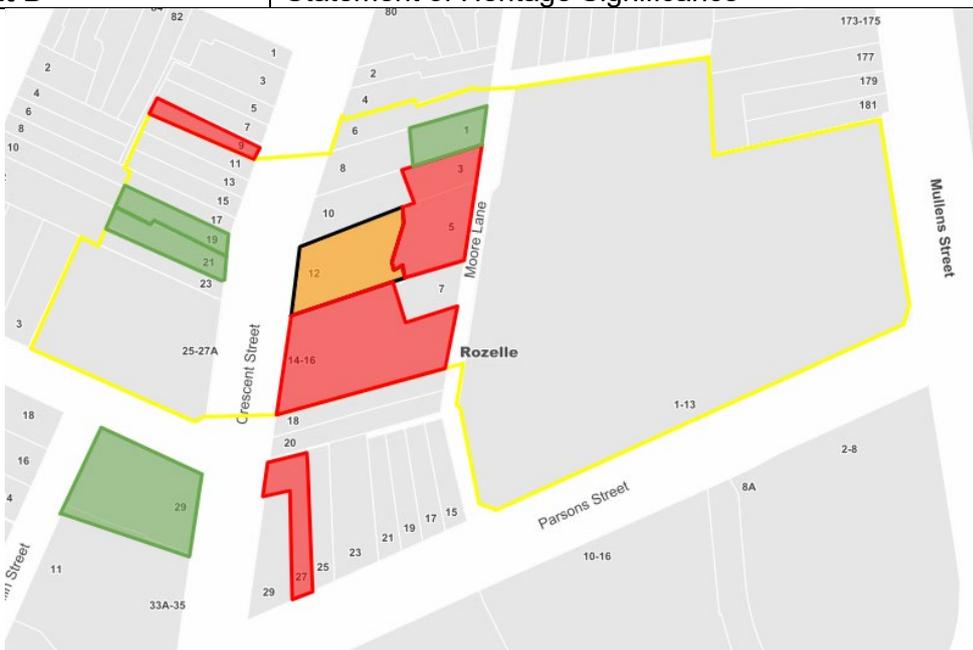


|  DEVELOPMENT ASSESSMENT REPORT | |
|---|---|
| Application No. | DA/2023/0694 |
| Address | 12 Crescent Street ROZELLE |
| Proposal | Demolition of the existing dwelling and associated outbuildings; Torrens title subdivision into two lots and construction of two x two storey semi-detached dwellings and associated landscaping and site works |
| Date of Lodgement | 24 August 2023 |
| Applicant | Raymond Panetta Architects Pty Ltd |
| Owner | Mr Wallace JM Bruderlin Caroline E Abendanon |
| Number of Submissions | Initial: 20, 11 in objection After Renotification: 16, 9 in objection |
| Value of works | \$1,582,211.00 |
| Reason for determination at Planning Panel | Number of submissions |
| Main Issues | Shadows, subdivision, heritage, works beyond property boundary |
| Recommendation | Approval with Conditions |
| Attachment A | Recommended conditions of consent |
| Attachment B | Plans of proposed development |
| Attachment C | Section 4.6 Exception to Development Standards |
| Attachment D | Statement of Heritage Significance |
|  | |
| LOCALITY MAP | |
| Subject Site  | Objectors  |
| Notified Area  | Supporters  |
| Note: Due to scale of map, not all objectors and supporters could be shown. | |

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of the existing dwelling and associated outbuildings; Torrens title subdivision into two lots and construction of two x two storey semi-detached dwellings and associated landscaping and site works at 12 Crescent Street Rozelle.

The application was notified to surrounding properties and 20 submissions were received in response to the initial notification. 16 submissions were received in response to renotification of the application

The main issues that have arisen from the application include:

- Minimum lot size required for subdivision non-compliance,
- Streetscape and heritage compatibility of the infill dwellings,
- Amenity impacts (solar access, privacy & views); and
- Flooding.

The non-compliances are acceptable given that the proposal has been amended to address the heritage, streetscape and amenity impacts to the surrounding neighbouring properties and the proposed subdivision pattern proposed is keeping with the existing subdivision pattern of the Crescent Street and therefore the application is recommended for approval.

The proposal as conditioned generally complies with the provisions of IWLEP 2022 and LDCP 2013.

With consideration of the above and other matters discussed in this assessment report, the application is recommended for approval.

2. Proposal

The proposed Development Application seeks consent for the following:

- Demolition of existing dwelling, existing rear out structures, carport and existing front fence,
- Subdivision of the existing property into 2 Lots,
- Construction of a new two storey dwelling on each new Lots,
- New front fence works to the new Lots; and
- Associate landscape works.

The application was amended in response to a request for Information letter provided to the applicant on 28 November 2023. The key amendments to the design are summarised as follows:

- The front entries to both dwellings are amended and relocated to the main front façade,
- The overall height of the new dwellings has been reduced,
- The bay window to bedroom 1 on the southern elevation of Lot B is removed,
- External privacy screens/louvres provided to the first floor bedroom windows on the eastern elevation for Lot A and B.

3. Site Description

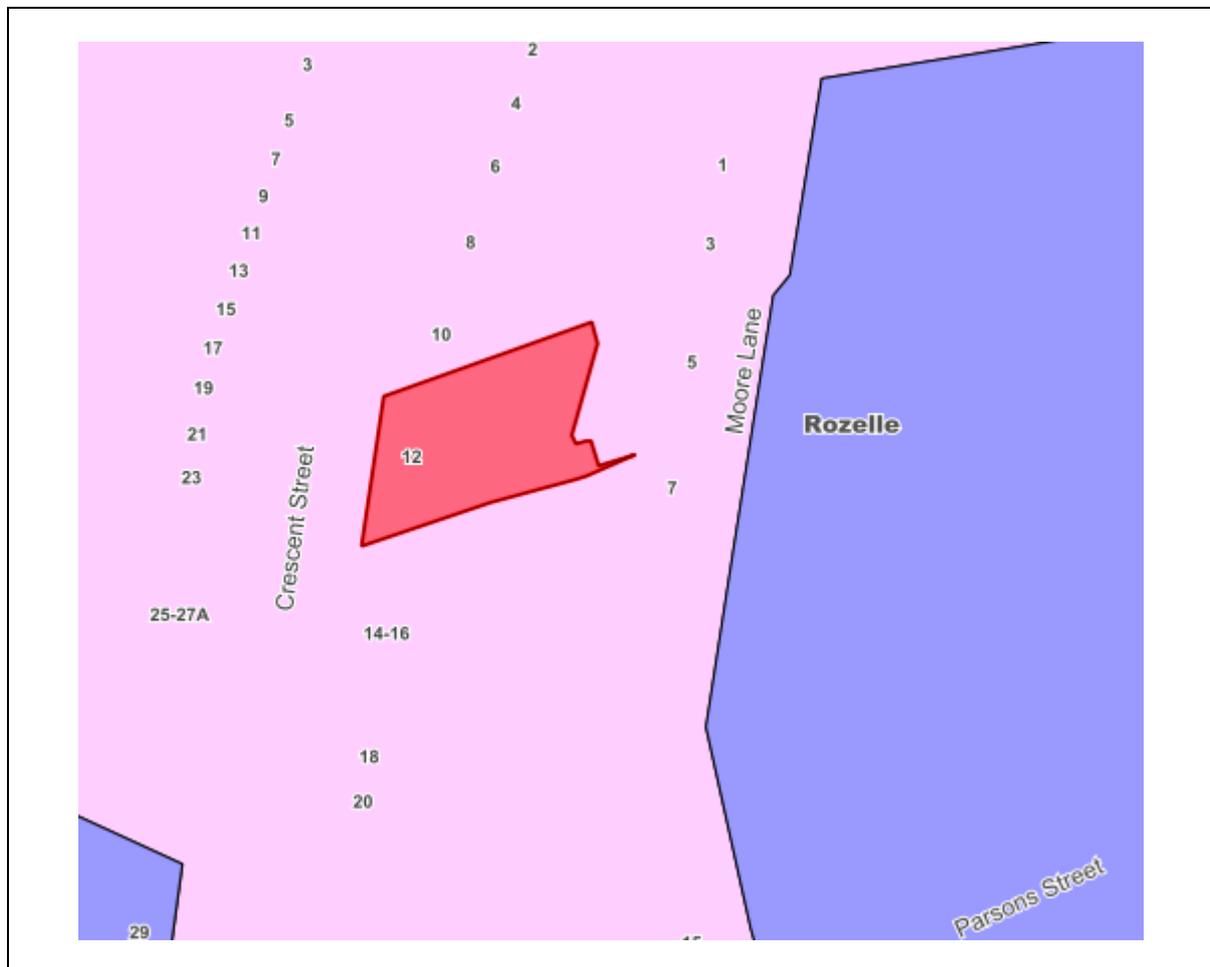
The subject site is located on the eastern side of Crescent Street and between Moore Lane. The site consists of one (1) allotment and is generally rectangular in shape with a total area of 371.5 sqm.

The site has a frontage to Crescent Street of 16.08 metres.

The site supports a single storey dwelling. The adjoining properties to the north and east support 2 storey dwelling houses. To the south of the site, the neighbouring property is supported with a two storey mixed industrial and residential units.

The property is located within a conservation area. The property is identified as a flood prone lot.

Several small trees which are under 4m in height and are not protected by the IWC Tree Management DCP and can be removed without Council consent are located on the site. In addition, one Olive tree is located on the neighbouring property near the eastern boundary.



Zoning map indicating location within the R1 – General Residential zone



Site photo

4. Background

4(a) Site history

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

Subject Site

| Application | Proposal | Decision & Date |
|---------------|---|----------------------------------|
| PDA/2023/0029 | Demolition of existing dwelling house, partial demolition of the existing shed structure, Torrens Title subdivision of land into two allotments and the construction of two semi-detached dwellings | Advice letter Issued – 29/3/2023 |

Surrounding properties

14-16 Crescent Street

| Application | Proposal | Decision & Date |
|---------------|---|-----------------------|
| CDCP/2017/157 | New en-suite bathroom to bedroom 3 within existing unit 5 | |
| D/2017/357 | Removal of corroded north facing Juliet balconies and privacy screens and installation of louvred privacy screens to remaining north facing openings. | Approved – 31/8/2017 |
| DA/517/1994 | Erect Industrial Studios & Residence | Approved - 25/11/1994 |

2/14-16 Crescent Street

| Application | Proposal | Decision & Date |
|-------------|--|----------------------|
| D/2009/32 | Change of use of ground floor studio to sitting room/bedroom and ensuite associated with the dwelling above. | Approved – 26/3/2009 |

5 Moore Lane

| Application | Proposal | Decision & Date |
|-------------|--|---------------------|
| D/2011/687 | Alterations and additions to existing dwelling and outbuilding including upper floor addition. | Approved – 3/7/2012 |

3 Moore Lane

| Application | Proposal | Decision & Date |
|--------------|---|-----------------------|
| DA/2022/0247 | Alterations and additions to existing dwelling, including rear first floor addition | Approved – 24/10/2022 |

4(b) Application history

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

| Date | Discussion / Letter / Additional Information |
|------------|---|
| 28/11/2023 | <p>Council sent a formal Request for Additional Information advising that the following additional / amended information was required to address the heritage, engineering and planning issues raised:</p> <ul style="list-style-type: none"> • <i>The front entries to both dwellings must be relocated to the main front façade.</i> • <i>The proposed first floor additions to both lots are to be reduced in height.</i> • <i>Relocate / shift the first floor additions on both lots to the proposed party wall (i.e Lot A – First floor addition relocated to the southern proposed boundary and Lot B – First floor addition relocated to the northern proposed boundary).</i> • <i>Updated shadow diagrams to reflect any design amendments carried out and to accurately depict the existing shadows in plan and elevation.</i> • <i>Updated SEE and supporting documentations which accurately references the existing Zoning and approved use / dwellings at No. 14-16 Crescent Street.</i> • <i>Updated BASIX Certificate to reflect any amendments if required.</i> • <i>Amended plans to address and minimise the view loss, privacy, overlooking and overshadowing impacts to the surrounding neighbouring properties.</i> • <i>Cover letter detailing any amendments carried or not carried out with justifications and to address the concerns raised in the submissions submitted to Council.</i> |

| | |
|------------|--|
| | <ul style="list-style-type: none"> • <i>Flood risk management report, plan and supporting documentations.</i> |
| 14/12/2023 | Applicant submitted amended plans and supporting documentations in response to Council's RFI letter dated 28/11/2023. Renotification was required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report. |
| 23/3/2024 | Revised landscape plan submitted |

The amended plans provided on the 14 December 2023 form the basis of 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 (EPA Act 1979)*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

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

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

5(a)(ii) 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)(iii) State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of *SEPP (Transport and Infrastructure) 2021* and has been referred for comment for 21 days. The response received from Ausgrid on 28 August 2023 raised no objection to the proposed development proceeding, subject to specific requirements being met which will be included an advisory note in the Notice of Determination.

5(a)(iv) State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

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

The application was referred to Council's Tree Assessment Officer who noted the following:

- Several small trees within the site have been identified that will require removal. These have all been noted as less than 4 metres in height and are not protected by the IWC Tree Management DCP and can be removed without Council consent. There is no objection to their removal subject to replacement planting being undertaken within each new allotment in accordance with the attached conditions.
- In addition to the above, one tree was also identified adjacent to the eastern boundary within the neighbouring property. The tree has been identified as an Olive tree in fair health and condition. The plans indicate works are proposed within the Tree Protection Zone of this tree which has been calculated as being 3.6 metres. This includes new landscaping within the site and a new boundary wall. The proposed works are not expected to impact on the tree provided the fence uses isolated pier footings that are positioned away from any tree roots greater than 30mm in diameter.

Overall, the proposal is considered acceptable with regard to the Biodiversity and Conservation SEPP and C1.14 Tree Management of the LDCP 2013 subject to the imposition of conditions to provide new planting and to protect the tree on the neighbouring property.

Chapter 10 Sydney Harbour Catchment

The site is not located within the foreshores and waterways area, a Strategic Foreshore site or listed as an item of environmental heritage under the SEPP and will not have any adverse impacts on water quality, aquatic ecology or the scenic qualities of the foreshore.

5(a)(v) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.6 – Subdivision
- Section 2.7 – Demolition requires development consent
- Section 4.1 – Minimum subdivision lot size
- Section 4.3C – Landscaped areas for residential accommodation in Zone R1
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 5.3 – Development near zone boundaries
- Section 5.10 – Heritage conservation
- Section 5.21 – Flood planning
- Section 6.1 – Acid sulfate soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management

Section 1.2 – Aims of Plan

The proposed subdivision pattern, although below the minimum required lot size, is considered acceptable as it is in keeping with the existing subdivision pattern in the area, thus providing a diverse housing stock to the Inner West residents.

In addition to the above, the proposed infill dwellings as amended and conditioned are considered acceptable from a planning and heritage perspective as it maintains the natural built areas of the site and is of a form, scale and design that will complement and blend into the heritage conservation area.

As a result, the development as amended and as conditioned will meet the relevant Aims of Plan as follows:

- *The proposal conserves and maintains the natural, built and cultural heritage of Inner West; and*
- *The proposal encourages diversity in housing to meet the needs of, and enhance amenity for, Inner West residents*

Section 2.3 Land Use Table and Zone Objectives

The site is zoned General Residential- R1 under the IWLEP 2022. The IWLEP 2022 defines the development as:

“semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.”

The development is permitted with consent within the land use table. The development is consistent with the objectives of the R1 zone.

The objectives of the R1 zone are as follows:

- a) *To provide for the housing needs of the community.*
- b) *To provide for a variety of housing types and densities.*
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- d) *To provide residential development that maintains the character of built and natural features in the surrounding area.*

The amended development will provide for a variety of housing types and for the housing needs of the community within a low-density residential environment.

Further, subject to recommended conditions, the proposal will be compatible with the character, style and pattern of surrounding buildings, will result in acceptable on-site amenity outcomes, and will not result in any undue adverse amenity impacts on adjoining properties or the locality in general.

The proposed dwellings will afford good amenity for future occupants and provides landscape areas that will meet the needs of future residents.

Additionally, the proposed subdivision pattern is deemed acceptable as it maintains and complements the existing subdivision pattern of the area.

Given the above, the proposal, as conditioned, is considered to be consistent with the zone objectives.

Section 2.6 – Subdivision

The proposal for Torrens title subdivision into two lots is permissible; however the proposed subdivision lot size does not comply with the minimum prescribed (200sqm) as required under Section 4.1. This is discussed in further detail under Section 4.1 and Section 4.6 of IWLEP 2022.

Section 2.7 – Demolition requires development consent

The proposal to demolish the existing dwelling, carport, rear shed, and front fence structures is considered acceptable, subject to standard demolition conditions being imposed which are included in the recommendation of this report.

Section 4 Principal Development Standards

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

Lot A – North Residence

| Control | Proposed | | Compliance |
|--|-----------|---------------------|------------|
| Section 4.1 Minimum subdivision lot size | Minimum | 200sqm | No |
| | Proposed | 185.8sqm | |
| | Variation | 7.10% | |
| Section 4.3C (3)(a) Landscaped Area | Minimum | 15% or 27.87sqm | Yes |
| | Proposed | 28.29% or 52.56sqm | |
| Section 4.3C (3)(b) Site Coverage | Maximum | 60% or 114.48sqm | Yes |
| | Proposed | 57.12% or 106.12sqm | |
| Section 4.4 Floor Space Ratio | Maximum | 0.8:1 or 148.64sqm | Yes |
| | Proposed | 0.73:1 or 134.79sqm | |

Lot B – South Residence

| Control | Proposed | | Compliance |
|--|-----------|---------------------|------------|
| Section 4.1 Minimum subdivision lot size | Minimum | 200sqm | No |
| | Proposed | 185.7sqm | |
| | Variation | 7.15% | |
| Section 4.3C (3)(a) Landscaped Area | Minimum | 15% or 27.88sqm | Yes |
| | Proposed | 26.18% or 48.62sqm | |
| Section 4.3C (3)(b) Site Coverage | Maximum | 60% or 111.42sqm | Yes |
| | Proposed | 55.96% or 103.91sqm | |
| Section 4.4 Floor Space Ratio | Maximum | 0.8:1 or 148.56sqm | Yes |
| | Proposed | 0.71:1 or 132.22sqm | |

Section 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard to both Lots A and B:

- Section 4.1 Subdivision

Section 4.1 – Minimum subdivision lot size -Lot A & B

The applicant seeks a variation to the Minimum subdivision lot size development standard under Section 4.1 of the *IWLEP 2022* by 7.10% (14.2 sqm) to Lot A and 7.15% (14.3sqm) to Lot B.

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

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

A written request has been submitted to Council in accordance with Section 4.6(4)(a)(i) of the *IWLEP 2022* justifying the proposed contravention of the development standard as follows:

- *The proposed minimum subdivision lot size variation has demonstrably not resulted in a diminished residential amenity outcome as a result of the non-compliance. Further, the variation has not compromised the development by way of additional breaches to development standards or key DCP controls.*

- *Despite the proposed lot sizes falling below the development standard, each proposed lot is capable of accommodating a dwelling that is not undersized or in any other way diminished in amenity.*
- *The character of the locality includes numerous lot sizes below the development standard. These examples are of varying age, but the character of the area is for smaller lots than those proposed, with the proposed sizes exceeding the average.*
- *The proposal has addressed the site constraints, streetscape character, and architectural and aesthetic characteristics, and is consistent with the objectives of the development standard.*
- *The proposal results in a development that provides for an orderly and economic use of the land.*
- *In this case, strict compliance with the development standard for minimum subdivision lot size in the Inner West LEP 2022 is unnecessary and unreasonable and there are sufficient environmental planning grounds to support contravention of the standard.*

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

The objectives of the R1 General Residential zone are as follows:

- e) *To provide for the housing needs of the community.*
- f) *To provide for a variety of housing types and densities.*
- g) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- h) *To provide residential development that maintains the character of built and natural features in the surrounding area.*

It is considered the development is in the public interest because it is consistent with the objectives of the R1, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The provision of 2 new dwellings is considered to contribute to providing for the housing needs of the community;
- The proposed new 2 x 2 storey semi-detached dwellings will contribute to providing for a variety of housing types and densities;
- The architectural style of the dwellings adopted seeks to maintain the character of the surrounding dwellings ensuring its streetscape presentation is sympathetic to the adjoining context.
- Having regard to the above the proposed new dwellings maintain the character of built and natural features in the surrounding area.

The objectives of the Minimum subdivision lot size development standard are as follows:

- a) *to ensure lot sizes cater for a variety of development,*
- b) *to ensure lot sizes do not result in adverse amenity impacts,*
- c) *to ensure lot sizes deliver high quality architectural, urban and landscape design,*
- d) *to provide a pattern of subdivision that is consistent with the desired future character,*
- e) *to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.*

It is considered the development is in the public interest because it is consistent with the objectives of the minimum subdivision lot size development standard, in accordance with Section 4.6(4)(a)(ii) of the *IWLEP 2022* for the following reasons:

- The proposed lot size will provide a variety of housing stock that will be compatible with the existing dwellings and pattern of development in the street and surrounding area;
- The proposed lot size will not result in adverse amenity impacts to the subject site and its surrounding neighbouring properties,
- The architectural style of the dwellings adopted seeks to maintain the character of the surrounding dwellings ensuring its streetscape presentation is sympathetic to the adjoining context
- The proposed subdivision pattern is consistent and compatible with the existing subdivision pattern in the street and that of the surrounding resulting in a development that is consistent with the desired future character,
- The proposal provides a compliant landscaped area and sufficient Private Open Space (POS) to the new Lots, hence, results in acceptable on-site amenity outcomes and provides a suitable balance between landscaped Area and built form.

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 Section 4.6(1)(b) and requirements of Section 4.1 of the *IWLEP 2022*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from minimum subdivision lot size development standard and it is recommended the Section 4.6 exception be granted.

Section 5.10 – Heritage conservation

The subject property at 12 Crescent Street, Rozelle, is a contributory dwelling located within The Valley Heritage Conservation Area (C27 in Schedule 5 of the Inner West LEP 2022).

Clause 5.10: Heritage Conservation from the Inner West LEP 2022 and *Parts C1.2: Demolition, C1.4: Heritage conservation areas and heritage items, C1.6: Subdivision, C.2.2.5.1: The Valley “Rozelle” Distinctive Neighbourhood C3.5: Front Gardens and Dwelling Entries* and *C3.6: Fences* from the Leichhardt DCP 2013 applies to the proposal.

It is worth noting that Pre-Development Application (Pre-DA) advice was sought for the proposed demolition of the existing dwelling house, partial demolition of the existing shed structure, Torrens Title subdivision of land into two allotments, and the construction of two semi-detached dwellings at 12 Crescent Street, Rozelle (PDA/2023/0029).

The Development Application (DA) drawings prepared by Studio Panetta, dated 30th August 2023, the Heritage Impact Statement prepared by Weir Phillips, dated August 2023, the Building and Timber Pest Inspection Report prepared by Jim’s Building Inspections, dated Wednesday 18th January 2023, and the Structural Report prepared by Secure Structures, dated 31st July 2023, were thoroughly reviewed as part of this assessment.

As the proposal is seeking the demolition of an existing contributory dwelling, Council has undertaken an assessment of the proposed demolition of the existing building in accordance

with the Planning Principle: Demolition of a contributory item, established by *Helou v Strathfield Municipal Council [2006] NSWLECP 66*.

This Planning Principle outlines several key considerations to determine if demolition should be permitted:

1. *What is the heritage significance of the conservation area?*
2. *What contribution does the individual building make to the significance of the conservation area?*
3. *Is the building structurally unsafe?*
4. *If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?*
5. *Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?*
6. *Is the replacement of such quality that it will fit into the conservation area?*

The reports submitted by the applicant has provided evidence that the existing dwelling has undergone significant alterations in the past, resulting in the loss of much of its original fabric and features. As a result, the existing dwelling is considered to have little remnant heritage significance.

The structural reports indicate that the building is currently safe, but inspections have revealed some concerning findings. The subfloor piers have been placed directly on natural ground soil/fill, and many of the sandstone piers are misaligned or insufficient in number to adequately support the flooring around the house. This raises concerns about the building's long-term structural integrity. The existing sandstone piers are not capable of bearing additional lateral loads to meet NCC requirements, rendering them unsafe.

Despite the aforementioned findings, the building inspection report concurs with the structural assessment, highlighting significant defects in the dwelling. These include rotting timber framing in the attic, ground, and subfloor areas, subsided and leaning piers, and existing termite damage. These issues are contributing to the ongoing deterioration of the dwelling.

Furthermore, a cost summary report indicates that repairing and restoring the contributory dwelling, along with the necessary alteration and addition works, would be burdensome, unreasonable and less cost-effective compared to the proposed demolition of the entire dwelling.

Additionally, the proposed in-fill dwelling has been revised to address heritage concerns outlined in the Council's formal request for additional information letter dated 28/11/2023. These concerns primarily focused on the proposed front facade and front dwelling entry, as well as other matters raised by Council staff. The latest proposed in-fill dwellings are deemed to be of high quality and are expected to make a positive contribution to the heritage conservation area.

Considering these factors, the proposed demolition of the contributory dwelling satisfies the tests outlined in the Planning Principle: Demolition of a contributory item. It is therefore deemed acceptable from a heritage perspective.

Overall, the amended infill dwellings is deemed acceptable from a heritage perspective, as it will not compromise the heritage significance of the Valley Heritage Conservation Area, provided that the specified conditions are implemented to ensure compliance with Clause 5.10 Objectives 1(a) and (b) in the Inner West LEP 2022, as well as the relevant objectives and controls outlined in the Leichhardt DCP 2013.

These recommended conditions can be found within attachment A – conditions of consent and require a photographic archive of the building to be demolished and protection of the historically significant sandstone curb at the front of the site.

The architectural style, height and scale of the proposal is considered sympathetic to the adjoining context and materials and finishes proposed are compatible with the HCA. Having regard to the above the proposal is considered to satisfy the provisions of Section 5.10 of IWLEP 2022.

Section 5.21 – Flood planning

The site is located in a flood planning area. The development as amended and conditioned is considered to be compatible with the flood function and behaviour on the land now and under future projections. The design of the proposal and its scale will not affect the flood affectation of the subject site or adjoining properties and is considered to appropriately manage flood risk to life and the environment. Conditions are included in the recommendation to ensure flooding is appropriately managed and mitigated.

Section 6.1 – Acid sulfate soils

The subject site is located in a Class 2 Acid Sulfate Soils (ASS) zone. An Acid Sulfate Soils assessment report has been provided as part of this application and has concluded that the proposal will not expose or drain acid sulfate soils nor cause environmental damage to the area. In addition, soil testing carried out confirms no acid in the existing soil were detected and as the proposal does not include or seek major excavation works, the proposal will not result in adverse environmental impacts to the area.

Section 6.2 – Earthworks

The proposed minor earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.

Section 6.3 – Stormwater Management

Subject to standard and recommended conditions, the proposal will not result in any significant runoff to adjoining properties or the environment.

5(b) Development Control Plans

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

| LDCP2013 | Compliance |
|--|------------|
| Part A: Introductions | |
| Section 3 – Notification of Applications | Yes |
| | |
| Part B: Connections | |
| B1.1 Connections – Objectives | Yes |

| | |
|---|---|
| | |
| Part C | |
| C1.0 General Provisions | Yes |
| C1.1 Site and Context Analysis | Yes |
| C1.2 Demolition | Yes |
| C1.3 Alterations and additions | N/A |
| C1.4 Heritage Conservation Areas and Heritage Items | Yes, as conditioned – see discussion above and below |
| C1.6 Subdivision | Yes – see discussion below |
| C1.7 Site Facilities | Yes |
| C1.8 Contamination | Yes |
| C1.9 Safety by Design | Yes |
| C1.12 Landscaping | Yes |
| C1.14 Tree Management | Yes, as conditioned – see SEPP Biodiversity and Conservation discussion above |
| | |
| Part C: Place – Section 2 Urban Character | |
| C.2.2.5.1: The Valley “Rozelle” Distinctive Neighbourhood | Yes |
| | |
| Part C: Place – Section 3 – Residential Provisions | |
| C3.1 Residential General Provisions | Yes |
| C3.2 Site Layout and Building Design | No – see discussion |
| C3.3 Elevation and Materials | Yes |
| C3.5 Front Gardens and Dwelling Entries | Yes |
| C3.6 Fences | Yes |
| C3.7 Environmental Performance | Yes |
| C3.8 Private Open Space | Yes |
| C3.9 Solar Access | No – see discussion |
| C3.10 Views | Yes – see discussion |
| C3.11 Visual Privacy | Yes – see discussion |
| C3.12 Acoustic Privacy | Yes |
| | |
| Part C: Place – Section 4 – Non-Residential Provisions | N/A |
| | |
| Part D: Energy | |
| Section 1 – Energy Management | Yes |
| Section 2 – Resource Recovery and Waste Management | |
| D2.1 General Requirements | Yes |
| D2.2 Demolition and Construction of All Development | Yes |
| D2.3 Residential Development | Yes |
| | |
| Part E: Water | |
| Section 1 – Sustainable Water and Risk Management | |
| E1.1 Approvals Process and Reports Required With Development Applications | Yes |
| E1.1.1 Water Management Statement | Yes |
| E1.1.3 Stormwater Drainage Concept Plan | Yes |
| E1.2.2 Managing Stormwater within the Site | Yes, as conditioned |
| E1.2.3 On-Site Detention of Stormwater | Yes, as conditioned |
| E1.2.4 Stormwater Treatment | Yes |

| | |
|---------------------------------------|-----|
| E1.3.1 Flood Risk Management | Yes |
| Part F: Food | N/A |
| Part G: Site Specific Controls | N/A |

The following provides discussion of the relevant issues:

C1.4 Heritage Conservation Areas and Heritage Items

Issues in relation to impact to the Heritage Conservation Area and the distinctive neighbourhood are discussed in more detail in the assessment of Section 5.10 of the IWLEP 2022 and where relevant below. The proposal as amended and as conditioned, is considered to be acceptable with respect to the provisions and objectives of these parts of the DCP.

C1.6 Subdivision

The proposed subdivision lot size will not comply with the minimum required 200sqm for the new lots and this has been discussed previously under Section 5(a) of this Report, however, it is noted that the proposed subdivision pattern is consistent with the existing subdivision pattern in Crescent Street and surrounding neighbourhood. As a result, the proposal will comply with the Objectives and applicable Controls of this Part of the LDCP 2013.

C1.12 Landscaping

The proposal, subject to conditions included in the recommendation, is considered to meet the objectives and controls prescribed in this part of the DCP as follows:

- Subject to conditions regarding protection of the existing neighbouring tree at No. 5 Moore Lane, the development is considered to be satisfactory. Refer to discussion under SEPP (Biodiversity and Conservation) 2021 in section 5(a) of this report;
- A condition is included in the recommendation requiring planting a minimum of 1 x 75 litre container size tree, which will attain a minimum mature height of eight (8) metres, within the rear yard of each new allotment; and
- The proposal will enhance the visual setting of buildings and retain and encourage vegetation, increase the environmental performance of the development, and contribute to the amenity of the residents and visitors.

C3.2 – Site Layout and Building Design

Building Envelope

The proposed new 2 storey dwellings on lots A and B will comply with applicable building envelope controls under this Part of the LDCP2013 and will comply with the building envelope controls applicable under the Valley Rozelle distinctive neighbourhood controls.

Building Location Zone (BLZ)

To calculate the average rear first floor setback of the subject site, the average rear setbacks of the immediate adjoining dwellings are used as per Figure C128: Building Location Zone shown below.

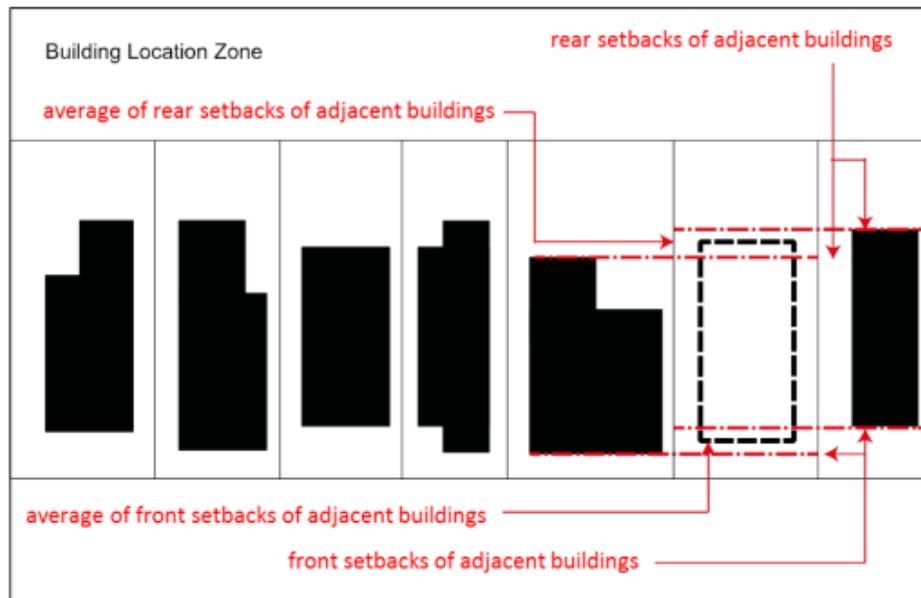


Figure C128: Building Location Zone

Lot A & B

Given that the southern neighbouring properties are oriented north-south, while the subject site and its northern and eastern adjoining properties are oriented east-west, the average rear setbacks for the ground and first floor have been determined using No. 10 Crescent Street as a reference point.

However, since the southern neighbouring properties have a different site orientation compared to the subject site and its eastern and northern neighbouring properties, the subject site is treated as a corner site. Consequently, Control 5 will be applicable in this instance.

It is also noted that applying the BLZ without consideration of the irregular allotment shape and staggered nature of development in the street would limit the ability to carry out reasonable development on the site.

The proposed rear ground (depicted in purple) and first-floor Building Line Zone (BLZ, shown in orange) for Lots A and B in Image 1 will be positioned behind the existing rear ground (depicted in red) and first-floor BLZ (depicted in green) of No. 10 Crescent Street.

This arrangement will feature staggered rear ground and first-floor BLZs, as illustrated in the image below. Specifically, Lot A will position its rear ground and first-floor BLZs behind those of No. 10, while Lot B will similarly place its rear ground and first-floor BLZs behind those of the proposed Lot A, maintaining alignment with the existing development pattern along Crescent Street.

As a result, the proposed rear ground and first floor BLZ of Lot A and B are considered acceptable and will comply with the Objectives and Controls under this Part of the DCP.

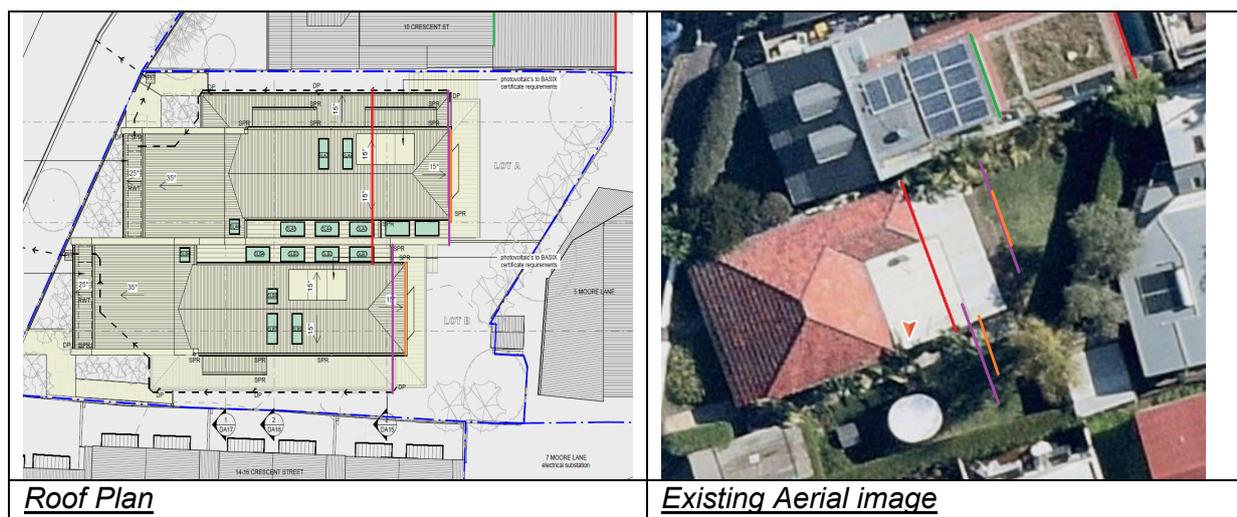


Image 1. Existing and proposed rear ground and first floor additions BLZ for Lot A & B of No. 12 Crescent Street compared to the adjoining property to the north.

Side Boundary Setback – Lot A & B

The following is a compliance table assessed against the side setback control graph prescribed in Part C3.2 of the LDCP 2013 relating to the proposed rear ground and first floor levels:

Lot A

| Elevation | Wall height (m) | Required setback (m) | Proposed setback (m) | Complies |
|------------|-----------------|----------------------|----------------------|----------|
| North – GF | 3.4 – 3.7 | 0.3 - 0.5 | 1.06 – 2.45 | Yes |
| North – FF | 6.1 – 6.3 | 1.9 - 2 | 1.9 – 2.44 | Yes |
| South - GF | 3.2 – 3.6 | 0.2 - 0.5 | Nil | No |
| South – FF | 6.1 - 6.3 | 1.9 - 2 | 0-1 | No |

As noted in the table above, the proposed dwelling will comply with the side setback control to both the ground and first floor level on the northern elevation but will not comply on the southern elevation.

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation to the Side Boundary Setbacks Graph, various tests need to be met and for the reasons mentioned below the proposal is considered acceptable as:

- The proposed new dwelling is considered compatible in design with the existing and surrounding dwellings, streetscape and the desired further character controls of the area.
- The proposal does not compromise the existing pattern of development on Crescent Street and the surrounding HCA.
- The proposed amended development is of an appropriate bulk and scale when compared with the surrounding neighbouring dwellings.
- The proposal as amended will result in minimal to no undue adverse, privacy, solar access and view loss impacts.
- The proposal as amended will not obstruct neighbouring properties for maintenance purposes.

Lot B

| Elevation | Wall height (m) | Required setback (m) | Proposed setback (m) | Complies |
|------------|-----------------|----------------------|----------------------|------------------------------------|
| North – GF | 3.3 – 3.5 | 0.2 – 0.3 | Nil | No |
| North – FF | 6.1 - 6.3 | 1.9 - 2 | 0-1 | No |
| South - GF | 3.3 – 3.9 | 0.2 – 0.6 | 0.75 - 1.97 | Yes |
| South – FF | 6.1 – 6.5 | 1.9 – 2.1 | 1.74 – 2.79 | Yes & No (Bedroom 2 Bay Window) |

As noted in the table above, the proposed dwelling will only comply with the side setback graph to the southern boundary on the ground floor.

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation to the Side Boundary Setbacks Graph, various tests need to be met. These tests are assessed below:

- The development is consistent with relevant Building Typology Statements as outlined within Appendix B – Building Typologies of the LDCP 2013 and complies with streetscape and desired future character controls.

Comment: The proposed new 2 storey dwelling is considered to be a satisfactory response to the Building Typology Statements. The proposal will be compatible with the existing and surrounding dwellings and the streetscape and will comply with desired future character controls of the LDCP 2013.

- The pattern of development is not adversely compromised.

Comment: The proposed subdivision pattern and new dwelling to be constructed are sited in locations where dwellings are generally permitted to be constructed in accordance with relevant streetscape controls and amenity controls and will have wall heights and setbacks that will be compatible with the existing surrounding neighbouring properties and that will not be out of character with adjoining and nearby development. This test is therefore deemed to be met.

- The bulk and scale of the development has been minimised and is acceptable.

Comment: The proposal has been amended and has reduced the overall building height to reduce visual bulk and scale impacts when viewed from the neighbouring properties rear yards. In addition, the proposal provides reasonable side setbacks to the south to both the ground and first floor levels. As a result, this test is therefore deemed to be met.

- The proposal is acceptable with respect to applicable amenity controls e.g. solar access, privacy and access to views.

Comment: For the reasons mentioned later in this Report, including under Parts C3.9, C3.10 and C3.11 of the DCP, the proposal will result in acceptable solar access impacts, minimal to no undue adverse privacy impacts and view loss implications. As a result, the proposal satisfies this test.

- The proposal does not unduly obstruct adjoining properties for maintenance purposes.

Comment: The proposed development will not result in any obstruction of any lightweight walls at adjoining properties, and hence, will not result in maintenance issues for any neighbours.

In light of the above, and in consideration of the development's impact upon the streetscape and amenity impacts for adjoining properties, the proposal is considered to be satisfactory with respect to the provisions and objectives of Part C3.2 of the LDCP 2013.

C3.5 Front Gardens and Dwelling Entries

The proposal as amended is now satisfactory having regard to the relevant provisions of Part C3.5 as follows:

- The front façade of the proposed new dwellings are oriented to overlook Crescent Street and provide clear and identifiable dwelling entries along the streetscape.
- The new dwellings are of a design that will make a positive contribution to the streetscape and heritage conservation area.

C3.9 Solar Access

The subject site and its adjoining neighbouring properties to the north and east are all east west orientated with a east and west facing rear private open space and the adjoining properties to the south are north south orientated with a north facing rear private open space. As such, the following controls are applicable.

Retaining solar access to neighbouring dwellings main living room glazing

- C13 Where the surrounding allotments are orientated north/south and the dwelling has north facing glazing serving the main living room, ensure a minimum of three hours solar access is maintained between 9am and 3pm during the winter solstice.
- C15 Where surrounding dwellings currently receive less than the required amount of solar access to the main living room between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

Retaining solar access to neighbouring dwellings private open space

- C17 Where surrounding dwellings have north facing private open space, ensure solar access is retained for three hours between 9am and 3pm to 50% of the total area during the winter solstice.
- C19 Where surrounding dwellings currently receive less than the required amount of solar access to their private open space between 9am and 3pm during the winter solstice, no further reduction of solar access is permitted.

The amended shadow diagrams submitted to Council demonstrate that the proposal will comply with Control 13 as mentioned above as the north facing glazing at Units 1, 2, 3 and 4 on the first floor of No. 14-16 Crescent Street will receive the minimum 3 hours of sunlight to these north facing first floor living room glazing from 9am to 3pm at mid-winter.

The north facing ground floor glazing to Units 2 and 3 will not receive the minimum required 3 hours of sunlight. However, it is noted that these Units were approved under DA/517/1994 on the 25 November 1994 as a mixed use development which approved the ground floor as industrial studios and the first floor for residential use.

D/2009/32 on the 26 March 2009 approved a change of use for the ground floor studio into a sitting room/ bedroom with an ensuite for Unit 2. All the other units on the ground floor only have approval for an industrial studio use.

It is noted that for Unit 2, no solar access is received to its northern glazing on the ground floor between 9am and 1pm at winter solstice. At 2pm approximately 90% is currently overshadowed and this is reduced to approximately 97% as a result of the proposal, and at 3pm no additional overshadowing impacts the existing openings thereby retaining existing situation. As such the only additional overshadowing to the round floor rear openings is at 2pm. Notwithstanding it is noted that the living room on the 1st floor living room openings remain unimpacted by the proposed development and as such the proposal is compliant with Control 13.

The development, as amended, is considered acceptable concerning solar access to the southern neighbouring properties for several reasons:

- The proposed new dwellings comply with three development standards: Floor Space Ratio (FSR), Landscaped Area, and Site Coverage.
- Adequate side and rear setbacks are provided at both ground and first-floor levels from surrounding neighbouring properties.
- The first-floor additions feature low 2.4-meter floor-to-ceiling heights.
- The placement of the new first-floor additions aligns with allowable development locations.
- The proposal does not impact openings on the first floor on the northern elevation serving principle living areas

Additionally, alternate designs were explored by Council staff to further reduce additional shadows. However, considering the reasons stated above and the design amendments carried out by the applicant, the current amended proposal is deemed the most suitable. Pursuing other design alternatives to improve shadows and comply with solar access requirements would be unreasonable and severely limit development potential on the subject site.

Consequently, the additional shadows cast on ground floor north-facing glazing during mid-winter are deemed acceptable. The amended shadow diagrams submitted to the Council demonstrate compliance with Control 13, ensuring that north-facing glazing at Units 1, 2, 3, and 4 on the first floor level of No. 14-16 Crescent Street receive a minimum of 3 hours of sunlight from 9 am to 3 pm at mid-winter.

Furthermore, the proposal does not introduce any new additional shadows onto the rear Private Open Space (POS) of all units at No. 14-16 Crescent Street, adhering to Control 17.. Considering these factors, the proposal is deemed satisfactory in terms of its solar access impacts on the adjoining sites.

C3.10 Views

Concerns in relation to view loss were raised in the submissions provided to Council from the neighbouring residents to the south. It was mentioned that if the proposed development is carried out, then the existing views of the trees, sky and view lines to Crescent Street currently obtained from the rear first floor balconies of Units 1, 2, & 3 from No. 14-16 Crescent Street would be lost. In addition, the views / outlook to the sky from the rear yard would ultimately be replaced with the proposed building walls.

A site inspection of Units 1, 2, and 3 of No. 14-16 Crescent was carried out by Council's Planning Staff and the photos were taken from the rear yard and rear first floor balconies where the existing views of the sky, trees and Crescent Street are currently obtained.

Photos from Rear Yards of No. 14-16 Crescent Street



Unit 1 – Facing northeast



Unit 2 -Rear yard photo



Unit 3 -Rear yard photo



Unit 4 -Rear yard photo

Photos from Rear First Floor Balconies



Unit 1 – Rear First balcony photo



Unit 2 – Rear First balcony photo



Unit 3 – Rear First balcony photo



Unit 4 – Rear First balcony photo

After carrying out a site inspection, a review has confirmed that the views in question are not considered as significant landmark views such as *Sydney Harbour, Sydney Harbour Bridge, ANZAC Bridge and the City skyline including features such as Centre Point Tower* or water views and are not protected under this Part of the DCP. It is acknowledged view obtained over other properties will be lost, however, this view obtained over the side boundaries of neighbouring properties is not one that can be reasonably protected nor are there controls which protect such an outlook.

As a result, the amended proposal is considered acceptable as it results in no adverse view loss implications and will satisfy the relevant Objectives and Controls of this Part of the DCP.

C3.11 Visual Privacy

The proposed new dwellings on Lot A and B include first-floor level bedroom windows, which will have sightlines within 9 meters of the neighbouring properties' rear yards. Concerns regarding potential overlooking and privacy impacts from these proposed first-floor bedroom windows into the neighbouring properties' rear yards have been raised in submissions objecting to the proposal.

The proposed first floor windows are considered acceptable for the following reasons:

Lot A

- The first-floor bedroom Juliet balcony on the eastern elevation will feature external privacy screens, while the bay window on the northern elevation will have obscured glazing up to 1.6 meters measured from the floor level.
- The bay window for the first-floor bedroom 2 on the northern elevation will also have obscured glazing up to 1.6 meters above the floor level.
- Other first-floor windows (WA13, WA7, WA6, WA4, and WA9) do not require privacy treatment as they serve non-habitable rooms, voids, or have sightlines beyond 9 meters.

Lot B

- The first-floor bedroom 1 Juliet balcony on the eastern elevation will be equipped with external privacy screens, and the east-facing window WB1 will feature obscured glazing up to 1.6 meters measured from the floor level.
- The bay window for the first-floor bedroom 2 on the southern elevation will also have obscured glazing up to 1.6 meters above the floor level.
- The first-floor bathroom window on the southern elevation will have obscured glazing up to 1.6 meters above the floor level.
- WB8 on the first floor southern elevation is servicing a void area (non-habitable) which does not require any privacy treatment.

As a result of these measures, the proposal aligns with Controls 1, 3, 7, and 8 of this section of the Development Control Plan (DCP), ensuring minimal to no undue adverse privacy impacts on adjacent properties.

5(c) 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(d) 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(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

- 20 submissions were received in response to the initial notification.
- 16 submissions were received in response to renotification of the application.

The following issues raised in submissions have been discussed in this report:

- Permissibility of the development in the R1 Zone – see Section 2.3 Land Use Table and Zone Objectives of this Report for further details.
- The Non-compliance to Section 4.1 Minimum Subdivision Lot Size – see Part 5, Section 4 – Principal Development Standards for further details.
- Impacts to Heritage Conservation Area – See Section 5.10 Heritage Conservation for further details.
- Bulk and Scale – See Section 5.10 Heritage Conservation Area and C3.2 Site Layout and Building Design for further details.
- Solar Access – See C3.9 Solar Access of this Report for further details.
- Privacy implications from the first-floor bedroom windows from the new dwellings – see C3.11 Visual Privacy of this Report for further details.

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

Issue: View Loss

“current access to the view or what i would think is the basic right to the sky view would most certainly have a mental impact as well” (Unit 1)

“we will lose all views looking out from the main living areas which would be replaced with an oppressive view of the proposed DA's side building wall” (Unit 2)

“We will lose a view to the sky and greenery that is a character of our street.(Unit 3)”

Comment: As further discussed under C3.10 Views of this Report, it has been determined that the proposal does not impact or result in the loss of significant landmark or water views. Instead, the concerns raised are in relation to the loss of outlook to the trees, sky, and Crescent Street from across neighbouring side boundaries. The proposal would not result in the loss of sky views as suggested and is of a reasonable bulk and scale having regard to surrounding development.

Issue: Incorrect description / identification of No. 14-16 Crescent Street being in an Industrial Zone.

“the description of our residences as being industrial is not only incorrect but I believe a disingenuous attempt to hide the real and devastating impact on our lives.”

“My unit, and others in the row, are referred to as “industrial units”, which is incorrect, as my understanding since purchase is that I am zoned R1 residential.”

Comment: The subject site and the neighbouring property in question is located in a R1 Zone, however, No. 14-16 Crescent Street Rozelle has been approved under DA/517/1994 on 25 November 1994, this approved industrial studios on the ground floor and residential units on the first floor. Only Unit 2 under a DA approval in 2009 changed the ground floor use from industrial studio to sitting room/bedroom and ensuite associated with the dwelling above.

The applicant has provided updated SEE and amended supporting documentations to reflect the existing situation of No. 14-16 Crescent Street.

Issue: Incomplete and inadequate information provided as part of this DA proposal.

Comment: The applicant has provided updated and amended information to address the concerns raised by Council staff and the concerns raised in the submissions. The application as amended contains sufficient information to carry out a comprehensive assessment..

5(f) The Public Interest

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

The proposal, subject to conditions 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.

Engineer

Acceptable subject to conditions.

Heritage

Acceptable as amended and conditioned.

Urban Forest

Acceptable subject to conditions.

Health

Acceptable subject to conditions.

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

Acceptable subject to conditions.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$20,000.00 would be required for the development under Inner West Local Infrastructure Contributions Plan 2023. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Leichhardt Development Control Plan 2013*.

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

The application is considered suitable for approval by way of a deferred commencement subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the Minimum subdivision lot size development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0694 for the demolition of the existing dwelling and associated outbuildings; Torrens title subdivision into two lots and construction of two x two storey semi-detached dwellings and associated landscaping and site works at 12 Crescent Street ROZELLE subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

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 |
|-------------------------------------|---------------------------------|--------------------|--------------------|
| DA04 Issue H | Ground Floor Existing | 8.12.23 | Studio Panetta |
| DA05 Issue H | Roof Plan Existing | 8.12.23 | Studio Panetta |
| DA06 Issue H | South & West Elevation Existing | 8.12.23 | Studio Panetta |
| DA07 Issue H | East & North Elevation Existing | 8.12.23 | Studio Panetta |
| DA08 Issue H | Long & Cross Section Existing | 8.12.23 | Studio Panetta |
| DA09 Issue H | Ground Floor Proposed | 8.12.23 | Studio Panetta |
| DA10 Issue H | Level 1 Plan Proposed | 8.12.23 | Studio Panetta |
| DA11 Issue H | Roof Plan Proposed | 8.12.23 | Studio Panetta |
| DA12 Issue H | West Elevation Proposed | 8.12.23 | Studio Panetta |
| DA13 Issue H | East & North Elevation Proposed | 8.12.23 | Studio Panetta |
| DA14 Issue H | South Elevation Proposed | 8.12.23 | Studio Panetta |
| DA15 Issue H | Cross & Long Section 1 Proposed | 8.12.23 | Studio Panetta |
| DA16 Issue H | Cross & Long Section 2 Proposed | 8.12.23 | Studio Panetta |
| DA17 Issue H | Cross & Long Section 3 Proposed | 8.12.23 | Studio Panetta |
| DA22 Issue H | Subdivision Plan | 8.12.23 | Studio Panetta |
| DA26 Issue H | Materials and Finishes | 8.12.23 | Studio Panetta |

| | | | |
|-------------|--|---------------|-------------------------------------|
| 1399855S_02 | BASIX Certificate | 14/12/2023 | BONNEFIN CONSULTING PTY LTD |
| 1399857S_02 | BASIX Certificate | 14/12/2023 | BONNEFIN CONSULTING PTY LTD |
| 38028306 | Arboricultural Impact Assessment | July 20, 2023 | Tree Management Strategies Pty Ltd |
| 38028308 | Flood Risk Management Report | 9 June 2023 | Development Engineering Solutions |
| ES8915/2 | Hazardous Materials Assessment | 15 June 2023 | Aargus Pty Ltd |
| 38028307 | Building and Timber Pest Inspection Report | 28 Jun 2023 | Jim's Building Inspections |
| ES8915 | Potential Acid Sulfate Soils Assessment | 5 June 2023 | Aargus Pty Ltd |
| J4292 | Heritage Impact Statement | August 2023 | Weir Phillips Heritage and Planning |
| L101 Rev D | Plant Schedule | 22/3/2024 | outdoor establishments |
| L102 Rev D | Landscape Plan | 22/3/2024 | outdoor establishments |

As amended by the conditions of consent.

FEES

2. 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: | \$18,429.57 |
| Inspection Fee: | \$374.50 |

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.

3. 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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.

4. Section 7.11 Contribution

In accordance with section 7.11 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:

| Contribution Category | Amount |
|-------------------------|-------------|
| Open Space & Recreation | \$14,300.00 |
| Community Facilities | \$2,650.00 |
| Transport | \$1,880.00 |
| Plan Administration | \$184.00 |

| | |
|----------|-------------|
| Drainage | \$986.00 |
| TOTAL | \$20,000.00 |

At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = is the contribution at time of payment

C_{consent} = is the contribution at the time of consent, as shown above

CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 136.4 for the December 2023.

CPI_{payment} = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

Note: The contribution payable will not be less than the contribution specified in this condition.

The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.

It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).

The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.

GENERAL CONDITIONS**5. Project Arborist**

Prior to the commencement of any demolition or construction works within close proximity to protected trees a Project Arborist must be engaged for the duration of the site preparation, demolition, construction and landscaping to supervise works. Details of the Project Arborist must be submitted to the Certifying Authority before work commences.

6. Boundary Alignment Levels

Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

7. 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.

8. 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.

9. 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.

PRIOR TO ANY DEMOLITION**10. Photographic Record of dwelling proposed to be demolished**

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate to the satisfaction of Council's Heritage Specialist.

The photographic archival recording is to be submitted in a digital format only and is to include the following:

Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.

Coloured photographs of:

- a. each elevation,
- b. each structure and landscape feature;
- c. each internal elevation of each room;
- d. views to the subject property from each street and laneway or public space.

Photographic archival records must be taken of the building, landscape or item in accordance with 'Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch available online at <http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf>

The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images.

The report can be submitted on a USB in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each: title, image subject/description and date photograph taken.

11. 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.

12. 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.

13. 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.

14. 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.

PRIOR TO CONSTRUCTION CERTIFICATE

15. Construction Methods to Minimise Impact on Trees

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details certified by a suitably qualified Arborist demonstrating that the footings of the approved eastern boundary fence utilise tree sensitive construction techniques (such as isolated pier or pier and beam construction) within the specified radius of the trunk/s of the following tree/s:

| Tree No. | Botanical/Common Name | Radius in metres |
|----------|-----------------------------------|------------------|
| 1 | <i>Olea africana</i> (Olive tree) | 3.6m |

Prior to the issue of a Construction Certificate, the Certifying Authority must verify that no proposed underground services are located beneath the canopy of any prescribed tree/s located on the subject site and adjoining sites (including trees located within the public domain).

16. Tree Protection Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a detailed site-specific Tree Protection Plan (TPP) prepared by a AQF5 Consultant Arborist. The TPP is to be prepared in accordance with Council’s *Development Fact Sheet—Trees on Development Sites*.

The trees identified below are to be retained and protected throughout the development:

| Tree No. | Botanical/Common Name | Location |
|----------|-----------------------------------|---|
| 1 | <i>Olea africana</i> (Olive tree) | Adjacent eastern boundary - within 5 Moore Lane |

The tree protection measures contained in the TPP must be shown clearly on the Construction Certificate drawings, including the Construction Management Plan.

The Certifying Authority must ensure the construction plans and specifications submitted fully satisfy the tree protection requirements identified in the TPP.

A Project Arborist is to be appointed prior to any works commencing to monitor tree protection for the duration of works in accordance with the requirements identified in the TPP.

All tree protection measures as detailed in the approved Tree Protection Plan must be installed and certified in writing as fit for purpose by the Project Arborist.

17. Dilapidation Report – Pre-Development – Minor

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

18. Stormwater Drainage System – Minor Developments (OSD is required)

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

I. The stormwater drainage concept plan on Drawing No. C03 issue (A) prepared by DEVELOPMENT ENGINEERING SOLUTIONS and dated 9 June 2023, must be amended to comply with the following:

1. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary; Minor roof and paved areas (20%) at the rear of the property that cannot reasonably be drained by gravity to the street may be drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer;
2. 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;
3. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tank(s);
4. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
5. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI);
6. 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;
7. 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;

8. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
9. Drainage pipes must be designed at a minimum grade of 1%. Elevated pipes must be shown on plan and elevation;
10. The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands;
11. 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;
12. An overland flow path must be provided within the setback with adjoining properties;
13. No nuisance or concentration of flows to other properties;
14. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
15. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;
16. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site;
17. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
18. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
19. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
20. No impact to street tree(s).

19. 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:

1. The plan must be generally in accordance with the recommendations of the Flood Risk Management Report prepared by DEVELOPMENT ENGINEERING SOLUTIONS and dated 9 June 2023
2. 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:
 - a. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
 - b. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
 - c. Flood warning signs/depth indicators for areas that may be inundated;
 - d. A flood evacuation strategy; and
 - e. 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.
3. 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:
 - a. Building Code of Australia;
 - b. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
 - c. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and

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

20. 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

21. 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.

DURING DEMOLITION AND CONSTRUCTION

22. 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.

23. 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).

24. Sandstone Kerbing

The kerbing to the front is historic sandstone. Contractors are to be advised of the heritage significance of the kerb and gutter in Crescent Street. Equipment laydown areas must be located away from the kerb and gutter to minimise any potential impact to the heritage fabric during construction works.

25. Inspections by Project Arborist

The trees to be retained must be inspected, monitored and treated by the Project Arborist during and after completion of development works to ensure their long-term survival. Regular inspections and documentation from the Project Arborist to the Certifying Authority are required at the following times or phases of work:

| Tree No./ Botanical/ Common Name/ Location | Time of Inspection | Key stage/ Hold point |
|---|--------------------|---|
| Tree 1 - <i>Olea africana</i> (Olive tree) - adjacent eastern boundary within 5 Moore Lane. | During Works | <ul style="list-style-type: none"> • Supervise all site preparation and demolition works within the TPZ; • Supervise all works inside or above the TPZ; • Supervise all excavation, trenching works, landscaping works and tree/planting replenishment |

| | | |
|--|--|---|
| | | within the TPZ; • Supervise all tree work. |
|--|--|---|

Recommendations to ensure the tree/s long term survival must be carried out immediately upon receipt of the report.

26. Limited Root Pruning

No tree roots of 30mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s must be severed or injured in the process of any works during the construction period:

| Tree No. | Botanical/Common Name | Radius in metres |
|----------|-----------------------------------|------------------|
| 1 | <i>Olea africana</i> (Olive tree) | 3.6m |

All excavation within the specified radius of the trunk of the above tree must be hand dug under direct supervision of the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose tool*. The pruning must be undertaken by a practicing Arborist.

27. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

28. 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**29. 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*.

30. Certification of Tree Planting

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with evidence certified by a person holding a minimum qualification of AQF3 Certificate of Horticulture or Arboriculture that:

A minimum of 1 x 75 litre container size tree, which will attain a minimum mature height of eight (8) metres, must be planted within the rear yard of each new allotment. The trees are to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

31. Project Arborist Certification

Prior to the issue of any Occupation Certificate, the Principal Certifier is to be provided with certification from the project arborist the requirements of the conditions of consent related to the landscape plan and the role of the project arborist have been complied with.

32. 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.

33. 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.

34. 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 who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) 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.

35. 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.

36. Torrens Title Subdivision to Occur before Occupation

Prior to the issue of an Occupation Certificate for any dwelling on the site, the certifying authority is to be provided with evidence that the subdivision that forms part of this consent has been registered with the NSW Land Registry Services.

PRIOR TO SUBDIVISION CERTIFICATE**37. Separate Drainage Systems**

Prior to the issue of a Subdivision Certificate, the Principal Certifier must be provided with a plan detailing that separate drainage systems must be provided to drain each proposed lot.

38. Torrens Title Subdivision

Prior to the issue of a Subdivision Certificate, the Certifying Authority must verify that the physical works within this consent have been constructed.

If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. [Street Numbering Application](#)

39. Section 73 Certificate

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation.

40. Separate Stormwater

Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with details, endorsed by a practising stormwater engineer demonstrating separate drainage systems to drain each proposed lot.

41. Redundant Vehicle Crossing

Prior to the issue of a Subdivision Certificate, the Principal Certifier must verify that all redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominately stone, the replacement kerb must also be in stone.

ON-GOING**42. Tree Establishment**

The tree/s planted as part of this consent is/are to be maintained in a healthy and vigorous condition for 12 months from the issue of an Occupation Certificate. If any of the tree/s is/are

found faulty, damaged, dying or dead within 12 months of the issue of an Occupation Certificate it/they must be replaced with the same species within one (1) month (up to 3 occurrences).

43. Operation and Management Plan

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

44. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES

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.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access

to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

Tree Protection Works

All tree protection for the site must be undertaken in accordance with Council's *Development Fact Sheet—Trees on Development Sites* and *AS4970—Protection of trees on development sites*.

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.

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 Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

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.

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*.

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.

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.

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 Corporation | Payments 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 - Environmental Solutions | SITA 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 there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

Ausgrid Requirements

Ausgrid Underground Cables are in the vicinity of the development
Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:
SafeWork Australia – Excavation Code of Practice.
Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.
The following points should also be taken into consideration.
Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
Should ground anchors be required in the vicinity of Ausgrid 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.

Ausgrid Overhead Powerlines are in the vicinity of the development
The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by

visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: <https://www.ausgrid.com.au/Connections/Get-connected>

Attachment B – Plans of proposed development

**DEVELOPMENT APPLICATION
SUBDIVISION + 2 NEW DWELLINGS
DRAWING SCHEDULE**

| Sheet List DA | | |
|---------------|----------------------------------|------------------|
| Number | Sheet Name | Current Revision |
| DA00 | COVER SHEET | H |
| DA01 | SITE ANALYSIS | H |
| DA02 | STREETSCAPE ANALYSIS | H |
| DA03 | SITE PLAN | H |
| DA04 | FLOOR PLANS - EXISTING | H |
| DA05 | ROOF PLAN - EXISTING | H |
| DA06 | ELEVATIONS - EXISTING | H |
| DA07 | ELEVATIONS - EXISTING | H |
| DA08 | SECTIONS - EXISTING | H |
| DA09 | FLOOR PLANS - PROPOSED | H |
| DA10 | FLOOR PLANS - PROPOSED | H |
| DA11 | CONCEPT STORMWATER DRAINAGE PLAN | H |
| DA12 | ELEVATIONS - PROPOSED | H |
| DA13 | ELEVATIONS - PROPOSED | H |
| DA14 | ELEVATIONS - PROPOSED | H |
| DA15 | SECTIONS - PROPOSED | H |
| DA16 | SECTIONS - PROPOSED | H |
| DA17 | SECTIONS - PROPOSED | H |
| DA20 | PERSPECTIVES | H |
| DA21 | AREA CALCULATION PLAN | H |
| DA22 | SUBDIVISION PLAN | H |

| Sheet List DA | | |
|---------------|--|------------------|
| Number | Sheet Name | Current Revision |
| DA26 | MATERIALS AND FINISHES | H |
| SD01 | SHADOWS STUDY 9AM & 10AM | H |
| SD02 | SHADOWS STUDY 11AM & 12PM | H |
| SD03 | SHADOWS STUDY 1PM & 2PM | H |
| SD04 | SHADOWS STUDY 3PM | H |
| SD05 | SHADOWS STUDY EQUINOX 9AM & 10AM | H |
| SD06 | SHADOWS STUDY EQUINOX 11AM & 12PM | H |
| SD07 | SHADOWS STUDY EQUINOX 1PM & 2PM | H |
| SD08 | SHADOWS STUDY EQUINOX 3PM | H |
| SD09 | SHADOWS STUDY EAST ELEVATION | H |
| SD10 | SHADOWS STUDY EQUINOX EAST ELEVATION | H |
| SD11 | SHADOWS STUDY NORTH WINDOWS - LOT A | H |
| SD12 | SHADOWS STUDY NORTH WINDOWS - LOT A EQUINOX | H |
| SD14 | SHADOWS STUDY No 5 MOORE LN - West Elevation | H |
| xx13 | SHADOWS STUDY NORTH WINDOWS - LOT B | F |

12 CRESCENT STREET, ROZELLE

Development Application
 ABLN 20 01 0 108 757
 Notified Architect Raymond Parrella
 Studio Pantha
 Suite 2/11 Prince of Wales Drive
 Epping NSW 1503
 P 02 9810 4239
 studiopantha.com.au

| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| E | Development Application | 07/07/23 |
| F | Development Application | 22/08/23 |
| G | Development Application | 30/08/23 |
| H | DA Amendments | 08/12/23 |

DO NOT SCALE FROM THIS DRAWING use given dimensions. Contractor/Builder is to check all dimensions onsite prior to commencement of site works or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work.
 THIS DRAWING IS TO BE USED IN ACCORDANCE WITH ITS PURPOSE OF ISSUE ONLY. NO RESPONSIBILITY WILL BE ACCEPTED FOR THE IMPROPER USE OF THIS DRAWING.
 ARCHITECTS INDICATE DESIGN INTENT ONLY. BUILDER IS TO ENSURE ARCHITECT'S CONSTRUCTION IS IN ACCORDANCE WITH ALL RELEVANT REGULATORY STANDARDS AND CODES.

Bruderlin + Abendanon
 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14/12/23 COVER SHEET
 Scale Drawn by RP Project no. 22-548 Sheet no. DA00 Issue H



1 Site Analysis Plan
1 : 200

| | |
|---|--|
| DO NOT SCALE FROM THIS DRAWING. Use given dimensions. Contractor Builder is to check all dimensions onsite prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/designer prior to commencement of work. THIS DRAWING IS TO BE USED IN ACCORDANCE WITH ITS PURPOSE OF ISSUE ONLY. NO RESPONSIBILITY WILL BE ACCEPTED FOR THE IMPROPER USE OF THIS DRAWING. ARCHITECTURAL DRAWINGS INDICATE DESIGN INTENT ONLY. BUILDERS TO ENSURE THAT CONSTRUCTION IS IN ACCORDANCE WITH ALL RELEVANT AUSTRALIAN STANDARDS AND CODES. | |
| Development Application Development Application DA Amendments | DATE 07.07.23 22.08.23 08.12.23 |
| Development Application Development Application DA Amendments | DATE 07.07.23 22.08.23 08.12.23 |
| AS/NZS 3910:2018 Nominated Architect: Raymond Parada NSW Registration No. 74888 Site: 2/11, First Street, NSW 1580 E: ray@studiopancha.com.au P: 02 8810 4228 studiopancha.com.au | |
| Development Application Studio Pancha | |
| Document: SA-15-36746736 Version: 1, Version Date: 07/03/2024 | |
| Bruderlin + Abendanon SUBDIVISION + 2 NEW DWELLINGS 12 CRESCENT STREET, ROZELLE Date: 14.12.23 SITE ANALYSIS Scale: 1:200 Drawn by: RP Project no: 22-548 Sheet no: DA01 Issue: H | |



12 Crescent Street (subject site)
modified Victorian cottage



10 Crescent Street
detached Victorian cottage with dormers



8 Crescent Street
detached Victorian cottage with contemporary rear addition



24 Crescent Street
semi detached Victorian houses



26-27 Crescent Street
contemporary commercial units



18-20 Crescent Street
Victorian terrace houses



14-16 Crescent Street
industrial mixed use units, residential (first floor)



14-16 Crescent Street
contemporary mixed use units, industrial (ground floor), residential (first floor)



6-11 Crescent Street
Victorian terrace houses



13-16 Crescent Street
Victorian terrace houses



17-19 Crescent Street
Victorian terrace houses



21-23 Crescent Street
Victorian terrace house (21) and sandstone Victorian house (23)

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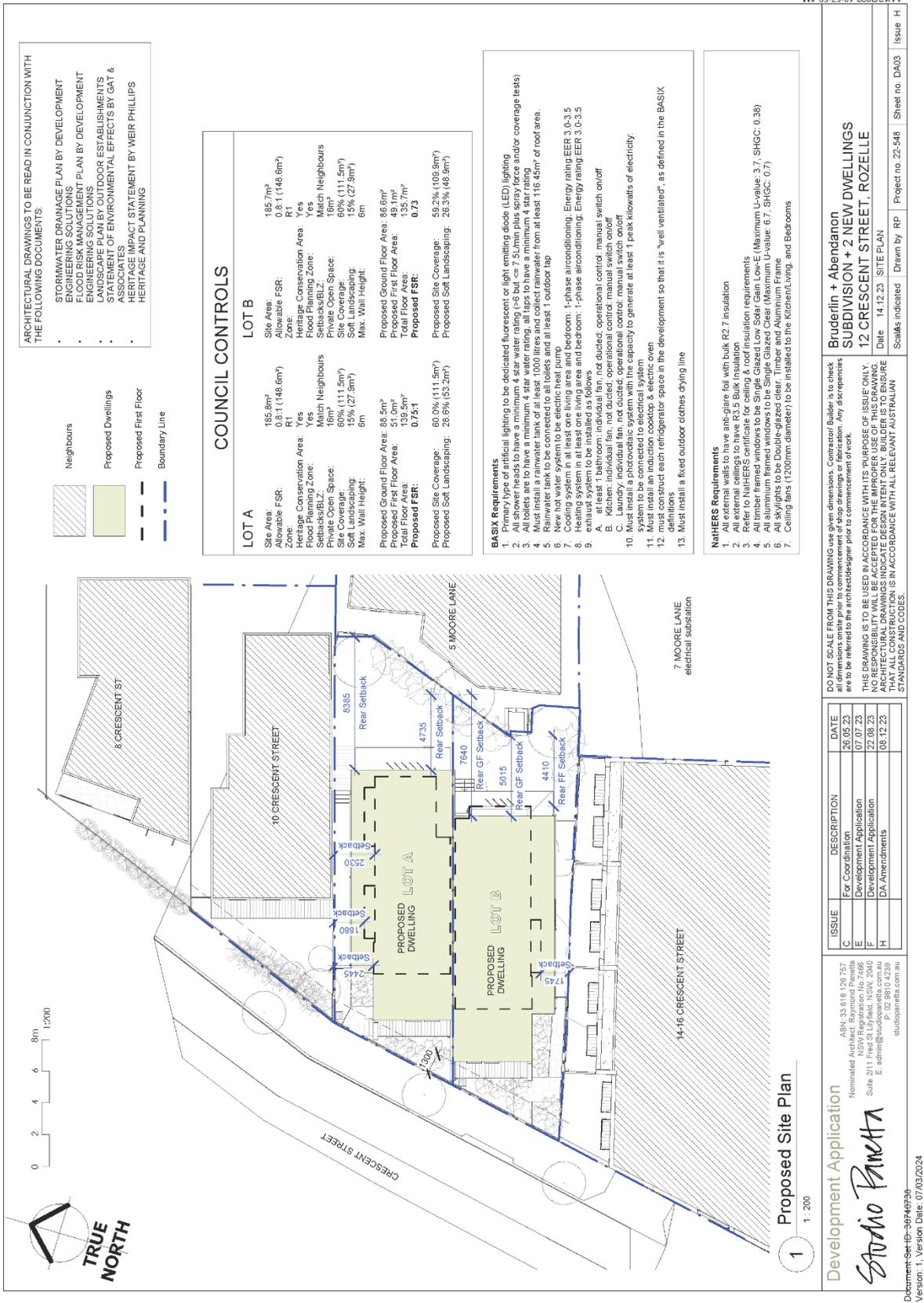
Development Application
 Studio Panetta
 ASBN: 20 618 195 767
 Nominated Architect: Raymond Panetta
 NSW Registration No: 74888
 Site: 2/11 Pitt Street, NSW, Australia
 E: info@studiopanetta.com.au
 P: 02 8810 4238
studiopanetta.com.au

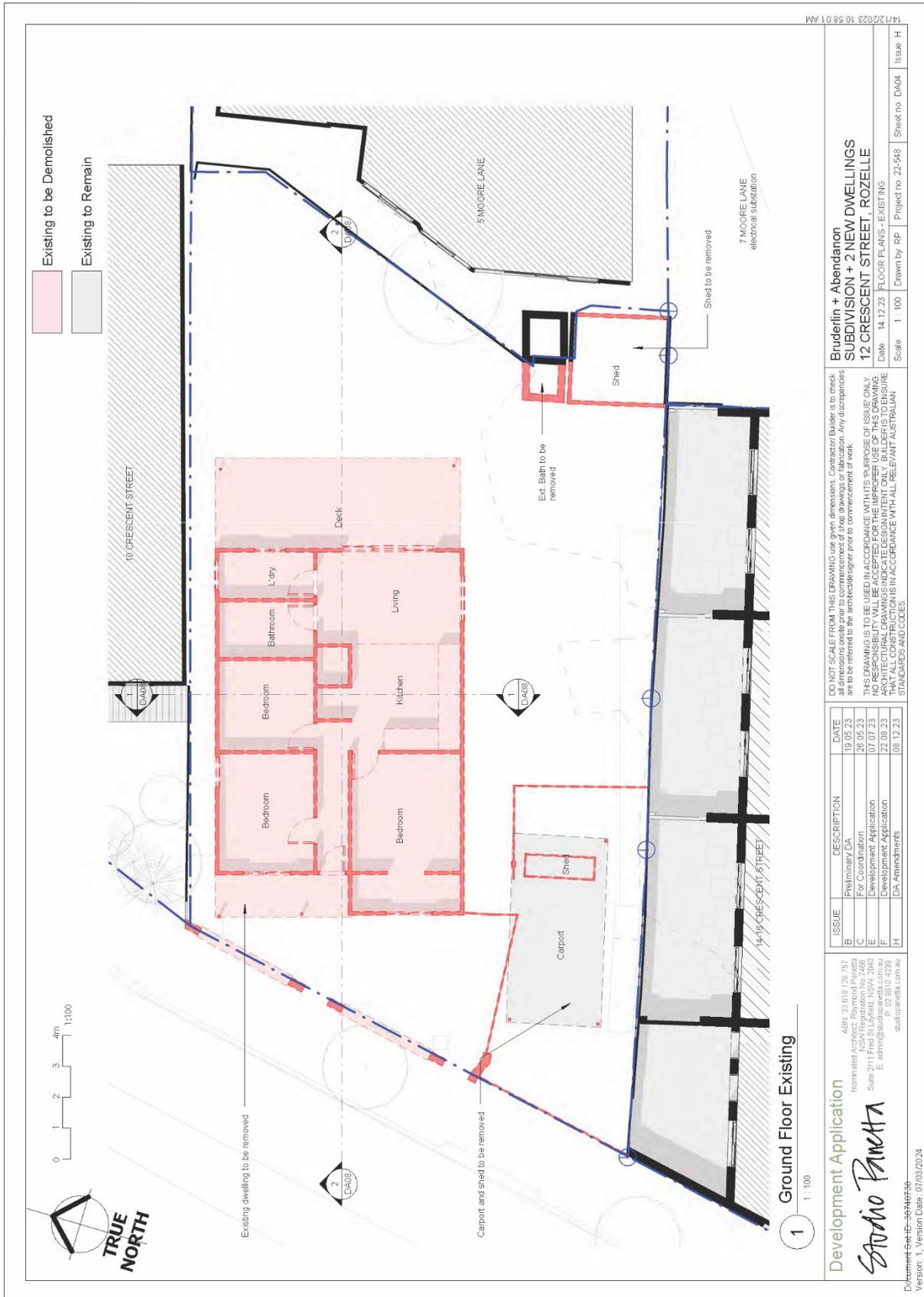
| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
 Date: 14.12.23 | STREETSCAPE ANALYSIS
 Scale: Drawn by: RP | Project no: 22-548 | Sheet no: DA02 | Issue: H

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 ARCHITECTURE: BRUDERLIN + ABENDANON. DESIGNER: BRUDERLIN + ABENDANON. ENGINEER: BRUDERLIN + ABENDANON. IN ACCORDANCE WITH ALL RELEVANT AUSTRALIAN STANDARDS AND CODES.

Document: SA-15-3697467-336
 Version: 1, Version Date: 07/03/2024





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Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE

Date: 14.12.23 FLOOR PLANS - EXISTING
 Scale: 1:100 Drawn by: RP | Project no: 22-548 | Sheet no: DA04 | Issue: H

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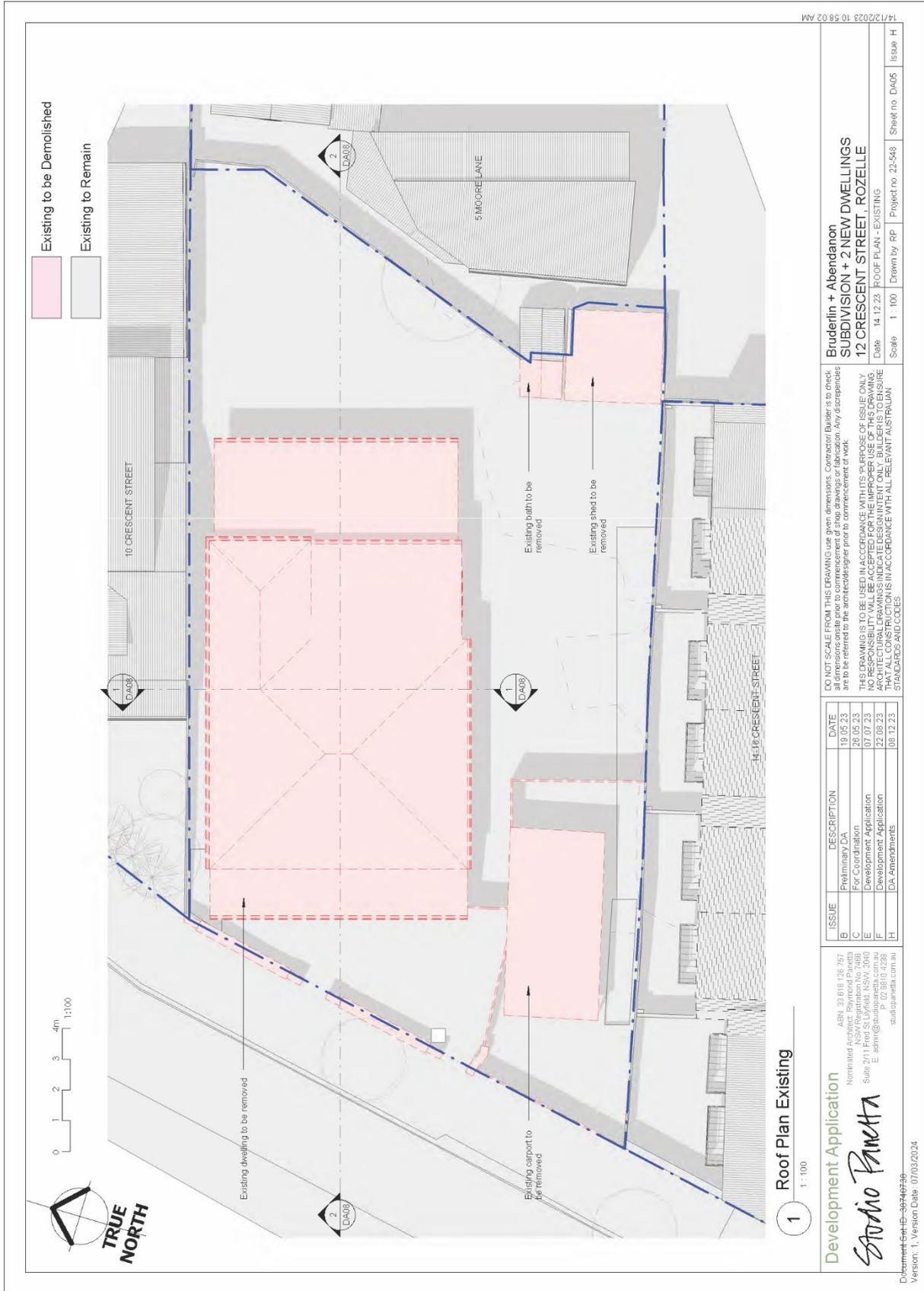
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| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
 Studio Panetta
 AS/NZS 2916:19-2021
 Nominated Architect, Beyond Panels
 NSW Registration No. 74888
 Site 5/11 Pitt Street, Rozelle, NSW 1585
 E: info@studiopanetta.com.au
 P: 02 8810 4288
 studiopanetta.com.au

Document: SA-12-367467336
 Version: 1, Version Date: 07/03/2024

1 Ground Floor Existing
 1:100



Existing to be Demolished
Existing to Remain

0 1 2 3 4m
1:100



1 Roof Plan Existing
1:100

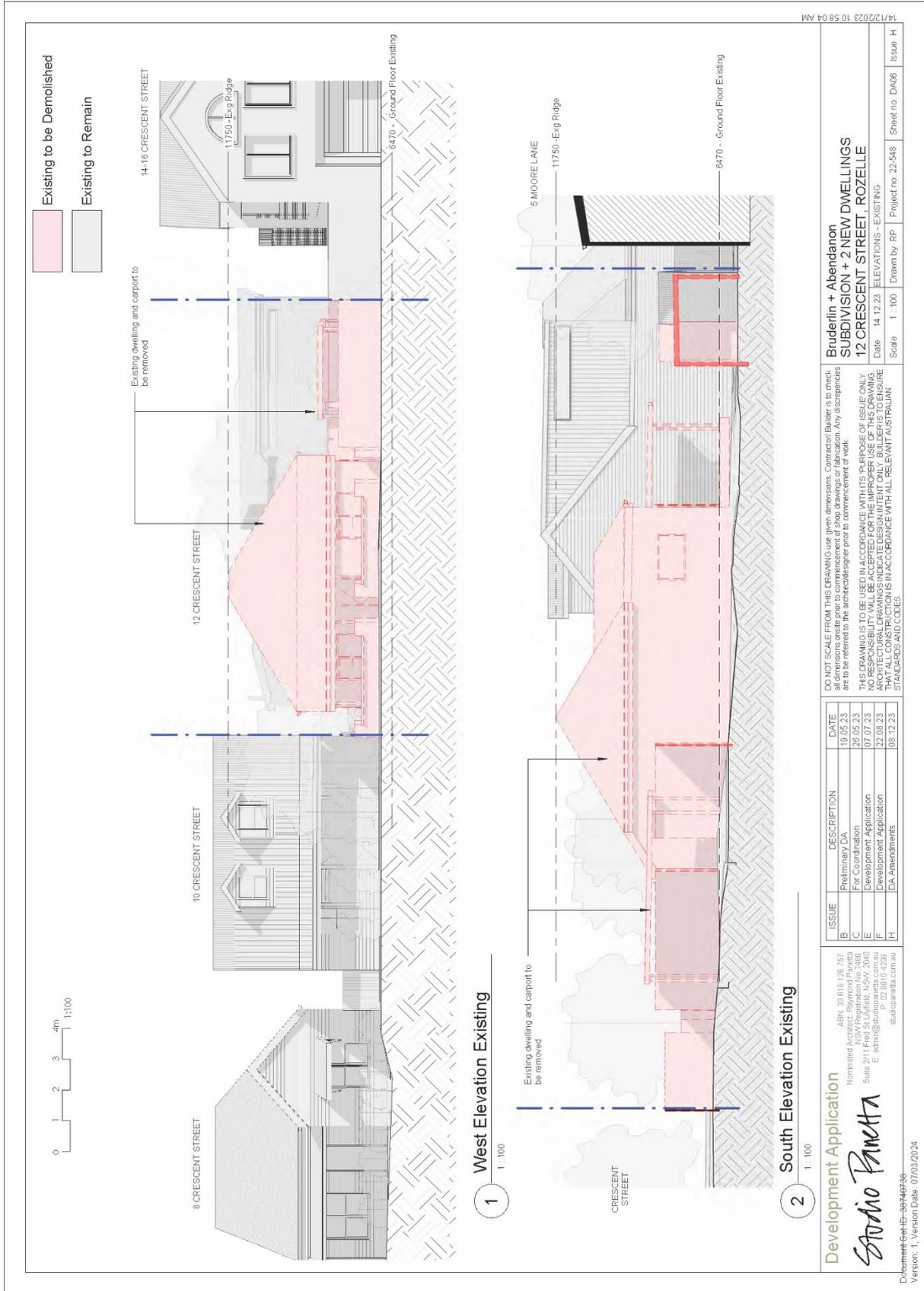
Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
Date: 14.12.23
Scale: 1:100
Drawn by: RP
Project no: 22-548
Sheet no: DA05
Issue: H

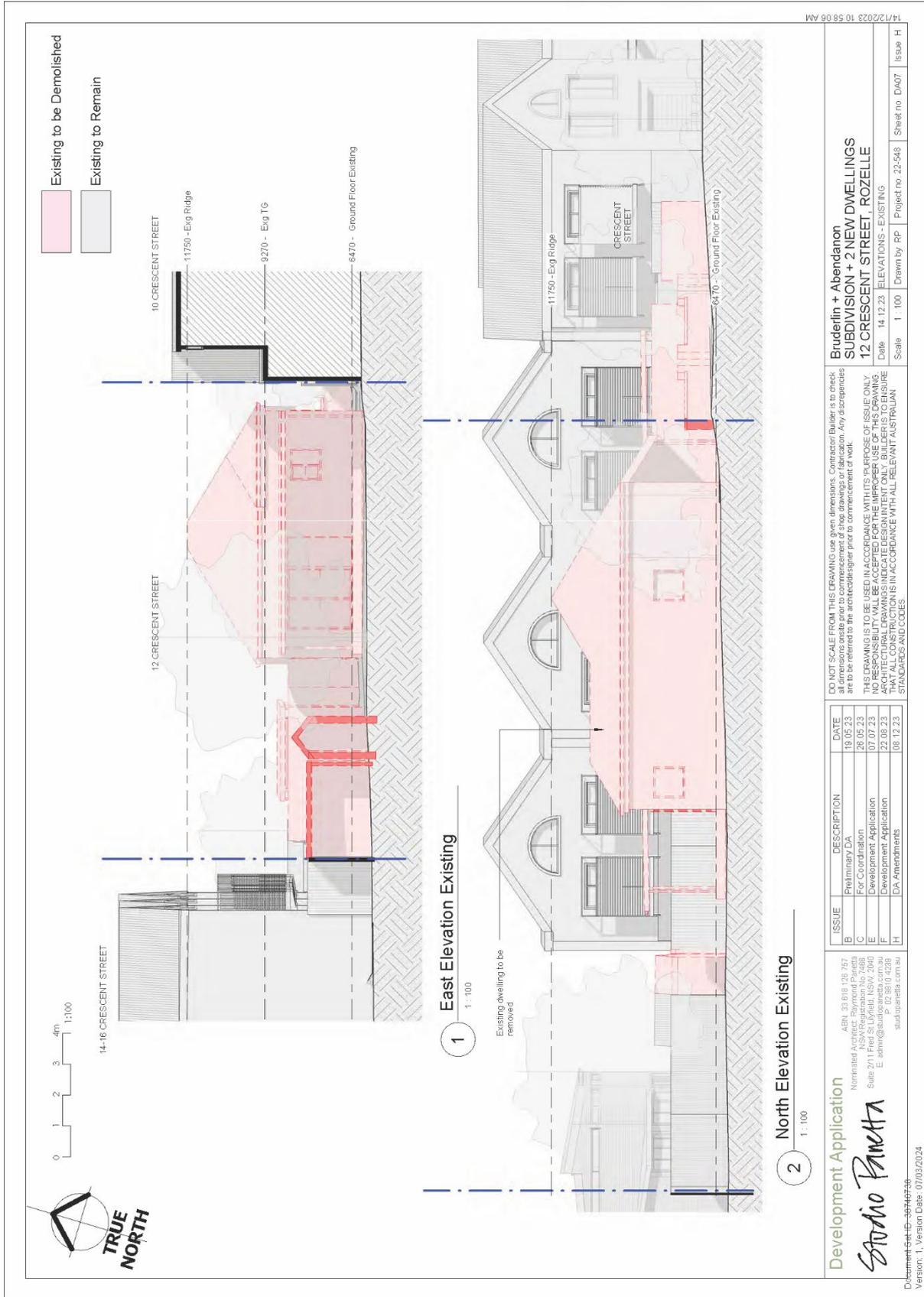
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| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
AS/NZS 2918:1987
Nominated Architect: Raymond Partridge
NSW Registration No: 74888
Site: 5/11 Prince Street, Rozelle NSW 1585
E: adam@studiopancha.com.au
P: 02 9810 4238
studiopancha.com.au

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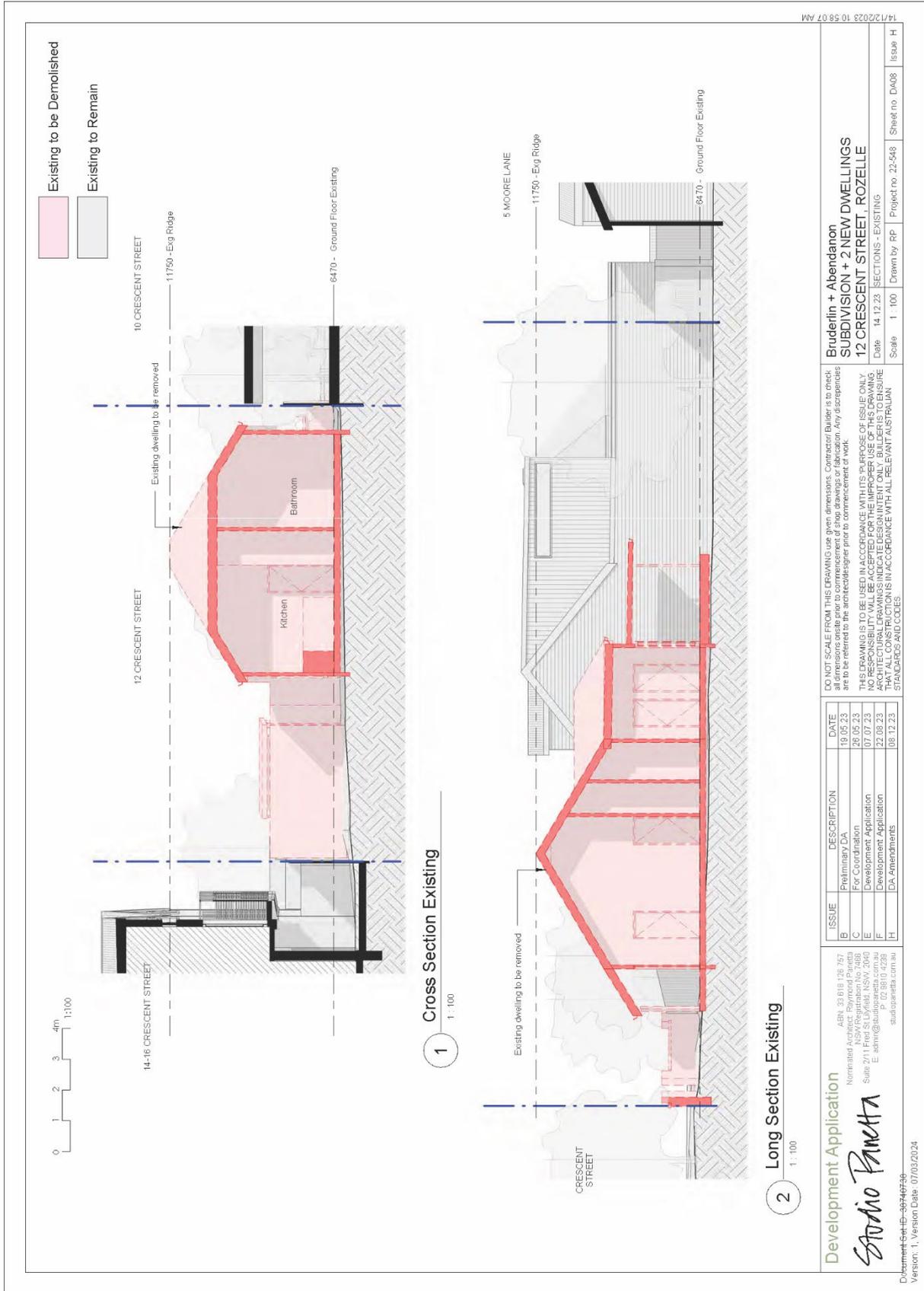
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Development Application
 Studio Panetta
 AS/N 20,618 128 767
 Nominated Architect, Raymond Pandra
 NSW Registration No. 7488
 Site 5/11 Prince Street, New York
 E. pan@studiopanetta.com.au
 P. 02 8810 4288
 studiopanetta.com.au

| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Bruderlin + Abendanon
 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 ELEVATIONS - EXISTING
 Scale 1:100 Drawn by RP | Project no. 22-548 | Sheet no. DA07 Issue H

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Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
 Date: 14.12.23 SECTIONS - EXISTING
 Scale: 1:100 Drawn by: RP | Project no: 22-548 | Sheet no: DW08 | Issue: H

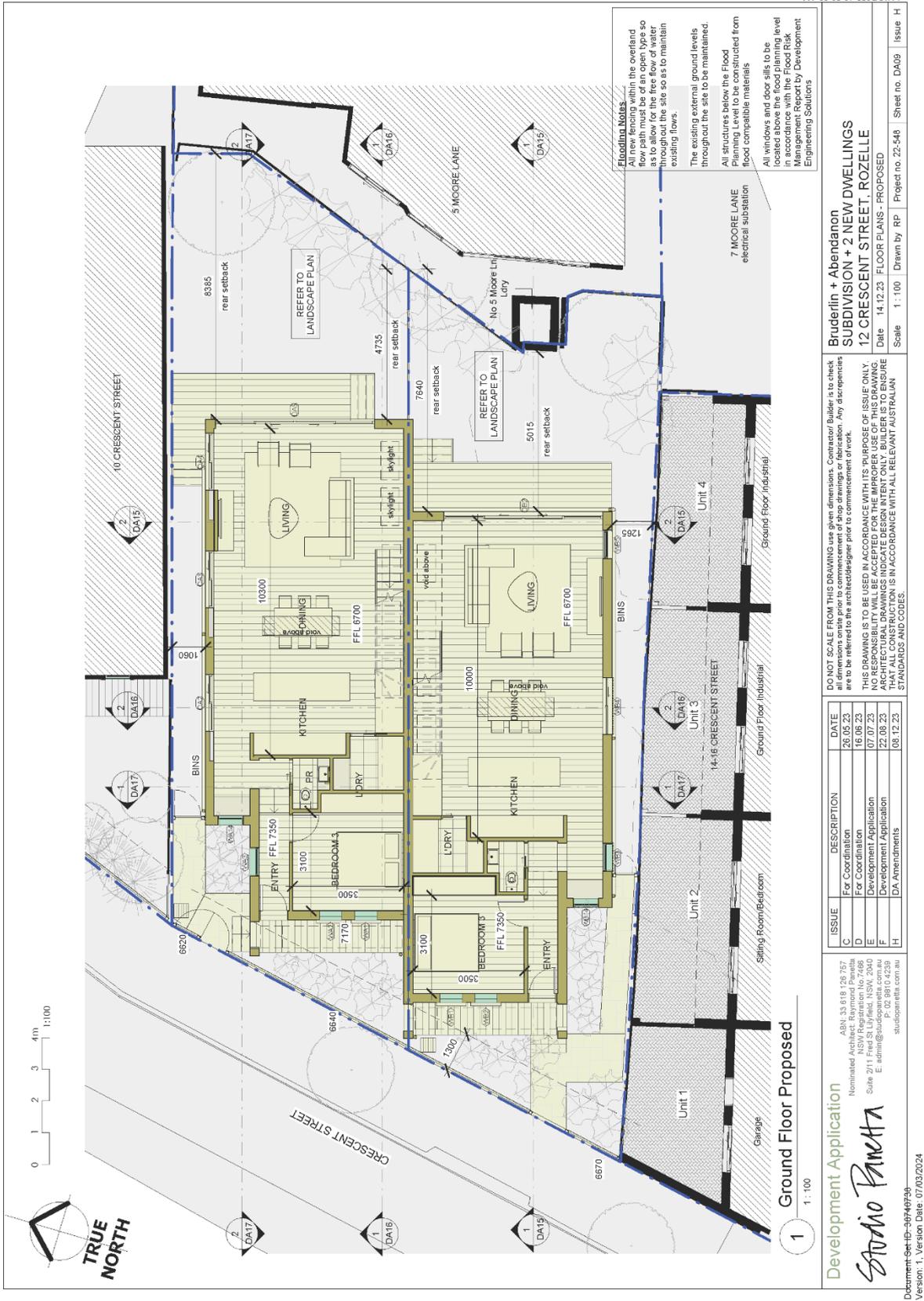
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| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
 AS/NZS 2916:19-2021
 Nominated Architect: Raymond Pando
 NSW Registration No: 74888
 Site: 5/11 Prince Street, Rozelle, NSW 1585
 E: info@studiopancha.com.au
 P: 02 9810 4238
 studiopancha.com.au

Studio Pancha

Document: SA-EP-36746736
 Version: 1, Version Date: 07/03/2024



FLOODING NOTES
 All new fencing within the overlaid flood planning level shall be constructed to allow for the free flow of water throughout the site so as to maintain existing flows.
 The existing external ground levels throughout the site to be maintained.
 All structures below the Flood Planning Level to be constructed from flood compatible materials
 All windows and door sills to be located above the flood planning level in accordance with the Flood Risk Management Report by Development Engineering Solutions

Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
 Date 14.12.23 FLOOR PLANS - PROPOSED
 Scale 1:100 Drawn by RP | Project no. 22-548 | Sheet no. DA09 | Issue H

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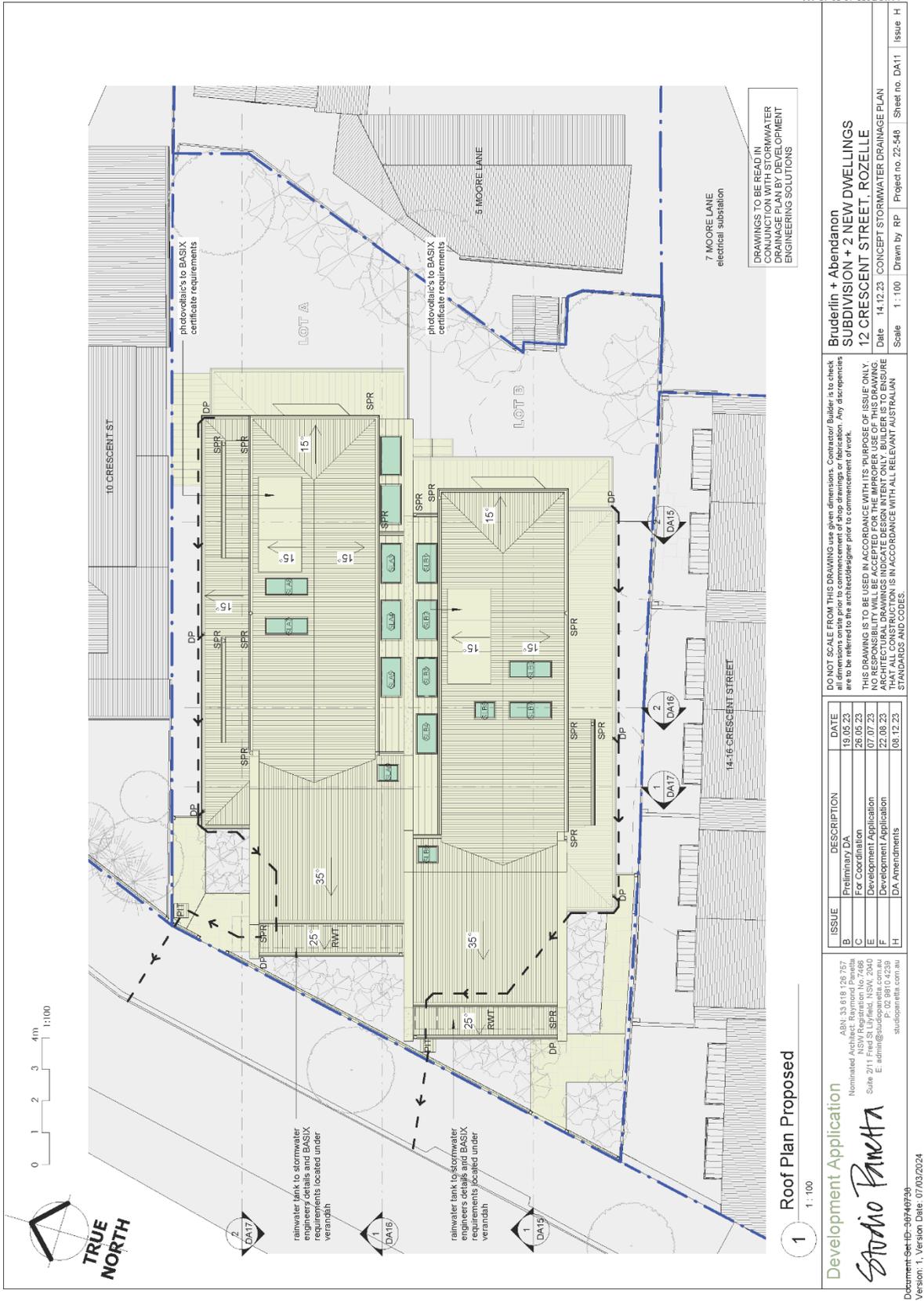
| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| C | For Coordination | 26.05.23 |
| D | For Coordination | 16.06.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

AS/NZS 1564:2018
 Nominated Architect: Raymond Penetta
 NSW Registration No. 74088
 Site 2/11, Fines, Luffield, Lane, Rozelle
 E: rpenetta@studio-penetta.com.au
 P: 02 8810 4239
 studio-penetta.com.au

Development Application
Studio Penetta

Document 98-10-36740730-3
 Version: 1, Version Date: 07/03/2024

1 Ground Floor Proposed
 1:100



DRAWINGS TO BE READ IN CONJUNCTION WITH CONCEPT STORMWATER DRAINAGE PLAN BY DEVELOPMENT ENGINEERING SOLUTIONS

Bruderlin + Abendanon
 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 CONCEPT STORMWATER DRAINAGE PLAN
 Scale 1:100 Drawn by RP | Project no. 22-548 | Sheet no. DA11 Issue H

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| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
 Studio Panetta
 AS/NZS 1910:2017 Registered Architect
 Nominated Architect: Raymond Panetta
 NSW Registration No. 74088
 Site 2/11, Field St, Ultimo, NSW, 2000
 E: studio@studiopanetta.com.au
 P: 02 8810 4239
 studiopanetta.com.au

1 Roof Plan Proposed
 1:100

Document: 98-18-36740739
 Version: 1, Version Date: 07/03/2024

1 West Elevation Proposed
1:100

Street Perspective

Street Perspective

Streetscape Elevation

14/12/2023 10:58:17 AM

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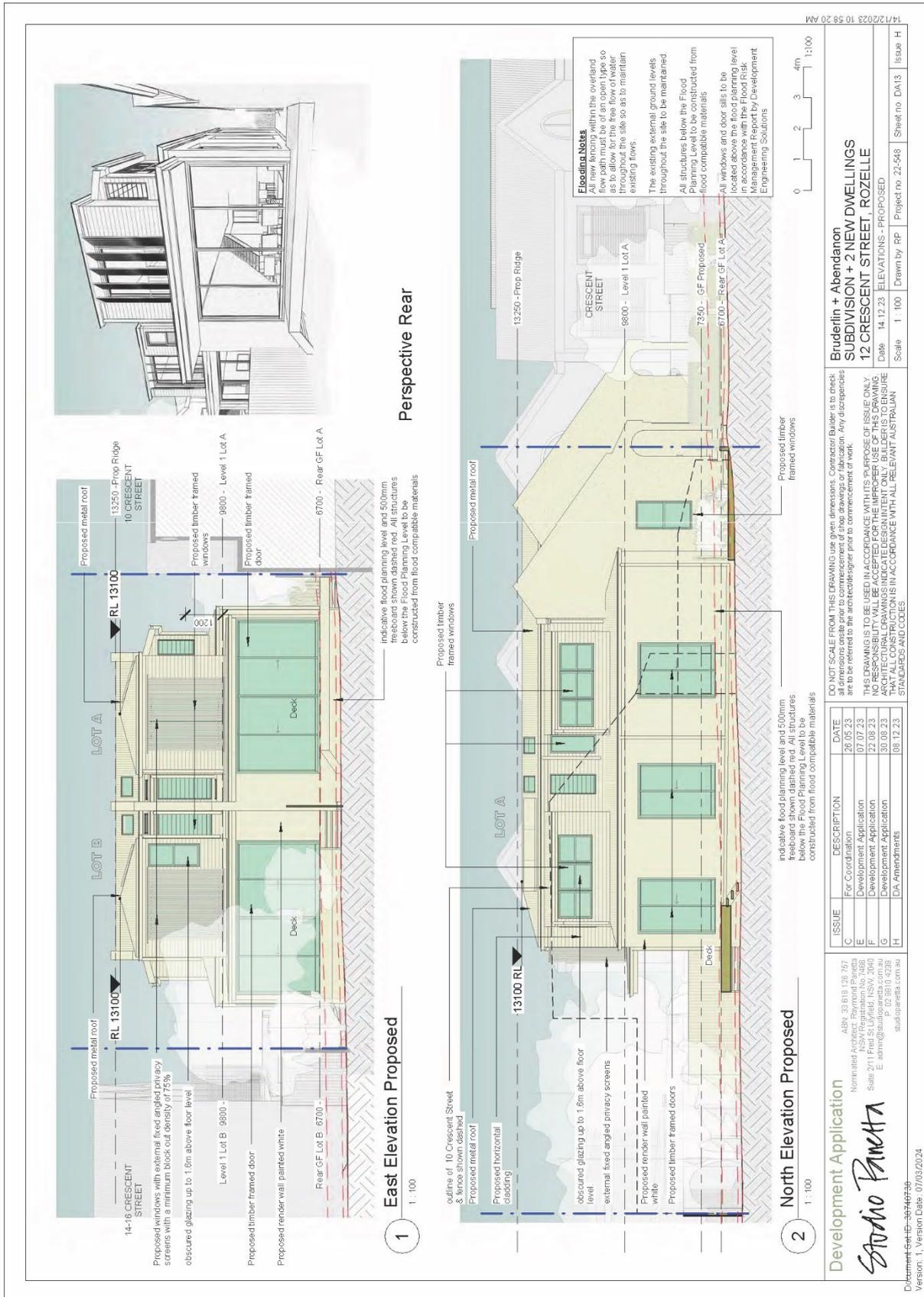
| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

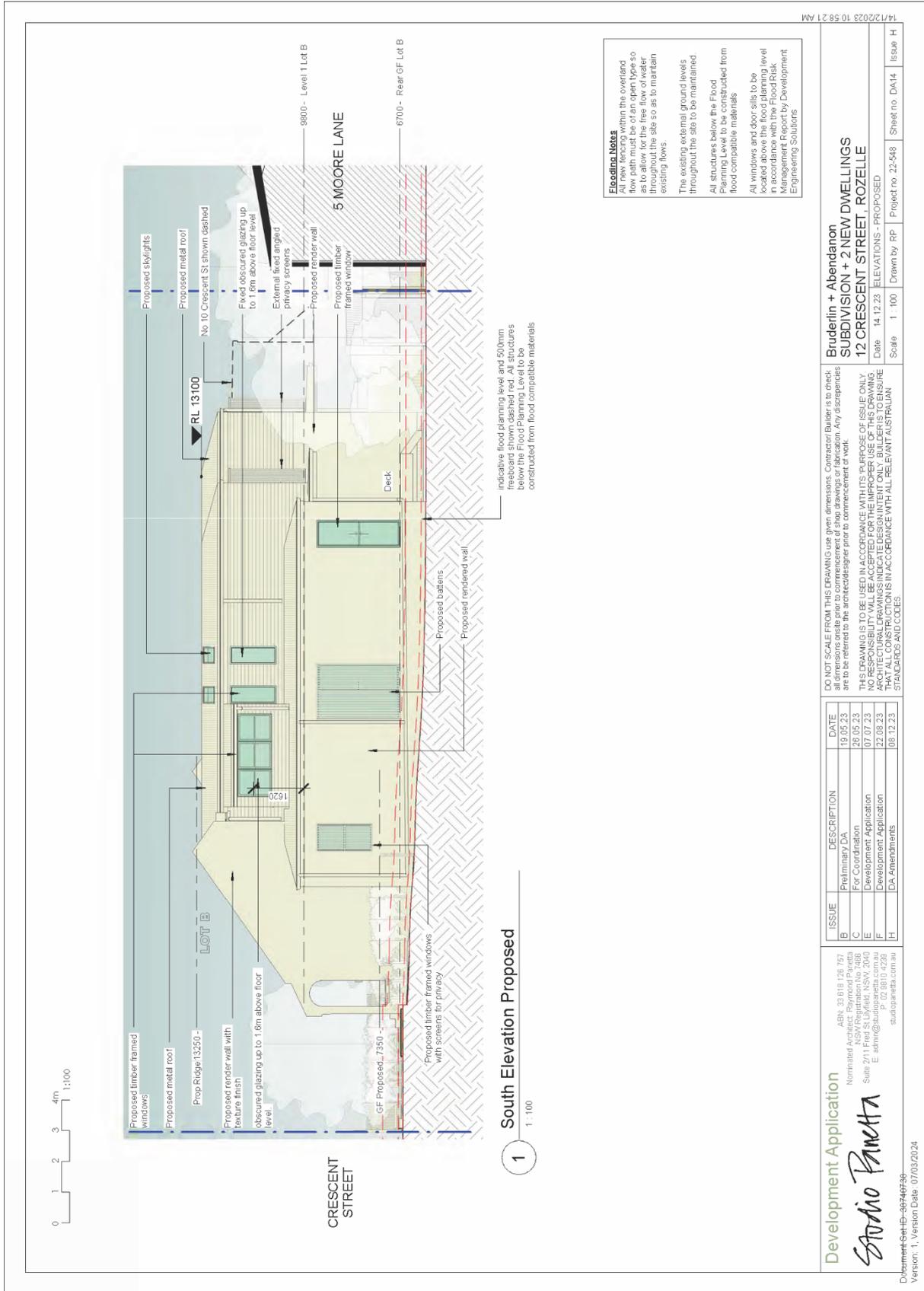
AS/NZS 2916:1987
Nominated Architect: Raymond Partridge
NSW Registration No: 74888
Site: 2/11 Princes Highway, Rozelle NSW 1585
E: adam@studiopancha.com.au
P: 02 9810 4238
studiopancha.com.au

Development Application
Studio Pancha

Document Size ID: 367467336
Version: 1, Version Date: 07/03/2024

Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
Date: 14.12.23 ELEVATIONS - PROPOSED
Scale: Indicated Drawn by: RP | Project no: 22-548 | Sheet no: DA12 | Issue: H





Floodplain Notes
 The existing external ground levels throughout the site to be maintained throughout the site so as to maintain existing flows.
 The existing external ground levels throughout the site to be maintained throughout the site so as to maintain existing flows.
 All structures below the Flood Planning Level to be constructed from flood compatible materials.
 All windows and door sills to be located above the flood planning level in accordance with the Flood Risk Management Report by Development Engineering Solutions.

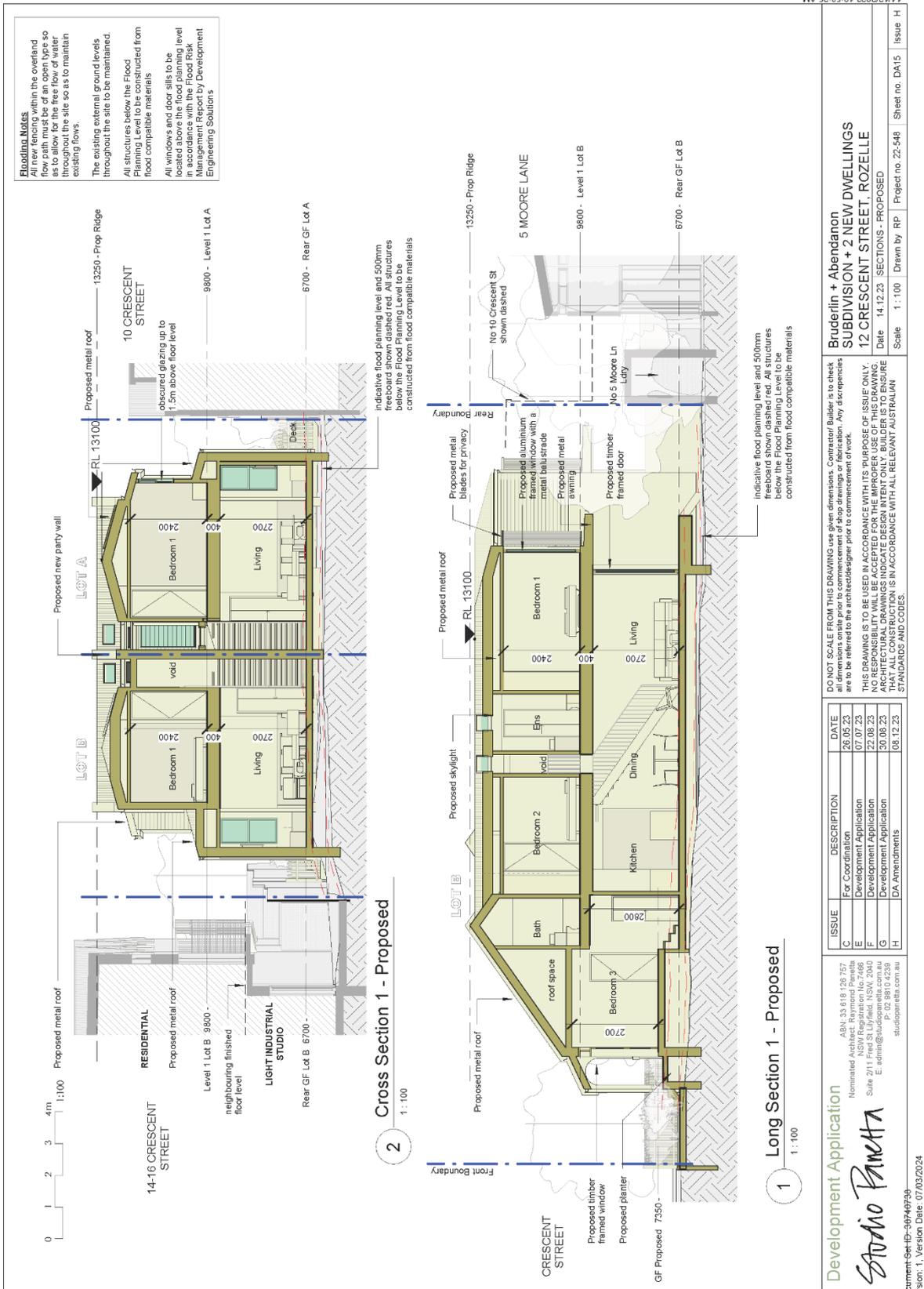
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| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
 AS/NZS 2916:198 767
 Nominated Architect: Raymond Panda
 NSW Registration No: 74881
 Site: 2/11 Fines Road, Newington NSW
 E: lpanda@studiopancha.com.au
 P: 02 8810 4238
studiopancha.com.au

Bruderlin + Abendanon
 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date: 14.12.23 ELEVATIONS - PROPOSED
 Scale: 1:100 Drawn by: RP | Project no: 22-548 | Sheet no: DA14 | Issue: H

Document Set ID: 36746736
 Version: 1, Version Date: 07/03/2024



14/12/2023 10:58:25 AM

Development Application
 AS/N 33,618 198 357
 Nominated Architect: Raymond Panetta
 NSIV Registration No: 7408
 Site 2/11, Fines Rd, Haberfield, NSW, 2040
 E: rpanetta@stapio.com.au
 P: 02 8816 4239
 stapio.com.au

Stapio Panetta

| ISSUE | DESCRIPTION | DATE |
|-------|-------------------------|----------|
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| G | Development Application | 30.08.23 |
| H | DA Amendments | 08.12.23 |

Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SECTIONS - PROPOSED
 Scale 1:100 Drawn by RP | Project no. 22-548 | Sheet no. DA15 | Issue H

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 ARCHITECTURAL DRAWINGS INDICATE DESIGN INTENT ONLY. BUILDER IS TO ENSURE CONFORMANCE WITH ALL RELEVANT AUSTRALIAN STANDARDS AND CODES.



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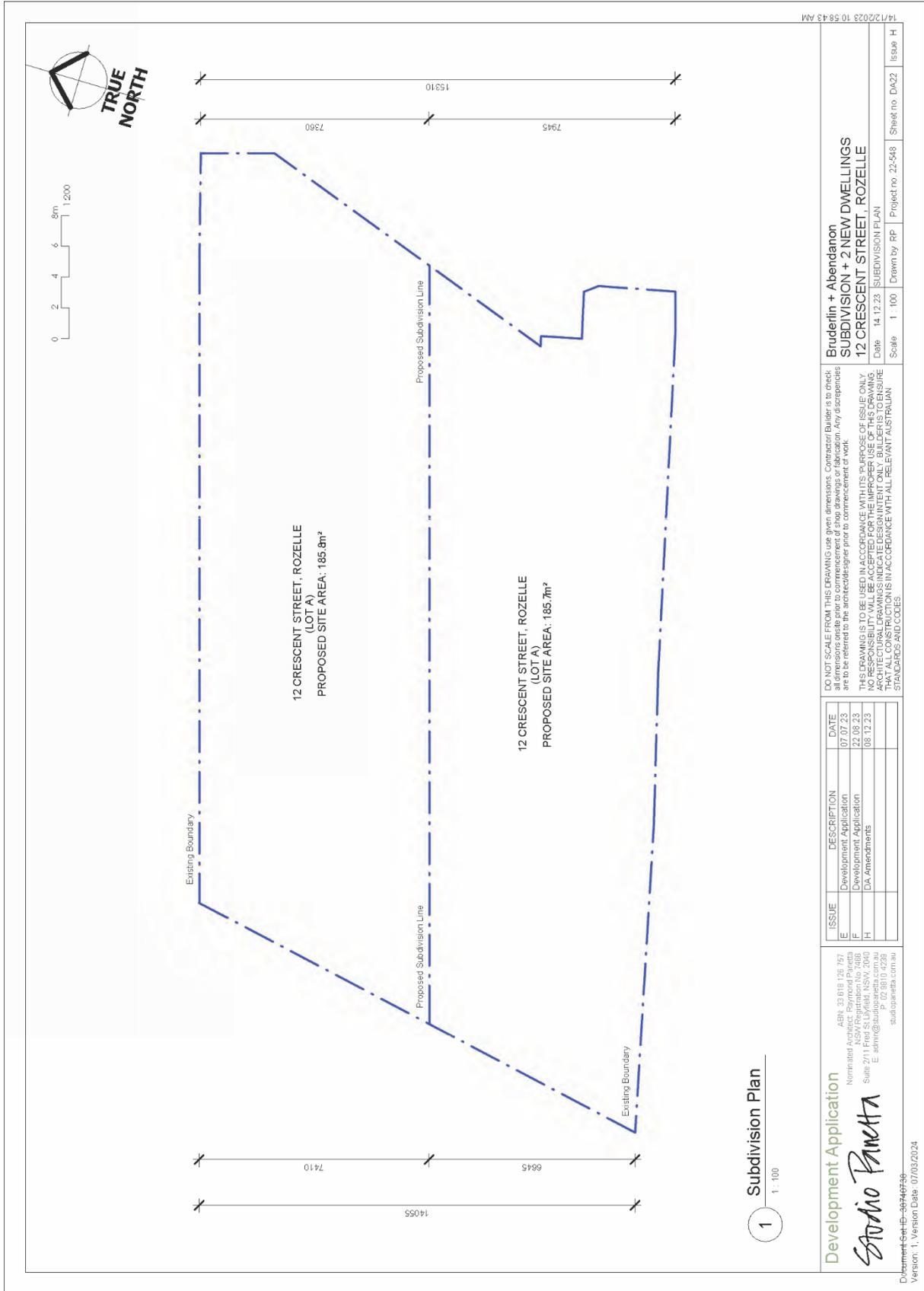
Bruderlin + Abendonon
SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 PERSPECTIVES
 Scale Drawn by RP Project no. 22-546 Sheet no. DA20 Issue H

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| B | Preliminary DA | 19.05.23 |
| C | For Coordination | 26.05.23 |
| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

Development Application
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 Document: 34r1b-34r1b06
 Version: 1, Version Date: 07/03/2024





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SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE

Date: 14.12.23
SUBDIVISION PLAN

Scale: 1:100
Drawn by: RP
Project no: 22-548
Sheet no: DA22
Issue: H

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| E | Development Application | 07.07.23 |
| F | Development Application | 22.08.23 |
| H | DA Amendments | 08.12.23 |

AS/NZS 2916:19 767
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Studio Pankata

Development Application

Document Set ID: 36746736
Version: 1, Version Date: 07/03/2024

- 1 Heritage Galvanised Corrugated sheeting (Roof)
- 2 Dulux Lexicon Quarter (Windows & Metal Blades)
- 3 Dulux Grey Pebble Half Render (Ground Walls)
- 4 Dulux Grey Pebble Half Textured Render (Front Walls)
- 5 Dulux Grey Pebble Half (cladding)
- 6 Aluminium Battens Powdercoated White (Rear portion of the house)



1 West Elevation - Materials and Finishes
1:100



3 East Elevation Proposed Material & Finishes
1:100



2 South Elevation Proposed Material & Finishes
1:100

Development Application

AS/NZS 2918:1987
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Studio Pancha

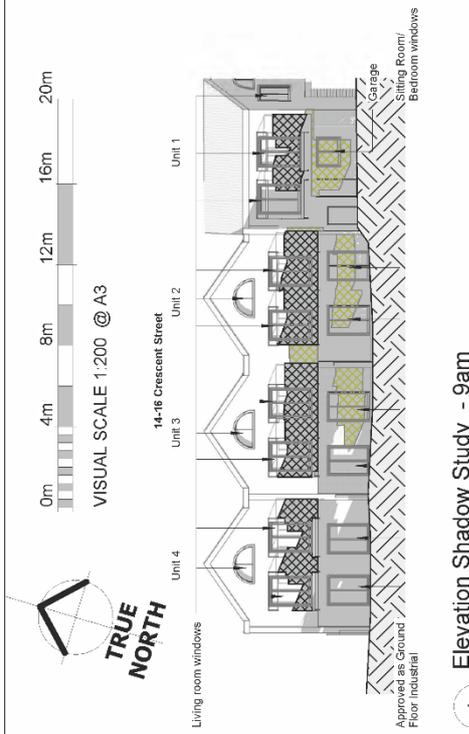
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Version: 1, Version Date: 07/03/2024

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SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
Date: 14.12.23 MATERIALS AND FINISHES
Scale: 1:100 Drawn by: RP | Project no: 22-548 | Sheet no: DA26 | Issue: H

14/12/2023 10:58:45 AM



1 Elevation Shadow Study - 9am

2 1:200

Shadow Study 21 June - 9am



3 1:200

Shadow Study 21 June - 10am



4 Elevation Shadow Study - 10am

Development Application

SADIA PANEHA

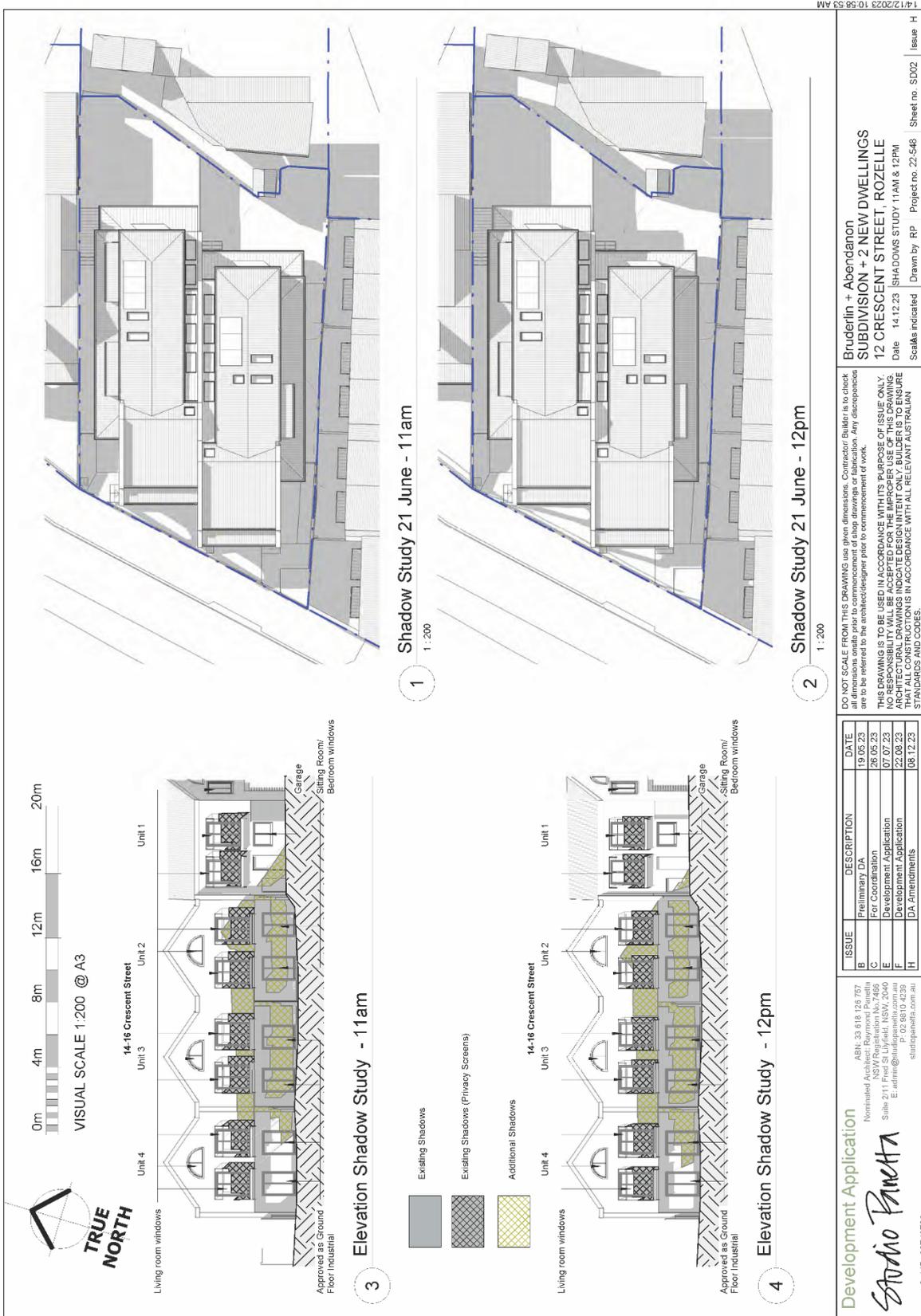
ABN: 29 618 158 372
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 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SHADOWS STUDY 9AM & 10AM
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Development Application
Studio Panetta

Document: 34r1b-36r46r36
 Version: 1, Version Date: 07/03/2024

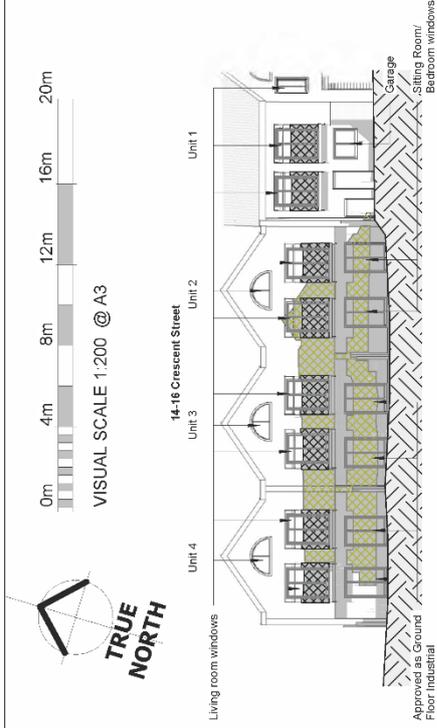
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 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date: 14.12.23 SHADOWS STUDY 11 AM & 12 PM
 ScaleAs indicated Drawn by: RP Project no: 22-546 Sheet no: SD02 Issue: H

1 Shadow Study 21 June - 11am
 1:200

2 Shadow Study 21 June - 12pm
 1:200

3 Elevation Shadow Study - 11am

4 Elevation Shadow Study - 12pm

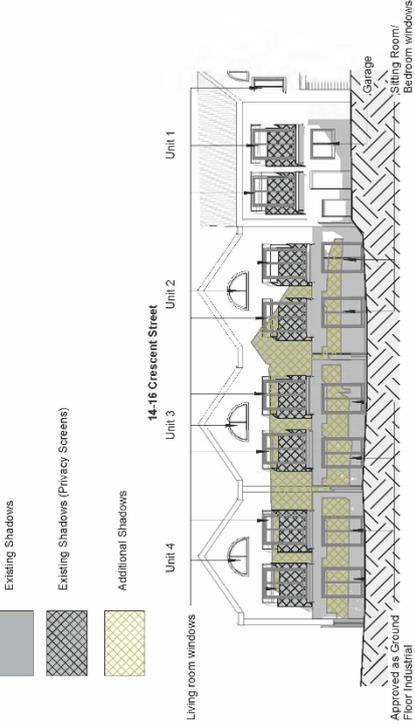


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3

1:200



2



4

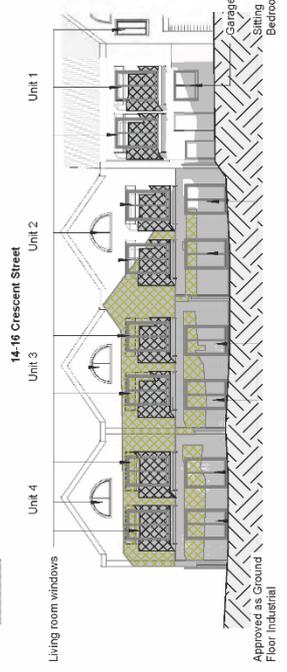
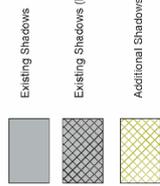
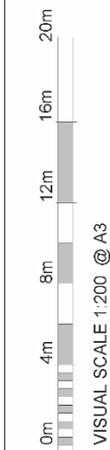
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Development Application
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 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SHADOWS STUDY 1PM & 2PM
 Scales indicated Drawn by RP Project no. 22-546 Sheet no. SD03 Issue H



1 Elevation Shadow Study - 3pm



2 Shadow Study 21 June - 3pm

1:200

Development Application

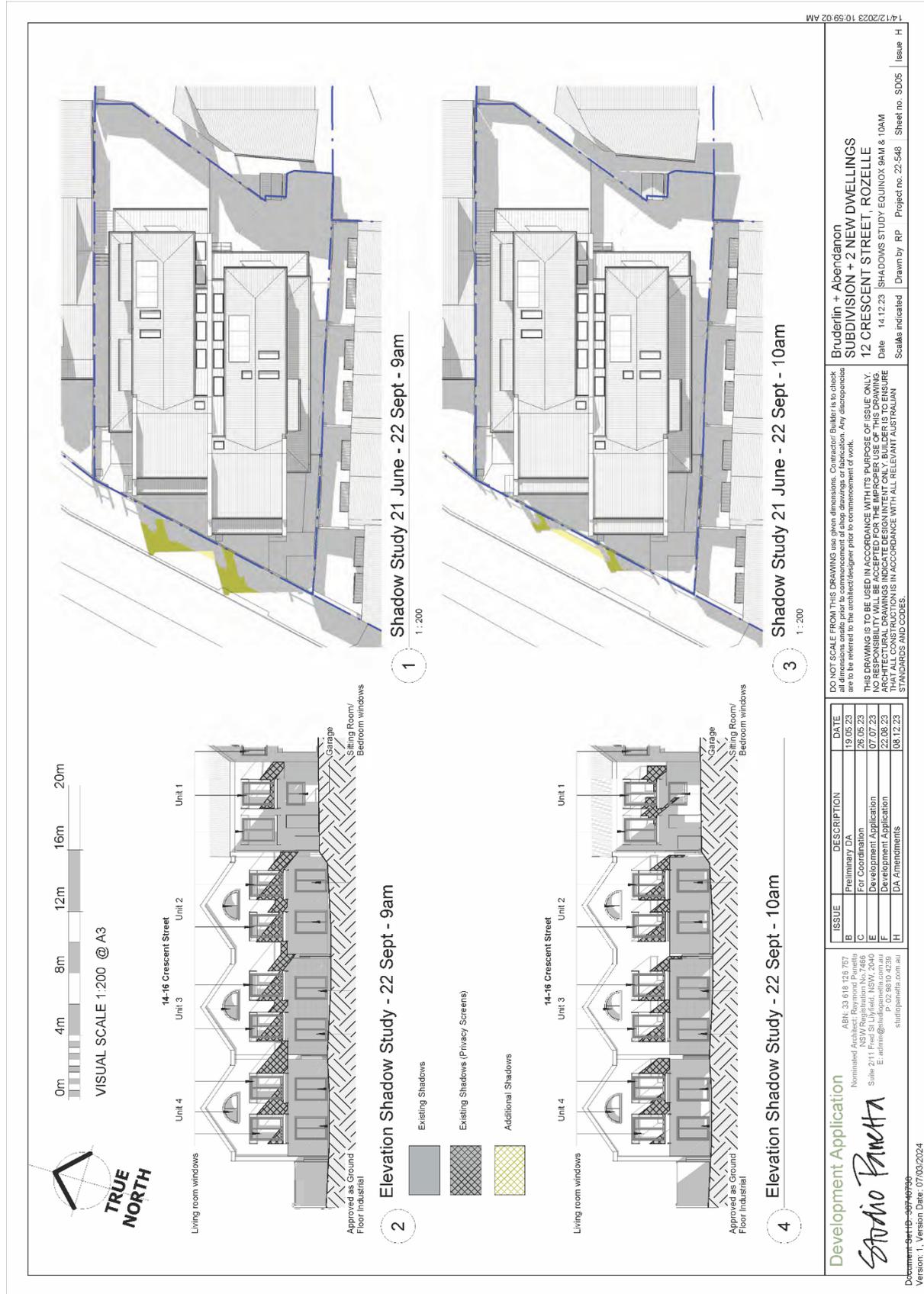
ASADIA PANEHA

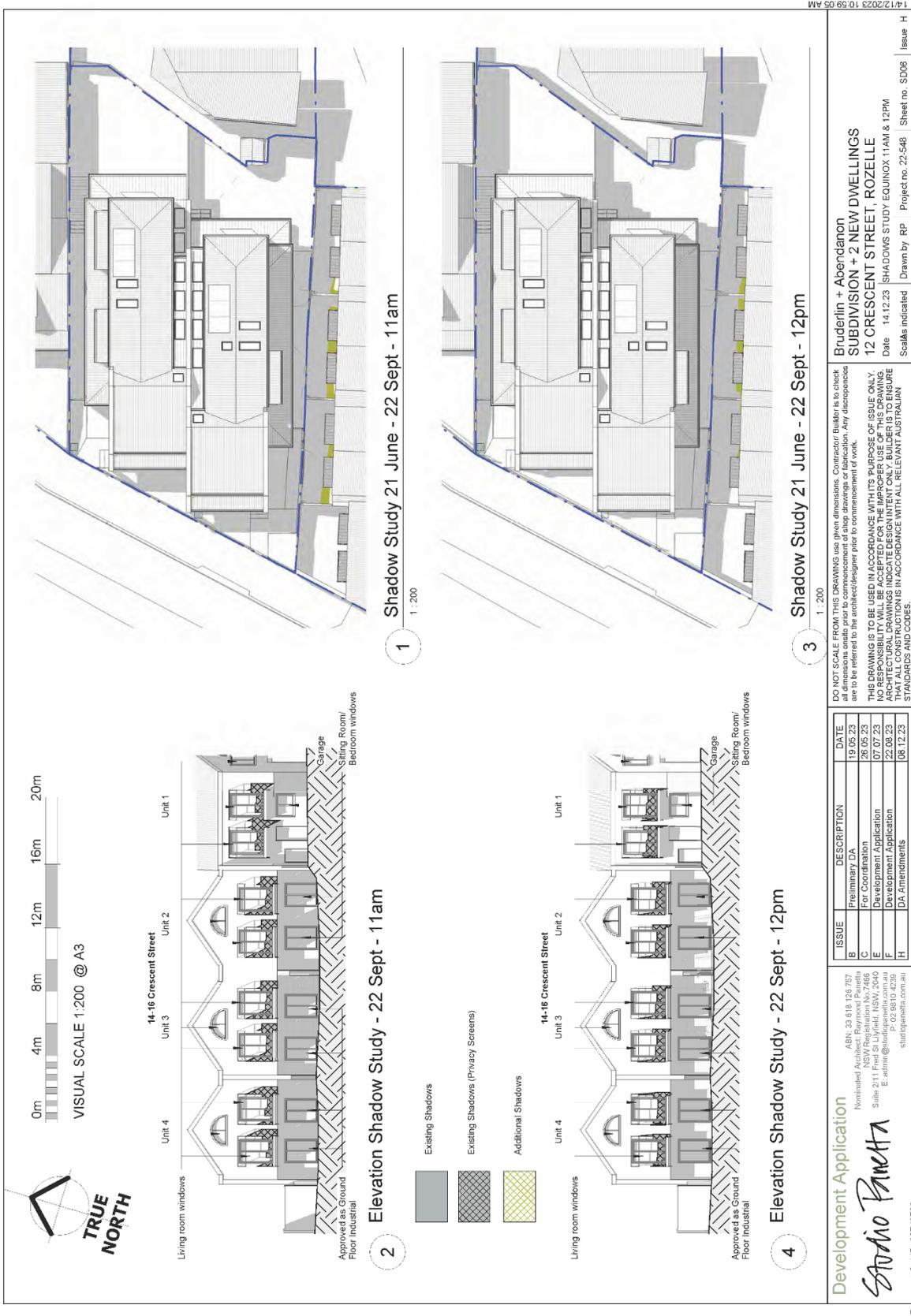
ABN: 29 618 158 372
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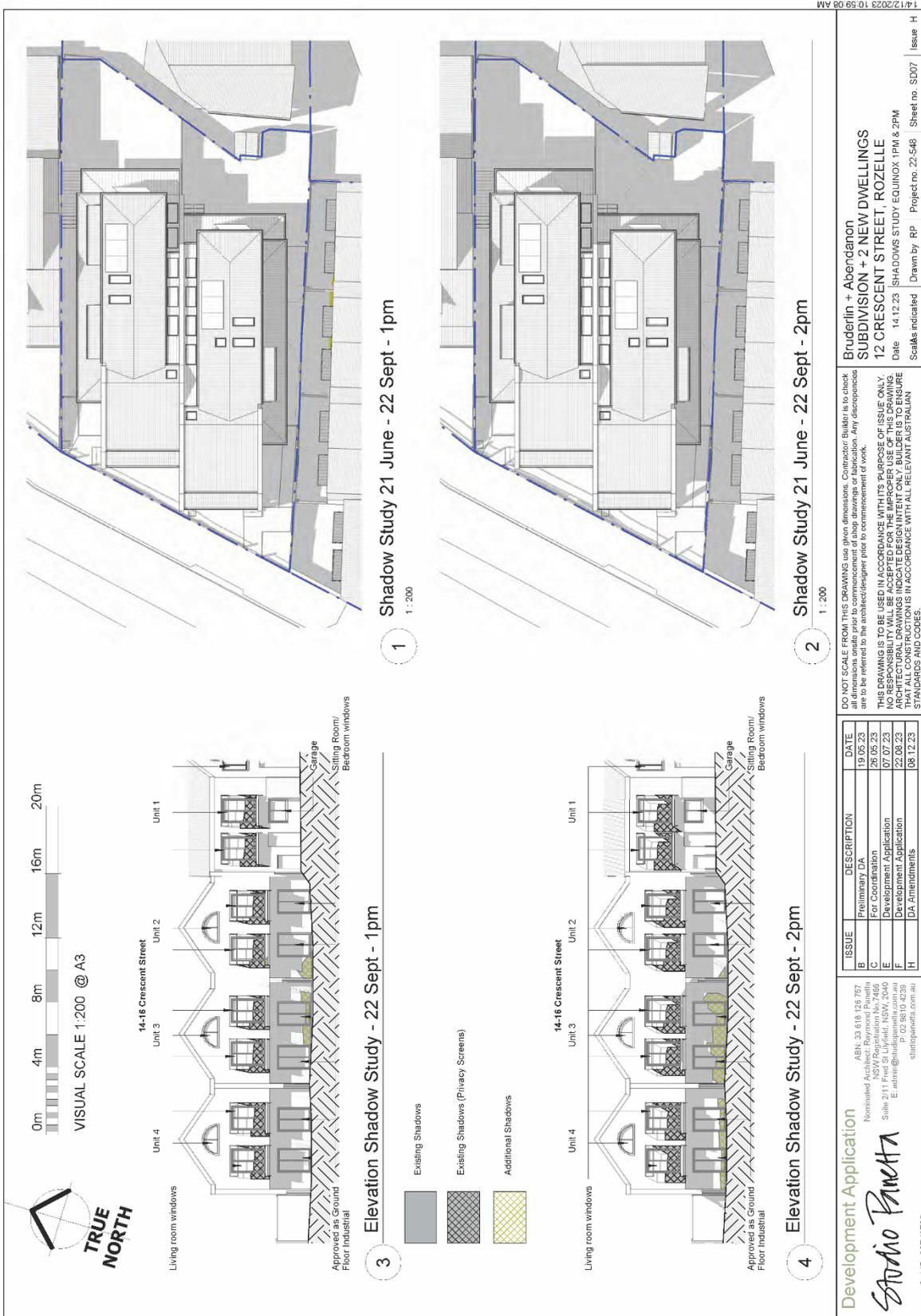
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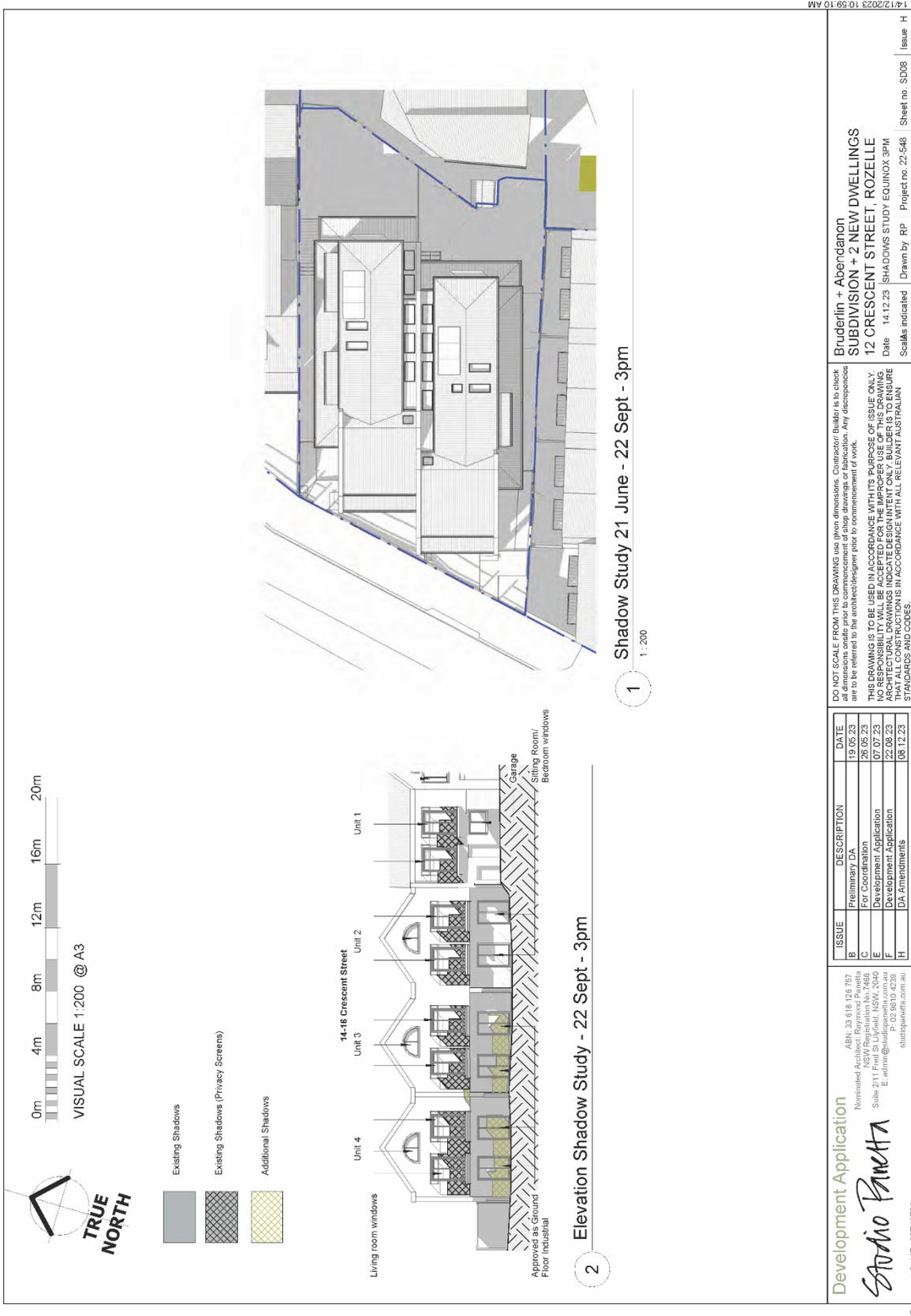
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Bruderlin + Abendanon
SUBDIVISION + 2 NEW DWELLINGS
12 CRESCENT STREET, ROZELLE
Date 14.12.23 SHADOWS STUDY 3PM
ScaleAs indicated Drawn by RP Project no. 22-546 Sheet no. SD04 Issue H









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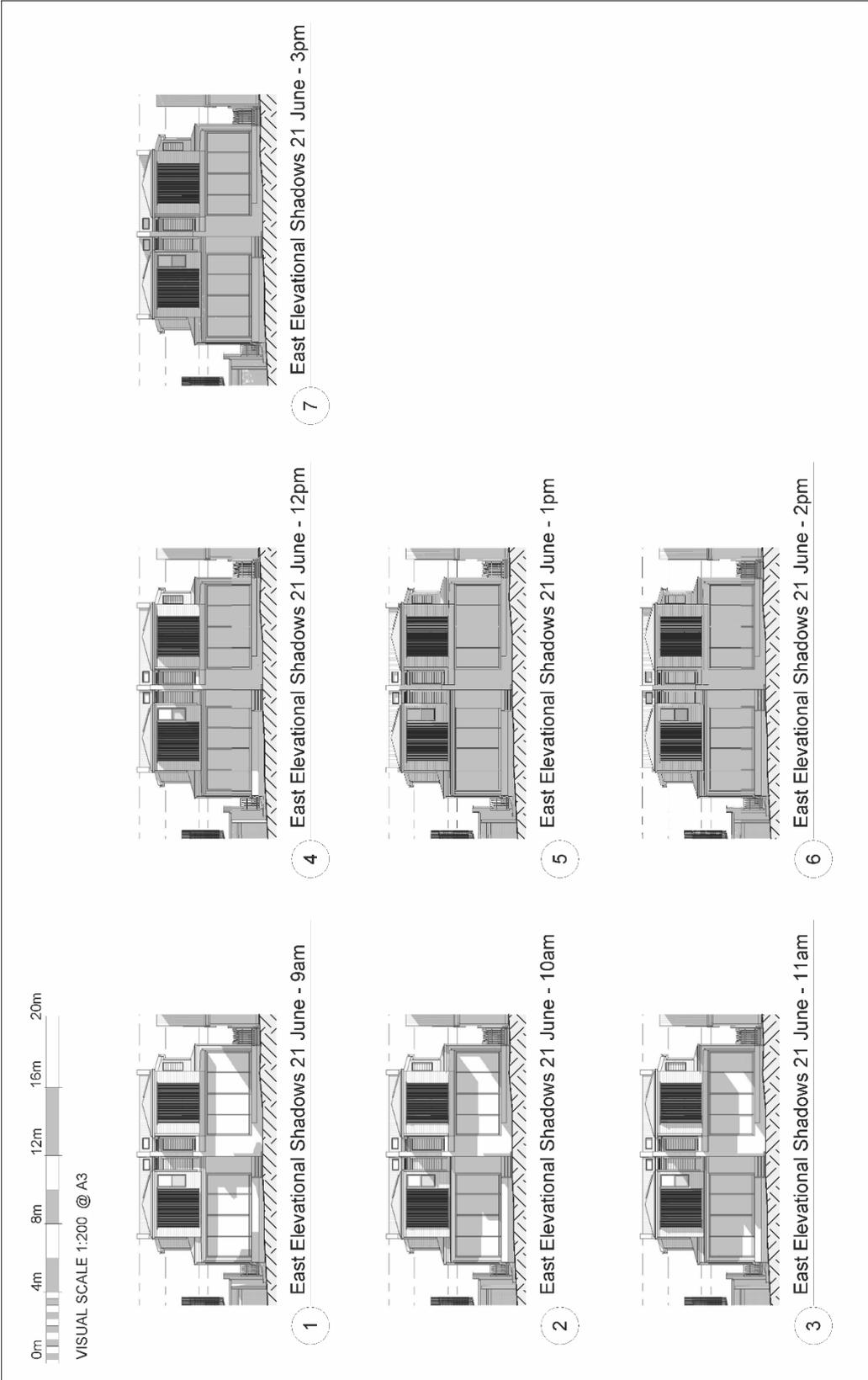
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Development Application
Studio Panetta
 Version: 1, Version Date: 07/03/2024

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 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date: 14.12.23 SHADOWS STUDY EQUINOX 3PM
 Drawn by: RP Project no.: 22-546 Sheet no.: SD08 Issue: H



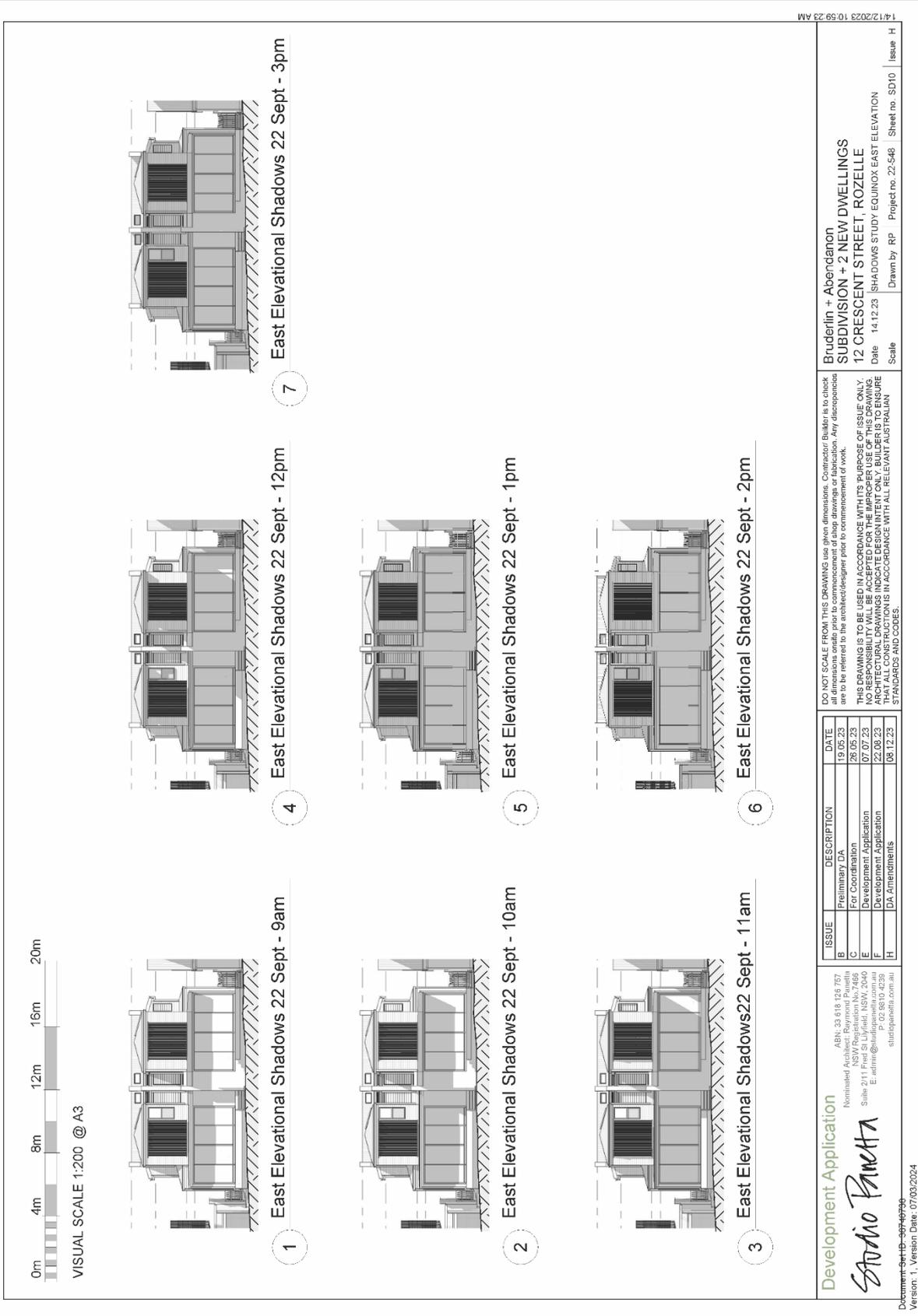
Development Application
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 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SHADOWS STUDY: EAST ELEVATION
 Scale Drawn by RP Project no. 22-548 Sheet no. SD09 Issue H

14/12/2023 10:59:17 AM



1
North Windows Lot A - Elevation Shadows- 21 June - 9am

2
North Windows Lot A - Elevation Shadows- 21 June - 10am

3
North Windows Lot A - Elevation Shadows- 21 June - 11am

4
North Windows Lot A - Elevation Shadows- 21 June - 12pm

5
North Windows Lot A - Elevation Shadows- 21 June - 1pm

6
North Windows Lot A - Elevation Shadows- 21 June - 2pm

7
North Windows Lot A - Elevation Shadows- 21 June - 3pm

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Development Application

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Studio Panels

Bruderlin + Abendenon
 SUBDIVISION + 2 NEW DWELLINGS
 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SHADOWS STUDY NORTH WINDOWS - LOT A
 Scale Drawn by RP Project no. 22-548 Sheet no. SD11 Issue H

Document: 34r1b-36746736
 Version: 1, Version Date: 07/03/2024

1 North Windows - Lot A - Elevation Shadows- 22 Sept - 9am

2 North Windows Lot A- Elevation Shadows- 22 Sep - 10am

3 North Windows Lot A- Elevation Shadows- 22 Sep - 11am

4 North Windows Lot A- Elevation Shadows- 22 Sep - 12pm

5 North Windows Lot A- Elevation Shadows- 22 Sep - 1pm

6 North Windows Lot A- Elevation Shadows- 22 Sep - 2pm

7 North Windows Lot A- Elevation Shadows- 22 Sep - 3pm

| ISSUE | DESCRIPTION | DATE |
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| H | DA Amendments | 08.12.23 |

Development Application

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Studio Parrella

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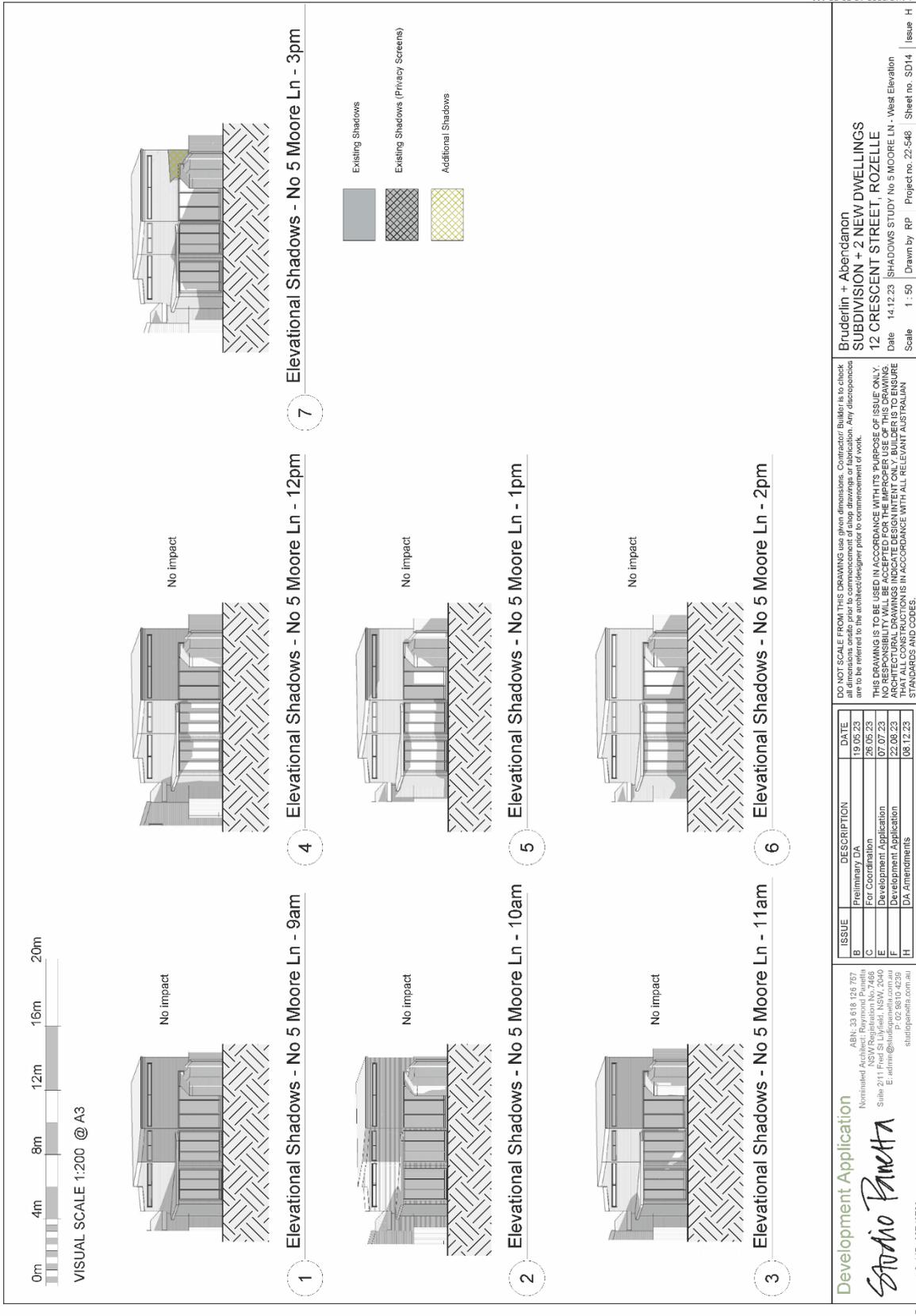
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 12 CRESCENT STREET, ROZELLE
 Date 14.12.23 SHADOWS STUDY NORTH WINDOWS - LOT A EQUINOX



Attachment C- Section 4.6 Exception to Development Standards

Appendix D Clause 4.6 Variation – Clause 4.1 Minimum
Subdivision Lot Size



**CLAUSE 4.6 VARIATION TO CLAUSE 4.1 – MINIMUM SUBDIVISION LOT SIZE
OF THE INNER WEST LOCAL ENVIRONMENTAL PLAN 2022**

12 CRESCENT STREET, ROZELLE

AUGUST 2023

1. Introduction

This submission seeks a variation to Clause 4.1 of the Inner West Local Environmental Plan 2022, which relates to minimum subdivision lot size.

This submission has been prepared in relation to a development application demolition of the existing dwelling and associated outbuildings; Torrens Title subdivision of the land into two allotments and the construction of two semi-detached dwellings at 12 Crescent Street, Rozelle.

As detailed in this written request for a variation to minimum subdivision lot size being a development standard under the Inner West Local Environmental Plan 2013, the development meets the requirements prescribed under Clause 4.6 of the Inner West Local Environmental Plan (LEP) 2022.

2. Site Background

The subject site is commonly known as 12 Crescent Street, Rozelle and is legally described as Lot A in Deposited Plan 347274. The subject site is located on the eastern side of Crescent Street and is bound by Mansfield Street to the north and Parsons Street to the south. The site is irregular in shape providing for a splayed frontage of 16.08 metres to Crescent Street, a northern side boundary of 24.18 metres, a southern side boundary of 27.425 metres and a highly irregular, staggered rear alignment with a combined length of 18.66 metres. The site provides a total area of 371.7m².

In terms of its topography, the subject site is generally flat.

Currently located on the subject site is a single storey residence. A detached carport adjoins the dwelling to the south. Landscaping is provided forward of the dwelling with a paved path leading to the front porch/entry of the dwelling. To the rear, the living room opens out to a timber deck and an area of landscaped private open space which wraps around the eastern and southern side boundaries. Tall, dense hedge planting is provided to the perimeter of the rear yard promoting visual privacy.

The locality is characterised by a mix of commercial, residential and industrial uses, consisting of an assortment of single storey and two storey dwelling houses, modern multi-unit infill developments and two storey commercial buildings.

The subject site is located in proximity to areas of public open space with Punch Park located approximately 750m (walking distance) to the northeast, Gladstone Park and Birrung Park are located further to the northeast. To the southwest is O'Connor Reserve, approximately 450m walking distance, and to the west is Stimson Reserve, approximately 450m walking distance. These spaces are suitable for facilitating a range of both active and passive recreation opportunities for residents within the community.

The site is also located nearby to local schools including Rozelle Public School (550m to the northwest), Balmain Public School (1.4kms to the northeast), Inner Sydney Montessori School (750m to the northeast) and Father John Therry Catholic Primary School (1.4kms to the

northeast). Smaller scale retail and commercial premises are also accessible along nearby Victoria Road and Evans Street with Balmain Hospital located to the northeast of the site.

Figure 1 Site Location Map



Source: Meccone Mosaic

In terms of public transport, bus services are available on nearby Robert Street and Victoria Road and are also within 400m of the future Bays West Metro offering connections to a more expansive public transport network and nearby suburbs.

The site is zoned R1 General Residential as demonstrated in the figure below.

Figure 2 Zoning Map



Source: Planning Portal (digital mapping)

3. Clause 4.6

This submission is made under Clause 4.6 of the Inner West LEP 2022 – Exceptions to development standards. Clause 4.6 states the following:

“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 a 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 Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning 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 Planning Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).**
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:**
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4,*
 - (caa) clause 5.5,*
 - (ca) clause 6.27(4),*
 - (cb) clause 6.28,*
 - (cc) clause 6.29,*
 - (cd) clause 6.31."*

The use of Clause 4.6 to enable an exception to this development control is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been fulfilled in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- 4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.*

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (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*

This submission has been prepared having regard to the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- ***Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1')***
- ***Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2')***
- ***Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3')***
- *Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;*
- *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and*
- *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.*

The Environmental Planning Instrument to which these variations relate to is the Inner West LEP 2022.

The development standard to which this variation relates to is Clause 4.1 – Minimum Subdivision Lot Size which reads as follows:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure lot sizes cater for a variety of development,*
 - (b) *to ensure lot sizes do not result in adverse amenity impacts,*
 - (c) *to ensure lot sizes deliver high quality architectural, urban and landscape design,*
 - (d) *to provide a pattern of subdivision that is consistent with the desired future character,*
 - (e) *to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.*
- (2) *This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.*
- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*
- (4) *This clause does not apply in relation to the subdivision of any land—*
- (a) *by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or*
 - (b) *by any kind of subdivision under the Community Land Development Act 1989.*

Council's maps identify a minimum subdivision lot size on the site of 200m². Refer to Figure 3.

Under the proposed Torrens title subdivision, the proposed lot sizes are as follows:

- Proposed Lot A: 185.8m²
- Proposed Lot B: 185.7m²

A written justification is justly required for the proposed variation to the minimum subdivision lot size development standard, in accordance with Clause 4.6 of the Inner West LEP 2022.

Figure 3: Minimum Lot Size Map



Source: NSW Legislation, IWLPE22, map 07.

4. Extent of Non-Compliance

As noted above, Clause 4.1 of the Inner West LEP 2022 states that the minimum subdivision lot size for the site is 200m².

The subject site has a total area of 371.7m². It is sought to Torrens title subdivide the property to facilitate semi-detached dwellings.

The proposed Torrens title lots will provide for the following areas:

- Lot A: 185.8m²
- Lot B: 185.7m²

Given the minimum lot size of 200m², the proposal falls short of the requirements as summarised below.

- Lot A: 14.2m² or 7.1%
- Lot B: 14.3m² or 7.15%

It is our submission that the variation is in keeping with the subdivision pattern of the area. The breach of the minimum subdivision lot size will not unreasonably impact the capacity of the lots to provide dwellings of appropriate amenity or compromise the amenity of adjoining properties. Compliance with the standard is therefore unreasonable in this instance.

5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established

by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

In the matter of Four2Five, the Commissioner stated within the judgement the following, in reference to a variation:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

| | |
|---------------|--|
| First | <i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i> |
| Second | <i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i> |
| Third | <i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i> |
| Fourth | <i>A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. (not applicable)</i> |
| Fifth | <i>A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i> |

In respect of the minimum subdivision lot size standard, the first method is invoked.

The objectives supporting the minimum subdivision lot size control identified in Clause 4.1 are discussed below. Consistency with the objectives and the absence of any environmental impacts would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.1.

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

(a) to ensure lot sizes cater for a variety of development,

The proposed semi-detached dwellings are a permissible form of development in the zone and is consistent with the residential character of the locality. As a broadly applicable standard across

the locality, the proposed residential use of the land fulfils the intended purpose and function to provide a variety of development.

(b) to ensure lot sizes do not result in adverse amenity impacts,

The proposed semi-detached dwellings and the associated Torrens title subdivision are a development of a scale and character compatible with, and consistent with, the prevailing character of the street. The design of the dwellings has emphasised outlooks to the front and rear, limiting potential overlooking concerns. The development will cast additional overshadowing associated with the uplift of density on the property.

As demonstrated in the Section Plan prepared by Studio Panetta, the majority of the proposal complies with the building envelope control. It is noted that the proposed verandahs are proposed parallel to the dwellings and as such do not follow the angled frontage of the front boundary line. While this results in the verandah sitting slightly forward in the northern part of the site, this is due to the shape of the allotment. Notwithstanding this, the proposal however retains the intent of the control with the second storey concealed within an attic space as viewed from Crescent Street.

The variation to the development standard has not resulted in more onerous or unreasonable amenity impacts.

(c) to ensure lot sizes deliver high quality architectural, urban and landscape design,

The proposed semi-detached dwellings have been architecturally designed to be compatible with the prevailing architectural character of development in the heritage conservation area streetscape. A simplicity in detailing is adopted, transposing key elements while maintaining a contemporary design approach. The built form has been supported by the Statement of Heritage Impact prepared by Weir Phillips.

A front garden is proposed that is consistent with the streetscape, both immediately adjoining and across the broader conservation area. The rear yard, though not visible from the street, generally aligns with the pattern of the rear yards along the eastern side of Crescent Street.

The variation to the minimum subdivision lot size development standard has not precluded a positive development outcome on the site.

(d) to provide a pattern of subdivision that is consistent with the desired future character,

The proposed lot sizes of 185.8m² and 185.7m² are considered to be consistent with the desired future character, which is informed by the existing pattern of development. Figure 4 below shows the cadastral pattern of Crescent Street, with the site identified by the blue pin.

Figure 4: Subdivision pattern



Source: Mecone Mosaic

The table below details the existing lot sizes and frontages in the immediate vicinity of the subject site.

Nos. 14-16 Crescent Street have been excluded from this assessment as they are strata subdivided adaptive re-use of industrial buildings and are broadly out of character with the rest of the streetscape and conservation area.

| Street Number | Lot Size (m ²) |
|--------------------|----------------------------|
| 23 Crescent Street | 129 |
| 21 Crescent Street | 131 |
| 19 Crescent Street | 131 |
| 17 Crescent Street | 110 |
| 15 Crescent Street | 127 |
| 13 Crescent Street | 117 |
| 11 Crescent Street | 119 |
| 9 Crescent Street | 106 |
| 7 Crescent Street | 115 |
| 5 Crescent Street | 108 |
| 3 Crescent Street | 156 |
| 1 Crescent Street | 158 |
| 10 Crescent Street | 205 |
| 8 Crescent Street | 177 |
| 6 Crescent Street | 190 |
| 4 Crescent Street | 190 |
| 2 Crescent Street | 130 |
| AVERAGE | 141.12m² |

As detailed above, the average of the 17 allotments along Crescent Street is 141.12m². The proposed 185.8m² and 185.7m² allotments are consistent with the prevailing lot size for this section of the heritage conservation area and Crescent Street. Reference is specifically made to development immediately opposite the subject site being Nos. 5 – 23 Crescent Street, Nos 2, 4 and 6 Crescent Street to the north of the subject site and Nos. 18A and 20 Crescent Street to the south. The lots provide for semi-detached dwellings in keeping with the character of the proposed development being sought on the subject site.

Further analysis of nearby lot sizes along Mansfield Street, also within the conservation area, yields a similar lot pattern and size result.

As demonstrated in Figure 4 above, the subject site is an anomaly in the street providing for a substantial 16.08 metre width. Lots in the area generally range from 4 – 8m. Under the proposed subdivision, the proposed lots will align with the existing character, particularly for lots on the eastern side of the street through the provision of lots approximately 8m in width. Semi-detached dwellings and smaller allotments are prevalent in the surrounding streets, particularly on Mansfield Street, noting Council has recently approved the subdivision of 79 Mansfield Street which provides for lot sizes of 188m² and 190.5².

In view of this, it is submitted that the subdivision of this property would create an allotment that reinforces the subdivision pattern which is consistent with the desired future character.

(e) to ensure lot sizes allow development to be sited to protect and enhance riparian and environmentally sensitive land.

The site is not identified as being proximate to or containing any riparian or environmentally sensitive land.

It is submitted that the above demonstrates that the development will maintain consistency with the objectives of the zone, satisfying the first method of *Wehbe*. As such, compliance with the development standard is unreasonable and unnecessary.

6. Are there Sufficient Environmental Planning Grounds?

The assessment above, and in the Statement and Environmental Effects and shown throughout the supporting documentation demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

As required by Clause 4.6 (3)(b), it must be demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed minimum subdivision lot size variation has demonstrably not resulted in a diminished residential amenity outcome as a result of the non-compliance. Further, the variation has not compromised the development by way of additional breaches to development standards or key DCP controls.

Consequently, despite the proposed lot sizes falling below the development standard, each proposed lot is capable of accommodating a dwelling that is not undersized or in any other way diminished in amenity.

As has been established in the previous section, the character of the locality includes numerous lot sizes below the development standard. These examples are of varying age, but the character of the area is for smaller lots than those proposed, with the proposed sizes exceeding the average.

In view of the above, the proposal has addressed the site constraints, streetscape character, and architectural and aesthetic characteristics, and is consistent with the objectives of the development standard.

The proposal results in a development that provides for an orderly and economic use of the land.

In this case, strict compliance with the development standard for minimum subdivision lot size in the Inner West LEP 2022 is unnecessary and unreasonable and there are sufficient environmental planning grounds to support contravention of the standard.

7. Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 6.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.1.

The proposed built form and lot sizes contextually have regard to the surrounding properties and the dwellings have provided good internal and external amenity, room sizes, open space and landscaping for the amenity of future residents without notable impacts to adjoining properties.

Furthermore, it is important to also consider the objectives of the R1 General Residential zone in relation to the development, which are:

Zone R1 General Residential

Objectives of zone

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide residential development that maintains the character of built and natural features in the surrounding area.*

The following comments are provided in response to the objectives:

- The proposal will provide for the housing needs of the community by increasing the density of the subject site through the proposed Torrens Title subdivision into two (2) lots and the construction of semi-detached dwellings on each resultant lot. The site is well located to local amenities including public open space, local schools and public transport services and is capable of supporting the increased density.
- The proposal will provide for two (2) x three (3) bedroom dwellings on the site, catering to families.
- There are no other land uses proposed as part of this application.
- The proposal is compatible with the existing and desired character of the locality. The existing dwelling detracts, rather than contributes to the heritage conservation area. The proposed works tie in with the form and character of existing dwellings along Crescent Street which include a prevalence of single storey attached dwellings amongst its diverse building typologies. The proposal demonstrates compliance with key development standards including landscaping, site coverage, floor space ratio notwithstanding a minor shortfall in the proposed lot sizes. This demonstrates a balance of built form to open space can be maintained regardless of the variation. The assessment provided in Appendix B of this report further demonstrates compliance with key controls including private open space and solar access ensuring a high level of amenity is attainable to the proposed dwellings.

The proposal, therefore, satisfies the objectives of the zone. The minimum subdivision lot size variation has not precluded consistency with any of the objectives.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard, noting the development will be in the public interest.

8. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard. The variation in the minimum subdivision lot size is consistent with the subdivision pattern in the immediate area. No notable adverse negative impacts to the development itself or its adjacent properties will occur due to the variation.

The proposal provides for the orderly and economic development of the site. Given the **site's** orientation, location and context it is considered that the site is well suited for the subdivision.

The subdivision is consistent with the current planning controls such as the FSR, landscaped area and site coverage standards.

The built form has been designed to be compatible with the streetscape, ensuring a positive development outcome for the site and the existing and desired future character of the area. This is reinforced by the Statement of Heritage Impact submitted with the application.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

It is considered that the public is not impacted in any way by maintaining the standard.

9. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 5 to 7 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the Inner LEP 2022 in that:

- ❑ Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- ❑ There are sufficient environmental planning grounds to justify the departure from the standards;
- ❑ The development meets the objectives of the standard to be varied (minimum subdivision lot size) and objectives of the R1 General Residential zoning of the land;
- ❑ The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- ❑ The breach does not raise any matter of State or Regional Significance; and
- ❑ The development submitted aligns with the predominantly residential nature of the neighbourhood.

Based on the above, the variation is considered to be well founded.

10. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the **applicant's written request referred to in subclause (3)**.
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (caa) clause 5.5,
- (ca) clause 6.27(4),
- (cb) clause 6.28,
- (cc) clause 6.29,
- (cd) clause 6.31."

This variation does not relate to the subdivision of land in the stated land use zones. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate is not required for this application.

Clauses 5.4, 5.5, 6.27(4), 6.28, 6.29 and 6.31 are not relevant to this Clause 4.6 variation request.

11. Conclusion

The proposal does not strictly comply with the minimum subdivision lot size control as prescribed by Clause 4.1 of the Inner West LEP 2022. Having evaluated the likely effects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the Inner West LEP 2022 are satisfied as the breach of the development standard does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and the use of Clause 4.6 of the Inner West LEP 2022 to vary this development control is appropriate in the context of the case.

Based on the above, it is sensible to conclude that strict compliance with the minimum subdivision lot size is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Should you have any questions, please do not hesitate to contact me.

Melissa Rodrigues
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GAT & Associates
Plan 4539

Attachment D – Statement of Heritage Significance

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Area 12 The Valley (Rozelle and Balmain)

Landform

This conservation area comprises a large but tightly formed valley which falls south and east from the Darling Street ridge towards White Bay affording enclosed views to industrial workings of the port city in the bay.

It includes a number of subdivisions/part subdivisions around the highest land in the Leichhardt Municipality on either side of the Darling Street ridge and across Victoria Road. It includes land east of Wellington Street to White Bay. It also includes the civic buildings and the commercial zone of Rozelle on both sides of Victoria Road, the land east of the Darling Street ridge beyond the commercial zone, the civic and commercial buildings of Balmain retail centre, small groups of shops along Darling Street and the former retail area of Evans and Beattie Streets.

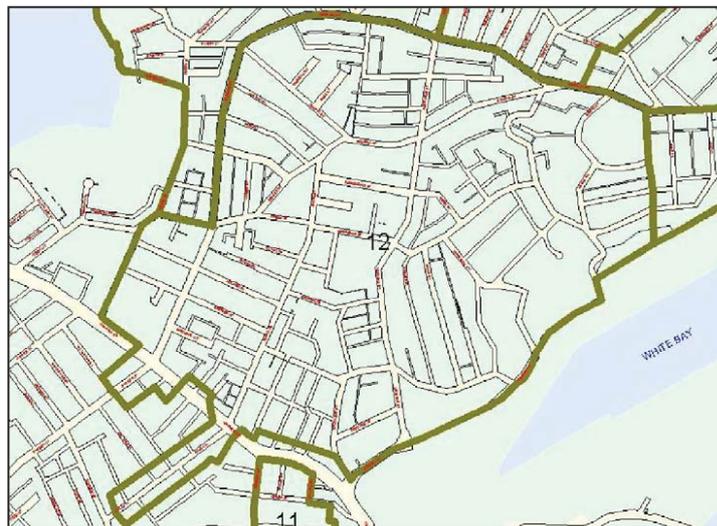


Figure 12.1 The Valley Conservation Area Map.

History

When sales of John Gilchrist's Balmain 550-acre grant were resumed in 1852, Surveyor Charles Langley subdivided the remaining acres into 46 (later 47) sections, using existing routes such as Darling Street, and other contour-hugging tracks, such as Beattie Street and Mullens Street to delineate the parcels. The sections were purchased over the next thirty years by wealthy investors, local speculators and builders.

The largest of the estates put together from Langley's subdivisions was the 19 acres of the Merton Estate purchased by piano importers Paling and Starling, druggists George and Frederick Elliott and estate agent Alfred Hancock. It occupied the land between Terry Street and Evans Street. It was subdivided by its owners into 197 allotments generally 30ft x 100ft with 50ft-wide grid

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pattern of roads, and was auctioned by local agent and developer, Alfred Hancock from 1874.

A miscellaneous collection of service and consumer trades servicing these new dwellings appeared along Evans Street in the 1870s making it the main commercial thoroughfare along the upper reaches of the Balmain peninsula.

By the 1880s the growth of industry, including noxious industry, in White Bay and along Whites Creek, made the south and east-facing slopes of the Darling Street ridge unattractive for a more affluent residential market. Those who could find employment in these industries would seek housing within walking distance, as public transport – then the horse drawn bus or later the steam tram – were too expensive. Canny speculators, such as Hancock (later Mayor of Balmain) sold to small builders who constructed very dense workers' housing for rentees or purchasers on small budgets. By 1891 a large part of this area had been built upon.

The arrival of the government-owned steam tram at the junction of Darling Street and Victoria Road in 1892, provided relatively more affluent residents along its route with transport to the city, and a greater choice of employment away from places within immediate walking distance from home. The advent of the tramway probably explains the major impetus to growth in the area particularly to the west of Evans Street, so that in the 1890s much of Terry, Wellington, Merton and Nelson Streets were built upon with one-storey brick semis, pairs or small groups of terraces (two to an allotment) and double-fronted single-storey houses (one to an allotment). Most of these buildings were constructed by local builders such as Robert Gordon, William Whitehorn and James Gibson, whose small-scale operations are indicated by the small groups of similar houses or terraces.

From the 1850s, Booth's Saw Mill on White Bay provided a cheap source of timber and weatherboards, promoting weatherboard houses as the norm for workers' housing throughout Balmain until brick terrace housing became prevalent in the late nineteenth century.

The extension of the steam tram service along Darling Street by 1900 encouraged shopkeepers to relocate there to catch the passing trade, and Evans Street was superseded as a commercial centre.

The Metropolitan Detail Survey Sydney Water Archive¹ suggests that almost all the land east of Wellington Street was built upon by 1905.

By 1907 the precinct was generally known as Rozelle.

Sources

Solling, M and Reynolds, P 1997, 'Leichhardt: on the margins of the city', *Leichhardt Historical Journal*, Vol. 22, Allen and Unwin.

Further information provided by Max Solling.

Significant Characteristics

- Contour hugging main roads – Evans, Beattie and Reynolds.

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- Outline of subdivisions, size and aspect of allotments, determined by route of main roads.
- Wider residential roads off Darling Street ridge, with grid subdivision pattern, but
- Generally narrow roads between main access roads.
- Narrow, often shallow allotments.
- Back lanes are rare.
- Dense urban environment.
- Continuous lines of buildings create sharply defined lineal spaces.
- Buildings stepped up and down hill, following the topography.
- Houses sited close to road near Darling Street ridge; and sited onto the road alignment nearer to White Bay.
- Small front gardens near Darling Street; there are fewer gardens towards White Bay.
- Tree planting is minimal except where wider main access roads provide enough room – Langley, Roseberry, Llewelyn and Reynolds Street.
- Large stands of trees in parks and open spaces.
- Small range of housing types: single-fronted, single-storey timber terraces, two-storey terraces, free-standing timber or stone single-storey cottages.
- Some larger villas on high land around Smith Street, and more generous terraces in similar locations.
- Scale predominantly limited to one or two storeys.
- Pubs with verandahs act as punctuation marks in the streetscape.
- Corner stores.
- Commercial premises (and former commercial premises) with attached dwellings along Evans and Darling Streets.
- Small industrial/warehouse buildings occur throughout the area.
- Variety of materials – large number of timber, plastered brick, some later (1890s+) face brick and a few stone buildings.
- Roof materials vary – iron is common, terracotta tiles, some slate.
- Stone retaining walls.
- Remnants of iron palisade fences define some street frontages.
- Suspended awnings to commercial facades along Darling and Evans Streets.
- Sandstone kerbs and gutters.

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Statement of Significance or Why the Area is Important

- One of a number of conservation areas which collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important for illustrating development for workers' and artisan housing particularly from 1871-1891 which forms the major element of its identity. It is significant for its surviving development from that period and the later infill development up to World War II (ie pre-1939).
- Retains evidence of all its layers of growth within that period from the late-1870s.
- Through its important collection of weatherboard buildings, including the now rare timber terraces, it continues to demonstrate the nature of this important/major construction material in the fabric of early Sydney suburbs, and the proximity of Booth's saw mill and timber yards in White Bay.
- Through the mixture of shops, pubs and industrial buildings it demonstrates the nature of a Victorian suburb, and the close physical relationship between industry and housing in nineteenth century cities before the advent of the urban reform movement and the separation of land uses.
- Demonstrates through the irregular pattern of its subdivision the small-scale nature of the spec builders responsible for the construction of the suburb.
- Demonstrates the nature of some private subdivisions before the introduction of the Width of Streets and Lanes Act of 1881 required roads to be at least one chain wide.

Maintenance of Heritage Values

Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

Retain

- Existing width and alignment of streets: avoid chicanes which cut diagonally across the carriageway.
- Existing back lanes.
- All buildings pre-1939 and particularly all timber buildings
- All original plaster finishes to external walls - reconstruct where necessary.
- All original unplastered face brick walls.
- All original external architectural detail, decorative tiles, plaster mouldings, chimneys, roof ridges and finials, commercial signs etc.

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Encourage replacement of lost elements, but only where evidence is available.

- All remaining sandstone kerbs and gutters.
- All corner stores, corner pubs and industrial buildings within the residential areas, and encourage their restoration. Consider small-scale commercial or professional uses for these buildings, if original uses no longer operate, as a reference to their original uses.
- Street and park planting; reinstate where necessary

Avoid

- Amalgamation that might lead to a change in the densely developed streetscape.
- Demolition of any pre-1939 building, particularly those pre-1910.
- Demolition of any remaining timber building.
- Additional storeys above the existing form of the building.
- Posted-verandahs over footpaths to commercial premises where no evidence can be provided to support their reconstruction. Encourage restoration of verandahs where evidence exists.
- Removal of plaster to external walls, where part of the original construction. Removal of original architectural details.
- Additional architectural detail for which there is no evidence.
- Inappropriate fences such as high brick walls, new iron palisades on high brick bases.
- Interruption to the almost continuous kerb and gutter line.

Endnotes

- ¹ Solling & Reynolds, p 81.
-