




 DEVELOPMENT ASSESSMENT REPORT				
Application No.	DA/2021/1367			
Address	55 Smith Street SUMMER HILL NSW 2130			
Proposal	Demolition of the exiting structures on site, and construction of a Residential Flat Building containing 35 Residential Apartments including Affordable Housing, over basement carparking Parking level.			
Date of Lodgement	29 December 2021			
Applicant	Appwam Pty Ltd			
Owner	Appwam Pty Ltd			
Number of Submissions	Initial: 22 Note: The current application was notified to all residents of the Summer Hill Suburb.			
Value of works	\$11,004,631.00			
Reason for determination at Planning Panel	Number of submissions			
Main Issues	Occupant amenity, Non-compliance with SEPP 65, Non-compliance with SEPP Housing, in-consistent with the existing streetscape.			
Recommendation	Refusal			
Attachment A	Reasons for refusal			
Attachment B	Plans of proposed development			
Attachment C	Clause 4.6 Exception to Development Standards			
Attachment D	Conditions (If approved)			
				
LOCALITY MAP				
Subject Site		Objectors		↑ N
Notified Area		Supporters		
Note: Due to scale of map, not all objectors could be shown.				

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of the existing structures on site, and construction of a residential flat building containing 35 residential apartments including affordable housing, over 1 basement parking level at 55 Smith Street Summer Hill.

The application was notified to surrounding properties and 22 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- The proposal results in significant non-compliances with the design principles and guidelines of the ADG as outlined by SEPP 65.
- The proposal is non-compliant the non-discretionary development standards for solar access and unit dimensions outlined within the SEPP Housing 2021.
- The proposal is inconsistent with the desirable elements of the existing streetscape as required by the SEPP Housing 2021.
- The proposal results in a 0.37m or 4.1% variation to Clause 4.3 – Height of buildings under the ALEP 2013.
- The proposal is not considered to meet the requirements of clause 5.10 – Heritage Conservation.

The non-compliances are not acceptable and therefore the application is recommended for refusal.

2. Proposal

This report is an assessment of the application submitted to Council for demolition of the existing structures on site, and construction of a residential flat building containing 35 residential apartments, over 1 basement parking level. The current application is made under the provisions of Division 1 – In-fill affordable housing within Part 2 of the SEPP Housing 2021.

Of the proposed 35 residential units, 17 units are proposed to be in Building A and 18 units in Building B. The dwelling mix comprises:

- 6 x Studio units
- 10 x 1-bedroom units
- 14 x 2-bedroom units
- 5 x 3-bedroom units

The proposed basement has parking for 44 vehicles, 9 motorcycles and 8 bicycles, including 3 accessible parking spaces and lift access to units.

3. Site Description

The subject site is located on the northern side of Smith Street, between Lackey Street and Fleet Street. The site consists of 3 lots and is irregular in shape with a total area of 2,607.68 sqm and is legally described as Lot 1 in Deposited Plan 905473, Lot 1 in Deposited Plan 796910 and Lot 13 Section 1 in Deposited Plan 560.

The site has a frontage to Smith Street of 44.24 metres. The survey of the site does not indicate that the site is subject to any easements burdening the site.

The site contains one and two storey industrial buildings. The adjoining sites contain a mixture of residential flat buildings, multi-dwelling housing, attached, semi-detached and detached dwellings.

The subject site is not a heritage item but is located adjacent to the Items 621 (former House 67 Smith Street) and Item 500 (attached houses 13–15 and 17–19 Fleet Street) under *ALEP 2013*. The site is also adjacent to the Fleet Street Heritage Conservation Area C44 under *ALEP 2013*.

The site does not contain significant trees but is in the vicinity of several significant trees on the adjoining sites.



Figure 1: Zoning map

4. Background

4(a) Site history

Subject Site

Application	Proposal	Decision & Date
Pre DA 009.2019.00000054.001	Partial demolition of existing commercial/industrial buildings. 55 Smith	NA 18/11/2019
DA 010.2017.00000182.001	Alterations and change of use from a warehouse to a Gymnasium (Indoor) with signage (57 Smith Street)	Approved 24/01/2018
DA 005.1998.00000030.001	Change Of Use (second hand office furniture warehouse) (57 Smith Street)	Approved 28/05/1998
DA 005.1995.00000252.001	Storage of belts & leather goods + light manufacturing(57 Smith Street)	Approved 17/12/1996
DA 006.1993.00000083.001	Additions To Factory – Storeroom (57 Smith Street)	Approved 29/04/1993
DA 010.2014.00000158.001	Shop top housing- Alterations and addition to existing building to create an additional one bedroom unit by converting existing storage/roof space on the upper floor (61-63 Smith Street)	Approved 21/11/2014
DA010.2013.00000089.001	Change of use of the existing building to the front of the site to a personal training studio (gym) and internal alterations (61-63 Smith Street)	Approved 19/11//2013
DA 010.2013.00000089.002	s.96 modification to DA 10.2013.89- Amendments include increase operating hours on Saturday from 8.00 am to 3.00pm to 8.00am to 6.00 pm. Operating hours for other days are not changed (61-63 Smith Street)	Approved 12/03/2014
010.2012.00000250.001	Change of use to light industrial/storage of costume jewellery (61-63 Smith Street)	Approved 04/02/2012
PDA 009.2019.54	Partial Demolition of existing structures and construction of a boarding house.	Advice Issued
DA/2020/1022	Demolition of existing structures and construction of a boarding house containing 97 boarding rooms (incl on site managers) over 1 basement level of parking.	Refused by the IWLPP on the 10 August 2021.

REV/2021/0024	S8.2 Review of Development Application DA/2020/1022 which sought consent for demolition of existing structures and construction of a boarding house containing 93 boarding rooms (incl on site managers) over 1 basement level of parking	Approved by IWLPP at August meeting (subject to deferred commencement conditions).
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Surrounding properties

65 – 75 Smith Street, Summer Hill

Application	Proposal	Decision & Date
10.2012.51	Demolition of existing industrial buildings, alterations and addition to the existing heritage item, construction of 28 dwellings within 4 new residential buildings and a new underground car park for 41 cars	Approved

4(b) Application history

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

Date	Discussion / Letter / Additional Information
03 May 2022	<p>Council Officers wrote to the applicant and outlined concerns regarding the following matters:</p> <ul style="list-style-type: none"> Street Setbacks Waste management Revised Detailed Site Investigation (DSI) Acoustic report Flooding Traffic Affordable Housing Unit Depths Communal Open Space (COS) Solar Access to Units Cross Ventilation and Windows to Units Unit Sizes Internal Unit Dimensions Balcony Balustrades Bicycle Parking Adaptable Units Material Finishes Services Sustainability <p>Within this letter Council Officers asked the applicant to provide amended plans/additional information addressing/responding to all of the above concerns.</p>
04 July 2022	The applicant provided additional information/amended plans to address some of the points raised within Council's letter.

21 July 2022	Following an initial review of the provided amended plans Council Officers wrote to the applicant and outlined that the amended scheme could not be supported and recommended that the current application be withdrawn.
1 August 2022	The applicant outlined that they would not be withdrawing but instead requested that the application be determined based on the plans originally submitted at lodgement (not the amended plans provided 04 July 2022).

The current report is an assessment of the plans originally submitted at the time of lodgement as per the request of the applicant.

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 (Resilience and Hazards) 2021*
- *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 (Housing) 2021*

The following provides further discussion of the relevant issues:

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

Chapter 4 Remediation of land

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

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

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

In considering the above, there is evidence of contamination on the site.

The applicant has provided a report that concludes:

*Based on the historical review, environmental information, proposed development and laboratory results of the investigation, **the site can be made suitable** for the proposed development, subject to the following:*

- *It is considered that the site would be deemed suitable for the proposed development subject to completion of a Remediation Action Plan (RAP) in order to manage the abovementioned environmental concerns.*
- *State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land sets the regulatory framework for contaminated land and remediation works in NSW. SEPP 55 defines the regulations for Category 1 and Category 2 remediation works. The remedial works to be undertaken at the site constitute Category 2 works (as defined in SEPP 55). Appropriate permissions for remediation should be obtained prior to commencement.*

On the basis of this report the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated.

In consideration of Section 4.16 (2) the applicant has provided a preliminary investigation, DSI and RAP.

A search of Council's records in relation to the site has indicated that the site is one that is specified in Section 4.6 (4)(c).

The application involves does not involve category 1 remediation under *SEPP (Resilience and Hazards) 2021*.

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 not acceptable having regard to the nine design quality principles and is therefore recommended for refusal. The proposal is not considered to meet the following design quality principles:

Principle 1: Context and Neighbourhood Character

The current design was reviewed by Council's Architectural Excellence Panel (AEP) on 19 April 2022. At this meeting the AEP reviewed the architectural drawings, photomontage and landscape drawings and considered the developments compliance with design quality principle 1: Context and neighbourhood character.

The AEP noted that the scheme does not have sufficient merit for support and that the overall strategy did not include any urban design or contextual analysis to justify the site planning and overall design strategy. In this instance the panel noted that a detailed urban design analysis is essential given the scale and context of the proposal and the unusual deep and narrow configuration of the site. The panel raised the following concerns:

- a) *The proposed site planning strategy and the built form character (including the roof form, architectural expression and materiality) appears inconsistent with the immediate context.*
- b) *A lack of street address for 27 out of 35 apartments is also a concern arising primarily from a flawed site planning strategy.*
- c) *The Panel considers that the proposed building separation distances within the proposal and with the adjoining properties are constrained and do not match with the guidance offered under the NSW Apartment Design Guide Parts 2F and 3F.*

The panel concluded that the current scheme has low architectural merit and should be refused.

It is considered that the development does not respond to its context, does not respond to the built features of the area and does not contribute to the overall character of the streetscape and neighbourhood. The current scheme does not re-enforce or respond to its context within Smith Street and presents an overall form which is significantly inconsistent with the established area.

The current proposal represents a substantial re-development of the site and provides a rare opportunity to substantially improve/ re-enforce an emerging streetscape. This opportunity is one which will not be repeated within the immediate future and as such a high degree of emphasis to public domain, streetscape and urban design should be enforced. The current scheme does not take advantage of the significant re-development opportunity and therefore cannot be considered compliant with the principle of context and neighbourhood character.

Principle 2: Built Form and Scale

The proposal is not compliant with the requirements and intention of principle 2, which seeks development to define the public domain, contribute to the character of streetscapes and provide internal amenity and outlooks. The proposal has a substantial opportunity to improve and define a new resident entry and interface with the public domain which would contribute to the character of streetscape. Concerns are raised with the following elements of the current scheme:

- a) A 9m LEP height limit applies to the site, which is more suitable for a 2-storey residential typology such as terrace houses. The current 3 storey-built form and roof form, tries to emulate terrace house typology, however the design is not successful in this attempt and its bulk and scale appears out-of-character.
- b) 2 storey terrace houses, if provided with an appropriate emphasis on the vertical rhythm and urban design with internal pedestrian streets or similar, would create a finer grain-built form character appropriate to the surrounding context. The ground floor levels of these dwellings would allow better street integration and activation when provided with direct individual street entries and individual gardens.

The current scheme results in a poor public domain interface and poor unit amenity for units. The proposal is not considered compliant with the requirements of built form and scale and is recommended for refusal.

Principle 3: Density

The proposal is not compliant with the requirements and intention of principle 3, which seeks development to achieve a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Concerns are raised with proposed subterranean spaces of the northern building and that the proposal does not meet minimum requirements for solar access to units. In this instance the additional FSR granted by the provisions of the SEPP Housing 2021 compromises residential unit amenity and do not enable a high level of amenity for residents and apartments. The proposal is not considered compliant with the requirements of density and is recommended for refusal.

Principle 4: Sustainability

The proposal is not compliant with the requirements and intention of principle 3, which seeks development to include use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation. With regards to sustainability concerns are raised with the following elements of the current scheme:

- a) The proposal does not meet guidance for mid-winter solar access within Part 4A of the ADG, including minimum 2 hours direct sunlight within living rooms and private open spaces of at least 70% apartments between 9am and 3pm at mid-winter.
- b) 14 out of 35 apartments (40%) would receive no direct sunlight between 9am and 3pm at mid-winter, which exceeds the maximum 15% criteria within the ADG. The proposed double loaded corridor configuration provided to both buildings with the intention to maximise yield is primarily the reason for this inconsistency with the ADG Part 4A criteria. A review of some proposed units has highlighted almost sole reliance upon skylights for the provision of solar access to south facing units within Block A.
- c) The proposal is lacking commitments for achieving sustainability targets for water, energy and waste efficiency, including provision of solar panels, ceiling fans and rain-water capture for watering plants.
- d) The proposed dark roof colour will result in increased heat load and require additional insulation to meet NCC requirements and that this will impact on the roof structure depth and 9m height LEP Height limit.

The current proposal does not incorporate sufficient means to ensure sustainability for the amenity and liveability of residents. Instead, acceptance of the current proposal would result in a high reliance on technology and operation costs to ensure liability.

Principle 6: Amenity

The proposal is not compliant with the requirements and intention of principle 6, in that the current application does not ensure appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, indoor and outdoor space and efficient layouts. A review of the provided plans has highlighted the proposed areas of studio apartments are undersized, that layouts of units are not readily furnishable, that there is in-sufficient access to natural light and ventilation and that windows to proposed units are undersized and poorly located to provide amenity. Overall, it is considered that acceptance of the current proposal would result in poor amenity for occupants/units and that the proposal does not meet the requirements of principle 6.

Principle 9: Aesthetics

As outlined above under principle 1, the proposal has been reviewed by Council's AEP panel and is considered to result in a poor visual appearance with significant inconsistency with other new works and historic dwellings in the area. Acceptance of the proposal in its current form is expected to result in a development which does not respond to the existing or future local context and does not represent an acceptable outcome for the streetscape.

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 IWCDP 2016 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 current proposal results in 17% (440sqm) of the site being dedicated for the use of Communal Open Space (COS), this is a variation to the minimum 25% required by the ADG. A review of the provided COS has also highlighted that less than 50% will receive a minimum 2-hour solar access on 21 June. The intent of this control is to ensure that residents have sufficient recreation opportunities to connect to the natural environment.

Examination of the provided COS has outlined significant concerns with the proposed rate, the quality, and the ability of the spaces to obtain solar access. A majority of the proposed COS is occupied by transitional pathways and side boundary setbacks. Usable elements of the proposed COS are limited to the centre of the site, within the 12m separation setbacks of Blocks A and B. These spaces will receive minimal solar access during June 21 and provide poor amenity for occupants. As discussed above nearly 40% of all proposed units receive no direct solar access on 21 June, because of this residents will be heavily reliant on COS for amenity and outdoor space. It is inadequate that the proposed COS does not achieve the minimum required rate and minimum solar access requirements. Acceptance of the proposed variations would result in unreasonable reliance on public parks and other outdoor spaces as residents attempt to obtain sufficient recreation opportunities and connection to the natural environment.

Visual Privacy/Building Separation/Street Setback

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

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

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

Comment:

The proposal seeks consent for a 1.2m to nil western (side) boundary setback to Block A/B and a 5.5m northern (rear) boundary setback to Block B. The ADG outlines that the aims of these controls are to ensure sufficient light and air, provide adequate privacy and retain rhythm or pattern between buildings.

Analysis of these proposed setbacks and the proposed street setback has confirmed that the development is inconsistent with the rhythm of the street and would unreasonably block sightlines to the heritage item at the neighbouring 67 – 75 Smith Street. The proposed building alignment and orientation of Block A parallel to the front boundary of the site is at odds with neighbouring sites (67 – 75 Smith Street & 53 Smith Street) and would present an irregularity/inconsistency that would further promote the visibility of the development in the streetscape. Furthermore the 1.2m setback of Block A (1.8m at level 2 and 3) is situated within close proximity to the neighbouring heritage item and threatens to visually dominate the item. The proposed setbacks are not in alignment with the development at 67-75 Smith Street), which has successfully setback the development from the heritage item. The proposed setbacks do not retain the rhythm or pattern between buildings and is unacceptable.

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 current scheme does not meet the above requirements for a minimum 2 hours direct sunlight within living rooms and private open spaces of at least 70% apartments between 9am and 3pm at mid-winter. Instead, the proposal achieves 60% (21 units) obtaining the minimum solar access requirements, while 40% (14 units) would receive no direct sunlight between 9am and 3pm at mid-winter. The intent of this control is to ensure that new developments reduce the reliance on artificial lighting and heating, improving energy efficiency and residential amenity through pleasant conditions to live and work.

In this instance the proposed scheme has not been designed to account for the site constraints and reasonable attempts for amenity have not been explored. The proposed double loaded corridor configuration provided to both buildings with the intention to maximise yield is primarily the reason for this inconsistency with the above requirements. A review of some proposed units has highlighted almost sole reliance upon skylights for the provision of solar access to south facing units within Block A. Acceptance of such an outcome is expected to result in unreasonable amenity loss to occupants and force dependence on artificial lighting and heat. Such an outcome is unsupportable, and the application is recommended for refusal.

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. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.

Comment:

48% (17 units) achieve the requirements for natural cross ventilation. Although the applicant states that the proposal achieves the required 60%, a review of the applicant’s cross ventilation diagrams has confirmed that units marked as compliant detail unrealistic ventilation (see units 6, 9, 10, 28, 30, 35). The proposed non-compliance is not recommended for support, with allowance of such an outcome expected to result in the development being heavily reliant on artificial cooling and resulting units having significantly reduced amenity for occupants. This variation arises from the double loaded corridor configuration provided to both buildings which has the intention to maximise yield, instead of maximising unit amenity.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area

Comment:

The proposal outlines floor to ceiling heights of 2.7m to habitable spaces and 2.4m to non-habitable spaces. However, concerns are raised with regard to the floor-to-floor (top of slab to top of slab) heights of 3m. The proposed 3m separation does not accommodate sufficient room for the installation of services in ceilings. Acceptance of the proposed 3m floor to floor heights is likely to result in the proposed ceiling heights of 2.7m being reduced to accommodate services. Any proposed reduction to the 2.7m ceiling heights is likely to reduce the amenity of the units and is not supported. The proposed floor to floor heights are inadequate and are not recommended for support.

Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m ²
1 Bedroom apartments	50m ²
2 Bedroom apartments	70m ²
3 Bedroom apartments	90m ²

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Comment:

Analysis of the proposed ground floor studio units (units 2-4) of Block A has highlighted a variation to the minimum 35m² requirement, with units of 32-33m² proposed. This variation has been reviewed and is unsupportable. The proposed variation results in spaces not readily furnished by occupants and provides little to no amenity. In-sufficient justification has been provided regarding why compliance with the minimum unit sizes can't be provided and it is considered that acceptance of the variation will result in un-liveable spaces which provide little to no amenity.

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.

Comment:

A review of the proposal has highlighted significant concerns with the bedroom openings to units 5, 10, 18, 22, 23, 28, 30 and 35. Each of these proposed units have bedroom openings which are not considered to meet the above requirements and provide extremely little to no light or ventilation opportunities to occupants. Many of these proposed bedrooms have window openings located in positions that are not readily visible from within the room itself and results in occupants largely enclosed by blank walls. Such an outcome fails to provide sufficient occupant amenity and is recommended for refusal.

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

A BASIX Certificate was submitted with the application.

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

Chapter 2 Affordable housing - Division 1 – In-fill affordable housing

Clause	Standard	Proposed	Compliance
16 (1)(a) - Zone	Development is permitted with consent under another environmental planning instrument	The site is zoned R3 – Medium Density Residential under the ALEP 2013. Within this zone Residential flat Buildings are permitted with consent.	Yes
16 (1)(b)	At least 20% of the gross floor area of the building resulting from the development will be used for the purposes of affordable housing,	At least 20% of the GFA resulting from the development will be affordable housing	Yes
16 (1)(c)	For development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area	The site is within: <ul style="list-style-type: none"> 400m walking distance to the Summer Hill railway station 	Yes
Clause	Floor Space Ratio	Proposed	Compliance
17 (1) - FSR	Maximum FSR as per LEP is 0.7:1. 23 of the 35 or 66% of units are proposed to be dedicated for affordable housing. This represents at least 50% of the total GFA being used for affordable housing. As such under clause 17(1)(a)(i) and additional 0.5:1 FSR bonus is applicable. The sites total FSR is 1.2:1 (3,129.22sqm).	The development proposes a 1.1:1 or 2,865.4m ²	Yes

Clause	Non-discretionary Development Standards	Proposed	Compliance
18 (2)(a) – Site Area	Minimum site area of 450sqm	The site has an area of 2,607.4m ²	Yes
18 (2)(c) – Landscaped Area	At least 30% of the site area is landscaped area.	39% of the site is to be landscaped area.	Yes
18 (2)(d) – Deep Soil Landscaping	<ul style="list-style-type: none"> At least 15% of the site is deep soil landscaped area. Each area of deep soil landscaping has minimum 3m dimensions. 	<ul style="list-style-type: none"> 22% of the site is deep soil landscaped area. Minimum dimensions of 3m proposed. 	Yes
18 (2)(e) – Solar Access	Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm mid winter	60% (21 units) obtain the minimum solar access requirements, while 40% (14 units) would receive no direct sunlight between 9am and 3pm at mid-winter.	No – See assessment below
18 (2)(g) – Parking	<ul style="list-style-type: none"> for each dwelling containing 1 bedroom—at least 0.5 parking spaces, for each dwelling containing 2 bedrooms—at least 1 parking space, for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces <p>Total Required = 30 Spaces</p>	The development proposes to provide 44 parking spaces within the basement. This represents 14 spaces above the minimum requirements. The extra parking spaces have been counted towards the sites overall GFA/FSR.	Yes
18 (2)(h) – Unit Dimensions	For development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment	Ground floor studio units (units 2-4) of Block A result in a variation to the minimum 35m ² requirement, with units of 32-33m ² proposed.	No – See assessment above under ADG.
Clause	Design requirements	Proposed	Compliance
19 (3) – Character of the Area	Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the residential development is compatible with—the desirable elements of the character of the local area	Proposal is not considered to be compatible with desirable elements of the local area.	No – See assessment below.

Clause	Continued Application of SEPP 65	Proposed	Compliance
20 – SEPP 65	Nothing in this Policy affects the application of <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> to residential development to which this Division applies.	The proposals compliance with SEPP 65 has been assessed above.	Noted.
Clause	Must be used for affordable housing	Proposed	Compliance
21 (1) – Affordable Housing	Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued— (a) the affordable housing component of the residential development will be used for affordable housing, and (b) the affordable housing component will be managed by a registered community housing provider	The current application is recommended for refusal. Should the application be approved appropriate conditions requiring the affordable housing component of the development to be used as affordable housing will be recommended to be imposed on any consent.	Yes

The proposal seeks consent to vary at clauses 18 (2)(e) and (h) of the Housing SEPP 2021. These clauses are listed as non-discretionary development standards. Section 4.15 (3) of the EP&A Act 1979 states:

If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards—

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

The proposal’s non-compliance with the above non-discretionary development standards means that the non-compliances may be used as reasons for refusal. In accordance with the requirements of 4.15(3)(b) of the EP&A Act 1979, any request to vary the non-discretionary development standards must be accompanied by a clause 4.6 objection. At this time no clause 4.6 variation for the above controls has been submitted, as such the proposed variations cannot be supported, and the application must be refused.

Regardless of the above Council Officers have reviewed the proposed variations and provide the following response:

Solar Access

As outlined above under Clause 18(2)(e) of the SEPP Housing 2021:

Living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm mid-winter.

The current scheme results in 60% (21 units) obtaining the minimum solar access requirements, while 40% (14 units) would receive no direct sunlight between 9am and 3pm at mid-winter. This rate of solar access to units represents a substantial variation from the control and is not recommended for support. The proposed double loaded corridor configuration provided to both buildings with the intention to maximise yield is primarily the reason for the variation. Acceptance of the proposed variation is expected to result in poor amenity for occupants, with the applicant failing to provide sufficient justification to outline why compliance with the standard is unreasonable or unnecessary in the circumstances of the case or design solutions to improve solar access provision to south facing dwellings.

Character of the Area

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

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

The proposal does not limit development potential of surrounding sites as it is one of the last sites (not subject to heritage restrictions) to be re-developed. The proposal results in acceptable physical impacts on neighbouring sites, ensuring acceptable visual privacy, solar access and visual outlook is retained.

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

The proposed site planning strategy and the built form character (including the roof form, architectural expression and materiality) is inconsistent with the immediate context. Analysis of these proposed setbacks and the proposed street setback has confirmed that the development is inconsistent with the rhythm of the street and would unreasonably block sightlines to the heritage item at the neighbouring 67 – 75 Smith Street. The proposed building alignment and orientation of Block A parallel to the front boundary of the site is at odds with neighbouring sites (67 – 75 Smith Street and 53 Smith Street) and would present an irregularity/inconsistency that would further promote the visibility of the development in the streetscape. The proposed setbacks are not in alignment with the development at 67-75 Smith Street), which has successfully setback the development from the heritage item. The proposed setbacks do not retain the rhythm or pattern between buildings.

The subject sites three storey appearance to the rear of Block A and the roof slope/design to Block A is highly irregular and inconsistent with the established streetscape. This design preference is significantly out of character with the street. This inconsistency is best demonstrated through figures 2 and 3 below. The current 3 storey-built form and roof form, tries to emulate terrace house typology, however the design is not successful in this attempt and its bulk and scale appears out-of-character. Instead, it is considered more suitable for the development to be amended to present a 2-storey residential typology such as terrace houses. The overall scheme is considered to not fit in to the existing streetscape and character of the area. The proposed developments overall appearance is not in-keeping with the character of the area and does not reflect a built form/style that is compatible with the locality. The proposal is not compliant with the requirements of clause 19 (3) of the Housing SEPP 2021.



Figure 2 – Photomontages of the development within the existing streetscape. Red arrow indicates the location of proposed development.



Figure 3 – Photomontages of the development.

5(a)(v) *Ashfield Local Environment Plan 2013 (ALEP 2013)*

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

- Clause 1.2 - Aims of Plan
- Clause 2.3 - Land Use Table and Zone Objectives
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage Conservation
- Clause 5.21 - Flood Planning
- Clause 6.1 - Earthworks

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

The site is zoned R3 – Medium Density Residential under the *ALEP 2013*. The *ALEP 2013* defines the development as:

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

The development is permitted with consent within the land use table.

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

Standard	Proposal	Non-compliance	Complies
Height of Building Maximum permissible: 9m	9.37m	0.37m or 4.1%	No
Floor Space Ratio Maximum permissible: 1.2:1 (0.7:1 under ALEP 2013 + 0.5:1 FSR bonus under SEPP Housing 2021 clause 17(1)) or 3,129.22m ²	The development proposes an FSR of 1.1:1 or (2,865.4m ²)	N/A	Yes

i. Clause 4.6 Exceptions to Development Standards

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

- Clause 4.3 - Height of buildings

The applicant seeks a variation to the Height of Buildings development standard development standard under Clause 4.3 of the *Ashfield Local Environmental Plan 2013* by 4.1% (0.37metres).

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

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

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Ashfield Local Environmental Plan 2013* justifying the proposed contravention of the development standard which is summarised as follows:

- *The architectural design, layout and street presentation of the proposed flat building achieves a high-quality development. The proposed built form integrates with the established built form and character and is compatible with its surrounds.*
- *The proposed height maintains acceptable sky exposure to existing buildings adjoining or adjacent to the site and the objective is achieved. The height variation is very much limited to the lift overrun and does not affect the performance of the building in terms of preserving daylight.*
- *The lift overrun does not add an additional level and facilitates improved access to levels 1 and 2 of the building. At 3 storeys the building can rely on a stair however the lift provides improved access for all residents and visitors and assists with disabled access. The building height and form provides an acceptable transition and the minor additional bulk associated with the lift does not impact on the performance of the built form in providing a transition.*

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

It is considered the development is not in the public interest because it is not consistent with the objectives of the R3 – Medium Density Residential zone, in accordance with Clause 4.6(4)(a)(ii) of the *Ashfield Local Environmental Plan 2013* for the following reasons:

To provide for the housing needs of the community within a medium density residential environment.

- The proposal does introduce additional housing within the locality. However as seen within this report the design, layout and resulting amenity of the units is of a poor quality. Acceptance of the proposal while increasing unit numbers would not result in a development which provides appropriate or usable housing to meet the needs of the community.

To provide a variety of housing types within a medium density residential environment.

- The proposal provides a suitable unit mix for the locality however concerns regarding the amenity of the proposed units are significant.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- The proposal is solely for a residential flat building and is surrounded by similar residential uses. Sufficient land uses to meet day to day needs are located within the Summer Hill Town centre.

It is considered the development is not in the public interest because it is not consistent with the objectives of the Height of Buildings development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Ashfield Local Environmental Plan 2013* for the following reasons:

(a) to achieve high quality-built form for all buildings,

- The proposed site planning strategy and the built form character (including the roof form, architectural expression and materiality) is inconsistent with the immediate context. The current 3 storey-built form and roof form, tries to emulate terrace house typology, however the design is not successful in this attempt and its bulk and scale appears out-of-character. The proposal in its current form is not considered to be of a high quality built form.

(b) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,

- The proposal maintains satisfactory sky exposure to existing buildings and to parks, streets and laneways.

(c) to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,

- The proposed street setback is inconsistent with the rhythm of the street and would unreasonably block sightlines to the heritage item at the neighbouring 67 – 75 Smith Street. The proposed building alignment and orientation of Block A parallel to the front boundary of the site is at odds with neighbouring sites (67 – 75 Smith Street and 53 Smith Street) and would present an irregularity/inconsistency that would further promote the visibility of the development in the streetscape. The lack of contextual analysis with regard to the development and surrounds means that there is an insufficient built form transition between the subject site and neighbouring heritage item.

(d) to maintain satisfactory solar access to existing buildings and public areas.

- The proposal maintains satisfactory sky exposure to existing buildings and public areas.

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

The proposal thereby does not accord with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the *Ashfield Local Environmental Plan 2013*. For the reasons outlined above, there are insufficient planning grounds to justify the departure from the Height of Buildings development standard and it is recommended the Clause 4.6 exception not be granted.

ii. Clause 5.10 - Heritage Conservation

As seen below within figure 4 below, the subject site is not identified as a heritage item or located within a Heritage Conservation Area (HCA). The site is however adjoining heritage items and HCA. The current proposal has been reviewed by Council's Heritage Advisor who outlined that the application is not acceptable and does not satisfy the requirements of clause 5.10 of the ALEP 2013. The current proposal will give rise to impacts on neighbouring heritage items and is recommended for refusal. A review of the subject sites history and existing buildings has highlighted those structures to be demolished do not contain heritage significance. Council's Heritage Advisor has outlined the following concerns:

- The scale of the development is in-consistent within the streetscape and the surrounding housing stock and is not supported, as it does not contribute to the overall character of the HCA.
- The architectural drawings still contain insufficient information regarding the relationship between the proposal and the surrounding building stock, including the local heritage items. The impact on the adjacent local heritage items still has not been adequately demonstrated.
- The proposed dark colours are not characteristic of Heritage Conservation Areas in Summer Hill. The building materials used should correspond to the medium solar absorptancy range under BASIX, which roughly corresponds to the historic range of building materials utilised in the HCA in the Inner West LGA. Characteristically the end walls of rows of houses were a much lighter colour.

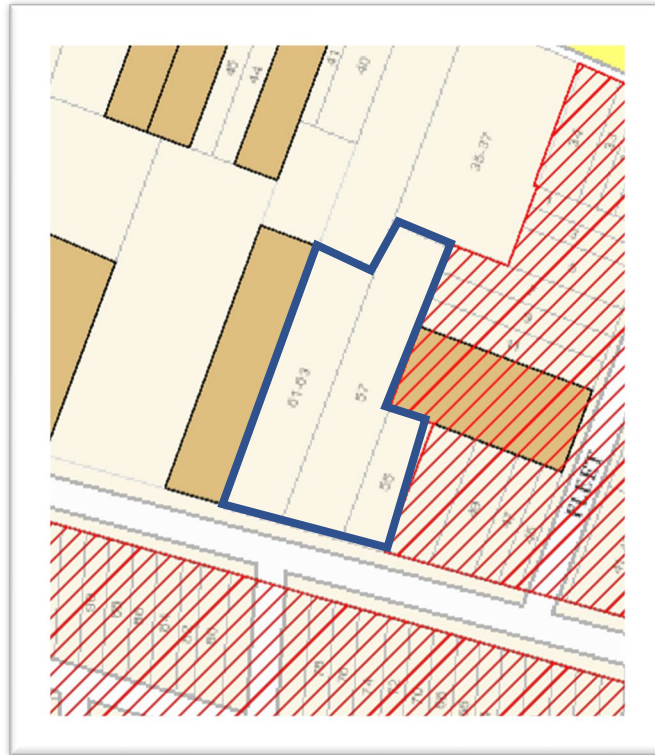


Figure 4: Heritage Map of the site and surrounds, subject site is identified by blue box

iii. Clause 5.21 – Flood Planning

The subject site is identified as a flood control lot and is subject to the provisions of clause 5.21 of the ALEP 2013 and IWC DCP 2016. As part of the current application the applicant has provided a flood investigation report.

As stated above this report recommends the construction a 225mm PVC pipe along the western boundary of the subject property to control and disperse overland flow paths from upstream (which currently ponds along the northern boundary). This pipe would transport the current overland flooding from the northern boundary, along the western boundary of the site to the Smith Street frontage where it would then be directed into an existing junction pit within the Smith Street Road reserve.

This solution has been reviewed by Council development engineers who outlined that the proposed overland flow management scheme is acceptable subject to the imposition of a deferred commencement condition. The current application is recommended for refusal, however should it be supported it is recommended that a deferred commencement condition which requires the submission of a revised stormwater plan detailing the following be imposed:

1. A 600 mm x 600 mm inlet pit inside the northern boundary.
2. An opening in the northern boundary wall capable of conveying 1% AEP (100 ARI) overland flow.

3. A longitudinal section along the inter allotment drainage line up to Council pipe including crossing services.

The provided flood investigation report and subsequent recommended measures ensure management of overland flow paths. The proposed scheme will ensure that the development is compatible with the flood hazard of the land and will not impact the proposed use as residential accommodation.

Subject to compliance with the above deferred commencement conditions the proposed development can meet the flood requirements of clause 5.21 of the ALEP 2013 and IWCDP 2016.

iv. Clause 6.1 Earthworks

The proposal involves extensive earthworks to facilitate the basement carparking and remediation of the site. The application has been supported by a Geotechnical Report which has assessed the subsurface conditions and other geotechnical conditions such as groundwater, footing design and earthworks. Subject to compliance with the recommendations made by the provided geotechnical report, the proposed development will not have detrimental effect on drainage patterns, soil stability, amenity of adjoining properties or adverse impacts on waterways or riparian land.

5(b) Draft Environmental Planning Instruments

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

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes

5(c) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The *Inner West Local Environment Plan 2022* (IWLEP) was gazetted on the 12th of August 2022. The IWLEP 2022 contains provisions for the prohibition of Residential Flat Buildings within the R3 Medium Density Zone. Therefore, the use currently sought by this development application would become prohibited under the IWLEP 2022. As per Section 1.8A – Savings provisions, of this plan, as the subject development application was made before the commencement of this Plan, the application is to be determined as if the IWLEP 2022 had not commenced.

Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* requires consideration of any Environmental Planning Instrument (EPI), and (1)(a)(ii) also requires consideration of any EPI that has been subject to public consultation. The subject application was lodged on 29 December 2021, on this date, the IWLEP was a draft EPI, which had been publicly exhibited and was considered imminent and certain.

Having regard to the savings provisions, the draft EPI does not alter the outcome of the assessment of the subject application.

5(d) **Development Control Plans**

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

IWCDCP2016	Compliance
Section 1 – Preliminary	
B – Notification and Advertising	Yes
Section 2 – General Guidelines	
A – Miscellaneous	
1 - Site and Context Analysis	No – see discussion
2 - Good Design	No – see discussion
3 - Flood Hazard	Yes
4 - Solar Access and Overshadowing	Yes
5 - Landscaping	Yes
6 - Safety by Design	Yes
7 - Access and Mobility	Yes
8 - Parking	Yes
14 - Contaminated Land	Yes
15 - Stormwater Management	Yes
B – Public Domain	
C – Sustainability	
1 – Building Sustainability	No – see discussion above
2 – Water Sensitive Urban Design	Yes
3 – Waste and Recycling Design & Management Standards	No – see discussion
6 – Tree Replacement and New Tree Planting	Yes
D – Precinct Guidelines	
Part 12 – 55-63 Smith Street, Summer Hill	Yes
E1 – Heritage items and Conservation Areas (excluding Haberfield)	
1 – General Controls	No – see discussion above
F – Development Category Guidelines	
5 – Residential Flat Buildings	No – see discussion

The following provides discussion of the relevant issues:

Chapter A – Good Design

The development application has been assessed against the provision of Chapter A section 2 – Good Design. These controls have been established to ensure that development:

- Responds and contributes to its context
- Contributes to the quality and identity of the area

- In areas of relatively stability, reinforces desirable element of established street and neighbourhood character

As mentioned above the proposal was referred to Council's Architectural Excellence Panel who reviewed the application against the principles of SEPP 65 and the Good Design Controls contained within the DCP. Following this review the AEP has outlined that that the scheme has low architectural merit and should be refused.

Concerns are raised with the built form interface to Smith Street. A 9m LEP height limit applies to the site, which is more suitable for a 2-storey residential typology such as terrace houses. The current 3 storey-built form and roof form, tries to emulate terrace house typology, however the design is not successful in this attempt and its bulk and scale appears out-of-character. The proposed design and slope of the roof to Block A is significantly contrasting to neighbouring existing developments and is not recommended for support.

The subject site should instead be redeveloped in a manner which utilises the south boundary to continue the existing streetscape pattern, setbacks and form created by 65 - 75 Smith Street. Utilisation of such a scheme would allow for a greater emphasis on softening public domain interface, through the introduction of landscaping and would provide opportunities for additional courtyards/terraces openings to proposed ground floor units.

The overall strategy of development is problematic as noted by the AEP, with the current development resulting in an inconsistency with the general character of the area.

The proposal is non-compliant with the requirements of the DCP which requires development to contribute to the quality and identity of the area and contribute to the creation of the desired future character. The current scheme is not reflective of the desired future character for the locality and is therefore recommended for refusal.

Residential Flat Buildings

The proposal has been assessed against the provisions of Chapter F – Part 5 Residential Flat Buildings. The development results in a variation to the requirements of DS6.1 and 6.2 which requires development to be sited to respond to:

- The requirements of the Apartment Design Guide
- Good streetscape principles
- The need to provide an open and attractive outlook to new and existing dwellings, and to avoid an overbearing scale for neighbouring properties

The current development results in non-compliances with the above requirements as it does not employ good streetscape principles and blocks sightlines to the neighbouring heritage item. The current proposal represents a substantial re-development of the site and provides a rare opportunity to substantially improve/ re-enforce an existing streetscape. This opportunity is one which will not be repeated within the immediate future and as such a high degree of

emphasis to public domain, streetscape and urban design should be enforced. It is considered that the DCP controls outlined above should be strictly enforced and that the proposal be refused due to its non-compliance with controls and subsequent poor streetscape/urban design outcomes.

Solar Access and Overshadowing

The revised plans have been assessed against the provisions of Solar Access and Overshadowing within the IWCDP 2016. Within this section neighbouring residential uses are required to:

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

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

Community and Pedestrian Safety

The entry and exit points of the development have been appropriately located to sure a high degree of passive surveillance, lighting and compliance with CPTED principles, all combining to improve community and pedestrian safety for those using the site. The provided driveway/footpath intersection has been appropriately designed to incorporate sufficient sightlines for vehicles entering and exiting. The proposal is expected to result in acceptable pedestrian safety.

Visual Privacy

In this instance due to the site's location within the Summer Hill precinct, orientation of the development/units and proximity of existing development means that some privacy impacts are unavoidable. Nevertheless, the proposal has been appropriately designed to respond to its context and actively avoids potential privacy impacts through the utilisation of setbacks, window design, façade treatments. Generally, the design has appropriately considered the neighbouring sites and actively sought to minimise or locate glazing and openings away from shared boundaries where possible.

Architectural plans submitted with the proposal detail that balustrades and balconies to the northern elevation of Block A and the northern and southern elevations of Block B are of an open form. Concerns are raised that this open form balustrade design will enable sightlines to and from units and as such a condition requiring them to be amended to be of a solid form is recommended to be imposed should the application be approved. The proposal results in an acceptable level of visual privacy for occupants and neighbours.

Acoustic Privacy

The application is supported by an acoustic report. Council's Environmental Health Officer has reviewed the application and outlined that the proposal will not give rise to significant acoustic impacts.

Traffic & Parking

In this instance the minimum parking rates for the development are specified by the SEPP Housing 2021. The SEPP requires the development to have a minimum of 30 parking spaces. The proposed basement has been designed to accommodate a maximum of 44 parking spaces and meets minimum requirements. The proposed rate of parking is acceptable given the current planning controls, proximity of the development to public transport and the merits of the case. The proposed rate of parking is unlikely to have substantial traffic generation impacts on the locality, with the driveway appropriately located on Smith Street, assisting to avoid queuing on surrounding roads. The proposed traffic generation impacts have been analysed by the applicant's traffic and parking assessment report, which was reviewed by Council engineers and found to be acceptable.

Waste Collection

The proposed waste collection area is accessed from Smith Street via the same driveway as private vehicles. The proposed collection area is to be utilised for residential waste collection. The applicant has outlined that waste collection is to occur via a private contractor. Such an arrangement is not supported by Council given the use of the building as a residential flat building. The current application could be readily re-designed to accommodate Council collection and avoid unnecessary presentation of bins awaiting collection to Smith Street, should the future strata choose not to continue with private collection (which is likely to occur once the cost of private collection is realised). This reliance on private collection is a variation from DS1.1 of Part 3, Chapter C – Sustainability within the IWCDCP 2016, which requires new development to accommodate Council waste and recycling services and is not supported.

Furthermore, the current proposal has not been designed to accommodate an internal waste cupboard or temporary waste disposal point on each of the proposed levels. Instead, future residents are required to take daily waste to the basement and dispose of it within the bin rooms. Such an arrangement is unrealistic and creates scenarios of daily waste being disposed of in common areas and the public domain. The lack of waste cupboard to each residential level is a variation to DS2.1 of Part 3, Chapter C – Sustainability within the IWCDCP 2016, which requires each level of a new development to have a cupboard or temporary area capable of accommodating up to two days' worth of waste. This variation is not supported, and the application recommended for refusal.

Stormwater

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

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Streetscape

The proposal will result in a distinct and lasting anomaly to the streetscape and results in a poor design outcome which may be readily fixed or improved under a revised scheme.

Urban Design

As noted by the AEP the overall strategy is problematic and is expected to result in a lack of correlation/integration between the existing and proposed.

Amenity

The proposal results in poor amenity outcomes for future occupants and does not propose units which will meet the day to day needs of the community. In particular the lack of access to useable COS, lack of solar access to units, undersized units and poorly designed waste management strategy all combine to result in the proposal achieving an extremely poor standard of living for future occupants.

Sustainability

The proposal has not been designed to meet the minimum required suitability requirements. The development in its current form would be heavily reliant on mechanical lighting, heating and cooling and does not propose to incorporate any sustainability measures through a suitable design so as to not rely on mechanical/artificial means to provide amenity.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the streetscape and for future occupants and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 21 days to surrounding properties. As a result of this notification 22 submissions were received in response.

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

- Scale of development
- Setbacks
- Contamination
- Character of area
- Visual Privacy
- Flooding
- Traffic and parking
- Impact on conservation area and heritage items
- Inadequate materials and finishes to HCA
- Overshadowing
- Waste Collection
- Non-compliance with Council Controls

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

Issue: Impact on property value

Comment: Impacts on property values are not a matter for consideration under the *EP and A Act 1979*.

Issue: Removes employment land

Comment: The site has a residential zoning and the proposed use is permissible in the zone. By virtue of its zoning it is expected and intended that residential development would occur on the site.

Issue: Impacts on neighbouring trees

Comment: The proposed impacts on neighbouring trees has been reviewed by Council's Urban Forest Team. This review concluded that the proposed setbacks would not impact neighbouring trees, subject to suitable conditions of consent.

Issue: No allowance has been made for the 500mm widening of the Smith Street Footpath

Comment: There is no applicable road widening in the *ALEP 2013* for this site. In the absence of a planning agreement or acquisition clause Council is unable to acquire land in the context of a development application.

Issue: Impacts from construction

Comment: Any impacts from construction will be suitably managed and mitigated through conditions of consent and compliance with the relevant conditions of consent if approved.

Issue: Retention of existing wall on the boundary on the eastern side

Comment: The boundary wall is proposed to be retained to a height of 1.8m. Retaining the wall for a further height would be inconsistent with the character of the area and reduce the improved visual sight lines to the heritage item. The proposal is considered to have acceptable impacts on visual privacy, subject to the recommended conditions.

Issue: Privacy Impacts from Unit 21 and 31

Comment: The proposed setbacks and design of the windows ensures that any sightlines obtained from these windows is indirect and not readily obtainable.

Issue: Safe removal of asbestos

Comment: The existing legislative framework provides the mechanism for the safe removal of asbestos and conditions would be included in any consent granted requiring its safe removal accordingly.

Issue: Consolidation of allotments

Comment: The proposed lot consolidation provides for an orderly and efficient use of land. No objections are raised to the lot consolidation.

5(h) The Public Interest

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

The proposal is contrary to the public interest and is not recommended for support.

6 Referrals

6(a) Internal

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

- Architectural Excellence Panel (AEP) – The proposal has been reviewed by Council’s Architectural Excellence Panel (AEP). The AEP has expressed significant concerns regarding layouts, amenity and material finishes. These concerns have not been satisfactorily addressed.
- Building Certification – The proposal has been reviewed by Council’s Building Certification Team, who outlined no objection to the proposal, subject to suitable conditions of consent. These conditions relate to BCA, fire safety and construction method compliance and have been included in the recommended conditions of consent in the event of approval.

- Development Engineering – Council’s Development Engineering Team have reviewed the proposed basement parking, stormwater, geotechnical report and traffic impact assessment and outlined concerns with the stormwater and parking aspects of the proposal, however subject to suitable conditions of consent the concerns can be resolved.
- Environmental Health – Council’s Environmental Health Team have undertaken a review of the development with regard to contamination and acoustics. Council’s Environmental Health Team have outlined no objection to the proposal, subject to suitable conditions of consent regarding contamination management and remediation, acoustic compliance and compliance with relevant Australian Standards.
- Heritage Advisor – The proposal has been reviewed by Council’s Heritage Advisor who outlined concerns regarding bulk/scale, finishes and impacts on heritage items. These concerns have not been satisfactorily addressed.
- Traffic Services – The proposal has been reviewed by Council Traffic Engineers who raise no objection to the amended proposal, subject to suitable conditions of consent, in the event of approval.
- Urban Forests – The proposal has been reviewed by Council’s Urban Forests Team who outlined no objection to the proposed landscape/planting plans subject to the imposition of conditions of consent.
- Resource Recovery (Residential) – The proposed residential waste collection and disposal methods have been reviewed and are not acceptable. Objection is raised to the proposed waste management scheme, with private garbage trucks collecting waste on-site and the lack of daily disposal points for residents.

6(b) External

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

- Ausgrid – The proposal has been referred to Ausgrid for review and comment. In response Ausgrid have outlined no objection to the proposal, subject to suitable conditions of consent.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Ashfield Local Environmental Plan 2013* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will result in significant impacts on the streetscape, will result in poor amenity to residents and is not considered to be in the public interest.

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

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.3 Height of Buildings of the *Ashfield Local Environmental Plan 2013*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is not satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are insufficient environmental grounds to support the variation. The proposed development will not be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2021/1367 for demolition of the exiting structures on site, and construction of a residential flat building containing 35 residential apartments including affordable housing, over 1 basement parking level at 55 Smith Street, Summer Hill for the following reasons:

Attachment A – Reasons of Refusal

1. The proposal has not satisfactorily demonstrated compliance with Schedule 1 – Design Quality Principles as required by clause 30 (2) (a) & (b) of SEPP 65 – Design Quality of Residential Flat Buildings.
2. The proposal has not satisfactorily demonstrated compliance with clauses 18 (2)(e) – Solar Access of Chapter 2, Division 1 – In-fill Affordable Housing of the SEPP Housing 2021.
3. The proposal has not satisfactorily demonstrated compliance with clauses 18 (2)(h) – Unit Dimensions of Chapter 2, Division 1 – In-fill Affordable Housing of SEPP Housing 2021.
4. The proposal has not satisfactorily demonstrated compliance with clauses 19 (3) – Character of the Area of Chapter 2, Division 1 – In-fill Affordable Housing contained within SEPP Housing 2021.
5. The proposal is inconsistent with the aims set out in clause 1.2(2) of the Ashfield Local Environmental Plan 2013 as the proposal does not enhance the amenity and quality of life for local communities, nor does it achieve a high-quality form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of the subject locality.
6. The proposal will have an unreasonable impact on adjoining and surrounding Heritage Items and is unacceptable in the Heritage Conservation Area, thereby not satisfying Clause 5.10 – Heritage Conservation, Ashfield Local Environmental Plan 2013.
7. The proposal is contrary to Performance Criteria PC6 of Chapter A, Part 2 of the Comprehensive Inner West Development Control Plan 2016 as it fails to provide high quality amenity through physical, spatial and environmental design.
8. The proposal is contrary to DS1.1 & DS2.1 of Part 3, Chapter C – Sustainability within the IWCDCP 2016, which requires new development to accommodate Council waste and recycling services at each level and the development does not have a cupboard or temporary area capable of accommodating up to two days' worth of waste.
9. The proposal is contrary to Performance Criteria PC2 of Chapter F, Part 5 of the Comprehensive Inner West Development Control Plan 2016 the proposal does not respond to and contribute to its context or reinforce desirable elements of the established street and neighbourhood.
10. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

11. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

Attachment B – Plans of proposed development

SHEET NAME	SHEET NUMBER
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BASE PLAN	AA101
SITE ANALYSIS	AA102
SITE PLAN	AA103
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SECTION	AA197
SECTION	AA198
SECTION	AA199
SECTION	AA200

UNIT NUMBER	INTERNAL AREA	EXTERNAL AREA	BEDROOMS	AFFORDABLE
UNIT 1	100	17	2 BED	NO
UNIT 2	32	5	STUDIO	YES
UNIT 3	32	5	STUDIO	YES
UNIT 4	32	5	STUDIO	YES
UNIT 5	109	21	3 BED	NO
UNIT 6	74	10	2 BED	NO
UNIT 7	74	10	2 BED	NO
UNIT 8	74	10	2 BED	NO
UNIT 9	75	12	2 BED	NO
UNIT 10	100	14	3 BED	NO
UNIT 11	52	9	1 BED	YES
UNIT 12	52	9	1 BED	YES
UNIT 13	52	9	1 BED	YES
UNIT 14	100	17	2 BED	NO
UNIT 15	43	5	STUDIO	YES
UNIT 16	43	5	STUDIO	YES
UNIT 17	43	5	STUDIO	YES
UNIT 18	109	22	3 BED	NO
UNIT 19	74	16	2 BED	YES
UNIT 20	74	16	2 BED	YES
UNIT 21	75	12	2 BED	YES
UNIT 22	105	12	2 BED	YES
UNIT 23	52	9	1 BED	YES
UNIT 24	52	9	1 BED	YES
UNIT 25	52	9	1 BED	YES
UNIT 26	74	16	2 BED	YES
UNIT 27	74	16	2 BED	YES
UNIT 28	74	16	2 BED	YES
UNIT 29	66	14	1 BED	YES
UNIT 30	75	12	2 BED	NO
UNIT 31	75	12	2 BED	NO
UNIT 32	52	9	1 BED	YES
UNIT 33	52	9	1 BED	YES
UNIT 34	52	9	1 BED	YES
UNIT 35	100	14	3 BED	NO
UNIT 36	100	14	3 BED	NO
TOTAL UNITS: 36				

STUDIO ROOMS:	06
1 BEDROOMS:	10
2 BEDROOMS:	14
3 BEDROOMS:	06

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REVISION	DATE	DESCRIPTION	AUTHOR	ISSUED BY
A	10/12/21	CONCEPT PLAN	JKL	J.P.

COVER PAGE

PRELIMINARY

NOT FOR CONSTRUCTION

MULTI UNIT RESIDENTIAL PROJECT

DEVELOPMENT APPLICATION

CLIENT: **SNP EQUITIES PTY LTD**

ADDRESS: **55-63 SMITH ST - SUMMER HILL**

SCALE @ A1:	SCALE @ A4:
DRAWN BY:	DATE: 10.12.21
CHECKED BY:	SHEET NUMBER: AA
PROJECT NUMBER: 20175	A100



Multi Dwelling
 Certificate number: 11470961_04
 BASIX Certificate number: 11470961_04

Project name: **Basix_Cert**
 1652 Smith Street Summer Hill NSW 2143
 Project type: **Multi Dwelling**
 Project start date: **13/08/2021**
 Project end date: **13/08/2021**

Project Score
 Water: 41
 Energy: 45
 Thermal Comfort: 45

Certificate Prepared by
 Name: **Gregory James EPH**
 ABN: **11 621 111 111**

Common area landscape
 Common area (m²): **100.0**
 Common area grass (m²): **100.0**
 Common area trees (m²): **0.0**

Assessor details
 Name: **Gregory James EPH**
 ABN: **11 621 111 111**

Project type
 No. of residential floor buildings: **2**
 No. of residential floor units: **17**
 No. of single-unit dwellings: **0**
 No. of single-unit townhouses: **0**

Site details
 Site area (m²): **100.0**
 Non-residential floor area (m²): **0.0**
 Residential floor area (m²): **100.0**
 Non-residential car spaces: **0**
 Residential car spaces: **0**

Description of project
 The tables below describe the buildings and common areas within the project.

Common area of unit building - Block-A

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_A	5.0	Common area	100.0
Ground floor stairs, Bk_A	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

1. Comments for Residential flat buildings - Block-A

(a) Water

(b) Thermal Comfort

(c) Energy

(d) Thermal Comfort

(e) Energy

(f) Thermal Comfort

(g) Energy

(h) Thermal Comfort

(i) Energy

(j) Thermal Comfort

(k) Energy

(l) Thermal Comfort

(m) Energy

(n) Thermal Comfort

(o) Energy

(p) Thermal Comfort

(q) Energy

(r) Thermal Comfort

(s) Energy

(t) Thermal Comfort

(u) Energy

(v) Thermal Comfort

(w) Energy

(x) Thermal Comfort

(y) Energy

(z) Thermal Comfort

Table 1: BASIX Summary

Item	Value	Target	Pass
Water	41	45	Pass
Energy	45	45	Pass
Thermal Comfort	45	45	Pass

Table 2: Common area landscape

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_A	5.0	Common area	100.0
Ground floor stairs, Bk_A	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 3: Common area of unit building - Block-A

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_A	5.0	Common area	100.0
Ground floor stairs, Bk_A	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 4: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 5: Project Score

Category	Score	Target	Pass
Water	41	45	Pass
Energy	45	45	Pass
Thermal Comfort	45	45	Pass

Table 6: Common area landscape

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_A	5.0	Common area	100.0
Ground floor stairs, Bk_A	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 7: Common area of unit building - Block-A

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_A	5.0	Common area	100.0
Ground floor stairs, Bk_A	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 8: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 9: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 10: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 11: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 12: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 13: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 14: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 15: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

Table 16: Common area of unit building - Block-B

Common area	Floor area (m ²)	Common area	Floor area (m ²)
Ground floor lobby, Bk_B	5.0	Common area	100.0
Ground floor stairs, Bk_B	4.0	Common area	100.0
Common area	100.0	Common area	100.0

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BASIX 01
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MULTI UNIT RESIDENTIAL PROJECT
 DEVELOPMENT APPLICATION
 CLIENT: **SNP EQUITIES PTY LTD**
 ADDRESS: **55-63 SMITH ST - SUMMER HILL**

SCALE: **A1**
 DRAWN BY: **AA**
 DATE: **10.12.21**

CHECKED BY: **JP**
 SHEET NUMBER: **20175**
 PROJECT NUMBER: **A101**

2. Common areas and central systems facilities

(f) Water

(f) If, in laying out the development, the applicant wishes to provide a water supply system for a common area, then the applicant must ensure that the water supply system for the common area is designed to meet the requirements of the BASIX Act.

(g) The applicant must ensure that the water supply system for the common area is designed to meet the requirements of the BASIX Act.

(h) The applicant must ensure that the water supply system for the common area is designed to meet the requirements of the BASIX Act.

(i) The applicant must ensure that the water supply system for the common area is designed to meet the requirements of the BASIX Act.

(j) The applicant must ensure that the water supply system for the common area is designed to meet the requirements of the BASIX Act.

(k) Energy

(k) The applicant must ensure that the energy supply system for the common area is designed to meet the requirements of the BASIX Act.

(l) The applicant must ensure that the energy supply system for the common area is designed to meet the requirements of the BASIX Act.

(m) The applicant must ensure that the energy supply system for the common area is designed to meet the requirements of the BASIX Act.

Common area ventilation systems

(n) Dwellings

(n) The applicant must ensure that the ventilation system for the common area is designed to meet the requirements of the BASIX Act.

(o) The applicant must ensure that the ventilation system for the common area is designed to meet the requirements of the BASIX Act.

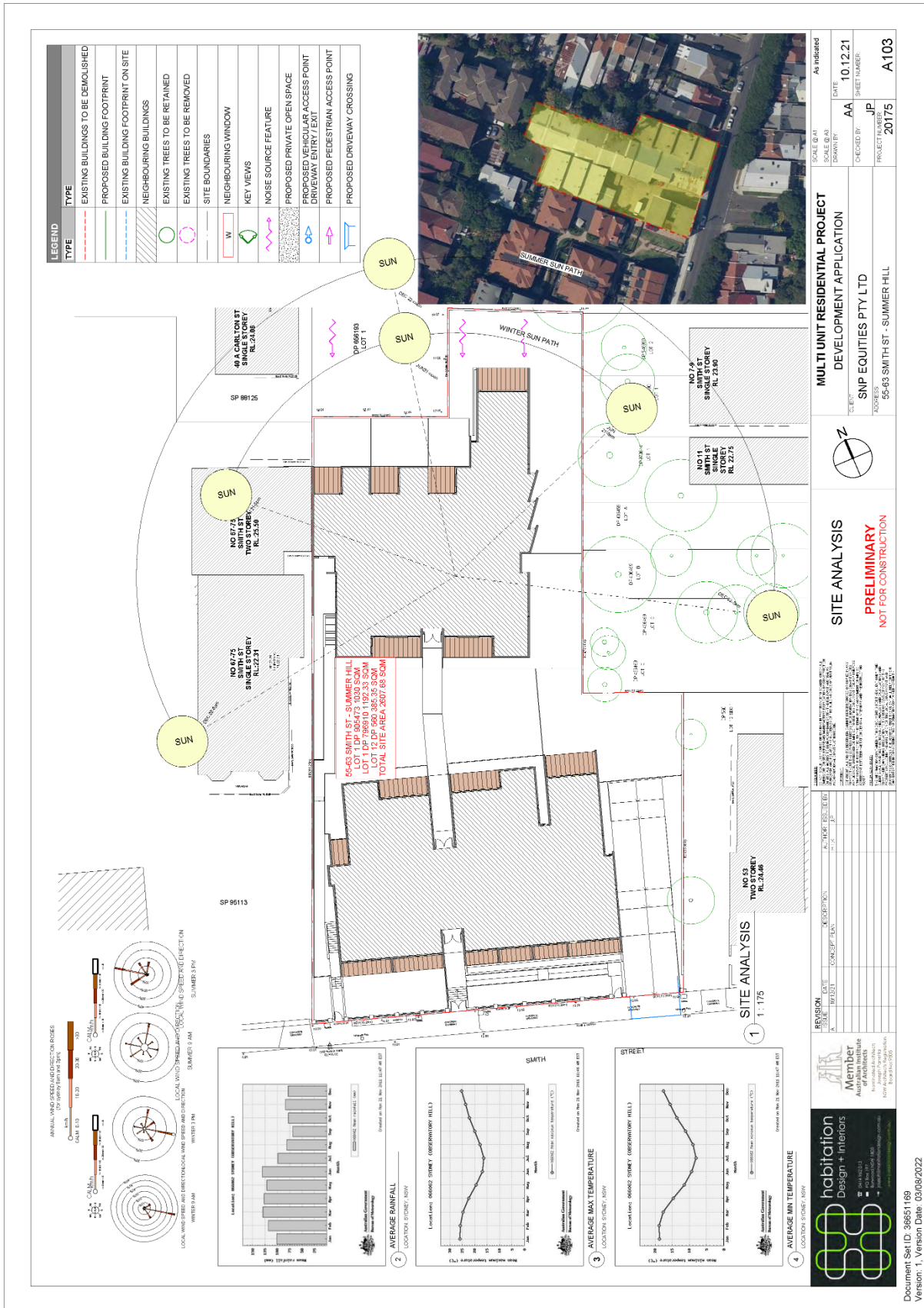
(p) The applicant must ensure that the ventilation system for the common area is designed to meet the requirements of the BASIX Act.

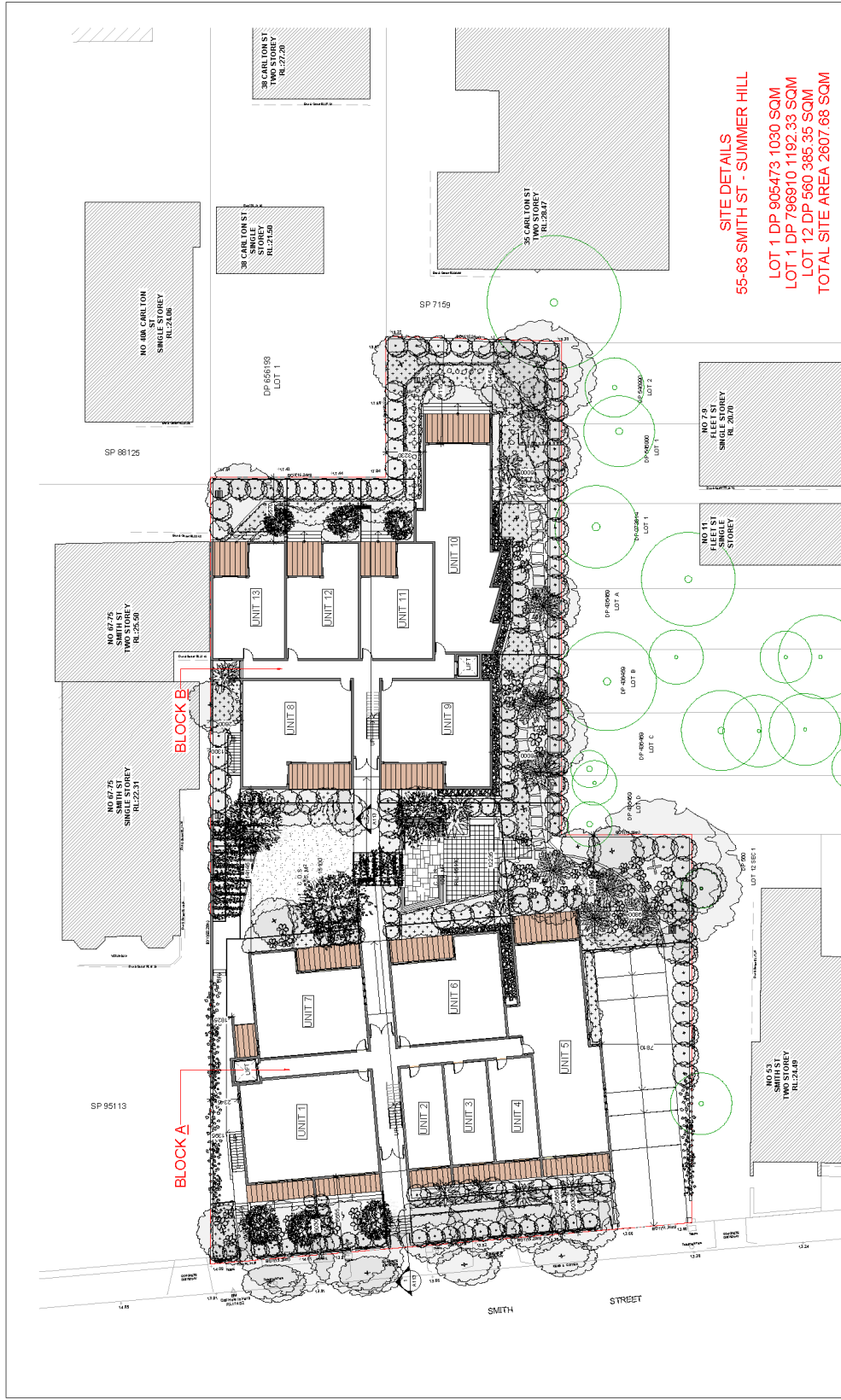
Common area lighting

(q) The applicant must ensure that the lighting system for the common area is designed to meet the requirements of the BASIX Act.

(r) The applicant must ensure that the lighting system for the common area is designed to meet the requirements of the BASIX Act.

(s) The applicant must ensure that the lighting system for the common area is designed to meet the requirements of the BASIX Act.





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NO	DATE	DESCRIPTION	AUTHOR	ISSUED BY									
A	10/12/21	CONCEPT PLAN	AA	JP									
<p>MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION</p> <p>CLIENT: SNP EQUITIES PTY LTD ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>		<p>SITE PLAN PRELIMINARY NOT FOR CONSTRUCTION</p>	<p>1:150</p>										



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NO.	DATE	DESCRIPTION											
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<p>CLIENT: SNP EQUITIES PTY LTD ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>		<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>AUTHOR</th> <th>ISSUED BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/12/21</td> <td>CONCEPT PLAN</td> <td>AA</td> <td>JP</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY	1	10/12/21	CONCEPT PLAN	AA	JP	<p>SCALE @ A1 1:100 SCALE @ A2 1:200 DRAWN BY AA CHECKED BY JP PROJECT NUMBER 20175 SHEET NUMBER A 105</p>
NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY									
1	10/12/21	CONCEPT PLAN	AA	JP									
<p>BASEMENT FLOOR PLAN PRELIMINARY NOT FOR CONSTRUCTION</p>		<p>MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION</p>	<p>CLIENT: SNP EQUITIES PTY LTD ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>										

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SCALE @ A1	1:100
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PROJECT NUMBER	20175
SHEET NUMBER	A 106

MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION

CLIENT:
SNP EQUITIES PTY LTD
 ADDRESS:
 55-63 SMITH ST - SUMMER HILL

GROUND FLOOR PLAN

PRELIMINARY
 NOT FOR CONSTRUCTION

NOTES:
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 2. ALL WALLS ARE 200mm THICK UNLESS OTHERWISE SPECIFIED.
 3. ALL FLOORS ARE TO BE FINISHED TO THE FINISH LEVEL INDICATED.
 4. ALL ROOFS ARE TO BE FINISHED TO THE FINISH LEVEL INDICATED.
 5. ALL EXTERIOR WALLS ARE TO BE FINISHED TO THE FINISH LEVEL INDICATED.
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Member Australian Institute of Architects 100 RIVER ST SYDNEY NSW 2000 PH: 02 9231 1111 WWW.AIAA.COM.AU		MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION LEVEL ONE PRELIMINARY NOT FOR CONSTRUCTION		CLIENT: SNP EQUITIES PTY LTD ADDRESS: 55-63 SMITH ST - SUMMER HILL	

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SCALE @ A2	
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PROJECT NUMBER	20175
	A 108

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT:
 SNP EQUITIES PTY LTD
 ADDRESS:
 55-63 SMITH ST - SUMMER HILL

LEVEL TWO
PRELIMINARY
 NOT FOR CONSTRUCTION

NOTES:
 1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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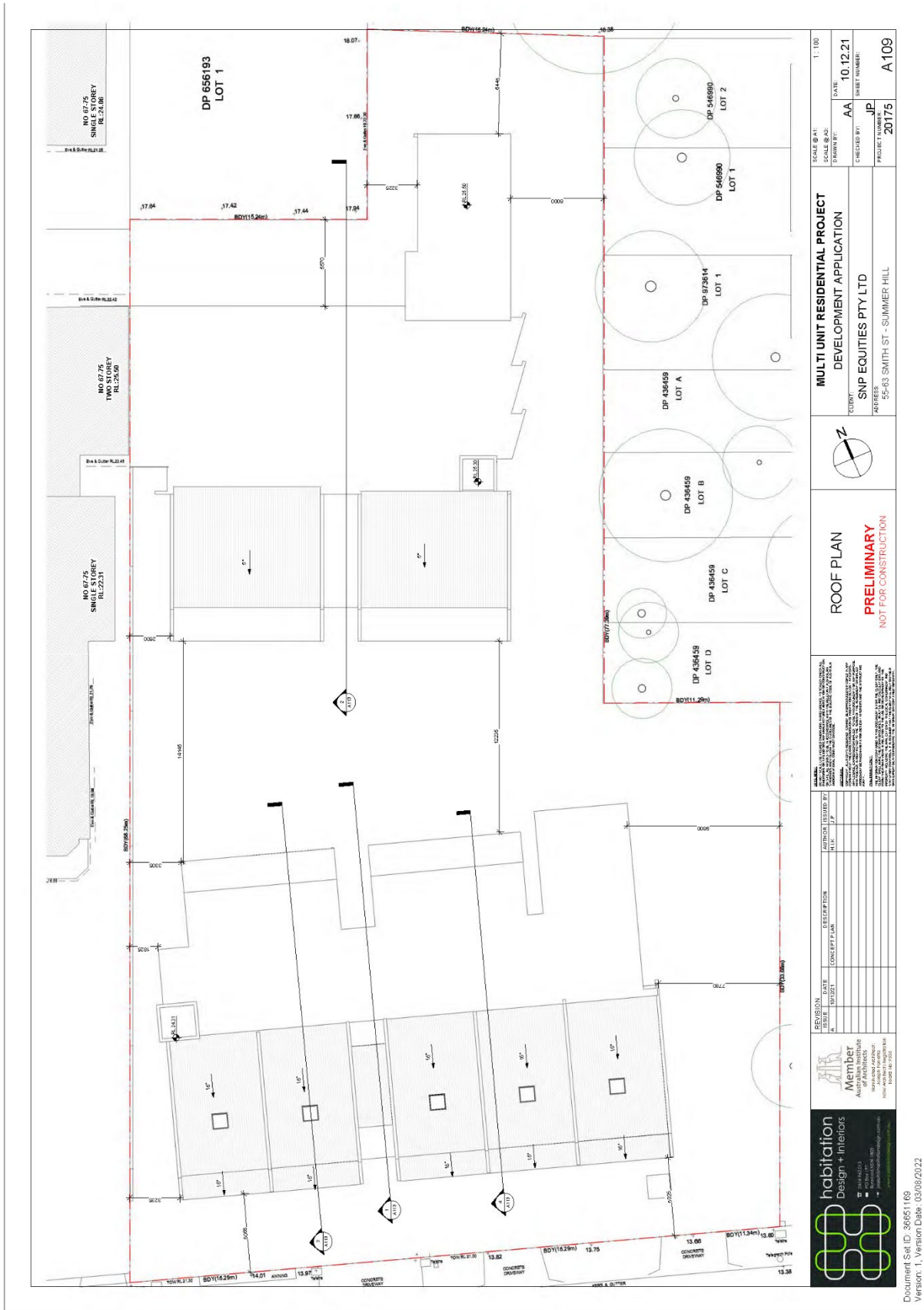
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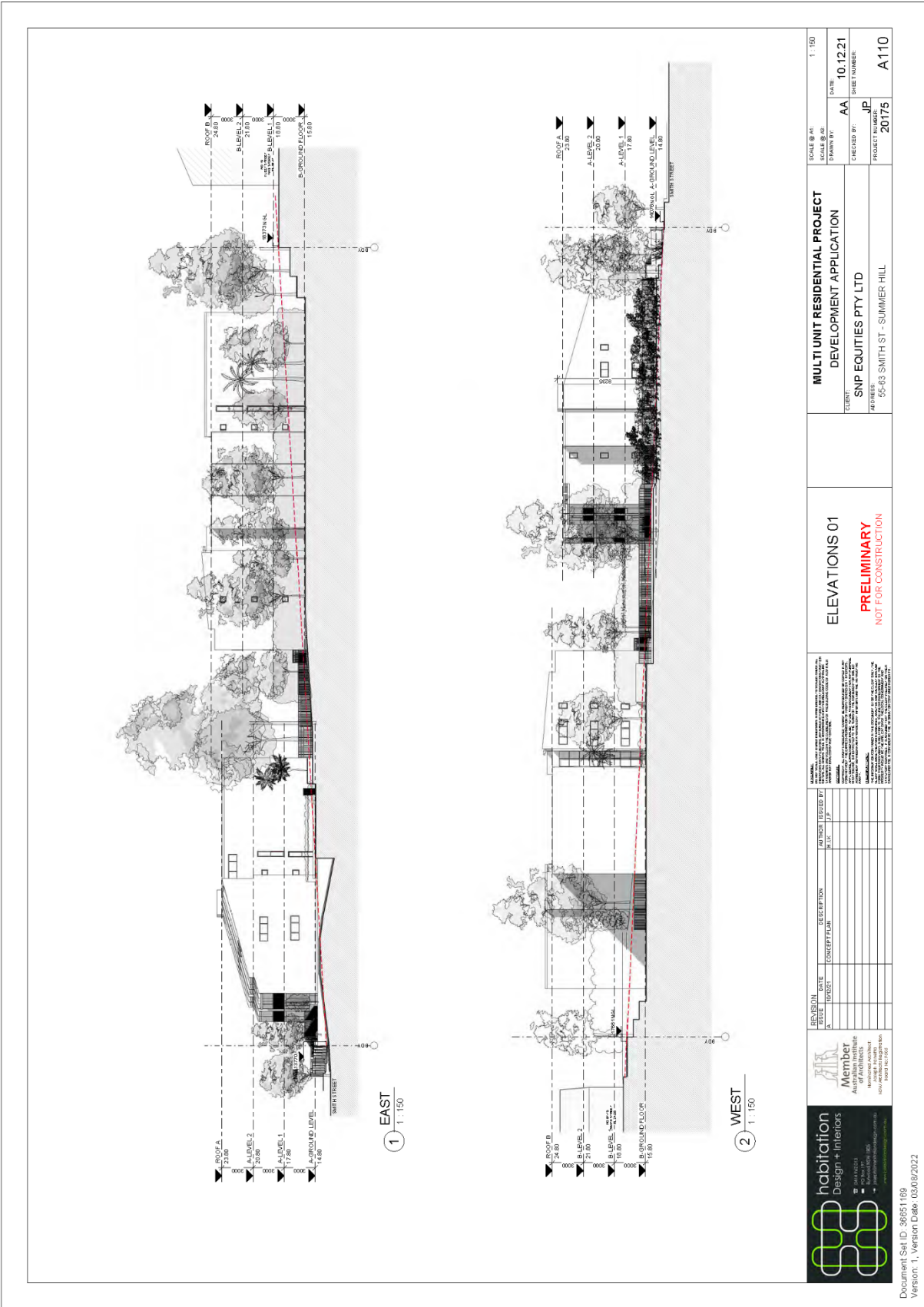
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SHEET NUMBER	20175
PROJECT NUMBER	A110

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT:
SNP EQUITIES PTY LTD

ADDRESS:
 55-83 SMITH ST - SUMMER HILL

ELEVATIONS 01

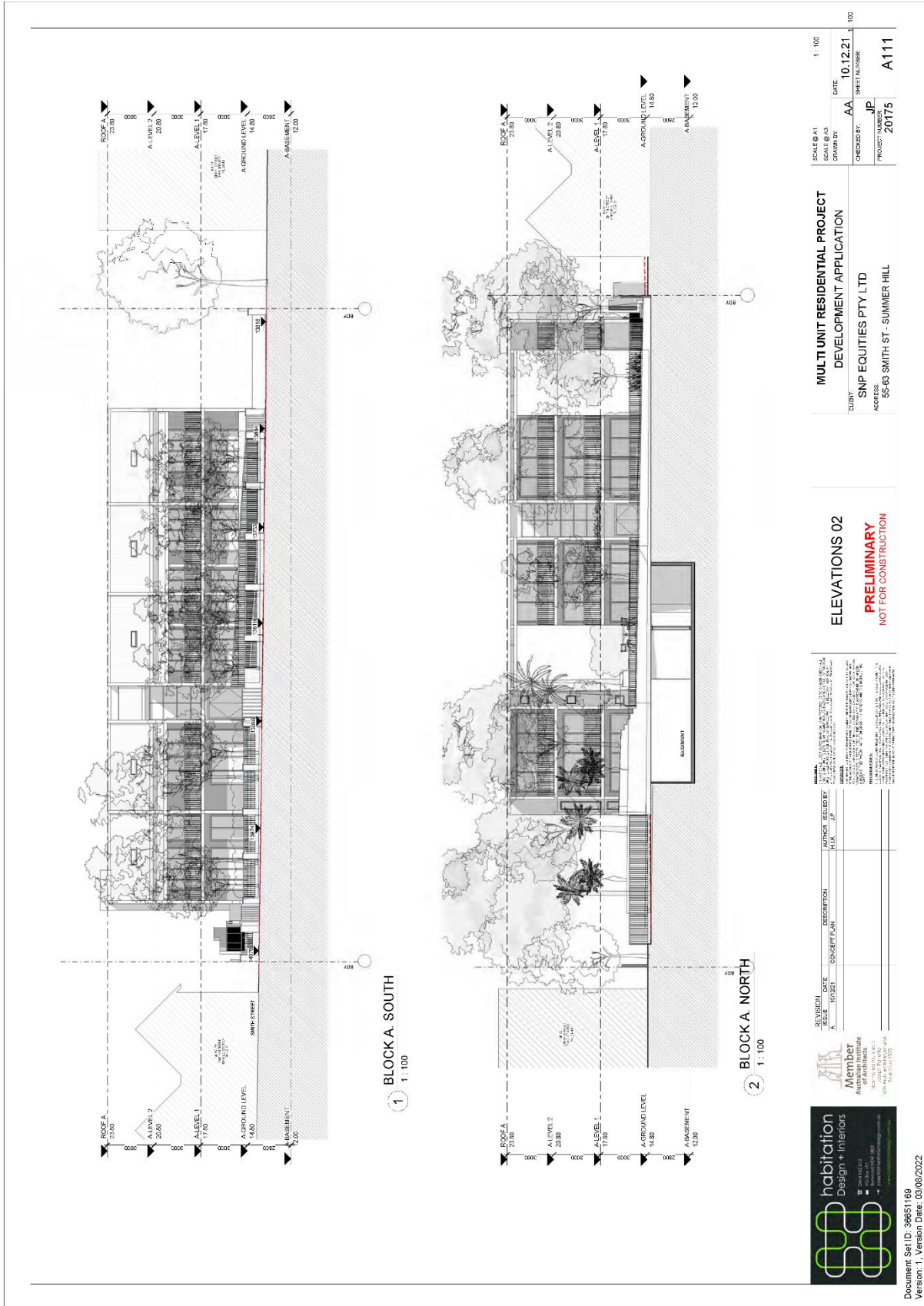
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SCALE @ A3	
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	A111

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-63 SMITH ST - SUMMER HILL

ELEVATIONS 02
PRELIMINARY
NOT FOR CONSTRUCTION

NOTES:

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.
2. ALL LEVELS ARE TO FINISH UNLESS OTHERWISE SPECIFIED.
3. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL BUILDING REGULATIONS 2011 AND THE NSW BUILDING REGULATIONS 2018.
4. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL ELECTRICAL REGULATIONS 2017 AND THE NSW ELECTRICAL REGULATIONS 2017.
5. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL PLUMBING REGULATIONS 2017 AND THE NSW PLUMBING REGULATIONS 2017.
6. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL MECHANICAL REGULATIONS 2017 AND THE NSW MECHANICAL REGULATIONS 2017.
7. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL FIRE REGULATIONS 2017 AND THE NSW FIRE REGULATIONS 2017.
8. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL THERMAL INSULATION REGULATIONS 2017 AND THE NSW THERMAL INSULATION REGULATIONS 2017.
9. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL SOUND REGULATIONS 2017 AND THE NSW SOUND REGULATIONS 2017.
10. ALL WORK IS TO BE IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE NATIONAL VIBRATION REGULATIONS 2017 AND THE NSW VIBRATION REGULATIONS 2017.

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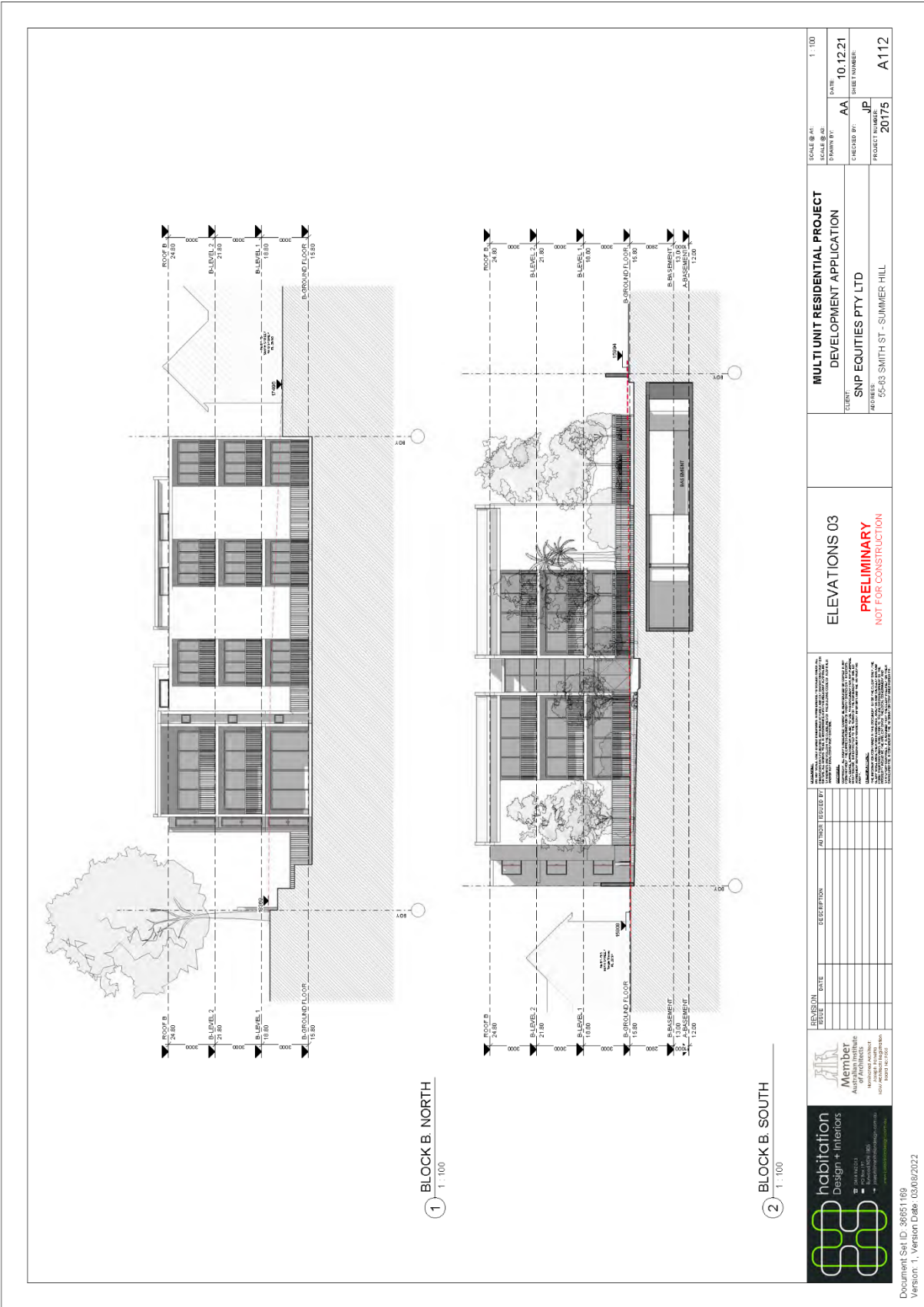
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BONNORVILLE QLD 4013
TEL: 07 5500 1111
WWW.HABITATIONDESIGN.COM



Document Set ID: 36651169
Version: 1, Version Date: 03/08/2022

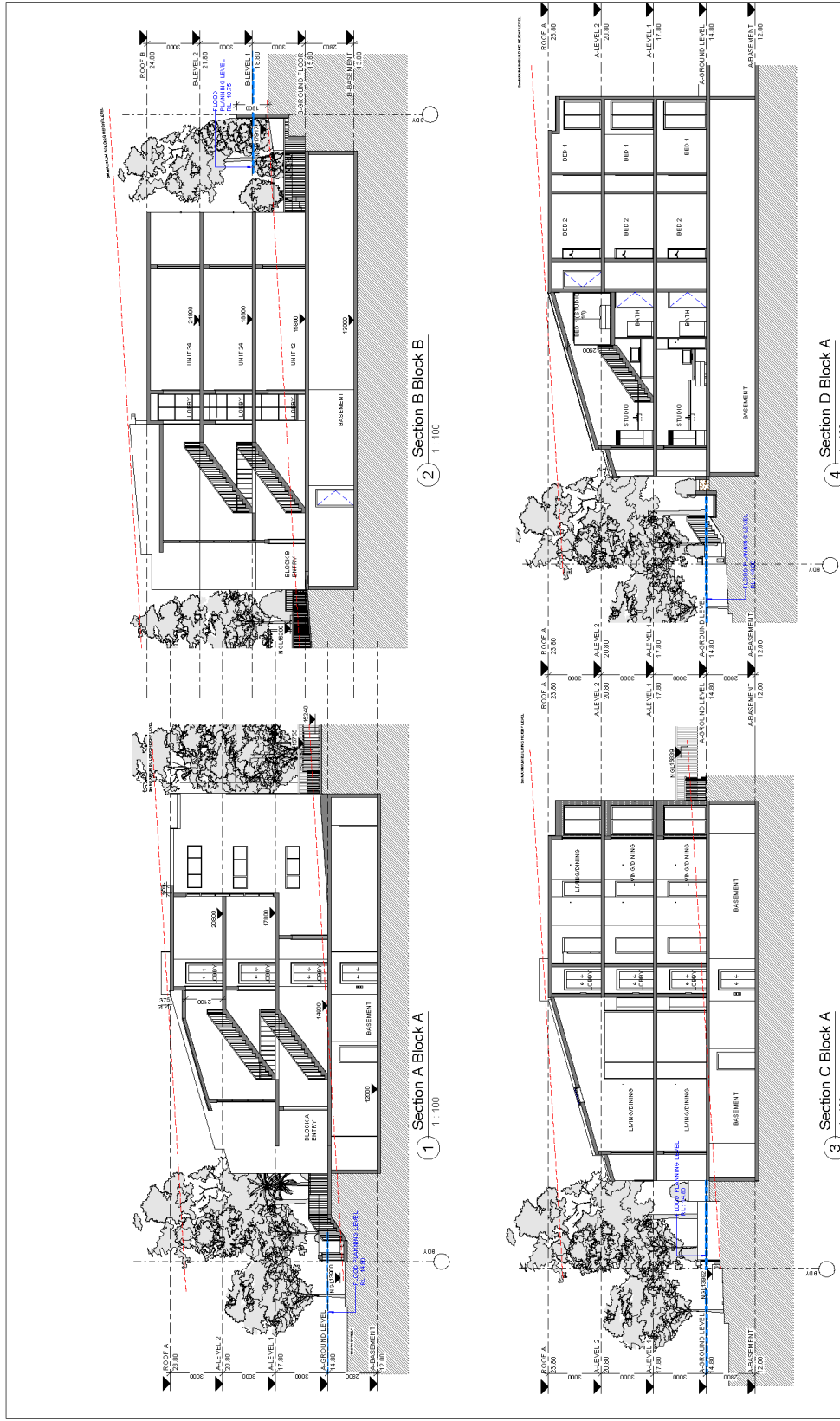


1 BLOCK B. NORTH
1:100

2 BLOCK B. SOUTH
1:100

				REVISION DATE DESCRIPTION DRAWN BY CHECKED BY SCALE @ A1 SCALE @ A2 DATE SHEET NUMBER PROJECT NUMBER 1:100 10.12.21 AA JP 20175 A112
MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION		ELEVATIONS 03 PRELIMINARY NOT FOR CONSTRUCTION		CLIENT: SNP EQUITIES PTY LTD ADDRESS: 55-83 SMITH ST - SUMMER HILL

Document Set ID: 36651169
Version: 1, Version Date: 03/08/2022



Section B Block B
1:100

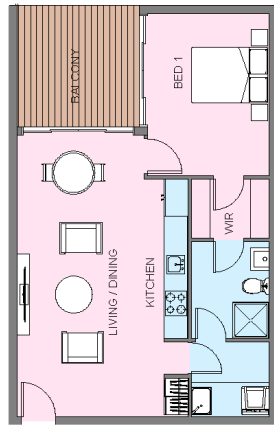
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1:100

Section A Block A
1:100

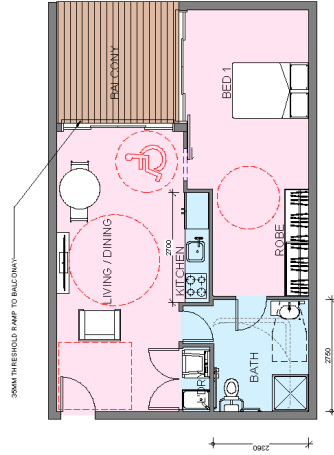
Section C Block A
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NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY										
1		CONCEPT PLAN	AA	JP										
<p>habitation Design + Interiors</p> <p>Member of ARCHITECTS 100% PROFESSIONAL LIABILITY INSURANCE</p>		<p>SECTIONS</p> <p>PRELIMINARY NOT FOR CONSTRUCTION</p>	<p>MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION</p> <p>CLIENT: SNP EQUITIES PTY LTD</p> <p>ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>	<p>DATE</p> <p>10.12.21</p> <p>SHEET NUMBER</p> <p>AA</p> <p>JP</p> <p>20175</p> <p>A 113</p>	<p>DATE</p> <p>10.12.21</p> <p>SHEET NUMBER</p> <p>AA</p> <p>JP</p> <p>20175</p> <p>A 113</p>									

Document Set ID: 36651169
Version: 1, Version Date: 03/08/2022



1 PRE ADAPTION PLAN, UNITS 11, 12, 13, 24, 25 & 26
1:50



2 POST-ADAPTION PLAN, UNITS 11, 12, 13, 24, 25 & 26
1:50



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Design + Interiors
ARCHITECTS
12/150-152
MORNINGTON AVENUE
MORNINGTON VIC 3190
www.habitationdesign.com.au

REVISION	DATE	DESCRIPTION	AUTHOR	ISSUE BY
A	10/12/21	CONCEPT PLAN	MLK	JF

Member
Architect
of Architecture
10/15/2019

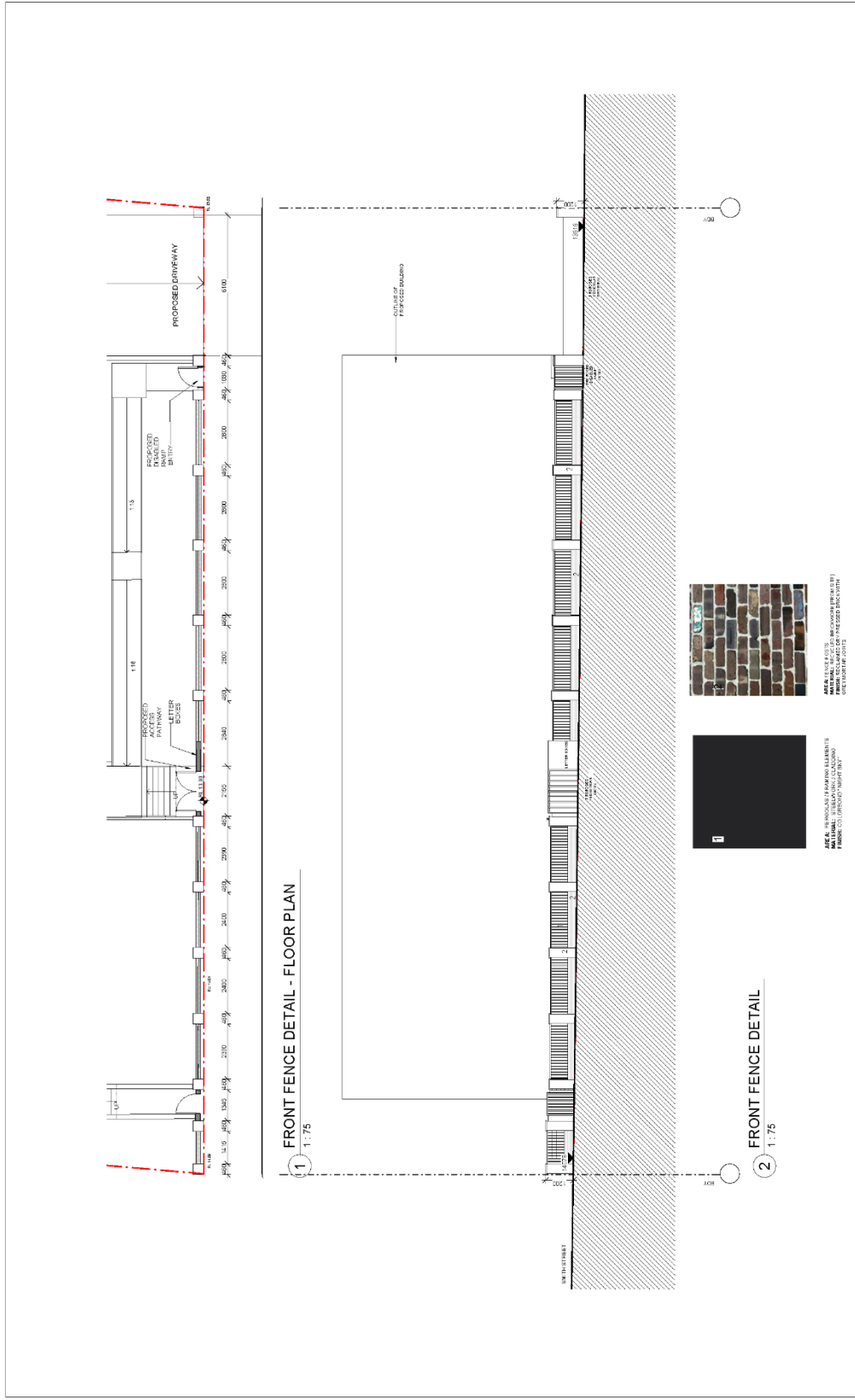
ADAPTABLE LAYOUT
PRELIMINARY
NOT FOR CONSTRUCTION

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

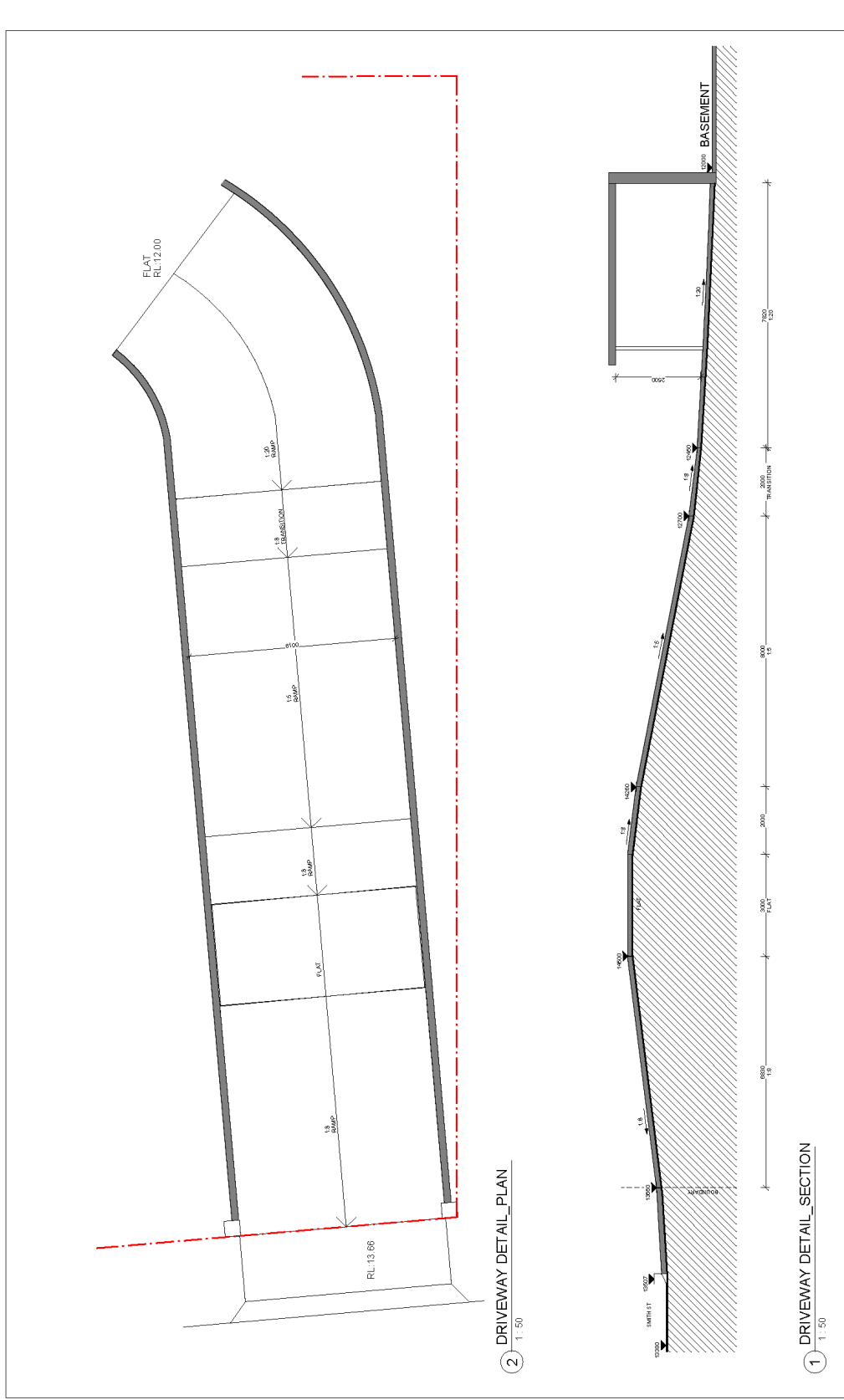
CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-63 SMITH ST - SUMMER HILL

SCALE @ A1: 1:50
SCALE @ A2: 1:50
DRAWN BY: A
DATE: 10.12.21
CHECKED BY: J
SHEET NUMBER: A 114
PROJECT NUMBER: 20175

Document Set Id: 36651169
Version: 1, Version Date: 03/08/2022



<p>habitation Design + Interiors</p> <p>201 Macquarie Street Sydney NSW 2000 Phone: 02 9550 1144 www.habitation.com.au</p>		<p>FRONT FENCE DETAIL</p> <p>PRELIMINARY</p> <p>NOT FOR CONSTRUCTION</p>	<p>MULTI UNIT RESIDENTIAL PROJECT</p> <p>DEVELOPMENT APPLICATION</p> <p>TUBER SNP EQUITIES PTY LTD 55-63 SMITH ST - SUMMER HILL</p>	<p>SCALE @ A1 1:75</p> <p>SCALE @ A2 1:75</p> <p>DATE 10.12.21</p> <p>ORDERED BY JP</p> <p>PROJECT NUMBER 20175</p> <p>SHEET NUMBER A115</p>							
<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>AUTHOR</th> <th>REVIEWER</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	AUTHOR	REVIEWER						<p>NOTES:</p> <p>1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS AND ALL APPLICABLE STANDARDS.</p> <p>2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT LOCAL GOVERNMENT REQUIREMENTS.</p> <p>3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL BUILDING REGULATIONS.</p> <p>4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL ELECTRICAL REGULATIONS.</p> <p>5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL PLUMBING REGULATIONS.</p> <p>6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL GAS REGULATIONS.</p> <p>7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL MECHANICAL REGULATIONS.</p> <p>8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL THERMAL INSULATION REGULATIONS.</p> <p>9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL SOUND INSULATION REGULATIONS.</p> <p>10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL VIBRATION REGULATIONS.</p> <p>11. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL ACCESSIBILITY REGULATIONS.</p> <p>12. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL SAFETY REGULATIONS.</p> <p>13. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL ENVIRONMENTAL REGULATIONS.</p> <p>14. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL CULTURAL HERITAGE REGULATIONS.</p> <p>15. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL HISTORIC BUILDINGS REGULATIONS.</p> <p>16. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL ANTI-CORROSION REGULATIONS.</p> <p>17. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL PEST MANAGEMENT REGULATIONS.</p> <p>18. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL FIRE SAFETY REGULATIONS.</p> <p>19. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL DISASTER RESILIENCE REGULATIONS.</p> <p>20. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT NATIONAL CLIMATE RESILIENCE REGULATIONS.</p>
NO.	DATE	DESCRIPTION	AUTHOR	REVIEWER							



<p>habitation Design + Interiors 10/11 DUNDAS ST SYDNEY NSW 2000 PH: (02) 9230 6600 WWW.HABITATIONDESIGN.COM</p>		<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>AUTHOR</th> <th>ISSUED BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/21/21</td> <td>CONCEPT PLAN</td> <td>JA</td> <td>JP</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY	1	10/21/21	CONCEPT PLAN	JA	JP	<p>DRIVEWAY DETAIL PRELIMINARY NOT FOR CONSTRUCTION</p>	<p>MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION</p> <p>CLIENT: SNP EQUITIES PTY LTD</p> <p>ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>	<p>SCALE @ A1: 1:50</p> <p>SCALE @ A2: 1:50</p> <p>DRAWN BY: AA</p> <p>CHECKED BY: JP</p> <p>PROJECT NUMBER: 20175</p> <p>DATE: 10.12.21</p> <p>SHEET NUMBER: A 116</p>
NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY											
1	10/21/21	CONCEPT PLAN	JA	JP											

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Version: 1, Version Date: 03/08/2022



SHADOW DIAGRAM
9-12
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REVISION	DATE	DESCRIPTION	ISSUED BY	
1	10/12/21	CONCEPT PLAN	AA	

SCALE @ A1	1:400
SCALE @ A2	
DRAWN BY	AA
DATE	10.12.21
CHECKED BY	JP
SHEET NUMBER	20175
PROJECT NUMBER	A117

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-63 SMITH ST - SUMMER HILL

Document Set ID: 36651169
Version: 1, Version Date: 03/08/2022



1 SHADOW DIAGRAM JUNE 21 1PM
1:400

2 SHADOW DIAGRAM JUNE 21 2PM
1:400

3 SHADOW DIAGRAM JUNE 21 3PM
1:400



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Version: 1, Version Date: 03/08/2022

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1	03/08/2022	ISSUE FOR PERMIT	AA	1:400

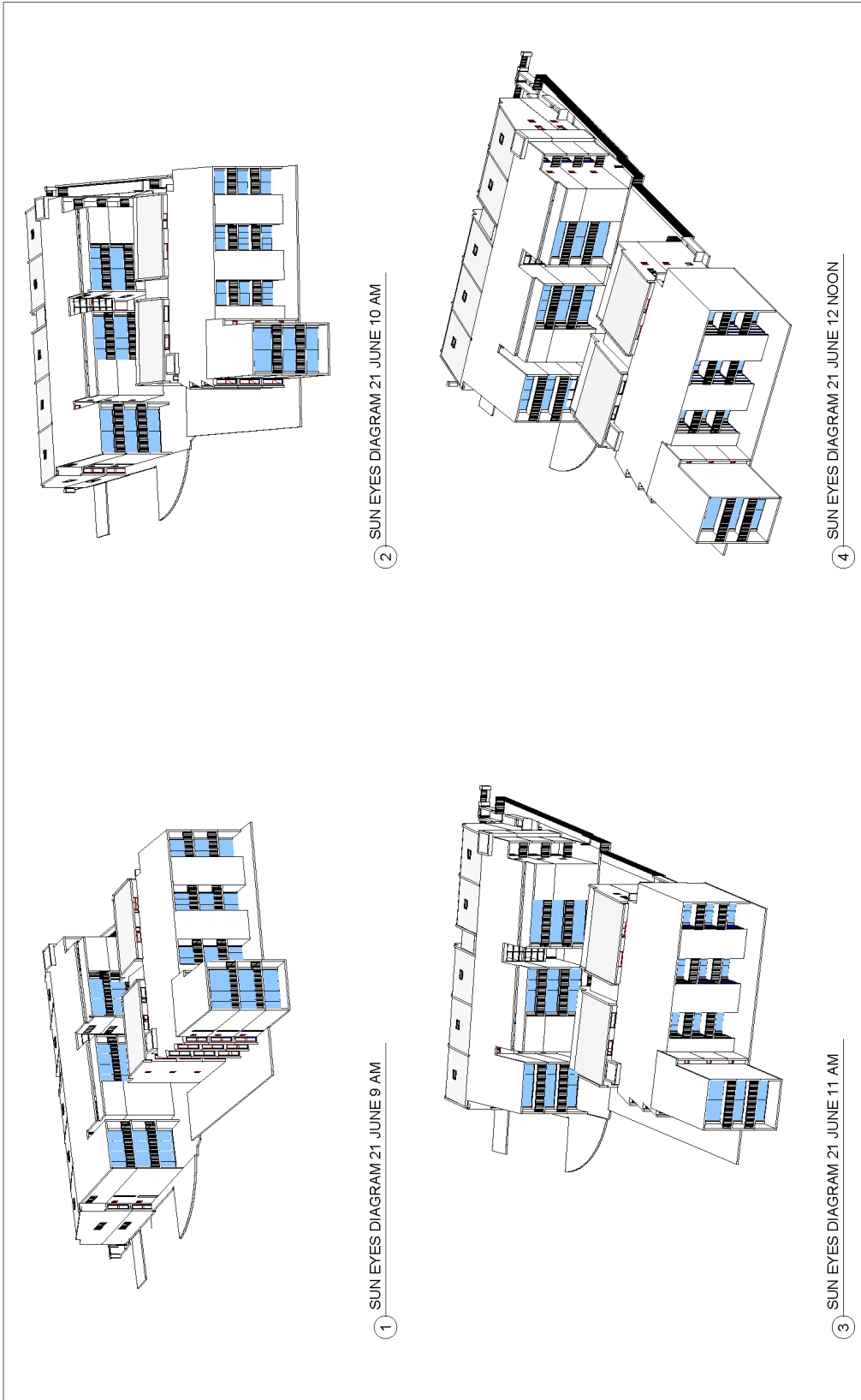
SHADOW DIAGRAM 1-3PM
PRELIMINARY
NOT FOR CONSTRUCTION

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SCALE @ A2: 1:400
DRAWN BY: AA
CHECKED BY: JP
PROJECT NUMBER: 20175
DATE: 10.12.21
SHEET NUMBER: A118

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-83 SMITH ST - SUMMER HILL







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NO	DATE	DESCRIPTION	AUTHOR	REVIEWED BY
1	10/12/21	CONCEPT PLAN	MT	JP

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-63 SMITH ST - SUMMER HILL

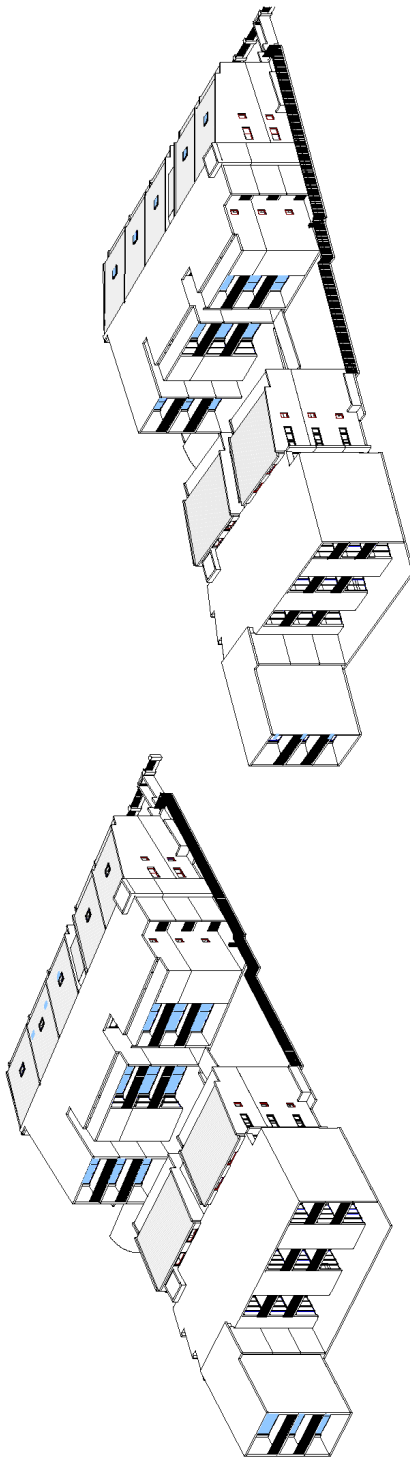
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SCALE @ A2: 1:100
SCALE @ A3: 1:150
DRAWN BY: MT
CHECKED BY: JP
DATE: 10.12.21
SHEET NUMBER: A 119
PROJECT NUMBER: 20175

MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION

SUN EYE DIAGRAM
PRELIMINARY
NOT FOR CONSTRUCTION

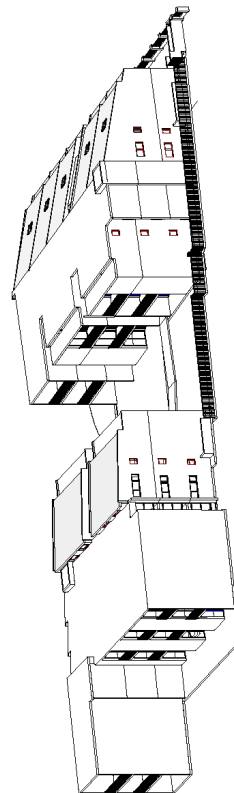
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 Version: 1, Version Date: 03/08/2022



① SUN EYES DIAGRAM 21 JUNE 1 PM

② SUN EYES DIAGRAM 21 JUNE 2 PM



③ SUN EYES DIAGRAM 21 JUNE 3 PM

DATE	TIME	TYPE	TYPE	TYPE	SUN			
					SHADE	WIND	TEMP	
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DATE	TIME	TYPE	TYPE	TYPE	SUN			
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0140								
0145								
0150								
0155								



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Professional Member
Member 13576

REVISION	DATE	DESCRIPTION	AUTHOR	DESIGNED BY
1	03/06/2022	CONCEPT PLAN	MLC	J.P.

Multi-Unit Residential Project Development Application
SUN EYE DIAGRAM
PRELIMINARY
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TEL: 02 9445 2113
PROJECT NUMBER: 20175
SHEE NUMBER: A120

SCALE @ A1: 1:50
DATE: 10.12.21
DRAWN BY: MT
CHECKED BY: JP
PROJECT NUMBER: 20175
SHEE NUMBER: A120



<p>habitation Design + Interiors</p> <p>12/110 LINDSAY ST MARRICKVILLE NSW 2147 PH: 02 9550 2222 WWW.HABITATIONDESIGN.COM.AU</p>	<p>REVISION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>AUTHOR</th> <th>ISSUED BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>CONCEPT PLAN</td> <td>JKL</td> <td>JLP</td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY	1		CONCEPT PLAN	JKL	JLP	<p>SCALE @ A1</p> <p>SCALE @ A2</p> <p>DRAWN BY</p> <p>CHECKED BY</p> <p>PROJECT NUMBER</p>	<p>1:300</p> <p>10.12.21</p> <p>AA</p> <p>JLP</p> <p>20175</p> <p>A121</p>
	NO.	DATE	DESCRIPTION	AUTHOR	ISSUED BY								
1		CONCEPT PLAN	JKL	JLP									
<p>Member Architectural Institute of Australia</p> <p>10/10/2017</p>	<p>MULTI UNIT RESIDENTIAL PROJECT</p> <p>DEVELOPMENT APPLICATION</p> <p>CLIENT: SNP EQUITIES PTY LTD</p> <p>ADDRESS: 55-63 SMITH ST - SUMMER HILL</p>	<p>SCALE @ A1</p> <p>SCALE @ A2</p> <p>DRAWN BY</p> <p>CHECKED BY</p> <p>PROJECT NUMBER</p>	<p>1:300</p> <p>10.12.21</p> <p>AA</p> <p>JLP</p> <p>20175</p> <p>A121</p>										

CALCULATION SHEET

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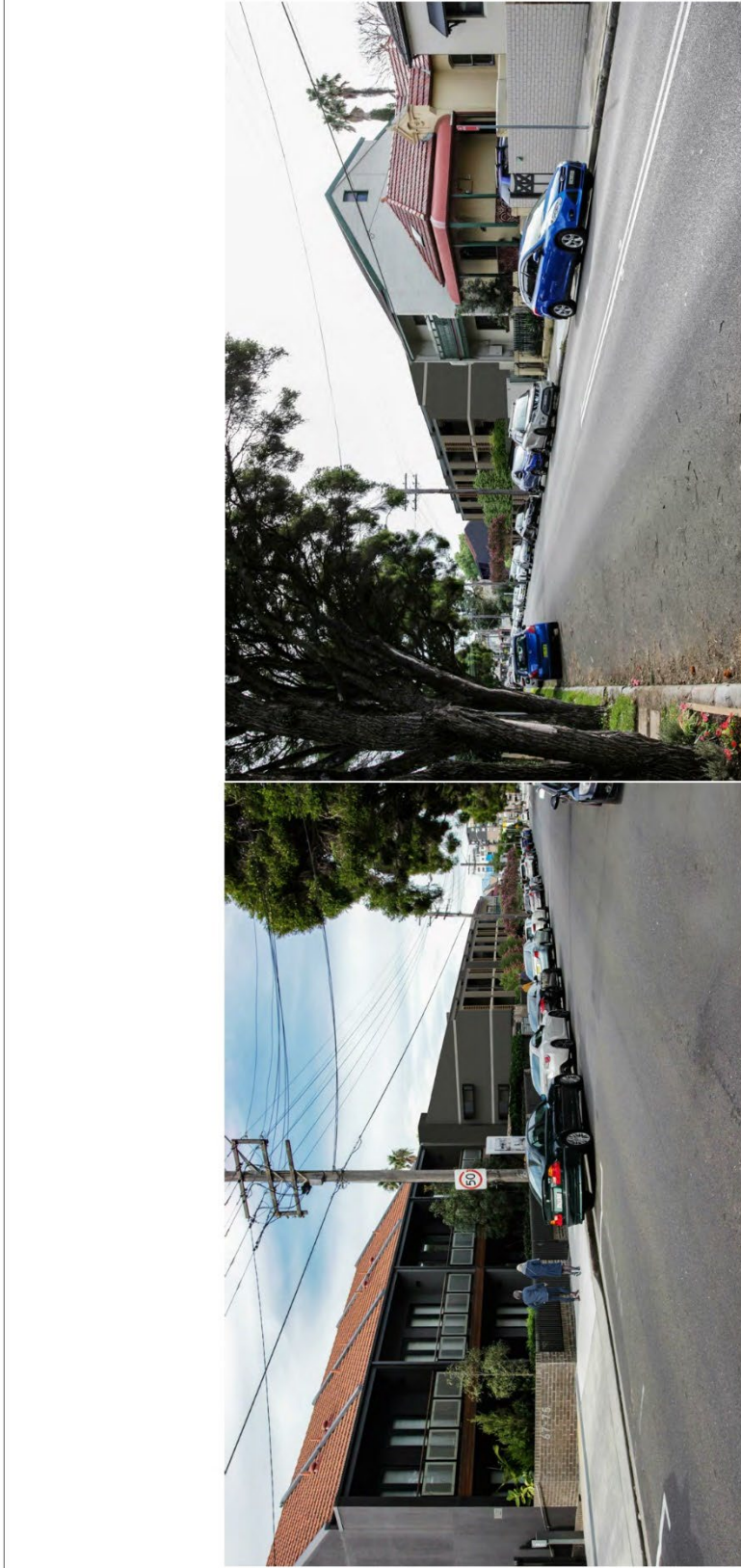
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100/102 (C/O)
MORNINGTON AVENUE
MORNINGTON VIC 3190
www.habitationdesign.com.au

REVISION	DATE	DESCRIPTION	ISSUED BY
1	10/12/21	CONCEPT PLAN	JP

MEMBER
Member
of the
ARCHITECTS
INSTITUTE OF AUSTRALIA
No. 100/102 (C/O)
MORNINGTON AVENUE
MORNINGTON VIC 3190

SCALE @ A1
SCALE @ A2
DRAWN BY:
CHECKED BY:
PROJECT NUMBER:
DATE
SHEET NUMBER:

AA
JP
20175
10.12.21
A 122

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT:
SNP EQUITIES PTY LTD
ADDRESS:
55-63 SMITH ST - SUMMER HILL

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Version: 1, Version Date: 03/08/2022



E1 AREA: BRICK WALLS
MATERIAL: BRICKWORK (RENDERED)
FINISH: BRICKWORK (RENDERED)

E2 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

E3 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

E4 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

E5 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

E6 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

E7 AREA: INTERIOR WALLS
MATERIAL: GYPSUM BOARD
FINISH: INTERIOR PAINT

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Australian Institute
of Architects
100 Collins Street
Melbourne VIC 3000
Australia
Phone: 03 9646 2000
www.aiaa.org.au

REVISION	DATE	DESCRIPTION	PREPARED BY	CHECKED BY	DATE
1	20/07/22	ISSUE FOR PERMIT	J.P.	J.P.	20/07/22
2	20/07/22	ISSUE FOR PERMIT	J.P.	J.P.	20/07/22

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Notes: All materials are to be supplied by the contractor and approved by the architect. All materials are to be of a quality suitable for the intended use and to comply with the relevant Australian Standards. All materials are to be of a quality suitable for the intended use and to comply with the relevant Australian Standards.

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PRELIMINARY
NOT FOR CONSTRUCTION

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION
SNP EQUITIES PTY LTD
55-63 SMITH ST - SUMMER HILL

SCALE: A/A
SCALE: 1:140
DATE: 10.12.21
PROJECT NUMBER: A123



UNIT	CROSS VENTILATION
UNIT 01	YES
UNIT 02	NO
UNIT 03	NO
UNIT 04	NO
UNIT 05	YES
UNIT 06	YES
UNIT 07	YES
UNIT 08	YES
UNIT 09	YES
UNIT 10	YES
UNIT 11	NO
UNIT 12	NO
UNIT 13	YES
UNIT 14	YES
UNIT 15	NO
UNIT 16	NO
UNIT 17	NO
UNIT 18	YES
UNIT 19	YES
UNIT 20	YES
UNIT 21	YES
UNIT 22	YES
UNIT 23	YES
UNIT 24	NO
UNIT 25	NO
UNIT 26	YES
UNIT 27	YES
UNIT 28	YES
UNIT 29	YES
UNIT 30	YES
UNIT 31	YES
UNIT 32	YES
UNIT 33	NO
UNIT 34	NO
UNIT 35	NO
UNIT 36	YES

TOTAL = 36 UNITS
 YES = 23 UNITS (65%)
 NO = 12 UNITS (34%)

③ LEVEL 2
1:250

① GROUND LEVEL
1:250

② LEVEL -1
1:250

REVISION	DATE	DESCRIPTION	AUTHOR	DESIGN BY
A	10/12/21	CONCEPT PLAN	JP	JP

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Design + Interiors
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10/100 Pacific Highway, Sydney NSW 1513
Phone: 158 939 9393
www.habitation.com.au

CROSS VENTILATION PLAN
PRELIMINARY
NOT FOR CONSTRUCTION

MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-63 SMITH ST - SUMMER HILL

SCALE @ A1	SCALE @ A2	DATE	SHEET NUMBER
1:250	1:250	10.12.21	JP
DRAWN BY:	CHECKED BY:	PROJECT NUMBER	A 124
MT	JP	20175	

Document Set ID: 36651169
 Version: 1, Version Date: 03/08/2022

1 3- SITE PLAN. 1:300

2 BLOCK A. NORTH. 1:250

3 BLOCK A. SOUTH. 1:250

4 EAST. 1:250

5 WEST. 1:250

6 BLOCK B. NORTH. 1:250

7 BLOCK B. SOUTH. 1:250

NOTIFICATION PLAN
PRELIMINARY
NOT FOR CONSTRUCTION

REVISION	DATE	DESCRIPTION	MULTIPLE READER BY
A	08/21/2017	ISSUE FOR PERMIT	AA
B			
C			
D			
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X			
Y			
Z			

MULTI UNIT RESIDENTIAL PROJECT DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-83 SMITH ST - SUMMER HILL

SCALE @ A1: As indicated
SCALE @ A2: As indicated
DRAWN BY: AA
DATE: 10.12.21
CHECKED BY: JP
SHR: F000000
PROJECT NUMBER: 20175
A125

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Version: 1, Version Date: 03/08/2022

MAY BUILDING HEIGHT PLANE SHOWN AT
3M FROM INCL BASED ON 3D TOPOGRAPHY

REVISION	DATE	DESCRIPTION	INITIALS	DESIGNED BY
1				JP

MAXIMUM 3D BUILDING HEIGHT PLANE
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Phone: 02 9231 1111
www.habitationinteriors.com.au

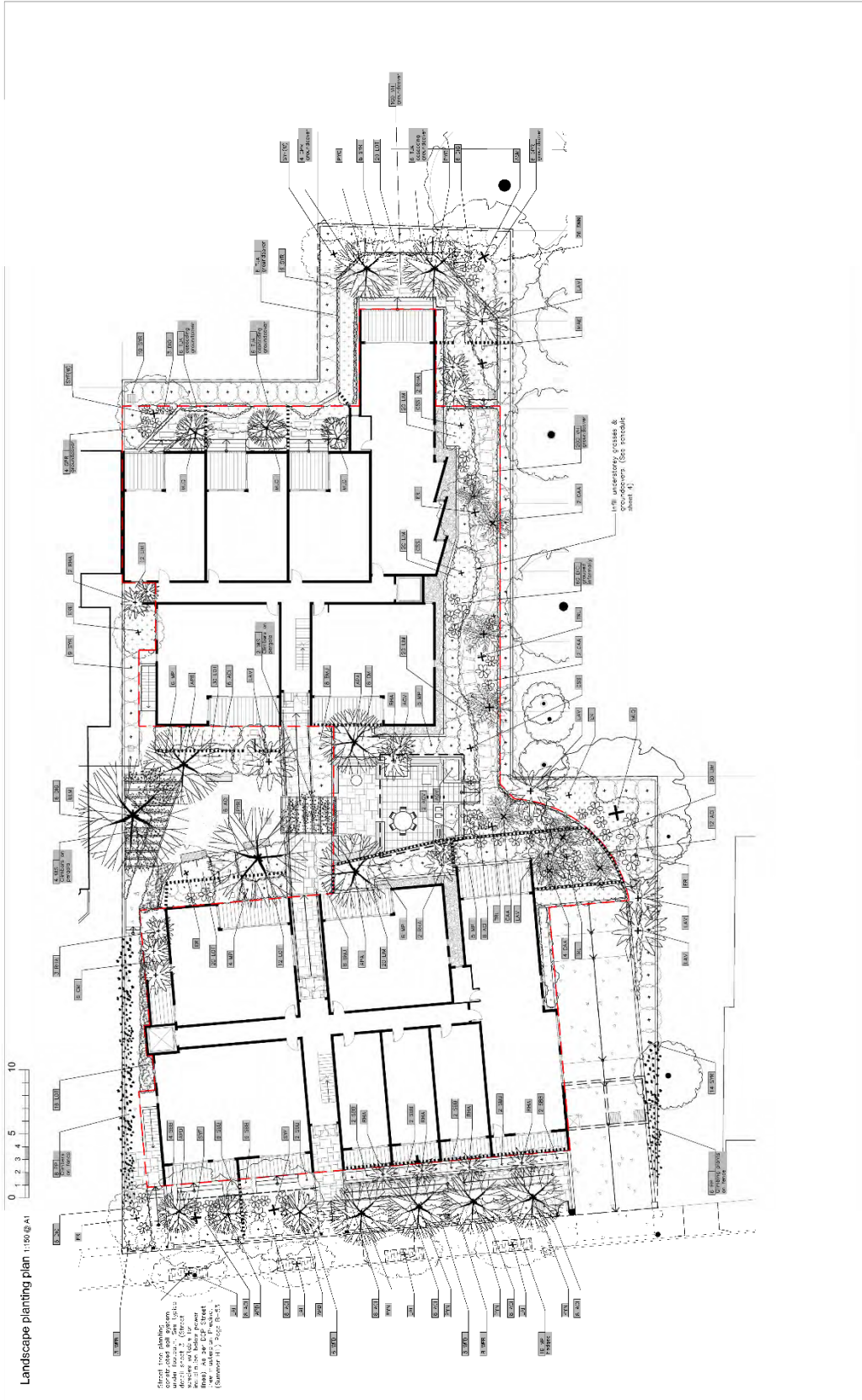
Member
Australian Institute of Architects
Member No: 123456789
Name: J.P. Smith

MULTI UNIT RESIDENTIAL PROJECT
DEVELOPMENT APPLICATION

CLIENT: SNP EQUITIES PTY LTD
ADDRESS: 55-83 SMITH ST - SUMMER HILL

SCALE @ A1: []
SCALE @ A2: []
DRAWN BY: AA
DATE: 10.12.21
CHECKED BY: JP
SHEET NUMBER: A126
PROJECT NUMBER: 20175

Document Set ID: 36551169
Version: 1, Version Date: 03/08/2022



DATE: 7/12/21 SCALE: 1:150 @ A1
 JOB NO: 210246
 PROJECT: 51-43 SMITH ST - SHAWNEE HILL
 DRAWING: PLANTING PLAN

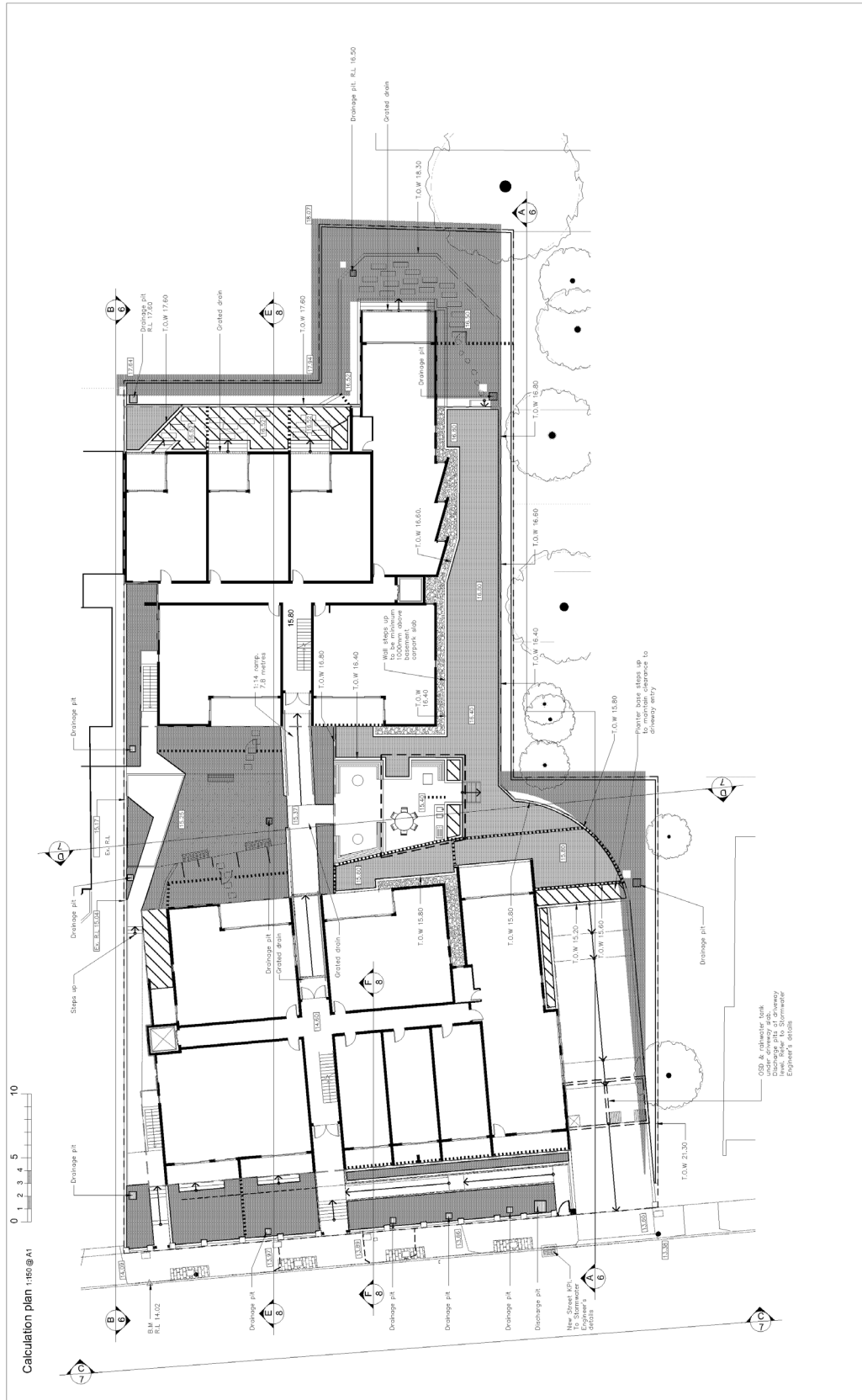
PO Box 4050, ACT 2602
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 WWW.PAULSCRYVEER.COM
 EMAIL: PAUL@PAULSCRYVEER.COM
 PROJECT: 51-43 SMITH ST - SHAWNEE HILL
 DATE: PLANTING PLAN

AMENDMENTS

C	7.12.21	FOR DA
B	6.12.21	
A	24.11.21	

PAUL SCRYVEER
 LANDSCAPE ARCHITECT

DATE: 2021/07/12
 SCALE: 1:150 @ A1



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 Phone: 02 6251 2226
 Project: 5-43 South St - Summer Hill
 Date: 7.12.21 Scale: 1:150 @A1
 108 Rps - 2/23/26
 NORTH
ISSUE - C

PAUL SCRIVER
 J.A.S.E.C.A.T.

AMENDMENTS

C	7.12.21	FOR DA
B	6.12.21	
A	24.11.21	

Site area	2667.70 m ²	100.00 %
100mm min. raised plane over ab.	216.20 m ²	8.1 %
Natural steep pool	566.20 m ²	21.65 %
1:1.5 max. slope plane over ab.	70.30 m ²	2.6 %

OSD & subwater tank under driveway at ab. boundary from Roper to Stormwater Engineer's office.

New Street KPI, New Street Stormwater Engineer's office.

Plaster base steps up to comply with accessibility requirements.

Calculation plan 1:465 @ A1

0 1 2 3 4 5 10



AMENDMENTS

A	24.11.21	...
B	3.12.21	...
C	7.12.21	For DA

PAUL SCREENER
L.A.S.C.A.P.

PROJECT: 55-62 SOUTH ST - SUMMER HILL
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DATE: 7.12.21 SCALE: 1:50 BAY: 6 OF 8

ISSUE: C



AMENDMENTS

C	7.12.21	For DA
B	3.12.21	
A	24.11.21	

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PAUL SCREVENER
 J.A.S.C.A.P.

ISSUE - C

Date: 7.12.21 Scale: 1:100 BMS: 7 of 8
 Job Ref: 712166
 Client: KERRICH
 Project: 55-63 SOUTH ST - SUMMER HILL
 Design: PAUL SCREVENER
 Drawn: PAUL SCREVENER
 Checked: PAUL SCREVENER
 Project Manager: PAUL SCREVENER



AMENDMENTS

C	7.12.21	For DA
B	3.12.21	
A	24.11.21	

PAUL SCREINER
J.A.S.C.A.P.

PROJEC 55-62 SOUTH ST - SUMMER HILL
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Date: 7.12.21 **Scale:** 1:100 BMS
Issue No.: 712126
Issue: 8 OF 8

ISSUE - C

Attachment C- Clause 4.6 Exception to Development Standards

Clause 4.6 to Height
55 – 63 Smith Street Summer Hill
New Residential Flat Building Development



CLAUSE 4.6 REQUEST FOR VARIATION TO

CLAUSE 4.3 (2) (HEIGHT OF BUILDING) OF ASHFIELD

LOCAL ENVIRONMENTAL PLAN 2013 (ALEP)

55 – 63 Smith Street Summer Hill

20th DECEMBER 2021



1.0 Introduction

- This is a request to vary a development standard pursuant to the provisions of Clause 4.6 of Ashfield Local Environmental Plan 2013 (ALEP 2013), the relevant clause being Clause 4.3(2) (Height of Building).
- The relevant maximum height of building control is **9m**.
- The relevant Height of Building control is a *development standard* for the purposes of the *EP & A Act 1979*.
- This request to vary the height development standard considers the judgment in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ("Initial Action"). The clause 4.6 also adopts the findings in *Big Property v Randwick Council* in relation to character and affordable housing.
- The relevant case law confirms that the consent authority not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it "*only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed*".
- The objectives of Clause 4.6 1(a) is to provide an appropriate degree of flexibility in applying certain development standards to particular development. The intent is to achieve better outcomes for and from development by allowing flexibility in particular circumstances in accordance with Clause 4.6 1(b).
- The relevant plans relied upon are those identified as the plans prepared by Habitation Design + Interiors Architecture.

2.0 Development Standard to be Varied – Height

The relevant *development standard* to be varied is the **9.0m** height control under Clause 4.3(2). Clause 4.3 of ALEP relevantly provides:

4.3 Height of buildings

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

- (a) *to achieve high quality built form for all buildings,*
- (b) *to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes,*
- (c) *to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,*
- (d) *to maintain satisfactory solar access to existing buildings and public areas.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

(2A) *If a building is located on land in Zone B4 Mixed Use, any part of the building that is within 3 metres of the height limit set by subclause (2) must not include any area that forms part of the gross floor area of the building and must not be reasonably capable of modification to include such an area.*

(2B) *Subclause (2A) does not apply to development on land identified as "Area 3" on the [Key Sites Map](#) if the consent authority is satisfied that the development achieves the objectives of this clause.*



The relevant height of buildings map is identified below:

Clause 4.3 Height of Buildings

The subject site has a height limit of 9m.



Map 1 - Height Map ALEP

The subject site is mapped "M" – 9m (max)

The proposed buildings are generally compliant with the maximum height of 9m, with the exception of the lift overrun. Refer to section 3 below.

3.0 Nature of Variation Sought

The requested variation is as follows:

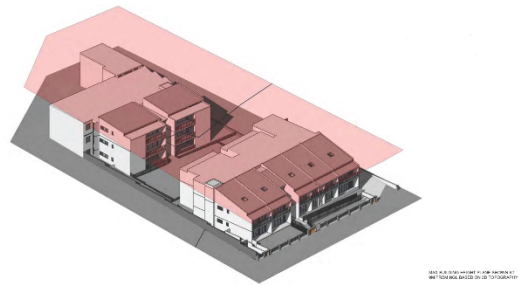


Fig 1: Variation required for the lift (variation is 235mm)



4.0 Height – Development Standard

A development standard is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* ("EPA Act") to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, maneuvering, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed."*

The **9.0m** maximum height standard is a *development standard* as defined under the EP&A Act 1979.

5.0 Clause 4.6 of Ashfield Local Environmental Plan 2013

The following provides a response to relevant Clause 4.6 provisions:

Clause 4.6(2) provides that:

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

The HOB development standard is not expressly excluded from the operation of cl4.6 and accordingly, consent may be granted.

Clause 4.6(3) relates to the making of a written request to justify the contravention of a development standard and states:

- (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:

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

The proposed boarding house development does not comply with the HOB development standard pursuant to cl4.3 of the ALEP 2013. However, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as detailed further in this written request.

Sufficient environmental planning grounds exist to justify contravening the development standard as detailed in Section 8. Clause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- (6) Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Secretary has been obtained.*

Sections below of this written request address the matters required under cl4.6(4)(a) of the ALEP 2013 and cl4.6(4)(b).

Clause 4.6(5) provides that:

- (7) 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.*

Sections below of this written request address the matters required under cl4.6(5) of the ALEP.

Clauses 4.6(6) and (8) are not relevant to the proposed development

Cl. 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.



6.0 Relevant Decisions

Initial Action

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), Preston CJ indicated that cl4.6 does not directly or indirectly establish a test that a non-compliant development should have a neutral or beneficial effect relative to a compliant development. For example, a building that exceeds a development standard that has adverse amenity impacts should not be assessed on the basis of whether a complying development will have no adverse impacts. Rather, the non-compliance should be assessed with regard to whether the impacts are reasonable in the context of achieving consistency with the objectives of the zone and the objectives of the development standard. The relevant test is whether the environmental planning grounds relied upon and identified in the written request are "sufficient" to justify the non-compliance sought.

In addition, Preston CJ ruled that cl4.6 does not directly or indirectly establish a "test" that a development which contravenes a development standard results in a "better environmental planning outcome" relative to a development that complies with the development standard. There is no provision in ALEP clause 4.6 that requires a development that contravenes a development standard to achieve better outcomes.

Furthermore, Preston CJ ruled that it is incorrect to hold that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts.

Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191 Moore J (herein referred to as Rebel MH).

In *Rebel MH Neutral Bay Pty Ltd v North Sydney Council [2018] NSWLEC 191* Moore J identifies the steps provided in *Initial Action* confirming what the consent authority must do in order to satisfy itself as follows:

"For me to grant development consent for this development as it contravenes the permitted maximum building height development standard, cl 4.6(4)(a) requires me to be satisfied that:

(1) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)); and

(2) The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)); and

(3) The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii)); and

(4) The proposed development will be in the public interest because it is consistent with the objectives of the R4 High Density Residential Zone (cl 4.6(4)(a)(ii)).

For the first of the above matters, Preston CJ made it clear, in Initial Action at [25], that the Court need not be directly satisfied that compliance is unreasonable or unnecessary and sufficient environmental planning grounds exist, but rather that it "only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed those matters."



SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112 (SJD DB2).

This appeal sought consent for the construction of a six-storey Shop top housing development at 28-34 Cross Street Double Bay (**the DA**). The Court approved the proposed development, having a height of 21.21m where the control was 14.7m – representing a maximum variation of approximately **44%** (or 6.51m) – and a floor space ratio (**FSR**) of 3.54:1 where the control was 2.5:1 – representing a variation of approximately **41%**.

The Court drew from the decisions in *Initial Action* and *RebelMH* in the *SJD DB2* judgment, and noted that although there are a number of ways to demonstrate that compliance with a development standard is unreasonable or unnecessary, it may be sufficient to establish only one way (at [35].) In considering the clause 4.6 variation requests submitted by the Applicant, the Court considered that they could be treated together, as the breaches they related to were fundamentally related, as where there is greater building form with additional height, so too is there greater floor area (at [63].)

Acting Commissioner Clay makes it clear in his judgment, 'cl 4.6 is as much a part of [an LEP] as the clauses with development standards. Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome' (at [73]).

Big Property Pty Ltd v Randwick (Big Property)

The appropriate determination of desired future character was dealt with in the recent case of *Big Property Pty Ltd v Randwick City Council* [2021] (herein '*Big Property*'). This decision was also followed by *HPG Mosman Projects Pty Ltd v Mosman Municipal Council* [2021] (herein '*HPG*').

Big Property resulted in a decision of Commissioner O'Neill which was an appeal by Big Property against the refusal of a development application for alterations and additions to an approved residential flat building, including the provision of additional affordable rental housing units and the construction of an additional storey.

The proposal exceeded the height and FSR development standards and Council contended that the clause 4.6 request was not well founded because the proposal was incompatible with the local character of the area, primarily due to its bulk and scale. In *Big Property* the Applicant claimed that the height and FSR exceedances were a justified response to the provision of two additional affordable housing units.

In considering the clause 4.6 request and desired future character, Commissioner O'Neill held that the desired future character of an area is not determined solely by the development standards that control building envelopes for the area. Commissioner O'Neill held that development standards for building envelopes are frequently generic standards which do not account for existing and approved development, site amalgamations, SEPP allowances, heritage issues or the nuances of an individual site. The Commissioner expressly referenced *SJD*, and went on to hold that:

"The presumption that the development standards that control building envelopes determine the desired future character of an area is based upon a false notion that those building envelopes represent, or are derived from, a fixed three-dimensional masterplan of building envelopes for the area and the realization of that masterplan will achieve the desired urban character. Although development standards for building envelopes are mostly based on comprehensive studies and strategic plans, they are frequently generic, as demonstrated by the large areas of a single colour representing a single standard on Local Environmental Plan maps, and they reflect the zoning map.



As generic standards, they do not necessarily account for existing and approved development, site amalgamations, the location of heritage items or the nuances of an individual site. Nor can they account for provisions under other EPIs that realisation of particular development with GFA bonuses or other mechanisms that intensify development. All these factors push the ultimate contest for evaluating and determining a building envelope for a specific use on a site to the development application stage. The application of the compulsory provisions of cl 4.6 further erodes the relationship between numeric standards for building envelopes and the realised built character of a locality" [at44]

Commissioner O'Neill found that the exceedance of height/FSR standards due to the provision of affordable housing units was an environmental planning ground and thus the clause 4.6 request was a well-founded request. Commissioner O'Neill also expressly referenced the fact that some State Environmental Planning Instruments, such as that for Affordable Rental Housing, 'incentivise the provision by the private sector of in-fill affordable housing by providing additional GFA above the otherwise applicable development standards that determine the building envelope for a particular site'. This too must be factored into any consideration of what constitutes the 'desired future character' of an area.

7.0 Clause 4.6(3)(a): Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

In dealing with the "unreasonable and unnecessary" Preston CJ identifies and validates the 5 options available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ at states as follows:

"As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Based on the above the following identifies the first method identified in *Wehbe*:

"Ways of establishing that compliance is unreasonable or unnecessary

*42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**: (our emphasis)*

Clause 4.6(3)(a) – UNREASONABLE AND UNNECESSARY

This clause 4.6 responds to the matters required to be demonstrated by sub-clause 4.6(3) namely:

- *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.*



Having considered the above the applicant relies upon the first method demonstrating that compliance is *unreasonable and unnecessary* because the objectives of the development standard are achieved notwithstanding a variation with the standard.

In dealing with the control it is necessary to identify the purpose of the height control and then progress to dealing with the consistency or otherwise with the height objectives. The first consideration relates to overall scale of a building given that both height and FSR determines the scale of a building to another building or natural feature. The height objectives of the ALEP are identified below:

(a) *to achieve high quality-built form for all buildings,*

The architectural design, layout and street presentation of the proposed flat building achieves a high-quality development. The proposed built form integrates with the established built form and character and is compatible with its surrounds. The objective is reasonably satisfied.

(b) *to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of taller buildings and to public areas, including parks, streets and lanes*

The proposed height maintains acceptable sky exposure to existing buildings adjoining or adjacent to the site and the objective is achieved. The height variation is very much limited to the lift overrun and does not affect the performance of the building in terms of preserving daylight.

(c) *to provide a transition in built form and land use intensity between different areas having particular regard to the transition between heritage items and other buildings,*

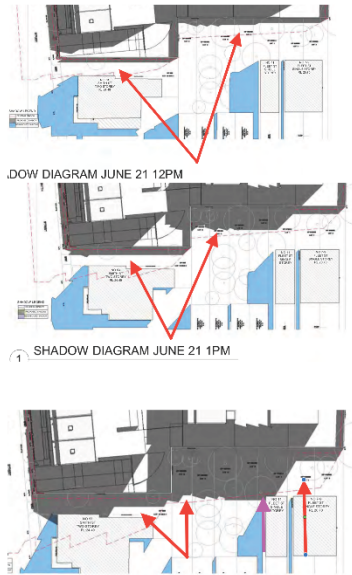
The lift overrun does not add an additional level and facilitates improved access to levels 1 and 2 of the building. At 3 storeys the building can rely on a stair however the lift provides improved access for all residents and visitors and assists with disabled access. The building height and form provides an acceptable transition and the minor additional bulk associated with the lift does not impact on the performance of the built form in providing a transition.

(d) *to maintain satisfactory solar access to existing buildings and public areas.*

As demonstrated below the proposal maintains adequate solar access to the adjoining properties and reduces solar impacts on most properties. Full shadow diagrams are submitted with the DA plans.

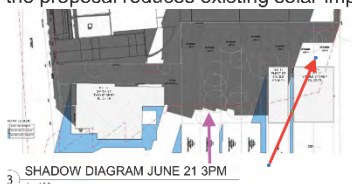
The change in height from the existing industrial/commercial building and the proposed residential building will maintain adequate solar access to the adjoining sites. At some time periods the impact of overshadowing will be reduced to most properties (see 11am – 2pm midday) shadows (red arrow indicate areas of reduced shadows and pink indicates some minor additional shadows):





-ADOW DIAGRAM JUNE 21 2PM

Some minor additional impact to some properties between 2.00pm and 3.00pm as shown by pink arrows but as shown by red arrows there is a reduction to other properties. Overall the proposal reduces existing solar impacts on the neighbours.



The development is set closer to the western boundary than the eastern boundary in order to improve solar access and limit privacy impacts upon the R2 zoned land.

8.0 4.6(3)(b) – Sufficient Environmental Planning Grounds

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The variation relates to height and as such calls upon those matters considered to be environmental planning grounds relevant to the subject matter. Justification provided for the variation applies to this particular application and not environmental planning grounds that could apply to all lands zoned R3 Medium Density Residential.

The environmental planning grounds justification for the height variation is provided as follows:



- The variation only relates to the lift overrun and not the main component of the roof
- The variation is very minor and has no adverse impact with regard to solar access or views
- Only relates to one of the two proposed building forms
- The variation enables compliance with the BCA (NCC) and better achieves the objectives of the ADG.
- The overrun structure is mostly obscured from street view and does not substantially contribute to the perception of height, bulk and scale as viewed from the public domain in Smith Street or from neighbouring sites.
- The overrun location and associated non-compliance with the height control facilitates equitable access without any significant adverse amenity impacts.
- Does not unreasonably overshadow the public domain

In dealing with the sufficient environmental planning grounds Preston CJ in Initial Action considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 in order to demonstrate that grounds exist to warrant a variation to height. Clause 1.3 of the EP and A Act 1979 relevantly provides:

“1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,**
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,**
- (c) to promote the orderly and economic use and development of land,**
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,**
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,**
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,**
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)*

A development that complies with the landuse zoning of the site (R3 Medium Density Residential) satisfies the objectives of under S1.3 *EP&A Act 1979*.

The plans by Habitation Design & Interiors Architecture, and specifically the height variation indicated on the height plane diagram satisfies the objectives in bold given that:

- The development replaces a non-compliant landuse (industrial/commercial) with flat building with affordable housing in line with Council's strategic planning objectives, the SEPPHD and ALEP 2013.
- The development allows for the timely and economic development of the land in line with the R3 zone objectives.
- Achieves a positive social outcome providing more affordable housing for the community in a highly accessible location.
- The development improves management of the States land resources by providing a more efficient use of private land zoned R3 Medium Density that is well positioned to



take advantage of its proximity to public transport, jobs, services and local and regional leisure, recreation and cultural activities.

- maintains satisfactory access to daylight, sunlight and natural ventilation.
- Compliant level of internal and external amenity with improved access by way of a lift over the 3 levels.

Based on the above the consent authority can be satisfied that there are sufficient environmental planning grounds to warrant the variation.

Notwithstanding the above Preston CJ clarified in *Micaul and Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- The proposal has an acceptable visual fit and balances the opportunities and constraints.
- Maintains satisfactory levels of solar access to the southern neighbours.

In summary, the HOB variation is considered to be in the public interest given its ability to not cause significant adverse impacts but also because of its ability to provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable and unnecessary in the circumstances of this particular case.

The proposal as one departing from the height standard is in the public interest given its ability to:

- not cause significant adverse natural and built form impacts;
- provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable and unnecessary in the circumstances. The justification and specific site considerations are not matters that would apply to all sites zoned R3 Medium Density under the Ashfield LEP. The site has a cross fall which also contributes to the variation.

Clause 4.6(4)(a)(ii) The proposed Development will be in the Public Interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Consistency with the Zone Objectives

An enquiry is now made in relation to the ability of the proposal and the identified variation, as one departing from the HOB standard, to reasonably satisfy the stated objectives of the zone.

R3 Medium Density Residential

The objectives of the R3 Medium Density Residential zone are as follows:

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*



- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The following provides a review of the zone objectives:

- *To provide for the housing needs of the community within a medium density residential environment.*

The proposal is a change of landuse from the existing industrial/commercial occupation of the land to residential being consistent with the R3 zone. The proposal provides affordable accommodation to meet the emerging needs of the community with good access to public transport and essential services. The proposal also provides non affordable housing to achieve the Councils housing targets particularly where the site has access to rail services.

- *To provide a variety of housing types within a medium density residential environment.*

The flat building provides a range of housing options for future residents and achieves the objectives. The lift facilitates improves access to all units above ground. Accordingly, the proposed development is consistent with the objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective is not relevant to the proposal.

8.0 Other Matters For Consideration

Step 4 - Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl4.6 of the ALEP.

The Court has power to grant development consent to the proposed development even though it contravenes the HOB development standard, without obtaining or assuming the concurrence of the Secretary by reason of s39(6) of the *Land and Environment Court Act 1979* (the Court Act).

Clause 4.6(5) - Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice, cl4.6(5) of the LEP provides that in deciding whether to grant concurrence, the Secretary must consider:

- whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- the public benefit of maintaining the development standard, and*
- any other matters required to be taken into consideration by the Secretary before granting concurrence.*

The proposed contravention of the HOB development standard has been considered in light of cl4.6(5) as follows:

- The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the



proposed development for this particular site. It is not directly transferrable to any other site in the immediate locality, wider region or the State and the scale of the proposed development does not trigger any requirement for a higher level of assessment;

- As indicated in Section 7 and Section 8, the proposed contravention of the development standard is considered to be in the public interest because it is consistent with the objectives of the zone and the objectives of the development standard.

The proposed development contravenes the Height of Building development standard under cl4.3 of ALEP 2013. Cl4.3 is a development standard and is not excluded from the application of cl 4.6.

This written request to vary the development standard has been prepared in accordance with cl4.6(3) of the LEP and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

- the proposed development is consistent with the relevant objectives of the development standard pursuant to cl4.3 of the ALEP 2013 and is consistent with the relevant objectives of the R3 zone and therefore, the proposed development is in the public interest;
- the proposed flat building incorporating affordable housing will not result in significant adverse environmental harm in that the amenity of neighbouring properties will be satisfactory and there will be no significant adverse impacts on the Smith Street streetscape. In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the HOB development standard including:
 - Replacement of a non residential landuse with a land use that is permissible in the R3 zone;
 - Provision of improved access to the building over all levels;
 - No adverse impact on neighbours associated with the lift overrun

A handwritten signature in black ink that reads 'A Martin'.

Andrew Martin B App Sci (EH), M Env Plan, Ass Dip App Sci (Man), MPIA
Director
Andrew Martin Planning Pty Ltd

Attachment D – Conditions (If Approved)

CONDITIONS OF CONSENT

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

A. Overland Flows from Upstream Properties

Prior to the consent becoming operational the Council must be provided with stormwater plans certified by a suitably experienced Civil Engineer detailing hydrologic and hydraulic calculations for the overland flows from the upstream properties in a 1 in 100 year ARI storm event and the requirements of Council's Flood Planning Policy.

The design must make provision for the natural flow of stormwater runoff from upstream properties. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments shall not be blocked or diverted but must be captured and catered for within the proposed site drainage system. For the design purpose, natural overland flows from the upstream properties shall be assumed as unobstructed.

An inter allotment drainage line capable of conveying 1% AEP (100 ARI) flow rate from the upstream catchment shall be provided in favour of upstream properties at the site. Lyall & Associates Flooding Report dated 15 June 2022, found that the provision of the 225 mm uPVC pipe along the western boundary of the subject property would control overland flow which presently ponds along its northern boundary. This pipe size should be supported by hydrology and hydraulic calculations. The minimum width of the drainage easement shall be 0.9 metres depending on the size of the inter allotment drainage.

The following minimum information shall be included in the stormwater design.

- 1) A 600 mm x 600 mm inlet pit inside the northern boundary.
- 2) An opening in the northern boundary wall capable of conveying 1% AEP (100 ARI) overland flow.
- 3) A longitudinal section along the inter allotment drainage line up to Council pipe including crossing services.

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

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
A103 Issue A	Site Analysis	10/12/2021	Habitation Design + Interiors
A104 Issue A	Site Plan	10/12/2021	Habitation Design + Interiors
A105 Issue A	Basement Floor Plan	10/12/2021	Habitation Design + Interiors
A106 Issue A	Ground Floor Plan	10/12/2021	Habitation Design + Interiors
A107 Issue A	Level One	10/12/2021	Habitation Design + Interiors
A108 Issue A	Level Two	10/12/2021	Habitation Design + Interiors
A109 Issue A	Roof Plan	10/12/2021	Habitation Design + Interiors
A110 Issue A	Elevations 01	10/12/2021	Habitation Design + Interiors
A111 Issue A	Elevations 02	10/12/2021	Habitation Design + Interiors
A112 Issue A	Elevations 03	10/12/2021	Habitation Design + Interiors
A113 Issue A	Sections	10/12/2021	Habitation Design + Interiors
A114 Issue A	Adaptable Layout	10/12/2021	Habitation Design + Interiors
A115 Issue A	Front Fence Detail	10/12/2021	Habitation Design + Interiors
A123 Issue A	Materials and Finishes	10/12/2021	Habitation Design + Interiors
1 of 8 Issue C	Landscape Site Plan	7/12/2021	Paul Scrivener

2 of 8 Issue C	Planting Plan	7/12/2021	Paul Scrivener
8 of 8 Issue C	Section EE and FF	7/12/2021	Paul Scrivener

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change

An amended Landscape Plan must be submitted to and approved by Council before Construction Certificate. The plan must include:

1. At least three (3) large native canopy trees able to reach 12m at maturity to be proposed on deep soil. These trees may be in addition to or instead of the proposed trees.
2. The balustrades to balconies to the northern elevation of Block A and the northern and southern elevations of Block B are to be amended to be of a solid form, as to not allow sightlines through.

FEES

3. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate works written evidence must be provided to the Certifying Authority that a monetary contribution of \$580,626.44 indexed in accordance with Ashfield Development Contributions Plan/ Developer Contributions Plan No.1 – Open Space and Recreation; 'Developer Contributions Plan No.2 – Community Facilities and Services (2005) has been paid to the Council.

The above contribution is the contribution applicable as at 3 August 2022.

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

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

Community Infrastructure Type:	Contribution \$
Local Roads	\$16,983.07
Local Public Transport Facilities	\$30,072.52
Local Public Car Parking	-
Local Open Space and Recreation	\$484,054.85
Local Community Facilities	\$25,487.81
Plan Preparation and Administration	\$24,028.18
TOTAL	\$580,626.44

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

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

Payment methods:

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

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

4. Long Service Levy

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

5. Security Deposit - Custom

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any

damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$100,000.00
Inspection Fee:	\$350.00

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

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

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

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

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

GENERAL CONDITIONS

6. Project Arborist

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

7. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Koikas Acoustics Pty Ltd reference 4325R20211109mj55-63SmithStreetSummerHill_DAv2.docx dated 30.5.22 must be implemented.

8. Hazardous Materials Survey

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

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

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

Certification that the Detailed Site Investigation (DSI) and the Remediation Action Plan (RAP) has been reviewed and approved by a contaminated land consultant certified under a scheme recognised by the NSW EPA shall be submitted to Council. Any modifications required by the reviewer shall be incorporated into the DSI and the RAP.

Any modifications required by the reviewer shall be incorporated into the DSI and the RAP.

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Foundation Earth Sciences reference Job No. E2668-3 dated 24.5.22, including any recommendations made following the review of the RAP by a certified contamination consultant, as required by the *Contaminated Land Management Act 1997* and Chapter 4 - Remediation of Land of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

10. Car Parking

The development must provide and maintain within the site:

- a. 44 car parking spaces must be paved and line marked;
- b. 4 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces.

11. Residential Flat Buildings – Hot Water Systems

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

12. Residential Flat Buildings – Air Conditioning Systems

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

13. Residential Flat Buildings – Adaptable Dwellings

Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate 6 units are Adaptable units.

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

14. Waste Management Plan

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

15. Erosion and Sediment Control

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

16. Standard Street Tree Protection

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

17. Verification of Levels and Location

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

18. Works Outside the Property Boundary

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

19. Boundary Alignment Levels

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

20. Rock Anchors

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

PRIOR TO ANY DEMOLITION**21. Resource Recovery and Waste Management Plan - Demolition and Construction**

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

22. Dilapidation Report

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

23. Advising Neighbours Prior to Excavation

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

24. Construction Fencing

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

25. Hoardings

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

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

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

26. Construction Traffic Management Plan – Detailed

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

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

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

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

PRIOR TO CONSTRUCTION CERTIFICATE

27. Bin Storage Area - Residential

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

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

The bin storage area is to meet the design requirements detailed in the Inner West Comprehensive Development Control Plan (DCP) 2016 and must include doorways/entrance points of 1200mm.

28. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Inner West Comprehensive Development Control Plan (DCP) 2016 and have minimum doorways of 1200mm wide to accommodate large items.

29. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12.

If, at any point, waste and recycling bins, or bulky household waste, is to be moved manually from the basement to ground level, a bin tug, suited to the inclination, and which meets Australian Standards in Health, Safety, Environment and Quality.

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

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

31. Tree Protection Plan

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

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

Tree No.	Botanical/Common Name	Location
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T1	<i>Morus nigra</i> (Mulberry)	Neighbouring properties to East and North
T2	<i>Corymbia citriodora</i> (Lemon Scented Gum)	
T3 & 5	<i>Washingtonia filifera</i> (California Fan Palm)	
T4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	
T6	<i>Liquidambar styraciflua</i> (Liquidambar)	
T7	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	
T8	<i>Brachychiton acerifolius</i> (Illawarra Flame Tree)	
T9	<i>Backhousia citriodora</i> (Lemon Myrtle)	
T10	<i>Melaleuca bracteata</i> (Black Tea Tree)	
T11	<i>Waterhousea floribunda</i> (Waterhousea)	
T12	<i>Ulmus glabra</i> 'Lutescens' (Goldn Elm)	
T13	<i>Castanospermum australe</i> (Black Bean)	

Reference should be made to the *Arboricultural Impact Assessment Report prepared by Horticultural Management Services, dated 26/11/2021 for tree numbering and locations.*

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

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

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

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

32. Tree Planting in the Public Domain

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

1. Five to six (5-6) new trees shall be located within the footpath outside the subject property on Smith Street. The species of tree selected shall be *Lagerstroemia indica* (Crepe Myrtle);
2. The trees are to be planted at five (5) metres spacings;
3. All planting stock size shall be minimum 75 litres;
4. The planting stock shall comply with AS 2303—*Tree Stock for Landscape Use*;

5. The new trees shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3 in Horticulture or Arboriculture;
6. The trees pit dimensions 1.2m x 2.5m and staking detail shall be in accordance with Detail 6 on page C40 of the *Ashfield Street Tree Strategy 2015, Part C* (available online).
7. Groundcovers should be proposed. Please see page 18 of 2.18 Landscaping and Open Spaced of Marrickville DCP 2011 for possible species selection.

33. Light Spill

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

34. Enclosure of Fire Hydrant

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

35. Party Walls

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

36. Sydney Water – Tap In

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

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

37. Fibre-ready Facilities

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

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

38. Consolidation of Lots

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

39. Green Roofs, Walls and Facades Report

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

40. Stormwater Drainage System – Major Developments

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and Stormwater Quality Improvement Devices (SQIDS), certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing Nos. ST01 to ST05 prepared by Danmor Consulting Engineers and dated 6 December 2021, as amended to comply with the following;
- b. Stormwater runoff from all surface areas within the property must be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tank by gravity to Council's piped drainage system via the OSD tank;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- d. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than for the pump-out of subsurface flows and surface flows from the driveway from the basement;

- e. The Drainage Plan must detail the proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;
- f. The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water pipe system limited to pre-development conditions;
- g. Details of the Height vs Storage and Height vs Discharge relationships must be submitted.
- h. Pipe drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD tank;
- i. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. A pump-out system for drainage of surface flows from the basement ramp is permitted for the basement area only and must be designed in accordance with the following criteria:
 - 1. Comply with all relevant Australian Standards;
 - 2. An overflow, flashing light and audible alarm is to be provided to warn of pump failure;
 - 3. A maintenance regime for the pump system must be provided, including provision for regular maintenance and servicing at least every 6 months;
 - 4. The proposed pump system must consist of two (2) pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration, 100-year Average Recurrence Interval (ARI) storm event. The holding tank must be capable of holding one hour's runoff from one-hour duration 20-year ARI storm event;
 - 5. The pump system must be discharged to the OSD storage tank;
 - 6. Subsurface flows must be collected at the point of ingress to the basement;
 - 7. The subsurface drainage system must have sufficient capacity to collect and convey all surface flows to the pump out system; and
 - 8. Inlet pits and drains for subsurface drainage must be designed to minimise potential for pollutants from cars or other sources to enter the subsurface drainage system.
- k. No nuisance or concentration of flows to other properties;
- l. The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system;
- m. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for the stormwater outlet;
- n. Stormwater quality improvement devices must be installed such that stormwater flows leaving the site meet the following environmental targets:

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

- o. A water balance model must be submitted to accompany the water re-use proposal;
- p. A WSUD Strategy Report must be provided to ensure the treatment measures proposed to meet Council's water quality targets. For sites with a GFA greater than 2000sqm a MUSIC model (including .sqz file) must be included with the report;
- q. A detailed WSUD maintenance plan outlining how all elements of the water quality treatment facility will be maintained and to record annual inspections/maintenance works to be undertaken.
- r. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement must be fully "tanked" so as not to allow the ingress of seepage or groundwater..

41. Structural and Geotechnical Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by

a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:

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

42. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees and landscaping, must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme;
- b. The construction of heavy duty vehicular crossing and removal of redundant vehicular crossing to the site;
- c. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;

- d. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary; and
 - e. The existing Council drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4 m lintel) must be installed. The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event. Pipes must be Class 4 Steel Reinforced Concrete Pipe or approved equivalent and Pits must be cast in-situ. Plans, long sections and details must be provided including location of utility services. Connection of the private drainage system to Council's piped drainage system must be at a stormwater drainage pit at a level 300mm above the invert of the outgoing pipe.
- All works must be completed prior to the issue of an Occupation Certificate.

43. Flood Affected Site

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer that the works comply with the following specific requirements:

- a. All habitable floor levels and protection to the underground carpark must be set at flood planning levels (flood level plus 500mm freeboard) shown on the approved architectural plans. All structures below the flood planning levels must be constructed from flood compatible materials;
- b. Entry crest to any underground carpark must be set at the flood planning levels (flood level plus 500mm freeboard);
- c. All electrical equipment and wiring must be waterproofed or installed at or above RL 14.50 m AHD;
- d. A structural engineer's certificate must be submitted stating that the proposed building has been designed to withstand the forces of flood water, debris and buoyancy up to the 1 in 100-year flood level;
- e. The existing ground levels throughout the site must be maintained so as not to alter the existing overland flow path. Details of all obstructions or changes in level within the overland flow paths must be detailed on the plan; and
- f. All fencing within the overland flow path must be of an open type so as to allow for the free flow of water throughout the site so as to maintain existing flows.

44. Flood Risk Management Plan

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Flood Risk Management Plan prepared and certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia

(CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The Plan must be prepared/amended to make provision for the following:

- a. The plan must be generally in accordance with the relevant recommendations of the Flood Risk Management report prepared by Molino Stewart and dated 12 May 2021;
- b. Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site must be assessed for the 100-year ARI and Probable Maximum Flood (PMF) storm events. The precautions must include but not be limited to the following:
 - i. Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris;
 - ii. Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections;
 - iii. Flood warning signs/depth indicators for areas that may be inundated;
 - iv. A flood evacuation strategy; and
 - v. On-site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- c. All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below:
 - i. Building Code of Australia;
 - ii. Defined flood level (DFL) 100-year Average Recurrence Interval flood level;
 - iii. Defined flood event (DFE) 100-year Average Recurrence Interval flood; and
 - iv. Flood hazard level (FHL) Flood Planning Level (FPL).

45. Amended Architectural Plans to Reflect Flood Risk Management Plan

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

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

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

46. Engineering Design - Structural Engineer Plans and Certification

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

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

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

47. External Catchment

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

DURING DEMOLITION AND CONSTRUCTION

48. Documentation of Demolition and Construction Waste

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

49. Tree Protection

To protect the following trees, if existing slab between proposed basement and boundary is remove, ground protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan* and/or with Council's *Development Fact Sheet—Trees on Development Sites*:

Tree No.	Botanical/Common Name/Location
T1	<i>Morus nigra</i> (Mulberry)
T2	<i>Corymbia citriodora</i> (Lemon Scented Gum)
T3 & 5	<i>Washingtonia filifera</i> (California Fan Palm)

T4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)
T6	<i>Liquidambar styraciflua</i> (Liquidambar)
T7	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)

50. Inspections by Project Arborist

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

Tree No./ Botanical/ Common Name/ Location	Time of Inspection	Key stage/ Hold point
All trees are located on adjacent neighbouring properties: T1 - <i>Morus nigra</i> (Mulberry) T2 - <i>Corymbia citriodora</i> (Lemon Scented Gum) T3 & 5 - <i>Washingtonia filifera</i> (California Fan Palm) T4 - <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) T6 - <i>Liquidambar styraciflua</i> (Liquidambar) T7 - <i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark) T8 - <i>Brachychiton acerifolius</i> (Illawarra Flame Tree) T9 - <i>Backhousia citriodora</i> (Lemon Myrtle) T10 - <i>Melaleuca bracteata</i> (Black Tea Tree) T11 - <i>Waterhousea floribunda</i> (Waterhousea) T12 - <i>Ulmus glabra</i> 'Lutescens' (Goldn Elm) T13 - <i>Castanospermum australe</i> (Black Bean)	During Works	<ul style="list-style-type: none"> All demolition works to east and north near trees must be done under DIRECT supervision of the Project Arborist. Excavation works for basement within TPZ of trees must be done under DIRECT supervision of Project Arborist, Supervise all excavation, trenching works and landscaping works within the TPZ.

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

51. Limited Root Pruning

No tree roots of 30mm or greater in diameter located at specific distance from boundary line of the following trees must be severed or injured in the process of any works during the construction period

Tree No.	Botanical/Common Name	Distance in metres
T1	<i>Morus nigra</i> (Mulberry)	1m
T2	<i>Corymbia citriodora</i> (Lemon Scented Gum)	1m
T3 & 5	<i>Washingtonia filifera</i> (California Fan Palm)	1m
T4	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	1m
T6	<i>Liquidambar styraciflua</i> (Liquidambar)	0.5m
T7	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	0.5m

No excavation should be undertaken between the proposed basement and boundary line. If necessary, any excavation within the specified distance from the boundary line of the tree(s) for services or landscape works being hand dug to a depth of one (1) metre under direct supervision of the Project Arborist and then by mechanical means as agreed by the Project Arborist. If tree roots less than 30mm diameter are required to be severed for the purposes of constructing the approved works, they must be cut cleanly using a sharp and *fit for purpose* tool. The pruning must be undertaken by a practicing Arborist.

52. Contamination – New Evidence

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

53. Imported Fill Materials

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

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

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or

- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

54. Construction Hours – Class 2-9

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

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

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

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

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

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

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

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

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

55. Survey Prior to Footings

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

PRIOR TO OCCUPATION CERTIFICATE**56. Certification of Tree Planting**

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

A minimum of fifteen (15) trees which will attain a minimum mature height of six (6) metres and three native (3) trees which will attain a minimum mature height of twelve (12) metres, all in seventy-five (75) litre size, must be planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The trees are to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements. If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

57. Project Arborist Certification

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

58. Underground Petroleum Storage System (UPSS) – Decommissioning – Validation

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report prepared by a suitably qualified and experienced person. The report is to confirm that the underground petroleum storage system has been removed, replaced or decommissioned in accordance with the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*, the *Protection Environment Operations Act 1997* and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

59. Contamination – Disposal of Soil

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

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

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

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

61. Section 73 Certificate

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

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

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

63. Affordable Housing

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

- (a) for 15 years from the date of the issue of the occupation certificate—
 - (i) that units 2, 3, 4, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34 are to be used for the proposes of affordable housing will be used for affordable housing and
 - (ii) all units that are used for affordable housing will be managed by a registered community housing provider and
- (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with

section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.

64. Public Domain Works

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

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

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

65. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

66. Protect Sandstone Kerb

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

67. Undergrounding Power – Major development

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the existing overhead power cables along the road frontage of the site have been relocated underground with appropriate street lighting and new steel standard poles. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet the lighting category required by Council and RMS. In addition the design must also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light.

68. Parking Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at the road frontage to indicate that visitor parking is available within the property;
- c. Sign have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area;
- d. The driveway has been setback off the eastern boundary of the site (no walls for minimum 2.5 meters) to satisfy pedestrian and vehicle sight lines; and
- e. A convex mirror has been added to the splayed wall at the bottom of the entry ramp. In addition, additional warnings and mirrors are provided.

69. Public Domain - Major Developments

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

70. Dilapidation Report – Post-Development

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

71. Stormwater Drainage and Road Works – Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

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

72. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:

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

73. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and stormwater quality improvement devices and pumps. The Plan must set out the following at a minimum:

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

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

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under

Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. Easement for drainage of water;
- b. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices;
- c. Restrictions on the Use of Land related to Stormwater Surface Flow Paths;
- d. Positive Covenant related to on-site stormwater detention;
- e. Positive Covenant related to stormwater quality improvement devices; and
- f. Positive Covenant related to Stormwater Surface Flow Paths.

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

75. Basement/Retaining Wall Signoff – Major Development

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with certification from a suitably experienced structural and geotechnical engineer, who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng), that the basement and driveway has been constructed in accordance with the development consent and relevant Australian Standards.

76. Flood Risk Management Plan - Certification

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

ON-GOING

77. Bin Storage

All bins are to be stored within the site. All bins are to be returned to the permanent bin storage area within 12 hours of having been emptied.

78. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act*

1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

79. Green Roofs, Walls and Facades Establishment

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

80. Operation and Management Plan

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

81. Vehicles Leaving the Site

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

82. Loading/unloading on site

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

83. Flood Risk Management Plan

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

ADVISORY NOTES

Recycling / Garbage / Organics Service Information and Education

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

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Tree Protection Works

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

Mechanical Ventilation System Certification

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

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

Underground Petroleum Storage System (UPSS) – Decommissioning

The removal, replacing or decommissioning of an underground petroleum storage system must comply with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*, the *Protection of the Environment Operations Act 1997* and Australian Standard AS4976-2008: The removal and disposal of underground petroleum storage tanks.

Asbestos Removal

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

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

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

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

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2021*.

Notification of commencement of works

At least 7 days before any demolition work commences:

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

Storage of Materials on public property

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

Toilet Facilities

The following facilities must be provided on the site:

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

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

Infrastructure

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

Other Approvals may be needed

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

Failure to comply with conditions

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

Other works

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

Obtaining Relevant Certification

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;

- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

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

National Construction Code (Building Code of Australia)

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

Notification of commencement of works

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

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

Dividing Fences Act

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

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in

accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

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

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Construction of Vehicular Crossing

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

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute

child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

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

Useful Contacts

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

Information on asbestos and safe work practices.

NSW Office of Environment and Heritage 131 555
www.environment.nsw.gov.au

Sydney Water 13 20 92
www.sydneywater.com.au

Waste Service - SITA Environmental Solutions 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50
www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

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

Rock Anchors

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

- a. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.

- b. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
- c. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.

Electrical Substations

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

Permits

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

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

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

Easement and Covenant Process

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

- a. Work-As-Executed Plans

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS 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 the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

b. Engineer's Certificate

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

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

c. Restriction-As-To-User

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

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

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

d. A Maintenance Schedule.

Subsurface drainage pump-out systems

Where it is demonstrated by detailed geotechnical investigation that the groundwater flows are minimal or intermittent, a pump out system for groundwater may be considered. An application for modification of development consent with supporting documentation must be submitted. Where this option is to be pursued dry-weather flows of any seepage water will not be permitted through kerb outlets and must be connected directly to a Council stormwater system in accordance with Council requirements.

Insurances

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