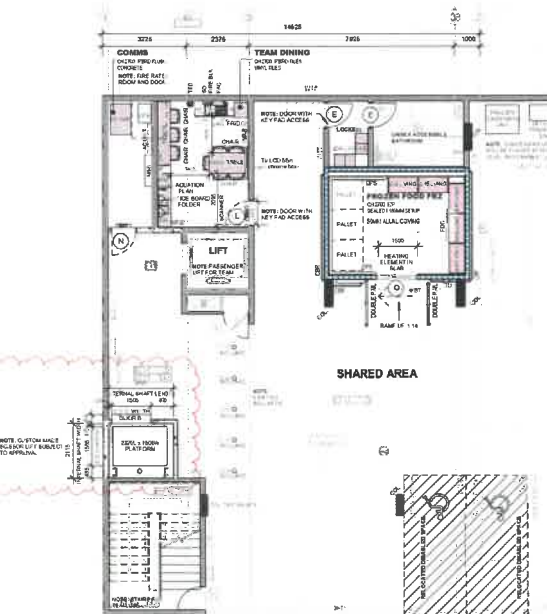
AREA - SPACE		
SS Space	Area	Ratio
FFN	63.92 m ²	45%
TopUpMini_Food	101.52 m ²	65%
Total	164.84 m ²	



4 Area Plan - Basement
1:200



5 Area Plan - Ground Floor
1:200



2 Control Plan - Basement

No.	DRAWING AMENDMENTS (REVISIONS)	DATE	BY
1	UPDATED PLANT ROOM PROVIDE FREESTER REFRIGERATION UNIT C/ CONDENSING UNIT, CAFE EQUIPMENT, SHOWN LOCATION, UPDATED LAYOUT AND ASHPOLE	24/04/2019	KYR/HC
2	UPDATED TO REFLECT RECENT CHANGES FROM BUS VEHICLE COUNCIL, TO BE APPROVAL	24/04/2019	KYR/HC
3	UPDATED CAFE PREP LAYOUT - MOVIE OVER, DRAWER W/INACCESSIBLE, BOLL IN REFLECT TO OTHER SIDE OF WALL, MAKE SURE BENCH NINE WITH CIGU UNITS ALONG WALL, PROVIDE 16 POS UNITS AND UPDATE COFFEE COUNTER AS PER CTC	09/04/2019	KYR/HC
4	PULL OUTLINE OF BASKET IS SHOWN, UPDATE LOCATION OF FREESTER AND ACCESSIBLE PARK SPACE TO BOLL, UPDATED PLANT ROOM AS SHOWN	09/12/2019	JRKYR/HC
5	REINSTATE LOCATION OF PROTEIN (DOG FREETER), UPDATED LOCATION OF ACCESSIBLE PARK SPACE TO BOLL	11/12/2019	KYR/HC
6	UPDATED PLANT ROOM AS SHOWN	14/02/2019	KYR/HC
7	REINSTATE LOCATION OF BOLL AS PER APPROVAL	09/11/2019	KYR/HC

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PROJECT ADDRESS:
113 Macpherson St. Boroia, NSW 2024

2017 |

APPROVED BY:
K CASSIE

DRAWING:
Control Plan

DOC STAGE:200 | WA200 | FTOL

PROJECT:
METRO DRONE

SCALE: As indicated @

REGION / STATE	PROJECT No:
NSW	TRC

NSW TBC

DRAWING No: AMEND. No:

WA200 22K

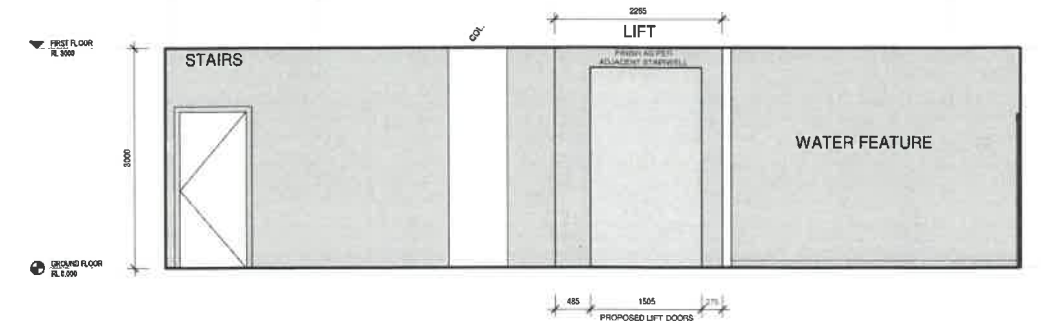
223

220

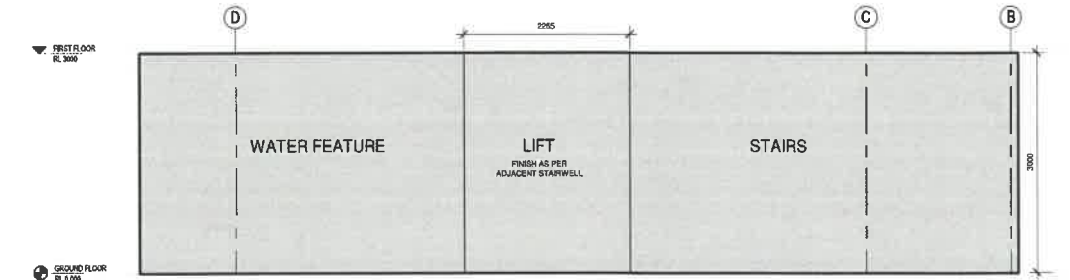


BOUNDARY

POSITION OF PROPOSED
LIFT SHAFT
PRECAST CONC AND FINISH
AS PER ADJACENT STAIRWELL



3 Internal Elevation
1:50



4 External Elevation
1:50



2 East Elevation
1:100



5 External Elevations Key Plan
1:500

DRAFTED BY:
CR - TRG

NOTES:

No.	DRAWING AMENDMENTS (REVISIONS)	DATE	BY
A	EXTERNAL ELEVATIONS - NEW LIFT	22/11/2019	CR - TRG

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PROJECT ADDRESS:
113 Macpherson St, Bronte, NSW 2024

LIFT ISSUE:

DRAWN BY:
CR - TRG

PLANNING MGR:
K. CASSIE

PROJECT MGR:
WW

PROJECT:
METRO
BRONTE

DOC STAGE:

DRAWING:
DA - LIFT ELEVATION

STORE No.



SCALE:
As Indicated @
A1

REGION / STATE
NSW

DRAWING No:
WA208

ISSUE DATE:
22/11/2019

PROJECT No:
TBC

AMEND. No:
A



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Plan of Management (PoM)

Woolworths Metro Store
113 Macpherson St, Bronte

June 2019

PLAN OF MANAGEMENT OVERVIEW

This Plan of Management provides an overview of the operational aspects of the Woolworths Metro Store highlighted as follows

1. General Operational Procedures
 - a. Hours of Delivery
 - b. Staffing Arrangements
 - c. Noise minimization
 - d. Complaint management
 - e. Police Co-operation
2. Delivery Methodology
 - a. General Deliveries
 - b. Waste management

General Operational Procedures

Hours of Operation

- It is proposed to trade between 7am – 10pm as per currently permissible trading hours on site

Capacity

- In line with smaller format Metros that have been recently opened the store will be staffed between 2 – 8 people at any given time
- Patronage throughout the day is anticipated to be consistent with a minor peak between 5 – 7pm on weekdays. This would result in an average of 5 – 25 customers going through the store

Noise Management

- Given the store classification is a low security risk given its size being under 500m² and permitted use it is anticipated that the building shall be self contained in terms of the housing and operation of plant servicing the building including this tenancy.
- The current approved base building acoustic report prepared by Acoustic Logic with an addendum provided by the same company for the Woolworths tenancy specifically, is provided in conjunction with this Plan of Management ensuring compliance with noise controls.
- Soft non-descript background music will be played within internal areas of the store only, typical of other retail outlets. Such background music will not be audible from outside the premises.

Trolley Management

- No trolleys will be used on site as is a basket shop store in line with our small neighbourhood and CBD Metro supermarkets

Safety and Security

- This PoM aims to ensure the safe operation of the supermarket for its staff and customers alike with increased safety to the immediate surrounds by virtue of a low security late night trading operation providing increased pedestrian activity and passive surveillance of the street.

The below subheadings address how this will be achieved.

Lighting

Lighting at the subject site is proposed to ensure security is adequately provided to site users and staff alike by:

- ❖ Providing appropriate internally lighting
- ❖ Providing illuminated signage at site entries to ensure site visibility and accessibility

Electronic Security Monitoring

Electronic security monitoring is provided at the site as follows:

- ❖ The premises shall be monitored externally by private security contractor

- ❖ Concealed panic buttons installed at service locations within the store and portable buttons able to be carried by staff, alerting the contractor and Police.

Drop Safes

The Woolworths Metro Store will provide the following:

- ❖ Such installations that allow cash to be deposited securely within, where opening is only possible by dual key held by cash collection contractor.
- ❖ Time delay feature for cash release to restrict the amount of cash capable of being dispensed in a predefined time period.

Card Only Registers

Many of the self check out registers shall be card only, reducing significantly the amounts of cash utilized and held on the premises.

CCTV Systems

Comprehensive system covering all internal areas with increased concentration around entry/exit doors, register and staff serving areas.

Footage shall:

- ❖ Be digitally recorded;
- ❖ Record at least 6 frames per second;
- ❖ Be retained for a minimum of 28 days;
- ❖ Operate 24 hours and record the time, date and particular camera in use

Staff shall be able to access CCTV system to provide copies of recordings to Police upon request.

Behavioural Management

To ensure any adverse behaviours by Patrons are suitably handled at the site the following operational controls will be in place:

- ❖ Staff extensively trained with how to deal with difficult customers and to detect loitering for reporting to the manager on duty for further surveillance.
- ❖ All staff trained in terms of burglary procedures and how to safely respond.
- ❖ Back of house storage and staff areas to feature restricted access by means of swipe cards/pin codes.
- ❖ At least 2 staff members shall be employed at low patronage times providing superior safety and security to each other and customers alike.

Commitment to cooperation with NSW Police

Woolworths is committed to providing a well designed, safe environment for staff and customers to discourage the opportunities for crime. To ensure this, the following operational controls are in place:

- ❖ Trained staff shall assist Police and provide CCTV footage in a timely manner upon request to assist with Police operations and inquiries.
- ❖ All practical steps are to be undertaken to preserve and keep intact the area where an

incident has occurred, retaining all materials and implements associated such incidents in accordance with the Crime Scene preservation Guidelines issued by NSW Police.

- ❖ Make direct contact with NSW Police where necessary.
- ❖ Comply with any directions given by NSW Police to preserve or keep intact any area

Complaints Handling Process

- ❖ Woolworths operates over 1000 supermarkets throughout the country and has rigorous complaint handling procedures across the network.
- ❖ To ensure the appropriate and responsible management of citizen and customer complaints regarding the operation of the supermarket, e.g. noise complaints
- ❖ Staff will be trained in existing company Complaints Management Procedures, allowing them to appropriately log and respond to phone call, letter and email complaints regarding the operation of the supermarket.
- ❖ Complaints shall be responded to in a timely manner by management.

DELIVERY MANAGEMENT

- ❖ Stock Loading and Delivery Management
 - Major deliveries are proposed from the Loading zone directly in front of the premises on Macpherson St as contemplated in the original approvals for retail use, avoiding the need for any stock truck deliveries to be done in the rear Chesterfield Lane
 - Appropriate safety management of using electric pallet jacks by both delivery drivers and staff from the truck via the footpath will be managed to ensure minimal impact to pedestrians with appropriate pedestrian traffic management being undertaken by store staff ensuring access is not blocked
 - Location of primary loading zone utilising an existing ramp is to be used as per the images below. Further image of the development plan shows the path from truck to front entry door.

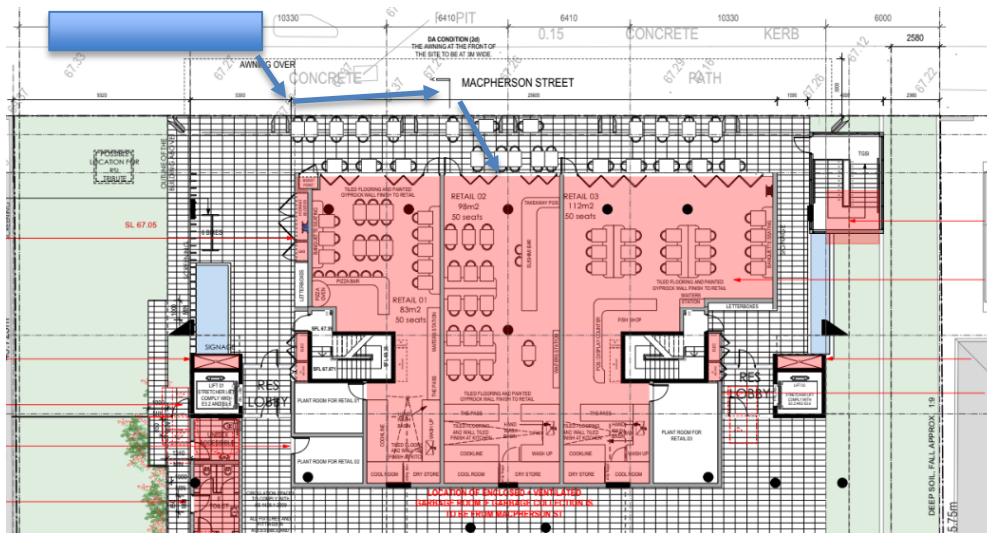


Proposed Loading Zone

0900 – 1430 to avoid school kids on weekdays

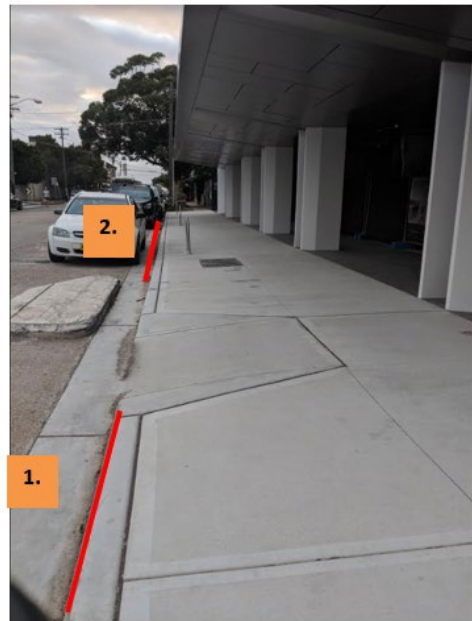
Pallet path will travel minimal length of footpath if proposed location for loading zone is achievable

Delivery stock path



Secondary Loading Zone

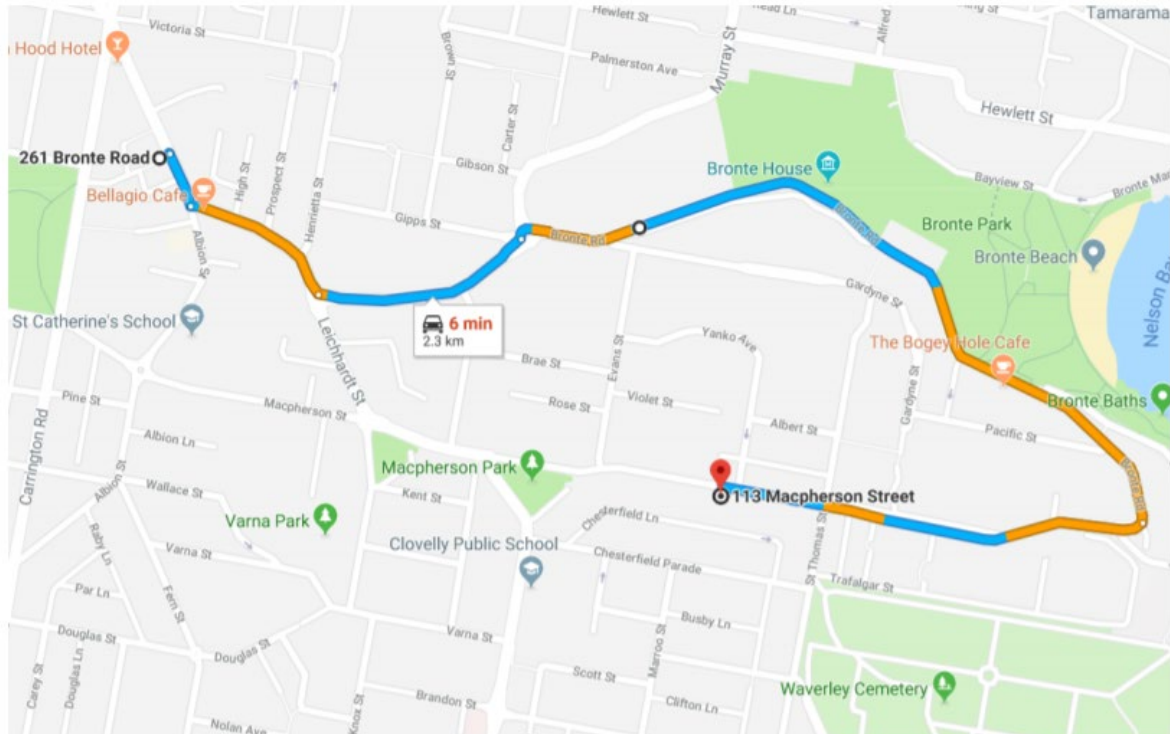
- To allow for the loading zone being occupied by other local businesses or Woolworths trucks, a secondary zone is proposed during the same hours (9am - 2:30pm) to avoid any on street queuing. Aerial image below of intended loading zone is proposed via the Waverley Traffic Committee with current site photo. In the event that the traffic island is removed a continuous loading zone would be proposed



- | |
|---|
| <p>1. Primary Loading Zone (11m length)</p> <p>2. Secondary Loading Zone (11m length)</p> |
|---|

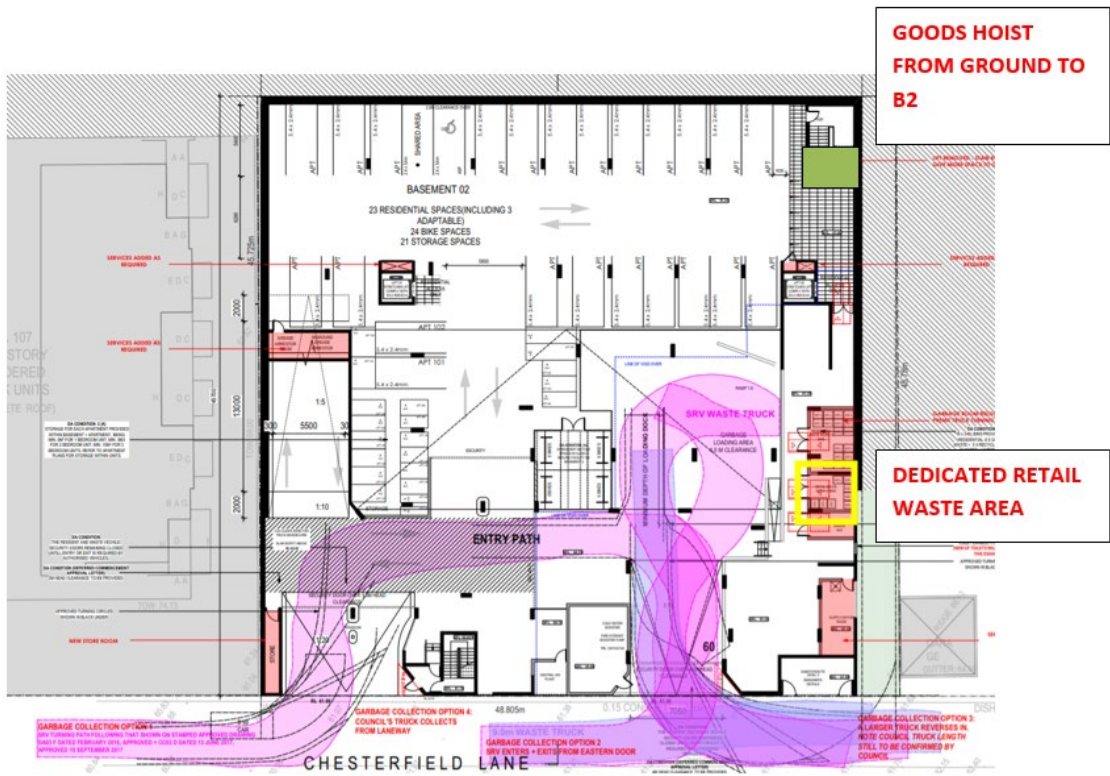
- Truck size is to be up to 11m (8.8m + 2m tailgate) in length and required twice daily with proposed delivery times between 9am – 2:30pm 7 days a week. Time taken to unload would be between 30 – 45 minutes per delivery
- Suppliers doing smaller deliveries in vans can happen within 5 minutes and would work within the loading zones permissible on Macpherson St
- The Truck Delivery Path has been reviewed in line with the approved delivery route contemplated throughout the construction program ensuring that no reversing manoeuvres are undertaken. This being the path of travelling East on Bronte Road and then travelling West up Macpherson St as contemplated per below map plan.

Truck Delivery Path



Waste Management

- 4 - 5 x 660L bins (general, recycling) to be located in a dedicated retail waste room located on B2 with access through a goods scissor hoist which is solely used by Woolworths between Ground, B1 and B2 levels. (refer image below)
- Waste Collection to be undertaken three times a week through utilisation of small rigid vehicles through the loading dock in accordance with how residential council waste is collected. This is noted as the current approved method for waste collection in the Development Application which permits Small Rigid Vehicles (SRV's) between the hours of 7am – 8pm.
- For Cardboard collection, bale press is located within the ground floor tenancy plan with bales to be collected 2 - 3 times a week via Macpherson St in the approved loading zone hours.



27 June 2019

Mr. Ross McLeod
General Manager
Waverley Council
DX 12006 Bondi Junction

Attention: Emma Finnegan

Dear Mr. McLeod

**STATEMENT OF ENVIRONMENTAL EFFECTS
113 MACPHERSON STREET, BRONTE**

This Statement of Environmental Effects (SEE) is submitted to Waverley Council in support of a Development Application (DA) for the consolidation of the currently approved three ground floor retail tenancies into a single tenancy, as well as fitout and use of the space as a neighbourhood supermarket at the approved mixed use development at 113 Macpherson Street, Bronte (the site). Approval is also sought for associated signage and outdoor seating.

This SEE has been prepared by Ethos Urban on behalf of Woolworths. This report describes the site, its environs and the proposed development, and provides an assessment of the proposal in terms of the matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

It should be read in conjunction with the following supporting documentation appended to the report:

- Floor Plan, GFA Plan and Signage Plans prepared by The Retail Group (**Attachment A**);
- Plan of Management prepared by Woolworths (**Attachment B**);
- Acoustic Report prepared by Acoustic Logic (**Attachment C**);
- Cost of Works Statement (**Attachment D**); and
- Clause 4.6 Variation Request prepared by Ethos Urban (**Attachment E**).

1.0 Background

1.1 Development consent history

On 16 December 2015, DA-264/2015 was approved for the demolition of the existing building at 113 Macpherson Street and the construction of a 4 storey mixed used development with four retail premises at ground level, basement parking and stratum subdivision.

On 24 October 2017, modification application DA-264/2015/C was approved by the Land and Environment Court to convert the originally approved four retail tenancies to three tenancies, with associated fitout as licensed food and drink premises trading from 7am to 10pm 7 days a week, in addition to other minor modifications associated with the residential component of the development. A number of conditions under this consent, as modified by DA-264/2015/C, relate to potential future food and drink uses.

This DA relates to the consolidation of retail tenancies, use and fitout of the space as a small scale neighbourhood supermarket. A section 4.55(1A) modification application will be prepared and submitted to Council to amend the original base building consent to align with the proposed DA.

1.2 What is 'Woolworths Metro'?

Woolworths Metro is Woolworths' new range of small line supermarkets. The key difference between a typical Woolworths supermarket and the Metro stores is the size, format and product range of the stores. Unlike typical supermarkets (over 3,000m²), Woolworths Metro stores 'Metro on the Go' generally range from just 300m² to 800m².

Woolworths Metro supermarkets are designed with the intent of meeting the everyday needs of a customer. Given the smaller format, the Metro stores and their product range are also specifically curated to the needs of the local residents and the community.

Importantly, the Woolworths Metro supermarkets offer the convenience of a supermarket close to home, and is designed to avoid impacts generally associated with typical large format supermarkets such as noise, traffic and frequent deliveries. Photographs of a similar small format Woolworths Metro supermarket which recently opened in Kirribilli are shown in **Figure 1**.



Figure 1 Woolworths Metro store at Kirribilli

1.3 Community consultation

The proposal has been informed by feedback received during early community consultation and engagement conducted by Woolworths. Several consultation sessions were organised with the local community representative group, Save the Bronte Group in order to identify and address community concerns, specifically on matters such as loading and deliveries, noise and waste management, upfront and early in the design and development process. The scheme as presented under this application (refer to **Attachment A**) responds to the feedback received and collated as part of this process.

It is noted that the broader community will also have an opportunity to provide further comments during the public notification phase of this DA.

1.4 Council consultation

On 22 March 2019, a Pre-DA package (PD-10/2019) was prepared and submitted to Council for feedback and input on planning and design matters. On 26 March 2019, a meeting was held to discuss the proposal. Council informed the applicant of the existing base development approval consent (DA-264/2015/C) and certain conditions that the proposal would need to consider and satisfy such as waste servicing and loading and deliveries, among other matters.

On 24 April 2019, the applicant received a Pre DA response letter from Council, providing Council's feedback on the proposal, including Council's preferred planning approval strategy for the proposal, being a standalone DA. Comments were also provided on traffic and parking and the proposed signage scheme. This application has taken into consideration Council feedback and is largely consistent with Council's Pre - DA recommendations and feedback.

At a minimum, this proposal is designed to ameliorate environmental impacts while providing access to a new neighbourhood supermarket within the locality.

2.0 The site

2.1 Site context

The site is located at 113 Macpherson Street, Bronte within the Waverley Local Government Area (LGA). The site is approximately 2km south-east of Bondi Junction Railway Station and 6.5km south-east of Sydney CBD. The site's locational context is shown at **Figure 2** below.

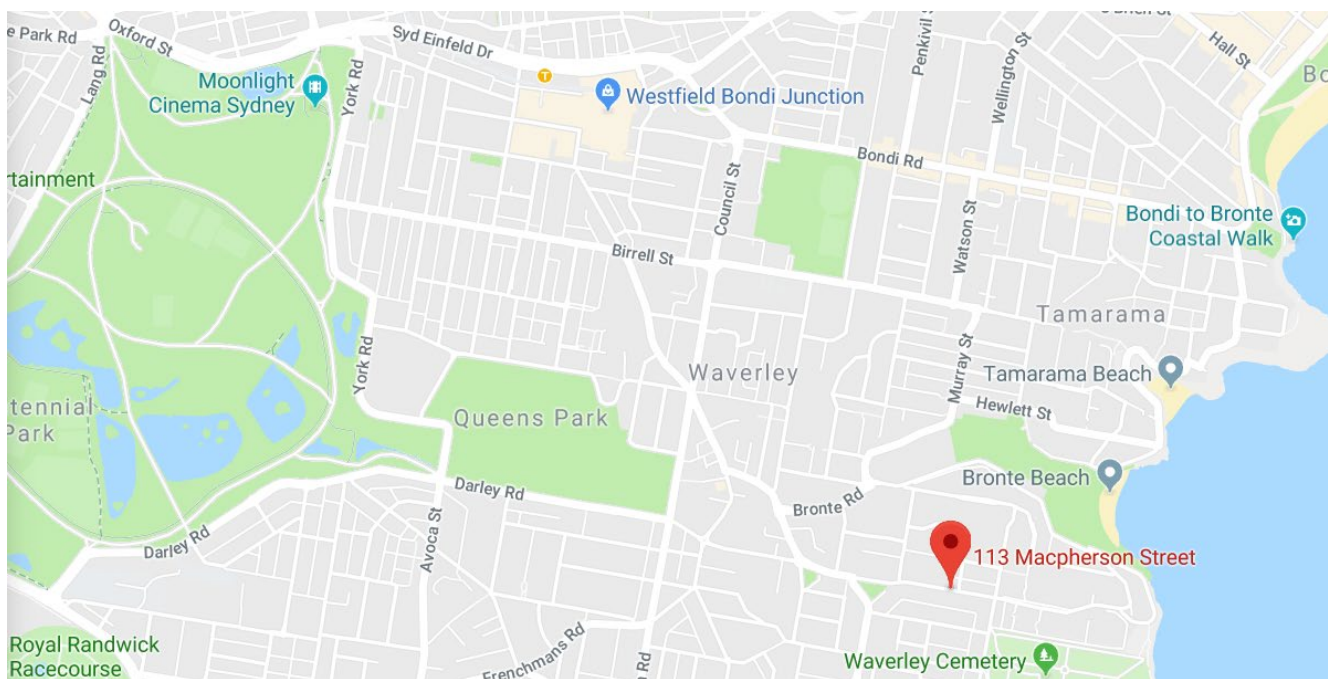


Figure 2 Site context

2.2 Site description

The site currently accommodates a newly built 4 storey mixed use development. The site is roughly square in shape, fronting Macpherson Street (to the north) and Chesterfield Lane at the rear (to the south). The site is Strata titled and is legally described as SP 99129. An aerial photo of the site is shown in **Figure 3**. Photographs of the site, taken from Macpherson Street (**Figure 4**) and Chesterfield Lane (**Figure 5**) are shown below.



Figure 3 Aerial photo



Figure 4 From Macpherson Street



Figure 5 From Chesterfield Lane

2.3 Surrounding development

The site is surrounded by buildings of various scales and differing typologies. Located immediately to the west of the site is the high density residential building at 107 Macpherson Street, referred to as 'Oceanview' (refer to **Figure 6**).

Located immediately to the east are residential dwellings, including detached dwellings and apartments. Further east is a succession of shops that front Macpherson Street (refer to **Figure 7**). The site is also located within close proximity to a cluster of shops surrounding the Macpherson Street and Lugar Street intersection, some 400m to the east of the site (refer to **Figure 8**). The shops, collectively, form a part of the Bronte Neighbourhood Centre.

Located directly to the north (opposite Macpherson Street) is a row of detached residential dwellings (refer to **Figure 7**).

To the south is Chesterfield Lane, which predominantly serves as vehicular access for detached dwellings fronting Chesterfield Parade.



Figure 6 107 Macpherson St to the west



Figure 7 Shops to the east



Figure 8 Dwellings opposite Macpherson Street



Figure 9 Shops at Lugar Street intersection

3.0 Description of the proposed development

This DA seeks approval for:

- Consolidation of the three, approved, ground floor retail tenancies into a single retail tenancy;
- Internal fitout and use of the consolidated tenancy for the purposes of a neighbourhood supermarket;
- Conversion of three plant rooms into back of house storage areas;
- Installation of business identification signage; and
- Outdoor seating fronting the café component of the supermarket shopfront.

3.1 Numerical summary

Table 1 provides a numerical summary of the proposed development.

No changes are proposed to the approved retail car parking spaces (staff parking only), hours of operation, loading and deliveries strategy or waste management strategy as previously approved under the original consent and subsequent modifications.

Table 1 Summary of proposed changes

Items	Existing/approved	Proposed	Changes
Site area	2,231m ²	2,231m ²	No change
Number of retail units	3	1	-2
Hours of operation	7am to 10pm / 7 days a week	7am to 10pm / 7 days a week	No change
Car parking	11 staff parking only	11 staff parking only	No change
Delivery and loading	Macpherson Street	Macpherson Street	No change
Ground level retail GFA	314m ²	360.69m ²	+46.69m ² (non trading floor space) *

* The additional GFA is associated with the conversion of three plant rooms at ground level (non GFA) into storage premises (GFA). The GFA relates to existing built form as accordingly will not result in any additional visual bulk or scale. Refer to the clause 4.6 Variation Request (Attachment E) for more detail.

3.2 Proposed fitout and shopfront works

This application seeks consent for the fitout and use of the ground floor level and a small part of the lower ground basement level for the purposes of a 'Woolworths Metro' neighbourhood supermarket.

3.2.1 Ground level fitout

The ground level will primarily comprise trading floor space utilised for the display and sale of products, a café component and back of house storage areas. An excerpt of the proposed ground level floor plan is shown at **Figure 10**. The ground level has an overall GFA of 326.69m².

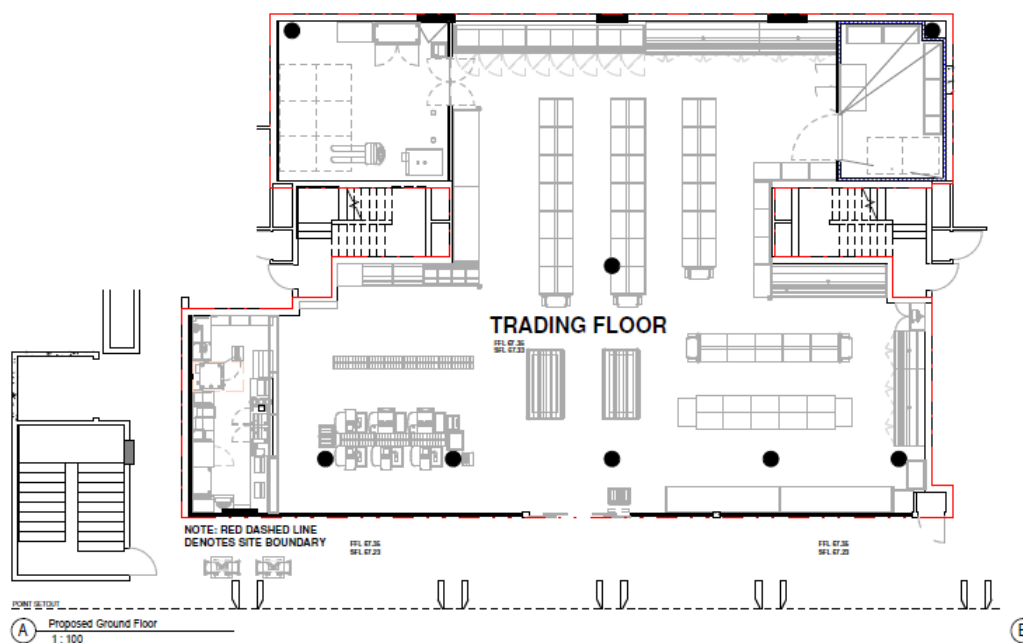


Figure 10 Proposed ground level floor plan

3.2.2 Lower ground level fitout

The lower ground level accommodates a staff lunchroom, staff amenities, lockers, a frozen food storage component and a plant room. An excerpt of the proposed lower ground level floor plan is shown at **Figure 11**. The lower ground level has an overall GFA of 34m².

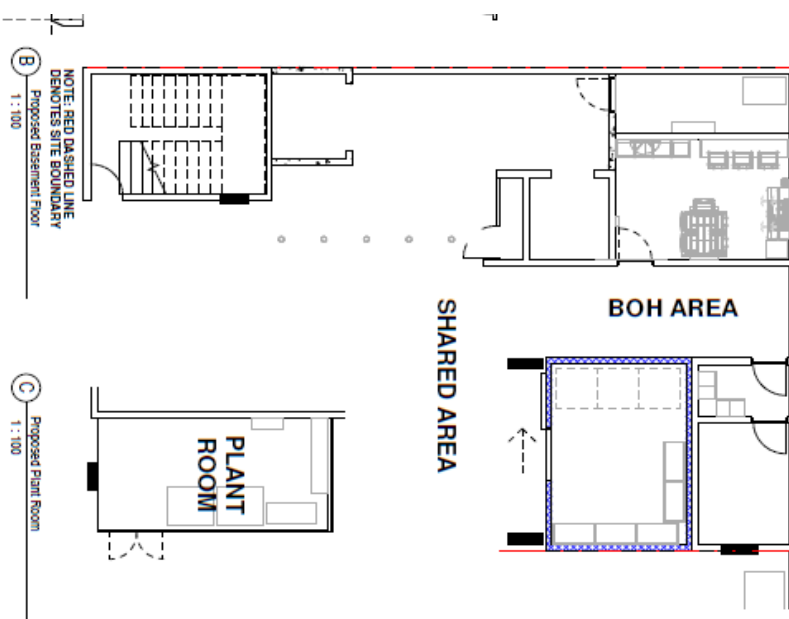


Figure 11 Proposed lower ground level floor plan

3.2.3 Shopfront works

The application seeks consent for replacement of the originally approved bi-fold doors glazing system at ground level. Instead, fixed glazing is proposed across much of the shopfront. Automatic sliding doors are proposed for the main entry which is located centrally along the Macpherson Street elevation. The café component of the shopfront is fitted with a sliding window, which is proposed to remain open during the trading hours of the café, which is the same as that of the main tenancy, being 7am – 10pm daily. Coloured tiles are proposed for the lower portion of the café shopfront.

3.3 Proposed operations and use

A detailed Plan of Management for the operations of the Woolworths supermarket has been prepared by Woolworths, and is provided at **Attachment B**. It will operate from 7am – 10pm daily, as per currently approved trading hours. The store will be staffed by 2 – 8 persons at any given time and patronage is expected to be consistent throughout the day, with a minor peak between 5 – 7pm weekdays. There is expected to be an average of 5 – 25 customers going through the store at any given time.

Soft nondescript background music will be played within the internal areas of the store, as typical of other similar retail outlets, with such background music to not be audible from outside the premises. The Acoustic Report prepared by Acoustic Logic available at **Attachment C** and **Section 4.4** provides further analysis of the acoustic impact during hours of operation.

3.4 Proposed signage

The proposal also seeks approval for the erection of business identification signage for the supermarket, which will consist of the following:

- 2 x under awning signs;
- 1 x top hamper sign located above the main entry;
- 1 x horizontal wall sign; and
- 3 x window decal signs, with 1 located left of the entrance and 2 to the right.

The location of the signs are shown in **Attachment A** and **Figure 12** below, and details of the proposed signs are provided in **Table 2**.

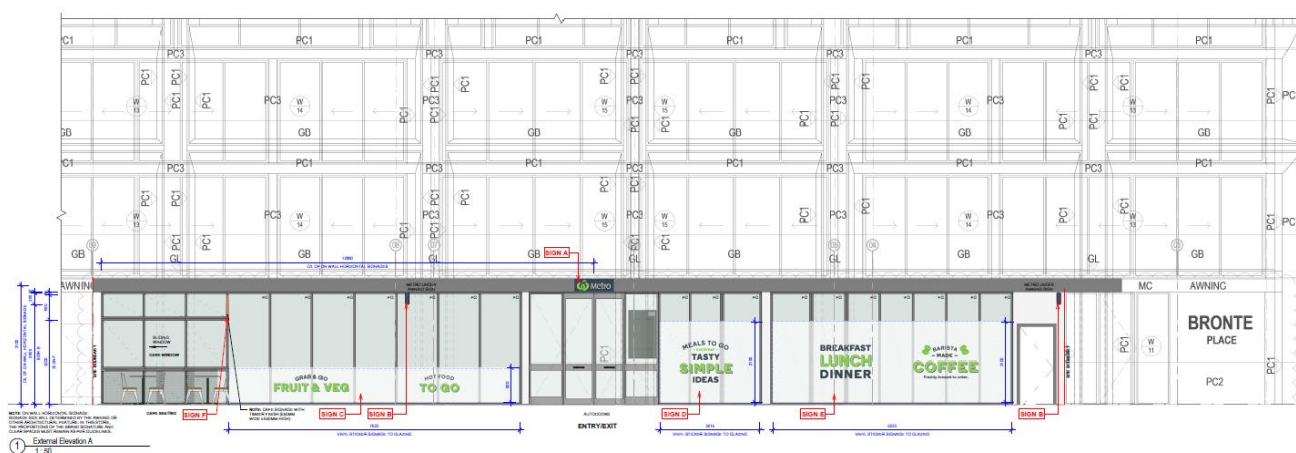


Figure 12 Location of the proposed signage

The signs will be of a simple nature and consist of standard 'Woolworths Metro' branding over a simple plain background. A single top hamper sign is proposed above the main entry. Two under awning signs, which are placed perpendicular to the shopfront, are proposed along the shopfront. The under awning signs will assist pedestrians

walking along Macpherson Street to identify the shop and its use. The top hamper and under awnings signs will be illuminated in line with the relevant Australian Standards.

A single projecting wall sign (650mm x 650mm) is proposed near the café window, to assist with identifying the café component.

The window decal signs within the left half of the Macpherson Street elevation are limited to the lower portion of the shopfront providing ample visual connection into and out of the store and will promote opportunities for passive surveillance. Signage proposed to the right half of the elevation has been specifically designed to screen the back of display shelves and refrigeration cases along this window. The window decal signs will not require illumination.

Table 2 Details of proposed signs

Typology	Sign No.	Size	Illumination
Under Awning Sign	2	300mm (H) x 1800mm (W)	Yes
Top Hamper Sign	1	350mm (H) x 1025mm (W)	Yes
Horizontal Wall Sign	1	650mm (H) x 650mm (W)	No
Window Signs (Left of Entry)	1	900mm (H) x 7620mm (W)	No
Window Signs (Right of Entry)	2	<ul style="list-style-type: none"> 2100mm (H) x 2615mm (W) 2100mm (H) x 6230mm (W) 	No

3.5 Outdoor seating

This application seeks consent for outdoor seating associated with the café component of the supermarket. A total of four chairs and two tables are proposed to be placed on the section of the footpath fronting the café component (refer to **Figure 13**).

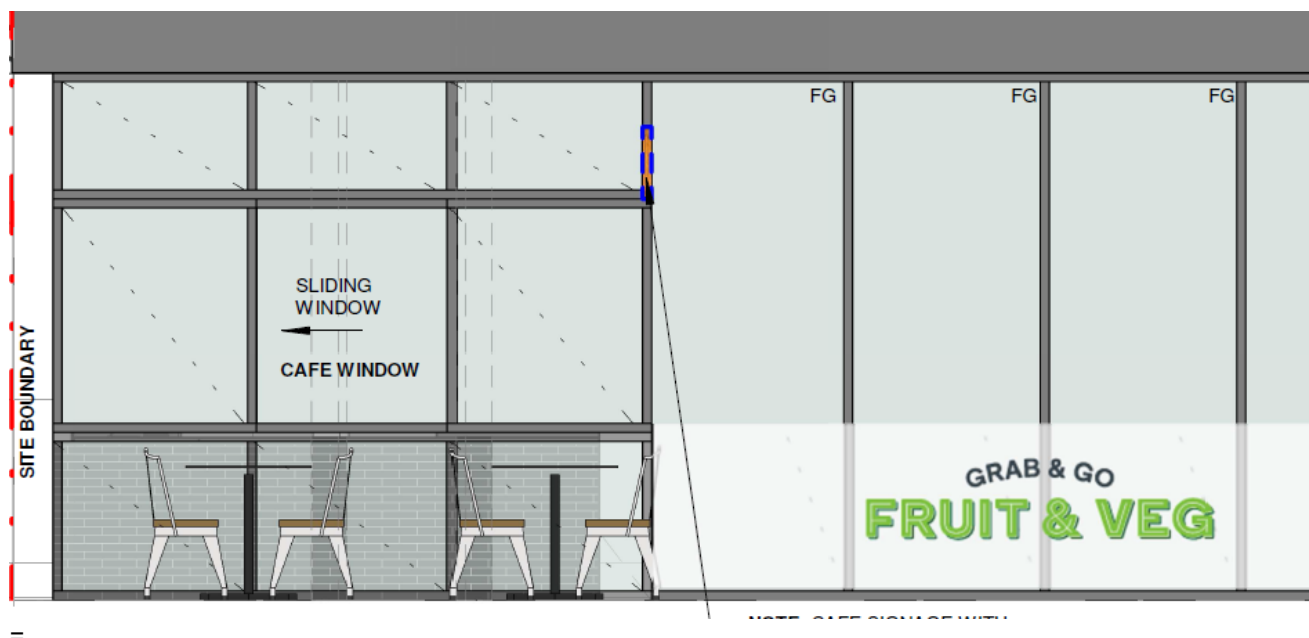


Figure 13 Outdoor seating fronting the café component

3.6 Loading Zone

The proposal seeks to use the Macpherson Street loading zone that was previously approved for the retail component of the development under DA264/2015/C. A second loading zone (11 metres in length) is also proposed under this application along Macpherson Street to avoid street queuing of trucks in the event the primary loading

zone is occupied by trucks making deliveries for other local businesses along Macpherson Street. The loading zones along Macpherson Street will only apply between 9am – 2:30pm, 7 days a week. Refer to **Attachment B** for more detail.

4.0 Assessment of planning issues

Under Section 4.15 of the EP&A Act, in determining a development application the consent authority must take into account a range of matters relevant to the development including the provisions of environmental planning instruments, impacts on the built and natural environment, the social and economic impacts of the development, the suitability of the site, and whether the public interest would be served by the development.

The assessment includes only those matters under Section 4.15 that are relevant to the proposal. The planning issues associated with the proposed development are assessed below.

4.1 Compliance with State Planning Instruments and Controls

An assessment of the DA's consistency and compliance with the relevant State Planning Instruments is shown in **Table 3** below.

Table 3 Consistency with State Planning Instruments and Controls

Instrument/Strategy	Comments
SEPP 55 – Remediation of Land	The proposal, comprising of consolidation into a single retail tenancy and its operation and fitout, will not require excavation and as such the site is considered suitable for existing use.
SEPP 64 – Advertising and Signage	SEPP 64 applies to all signage that under an environmental planning instrument can be displayed with or without development consent and is visible from any public space or public reserve. The proposed signage in this application will support the proposed operation of the supermarket. An assessment against the objectives of the SEPP as well as Schedule 1 is included in Section 4.8 below.
SEPP 65 – Design Quality of Residential Apartment Development	The proposal does not modify the residential components of 113 Macpherson Street, and will only involve the reconfiguration, fit-out, operation, and installation of signage for its retail component.
SEPP (Infrastructure)	The site is not a traffic generating development, being only a reconfiguration and not an enlargement of an existing premise, with no frontage or connection onto a classified road.
SEPP (Vegetation in Non-Rural Areas) 2017	No trees are proposed to be removed as part of this proposal.

4.2 Compliance with Waverley Local Environmental Plan 2012

An assessment of the DA's consistency and compliance with the *Waverley Local Environmental Plan 2012* (WLEP 2012) is shown in **Table 4** below.

Table 4 Consistency with WLEP 2012

Control	Comments
Waverley Local Environmental Plan 2012	
Clause 2.2 Land Zoning	The site is zoned B1 Neighbourhood Centre and the proposed neighbourhood supermarket use is permissible with consent under the land use zoning.
Clause 4.4 Floor Space Ratio	The maximum FSR that applies to the site is 1:1. Conversion of the existing three plant rooms (non GFA) at ground level into storage areas (GFA) will result in a minor increase in the overall base building GFA and therefore FSR from 1:1 to 1.02:1. The exceedance is nominal and will not result in any additional bulk or scale beyond that already approved and built on site. The proposal will instead ensure appropriate and orderly use of the plant rooms which are no longer necessary within the ground level of the building. A Clause 4.6 Variation Request has been prepared and is attached at Attachment E .

Control	Comments
Clause 4.3 Height of Building	No change is proposed to the height of the building under this application.
Clause 5.4 Controls relating to miscellaneous permissible uses	The proposal relates to a small format supermarket, with a GFA of 360.69m ² , and therefore complies with the maximum GFA, being 1,000m ² , permitted for neighbourhood supermarkets under this clause.
Clause 6.8 Maximum gross floor area of retail premises on certain land in Bronte	The site is part of Key Site 1 of the WLEP 2012, which restricts the maximum gross floor area of retail premises on certain land in Bronte. The proposed retail GFA of 360.69m ² remains compliant with the maximum permissible limit of 500m ² .

4.3 Compliance with Waverley Development Control Plan 2012

An assessment of the DA's consistency and compliance with the *Waverley Development Control Plan 2012* (WDCP 2012) is shown in **Table 5** below.

Table 5 Consistency with WDCP 2012

Control	Description	Comments
4.2 Built Form	Provide awnings to the entire Macpherson Street frontage between the ground and first floor, except over the driveway.	No change is proposed to the existing awnings that have been built in accordance with the base building approval.
	Each retail unit must present to Macpherson Street with a frontage no greater than 6m wide.	While the proposal does not strictly comply with the numerical control of this provision, the existing base building built form contains vertical columns that establish and reflect the fine grain (6m wide) historical rhythm. The proposed frontage is also of a high architectural quality and will also include fine grain features such as a café shop window to the eastern corner with an outdoor dining area. As thus, the proposal meets the objectives of this control.
	The Macpherson Street facade must be articulated to reflect the established 6m / 12m rhythm of the existing main street retail buildings located east of the site.	The façade will reflect a scale and fine grain subdivision pattern in keeping with the DCP controls.
4.3 Active Street Frontages	Active street frontages are required at footpath level along Macpherson Street.	The proposal is in keeping with the provisions of this part, in that it has glazing across much of the shopfront elevation that will promote visual connection in and out of the store. While a small part of the shopfront is screened to accommodate an optimum supermarket layout, the window screening is well designed and of high signage quality so as to offer a vibrant street frontage to Macpherson Street. Refer to Section 4.9 for more detail.
	Not more than 10% of the Macpherson Street frontage can be blank walls or service areas	The proposal does not alter the layout or presentation of the base building to Macpherson Street. Less than 10% of the building fronting the Macpherson Street frontage is blank wall or service area. Visual impact of the proposal is discussed at Section 4.9 of this letter.
	The installation of roller shutters is not permitted.	No roller shutters will be installed.
4.4.1 Loading Facilities	Driveway entry and exit to commercial loading docks is restricted to Macpherson Street.	In accordance with the base DA approval DA264/2015/C, loading is proposed to be carried out along Macpherson Street.
	The driveway access to loading facilities and parking must be combined.	
	Loading facilities must be located internally on the site. They must not front Macpherson Street.	Similarly, in accordance with the base DA approval, retail waste servicing is proposed to be carried out off-street from Chesterfield Lane.

Control	Description	Comments
4.4.3 Non-Residential Parking Rates	Of the total number of non-residential parking spaces provided, 80% is to be allocated for visitors/short-stay parking, and 20% is to be allocated for employee/longstay parking.	No changes to the approved non-residential parking arrangements are proposed.
4.4.4 Bicycle Parking	Provide a minimum 50% of the required bicycle parking for non-residential premises at an accessible on grade location near the main pedestrian Macpherson Street entries.	No changes to the approved bicycle parking arrangements are proposed.
D2 Outdoor dining	Approval is required for footpath seating.	The proposed outdoor seating is generally consistent with the objectives and requirements of Section D2 of the WDCP 2012. While the outdoor dining is not associated with a traditional café tenancy with sit down meals and waiter service, the outdoor seating will provide patrons with a sit down area to consume meals and hot drinks purchased on premises. Outdoor seating along Macpherson Street is consistent with the character of the Bronte neighbourhood centre, will positively contribute to the fine grain character of the locality and promote street activity, vibrancy and passive surveillance along the street. Woolworths staff will ensure the outdoor seating area is regularly cleaned during trading hours, either as need arises (spills, litter etc) or periodically throughout the day / week to ensure that the seating area is maintained in an orderly and tidy manner.

4.4 Traffic impact

The proposal will not result in any material traffic impact. The supermarket is designed as a small scale neighbourhood shop (approximately 360m²), which is significantly smaller than a typical neighbourhood supermarket (500m² to 1000m²). The supermarket is designed to cater for the immediate resident community / visitors who would access the premises on foot. In this regard, the nature and scale of the supermarket is not of a size that will generate significant traffic impacts. Further, in keeping with the nature of the small scale metro format Woolworths supermarket, no onsite customer parking is proposed under this application, which will further curb any potential traffic associated with the development.

Traffic associated with deliveries and waste servicing of the premises is discussed in **Sections 4.6** and **4.7**.

4.5 Loading and deliveries management

Major deliveries will be undertaken from the loading zone directly in front of the premises on Macpherson Street, consistent with the original approval for the site. This is to avoid the need for truck deliveries on Chesterfield Lane at the rear of the building, which is constrained by its narrow width, tight corners and residential amenity, which renders it unsuitable for truck traffic.

As discussed in **Section 3.6**, a second loading zone is proposed under this application along Macpherson Street to avoid street queuing of trucks. The loading zones along Macpherson Street will only apply between 9am – 2:30pm, 7 days a week. The two loading zones within the area will serve to mitigate any traffic / street queuing impacts.

As outlined within the Plan of Management (**Attachment B**), appropriate safety management and staff wheeling pallets across the footpath will be implemented to ensure there is minimal impact to pedestrians. Trucks up to 11 metres in length will be required twice daily for deliveries, with proposed delivery times between 9am – 2:30pm, 7 days a week. The time taken to unload will be between 30 – 45 minutes per delivery. Smaller deliveries in vans by suppliers can happen within 5 minutes and will occur throughout the day during permitted trading hours. The proposed delivery route (via Bronte Road, accessing Macpherson Street from the east) has been developed to allow for trucks to access and return from the site in a forward facing direction, minimising the need for reversing on narrow streets.

4.6 Acoustic impact

A report detailing the acoustic impact of the noise-generating elements of the proposal, specifically a mechanical noise emission assessment of the air conditioning condenser units and ventilation plant servicing, has been prepared by Acoustic Logic, and is available at **Appendix C**. Noise assessment, both attended and unattended, was undertaken at the following locations shown below in **Figure 14**.



Figure 1: Site Aerial Photograph

- Unattended Noise Monitor
- Attended Noise Measurement Locations
- Residential Receivers

Figure 14 Noise assessment locations

Source: Acoustic Logic

The noise emissions recorded were evaluated against the relevant condition of consent, being condition 113 from DA-264/2015. The document ascertained that if all recommended acoustic treatments and management controls stipulated in the report are followed, noise emissions for the proposal will be fully compliant with the condition and will not have any adverse acoustic impact on surrounding receivers.

4.7 Waste management

The Plan of Management supplied by Woolworths at **Attachment B** discusses the relevant waste management processes for the tenancy. A total of 4 x 660L bins (general, recycling) are to be located in the dedicated retail waste room at Basement Level 2. Waste is proposed to be collected three times a week by the same waste contractors that service the residential component of the building. Waste servicing will occur off-street via

Chesterfield Lane at the loading dock at Basement Level 2. The waste servicing strategy proposed by this application is consistent with the approved retail and residential waste servicing strategy for base building DA.

An on-site bale press is to be located within the store's back of house. Bale collection is proposed to occur 2 to 3 times a week by Woolworth's national waste contractor via the loading zone on Macpherson Street. Collection will be limited within the approved loading zone hours (9am – 2:30pm, 7 days a week). Given that the proposal will use the same residential waste contractor, the proposal minimises cumulative impacts generally associated with waste servicing such as noise and traffic.

4.8 Signage

4.8.1 Compliance with State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64)

SEPP 64 applies to all signage that, under an environmental planning instrument, can be displayed with or without development consent and is visible from any public place or public reserve. The signage proposed as part of this DA falls under the definition of business identification signage.

In accordance with the requirements of Clause 8, the proposed signage has been assessed against the objectives of Clause 3(1)(a) and the assessment criteria under Schedule 1 of the SEPP. The proposal is compliant with the objectives of the SEPP and will satisfy the criteria specified in Schedule 1.

Clause 3 of SEPP 64 states the aims and objectives, which are:

- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and
 - (ii) provides effective communication in suitable locations, and
 - (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements.
- (d) to regulate the display of advertisements in transport corridors.

The proposed signage is consistent with the character of the surrounding area. The proposed signage is of a simple and good quality design and will not be overbearing and/or result in visual clutter. The position and location of the proposed signs have been considered and managed in a way that compliments the building and to allow for easy identification of the proposed use, being of a similar design to other Woolworths and Woolworths Metro signage approved across the state. **Table 6** below provides an assessment of the proposal against the Schedule 1 SEPP 64 assessment criteria.

Table 6 Assessment with signage provisions of Schedule 1

Assessment criteria	Comment	Complies?
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent with the area's existing character. They are consistent with the principles and objectives of the WLEP 2012 and WDCP 2012 in helping to promote activity and the use of the building's ground level for non-residential purposes in a B1 zone.	Yes
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No specific outdoor advertising theme applies to the area or locality. Further as demonstrated at Section 4.8.2 , the signs are largely consistent with the WDCP 2012 controls.	N/A
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage does not detract from the visual quality of the area and is not within environmentally sensitive, natural, conservation, open space, waterway or rural landscape areas.	N/A
Does the proposal dominate the skyline and reduce the quality of vistas?	No signage is proposed to be located above the existing building roofline.	N/A

Assessment criteria	Comment	Complies?
Does the proposal respect the viewing rights of other advertisers?	No other signage is within the vicinity of the proposed signs, and the ability to observe any other signage in the surrounding area thus remains unimpacted.	Yes
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale and proportion of the proposed signage is appropriate for the context of the site. It will not visually detract from the building as proposed in the base DA but will compliment it through appropriate use of sympathetic colours and signage types.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage has been designed to contribute to the visual interest of the streetscape, setting and landscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The consolidation of the three retail tenancies into a singular tenancy as part of this proposal will help rationalise and simplify signage. Furthermore, the proposed signs are consistent with each other and follow a common theme.	Yes
Does the proposal screen unsightliness?	The size of the proposed window decal signs is necessary to screen unsightliness and prevent pedestrians from viewing the backs of refrigeration cases against the window, which would be a poor visual outcome. Reconfiguration of the supermarket to allow for the refrigeration cases to be positioned elsewhere is not possible given the layout and size of the tenancy.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No signage has been proposed above the existing building roofline or treeline, and any existing views in the locality will not be obscured or comprised.	N/A
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale and proportions of the building. Each of the proposed signs have been designed with regard to their specific locations and the unique characteristics of the area of the building in which they are located.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed signage respects important features of the building, including its fascia and awning, and visually compliments such features.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Innovation is not necessary or appropriate given the context of the surrounding area. Instead, the proposed signage has been designed for simplicity and easy identification of the proposed Woolworths neighbourhood supermarket.	N/A
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signs are simple in nature, and as such no platform or illumination devices are proposed as part of the signage.	N/A
Would illumination result in unacceptable glare?	The illuminated signs will not result in unacceptable glare.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The illuminated signs will have no impact on pedestrian, vehicle, and aircraft safety.	Yes
Would illumination detract from the amenity of any residence or other form of accommodation?	The illuminated signs are adjustable and are not of a scale or size that will detract from the amenity of nearby residences and accommodation, including residences above the supermarket.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The signage has been designed to be adjusted or dimmed as necessary.	Yes
Is the illumination subject to a curfew?	Signs are proposed to be illuminated outside of daylight hours, but only during the operational hours of the store.	Yes
Would the proposal reduce the safety for any public road?	The proposed signage will not reduce safety for any public road.	Yes
Would the proposal reduce safety for pedestrians/cyclists?	The proposed signage will not reduce safety for pedestrians and cyclists.	Yes

Assessment criteria	Comment	Complies?
Would the proposal reduce safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not reduce safety for children, and no sightlines from public areas will be obscured.	Yes

4.8.2 Compliance with Section B15 – Advertising and Signage of WDCP 2012

The proposed signage is consistent with the WDCP 2012. An assessment against the relevant signage requirements (Section B15) has been provided below in **Table 7**.

Table 7 Assessment against WDCP 2012 signage requirements

Assessment criteria	Comment
15.1.1 General Controls	
<p>(a) Signage is to relate to the use of the building on which it appears and be designed to complement the established streetscape character, and not detract from significant views or vistas.</p> <p>(b) Signage is to be integrated into the architectural design of the building, awning or shop front (refer to Figure 26).</p> <p>(c) Where original sign panels have been incorporated into the parapet of the building facade, these should be used to identify the name or nature of the business only and not be used for advertising.</p> <p>(d) Signs should not obscure decorative forms or moulding and should observe a reasonable separation distance from the line of windows, doors, parapets, piers and the like.</p> <p>(e) The colour used in the design of a sign or structure should reflect the colour scheme of the building to which it will be attached.</p> <p>(f) Corporate colours should be limited to the advertising sign or structure.</p> <p>(g) Careful consideration should be given to the use of illuminated red, green and amber colours in proximity to signalised intersections.</p> <p>(h) Council may give consideration to temporary advertising in the form of bunting, banners, inflatable or canvas signs for special events provided that the temporary display period does not exceed four weeks.</p>	<p>The proposed signs are designed to complement and not visually detract from the established streetscape character and the appearance of the existing building. They are well integrated into the architectural design and will be simplistic in nature with complementary colour schemes to allow for easy identification of the tenancy.</p>
<p>(i) Illuminated signage is to have no direct adverse impact on the amenity of residential properties.</p> <p>(j) Illumination of signs by floodlighting is preferable over the use of boxed fluorescent or neon lighting on buildings and places of architectural significance.</p> <p>(k) The use of neon tubing to highlight the features of a building is not permitted.</p> <p>(l) Flashing, moving or 3-D signs are not encouraged and will only be considered where permitted in this Part and after practical demonstration and a detailed assessment of any adverse impact on the amenity and character of the neighbouring area.</p> <p>(m) Signs are to be of a size and proportion that complement the scale of the existing façade, as well as surrounding buildings and signs.</p> <p>(n) Signage must not have a combined area in excess of 20m².</p> <p>(o) Shopping arcades are encouraged to erect a business directory at each entrance.</p>	<p>The proposed signs will not flash or move. The signs will be illuminated at an appropriate level that will not adversely impact adjacent residential properties. The signs are of an appropriate size and proportion given the context of the building, as shown in the signage plans at Attachment A and Figure 12.</p> <p>Although the total combined area of the proposed signage at 26.73m² exceeds the maximum numerical provision of the control, it is still consistent with the intended purpose of the control, which is to prevent visually dominating and excessive signage. Further analysis is given at Section 4.9.2 below.</p>

Assessment criteria	Comment
<p>(p) The following will not be permitted:</p> <ul style="list-style-type: none"> (i) Wall signs projecting more than 300mm from the wall. (ii) Flashing or moving signs. (iii) Advertising on display window piers or below the display window sill/kick plate. (iv) Sky, roof, or fin signs. (v) The display of bunting, banners, canvas, or fabric signs. (vi) Inflatable signs and the like. (vii) Advertising on garbage bins, telegraph posts, telephone booths, or other surfaces of a public nature. (viii) Any sign which in Council's opinion, would adversely affect the operation of traffic lights, motorists or obstruct their vision. (ix) Third party advertising. (x) A-Board (sandwich boards). (xi) Advertising on canvas shade blinds. (xii) Signs that extend over street frontage boundaries, unless approved in conjunction with a shop which is built to the street alignment. 	<p>The proposed signage does not feature any of the prohibited elements identified under this section of the WDCP 2012.</p>
15.1.1 Third Party Advertising	
<ul style="list-style-type: none"> (a) Advertising on garbage bins, telegraph posts and other surfaces of a public nature is not permitted, except by prior contractual arrangement with Council. (b) Advertising signage on buildings and shop fronts must only relate to businesses operating within the same building or shop. Third party advertising is not permitted. (c) Where multiple occupancies exist within a single building or shop front, a coordinated scheme for all advertising and signage is required. (d) Council will not approve third party advertising. Signage must relate to the use of the building or land it is on. 	<p>No third party advertising is being proposed. The signage is for a Woolworths Metro supermarket only, which will occupy the single consolidated retail tenancy on-site.</p>
15.1.2 Number of signs	
<ul style="list-style-type: none"> (a) Signage should not dominate the façade of buildings. (b) The number of signs per building or site will be assessed on the following: <ul style="list-style-type: none"> (i) Number of existing signs; (ii) Proportion of solid (wall surface area) to void (window and door openings) available for signage; (iii) Length of frontage of the premises; and (iv) Extent of facade detail and dimensional relief on the building which should not be obscured by signage. 	<p>The signage proposal has been designed to present an overall simple scheme that strikes a balance between maximising visual connections to the internal shop areas, identifies the main entry and café component and screens clutter (such as storage areas, back of display shelves etc.) along the main shopfront.</p> <p>The overall number and size of the signs have been considered carefully and is found appropriate given the design of the building exterior, including the length and surface area of the frontage (refer to Attachment A or Figure 12).</p>
15.2.6 Mixed development buildings	
<ul style="list-style-type: none"> (a) Advertising signs and structures shall not be permitted above the awning on mixed development buildings unless they relate to activities conducted above ground floor level. 	<p>No third party advertising is being proposed above the awning.</p>
15.3.1 Under-awning signs	
<ul style="list-style-type: none"> (a) Under awning signs must: <ul style="list-style-type: none"> (i) Have a minimum clearance of 2.6m above the footpath and be centrally positioned under the awning; (ii) Not exceed 1.8m(W) x 300mm(H); (iii) Be setback 600mm from the footpath edge; (iv) Not project beyond the width of the awning; and (v) Be separated from other under awning signs by 3m where practicable. 	<p>The proposed under-awning signs comply with the relevant under-awning signs controls (refer to Attachment A and Figure 12).</p>

Assessment criteria	Comment
15.3.5 Top hamper signs	
(a) Top hamper signs: (i) May project up to 150mm from the building façade; (ii) Must have a minimum clearance of 2130mm above ground level; (iii) Shall have dimensions proportionate to the size of the top hamper fascia; (iv) Shall not exceed 600mm in height, with a maximum length of 4000mm; (v) Shall be restricted to one sign per premises, unless the Council considers the buildings frontage sufficient to accommodate more than one such sign; (vi) Should not extend below the level of the head or doorway or window to which they are attached; (vii) Should allow a proportion of the wall surface area of the top hamper to be exposed; and (viii) Shall be set back 600mm from side boundaries to satisfy fire regulations. (b) Signs are to be within the perimeter of the building walls. (c) Illumination is permitted.	The proposed top hamper signs complies with the relevant top hamper signs controls (refer to Attachment A and Figure 12).
15.3.8 Window signs	
(a) Painted signs on shop front windows, particularly those using fluorescent and iridescent paints, shall be temporary in nature, and not cover more than 60% of the window surface. (b) Painted window signage which is skeletal in form, identifying only the business name of the premises, may be permanently applied to the window surface.	The proposed window signs complies with the relevant window signs controls, and will generally not cover more than 60% of the total window surface. The signs are generally limited to cover half the height of the windows when necessary to shield unsightliness, and have been designed to visually complement the base building and be appropriate to the streetscape (refer to Attachment A and Figure 12).

4.9 Visual impact

4.9.1 Consolidation of tenancies

The proposed consolidation of three retail tenancies into a singular retail tenancy will not be visually discernible or disrupt the visual amenity of the area as it will not alter the external built form of the building. The base building built form contains vertical columns that establish and reflect the fine grain (6m wide) historical subdivision rhythm and this will not be altered. On this basis, the internal consolidation of the tenancies will not result in adverse visual impact or disrupt the historical fine grain character of the area.

4.9.2 Signage

The proposed signage is well designed and will not contribute to any adverse visual impacts. The signs are well designed, and the simple colours and tones will complement the base building facades and allow for easy identification of the Woolworths Metro supermarket. The overall signage scheme is not excessive and is typical for Woolworths Metro stores. Although the total combined area of the proposed signage at 26.73m² marginally exceeds the maximum 20m² permissible under the WDCP 2012, it is still consistent with the objective of the control, which is to prevent visually dominating and excessive signage. The overall combined area of the proposed signage is considered appropriate and will not appear as excessive given that:

- The overall length and surface area of the supermarket shopfront is several times that of a typical shopfront in the area;
- The proposed signage is spread out appropriately and evenly across the shopfront;
- The overall surface area covered by the window signs (being 41.07%) is well below the maximum (being 60%) permitted under WDCP 2012; and
- The signage is such positioned such that pedestrians will be unable to view all of the proposed signage at the same time, with the under awning signs being placed perpendicular to the shopfront;

The overall number of signs and the extent of signage proposed is also appropriate. The window signs are carefully designed, in this instance, to achieve a balance between maximising active frontages along Macpherson Street by promoting internal views into the visually engaging parts of the shop and screening unsightly areas such as the backs of display shelves and storage areas. The floor plan is designed to provide an optimum layout for customers consistent with the Australian Standards and Woolworths's national standard, among other technical requirements. As such, the use of some shopfront to accommodate display racks is unavoidable. The proposed window signs will assist in maintaining visual amenity along this part of the shopfront by screening clutter and ensure an appropriate amount of active frontage is provided along Macpherson Street for visual interest and passive surveillance.

Photographs of the recently opened Kirribilli Woolworths Metro with a similar signage scheme are shown in **Figure 14** below. The signs provide a balance between screening internal clutter and directing views towards sections of visual interest. The window signs are also of a high quality, presenting as frosted glazing, and of good design (refer to **Figure 15**).



Figure 15 Signage associated with the recent Woolworth Metro at Kirribilli



Figure 16 Window signs associated with the Kirribilli Metro store

4.10 Safety

The Plan of Management in **Attachment B** outlines the security measures to be undertaken at the proposed Woolworths supermarket to ensure the safety of staff and customers. Where relevant, these have been summarised in **Table 8** below:

Table 8 Security and safety measures

Measure	Description
Passive surveillance	The proposed supermarket will increase pedestrian activity and passive surveillance in the area, especially during night time, thereby increasing neighbourhood security.
Lighting	Appropriate internal lighting and illuminated signage at site entries will be provided to ensure visibility and site accessibility.
Electronic security monitoring	The supermarket premises will be monitored externally by a private security contractor. Concealed panic buttons will be installed at specific locations within the store, and portable buttons carried by staff, which will alert the contractor and Police when pressed.
Drop safes	The premises will provide drop safes where opening the safe is only possible by dual key held by a cash collection contractor, with a time delay feature for cash release to restrict the amount of cash dispensable within a predefined time period.
Cash only registers	Many of the self check out registers will be card only, reducing the amount of cash used and held on the premises.
CCTV systems	CCTV systems will cover all internal areas, with increased concentration around entry/exit doors, registers and staff service areas. Footage will be digitally recorded, be retained for a minimum of 28 days, operate 24 hours a day, record the time/date/camera in use and able to be provided to the Police upon request.
Behavioural management	<p>The premises will employ the following behavioural management operational controls:</p> <ul style="list-style-type: none"> • Staff will be trained to deal with difficult customers and detect loitering for reporting to the manager on duty for further surveillance • Staff will be trained in burglary procedures and how to safely respond • Back of house storage and staff areas will be restricted access by means of swipe cards/pin codes • At least 4 staff members will be employed during low patronage times to ensure superior safety outcomes to each other and customers
Co-operation with NSW Police	<p>The premises will employ the following operations controls in co-operation with NSW Police:</p> <ul style="list-style-type: none"> • Trained staff will assist police and provide CCTV footage in a timely manner when required • All practicable steps are to be undertaken to preserve and keep intact areas where incidents have occurred in accordance with Crime Scene guidelines • Directly contact NSW Police • Compliance with any directions by NSW Police to preserve or keep intact any area

4.11 Site suitability

The proposed works are suitable and appropriate for the site in that:

- The provision of a neighbourhood supermarket is a permissible use under the B1 Neighbourhood Centre land use zone and as demonstrated within this SEE, the proposal is consistent with the objectives of the zone;
- The proposal is located within the Bronte Neighbourhood Centre and is in keeping with the objectives and the desired future character of the centre; and
- The signage will allow for easy identification of the supermarket and contribute towards the retail character and improve street-level activity within the area, and are thereby consistent with the aims and objectives of B1 Neighbourhood Centre.

4.12 Public interest

The proposed works are in the public interest on the basis of the following:

- The tenancy consolidation into a single retail tenancy for the purposes of a neighbourhood supermarket is appropriate given the context of the surrounding area, which is currently already served by numerous neighbourhood shops (**Figure 6** and **Figure 8**) but is without a supermarket use.
- The proposed supermarket and signage will improve the street-level vibrancy and amenity of the Bronte Neighbourhood Centre, in line with the relevant B1 Neighbourhood Centre zoning objectives.
- The proposed supermarket will diversify retail options and increase convenience for Bronte residents and visitors.
- The proposed signage is well designed and will improve the visual amenity of the area.
- The proposed supermarket will result in increased safety to its immediate surroundings by virtue of providing increased pedestrian activity and facilitating passive surveillance, especially at night.
- No adverse negative impacts to the public interest will occur as a result of the proposal.

5.0 Conclusion

This proposal seeks consent for the consolidation of the three existing ground floor retail tenancies into a single combined tenancy for the purpose of a Woolworths neighbourhood supermarket, as well as approval for associated signage and outdoor seating.

The proposed works will supplement and contribute towards the retail character of Bronte and promote activity within the area, consistent with the B1 Neighbourhood Centre zoning of the site, which aims to provide a “range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.”

In light of the merits of the proposal and in the absence of any significant adverse environmental, social or economic impacts, we recommend that this application be approved subject to the standard conditions of consent.

Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or jmathew@ethosurban.com.

Yours sincerely,



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