







DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2023/0945
Address	187 Enmore Road ENMORE
Proposal	Partial demolition of existing structures and alterations and additions to an existing commercial building to create a 4 storey mixed use shop top housing development including 4 residential apartments
Date of Lodgement	14 November 2023
Applicant	John Drivas
Owner	John Drivas, Georgina Drivas, Stella Drivas, Athanasia-Nectaria Drivas, Theodore Drivas and Marios Koulouris
Number of Submissions	Initial: 1
Cost of works	\$1,595,000.00
Reason for determination at Planning Panel	SEPP 65 development
Main Issues	Compliance with ADG requirements Variation to FSR development standard
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations



Figure 1: Map of the subject site

Subject Site		Objectors		N ↑
Notified Area		Supporters		

Note: Due to scale of map, the objectors property could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition of existing structures and alterations and additions to an existing commercial building to create a 4 storey mixed use shop top housing development including 4 residential apartments at 187 Enmore Road Enmore.

The application was notified to surrounding properties and one (1) submission in support was received in response to the initial notification.

The main issues that have arisen from the application include:

- Variation to Floor Space Ratio development standard of 12.8sqm or 2.6%; and
- Compliance with the Apartment Design Guidelines (ADG) requirements.

The proposal generally complies with the aims and objectives of the *Inner West Local Environmental Plan 2022* and the Marrickville Development Control Plan 2011. The proposal is considered acceptable and recommended for approval.

2. Proposal

The proposal seeks development consent for the partial demolition of existing structures at the rear of the subject site, alterations and additions to an existing commercial building, and the construction of a four (4) storey mixed-use shop top housing development, consisting of four (4) residential units and carparking facilities. Specifically, the following works are proposed:

- Partial demolition of the existing metal sheeting at the rear of the site, and demolition of an existing window sill at the rear of the first floor commercial building;
- Construction of new four (4) storey shop-top housing development comprising two (2) studios and two (2) loft-style one-bedroom units;
- Construction of new terrace, accessible stair and loggia on the first and second floors;
- Construction of a new door to the existing commercial building on the first floor;
- Construction of new bin storage, bulk store, car park access and entry on the ground floor; and
- Construction of one (1) residential car parking space on the ground floor near the three (3) existing commercial car parking spaces.

3. Site Description

The subject site is located on the northern side of northern side of Enmore Road, between Cambridge Street and London Street. The site consists of one (1) allotment and is generally rectangular shaped, with a total area of 326.9sqm and is legally described as Lot 4 in DP 845618.

The site has a frontage to Enmore Street of 9.03 metres and a secondary frontage of approximately 10.095 metres to street. The site is affected by a three registered party walls on both side boundaries.

The site supports a two-storey commercial building. The adjoining properties support two and three storey mixed use commercial and residential uses. The property is located within the King Street and Enmore Road Heritage Conservation Area (HCA).

4. Background

Site history

The following application outlines the relevant development history of the subject site.

Subject Site

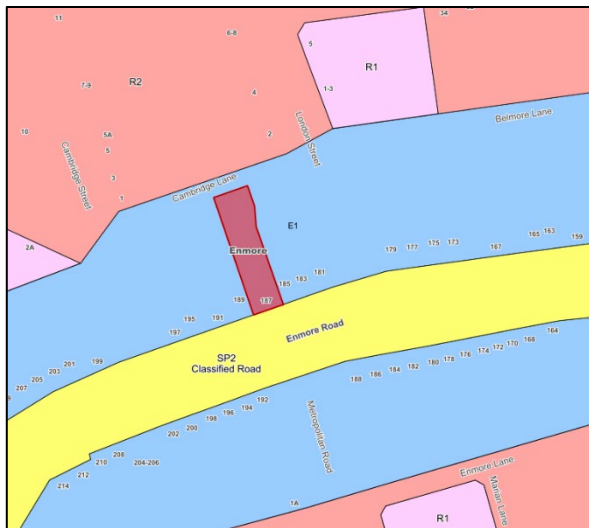


Figure 2: Land zoning map of the subject site (highlighted red)



Figure 3: Image of the front façade of site provided by the Applicant

- **PDA/2020/0438** – advice issued on 23/12/2020 for ‘Alterations and additions to existing building for shop top housing comprising 3 retail/commercial tenancies and 5 dwellings with associated parking.’
- **DA/2020/1199** – approved on 08/04/2021 for ‘Alterations and additions to a commercial building including the provision of an additional ground floor commercial tenancy.’
- **PDA/2021/0111** – advice issued on 21/05/2021 for ‘Alterations and additions to existing building for shop top housing comprising commercial tenancies and dwellings with associated parking.’
- **DA/2021/0798** – withdrawn by applicant on 21/01/2022 for ‘To carry out alterations and additions to an existing commercial building to create a 4 storey mixed use development including 4 residential apartments and associated works.’

Note:

DA/2021/0798 was withdrawn as applicant was unable to obtain a flow pressure report from Sydney Water within the timeframe.

- **MOD/2022/0074** – approved on 30/06/2022 for ‘Application under section 4.55 of the Environmental Planning and Assessment Act 1979 to modify Determination No.2020/1199 dated 8 April 2021 so as to retain 1 tenancy on the ground floor, carry out modifications to both ground and first floors, including the parking layout and to construct a roof above the parking at the rear of the site.’
- **DA/2022/1039** – deferred commencement issued on 17/08/2023 for ‘Fitout and use of the premises as a small bar operating 12.00 noon to 2.00am Mondays to Sundays including construction of a new shopfront and associated signage.’

Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
29/11/2023 – 20/12/2023	Application notified.
31/01/2024	<p>Council issued a request for further information letter raising the following matters:</p> <ul style="list-style-type: none"> • The floor to ceiling height of Unit 202’s kitchen is below the minimum requirement under the ADG (2.4m); • Compromised internal amenity of Unit 102 given the width of the kitchen aisle; • The bike racks being located in unideal locations and presenting obstacles; • A storage schedule to be provided, demonstrating the location and measurements of the storage within each unit; • An amended acoustic report detailing an assessment of the ANEF and noise impacts from plant; • A modified contamination report regarding the location of asbestos; • Minor inconsistencies from previous development consents on the site; and • An amended materials finishes schedule to be provided utilising warm, earthy tones.
29/02/2024	<p>The applicant submitted the following additional information:</p> <ul style="list-style-type: none"> • Amended architectural plans addressing the inconsistencies from the previous approval on the site, amending the location of the bike rack, increasing the height of the floor to ceiling of Unit 202 to 2.7m, and widening the internal dimensions of the kitchen aisle at Unit 102; • An amended contamination report demonstrating there was no asbestos on the site; • An amended acoustic report; and • An amended materials and finishes schedule.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not to consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

SEPP (Housing) 2021

As of 14 December 2023, the *SEPP No. 65 Design Quality of Residential Apartment Development* has been consolidated into the *SEPP (Housing) 2021*.

As per Schedule 7A, cl.8(1) of *SEPP (Housing) 2021*, a savings and transitional provisions applies to development applications lodged before 14 December 2023; as such, the subject application has been assessed under the former *SEPP No. 65*, as demonstrated below.

SEPP No. 65 - Design Quality of Residential Apartment Development

Section 28 of *SEPP 65* requires the consent authority to consider any comments from the Council's Architectural Excellence Design Review Panel (AEDRP), the Schedule 1 Design quality principles and the Apartment Design Guide (ADG).

The application was heard by the AEDRP on 19 December 2023. The Panel were generally supportive of the proposed development, noting that a similar application had been reviewed under DA/2021/0798, and raised the following design recommendations to be considered by the applicant:

- The kitchen aisle of unit 102 should be increased to a minimum of 1m to allow more comfortable and intuitive movement throughout the unit; and
- The kitchen ceiling height of unit 202 should be increased to ensure incorporation of services elements into the ceiling, while aligning with the minimum floor-to-ceiling clear height of 2.7m.

Attachment C of this report contains the AEDRP Meeting Minutes and Recommendations, which have largely been resolved.

A statement from a qualified Architect was submitted with the application verifying that they designed the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

In accordance with Section 6A of the SEPP certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (mid-winter).

Comment:

The development does not comply with the ADG requirement with respect to this matter as no communal open space is proposed.

Notwithstanding, given the site is located within an E1 Local Centre zone with an existing dense urban form, the development is considered acceptable with respect to the objectives of this Part of the ADG as follows:

- All units are provided private open space areas (POS) that are in excess of the minimum requirements under the ADG. Further, these spaces are orientated appropriately to receive satisfactory levels of solar access, as discussed elsewhere in this report;
- The development is small in scale, containing only four units, and as such it is considered that the demand for communal open space is low.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Deep Soil Zone (% of site area)
Less than 650sqm	7% (22.9sqm)

Comment:

The development does not comply with the ADG requirement with respect to this matter, as no deep soil zones are proposed. Notwithstanding, this outcome is considered satisfactory in this instance given the following:

- The site is located within an E1 Local Centre zone and is suited to nil setback to the rear and side boundaries, with vehicle access/loading at ground level at the rear. As such, given the site context and desired built form, no deep soil zone is considered acceptable in this instance.
- A landscape plan has been prepared and demonstrates a suitable planting outcome for the on-structure areas; and
- Subject to conditions, the proposal will effectively manage stormwater.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Room Types	Minimum Separation
<i>Up to 12 metres (4 storeys)</i>	
Habitable rooms and balconies	6m
Non-habitable rooms	3m

Comment:

Side setbacks – eastern and western boundaries

The development proposes a nil side setback along the entirety of the eastern and western side elevations, shared with no. 189 Enmore Road and no. 185 Enmore Road, respectively. As such, the proposal does not comply with the minimum separation distances prescribed by this Part of the ADG. The proposed development is considered to generally satisfy the relevant objectives of the ADG, and is considered acceptable for the following reasons:

- The proposal is within a commercial setting and the ADG outlines when considering building separation that *‘No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres’*.
- The proposed nil boundary setbacks are appropriately located to be consistent with the current developments and future re-development.
- The proposed side setbacks are consistent with the established setback character of the streetscape, and the resultant development allows for adequate internal amenity for future occupants, while creating minimal unreasonable amenity impacts to neighbouring sites.

Rear setback

The development proposes a 300mm rear setback on the ground floor to the northern boundary adjoining Cambridge Lane, a nil rear setback on the first floor, a 250mm setback on the second floor, and a 3.8m setback on the third floor. As such, the proposal does not comply with the minimum separation distances prescribed by this Part of the ADG.

Notwithstanding, the proposed development is considered to generally satisfy the relevant objectives of the ADG, and is considered acceptable for the following reasons:

- The proposed ground floor boundary setback is appropriately located to be consistent with the developments along this portion of Cambridge Lane. In this regard, Cambridge Lane is characterised with single and multi-storey structures at the rear.
- The rear boundary of the site adjoins the R2 Low Density Residential zone. While the proposal does not comply with the minimum separation requirements, Cambridge Lane separates the two zones/properties, and is 6m in width; as such the proposed building separation is considered sufficient to protect visual privacy and mitigate adverse amenity impacts. Further, sight lines gained from the rear of the proposed development are over the roof of the property opposite, so views are unlikely to result in amenity impacts.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment:

The development complies with the above requirement, as the terraces and rear sliding doors of all units receive a minimum of 2 hours direct sunlight between 9am-3pm on June 21.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment:

The development complies with the above requirements, as 75% of units, being three units, provide for natural cross ventilation.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7m
Non-Habitable	2.4m

Comment:

A minimum of 2.7 metres floor to ceiling heights are proposed for all levels containing units.

Apartment Size and Layout

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio	35sqm
1 bedroom	50sqm

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.

In addition to the above, the ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining, and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of 4 metres for 2 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment:

The proposal satisfies the requirements of this part with respect to room dimensions and access to light and air in addition to complying with dwelling sizes as shown in the table below:

Apartment Type	Minimum Internal Area	Proposed Internal Area
Studio	35sqm	48.3sqm (unit 101) 44.2sqm (unit 102)
1 Bedroom	50sqm	50.2sqm (unit 201) 50sqm (unit 202)

All apartments meet the minimum requirements prescribed in the ADG.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4sqm	-
1 bedroom apartments	8sqm	2m

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metre.

Comment:

The proposal complies with the above requirements, as demonstrated below:

Dwelling Type	Proposed Area	Proposed Depth
Studio apartments	15.7sqm (unit 101)	2.1m
	13sqm (unit 102)	2.1m
1 bedroom apartments	9.6sqm (unit 201)	2.5m
	9.8sqm (unit 202)	2.5m

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio	4m ³
1 bedroom apartments	6m ³

Note: At least 50% of the required storage is to be located within the apartment.

Comment:

The development complies with the above requirement.

SEPP (Sustainable Buildings) 2022

The applicant has included a BASIX Certificate as part of the lodgment of the application (lodged within 3 months of the date of the lodgment of this application) in compliance with the *EPA Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development with frontage to classified road

In considering Section 2.119(2) of the *Transport and Infrastructure SEPP*:

The site has a frontage to Enmore Road. Vehicular access to the land is provided by Cambridge Lane and this is considered practical and safe. The design will not adversely impact the safety, efficiency, and ongoing operation of the classified road.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> • The proposal conserves and maintains the natural, built and cultural heritage of Inner West, • The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes, • The proposal facilitates economic growth and employment opportunities within Inner West, • The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents, • The proposal creates a high quality urban place through the application of design excellence in all elements of the built environment and public domain, • The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West, 	Yes

Section	Proposed	Compliance
	<ul style="list-style-type: none"> The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts 	

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table E1 – Local Centre	The proposal satisfies this section as follows: <ul style="list-style-type: none"> The property is zoned E1 Local Centre under the provisions of <i>IWLEP 2022</i>. The application proposes alterations and additions to an existing commercial premises and the construction of a new shop top housing development, which are permissible with consent under the zoning provisions applying to the land; and The proposal is consistent with the relevant objectives of the zone, as it will enable residential development that contributes to a vibrant and active local centre and is consistent with Council’s strategic planning for residential development in the area. Further, the proposal enhances the unique sense of place offered by the local centre, through ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality. 	Yes
Section 2.7 Demolition requires development consent	The proposal satisfies the section as follows: <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	14m	Yes
	Proposed	13.95m	
Section 4.4 Floor space ratio	Maximum	1.5:1 or 490.35sqm	No, but acceptable
	Proposed	1.54:1 or 503.2sqm	
	Variation	12.8sqm or 2.6%	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4 Floor Space Ratio.		See discussion below

Section 4.6 – Exceptions to Development Standards

Section 4.4 Floor Space Ratio development standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022* by 12.8sqm or 2.6%. Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below. A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed contravention to FSR allows for the development to better align with the envisioned building density and scale for the locality...compatible with surrounding developments within the visual catchment of the subject site.*
- *The contravention allows for a consistent built form with other mixed-use development when viewed from Cambridge Lane.*
- *The proposed development has been designed according to the building envelope and height controls for the site. The proposed development is surrounded by buildings of similar height and scale –presenting as two or three storeys to Cambridge Lane.*
- *The minor contravention of FSR will not result in unreasonable amenity impacts to the surrounding properties, is concealed within the building density controls for the site, and conforms with the site use envisaged within the strategic context desired future character...*
- *The proposed contravention to FSR does not impact the landscape setting of the existing development or surrounding properties...*
- *The development increases the range of apartments in the local area, contributing to the variety of residential accommodation within an accessible area.*
- *The proposal retains the approved commercial component at the ground floor fronting Enmore Road, with this space of a sufficient size to accommodate commercial land uses that would contribute to an active street frontage.*

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4(1)(a)** is “*to establish a maximum floor space ratio to enable appropriate development density*”. The written request states that the proposed contravention allows for a development that is better aligned with the desired future character of the precinct, and the resultant form is compatible with surrounding developments. Accordingly, the breach is considered consistent with the first objective, as the proposed numerical contravention is minor, and the resultant development reflects a compatible development density for the site and along the street.

The **second objective of Section 4.4(1)(b)** is “*to ensure development density reflects its locality*”. The written request states that the proposed contravention will not impact the intended planning outcome for the locality, the resultant form is suitable for the subject site and the development is consistent with the desired future character of the area. In considering this, the proposed breach is considered to be consistent with the second objective, as the development remains consistent with the density of the locality, the proposed bulk and scale is consistent with the desired future character of the King Street and Enmore Road commercial precinct.

The **third objective of Section 4.4(1)(c)** is “*to provide an appropriate transition between development of different densities*”. The written request states that the development has been designed according to the building envelope and height controls for the site. Further, the proposed development is surrounded by buildings of a similar height and scale. In considering this, the breach is considered to be consistent with the third objective, as the resultant development is compatible with the surrounding context and does not result in undue amenity impacts to neighbouring sites. Further, the development will not be highly visible from Enmore Road, and the recessed levels at the rear of the site will present an appropriate density to Cambridge Lane.

The **fourth objective of Section 4.4(1)(d)** is “*to minimise adverse impacts on local amenity*”. The written request states that the development has been designed to improve local amenity by providing a variety of housing options located close to public transport nodes. Additionally, the written request states that the contravention to the development standard will not result in unreasonable amenity impacts to surrounding properties, given its recessed design towards Cambridge Lane. Accordingly, the proposed contravention is considered to satisfy this objective, as the proposal is unlikely to result in undue local amenity impacts, as discussed elsewhere in this report. Furthermore, it is noted that the breach is relatively minor (12.8sqm).

The **fifth objective of Section 4.4(1)(e)** is “*to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*”. The written request states that the existing site has no tree canopy, and that the contravention to the development standard does not impact the landscape setting of the existing development or surrounding properties. In considering this, it is noted that given the existing site constraints (i.e., lot size and nil side boundaries) and its location in a business centre, the site is unable to increase the tree canopy. However, a landscape plan was provided with the application, and it is considered that the FSR breach will not impact the use and enjoyment of private properties and the public domain.

Given the above, as the proposal achieves the objectives of the Floor Space Ratio development standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances four environmental planning grounds to justify contravening the Floor Space Ratio development standard. Each will be dealt with in turn:

Environmental Planning Ground 1 – *The proposed contravention allows for a built form that is sympathetic and consistent with the intention of planning controls applicable to the site.*

This environmental planning ground is accepted because, as discussed elsewhere in this report, the breach is minor (12.8sqm or 2.6%) is consistent with the desired future character of the King Street and Enmore Road precinct, and the resultant form is consistent with the objectives and requirements of the Apartment Design Guideline and the MDCP 2011.

Environmental Planning Ground 2 – *The provision of residential accommodation on the site will contribute to improved housing choice and affordability.*

This environmental planning ground is accepted as the application proposes shop-top housing, which is a permissible use within the E1 Local Centre zone, provides providing additional housing and thereby choice, and promotes good design and amenity on the site, which is consistent with the desired future character of the area.

Environmental Planning Ground 3 – *The proposed increase in density is acceptable, as the development will not result in adverse impacts upon adjoining properties.*

This environmental planning ground is accepted as, as discussed elsewhere in this report, the development has an acceptable bulk and scale, has attempted to reduce the scale given the recessed rear setbacks proposed, and will not result in adverse visual bulk, privacy or overshadowing impacts to the surrounding context.

Environmental Planning Ground 4 – *The proposed development meets the relevant aims of the IWLEP 2022.*

This environmental planning ground is accepted because, as discussed elsewhere in this report, the proposed development is considered to encourage diversity in housing to meet the needs of, and enhance the amenity for, Inner West residents, while conserving and maintaining the built and cultural heritage of the area.

Cumulatively, the above environmental planning grounds are considered sufficient to justify contravening the development standard.

Whether the proposed development meets the objectives of the development standard, and of the zone

The objectives of the E1 Local Centre zone under the *IWLEP 2022* are:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide employment opportunities and services in locations accessible by active transport.*
- *To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.*
- *To ensure Inner West local centres are the primary location for commercial and retail activities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

It is accepted as per the Applicant's submissions in the written request that the relevant objectives of the E1 Local Centre zone are met. The variation will maintain employment opportunities within the area, as the front of the site will be retained as commercial thereby

retaining the existing cultural heritage of the front façade of the site given the location of the additions.

As indicated above, Council is also satisfied that the development meets the objectives of the Floor Space Ratio development standard. As the proposal is consistent with both the objectives of the zone and the standard, it is considered in the public interest.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General in accordance with section 4.6(4)(b) of the *IWLEP 2022*.

For the reasons outlined above, it is recommended the section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is a contributory building within the King Street and Enmore Road Heritage Conservation Area (HCA).</p> <p>Concern was initially raised regarding the proposed colours and materials palette, specifically the use of dark colours.</p> <p>The proposal, as amended, achieves the objectives of this section as follows:</p> <ul style="list-style-type: none"> • An amended colour palette has been provided, with lighter, warm tones proposed. • The development has been designed to respond to the significance of the conservation area and preserve contributory elements and fabric of the existing building • The additions are not visible from the Enmore Road frontage thereby maintaining the significance of the HCA whilst still providing contemporary additions to the rear of the site <p>Given the above the proposal preserves the environmental heritage of the Inner West</p>	Yes

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.2 Earthworks	<ul style="list-style-type: none"> • The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability. 	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> • The development maximises the use of permeable surfaces and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment. 	Yes, subject to conditions

Section	Proposed	Compliance
Section 6.7 Airspace operations	<ul style="list-style-type: none"> • The application was referred to the Sydney Airport Corporation as the site is located 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 without prior approval. • The development proposes a height of 49.5m AHD. • In this instance, no objection has been raised, subject to recommended conditions ensuring the protection of the airspace. Those conditions are included the recommendation of the report. 	Yes, subject to conditions
Section 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> • The site is located within the ANEF 20-25 contour, and as such an Acoustic Report was submitted with the application. The proposal is capable of satisfying this section as conditions have been included in the recommended conditions of consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.8 of the <i>IWLEP 2022</i>. 	Yes, subject to conditions
6.32 Special entertainment precinct	<ul style="list-style-type: none"> • The site is located within the Enmore Road Special Entertainment Precinct. • The proposal does not seek to alter the existing commercial premise at the front of the site, as such, the proposal will not impact the Entertainment Precinct. 	Yes

B. Development Control Plans

Summary

The application has been assessed and the following provides a summary of the relevant provisions of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	No – see discussion
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	No – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 5 – Commercial and Mixed Use Development	No – see discussion
Part 8 – Heritage	Yes
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.1 Urban Design	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal provides for an appropriate level of density relative to the development standards prescribed for the site and the desired future character of the zone; • The proposal provides for an urban form that clearly defines public and private spaces, and that are appropriate for the function of the locality; • The proposed built form, materiality and design of the building recognises and enhances the character of the commercial precinct; and • The proposal will enhance the character of the area, given the proposals massing, materiality and existing activation on the front façade. 	Yes
Part 2.6 Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds as follows:</p> <ul style="list-style-type: none"> • The proposed development is considered to provide an acceptable level of visual and acoustic privacy to future occupants and adjoining properties, given the location of balconies towards the rear, and as no windows are proposed along the side elevations; and • No change, except the demolition of a first-floor window at the rear, is proposed to the existing commercial building. • As noted previously, any views obtained from balconies fronting the lane would be over the roof of the neighbouring property to the north as such posing no privacy impacts; • As such, the proposal is considered to satisfy the relevant objectives and controls contained within this Part. 	Yes

Control	Assessment	Compliance
Part 2.7 Solar Access and Overshadowing	The proposal does not comply with the requirements of this Part; however, the additional overshadowing is considered acceptable, as discussed below.	No, but acceptable
Part 2.9 Community Safety	<p>The proposal satisfies the relevant provisions of this Part as:</p> <ul style="list-style-type: none"> • The proposal has been designed having regard to CPTED principles; • The proposed development has been designed to allow passive surveillance of the laneway; • The main pedestrian entrance to the building is recognisable and has been appropriately designed; • A condition of consent requiring the entrance to the building at the rear be well lit, and to comply with relevant Australian Standards to avoid excessive light spillage has been included in the recommendation. 	Yes, subject to conditions
Part 2.10 Parking	<p>The proposal satisfies the relevant provisions of this Part as:</p> <ul style="list-style-type: none"> • A total of four (4) car parking spaces [one residential, three commercial] and four (4) bicycle spaces [two residential, two commercial] are required to be provided on the site, in accordance with the requirements of this Part and the ADG. • The existing site has three (3) car parking spaces and one (1) commercial loading zone at the ground level, with access from Cambridge Lane. • Three (3) bicycle parking spaces are proposed on the ground level, and one (1) space is provided on Level 01, which is thus compliant with the requirements. • The proposal seeks to convert one of the commercial car parking spaces for residential use, so that there will be 2 commercial spaces, 1 commercial loading space and 1 residential car parking space. As such, there is a shortfall of 1 commercial car parking space. • The shortfall is considered acceptable in this instance, given the close proximity to various transport nodes, and existing site constraints (i.e., the size of the lot and existing built form). • Given the above, and subject to relevant conditions ensuring the car parking spaces and vehicle crossover comply with the relevant Australian Standards, the proposal will comply with the requirements of this Part. • The proposal is considered to satisfy the following objectives of this Part: <ul style="list-style-type: none"> <i>O4 The parking provided on the site is compatible with the development proposed;</i> <i>O6 The proposal provides sufficient bicycle parking within the site, and the bike racks are well designed and located; and</i> <i>O7 The car parking facilities provided are safe, functional and, subject to conditions, will comply with Council's and the Australian Standards.</i> 	No, but acceptable

Control	Assessment	Compliance
Part 2.16 – Energy Efficiency	The proposed development satisfies the relevant provisions of this Part as follows: <ul style="list-style-type: none"> • A BASIX Certificate was submitted for proposal. • Compliance with Section J of the NCC will be achieved at the Construction Certificate stage. 	Yes
Part 2.21 Site Facilities and Waste Management	The proposed development satisfies the relevant provisions of this Part as follows: <ul style="list-style-type: none"> • The application was accompanied by a waste management plan in accordance with the Part; and • Conditions are recommended to ensure the appropriate management of waste during the construction of the proposal; • Sufficiently sized and appropriately designed areas for waste storage have been provided for both the residential and commercial components of the development, which are easily accessible on the ground floor; • Conditions have been recommended by Council's Resource Recovery team ensuring the adequate ongoing management of waste occurs; and • Suitable areas are provided within the proposed balconies to allow for the provision of clothes drying facilities. 	Yes, subject to condition
Part 2.25 Stormwater Management	Conditions are recommended to ensure the appropriate management of stormwater.	Yes, subject to conditions

i) 2.7 Solar Access and Overshadowing

Part 2.7 of MDCP 2011 contains objectives and controls relating to solar access and overshadowing.

Overshadowing

Shadow diagrams in plan form and sun eye diagrams for 21 June were submitted to demonstrate the proposal's impact on the surrounds.

The site has a generally north-south orientation and is adjoined directly to the west by no. 189 Enmore Road. Given the orientation of the subject site, and location of the affected property relative to the development, the proposal will result in some overshadowing to the private open space, bedroom and living area windows. The neighbouring site does not currently receive compliant solar access to the rear yard, or to the living area door.

Where a development proposal results in a decrease in sunlight available on 21 June resulting in less than two hours of solar access for the adjoining property, the proposal may be considered on its merit with regard to the criteria of points a to d in Control 2 contained in Part 2.7 of MDCP 2011. The planning principle regarding access to sunlight as developed in the case law *Benevolent Society v Waverley Council [2010] NSWLEC 1082* is also used as a tool to interpret the following control.

C2(ii) of Part 2.7.3 of MDCP 2011 states:

If the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:

- a. *The development potential of the site;*

The development potential of the site prescribed by the development standards under the *IWLEP 2022* is a maximum 14 metre height limit and 1.5:1 FSR. In addition, the subject site is zoned E1 Local Centre under *IWLEP 2022*, which permits mainly higher density development.

The following is noted with respect to this matter:

- The development complies with the 14m height development standard under the *IWLEP 2022*, as a maximum height of 13.95m is proposed;
- The proposes a minor noncompliance to the FSR development standard of 2.13%, however, as discussed elsewhere in this report, this is considered acceptable in this instance;
- The proposed development provides shop top housing, which is permissible within the site's E1 Local Centre zone under *IWLEP 2022*;
- As discussed elsewhere in this report, the proposed built form is considered acceptable and in accordance with the desired future character; and
- The proposed internal floor to ceiling heights comply with the minimum requirements of the ADG.

Based on the above, it is considered the development is within its development potential and has not maximised or exceeded its potential.

- b. The particular circumstances of the neighbouring site(s), for example, the proximity of any residential accommodation to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;*

With respect to the above, the following circumstances of no. 189 are noted:

- The property at no. 189 Enmore Road is considered underdeveloped given the development potential prescribed by the development standards under *IWLEP 2022*. The existing built form on the site is a modest two-storey shop top housing form, with a garage structure at the rear of the site. It is thus reasonable to anticipate that this site will likely be redeveloped in the future;
- The private open space at the rear of the neighbouring site currently only receives partial solar access (less than 50% of the POS area) from 11am-1pm. The first floor living room door (facing north) does not currently receive the level of solar access prescribed by MDCP 2011 and will have some overshadowing by the proposed development at 12pm. A bedroom window along the eastern boundary will be overshadowed entirely, however, a north facing bedroom window will receive compliant solar access. It is noted that bedroom windows are not protected under the controls.
- The impacted door servicing the first-floor principal living area is located within relatively close proximity of the boundary (approximately 300mm), which in this case, makes compliance or near compliance more difficult (see Figure 4 below); and
- The property at no. 189 Enmore Road is sited towards the northern boundary and as a result overshadows itself including other openings which service the principal living area.

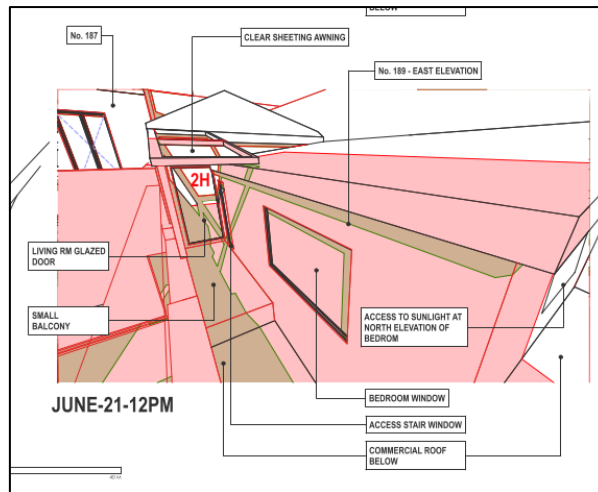


Figure 4: 3D diagram of the neighbouring site (no. 185 Enmore Road) showing the location of windows and doors.

c. Any exceptional circumstances of the subject site such as heritage, built form or topography; and

The following is noted with respect to this matter:

- The overshadowing proposed is a product of the transition period between the older building stock, and the envisioned density under *IWLEP 2022*. As such, the solar access retained is acceptable having regard to this context.

d. Whether the sunlight available in March to September is significantly reduced, such that it impacts upon the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March/September period must be submitted.

Shadow diagrams for the equinox period were not submitted to demonstrate the development’s impact during this time. However, it is acknowledged that an increased level of solar access would likely be achieved during this time but is unlikely to have achieved compliance with the relevant controls.

In assessment of the above and solar access principles, it is considered that the impacts are reasonable and that the proposal satisfies the objectives of Part 2.7 of MDCP 2011.

Part 5 – Commercial and Mixed Use Development

Control	Assessment	Compliance
Part 5.1.3 Building Form	<p>The proposed development does not comply with some controls of this part, however, is considered acceptable as follows:</p> <ul style="list-style-type: none"> The application proposes a no-ncompliance to the FSR development standard, as discussed elsewhere. The variance is considered acceptable as the proposed bulk and scale of the development is consistent with the desired future character of the precinct and does not result in unreasonable amenity impacts to neighbouring sites. 	No, but acceptable

Control	Assessment	Compliance
	<ul style="list-style-type: none"> The proposed rear massing of the development is contained within the combination of a 45 degree sloping plane from a point 7.5m vertically above the lane ground level, in accordance with C13. No roof-top level massing is proposed; The proposal complies with the relevant front setback requirements, and results in a development that will not be highly visible from Enmore Road; Given the above, the proposal satisfies the following objectives of this part: <i>O1 The density of the development is compatible with the future desired character of the commercial centre; and</i> <i>O2 The density of the development is appropriate to the contextual constraints of the site.</i> 	
Part 5.1.4 Building detail	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The proposal retains the contributory building at the front of the site; and The proposed development complements the surrounding buildings and predominant streetscape and townscape character 	Yes
Part 5.1.5 Building Use	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The development proposes a mix of dwelling types on the site which are compatible with the character of the commercial centre and location. 	Yes
Part 5.1.6 Vehicle access, parking, loading and services	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The development proposes vehicular access at the rear of the site and will not diminish active street frontage; Building services have been accommodated at the rear of the ground floor to minimise the visual impact to the streetscape; and Conditions of consent ensuring the parking facilities comply with the relevant Australian Standards have been imposed to protect public safety and ensure the design is efficient in the design and operation of off-street car parking, and loading. 	Yes

Part 8 – Heritage

Control	Assessment	Compliance
Part 8.3.2.3 Building setbacks	<ul style="list-style-type: none"> The development maintains existing building front and side setbacks. Car parking access is provided from the rear lane. 	Yes
Part 8.3.2.4 Building heights	<ul style="list-style-type: none"> The proposed additions at the rear of the contributory building are setback 19m from the frontage, are compliant with the building height requirements under <i>IWLEP 2022</i> and will not overwhelm the existing built form. 	Yes

Part 8.3.2.5 Building form	<ul style="list-style-type: none"> The proposed additions to the dwelling are not highly visible from the main street frontage and is consistent with the overall form and massing of the building. 	Yes
Part 8.3.2.6 Roof form	<ul style="list-style-type: none"> The development maintains the existing roof form to the front elevation and for the length of the main roof to the side elevations. The development maintains existing chimneys. 	Yes
Part 8.3.2.7 Building facades	<ul style="list-style-type: none"> The façade of the contributory building is unchanged by the development and is retained. 	Yes
Part 8.3.2.9 Windows and doors	<ul style="list-style-type: none"> The new windows to the rear of the property have limited visibility from the primary road and are of proportions appropriate the conservation area and dwelling. 	Yes
Part 8.3.2.10 Façade materials	<ul style="list-style-type: none"> The original materials to the front portion of the dwelling are maintained. The new additions to the rear, as amended, exhibit materials that are compatible with the conservation area. 	Yes
Part 8.3.2.13 Car parking	<ul style="list-style-type: none"> The development provides driveway access from the rear lane and does not result in any car parking structure to the street frontage. 	Yes

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.37 King Street and Enmore Road (Commercial Precinct 37)	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The proposal protects the existing contributory dwelling on the site, as no alterations are proposed to the front façade or the roof form; and The proposed development demonstrates good urban design and provides sufficient amenity for future occupants. 	Yes

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential and commercial surrounding and amongst similar uses to that proposed.

E. Submissions

The application was required to be notified in accordance with Council’s Community Engagement Strategy between 29 November 2023 to 20 December 2023.

One (1) submission was received during the notification, in support of the application.

F. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of **\$77,842.00** would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of **\$41,073.24** would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP and A Act 1979*. A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Development Engineer;
- Resource Recovery;
- Environmental Health; and
- Building Certification.

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Sydney Airport Corporation; and
- Ausgrid;

Comment: No objections were raised from either external referral bodies, subject to the imposition of conditions which are included in the recommendation.

9. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

10. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Floor Space Ratio development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0945 for partial demolition of existing structures and alterations and additions to an existing commercial building to create a 4 storey mixed use shop top housing development including 4 residential apartments at 187 Enmore Road, Enmore subject to the conditions listed in Attachment A below:

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

Condition													
1.	<p align="center">Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>												
	<p align="center">Separation of Commercial and Residential Waste and Recycling</p> <p>The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected</p>												
3.	<p align="center">Bin Storage - Residential and Commercial</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>												
	<p align="center">Noise – Consultant’s Recommendations</p> <p>The recommendations contained in the acoustic report prepared by Koikos Acoustics reference 4582R20210219tb187EnmoreRdEnmore_DAv3 dated 22.2.24 must be implemented.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>												
5.	<p align="center">Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p>												
	<table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th> <th>Plan Name</th> <th>Date Issued/Received</th> <th>Prepared by</th> </tr> </thead> <tbody> <tr> <td>DA203, Issue D1</td> <td>Demolition Floor Plan: Ground</td> <td>21/02/2024</td> <td>Vourtzoumis Architects</td> </tr> <tr> <td>DA204, Issue D1</td> <td>Demolition Floor Plan: First Floor</td> <td>21/02/2024</td> <td>Vourtzoumis Architects</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	DA203, Issue D1	Demolition Floor Plan: Ground	21/02/2024	Vourtzoumis Architects	DA204, Issue D1	Demolition Floor Plan: First Floor	21/02/2024	Vourtzoumis Architects
	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by									
DA203, Issue D1	Demolition Floor Plan: Ground	21/02/2024	Vourtzoumis Architects										
DA204, Issue D1	Demolition Floor Plan: First Floor	21/02/2024	Vourtzoumis Architects										

DA211, Issue D1	Proposed Floor Plan: Level 01	21/02/2024	Vourtzoumis Architects
DA212, Issue D1	Proposed Floor Plan: Level 02	21/02/2024	Vourtzoumis Architects
DA213, Issue D1	Proposed Floor Plan: Level 03	21/02/2024	Vourtzoumis Architects
DA214, Issue D1	Proposed Floor Plan: Roof	21/02/2024	Vourtzoumis Architects
DA215, Issue D1	Proposed Floor Plan: Ground	21/02/2024	Vourtzoumis Architects
DA300, Issue D1	Street Elevations	21/02/2024	Vourtzoumis Architects
DA301, Issue D1	Site Elevations	21/02/2024	Vourtzoumis Architects
DA311, Issue D1	South (Enmore Road) Elevation	21/02/2024	Vourtzoumis Architects
DA312, Issue D1	West Elevation	21/02/2024	Vourtzoumis Architects
DA313, Issue D1	North Elevation	21/02/2024	Vourtzoumis Architects
DA314, Issue D1	East Elevation	21/02/2024	Vourtzoumis Architects
DA401, Issue D1	Long Section: Site	21/02/2024	Vourtzoumis Architects
DA411, Issue D1	Cross Section	21/02/2024	Vourtzoumis Architects
DA412, Issue D1	Cross Section	21/02/2024	Vourtzoumis Architects
DA413, Issue D1	Long Section	21/02/2024	Vourtzoumis Architects
DA414, Issue D1	Long Section	21/02/2024	Vourtzoumis Architects
DA415, Issue D1	Long Section	21/02/2024	Vourtzoumis Architects
DA416, Issue D1	Long Section	21/02/2024	Vourtzoumis Architects
4582R20210219tb187EnmoreRdEnmore_DAv3	Acoustical Report	22/02/2024	Koikas Acoustic
1424442M	BASIX Certificate	27/09/2023	Eco Certificates Pty Ltd

	HR-WUGCGK-01	NatHERS Certificate	27/09/2023	Eco Certificates Pty Ltd
	211436, Issue 0, Sheets 1-7	Stormwater Management Plan	August 2021	C.K. Engineering Services
	Not stated	Access Report	2/08/2023	Design Right Consulting
	93357PC	Structural Certificate	24/10/2023	Rafzan Consulting Engineers
As amended by the conditions of consent. Reason: To ensure development is carried out in accordance with the approved documents.				
6.	Residential Flat Buildings – Hot Water Systems			
	Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street. Reason: To protect the visual amenity of the neighbourhood.			
7.	Residential Flat Buildings – Air Conditioning Systems			
	Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street. Reason: To protect the visual amenity of the neighbourhood.			
8.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands. Reason: To ensure works are in accordance with the consent.			
9.	Asbestos Removal			
	Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority. Reason: To ensure compliance with the relevant environmental legislation.			
10.	Approved Height Authorisation			
	The site 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 erection of the development must not exceed 49.5 metres AHD. The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc. 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.			

	<p>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.</p> <p>Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by Sydney Airport prior to any approval is set out in "Application for Approval of Crane Operation [Sections s.182, 183, Airports Act 1996] [Airports (Protection of Airspace) Regulations 1996 – Reg 7]" "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)).</p> <p>The height of the prescribed airspace at this location is 51 metres above AHD.</p> <p>Reason: To protect airspace around airports.</p>
11.	<p style="text-align: center;">Car Parking</p> <p>The development must provide and maintain within the site:</p> <p>Two (2) commercial car parking spaces must be paved and line marked; One (1) residential car parking space must be paved and line marked; Four (4) Bicycle storage capacity within the site; and One (1) Loading docks/bays.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
12.	<p>Security Deposit - Custom</p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" style="margin-left: 20px;"> <tr> <td>Security Deposit:</td> <td>\$15950.00</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$374.50</td> </tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed</p>	Security Deposit:	\$15950.00	Inspection Fee:	\$374.50
Security Deposit:	\$15950.00				
Inspection Fee:	\$374.50				

	<p>satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p> <p>Reason: To ensure required security deposits are paid.</p>
<p>13.</p>	<p>Stormwater Drainage System – Minor Developments (OSD is not required)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ol style="list-style-type: none"> a. The design must generally be in accordance with the Stormwater Drainage Concept plan on Drawing No. 211436/2-6 Issue0 Version1 prepared by C.K. ENGINEERING SERVICES and dated 09/11/2023, as amended to comply with the following; b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road; c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP; d. Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm. The major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm; e. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage; f. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes; g. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands; h. No nuisance or concentration of flows to other properties; i. The design plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required; j. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets; k. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings; and l. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated. <p>Reason: To ensure adequate disposal of stormwater.</p>

<p>14.</p>	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the <i>Roads Act 1993</i> incorporating the following requirements:</p> <ul style="list-style-type: none"> a. The public domain along the Cambridge Lane frontage of the site must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme; b. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site; c. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer; and d. Installation of a stormwater outlet to the kerb and gutter. <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
<p>15.</p>	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected</p>
<p>16.</p>	<p>Bin Storage Area - Residential</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area to be provided within the site will fully accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.</p> <p>The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
<p>17.</p>	<p>Bulky Waste Storage Area – Residential</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area will meet the floor area requirements as per the Marrickville DCP 2011 and have minimum doorways of 1200mm wide to accommodate large items.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>

18.	<p>Waste Transfer Route</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point will have a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, free of steps or obstructions and at no point have a gradient exceeding 1:14.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
19.	<p>Long Service Levy</p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
20.	<p>Party Walls</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported. A copy of the Certificate & plans must be provided to all owners of the party wall/s.</p> <p>Reason: To ensure the structural adequacy of the works and to ensure works do not rely on the party wall for vertical or lateral support.</p>
21.	<p>Structural Certificate for retained elements of the building</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
22.	<p>Sydney Water – Tap In</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.</p> <p>Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>

23.	<p>Acoustic Report – Aircraft Noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>														
24.	<p>Fibre-ready Facilities</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:</p> <p>The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.</p> <p>The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>														
25.	<p>Concealment of Plumbing and Ductwork</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.</p> <p>Reason: To protect the visual amenity of the neighbourhood.</p>														
26.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="371 1227 1177 1417"> <thead> <tr> <th>Contribution Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td> <td>\$55,657.00</td> </tr> <tr> <td>Community Facilities</td> <td>\$10,316.00</td> </tr> <tr> <td>Transport</td> <td>\$7,317.00</td> </tr> <tr> <td>Plan Administration</td> <td>\$715.00</td> </tr> <tr> <td>Drainage</td> <td>\$3,837.00</td> </tr> <tr> <td>TOTAL</td> <td>\$77,842.00</td> </tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> <p>$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$</p> <p>Where:</p> <p>$C_{\text{payment}}$ = is the contribution at time of payment</p>	Contribution Category	Amount	Open Space & Recreation	\$55,657.00	Community Facilities	\$10,316.00	Transport	\$7,317.00	Plan Administration	\$715.00	Drainage	\$3,837.00	TOTAL	\$77,842.00
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	<p>Cconsent = is the contribution at the time of consent, as shown above</p> <p>CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 136.4 for the Dec-23 quarter.</p> <p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>						
<p>27.</p>	<p>Housing and Productivity Contribution</p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b.), is required to be made:</p> <table border="1" data-bbox="427 1323 1294 1406"> <thead> <tr> <th>Housing and productivity contribution</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td> <td>\$10,268.31 x 4 units</td> </tr> <tr> <td>Total housing and productivity contribution</td> <td>\$41,073.24</td> </tr> </tbody> </table> <p>b. The amount payable at the time of payment is the amount shown in condition 1 as the total housing and productivity contribution adjusted by multiplying it by:</p> <p style="text-align: center;"><i>Highest PPI number</i></p> <p style="text-align: center;"><i>Consent PPI number</i></p>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$10,268.31 x 4 units	Total housing and productivity contribution	\$41,073.24
Housing and productivity contribution	Amount						
Housing and productivity contribution (base component)	\$10,268.31 x 4 units						
Total housing and productivity contribution	\$41,073.24						

	<p>Where:</p> <p><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p><i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p>c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Development</th> <th style="text-align: left;">Time by which HPC must be paid</th> </tr> </thead> <tbody> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td> <td>Before the issue of the first subdivision certificate</td> </tr> <tr> <td>High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td> <td>Before the issue of the first strata certificate</td> </tr> <tr> <td>Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building</td> <td>Before the issue of the first strata certificate</td> </tr> <tr> <td>Manufactured home estate for which no construction certificate is required</td> <td>Before the installation of the first manufactured home</td> </tr> </tbody> </table> <p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> (a) the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, (b) the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p>	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home
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Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home										

	<p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>
28.	<p>Light Spill</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:2019: Control of Obtrusive Effects of Outdoor Lighting.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
29.	<p>Enclosure of Fire Hydrant</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.</p> <p>Reason: To ensure the development maintains adequate fire safety.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
30.	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
31.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
32.	<p>Standard Street Tree Protection</p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>

33.	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (no. 189 Enmore Road & no. 185 Enmore Road) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
34.	<p>Construction Fencing</p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>
35.	<p>Verification of Levels and Location</p> <p>Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

DURING BUILDING WORK

	Condition
36.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
37.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.</p>

	<p>In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.</p> <p>This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works. "Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
38.	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
39.	<p>Documentation of Demolition and Construction Waste</p> <p>All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
40.	<p>Public Domain Works</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the <i>Roads Act 1993</i> including:</p> <ul style="list-style-type: none"> a. Heavy duty concrete vehicle crossing(s) at the vehicular access location(s); b. The existing concrete footpath across the frontage of the site must be reconstructed; and c. Other works subject to the <i>Roads Act 1993</i> approval. <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To confirm the public domain works once constructed are in accordance with the consent and the approved plans.</p>

41.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
42.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.</p> <p>Reason: To ensure the protection of any stone kerb.</p>
43.	<p>Whiteway Lighting - Existing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the Whiteway lighting scheme and any existing meter box being maintained and any defects (including the need to install a "special small service") in the system are repaired.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
44.	<p>Parking Signoff – Minor Developments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
45.	<p>Aircraft Noise –Alterations and Additions</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.</p>

	<p>Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
46.	<p>Smoke Alarms - Certification of upgrade to NCC requirements</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.</p> <p>Reason: To ensure compliance with the National Construction Code (Building Code of Australia).</p>
47.	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>
48.	<p>Section 73 Certificate</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the Sydney Water Act 1994.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>

OCCUPATION AND ONGOING USE

Condition	
49.	<p>Noise General</p> <p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the <i>Protection of the Environment Operations Act 1997</i> and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
50.	<p>Ausgrid assets</p> <p>Ausgrid Overhead Powerlines are in the vicinity of the development</p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.</p>

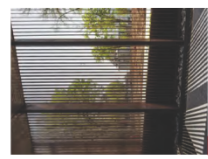
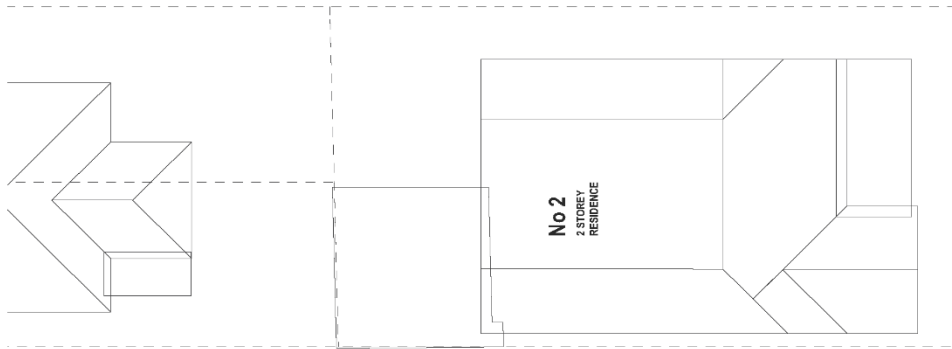
	<p>Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.</p> <p>The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.</p> <p>It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.</p> <p>Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries</p> <p>Reason: To protect Ausgrid assets.</p>
51.	<p>Loading/unloading on site</p> <p>All loading and unloading are to be conducted within the site at all times.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

	Condition
52.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the <i>Roads Act 1993</i> to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>

<p>53.</p>	<p>Construction Traffic Management Plan</p> <p>Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained.</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
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DA DOCUMENTATION - NOT FOR CONSTRUCTION
PROPOSED DESIGN FLOOR
PLAN - LEVEL 02
 VOICIC
 VOICIC ARCHITECTS
 2050: DA115: D1
 17/12/2024

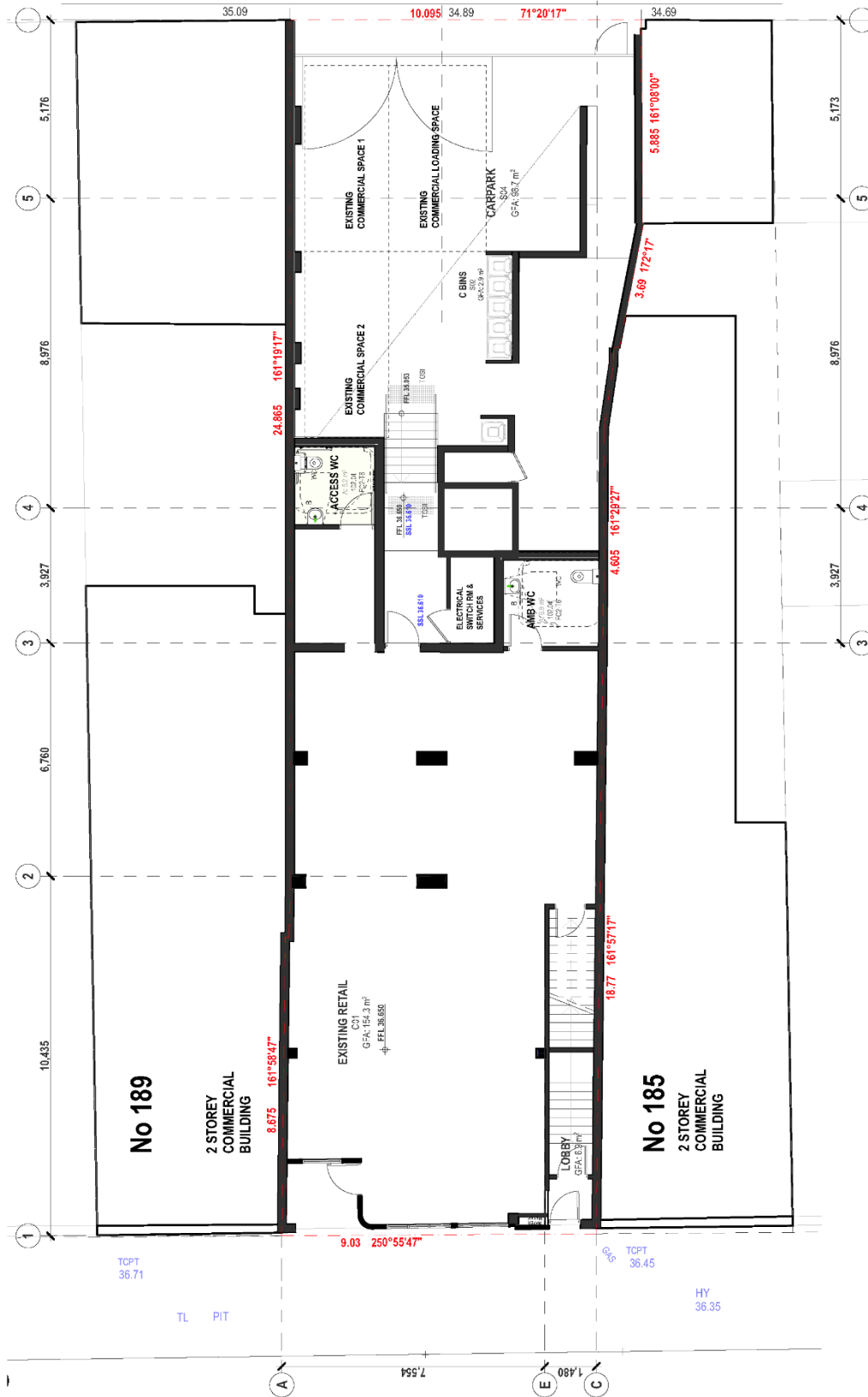
ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
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 17/12/2024



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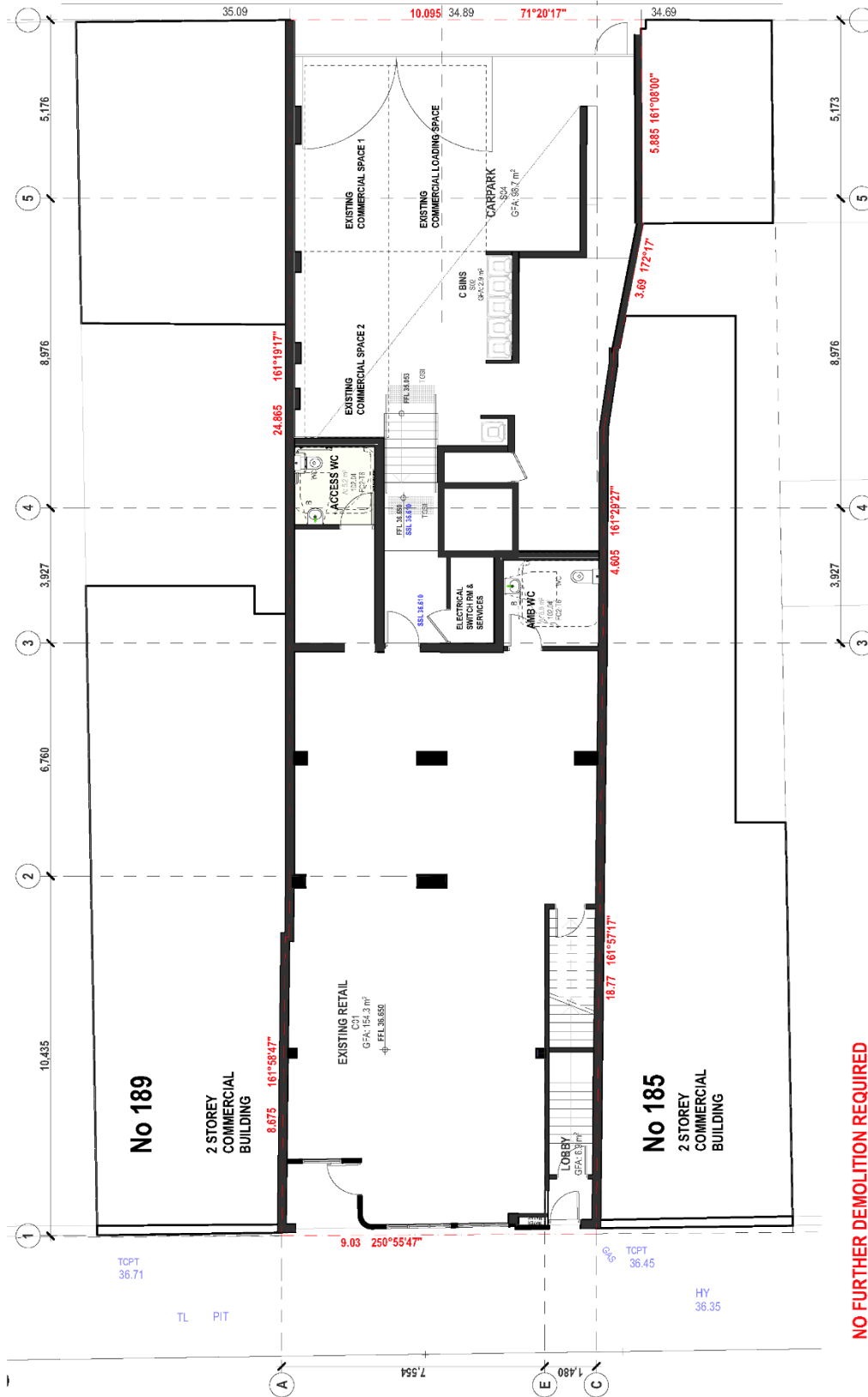
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DA DOCUMENTATION - NOT FOR CONSTRUCTION

EXISTING FLOOR PLAN:
 GROUND
 2050: DA201: D1
 17/02/2024

VOICIC
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NO FURTHER DEMOLITION REQUIRED

DA DOCUMENTATION - NOT FOR CONSTRUCTION

DEMOLITION FLOOR PLAN:
 GROUND
 2050: DA203: D1
 17/02/2024

VOITIC
 VOITIC ARCHITECTS
 2050: DA203: D1
 17/02/2024

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187
 17/02/2024

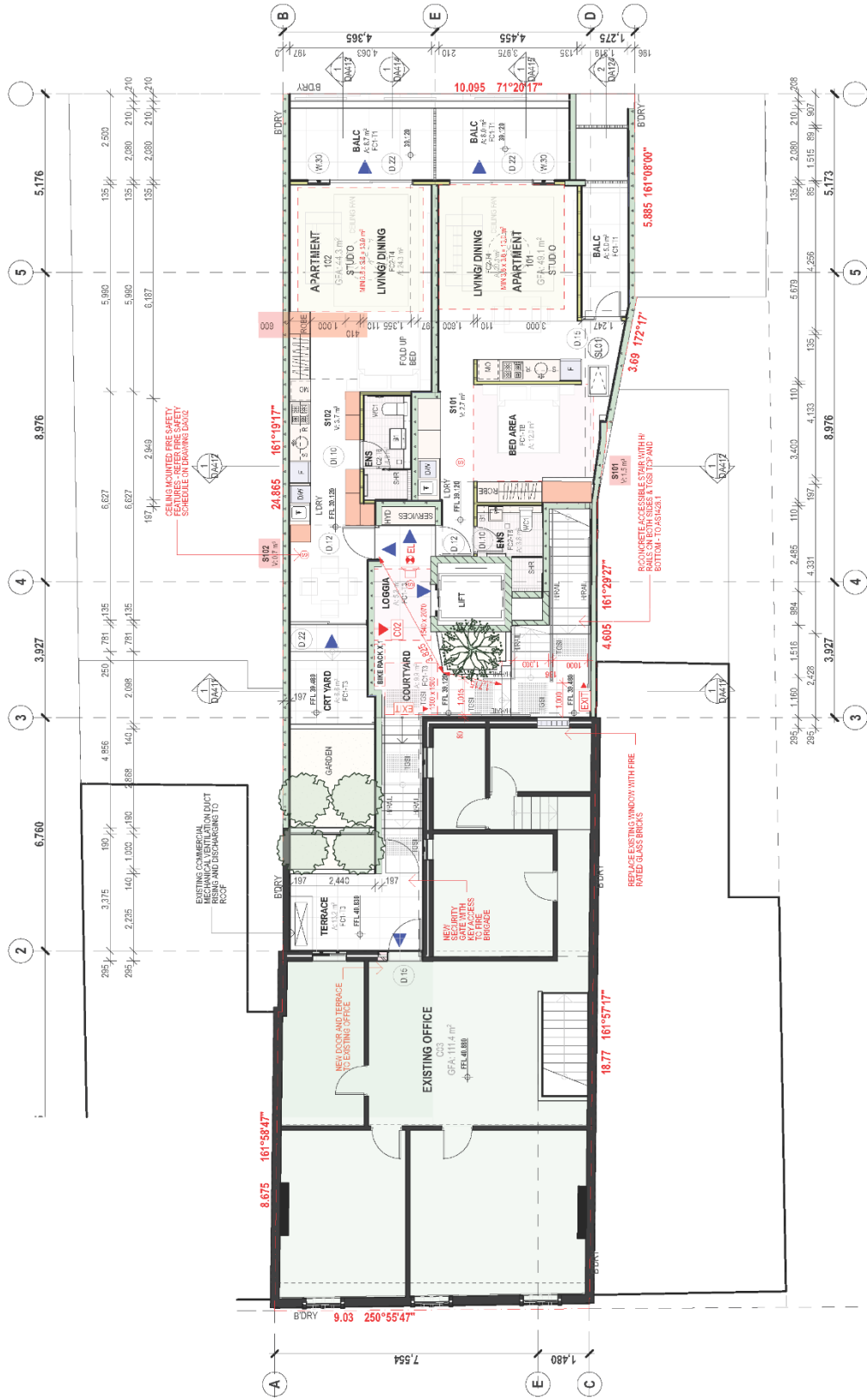
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 2024/03/13
 13/02/24

J DRIVAS
 09/01/24

REVISIONS

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 DA7: 1, 2, 3, 4, 5
 DA8: 1, 2, 3, 4, 5
 DA9: 1, 2, 3, 4, 5
 DA10: 1, 2, 3, 4, 5



DA DOCUMENTATION - NOT FOR CONSTRUCTION
 PROPOSED FLOOR PLAN: LEVEL 01
 VOICIC CONSULTANTS ARCHITECTS
 2050: DA211: D1
 17/07/2024

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187
 NATHERS STAMP
 5.9
 2024/01/05
 13/09/23

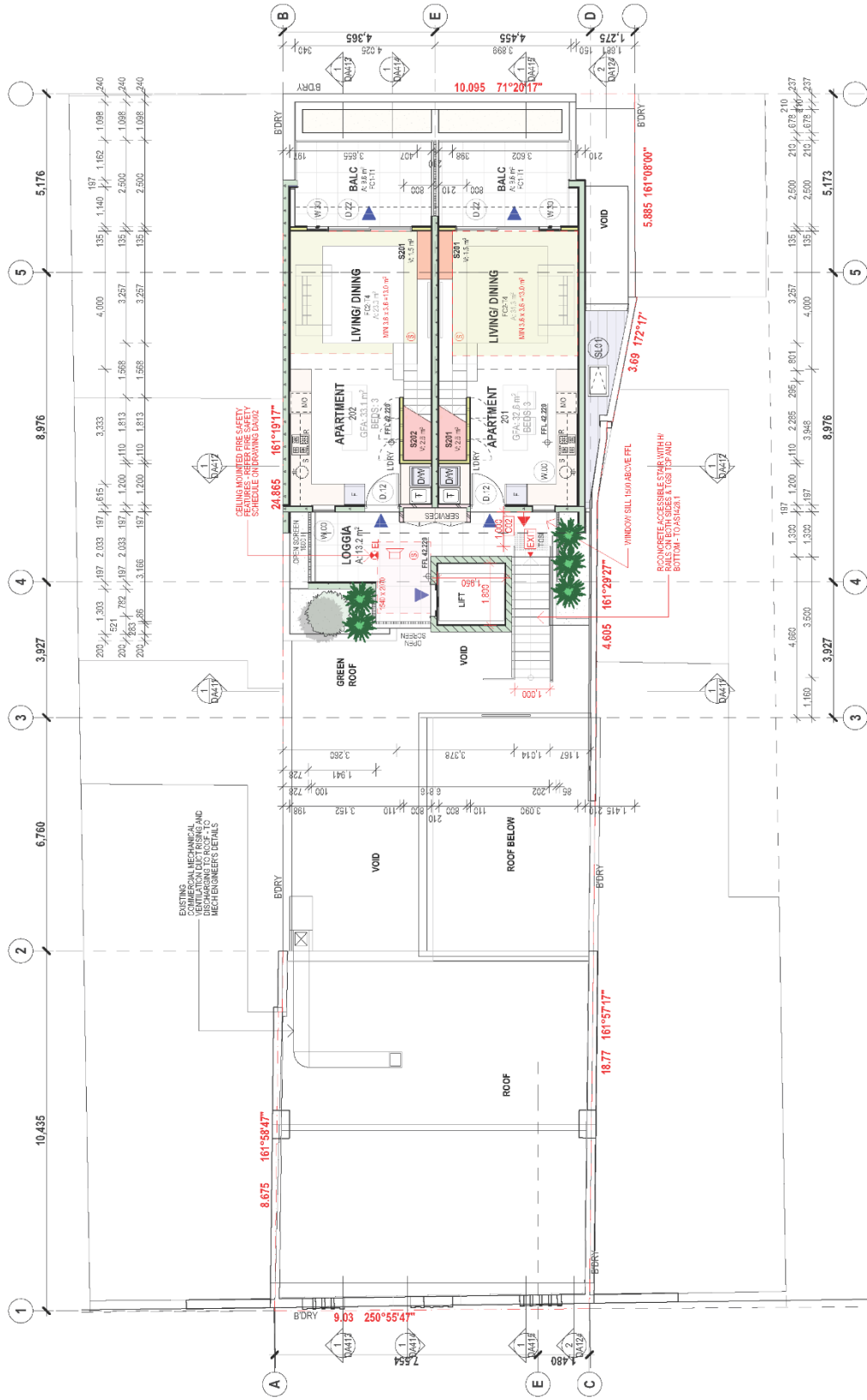
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 2024/01/05
 13/09/23

REPLACE EXISTING WINDOW WITH FIRE RATED GLASS BRICKS
 NEW SECURITY GATE WITH ACCESS TO FIRE BRIGADE
 CEILING MOUNTED FIRE SAFETY FEATURES - REFER FIRE SAFETY SCHEDULE ON DRAWING 04/22

REPLACE EXISTING WINDOW WITH FIRE RATED GLASS BRICKS
 NEW SECURITY GATE WITH ACCESS TO FIRE BRIGADE
 CEILING MOUNTED FIRE SAFETY FEATURES - REFER FIRE SAFETY SCHEDULE ON DRAWING 04/22

REPLACE EXISTING WINDOW WITH FIRE RATED GLASS BRICKS
 NEW SECURITY GATE WITH ACCESS TO FIRE BRIGADE
 CEILING MOUNTED FIRE SAFETY FEATURES - REFER FIRE SAFETY SCHEDULE ON DRAWING 04/22

REPLACE EXISTING WINDOW WITH FIRE RATED GLASS BRICKS
 NEW SECURITY GATE WITH ACCESS TO FIRE BRIGADE
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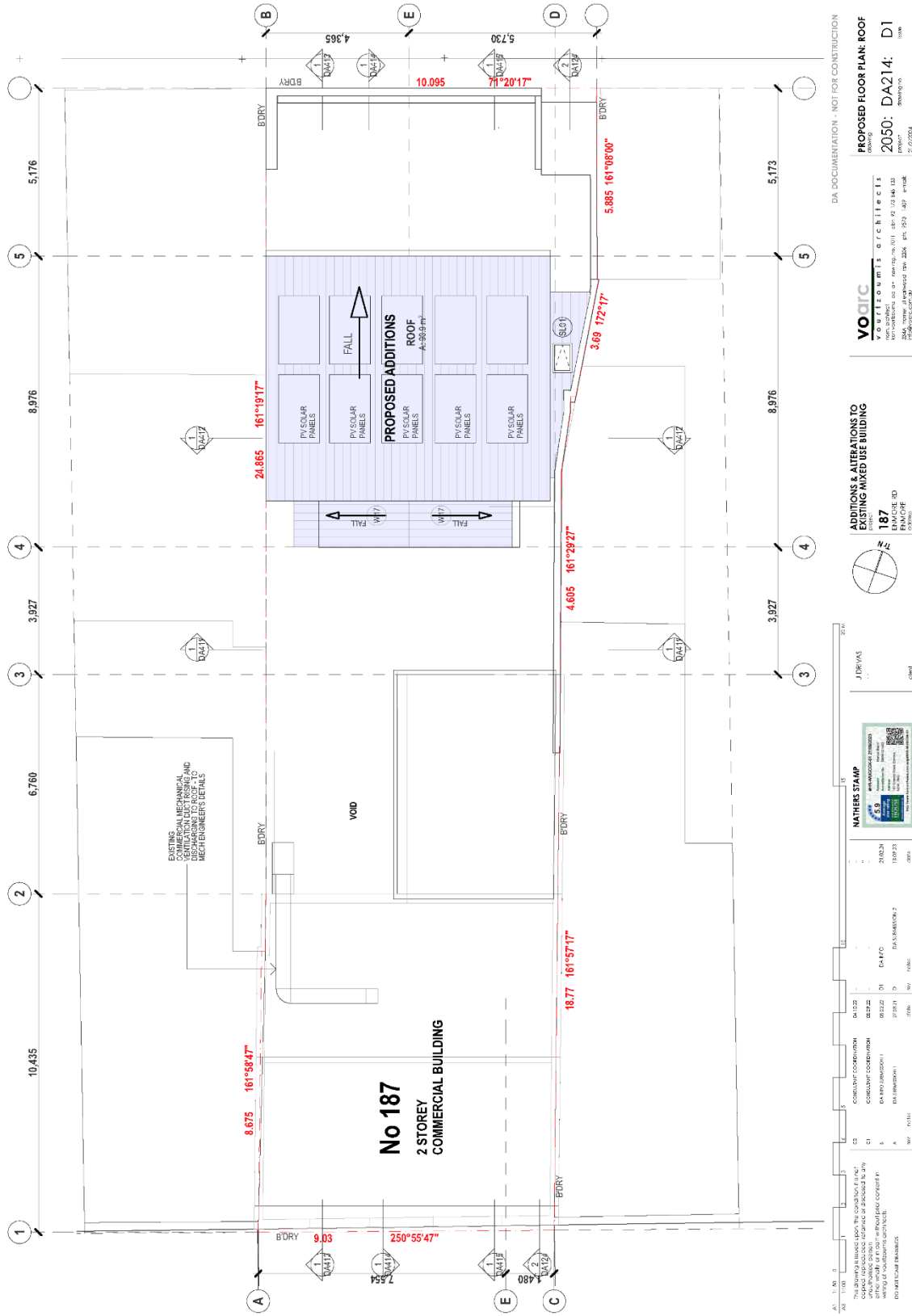
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 17/02/2024

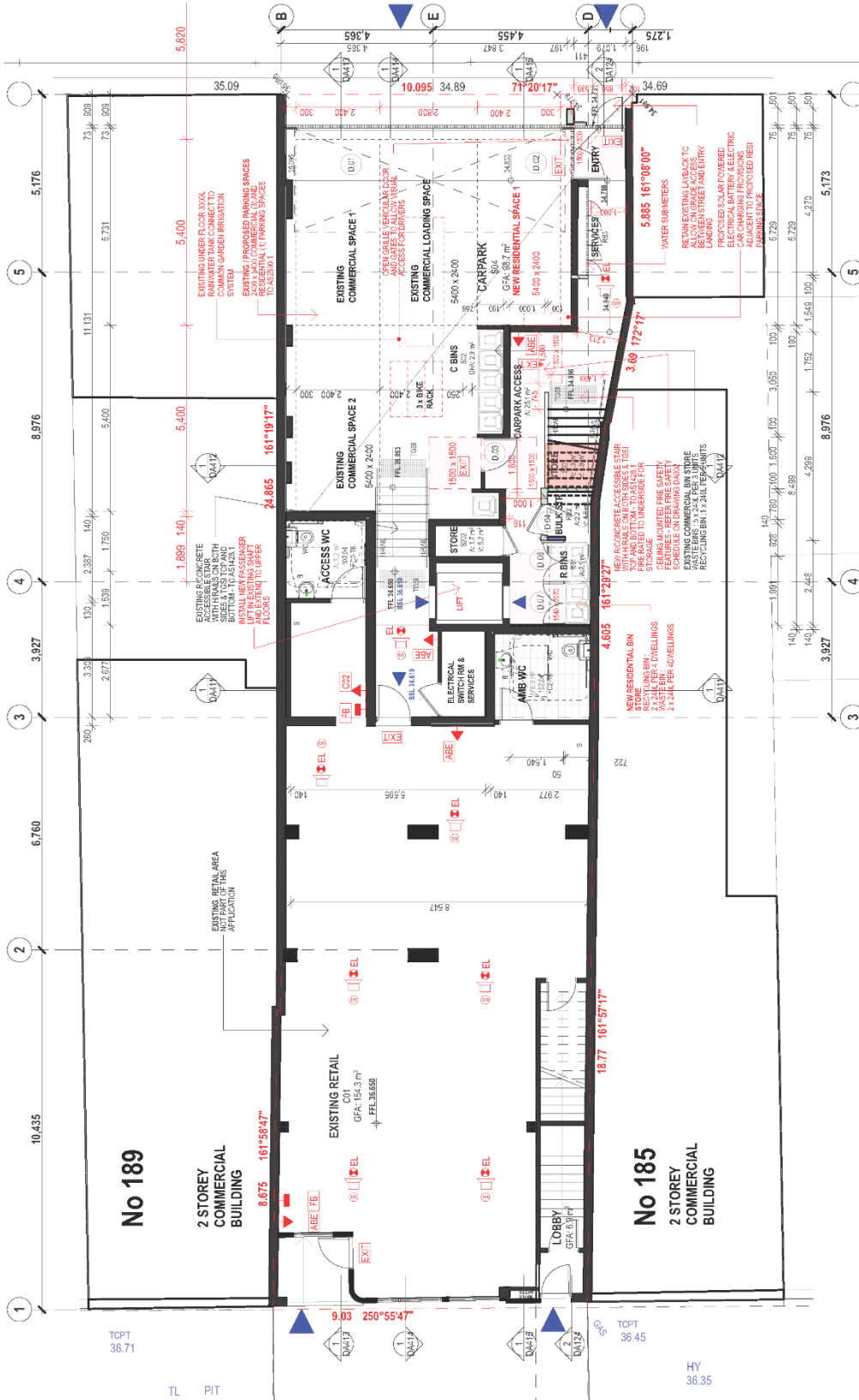
VOVIC
 V O V I C
 VOICHOE ARCHITECTS
 1/100 WILSON ST, WILSON, NSW 1570
 PH: (02) 9437 4807
 WWW.VOVIC.COM.AU

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187 BRIDGE BLVD
 BRIDGE BLVD
 BRIDGE BLVD
 BRIDGE BLVD



NO.	DATE	DESCRIPTION	BY	CHKD
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DA DOCUMENTATION - NOT FOR CONSTRUCTION

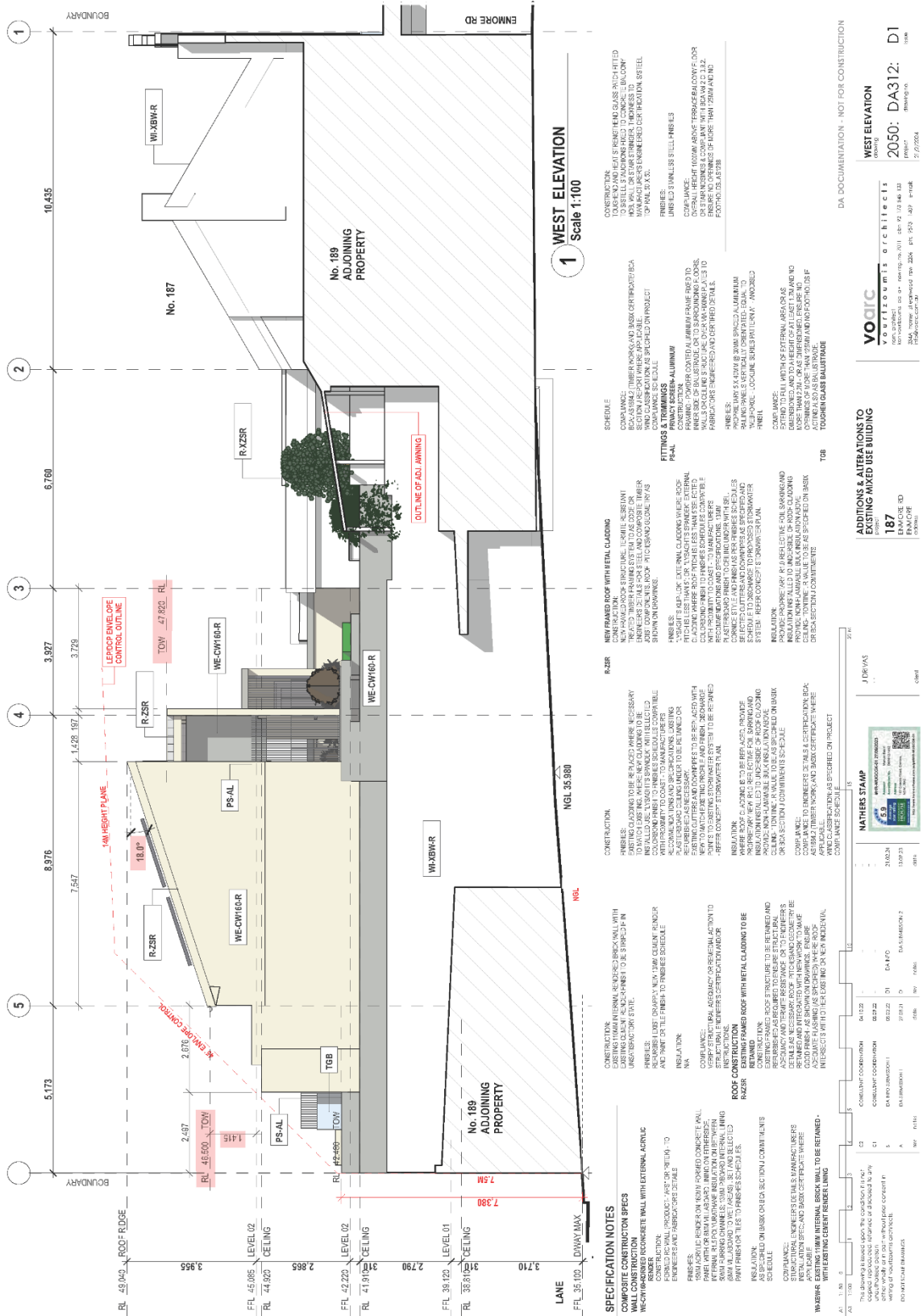
PROPOSED FLOOR PLAN:
 GROUND FLOOR

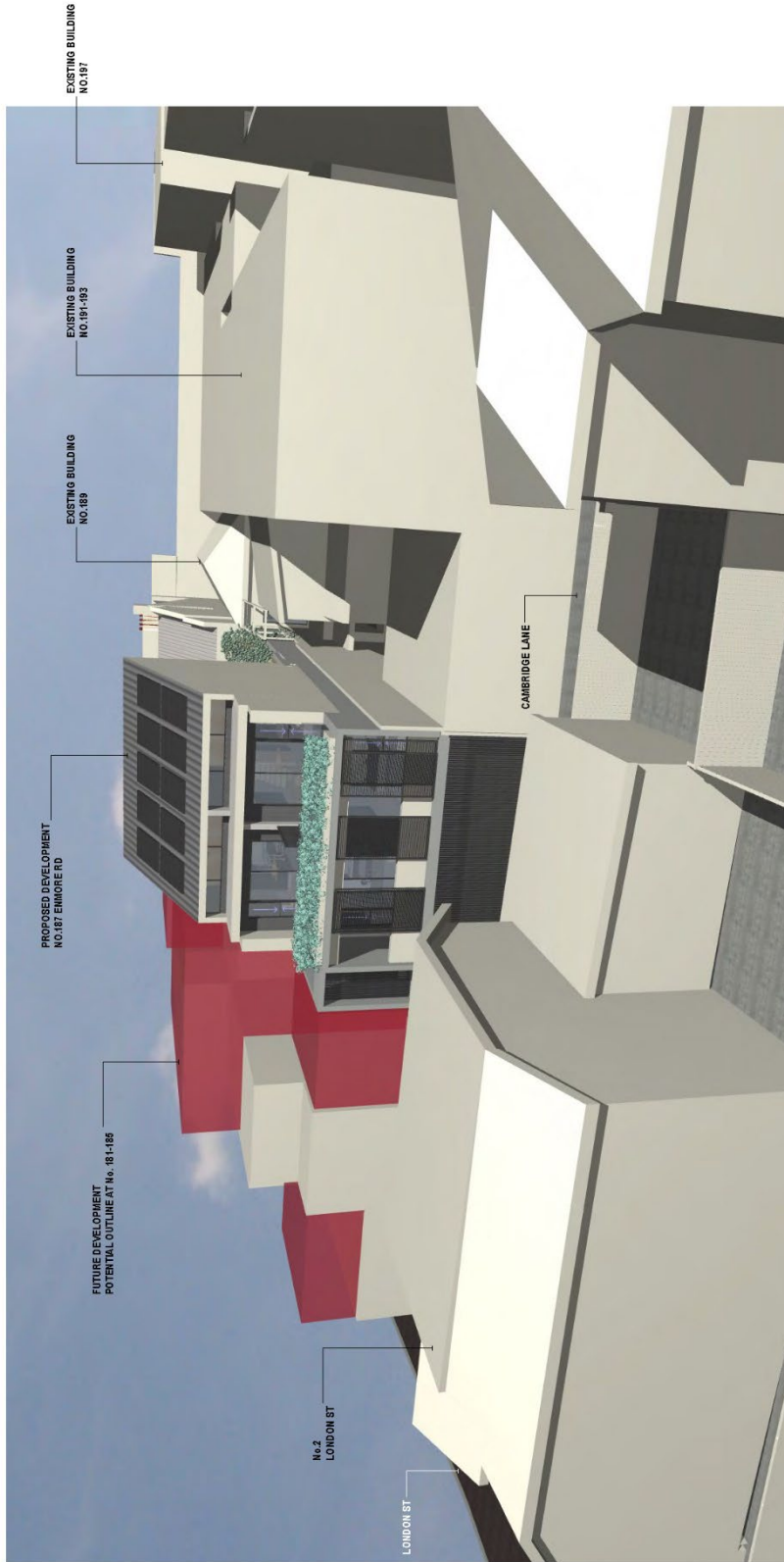
VOVIC
 Vocations Architects
 1/100 Pitt Street West, Sydney, NSW 2000
 Phone: (02) 9231 4400
 Email: info@vovics.com.au
 Website: www.vovics.com.au

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 Project: 2050: DA215: D1
 Date: 17/07/2024

MATHEWS STAMP
 5.0
 Environmental Planning
 20/02/24
 13/09/23

NO.	DESCRIPTION	DATE	BY	CHKD BY
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99	CONCEPT DEVELOPMENT	11/05/24	DA/DA/DA	DA/DA/DA
100	CONCEPT DEVELOPMENT	12/05/24	DA/DA/DA	DA/DA/DA





REAR VIEW - NW

This table is based on the information provided. It does not constitute a guarantee, representation, warranty or statement of fact. It is provided for information only and should not be relied upon without prior consultation with the relevant authorities.

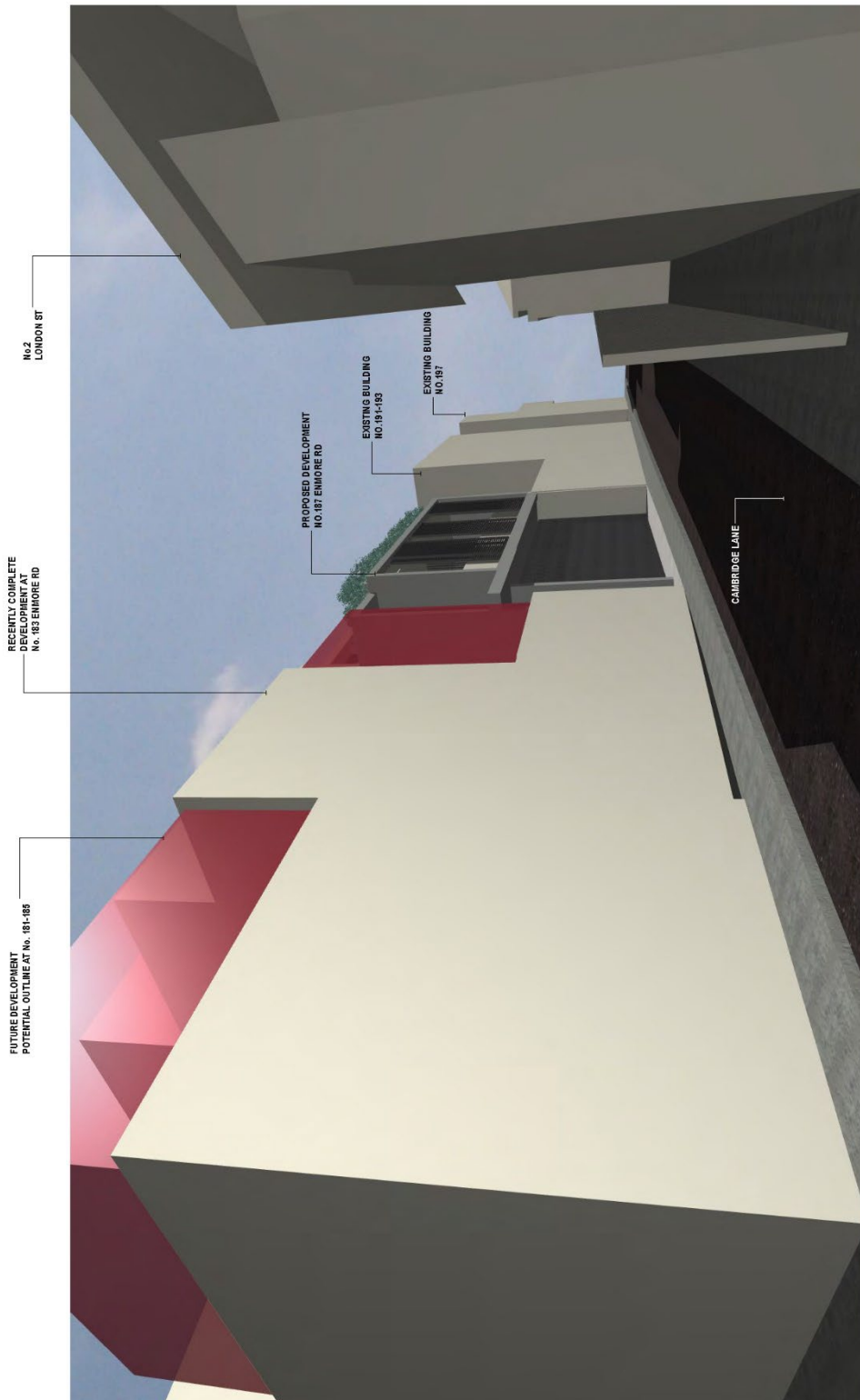
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1	12/11/11	ISSUED FOR PERMIT
2	14/11/11	REVISIONS
3	15/11/11	REVISIONS
4	16/11/11	REVISIONS

JORDANS
 ARCHITECTS
 187 EMMORE RD
 EMMORE
 VIC 3042

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 PROJECT NO: 187 EMMORE RD
 DATE: 13/10/2025

VOIC
 VOLUME 1 - ARCHITECTURE
 2050: DA503: D
 DATE: 13/10/2025

DA DOCUMENTATION - NOT FOR CONSTRUCTION



1 REAR VIEW - NE

DA DOCUMENTATION - NOT FOR CONSTRUCTION

JDRIVAS
ARCHITECTS
187 ENMORE RD
ENMORE
NSW 1512
02 9550 0000
www.jdrivas.com.au

VOJIC
V O J I C
ARCHITECTS
1000 GERRARD ST. N. SUITE 101
MILTON VIC 3111
03 9516 1000
www.vojic.com.au

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
PROJECT: 187 ENMORE RD
ADDRESS: ENMORE
LOCALITY: ENMORE

PERSPECTIVE VIEWS
DRAWING: 2050: DA504: D
PROJECT: 187 ENMORE RD
DRAWING NO. 13/170203

NO.	DATE	DESCRIPTION	BY	CHKD	APP'D
1	13/11/21	ISSUED FOR PERMIT	JDR	JDR	JDR
2	14/11/21	REVISED FOR PERMIT	JDR	JDR	JDR
3	15/11/21	REVISED FOR PERMIT	JDR	JDR	JDR
4	16/11/21	REVISED FOR PERMIT	JDR	JDR	JDR

This document is issued under the provisions of the Building Act 2016 and is not to be used for any other purpose. It is not to be used for any other purpose without the written consent of the architect. It is not to be used for any other purpose without the written consent of the architect.



1 LONDON ST VIEW

DA DOCUMENTATION - NOT FOR CONSTRUCTION
PHOTOMONTAGE - VIEW FROM LONDON ST
 Drawing No: 2050: DA.505; D
 Project: 19/01/2023

VOJIC
 ARCHITECT
 1388 NEWCASTLE ROAD, SUITE 205, P.O. BOX 9251, NEWCASTLE NSW 1590
 www.vojic.com.au | phone: 02 4921 1429 | info@vojic.com.au

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 Project: 187 ENMORE RD
 Client: ENMORE COUNCIL

J.DRIVAS
 187 ENMORE RD
 NEWCASTLE NSW 1590

NO.	DATE	DESCRIPTION	BY	CHKD BY
04/23	04/23	Final Construction	JDR	JDR
04/23	04/23	Final Construction	JDR	JDR
04/23	04/23	Final Construction	JDR	JDR

NO.	DATE	DESCRIPTION	BY	CHKD BY
01	01/23	Final Construction	JDR	JDR
02	02/23	Final Construction	JDR	JDR
03	03/23	Final Construction	JDR	JDR

This document is issued as a guide only. It is not intended to be used for construction or other purposes without the approval of the relevant authorities. It is the responsibility of the user to ensure that the information contained herein is accurate and up-to-date. The user should consult the relevant authorities for further information.



1 AERIAL VIEW COURTYARD

This document is issued under the conditions of use set out in the relevant planning instrument and is not to be used for any other purpose without the prior written consent of the Council.

REV	DATE	DESCRIPTION
1	12/11/21	ISSUED FOR APPROVAL
2	12/11/21	CONSTRUCTION COMMENCEMENT
3	11/12/21	CONSTRUCTION COMPLETION
4	14/12/21	OPERATIONAL COMMENCEMENT

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 Project: **187**
 187 ENMORE RD
 ENMORE
 DISTRICT

J.D. O'NEILL
 ARCHITECT

VOJIC
 V O J I C
 ARCHITECTS
 224A, KILMORE ST, KILMORE VIC 3102
 TEL: 03 9450 1000
 WWW.VOJICARCHITECTS.COM.AU

DA DOCUMENTATION - NOT FOR CONSTRUCTION
 Drawing No: **2050: DA506: D**
 Project: **187**
 Date: **13/10/2021**

NOTES:
 1. ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN METERS.
 2. ALL DIMENSIONS ON THIS PLAN ARE TO THE FACE UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS ON THIS PLAN ARE TO THE FACE UNLESS OTHERWISE SPECIFIED.
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 10. ALL DIMENSIONS ON THIS PLAN ARE TO THE FACE UNLESS OTHERWISE SPECIFIED.

PROPOSED BY:
 [Name]
 [Address]
 [City, State, Zip]

DATE:
 [Date]

SCALE:
 [Scale]

LEGEND:
 [Legend items]

REVISIONS:
 [Revisions table]

1H
 [Notes for 1H]

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NOTES:
 1. ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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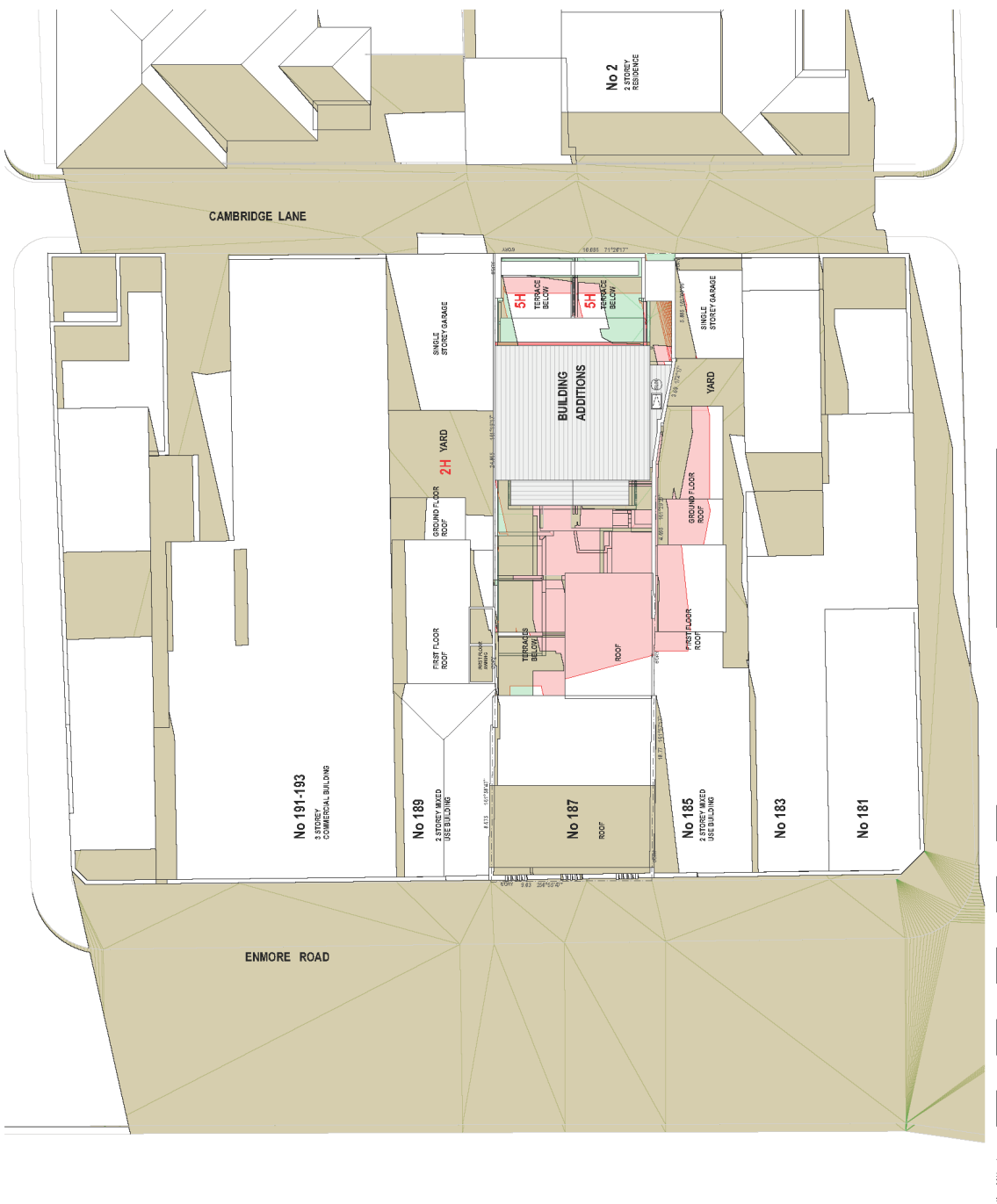
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GENERAL NOTES:
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ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
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ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187
 ENMORE RD
 BRIMMERS
 COUNCIL

VOAFC
 VOLUME 1
 SHADOW PLAN - WINTER SOLstice 21 JUNE 2PM
 2050: DA156: D
 13/07/2023



NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS SPECIFICALLY NOTED OTHERWISE.
 2. ALL DIMENSIONS OF THE PROPOSED CONSTRUCTION SHALL BE TO FACE UNLESS SPECIFICALLY NOTED OTHERWISE.
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PROPOSED BY:
 VOICIC ARCHITECTS
 187 LINDISFIELD ROAD
 SYDNEY NSW 1570
 TEL: (02) 9550 1111
 FAX: (02) 9550 1112
 WWW.VOICIC.COM.AU

DATE: 21 JUNE 2017
TIME: 1:20 PM
LOCATION: 187 LINDISFIELD ROAD
PROJECT: 187 LINDISFIELD ROAD
SCALE: 1:100

1H SOLAR ACCESS DIAGRAM
 1.1 SOLAR ACCESS DIAGRAM
 1.2 SOLAR ACCESS DIAGRAM
 1.3 SOLAR ACCESS DIAGRAM
 1.4 SOLAR ACCESS DIAGRAM
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 1.9 SOLAR ACCESS DIAGRAM
 1.10 SOLAR ACCESS DIAGRAM



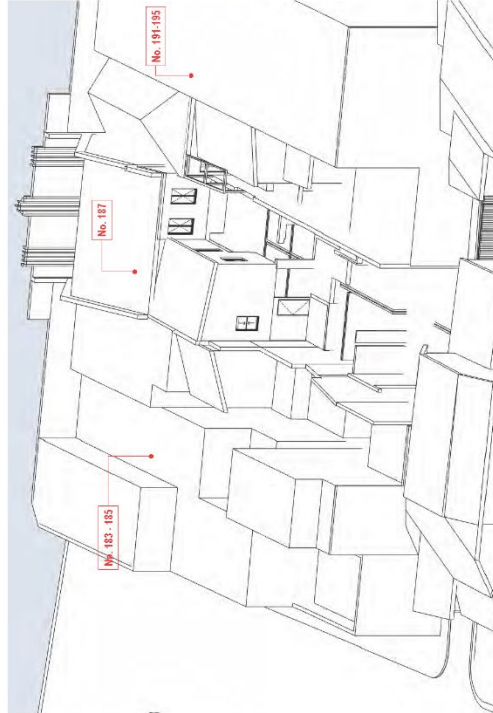
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SOLAR ACCESS EXISTING - 21 JUNE - 1 PM



SOLAR ACCESS PROPOSED - 21 JUNE - 2PM



SOLAR ACCESS EXISTING - 21 JUNE - 2 PM

DA DOCUMENTATION - NOT FOR CONSTRUCTION

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100	DA DOCUMENTATION	04/11/20

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187 LINDISFIELD ROAD
 SYDNEY NSW 1570
 TEL: (02) 9550 1111
 FAX: (02) 9550 1112
 WWW.VOICIC.COM.AU

VOICIC ARCHITECTS
 187 LINDISFIELD ROAD
 SYDNEY NSW 1570
 TEL: (02) 9550 1111
 FAX: (02) 9550 1112
 WWW.VOICIC.COM.AU

SOLAR ACCESS DIAGRAM - 21 JUNE
 1:20 PM
 20:50: DA173: D
 1:20 PM
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NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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LEGEND:
 1. EXISTING WALLS
 2. EXISTING ROOF
 3. EXISTING FLOOR
 4. EXISTING CEILING
 5. EXISTING STAIRS
 6. EXISTING WINDOWS
 7. EXISTING DOORS
 8. EXISTING BALCONIES
 9. EXISTING TERRACES
 10. EXISTING PATIOS
 11. EXISTING DRIVEWAYS
 12. EXISTING CARPARKS
 13. EXISTING LANDSCAPE
 14. EXISTING UTILITIES
 15. EXISTING SERVICES
 16. EXISTING STRUCTURES
 17. EXISTING TOWER
 18. EXISTING SIGNAGE
 19. EXISTING FENCES
 20. EXISTING BOUNDARIES

1H - EXISTING WALLS
2H - EXISTING ROOF
3H - EXISTING FLOOR
4H - EXISTING CEILING
5H - EXISTING STAIRS
6H - EXISTING WINDOWS
7H - EXISTING DOORS
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9H - EXISTING TERRACES
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20H - EXISTING BOUNDARIES

1	EXISTING WALLS	1H
2	EXISTING ROOF	2H
3	EXISTING FLOOR	3H
4	EXISTING CEILING	4H
5	EXISTING STAIRS	5H
6	EXISTING WINDOWS	6H
7	EXISTING DOORS	7H
8	EXISTING BALCONIES	8H
9	EXISTING TERRACES	9H
10	EXISTING PATIOS	10H
11	EXISTING DRIVEWAYS	11H
12	EXISTING CARPARKS	12H
13	EXISTING LANDSCAPE	13H
14	EXISTING UTILITIES	14H
15	EXISTING SERVICES	15H
16	EXISTING STRUCTURES	16H
17	EXISTING TOWER	17H
18	EXISTING SIGNAGE	18H
19	EXISTING FENCES	19H
20	EXISTING BOUNDARIES	20H

ADDITIONS & ALTERATIONS TO EXISTING MIXED USE BUILDING
 187
 ENMORE RD
 SYDNEY NSW 1513
 1300 723 2222

VODIC
 VOLUME 1 ARCHITECTS
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Attachment C – Section 4.6 Exception to Development Standards**Chapman Planning Pty Ltd**

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10 October 2023

Clause 4.6 Request to Contravene Development Standard

Property Description: 187 Enmore Road, Enmore

Development: Alterations & additions to approved shop top housing development

Development Standard: Floor space ratio

Introduction

The development application is for alterations and additions to an existing 2 storey commercial development at 187 Enmore Road, Enmore.

The alterations and additions proposed to the commercial use development include partial demolition and reconfiguration of the approved ground level retail/commercial space aligning with DA/2020/1199, and construction of 2 x single level studio apartments, 2 x two level apartments with loft bedrooms, courtyards, a terrace, landscaping works, and 3 x commercial and 1 x residential car parking spaces.

This clause 4.6 seeks contravention to the 1.5:1 FSR development standard contained in clause 4.4 – Floor Space Ratio of the *Inner West Local Environmental Plan 2022*.

The proposed alterations and additions present a total GFA of 503.2m² and an FSR of 1.54:1 as a result of the proposed rear additional levels containing 2 x studio units and 2 x one bedroom plus loft apartments. The contravention is 12.8m² and 2.6% from the maximum permissible FSR for the site.

The request to contravene the FSR development standard has been prepared in accordance with the principles applied in relevant case law including:

1. *Winten Property Group Limited v North Sydney Council* (2001) 130 LGERA 79;
2. *Wehbe v Pittwater Council* (2007) 156 LGERA 446;
3. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009;
4. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118;
5. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; and
6. *RebelMH Neutral Bay Pty Limited v North Sydney Council* (2019) NSWCA 130

This clause 4.6 request is set out in accordance with the relevant principles established by the Court including:

Clause.4.6Request.FloorSpaceRatio.187EnmoreRoad.Enmore

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1. Is the development consistent with the objectives of the zone?
2. Is the proposed development consistent with the objectives of the development standard which is not met?
3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (cl 4.6(3)(a) and cl 4.6(4)(a)(i))
4. Are there sufficient environmental planning grounds to justify contravening the development standard and therefore the Applicant's written request to contravene the development standard is well founded? (cl 4.6(3)(b) and 4.6(4)(a)(ii))
5. Is the proposed development in the public interest because it is consistent with the objectives of the standard and the zone? (cl 4.6(4)(a)(ii))

Matters required to be demonstrated under clause 4.6(3) of the LEP

Compliance with the development standard is unreasonable or unnecessary in this particular case

Pursuant to clause 4.6(3)(a), the contravention to the floor space ratio is acceptable in the circumstances of this case and compliance with the development standard is considered unreasonable and unnecessary because the proposed alterations and additions to the approved shop top housing development are consistent with the objectives of the development standard.

• **Objective of the floor space ratio development standard**

The objectives of the development standard at Clause 4.4 of the *Inner West LEP 2022* are:

- (a) *to establish the maximum floor space ratio to enable appropriate development density,*
- (b) *to ensure development density reflects its locality,*
- (c) *to provide an appropriate transition between development of different locations,*
- (d) *to minimise impacts on local amenity,*
- (e) *to increase the tree canopy and to protect the use and enjoyment for private properties and the public domain.*

The proposed development meets the objectives of the standard based on the following:

- **Objective (a):** Whilst the proposal presents a contravention of 12.8m² from the development standard, the non-compliance is the result of additional levels and built form designed according with the height and building envelope controls for the site.

The proposed contravention to FSR allows for the development to better align with the envisioned building density and scale for the locality, the resultant built form will be 3 storeys plus an attic/loft bedroom, with recessed upper levels to present

as two storeys to the rear laneway -compatible with surrounding developments within the visual catchment of the subject site.

- **Objective (b):** The proposed contravention to FSR will not affect the intended planning outcome for the locality pursuant to the maximum FSR envisioned under the LEP. The contravention is acceptable given that it will allow for a consistent built form that aligns with other mixed use developments in the row of Enmore Road when viewed from Cambridge Lane, including 183, 191 and 197 Enmore Road.

The proposed contravention to the FSR standard is suitable for the subject site and the resultant development is consistent with the desired future character for the locality. The alterations and additions including the additional storeys are consistent with the desired character for development along this portion of Enmore Road. Further, the overall form and scale resulting from the contravention is generally compatible with surrounding developments and the envisioned height for the locality, and demonstrates that the additional gross floor area can be accommodated within the capacity of this area.

- **Objective (c):** The proposed development has been designed according to the building envelope and height controls for the site. The proposed development is surrounded by buildings of similar height and scale –presenting as two or three storeys to Cambridge Lane. Recessed upper levels allow for the overall massing to be minimised when viewed from the Public domain. The development presents a bulk and scale compatible with the desired future character of the area.
- **Objective (d):** The proposed addition of residential apartments to the rear of the site will create a mixed use development compatible with other developments presenting to Cambridge Lane. The development has been designed to improve local amenity by providing a variety of housing options located close to public transport hubs.

The minor contravention of FSR will not result in unreasonable amenity impacts to the surrounding properties, is concealed within the building density controls for the site, and conforms with the site use envisaged within the strategic context desired future character for *King Street and Enmore Road commercial precinct 37*.

- **Objective (e):** The proposed contravention to FSR does not impact the landscape setting of the existing development or surrounding properties. There is no tree canopy within this particular precinct –designated for commercial activities.

It is unreasonable and unnecessary to require compliance with the FSR development standard contained the *Inner West LEP 2022* due to the following reasons:

- The contravention of floor space ratio standard is a function of the floor space ratio standard being inconsistent with the massing anticipated for this subject site under the planning controls. The retention of the commercial premises noting its significance within the streetscape absorbs gross floor area, with the residential units at the upper levels designed within applicable building envelope controls.

- It is unreasonable to require compliance as the proposed density will not significantly contribute to unreasonable bulk and scale on the site. Rather the resultant built form will more comfortably sit within the streetscape, presenting alongside other 3 storey residential developments fronting Cambridge Lane. The proposal is generally consistent with the planned density for the site with respect to external built form noting the contravention allows for the building form to conform with surrounding developments such as 183, 191 and 197 Enmore Road.
- The proposed alterations and additions contribute to the provision of residential accommodation within the E1 Local Centre zone in close proximity to services and transport. It is unnecessary to require compliance with the FSR standard within the site context, as the proposed contravention will not result in significant bulk and scale impacts and will not set a precedent for future increased densities within the locality beyond the maximum permissible FSR or desired future character, noting the contravention will instead result in a more characteristic form on the site that generally aligns with the building envelope envisioned for the site.
- In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827 the development meets the first test because compliance with a development standard is unreasonable or unnecessary as the objectives of the development standard are achieved notwithstanding the non-compliance.

There are sufficient environmental planning grounds to justify contravening the development standard

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 request must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, preferably being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, there are sufficient environmental planning grounds to justify the contravention to the FSR development standard because:

- The proposal seeks alterations and additions to an existing commercial development that retain the contributory building shopfront façade and commercial space on the site as identified in Part 8.4.2 of the Marrickville DCP. The proposed contravention to the FSR standard will allow for the provision of 4 x residential units on the site in a sympathetic form that is consistent with the intention of planning controls applicable to the subject site.
- The proposed variation provides for additional building density on the site allowing for the resultant built form to better align with the envisioned form of development across the subject site and the other properties within the row along Cambridge Lane, allowing for an improved, consistent environmental planning outcome with respect to streetscape appearance and resulting development character of the subject site and adjoining properties.

- The proposed works result in the addition of 4 x residential units on the site with the additional floor area, readily absorbed into the massing anticipated for the subject site under the planning controls.
- The provision of residential accommodation on the site will contribute to improved housing choice and affordability within the E1 Local Centre zone in close proximity to public transport, local services, and public open space.
- Notwithstanding contravention to the FSR standard the proposed alterations and additions have been designed to sit within the context of other built forms facing Cambridge Lane in the row of properties. The proposed increase in density is acceptable for the site resulting in a built form that is characteristic of the locality and will not result in any adverse impacts upon the adjoining properties with respect to overshadowing, visual impact, or privacy.
- The proposed development meets the relevant aims of the *Inner West LEP 2022* as follows:
 - 1.2.2(a) – The proposed alterations and addition of residential apartments represent the efficient use of the subject site being within the local centre zone and within close proximity to public transport and local services. The proposed additional density is well integrated within an appropriate location and the resulting development will contribute to the vitalisation of the Local Centre.
 - 1.2.2(b) – The proposed development conserves the heritage value of the Enmore Road commercial precinct and contributory buildings, retaining the front façade of the building, with all alterations and additions to be built at the rear of the subject site.
 - 1.2.2(d) – The proposed development is suitable for the subject site being within the catchment of public transport – bus stops along Enmore Road, Newtown Strain station nearby - and local services, with bicycle parking provided to encourage the use of active transport to and from the site.
 - 1.2.2(e) – the proposed addition of residential units to the commercial building increase the population density of the area, thereby increasing the number of potential service users/economic transactions.
 - 1.2.2(f) – The proposed alterations and additional residential units on the site contribute to the variety of housing choice within the Local Centre zone to meet the increasing need for residential accommodation in the Inner West.
 - 1.2.2(g) – The proposal is of a high standard of design and presents a good level of residential amenity for future residents of the development. The resultant built form is suitable for the subject site and the proposed additional density does not result in an overdevelopment of the site, or exceedance in the development capacity of the site.

- 1.2.2(h) – The proposed addition of units to the rear of the subject site preserves the character of the existing built form to the Enmore Road streetscape while improving residential amenity by providing high quality housing outcomes for the area.

Clause 4.6 (4)(a)(i) – The consent authority is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3)

As demonstrated above, the proposed development has satisfied the matters required to be demonstrated pursuant to Clause 4.6(3) by providing a written request that demonstrates:

1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, by establishing that the objectives of the development standard are achieved notwithstanding the non-compliance.
2. The environmental planning grounds relied on are sufficient to justify the development standard.

The relevant items in Clause 4.6(3) of the LEP have been adequately addressed above in order to enable the consent authority and the Court to form the requisite opinion of satisfaction.

The proposed development is in the public interest

In relation to clause 4.6(4)(a)(ii), the alterations and additions – mixed use development is in the public interest because it is consistent with the objectives of the FSR standard (addressed above) and the objectives for development in the E1 – Local Centre zone. The development proposal is consistent with the objectives of the zone as follows:

- **Objectives of the E1 – Local Centre Zone**

The objectives of the E1 – Local Centre zone are as follows:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide employment opportunities and services in locations accessible by active transport.*
- *To provide retail facilities and business services for the local community commensurate with the centre’s role in the local centres hierarchy.*

- *To ensure Inner West local centres are the primary location for commercial and retail activities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.*

The development proposal meets the applicable objective of the local centre zone based on the following assessment:

- The existing commercial component of the development at the front of the subject site is proposed to be retained and will continue contribute to the provision of retail uses to service the locality.
- The retained retail/commercial element of the approved development will contribute to employment opportunities within close proximity to public transport.
- The resultant development encourages active transport – walking and cycling being within close proximity to Newtown Railway Station, local services, and public open space. The subject site can accommodate the proposed additional dwellings with respect to public transport accessibility and walkability. Further, the proposal provides adequate unit storage and bicycle parking to encourage cycling for future residents of the development consistent with the objectives of the zone.
- The development increases the range of apartments in the local area, contributing to the variety of residential accommodation within an accessible area. The resultant scale of the development – 4 x dwellings within a 3-4 storey form is appropriate with respect to the location of the site being within walking distance of Newtown Railway Station, commercial services, and public open spaces.
- The proposal retains the approved commercial component at the ground floor fronting Enmore Road, with this space of a sufficient size to accommodate commercial land uses that would contribute to an active street frontage.

In addition to the above, the proposal is also in the public interest because:

- The proposed alterations and additions will result in 4 x new residential units on the site which serve to contribute to housing diversity within the locality. The proposed additional storeys at the rear will not present bulk and scale beyond what is envisaged by the planning controls and future desired character, rather the additional floor area is suitable for the site given the surrounding development context.
- The proposed floor space ratio will not result in unreasonable amenity impacts to the public domain or the adjoining properties, with the variation being consistent with the envisioned bulk and scale for development within the locality and the subject site – 14m height limit.

Taking into consideration the above, the proposed development is in the public interest as it is consistent with the objectives of the development standard and the E1 – Local Centre zone.

For these reasons, the proposal does not undermine the integrity of the FSR development standard and its objectives, as well as the zoning objectives which have been adopted by Council as being in the public interest.

The concurrence of the Secretary

Clause 4.6(4)(b) of the LEP requires the concurrence of the Secretary (of the Department of Planning, Industry and Environment) before the consent authority can exercise the power to grant development consent for development that contravenes a development standard.

In deciding whether to grant concurrence, the Secretary is required to consider the following:

- (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.*

- a) The proposal is not likely to raise any matter of significance for State or regional environmental planning. As addressed above the non-compliance with the FSR standard is in the public interest because notwithstanding numerical non-compliance the proposed development is consistent with the objectives of the standard and the objectives of the E1 – Local Centre zone.
- b) The public benefit of maintaining the development standard is not considered significant because the proposed alterations and additions have been designed in a form and scale that is more appropriate for the subject site when considering the surrounding development context including shop top housing buildings such as 183, 191 and 197 Enmore Road with secondary frontage Cambridge Lane. Further, the proposal is of a density generally consistent with that envisioned for the site with the resultant form complying with the 14m height control which applies to the site.
- c) The proposal is consistent with the matters required to be taken into consideration before concurrence can be granted under clause 4.6(5) of the LEP. The exceedance of the standard will not result in adverse amenity impacts and is in the public interest.

Conclusion

The proposed alterations and additions to the existing development contravene the FSR development standard contained in clause 4.4(2) of the *Inner West Local Environment Plan (LEP) 2022*.

The FSR standard pursuant to clause 4.4(2) is 1.5:1 on the subject site. The proposed alterations and additions present a total GFA of 503.2m² and an FSR of 1.54:1 as a result of the proposed additional level containing 4 x residential units designed to ADG and building envelope controls. The variation is 12.8m² and 2.6% from the maximum permissible FSR for the site.

The proposed alterations and additions are at the rear of the existing built form and will align with the surrounding developments and the envisioned height for the locality, and demonstrates that the additional gross floor area can be accommodated within the environmental capacity of this site.

The proposed alterations and additions allow for 4 x residential units, comfortably meet the solar access and overshadowing requirements of the DCP and SEPP 65 – ADG, and providing a high level of residential amenity whilst responding to the height of the surrounding developments with secondary frontage to Cambridge Lane.

The proposed alterations and additions present a suitable development outcome for the subject site contributing to additional housing availability within the Local Centre within close proximity to public transport and local services.

The proposed development is of a form and scale that is suitable for the subject site with the additional built form sitting comfortably among other shop top housing in this row of properties and will not result in unreasonable amenity impacts including additional overshadowing.

In my opinion the proposed development for alterations and additions to the commercial development and contravention to the FSR development standard is well founded as the proposal meets the objectives of the development standard and achieves an acceptable planning outcome for the subject site that is in the public interest. In accordance with the environmental planning grounds addressed in this clause 4.6 request, the proposed development can be supported.



Garry Chapman
Director
Chapman Planning Pty Ltd

Attachment D – Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations



Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations

Site Address:	187 Enmore Road Enmore
Proposal:	Partial demolition of existing structures and alterations and additions to an existing commercial building to create a 4 storey mixed use shop top housing development including 4 residential apartments.
Application No.:	DA/2023/095
Meeting Date:	19 December 2023
Previous Meeting Date:	DA/2021/0798 – 2 November 2021
Panel Members:	Russell Olsson – chair; Diane Jones
Apologies:	Michael Harrison
Council staff:	Vishal Lakhia; Camille Guyot; Niall Macken
Guests:	-
Declarations of Interest:	None
Applicant or applicant’s representatives to address the panel:	Konstantine Vourtzoumis – Architect for the project

Discussion & Recommendations:

1. The Architectural Excellence & Design Review Panel reviewed the architectural drawings and discussed the proposal with the applicant through an online conference.
2. The Panel thanks the applicant for providing a comprehensive set of drawings for the development application, and notes that the recommendations made by the Panel at the previous Panel meeting (as part of the former development application) have been largely addressed, including:
 - a. Increasing the floor-to-floor heights to 3.1m with the addition of ceiling fans to the habitable areas;
 - b. Conversion of apartments 101 and 102 to studio apartments;
 - c. Reconfiguration of apartment 101 to avoid ‘snorkelled’ bedrooms, and improvement in natural light and ventilation within the ‘sleeping area’ of the apartment;
 - d. Improvement in building separation between apartment 102 and the adjoining commercial space;
 - e. Allocation of internal storage to apartments 101 and 102;
 - f. Provision of a rainwater tank and a rooftop photovoltaic system for environmental benefits;

The logo for Inner West, featuring the words 'INNER WEST' in a stylized, outlined font. The letters are composed of geometric shapes and lines, giving it a modern, architectural feel.

- g. Design intent sections of the planter beds and nomination of planting species.
3. The Panel discussed pedestrian circulation through apartment 102, which is not ideal since it is through the kitchen aisle. It is recommended that the kitchen aisle should be increased to a minimum of 1m to allow more comfortable and intuitive movement.
4. The Panel also discussed floor-to-floor and floor-to-ceiling heights within apartment 202. The Panel recommends that the kitchen ceiling height should be increased to ensure incorporation of services elements into the ceiling, while aligning with the minimum expected floor-to-ceiling clear height of 2.7m. The Panel appreciates that the applicant is trying to avoid the breach of the maximum permissible height control of 14m. The Panel suggests that the roof pitch could be adjusted and the clerestory window could be reduced in height, to achieve a balance between the ceiling height and the LEP height expectations.
5. In summary, the Panel supports the proposal, subject to the comments offered in this report being accommodated, and is of the view the proposal is capable of delivering acceptable design quality.

Attachment:

Previous AEDRP Report – DA/2021/0798 – 2 November 2021