





# INNER WEST

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2022/0725
<b>Address</b>	85 Wardell Road DULWICH HILL
<b>Proposal</b>	Partial demolition of the existing structures, construction of a 2 storey dwelling house and a 2 storey shop-top housing development comprising a basement, ground floor commercial tenancies and 2 apartments and subdivision of the site into 2 Torrens title allotments
<b>Date of Lodgement</b>	13 September 2022
<b>Applicant</b>	Avium Sydney Properties Pty Ltd
<b>Owner</b>	Avium Sydney Properties Pty Ltd
<b>Number of Submissions</b>	Initial: 4
<b>Value of works</b>	\$1,596,583.00
<b>Reason for determination at Planning Panel</b>	Section 4.6 variation exceeds 10%
<b>Main Issues</b>	FSR, Car Parking
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Section 4.6 Exception to Development Standards



### LOCALITY MAP

<b>Subject Site</b>		<b>Objectors</b>		↑	<b>N</b>
<b>Notified Area</b>		<b>Supporters</b>			

## 1. Executive Summary

This report is an assessment of the application submitted to Council for partial demolition of the existing structures, construction of a 2 storey dwelling house and a 2 storey shop-top housing development comprising a basement, ground floor commercial tenancies and 2 apartments and subdivision of the site into 2 Torrens title allotments at 85 Wardell Road Dulwich Hill.

The application was notified to surrounding properties and 4 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- The proposed mixed use portion of the development breaches the floor space ratio (FSR) development standard by 65.445sqm or 24.49%.
- The proposal has a shortfall in car parking of 2 spaces as required by Part 2.10 of MDCP 2011.

The non-compliance is acceptable given the application has been accompanied by a Clause 4.6 variation request which is considered to demonstrate that compliance with development standard unnecessary in the circumstances and the development would be consistent with the objectives of the standard and E1 Local Centre zone.

The shortfall in car parking is also considered acceptable given the proposal increases on street parking and is within close proximity to public transport. Additionally, the application has been supported with a Traffic and Parking Assessment Report which demonstrates the development will not have an adverse impact on traffic or parking in the locality despite the minor shortfall.

With the exception of the FSR variation and car parking, the development is generally compliant with the relevant planning controls and therefore the application is recommended for approval.

## 2. Proposal

The application involves partial demolition of the existing structures, construction of a 2 storey dwelling house and a 2 storey shop-top housing development comprising a basement, ground floor commercial tenancies and 2 apartments and subdivision of the site into 2 Torrens title allotments.

The plans propose the following:

- Partial demolition of the existing mixed use building on the site.
- Torrens title subdivision of the site into 2 allotments, with 1 lot measuring 341.3sqm to support a mixed use development and 1 lot measuring 222.3sqm to support a dwelling house.
- Construction of a 2 storey mixed use development on the northern most lot comprising a basement, ground floor with 1 retail tenancy and 1 commercial tenancy, first floor with 2 x 2 bedroom apartments and 1 car parking space to the rear of the lot.
- Construction of a 2 storey dwelling house on the southern most lot and a carport and 1 car parking space at the rear of the lot.
- Associated landscaping to both proposed lots.

### 3. Site Description

The subject site is located on the southern corner of Wardell Road and Yule Street. The site consists of 1 allotment and is generally rectangular in shape with a total area of 537.5 sqm and is legally described as Lot 1 of Section 2 in Deposited Plan 340 otherwise known as 85 Wardell Road Dulwich Hill.

The site has a frontage to Wardell Road of 13.41 metres and a secondary frontage of approximate 39.995 metres to Yule Street.

The site supports a two storey mixed use building containing a commercial premises and 2 dwelling with existing vehicle access from Yule Street. The adjoining properties support single storey dwelling houses.

The subject site is zoned E1 Local Centre under the Inner West Local Environmental Plan 2022.

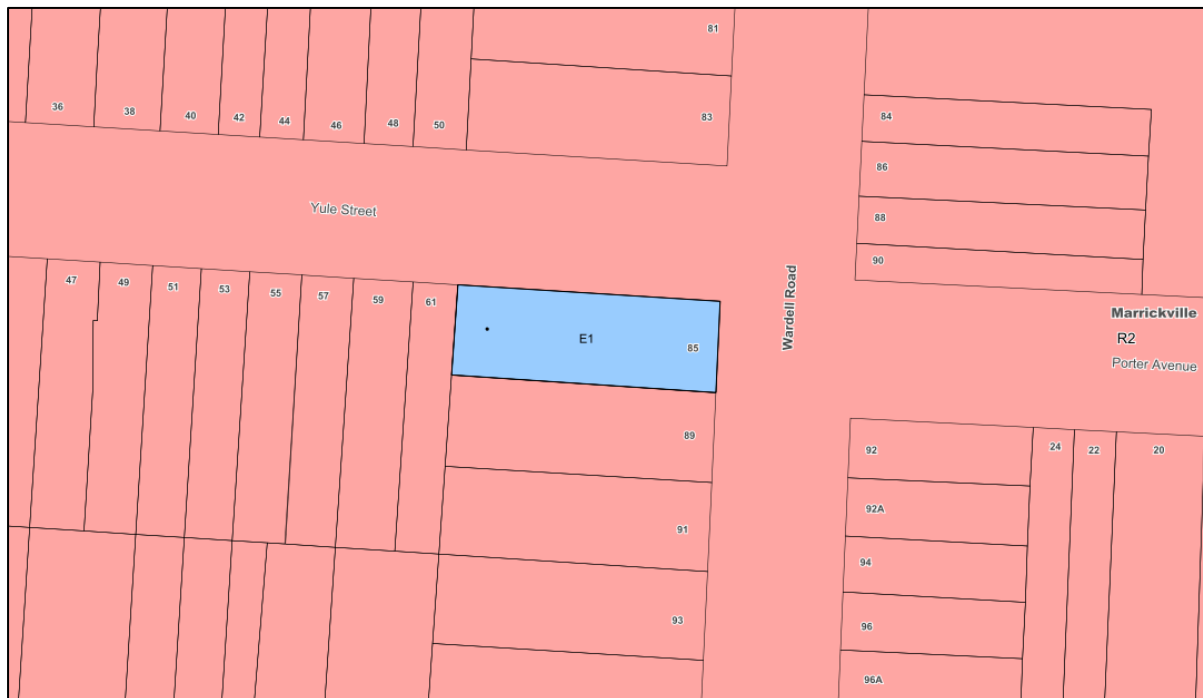


Figure 1: Zoning Map



Figure 2: Site viewed from Wardell Road

## 4. Background

### 4(a) Site history

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

#### Subject Site

Application	Proposal	Decision & Date
PDA/2021/0227	Partial demolition of the building to construct a two-storey shop top development comprising a ground floor shop and two units on the first floor; one office premise and alterations and additions to an existing house with subdivision	Advice Issued – 23 August 2021
DA201700617	To demolish part of the premises and carry out ground floor alterations and additions comprising bathroom amenities for the commercial tenancy, install privacy fencing between residential units and the commercial tenancy, construct a new double garage and storage area at the rear of the site and to use the commercial premises as an office	Approved – 29 June 2018

### 4(b) Application history

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



Date	Discussion / Letter / Additional Information
9 May 2023	<p>Council wrote to the applicant request amendments and additional information to address the following:</p> <ul style="list-style-type: none"> <li>• The permissibility of the dwelling house component of the development in light of CI 6.13 of IWLEP 2022 which requires an active street frontage for mixed use development.</li> <li>• Separation of commercial and residential waste areas.</li> <li>• Further information regarding tree management and protection.</li> </ul>
27 June 2023	<p>The applicant submitted amended plans and information addressing Council concerns including:</p> <ul style="list-style-type: none"> <li>• Legal advice pertaining to the application of CI 6.13 of IWLEP 2022 in the context of a dwelling house being an additional permitted use under Schedule 1 of IWLEP 2022.</li> <li>• Amended plans address the waste concerns and improving the active street frontage of the mixed use component to Yule Street.</li> <li>• Amended landscape plans to provide canopy trees and clarify proposed landscaping.</li> <li>• An amended Arborist Report to include tree protection measures for all neighbouring and Council trees that may be impacted by the development.</li> </ul> <p>The amended plans and additional information provided on 27 June 2023 are the subject of this report and did not require renotification in accordance with Council's Community Engagement Framework.</p>

## 5. Assessment

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

### 5(a) Environmental Planning Instruments

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

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

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 Detailed Site Investigation Report (DSI) completed by Geo-Environmental Engineering P/L that concludes:

*“Based on observations made during the field investigations, the sampling and analysis program conducted at the site, the proposed land-use (i.e. residential with accessible soils) and with respect to relevant statutory guidelines, GEE conclude that the near surface topsoil / fill material across the site is contaminated with metals (lead and arsenic), albeit sporadically. In this regard, the site is not currently suitable for the proposed land-use (specifically the residential land-use with accessible soils), however it can easily be made suitable by undertaking standard and convention remediation measures.*

*In accordance with local and State planning procedures, a Remedial Action Plan (RAP) will be required (references 1) which details the remediation measures and the controls required to ensure that the site is made suitable for the proposed development. 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 response to the findings of the DSI, the applicant has provided a Remediation Action Plan (RAP) completed by Geo-Environmental Engineering P/L that sets out suitable soil remediation options to remove any sporadic findings of contaminated topsoil that may be found on the site.

In consideration of Section 4.16 (2) and (3) the applicant provided a preliminary and detailed site investigation and on the basis of these reports the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated. Conditions of consent are included in Attachment A to ensure any contamination is appropriately managed and remediated.

A search of Council’s records in relation to the site has not indicated that the site is one that is specified in Section 4.6 (4)(c), given the use of the site has primarily been residential or small-scale commercial development. This is supported by the DSI provided by the applicant which concludes the following in relation to the historical uses of the site:

*“The past and current land-use activities are relatively benign from a site contamination perspective. Furthermore, the original buildings on the site and the most recent building additions that occurred in the late 1990s are unlikely to have included the use of Asbestos Containing Materials (ACM). However, this is not the case for the building additions that occurred in the 1950s and 1960s which were at the western end (rear) of the original buildings and includes the former garage in the south-western corner which has since been demolished.*

*Finally, the age of the original buildings suggests that lead-based paints may have been used and maintenance work over the years may have resulted in elevated lead concentrations in near surface soils surrounding the buildings.”*

A search of Councils records does not indicate any knowledge or incomplete knowledge of uses listed within Table 1 of the contaminated land planning guidelines.

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

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

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

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

Chapter 2 Infrastructure

Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of *SEPP (Transport and Infrastructure) 2021* and has been referred for comment for 21 days. Ausgrid have raised no objection to the proposal.

**5(a)(iv) Inner West Local Environmental Plan 2022 (IWLEP 2022)**

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

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.5 - Additional permitted uses for land
- Section 2.6 – Subdivision
- Section 2.7 – Demolition requires development consent
- Section 4.3 – Height of buildings
- Section 4.4 – Floor space ratio
- Section 4.5 – Calculation of floor space ratio and site area
- Section 4.6 – Exceptions to development standards
- Section 6.1 – Acid sulfate soils
- Section 6.2 – Earthworks
- Section 6.3 – Stormwater management
- Section 6.8 – Development in areas subject to aircraft noise
- Section 6.13 – Residential accommodation in business zones

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

<b>Standard</b>	<b>Proposal</b>	<b>Non-compliance</b>	<b>Complies</b>
<b>Mixed Use Lot</b>			
<b>Height of Building</b> Maximum permissible: 9.5 metres	8.22 metres	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.85:1 or 267.15sqm	1.06:1 or 332.6sqm	65.44sqm or 24.49%	No
<b>Dwelling House Lot</b>			
<b>Height of Building</b> Maximum permissible: 9.5 metres	8.22 metres	N/A	Yes
<b>Floor Space Ratio</b> Maximum permissible: 0.85:1 or 189.8sqm	0.7:1 or 157.6sqm	N/A	Yes

(i) Section 2.3 – Land Use Table and Zone Objectives

The site is zoned E1 Local Centre under the *IWLEP 2022*. The *IWLEP 2022* defines the development as a *shop top housing and dwelling house*.

The *shop top housing* component of the development is permitted with consent within the land use table.

The *dwelling house* component of the development is not permitted with consent in the land use table, however is permitted as an Additional permitted use on the site under Section 50 of Schedule 1 of *IWLEP 2022*. This is discussed in further detail below.

The development is consistent with the objectives of the E1 zone.

(ii) Section 2.5 – Additional permitted uses for land

Section 2.5 of *IWLEP 2022* gives effect to Additional permitted uses on land. The subject site is identified as “50” on the Additional Permitted Uses Map. Section 50 of Schedule 1 of *IWLEP 2022* is as follows:

**50 Use of certain land for dwelling houses in Zone E1**

- (1) *This clause applies to land identified as “50” on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of dwelling houses is permitted with development consent.*

As such, the proposed use of part of the site as a dwelling house is permitted with consent and is permissible under *IWLEP 2022*.

It is noted that Section 2.5(2) also clarifies the following:

**2.5 Additional permitted uses for particular land**

- ... (2) *This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

(iii) Section 4.6 – Exceptions to development standards

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the LEP by 65.44sqm or 24.49% on the proposed mixed use lot.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the LEP justifying the proposed contravention of the development standard which is reproduced as follows:

- *The proposal is notably fully compliant with the height of buildings development standard, ensuring that the proposed height of the building will be compatible with the desired future character of the area and that the additional GFA proposed has not generated further breaches of development standards.*
- *The density of the use on the site is within the capacity of the existing structure being utilised and what is envisioned for the site by the permissible land uses. The proposal notably retains a maximum two storey form.*
- *The proposal seeks substantial alterations and additions to the existing development however has sought to locate the proposed additions paying respect to the historical evolution of the site and whilst acknowledging local context.*

- *The subject site is bounded to the east and west by the different land zoning and density controls with adjacent properties located within the R2 Low Density Residential zone. The proposal has been designed having regards to this, by limiting the mixed use component of the proposed development to the north of the site, to enable a consistent residential form for all properties to the south. The corner location also lends itself to a mixed use development, allowing for dual frontages to promote an active street design. In view of the above, despite the proposed FSR variation, the development provides an appropriate transition between the two densities.*
- *Given the proposal is in keeping with the objectives of the zone, the overshadowing impact is considered contextually reasonable. The adjoining residential properties will retain excellent solar access during the spring/autumn equinox and summer period. With respect to the shop top housing units, in view of their north facing living room windows, the units will achieve excellent solar access at the winter solstice.*

The applicant's written rationale adequately demonstrates compliance with the development standard is 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 in the public interest because it is consistent with the relevant objectives of the zone and the objectives of the development standard, in accordance with Clause 4.6(4)(a)(ii) of the LEP for the following reasons:

- The development proposed results in a variation on the mixed use lot, however it is noted that the dwelling house lot is significantly less than the FSR development standard and the scale and form of the building remains generally consistent with the form of the locality being a maximum of 2 storeys and providing acceptable and compliant building setbacks and envelopes.
- The development reflects an appropriate density for the locality, noting the site is an isolated E1 zone surrounded by low density residential and the dwelling house component provides a transition to the low density surroundings.
- The development does not result in adverse amenity impacts in the locality as demonstrated by the general compliance achieved with the relevant planning controls as discussed throughout this report.
- The proposal includes tree canopy planting as required by Part 2.20 of MDCP 2011 and therefore increases the tree canopy, noting the site currently does not support any trees.
- The development includes the restoration and reinstatement of historical features and uses on the site, particularly in the restoration and reinstatement of the dwelling house, thereby ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.
- The proposal includes a variety of commercial spaces which have the ability to provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- The development provides suitable residential development that contributes to a vibrant and active local centre.
- The mixed use component of the development provides an active street frontage to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces and provides surveillance to the street.

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



The proposal thereby accords with the objective of Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the LEP. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Floor Space Ratio development standard and it is recommended the Clause 4.6 exception be granted.

(iv) Section 6.13 – Residential accommodation in business zones

Section 6.13 of IWLEP 2022 provides the following which is relevant to the proposal:

**6.13 Residential accommodation in Zones E1, E2 and MU1**

- (1) *The objective of this clause is to control the location of residential accommodation permitted in the zones to which this clause applies to support the vitality of local centres.*
- (2) *This clause applies to land in the following zones—*
  - (a) *Zone E1 Local Centre ...*
- (3) *Development consent must not be granted to development for the purposes of residential accommodation on land to which this clause applies unless the consent authority is satisfied the building—*
  - (a) *is mixed use development, and*
  - (b) *will have an active street frontage, and*
  - (c) *is compatible with the desired character of the area in relation to its bulk, form, uses and scale.*

The proposal includes an active street frontage for the mixed use component of the development to both Wardell Road and Yule Street through the provision of active commercial uses at the ground floor of the building with glazing and other design elements that create a connection between the building and the street to provide an active frontage. As such, the development is considered to comply with Section 6.13(3)(a-c) and is acceptable.

It is noted that the dwelling house component of the development does not provide an active street frontage. Notwithstanding, as discussed above, the dwelling house component is permissible with consent under Section 2.5 of IWLEP 2022 as an additional permitted use.

It is noted that Section 2.5 provides that the Section has effect despite any other provisions of the plan. It is considered that compliance with Section 6.13 of IWLEP 2022 would effectively prohibit a dwelling house use on the site given a dwelling house by the nature of the use being a solely residential use, cannot provide an active street frontage. As such, it is considered that strict compliance with Section 6.13 cannot be applied to the dwelling house component and the dwelling house component remains permissible with consent due to the provisions of Section 2.5, despite the requirements of Section 6.13(3).

Notwithstanding, the development provides a high level of active street frontage as a result of the mixed use component. The development, including the dwelling house, is part of the mixed use proposal and as discussed throughout this report is compatible with the desired character of the area in relation to its bulk, form, uses and scale.

### 5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes – see discussion
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	No – see discussion
Part 2.11 – Fencing	Yes
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Yes
Part 2.20 – Tree Management	Yes
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.24 – Contaminated Land	Yes – see discussion under Resilience and Hazards SEPP
Part 2.25 – Stormwater Management	Yes
Part 3 – Subdivision	Yes – see discussion
Part 4.1 – Low Density Residential Development	Yes
Part 5 – Commercial and Mixed Use Development	Yes – see discussion
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

(i) Part 2.1 – Urban Design

Part 2.1 of MDCP 2011 set outs 12 urban design principles applicable to development. The proposal, while not a heritage item or in a conservation area, has undertaken heritage research, including a exploring the historical development of the site and an on-site physical analysis to ensure the development responds to the character of the area and provides a positive contribution to the streetscape and locality. The Heritage Advice prepared by Romey Knaggs Heritage provides the following in relation to the site history:

*“The house at 87 Wardell Road was the first of the two buildings erected on the subject site, being built in c1884 as a two-storey brick residence known as Eastvale. Eastvale was described as being a two-storey residence with a large corner block of land. Built of brick on a stone foundation, it had a slate roof, verandah at the front and rear and a balcony. Inside were a hall, five rooms, bathroom, pantry, kitchen, washhouse and other service rooms.*

*In 1889 the house was surveyed as part of the Metropolitan Water and Drainage Service surveys of Sydney suburbs. The plan shows the building set close to the southern boundary of its block, with what appears to be a large tank, possibly a septic tank, at the rear on the northern side of the house and an outside toilet at the rear of the block, which has been connected to the sewer in Yule Street.*

*With the large house set back from the edge of the block there was room to develop the corner site, a fact made clear in an 1888 sale advertisement. In c1897 the corner, at what is now 85 Wardell Road, was developed with the construction of a two storey shop and dwelling. It is first listed in the Sands Directory in 1898, although the occupant, Henry Stevens, has no occupation listed. Between 1907 and 1917, 85 Wardell Road is listed*

*as a grocery in the Sands Directory, then as a general store until 1924 after which it is occupied by butchers until the Sands Directory stops being published in 1933.*

*Around 1922 the two buildings were joined together and extended with a single storey addition to Wardell Road, bringing the façade into alignment with the corner shop building and creating another shop on the site. It is from this date in the Sands Directory that the occupants of both buildings are listed with either grocer or butcher as their occupations, and in the Valuation books that both are rated as shop and dwellings. The valuation book for the period 1920-22 has Eastvale listed as a dwelling, but crossed out and re-listed as shop/dwelling suggesting that this was the date of the work to join both buildings.”*

The proposal has utilised this historical research and physical assessment of the site to determine the existing building was once a dwelling house and separate 2 storey shop and dwelling. The proposal reinstates significant elements of the original buildings through the reintroduction of the dwelling house and providing restoration and reinstatement to both the dwelling house and mixed use building that includes historical detailing that positively contributes to the streetscape and provides a development appropriate to the sense of place and character. While the development also includes contemporary design elements, these are located primarily to the rear with the historical portions of the buildings being the prominent elements to the street, resulting in a proposal that allows for the change through the development of the site while provide continuity by respecting and enhancing the historical elements. In particular, this approach of historical restoration addresses Principle 9 (Sense of place and character in streetscapes and townscapes) and Principle 11 (Continuity and change).

With respect the remaining urban design principles, as discussed throughout this report the proposal is generally compliant with the relevant planning controls and provides an appropriately scaled mixed use development that is capable of providing appropriate uses and residential accommodation.

As such, it is considered to provide a high-quality urban design outcome for the site that responds well the character of the area, consistent with Control C1 and Objective O1 within Part 2.1 of MDCP 2011.

(ii) Part 2.10 – Parking

The following table summarises the car, bicycle and motorcycle parking requirements for the development. The site is located in Parking Area 2 under Part 2.10 of MDCP 2011.

Component	Control	Required	Proposed	Complies?
<b>Car Parking</b>				
Resident Car Parking	1 car parking space per dwelling house	1 dwelling house = 1 spaces	1 space	No
	0.5 car parking spaces per bedroom unit	2 x 2 bed unit = 1 spaces		
	<b>TOTAL:</b>	<b>2 spaces</b>		
Commercial Car Parking	1 space per 80sqm GFA for customers and staff	142.3sqm GFA = 1.77 spaces	1 space	No

	<b>TOTAL:</b>	<b>2 space</b>		
<b>Bicycle Parking</b>				
Resident Bicycle Parking	1 bicycle parking space per 2 units	2 units = 1 space	2 spaces	Yes
Commercial Bicycle Parking - Staff	1 bicycle parking space per 300sqm GFA	146.3sqm GFA = 0.47 spaces		
	<b>TOTAL:</b>	<b>1 space</b>		
<b>Motorcycle Parking</b>				
Motorcycle Parking	5% of the total car parking requirement	4 car parking spaces required = 0.26 space	0 space	Yes

As detailed above, the development does not comply with the car parking requirements. The proposal provides 2 car parking spaces being 1 space for the dwelling house and 1 space for the commercial uses, both accessible from Yule Street. As such, the development results in a shortfall of 2 car parking spaces.

Notwithstanding, it is noted that the proposed shortfall in parking is considered acceptable in the circumstances for the following reasons:

- The shortfall primarily relates to the mixed use building which does not provide car parking for the 2 apartments and lacks 1 space for the commercial premises, however the site is well serviced by public transport with bus routes along Wardell Road and is within walking distance of bus services on New Canterbury Road, and Livingstone Road and the Dulwich Grove Light Rail Station.
- The proposal increases the number of on street parking on Yule Street by 1 space through the removal of a driveway crossing, noting that while cars may park across this driveway currently, they are not formalised spaces as blocking a driveway is unlawful.
- The application is supported by a Traffic and Parking Assessment Report completed by Varga Traffic Planning P/L demonstrating the development would not have an unreasonable impact on traffic or parking in the locality.
- Council's Development Engineer has reviewed the proposal and agrees that the shortfall in car parking will not result in adverse impacts to the locality.
- A condition is included in the recommendation to provide 2 additional bicycle parking spaces within the mixed use building to be accessible for the residential apartments to further offset the shortfall in car parking.

Given the above, despite the shortfall in car parking and non-compliance with Control C2 within Part 2.10 of MDCP 2011, the development is considered acceptable for the reasons discussed above and consistent with relevant objectives within Part 2.10 as follows:

- **O1** To balance the need to meet car parking demand on-site to avoid excessive spillover on to streets, with the need to constrain parking to maintain the Marrickville LGA's compact urban form and promote sustainable transport
- **O5** To allow for appropriate variation of provision rates and design parameters for developments with particular characteristics, such as affordable housing or re-use of older buildings.
- **O6** To provide for current and future demand for bicycle parking and to ensure bicycle parking is well designed and located.

- ***O7 To ensure all parking facilities are safe, functional and accessible to all through compliance with design standards.***

(iii) Part 3.2 – Torrens Title Subdivision and Amalgamation

Parts 3.2.2 and 3.2.4 of MDCP 2011 provide Torrens title subdivision controls for residential and commercial developments respectively. Given the site is within a predominantly residential area and includes a high proportion of residential development, it is considered reasonable to apply the controls that relate to residential subdivision. Notwithstanding, it is noted that both the residential and commercial controls are the same and require subdivision to be consistent with the prevailing cadastral pattern of the immediate streetscape.

Part 3.2.2 does not contain minimum lot width or area requirements for subdivisions, but rather relies on performance based controls that aim to ensure that new lots facilitate development that is compatible with the immediate area.

The application proposes to subdivide the property into 2 lots. The streetscape and immediate locality is generally characterised by a mix of single storey dwellings, residential flat buildings and commercial buildings on a mix of narrow and wide lots. The following table illustrates the proposed lot dimensions and the approximate dimensions of lots within the street:

Number	Site Area	Frontage	Number	Site Area	Frontage
73	1694sqm	24 metres	52	4929sqm	62 metres
77	540sqm	13 metres	84	303sqm	7 metres
79	494sqm	13 metres	86	353sqm	8 metres
81	533sqm	14 metres	88	313sqm	7 metres
83	535sqm	14 metres	90	233sqm	6 metres
<b>Lot 1 (85)</b>	<b>314.3sqm</b>	<b>7.82 metres</b>	92	244sqm	9 metres
<b>Lot 2 (87)</b>	<b>223.3sqm</b>	<b>5.58 metres</b>	92A	244sqm	9 metres
89	546sqm	14 metres	94	231sqm	8 metres
91	536sqm	13 metres	96	236sqm	9 metres
93	545sqm	13 metres	96A	232sqm	8 metres
95	554sqm	14 metres	98	928sqm	15 metres
97	560sqm	14 metres	100	922sqm	16 metres

As the above table demonstrates, the frontages of adjoining properties range between 6 metres at the lower end of the range up to 62 metres at the higher end. The subdivision would result in 2 lots with site areas within the range of the prevailing cadastral pattern. The shape of the allotments being generally rectangular and fronting Wardell Road demonstrate the compliance of the proposal with the subdivision requirements.

The assessment of the application against the other relevant controls in MDCP demonstrates that the lots would be able to satisfy controls C6 and C7. The proposal ultimately achieves the aims and objectives of Part 3.2 of MDCP.

(iv) Part 5.3 – Commercial/Light Industrial/Residential Interface

Part 5.3 of MDCP 2011 provides objectives and controls relating to the interface of commercial and residential development in order to manage potential noise, vibration and impacts.

Given the limited size of the commercial spaces in the mixed use development, it is considered that the commercial spaces are unlikely to have adverse impacts on surrounding residential uses. It is noted that this application does not seek approval for the use of the proposed spaces. As such, a condition is included in the recommendation requiring future approval to



be obtained for any use of the commercial tenancies, noting that matters such as hours of operation and noise relating to any specific future use would be addressed by a future application.

#### 5(e) The Likely Impacts

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

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

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

#### 5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 21 days to surrounding properties. 3 submissions were received in response to the initial notification.

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

- Parking and Traffic – see discussion under MDCP 2011 in Section 5(c)(ii)
- Streetscape and Character – see discussion under MDCP 2011 in Section 5(c)(i)
- Heritage Values – see discussion under MDCP 2011 in Section 5(c)(i)
- Building Envelope and Scale – see discussion under IWLEP 2022 in Section 5(a)(vi)

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

##### Issue: Tree Impacts

Comment: Concern is raised regarding impacts to street trees and landscaping generally. The application is supported by an Arboricultural Impact Assessment which provided protection measures for surrounding street trees. This report was reviewed and supported by Council's Tree Management Officer and appropriate conditions are recommended to ensure tree protection. The development includes suitable landscaping and the planting of 2 new trees which is sufficient and complies with Council's requirements within Part 2.20 of MDCP 2011.

##### Issue: Community benefit of commercial tenancies

Comment: Concern is raised that the commercial spaces will not provide a community benefit. While the use of the commercial spaces is subject to a future application, the site is zoned E1 Local Centre and commercial uses are anticipated for the site. The development is consistent with the zone objectives and the commercial spaces will allow for uses which can provide services which support the surrounding community.

##### Issue: Construction Impacts

Comment: Concern is raised regarding construction noise and other impacts. Standard conditions of consent are recommended to manage construction impacts, including limiting construction hours to standard times. While there may be some construction related impact, these are generally short term impacts that will not continue once construction is complete.

##### Issue: Overshadowing

Comment: Concern is raised regarding overshadowing impacts to 89 Wardell Road to the south of the subject site. Part 2.7 of MDCP 2011 requires new development to maintain a minimum of 2 hours direct solar access to neighbouring windows and private open spaces between 9.00am and 3.00pm on June 21. The proposal is supported by shadow diagrams which demonstrate compliance and the development will not have an adverse impact in terms of overshadowing to neighbouring properties. Additionally, June 21 is a worst case scenario and shadow diagrams provided for March/September demonstrate that high levels solar access are retained to 89 Wardell Road during the equinoxes.

Issue: Privacy

Comment: Concern is raised regarding visual privacy impacts to 89 Wardell Road. The southern elevation of the proposed dwelling house adjoining 89 Wardell Road has no proposed windows or openings facing towards the neighbouring property. Ground and first floor windows are proposed to the rear western elevation of the dwelling house. These windows are not considered to result in adverse overlooking impacts given the ground floor windows will be screened by boundary fencing and the first floor windows are orientated to face the yard of the subject site and serve a bedroom (a low use area), therefore providing limited opportunities for overlooking. As such, the development is considered acceptable with regards to privacy and complies with Part 2.6 of MDCP 2011.

#### 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 not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Engineering
- Urban Forest
- Environmental Health
- Building Certification

### 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

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$15,966.00 would be required for the

development under Inner West Local Infrastructure Contributions Plan 2023. A condition requiring that contribution to be paid is included in the recommendation.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

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

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

## 9. Recommendation

- A. The applicant has made a written request pursuant to Section 4.6 of the *Inner West Local Environmental Plan 2022*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the floor space ratio development standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2022/0725 for partial demolition of the existing structures, construction of a 2 storey dwelling house and a 2 storey shop-top housing development comprising a basement, ground floor commercial tenancies and 2 apartments and subdivision of the site into 2 Torrens title allotments at 85 Wardell Road DULWICH HILL subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### CONDITIONS OF CONSENT

#### DOCUMENTS RELATED TO THE CONSENT

##### 1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	
A-DA000-008 Rev 03	Site Subdivision Plan	20.06.2023	Benson Architecture	McCormack
A-DA-100-001 Rev 03	Site Plan	20.06.2023	Benson Architecture	McCormack
A-DA-101-001 Rev 03	Demolition Plan Ground	20.06.2023	Benson Architecture	McCormack
A-DA-101-002 Rev 03	Demolition Plan Level 1	20.06.2023	Benson Architecture	McCormack
A-DA-101-003 Rev 03	Demolition Plan Roof	20.06.2023	Benson Architecture	McCormack
A-DA-110-001 Rev 03	Basement Plan	20.06.2023	Benson Architecture	McCormack
A-DA-110-002 Rev 03	Ground Floor Plan	20.06.2023	Benson Architecture	McCormack
A-DA-110-003 Rev 03	Level 1 Plan	20.06.2023	Benson Architecture	McCormack
A-DA-110-004 Rev 03	Roof Plan	20.06.2023	Benson Architecture	McCormack
A-DA-210-001 Rev 03	North Elevation	20.06.2023	Benson Architecture	McCormack
A-DA-210-002 Rev 03	East Elevation	20.06.2023	Benson Architecture	McCormack
A-DA-210-003 Rev 03	South Elevation	20.06.2023	Benson Architecture	McCormack
A-DA-210-004 Rev 03	West Elevation	20.06.2023	Benson Architecture	McCormack
A-DA-310-001 Rev 03	Section AA	20.06.2023	Benson Architecture	McCormack
A-DA-310-002 Rev 03	Section BB	20.06.2023	Benson Architecture	McCormack
A-DA-310-003 Rev 03	Section CC	20.06.2023	Benson Architecture	McCormack
A-DA-310-004 Rev 03	Section DD	20.06.2023	Benson Architecture	McCormack
A-DA-620-001 Rev 03	Window Schedule	20.06.2023	Benson Architecture	McCormack
A-DA-630-001 Rev 03	Finishes Schedule	20.06.2023	Benson Architecture	McCormack
LP01 Issue B	Landscape Plan (West)	20.06.2023	Matthew Higginson Landscape Architecture P/L	

LP02 Issue B	Landscape Plan 02	20.06.2023	Matthew Higginson Landscape Architecture P/L
LP03 Issue B	Sections	20.06.2023	Matthew Higginson Landscape Architecture P/L
SW200 - SW400 (inclusive) Rev P1	Stormwater Concept Plans	07.03.2022	SGC Consulting Engineers
A440552	BASIX Certificate (Dwelling House)	21.03.2022	GAT and Associates
1260038M	BASIX Certificate (Multi Dwelling)	22.03.2022	GAT and Associates
E21017DH- R02F Rev 0	Geotechnical Investigation Report	17.03.2022	Geo-Environmental Engineering
E21017DH- R04F Rev 0	Remedial Action Plan	17.08.2022	Geo-Environmental Engineering
2021-475	Acoustic Report - Aircraft Noise	16.03.2022	Acoustic Noise and Vibration Solutions P/L
6016A	Aboriginal Impact Assessment	17.06.2023	Tree and Landscape Consultants

As amended by the conditions of consent.

## **DESIGN CHANGE**

### **2. Design Change**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. 2 additional bicycle parking spaces designed in accordance with Part 2.10.14 of MDCP 2011 being provided within the mixed use building for use by the 2 residential apartments.

## **FEES**

### **3. 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.

<b>Security Deposit:</b>	<b>\$18,966.00</b>
<b>Inspection Fee:</b>	<b>\$350.00</b>

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.

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

#### **5. Section 7.12 Development Contribution Payments**

In accordance with section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of **\$15,966.00** shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.

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

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

Where:

- $C_{\text{payment}}$  = is the contribution at time of payment
- $C_{\text{consent}}$  = is the contribution at the time of consent, as shown above
- $CPI_{\text{consent}}$  = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being [insert CPI value] for the [insert latest quarter and year].
- $CPI_{\text{payment}}$  = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment

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

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

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

Council's Plan may be viewed at [www.innerwest.nsw.gov.au](http://www.innerwest.nsw.gov.au) or during normal business hours at any of Council's customer service centres.

Please contact any of Council's customer service centres on 9592 5000 or [council@innerwest.nsw.gov.au](mailto:council@innerwest.nsw.gov.au) to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.

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

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

### **GENERAL CONDITIONS**

#### **6. Noise – Consultant's Recommendations**

All performance parameters, requirements, engineering assumptions and recommendations contained in Acoustic Report prepared by Acoustic Noise and Vibrations Solutions P/L dated 16 March 2022 (ref: 2021-475) must be implemented.

#### **7. Contamination – Remedial Action Plan (No Site Auditor Engaged)**

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Geo-Environmental Engineering Pty Ltd (GEE) reference: E21017DH-R04F dated 17th August 2022, the *Contaminated Land Management Act 1997* and Chapter 4 - Remediation of Land of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

#### **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. Tree Protection**

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

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

The trees identified below are to be retained and protected in accordance with the conditions of consent or approved Tree Protection Plan throughout the development (note: tree numbers must correspond with approved Tree Protection Plan if conditioned) :

Tree No.	Botanical/Common Name	Location
T1, T2, T3	Three (3) x <i>Melaleuca bracteata</i> (Black Tea Tree)	Yule St on Council controlled land
T4	<i>Lophostemon confertus</i> (Brush Box)	Yule St on Council controlled land
T5	<i>Zelcova serrata</i> (Japanese Elm)	Yule St on Council controlled land

Details of the trees must be included on all Construction Certificate plans and shall be annotated in the following way:

- a. Green for trees to be retained;
- b. Red for trees to be removed;
- c. Blue for trees to be pruned; and
- d. Yellow for trees to be transplanted.

**NOTE:** Reference should be made to the *Arboricultural Impact Assessment Report prepared by TALC dated 17th June 2023 for tree numbering and locations*

#### 10. 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.

#### 11. Dry-weather Flows

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 or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

#### 12. Rock Anchors

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

#### 13. Awnings with Lighting

The proposed awning must be of cantilever type and be set back at least 600mm from the kerb line. The awning must include pedestrian lighting (Category P3-AS1158) and must be

maintained and owned by the property owner(s). The proposed awning must be designed to be easily removed if required in future. The owner must maintain, modify or remove the structure at any time if given notification by Council to do so. The lighting must be not be obtrusive and should be designed so that it does not shine into any adjoining residences.

#### **14. Car Parking**

The development must provide and maintain within the site:

- a. 1 car parking space for use by the dwelling house;
- b. 1 car parking space for use by the commercial tenancies; and
- c. 4 Bicycle storage capacity within the mixed use building.

#### **15. 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.

#### **16. 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.

#### **17. 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.

#### **18. 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.

#### **19. Works Outside the Property Boundary**

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

#### **20. Future Use of Commercial Tenancies**

Separate Development Consent for the use of the commercial tenancies must be obtained prior to the first use of the spaces.

#### **21. Separation of Commercial and Residential Waste and Recycling**

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

### **PRIOR TO ANY DEMOLITION**

#### **22. 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.

#### **23. Construction Traffic Management Plan**

Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained if it is proposed to continually occupy the road.

#### **24. 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.

#### **25. 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.

#### **26. 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.

#### **27. Resource Recovery and Waste Management Plan - Demolition and Construction**

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

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### **28. Noise General – Acoustic Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.



**29. Future use of Mixed-Use Building for Commercial Tenancy**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that the building design must incorporate measures to enable the installation of appropriate mechanical ventilation systems that comply with relevant Australian Standards including AS1668 and are capable of accommodating any exhaust/ventilation requirements for ground floor commercial units in particular food premises. In the event that a food premises requires a mechanical exhaust system for charcoal cooking purposes, separate consent is required as additional filtration systems and odour assessment will be necessary.

**30. 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
T1, T2, T3	Three (3) x <i>Melaleuca bracteata</i> (Black Tea Tree)	Yule St on Council controlled land
T4	<i>Lophostemon confertus</i> (Brush Box)	Yule St on Council controlled land
T5	<i>Zelcova serrata</i> (Japanese Elm)	Yule St on Council controlled land

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

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

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

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

**31. Dilapidation Report – Pre-Development – Minor**

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

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

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing Nos. SW200, SW201, SW202, SW300 and SW 400 Rev P1 prepared by SGC Engineers, as amended to comply with the following;

- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- 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 to drain downpipes to the rainwater tank(s);
- e. The basement must be fully tanked;
- 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 system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 years ARI/100years ARI);
- g. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use;
- h. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- i. Details of the 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided;
- j. Where there is no overland flow/flood path available, the design of the sag pit and piped drainage system is to meet the following criteria:
  - a. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe;
  - b. The maximum water level over the sag pit shall not be less than 150mm/300mm below the floor level or damp course of the building; and
  - c. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
- k. A minimum 150mm step up shall be provided between all external finished surfaces and adjacent internal floor areas except where a reduced step is permitted under the Building Code of Australia for Class 1 buildings;
- l. Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design;
- m. No nuisance or concentration of flows to other properties;
- n. No nuisance ground water flows to the kerb and gutter will be permitted;
- o. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- p. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets;

- q. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm;
- r. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings;
- s. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated;
- t. No impact to street tree(s).

### **33. 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 (CEng) 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 construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
- b. New concrete footpath along both frontages of the site in Wardell Road and Yule Street. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determined by the Council Engineer;
- c. The nature strip must be extended in Wardell Road to the full frontage of 87 Wardell Road and extended in Yule Street to the existing tree closest to the intersection;
- 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.
- e. Adjustment of the angle on street parking layout including changes to line marking and signage. Details to be approved by the Local Traffic Committee; and
- f. Installation of a stormwater outlets to the kerb and gutter.

All works must be completed prior to the issue of an Occupation Certificate.

### **34. Parking Facilities - Domestic**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:

- a. The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the alignment levels to be issued with the approved public domain plans;
- b. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance for a B85 vehicle;
- c. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- d. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements;

- e. The carport/parking space must have minimum clear internal dimensions of 5400 x 3000 mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004;
- f. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004;

### **35. Driveway Long Section - Dwelling**

The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template (Figure C1) from AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking. A long section, along both sides of the proposed vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be submitted to and approved by Council before the issue of a Construction Certificate. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section approved by Council shall define the Alignment Levels at the property boundary. The long section shall show both existing surface levels and proposed surface levels with changes.

### **36. 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. 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, water proofing and drainage 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.

### **37. 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.

**38. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

**39. 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*

**40. Acoustic Report – Aircraft Noise**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

**41. 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.

**42. Concealment of Plumbing and Ductwork**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

**DURING DEMOLITION AND CONSTRUCTION****43. 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.

**44. 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).

#### 45. Tree Protection

To protect the following trees, ground, trunk and branch protection must be installed prior to any works commencing in accordance with the approved *Tree Protection Plan*.

Tree No.	Botanical/Common Name/Location
T1, T2, T3	Three (3) x <i>Melaleuca bracteata</i> (Black Tea Tree) - Yule St on Council controlled land
T4	<i>Lophostemon confertus</i> (Brush Box) - Yule St on Council controlled land
T5	<i>Zelcova serrata</i> (Japanese Elm)- Yule St on Council controlled land

#### 46. 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
T1, T2, T3 - Three (3) x <i>Melaleuca bracteata</i> (Black Tea Tree) - Yule St on Council controlled land T4 - <i>Lophostemon confertus</i> (Brush Box) - Yule St on Council controlled land T5 - <i>Zelcova serrata</i> (Japanese Elm) - Yule St on Council controlled land		<ul style="list-style-type: none"> <li>• In accordance with the approved Tree Protection Plan referred to in condition XXX and section 4 of AS4970—<i>Protection of trees on development sites</i>.</li> </ul>

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

#### 47. 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.

#### **48. 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.

#### **49. 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.

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **50. Noise – Acoustic Report**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997* and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

#### **51. 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*.

#### **52. 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.

#### **53. 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 AQF5 Certificate of Horticulture or Arboriculture that:

A minimum of 2 x 75 litre size additional trees, that will attain a minimum mature height of 10 metres, have been planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary, 2.2m from any dwelling or garage wall and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape*. Trees listed as exempt species from Council's Tree Management Controls, and species recognised to have a short life span will not be accepted as suitable replacements.

If the trees are found dead or dying before they reach the dimensions where they are protected by Council's Tree Management Controls, they must be replaced in accordance with this condition.

#### **54. 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(s) at the vehicular access location(s);
- b. The redundant vehicular crossing to the site has been 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 has been reconstructed;
- d. The nature strip has been extended in Wardell Road to the full frontage of 87 Wardell Road and extended in Yule Street to the existing tree closest to the intersection;
- e. All line marking and signage has been adjusted to suit the new on street parking layout; and
- f. 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”.

#### **55. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any new 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. In addition, the advertising sign and structure shall be removed from the Yule Street side of the building.

**56. 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.

**57. Works as Executed – Site Stormwater Drainage System**

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

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

**58. Operation and Management Plan**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:

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

**59. 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. Right of carriage way;

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

**60. Heavy Duty Vehicle Crossing**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that heavy duty concrete vehicle crossing/s, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" has been constructed at the vehicular access locations.

**61. Parking Signoff – Minor Developments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

**62. Aircraft Noise –Alterations and Additions**

Prior to the issue of any Occupation Certificate, the Principal Certifier must be provided with a report prepared and submitted by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 with regard to the noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development. Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

**63. Smoke Alarms - Certification of upgrade to NCC requirements**

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

**64. Torrens Title Subdivision to Occur before Occupation**

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

**PRIOR TO SUBDIVISION CERTIFICATE****65. Redundant Vehicle Crossing**

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

**66. Separate Drainage Systems**

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

**67. Torrens Title Subdivision**

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

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

**68. Section 73 Certificate**

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

**ON-GOING****69. 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.

**70. Operation and Management Plan**

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

**71. Bin Storage**

All bins are to be stored within the site.

**ADVISORY NOTES****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.

**Storage of Hazardous and Dangerous Goods**

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

**Transport and Disposal of Hazardous and Dangerous Goods**

Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.

**Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> 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.

#### **Tree Protection Works**

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

#### **Permits**

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

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

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

#### **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/on-site retention/reuse facilities (OSD/OSR) 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. OSR pumps and 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.

**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.

**Public Domain and Vehicular Crossings**

The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for *Design of Vehicle Crossing and Public Domain Works – Step 1* form and *Construction of Vehicle Crossing and Public Domain Works – Step 2* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within Sections 69-86 of the *Environmental Planning and Assessment Regulations 2021*.

**Notification of commencement of works**

At least 7 days before any demolition work commences:

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

**Storage of Materials on public property**

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

**Toilet Facilities**

The following facilities must be provided on the site:

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

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

**Infrastructure**

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

**Other Approvals may be needed**

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

**Failure to comply with conditions**

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

**Other works**

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

**Obtaining Relevant Certification**

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

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**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.

#### **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.

#### **Fire Safety Certificate**

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Statement for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Statement must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

#### **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 <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 <a href="http://www.dialprior toyoudig.com.au">www.dialprior toyoudig.com.au</a>
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (VELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

### Street Numbering

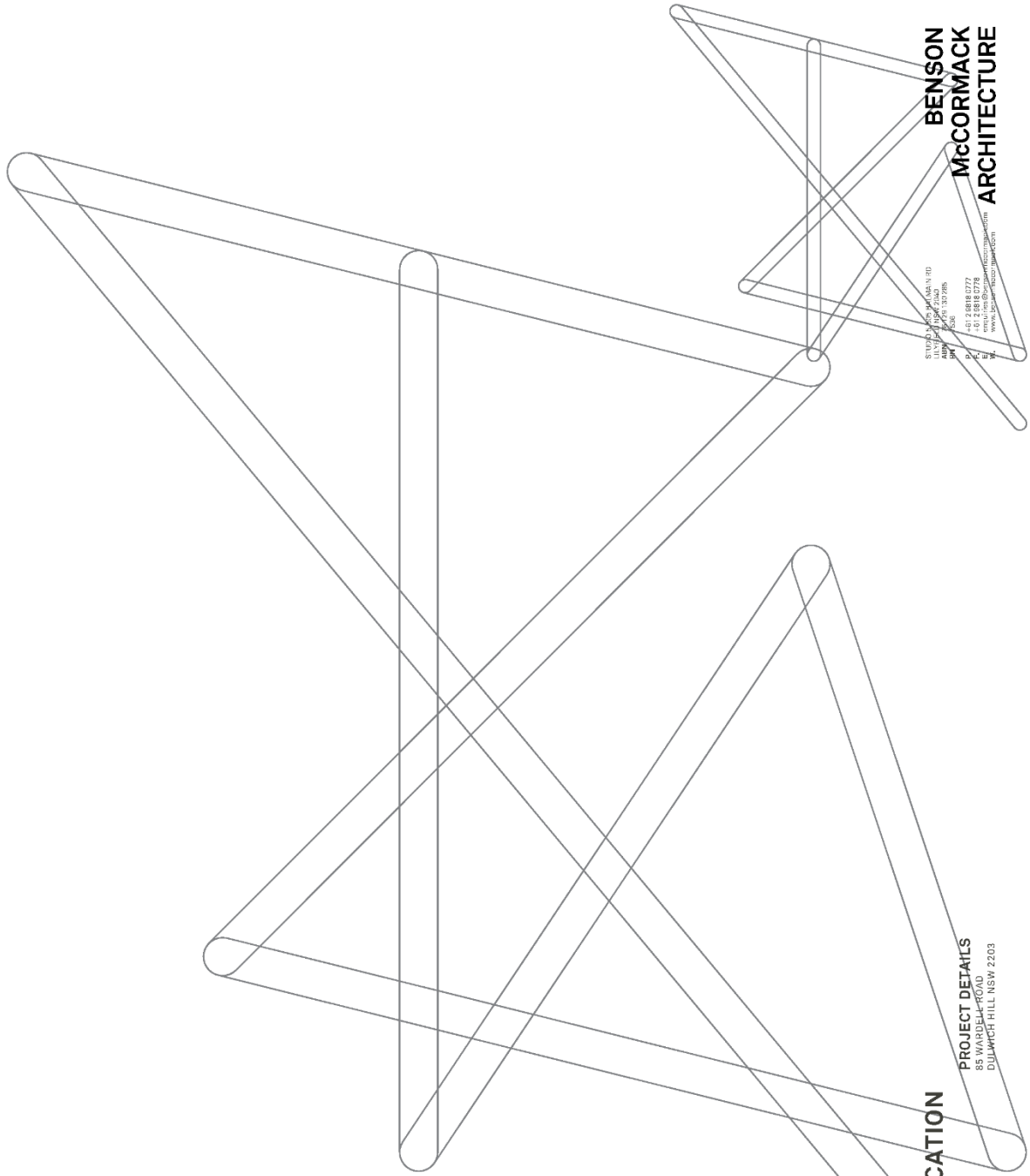
If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to [Street Numbering Application](#)

### Notice to Council to deliver Residential Bins

Council should be notified of bin requirements three months prior to the occupation of the building to ensure timely delivery.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

# Attachment B – Plans of proposed development



**85W**

**DEVELOPMENT APPLICATION**

CLIENT  
Avium Pty Ltd  
85 WARDELL ROAD  
DULLWICH HILL NSW 2203

Document Set ID: 37690066  
Version: 1, Version Date: 14/07/2023

**PROJECT DETAILS**  
85 WARDELL ROAD  
DULLWICH HILL NSW 2203

STUDIO 100  
11 VICTORIA ROAD, SUITE 100  
ADAMSBURG NSW 2153  
TEL: 02 9884 2778  
FAX: 02 9884 2778  
WWW.BENSONMCCORMACK.COM

**BENSON  
McCORMACK  
ARCHITECTURE**

# AREA SCHEDULE

ISSUE 1  
PROJECT NUMBER  
PROJECT ADDRESS

DATED  
DRAWN BY  
CHECKED BY  
LOT SECTION/PART No.

LOT 1 / D2620



## 01 STATUTORY INFORMATION

LOCAL GOVERNMENT AREA  
LAND ZONING  
SITE AREA (m<sup>2</sup>)

Inner West Council  
B1

537.5 m <sup>2</sup>	PROPOSED
REQUIRED	0.01 1
458.87 m <sup>2</sup>	487.20 m <sup>2</sup>
9.5 m	6.2 m
45 m <sup>2</sup>	5032 m <sup>2</sup>
8 m <sup>2</sup>	84 m <sup>2</sup>

## 02 GFA CALCULATION

LEVEL	m <sup>2</sup>
GF	240.8
L1	246.6
<b>TOTAL</b>	<b>487.20</b>

## 03 UNITS

No. of Single Dwellings

LEVEL	NUMBER OF UNITS	TYPE OF UNIT	LEVEL	NUMBER OF BEDS
GF	0	2BED	GF	1
1	2	0	1	1
<b>TOTALS</b>	<b>2</b>	<b>0</b>	<b>TOTALS</b>	<b>2</b>

## 04 PARKINGS

Minimum DCP 2011 - 2.10

Commercial	1.0	0.5	No. of Dwelling	2
1.0	1.0	1.0	1.0	1.0
<b>TOTAL</b>	<b>2.0</b>	<b>1.5</b>	<b>GRAND TOTALS REQUIRED</b>	<b>1.0</b>

## 05 WASTE

Commercial - Shop less than 100m<sup>2</sup> floor area

132.1	1/5-195	Matched Bins
30 L/100m <sup>2</sup> floor area/day	112	1.0
30 L/100m <sup>2</sup> floor area/day	168	1.0
<b>TOTAL</b>	<b>2</b>	<b>2.0</b>

## UNITS

No. of Single Dwelling

120 L per Unit	240	1.0
60 L per Unit	120	1.0
<b>TOTAL</b>	<b>360</b>	<b>2.0</b>

## WASTE GENERATION

140 L per Dwelling	280	1.0
240 L per Dwelling	240	1.0
<b>TOTAL</b>	<b>520</b>	<b>2.0</b>

## GREEN WASTE GENERATION

240 L per Dwelling	240	1
<b>TOTAL</b>	<b>240</b>	<b>1</b>

## RETAIL - Shop less than 100m<sup>2</sup> floor area

72.8 m <sup>2</sup>	159	1.0
300 L/100m <sup>2</sup> floor area/day	222	1.0
<b>TOTAL</b>	<b>381</b>	<b>2.0</b>

CLIENT  
Avium Pty Ltd  
ADDRESS  
11/1111111111  
11/1111111111  
11/1111111111  
11/1111111111  
11/1111111111

PROJECT  
85W  
85 WARRHILL ROAD, CHIMMICHILL NSW 2703  
27/07/2022  
20/06/2023

DATE  
27/07/2022  
20/06/2023

PROJECT NO  
A-DA-000-001

PROJECT NO  
03



Document Set ID: 02869066  
Version: 1, Version Date: 14/07/2023

BENSON  
McCORMACK  
ARCHITECTURE  
P. 4872 4878 4777  
W. www.bensonsmccormack.com.au

SCALE: 0/0

PROJECT NO  
A-DA-000-001

PROJECT NO  
03

**BENSON MCCORMACK ARCHITECTURE**  
OUR PHILOSOPHY

At Benson McCormack Architecture we aim to enrich and enhance the built environment through creative and environmentally sustainable contributions to the public and private realms.

We believe this ability to engage architects and engage with communities provides an opportunity and an obligation to participate in the continual improvement of the world that we live in, not just for ourselves but for future generations. No matter what the scale of commission, Benson McCormack take our commitments seriously to not only meet but exceed the expectations of our clients.

Through our practice of architecture we seek to continually challenge the way we approach all projects and their briefs. The results deliver well considered and dynamic ways to live, work and play for our clients and the wider community.

Our process of design – and the high-quality, sustainable architecture it produces – translates aspiration into tangible form. The result is architecture that answers the specific needs of the brief and contributes to the enhancement of the built and natural environments within which we live.

**Director - David Benson**  
Dutch hours (a.s.), New York  
7265, wa 910 6361



**Director - Glenn McCormack**  
Dutch hours (a.s.), New York  
7655, aiv 20415



**HOUSE 5DOCK**

3M+ WERE PRESENTED WITH AN EXTENSIVE LIST OF UNCLE FREEMAN'S PERIOD RENOVATION HOUSES LOCATED IN A ONE-STOREY, 1950s TERRACE AND ADJOINING TO THE STREET ON THE WESTERN SIDE OF A LANEWAY THAT NEGLECTED SEVERAL LESSER KNOWN OUTDOOR SPACES.



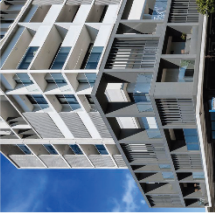
**09P**

**09 PENDERS CRT., JINDABYNE**  
09P COMPLETES FOUR TOWN HOUSES LOCATED ABOVE JINDABYNE RD. 09P HOUSES WERE DESIGNED TO CAPTURE THE BEST OF THE SITE'S NATURAL LIGHT AND VIEWS OF THE BAY AND THE CITY.



**RAY**

**141 PENSURST RD, NARWEE**  
THIS MIXED USE DEVELOPMENT COMPLETES 141 RAY AVENUE'S WEST SIDE AND PROVIDES 141 RAY APARTMENTS, 141 RAY OFFICE SPACE AND 141 RAY COMMERCIAL SPACE. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 141 RAY COMMERCIAL SPACE.



**KINGS**

**9-15 KINGS AVE, ROSEVILLE**  
COMPLETING 22 APARTMENTS, THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 22 COMMERCIAL SPACE.



**TRIBUS**

**2-8 LOFTUS ST, TURRELLA**  
THIS IS A RESIDENTIAL DEVELOPMENT LOCATED IN THE SOUTHERN STREET SUBURB OF TURRELLA. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 8 COMMERCIAL SPACE.



**254W**

**254 WARDELL RD, DULWICH HILL**  
THIS 900SQM SITE CAREFULLY APPLICATED MIXED USE DEVELOPMENT MIXES RESIDENTIAL AND COMMERCIAL DEVELOPMENT COMPRISES 20 APARTMENTS ABOVE 100 SQM OF COMMERCIAL SPACE.



**WAVE**

**415 ILLAWARRA RD, MARRICKVILLE**  
THE WAVE IS A MIXED USE DEVELOPMENT COMPLETING 200 APARTMENTS AND 200 COMMERCIAL SPACE. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 200 COMMERCIAL SPACE.



**HOUSE WARDELL**

**97 WARDELL ROAD, DULWICH HILL**  
THIS PROJECT IS A MIXED USE DEVELOPMENT COMPLETING 20 APARTMENTS AND 20 COMMERCIAL SPACE. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 20 COMMERCIAL SPACE.



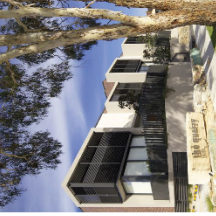
**THE BAKERY**

**6-8 HOLMESDALE ST, MARRICKVILLE**  
REPLACING A DISTRICT INDUSTRIAL WAREHOUSE ARE THE BAKERY'S NEW 6-8 HOLMESDALE ST. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 6 COMMERCIAL SPACE.



**THE QUARRY**

**15-25 EDGAR ST, TEMPE**  
THE LONG 15-25 EDGAR ST. SANDSTONE QUARRY IN TEMPE HAS BEEN REDEVELOPED INTO A MIXED USE DEVELOPMENT. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 15 COMMERCIAL SPACE.



**BONAR**

**BONAR ST, ARCLIFFE**  
LOCATED IN ARCLIFFE, THIS MIXED USE DEVELOPMENT COMPLETES 20 APARTMENTS AND 20 COMMERCIAL SPACE. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 20 COMMERCIAL SPACE.



**ILLOURA**

**392 ILLAWARRA RD, MARRICKVILLE**  
LOCATED AT THE PROMINENT CORNER OF ILLAWARRA AND ILLAWARRA ST. ILLAWARRA RD. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 392 COMMERCIAL SPACE.



**LION**

**402 LIVERPOOL RD, CROYDON**  
LOCATED WITHIN THE BIRCHWOOD SUBURB OF CROYDON. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 402 COMMERCIAL SPACE.



**GRAND VERMONT**

**29-41 GRAND PDE, SUTHERLAND**  
THE GRAND VERMONT IS A MIXED USE DEVELOPMENT COMPLETING 20 APARTMENTS AND 20 COMMERCIAL SPACE. THE PROJECT IS A HIGH PROPORTION OF COMMERCIAL SPACE AND PROVIDES OVER 20 COMMERCIAL SPACE.



**BENSON MCCORMACK ARCHITECTURE**

Document Set ID: 37890096  
Version: 1, Version Date: 14/07/2023

CLIENT		LEGEND		PROJECT		DRAWING TITLE	
Avium Pty Ltd		CHK	DESCRIPTION	85W	GENERAL	BMA Capability	
ADDRESS 1111 N LINDSAY ROAD DULWICH HILL NSW 2203		GRV	DATE/ISSUE 01	26/09/2022	85W	85W	
CONTACT P: +61 2 9518 3777 E: enquiry@benbcmccormack.com.au		GRV	DATE/ISSUE 02	20/06/2024	85W	85W	
PROJECT NO: 37890096		GRV	DATE/ISSUE 03	20/06/2024	85W	85W	
DRAWING NO: A-DA-000-002		GRV	DATE/ISSUE 04	20/06/2024	85W	85W	
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PROJECT NO: 37890096		GRV	DATE/ISSUE 07	20/06/2024	85W	85W	
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PROJECT NO: 37890096		GRV	DATE/ISSUE 99	20/06/2024	85W	85W	
DRAWING							



MORTON PARK

BOOTH HOUSE NURSING HOME

WILKINS PUBLIC SCHOOL

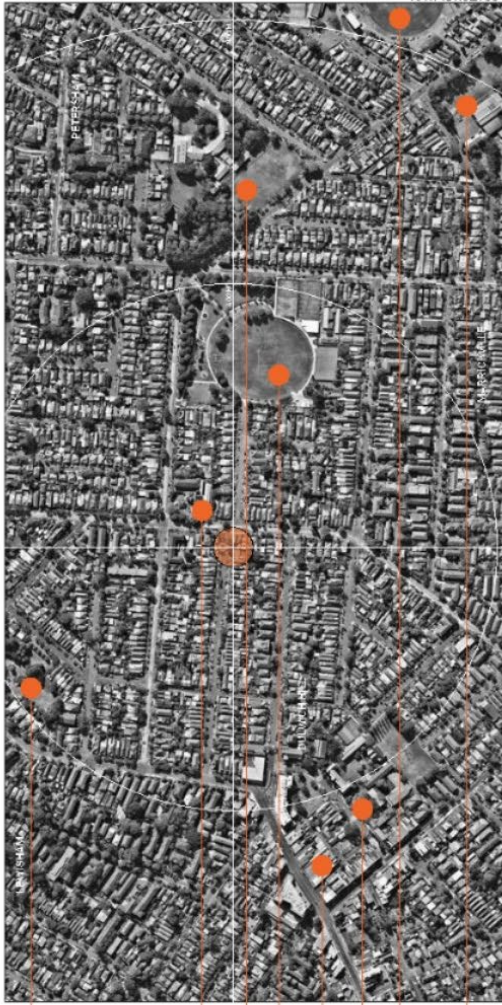
MARRICKVILLE PARK

DULWICH HILL TOWN CENTRE

DULWICH HILL HIGH SCHOOL

HENSEN PARK

MARRICKVILLE HIGH SCHOOL



LOCATION PLAN 01

85 WARDELL ROAD DULWICH HILL NSW 2203



LOCATION PLAN 02



**BENSON  
McCORMACK  
ARCHITECTURE**

Document Ref: **0414\_0220200306**  
Version: 1, Version Date: 14/01/2023

**CLIENT**  
Avium Pty Ltd  
A/ STRADA'S C&E MILLIMARR RD  
PTNS LG VILLAGE NSW 2204  
RN: 729 100 225  
P: +61 2 9619 6777  
W: www.aviumccormack.com.au

**LEGEND**

**ARCHITECTS**  
CHA DA BEE CO  
DA BEE CO  
DA BEE CO

**DATE**  
2022/02/02  
2022/02/02  
2022/02/02

**REV**  
01  
02  
03

**PROJECT**  
85W  
85 WARDELL ROAD, DULWICH HILL NSW 2203

**DEVELOPMENT APPLICATION**  
PROJECT CENTRE  
SCALE: 0/00

**DRAWING No**  
A-DA-000-003

**DRAWING TITLE**  
GENERAL  
SITE LOCATION

**REVISION**  
SI  
REV

**03**



BOOTH-HOUSE NURSING HOME

CROQUET CLUB

THE SITE  
85 WARDELL ROAD DULWICH HILL NSW 2203

MARRICKVILLE PARK

LOCATION PLAN BRCA 1943



CROQUET CLUB

THE SITE (CIRCA 1943)  
85 WARDELL ROAD DULWICH HILL NSW 2203

MARRICKVILLE PARK

LOCATION PLAN BRCA 1943



**CLIENT**  
Avium Pty Ltd  
ADDRESS  
85 WARDELL ROAD  
DULWICH HILL NSW 2203  
P 02 9215 8600  
F 02 9215 8600  
E info@avium.com.au

**RENSON  
McCORMACK  
ARCHITECTURE**

Document: A-DA-000-004  
Version: 1, Version Date: 14/07/2023

**LEGEND**

**AMENDMENTS**

**PROJECT**

**DRAWING TITLE**

**DRAWN**

Date	Rev	Description
20/07/22	01	DA ISSUE 01
20/07/22	02	DA ISSUE 02
20/07/22	03	DA ISSUE 03

85W  
85 WARDELL ROAD, DULWICH HILL NSW 2203

GENERAL  
Site Context Plans

SD



SCALE 1:500

A-DA-000-004

03





**BENSON  
McCORMACK  
ARCHITECTURE**

Document No: DA-000-005, Version: 1, Version Date: 14/07/2023

**CLIENT**

**Avium Pty Ltd**

A. 107/100 G. CRE. STANMERE RD  
 B. 111 WYFIELD NSW 2048  
 C. 141 E. 90/13 0777  
 D. enquiries@avium.com.au  
 E. avium.com.au

**LEGEND**

**APPROPRIATIONS**

CH Description  
 CH CA155E01  
 CH CA155E02  
 CH CA155E03

**PROJECT**

Ref: **85W**  
 26/09/2022 01  
 30/09/2022 02  
 30/09/2022 03

**DOMAINS TITLE**

**GENERAL**  
 Site Photographs

ISSUE NO  
 01  
 02  
 03

**A-DA-000-005**

**03**

**PROJECT DETAILS**

**85W**  
 65 WOODCILL ROAD, DULWICH HILL, NSW 2309

**PROJECT OBJECTIVE**

**DEVELOPMENT APPLICATION**

**SCALE**

**850**

**PROJECT STATUS**

**DEVELOPMENT APPLICATION**

**PROJECT LOCATION**

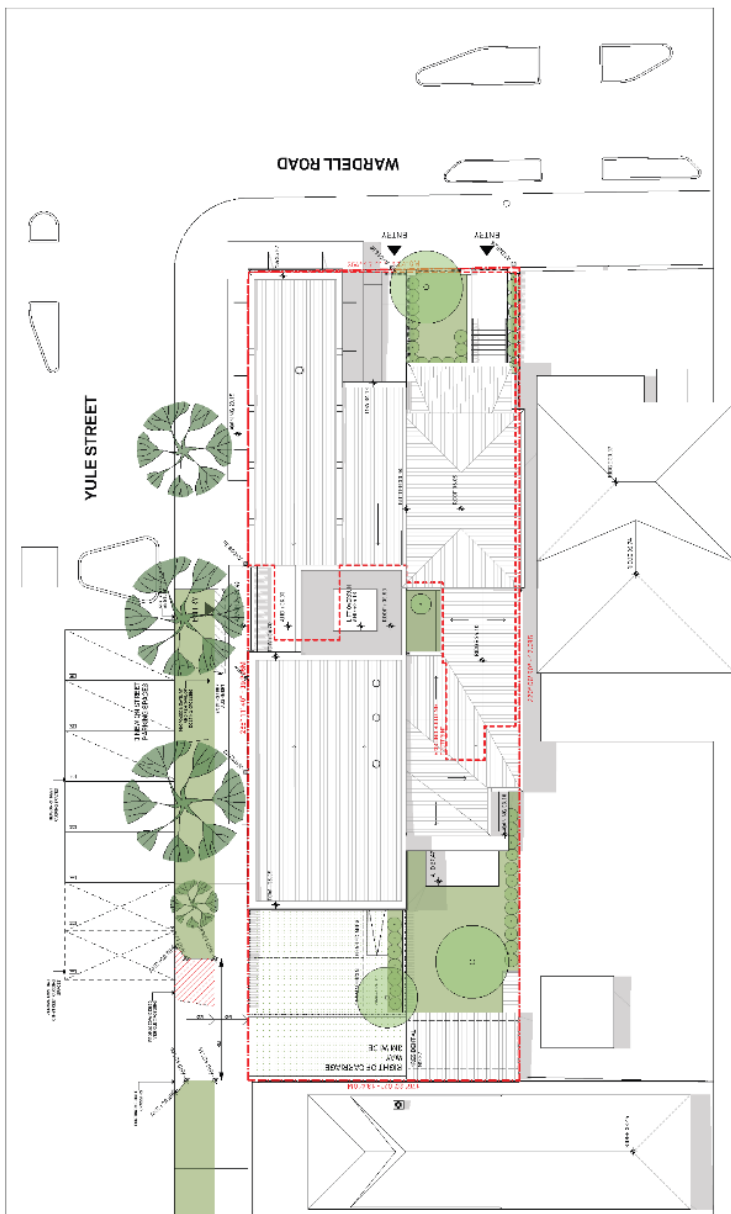
**65 WOODCILL ROAD, DULWICH HILL, NSW 2309**











A. STUDIO 6000 BALMAIN RD  
 488 ST PHILIP ST  
 RN 7500  
 BALMAIN NSW 1513  
 W. www.bensonmccormack.com.au

CLIENT  
**Avium Pty Ltd**  
 4/155 BALMAIN RD  
 BALMAIN NSW 1513

ISSUES

ISSUES  
 01 24 2023  
 02 24 2023  
 03 24 2023

PROJECT  
**85W**  
 85 WARDLE RD BALMAIN NSW 1513

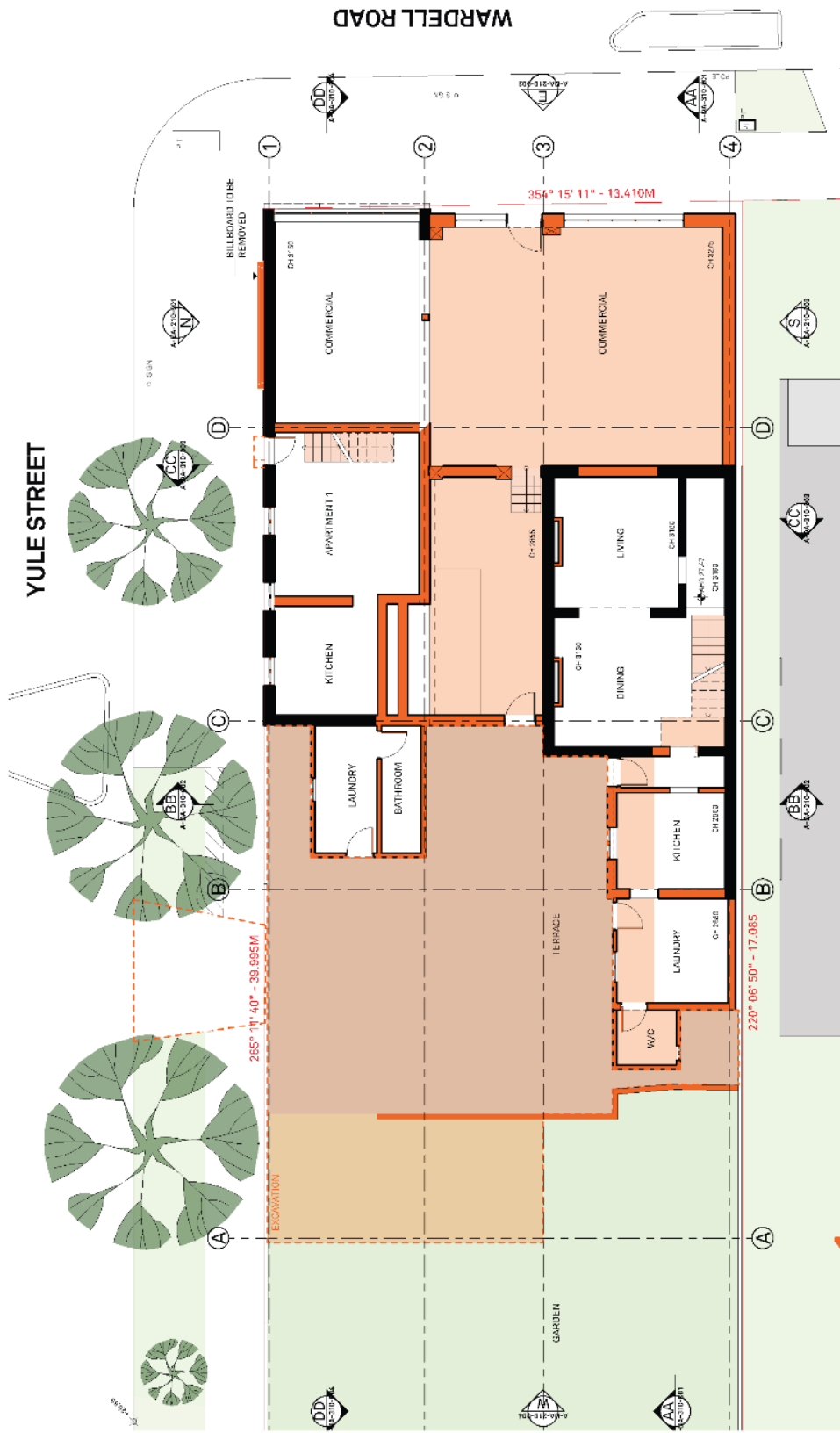
PROJECT  
**Site Plans**  
**Site Plan**



SCALE: 1:200  
 DATE: 23/06/23  
 DRAWN BY: SJ  
 CHECKED BY: [blank]

PROJECT NO: A-DA-100-001

03



**PROJECT**  
**85W**  
 85 WARDLE RD DULVO-HILL A57223

**CLIENT**  
**Avium Pty Ltd**  
 40 BRIDGE ST  
 DULVO-HILL NSW 1545  
 02 9215 4220  
 www.avium.com.au

**ARCHITECT**  
**BENSON MCCORMACK ARCHITECTURE**  
 111 STURGEON ST  
 DULVO-HILL NSW 1545  
 02 9215 4220  
 www.bensonmccormack.com.au

**DATE**  
 23/03/2023

**SCALE**  
 1:1000

**PROJECT**  
**85W**  
 85 WARDLE RD DULVO-HILL A57223

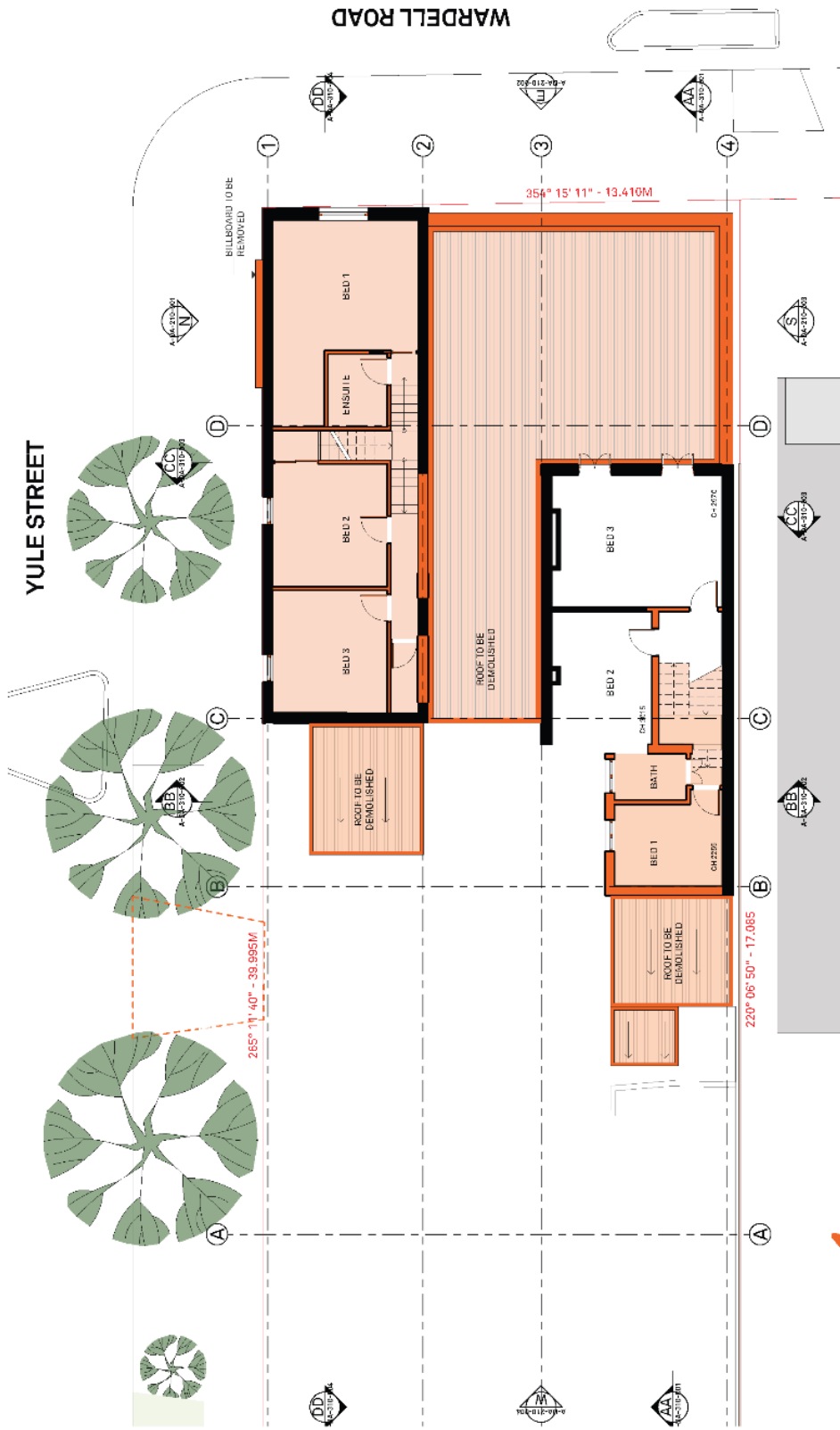
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**SCALE**  
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**PROJECT**  
**85W**  
 85 WARDLE RD DULVO-HILL A57223

**DATE**  
 23/03/2023

**SCALE**  
 1:1000



**CLIENT**  
 Avium Pty Ltd  
 1/100 Yule Street  
 Dalrymple Hill, NSW 2203

**PROJECT**  
 85W  
 85 WARDLE ROAD DALRYMPLE HILL, NSW 2203

**APPROVALS**  
 DA 25/08/2023  
 DA 24/08/2023  
 DA 24/08/2023

**TO BE RETAINED**  
 STRUCTURE TO BE DEMOLISHED  
 PERMITS TO BE DEMOLISHED  
 STRUCTURE TO BE DEMOLISHED IN ACCORDANCE WITH 95  
 ZONE TO BE DEMOLISHED IN ACCORDANCE WITH 95  
 ZONE TO BE DEMOLISHED IN ACCORDANCE WITH 95

**DATE**  
 14/07/2023

**SCALE**  
 1:1000

**PROJECT STATUS**  
 PRELIMINARY APPLICATION

**PROJECT NO**  
 A-DA-101-002

**DATE**  
 14/07/2023

**VERSION**  
 03



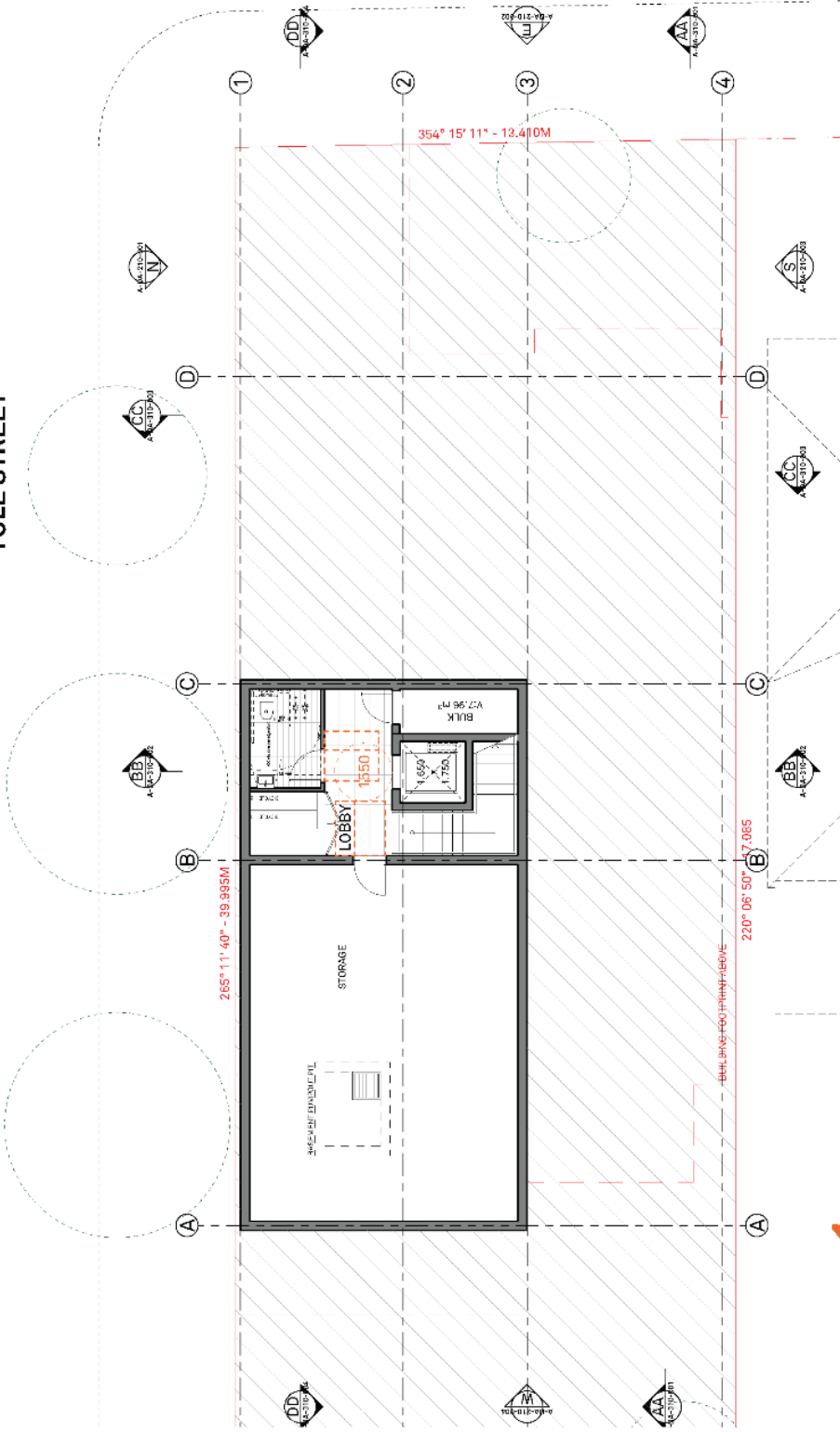
Document Set ID: A37898-002  
 Version: 1, Version Date: 14/07/2023





YULE STREET

WARDELL ROAD



**BENSON  
McCORMACK  
ARCHITECTURE**

Document Set: DA37866-036  
Version: 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
40/2884  
1/15/21  
CLACK HILL, VIC, 3103  
AUSTRALIA  
www.bensonmccormack.com.au

**ARCHITECTS**  
A. BENSON & B. MCCORMACK  
B. MCCORMACK  
R. BENTON  
M. BENTON  
M. BENTON

**LEGEND**

EXISTING  
PROPOSED

**APPROVED**

Date	Description	Drawn	Rev
20/03/2022	2D SCHEME 01	DI	01
22/05/2023	2D SCHEME 02	DI	02

**PROJECT**  
85W  
REINSTATE L.P.SHO. DULVOG - HILL 13/2/2020

**PROJECT No.**  
2804743 V3

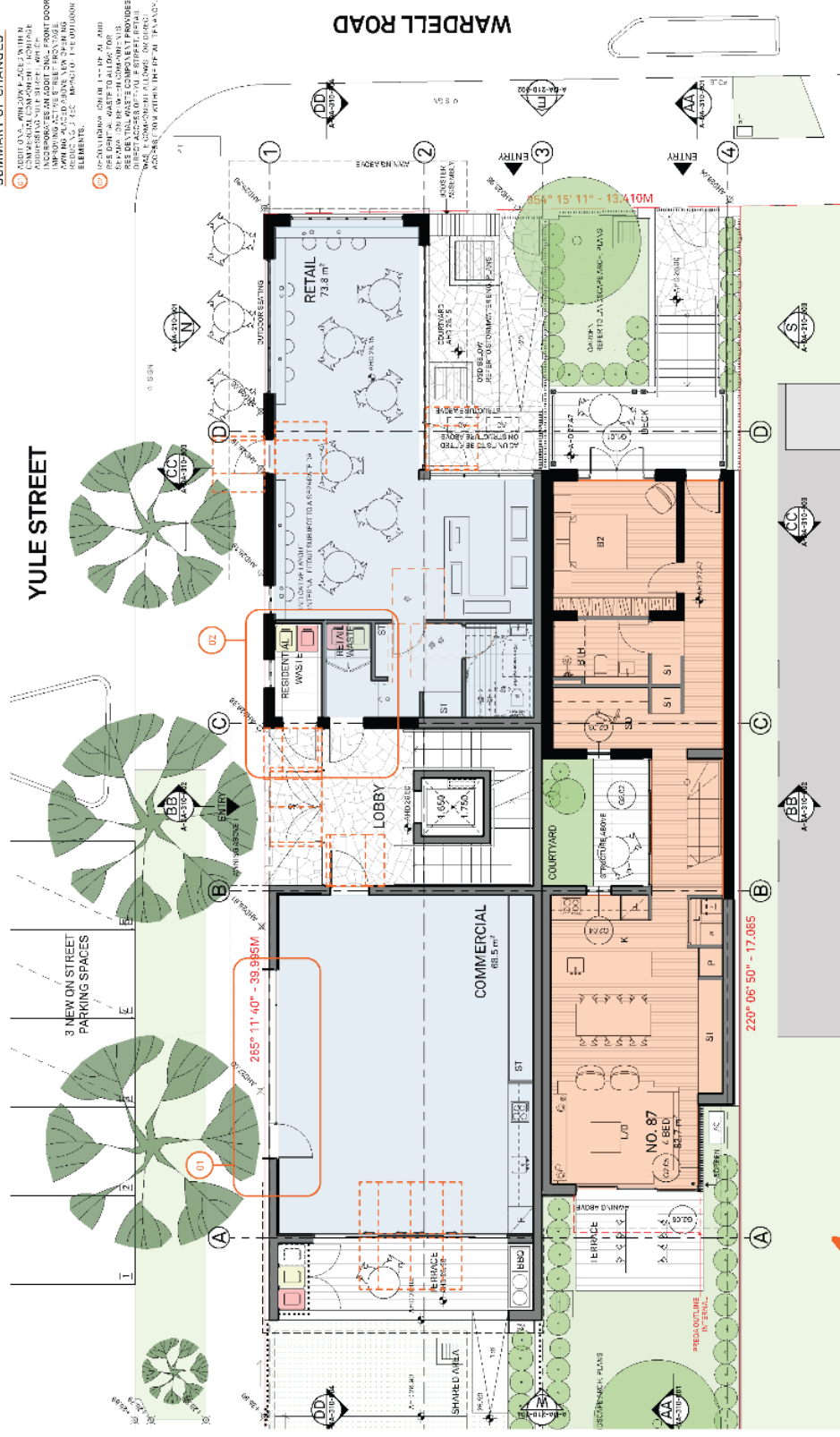
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**PROJECT No.**  
A-DA-110-001

03

**SUMMARY OF CHANGES**

- 1. ADDITIONAL WINDOW SILL WITH COMPARTMENTAL CONCRETE MONOPER INCORPORATED INTO ADJUTING FRONT DOOR IMPROVING ACTIVE STREET FRONTAGE REDUCES 2.25% WINDOW TO GLASS RATIO ELEMENTS.
- 2. 20% VIBRATION CHECK FOR PM, AND STAIRS, ON THE 2ND FLOOR ELEMENTS. SEE DETAIL WASTE COMPACTOR PROVIDES STAIRS. ON THE 2ND FLOOR ELEMENTS. WASTE COMPACTOR PROVIDES STAIRS. ON THE 2ND FLOOR ELEMENTS. WASTE COMPACTOR PROVIDES STAIRS. ON THE 2ND FLOOR ELEMENTS.



**PROJECT**  
**85W**  
 85 WARDLE ROAD, DULVOG-HILL, NSW 2203

**ARCHITECT'S**  
 Client: 26/03/2022  
 Date: 26/03/2022  
 Drawn: 26/03/2022  
 Scale: 1:1000

**CLIENT**  
 Avium Pty Ltd  
 40/2885  
 8 WARDLE RD  
 DULVOG-HILL NSW 2203  
 02 9215 6423

**LEGEND**  
 EXISTING  
 PROPOSED

**DATE**  
 14/07/2023

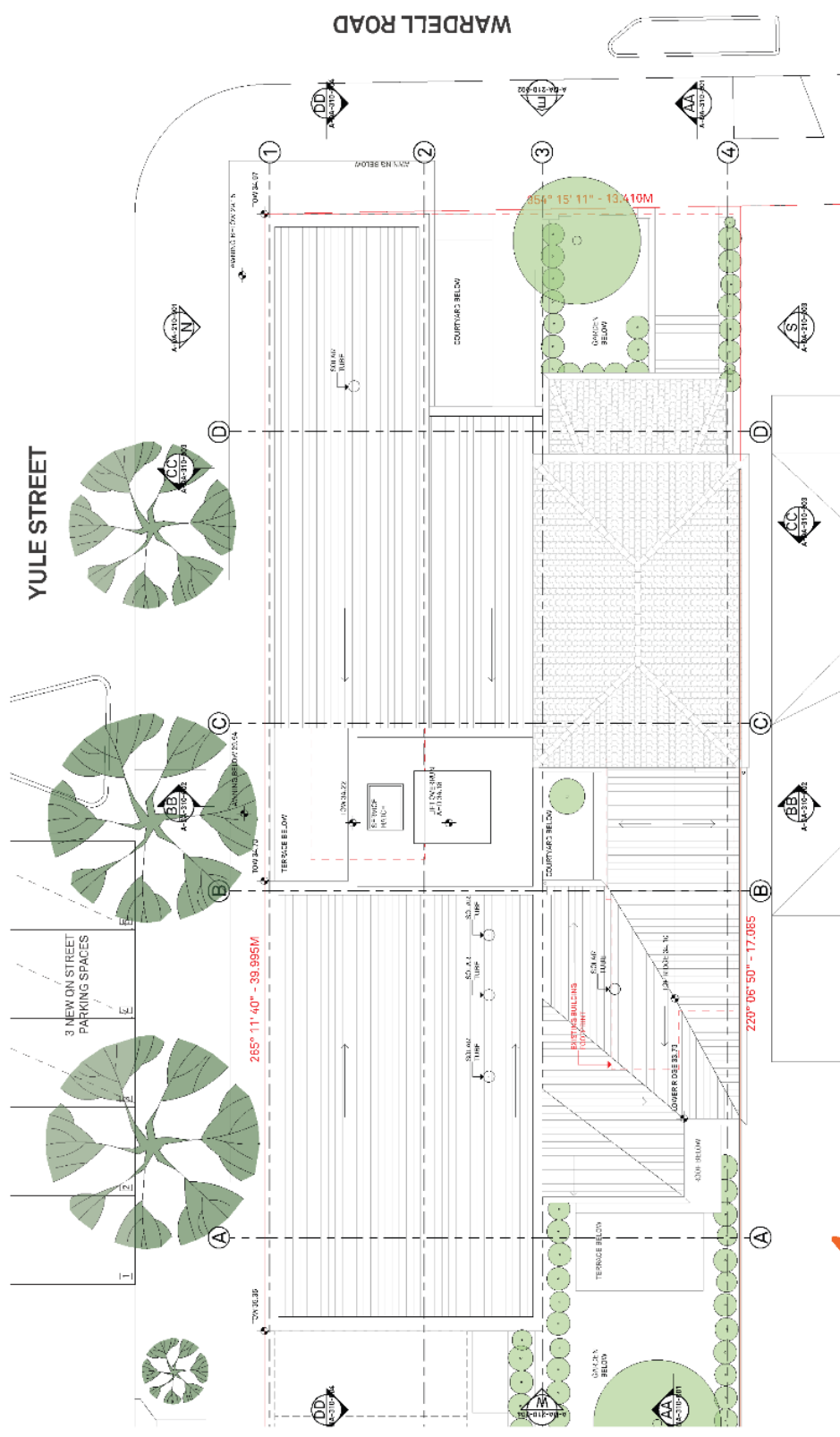
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**PROJECT #**  
 A-DA-110-002









YULE STREET

WARDELL ROAD



**BENSON  
McCORMACK  
ARCHITECTURE**

**CLIENT**  
Avium Pty Ltd

**LEGEND**  
EXISTING  
PROPOSED

**APPROVALS**  
City of...  
GM...  
GM...  
GM...

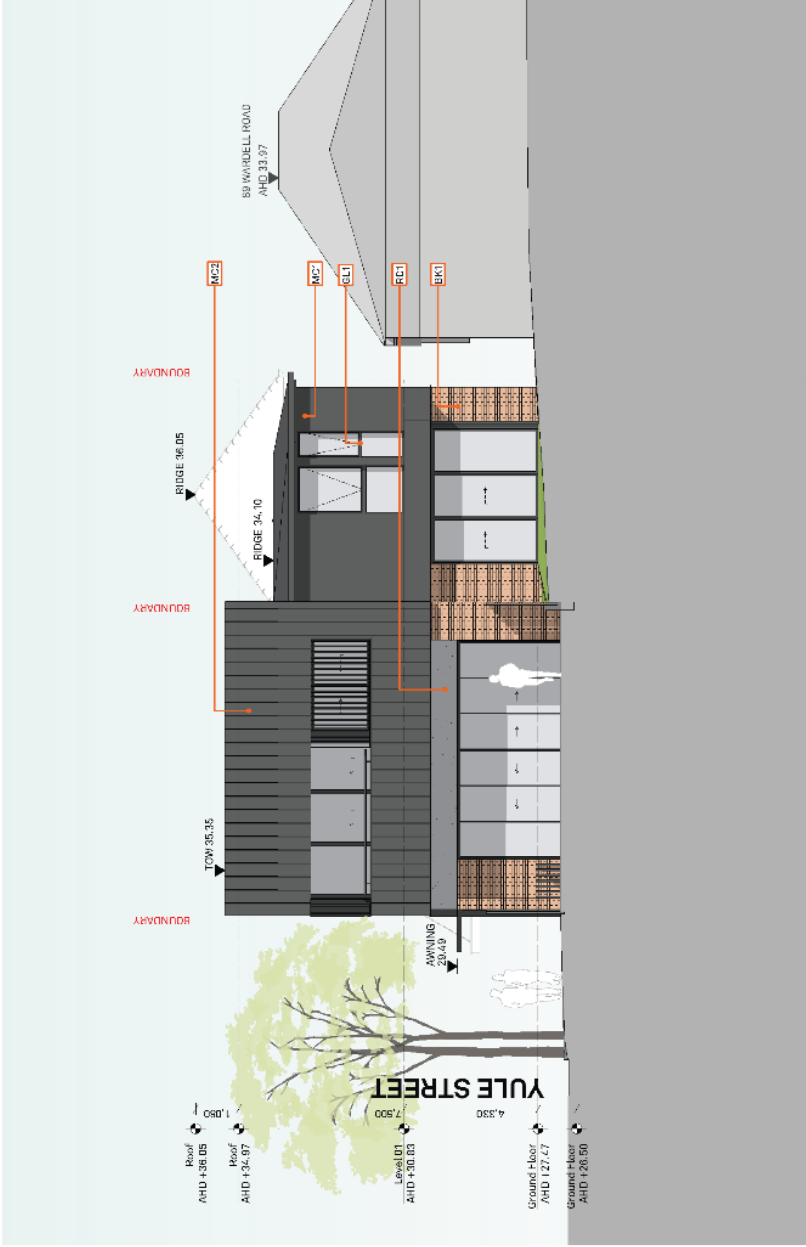
**PROJECT**  
85W  
85 WARDLE ST ROAD, BULLIOCH HILL, NSW 2208

**PROJECT #**  
GA Plans  
Roof Plan  
A-DA-110-004









**FINISHES LEGEND:**

- BD1 - BRICK STRUTCHER ANGLE SPECIAL BRICK
- BD2 - 75% CLAYED ANGLE SPECIAL BRICK
- BD3 - 75% CLAYED ANGLE SPECIAL BRICK
- BD4 - 75% CLAYED ANGLE SPECIAL BRICK
- BD5 - 75% CLAYED ANGLE SPECIAL BRICK
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- BD98 - 75% CLAYED ANGLE SPECIAL BRICK
- BD99 - 75% CLAYED ANGLE SPECIAL BRICK
- BD100 - 75% CLAYED ANGLE SPECIAL BRICK

**CLIENT**  
Avium Pty Ltd

**ADDRESS**  
100 WARDLE ROAD  
DUNEDIN  
SOUTH ISLAND  
NEW ZEALAND

**CONTACT**  
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W: www.avium.co.nz

**ARCHITECT**  
BENSON  
MCCORMACK  
ARCHITECTURE

**ADDRESS**  
100 WARDLE ROAD  
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NEW ZEALAND

**CONTACT**  
P: 03 478 8277  
E: info@avium.co.nz  
W: www.avium.co.nz

**PROJECT**  
85W  
2023/02/22  
2023/02/22  
2023/02/22

**SCALE**  
1:1000

**PROJECT STATUS**  
PRELIMINARY APPLICATION

**SCALE**  
1:1000

**DATE**  
2023/02/22

**BY**  
[Signature]

**FOR**  
[Signature]

**PROJECT NO**  
A-DA-210-004

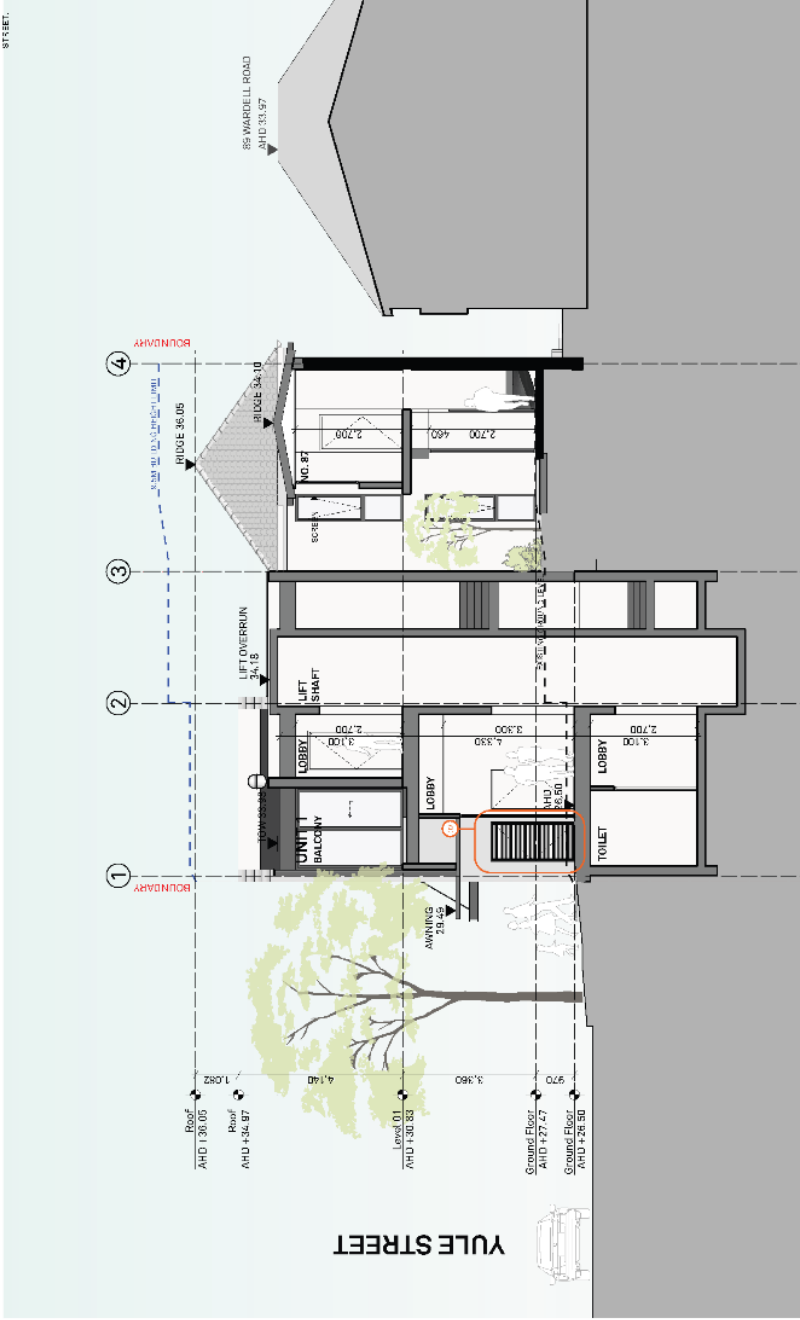
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**DATE**  
2023/02/22



**SUMMARY OF CHANGES**

- 1. RECONFIGURATION OF THE REFINANCING
- 2. RESIDENT A, WASTE ALLOWED FOR
- 3. REVISIONS TO THE WASTE UNIT
- 4. REVISIONS TO THE WASTE UNIT
- 5. REVISIONS TO THE WASTE UNIT



**BENSON  
MCCORMACK  
ARCHITECTURE**

Document Set ID: 023860468  
Version: 1, Version Date: 14/07/2023

<b>CLIENT</b>	<b>Avium Pty Ltd</b>	<b>APPROVALS</b>	<b>DATE</b>	<b>STATUS</b>	<b>PROJECT</b>	<b>SECTION</b>	<b>SCALE</b>
A. STUDIO 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000							

**A-DA-310-002**

**SCALE: 1:100**

**DATE: 14/07/2023**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**

**GA Sections**

**Section BB**

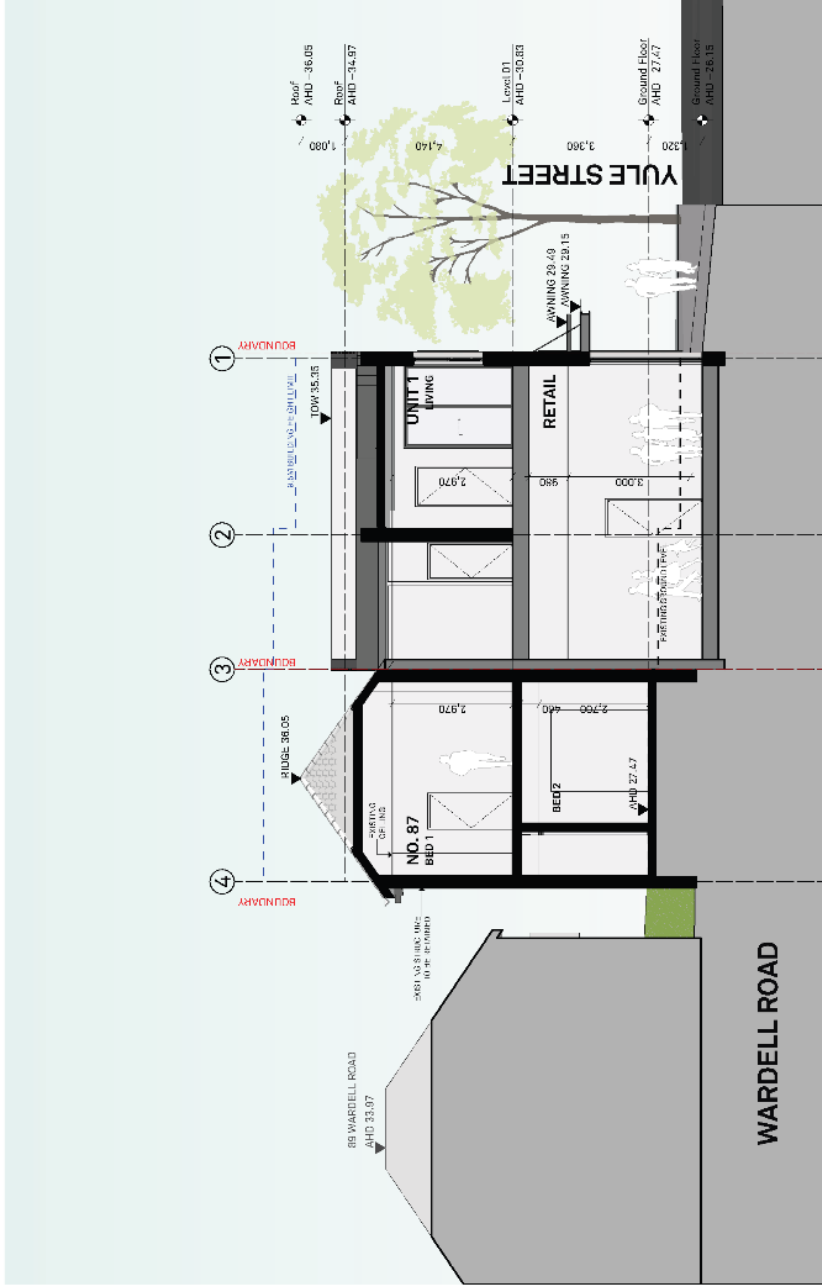
**DATE: 14/07/2023**

**SCALE: 1:100**

**PROJECT: 85W**

**85 WARDLELL ROAD, DULVOGUE HILL, NSW 2203**





**BENSON  
McCORMACK  
ARCHITECTURE**

Document Ref: DA-310-003  
Version: 1, Version Date: 14/07/2023

**A. STUDIO 9,000 BAKARA RD  
SYDNEY NSW 2015  
ARN 157 988 2285  
RN 7205  
E. 01 29 88 9777  
W. www.bensonmccormack.com.au**

**CLIENT  
Avium Pty Ltd  
157/988 2285  
9,000 BAKARA RD  
SYDNEY NSW 2015  
WARRIDALE**

**LEVELS**  
EXISTING  
PROPOSED

**APPROXIMATE  
DATE  
ON 24.08.21  
ON 25.08.22  
ON 14.08.23**

**DATE  
20/03/2023 01  
03/02/2022 02  
20/08/2023 03**

**PROJECT  
BSW  
85 WARDLE RD, GLEBE, NSW 1535**

**PROJECT NO  
20/08/2023  
20/08/23**

**SCALE: 1:1000  
DEVELOPMENT APPLICATION  
SECTION CC  
A-DA-310-003**

**KEY  
03**

**SUMMARY OF CHANGES**

- RECONSTRUCT THE RETAIL AND RESIDENTIAL WASTE COLLECTION POINTS TO PROVIDE SEPARATE WASTE COLLECTION POINTS FOR COMMERCIAL AND RESIDENTIAL WASTE WITH DIRECT ACCESS FROM THE RETAIL TO STREET.



**BENSON  
McCORMACK  
ARCHITECTURE**

Document: Ssk/D/27889/000  
Version: 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
40728586  
37 ANZAC ST, SYDNEY  
NSW 2000  
www.avium.com.au

**PROJECT**  
RESIDENTIAL

**EXISTING**  
**PROPOSED**

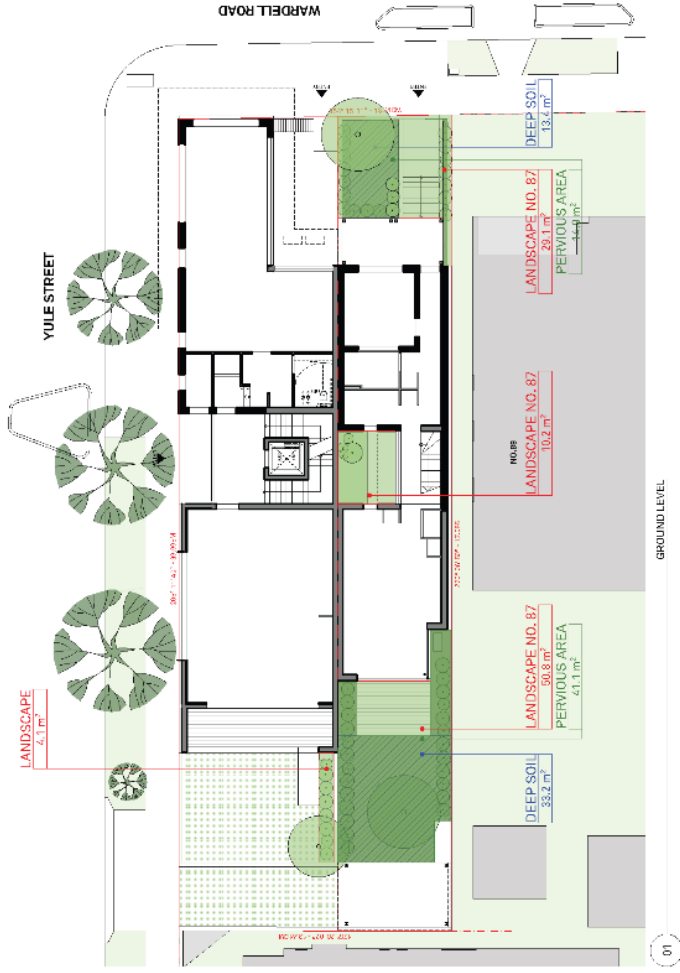
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**DATE**  
24.03.2023  
21.03.2023  
21.03.2023  
21.03.2023

**PROJECT NO.**  
85W  
85 WARDLE LANE, DULHACK HILLS NSW 2122

**CA Sections**  
Section DD  
PROJECT NO.  
85W  
SCALE: 1:100  
REV  
EJ  
03





**AREA CALCULATION**

SPECIES	QUANTITY
DEEP SOIL ZONE	RESIDUE
PERVIOUS AREA	RESIDUE
LANDSCAPE AREA	RESIDUE
PERVIOUS AREA	RESIDUE
DEEP SOIL ZONE	RESIDUE
PERVIOUS AREA	RESIDUE
LANDSCAPE AREA	RESIDUE
PERVIOUS AREA	RESIDUE
DEEP SOIL ZONE	RESIDUE
PERVIOUS AREA	RESIDUE
LANDSCAPE AREA	RESIDUE
PERVIOUS AREA	RESIDUE



**BENSON  
McCORMACK  
ARCHITECTURE**

Document: Scl-DA-078686-006-  
Version: 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
A/PROJ: 2023-06-28  
A/DATE: 14/07/2023  
A/NO: 078686-006-001  
A/NO: 078686-006-001

**LEGEND**

LANDSCAPE AREA	PERVIOUS AREA
DEEP SOIL ZONE	PERVIOUS AREA

**APPROVALS**

DATE	DESCRIPTION
20/06/2023	20/06/2023
20/06/2023	20/06/2023

**PROJECT**  
85W  
85 WARDLELL ROAD DULVOIC HILLS NSW 2220

**ORIGINATOR**  
AREA SCHEDULE  
Landscape Diagram  
A-DA-610-002

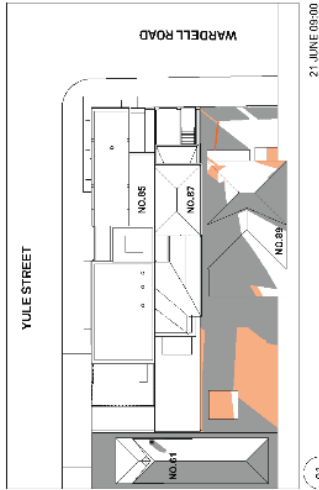
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BY: [Signature]











01

21 JUNE 09:00



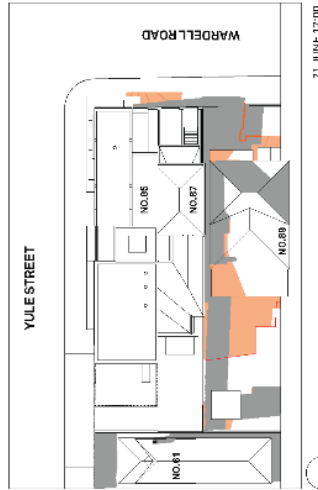
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21 JUNE 10:00



03

21 JUNE 11:00



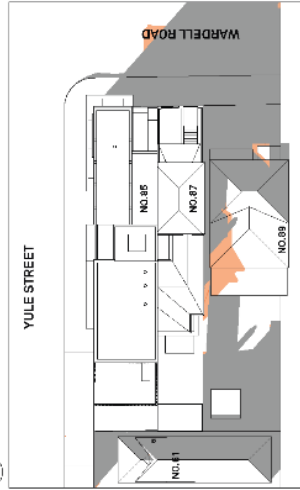
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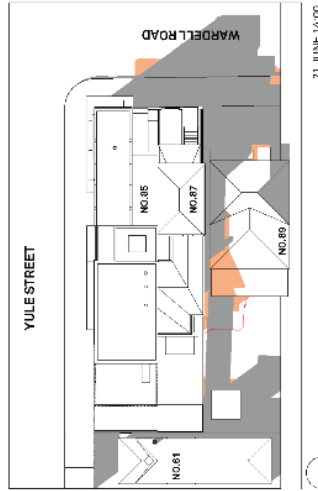
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21 JUNE 13:00



07

21 JUNE 15:00



06

21 JUNE 14:00



**BENSON  
McCORMACK  
ARCHITECTURE**

Document Ref: DA-720-001  
Version: 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
A/STUDIO 5/100 BALARA RD  
L/17/18/19/20/21/22  
4/17/18/19/20/21/22  
8/ JARVIS ST  
DARYL HILL, MELB, VIC  
3000  
VIC  
W: www.avium.com.au

**REV'S**

EXISTING SHADOW	0M	24.80M/01
PROPOSED SHADOW	0M	24.80M/01
IMPROVED SHADOW LINE FROM EXISTING	0M	24.80M/01
PTR - US SHADOW OUTLINE	0M	24.80M/01

**APPROVALS**

DATE	NO.	BY
20/02/2023	21	20/02/2023
03/07/2023	22	23/05/2023
23/05/2023	23	

**PROJECT**  
85W  
85 WARDLE RD, BALARA VIC 3203

**PROJECT FOCUS**  
DEVELOPMENT APPLICATION

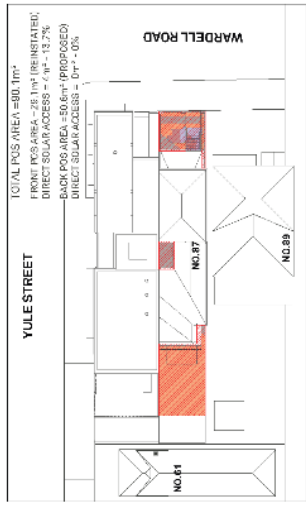
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**PROJECT NO.**  
A-DA-720-001

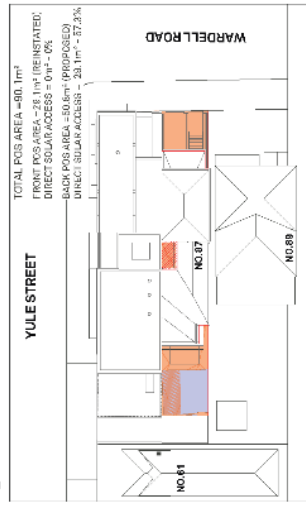
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01/0001	SJ
01/0004	KEY





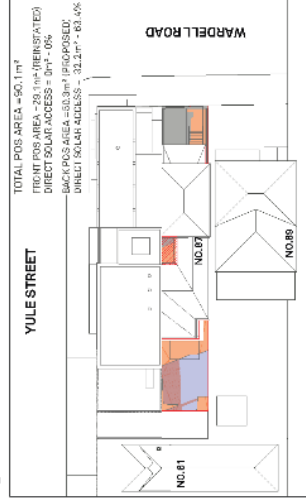
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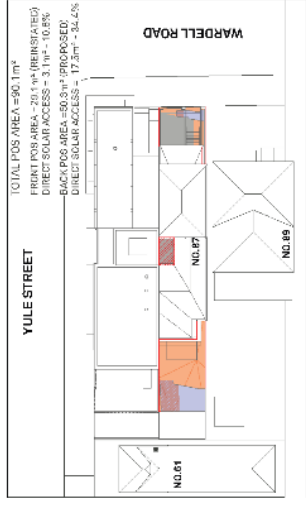
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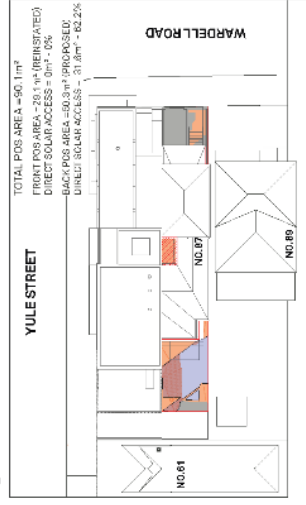
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07 21 JUNE 15:00 POS



03 21 JUNE 11:00 POS



06 21 JUNE 14:00 POS



**BENSON  
McCORMACK  
ARCHITECTURE**  
A. STUDIO SUITE 201/100 YULE ST  
MELBOURNE VIC 3000  
BN 761 151 151 295  
BN 761 151 151 295  
E. [info@bensonmccormack.com.au](mailto:info@bensonmccormack.com.au)  
W. [www.bensonmccormack.com.au](http://www.bensonmccormack.com.au)

**CLIENT**  
**Avium Pty Ltd**  
40-28888  
87 MARPLE HILL RD  
MARPLE HILL VIC 3080  
www.avium.com.au

**LEGEND**

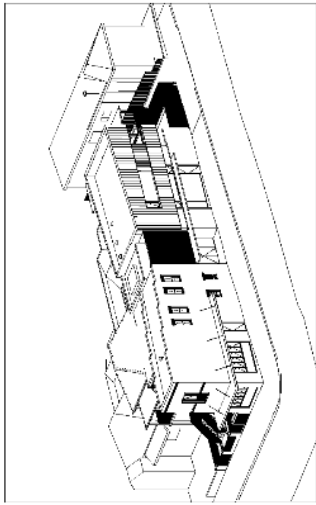
- EXISTING SHAADOW
- PROPOSED SHAADOW
- PRIVATE OPEN SPACE
- DIRECT SOLAR ACCESS

**ARCHITECT**

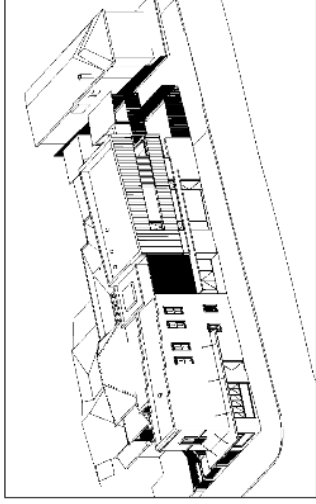
DRW	30/06/23
CHK	26/06/23
OM	14/06/23
OM	30/06/23

**PROJECT**  
**85W**  
85 WATERS L ROAD, DULVOG HILL VIC 3072  
25/06/2023 25

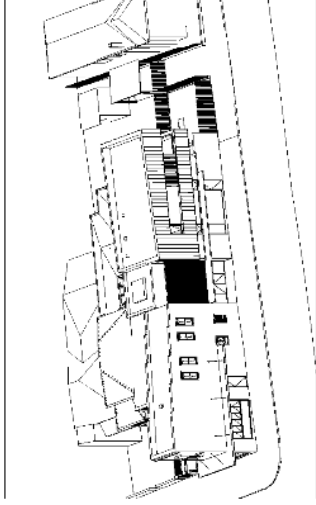
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**PERMIT APPLICATION**  
**SCALE: 1:100**  
**DATE: 25/06/23**



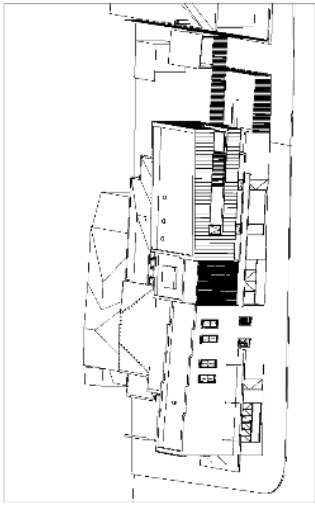
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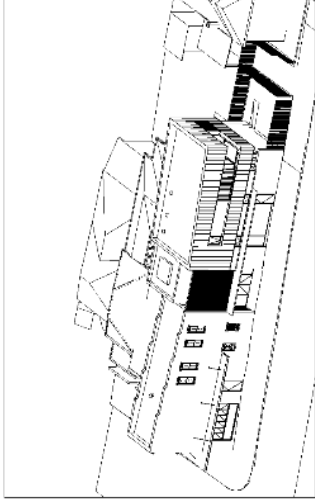
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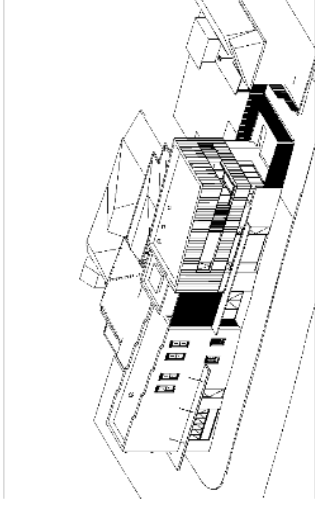
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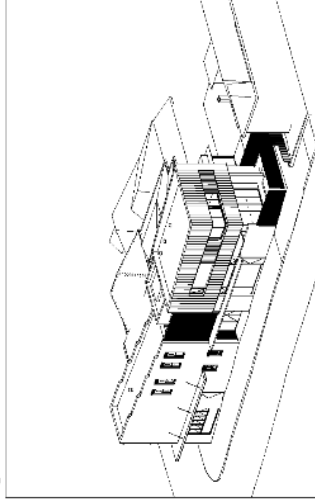
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05 21 JUNE 1:00PM



06 21 JUNE 2:00PM



07 21 JUNE 3:00PM



**BENSON  
McCORMACK  
ARCHITECTURE**

Documents Set ID: 373939-03  
Version 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
45/5555  
57 ADEPHI WAY  
DARYL HILL, NEWCASTLE  
NSW 2316  
E: www.avium.com.au  
P: 02 4929 2222

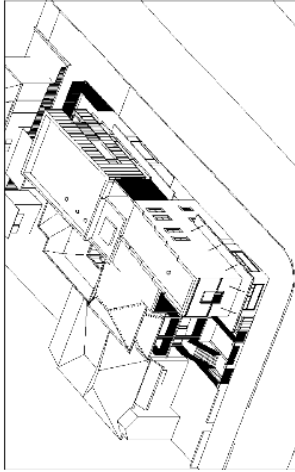
**DESIGN**  
A. STUDIO 6, 606 BELLA VUE RD  
LAMBTON VIC 3165  
RN: 7236  
E: www.bensonmccormack.com.au  
P: 02 9539 8877

**LIBRARY**  
**SOLAR ANALYSIS METHODOLOGY**  
THE SHED, TRIMBLE CONSULTING  
ASSUMES THE POSITION OF THE SUN, AT  
400 HOURS CENTRAL, SOUTHWEST T-4,  
AND 10-15° V.A.V. (N.S.W. HILL) IS 10-15°  
E (TIMBER) IS 15-20°.

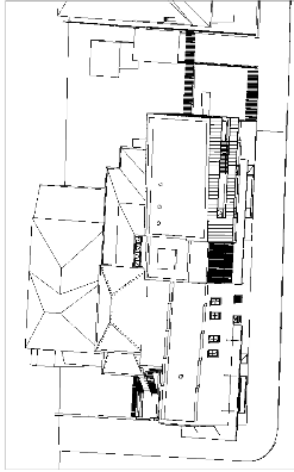
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CN: Architect  
ON: 24.03.01  
DN: 24.03.02  
DN: 24.03.03

**PROJECT**  
85W  
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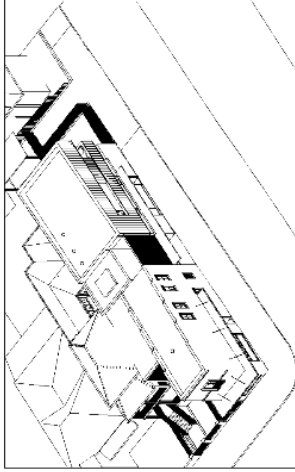
**REVISIONS**  
Solar Access Diagrams  
June Solar Access Analysis  
A-DA-730-001



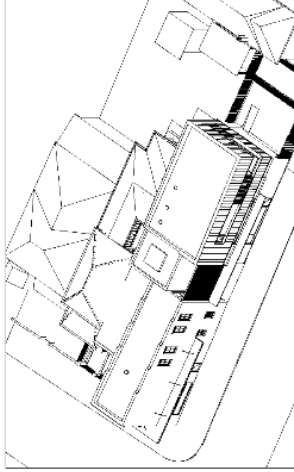
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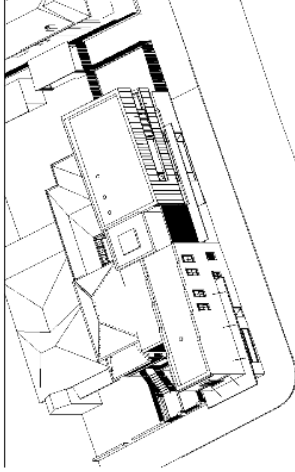
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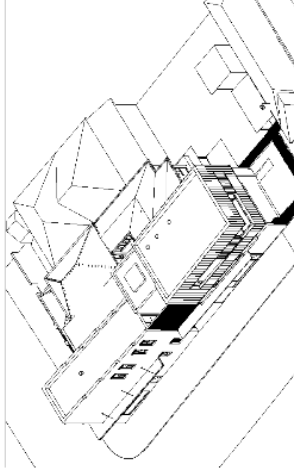
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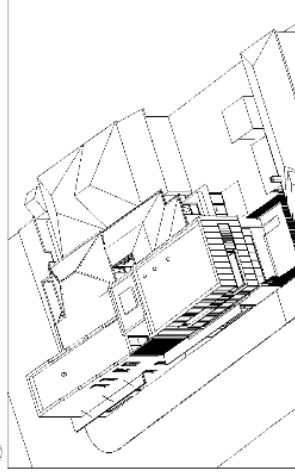
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03 21 MARCH 11:00AM



06 21 MARCH 2:00PM



07 21 MARCH 3:00PM



**BENSON  
McCORMACK  
ARCHITECTURE**

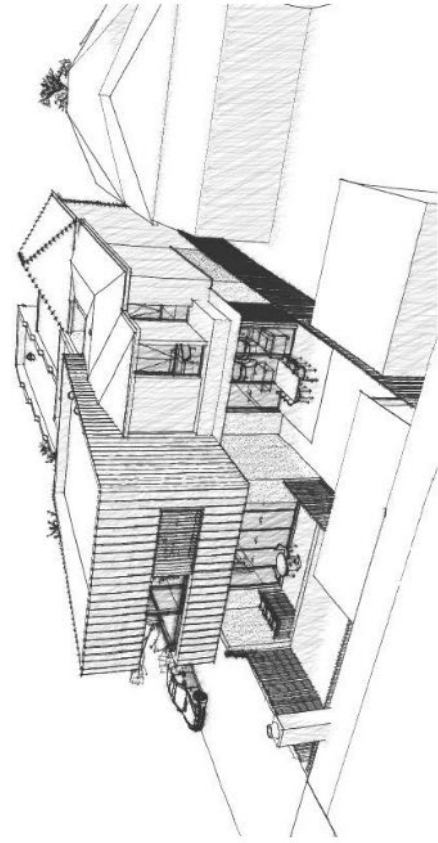
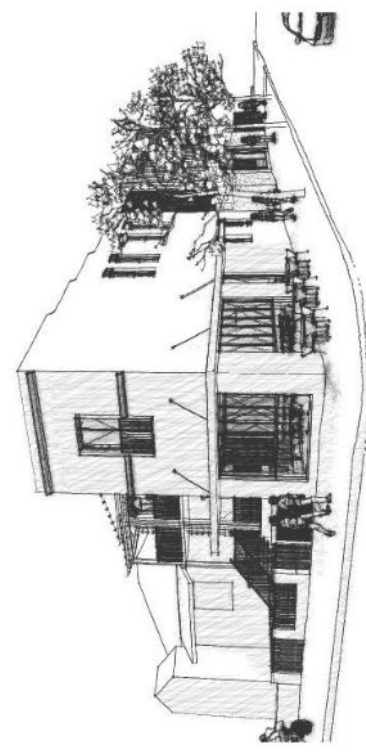
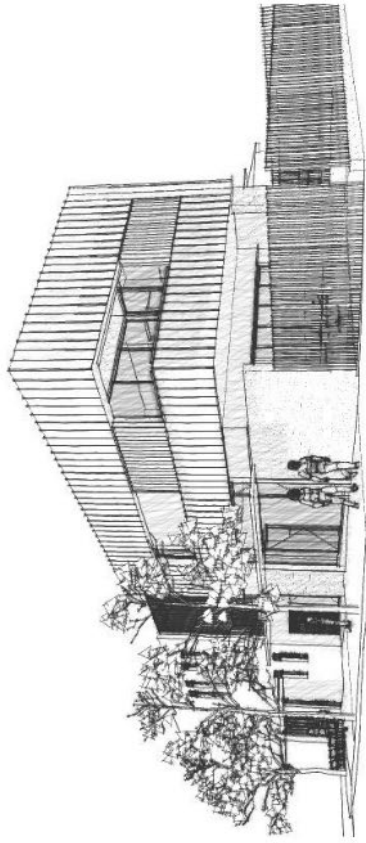
Document Set ID: 037896006  
Version 1, Version Date: 14/07/2023

**CLIENT**  
Avium Pty Ltd  
40/2885  
8 MARSHALL ST  
MELBOURNE VIC 3000  
P 03 9594 4242  
E melbourne@avium.com.au

**DESIGN**  
SOLAR ANALYSIS METHODOLOGY  
THE WPA (WPA) HAS CONDUCTED A SOLAR ANALYSIS OF THE PROPOSED BUILDING TO DETERMINE THE SHADOWS CAST BY THE BUILDING ON THE SURROUNDING LAND AT THE PROPOSED TIMES AND DATES.  
THE WPA HAS CONDUCTED A SOLAR ANALYSIS OF THE PROPOSED BUILDING TO DETERMINE THE SHADOWS CAST BY THE BUILDING ON THE SURROUNDING LAND AT THE PROPOSED TIMES AND DATES.

**DATE** 23/03/2023  
**TIME** 11:00 AM  
**LOCATION** 85 MARSHALL RD, DULVOH HILL VIC 3200  
**SCALE** 1:500

**PROJECT**  
Solar Access Diagrams  
March Solar Access Analysis  
PROJECT NO  
2024/03/02  
A-DA-730-002



**3D VIEWS**  
 Perspectives 1/2  
 PROJECT No. 20678  
 DRAWING No. A-DA-900-001  
 DESIGN S.J.  
 REV 03

**REVISIONS**  
 No. Rev. Date Description  
 01 01 29/07/2022 01 01 01 01 01  
 02 02 02 02 02 02 02 02 02 02  
 03 03 20/06/2023 00 00 00 00 00 00 00 00 00 00

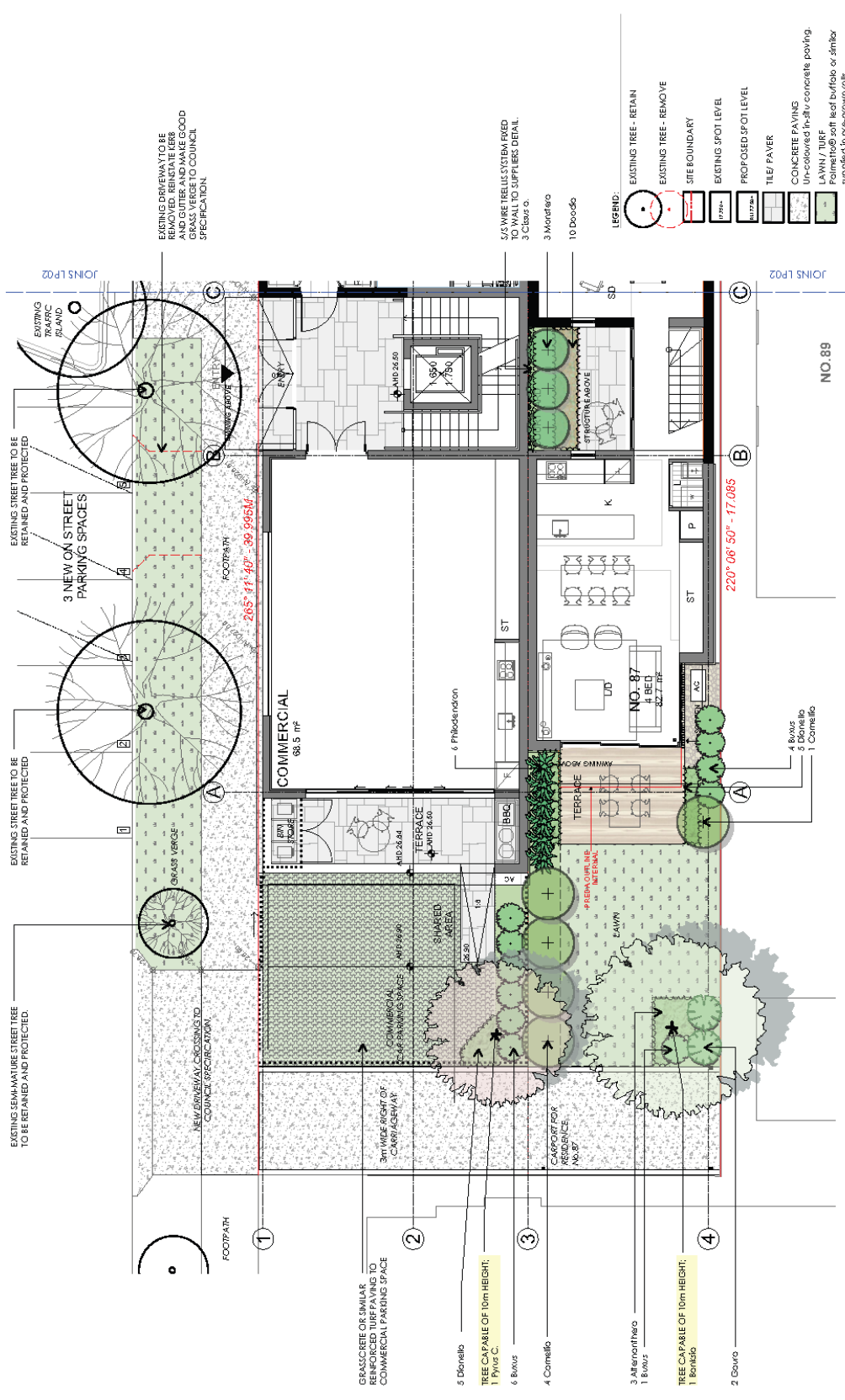
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 PROJECT No. 20678  
 DRAWING No. A-DA-900-001  
 SCALE: 1/40  
 DEVELOPMENT APPLICATION  
 DEVELOPER: [unreadable]  
 ARCHITECT: [unreadable]

**CLIENT**  
 Avium Pty Ltd  
 25 WINDMILL ROAD  
 DUNMURRI HILL NSW 2103  
 AUSTRALIA  
 PH: 02 9630 2000  
 WWW.AVIUMPTY.COM

**ARCHITECT**  
 BENSON  
 McCORMACK  
 ARCHITECTURE  
 A. 27/00/05, 2002 BALMAIN RD  
 LEYFIELD NSW 2040  
 AUSTRALIA  
 PH: 02 9550 2451  
 P. 44 1 388 0771  
 WWW.BENSONMCCORMACK.COM  
 W. 202.500.8100







- GRANITE OR SIMILAR REINFORCED TURF PAVING TO COMMERCIAL PARKING SPACE
- 5 Dianella
- TREE CAPABLE OF 10m HEIGHT; 1 Pycno
- 6 Buxus
- 4 Cornelia
- 3 Allseenthera  
1 Buxus
- TREE CAPABLE OF 10m HEIGHT; 1 Bonibdo
- 2 Goswo

**LEGEND:**

- EXISTING TREE - RETAIN
- EXISTING TREE - REMOVE
- SITE BOUNDARY
- EXISTING SPOT LEVEL
- PROPOSED SPOT LEVEL
- TILE/PAVER
- CONCRETE PAVING
- LAWN/GRASS
- Palm tree symbol
- Un-coloured in-situ concrete paving.
- 10m x 70m Palm tree
- 10m x 70m Palm tree

drawing title  
**Landscape Plan (west)**  
 scale  
 1:100 @ A3  
 project no.  
 21907  
 drawing no.  
 LP01  
 issue  
 B

project  
**85 Wardell Road Dulwich Hill NSW**  
 client  
 Avium Pty Ltd

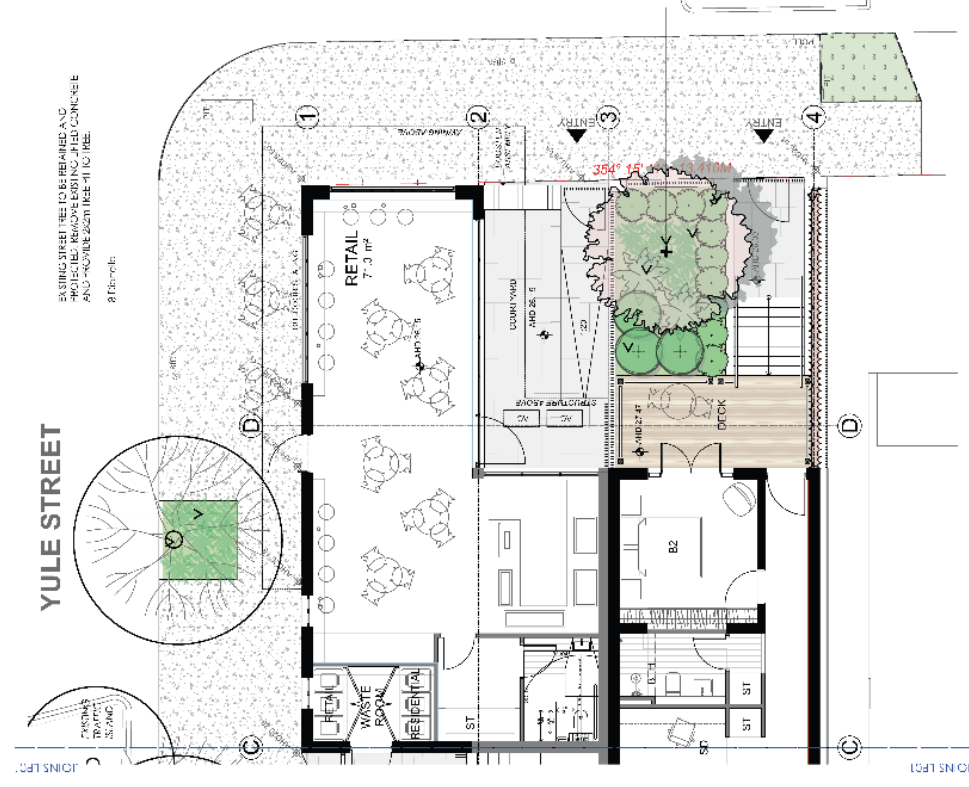
issue	date	description
01	30.11.21	Preliminary issue for comment.
A	24.02.22	Updates to Arch. DA issue
B	20.02.23	Amend fields to Council Comment. DA issue

**DEVELOPMENT APPLICATION**

This drawing has been prepared for consideration and reference in the communication of the applicant to the relevant authority. It is not to be used for any other purpose without the written consent of the author. The drawing is the property of the author and its use for any other purpose without the written consent of the author is prohibited. The drawing is the property of the author and its use for any other purpose without the written consent of the author is prohibited.

Document No. LD - 37889065  
 Version: 1, Version Date: 14/07/2023

Matthew Higginson Landscape Architecture Pty Ltd  
 po box 332 five dock nsw 2046 1 0414 725 944 e mhla@mhla.com.au



**PLANT SCHEDULE**

Botanic Name	Common Name	Supply Size (mm Ø)	Mature Height	Mature Spread	Qty
<b>Trees</b>					
Banksia marginata	Silver Banksia	75L	12m	5m	1
Prunus cerasifera 'Nigra'	Cherry Plum	75L	4m	3m	1
Pyrus calleryana 'Cappella'	Capital Ornamental Pear	75L	11m	3m	1
<b>Shrubs</b>					
Buxus sempervirens	Boxwood	200mm	1m	1m	11
Carralla japonica 'Higatacino'	Carralla	45L	4m	2m	8
Moraea callicosa	Swiss Cheese Plant	200mm	2m	2m	3
Phoradendron Congo	Congo Phoradendron	200mm	1.5m	1.5m	6
Pluchopsis 'Snow Makibi'	Snow Makibi Pluchopsis	300mm	1m	1m	10
Sarcocolla trifasciata	Mother-in-Law's Tongue	150mm	1m	0.2m	15
Sparganium 'Sensation'	Sensation Peace Lily	300mm	2m	1m	6
Streitzia reginae	Star of Paradise	300mm	1.5m	1m	2
<b>Groundcovers</b>					
Alemnthera 'Little Ruby'	Little Ruby	150mm	0.2m	1m	3
Cissus antarctica	Kangaroo Vine	150mm	3m	2m	3
Dianella caerulea	Flax Lily	140mm	0.7m	0.7m	18
Doodia aspera	Crate Fern	150mm	0.3m	0.7m	10
Gaussia indheimii	Lindheimer's Blechnum	140mm	1m	1m	7



Sunlight negative  
 Shaded (intermittent)  
 Medium light  
 Full sun  
 Drought tolerant  
 Frost tolerant  
 Drought intolerant  
 Frost intolerant

**Matthew Higginson Landscape Architecture Pty Ltd** | p.o. box 383 | Tel: 08 835 7954 | E: info@mhpa.com.au  
**DEVELOPMENT APPLICATION**  
 U1 32 1.2 - retail use or comment.  
 A 24/02/22 - update to A15 'Dotted'  
 S 22/02/22 - Amend sign to club of comment CA.10.4

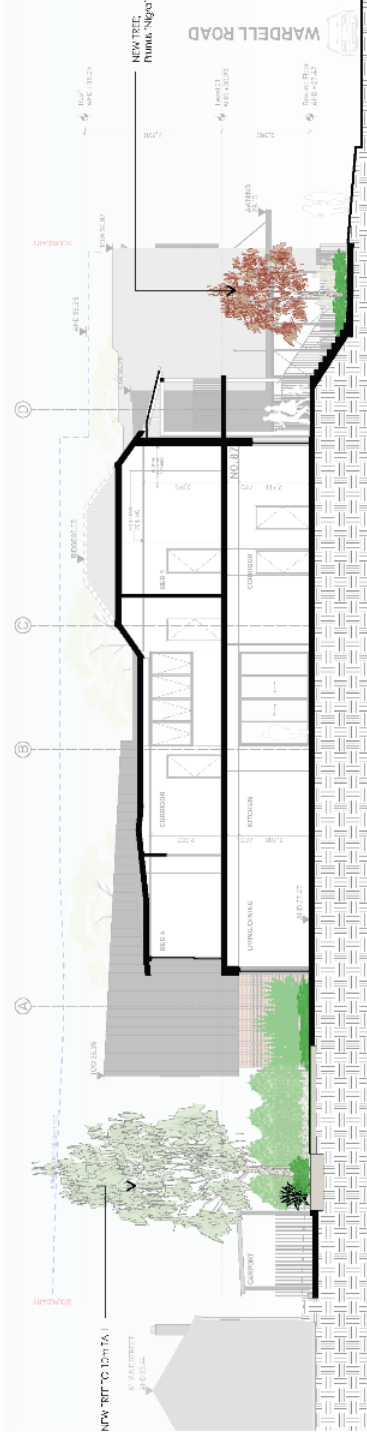
Note: The client has been notified of the results of the development application. The client has been notified of the results of the development application. The client has been notified of the results of the development application.  
 Document Ref ID: 337659096  
 Version: 1, Version Date: 14/07/2023

85 Wardell Road Dulwich Hill NSW  
 Avium Pty Ltd

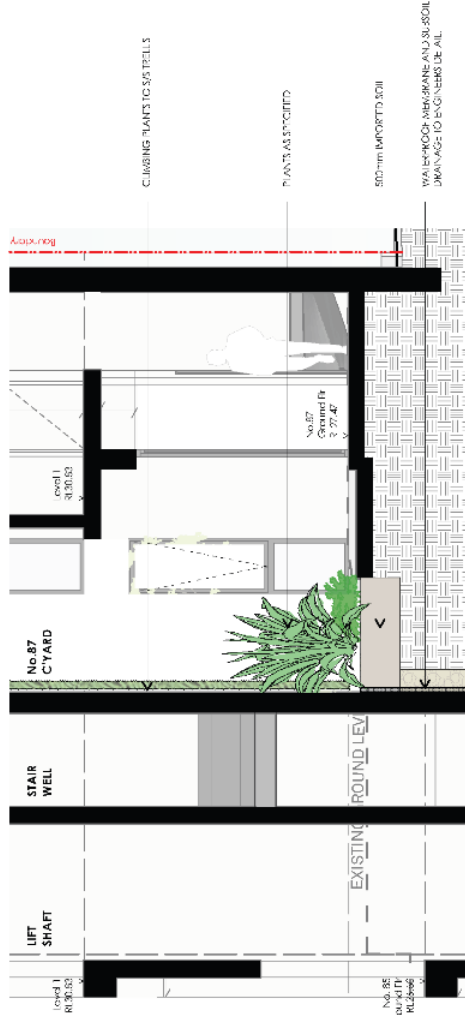
Landscape Plan 02  
 1100 @ A3 21907



Date: 14/07/2023  
 Scale: 1:100



01 Section A  
Scale: 1:150



02 Section 3  
Scale: 1:50

Matthew Higginson Landscape Architecture Pty Ltd po box 350 live dock nsw 2046 t 04 7 723 944 e mhla@mla.com.au

project 85 Wardell Road Dulwich Hill NSW

client Avium Pty Ltd

date 20.06.23

description As Shown @ A3 21907

revision 1

document ID: 3785606

Version 1, Version Date: 14/07/2023

drawing title Sections  
drawing no. As Shown @ A3 21907  
revision no. 1  
drawing no. LP03  
sheet no. B

DEVELOPMENT APPLICATION

Notes: This drawing has been prepared for the purpose of application for a development application. It is not intended to be used for any other purpose. The client is responsible for ensuring that the drawing is used for the intended purpose. The client is also responsible for ensuring that the drawing is used in accordance with the relevant legislation. The client is also responsible for ensuring that the drawing is used in accordance with the relevant legislation.

Document ID: 3785606

Version 1, Version Date: 14/07/2023

# Attachment C- Section 4.6 Exception to Development Standards



30 August 2022

The General Manager  
Inner West Council  
PO Box 14  
PETERSHAM NSW 2049

Attention: Town Planning

Dear Sir/Madam,

**RE: 85 WARDELL ROAD, DULWICH HILL  
CLAUSE 4.6 VARIATION TO CLAUSE 4.4 FLOOR SPACE RATIO**

## **1. INTRODUCTION**

---

This submission seeks a variation to Clause 4.4 of the Inner West Local Environmental Plan 2022 (IWLEP22), which relates to the floor space ratio development standard.

This submission has been prepared in relation to the partial demolition of the existing building, Torrens Title subdivision, alterations and additions to an existing dwelling house and construction of a two (2) storey shop top housing development comprising of a ground floor retail premise, office premise and two (2) first floor residential units at t 85 Wardell Road, Dulwich Hill.

As detailed in this written request for a variation to the floor space ratio control being a development standard under IWLEP22, the proposed development meets the requirements prescribed under Clause 4.6 of IWLEP22.

## **2. SITE BACKGROUND**

---

The subject site is commonly known as 85 Wardell Road, Dulwich Hill, and is legally referred to as Lot 1, Section 2 in Deposited Plan 340. The site is located on the south western corner of Yule Street, Wardell Road.

The site is rectangular in shape, providing for a primary frontage to Wardell Road of 13.41m a secondary frontage (to Yule Street) of 39.995m. The southern side boundary measures 40.210m while the rear boundary also measures 13.41m. The site has a total area of 537.5m<sup>2</sup>. Refer to Figure 1 Site Location Map on the following page.

The site currently consists of a two storey rendered brick building. The subject site is comprised of two (2) residential dwellings and one (1) office premise.

■ **Sydney Office**  
Suite 15, Level 1  
469-475 Parramatta Rd  
Leichhardt NSW 2040

■ **Brisbane Office**  
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TOWN PLANNERS ■ BASIX/ENERGY ASSESSORS



The architecture of the building suggests that the building has evolved quite substantially from its original form, with several infill and disjointed elements. In its present form, the office use dominates the Wardell Road frontage, with the residential uses sited to the rear.

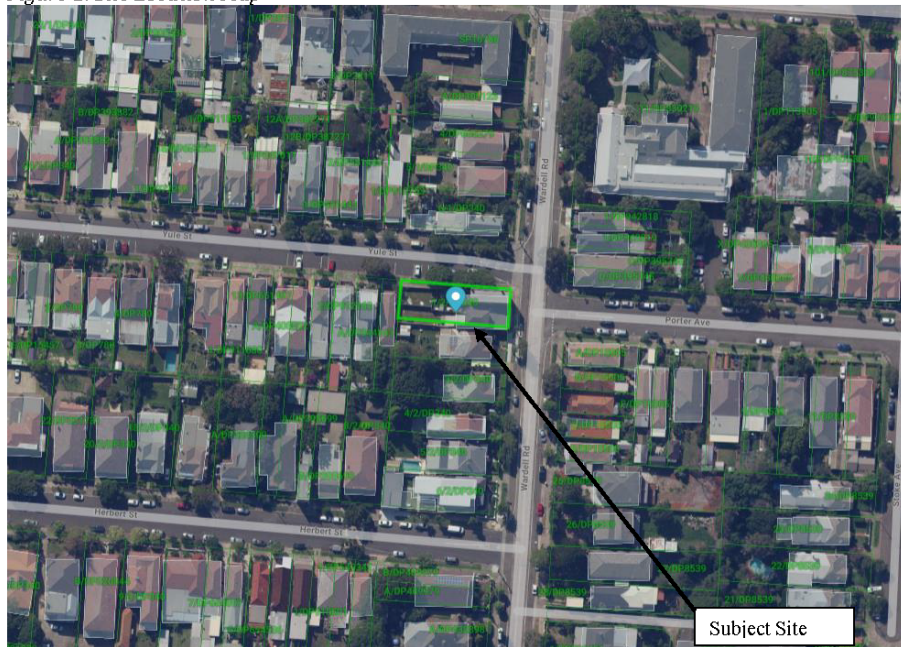
Access into the office premise is via Wardell Road while the residential units are accessed via the secondary frontage on Yule Street.

The site does not provide for any off street car parking at present, though two vehicular crossings along Yule Street allow for access into the site.

The site is located within the Marrickville Park and Morton Park Precinct.

Development along Wardell Road within the vicinity of the site is generally low density residential with the subject site an anomaly in the streetscape. This is reflected in the zoning of the site as a pocket of B1 Neighbourhood Centre surrounded by R2 Low Density Residential land.

*Figure 1: Site Location Map*



*Source: Meccone Mosaic*

Directly abutting the site to the south at No. 89 Wardell Road and to the west at No. 61 Yule Street are single storey dwellings.

The site is well located in terms of access to public transport and services. Bus stops are located 450m to the west of the site on New Canterbury Road. The site is also located in proximity of the commercial precinct along New Canterbury Road ensuring future residential accommodation is in proximity to goods and services.

### 3. CLAUSE 4.6

This submission is made under clause 4.6 of the IWLEP22 – Exceptions to development standards. Clause 4.6 states the following:

#### **“4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for a development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
  - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
  - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

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

**Note.**

*When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*

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

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

*(a) a development standard for complying development,*

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

*(c) clause 5.4,*

*(caa) clause 5.5,*

*(ca) clause 6.27(4),*

*(cb) clause 6.28,*

*(cc) clause 6.29,*

*(cd) clause 6.31".*

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

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

*4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.*

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

*(a) the consent authority is satisfied that:*

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

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

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

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

The Environmental Planning Instrument to which these variations relate to is the IWLEP22.

The development standard to which this variation relates to is Clause 4.4 – Floor Space Ratio, which reads as follows:

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

- (a) to establish a maximum floor space ratio to enable appropriate development density,*
- (b) to ensure development density reflects its locality,*
- (c) to provide an appropriate transition between development of different densities,*
- (d) to minimise adverse impacts on local amenity,*
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*

*(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).*

*(2A) The maximum floor space ratio for development for a purpose other than residential accommodation on land in Zone R1 General Residential identified as "Area 1" on the [Key Sites Map](#) is 1:1.*

*(2B) The maximum floor space ratio for development for the purposes of residential accommodation is as follows—*

*(a) on land shown edged black or pink on the [Floor Space Ratio Map](#)—*

<b>Site area</b>	<b>Maximum floor space ratio</b>
< 150m <sup>2</sup>	0.9:1
≥ 150 < 300m <sup>2</sup>	0.8:1
≥ 300m <sup>2</sup> < 450m <sup>2</sup>	0.7:1
≥ 450m <sup>2</sup>	0.6:1

*(b) on land shown edged orange or green on the [Floor Space Ratio Map](#) is—*

<b>Site area</b>	<b>Maximum floor space ratio</b>
< 150m <sup>2</sup>	1.0:1
≥ 150 < 300m <sup>2</sup>	0.9:1
≥ 300m <sup>2</sup> < 450m <sup>2</sup>	0.8:1
≥ 450m <sup>2</sup>	0.7:1

*(c) on land shown edged brown on the [Floor Space Ratio Map](#) is—*

Site area	Maximum floor space ratio
< 150m <sup>2</sup>	0.8:1
≥ 150 < 300m <sup>2</sup>	0.7:1
≥ 300m <sup>2</sup> < 450m <sup>2</sup>	0.6:1
≥ 450m <sup>2</sup>	0.5:1

(d) on land shown edged yellow on the [Floor Space Ratio Map](#) is—

Site area	Maximum floor space ratio
< 150m <sup>2</sup>	0.9:1
≥ 150 < 300m <sup>2</sup>	0.8:1
≥ 300m <sup>2</sup>	0.7:1

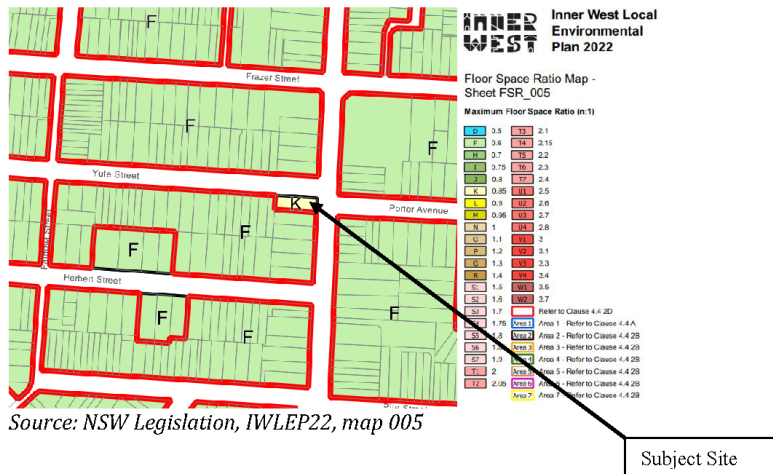
(2C) The maximum floor space ratio for development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land identified as “F” on the [Floor Space Ratio Map](#) is specified in the Table to this subclause.

Site area	Maximum floor space ratio
≤ 150m <sup>2</sup>	1.1:1
> 150 ≤ 200m <sup>2</sup>	1:1
> 200 ≤ 250m <sup>2</sup>	0.9:1
> 250 ≤ 300m <sup>2</sup>	0.8:1
> 300 ≤ 350m <sup>2</sup>	0.7:1
> 350m <sup>2</sup>	0.6:1

(2D) The maximum floor space ratio for development for the purposes of residential flat buildings on land shown edged red on the [Floor Space Ratio Map](#) is 0.25:1.

(2E) In calculating the floor space ratio in relation to land dedicated to the Council for the purposes of a proposed road on the [Land Reservation Acquisition Map](#), land marked “Local Road (SP2)” must be included in the site area”.

As demonstrated in Figure 3, the subject site is prescribed to a maximum FSR of 0.85:1.  
Figure 2 Floor Space Ratio Map



Following the proposed Torrens Title subdivision of the site to create allotments, the following will result:

Mixed use building

Proposed site area: 314.3m<sup>2</sup>  
Maximum FSR: 0.85:1  
Maximum GFA: 267.155m<sup>2</sup>  
Proposed FSR: 1.06:1  
Proposed GFA: 332.6m<sup>2</sup>

Dwelling house

Proposed site area: 222.3m<sup>2</sup>  
Maximum FSR: 0.85:1  
Maximum GFA: 188.955m<sup>2</sup>  
Proposed FSR: 0.83:1  
Proposed GFA: 157.6m<sup>2</sup>

The proposed mixed use building will exceed the maximum gross floor area by 65.445m<sup>2</sup>. The proposed variation is equal to 24.49%. A written justification is therefore required for the proposed variation to the maximum floor space ratio development standard, in accordance with Clause 4.6 of the IWLEP22.

The proposed alterations and additions to the dwelling house will not exceed the provisions of Clause 4.4. No written justification is therefore required with respect to the dwelling house.

#### **4. EXTENT OF NON-COMPLIANCE**

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As noted above, Clause 4.4 of the IWLEP22 states the subject site has a maximum FSR of 0.85:1.

The proposed site area relating to the mixed use building is 314.3m<sup>2</sup> in site area, permitting a maximum GFA of 267.155m<sup>2</sup>.

The proposed mixed use component of the development seeks a total GFA of 332.6, an FSR of 1.06:1. A variation of 65.445m<sup>2</sup> is proposed, being an exceedance of the standard by 24.49%.

While a variation is being sought, it is worthy to note in the first instance that the proposal is fully within the maximum height of buildings development standard of 9.5m, meaning the exceedance has not resulted in a breach to the LEP envisioned height for the site.

The proposed variation is not considered to result in an unreasonable bulk or scale, noting that the proposal involves alterations and additions to an existing built form. The FSR variation has not negatively impacted the amenity of the development or adjoining properties when compared to the current circumstances nor has the variation compromised the architecture of the building. Rather the proposed works result in a built form that is logical in its design and one which provides for an improved streetscape appearance. The proposed variation would not set a negative precedent in the streetscape given the circumstances of the case noting the site exists as an isolated pocket of B1 Neighbourhood Centre zoned land. The proposal therefore is considered to have no unreasonable impacts generated by the FSR variation.

A degree of flexibility is considered reasonable in this instance.

## 5. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council (2007) LEC 827* are considered.

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

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

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

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

In respect of the floor space ratio development standard, the first method is invoked.

The objectives supporting the maximum floor space ratio identified in Clause 4.4 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would



demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.4.

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

- (a) to establish a maximum floor space ratio to enable appropriate development density,*
- (b) to ensure development density reflects its locality,*
- (c) to provide an appropriate transition between development of different densities,*
- (d) to minimise adverse impacts on local amenity,*
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”.*

The following comments are provided in response:

#### Objective

- (a) to establish a maximum floor space ratio to enable appropriate development density,*

#### Comments

Although a variation to FSR is proposed, the density of the development is compatible with the area through the general compliance with the other planning controls prescribed to the site.

The proposal is notably fully compliant with the height of buildings development standard, ensuring that the proposed height of the building will be compatible with the desired future character of the area and that the additional GFA proposed has not generated further breaches of development standards. The density of the use on the site is within the capacity of the existing structure being utilised and what is envisioned for the site by the permissible land uses. The proposal notably retains a maximum two storey form.

The proposed works seek to streamline development on the site whilst having regard to local context. In this respect, it was considered logical to return to the original design of development on the site with the mixed use building located to the northern end of the property enabling activation of both Wardell Road and Yule Street through the commercial uses and first floor balconies.

This arrangement allows for the proposed mixed use nature of the building, which is permitted only on the subject site by virtue of its business zoning to be easily distinguished from the residential use (dwelling house) proposed to the south of the subject site and which reflects the nature of development to the south of the site which is low density residential in nature. This design philosophy has resulted in the majority of the proposed gross floor area being sited over the northern portion of the site, noting that the proposed dwelling house allotment falls under the maximum achievable gross floor area for the site.

The site is proximate to bus services to ensure the development is well connected to transportation infrastructure network, public open spaces and other social and economic infrastructure within the Dulwich Hill Precinct. The development has been designed within the

capacity of the existing and planned infrastructure on the site, as demonstrated through the submission and consultant documents.

The proposal is deemed to align with the objective.

Objective

*(b) to ensure that development density reflects its locality,*

Comments

The proposal seeks substantial alterations and additions to the existing development however has sought to locate the proposed additions paying respect to the historical evolution of the site and whilst acknowledging local context.

Following advice received as part of an earlier Pre-DA meeting, at ground level, the alignment of the commercial uses has been redesigned to match the dwelling house. Boundary fencing and the proposed front garden to the dwelling will clearly distinguish the two land uses allowing for clear identification from the public domain.

At first floor, bedroom 2 of Unit 1 will in part cantilever over the ground floor courtyard below however through the proposed staggered building alignment, a gradually increasing setback is proposed to Wardell Road. The proposed interface is considered to be a vast improvement compared to the current circumstance which provides for a two storey alignment immediately abutting the street frontage as the proposed design now allows for a gradual transition to the low density residential at the south.

A nil setback is also maintained for the majority of the Yule Street frontage, acknowledging that the existing building follows this alignment and in view of the corner location of the site, there is no direct impact to adjoining neighbours. A section of the northern façade, being the common lobby has been recessed to articulate this façade and break up its massing. This is further achieved through the use of existing and proposed glazing.

By increasing setbacks to Wardell Road, new additions have been placed to the rear of the building. Although the rear building alignment of the mixed use building will extend beyond that of dwellings in the vicinity of the site, it is important to acknowledge that the site is zoned B1 Neighbourhood Centre, contrasting significantly against the R2 Low Density Residential zone afforded to adjoining properties.

One of the key outcomes sought by the current design is to create distinct and individual buildings that clearly respond to their intended land use.

In view of the above, while variations do exist in the design to the contemporary building envelope controls governing density, the majority of these are a product of the unique zoning afforded to the site. The introduced new variations are limited in their consequence.

The development is compatible with the desired future character of the area, notwithstanding its variation to FSR.

Objective

*(c) to provide an appropriate transition between development of different densities,*

Comments

The subject site is bounded to the east and west by the different land zoning and density controls with adjacent properties located within the R2 Low Density Residential zone. The proposal has been designed having regards to this, by limiting the mixed use component of the proposed development to the north of the site, to enable a consistent residential form for all properties to the south. The corner location also lends itself to a mixed use development, allowing for dual frontages to promote an active street design.

In view of the above, despite the proposed FSR variation, the development provides an appropriate transition between the two densities.

Objective

*(d) to minimise adverse impacts on local amenity,*

Comments

In terms of adverse environmental impacts, the proposed development seeks to respond to the constraints of the site.

Regarding overshadowing, the subject site provides for an east-west orientation, limiting opportunities for solar access. It is worthy to note that under the current floor plan, the existing dwelling provides for a living area that is located to the eastern side of the dwelling, however in view of the commercial addition located immediately in front of the dwelling, the existing living room does not achieve any solar access.

The proposed works seek to create a modern layout with an open plan living/dining/kitchen located to the rear of the dwelling and providing for a direct connection to the private open space.

As demonstrated on Drawing No. A-DA-720-002 and A-DA-730-001, the west facing living area will achieve some solar access at 3pm. Although non-compliant, it is considered to be a result of both the orientation of the site and its business zoning. Conversely, the private open space of the dwelling will achieve compliant solar access from 12pm – 2pm as shown on Drawing No. A-DA-720-002.

On 21 March, the degree of additional overshadowing is somewhat reduced with solar access becoming available to the living room at 2pm.

The planning principle regarding access to sunlight as developed in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082* states:

*'...assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant:*

- *The ease with which sunlight access can be protected is inversely proportional to the density of the development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

As reiterated through this report, the site is unique in that it exists as an isolated pocket of business land, surrounded by low density residential land. The increased development on the site is reflective of the greater floor space ratio afforded to the site in view of and in comparison, to surrounding land. The overshadowing impact created is therefore not out of poor design, but as a consequence of its unique zoning.

Given the proposal is in keeping with the objectives of the zone, the overshadowing impact is considered contextually reasonable. The adjoining residential properties will retain excellent solar access during the spring/autumn equinox and summer period.

With respect to the shop top housing units, in view of their north facing living room windows, the units will achieve excellent solar access at the winter solstice.

The submitted diagrams also demonstrate solar access to the adjoining site at No. 89. Although the proposal will result in additional overshadowing to the rear private open space, the proposal will not alter solar access to any north facing glazing which is already overshadowed by the existing development on the subject site. As depicted on the elevational shows, solar access is however available to the rear façade of No. 89 from 2pm on June 21 to 3pm or from 1pm to 3pm on March 21.

The private open space of No. 89 will also notably maintain solar access between 12 – 3pm.

In terms of privacy, the proposal has had regard to all neighbours, particularly that of the R2 Low Density Residential. Where possible windows associated with the retail premise (shop), office premise and shop top housing are oriented to Wardell Road, Yule Street or the rear setback. The only exception to this is Bedroom 2 of Unit 2 and the lobby which provides for windows looking into the central void. These windows however are designed as highlight windows to provide for natural light and as such will not impact upon the privacy of the proposed dwelling.

Lastly, regarding visual bulk and general amenity, it is not envisioned that the proposal generally, the new storeys proposed or the exceedance in FSR compromises any adjoining properties or the public domain to a degree not envisioned by the development standards applicable to the site.

#### Objective

*(e) to increase the tree canopy and to protect the use and enjoyment of private properties and public domain,*

#### Comments

The proposal does not incorporate any significant landscaping with respect to the northern component of the site where the proposed non-residential uses and shop top housing units are proposed. This however is considered reasonable given the proposed uses/mixed use nature of the building and the location of the residential units at first floor.

The site is located in close proximity to public open space and facilities with Marrickville Oval located 200m to the east of the site providing for an alternative means of open space to the occupants, in addition to the private open space (balconies) proposed to each unit.

No privacy or overshadowing impacts occur, ensuring the protection of the use and enjoyment of private properties.

In view of the above, the proposal is considered to be in keeping with the objectives of the standard.

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

#### **6. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?**

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

The variation to FSR is in the order of 65.44m<sup>2</sup>, being an exceedance of the standard by 24.49%.

The breach in floor space ratio is a reasonable variation in the context of the case to accommodate the partial retention of the existing building and the unique zoning of the site in an area otherwise dominated by low density forms..

In this case, strict compliance with the development standard for floor space ratio is unnecessary and unreasonable.

#### **7. IS THE VARIATION IN THE PUBLIC INTEREST?**

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Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.4.

The building contextually has regard to its surrounding properties and provides an extent of amenity and density anticipated by the development controls to the site.

Furthermore, it is important to also consider the objectives of the B1 Neighbourhood Centre zone in relation to the development, which are as follows:

##### ***B1 Neighbourhood Centre zone***

##### ***Objectives of zone***

- *To provide a range of small-scale retail, business, and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*
- *To encourage retail and business land uses that promote the centre's role in the local retail hierarchy.*
- *To accommodate residential development that complements retail, business and non-residential land uses at street level.*

In response to the above the following is provided:

In considering the objectives of the zone, it is important to consider that the subject site is a pocket of B1 Neighbourhood Centre land that is surrounded by low density residential uses. It is not connected to a wider precinct or commercial strip. The existing building stands as an anomaly in the existing streetscape.

As part of the proposed development, new retail and office premises will be created to service people who live, work or visit in the surrounding neighbourhood. Most notably when compared to the existing building, which is limited to an office/business use, the proposed shop will provide for a new service to serve the local community.

The proposal will create new employment opportunities through the café and office premises proposed by this application. The site is well located in terms of access to public transport and services. Bus stops are located 450m to the west of the site on New Canterbury Road. The site is also located in proximity of the commercial precinct along New Canterbury Road ensuring future residential accommodation is in proximity to goods and services.

The proposal includes residential development in the form of shop top housing, allowing for active uses to be maintained at street level and through the proposed dwelling house.

In reference to the dwelling house, reference is made to the Heritage Advice prepared by Romey Knaggs Heritage. The advice acknowledges that the house at 87 Wardell Road was the first of the two buildings to be constructed on the site. The report states that the two storey residence, known as *Eastvale*, was built circa 1884. Plans included as part of the 1889 Metropolitan Water and Drainage Service surveys of Sydney's suburbs show the building set close to the southern boundary of its block enabling future development to occur to the north. The corner building first appeared in historical records in 1898 (Sands Directory) and was described as a two storey shop and dwelling having been built circa 1897.

The report estimates the two buildings were joined circa 1922 with a single storey addition to Wardell Road. An on site physical analysis of the buildings found,

*"Notwithstanding the later alterations and additions to the building, there is extensive evidence of the original configuration and detail of the building (refer to Figure 5). Externally, the windows to the main Wardell Road elevation retain their original timber frames, although the sashes have been replaced with aluminium sliding items. The original arched head and timber top light sash is extant, and the timber transom has intact dentils. The corners of the elevation feature quoins formed in render, and there is evidence the flashings for an earlier concave metal roof, suggesting that the existing windows were originally French doors opening onto a verandah.*

*There is some original internal fabric remaining, including sections of skirting, architraves and a gasolier, fitting but the original internal stair has been replaced. What is likely to have been the original internal arrangement of rooms is extant, including the hallway which would have led to the front door, although this has been infilled (refer to Figure 6) in what is now an internal wall within the later single storey infill building.*

*The remnant external details referred to above (especially the hip roof form, minimal eaves overhang, timber window frame dentils, quoins and the (removed) concave verandah roof are all characteristic of houses built in the Victorian Italianate style. The 7 metre setback from Wardell Road is similar to that of other houses built within the precinct during the Victorian and early 20th century later phases of residential development.*

*The physical evidence (supported by historic plans) suggests that the original house was subsumed into the later single storey infill structure sometime during the second quarter of the 20th century (certainly before 1943), but retained its original configuration and some of its original detail".*

The proposal therefore provides for a more compatible response to the desired future character of the area as the proposed dwelling house provides for a transition to the surrounding R2 Low Density Residential Zone. The proposed dwelling house also better responds to the character of the area in relation to its bulk, form, uses and scale.

The proposed variation to the floor space ratio does not impinge on the capacity of the development to meet the above objectives.

In view of the above, it is submitted that the proposed development is consistent with the objectives of the zone.

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

#### **8. PUBLIC BENEFIT OF MAINTAINING THE STANDARD**

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It is considered that there is no benefit to the public or the community in maintaining the development standards. The proposed development will allow for the logical redevelopment of the subject site with land uses commiserate with the zone objectives and will be employment generating.

The built form, bulk and scale is considered suitable for the site within the context of both an adaptive reuse and of the new storeys proposed, and results in a proposal compatible with the desired future character of the area.

The development is generally consistent with the planning controls as detailed within the accompanying Statement of Environmental Effects and aligns with the objectives of the standard.

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

The departure from the floor space ratio control within the IWLEP22 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

#### **9. IS THE VARIATION WELL FOUNDED?**

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It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the IWLEP22 in that:

- Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;



- There are sufficient environmental planning grounds to justify the departure from the standards;
- The development meets the objectives of the standard to be varied (floor space ratio) and objectives of the B1 Neighbourhood Centre zoning of the land;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- The breach does not raise any matter of State of Regional Significance; and
- The development submitted aligns with the existing and future character envisioned for the locality.

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

#### 10. GENERAL

Clause 4.6 also states that:

- “(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.**

*When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*

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

This variation does not relate to the subdivision of land in a land use zone nominated above. The variation sought is thus not contrary to subclause (6).

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

The development proposed is not complying development.

A BASIX certificate has been submitted for this application.

Clauses 5.4, 5.5, 6.27(4), 6.28, 6.29 and 6.31 of the IWLEP22 do not apply to the proposal.

## **11. CONCLUSION**

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The proposal does not strictly comply with the maximum floor space ratio standard as prescribed by Clause 4.4 of the IWLEP22. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the IWLEP22 are satisfied as the breach to the controls does not create any adverse environmental impacts.

Consequently, strict compliance with this development standard is unreasonable and unnecessary and that the use of Clause 4.6 of the IWLEP22 to vary this development controls is appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the maximum floor space ratio is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Should you have any questions regarding the proposed development, please do not hesitate to contact me.

Kind regards,

Melissa Rodrigues  
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Plan 3936