



DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2025/0110
Address	167 Norton Street LEICHHARDT
Proposal	Demolition of existing structures and construction of a four storey mixed use development, containing a ground floor commercial premises and seven dwelling units.
Date of Lodgement	24 February 2025
Applicant	Desim Pty Ltd
Owner	Mrs Gina G Bortolin Papa
Number of Submissions	9 submissions (five support, three oppose, one neutral)
Cost of works	\$986,370.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10% Development to which <i>Housing SEPP</i> Chapter 4 applies
Main Issues	Prohibited use, Absence of Clause 4.6 requests to justify variations, Streetscape design, Overdevelopment, Site constraints, Public submissions
Recommendation	Refusal
Attachment A	Recommended reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Conditions in the event of approval



LOCALITY MAP

Subject Site		Objectors		N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the development application submitted to Council seeking development consent for the demolition of existing structures and construction of a four storey mixed use development, containing a ground floor commercial premises and seven residential units at No. 167 Norton Street, Leichhardt, legally described as Lot 1 in DP 444075.

The application was notified to surrounding properties and nine (9) submissions were received in response to the initial notification. Five submissions support the application, three oppose, and one raises no specific issues relating to the application.

The main issues that have arisen from the application include:

- Prohibited use within the E1 Local Centre zone
- Application of *State Environmental Planning Policy (Housing) 2021 [Housing SEPP]*
- Variations to non-discretionary standards under the *Housing SEPP*
- Variation to FSR development standard under *IWLEP*

In relation to the first matter, as the proposed use contains a dwelling at ground level it does not conform to the definition of *Shop-top Housing*. Therefore, the residential component of the proposal is prohibited in the *E1 Local Centre* zone under the *IWLEP*.

Consequently, *Part 2 Div.1- Infill Affordable Housing* of the *Housing SEPP* is not applicable to the development. Notwithstanding this, an assessment has been made considering the standards under Division 1 of Part 2 of the *Housing SEPP*. That assessment has identified several variations to development standards and non-discretionary development standards. The applicant was advised to submit, but has not submitted, written requests to vary any of those breached standards, as required under Section 4.15(3) of the *EP&A Act*.

Considering the extent of non-compliances to the *IWLEP*, including prohibition of the proposed use, the *Housing SEPP* and *Leichhardt Development Control Plan 2013 [LDGP 2013]*, the development is not supported, and the application is recommended for refusal.

2. Proposal

- Demolition of the existing building, street awning and ancillary structures within the site.
- Erect a new 4-storey mixed use building comprising shop and seven dwellings.
- Proposed building works to comprise two building segments at the front and rear of the site, connected by open stairs, corridors and a central lift tower.
 - Ground level shop tenancy at the Norton Street frontage.
 - One bed-sit dwelling at rear of ground floor as an *affordable housing* unit.
 - Central ground floor courtyard (communal open space) and landscaped area.
 - Two bed-sit dwellings located on each of the first and second floors.
 - One bed-sit dwelling and one 1-bedroom dwelling located on the third floor.
- New street awning.

3. Site Description

The subject site is located on the eastern side of Norton Street, between Short and Allen Streets. The site consists of Lot 1 in DP 444075 and is generally rectangular shaped, with a total area of 182.8 sqm and known as No. 167 Norton Street, Leichhardt.

The site has a frontage to Norton Street of 5.01 metres and lot depth of 38.1 metres as measured along the northern side boundary to with 169 Norton Street.

The site supports a two-storey building fronting Norton Street containing ground floor shop and dwelling.

The site adjoins existing commercial buildings on Norton Street which are single and two storeys in height, some of which have first floor residences.

The eastern side of Norton Street contains a majority of single and two storey commercial buildings. Two buildings comprise three storeys.

The western side of Norton Street contains a majority of single and two storey commercial buildings, with 'Hawkins Place by Uniting' containing five storeys (that site being the subject of a site-specific Planning Proposal and amendment to the IWLEP)

To the rear of the site are residential properties on the western side of Arthur Street within the Residential R1 zone, comprising one and two-storey dwelling houses.

The property is a contributory building located within the Wetherill Estate Heritage Conservation Area.

There are several small trees at the rear of the subject site. Further to the east are several mature trees located on properties fronting Arthur Street. This includes two palms near the shared boundary rear boundary fence.

The subject site is zoned *E1 Local Centre* under the *Inner West Local Environmental Plan 2022 (IWLEP)* (see **Figure 1**).

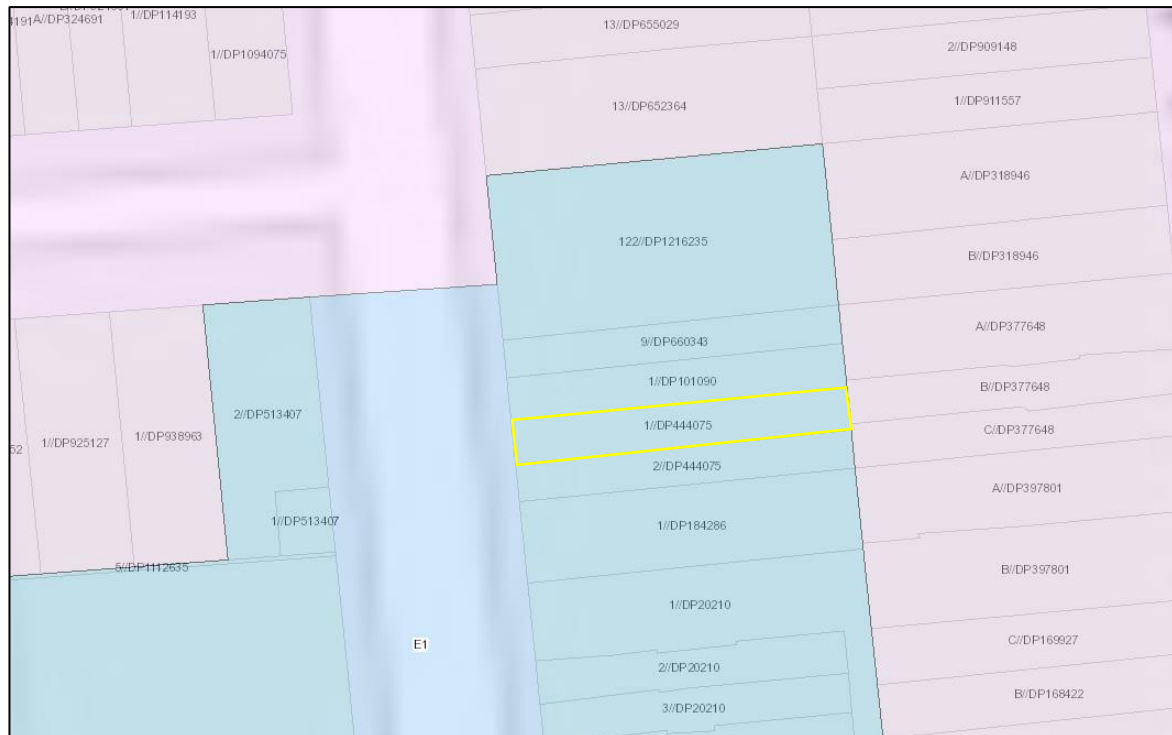


Figure 1: IWLEP Land Zoning Map – Subject Site identified in yellow outline



Figure 2: The Site (shop identified as La Gardenia)

4. Background

Site history

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

Subject Site

Application	Proposal	Decision & Date
PDA/2024/0126	Query as to would it be possible to get the Affordable Housing FSR bonus of 30% and building height on this site? [Only very limited information was provided with the application].	Advice issued 10/9/2024
PDA/2024/0187	Follow up PDA - Shop-top housing development including demolition and erection of a 4-storey building containing 1 x Shop and 7 x residential units (comprising 2 x 1-bed dwellings and 5 x studio dwellings), including In-Fill Affordable Housing.	Advice issued 10/12/2024

Application history

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

Date	Discussion / Letter / Additional Information
10/9/2024	<p>A Pre-DA letter of advice (PDA/2024/0126) was sent to the applicant in response to their question regarding potentially obtaining bonus FSR as a result of providing affordable housing on the site.</p> <p>Among the key points of feedback provided to the applicant were:</p> <ul style="list-style-type: none"> • The proposed use does not conform to the definition of <i>shop-top housing</i>, given the proposal includes a <i>dwelling</i> at the ground level. The residential component of the concept design is prohibited in the E1 Local Centre zone under the IWLEP. • There are no height development standards applicable to the subject site under the IWLEP 2022. The appropriate controls pertaining to height are contained within the LDCP. • Further information is needed to calculate the amount of floor space proposed, confirm compliance with the Apartment Design Guide (ADG) and whether the proposal constitutes affordable housing. • Further information is required to assess the extent of heritage impact. • Insufficient on-site car parking. • Insufficient landscaping and private open space.
19/11/2024	<p>An Inner West Architectural Excellence Design Review Panel (AEDRP) meeting was held with the applicant and Council relating to the PreDA (PDA/2024/0187).</p> <p>The key points of feedback from the AEDRP are detailed below:</p> <ol style="list-style-type: none"> 1. <i>The Architectural Excellence & Design Review Panel reviewed the architectural drawings and discussed the proposal with the applicant through an online conference. The Panel thanks the applicant for</i>

	<p><i>considering a Pre DA meeting to allow early discussion.</i></p> <ol style="list-style-type: none"> <i>2. The Panel acknowledges that the proposal is subject to Chapter 4 – State Environmental Planning Policy (SEPP) Housing 2021 - Design of residential apartment development - and the NSW Apartment Design Guide (ADG) applies to the proposal.</i> <i>3. The Panel notes that the existing building on the site is a contributory building (located within the Wetherill Estate Heritage Conservation Area – Inner West LEP 2022 – Schedule 5 – C59), and previous proposals were not supported by the Council. The Panel notes that a detailed heritage management strategy was not presented by the applicant as part of this discussion.</i> <i>4. Although Council's assessment officer advised that the proposal does not meet the planning definition of 'shop top housing' because of its proposed ground floor configuration, the Panel considers this to be a statutory planning matter which needs to be addressed to Council's satisfaction.</i> <i>5. The Panel notes that the applicant did not provide an urban design analysis to demonstrate how the proposal is an appropriate contextual fit for either existing or possible future urban form. The Panel expressed reservations about the proposal in terms of the urban design issues outlined below:</i> <ol style="list-style-type: none"> <i>a. high visibility of the proposed volume and side walls from the surrounding public domain and neighbouring properties,</i> <i>b. significant non-compliances with the Housing SEPP 2021 and the NSW Apartment Design Guide,</i> <i>c. unsatisfactory outcomes related to – internal amenity, landscape design, and the overall design quality,</i> <i>d. potential fire protection and NCC-compliance issues,</i> <i>d. lack of consideration of the history of the site and its immediate streetscape.</i> <i>6. The applicant should consider a scaled-down proposal for the site and rework a built form strategy with the reconstruction of the front façade to mirror or be more complementary with that of 163/165 Norton Street. Behind the resultant 2 storey built form on Norton Street could be a recessed upper floor over a shop at ground floor and first floor unit.</i> <i>7. Any revised scheme for the site should have incorporation of Environmentally Sustainable Design (ESD) principles and as a minimum the applicant should offer the elements listed below:</i> <ol style="list-style-type: none"> <i>a. Ceiling fans to all habitable areas;</i> <i>b. Full building electrification and inclusion of a rooftop photovoltaic system for environmental benefits and to power all common areas;</i> <i>c. Provision of a rainwater tank for collection, storage and reuse within the site.</i>
10/12/2024	<p>A follow up Pre-DA (PDA/2024/0187) meeting was held with the applicant, seeking advice on the potential development for 'shop-top</p>

housing' in the form of a 4-storey building containing a shop and 7 residential units, including in-fill affordable housing.

The key points of feedback included:

- Significant disparity between the stated FSR of the proposal and calculation of FSR based on the submitted drawings.
- The proposal was assessed to comprise *Mixed Use Development* involving erection of a 4-level building containing a ground floor *shop (Retail Premises)*.
- A complete boundary survey including offsets of improvements relative to the site boundaries is required.
- Owner's consent required for any works affecting the party wall with 165 Norton Street.
- Potential obstruction of three existing side windows in 165 Norton Street.
- As the proposal includes a *dwelling* at ground level, the development does not conform with the definition of *Shop-top Housing*.
- The residential component of the development would then be defined as a *Residential Flat Building* which is a prohibited use in the E1 - Local Centre zone and consequently, Council would have no power to approve the proposed development.
- Development on the site is subject to the provisions of clause 6.13 *Residential accommodation in Zones E1, E2 and MU1* of IWLEP 2022. This clause requires that: Development consent must not be granted to development for the purposes of *residential accommodation* on land to which this clause applies unless the consent authority is satisfied the building -
 - (a) is mixed use development, and
 - (b) will have an active street frontage, and
 - (c) is compatible with the desired character of the area in relation to its bulk, form, uses and scale.
- Council advised that the form of the proposal is not compatible with either the existing, or the desired future character of the area.
- Any future proposal is to confirm the potential impacts of the development on any significant trees including on adjoining sites.
- As the proposal does not provide affordable housing in accordance with the requirements of the SEPP (Housing) and the IWLEP 2022, particularly as it does not meet with the desired future character of the area, it does not qualify for either a 30% uplift in permissible floor space ratio under the SEPP (Housing), or a 0.5:1 uplift under clause 4.4A of the IWLEP. Consequently, the site is subject to a maximum FSR of 1:1 under IWLEP 2022, unless the application

	<p>demonstrates compliance with <i>SEPP (Housing)</i>; and the provisions of clause 4.4A of the <i>IWLEP 2022</i>.</p> <ul style="list-style-type: none"> • The proposal is not considered to be compatible with the desired future character of the area. • Any proposal which exceeds the FSR standard must be accompanied by a properly constructed case for variation of the standard under clause 4.6 of the <i>IWLEP</i>.
24/2/2025	DA/2025/0110 was submitted via the NSW Planning Portal.
21/3/2025	<p>A request for further information was sent to the applicant requiring the following:</p> <ul style="list-style-type: none"> • The extent of FSR breach was indicated to be not supported due to the lot constraints. Requested a reduction in Gross Floor Area, given the extent of variation to the allowable FSR (plus affordable housing bonus) under the <i>IWLEP</i>, and incompatible building scale. A Clause 4.6 request was also requested, in the event of a breach. • Clause 4.6 requests are also required to address variations to development standards under the <i>Housing SEPP</i>, including minimum lot size, landscaping, and car parking. • It was noted that the variation with the minimum lot size standard was not supportable, given the extent of variation which limited the capacity of the site to accommodate a development of the scale proposed. • Reduction in development scale required, to ensure consistency with desired future character within the <i>Norton Street – Centro Sub Area</i>. • Amendment to waste collection/storage arrangement for both residential and commercial waste. <p>Given the extent of amendments sought and the noted site constraints, it was requested that the application be reduced in scale, or withdrawn, and lot consolidation with neighbouring lots pursued.</p>
8/5/2025	<p>Inner West Architectural Excellence Design Review Panel meeting was held with the applicant and Council. The key points of feedback from the AEDRP are detailed below:</p> <ol style="list-style-type: none"> 1. <i>Council staff briefed the Panel that the existing building on the site is identified as a contributory item within the Wetherill Estate Heritage Conservation Area (Inner West LEP 2022 - Schedule 5 - C59). It was noted that previous proposals for this have not been supported by Council.</i> 2. <i>Additionally, the AEDRP did not support the scheme during the Pre-DA stage review held on 19 November 2024. Despite this, the applicant has chosen to proceed with a detailed DA submission. All previously raised concerns by the Panel remain relevant, and are reiterated in this report.</i> 3. <i>Council's assessment officer advised that the proposal does not</i>

meet the planning definition of 'shop top housing' due to the ground floor configuration, which includes a dwelling. The Panel considers this to be a statutory planning matter that should be resolved to Council's satisfaction.

4. The Panel notes the applicant has not submitted the previously requested urban design analysis to demonstrate the proposal's suitability within its existing and potential future urban context.
5. Whilst the Panel appreciates the architects desire to create well-designed, commodious dwellings and generous communal open spaces, the scheme presents a number of significant concerns regarding urban design and its overall planning configuration, including:
 - a. A questionable, high-risk site planning approach that proposes two buildings connected by open/gallery access corridors at each level along a side boundary, resulting in significant issues related to amenity, privacy, fire egress, and fire separation to adjoining properties;
 - b. The high visual impact of the proposed building mass and side elevations as viewed from the public domain and neighbouring sites. This would be amplified if the presently open side boundaries were required to be enclosed for fire safety, as noted above.
 - c. Substantial non-compliances with Housing SEPP 2021 and the NSW Apartment Design Guide (ADG). These include but are not limited to building separation, solar access, internal amenity, storage, landscaping, and overall design quality;
 - d. Inadequate response to the site's historical context and the established streetscape.
6. The Panel is concerned that the proposed floor-to-floor height of 3.05 metres is insufficient to achieve compliance with both the National Construction Code (NCC) and the ADG. A minimum floor-to-floor height of 3.15–3.2 metres is generally needed to confidently provide the minimum 2.7m floor-to-ceiling height required by ADG Part 5C, while also accommodating structural depth, services integration, drainage, waterproofing, and insulation requirements as per the Design and Building Practitioners Act 2020 and the NCC.
7. The Panel acknowledges minor design amendments, including an increased street frontage height for the third storey and some changes to the architectural treatment of the existing building. However, the overall scheme remains, in essence, the same as that previously reviewed during the Pre-DA stage, with substantial issues raised then still unresolved.
8. For these reasons, the Panel does not support the current proposal, which is considered to be an unacceptable design outcome. Substantial resolution of concerns relating to statutory planning, urban design, and residential amenity in this and previous reports need to be progressed.

	<p>9. <i>If the applicant wishes to proceed with determination of the scheme as submitted, they should advise Council as such. If the Applicant wishes to proceed with an alternative development that addresses the Panels concerns, it is recommended that this be submitted for review as a Pre-DA submission.</i></p>
10/4/2025	<p>Amended plans and supporting documentation were received. This included:</p> <ul style="list-style-type: none"> • Amended architectural plans. The amendments related to the layout of the bin storage area. • A cover letter response. • An amended waste management plan. • An amended Statement of Environmental Effects. • An excerpt of the public submissions that had been submitted to Council via Planning Alerts. <p>Renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.</p> <p>As part of the response, the applicant indicated that they would not be submitting a Clause 4.6 Request to address the variations to non-discretionary development standards under the Housing SEPP.</p>
21/5/2025	<p>The applicant's legal representative submitted a letter to Council regarding the issues of permissibility and non-submission of requested Clause 4.6 requests.</p> <p>*The applicants letter has been considered and despite same, it is concluded that:</p> <ul style="list-style-type: none"> • The proposal development is not permissible by virtue of residential accommodation located on the ground floor at the rear which does not conform to the definition of <i>Shop-top Housing</i>. <i>Residential accommodation</i> is otherwise prohibited in the zone. • If the applicant complies with the <i>Non-discretionary development standards</i> provisions under clause 19 of the <i>Housing SEPP</i>, then the consent authority cannot impose more erroneous standards. However, the applicant has not elected to comply with the standards contained in clause 19(2) (a), (b), and (f). <p>The applicant's legal advice is silent on section 4.15(3) of the EP & A Act which states:</p> <p><i>'(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and</i></p>

	<p><i>development the subject of a development application does not comply with those standards-</i></p> <p><i>(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4. 16 is not limited as referred to in that subsection, and</i></p> <p><i>(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.'</i></p> <p>Therefore, in the absence of Clause 4.6 exception cases being submitted to provide Council with flexibility, the application must be refused given the breach to Clauses 19(2) (a), (b), and (f) of the <i>Housing SEPP</i>.</p>
4/6/2025	The applicant submitted their version of minutes of the Architectural Excellence Design Review Panel meeting held on 8/5/2025. These were reviewed as part of this assessment.
10/6/2025	<p>The applicant submitted a <i>Design Review Report</i> relating to both sessions of the Architectural Excellence Design Review Panel meeting held on 8/5/2025. These were reviewed as part of this assessment.</p> <p>[*In this regard, it is noted that the conclusions of the AEDRP are based on the totality of information available to the Panel, not just the applicant's presentation to the Panel.]</p>

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 (EP & A Act)*.

A. Environmental Planning Instruments

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

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

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

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

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

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

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

SEPP (Housing) 2021

Part 2 Development for affordable housing – Division 1 In-fill affordable housing

Section 15C Development to which division applies

The application seeks to provide an affordable housing component as part of the proposed residential accommodation.

Although the proposed use is considered a *mixed use* which includes a part prohibited use (*residential flat buildings* are prohibited in the E1 Local Centre zone under the *IWLEP*), an assessment under this division of the *Housing SEPP* has been undertaken for abundant caution.

Section 16 Affordable housing requirements for additional floor space ratio

Section 16 of the *Housing SEPP* enables an additional FSR allowance, based on the minimum affordable housing component calculated in the formula at Section 16(2).

The proposed development includes an affordable housing component of 35.8sqm, which is 11% of the total floor space. A bonus of up to 22% above the base FSR is permissible; therefore, a maximum FSR of 1.22:1 would apply. As the proposed development has a total FSR of 1.72:1, it results in a variation to Section 16(1) of the *Housing SEPP*. No Clause 4.6 request has been submitted to address the variation to this development standard, which forms a recommended reason for refusal.

Section 19 Non-discretionary development standards – the Act, s 4.15

The relevant standards under Section 19 are addressed below:

Chapter 2 Affordable Housing – Division 1 In-fill affordable housing			
<i>Section 19(2) Non-discretionary standards</i>			
Controls		Proposed	Compliance
(a) Minimum Site Area	Minimum 450sqm	Site Area 182.8sqm	No
(b)(ii) Minimum Landscaped Area	Minimum 30% of the site area (54.84sqm)	32.8% (60sqm)	Yes

(e) Car Parking (affordable housing)	Minimum 0.4 spaces per affordable housing dwelling (1 space)	No parking provided	No
(f) Car Parking (non-affordable housing component)	Minimum 0.5 spaces per 1 bedroom dwelling (3 spaces)	No parking provided	No
(g) Minimum Internal Area	Minimum internal area as per ADG: <ul style="list-style-type: none"> • Studios: 35sqm • 1 Bed: 50sqm 	Complies	Yes

The proposed development does not comply with the non-discretionary development standards at Section 19(2)(a), (e) and (f), relating to minimum lot size and on-site parking provision.

In accordance with Section 4.15(3) of the *EP & A Act*, if an environmental planning instrument contains non-discretionary development standards and a development application does not comply with those standards, the discretion of the consent authority is not limited and a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

In this case, Clause 4.6 under the *IWLEP* does not preclude the consideration of flexibility under that section. As no written request has been submitted, the consent authority cannot be satisfied of the matters under Clause 4.6(3) of the *IWLEP* and the variation to the development standards is not supportable.

This forms a recommended reason for refusal.

Section 21 Must be used for affordable housing for at least 15 years

In accordance with Section 21(1), the applicant has nominated a community housing provider to manage the affordable component (Metro Community Housing). In the event of an approval, the minimum term of the affordable housing component could be conditioned.

Chapter 4 Design of residential apartment development

Section 145 of the *Housing SEPP* requires the consent authority to consider any comments from the Council's *Architectural Excellence Design Review Panel* (AEDRP), the design principles set out in Schedule 9, and the *Apartment Design Guide* (ADG). As indicated above, the application was considered by Council's AEDRP on 8 May 2025.

A Design Verification Statement was submitted with the application verifying that the applicant's architect designed, or directed the design of, the development.

Section 147 of the *Housing SEPP* requires the consent authority to consider the following:

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*

- (b) the Apartment Design Guide,
 (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

As indicated above, the design principles for residential apartment development have been considered as part of the AEDRP process. The advice received from that panel has been further considered in undertaking this assessment. The Apartment Design Guide (ADG) is considered in the following section.

Section 148 of the *Housing SEPP* contains non-discretionary development standards for residential apartment development and applies to the proposal. Compliance with those standards is considered below.

Chapter 4 Design of residential apartment development			
<i>Section 148 Non-discretionary development standards for residential apartment development – the Act, s 4.15</i>			
	Controls	Proposed	Compliance
(2)(a) Car Parking	The parking requirement specified is as required by Part C1.11 of Leichhardt Development Control Plan 2013, which requires 1 space.	No parking provided	No
(2)(b) Minimum Internal Area	Minimum internal area as per ADG: <ul style="list-style-type: none"> • Studios: 35sqm • 1 Bed: 50sqm 	Each apartment complies with the respective minimum apartment sizes under the ADG.	Yes
(2)(c) Ceiling Heights	Minimum ceiling heights as per ADG: <ul style="list-style-type: none"> • Habitable rooms: 2.7m • Non-habitable rooms: 2.4m • 3.3m for ground and first floor to promote future flexibility of use 	Does not comply at first floor level, with 2.7m provided instead of 3.3m in accordance with adaptability requirements. Other sections of the building comply.	No

The proposed development does not comply with the non-discretionary development standards at Section 148(2)(a) and (c) relating to on-site parking and ceiling heights.

In accordance with Section 4.15(3) of the *EP & A Act*, if an environmental planning instrument contains non-discretionary development standards and a development application does not comply with those standards, the discretion of the consent authority is not limited and a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard. In this case, Clause 4.6 under the *IWLEP* does not preclude the consideration of flexibility under that section, though as no written request has been submitted, the consent authority cannot be satisfied of the matters under Clause 4.6(3) of the *IWLEP* and the variation to the development standards is not supportable.

This forms a recommended reason for refusal.

Apartment Design Guide

Section 147 of the *Housing SEPP* requires consideration of the ADG. The relevant provisions are considered in the below table.

Design Criteria		Proposed	Compliance				
3D Communal Open Space	<ul style="list-style-type: none">Communal open space has a minimum area equal to 25% of the site.Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	<p>The proposal provides 27% communal open space at the ground level of the site which is acceptable.</p> <p>Inadequate information has been submitted to determine whether compliance with solar access requirements have been met. However, based on the submitted 'view from sun' diagrams, compliant solar access for the communal open space would not be available and forms a recommended reason for refusal.</p>	No (Insufficient information provided to demonstrate compliance)				
3E Deep Soil Zones	Minimum deep soil zone 7% of total site area	18% (33sqm) provided.	Yes				
3F Visual Privacy	<p>Building separation as follows:</p> <table><tr><td>Habitable rooms and balconies</td><td>Non-habitable rooms</td></tr><tr><td>6 metres</td><td>3 metres</td></tr></table>	Habitable rooms and balconies	Non-habitable rooms	6 metres	3 metres	The proposal provides only 3m setback from the rear boundary whereas the rear elevation of the building contains windows to habitable rooms on all four levels. This setback is considered inadequate in the circumstances of the case and forms a recommended reason for refusal.	No
Habitable rooms and balconies	Non-habitable rooms						
6 metres	3 metres						
3J Car Parking	Minimum 1 space (as per LDGP)	No parking is provided. This forms a recommended reason for refusal.	No				
Part 4 Designing the building							
4A Solar and daylight access	<ul style="list-style-type: none">Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.	<p>6/7 dwellings obtain 2 hours of solar access to living rooms between 9am-3pm at mid-winter.</p> <p>14.2% (1/7) dwellings receive no direct sunlight between the nominated hours. This is the ground floor unit, nominated by the applicant to be affordable housing.</p>	Yes				

4B Natural ventilation	<ul style="list-style-type: none">At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Complies Complies	Yes						
4C Ceiling heights	<ul style="list-style-type: none">Habitable Rooms - 2.7 metresNon-Habitable - 2.4 metresIf located in mixed used area - 3.3 metres for ground and first floor to promote future flexibility of use	<p>All rooms comply with nominated ceiling heights, with the exception of Unit A1 at the first floor level. That room is required to have a minimum of 3.3m, to promote future flexibility of use. Given the location of the site within the E1 Local Centre zone and nominated mixed use, a higher ceiling height is recommended.</p> <p>Given the overall height of the development is not in keeping with the desired future character, an increase to the height of that room would further increase the building height. Should such an increase in ceiling height be applied, this would necessitate deletion of a storey so as to reduce overall building height. This forms a recommended reason for refusal.</p>	No						
4D Apartment size and layout	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio apartments</td><td>35sqm</td></tr><tr><td>1 Bedroom apartments</td><td>50sqm</td></tr></table> <ul style="list-style-type: none">Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.Habitable room depths are limited to a maximum of 2.5 x the ceiling height.In open plan layouts (where the living, dining and kitchen are combined) the maximum	Apartment Type	Minimum Internal Area	Studio apartments	35sqm	1 Bedroom apartments	50sqm	<p>Each dwelling satisfies the min area requirements.</p> <p>The habitable room of each dwelling has an external window.</p> <p>Complies.</p>	Yes
Apartment Type	Minimum Internal Area								
Studio apartments	35sqm								
1 Bedroom apartments	50sqm								

	<p>habitable room depth is 8 metres from a window.</p> <ul style="list-style-type: none">• Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).• Living rooms or combined living/dining rooms have a minimum width of 3.6 metres for studio and 1 bedroom apartments.• The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.	<p>The minimum bedroom dimensions of 3.3m x 3.05m for the 1-bed dwelling meets the minimum requirement.</p> <p>The internal width of the 1-bed dwelling living room satisfies the minimum requirement.</p> <p>Complies</p>										
4E Private open space and balconies	<table><tr><th>Dwelling Type</th><th>Min Area</th><th>Min Depth</th></tr><tr><td>Studio apartments</td><td>4sqm</td><td>-</td></tr><tr><td>1 Bedroom apartments</td><td>8sqm</td><td>2m</td></tr></table> <p>The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3 metres.</p>	Dwelling Type	Min Area	Min Depth	Studio apartments	4sqm	-	1 Bedroom apartments	8sqm	2m	<p>The size of the balconies provided to the studio dwellings is a minimum 7.2sqm (and maximum 13sqm), thereby meeting the minimum requirement.</p> <p>The rear private open space of the ground floor studio B1 at 12.7sqm, does not meet the minimum 15sqm requirement. An increased rear setback, in accordance with the building separation controls under the ADG, would enable compliance and improve occupant amenity.</p> <p>Non-compliance with this section is not supported and forms a recommended reason for refusal.</p>	No
Dwelling Type	Min Area	Min Depth										
Studio apartments	4sqm	-										
1 Bedroom apartments	8sqm	2m										
4F Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	Maximum 2 apartments off the circulation core on each level.	Yes									
4G Storage	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 Bedroom apartments</td><td>6m³</td></tr></table>	Apartment Type	Minimum Internal Area	Studio apartments	4m ³	1 Bedroom apartments	6m ³	Storage is provided in accordance with the required minimum internal areas.	Yes			
Apartment Type	Minimum Internal Area											
Studio apartments	4m ³											
1 Bedroom apartments	6m ³											

SEPP (Sustainable Buildings) 2022

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

SEPP (Biodiversity and Conservation) 2021

Chapter 6 Water Catchments

Section 6.6 under Part 6.2 of the *Biodiversity and Conservation SEPP* provides matters for consideration which apply to the proposal. The subject site is located within the designated hydrological catchment of the Sydney Harbour Catchment and is subject to the provisions contained within Chapter 6 of the above *Biodiversity Conservation SEPP*.

It is considered that the proposal would be consistent with the relevant general development controls under Part 6.2 of the *Biodiversity Conservation SEPP* and would not have an adverse effect in terms of water quality and quantity, aquatic ecology, flooding, or recreation and public access.

Inner West Local Environmental Plan 2022

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

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal is contrary to the aims of the plan in the following manner:</p> <ul style="list-style-type: none"> The proposal does not create a high quality urban place through the application of design excellence in all elements of the built environment and public domain, The proposal does not prevent adverse social, economic and environmental impacts on the local character of Inner West, particularly as within Norton Street and on surrounding residential streets. 	No

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	The application proposes construction of a <i>mixed use</i> building, comprising a <i>shop</i> at the ground floor level to Norton Street and a <i>residential flat building</i> across all levels. Though a ' <i>shop</i> ' (which is a form of ' <i>retail premises</i> ', and therefore a ' <i>commercial premises</i> ') is	No

Section	Proposed	Compliance
	<p>permissible with consent within the E1 zone, a 'residential flat building' (a type of 'residential accommodation') is prohibited within the zone.</p> <p>Further to the above, the proposed development is contrary to the objectives of the E1 zone in the following manner:</p> <ul style="list-style-type: none"> The proposed building layout does not provide an appropriate mix of commercial and residential uses within the building to facilitate a building that serves the needs of people who live in, work in or visit the area. The proposed mixed use building design does not encourage business, retail, community and other non-residential uses on the ground floor of the building. The proposal does not display architectural and urban design quality, as it will not positively contribute to the desired future character of this Norton Street location. <p>These matters form recommended reasons for refusal.</p>	
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and Standard conditions could manage impacts which may arise during demolition. 	Yes

Part 4 – Principal development standards

Section	Proposed		Compliance
Section 4.4 Floor space ratio*	Maximum	1.22:1 or 223.11sqm	No
	Proposed	1.72:1 or 313.8sqm	
	Variation	90.69sqm or 40.6%	
Section 4.4A Exception to maximum floor space ratio for active street frontages	Potential Maximum	1.5:1 or 273sqm	Not applicable – see discussion below
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	<p>As indicated above, the proposed development results in a variation to the maximum FSR under Section 4.4.</p> <p>The applicant has not submitted a written request to vary the standard. In the absence of a written request,</p>		No - see discussion below

Section	Proposed	Compliance
	the consent authority cannot be satisfied of the matters of Section 4.6.	

*A maximum FSR of 1.22:1 applies to the proposed development, as a result of the additional FSR allowed under Section 16 of the *Housing SEPP*.

Section 4.4A Exception to maximum floor space ratio for active street frontages

The subject site is identified as “Area 1” on the FSR maps and is therefore subject to this section. Section 4.4A(3) is reproduced as follows:

- (3) *The maximum floor space ratio for a building on land to which this clause applies is 1.5:1 if the consent authority is satisfied the building—*
- (a) will have an active street frontage, and*
 - (b) is mixed use development that includes residential accommodation, and*
 - (c) is compatible with the desired character of the area in relation to its bulk, form, uses and scale.*

This section requires the consent authority to be satisfied of three matters, prior to the maximum FSR of 1.5:1 being made applicable. In other words, the applicant bears the persuasive onus. Each matter is considered as follows:

- The proposed development includes a ‘shop’ at the ground floor level frontage to Norton Street. In accordance with Section 4.4A(4), an active street frontage is not provided for the residential building entrance point, which is acceptable and satisfies Section 4.4A(3)(a).
- The proposed development is a mixed use development, comprising a shop at the ground floor and a residential flat building across all levels. The development therefore includes residential accommodation and satisfies Section 4.4A(3)(b).
- In response to (c), the applicant has submitted a Cover Letter in response to Council’s request for information, which addresses compatibility with the desired character of the area in relation to its bulk, form, uses and scale. Each of those matters are considered in turn, below:

Bulk

The applicant has submitted that ‘the bulk of (the) proposed development is minimised by (the) site’s size and various setbacks’ and that ‘to amalgamate with at least one more adjacent site would only increase the bulk’. This reasoning is not accepted, given the proposed development has a built form which is greater in terms of storey heights having regard to existing and desired buildings on the western side of Norton Street. Limiting the potential for appropriate setbacks, namely those to the rear, is the limited lot width, which in turn requires long and narrow rooms, instead of shorter and wider rooms which could reduce bulk to both Norton Street frontage and properties on Arthur Street to the east.

Further to the above, the applicant has indicated that bulk is further reduced by setting Level 2 three metres back from the street façade. Although an increased setback, the proposed

fourth storey will remain highly visible within Norton Street, limiting compatibility with the prevailing two and three storey bulk on the eastern side of the streetscape.

Form

The applicant has submitted that the built form proposed is in keeping with similar building typology on other sites on Norton Street, including Nos. 47 and 173-175 Norton Street. Although those buildings include a similar central circulation core with high street wall, they occur on a lot with a greater width. Significantly, those buildings provide a greater rear setback than that proposed on the subject site, with 6m provided at the ground floor of No. 173 Norton Street and the upper levels further recessed. By comparison, the proposed central circulation core is 11.85m in depth, which results in a limited space for a potential rear setback of 3m at all levels. As such, the narrow built form, which has insufficient rear setbacks, contributes to a form that is incompatible with the desired character.

Uses

The applicant has submitted that there is no change to the current land use and that the proposal will preserve an active street frontage. Notwithstanding the proposed issue with permissibility in relation to the mixed-use development, the immediate layout to Norton Street is a shop with residences above, which is compatible with the desired character. The proposed residential flat building use is prohibited and therefore inconsistent with the desired future character.

Scale

The applicant has submitted that the site does not have a prescribed maximum height limit. Although it is accepted that there is no maximum height development standard under the *IWLEP*, the site is subject to the FSR development standard and a 3.6m height control under Sections 2.2.3.5 & 2.2.3.5(c) of the LDCP.

In considering the Design Verification Statement referred to in the applicant's reasoning, the diversity in scale proffered by the applicant is largely reliant on the development at No. 168 Norton Street. Given that development is on a site with different characteristics (rear lane access, greater lot width and depth), it forms an outlier within Norton Street. There are examples of three storey development in the surrounds, including Nos. 173 Norton Street, therefore the prevailing existing scale can be considered to be between two and three storey buildings. The proposed four storey building is not in keeping with the scale of that development and the prevailing small scale of buildings, an element which is emphasised in Control C1 of the Desired Future Character controls for the Norton Street – Centro Sub Area.

- Considering the reasoning submitted by the applicant and the discussion above, the proposed building is not compatible with the desired character of the area in relation to its bulk, form, uses and scale.

As the building does not satisfy Section 4.4A(3)(c), the maximum FSR of 1.5:1 does not apply to the development.

Section 4.6 – Exceptions to Development Standards

As indicated in the table above, the proposal results in a breach to the FSR development standard under Section 4.4 of the *IWLEP* by 40.6% (90.69sqm). The applicant has sought to rely upon the bonus FSR under Section 4.4A of the *IWLEP*, though has not satisfied the requirements of Section 4.4A(3) which requires a development that is compatible with the desired character of the area in relation to its bulk, form, uses and scale. Despite the applicant having been provided advice in this respect, no Section 4.6 request has been submitted with the application.

Therefore, the applicant has not demonstrated that compliance with the FSR development standard is unreasonable / unnecessary in the circumstances of the case, nor has the applicant demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

Council is without power to endorse any variation in this instance, and this forms a recommended reason for refusal.

Part 5 – Miscellaneous provisions

Section	Proposed	Compliance
Section 5.10 Heritage conservation	<p>The subject site is a contributory building within the Wetherill Estate Heritage Conservation Area C59 (listed under Schedule 5 of the Inner West LEP 2022).</p> <p>The proposal does not achieve the objectives of this section as it fails to preserve the environmental heritage of the Inner West, as follows:</p> <ul style="list-style-type: none"> • The overall scale of the proposal is not supported on heritage grounds and is out of scale with the surrounding building stock. • The proposal does not adequately indicate the impact on the streetscape. • A reduction in the overall scale of the proposal is required, including (at least) the deletion of the upper level unit fronting Norton Street. • Changes to the proposal are sought to provide a more accurate presentation to Norton Street relating to No.165 Norton Street, including the use of a stepped side parapet. <p>See discussion below.</p>	No

Section 5.10 – Heritage Conservation

The key and relevant objectives of Section 5.10 of *IWLEP* are to conserve the environmental heritage of the Inner West, including the heritage significance of conservation areas and their associated fabric, settings and views.

An assessment of the proposal against Section 5.10 of *IWLEP* has been carried out and it is considered that the design of the proposal does not satisfactorily conserve the heritage significance of the existing building on the site, and the significance of the HCA.

In this regard, it is considered that:

- The overall bulk and scale of the proposal is not supported as it has an unacceptable impact on the Wetherill Estate HCA and the Norton Street streetscape.
- The fourth level is not compatible or characteristic of the existing bulk of the buildings in the Heritage Conservation Area streetscape.
- The SOHI notes that the proposed form, scale and siting will preserve the existing character of the HCA, however this is not the case as there are no buildings of this scale on this side of Norton Street. Further, Control C8 of Part C1.4 of the LDCP is not met.
- The upper level of the proposal remains out of scale with the adjacent more intact building at No.165 Norton Street and dominates the composition. The submitted drawings do not adequately indicate the impact on the streetscape, as surrounding buildings are not shown.
- The proposal seeks to demolish all of the structures on the site and rebuild the façade of one half of the pair of nineteenth century buildings to resemble what survives at No.165 Norton Street. Normally the approach of rebuilding contributory buildings is not supported, however the heritage assessment provided has demonstrated that the fabric of the present building no longer survives. The matching of the adjacent building's facade is acceptable on heritage grounds, however the detailing should be matched with a greater degree of accuracy than proposed.
- The upper levels cantilever over the side passage. This cantilevered form of the proposal removes the stepped parapet to the side elevation, which is a characteristic of this building type. The historic form of the main portion of the building is not being reinstated to match the original. The proposal should comprise a more accurate reconstruction of the form of No.167 Norton Street is achieved, including the characteristic stepped parapet.
- The form of the shopfront glazing as proposed is not supported as the requirements of Control C1 to Part C4.6 of the LDCP relating to shopfronts is not met. This control requires that where a building is within a Heritage Conservation Area, development retains / restores / reconstructs and enhances the original shopfront, including style, form, details and materials. Any proposal is required to provide an appropriate shopfront that reflects the character of the pair of shops. The shopfront design should not include glazing that extends to the floor.

Given the above, the proposal is considered contrary to the heritage objectives contained in Section 5.10(1)(a) & (b) of the *IWLEP*, which reads:

'(a) to conserve the environmental heritage of Inner West,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,'

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability.	Yes
Section 6.3 Stormwater Management	The submitted stormwater disposal design requires amendment. On-site stormwater detention/retention facilities with discharge to Norton Street would also be required.	Yes, subject to conditions
Section 6.8 Development in areas subject to aircraft noise	The site is located within the ANEF 25-30 contour, and as such an Acoustic Report was submitted with the application. In the event of approval, the proposal is capable of satisfying this section subject to conditions of consent, however the application is recommended for refusal for the reasons contained in this report.	Yes
Section 6.13 Residential accommodation in Zones E1, E2 and MU1	<p>As the subject site seeks consent for residential accommodation and is zoned E1 Local Centre, Section 6.13(3) applies and states:</p> <p><i>Development consent must not be granted to development for the purposes of residential accommodation on land to which this clause applies unless the consent authority is satisfied the building—</i></p> <p><i>(a) is mixed use development, and</i></p> <p><i>(b) will have an active street frontage, and</i></p> <p><i>(c) is compatible with the desired character of the area in relation to its bulk, form, uses and scale.</i></p> <p>As indicated in the discussion regarding Section 4.4A of the <i>IWLEP</i>, the proposed development is a mixed-use development and will have an active street frontage to Norton Street. However, the development will not be compatible with the desired character of the area in relation to its bulk, form, uses and scale. Given the nature of this Section, this forms a recommended reason for refusal. See discussion regarding Section 4.4A above.</p>	No

Section	Proposed	Compliance
Section 6.14 Diverse housing	<p>The proposed development includes 7 residential units, all of which contain either one bedroom or are studios, therefore the unit mix satisfies Subsection (3) under this section.</p> <p>Notwithstanding this, the application is recommended for refusal for the reasons contained within this report.</p>	Yes

B. Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013 (LDCP).

In accordance with Section 149 of the *Housing SEPP* certain provisions for residential apartment development contained within the LDCP have no effect if the ADG also specifies provisions to the same matter. This includes:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

LDCP	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part C	
C1.0 General Provisions	No – The proposal does not satisfy the Objectives of this part.
C1.1 Site and Context Analysis	No – The proposal fails to adequately justify the compatibility of the development with the subject small site and location.
C1.2 Demolition	Yes
C1.4 Heritage Conservation Areas and Heritage Items	No – This matter is dealt with at Part 5 of this report above.
C1.7 Site Facilities	Yes

C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No – This matter is dealt with elsewhere in this report
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes
C1.21 Green Roofs and Green Living Walls	No – see discussion
Part C: Place – Section 2 Urban Character	
C2.2.3.5 Leichhardt Commercial Distinctive Neighbourhood	No – The proposed form of development is out of character with area and therefore contrary to controls C1 & C4 of this Part. The proposal exceeds the 3.6m Building Wall Height control contrary to control C13 of this Part.
C2.2.3.5(c) Norton Street – Centro Sub Area	No – The proposed excessive height, bulk and form of the proposal is out of character with the area and therefore contrary to controls C2, C5, C6 & C7 of this Part.
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	No – The proposed residential component of the development would have an adverse effect on the amenity, setting of the place, including its relationship to the Heritage Conservation Area.
C3.2 Site Layout and Building Design	No – The height four storey height and resultant bulk of the proposal represents a significant overdevelopment of the site contrary to controls C1 and C2 of this Part.

C3.3 Elevation and Materials	No – The street elevation drawing does not accurately represent the street facing fenestration on Level 2 of the building. These windows, shown to be centrally positioned and balanced in the façade are not, as evidenced by the location of the bathroom and window position on the Level 2 floor plan.
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	N/A
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	N/A
C3.9 Solar Access	N/A
C3.10 Views	Yes
C3.11 Visual Privacy	N/A
C3.12 Acoustic Privacy	No – As the rearmost spaces in the dwellings on levels 2, 3 & 4 serve kitchen/dining areas, whereby any openings may facilitate noise disturbance to the residential properties adjoining the rear of the site within the adjoining residential zone.
C3.14 Adaptable Housing	Yes
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	No – The proposed excessive height, bulk and form of the proposal is out of character with the area and therefore contrary to objectives O2, O6, O8, O9 & O10 of this Part.
C4.2 Site Layout and Building Design	No – The proposed 4 storey height, excessive bulk and form of the proposal is out of character with the area and therefore contrary to

	controls C1 & C6 of this Part.
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	<p>No – The rear elevation of the building has a uniform 3m setback to the rear boundary which adjoins Residentially zoned land is contrary to the minimum 6m setback as required by Control C2(a) of this Part. The four storey height of the proposal is does not relate to the predominate buildings in the vicinity as required by Control C2(c) of this Part.</p> <p>Insufficient information has been submitted with application to demonstrate compliance with the solar access controls as they relate to private open space and living area glazing in the neighbouring residential properties in accordance with Part C3.9 of the DCP. The location of elevated kitchen windows in the eastern elevation of the development would likely result in light spill to habitable rooms and private open space located in the residential properties in the adjoining Residential R1 zone.</p> <p>The 1.4m sill heights to the proposed eastern kitchen windows is inadequate to satisfactorily minimize direct overlooking of the private open space/ windows of the residential</p>

	properties in the adjoining residential zone.
C4.6 Shopfronts	No – The shopfront treatment is considered unsatisfactory as it relates to control C1 of this Part. This matter is considered in Part 5 of this report above.
C4.15 Mixed Use	No – The proposal does not provide adequate justification for the lack of parking provision for the development. Contrary to control C13 of this Part.
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	N/A
D2.4 Non-Residential Development	N/A
D2.5 Mixed Use Development	<p>No – Proposal does not satisfy controls C1 & C2 of this Part.</p> <p>The waste collection point for the seven (7) residential dwellings is of concern as up to 7 bins must be presented for collection on the street frontage, which combined with the bins from all the properties in this section of Norton Street would block the footpath and negatively impact the amenity of the street. Council's guidelines state that kerbside collection points should allow for adequate pedestrian passage and not impact adversely on the streetscape or amenity of residents or neighbours.</p>

	<p>Additionally, the NSW EPA state in their Better Practice Guidelines for resource recovery (2019) that kerbside collection points should be accommodated within the street frontage of each individual dwelling.</p> <p>The collection point for the dwellings cannot be at the front of this property, as no other collection point is possible due to outdoor dining spaces impacting the street frontage of this property. However, the collection point and building design must minimise negative impacts to the amenity of Norton Street and neighbouring properties.</p> <p>Additional bins from more dwellings on the site will clutter the footpath, blocking access for pedestrians and also negatively impacting the outdoor dining area outside 169-171 Norton Street.</p> <p>Strict consent conditions could mitigate this impact, including that bins be placed out at 4:30pm and returned to the property as asap after collection or within 2 hours.</p> <p>If the application is approved, fewer dwellings would minimise these impacts on Norton Street.</p>
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	No – A separate Water Management Statement has not been submitted with application
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	Yes – Subject to conditions
E1.2 Water Management	Yes – Subject to conditions
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes – Subject to conditions
E1.2.3 On-Site Detention of Stormwater	Yes – Subject to conditions
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.7 Wastewater Management	Yes

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse environmental, social or economic impacts upon the locality. These include:

- Insufficient lot width to accommodate a development to the scale proposed.
- Excessive and incompatible bulk and scale within Norton Street.
- Visual and acoustic privacy impacts on surrounding residential properties.
- Incompatibility with the desired future character of the area.

D. The Suitability of the Site for the Development

As indicated in Section 5A of this report, the proposed mixed use building results in variations to the following (non-discretionary) development standards and provisions under the *Housing SEPP*:

- Permissibility
- Maximum FSR
- Minimum lot size
- Minimum car parking
- Building separation
- Floor to ceiling heights

Further, there is insufficient detail on the submitted shadow diagrams to determine whether the proposed communal areas will receive solar access, though given the location and orientation of that space relative to existing surrounding development, this seems unlikely.

Due to the noted constraints of the subject site, the subject site is considered to be unsuitable for a development of the use and scale proposed. As recommended during the Pre-DA process of PDA/2024/0187, lot amalgamation with neighbouring lots would allow a lot width capable of accommodating the proposed use, though this has not been pursued by the applicant.

Considering the site is not suitable for the proposed development, this forms a recommended reason for refusal.

E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 18 March 2025 to 8 April 2025.

A total of nine submissions were received in response to the notification, of which five (5) were in support and three (3) were opposed. One (1) submission did not provide comments relevant to the development application.

The key issues raised in the submissions received objecting to the proposal are discussed below:

Concern	Comment
Overshadowing to 20 Arthur Street	As 20 Arthur Street is located generally to the north-east of the subject site, it would not be impacted by overshadowing cast by the proposed development during the mid-winter assessment times specified in Part C3.9 <i>Solar Access</i> of the LDGP2013.
Breach of maximum Floor Space Ratio control	This matter is addressed elsewhere in this report.
Lack of parking provision	This matter is addressed elsewhere in this report.
Adverse privacy visual impacts to rear gardens and dwellings in Arthur Street properties	This matter is addressed elsewhere in this report.
Inappropriate visual character impact on Arthur Street properties	This matter is addressed elsewhere in this report.
Inappropriate impact on streetscape and character of area	This matter is addressed elsewhere in this report.
Inappropriate height and scale	This matter is addressed elsewhere in this report.
Adverse Heritage Impact	This matter is addressed elsewhere in this report.

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.

For the reasons detailed in this assessment, this has not been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

As the application is recommended for refusal, the applicable contribution/levy has not been calculated.

7. Housing and Productivity Contributions

As the application is recommended for refusal, the applicable contribution has not been calculated.

8. Referrals

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

- Architectural Excellence Panel
- Heritage Specialist
- Development Engineer
- Urban Forest
- Waste Management - Commercial
- Waste Management - Residential
- Building Certification

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

- Ausgrid

Comment: Ausgrid provided consent to the application subject to the applicant noting particular requirements regarding any aspect of the proposal within proximity of existing electrical network assets, and specifically, Ausgrid Underground Cables in the vicinity of the development. Should the application be approved, such requirements can be included in conditions.

9. Conclusion

The proposal in its current form is prohibited in the E1 Local Centre zone. Additionally, the proposal does not comply with the aims, objectives and design parameters contained in the *Inner West Local Environmental Plan 2022*, the *State Environmental Planning Policy (Housing) 2021*, and the *Leichhardt Development Control Plan 2013*.

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

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

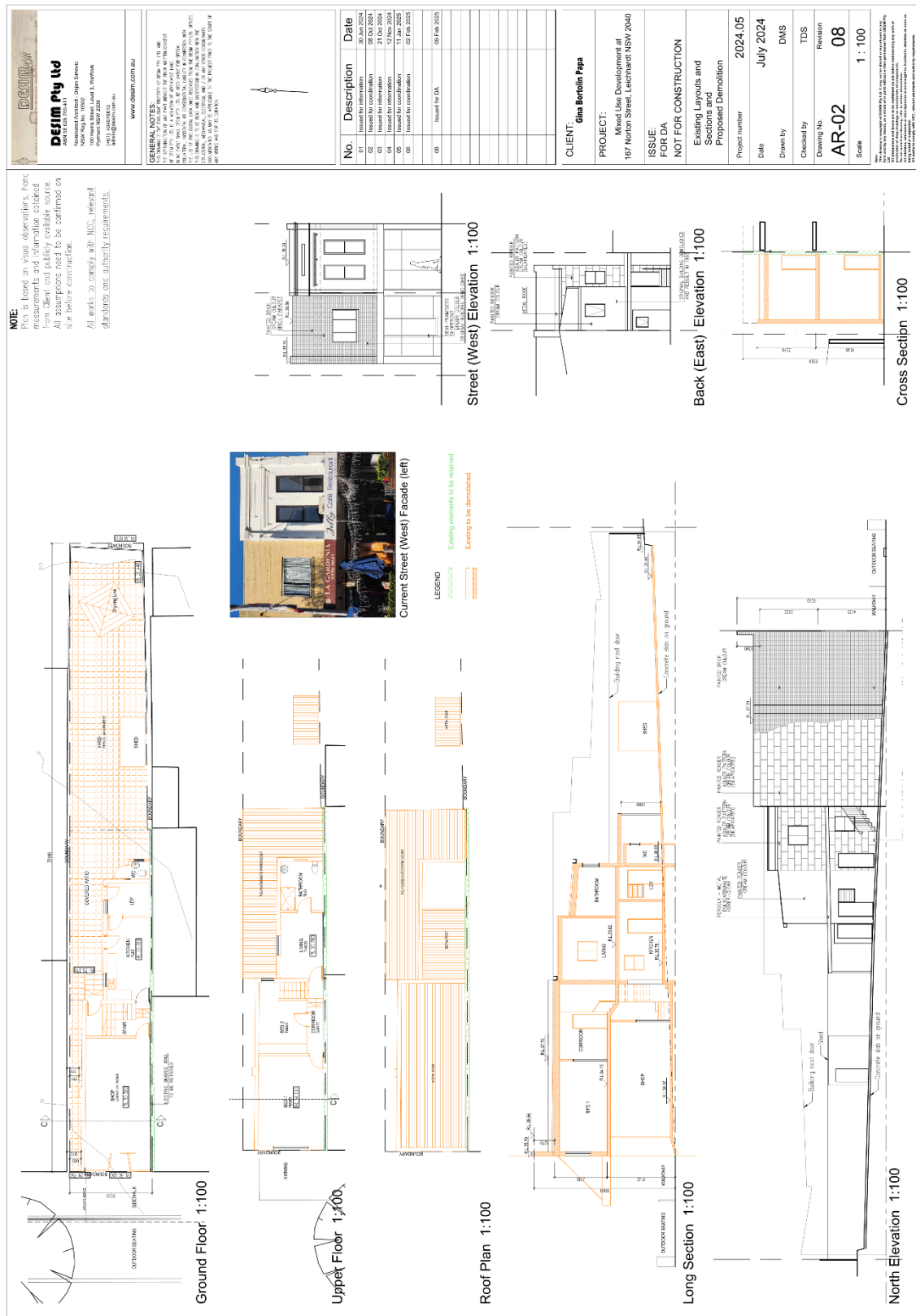
10. Recommendation

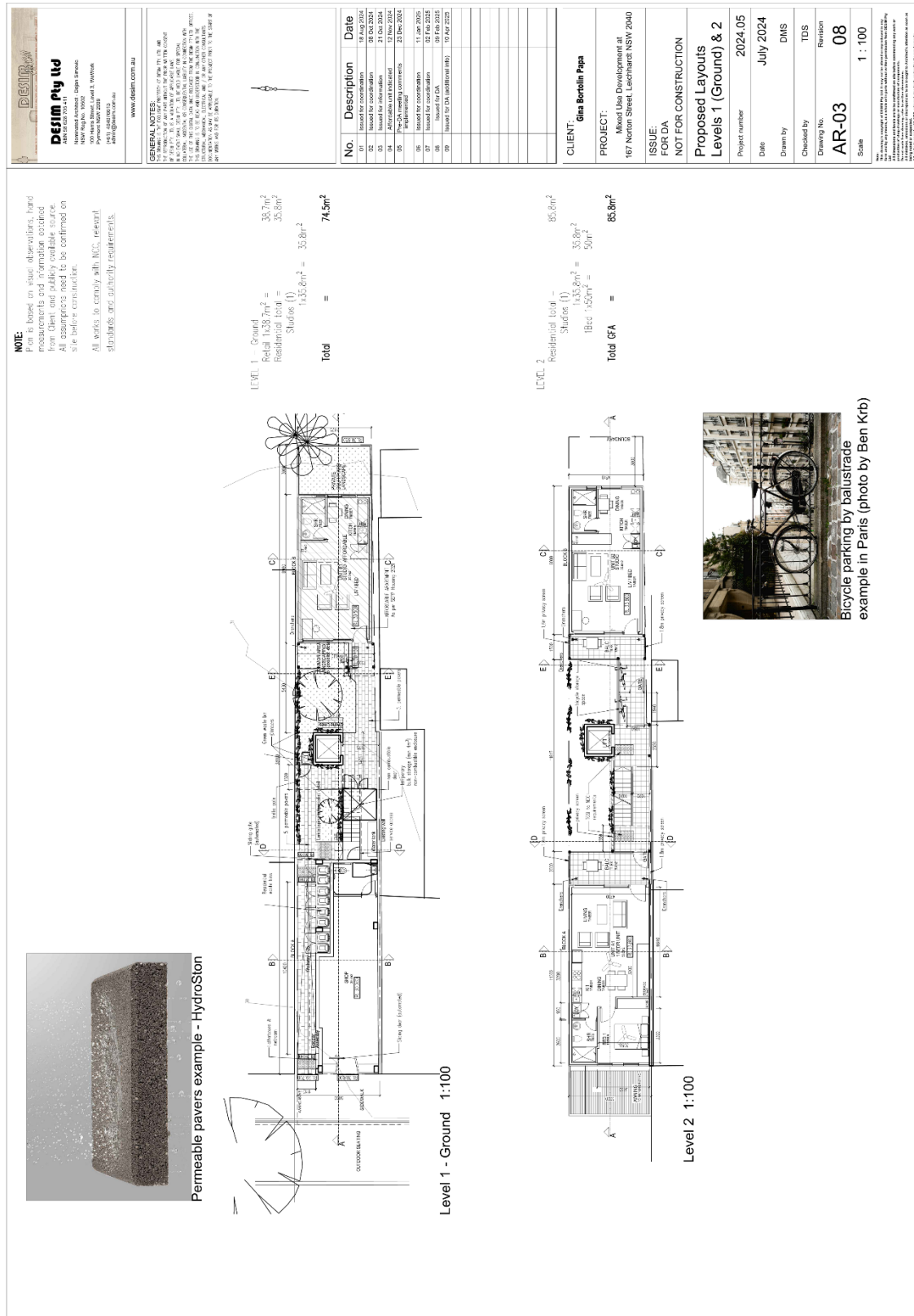
- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, REFUSE Development Application No. DA/2025/0110 for the demolition of existing structures and construction of a four storey mixed use development, containing a ground floor commercial premises and seven residential units at No. 167 Norton Street, Leichhardt for the following reasons:


Attachment A – Recommended reasons for refusal

1. The proposed residential flat building at the rear of the site is prohibited in the E1 Local Centre zone under the *Inner West Local Environmental Plan 2022*.
2. The proposal breaches the additional Floor Space Ratio allowance development standard contained in Section 16(1) of the *State Environmental Planning Policy (Housing) 2021* and no Clause 4.6 variation has been provided to justify this breach.
3. The proposed development does not comply with the non-discretionary development standards at Section 19(2)(a), (e) and (f) of *State Environmental Planning Policy (Housing) 2021*, relating to required minimum lot size and on-site parking and no Clause 4.6 variation has been provided to justify this breach.
4. The proposed development does not comply with the non-discretionary development standards at Section 148(2)(a) and (c) of *State Environmental Planning Policy (Housing) 2021*, relating to on-site parking provision and internal ceiling heights and no Clause 4.6 variation has been provided to justify this breach.
5. The proposed development does not comply with the controls contained in the *Apartment Design Guide* relating to *3D Communal Open Space*, *3F Visual Privacy*, *3J Car Parking*, *4C Ceiling heights* and *4E Private open space and balconies*.
6. The proposed development does not comply with the maximum floor space ratio development standard contained in clause 4.4 of the *Inner West Local Environmental Plan 2022* and no Clause 4.6 variation has been provided to justify this breach.
7. The proposed development does not comply with the provisions of clause 4.4A(3)(c) of the *Inner West Local Environmental Plan 2022* and therefore breaches the maximum floor space ratio development standard contained in clause 4.4A and no Clause 4.6 variation has been provided to justify this breach.
8. The proposed development does not comply with the provisions of Clause 6.13(3) of *Inner West Local Environmental Plan 2022* relating to desired character of the area in relation to its bulk, form, uses and scale.
9. The proposed development is of a form which would be inconsistent with the heritage provisions of clause 5.10 of *Inner West Local Environmental Plan 2022* and would adversely impact the heritage conservation area
10. The site is considered to be unsuitable for the proposed development.
11. The proposed development is not in the public interest.

[illegible]







DESIGN Pty Ltd
 Nominated Architect - Design Services
 NSW Reg No. 10000
 Professional Address: 1/11, Macquarie
 Permanent Body 2288
 11/11 Macquarie Street
 Sydney NSW 2000
 www.design.com.au

GENERAL NOTES:

1. All drawings are to be read in conjunction with the contract documents.
2. All dimensions are to be taken from the finished floor level unless otherwise stated.
3. All materials and workmanship are to be in accordance with the relevant Australian Standards.
4. All structural elements are to be designed and constructed in accordance with the relevant Australian Standards.
5. All services are to be installed in accordance with the relevant Australian Standards.
6. All finishes are to be in accordance with the relevant Australian Standards.
7. All landscaping is to be in accordance with the relevant Australian Standards.
8. All lighting is to be in accordance with the relevant Australian Standards.
9. All heating and cooling systems are to be in accordance with the relevant Australian Standards.
10. All ventilation systems are to be in accordance with the relevant Australian Standards.
11. All fire protection systems are to be in accordance with the relevant Australian Standards.
12. All security systems are to be in accordance with the relevant Australian Standards.
13. All communication systems are to be in accordance with the relevant Australian Standards.
14. All data and network systems are to be in accordance with the relevant Australian Standards.
15. All audio and visual systems are to be in accordance with the relevant Australian Standards.
16. All entertainment systems are to be in accordance with the relevant Australian Standards.
17. All storage systems are to be in accordance with the relevant Australian Standards.
18. All display systems are to be in accordance with the relevant Australian Standards.
19. All signage systems are to be in accordance with the relevant Australian Standards.
20. All furniture and fixtures are to be in accordance with the relevant Australian Standards.
21. All equipment and appliances are to be in accordance with the relevant Australian Standards.
22. All electrical and electronic equipment are to be in accordance with the relevant Australian Standards.
23. All mechanical and plumbing equipment are to be in accordance with the relevant Australian Standards.
24. All lifts and escalators are to be in accordance with the relevant Australian Standards.
25. All stairs and ramps are to be in accordance with the relevant Australian Standards.
26. All doors and windows are to be in accordance with the relevant Australian Standards.
27. All walls and ceilings are to be in accordance with the relevant Australian Standards.
28. All floors and roofs are to be in accordance with the relevant Australian Standards.
29. All foundations and substructure are to be in accordance with the relevant Australian Standards.
30. All external works are to be in accordance with the relevant Australian Standards.
31. All internal works are to be in accordance with the relevant Australian Standards.
32. All site works are to be in accordance with the relevant Australian Standards.
33. All construction works are to be in accordance with the relevant Australian Standards.
34. All completion works are to be in accordance with the relevant Australian Standards.
35. All handover works are to be in accordance with the relevant Australian Standards.
36. All final works are to be in accordance with the relevant Australian Standards.
37. All final inspection works are to be in accordance with the relevant Australian Standards.
38. All final completion works are to be in accordance with the relevant Australian Standards.
39. All final handover works are to be in accordance with the relevant Australian Standards.
40. All final final works are to be in accordance with the relevant Australian Standards.

NOTE:
 This is based on visual observations, bare measurements and information obtained from client and publicly available source. All assumptions need to be confirmed on site before construction.
 All works to comply with NCC, relevant standards and applicable regulations.

Level 3 - Attic

Residential total = 79.8m²
 Studios (2) = 35.5m²
 1x3.5m² = 3.5m²
 1x4.4m² = 4.4m²
Total GFA = 79.8m²

Level 4 - Attic

Residential total = 72.8m²
 Studios (2) = 35.5m²
 1x3.5m² = 3.5m²
 1x3.7m² = 3.7m²
Total GFA = 72.8m²

No.	Description	Date
01	Issued for coordination	16 Aug 2024
02	Issued for coordination	08 Oct 2024
03	Issued for coordination	11 Nov 2024
04	Approved and released	13 Nov 2024
05	Pre-DA meeting comments	23 Dec 2024
06	Revised drawings	11 Jan 2025
07	Issued for coordination	02 Feb 2025
08	Issued for DA	09 Feb 2025

CLIENT:
 Gina Borolini Paga


PROJECT:
 Mixed Use Development at
 167 Norton Street, Leichhardt NSW 2040

ISSUE:
 FOR DA

NOT FOR CONSTRUCTION

**Proposed Layouts
 Level 3 & 4 (Attic)**

Project number: 2024.05
 Date: July 2024
 Drawn by: DMS
 Checked by: TDS
 Drawing No: Revision
AR-04
 Scale: 1 : 100



Cable climber plants example (photo by K.M. Fletcher)

Level 3 - Attic

Residential total = 79.8m²
 Studios (2) = 35.5m²
 1x3.5m² = 3.5m²
 1x4.4m² = 4.4m²
Total GFA = 79.8m²

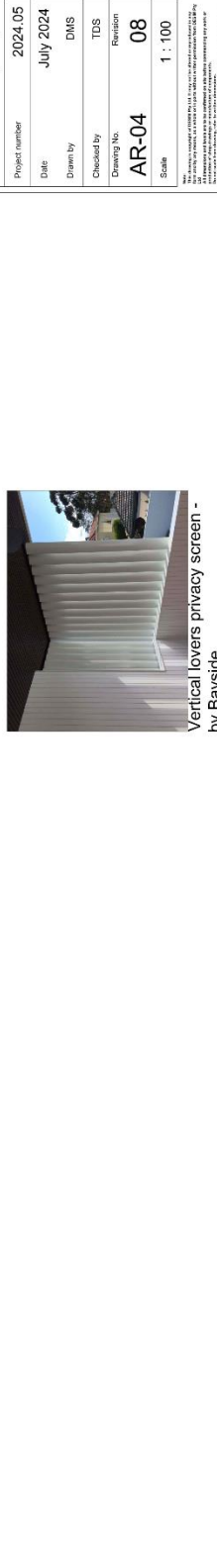
Level 4 - Attic

Residential total = 72.8m²
 Studios (2) = 35.5m²
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Level 4 - Attic

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 Studios (2) = 35.5m²
 1x3.5m² = 3.5m²
 1x3.7m² = 3.7m²
Total GFA = 72.8m²

Vertical louvers privacy screen - by Bayside



DESIGN

DESIM Pty Ltd

Registered Architect - Design Services
 NSW Reg No. 10000
 Professional Address: 1/11, Market
 Portland Road 2208
 Warragul, VIC 3920
 www.desim.com.au

GENERAL NOTES:

1. This drawing is to be read in conjunction with the contract documents and the specification for the works.

2. The design is based on the information provided by the client and is subject to change without notice.

3. The design is based on the information provided by the client and is subject to change without notice.

4. The design is based on the information provided by the client and is subject to change without notice.

5. The design is based on the information provided by the client and is subject to change without notice.

No.	Description	Date
01	Issued for coordination	18 Aug 2024
02	Issued for coordination	08 Oct 2024
03	Issued for coordination	11 Nov 2024
04	Issued for coordination	11 Nov 2024
05	Issued for coordination	22 Dec 2024
06	Issued for coordination	11 Jan 2025
07	Issued for coordination	02 Feb 2025
08	Issued for DA	09 Feb 2025

CLIENT:
Gina Borolin Paga

PROJECT:
Mixed Use Development at
167 Norton Street, Leichhardt NSW 2040

ISSUE:
FOR DA

NOT FOR CONSTRUCTION

Proposed Sections

Project number	2024.05
Date	July 2024
Drawn by	DMS
Checked by	TDS
Drawing No.	Revision
AR-06	08
Scale	1 : 100

NOTE:

Please based on visual observations, bare measurements and information obtained from client and publicly available source. All assumptions need to be confirmed on site before construction.

All works to comply with NCC, relevant standards and applicable requirements.

Section A 1:100

Section B - Block A 1:100

Section C - Block B 1:100

PV Roofing system - by PVDynamics

GRC Planter box - by Quatro Design

NOTE:
This is based on your elevations, bare measurements and information contained from client and publicly available source. All assumptions need to be confirmed on site before construction.

All works to comply with NCC, relevant standards and authority requirements.

DESIM Pty Ltd
National Australia Bank House
New King Hwy, 10000
Parramatta NSW 2150
02 9639 1000
www.desim.com.au

GENERAL NOTES:
1. All elevations are to be based on the finished ground level.
2. All elevations are to be based on the finished ground level.
3. All elevations are to be based on the finished ground level.
4. All elevations are to be based on the finished ground level.
5. All elevations are to be based on the finished ground level.
6. All elevations are to be based on the finished ground level.
7. All elevations are to be based on the finished ground level.
8. All elevations are to be based on the finished ground level.
9. All elevations are to be based on the finished ground level.
10. All elevations are to be based on the finished ground level.

EXTERIOR FINISHES SCHEDULE

Finish	Material	Notes
1. External Wall	Brickwork	Brickwork
2. External Wall	Brickwork	Brickwork
3. External Wall	Brickwork	Brickwork
4. External Wall	Brickwork	Brickwork
5. External Wall	Brickwork	Brickwork
6. External Wall	Brickwork	Brickwork
7. External Wall	Brickwork	Brickwork
8. External Wall	Brickwork	Brickwork
9. External Wall	Brickwork	Brickwork
10. External Wall	Brickwork	Brickwork

CLIENT:
Gina Borbini Paga

PROJECT:
Mixed Use Development at
167 Norton Street, Leichhardt NSW 2040

ISSUE:
FOR DA

NOT FOR CONSTRUCTION

Proposed Elevations 1

Project number: 2024.05
Date: July 2024
Drawn by: DMS
Checked by: TDS
Drawing No: AR-07
Revision: 09
Scale: 1 : 100

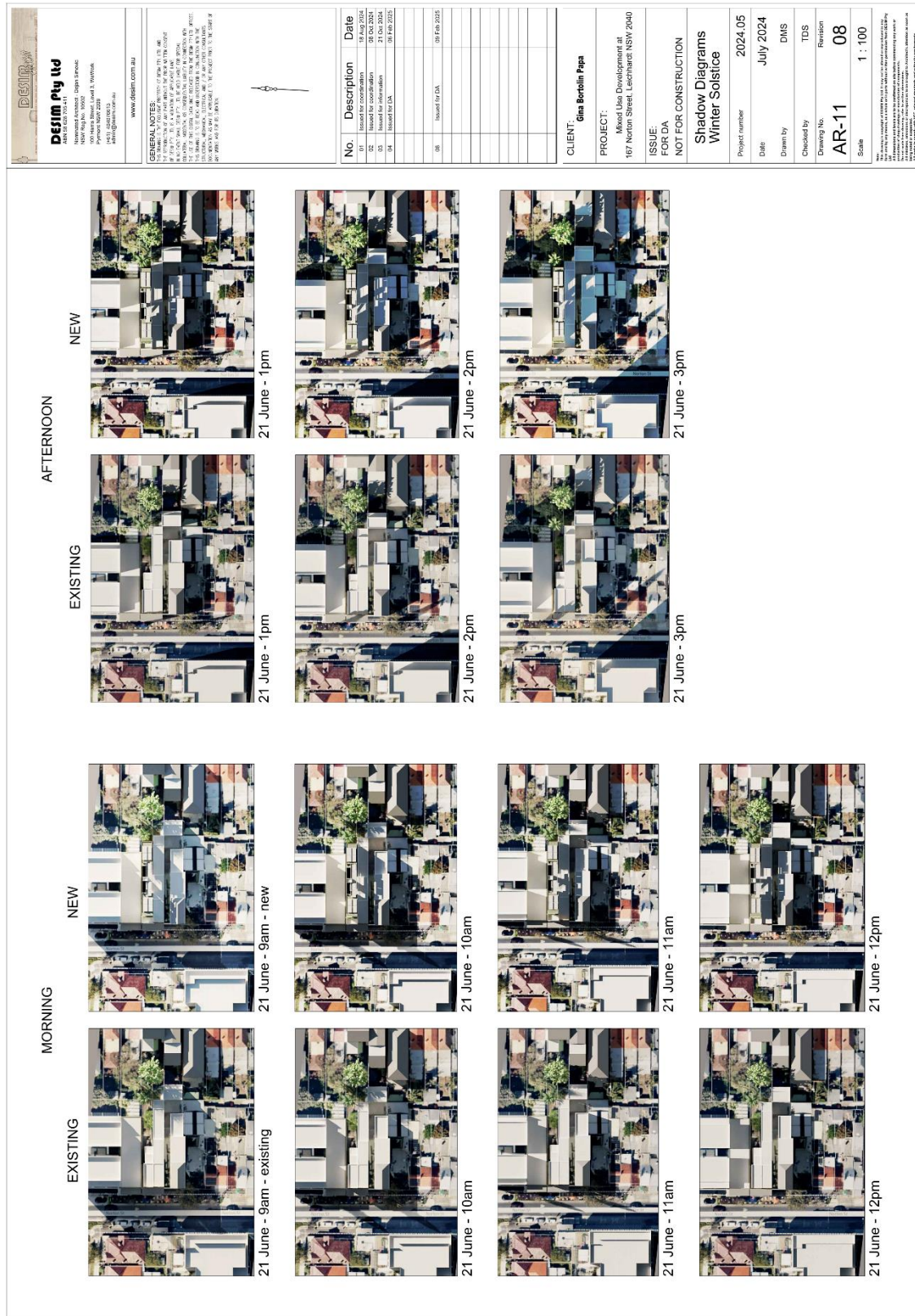
Simple climbers examples

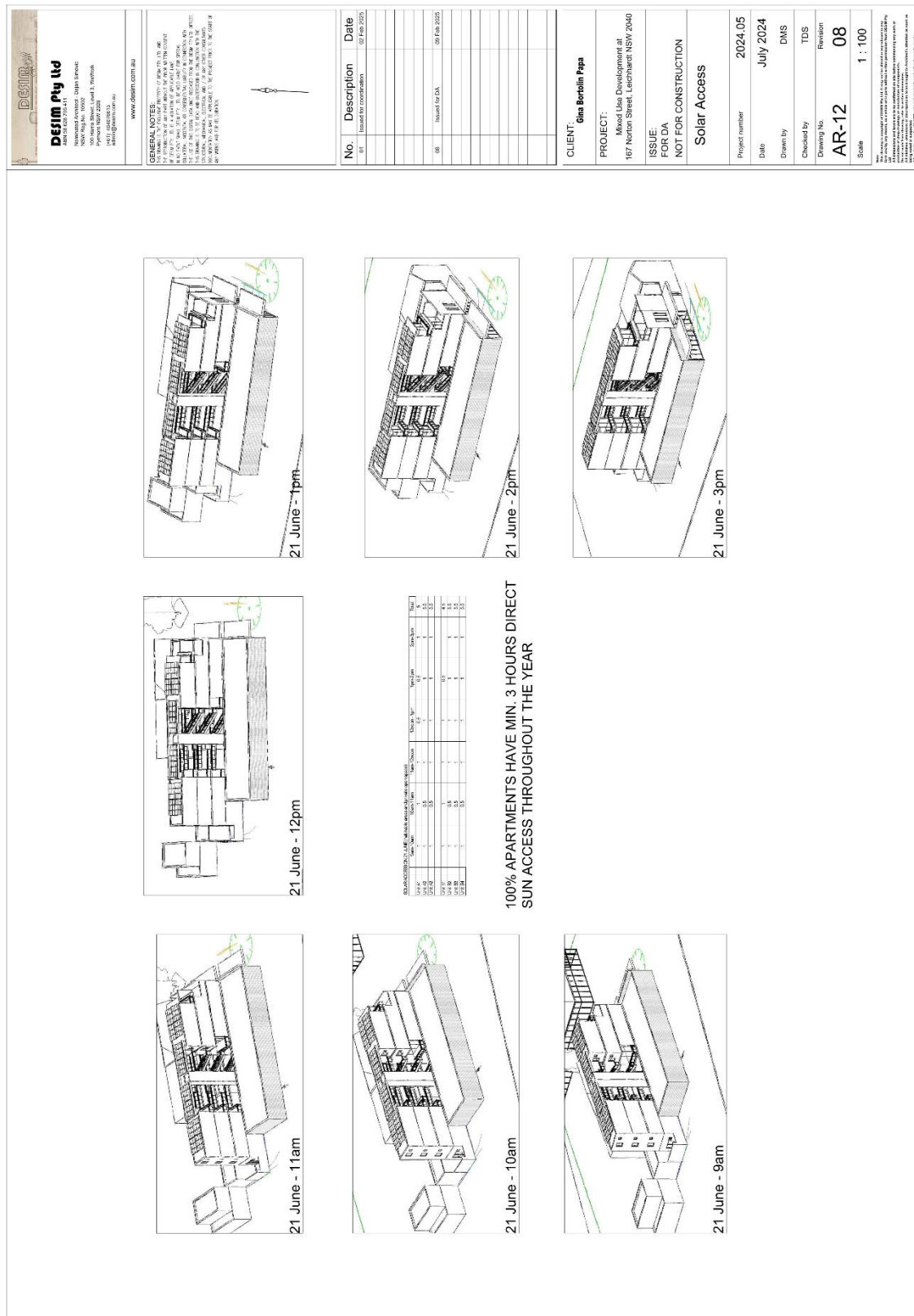
South Elevation 1:100

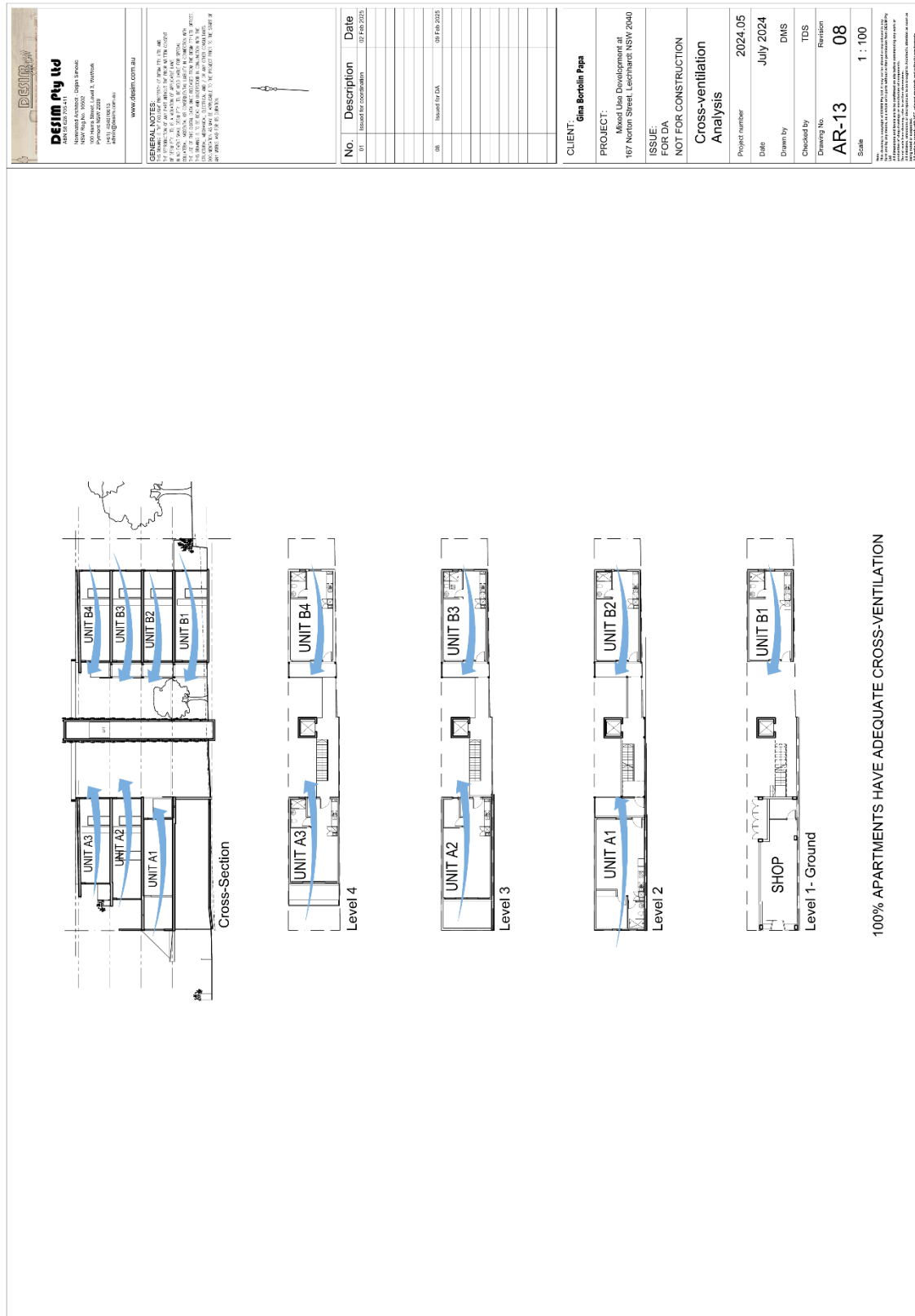
North Elevation 1:100

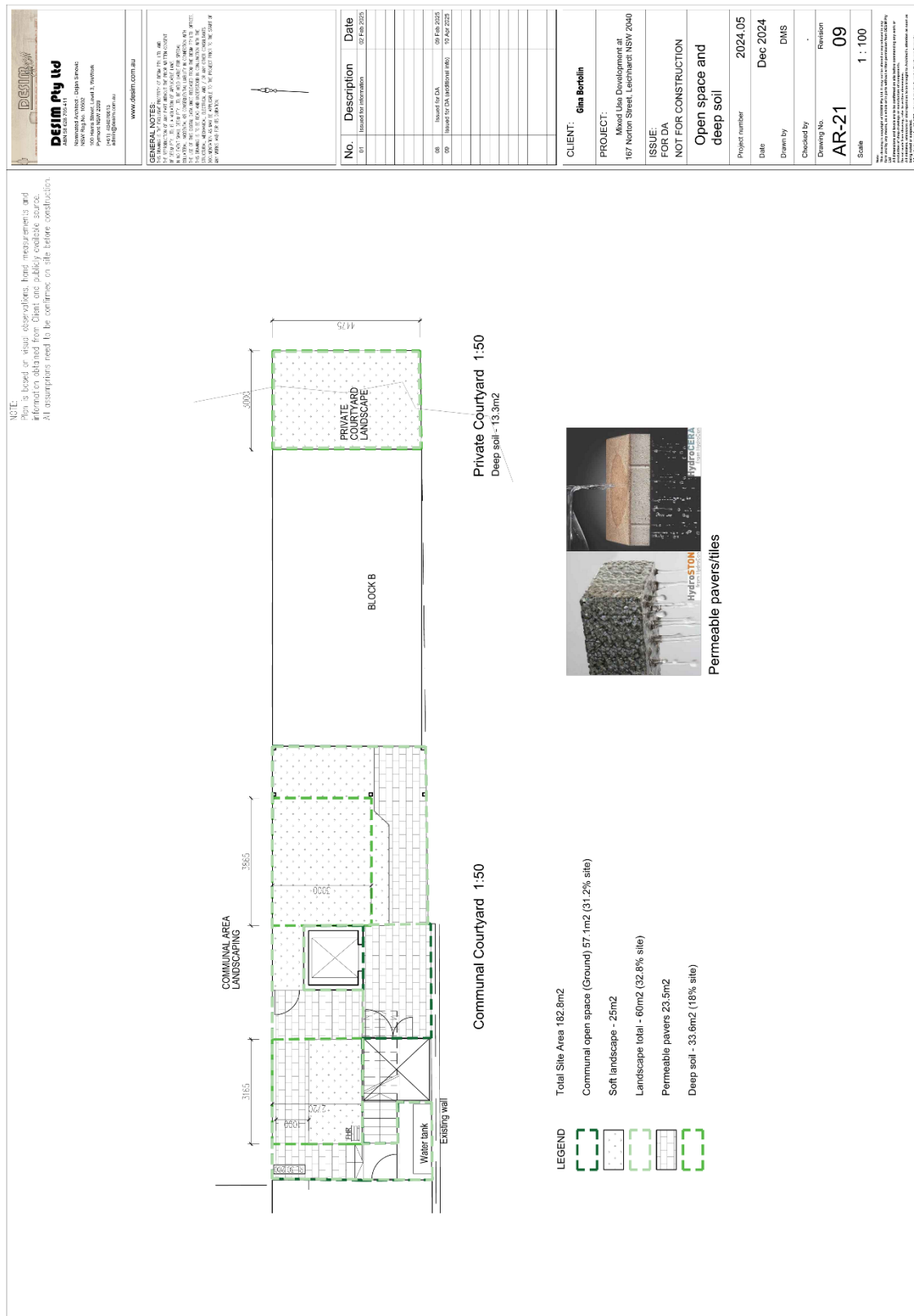
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[illegible]









GENERAL NOTES:

WORK HEALTH AND SAFETY: THE DESIGNER HAS CONSIDERED THE WORK AREA AND THE WORK AREA HAS BEEN MARKED OFF TO PREVENT ACCESS TO THE WORK AREA. THE DESIGNER HAS CONSIDERED THE WORK AREA AND THE WORK AREA HAS BEEN MARKED OFF TO PREVENT ACCESS TO THE WORK AREA.

PLANTING: PLANTING SHALL BE DONE IN ACCORDANCE WITH THE DESIGNER'S RECOMMENDATIONS. PLANTING SHALL BE DONE IN ACCORDANCE WITH THE DESIGNER'S RECOMMENDATIONS.

LANDSCAPE CONCEPT PLAN: LANDSCAPE CONCEPT PLAN. LANDSCAPE CONCEPT PLAN. LANDSCAPE CONCEPT PLAN.

PROPOSED LANDSCAPE FEATURES AND FINISHES: PROPOSED LANDSCAPE FEATURES AND FINISHES. PROPOSED LANDSCAPE FEATURES AND FINISHES. PROPOSED LANDSCAPE FEATURES AND FINISHES.

LEGEND: LEGEND. LEGEND. LEGEND.

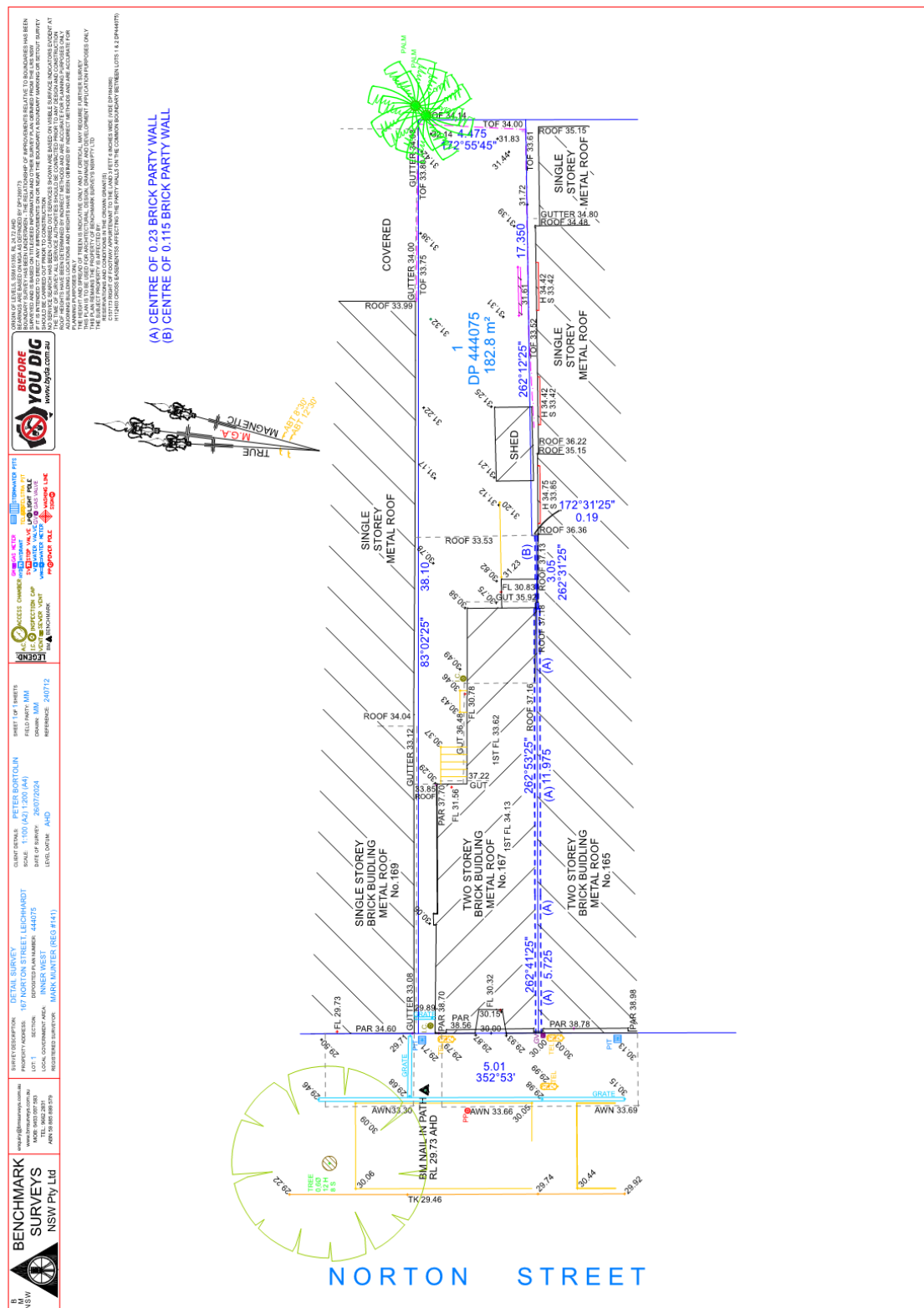
LANDSCAPE PLANTING PLAN - LEVEL 1 (GROUND): LANDSCAPE PLANTING PLAN - LEVEL 1 (GROUND). LANDSCAPE PLANTING PLAN - LEVEL 1 (GROUND).

LANDSCAPE PLANTING PLAN - LEVEL 4: LANDSCAPE PLANTING PLAN - LEVEL 4. LANDSCAPE PLANTING PLAN - LEVEL 4.

NORTHERN ELEVATION - VERTICAL PLANTING ON S.S. WIRES: NORTHERN ELEVATION - VERTICAL PLANTING ON S.S. WIRES. NORTHERN ELEVATION - VERTICAL PLANTING ON S.S. WIRES.

EXISTING SITE IMAGES: EXISTING SITE IMAGES. EXISTING SITE IMAGES.

[illegible]



Document Set ID: 40744972
Version: 1, Version Date: 17/06/2025

Attachment C – Conditions in the event of approval

CONDITIONS OF CONSENT

GENERAL CONDITIONS

	Condition
1.	<p>Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
2.	<p>Permits</p> <p>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:</p> <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
3.	<p>Insurances</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>

4.

Awnings with Lighting

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

Reason: Provide all weather protection to pedestrians.

5.

Separation of Commercial and Residential Waste and Recycling

The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.

Reason: Commercial/retail premises and residential properties pay separate charges for waste and recycling collection.

6.

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/Received	Prepared by
AR-00/09	Cover Page	10 April 2025	Desim Pty Ltd
AR-01/08	Site Analysis, Site Plan & Roof Layout	10 April 2025	Desim Pty Ltd
AR-02/08	Existing Layout, Sections & Proposed Demolition	9 Feb 2025	Desim Pty Ltd
AR-03/08	Proposed Layouts Levels 1 (Ground) & 2	10 April 2025	Desim Pty Ltd
AR-04/08	Proposed Layouts Levels 3 & 4 (Attic)	9 Feb 2025	Desim Pty Ltd
AR-06/08	Proposed Layouts Sections	9 Feb 2025	Desim Pty Ltd
AR-07/09	Proposed Elevations 1	10 April 2025	Desim Pty Ltd

AR-08/08	Proposed Elevations 2	9 Feb 2025	Desim Pty Ltd
AR-09/08	Facade Detail Sections	9 Feb 2025	Desim Pty Ltd
AR-11/08	Shadow Diagrams	9 Feb 2025	Desim Pty Ltd
AR-12/08	Solar Access	9 Feb 2025	Desim Pty Ltd
AR-13/08	Cross Ventilation Analysis	9 Feb 2025	Desim Pty Ltd
AR-21/09	Open Space & Deep Soil	10 April 2025	Desim Pty Ltd
L01/A	Landscape Concept Plan	22 Dec 2024	Susan Read Landscapes
L02/A	Landscape Details, Plant Images and Schedule	22 Dec 2024	Susan Read Landscapes
240712	Detail Survey	26 July 2024	Benchmark Surveys NSW Pty Ltd
SW-100/1	Stormwater Cover Page	11 Jan 2024	Civil Stormwater Engineering Group
SW-101/1	Stormwater - General Notes	11 Jan 2024	Civil Stormwater Engineering Group
SW-200/1	Stormwater Design - Ground Floor Plan	11 Jan 2024	Civil Stormwater Engineering Group
SW-201/1	Stormwater Design - Level 2, 3, 4 & Roof Plan	11 Jan 2024	Civil Stormwater Engineering Group
SW-300/1	Sediment & Erosion Control Plan	11 Jan 2024	Civil Stormwater Engineering Group
SW-400/1	Stormwater - Standard Details	11 Jan 2024	Civil Stormwater Engineering Group
J1006	Aircraft Noise Intrusion Assessment	16 Feb 2025	National Noise & Vibration
Version 2	Waste Minimisation &	10 April 2025	DESIM Pty Ltd

		Management Plan		
	-	AUSGRID Letter of Consent	-	AUSGRID
	<p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>			
7.	Residential Flat Buildings – Hot Water Systems			
	<p>Where units or dwellings are provided with separate individual hot water systems, these must be located so they are not visible from the street.</p> <p>Reason: To protect the visual amenity of the neighbourhood.</p>			
8.	Residential Flat Buildings – Air Conditioning Systems			
	<p>Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.</p> <p>Reason: To protect the visual amenity of the neighbourhood.</p>			
9.	Works Outside the Property Boundary			
	<p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>			
10.	Storage of materials on public property			
	<p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>			
11.	Other works			
	<p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>			
12.	National Construction Code (Building Code of Australia)			
	<p>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.</p> <p>Reason: To ensure compliance with legislative requirements.</p>			

13.	<p>Notification of commencement of works</p> <p>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:</p> <ol style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
14.	<p>Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
15.	<p>Lead-based Paint</p> <p>Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.</p> <p>Reason: To protect human health.</p>
16.	<p>Dial Before You Dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
17.	<p>Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>

18.	<p>Bin Storage - Residential</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
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BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition				
19.	<p>Security Deposit - Custom</p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" style="width: 100%;"> <tr> <td>Security Deposit:</td><td>\$9,341.20</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.90</td></tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$9,341.20	Inspection Fee:	\$389.90
Security Deposit:	\$9,341.20				
Inspection Fee:	\$389.90				

20.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
21.	<p>Stormwater Drainage System – Minor Developments (OSD is required)</p> <p>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:</p> <ol style="list-style-type: none"> 1. The stormwater drainage concept plan on Drawing No. SW-200/3 prepared by CIVIL STORMWATER ENGINEERING GROUP and dated 21 February 2025 must be amended to comply with the following requirements: <ol style="list-style-type: none"> a. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together 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. b. 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. c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks. d. 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 15litres/second (100year ARI); e. 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. f. 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. g. Only roof water is permitted to be connected to the OSD/OSR. The overflow from the storage tank shall be connected by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system.

	<p>h. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided.</p> <p>i. As there is no overland flow/flood path available from the rear and central courtyards to the Norton Street frontage, the design of the sag pit and piped drainage system is to meet the following criteria:</p> <ul style="list-style-type: none"> i. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe. ii. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building iii. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. <p>j. A 150mm step up must be provided between the finished surface level of the external area and the finished floor level of the internal room unless a reduced step is permitted by Part 3.3.3. of the National Construction Code for Class 1 buildings.</p> <p>k. No nuisance or concentration of flows to other properties.</p> <p>l. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.</p> <p>m. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.</p> <p>n. Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.</p> <p>o. 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.</p> <p>p. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.</p> <p>q. No impact to street tree(s).</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
22.	<p>Changes to Levels</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans incorporating the following amendments:</p> <p>A 150mm step down must be provided between the finished floor level of the internal room and the finished surface level of the external area unless a reduced step is permitted by Part 3.3.3. of the National Construction Code</p> <p>Reason: To protect buildings from overland flow.</p>

23.	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ol style="list-style-type: none"> The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc. must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme; New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location, as determined by the Council Engineer; Installation of a stormwater outlet to the kerb and gutter. <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards.</p>
24.	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
25.	<p>Long Service Levy</p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
26.	<p>Sydney Water – Tap In</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.</p> <p>Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>

27.	<p>Acoustic Report – Aircraft Noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>														
28.	<p>Street Numbering</p> <p>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</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>														
29.	<p>Green Roofs, Walls and Facades Report</p> <p>Prior to the issue of Construction Certificate, the Certifying Authority is to be provided with a report prepared by a registered landscape architect demonstrating that the proposed landscape plan and details of any green roofs, wall and facades are consistent with Inner West Councils Green Roof, Walls and Facades Technical Guidelines including but not limited to using species selected from the suggested species list, water proofing and drainage.</p> <p>Reason: To ensure landscaping is maintained.</p>														
30.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td><td>\$79,605.00</td></tr> <tr> <td>Community Facilities</td><td>\$14,731.00</td></tr> <tr> <td>Transport</td><td>\$10,788.00</td></tr> <tr> <td>Drainage</td><td>\$5,568.00</td></tr> <tr> <td>Plan Administration</td><td>\$1,037.00</td></tr> <tr> <td>TOTAL</td><td>\$111,730.00</td></tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> <p>$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$</p>	Contribution Category	Amount	Open Space & Recreation	\$79,605.00	Community Facilities	\$14,731.00	Transport	\$10,788.00	Drainage	\$5,568.00	Plan Administration	\$1,037.00	TOTAL	\$111,730.00
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	<p>Where:</p> <p>Cpayment = is the contribution at time of payment</p> <p>Cconsent = is the contribution at the time of consent, as shown above</p> <p>CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 140.9 for the March 2025 quarter.</p> <p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution</p>
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31.	Housing and Productivity Contribution								
a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made									
<table border="1"> <thead> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td><td>\$64,543.47</td></tr> <tr> <td>Transport project component</td><td>N/A</td></tr> <tr> <td>Total housing and productivity contribution</td><td>\$64,543.47</td></tr> </tbody> </table>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$64,543.47	Transport project component	N/A	Total housing and productivity contribution	\$64,543.47	
Housing and productivity contribution	Amount								
Housing and productivity contribution (base component)	\$64,543.47								
Transport project component	N/A								
Total housing and productivity contribution	\$64,543.47								
b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:									
<p style="text-align: center;">Highest PPI number</p>									
<p style="text-align: center;">Consent PPI number</p>									
Where:									
<i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2 nd last quarter before the quarter in which the payment is made, and									
<i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and									
<i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> .									
If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.									
c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:									
<table border="1"> <thead> <tr> <th>Development</th><th>Time by which HPC must be paid</th></tr> </thead> <tbody> <tr> <td>Development consisting only of residential subdivision within the meaning of the HPC Order</td><td>Before the issue of the first subdivision certificate</td></tr> <tr> <td>High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td><td>Before the issue of the first strata certificate</td></tr> </tbody> </table>	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate			
Development	Time by which HPC must be paid								
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate								
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate								

	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home
<p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ol style="list-style-type: none"> the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>		
32.	<p>Enclosure of Fire Hydrant</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed by a suitably designed accessible screen and in accordance with the requirements of AS 2419.1 2005.</p> <p>Reason: To protect the streetscape.</p>	

BEFORE BUILDING WORK COMMENCES

	Condition
33.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
34.	<p>Construction Traffic Management Plan – Detailed</p> <p>Prior to any building work, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.</p> <p>The following matters should be addressed in the CTMP (where applicable):</p> <ol style="list-style-type: none"> Description of the demolition, excavation and construction works; Site plan/s showing the site, roads, footpaths, site access points and vehicular movements; Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site); Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network; Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways; Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.); Proposed hours of construction related activities and vehicular movements to and from the site; Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority); Any activities proposed to be located or impact upon Council's road, footways or any public place; Measures to maintain public safety and convenience; Any proposed road and/or footpath closures;

	<ul style="list-style-type: none"> l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site; m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council; n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road); o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries; p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; q. On-site parking area for employees, tradespersons and construction vehicles as far as possible; r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways. t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance. <p>If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note.</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
35.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
36.	<p>Standard Street Tree Protection</p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>

37.	Verification of Levels and Location <p>Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
38.	Dilapidation Report <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the properties sharing a boundary with the subject site to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
39.	Construction Fencing <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

	Condition									
40.	Works to Trees Approval is given for the following tree/s to be removed, after the issue of a Construction Certificate: <table><tr><th>Tree No.</th><th>Botanical/Common Name</th><th>Location</th></tr><tr><td>Multiple</td><td><i>Celtis sinensis</i> (Hackberry)</td><td>Rear Yard</td></tr><tr><td>1</td><td><i>Yucca sp</i> (Yucca)</td><td>Rear Yard</td></tr></table> <p>All tree works shall be undertaken by an arborist with minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, as defined by the Australian Qualification Framework and in compliance with Australian Standard AS 4373—<i>Pruning of amenity trees</i> and Safe Work Australia’s Guide to Managing Risks of Tree Trimming and Removal Work.</p>	Tree No.	Botanical/Common Name	Location	Multiple	<i>Celtis sinensis</i> (Hackberry)	Rear Yard	1	<i>Yucca sp</i> (Yucca)	Rear Yard
Tree No.	Botanical/Common Name	Location								
Multiple	<i>Celtis sinensis</i> (Hackberry)	Rear Yard								
1	<i>Yucca sp</i> (Yucca)	Rear Yard								

	<p>Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) shall be undertaken by an approved network service provider contractor for the management of vegetation conflicting with such services. Contact the relevant network service provider for further advice in this regard.</p> <p>The trees to be removed must be included on all Construction Certificate plans shown in red.</p> <p>Reason: To identify trees permitted to be removed.</p>
41.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
42.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.</p> <p>In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.</p> <p>This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works. "Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

43.	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
44.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
45.	<p>Works as Executed – Site Stormwater Drainage System</p> <p>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:</p> <p>The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and</p> <p>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.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
46.	<p>Operation and Management Plan</p> <p>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:</p> <p>a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and</p>

	<p>b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
47.	<p>Certification of Tree Planting</p> <p>Prior to the issue of any Occupation Certificate, the Certifying Authority is to be provided with evidence in the form of an image and a purchase invoice to confirm that:</p> <p>A minimum of 1 x 75 litre size tree, and 1 x 100 litre size tree, have been planted in the locations shown on the approved Landscape Plan by Susan Read, dated 22/12/2024. The tree must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted.</p> <p>Trees required by this condition must be maintained and protected until they are protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p>
48.	<p>Aircraft Noise</p> <p>Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development.</p> <p>Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
49.	<p>Verification and Maintenance of Green Roofs, Walls and Facades Works</p> <p>Prior to the issue of an Occupation Certificate, the principal certifier is to be provided with written evidence demonstrating that the works have been carried out in accordance with the Green Roofs, Walls and Facades Report that was submitted at Construction Certificate Stage and a maintenance plan that is consistent with the Inner West Councils Green Roof, Walls and Facades Technical Guidelines.</p> <p>Reason: To ensure landscaping is maintained.</p>

50.	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>
51.	<p>Affordable Housing Requirements</p> <p>Prior to the issue of any occupation certificate, the Certifying Authority must be provided with evidence confirming the following:</p> <ul style="list-style-type: none"> a. A restriction must be registered prior to the issue of any occupation certificate, in accordance with the Conveyancing Act 1919, Section 88E, against the title of the property relating to the development which will ensure: <ul style="list-style-type: none"> i. Unit B1 must be used for the purposes of affordable housing. ii. The affordable housing units are to be managed by a registered community housing provider for 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates. iii. Notice of a change in the registered community housing provider who managed the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change. iv. The registered community housing provider who manages the affordable housing component must apply the NSW Affordable Housing Ministerial Guidelines 2023-2024, as amended from time to time. v. Inner West Council is nominated as an authority to release, vary or modify the restriction. b. Evidence of an agreement with a registered community housing provider for the management of the affordable housing component must be given to the Registrar of Community Housing, including the name of the registered community housing provider, and c. Evidence that the requirements of paragraphs (a) and (b) have been met must be given to Council prior to the issue of any occupation certificate. <p>Reason: To confirm the terms of the affordable housing.</p>

OCCUPATION AND ONGOING USE

	Condition
52.	<p>Operation and Management Plan</p> <p>The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
53.	<p>Green Roofs, Walls and Facades Establishment</p> <p>The plantings within the Green Roofs, Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition from the issue of an Occupation Certificate.</p> <p>Reason: To ensure landscaping is maintained.</p>
54.	<p>Terms of Affordable Housing</p> <p>It is a condition of this consent that for 15 years commencing on the day on which an occupation certificate is issued for all parts of the building or buildings to which the development consent relates that:</p> <ul style="list-style-type: none"> a. Unit B1 must be used for affordable housing, and b. The affordable housing component must be managed by a registered community housing provider, and c. Notice of a change in the registered community housing provider who managed the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and d. The registered community housing provider who manages the affordable housing component must apply the Affordable Housing Guidelines. <p>Reason: To confirm the terms of the affordable housing.</p>

SUBDIVISION WORK**BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**

	Condition
55.	<p>Strata Subdivision Plan</p> <p>Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with plans indicating that the strata subdivision of the development has been carried out in accordance with approved plans and demonstrating that:</p> <ul style="list-style-type: none"> a. Each strata lot comprising a dwelling and one car space; b. Disabled spaces must be allocated adaptable dwellings; c. Car spaces must not be given separate strata lot numbers; and

	<p>d. All visitor parking spaces and car wash bays are to be included in common property.</p> <p>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. https://www.innerwest.nsw.gov.au/live/information-for-residents/roads-and-footpaths/how-to-apply-for-a-street-number</p> <p>Reason: To ensure works are in accordance with the consent and adequate on-site facilities are provided for the development.</p>
56.	<p>Strata Subdivision Plan to Show Easements and Right of Ways</p> <p>Prior to the release of a Strata Subdivision Plan, the Certifying Authority must be provided with evidence that all instruments under Section 88B of the Conveyancing Act 1919 used to create easements or right-of-ways are shown.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
57.	<p>Street Numbering</p> <p>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</p> <p>Reason: To ensure occupancies are appropriately numbered.</p>