






# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

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| <b>Application No.</b>                            | 10.2017.221.01   |
| <b>Address</b>                                    | 322-326 Canterbury Road, Hurlstone Park  |
| <b>Proposal</b>                                   | Demolition of existing structures and construction of a 4-storey mixed-use building with 2 ground floor commercial tenancies, 28 apartments on the upper floors and a basement garage. |
| <b>Date of Lodgement</b>                          | 10 November 2017   |
| <b>Applicant</b>                                  | Dunkirk Property Development Pty Ltd   |
| <b>Owner</b>                                      | Dunkirk Property Development Pty Ltd   |
| <b>Number of Submissions</b>                      | 33   |
| <b>Value of works</b>                             | \$9,976,439  |
| <b>Reason for determination at Planning Panel</b> | >10 submissions<br>Apartment Design Guide (ADG) applies  |
| <b>Main Issues</b>                                | Floor space ratio, height, setbacks, privacy.  |
| <b>Recommendation</b>                             | Deferred Commencement  |
| <b>Attachment A</b>                               | Recommended conditions of consent  |
| <b>Attachment B</b>                               | Plans of proposed development  |
| <b>Attachment C</b>                               | Clause 4.6 Exception to Development Standards  |

| Location Plans | Legend  |
|----------------|---|
|                | <p><b>Site</b></p>  <p><b>Objections</b></p>  <p><b>Properties notified</b></p>  |



Picture 1: Aerial photo with subject sites identified.

## 1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of existing structures and construction of a 3-storey mixed-use building with 2 ground floor commercial tenancies, 28 apartments on the upper floors and a basement garage at 322-326 Canterbury Road, Hurlstone Park. The application was notified to surrounding properties and 33 submissions were received.

The main issues that have arisen from the application include:

- Floor space ratio
- Height
- Setbacks
- Privacy
- Acoustic amenity

The applicant seeks consent for variation to the Floor Space Ratio development standard as part of the application. The non-compliance is considered acceptable given the compliance with the objectives of the zone and the development standard, lack of environmental impacts, the applicant's well-founded Clause 4.6 request and subject to the imposition of recommended conditions of consent. The application is recommended for Deferred Commencement.

## 2. Proposal

The proposal is for the demolition of existing structures and construction of a 4-storey mixed-use building with 2 ground floor commercial tenancies, 28 apartments ('shop-top housing') on the upper floors and a basement garage with 47 car spaces and access from Canterbury Road. The proposal does not involve subdivision. No signage is proposed.



**Figure 1:** Perspective from Canterbury Road.

## 3. Site Description

The subject sites (Nos. 322, 324 and 326 Canterbury Road) are located on the western side of Canterbury Road between Griffiths Street to the north and Queen Street to the south. The sites have a combined area of approximately 1,795.3sqm and are legally known as Lots 34, 36 and 38 in DP 4170. For the purposes of this report, the three sites will be referred to as 'the subject site'.

Currently all three sites are occupied by single storey detached dwelling houses. To the north of the subject site is a single storey detached dwelling house and a commercial building on the corner of Canterbury Road and Griffiths Street currently operating as a 'McDonalds' restaurant with a drive-thru facility. To the south of the subject site is a single storey detached dwelling house. Further to the south of this dwelling is a single storey detached dwelling house, a commercial building, a single storey detached dwelling house and a commercial building which is bounded by Queen Street to the south. The opposite (eastern) side of this part of Canterbury Road is characterised by two (2) storey commercial buildings and the Canterbury-Hurlstone Park RSL Club. It is noted that the opposite (eastern) side of Canterbury Road is located within the Canterbury-Bankstown LGA. The surrounding streets are largely characterised by single storey detached dwelling houses.

The subject site is not identified as containing a heritage item and is not located in a heritage conservation area. The subject site is not in the vicinity of any heritage items or heritage conservation areas.

## 4. Background

### 4(a) Site history

#### Subject Site

| Application | Proposal   | Decision & Date           |
|-------------|--|---------------------------|
| 10.2016.160 | <p>Demolition of all structures and construction of four storey shop-top housing development, comprising ground floor shops/business premises and 34 dwellings above with basement car parking.</p> <p>The reasons for refusal included:</p> <ul style="list-style-type: none"> <li>- Large areas of gross floor area incorrectly omitted from calculations and therefore the proposal result in a non-compliance with the development standard. No Clause 4.6 request was provided.</li> <li>- Privacy impacts on neighbouring properties.</li> <li>- 4-storey height exceeds 3-storey height limit.</li> <li>- Non-compliances with the ADG.</li> <li>- Non-concurrence from the RMS in regards to vehicle circulation.</li> </ul> | Refusal – 12 January 2017 |

### 4(b) Application history

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

| Date            | Discussion / Letter/ Additional Information   |
|-----------------|---|
| 29 January 2018 | <p>Councils planners raised the following concerns:</p> <ul style="list-style-type: none"> <li>- Winter gardens incorrectly omitted from floor space ratio calculations.</li> <li>- Development exceeds the height control which is not supported.</li> <li>- The required 3.1m floor to floor height is not achieved.</li> <li>- Privacy impacts.</li> <li>- Solar impacts.</li> </ul> |
| 9 March 2018    | <p>The applicant provided a response and amended plans in response to the issues raised by Council planners. The response and amended plans addressed some but not all of the concerns raised.</p>  |
| 16 April 2018   | <p>Council planners raised the following outstanding and additional concerns:</p> <ul style="list-style-type: none"> <li>- Winter gardens still incorrectly omitted from floor space ratio calculations.</li> </ul>   |

|                   |  |
|-------------------|--|
|                   | <ul style="list-style-type: none"> <li>- Some private open spaces do not comply with the requirements of the ADG.</li> <li>- Acoustic/visual privacy between 'zen gardens'</li> <li>- Insufficient provision of car parking.</li> <li>- Confirmation of the location of the substation.</li> </ul>   |
| 9 May 2018        | The applicant provided a response and amended plans which addressed some but not all of the concerns raised.   |
| 25 July 2018      | <p>Council planners raised the following outstanding and additional concerns:</p> <ul style="list-style-type: none"> <li>- Kerb-side waste collection is not supported given the high volume of traffic on Canterbury Road and as such the basement must be able to facilitate on-site collection by Council trucks.</li> <li>- Outstanding matters including the 'zen gardens' and the location of the substation.</li> </ul> |
| 28 September 2018 | The applicant provided a response, amended plans and additional information which adequately addressed all of the outstanding concerns raised by Council planners.   |

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Ashfield Local Environmental Plan 2013 (the LEP)

The following provides further discussion of the relevant issues:

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

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

The supplied Preliminary Site Investigation (PSI) has concluded that site does not appear to have been used in the past for activities which could have significantly contaminated the site and that only contaminants of low to moderate significance were found. Council's Health Unit reviewed the PSI and concluded there would be limited risk in contamination and

recommended that a Detailed Site Investigation (DSI) and RAP were not required subject to the imposition of conditions of consent. Given this, the site is considered suitable for the development.

### **5(a)(ii) State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development**

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

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

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

#### Apartment Design Guide

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

The following provides further discussion of the relevant issues:

#### Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).

**Comment:** The subject site has a total area of 1,795.3sqm, thus requiring at least 448.8sqm of communal open space. The proposal includes 558sqm or 31% of communal open space in accordance with this part of the ADG.

The supplied solar access diagrams demonstrate the principal usable part of the communal open space will receive at least 50% direct sunlight for 2 hours between 9.00am and 3.00pm during the winter solstice.

Part 3B: Orientation

The ADG states that overshadowing of neighbouring properties is minimised during mid-winter.

**Comment:** The residential dwelling to the south at No. 328 Canterbury Road (No. 328) has north-facing windows setback approximately 450mm from the common boundary. Given the small side setback of the existing building it would be unreasonable to expect to maintain the full existing level of solar and daylight access. It is also noted that the existing building at No. 326 (part of the subject site) has a varying setback to the common side boundary of approximately 450mm-850mm, limiting the solar access currently received by the north-facing windows of No. 328.

The supplied solar access diagrams demonstrate that the development will reduce solar access to the private open space of No. 328, however 2 hours of direct solar access to approximately 50% of the private open space will be maintained between 9.00am and 3.00pm during the winter solstice in accordance with the solar access provisions relating to dwelling houses in the Comprehensive Inner West DCP 2016. The solar access diagrams also demonstrate that the development will maintain substantial solar access to the private open space at other times of the year.

The supplied solar access diagrams demonstrate that the development will reduce solar access to the private open spaces of the properties to the rear (primarily Nos. 294, 296, 298, 300 and 302 Queen Street to the west/ south-west of the site). However given the east-west orientation of these sites, the solar impacts will largely be confined between 9.00am and 11.00am and at least 2 hours solar access to approximately 50% of the private open spaces will be maintained between 9.00am and 3.00pm during the winter solstice in accordance with the solar access provisions relating to dwelling houses in the Comprehensive Inner West DCP 2016.

Deep Soil Zones

The ADG prescribes deep soil zones of 7% for sites over 1,500sqm with minimum dimensions of 6m.

**Comment:** The subject site has a total area of 1,795.3sqm, thus requiring 125.7sqm of deep soil zone. The proposal includes 123.5sqm (6.9%) of deep soil zone along the western (rear) boundary. It is noted that this area has a minimum dimension of only 3m contrary to the 6m requirement in this part of the ADG. The non-compliance is considered acceptable in this instance given that the proposal is generally consistent with the required area of deep soil zone (a shortfall of only 5.2sqm or 0.1%), and enough area has been provided to support the healthy growth of the substantial proposed plantings and adequately improve residential amenity.

Visual Privacy/Building Separation

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

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

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

Up to four storeys/12 metres

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

**Comment:** The proposed development is a 4-storey building and has a maximum building height of 12.9m. Due to the slope of the land, the rear of the building has a height of 10.2m. It is noted that the ADG suggests an increased separation distance of 3m where adjacent to a different zone which permits lower density residential development to provide a transition in scale. The building (as measured from the edge of the rear balconies) has a varying setback of 9.2m – 15.7m to the rear boundary in accordance with this part of the ADG, inclusive of the increased separation distance of 3m.

It is noted that the neighbouring properties to the west (Nos. 294, 296 and 298 Queen Street) are zoned R1 – Low Density Residential and have large rear yards which function as their private open spaces. The dwellings on these sites are substantially setback approximately 25m, 17m and 13m respectively from the common rear boundary.

Given that shop top housing up to a height of 13m is permitted on the subject site, the ADG requires private open space for all apartments, and that the ADG prescribes a 9m building separation for the subject development, it is considered difficult for the current level of privacy enjoyed in the neighbouring residential back yards to be maintained.

It is noted that the majority of the development is setback 11.2m-15.8m from the rear boundary (as measured from the edges of the balconies) (far in excess of the 9m required), that the development includes fixed louver screens on portions of the rear balconies and that extensive significant plantings are proposed in the deep soil zone along the rear boundary. Nevertheless, it is a recommended condition of consent that the clear glazed balustrades be replaced with predominately solid balustrades to reduce the impacts of overlooking (particularly from inside the building or when future residents are seated on the balconies). It is considered that this, in conjunction with the proposed building separation, proposed privacy treatment and vegetation screening that the proposal will maintain adequate visual privacy to the neighbouring properties at the rear.

The building has nil setbacks to the northern and southern (side) boundaries. It is noted that the northern elevation includes a void which is setback 3.75m from the northern (side) boundary.

The ADG does not require any building separation between blank walls, and nil side setbacks can be considered acceptable where the desired future character is for a continuous street wall.

The north-facing elevation of the neighbouring dwelling to the south at No. 338 contains two windows. The desired future character of this part of Canterbury Road is for a continuous street wall given the established pattern of nil side setbacks and the constraints of the sites located within the 'Enterprise Zone (B6) – Hurlstone Park' precinct. These constraints include (but are not limited to) the relatively shallow lots given the scale of development permissible, the protection of amenity of the adjacent low density residential properties to the rear and the rear setback requirements of the ADG. As discussed elsewhere in this report, the proposal will maintain adequate amenity to the neighbouring property to the south.



Although the south-facing elevation of the neighbouring building to the north at No. 312 contains ground floor openings, it is commercial in use and will therefore a nil setback will not result in any adverse amenity impacts.

For these reasons, the proposed side setbacks are considered acceptable in this instance.

As mentioned, the northern elevation contains a void which has a setback of only 3.75m to the northern (side) boundary. The north-facing high-level windows fronting the void either have sill heights of 1.8m above the FFLs or are single hung windows with obscured glazing up to 1.8m above the FFLs (fixed up to a height of 1.2m above the FFLs). The east and west-facing windows fronting the void are also single hung windows with obscured glazing up to 1.8m above the FFLs (fixed up to a height of 1.2m above the FFLs). Although the proposed separation to the common boundary is less than 6m, the proposed sill heights and privacy treatment of the windows fronting the void will ensure that the development will maintain adequate internal and external privacy in accordance with the intent of this part of the ADG

### Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

**Comment:** The supplied documentation indicates that 20 (71%) of units will receive at least 2 hours of direct sunlight and that no units will receive no direct sunlight between 9.00am and 3.00pm during the winter solstice in accordance with this part of the ADG.

### Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

**Comment:** The supplied documentation indicates that 21 (75%) of units achieve natural cross ventilation. Based on Councils assessment, only 16 (57%) of the units achieve natural cross ventilation in accordance with the ADG.

Units B1.05, B2.05 are B3.04 have been incorrectly counted as naturally cross ventilated as the outlets opening onto the internal void are fixed closed. It is a recommended condition of consent that these windows be operable and have a similar operable area as the respective inlets in accordance with Figure 4B.3 of the ADG so that these units can be naturally cross ventilated.

Units B1.01 and B2.01 both contain one bedroom that solely rely on an internal courtyard. Given the size of the courtyards, they are not considered light wells, and will ensure adequate air source for the bedrooms.

It is unclear whether Units B2.04, B2.05 and B3.03 are naturally cross ventilated as the outlets (north-facing windows) in the respective master bedrooms do not appear to be operable. It is a recommended condition of consent that these windows be operable and have a similar operable area as the respective inlets in accordance with Figure 4B.3 of the ADG so that these units can be naturally cross ventilated.

It is also unclear if the windows on the rear (eastern) elevation are operable given the lack of detail on the supplied drawings. It is a recommended condition of consent that a detailed window schedule be provided in order to demonstrate that all habitable rooms have an area of unobstructed windows openings equal to at least 5% of the floor area served.

It is noted that Units 1.04, 2.04 and 3.03 have outlets in close proximity to an adjoining wall which may create a ‘venturi effect’, thus impacting air flow.

Units A2.04 and A3.03 have also been incorrectly counted as being naturally cross ventilated as the majority of the primary living spaces are not on the ventilation path contrary to the definition of ‘natural cross ventilation’ in the ADG.

Unit A1.03 has been incorrectly omitted from the applicants supplied natural cross ventilation calculations.

Subject to the imposition of the above conditions of consent, 22 (79%) of the units can achieve natural cross ventilation. If Units 1.04, 2.04 and 3.03 are not counted as being cross ventilated, 19 (68%) of the units can still achieve natural cross ventilation in accordance with this part of the ADG.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

| Minimum Ceiling Height        |   |
|-------------------------------|---|
| Habitable Rooms               | 2.7 metres  |
| Non-Habitable                 | 2.4 metres  |
| If located in mixed used area | 3.3 for ground and first floor to promote future flexibility of use |

**Comment:** All habitable rooms achieve ceiling heights of at least 2.7m.

The subject site is zoned B6 – Enterprise Corridor which permits both commercial and residential development (in the form of shop-top housing) and as such the subject site is considered to be located in a mixed-use area. The ground floor has a ceiling heights ranging from of 3.7m to 4.2m however the first floor does not achieve the required 3.3m in accordance with this part of the ADG. The proposed first floor ceiling height of 3.1m is considered acceptable in this instance as it is unlikely that the first floor will be readapted to commercial use in the future given the subject sites location in a primarily low scale residential and commercial setting.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

| Apartment Type       | Minimum Internal Area |
|----------------------|-----------------------|
| Studio apartments    | 35m <sup>2</sup>      |
| 1 Bedroom apartments | 50m <sup>2</sup>      |
| 2 Bedroom apartments | 70m <sup>2</sup>      |
| 3 Bedroom apartments | 90m <sup>2</sup>      |

**Note:** The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.

**Comment:** All units comply with the minimum internal areas outlined in this part of the ADG.  
Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:  
 § 3.6 metres for studio and 1 bedroom apartments.  
 § 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

**Comment:** All habitable rooms have direct access to a glass area of not less than 10% of the floor area of the room subject to the imposition of conditions of consent.

The development has proposed ceiling heights of 2.7m and therefore all single aspect habitable rooms are restricted to 6.75m with the exception of open plan living areas which are restricted to 8m. All single aspect habitable rooms and open plan living areas are consistent with the requirements of this part of the ADG.

All master bedrooms (excluding wardrobe space) are at least 10sqm in area and all other bedrooms (excluding wardrobe space) are at least 9sqm in area. All bedrooms have a minimum dimension of 3m.

All units have combined living/dining rooms all of which have a width of at least 3.6m for the 1 bedroom units and 4 metres for the 2 and 3 bedroom units.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

| Dwelling Type         | Minimum Area     | Minimum Depth |
|-----------------------|------------------|---------------|
| Studio apartments     | 4m <sup>2</sup>  | -             |
| 1 Bedroom apartments  | 8m <sup>2</sup>  | 2 metres      |
| 2 Bedroom apartments  | 10m <sup>2</sup> | 2 metres      |
| 3+ Bedroom apartments | 12m <sup>2</sup> | 2.4 metres    |

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metres.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3 metres.

**Comment:** All balconies comply with the minimum area required by this part of the ADG. It is noted that although the balconies relating to Units A303, B303 and B304 achieve the minimum required area, they are (at least in part) less than the required 2 metre depth.

The size of the balconies of Units A303 and B304 (13.5sqm and 16sqm respectively) greatly exceed the minimum required area of 10sqm, achieve the minimum required 2m depth for portions of the balcony, and will have good amenity given they are located on the top floor, and as such are considered acceptable.

The balcony of Unit B303 has an area of 10sqm (see Figure 2 below). Increasing the depth of the balcony at its southern end to 2m would result in a non-compliance with the 9m building separation requirement. Increasing the depth of the northern edge of the balcony to 2m would result in a marginal increase to the area of the balcony at the possible expense of solar access/daylight to the unit below (Unit B204). Reducing the size of the living room could ensure compliance with this part of the ADG however this would be at the expense of the usable indoor living area which is not excessively large (20sqm). It is noted that the balcony will receive good amenity given it is located on the top floor and is west-facing with a north-facing edge. Given these reasons, the non-compliance is considered acceptable in this instance.



**Figure 2:** Floor plan showing balcony of Unit B303.

Common Circulation and Spaces

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

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

**Comment:** The development proposes a maximum of five (5) apartments off a single circulation core.

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

| Apartment Type        | Minimum Internal Area |
|-----------------------|-----------------------|
| Studio apartments     | 4m <sup>3</sup>       |
| 1 Bedroom apartments  | 6m <sup>3</sup>       |
| 2 Bedroom apartments  | 8m <sup>3</sup>       |
| 3+ Bedroom apartments | 10m <sup>3</sup>      |

**Note:** At least 50% of the required storage is to be located within the apartment.

**Comment:** Sufficient space has been provided in each unit and in the basement car park for storage.

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

A BASIX Certificate was submitted with the application, which indicates that the proposal can meet the required reduction targets. An appropriate condition of consent has been recommended to ensure future compliance with these targets.

### **5(a)(iv) State Environmental Planning Policy (Infrastructure) 2007**

*Development with frontage to classified road (Clause 101)*

The site has a frontage to Canterbury Road, a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The application was referred to Roads and Maritime Services (RMS) in regards to Section 138 of the Roads Act 1993 (see discussion below) for comment. RMS raised no objections with the application with regard to ingress and egress to the site which remains adequate to support the intended vehicle movements by road and as such the application is considered to be acceptable with regard to Clause 101 of the SEPP Infrastructure.

*Development likely to affect an electricity transmission or distribution network Clause 45*

The development is within 5m of exposed overhead electricity power lines. Under Clause 45(2) of SEPP Infrastructure the consent authority must notify and take into consideration any response from Ausgrid.

The application was referred to Ausgrid in regards to Clause 45 of the SEPP Infrastructure. Ausgrid raised no objection to the proposal subject to the imposition of recommended conditions of consent.

### 5(a)(v) Roads Act 1993

*Works and structures (Section 138)*

The proposal includes a new vehicle connection to and a new awning over Canterbury Road, a classified road. Under Clause 138(2) of the Roads Act 1993, consent for these works cannot be given except with the concurrence of RMS.

The revised application was referred to the RMS for comment. RMS raised no objection to the development subject to the imposition of conditions of consent and concurrence was provided on 25 October 2018.

### 5(a)(vi) Ashfield Local Environment Plan 2013 (ALEP 2013)

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

| Standard  | Proposal            | % of non-compliance | Compliances |
|---|---------------------|---------------------|-------------|
| <b>Floor Space Ratio</b><br>Permissible: 1.5:1<br>(2692.9sqm) | 1.60:1<br>2877.5sqm | 6.6%                | No          |
| <b>Height of Building</b><br>Permissible: 13m                 | 12.9m               | N/A                 | Yes         |

The following provides further discussion of the relevant issues:

#### (i) Clause 4.6 Exceptions to Development Standards

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

- Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the Ashfield Local Environmental Plan 2013 by 6.6% (184.6sqm).

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

In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the Ashfield Local Environmental Plan 2013.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which has demonstrated that:

- Continues to meet the objectives of the floor space ratio development standard and the B6 – Enterprise Corridor zone;
- Will not have adverse impact to the overall appearance of the proposal;

- Will not result in a development which is out of character with that envisioned for the B6 Enterprise Corridor development along Canterbury Road;
- Will allow for inclusion of wintergardens that face the busy and noisy Canterbury Road mitigating adverse external impacts to these apartments.

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

The objectives of the B6 – Enterprise Corridor zone in the Land Use Table of the LEP are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting retailing activity.*

It is considered the development is in the public interest because it is consistent with the objectives of the B6 – Enterprise Corridor, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The proposal promotes businesses along Canterbury Road and encourages a mix of compatible uses.
- The proposal is capable of providing employment.
- The proposal does not and cannot include any retail activity, thus not impacting upon the economic strength of centres.

The objectives of the floor space ratio development standard in Clause 4.4 of the LEP are as follows:

- (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 minimise 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 areas that are not undergoing, and are not likely to undergo, a substantial transformation.*

It is considered the development is in the public interest because it is consistent with the objectives of the Floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The proposal is generally consistent with the desired future density, height and intensity of development on this part of Canterbury Road as prescribed by the zoning, development standards and relevant planning controls.
- The site is adjoined by low-scale developments to the north, south and west. The subject development is below the maximum permissible 'height of building' in Clause 4.3 of the LEP and generally consistent with the relevant planning controls pertaining to bulk, scale and siting as discussed elsewhere in this report. The proposed additional 184.6sqm of gross floor area will not result in a development with bulk or

scale significantly different to that of a complying scheme nor will it result in any significant additional amenity impacts on nearby properties. The additional 184.6sqm of gross floor area will therefore not unreasonably reduce consistency with the bulk and scale of existing nearby development.

- The proposal will not adversely impact any heritage items or heritage conservation areas.
- As discussed elsewhere in this report, the proposal will maintain adequate neighbouring amenity, solar access, privacy and outlook.
- The neighbouring sites to the north and south currently contain low-scale developments and are subject to the same Enterprise Corridor zoning, development standards and planning controls as the subject site. It is therefore considered likely that these sites will undergo substantial transformation in the future. As discussed elsewhere in this report, the proposal maintains a setback in excess of the requirements of the ADG to the neighbouring properties at the rear which are zoned R1 – Low Density residential, thus ensuring the development will have an appropriate visual relationship with the character of this area.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the applicable local environmental plan. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor space ratio development standard and it is recommended the Clause 4.6 exception be granted.

#### (ii) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned B6 – Enterprise Corridor under the provisions of the LEP. The proposal is defined as ‘shop top housing’ which is an ‘additional permitted use’ in accordance with Clause 6 of Schedule 1 of the LEP. The proposal also contains business premises/shop uses which are permissible in the zone. It is noted that ‘retail’ uses are prohibited in the zone. Given the lack of information provided with this application, the fit-out and use of the two ground level ‘business premises/shop’ tenancies labelled as ‘R 01’ and ‘R 02’ on the drawings must be subject to a future development application.

## 5(b) Draft Environmental Planning Instruments

### *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(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Comprehensive Inner West Development Control Plan 2016 (the DCP).

| Part  | Compliance  |
|---|---|
| Chapter A – Miscellaneous, Part 8 – Parking                                   |   |
| PC2 – Bicycle and motorcycle parking  | Yes.<br>See further discussion below table.   |
| PC2 – Car parking rates   | Yes.<br>See further discussion below table.   |
| Chapter D – Precinct Guidelines, Part 7 Enterprise Zone (B6) – Hurlstone Park |   |
| PC1 Context and built form  | The building has been designed  |
| PC2 Signage   | N/A.<br>It is noted that no signage is proposed as part of this application. A condition is recommended requiring any signage to be subject to a future development application.  |
| PC3 Upper level apartments  | Yes.<br>All shop top housing is located above the ground floor and commercial uses are provided exclusively at the ground floor (with the exception of vehicle/pedestrian access and services). In accordance with this part of the plan, the ground floor commercial tenancies achieve the objectives of the B6 – Enterprise Corridor zone as they promote businesses along Canterbury Road, encourage a mix of compatible uses, contribute to the range of employment uses, and maintain the economic strength of centres by limiting retailing activity. |
| PC4 Residential amenity   | Yes.<br>All apartments facing Canterbury Road contain 'winter gardens' in accordance with this part of the plan.<br>As discussed elsewhere in this report, all private open spaces have largely been designed in accordance with the ADG, and where possible, private open spaces are located on the western 'quiet' part of the site.<br>A 3m wide deep soil zone along the rear boundary has been provided to act as an 'amenity buffer' in accordance with this part of the plan.  |
| PC5 Pedestrian amenity and safety   | Yes.<br>The commercial tenancies create an active street frontage at ground level.  |
| PC6 Building height and location  | No (considered acceptable).<br>See discussion below the table.  |

|                            |   |
|----------------------------|---|
| PC7 Commercial development | <p>Yes.</p> <p>The majority of the ground floor part of the building is for commercial uses in addition to vehicle access and parking, pedestrian access to the apartments, and services in accordance with this part of the plan. Furthermore, at least 50% of the ground floor 'gross floor area' is reserved for commercial uses.</p> <p>Although car parking is provided on the ground floor, the development has been designed to maximise and utilise opportunities for providing an active street frontage. With the exception of the vehicle and pedestrian access, the ground floor frontage largely consists of glazed shopfronts in accordance with this part of the plan.</p> <p>The commercial tenancies have ceiling heights of between 3.7m and 4.2m in accordance with this part of the plan.</p> |
| PC8 Development servicing  | <p>Yes.</p> <p>A waste storage area and collection point have been provided at ground level both of which will not be readily visible from the street and have been designed to ensure Council's waste vehicles can enter and exit in a forward direction for collection. The waste storage area and Waste Management Plan have been reviewed and supported by Council's Waste Unit.</p> <p>Car parking has been provided in accordance with Part A8 of the DCP, see discussion below the table.</p>  |

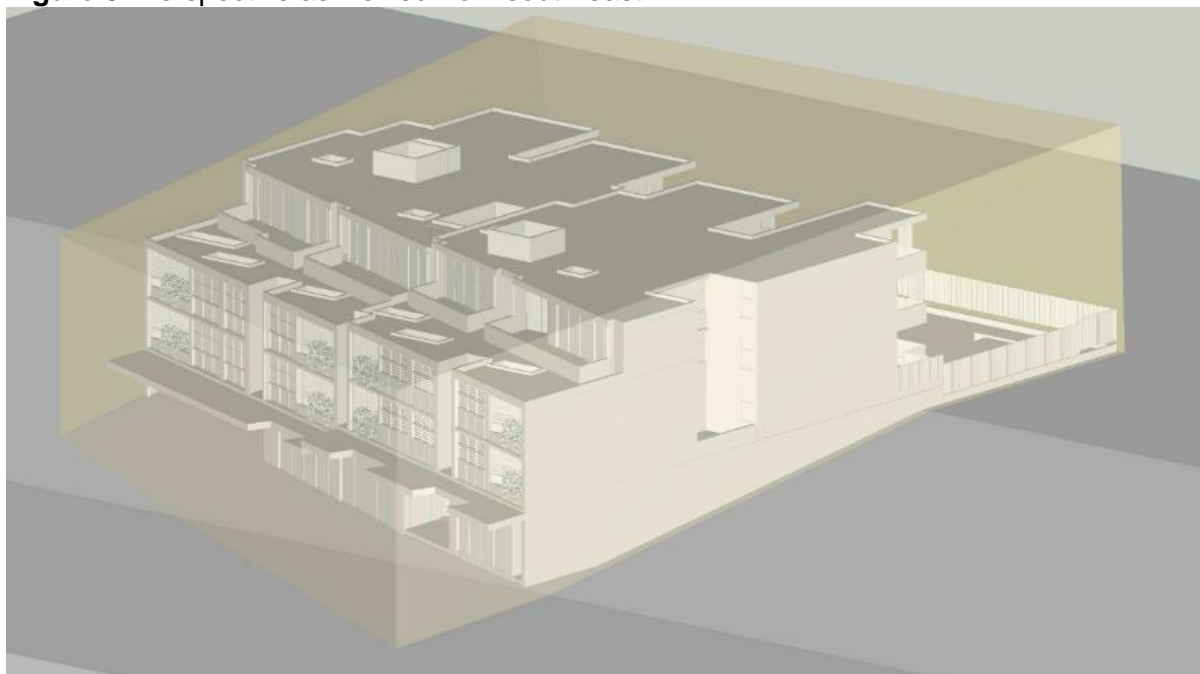
### Building Height and Location

Chapter D Part 7 of the DCP restricts all development within the Hurlstone Park Precinct to 13m and 3-storeys in height. As discussed elsewhere in this report the development has a maximum building height of 12.9m in accordance with this part of the plan as well as the LEP, however it is partly 4-storeys in height contrary to this part of the DCP.

Due to the slope of the land from the rear boundary down to Canterbury Road, and the setting back of the top floor (approximately 5m from the balconies and 8.5m from the face of the building), the development largely has the appearance of a 3-storey building when viewed from the public domain and rear, with the notable exception of the north-east corner which in part presents as 4-storeys (see Figures 3 and 4 below). The non-compliance is considered acceptable in this instance given the buildings largely 3-storey presentation from the public domain, and as discussed elsewhere in this report - the retention of acceptable neighbouring amenity and general compliance with the other relevant planning controls relating to height, siting and setbacks.



**Figure 3:** Perspective as viewed from south-east.



**Figure 4:** Perspective as viewed from north-east.

As discussed elsewhere in this report, the development has been setback in accordance with the ADG and will maintain adequate neighbouring amenity given the sites context and relevant planning controls. The substantial rear setback of 9.2m – 15.7m (as measured from the rear edges of the balconies) will ensure the bulk of the development will be adequately separated from the neighbouring dwellings at the rear.

### Parking

It is noted that there are no specific provisions for parking rates for 'shop top housing' however the DCP states that 'in cases where a specific land use is not listed below refer to the nearest comparable land use'. In this instance, the parking rates of 'residential flat buildings' have been applied.

*Bicycle and motorcycle parking*

The DCP requires 1 resident bicycle space / 10 units and 1 visitor bicycle space / 10 units. Based on 28 units, the proposal generates the requirement of 3 resident bicycle spaces and 3 visitor bicycle spaces.

The DCP requires 1 bicycle space / 20 employees for staff and 1 space / 250sqm for customers required. It is anticipated that the two business premises/shops will not have 20 or more staff members and therefore no staff bicycle spaces are required. The combined area of the two premises is 311sqm and therefore the proposal generates the requirement of 1 customer bicycle space.

The proposal includes 16 bicycle spaces in accordance with the DCP.

The DCP requires 1 motorcycle space / 25 car spaces, and therefore the proposal generates the requirement of 2 motorcycle spaces. The proposal includes 4 motorcycle spaces in accordance with the DCP.

*Car parking*

The DCP requires the following car parking rates for the residential portion of the development:

- 1 space per dwelling
- 1 visitor space per 4 dwellings
- 1 car wash bay
- 1 accessible car space for each accessible or adaptable unit

The proposal therefore generates the requirement of 28 resident car spaces, 7 visitor car spaces, 1 car wash bay and 3 accessible car spaces.

The proposal includes 31 resident car spaces, 7 visitor car spaces, 1 car wash bay and 4 accessible car spaces in accordance with the DCP.

The DCP requires the following car parking rates for the commercial tenancies:

- 1 space per 40sqm for staff
- 1 space per 200sqm for couriers.

The proposal therefore generates the requirement of 8 car spaces for staff and 1 space for couriers.

The proposal includes 8 car spaces for the commercial tenancies and 1 courier parking bay.

Zen gardens

The applicant has confirmed that the courtyard voids referred to as 'zen gardens' are not accessible to the residents and that the doors are solely for maintenance. To ensure this occurs and the amenity of the units fronting the voids are maintained, a condition of consent to this effect is recommended.

### Natural ventilation

It is not considered practical to require future residents to keep balcony doors open to receive natural ventilation. As such a condition of consent is recommended that all bedrooms that front balconies and solely rely on the balcony doors being open to receive natural ventilation must include operable glass louvers or fan lights fronting the respective balconies.

### Waste

Initial concerns with the proposed kerb side collection of waste given it would be required to occur on Canterbury Road which is a classified road. As such, the applicant amended the building to ensure that a Council waste truck could enter/exit the basement in a forward direction to ensure that waste collection could occur on-site and not obstruct traffic flows on the classified road. A waste storage area is provided behind the commercial tenancies at 'ground level'. Due to the slope of the land, this portion of the 'ground level' is actually considered a basement as it is predominantly below existing ground level. Supporting documentation has been provided by the applicant and reviewed by Council and the RMS demonstrating that a Council waste truck can enter and exit in a forward direction ww

### 5(d) The Likely Impacts

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

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

The site is zoned B6 – Enterprise Corridor. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

### 5(f) Any submissions

The application was notified in accordance with the Comprehensive Inner West DCP 2016 for a period of 28 days to surrounding properties. A total of 33 submissions were received.

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

The visual bulk, height and character of development is inconsistent with area/insufficient transition between zones – see Sections 5(a)(iii) and 5(c)

- Setbacks – see Section 5(a)(iii)
- Non-compliance with floor space ratio – see Section 5(a)(vii)
- Privacy impacts on neighbouring properties – see Sections 5(a)(iii) and 5(c)
- Solar impacts - see Section 5(a)(iii)
- Height - see Section 5(a)(vii) and 5(c)
- Loss of trees/landscaping – see Section 6(a)

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

Issue: Demolition of existing cottages.

Comment: The cottages are not heritage listed items or located in a heritage conservation area and therefore Council does not have any grounds to require their retention.

Issue: Additional traffic congestion during and after construction/loss of on-street car parking.

Comment: The supplied Traffic and Parking Assessment Report has been reviewed by Council's Engineers and considered acceptable. It is a condition of consent that owners, staff and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area.

Issue: Development exceeds height control.

Comment: As discussed elsewhere in this report, the development is below the 13m height limit and the 4-storey built form is considered acceptable on merit.

Issue: No provision of affordable housing.

Comment: There are no requirements for the subject development to provide affordable housing.

Issue: Demolition, excavation and construction impacts.

Comment: A number of standard conditions of consent have been recommended addressing demolition, excavation and construction impacts including (but not limited to) the requirement of a Geotechnical Report and Construction Management Plan.

Issue: District view loss from No. 269 Queen Street neighbouring to the rear of the subject site (see Figure 5 below).

Comment: In accordance with the four step assessment of the Tenacity Principle;

- The view is a district view (rooftops and tree lines) and does not contain any iconic or water views. The view is significantly interrupted by existing trees on the subject site.
- The view is obtained over the rear boundary of the site.
- The view is obtained from a first floor rear bedroom, not a primary living area. The existing trees along the rear boundary on the subject site currently obscure the view, thus reducing the development's potential impact on the view currently enjoyed.
- The development is below the maximum permissible height of building standard (13m). Although the proposal is 4-storeys in height (exceeding the 3-storey height control), the deletion of the top floor would only largely result in additional views to the sky, not of the district view itself.

Given the above, the view loss as a result of this development is considered acceptable.



**Figure 5:** View taken from first floor level of No. 296 Queen Street looking east.

Issue: Reduction of property value.

Comment: is not a planning consideration for the purposes of the assessment of this proposal, although matters which are commonly understood to contribute to property values, such as design, amenity and traffic impacts, have been assessed in detail.

Issue: The nil side setback may prevent neighbouring properties accessing parts of their buildings for maintenance.

Comment: The supplied survey plan shows that the existing dwelling house to the south of the subject site at No. 328 Canterbury Road is setback approximately 450mm from the common side boundary (tapering to about 400mm towards the rear of the dwelling) which is considered sufficient for access down the side of the property.

Issue: Amenity impacts for future residents given close proximity of the neighbouring McDonalds restaurant which includes drive-thru facilities.

Comment: It is a recommended condition of consent that an acoustic report be provided address the impacts by the neighbouring McDonalds restaurant on the subject development.

## 5(g) The Public Interest

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

The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Engineering
  - o No objections to revised proposal subject to recommended conditions of consent.
- Waste
  - o No objections to revised proposal subjected to recommended conditions of consent.
- Trees
  - o No objections subject to recommended conditions of consent. Retention of the significant gum tree at the front of the site is not possible and its replacement with 3 x street trees and 1 x site tree of the same species will compensate for the lost

canopy. Less significant trees can be replaced with ornamental trees as part of the overall landscape plan.

- Health
- No objections were raised subject to recommended conditions of consent.

## 6(b) External

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

- Roads and Maritime Services
  - As discussed elsewhere in this report, no objection subject to the imposition of recommended condition of consent.
- Ausgrid
  - As discussed elsewhere in this report, no objection subject to the imposition of recommended condition of consent.

## 7. Section 7.12 Contributions

Section 7.12 contributions totalling **\$403,663.45** are payable for the proposal.

The contributions are based on 3 x <60sqm units, 23 x 60-84sqm units and 2 x >84sqm units, and 311sqm of commercial gross floor area. A credit for the 3 existing dwelling houses has been applied to the calculation.

A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for the issue of a Deferred Commencement consent subject to the imposition of appropriate Conditions.

## 9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6 of the Ashfield Local Environmental Plan 2013 and Comprehensive Inner West Development Control Plan 2016 in support of the contravention of the development standard for Clause 4.4 Floor Space Ratio. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Planning Panel, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant deferred commencement consent to Development Application No: 10.2017.221.



## Attachment A – Recommended conditions of consent

### CONDITIONS

DA 2017.221.1

322 Canterbury Road HURLSTONE PARK 2193

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#### Description of Work as it is to appear on the determination:

Demolition of existing structures and construction of a 4-storey mixed-use building with 2 ground floor tenancies, 28 apartments on the upper floors and a basement garage.

#### PART A

##### **Deferred Commencement conditions to be satisfied prior to activation of consent:**

This consent shall not operate until such time as the following additional/revised information is provided to the satisfaction of Council:

1. An acoustic report must be provided which demonstrates that the development can comply with the relevant provisions of the *Protection of the Environment Operations Act 1997* and the Noise Control Manual taking into account the adjoining 'McDonalds restaurant' and drive through facility at No.312 Canterbury Road Hurlstone Park. Any acoustic attenuation recommendations contained in the report to meet the above requirements are to be incorporated into amended plans to the satisfaction of Council
2. A window schedule must be provided demonstrating that;
  - a) The windows fronting the void 'zen gardens' of Units B1.05, B2.05 and B3.04 are operable and have a similar operable unobstructed area as the respective inlets for the purposed of natural cross ventilation in accordance with Part 4B of the Apartment Design Guide.
  - b) The north-facing windows in the respective master bedrooms of Units B2.04, B2.05 and B3.03 are to be operable and are to have a similar operable unobstructed area as the respective inlets for the purposed of natural cross ventilation in accordance with Part 4B of the Apartment Design Guide.
  - c) All windows on the rear (western) elevation are to be operable and are to have an area of unobstructed openings equal to at least 5% of the floor area served.
3. All balconies on the rear (western) elevation must have solid metal balusters, angled at 45 degrees (from the long-edge of the balcony) to provide additional privacy screening and minimise opportunities for overlooking.
4. All bedrooms that solely rely on natural ventilation from balcony doors must include either operable fan lights or operable glass louvers fronting the balconies to ensure the rooms can be naturally ventilated without requiring the balcony doors to be open.

The operational development consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement and any conditions that arise as a result of satisfying the above matters.

If the applicant fails to satisfy Council as to the above matters within 24 months from the date of determination or this consent will lapse.

#### PART B

##### **A General Conditions**

##### **(1) Approved plans stamped by Council**

The development must be carried out only in accordance with the plans and specifications set out on drawing numbers prepared by and date stamped by Council and any supporting documentation received with the application, except as amended by the conditions specified hereunder.

Approved Plans:

| Drawing No. | Title/Description  | Prepared by       | Revision | Date              |
|-------------|--|-------------------|----------|-------------------|
| A1.00       | Floor Plan<br>Basement 1                                   | Architecture Moma | B1       | 28 September 2018 |
| A1.01       | Floor Plan – Ground  | Architecture Moma | B1       | 28 September 2018 |
| A1.02       | Floor Plan – Level 1                                       | Architecture Moma | B1       | 28 September 2018 |
| A1.03       | Floor Plan – Level 2                                       | Architecture Moma | B1       | 28 September 2018 |
| A1.04       | Floor Plan – Level 3                                       | Architecture Moma | B1       | 28 September 2018 |
| A1.05       | Roof Plan/Site Plan  | Architecture Moma | B1       | 28 September 2018 |
| A2.00       | Elevation – North  | Architecture Moma | B1       | 28 September 2018 |
| A2.01       | Elevation – South  | Architecture Moma | B1       | 28 September 2018 |
| A2.02       | Elevation – East<br>(Canterbury Road)                      | Architecture Moma | B1       | 28 September 2018 |
| A2.03       | Elevation – West<br>(Rear)                                 | Architecture Moma | B11      | 28 September 2018 |
| A2.04       | Void Elevation   | Architecture Moma | B11      | 28 September 2018 |
| A3.00       | Section – North South<br>1                                 | Architecture Moma | B11      | 28 September 2018 |
| A3.01       | Section – North South<br>2                                 | Architecture Moma | B11      | 28 September 2018 |
| A3.02       | Section – North South<br>3                                 | Architecture Moma | B11      | 28 September 2018 |
| A3.03       | Section – East West<br>(North)                             | Architecture Moma | B11      | 28 September 2018 |
| A3.04       | Section – East West<br>(Middle)                            | Architecture Moma | B11      | 28 September 2018 |
| A3.05       | Section – East West<br>(South)                             | Architecture Moma | B11      | 28 September 2018 |
| A3.06       | Section – Rear<br>Boundary Buffer                          | Architecture Moma | B11      | 28 September 2018 |
| A4.00       | Schedule of Materials<br>and Finishes                      | Architecture Moma | B11      | 28 September 2018 |
| A6.03       | Adaptable Unit A.105<br>Plans – Adaptable<br>Apartment     | Architecture Moma | B11      | 28 September 2018 |
| A6.04       | Adaptable Unit<br>B.102/202 Plans –<br>Adaptable Apartment | Architecture Moma | B11      | 28 September 2018 |
| C1.01       | Cover Sheet, Notes<br>And Legends                          | ACOR Consultants  | B        | 9 August 2017     |
| C1.05       | Details – Sheet 1  | ACOR Consultants  | B        | 9 August 2017     |
| C1.06       | Details – Sheet 2  | ACOR Consultants  | C        | 14 December 2017  |
| C1.07       | Details – Sheet 3  | ACOR Consultants  | B        | 9 August 2017     |
| C2.01       | Basement 1 Level   | ACOR Consultants  | B        | 9 August 2017     |
| C2.02       | Ground Level   | ACOR Consultants  | D        | 14 December 2017  |
| C2.03       | Level 1  | ACOR Consultants  | C        | 13 September 2017 |
| C3.01       | Soil Erosion and<br>Sediment Control<br>Plan               | ACOR Consultants  | B        | 9 August 2017     |

Supporting Documents:

| Title/Document  | Prepared by                                | Issue/Revision | Date              |
|---|--|----------------|-------------------|
| Arboricultural Impact<br>Assessment report              | Arboricultural<br>Management Services      |                | 3 February 2016   |
| DA Acoustic<br>Assessment                               | Acoustic Logic                             | -              | 10 August 2017    |
| DA Access Review<br>Final 4                             | Morris Godding<br>Accessibility Consulting | -              | 17 August 2017    |
| Section J Report –<br>Proposed mixed use<br>development | Outsource Ideas cll                        | D              | 7 September 2017  |
| DA 2017.0221  | Vagra Traffic Planning                     | -              | 27 September 2018 |

|  |         |  |  |
|--|---------|--|--|
| Proposed Mixed Use Development<br>322-326 Canterbury Road, Hurlstone Park Servicing Arrangements | Pty Ltd |  |  |
|--|---------|--|--|

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

**(2) Building height**

- a) The height of the building must not exceed RL 61.69 to the top of the building roof and RL 62.90 to the top of the lift overruns.
- b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

**(3) Floor space ratio**

The following applies to Floor Space Ratio:

- a) The Floor Space Ratio of the building must not exceed 1.60:1 calculated in accordance with the Ashfield Local Environmental Plan 2013. For the purposes of the calculation of FSR, the Gross Floor Area of the building is 2877.5sqm.
- b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under the Ashfield Local Environmental Plan 2013, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

**(4) External walls and cladding flammability**

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

**(5) Commercial tenancies**

The fit-out and use of the two ground level 'business premises/shop' tenancies labelled as 'R 01' and 'R 02' on the drawings are not approved as part of this application and must be subject to a future development application.

**(6) Signage**

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

**(7) 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).

**(8) Resident parking scheme**

Owners, staff and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition.

**(9) Waste – trackable**

Removal of trackable waste (as defined by the NSW Environment Protection Authority) from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transport, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and must with the provisions of the *Protection of the Environment and Operations Act 1997*.

**(10) Tree Removal**

Approval is given for the following works to be undertaken to trees on the site:

| Tree/location   | Approved works |
|---|----------------|
| <i>Angophora costata</i> (Sydney Red Gum) front No 324            | Remove         |
| <i>Pittosporum undulatum</i> (Sweet Pittosporum) X 2 front No 324 | Remove         |
| <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) rear No 324 | Remove         |
| <i>Triadica sebifera</i> (Chinese Tallow) rear No 324             | Remove         |
| <i>Eucalyptus botryoides</i> (Bangalay) rear No 324               | Remove         |

Removal or pruning of any other tree (that would require consent of Council) on the sites is not approved.

The awning across the frontage of the building on Canterbury Road, is to be constructed to accommodate the eventual height and spread of 3 street tree plantings, *Angophora costata* (Sydney Red Gum) trees.

The awning should be set back from the kerb along its entire length by not less than 1500mm to accommodate the trees. Openings above the tree pits, spaced at 10 metres, are to be 4 m. wide and 3 m. deep.

**(11) 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.

**(12) Ausgrid conditions**

- a) Method of Electricity Connection  
The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.
- b) Supply of Electricity  
It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
  - The existing network can support the expected electrical load of the development
  - A substation may be required on-site, either a pad mount kiosk or chamber style and;
  - site conditions or other issues that may impact on the method of supply.
 Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.
- c) Conduit Installation  
The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
- d) Proximity to Existing Network Assets  
Overhead Powerlines  
There are existing overhead electricity network assets in Canterbury Rd.  
Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these

distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The 'as constructed' minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS720 Overhead Design Manual. This document can be sourced from Ausgrid's website: [www.ausgrid.com.au](http://www.ausgrid.com.au)

The proposed development may encroach the statutory clearances of nearby powerlines as per the requirements set out in AS6000 and Ausgrid Standard NS220. The developer is required to either:

- Engage an Accredited Service Provider Level 3 (ASPL3) to confirm that the development does maintain the statutory clearances to the powerlines (this must include wind impacts). If the ASPL3 determines that the proposed structure does encroach the statutory clearances, suitable arrangements must be made to ensure that the structure will not encroach the powerline statutory clearance either by redesign of the encroaching structure or relocation of the powerlines away from the proposed structure.
- Make suitable arrangements to have powerlines relocated prior to the commencement of construction so that statutory clearances are not encroached.

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

#### Underground Cables

There are existing underground electricity network assets in Canterbury Rd. There are transmission cables adjacent to the property boundary.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

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

#### **(1) Consolidation of allotments**

The following properties Nos. 332, 324 and 326 Canterbury Road, Lots 34, 36 and 38 in DP 4170 are to be consolidated into one plan of consolidation prepared by a registered surveyor and six (6) paper copies are to be submitted to Council for signature prior to registration at the Land Titles Office (Land and Property Information NSW). Evidence of consolidation from the Land Titles Office shall be submitted to Council or the Principal Certifying Authority prior to the release of a Construction Certificate.

#### **(2) Preparation of geotechnical report**

To ensure that the structural integrity of the proposal and neighbouring buildings will be maintained, a full geotechnical report must be submitted to the PCA prior to the issue of a construction certificate and prior to the commencement of excavation works. The report must include an investigation of site and soil conditions as well as the proposed means of construction and must contain, where required, recommendations to ensure that excavation, backfilling and construction, including temporary works during construction, will not affect the structural integrity of neighbouring buildings or the structural

stability of neighbouring public land, property or services. The report is to be prepared and certified by an appropriately qualified practicing geotechnical engineer.

All demolition, excavation, backfilling and construction must be undertaken in accordance with the recommendations of the geotechnical report.

**(3) 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 Ashfield Development Control Plan - 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.

**(4) Construction and Site Management Plan**

Prior to the issue of a Construction Certificate the applicant shall submit to the PCA 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).

**(5) Traffic Management Plan**

A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.

**(6) Soil and Water Management Plan**

Prior to the issue of a Construction Certificate, the applicant shall submit to and obtain approval from Council or the accredited certifier of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall be compatible with any Construction and Site Management Plan and shall ensure the following objectives are achieved, namely:

- (a) to minimise the area of soils exposed at any one time
- (b) to conserve top soil
- (c) to identify and protect proposed stockpile locations
- (d) to preserve existing vegetation and identify revegetation techniques and materials
- (e) to prevent soil, sand, gravel, and any other sediment or spoil from leaving the site in an uncontrolled manner
- (f) to control surface water flows through the development construction site in a manner that:-
  - i. diverts clean run-off around disturbed areas
  - ii. minimises slope gradient and flow distance within disturbed areas.
  - iii. ensures surface run-off occurs at non-erodable velocities.
  - iv. ensures disturbed areas are promptly rehabilitated
- (g) to ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works.

The plan is to be prepared in accordance with "*Managing Urban Stormwater: Soils and Construction Manual*" prepared by NSW Department of Housing (1998).

**(7) 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

**(8) Acoustic – General Acoustic**

Noise attenuation measures being incorporated into the development generally in accordance with the recommendations contained in the Acoustic Assessment for Development Application No. TK009-01F02, prepared by Renzo Tonin & Associates, dated 6 November 2017 and complying with requirements contained in the Australian Standard 2021-2000 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021-2000.

**(9) Security Deposit**

Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

|                         |             |
|-------------------------|-------------|
| Security Deposit (FOOT) | \$12,827.00 |
| Inspection fee (FOOTI)  | \$230.65    |

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

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

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

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

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

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

**(10) 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.

**(11) 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.



**(12) Redundant crossing removal fee**

Council will need to remove any redundant crossings and replace with kerbing and other ancillary works where necessary. Contact Council on 9392 5000 and you will be advised as to the estimate of cost of this work. **Note: Cost of this work to be borne by the applicant.**

**(13) Lighting to basement/pedestrian routes-safety**

Lighting which meets the relevant Australian Standard of 40 lux., spaced at appropriate intervals to provide the required surveillance shall be provided to the vehicular basement parking area and along pedestrian access routes for safety and security purposes during the evenings.

Details to be shown on the construction certificate.

**(14) Car parking provision/layout**

The following 47 off-street parking spaces are to be provided:

- a) 31 car spaces for residential units (including 4 spaces for the accessible/adaptable units);
- b) 7 visitor car spaces associated with the residential units,
- c) 8 car spaces for the commercial tenancies.

Additionally 1 car wash bay, 1 courier parking bay, 16 bicycle spaces and 4 motorcycle spaces are to be provided.

A total of 47 car spaces including 4 spaces for the accessible parking shall be provided and allocated in accordance with the provisions of AS2890.1, AS2890.2 and AS2890.6 and the requirements of Inner West Comprehensive Council's Development Control Plan 2016 for Access, Adaptability and Mobility (Phone 9392 5000 for a free copy).

Details to be shown on the application with the Construction Certificate.

Note: Minimum basement ceiling height above any parking spaces provided for people with disabilities is to be 2.6 metres.

**(15) Access and services for people with a disability**

Detailed plans drawn to the scale of 1:50 shall be submitted detailing compliance with the requirements of AS4299 and AS 1428 and the provisions of Part C1 – Access, Adaptability and Mobility, Inner West Comprehensive Development Control Plan 2016 prior to the issue of a Construction Certificate, and details of complying levels, ramp slopes, door widths, circulation spaces.

**(16) Ventilation**

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- (a) *Building Code of Australia.*
- (b) AS 1668.1 - 1998.
- (c) AS 1668.2 - 1991.
- (d) *Public Health Amendment Regulation 2003*
- (e) *Public Health Act 1991*
- (f) *SafeWork NSW.*
- (g) AS/NZS 3666.1 - 2002.

Evidence from an appropriately qualified person certifying that these design requirements have been met shall accompany the application for the Construction Certificate.

**(17) Water efficient irrigation system**

The communal open space areas shall be provided with a water efficient irrigation system to enable effective landscape maintenance. Details shall be included with the landscape plan to be submitted with the Construction Certificate.

**(18) Noise from road and rail**

To minimise the impact of noise from the adjoining major road or rail corridor on the occupants of the building it shall be acoustically designed and constructed to meet the requirements of AS 2107-1989.

Evidence from a qualified acoustic consultant that these design requirements have been met shall accompany the application of a Construction Certificate.

**(19) Footpath/laneway – 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.

**(20) Driveway details approval – PCA**

Proposed internal driveway grate and longitudinal section details shall be submitted to the Principal Certifying Authority in conjunction with the application for approval of the Construction Certificate. In particular, the driveway ramp from internal and across the footpath to Murrell Street, shall be checked for clearances at changes of grade and vertical height, in accordance with AS 2890.1-2004, and any amendments implemented.

**(21) Public Liability Insurance**

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

**(22) Development Contributions**

In accordance with Section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Ashfield Council Development Contributions Plan, the following monetary contributions shall be paid to Council Prior to issue of a Construction Certificate to cater for the increased demand for community infrastructure resulting from the development:

| <u>Community Infrastructure Type</u>       | <u>Contribution</u> |
|--|---------------------|
| Local Roads                                | \$10,285.47         |
| Local Public Transport Facilities          | \$18,752.04         |
| Local Car Parking Facilities               | \$0.00              |
| Local Open Space and Recreation Facilities | \$343,491.27        |
| Local Community Facilities                 | \$14,083.97         |
| Plan Preparation and Administration        | \$17,050.70         |
| <b>TOTAL</b>                               | <b>\$403,663.45</b> |

Being for 28 'residential accommodation' made up of the following:

- Residential accommodation less than 60m<sup>2</sup> GFA – 3 units;
  - Residential accommodation between 60-84m<sup>2</sup> GFA – 23 units;
  - Residential accommodation greater than 84m<sup>2</sup> GFA – 2 units;
- 311sqm of commercial gross floor area.  
Credit for 3 existing dwelling houses.

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Ashfield Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\$C_c = \frac{\$C_p \times CPI_c}{CPI_p}$$

Where:

- $\$C_c$  is the amount of the contribution for the current financial quarter
- $\$C_p$  is the amount of the original contribution as set out in this development consent
- $CPI_c$  is the Consumer Price Index (Sydney – All Groups) for the current financial quarter as published by the ABS.
- $CPI_p$  is the Consumer Price Index for the financial quarter at the time of the original consent

Prior to payment of the above contributions, the applicant is advised to contact Council's Planning Division on 9332 6000. Payment may be made by cash, money order or bank cheque. Council's Development Contributions Plan may be viewed at [www.innerwest.nsw.gov.au](http://www.innerwest.nsw.gov.au) or a copy may be inspected at Council's Administration Centre.

### (23) Permits - General

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

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

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

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

### (24) SEPP 65 – Design Verification

Prior to release of the Construction Certificate design verification is required to be submitted from the original designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No – 65 Design Quality of Residential Flat Building Development.

### (25) Allocation of Resident Storage Areas

Storage areas are to be allocated internally to each unit to comply with the SEPP 65, 6m<sup>3</sup> (Min) for 1 bedroom unit, 8m<sup>3</sup> (Min) for two bedroom units and 10 m<sup>3</sup> (Min) for 3 bedroom units. 50% is to be accessible from the apartments.

### (26) Dilapidation – Minor

The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

**(27) Alignment Levels**

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

Note: This may require the internal site levels to be adjusted locally at the boundary to ensure that they match the above alignment levels. Failure to comply with this condition will result in vehicular access being denied.

**(28) BASIX Certificate**

A copy of the required completed BASIX certificate with respect to the proposed residential building works as per the approved drawings in Condition A1 of this consent, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

All commitments listed in the BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

**(29) Rock Anchors**

Council will not approve permanent anchors in the road reserve. Temporary anchors may be considered in shallow environments where they are to be removed during construction.

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

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

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

**(30) Stormwater detention storage facility**

The system as detailed on the submitted Plans C1.05 (Issue B), C1.06 (Issue C dated 14 Dec 2017), C2.01 (Issue B), C2.02 (Issue C), and C2.03 (Issue C) are acceptable but any variations shall be in accordance with Council's Stormwater Management Code.

The outlet conduit across the footpath of Canterbury Road shall be an RHS as stipulated on Plan C2.02 Issue C and shall be hot dipped galvanised, inside and out.

**(31) Roads and Maritime Services**

The design and construction of the new gutter crossing on Canterbury Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Developer Works at [DeveloperWorks.Sydney@rms.nsw.gov.au](mailto:DeveloperWorks.Sydney@rms.nsw.gov.au)

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

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

**(1) Notice of Commencement – Notification of Works**

Work must not commence until the Principal Certifying Authority or the person having the benefit of the development consent has given Notification in Writing to Council no later than two days before the building work commences.

**(2) 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.

**(3) 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.

**(4) 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.

**(5) Layout of buildings**

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

**(6) 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.

**(7) 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. The approval of other authorities (eg Police Department, RTA) may be required for the use of a crane.

**(8) Protection of public places - erection or demolition of building**

- (a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or involves the enclosure of a public place; a hoarding or fence must be erected between the work site and the public place.
- (b) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (c) Any such hoarding, fence or awning is to be erected prior to works commencing and only with Council approval in accordance with SafeWork requirements. The temporary structures are to be removed when the work has been completed.

**(9) 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.

**(10) Support for neighbouring buildings and notice to adjoining owners**

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - i. Must preserve and protect the building from damage, and
  - ii. If necessary, must underpin and support the building in an approved manner, and
  - iii. Must at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Notes:

- (i) Details of underpinning works, prepared and certified by a practicing structural engineer shall be submitted to and approved by the Principal Certifying Authority prior to the commencement of any works.
- (ii) allotment of land includes a public road and any other public place.

**(11) 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.

**(12) Asbestos sheeting removal - EPA/SafeWork NSW**

Asbestos removal is to be carried prior to principal works commencing in accordance with Environmental Protection Authority and SafeWork NSW 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 SafeWork NSW.

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

**(13) 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 coated 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 commences.

**(14) 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 15 20 62.

**(15) Works zone application to Council - construction vehicles**

The applicant is to apply to Council for a "works zone" along the site frontages for construction vehicles prior to work commencing. Contact Council's One Stop Shop for details and the fee you need to pay, telephone 9392 5000.

*Note:* A minimum of 2 months notice to Council is required.

**(16) Structural Engineering Details**

Structural engineer's details prepared and certified by a practising structural engineer for all reinforced concrete and structural members is to be submitted to the Principal Certifying Authority for approval with the Construction Certificate.

**(17) Tree replacement**

Three (3) new trees shall be located within the footpath outside the subject properties on Canterbury Road.

| Tree/species                       | Quantity | Location      |
|------------------------------------|----------|---------------|
| Angophora costata (Sydney Red Gum) | 3        | Canterbury Rd |

The trees are to be planted at ten (10) metre spacings.  
All planting stock size shall be minimum 200 litres.  
The planting stock shall comply with AS 2306 - Tree Stock for Landscape Use.

The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of ADF 3.

The tree pit dimensions and siting detail shall be in accordance with Detail 10 on page C-4 of the Ashfield Street Tree Strategy 2015, Part C (available on file).

The new street trees shall be maintained in a healthy and vigorous condition during an establishment period of 12 months. If any tree dies or is removed during the establishment period it shall be replaced with the same species tree in accordance with these conditions at the expense of the applicant.

Upon completion of planting the applicant shall arrange an inspection by Council's Public Tree Coordinator (call 8595 2432) to approve the installation. If trees are unsatisfactory and not in accordance with conditions they will be rejected and replaced at the expense of the applicant

It needs to be demonstrated that adequate soil volume can be provided for all trees. Tree planting details must be submitted to Council's Tree Assessor before the issue of a Construction Certificate. Details must include dimensions for tree pits and details of a **vault** style structural soil with a minimum of 20-30m<sup>3</sup> available soil volume for each tree. Refer to Detail 5 on page C39 of the *Ashfield Street Tree Strategy 2015, Part C*.

Before the issue of an Occupation Certificate, the Certifying Authority must be satisfied that all landscape works, including the street tree planting, have been undertaken in accordance with the approved Landscape Plan and conditions of consent.

The Landscape plans must also contain details as to the location of power poles and overhead power lines, manholes, vehicular crossings, footpaths, subterranean services and the like.

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

**D** **Conditions that must be complied with during construction or demolition**

**(1) Street Trees**

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

Vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

**(2) 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.

**(3) 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.

**(4) 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.

**(5) Site vehicles – mud/debris**

You are to ensure that all vehicles leaving the site are free of mud and debris. Loads are to be fully covered and vehicles/wheels washed down to ensure that no nuisance occurs.



**(6) 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.

**(7) Underground services and electrical sub-station**

All electrical and telephone services to the subject property must be placed underground. If an electrical sub-station is required, it must be situated within the boundaries of the subject property and suitably screened. Details of the sub-station is to be submitted into Council for approval.

**(8) 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.

**(9) Encroachments – Public Way**

No portion of the structure proposed to be constructed, including gates and doors during opening and closing operations, shall encroach upon the footpath area.

**(10) Survey**

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifying Authority indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

**(11) Survey Certificate at completion**

A survey and report, prepared by a Registered Surveyor, must be submitted at the completion of the building work detailing the location of the building in relation to the boundaries of the allotment by offset measurements and confirming whether the new construction work lies completely within the boundaries of the land.

**(12) Locate structures within boundaries**

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

**(13) 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.

**(14) Roof water, surface and subsoil drainage**

Roofwater, surface and subsoil drainage shall be piped to the street gutter or to an easement – absorption pits are not acceptable and are not approved.

**(15) 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.

**(16) 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.

**(17) 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.

**(18) 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*.

**(19) Demolition requirements/standards**

Demolition of existing building and structures is to be carried out in accordance with the following:

- (a) Australian Standard 2601 and any requirements of the SafeWork NSW.
- (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 SafeWork NSW Requirements (in particular the SafeWork NSW 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.

**(20) Surface run-off**

Allowance shall be made for surface run-off from adjacent properties, and to retain existing surface flow path systems through the site. Any redirection or treatment of these flows shall not adversely affect any other properties.

**(21) Advertisements on hoardings prohibited**

No advertisements of any kind shall be affixed to the hoarding except a board which may show the builder's or architect's name or any particulars regarding the subject building.

**E Conditions that must be complied with prior to installation of services****F Conditions that must be complied with before the building is occupied****(1) 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.*

**(2) Final Site Inspection**

Prior the issue of the Occupation Certificate, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's supervising engineer and Council's authorised officer. The purpose of the inspection is to ensure that notwithstanding the submission of any certifications required by an approval that all impacts within the public area from the development have been satisfactorily addressed. A fee is payable for this inspection.

**(3) Acoustic report – demonstrating compliance**

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

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

**(4) Remediation validation**

A validation report shall be prepared by a suitably qualified Environmental Consultant and be submitted to Council upon completion of remediation works and prior to the site being occupied. The validation report shall be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines 'Consultants Reporting on Contaminated Sites' and shall include :

- Description and documentation of all works performed
- Results of validation testing and monitoring
- Validation results if any imported fill was transferred to site
- Demonstrate how all agreed clean-up criteria and relevant regulations have been satisfied

Confirmation and justification as to the suitability of the site for the proposed use and the potential for off site migration of any residual contaminates.

**(5) Disposal of soil**

Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environmental Operations Act 1997.

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

**(6) Sydney Water - Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the 'Your Business' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the 'Develop' icon or telephone Sydney Water 13 20 97 for assistance.

Following application, a 'Notice of Requirements' will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of an occupation certificate.

**(7) Stormwater detention storage facility****(a) Work-As-Executed Plans**

A "Work-as-Executed" plan prepared and signed by a registered surveyor is to be submitted to Council's Engineering Department at the completion of the works showing the location of the detention basin with finished surface levels, contours at 0.2 metre intervals and volume of storage available. Also the outlet pipe from the detention basin to its connection to Council's drainage system, is to be shown together with the following information:

- location
- pipe diameter
- gradient
- pipe material i.e. PVC or EW etc
- orifice size
- trash screen at orifice
- all buildings (including floor levels) and finished ground and pavement surface levels

**(b) Engineer's Certificate**

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

- the soundness of the storage structure;
- the capacity of the detention storage;
- the emergency overflow system being in place;
- the works being constructed in accordance with the Council approved plans; and
- the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Code.
- basement car park pumps are class one zone two.

**(c) Restriction-As-To-User**

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

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

**(8) Requirement for a Compliance certificate**

A Compliance Certificate must be issued prior to the issue of an Occupation Certificate certifying that the development has been built and completed in accordance with the development consent and that all the conditions of development consent have been satisfied.

**(9) Positive Covenant – stormwater detention/surface flow paths - occupation certificate**

A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property detailing the:

- (a) surface flow path

- (b) finished pavement and ground levels
- (c) prevent the erection of any structures or fencing
- (d) on-site stormwater detention system

The wording in the Instrument shall be submitted to and approved by Council prior to lodgement at the Land Titles Office and prior to the release of the Occupation Certificate. The Instrument shall be registered prior to the completion of development.

**(10) Driveways, parking and service areas - PCA**

A qualified practicing Civil or Structural engineer shall certify to the Principal Certifying Authority that driveways, parking and services areas have been constructed in accordance with approved specifications. Such certification shall be submitted prior to occupation of the building.

**(11) Sign posting/line-marking - access/car parking**

The direction of traffic flow and off-street car parking spaces are to be signposted/line-marked on site prior to occupation of the building.

**(12) Parking area surfacing - PCA approval**

The parking areas are to be constructed in a suitable all-weather surface and drained to the requirements of the Principal Certifying Authority. Such work to be carried out prior to occupation.

Full details in this regard are to be incorporated in the submitted plans.

**(13) Landscaping completion**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works, including the removal of all noxious weed species and planting of canopy trees and street trees, have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

**(14) Road Alignment Levels**

The existing levels of the footpath at the fence/lot boundary shall be maintained.

**(15) Reconstruction of kerb and gutter**

The existing kerb and gutter for the full frontage of the development shall be reconstructed, at the applicant's full cost, with 150mm kerb height, concrete kerb and gutter to Council's Standard Plan R1 (Integral kerb and gutter), with the lip of gutter matching the existing road surface, and a smooth longitudinal profile. Any redundant laybacks shall be replaced with kerb and gutter. Detailed design plans shall be prepared by an experienced road designer and submitted to Council's Development Engineer for review and ultimate approval.

This work shall be carried out prior to the release of the Occupation Certificate.

**(16) Reconstruction of footpath**

The existing concrete footpath for the full frontage of the development shall be reconstructed, at the applicant's full cost, as follows:-

- a) For 1.8m from the front lot boundary – with concrete as per Council's Standard Plan F1, with the crossfall being a minimum of 2% fall (maximum 3%) to the proposed top of kerb.
- b) For the width from the above concrete path to the proposed new K&G – with Buffalo turf (Shademaster) underlaid with 100mm thickness of appropriate topsoil. The turf shall be laid even in grade in both directions to match the top of kerb and the footpaving. It shall be kept well watered to ensure it does not brown/die and if such occurs, it shall be replaced.

This work shall be carried out prior to the release of the Occupation Certificate.

Note - RMS road occupancy approvals shall apply, and Council application/pre-approval is required.

**(17) Vehicle crossings**

At the proposed vehicle entry off Canterbury Road, a full width reinforced concrete vehicular footpath crossing (150mm thick) shall be constructed, at the applicant's full cost, in accordance with Council

Standard Plan R2, with the layback and vehicle crossing being integral (the angled crossings as shown on the approved plans are acceptable). This work shall be carried out prior to the release of the Occupation Certificate.

The internal median island shall NOT extend beyond the property boundary, but the footpath area between the egress and ingress parts of the vehicle crossing shall be fully concreted to the same standard as the vehicle crossings (with appropriate expansion joints in accordance with Council's Standard Plan and Specification).

Note - RMS road occupancy approvals shall apply, and Council application/pre-approval is required.

**(18) Redundant vehicle crossing**

All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council.

**(19) Heavy duty vehicle crossing**

A heavy duty concrete vehicle crossing, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", shall be constructed at the vehicular access location, before the issue of the Occupation Certificate and at no cost to Council.

**(20) Sign posting at driveway**

'No Right Turn' signs shall be installed on the proposed driveway traffic island located within the property, to face both directions so that it is seen by exiting and entering motorists. The sign facing the entering motorists shall be installed immediately behind the property boundary and angled in a northerly direction to ensure that approaching motorists see the sign as early as possible.

**(21) Unit Numbering**

All units are to be numbered consecutively commencing at No.1. The strata plan lot number is to coincide with the unit number, e.g Unit 1 = Lot 1. The allocated of unit numbering must be authorised by Council prior to the numbering of each units in the development. The authorised numbers are required to be displayed in a clear manner at or near the main entrance to each premise.

**(22) Street Numbering**

A House Number that is clearly visible to motorists and a minimum lettering height of 100mm, shall be displayed, facing Canterbury Road.

**(23) Car parking**

- (a) All car spaces shall be allocated and marked according to this requirement.
- (b) If the development is to be strata subdivided, the car park layout must reflect the above allocation and thereafter be regarded as part of the entitlement of that strata lot.
- (c) Under no circumstances shall parking spaces be sold, let or otherwise disposed of for use other than in accordance with this condition.
- (d) Each car parking space shall have minimum dimensions in accordance with the relevant Australian Standard and be provided on-site in accordance with the approved plans.
- (e) The parking bays shall be delineated by line marking.
- (f) Visitor spaces shall be clearly line marked and/or signposted and shall only be used by persons visiting residents of the property or commercial/business/retail premises located within the development. Visitor spaces shall not be allocated as permanent residential parking spaces. Access to visitor parking spaces shall not be restricted without development approval and a sign shall be erected at the vehicular entrance indicating the availability of visitor parking.

Details demonstrating compliance with this condition shall be submitted to and approved by the Principal Certifying Authority, prior to the issue of an Occupation Certificate.

**(24) Ordering of garbage/recycling bins**

All required garbage bins and recycling bins for the residents of the development must be ordered from Council at least 3 months prior to the issue of an occupation certificate.

**(25) Public Domain Works**

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

**(26) Underground power to the development**

The power supply to the development shall be underground and not overhead.

**(27) Street powerlines**

The existing low voltage overhead Electrical Network within Canterbury Road and over at least the full frontage of the development, site shall be consolidated into a single Aerial Bundle Cable (ABC), at the applicant's expense in accordance with the specifications and requirements of the local network supplier.

This work shall be carried out prior to the release of the Occupation Certificate.

**(28) Street tree planting**

- a) An amended Landscape Plan relevant to Canterbury Road (prepared by a Landscape Architect or AQ5 Diploma qualified Landscape Designer) shall be prepared by the applicant and submitted to Council for consideration and approval, **prior to the approval of the Construction Certificate**. This plan shall include the following:
- (i) Three (3) new trees shall be located within the footpath outside the subject property on Canterbury Road. The species of tree selected shall be *Angophora costata* (Sydney Red Gum).
  - (ii) The trees are to be planted at ten (10) metre spacings.
  - (iii) All planting stock size shall be minimum 200 litres.
  - (iv) The planting stock shall comply with AS 2303—*Tree Stock for Landscape Use*.
  - (v) The new tree shall be planted by a qualified horticulturist or arborist, with a minimum qualification of AQF 3.
  - (vi) The tree pit dimensions, **vault** style structural soil, and staking detail shall be in accordance with Detail 10 on page C44 of the *Ashfield Street Tree Strategy 2015, Part C* (available online).
  - (vii) The new street trees shall be maintained in a healthy and vigorous condition during an establishment period of 12 months.
  - (viii) If any tree dies or is removed during the establishment period it shall be replaced with the same species tree in accordance with these conditions at the expense of the applicant.
  - (ix) Upon completion of planting the applicant shall arrange an inspection by Council's Public Tree Coordinator (call 8595 2432) to approve the installation. If trees are unsatisfactory and not in accordance with conditions they will be rejected and replaced at the expense of the applicant
- b) It shall be demonstrated that adequate soil volume can be provided for all trees. Tree planting details shall be submitted to the Council's Urban Forest Manager's satisfaction before the issue of a Construction Certificate. These must include dimensions for tree pits and details of a **vault** style structural soil with a minimum of 20-30m<sup>3</sup> available soil volume for each tree. Refer to Detail 5 on page C39 of the *Ashfield Street Tree Strategy 2015, Part C*.
- c) Before the issue of an Occupation Certificate, Council's Urban Forest Manager's shall be contacted to inspect all landscape works within Canterbury Road, including the street tree planting, to ensure these works have been undertaken in accordance with the approved plan and conditions of consent. Any problems shall be corrected to Council's satisfaction **prior to the issue of an Occupation Certificate**.



**G Conditions that are ongoing requirements of development consents****(1) Voids/courtyards**

The voids/courtyards labelled as 'zen gardens' on the plans are not to be accessible by residents of visitors of the building.

**(2) Garbage bin storage/placement for collection - strata title plan**

All garbage/recycling bins are to be kept in the garbage bin storage area. Bins are to be individually wheeled in and wheeled out on the day of garbage collection and are to be returned to the storage area immediately after collection. Bins are not to be located on the street at any time unattended. This requirement is to be incorporated into the Strata Title of the property.

**(3) Landscape Maintenance**

The landscaping approved as part of this application is to be maintained to the satisfaction of Council.

**(4) Air conditioners**

To preserve the streetscape, air conditioners or any plant equipment shall not be placed along the street façade or any place/part of the building that is visible from the public domain.

**(5) Private Power Poles**

Private power poles are not to be erected on the subject site without Council's Consent.

**(6) Waste management**

The waste management on site must be in accordance with the following requirements:

- (a) A site caretaker must be employed and be responsible for moving bins where and when necessary, washing bins and maintaining waste storage areas, ensuring the chute system and related devices are maintained in effective and efficient working order, managing the communal composting area, managing the bulky item storage area, arranging the prompt removal of dumped rubbish, ensuring the loading bay is kept clear of parked cars, and ensuring all residents are informed of the use of the waste management system. The site caretaker must be employed for a sufficient number of hours each week to allow all waste management responsibilities to be carried out to a satisfactory standard.
- (b) The approved on-going waste management practise for the site must not be amended without consent from Council.

**(7) Car parking and road safety**

- (a) All car parking must be constructed and operated in accordance with Australian Standard AS/NZS 2890.1:2004 – Off-street car parking and Australian Standard AS 2890.2:2002 – Off-street commercial vehicle facilities.
  - i) All parking areas and driveways are to be sealed to an all weather standard, line marked and signposted;
  - ii) Car parking, loading and manoeuvring areas to be used solely for nominated purposes;
  - iii) Vehicles awaiting loading, unloading or servicing shall be parked on site and not on adjacent or nearby public roads;
  - iv) All vehicular entry on to the site and egress from the site shall be made in a forward direction.
- (b) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.
- (c) Residential parking spaces are to be secure spaces with access controlled by card or numeric pad.
- (d) Visitors must be able to access the visitor parking spaces in the basement car park at all times.
- (e) All parking for people with disabilities is to comply with AS/NZS 2890.6:2009 Off-street parking for people with disabilities.
- (f) Bicycle parking spaces are to be designed in accordance with AS 2890.3-1993 Bicycle parking facilities
- (g) Motorcycle parking spaces are to be designed in accordance with AS/NZS 2890.1:2004 Figure 2.7.

**(8) Canopy Replacement**

The canopy replenishment trees and street trees required by this consent are to be maintained in a healthy and vigorous condition until they attain a height of 6 metres whereby they will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.

**(9) New vehicle crossing and kerb**

The vehicular crossing, kerb & gutter, and footpath works shall be constructed by your own contractor. You or your contractor shall complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

**H Advisory Notes****(1) Application for a Construction Certificate**

The required application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

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 also a criminal offence which attracts substantial penalties and may also result action in the Land and Environment Court and orders for demolition.

**(2) Compliance with the Disability Discrimination Act - liability**

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

**(3) Tree preservation**

Where tree removal or work has not been approved by this Development Consent, the developer is notified that a general Tree Preservation Order applies to all trees (with the exception of certain species) in the Municipality of Ashfield with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping\*, pruning, transplanting, injuring or wilful destruction of such trees except with the prior approval of the Council. Written consent from Council for such tree works must be in the form of a "Tree Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

\* Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of the owner of the tree. Contact Council's One Stop Shop - telephone 9716 1800, for details of the Tree Preservation Order.

**(4) Relocation of stormwater drainage**

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

**Reason for the imposition of conditions**

Unrestricted consent would be likely to cause injury:

- a) to the amenity of the neighbourhood
- b) to the heritage significance of the area
- c) to the heritage significance of the property
- d) to the amenity of the neighbourhood due to the emission of noise
- e) to the amenity of the neighbourhood due to the creation of a traffic hazard

and further, would not be in the public interest.

**Compliance with Building Code of Australia**

- (1) All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
- (2) This clause does not apply to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 or 188.

**NOTES**

- (i) This approval does not relieve an applicant of the obligation to obtain any other approval required under Section 68 of the Local Government Act, 1993 and Ordinances or Section 4.12 of the Environmental Planning & Assessment Act, 1979 or any other Act or Regulation.
- (ii) Further approval(s) – see above, may be required in addition to this development consent. Plans and specifications submitted for building works must comply with the Building Code of Australia, any relevant condition of development consent and/or other code or requirement of Council at the time of approval.

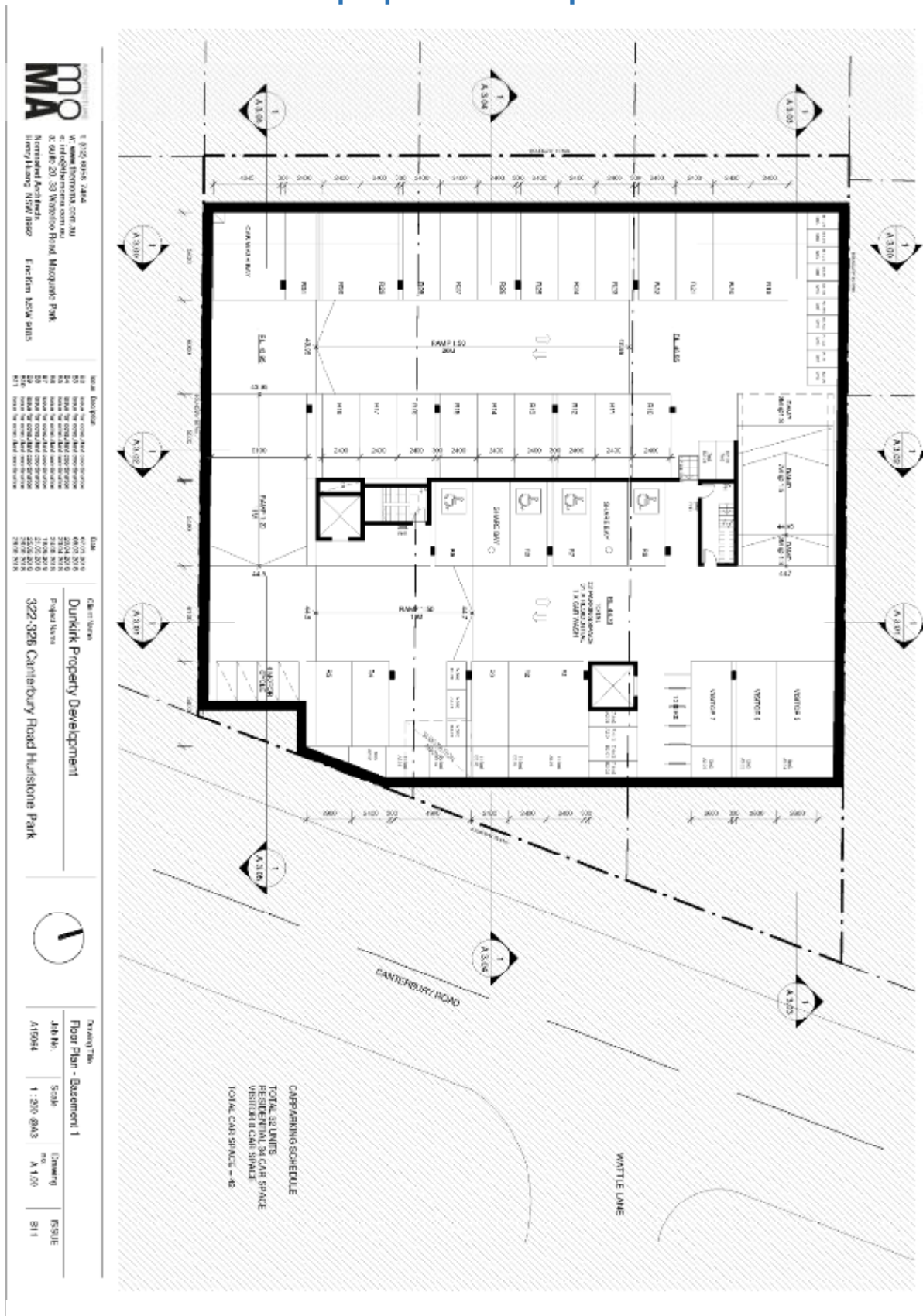
Ask Council if you are unsure of what procedures you need to follow.

**SECTIONS 8.2, 8.7 AND 4.53 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

You are advised that:

- Under the provisions of Section 8.2 of the Environmental Planning and Assessment Act, 1979, an applicant may request Council to review a determination of the applicant's development application, other than an application for designated development. Any request for a review must be made within six (6) months of the date on which the applicant received notice, given in accordance with the regulations, of the determination of the application and be accompanied by the fee prescribed in Section 257 of the Regulations.
- If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act, 1979, gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.
- Under the provisions of Section 4.53 of the Environmental Planning and Assessment Act, 1979, unless the development, which is the subject of this consent, is commenced within five (5) years from the date of determination, the consent will lapse.

Attachment B – Plans of proposed development



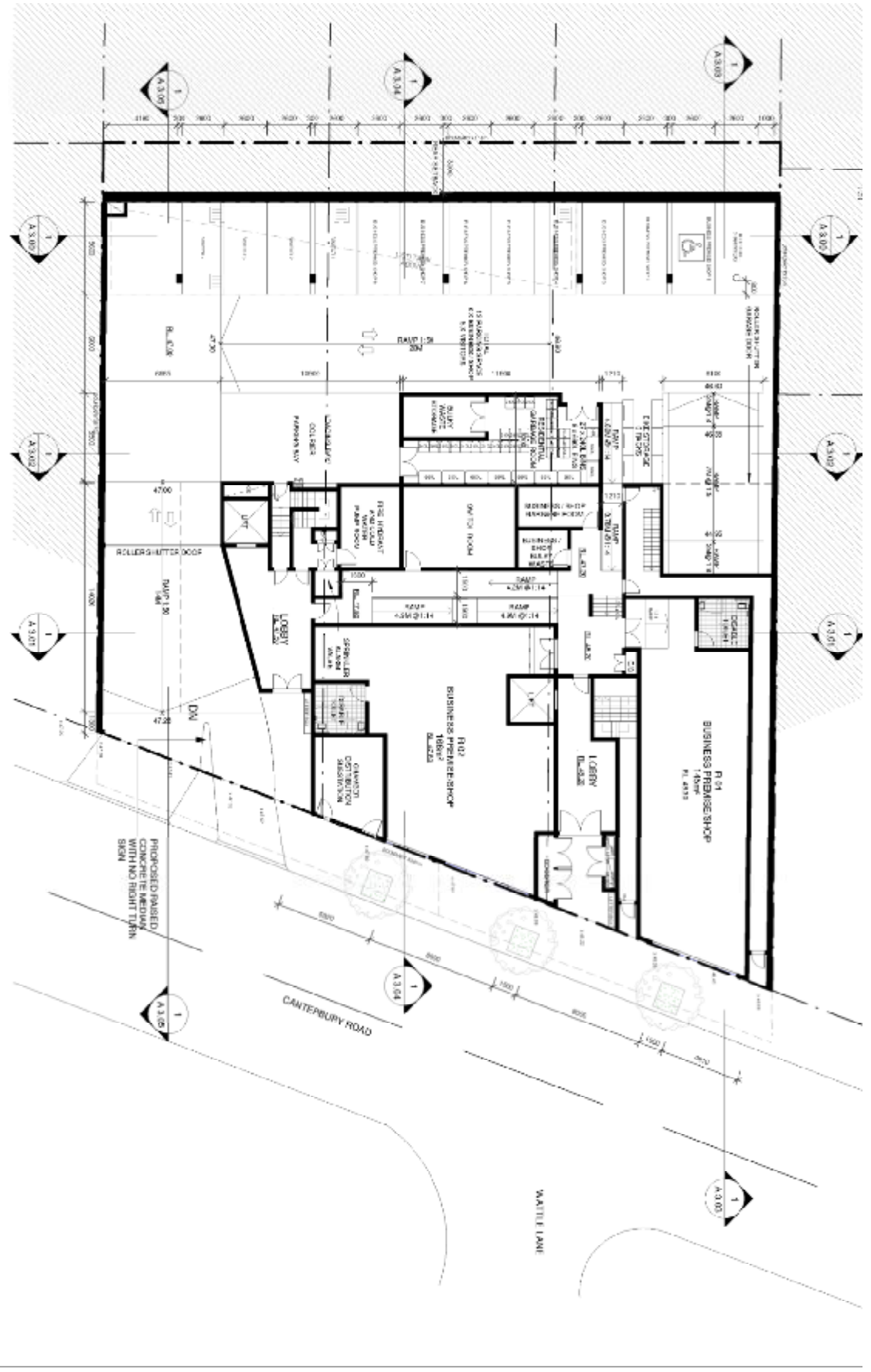
**MO MA**  
 ARCHITECTS  
 11/021 8138 7484  
 www.thearchitect.com.au  
 3/100 SPYGLASS COURT SU  
 3/100 SPYGLASS ROAD, WILSONS PARK  
 NEWCASTLE AUSTRALIA  
 HENRY HERRIS NSW 1588  
 THE KIM NGUY ARCH

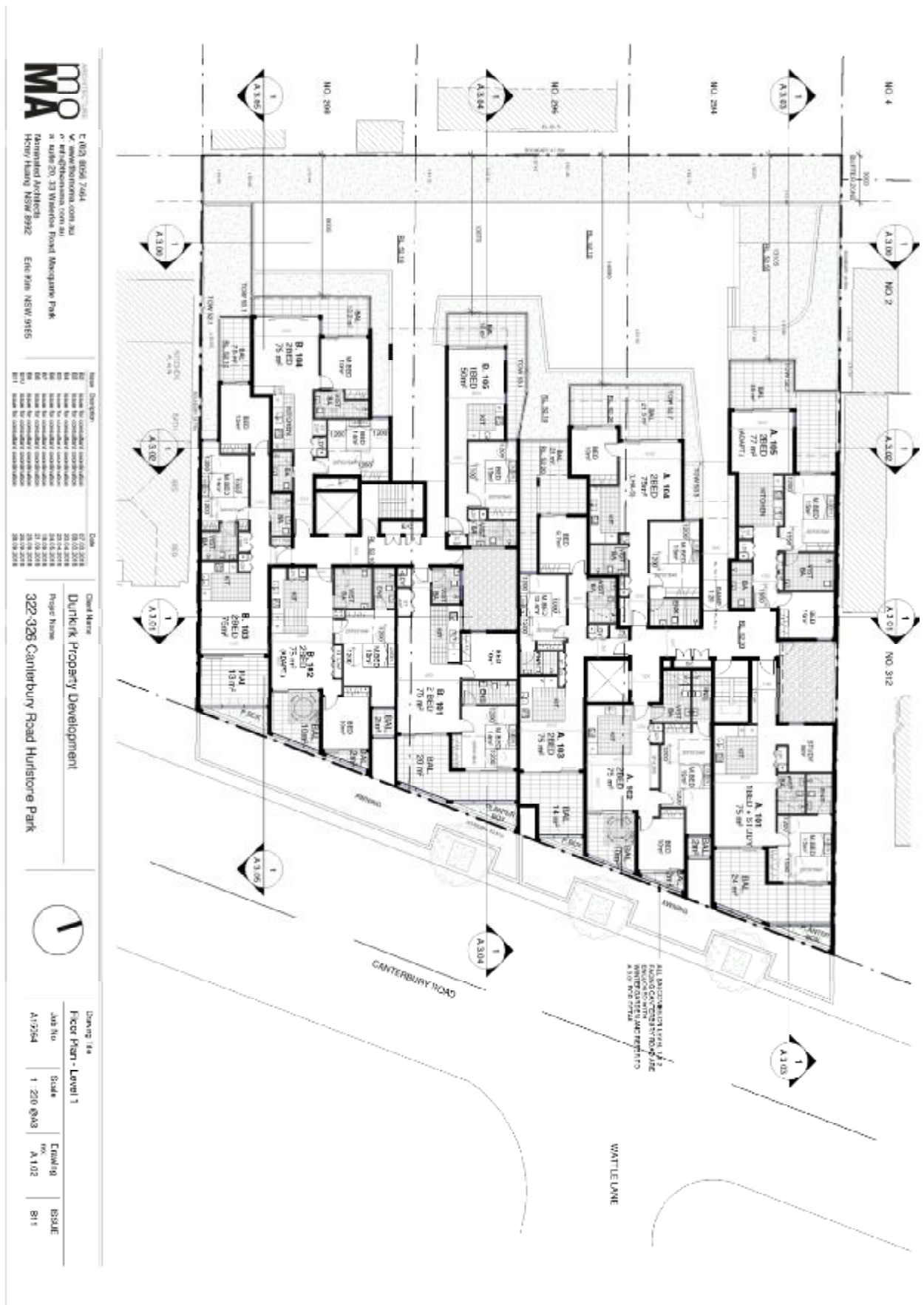
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|-------|--------------------|------------|
| 01    | ISSUE FOR APPROVAL | 21.03.2018 |
| 02    | ISSUE FOR APPROVAL | 20.02.2018 |
| 03    | ISSUE FOR APPROVAL | 20.02.2018 |
| 04    | ISSUE FOR APPROVAL | 21.03.2018 |
| 05    | ISSUE FOR APPROVAL | 21.03.2018 |
| 06    | ISSUE FOR APPROVAL | 21.03.2018 |
| 07    | ISSUE FOR APPROVAL | 21.03.2018 |
| 08    | ISSUE FOR APPROVAL | 21.03.2018 |
| 09    | ISSUE FOR APPROVAL | 21.03.2018 |
| 10    | ISSUE FOR APPROVAL | 21.03.2018 |
| 11    | ISSUE FOR APPROVAL | 21.03.2018 |

Client Name  
**DUNKIRK Property Development**  
 Project Name  
**322-328 Canterbury Road Hurstone Park**



| Drawing Title              |           |             |       |
|----------------------------|-----------|-------------|-------|
| <b>Floor Plan - Ground</b> |           |             |       |
| Sheet No.                  | Scale     | Drawing No. | ISSUE |
| A10064                     | 1:200 @A0 | A 1/1       | 011   |







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| NO. | DATE       | DESCRIPTION            |
|-----|------------|------------------------|
| 001 | 27.03.2018 | ISSUE FOR CONSULTATION |
| 002 | 28.03.2018 | FOR CONSULTATION       |
| 003 | 29.03.2018 | FOR CONSULTATION       |
| 004 | 30.03.2018 | FOR CONSULTATION       |
| 005 | 31.03.2018 | FOR CONSULTATION       |
| 006 | 01.04.2018 | FOR CONSULTATION       |
| 007 | 02.04.2018 | FOR CONSULTATION       |
| 008 | 03.04.2018 | FOR CONSULTATION       |
| 009 | 04.04.2018 | FOR CONSULTATION       |
| 010 | 05.04.2018 | FOR CONSULTATION       |
| 011 | 06.04.2018 | FOR CONSULTATION       |

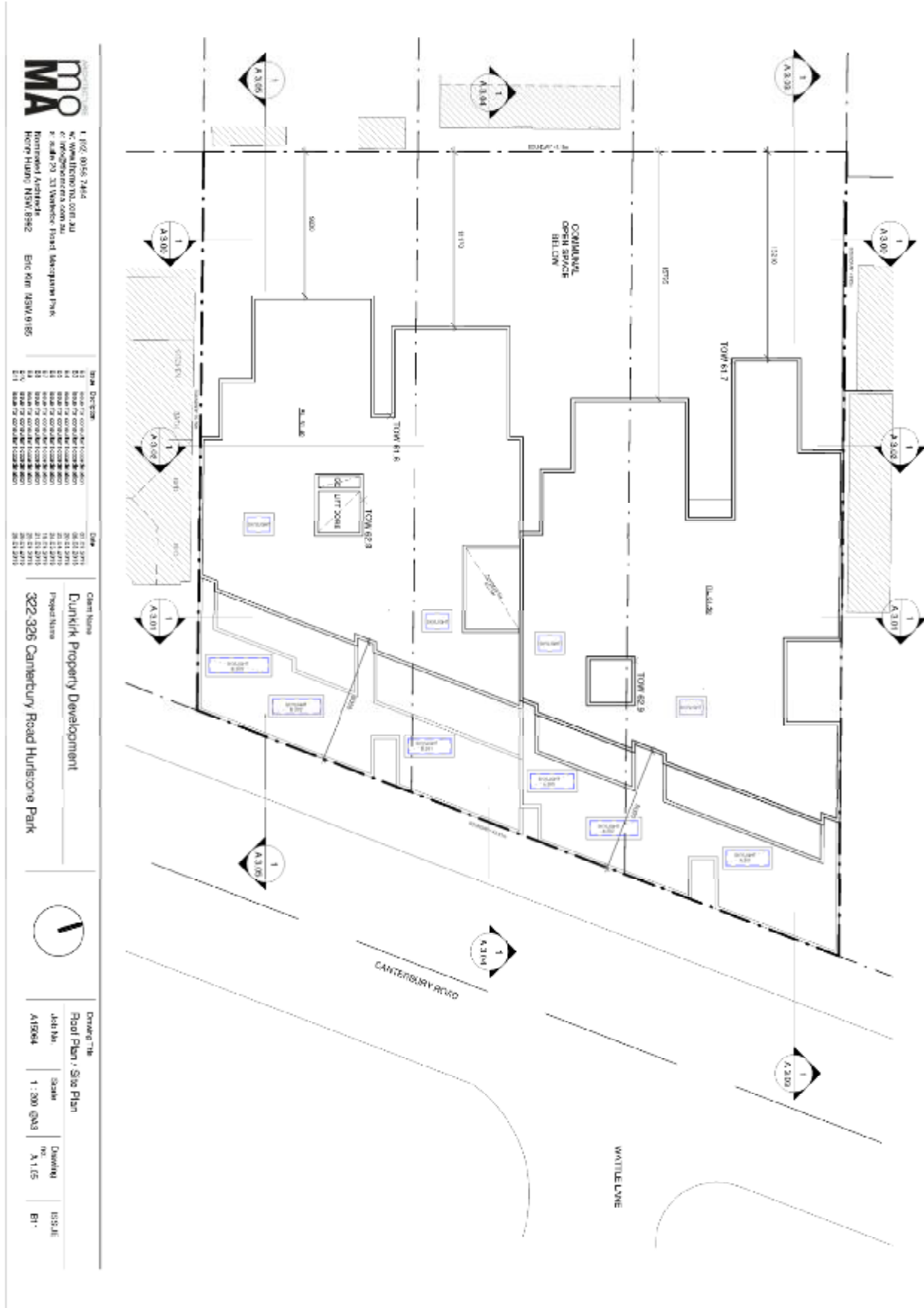
**Dunkirk Property Development**  
 Project Name  
 322-326 Canterbury Road Hurstville Park



Drawn To:  
 Floor Plan - Level 2  
 Job No: A15084  
 Scale: 1:200 @M3  
 Drawing No: A.1.03  
 ISSUE: B11







**MMA**  
 MARRIOTT MARRIOTT ARCHITECTS  
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 ERIC KIM (NSW 9185)

**REVISIONS**

| NO. | DESCRIPTION      | DATE       |
|-----|------------------|------------|
| 01  | ISSUE FOR PERMIT | 20/11/2015 |
| 02  | ISSUE FOR PERMIT | 20/11/2015 |
| 03  | ISSUE FOR PERMIT | 20/11/2015 |
| 04  | ISSUE FOR PERMIT | 20/11/2015 |
| 05  | ISSUE FOR PERMIT | 20/11/2015 |
| 06  | ISSUE FOR PERMIT | 20/11/2015 |
| 07  | ISSUE FOR PERMIT | 20/11/2015 |
| 08  | ISSUE FOR PERMIT | 20/11/2015 |
| 09  | ISSUE FOR PERMIT | 20/11/2015 |
| 10  | ISSUE FOR PERMIT | 20/11/2015 |
| 11  | ISSUE FOR PERMIT | 20/11/2015 |
| 12  | ISSUE FOR PERMIT | 20/11/2015 |
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| 15  | ISSUE FOR PERMIT | 20/11/2015 |
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| 18  | ISSUE FOR PERMIT | 20/11/2015 |
| 19  | ISSUE FOR PERMIT | 20/11/2015 |
| 20  | ISSUE FOR PERMIT | 20/11/2015 |
| 21  | ISSUE FOR PERMIT | 20/11/2015 |
| 22  | ISSUE FOR PERMIT | 20/11/2015 |
| 23  | ISSUE FOR PERMIT | 20/11/2015 |
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| 25  | ISSUE FOR PERMIT | 20/11/2015 |
| 26  | ISSUE FOR PERMIT | 20/11/2015 |
| 27  | ISSUE FOR PERMIT | 20/11/2015 |
| 28  | ISSUE FOR PERMIT | 20/11/2015 |
| 29  | ISSUE FOR PERMIT | 20/11/2015 |
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| 48  | ISSUE FOR PERMIT | 20/11/2015 |
| 49  | ISSUE FOR PERMIT | 20/11/2015 |
| 50  | ISSUE FOR PERMIT | 20/11/2015 |

**Client Name**  
 Dunkirk Property Development  
**Project Name**  
 322-326 Canterbury Road Hurstons Park



**Drawn by**  
 Road Plan / Site Plan  
**Job No.**  
 A15064  
**Scale**  
 1:300 @A3  
**Drawing No.**  
 A.1.15  
**ISSUE BY**  
 BR

### FINISH LEGENDS

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|--|---|--|--|---|--|
| <input type="checkbox"/> AL1 Aluminium Claret (Charcoal)           | <input type="checkbox"/> AS2 Aluminium Sliding Screen | <input type="checkbox"/> GB1 Glass Balustrade          | <input type="checkbox"/> MC1 Metal Cladding                    | <input type="checkbox"/> PF2 Painted & Rerouted Finish (Charcoal) | <input type="checkbox"/> PW1 Panzer Wall - Sandstone |
| <input type="checkbox"/> AD1 Aluminium Furred Claret Door & Window | <input type="checkbox"/> EPI Face Brick               | <input type="checkbox"/> GB2 Glass Balustrade (Spigot) | <input type="checkbox"/> MF1 Metal Fence                       | <input type="checkbox"/> PF3 Painted & Rerouted Finish (Grey)     | <input type="checkbox"/> TB1 Timber Belano Wall      |
| <input type="checkbox"/> AS1 Aluminium Screen                      | <input type="checkbox"/> EPR Face Brick (Clay/Coal)   | <input type="checkbox"/> GL1 Glass Louvre              | <input type="checkbox"/> PF1 Painted & Rerouted Finish (White) | <input type="checkbox"/> PS1 Privacy Screen                       |  |

**PROJECT INFO**

100 8038 7484  
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 P: PROJECTS@MMA.COM.AU  
 2: 20/10 331 Macquarie Road, Macquarie Park  
 North West Sydney  
 Merry Hill NSW 1692

**Client Name**  
 Dunkirk Property Development

**Project Name**  
 322-326 Canterbury Road Hurstville Park

| Issue Description | Date       |
|-------------------|------------|
| Issue No 001      | 07/12/2018 |
| Issue No 002      | 08/03/2019 |
| Issue No 003      | 20/04/2019 |
| Issue No 004      | 11/05/2019 |
| Issue No 005      | 21/08/2019 |
| Issue No 006      | 20/09/2019 |
| Issue No 007      | 28/09/2019 |

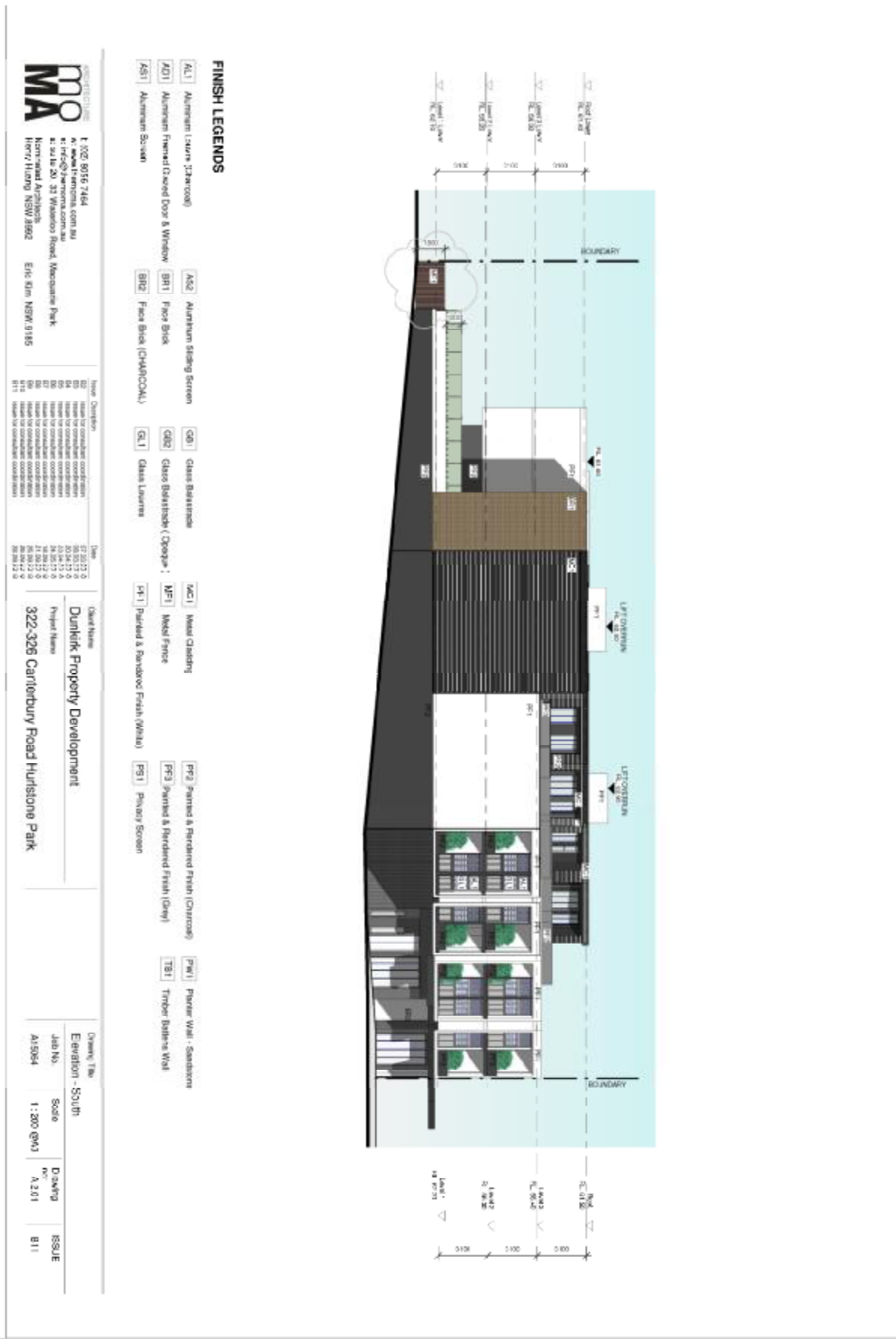
**Drawing Title**  
 Elevation - North

**Job No.**  
 A10064

**Scale**  
 1:200 @A1

**Drawing Ref.**  
 A.2.00

**ISSUE**  
 011



### FINISH LEGENDS

|  |  |  |
|--|--|--|
| <p><b>AL1</b> Aluminium Louver (Charcoal)</p> <p><b>AD1</b> Aluminium Framed Glazed Door &amp; Window</p> <p><b>AS1</b> Aluminium Screen</p> | <p><b>AS2</b> Aluminium Sliding Screen</p> <p><b>BS1</b> Face Brick</p> <p><b>BR2</b> Face Brick (CHAIRROOM)</p>   | <p><b>GL1</b> Glass Mullion</p> <p><b>GL2</b> Glass Mullion (Cheque)</p> <p><b>GL3</b> Glass Louvres</p> |
| <p><b>ML1</b> Mason Lathing</p> <p><b>MW1</b> Metal Fence</p> <p><b>FR1</b> Painted &amp; Reinforced Finish (Gable)</p>                      | <p><b>FR2</b> Painted &amp; Reinforced Finish (Shale)</p> <p><b>FR3</b> Painted &amp; Reinforced Finish (Chaque)</p> <p><b>FR4</b> Painted &amp; Reinforced Finish (Grey)</p> <p><b>FR5</b> Primary Screen</p> | <p><b>WT1</b> Weather Wall - Simons</p> <p><b>WT2</b> Timber Slaton Wall</p>                             |

The drawing shows a long, low-profile building facade with multiple windows and doors. The facade is divided into sections labeled 'Level 1' and 'Level 2'. Various finish codes are applied to different parts of the building, such as AL1 for louvers, AD1 for glazed doors/windows, and GL1 for glass mullions. The drawing also shows structural details like masonry and lathing. Dimensions are provided for various sections of the facade.

|  |   |  |
|--|---|--|
| <p><b>MMA</b> MARRIMONGHI MATTERS ASSOCIATION</p> <p>2, (02) 8066 7464<br/>                 WWW.MARRIMONGHI.COM.AU<br/>                 4, FIDGINGTONS COURT, SUITE 4/1<br/>                 3, LOUIS ST, MARRIMONGHI ROAD, MARRIMONGHI PARK<br/>                 HONEY HUNTS, NSW 2922</p> <p>ERIK KIM, NSW, 9185</p> | <p><b>Client Name</b><br/>                 Durkirk Property Development</p> <p><b>Project Name</b><br/>                 322-326 Canterbury Road Hurstons Park</p> | <p><b>Drawing Title</b><br/>                 Elevation - East (Canterbury Road)</p> <p><b>Job No.</b><br/>                 A15004</p> <p><b>Scale</b><br/>                 1 : 200 @ A3</p> <p><b>Drawing No.</b><br/>                 A.2.20</p> <p><b>ISSUE</b><br/>                 011</p> |
|--|---|--|



**FINISH LEGENDS**

- ALI** Aluminium Louvre (Chlorcoat)
- AOI** Aluminium Framed Glass Door & Window
- ASI** Aluminium Screens
- AS2** Aluminium Sliding Screen
- AS11** Sage Brick
- BR2** Face Brick (CH/BC/CMU)
- GB1** Glass Balustrade
- GB2** Glass Balustrade (Opaque)
- GL1** Glass Louvre
- MCI** Metal Cladding
- MF1** Metal Fence
- PF1** Painted & Fendered Finish (White)
- PS1** Privacy Screens
- FC2** Fanned & Fendered Finish (Charcoal)
- FC3** Fanned & Fendered Finish (Grey)
- PT1** Painted Wall Structures
- TB1** Timber Louver Wall



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 info@mma.com.au  
 Level 21, 25 Waterloo Road, Macquarie Park  
 New South Wales NSW 2108  
 Eric Kim NSW 9135

**Client Name**

**Dunkirk Property Development**

**Project Name**

**322-326 Canterbury Road Hurstville Park**

| Issue | Description                       | Date       |
|-------|-----------------------------------|------------|
| 01    | Issue for consultant coordination | 07/03/2018 |
| 02    | Issue for consultant coordination | 20/03/2018 |
| 03    | Issue for consultant coordination | 20/03/2018 |
| 04    | Issue for consultant coordination | 20/03/2018 |
| 05    | Issue for consultant coordination | 20/03/2018 |
| 06    | Issue for consultant coordination | 21/03/2018 |
| 07    | Issue for consultant coordination | 20/03/2018 |
| 08    | Issue for consultant coordination | 20/03/2018 |
| 09    | Issue for consultant coordination | 20/03/2018 |
| 10    | Issue for consultant coordination | 20/03/2018 |
| 11    | Issue for consultant coordination | 20/03/2018 |

**Drawing Title**

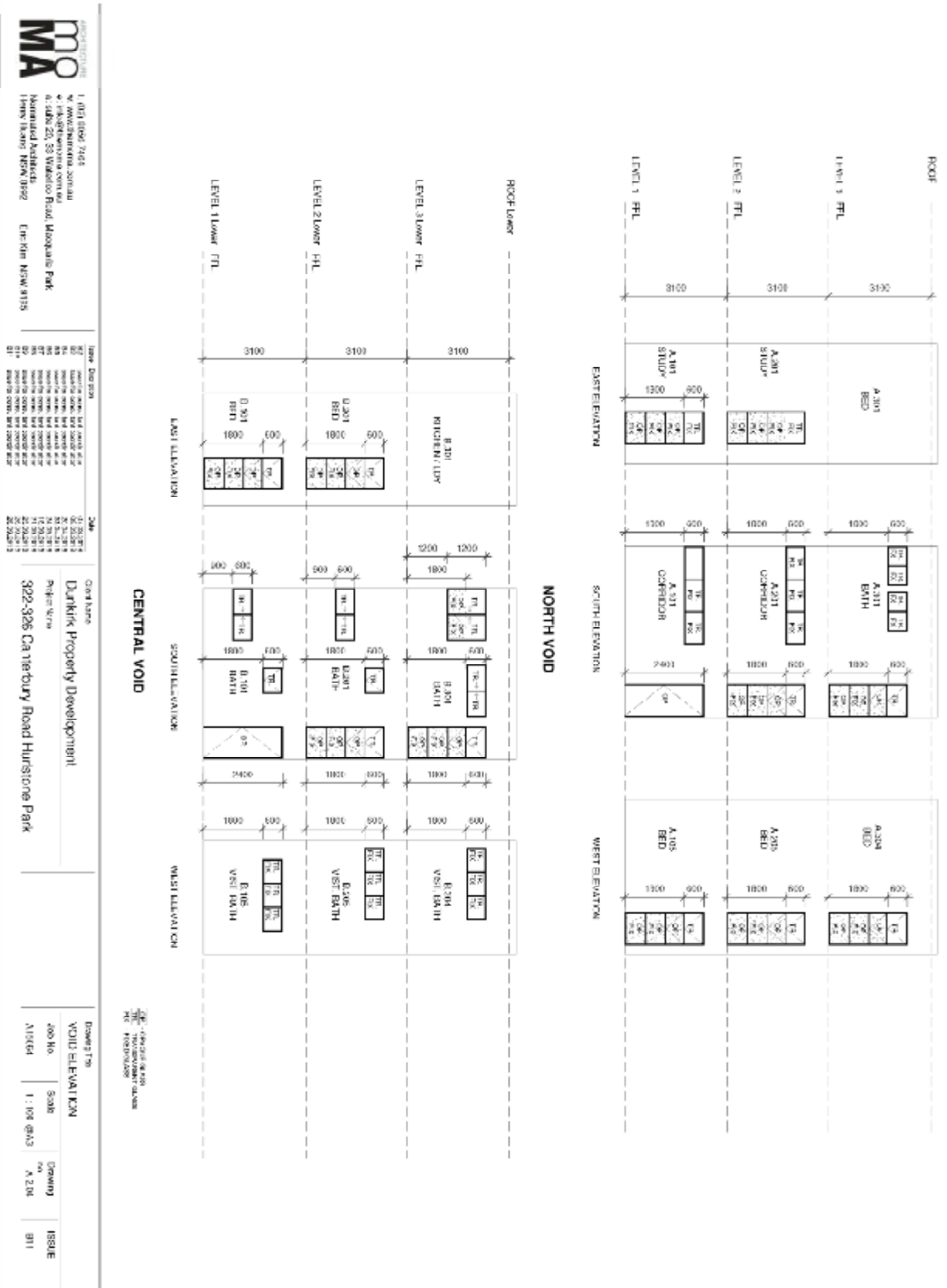
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**Job No.** Scale

**1/1004** 1: 200 @A3

**Drawing No.** Issue

**A.2.5** 011

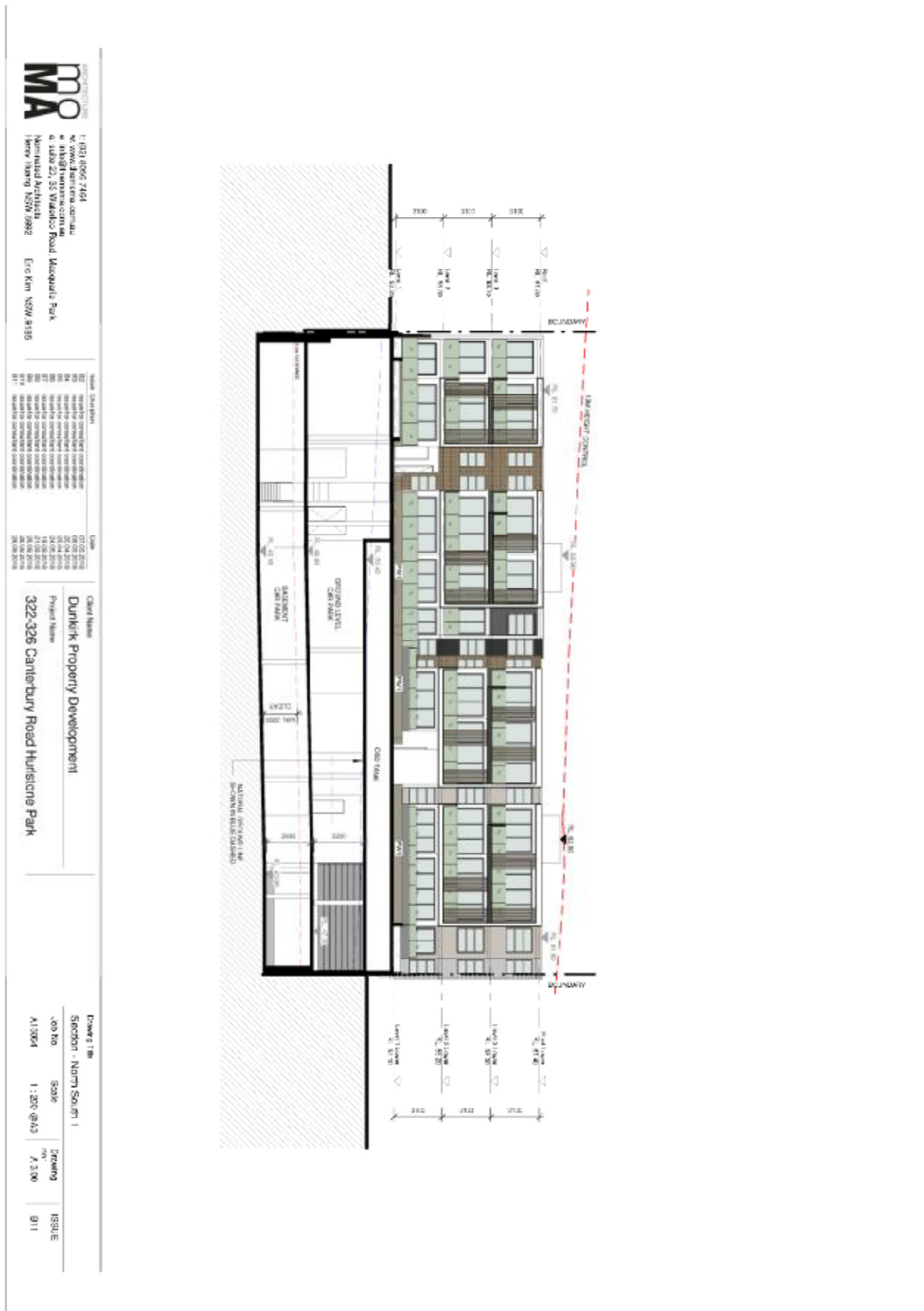


**MOORE ARCHITECTURE**  
 1. (08) 0066 7443  
 2. (08) 0066 7443  
 3. (08) 0066 7443  
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 99. (08) 0066 7443  
 100. (08) 0066 7443

| Level | Description | Area |
|-------|-------------|------|
| 01    | Roof Lower  | 1000 |
| 02    | Level 3 FTL | 1000 |
| 03    | Level 2 FTL | 1000 |
| 04    | Level 1 FTL | 1000 |
| 05    | Roof Lower  | 1000 |

**Moore Architecture**  
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 NSW 1505  
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 Website: www.moorearch.com.au

| Project Name                              | Client Name                  | Drawing Title  | Issue |
|---|------------------------------|----------------|-------|
| Dunkirk Property Development              | Dunkirk Property Development | VOID ELEVATION | B11   |
| 3922-3926 Canterbury Road Hurstville Park |                              |                |       |




  
 MMA

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 E: info@marina.com.au  
 G: Suite 21, 55 Waterloo Road, Mascot NSW  
 M: 1521 1521  
 F: 1521 1521

Eric Kim NSM #135

Issue Checklist

|     |  |            |
|-----|--|------------|
| 001 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 002 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 003 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 004 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 005 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 006 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 007 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 008 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 009 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 010 | Check for compliance with the Development Control Plan | 01/03/2016 |
| 011 | Check for compliance with the Development Control Plan | 01/03/2016 |

**Client Name**  
 Dunkirk Property Development

**Project Name**  
 322-326 Canterbury Road Hurstville Park

Drawn: TTB

| Station - North South | Scale        | Drawing No. | Issue |
|-----------------------|--------------|-------------|-------|
| 001 No.               | Scale        | A1/2064     | B11   |
|                       | 1 : 200 @/A3 |             |       |



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 R: Suite 201, 55 Waverley Road, Macquarie Park  
 Newmarket NSW 1595  
 Henry Huang NSW 1595  
 Eric Kim NSW 9185

| Name | Description                       |
|------|-----------------------------------|
| B2   | Issue for consultant coordination |
| B4   | Issue for consultant coordination |
| B5   | Issue for consultant coordination |
| B7   | Issue for consultant coordination |
| B8   | Issue for consultant coordination |
| B10  | Issue for consultant coordination |
| B11  | Issue for consultant coordination |

| Date       | Task |
|------------|------|
| 07.03.2018 |      |
| 20.04.2018 |      |
| 30.04.2018 |      |
| 18.05.2018 |      |
| 21.06.2018 |      |
| 26.09.2018 |      |
| 28.09.2018 |      |

**Client Name**  
 Dunkirk Property Development  
**Project Name**  
 322-326 Canterbury Road Hurstons Park

**Drawing Title**  
 Section - North South 2  
**JOB No.** A13054  
**Scale** 1:200 @A3  
**Drawing no.** A.3.01  
**ISSUE** B11





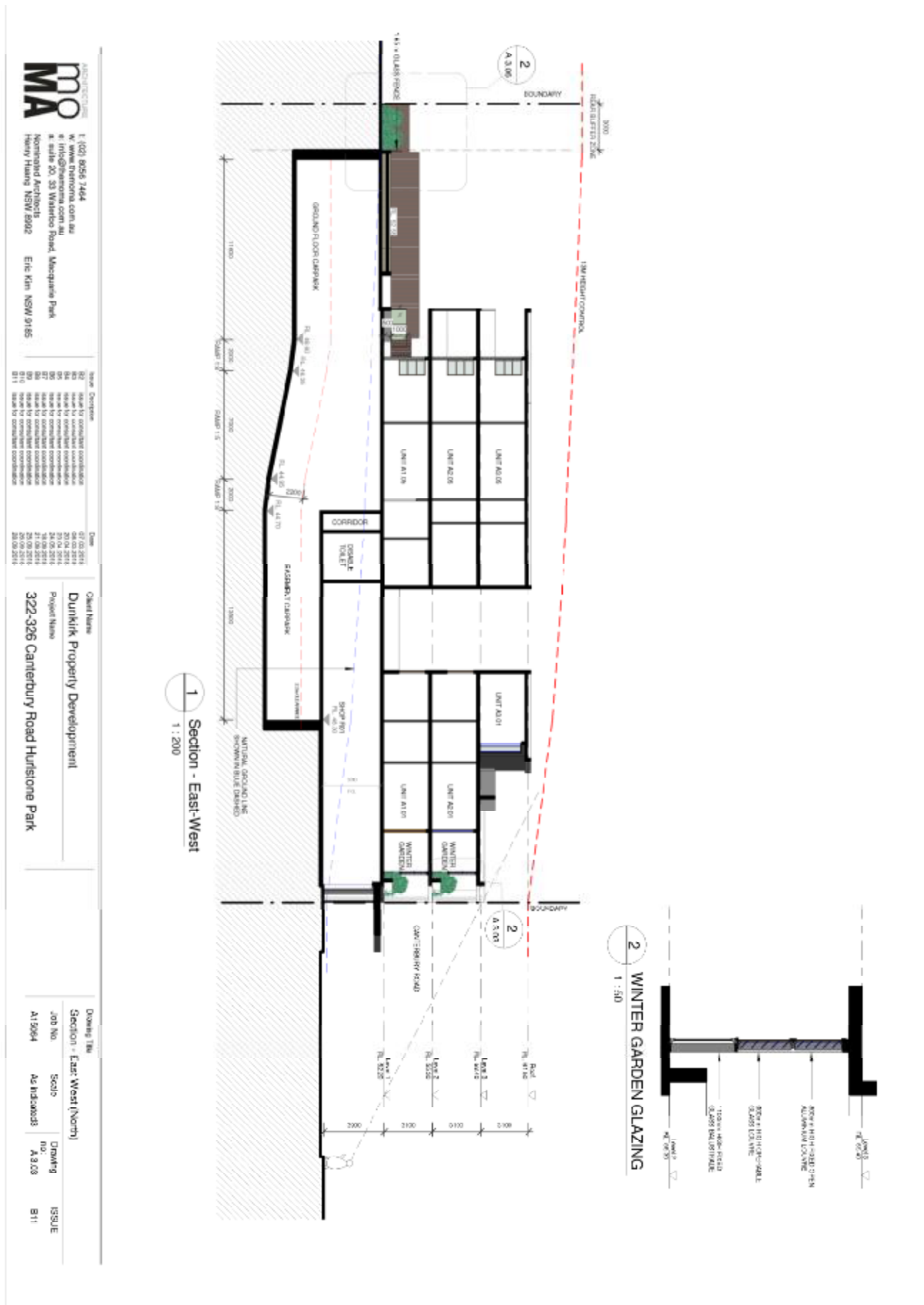


**MO MA**  
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 • Suite 20, 25 Waterloo Road, Macquarie Park  
 Northwood Australia  
 Hurry - Hurry NSW 5020 ERL KIRK NSW 9165

| Name | Date       |
|------|------------|
| 102  | 07/03/2019 |
| 103  | 20/04/2019 |
| 104  | 20/04/2019 |
| 105  | 11/05/2019 |
| 106  | 20/04/2019 |
| 107  | 20/04/2019 |
| 108  | 20/04/2019 |
| 109  | 20/04/2019 |
| 110  | 20/04/2019 |
| 111  | 20/04/2019 |

**Client Name**  
 Durkirk Property Development  
**Project Name**  
 322-326 Canterbury Road Hurstville Park

| Drawing Title           |            |             |       |
|-------------------------|------------|-------------|-------|
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|                         | 1:200 @ A3 | A15064      | B11   |



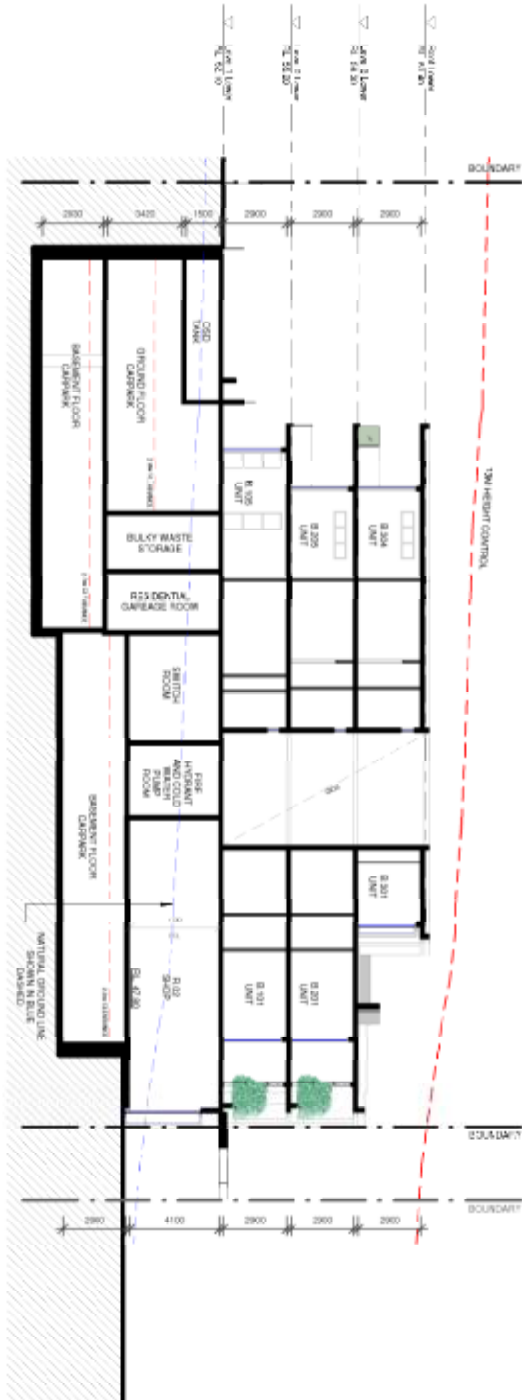


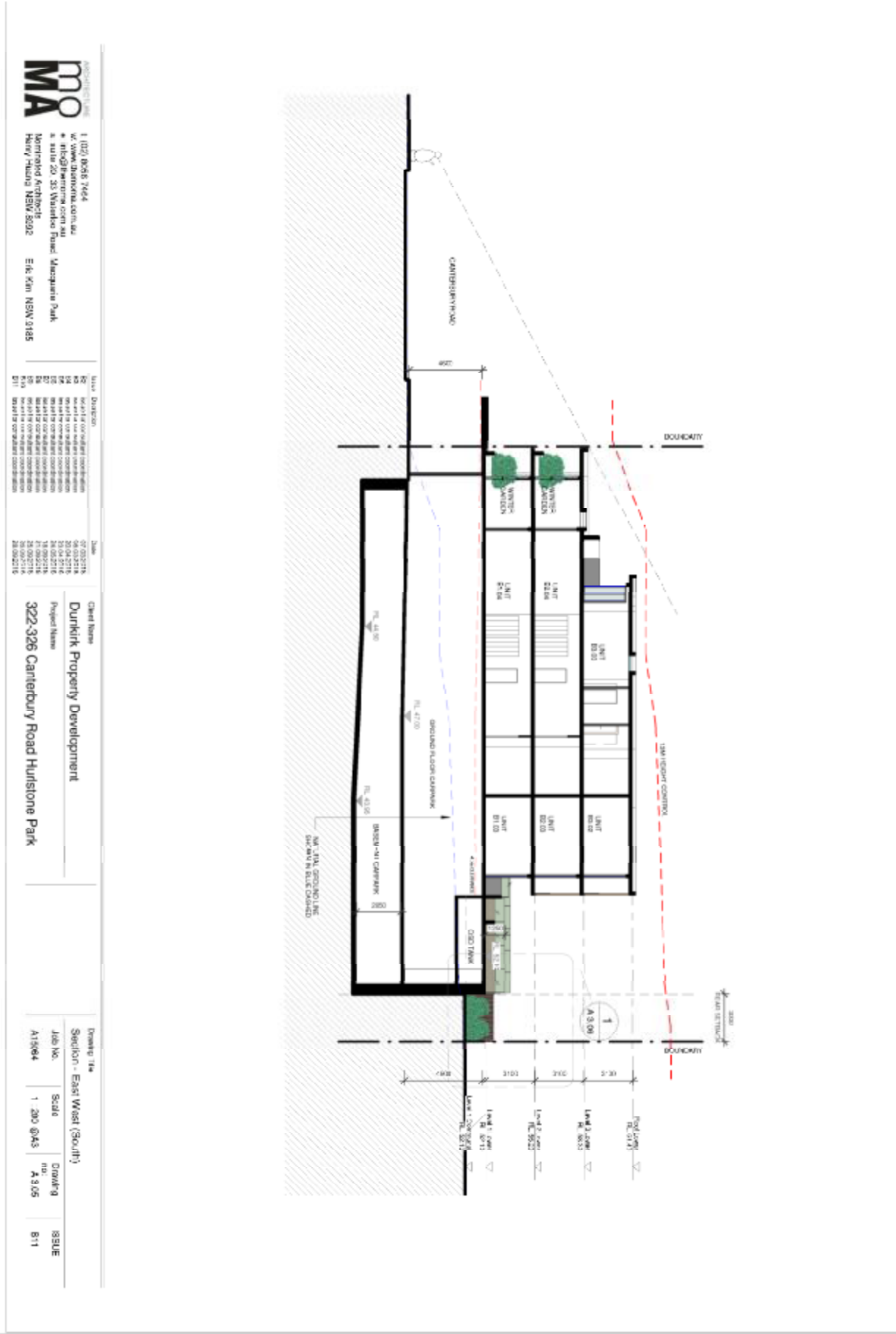
L: (02) 8598 7484  
 M: 0800 800 000  
 E: info@mma.com.au  
 R: Suite 201, 59 Waterloo Road, Macquarie Park  
 Newmarket Architects  
 Henri Huang NSW 8952  
 Eric Kim NSW 9185

| Issue Description | Date        |
|-------------------|-------------|
| B1                | 07 Oct 2019 |
| B2                | 07 Oct 2019 |
| B3                | 07 Oct 2019 |
| B4                | 07 Oct 2019 |
| B5                | 07 Oct 2019 |
| B6                | 07 Oct 2019 |
| B7                | 07 Oct 2019 |
| B8                | 07 Oct 2019 |
| B9                | 07 Oct 2019 |
| B10               | 07 Oct 2019 |
| B11               | 07 Oct 2019 |

**Client Name**  
 Dunkirk Property Development  
**Project Name**  
 322-326 Canterbury Road Hurstons Park

**Drawing Title**  
 Section - East West (White)  
**Job No.**  
 A15964  
**Scale**  
 1:200 @A3  
**Drawing No.**  
 A.8.04  
**ISSUE**  
 B11



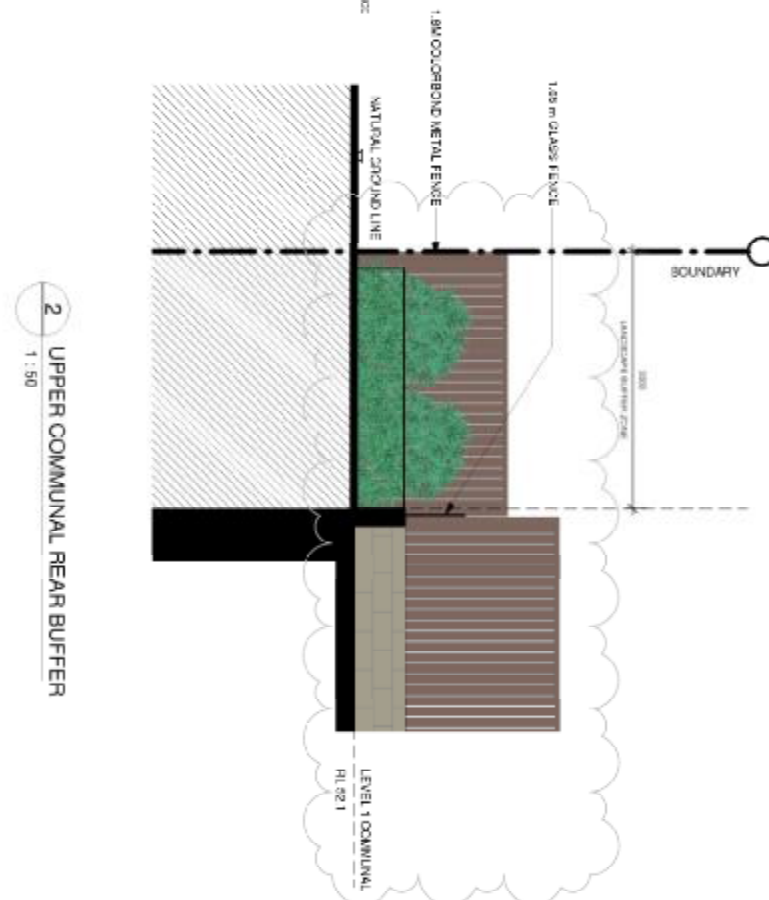
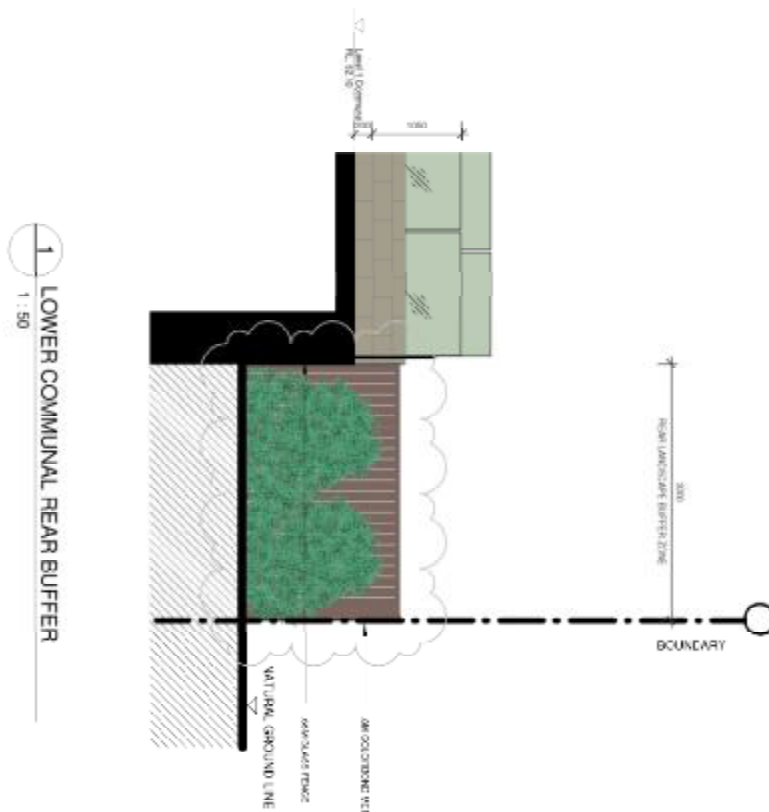


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 A: Suite 20, 35 Waterloo Road, Macquarie Park
   
 New South Wales NSW 1592
   
 ERIC KIM NSN 3185

| PLAN | DATE       | BY  | FOR               |
|------|------------|-----|-------------------|
| D11  | 28/09/2016 | ERK | FOR CLIENT REVIEW |
| D10  | 22/09/2016 | ERK | FOR CLIENT REVIEW |
| D09  | 16/09/2016 | ERK | FOR CLIENT REVIEW |
| D08  | 09/09/2016 | ERK | FOR CLIENT REVIEW |
| D07  | 02/09/2016 | ERK | FOR CLIENT REVIEW |
| D06  | 26/08/2016 | ERK | FOR CLIENT REVIEW |
| D05  | 19/08/2016 | ERK | FOR CLIENT REVIEW |
| D04  | 12/08/2016 | ERK | FOR CLIENT REVIEW |
| D03  | 05/08/2016 | ERK | FOR CLIENT REVIEW |
| D02  | 29/07/2016 | ERK | FOR CLIENT REVIEW |
| D01  | 22/07/2016 | ERK | FOR CLIENT REVIEW |

**Client Name**  
 Durkirk Property Development  
**Project Name**  
 322-326 Canterbury Road Hurstville Park

**Drawing Title**  
 Section - East West (South)  
**Job No.** S-040  
**Issue No.** 1 - 280 045  
**Issue Date** A 3/05  
**Issue No.** B 11

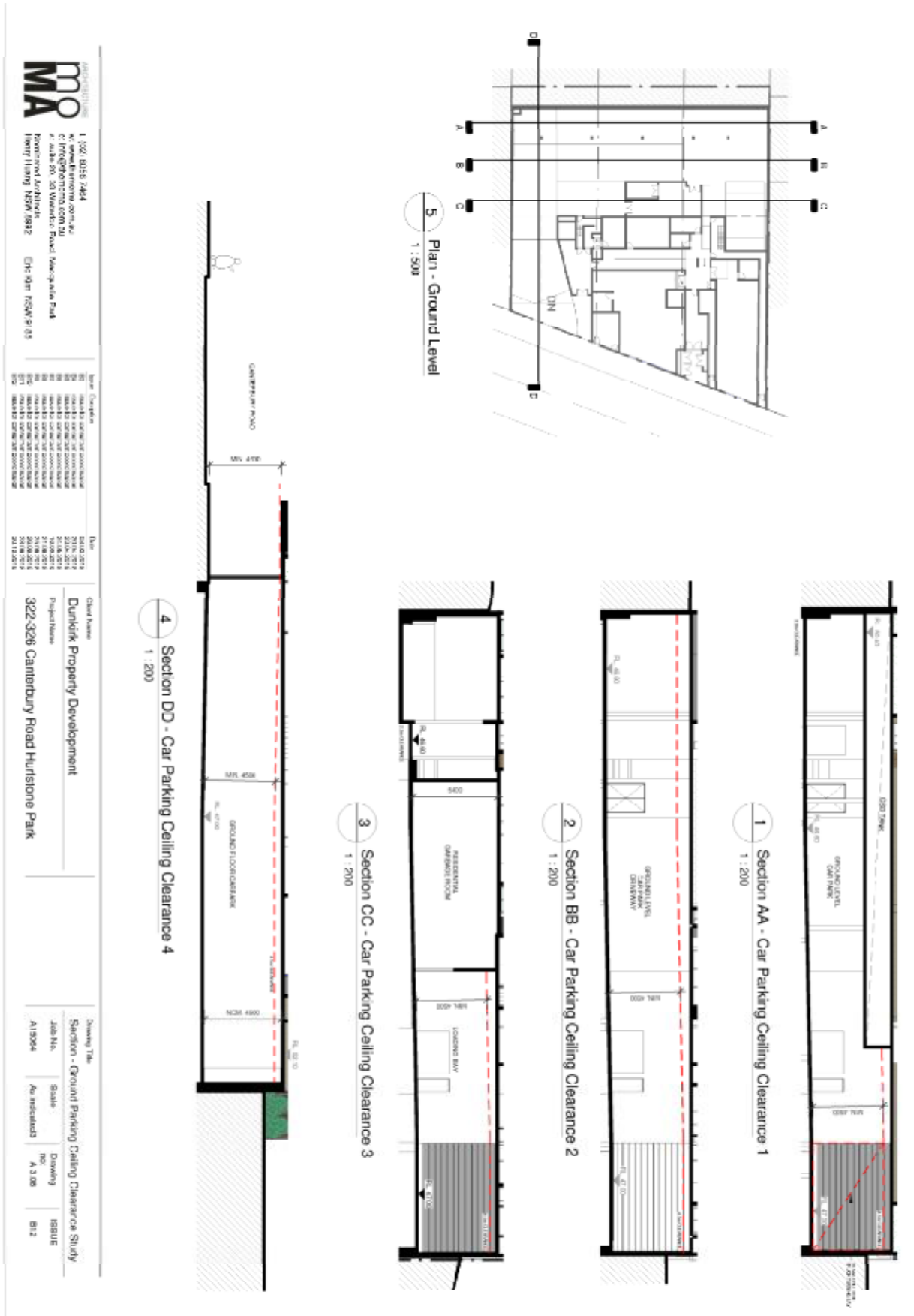


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 Hornsby Shire, NSW 1585  
 Eric Kim NSW 1585

**Client Name:** Dunkirk Property Development  
**Project Name:** 322-326 Canterbury Road Hurstons Park

|    |            |                          |
|----|------------|--------------------------|
| NO | DATE       | DESCRIPTION              |
| 01 | 20/12/2018 | ISSUED FOR CONSULTATION  |
| 02 | 21/12/2018 | REVISION TO CONSULTATION |
| 03 | 22/12/2018 | REVISION TO CONSULTATION |
| 04 | 23/12/2018 | REVISION TO CONSULTATION |
| 05 | 24/12/2018 | REVISION TO CONSULTATION |
| 06 | 25/12/2018 | REVISION TO CONSULTATION |
| 07 | 26/12/2018 | REVISION TO CONSULTATION |
| 08 | 27/12/2018 | REVISION TO CONSULTATION |
| 09 | 28/12/2018 | REVISION TO CONSULTATION |
| 10 | 29/12/2018 | REVISION TO CONSULTATION |
| 11 | 30/12/2018 | REVISION TO CONSULTATION |
| 12 | 31/12/2018 | REVISION TO CONSULTATION |

**Drawing Title:** Section - Rear Boundary Buffer  
**Job No.:** A15054  
**Scale:** 1:50 @A3  
**Drawing no.:** A.105  
**ISSUE:** 011



**MO MA**  
ARCHITECTS  
1 202 855 744  
M: 0800 688 000  
C: 1700 000 000  
F: 0438 95 33 Waverley Road Waverley Park  
Professional Architects  
Henry Hwang NSW 1842 CHS 449 NSW 5105

| Layer | Color  | Date       |
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**Client Name:** Dunkirk Property Development  
**Project Name:** 322-326 Canterbury Road Hurstville Park

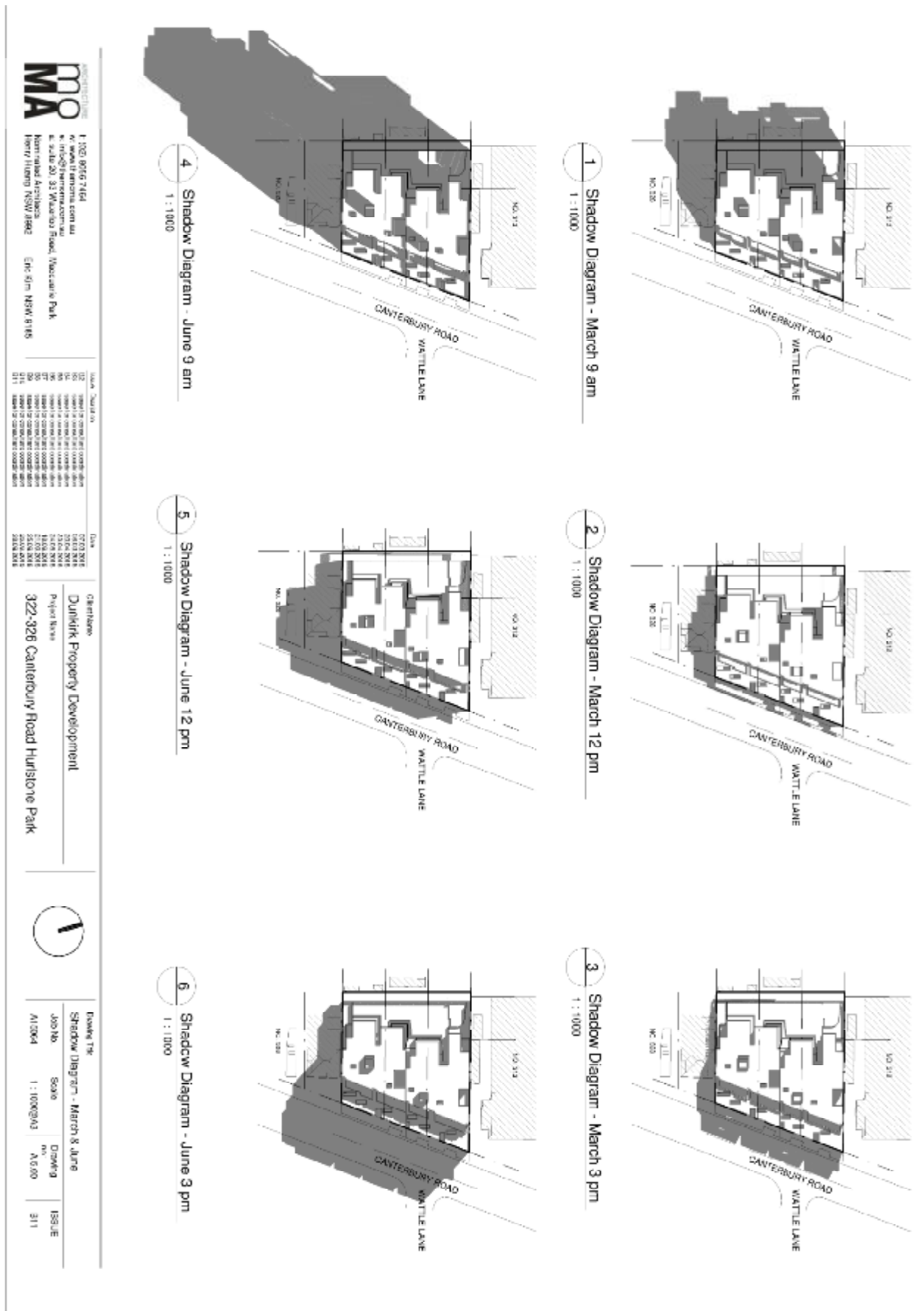
**Drawing Title:** Section - Ground Parking Ceiling Clearance Study  
**Job No.:** A15264  
**Scale:** As indicated  
**Drawing No.:** A.1.08  
**Issue:** 012



**FINISHE LEGENDS**

|  |  |                               |  |                           |                                    |                             |  |                             |                           |
|--|--|-------------------------------|--|---------------------------|------------------------------------|-----------------------------|--|-----------------------------|---------------------------|
| <b>ALU</b> Aluminium Louvre (Charcoal)   | <b>AD1</b> Aluminium Frame Glass Door & Window | <b>AS1</b> Aluminium Screen   | <b>AS2</b> Aluminium Sliding Screen      | <b>BR1</b> Brisa Brick    | <b>BR2</b> Brisa Brick             | <b>GD1</b> Glass Balustrade | <b>GD2</b> Glass Balustrade (Optional) | <b>GA1</b> Glass Balustrade | <b>MC1</b> Metal Cladding |
| <b>MF1</b> Metal Fences  | <b>PF1</b> Painted & Powdered (Optional)       | <b>PF2</b> Painted (Optional) | <b>PF3</b> Painted & Powdered (Optional) | <b>PS1</b> Privacy Screen | <b>PW1</b> Pulver Wall - Sandstone | <b>TR1</b> Timber Cladding  | <b>TL1</b> Tile (Charcoal)             |                             |                           |
| <p><b>Client Name</b> Dunkirk Property Development<br/> <b>Project Name</b> 322-326 Canterbury Road Hurstons Park</p> <p><b>Drawn By</b> 01/01/2019<br/>                 02/01/2019<br/>                 03/01/2019<br/>                 04/01/2019<br/>                 05/01/2019<br/>                 06/01/2019<br/>                 07/01/2019<br/>                 08/01/2019<br/>                 09/01/2019<br/>                 10/01/2019<br/>                 11/01/2019<br/>                 12/01/2019</p> <p><b>Checked By</b> 01/01/2019<br/>                 02/01/2019<br/>                 03/01/2019<br/>                 04/01/2019<br/>                 05/01/2019<br/>                 06/01/2019<br/>                 07/01/2019<br/>                 08/01/2019<br/>                 09/01/2019<br/>                 10/01/2019<br/>                 11/01/2019<br/>                 12/01/2019</p> <p><b>Scale</b> 1:200 @A3<br/> <b>Drawing No.</b> A1004<br/> <b>Issue</b> 01/1</p> |  |                               |  |                           |                                    |                             |  |                             |                           |





**MO MA**  
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 1: 0021 8015 7464  
 W. WOODS ST WENTWORTH COMMONS  
 4: 000070100000000000000000  
 6: 000020, 03 Wattle Lane, Macquarie Park  
 Home-based Architecture  
 HORTY HURD NSW 1582  
 016 516 1994 8185

DATA - SHAD 03

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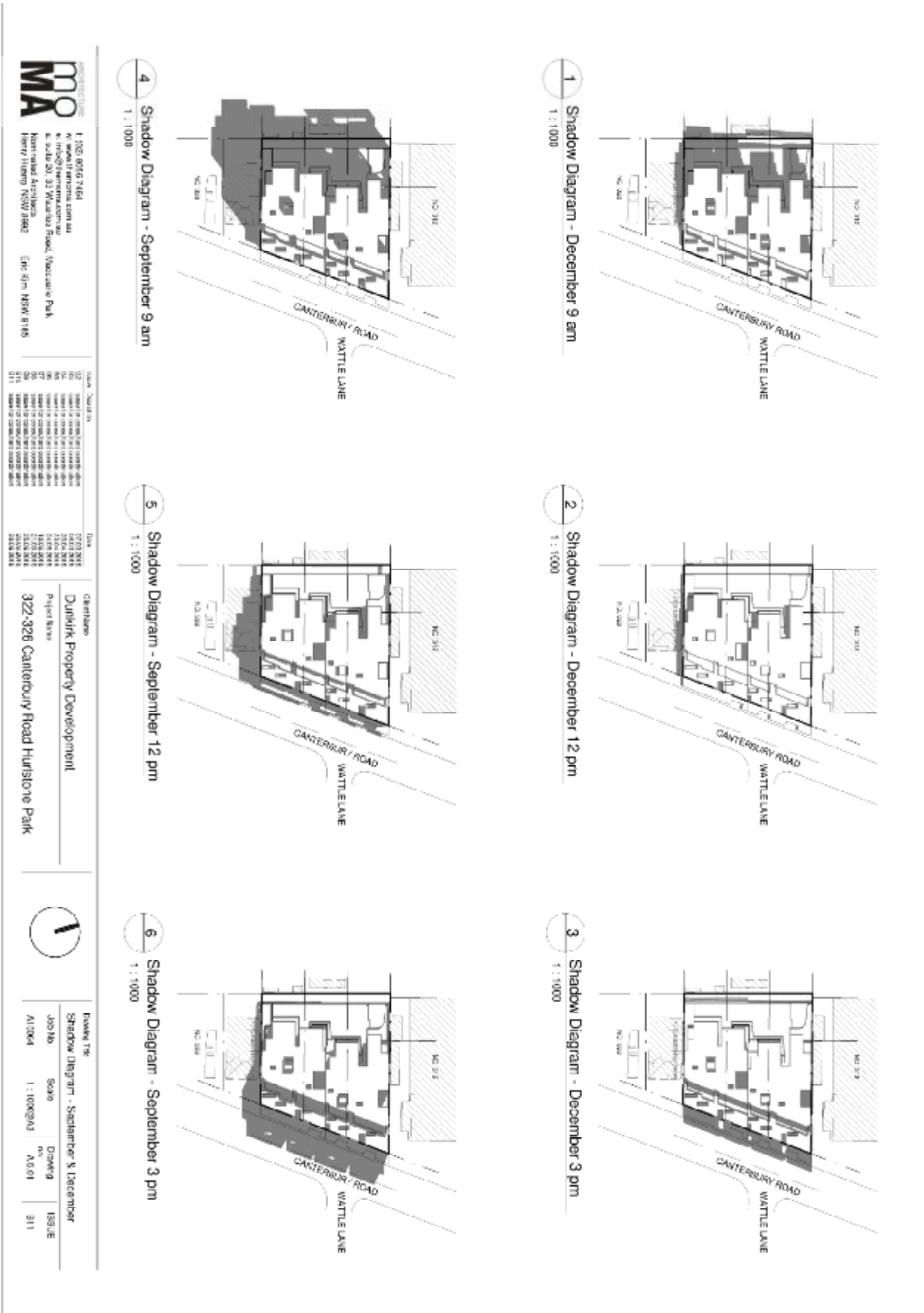
Client Name  
 Dundalk Property Development  
 Project Name  
 322-326 Canterbury Road Hurstville Park



Plan No. 718

|         |            |          |       |
|---------|------------|----------|-------|
| Job No. | Scale      | Drawn by | ISSUE |
| A1 004  | 1:1000/0.3 | A.S.00   | 311   |





**MO MA**  
 ARCHITECTS  
 1/162/10546 7484  
 W. 104/114/10546/10546/10546  
 E. 104/114/10546/10546/10546  
 K. 104/114/10546/10546/10546  
 33 Watfield Road, Macquarie Park  
 Hornsby Shire NSW 1595  
 Terry Harvey NSW 1595  
 Eric Kim NSW 9185

| NO. | REVISION               | DATE       |
|-----|------------------------|------------|
| 01  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 02  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 03  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 04  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 05  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
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| 09  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 10  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 11  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 12  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 13  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 14  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 15  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 16  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
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| 18  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 19  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 20  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 21  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 22  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
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| 24  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
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| 28  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 29  | ISSUE FOR CONSTRUCTION | 20/02/2018 |
| 30  | ISSUE FOR CONSTRUCTION | 20/02/2018 |

3922-326 Canterbury Road Hurstville Park



| Drawing Title |            |
|---------------|------------|
| Job No.       | Scale      |
| A15004        | 1:1000 GMS |
| Issue No.     | Issue      |
| A.5.30        | B11        |



**3** Cross Ventilation and Solar Access - Level 3  
 1:500

LEVEL 3 (8 UNITS)  
 Solar Access - 8 UNITS  
 Ventilation - 8 UNITS



**2** Cross Ventilation and Solar Access - Level 2  
 1:500

LEVEL 2 (10 UNITS)  
 Solar Access - 9 UNITS  
 Ventilation - 3 UNITS

**TOTAL 28 UNITS**  
 2 Hours Solar Access = 71.4%  
 Ventilation = 18 UNITS = 64.3%



**1** Cross Ventilation and Solar Access - Level 1  
 1:500

LEVEL 1 (10 UNITS)  
 Solar Access - 3 UNITS  
 Ventilation - 4 UNITS



**2** Cross Ventilation and Solar Access - Level 2  
 1:500

LEVEL 2 (10 UNITS)  
 Solar Access - 9 UNITS  
 Ventilation - 3 UNITS



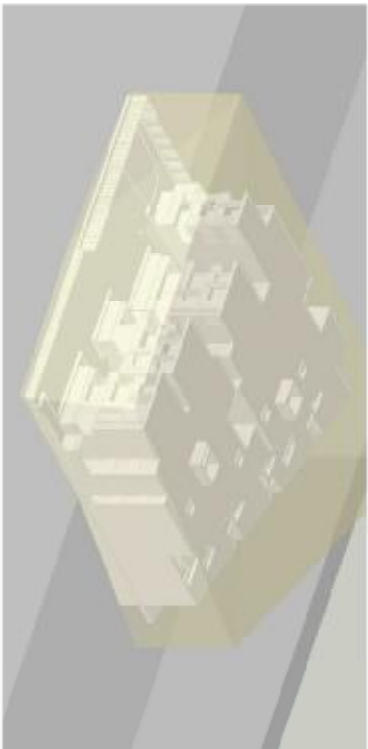


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 51 SULLY ST, WESTON ROAD, MACQUARIE PARK  
 HORTON ADVISORS  
 Henry Huang NSW 2152  
 Eric Kim NSW 2185

| No. | Description                     | Date       |
|-----|---------------------------------|------------|
| 82  | Final for council consideration | 07.11.2018 |
| 83  | Final for council consideration | 09.11.2018 |
| 84  | Final for council consideration | 20.11.2018 |
| 85  | Final for council consideration | 20.11.2018 |
| 86  | Final for council consideration | 20.11.2018 |
| 87  | Final for council consideration | 20.11.2018 |
| 88  | Final for council consideration | 20.11.2018 |
| 89  | Final for council consideration | 20.11.2018 |
| 90  | Final for council consideration | 20.11.2018 |
| 91  | Final for council consideration | 20.11.2018 |
| 92  | Final for council consideration | 20.11.2018 |

**Client Name**  
**Dunkirk Property Development**  
**Project Name**  
**322-326 Canterbury Road Hurstons Park**

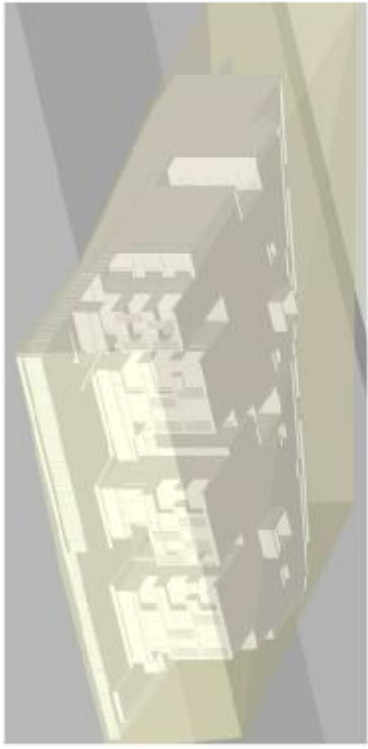
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**Height Compliance Diagrams**  
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 Drawing No. A 6.02  
 ISSUE B1



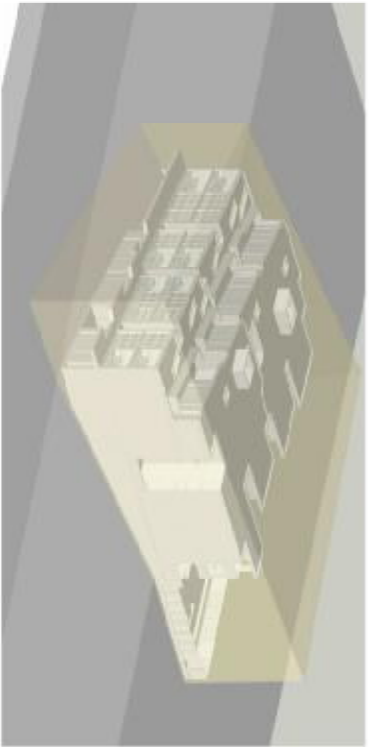
VIEW FORM SOUTH - WEST



VIEW FORM SOUTH - EAST



VIEW FORM NORTH - WEST



VIEW FORM NORTH - EAST



2 pre-adaptable Unit A1.05  
1 : 100



1 Post-adaptable A1.05  
1 : 100

|  |  |  |   |  |  |
|--|--|--|---|--|--|
|  |  |  | 1 (0)1 0066 7443<br>W. WWW.MMA.COM.AU<br>M. FRANK@MMA.COM.AU<br>G. 204, 20, Waterloo Road, Mosquito Park<br>Mosquito Park<br>Level 15, NSW 2185 |  |  |
| Issue Description<br>801 Revised for consultant coordination<br>802 Revised for consultant coordination<br>803 Revised for consultant coordination<br>804 Revised for consultant coordination<br>805 Revised for consultant coordination<br>806 Revised for consultant coordination<br>807 Revised for consultant coordination<br>808 Revised for consultant coordination<br>809 Revised for consultant coordination<br>810 Revised for consultant coordination<br>811 Revised for consultant coordination |  |  | 204<br>205, 207, 208<br>209, 210, 211<br>212, 213, 214<br>215, 216, 217<br>218, 219, 220  |  |  |
| Contract<br>Darkirk Property Development<br>Project Name<br>922-926 Canterbury Road Hurstville Park  |  |  | Drawing Title<br>Adaptable Unit A.1.05 Plans - Adaptable Apartment<br>Add No. S208<br>Drawing No. A.1.05<br>Issue B11                           |  |  |



1 Pre-adaptable 2Bed Unit B1.02.B2.02  
1 : 100



2 Post-adaptable 2Bed Unit B1.02.B2.02  
1 : 100



L 102 98156 7412  
 M: 08 9392 7412  
 F: 08 9392 7412  
 P: 08 9392 7412  
 333 Waterloo Road Macquarie Park  
 NSW 1585  
 Eric Kim 08 9392 7412

| NO | DESCRIPTION               | DATE       |
|----|---------------------------|------------|
| 01 | Issue for Client Approval | 20/02/2018 |
| 02 | Issue for Client Approval | 20/02/2018 |
| 03 | Issue for Client Approval | 20/02/2018 |
| 04 | Issue for Client Approval | 20/02/2018 |
| 05 | Issue for Client Approval | 20/02/2018 |
| 06 | Issue for Client Approval | 20/02/2018 |
| 07 | Issue for Client Approval | 20/02/2018 |
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| 21 | Issue for Client Approval | 20/02/2018 |
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| 45 | Issue for Client Approval | 20/02/2018 |
| 46 | Issue for Client Approval | 20/02/2018 |
| 47 | Issue for Client Approval | 20/02/2018 |
| 48 | Issue for Client Approval | 20/02/2018 |
| 49 | Issue for Client Approval | 20/02/2018 |
| 50 | Issue for Client Approval | 20/02/2018 |

Client Name: **Dunxirk Property Development**

Project Name: **322-326 Canterbury Road Hurstons Park**



| Drawing Title  |              |            |       |
|--|--------------|------------|-------|
| Adaptable Unit B.102 / 202 Place - Adaptable Apartment | Scale        | Drawing No | ISSUE |
|  | 1 : 100 (A3) | A15044     | B1    |

Attachment C- Clause 4.6 Exception to Development Standards

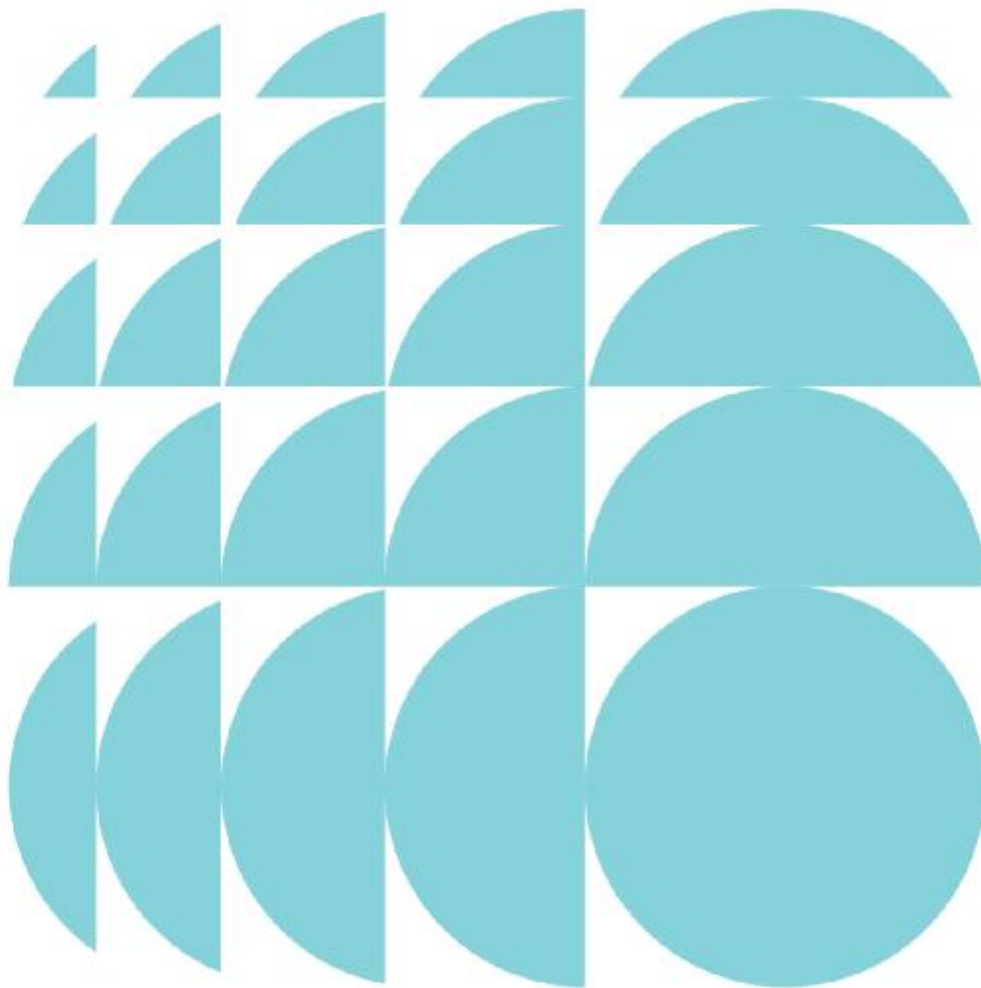
**ETHOS  
URBAN**

**Clause 4.6 Variation - Floor Space Ratio**

322-326 Canterbury Rd, Hurlstone Park  
Shop Top Housing

Submitted to Inner West Council  
On behalf of Dunkirk Property Developments

26 May 2018 | 15838



---

CONTACT

Chris McCallide Senior Planner [chris@ethosurban.com](mailto:chris@ethosurban.com) 9955 0602

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This document has been prepared by:



Chris McCallide 28 May 2018

This document has been reviewed by:



Michael Rowe 28 May 2018

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322-326 Canterbury Rd, Hurlstone Park | Clause 4.6 Variation | 26 May 2019

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|     |  |    |
|-----|--|----|
| 1.0 | Introduction   | 3  |
| 2.0 | Development Standard to be Varied  | 4  |
| 3.0 | Justification for Contravention of the Development Standard  | 5  |
| 3.1 | Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case     | 5  |
| 3.2 | Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard                              | 9  |
| 3.3 | Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard | 10 |
| 3.4 | Other Matters for Consideration  | 11 |
| 4.0 | Conclusion   | 12 |

## 1.0 Introduction

This clause 4.6 variation request has been prepared by Ethos Urban on behalf of Dunkirk Property Developments. It is submitted to Inner West Council (Council) in support of a development application (DA) for Shop Top Housing at 322-326 Canterbury Rd, Hurlstone Park.

Clause 4.6 of the Ashfield Local Environmental Plan 2013 (the LEP) enables Council to grant consent for development even though the development contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

This clause 4.6 variation request relates to the development standard for Floor Space Ratio (FSR) under clause 4.4 of the LEP and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated 30 October 2017.

This clause 4.6 variation request demonstrates that compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the standard.

This clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the FSR development standard, the proposed development:

- continues to meet the objectives of the floor space ratio;
- will not have adverse impact to the overall appearance of the proposal;
- will not result in a development which is out of character with that envisioned for the B6 Enterprise Corridor development along Canterbury Road;
- will allow for inclusion of Wintergardens that face the busy and noisy Canterbury Road in mitigating adverse external impacts to these apartments.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the LEP.

## 2.0 Development Standard to be Varied

This clause 4.6 variation request seeks to justify contravention of the development standard set out in clause 4.4 of the LEP. Clause 4.4 provides that the FSR for a building shown on the Floor Space Ratio Map (sheet 2) for the site is 1.5:1. The area of the Site is 1,795.3m<sup>2</sup> and the proposal provides a total gross floor area (GFA) of 2692.5m<sup>2</sup> (excluding Wintergardens), which equates to an FSR of 1.5:1.

Council have advised that it considers that the Wintergardens contribute to the buildings GFA. In our opinion the subject Wintergardens do not meet the definition of GFA based on the judgements of *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009* and *GGD Danks Street P/L and CR Danks Street P/L v Council of the City of Sydney [2015] NSWLEC 1521*. Nevertheless, to address Council's concerns, incorporating the Wintergardens as GFA would increase the GFA to a total of 2,880.5m<sup>2</sup> which equates to an FSR of 1.61:1.

The proposed FSR incorporating the Wintergardens as GFA would therefore exceeds the maximum FSR development standard by 0.11:1 (7.33%).

### 3.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the LEP provides that:

#### 4.6 Exceptions to development standards

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

Further, clause 4.6(4)(a) of the LEP provides that:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
- the consent authority is satisfied that:
    - the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - 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
  - the concurrence of the Secretary has been obtained.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

- Wehbe v Pittwater Council [2007] NSW LEC 827; and
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009.

The relevant matters contained in clause 4.6 of the LEP, with respect to the FSR development standard, are each addressed below, including with regard to these decisions.

#### 3.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of the LEP is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request. The five methods outlined in *Wehbe* include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**)
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**)
- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**)

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- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary is the *First and Third Method*.

**3.1.1 The underlying objectives or purposes of the development standard**

The objectives of the development standard contained in clause 4.4 of the LEP are:

- to establish standards for development density and intensity of land use,
- to provide consistency in the bulk and scale of new development with existing development,
- to minimise adverse environmental impacts on heritage conservation areas and heritage items,
- to protect the use or enjoyment of adjoining properties and the public domain,
- to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation.

**3.1.2 The objectives of the standard are achieved notwithstanding non-compliance with the standard**

The proposed variation to the FSR control will still result in a development that achieves the objectives of the development standard, as follows:

**Objective (a): to establish standards for development density and intensity of land use**

The proposal will result in a development of shop top housing that will result in a minor exceedance of the FSR control as a result of incorporating the Wintergardens as GFA. The proposal is consistent with the LEP and DCP for the site and will contribute to the revitalisation and activation of Canterbury Road. The built form density and intensity is ultimately consistent with the desired density for the site, despite the minor non-compliance of the FSR, which is required to provide Wintergardens for those dwellings that face noisy Canterbury Road facade.

The LEP sets a height control of 13 metres and the DCP establishes a three-storey street wall height. The proposal remains within the 13 metres LEP height control and provides a three-storey street wall height at Canterbury Road.

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

The site is located along the Canterbury Road corridor which establishes height and FSR that transitions up in intensity adjacent to the road corridor from the surrounding residential precincts. The built form of the proposal responds to the topography of the site to provide a three-storey development at the Canterbury Road facade and a three-storey facade at the western facade. The three-storey height is consistent with Council's vision for new development of the site in the U6 Interzone Corridor zone. The proposal remains within the 13 metres height control of the LEP at all times. Appropriate setbacks that comply with the requirements of SFP265 and the ADQ are provided to all neighbouring development whilst a zero of boundary setbacks is provided to the north and south boundary in acknowledgement of the reciprocal redevelopment of these sites in the future.

Accordingly, despite the minor non-compliance with the FSR control the proposal provides a bulk and scale that is consistent with new development in the U6 Interzone Corridor zone and incorporates suitable transition in scale to existing development. By inclusion of adequate setbacks as called for by the ADQ, further, adding or removing the wintergardens would not change the overall bulk of the building and the resulting bulk/scale outcome is the same.

**Objective (c): to minimise adverse environmental impacts on heritage conservation areas and heritage items**

The site contains no heritage items and is not located in a heritage conservation area. The proposal has no impact to the heritage value of any heritage items or heritage conservation areas due to the separation of these from the site.

**Objective (d): to protect the use or enjoyment of adjoining properties and the public domain**

The proposal is consistent with the DCP and presents a built form consistent with that permitted under the LEP. The proposal does not exceed the 13 metre height limit and scales a minor exceedance to the FSR control. Overall, the massing of the proposal seeks to be located along the eastern and northern parts of the site to reduce impact to adjoining properties and public domain.

The proposal responds to the development potential of adjoining development which is permitted the same development controls as the subject site. Accordingly, a zero setback has been provided to side boundaries consistent with the future development of adjoining sites as identified by Map 2 of Chapter D, Part 7 of the DCP. This arrangement gives good spatial definition to Canterbury Road particularly in relation to future development.

To maintain the amenity of residential dwellings to the rear, along Queen Street, no buildings are proposed in the rear of the site and a generous setback of between 9 - 15.7 metres is provided to the rear boundary, consistent with design guidance provided by the ADG.

There will be limited overshadowing to residential private open space and living areas of neighbouring development to the west. Shadowing only occurs in the early morning and is completely off properties by midday. These properties will continue to enjoy solar access for the entire afternoon for a minimum of 3 hours. The creation of wintergardens instead of open balconies has no impact on shadows.

The adjoining southern properties at 328-330 Canterbury Road are permitted to be developed in the future for shop top housing to maximum 13 metres height. These properties will accordingly be permitted to be built with a zero setback at the common boundary. This will prevent shadow impacts for development to the south.

**Objective (e): to maintain an appropriate visual relationship between new development and the existing character of areas that are not undergoing, and are not likely to undergo, a substantial transformation**

The LEP establishes controls for the B6 Enterprise Corridor that encourages development of employment uses and a mix of compatible uses along the Canterbury Road corridor. The proposal has responded to existing and future development considerations when developing the massing for the building. Accordingly, the proposal responds to the development potential of adjoining development which is permitted the same development controls as the subject site. Accordingly, a zero setback has been provided to side boundaries consistent with the future development of adjoining sites. This arrangement gives good special definition to Canterbury Road particularly in relation to future development.

A separation of between 9 - 15.7 metres is provided to existing residential dwellings to the east that will ensure an appropriate visual relationship is maintained, consistent with the setback guidance provided by the ADG.

**3.1.3 The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable**

The underlying objective and purpose of the FSR development standard is to establish an appropriate built form. The LEP therefore concentrates desired density development at the edge of the Canterbury Road corridor. The proposal is compliant with the objective as the numerical non-compliance is minor, resulting in a 7.33% exceedance than an otherwise compliant design. The exceedance does not contribute to the overall built form of the proposal and would otherwise not be visibly different to a building without Wintergardens.

**3.1.4 Better planning outcome**

Wintergardens have been incorporated to those units with a balcony facing the Canterbury Road frontage to provide relief and mitigation of acoustic impacts arising from the busy road and heavy traffic. Where possible the design has

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sought to incorporate dual aspect balconies where a dwelling is provided with a balcony facing Canterbury Road and with an additional balcony or windows facing the west 'quiet side' of the site. This is provided by a combination of balconies and interior light wells due to the limitations offered by the depth of the block and setbacks required to surrounding residential dwellings.

The result of this design means that dwellings are provided with a wintergarden for their primary balcony and in some instances second balconies. This is more than what would typically be included within a residential development and is an acknowledgement of the site's unique constraints. The Wintergardens are therefore not provided to allow residents to enjoy an additional enclosed, habitable space, rather they are a necessity for the amenity of these apartments fronting a busy main road. This is supported by the DCP which recommends wintergardens be provided to development at the site.

Accordingly, removal of the Wintergardens to remove these spaces as contributing to GFA would be a poorer outcome for the future residents than the minor exceedance to the FSR control.

### 3.1.5 Wintergardens as GFA

The proposal has sought to design the Wintergardens in response to relevant Land and Environment Case Law in relation to this issue, particularly:

- *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009; and*
- *GGD Danks Street P/L and CR Danks Street P/L v Council of the City of Sydney [2015] NSWLEC 1521.*

In response to the above case law the wintergardens are designed to provide a combination of glazed operable louvres and fixed open aluminium louvers that are not capable of enclosing the space, ensuring there is a degree of openness and exposure to the elements. Based on these judgements our interpretation is that the wintergardens are therefore not considered outer walls and do not contribute to the calculation of GFA.

In reference to *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009*. The key principles established by the judgement are:

- Glazed bi-fold windows and louvres would be an "outer wall" and the floor area of balconies would not be excluded from GFA.
- Glazed bi-folds windows and louvres are different to other operable walls, such as timber or aluminium louvres or screens, which are adjusted to respond to environmental conditions such as sunlight and privacy and could not be left permanently closed without adversely impacting on the amenity of the rooms within the unit.
- For a balcony to be open space there should be a degree of openness and exposure to the elements. An area that can by choice be permanently enclosed and used as a habitable room would not be open space.

Accordingly, in order for a balcony not to be included as GFA:

- the fixed balustrade component must be less than 1.4 metres high; and
- if louvres or screens are proposed above the balustrade that enclose the space they must:
  - be operable; and
  - not be fixed glass.

The proposed wintergarden components are as follows:

- Fixed glass balustrade 0.3 to 1.1m (39%);
- Operable glass louvres 0.9m (32%);
- Weather proof aluminium louvres 0.6m (29%).

In accordance with the findings of *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009* the wintergardens should be excluded from the calculation of GFA as:

- The fixed balustrade is less than 1.4m high (being 1.1m);

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- The glazed louvers above the balustrade are not fixed glass and are operable with a degree of openness;
- The aluminium louvers above the balustrade are fixed in the open position and cannot be closed, creating a degree of openness to the elements; and
- The fixed aluminium louvers constitute 23% of the overall facade which is a significant portion of the overall facade that cannot be closed and would be open to the elements.

In reference to BGD Danks Street FA and CR Danks Street FA v Council of the City of Sydney [2015] NSWLEC 1521 guidance is provided on how to treat an outer wall for the purposes of the definition of GFA. In summary, the judgment found that...

- Definition of GFA requires the floor area of each level to be measured from the internal face of external walls, measured at a height of 1.4m above ground;
- To be defined as an external wall the wall must provide the weatherproofing that maintains the internal wall surface as a dry wall (an external wall has a specific function that distinguishes it from an internal wall);
- The internal face of an external wall in the definition of GFA must refer to the interior surface of the wall that forms the facade or exterior of a dwelling, being the wall that weatherproofs the interior space, and cannot refer to the exterior surface of the outer wall;
- As the wintergarden space can be wet during inclement weather (due to fixed open louvers providing a degree of openness), the wintergarden cannot be characterised as internal floor space.

Applying the above principles means wintergarden cannot be classified as an 'outer wall' for the purposes of the GFA definition as the wintergarden does not weatherproof the interior space.

The Wintergardens are a critical feature of the apartments that face Canterbury Road and have been designed in accordance with the above principles. Notwithstanding, Council have a different interpretation and view the Wintergardens as contributing to GFA. Accordingly, this Clause 4.6 variation request has been prepared that demonstrates that notwithstanding the Wintergardens being GFA the proposal still achieves the objectives of Clause 4.4 and the inclusion of the Wintergardens will provide a better planning outcome despite the minor non-compliance.

### 3.1.6 Conclusion on clause 4.6(3)(a)

- The proposed development continues to meet the objectives of the floor space ratio, as discussed at Section 3.1.2 above.
- The extent of the variation (7.33%) is minor and will not have adverse impact to the overall appearance of the proposal.
- The proposed variation will not result in a development which is out of character with that envisioned for the B6 Enterprise Corridor development along Canterbury Road.
- The variation will allow for inclusion of Wintergardens to all balconies of Level 2 and 3 that face the busy and noisy Canterbury Road which will mitigate adverse external impacts to these apartments.

### 3.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

#### 3.2.1 Ground 1: The objectives of the standard are achieved

As outlined at Section 3.1.2 the bulk and scale of the proposal achieves the objectives of Clause 4.4 of the LEP.

#### 3.2.2 Ground 2: Compliance is unreasonable

As outlined at Section 3.1.3 requiring the proposal to comply with the FSR control would not result in a building that would be otherwise dissimilar to that proposed.



### 3.2.3 Ground 3: Better planning outcome

In relation to the subject site Wintergardens are required to mitigate the acoustic impacts caused by the heavy traffic along Canterbury Road. Wintergardens provide residents with acoustic relief by the incorporation of design features such as awnings that allow the space to be both open and closed as necessary. Accordingly it is not uncommon for Wintergardens to feature on development along busy road corridors such as Canterbury Road.

Due to the site's unique position and extent of acoustic impact from Canterbury Road there is considered sufficient planning grounds to justify the minor FSR exceedance to allow the incorporation of Wintergardens along the Canterbury Road facade.

### 3.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

#### 3.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the FSR development standard, for the reasons discussed in section 3.1.2 of this report.

#### 3.3.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the B6 Enterprise Corridor Zone, as demonstrated below.

##### Objective (a): To promote businesses along main roads and to encourage a mix of compatible uses.

The proposal will deliver a mix of compatible uses including business premises, shops and shop top housing which are permissible with consent by the Land Use Table of the LEP.

##### Objective (b): To provide a range of employment uses (including business, office, retail and light industrial uses)

The dominant use of the ground floor is business use, providing generous employment space that will provide employment opportunities. The three new shops/business premises will activate the Canterbury Road street frontage; consistent with the DCP and objectives of the B6 Enterprise Corridor zone.

##### Objective (c): To maintain the economic strength of centres by limiting retailing activity

The zone does not permit retail uses. Accordingly, the proposal has sought approval for business premises which allows for a wide range of uses that would contribute to the economic strength of the centre, including:

- *an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or*
- *a service is provided directly to members of the public on a regular basis,*
- *a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like.*

In addition, the proposal seeks approval for the tenancies to accommodate shops which includes premises that sell merchandise such as groceries, personal care products, giftware, music, homewares, stationary, electrical goods and gifts or that have any such merchandise.

#### 3.3.3 Overall public interest

The proposal is assessed against the objectives for the B6 Enterprise Corridor zone in Section 3.3.2 above, and against the objectives for the FSR standard in Section 3.1.2 previously.

Despite the non-compliance with the FSR standard, the proposal is considered to be in the public interest as it nevertheless satisfies the zone objectives and objectives of the development standard. The proposal will revitalise

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and enhance the locality providing street activation and increased employment opportunities. It will also increase housing supply which will ease downward pressure of house prices.

### 3.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director General must consider the following matters:

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

These matters are addressed in detail below.

#### 3.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The variation of the FSR development standard does not raise any matter of significance for State or regional planning. We do note, however, that the proposal is consistent with the most recent metropolitan plan for Sydney, Metropolis of Three Cities, in that it:

- provides accommodation and services to meet the needs of the local population, both at the present time and in the future as Sydney's population grows and ages;
- allows for the use of the Site to continue to provide local employment opportunities;
- is well located to public transport connections; and
- does not affect any heritage assets.

#### 3.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As demonstrated above, there is no public benefit in maintaining the development standard in terms of State and regional planning objectives. As noted in the preceding sections, the additional FSR would allow the inclusion of Wintergardens along the busy Canterbury Road facade and the proposed variation would not give rise to any adverse environmental impacts.

The site is unique in seeking to locate massing close to a busy road and to located height and densities away from residential development to the west. It is not considered that there would be any public benefit by maintaining the FSR development standard, particularly where key planning issues deriving from FSR, such as privacy and overshadowing, have been resolved through architectural design.

#### 3.4.3 Clause 4.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.

No other matters require consideration by the Secretary.

#### 4.0 Conclusion

The assessment above demonstrates that compliance with the FSR development standard contained in clause 4.4 of the LEP is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a better outcome in planning terms.

This clause 4.6 variation demonstrates that, notwithstanding the non-compliance with the FSR development standard, the proposed development:

- continues to meet the objectives of the floor space ratio;
- will not have adverse impact to the overall appearance of the proposal;
- will not result in a development which is out of character with that envisioned for the B6 Enterprise Corridor development along Canterbury Road;
- will allow for inclusion of Wintergardens to all balconies of Level 2 and 3 that face the busy and noisy Canterbury Road, mitigating adverse external impacts to these apartments; and
- will result in a minor exceedance (7.33%) of the standard which is considered appropriate in these circumstances.

Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 of the LEP.