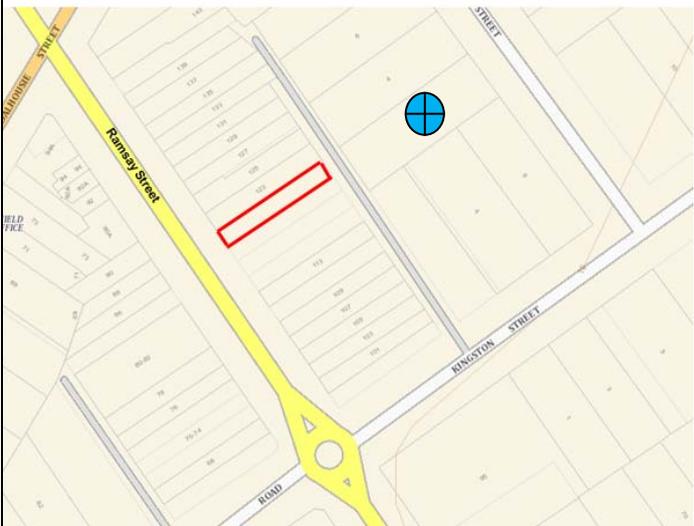


 <h1 style="margin: 0;">INNER WEST COUNCIL</h1>	
<h2 style="margin: 0;">DEVELOPMENT ASSESSMENT REPORT</h2>	
<b>Application No.</b>	10.2017.000215
<b>Address</b>	121 Ramsay Street, Haberfield
<b>Proposal</b>	<p>Alterations and additions to the existing shop top housing development involving:</p> <ul style="list-style-type: none"> <li>Construction of a two storey apartment above a garage for two vehicles at the rear of the site;</li> <li>Alterations to the existing residence including a new outdoor terrace and window opening at the northeast elevation;</li> <li>New garbage storage areas for the shop and dwellings within the garage; and</li> <li>Relocation of the residential pedestrian access to the southern boundary.</li> </ul>
<b>Date of Lodgement</b>	14 November 2017
<b>Applicant</b>	Ian Moore Architects
<b>Owner</b>	Kappa Enterprises Pty Ltd
<b>Number of Submissions</b>	One
<b>Value of works</b>	\$600,000
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds officer delegation
<b>Main Issues</b>	Non-compliance with FSR development standard
<b>Recommendation</b>	Consent subject to conditions
<b>Location Plan</b>	<b>Legend</b>
	<p><b>Subject site</b></p>  <p><b>Submission</b></p> 

## 1. Executive Summary

This report is an assessment of the development application (DA) submitted to Council for alterations and additions to the existing shop top housing development at No.121 Ramsay Street, Haberfield. The application was notified to surrounding properties and one submission in objection was received.

The main issues that have arisen from the application is the non-compliance with the Floor Space Ratio (FSR) development standard under Ashfield Local Environmental Plan 2013 (ALEP 2013) and providing sufficient amenity for the existing dwelling. The proposal represents an appropriate built form for the site and would not result in any unreasonable amenity impacts to the adjoining properties.

The non-compliance with the FSR development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards. The amenity of the existing apartment can be improved by removing the proposed ensuite and increasing the size of the proposed courtyard. Appropriate conditions have been provided and the application is recommended for approval.

## 2. Proposal

The proposal is for alterations and additions to the existing shop top housing development involving:

- Construction of a two storey apartment above a garage for two vehicles at the rear of the site;
- Alterations to the existing residence including a new outdoor terrace and window opening at the northeast elevation;
- New garbage storage areas for the shop and dwellings within the garage; and
- Relocation of the residential pedestrian access to the southern boundary.

## 3. Site Description

The site is located on the north-eastern side of Ramsay Street, between Dalhousie Street and Kingston Street, Haberfield. The site is generally rectangular in shape with a total area of approximately 190m<sup>2</sup> and is legally described as Lot 1 DP 931434. The site has a frontage to Ramsay Street of 5.26m and depth of 36.5m. The northern (rear) boundary adjoins a service lane. The site slopes down from Ramsay Street to the laneway, representing a change in level of approximately 1m.

The site contains a two storey shop top development and a parking and service area at the rear of the site. The ground floor shop is currently used as a bakery with a residence above (refer to **Figures 1 and 2**). The existing first floor residence includes two bedrooms with a small balcony/landing adjacent to the northwest boundary.



Figure 1 – View from Ramsay Street



Figure 2 – View from the laneway at the rear

The adjoining building to the south at 119 Ramsay Street forms a pair with the subject site. It has been redeveloped at the rear comprising two levels above a ground floor garage with a gross floor area (GFA) of 272m<sup>2</sup> and an FSR of 1.41:1 (refer to **Figure 3**).



**Figure 3 – View at rear of No. 19 Ramsay Street**

The adjoining property to the north at 123 Ramsay Street contains a two storey commercial building with ground floor shop and garage and two residential levels above with a GFA of 266m<sup>2</sup> and an FSR of 1.24:1.



**Figure 4 – View at rear of No. 23 Ramsay Street**

The locality is characterised by a mix of commercial and shop top buildings and a variety of architectural styles. The immediate vicinity varies between traditional two storey shops along the street and two and three storey additions at the rear of varying scale and setbacks.

The properties to the east across the service lane contain dwelling houses fronting Dickson Street with single storey garages accessed from the laneway.

The property is located within the Haberfield Heritage Conservation Area (HCA) under ALEP 2013.

## 4. Background

### 4(a) Previous Application

Date	Discussion / Letter / Additional Information
06 May 2016	Provisional Development Application No. 17.2016.108 lodged with Council
26 May 2016	Letter sent to applicant raising a number of issues including: <ul style="list-style-type: none"> <li>• a clause 4.6 variation in lieu of the SEPP 1 lodged;</li> <li>• the proposed FSR significantly exceeded the maximum allowable under the ALEP 2013 and is unlikely to be supported by Council,</li> </ul>
19 July 2016	<ul style="list-style-type: none"> <li>• a request for a car parking compliance analysis;</li> <li>• privacy impacts from the elevated balconies.</li> </ul>
28 September 2016	Letter sent to applicant with the heritage advisor's comments from meeting held on the 14 June 2016 raising concerns with excessive FSR and bulk and scale at the rear.
20 December 2016	Development Application fee paid with amended drawings lodged (DA 2016/214)
30 March 2017	Letter sent to applicant raising a number of issues some of which were raised during the PDA stage including discrepancies in the plans, non-compliance with the FSR development standard and shortfall in car parking and objections from neighbours.
6 April 2017	Letter sent to applicant advising concerns with excessive FSR and lack of car parking. It was recommended that the existing commercial floorspace is not increased and existing residence above is extended and no additional dwellings provided on the site. The development application was withdrawn.

### 4(b) Current Application (pre-DA)

Date	Discussion / Letter / Additional Information
31 May 2017	The applicant undertook a design process to identify various development options and a preferred development scheme for the site. The applicant submitted preliminary sketches of a new proposal to Council seeking comments prior to lodgement of a new DA.
26 May 2016	Council reviewed the new proposal and advised the setbacks at the rear of the site were satisfactory and consistent with adjoining properties, and that further resolution of the FSR would be undertaken as part of the DA process. Council's Heritage Advisor also raised no objection to the revised proposal.

#### 4(b) Application history

The following table outlines the recent development application (DA) history of the subject site.

DA Number	DATE	PROPOSAL	DECISION
2016//214	06/04/2017	Alterations and additions to shop top development	Withdrawn
2005/172	15/02/2006	Use the ground floor shop as a café and associated external and internal alterations	Approved
2006/288	28/08/2008	Change the use of the first floor from business to residential	Approved

### 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 (as amended).

#### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Ashfield Local Environment Plan 2013

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. The application has been assessed against the requirements of SEPP 55. This Policy provides State-wide planning controls requiring that consent must not be granted to the carrying out of any development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

A search of Council's records indicates there is no known record of any site contamination. Given this, the site would be suitable for the proposed use and no further assessment in relation to this SEPP is required.

##### 5(a)(ii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The site is located approximately one kilometre south of Parramatta River. The proposal would have no adverse environmental or visual impact on the foreshore and waterway.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed works. BASIX Certificate No. A290877\_03 dated 8 May 2018 was submitted with the development application and demonstrates that the proposal will achieve the required water efficiencies and thermal comfort requirements.

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

Ashfield Local Environmental Plan 2013 Summary Compliance Table				
Clause	Provision	Standard/Requirement	Proposed	Compliance
2.2	Zoning	B2 Local centre	Shop top development is permissible with Council's consent under the zoning provisions applying to the land. The development is acceptable having regard to the relevant objective of the B2 zone as it will add to the stock of residential accommodation as part of a mixed use development.	Yes
4.3	Height of buildings	10m	9.3m (rear addition)	Yes
4.4	Floor space ratio	1:1	1.42:1 Refer to Cl. 4.6 discussion below.	No
4.6	Exceptions to Development standards	The variation to the FSR development standard is discussed below.		
5.10	Heritage Conservation	The site is located within the Haberfield Heritage Conservation Area (HCA).  The site is not listed as a heritage item.		
5.10(4)	Effect of proposed development on heritage significance	The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or the area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).	The proposal would not alter the building façade or original form within the primary streetscape. Council's Heritage Advisor advises the proposal is acceptable in term of heritage impacts. Refer to discussion Section 5(d) of this report.	Yes
5.10(5)	Heritage Assessment	The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage	The applicant's Heritage Impact Statement (HIS) concludes there would be no adverse impact on the Haberfield HCA because the proposal would:	Yes

		<p>management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<ul style="list-style-type: none"> <li>• not alter the Ramsay Street façade or the original built form;</li> <li>• have a positive visual impact within the laneway streetscape; and</li> <li>• be consistent with the built form context.</li> </ul> <p>The proposal includes retention of the original building within the primary streetscape. The proposed additions are confined to the rear of the site and are sympathetic to the setting of the HCA. The proposed additions are consistent with the built form context within the laneway at the rear of the site. The proposal is acceptable in terms of heritage and streetscape.</p>	
6.5	Development on land in Haberfield Heritage Conservation Area	<p>Development consent must not be granted to development for the purpose of a dwelling house on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) if the development involves an existing building:</p> <p>(i) the gross floor area above the existing ground floor level will not exceed the gross floor area of the existing roof space, and</p> <p>(ii) the gross floor area below the existing ground floor level will not exceed 25% of the gross floor area of the existing ground floor, and</p> <p>(b) the development will not involve excavation in excess of 3 metres below ground level (existing), and</p> <p>(c) the development will not involve the installation of dormer or gable window, and</p> <p>(d) at least 50% of the site will be landscaped area.</p>	This clause applies to dwelling houses.	NA

The following provides further discussion of the relevant issues:

(i) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1:1 applies to the site as indicated on the Floor Space Ratio Map that accompanies ALEP 2013. The proposed development has a gross floor area (GFA) of 270m<sup>2</sup>, which equates to an FSR of 1.42:1 and represents a variation of 42% above the maximum allowable FSR of 1:1 as outlined in the table below.

Development Standard	Proposal	Extent of variation	Compliance
Clause 4.4 - Floor Space Ratio Required: 1:1 (maximum) or 190m <sup>2</sup> gross floor area (GFA)	1.42:1 270m <sup>2</sup> GFA	42%	No

A written request, in relation to the development's variation from the height development standard in accordance with Clause 4.6 Exception to Development Standards of ALEP 2013, was submitted with the application. The submission is discussed below under the heading "Exceptions to Development Standards (Clause 4.6)".

(ii) Exceptions to Development Standards (Clause 4.6)

As outlined in table above, the proposal results in a breach of the FSR standard under Clause 4.4 of Ashfield LEP 2013.

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*
3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The application is accompanied by a written request in accordance with Clause 4.6 Exceptions to Development Standards under Ashfield LEP 2013. In summary, the applicant's written request justifies the non-compliance on the basis that the proposal:

- is similar in FSR to the adjoining properties;
- is compatible with the immediately adjoining properties in terms of bulk and scale;
- retains the traditional shop top development within the streetscape;
- provides a separation of residential and commercial uses;
- includes a stepped building form at the rear of the site to the lower scale residential context;
- retains outlook, skyline views, solar access and daylight to the dwellings to the east;
- does not result in any unreasonable environmental impacts to the adjoining properties in terms of overshadowing, privacy, views and outlook;

- provides additional residential accommodation with good internal amenity; and
  - achieves a better planning outcome as it responds to the heritage constraints of the site.
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Officer's Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to Development Standards, and it is considered to be well founded in this instance. The proposal would not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard and B2 zoning as demonstrated below:

- it retains the traditional shop top development within the primary streetscape;
- provides a suitable transition to the adjoining the low scale residential development at the rear;
- it is consistent with the bulk and scale of the existing built form on the adjoining properties;
- it would not result in any unreasonable amenity impacts to the adjoining properties in terms of overshadowing, privacy and visual bulk;
- it is generally consistent with the relevant objectives of the FSR development standard under ALEP 2013;
- the additional floorspace is appropriately distributed across the site;
- it will result in improved internal amenity for the existing dwelling on the site; and
- the non-compliance is acceptable due to the relatively small size of the site.

#### 5(a)(v) Draft Environmental Planning Instruments

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

#### Draft Remediation of Land State Environmental Planning Policy (SEPP)

The intention of the draft Remediation of Land SEPP and draft planning guidelines is to replace the current SEPP No. 55 – Remediation of Land. The draft Policy was on public exhibition between 31 January and 13 April 2018. The Department of Planning and Environment is currently collating the submissions that were received during the exhibition.

There is no known record of any site contamination, accordingly no further consideration under this draft Policy is required.

#### Draft Environment SEPP

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed

and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

### 5 (b) Development Control Plans

Inner West Comprehensive Development Control Plan 2016 (DCP 2016) does not contain specific planning controls for shop top housing in the B2 Local Centre zone. Notwithstanding, the proposal is assessed against the relevant controls in Section 2 General Guidelines, Chapter A Miscellaneous, Chapter E2 Haberfield Conservation Area and Chapter F Part 5 Residential Flat Buildings to guide the merit assessment of the proposal.

Comprehensive Inner West Development Control Plan 2016 Summary Compliance Table - Section 2 General Guidelines				
Clause No	Clause	Performance Criteria/Design Solution	Proposed	Compliance
<b>Chapter A Miscellaneous</b>				
<i>Part 2 Good Design</i>				
PC1	Context	Development: <ul style="list-style-type: none"> <li>• responds and contributes to its context</li> <li>• contributes to the quality and identity of the area</li> <li>• in areas of relatively stability, reinforces desirable element of established street and neighbourhood character</li> <li>• in areas undergoing substantial change, contributes to the creation of the identified desired future character</li> </ul>	The proposed development will have an FSR of 1.42:1. The proposal is generally consistent with the FSR on the adjoining properties: <ul style="list-style-type: none"> <li>• No. 119 = 1.41:1</li> <li>• No. 123 = 1.24:1</li> </ul>	Yes
PC2	Scale and Built form	Development has a scale: <ul style="list-style-type: none"> <li>• that suits the scale of the street and the surrounding buildings</li> <li>• in areas undergoing substantial change, contributes to the creation of the identified desired future character</li> </ul>	The design of the proposed addition includes a stepped transition to the lower built residential properties across the laneway to the east. The bulk and scale of the proposed addition at the rear is consistent with the built form context and therefore is appropriate for the site.	Yes
PC2.1		Development has a built form that: <ul style="list-style-type: none"> <li>• is appropriate for the site and the building's purpose in terms of building alignments, proportions, building type and building elements</li> <li>• defines the public domain</li> <li>• contributes to the character of streetscapes and parks,</li> </ul>	The development is an appropriate architectural response within the mixed residential and commercial character of the locality.	Yes

		<p>including their views and vistas</p> <ul style="list-style-type: none"> <li>• provides internal amenity and outlook</li> </ul>		
PC3	Density	<p>Development has a density that is:</p> <ul style="list-style-type: none"> <li>• appropriate for a site and its context in terms of floor space yields (or number of units)</li> <li>• sustainable and consistent with the existing density in an area, or in areas undergoing substantial change, are consistent with the stated desired future density</li> </ul>	<p>The quantum of floorspace is generally consistent with adjoining development.</p>	Yes
PC6	Amenity	<p>Development:</p> <ul style="list-style-type: none"> <li>• provides amenity through high quality physical, spatial and environmental design</li> <li>• has access to: <ul style="list-style-type: none"> <li>- sunlight</li> <li>- natural ventilation</li> <li>- visual privacy</li> <li>- acoustic privacy</li> <li>- storage</li> <li>- indoor and outdoor space</li> <li>- outlook and views</li> </ul> </li> <li>• has ease of access for all age groups and degrees of mobility</li> <li>• has efficient layouts and has appropriate room dimensions and shapes</li> </ul>	<p>The proposed new dwelling contains a north-east facing balcony adjoining the living area providing good internal amenity for the future occupants.</p> <p>A skylight above the bathroom will allow for penetration of sunlight into the central part of the upper level.</p> <p>Adequate natural ventilation will be achieved by large windows openings at the rear elevation over both levels of the dwelling.</p> <p>The proposed alterations and additions to the existing dwelling include a suitably proportioned outdoor terrace and a new window opening at the northeast elevation forming an extension to the internal living area. At the winter solstice, the new window to the living area will receive sunlight at midday and as the sun tracks further east, the terrace will receive sunlight at 3:00pm. The proposal will increase solar access, daylight access, cross ventilation and the provision of private open space for the existing dwelling, resulting in improved internal amenity for the future occupants compared to the existing situation. To further improve the amenity to the existing dwelling it is recommended the ensuite within the proposed new dwelling is deleted to increase the size of the courtyard and provide a suitable amount of solar</p>	Can comply

			access, particularly on the winter solstice. The provision of a roof skylight above the living area would further improve internal amenity for the existing dwelling. Suitable conditions have been recommended.	
PC7	Safety and Security	<p>Development:</p> <ul style="list-style-type: none"> <li>• optimises safety and security, both internal to the development and for the public domain</li> <li>• maximises overlooking of public and communal spaces while maintaining internal privacy</li> <li>• avoids dark and non-visible areas</li> <li>• maximising activity on streets</li> <li>• provides clear, safe access points</li> <li>• provides quality public spaces that cater for desired recreational uses</li> <li>• provides lighting appropriate to the location and desired activities</li> <li>• provides clear definition between public and private space</li> </ul>	<p>Secure access is available to the dwellings via the ground floor garage access on the laneway.</p> <p>The new balconies at the upper levels will increase casual surveillance of the laneway.</p>	Yes
<i>Part 4 Solar Access and Overshadowing</i>				
DS1.1	RFBs	<p>Whichever is the lesser, development:</p> <ul style="list-style-type: none"> <li>• maintain existing levels of solar access to adjoining properties</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• ensures living rooms and principal private open space of adjoining properties receive a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June</li> </ul>	The proposed development will cast additional shadow over the roof of the adjoining property at No. 19 Ramsay Street. The proposal complies with the minimum solar access requirements in the DCP. The proposal would not result in any unreasonable shadow impacts to that property.	Yes
DS1.2		<p>Applications are to show:</p> <ul style="list-style-type: none"> <li>• plans of affected buildings and rooms, plans of affected open space, site plan, and the parts of the development causing the shadowing</li> <li>• elevations of affected rooms and degree of shadowing to relevant walls and windows</li> </ul>	The application includes shadow diagrams which show the additional shadow cast over the adjoining property to the south.	Yes
<i>Part 6 Safety by Design</i>				
DS1.2	General	Development provides for passive casual surveillance of areas of adjoining public domain and communal private open space	The new dwelling at the rear will increase opportunity for casual surveillance of the laneway.	Yes

<i>Part 8 Parking</i>				
	Parking rates for residential Flat Buildings in B2 zone and retail shops	<p>Minimum of 1 space for all dwellings</p> <p>Parking for visitors at the rate of 1 space for every 4 dwellings including serviced apartments plus 1 car wash bay.</p> <p>One space per 40m<sup>2</sup> of retail GFA</p>	<p>The parking requirement for existing shop (60m<sup>2</sup>) and dwelling is (1.5 + 1) = 2.5 spaces rounded up to 3 spaces.</p> <p>A parking credit of one car space applies to the site (3 spaces required for existing development – 2 spaces currently available).</p> <p>The proposal generates a demand of 1.5 spaces for the shop plus 2 spaces for the dwellings equating to 4 car spaces.</p> <p>The final parking requirement with credit is 3 spaces (4 spaces – 1 space).</p> <p>The proposal includes parking for two vehicles in a tandem arrangement at the ground level garage accessed directly from the service lane at the rear of the site. The proposal will result in the shortfall of one residential car space. The non-compliance with the residential car parking requirement is acceptable given the site is located within 40m of two public bus stops along Ramsay Street (northbound and southbound) and existing site constraints.</p>	No. Merit review.
<i>Part 15 Stormwater Management</i>				
DS1.3	General	Comply with the applicable sections and design requirements of the document: "Ashfield Interim Development Assessment Policy 2013- Part E4 –Stormwater Management".	The stormwater disposal from the proposed development will be connected to the existing stormwater system, which discharges to the rear lane. No concerns were raised by Council's Development Engineer in relation to drainage.	Yes
<b>Chapter F - Part 5 Residential Flat Building</b>				
DS8.1	Setbacks side and rear	<p>Development does not cause a significant adverse amenity impact on adjoining properties by:</p> <ul style="list-style-type: none"> <li>• increased overshadowing</li> <li>• reduction in the level of privacy</li> <li>• obstruction of views</li> <li>• reduction in levels of daylight and ventilation</li> </ul>	Concerns were raised in the public submission in relation to the rear setback at the upper levels and the potential overlooking to the rear of the neighbouring residential property to the north-east across the laneway. The proposed outdoor terrace at Level 2 has a nil setback to	Yes

			<p>the laneway boundary at the rear of the site and aligns with the existing terrace on the adjoining property at No. 123 Ramsay Street. The proposed terrace includes a 800mm wide planter box that will prevent people from standing against the edge to mitigate potential privacy impacts to the neighbouring residential property across the laneway.</p> <p>The proposed outdoor terrace at Level 3 is setback 4 m from the laneway and adjoins a bedroom where people spend less waking time. The proposed terrace will not result in any unreasonable privacy impacts to the neighbouring residential property across the laneway.</p> <p>Furthermore, the distance separation afforded by the laneway and intervening development (garage structures) would mitigate the potential privacy impact to the rear of the neighbouring residential properties.</p>	
DS10.2	Open Space	Compliance with the Apartment Design Guide (ADG) and relevant parts of the Inner West DCP 2016 is achieved.	<p>The ADG can be used as a guide and requires the primary balcony for a one bedroom apartment to be a minimum of 8m<sup>2</sup> with minimum dimension of 2m.</p> <p>The proposed dwelling contains a terrace adjoining the living area with an area of 14m<sup>2</sup> and minimum dimension of 3m.</p> <p>The existing dwelling currently has no private open space. The proposal includes a new terrace forming an extension to the living area of the existing dwelling with an area of 10m<sup>2</sup> and a minimum dimension of 2.8m, plus a 1m wide breezeway. The terrace will be further increased by a recommendation to delete the ensuite within the new dwelling.</p>	Yes
<p><b>Chapter E2 Haberfield Conservation Area</b>  <b>Section 3 - Planning Measures for commercial properties</b></p>				
3.3		(a) The existing siting pattern within the commercial area is	The proposed development will retain the existing original	Yes

		to be maintained. The notion of a forecourt or entrance area to a commercial building is not appropriate as this interrupts the continuity and strength of the streetscape siting pattern.	facade and form of the building within the primary streetscape. Council's Heritage Advisor has raised no objection to the proposal.	
		(b) Removal of or alteration to original facades is not permitted.	The original façade will be retained.	Yes
		(c) Retention, repair and restoration of original above-awning facades is encouraged.	No changes are proposed to the façade, which is relatively intact.	Yes
		(d) Below awning level, new work is to be in sympathy with, and not detract from, the style and character of the building and streetscape. Designs, including materials, colours, signage, etc should reflect the original facades of the commercial buildings of Haberfield.	No changes are proposed to the shopfront below the awning.	Yes
		(e) Reinstatement of the original street-level facades is encouraged, including the reinstatement of posted verandahs.	The original façade is being retained	Yes

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

### 5(c) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will not result in significant or unreasonable impacts in the locality.

### 5(d) The suitability of the site for the development

The paucity of environmental impacts demonstrates the site is suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

### 5(e) Any submissions

The application was notified for a period of 14 days to surrounding properties from 21 September 2017 to 4 October 2017. One (1) submission was received from No. 2 Dickson Street located to the northeast across the laneway at the rear of the site. The issues raised are addressed as follows:

Issue: Excessive building height

Comment:

The proposed rear addition has a maximum building height of 9.3m, which complies with the 10m height development standard under clause 4.3 of ALEP 2013. The building height is

generally consistent with the height of existing development at the rear of the adjoining properties.

Issue: Inadequate building setbacks at the rear

Comment:

The proposed addition includes a stepped transition to reduce the bulk and scale within the laneway streetscape to the low scale residential context across the laneway to the northeast. The rear building setbacks are generally consistent with the existing development on the adjoining properties at Nos. 119 and 123 Ramsay Street.

Issue: Potential privacy Impacts

Comment:

The distance separation afforded by the laneway (approximately 7m to the boundary) and intervening development (garage structures adjacent to the laneway) would mitigate the potential privacy impact to the rear of the neighbouring residential properties. Furthermore, the design incorporates privacy measures to mitigate potential privacy impacts to the neighbouring properties. Refer to discussion in Section 5(b) under DCP 2016.

### 5(g) The Public Interest

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

The development is consistent with the relevant aims, and design parameters contained in ALEP 2013 and the DCP 2016 and other relevant EPIs. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and thus the development is considered to be in the public interest.

## 6. Referrals

The application was referred to the following internal sections/officers.

### Internal Referrals

- Heritage Officer
- Development Engineer
- Building Surveyor

The comments have been incorporated into the subject report.

## 7. Section 7.11 Contribution

Section 7.11 contributions are payable for the proposal. The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$18,201.51 would be required for the development under Ashfield Section 94 Contributions Plan 2014, being for 1 additional residence of 97m<sup>2</sup> GFA.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013. The proposal is generally consistent with the Comprehensive Inner West Development Control Plan 2011.

The development will not result in any unreasonable impacts on the amenity of adjoining premises and the streetscape. The non-compliance with the FSR development standard has been adequately justified in the applicant's written request in accordance with Clause 4.6 Exceptions to Development Standards.

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

## 9. Recommendation

- A. That the Inner West Local Planning Panel (IWLPP) approve a variation to Floor Space Ratio prescribed by clause 4.4 in the Ashfield Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone.
- B. That the IWLPP, as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 grant consent to Development Application No. 2018.000215 for alterations and additions to existing shop top development at 121 Ramsay Street, Ashfield, subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

**CONDITIONS****DA 2017.215.1**

121 Ramsay Street HABERFIELD 2045

**Description of Work as it is to appear on the determination:****A General Conditions****(1) Approved plans stamped by Council**

The development must be carried out only in accordance with DA2017/215 and the following plans and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Approved Plans:

Drawing No.	Title/Description	Prepared by	Issue/Revision	Date
1519-02-00-01	Site Plan	Ian Moore Architects	Revision D	08.05.2018
1519-02-01-01	Level 01	Ian Moore Architects	Revision G	08.05.2018
1519-02-01-02	Level 02	Ian Moore Architects	Revision G	08.05.2018
1519-02-01-03	Level 03	Ian Moore Architects	Revision G	08.05.2018
1519-02-01-04	Roof plan	Ian Moore Architects	Revision D	08.05.2018
1519-02-02-01	North-east elevation	Ian Moore Architects	Revision F	08.05.2018
1519-02-02-02	South-west elevation	Ian Moore Architects	Revision C	01.09.2017
1519-02-03-01	Section 01	Ian Moore Architects	Revision F	08.05.2018
1519-02-03-02	Section 02	Ian Moore Architects	Revision G	08.05.2018
1519-02-03-03	Section 03	Ian Moore Architects	Revision D	08.05.2018
1519-12-01-01	Stormwater Drainage Plan	Ian Moore Architects	Revision C	08.05.2018
1519-12-01-02	Erosion Control Plan	Ian Moore Architects	Revision C	08.05.2018
1519-14-01-00	Schedule of Material and Colours	Ian Moore Architects	Revision C	08.05.2018

Supporting Documents:

<b>Title/Document</b>	<b>Prepared by</b>	<b>Date</b>
BASIX Certificate A290877_03	Ian Moore Architects	8 May 2018
Statement of Environmental of Effects	Ian Moore Architects	Revision D September 2017
Statement of Heritage Impact	Ian Moore Architects	Revision D September 2017

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

**(1) Internal amenity**

In order to improve the internal amenity of the existing dwelling, the following amendments are necessary:

- (a) A roof skylight (minimum 1m<sup>2</sup>) shall be provided above the living area of the existing dwelling. Details of the skylight are to be submitted with the application for a Construction Certificate.
- (b) The proposed ensuite within the new dwelling is to be deleted to reduce the size of the dwelling and extend the size of the courtyard/terrace of the existing dwelling. The amendments are to be submitted with the application for a Construction Certificate.

**(2) Compliance with BCA**

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

**B Conditions that must be satisfied prior to issuing/releasing a Construction Certificate****(1) Waste Management Plan**

Prior to the issue of a Construction Certificate, the applicant shall prepare and submit a Waste Management Plan in accordance with the provisions of Inner West Council Comprehensive Development Control Plan 2016 - Planning For Less Waste and the Waste Planning Guide for Development Applications (Planning for Less Waste, prepared by the Regional Waste Boards), including:

- (a) Estimations of quantities and type of materials to be reused, recycled or left over for removal from site;
- (b) Identification on a plan of on site material storage areas during construction, waste storage, recycling and composting areas;
- (c) Details of construction materials and methods to be used to minimise the production of waste in the completion of the new building work.
- (d) How waste is to be treated on the site.
- (e) How any residual non-reusable and non-recyclable waste is to be disposed of and including details of the approved waste disposal outlets where disposal will take place.

**(2) Erosion & sedimentation control-management plan**

Prior to issue of a construction certificate the applicant shall prepare an erosion and sedimentation control plan in accordance with Part 4 of the guidelines titled "Pollution Control Manual for Urban Stormwater", as recommended by the Environmental Protection Authority.

Any stormwater runoff collected from the site must be treated in accordance with the Guidelines, before discharge off the site to comply with the Protection of the Environment Operations Act 1997 or other subsequent Acts.

Where sedimentation control basins are provided discharge shall be to the requirements of the Environmental Protection Authority.

Applicants are further advised to refer to the following publications for additional information:

- (a) "Sedimentation and Erosion Control" - Department of Conservation and Land Management.
- (b) "Soil and Water Management for Urban Development" - Department of Housing.

The plan must be submitted with the application for a construction certificate.

Further information may be obtained from:

Environment Protection Officer  
Environment Protection Authority  
Inner Sydney Region  
Locked Bag 1502  
BANKSTOWN NSW 2200

**(3) Damage deposit/footpath, road, kerb and gutter**

A Damage Deposit of \$2,850 is to be submitted prior to the release of the Construction Certificate covering repair and/or replacement of adjoining footpath, road shoulder, road pavement, kerbing and guttering both outside the subject site and the surrounding area. This is to be paid to Council and may be refunded subject to satisfactory completion of construction or demolition.

This Damage Deposit covers unforeseen damage to the above property by construction vehicles, skip bins, construction methods etc. Note: Should repair works or maintenance be required on Council land, a Road Opening Permit must be obtained before those works take place.

Bank Guarantees are accepted in lieu of any Council security deposit/bond subject to the following:

It must be an original with no end date and issued in favour of Council, details of the proponent's address shall be included.

A charge equal to the value multiplied by the current "overdue rates interest charge" be levied, per month or part thereof, with a minimum charge of three months is to be paid upon lodgement.

Any remaining charge is to be calculated at the prevailing "overdue rates interest rate" for each month or part thereof beyond the original three months that the Bank Guarantee was held, and paid prior to its release.

Any costs incurred in the acceptance, administration or release of such Bank Guarantees be on-charged to the entity claiming the release of such Bank Guarantee, and that these amounts be paid prior to its release.

At the time of lodgement, Council will seek verification of the Bank Guarantee. Please provide contact details for the branch (phone number and officer) to assist with verification of the bona fides of the Bank Guarantee.

Until all items above are completed, no documents or usage sought from Council by the party lodging the Bank Guarantee can be issued. Please allow a minimum of 2 business days for this process.

#### **(4) Footpath – photographs to be submitted**

Prior to the release of the Construction Certificate, the applicant shall lodge with Council photographs of the roadway, footpath and/or laneway at the property indicating the state of the relevant pavements. At the completion of construction, again at the expense of the applicant, a new set of photographs is to be taken to determine the extent, if any, of any damage which has occurred to the relevant pavements. If any damage has occurred, the applicant shall meet the full cost to repair or reconstruct these damaged areas to Council's relevant standard. Failure to do this shall result in the applicant being held accountable for the cost of all repairs in the area near/at the site.

#### **(5) Long service levy**

Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building of \$25,000.00 and over are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.

#### **(6) Services and infrastructure adjustment/relocation**

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

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

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

#### **(7) Construction and Site Management Plan**

Prior to the issue of a Construction Certificate the applicant shall submit to Council or the accredited certifier a construction and site management plan that clearly sets out the following:

- (a) what actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,

- (b) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,
- (c) the 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,
- (d) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,
- (e) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a chartered Civil Engineer or an accredited certifier.

Where it is proposed to:

- pump concrete from within a public road reserve or laneway, or
- stand a mobile crane within the public road reserve or laneway, or
- use part of Council's road/footpath area,
- pump stormwater from the site to Council's stormwater drains, or
- store waste and recycling containers, skip, bins, and/or building materials on part of Council's footpath or roadway,

An Activity Application for a construction zone, a pumping permit, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee shall be submitted to Council and approval obtained before a Construction Certificate is issued.

Note: A separate application to Council must be made for the enclosure of a public place (hoarding).

### **(8) Street numbering**

An application for street numbering shall be lodged with Council for approval, prior to the release of a Construction Certificate, or Subdivision Certificate, whichever occurs first.

### **(9) Section 7.11 Contribution**

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$18,201.51 would be required for the development under Ashfield Section 94 Contributions Plan, 2014.

## **C Conditions that must be complied with before work commences**

### **(1) Requirement for a Construction Certificate**

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

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
  - (i) Council; or
  - (ii) an accredited certifier; and

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

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

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

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

### **(2) Inspections required by Principal Certifying Authority**

Inspections shall be carried out at different stages of construction by Council or an accredited certifier. If Council is selected as the Principal Certifying Authority (PCA) the inspection fees must be paid for in advance which will be calculated at the rate applicable at the time of payment.

### **(3) Sanitary facilities - demolition/construction sites**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

### **(4) Site Controls**

Sediment and erosion controls must be in place before work is commenced on the site. The control strategies must be consistent with the technical requirements set out in the Sydney Coastal Councils' *Stormwater Pollution Control Code for Local Government*.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

A sediment and erosion control plan must be prepared and identify appropriate measures for bunding and siltation fencing. Any such erosion and sedimentation controls shall also include the protection of stormwater inlets or gutter systems within the immediate vicinity of the site.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

### **(5) Building location - check survey certificate**

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the Principal Certifying Authority either prior to the

pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, indicating the: -

- (i) location of the building with respect to the boundaries of the site;
- (ii) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- (iii) site coverage of the buildings on the site.

#### **(6) Boundary identification prior to construction**

The boundary shall be identified by survey prior to the pouring of any footings and concrete slabs.

#### **(7) Demolition work plan**

Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

#### **(8) Asbestos sheeting removal - EPA/Workcover Authority**

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and Workcover Authority requirements. Proper procedures shall be employed in the handling and removal of asbestos and products containing asbestos so as to minimise the risk to personnel and the escape of asbestos particles in the atmosphere. Work is only to be carried out with the prior consent of the Work Cover Authority.

Note: There are substantial penalties for non-compliance with the above requirements.

#### **(9) Asbestos and/or lead removal certification**

The existing structures/land on the site potentially contain asbestos and/or lead. Following removal of any asbestos/lead located on site a clearance must be provided to the Principal Certifying Authority certifying that no such asbestos/lead remains on site from a suitably qualified person.

A copy of the clearance Certificate must be forwarded to Council before any other demolition work is commenced.

#### **(10) Garbage skips on Council land - Council approval**

Bulk refuse bins or garbage skips shall not be placed on grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council's Customer Service on telephone 9392 5000.

#### **(11) Sydney Water approval**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre 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. Plans will be appropriately stamped. For Quick Check agent details please refer to the web

site: [www.sydneywater.com.au](http://www.sydneywater.com.au), see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

The consent authority or a private accredited certifier must either

- ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate; or
- if there is a combined Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.

#### **(12) Slabs/footings - standards**

To ensure compliance with the provision of Section B of the *Building Code of Australia*, all reinforced concrete to footings and slabs shall comply with all relevant provisions of AS 2870.1-1996 "Residential Slabs and Footings Construction" or, alternatively structural engineers details of all structural elements shall be submitted to the Principal Certifying Authority with the Construction Certificate.

#### **(13) Structural engineer's certificate - superimposed loads**

A practicing structural engineer's certificate to be submitted to the Principal Certifying Authority with the Construction Certificate application certifying that the existing building is structurally capable of supporting the superimposed loads of the addition prior to commencement of any building work.

#### **(14) Public Liability Insurance – Works on Council/public lands**

The applicant or any contractors carrying out approved works on public or Council controlled lands with consent shall have public liability insurance cover to the value of \$ and shall provide proof of such cover to the principal certifying authority prior to carrying out the works and annually for the period of time for which works are being carried out on Council or public lands.

#### **(15) Crane permit**

Should the applicant need to use a crane during the course of building, it will be necessary to first obtain a "Crane Permit" from Council's One Stop Shop. A fee is payable for the permit. The approval of other authorities (eg Police Department, RTA) may be required for the use of a crane.

#### **(16) Site fencing/security**

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

#### **(17) Dilapidation Reports**

A Dilapidation Report on the current structural condition of the existing buildings at 119 & 123 Ramsay Street, Haberfield must be prepared by a practicing structural engineer. The Dilapidation Report must be completed and submitted to the owner of the subject property and to Council prior to the commencement of any demolition, excavation or construction works. At the completion of the works, a second Dilapidation Report recording the structural condition must be prepared. That Report must be submitted to the owner of the subject property and to Council.

**D Conditions that must be complied with during construction or demolition****(1) Plans to be available on site**

The Council stamped approved plans, Development Consent and Construction Certificate shall be held on site to be produced unobliterated to Council's officer at any time when required.

**(2) Building construction - check survey**

A check survey is to be submitted to the Principal Certifying Authority for perusal at an early stage of construction indicating excavated levels, boundary distances, site coverage and building alignment to ensure compliance with the approved plans.

**(3) Locate structures within boundaries**

The proposed structure(s) to be erected must stand wholly within the boundaries of the allotment.

**(4) Storage of building materials**

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

**(5) Signs to be erected on building and demolition sites**

(1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited; and
- (b) showing the name and address of the contractor for the building work and the person in charge of the work site and a telephone number at which the person may be contacted outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority appointed for the building works.

(2) Any-sign shall be maintained and not removed until work has been finished.

**(6) Waste Management Plan – compliance**

(a) All requirements of the approved Waste Management Plan must be implemented during the demolition and/or excavation and construction period of the development. Adequate measures need to be in place to ensure the ongoing waste management of the site.

(b) Keep receipts of where waste will be taken to be treated or disposed. The receipts must be presented to the Principal Certifying Authority prior to issue of the occupation certificate.

**(7) Demolition/excavation/construction - hours of work**

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

- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

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

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

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

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

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

**(8) Demolition/excavation/construction - noise - Protection of the Environment Operations Act 1997**

Noise arising from demolition/excavation/construction works shall be controlled in accordance with the requirements of Protection of the Environment Operations Act 1997 and guidelines currently contained in the NSW EPA Environmental Noise Control Manual.

**(9) Demolition requirements/standards**

Demolition is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the Workcover Authority.
- (b) The Waste Management Plan submitted with the Development Application.
- (c) The property is to be secured to prohibit unauthorised entry.
- (d) All precautions are to be exercised in the handling, removal and disposal of all asbestos materials. Licensed contractors and the disposal of asbestos is to be carried out in accordance with the requirements of the Work Cover Authority.

- (e) All other materials and debris is to be removed from the site and disposed of to approved outlets.
- (f) Any demolition on the site is to be conducted in strict accordance with, but not limited to, sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS 2601 - 1991, demolition of structures. The following measures must be undertaken for hazardous dust control:
- (g) Prior to demolition, the applicant shall submit a Work Plan prepared in accordance with AS 2601 by a person with suitable expertise and experience to the Principal Certifying Authority. The Work Plan shall identify any hazardous materials, the method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- (h) Hazardous dust must not be allowed to escape from the site or contaminate the immediate environment. The use of fine mesh dust proof screens, wet-lead safe work practices, or other measures is required.
- (i) All contractors and employees directly involved in the removal of hazardous dusts and substances shall wear protective equipment conforming to AS 1716 Respiratory Protective Devices and shall adopt work practices in accordance with WorkSafe Requirements (in particular the WorkSafe standard for the *Control of Inorganic Lead At Work* (NOHSC: 1012, 1994) and AS 2641, 1998).
- (j) Any existing accumulations of dust (eg; ceiling voids and wall cavities must be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter and disposed of appropriately.
- (k) All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Unclean water from the suppressant spray is not be allowed to enter the street gutter and stormwater systems.
- (l) Demolition is not to be performed during high winds that may cause dust to spread beyond the site boundaries without adequate containment.
- (m) All lead contaminated material is to be disposed of in accordance with the NSW Environment Protection Authorities requirements.
- (n) Construction and demolition waste, particularly timber, bricks and tiles, concrete and other materials need not be disposed of- they can be recycled and resold if segregated properly from any hazardous waste contamination.
- (o) Following demolition activities, soil must be tested by a person with suitable expertise to ensure the soil lead levels are below acceptable health criteria for residential areas. Full certification is to be provided for approval by the Principal Certifying Authority.

#### **(10) Materials and colour schemes**

Materials of construction are to be as specified in the schedule of finishes submitted with the development application and on the approved plans, except where amended by the conditions hereunder.

#### **(11) Road and footpath – safety and access requirements**

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

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

### **(12) Balustrade design requirements**

Balustrades shall be constructed in accordance with the following requirements:

- (i) The height is not less than 865mm above the nosings of the stair treads or the floor of a ramp.
- (ii) The height is not less than:
  - (a) 1m above the floor of any access path, balcony, landing or the like; or
  - (b) 865mm above the floor of a landing to a stair or ramp where the balustrade is provided along the inside edge of the landing and does not exceed a length of 500mm.
  - (c) Any opening does not permit a 125mm sphere to pass through it and for stairs the space is tested above the nosings.

### **(13) Waterproofing materials/installation – BCA/Australian Standards**

Approved products that are impervious to water shall only be used as a substrate or as a lining and as a finish to floors and walls of wet areas (i.e. bathroom/shower room, WC compartment and laundry). Floors and cubicles shall be properly graded and drained to approved outlets.

The wet areas in the building shall be impervious to water as required by Part 3.8.1 of the Building Code of Australia (BCA). The junction between the floor and wall and the construction of the bath shower recess, basin, sink or the like shall be in accordance with the BCA & AS 3740:2004 'Waterproofing of wet areas within residential buildings'.

On completion of the waterproofing of the wet areas, the Principal Certifying Authority shall be furnished with a certificate from the person responsible. This is to state that the materials are suitable for the situation and that the application and/or installation has been carried out in accordance with the manufacturer's instructions, the BCA and AS 3740.

### **(14) Safety Glazing - BCA**

Safety glazing complying with B1 of the Building Code of Australia (BCA) is to be used in every glazed door or panel that is capable of being mistaken for a doorway or unimpeded path of travel. The glazing must comply with AS 1288:2006 'Glass in Buildings – Selection and Installation'.

Framed panels or doors enclosing or partially enclosing a shower or bath shall be glazed with "A" or "B" grade safety glazing material in accordance with AS 1288 and Part 3.6.4 of the BCA.

### **(15) Fire Detection/Alarm System installation and certification**

Smoke alarms must be installed in dwellings in accordance with Clause 3.7.2.3 of the Building Code of Australia (BCA) and AS 3786 on or near the ceiling in -

- (a) any storey containing bedrooms -

- between each area containing bedrooms and the remainder of the dwelling, including any hallway associated with the bedrooms

(b) any storey not containing bedrooms.

Smoke alarms must be connected to the consumer mains power and have a stand-by power supply.

The licensed Electrical Contractor shall on completion of the installation of the smoke alarm system, submit to the Principal Certifying Authority a certificate certifying compliance with AS 3000 and AS 3786:1993.

#### **(16) Footpath, kerb and gutter protection**

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

Pedestrian access across this footpath shall be maintained in good order at all times during work. Any damage caused will be made good by Council at Council's restoration rates, at the applicant's expense.

#### **(17) Road opening permit – Council controlled lands**

A road opening permit shall be obtained for all works carried out in public or Council controlled lands. Contact Council's Engineering Services for details.

This road opening permit covers the direct costs involved in the repair/replacement of works where the public or Council controlled lands are specifically damaged/saw cut etc for the construction of services, stormwater pipes, kerb works, bitumen works, footpath works etc. It is separate from a Damage Deposit as listed elsewhere in these Conditions of Consent.

#### **(18) Building materials and equipment - storage/placement on footpath/roadway - Council approval**

All building materials and equipment shall be stored wholly within the property boundaries and shall not be placed on the footpath, grass verge or roadway without prior written approval of Council.

Bulk refuse bins shall not be placed on the grass verge, footpath or roadway without Council permission. Application forms and details of applicable fees are available from Council.

#### **(19) Building Access**

Access for all building work related to this development shall be via the rear Lane and none via Ramsay Street.

#### **(20) Stormwater Disposal**

The stormwater disposal from the proposed development shall be connected to the existing property stormwater system which discharges to the rear Lane, via a 100mm dia UPVC pipe. No 'charged' lines are permitted.

The existing property stormwater system shall be tested by a qualified plumber to ensure it functions satisfactory in discharging water to the street gutter. If it does not, the system shall be repaired to operate satisfactorily.

**E Conditions that must be complied with prior to installation of services**

Nil

**F Conditions that must be complied with before the building is occupied****(1) Compliance with submitted ridge height**

A survey report to be submitted upon completion of the works and prior to occupation verifying compliance with the approved ridge height details.

**(2) Approval to use/occupy building**

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

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

**(3) Street Number**

A street number appropriately designed to complement the character of the must be displayed in a position clearly visible from the street, in numbers having a height of not less than 75 mm. The number must be in place before the premises can be occupied.

**G Conditions that are ongoing requirements of development consents**

Nil

**H Advisory Notes****(1) Works and requirements of other authorities**

- Sydney Water may require the construction of additional works and/or the payment of additional fees. Other Sydney Water approvals may also be necessary prior to the commencement of construction work. You should therefore confer with Sydney Water concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.
- Contact Sydney Water, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.
- Australia Post has requirements for the positioning and dimensions of mail boxes in new commercial and residential developments. A brochure is available from your nearest Australia Post Office.
- Energy Australia/AGL Electricity/AGL Retail Energy or other alternative service/energy providers have requirements for the provision of connections.
- Energy Australia has a requirement for the approval of any encroachments including awnings, signs, etc over a public roadway or footway. The Engineer Mains Overhead Eastern Area should be contacted on 9663 9408 to ascertain what action, if any, is necessary.
- Telstra has requirements concerning access to services that it provides.

**(2) Modifications to your consent - prior approval required**

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

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

**(3) Occupational health and safety**

All site works must comply with the occupational health and safety requirements of the NSW Work Cover Authority.

**(4) Relocation of stormwater drainage**

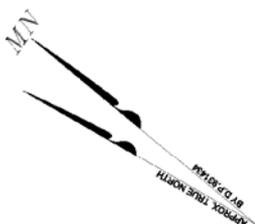
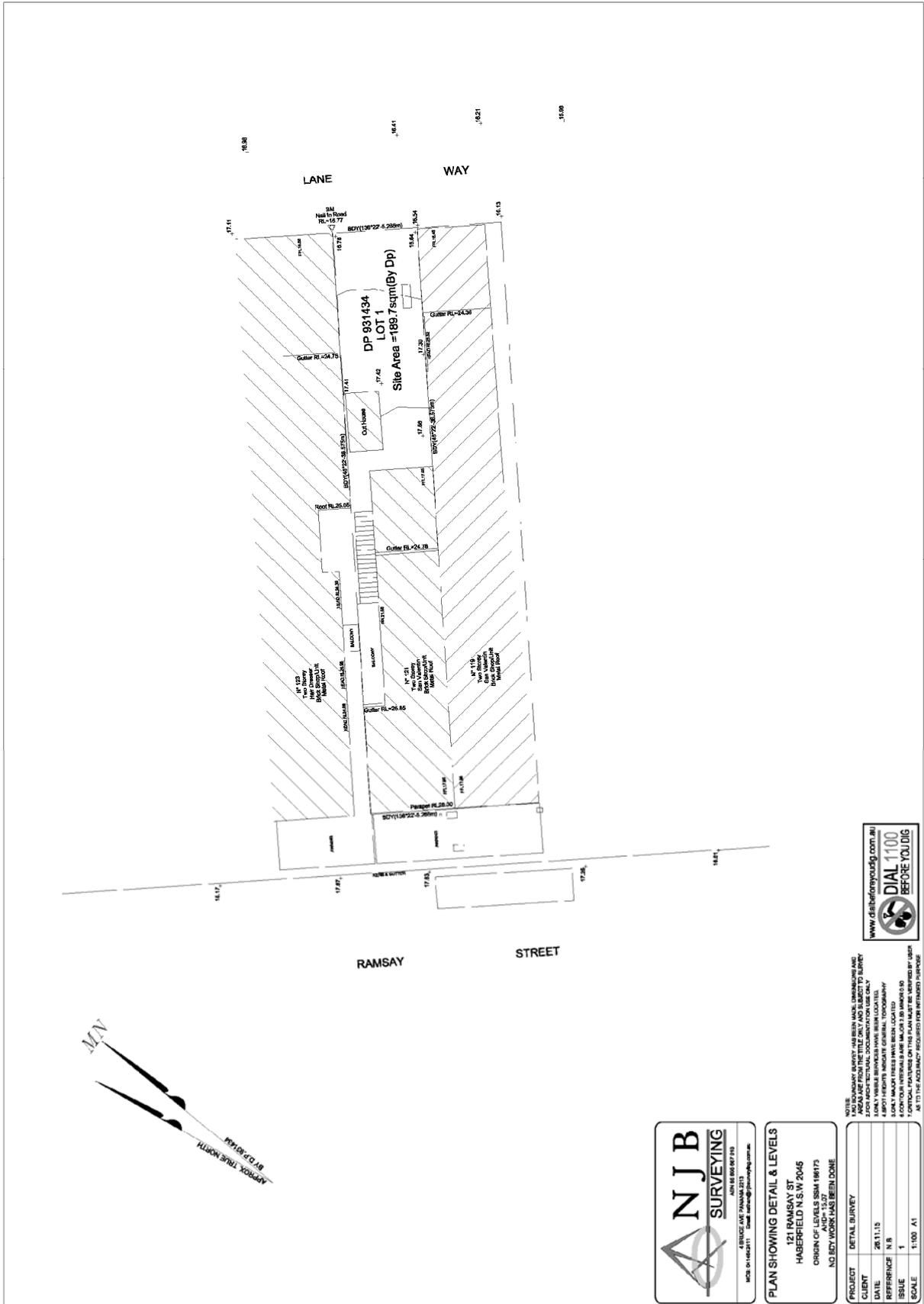
Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

Attachment B – Plans of proposed development



This project is subject to the requirements of basic certificate A290877 - 03

<p><b>1519</b></p>	<p><b>D</b></p>
<p>08.05.18 revised development application</p> <p><b>Alterations and Additions at 121 Ramsay Street, Haberfield</b></p> <p>ian moore architects abn 15 600 166 887              121 Ramsay Street, Haberfield NSW 2162              studio 5, 131 Foveaux Street, Surry Hills NSW 2010              t: +61 2 8354 8827 m: +61 416 403 374              info@ianmoorearchitects.com www.ianmoorearchitects.com</p> <p><b>ian moore architects</b></p>	



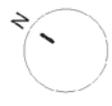
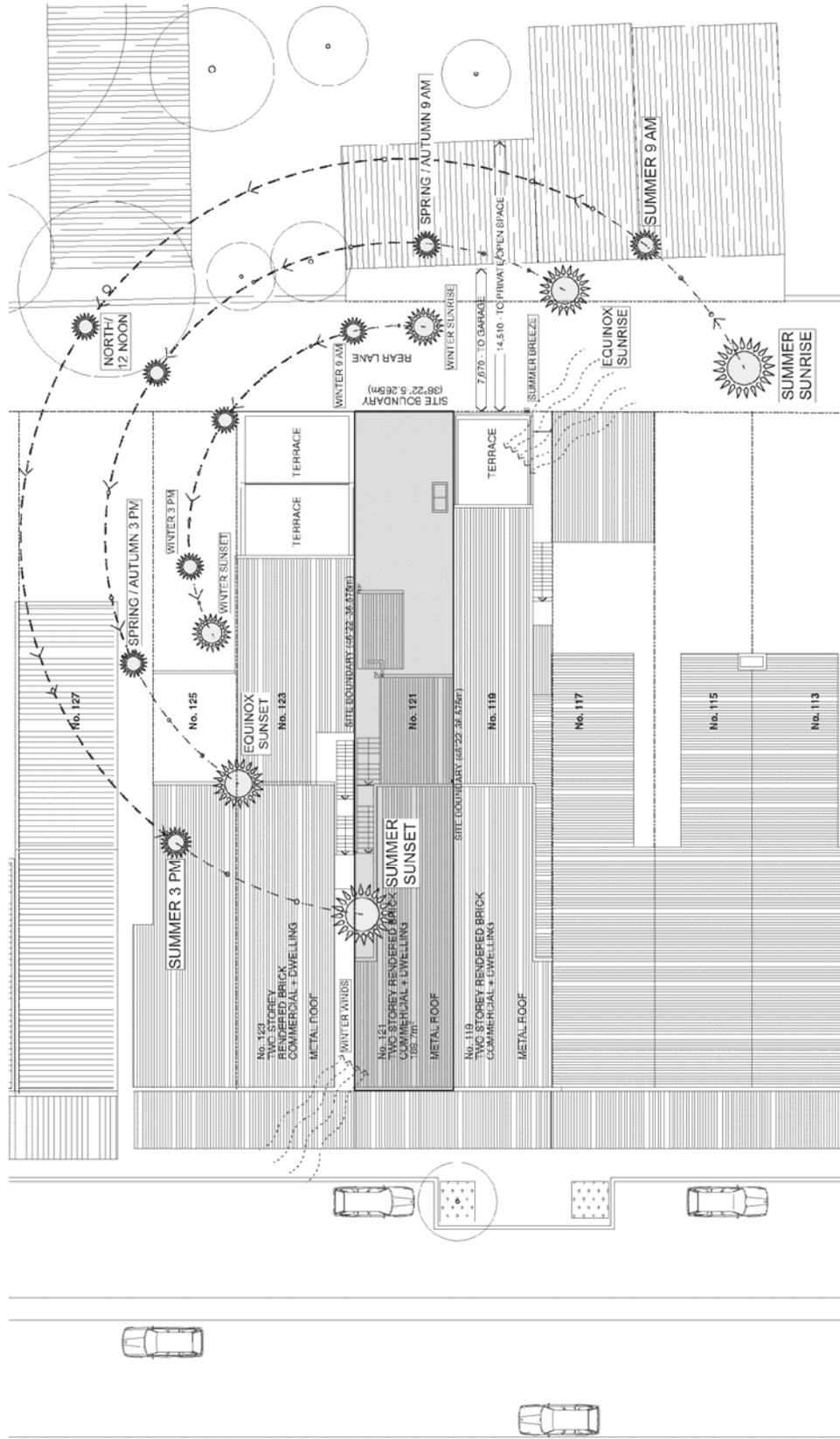
**NJB SURVEYING**  
 4 BRIDGE ST STANLEY NSW 2213  
 MOBILE 08 43424111 Email: njb@njb.com.au

**PLAN SHOWING DETAIL & LEVELS**  
 121 RAMSAY ST  
 HABERFIELD N.S.W. 2045  
 ORIGIN OF LEVELS: BM 196173  
 AHD = 13.07  
 NO BEY WORK HAS BEEN DONE

NOTE:  
 1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE STATED.  
 2. FOR INDUSTRIAL DOCUMENTATION USE ONLY.  
 3. DIMENSIONS FROM THE TITLE ONLY AND SUBJECT TO SURVEY.  
 4. 4 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 5. 5 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 6. 6 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 7. 7 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 8. 8 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 9. 9 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.  
 10. 10 FOOT HEIGHTS INDICATE GENERAL TOPOGRAPHY.

PROJECT	DETAIL SURVEY
CLIENT	
DATE	25.11.15
REFERENCE	N/R
ISSUE	1
SCALE	1:100 A1





00 site analysis proposed

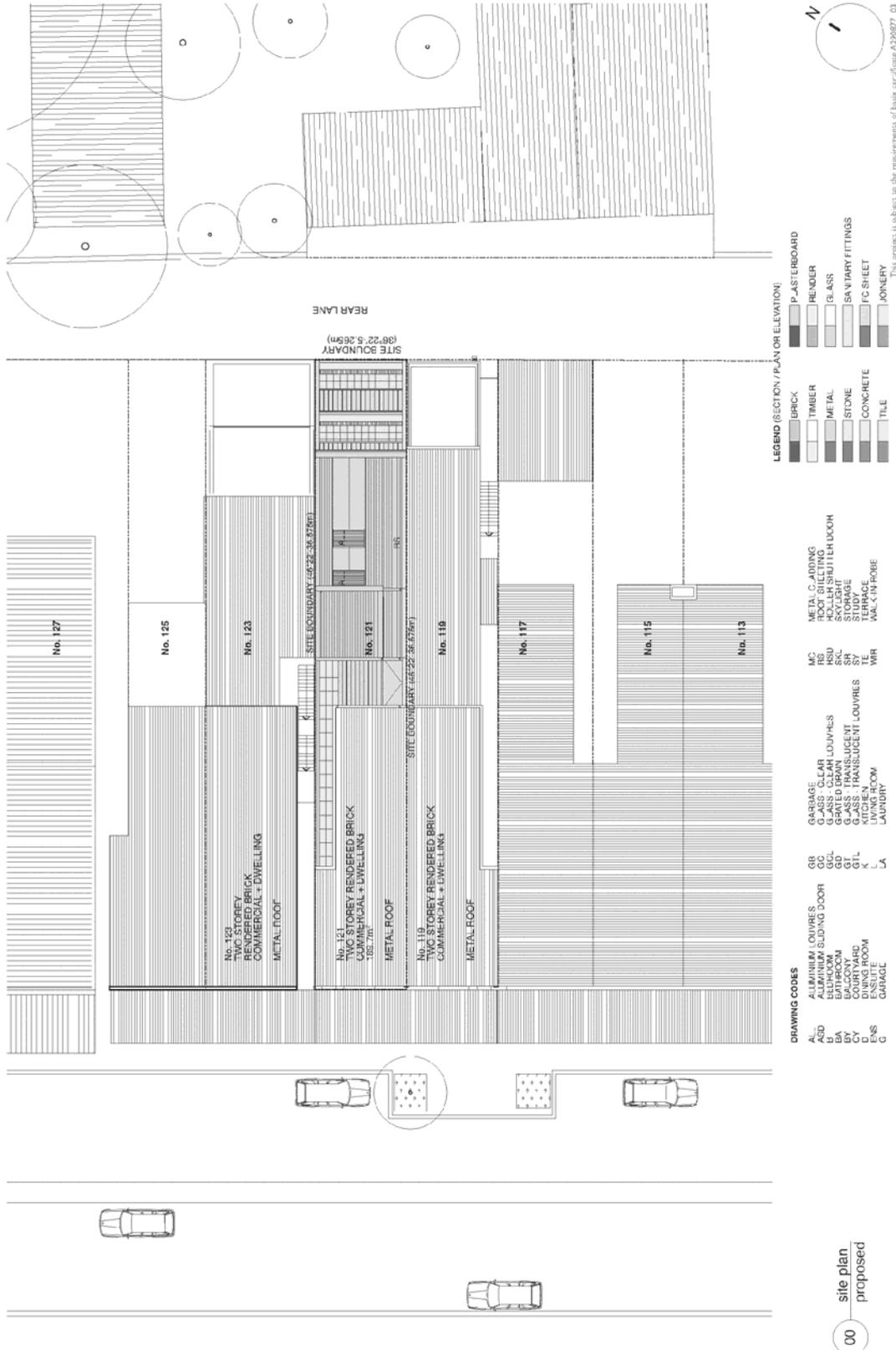
- DRAWING CODES**
- ALL ALUMINIUM LOUVRES
  - ASD ALUMINIUM SLIDING DOOR
  - BA BALCONY
  - BY BALCONY FLOOR
  - D DINING ROOM
  - ENS ENSUITE
  - G GARAGE
  - GB ALUMINIUM GLASS DOOR
  - GC GLASS DOOR
  - GD GLASS DOOR
  - GT GLASS TRANSLUCENT LOUVRES
  - GTL GLASS TRANSLUCENT LOUVRES
  - LA LAUNDRY
  - LK LIVING ROOM
  - ATC/CLIN ATTACHED
  - LAUNDRY
  - LIVING ROOM
  - GLASS TRANSLUCENT LOUVRES
  - GLASS DOOR
  - GRATED DRAIN
  - LOUVRES
  - CLAR
  - CLAR
  - GARBAGE
  - RS ROOF SHEETING
  - RSD ROLLER SHUTTER DOOR
  - SR STORAGE
  - SY STUDY
  - WIR WALK-IN ROBE

This project is subject to the requirements of basic contract A23887\_03

<p>ian moore architects sha 15 600 166 887                  sha 15 600 166 887                  nominated architect for development application                  No. C. 0005.18 - for development application</p> <p>studio 5, 131 foveaux street, scrymgeour hills NSW 2016 australia                  t: 61 2 8354 8887 m: 61 418 603 374                  info@ianmoorearchitects.com www.ianmoorearchitects.com</p>	<p>development application</p> <p><b>1519-00-00-02 C</b></p> <p>1:200 @ A3 site analysis</p>
---	--

**ian moore architects**

Alterations and Additions at  
 121 Ramsay Street, Haberfield



**LEGEND (SECTION / PLAN OR ELEVATION)**

[Pattern]	BRICK	[Pattern]	METAL CLADDING
[Pattern]	P-ASTERBOARD	[Pattern]	ROOF SILLING
[Pattern]	RENDER	[Pattern]	SKYLIGHT
[Pattern]	GLASS	[Pattern]	SKULL
[Pattern]	METAL	[Pattern]	STORAGE
[Pattern]	STONE	[Pattern]	TERRACE
[Pattern]	SAVITARY FITTINGS	[Pattern]	WALLS IN-ROBE
[Pattern]	CONCRETE	[Pattern]	WIR
[Pattern]	PC SHEET	[Pattern]	TILE
[Pattern]	JOINERY		

**DRAWING CODES**

AL	ALUMINIUM LOUVRES	GB	GARAGE
ASD	ALUMINIUM SLIDING DOOR	GC	G-ASS CLAR
BA	BATHROOM	GD	GATED DRAIN
BY	BEDROOM	GT	G-ASS TRANSLUCENT
D	DINING ROOM	K	KITCHEN
ENS	ENSUITE	L	LIVING ROOM
G	GARAGE	LA	LAUNDRY

Rev A: 03.05.16 - for development application  
 Rev B: 13.09.16 - for development application  
 Rev C: 01.09.17 - for development application

121 Ramsay Street, Haberfield

1519-02-00-01 D  
 1:200 @ A3 site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

development application

1519-02-00-01 D

1:200 @ A3

site plan - proposed

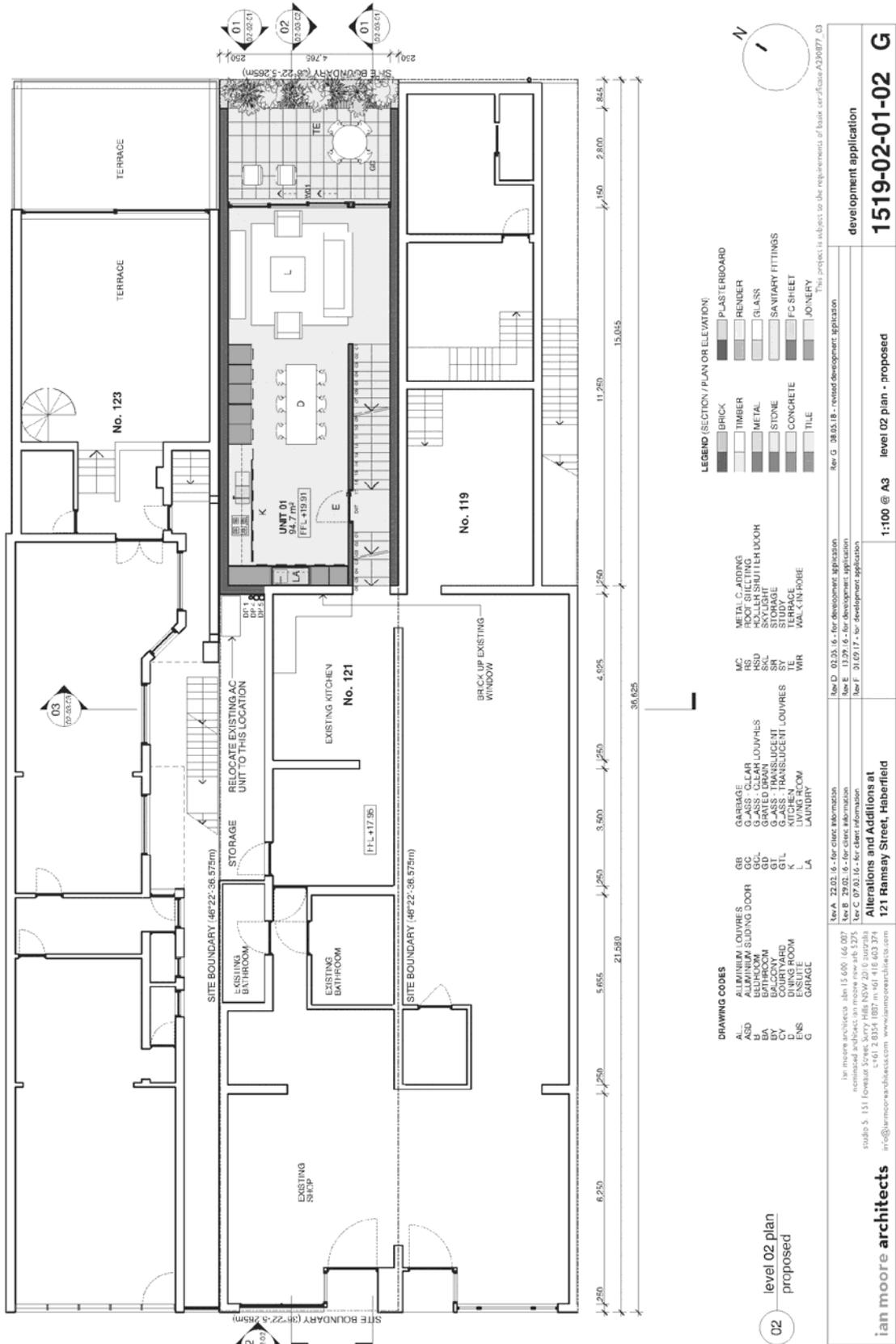
development application

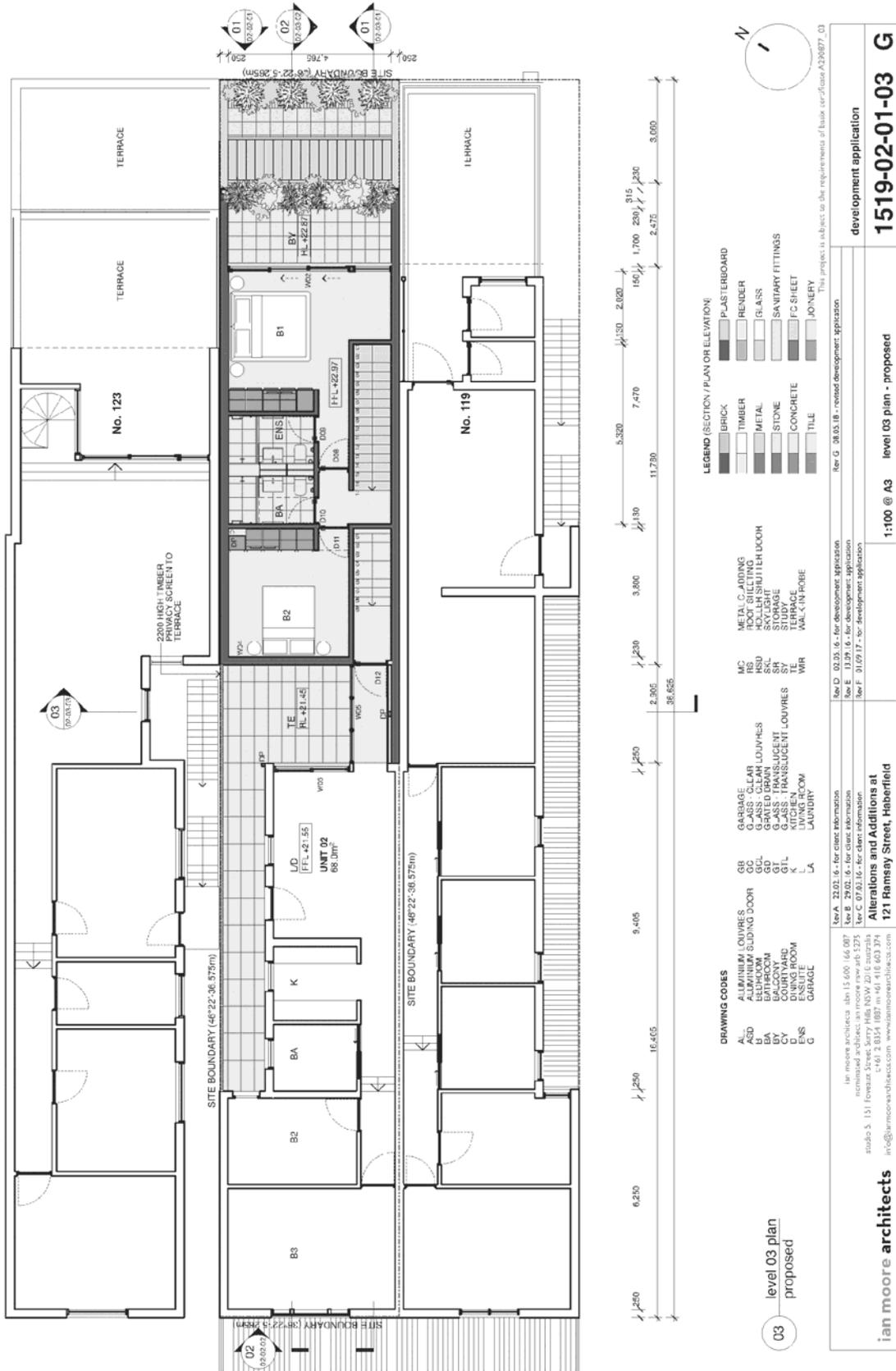
1519-02-00-01 D

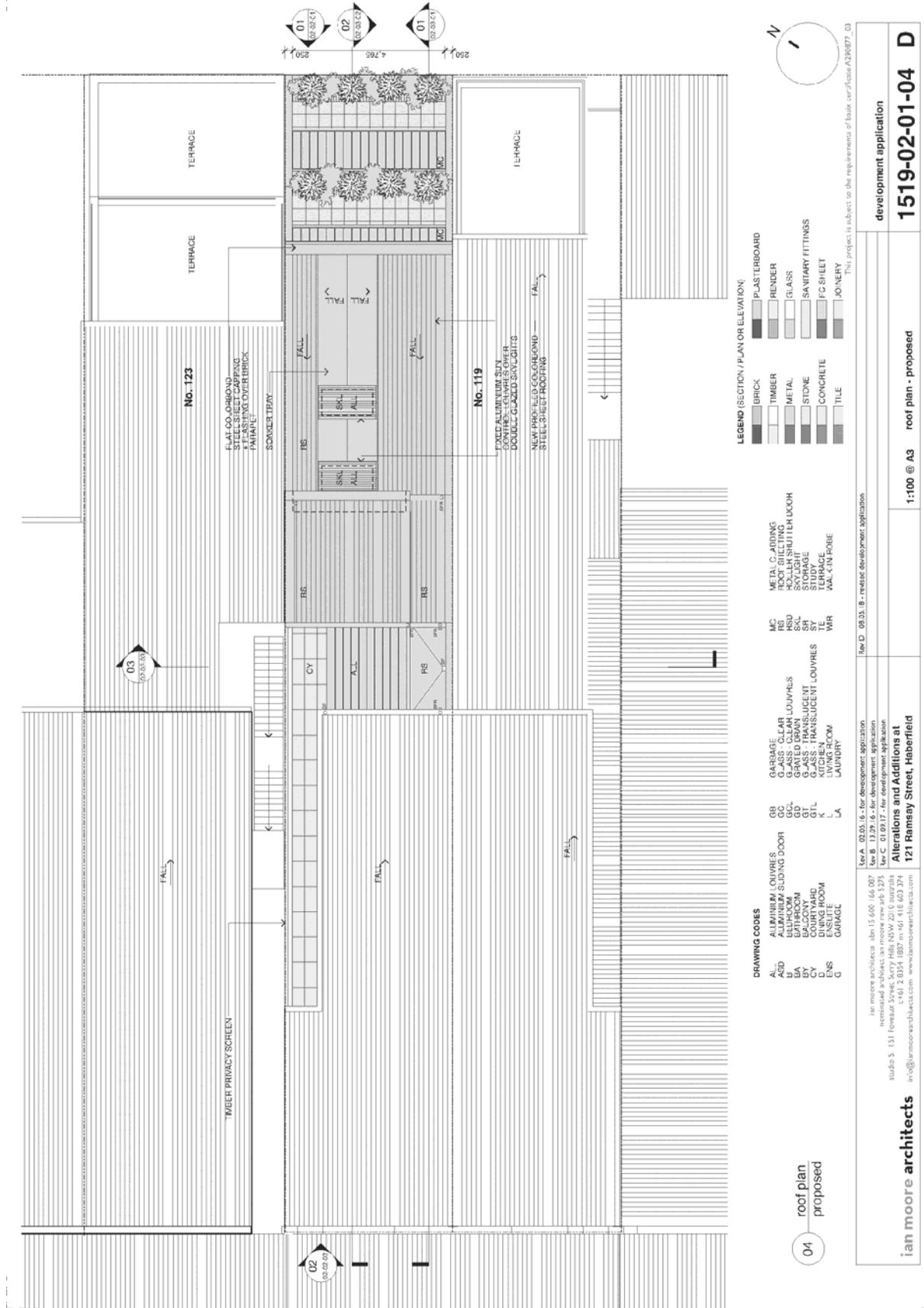
1:200 @ A3

site plan



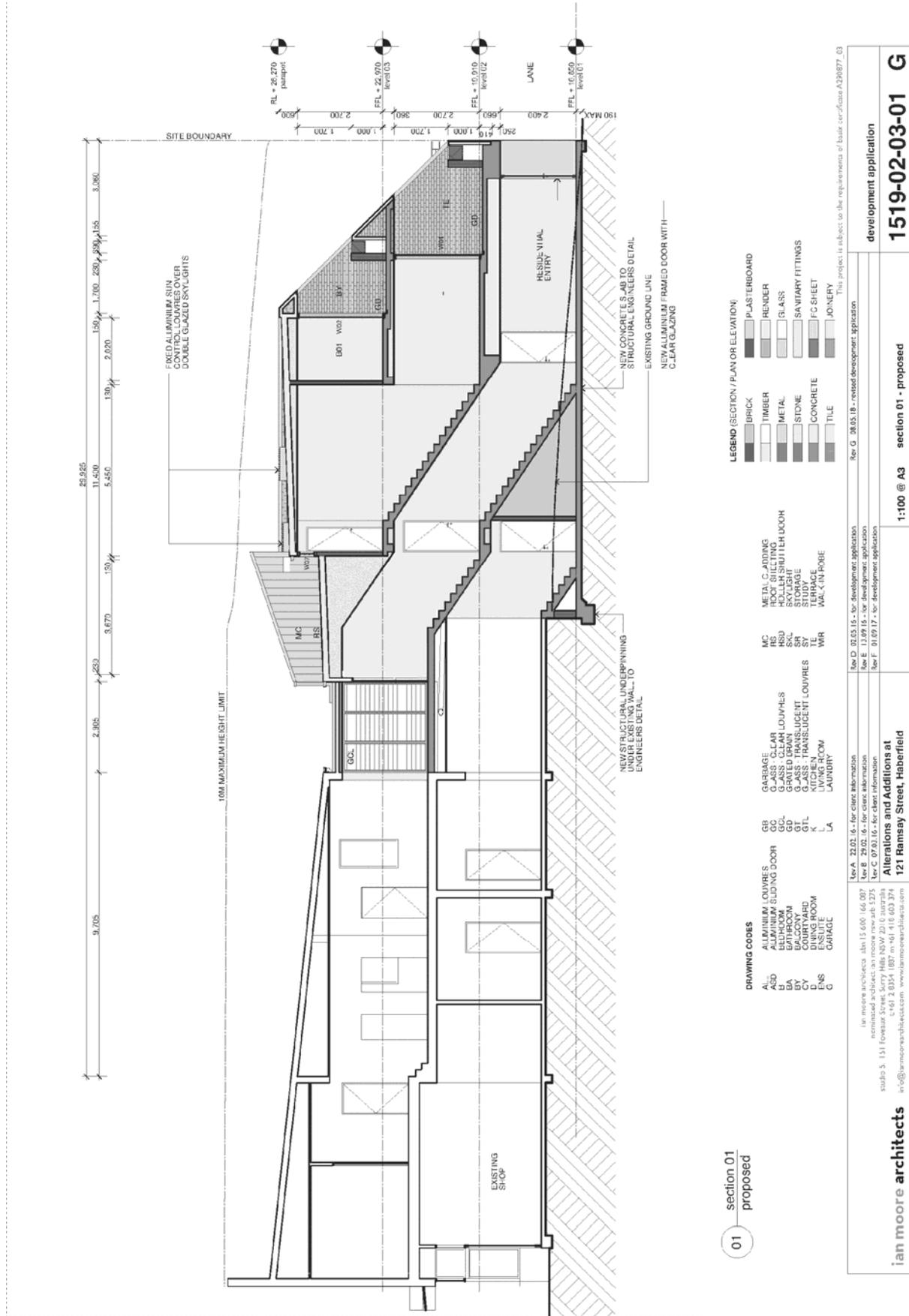




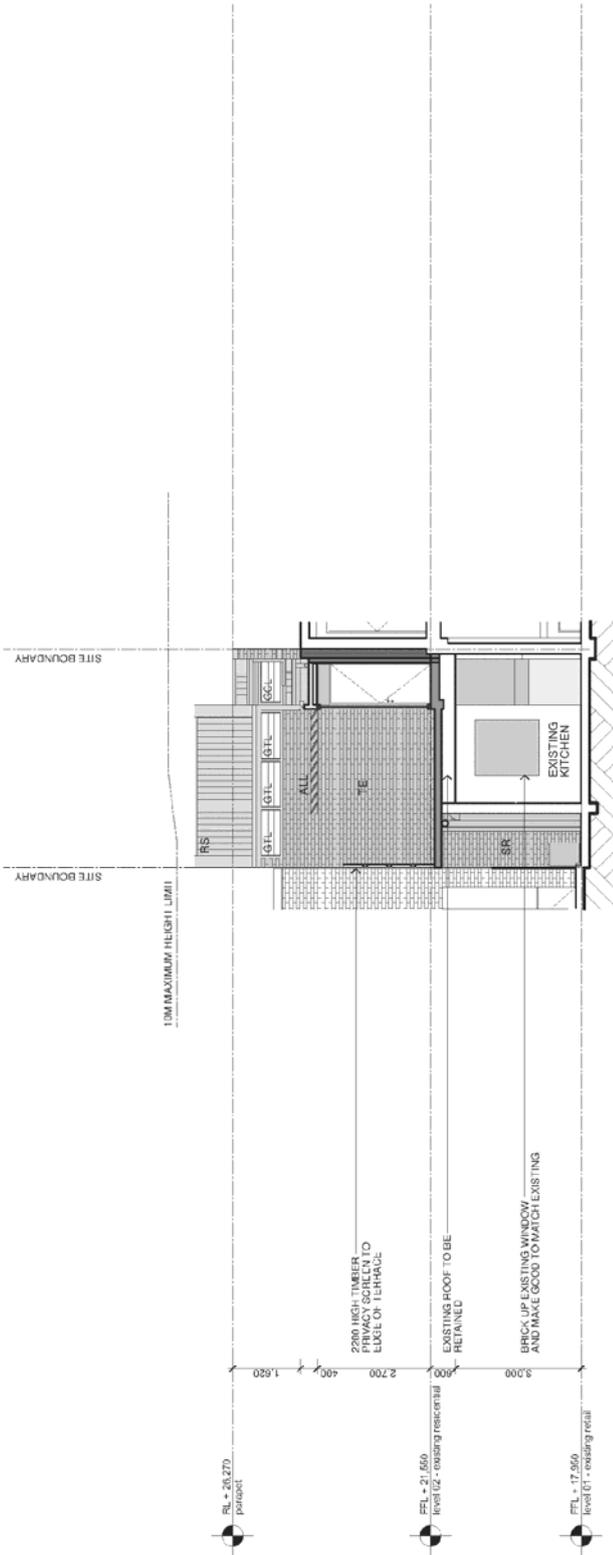












- DRAWING CODES**
- AL ALUMINIUM LOUVRES
  - ASD ALUMINIUM SLIDING DOOR
  - B BRICK
  - BH BRICK HALF BRICK
  - BA BRICK ANGLE
  - CV COURTYARD
  - D DRAIN
  - DS DRAINAGE
  - G GARAGE
  - GB GLASS BRICK
  - GCL GLASS CLEAR LOUVRES
  - GD GLASS DOOR
  - GL GLASS LOUVER
  - K KITCHEN
  - LA LAUNDRY
  - LS LANTERN
  - MS METAL SLIDING DOOR
  - RSU ROOF SHED
  - SS SANITARY FITTINGS
  - ST STUDY
  - TE TERRACE
  - W WALL
  - WH WINDOW
- LEGEND (SECTION / PLAN OR ELEVATION)**
- BRICK
  - TIMBER
  - METAL
  - STONE
  - CONCRETE
  - TILE
  - PLASTERBOARD
  - RENDER
  - GLASS
  - METAL
  - STONE
  - CONCRETE
  - TILE
  - JOINERY

03  
section 03  
proposed

This project is subject to the requirements of basic cert/issue A20877\_03

for more architect info 15 600 166 087  
 nominated architect in NSW for sub 3275  
 NSW for sub 3275  
 studio 5 131 for sub 1897 m 461 416 603 374  
 info@ianmoorearchitects.com www.ianmoorearchitects.com

for more architect info 15 600 166 087  
 nominated architect in NSW for sub 3275  
 NSW for sub 3275  
 studio 5 131 for sub 1897 m 461 416 603 374  
 info@ianmoorearchitects.com www.ianmoorearchitects.com

Alterations and Additions at  
 121 Ramsay Street, Haberfield

1:100 @ A3 section 03 - proposed

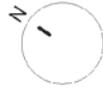
development application  
 1519-02-03-03 D





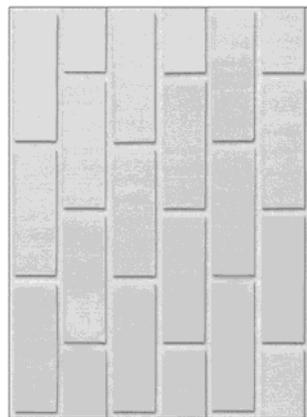
**NOTE:**

- ALL EXISTING DOWNPIPES, LOCATIONS ARE TO BE RETAINED WITH NEW STORMWATER DRAINAGE PIPEWORK Laid UNDER SLAB TO COLLECT ALL OTHER WASTE MATERIAL FOR RECYCLING AND DISPOSAL.
- THE WORKSITE IS TO BE KEPT CLEAN EVERY WORKDAY.
- A CURB IS TO BE ON SITE FOR THE DURATION OF THE WORK TO COLLECT ALL OTHER WASTE MATERIAL FOR RECYCLING AND DISPOSAL.

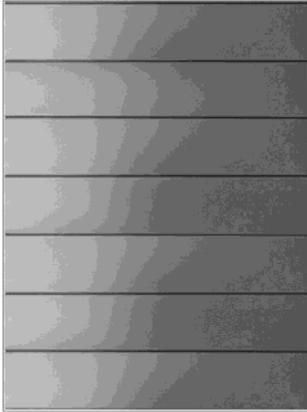


02 erosion control plan proposed

This project is subject to the requirements of basic certificate A230877_03	
Lev A: 02.05.16 - for development application Lev B: 01.09.17 - for development application Lev C: 02.05.18 - revised development application	development application
Ian Moore Architects - abn 15 649 166 689 121 Ramsay Street, Merry Hill, NSW 2015 Australia studio 5, 131 Fowling Street, Merry Hill, NSW 2015 Australia t+61 2 0154 1887 m+61 416 403 374 info@ianmoorearchitects.com www.ianmoorearchitects.com	1519-12-01-02 C
1:100 @ A3	erosion control plan
<b>ian moore architects</b>	



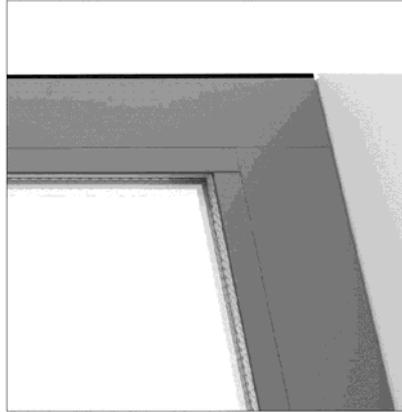
**EXTERNAL WALLS - GENERAL**  
 LOCATION: 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA  
 MATERIAL: CERAMIC  
 COLOUR: GREY  
 IMAGE: PHT/ERICKS WEBSITE  
 CREDIT: <http://www.phtbricks.com.au/brickselect-by-collection/moondale/productName=Cerize>



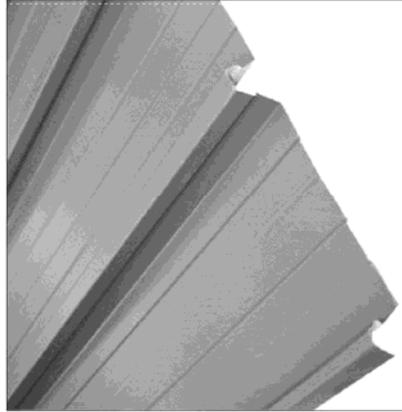
**WALL CLADDING**  
 REAR LANE ELEVATION  
 LOCATION: 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA  
 MATERIAL: WINDSPRAY  
 COLOUR: GREY  
 IMAGE: <https://www.zenngan.com.au/interlocking-panel/>  
 CREDIT: CO.CORSPAN



**ROLLER SHUTTER DOOR**  
 LOCATION: 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA  
 MATERIAL: GALVANIZED STEEL  
 COLOUR: GREY  
 PRODUCT IMAGE  
 CREDIT: <http://levelfillgaragedoors.com.au>



**WINDOW FRAMES**  
 EXTERIOR, WINDOWS AND SLIDING DOORS  
 LOCATION: 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA  
 MATERIAL: ALUMINIUM  
 COLOUR: DULUX STONE GREY  
 CREDIT: <http://interior.com/indoor-features>



**ROOF SHEETING**  
 LOCATION: 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA  
 MATERIAL: GALVANIZED STEEL  
 COLOUR: WINDSPRAY  
 IMAGE: LYSAGHT STEEL WEBSITE  
 CREDIT: <https://www.lysaghtsteel.com.au/inter-south-wales/142-colorbond-metalok-700-colorbond-sydney-4p-lpk.html>

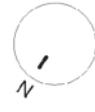
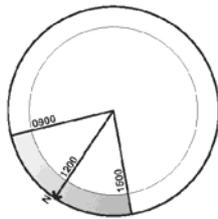
IAN MOORE ARCHITECTS 151 FOWASAR STREET, SUTRY HILLS NSW 2010 AUSTRALIA TEL: 02 9384 1887 FAX: 02 9384 1887 EMAIL: <a href="mailto:info@ianmoorearchitects.com">info@ianmoorearchitects.com</a> WEBSITE: <a href="http://ianmoorearchitects.com">http://ianmoorearchitects.com</a>	
Item A: 02.05.16 - for development application Item B: 01.09.17 - for development application Item C: 08.05.18 - revised development application	development application <b>1519-14-01-00 C</b>
1:1 @ A3 Schedule of Materials and Colours	

This project is subject to the requirements of task certificate A29877\_03





KEY  
 PROPOSED EXTENSION  
 EXISTING SHADOW  
 ADDITIONAL SHADOW



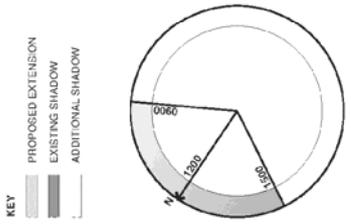
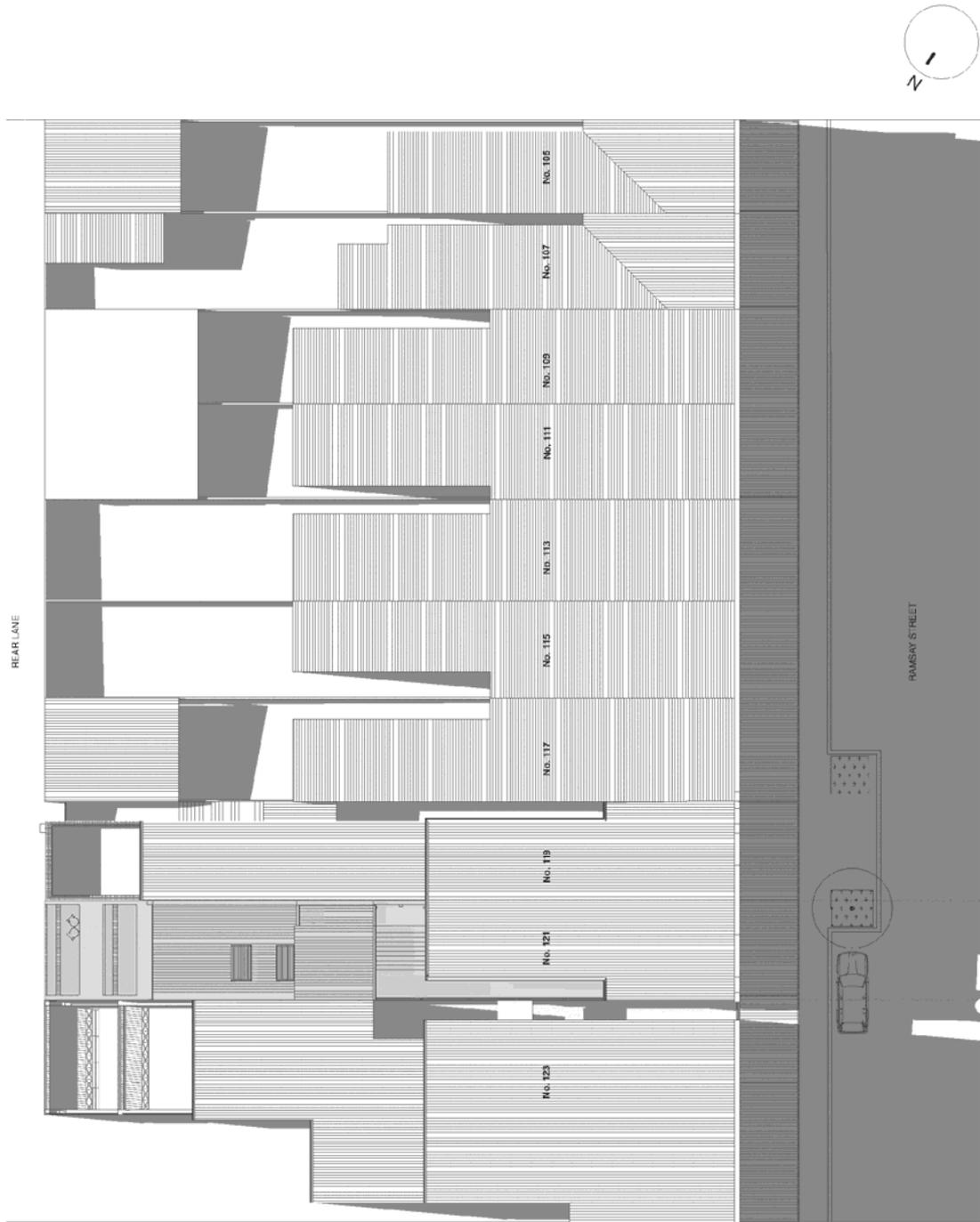
01B 21 june 0900 shadow diagram

This project is subject to the requirements of baiax ser/issueA29877\_03

<p>ian moore architects abn 15 600 666 007                  nominated architect: ian moore nsw abn 5275                  studio 5 151 Foveaux Street, Surry Hills NSW 2010 australia                  t: 61 2 8354 1887 m: 61 418 603 374                  i/c@ianmoorearchitects.com ianmoorearchitects.com</p>	<p>Rev A: 03.03.16 - for development application                  Rev B: 03.09.16 - for development application                  Rev C: 01.09.17 - for development application</p>	<p>Rev D: 08.03.18 - revised development application</p>
<p><b>121 Ramsay Street, Haberfield</b></p>	<p><b>Alterations and Additions at</b></p>	<p><b>1:200 @ A3 21 june 0900 shadow diagram</b></p>
<p><b>ian moore architects</b></p>	<p><b>development application</b></p>	<p><b>1519-15-02-01 D</b></p>



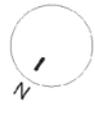
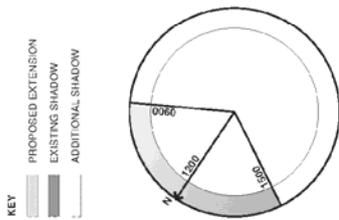




04 21 march 0900 shadow diagram

This project is subject to the requirements of basic certificate A29877\_03

<p>ian moore architects   an 15 600 66 007                  nirmamad architect   an more new 5275                  studio 5   151   towers street, surry hills, NSW 2010 australia                  ian@ianmoorearchitects.com   www.ianmoorearchitects.com</p>	<p>ser A   02.05.16 - for development application                  ser B   13.09.16 - for development application                  ser C   01.09.17 - for development application  <b>Alterations and Additions at                  121 Ramsay Street, Haberfield</b></p>	<p>ser D   08.03.18 - revised development application</p>	<p>development application  <b>1519-15-02-04 D</b></p>
<p>1:200 @ A3 21 march 0900 shadow diagram</p>			

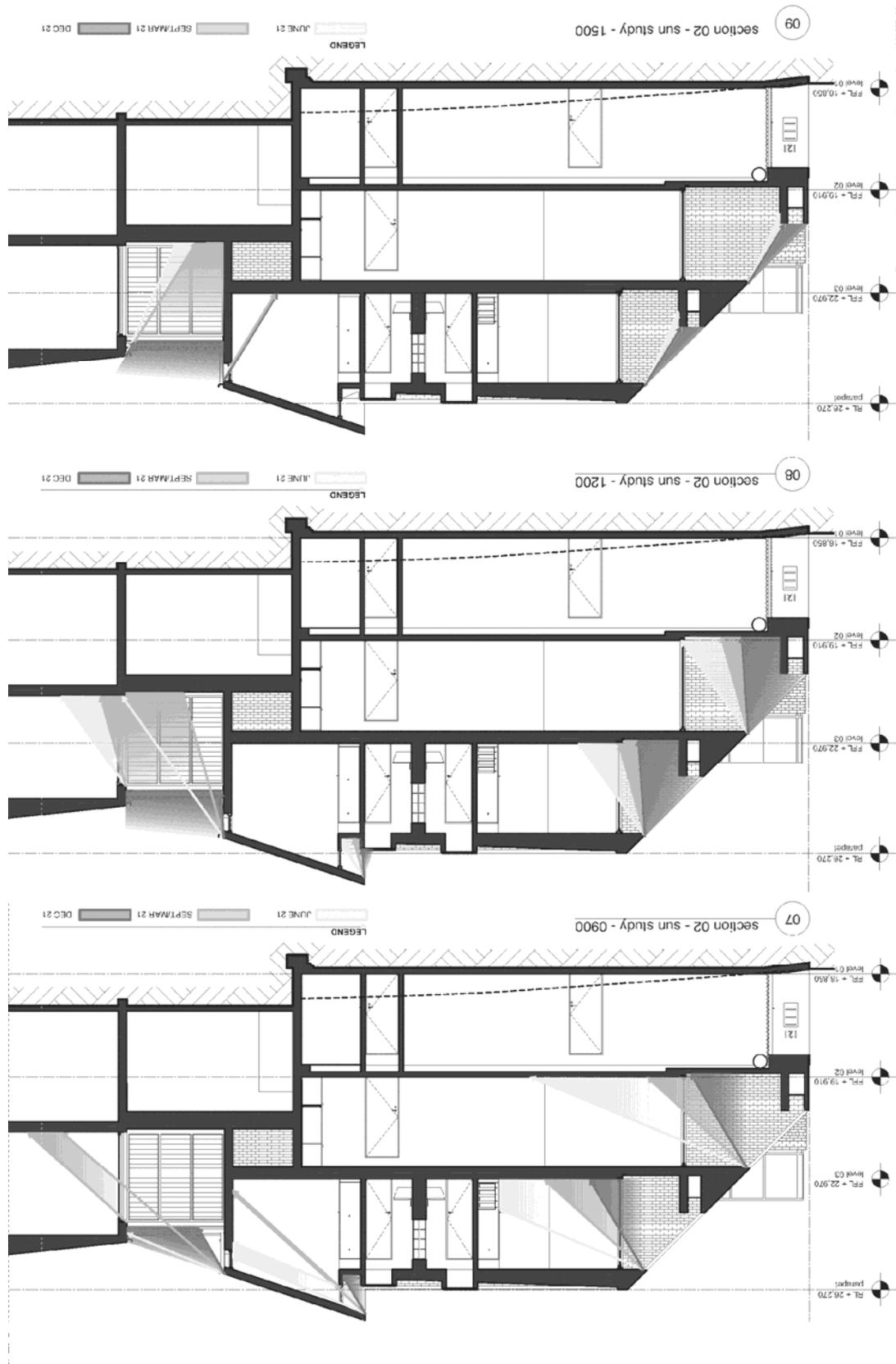


05 21 march 1200 shadow diagram

This project is subject to the requirements of baak cert/casa A2P877\_03

<p>ian moore architects   an 15 600 166 007                  nominated architect: ian moore   an 15 600 166 007                  studio 5   151 forest st   sydney   nsw 2000   ph: 61 6 03 377 1887   www.ianmoorearchitects.com                  info@ianmoorearchitects.com</p>	<p>Rev A 02.03.16 - for development application                  Rev B 13.09.16 - for development application                  Rev C 01.09.17 - for development application  <b>Alterations and Additions at                  121 Ramsay Street, Haberfield</b></p>	<p>Rev D 09.03.18 - revised development application</p>
<p>development application</p>		<p>1:200 @ A3 21 march 1200 shadow diagram</p>
<p>1519-15-02-05</p>		<p>D</p>





The project is subject to the requirements of basic certificate A326877-03

Ian Moore Architects 15/600, 46/49, 52/51 and 15/27 South 5, 131 Towbar Street, Surry Hills NSW 2055 Australia T: +61 2 8354 4887 M: +61 411 411 603 374 info@ianmoorearchitects.com www.ianmoorearchitects.com	1519-15-02-07 A development application
Rev A 003 - B - revised development application Alterations and Additions at 121 Ramsay Street, Haberfield	section 02 - sun study 1:100 @ A3



This project is subject to the requirements of basic certificate A20877\_03

Rev A\_080518 - revised developer's application

ian moore architects abn 15 605 164 409  
level 5, 151 Forest Road, Sydney Hills NSW 2033 Australia  
studio 5, 151 Forest Road, Sydney Hills NSW 2033 Australia  
t +61 2 8324 1187 f +61 418 603 374  
info@ianmoorearchitects.com www.ianmoorearchitects.com

Alterations and Additions at  
121 Ramsay Street, Haberfield

ian moore architects

development application

1519-15-03-01 A

rear lane perspective

1:1.05 @ A3

**Attachment C – Clause 4.6 Exceptions to Development Standards**

MERSONN

121 Ramsay Street, Haberfield

Justification under Clause 4.6 of Ashfield Local Environmental Plan 2013 –  
Exceptions to Development Standards.

Clause 4.4 Floor Space Ratio

Control 1:1

Proposed 1.4:1

Clause 4.6 states:

4.6 Exceptions to development standards

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

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

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

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

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

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

- (a) the consent authority is satisfied that:

*Company Share:Mersonn:Projects:2017 Projects:217004 121 Ramsay Street, Haberfield.c\4.6:110518:C\4.6.docx*  
Mersonn Pty Ltd, ACN 121 190 994  
6/20 Wylde Street, Potts Point, NSW, 2011  
P: 02 9326 9962 F:02 9383 8992 E: mail@mersonn.com.au

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include any of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX

certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

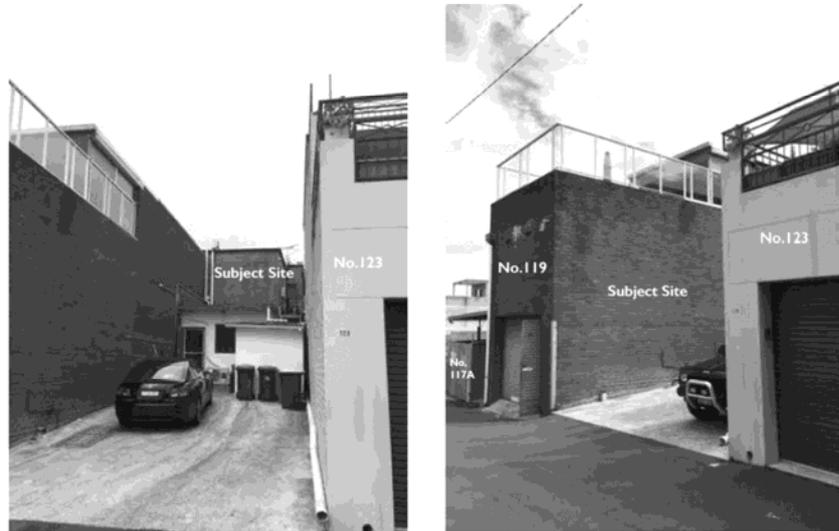
Discussion

The subject site is known as 121 Ramsay Street, Haberfield and is identified as Lot 1 DP 931434. It is located on the northern side of Ramsay Street west of Kingston Street and east of Dalhousie Street. The site falls within an area that is characterised by a mix of retail and shoptop buildings representing a variety of ages and styles. The development in the immediate vicinity varies between traditional two storey Ramsay Street retailing and two to three storey volume additions at the rear.



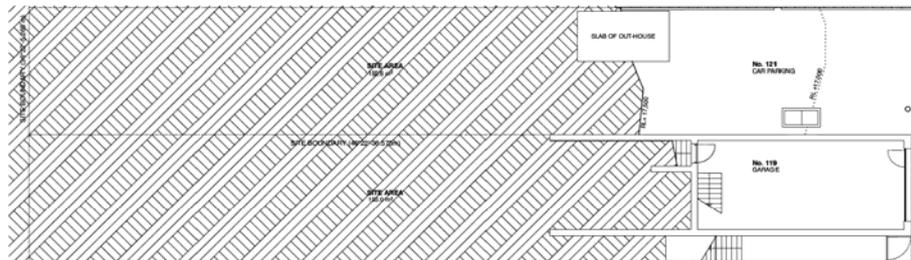
Ramsay Street frontage

The site has frontage to both Ramsay Street (south) and to a service lane (north) to the rear. A parking and service area for the existing bakery is accessed off the rear lane which together with at grade parking occupies most of that frontage.

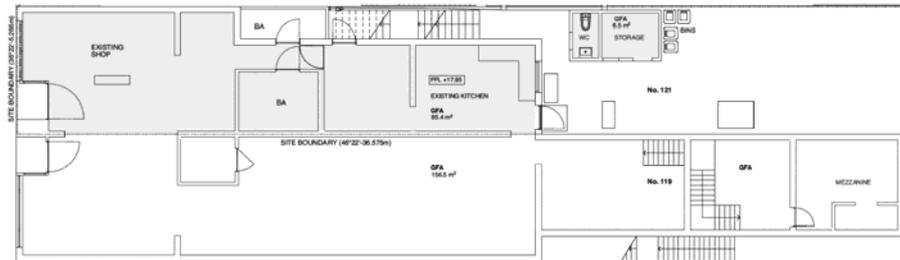


Service Lane frontage

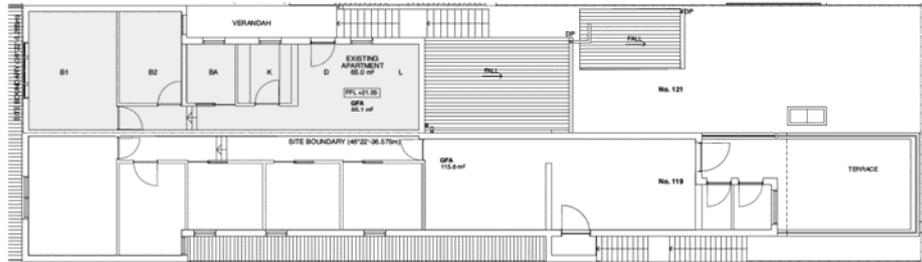
The adjoining buildings have both been redeveloped to the rear, with 119 Ramsay Street, to the east, comprising two levels above a ground floor garage on a site area of 193m<sup>2</sup> with a gross floor area of 272m<sup>2</sup> and an FSR of 1.4:1. This is demonstrated in the marked up floor plans included below.



Level 01 - 119 Ramsay Street

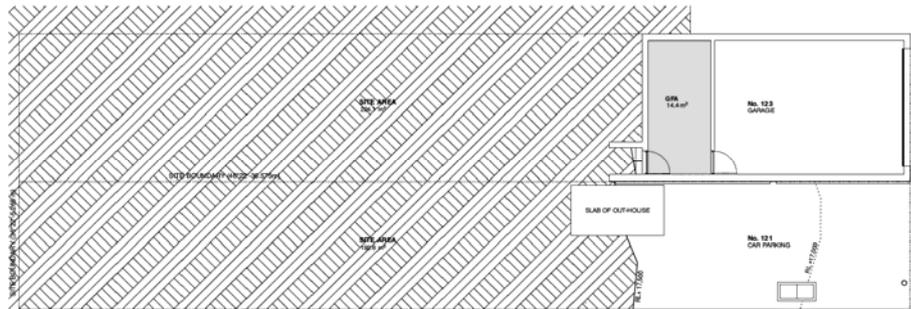


Level 02 - 119 Ramsay Street

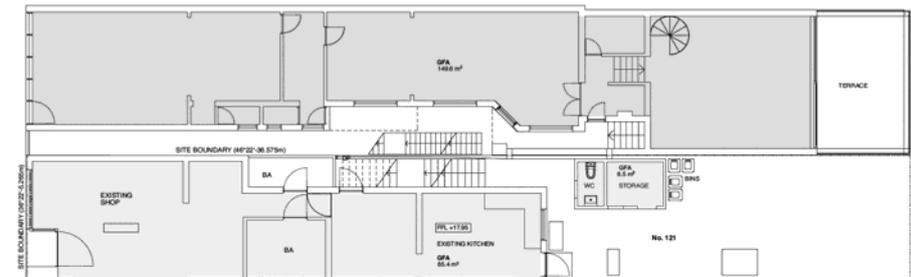


Level 03 - 119 Ramsay Street

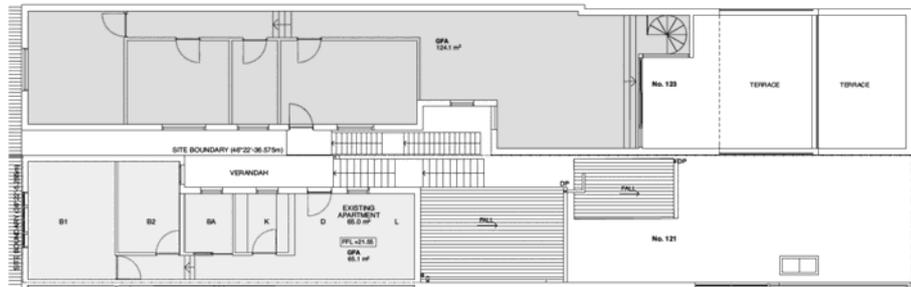
The adjoining building to the west, 123 Ramsay Street, comprises two levels above a ground floor garage and store room on a site area of 224m<sup>2</sup> with a gross floor area of 266m<sup>2</sup> and an FSR of 1.24:1. This is demonstrated in the marked up floor plans included below.



Level 01 - 123 Ramsay Street

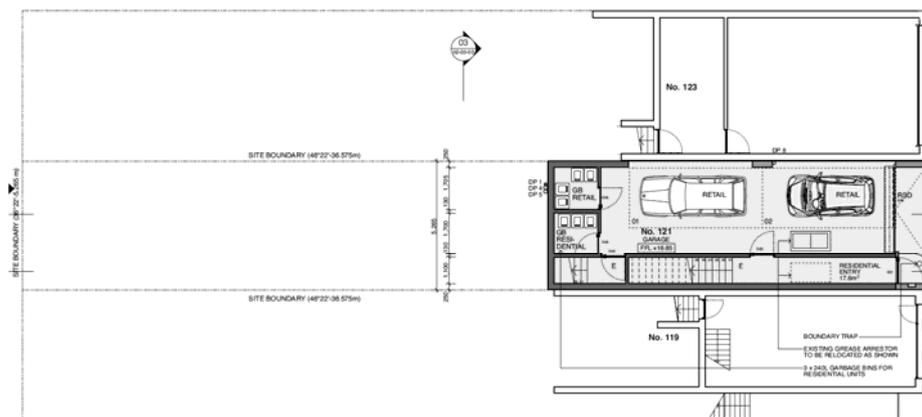


Level 02 - 123 Ramsay Street

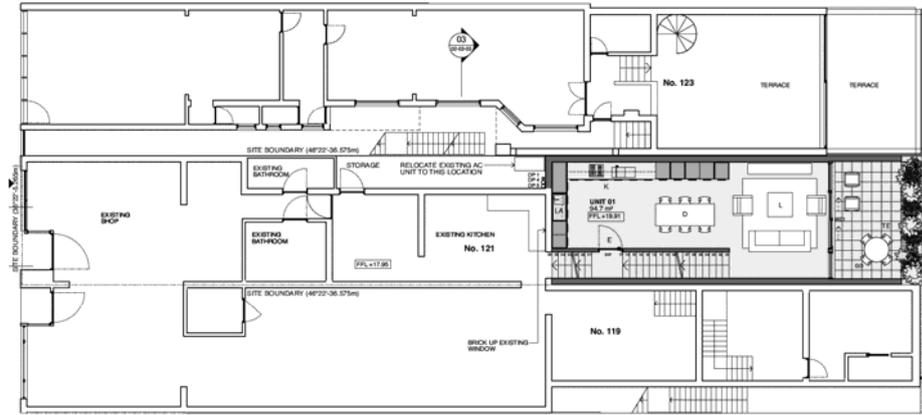


Level 03 - 123 Ramsay Street

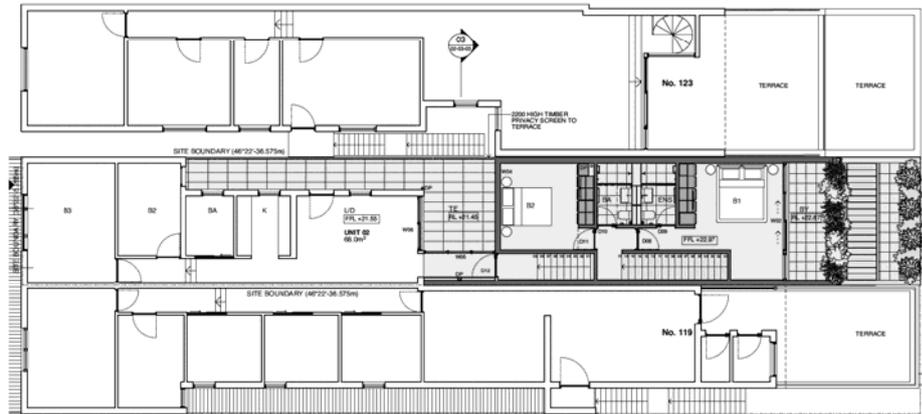
It is proposed to carryout alterations and additions to the rear of the subject site in a form consistent with the neighbouring sites in an appropriate infill development. The proposal provides for garaging at ground floor with two residential part levels above.



Level 01 - 121 Ramsay Street Proposed



Level 02 - 121 Ramsay Street Proposed



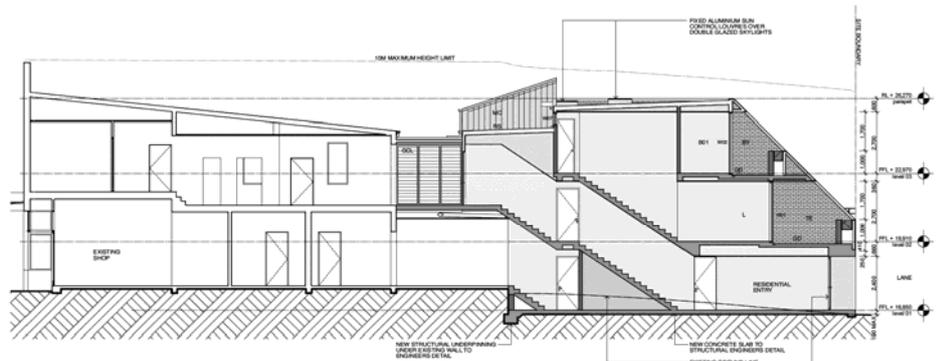
Level 03 - 121 Ramsay Street Proposed

The resulting development provides for a modest infill which is compatible with and complimentary to the immediately adjoining neighbours and with the broader streetscape of the rear lane as demonstrated in the proposed elevation.

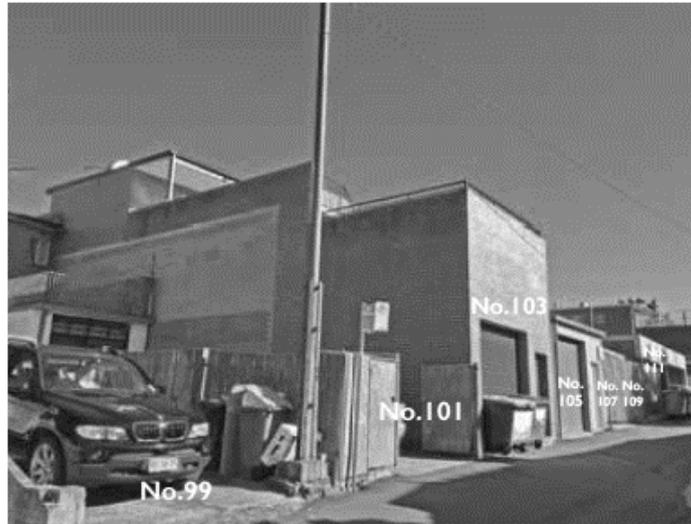


Proposed North-east Elevation

The proposed infill steps back from the lane as it increases in height consistent with the form of the neighbouring development and compatible with and complimentary to the broader streetscape of the rear lane as demonstrated in the proposed long section below.



Proposed Long Section



Stepped three storey form of 103 Ramsay Street



Stepped three storey form of 129 Ramsay Street

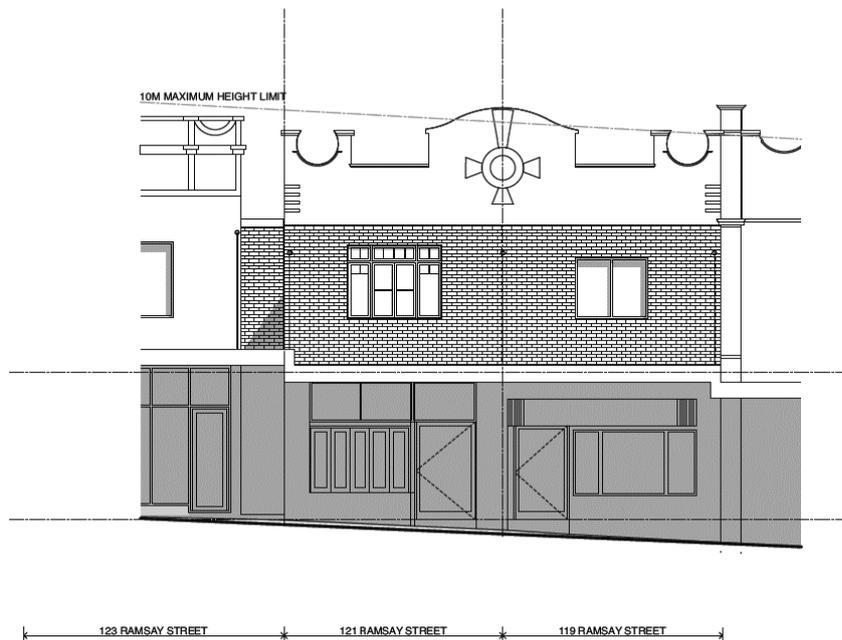
This redesign and the adaptive reuse of the building resulted from the retention of the ground and first floor of the traditional Ramsay Street shoptop being retained and reused. The reuse was necessarily constrained by the heritage of the building and the desire to limit the extent of change

within this part of the building, which would have detracted from the streetscape significance of the building. The internal use of the building was also necessarily constrained in order to attempt to retain the experience of the shopping street character, volumes and spaces. Consequently, the ground floor street presentation was maintained and did not require the spaces to be subdivided and altered and consequently could retain their coherence.

While it is acknowledged that any redevelopment would require active frontages to Ramsay Street, this would normally occur with a shallow skin of retail use with residential or residential related functions beyond. The proposal by contrast retains the ground and first floor traditional shoptop use for significant community benefit in recognising, reinstating and adaptively reusing the heritage significant components of the site. This must be seen as a clear community benefit and better planning outcome for the site.

The pedestrian experience of the development remains of a scale compatible with the heritage streetscape experienced from Ramsay Street. The proposed residential development is setback behind the traditional shoptop element and is recessive so that it does not detract from the heritage streetscape but benefits from the services and facilities, contributes to the functioning of the centre and takes advantage of this highly serviced locality.

The current suite of planning controls would encourage residential accommodation as part of mixed use development in the local centre. The development would retain the Ramsay Street retail consistent with the local centre objectives and continue to provide local employment and serve the needs of the local community who live in, work and visit the area.



**Proposed retention of Ramsay Street Façade**

These controls would appear to contemplate a subdivision pattern which is not as deep as the subject site (36m) and would only contemplate a single building between Ramsay Street and the rear lane frontage. However, the greater depth inherent in the subject site produces a two part built form with what would be the rear of the Ramsay Street active uses and their servicing, is replaced by a secondary residential building which forms the transition between the active uses of the Ramsay Street business corridor and the lower scale residential fabric adjoining to the north.

There are obvious and clear benefits in the introduction of this secondary building in terms of its relationship with the adjoining lower scale residential fabric to the north both in terms of the use relationship and in terms of the scale relationship. The proposal provides a separation of uses and a stepped transition to that portion of the building of greater scale. The higher portions of the building are setback in excess of 5.5m from the northern boundary and are visually separated and provide a transition from the lower scale residential building forms to the business zone.

Where the proposal breaches the 1:1 FSR control it arises from the combination of the retention of the heritage significant shoptop building from (and its commercial use) and the depth of the site and the provision of a transitional infill which produces this two part building form. The relocation of building mass away from the sensitive northern neighbours and repositioning it towards the centre of the site which is of a scale and character which can accommodate the increased scale forming a complementary form to that which occurs on the adjoining sites and complimentary to the other sites redeveloped in the locality.

The proposed massing locates the building form centrally (by stepping back from the lane) and serves to retain outlook, skyline views and solar access and daylight to the dwellings to the north. Screening the development by a lower scale transitional residential building whilst achieving the intensity of development that is desirable in this locality.

There is a possible compliant scheme that should be used as basis for evaluating the proposed contravention of the FSR control. In considering the nature of compliant schemes, it is important to note that particular importance of the zone in which the scheme is located. The site is zoned 'B2 Local Centre'.

The objectives for this zone are set out in the LEP's Land Use Table. These are:

- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To encourage residential accommodation as part of mixed use development.*

It is important in this zone that development achieves the intensity of land use that the controls take to be commensurate with the location's highly accessible nature. This contributes to important planning policy goals, including encouraging the use of alternatives to private motor vehicles, such as public transport, walking or cycling (as the controls seek to do this by providing for opportunities for more accommodation and workplaces within

walkable areas well-serviced by public transport).

In this context there is an alternative compliant scheme that should be considered as follows.

A compliant development could follow the 1:1 FSR control across all of the site — whilst maintaining the desired intensity and associated setbacks.

This would mean that the northern portion of the site would be developed to a single level as the servicing and back of house of the retail fronting Ramsay Street (providing a similar interface to that which is currently extant) and a single building form above extending the commercial use. This would have an impact on the existing dwellings and primary outdoor living spaces built facing the common northern boundary of the subject site by increasing the intensity of the commercial uses rather than providing for a transitional buffer.

Under this first possible compliant scheme, the building form would give rise to significantly greater adverse impacts in terms of presentation of bulk and scale (and overall amenity) when compared with the present proposal.

That is, the privacy, views and outlook amenity impacts, of such a compliant scheme, on the dwellings located to the north would have, in comparison with the proposed scheme, a significant greater adverse impact.

The actual proposed development is considered to be a better planning outcome than the possible compliant developments. Consideration has been given to the shadow, privacy, views and outlook amenity impacts of the elements of the building which breach the FSR control and it is concluded that no significant impacts occur when compared with a compliant development. While the above is sufficient to establish a better planning outcome, the contribution that the development will make to improving the public domain with the retention and upgrading of the shoptop building but buffering it from the sensitive residential uses is a further reason why the proposal achieves a better planning outcome.

In this instance it is considered a better planning outcome to exceed the FSR control through the use of a Clause 4.6 exception where the specific site constraints lead to breaches occurring over part of the site but retaining the traditional shoptop building retaining meaningful employment generating

uses and creating a transitional form within the development integrating the B2 and residential zoning interface. While solutions are available to remove parts of the building the use of Clause 4.6 in this instance is considered to result in a better planning outcome in terms of a complimentary building form.

The failure to set aside the standard would either give rise to the adverse impacts associated with the alternative compliant development or (if those adverse impacts are to be avoided) an inefficient use of key land. The contravention of the control by the proposal does not give rise to any environmental effect of sufficient significance that would cause concern. It is considered that the environmental benefits of the proposal, ie:

- providing accommodation with good amenity;
- retaining the traditional shoptop building and enhancing its streetscape presence;
- providing meaningful employment generating commercial floor space;
- retaining and improving residential amenity for the neighbouring interface dwellings,

is on balance an appropriate environmental outcome, to justify the contravention of the development standard.

Further, an examination of development along Ramsay Street within the Inner West Council area shows a pattern of approvals which set aside the long standing 1:1 FSR on the basis of appropriate infill development consistent with the desired future character and bulk, form and scale of the locality.

I will now explicitly address each of the statutory criteria for Clause 4.6 in turn for completeness:

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

The development standard proposed to be contravened Clause 4.4 Floor Space Ratio is not expressly excluded from the operation of this clause.

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

- (c) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,  
and
- (d) That there is sufficient environmental planning grounds to justify contravening the development standard.

This submission is that written request for consideration by the consent authority (noting that it should be read in conjunction with the associated Statement of Environmental Effects and supporting material.

The compliance with the clause is considered unreasonable or unnecessary in the circumstance of this case.

The development is consistent with development standard and zone objectives and there are no additional significant adverse impacts arising from the proposed non-compliance on FSR. (However, it is recognised that this by itself, will not be enough to satisfy the 'unreasonable or unnecessary' requirement.)

The compliant scheme outlined above would thwart the objectives of the FSR control.

The objectives of Clause 4.4 Floor Space Ratio are;

- a) to establish standards for development density and intensity of land use;*
- b) to provide consistency in the bulk and scale of new development with existing development;*
- c) to minimize adverse environmental impacts on heritage conservation areas and heritage items;*
- d) to protect the use or enjoyment of adjoining properties and the public domain;*
- e) to maintain an appropriate visual relationship between new development and the existing character of the areas that are*

*not undergoing, and are not likely to undergo a substantial transformation.*

The compliant scheme would provide a single building with a much reduced transitional buffer which is not appropriate to the condition of the site and its context and is not consistent with the objectives of this clause.

The compliant scheme provides for a building which would fail to produce a consistency of bulk and scale of new development with existing development when it is apparent that the neighbouring developments and those characteristic of development on the zone interface is of a steeped three storey form providing a transitional residential interface buffering amenity impacts.

Furthermore, the increase in intensity of the active street frontage uses would fail to *protect the use or enjoyment of adjoining properties and the public domain* by failing to provide an appropriate buffer to the zone transition.

It is considered that the compliant scheme would not meet this objective of maintaining *an appropriate visual relationship between new development and the existing character of the areas that are not undergoing, and are not likely to undergo a substantial transformation.*

The compliant scheme, as outlined above, would thwart the zone objective set out in clause 'to encourage residential accommodation as part of mixed use developments'. It would do this by depriving the opportunity to provide residential accommodation despite being consistent with the bulk and scale of existing development.

The only other alternative — reducing the intensity of the development of the site — would thwart or undermine the objectives for the B2 zone, in particular:

*To maximise public transport patronage and encourage walking and cycling.*

Additionally, the severity of the burden placed on the landowner, the neighbouring property occupiers/owners (by requiring strict FSR compliance) would be disproportionate to the consequences attributable to the proposed

non-compliant development (as per comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 (at paragraph 15)).

In this regard, the adverse impacts of the proposed non-compliance with the FSR control would not be significant, while the burden imposed by requiring strict compliance would be significant. In relation to the complaint scheme, the consequences of requiring strict compliance would burden the owners and occupiers of the premises neighbouring the northern boundary of the subject site (by causing those properties to suffer amenity impacts).

In relation to any scheme that fell short of the desired intensity, the consequences of requiring strict compliance would be:

- a higher build cost (as the fixed costs of construction are defrayed over a smaller number of units);
- a reduced supply of accommodation in the area; and
- a lost opportunity to provide additional accommodation in a walkable precinct well-serviced by public transport.

In short, the burdens that would be imposed by requiring strict compliance would be disproportionate to the non-significant adverse impacts of the proposed FSR contravention.

The environmental planning grounds that justify contravening the development standard are the better planning outcomes outlined in the discussion above. Additionally, the proposal seeks flexibility in the application of the standard where the breach of the FSR control is sought for a proposed building that is compatible in bulk and scale with the surrounding buildings particularly given its location on the Ramsay Street shopping strip. A compliant building would be uncharacteristic of the area, and result in a poor planning outcome in amenity and scale. This design solution is considered to achieve flexibility consistent with the objectives of clause 4.6.

The proposal provides for a better outcome in making available improved amenity, reduced impacts and a coherent streetscape. This is considered to be a better outcome consistent with the objectives of clause 4.6. The failure to set aside the standard would either give rise to greater adverse impacts (in comparison with the proposed development) or result in the inefficient use of the land (contrary to the planning intent for this key locality).

The contravention of the control by the proposal does not give rise to any environmental effect of sufficient significance that would cause concern, and it is considered that the environmental benefits of the proposal, reducing the adverse amenity impacts of the development of the site (while achieving the desired level of intensity) is on balance an appropriate environmental outcome, to justify the contravention of the development standard.

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

(a) The consent authority is satisfied that:

(iii) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

(b) the concurrence of the Director-General has been obtained.

The objective of Clause 4.4 Floor Space Ratio is;

*b) to provide consistency in the bulk and scale of new development with existing development;*

There can be no doubt that the proposal provides a consistency in the bulk and scale of new development with existing development on both frontages. However, the proposal goes further by retaining the heritage building and extending the residential accommodation thereby increasing the intensity of the uses in a meaningful way.

It is demonstrated that the building is appropriate to the condition of the site and its context to meet the desired future character and consistent with the objective of this clause. The proposal provides for an appropriate building bulk, built form and scale commensurate with the desired future character and the proposal is consistent with these requirements. The proposal is considered to provide a suitable balance between commercial uses activating the Ramsay Street and transitional built form and an intensity of development that is commensurate with the character of the locality. It is considered that the objective and tests are met by the proposal.

The proposed development complies with the objectives of the zone by in

particular by providing residential accommodation opportunities in this accessible location and further by providing a mix of compatible land uses that ensure the viability of the centre and encourage public transport patronage and walking. The proposal is considered to meet the objectives for development in the zone. The proposal is considered consistent with the objectives of the standard and for development in this zone as required by this subclause.

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

- (d) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (e) the public benefit of maintaining the development standard, and
- (f) any other matters required to be taken into consideration by the Director-General before granting concurrence.

The Secretary (of Department of Planning and Environment) can be assumed to have concurred to the variation. This is because of Department of Planning Circular PS 08-003 'Variations to development standards', dated 9 May 2008. This circular is a notice under 64(1) of the Environmental Planning and Assessment Regulation 2000.

A consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given.

In any event, the contravention raises no matters of State or regional significance. It is considered that, where the proposal is consistent and compatible with the neighbouring sites in terms of its bulk, scale and character, there is no public benefit in maintaining the development standard. No other matters would be required to be taken into consideration by the Secretary (if concurrence was not assumed).

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (c) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (d) the subdivision will result in at least one lot that is less than 90% of the

minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include any of these zones.

The proposal is not for contravention of a subdivision control.

(9) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

The consent authority will keep a record of the determination.

(10) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (d) a development standard for complying development,
- (e) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (f) clause 5.4.

The proposal is not complying development. The development standard does not arise from the regulations in connection with BASIX. The standard does not arise from Clause 5.4 or any of the other exclusions listed.

In this instance it is considered appropriate to make an exception to the floor space ratio development standard under the provisions of Clause 4.6 for the reasons outlined in the preceding discussion.



Andrew Darroch  
Consultant Planning