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## Bayside Planning Panel

13/03/2018

Item No	<b>6.1</b>
Application Type	Development Application – Mixed Use Development (Boarding House and Commercial Building)
Application Number	DA-2016/125
Lodgement Date	1 August 2016
Property	<b>1094-1098 Botany Road, Botany</b> (Lots 43, 44 & 45 in DP 856900)
Owner	Frank & Pauline Malouf and FOLAM Pty Ltd
Applicant	Mario Khaicy
Proposal	Redevelopment of heritage item, ' <i>Finnies Building</i> ', including demolition of the rear wings for the addition of a four (4) storey building for a 35 room boarding house (including a caretaker's unit), with four (4) ground floor retail premises and 12 car parking spaces and land remediation.
No. of Submissions	Nil
Cost of Development	\$4,312,390.00
Report by	Kim Johnston, Consultant Planner

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## Officer Recommendation

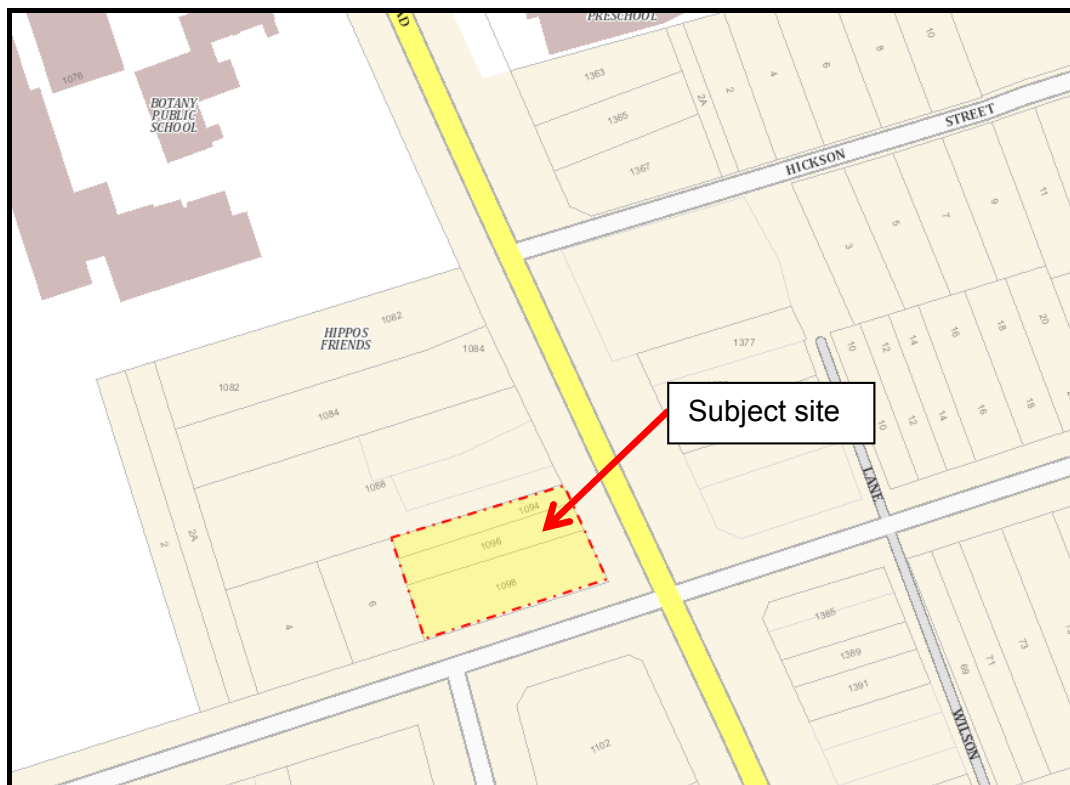
- 1 That Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of *Botany Bay Local Environmental Plan 2013* and that the proposed development is in the public interest as it is consistent with the objective of the Height Standard and the objectives for the B2 Local Centre zone.
  - 2 That Development Application No. 2016/125 for the redevelopment of a heritage item, '*Finnies Building*', including demolition of the rear wings for the addition of a four (4) storey building comprising a 35 room boarding house, with four (4) ground floor retail premises and 12 car parking spaces and land remediation at 1094-1098 Botany Road, Botany be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
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## Attachments

- 1 Planning Assessment Report
- 2 Clause 4.6 variation - height
- 3 Existing/Demolition/Proposed Site and Roof Plan (DA01)
- 4 Site Analysis Plan (DA02)
- 5 Ground Floor Plan (DA03)

- 6 Level 1 Plan (DA04)
  - 7 Level 2 Plan (DA05)
  - 8 Level 3 Plan (DA06)
  - 9 Elevations (North & East - DA07)
  - 10 Elevations (South & West – DA08)
  - 11 Sections (1 & 2 – DA 09)
  - 12 Shadow Diagrams – Winter Solstice (DA-10.1)
  - 13 Shadow Diagrams – Equinox (DA-10.2)
  - 14 Verandah and Door Details (DA-23)
  - 15 Balcony Solar Access Diagrams (DA 24)
  - 16 GFA & FSR Calculations (DA25)
  - 17 Landscape Planting Plan - Sheet 1 (Issue C)
  - 18 Landscape Planting Plan - Sheet 2 (Issue C)
  - 19 Survey Plan
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## Location Plan



**Figure 1: Locality Plan**

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	2016/125
<b>Date of Receipt:</b>	1 August 2016
<b>Property:</b>	1094-1098 Botany Road, Botany Lot 43, 44 & 45 DP 856900
<b>Owners:</b>	Frank Malouf, Pauline Malouf and FOLAM Pty Ltd
<b>Applicant:</b>	Mario Khaicy
<b>Proposal:</b>	Redevelopment of a heritage item, 'Finnies Building', including demolition of the rear wings for the addition of a four (4) storey building comprising a 35 room boarding house (including a caretaker's unit), with four (4) ground floor retail premises and 12 car parking spaces and land remediation.
<b>Recommendation:</b>	Approve the development, subject to conditions.
<b>Value:</b>	\$4,312,390.00
<b>No. of submissions:</b>	No submissions
<b>Author:</b>	Kim Johnston, Consultant Planner
<b>Date of Report:</b>	2 March 2018

### Key Issues

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Council received Development Application No. 16/125 on 1 August 2016 seeking consent for the redevelopment of the Finnies building comprising partial demolition of the existing local heritage listed building and the construction of a boarding house comprising 38 rooms (including a caretaker's room), and four (4) retail shops along the Botany Road frontage of the site. At grade car parking at ground level comprising 13 spaces was also proposed with vehicle access from Bay Street (the original proposal).

The application was placed on public exhibition for a fourteen (14) day period from 17 August 2016 to 31 August 2016. There were no submissions received.

Key issues in the assessment of the development application included the height exceedance, the potential impact on the heritage value of the site, compatibility of the proposal with the surrounding area and potential impacts the boarding house may have the area. The site contains a local heritage item consisting of the Finnies Building (Item No I37) and is located within the Botany Township Heritage Conservation Area (Item No C2).

Following a thorough review of the proposal, having particular regard to the heritage features on the site, the applicant was required to significantly amend the proposal as it was considered that the initial proposal did not respect the heritage item on the site and did not provide sufficient information to allow a thorough assessment of the boarding house provisions of the planning controls. Subsequently, amended plans and additional information (the amended proposal) were provided and it is now considered that the proposal is satisfactory and is consistent with the planning controls.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), including *State Environmental Planning Policy Affordable Rental Housing) 2009* (ARH SEPP). It is recommended for approval, subject to various conditions of consent recommended to be imposed as outlined in **Schedule 1** to further address some of these issues as outlined in this report.

## Recommendation

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As per attached cover page.

## Background

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### History

There are no previous applications on the site relevant to this proposal. The adjoining site to the north, No 1084 -1088 Botany Road, has development consent (DA 2012/226) for a six (6) storey mixed use development which is currently under construction.

### Development Application History

Council has been working through various issues with this project, which was initially of an unsatisfactory design and was lacking in the consideration of various technical issues.

On 7 November 2016, following a thorough preliminary assessment, Council sent correspondence to the applicant requesting that various amendments were to be made to the proposal and the provision of additional information to address various issues. These issues included the following:

- Heritage Concerns – The proposal originally involved the extensive internal demolition and reconfiguration of the existing heritage item such that the original proposal essentially retained only the building's facades along Botany Road and partially extending into Bay Street. It was also considered that the original proposal overwhelmed the heritage item, with no setback to, and comprising two (2) storeys higher than, the existing heritage building on the site.

The lack of any changes in the building alignment and the lack of any recessive detailing to the junction between the new and old to reduce the bulk and scale of the proposed additions were considered to further exacerbate this adverse impact on the heritage item. This was contrary to Clause 5.10 of BBLEP 2013 and Parts 3B, Part 5.2.2.7 and Part 8.4.2 of BBDCP 2013.

Accordingly, Council required the proposal to be redesigned to provide the following:-

- Retain the entire heritage building except for the rear single storey skillion roofed sections.
- Retain and conserve the original/existing configuration and detail (joinery, original ceilings) of the interior of the heritage building (new fitouts acceptable), including retaining the four (4) existing shopfronts.

- Provide setbacks and recessive detailing to the junction between the existing heritage building and the proposed rear addition (with no balconies) with the setback of the building in this side elevation (Bay Street elevation) to be sufficient in size to create a recessed area between the original front section and the new rear section. This side street elevation of the recessed junction area should have a rendered finish with the same wall colour as the existing heritage (front) building and the use of window proportions similar to those of the existing front building to form a sympathetic junction between the two buildings as viewed from the side street. Alternatively, a separated modern building to the rear of the heritage building may be the preferable option.
  - Reinstatement of the balconies across the first floor facades to the shopfronts on Botany Road (excluding corner shopfront) with new central timber-framed doors. Detailing to be consistent with the 1911 construction date for the building.
- Building Design – Various aspects of the building design were to be reconsidered, including:-
  - *Inconsistent with the character of the area* (CI 30A of the ARH SEPP) – The design of the original proposal was incompatible with the heritage conservation area and character of the local area in that the bulk, scale and design of the proposed addition overwhelmed the heritage item as outlined above.
  - *Lack of Activation along Bay Street Frontage* – The Bay Street frontage was characterised by a blank wall and louvers from the car park area along this elevation contrary to Parts 5.2.2.7(C17) and 8.4.2 of the BBDCP 2013. The Design Review Panel also required greater activation of this Bay Street frontage with a sleeve of retail space or alternative treatment required to screen the car parking.
  - Boarding House design - Several aspects of the design and layout of the Boarding House required further consideration, including:-
    - Lack of separation between boarding house and retail car parking as required by Part 3A.3(C4) of BBDCP 2013;
    - Balcony to caretakers flat too narrow and inconsistent with Clause 29(2)(d)(ii) of the ARH SEPP; and
    - Inadequate solar access to the private and communal open space areas as required by Part 5.3.3.3 (C3) of BBDCP 2013.
- Building Height – The maximum building height of the original proposal was not provided pursuant to BBLEP 2013, as the plan indicated that the parapet of the roof was at, or just below, the maximum height of 14 metres, however, the lift overrun was above this maximum height. No Clause 4.6 request was provided with the application.
- Car Parking – The original proposal provided 13 car parking spaces, comprising 8 spaces for the boarding house and 5 spaces for the retail use. The proposed “shops” required 7 spaces (at a rate of 1 space per 25m<sup>2</sup>) pursuant to Part 3A of the BBDCP 2013. Accordingly, the proposal was two (2) car parking spaces deficient (retail spaces). The motor bike parking spaces MB1 and MB3 and bicycle parking adjoining car spaces No 5 and 10 did not appear to have access to the driveway.
- Void area – The void area provided a potential overlooking opportunity into the adjoining development being setback only 4.5 metres, with the Apartment Design Guide (ADG) requiring habitable rooms and balconies of adjoining buildings to be setback 6 metres from the side and rear boundaries (Part 3F).

- Flooding and Stormwater – There were several concerns with the flooding and stormwater plans for the original proposal, including major errors in the Geotechnical Report in relation to groundwater properties and the water table. The Stormwater Management Report also had errors, including the design of the water disposal system, the proposed freeboard was incorrect (500mm required not 300mm) and the infiltration rate was very generous and not backed up by the geotechnical report. Furthermore, the Stormwater Management Plan showed the basement drainage bypassing the water quality device, which was not supported.
- Additional Information – Further information was required to support the application including a Stage 1 Preliminary Site Assessment as the proposal involved an intensification of a residential use on the site from a primarily commercial property, room dimensions for the boarding house and a BASIX Certificate.

On 25 November 2016, a meeting was held with the applicant to further discuss these issues.

On 30 January 2017, amended plans and additional information were received (dated 16 December 2016), which made the following amendments to the proposal:

- Reduction in the number of proposed boarding rooms to 35 rooms (from 38 rooms);
- Increased retention of the heritage fabric with the primary form of the building along Botany Road substantially retained, with the demolition of the rear secondary wings only;
- Reconfiguration of the upper floors with the four storey element setback from both streets and the top floor of the rear addition comprising a mansard roof form (on Bay Street) giving it the appearance of being three storeys with attic rooms;
- Retention of the side porch for the entry to the upstairs boarding house;
- Retention of existing configurations of the four (4) ground floor retail spaces with the shopfronts to be characteristic of federation shopfronts with the recessed fronts (BCA requirements prevented Retail 3 to be completely retained);
- Increased heritage fabric retained upstairs and the front section of the boarding house will be detailed and materially finished to match the existing period detailing;
- Greater articulation and separation of the heritage front and the new rear section by a recessed glazed wall screened with an aluminium louvered screen;
- Material finishes detailing of proposed rear addition revised to provide a sympathetic dialogue with the retained portion of the heritage building;
- Retention of the louvered screens to the Bay street frontage with the addition of an enhanced landscaped yard;
- Balcony and door details provided at 1:10 scale and consistent with the 1911 construction date of the building. The framing is timber, however the balustrade is paint finished metal for additional safety;
- Minor changes to the car parking layout to separate car parking for the boarding house and commercial premises and the removal of one space due to the reduction in boarding rooms resulting in a shortfall of two (2) retail spaces;
- Provision of fixed privacy screens to various rooms to prevent overlooking, particularly in void area;
- Caretaker's balcony widened;

- Further solar access information demonstrating the provision of solar access to outdoor open space areas; and
- Provision of a BASIX Certificate, Stage 1 Preliminary Assessment, boarding room dimensions in accordance with the ARH SEPP, revised stormwater and Landscape concept plan and a Clause 4.6 variation for the height exceedance due to the proposed lift overrun.

There were no changes undertaken to the Geotechnical report, despite Council's concerns, while the freeboard remained due to the heritage listed nature of the building.

This amended proposal is the subject of this report.

On 9 May 2017, Council again requested that the applicant address the engineering and land contamination issues associated with the proposal, specifically that the following matters be addressed in the form of amended plans and additional information including calculations and computer modelling files for further assessment:

- Geotechnical Report - No revised geotechnical report had been submitted. The previous report submitted was not based on site investigation via actual bored holes samples but rather from interpolation/inference on data obtained from adjacent sites due to access not currently being available, which was unacceptable;
- On-site infiltration - The geotechnical report indicated that the water table is about 2-3 metres below the ground surface, which would render the proposed stormwater via on-site infiltration not suitable in accordance with Sections 4, 5 and 6 of Council's *Stormwater Management Technical Guidelines* (SMTG) when the proposed infiltration 2m deep;
- Water Quality Modelling - The revised plan now indicates that the basement drainage will be piped to a water treatment device, however, water quality modelling using MUSIC had not been performed, demonstrating achievement of targets as specified in Section 16 of Council's SMTG and also BBDCP 2013; and
- A Detailed Site Investigation (Phase 2 – Environmental Site Assessment) required as recommended in the Stage 1 Preliminary Assessment.

On 1 August 2017, the Phase 2 Environmental Site Assessment was provided and on 17 August 2017, revised Stormwater and Geotechnical reports were received, with minor modifications. On 21 August 2017, the Remedial Action Plan (RAP), required by the Stage 2 report, was provided.

On 14 September 2017, Council again advised the applicant that there were continued issues with the submitted technical information including:

- Revisions required to the RAP following concerns raised by Council's Environmental Scientist including the application and rationale for the cap and contain locations was unclear in Section 6 of the RAP and that clarification was required in relation to the location of each proposed Step 3 to Step 7 including the rationale for not removing any soil that is accessible through demolition and areas where the slab will be laid and/or replaced.
- Further clarification in relation to 'demolition' in the RAP to ensure that only the rear single storey addition is removed from the existing heritage building on the site;
- Land remediation to be added to the DA description; and
- The geotechnical report did not measure the infiltration rate, which was required since a layer of clay exists 5 metres below ground, making infiltration less effective.

On 25 September 2017, the following was received from the applicant:

- Revised Remediation Action Plan;
- Addendum to the Geotechnical Investigation Report with infiltration rate noted and answers to the clay stratum query;
- Revised stormwater drawings with revised infiltration trench details; and
- DA form description of proposed development amended (to include “land remediation” as requested).

Various site inspections have been carried out on the site, at which time it was noted that the approved mixed-use development at the adjoining site was under construction.

Prior to the lodgement of the development application, the Design Review Panel (DRP) considered the proposal in June 2016.

The Panel’s comments included:

#### 1 Context and Neighbourhood Character

- The proposed void space is located adjacent to the approved space adjoining to maximise access for natural light. It will be necessary to widen the space.

#### 2.2 Built Form and Scale

- Activation of the Bay Street frontage with a sleeve of retail space to screen the car parking behind.
- Vary the width or delete planter box at level 2 to enable terrace to be widened at common room end where extra width would be most needed.
- Extend the awning also returning along Bay Street (if acceptable from heritage perspective)
- The common entry needs to include an open stair linking to the proposed open stair serving levels 1 and 2 and should continue to access level 3. The Lift Lobby should also be wider for part of its length to accommodate some seating internally and a mail collection area externally.

#### 2.6 Amenity

- Widen the void space to provide satisfactory separation distances to the adjoining development and satisfy the ADG recommendations.
- Provide landscaped communal courtyard in void space at level 1.
- Provision for natural light and ventilation to internal service rooms at level 3.
- Ensure adequate natural light provided to lift lobbies and both ends of common corridors at Levels 1 and 3. Level 1 provide return access corridor linking to Courtyard and vented skylights at Level 3.

These comments were addressed in the amended proposal, with the exception of the activation of the Bay Street frontage with a sleeve of retail space. It was considered that there is no requirement for an active street frontage for Bay Street pursuant to Clause 6.15 of the BBLEP 2013 and there is also no other retail development along this street. It was considered that the additional landscaping provided in the amended proposal was sufficient to screen the car parking at ground level along the Bay Street frontage.

## **Proposal**



The development application, in its amended form, seeks consent for the redevelopment of a heritage item, the “*Finnies Building*”, including demolition of the rear wings and the addition of a four (4) storey element comprising a 35 room boarding house including a Caretaker’s unit, with ground floor retail premises and 12 car spaces.

The proposed development is described in detail below:

- Alterations and additions to the existing two storey heritage listed commercial building comprising:-
  - Demolition of the rear single storey portions of the building,
  - Retention of the two (2) storey element of the building including the front facades and shopfronts along Botany Road and Bay Street,
  - Reinstatement of the four (4) retail shopfronts along Botany Road,
  - Reinstatement of the verandahs along Botany Road.
- Construction of a four (4) storey boarding house addition adjoining the existing heritage building at the front of the site comprising the following:-
  - 35 Boarding rooms, each with a small bathroom and kitchenette and some with balconies, over Levels 1, 2 and 3;
  - Landscaped courtyard on Level 1;
  - Common room with a kitchen and an adjoining terrace area on Level 2;
  - Communal laundry rooms on Levels 1, 2 and 3;
  - Caretaker’s apartment (Manager’s) with balcony included as Room 31 on Level 3; and
  - Lift and stair access to each level from the ground floor;
- Car parking at ground level with twelve (12) car spaces comprising seven (7) boarding house car spaces and five (5) retail car spaces, five (5) bicycle and seven (7) motorbike spaces.

In terms of the proposed uses, the proposal includes a *boarding house*, and *commercial premises* (retail premises), both permissible in the zone with consent.

### Retail Component

Four (4) retail premises are proposed along the Botany Road frontage, with Retail 1 wrapping around the corner with Bay Street. These shops have existed on the site since the original construction of the building, notwithstanding that there are currently only three shops on the site following various renovations and layout changes to these shops since the building was constructed. The gross floor area of the retail component is approximately 200m<sup>2</sup>.

It is considered that the proposed ground floor retail premises are best characterised as *shops* given their size and location in the business centre. The term *business premises* could also be used, however, this is more restrictive in terms of future uses and given the size of the tenancies, *shops* are the most likely future use. The Statement of Environmental Effects (SEE) also appears to refer to these tenancies as ‘*shops*’.

### Car Parking and Parking Allocation

The car parking is proposed as an enclosed level at grade, containing a total of 12 car spaces. The car parking is allocated as follows:

- Seven (7) spaces for the boarding house rooms, including two accessible spaces;

- Five (5) retail spaces, including two accessible spaces;
- Seven (7) motorbike spaces; and
- Five (5) bicycle spaces.

Additionally, the car parking level contains the following:

- Driveway access;
- Lift and lift lobby
- Two (2) sets of fire stairs;
- Separate waste storage areas for the boarding house and retail premises;
- Disabled toilet for use by the retail premises;
- Building services.

### Boarding House

A summary of the boarding house component of the development is provided as follows:

#### *Level 1*

Level 1 comprises 16 boarding rooms, including an accessible room (Room 10), a small common laundry and a communal landscaped courtyard along the northern side boundary. A narrow balcony exists along the street for rooms 8, 9, 10 and 11, however, the RMS objects to this balcony and therefore it is to be deleted from the proposal (refer to recommended conditions in the Attachment).

The room sizes include the following:

- Room 1 – 19.24m<sup>2</sup>
- Room 2 – 19.24m<sup>2</sup>
- Room 3 – 19.24m<sup>2</sup>
- Room 4 – 19.24m<sup>2</sup>
- Room 5 – 19.24m<sup>2</sup>
- Room 6 – 18.97m<sup>2</sup>
- Room 7 – 18.63m<sup>2</sup>
- Room 8 – 25.92m<sup>2</sup>
- Room 9 – 18.53m<sup>2</sup>
- Room 10 – 21.53m<sup>2</sup>
- Room 11 – 22.63m<sup>2</sup>
- Room 12 – 23.22m<sup>2</sup>
- Room 13 – 17.97m<sup>2</sup>
- Room 14 – 17.24m<sup>2</sup>
- Room 15 – 17.02m<sup>2</sup>
- Room 16 – 24.88m<sup>2</sup>

#### *Level 2*

Level 2 comprises 9 boarding rooms, with the rooms along the Bay Street frontage including small private balconies, a small common laundry and a communal room with a kitchen in the northern corner. This common room adjoins a large outdoor terrace along the street frontage. The room sizes include the following:

- Room 17 – 19.24m<sup>2</sup>
- Room 18 – 19.24m<sup>2</sup>
- Room 19 – 19.24m<sup>2</sup>

- Room 20 – 19.24m<sup>2</sup>
- Room 21 – 19.24m<sup>2</sup>
- Room 22 – 22.07m<sup>2</sup>
- Room 23 – 17.24m<sup>2</sup>
- Room 24 – 16.88m<sup>2</sup>
- Room 25 – 24.88m<sup>2</sup>

### *Level 3*

Level 3 comprises 10 boarding rooms, including an accessible room (Room 32) and a caretaker's apartment (Room 31) including an associated private balcony. The rooms along the Bay Street frontage include small private balconies. A small common laundry and a small common balcony along the street frontage is also provided (wholly within the site). The room sizes include the following:

- Room 26 – 15.77m<sup>2</sup>
- Room 27 – 15.77m<sup>2</sup>
- Room 28 – 15.77m<sup>2</sup>
- Room 29 – 15.77m<sup>2</sup>
- Room 30 – 19.74m<sup>2</sup>
- Room 31 – 23.58m<sup>2</sup>
- Room 32 – 22.16m<sup>2</sup>
- Room 33 – 17.24m<sup>2</sup>
- Room 34 – 16.88m<sup>2</sup>
- Room 35 – 24.88m<sup>2</sup>

Each of the boarding rooms provides accommodation for a single lodger only and consists of a small bathroom and kitchen with an area for a lounge (living/ dining) and a wardrobe. Some of the proposed boarding rooms have access to an individual balcony, while a communal courtyard along the northern (side) boundary and a terrace along the front elevation are also provided as communal outdoor open space.

### Landscaping

Landscaping works are proposed within the front setback area along Bay Street as well as within the communal open space terrace on Level 2 in planter boxes. Some street tree planting and planter boxes are also proposed along Botany Road.

### GFA and Height

The overall gross floor area (GFA) for the proposal is **1502.14m<sup>2</sup>** with a resulting FSR of **1.83:1** which complies with BBLEP 2013. While the predominant height of the proposed building is 14 metres, complying with the maximum height development standard under Clause 4.3 of BBLEP 2013, the lift overrun breaches this height control by 1.25 metres. Accordingly, a Clause 4.6 variation has been submitted (considered below in the BBLEP 2013 assessment).

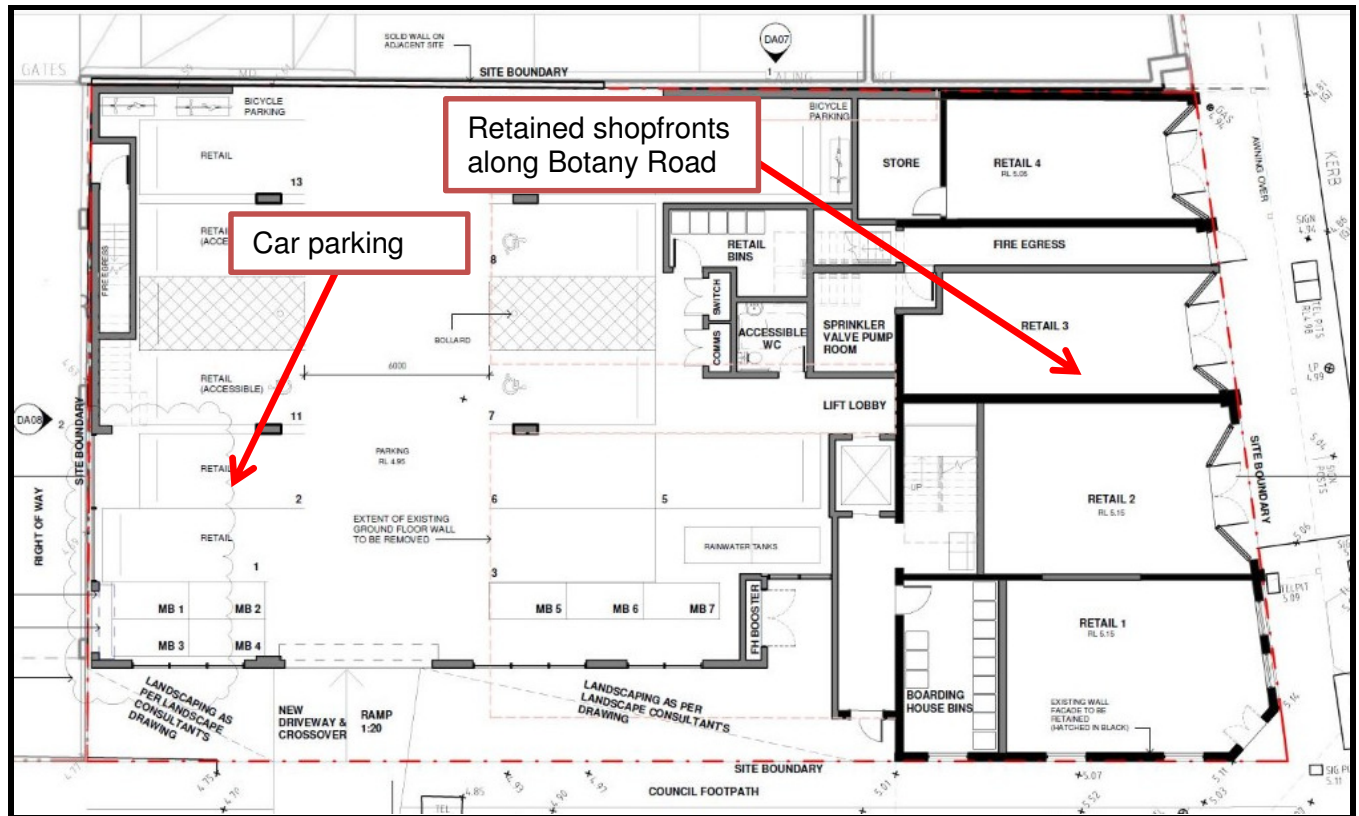
### Stormwater Management

Stormwater will be directed to an onsite detention tank which is to be suspended underneath the Level 1 courtyard within the roof of the car parking level. This system has been devised as onsite infiltration cannot be used since the site has some areas of contamination and the soil infiltration rate on the site is such that there is inadequate capacity on the site for the requirement amount of water storage.

## Land Remediation

The site shall be remediated as outlined in the Contamination reports and the Remedial Action Plan, which are further discussed in this report.

The proposal is illustrated in **Figures 1, 2 and 3** below.



**Figure 1: Proposed Site & Ground Floor Plan**  
(Source: Giles Tribe Architects, 16 December 2017)

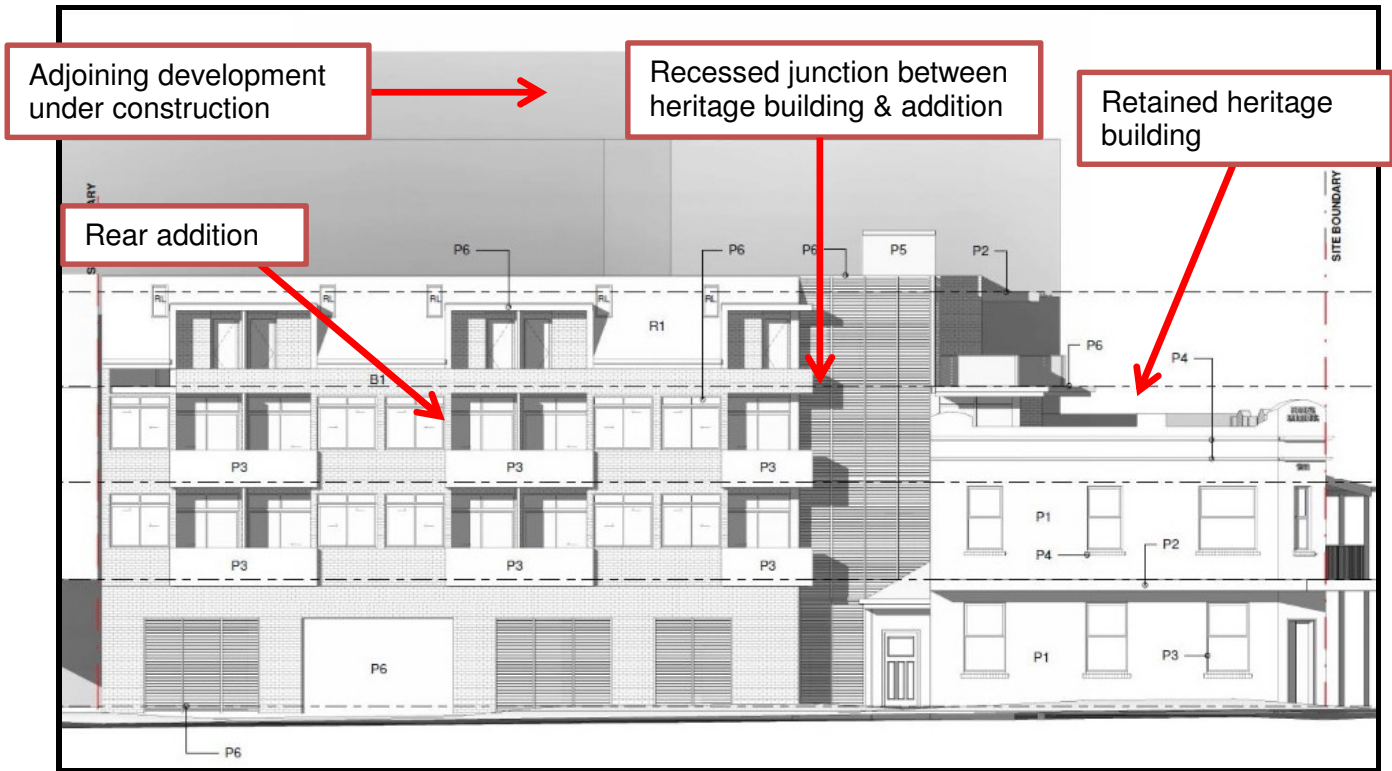
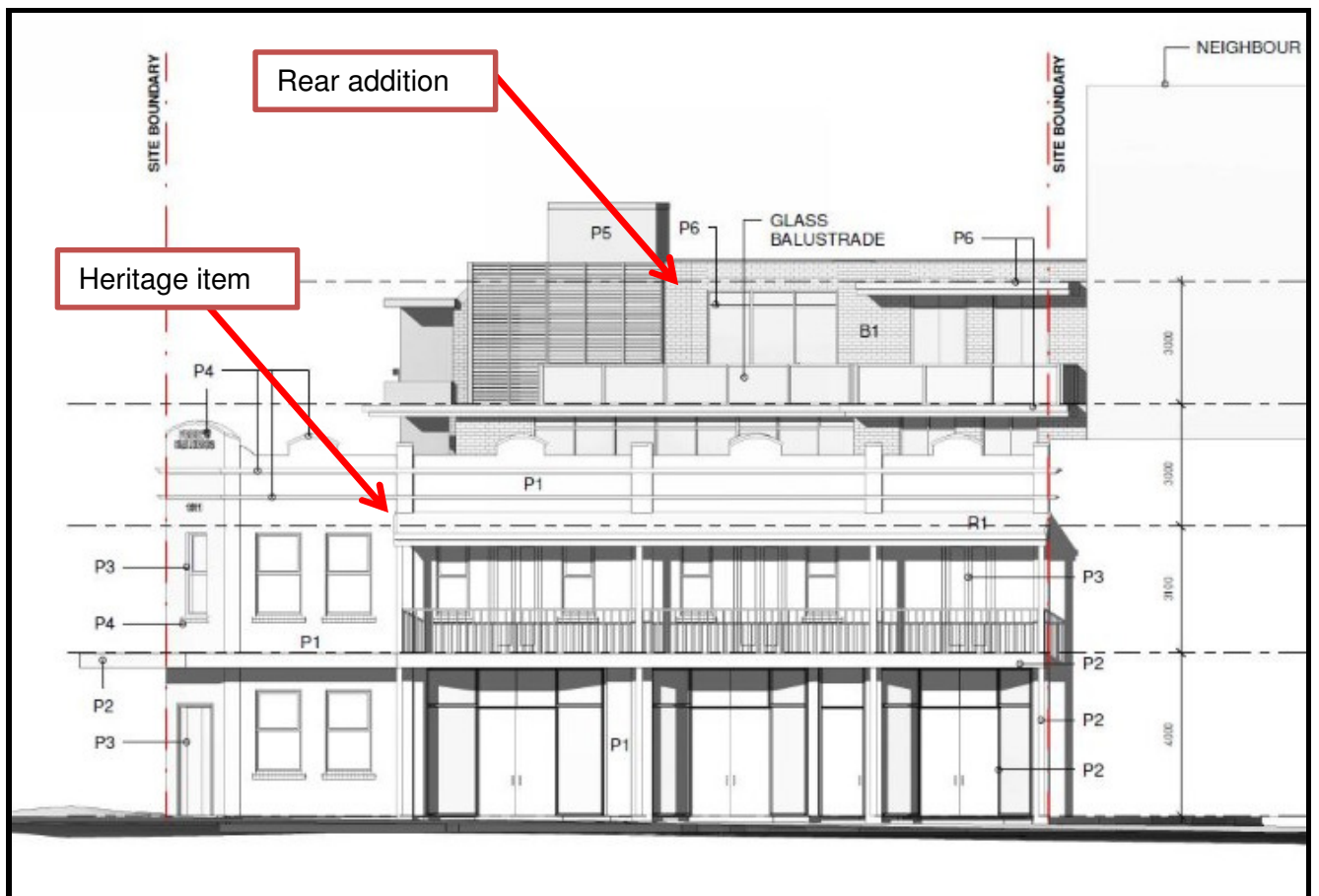


Figure 2: Proposed Southern (Bay Street) Elevation (Source: Giles Tribe Architects, 16 December 2016)



**Figure 3: Proposed Eastern (Botany Road) Elevation (Source: Giles Tribe Architects, 16 December 2016)**

Key Controls

The key controls relevant to the proposal are provided below:

**Table 1: Key Controls**

Control	Required	Proposal	Complies (Yes/No)
Site Area	-	Site Area: 820.5m <sup>2</sup>	N/A
<b>ARH SEPP</b>			
Permissible (CI 26 - 28)	Various zones	B2 Local Centre zone is permissible	Yes
FSR (CI 29(1)(a))	Refer to BBLEP 2013	Max FSR – 2:1	Yes
Height (CI 29(2)(a))	Refer to BBLEP 2013	Max height – 14m	<b>No (Note 4)</b>
Solar access (CI 29(2)(c))	3 hours of sunlight (9am-3pm in mid-winter) to communal room	Provided to north facing communal room and terrace	Yes
Private open space (CI 29(2)(d))	Communal: Min area 20m <sup>2</sup> (min dimension 3m)	Provided as north facing terrace to Botany Road	Yes
	Manager: 8m <sup>2</sup> (min dimension 2.5m)	Provided adjoining Manager's room on Level 3	Yes
Car Parking (CI 29(2)(e))	0.2 car spaces/room (7 car spaces required) Max 1 space/employee	7 spaces provided for boarding house (including for Manager)	Yes
Room sizes (CI 29(2)(f))	Min 12m <sup>2</sup> (single rooms; excluding bathroom & kitchen)	Min area 15.77m <sup>2</sup>	Yes
Common room (CI 30(1)(a))	>5 boarding rooms	Provided on Level 2	Yes
Max room size (CI 30(1)(b))	Max 25m <sup>2</sup>	Max: 25.92m <sup>2</sup> (Room 8)	<b>No (Note 1)</b>
Manager's unit (CI 30(1)(e))	>20 lodgers	Manager's unit provided (Room 31)	Yes
Ground floor (CI 30(1)(g))	No boarding rooms on the ground floor in commercial areas.	Only retail on the ground floor	Yes
Bike Parking (CI 30(1)(h))	1 bicycle space/5 rooms 1 motorbike space/5 rooms	5 bicycle spaces 7 motorbike spaces	<b>No (Note 2)</b> Yes

Control	Required	Proposal	Complies (Yes/No)
<b>Character of the Area (CI 30A)</b>	Consistent with character of the area	Complies	Yes <b>(Note 3)</b>
<b>BBLEP 2013</b>			
<b>Zone</b>	B2	<i>Boarding House and Commercial premises</i>	Yes
<b>FSR</b>	2:1 under BBLEP 2013	1.83 : 1	Yes
<b>GFA</b>	1,641sqm (maximum) calculated based on permissible FSR under BBLEP 2013	1502.14sqm	Yes
<b>Height</b>	14 metres (maximum)	Lift overrun- 15.4m Parapet- 14m	<b>No – Refer to Note 4</b>
<b>BBDP 2013</b>			
<b>Car Parking (Part 3A.2)</b>	<p><u>Boarding Houses</u></p> <ul style="list-style-type: none"> <li>As per SEPP (ARH) 2009:</li> <li>0.2 per boarding room</li> <li>1 Bicycle space/5 rooms</li> <li>1 Motorbike space/5 rooms</li> </ul> <p><u>Commercial (retail)</u></p> <ul style="list-style-type: none"> <li>1 space / 25sqm</li> </ul> <p><b>Total car parking required: 14 car parking spaces</b></p>	<p><u>Boarding Houses</u></p> <ul style="list-style-type: none"> <li>7 spaces</li> </ul> <p><u>Commercial (retail)</u></p> <ul style="list-style-type: none"> <li>1 space / 25sqm</li> </ul> <p><b>Total car parking spaces provided: 12 car spaces</b></p>	<b>No (retail) refer to Note 5</b>
<b>Heritage (Part 3B.3)</b>	building height of new development must not exceed that of the original Heritage Item and provide a transition in height	Proposal is two (2) storeys above heritage item	<b>No Refer to Note 6</b>
<b>Street Wall Height (Part 5.2.2.7)</b>	2 storeys	2 storeys to Botany Road	Yes
<b>Boarding Houses (Part 7A.4)</b>	Located within 400m of public transport 1 accessible room 30% to have private open space	Located adjoining bus stop 2 accessible rooms >30% have balconies	Yes

## Site Description

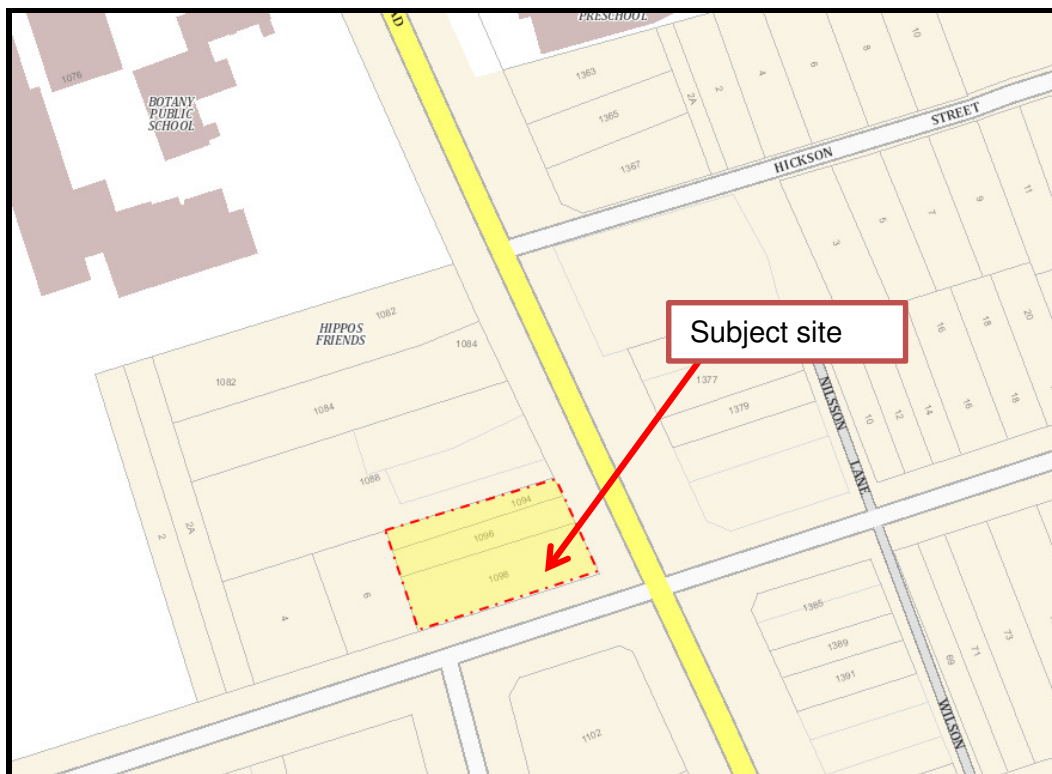
The subject site comprises 1094-1098 Botany Road, Botany and is legally described as Lots

43, 44 & 45 in DP 856900 (the site). The site is located on the corner of Botany Road and Bay Street, with the Botany Road frontage forming the northern edge of the Botany town centre. Botany Public School is a short distance to the north along Botany Road. Sydney airport is located to the northwest beyond Mill Pond. General Holmes Drive is located a short distance beyond Mill Pond, which is the major arterial road in the vicinity of the site.

The site location is illustrated in **Figure 4**.

The site has a total area of 820.5m<sup>2</sup>, with the frontage to Botany Road comprising 20.49 metres and the frontage along Bay Street comprising 39 metres. The land falls gently from the east (Botany Road frontage) to the west, with site levels ranging from RL5.14m AHD in the south east corner to RL4.46m AHD in the north western corner. The site is benefitted by a right of carriageway (“ROC”) adjoining the western boundary of the site, which allows further access to the proposed development.

The site is currently occupied by an existing two (2) storey brick commercial building with a decorative parapet and metal roof, which comprises a local heritage item (Item No 137) under *Botany Bay Local Environmental Plan 2013* (BBLEP 2013). This existing heritage building on the site, known as the Finnies Building, is generally orientated to the Botany Road frontage with an awning partially along this elevation (**Figures 5 & 6**).



**Figure 4: Location of the Site**

The existing building on the site comprises a group of four x two (2) storey terraced shop/residential premises within a single building constructed in 1911 (name and date on parapet and construction date confirmed via research) with a decorative a parapet. While the corner premises (formerly a bank) appear to have never had an awning, the other three shops show physical evidence (central 1st floor door openings to the facade, since filled in with modern aluminium framed windows) for having originally had a post-supported balcony to the



1st floor street elevation. The RMS does not support the reinstatement of the awning with a balcony, which is further discussed in this report.

At the rear, the form of the building comprises two (2) storey skillion wings (with party walls dividing premises) and light wells between the wings. Single storey rear sections exist beyond the two storey wings. The roof features the original chimneys.

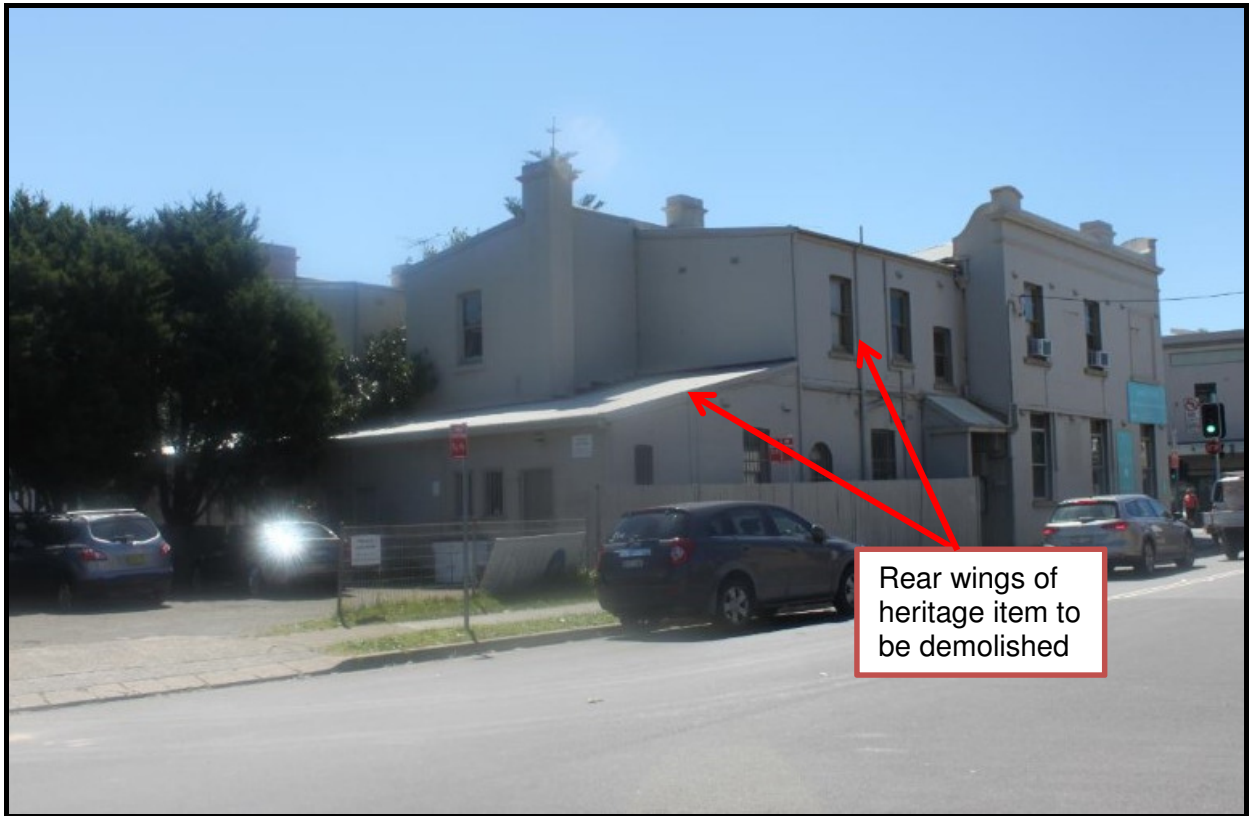
An Interior inspection by Council's Heritage Advisor revealed that the ground floor retail/commercial spaces have been thoroughly modernised but the remainder of the interior, both to the ground and first floor levels, retain original timber staircases, decorative plaster ceilings, timber tongue & grooved ceilings (towards the rear of the building) and extensive original joinery (doors, fanlights, skirting boards). No fireplaces remain, however, chimney breasts remain to show the former locations of fireplaces.

On the Bay Street elevation there is a side entry to the residential portion of the building which features tessellated tiling to the skillion roofed entry porch and a leadlight door with leadlight sidelights and fanlight. This existing heritage building will be retained and modified/altered as part of this development proposal, with the exception of the skillion wings to the rear which will be demolished under this proposal.



**Figure 5: Existing Heritage Building on the site (Finnies Building)**

Adjoining development to the north and west comprises No 1084-1088 Botany Road Botany, which is currently undergoing redevelopment into a large multi storey residential flat building. The approved development on the adjoining site is illustrated in **Figure 7**.



**Figure 6: Existing Development on the site from Bay Street**



## Figure 7: Approved Development on the Adjoining Site

### Description of the Surrounding Development

Existing development on the opposite side of Botany Road generally comprises two (2) storey *Shoptop* housing developments with awnings over the footpath while development on the opposite side of Bay Street comprises the Waterworks Hotel, also a two storey building.

The building on the opposite corner of Bay Street and Botany road also comprises a two storey building. All of the buildings on each corner of the intersection of Bay Street and Botany road comprise two (2) storey buildings with wrap around awnings (**Figure 8**). This proposal involves reinstating the awning on the building on the site which will be compatible with existing development in the vicinity of the site.

Development along Bay Street generally comprises a mix of development including the rear portion of Botany Public School and low density detached housing reflective of the R2 low density zoning along the northern side of Bay Street and light industrial uses and detached housing which reflects the B7 zoning on the eastern side.



**Figure 8: Development on opposite corners of Bay Street and botany Road intersection**

### **Referrals**

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#### Internal

The development application was referred to Council's development engineer, landscape architect, heritage consultant, environmental scientist, and environmental health officer. While there were initial concerns raised, as outlined in this report, following the provision of the amended plans and additional information, there were no objections raised subject to the

imposition of relevant conditions which have been recommended to be imposed in the **Attachment**.

Council's Heritage Consultant initially considered that the proposal was unsympathetic to the existing heritage listed building as outlined in this report, however, following the submission of the amended plans, considers that the amended proposal is now satisfactory from a heritage perspective. Relevant conditions were recommended which have been included in the Attachment.

Similarly Council's Landscape Architect initially considered that the proposal was unacceptable due to some concerns with the planting regime and the proposed works in the public domain, which were inconsistent with Council's specifications. These concerns were addressed in amended Landscape Plans, which Council's Landscape Architect found acceptable subject to relevant conditions of consent, which have been recommended to be imposed in Schedule 1 in the **Attachment**.

### External

The development application was also referred to Sydney Airport Corporation Limited (SACL) due to the proximity of the airport, in which no objections were raised. Ausgrid and Sydney Water were also consulted and raised no objections subject to the imposition of standard conditions.

The application was also referred to the Roads and Maritime Services (RMS) for concurrence under Section 138 of the *Roads Act 1993* for the proposed awning at ground level and the associated balcony on Level 1 (on top of the awning) over the footpath. These features are located outside of the site boundaries. In correspondence to Council dated 1 March 2018, the RMS did not grant concurrence to the application for the following reason:

1. *All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Botany Road boundary.*

*In this regard the proposal does not comply as the proposed verandah/balcony extends beyond the freehold boundary. Any improvements beyond the freehold boundary (other than standard pedestrian footpath awnings) for private benefit are not supported by RMS*

*Upon receipt of amended plans which show all proposed buildings and structures, together with any improvements essential to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Botany Road Boundary, Roads and Maritime will review the application and provide a response.*

Accordingly, a condition has been recommended to be imposed in the Attachment which requires deletion of the balcony and awning over the footpath along the Botany Road frontage which is outside of the site boundaries from the plans prior to the issue of a Construction Certificate. Approval cannot be granted to this balcony/awning given this lack of concurrence from the RMS. The applicant has agreed to this condition in order to allow the application to be considered at this Panel meeting.

Further discussions with the RMS and the applicant will be undertaken as it is considered that the main objection from the RMS is to the proposed balcony over the awning and not necessarily the awning itself. This first floor balcony is not necessarily required for the development to be functional and there is no loss of amenity if this balcony was removed as there is adequate private and communal outdoor space provided elsewhere on the site. There

is architectural and heritage merit in the reinstatement of the street level awning, as it was part of the original heritage building, will be discussed further with the RMS and the applicant as this is considered to be important from a heritage perspective. At this stage though, since there is currently no concurrence for any of these structures, this recommended condition is required.

Other relevant conditions have also been imposed in Schedule 1 in **Attachment A** to address the other referrals.

## Statutory Considerations

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An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### S.79C(1) - Matters for Consideration – General

#### S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

#### ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

The proposal is subject to the provisions of *State Environmental Planning Policy (Affordable Rental housing) 2009* (ARH SEPP) as a boarding house is proposed. An assessment of the proposal against the ARHSEPP in relation to the controls for boarding houses pursuant to Part 2 Davison 3 has been carried out as shown in **Table 2**.

**Table 2: Consideration of Provisions of Division 3 (Boarding Houses) of the ARH SEPP**

Control	Proposed	Comply
Land to which Division applies (CI 26)	This Division applies to land within the B2 Local Centre zone (among other zones). The site is within the B2 zone.	Yes
Development to which Division applies (CI 27)	The site is within the B2 zone which permits boarding houses pursuant to this clause. The site satisfies the definition of an “ <i>accessible area</i> ” given it is within 400 metres of a bus stop (bus stop adjoins the site along Botany Road).	Yes
Development may be carried out with consent (CI 28)	Development to which this Division applies may be carried out with consent. Consent is requested in this application.	Yes
Standards that cannot be used to refuse consent (CI 29)	(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a FSR are not more than: (a) <i>the existing maximum FSR for any form of residential accommodation permitted on the land</i> – the proposal involves an FSR of 1.83:1	Yes

Control	Proposed	Comply
	<p>consistent with the maximum permitted FSR of 2:1 under the BBLEP 2013, or</p> <p>(b) <i>if the development is on land within a zone in which no residential accommodation is permitted</i>— the existing maximum FSR for any form of development permitted on the land – N/A – the B2 zone permits dwelling houses, RFBs and shop top housing, or</p> <p>(c) <i>if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register</i>—the existing maximum FSR for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if existing max FSR is 2.5:1 or less, or</p> <p>(ii) 20% of existing max FSR, if existing max FSR is &gt;2.5:1.- N/A – site contains a heritage item and therefore these bonus FSR provisions do not apply. The proposed FSR of 1.83:1 complies with max FSR under BBLEP 2013 pursuant to CI29 (1)(a).</p>	
	<p>(2) (a) <b>building height</b>  <i>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land. – The proposal exceeds the LEP maximum height of 14 metres (lift overrun).</i></p>	<p><b>No</b>  <b>Refer to Note 4</b>  (CI 4.6)</p>
	<p>(b) <b>landscaped area</b>  <i>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located – the nil front setback to Botany Road with landscaping along Bay Street frontage is acceptable in this local centre context.</i></p>	<p>Yes</p>
	<p>(c) <b>solar access</b>  <i>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter – the common room on Level 2 receives good northern solar access as well as the adjoining terrace area faces north and receives solar access from 9am to 1pm.</i></p>	<p>Yes</p>

Control	Proposed	Comply
	<p>(d) <b>private open space</b> if at least the following private open space areas are provided (other than the front setback area): (i) <i>one area of at least 20m<sup>2</sup> with a minimum dimension of 3 metres is provided for the use of the lodgers</i> – the outdoor terrace area along the northern elevation on Level 2 has a minimum width of 5 metres and has an approx.. area of 120m<sup>2</sup> and is located wholly within the site, (ii) <i>if accommodation is provided on site for a boarding house manager—one area of at least 8m<sup>2</sup> with a minimum dimension of 2.5 metres is provided adjacent to that accommodation</i> – the balcony adjoining the caretaker’s apartment is 2.5m deep with an area of 12.5m<sup>2</sup> and is located on Level 3 and wholly within the site.</p>	<p>Yes</p> <p>Yes</p>
	<p>(e) <b>parking</b> if: (i) <i>in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room</i> – the site is in an accessible area and therefore requires 7 (0.2 x 35 rooms) spaces for the boarding house which are provided, and (ii) <i>in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room</i> – N/A, and (iii) <i>in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site</i> – a car space for the Manager’s unit is included above.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>
	<p>(f) <b>accommodation size</b> <i>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</i> (i) <i>12m<sup>2</sup> in the case of a boarding room intended to be used by a single lodger</i> – all rooms are single rooms only and comply with the minimum area of 12m<sup>2</sup>, or (ii) <i>16 m<sup>2</sup> in any other case</i> – N/A - all rooms are for single lodgers only.</p>	<p>Yes</p> <p>N/A</p>
Standards for boarding houses (CI 30)	<p>(1) <i>A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</i> (a) <i>if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided</i> – a common room and terrace areas is provided on Level 2.</p>	<p>Yes</p>
	<p>(b) <i>no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m<sup>2</sup> - all rooms are &lt;25m<sup>2</sup> except Room 8 which is 25.92m<sup>2</sup>.</i></p>	<p><b>No</b></p> <p><b>Refer Note 1</b></p>
	<p>(c) <i>no boarding room will be occupied by more than 2 adult lodgers</i> – the rooms are for single lodgers only,</p>	<p>Yes</p>

Control	Proposed	Comply
	(d) <i>Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger – separate bathroom and kitchenette facilities are provided in each boarding room as well as a kitchen in the common room and common laundries on each level.</i>	Yes
	(e) <i>if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager – a caretakers unit is provided for the on-site manager,</i>	Yes
	(f) (Repealed)	N/A
	(g) <i>if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use – the site is within the B2 zone (commercial zone) and there is no residential or boarding house use on the ground floor. Shops are proposed along the Botany Road frontage of the site.</i>	Yes
	(h) <i>at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms – 5 bicycle and 7 motorbike spaces are provided for the 35 rooms, which is considered sufficient in total.</i>	No (bicycles) <b>Refer Note 2</b>  Yes (motorbikes)
	(2) <i>Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house – the proposal is for a new boarding house and is not for alterations and additions to an existing boarding house.</i>	N/A
Character of local area (CI 30A)	<i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area – this is discussed in detail below.</i>	Yes  <b>Refer Note 3</b>
No subdivision of boarding houses (CI 52)	<i>A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house – there is no subdivision proposed.</i>	Yes

**Note 1: Clause 30(1)(b) – Maximum room size of 25m<sup>2</sup>**

Clause 30(1) of the ARH SEPP contains standards for boarding houses for which a consent authority must be satisfied prior to granting consent to development. One of these matters is that no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres. It is assumed that this control is aimed at ensuring that the boarding rooms are not of such a size that they would be used for permanent accommodation.



The majority of the proposed boarding rooms comply with this requirement, with room sizes (excluding bathrooms and kitchenettes) of between 15.77 and 24.88 square metres. However, Room 8 has an overall size of 25.92 square metres and is therefore inconsistent with this control, being 0.92 square metres over the maximum room size.

This exceedance is considered to be minor and Room 8 is a corner room, which results in awkward areas within the room as well as a larger hall area at the entry to the room. There is still an acceptable level of amenity to this room, given the windows overlook the street and the room does not exceed the control sufficiently for this room to be occupied permanently.

It is considered that this minor non-compliance is satisfactory and the control should be varied in this instance. It is not considered that this variation to the standard warrants refusal of the development application.

### **Note 2: Bicycle Parking**

The ARH SEPP requires that at least one parking space will be provided for a bicycle and one for motorbike for every 5 boarding rooms. This control requires a total of 7 bicycle and 7 motorbike spaces to be provided for the proposal. While 7 motorbike spaces have been provided, only 5 bicycle spaces have been provided in the ground floor car parking area of the proposal.

While this is technically a shortfall of two (2) bicycle spaces, it is considered that there is sufficient room within the ground floor parking area for the additional two bicycle spaces, which is recommended to be imposed as a condition in the schedule.

### **Note 3: Clause 30A – Character of the Area**

The design of the development is compatible with the character of the local area in that the bulk and scale of the proposed addition does not overwhelm the heritage item, has sufficient articulation of the built form and is adequately setback with respect to the heritage item.

The use of the mansard roof form along the Bay Street frontage (**Figure 9**) gives the building a three storey appearance along this elevation which assists in reducing the bulk and scale of the development when viewed from the street and surrounding area. The use of balconies and other protruding detailing further reduces the bulk and scale and provides visual interest in the street façade.

The proposal comprises a mix of both two (2) and four (4) storey development which provides an appropriate form of development given its location along Botany Road. This area largely comprises two (2) storey developments as well as being compatible with the emerging character of the area, which is for higher density residential development, illustrated by the adjoining development to the north. The Botany Road frontage is characterised by the retained heritage detail, including the original four (4) shopfronts, which is characteristic of the heritage conservation area. The proposal is considered to be consistent with the character of the area.

The proposal is generally consistent with the ARH SEPP, with relevant conditions being imposed on the consent to ensure compliance with this Policy.

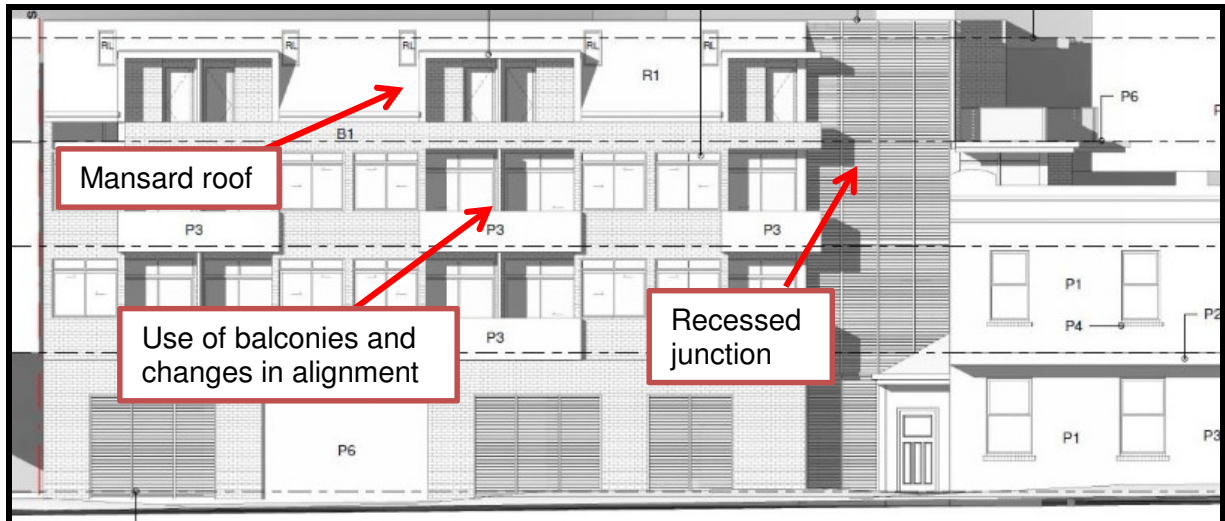


Figure 9: Southern elevation showing mansard roof (Source: Giles Tribe Architects)

### **State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) aims to facilitate the effective delivery of infrastructure across the State and among other things, identifies matters to be considered in the assessment of development adjacent to particular types of development. The relevant clauses of the Infrastructure SEPP to this proposal are considered below:

#### *Clause 101 – Development with frontage to a Classified Road*

Pursuant to Clause 101(2) of the SEPP (Infrastructure) 2007, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *The design of the vehicular access to the land, or*
  - (ii) *The emission of smoke or dust from the development, or*
  - (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
  - (iv) *The development is of a type that is not sensitive to traffic noise or vehicle emissions or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Botany Road is a State classified road and vehicular access to the proposal is from Bay Street, which satisfies Clause 101(a). The vehicular access to the proposal will not adversely impact on Botany road given its location approximately 27 metres from the intersection with Botany Road. The proposal will not result in any significant smoke or dust which would impact on the classified road and the traffic generation from the proposal is unlikely to adversely impact on Botany Road. The proposal is therefore consistent with Clause 101(b).

An Acoustic report has been provided in relation to road and aircraft noise and concluded that the proposal was satisfactory subject to recommendations. These recommendations will be imposed as conditions and accordingly, the proposal is considered to be consistent with Clause 101(c). The proposal is consistent with the provisions of Clause 101 of the Infrastructure SEPP.

#### *Clause 102 – Impact of road noise or vibration on non-road development*

Pursuant to Clause 102 of Infrastructure SEPP, development on land in or adjacent to a road corridor with an annual average daily traffic volume of more than 40,000 vehicles must take appropriate measures to enquire that nominated LAeq levels are not exceeded, while roads with between 20,000 and 40,000 are recommended to include such an assessment. Botany Road is included in the “recommended” category for this assessment.

The Development Application is accompanied by an Acoustic Report, prepared by Acouras Consultancy and dated 11 July 2016. This report concluded that subject to the recommended measures, the proposal is satisfactory with regards to traffic noise. Relevant conditions are to be imposed requiring compliance with these report recommendations.

#### *Clause 104 – Traffic-generating development*

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services (RMS) for comment based on the type, capacity or location of the proposal. In this instance, the proposal does not meet these criteria and accordingly, a referral to the RMS is not required under the Infrastructure SEPP.

The proposal is consistent with the Infrastructure SEPP.

#### ***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposal. The application was accompanied by BASIX Certificate No. 786213M dated 30 January 2017 prepared by Senica Consultancy Group committing to environmental sustainable measures. The Certificates demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. Accordingly, a condition has been imposed on the consent to ensure that these requirements are adhered to. The proposal is consistent with the BASIX SEPP.

#### ***State Environmental Planning Policy No. 55 – Remediation of Land***

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55), along with the requirements of Part 3K Contamination of the BBDCP 2013, have been considered in the assessment of the development application. Clause 7 of SEPP 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

There is potential for the site to be contaminated given it has historically been used for commercial purposes and located in close proximity to a former service station site. The Development Application is accompanied by the following reports in relation to land contamination (collectively referred to the Land Contamination reports)::

- Stage 1 - Preliminary Site Investigation (PSI) Report prepared by Benviron Group and dated December 2016;
- Stage 2 - Detailed Site Investigation (DSI) Report prepared by Benviron Group and dated August 2017;
- Remedial Action Plan prepared by Benviron Group and dated August 2017.

The Stage 1 report concluded that based on the results of the investigation, it is considered that the risks to human health and the environment with soil and groundwater contamination at the site (largely due to onsite filling and nearby underground storage tanks) are medium in the context of the proposed use of the site. The site can be made suitable for the proposed development subject to the preparation of a Detailed Site Investigation (DSI) - Phase 2 Environmental Site Assessment by a suitably qualified Environmental Consultant.

Subsequently, following a request from Council, a DSI/Phase 2 Assessment was provided.

The DSI undertook soil sampling across the site which was then assessed against the relevant criteria. This revealed that based on the results of the investigation, the locations BH2, BH3 BH4, BH5 & BH6 require remediation in order to render the site suitable for the proposed development. The DSI concluded that the site would be deemed suitable for the proposed development subject to the implementation of a Remediation Action Plan (RAP) to manage the abovementioned environmental concerns and data gaps.

The preferred remedial strategy is on-site containment based on the fact that this method fits with the proposed development, the presence of the heritage item on the site and costs. Any soil requiring removal from the site, as part of future site works, should be classified in accordance with the *“Waste Classification Guidelines, Part 1: Classifying Waste”* NSW EPA (2014).

Council’s Environmental Scientist has reviewed the proposal and following initial concerns with the lack of any assessment of the potential for land contamination, considered that the PSI, DSI and the RAP report were satisfactory. Following review of the Land Contamination reports, Council’s Environmental Scientist raised no objections to the proposal subject to the imposition of the detailed conditions, which have been recommended to be imposed in the Attachment.

On this basis, it is considered that the site can be made suitable following the remediation works to be undertaken on the site as outlined in the RAP and therefore the proposal is consistent with Clause 7(1)(c) of SEPP 55. The proposal is generally consistent with the SEPP 55, with relevant conditions being imposed on the consent to ensure compliance with this Policy.

***State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building***

SEPP 65 aims to improve the design quality of residential apartment development in NSW. Pursuant to Clause 4(4), this Policy does not apply to boarding houses. Accordingly, this Policy is not relevant to the current proposal.

**Botany Bay Local Environmental Plan 2013**

*Botany Bay Local Environmental Plan 2013* (BBLEP 2013) has been considered in the assessment of the Development Application and the following information is provided in **Table 3**.

**Table 3: Consideration of BBLEP 2013**

Control	Compliance Yes/No	Comment
Land use Zone (CL 2.2)	Yes	The site is zoned B2 Local Centre zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent? (Cl 2.3)	Yes	The proposed development is for alterations and additions to <i>commercial premises</i> (retail premises/business premises) and construction of a <i>Boarding House</i> , which are both permissible with consent in the B2 zone.
Does the proposed use/works meet the objectives of the zone? (Cl 2.3)	Yes	<p>The proposed development is consistent with the objectives of the B2 Local Centre which include:</p> <ul style="list-style-type: none"> <li>▪ <i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i></li> <li>▪ <i>To encourage employment opportunities in accessible locations.</i></li> <li>▪ <i>To maximise public transport patronage and encourage walking and cycling.</i></li> </ul> <p>The proposal is consistent with the zone objectives given retail services are proposed on the ground floor and a boarding house is proposed in an accessible location. This provides employment opportunities as well as a range of retail uses for the people who live and work within the vicinity of the site.</p>
Does Schedule 1 – Additional Permitted Uses apply to the site? (Cl 2.5 & Schedule 1)	N/A	Schedule 1 does not apply to the site.
If so what additional uses are permitted on the site?		
<i>Subdivision – consent requirements (Cl 2.6).</i>	Yes	There is no subdivision proposed, however, lot consolidation forms a recommended condition to be imposed.
<i>Demolition requires development consent (Cl 1.7).</i>	Yes	There is some demolition of internal walls on the ground and first floors of the existing heritage building proposed and are permissible with consent. Conditions relating to demolition have been recommended.
What is the height of the building? (Cl 4.3(2))	-	<p>A maximum height of 14 metres applies to the subject site.</p> <ul style="list-style-type: none"> <li>• Lift overrun- 15.25m</li> </ul>

Control	Compliance Yes/No	Comment
Does the height of the building comply with the maximum building height?	<b>No – Refer to Note 4</b>	<ul style="list-style-type: none"> <li>Roof parapet – 14m</li> </ul> <p>The maximum height of the development does not comply with Clause 4.3(1) of BBLEP 2013. A Clause 4.6 variation was provided with the application and is discussed below.</p>
<p>What is the proposed Floor Space Ratio? (Cl 4.4(2))</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p>Yes</p>	<p>The maximum Floor Space Ratio requirement is 2:1 (1,641m<sup>2</sup>).</p> <p>Proposed GFA: 1502.14m<sup>2</sup> Proposed FSR: 1.83.:1</p> <p>The Floor Space Ratio of the development complies with BBLEP 2013.</p>
<p>Is the site within land marked “Area 3” on the Floor Space Ratio Map? (Cl 4.4A)</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	N/A	The site is not located in an Area 3 zone.
Is the proposed development in a R3/R4 zone? If so does it comply with site of 2000m <sup>2</sup> min and maximum height of 22 metres and maximum Floor Space Ratio of 1.5:1? (Cl 4.4B)	N/A	The site is not located within the R3 Medium Density Residential or R4 High Density Residential zone.
Is the land affected by road widening? (Cl 5.1)	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? (Cl 5.10)	Yes	<p>The subject site contains a heritage item, being identified as Item No I37 - <i>Finnies buildings</i> and is within a heritage conservation area - <i>Botany Township Heritage Conservation Area (C2)</i>.</p> <p>Council’s Heritage Advisor has considered the proposal and following amendments being made to the design, is satisfied that the proposal is satisfactory in relation to heritage. This is considered further in this report.</p>
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–		
<ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> </ul>	Yes	The site is not located within the Class 4 Acid Sulfate Soil zone. The proposed works under this development application do not activate a requirement for an ASS assessment as no works are proposed below 2m AHD and are unlikely to lower

Control	Compliance Yes/No	Comment
		the water table by 2m as there is minimum excavation proposed. Accordingly, the proposal is considered to be consistent with this Clause.
<ul style="list-style-type: none"> <li>6.2 – Earthworks</li> </ul>	Yes	The proposal does not involve any excavation. A <i>Preliminary Geotechnical Report</i> prepared by Benviron Group dated July 2016 accompanies the application which concluded that the proposal was feasible subject to future testing and recommendations of the report. The proposal is considered to be consistent with this Clause subject to relevant conditions being imposed.
<ul style="list-style-type: none"> <li>6.3 – Stormwater Management</li> </ul>	Yes	<p>Initially, there were several concerns with the proposed stormwater management system for the site in that Council was not satisfied that on-site infiltration was appropriate given the site has some areas of contamination and there is limited soil infiltration capacity on the site.</p> <p>Subsequent to further information and amended plans being provided, Council's engineer is now satisfied that the proposal is satisfactory subject to detailed plans being provided prior to the Construction Certificate. Stormwater is to be managed within an on-site detention tank suspended under the slab of the Level 1 courtyard. Conditions in the consent, in particular the use of on-site stormwater detention (OSD). Relevant conditions are recommended in <b>Attachment A</b>.</p>
<ul style="list-style-type: none"> <li>6.8 – Airspace operations</li> </ul>	Yes	A maximum building height of 15.24m applies to the site in accordance with the Obstacle Limitation Surface Map. The proposal has been referred to the SACL with approval for the proposal being provided. Relevant conditions have been imposed in <b>Attachment A</b> .
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> </ul>	Yes	The subject site is located within the 25-30 ANEF zone. A residential dwelling within this zone is generally considered acceptable. The application is accompanied by an <i>Acoustical Assessment</i> prepared by Acouras Consultancy dated 11 July 2016 which concludes that, subject to recommendations, the proposal is capable of complying with the requirements of

Control	Compliance Yes/No	Comment
		Australian Standard AS2021-2000. Relevant conditions are to be imposed.
<ul style="list-style-type: none"> <li>6.15 – Active Street frontage</li> </ul>	Yes	The site is affected by the Active Street Frontages Map, which requires an active street frontage along the Botany Road frontage only of the site (not Bay Street), which has been provided by the proposal. Retail premises are proposed to be retained along the Botany Road frontage
<ul style="list-style-type: none"> <li>6.16 – Design Excellence</li> </ul>		The site is not identified on the key sites map.

#### Note 4 – Clause 4.6 variation relating to height exceedance

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The maximum permissible height for this site is 14 metres. The proposal has a maximum building height of 15.25 metres (RL20.20m AHD), to the lift overrun, which results in a breach of 1.25 metres. The height of the building to the roof parapet is 14 metres and therefore the exceedance is limited to the height of the lift overrun only.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 relevantly states the following:

- 1) *The objectives of this clause are as follows:*
  - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - a) *the consent authority is satisfied that:*
    - i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*



b) the concurrence of the Secretary has been obtained.

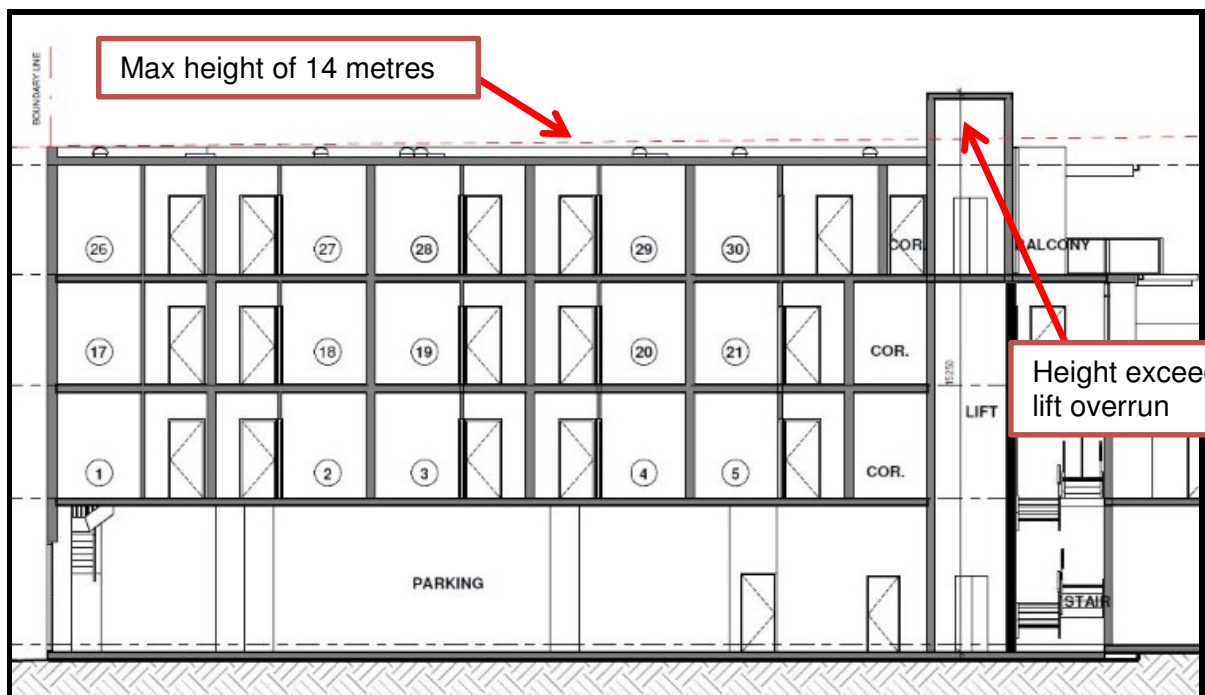
*The development standard to be varied*

The extent of the height exceedance, to the top of the lift overrun, is **1.25 metres**. The highest point to the building parapet is 14 metres and accordingly, the variation to the height development standard arises from the lift overrun only. This is illustrated in **Figure 10**.

*Matters to be addressed*

Development consent may, subject to Clause 4.6(2), be granted for development even though the development would contravene a development standard imposed by BBLEP 2013. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause. In this case, the maximum height of buildings development standard in Clause 4.3(2) of BBLEP 2013 is not excluded from this Clause and accordingly may be varied under this Clause (Cl 4.6(6) and (8)).

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and whether the proposed development will be in the public interest (proposal is consistent with the zone and development standard objectives) (Cl 4.6(4)).



**Figure 10: Height Exceedance above Development Standard**  
(Source: Giles Tribe Architects)

The applicant contends in the Clause 4.6 request that the maximum height development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- *It is a minor encroachment which represents less than 1% of the building footprint and is limited to the lift overrun only which is located along the central east-west axis of the building towards the Botany Street frontage immediately behind the heritage portion of the building.*
- *It will not adversely impact on the heritage façade of the building as the protruding element is set back some 9.5 metres from the Botany Street frontage and 9 metres from the Bay Street boundary.*
- *It is considered to be reasonable when considered within the context of the overall streetscape with a four storey building integrating satisfactorily within the future street context.*
- *The variation is consistent with the objectives of the height development standard in that*
  - *the built form has been developed in a coordinated and cohesive manner through the implementation of a design process that protects the existing heritage item, steps the building from the primary street frontage and activates the secondary street frontage,*
  - *ensures that the taller building element is setback from the Botany Road frontage;*
  - *ensures that building height is consistent with the desired future character of the area including the approved six (6) storey building to the north;*
  - *minimises visual impact, disruption of views, loss of privacy and loss of solar access to existing development.*
- *It will improve the social and economic welfare of the local community and create a better environment by substantially improving the liveability and amenity of the locality by preserving the existing heritage item, providing a wider range of residential accommodation, activating the Bay Street frontage and upgrading the existing Botany Road retail frontage.*
- *It will not hinder the promotion and co-ordination of the orderly and economic use and the development of the land as the proposal ensures the highest and best use of the subject site.*
- *It ensures a more viable development and higher standard of residential yield compared to that which would otherwise be provided should strict adherence to the LEP height standard be applied.*
- *The proposal is an efficient use of the land which delivers social, economic and environmental benefits to the local community with the provision of affordable housing.*
- *The variation will not adversely affect the amenity of the immediate locality or compromise the height objectives.*

The objectives of Clause 4.6 of BBLEP 2013 include:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development;*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The applicant's variation is considered in detail below in relation to the tests required by Clause 4.6:

- (a) *Clause 4.6(3)(a) - Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

The applicant's variation states that the compliance with the development standard is unreasonable in this instance as the proposed exceedance is only minor in nature and simply seeks to maximise the site outcomes and improve the residential standard of the precinct. Furthermore, the variation states that it allows for a more viable development, a higher standard of residential yield compared to a complying development, and does not affect the amenity of the area.

It is considered that the development standard is unreasonable in this instance as the height exceedance is minor and that the retention of the heritage item constrains the site in terms of design and construction. In particular, the retention of the heritage item is likely to have constrained construction options on the site, particularly for excavation and the provision of a basement which may have assisted in reducing the height exceedance. The ground floor may have been lowered and perhaps the need for a lift overrun and/or its overall height reduced, under such circumstances.

The proposal is also considered to be a better planning outcome on the site as the height exceedance of the lift overrun results from the provision of a lift which makes the boarding house more accessible for all persons, including people over the age of 55 and people with a disability. If strict compliance with the development standard was required, then the proposed provision of the 35 boarding rooms, all with lift access making them accessible, may not have been achieved on the site.

The proposal is considered to be consistent with the objects of the EP&A Act, in particular Section 5(a)(ii), despite this non-compliance, as the proposed boarding house will allow for the orderly and economic use and development of land by allowing additional affordable housing opportunities in a well serviced location. At the same time, the proposal allows for the adaptive reuse of the heritage building at the front of the site for both retail uses and a boarding house.

These objects may not have been obtained if strict compliance with this development standard were required given the lift, which provides equitable access to all levels of the building, could not be provided to all four (4) levels of the boarding house and be within the height limit while at the same time preserving the heritage item in a near-intact state. That is, the lift is provided outside the footprint of the original portion of the building which has the highest heritage value – the front portion of the building fronting Botany Road.

The proposal is also considered to be consistent with the objectives of the zone and the development standard, considered in more detail below. This reason also contributes to why the development standard is unreasonable and unnecessary in the circumstances of this case.

It is considered that the development standard is unreasonable and unnecessary in the circumstances of this case as a better planning outcome is provided by varying the standard, the exceedance is considered to be minor, the non-compliance better achieves the objects of the Act and the proposal is considered to be consistent with the objectives of the development standard and the zone objectives.

Accordingly, it is considered that the development standard is unreasonable and unnecessary in the circumstances of this case for the reasons outlined above.

*(b) Clause 4.6(3)(b) - Are there are sufficient environmental planning grounds to justify contravening the development standard?*

The applicant's variation considered that there are sufficient environmental grounds to justify the variation, which included that the variation is minor and that lowering the building to comply with the development standard would result in a loss of residential floor space and the under-utilisation of the site.

A combination of the provision of the lift, which allows for more equitable access, as well as the lack of any significant adverse impacts on the amenity of the streetscape or adjoining properties, and the retention of the heritage item, results in sufficient environmental planning grounds for this proposal. The non-complying portion of the development (the lift overrun) is located centrally within the site and therefore it is considered that there will be limited adverse visual or amenity impacts on the adjoining properties.

A proposed development on this site which complied with the maximum building height, retained the heritage item and provided affordable accommodation over four (4) levels, is unlikely to be able to provide a lift to all levels for equitable access. The small exceedance of the height limit, to provide the environmental planning benefits such as heritage retention, accessibility and affordable housing, is considered to be sufficient grounds on this site.

The proposal is a better planning outcome for the site. Accordingly, in the circumstances of this case, there are sufficient planning grounds to justify the maximum building height variation sought.

*(c) Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? – is it consistent with the objectives of the development standard and the objectives of the particular zone?*

The proposal is considered to be consistent with these zone objectives given the proposal provides for retail uses in the retained shops along the Botany Road frontage and encourages employment opportunities both within the shops and within the boarding house (refer to BBLEP 2013 assessment).

The use of public transport is maximised by the proposal given there is traditionally low car ownership amongst boarding house residents and there is a bus stop adjoining the site along Botany Road. The proposal is also considered to provide for community uses given the boarding house is to provide affordable housing in a well serviced location.

The objectives of the height development standard pursuant to Clause 4.3(1) of BBLEP 2013 include:-

- (a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- (b) to ensure that taller buildings are appropriately located,*
- (c) to ensure that building height is consistent with the desired future character of an area,*
- (d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

*(e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

The proposal is considered to be consistent with the objectives of the height development standard for the following reasons:-

- The height of the building, to the parapet of the roof, complies with the maximum height of 14 metres and accordingly the built form represents a cohesive and coordinated form of development consistent with the likely future buildings in the area. The proposal is therefore consistent with objective (a);
- The proposal provides a taller building than surrounding buildings given the change in height limit and provides a setback to the taller elements of the building from the street. The adjoining development to the north also provides scale for the height exceedance, notwithstanding it is located in a higher height zone (22 metres). The proposal is therefore consistent with objective (b);
- The proposal is considered to be consistent with the desired future character of the area in that the majority of the built form (with the exception of the lift overrun) is below the height limit and is compatible with the adjoining development to the west and north-west. The proposal is a similar scale and height to this adjoining development and in this way is the type of development envisaged by the planning controls. The proposal is therefore consistent with objective (c);
- The proposal, despite the height exceedance, will not result in any significant visual impact, disruption of views, loss of privacy or loss of solar access to existing development given the exceedance is minor and is located centrally within the proposed building footprint. The proposal is therefore consistent with objective (d);
- The proposal, despite the height exceedance, will *not* adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities given the exceedance is minor and is located centrally within the proposed building footprint. The proposal is therefore consistent with objective (e);

The proposal is therefore considered to be consistent with the objectives of the development standard for building height and the objectives of the zone as outlined above, despite the non-compliance, which is consistent with the first Webbe test. In this way, and given the proposal is generally otherwise consistent with the relevant planning controls, the proposal is considered to be in the public interest.

Matters to be considered by the Secretary, when concurrence is needed, include whether the contravention of the development standard raises any matters of state or regional planning significance, the public benefit in maintaining the development standard.

It is considered that the exceedance by 1.25 metres due to the proposed lift overrun does not raise any matters of state or regional planning significance. In relation to the public benefit of maintaining the standard, the exceedance by this minor amount for a small area of the building in the central portion of the site is not considered to be detrimental to the planning controls in the area. The proposal generally satisfies the height limit and in this way, there is unlikely to be any adverse cumulative impacts resulting from the proposed height exceedance under the proposal.

*Conclusion*

Following a thorough consideration of the Clause 4.6 variation, it is considered that the height exceedance variation for the proposed lift overrun can be supported. The proposal and its height exceedance allows for a development that provides affordable and accessible accommodation on the site, which retains the heritage item and values on the site and achieves the objectives of the planning controls. Requiring compliance with the development standard is unreasonable and unnecessary in this circumstances this case.

The rationale and argument presented in the applicant's Clause 4.6 variation is generally supported and it is recommended that the development standard relating to the maximum height of buildings for the site as contained within Clauses 4.3 of the BBLEP 2013 be varied in the circumstances. It is considered that the applicant's Clause 4.6 is well-founded and the departure is in the public interest given the height of the building is appropriate in this location. On the basis of this assessment, it is concluded that the variation be supported.

### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

#### Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

The draft State Environmental Planning Policy (Infrastructure) 2016, has been considered in the assessment of the Development Application. The proposed use of the mixed development meets the objectives of the draft Infrastructure SEPP and thus satisfies the requirements of the draft instrument.

### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

#### **Botany Bay Development Control Plan 2013**

The development proposal has been assessed against the relevant controls contained in the *Botany Bay Comprehensive Development Control Plan 2013* (BBDCP 2013) including Part 3 (General Provisions), Part 4C (Residential Development), Part 5 (Business Centres), Part 7A (Boarding Houses) and Part 8 (Character Precincts) as follows:

#### *Part 3 – General Provisions*

There are various controls relevant to the proposal, which is considered below in **Tables 4, 5 and 6**.

**Table 4: Consideration of the Car Parking Controls of Part 3A of BBDCP 2013**

<b>Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>3A Parking and Access</b>		
<b>3A.2. Parking Provisions of Specific Uses</b>		
<b>C1 Car parking provision</b>	<u>Boarding House (35 rooms)</u>	Yes (boarding house)
<u>Boarding Houses</u>	7 spaces required	
• As per SEPP (ARH) 2009:	7 spaces provided	

Control	Proposed	Complies
<ul style="list-style-type: none"> <li>• 0.2 per boarding room</li> <li>• 1 Bicycle space/5 rooms</li> <li>• 1 Motorbike space/5 rooms</li> </ul> <p><u>Commercial (retail)</u></p> <ul style="list-style-type: none"> <li>• 1 space / 25sqm</li> </ul> <p><b>C4</b> Where tandem or stack parking is proposed, the following shall be complied with:</p> <p>Max 2 spaces permitted for each tandem/stacked parking arrangement;</p> <p>Each tandem/stacked parking allocated to same unit/strata title</p> <p>Tandem/stacked parking not to be used for visitor parking.</p>	<p style="text-align: center;"><u>Commercial</u></p> <p style="text-align: center;">7 spaces required 5 spaces provided</p> <p>Two sets of stacked parking spaces are proposed, both associated with the boarding house.</p>	<p style="text-align: center;"><b>No</b> <b>Refer to</b> <b>Note 5</b></p> <p style="text-align: center;">Yes</p>
<p><b>3A.3.1 Car Park Design</b></p> <p><b>C1</b> All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2.</p> <p><b>C2</b> Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).</p> <p><b>C4</b> For mixed use development, residential off-street parking facilities shall be separated from the other uses and security roller doors shall be</p>	<p>The proposed car parking is generally consistent with AS 2890.1 with the exception of the aisle width which is required to be 6.2 metres for a User Class 1 car space for parallel parking (Cl 2.4.2 of AS2890.1-2004). The aisle width proposed is 6 metres.</p> <p>A condition requiring certification from a traffic engineer prior to the issue of a Construction Certificate that the car park complies with AS 2890.1 and if any changes are needed to the design of the car park, that a modification application would be required has been recommended to be imposed in the Attachment in Schedule 1</p> <p>All vehicles can enter and leave the site in a forward direction as only SRV access is available. This is acceptable given the small size of the existing retail premises on the site.</p> <p>There is some separation between the boarding house car parking and the retail car parking in that the retail parking is provided along the western side of the car park and the boarding house car parking to the eastern side. This is considered to be sufficient in this instance.</p>	<p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p> <p style="text-align: center;">Yes</p>

Control	Proposed	Complies
<p>installed to provide security to residents.</p> <p><b>C12</b> Off-street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.</p> <p><b>C13</b> Pedestrian entrances and exits shall be separated from vehicular access paths.</p> <p><b>C17</b> Parking and servicing access provided from a secondary street frontage or rear lane where possible.</p> <p><b>C28</b> The minimum width of the access driveway at the property boundary shall be:-</p> <p><b>C35</b> Accessible parking spaces for people with disabilities shall be designed in accordance with AS2890.6.</p> <p><b>C40</b> The waste collection point shall be designed to:</p> <p>(i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and</p> <p>(ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.</p> <p><b>C42</b> For multi-unit residential buildings and multi-storey commercial buildings, waste collection points shall be located inside the building, for example in an underground car park, as this reduces noise impact on surrounding</p>	<p>The car parking does not dominate the streetscape to Bay Street given the proposed landscaping and the use of a variety of finishes, including powder coated finishes and face brick.</p> <p>Pedestrian entrances and exits are separated from vehicular access paths.</p> <p>Vehicle access provided from Bay Street (lower order road).</p> <p>The proposed driveway is approximately 4 metres.</p> <p>Accessible parking is provided to the relevant standard with an adjoining shared space.</p> <p>The garbage holding room is located within the ground floor which contains separate retail and boarding house waste rooms. Onsite waste collection is not possible due to the lack of a basement being proposed and the heritage status of the existing building on the site. Bins will be wheeled to the street for collection by the Building Manager. MRVs will not access the site.</p> <p>As outlined above, garbage collection will be from the street since a basement cannot be provided due to the heritage status of the building. There is sufficient on-street capacity of the bins to be located along Bay Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>On merit</p>



Control	Proposed	Complies
residents.		
<b>3A.3.2 Bicycle Parking</b> <b>C1-C5</b> To comply with AS2890.3 & AUSTRROADS. (i.e. 10% of the required amount of car parking = 11.1)	Refer to ARH SEPP.	N/A
<b>3A.3.4 On-site Loading &amp; Unloading</b> <b>C2</b> – number of service bays in accordance with Table 2 <ul style="list-style-type: none"> <li>Retail premises (0-199m<sup>2</sup>) – 1 SRV space</li> <li>Residential flat buildings, Multi dwelling housing – 1 service bay/50 dwellings (&lt;200)</li> </ul>	<p>Retail premises require one (1) loading space for an SRV (a standard car space). There are 5 retail spaces provided, 1 space per shop plus a loading space, which is considered sufficient given the small size of the existing shops.</p> <p>There is no specific requirement for a boarding house to provide a loading bay, however, SRV access is considered to be sufficient.</p> <p>There is no loading bay provided for waste servicing, however, as outlined above waste collection will be from the street which is satisfactory given the heritage status of the existing building on the site.</p>	<p>Yes</p> <p>On merit</p>

#### Note 5: Car Parking (retail)

The proposal is deficient by two (2) car parking spaces for the proposed retail component of the proposal as outlined in Table 4.

The objectives of these controls include:

- *O1 To ensure the provision of parking is appropriate for the proposed use of development of the land;*
- *O2 To allocate adequate bicycle parking; and*
- *O3 To ensure convenient and safe provisions of off street car parking for people with a disability.*

The shortfall of two (2) car parking spaces for the existing retail premises on the site is considered to be satisfactory given the provision of one space per retail premises and a loading area for couriers is appropriate for the proposed retail use of the site. In this way, the proposal, despite the shortfall, is consistent with the objectives of the car parking controls.

It is considered that this shortfall is satisfactory given there is some on-street car parking available on Bay Street and there are other retail premises in the vicinity of the site which also do not comply with the controls and which also rely on the car parking on the streets, including Botany Road. Currently, there is only three (3) informal car parking spaces provided on the site for the existing retail uses and accordingly, the proposal will result in an improvement to the overall provision of car parking in the area by providing an additional two (2) retail car parking spaces.

Furthermore, there are five (5) retail spaces provided, which is sufficient for one (1) space per premises and a courier/service bay. The premises contain a heritage item which is to be retained and accordingly a shortfall in car parking is considered acceptable in this instance given the conservation of the heritage building is achieved.

This is considered to be satisfactory and is supported.

**Table 5: Consideration of the Heritage Controls in Part 3B of BBDP 2013**

<b>Control</b>	<b>Proposed</b>	<b>Comply</b>
<b>3B Heritage</b>		
<b>3B.3 Heritage Items</b>		
<b>3B.3.1 General Design</b>		
<b>C1</b> The demolition of Heritage Items is not permitted.	Full demolition is not proposed, only partial demolition of the rear wings of the heritage building which were likely an addition to the original building.	Yes
<b>C2</b> Architectural features or elements that contribute to the heritage significance of an item must be retained.	The façade is retained.	Yes
<b>C3</b> New work or additions to Heritage Items must be located away from highly significant or intact parts of the Item.	The proposed addition retains the heritage item on the site and is adequately setback from this item.	Yes
<b>C4</b> The building height of new development must not exceed that of the original Heritage Item and provide a transition in height to preserve and maintain an appropriate scale and the visual prominence of a Heritage Item.	The proposal exceeds the height of the existing heritage building on the site.	<b>No Refer to Note 6</b>
<b>C5</b> New additions must be compatible (able to co-exist) in terms of materials, size, proportions, colour and plan configuration. Care must be taken when considering the design of alterations or extensions to a Heritage Item. New work is to be distinguishable from the old.	New work is distinguishable from the old in terms of materials and the glazed setback is sufficient and the height and bulk does not overwhelm the heritage item.	Yes
<b>C6</b> The replication of a historic detailing in new development is to be avoided. Good contemporary design is preferable to copying historic or period designs.	The proposed rear addition is of a contemporary design, and is considered adequate by Council's Heritage Advisor.	Yes
<b>C7</b> New buildings or structures, including landscaping must be located to minimise adverse impacts on the Heritage Item and its setting.	It is considered that the proposed addition is a sympathetic addition to the site and will not adversely impact on the heritage values of this heritage item on the site. Council's Heritage Consultant has no objections to the proposal subject to the recommended conditions in the Attachment.	Yes
<b>C8</b> Servicing, fire safety or BCA compliance upgrades for a new use must not impact on the heritage significance of the item.	Relevant upgrades to be undertaken which do not affect the heritage value of the building,	Yes

Control	Proposed	Comply
<b>Form &amp; Scale</b> <b>C9</b> The form, scale and massing of new work is to be consistent with the Heritage Item.	The proposed addition is generally consistent with the heritage item and surrounding development in the heritage conservation area with the proposal providing an adequate setback to the heritage item.	Yes
<b>C10</b> Alterations and additions must be located to the rear of Heritage Items away from the principal elevation (refer to Figure 1).	The proposed addition is located to the rear of the heritage item on the site.	Yes
<b>C11</b> The massing of the rear addition must be behind and below the main roof ridge. It should also be smaller in scale than the existing building.	The proposed addition is located behind the heritage item, however, is two (2) storeys higher than the heritage item on the site.	<b>No Refer to Note 6</b>
<b>C12</b> Large second storey additions are not permitted.	There are no additions proposed to the heritage item on the site, as the proposed works are to the rear (separate) of the existing heritage building on the site.	Yes
<b>Unsympathetic Alterations</b> <b>C13</b> Where substantial changes are proposed to a Heritage Item, existing unsympathetic alterations should be removed as this will assist in improving the integrity of the Heritage Item.	The existing single storey additions at the rear of the heritage item are to be demolished under this proposal.	Yes
<b>Internal work</b> <b>C14</b> Development must retain significant interior elements (i.e. decorative ceilings, fireplaces and the like).	The proposal retains significant areas within the heritage building as well as retaining/reinstating the original four (4) shopfronts to Botany Road. The facade along Botany Road and the corner of Bay Street is also retained.	Yes
<b>C15</b> Modifications to the interior of a building must be minimal, so that the historic evolution of the building remains recognisable.	The proposal retains significant portions of the internal area and seeks to retain/reinstate the existing four (4) shopfronts.	Yes
<b>Materials and Finishes</b> <b>C16</b> Materials and finishes are to complement the period and style of the existing item.	Council's heritage Consultant is satisfied that the colours and materials are acceptable. Relevant conditions have been recommended to be imposed in the Attachment.	Yes
<b>C17</b> The colours and materials used in a new development (whether an extension of an addition) are to be recessive (does not dominated) and complement the colours and materials of the heritage item. The reinstatement of historical colour schemes of heritage items, based on photographic evidence and discrete paint scrapings is encouraged.	Refer to the above comments.	Yes
<b>C18</b> Rendering or painting original face brickwork is not permitted.	Not proposed	Yes
<b>3B.3.2 Curtilage.</b>		

Control	Proposed	Comply
<p><b>C4</b> Where new development within the curtilage of a Heritage Item occurs; the new development must be designed so that the Heritage Item retains its visual prominence. New development within the same curtilage as a Heritage Item must be smaller in scale and subservient in height to the Heritage Item.</p>	<p>The proposed additions are adequately setback and of a contemporary design to ensure that the heritage item retains visual prominence on the site. The setting back of the upper level along Bay Street further ensures the heritage item (front of the building) remains the main focus on the site.</p>	<p>Yes</p>
<p><b>C5</b> Where new development is proposed within the curtilage of a Heritage Item, a reasonable "buffer" space or setback must be provided between the original building and the new development.</p>	<p>This setback has been provided as outlined above.</p>	<p>Yes</p>
<p><b>C6</b> Development proposals, which involve large scale redevelopment and alteration to the original character of the Heritage Item which will negatively impact on the heritage significance of the sites curtilage, will not be permitted.</p>	<p>The proposal is adequately setback from the heritage item and is of an appropriate bulk and scale.</p>	<p>Yes</p>
<p><b>C7</b> New development within the curtilage must not adversely impact upon the significant fabric of a Heritage Item. The colours and materials used in a new development (whether an extension or addition) should be recessive (does not dominate) and complement the colours and materials of the Heritage Item.</p>	<p>Council's Heritage Consultant did not raise objections to the proposal, following the provision of the amended plans, on heritage grounds and considered that the colours and materials were satisfactory. Relevant conditions have been recommended to be imposed in the attached schedule.</p>	<p>Yes</p>
<p><b>3B.3.7 Heritage Items in Business Zones</b></p>		
<p><b>C1</b> New development must maintain traditional shopfronts and respect the form, scale and detailing of the existing building. Note: The removal or reconfiguration of the external appearance of heritage listed shops, banks and public house frontages is not permitted without prior Consent from Council. Note: The structural alteration of interior features of heritage protected commercial buildings is not permitted without prior consent from Council.</p>	<p>The façade is preserved as well as the layout and number of shopfronts.</p>	<p>Yes</p>
<p><b>C2</b> All original, early or significant verandahs, awnings and frontages (shop, bank or pub) should be retained and conserved.</p>	<p>The former front balcony along Botany Road is proposed to be reinstated, however, has to be deleted from the plans at this stage as per advice from RMS (refer to referrals section).</p>	<p>Yes</p>
<p><b>C3</b> Infilling of original verandahs is not permitted.</p>		<p>Yes</p>
<p><b>C4</b> Colour schemes for repainting must be based on historical evidence.</p>	<p>There is no infilling of original verandahs proposed.</p>	<p>Yes</p>

Control	Proposed	Comply
<p><b>C7</b> Rehabilitation of obsolete commercial buildings is promoted.</p>	<p>The Heritage consultant is satisfied with the proposed colour scheme.</p>	<p>Yes</p>
<p><b>C8</b> Where original commercial buildings exist, retention of these buildings in their original configuration is promoted.</p>	<p>The original building is to be retained.</p>	<p>Yes</p>
<p><b>C9</b> Sympathetic refurbishment and conversion of commercial buildings, whereby significant architectural features such as ground floor frontages, detailing and windows etc. are retained is promoted (refer to Figure 19). For instance:</p> <ul style="list-style-type: none"> <li>(i) Corner splays to commercial buildings must be retained;</li> <li>(ii) Parapet walls, inscriptions, and historic detailing must be retained;</li> <li>(iii) Recessed porches, and verandahs are important elements;</li> <li>(iv) Retain upper floor windows where significant;</li> <li>(v) Awnings are important features, which should not be removed from commercial buildings; and</li> <li>(vi) Public house frontages (similar to shops, banks etc) are important elements and should be retained.</li> </ul>	<p>The original building is to be retained in its original configuration, including the shopfronts along Botany Road.</p> <p>The original building is to be retained in its original configuration, including the shopfronts along Botany Road.</p>	<p>Yes</p>
<p><b>C10</b> Ornamental parapet detailing (such as pediments, urns and finials) are important elements of commercial Heritage Items as they help to establish what period they were erected in, and as such their removal negatively impacts on the architectural significance of commercial buildings and is not permitted (refer to Figure 18 and Figure 19). Applicants are advised that such elements not only assist in the identification of the period of the building but also contribute to the integrity of the architectural style, aesthetic and sensory appeal and heritage characteristics of the building and streetscape.</p>	<p>The original building is to be retained in its original configuration, including the shopfronts along Botany Road</p>	<p>Yes</p>
<p><b>3B.4 Heritage Conservation Areas</b></p>		
<p><b>3B.4.1 Botany Township Heritage Conservation Area</b></p>		

Control	Proposed	Comply
<p><b>C1</b> Preservation, reinstatement and maintenance of original façades and shopfronts are required. The removal or alteration of original shopfronts in not permitted.</p>	<p>The original shopfront are retained, with the 4<sup>th</sup> shopfront to be reinstated, along Botany Road, including the corner shop.</p>	<p>Yes</p>
<p><b>C2</b> To achieve appropriate development to the original façades and shopfronts within the Heritage Conservation Area proposals must satisfy the following:</p> <p>(i) Preserve and maintain original parapets, with existing detailing, unpainted and free of hoarding and signs;</p> <p>(ii) Restore and maintain original upper level windows, with alternatives, being sympathetic in scale and proportion; and</p> <p>(iii) Retention of continuous awning at unified heights and fascia to each shop.</p>	<p>The existing heritage building along Botany Road is preserved and restored internally, as well as the shopfronts being reinstated to the original layout (4 shops).</p>	<p>Yes</p>
<p><b>C4</b> New shopfronts must reflect original details and proportions including the siting of recessed entrance doors.</p>	<p>Original shopfronts are reinstated and retained.</p>	<p>Yes</p>
<p><b>C5</b> First floor balconies should remain open as important functional and architectural elements of the front façade. Enclosure of balconies will only be permitted if compatibility with original window types can be demonstrated.</p>	<p>The proposed first floor balcony cannot be reinstated along the full length of the Botany Road frontage, however, subject to further discussions with the RMS, the street level awning may be reinstated in the future.</p>	<p>Yes</p>
<p><b>C8</b> The removal of first floor windows that have altered the profile of former openings is encouraged, with the original window to be restored.</p>	<p>First floor windows retained in their current configuration.</p>	<p>Yes</p>
<p><b>C9</b> The level of overhead awnings above footpath level should match existing.</p>	<p>The awning is not reinstated along the full length of the Botany Road frontage at this stage, however, further discussions with the RMS will be undertaken.</p>	<p>Yes</p>
<p><b>C10</b> Overhead awnings shall be of a uniform depth and form to match that which is predominantly within the group, with timber fascia and gutter to be maintained or reinstated on buildings that originally featured a timber fascia where appropriate.</p>	<p>Refer to the above discussion.</p>	<p>Yes</p>

Control	Proposed	Comply
<p><b>C11</b> Contemporary designs for shopfronts must relate to the building type, streetscape and precinct. They must incorporate traditional features such as the division of frontages and the configuration of windows must use appropriate materials.</p>	<p>Shopfronts are reinstated t to their original layout.</p>	<p>Yes</p>
<p><b>C12</b> Shopfronts must not be amalgamated. Where properties are amalgamated, the original building elements and shopfronts must be conserved.</p>	<p>Shopfronts are reinstated t to their original layout.</p>	<p>Yes</p>
<p><b>3B.7 Development in the Vicinity of Heritage Items or Heritage Conservation Areas</b> <b>3B.7.1 General Requirements</b></p>		
<p><b>General</b> <b>C1</b> New development in the vicinity, of a Heritage Item or a Heritage Conservation Area must be designed to maintain the setting and the character of the street in which it is located. Note: A preferred approach is to design new buildings in a contemporary manner, which is sympathetic to the surrounding area, and to the Heritage Item or Heritage Conservation Area to which it is nearby, adjoining or adjacent to.</p>	<p>The proposed addition to the rear of the heritage item has been sympathetically designed in a contemporary style and sits appropriately with the heritage item in terms of bulk, scale and position.</p>	<p>Yes</p>
<p><b>C2</b> New development should be consistent in scale with the Heritage Item or Heritage Conservation Area. Note: To prevent changes in the scale of development, the building height of the Heritage Item or Heritage Conservation Area should be used as a benchmark for the maximum achievable building height of the proposed new development.</p>	<p>The proposal is four (4) storeys while the existing heritage item on the site is two (2) storeys.</p>	<p><b>No Refer to Note 6</b></p>
<p><b>C3</b> Parking facilities and driveways must be designed and located so as not to dominate the character of the street.</p>	<p>The car parking and vehicle entry are satisfactory and do not dominate the streetscape given the landscaping along the Bay Street frontage.</p>	<p>Yes</p>
<p><b>C4</b> The design and siting of new work must compliment the form, orientation, scale and style of a Heritage Item or Conservation Area in the vicinity of the site.</p>	<p>The proposed new work compliments the existing heritage item on the site as outlined above.</p>	<p>Yes</p>
<p><b>C5</b> Adequate space must be provided around the Heritage Item or Heritage Conservation Area in order to maintain significant or historic public domain views to and from the Heritage Item or Heritage Conservation Area.</p>	<p>Views are not obstructed.</p>	<p>Yes</p>

Control	Proposed	Comply
<p><b>Design / Form</b></p> <p><b>C7</b> New development must adopt the same eave lines, height of floors, stringcourses and rooflines (itches and eave overhangs) of the Heritage Item or Heritage Conservation Area in the vicinity. Note: New or infill development must not match the existing Heritage Item, but rather sympathetically interpret the façade elements of the adjoining Heritage Item and the pattern of development within the street.</p>	<p>The proposal is four (4) storeys while the existing heritage item on the site is two (2) storeys.</p>	<p><b>No Refer to Note 6</b></p>
<p><b>C9</b> The siting of new development shall not affect the structure of, or otherwise cause physical damage to any Heritage Item.</p>	<p>The proposed addition is setback from the existing heritage item on the site.</p>	<p>Yes</p>
<p><b>Height</b></p> <p><b>C10</b> Notwithstanding the maximum height limit under Botany Bay LEP 2013, new or infill development shall not exceed the height of an adjoining, adjacent or nearby Heritage Item.</p>	<p>The proposal is four (4) storeys while the existing heritage item on the site is two (2) storeys.</p>	<p><b>No Refer to Note 6</b></p>
<p><b>C12</b> Where a Heritage Item or a majority of buildings in the Heritage Conservation Area are two storey, new or infill development in the vicinity may also be two-storeys.</p>	<p>Refer above</p>	<p><b>No Refer to Note 6</b></p>
<p><b>C13</b> Any new development or additions, which have a negative impact on the character of the streetscape or a Heritage Item, will not be permitted.</p>	<p>Council's Heritage Consultant did not raise objections to the proposal, following the provision of the amended plans, on heritage grounds and considered that the colours and materials were satisfactory. Relevant conditions have been recommended to be imposed in the attached schedule.</p>	<p>Yes</p>
<p><b>Colours</b></p> <p><b>C14</b> New development shall incorporate the use of colours and materials that are recessive (i.e. not as prominent) so that they do not visually dominate the Heritage Item or a Heritage Conservation Area. Note: Darker colours and simple façade treatments can assist in minimising the visual impact of new development.</p>	<p>Council's Heritage Advisor considers that the colours and materials are satisfactory.</p>	<p>Yes</p>
<p><b>Roof</b></p> <p><b>C15</b> The roof shape and materials of new development or existing development shall relate to adjoining or nearby heritage buildings.</p>	<p>A flat roof on the addition is proposed which is consistent with the flat roof on the heritage item.</p>	<p>Yes</p>



Control	Proposed	Comply
<b>C18</b> New landscaping shall be compatible with the character of surrounding heritage buildings. Planting of indigenous species is required.	Landscaping is satisfactory.	Yes
<b>Setbacks and Orientation</b> <b>C20</b> New development must be sited to reflect the front and side setbacks and predominant orientation of Heritage Item or Heritage Conservation Area in the Vicinity and the established pattern of setbacks within a street or precinct.	The setbacks are satisfactory given the location of the site within the local centre.	Yes
<b>C21</b> Building encroachments within existing side setbacks defined by existing building lines are not permitted.	The setbacks are satisfactory given the location of the site within the local centre.	Yes
<b>C23</b> New buildings or alterations and additions to existing buildings should be orientated to relate to existing Heritage Items and should not be oriented across sites contrary to the established pattern.	The proposal is adequately set out on the site, following the alignment set by the heritage item and given it's located in the local centre zone.	Yes

#### **Note 6: Height of building adjoining a Heritage Item**

There are numerous controls within Part 3B which require that any works to a heritage item must be the same height, same roof line and/or consistent in scale to the heritage item including the following:

- *The building height of new development must not exceed that of the original Heritage Item and provide a transition in height to preserve and maintain an appropriate scale and the visual prominence of a Heritage Item (3B.3.1(C4);*
- *The massing of the rear addition must be behind and below the main roof ridge. It should also be smaller in scale than the existing building (3B.3.1(C11);*
- *New development should be consistent in scale with the Heritage Item or Heritage Conservation Area. Note: To prevent changes in the scale of development, the building height of the Heritage Item or Heritage Conservation Area should be used as a benchmark for the maximum achievable building height of the proposed new development (3B.7.1(C2);*
- *New development must adopt the same eave lines, height of floors, stringcourses and rooflines (pitches and eave overhangs) of the Heritage Item or Heritage Conservation Area in the vicinity. Note: New or infill development must not match the existing Heritage Item, but rather sympathetically interpret the façade elements of the adjoining Heritage Item and the pattern of development within the street (3B.7.1(C7);*
- *Notwithstanding the maximum height limit under Botany Bay LEP 2013, new or infill development shall not exceed the height of an adjoining, adjacent or nearby Heritage Item (3B.7.1 (C10);*
- *Where a Heritage Item or a majority of buildings in the Heritage Conservation Area are two storey, new or infill development in the vicinity may also be two-storeys (3B.7.1 (C12).*

The proposed addition to the rear of the heritage item which exists on the site is two (2) storeys higher than the existing building and is strictly inconsistent with these controls. .

Notwithstanding these controls, it is considered that the proposed addition is adequately setback from the original heritage building and comprises adequate articulation and a recessed upper storey. There is a transition in height to preserve the scale and visual prominence of the heritage item given this adequate setback with glazing to differentiate the new and old portions of the building.

The proposal is considered to be generally consistent with the scale of the surrounding development and the heritage item, given it comprises three storeys with an upper level setback into the roof form and the adequate setback and contemporary design of the proposed addition ensures it will not adversely impact on the heritage item on the site.

The proposed addition is satisfactory in terms of height. The maximum height is 14 metres and therefore the surrounding development will comprise much taller buildings than is currently located on the site.

Accordingly, it is considered that a variation to these controls is warranted in this instance.

**Table 6: Consideration of Part 3 of the BBDP 2013**

Control	Proposed	Complies (yes/no)
<b>3C Access and Mobility</b>		
Controls relating to access to buildings and car parking areas.	<p>An Access Report prepared by Independent Living Centre NSW dated 7 July 2016 (“the Access Report”) has been submitted and provides an accessibility overview of the proposal. Part 3C requires the following to be provided:-</p> <ul style="list-style-type: none"> <li>• Statement of consistency with Part 3C of the DCP;</li> <li>• Accessible accommodation – refer to Table D3.1 of the BCA.</li> <li>• General access – Access for all persons through the principal entrance and access to any common laundry, kitchen, sanitary or other common facilities in accordance with relevant Australian Standards 1428.1, 1428.4.1 and lifts where provided.</li> <li>• Accessible parking – 1 accessible parking space for every accessible room or unit as specified by Table D3.1 of BCA</li> </ul> <p>Compliance with the relevant Australian Standards is demonstrated in the Access Report and there are two (2) boarding rooms provided as adaptable dwellings (Rooms 10 &amp; 32). Four (4) adaptable parking spaces are provided and a lift provides access to all levels. The Access Report concluded that the accessible features and paths travel to and within the proposed development will provide compliant access for persons with disabilities by complying with the BCA, AS1428.1, AS1428.2, AS1428.4, AS1735.12, AS/NZS2890, DDA and this Part of BBDP 2013. Relevant conditions have been recommended to be imposed to ensure compliance at the</p>	Yes

Control	Proposed	Complies (yes/no)
	Construction Certificate stage. The proposal is consistent with this Part of the DCP.	
<b>3E Subdivision and Amalgamation</b>		
Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area.	The proposal does not involve subdivision, however, lot consolidation is recommended to be imposed as a condition in the schedule.	Yes
<b>3G.2 Stormwater Management</b>		
<b>C1-C6</b> Comply with Stormwater Management Technical Guidelines; Part 3G.5 Stormwater Quality.	The site is affected by flooding, with the 1% AEP Flood Level being RL4.75 which when a 500mm freeboard is included results in a minimum floor level of 5.25m AHD. While parts of the ground floor are located below this level, including all of the retail areas ranging between 5.05 and 5.15, these are non-habitable uses and are contained within a heritage listed building. The floor level of the commercial areas is considered to be satisfactory in this instance. The floor level of the lowest habitable areas is RL 9.15, being on Level 1, which is satisfactory. No further conditions are required as the condition requiring compliance with the approved plans is sufficient.	Yes
<b>3H Sustainable Design</b>		
<b>C1-C6</b> BASIX; Solar hot water encouraged.	A Part J Report: Energy Efficiency Assessment of a Mixed-Use Building prepared by Basix Services dated 07 July 2016 has been provided with the application as well as a BASIX Certificate. These certificates conclude that the proposal demonstrably complies with the Deemed to Satisfy Provisions of Section J of the Building Code of Australia 2016 and that the proposal is consistent with the DTS provisions of the BCA in regard to energy efficiency and is anticipated to satisfy the objective of Section J, to reduce greenhouse gas emissions by efficiently using energy. Relevant conditions are recommended have been imposed.	Yes
<b>3I Crime Prevention Safety &amp; Security</b>		
Site layout, design & uses; Building design; Landscaping & lighting; Public domain, open space & pathways; Car parking areas; Public Facilities.	<p>The proposed development includes boarding rooms oriented to the street with windows facing the street providing adequate surveillance of the street as well as of the front pedestrian entry being overlooked by the retail premises. The stair access within each level is located with good visual access to surrounding units and is located close to the common area on Level 2.</p> <p>Habitable rooms are positioned at the front of dwellings to allow surveillance of the entry areas. The established setback pattern of the street has been maintained and therefore there is natural surveillance of the street along the length of the development. Landscaping is generally low set which does not obscure lighting or sightlines in and around the entrance to the development along Bay Street. The common room and laundry are located adjoining each other for casual surveillance of both areas with the caretaker's unit located above for additional surveillance (via fire stairs).</p> <p>A Plan of Management (POM) is also provided which outlines the measures to be taken in the event of any concerns with</p>	Yes

Control	Proposed	Complies (yes/no)
	security. An on-site Manager will be present at the site on a 24 hour basis. Other security measures such as perimeter lighting, surveillance and security systems and operating hours are provided to ensure the safety and security of residents. Compliance with the POM at all times is imposed as a condition of consent.	
<b>3J Aircraft Noise &amp; OLS</b>		
ANEF; Aircraft height limits in prescribed zones.	<p>The subject site is located within the ANEF 25-30 contour. Pursuant to Clause 3J.2 (C2), the proposed development is “conditional” (for hotel, motel, hostel) under Table 2.1 of AS2021-2000, in which case development may take place, subject to Council consent and compliance with the requirements of AS2021-2000. An <i>Acoustic Assessment</i> prepared by Acouras Consultancy dated 11 July 2016 has been submitted with the application, which indicates that subject to the recommendations of the report, the development will comply with ASA2021-2000.</p> <p>In relation to the Obstacle limitation surface, the application was referred to SACL who have raised no objection to the proposal subject to conditions. The proposal is consistent with this Part of the DCP subject to conditions. Relevant conditions are recommended have been imposed.</p>	Yes
<b>3K Contamination</b>		
Consider SEPP 55 & Contaminated Land Management Act 1997.	The provisions of Part 3K of the BBDCP 2013 have been considered above under the SEPP No. 55 assessment. The proposal is satisfactory in terms of Part 3K.	Yes Refer to SEPP55 discussion
<b>3L Landscaping and Tree Management</b>		
General Requirements; Planting design & species; Landscaping in car parks; Green roofs.	Appropriate conditions have been recommended in the consent. A Landscape Plans and Arborist reports have been provided.	Yes
<b>3N.3 Waste Minimisation &amp; Management</b>		
<p><b>3N.3.1 General Requirements</b></p> <p><b>C1</b> Residential Development must provide recycle/waste bins in accordance with Table 3.</p> <p><b>C8</b> Separate containers of sufficient size must be provided to accommodate the storage of waste and recycling likely to be generated on the premises between collections and any associated equipment.</p>	<p>The relevant requirements and objectives have been considered in the assessment of the development application. A Waste Management Plan prepared by the applicant dated 26 July 2016 was submitted with the application. Recommended conditions are included to ensure that all waste generated will be stockpiled, managed and disposed of in accordance with the approved plan.</p> <p>For the ongoing use of the development, the plans indicate separate common bin storage areas for the retail and boarding house components of the development which can accommodate 5 and 12 bins respectively. Pursuant to Section 3N. 3.2 (C1), a boarding house requires 1 x 240L per 6 occupant spaces for general waste, 240L per 6 occupant spaces for recycling and 1 x 240L per 6 occupant spaces for green waste. Therefore, the proposal requires 6 bins for each waste stream, (6 wastes, 6 recycling, 6 green waste) with the bins storage area providing 12 bins. This is considered satisfactory given there is limited</p>	<p>Yes</p> <p>Yes</p>

Control	Proposed	Complies (yes/no)
<p><b>3N.3.2 Residential Development</b>  <b>C1</b> Residential Development must provide recycle/waste bins in accordance with Table 3.</p> <p><b>3N.3.4 Mixed Use Development</b>  <b>C3</b> Separate and self-contained waste management systems for the residential component and the non-residential component must be provided. In particular, the development must incorporate separate waste/recycling storage rooms/areas for the residential and non-residential components. Commercial tenants must be prevented (via signage and other means), from using the residential waste/recycling bins and vice versa.</p>	<p>vegetation on the site and therefore 6 green waste bins are not required. 5 bins for the 4 retail spaces are sufficient.</p> <p>It is anticipated that the bins will be transported to the street for Council kerb pick-up by the building manager. The arrangements for the on-going management of waste are considered to be acceptable. Relevant conditions are recommended to ensure waste is properly managed and disposed during the construction process.</p> <p>There are separate waste rooms for the boarding house and retail components of the proposed development.</p>	<p>Yes</p> <p>Yes</p>

*Part 5 – Business Centres*

Part 5 of BBDCP 2013 applies to the proposal as the site is located in the B2 Local Centre zone. The relevant controls are outlined in **Figure 11** and considered below in **Table 7**.

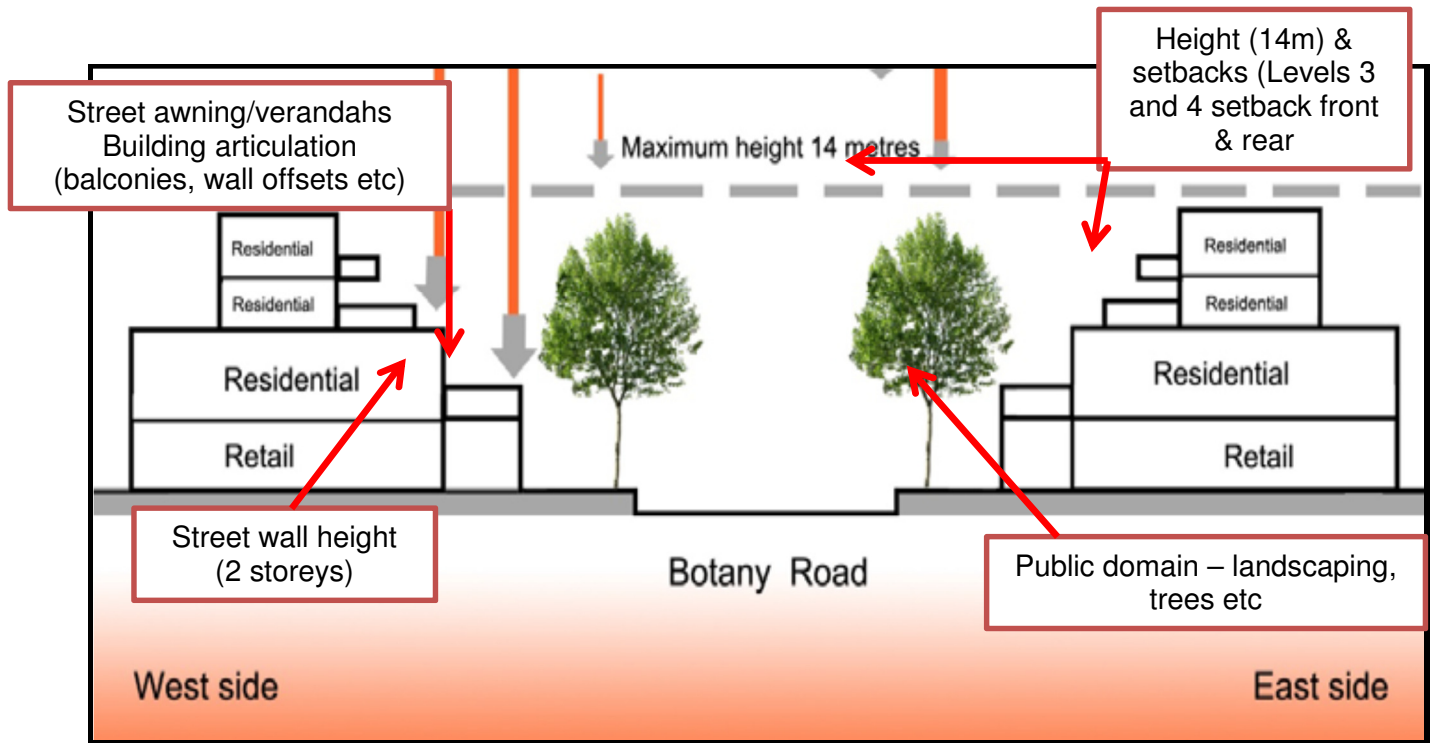


Figure 11: Controls for the Botany Local Centre in Part 5 of BBDCP 2013

Table 7: Consideration of the Part 5 Controls of BBDCP 2013

Part	Control	Proposal	Comply
<b>5.2.2.7 Botany Local Centre</b>			
<b>Public Domain/Streetscape</b>	<b>C1</b> Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 24 (in Figure 11).	To be provided as conditions of consent.	Yes
	<b>C2</b> Pedestrian amenity and connectivity must be enhanced in conjunction with new development. Through site links and arcades are encouraged with redevelopment to improve pedestrian access, amenity and safety.	Refer above.	Yes
<b>Site Amalgamation</b>	<b>C3</b> Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict	The 3 sites comprise an appropriate amalgamation pattern.	Yes

<b>Heritage</b>	<b>C4</b> New development is to take into account and respond sympathetically to the established heritage streetscape, within the Botany Local Heritage Conservation Area, which exhibits strong architectural features and identity. New buildings are to reinforce these features and contribute to its character by incorporating traditional shopfronts and building facades.	The proposal is unlikely to have an adverse impact on heritage values of the existing heritage item given there is a sufficient setting back of the contemporary addition from the heritage item and this setback is appropriately treated with glazing and aluminium louvers. The historical shopfronts are proposed to be retained and reinstated and there is adequate architectural detailing and setbacks to the built form.	Yes
<b>Building Form and Design</b>	<b>C5</b> The design of development must be generally consistent with the desired future character of the centre identified in Figure 24 (refer above) and the existing character of buildings within the Botany Township Heritage Conservation Area.	The proposal is compatible with the heritage item, being adequately setback from this item as well as from the side street (Bay Street). The upper level at the 4 <sup>th</sup> storey is also setback such that the building has a height from the street of three (3) storeys as required by Figure 24. That is, the building footprint of the new building is setback from the side boundary to Bay Street and there is sufficient articulation of the street facades achieved.	Yes
	<b>C6</b> New development is to take into account and respond sympathetically to an established heritage streetscape with strong architectural features and identity. New buildings are to reinforce these historic features and contribute to its character.	The proposed new building responds sympathetically to the established heritage streetscape given the bulk and scale of the addition reinforces the historic features of the building, being a two storey building. The height is reduced along the side elevation with the setting back of the upper level and the proposed articulation allowing the proposed addition to sit comfortably with the heritage item on the site.	Yes
	<b>C7</b> A maximum height of 14 metres applies under BBLEP 2013. Building height along the street frontage is a maximum of two stories, with Levels 3 and 4 to be setback from the street in accordance with the desired future character identified for the centre in Figure 24.	The front of the proposed addition is setback from the street by virtue of the location of the existing heritage building. The side elevation is also setback from Bay Street and the 4 <sup>th</sup> storey is setback.	Yes
	<b>C8</b> A setback to the rear may be required where a site adjoins a residential area and is to be determined following a detailed site analysis at development application stage. Applicants must therefore demonstrate to Council with the development application that	The adjoining property to the west is also located within the B2 zone and is located on a zero side/rear setback in part, which is also achieved by the proposal.	Yes

	the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity.		
	<b>C9</b> Buildings must address the street and their entries are to be readily apparent from the street. Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties (refer to Figure 17).	The proposal addresses both street frontages and has readily apparent entries from the street.	Yes
	<b>C10</b> Dwellings within a mixed use development and shop top housing are to have windows and/or verandahs in the street elevation to encourage surveillance of the street. If the Veranda is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges.	Adequate surveillance is provided of the street.	Yes
	<b>C11</b> Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.	Council's Heritage Advisor considers that the colours and materials are satisfactory.	Yes
	<b>C12</b> New development when viewed from the street is to be compatible with the character of buildings within the site's visible locality by using similar shaped windows, doors and similar building materials.	The proposal is compatible with existing development in the area.	Yes
	<b>C15</b> Awnings must be provided continuously along the shop frontages to provide pedestrian shelter to the footpath area.	An awning extends along the Botany Road frontage of the site and around the corner into Bay Street.	Yes
	<b>C17</b> Development design is to encourage active street life while providing a high residential amenity.	An active street frontage is provided along Botany Road and the corner of Bay Street, with landscaping provided along the remainder of Bay Street.	Yes
<b>Parking and Access</b>	<b>C19</b> Vehicular access from Botany Road must be avoided where access is available from a side street or rear laneway.	Vehicle access is from Bay Street.	Yes
	<b>C20</b> Where a rear laneway exists loading and unloading must occur from the laneway.	N/A	N/A
<b>Advertising and Signage</b>	<b>C23</b> Maintain limited advertisements and business signage which is consistent with the Botany Township Heritage Conservation Area.  <b>C24</b> Restrict signage to the awning fascia, under the awning or behind the shop window at street level.	There is no signage proposed in this application.	N/A
<b>Stormwater</b>	<b>C26</b> A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management.	Refer to BBLEP 2013 assessment.	Yes
<b>5.3 General Controls</b>			
<b>5.3.1 Built Form</b>	<b>5.3.1.1 Floor Space Ratio</b>	FSR is compliant.	Yes



	<p><b>C2</b> In determining an appropriate FSR, applicants must demonstrate to Council, in their development application submission, that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings, heritage items or the streetscape in terms of:</p> <ul style="list-style-type: none"> <li>(i) Loss of Privacy;</li> <li>(ii) Overshadowing/loss of natural light;</li> <li>(iii) Loss of views;</li> <li>(iv) Visual Amenity (Bulk and Scale); and</li> <li>(v) Increased traffic generation.</li> </ul>		
	<p><b>5.3.1.2 Height</b></p> <p><b>C1</b> The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.</p> <p><b>C2</b> In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of the site.</p>	<p>Height is inconsistent with BBLEP 2013.</p> <p>The future characteristic height is 14m (which is generally proposed), with articulation in the building form and a setback of the upper levels of the building along the Bay Street frontage.</p>	<p><b>No Refer to Note 4 and the CI 4.6</b></p> <p>Yes</p>
	<p><b>5.3.1.3 Street Setbacks</b></p> <p><b>C1</b> Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys or where the site is located on a street corner. In this instance applicants must submit a written justification to Council for this variation at development application stage. The variation will be considered by Council on its merits.</p> <p><b>C2</b> Setbacks for buildings which exceed two storeys are provided in the Character Precincts for each centre in Part 5.2 - Character Statements for the Business Centres.</p>	<p>Street wall height is two storeys along Botany Road (existing heritage building façade retained).</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>
	<p><b>5.3.1.4 Side and Rear Setbacks and Building Separation</b></p> <p><b>C1</b> Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity. The appropriate setback will be determined at development application stage, subject to a detailed Site Analysis. Applicants must therefore demonstrate to Council at development</p>	<p>There is no adjoining residential development. The adjoining development to the north is a mixed use building with residential on the upper levels with a reduced side setback.</p>	<p>Yes</p>

	<p>application stage that impacts on the residential area are minimised.</p> <p><b>C2</b> Developments to which <i>State Environmental Planning Policy No 65</i> (SEPP 65) applies are to adhere to the Apartment Design Guide provisions for building separation.</p>	SEPP 65 does not apply (Cl 4(4) of SEPP 65).	N/A
	<p><b>5.3.1.5 Built Form and Streetscape</b></p> <p><b>C2</b> Buildings must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.</p> <p><b>C3</b> Blank walls are to be avoided adjoining principle streets and the public domain. If they are unavoidable amelioration measures such as artwork or landscaping is required to enhance the visual amenity and reduce vandalism.</p>	<p>A consistent wall height of 2 storeys is provided along Botany Road and an awning is also provided.</p> <p>Landscaping is provided to the Bay Street frontage.</p>	<p>Yes</p> <p>Yes</p>
<b>5.3.2 Design</b>	<p><b>5.3.2.1 Design Excellence</b></p> <p><b>C1</b> To achieve excellence in urban design, all development must:</p> <ul style="list-style-type: none"> <li>(i) Take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis;</li> <li>(ii) Utilise innovative design which positively responds to the character and context of its locality;</li> <li>(iii) Provide a design which is sustainable;</li> <li>(iv) Enhance the streetscape character of the locality;</li> <li>(v) Ensure that proposed development is consistent in height and scale with surrounding development;</li> <li>(vi) Maintain established setbacks;</li> <li>(vii) Design buildings to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy;</li> <li>(viii) Ensure any development utilises materials and finishes which complement the locality;</li> <li>(ix) Design for acoustic and visual privacy;</li> <li>(x) Ensure dwellings and open space areas achieve good solar access, and are energy efficient;</li> <li>(xi) Ensure building entries address the street and are clearly visible from the street or footpaths;</li> <li>(xii) Design development that provides good quality landscaping;</li> <li>(xiii) Consider the relationship of private open space to the layout of the dwelling;</li> <li>(xiv) Use design techniques which promote safety and discourage crime; and</li> <li>(xv) Encourage active street frontages</li> </ul> <p><b>C2</b> The Development Application must identify, through a design statement, how design excellence will be achieved in the</p>	The design of considered to be satisfactory and there are no adverse impacts on the heritage value of the site.	Yes

	<p>proposed development. The design statement must include drawings and examples of the building features, textures, materials, finishes and colours and how they are suitable to the subject site and its context.</p>		
	<p><b>5.3.2.2 Building Design</b>  <b>C1</b> Building construction must be undertaken in compliance with the BCA. All development applications must submit a BCA report outlining the compliance of the building design with the BCA.</p> <p><b>C2</b> All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.</p> <p><b>C3</b> If the development is located in a heritage conservation area or adjoining a Heritage Item the objectives and controls contained in Part 3B - Heritage must be addressed in the Development Application and accompanying heritage impact statement.</p> <p><b>C4</b> If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any privacy impacts on adjoining residential properties.</p>	<p>BCA report submitted and satisfactory.</p> <p>There will be no adverse impacts on privacy of the adjoining residential development (under construction) to the west given walls with no direct windows facing the side boundary are proposed. The void area is adequately screened with landscaping and screening devices to ensure minimal privacy loss to the adjoining building to the northwest.</p> <p>Refer to Part 3B (heritage).</p> <p>No adverse impacts on the privacy of adjoining development.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>5.3.2.4 Awnings and Verandahs</b>  <b>C1</b> New development must provide awnings above the footpath to provide weather protection for pedestrians.</p>	<p>An awning is proposed to be reinstated on the heritage item.</p>	<p>Yes</p>
	<p><b>5.3.2.5 Public Domain Interface at Ground Level</b>  <b>C2</b> Development must be designed so that it has a clearly definable entry and addresses the street.</p> <p><b>C3</b> For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.</p>	<p>Clearly identifiable entry areas are provided.</p> <p>A communal terrace area is provided along the street frontage on the upper level.</p>	<p>Yes</p> <p>Yes</p>
	<p><b>5.3.2.6 Active Street Frontages</b>  <b>C1</b> Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street Frontages under BBLEP 2013.</p>	<p>Active street frontage required by BBLEP 2013 and is provided along Botany Road.</p>	<p>Yes</p>

	<b>C7</b> If the active street frontage adjoins a Heritage Item the setback, design and scale of the active street frontage must complement the Heritage Item.	The active street frontage is consistent with the setting of the heritage item on the site.	Yes
	<b>5.3.2.7 Heritage</b> <b>C1</b> If a site is a heritage item or in the vicinity of a Heritage Item or within either the Botany Township Heritage Conservation Area or Daceyville Heritage Conservation Area you also need to address Part 3B - Heritage.	Refer to Part 3B - Heritage Assessment.	Yes
	<b>5.3.2.10 Private Open Space &amp; Communal Open Space</b>	Refer to the ARH SEPP.	Yes
	<b>5.3.2.11 Materials and Finishes</b> <b>C3</b> Development of a Heritage Item or building within a Heritage Conservation Area must utilise colours and materials which are sympathetic with the heritage character or the Heritage Item or Heritage Conservation Area.	Refer to Part 3B - Heritage Assessment.	N/A
	<b>5.3.2.12 Servicing</b> <b>C3</b> Service vehicles must enter and leave the loading dock in a forward direction.	An SRV loading bay is provided on the site.	Yes
	<b>5.3.2.13 Access &amp; Mobility</b> <b>C1</b> Development must comply with Part 3C - Access and Mobility	Refer above.	Yes
	<b>5.3.2.14 Crime Prevention, Safety and Security</b> Refer to Part 3L.	Refer above.	Yes
<b>5.3.3 Amenity</b>	<b>5.3.3.1 Acoustic Privacy</b> <b>C1</b> Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.  <b>C2</b> Habitable rooms of dwellings adjacent to high levels of external noise designed to limit internal noise levels to a maximum of 45dB(a) in accordance with relevant Australian Standards for acoustic control.	Addressed in Acoustic Report.	Yes
	<b>5.3.3.2 Visual Privacy</b> <b>C1</b> In some cases potential visual privacy impacts can be mitigated by incorporation of design measures.	There are no visual privacy impacts for the adjoining residential development (future) to the north-west as there are no direct windows facing into this adjoining property. The void area is adequately screened to ensure there will be minimal overlooking opportunities into the adjoining property.	Yes
	<b>5.3.3.3 Solar Access and Shadow</b> <b>C1</b> Development must demonstrate: (i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and	The shadow diagrams indicate there will be minimal overshadowing to adjoining properties given the majority of shadow falls onto Bay Street in the morning with some shadowing on the	Yes

	<p>(ii) 30% of any communal open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p> <p><b>C2</b> The Development Application must provide solar diagrams that, as a minimum, illustrate compliance with the above control and comprise of plans and elevations demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.</p> <p><b>C3</b> Buildings are to be designed and sited to ensure sun access to private and communal open space within the development, and adjoining properties and public open space.</p>	<p>western side windows during the afternoon in mid-winter. The adjoining property to the south (beyond Bay Street) will receive adequate sunlight in the morning during mid-winter. This adjoining property is currently a pub and therefore there are no habitable room windows or open space to be measured.</p> <p>Shadow diagrams provided.</p> <p>The front balcony along Botany Road, which serves the common room (Level 2) and the caretaker's flat (Level 3) and which is wholly within the property, will receive adequate sunlight.</p> <p>While the balconies to Rooms 1-5 (Level 1), 17-21 (Level 2) and 26-30 (Level 3) face south and will not receive adequate sunlight as well as the landscaped courtyard along the north-western side boundary is overshadowed throughout the day in mid-winter, there is adequate solar access to the communal areas along the front of the building which is adequate. It is considered that the proposal achieves adequate sunlight to private and communal open space areas in the accordance with the ARH SEPP as outlined above.</p>	<p>Yes</p> <p>Yes</p>
	<p><b>5.3.3.4 External Lighting</b>  <b>C1</b> External lighting must not detract from the residential amenity of a building or adjoining residential development by shining directly into habitable residential areas or private open spaces.</p>	<p>Condition of consent if appropriate.</p>	<p>Yes</p>
	<p><b>5.3.3.6 Stormwater Management and Flooding</b>  <b>C2</b> All development must comply with the Stormwater Management Technical Guidelines (refer to Part 10 - Stormwater Management Technical Guidelines).</p>	<p>Refer to Clause 6.3 of BBLEP 2013 outlined in Table 3.</p>	<p>Yes</p>

*Part 7A.4.1 Boarding Houses (General Requirements)*

The proposal involves a boarding house development and therefore the provision of Part 7A.4 – Boarding Houses – are relevant and are considered below:

**Table 8: Consideration of the Part 7A Boarding House Controls of BBDGP 2013**

Part	Control	Proposal	Comply
General	<b>C1</b> Boarding Houses shall comply with the relevant parts of Part 4 - Residential Development.	Refer to Part 4C below – RFB controls.	Yes
Design	<b>C2</b> Development (incl alts & adds) must reflect built form and design of surrounding area. Refer to the relevant desired future character statement.	Refer to Part 8 – Botany Character Statement.	N/A
	<b>C3</b> Outdoor recreational areas e.g. courtyards and gardens should be located, if possible, away from bedrooms and habitable rooms of adjoining residences.	The terrace area on Level 2 faces/adjoins the street while the landscaped courtyard on Level 1 adjoins the wall of the adjoining development. There is adequate screening towards the adjoining development in that there are blank walls proposed on the lower ground and ground floors while privacy screening/louvers is proposed from Level 1 and up.	Yes
	<b>C4</b> Landscaping should be used to soften and minimised noise impacts from courtyards, gardens and driveways on the surrounding area.	Landscaping is provided within the courtyard which will further reduce potential overlooking opportunities.	Yes
Location	<b>C5</b> Boarding houses are to be located in close proximity to public transport i.e. within 400 metres.	There is a bus stop along the front boundary of the site (Botany Road).	Yes
Subdivision	<b>C6</b> The strata subdivision or community title subdivision of boarding houses is not permitted.	There is no subdivision proposed.	Yes
Operation and Management	<b>C7</b> All residents must enter into a tenancy agreement with the managing agent of the boarding house, stating that they agree to the house rules and the fees payable. Residency agreements for Boarding Houses should be between 3 months to 1 year.	Condition of consent.	Yes
	<b>C8</b> A Plan of Management (POM) is required to be submitted, which describes how the ongoing operation of boarding houses will be managed to reduce its impact upon the amenity of surrounding properties.	A Plan of Management has been provided which addresses these issues. The POM will be included as a condition of consent.	Yes
Amenity, Safety, Traffic and Privacy	<b>C9</b> Boarding houses are to maintain a high level of resident amenity, safety and privacy by ensuring:  (i) Communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations;	There is adequate privacy, amenity and safety as a result of the layout of the rooms and grouping together of the common area and laundry room on Level 2 and the provision of the Manager's unit in close	Yes

	<p>(ii) Bedrooms are located so that they are separate from significant noise sources and incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources;</p> <p>(iii) Structural fittings and fixtures for all internal rooms that enhance nonchemical pest management of the building, with all cracks and crevices sealed and insect screening to all openings; and</p> <p>(iv) All appliances achieve an energy star rating of 3.5 or higher, unless otherwise legislated.</p> <p><b>C10</b> Building entry points and internal entries to living areas are to be clearly visible from common spaces.</p> <p><b>C11</b> Habitable living areas (such as lounge room, kitchen, dining and bedroom) located to allow general observation of the street and communal open space.</p> <p><b>C12</b> Boarding houses designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings by locating:</p> <p>(i) The main entry point at the front of the site, away from side boundary areas near adjoining properties;</p> <p>(ii) Communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings;</p> <p>(iii) Screen fencing, plantings, and acoustic barriers in appropriate locations; and</p> <p>(iv) Double glazed windows where noise transmission affects neighbouring buildings.</p> <p><b>C13</b> An acoustic report prepared by a suitably qualified acoustical consultant is required. The report shall include, but not be limited to the following:</p> <p>(i) identification of sensitive noise receivers potentially impacted by the proposal;</p> <p>(ii) quantification of existing acoustic environment at the receiver locations;</p> <p>(iii) formulation of suitable assessment criteria;</p> <p>(iv) Details of any acoustic control measures that will be incorporated into the proposal;</p>	<p>proximity to the outdoor terrace areas.</p> <p>The building entry areas are clearly visible from the rooms of the boarding house as well as from the retail tenancies on the ground floor. The shops at ground level provide casual surveillance to entry areas.</p> <p>Habitable rooms overlook the street and the communal and access areas. The building entry and entries to common rooms within the building are visible to other rooms and areas, including the ground floor shops.</p> <p>There are no adverse impacts on the privacy of the adjoining property to the north as all the access areas are from either Bay Street or Botany Road and away from the adjoining property while there are no windows with a direct line of sight to this adjoining property given the only windows which face this adjoining property are screened by vegetation in the courtyard along the northern site boundary.</p> <p>An Acoustic report has been provided which addresses these matters.</p>	<p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>(v) The identification of all noise that is likely to emanate from the boarding house and the subsequent prediction of resultant noise at the identified sensitive receiver locations; and</p> <p>(vi) A statement certifying that the development is capable of operating without causing a nuisance or result in an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i>.</p> <p><b>C14</b> An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report.</p> <p><b>C15</b> Sources of noise, such as kitchen, communal rooms and parking areas, must be sited and designed to minimise the noise impact on adjoining properties.</p> <p><b>C16</b> Noise minimisation should be carried out for visitor movements. <b>Arrivals/ departures and the use of outdoor open space areas outside the hours is restricted to 8:00am to 6:00pm.</b></p> <p><b>C17</b> In boarding houses classified as Class 3 by the BCA, each bedroom is to meet the fire safety standards of sole occupancy unit for a Class 3 building in the BCA, whether it is provided as a sole occupancy or not.</p>	<p>Only 35 rooms/bedrooms are proposed in this application.</p> <p>There is sufficient acoustic separation as outlined in the Acoustic report.</p> <p>Condition of consent limiting terrace area use to 8pm to be included.</p> <p>Required by BCA in Construction Certificate.</p>	<p>N/A</p> <p>Yes</p> <p>Yes*</p> <p>Yes</p>
<p>Sleeping Room Requirements</p>	<p><b>C18</b> The gross floor area of a bedroom is to be at least:</p> <p>(i) 12m<sup>2</sup> (incl 1.5m<sup>2</sup> for wardrobe);</p> <p>(ii) 4m<sup>2</sup> when second adult occupant is intended (clearly shown on plans); plus</p> <p>(iii) 2.1m<sup>2</sup> for any ensuite (which must comprise a hand basin &amp; toilet);</p> <p>(iv) 0.8m<sup>2</sup> for any shower in ensuite;</p> <p>(v) 1.1m<sup>2</sup> for any laundry (must comprise washtub &amp; washing machine); and</p> <p>(vi) 2m<sup>2</sup> for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave).</p> <p><b>C19</b> All facilities provided in boarding rooms should include energy and resource saving measures.</p> <p><b>C20</b> At least 1 of the bedroom provided must incorporate disabled access, meeting BCA.</p> <p><b>C21</b> Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of natural light.</p>	<p>The room dimensions comply with these requirements (refer to room dimensions plans).</p> <p>Energy efficiency report is satisfactory. BASIX Certificate provided.</p> <p>2 boarding rooms (Rooms 10 &amp; 32) are accessible.</p> <p>All rooms have access to natural light via a window or balcony doors.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>



	<p><b>C22</b> The minimum ceiling height of any bedroom containing double bunks is 2.7 metres. Triple bunks are not permitted.</p> <p><b>C23</b> 30% of all bedrooms to have access to private open space with a minimum area of 4m<sup>2</sup> as a balcony or terrace area.</p>	<p>No double bunks provided – all single occupancy rooms.</p> <p>16 of 35 rooms (including the Manger’s unit) have a balcony (45.7%) and are generally 4m<sup>2</sup> in area. This calculation excludes the 4 rooms which have access to the common balcony on top of the street level awning on level 1 since the RMS did not provide concurrence for this awning/balcony and which is to be removed from the proposal. Refer to referrals discussion. .</p>	Yes
Internal Communal Areas	<p><b>C24</b> All Boarding Houses are to include the following communal facilities - laundry, kitchen and dining, bathroom and living areas.</p>	<p>Laundries are provided on Levels 1, 2 and 3, a common room is provided on Level 2 with an adjoining terrace area and a landscaped courtyard is provided on Level 1.</p> <p>Each room has a kitchenette in addition to the communal kitchen in common room.</p>	Yes
	<p><b>C25</b> A communal kitchen is to be provided with a minimum area that is 6.5m<sup>2</sup> or 1.2m<sup>2</sup> for each resident occupying a bedroom without a kitchenette.</p>	<p>The common room has a kitchen and each of the rooms also has a kitchenette.</p>	Yes
	<p><b>C26</b> The communal kitchen is to contain: (i) 1 sink for every 6 people, or part thereof, with running hot and cold water; and (ii) 1 stove top cooker for every 6 people, or part thereof, with appropriate exhaust ventilation.</p>	<p>Provided.</p>	Yes
	<p><b>C27</b> The communal kitchen is to contain, for each resident occupying a bedroom without a kitchenette: (i) 0.13 cubic metres of refrigerator storage space; (ii) 0.05 cubic metres of freezer storage space; and (iii) 0.30 cubic metres of lockable drawer or cupboard storage space.</p>	<p>Provided.</p>	Yes
	<p><b>C28</b> An indoor communal living area with a minimum area of 20m<sup>2</sup> or 1.25m<sup>2</sup> per resident with a minimum width of 3 metres is to be provided. The communal living area can include a dining area but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.</p>	<p>The internal common room has an area of approx. 50m<sup>2</sup>.</p>	Yes

	<p><b>C29</b> Communal rooms are to be designed and located to minimise noise impacts on boarding rooms and adjoining properties.</p>	The common room is located adjoining the boundary wall and the fire stairs and will therefore not result in any significant acoustical impacts on the site or adjoining sites (refer to Acoustic Report).	Yes
	<p><b>C30</b> Indoor communal living areas are to be located:  (i) Near commonly used spaces, such as kitchen, laundry, lobby entry area or manager's office, with transparent internal door, to enable natural surveillance for resident circulation;  (ii) Adjacent to the communal open space;  (iii) To receive min 2 hours solar access to min 50% of the windows during 9am and 3pm in June;  (iv) On each level of a multi-storey boarding house, where appropriate; and  (v) Where they will have minimal impact on bedroom and adjoining properties.</p>	The internal common room is located near the laundry room and adjacent to the communal open space/terrace area and receives the required amount of solar access required by (iii) to its windows as outlined in the shadow diagrams.	Yes
	<p><b>C31</b> All Communal facilities must be of a design that is easy to maintain, clean and allows for disabled access.</p>	The communal facilities are easy to maintain and allows for disabled access.	Yes
Communal Open Space	<p><b>C32</b> Communal open space is to be provided with a minimum area of 20m<sup>2</sup> and a minimum dimension of 3 metres.</p> <p><b>C33</b> Outdoor communal areas may not be included at the front of the property.</p> <p><b>C34</b> Communal outdoor open space is to located and designed to:  (i) Generally be north-facing to receive a minimum 2 hours of solar access to at least 50% of area during 9am and 3pm on 21 June;  (ii) provided at ground level in courtyard or terrace area, where possible;  (iii) Provide partial cover from weather;  (iv) Incorporate soft or porous surfaces for 50% of the area;  (v) Be connected to communal indoor spaces, such as kitchen or living areas;  (vi) Contain communal facilities such as barbecues, seating and pergolas where appropriate; and  (vii) Be screened from adjoining properties and the public domain with plantings, such as trellis and climbing vines.</p>	<p>This is achieved on the common terrace area along the Botany Road frontage.</p> <p>Provided at first floor level.</p> <p>It is preferable for this area to be provided at ground level, however, in this instance it is provided as an upper floor balcony wholly within the site. This allows for improved solar access and direct connection with the indoor communal space, which is satisfactory. The location of the site within the Botany local centre also results in ground level open space being difficult to provide due to the requirements for active street frontages and car parking.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Bathrooms, Laundries and Drying Facilities	<p><b>C35</b> Communal bathroom facilities accessible to all residents 24 hours per day are provided with at least:  (i) One (1) wash basin, with hot and cold water, and one toilet for every seven (7) residents, or part thereof, for each occupant of a room that does not contain an ensuite; and</p>	Each boarding room has their own bathroom facilities as well as an accessible toilet on the ground floor.	Yes

	<p>(ii) One shower or bath for every seven (7) residents, or part thereof, for each occupant of a room that does not contain a shower.</p> <p><b>C36</b> Laundry facilities are to be provided and are to include:  (i) One (1) 5kg capacity automatic washing machine and one domestic dryer for every 12 residents or part thereof; and  (ii) At least one large laundry tub with hot and cold running water.</p> <p><b>C37</b> Drying facilities, such as clothesline located in a communal open space, are to be located to maximise solar access and ensure that the usability of space is not compromised.</p>	<p>Laundry facilities are provided on Levels 1, 2 and 3.</p> <p>Clothes drying area is provided in the communal open space terrace along the north-eastern boundary in a discreet location.</p>	<p>Yes</p> <p>Yes</p>
Fire Safety	<p><b>C38</b> Each sleeping room in a Class 3 building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate sound insulation to provide reasonable amenity between sleeping rooms.</p> <p><b>C39</b> In a Class 3 building, public corridor and egress routes from sleeping room, must be fire separated from adjoining areas (including sleeping rooms, reception areas, linen and baggage stores, garage room, recreation/living room and kitchen) to comply with Performance Requirement CP2 of the Building Code of Australia.</p> <p><b>C40</b> Floor covering and materials in sleeping rooms and corridors must be of materials that resists the spread of fire, and limit the generation of smoke and heat in accordance with Section C of the Building Code of Australia.</p> <p><b>C41</b> An automatic smoke detection and alarm system is to be provided throughout the common areas of the building in accordance with Building Code of Australia Specification E2.2a and Australian Standard AS1670.1.</p> <p><b>C42</b> Smoke alarms connected to the consumer mains power are to be installed in each bedroom in accordance with Building Code of Australia Specification E2.2a and Australian Standard AS3786.</p>	<p>The fire safety provisions are addressed in the BCA. The accompanying BCA report prepared by BCA Vision dated 6 July 2016 concluded that the proposal was satisfactory. Relevant conditions are to be imposed requiring compliance with the BCA. The POM requires continued compliance with the fire safety provisions of the BCA.</p>	<p>Yes</p>

*Part 4C Residential Flat Buildings*

Part 7A.4.1 (C1) requires that boarding houses shall comply with the relevant parts of Part 4 - Residential Development. The relevant controls are considered below:

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**Table 9: Consideration of Part 4C of BBDP 2013**

<b>Part</b>	<b>Control</b>	<b>Proposal</b>	<b>Comply</b>
4C.2.2 <b>Streetscape Presentation</b>	<b>C1</b> New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. It must respond to building setbacks, building height and treatment of the building facades (refer to Figure 3).	The existing setbacks are retained as the front facades are retained. The bulk and scale of the building is consistent with the character of the existing development in the area and is compatible with the heritage item located on the site.	Yes
	<b>C2</b> Development must comply with: (i) Max length of any building - 24m; and (ii) Façades articulated and employ materials and finishes to enhance and complement character of the streetscape.	Max length across the Bay Street frontage is 21 metres for the rear addition. The building is appropriately articulated with the upper level setback. The retention of the existing front façade wrapping round the Bay Street and Botany road corner is supported and is not included in this calculation.	Yes
	<b>C3</b> Buildings must be sited to address the street and relate to neighbouring buildings. Developments on sites with two or more frontages should address both frontages, to promote and to reinforce the ambiance of the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and are not permitted.	The proposed building adequately addresses both street frontages.	Yes
	<b>C4</b> Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.	The site is a corner lot and addresses the street corner through retention of existing building facades.	Yes
4C.2.4 Landscaped Area and Deep Soil Planting	<b>C1</b> Min landscaped area of 35% and a maximum unbuilt upon area of 20%.	Not applicable as it is only applicable to RFBs and is addressed in SEPP (ARH) 2009.	N/A
4C.2.5 Open Space	<b>C2</b> Open space should be considered early on during site planning to provide a visual focus for the development, ideal siting for solar access, and to enable preservation of existing trees.	Addressed in SEPP (ARH) 2009.	N/A
4C.2.6 Setbacks	<b>C2</b> All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.	Landscaping opportunities are provided along the Bay Street frontage.	Yes
	<b>C3</b> Development designed to create spatial separation between buildings to: (i) Minimise bulk and scale of the building; (ii) Allow contiguous deep soil planting and landscaping; (iii) Ensure adequate exposure to sunlight and ventilation; and (iv) Create a buffer for visual and acoustic privacy.	Building separation is adequate given the town centre location of the site.	Yes
	<b>C4</b> Setbacks to maximise retention of existing trees and their root systems and	Only exotic species are to be removed.	Yes

	<p>may need to be variable to achieve this (includes trees on adjoining properties).</p> <p><b>C5</b> Awnings and balconies are to be  (i) set back a minimum of 1.5 metres from the kerb on a classified road;  (ii) set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from an intersection of a local road with a classified road; and  (iii) set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from any signalised intersection.</p> <p><b>Front Setbacks</b>  <b>C1</b> Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road.</p>	<p>The proposed awning along Botany Road is the reinstatement of the earlier veranda.</p> <p>Front setback is set by retention of existing facades of the heritage building and the adjoining development to the north.</p>	<p>Yes</p> <p>Yes</p>
4C.3.1 Building Entries	<p><b>C1</b> Entrances must provide shelter and be well-lit and safe spaces to enter the building, meet and collect mail (refer to Figure 12). The front door must be visible from, and have direct access to, the street.</p> <p><b>C2</b> A main pedestrian entry is to be provided within a development. The entry is to be separate from car parks or car entries. Disabled access through the primary entrance to the building must be provided.</p>	<p>The main pedestrian entry is from Botany Road. Mailboxes can be provided in this location.</p> <p>There are separate vehicle and pedestrian entry points provided.</p>	<p>Yes</p> <p>Yes</p>
4C.3.3 Materials and Finishes	<p><b>C1</b> A Schedule of Finishes and a detailed Colour Scheme for the building facade will accompany all Development Applications involving building works.</p>	<p>Provided.</p>	<p>Yes</p>
4C.4.1 Dwelling Mix and Layout	<p>N/A</p>	<p>RFB not proposed.</p>	<p>N/A</p>
4C.4.3 Internal Circulation	<p><b>C1</b> Development will provide multiple cores within the building to:  (i) Increase number of entries along a street;  (ii) Increase number of vertical circulation points;  (iii) Give more articulation to the façade; and  (iv) Limit the number of units off a circulation core on a single level.</p>	<p>There are multiple entry points (pedestrian and vehicular) and there are stairs and a lift provided.</p>	<p>Yes</p>
4C.4.4 Views	<p><b>C1</b> Development is to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility.</p>	<p>There is no view corridor obstructed.</p>	<p>Yes</p>
4C.4.5 Acoustic Privacy	<p><b>C1</b> An acoustic report prepared by a certified acoustic consultant will be submitted with the development application addressing the requirements detailed in Controls C2, C3 and C4 below.</p> <p><b>C8</b> Development on land which is on or is within 100 metres of a railway corridor, a classified road or any other road with an</p>	<p>An Acoustic report has been provided which concluded the proposal was satisfactory.</p> <p>This has been addressed in the Acoustic report and the</p>	<p>Yes</p> <p>Yes</p>

	annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) must consider the requirements of the Development Near Rail Corridors and Busy Roads - Interim Guideline (19 December 2008) in accordance with cl.87(3) and cl.102(3) of SEPP (Infrastructure) 2007. An acoustic report prepared by a certified acoustic consultant must be submitted at development application stage to demonstrate compliance with this Guideline.	Infrastructure assessment.	SPEP	
4C.4.7 Site Facilities	Required services. Clothes drying, letter boxes, garbage storage areas etc.	Services have or can be provided subject to conditions.		Yes
4C.4.8 Safety and Security	<b>C1</b> Applications must comply with Part 3I - Crime Prevention, Safety and Security. Note: Applications will be referred to the NSW Police Service for comment.	Refer to 3L above.		Yes
4C.4.9 Car and Bicycle Parking & Vehicle Access	Refer to Part 3A.	Refer to SEPP (ARH) 2009.		N/A
4C.5.1 Adaptable Housing	<b>C1</b> A statement from the architect or builder must be submitted with the development application certifying that the adaptable dwelling has been designed in accordance with the provisions of the Australian Standards AS 4299-1995 Adaptable Housing.	An Access report has been provided and the appropriate number of accessible rooms and parking has been provided as per the provisions of the SEPP (ARH) 2009.		Yes
4C.5.2 Access	<p><b>C1</b> All applications are to include a statement on how the development will comply with the provisions of the Disability Discrimination Act and comply with Part 3C - Access and Mobility.</p> <p><b>C2</b> Developments will have night lighting along all driveways and footpaths throughout the site.</p> <p><b>C3</b> Ramps should have gradients not exceeding 1 in 14, and have an even, non-slip surface.</p> <p><b>C4</b> Unnecessary barriers to direct access will be avoided.</p>	An Access report has been provided and the appropriate number of accessible rooms and parking has been provided as per the provisions of the SEPP (ARH) 2009.		Yes
4C.7 Mixed Use	<p><b>C1</b> Any retail or commercial component must be located at ground level.</p> <p><b>C2</b> Adequate storage space is to be provided for the use of the commercial or retail premises.</p> <p><b>C3</b> Noise insulation measures incorporated into development with particular attention to shared ceiling/floors and walls.</p> <p><b>C4</b> The building designed to encourage uses that will enhance and promote active street front activities.</p>	<p>Retail component on ground level.</p> <p>There is adequate storage, including bin storage, for retail premises.</p> <p>Acoustic report concluded there are adequate acoustical privacy measures.</p> <p>Active street frontages provided at ground level.</p>		<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<b>C5</b> The layout and design of building to ensure privacy for dwellings within development.	There is adequate internal privacy.	Yes
	<b>C6</b> The design of parking areas and loading facilities is to take into account the use of these areas by a range of activities and will minimise any conflicts that may arise as a result of the multiple use of these facilities.	Provided.	Yes
	<b>C8</b> Site facilities, storage, mailboxes, and garbage collection points must be designed to adequately service the needs of the occupants of the building and are to be conveniently located within the development.	Provided.	Yes

### *Part 8 – Character Precinct*

Part 8.4.2 Desired Future Character of the Botany Character Precinct has been considered in the assessment of this application. The subject site is located in an area of mixed character consisting of the linear retail shopping strip along Botany Road comprising largely shop top housing within two storey buildings, the one to two storey light industrial buildings to the west which comprise the B7 Business Park zone and low density residential development to the west of the site along Bay Street.

The site is located within the B2 Local Centre zone with a frontage to both Bay Street and Botany Road. It is anticipated that the area will continue to undergo a transition from a two storey shop top housing area to a higher density mixed use zone with active street frontages and residential on the upper levels. This has begun to occur following redevelopments of other sites including the adjoining site to the north.

The proposal is considered to be consistent with the function and diversity controls of the Botany Precinct for the following reasons:

- The proposal enhances the public domain due to the setting back of the upper levels, the articulated facade of the proposed addition and the landscaping proposed along the Bay Street frontage.
- The proposed retail within the development is appropriate for the town centre location.
- Connections to the Botany local centre are retained through good access and addressing Botany Road.
- An active street frontage is provided along Botany Road.
- While there is no side street retailing along the Bay Street elevation, the landscaping proposed will provide for a pleasant streetscape and will assist in minimising the dominance of the ground level car parking.
- Access and adaptability has been provided within the development with level access achieved from the street. Accessible boarding rooms are provided.
- The proposal is consistent with the character of the existing (heritage building) on the site given the proposed new building is complimentary to the character and scale of the existing building on the site and surrounding development.
- Neighbourhood amenity is provided via the casual surveillance of the street, level and identifiable entry and the compatibility with development in the area.
- Landscaping has been provided on the site which allows the proposal to be integrated into the streetscape.

The proposal satisfies the form, massing, scale and streetscape controls in that the proposal generally follows the natural contours of the site and the car parking along the Bay Street frontage is integrated into the site with landscaping and louvers along this elevation. The 4 storey height, with the upper level setback, is an appropriate setback from the heritage building and the articulation in the façade of the proposed addition is consistent with the height and architectural style of the existing heritage building on the site. A flat roof with sloping portions between the upper level windows is proposed which is of a contemporary design and is compatible with existing development.

The proposal is generally consistent with the setback controls in that the front setback is generally consistent with existing development in the area (given retention of heritage item) and the side setbacks are consistent with existing development in the area. The proposal is also generally consistent with the landscape and heritage controls as outlined by Council's Specialist officers.

In terms of solar access, the submitted shadow diagrams indicate that there will be adequate solar access to adjoining properties as the main overshadowing is over the Bay Street roadway during the morning and afternoon in midwinter. There is considered to be adequate car parking provided for the proposal given the proximity of public transport and services to the site and the likely low car ownership of the intended residents. There are no view corridors which will be obstructed by the proposal. The proposal is considered to be consistent with the controls for the Botany Character Precinct pursuant to Part 8 of the BBDCP 2013.

### **S.79C(1)(a)(iv) - Provisions of regulations**

Clause 92 of the regulation has been considered, in which Clause 92(1)(b) requires that the provisions of AS 2601 are considered in relation to the demolition of a building. In this instance, relevant conditions have been recommended to be imposed to ensure the proposed demolition of the existing structures on the site is carried out in accordance with AS 2601.

### **S.79C(1)(b) - Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls above and deemed acceptable. As outlined in the assessment above, the proposed development will not have any significant adverse impacts in the locality and it is considered that given the recommended conditions imposed in **Attachment**, there will be minimal impacts on the amenity of the built environment.

Other considerations include:

- Context and setting – The proposed development has been designed to be a compatible addition to the locality and is of an appropriate size and density to the surrounding development. There is likely to be minimal adverse impacts on the adjoining properties in terms of privacy loss or acoustic impacts given the proposal has limited windows facing the adjoining properties which would allow direct overlooking of the adjoining or nearby residential dwellings (as outlined in this report). There will be no view loss arising from the proposal and the overshadowing impacts are largely over the road of Bay Street and away from adjoining development.
- Noise generation – The potential for noise generation from the proposed development is likely to be standard residential noise and is unlikely to adversely affect the amenity of the area. The POM provides adequate controls for reducing potential noise to the adjoining and surrounding properties by limiting visiting hours and the use of the outdoor common areas after 9pm.



- Access, Traffic and Transport – There is sufficient car parking provided within the proposed ground floor level on the site and the level of traffic generated from the proposal would be readily absorbed by the adjacent road network with minimal impact, in terms of traffic flow efficiency, road safety and residential amenity. Public transport is located in close proximity of the site comprising the bus stop at the adjoining site along Botany Road. Vehicles can enter and leave the site in a forward direction.
- Public Domain – The proposal will not impede pedestrian access in the area and will not impinge on any public areas.
- Utilities – All utilities are available to the site and as a consequence there are no impacts on utilities.
- Heritage – The proposed development will not adversely affect the heritage item on the site or the heritage conservation area within which the site is located as outlined in this report. The heritage values of the site are preserved through the retention of the front portion of the building on this site which will remain largely intact and the reinstatement of the original four (4) heritage shopfronts along Botany Road. The provision of an appropriately designed and located addition to the rear of this heritage item with an adequately recessed junction joining the two elements is supported. Accordingly, it is considered that the proposal is likely to have a positive impact on the heritage values on the site.
- Natural environment – The proposed development will have minimal impact on the natural environment, as it is located in an area already zoned and cleared for development and there are no significant healthy trees being removed. All construction will be undertaken having regard to best practice sediment and erosion control techniques.
- Built environment - In relation to potential impacts on the built environment, it is considered that there is adequate articulation of the built form and that the bulk and scale of the proposal is compatible with existing development in the area. There is also an adequate mix of uses within the building to ensure that amenity is retained in the area. It is considered that the proposal is likely to have a positive impact on the built environment.
- Social impact – In relation to potential social impacts, the proposal includes a Plan of Management (POM) lodged with the application. This has been drafted to reduce potential impacts on the amenity of adjoining and nearby neighbours and for the safety of persons using the boarding house. This POM is considered adequate in that it restricts the operating hours and the visiting hours to the premises. The POM prohibits drugs and alcohol on the premises and requires the future tenants to sign agreements that they will comply with the House Rules.

A relevant condition has been included in **Schedule 1** requiring compliance with the POM and House Rules at all times during the operation of the boarding house. The use of outdoor areas late at night, although not included in the POM, has been included in the conditions, which requires no use after 9pm daily. It is considered that the proposal will not have any significant adverse social impacts in the locality.

The provision of additional affordable housing opportunities in a well serviced location provides positive social benefits to the area. A Social Impact Statement has also been provided which is considered satisfactory.

- Economic Impact - In relation to economic impacts, it is considered that the proposed four (4) retail premises will assist the local economy and resident population by providing additional services in close proximity to future and current residents and will increase business investment in the area. The provision of the boarding house will also bring additional customers to the area which are likely to utilise the local shops, thereby increasing business revenue in the local area.
- Site design and internal design – The proposed development is appropriately set out within the site to minimise adverse impacts on adjoining properties as outlined in this report. The provision of communal areas and open space in the form of the terrace area and landscaped courtyard assists in providing an appropriately designed development.
- Construction – The proposed development will be constructed in accordance with the requirements of the *Building Code of Australia*.
- Cumulative impacts – The proposed development will not result in any adverse cumulative impacts as the proposed development generally complies with the zone objectives and development standards, with some exceptions which are justified, and controls as outlined in this report.

Accordingly, it is considered that there will be no significant adverse impacts arising from the proposed development on the site.

### **S.79C (1)(c) - Suitability of the site**

The matters to be considered when assessing the suitability of the site for the proposal are considered below:

- Compatibility with locality – The proposed development will be compatible with existing development as there is no adjacent land use, which is prohibitive of the proposal. Furthermore, the proposal involves a permissible use in an area zoned for business and compatible uses and is within close proximity to transport and services.
- Environmental hazards – There are no known environmental hazards identified in the relevant planning controls or from an inspection of the subject site which have not been addressed by the proposal. The proposed development will not create additional risks to the future occupants.

The issue of potential site contamination has been considered given the history of previous commercial development on the land. Relevant studies have been undertaken and appropriate conditions are imposed to ensure the land is suitable for the proposed development. The site is also located within the ANEF contour zone and therefore aircraft noise affects the site and has been adequately considered in this assessment and the relevant conditions outlined in **Attachment**.

- Soils - There is unlikely to be any significant issues with acid sulphate soils given the site is within Class 4 land and there is minimal excavation proposed.

### **S.79C(1)(d) - Public Submissions**

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 17 August 2016 to 31 August 2016. No submissions were received.

### **S.79C(1)(e) - Public interest**

Granting approval to the proposed development will not have any significant adverse impacts on the public interest given the general consistency with the planning controls as outlined in this report.

### **Section 94 Contributions**

The purpose of the Section 94 contributions Plan is to provide an administrative framework under which the Council can levy Section 94 contributions for the provision of public amenities and public services required to meet the demand generated by future development within the local government area.

The Section 94 Contributions (indexed at the time of writing the report) for the proposed development are calculated as follows:

#### *Section 94 Development Contributions Plan 2016*

The Plan requires that developments are subject to contributions where the development, in this instance for a boarding house, would result in an increase in the number of dwellings on the site (Clause 1.3 and Table 1.1 of the Plan).

The contributions for the proposed boarding house are calculated as follows:

<b>Rate</b>	<b>Contribution Rate</b>	<b>No of beds proposed</b>	<b>Contribution</b>
Rate per bed	\$6,198.96	35 single occupancy rooms	\$216,963.60
<b>Total</b>			<b>\$216,963.60</b>

#### Credit for Existing Development

Pursuant to Clause 2.16(2) of the *Section 94 Contributions Plan 2016*, where existing dwellings are to be replaced by new dwellings on the site, the applicant will be entitled to a credit for one existing dwelling and the new dwelling/s will be charged at the applicable occupancy rate under the Plan. In this instance, a credit for three (3) existing dwellings on the site is to be applied to the total amount payable. This credit is for 3 boarding rooms. Therefore  $\$6,198.96 \times 3 = \$18,596.88$  credit.

The total contribution, following the application of this credit, is **\$198,366.80**.

#### Commercial Development

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the *Section 94 Development Contributions Plan 2016*. Contributions for commercial development in this location would be calculated under the

*Section 94A Development Contributions Plan 2016* plan. However, only one of the plans can be applied to any given application. The contribution under the Section 94A plans would be significantly less than that available under the Section 94 plan, and it is therefore appropriate to require payment in accordance with the plan requiring the highest contribution. There is also no credit for the existing commercial development, which is to be retained on the site.

For the condition, the breakdown is as follows:

- a) Community Facilities = \$34,119.09 (17.2%)
- b) Recreation = \$147,783.27 (74.5%)
- c) Transport = \$13,885.67 (7%)
- d) Administration = \$2,578.76 (1.3%)

## Conclusion

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Development Application No. 16/125 was received on 1 August 2016 with the amended proposal now comprising the redevelopment of a heritage item, 'Finnies Building', including demolition of rear wings for the addition of a four (4) storey building as a 35 room boarding house, with ground floor retail premises and 12 car spaces at No.1094-1098 Botany Road, Botany. The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment act 1979*.

The development departs from the height requirement by 1.25 metres (15.25 metres). The applicant has provided a Clause 4.6 variation to address this issue and it is considered that the variation is well founded.

Other key issues relating to the potential impact of the proposal on the heritage value of the site, the compatibility of the proposal with the surrounding area and the potential impacts the boarding house may have on the area have been addressed in this report and have been found to be acceptable when considering the aspects of the site. The shortfall in car parking by two (2) spaces was also considered to be satisfactory in this instance.

Minor non-compliances with the planning controls, including the maximum room size under the ARH SPEP, bicycle parking and the height of the proposed addition in relation to the existing heritage item, were also considered to be satisfactory and did not warrant refusal of the development application.

The development is suitable for the site as the boarding rooms will receive the minimum solar amenity requirement, the site will provide an active street frontage, and ample communal areas. The area is serviced by public transport with a bus stop adjoining the site. The proposed development generally complies with the future character of the Botany Local Centre and provides a built form that is desirable in the street and is not considered to contribute to excess bulk and scale. The proposed landscaping provided on the site assists in integrating the built form with the streetscape. For these reasons, the development application is recommended for approval subject to conditions of consent.

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## Attachment

### Schedule 1 – Conditions of Consent

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**SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

1. The development is to be carried in accordance with the following plans listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

<b>Drawing No.</b>	<b>Author</b>	<b>Date Received</b>
15067: DA01 - Existing/ Demolition/ Proposed Site & Roof Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017.
15067: DA02 - Site Analysis Plan	Giles Tribe Architects	Dated 29 June 2016; Received 1 August 2016
15067: DA03 - Ground Floor Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA04 - Level 1 Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA05 - Level 2 Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA06 - Level 3 Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA07 - Elevations (Sheet 1) Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA08 - Elevations (Sheet 1) Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA09 - Sections Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA10.1 - Shadow Diagrams - Winter Solstice	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA10.2 - Shadow Diagrams - Equinox	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA11 - Existing Ground Floor Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA12 - Existing First Floor Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA13 - Existing Roof Plan	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA14 - Existing Elevations	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA20 - Level 1 room areas	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA21 - Level 2 room areas	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA22 - Level 3 room areas	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA23 - Verandah and Door Details	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017

15067: DA24 – Balcony Solar Access Diagrams	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: DA25 – GFA & FSR Calculations	Giles Tribe Architects	Dated 16 December 2016; Received 31 January 2017
15067: Construction Management Plan	Giles Tribe Architects	Dated 26 July 2016; Received 1 August 2016
Landscape Plans (Sheet 1) – Landscape Planting Plan - Issue C; Drawing No L01:	Susan Read Landscapes	Dated 18 January 2017; Received 31 January 2017
Landscape Plans (Sheet 2) – Landscape Planting Plan - Issue C; Drawing No L01:	Susan Read Landscapes	Dated 18 January 2017; Received 31 January 2017
Stormwater Plan – Stormwater Drainage Ground Floor – Issue F; Job No 2016-0766, Drawing No DA-STW-101	LP Consulting Australia P/L	Dated 25 September 2017 Received 25 September 2017
Stormwater Plan – Etail Sheet 1 On-Site Infiltration Trench And Pollution Control Device – Issue F; Job No 2016-0766, Drawing No DA-STW-201	LP Consulting Australia P/L	Dated 25 September 2017 Received 25 September 2017
Survey Plan, Ref 07094	Norton Survey Partners	Dated 13 February 2016 Received 1 August 2016

<b>Reference Document(s)</b>	<b>Author</b>	<b>Date Received</b>
Statement of Environmental Effects (018-2016 Version: 03-18/2016 (FINAL))	Wales & Associates Pty Ltd	Dated 26 July 2016 Received 1 August 2016
Clause 4.6 Variation to height (Ref No 018/2016)	Wales & Associates Pty Ltd	Dated 7 December 2016 Received 31 January 2017
Response to Issues Letter (amended and additional information cover letter)	Giles Tribe Architects	Dated 30 January 2017 Received 31 January 2017
Heritage Impact Report	Colin Brady Architecture + Planning	Dated June 2016 Received 1 August 2016
Plan of Management (Ref: 018-2016 Version: 03-018/2016 (POM FINAL))	Wales & Associates Pty Ltd	Dated July 2016 Received 1 August 2016
Social Impact Statement	James Marshall & Co	Dated July 2016 Received 1 August 2016
Traffic & Parking Impact Assessment Report (A1615708N (Version 1d))	ML Traffic Engineers	Dated July 2016 Received 1 August 2016
Carpark Certification of Proposed Mixed Use Development (A1615708N (Version 1a))	ML Traffic Engineers	Dated May 2016 Received 1 August 2016
Design Report On Site Stormwater And Soil Management (Ref: 2016)	LP Consulting Engineers	Dated 26 July 2016 Received 1 August 2016

-0766)		
DA Access Audit	Impendent Living Centre of NSW Access	Dated 7 July 2016 Received 1 August 2016
Arboricultural Impact Report (Issue A)	Landscape Matrix Pty Ltd.	Dated 10 June 2016 Received 1 August 2016
DA Acoustic Assessment (Ref No SYD2016-1044-R001C)	Acouras Consultancy	Dated 11 July 2017 Received 1 August 2016
BCA: Design Compliance Assessment (P16061 (4)	BCA Vision	Dated 6 July 2016 Received 1 August 2016
BASIX Certificate No 786213M	Senica Consultancy Group Pty Ltd	Dated 30 January 2017 Received 31 January 2017
BCA Report - Part J: Energy Efficiency Assessment (Ref No 2016/0274)	Basix Services	Dated 7 July 2016 Received 1 August 2016
Geotechnical; Report (Ref No G175)	Benviron Group	Dated July 2016 Received 1 August 2016
Addendum Geotechnical Investigation Report (G229-2 Rev 1)	Benviron Group	Dated 22 September 2017 Received 25 September 2017
Preliminary Site Investigation (Ref: E1130)	Benviron Group	Dated December 2016 Received 31 January 2017
Detailed Site Investigation (Ref: E1334)	Benviron Group	Dated August 2017 Received 1 August 2017
Remedial Action Plan (Ref: E1334-2)	Benviron Group	Dated September 2017 Received 25 September 2017
Cost Report for DA Submission	RICQS Quantity Surveyors	Dated 12 July 2016 Received 1 August 2016
Waste Management Plan	Mario Khaicy	Dated 26 July 2016; Received 1 August 2016

2.

- a) This Consent relates to land in Lot 43, 44 and 45 DP 856900, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
- b) Separate development applications must be lodged with Council for the use of the individual retail tenancies and any associated signage which does not satisfy the criteria for exempt or complying development.

3.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
- b) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans.

4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the approved BASIX Certificate/s for the development are fulfilled.
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that: -
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

#### **CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES**

6. The following conditions imposed by **Ausgrid** are as follows:
  - a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site).
  - b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
    - (i) Changes in electrical load requirements
    - (ii) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.)
    - (iii) Works affecting Ausgrid's easements, leases and/ or right of ways



- (iv) Changing the gradients of any roads or paths
  - (v) Changing the level of roads or foot paths
  - (vi) Widening or narrowing of roads
  - (vii) Closing roads or laneways to vehicles
  - (viii) In all cases Ausgrid is to have 24 hour access to all its assets
- c) Any work undertaken near overhead power lines needs to be done in accordance with:
- (i) WorkCover Document ISSC 23 “Working Near Overhead Power Lines”
  - (ii) Ausgrid’s Network Standard
  - (iii) Ausgrid’s Electrical Safety Rules.
- d) The developer is to ensure that the proposed works do not contravene Ausgrid’s technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid’s network.
7. The following conditions imposed by **Sydney Water** are as follows:
- a) The approved plans must be submitted to Sydney Water’s Tap in online service (<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>) to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. This must be provided prior to the issue of the Construction Certificate.
  - b) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water prior to the issue of the Occupation Certificate. Make an early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
  - c) Where proposed works are in close proximity to a Sydney Water asset, the developer may be required to carry out additional works to facilitate their development and protect the asset. Servicing options may involve adjustment/deviation and/or compliance with the guidelines for “Building over or adjacent to Sydney Water stormwater assets” (July 2015).
8. The following conditions imposed by **Sydney Airport Corporation Limited** are as follows:

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 21.0 metres Australian Height Datum (AHD).

In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this

instance, I have no objection to the erection of this development to a maximum height of 21.0 metres AHD. Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

Information required by Sydney Airport prior to any approval is set out in Attachment A. "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services –Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51metres above AHD.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING**

9. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Firefighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;

- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - h) Water proofing of any exposed surfaces of adjoining buildings;
  - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the Protection of the Environment Operations Act 1997;
  - j) Working hours, in accordance with this Development Consent;
  - k) Confinement of demolished materials in transit;
  - l) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
  - n) Sewer – common sewerage system.
10. Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
11. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
12. The following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
- a) Written notice, indicating the date when demolition of the building is to commence.
  - b) This persons full name and address.
  - c) Details of Public Liability Insurance.
13. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.
  - b) *Protection of the Environment Operations Act 1997.*
  - c) *Protection of the Environment Operations (Waste) Regulation 2014.*
  - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

14. The applicant must prior to the release of the Construction Certificate, pay the following fees:
- a) Development Control Fee \$2,940.00;
  - b) Damage Deposit \$24,485 (refer below);
  - c) Civil Works performance Bond \$20,000 (refer below);
  - d) Section 94 Contributions \$198,366.80. (refer below).
15. Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with the *City of Botany Bay Section 94 Contributions Plan 2016*, a contribution of **\$198,366.80** is to be paid to Council prior to the issue of the first Construction Certificate.
- a) Community Facilities = \$34,119.09 (17.2%)
  - b) Recreation = \$147,783.27 (74.5%)
  - c) Transport = \$13,885.67 (7%)
  - d) Administration = \$2,578.76 (1.3%)

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

16. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit and Performance bond of **\$24,485** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
17. The Applicant shall lodge with the Council a performance/defects liability bond of \$25,000 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion as agreed by Council.
- The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
18. Prior to the issue of any Construction Certificate, the Level 1 balcony and ground level awning over the footpath along the Botany Road frontage located outside of the site boundaries must be deleted from the plans as concurrence from the Roads and Maritime Services under Section 138 of the *Roads Act 1993* has not been provided.

19. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
20. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
21. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
22. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
  - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
  - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
  - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
  - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,

- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
  - i) Proposed protection for Council and adjoining properties, and
  - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
  - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
23. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Botany Road and Bay Street during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
  - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
  - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*
24. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
  - b) For multi-unit developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure,
  - c) The applicant shall provide 12 car parking spaces that must be clearly line marked and signposted.
25. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) A minimum 2 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6 and Council requirements, and

- b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
26. Seven (7) bicycle spaces are to be provided on the ground level car parking area. Details are to be provided prior to the issue of a Construction Certificate.
27. Design certification, prepared by a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6. In particular, the aisle width for the car parking area must be consistent with these relevant Australian Standards. If any changes are needed to the design of the car park, a modification application may be required
28. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system, and
    - ii) The relocation and/or adjustment of the services affected by the construction.
  - c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
  - d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

29. Prior to the issue of a Construction Certificate, amended detail design and construction plans in relation to a stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate measures such as:

- a) the provision for an On-site Stormwater Detention (OSD) system designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards,

Note: a Rainwater Tank may be used as an alternative, for which up to half of the capacity may contribute towards the on-site detention system / infiltration trench

- b) The submission of detailed calculations including computer modelling where required supporting the proposal.

30. Landscaping shall be installed in accordance with the approved Landscape Plan L01 Drawing No 1 and 2, Issue C, prepared by Susan Read Landscapes. The landscaped areas on the site shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

Final Landscape Plans and documentation, consistent with this approved Landscape Plan shall include, but not be limited to, the following, with details to be provided prior to the issue of the Construction Certificate:

- a) A raised concrete/masonry edge shall be installed around landscape area perimeters to contain soil and mulch finishes from spilling out onto adjoining surfaces where required. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges not permissible.
- b) Sub-surface OSD tanks or infiltration trenches shall not be located in the landscape setback to Bay Street.
- c) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
  - i) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - ii) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - iii) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - iv) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - v) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.



31. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
32. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy'*, and approved Acoustic Assessment report. The building shall also meet the criteria recommended as "Satisfactory" in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to Principal certifying authority prior to the release of the Construction Certificate.
33. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
34. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The garbage and recycling storage area shall be adequately ventilated. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
35. A Photographic Archival Record is to be undertaken before commencement of works on the site in accordance with the NSW Heritage Council's publication, "*How To Prepare Archival Records of Heritage Items*" (1998). The document must be submitted to Council prior to the issue of a Construction Certificate.
36. 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 *AS4282-1997 Control of the Obtrusive Effects of Outdoor Lighting*. Details are to be submitted to the Principal Certifying Authority prior to the release to the Construction Certificate.
37. A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works. Evidence of this appointment shall be provided to council prior to the issue of any Construction Certificate.

#### **PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT OR WORK**

38. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
  - a) stating that unauthorised entry to the work site is prohibited;

- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
- c) the Development Approval number;
- d) the name of the Principal Certifying Authority including an after-hours contact telephone number; and

Any such sign is to be removed when the work has been completed.

39. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
  - i) must be standard flushing toilet; and,
  - ii) must be connected:
    - 1 to a public sewer; or
    - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
    - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

The provisions of toilet facilities in accordance with this condition must be in place before work commences.

40. Prior to the commencement of works, the applicant must inform Council, in writing, of:

- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
- b) The name and permit number of the owner-builder who intends to do the work;
- c) The Council also must be informed if: -
  - i) A contract is entered into for the work to be done by a different licensee; or
  - ii) Arrangements for the doing of the work are otherwise changed.

41. Prior to the commencement of works, the Principal Certifying Authority must be satisfied that: -

- a) In the case of work to be done by a licensee under the *Home Building Act 1989*:
  - i) Has been informed in writing of the licensee name and contractor licence number, and;
  - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*; or,
- b) In the case of work to be done by any other person: -

- i) Has been informed in writing of the person's name and owner-builder permit number, or;
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 of the *Home Building Act 1989*.
42. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
43. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
44. The Applicant has permission to remove five (5) existing trees on the site as outlined in the approved Landscape Plan. **Note: Trees are not permitted to be removed until the Construction Certificate has been issued.**
45. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- a) A qualified Arborist with their own public liability insurance must be engaged.
  - b) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
- Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.
46. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993*: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
  - c) Permit to install temporary ground anchors in public land,
  - d) Permit to discharge ground water to Council's stormwater drainage system,
  - e) Permit for roads and footways occupancy (long term/ short term),
  - f) Permit to construct vehicular crossings, footpaths, kerb and gutters over road reserve,
  - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,

- h) Permit to place skip/waste bin on footpath and/or nature strip, and
  - i) Permit to use any part of Council's road reserve or other Council lands.
47. An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
48. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
49. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
50. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;
  - b) Prior to placement of concrete (kerb and gutter and footpath);
  - c) Prior to construction and placement of road pavement materials; and
  - d) Final inspection.

**Note:** Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.

## **CONDITIONS TO BE SATISFIED DURING WORKS**

51. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter,
  - f) Final inspection of Council's footpath.
52. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
  - b) Erection of hoardings where appropriate.
  - c) Asbestos handling and disposal where applicable.
  - d) Any disused service connections shall be capped off.
- The disposal of refuse is to be to an approved waste disposal depot.
53. Throughout the demolition and construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
54. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
55. The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
56. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site, except where amended by this consent.
57. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
58. Demolition work shall be carried out in accordance with Australian Standards *AS 2601-1991 Demolition of Structures* and the requirements of the SafeWork NSW.
59. This approval does not permit any dewatering of the site. If groundwater is encountered during works, all work shall stop and a modification application may be required.

60. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
61. The approved works to the retained heritage building on the site are to be undertaken by contractors and tradesmen experienced in Heritage conservation and construction, in a manner that minimises demolition, alterations, and new penetration/fixings to heritage significant fabric.
62. The works shall be carried out in a manner that ensures the new detailing matches the existing detailing in the conservation work to the retained heritage building on the site as far as is practicable.
63. Any existing heritage fabric removed from the heritage building on the site, such as doors and joinery, should be first considered for relocation close to its existing location within the retained heritage building.
64. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
65. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
66. The Botany Road and Bay Street public footpaths shall be constructed in accordance with the approved landscape plans and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for supply and delivery.

Construction hold points and Council inspection is required at the following times:

- i) after formwork installation and prior to pouring the concrete base course,
- ii) approval of paver prior to commencement of paving works,
- iii) at the commencement of paving works, and
- iv) at final completion of paving.

Council approval of public domain works is required prior issue of the Occupation Certificate.

67. New street trees at the pot size specified shall be installed in the accordance with the approved Final Landscape Plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface

infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.

68. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the *Protection of the Environment Operations Act 1997*.

**a) Level Restrictions**

Construction period of 4 weeks and under:

the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the L<sub>10</sub> sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

**b) Time Restrictions**

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

**c) Silencing**

All possible steps should be taken to silence construction site equipment.

69. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

70. Construction operations shall be carried out as follows:

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

71. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
72. During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
73. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
74. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
75. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
76. The principal contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Erosion and Sediment Control Plan;
  - b) "*Managing Urban Stormwater - Soils and Construction*" (2004) Landcom ('The Blue Book'); and
  - c) *Protection of the Environment Operations Act 1997*.
77. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
78. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
79. All remediation work must be carried out in accordance with:
  - a) NSW Office of Environment and Heritage (OEH) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the *Contaminated Land Management Act 1997*;
  - c) *State Environmental Planning Policy 55 (SEPP55) – Remediation of Land*; and



- d) The '*Remediation Action Plan – 1094-1098 Botany Road, Botany*' prepared by Benviron Group (Ref: E1334-2) dated September 2017.
80. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
81. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) *Protection of the Environment Operations Act 1997*; and
  - c) *Protection of the Environment Operations (Waste) Regulation 2014*.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

82. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C (1) (c) and 109M of the *Environmental Planning and Assessment Act 1979*.
83. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) '*Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites*';
  - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the *Contaminated Land Management Act 1997*; and
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

84. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

85. A Photographic Archival Record is to be undertaken during and after the works on the site in accordance with the NSW Heritage Council's publication, "*How To Prepare Archival Records Of Heritage Items*" (1998). The document must be submitted to Council prior to the issue of the Occupation Certificate.
86. All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
87. Prior to the issue of the Occupation Certificate, any existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant will bear the cost of the new installation and the first 12 months of additional street light charges.
88. Landscaping on the property and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supersedes the original landscape plan prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
89. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Council prior to the Issue of an Occupation Certificate.
90. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
91. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
92. Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
93. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
  - a) On Botany Road and Bay Street, adjacent to development (except where already undertaken by Council), reconstruct existing paved footpath for the full length of the property in accordance with Council's Specifications;

- b) On Botany Road and Bay Street, adjacent to development (except where already undertaken by Council), reconstruct existing kerb and gutter for the full length of the property in accordance with Council's specifications.
94. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
95. Prior to the issue of the Occupation Certificate, documentation from a practising acoustic engineer shall be submitted to the Principal Certifying Authority certifying that the recommendations of the approved acoustic report have been constructed generally in accordance with all relevant standards.
96. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

*The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*

97. The splay corner at the intersection with Bay Street shall be dedicated to Council and registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate. All costs involved in the survey, creation and dedication of the splay corner shall be borne entirely by the applicant.
98. The 12 car parking spaces shall be made available to permanent occupants, visitors and retail parking at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate.
99. The consolidation of Lots 43, 44 and 45 in DP 856900 into one title must be undertaken prior to the issue of the Occupation Certificate. The linen plans for the consolidation are to be submitted to Council prior to the release of the Occupation Certificate and proof of registration with the Land Titles Office submitted prior to occupation and use of the building.

#### **CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT**

100. The boarding house shall be operated in accordance with the *Plan of Management – Boarding House*, prepared by Wales and Associates Pty Ltd dated July 2016 (Ref No: 018-2016). In particular, the following must be adhered to at all times:-
- a) The premises are to operate from 9.00am to 6.00pm, seven days a week;

- b) Use of the external common areas, including the landscaped courtyard on Level 1, communal terrace on Level 2 and the common balcony on Level 3, are to cease at 9pm daily.
  - c) The rooms are single occupancy only.
  - d) Residency agreements are to be for a minimum of three (3) months.
  - e) A Manager is to be on site at all times.
  - f) All tenants/residents must abide by the House Rules.
  - g) Visiting hours are limited to between 10.00am to 9.00pm.
101. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and the Council DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 13 weeks from completion of the landscape installation to maintain the landscaping. After that time regular and ongoing maintenance is required maintaining the area in a clean and tidy state and with a dense, even coverage of plants. The automatic drip irrigation system shall be maintained in working order and in accordance with the approved landscape plan at all times.
102. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
103. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
104. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
105. Waste collection shall be from the kerb side in Bay Street only and the bins must be placed on the kerb the night before collection and immediately removed following collection by the Building Manager.
106. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Protection of the Environment Operations (Noise Control) Regulation 208* and *AS2201, Parts 1 and 2 – 1978 Intruder Alarm Systems*.
107. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
  - b) Before 7 am or after 10 pm on any other day.

108. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.



7<sup>th</sup> December 2016

Ref: #018/2016

The General Manager  
Bayside Council  
P.O. Box 21  
**ROCKDALE 2216**

Attention: Mr Anthony Newland/Brendon Clendenning

Dear Sirs,

**DA#2016/125 – Proposed Mixed Use Development  
#1094-1098 Botany Road at Botany  
CLAUSE 4.6 VARIATION**

This office acts on behalf of the applicant in the above matter. I refer to comments received from Council's independent planning consultant, KJ Planning, dated the 7<sup>th</sup> November 2016 which listed a number of outstanding matters that required additional information. This correspondence deals with Item 3 in that letter in relation to building height and the request for a Clause 4.6 submission addressing the lift overrun.

**Height and Clause 4.6 Variation**

The following assessment is provided in relation to the variation to the fourteen (14) metre height limit.

**Introduction**

Reference is made to Council's requirement for a variation request under Clause 4.6 – Exemption to Development Standard under the Botany Bay Local Environmental Plan 2013 in relation to the fourteen (14) metre height standard and the departure from this standard where a building height comprising of the lift overrun of 15.25 metres is proposed (ie: RL20.20m AHD). The departure from the standard is considered to be only minor.

As required by this clause, a written request for an exception to the required maximum fourteen (14) metre height is now made.

It is noted that Council acknowledges potential support for the exception to the development standard to be varied pursuant to Clause 4.6. Consequently, the provisions of the clause and specifically sub-clause (4) need to be met.

The following assessment should be read as an Addendum to the submitted Statement of Environmental Effects.

Clause 4.6

Clause 4.6 – *Exceptions to development standards* under Botany Bay Local Environmental Plan 2013 states:-

**4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Development Standard to be Varied

It is proposed to vary the standard set out under Clause 4.3 – *Height of Buildings* of the Botany Bay Local Environmental Plan 2013 which deals with those issues relating to the maximum permissible building height.

3.

Clause 4.3 states:-

### 4.3 Height of buildings

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

- (a) *to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,*
- (b) *to ensure that taller buildings are appropriately located,*
- (c) *to ensure that building height is consistent with the desired future character of an area,*
- (d) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
- (e) *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

The subject lands are designated N and currently have a maximum height of 14 metres under the Botany Bay Local Environmental Plan 2013 as shown in **Figure 1**.



**Figure 1**

**Extract from the Botany Bay Local Environmental Plan 2013 HOB\_002**  
(courtesy of City of Botany Bay)



4.

Extent of the Variation to the Development Standard

The proposal seeks a building height of 15.25 which is wholly attributable to the lift overrun which is 1.25 metres higher than the maximum permissible building height under the Botany Bay Local Environmental Plan 2013. The extent of the variation to the height controls is shown in **Figure 2** and **Figure 3** with only minor encroachments from the lift overrun through the 14 metre height plane.

Objectives of the Standard

The **objectives** of Clause 4.3 of the Botany Bay Local Environmental Plan 2013 are as follows:-

- (i) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner;
- (ii) to ensure that taller buildings are appropriately located;
- (iii) to ensure that building height is consistent with the desired future character of an area;
- (iv) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development; and
- (v) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

The subject site is currently zoned *Zone B2 – Local Centre* under the Botany Bay Local Environmental Plan 2013. The objectives of the zone are:-

- (i) to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;
- (ii) to encourage employment opportunities in accessible locations; and
- (iii) to maximise public transport patronage and encourage walking and cycling

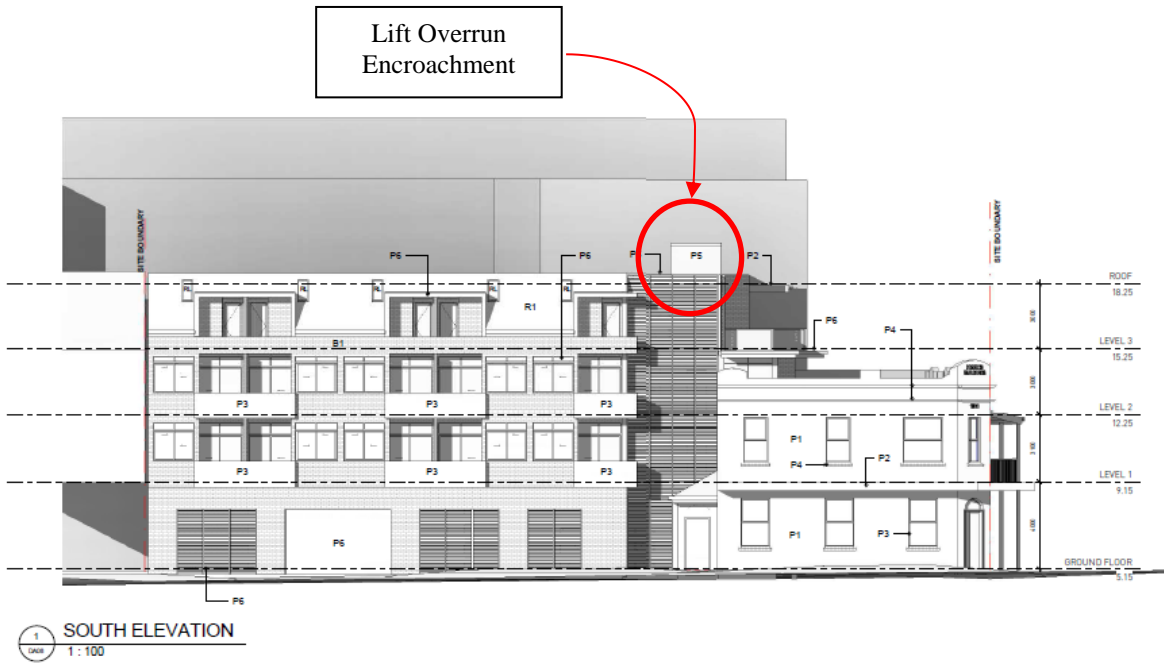
Assessment

Under the Botany Bay Local Environmental Plan 2013, the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

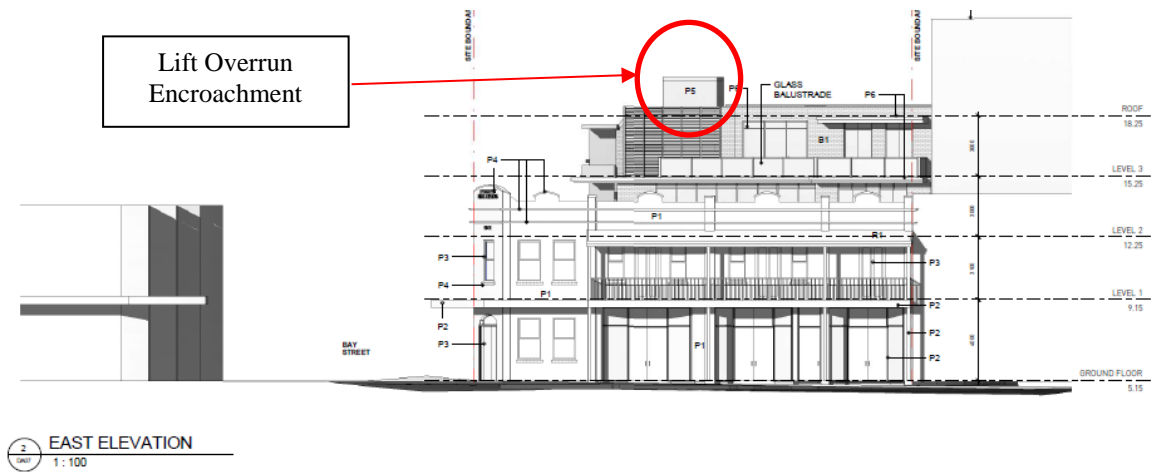
Subclause (2) of the Botany Bay Local Environmental Plan 2013 states:-

*“The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map”*

5.



**Figure 2**  
Extract from Sheet DA08 – Elevations (Sheet 2)



**Figure 3**  
Extract from Sheet DA07 – Elevations (Sheet 1)

Pursuant to the Dictionary in the Botany Bay LEP 2013:-

**building height** (or **height of building**) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

**including plant and lift overruns**, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The elevations (Drawing No DA07 and DA08) shows that the parapet of the roof is at the maximum height of 14 metres with the lift overrun is above this maximum height by 1.25 metres (ie: RL15.25m above ground level).

In this instance, the non-compliance with the building height standard is limited to the lift overrun only which is located along the central east-west axis of the building towards the Botany Street frontage immediately behind the heritage portion of the building. It is considered to be a minor encroachment which represents less than 1% of the building footprint.

It will not adversely impact on the heritage façade of the building as the protruding element is set back some 9.5 metres from the Botany Street frontage and 9 metres from the Bay Street boundary. The retained heritage elements will remain the overarching design element notwithstanding the lift overrun.

Consequently, a variation is sought to the Height of Buildings development standard under the provisions set out in Clause 4.6 – Exceptions to development standards of the Botany Bay Local Environmental Plan 2013.

The **objectives** of this clause are as follows:-

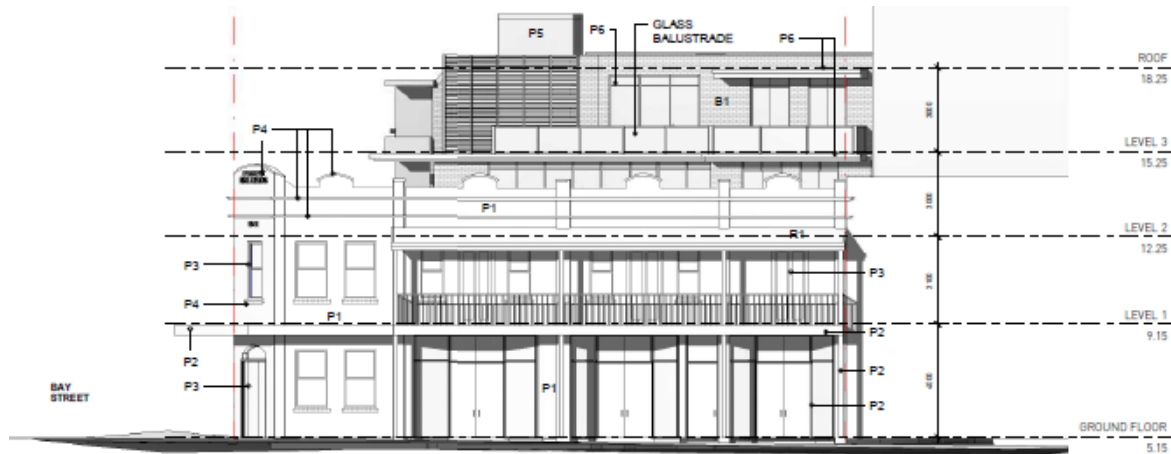
- (i) to provide an appropriate degree of flexibility in applying certain development standards to particular development; and
- (ii) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The architect for the project, **Giles Tribe Architects**, has designed the proposed mixed use development in such a manner as to:-

- (i) produce a high quality mixed use development that provides a high level of articulation and effective and efficient floor space whilst being sympathetic to the existing heritage elements;
- (ii) optimize the development outcomes for the site whilst being mindful of bulk and scale and its relationship to the existing heritage components and façade to Botany Road; and
- (iii) improve yields and development viability in line with both Council's and the public expectations for the precinct

7.

The height variation is considered to be reasonable when considered within the context of the overall streetscape with its primary frontage to Botany Road and the intent of the Botany Bay Local Environmental Plan 2013. The building is four storeys and integrates satisfactorily within the future street context (see *Figure 4*).



**Figure 4**  
**Streetscape Analysis as viewed from Botany Road**

In relation to the *Underlying Objectives of the Standard of Clause 4.3 – Height of Buildings*, the proposed development and the variation to the Height of Buildings standard meets the underlying objectives by:-

- (i) ensuring that the built form of Botany Bay develops in a coordinated and cohesive manner through the implementation of a design process that protects the existing heritage items, steps the building from the primary street frontage and activates the secondary street frontage ;
- (ii) ensure that taller building element is set back from the Botany Road frontage;
- (iii) ensure that building height is consistent with the desired future character of the area including the approved six (6) storey building to the north;
- (iv) minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development; and
- (v) ensure that the building additions do not adversely affect the streetscape (ie: the taller building elements are set back from Botany Road) and seeks to protect the existing heritage facade

In relation to Section 5(a)(i)(ii) – *Objects of the Environmental Planning & Assessment Act*, the variation to the development standard will not hinder the obtainment of the objectives.

8.

Under Section 5(a)(i)(ii), the objects of this Act are:-

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land*

The variation to the Height of Buildings requirement will not hinder the proper management and development of the Botany commercial precinct and the adjacent residential catchment. The proposal will in fact improve the social and economic welfare of the local community and create a better environment by substantially improving the liveability and amenity of the locality by:-

- (i) preserving the existing heritage item;
- (ii) providing a wider range of residential accommodation;
- (iii) activating the Bay Street frontage; and
- (iv) upgrading the existing Botany Road retail frontage

The proposal will ensure the preservation of the existing heritage façade, improve the architectural standard of the locality and compliment other development in the precinct. Further, the variation to the Height of Buildings requirement will not hinder the promotion and co-ordination of the orderly and economic use and the development of the land. In fact, the proposal ensures the highest and best use of the subject site by formalizing the trend to town centre accommodation utilising the natural features of the land and activating the primary street frontage (ie: Botany Road) and secondary street frontage (ie: Bay Street).

(i) Clause 4.6(3)(a) – *Unreasonable and Unnecessary*

In relation to the question as to whether compliance with the development standard unreasonable or unnecessary in the circumstances (Clause 4.6 Sub-clause (3)(a)), it is the applicants view that strict compliance with the Height of Buildings development standard is considered to be unreasonable in this particular case as the proposed variation is only minor in nature (ie: limited to the lift overrun only) and simply seeks to maximise the site outcomes and improve the residential standard of the precinct.

Overall, the proposal also proposes a high quality residential interface with the Bay Street frontage and will ensure a more viable development and higher standard of residential yield compared to that which would otherwise be provided should strict adherence to the LEP height standard be applied. The proposal is an efficient use of the land which delivers social, economic and environmental benefits to the local community.

The variation will not adversely affect the amenity of the immediate locality or compromise the objectives of Clause 4.3 of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) or Section 5(a)(i)(ii) of the EP&A Act.

In relation to this clause, it is considered that the objection to the Height of Buildings standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application.

Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6(3)(a) is sought.

(ii) Clause 4.6(3)(b) – *Environmental Planning Grounds*

With regards to the question as to whether there are sufficient environmental planning grounds to justify contravening the development standard, it should be noted that the variation only applies to the lift overrun and not the bulk of the proposed building additions.

The lift overrun encroachment results in a more efficient and orderly use of the land and will produce a better outcome than would otherwise be the case if strict adherence to the standard were observed. Strict adherence to the fourteen (14) metre height standard would result in the lowering of the building to accommodate the lift overrun and result in the loss of residential floor space and the underutilization of the site. In relation to this clause, it is considered that the objection to the Height of Buildings standard is well founded.

(iii) Clause 4.6(4)(a)(ii) – *Public Interest*

In relation to the question as to whether the proposed development would be in the public interest, it is considered that the proposal is consistent with both the objectives of the standard and for development within the zone and produces a development outcome that maximises the site potential and residential floor space in a precinct where affordable accommodation is in high demand.

In relation to Clause 4.3 – *Height of Buildings* of the Botany Bay Local Environmental Plan 2013, this standard deals with those issues relating to the maximum permissible building height. The **objectives** of this clause are as follows:-

- (i) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner;
- (ii) to ensure that taller buildings are appropriately located;
- (iii) to ensure that building height is consistent with the desired future character of an area;
- (iv) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development; and
- (v) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

In relation to the *Underlying Objectives of the Standard of Clause 4.3 – Height of Buildings*, the proposed development and the variation to the Height of Buildings standard meets the underlying objectives.

The objectives are met by:-

- (i) ensuring that the built form of Botany Bay develops in a coordinated and cohesive manner through the implementation of a design process that protects the existing heritage items, steps the building from the primary street frontage and activates the secondary street frontage;
- (ii) ensure that taller building element is set back from the Botany Road frontage;
- (iii) ensure that building height is consistent with the desired future character of the area including the approved six (6) storey building to the north;
- (iv) minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development; and
- (v) ensure that the building additions do not adversely affect the streetscape (ie: the taller building elements are set back from Botany Road) and seeks to protect the existing heritage facade

With regard to the objectives for development within the zone, the subject site is currently zoned Zone B2 – *Local Centre* under the Botany Bay Local Environmental Plan 2013.

The **objectives** of the zone are:-

- (i) to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;
- (ii) to encourage employment opportunities in accessible locations; and
- (iii) to maximise public transport patronage and encourage walking and cycling

The proposed development **meets the objectives** of the zone in that:-

- (i) it provides a range of retail, business and residential uses that serve the needs of people who live in, work in and visit the local area;
- (ii) it encourage employment opportunities in accessible locations through the upgrading of the existing retail shop fronts in Botany Road; and
- (iii) it integrates suitable residential accommodation in an accessible locations that maximises public transport patronage (ie: bus services) and encourages walking and cycling

Therefore, it is considered that the proposal satisfies the public interest test as it is consistent with both the objectives of the standard and for development within the zone. In relation to this clause, it is considered that the objection to the Height of Buildings standard is well founded.

### Conclusion

Based on the above assessment, the attached amended architectural plans and the previously submitted supporting documents, it is considered that the proposed retail/residential development will deliver a better planning outcome than one that strictly complies with the current fourteen (14) metre height limit for the following reasons:-

- (i) strict compliance would not be responsive to the intent of the Botany Bay Development Control Plan objectives;

11.

- (ii) strict compliance would restrict building height and subsequent floor space outcomes to the extent that the alternative would be an underutilization of the site in an area within the Botany retail precinct that seeks higher height and density outcomes; and
- (iii) strict compliance would not meet the desired future character of the precinct

It is considered that the objection to the Height of Buildings standard is well founded and that based on the details provided above, strict adherence to the development standard would appear to be unreasonable and unnecessary in the circumstances of this development application. Therefore, Council's favourable consideration of the application under the provisions of Clause 4.6 is sought.

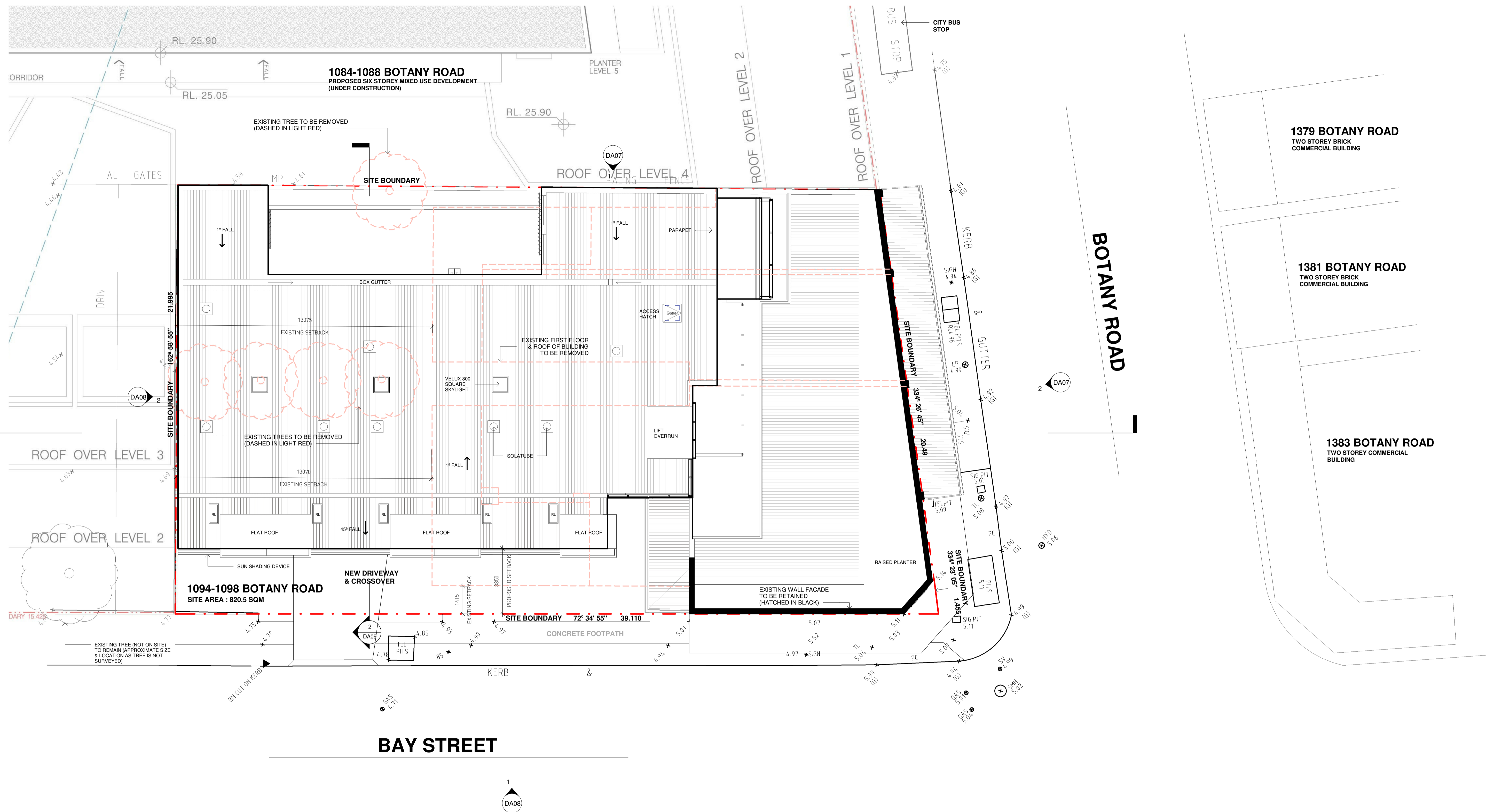
I trust that the above information and attached documentation will assist Council in finalizing its assessment of the development application.

Yours faithfully,

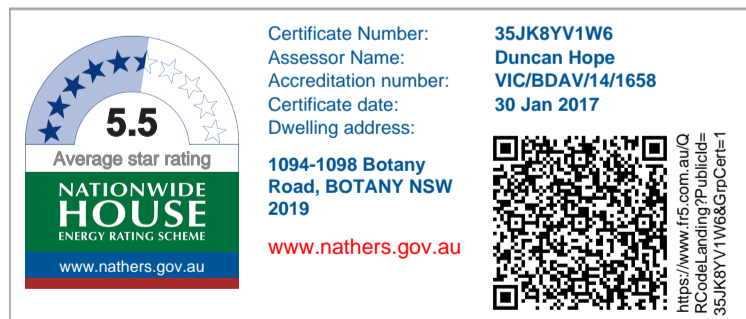
A handwritten signature in dark ink, appearing to read "Matthew Wales", with a horizontal line underneath.

Matthew Wales  
Director  
Wales & Associates



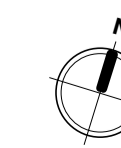


Drawing List	
Sheet Number	Sheet Name
DA01	EXISTING/ DEMOLITION/ PROPOSED SITE & ROOF PLAN
DA02	SITE ANALYSIS
DA03	GROUND FLOOR PLAN
DA04	LEVEL 1 PLAN
DA05	LEVEL 2 PLAN
DA06	LEVEL 3 PLAN
DA07	ELEVATIONS (SHEET 1)
DA08	ELEVATIONS (SHEET 2)
DA09	SECTIONS
DA10.1	SHADOW DIAGRAMS - WINTER SOLSTICE
DA10.2	SHADOW DIAGRAMS - EQUINOX
DA11	EXISTING GROUND FLOOR PLAN
DA12	EXISTING FIRST FLOOR PLAN
DA13	EXISTING ROOF PLAN
DA14	EXISTING ELEVATIONS
DA20	LEVEL 1 - ROOM AREAS
DA21	LEVEL 2 - ROOM AREAS
DA22	LEVEL 3 - ROOM AREAS
DA24	LEVEL 1 BALCONY SOLAR ACCESS DIAGRAMS



**LEGEND:**

- EXISTING WALL TO BE RETAINED
- PROPOSED WALL
- WALL TO BE DEMOLISHED





VIEW 1 : SUBJECT SITE (1094-1098 BOTANY ROAD)



VIEW 2 : NEIGHBOURING SITE (1102 BOTANY ROAD)







VIEW 3 : NEIGHBOURING SITE (1383 BOTANY ROAD)



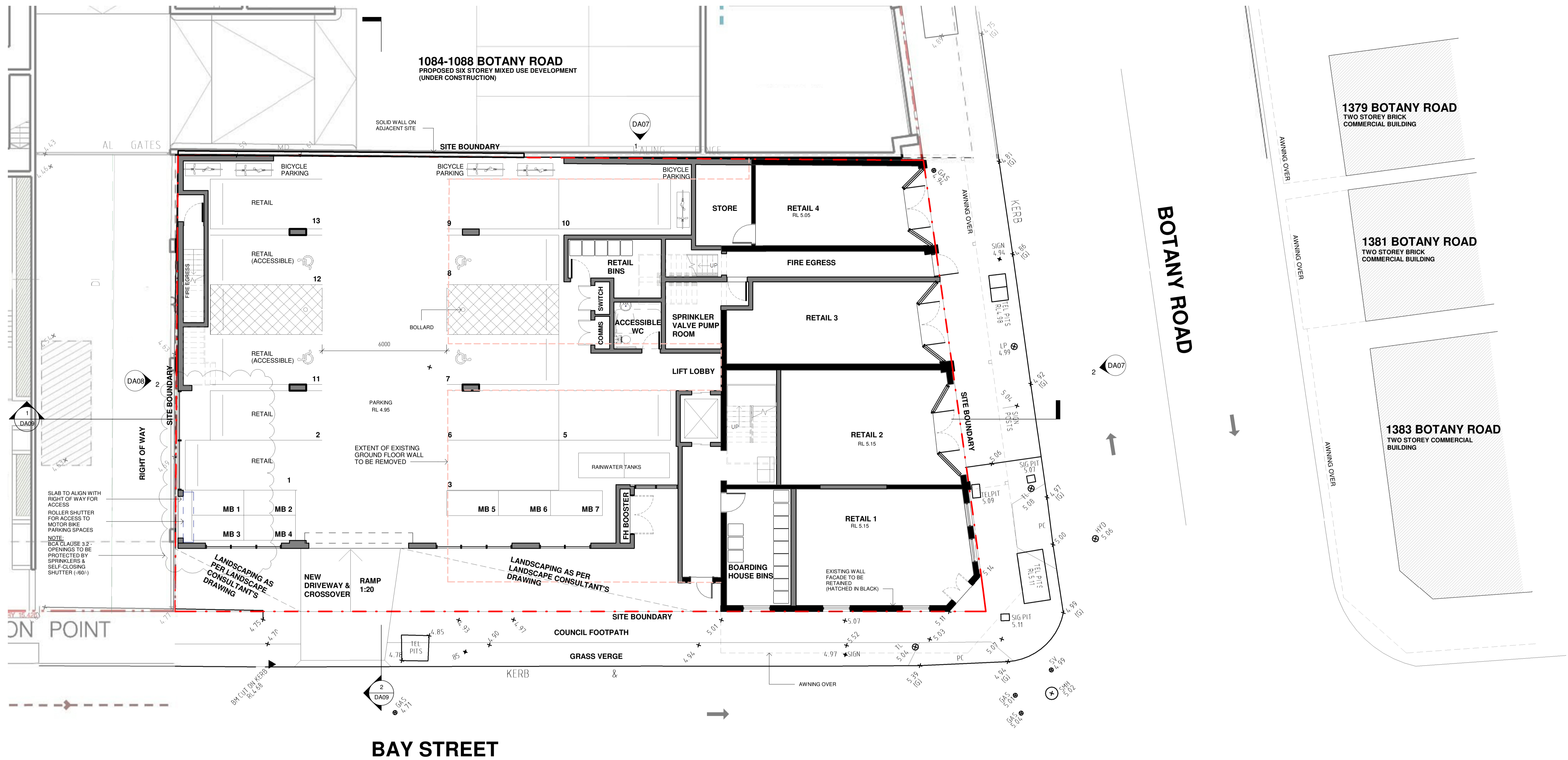
VIEW 4 : NEIGHBOURING SITE (1385 BOTANY ROAD)

**LEGEND:**

-  NOISE SOURCE
-  VEHICULAR TRAFFIC
-  PEDESTRIAN TRAFFIC
-  PREVAILING WINDS



**1 SITE ANALYSIS**  
DA02 1 : 500



**1084-1088 BOTANY ROAD**  
 PROPOSED SIX STOREY MIXED USE DEVELOPMENT  
 (UNDER CONSTRUCTION)

**1379 BOTANY ROAD**  
 TWO STOREY BRICK  
 COMMERCIAL BUILDING

**1381 BOTANY ROAD**  
 TWO STOREY BRICK  
 COMMERCIAL BUILDING

**1383 BOTANY ROAD**  
 TWO STOREY COMMERCIAL  
 BUILDING

**1102 BOTANY ROAD**  
 TWO STOREY WATERWORKS HOTEL

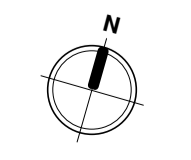
**1385 BOTANY ROAD**  
 TWO STOREY COMMERCIAL  
 BUILDING

**NOTE:**  
 RETAIL AREAS ARE NOT PROPOSED AS FOOD USE  
 REQUIRING ADDITIONAL SANITARY FACILITIES OR  
 EXTERNALLY DUCTED KITCHEN EXHAUST. IF THIS  
 CHANGES A NEW APPLICATION FOR THESE AREAS  
 WILL BE SUBMITTED.

**LEGEND:**  
 EXISTING WALL  
 TO BE RETAINED  
 PROPOSED WALL  
 WALL TO BE  
 DEMOLISHED

**5.5**  
 Average star rating  
**NATIONWIDE HOUSE**  
 www.nathers.gov.au

Certificate Number: 35JK8YV1W6  
 Assessor Name: Duncan Hope  
 Accreditation number: VICB04V141658  
 Certificate date: 30 Jan 2017  
 Dwelling address: 1094-1098 Botany Road, BOTANY NSW 2019  
 www.nathers.gov.au



**1084-1088 BOTANY ROAD**  
 PROPOSED SIX STOREY MIXED USE DEVELOPMENT  
 (UNDER CONSTRUCTION)



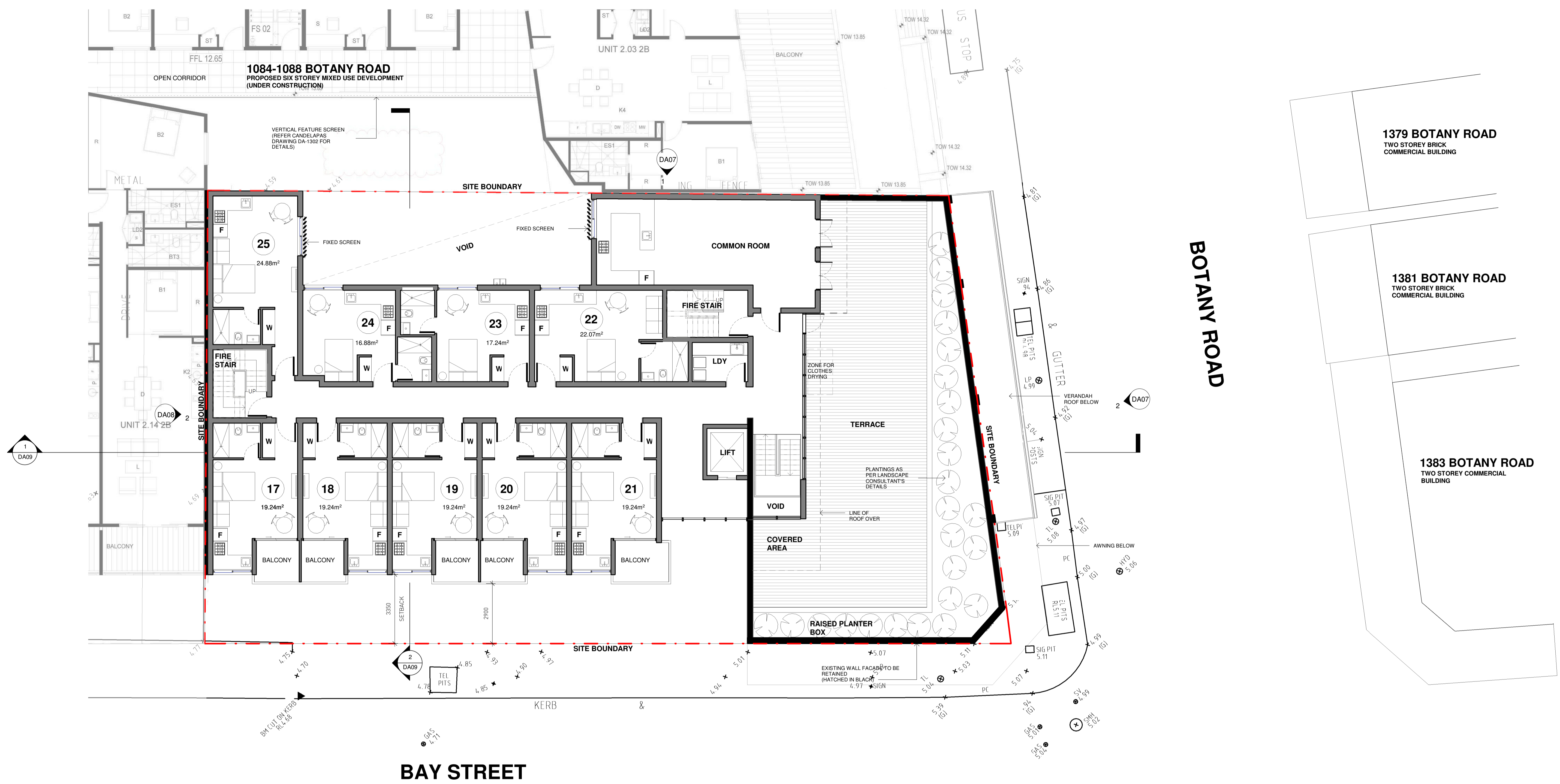
**BAY STREET**

**NOTE:**  
 ALL BOARDING ROOMS ARE  
 SINGLE OCCUPANCY ONLY

**LEGEND:**  
 EXISTING WALL  
 TO BE RETAINED  
 PROPOSED WALL  
 WALL TO BE  
 DEMOLISHED

Certificate Number: 35JK6YV1W6  
 Assessor Name: Duncan Hope  
 Accreditation number: VIC/838/AV/14/1658  
 Certificate date: 30 Jan 2017  
 Dwelling address: 1094-1098 Botany Road, BOTANY NSW 2019  
[www.nathers.gov.au](http://www.nathers.gov.au)

**1084-1088 BOTANY ROAD**  
**PROPOSED SIX STOREY MIXED USE DEVELOPMENT**  
**(UNDER CONSTRUCTION)**



**BAY STREET**

**BOTANY ROAD**

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 TWO STOREY BRICK  
 COMMERCIAL BUILDING

**1381 BOTANY ROAD**  
 TWO STOREY BRICK  
 COMMERCIAL BUILDING

**1383 BOTANY ROAD**  
 TWO STOREY COMMERCIAL  
 BUILDING

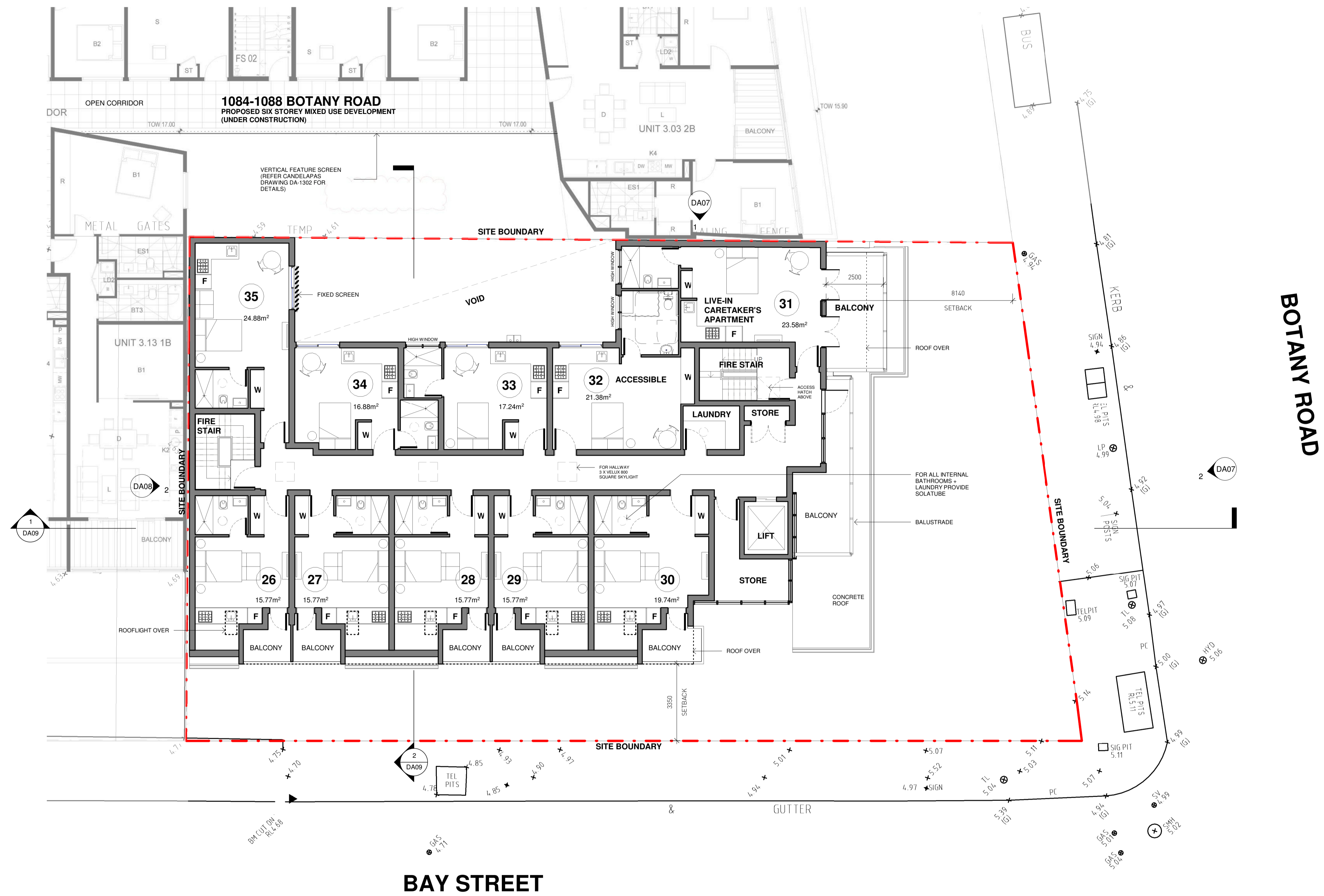
**1385 BOTANY ROAD**  
 TWO STOREY COMMERCIAL  
 BUILDING

**1102 BOTANY ROAD**  
 TWO STOREY WATERWORKS HOTEL

**NOTE:**  
 ALL BOARDING ROOMS ARE  
 SINGLE OCCUPANCY ONLY

**LEGEND:**  
 EXISTING WALL  
 TO BE RETAINED  
 PROPOSED WALL  
 WALL TO BE  
 DEMOLISHED

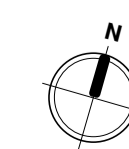
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 Assessor Name: Duncan Hope  
 Accreditation number: VIC/BDAY/4/1658  
 Certificate date: 30 Jan 2017  
 Dwelling address: 1084-1088 Botany Road, BOTANY NSW 2019  
 www.nathers.gov.au

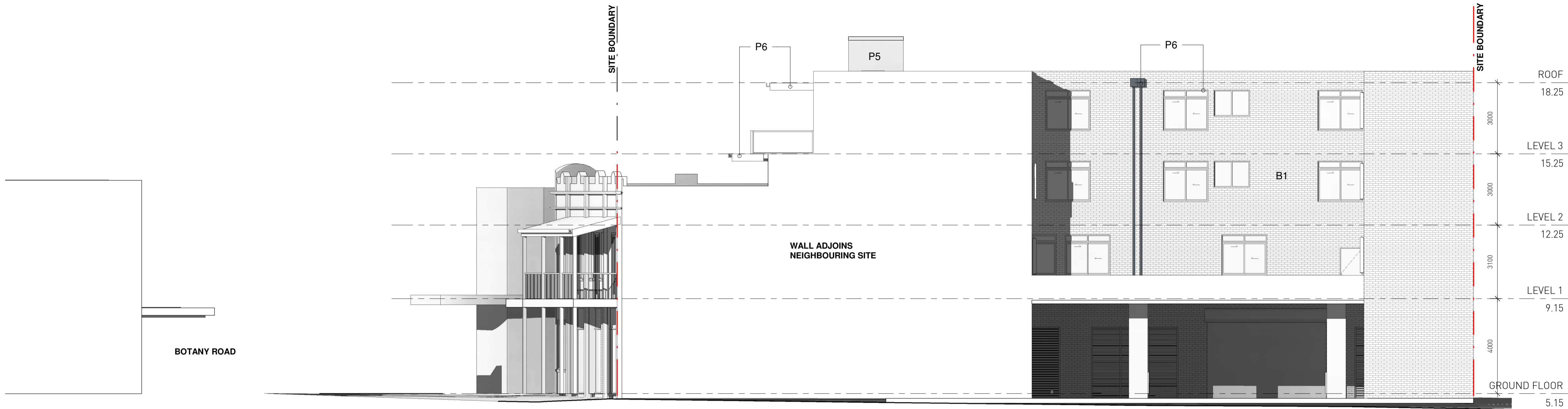


**NOTE:**  
ALL BOARDING ROOMS ARE  
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**LEGEND:**  
EXISTING WALL  
TO BE RETAINED  
PROPOSED WALL  
WALL TO BE  
DEMOLISHED

Certificate Number: 35JK8YV1W6  
Assessor Name: Duncan Hope  
Accreditation number: VIC/DA/14/1658  
Certificate date: 30 Jan 2017  
Dwelling address: 1094-1098 Botany Road, BOTANY NSW 2019  
www.nathers.gov.au





1 NORTH ELEVATION  
DA07 1 : 100

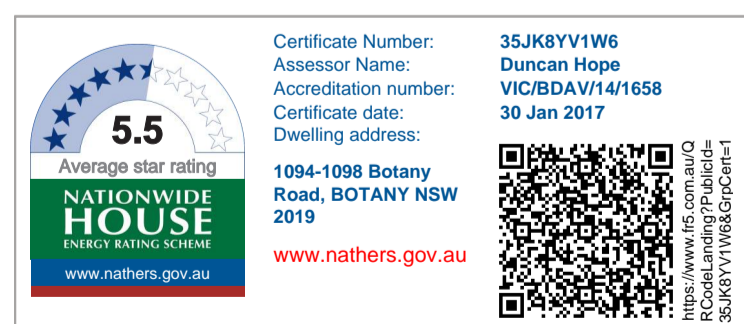


2 EAST ELEVATION  
DA07 1 : 100

**LEGEND:**  
RL ROOF LIGHT

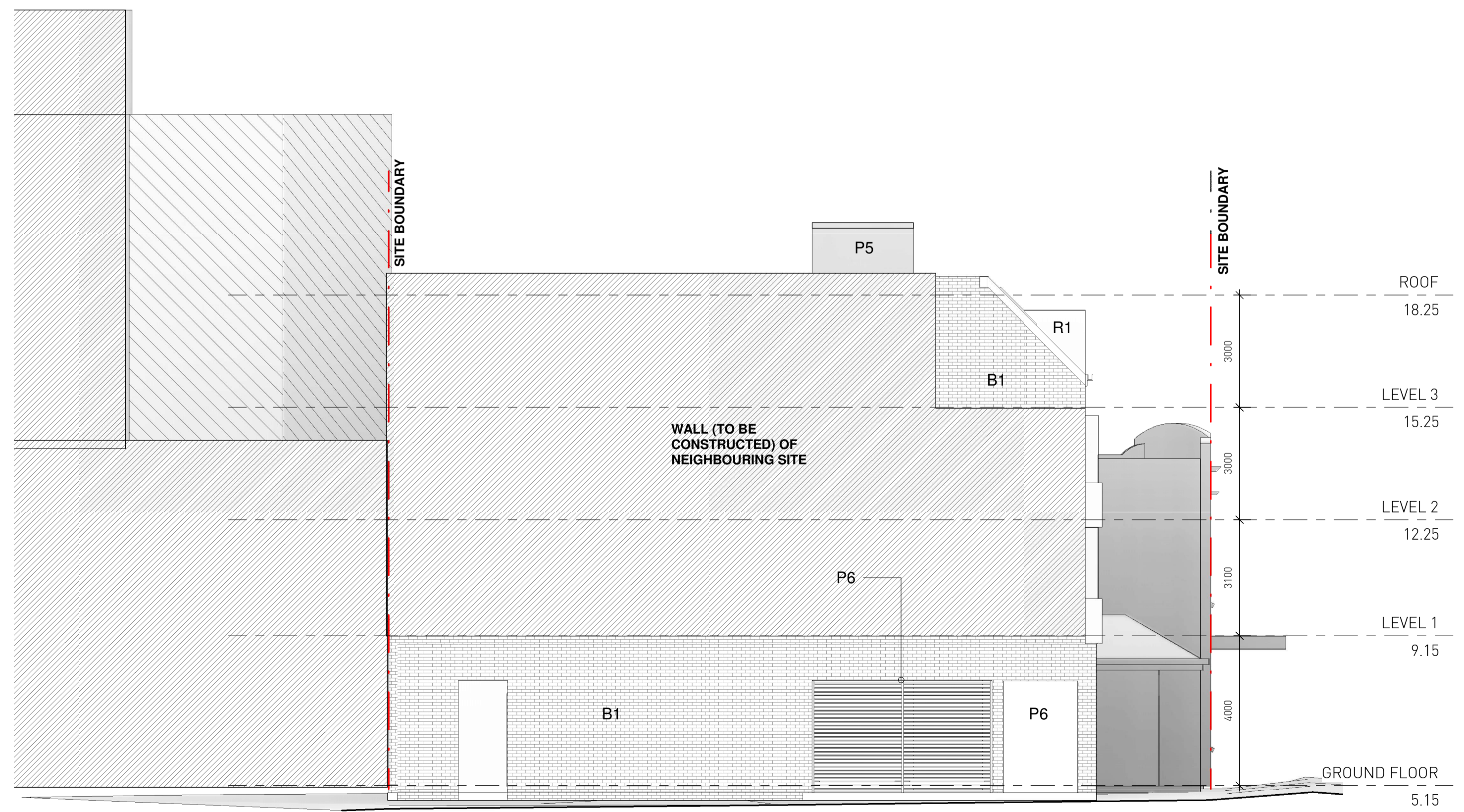
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P5 - PAINT FINISH - TAUBMANS SILVER SPOON	P6 - POWDER COAT FINISH - INTERPON ULTRIVA SILVER PEARL MATT	R1 - METAL ROOF - TO MATCH INTERPON ULTRIVA SILVER PEARL MATT	B1 - FACE BRICKWORK - TO MATCH TAUBMANS SILVER SPOON





1 SOUTH ELEVATION  
1 : 100



2 WEST ELEVATION  
1 : 100

**LEGEND:**

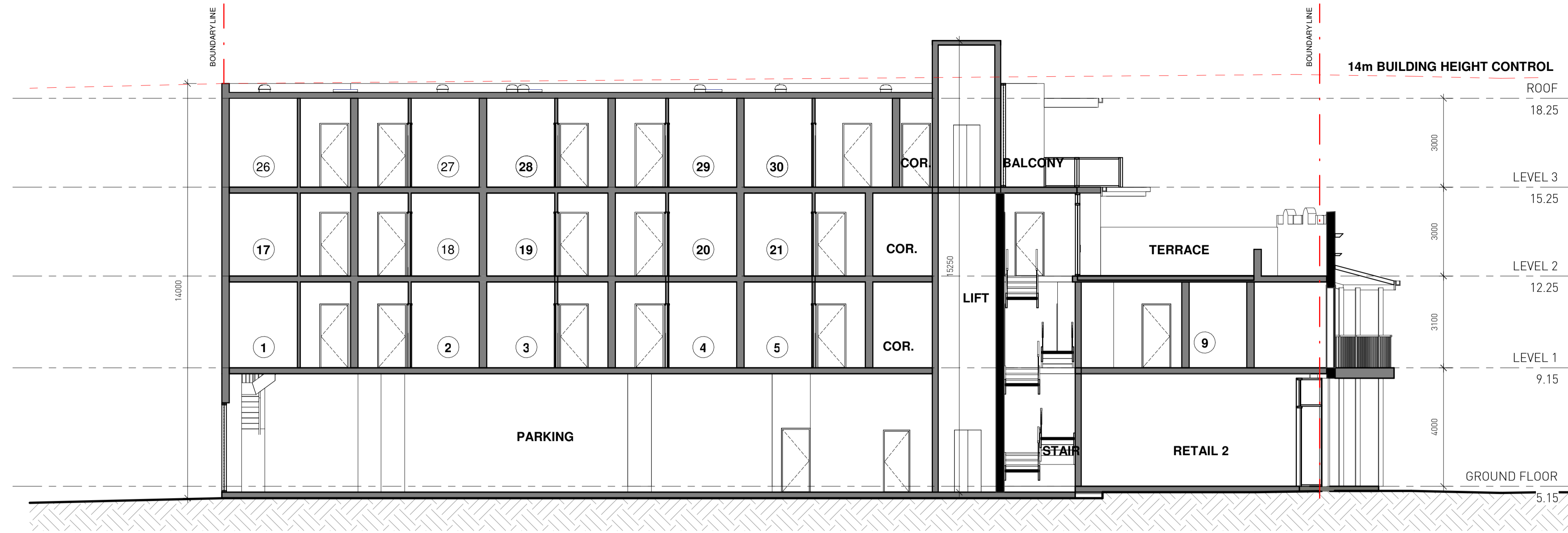
RL ROOF LIGHT

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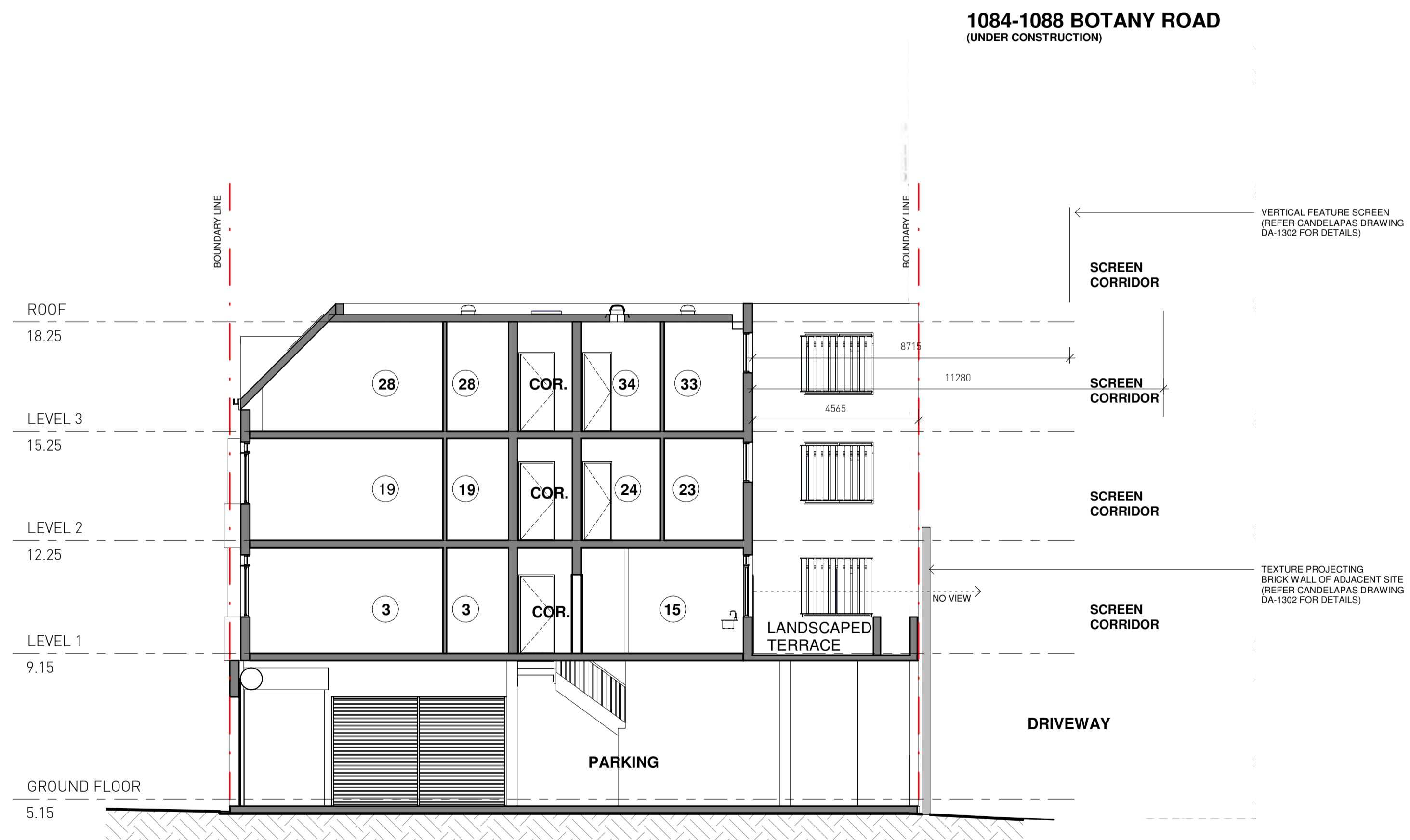
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Certificate Number: 35JK9Y1W6  
 Assessor Name: Duncan Hope  
 Accreditation number: VIC/BDV1/41658  
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[www.nathers.gov.au](http://www.nathers.gov.au)

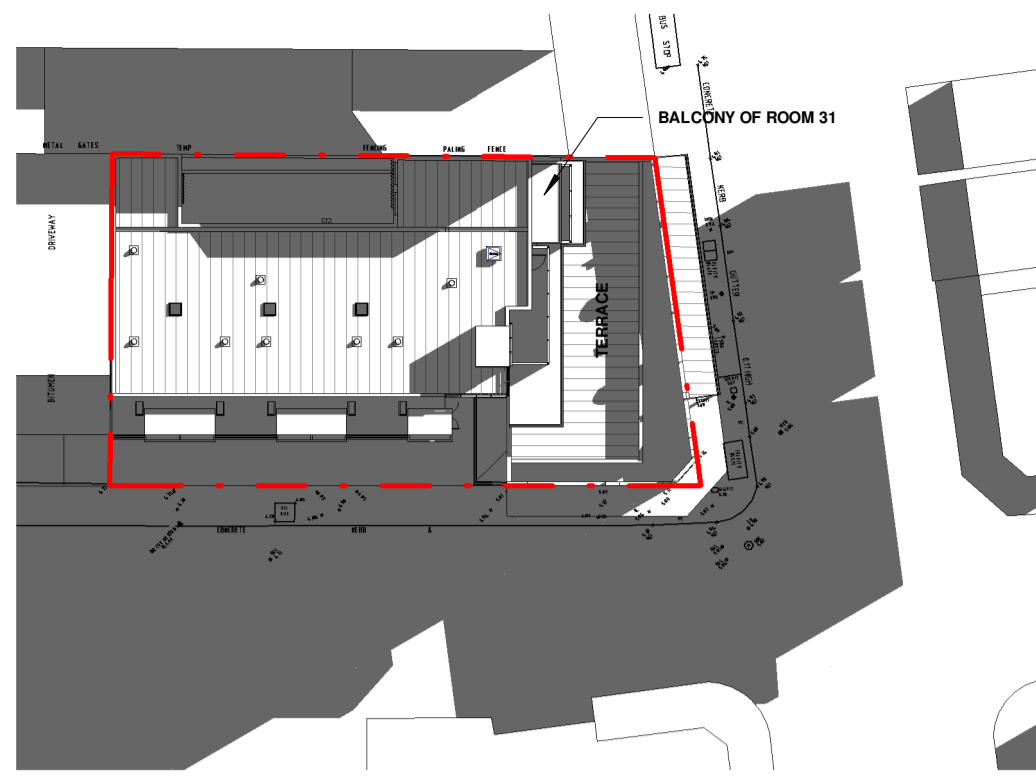




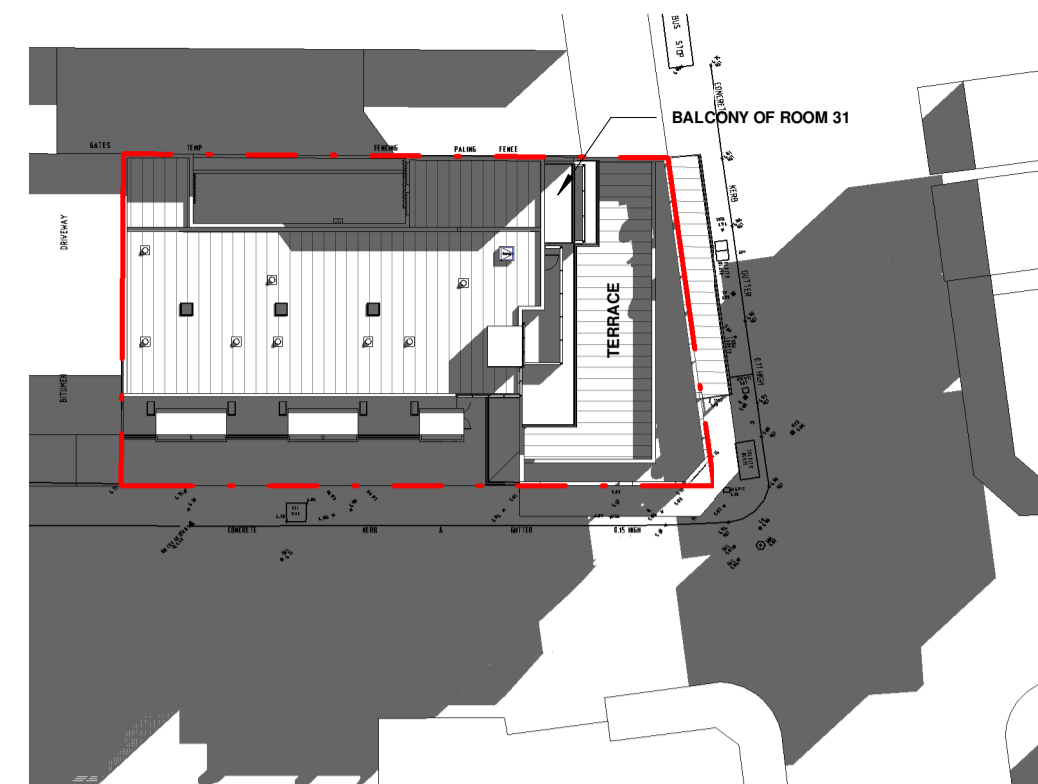
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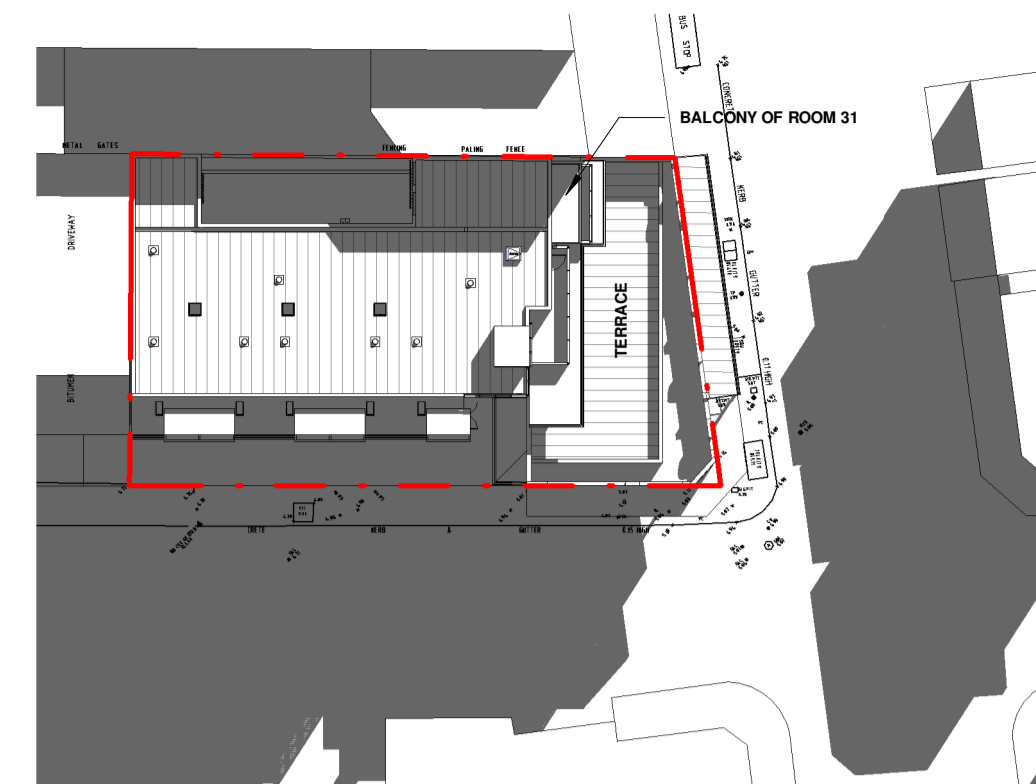
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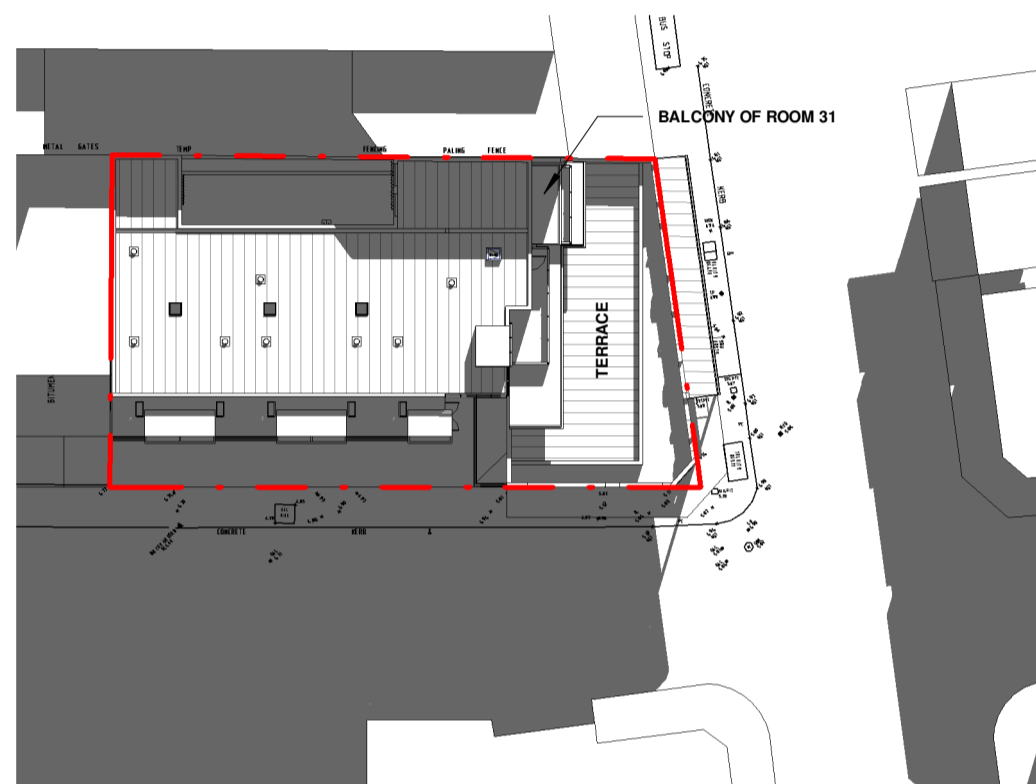
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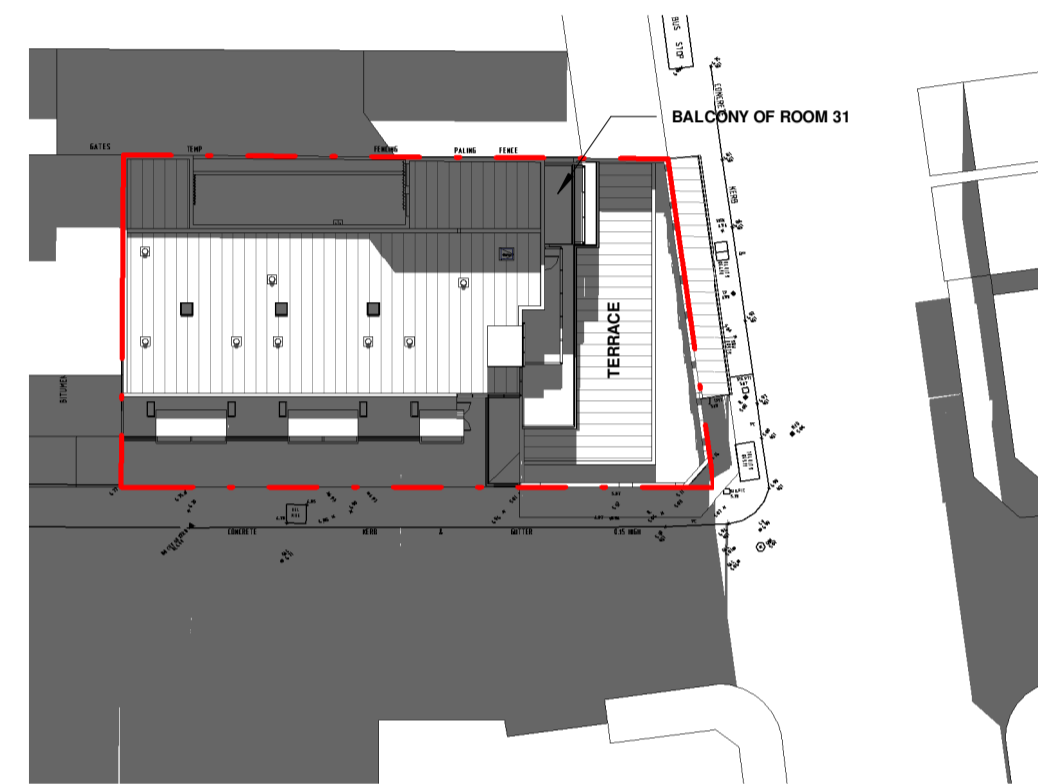
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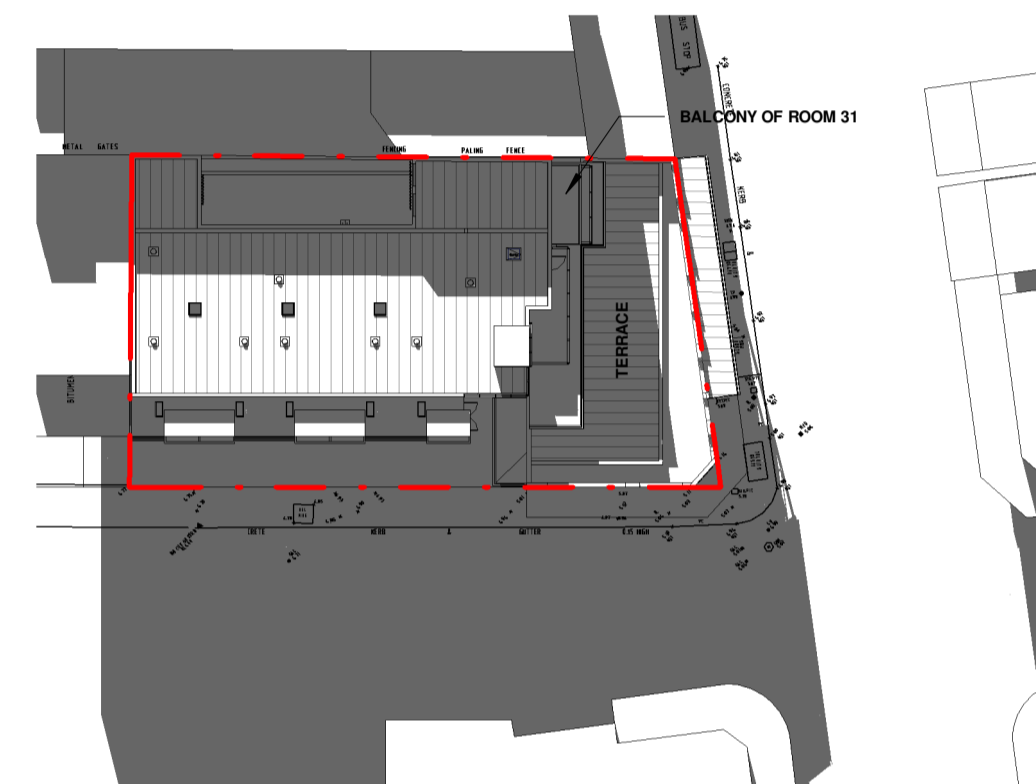
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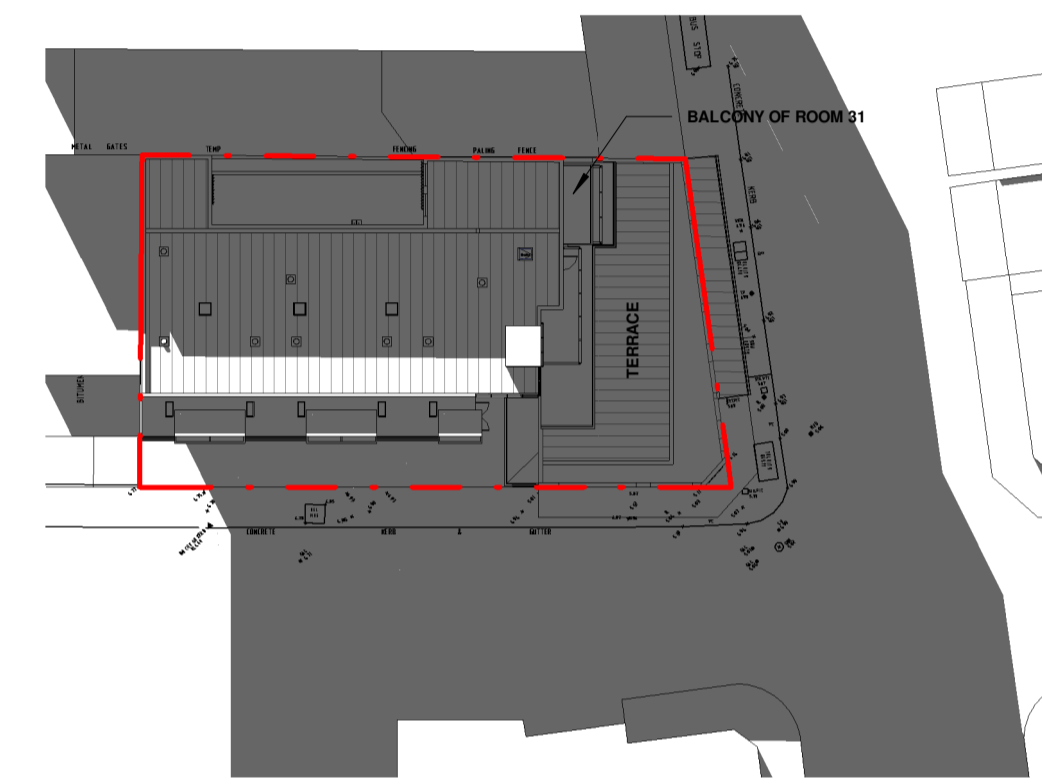
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5 SHADOW DIAGRAM - 1PM  
DA10.1 1:500



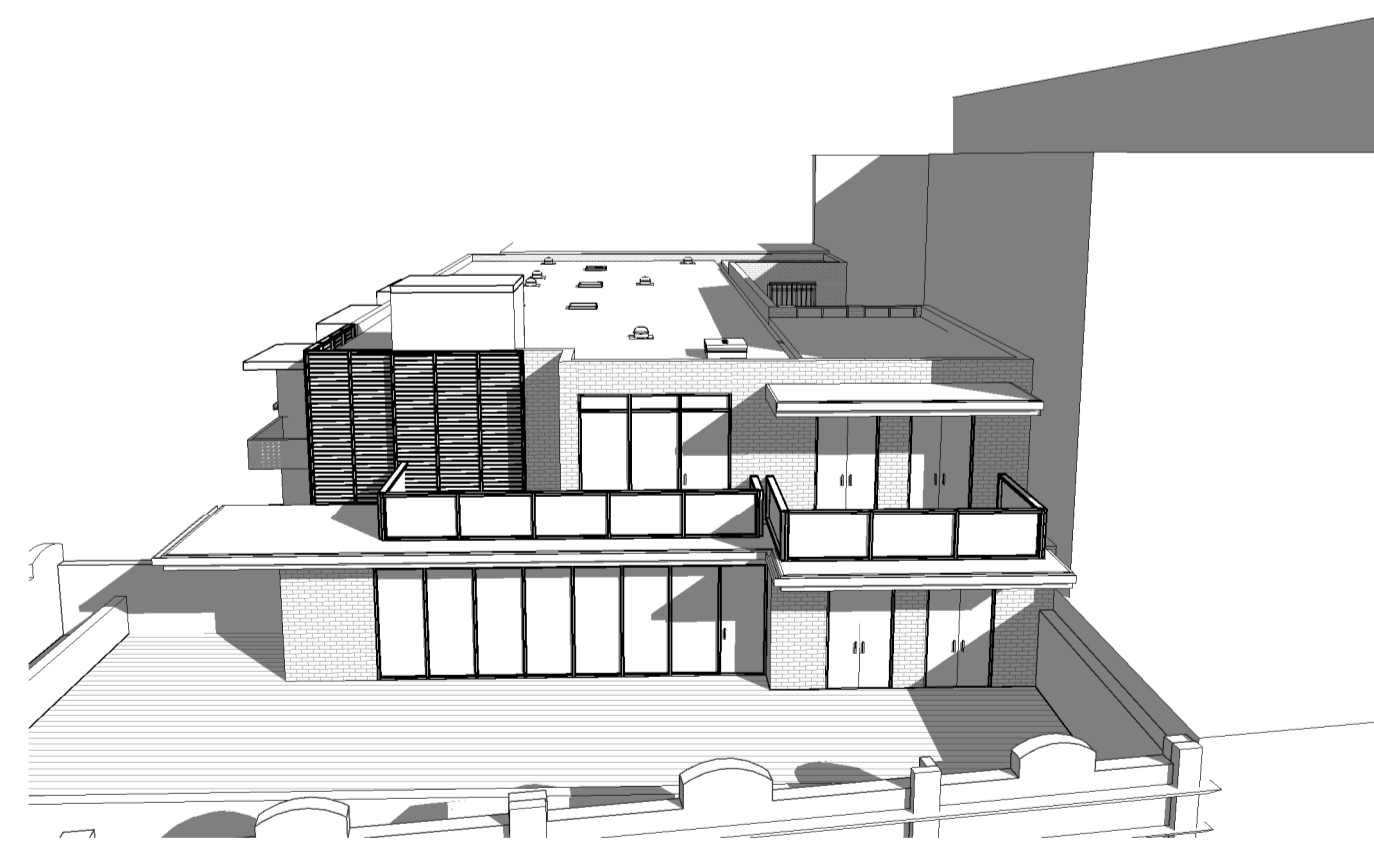
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7 SHADOW DIAGRAM - 3PM  
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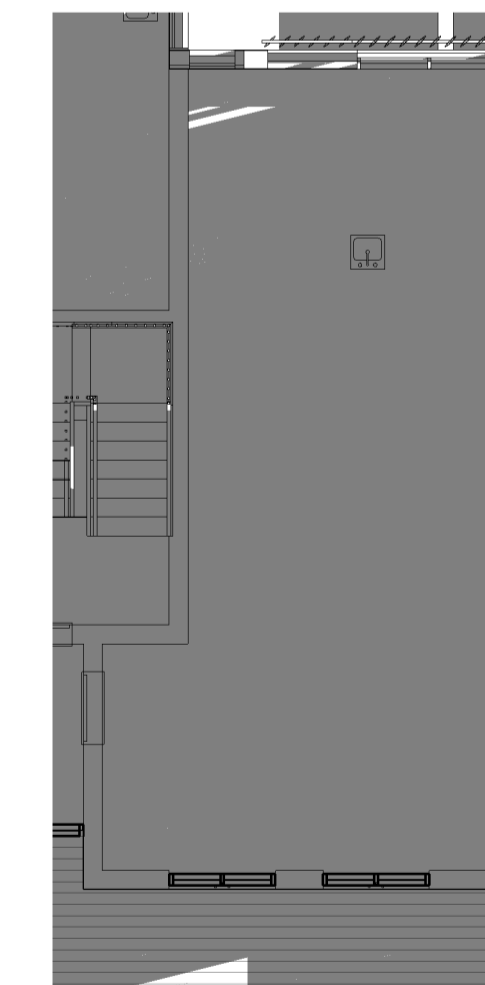
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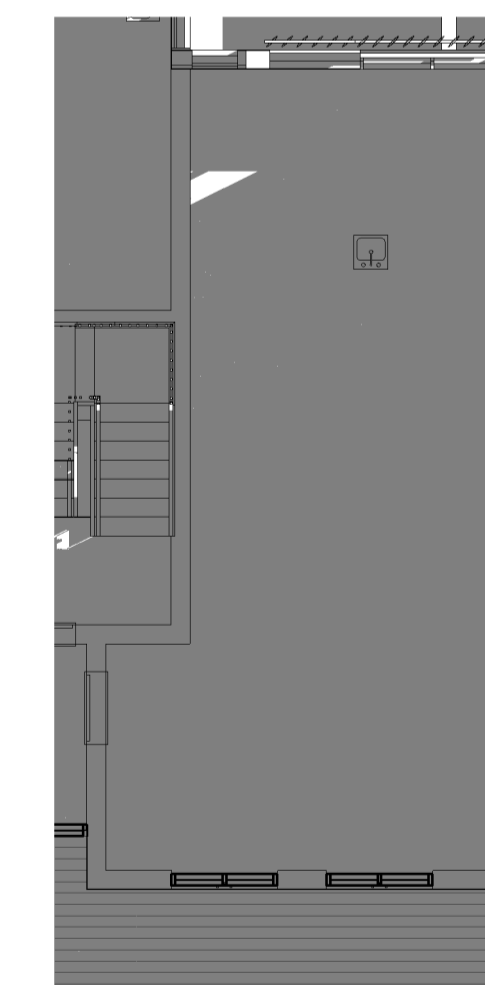
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10 ELEVATIONAL SHADOW DIAGRAM - 11AM  
DA10.1

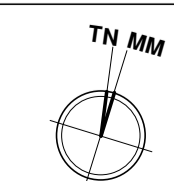


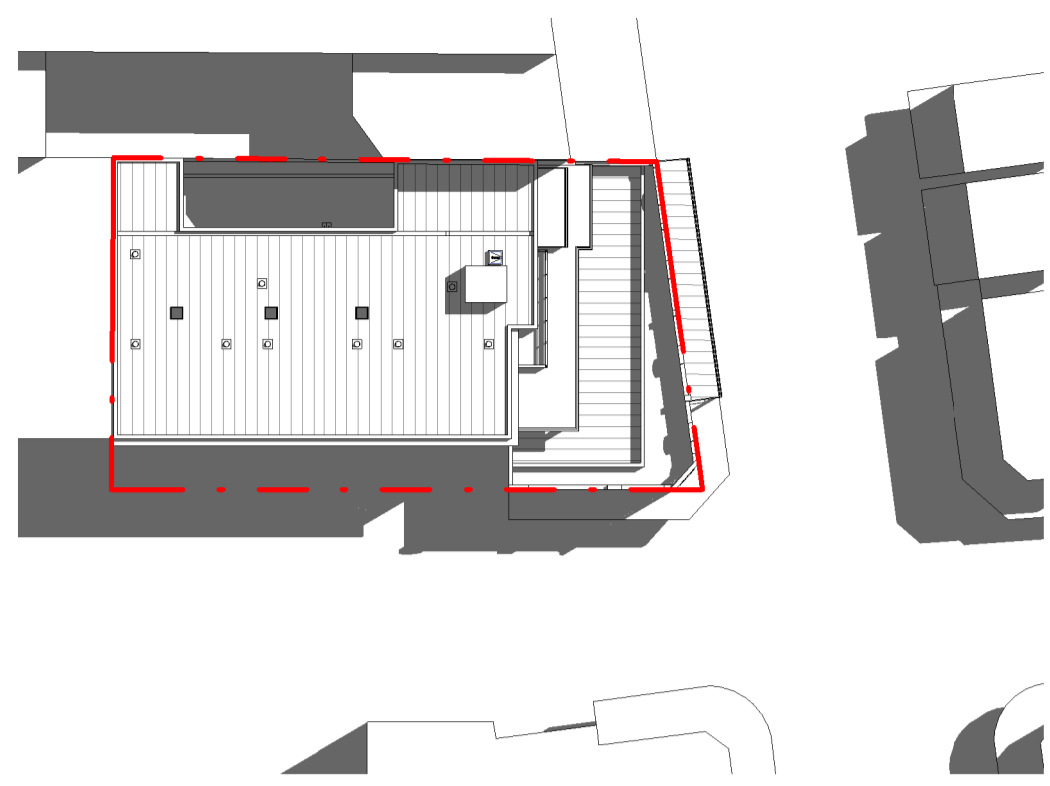
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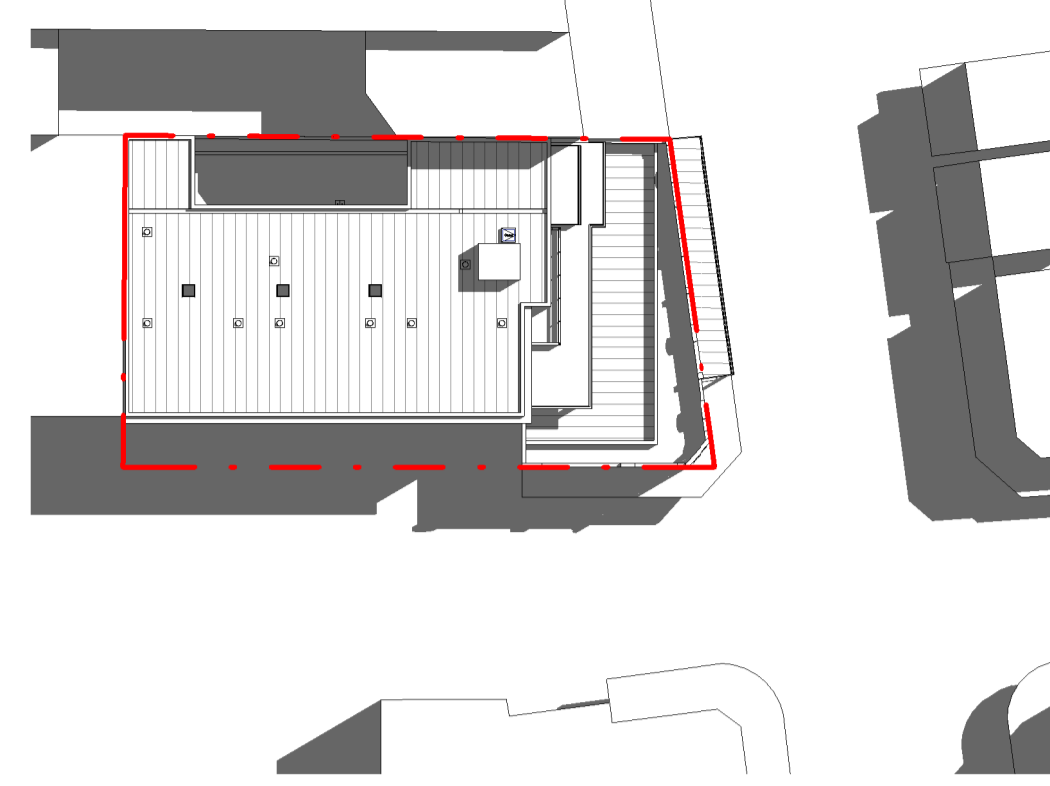
13 INTERNAL SHADOW DIAGRAM - 3PM  
DA10.1

NOTE:  
50% GLAZED DOORS TO COMMON ROOM (INDOOR COMMUNAL LIVING AREA) RECEIVES A MINIMUM 2 HOURS SOLAR ACCESS.  
SOLAR ACCESS DIAGRAMS GENERATED USING REVIT 3D MODELLING SOFTWARE FOR 21ST JUNE.

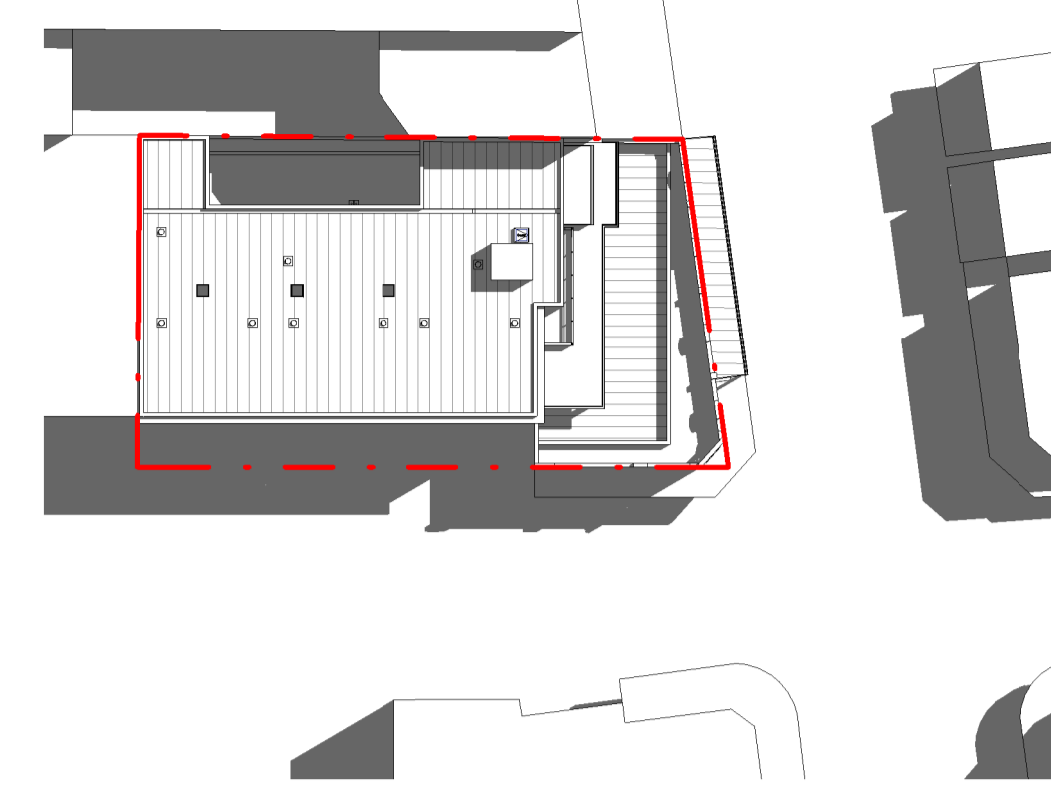




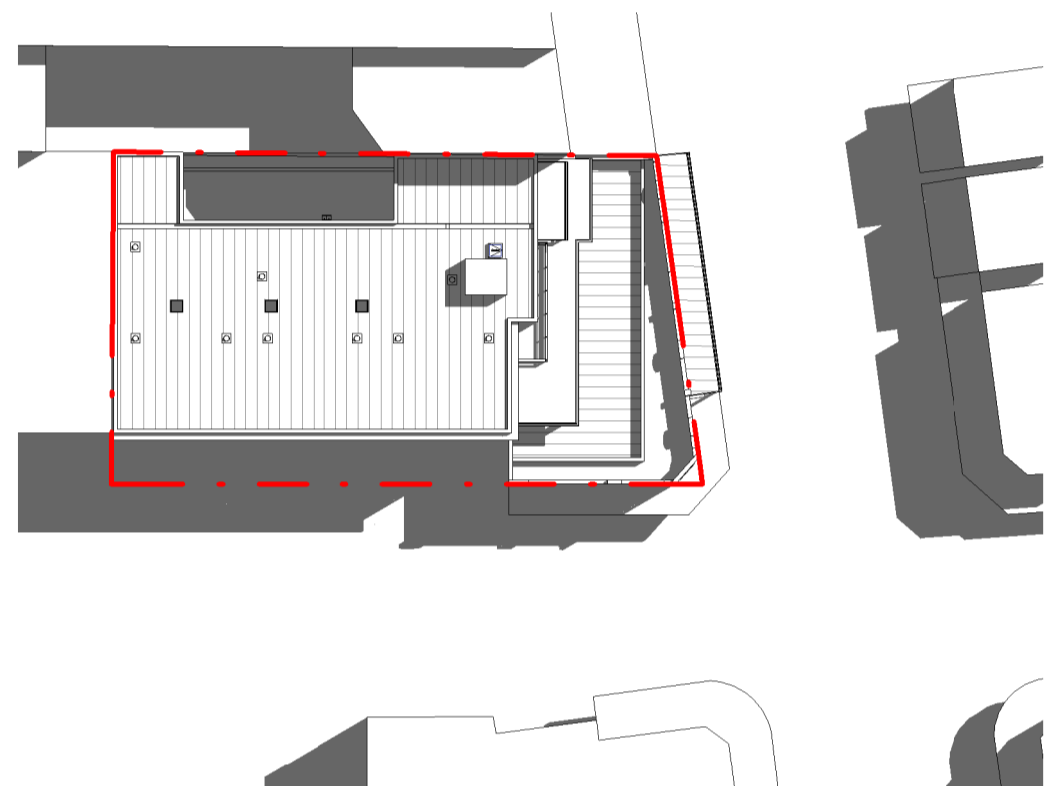
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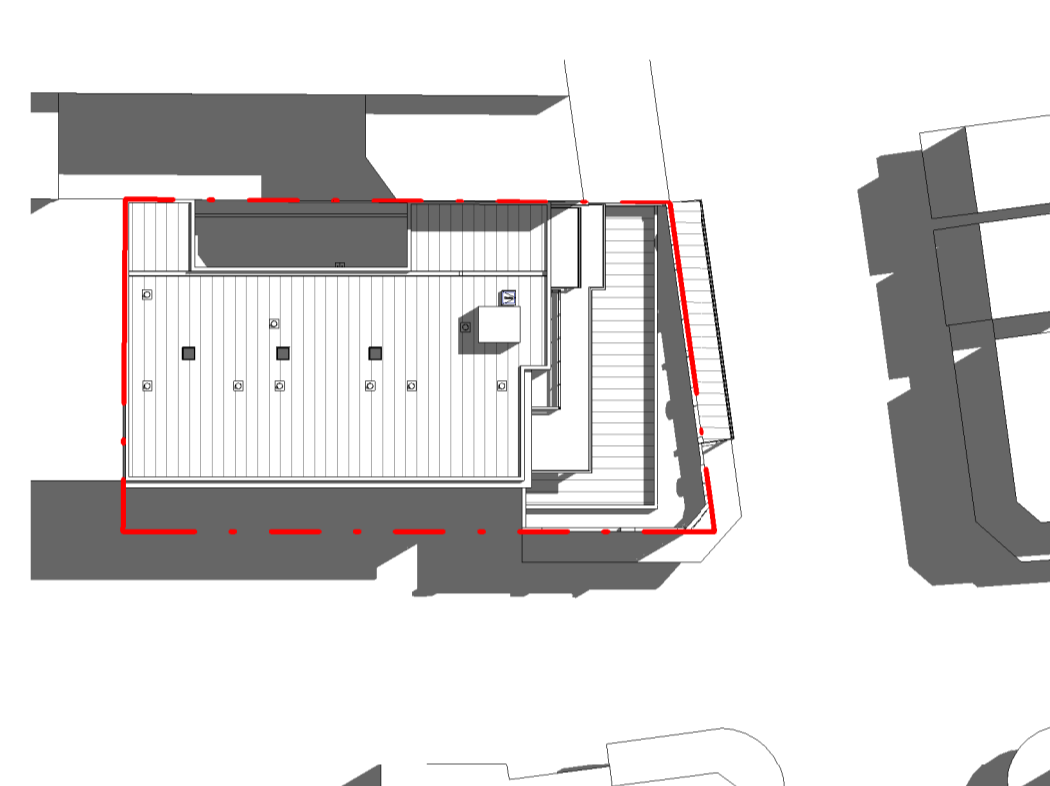
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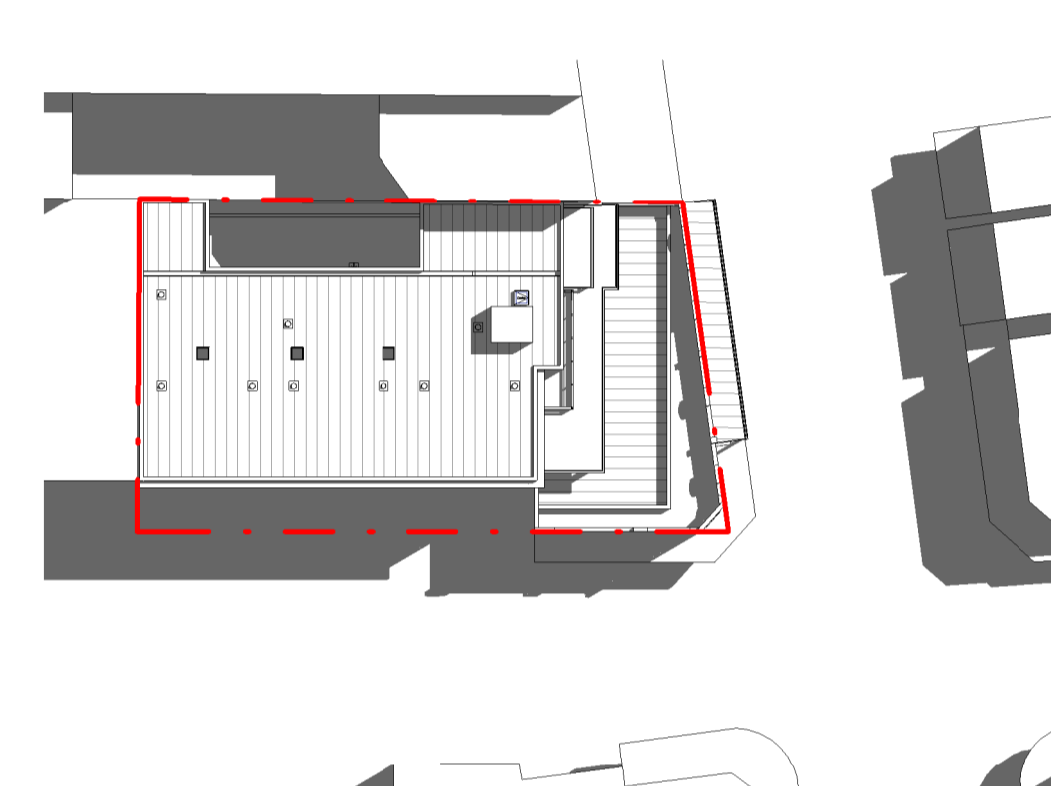
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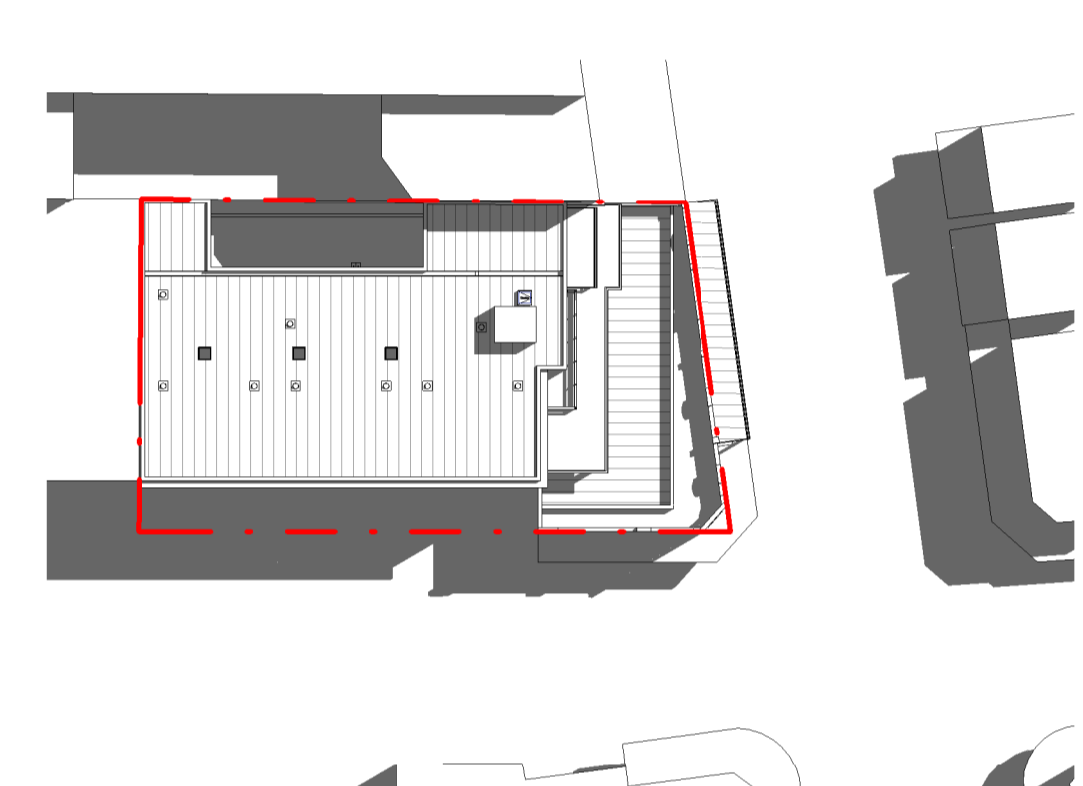
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5 SHADOW DIAGRAM - 1PM - 21 SEPTEMBER  
1:500



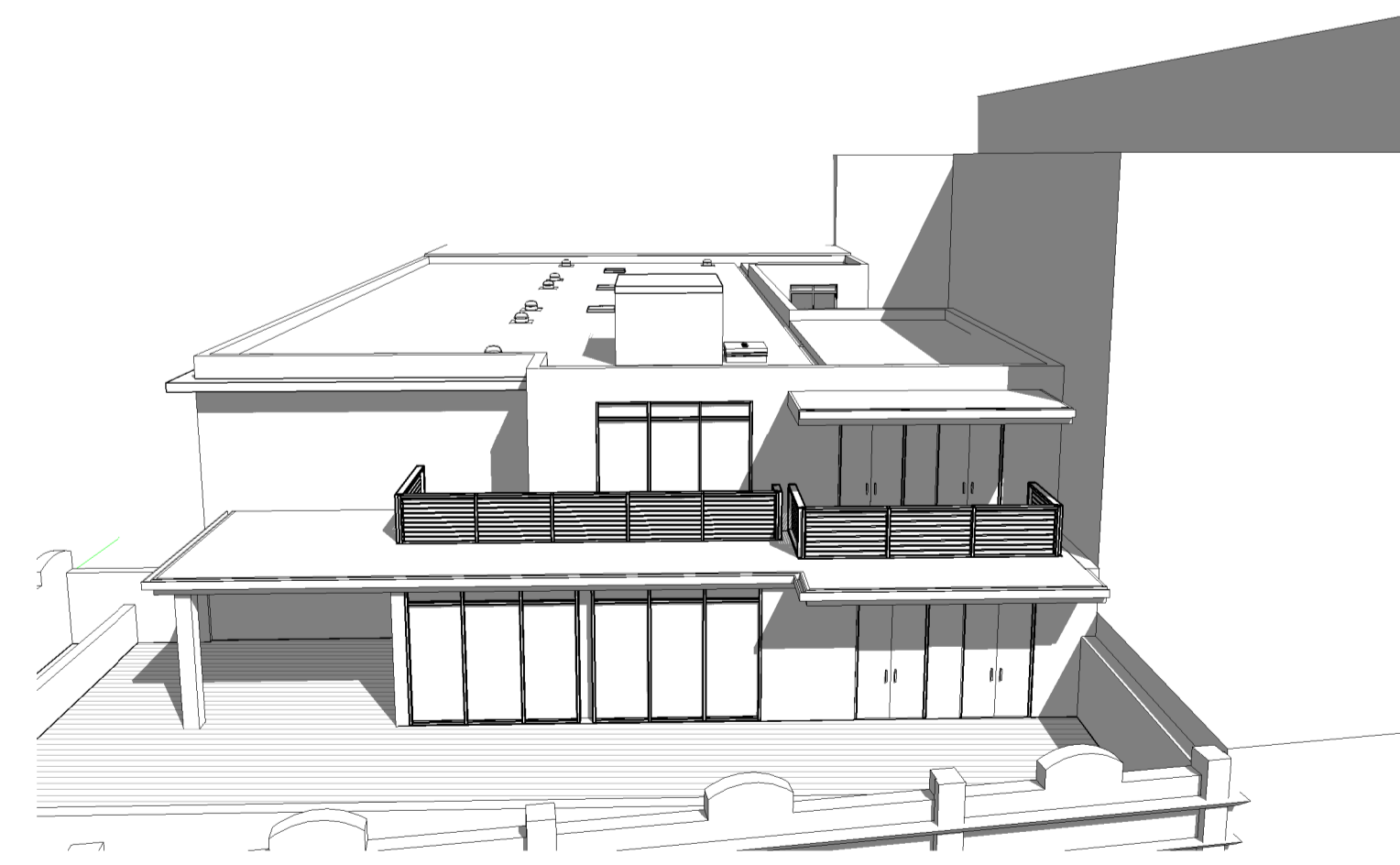
6 SHADOW DIAGRAM - 2PM - 21 SEPTEMBER  
1:500



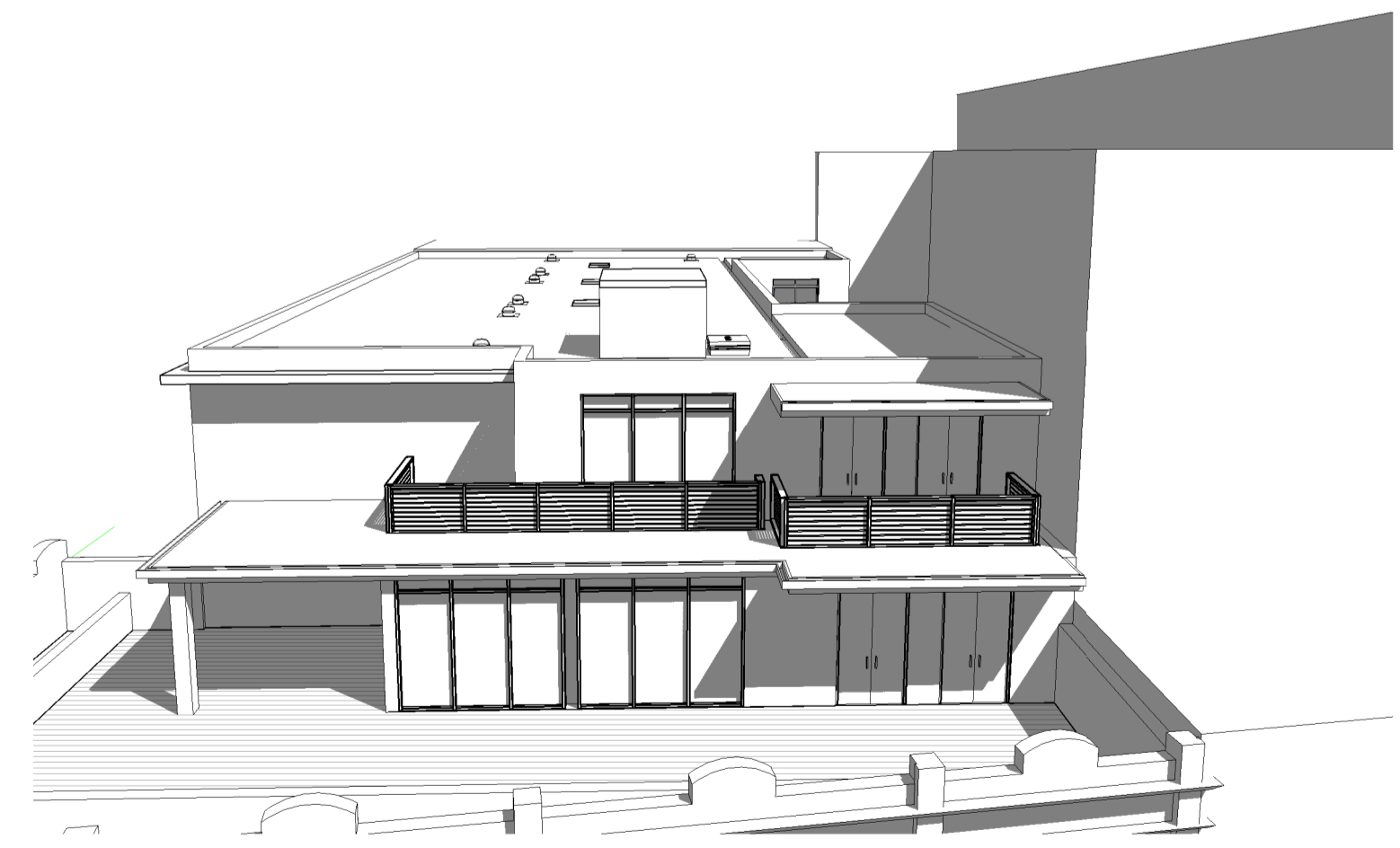
7 SHADOW DIAGRAM - 3PM - 21 SEPTEMBER  
1:500



8 ELEVATIONAL SHADOW DIAGRAM - 9AM - 21 SEPTEMBER  
1:500



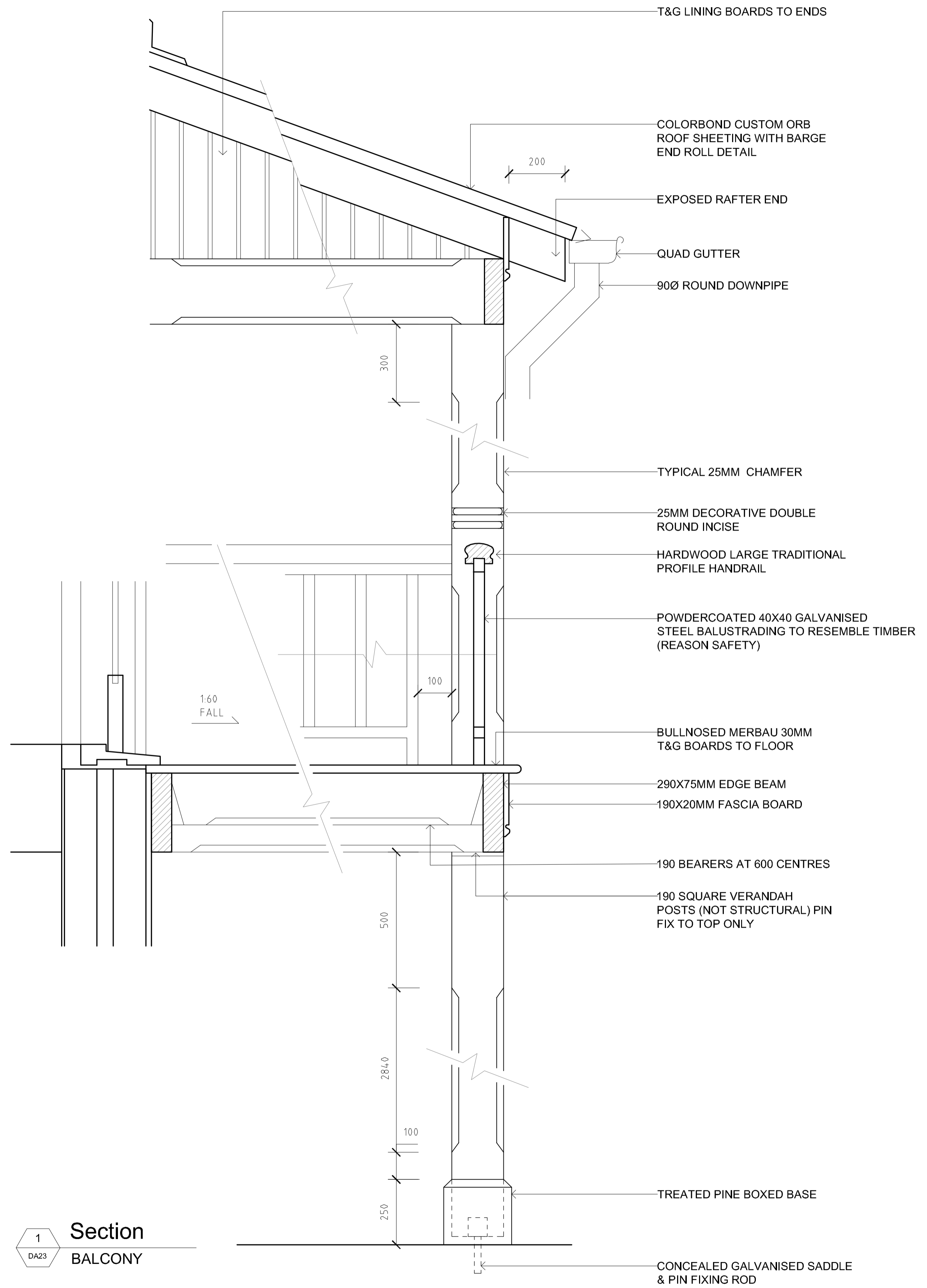
9 ELEVATIONAL SHADOW DIAGRAM - 10AM - 21 SEPTEMBER  
1:500



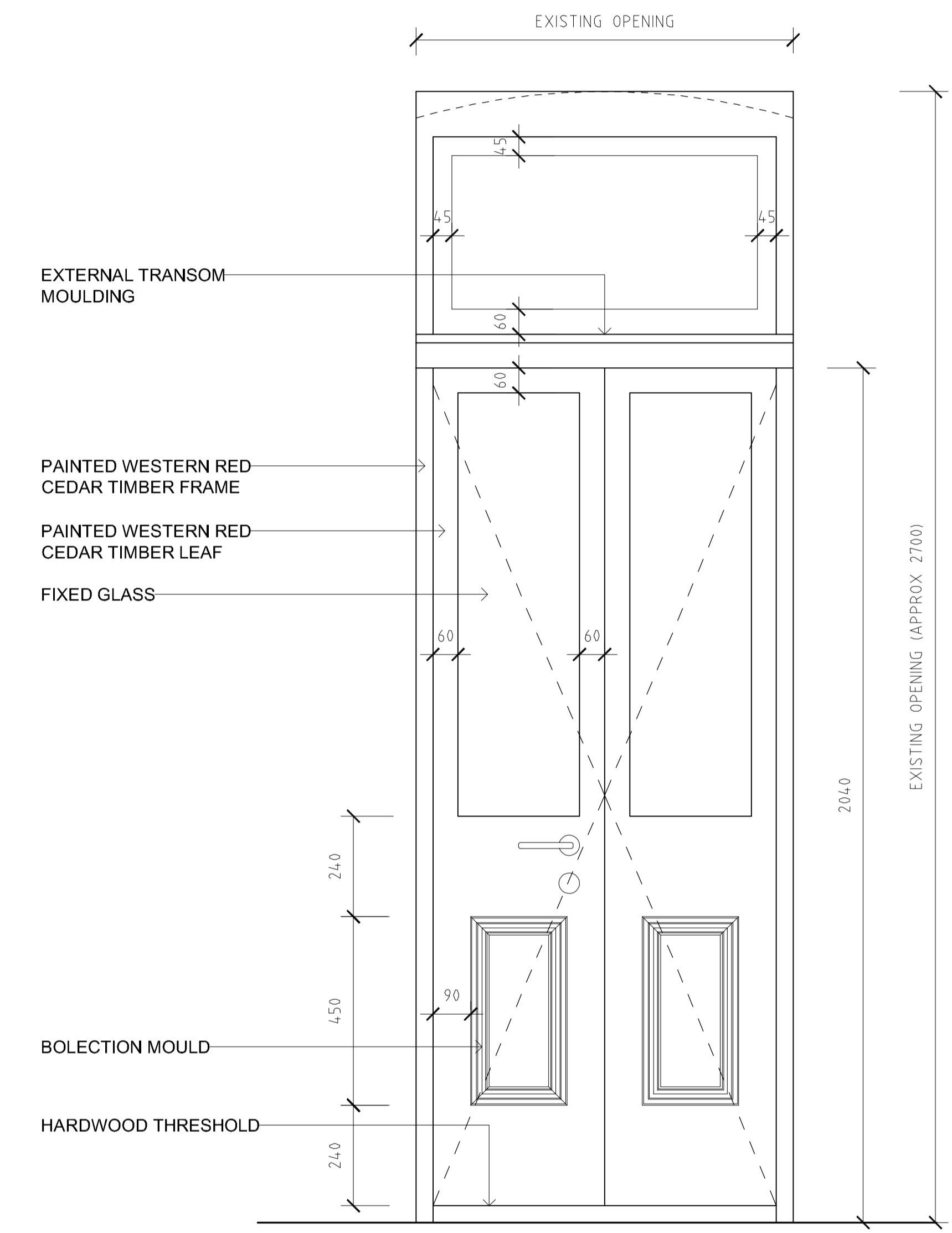
10 ELEVATIONAL SHADOW DIAGRAM - 11AM - 21 SEPTEMBER  
1:500

NOTE:  
50% GLAZED DOORS TO COMMON ROOM (INDOOR COMMUNAL LIVING AREA) RECEIVES A MINIMUM 2 HOURS SOLAR ACCESS.  
SOLAR ACCESS DIAGRAMS GENERATED USING REVIT 3D MODELLING SOFTWARE FOR 21 SEPTEMBER.

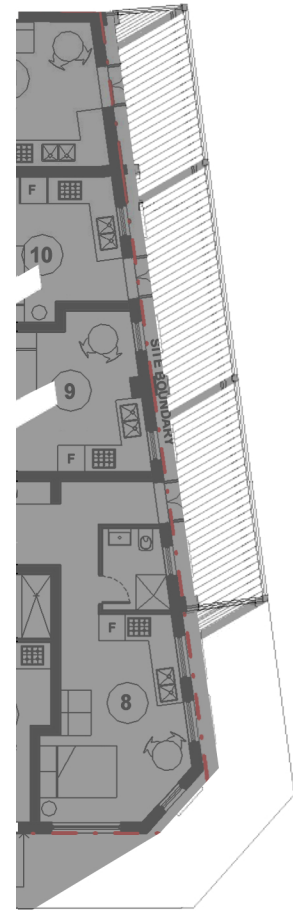




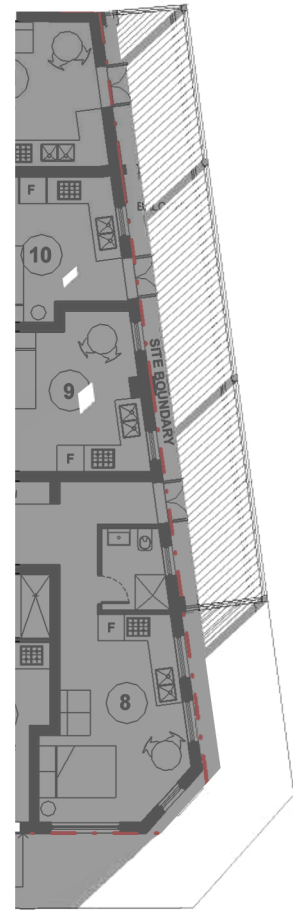
1 Section  
DA23 BALCONY



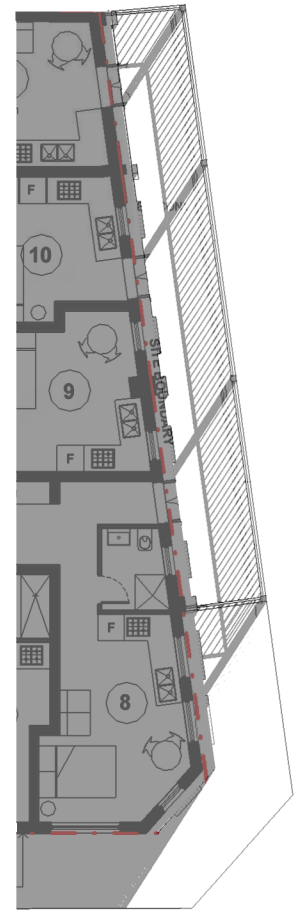
2 Elevation  
DA23 TYPICAL DOOR (BALCONY)



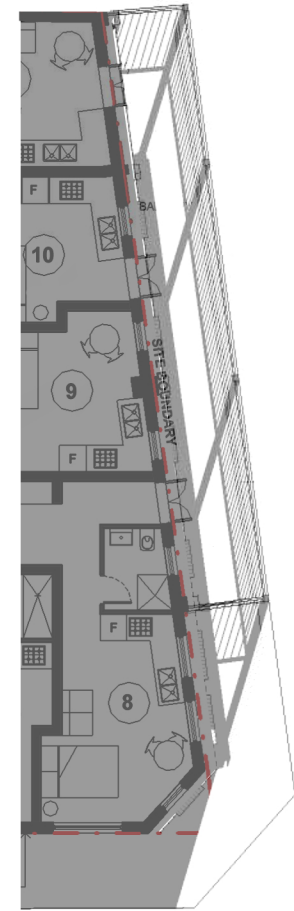
1 LEVEL 1 BALCONY - JUNE 21 - 9AM  
DA24



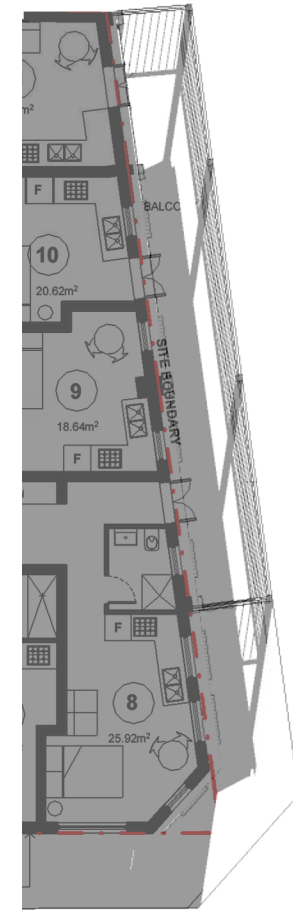
2 LEVEL 1 BALCONY - JUNE 21 - 10AM  
DA24



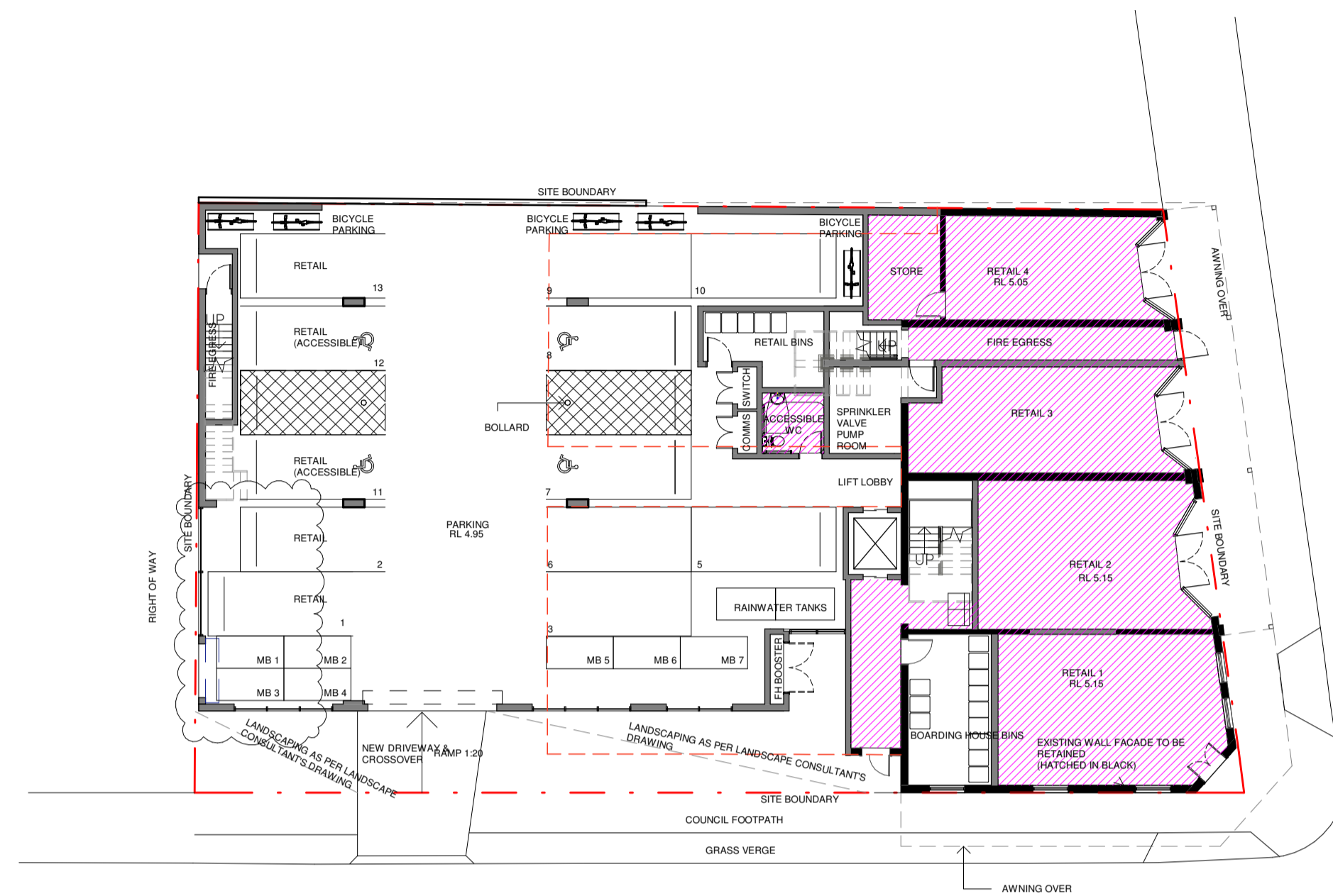
3 LEVEL 1 BALCONY - JUNE 21 - 11AM  
DA24



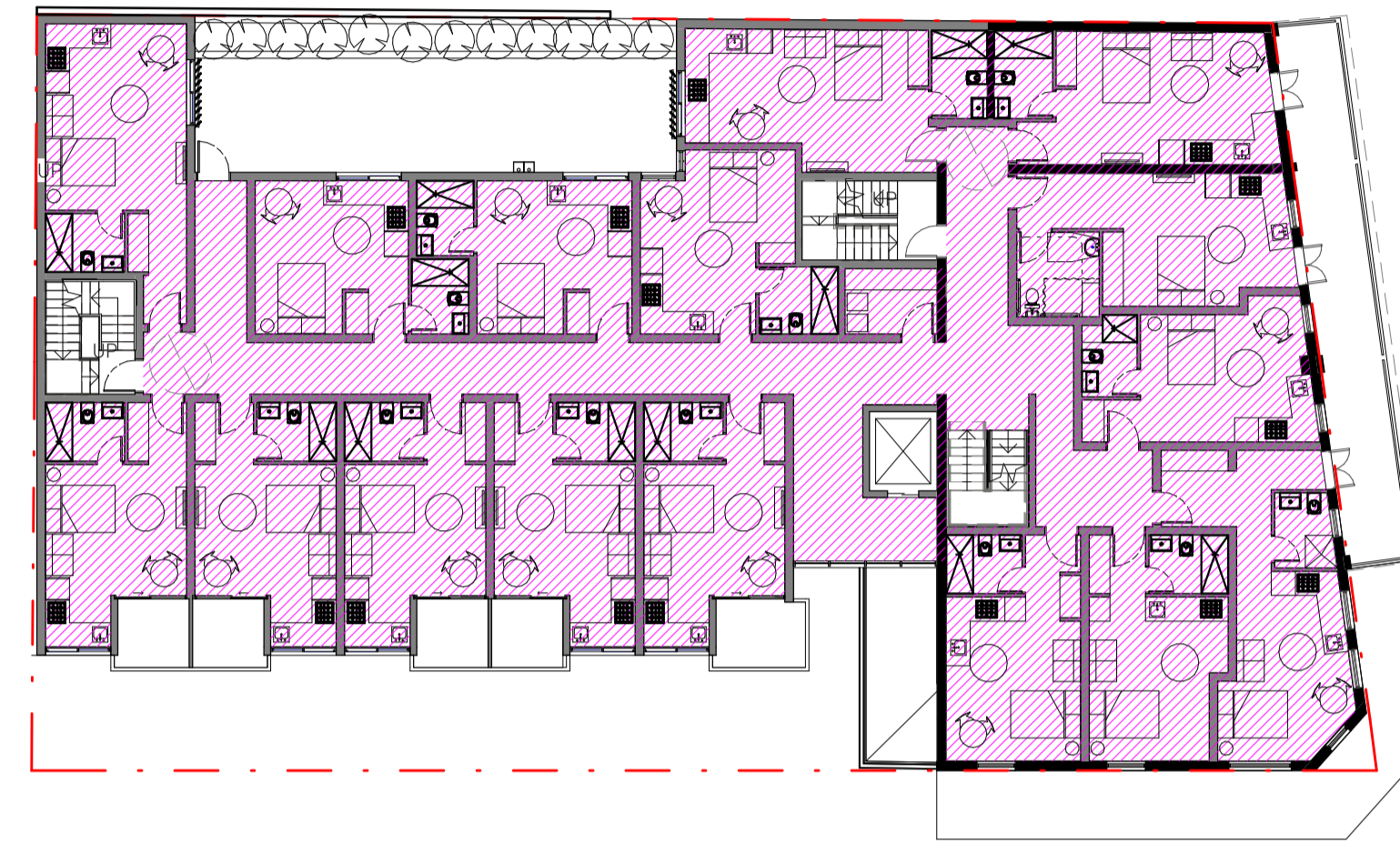
4 LEVEL 1 BALCONY - JUNE 21 - 12PM  
DA24



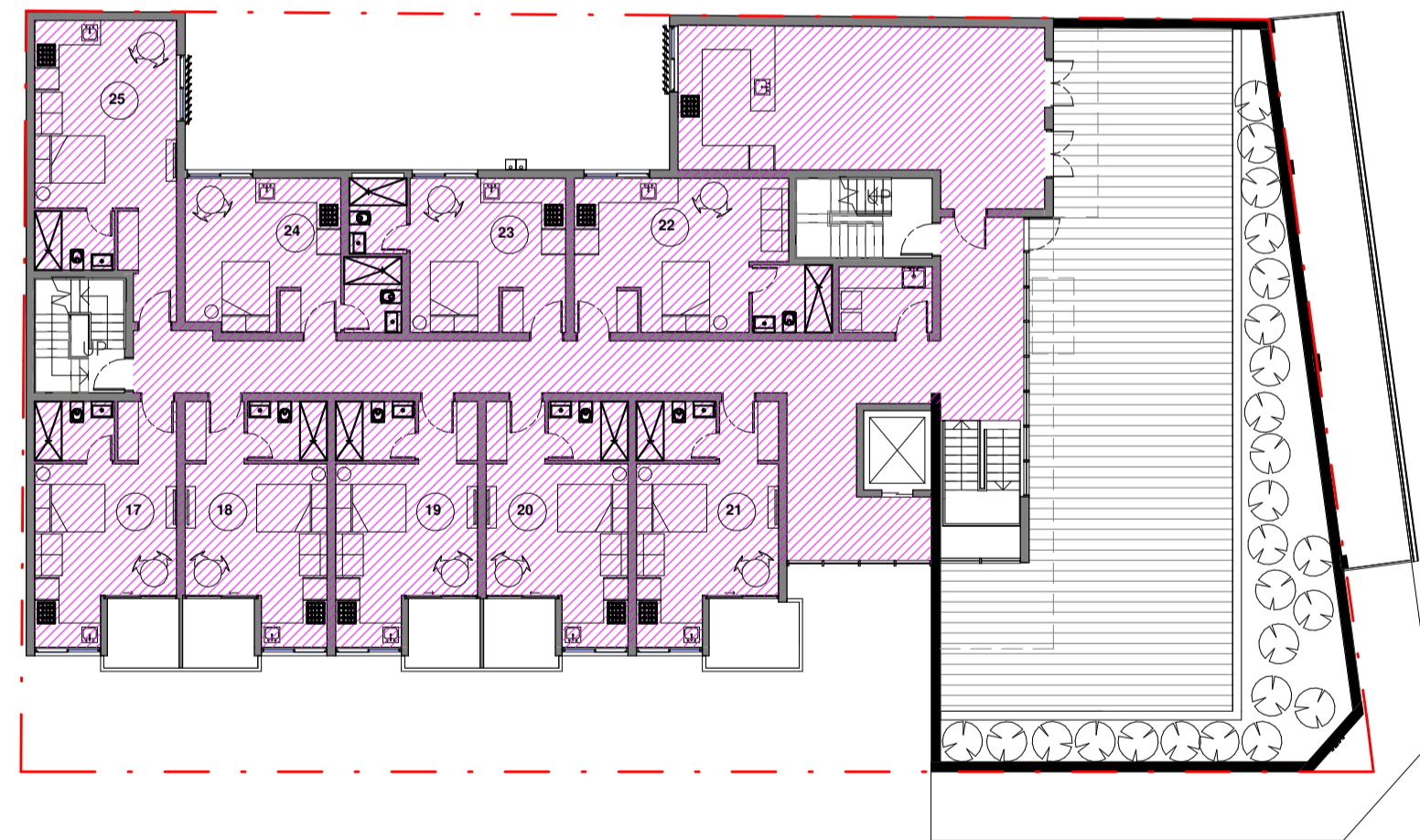
5 LEVEL 1 BALCONY - JUNE 21 - 12.30PM  
DA24



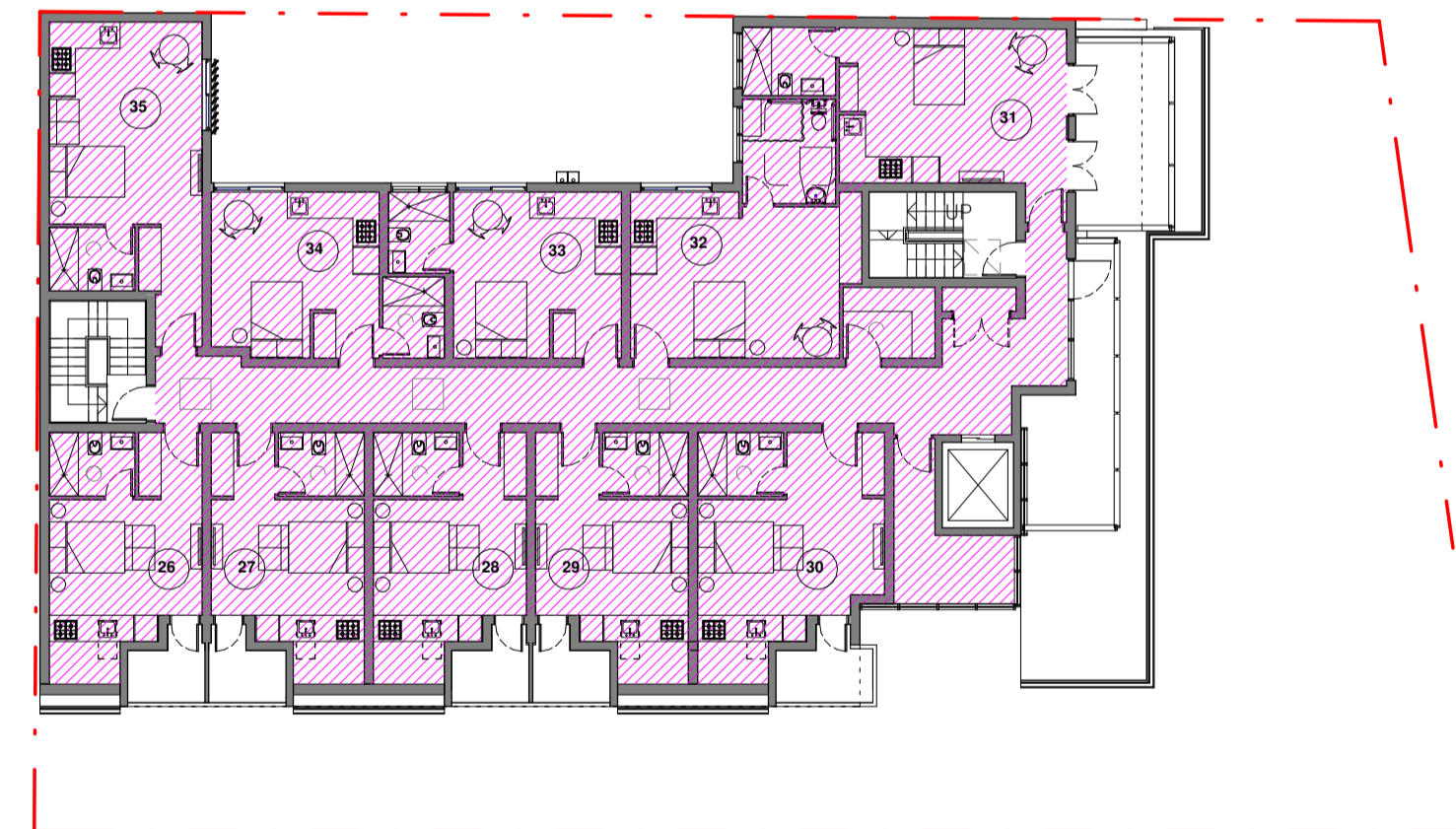
**GROUND FLOOR GFA**  
205.77 sqm



**LEVEL 1 GFA**  
567.95 sqm

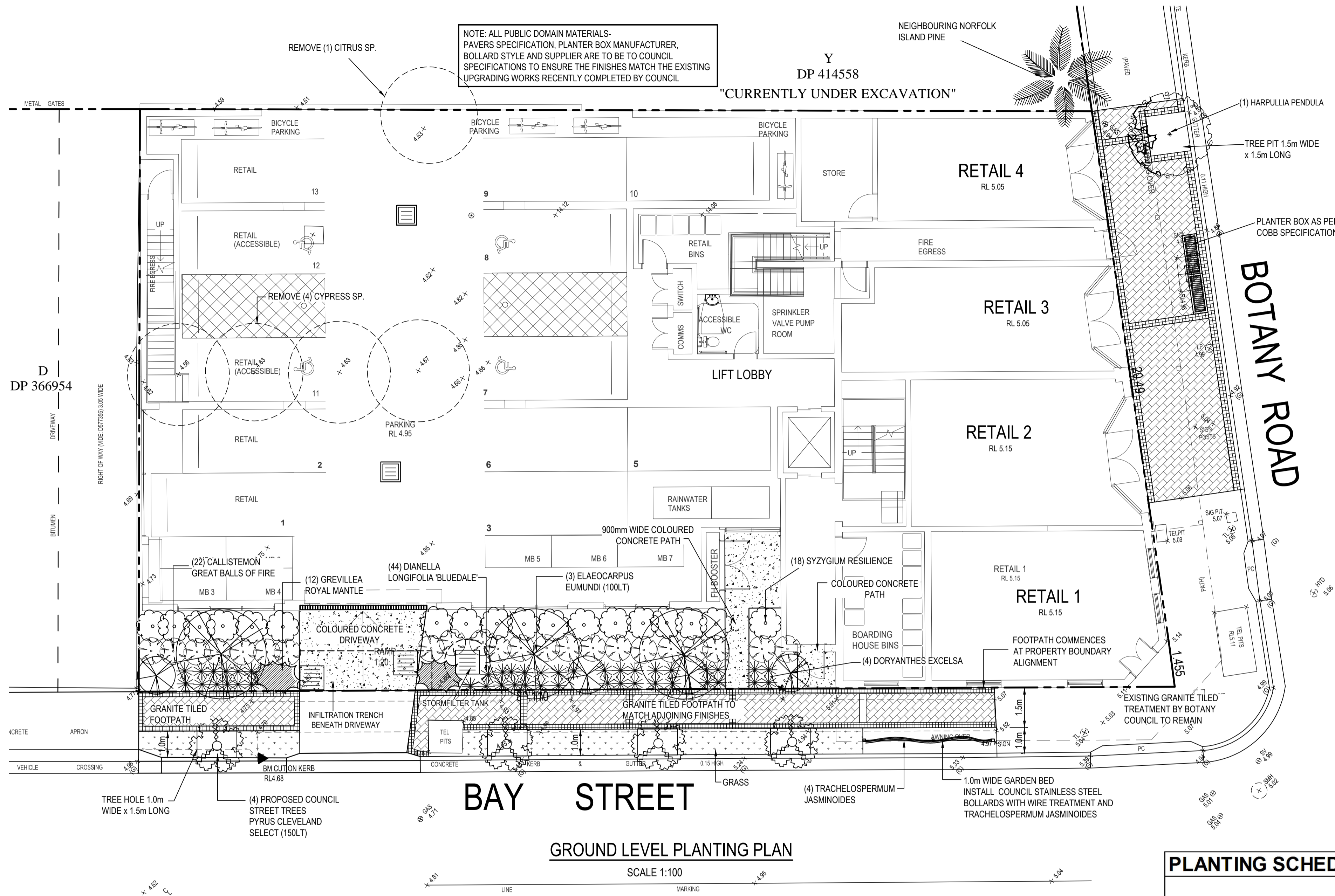


**LEVEL 2 GFA**  
378.50 sqm



**LEVEL 3 GFA**  
349.92 sqm

**TOTAL GFA = 1502.14 SQM**  
**FSR** = GFA / SITE AREA  
 = 1502.14 / 820.5  
 = **1.83 : 1 (COMPLIES WITH LEP)**

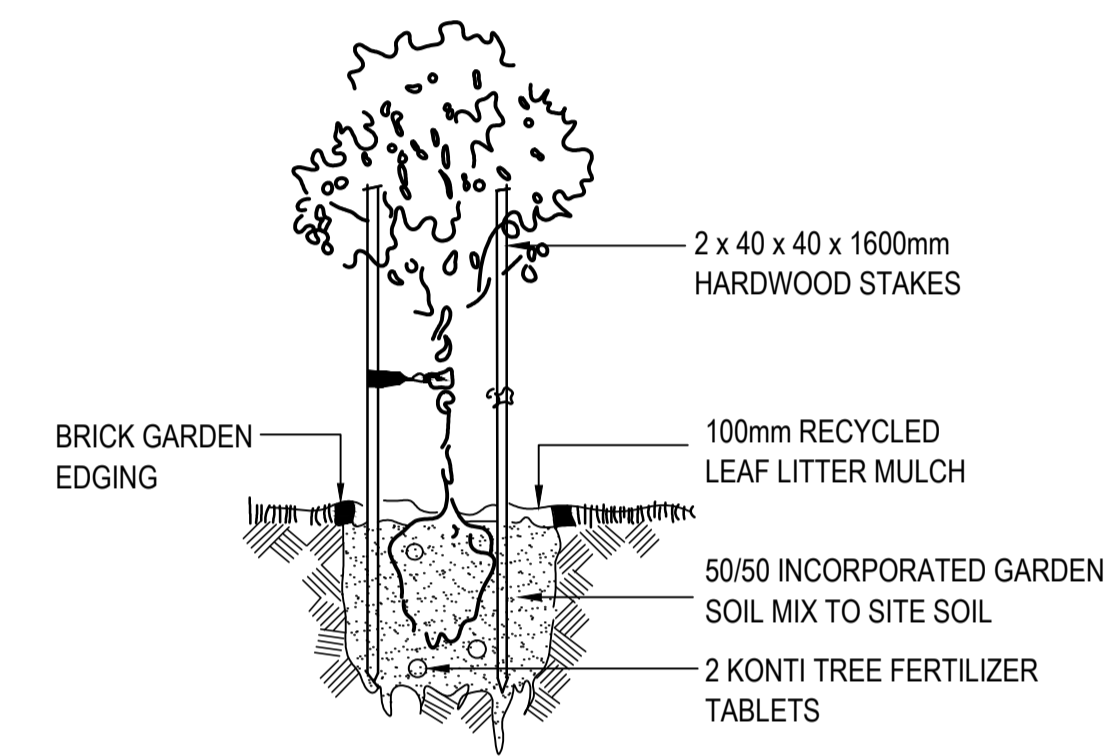


**GROUND LEVEL PLANTING PLAN**

SCALE 1:100

**GENERAL NOTES**

1. THE CONTRACTOR SHALL BE RESPONSIBLE TO MAINTAIN PLANTS IN PROPER NURSERY CONDITION INCLUDING 'HARDENING OFF' TO THE TIME OF PLANTING.
2. PLANTS DAMAGED BETWEEN TIME OF NURSERY INSPECTION AND COMPLETION OF PLANTING SHALL BE REPLACED BY THE CONTRACTOR AT NO VARIATION TO THE CONTRACT.
3. NO SPECIFIED PLANT MATERIAL SHALL BE SUBSTITUTED BY OTHER SPECIES WITHOUT WRITTEN APPROVAL OF THE PRINCIPAL.
4. PLANTS TO BE FLOODED WITHIN 30 MINS OF PLANTING WITH WATER.
5. TREES TO BE PLANTED WHERE NOTED, SHRUBS TO BE PLANTED AT 1000mm CENTRES WHERE NOTED, GROUND COVERS AT 600mm.
6. MULCH TO BE PINE BARK.
7. ANY RUBBLE REMAINING WITHIN THE LANDSCAPE AREAS AT THE TIME OF LANDSCAPING IS TO BE REMOVED BY HAND.
8. THE CONTRACTOR SHALL SUPPLY AND PLACE 150mm DEPTH OF TOP SOIL TO MUSHROOM COMPOST MIX TO MASS PLANTED AREAS, BEFORE PLANTING.
9. THE LANDSCAPE CONTRACTOR SHALL GRADE SURFACE AREAS TO AN ACCEPTABLE SLOPE BATTER (MAX 1 IN 3) AND AWAY FROM BUILT AREAS WHERE POSSIBLE.
10. AUTOMATIC DRIP IRRIGATION SYSTEM SHALL BE INSTALLED TO ALL GARDEN BEDS



**TREE PLANTING DETAIL**

N.T.S

**DANGER**

WHEN EXCAVATING WITHIN ANY SITE, FOOTPATH AND ROADWAY, ALL SERVICES SHALL BE LOCATED PRIOR TO COMMENCEMENT OF THE EXCAVATION WORKS.

CONTACT "DIAL BEFORE YOU DIG" ON PHONE No. 1100 OR GO TO THE WEB SITE

["www.1100.com.au"](http://www.1100.com.au)

PLANTING SCHEDULE					
Botanical Name	Common Name	No.	Pot Size or Height	Mature Height	Mature Width
<b>Trees</b>					
Elaeocarpus eumundii	Quandong	3	100lt	10-12m	4-6m
Pyrus cleveland Select	Ornamental Pear - Street Tree	4	150lt	6m	3m
<b>Shrubs</b>					
Callistemon Great Balls of Fire	Great Balls of Fire	23	200mm	.5m	.5m
Doryanthes excelsa	Gynea Lilly	4	300mm	1m	1m
Syzygium resilience	Lilly Pilly Resilience	18	300mm	3m	2m
<b>Ground Covers</b>					
Dianella longifolia BLUEDALE	Dianella Bluedale	44	150mm	.3m	.3m
Grevillea Royal Mantle	Ground cover grevillea	12	200mm	1m	.2m
Trachelospermum jasminoides	Star Jasmine - Footpath Treatment	4	25lt	1m	1m



NATURE STRIP TREATMENT ALONG BAY STREET FRONTAGE

EXISTING CYPRESS SP. TO BE REMOVED



Doryanthes excelsa

Callistemon Great Balls of Fire

Grevillea Royal Mantle

Dianella longifolia Bluedale

Pyrus calleryana chanticleer

Elaeocarpus Eumundi

Syzygium resilience

C	18/01/17	AS PER COUNCIL EMAIL - JULIE GEE 20/12/16
B	12/07/16	AMENDED TO SUIT ARCH CHANGES, FILTRATION TANK LOCATION ADDED
A	02/05/16	ISSUED FOR DEVELOPMENT APPROVAL
ISSUE	DATE	AMENDMENT

**Susan Read Landscapes**  
B. LAND ARCH

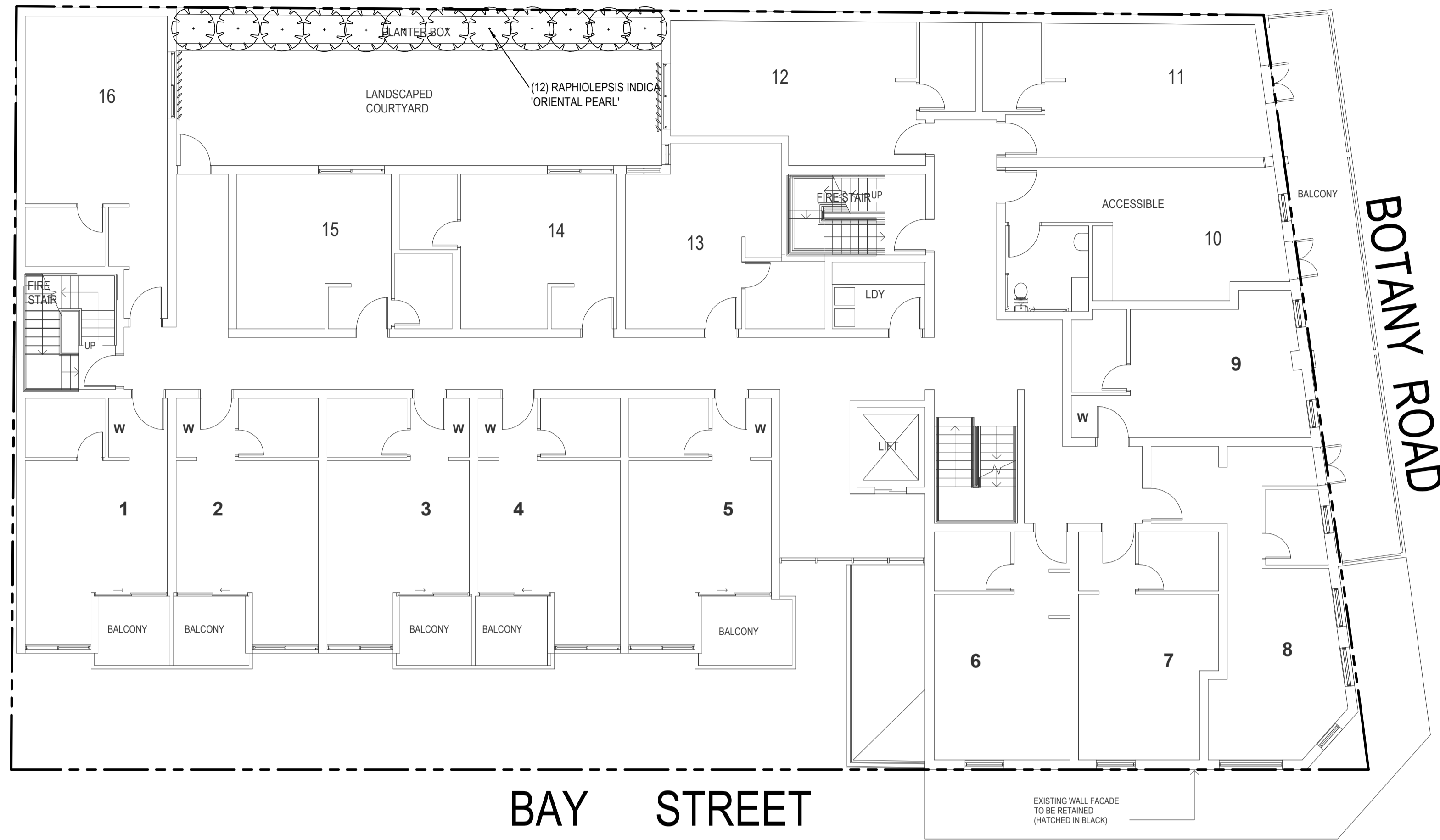
PO Box 5011, TURRAMURRA NSW 2074  
PHONE - 0418 635 791  
EMAIL - susan.read@susanreadlandscapes.com.au

**PROPOSED MIXED USE DEVELOPMENT**  
1094-1098 BOTANY ROAD  
BOTANY  
MR. MARIO KHAICY

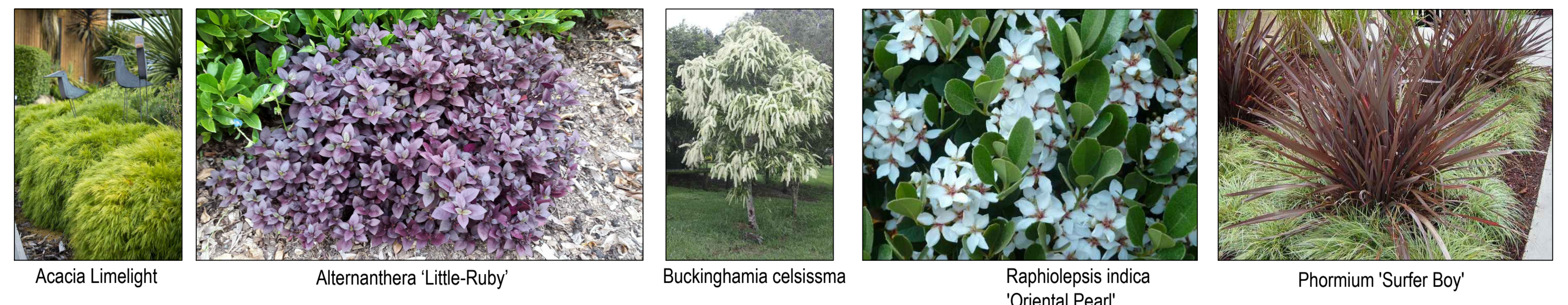
**LANDSCAPE PLANTING PLAN**

THE PROPERTY IN THIS DRAWING AND IN THE CONCEPTS REMAIN WITH SUSAN READ. ANY UNAUTHORISED USE OF THIS DRAWING, AS TO THE WHOLE OR PART MAY RENDER THE USER LIABLE TO AN ACTION FOR DAMAGES. CONSEQUENTIAL EVENTS OR DAMAGES ARISING FROM UNAUTHORISED OR UNAPPROVED USE SHALL NOT RENDER SUSAN READ OR HER ASSOCIATED COMPANIES LIABLE.

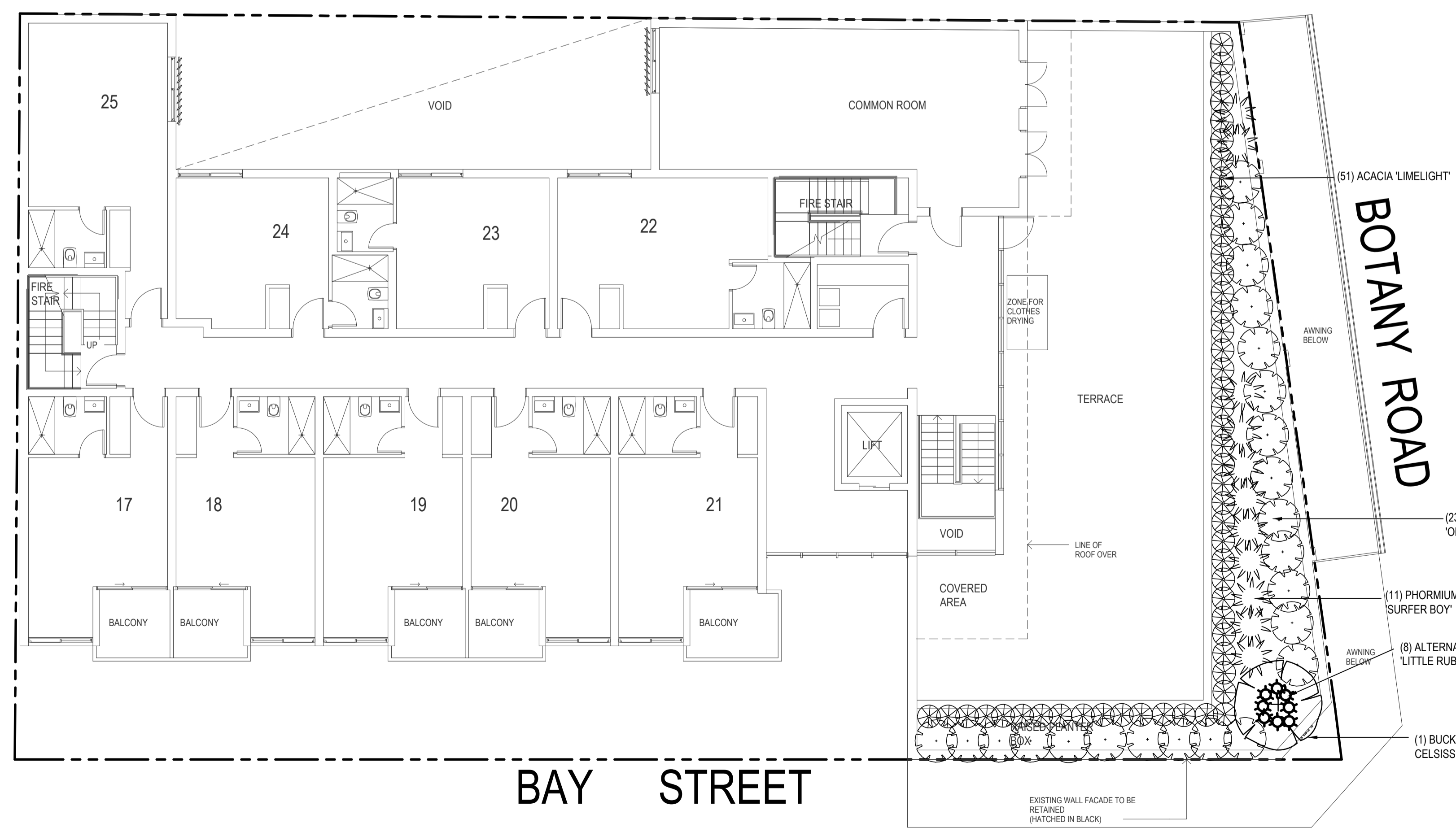
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MAY 16	S. Read	1 of 2
Scale:	Drawing No:	Issue:
1:100 @ A1 1:200 @ A3	L01	C
Datum:	AHD	



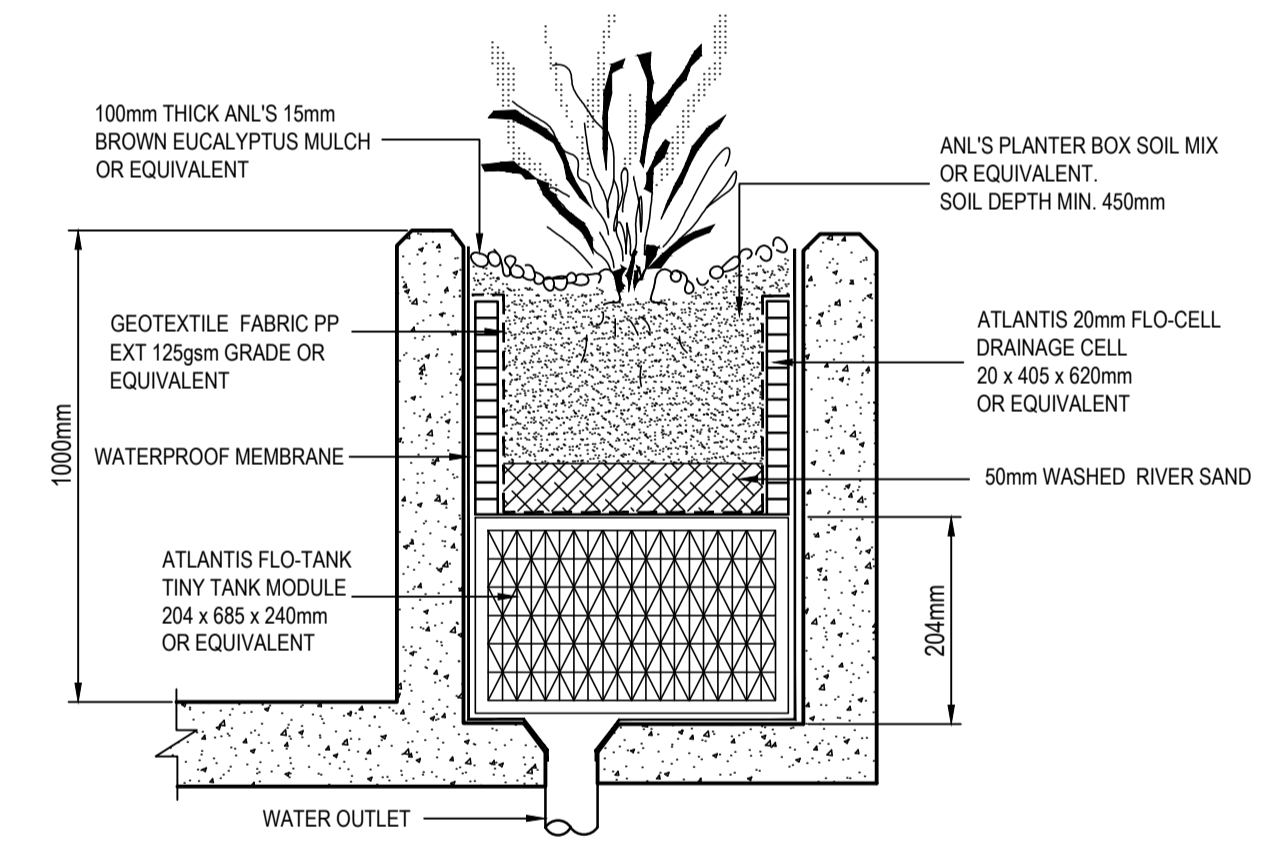
**BAY STREET**  
**LEVEL 1 PLANTING PLAN**  
 SCALE 1:100



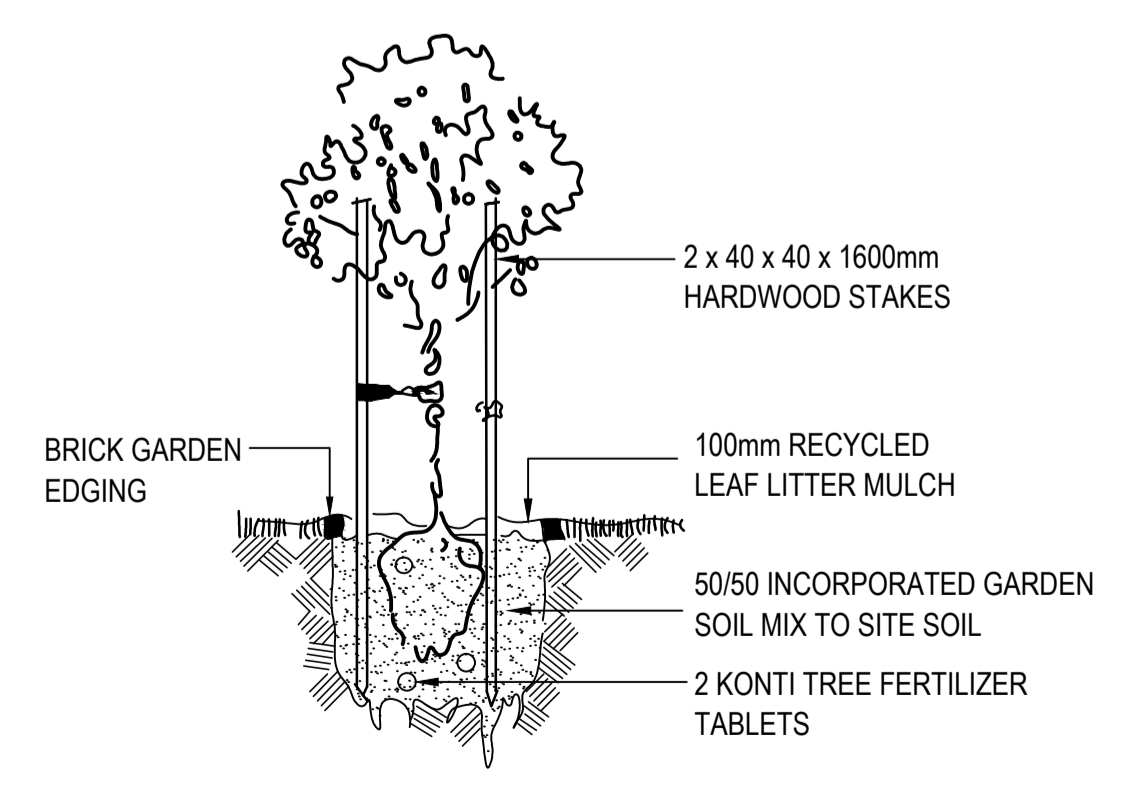
PLANTING SCHEDULE					
Botanical Name	Common Name	No.	Pot Size or Height	Mature Height	Mature Width
<b>Trees</b>					
Buckinghamia celsissima	Ivory Curl Tree	1	45lt	6m	4m
<b>Shrubs</b>					
Acacia Limelight	Wattle Limelight	51	200mm	.3m	.3m
Phormium Surfer Boy	NZ Flax Green	11	200mm	.5m	.5m
Raphiolepis indica Oriental Pearl	White Indian Hawthorn	35	300mm	1m	1m
<b>Ground Covers</b>					
Alternanthera Little Ruby	'LRU30' PBR.	8	150mm	.3m	.3m



**BAY STREET**  
**LEVEL 2 PLANTING PLAN**  
 SCALE 1:100



**PLANTER BOX DETAIL**  
 1000mm DEPTH  
 N.T.S.



**TREE PLANTING DETAIL**  
 N.T.S.

C	18/01/17	AS PER COUNCIL EMAIL - JULIE GEE 20/12/16
B	12/07/16	AMENDED TO SUIT ARCH CHANGES, LEVEL 1 DETAILS ADDED
A	02/05/16	ISSUED FOR DEVELOPMENT APPROVAL
ISSUE	DATE	AMENDMENT

**Susan Read Landscapes**  
 B. LAND ARCH  
 PO Box 5011, TURRAMURRA, NSW, 2074  
 PHONE: 0418 835 791  
 EMAIL: susan.read@susanreadlandscapes.com.au

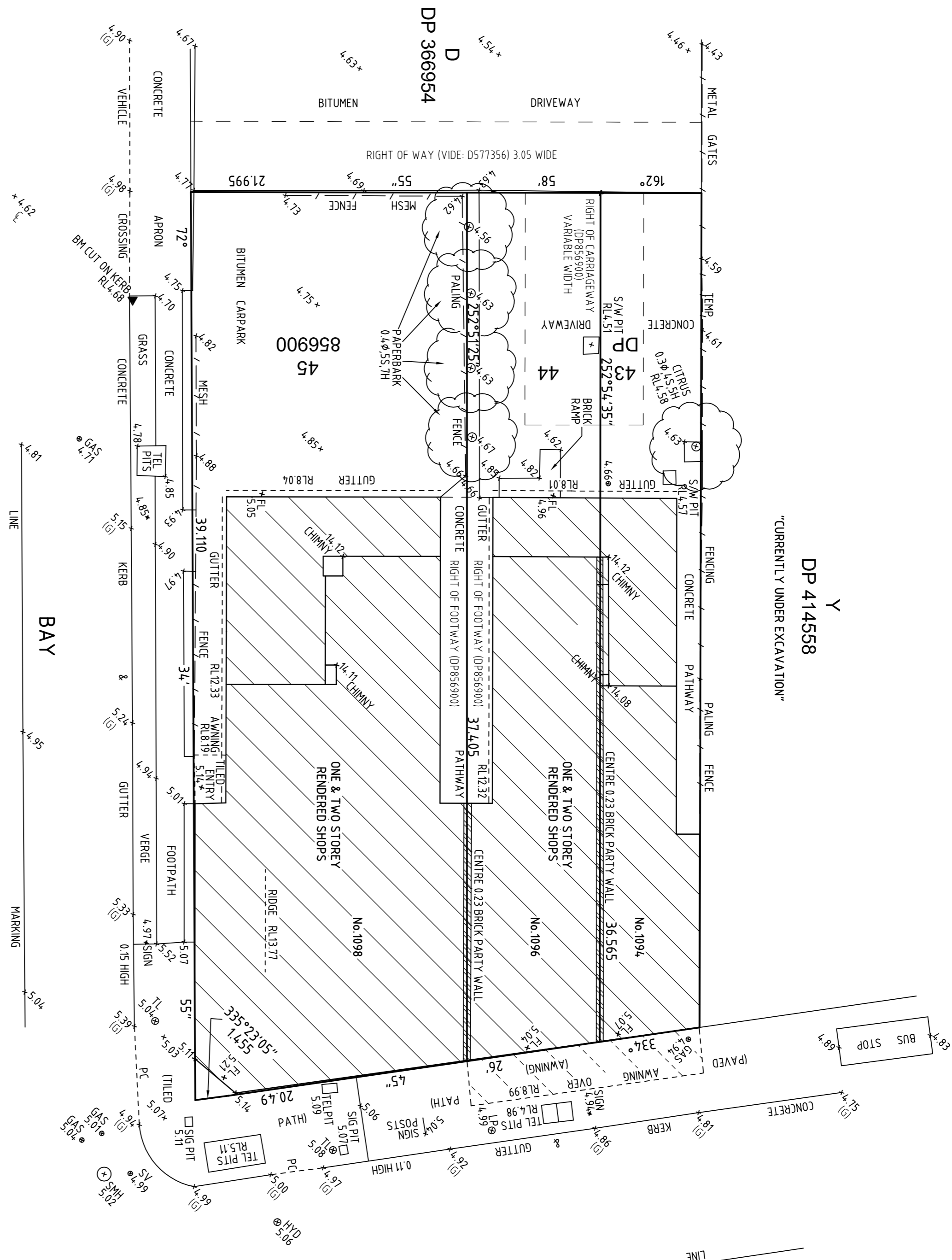
**PROPOSED MIXED USE DEVELOPMENT**  
 1094-1098 BOTANY ROAD  
 BOTANY  
 MR. MARIO KHAICY

**LANDSCAPE PLANTING PLAN**

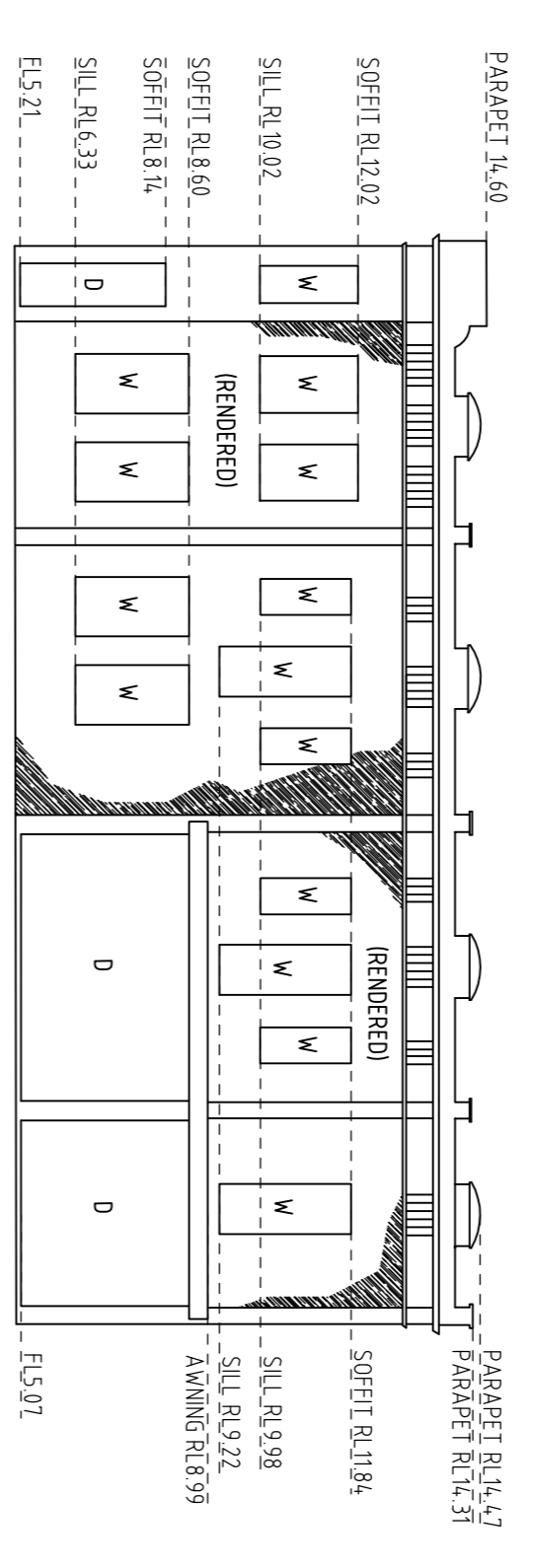
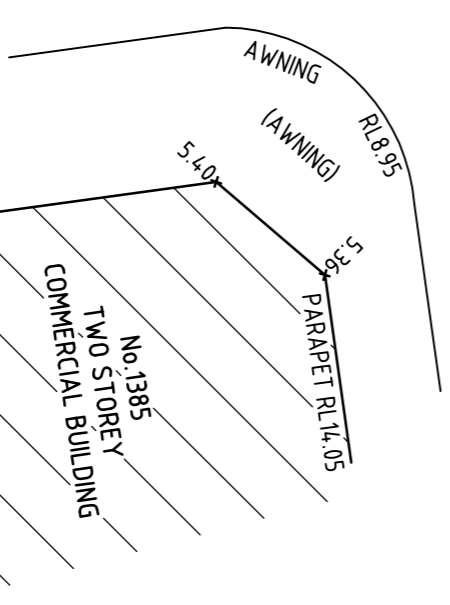
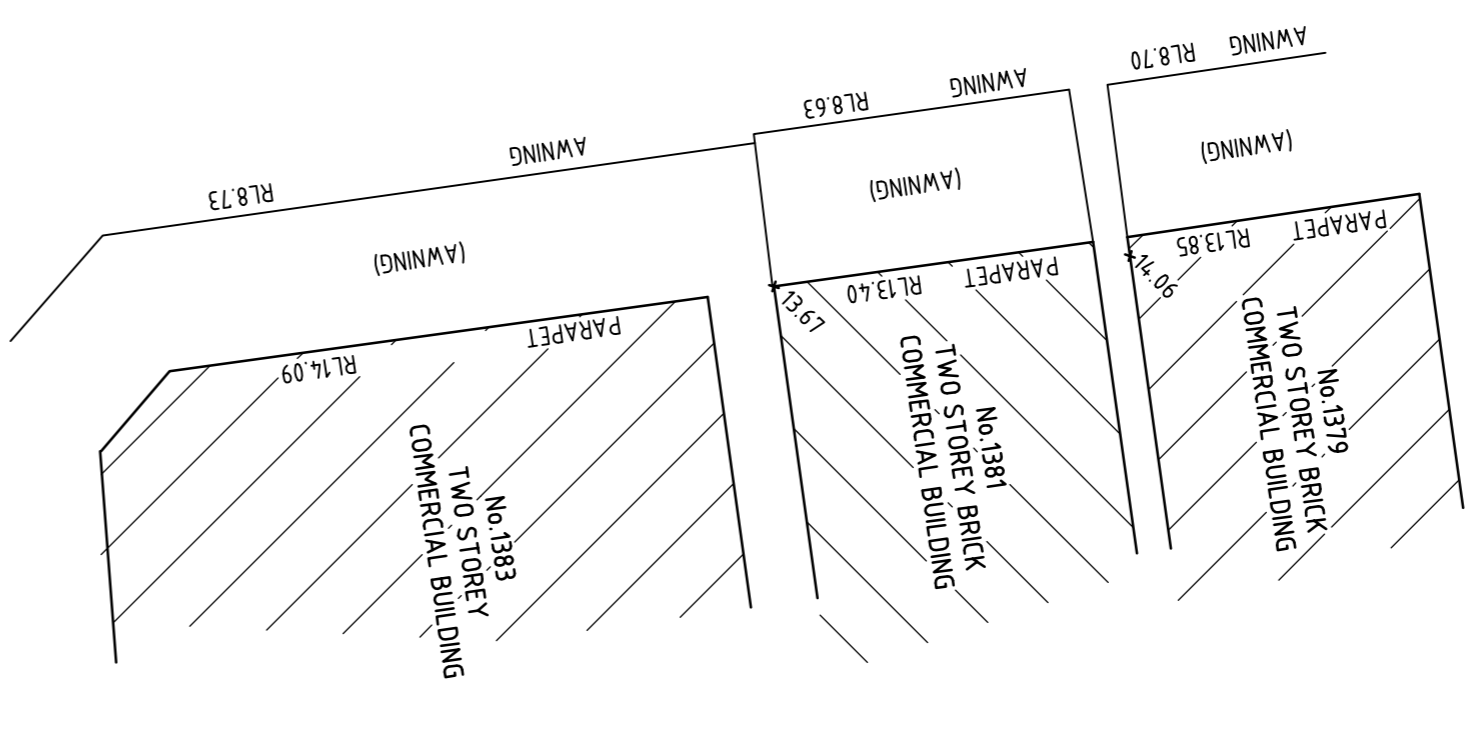
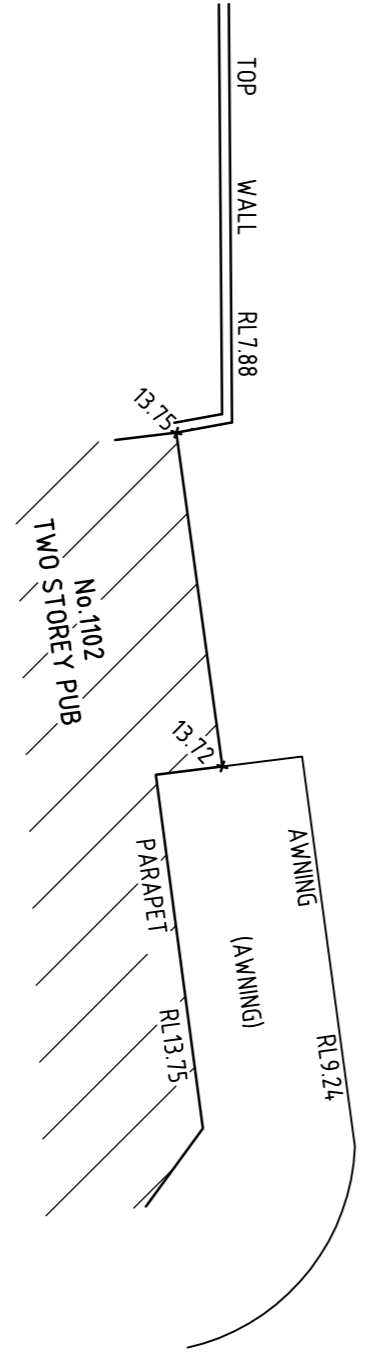
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Date:	DESIGNED:	SHEET:
MAY 16	S. Read	2 of 2
Scale:	DRAWING NO.:	ISSUE:
1:100 @ A1 1:200 @ A3	L01	C
Datum:	AHD	

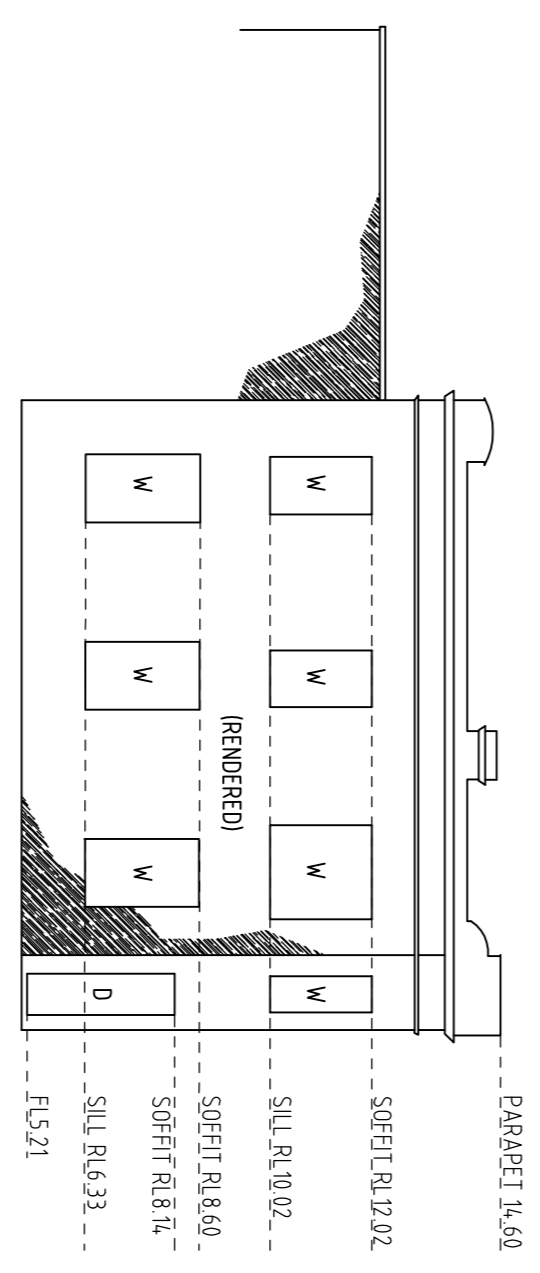




DP 414558  
 "CURRENTLY UNDER EXCAVATION"



EASTERN ELEVATION  
 No. 1094 - 1098 BOTANY ROAD



PARTIAL SOUTHERN ELEVATION  
 No. 1098 BOTANY ROAD

- NOTES:**
- BOUNDARY BEARINGS AND DIMENSIONS SHOWN HAVE BEEN COMPILED FROM PLANS ON PUBLIC RECORDS
  - BOUNDARY REDEFINITION HAS NOT BEEN UNDERTAKEN.
  - ORIGIN OF LEVELS: SSM 61665 RL6.428 (AHD) SQMS
  - SITE COMPRISES LOTS 43, 44 & 45 IN D.P. 856900
  - TOTAL SITE AREA 820.5 m<sup>2</sup>
  - UNDERGROUND SERVICES HAVE NOT BEEN INVESTIGATED.
  - (G) DENOTES GUTTER LEVEL, (PC) DENOTES PRAV CROSSING, (SV) DENOTES STOP VALVE
  - (LP) DENOTES LIGHT POLE, (SMH) DENOTES SEWER MANHOLE, (HYD) DENOTES HYDRANT.
  - (EQ) DENOTES CENTRELINE, (TD) DENOTES TRAFFIC LIGHT, (S/M) DENOTES STORMWATER.
  - 0.3m x 0.3m DENOTES INDICATIVE TREE SIZE 0.3 TRUNK DIAMETER, 10 SPREAD, 8 HIGH.
  - TREE NAMES SHOWN CONSTITUTE OUR OPINION ONLY. IF TREE SPECIES IDENTIFICATION IS IMPORTANT FOR DESIGN OR HERITAGE REASONS THEY SHOULD BE DETERMINED BY A QUALIFIED ARBORIST.

ISSUE	DATE	AMENDMENT

<b>TITLE:</b> PLAN SHOWING SELECTED DETAIL & LEVELS OVER			
No. 1094-1098 BOTANY ROAD, BOTANY			
<b>LGA:</b>	BOTANY BAY	<b>REFERENCE:</b>	07094
<b>CLIENT :</b>	GILES TRIBE ARCHITECTS	<b>DATE:</b>	13.02.16
<b>SCALE (AT A1)</b>	1:150	<b>DATUM :</b>	AHD
<b>SURVEYOR:</b>	TS	<b>SHEET</b>	1

**Norton Survey Partners**  
**SURVEYORS & LAND TITLE CONSULTANTS**  
 A.C.N. 199 734 968  
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