





 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2021/0688
Address	35-41 Addison Road & 53-55 Philpott Street MARRICKVILLE NSW 2204
Proposal	To demolish the existing structures on site and erect a 4 part 5 storey mixed use building, containing basement car parking, 2 commercial tenancies on the ground floor fronting Addison Road and 61 affordable dwellings.
Date of Lodgement	09 August 2021
Applicant	TBM Projects Group Pty Ltd
Owner	Gia Hoa Australia Pty Ltd
Number of Submissions	Initial: Thirteen (13) First Renotification: Four (4) Second Renotification: Nil Total: Seventeen (17)
Value of works	\$13,953,498.00
Reason for determination at Planning Panel	Sensitive Development – SEPP 65 is applicable.
Main Issues	Height variation, commercial finished floor levels not compatible with flood hazard and variation to DCP massing controls
Recommendation	Deferred Commencement Approval
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Architectural Excellence Panel (AEP) Minutes
	
LOCALITY MAP	
Subject Site	
Notified Area	
Objectors	
Supporters	
	
Note: Due to scale of map, not all objectors could be shown.	

1. Executive Summary

This report is an assessment of the application submitted to Council to demolish the existing structures on site and erect a 4 part 5 storey mixed use building, containing basement car parking, 2 commercial tenancies on the ground floor fronting Addison Road and 61 affordable dwellings at 35-41 Addison Road & 53-55 Philpott Street MARRICKVILLE NSW 2204.

The application was notified to surrounding properties and total of 17 submissions were received in response to all three rounds of notification.

The main issues that have arisen from the application include:

- 21.7% & 22.7% variation to clause 4.3 – Height of Buildings under the MLEP 2011
- 5% deep soil landscaped area, a variation to the minimum 7% required by ADG and 15% required by ARHSEPP.
- Finished floor levels of commercial tenancies are non-compliant with flood hazard of the land and are required to be raised by 550mm to be compatible with flood hazard. Deferred commencement condition recommended requiring the rising of the finished floor levels.

The non-compliances are acceptable given merits of the case and therefore the application is recommended for deferred commencement approval.

2. Proposal

The current proposal seeks consent to demolish the existing structures on site and erect a 4 part 5 storey mixed use building, containing basement car parking, 2 commercial tenancies on the ground floor fronting Addison Road and 61 affordable dwellings.

In particular the proposal involves the following works/uses:

- Construction of a single basement level containing 34 vehicular parking spaces, 3 bin rooms, resident storage cages, services and 68 bicycle parking spaces.
- Construction of a 4 to 5 storey residential flat building addressing Addison Road, Philpott Street and Stevens Lane containing a total of 61 units. The proposed units are to be owned and operated by St George Community Housing (SGCH), a tier 1 provider under the national Regulatory System for Community Housing and not-for-profit organisation. The applicant has outlined that these units are to be utilised for affordable housing for a minimum of 25 years. The following unit mix is proposed:

Type of accomodation	No.
Studio	5
1 Bedroom	25
2 Bedroom	26
3 Bedroom	5

- Construction of two new ground floor commercial tenancies fronting Addison Road. Tenancy C.01 is to have an area of 108sqm, while tenancy C.02 is to have an area of 77sqm. Uses and operating hours for these tenancies is to be subject to a separate application under the Environmental Planning and Assessment Act 1979.
- Creation of new roof top communal spaces to proposed buildings fronting Addison Road and Stevens Lane.

3. Site Description

The subject site is located on the northern side of Addison Road, between Philpott Street and Enmore Road. The subject site is a corner allotment has a primary street address to Addison Road and secondary street addresses to Philpott Street and Stevens Lane. The site consists of two allotments and is generally rectangular shaped with a total area of 2,329.7 sqm and is legally described as 35-41 Addison Road & 53-55 Philpott Street MARRICKVILLE NSW 2204.

The site has a 40m frontage to Addison Road, a 58m frontage to Philpott Street and a 40m frontage to Stevens Lane. The site currently supports a single storey commercial building. The adjoining properties support recently constructed mixed use commercial/residential buildings, single and two storey dwelling houses and residential flat buildings.

The subject site is not listed as a heritage item and is not within a heritage conservation area. The property is identified as a flood prone lot. The subject site does not have any significant trees on-site or within the footpath adjacent. Significant street trees are located opposite the site on the other side of Addison Road, within the Council verge. These trees are unlikely to be impacted by the development.



Figure 1: Zoning Map – Site Identified by red shape and red box – B5 Business Development Zone.

4. Background

4(a) Site history

The following application outlines the relevant development history of relevant applications on surrounding properties.

Surrounding properties

- 33 Addison Road

Application	Proposal	Decision & Date
DA201300345	To demolish existing improvements and construct a 5 storey mixed use development containing a 2 ground floor commercial premises with 24 residential apartments over basement parking for 24 vehicles including strata title subdivision and land dedication	Approved
DA201300345.2	Section 96 of the Environmental Planning and Assessment Act to modify Determination No. 201300345 dated 27 June 2014 to reduce the size of commercial unit 2, provide an additional 1 bedroom dwelling on the ground floor level and provide an additional 3 bedroom dwelling on level 4	Approved
DA201600447	To carry out a fit out and first use of the approved ground floor of the premise for a food and drink premise with associated signage for up to 88 patrons trading 7.00am - 11.00pm Sundays to Thursdays and 7.00am to 12.00 midnight on Fridays and Saturdays	Approved
MOD/2020/0355	Modification involves continuation of trading hours.	Approved

- 23 – 29 Addison Road

Application	Proposal	Decision & Date
DA201300025	To demolish the existing improvements and erect a six storey mixed use development containing a ground floor commercial/retail tenancy and 59 car spaces with residential accommodation above consisting of 21 x 1 bedroom, 33 x 2 bedroom and 6 x 3 bedroom dwellings and widen Fotheringham Street and Stevens Lane	Approved
DA201300025.2	Section 96 of the Environmental Planning and Assessment Act to modify Determination No. 201300025 dated 13 February 2014 to correct a misdescription of the development description and an omission within Condition 51.	Approved
DA201300025.3	Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 201300025, dated 16 April 2015 to reconfigure the basement car parking and services layout, provision of 1 additional car space, reduction in the commercial floor area from 245sqm to 207sqm, adjust the finished	Approved

	floor basement levels, reconfigure dwelling layout/fire stairs/corridors, reduction in the building setback along Stevens Lane, increase balcony setback on the first and second floor level, enclose glazed corridors, the provision of 4 additional dwellings and modify the finishes/materials and window openings	
DA201300025.4	Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 201300025.03, dated 9 August 2016, to amend conditions to enable an interim Occupation Certificate to be issued before the completion of civil works	Approved
DA201300025.5	Section 96 of the Environmental Planning and Assessment Act to modify modified Determination No. 201300025 dated 9 June 2017 to modify the road finish on Fotheringham Lane to be asphalt 40mm mill and fill	Withdrawn
DA201700604	To erect new window and under awning signage along the Addison Road and Fotheringham lane frontages of the tenancy and to provide an additional 28 seats resulting in a total of 78 seats to the restaurant	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
15 December 2021	<p>Council Officers wrote to the applicant and requested amended plans/additional information addressing the following:</p> <ul style="list-style-type: none"> - Revised floor plan detailing no sunken courtyards or dwellings to Stevens Lane. - Revised plans detailing compliance with the height limit for Stevens Lane - Expansion of the proposed ground floor tenancies - Expansion of the proposed residential lobby to Addison Road - Revised plans detailing the re-location of the driveway entry from Philpott Street to the rear Stevens Lane - Provision of a rooftop communal space to the southern building addressing Addison Road - Submission of a Acid Sulphate Soils Management Plan (ASSMP) - Submission of a preliminary site contamination investigation and if necessary a detailed site investigation and remediation action plan. - Submission of a revised acoustic report - Submission of a flood management report assessing the flood impacts of the proposal and detailing compliance with the flood hazard of the land. - Submission of amended stormwater plans - Submission of amended plans outlining how the basement parking design is compliant with Australian Standards
7 January 2022	Amended plans/additional information responding to Council's concerns was submitted to Council. This information package did not incorporate a flood management plan or other documentation to address flood requirements.

20 January 2022 – 10 February 2022	Re-notification of the application due to the submission of amended plans in response to Council's concerns. Note these plans did not include a building design which incorporated floor levels to respond to flood management report or flood hazard of the land.
11 February 2022	Submission of amended plans/additional information which incorporated design requirements to respond to the flood hazard of the land. This design response resulted in a building height of increase of approximately 500mm.
17 February 2022 to 10 March 2022	Application was placed on a third round of public notification following the submission of amended plans to address the flood hazard of the site and surrounds.
16 February 2022	Council Officers wrote to the applicant and advised that the floor levels detailed within the plans submitted on the 11 February 2022, still did not meet the flood hazard of the land. Council Officers advised that the documentation provided did not provide sufficient justification to support the floor level variation and requested a revised flood management report outlining justification for the floor level non-compliance.
21 February 2022	Applicant provided a revised flood management plan detailing justifications for the variations to the floor levels of the development.

The additional information and amended plans provided on the 11 February 2022 form the basis for the below assessment.

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 No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*
- *State Environmental Planning Policy – Housing 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. To ensure that these works are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of *SEPP 55*.

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

SEPP 64 specifies aims, objectives, and assessment criteria for signage. The current documentation provided by the applicant does not incorporate an assessment of the proposal against the requirements of *SEPP 64* and does not outline any details for signage. As such a condition requiring the submission of a separate application under the Environmental Planning and Assessment Act 1979 for signage is recommended for any consent.

5(a)(iii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

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

The development is acceptable having regard to the nine design quality principles.

Apartment Design Guide

The development is subject to the requirements of *SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

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

The development is acceptable having regard to the nine design quality principles.

Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

Deep Soil Zones

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

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Greater than 1,500m ²	6m	7% (163.07sqm)

Comment:

The current proposal results in a variation to the minimum required 7% deep soil landscape zone and only provides 5% (115sqm) with dimensions of 6m x 19.6m. This landscape zone is located within the centre of the site. The intention of this landscaping zone is to ensure that the site allows for and supports healthy plant and tree growth.

In this instance strict compliance with the minimum 7% landscaped area requirement is not readily achievable, with the site's location within a major urban centre having limited space for deep soil and the nature of the proposal. Regardless of the non-compliance, the proposed landscape zone is considered to meet the intention of the control, with submitted landscape plans detailing the planting of three (3) new significant trees and multiple smaller trees within this locality. Further to this the proposal has been reviewed by Council's Urban Forests Team who have also provided conditions of consent requiring the planting of street trees along the Addison Road and Philpott Street frontages. The planting of these trees ensures an improved degree of amenity for the commercial shops and residential units on the ground floor and

above and improved overall environmental performance for the site. The proposal has incorporated and provided sufficient soil depth and space for the growth and establishment of these trees and provides an appropriate introduction of additional landscaped area/greenery to the centre, assisting to soften the built form. In this instance no objection to the proposed landscape zone variation

Visual Privacy/Building Separation

Setbacks to Site Boundaries

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

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres

Under section 2F of the ADG where a site is at the boundary between a change in zone from apartment buildings to a lower density area the building setback from the boundary is to be increased by 3m. In this instance the northern boundary of the site is adjoining the R2 Low Density Residential Zone, which forms 51 Philpott Street.

- Northern Boundary

The northern elevation of the proposed development is directly adjoining and interfacing with Stevens Lane and results in a total separation of 6.8m (edge of proposed POS of subject site to boundary of 51 Philpott Street) at ground floor. Once above ground floor the proposed setback increases to become roughly 9.1m for levels 1 and 2 (edge of proposed POS of subject site to boundary of 51 Philpott Street), before the roof top COS once again increases setbacks to become 12.6m.

The proposed development is to have a 3 storey built form along Stevens Lane and generally aligns with the rear boundary setbacks and built form presentation of 33 Addison Road and 21-29 Addison Road, which have been constructed on a similar setback to Stevens Lane and also present a 3 storey built form. In this instance a requirement for the development to be further setback from Stevens Lane would place the proposal at odds with the existing streetscape and provide only minimal improvements to occupant and neighbour privacy.

An assessment of the proposed northern elevation has found that the development has been generally designed to avoid passive surveillance to neighbouring sites through the utilisation of setbacks, solid balustrades, and privacy screening. However, a review of the proposed level 2 has highlight that balustrades within this locality have been designed to be of an open form. Concerns are raised about the open form and potential to obtain sightlines through openings. To ensure reduced opportunities for sightlines through balustrades to balconies a design change condition requiring the slats to incorporate a solid element behind the external face of the slats is recommended for the consent. Alternatively, the balconies may be amended to be

of a solid form, similar to that of level 1 or neighbouring 33 Addison Road. This solid form is to obscure any sightlines and ensure privacy and amenity for residents and neighbours.

Subject to suitable conditions of consent the current proposal is considered to find an appropriate balance between resident/occupant amenity and privacy. The proposed variation to the minimum separation distances is recommended for support.

- Southern and Western Boundaries

The southern and western boundaries of the subject site directly adjoin and interface with Addison Road and Philpott Street. Addison Road is noted to have a width of roughly 15m (including footpaths), while Philpott Street has a width of roughly 10m (including footpaths). As a result of the road interface the proposed setbacks for the northern elevation have been assessed against the requirements for street setbacks under section 2G of the ADG. The proposed development continues the defined existing and desired future setbacks for the locality, providing a consistent street edge. The proposed setback is in-line with the requirements of the DCP and provides an appropriate response to manage the corner and transition between a commercial ground floor setting to a residential ground floor setting. The proposed setbacks are acceptable and are recommended for support.

- Eastern Boundary

The current proposal seeks consent for nil boundary setbacks along the eastern boundary of the site and proposes blank walls. As prescribed within the ADG no building separation is permitted for blank walls, as such the setbacks mentioned above are compliant with ADG controls. These nil boundary setbacks generally align with the development at 33 Addison Road, with the exception to units 1.03, 2.03, 3.03 and 4.03 within the northern portion of the building addressing Addison Road. Analysis of these units when compared to the existing development at 33 Addison Road has confirmed that they will protrude roughly 2.5m further north (beyond) the existing setbacks established by 33 Addison Road. This 2.5m protrusion has been reviewed by Council and is acceptable given the circumstances of the case. The proposed setbacks ensure that neighbouring developments obtain a compliant rate of solar access, with only afternoon solar access being reduced by the proposed development. The proposed setback design ensures sufficient acoustic and visual for occupants and neighbours through the removal of potential sightlines and mismatch of setbacks ensuring that openings/POS do not align. The proposed setbacks continue to allow for reasonable opportunities for visual outlook and will not result in unreasonable impacts of bulk/scale for neighbours.

Internal Separation

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Built form up to four storeys (12 meters):

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

Comment:

The proposal generally achieves the required internal separation requirements listed above and has been appropriately designed to minimise amenity impacts for occupants. However, a variation to the above separation requirements does occur between 1.01 - 1.10, 2.01 – 2.10 and 3.01 – 3.09, with separation distances between the balconies and bedroom window of these units a minimum of 7.1m. The intention of the internal separation control is to allow residents within an apartment opportunity to use their private spaces without being overlooked and to ensure amenity. The applicant has utilised a variety of means to ensure sufficient privacy for all occupants, while also providing sufficient opportunities for amenity. Such privacy treatments include reducing the extent of window openings to units, incorporation of privacy screens and placement of windows within well considered locations to avoid unnecessary potential for sightlines.

Overall it is considered that the incorporation of these treatments ensures that while some sightlines may be obtained between units these are not readily available. The proposal has been appropriately designed to ensure that within localities where overlooking is possible these impacts are shared between balconies and windows. This relationship ensures that opportunities for additional screening to windows by residents is achievable through the introduction of blinds, curtains or shutters. In this instance it is considered impossible to avoid all overlooking and privacy impacts given the high-density nature of the development. The applicant has taken and demonstrated sufficient and reasonable attempts to minimise and reduce opportunities for direct sightlines and the proposal variation is acceptable and recommended for support.

Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.

Comment:

The current proposal results in 9 apartments off a single circulation core on levels 1 and 2 of the building facing Addison Road. The intention of this control is to ensure that circulation spaces achieve good amenity and properly service the number of apartments. The proposed variation is minor and adequacy is offset through the design of the circulation core. Each of the proposed cores has been designed to maximise opportunities for light and ventilation through the use of open corridors and generous light wells. These design features ensure that the circulation cores obtain a high degree of amenity and are fit to service the number of apartments. No objection is raised to the proposed variation.

5(a)(iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

5(a)(v) 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 and open space and recreation facilities.

5(a)(vi) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)

Vegetation SEPP concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application does not seek the removal of vegetation from within the site and on Council land. The application was referred to Council's Tree Management Officer who outlined that the proposal would not impact neighbouring trees and was acceptable subject to suitable conditions of consent. These conditions are recommended to form part of any consent.

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and DCP subject to the imposition of conditions, which have been included in the recommendation of this report.

5(a)(vii) State Environmental Planning Policy (Affordable Rental Housing) 2009

The current application has been made under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), division 1 in-fill affordable housing. An assessment of the proposal against the provisions of division 1 in-fill affordable housing has been undertaken below.

Clause	Standard	Proposed	Compliance
10	<i>the development is permitted with consent under another environmental planning instrument, and</i>	The proposed development being a mixed use commercial and residential development is permitted with consent under additional permitted uses of the MELP 2011.	Yes
	<i>the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, an interim heritage order or on the State Heritage Register under the Heritage Act 1977, and</i>	The subject site does not contain a heritage item.	Yes
	<i>the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and</i>	The development is proposed to utilise all residential units for the purposes of affordable housing	Yes

	<p><i>for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</i></p> <p><i>for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.</i></p>	<p>and is over the minimum 20% requirement.</p> <p>The subject site is located within an accessible area with numerous bus stops located within the 400m walking distance from the site.</p> <p>The subject site is within 400m of an area zoned B4 Mixed Use</p>	<p>Yes</p> <p>Yes</p>
13	<p><i>If the existing maximum floor space ratio is 2.5:1 or less and the gross floor area of the development that is used for affordable housing is 50% or higher than an additional 0.5:1 is permitted.</i></p> <p>The proposed development is subject to two different Floor Space Ratios with 35 – 41 Addison Road having an FSR of 2:1, while 53 – 55 Philpott Street has an FSR of 1.2:1. Each of these floor space ratios is below 2.5:1. As such bonus is applicable.</p> <p>New FSR is:</p> <p>35-41 Addison Road – 2:1 + 0.5 = 2.5:1 (3678.5sqm)</p> <p>53-55 Philpott Street – 1.2:1 + 0.5 = 1.7:1 (1459sqm)</p> <p>Total: 5,137.6sqm</p>	<p>35-41 Addison Road = 2.47:1 (3,629sqm)</p> <p>53-55 Philpott Street = 1.66:1 (1,423sqm)</p>	<p>Yes</p> <p>Yes</p>
14	<p><i>Standards that cannot be used to refuse consent:</i></p> <p><i>Minimum site area – 450sqm</i></p> <p><i>Landscaped area – Application made on behalf of social housing provider 35sqm of landscaped area per dwelling = 35sqm x 61 dwellings = 2,135sqm.</i></p> <p><i>Deep soil zones – 15% of the site area</i></p> <p><i>Solar Access - minimum of 70 per cent of the dwellings of the</i></p>	<p>Site Area – 2,329.7sqm</p> <p>Proposed landscaped area is 628.2sqm</p> <p>Deep soil landscaped 5% (115sqm)</p> <p>70% of dwellings to receive the required solar access</p>	<p>Yes</p> <p>No – See below</p> <p>No – See below</p> <p>Yes</p>

	<p><i>development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</i></p> <p><i>Parking - 0.4 spaces per 1 bedroom = 0.4 x 30 = 12 spaces (includes 5 studio units)</i></p> <p><i>0.5 spaces per 2 bedroom = 0.5 x 22 = 11 spaces</i></p> <p><i>1 space per 3 bedroom = 1 x 5 = 5 spaces</i></p> <p><i>Total = 28 spaces required</i></p> <p><i>Minimum Dwelling Sizes –</i></p> <ul style="list-style-type: none"> - Studio: 35m² - 1 bed: 50m² - 2 bed: 70m² - 3 bed: 95m² 	<p>A total of 35 parking spaces are proposed.</p> <p>Proposal is compliant with the minimum dwelling sizes.</p>	<p>Yes</p> <p>Yes</p>
16A	<i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i>	See assessment below	See below
17	<i>Must be used for affordable rental housing for a minimum of 10 years from date of occupation certificate.</i>	Applicant has outlined that the residential units are to be used for affordable housing for 25 years	Conditioned

Landscaped Area & Deep Soil Landscaped Area

The proposal results in a variation to the required landscaped area and deep soil landscaped area as prescribed by the ARHSEPP. As outlined above the proposal is located within a highly urban environment and as such strict compliance is not readily achievable. The development has made substantial attempts to introduce new landscaping and deep soil landscaping to the site to provide amenity to occupants and improve the landscaped area of the locality. The proposed rate of landscaping is in-keeping with the desired future character of the area and is sufficient to ensure a softening to the built form of the development. The proposed variation to landscaped area is acceptable and recommended for support.

Character of the Area

Clause 30A of SEPP ARH states:

“A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.”

In considering the compatibility with the character of the area the applicable test is taken from the planning principal in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191, discussed hereunder:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Analysis of the locality has highlighted a variety of building typologies with recently constructed mixed use residential flat buildings to the east, two storey dwelling houses and commercial/industrial buildings to the south and dwelling houses/residential flat buildings to the north and west. The proposal does not limit development potential of surrounding sites as it is one of the last sites to be re-developed and continues a built form and scale established by recent neighbouring developments. The proposal results in acceptable physical impacts on neighbouring sites, ensuring acceptable visual privacy, solar access, bulk/scale and visual outlook is retained.

Is the proposal's appearance in harmony with the buildings around it and the character of the street

The current proposal has been appropriately designed to take cues from neighbouring developments and respond to the surrounding locality. The proposal has been reviewed by Council's Architectural Excellence Panel (AEP) who outlined that the design fits into its context and continues the emerging streetscape established by 33 and 21 Addison Road. The developments proposed material finishes of Austral Brick – Overland, Austral Bricks - Bowral and off form concrete provide a self-finished material, which align with neighbouring developments which have also utilised off form concrete and face brick for material finishes. The overall scheme is considered to fit in to the emerging streetscape and character of the area.

Overall, the proposed development is in-keeping with the character of the area and reflects a built form/style which is permitted under current development controls. The proposal is therefore considered to comply with the requirements of clause 16A of the ARHSEPP.

5(a)(viii) State Environmental Planning Policy (Housing) 2021

The current application was lodged with Council on the 09 August 2021 and was made prior to the commencement of the SEPP Housing 2021 (26 November 2021). Under the savings provisions of the SEPP Housing 2021 – Schedule 7 (2)(a) any development application made but not yet determined on or before the commencement date of the new SEPP is to apply the provisions of the former SEPP. However, a recent decision of the Land and Environment Court (*Emag Apartments Pty Limited v Inner West Council* [2022] NSWLEC 1042) has found that the savings provisions of the Housing SEPP do not exclude a requirement for consideration of the new SEPP and as such the provisions of new SEPP must be considered.

Clause	Standard	Proposed	Compliance
16	<i>the development is permitted with consent under another environmental planning instrument, and</i>	The proposed development being a mixed use commercial and residential development is permitted with consent under additional permitted uses of the MELP 2011.	Yes
	<i>the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%, and</i>	The development is proposed to utilise all residential units for the purposes of affordable housing and is over the minimum 20% requirement.	Yes
	<i>for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or</i>	The subject site is located within an accessible area with numerous bus stops located	Yes

	<p><i>part of the development is within an accessible area, and</i></p> <p><i>for development on other land—all or part of the development is within 400 metres walking distance of land within Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use, or within a land use zone that is equivalent to those zones.</i></p>	<p>within the 400m walking distance from the site.</p> <p>The subject site is within 400m of an area zoned B4 Mixed Use</p>	<p>Yes</p> <p>Yes</p>
17	<p><i>If the existing maximum floor space ratio is 2.5:1 or less and the gross floor area of the development that is used for affordable housing is 50% or higher than an additional 0.5:1 is permitted.</i></p> <p>The proposed development is subject to two different Floor Space Ratios with 35 – 41 Addison Road having an FSR of 2:1, while 53 – 55 Philpott Street has an FSR of 1.2:1. Each of these floor space ratios is below 2.5:1. As such bonus is applicable.</p> <p>New FSR is:</p> <p>35-41 Addison Road – 2:1 + 0.5 = 2.5:1 (3678.5sqm)</p> <p>53-55 Philpott Street – 1.2:1 + 0.5 = 1.7:1 (1459sqm)</p> <p>Total: 5,137.6sqm</p>	<p>35-41 Addison Road = 2.47:1 (3,629sqm)</p> <p>53-55 Philpott Street = 1.66:1 (1,423sqm)</p>	<p>Yes</p> <p>Yes</p>
18	<p><i>Standards that cannot be used to refuse consent:</i></p> <p><i>Minimum site area – 450sqm</i></p> <p><i>Landscaped area – Application made on behalf of social housing provider 35sqm of landscaped area per dwelling = 35sqm x 61 dwellings = 2,135sqm.</i></p> <p><i>Deep soil zones – 15% of the site area</i></p> <p><i>Solar Access - minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</i></p>	<p>Site Area – 2,329.7sqm</p> <p>Proposed landscaped area is 628.2sqm</p> <p>Deep soil landscaped 5% (115sqm)</p> <p>70% of dwellings to receive the required solar access</p>	<p>Yes</p> <p>No – See above</p> <p>No – See above</p> <p>Yes</p>

	<i>Parking - 0.4 spaces per 1 bedroom = 0.4 x 30 = 12 spaces (includes 5 studio units)</i> <i>0.5 spaces per 2 bedroom = 0.5 x 22 = 11 spaces</i> <i>1 space per 3 bedroom = 1 x 5 = 5 spaces</i> <i>Total = 28 spaces required</i> <i>Minimum Dwelling Sizes – Internal areas specified by ADG</i>	A total of 35 parking spaces are proposed. Proposal is compliant with the minimum dwelling sizes.	Yes Yes
19	<i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i>	See assessment above	See above
21	<i>Must be used for affordable rental housing for a minimum of 15 years from date of occupation certificate.</i>	Applicant has outlined that the residential units are to be used for affordable housing for 25 years	Conditioned

As seen in the compliance table above the proposal is generally compliant with the requirements of the SEPP Housing 2021. The proposed non-compliances have been previously assessed under the ARHSEPP above and are acceptable. The proposal has been considered against the relevant provisions of the Housing SEPP 2021 and is recommended for support.

5(a)(ix) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.21 - Flood Planning
- Clause 6.1- Earthworks
- Clause 6.5 - Development in areas subject to aircraft noise
- Clause 6.6 - Airspace operations
- Clause 6.20 – Design Excellence

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

Standard	Proposal	non compliance	Complies
Height of Building Maximum permissible: 35 – 41 Addison Road 17m 53 – 55 Philpott Street 11m	20.7m 13.5m	21.7% or 3.7m 22.7% or 2.5m	No No
Floor Space Ratio Maximum permissible: 35-41 Addison Road – 2:1 + 0.5 = 2.5:1 (3678.5sqm) 53-55 Philpott Street – 1.2:1 + 0.5 = 1.7:1 (1459sqm) Total: 5,137.6sqm	35-41 Addison Road = 2.47:1 (3,629sqm) 53-55 Philpott Street = 1.66:1 (1,423sqm) Total: 4,872sqm	N/A N/A	Yes

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

The site is zoned B5 – Business Premises under the *MLEP 2011*. The *MLEP 2011* defines the development as:

Mixed use development - means a building or place comprising 2 or more different land uses.

The proposal seeks consent to construct a mixed-use development which incorporates the following uses:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

commercial premises means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

The development is not permitted with consent within the land use table. Instead, the development obtains its permissibility through Schedule 1 – Additional permitted uses, clause 3 – Use of certain land at Addison Road. This clause states that development for the purpose of residential accommodation is permitted with consent, but only as part of a mixed use

development and only where the land is coloured blue and identified as “B” as seen in figure 2 below.

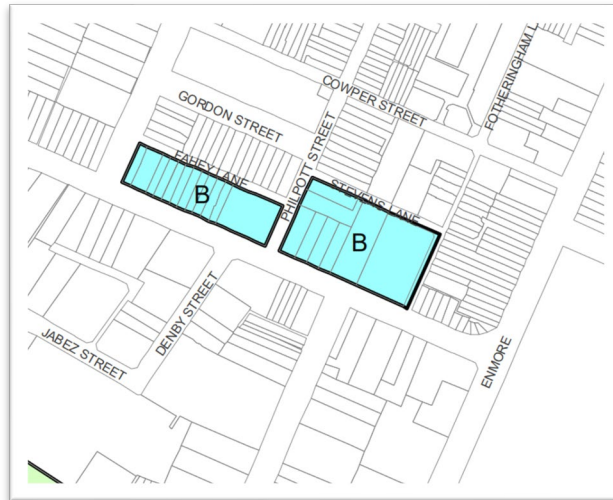


Figure 2 – Additional permitted uses map, detailing the site as being land identified as “B”

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard:

- Clause 4.3 - Height of buildings

The applicant seeks a variation to the Height of buildings development standard under Clause 4.3 of the *Marrickville Local Environmental Plan 2011* by 21.7% or 3.7m and 22.7% or 2.5m. These variations are best illustrated through figure 3 below, which outlines which elements result in a height variation.

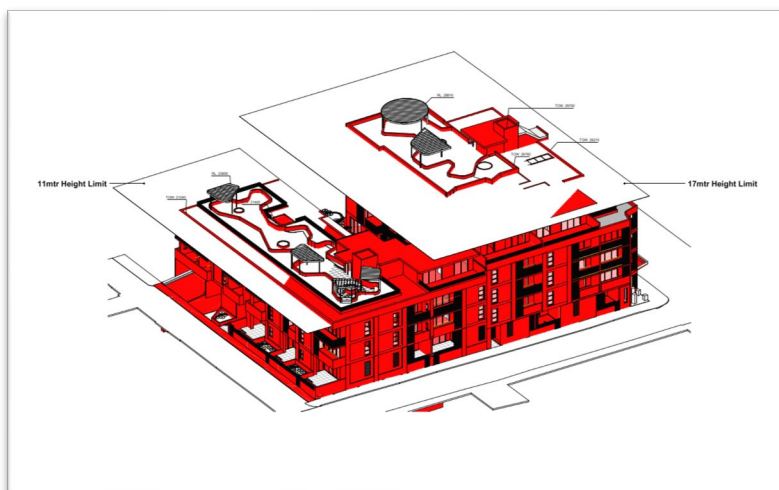


Figure 3 – Height blanket showing elements of the variation.

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *Marrickville Local Environmental Plan 2011* below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Marrickville Local Environmental Plan 2011*. In justifying the proposed contravention of the development standard which is summarised as follows:

- *The development proposed is consistent with the desired future character of this particular mixed use sub-precinct despite the minor variations to the height control. The variation comes as a result of the additional floor space permitted through a state planning priority in the ARH SEPP, which is not envisaged in the local height controls. Despite this, the proposal has been carefully designed to minimise consequent height impacts, and is compatible with its immediate eastern mixed-use neighbours, whilst ensuring no additional environmental impacts to the lower-density terraces to the north and west.*
- *The design of the proposed development includes careful consideration to the amenity of the adjoining and nearby developments. The proposal has a highly articulated design to reduce its bulk and scale. The proposed top floor is setback from the building edge to all street boundaries.*
- *The application is also accompanied by overshadowing drawings demonstrating overshadowing every hour on June 21st as part of Architectural drawing package in Appendix Three. These drawings demonstrate that the proposal, including the height breach, has no impact on the surrounding low-density residential dwellings. It has some impact on the footpath on Addison Road and the Business Park zoned land to the south. However, both the public footpaths and the north-facing elevations of these buildings from between 12-1pm*
- *Numerical height variations have been limited to parts of the site where they will have no additional impact on surrounding development, beyond a compliant envelope. They have also been restricted to elements that provide additional planning benefit – such as lift overruns that provide access to a communal roof terrace.*

The applicant's written rationale adequately demonstrates compliance with the development standard is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the B5 – Business Premises, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* for the following reasons:

- The proposal results in a mixture of compatible land uses at a height and density generally envisioned by current planning controls. The proposed uses ensure continued growth and longevity of the locality.
- The proposal has been appropriately designed to ensure a high degree of accessibility for pedestrians and cyclists attending both the residential units and commercial space. The current design is expected to promote/encourage pedestrian access and public transport patronage over private vehicles and provides a significant opportunity for urban renewal within the locality, which promotes a pedestrian friendly future for the locality.
- The location and design of the commercial space is appropriate to ensure that the development does not create unreasonable impact on neighbouring residential uses. Likewise, the size of the commercial space ensures the re-introduction of additional commercial sites within the locality promoting the viability of the centre.
- The proposal provides an appropriate urban renewal scheme with a pattern of land use and density which reflects the current planning controls and aligns with the existing and future capacity of the transport network.

It is considered the development is in the public interest because it is consistent with the objectives of the Height of Buildings development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* for the following reasons:

- The proposal has been subject to a detailed architecture/urban design review on two separate occasions by Council's Architectural Excellence Panel. The Panel was generally supportive of the architectural language of the proposal, with initial concerns addressed and resolved by the applicant through the submission of amended plans. The final design is of a quality-built form and responds to the existing locality. The proposal is a contemporary design which incorporates numerous detailing to provide visual interest and articulation.
- The building elements that exceed the building height control (lift overruns at roof top level) are generally not perceptible from the public domain and will have no material impact on the streetscape. The proposed height will therefore continue to be consistent with the desired future character of the area.
- The proposal maintains satisfactory sky exposure and daylight to surrounding residential and public land uses ensuring satisfactory amenity.
- The proposal results in an appropriate balance in built form and land use intensity which incorporates additional FSR permissible under the ARHSEPP and aligns with the built form presentation of the existing locality.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the *Marrickville Local Environmental Plan 2011*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from Height of Buildings Development Standard and it is recommended the Clause 4.6 exception be granted.

(ii) Clause 5.21 – Flood Planning

The subject site is identified as a flood control lot and is subject to the provisions of clause 5.21 of the MLEP 2011 and MDCP 2011 part 2.22. As part of the current application the applicant has provided a detailed flood management report. This report outlines rationale for proposed floor levels and measures to ensure occupant safety during a flood event.

Residential

Since the time of initial lodgement, the applicant has revised the proposal to increase the proposed finished floor levels. These revised finished floor levels ensure that all proposed residential units are compatible with the flood hazard of the land. The provided flood management report includes detailed measures to ensure that residents can safely and efficiently evacuate the site and includes measures to manage risk to life in the event of a flood. The proposed residential finished floor levels and flood management plan has been reviewed by Councils Engineers and is acceptable subject to suitable conditions of consent.

Commercial

A review of the proposed commercial areas facing Addison Road by Council Engineers has highlighted that the proposed finished floor level of these spaces is approximately 750mm below the flood planning level (currently proposed finished floor level RL9.050). The applicant has outlined that these two commercial suites will be protected from flood waters with watertight doors.

This request has been reviewed by Council's Engineers who outlined that the proposed finished floor levels for the commercial tenancies is not supported in the current form and recommended a deferred commencement condition requiring the finished floor level of the tenancies to be amended to be a finished floor level above 9.60m ADH (550mm increase), access to these tenancies is to be provided via internal ramps, accommodated within the tenancies.

Subject to compliance with the deferred commencement conditions the proposed commercial areas are considered to meet the flood requirements of clause 5.21 of the MLEP 2011 and MDCP 2011 part 2.22.

(iii) Clause 6.1 – Earthworks

The proposal involves extensive earthworks to facilitate the basement carparking and remediation of the site. Subject to conditions of consent which requires the preparation of a geotechnical report and compliance with the recommendations made by the provided geotechnical report, the proposed development will not have detrimental effect on drainage

patterns, soil stability, amenity of adjoining properties or adverse impacts on waterways or riparian land.

(iv) Clause 6.5 – Development in areas subject to aircraft noise

The subject site is identified as being within a 25-30 ANEF contour. As such the development may be subject to adverse aircraft noise. The applicant has provided as part of the current development application an acoustic report assessing the potential acoustic impacts of aircraft noise and provided recommendations to minimise impacts. This report has been reviewed by Council Environmental Health team who outlined no objection subject to suitable conditions of consent. The proposal is compliant with the requirements of clause 6.5 of the MLEP 2011.

(v) Clause 6.6 – Air operations

The subject site is affected by airspace operations, a review of the limitation or operations surface map (OLS) for the airport identifies the maximum OLS for this locality as RL 51. The proposal has a maximum building height of RL 29.76 and will not penetrate the OLS and will not impacts the airspace operations. The proposal is compliant with the requirements of clause 6.6 of the MELP 2011.

(vi) Clause 6.20 – Design Excellence

The proposal results in a total height of 20.7m and as such the provisions of clause 6.20 are applicable. The proposal has been subject to a detailed architecture/urban design review on two separate occasions by Council's Architectural Excellence Panel. The Panel was generally supportive of the architectural language of the proposal, with initial concerns addressed and resolved by the applicant through the submission of amended plans. Overall, the proposal is considered to provide a high standard of material finishes/detailing, contribute to the quality and amenity of the public domain and align with the existing streetscape. The proposal is compliant with the requirements of clause 6.20 of the MLEP 2011.

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

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

MDCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.8 – Social Impact	Yes – see discussion
Part 2.9 – Community Safety	Yes
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 5 – Commercial and Mixed Use Development	No – see discussion
Part 9 – Strategic Context – Part 9 – Newington	Yes – proposal generally aligns with current planning controls

The following provides discussion of the relevant issues:

Commercial and Mixed-Use Development

Front massing for new infill development

The current proposal results in a variation to clause C5 of part 5: Commercial and Mixed-Use Development within the MDCP 2011. This control requires new development to have the building massing within the front 6m of the street, a maximum height of 12m and contain a maximum 3 storeys. This is best illustrated through figure 4 below. The current proposal has a street frontage massing of 14m and presents a four-storey built form. The intent of this control is to ensure the prevailing building frontage edge of the streetscape is retained.

The proposal presentation to Addison Road and alignment with the existing streetscape has been extensively reviewed by Council Officers and the AEP (on two separate occasions the AEP have reviewed this variation and found it acceptable). This review has found that due to corner nature of the site and character of development along Addison Road the proposed form, scale and articulation are appropriate. The proposed variation creates a stepping up approach to the corner and adequately marks the edge of the street. The proposed variation breaks up the street façade and introduces a new level of articulation/built form which will promote visual interest. The proposed variation has been appropriately designed when read in conjunction with the streetscape to not appear at odds with other recently constructed developments but instead mark the end or beginning of the street announcing the introduction of a mixed-use zone. The proposed variation is acceptable and recommended for support.

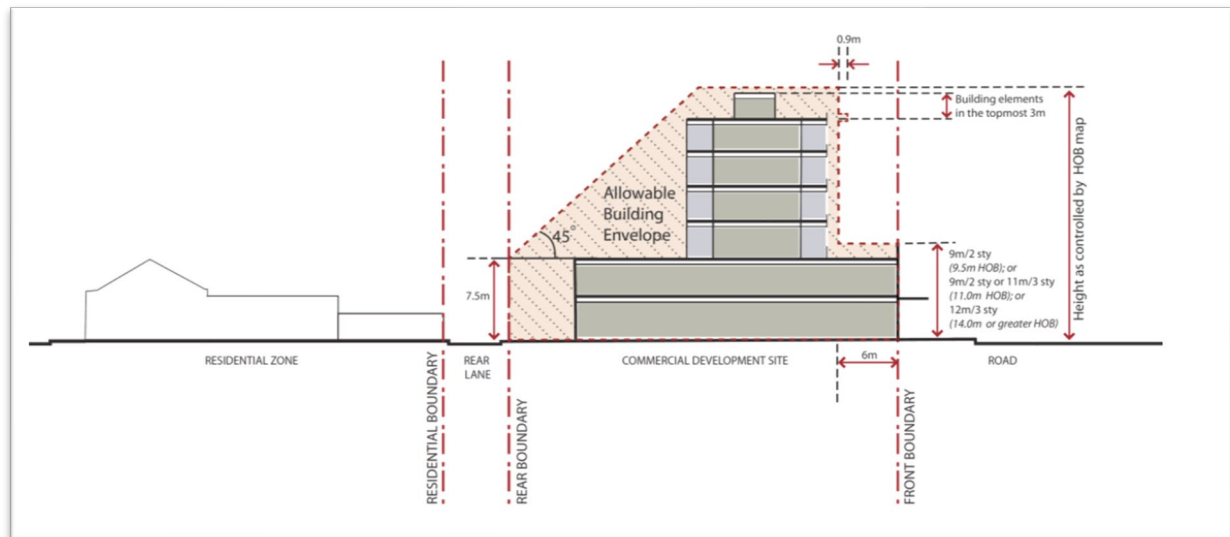


Figure 4 – Building massing controls outlined by MDCP 2011

Upper-level massing

The current proposal results in a variation to clause C11 of part 5: Commercial and Mixed-Use Development within the MDCP 2011. This control requires new development to have the upper levels of building massing (above street level discussed above) to be setback a minimum of 6m from the front boundary. This is best illustrated in figure 4 above. The intent of this control is to ensure that any 4th or 5th storeys are setback and subservient to the street building line. The current proposal seeks consent to setback the proposed 5th storey (identified as level 4 on plans) 5m from the street frontage, with associated fire stairs setback 3m from the street frontage.

A review of the neighbouring 31 – 33 Addison Road has highlighted an existing streetscape setback of 3m for level 3 and 4.8m for level 4 of the development. While 23 – 29 Addison Road has setbacks of 4m (measured to balcony) and 3m (measured to fire stairs/lift) on level 4 of the development. These approved setbacks generally align with the setbacks of the current proposal on level 5. The proposed setbacks are therefore not considered to be inconsistent with the established streetscape or building alignment for the locality and are recommended for support. The proposed setbacks achieve the aims of the control in that they ensure the proposed built form is subservient to the street and in-line with the established building line.

Roof-top level massing

The current proposal results in a variation to clause C15 of part 5: Commercial and Mixed-Use Development within the MDCP 2011. This control requires new development to not contain a dwelling or part of a dwelling within the top 3m of the maximum height control and not have structures visible from the street or be setback 3m from the side edge of the building. The intention of this control is to ensure that any roof top level massing is not visually dominant.

The proposal results in the dwellings being 500mm below the maximum height limit. The proposed height of dwellings has been appropriately setback and designed to ensure the built

form does not visually dominate the streetscape and aligns with the character of the area. The proposal is considered to meet the intention of the control and is acceptable.

The current proposal involves construction of multiple pergola structures on the roof to act as shading for the proposed roof top garden/communal open spaces. Each of these structures has been designed to be at least 3m from all boundaries adjoining a laneway or street. These setbacks ensure that the structures are not highly visible from the street and ensure that the visual appearance of the overall built form is lessened.

Waste Collection / Loading

The proposed commercial loading and waste collection is to occur from Stevens Lane, with Council trucks stopping in Stevens Lane to collect waste. The proposed loading bay is to be utilised for commercial deliveries and in the event of an emergency, access for emergency service vehicles. The proposed loading dock has been reviewed by Council's engineers and is deemed to be acceptable, subject to suitable conditions of consent.

In this instance the applicant has adequately demonstrated that the temporary waste collection room is sufficiently located (within 10m of collection point) to enable Council waste officers to enter the site collect bins and walk them back to the awaiting truck, this enables waste collection to occur minimal disruption to the existing road network. The proposed loading dock and waste collection/ delivery method is recommended for support, subject to suitable conditions of consent.

Social Impact Assessment

The current proposal seeks consent for a residential flat building with more than 50 dwellings, as such the DCP calls for a Social Impact Assessment (SIA) to be submitted. The current application was not accompanied by a SIA but has been by Council's Social Planner. Council's Social Planner outlined no objection to the development stating that:

- *This DA provides for increased affordable housing especially for older women in a location close to jobs and public transport in the Inner West Council LGA.*
- *The positive social impacts on delivering this site for new social and affordable housing are very encouraging and the location is likely to be desirable as it is easily accessible to public transport.*
- *Older women and women experiencing domestic violence have complex social needs so it is important that proponent ensure that St. George Community Housing include a wellbeing strategy to manage this client group in their Plan of Management. This client group needs care and support though connecting clients to support services that can assess their needs and then direct them to the appropriate support for their wellbeing and the well being of other residents as well.*

The proposal is expected to have a positive impact to the locality through the introduction of additional employment opportunities and provision of additional housing stock within the

centre. The proposal is recommended for support, subject to appropriate conditions of consent.

Solar Access and Overshadowing

The revised plans have been assessed against the provisions of Part 2.7 –Solar Access and Overshadowing. Within this section residential flat buildings are required to:

- ensures living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June.

The shadow impacts resultant from the proposed development application are compliant with the above controls. Shadow diagrams provided by the applicant sufficiently detail that the proposed overshadowing maintains a minimum of 2 hours between 9am and 3pm on 21 June for neighbouring properties. Due to the site orientation the proposed shadows cast by the development alter throughout the day and result in each of the neighbouring properties receiving at least the minimum rate of solar access required. The proposed solar access rate is considered to be acceptable and the application is recommended for support.

Traffic & Parking

In this instance the minimum parking rates for the development are specified by the ARHSEPP 2009 and Housing SEPP 2021. These SEPPs require the development to have a minimum of 28 parking spaces. The proposed basement has been designed to accommodate a maximum of 35 parking spaces and is well excess the minimum requirements of the SEPP. The proposed rate of parking is acceptable given the current planning controls, proximity of the development to public transport and the merits of the case. The proposed rate of parking is unlikely to have substantial traffic generation impacts on the locality, with the driveway appropriately located to Stevens Lane, assisting to avoid queuing on Philpott Street and Addison Road. The proposed traffic generation impacts have been analysed by the applicants provided traffic and parking assessment report, which was reviewed by Council engineers and found to be acceptable subject to suitable conditions of consent.

Bike Parking

The MDCP 2011 calls for a bicycle parking rate of 1 space per 2 units. This results in a requirement of 31 spaces for the development. The current application proposes 68 bicycle parking spaces within the basement of the development. The provision of 68 spaces within the basement is considered to be adequate to meet the demands of residents and visitors, while also promoting pedestrian and cycling as a means of transport.

Community and Pedestrian Safety

The entry and exit points of the development have been appropriately located to sure a high degree of passive surveillance, lighting and compliance with CPTED principles, all combining to improve community and pedestrian safety for those seeking to attend the site. The proposal is expected to result in an acceptable rate of pedestrian safety and is recommended for support.

Visual Privacy

In this instance due to the site's location within the Addison Road business precinct, orientation of the development/units and proximity of existing development means that some privacy impacts are unavoidable. Nevertheless, the proposal has been appropriately designed to respond to its context and actively avoids potential privacy impacts through the utilisation of setbacks, window design and façade treatments. The amended design has appropriately considered the potential re-development of neighbouring sites and actively sought to minimise or locate glazing and openings away from shared boundaries where possible. Amended architectural plans submitted with the proposal detail that balustrades and balconies relating to residential private open spaces are to be treated with obscuring treatments or conditioned to be treated with obscure treatment and as such actively minimise direct sightlines into neighbouring properties. The proposal results in an acceptable level of visual privacy for occupants and neighbours and is recommended for support, subject to suitable conditions of consent.

Commercial

The application has not sought signage or hours of operation for the proposed commercial spaces. A condition is recommended requiring a separate first use and signage application for the retail space.

Stormwater

Council's Development Assessment Engineers have reviewed the provided stormwater management plan and outlined that the proposed scheme is satisfactory, subject to conditions of consent requiring compliance with the relevant Australian Standards. These conditions have been recommended for the consent.

5(e) 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(f) 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(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 21 days to surrounding properties on three separate occasions. In response to these notification periods a total of 17 submissions was received.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Proposal is not compatible with desired future character or existing character

Comment: See assessment section above. The proposal generally aligns with the current planning control and presents a built form and density which is permissible. The proposal is similar in style and form to neighbouring developments recently constructed and continues the emerging streetscape.

Issue: The existing building should be retained and listed as a heritage item

Comment: The existing building is understood to be a local landmark and one the community desires for retention. However, the subject site does not contain any planning controls or requirements which necessitate its retention or adaptive re-use. The subject buildings do not have a significant background which may trigger a requirement for a heritage listing or heritage interim order and as such is permitted to be demolished with consent.

Issue: Traffic and parking impacts on locality

Comment: See assessment above. The proposed rate of parking is compliant with the requirements of the ARHSEPP and Housing SEPP. The proposed rate of parking will not impact the traffic movements for the locality and is recommended for support, subject to conditions of consent.

Issue: Privacy Impacts

Comment: See assessment above. The proposal has been adequately designed to find a balance between neighbours' privacy and future occupants' amenity.

Issue: Overshadowing Impacts

Comment: See assessment above, the proposal will result in a compliant rate of solar access for all neighbouring sites.

Issue: Presentation to Stevens Lane

Comment: See assessment above. The proposed presentation to Stevens Lane is acceptable, subject to suitable conditions of consent. The proposed presentation aligns with other recently constructed buildings and creates a consistent built form. The proposed presentation is compliant with Councils controls for laneways.

Issue: Architectural presentation of the development is unacceptable

Comment: The proposal has been amended since the initially notification. These amendments have been based off advice from Council's AEP. The revised

proposal was further reviewed by Council's AEP who outlined that the development is acceptable with regards to design excellence and is recommended for support. The proposal is expected to result in an acceptable urban design outcome and contribute to the street and locality.

Issue: View Loss

Comment: Council Officers have contacted the resident who submitted this concern to further understand the potential views that may be impacted by the proposal. In response the submitter has provided photographic examples of the affected area (see figures 5 and 6 below). A review of these photos has confirmed that the proposal will not result in view loss but will result in a loss of visual outlook over the district. In this instance the current planning controls are expected to result in a loss of this outlook in any re-development of the subject site. Any requirement to retain the existing outlook for neighbours would unreasonably hinder the development potential of the subject site and would be in contrast to current planning controls. The proposed separation distances discussed above in the assessment section of this report ensure any amenity impacts are acceptable, with adequate opportunities for outlook retained in balance with current planning controls.



Figure 5 – Visual Outlook – Photos provided by submitter.



Figure 6 – Visual Outlook – Photos provided by submitter.

Issue: Lack of infrastructure to service the locality

Comment: The subject site is located within an assessable area as defined by the ARHSEPP and Housing SEPP. The locality is considered to be adequately serviced by public transport and other infrastructure required to meet current and future residents' day to day needs.

Issue: Impact to property prices

Comment: The impact to property prices or impact on land value is not a matter of consideration under the Environmental Planning and Assessment Act and can not be considered by Council in its assessment of the application.

5(h) 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.

- Architectural Excellence Panel (AEP) – The proposal has been reviewed by Council’s Architectural Excellence Panel in accordance with the requirements of SEPP 65. The AEP have reviewed the amended plans submitted by the applicant and outlined that the application is considered to be acceptable and meet the requirements of SEPP 65, ADG and Clause 6.20 of the MLEP 2011.
- Community Services/ Social Planning – The proposal has been referred to Council’s Social Planner for a review on the potential social impacts of the development. Council’s Social Planner has provided comment on the proposal. These comments and an assessment on the social impact assessment is outlined above within the assessment section of the report.
- Development Engineering – Council’s Development Assessment Engineering Team has reviewed the proposed basement parking, stormwater, flooding and traffic impact assessment and outlined generally no objection to the amended proposal, subject to the issue of a deferred commencement of consent. These conditions relate to security damage bonds, stormwater management, raising of commercial floor levels for flooding and construction methods. Conditions provided by Council’s Development Engineering Team have been incorporated into the recommended conditions of consent.
- Environmental Health - Council’s Environmental Health Team have undertaken a review of the development with regards to SEPP 55 contamination, acoustics and operation of commercial tenancies, detailed within the amended plans/ additional documentation provided by the applicant. Council’s Environmental Health Team have outlined no objection to the proposal, subject to suitable conditions of consent regarding contamination management and remediation, acoustic compliance and compliance with relevant Australian Standards.
- Urban Forests – The proposal has been reviewed by Council’s Urban Forests Team who outlined no objection to the proposed landscape/planting plans. Appropriate conditions of consent regarding tree replacement and protection of neighbouring trees are recommended for the consent.
- Resource Recovery Commercial – The proposed commercial waste collection and disposal methods have been reviewed and are acceptable, subject to suitable conditions of consent. No objection is raised to the proposed commercial waste management scheme.

- Rescource Recovery Residential - The proposed residential waste collection and disposal methods have been reviewed and are acceptable, subject to suitable conditions of consent. No objection is raised to the proposed residential waste management scheme, with Council garbage trucks able to collect residential waste directly from the site ensuring no need for waste bins to be present to the kerb while awaiting collection.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Ausgrid – The proposal has been reviewed by Ausgrid, who outlined no objection to the proposal subject to suitable conditions of consent. The recommended conditions have been included in the recommended conditions of consent.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are not payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$1,125,417.90 would be required for the development under Marrickville Section 94 Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation. This contribution has been calculated based on 30 - 1-bedroom residential units, 26 - 2-bedroom residential units, 5 – 3-bedroom residential units and 185sqm of commercial floor space. No credit has been applied as the existing floor area and use is unable to be accurately determined.

8. Conclusion

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

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

The application is considered suitable for the issue of a deferred commencement consent subject to the imposition of appropriate terms and conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.3 Height of Buildings *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that

there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/0688 to demolish the existing structures on site and erect a 4 part 5 storey mixed use building, containing basement car parking, 2 commercial tenancies on the ground floor fronting Addison Road and 61 affordable dwellings at 35-41 Addison Road & 53-55 Philpott Street, Marrickville subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

A. Finished Floor Levels - Flooding

This consent will not operate and it may not be acted upon until the Council is satisfied as to the following matters:

- Ground floor commercial areas facing Addison Road that are below the flood planning level must be protected from flood depths up to 9.60m AHD (Addison Road frontage Flood Planning Level). This protection may occur by raising the proposed finished floor levels and by providing ramp access raised internally above the Addison Road frontage flood planning level (9.60m AHD).

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA.030 C	Demolition Plan	28.01.2022	NORDON Architects JAGO
DA.090 C	Proposed Basement Plan	28.01.2022	NORDON Architects JAGO
DA.100 C	Proposed Ground Floor	28.01.2022	NORDON Architects JAGO
DA.101 C	Level 1	28.01.2022	NORDON Architects JAGO
DA.102 C	Level 2	28.01.2022	NORDON Architects JAGO

DA.103 C	Level 3	28.01.2022	NORDON Architects	JAGO
DA.104 C	Level 4	28.01.2022	NORDON Architects	JAGO
DA.105 C	Proposed Roof Terrace Plan	28.01.2022	NORDON Architects	JAGO
DA.190 C	Roof Plan	28.01.2022	NORDON Architects	JAGO
DA.200 C	Proposed Sections	28.01.2022	NORDON Architects	JAGO
DA.201 C	Proposed Sections	28.01.2022	NORDON Architects	JAGO
DA.202 C	Proposed Sections	28.01.2022	NORDON Architects	JAGO
DA.210 C	Proposed Detail Wall Section	28.01.2022	NORDON Architects	JAGO
DA.300 C	Proposed North and South Elevations	28.01.2022	NORDON Architects	JAGO
DA.301 C	Proposed West Elevation	28.01.2022	NORDON Architects	JAGO
DA.302 C	Proposed Courtyard Elevations	28.01.2022	NORDON Architects	JAGO
DA.600 C	Adaptable Unit Plans	28.01.2022	NORDON Architects	JAGO
DA.900 C	Proposed Finishes North and South Elevation	28.01.2022	NORDON Architects	JAGO
DA.901 C	Proposed Finishes West Elevation	28.01.2022	NORDON Architects	JAGO
DA.902 C	Proposed Finishes Courtyard	28.01.2022	NORDON Architects	JAGO
DA.903 C	Proposed Finished Courtyard	28.01.2022	NORDON Architects	JAGO
DA 01 Issue B	Ground Floor Landscape Plan	31.01.2022	Greenscape Architecture	Landscape
DA 02 Issue B	Ground Floor Planting Plan	31.01.2022	Greenscape Architecture	Landscape
DA 03 Issue B	Third Floor Landscape Plan	31.01.2022	Greenscape Architecture	Landscape
DA04 Issue B	Third Floor Planting Plan	31.01.2022	Greenscape Architecture	Landscape

DA 05 Issue B	Roof Top Landscape Plan	31.01.2022	Greenscape Architecture	Landscape
DA 06 Issue B	Roof Top Planting Plan	31.01.2022	Greenscape Architecture	Landscape
DA 07 Issue A	Typical Detail Sheet	06.07.2021	Greenscape Architecture	Landscape

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. The northern elevation level 2 balustrades are to be amended to incorporate a solid element behind the external face of the slats/openings or alternatively may be amended to be of a solid form similar to that of level 1 or balustrades of 33 Addison Road.

FEES

3. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$204,600.00
Inspection Fee:	\$241.50

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

4. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

5. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$1,125,417.90 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014] ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 23/02/2022

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:

Public Amenities Type:	Contribution \$
Recreation Facilities	\$969,319.34
Community Facilities	\$116,720.22
Traffic Facilities	\$17,311.32
Plan Administration	\$22,067.02
TOTAL	\$1,125,417.90

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000)).** It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

GENERAL CONDITIONS

6. Commercial Waste Storage

Each commercial space must have a waste storage room within the commercial space as stated in the Waste Management Plan June 2011.

The commercial waste storage rooms must be able to house all the bins and re-usable items such as milk crates and pallets from the commercial tenancy. The storage rooms are to meet the requirements of Marrickville Development Control Plan 2011 Generic Provisions 2.21 Appendix 4

7. Tree Protection

No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

8. Contamination – Remedial Action Plan (No Site Auditor Engaged)

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by EI Australia, reference E25218.E06_Rev0 dated 5 November 2021, the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

9. Hazardous Materials Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

10. Noise – Consultant's Recommendations

The recommendations contained in the acoustic reports prepared by Day Design Pty Ltd, reference 7274-1.1R dated 15 July 2021 and 7274-1.2R Rev A dated 21 July 2021 must be implemented.

11. Rock Anchors

This consent does not grant consent for any rock anchors on the road reserve or Council land.

12. Awnings with Lighting

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The awning must include pedestrian lighting (Category P3-AS1158) and must be maintained and owned by the property owner(s). The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council to do so. The lighting must be not be obtrusive and should be designed so that it does not shine into any adjoining residences.

13. Overhead Powerlines

Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the

development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite. “Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.”

14. Underground Cables

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

15. Signage and Use of Commercial Premises

This development application does not provide consent for any signage, signage zones, use of retail spaces or hours of operation for retail spaces. An application for first use and signage are to be a separate development application under the *Environmental Planning and Assessment Act 1979*.

16. Residential Flat Buildings – Hot Water Systems

Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.

17. Residential Flat Buildings – Air Conditioning Systems

Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.

18. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate 12 units are Adaptable units.

No works are to occur to the premises that would prevent the Adaptable units from being adapted for persons with a disability.

19. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

20. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

21. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

22. Verification of Levels and Location

Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

23. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

PRIOR TO ANY DEMOLITION**24. Resource Recovery and Waste Management Plan - Demolition and Construction**

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

25. Hoardings

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

26. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;
- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;

- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

27. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

28. Advising Neighbours Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

29. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE**30. Bin Storage Area - Residential**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.

The bin storage area is to meet the design requirements detailed in the Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.

31. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Marrickville DCP 2011 and have minimum doorways of 1200mm wide to accommodate large items.

The bulky waste storage area should be separate and self-contained, either as a dedicated room or as a caged area.

32. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage

area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface and be free of obstructions. The route should at no point have a gradient exceeding 1:12. In the event that the gradient exceeds this limit, a bin tug is to be used for transferring bins from storage to collection point/s.

33. Each Residential Level is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

34. Tree Planting in the Public Domain

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Public Domain/Street Tree Planting Plan and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. Street trees shall be planted within the footpath outside the subject property on Addison Road and Philpott Street. The species of tree shall be *Caesalpinia ferrea* (Leopard Tree) in Philpott Street and *Pyrus ussuriensis* (Manchurian Pear) on Addison Road;
- b. The trees are to be planted at appropriate spacings in consideration of the mature dimensions of the selected species and site constraints such as power poles, overhead power lines, drainage pits, subterranean constraints etc. As a guide it is likely that five (5) trees can be planted in Addison Road and seven (7) trees can be planted in Philpott Street. The Landscape Architect or Landscape Designer preparing the plans can determine the quantity after the site analysis has been undertaken to determine the constraints and opportunities for street tree planting;
- c. All planting stock size shall be minimum 200 litres;
- d. The planting stock shall comply with AS 2303—*Tree Stock for Landscape Use*. Certification from the supplier must be provided to Council in this regard;
- e. The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 in Horticulture or Arboriculture. The plans must be annotated with this requirement;
- f. The tree pit dimensions in Philpott Street shall be 600mm x 1500mm. The tree pit dimensions in Addison Road shall be 1500mm x 1500mm. Planting, soil, staking shall be in accordance with Detail 3 on page 130 of the Marrickville Street Tree Master Plan 2014 (available online). If the surrounding soil is found to be unsatisfactory for tree growth when the planting pit is excavated suitable Soil Type B must be installed instead (refer Detail 6 on page 133). Plans to be annotated with this requirement;
- g. The awning configuration must be detailed on the plan. There shall be no awning in Philpott Street and the awning in Addison Road must be setback a minimum of 1500

from the front of the kerb. All construction plans shall show the awning on the Addison Road frontage to be setback/ designed to accommodate street trees.

35. Noise General – Acoustic Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans. The report shall include an assessment of, but not be limited to:

- Noise emissions from all mechanical plant
- Noise emissions from patrons using the outdoor rooftop terrace and other outdoor or communal areas
- Noise emissions from background/amplified music outdoor rooftop terrace and other outdoor or communal areas
- Maximum number of patrons using the outdoor rooftop terrace and other outdoor or communal areas at any one time
- Proposed hours of the outdoor rooftop terrace and other outdoor or communal areas
- Any noise attenuation measures and recommendations to ensure compliance with the nominated noise criteria for use of outdoor rooftop terrace and other outdoor or communal areas
- Any recommended monitoring and compliance programs/validation to ensure compliance with relevant noise criteria for outdoor rooftop terrace and other outdoor or communal area
- A detailed Plan of Management is to be submitted and is to incorporate any acoustic consultants recommendations.

36. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

37. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD) and Stormwater Quality Improvement Devices

(SQIDS), certified by a suitably experienced Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. C200 2 prepared by JN Responsive Engineering and dated 11.02.21, as amended to comply with the following;
- b. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank(s) by gravity to directly to Council's piped drainage system via the OSD/OSR tanks;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement;
- e. The Drainage Plan must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to fully pervious (state of nature) conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 years ARI/100years ARI);
- g. Details of the Height vs Storage and Height vs Discharge relationships must be submitted;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- j. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- k. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- l. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas

- m. A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
 - 1. Comply with all relevant Australian Standards;
 - 2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
 - 3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
 - 4. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event;
 - 5. Where OSD facilities are required by this consent, the pump system must be discharged to the OSD storage tank;
 - 6. Subsurface flows must be collected at the point of ingress to the basement i.e. at the basement walls;
 - 7. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system; and
 - 8. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system. e.g.. isolate any subsurface drains at boundary walls, inspection pits with solid covers, etc.
- n. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
- o. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- p. No nuisance or concentration of flows to other properties;
- q. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
- r. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- s. Water quality filtration basket(s) with screening bag or similar primary treatment device(s) must be installed on the site stormwater drainage system such that all water entering the site stormwater drainage system is filtered by the device(s);
- t. Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:

Pollutant	Baseline Pollution (kg/ha/yr)	Annual Load	Retention Criteria
Gross Pollutants, including trash, litter and vegetation matter greater than 5mm	500		90% reduction of average annual load
Total Suspended solids, including sediment and other fine material less than 5mm	900		85% reduction of average annual load
Total Phosphorous	2		65% reduction of average annual load
Total Nitrogen	15		45% reduction of average annual load
Hydrocarbons (Oil and Grease)			90% reduction of average annual load – no visible discharge
Toxicants			100% containment of toxicants

- u. A water balance model must be submitted to accompany the water re-use proposal;
- v. A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets. A MUSIC model (including .sqz file) must be included with the report;
- w. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken; and
- x. No impact to street tree(s).

38. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, etc. must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme.
 - b. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.
 - c. New concrete footpath and kerb and gutter along all the frontages of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
 - d. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
 - e. Reconstruct full width of Stevens Lane road pavement for the full frontage of the site.
- All works must be completed prior to the issue of an Occupation Certificate.

39. Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The Plan must be prepared/amended to make provision for the following:

- a. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
 - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
 - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
 - iii. Flood warning signs/depth indicators for areas that may be inundated;
 - iv. A flood evacuation strategy; and
 - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- b. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
 - i. Building Code of Australia;
 - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
 - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and

- iv. Flood hazard level (FHL) Flood Planning Level (FPL).

40. Amended Architectural Plans to Reflect Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended architectural plans that incorporate the recommendations of the Flood Risk Management Plan. The design must be prepared to make provision for the following:

- a. Specification of materials; and
- b. Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans must occur except as identified by this condition. Any changes to such must be subject to separate approval.

41. Engineering Design - Structural Engineer Plans and Certification

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared and certified by a suitably qualified Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that incorporate the recommendations of the Flood Risk Management Plan.

The design must be prepared to make provision for the following:

- a. Structural integrity of all structures from immersion and/or impact of velocity and debris; and
- b. Waterproofing works, where applicable.

42. External Catchment

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans prepared by a suitably qualified Civil Engineer that demonstrate adequate site drainage for all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP.

43. Parking Facilities – Major (including basement)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing

areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. Entry crest to the underground carpark must be set at RL 10.95m AHD (flood level plus 500mm freeboard);
- b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- c. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- d. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- e. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- f. Longitudinal sections must be provided along both sides of the vehicular access ramp(s) and throughout the path of travel for a SRV utilising the loading bay. The sections must demonstrate that minimum headroom of 3500mm is provided;
- g. The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004.
- h. At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road;
- i. The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels"
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iii. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iv. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary.
- j. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles;
- k. The curved section of the ramp is designed in accordance with AS/NZS 2890.1-2004 with grades measured along the inside radius;

- l. The entry security door must be set back a minimum of 5500mm from the property boundary;
- m. Loading / unloading facilities must be provided on-site in accordance with the requirements of AS2890.2 – 2002;
- n. A bicycle storage area must be provided to accommodate a minimum of 64 bicycles and be designed in accordance with relevant provisions of AS 2890.3-2015; AND
- o. At least six (6) motorcycle parking spaces must be provided on site.

44. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

- a. The basement must be fully tanked to prevent the ingress of subsurface flows;
- b. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years;
- c. All components of the basement, including footings, must be located entirely within the property boundary;
- d. No adverse impact on surrounding properties including Council's footpath and road;
- e. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development;
- f. Recommendations regarding the method of excavation and construction, vibration, emissions and identifying risks to existing structures or those on adjoining or nearby property; and
- g. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation.

45. Splays - Restriction on the Land

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that structure(s) are located outside the provision of a splay. The size of the splay(s) must be:

- a. 3m x 3m at Addison Road and Philpott Street corner; and
- b. 2m x 2m at Philpott street and Stevens lane corner.

46. Waste Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with an updated Waste Management Plan which reflects the changes made to the architectural plans. The update must include diagrams or descriptions showing the new route of transfer of bins, including gradients and width of passageway. It must also describe the new waste collection point and distance from truck stopping point to interim bin storage room.

47. Enclosure of Fire Hydrant

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2005.

48. Party Walls

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with Architectural Plans accompanied by a Structural Certificate which verifies that the architectural plans do not rely on the Party Wall for lateral or vertical support and that additions are independently supported.

49. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

50. Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

51. Fibre-ready Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:

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

52. Consolidation of Lots

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the separate lots comprising the development have been consolidated into one lot and under one title and registered at NSW Land Registry Services.

53. Future Food Use - Mechanical Ventilation Provision

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings, and AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.

54. Green Roofs, Walls and Facades Report

Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a registered landscape architect demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with Inner West Councils Green Roof, Walls and Facades Technical Guidelines including but not limited to using species selected from the suggested species list, water proofing and drainage.

DURING DEMOLITION AND CONSTRUCTION

55. Documentation of Demolition and Construction Waste

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

56. Contamination – New Evidence

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

57. Imported Fill Materials

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

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

58. Construction Hours – Class 2-9

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

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm 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 out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

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 must be limited to:

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

59. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

PRIOR TO OCCUPATION CERTIFICATE

60. Planting of Street Trees

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* and the approved Street Tree Planting Plans (Public Domain Plans) including:

The trees and tree pits have been inspected by Council's Tree Assessment Officer before and after planting.

A copy of a maintenance agreement with a practicing Horticulturist or Arborist for a minimum period of twelve (12) months commencing on the planting date has been provided. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.

At the end of the twelve (12) month maintenance period, written approval must be obtained from Council before hand-over of any street tree to Council.

If a street tree has been replaced due to maintenance deficiencies during the twelve (12) month maintenance period, the twelve (12) month maintenance period will start again from the date that the street tree is replaced (up to three (3) occurrences)

61. Contamination – Disposal of Soil

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environmental Operations Act 1997*.

62. Contamination – Validation (No Site Audit Statement Required)

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.

The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines *Consultants Reporting on Contaminated Sites* and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

63. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. Heavy duty concrete vehicle crossing(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone;
- c. The existing concrete footpath across the frontage of the site must be reconstructed;
- d. Full width of Stevens Lane road pavement for the full frontage of the site must be reconstructed;
- e. New kerb and gutter and footpath along full frontage of Stevens Lane; and
- f. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.

64. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been

removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

65. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

66. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at a prominent location within the site to indicate that visitor parking is available within the property with access from Stevens Lane;
- c. Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles both on and off the property which driveway they are to use to enter or leave the subject land; and
- d. Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area(s).

67. Public Domain - Major Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

68. Dilapidation Report – Post-Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

69. Stormwater Drainage and Road Works – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified Civil Engineer that:

- a. All works required to be undertaken on public roads must be designed and constructed in accordance with Council's approved plans;
- b. Video inspection (CCTV) in accordance with WSA 05-2013 Conduit Inspection Reporting Code of Australia has been carried out of completed stormwater drainage works that are to revert to Council by an accredited operator; and
- c. Full works-as-executed plans in PDF and CAD format (dwg or dxf files), prepared and signed by a Registered Surveyor have been submitted to Council.

70. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.

71. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

- a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.

72. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;

- b. Positive Covenant related to on-site stormwater detention and/or retention system;
- c. Positive Covenant related to stormwater quality improvement devices;
- d. A public right of carriage way for pedestrians along the Stevens Lane frontage of the development; and
- e. Positive Covenant related to Maintenance of the Public Right of Carriage Way.

The wording in the Instrument must be in accordance with Councils Standard wording.

73. Flood Risk Management Plan - Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified practising Civil Engineer that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

74. Affordable Housing

Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that:

- (a) for 25 years from the date of the issue of the occupation certificate—
 - (i) the dwellings proposed to be used for the proposes of affordable housing will be used for affordable housing and
 - (ii) all dwellings that are used for affordable housing will be managed by a registered community housing provider and
- (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.

75. Aircraft Noise –Alterations and Additions

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the “Before the Issue of a Construction Certificate” Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a

further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

76. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

77. Verification and Maintenance of Green Roofs, Walls and Facades Works

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the [Inner West Councils Green Roof, Walls and Facades Technical Guidelines](#).

ON-GOING

78. Bin Storage

All bins are to be stored within the site. All bins are to be returned to the property within 12 hours of having been emptied.

79. Documentation of Businesses Waste Services

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

80. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

81. Operation and Management Plan

The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices and/or Pump facilities, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

82. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction.

83. Flood Risk Management Plan

The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

84. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.

85. Green Roofs, Walls and Facades Establishment

The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for 12 Months from the issue of an Occupation Certificate. If any of the planting are found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate they must be replaced with the same species within one (1) month (up to 3 occurrences).

ADVISORY NOTES**Notice to Council to deliver Residential Bins**

If the property requires 660L bins, Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery. If the property requires 240L bins, Council should be notified of bin requirements three weeks prior to the occupation of the building.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Mechanical Ventilation System Certification

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

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;

- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

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.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Rock Anchors

If you are seeking to use temporary anchors, you must make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
- b. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
- c. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

Electrical Substations

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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 veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Easement and Covenant Process

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

- a. Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention system and SQIDS with finished surface levels and volume of storage available. Also, the outlet pipe from the detention tank to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen

at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

b. Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- c. The soundness of the storage structure;
- d. The capacity of the detention storage;
- e. The emergency overflow system being in place;
- f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- g. The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- h. Basement car park pumps are class one zone two; and
- i. OSR pumps and SQIDS have been installed and commissioned.

c. Restriction-As-To-User

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council.

A typical document is available from Council's Development Assessment Engineer.

d. A Maintenance Schedule.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to 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.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must 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; and
- 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. A lease fee is payable for all occupations.

Noise

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.

Amenity Impacts General

The use of the premises must 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 must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Statement for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Statement must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where

children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au

Sydney Water	13 20 92	www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50	www.workcover.nsw.gov.au
		Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.

MIXED USE DEVELOPMENT

[illegible]



NORDON • JAGO

ARCHITECTS

LEVEL 4, 111-117 DONNINGHIRE STREET

STEPHEN J. NORDON

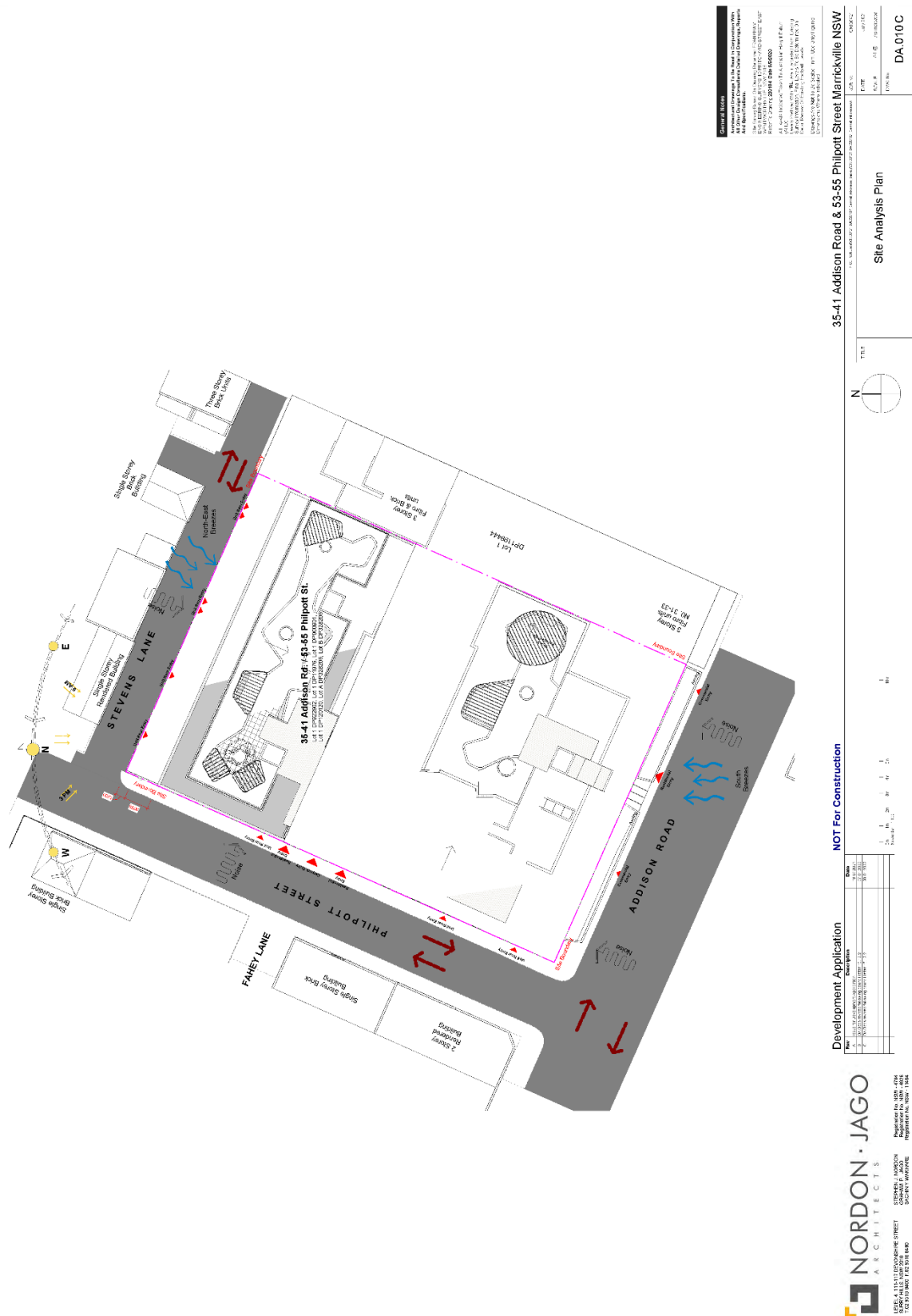
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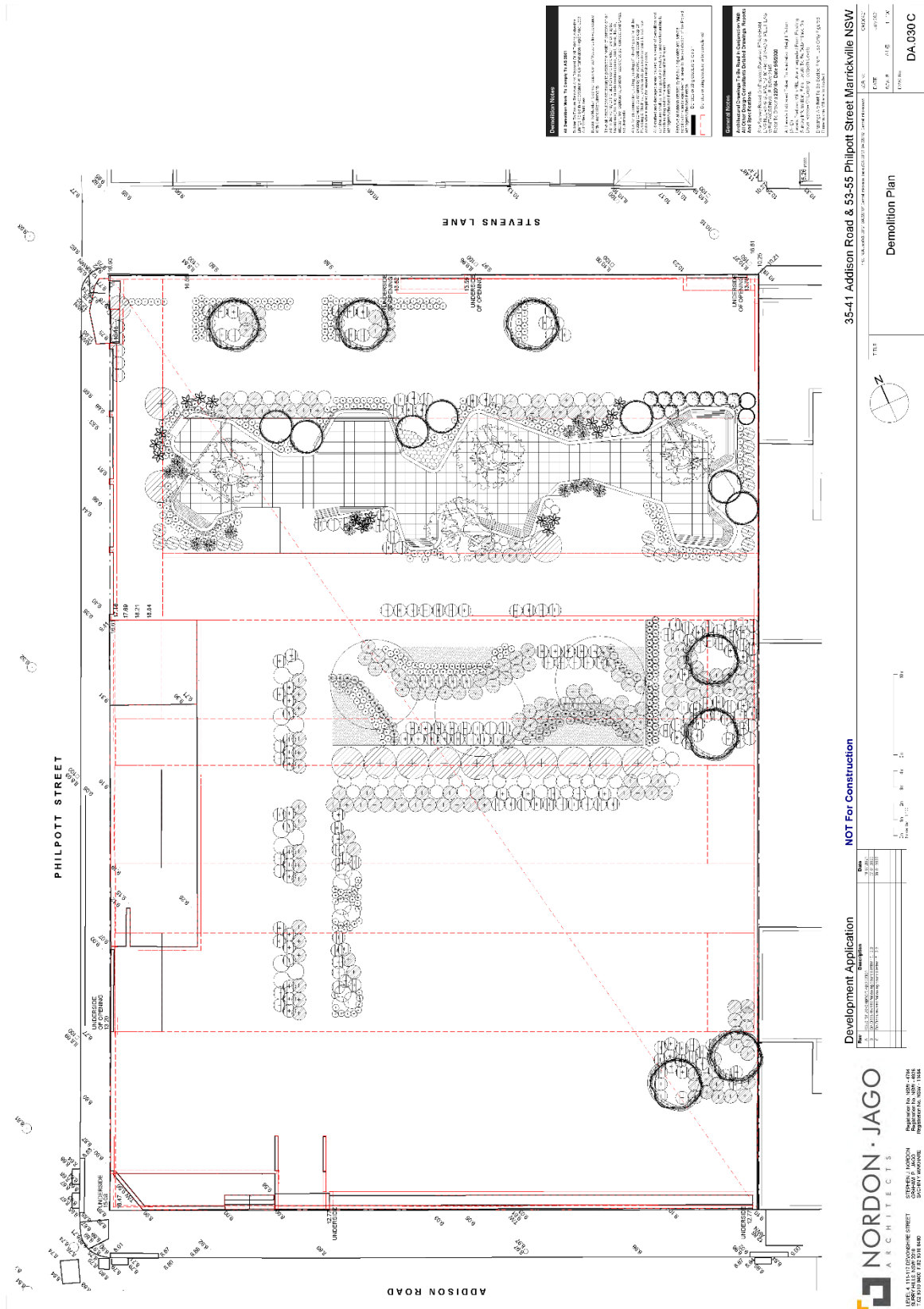
Rev	Description	Date
1	Issue for Development Application	10/01/2022
2	Revised	20/01/2022
3	DA (See internal planning notes 13.1-21)	20/01/2022
4	Revised	20/01/2022
5	DA (See internal planning notes 13.1-21)	20/01/2022

UNIT MIX CALCULATION						
Strata	2 BEDD MAYO	3 BEDD MAYO	3 BEDD MAYO	3 BEDD MAYO	3 BEDD MAYO	TOTAL
GROUND	1	4		4		11
LEVEL 1	1	6	1	7	1	17
LEVEL 2		6	1	7	1	17
LEVEL 3		2	1	3	1	9
LEVEL 4	1	4		1	1	7
TOTALS	4	22	3	21	6	61

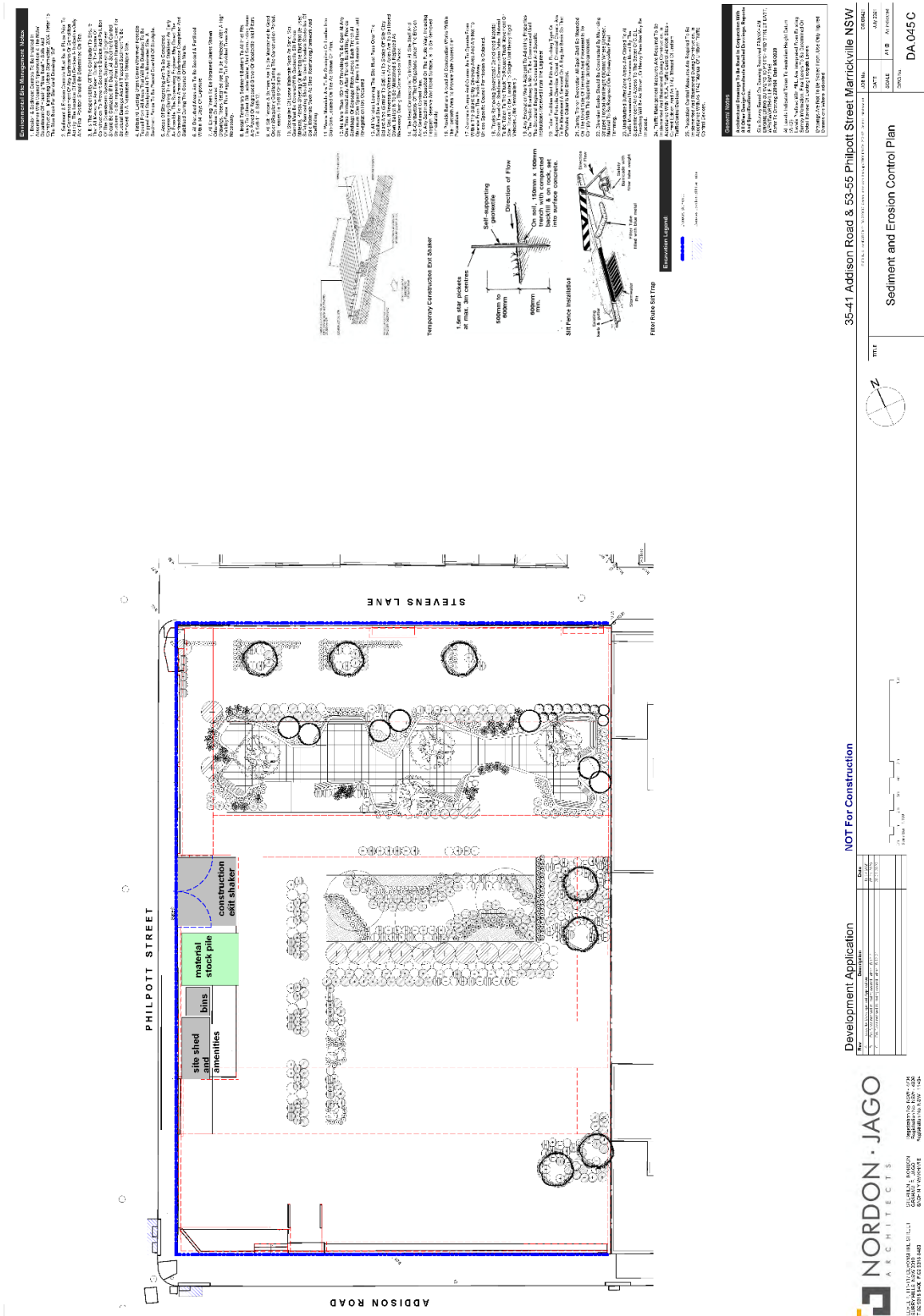
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[Cover Page](#)

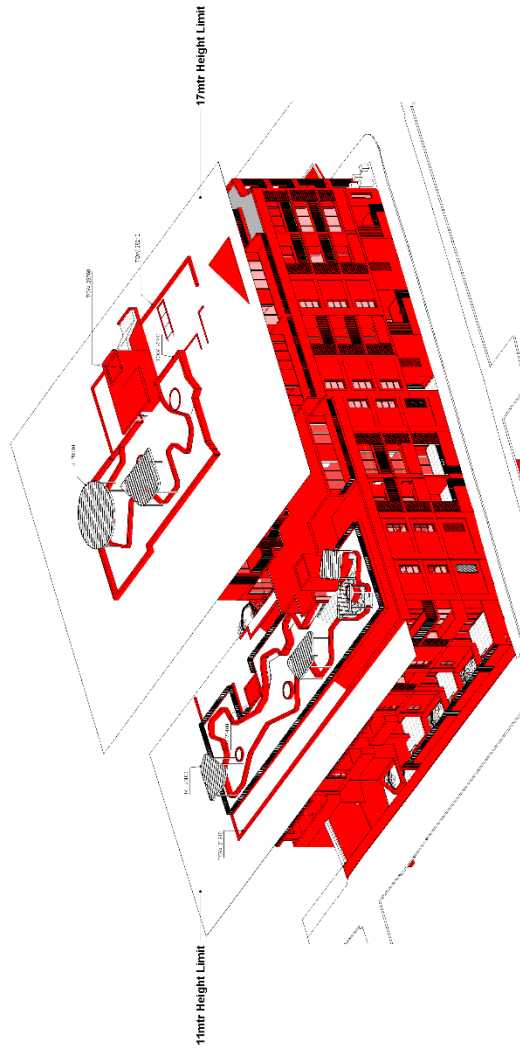












Development Application

Project: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Area: 1,111.00 sqm

Site Code: DA000000000000000000

Site Name: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Address: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Description: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Use: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Zoning: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Status: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Notes: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

NOT For Construction

Project: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

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Site Status: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Notes: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Building Height Plane

Project: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Area: 1,111.00 sqm

Site Code: DA000000000000000000

Site Name: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Address: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Description: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

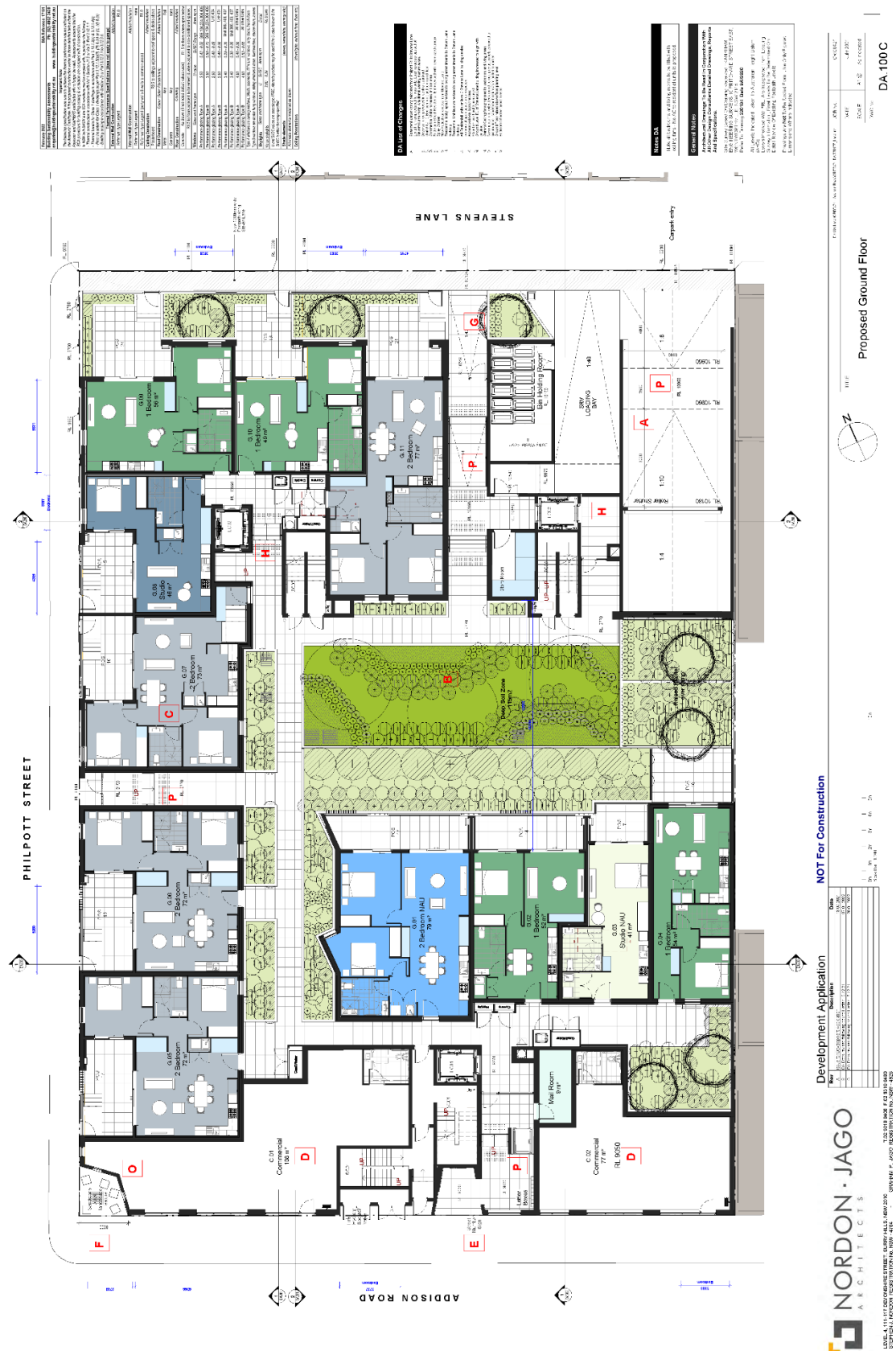
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Site Zoning: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Status: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW

Site Notes: 35-41 ADDISON ROAD & 53-55 PHILPOTT STREET MARRICKVILLE NSW











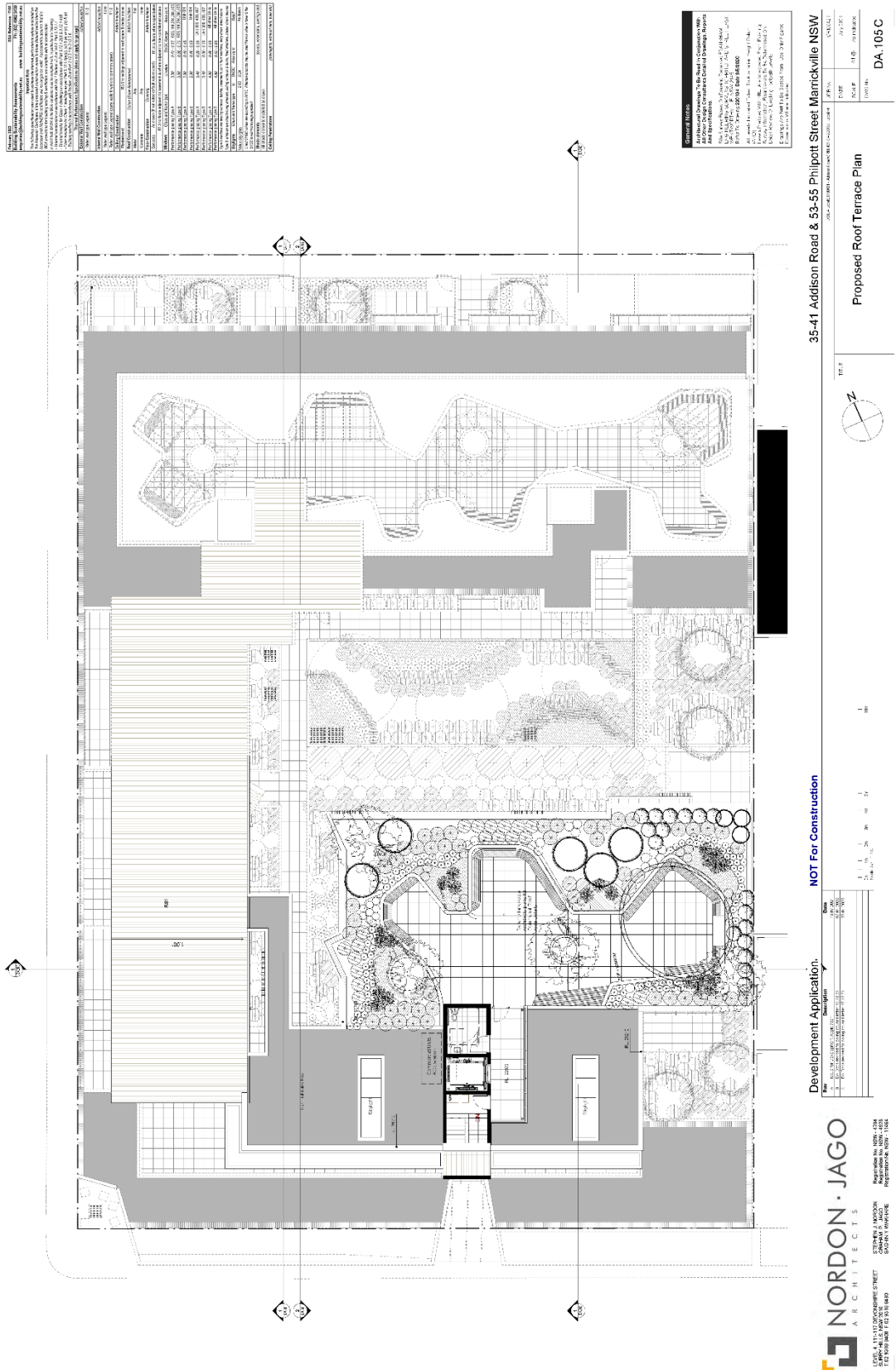
NORDON JAGO
 ARCHITECTS
 1/101-1/111 DICKSON STREET
 SYDNEY NSW 2008
 PHONE: 02 9550 1000
 EMAIL: info@nordonjago.com.au
 WEBSITE: www.nordonjago.com.au

Development Application
 Ref: DA-103-C
 Description: 35-41 ADDISON ROAD & 55-55 PHILPOTT STREET MARRICKVILLE NSW
 Date: 10/10/2017
 Drawn: J. JAGO
 Checked: J. JAGO
 Approved: J. JAGO
 Registered Professional Architect

NOT For Construction
 Ref: DA-103-C
 Description: 35-41 ADDISON ROAD & 55-55 PHILPOTT STREET MARRICKVILLE NSW
 Date: 10/10/2017
 Drawn: J. JAGO
 Checked: J. JAGO
 Approved: J. JAGO
 Registered Professional Architect

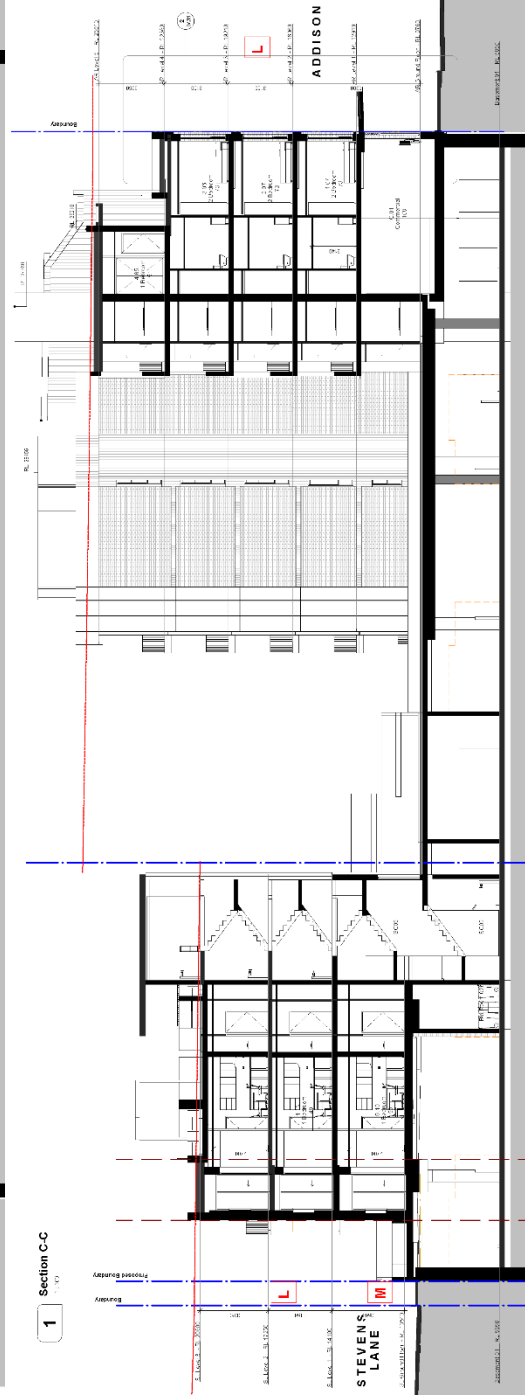
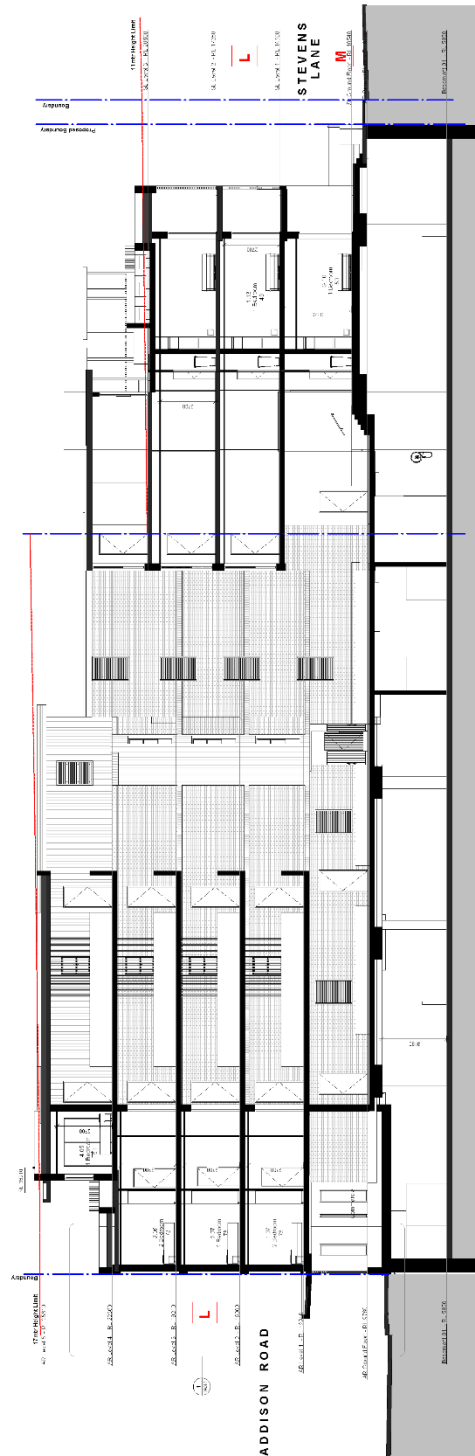
Level 3
 Scale: 1:100
 Date: 10/10/2017
 Drawn: J. JAGO
 Checked: J. JAGO
 Approved: J. JAGO
 Registered Professional Architect









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35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

NOT For Construction

Development Application

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ARCHITECTS

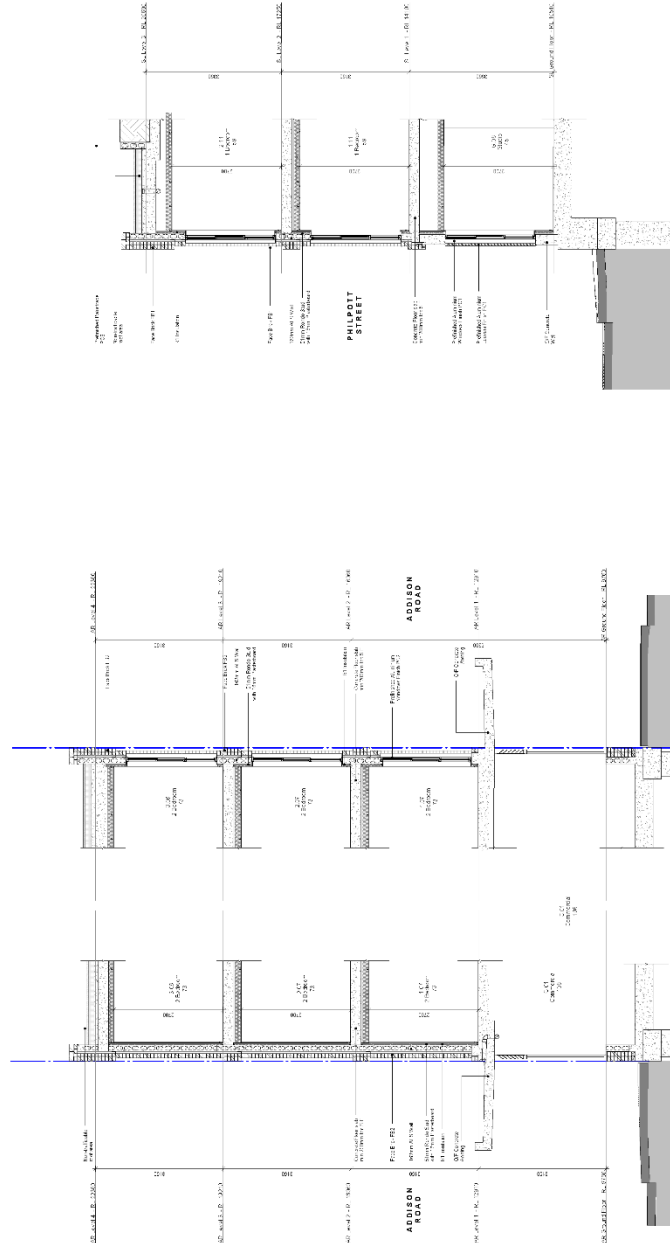
STEWART • JORDSON
CORHAM • JACOB
BACHEN • ANTONIO

1001 • 1111 FORTYSEVEN STREET
SUNNY HILLS, CA 91768
TEL 913 933 9000 FAX 913 933 6480

Registration No. 1039 • 0214
Registration No. 1039 • 0214
Registration No. 1039 • 0214
Registration No. 1039 • 1444

Proposed Sections

DA.201 C



General Notes:
1. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
2. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
3. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
4. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
5. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
6. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
7. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
8. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
9. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.
10. All construction shall be in accordance with the Australian Standard AS/NZS 1170:2002.

3 Detail Wall Section 03

2 Detail Wall Section 02

1 Detail Wall Section 01

NORDON ARCHITECTS
10/41 HUNTER STREET
SYDNEY NSW 2000
TEL: 02 9550 1234
WWW.NORDONARCHITECTS.COM.AU

Development Application
DA 210 C
35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

Development Application
DA 210 C
35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

Development Application
DA 210 C
35-41 Addison Road & 53-55 Philpott Street Marrickville NSW



Proposed West elevation Philpott Street

Propose

General Notes

Architectural Drawings To Be Read In Conjunction With All Other Design Consultants Detailed Drawings, Reports And Specifications.

Site Survey Based On Drawing Received FROM/USAM ENGINEERING SURVEYS 10 PITCHCROFT STREET, WEST WORTHVILLE NSW 2145

Refer To Drawing 225/04 Date 04/06/2020

All Levels Indicated Taken To Australian Height Datum (AHD) Products With "RL" Are Interpreted From Existing Survey Information. Final Levels To Be Determined On Detail Review Of Existing Footpath Levels

Drawings Are Not To Be Spliced From. Use Only Original Dimensions Where Indicated

	JOB No.	C060421
	DATE	July 2021
	SCALE	A1 @ 1 : 100
DWG No.	DA.301 C	

35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

P 08: Naci-Lawrence000421 DA 220107_Central_medicine at	JOB No.	CAR00421
	DATE	July 2021

Proposed West Elevation

DA.301C

NOT For Construction

10
9
8
7
6
5
4
3
2
1

Development Application

Row	Device registration	Date
A	Insert for Development Application	13.01.2021
B	Oil Once residual following receipt letter 15.12.21	07.01.2022
C	Oil Once residual following receipt letter 15.12.21	08.01.2022

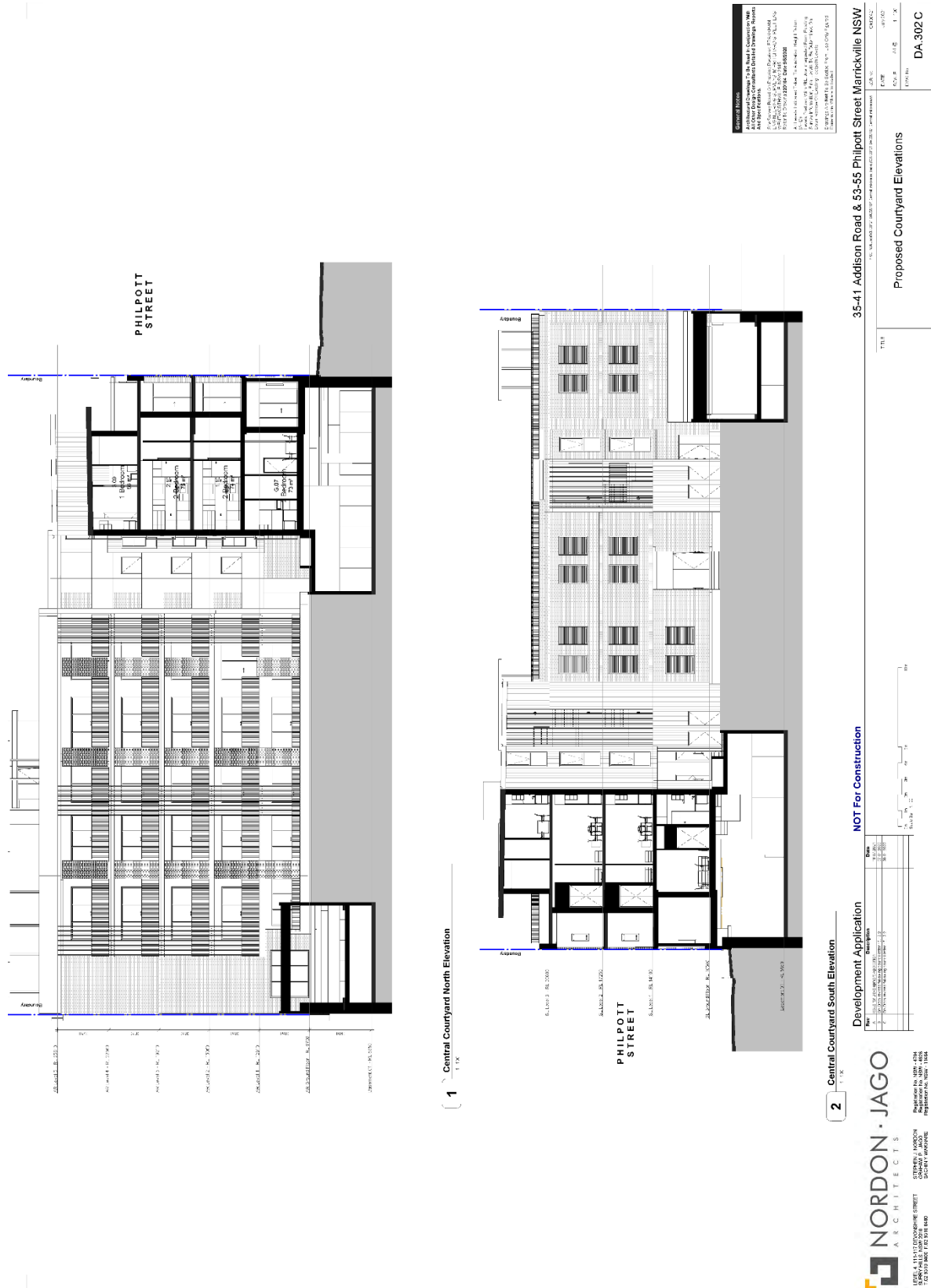
Q	On Onco Personal Laboratory request letter 15.12.23	28.01.2022

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ARCHITECTS

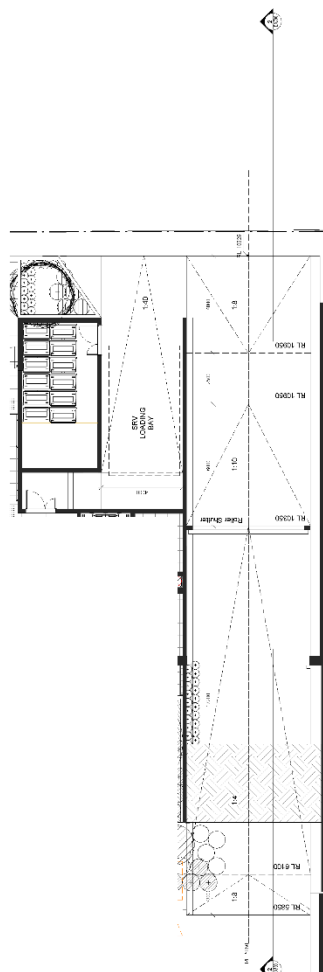
LEVEL, A 11-17 FORTYSEVEN STREET
SLARY HILLS, NSW 1585
T 02 9318 4400 F 02 9318 6480

STEFEN J. NORDON
GRAHAM P. JAGO
SACHIN Y. SHAMHARE

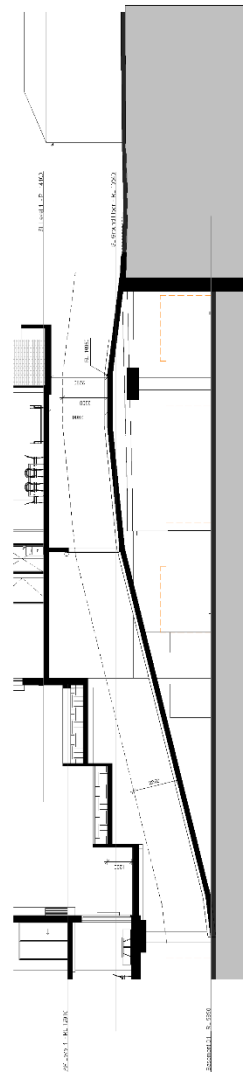
Registration No. NSW 1724
Registration No. NSW 4026
Registration No. NSW 1464







1) Basement 01 Ramp



2 Section 1

[illegible]

35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

NOT For Construction

Development Application

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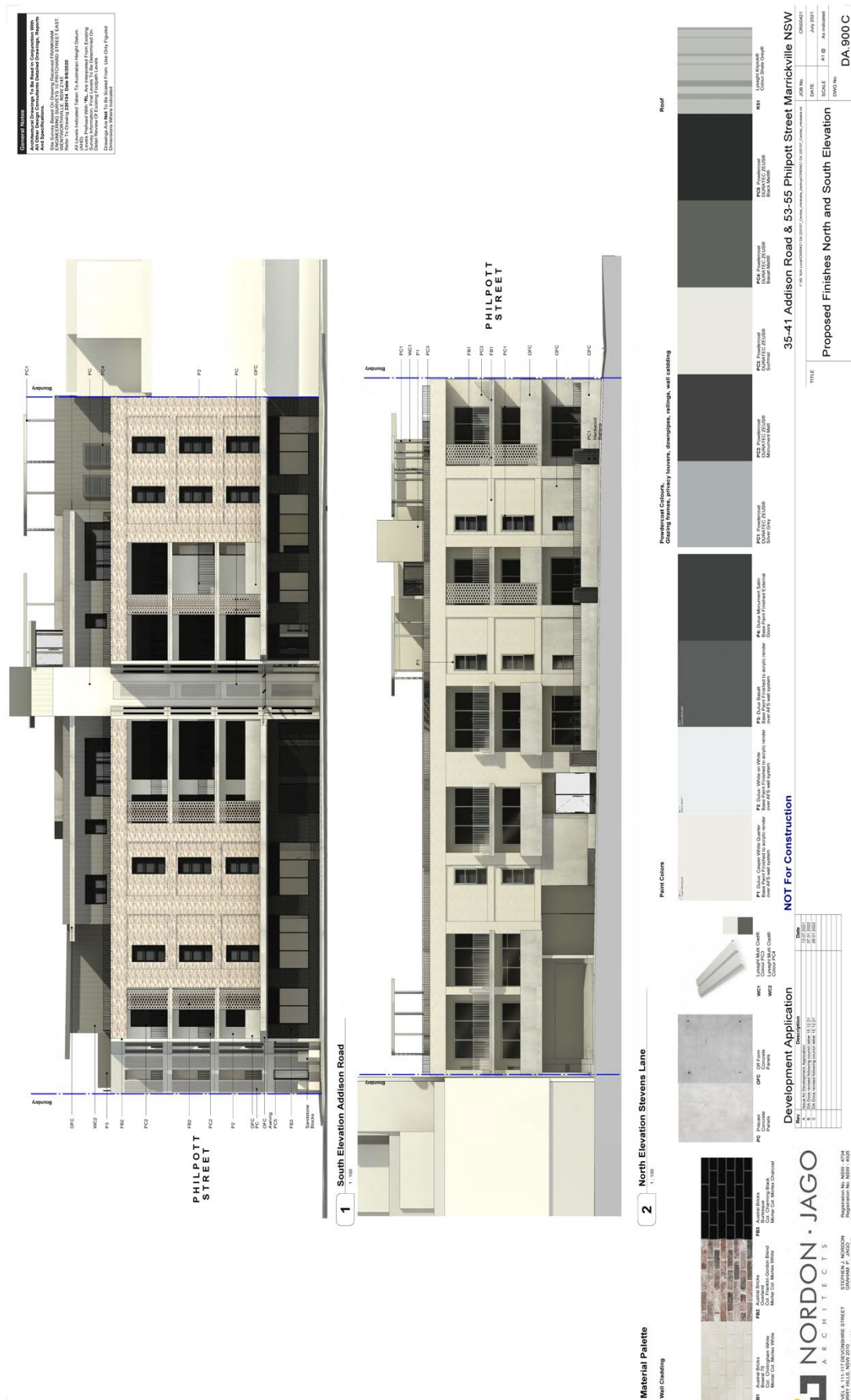
1001 E. 114th STREET
SUITE 200
MAYFIELD HILLS, OHIO 44130
TEL 330.930.0000 FAX 330.931.0080

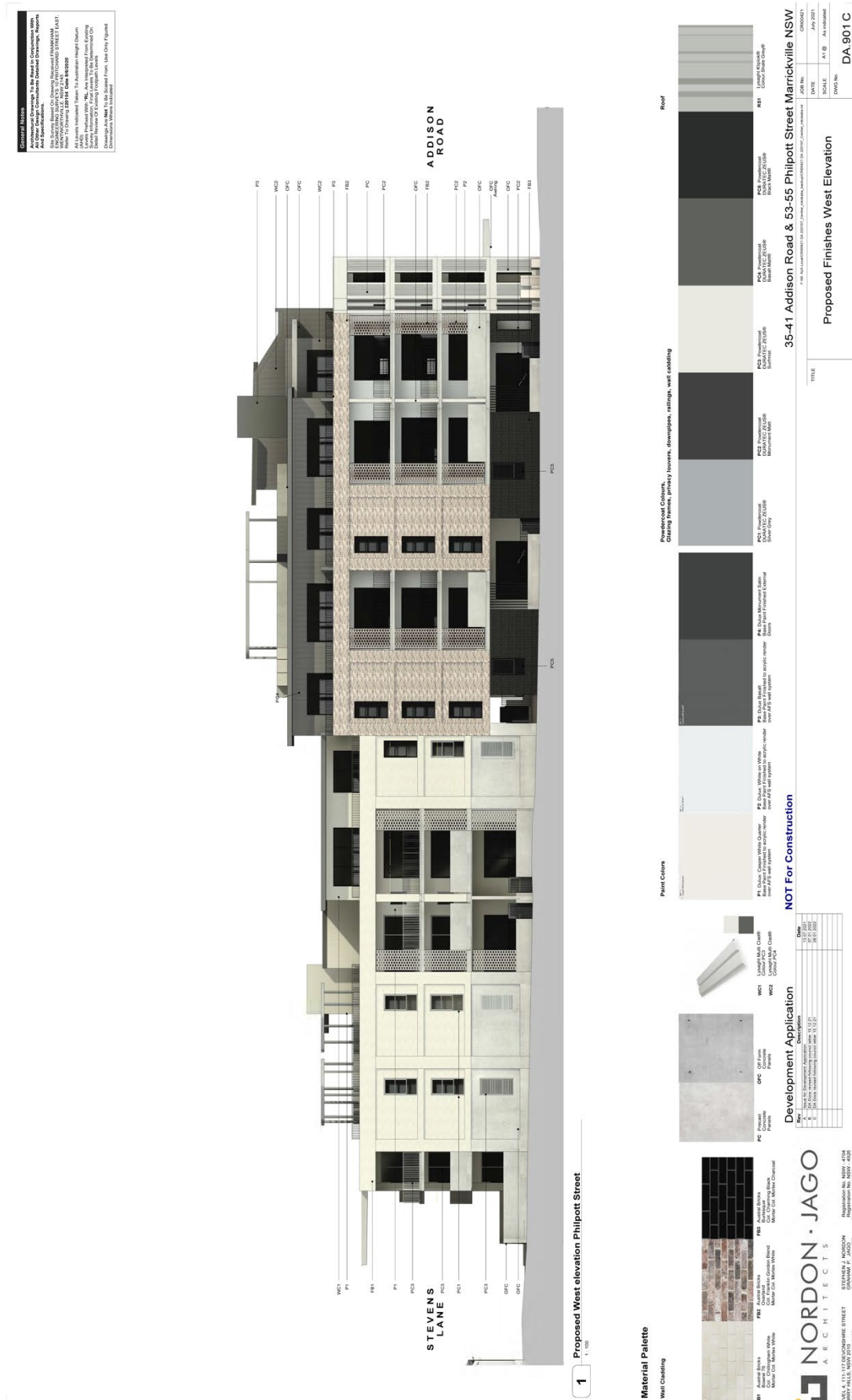
STERLING JORDSON
CHARTERED ARCHITECT
REGISTERED PROFESSIONAL
REGISTERED IN OHIO
REGISTERED IN NEW YORK

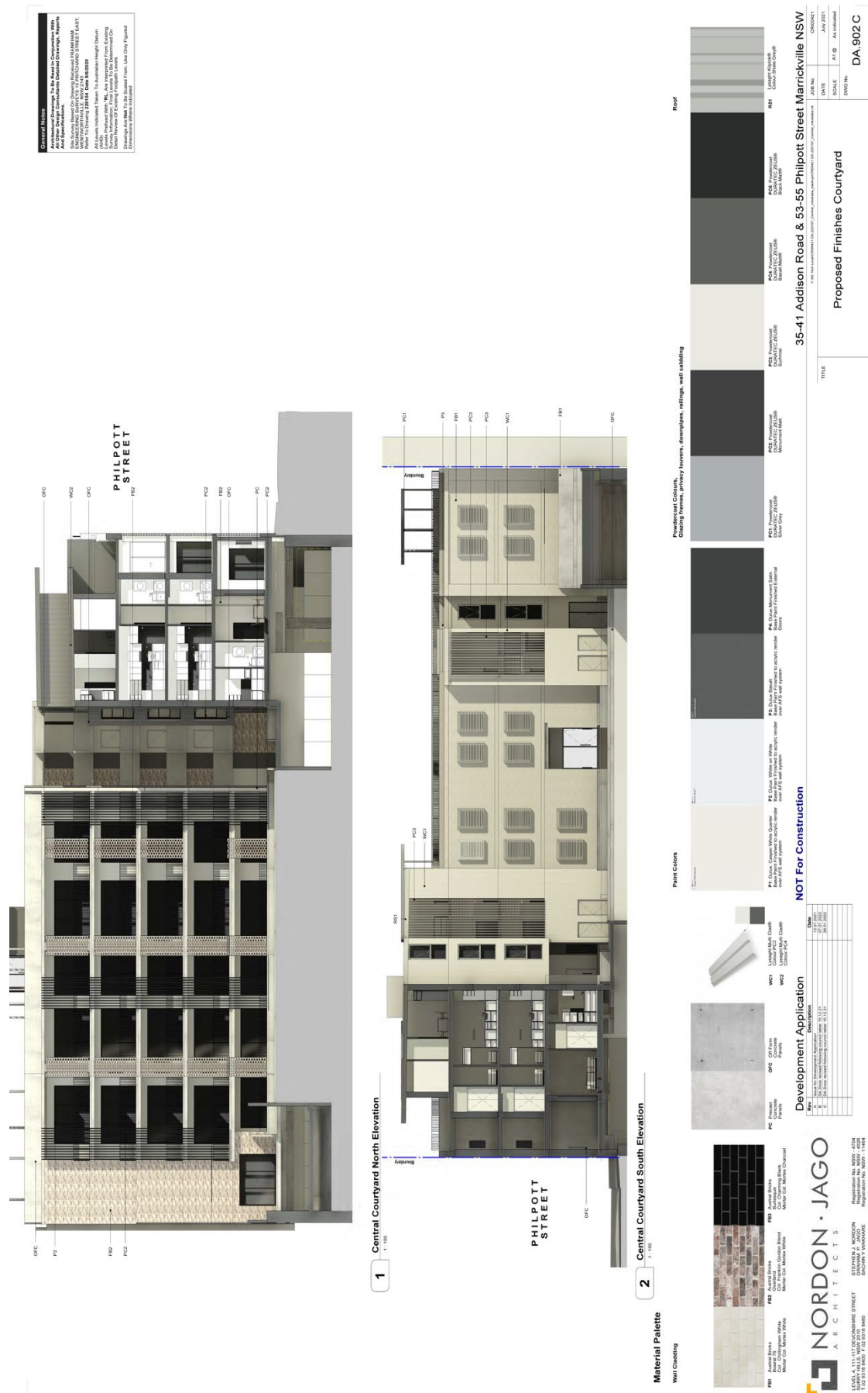
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Registration No. 40761 - NEW YORK
Registration No. NSM - 11454

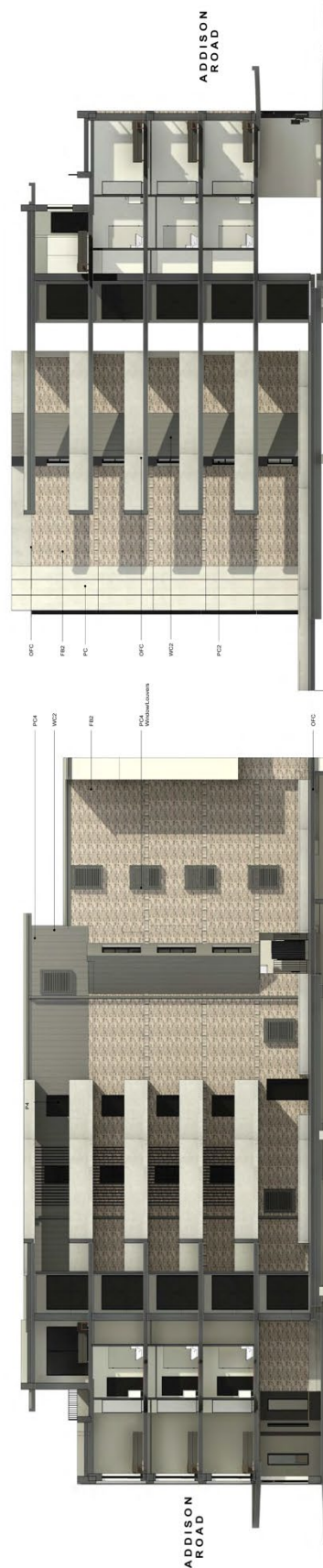
Driveway Ramp Details

DA.790 C









1 Central Courtyard East Elevation

2 Central Courtyard West Elevation

Material Palette

Wall Cladding



Development Application

Rev	Description	Date
1	Issued for Development Application	13 12 2012
2	City Council resolved (unanimous) on 15 12 21	07 01 2013
3	City Council resolved (unanimous) on 15 12 21	06 01 2013

NOT For Construction

Paint Colors

Figure 1 shows a color calibration chart with 30 color patches arranged in a 3x10 grid. The patches are labeled with numbers 1 through 30. The colors range from various shades of gray and black to vibrant primary and secondary colors. The chart is used for ensuring color accuracy in digital imaging and printing.

Powdercoat Colours.

PC1 Powdercoat	PC2 Powdercoat	PC3 Powdercoat
Glazing frames, privacy louvers, downpipes, railings, wall cladding		

Roof

35-41 Addison Road & 53-55 Philpott Street Marrickville NSW

Proposed Finishes Courtyard

JOB No.	CR000421
DATE	July 2021
SCALE	A1 @ As indicated
DWG No. DA.903C	

35-41 ADDISON RD & 53-55 PHILPOTT ST, MARRICKVILLE
LANDSCAPE CONCEPT PLAN
ISSUED FOR DEVELOPMENT APPLICATION

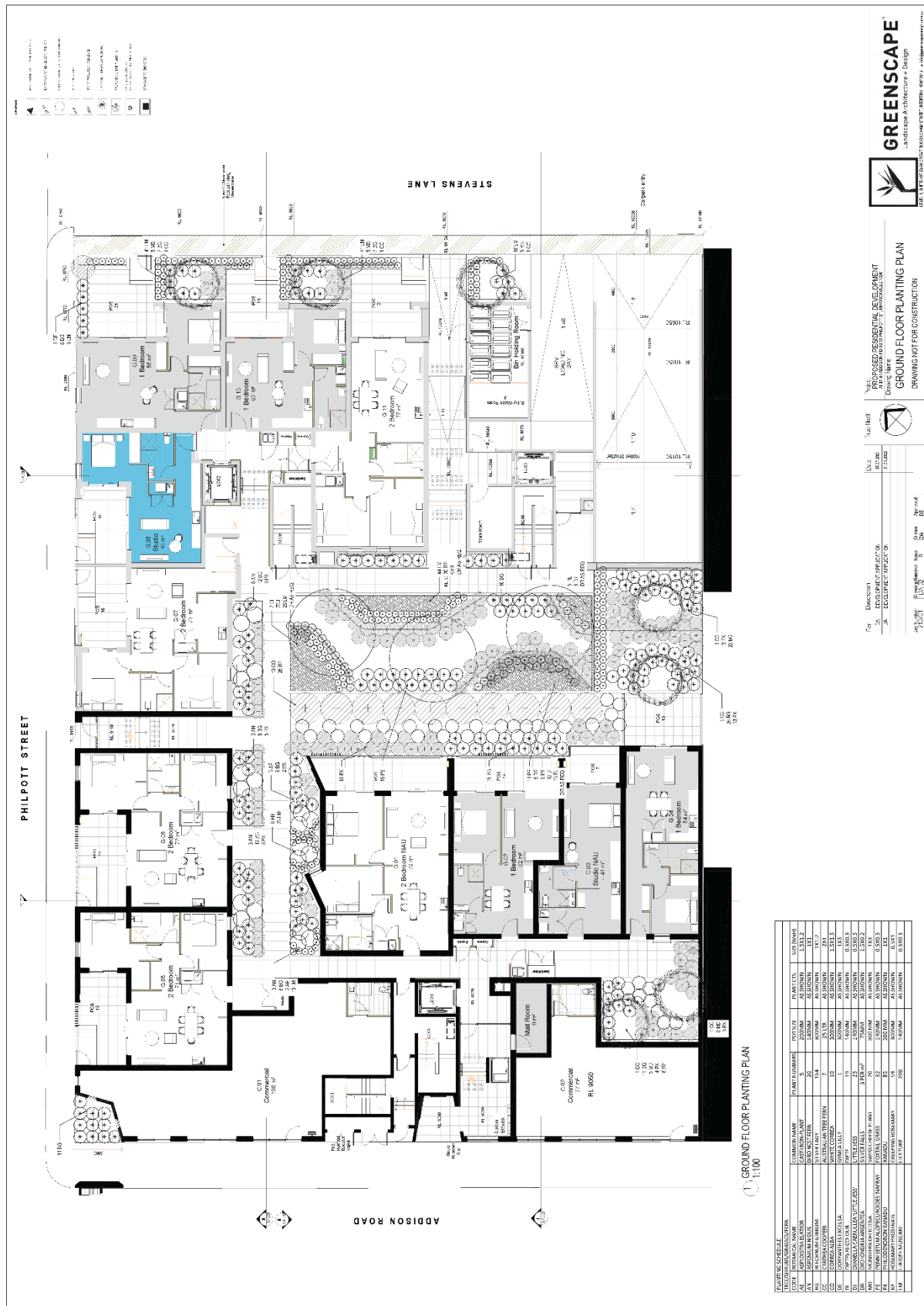


Day no	Drawing Title	Size	Scale	Revision
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DA.02	LANDSCAPE FIRST FLOOR PLAN	A3	1:100	0
DA.03	LANDSCAPE SECOND FLOOR PLAN	A3	1:100	0
DA.04	SECOND FLOOR PLANTING PLAN	A3	1:100	0
DA.05	LANDSCAPE ROOF GARDEN PLAN	A3	1:100	0
DA.06	TOOF GARDEN PLANTING PLAN	A3	1:100	0
DA.07	TOOF GARDEN PLANTING PLAN	A3	1:100	0
DA.08	PLANTING PALETTE	A3	1:100	0

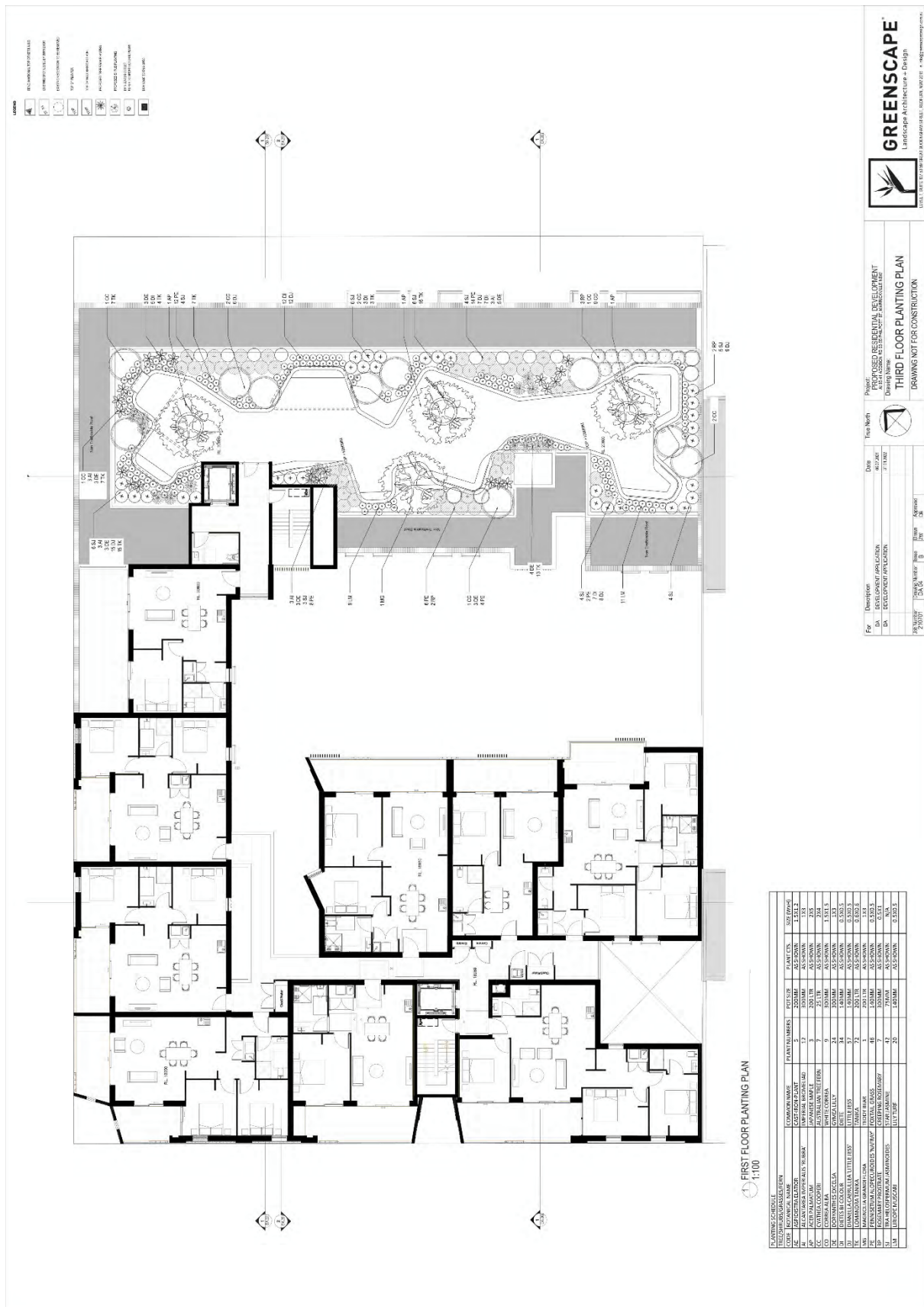
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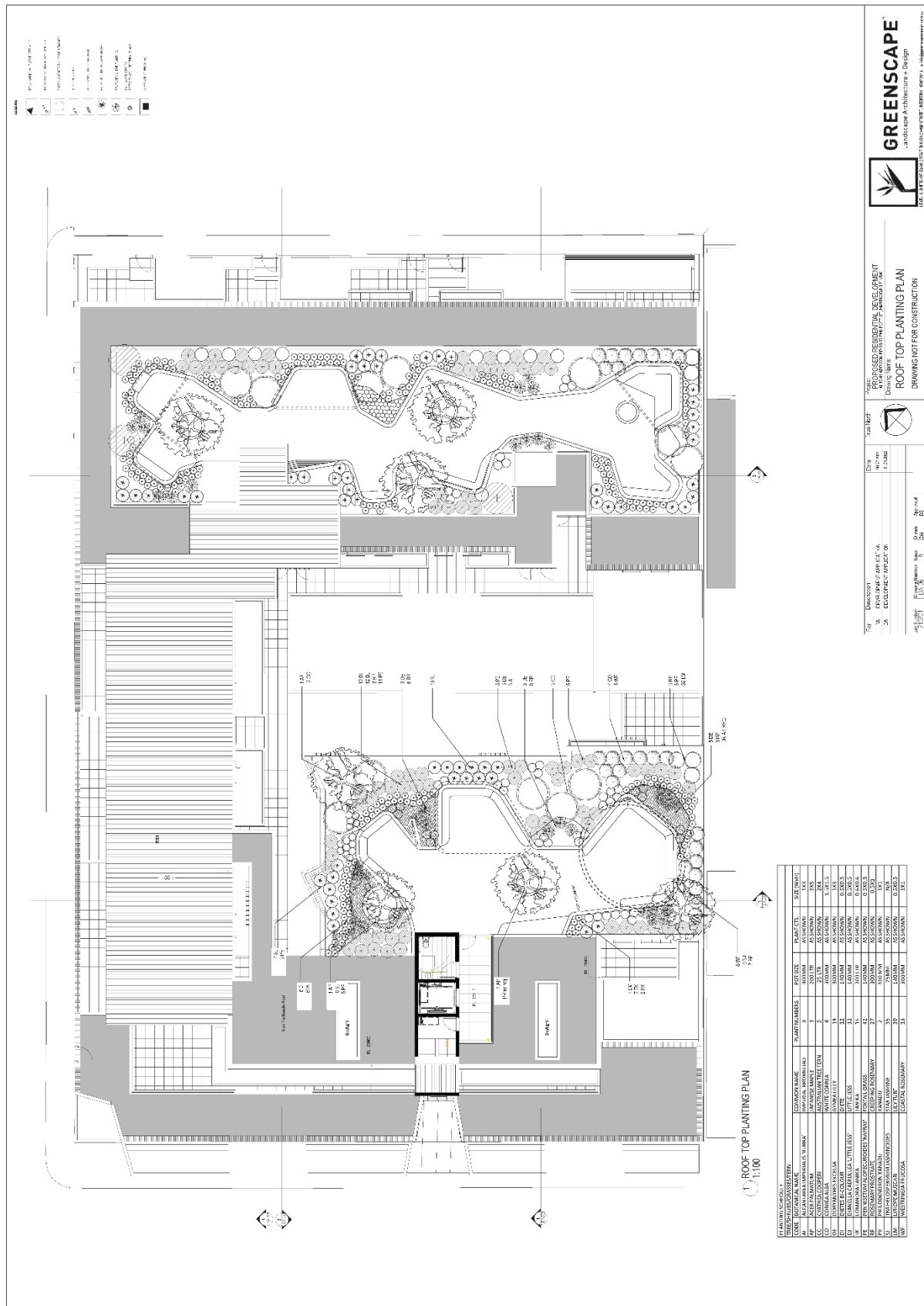








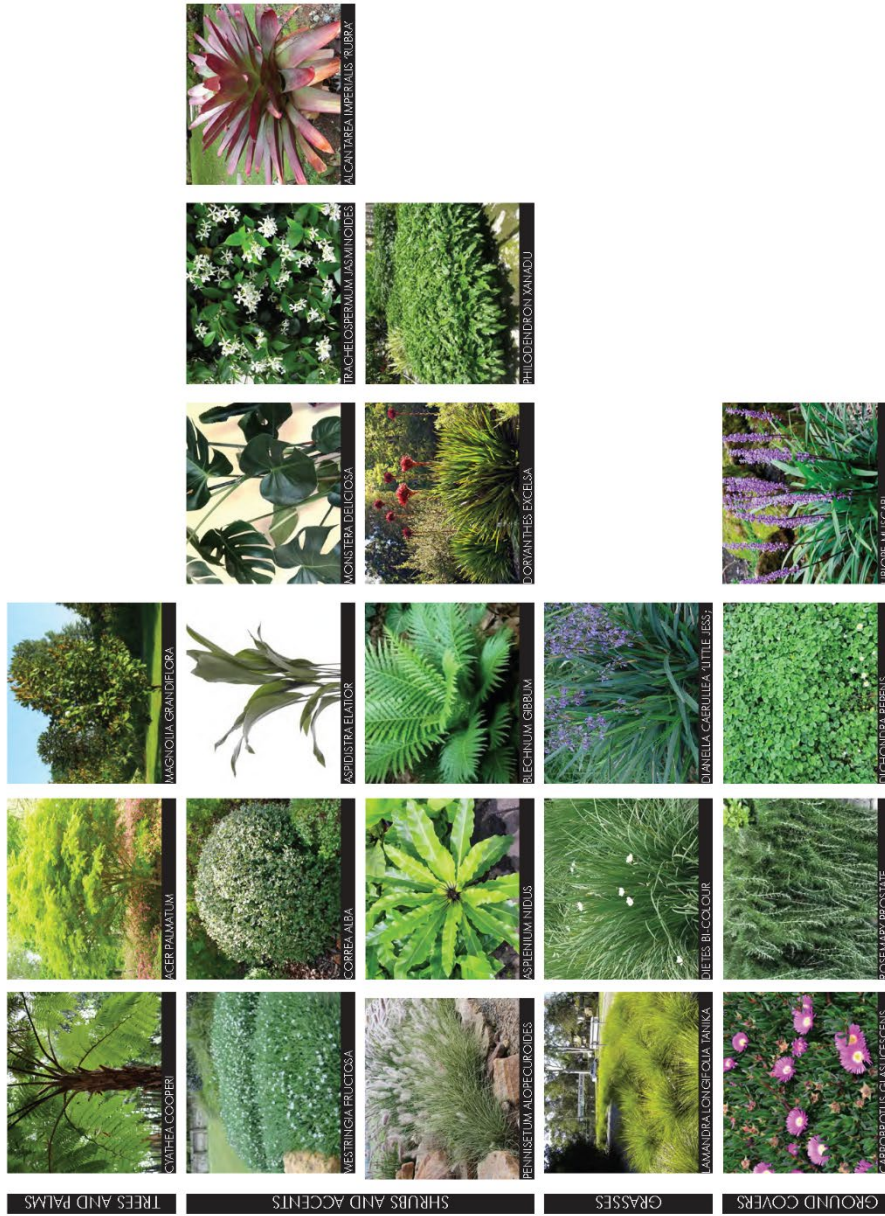






GREENSCAPE

Landscape Architecture + Design



PLANT PALETTE

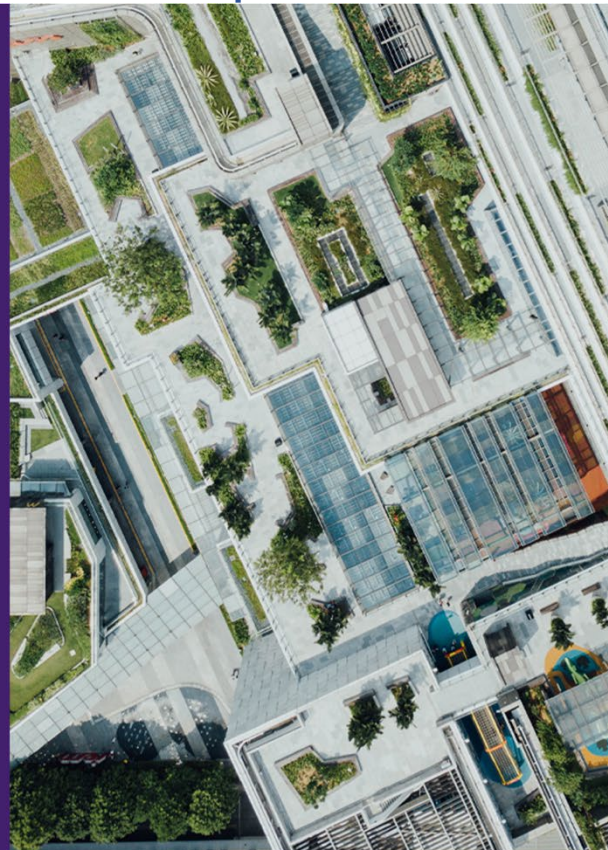
35-41 ADDISON RD & 53-55 PHILPOTT ST, MARRICKVILLE - PROPOSED RESIDENTIAL DEVELOPMENT
DEVELOPMENT APPLICATION

PREPARED BY: GREENSCAPE DESIGN

DATE : 31.1.2022
JOB NO : 210701
ISSUE : B



Attachment C - Clause 4.6 Exception to Development Standards



35-41 Addison Road & 53-55 Philpott Street, Marrickville

Revised Clause 4.6 Variation Request
– Height of Buildings

On behalf of
Tricon Group Pty Ltd
February 2022

Table of Contents

1	Introduction.....	3
2	Clause 4.6 Exceptions to Development Standards.....	4
3	The Development Standard to be varied	5
4	Extent of Variation to the Development Standard.....	6
4.1	Objectives of the Standard.....	6
4.2	Objectives of the Zone	7
5	Assessment.....	7
6	Matters of significance for State or regional environmental planning...	12
7	Secretary's concurrence	12
8	No public benefit in maintaining the development standard.....	12
9	Conclusion	12

Schedule of Figures and Tables

Figure 1	Subject site – Height Standard (Clause 4.3 MLEP2011).....	5
Figure 2	Subject site – Height Plane Overlay (Nordon Jago Architects).....	6
Figure 3	Aerial Imagery of subject site and surrounding development.....	8

1 Introduction

This Clause 4.6 Variation Request seeks to allow a variation to the Height of Buildings development standard associated with the Development Application at 35-41 Addison Road & 51-53 Philpott Street Marrickville (the site). The DA seeks approval for:

- Demolition of the existing commercial/industrial building on site;
- Carparking entry off Stevens Lane to a basement with 35 car parking spaces (16 accessible, 2 spaces for commercial uses), 64 bicycle parking spaces, waste and storage areas, a loading zone and required plant;
- 2 x ground-floor commercial tenancies (185sqm);
- 61 social and affordable housing units to be managed by St George Community Housing (SGCH) for 25 years, incorporating:
 - 5 x studio units;
 - 23 x 1-bedroom units;
 - 26 x 2-bedroom units;
 - 5x 3-bedroom units; and
 - 728sqm of communal space (31% of site area).

The Clause 4.6 Variation Request seeks to vary one development standard within the Marrickville Local Environmental Plan 2011 (MLEP2011):

- Clause 4.3 – Height of Buildings

This Clause 4.6 Variation Request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. The variation allows for a development that represents the orderly and economic use of the land in a manner which is appropriate when considering the site's context and existing building, and as such, is justified on environmental planning grounds.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliances, the proposed development:

- Achieves the objectives of the development standard in Clause 4.3 of MLEP 2011, despite the non-compliance with the numerical standard in Clause 4.3;
- Achieves the objectives of the B5 Business Development zone under MLEP 2011;
- Seeks to deliver 61 additional social and affordable housing dwellings in the Inner West LGA through the NSW Government's Social and Affordable Housing Fund Round 2 (SAHF2) initiative. As such, the proposed development will enable the delivery of social and affordable housing that would not otherwise be provided, which is a matter of State and Regional significance identified in the Greater Sydney Regional Plan and NSW's Future Directions for Social Housing Policy;
- Will deliver a development that is appropriate for its context, despite the numerical breach to development standard 4.3, and therefore has sufficient environmental planning grounds to permit the variation; and
- Is in the public interest.

As a result, the DA may be approved as proposed in accordance with the flexibility afforded under Clause 4.6 of the MLEP 2011.



2 Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the MLEP 2011 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development. Specifically, the objectives of this clause are:

- To provide flexibility in the application of a development standard; and
- To achieve better outcomes for and from development.

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard:

- That the applicant has provided a written request that has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- That the applicant has provided a written request that has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The consent authority's satisfaction as to those matters must be informed by the objectives of Clause 4.6, which are:

- providing flexibility in the application of the relevant control; and
- to achieve better outcomes for and from development.

Clause 4.6 of the MLEP 2011 reads as follows:

Clause 4.6 Exceptions to development standards

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

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

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately **addressed** the matters required to be demonstrated by subclause (3), and



(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

3 The Development Standard to be varied

This Clause 4.6 Variation Request has been prepared in a written format, seeking to justify the variation to the following development standard in the MLEP2011:

- Clause 4.3 (Height of Buildings) – which permits a maximum Height of Buildings of 11m for part of the site and 17m for a separate part of the site. Refer to Figure below.



Figure 1 Subject site – Height Standard (Clause 4.3 MLEP2011)

Clause 4.3 states:

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
 - (a) to establish the maximum height of buildings,
 - (b) to ensure building height is consistent with the desired future character of an area,
 - (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,
 - (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.



4 Extent of Variation to the Development Standard

The subject application proposes a maximum building height of 20.7m in the 17m height control area, which is a 21.7% variation to the height control. The subject application also proposes a maximum building height of 13.5m in the 11m height control area, which is a 22.7% variation to the height control.

As the site is currently built over, the 'existing ground level' has been calculated from the footpath levels of Addison Road (RL9.05) and Stephen's Lane (RL10.23).

The Figure below shows the building elements that sit above the 11m and 17m height planes.

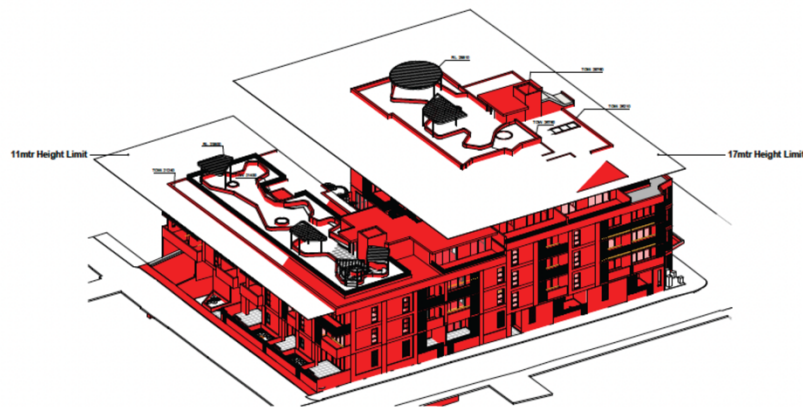


Figure 2 Subject site – Height Plane Overlay (Nordon Jago Architects)

In terms of the 11m height control, the elements that sit above the height plane relate to the topmost level roof slab, parapet and lift overruns. In addition, some additional height is as a result of the pergolas located on the roof terrace, which are intended to provide important shade relief for residents during the warmer months of the year.

In terms of the 17m height control, the elements that sit above the height plane similarly relate to the topmost level roof slab, parapet and lift overruns. Similarly, the pergola structures on the Addison Road frontage roof terrace also breach the LEP height.

No floor space is within the areas that breach the height control.

4.1 Objectives of the Standard

The objectives of the Standard are as follows:

- (a) *to establish the maximum height of buildings,*
- (b) *to ensure building height is consistent with the desired future character of an area,*
- (c) *to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity.*



4.2 Objectives of the Zone

The Objectives of the B5 Business Development zone are as follows:

- To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To support urban renewal and a pattern of land use and density that reflects the existing and future capacity of the transport network.

5 Assessment

5.1 Clause 4.6(3)(a) – compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

1. Compliance with the height standard is unreasonable and unnecessary as the objectives of the FSR development standard are achieved notwithstanding non-compliance with the numerical standard (Wehbe 1# test):

- 1.1. As detailed in *Williams v Ku-ring-gai Municipal Council* [2017] NSWLEC 1098, *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [44]–[48], a number of approaches could be used to establish that compliance with a development standard is unreasonable or unnecessary.

- 1.2. Furthermore, Preston CJ in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 [42]–[51] outlined five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable and unnecessary which are summarised below:

Test 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Test 3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Test 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or

Test 5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

- 1.3. These five ways to demonstrate that compliance is unreasonable or unnecessary are not exhaustive, and it may be sufficient to establish only one way.

- 1.4. With respect to the subject application, we consider that the proposed development meets the requirements of Wehbe Test 1 and therefore compliance with the development standard is unreasonable and unnecessary when considered holistically with the development outcome being sought.

5.1.1 Wehbe Test 1 – Objectives of the Standard are achieved

2. Objective (a) to establish and maximum height of buildings.
 - 2.1. The maximum building heights of 11m and 17m have been established for the site.



- 2.2. The development sits almost entirely within these building heights, despite having been granted an additional 0.5:1 FSR through the provisions of the SEPP (Affordable Rental Housing) 2009 that is not reflected in the local LEP height control.
- 2.3. It is also noted that the 17m height control has been retained for the full length of the sites to the east that are also permitted residential accommodation as part of a mixed use development. These two adjacent sites have already been constructed as mixed-use developments, and therefore, this site is the last remaining in-fill type for this block.
3. Objective (b) to ensure building height is consistent with the desired future character of an area.
 - 3.1. The subject site is within the Newington Character Area (Precinct 9), which is identified predominantly as an area that is more residential in character, with 1-2 storey terrace dwellings and a number of conservation areas.
 - 3.2. However, the subject site sits on the boundary with Precinct 47 – Victoria Road Precinct. It is also located in a higher-density mixed use precinct with a number of medium and high density mixed use developments to the east on Addison Road, north and north-west on Cowper Street as well as Fotheringham Lane.
 - 3.3. In demonstrating consistency with 'desired future character', recent Court determinations (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 and *Woollahra Municipal Council v SJD DB2 Pty Limited* [2020] NSWLEC 115 (SJD)) have clearly and consistently found that desired future character is a function of both future development through the implementation of controls, as well as responsiveness to existing development.
 - 3.4. The subject site is the last remaining proposed 'infill' mixed use development at this location permitted by the Schedule 1 zoning provisions. As shown in the Figure below, the remainder of sites that permit mixed use development have been completed.

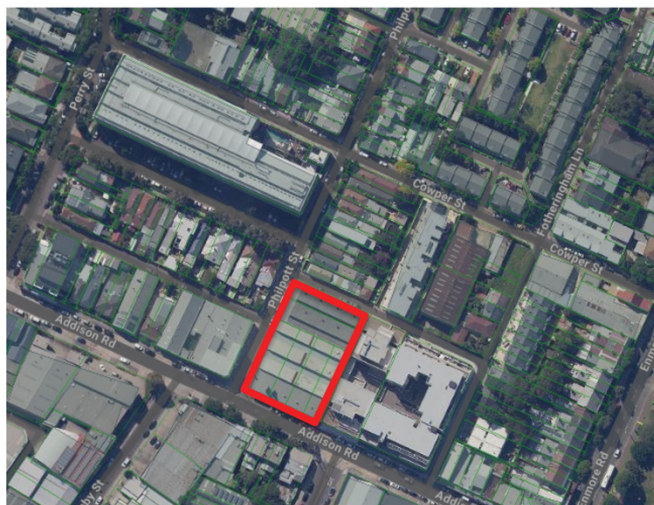


Figure 3 Aerial Imagery of subject site and surrounding development

- 3.5. Accordingly, the building has been developed to be compatible with the particular infill character associated with the block bounded by Addison Road, Fotheringham



Lane, Stevens Lane and Philpott Street, whilst not detracting from the surrounding lower-density residential.

- 3.6. The intent is to deliver the final part of this mixed use infill block that does not detract from the surrounding development and is compatible without creating inappropriate amenity impacts.
 - 3.7. It is also acknowledged that the two developments to the east of the subject site are permitted a 17m height control for the full extent of the sites, where as the subject site has a portion of the site reducing to 11m, likely to protect sunlight to the lower-density surrounding dwellings.
 - 3.8. The development proposed is consistent with the desired future character of this particular mixed use sub-precinct despite the minor variations to the height control. The variation comes as a result of the additional floor space permitted through a state planning priority in the ARH SEPP, which is not envisaged in the local height controls. Despite this, the proposal has been carefully designed to minimise consequent height impacts, and is compatible with its immediate eastern mixed-use neighbours, whilst ensuring no additional environmental impacts to the lower-density terraces to the north and west.
4. Objective (c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight.
 - 4.1. The design of the proposed development includes careful consideration to the amenity of the adjoining and nearby developments. The proposal has a highly articulated design to reduce its bulk and scale. The proposed top floor is setback from the building edge to all street boundaries.
 - 4.2. As demonstrated in the Statement of Environmental Effects, the proposed development will achieve excellence solar access, exceeding the requirements of the Apartment Design Guide.
 - 4.3. The application is also accompanied by overshadowing drawings demonstrating overshadowing every hour on June 21st as part of Architectural drawing package in Appendix Three. These drawings demonstrate that the proposal, including the height breach, has no impact on the surrounding low-density residential dwellings. It has some impact on the footpath on Addison Road and the Business Park zoned land to the south. However, both the public footpaths and the north-facing elevations of these buildings from between 12-1pm.
 - 4.4. Given that the development is largely within the height control, with the exception of lift overrun, pergolas and plant structures to provide additional amenity to the residents in the form of a roof garden, it is demonstrated that the proposal is strongly consistent with Objective (c), despite the variation to the numerical standard.
 5. Objective (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.
 - 5.1. The top floors are setback from the building edge to all street frontages. As noted above, the proposal will also be highly articulated to reduce its bulk and scale.
 - 5.2. It appears that the controls envisage a generally 17m height control for infill mixed-use development in the block bounded by Addison Road, Philpott Street, Stevens Lane and Fotherington Lane. The subject site also has a building height drop to 11m facing Stevens Lane, likely to provide a height transition to the lower-density terraces to the north and west.
 - 5.3. The additional 0.5:1 FSR permitted through the ARH SEPP creates a particular circumstance with the permitted land use intensity, is greater than that envisaged in the building height controls. The SEPP is a deliberate tool by NSW Government to encourage the delivery of affordable housing throughout the state by



permitting a greater intensity of development on sites where this housing type is provided.

- 5.4. The subject proposal manages to carefully balance the need for height transition in built form, despite its permitted greater land use intensity. The variations to the height are minor roof elements that do not contain floor space and do not create inappropriate additional impacts such as overshadowing, visual privacy loss or greater bulk. Therefore the proposal is consistent with Objective (d), despite the numerical variation to the height control.

5.2 Clause 4.6(3)(b) – sufficient environmental planning grounds to justify contravening the development standard

6. There are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:
 - 6.1. The ARH SEPP aims to provide a planning regime for the delivery of social and affordable rental housing and encourages the effective delivery of housing by providing incentives in the form of FSR bonuses for the private market to deliver these dwellings. This is a recognised public benefit being driven by the NSW Government through a state-wide policy. However, local planning controls within LEPs do not inherently factor this additional FSR benefit when controls such as Height of Buildings are developed, which is a particular environmental planning ground relevant to the subject application.
 - 6.2. Accordingly, this can create a mismatch between the ability to deliver the additional FSR granted through the state policy and the LEP height control, which is the subject issue for this development proposal. The applicant has sought to minimise the numerical variation to the height control, whilst still taking advantage of the additional FSR granted to it through the provision of this important affordable housing.
 - 6.3. Numerical height variations have been limited to parts of the site where they will have no additional impact on surrounding development, beyond a compliant envelope. They have also been restricted to elements that provide additional planning benefit – such as lift overruns that provide access to a communal roof terrace.
 - 6.4. It is also noted that the following Land and Environment Court cases involved development which exceeded height controls and where the provision of affordable housing was considered an environmental planning ground which justified the exceedance;
 - 6.4.1. Abdul-Rahman v Strathfield Council [2014] NSWLEC 1237
 - 6.4.2. Legacy Property Pty Ltd v Waverley Council [2014] NSWLEC 1150
 - 6.4.3. Valen Properties Pty Ltd ATF Valen Properties Trust v Hurstville City Council [2015] NSWLEC 1045
 - 6.4.4. Zhang and Anor v Council of the City of Ryde [2016] NSWLEC 1179
7. Additionally, the identification of the site as a flood planning area has resulted in elements of the building being 'lifted' to ensure flood planning controls are delivered.
8. It is noted that the height variation, particularly related to the 11m height area, could be reduced by removing the pergolas proposed as part of the roof terrace along the Stevens Lane frontage of the building. However, these structures have been proposed to provide important shade and cooler areas for residents on the roof terraces in the warmer months of the year.



9. Accordingly, it is considered that there are sufficient environmental planning grounds to justify contravening the development standards, as the development will deliver one of the key Objects of the Planning Act, while also allowing for the promotion and coordination of the orderly and economic use and development of the land for community housing, community services and local commercial services.
10. In addition, it is noted that the proposed development will still produce a contextually appropriate outcome consistent with the objectives of the height of buildings development standard, despite the non-compliance with the numerical height provision.

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

11. As demonstrated above, the proposed development has satisfied the matters required to be demonstrated in Clause 4.6(3) by providing a written request that demonstrates:
 - 11.1. Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - 11.2. There are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with the findings of Commissioner Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the Consent Authority under Clause 4.6(4)(a)(i) must only be satisfied that the request adequately addresses the matters in Clause 4.6(3).

5.4 Clause 4.6(4)(a)(ii) – the proposed development is in the public interest because it is consistent with the objectives of the particular and the objectives for development within the zone in which the development is proposed to be carried out

12. The proposed development is in the public interest as it is consistent with the objectives of the development standard. The objectives of the development standard are addressed below under the relevant headings:
13. The objectives of the particular standard
 - 13.1. It has been demonstrated elsewhere in this report that the development achieves the objectives of Clauses 4.3, of the MLEP2011 notwithstanding the non-compliance with the standard.
14. The objectives for development within the zone in which the development is proposed to be carried out. Consistency with the objectives of the B5 zone is described below:
 - 14.1. To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres: The subject development site forms part of a block of land bounded by Addison Road, Fotherington Lane, Stevens Lane and Philpott Street that permits residential accommodation (usually not permitted in the zone) so long as it forms part of a mixed use development. The subject site includes two commercial business uses facing Addison Road to enable activation of the site and is consistent with the zone objective. The residential accommodation permitted on site is a particular character of this block of land and the proposal is similar in its mix of uses and built form approach to the rest of the land subject to the additional permitted use of residential accommodation. The variation to the height control



does not affect the subject zone objective, or the proposal's continuing compliance with it.

- 14.2. To support urban renewal and a pattern of land use and density that reflects the existing and future capacity of the transport network: The development will support urban renewal and the pattern of land use and density clearly established by the local LEP and DCP controls for the affected block. The development's mix of uses is consistent with the other sites permitted a mixed use development, and it's built form and pattern of land use is consistent with the other infill renewal sites along Addison Road. The mix of uses and additional density provided through the ARH SEPP also lends itself to lower private car use and increased public and active transport in line with the strategic transport priorities. Finally, the variation to the height control does not affect the subject zone objective, or the proposal's continuing compliance with it.

6 Matters of significance for State or regional environmental planning

15. The proposed development will enable the delivery of social and affordable housing, which is a matter of State and Regional significance identified in the Greater Sydney Regional Plan, the Eastern City District Plan and NSW's Future Directions for Social Housing Policy.

7 Secretary's concurrence

16. The Planning Circular PS 18-003, issued on 21 February 2018 (Planning Circular), outlines that all consent authorities may assume the Secretary's concurrence under clause 4.6 of the Standard Instrument (Local Environmental Plans) Order 2006 (with some exceptions). The MLEP2011 is a standard instrument LEP and accordingly, the relevant consent authority may assume the Secretary's concurrence in relation to clause 4.6 (5). This assumed concurrence notice takes effect immediately and applies to pending development applications.
17. We note that under the Planning Circular this assumed concurrence is subject to some conditions - where the development contravenes a numerical standard by greater than 10%, the Secretary's concurrence may not be assumed by a delegate of council. This restriction however does not apply to decisions made by a local planning panel, as they are not legally delegates. The proposed development will be assessed by a local planning panel, and as such the 10% limit does not apply.

8 No public benefit in maintaining the development standard

18. There is no public benefit in maintaining the development standards, due to the reasons outlined in Sections 5 and 6 above.

9 Conclusion

19. The variation to the Height of Buildings development standard should be supported for the following reasons:
- 19.1. The development achieves the objectives of the development standard in Clause 4.3 of MLEP 2011;
- 19.2. The development achieves the objectives of the B5 Business Development zone under MLEP 2011;



- 19.3. There are sufficient environmental planning grounds to permit the variation to the standard under the circumstances;
- 19.4. The development seeks to deliver 61 additional social and affordable housing dwellings in the Inner West LGA through the NSW Government's Social and Affordable Housing Fund Round 2 (SAHF2) initiative. As such, the proposed development will enable the delivery of social and affordable housing, which is a matter of State and Regional significance identified in the Greater Sydney Regional Plan and NSW's Future Directions for Social Housing Policy; and
- 19.5. Compliance with the height of buildings development standard is unreasonable or unnecessary under the circumstances and therefore the variation is in the public interest.



Attachment D – Architectural Excellence Panel (AEP) Minutes



Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations

Site Address:	35-41 Addison Road Marrickville
Proposal:	A part 4 to 5 storey mixed use building
Application No.:	DA 2021 0688
Meeting Date:	25 January 2022
Previous Meeting Date:	19 October 2021
Panel Members:	Peter Ireland – chair; Russell Olsson; and Garth Paterson
Apologies:	-
Council staff:	Vishal Lakhia, Niall Macken, and Conor Wilson
Guests:	-
Declarations of Interest:	None
Applicant or applicant's representatives to address the panel:	Nordon Jago Architects – Architect for the project, and The Planning Studio – Urban Planner for the project

Background:

- The Architectural Excellence & Design Review Panel reviewed the architectural drawings and discussed the proposal with the applicant through an online conference.
- The Panel thanks the applicant for considering the recommendations made at the previous 19 October 2021 meeting. The Panel appreciates the following amendments considered by the applicant in the revised scheme:
 - Relocation of the previous central basement dive structure providing access to the carpark to the north eastern corner of the building;
 - Increasing the floor-to-floor heights from 3.0m to 3.15m, to establish consistency with the guidance offered within Part 4C of the Apartment Design Guide (ADG);
 - Improving the built form relationship of the ground floor apartments addressing Stevens Lane, by raising these apartments to match the street level and establishing consistency with ADG Objectives 3C-1 and 4L-2;
 - Removing common gallery access corridors adjoining the habitable areas such as living rooms and bedrooms within the apartments; and
 - Provision of communal open space at two separate locations for two separate sections of the building – a northern and a southern roof top communal open space.
- Whilst the Panel appreciates the amendments considered by the applicant, the Panel notes that the revised scheme still requires to incorporate the relevant flood planning measures,



particularly in terms of the floor level/s for the ground floor apartments and design of the vehicular driveway. Furthermore, a set of landscape architecture drawings and 1:50 design intent sections should be provided as part of the amended submission.

4. As a proposal subject to the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65), the Panel further offers the below comments structured against the 9 Design Quality Principles set out in the ADG.

Discussion & Recommendations:

Principle 1 – Context and Neighbourhood Character

"Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change."

1. The Panel restates that due to the prevailing character of this part of Addison Road and the underlying B5 Business Development zone, the scale, extent of frontage and flexibility of use of the proposed commercial ground floor tenancies addressing Addison Road should be expanded, given the objectives of the zone include to provide 'large' commercial spaces within the Inner West LGA. The Panel also recommends that commercial space C.01 should wrap around the corner of Addison Road and Philpott Street, to activate the street intersection.
2. The Panel recommends some reconfiguration of the ground floor layout to allow a more generous residential lobby, to improve street address for the residential component, and to facilitate deliveries – e.g. mail or online parcels (The Panel does not anticipate a separate mail room).
3. The Panel notes that the proposed height exceeds the LEP height plane and offers support to this height variation, subject to further consistency established by the proposal with the recommendations offered in this AEDRP Report.

Principle 2 – Built Form and Scale

"Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook."

1. The Panel discussed that addition of openings at the 'V' shaped south western corner of the building is the Panel's preferred corner treatment. The Panel recommends further resolution of this corner by removing the tree and the landscaped pocket from the corner, and possibly continuing the same corner treatment as for the levels above the ground floor. The Panel suggests that the awning could continue and wrap around the corner as a pergola or solid awning to reinforce the corner.

Principle 3 – Density

"Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population.

Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment."

1. In principle, the Panel supports the achievement of the site's nominal FSR density control, subject to demonstration of consistency with the recommendations offered in this report.



Principle 4 – Sustainability

"Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation."

1. The Panel recommends provision of ceiling fans within all habitable areas of the apartments for environmental benefits. An increase of floor-to-floor height to 3.15m will permit use of ceiling fans for effective cooling and heat distribution within the habitable areas of apartments.
2. The applicant is encouraged to include an appropriate rooftop photovoltaic system for environmental benefits, and for power/lighting to communal areas.
3. Provision of rainwater tank for should be considered to allow collection, storage and reuse within the subject site.

Principle 5 – Landscape

"Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management."

1. The landscaped area within the central corridor should be provided with trees suitable for mid to low level sunlight, and trees with large canopies over tall trunks, that potentially reach a 3 to 4 level height. Native palm species with shade tolerant understorey species should be considered.
2. The Panel notes that the landscape drawings have not been provided by the applicant. The Panel expects the rooftop communal open spaces to have outdoor seating, shaded areas, a barbecue or outdoor kitchen, sink, planter boxes, a unisex accessible toilet, and potentially a vegetable garden for community benefit.
3. The applicant is encouraged to apply the ADG (Parts 4O and 4P) and Inner West Council's Green Roof Policy and Guidelines to develop a detailed landscape design.

Principle 6 – Amenity

"Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility."

1. The Panel recommends provision of splayed windows within the second bedrooms of apartments G06, G07, 108, 208, and 307, to avoid potential visual privacy concerns from the adjoining common corridors
2. In terms of the internal apartment layouts, the Panel notes that the main entry doors of apartments G09, 112, 107, 207, 212, and 306, open up directly to a bathroom door. The layouts need to be reviewed and the bathroom doors should be placed in a more discreet location.

Principle 7 – Safety

"Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose."



No discussion

Principle 8 – Housing Diversity and Social Interaction

"Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents."

No discussion

Principle 9 – Aesthetics

"Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape."

1. The Panel restates that the applicant should provide detailed 1:50 sections through each primary facade type in order to demonstrate the proposed arrangement of key materials, junctions, balustrades and fixtures, including the integration of building services such as balcony drainage and air conditioning condensers.
2. Revised architectural drawings should confirm location of A/C condenser units and other mechanical equipment. The Panel advises that these should not be located within balconies (unless thoughtfully designed with screens) or anywhere visually apparent from the surrounding public domain.

Conclusion:

The Architectural Excellence & Design Review Panel notes that the applicant seeks a variation to the maximum permissible height of building control based on the Inner West LEP. The proposal also lacks suitable provision of deep soil area requirement.

The Panel recommends the proposal should be supported once it satisfactorily demonstrates consistency with the recommendations made in this AEDRP Report, and additionally confirms inclusion of flood planning measures into the ground floor design.