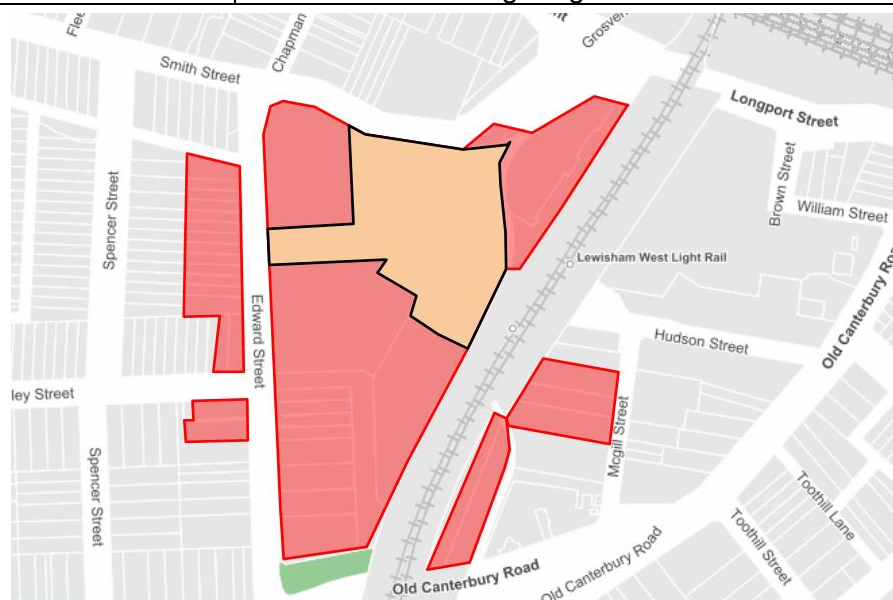









INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA 2018.178.1
Address	2-32 Smith Street SUMMER HILL, 5-7 Mungo Scott Place SUMMER HILL, 18 Flour Mill Way SUMMER HILL
Proposal	Fit out and Use of Commercial Premises within Buildings 5A and 5E for Retail Food and Drink Premises
Date of Lodgement	25 October 2018
Applicant	EG Funds
Owner	Owners of Strata Plan 94961 & Australian Executor Trustees Ltd ATF Summer Hill Ownership Trust & DH Summer Hill Pty Ltd & CA Summer Hill Pty Ltd
Number of Submissions	Twenty two (22) – Eight (8) in support, fourteen (14) in objection and one petition with 19 signatures.
Value of works	\$499,767
Reason for determination at Planning Panel	Number of submissions
Main Issues	Location of proposed mechanical ventilation
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for fit out and use of an existing commercial premises within buildings 5A and 5E for retail food and drink premises at the property known as 2-32 Smith Street, Summer Hill. The application was notified to surrounding properties and 22 submissions were received.

The main issues that have arisen from the application include:

- Noise generation from the proposed retail premises including patrons, deliveries, waste removal
- The location of the proposed mechanical ventilation shaft and subsequent impact to visual outlook.
- Amenity impacts resulting from the use of the proposed retail spaces.

The non-compliances are acceptable subject to conditions to limit the hours of operation, delivery times and waste removal. The proposal is in-line with use envisioned by the original concept approval issued by the State Government and therefore the application is recommended for approval.

2. Proposal

The application seeks consent for the following works:

- Expansion of the ground floor retail area relating to building 5A by 57.8m²
- Fitout and use of the ground floor retail area relating to building 5A for three (3) separate retail uses
- Installation of three separate business identification signs to the northern elevation for each of the three (3) separate retail uses.
- Fitout and use of building 5E as retail (food and drink) premises
- Installation of mechanical ventilation to retail areas of buildings 5A and 5E

Since the lodgement of the application the applicant has provided an amended Statement of Environmental Effects which outlines a request for operation hours of 7:00am to 10:00pm Monday to Sunday. This amendment along with the requested retail area expansion was re-notified in accordance with the DCP, with the re-notification period finishing on the 20 June 2019.

The applicant has outlined a request for the three (3) tenancies relating to building 5A to be permitted to accommodate up to a maximum of 100 patrons and the tenancy within building 5E to accommodate up to a maximum of 100 patrons (including the external licensed area).

The applicant has outlined that tenancies located within buildings 5A and 5E are to be utilised for the purposes of a food and drink premises.

3. Site Description

A site visit was carried out on 27 November 2018 and 29 April 2019.

The subject site is part of the approved Concept Plan (MP_0155) and is located on a large area of land (24,738m²) bounded by Smith and Longport Streets to the north, Edward Street to the west, the Inner West Light Rail line to the east and Old Canterbury Road to the south. The land straddles the Hawthorn Canal and is located primarily in Summer Hill in the former

Ashfield local government areas but a small portion of the site to the east of the canal is located in Lewisham in the former Marrickville local government area.

The subject premises known as building 5A and 5E are located on the western side of the light rail corridor, the eastern side of Edward Street and the southern side of Flour Mill Way. Currently located upon the sites is a recently constructed mixed use development known as building 5A which comprises of ground floor retail premises 273.8m² in size (the premises subject to this application) and residential units that results in an eleven (11) storey building. Building 5A is not an item of local heritage significance. Located immediately to the north west of building 5A is a two storey brick and colour bond roof building, which is known as building 5E. Building 5E is an item of local heritage significance and is known as Item I619 within the Ashfield Local Environmental Plan.

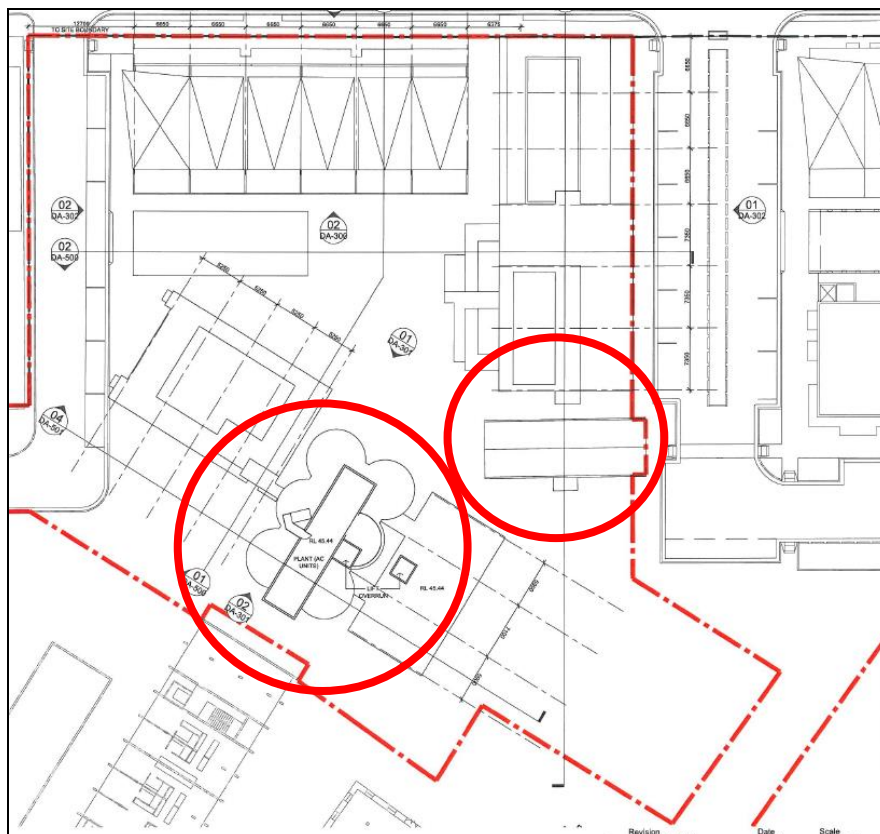


Photo 1 – Identification of Building 5A and 5E in red circle

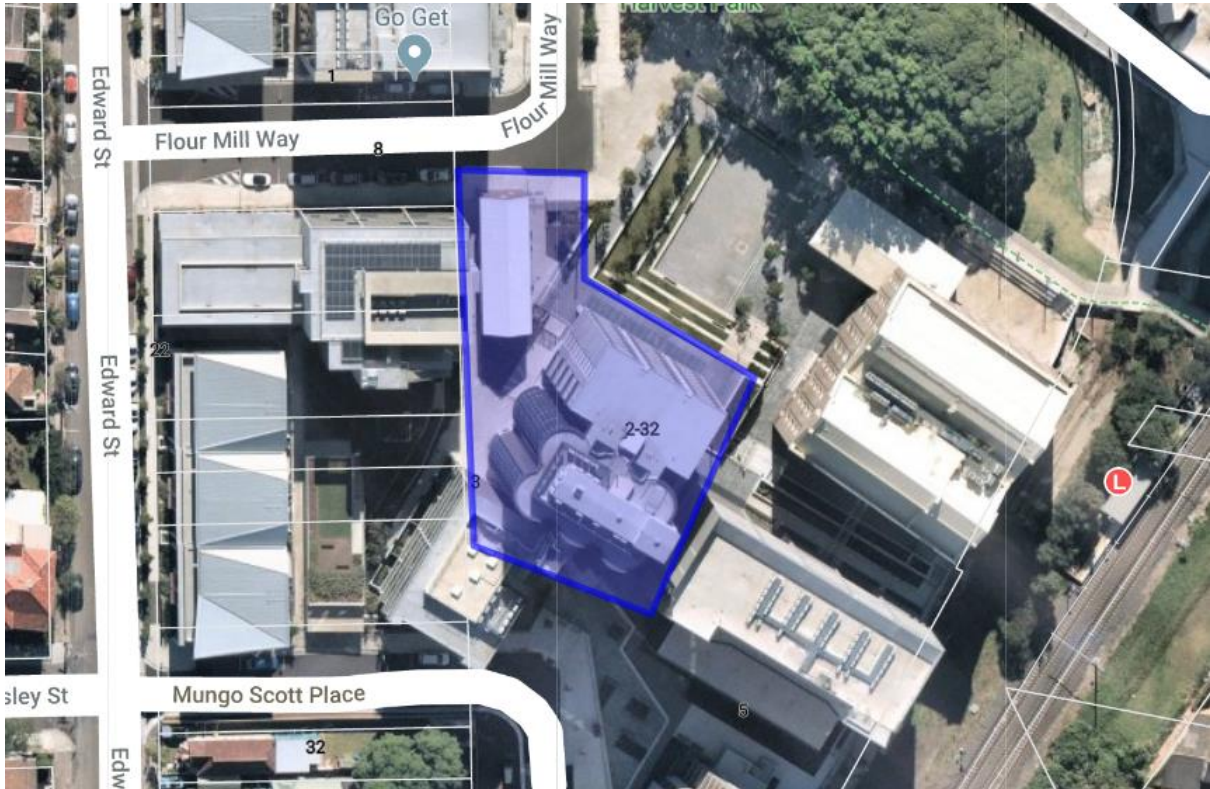


Photo 2 Aerial Photo with buildings identified



Photo 3 Site Photo with building 5A identified



Photo 4 Site Photo with building 5E identified

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

No.	Determination Date	Proposal	Determination
MP10_0155	07.12.2012	Concept Plan Approval: Mixed use residential and commercial development.	Approved
MP10_0180	11.07.2013	Stage 1: Mixed use residential and commercial development	Approved
MP10_0180 Modification 1	11.07.2013	Stage 1 Modification to Condition C4 – s.94 contributions	Approved
10.2014.15 4	11.09.2014	Internal and external works to the <i>Mungo Scott</i> Building and the attached administration annexe and the temporary use as a marketing/sales office	Approved

10.2014/70	25.09.2014	Stage 2: Demolition of buildings; additions to Building 5A (silos) and construction of new buildings as a mixed use residential and commercial development. Construction of a new access road from Edward Street	Approved
MP10_0155 Modification 1	10.03.2015	<p>Modifications to the Concept Plan Approval to allow (within the Ashfield LGA):</p> <ul style="list-style-type: none"> • Adaptive re-use of the existing Mungo Scott Building, silo structures and 3 other buildings and 12 new building envelopes • Staged construction over 4 stages • Up to 360 dwellings (and up to 33,500m² GFA) • Up to 4,000m² of commercial floor space • Up to 2,500m² of retail floor space • A floor space ratio of 1.4 - 1.6:1 • Up to two levels of basement car parking and 35 on-street car parking spaces • 4,806m² of public open space to be dedicated to Council and an additional 5,287m² of publicly accessible open space • New local streets serving the development • Road works including a roundabout at Edward and Smith Streets as part of Stage 1 and a signalised intersection at Old Canterbury Road as part of Stage 3 • Off-site pedestrian upgrade works in the surrounding area and to Summer Hill Village 	Approved
MP10_0155 Modification 2	Determined by the NSW Department of Planning and Environment	Proposed modification to the approved Concept Plan seeking to retain open space and internal roads in private ownership by deleting reference to dedication in the Development Description and in the Future Environmental Assessment Requirements.	Approved
10.2014.70	25/9/2014	Demolition of buildings (including the substation) except the 6 silos, the Mungo Scott Building and former amenities building; conversion and additions to the silos to create a 11 level Building (5A) comprising 45 dwellings and 216m ² of commercial floor space; construction of a 7 level Building (5B) comprising 14 dwellings; construction of a 2 level (with attic) terrace Building (5C) comprising 6 dwellings; construction of a part 3 and part 6 level Building (5D) comprising 18 dwellings; conversion of a 2 level Building (5E) to commercial use comprising 244m ² of floor area; 108 car space basement car parking, construction of new road from Edward Street providing access to basement and	Approved - Determined by JRPP

		future stage 3 and land dedication to Council.	
10.2018.00 5	Determined by Council	Subdivision of consolidated Lot 3 into three new lots (4,5 and 6), proposed lots 4 and 5 include stratum subdivision to accommodate parking and services to the Mungo Scott Building, Strata Subdivision of the approved mixed use development in proposed lot 4 into 136 Strata lots, plus common property.	Approved by Council 6/9/2018
10.2015.20 1	11/8/2016	Part Stage 4: Construction of a vehicle access and pedestrian bridge from Smith Street to connect to Building 1A. Building 1A involves new residential development and is the subject of a separate development application to Marrickville Council.	Approved
10.2015.20 2	Determined by JRPP	Part Stage 3 (DA 1): <ul style="list-style-type: none"> • Excavation for and construction of two (2) levels of basement car parking, plus waste storage and plant facilities (to interface with Stage 2 basement already approved) • Construction of a new nine (9) storey residential flat building comprising of 52 dwellings, (with one ground floor commercial tenancy having a floor area of 66 m²) referred to on the DA plans as Building 3A & 3B • Adaptation, refurbishment and conversion of an existing grain silo building, comprising four silos to a 14 storey residential flat building comprising of 56 dwellings, referred to on the DA plans as Building 3C • Construction of a new nine (9) storey residential flat building comprising 27 dwellings, referred to on the DA plans as Building 3D • Construction of a new (private) roadway and footpath (as an extension of the roadway approved for construction under Stage 2) • Provide approximately 75m of private roadway incorporating 11 on-street car parking spaces. The roadway, car parking and communal open space pertaining to this DA will all remain in private ownership on completion of the development. 	Approved
10.2015.20 3	10/5/2016	Part Stage 3 (DA 2):	Approved by Council

10.2019.50	26/6/2019	Fit out and use of Mungo Scott Building (also known as Building 2A) for the purpose of Offices and Retail Premises	Approved
10.2019.51	3/6/2019	Use of commercial tenancy within Building 3A as a retail premises	Approved

Previous consents are relevant to the current proposal as they enable the retail uses to be permissible and provided the approval for the buildings which the proposal retail spaces are to be located within.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
25 October 2018	Application was submitted to Council
5 November – 27 November 2018	Application was placed on the first round of public notification. In response Council received three (3) submissions.
8 January 2019	<p>A request for additional information/ amended plans was sent to the applicant addressing the following:</p> <p>Owners Consent – proposed works within the public domain did not have strata body approval</p> <p>Mechanical Exhaust – insufficient information with regards to the mechanical exhaust was provided</p> <p>Noise – An acoustic report outlining compliance with regards to mechanical ventilation systems was required</p> <p>Waste Management - additional information with regards to any temporary waste storage locations, the intended path of travel to the waste collection point and details on who will undertake waste collection for the premises was required</p> <p>Plan of Management – A plan of management for the tenancies was required to be submitted</p>
5 April 2019	The applicant submitted amended plans/ additional information in response to Council's letter
6 May 2019	<p>Council sent a second additional information letter to the applicant in response to the submitted amended plans. The outstanding matters raised within this letter included:</p> <ul style="list-style-type: none"> - Owners Consent - Mechanical Exhaust - Gross Floor Area discrepancy - Signage - Statement of Environmental Effects - Deliveries

31 May 2019	The requested additional information was submitted to Council
3 June 2019 – 20 June 2019	The application was placed on a second round of notification, due to the changes to the plans submitted by the applicant. In response to this notification nineteen (19) submissions were received from the residents of Building 5A. Of these submissions eight (8) were in support of the proposal and eleven were in objection. The submissions also included a petition with 19 signatures.

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*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *State Environmental Planning Policy (Major Development) 2005*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

Remediation of the site is not required prior to the carrying out of the proposed development, as any remediation works have occurred during the construction/ redevelopment of the site.

5(a)(ii) *State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)*

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

SEPP 64 specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

Signs and Advertising Structures

The application seeks consent for the erection of the following signage:

- Signage proposed for building 5A is to measure 500mm by 1500mm and is to be limited to one sign per tenancy, placed on the front facade of the building, directly above the entry for each tenancy.

- Signage for building 5E is to measure 1200mm by 1200mm for the north west elevation and 600mm by 600mm on the eastern elevation. Signs are to be flush wall or blade signs.

The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

5(a)(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment, open space and recreation facilities.

5(a)(iv) Ashfield Local Environment Plan 2013 (ALEP 2013)

The application was assessed against the following relevant clauses of the *Ashfield Local Environmental Plan 2013*:

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 5.10 - Heritage Conservation

(xvi) Clause 2.3 - Land Use Table and Zone Objectives

The site is located within the IN2 Light Industrial Zone. The proposal is defined as Retail Premises which is prohibited within the zone.

Although the proposed use is prohibited on the site under the zoning table, Retail Uses are permissible on the land by virtue of the Concept Approval MP 10_0155 under the provisions of State Environmental Planning Policy (Major Development) 2005.

The relevant matters to be considered under the Ashfield Local Environmental Plan 2013 for the proposed development are outlined below.

The following table provides an assessment of the application against the development standards:

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause No.	Clause	Standard	Proposed	Compliance
2.2	Zoning	IN2 Light Industrial	Retail Premises	No – but permitted by Part 3A Concept Plan - see above.
4.3	Height of buildings	10m	No change to existing height	N/A
4.4	Floor space ratio	1:1	FSR/ GFA is altered by the proposal. See discussion below.	Yes

5.10	Heritage Conservation	<ul style="list-style-type: none"> • Located in the vicinity of a Heritage Conservation Area to the west. • The property is a heritage Item – Item I619 		
5.10(4)	Effect of proposed development on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or the area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	The use of the tenancy as a retail premises will not impact upon the heritage significance of the neighbouring items or conservation area. The proposed mechanical ventilation has been assessed and is considered acceptable subject to conditions.	Yes – see heritage assessment below
5.10(5)	Heritage assessment	<p>The consent authority may, before granting consent to any development:</p> <ul style="list-style-type: none"> (a) On land on which heritage item is located, or (b) On land that is within a heritage conservation area, or (c) On land that is within the vicinity of land referred to in paragraph (a) or (b), <p>Require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	Appropriate heritage management documentation and heritage impact statements were submitted as part of this development application. This documentation has been assessed by Council Heritage Advisor who outlined no objection subject to conditions of consent.	Yes – See assessment below

Gross Floor Area - GFA

The current development application seeks consent to increase the GFA of the approved commercial premises located upon the ground floor of Building 5A by roughly 57.8m², bringing the total retail/ commercial GFA for building 5A to 273.8m².

The original development application was given maximum permissible GFA provisions under Concept Approval MP 10_0155 through the provisions of *State Environmental Planning Policy (Major Development) 2005*. This concept approval outlines that the site (as a whole) is permitted to construct up to 2,000m² – 2,500m² of retail floor space. The current development application results in the overall site achieving a retail floor space of 1596.5m² and therefore maintains compliance with the maximum permitted retail floor space control.

In this instance the concept approval did not outline an overall maximum floor space ratio for the site, but instead detailed maximum floor area mix for retail spaces, commercial spaces and residential units. The above assessment confirms that the proposed retail expansion does not exceed the maximum retail gross floor area provided by the concept approval and is therefore acceptable.

Impact to Local Heritage Item

Council’s Heritage Advisor has reviewed the proposed works to the local heritage item I619 – building 5E and outlined that the proposed fit out and use of the building as a food and

drink premises is unlikely to impact upon the buildings Heritage significance, with the proposal not significantly altering the existing internal or external fabrics. Council's Heritage Advisor initially outlined concerns regarding the proposed mechanical ventilation and demolition regarding potential exist points.

These concerns have since been addressed through the submission of an amended design. This is based on advice from EJE Heritage who have also outlined no objection to the works and provided a heritage impact statement detailing vent colours to blend in with the brickwork, the style of vents, dimensions of openings required for the vents and the exact location of the vents.

Council's Heritage Advisor has outlined that compliance with these recommendations is sufficient to ensure minimal impact to the significance of the building and outlined no objection, subject to compliance with the recommendations made within the heritage impact statement provided by EJE Heritage. These conditions have been incorporated into the recommended consent. It is therefore considered that both the applicant Heritage Advisor and Councils Heritage Advisor are in agreement regarding the proposed works.

It is considered that the proposal complies with the provisions of the Ashfield LEP 2013.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDP2016	Compliance
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	Yes
2 - Good Design	Yes
8 - Parking	No – see discussion
10 - Signs and Advertising Structures	Yes
E1 – Heritage items and Conservation Areas (excluding Haberfield)	
1 – General Controls	Yes
2 – Heritage Items	Yes
5 – Retail and Commercial Buildings	Yes

The following provides discussion of the relevant issues:

Car Parking

Under the DCP the tenancy is required to have a minimum of 7 parking space available for the retail use. Under the original development application DA 10.2014.70, 6 car parking spaces were identified as being located within the basement to service the commercial/ retail tenancies of the development. Generally, the provision of the 6 spaces is an acceptable level of parking for staff or customers of the premises when considered alongside surrounding on-street parking. The current application is for the operation of the tenancies as retail premises, as envisioned by the original concept approval and development application. It is therefore considered unreasonable to require the provision of any additional car parking to service the development, as the variation is minor and an appropriate level of parking for the development has already been assessed under the original development consent.

Deliveries

The use of the tenancy as a retail premises is likely to result in the operator requiring regular deliveries to and from the space. Council has undertaken an assessment of the premises, its location to neighbouring residential units and its potential to impact the amenity of these units and determined to limit any deliveries to the premises to between the following hours:

7:00am to 5:00pm Monday to Saturday.
8:00am to 12:00pm (midday) on Sunday

The location of the premises results in the high possibility of delivery vehicles parking and unloading from Mungo Scott Place or Flour Mill Way, with any goods being transported by delivery driver to the tenancy. This transportation passes a number of residential units and has a high potential to impact upon the amenity of occupants. It is for this reason that the permissible hours of delivery have been restricted to the above times.

Acoustic Report

Due to the proximity of neighbouring residential units and potential for acoustic impacts resulting from the development, a condition requiring the preparation and submission of an acoustic report prior to the issue of a construction certificate is recommended. This condition requires the applicant to demonstrate that any retail/ food and drink premises operating from the tenancy will not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Compliance with this condition is expected to ensure minimal amenity impacts for neighbouring residential units and ensure sufficient amenity.

Staff and Patrons

To ensure minimal amenity impacts arising from the various food and drink premises that will operate from the site, a condition is recommended that limits the staff and patron numbers to the following:

- Staff: A maximum of 10 staff are permitted to be working at each of the tenancies at any one time.
- Patrons: The three retail (food and drink) areas relating to building 5A are permitted to accommodate a combined maximum total of 100 patrons at any one time. Building 5E is permitted to accommodate a maximum of 100 patrons (including the external licensed area) at any one time.

These limits are recommended having regard to the Building Code of Australia, the requirements for toilet provision per patron ratios and an assessment on the potential amenity impacts from overall patron numbers on neighbouring residential units. Compliance with the maximum patron numbers (and hours of operation discussed below) is expected to ensure that the amenity of neighbouring units is not impacted.

Hours of Operation

The applicant has outlined that the requested operation hours are:

- 7:00am to 10:00pm – Monday to Sunday.

Council has assessed the requested hours of operation and does not consider them supportable given the close proximity of residential land uses and potential amenity impacts for neighbouring residents. In this instance, to ensure sufficient amenity for neighbouring residents the following 'base' hours of operation for the tenancies are recommended:

- 8:00am to 8:00pm – Monday to Saturday
- 8:00am to 8:00pm – Sunday

Notwithstanding the above, it is also recommended that each of the tenancies be permitted the following trial hours of operation for a 12 month period, starting from the date of any occupation certificate being issued:

- 7:00am to 9:30pm – Monday to Thursday
- 7:00am to 10:00pm – Friday to Saturday
- 7:00am to 9:30pm – Sunday

Upon the completion of the 12 month trial period, the applicant may lodge a further application to review the hours of operation. Upon submission of this application, Council will review any complaints received and any changes in the surrounding environment and determine if an extension is appropriate in accordance with the relevant planning controls.

Waste Disposal

Any future tenant is required to access the stairs or lift leading to the basement, located to the south east of building 5A and travel down to Basement level where the waste storage area is located, to dispose of waste generated through the generation of day to day running. Access to this waste storage area and stairs/lifts requires the operator to pass by of a number of residential units and has the potential to impact neighbouring residential units. In order to ensure minimal disturbance on neighbouring residents Council recommends a condition that limits the disposal of any waste to between the following hours:

7:00am to 10:00pm – Monday to Thursday

7:00am to 10:30pm – Friday to Saturday

7:00am to 10:00pm – Sunday

The applicant has outlined that the collection for waste is to be undertaken by a contractor who services the developments waste rooms. Council has recommended a condition of consent that requires the applicant to demonstrate a signed contract detailing who is to collect commercial waste prior to the premises becoming operational.

Plan of Management

Council has recommended a condition that requires each tenant of the premises to prepare and sign a plan of management. This plan of management is to outline the operational conditions relating to the tenancy, require the creation and management of a complaints register and outlines various other management requirements. This condition has been designed for the amenity of neighbouring residents and is recommended as a condition of

consent. The complaints register is to be provided to Council with any application to formalise trial hours of operation or seek an extension of trading hours.

Mechanical Ventilation

The applicant has proposed to install new mechanical ventilation for the retail premises relating to building 5A and 5E. The proposed mechanical ventilation location for building 5A has resulted in a number of existing residents expressing concern or objection. The proposed location for the mechanical ventilation relating to building 5A is outlined below within photos 5 and 6. Unfortunately the recently constructed building did not accommodate any mechanical ventilation internally to service the constructed retail spaces and this has resulted in the applicant being forced to add the mechanical ventilation under the current development application.

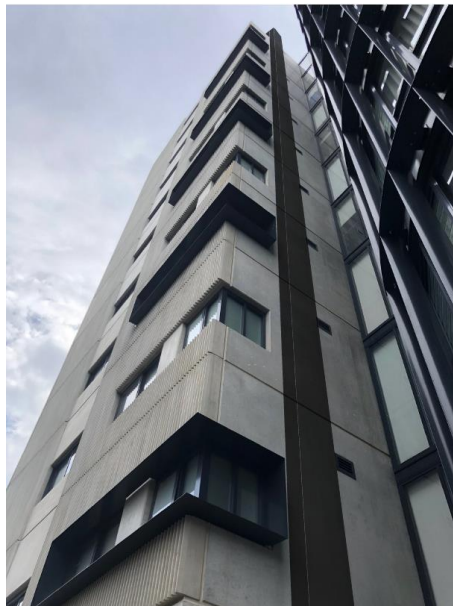


Photo 5 – Photomontage of proposed mechanical ventilation location on Building 5A

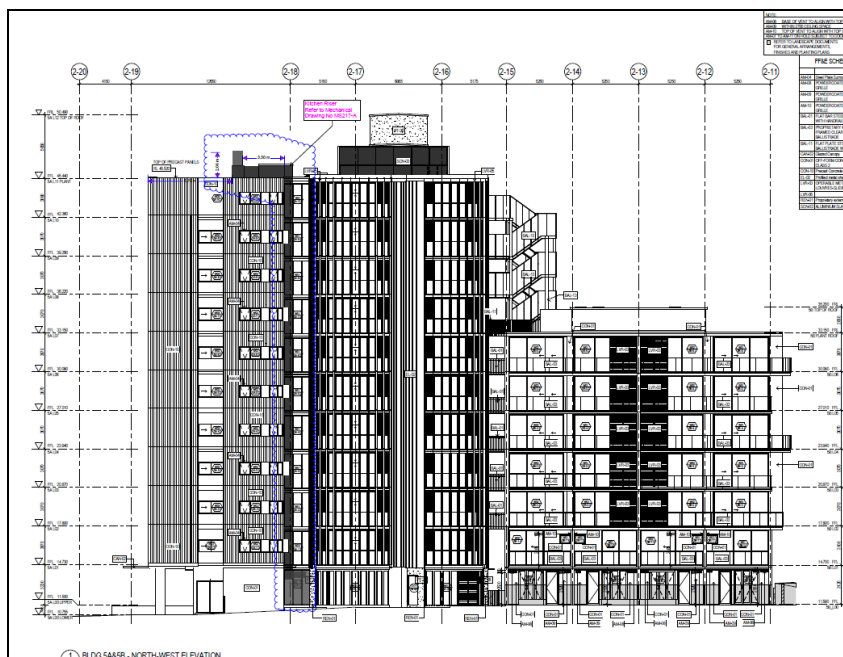


Figure 6 – Elevation of proposed mechanical ventilation location on Building 5A

In this instance Council has undertaken a compressive assessment of the building, with the intention of finding the best suitable location for mechanical ventilation. This assessment has determined that the proposed location for the mechanical ventilation, where the applicant has identified it on the proposed plans is the most suitable. This is because it is not within close proximity to operable windows or balconies.

The proposed location of the mechanical ventilation is, however acknowledged to obscure visual outlook from non-operative windows within the hallway of units along the northwest elevation. These windows are outlined below within photos 7. Analysis of the approved floor plan detailed within figure 8 highlights that these windows relate to transitional hallway spaces and not areas of primary living. Therefore the proposed loss of visual outlook is less significant than that of a primary living area outlook.



Photo 7 – Photo detailing existing hallway windows

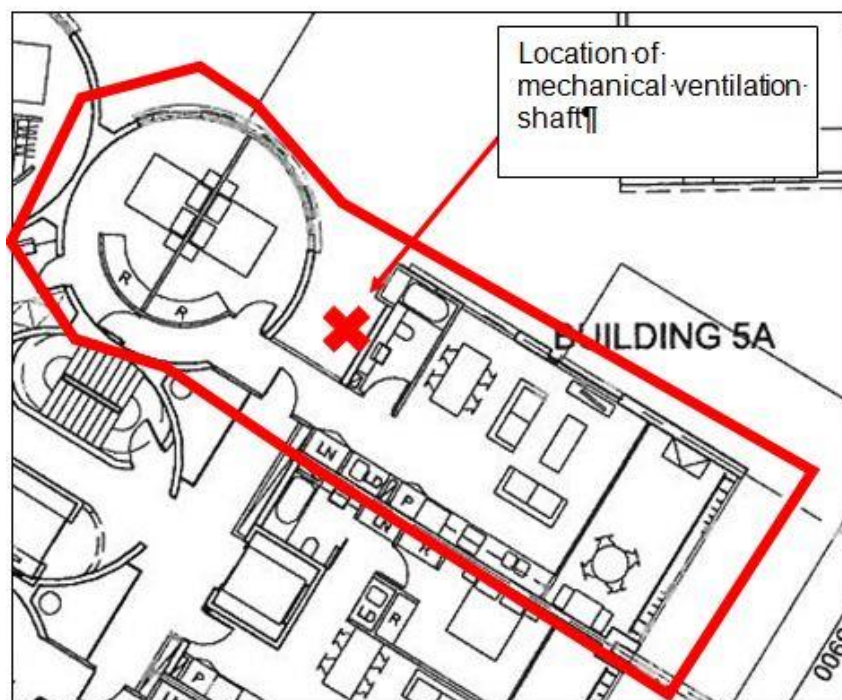


Photo 8 – Northwest elevation approved unit layout

These mechanical ventilation systems have been reviewed by Council's Environmental Health Officer who has outlined no objection to the proposed location, subject to stringent conditions regarding the submission of an acoustic report, compliance with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and NSW Liquor & Gaming noise criteria, compliance with background noise conditions for mechanical services and acoustic testing upon completion of fit out and use of premises. The recommended conditions have been incorporated into the consent and it is considered that compliance with these conditions and relevant Australian standards will ensure sufficient amenity for the neighbouring residential units.

It is considered the application complies with the parts as indicated and ultimately achieves the aims and objectives of the Comprehensive Inner West Development Control Plan 2016.

The proposed development is capable of complying with the BCA.

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

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(e) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 14 days to surrounding properties. A total of 22 submissions were received. Of these 22 submissions eight (8) are in support, fourteen (14) in objection and is a one petition with 19 signatures.

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Proposed mechanical ventilation location, noise generation and visual outlook impacts

Comment: See assessment above under the mechanical ventilation subheading.

Issue: Proposed hours of operation and noise generation

Comment: An assessment on the hours of operation is undertaken above under the subheading hours of operation.

Issue: Smoke and amenity issues from outdoor dining area

Comment: The proposed outdoor dining space has been assessed and is considered acceptable subject to the imposition of the trial hours of operation condition discussed above. The development will be required to comply with relevant legislation regarding smoking and food.

Issue: No owners consent from the strata body

Comment: An application form with the stamped strata seal has been submitted to Council and satisfies the ordinary requirements for owners consent.

Issue: Noise resulting from loading/deliveries and waste disposal

Comment: Council has recommended conditions regarding hours of deliveries and waste removal. Compliance with these hours is sufficient to ensure amenity for occupants.

5(g) 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.

The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage – The proposal was referred to Council's Heritage Advisor, who initially expressed concerns regarding the installation of signage and mechanical ventilation to the heritage significant building known as 5E. These concerns have been resolved through the submission of amended plans and additional information regarding the mechanical ventilation. Appropriate conditions regarding treatment of the proposed mechanical ventilation for building 5E has been recommended for the consent.
- Environmental Health – The proposal was referred to Council's Environmental Health Officer, who outlined no objection subject to stringent conditions regarding the submission of an acoustic report, compliance with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and NSW Liquor & Gaming noise criteria, compliance with background noise conditions for mechanical services and acoustic testing upon completion of fit out and use of premises.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal, as they were levied against the original development application for the construction of the building.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

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.

9. Recommendation

- A. 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 2018.178.1 for Fit out and Use of Commercial Premises within Buildings 5A and 5E for Retail Food and Drink Premises at -32 Smith Street SUMMER HILL, 5-7 Mungo Scott Place SUMMER HILL, 18 Flour Mill Way SUMMER HILL subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment A – Recommended conditions of consent

A General Conditions

(1) Approved plans stamped by Council

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers

No.	Issue	Title	Prepared by	Dated
MS1050	A	Mechanical Services Stage 2 – Floor and Level 1 Layout	GHAV Services Pty Ltd	16 October 2017
MS217-A	F	Mechanical Services Stage 1 & Stage 2	GHAV Services Pty Ltd	31 March 2019
170205_5E-103	D	Floor Plan – Ground Floor_ Building 5E	Code Design	23 February 2018
170205_5E-104	D	Floor Plan – First Floor_ Building 5E	Code Design	23 February 2018
170205_5E-201	D	Reflected Ceiling Plan – Ground Floor_ Building 5E	Code Design	23 February 2018
170205_5E-301	B	Shopfront Elevations – Building 6E	Code Design	23 February 2018
170205_5E-302	B	Section – Building 5E	Code Design	23 February 2018
D.100	A	Demolition Plan – Building 5A	Five Foot One Design	8 June 2018
D.101	A	General Arrangement Plan – Building 5A	Five Foot One Design	21 May 2018
D.200	A	Exterior Shopfront Elevations – Building 5A	Five Foot One Design	8 June 2018
A1523	09	Stage 2_BLDG 5A & 5B – North West Elevation	HASSELL	5 July 2017

Supplementary Documents	Date	Prepared By
DA Acoustic Assessment	5 April 2019	Acoustic Logic Consultancy Pty Ltd
Advice on Mechanical Penetrations – Building 5E – Rev. A	May 2019	EJE Heritage

In the event of any inconsistency, the conditions of this consent shall prevail.

(2) Compliance with BCA

All architectural drawings, specifications and related documentation shall comply with the Building Code of Australia (BCA). All work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

B *Design Changes*

(1) **Amended plans to be submitted**

Nil.

C *Conditions that must be satisfied prior to issuing/releasing a Construction Certificate*

(1) **Permits – General**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:

- a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
- b) A concrete pump across the roadway/footpath
- c) Mobile crane or any standing plant
- d) Skip bins
- e) Scaffolding/Hoardings (fencing on public land)
- f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
- g) Awning or street verandah over footpath
- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity or issue of the Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

(2) **Public Liability Insurance**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

(3) **Services and infrastructure adjustment/relocation**

The applicant shall meet the full cost for Telstra, Sydney Water, Energy Australia, AGL Electricity/AGL Retail Energy or alternative service/energy providers to adjust/relocate their services/infrastructure as required. The applicant shall make the necessary arrangements with the relevant service authority or relevant retail energy company.

(For information on the location of services contact the "Dial before you Dig" service on 1100.)

Documentary evidence from the utility authorities/retail energy company confirming that all of their requirements have been satisfied shall be submitted to Council with the Construction Certificate.

(4) Mechanical Ventilation to Building 5E

The proposed air vents are to be installed in accordance with the Advice on Mechanical Penetrations, Building 5E prepared by EJE Heritage, May 2019. The vents are to be:

i. Gable vents

Extruded aluminium louvres in a panel to match the previous vent opening, ie 2 bricks wide by 8 brick courses high with a vertical divisions (approximately 470 x 686 including the perimeter frame) in Colorbond Jasper (to match the style and location of vent previously in this location.

ii. Low Level Air Intake, West Elevation

300 by 330 aluminium air grill located above the existing window. Colorbond Jasper to match the adjacent brickwork.

iii. Low Level Exhaust, South Elevation

Extruded aluminium louvre 550 by 400 to match the colour of the existing paintwork (Colour Bond surfmist). This vent is to be located in the vicinity of the existing services.

iv. Kitchen Exhaust – East Façade

This vent replaces a pane of glass in one of the new windows and are to be colour matched to the joinery.

Plans/documentation detailing compliance with this requirement are to be submitted to the principle certifying authority, prior to the issuing of a Construction Certificate.

(5) Acoustic - General acoustic

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

An acoustic report prepared by a suitably qualified and experienced acoustic consultant shall be provided to the satisfaction of the Principal Certifying Authority demonstrating that noise and vibration from the operation of the premises including the use, plant and equipment will satisfy the stipulated criteria above and relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. Recommendations must be consistent with the approved plans.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate.

(6) Acoustic Condition

The LA10* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

(7) Food Shops – Certification

The premises are to be designed, constructed and operated in accordance with the:

- Food Act 2003
- Food Regulation 2010
- Australia and New Zealand Food Standards Code
- Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
- Australian Standard AS 1668 Part 1 – 1998
- Australian Standard AS 1668 Part 2 – 2012; and
- Building Code of Australia

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

(8) Mechanical Ventilation

To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

The ventilation systems are to be designed, constructed and operated in accordance with the:

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate. Odour Emission Control

There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

(9) Plan of Management

A Plan of Management is to be provided to Council prior to the issue of a Construction Certificate. The Plan of Management is to cover (but is not limited to) the following issues:

- Ensure compliance with the relevant conditions of approval,
- Minimise the potential impact of the operation of the premises on nearby residents,
- Effectively minimise and manage anti-social behaviour,
- Minimise noise emissions and associated nuisances,
- Effectively manage and respond to resident complaints,
- Ensure responsible service of alcohol and harm minimisation, and
- Patron conductivity and security.
- Outline to any tenant conditions regarding maximum patron numbers/ staff numbers
- Outline to any tenant conditions regarding waste disposal/ waste transfer to bin storage areas in basement.

a) Security Management

The plan must specify security patrol, surveillance and other security and response methods and security management of the public and private domain within and surrounding the site.

No signage visible from the public domain is to be installed that advertises directly or indirectly, the gaming machines on site.

b) Patron Management

Patrons must be prevented from removing glass, opened cans, bottles or alcohol from the

premises (except from any approved bottle shop).

Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving to do so quickly and quietly, having regard to the amenity of the area.

A sign detailing the maximum number of persons permitted in the premises, in letters not less than 25mm, must be displayed at the main front entrance of the premises within the building.

The management/licensee is responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council. If so directed by Council, the management/licensee is to employ private security staff to ensure that this condition is complied with.

c) Recycling and Waste Collection

The sorting and/or collection of waste and recycling must only occur between 8.00am and 9.00pm daily. Glass sorting/breaking should not occur after 6pm unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.

d) Public Entertainment

Details of how public entertainment will be managed to ensure minimal impacts on surrounding properties including acoustic impacts, parking and traffic. Details of sound limiters and/or acoustic provisions including management of patrons, closing of doors and windows etc. Such entertainment must be carried out in accordance with any approved acoustic reports & traffic reports identified within this consent.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

Each tenant is to sign the plan of management required within the conditions above. Tenants are to keep a copy of the plan of management on site at all times and all staff are to be familiar with the requirements/ conditions dictated within the management plan.

(10) Trade Waste Licence Agreement

Waste water arising from the use must be directed to the sewers of the Sydney Water under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of Sydney Water prior to discharge to the sewer. Details of the requirements of the Trade Waste Agreement must be obtained prior to the issue of a Construction Certificate. Plans detailing how compliance will be achieved must be prepared and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

D Conditions that must be complied with before work commences

(1) Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* the erection of a building and/or construction works must not commence until:

(a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:

(i) Council; or

- (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

Note: If the principal certifying authority is the Council, the appointment will be subject to the payment of a fee for the service to cover the cost of undertaking building work and / or civil engineering inspections.

WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is a criminal offence that attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.

E Conditions that must be complied with during construction or demolition

(1) Storage of building materials

Building materials and spoil are to be located wholly on site and not placed in a position that may result in materials being washed onto the roadway or into the stormwater system.

(2) Construction Hours

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

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.

In the case that a standing plant or special 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.

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.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

- 8:00 am to 12:00 pm, Monday to Saturday; and
- 2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall 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.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

(3) Demolition requirements/standards

Demolition (if it is to be carried out) must be in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.
- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.

- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not to be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

(4) Road and footpath – safety and access requirements

The contractor is to take all precautions to ensure footpaths and roads are kept in a safe condition and to prevent damage to Council's property.

Heavy vehicles entering and leaving the site must only cross the footpath where it is adequately timbered and strapped. Pedestrian access across this footpath must be maintained in good order at all times during the work. Any damage caused must be made good by Council at Council's restoration rates, at the applicant's or builder's expense.

F Conditions that must be complied with prior to installation of services

(1) Fire alarm details - Principal Certifying Authority

Details of the proposed/existing Fire Alarm system shall be submitted to the Principal Certifying Authority for consideration and satisfaction prior to installation including a certificate, prepared by a person competent to do so, setting out the:-

- (i) basis of design
- (ii) standard to which the system is to be installed; and
- (iii) including all relevant documentation including wiring diagram and details of detectors.

At the completion of the installation a certification shall be submitted to the Principal Certifying Authority containing the following:-

- (i) inspection, testing and commission details;
- (ii) date of inspection, testing and commissioning;
- (iii) the name and address of the individual who carried out the test;
- (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

(2) Approval to use/occupy building

The tenancy or any part thereof must not be used or occupied until an Occupation Certificate has been obtained from the Principal Certifying Authority.

Note: If Council is chosen as the Principal Certifying Authority a fee is applicable prior to the release of the Construction Certificate.

G Conditions that must be complied with before the building is occupied

(1) Trade waste/disposal

Arrangements for the proper storage and disposal of any trade waste to be made prior to the occupation of the premises.

(2) Acoustic report – demonstrating compliance

A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

(3) Food Premises Notification and Registration

Food premises notification shall be obtained from the NSW Food Authority prior to commencement of business operations /issue of an Occupation Certificate and a copy of the notification shall be submitted to the Principal Certifying Authority. Notification can be completed on the NSW Health Department's website at www.foodnotify.nsw.gov.au

Prior to the commencement of business operations/issue of an Occupation Certificate the owner of the business is to complete and submit Council's food business registration form which can be obtained from Council's website at www.leichhardt.nsw.gov.au. Evidence of registration must be submitted to the Principal Certifying Authority.

Should Council be the nominated Principal Certifying Authority, then the applicant shall notify Council not less than forty-eight (48) hours prior to the proposed occupation of the premises to arrange for a final compliance inspection.

The applicant shall not operate the food premises until an Occupation Certificate has been issued.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

(4) Mechanical Ventilation

At the completion of the installation of the mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:

- a) inspection, testing and commissioning details,

- b) date of inspection testing and commissioning,
- c) the name and address of the individual who carried out the test, and
- d) a statement that the service has been designed, installed and is capable of operating to their accordance with AS 1668.2-1991/2012 – Mechanical ventilation for acceptable indoor-air quality above standard.

Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property. The system must be in accordance with the approved plans. Any requirement for the system to be visible from the public domain or adjoining properties and is not consistent with the approved plans will require further consent from Council.

Noise and vibration from the use of the mechanical exhaust and/or ventilation system shall not exceed the background noise level by more than 5dB(A) and shall not be audible in any premises of a neighbouring occupancy.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

(5) Registration of Use with Council Food Shop

The premise must be registered with Council's Environment Health Section in accordance with the following relevant legislation:

Food Shop - Food Act 2003

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any interim / final occupation certificate.

(6) Trade Waste / Grease Traps

To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Occupation Certificate application shall include provision for a Sydney Water approved grease trap.

The grease trap installation shall service all commercial sections of the development and be designed, constructed and operated in accordance with:

- Australian Standard AS 3500; and
- National Plumbing & Drainage Code

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

(7) Waste – Liquid trade waste - agreement required prior to OC

Liquid trade waste materials are to be disposed of in accordance with the requirements of Sydney Water under a Trade Waste License Agreement.

A copy of a trade waste agreement demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

H Conditions that are ongoing requirements of development consents**(1) Acoustic requirements – Licensed premise**

The L_{A10} noise level emitted from the premises, measured between the hours of **7am and 12 midnight**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

The L_{A10} noise level emitted from the premises, measured between the hours of **midnight and 7am**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

(2) Acoustic impacts – compliance for business, retail etc

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

(3) Acoustic Testing in first 60 days

During the first sixty (60) days of trading being provided at the premises, the following acoustic measures must be undertaken:

- a) A suitably qualified acoustic consultant must be appointed to:
 - i) measure and verify the noise emanating from the premises; and
 - ii) if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.
- b) The noise measurements must be:
 - (i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
 - ii) taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 6pm until the end of the public entertainment or close of business, whichever occurs first, and
 - iii) submitted to Council within seven (7) days of testing.
- c) If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
 - i) submitted to Council with the noise measurements; and

- ii) implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises.
- d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access)/ public entertainment on the premises must cease until such time as the recommendations are implemented and verified.

(4) Acoustic – Outdoor area of licensed premise – no amplified music, gaming machines

There is to be no entertainment in the form of amplified music on any part of the external dining area at any time.

All windows and doors (except to allow ingress/egress) shall be closed between 6:00pm and 7:00am Monday to Sunday.

The number of patrons using the external dining areas are restricted to:

- o Building 5A –12 patrons at any one time
- o Building 5E –18 patrons at any one time

(5) Health Impacts

The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

(6) Hours of operation - Trial period

The premises including the outdoor area are only to be open for business and used for the purpose approved within the following hours.

Trial Period	Indoor Area	Outdoor Area
Monday to Thursday	7:00am – 9:30pm	7:00am – 9:30pm
Friday and Saturday	7:00am – 10:00pm	7:00am – 10:00pm
Sunday	7:00am – 9:30pm	7:00am – 9:30pm

The above operating hours are for a trial period of 12 months from the date of Occupation Certificate/date of this consent (whichever occurs later). At the cessation of the trial period the hours of operation are to be as follows.

After Trial Period	Indoor Area	Outdoor Area
Monday to Friday	8:00am – 8:00pm	8:00am – 8:00pm
Saturday and Sunday	8:00am – 8:00pm	8:00am – 8:00pm

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Service is to cease 30 minutes before closing time.

In the event that the operator wishes to seek consent for permanent late trading hours or a further trial period a Section 96 application is to be lodged and approved by the consent authority. The application should seek to modify this condition accordingly and be accompanied by supporting documentation.

(7) Deliveries on site

All deliveries to and/or from the site are to be conducted from vehicles standing wholly within the site and under no circumstances from delivery vehicles standing kerbside in adjacent streets.

Permitted hours for deliveries are as follows:

Monday to Friday: 7:00am to 5:00pm

Saturday: 7:00am to 5:00pm

Sunday: 8:00am to 12:00pm (midday)

(8) Waste Transporting

The transporting of waste from the tenancy to the waste holding area within the basement must only be undertaken between the following hours:

7:00am to 10:00pm – Monday to Thursday

7:00am to 10:30pm – Friday to Saturday

7:00am to 10:00pm – Sunday

Glass sorting/breaking should not occur after 6pm unless it can be done in a manner that does not have adverse acoustic impacts on surrounding properties or tenancies.

(9) Cleaning Activities

All cleaning activities are permitted to operate after the tenancy's hours of operation, but must be completed prior to 10:30pm.

All façades are to be closed during cleaning activities.

(10) Creation of a Complaints Register

The premises must establish a compliant register document, which documents all complaints received during the operation of the premises.

This register is to be kept with the centres manager and made available to Council upon request.

All complaints are to be acted upon in a timely manner and any re-occurring complaints must be addressed by a more significant/long term solution. Responses to the complaints should also be documented in the register.

The occupant/tenant is to provide a contact phone number at the front of the reception so that any complaints regarding operation can be made.

(11) Maximum number of employees and patrons

The maximum number of employees for each of the tenancy's relating to building 5A and 5E is not to exceed ten (10) at any time.

The retail (food and drink) area relating to building 5A is permitted to accommodate a maximum of 100 patrons (including the external area) at any one time.

The retail (food and drink) area relating to building 5E is permitted to accommodate a maximum of 100 patrons (including the external licensed area) at any one time.

(12) Retain amenity

The use is to be conducted at all times without interference to the amenity of the area.

(13) Trade waste containers

Any trade waste containers are to be screened from view from a public place and are not to obstruct or interfere with the use of the loading and parking facilities.

Restaurant / Café - No approval for live music or entertainment

This approval is for a restaurant/café only and does not authorise live musical or other forms of entertainment, separate Development Consent would be required for such activities/events. Background pre-recorded music may be played subject to ensuring that it does not have adverse impacts on surrounding properties or tenancies.

(14) Protection of the Environment Operations Act 1997 - offensive noise/vibration prohibited

The use and occupation of the premises including all plant and equipment installed thereon, shall not give rise to any offensive noise or vibration from the premises within the meaning of the *Protection of the Environment Operations Act 1997*.

(15) Air conditioners - noise control - Protection of the Environment Operations Act 1997

The air conditioners as approved by this consent shall be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997* that will adversely affect the amenity of the premises in close proximity to the property.

(16) Discharge of condensate from air conditioning units

Any condensate, moisture, etc shall not be permitted to be discharged onto the ground surface of the premises or into stormwater drainage systems in contravention of the requirements of the *Protection of the Environment Operations Act 1997*.

All such wastes must be discharged to sewers of the Sydney Water.

(17) Parking spaces and loading areas - maintenance/ line marking/use

The off-street car parking spaces and the loading/unloading areas provided on site shall be maintained and line marked in accordance with AS2890.1 (1993). Under no circumstances are such spaces to be used for the storage of goods or waste products.

(18) Odour Emission Control

There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

I **Advisory Notes**

(1) Other approvals

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an Application for Approval under Section 68 of the *Local Government Act 1993* for any proposed activity under that Act, including any erection of a hoarding. All such applications must comply with the *Building Code of Australia*.
- an Application for Approval under Section 68 of the *Local Government Act 1993* for a Place of Public Entertainment if proposed. Further building work may also be required for this use in order to comply with the *Building Code of Australia*. If there is any doubt as to what constitutes "Public Entertainment" do not hesitate to contact Council's Fire Officer.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.

Note: An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.

- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.
- a development application for demolition approval under the *Environmental Planning and Assessment Act 1979* if consent for demolition is not granted by this consent.

(2) Works and requirements of other authorities

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.

- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

(3) Modifications to your consent - prior approval required

Works or activities other than those authorised by the approval including changes to building configuration or use will require the submission and approval of an application to modify the consent under Section 96 of the *Environmental Planning & Assessment Act 1979*. You are advised to contact Council immediately if you wish to alter your approved plans or if you cannot comply with other requirements of your consent to confirm whether a Section 96 modification is required.

Warning: There are substantial penalties prescribed under the *Environmental Planning and Assessment Act 1979* for breaches involving unauthorised works or activities.

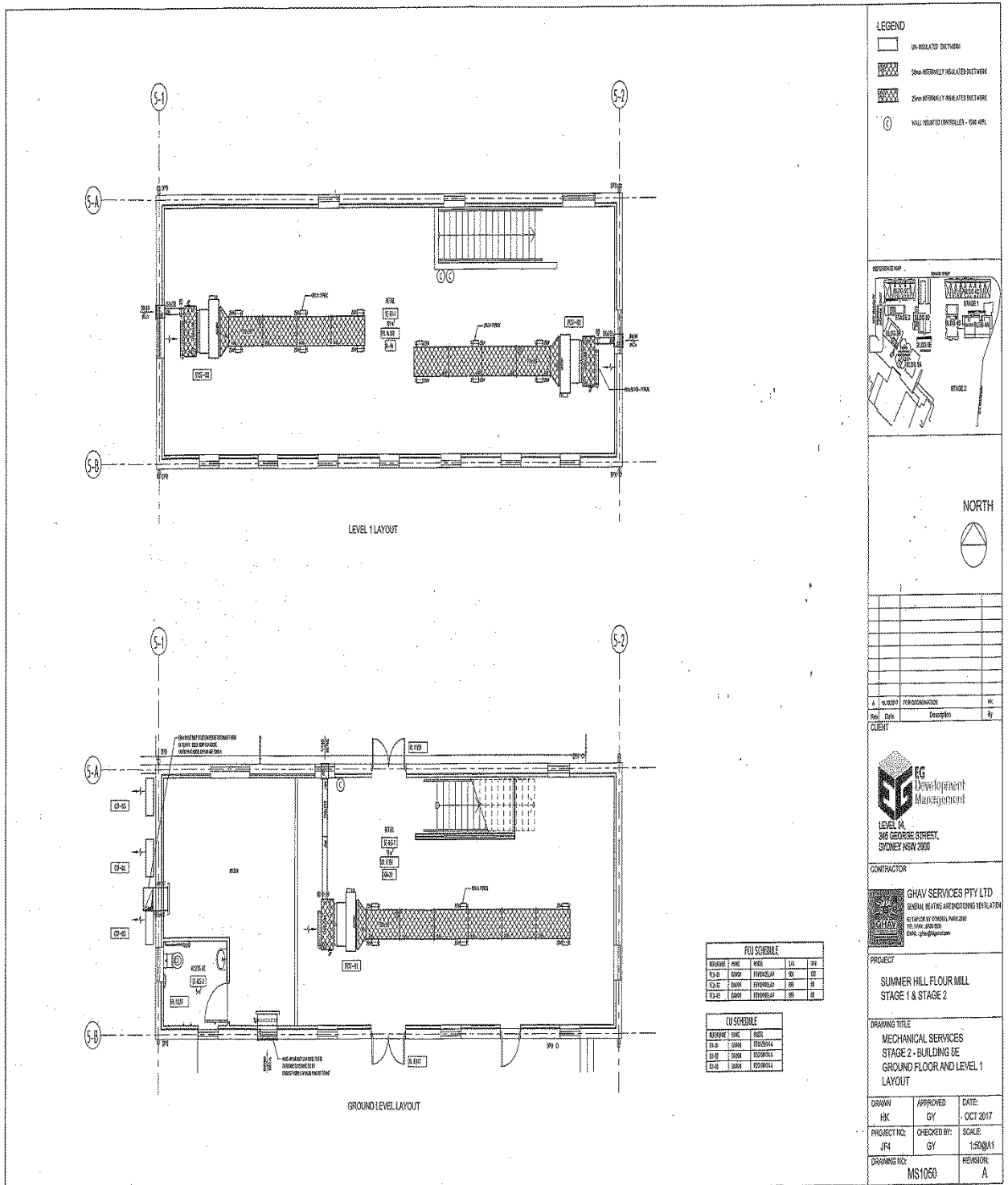
(4) Bulk bins on footpath and roadway

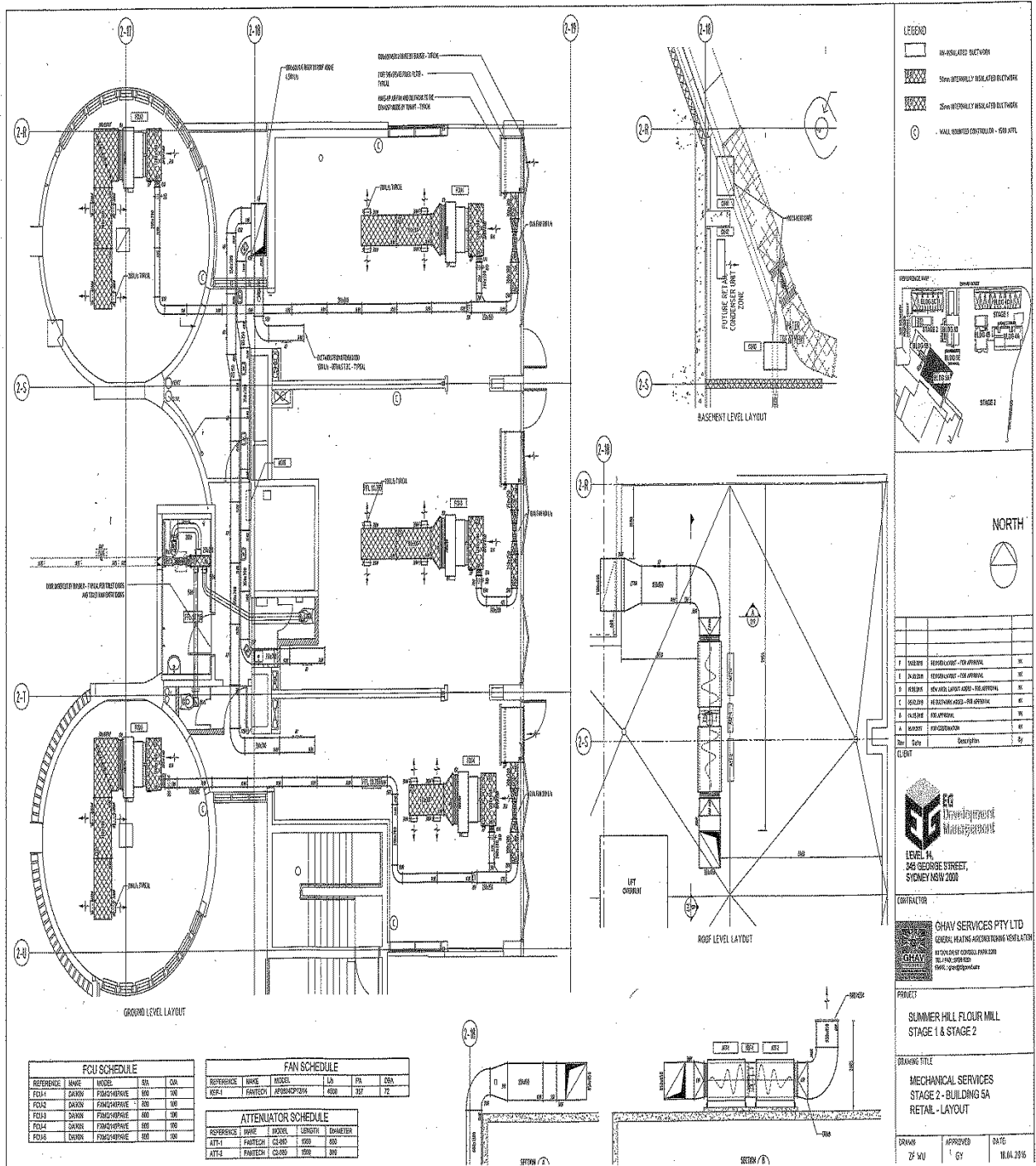
Approval is required from Council prior to the placement of any bulk bins on Council's footpath and/or roadway.

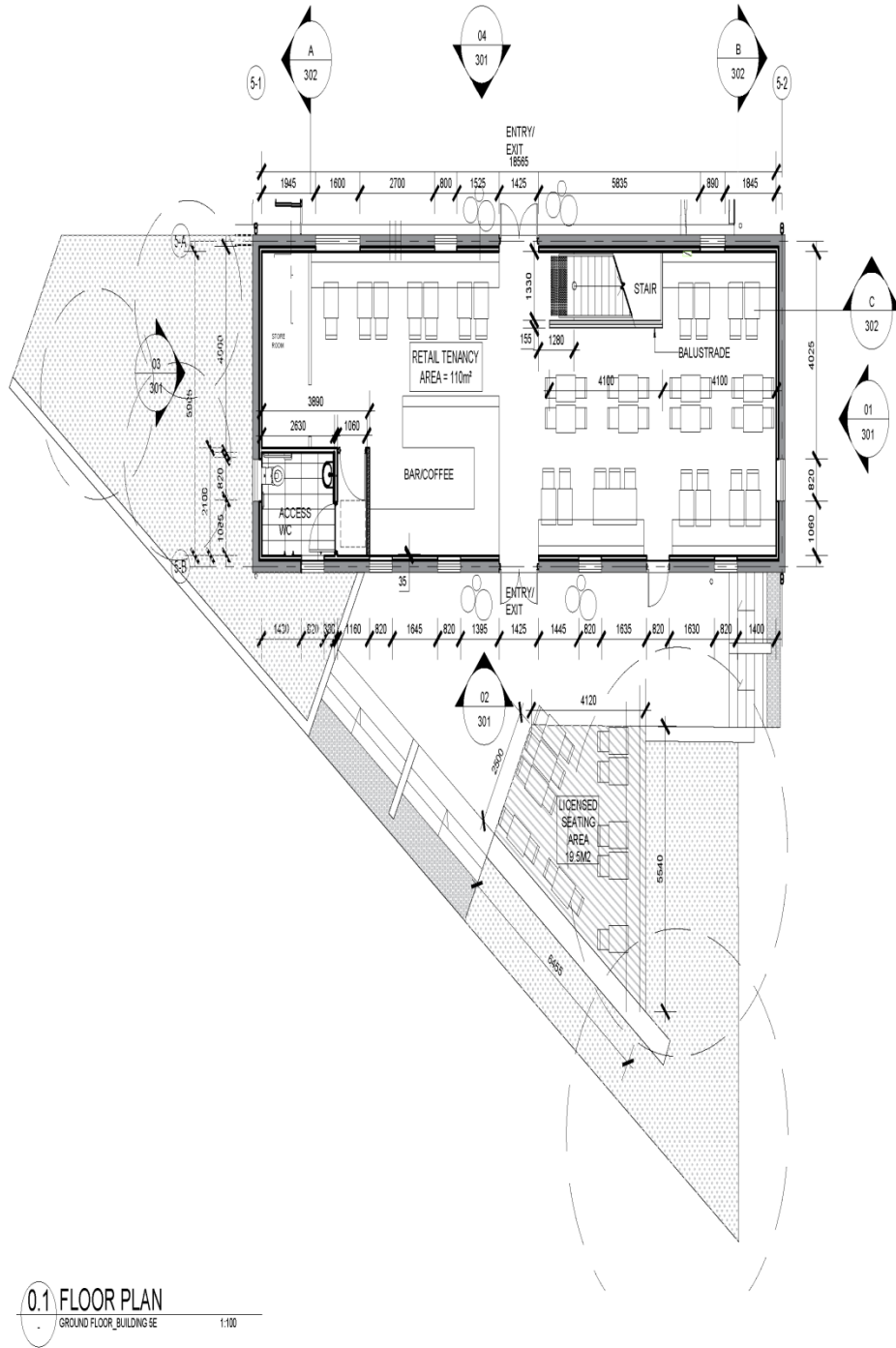
(5) Compliance with the Disability Discrimination Act - liability

This decision does not ensure compliance with the Disability Discrimination Act. The owner, lessee, operator and/or manager of the premises is advised that under the *Disability Discrimination Act 1992*, it is illegal to discriminate against a person with a disability by means of restricting access to or within the building. If access is restricted the owner, lessee, operator and/or manager of the premises may be liable for prosecution and/or a successful appeal to the Human Rights and Equal Opportunities Commission. You should therefore investigate your liability under that Act. Australian Standard 1428 - Design for Access and Mobility, Parts 2, 3 and 4 may assist in determining compliance with the *Disability Discrimination Act 1992*.

Attachment B – Plans of proposed development







0.1 FLOOR PLAN
GROUND FLOOR, BUILDING SE 1:100

GENERAL NOTES AND SPECIFICATION

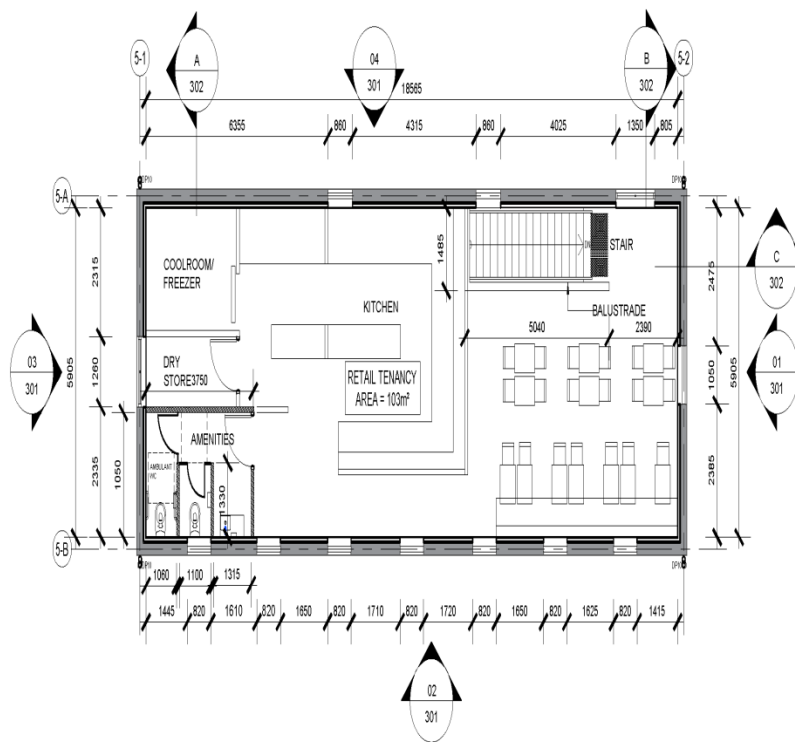
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G.F INTERNAL	56
FF INTERNAL	26
EXTERNAL	18
TOTAL	100

D	13/02/2018	ISSUED FOR DA PURPOSES
C	13/02/2018	LICENSED SEATING AREA ADDED
B	17/01/2018	ALTERNATIVE AMENITIES LAYOUT ADDED
A	13/12/2017	ISSUED FOR INFORMATION
ISSUE	DATE	DESCRIPTION OF AMENDMENT
PROJECT: SUMMER HILL FLOUR MILL		
DWG TITLE: BUILDING SE LEASE PLANS FLOOR PLAN- GROUND FLOOR		
SCALE:	1:100	DATE: 13/12/2017
DRAWING NO:	170205_SE101	REVISION: D
RESPONSIBILITY: DESIGN/STRUCTURAL INTEGRITY DESIGN/ENGINEERING ONLY THIS DESIGN IS COPYRIGHT ©		

GENERAL NOTES AND SPECIFICATION

SEATING NUMBERS:

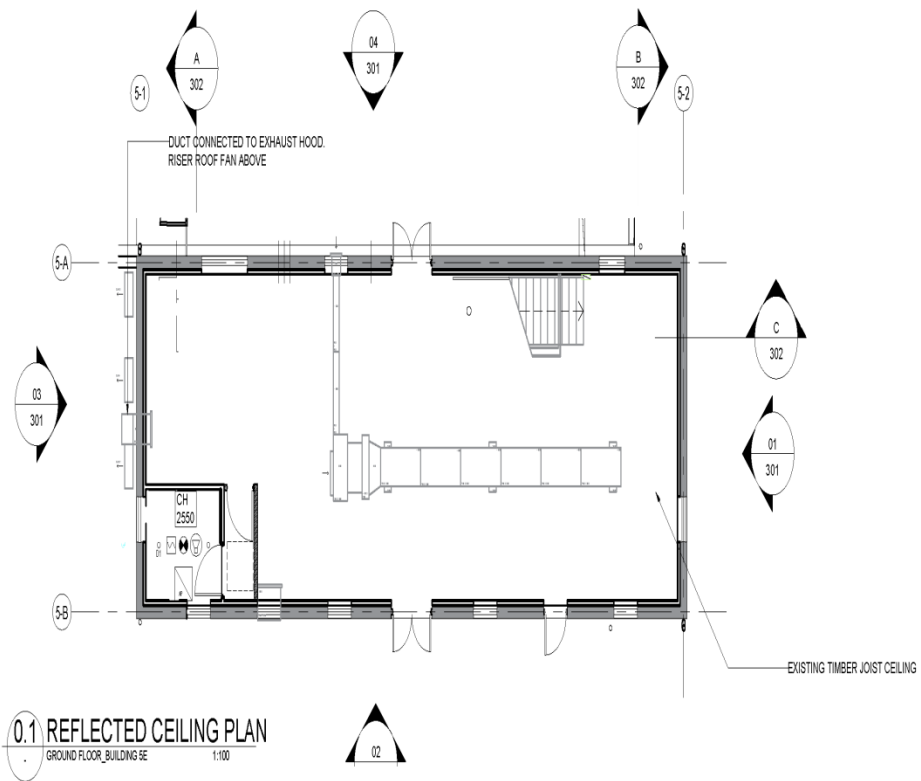
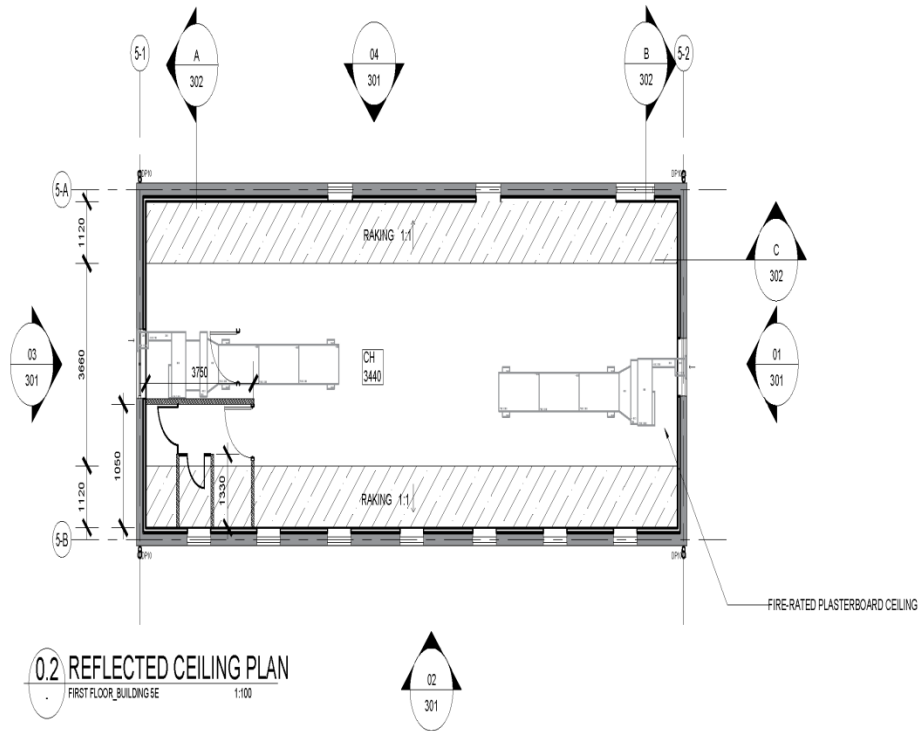
G.F INTERNAL	56
FF INTERNAL	26
EXTERNAL	18
TOTAL	100



0.2 FLOOR PLAN
FIRST FLOOR_BUILDING SE 1:100

PRELIMINARY

D	12/01/2019	ISSUED FOR DA PURPOSES
C	10/02/2019	LICENSED SEATING AREA ADDED
B	17/01/2019	ALTERNATE AMENITIES LAYOUT ADDED
A	12/12/2017	ISSUED FOR INFORMATION
ISSUE	DATE	DESCRIPTION OF AMENDMENT
PROJECT: SUMMER HILL FLOUR MILL BUILDING SE LEASE PLANS FLOOR PLAN - FIRST LEVEL		
SCALE:	1:100	DATE: 12/12/2017
DRAWING NO:	170205_SE1/04	REVISION: D
<small>NO RESPONSIBILITY TAKEN FOR STRUCTURAL INTEGRITY DESIGN/INFORMATION ONLY THIS DESIGN IS COPYRIGHT ©</small>		



GENERAL NOTES AND SPECIFICATION

PRELIMINARY

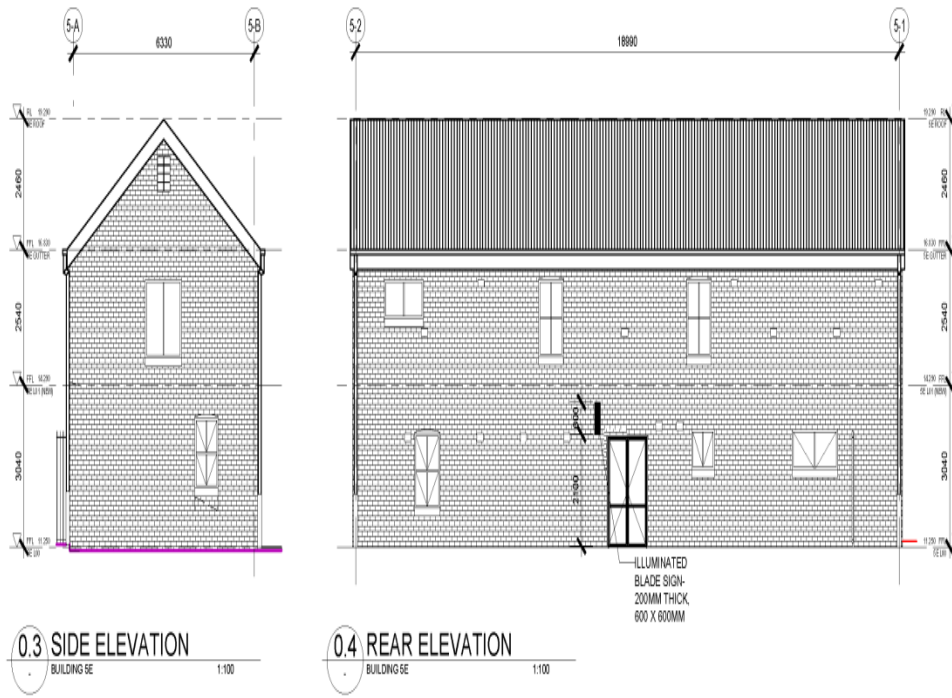
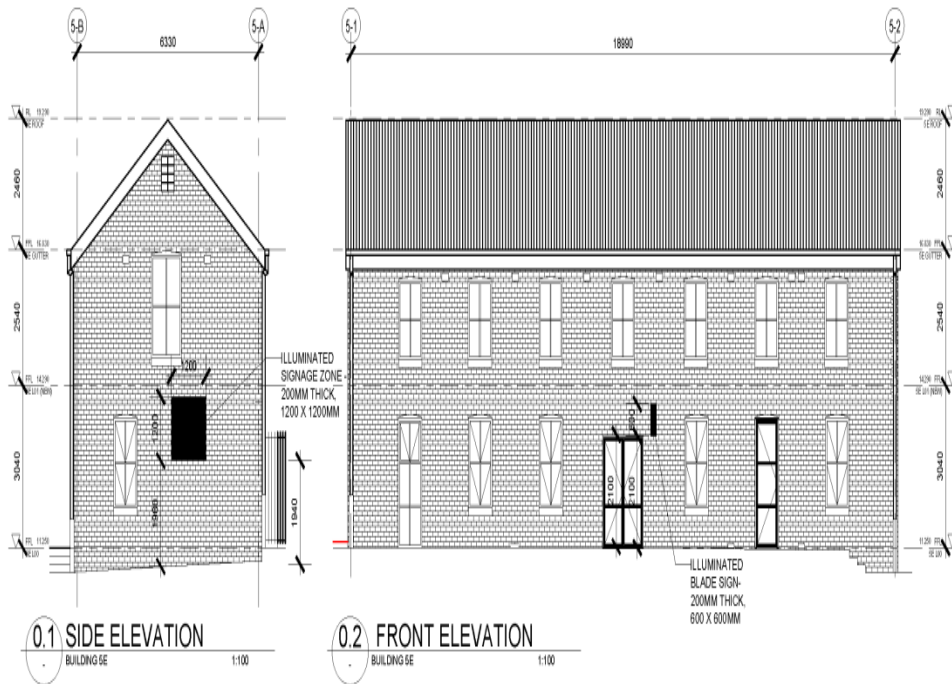
ISSUE	DATE	DESCRIPTION OF AMENDMENT
D	22/02/2018	ISSUED FOR DA PURPOSES
C	19/02/2018	LICENSED SEATING AREA ADDED
B	17/01/2018	ALTERNATIVE AMENITIES LAYOUT ADDED
A	12/12/2017	ISSUED FOR INFORMATION

PROJECT: SUMNER HILL FLOUR MILL
BUILDING SE LEASE PLANS
REFLECTED CEILING PLAN

SCALE: 1:100 DATE: 12/12/2017
DRAWING NO: 170205_SE101 REVISION: 0

08-07-2014
Mark Colman 18/01/2005 Architects
Tel: 011 855 880
www.cdb-design.net

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GENERAL NOTES AND SPECIFICATION

PRELIMINARY

ISSUE	DATE	DESCRIPTION OF AMENDMENT
B	20/02/19	ISSUED FOR DA PURPOSES
A	19/10/18	ISSUED FOR INFORMATION

PROJECT: SUMNER HILL FLOUR MILL
BUILDING SE
SHOPFRONT ELEVATIONS

DWG TITLE: SHOPFRONT ELEVATIONS

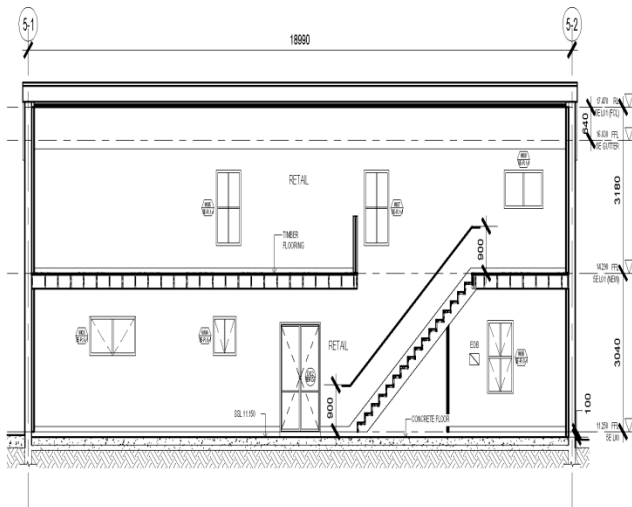
SCALE: 1:100 DATE: 17/01/2019

DRAWING NO: 170201_SE-101 REVISION: B

88-381 Street
North Sydney NSW 2060 Australia
Tel: +61 02 9551 1000
www.codap.com.au

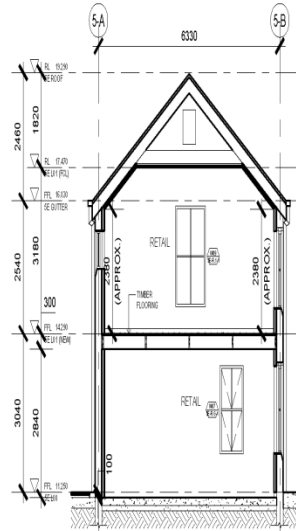
RESPECTABILITY THROUGH STRUCTURAL INTEGRITY
RESISTANCE THROUGH INNOVATION

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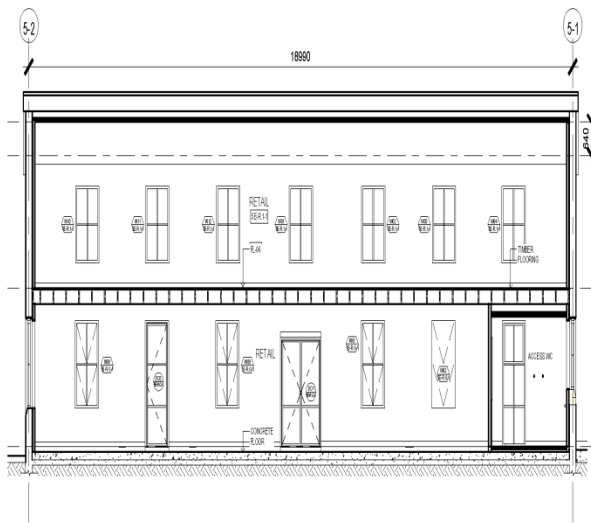
C SECTION

BUILDING SE 1:100



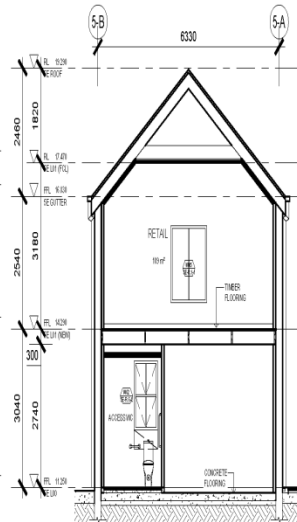
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BUILDING SE 1:100



D SECTION

BUILDING SE 1:100

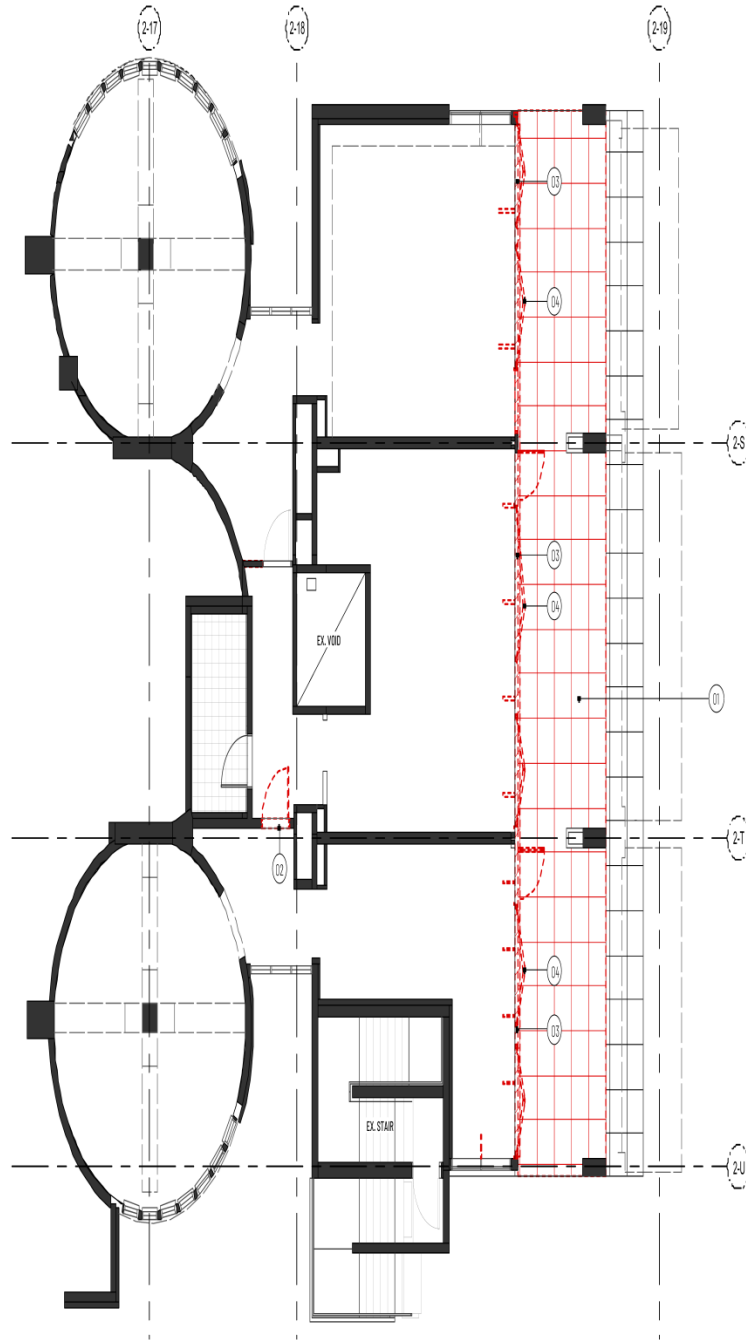


A SECTION

BUILDING SE 1:100

GENERAL NOTES AND SPECIFICATION

PRELIMINARY	B	20/02/2018	ISSUED FOR DA PURPOSES
	A	17/01/2018	ISSUED FOR INFORMATION
ISSUE	DATE	DESCRIPTION OF AMENDMENT	
PROJECT: SUMNER HILL FLOUR MILL			
DWG TITLE: BUILDING SE SECTION			
SCALE: 1:100	DATE: 17/01/2018		
DRAWING NO: 170205_SE-100	REVISION: 0		
88-311 Macdonnell High Street NSW 2054 Australia Tel: +61 2 951 8833 www.codacorp.net			
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DEMOLITION NOTES:

01 - Existing pavers to be removed within proposed enclosed area and to allow for new drainage works to relocate slot drain out to new shopfront line.

02 - Existing door including all associated framing, door panels and hardware to be removed from existing wall. Contractor to retain existing door to re-install in new layout provided the existing doors meet AS1428.1 design requirements for access and mobility.

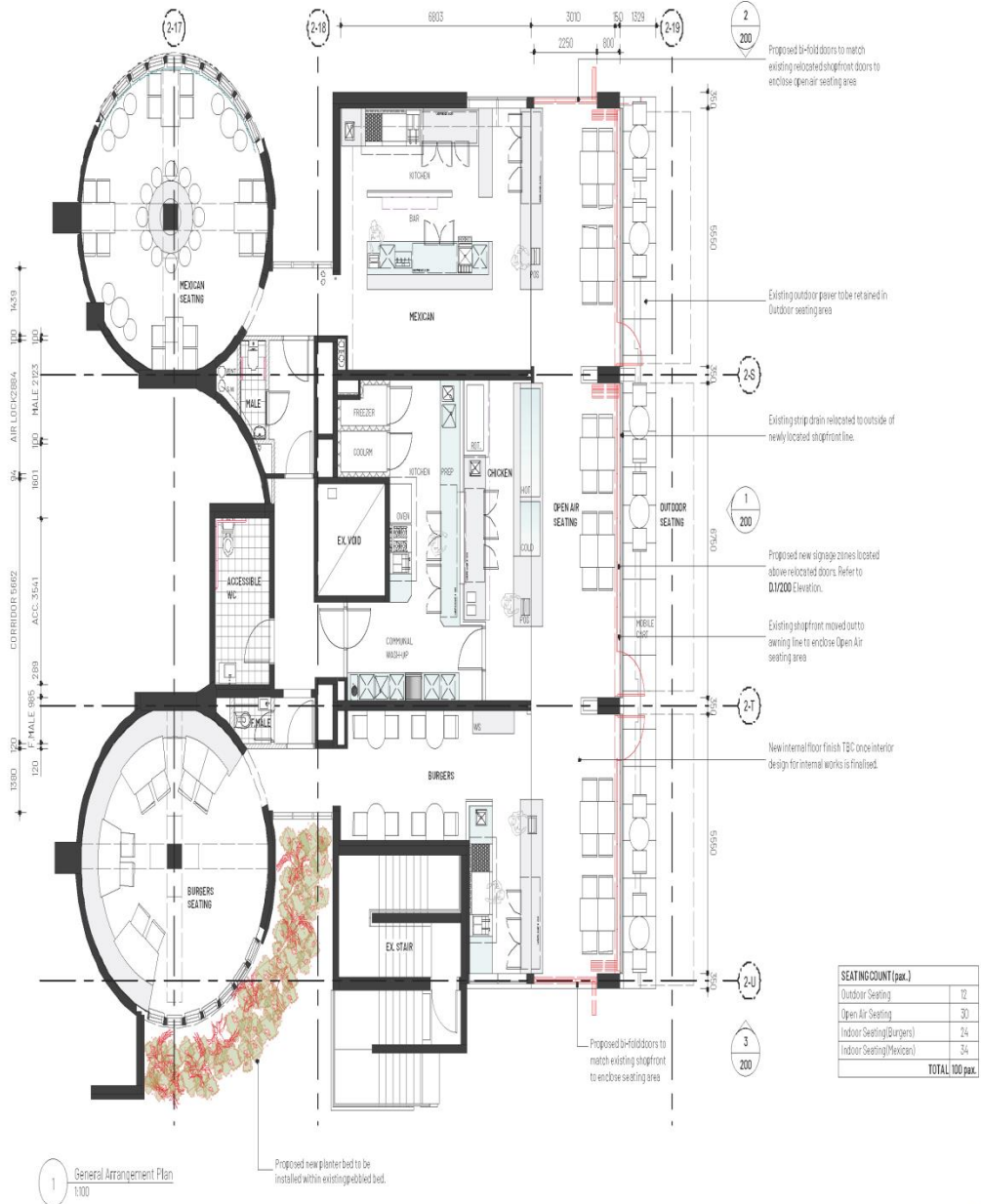
03 - Existing grated slot drain to be removed and retained. Drain to be relocated in line with new shopfront location.

04 - Existing shopfront to be removed from existing location and pushed outward to increase internal seating area for retail tenancies. Contractor to retain all components to shopfront to allow it to be re-instated and configured to suit proposed layout.

1 Demolition Plan
1:100

Preliminary

	<p><small>1. If the latter Step 2 is not required, the proposed Step 2 is not required from these documents and may not be used. The proposed Step 2 is not required from these documents and may not be used. The proposed Step 2 is not required from these documents and may not be used. The proposed Step 2 is not required from these documents and may not be used.</small></p>	<table border="1"> <thead> <tr> <th>ISSUE</th> <th>DATE</th> <th>AMENDMENT</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>08/08</td> <td>Issue for author approval</td> </tr> </tbody> </table>	ISSUE	DATE	AMENDMENT	A	08/08	Issue for author approval	<p>0708 Summer Hill Four Mill Building 541 Tenancy F-3 SUMMER HILL, 2020</p>	<p>Demolition Plan</p> <p>SCALE: 1:100 @ A3 DRAWN: KT Scale 1:100 @ A3 metres</p>	<p>DRAWING NO. D.100 REVISION A</p>
ISSUE	DATE	AMENDMENT									
A	08/08	Issue for author approval									



1 General Arrangement Plan
1:100

Preliminary



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ISSUE	DATE	AMENDMENT
A	2/6/18	Issue for Client Review

700
 Summer Hill Four Mile
 Building/CAI Tenancy F-3
 SUMMER HILL, 2500

General Arrangement Plan

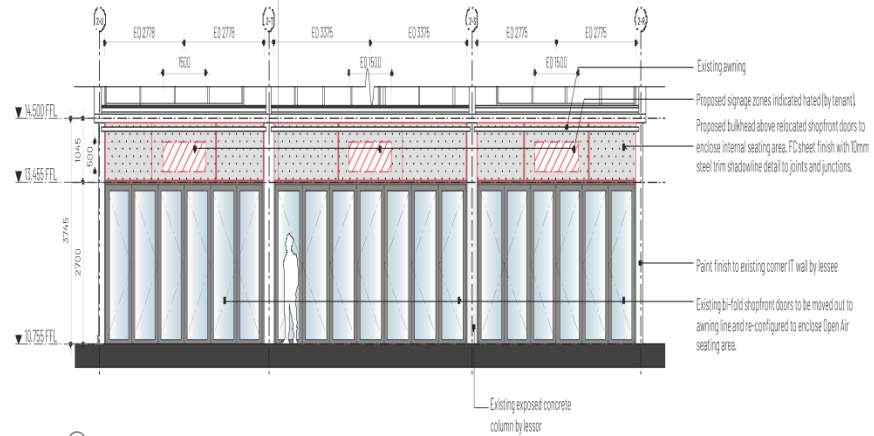


DRAWING NO.

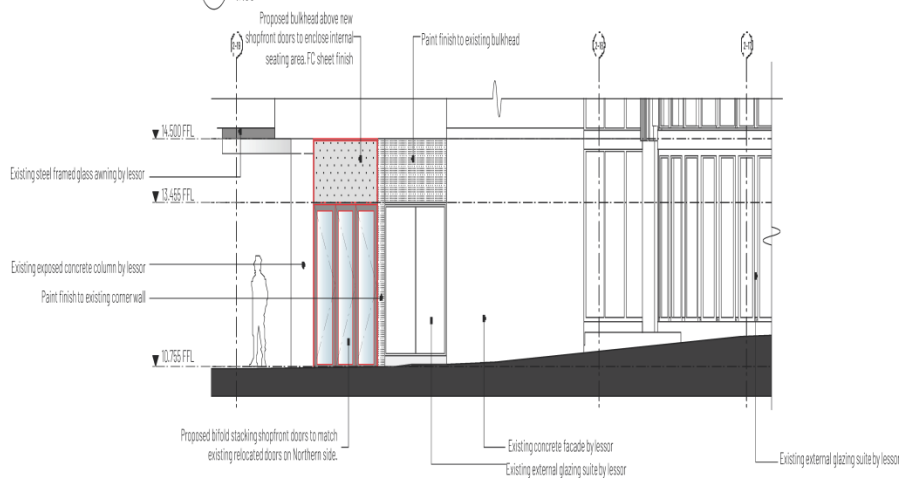
D.101

REVISION

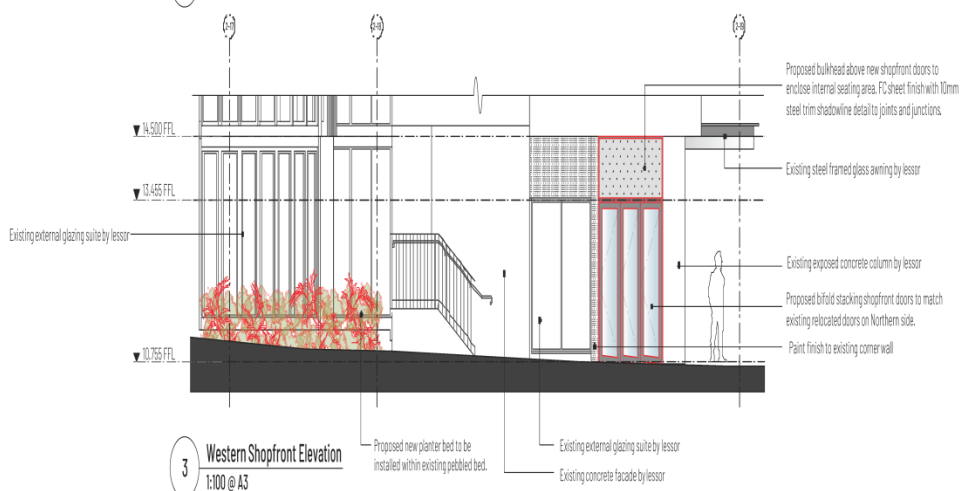
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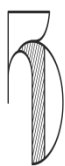
1 Northern Shopfront Elevation
 1:100



2 Western Shopfront Elevation
 1:100 @ A3



3 Western Shopfront Elevation
 1:100 @ A3



1.1 Final Draft Date:
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ISSUE	DATE	AMENDMENT
A	08/18	Issue for author approval

PP-Exterior Shopfront Elevations

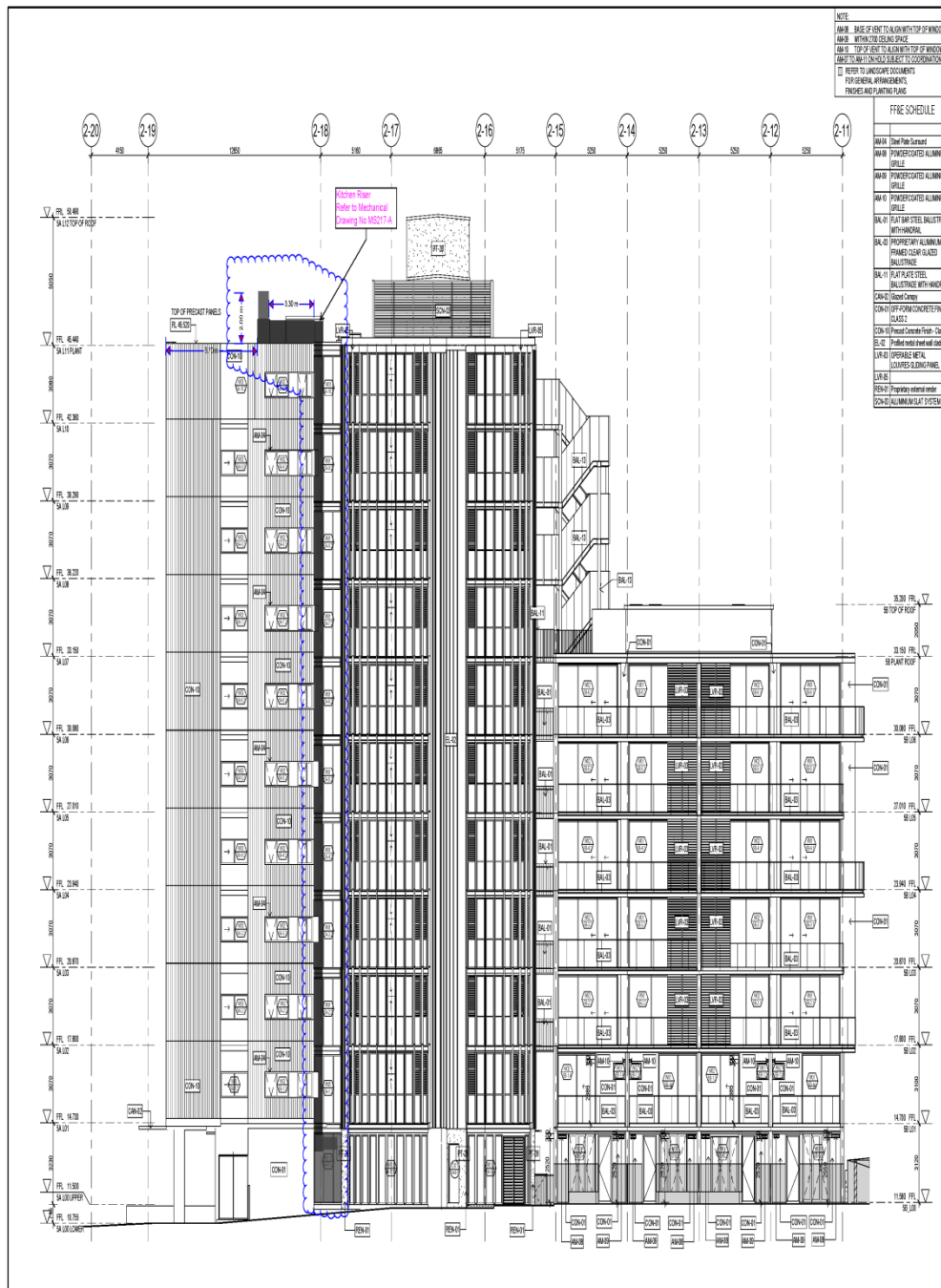
008
 Summer Hill Four Mill
 Building 54/ Tenancy 1-3
 SUMMER HILL, 2320

SCALE: DRAWN:
 0 1 2 3 4 5
 Scale 1:100@A3 metres

Preliminary

DRAWING NO.
D.200

REVISION
A



1 BLDG 5A&5B - NORTH-WEST ELEVATION
SCALE 1:100

NOTE:

- ANAL - BASE OF UNIT TO ALIGN WITH TOP OF WINDOW WITH INTERGLAZING SPACE
- AW - TOP OF UNIT TO ALIGN WITH TOP OF WINDOW
- AWP - BASE OF UNIT TO ALIGN WITH TOP OF WINDOW
- REF - REFER TO LANDSCAPE DOCUMENTS FOR GENERAL APPROXIMATIONS
- PROF - REFER TO MECHANICAL DRAWING NO MS217.4

FRAG SCHEDULE

AWP	Prime Powder Coated Aluminum Profile
AW	Prime Powder Coated Aluminum Profile
AWP	Prime Powder Coated Aluminum Profile
AW	Prime Powder Coated Aluminum Profile
BA	Flat Bar Steel Ballustrade With Handrail
BA	Proprietary Aluminum Framed Clear Glazed Ballustrade
BA	Flat Bar Steel Ballustrade With Handrail
CON	Cast Concrete Form - Class 1
GL	Polished metal steel mesh safety glazing
JMB	Proprietary Metal Glazed Sliding Panel
JMB	Proprietary Metal Glazed Sliding Panel
PER	Proprietary external roller
CON	ALUMINUM SLAT SYSTEM



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REV	DESCRIPTION	DATE
01	ISSUED FOR RECORD SET - STAGE 2, 3A ELEVATIONS	09/07/2017
02	PC2 - REVISED	27/09/2018
03	PC2 - REVISED - ELEVATION FINISHED CLARIFICATION	28/09/2018
04	PC2 - REVISED	18/03/2018
05	PC2 - REVISED	07/03/2018
06	PC2 - REVISED	27/07/2018
07	PC2 - REVISED	10/11/2018
08	PC2 - REVISED	09/02/2019
09	PC2 - REVISED	20/11/2019

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CLIENT: **EG** **Dalkin House Group**

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SYDNEY NSW 2000

CLIENT: **WATPAC**

LEVEL 16
FINANCIAL PLAZA
SYDNEY NSW 2000

PROJECT: **SUMMER HILL FLOUR MILL
STAGE 1 & STAGE 2**

DRAWING TITLE

STAGE 2 BLDG 5A & 5B - NORTH-WEST ELEVATION

STATUS

RECORD SET

SCALE (M)	DATE	DESIGNED	CHECKED	APPROVED
1:100	HAS	HAS	GS	GS

PROJECT NUMBER: 010120
DRAWING NUMBER: A1523
REV: 09

Drawn: David Lee
Checked: Gary Jones
Approved: Gary Jones

Attachment C - Statement of Heritage Significance

Attachment C – Statement of Heritage Significance

A very important industrial complex, the only one of its kind in Ashfield and now an example of a very rare type fulfilling its original functions in the Sydney area. It has manifest historical associations, a compelling and impressive landmark scale and presence, considerable architectural and engineering values, and landscape interest. Strategically located on the edge of the municipality alongside the goods railway and over the Hawthorne Canal, the complex has an appropriate visual relationship with its surroundings. It also forms a dramatic contrast with and complement to the monumental St Andrew's Anglican Church, located at the opposite end of Smith Street.