

**NSLPP MEETING HELD ON 07/12/2022****Attachments:**

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Statement

**ADDRESS/WARD:** 275 Alfred Street North, North Sydney**APPLICATION No:** DA 145/22

**PROPOSAL:** Replacement of approved three (3) “Fivex” sky advertisement signs to the roof structure of an existing commercial building with three (3) internally illuminated sky advertising signs consisting of ‘SBS’ on the western elevation and ‘SBS On Demand’ on the northern and southern elevation to the roof structure of that building.

**PLANS REF:**

Plan No.	Rev No.	Description	Prepared by	Dated
A01	F	Site Plan	Legge & Legge Architects	28/04/22
A02	F	Existing Roof Plan	Legge & Legge Architects	28/04/22
A04	F	West Elevation Approved	Legge & Legge Architects	28/04/22
A04A	F	West Elevation Proposed	Legge & Legge Architects	28/04/22
A05	F	North Elevation Approved	Legge & Legge Architects	28/04/22
A05A	F	North Elevation Proposed	Legge & Legge Architects	28/04/22
A06	F	South Elevation Approved	Legge & Legge Architects	28/04/22
A06A	F	South Elevation Proposed	Legge & Legge Architects	28/04/22
A07	F	Signage elevations, plan and Isometric View (former BAYER Sign)	Legge & Legge Architects	28/04/22
A08	F	Signage elevations, plan and Isometric View Approved (FiveX Sign)	Legge & Legge Architects	28/04/22
A09	F	Signage elevations, plan and Isometric View Proposed (SBS On Demand)	Legge & Legge Architects	28/04/22

**OWNER:** Benmill Pty Ltd and JB No. 3 Pty Ltd**APPLICANT:** Legge and Legge Architects Pty Ltd**AUTHOR:** Greg Sherlock, Planning and Development Advisor**DATE OF REPORT:** 11 November 2022**DATE LODGED:** 20 May 2022**SUBMISSIONS:** One (1)**RECOMMENDATION:** Approval

## EXECUTIVE SUMMARY

This development application seeks North Sydney Local Planning Panel (NSLPP) approval for replacement of the three (3) approved 'fivex' sky signs and construction of three (3) internally illuminated sky advertisement signs located on the roof structure of an existing commercial building at 275 Alfred Street, North Sydney.

**This application is reported to the North Sydney Local Planning Panel (NSLPP) for determination because the application being the proposed signage is above the building height limit by greater than 10% and is therefore required to be determined by NSLPP in accordance with the Minister's directions.**

The notification of the application is in accordance with the *North Sydney Community Participation Plan 2019*. At the end of the notification period, Council received one (1) submission raising concerns about loss of residential amenity, uncharacteristic for the area, light spillage/pollution and non-compliances with NSW State Environmental Planning Policy (Industry and Employment) 2021- Chapter 3 *Advertising and Signage*. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The proposal is for three (3) internally illuminated sky advertising signs consisting of 'SBS' on the western elevation and 'SBS On Demand' on the northern and southern elevation to the roof structure of that building. The highest point of the proposed signage is to be 98.066m RL. The proposed signage breaches Council's building height control specified in Clause 4.3 of the North Sydney Local Environmental Plan 2013.

The design of the proposed signage is supported as it would sit below the highest point of the existing rooftop structure and is similar to the approved signage in size, colour and dimensions. The design, form and illumination impact of the proposed signage can be reasonably modified by conditions to address amenity impacts.

The application is deemed satisfactory and is recommended for **approval**.



## DESCRIPTION OF PROPOSAL

The application seeks approval for the replacement of the approved 'Fivex' sky advertising signage on the existing roof top structure of the commercial building with three(3) sky advertisement signs in the same located displaying the name 'SBS' on the west elevation and 'SBS On Demand' on the southern and northern elevations.

The proposed signage is comprised of white coloured lettering that is to be illuminated at night with static white light. It will incorporate top mounted "eyebrow" light spill baffles over all letters and logos as shown on architectural plans.

The size of the approved signage under DA 240/20 and the proposed changes are compared in the table below:

Elevations	Approved under DA 240/20	Proposed in this Application
Northern	Lettering – 13.881m x 4.06m	Logo and lettering – 14.98m x 1.27m-2.265m
Southern	Lettering 13.881m x 4.06m	Logo and lettering 14.981m x 1.33m-2.267m
Western	Lettering 13.881m x 4.06m	Logo and lettering 11.556m x 3.28m-5.618m Area

The existing support structures on the roof of the building appear to have been retained following the removal of the previous signage, and it is understood that the fixings will be modified and adjusted to support the installation of the proposed signage, and they are to remain coloured to be consistent with the existing grey Colorbond panelling that forms the roof of the building.

The proposal seeks a top mounted "eyebrow" light spill baffle, which is to be installed over each letter. The proposal seeks to maintain the same illumination hours as approved by the court for development application 59/07. The approved illumination hours are from dusk to 11.00pm daily eastern summertime and Eastern Standard Time.

## STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning - B3 Commercial Core
- Item of Heritage- No
- In Vicinity of Item of Heritage-Yes
- Conservation Area -No
- Foreshore Building Line-No
- Environmental Planning & Assessment Act 1979 (As amended)
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Transport & Infrastructure) 2021
- Local Development

## POLICY CONTROLS

NSDCP 2013

## LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

### DESCRIPTION OF LOCALITY

Located on the eastern side of the Warringah Expressway, the site forms part of a small commercially zoned precinct isolated from the North Sydney CBD by the multi lane Warringah Expressway. The site accommodates a 17 storey commercial tower.



**Figure 1: View of the north western corner of the 17 storey commercial building, the signage will be located on the upper roof structure which is grey in colour**



**Figure 2: Northern and Southern view of the subject building.**

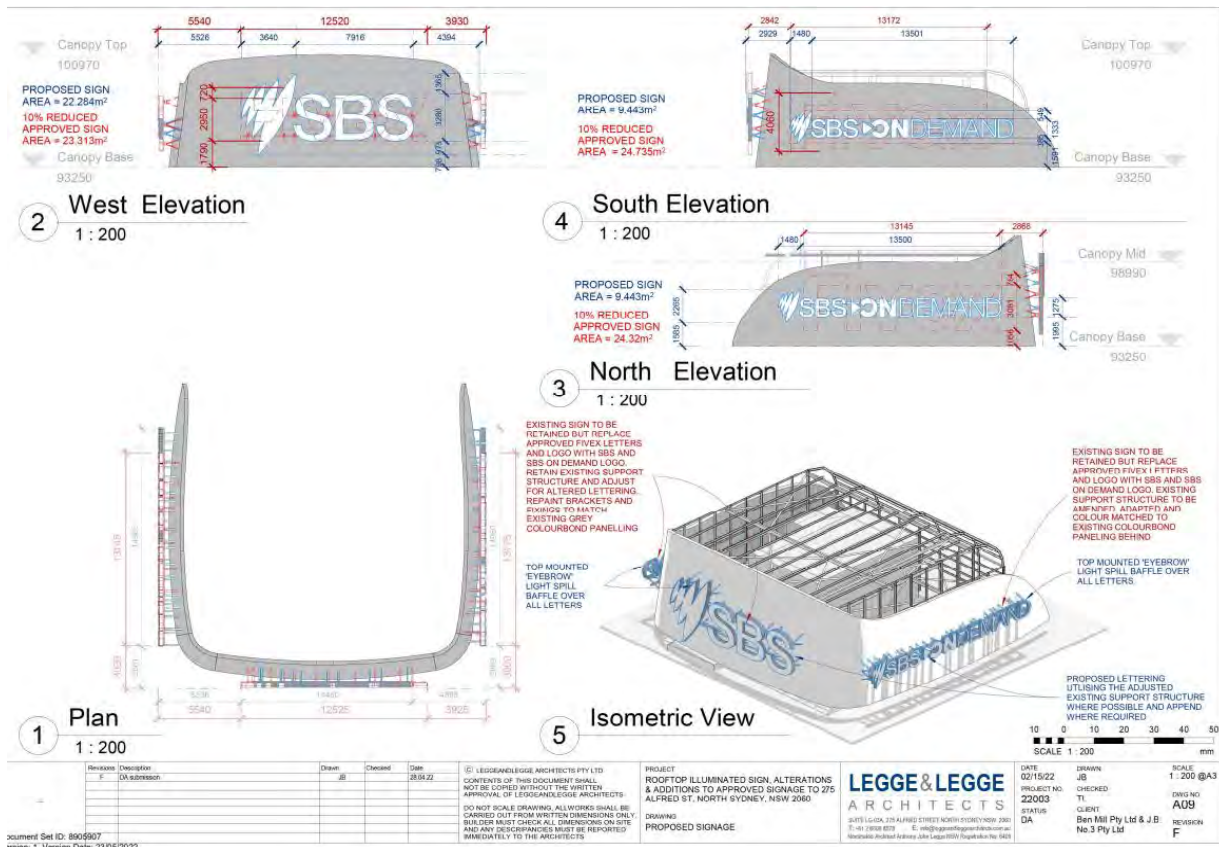


Figure 3: Plans detailing the proposed signage on the structure on top of the building

**RELEVANT HISTORY**

Previous History

**Development Application No. 59/07 (Original Consent)**

On 22 November 2007 the Land & Environment Court upheld the appeal in **Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680** and granted development consent for “re-cladding of the existing building at 275 Alfred Street, North Sydney and the erection of a roof sign”.

Condition A2 of the Original Consent applied a time limited consent to the development. The condition states:

**Time-limited Consent**

A2 *This consent shall cease to be in force, in relation to the roof signs, on the expiration of 10 years, after the date on which the consent becomes effective and operates in accordance with Section 83 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period; a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.*

(Reason: To recognise the provisions of SEPP No. 64 – Advertising and Signage)

**Development Application No. 163/16 – Extension of use**

Development Application No. 163/16 (**Subject DA**) was approved by North Sydney Council (Council) on 11 July 2016 for “*extension/continued use of rooftop sign*”, being the existing sign erected at the rooftop parapet level of the building erected pursuant to the Original Consent (**emphasis added**). The following relevant conditions were imposed:

**Separate DA**

A2 *Approval is granted for “building identification signs”, as defined in North Sydney Local Environmental Plan 2013. No consent is granted or implied for any displays in the nature of an “advertisement” or for any “advertising structures” as defined in the North Sydney Local Environmental Plan 2013.*

*A separate development application is required to be lodged for any changes to the signage in relation to:*

- (a) Enlargement/alteration of Display area;*
- (b) Signage content;*
- (c) Animation, flashing, changing, scrolling and/or moving imagery;*

*(Reason: To clarify the scope of development approval and to ensure that the approved signage remains “building identification signage” rather than “advertisement” or general advertising)*

**Time-limited Consent**

A3 *This consent shall cease to be in force on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with Section 83 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.*

*(Reason: To satisfy the provisions of SEPP No. 64 – Advertising and Signage)*

**Compliance with Conditions of Preceding Development Application**

I3 *The existing signage consent must continue to operate in accordance with the conditions of the consent imposed by the Land and Environment Court in Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680 which relates to the site.*

*(Reason: To ensure continuity of the court imposed conditions of development consent for the signage)*

**Modification Application No. 163/16/2 - Modification of use consent**

Modification Application No. 163/16/2 was approved by North Sydney Council (Council) on 9 September 2016 to modify the description of the existing signs to reflect the previous Court determination. The following modifications to the continuing use consent were made:

1. *Consistent with the request to modify Condition A2 with respect to the description of the approved sign, the stated description of the approval issued under DA 163/16 is modified to reflect the description of the sign originally approved by the Land & Environment Court. That is **the description of the approved development be modified to read as follows:***

***“continued use of roof sign”***

2. *That Condition A2 of the consent be amended to read as follows:*

**Separate DA**

- A2. *A separate development application is required to be lodged for any changes to the design, size, height, colour or external form of the existing signage including any change relating to:*

- (a) *Enlargement/alteration of Display area;*
- (b) *Signage content;*
- (c) *Animation, flashing, changing, scrolling and/or moving imagery;*

*(Reason: To clarify the scope of development approval is for the use of the existing roof sign)*

3. *Condition I3 should be modified to provide for inconsistency between relevant development approvals. Accordingly, Condition I3 is amended to read as follows:*

**Inconsistency between development consents**

- I3. *The existing signage consent must continue to operate in accordance with the conditions of the consent imposed by the Land and Environment Court in Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680 which relates to the site. In the event of any inconsistency between this consent and any preceding development consent, the requirements of this consent shall prevail to the extent of the inconsistency.*

*(Reason: To ensure the performance of the development in accordance with all relevant conditions of development consent and to provide for inconsistency between consents)*



### ***Development Application No. 40/17 – Proposed LED Roof Panels***

On 7 February 2017 Council received Development Application No. 40/17 which proposes to replace the existing roof signs with three large LED Sign Panels on the norther, western and southern building elevations of the building.

#### **Relevant Court Decisions**

##### ***Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680***

On 22 November 2007 the Land & Environment Court upheld a Class 1 appeal in Benmill Pty JB No. 3 Pty Ltd v North Sydney Council (2007) NSWLEC 680 and granted development consent for “re-cladding of the existing building at 275 Alfred Street, North Sydney and the erection of a roof sign”.

The 2007 Consent application documentation and the Court judgment did not describe the proposed signs as either an advertising or building identification sign. The Court Orders however referred to a "roof sign" which is not a specifically defined signage type under SEPP 64 or the previous NSLEP 2001.

This matter is dealt with in the later appeal in *Benmill Pty Ltd v North Sydney Council - 2018/00227590 (Class 4)* which sought the Court’s declaration on the proper characterisation of this consent.

##### ***Legge v North Sydney Council [2018] NSWLEC 1288***

On 15 June 2018 Commissioner Brown in the Land & Environment Court dismissed two Class 1 appeals in *Legge v North Sydney Council [2018]* relating to two separate proposals as follows:

***2017/108602 (DA Appeal)*** relating to an appeal against the deemed refusal of *Development Application 40/17* for removal of rooftop BAYER signage and install three dynamic/changeable LED advertising panels; and

***2017/258638 (Modification appeal)*** relating to the deemed refusal of a Modification application which sought approval to amend the existing approved signage to the rooftop of the Bayer building to dynamic/changeable LED advertising panels.

The appeals variously sought approval for erection of three digital LED roof top signs/advertising structures on the existing building either by the outright grant of new development consent (DA 40/17), or by the modification of D163/16 to replace the existing approved roof or sky sign under the provisions of s.4.55(2) of the Act.

The Commissioner dismissed the appeals on the following grounds:

##### ***2017/108602 (DA Appeal)***

The Commissioner at [97] “*I am not satisfied that an advertising design analysis for the area or precinct in which the site is located has been prepared so the provisions of cl 19(2)(a) and 21(1)(c) of SEPP 64 operate to deny the Court to grant the ability to grant consent to the DA Appeal. The DA Appeal could be refused for this reason alone.*”

**2017/258638 (Modification appeal)**

Commissioner at [116] & [117] found that the characteristics of the proposed digital LED roof top signs/advertising structures was not substantially the same as the existing approved signs.

108. *What is determinative is the different characteristics of the existing signs and the proposed signs. Qualitatively and quantitatively, there are material differences... In my view, the proposed signs are "substantially" different because the proposed signs:*

- *have a larger advertising area (notwithstanding the method of measurement in SEPP 64);*
- *have a different purpose in seeking to attract attention every week rather than the continuation of the static building identification sign;*
- *introduce a different form of signage, (advertisements rather than a building identification sign);*
- *introduce changing signage rather than static signage;*
- *introduce multiple colours associated with different advertisements; and*
- *require demolition of the existing signs.*

117. *For the above reasons, I am not satisfied the development the subject of the proposal in the Modification Appeal is substantially the same as the development the subject of DA 163 / 16, or the development the subject of DA 59/07, which DA 163 / 16 permitted the continued use of the signage.*

**Benmill Pty Ltd v North Sydney Council - 2018/00227590 (Class 4)**

On 4 May 2020 the Land & Environment Court upheld a Class 4 appeal which sought the Court's declaration on the proper characterization of the approved use of three existing illuminated roof signs erected under DA 59/07 and continued under DA163/16.

In considering the matter Robson J found at [137] that:

*"the orders of the Senior Commissioner, which include the conditions annexed thereto, are susceptible of more than one meaning such that recourse to the reasons for judgment is necessary to resolve this ambiguity. As such, the specific references in the reasons of the Senior Commissioner which undoubtedly direct attention and give consideration to discrete clauses and expressions that appear specifically in SEPP 64 as relating to advertising and advertisement and, more particularly, "roof or sky advertisement", lead me to the view that that which was the subject of the 2007 Consent is properly construed as a consent for a "roof or sky advertisement" as that term is defined by SEPP 64."*

(Emphasis added)

On 4 May 2020 the Court made the following declaration:

- (1) *Declare that, on its proper construction, Development Consent D163/16 granted by North Sydney Council on 11 July 2016 and modified on 9 September 2016 in respect of property being Lot 1 in DP546856, known as 275 Alfred Street, North Sydney, is for a "roof or sky advertisement" as that term is defined under SEPP 64.*

## Other Relevant Development Consents

### ***Development Application No. 217/08 – Ticker Sign (LED Sign)***

At its meeting on 29 September 2008, Council resolved to grant consent to **Development Application No. 217/08** for the removal of general wall advertising sign (14.8m long x 1.1m high) on the western elevation of the building and replacement by an illuminated LED sign the same length (14.8m) but with an increase in width or height to 1.94m, on the “Bayer” building.

The approved sign was for the display of a variable electronic ticker-tape style LED (light emitting diode) message consisting of 2 lines each displaying up to 20 characters (text 670mm high), and was subject to the following operational requirements:

- The sign display shall be fixed or static for the whole of a minimum 5 minute display period for each message;
- Fade-in/ fade-out methodology to be utilised at the message change-over,
- The change over time to be no more than 2 seconds;
- No animated or scrolling display, any flashing lights, moving parts or simulated movement shall be permitted.
- Shall not have an excessive or unreasonable level of illumination that results in glare or distracts or dazzles, and the level of illumination shall be varied to take account of ambient light levels;

**Section 96 Modification Application No 217/08/2**, approved under delegated authority on 8 July 2010 approved alterations to the requirements to allow for either a full colour graphic or text format.

**Section 96 Application No 217/08/3** was lodged on 24 October 2012 to reduce the dwell time between messages to 15 seconds. This application was referred to the RMS pursuant to Clause 18 of SEPP 64. RMS did not support the application and concurrence was withheld. Accordingly, the application was refused under delegated authority on 22 February 2013.

**Section 96 Application No 217/08/4** was lodged on 05 June 2015 to reduce the dwell time between messages to 10 seconds. This application was also referred to the RMS pursuant to Clause 18 of SEPP 64. RMS did not support the application and concurrence was withheld. Accordingly, the application was refused under delegated authority on 18 September 2015.

**Section 96 Application No 217/08/5** was lodged on 15 October 2015 to request review of the previous refusal and to alter the dwell time from 5 minutes to 60 seconds. Concurrence from RMS had been obtained prior to the lodgement of the modification in accordance with recent amendments to policy. The matter was reported to the NSIPP meeting 2 December 2015 where the recommendation for approval of the modification was upheld.

***Development Application No 240/21- The removal of the existing “BAYER” sky signs and the installation of three (3) “FIVEX” sky advertisement signs to the roof structure of an existing commercial building.***

This application was lodged on 25 September 2020 for the removal of the Bayer sky signage and its replacement of new internally illuminated sky advertising structures with the word ‘Fivex’ The application was reported to NSIPP on 3 February 2021 where the recommendation to approve the development application was upheld.

The following relevant conditions apply

**Terms of Consent**

A4. *Approval is granted for the removal of the existing sky advertisement signage and the construction of new sky advertisement signage in the same locations at No. 275 Alfred Street, North Sydney.*

*No approval is granted or implied for any additional works not covered by this consent.*

*(Reason: To ensure that the terms of the consent are clear)*

**Separate DA**

A5. *A separate development application is required to be lodged for any changes to the design, size, height, colour or external form of the existing signage including any change relating to:*

- (a) Enlargement/alteration of Display area;*
- (b) Signage content;*
- (c) Animation, flashing, changing, scrolling and/or moving imagery;*

*(Reason: To clarify the scope of development approval is for the use of the existing roof sign)*

**Time-limited Consent**

A6. *This consent shall cease to be in force on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.*

*(Reason: To satisfy the provisions of SEPP No. 64 – Advertising and Signage)*

**Current Application**

<b>Date</b>	<b>Action</b>
20 May 2022	Application Lodged
24 May 2022	Application review by Development Review Panel. Council rejection letter prepared requiring: 1. Revised Statement of Environmental Effects to address Clause 4.3 of NSLEP 2013 (Height of Buildings) and 2. A Clause 4.6 -Exceptions to Development Standards. The above information being required to complete the assessment of the proposal.
27 June 2022	Applicant advised that application was rejected by Council's Development Review Panel on 24th May 2022 in accordance with letter attached confirming the above.

14 July 2022	Applicant initiated additional information submission via NSW Planning Portal. Clause 4.6 Written Statement provided updated SEE and Clause 4.6 -Exceptions to Development Standards.
8 August 2022	Council advised the applicant that due to administrative error the application had not been formally rejected and remained current and must be referred to the North Sydney Local Planning Panel due to breaches to the maximum height standard and Directions of the NSW Minister of Planning.
17 August 2022	Applicant meeting with Council staff concerning the processing and handling of the application.
18 August 2022	Council sought clarification from the applicant as to the proposed development description consistent with preceding Court judgements applicable to the site.
18 August 2022	Application description confirmed.
1 September 2022	Amended documents received by Council.
16 September 2022	Application assigned to officer for assessment.
14 September 2022	Notification of adjoining properties and the Anderson/CBD/Miller Precinct. Application placed on exhibition between 14 and 28 September 2022.

## INTERNAL REFERRALS

### Building

The proposed works the subject of this application have not been assessed in accordance with compliance with the National Construction Code of Australia. This would need to be undertaken prior to the issue of a Construction Certificate. Should significant changes be required to achieve compliance with NCC standards, a Section 4.55 application would be necessary.

## EXTERNAL REFERRALS

### SYDNEY OBSERVATORY

The application was referred to the Sydney Observatory, who have not responded to Councils request for comment on the proposal.

#### Planning Comment:

No further comment is required in this instance.

### TfNSW

The application was referred to Transport for New South Wales who have assessed the application and provided the following comments below:

*'TfNSW has reviewed the submitted application and raises no objection to the proposed replacement of the lettering for the existing signage subject to Council approval and following conditions:*

1. *Signage display shall not contain:*
  - a. *Flashing lights.*
  - b. *Animated display, moving parts or simulated movement.*
  - c. *A method of illumination that unreasonably distracts or dazzles.*
  - d. *Images that may imitate a prescribed traffic control device, for example red, amber or green circles, octagons or other shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device.*
  - e. *Text providing driving instructions to drivers*
2. *The illumination levels shall be in accordance with relevant guidelines and standards.*
3. *The design and construction of signage structures shall be in accordance with relevant Australian Standards.*
4. *Construction and maintenance activities shall be undertaken wholly within the private property of the site.*
5. *All works associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW.'*

### **Original proposal**

On 14 September 2022, Council notified adjoining properties and the Anderson/CBD/Miller Precinct of the proposed development seeking comment between 14 and 28 September 2022. Council received one(1) submission. The matters raised in the submissions are listed below:

#### **Basis of Submissions**

- The proposal would result in bright light spillage to adjoining residential properties.
- The development is unnecessary

The issues raised in the submissions are summarised below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website [https://www.northsydney.nsw.gov.au/Building\\_Development/Current\\_DAs](https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs) and are available for review by NSLPP members.

### **CONSIDERATION**

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

#### **Environmental Planning and Assessment Act 1979 (as amended)**

#### **SEPP (Biodiversity and Conservation) 2021 (incorporating SREP (Sydney Harbour Catchment) 2005 and SHC DCP)**

## **Chapter 10 - Sydney Harbour Catchment**

Having regard to the SEPP (Biodiversity and Conservation) 2021 2005 concerned with the Sydney Harbour Catchment and the Sydney Harbour Foreshores and Waterways Area DCP 2005, the proposed development is not considered to be detrimental to the Harbour and will not unduly impose upon the character of the foreshore given the site's location, 275 Alfred St North Sydney and is not in close proximity to the harbour, as such, the development is acceptable having regard to the provisions contained within the above SEPP 2021 and the Sydney Harbour Foreshores and Waterways DCP 2005.

### **SEPP (Resilience and Hazards) 2021**

The provisions of SEPP (Resilience and Hazards) require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. The subject site has only previously been used for residential purposes and as such is unlikely to contain any contamination; therefore, the requirements of the above SEPP have been satisfactorily addressed.

### **SEPP (Transport & Infrastructure) 2021**

The proposal is considered acceptable having regard to Clause 2.119 of the SEPP (former clause 101 of SEPP(Infrastructure 2007) as there is negligible adverse impact on Warringah Freeway as TfNSW has provided concurrence to the proposal, subject to conditions which are included later in the condition set.

### **SEPP (Industry & Employment) 2021 - Chapter 3**

The definition of advertising and signage terms under the SEPP are identical to those under NSLEP 2013.

Chapter 3 (SEPP 64) seeks to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of high quality design and finish. Section 3.9 requires that consent must not be granted to display signage unless the consent authority is satisfied that the proposal satisfies the relevant objectives of the Policy and is consistent with the specified assessment criteria at Schedule 1 of the Plan.

#### ***Aims, objectives etc***

*(1) This Policy aims:*

- (a) To ensure that signage (including advertising):*
  - (i) Is compatible with the desired amenity and visual character of an area, and*
  - (ii) Provides effective communication in suitable locations, and*
  - (iii) Is of high quality design and finish, and*
- (b) To regulate signage (but not content) under Part 4 of the Act, and*
- (c) To provide time-limited consents for the display of certain advertisements, and*
- (d) To regulate the display of advertisements in transport corridors, and*
- (e) To ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

*(2) This Policy does not regulate the contents of signage and does not require consent for a change in the content of signage.*

The proposal is considered to be consistent with the aims and objectives for signage development outlined in Clause 3 of SEPP 64. As defined under Clause 4 of the SEPP 64, the proposal is defined as the following:

#### **4 Definitions**

The SEPP defines signage as all signs, notices, devices, representations and advertisements that advertise or promote any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and includes:

- (a) *Building identification signs*
- (b) *Business identification signs*
- (c) *Advertisements to which Part 3 applies but does not include traffic signs or traffic control facilities.*

**'Advertisement** means signage to which Part 3 applies and includes any advertising structure for the advertisement.'

**'Advertising** structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.'

**'Roof or sky advertisement** means an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.

The applicant's Statement of Environmental Effects addresses the characterisation of the proposed replacement signage as follows:

*"the proposal uses the existing signage support structure which will be adjusted to accommodate the new lettering and logos. LEDs remain used as the light source. Signage will not comprise any moving elements (flashing, rolling etc) and content will be "fixed" and maintained with the "SBS" and "SBS ON DEMAND" lettering and logos.*

*Accordingly, the approved use as a "roof or sky advertisement" will not change and the proposal will maintain consistency with the relevant SEPP (Industry and Employment) definitions."*

The proposal is consistent with the form and use of the existing roof top structure for signage, as clarified by the NSW Land & Environment Court decision in *Benmill Pty Ltd v North Sydney Council - 2018/00227590*. The proposed signage can be properly construed as a consent for a "roof or sky advertisement" as that term is defined by the SEPP.

defined as a 'advertisement' and more specifically is defined as a 'roof or sky advertisement' as per the definitions provided in the SEPP.

#### **6 Signage to which this Policy applies**

- (1) This Policy applies to all signage:
  - (a) that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and
  - (b) is visible from any public place or public reserve, except as provided by this Policy.



Note: Public place and public reserve are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.

This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it. As the proposal is defined as 'roof or sky advertisement' and three(3) signs are proposed, with illumination, and located on the parapet of the building within 250m of the transport corridor, the proposal cannot be undertaken under the Exempt and Complying SEPP, and a development application is required in order for the proposal to be assessed against the provisions of SEPP 64.

## **7 Matters for consideration - signage**

Council must not grant development consent to an application to display signage unless the consent authority is satisfied –

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1.(1)(a), and
- (b) has been assessed by the consent authority in accordance with the assessment criteria in Schedule 5 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and
- (c) satisfies any other relevant requirements of this Chapter.

The signage is required to be assessed against the aims of the policy and the criteria contained within Schedule 1 of the SEPP below.

## **8. Duration of consents**

Clause 3.12 of SEPP (Industry and Employment) 2021 provides that development consents issues under Part 3.3 of the SEPP are time limited in accordance with the following:

- (1) *A consent granted under this Part ceases to be in force—*
  - (a) *on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or*
  - (b) *if a lesser period is specified by the consent authority, on the expiration of the lesser period.*
- (2) *The consent authority may specify a period of less than 15 years only if—*
  - (a) *before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or*
  - (b) *the area in which the advertisement is to be displayed is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed advertisement would be inconsistent with that change, or*
  - (c) *the specification of a lesser period is required by another provision of this Chapter.*

The policy aims:

- (a) *To ensure that signage (including advertising):*
  - i. *Is compatible with the desired amenity and visual character of the area*
  - ii. *Provides effective communication in suitable locations and*
  - iii. *is of high quality design and finish*
- (b) *To regulate signage (but not content) under Part 4 of The Act, and*
- (c) *To provide time-limited consents for the display of certain advertisements.*

Part 3.3 Clause 3.1 provides that the consent must not be granted unless the consent authority is satisfied that the proposal satisfies the relevant objects of the Policy and is consistent with the specified assessment criteria at Schedule 5 of the Policy.

The proposed development has been assessed as being consistent with the aims of the policy (a) and (b). As defined under the SEPP 64, the proposal is defined as three(3) 'sky advertising signs' on the northern, western, and southern elevation of the building and are considered to be consistent with the aims and objectives for signage development outlined the SEPP.

The application has been assessed against the relevant numeric controls in NSLEP 2013 and NSDCP 2013 as indicated in the following compliance tables. The proposal is considered compatible within its local context, provides effective communication whilst being of a high quality design and finish.

The signage is suitably located and is consistent with other building identification signs on surrounding buildings. More detailed comments with regard to the major issues raised by submitters in relation to proposed illumination of the threes signs is provided in this report.

- In regard to Part 3 (c) above, time limited consent is applicable as advertising is proposed, and the consent shall be conditioned accordingly, typically with a limit of 15 years
- The proposed signage has been assessed in accordance with the assessment criteria in Schedule 5 for sky advertising signage, and the proposal satisfies the criteria and the objectives for SEPP (Industry & Employment) 2021.
- See also discussion against DCP controls in the DCP Compliance table in this report.

The proposed signage is considered to be consistent with the aims and objectives of the Chapter 3 of SEPP (Industry & Employment) 2021 (former SEPP 64) whilst generally complying with the assessment criteria of Schedule 1.

The application has been assessed against the relevant numeric controls in NSLEP 2013 and DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

**SEPP (I & E) 2021 - Schedule 5 Assessment Criteria**

ASSESSMENT CRITERIA	COMMENT ON PROPOSAL
<p><b>1. Character of an area</b></p> <ul style="list-style-type: none"> <li>• <i>Compatible with the existing or desired future character of the area or locality?</i></li> <li>• <i>Consistent with the particular theme for outdoor advertising in the area or locality?</i></li> </ul>	<p>The proposed signage is considered to be compatible with the desired future character of the locality. The building is located outside of the North Sydney Centre but has a long history of commercial use and the display of roof top advertisement similar to the form proposed under the current application.</p>

ASSESSMENT CRITERIA	COMMENT ON PROPOSAL
<p><b>2. Special areas</b></p> <ul style="list-style-type: none"> <li><i>Detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural areas or residential areas?</i></li> </ul>	<p>The proposed signage faces away from the adjoining Whaling Road Conservation Area which is located to the east of the subject site. The proposal also includes a top mounted “eyebrow” light spill baffle will be installed over each letter. The proposed signage will not result in a significant impact to the neighbouring conservation area. The proposal satisfies subclause (b)</p>
<p><b>3. Views and vistas</b></p> <ul style="list-style-type: none"> <li><i>Obscure or compromise important views?</i></li> <li><i>Dominate the skyline and reduce the quality of vistas?</i></li> <li><i>Respect the viewing rights of other advertisers?</i></li> </ul>	<p>The proposed signage will modify the approved rooftop signage (FiveX Sign) with the proposed SBS on demand signage on the southern and northern faces of the building and ‘SBS’ and SBS logo on the western face. The signage would not obscure important views or reduce the quality of identified views and vistas within the visual catchment of the site.</p> <p>The proposed signage, whilst significant in the skyline is consistent with the history and form of roof top advertising present on the building. The replacement of the approved “FiveX” sign with the SBS on Demand and SBS logo are broadly consistent with type of signage anticipated for the building.</p> <p>A time limited consent is envisaged, in accordance with the preceding consents, which will enable a review of the skyline and visual catchment in a reasonable time period.</p>
<p><b>4. Streetscape, setting or landscape</b></p> <ul style="list-style-type: none"> <li><i>Scale, proportion and form appropriate for the streetscape, setting or landscape?</i></li> <li><i>Contribute to the visual interest of the streetscape, setting or landscape?</i></li> <li><i>Reduce clutter by rationalising or simplifying existing advertising?</i></li> <li><i>Screen unsightliness?</i></li> <li><i>Protrude above buildings, structures or tree canopies in the area or locality?</i></li> </ul>	<p>The proposed size, location and design of the signage is considered to be satisfactory given that the proposal is similar in size to the approved ‘Fivex’ signage. The proposed materials reasonably complement the existing building and the size of the signage on all three elevations. The proposal is considered to be reasonable in size.</p>
<p><b>5. Site and building</b></p> <ul style="list-style-type: none"> <li><i>Compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i></li> </ul>	<p>The proposed signage lettering does not protrude over the existing rooftop structure. The proposed signage is considered to be reasonably compatible with the scale that the approved Fivex’ signage would display. The proposed signage in this regard is compatible with the building that it is located.</p>

ASSESSMENT CRITERIA	COMMENT ON PROPOSAL
<ul style="list-style-type: none"> <li>• <i>Respect important features of the site or building, or both?</i></li> <li>• <i>Show innovation or imagination in its relationship with the site or building, or both?</i></li> </ul>	
<p><b>6. Associated devices and logos with advertisement and advertising structures</b></p> <ul style="list-style-type: none"> <li>• <i>Any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i></li> </ul>	<p>The proposed works are defined as roof or sky advertisement, meaning an advertisement that is displayed on, or erected on or above, the parapet or eaves of a building.</p> <p>The proposed signage is therefore an “advertisement” under SEPP (I&amp;E). The proposal also includes a top mounted “eyebrow” light spill baffle will be installed over each letter. The lighting device is integrated into the design of the structure tow which it is being displayed.</p> <p>Conditions are recommended to require a time limited consent and further consent be obtained for any change to the approved signage design or operation.</p>
<p><b>7. Illumination</b></p> <ul style="list-style-type: none"> <li>• <i>Result in unacceptable glare?</i></li> <li>• <i>Affect safety of pedestrians, vehicles or aircraft?</i></li> <li>• <i>Detract from the amenity of any residence or other form of accommodation?</i></li> <li>• <i>Can intensity of illumination be adjusted?</i></li> <li>• <i>Is illumination subject to a curfew?</i></li> </ul>	<p>The proposed illumination is compliant with the DCP requirements for illuminated signage located in B3 Zone. However, there are residential buildings in close proximity to the subject site. The subject site is located within a B3 Zone; however it is also in close proximity to an adjoining R2 Zone. The proposed illumination of the three (3) proposed sky signs would have an impact on the amenity of residential units to the immediate west and northwest of the subject site facing the North Sydney CBD. The illumination impacts of the proposed signage are commensurate to the approved ‘Fivex’ signs and can be managed by via conditions (see condition set). The proposed signage satisfies the criteria for illumination.</p>
<p><b>8. Safety</b></p> <ul style="list-style-type: none"> <li>• <i>Reduce the safety for any public road?</i></li> <li>• <i>Reduce the safety for pedestrians or bicyclists?</i></li> <li>• <i>Reduce the safety of pedestrians, particularly children, by obscuring sightlines from public places?</i></li> </ul>	<p>The proposed signage would not increase potential impact to traffic sightlines. The proposal is similar in scale to the existing signage. Any illumination impacts caused to road users can be managed via condition (see condition set). The proposed signage would not result in being a significant safety distraction to road users, particularly along the Warringah Freeway.</p>

### **Division 3 Particular advertisements**

*In additions to the requirements of Schedule 5 of the SEPP addressed above, the proposed advertising sign have been considered against the following relevant design requirements for particular advertisements, applicable under the SEPP*

#### **3.15 Advertisements with area >20m<sup>2</sup> or higher than 8m above ground (Cl.3.15 SEPP (I & E) 2021)**

Clause 3.15 of the SEPP provides that Councils must have regard for Schedule 5 (addressed above) and provide a copy of the application to TfNSW.

Council provided a copy of the application to TfNSW at the same time as the application was advertised in accordance with the Act. TfNSW have provided comments on the proposal and recommended conditions, which have been included above.

#### **3.16 Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road (Cl.3.16 SEPP (I & E) 2021)**

Clause 3.16 of SEPP (I & E) 2021 applies to the proposed advertising signage. The following provisions are relevant:

- (1) *This section applies to the display of an advertisement to which section 3.15 applies, that is within 250 metres of a classified road any part of which is visible from the classified road.*
- (2) *The consent authority must not grant development consent to the display of an advertisement to which this section applies without the concurrence of TfNSW.*
- (3) *In deciding whether or not concurrence should be granted, TfNSW must take into consideration—*
  - (a) *the impact of the display of the advertisement on traffic safety, and*
  - (b) *the Guidelines.*
- (4) *If TfNSW has not informed the consent authority within 21 days after the copy of the application is given to it under section 3.15(2)(b) that it has granted, or has declined to grant, its concurrence, TfNSW is taken to have granted its concurrence.*
- (5) *Nothing in this section affects section 3.14.*

The proposal requires a referral and the concurrence of RMS now TfNSW. Concurrence and comments from TfNSW have been outlined previously in the report with regard to the proposed signage.

### 3.19 Roof or sky advertisements

The proposal is subject to Clause 3.19 - Roof or Sky Advertisements, which is addressed below:

- (1) *The consent authority may grant consent to a roof or sky advertisement **only if**—*
  - (a) *the consent authority is satisfied—*
    - (i) *that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or*
    - (ii) *that the advertisement improves the finish and appearance of the building and the streetscape, and*
  - (b) *the advertisement—*
    - (i) *is no higher than the highest point of any part of the building that is above the building parapet (including that part of the building (if any) that houses any plant but excluding flag poles, aerials, masts and the like), and*
    - (ii) *is no wider than any such part, and*
  - (c) *a development control plan is in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct and the display of the advertisement is consistent with the development control plan.*
- (2) *A consent granted under this section ceases to be in force—*
  - (a) *on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or*
  - (b) *if a lesser period is specified by the consent authority, on the expiration of the lesser period.*
- (3) *The consent authority may specify a period of less than 10 years only if—*
  - (a) *before the commencement of this Part, the consent authority had adopted a policy of granting consents in relation to applications to display advertisements for a lesser period and the duration of the consent specified by the consent authority is consistent with that policy, or*
  - (b) *the area is undergoing change in accordance with an environmental planning instrument that aims to change the nature and character of development and, in the opinion of the consent authority, the proposed roof or sky advertisement would be inconsistent with that change.*
- (1) *The consent authority may grant consent to a roof or sky advertisement only if:*
  - (a) *the consent authority is satisfied:*
    - (i) *that the advertisement replaces one or more existing roof or sky advertisements and that the advertisement improves the visual amenity of the locality in which it is displayed, or*

The proposal seeks to install three (3) new roof signs on the subject building and maintains the visual amenity of the locality, subject to conditions.

- (ii) *that the advertisement improves the finish and appearance of the building and the streetscape, and*

The proposed finishes for the proposed signage on the building does not detract from streetscape or the North Sydney Central Business District.

**Comment**

The proposed signage is located under the existing building roof structure, is lower in height compared to what is approved and is not wider than the existing building on any of the elevations as shown on the architectural plans.

The applicant has not submitted documentation addressing subclause (c), being the advertising design analysis in Section 9.2 of the NSDCP 2013. However, due to Section 9.11 of the NSDCP 2013, the proposed signage is considered to be acceptable given it satisfies the following criteria outlined below:

***'Section 9.11 – Controls for Specific Sign Types Roof or sky signs***

*P1 Roof or sky signs are generally not permitted. However, Council may consider new roof or sky signage, but only where:*

- (a) the new signs replace one or more existing roof or sky signs and improve the visual amenity of the locality; or*
- (b) the new signs improve the finish and appearance of the building and the streetscape.*

*P2 Roof or sky signs will only be permitted if they are associated with a non-residential use in the B3 – Commercial Core or B4 – Mixed Use zones.*

*P3 Roof or sky signs must not be positioned higher than the highest point of any part of the building, including lift overruns or air conditioning plants but excluding flag poles, aerials, masts and the like.*

*P4 Roof or sky signs must not be wider than any part of the building and also in accordance with the relevant desired character statement in Section 9.2.'*

The proposed signage satisfies the provisions and criteria as outlined above. The proposal is therefore not subject to the advertising design analysis as outlined in Section 9.2 of the NSDCP 2013. The proposed signage is considered to be acceptable in this regard.

**Transport Corridor Outdoor Advertising and Signage Guidelines**

The proposal is considered to be generally consistent with Sections 1 and 2 of the Guidelines as discussed above.

In respect of Section 2.5.3 'Roof or Sky Advertisements' the proposal complies, subject to conditions, with the criteria outlined on Page 27, which is the criteria also outlined in Clause 21 of the SEPP 64.

To improve existing and future residential amenity, conditions are recommended placing a curfew between 11pm and 7am and limiting the display of advertising to 3 years consistent with the NSDCP 2013.

In respect of Section 3, the lighting assessment report submitted with the DA confirms compliance with the maximum luminance levels for digital advertising specified in the Guidelines.

## **NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN (NSLEP 2013)**

The proposed roof or sky sign can be defined as an “advertisement” on an “advertising structure”.

NSLEP 2013, defines the relevant terms as follows:

**advertisement** has the same meaning as in the Act.

*Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.*

**advertising structure** has the same meaning as in the Act.

*Note. The term is defined as a structure used or to be used principally for the display of an advertisement. Advertising structures are a type of signage—see the definition of that term in this Dictionary.*

**Signage** means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,
  - (b) a building identification sign,
  - (c) a business identification sign,
- but does not include a traffic sign or traffic control facilities.

The subject site is zoned *B3 Commercial Core* under NSLEP 2013 and “advertising structures”, which fall under the group definition of “signage”, are permissible with consent in the *B3 Commercial Core* zone.

### **Permissibility**

The subject site is zoned B3 – Commercial Core pursuant to the North Sydney Local Environmental Plan 2013. Development for the purposes of new signage to an existing Commercial Premises, which is permissible within the zone, however it requires development consent. It is of note that the surrounding zoning is R2- Low density residential.

### **Zone Objectives**

The objectives of the B3 – Commercial Core Zone are as follows:

- *“To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To prohibit further residential development in the core of the North Sydney Centre.*
- *To minimise the adverse effects of development on residents and occupiers of existing and new development.”*



The most relevant objective that applies to the proposal is outlined below

*“To minimise the adverse effects of development on residents and occupiers of existing and new development.”*

Given that proposed three roof/sky signs are illuminated; the proposal will have an amenity impact on nearby residential units located to the north and south of the subject site. Given the size, design of location of the signage, the proposed illumination will have an impact on nearby residential units. Conditions have been implemented to manage the illumination impacts as a result of the proposed signage. The proposal therefore meets the fifth objective for the B3 Commercial Core Zone, subject to conditions. The proposal is therefore consistent with most relevant objective for the zone.

### **Building Heights**

The proposed works are to be carried out at 58.99m, which is above the permissible height limit of 13m. The proposed signage is there non-compliant with the building height pursuant to Clause 4.3 in NSLEP 2013 as outlined in the table below:

<b>Principal Development Standards</b>				
	<b>Previously Approved</b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
<b>Clause 4.3 – Heights of Building</b>	60.9m	58.99	13m Max.	No*

### **Height of Building**

The proposed works will have a building height of up to 58.99. The proposal does not seek to alter the existing building height being 60.9m to the top of the roof structure. The proposed building elements above the building height limit are proposed three (3) sky signs. The proposal seeks to breach the building height control of 13m by approximately 46m (453%) as shown in the LEP compliance table above.

### **Clause 4.6 – Exceptions to Development Standards**

The applicant has submitted a written request seeking a variation to the building height development standard in accordance with Clause 4.6 of NSLEP 2013 (see attachments). The applicant’s submission has given considered to the L&E Court’s decision in *Four2Five Pty Ltd vs Ashfield Council [2015] NSWLEC 90* in order to justify the proposed variation.

Clause 4.6 (4)(a)(i) states that:

- (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.’ (emphasis added)*

Consideration has been given to the applicant's Clause 4.6 submission as to whether it adequately addresses subclause (3) in Clause 4.6 in the NSLEP 2013. In Council's opinion, the proposal is consistent with the following objectives of the building height control:

**(1)(a) To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient**

The building elements in breach of the LEP building height limit are the proposed three (3) sky signs to an existing commercial building on the subject site. The proposal does not alter the height of the existing roof. The proposed sky signs are below the height of the existing building, which is 60.9m. The proposal does not alter the building envelope, which allows for the building to appropriately step down the site to the west, which follows the natural gradient of the land.

**(1)(b) To promote the retention and, if appropriate, sharing of existing views**

The building elements in breach of the LEP building height limit are the proposed three (3) sky signs to an existing commercial building. The building elements in breach of the maximum building height control are unlikely to cause any obstruction to the views given that a majority of the building envelope is being kept as existing.

**(1)(c) To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access to future development**

The applicant has submitted shadow diagrams showing the overshadowing impacts caused by the proposal from 9.00am to 3.00pm. Given that the building envelope is not significantly altered, there are no additional overshadowing impacts to adjoining properties or the adjoining park to the east or south of the subject site.

**(1)(d) To maintain privacy for residents of existing dwelling and to promote privacy for residents of new buildings**

The building elements in breach of the LEP building height limit are the installation of the proposed three (3) sky signs to an existing commercial building. The proposed building elements above the height limit do not expand the building envelope and do not result visual or acoustic privacy impacts to adjoining properties.

**(1)(e) To ensure compatibility between development, particularly at zone boundaries**

The subject site is located within a B3 Commercial Core Zone. The proposed works do not compromise the compatibility of development at zone boundaries.

**(1)(f) To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of the area**

The proposal is considered to predominantly retain the existing building envelope. The proposal reflects an appropriate scale and density of the development located along Alfred Street.

The proposal does not result in any privacy or overshadowing impacts to adjoining properties. The proposal does not result in any view loss impacts to adjoining properties or impact the existing topography of the subject site. Overall, the proposal is consistent with objectives specified in Clause 4.3 of the NSLEP 2013 as outlined above.

**Whether there are sufficient environmental planning grounds to justify contravening the development standard?**

The Clause 4.6 variation statement provides sufficient environmental planning grounds to justify contravening the building height standard in the NSLEP 2013. In Council's opinion, the environmental planning grounds are sufficient to justify the significant breach to the building height control.

The Clause 4.6 variation statement for the building elements over the building height control specified in Clause 4.3 of the NSLEP 2013, adequately address subclause (3) in Clause 4.6 of the NSLEP 2013 and is therefore considered to be in the public interest as it is reasonably consistent with the objectives of the building height development standard.

**Whether the proposed development will be in the public interest?**

Subject to conditions around illumination and light spillage, the proposal will not result in amenity impacts to the properties to the east, west, south or north. The existing park to the south will retain solar access during the winter and summer solstice. The proposal has demonstrated that the elements in breach of the building height control will not result in any unreasonable amenity impacts (subject to site specific and standard conditions). The proposal is therefore considered to reasonable when considering the public interest.

**Heritage**

The subject dwelling is not a heritage item, nor is it located within a conservation area. The nearest items to the site are two locally significant houses located at Nos. 18 and 20 Neutral Street (I0931 and I092). These dwellings are located at the corner of Neutral Street and Ormiston Avenue to the north-east of the subject site within the Whaling Road Heritage Conservation Area (CA21). Accordingly, the proposal does result in adverse impacts to nearby heritage items or the nearby conservation area.

**Suspensions of Covenants, agreements and similar instruments**

The site is not subject to any easements or restrictions pursuant to Lot 1 Deposited Plan 546856, and the site is not subject to any 88B Instrument.

**NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013**

***North Sydney Planning Area (Central Business District)***

The site is within the Central Business District (CBD) within the North Sydney Centre Planning Area. The development satisfactorily addresses the relevant provisions of the Character Statement, in particular maintenance of the existing building presentation and employment use within the site. The development does not have any adverse solar access or view impacts as it is located wholly within the existing building envelope.

The application has been assessed against the relevant controls in the North Sydney Development Control Plan 2013.

DEVELOPMENT CONTROL PLAN 2013 –Section 9- Advertising and Signage														
	<i>complies</i>	<i>Comments</i>												
<b>Advertising &amp; Signage</b>														
<p><b>B9.1.1 – General Objectives</b></p> <p><i>01 is designed sized and positioned in a consistent manner;</i></p> <p><i>03 adds character to the streetscape and complements the architectural style ad use of buildings;</i></p> <p><i>05 minimises the potential for adverse impacts on sky glow from the illumination of signs;</i></p>	Yes	<p>The proposal seeks the installation of three (3) roof signs. The proposed signage satisfies the objectives 1, 3, or 5 for reasons outlined below:</p> <ul style="list-style-type: none"> <li>- The proposed illuminated white coloured lettering, complements the architectural style of the existing commercial building.</li> <li>- The proposed illumination of the roof signage may result in amenity impacts to adjoining residential units in close proximity to the subject site, however the illumination impacts can be addressed via conditions (see condition set).</li> </ul> <p>For the reasons outlined above, the proposal does meet the general objectives outlined in Section 9.1.1 of the North Sydney Development Control Plan 2013. The proposal is considered to be satisfactory in this regard.</p>												
<p><b>B9.4 – Design, Scale &amp; Size</b></p> <p><i>01 To ensure that signage does not detract from the architecture of existing buildings, streetscapes and vistas;</i></p> <p><i>03 signage should be visually interesting and integrated with the architecture of the building;</i></p> <p><i>05 Lettering materials and colours should be used that complement the existing building or place.;</i></p>	Yes  (via condition)	<p>An assessment against the provisions relating to the design, scale and size of the signage is discussed below:</p> <p><b>P1 - Signage attached to buildings is to be designed, scaled and sized having regard to a façade grid analysis –</b></p> <p>The sky signs will be contained within the boundaries of the subject site.</p> <p><b>P3 - Signage should be visually interesting and integrated with the architecture of the building.</b></p> <p>The proposed sky signage is integrated with the architecture of the existing building. The proposed design and colours are considered consistent with the architecture of the commercial building. The dimensions of the proposed signage are outlined in the table below:</p> <table border="1" data-bbox="820 1473 1422 1787"> <thead> <tr> <th><i>Elevation</i></th> <th><i>Approved 'Fivex'</i></th> <th><i>Proposed</i></th> </tr> </thead> <tbody> <tr> <td><b>Northern</b></td> <td>Lettering 13.881m x 4.06m Area 56.3m<sup>2</sup></td> <td>Logo and lettering 14.98m x 1.275m-2.265m Area 9.443m<sup>2</sup></td> </tr> <tr> <td><b>Southern</b></td> <td>Lettering 13.881m x 4.06m Area 56.3m<sup>2</sup></td> <td>Logo and lettering 14.981m x 1.333m-2.267m Area 9.443m<sup>2</sup></td> </tr> <tr> <td><b>Western</b></td> <td>Lettering 13.881m x 4.06m Area 56.3m<sup>2</sup></td> <td>Logo and lettering 11.556m x 3.28m-5.618m Area 22.284m<sup>2</sup></td> </tr> </tbody> </table> <p>The proposed includes the illumination, which can be managed via conditions. The proposed sky signs are also considered to be reduced in overall size in comparison to the existing sky signs on the existing commercial building.</p> <p><b>P4 – Lettering, materials and colours should be used that complement the existing building or place.</b></p> <p>The proposed lettering, materials and colours complement the existing finishes of the commercial building. The proposed white illuminated lettering does not protrude over the existing rooftop structure. The lettering for the proposed</p>	<i>Elevation</i>	<i>Approved 'Fivex'</i>	<i>Proposed</i>	<b>Northern</b>	Lettering 13.881m x 4.06m Area 56.3m <sup>2</sup>	Logo and lettering 14.98m x 1.275m-2.265m Area 9.443m <sup>2</sup>	<b>Southern</b>	Lettering 13.881m x 4.06m Area 56.3m <sup>2</sup>	Logo and lettering 14.981m x 1.333m-2.267m Area 9.443m <sup>2</sup>	<b>Western</b>	Lettering 13.881m x 4.06m Area 56.3m <sup>2</sup>	Logo and lettering 11.556m x 3.28m-5.618m Area 22.284m <sup>2</sup>
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		<p>signage is consistent with the colouring with the existing windows and paint colour of the commercial building. For the reasons described, the proposed signage is considered to integrate with the intended architectural style of the existing building.</p> <p><b>P5 – Signage must not dominate the building or site to which it is attached –</b></p> <p>The proposed sky signs do not dominate the existing building, which has been previously discussed in the SEPP 64 section of the report.</p> <p><b>P6 – Do not locate signage where it will obstruct views, vistas or cause significant overshadowing –</b></p> <p>The proposed signage does not obstruct views or cause any significant overshadowing given the location on the buildings.</p>
		<p><b>P7 – Signage must not dominate the skyline or protrude above any parapet or eaves –</b></p> <p>The proposed signage will not result in any view or shadow impacts or protrude above the roof of the building.</p> <p><b>P8 – Signage must not cover any window, other opening or significant architectural features of the building –</b></p> <p>Overall, the proposal satisfies the provisions outlined in Section B9.4 of the NSDCP 2013 and is considered to be acceptable in this regard.</p>
<p><b>B9.5 – Location</b></p> <p><i>01 To establish a consistent approach to the positioning of signage and to enhance the streetscape.</i></p>	Yes	<p>The positioning of the proposed sky advertisement signs is to match the current location of the previously approved “Fivex” signs. The proposed signage does not obstruct accessible paths of travel for pedestrians or obscure drivers’ sightlines. The positioning of the proposed signage is generally consistent with the objectives of the control.</p>
<p><b>B9.7 – Content</b></p> <p><i>01 To minimise the social impact of advertising in the public interest.</i></p> <p><i>P1 All advertising must comply with the requirements of the Australian Association of National Advertisers’ Code of Ethics and Outdoor Media Association’s Code of Ethics.</i></p>	Yes	<p>The proposed signage does not result in major social impacts. The proposed signage complies with the Australian Association of National Advertisers Code of Ethics and Outdoor Media Association’s Code of Ethics and thus complies with Provision 1..</p>
<p><b>B9.8 – Pedestrian &amp; Road Safety</b></p>	Yes  (via condition)	<p>The proposed sky advertisement signage does not result in a significant impact on pedestrians or road safety. The proposal does not result in excessive illumination (subject to conditions) nor does it result flashing or other signals, which would impact road safety. The proposed is considered to be consistent with the objectives, subject to conditions.</p>
<p><b>B9.10 – Illumination</b></p> <p><i>01 To ensure that the local amenity is preserved with appropriate levels of illumination.</i></p> <p><i>P1 Signs must not be illuminated between 1.00am and 7.00am</i></p>	Yes  (via conditions)	<p>The proposed illumination details for the proposed signage are outlined below:</p> <p>Signage is proposed as fixed LED lettering generally within the approved and existing signage areas.</p> <p>The overall combined signage area is reduced by 31.198sqm from 72.368sqm to 41.17sqm.</p>

<p><i>P3 Provide levels of illumination that do not cause light spillage for nearby properties</i></p>		<p>The existing approved advertising signage use will be maintained, and the existing support structure will be retained other than to adjust to facilitate the construction lettering and repainting to match the brackets and fixings consistent with the existing grey Colourbond panelling that forms the roof of the building.</p> <p>The approved signage with the name “Fivex” name and will be removed and new signage will consist of the “SBS and “SBS On Demand ” lettering content and logo The proposal continues to use LEDs as the light source, which is to be dimmable to ensure AS compliance and timeclock controlled to ensure compliance with, approved operating hours (after dusk until 11pm daily). A top mounted “eyebrow” light spill baffle is to be installed over each individual letter.</p>
		<p>The northern elevation of the subject building faces a R2 Low Density Residential Zone, which contains residential dwellings. The proposed illumination will have an impact on the residential area. The proposed illumination impacts can be managed via conditions (see condition set).</p> <p>The proposal will result in illumination, which would result in light spillage for nearby properties located in the North Sydney Centre and the Whaling Road Conservation Area. The proposal is non-compliant with Provision 3 in Section 9.10 of the NSDCP 2013. However, conditions have been implemented in the condition set to minimise light spill impacts (see condition set). The proposal is consistent with the objectives and is therefore considered to be satisfactory in this regard, subject to conditions</p>
<p><b>B9.11 – Controls for Specific Sign Types</b></p> <p><i>Roof or sky signs</i></p> <p><i>P1 Roof or sky signs are generally not permitted.</i></p> <p><i>P3 Roof or sky signs must not be positioned higher than the highest point of any part of the building, including lift overruns or air conditioning plants</i></p>	<p>No</p> <p>(Same as existing)</p> <p>(Merit Assessment)</p>	<p>The proposal seeks the installation of three (3) sky advertisement signs in the same location as the existing three (3) “BAYER” sky signs. Given the size, location and the illumination of the proposed signs it is considered to be a roof/sky sign and is therefore non-compliant with Provision 1. However, the proposal seeks to locate the proposed works in a similar location to the existing sky advertisement signage and does not increase the non-compliance with respect to Provision 1.</p> <p>The proposed signage is located below the ridgeline of the existing rooftop structure. The proposal is compliant with Provision 3 of Section 9.11 of the NSDCP 2013, which requires that signs be not to be positioned higher than the highest point of any lift overruns or air conditioning plants. The proposal is therefore considered to be satisfactory in this regard.</p>

<b>DEVELOPMENT CONTROL PLAN 2013</b>		
<b>– Part B Section 2 - Commercial and Mixed-Use Development</b>		
<i>Commercial Development</i>	<i>Complies</i>	<i>Comments</i>
<b>B2.2 Function</b>		
<b>Diversity of activities, facilities, opportunities &amp; services</b>	Yes	The proposal does not impact the population in terms of age, gender, household type and size, education, income and employment, including households with children, households on low to moderate incomes, households with aged or disabled persons.
<b>B2.3 Environmental criteria</b>		
<b>Noise</b>	Yes	The signage will not result in any material noise emissions.
<b>Wind speed</b>	Yes	The proposed signs will not impact wind speed.
<b>Reflectivity</b>  <i>O1 To minimise the impacts by reflected light and solar reflectivity from buildings on pedestrians and motorists.</i>	Yes  (via condition)	The proposed signage currently containing the Bayer name and logo will be removed and new signage will be constructed with the “Fivex” lettering content. The proposal continues to use LEDs as the light source which is to be dimmable to ensure AS compliance and timeclock controlled to ensure compliance with approved operating hours (after dusk until 11pm daily).  The existing support structure for the existing ‘BAYER’ signage will be retained other than to adjust to facilitate new lettering and repainting to match the brackets and fixings consistent with the existing grey Colourbond paneling that forms the roof of the building.  Standard conditions can be recommended to ensure the impacts of the light and solar reflectivity generated from the proposed signage minimises the impact on pedestrians and passing motorists.
<b>Artificial illumination</b>  <i>O1 To minimise the impact of artificial illumination on the amenity of residents and pedestrians.</i>  <i>B3 – Commercial Core 1.00am</i>	Yes	The proposed signage seeks the existing hours of illumination. daily, which is consistent with the NSDCP 2013.  However, given the close proximity of the signage to adjoining residential units, the proposal illumination will result in amenity impacts. Conditions have been recommended to ensure the proposal is consistent with Objective 1 outlined in Section 2.3.5 of the NSDCP 2013. The proposal is considered to be consistent with the NSDCP 2013 and deemed to be satisfactory in this regard.
<b>Solar access/Views</b>	Yes	Given the location and size of the signage, it is unlikely to result in any view or shadow impacts.
<b>B2.4 Quality built form</b>		
<b>Context</b>  <i>O1 To ensure that the site layout and building design responds to the existing characteristics, opportunities and constraints of the site and within its wider context (adjoining land and the locality).</i>	Yes  (via condition)	The subject site is located within the North Sydney Planning Area, specifically within Central Business District. The lettering, colour, design and size of the proposed roof signage is considered to be reasonably consistent with the context of the Central Business District area character statement specified in the NSDCP 2013.

		The proposed illumination impacts as result of the proposal can be managed via conditions (see condition set). The proposal is considered to be reasonably consistent with objective 1 and is therefore considered to be satisfactory in this regard.
<b>Building design</b>	Yes	The proposal will not impact the overall building design or the floor to ceiling heights.
<b>Streetscape/Nighttime appearance</b>  <i>P2 Decorative elements or prominent architectural features of a building should be illuminated, but only where they do not result in adverse impacts upon nearby residents.</i>	Yes	The proposed new signage will not adversely impact neighbouring residents (subject to conditions). The proposed illumination of the proposed signage will have amenity impacts to residential areas during nighttime, however light spillage impacts can be managed via condition. The proposal is therefore reasonably compliant with Provision 2 and is considered to be satisfactory in this regard, subject to conditions.
<b>B2.5 Quality Urban Environment</b>		
<b>Illumination</b>  <i>O1 To ensure the safety of pedestrians in the public domain after dusk.</i>	Yes  (via Condition)	The proposed signage seeks the existing hours of illumination. The proposed illumination will not impact pedestrian safety, the illumination impacts can be managed via conditions, in order to reduce amenity impacts to residential units within mixed use buildings in close proximity to the subject site. The proposed signage is considered to be satisfactory in this instance.

**Part C – Character Statements**

**North Sydney DCP Part C Section 2.0 – North Sydney Planning Area**

The subject site is located in the Central Business District, which is located within the North Sydney Planning Area. The proposed sky signage has been assessed against Part C of North Sydney DCP 2013 and Section 2.1.3 Desired Built Form for the Central Business District. The subject site is located on the eastern periphery of the North Sydney Centre, and within the B3 Commercial Core zone.

Under ‘Quality Built Form’, new development in the North Sydney Planning Area, should promote the rich development history and provides interest in the physical fabric of the area. The proposed signage provides visual interest with its location and lettering design. The proposed signage is considered to reasonably integrate with the existing architecture of the building. For the reasons discussed the proposed signage is considered to be acceptable, subject to conditions.

**SECTION 7.12 CONTRIBUTIONS**

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan (as amended). The required contribution has been calculated in accordance with the applicable contribution rates as follows

<b>Applicable Contribution Type</b>		
S7.12 contribution detail	Development cost:	\$ 173,000 including GST
(payment amount subject to indexing at time of payment)	Contribution: (0.5% levy applicable between \$100-\$200K)	\$ 865 including GST



Conditions requiring payment of contributions are included in the attached recommended conditions of consent.

### **ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>	<b>CONSIDERED</b>
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Car parking provision	N/A
6. Loading and Servicing Facilities	N/A
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S.4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

### **PUBLIC INTEREST**

The proposal is considered not to be contrary to the public interest.

### **SITE SUITABILITY**

The proposed three (3) sky signs, which are considered to be reasonably suitable for the site subject to conditions regarding illumination and light spillage. The proposal is considered to be satisfactory in this regard.

### **SUBMITTER'S CONCERNS**

Two (2) submissions were received during the notification period to the adjoining properties and the Anderson / CBD precinct. The following concerns are responded to below:

***Issue: Light Spillage Impacts to nearby residential areas.***

Response: The proposed sky signage seeks to minimise illumination impacts through the use of a timed clock to control illumination and to ensure compliance with approved operating hours (after dusk until 11pm daily) as well as a top mounted “eyebrow” light spill baffle is to be installed over each letter. Conditions have also been included in the condition set to ensure light spillage impacts are appropriately managed to ensure minimal impact on surrounding residential areas.

***Issue: The proposed signage should be removed entirely or at least its luminosity reduced to a residential suburban level***

Response: The proposed sky signage seeks to minimise illumination impacts through the use of a timed clock to control illumination and to ensure compliance with approved operating hours (after dusk until 11pm daily) as well as a top mounted “eyebrow” light spill baffle is to be installed over each letter. Conditions have also been included in the condition set to ensure light spillage impacts are appropriately managed to ensure minimal impact on surrounding residential areas.

**CONCLUSION**

The development application has been assessed against the *North Sydney Local Environmental Plan 2013* and the *North Sydney Development Control Plan 2013*.

The proposed sky signage seeks to minimise illumination impacts through the use of a timeclock to control illumination and to ensure compliance with approved operating hours (after dusk until 11pm daily) as well as a top mounted “eyebrow” light spill baffle will be installed over each letter. These measures seek to minimise amenity impacts to nearby residential properties, which is considered to be acceptable in this instance.

As detailed throughout the report, the application complies with a majority of the criteria and provisions outlined in the SEPP 64, Transport Corridor Outdoor Advertising and Signage Guidelines, North Sydney Local Environmental Plan 2013 and North Sydney Development Control Plan 2013.

**RECOMMENDATION**

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

**THAT** the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Industry, and Environment and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.3 and **grant consent** to Development Application No. 145/22 for replacement of approved three (3) “Fivex” sky advertisement signs to the roof structure of an existing commercial building with three (3) internally illuminated sky advertising signs on land at 275 Alfred Street, North Sydney, subject to the following site specific and attached standard conditions:-

### **Terms of Consent**

- A4. Approval is granted for the installation of three (3) roof or sky advertisement signs on the northern, western and southern faces of an existing commercial office building at No. 275 Alfred Street, North Sydney.

No approval is granted or implied for any additional works not covered by this consent.

(Reason: To ensure that the terms of the consent is clear.

### **Further consent for change to signage required**

- A5. Separate and further consent is required to be obtained for any change to the design, size, height, colour or external form of the approved signage including any change relating to:
- (a) Enlargement/alteration of signage area;
  - (b) Any change to signage content;
  - (c) Any change to illumination restrictions contained within this consent Animation.

No approval is granted or implied for any additional works not covered by this consent.

(Reason: To ensure that the terms of the consent is clear)

### **Time-limited Consent**

- A6 This consent shall cease to be in force on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.

(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

### **TfNSW Conditions**

- C1. The following conditions from TfNSW shall apply:

1. Signage display shall not contain:
  - a) Flashing lights
  - b) Animated display, moving parts or simulated movement.
  - c) A method of illumination that unreasonably distracts or dazzles.
  - d) Images that may imitate a prescribed traffic control device, for example red, amber or green circles, octagons or other shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device.
  - e) Text providing driving instructions to drivers.
2. The illumination levels shall be in accordance with relevant guidelines and standards.

3. The design and construction of signage structures shall be in accordance with relevant Australian Standards.
4. Construction and maintenance activities shall be undertaken wholly within the private property of the site.
5. All works associated with the proposed sign, including maintenance activities shall be at no cost to TfNSW.

(Reason: To ensure the proposed signage does not result in adverse impacts to drivers or residents within the LGA)

## **I. Ongoing/Operational Conditions**

### **Hours of Illumination**

11. All illuminated signs approved by this consent must cease illumination between the hours of 11.00pm and 7am daily.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

### **Signage Illumination Intensity**

12. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
- (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.
- (c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

### **Roof Top Lighting**

13. Lighting on rooftop or podium level areas must not be illuminated between 11:00 pm and 7:00 am. The design and placement of the lighting must:

- (a) be directed away from any residential dwelling;
- (b) not create a nuisance or negatively affect the amenity of the surrounding neighbourhood; and
- (c) comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

(Reason: To ensure residential premises are not affected by inappropriate or excessive illumination)

**Inconsistency between development consents**

14. In the event of any inconsistency between this consent and any preceding development consent concerning roof or sky advertisements, the requirements of this consent shall prevail to the extent of the inconsistency.

(Reason: To ensure the performance of the development in accordance with all relevant conditions of development consent and to provide for inconsistency between consents)

**GREG SHERLOCK**  
**PLANNING AND DEVELOPMENT ADVISOR**

**DAVID HOY**  
**TEAM LEADER ASSESSMENTS**

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**STEPHEN BEATTIE**  
**MANAGER DEVELOPMENT SERVICES**

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**NORTH SYDNEY COUNCIL**  
**CONDITIONS OF DEVELOPMENT APPROVAL**  
**275 ALFRED STREET NORTH, NORTH SYDNEY**  
**DEVELOPMENT APPLICATION NO. 145/22**

**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/Documentation**

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Rev No.	Description	Prepared by	Dated
A04A	F	West Elevation as Proposed	Legge & Legge Architects	19/04/22
A05A	F	North Elevation as Proposed	Legge & Legge Architects	19/04/22
A06A	F	South Elevation Proposed	Legge & Legge Architects	19/04/22
A09	F	Proposed Signage	Legge & Legge Architects	15/2/22

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

**No Demolition of Extra Fabric**

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

### Terms of Consent

- A4. Approval is granted for the installation of three (3) roof or sky advertisement signs on the northern, western and southern faces of an existing commercial office building at No. 275 Alfred Street, North Sydney.

No approval is granted or implied for any additional works not covered by this consent.

(Reason: To ensure that the terms of the consent is clear)

### Further consent for change to signage required

- A5. Separate and further consent is required to be obtained for any change to the design, size, height, colour or external form of the approved signage including any change relating to:
- (a) Enlargement/alteration of signage area;
  - (b) Any change to signage content;
  - (c) Any change to illumination restrictions contained within this consent Animation.

No approval is granted or implied for any additional works not covered by this consent.

(Reason: To ensure that the terms of the consent is clear)

### Time-limited Consent

- A6. This consent shall cease to be in force on the expiration of 10 years after the date on which the consent becomes effective and operates in accordance with Section 8.13 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent. This requirement shall be included in any future lease agreements for the new signage lot.

(Reason: To satisfy the provisions of SEPP (Industry & Employment) 2021)

### ***C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***

#### TfNSW Conditions

- C1. The following conditions from TfNSW shall apply:

1. Signage display shall not contain:
  - a) Flashing lights
  - b) Animated display, moving parts or simulated movement.
  - c) A method of illumination that unreasonably distracts or dazzles.

- d) Images that may imitate a prescribed traffic control device, for example red, amber or green circles, octagons or other shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device.
  - e) Text providing driving instructions to drivers.
2. The illumination levels shall be in accordance with relevant guidelines and standards.
  3. The design and construction of signage structures shall be in accordance with relevant Australian Standards.
  4. Construction and maintenance activities shall be undertaken wholly within the private property of the site.
  5. All works associated with the proposed sign, including maintenance activities shall be at no cost to TfNSW.

(Reason: To ensure the proposed signage does not result in adverse impacts to drivers or residents within the LGA)

#### **Dilapidation Report Damage to Public Infrastructure**

- C2. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)



**Waste Management Plan**

- C3. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
  - b) The design of the on-site waste storage and recycling area; and
  - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

**Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement**

- C4. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$5,500.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
  - c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

### **Location of Plant**

- C5. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement of the building and is not to be located on balconies or the roof. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

### **Noise from Plant and Equipment**

- C6. The use of all plant and equipment installed on the premises must not:
- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
  - (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Vibration from Plant and Equipment**

- C7. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in "Assessing Vibration: a technical guideline" issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected residence.

"contemporaneously" means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Section 7.12 Development Contributions**

- C8. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$865.00.

#### **Indexation**

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

### Timing of payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)

(Reason To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

- C9. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security Deposit/Guarantee</b>	<b>Amount (\$)</b>
Street Tree Bond (on Council Property)	5500.00
<b>TOTAL BONDS</b>	<b>\$5500.00</b>

Note: The following fees applicable

<b>Fees</b>	
Local Infrastructure Contributions	865.00
<b>TOTAL FEES</b>	<b>\$865.00</b>

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

### **Outdoor Lighting**

- C10. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

### **Signage Design - Control of the Obtrusive Effects of Outdoor Lighting**

- C11. The signage must be designed in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

**D. *Prior to the Commencement of any Works (and continuing where indicated)***

**Public Liability Insurance - Works on Public Land**

D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

**Commencement of Works' Notice**

D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

**E. *During Demolition and Building Work***

**Parking Restrictions**

E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

**Road Reserve Safety**

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

**Temporary Disposal of Stormwater Runoff**

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

**Removal of Extra Fabric**

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

**Noise and Vibration**

- E5. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

### No Work on Public Open Space

- E6. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

### Developer's Cost of Work on Council Property

- E7. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

### No Removal of Trees on Public Property

- E8. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

### Construction Hours (Commercial Core and Mixed-use Zones)

- E9. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
<b>B3 Commercial Core Zone B4 Mixed-use Zone</b>	Monday - Friday	7.00 am - 7.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

**Health and Safety**

- E10. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

(Reason: To ensure the health and safety of the community and workers on the site)

**Prohibition on Use of Pavements**

- E11. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

**Plant and Equipment Kept Within Site**

- E12. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

(Reason: To ensure public safety and amenity on public land)

**Waste Disposal**

- E13. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)



**F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation****National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

**Appointment of a Principal Certifying Authority (PCA)**

F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

**Construction Certificate**

F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

**Occupation Certificate**

F4. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

**Critical Stage Inspections**

F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

**Demolition**

- F6. Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

**G. *Prior to the Issue of an Occupation Certificate*****Damage to Adjoining Properties**

- G1. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

**Utility Services**

- G2. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

**Compliance with Certain Conditions**

- G3. Prior to the issue of any Occupation Certificate, Conditions C1, C10, I1, I2 and I3 must be certified as having been implemented on site and complied with.

(Reason: To ensure the development is completed in accordance with the requirements of this consent)

**I. *Ongoing/Operational Conditions*****Hours of Illumination**

- I1. All illuminated signs approved by this consent must cease illumination between the hours of 11.00pm and 7am daily.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**Signage Illumination Intensity**

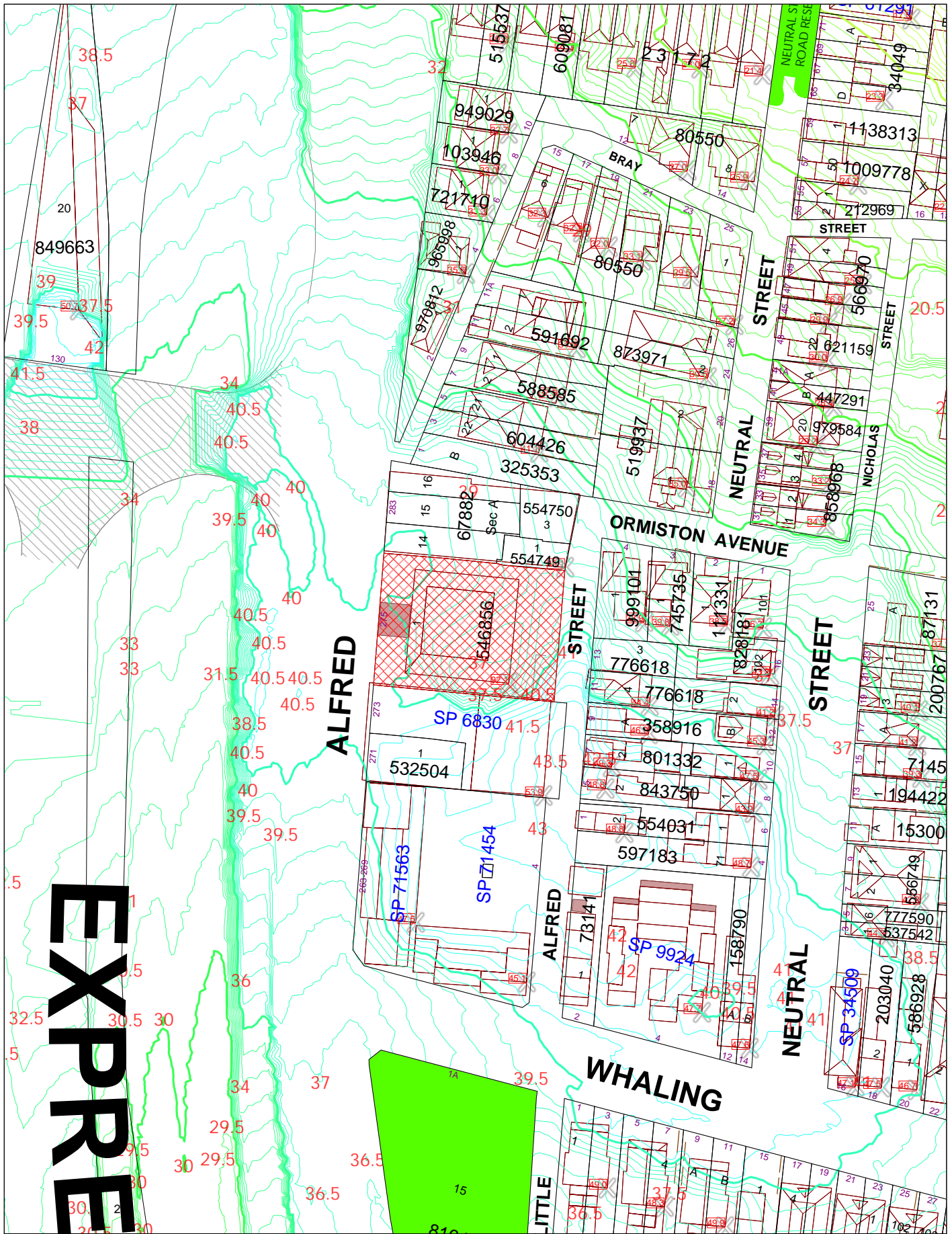
12. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:
- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
  - (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.
  - (c) The signage illumination must not flash.
- (Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

**Roof Top Lighting**

13. Lighting on rooftop or podium level areas must not be illuminated between 11:00 pm and 7:00 am. The design and placement of the lighting must:
- (a) be directed away from any residential dwelling;
  - (b) not create a nuisance or negatively affect the amenity of the surrounding neighbourhood; and
  - (c) comply with AS4282-1997 control of obtrusive effects of outdoor lighting.
- (Reason: To ensure residential premises are not affected by inappropriate or excessive illumination)

**Inconsistency between development consents**

14. In the event of any inconsistency between this consent and any preceding development consent concerning roof or sky advertisements, the requirements of this consent shall prevail to the extent of the inconsistency.
- (Reason: To ensure the performance of the development in accordance with all relevant conditions of development consent and to provide for inconsistency between consents)



**North Sydney Council**

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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.

# DEVELOPMENT APPLICATION

REVISED ROOFTOP ILLUMINATED SIGN, ALTERATIONS AND ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED STREET, NORTH SYDNEY, NSW 2060

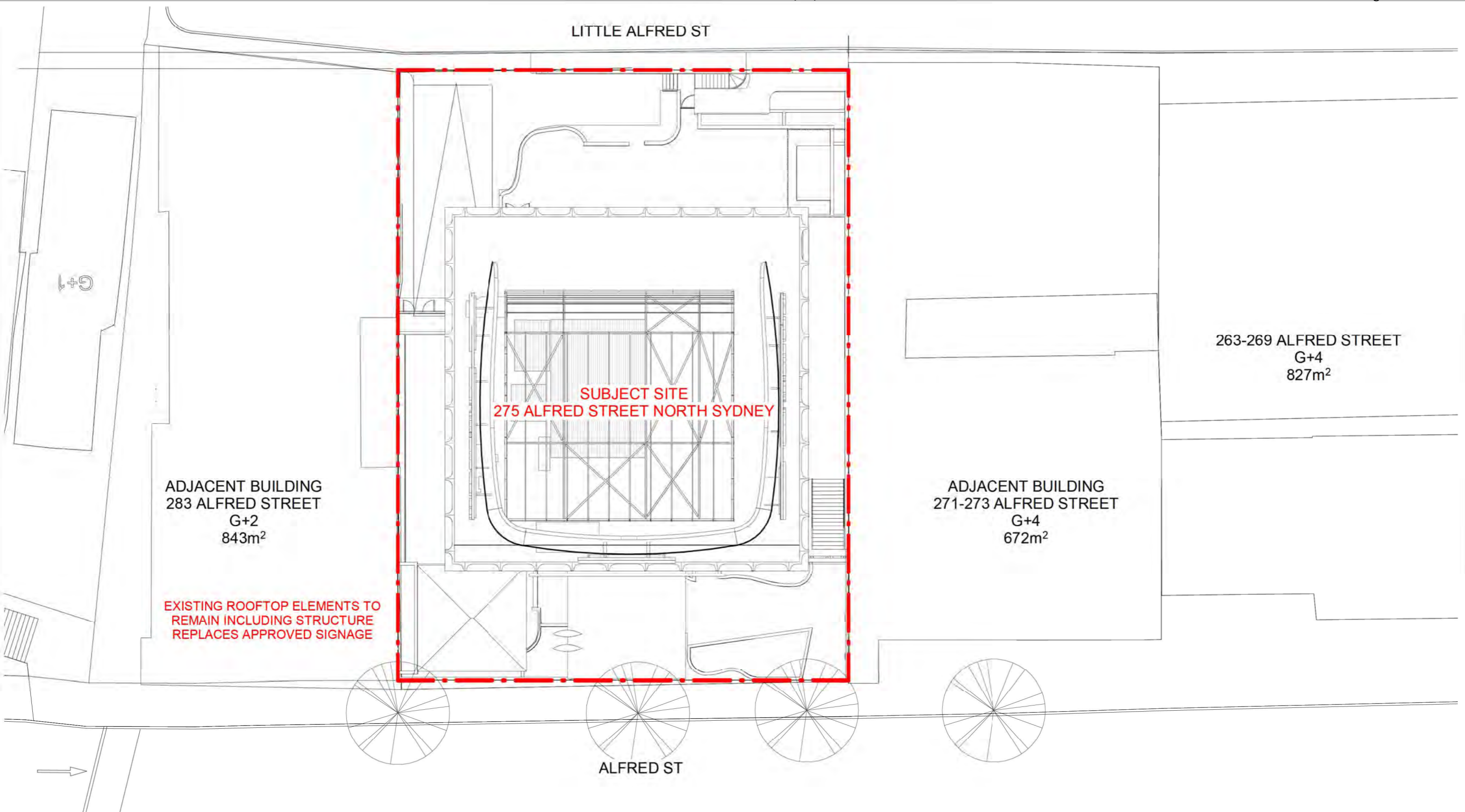


No.	Drawing Title	Rev	No.	Drawing Title	Rev	No.	Drawing Title	Rev
000	COVER PAGE	F	A05	NORTH ELEVATION - APPROVED 10% SIGN	F	A10	NORTH SYDNEY DAY VIEW - PHOTOMONTAGE	F
A00	SITE SURVEY	F	A05A	NORTH ELEVATION - PROPOSED	F	A11	NORTH SYDNEY NIGHT VIEW - PHOTOMONTAGE	F
A01	SITE PLAN	F	A06	SOUTH ELEVATION - APPROVED 10% SIGN	F	A12	MILSON POINT DAY VIEW - PHOTOMONTAGE	F
A02	EXISTING ROOF PLAN	F	A06A	SOUTH ELEVATION - PROPOSED	F	A13	MILSON'S POINT NIGHT VIEW - PHOTOMONTAGE	F
A03A	3D VIEWS - PROPOSED	F	A07	SIGNAGE PRE DA APPROVAL	F	A14	MOUNT STREET NIGHT VIEW - PHOTOMONTAGE	F
A04	WEST ELEVATION - APPROVED 10% SIGN	F	A08	APPROVED SIGNAGE WITH 10% REDUCTION	F	DAN	NOTIFICATION	F
A04A	EAST ELEVATION - APPROVED 10% SIGN	F	A09	PROPOSED SIGNAGE	F			

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Nominated Architect Anthony John Legge NSW Registration No.6409

Rev F



ADJACENT BUILDING  
283 ALFRED STREET  
G+2  
843m<sup>2</sup>

**SUBJECT SITE**  
**275 ALFRED STREET NORTH SYDNEY**

ADJACENT BUILDING  
271-273 ALFRED STREET  
G+4  
672m<sup>2</sup>

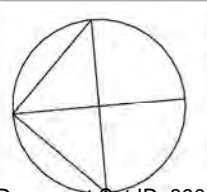
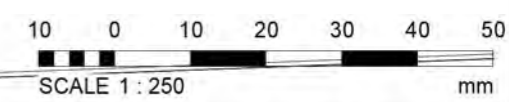
263-269 ALFRED STREET  
G+4  
827m<sup>2</sup>

EXISTING ROOFTOP ELEMENTS TO  
REMAIN INCLUDING STRUCTURE  
REPLACES APPROVED SIGNAGE

ALFRED ST

LITTLE ALFRED ST

**1** **SITE PLAN**  
1 : 250



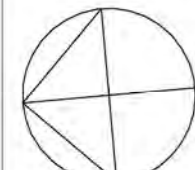
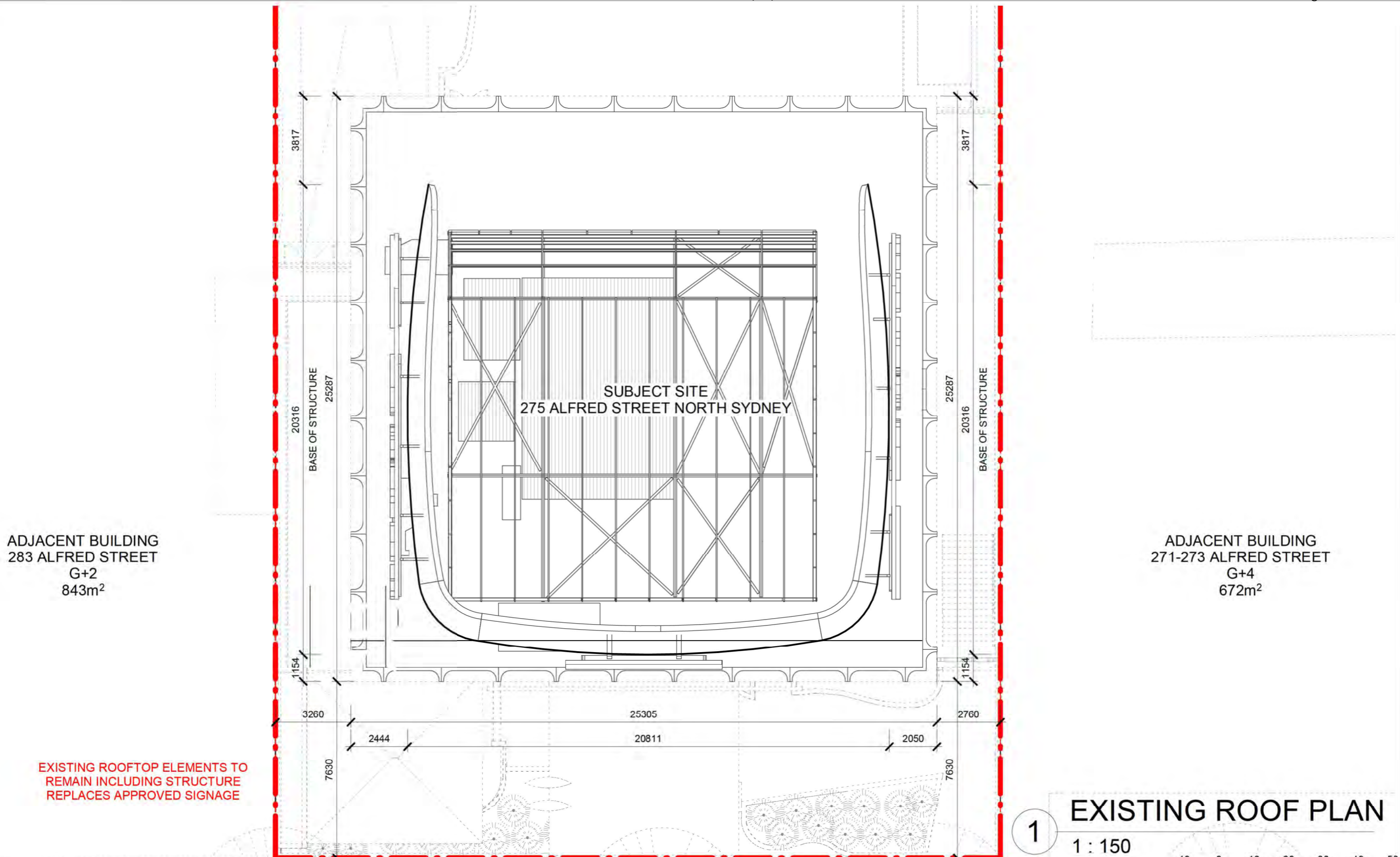
Revisions	Description	Drawn	Checked	Date
A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
C	Final Draft DA dwgs	JB		11.08.20
D	DA Submission	JB		25.08.20
F	DA submission	JB		28.04.22

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PROJECT  
ROOFTOP ILLUMINATED SIGN, ALTERATIONS  
& ADDITIONS TO APPROVED SIGNAGE TO 275  
ALFRED ST, NORTH SYDNEY, NSW 2060  
  
DRAWING  
SITE PLAN

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Nominated Architect Anthony John Legge NSW Registration No. 6409

DATE 25/05/20	DRAWN MIU	SCALE 1 : 250 @A3
PROJECT NO. 22003	CHECKED TL	DWG NO. A01
STATUS DA	CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd	REVISION F



Document Set ID: 8905907  
Version: 1, Version Date: 23/05/2022

Revisions	Description	Drawn	Checked	Date
A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
C	Final Draft DA dwgs	JB		11.08.20
D	DA Submission	JB		25.08.20
E	Ten Percent Sign Reduction	JB		24.05.21
F	DA submission	JB		28.04.22

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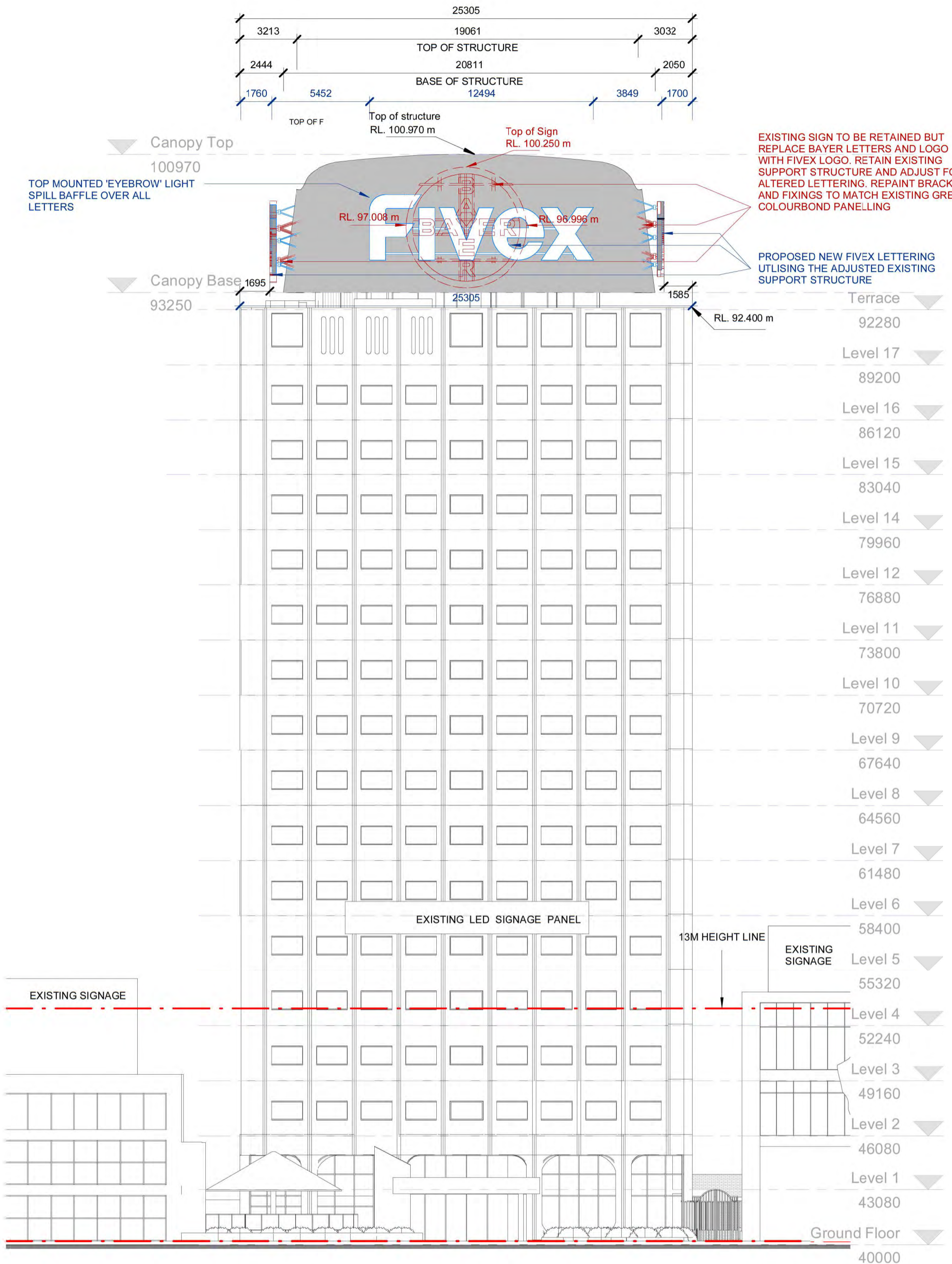
**PROJECT**  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060

**DRAWING**  
 EXISTING ROOF PLAN

**LEGGE & LEGGE**  
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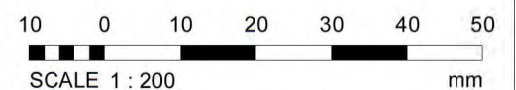
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PROJECT NO. 22003	CHECKED TL	DWG NO. A02
STATUS DA	CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd	REVISION. F



# West Elevation - 10% Approved signage

1

1 : 200



Revisions	Description	Drawn	Checked	Date
A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
C	Final Draft DA dwgs	JB		11.08.20
D	DA Submission	JB		25.08.20
E	Ten Percent Sign Reduction	JB		24.05.21
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PROJECT AND ADDRESS  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING WEST ELEVATION - APPROVED 10% SIGN

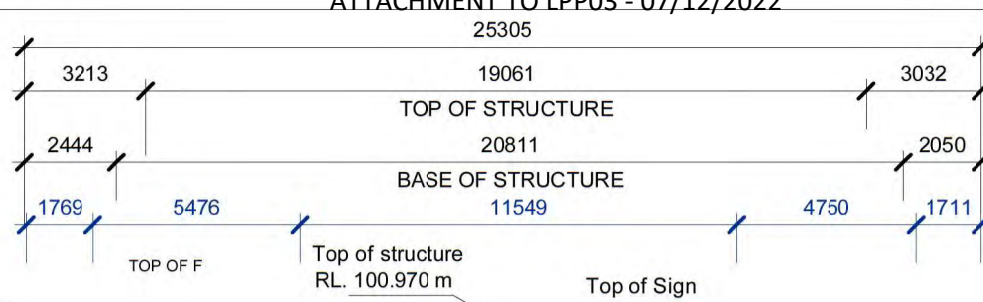
**LEGGE & LEGGE ARCHITECTS**  
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DATE 19/04/22 DRAWN MIU  
 CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd CHECKED TL

PROJECT NO. 22003  
 SCALE 1 : 200  
 STATUS DA

DWG NO. A04  
 REV. F





Canopy Top  
100970  
TOP MOUNTED 'EYEBROW' LIGHT  
SPILL BAFFLE OVER ALL  
LETTERS AND LOGO  
Canopy Base  
93250

EXISTING SIGN TO BE RETAINED BUT  
REPLACE APPROVED FIVEX LOGO WITH SBS  
(WEST) & SBS ON DEMAND LOGO (NORTH &  
SOUTH) WHERE POSSIBLE RETAIN EXISTING  
SUPPORT STRUCTURE AND ADJUST FOR  
ALTERED LETTERING. REPAINT BRACKETS  
AND FIXINGS TO MATCH EXISTING GREY  
COLOURBOND PANNELLING  
PROPOSED NEW SBS (WEST) & SBS ON  
DEMAND (NORTH & SOUTH) LETTERING  
UTILISING THE ADJUSTED EXISTING  
SUPPORT STRUCTURE



# West Elevation as Proposed

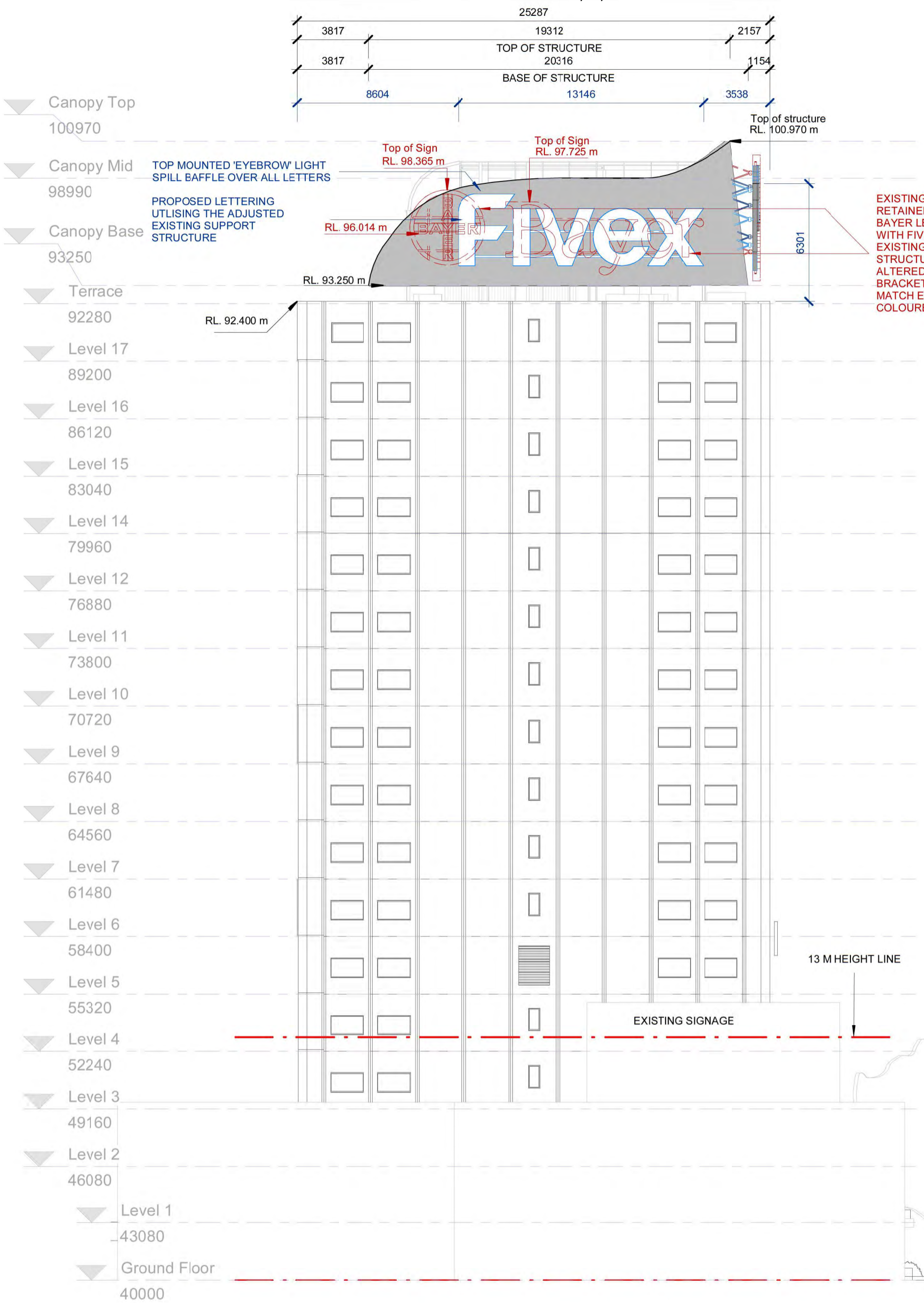
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Revisions	Description	Drawn	Checked	Date
F	DA submission	JB		28.04.22

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PROJECT AND ADDRESS ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
DRAWING WEST ELEVATION - PROPOSED

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DATE 19/04/22 DRAWN JB  
CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd CHECKED TL  
PROJECT NO. 22003  
SCALE 1 : 200  
STATUS DA  
DWG NO. A04A  
REV. F



# North Elevation - 10% Approved signage

1

1 : 200



Revisions	Description	Drawn	Checked	Date
A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
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PROJECT AND ADDRESS  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING NORTH ELEVATION - APPROVED 10% SIGN

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PROJECT NO. **22003** DWG NO. **A05**  
 SCALE **1 : 200**  
 STATUS **DA**

DATE **19/04/22** DRAWN **MIU**  
 CLIENT **Ben Mill Pty Ltd & J.B. No.3 Pty Ltd** CHECKED **TL**

REV. **F**



# North Elevation - as Proposed

1 : 200



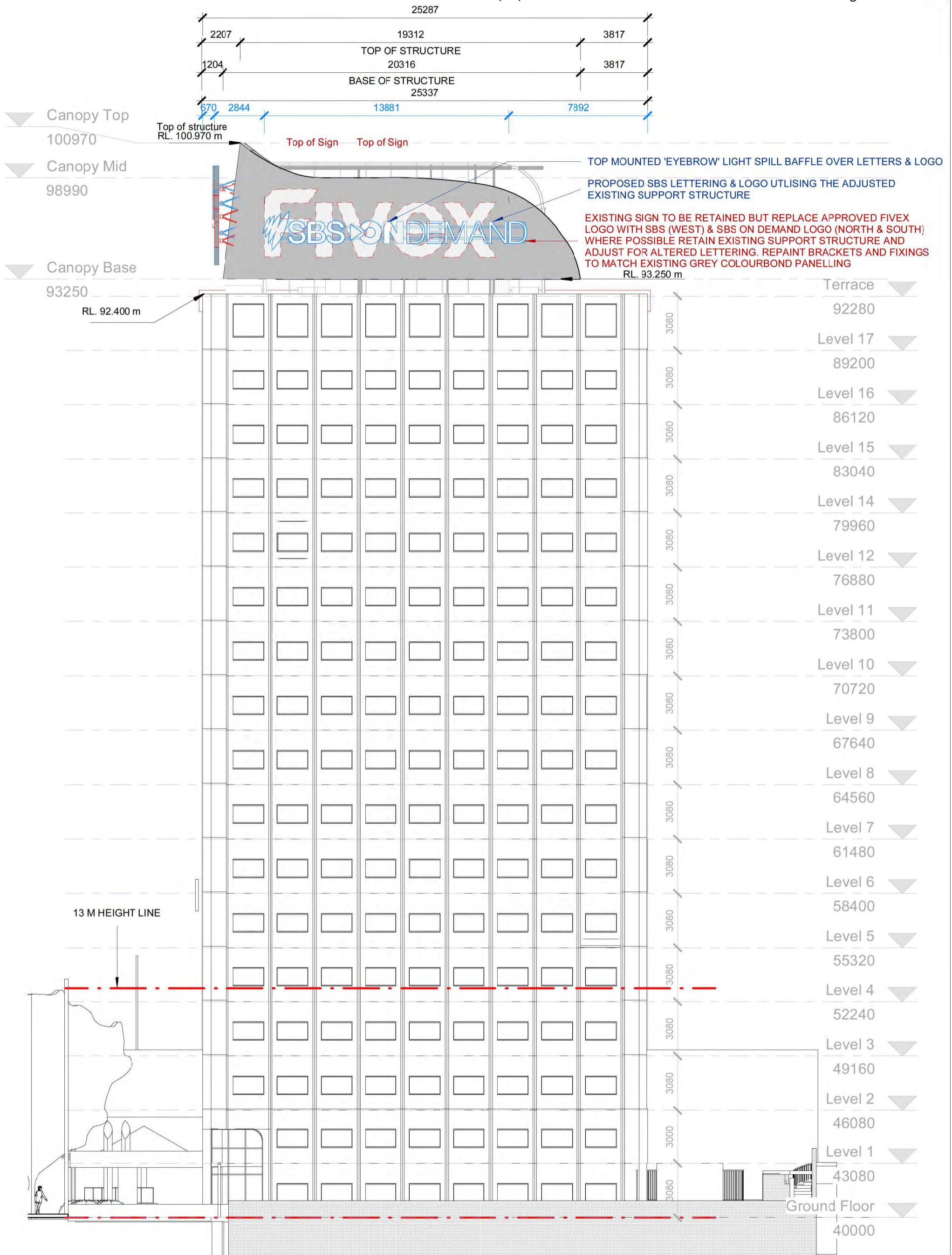
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Revisions	Description	Drawn	Checked	Date
F	DA submission	JB		28.04.22

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 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING  
 NORTH ELEVATION - PROPOSED

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 DATE 19/04/22  
 CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd  
 PROJECT NO. 22003  
 SCALE Author 1 : 200  
 DRAWN Author 1 : 200  
 CHECKED Check 8  
 STATUS DA  
 DWG NO. A05A  
 REV. F

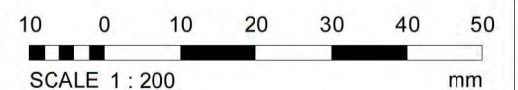




# South Elevation - Proposed

1

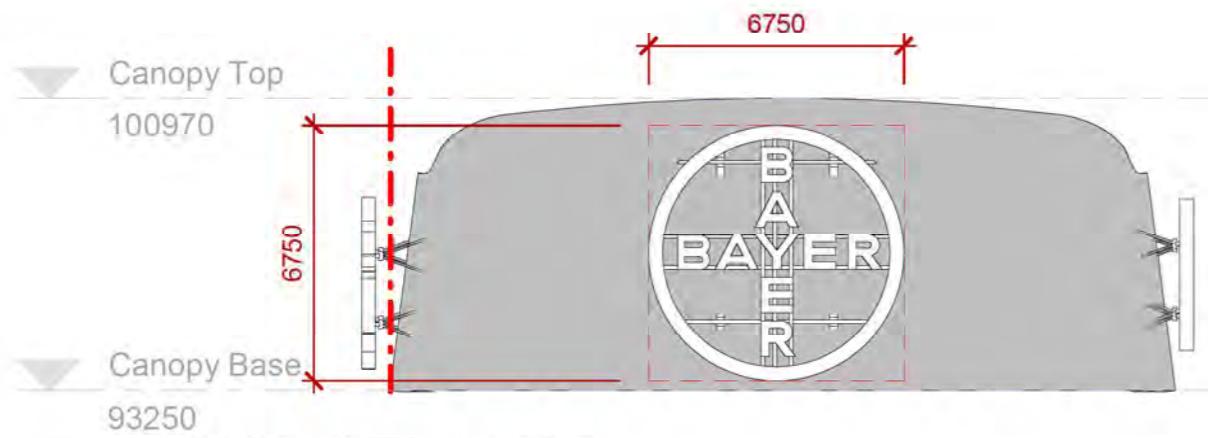
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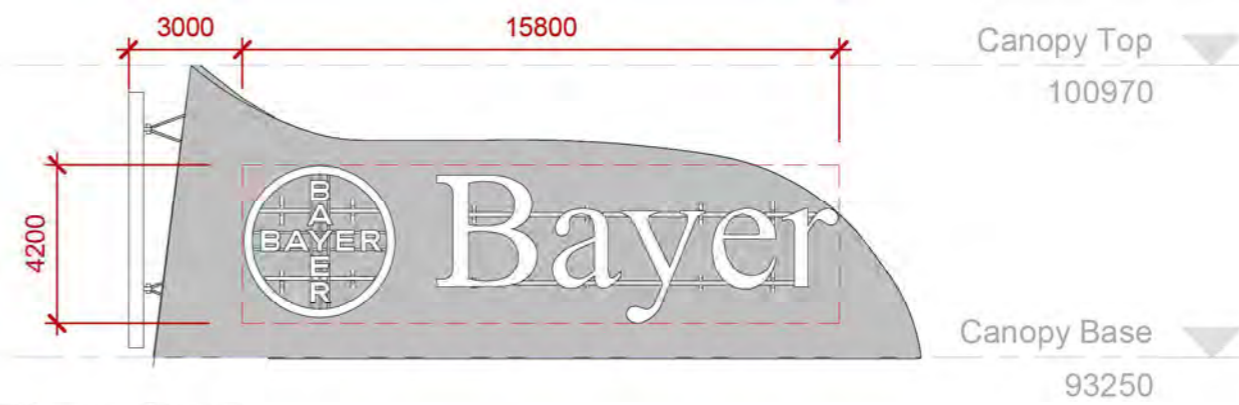
Revisions	Description	Drawn	Checked	Date
F	DA submission	JB		28.04.22

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 PROJECT AND ADDRESS  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING SOUTH ELEVATION - PROPOSED

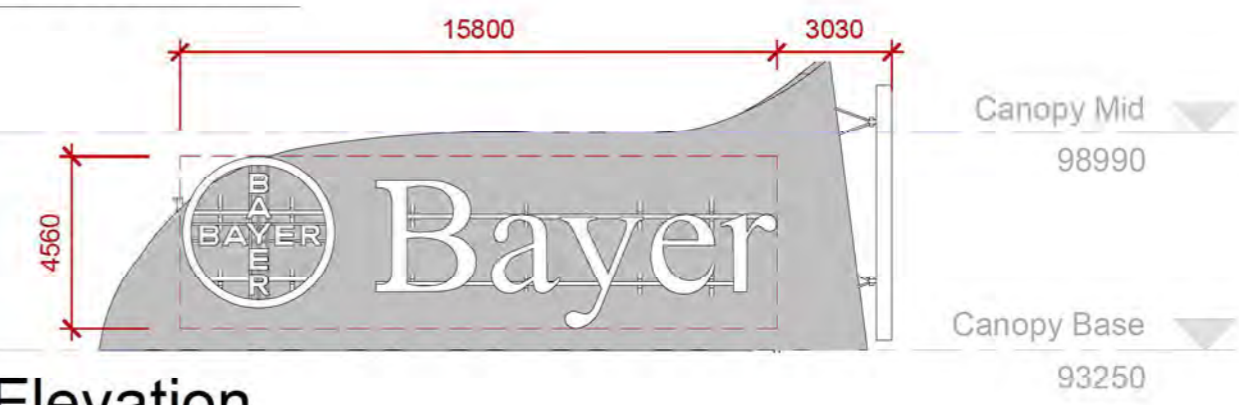
**LEGGE & LEGGE ARCHITECTS**  
 LG 03A, 275 ALFRED STREET, NORTH SYDNEY, NSW, 2060  
 Nominated Architect Anthony John Legge NSW Reg. No. 6409  
 e: info@leggeandleggearchitects.com.au T: +61 2 8008 8578  
 DATE 19/04/22 DRAWN JB  
 CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd CHECKED TL  
 PROJECT NO. 22003  
 SCALE 1 : 200  
 STATUS DA  
 DWG NO. A06A  
 REV. F



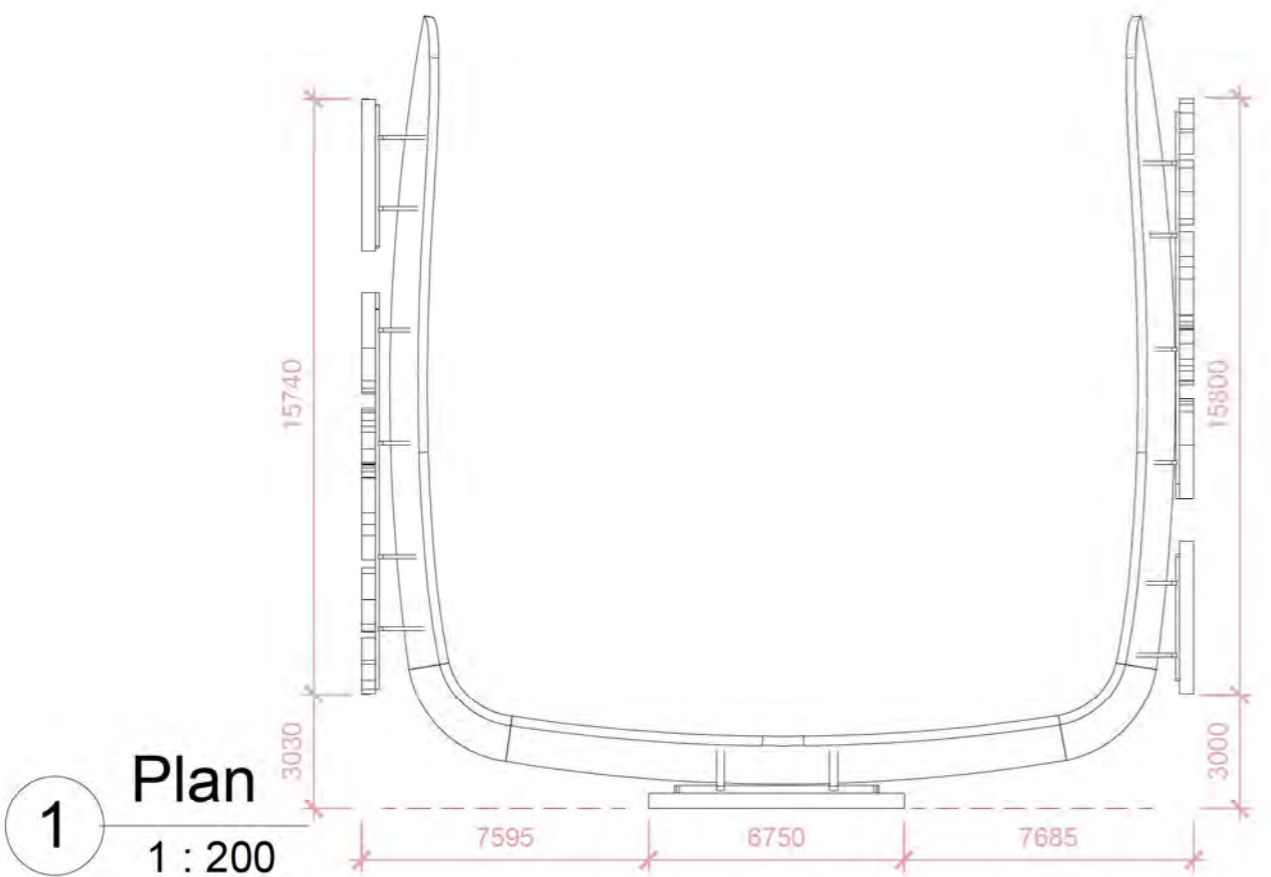
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**4 South Elevation**  
1 : 200



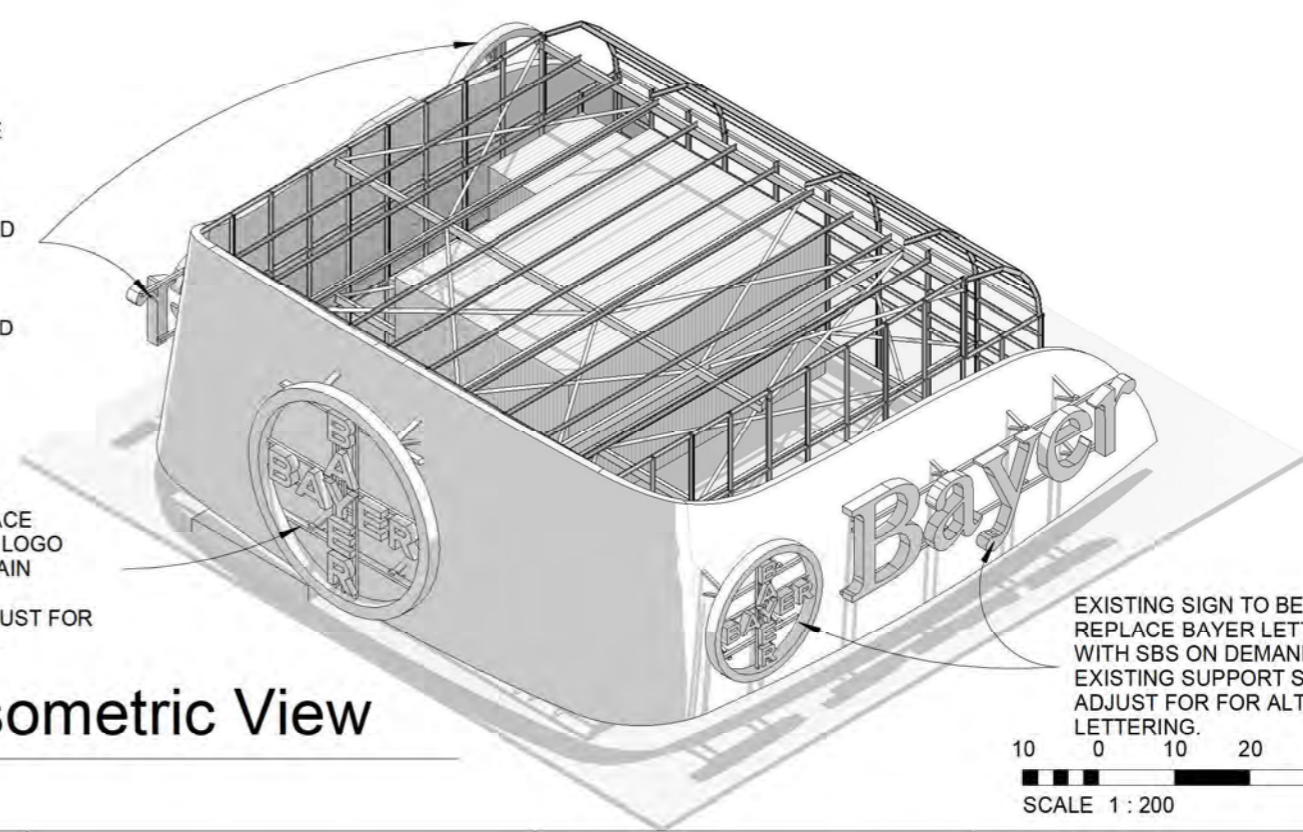
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**1 Plan**  
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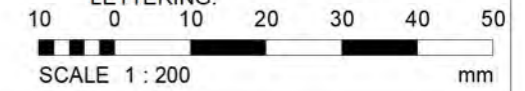
EXISTING SIGN TO BE RETAINED BUT REPLACE BAYER LETTERS AND LOGO WITH SBS ON DEMAND LOGO. RETAIN EXISTING SUPPORT STRUCTURE AND ADJUST FOR ALTERED LETTERING.

EXISTING SIGN TO BE RETAINED BUT REPLACE BAYER LETTERS AND LOGO WITH SBS LOGO. RETAIN EXISTING SUPPORT STRUCTURE AND ADJUST FOR ALTERED LETTERING.



**2 Isometric View**

EXISTING SIGN TO BE RETAINED BUT REPLACE BAYER LETTERS AND LOGO WITH SBS ON DEMAND LOGO. RETAIN EXISTING SUPPORT STRUCTURE AND ADJUST FOR ALTERED LETTERING.



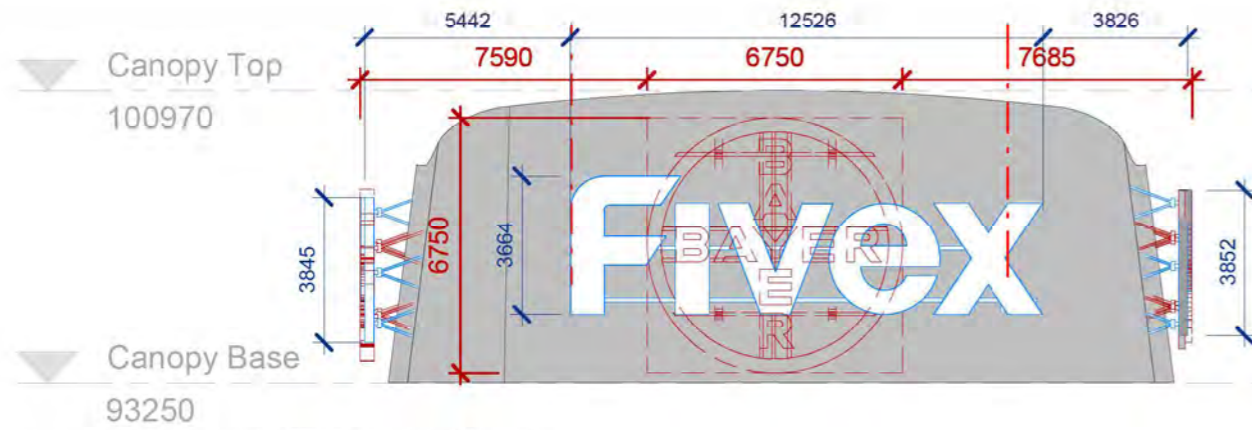
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A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
C	Final Draft DA dwgs	JB		11.08.20
D	DA Submission	JB		25.08.20
E	Ten Percent Sign Reduction	JB		24.05.21
F	DA submission	JB		28.04.22

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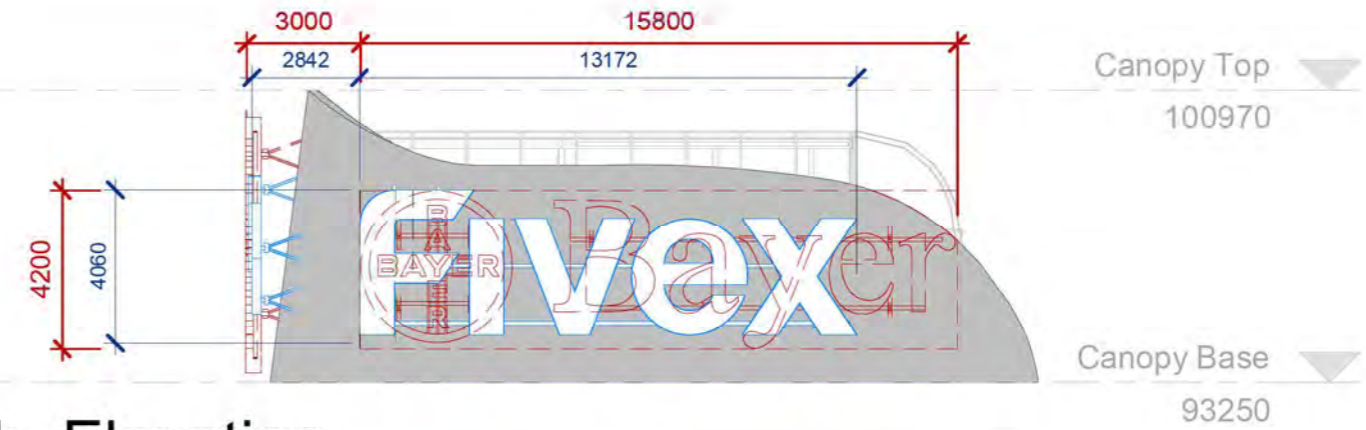
PROJECT  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING  
 SIGNAGE PRE DA APPROVAL

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 Nominated Architect Anthony John Legge NSW Registration No. 6409

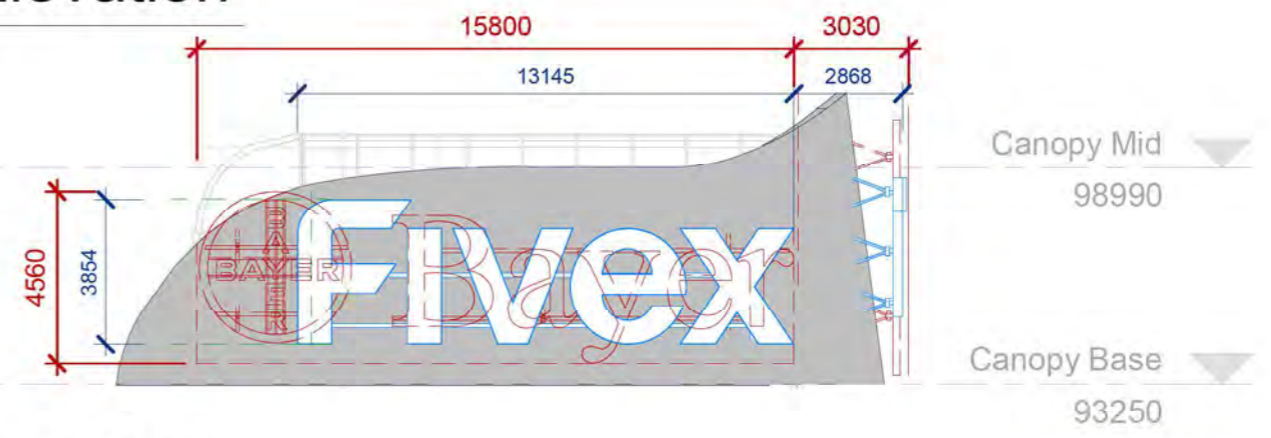
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PROJECT NO. 22003	CHECKED TL	DWG NO. A07
STATUS DA	CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd	REVISION F



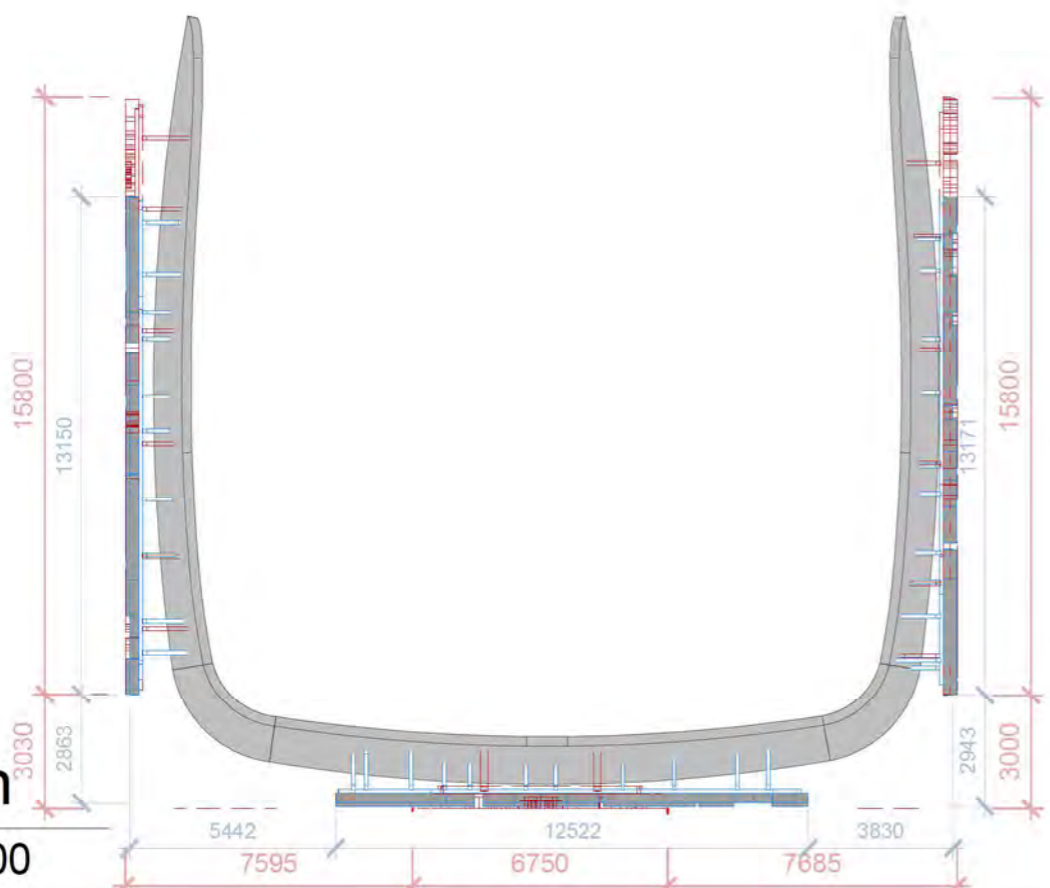
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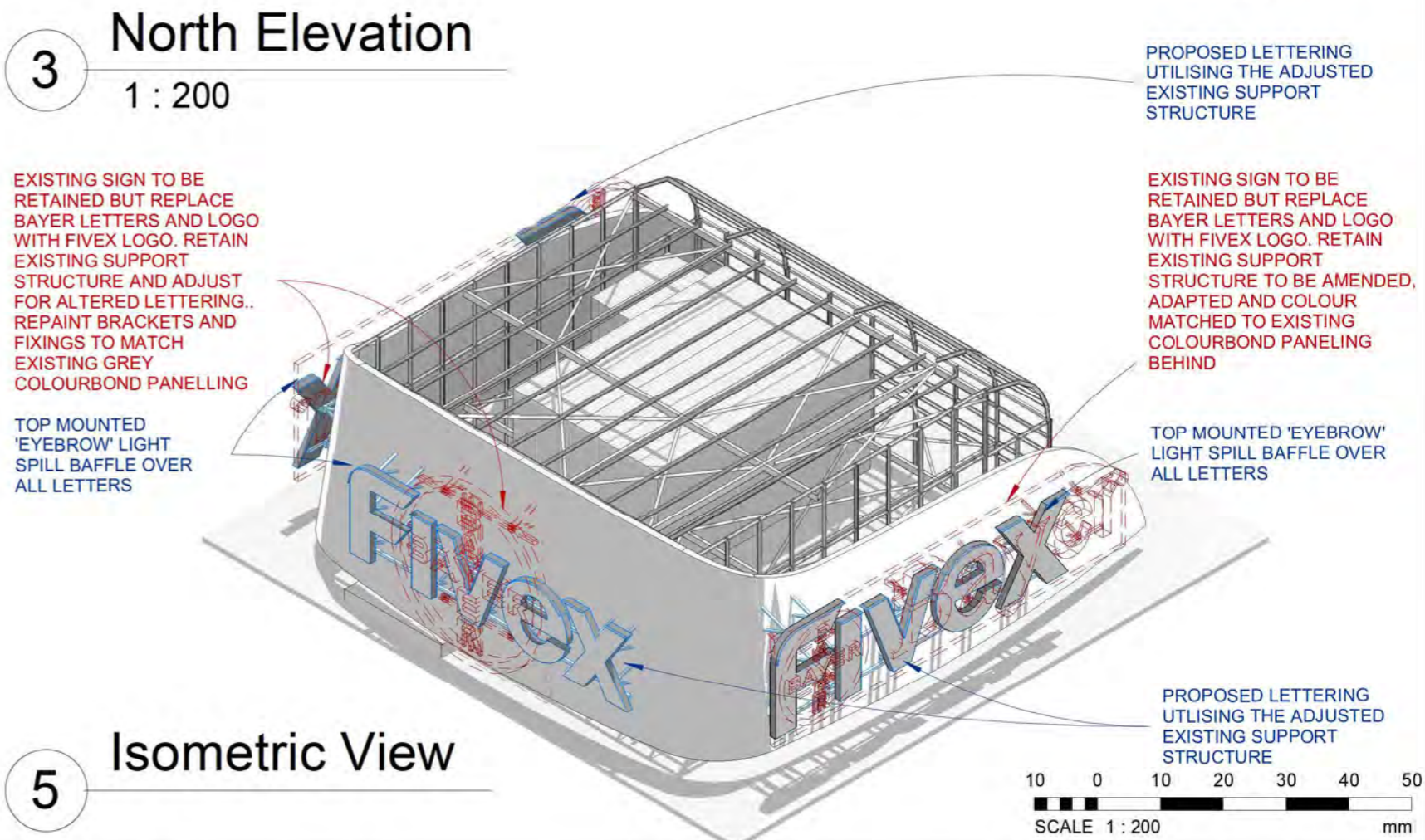
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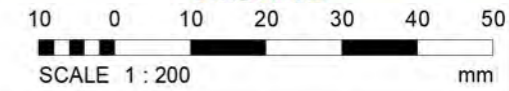
3 North Elevation  
1 : 200



4 Plan  
1 : 200



5 Isometric View



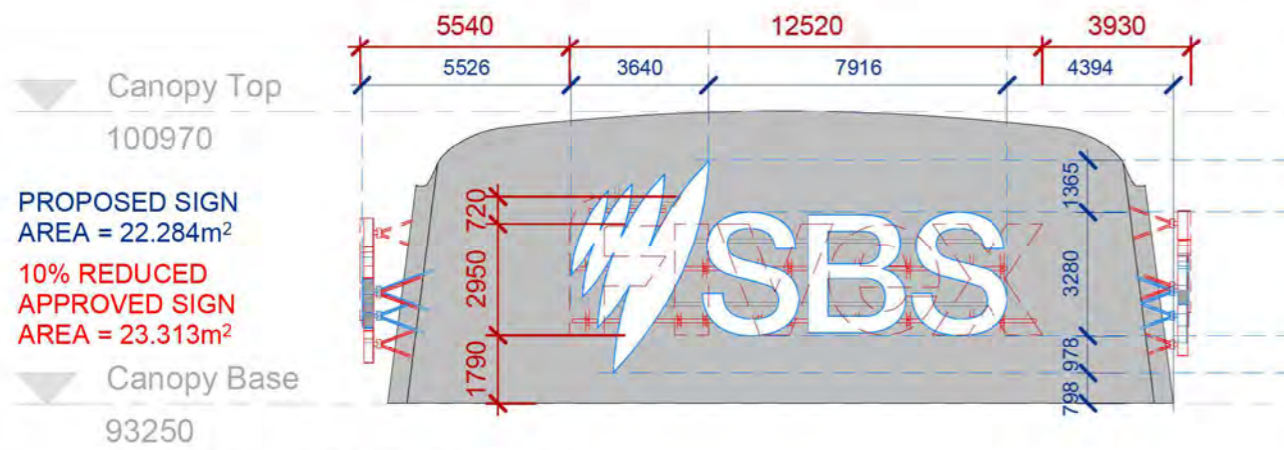
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A	Draft DA dwgs for planners	JB		20.05.20
B	Updated draft DA Drawings	JB		07.08.20
C	Final Draft DA dwgs	JB		11.08.20
D	DA Submission	JB		25.08.20
E	Ten Percent Sign Reduction	JB		24.05.21
F	DA submission	JB		28.04.22

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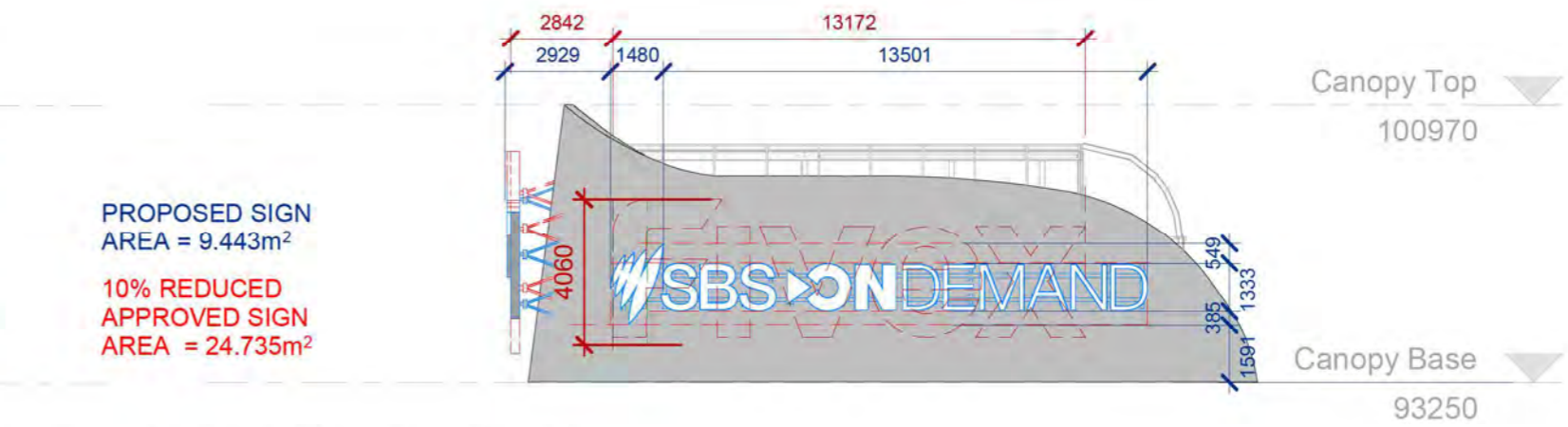
PROJECT  
 ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
 DRAWING  
 APPROVED SIGNAGE WITH 10% REDUCTION

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 T: +61 2 8008 8578 E: info@leggeandleggearchitects.com.au  
 Nominated Architect Anthony John Legge NSW Registration No. 6409

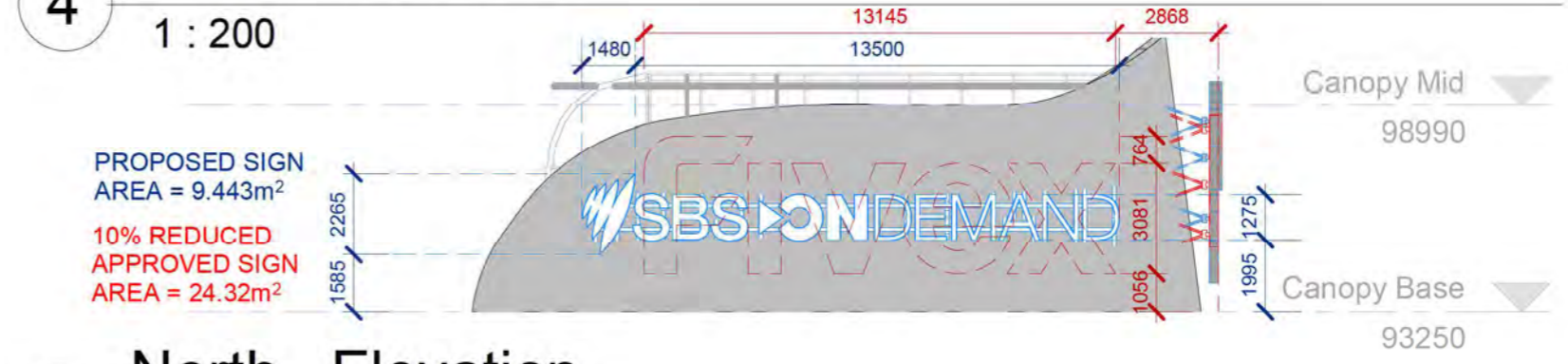
DATE 25/05/20  
 PROJECT NO. 22003  
 STATUS DA  
 DRAWN JB  
 CHECKED TL  
 CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd  
 SCALE 1 : 200 @A3  
 DWG NO. A08  
 REVISION. F



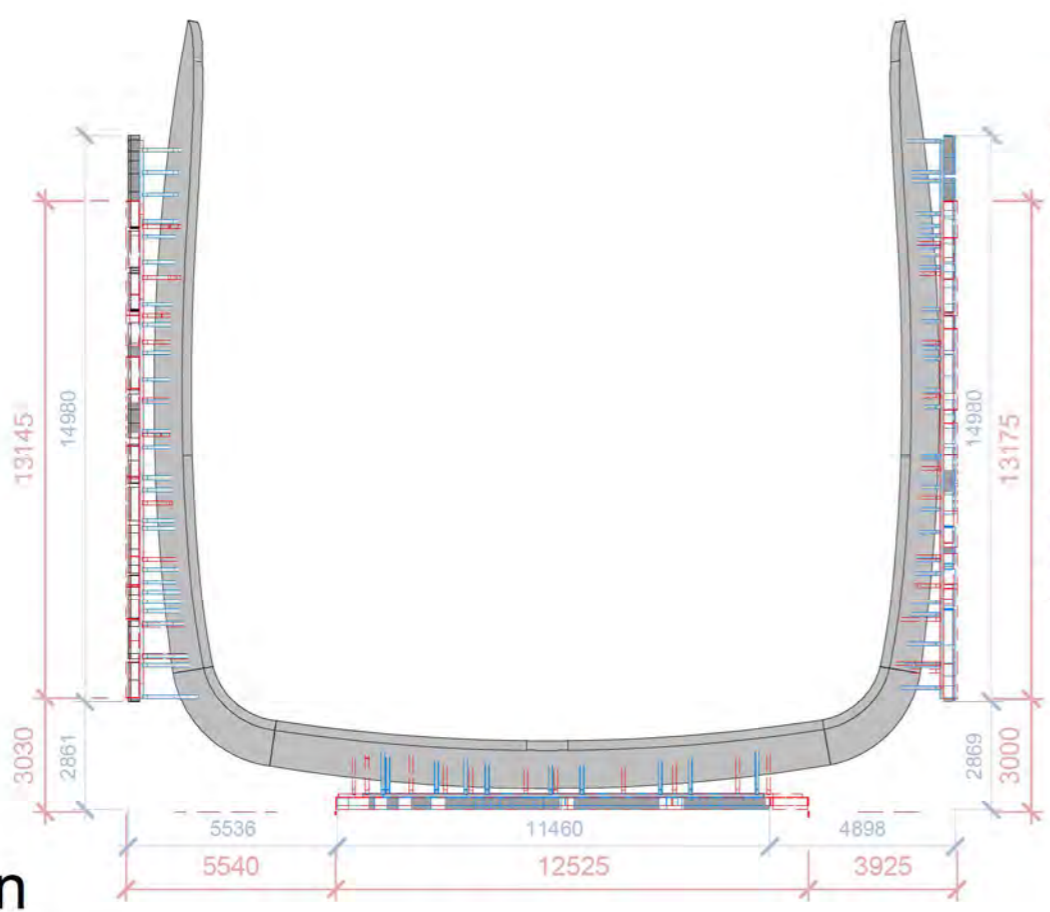
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1 : 200



4 South Elevation  
1 : 200



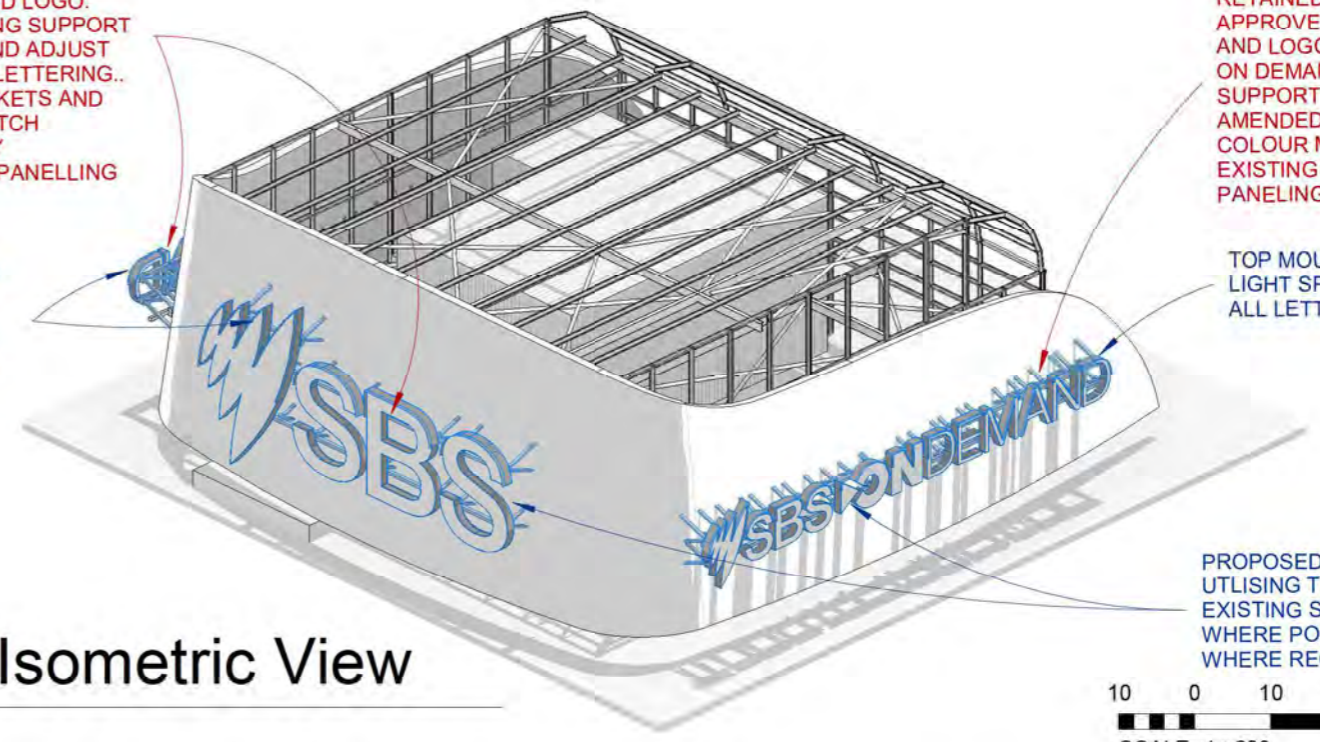
3 North Elevation  
1 : 200



1 Plan  
1 : 200

EXISTING SIGN TO BE RETAINED BUT REPLACE APPROVED FIVEX LETTERS AND LOGO WITH SBS AND SBS ON DEMAND LOGO. RETAIN EXISTING SUPPORT STRUCTURE AND ADJUST FOR ALTERED LETTERING.. REPAINT BRACKETS AND FIXINGS TO MATCH EXISTING GREY COLOURBOND PANNELLING

TOP MOUNTED 'EYEBROW' LIGHT SPILL BAFFLE OVER ALL LETTERS

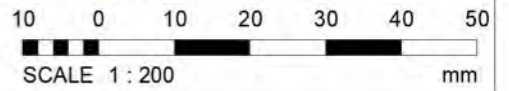


5 Isometric View

EXISTING SIGN TO BE RETAINED BUT REPLACE APPROVED FIVEX LETTERS AND LOGO WITH SBS AND SBS ON DEMAND LOGO. EXISTING SUPPORT STRUCTURE TO BE AMENDED, ADAPTED AND COLOUR MATCHED TO EXISTING COLOURBOND PANNELLING BEHIND

TOP MOUNTED 'EYEBROW' LIGHT SPILL BAFFLE OVER ALL LETTERS

PROPOSED LETTERING UTILISING THE ADJUSTED EXISTING SUPPORT STRUCTURE WHERE POSSIBLE AND APPEND WHERE REQUIRED



Revisions	Description	Drawn	Checked	Date
F	DA submission	JB		28.04.22

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PROJECT  
ROOFTOP ILLUMINATED SIGN, ALTERATIONS & ADDITIONS TO APPROVED SIGNAGE TO 275 ALFRED ST, NORTH SYDNEY, NSW 2060  
DRAWING  
PROPOSED SIGNAGE

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DATE 02/15/22  
PROJECT NO. 22003  
STATUS DA  
DRAWN JB  
CHECKED TL  
CLIENT Ben Mill Pty Ltd & J.B. No.3 Pty Ltd  
SCALE 1 : 200 @A3  
DWG NO. A09  
REVISION F





## Clause 4.6 Variation Request

### Height of Buildings (Clause 4.3)

Prepared by Planning Ingenuity  
Date: 6 July 2022





## Clause 4.6 Variation Request –Height of Buildings (Clause 4.3)

### 1. Height of Buildings Control

Clause 4.3 (2) of North Sydney LEP 2013 relates to the maximum height requirements and defers to the *Height of Buildings Map*. The relevant map identifies the subject site as having a maximum height of 13m. Building height is defined as:

**building height (or height of building) means:**

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

### 2. Background

The proposal seeks approval for *alterations and additions to approved signage to retain approved signage structure and replace lettering*. The proposed sign on the western elevation is 11.556m wide x 3.28m-2.267m high with an area of 22.284m<sup>2</sup>. The proposed northern elevation sign is 14.98m wide x 1.275m-2.265m high with an area of 9.443m<sup>2</sup> and the proposed southern elevation is 14.981m wide x 1.333m-2.267m high with an area of 9.443m<sup>2</sup>.

The site contains an 18 storey commercial office tower (the Fivex building). The building has a high roof-top element, being a recessed metallic clad structure (containing plant equipment) which is set back from the building parapet. The existing building has a total overall height of 60.97m (RL 100.97). Attached to the roof top element are three (3) illuminated roof-top signs comprised of fabricated lettering and a “Fivex” logo.

The existing maximum signage height is the western elevation signage which will remain unchanged at 60.25m (RL100.250) as a result of the proposed development.

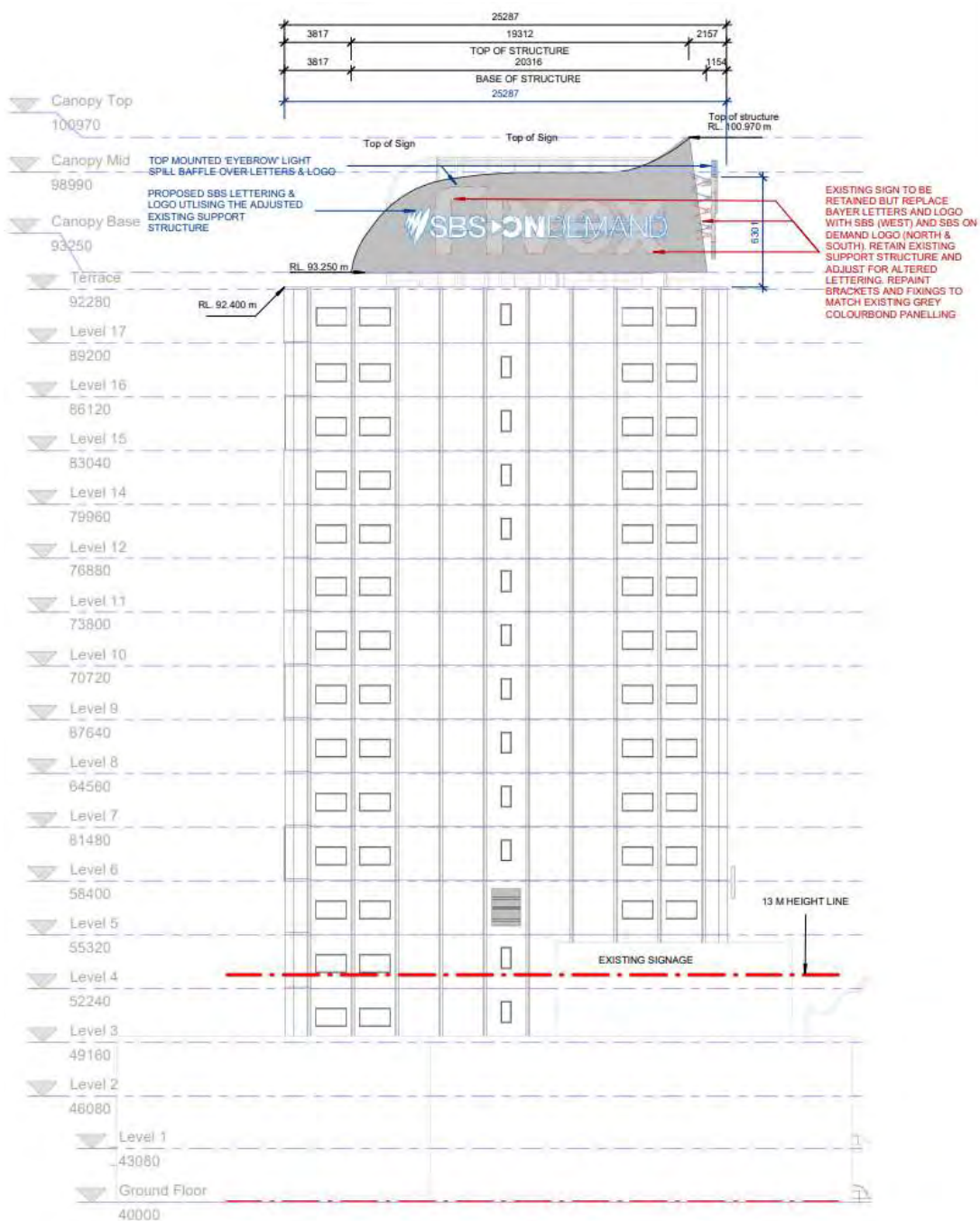
The proposal does not increase the height of the existing signage and arguably, the proposed development does not constitute a “building” as defined by the EP&A Act (1979). Therefore, the proposal does not breach the control, however this Clause 4.6 Variation Request has been prepared in the interests of abundant caution.

Figure 1 below shows the existing and proposed signage on the subject building with no change to the maximum height of the building or signage. Figures 2-3 below demonstrate the existing building height in the context of the 13m building height line.





Figure 1 Existing and proposed comparison (maximum height 60.75m) with 13m height line shown.



1 North Elevation - as Proposed  
1 : 200



Figure 2 North elevation (13m height line shown in red)

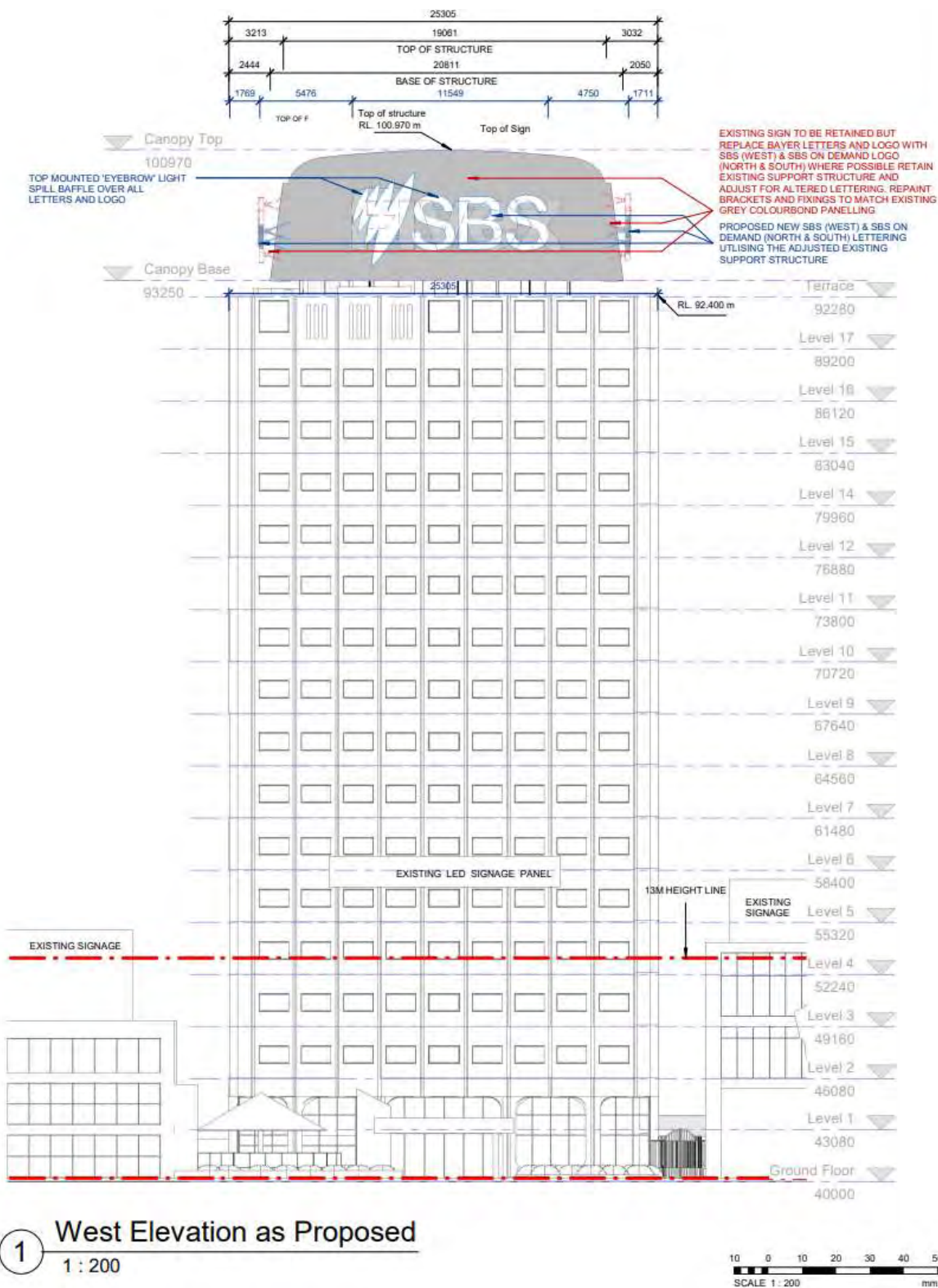


Figure 3 Proposed West Elevation (13m height line shown in red)



### 3. Proposed variation to Height of Building control

The proposed development maintains the existing height of the building and does not increase the significant variation to the building height limit prescribed under Clause 4.3. The variation relates to signage affixed to the building which arguably is not a “building” in its own right. On this basis, it is arguable whether a Clause 4.6 Variation Request is necessary, it is however submitted in the interests of abundant caution. The proposal will maintain signage that exceeds the Height of Buildings Development Standard under Clause 4.3 by 47.25m.

### 4. Clause 4.6 of SSLEP 2015

That maximum height control is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of the LEP.

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

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

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

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

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

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

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

(b) *the concurrence of the Secretary has been obtained.*

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

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

(b) *the public benefit of maintaining the development standard, and*

(c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*





(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 all of these zones.

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

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

(a) a development standard for complying development,

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

(c) clause 5.4,

(ca) in relation to land identified as "Land in St Leonards" on the Exceptions to Development Standards Map—clause 4.3 (2) by more than 3 metres (excluding plant rooms and similar structures),

(cb) clause 6.3 (2) (a) and (b).

(8A) Subclause (8) (ca) ceases to apply on 31 December 2015.

The development standards in clause 4.3 are not "expressly excluded" from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

It is hereby requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit signage that exceeds the maximum height by 47.25m.

#### **4. Compliance is unreasonable or unnecessary in the circumstances of the case**

Of relevant to Clause 4.6(3)(a), in *Wehbe v Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

*An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the*



*development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

The judgement goes on to state that:

*The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).*

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *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;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The objectives of clause 4.3 are as follows, inter alia:

- (1) *The objectives of this clause are as follows:*
  - (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
  - (b) *to promote the retention and, if appropriate, sharing of existing views,*
  - (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
  - (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
  - (e) *to ensure compatibility between development, particularly at zone boundaries,*
  - (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*

As previously noted, the *height of buildings map*, nominates a maximum building height of 13m at the site. It is requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to maintain an existing height non-compliance but as it relates to new signage.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of clause 4.4 are addressed in turn below.

**Objective (a)** seeks development to be stepped to follow site topography. The proposed development relates to replacement signage attached to an existing building and as such will not alter the natural landform.

**Objective (b)** seeks to retain and share views. The existing building is 60.97m in height and is significantly higher than surrounding development. The proposed replacement signage will be attached to the upper part of the building within the existing building height and accordingly will not alter the available views to surrounding development. As such the proposed development is entirely consistent with this objective as it will retain existing views.





**Objective (c)** seeks to maintain and promote solar access for future development. The proposed development will not contravene this objective as the replacement signage will be attached to the existing building and will therefore not alter solar access to existing or future development.

**Objective (d)** seeks to maintain privacy for existing and future residents of surrounding and nearby development. As the proposed development relates only to replacement of signage there are no issues of privacy caused by the proposal or height non-compliance.

**Objective (e)** seeks to ensure compatible development. The proposed development will replace existing signage with new signage at a size and scale consistent with the existing roof top signage. The existing building to which the signage will be attached has occupied the site for 30 plus years and forms part of the North Sydney CBD character, being one of the tallest buildings in its immediate environment. The building and replacement signage will maintain its compatibility in that the essence of its character, namely height, scale, and signage location will remain unaltered.

The appearance of the replacement signage will not materially change the character of the locality, with the main contribution to character being from the building itself.

**Objective (f)** seeks to encourage appropriate scale and density. The proposal does not increase density at the site as the proposal relates only to replacement of signage and no other building works. Signage in the same location is an existing element of the building, which is already significantly above the LEP height limitation. The signage is an element of the building and its replacement with similar signage does not introduce any additional bulk. Moreover, the current signage sits in front of a roof top plant room. The proposed replacement signage will continue to play a similar function in concealing the bulk of the plant room which has visual benefits.

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within B3 Commercial Core Zone, the objectives of which are provided below.

*Zone B3 Commercial Core*

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To prohibit further residential development in the core of the North Sydney Centre.*
- *To minimise the adverse effects of development on residents and occupiers of existing and new development.*

The proposed development is consistent with the zone objectives for the following reasons:

- The proposed replacement signage is consistent with Objective (1) as it will not alter the existing provision of retail, business, office, entertainment or community land uses within the locality or wider area.
- In terms of Objective (2), undertaking the construction works will not impact existing employment opportunities within the building and will provide some short-term employment opportunities. The proposed signage will support business and therefore will have flow on benefits for employment.
- Objective (3) is not applicable as the proposal relates to signage and will not impact or alter public transport use.
- Objective (4) is not applicable as the proposal relates to signage and will not impact or alter the delivery of residential accommodation.
- With respect to Objective (5), the proposed signage is located within the same location, is the same size and will operate with the same hours of usage as previously approved signage. The modified content will not create any detrimental impacts for nearby residents. The proposed signage will meet current Australian Standards related to lighting (and light spill) and will be capable of being regulated. The height and location of the signage avoids any impacts such as overshadowing or view impacts.





Having regard to all of the above, it is our opinion that compliance with the maximum building height development standard is unnecessary in the circumstances of this case as the existing, established building height to the top canopy will not be altered through the subject proposal. That is, the building height does not change and the maximum height of the signage is no higher than the existing sign in the same location.

Therefore, insistence upon strict compliance with that standard would be unreasonable in the circumstances of the case as the non-compliance to existing signage in the same location on the building is not increased and the replacement signage will improve visual, environmental and technological aspects, as well as meeting the objectives of the Height of Buildings standard and the B3 zone objectives.

#### **5. Sufficient environmental planning grounds to justify contravening the development standard**

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard relating to height, the assessment of this numerical non-compliance is guided by the decision of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 whereby Justice Pain ratified the decision of Commissioner Pearson. Further guidance is gleaned from the decisions in *Moskovich v Waverley Council* [2016] NSWLEC 1015.

We note that Council has recently considered a master plan proposal that includes the subject site and surrounding land which recommends that height be increased beyond that of the existing building. It is considered that this demonstrates a tolerance to building height in this location, rather than a desire that height be limited to that of existing development (or be even lower).

As discussed above it is considered that there is an absence of significant impacts of the proposed non-compliance given the height of the existing building already compliant, will not be altered under the proposed signage will be no higher than the existing signage that is located in the same area as the proposed signage.

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development" it is noted that the proposed replacement signage does not introduce a new building height non-compliance but rather maintains an existing non-compliance. That is, if the subject application is not approved, the existing signage will remain. Therefore, signage will remain on the building at the same height in the short, medium and likely longer term. The current proposal will maintain similar appearance of that signage and will ensure that at all times the current Australian Standards are met.

It is a unique circumstance in the sense that the proposal seeks to replace existing signage on a building with an existing and significant height breach. For these reasons the proposal will have a minimal, but positive influence on the character of the locality and is unlikely to set any precedent given the unique circumstances.

The proposal will continue to screen plant area on the building and retains the setback from the parapet so as to minimise its dominance over the general presentation of the building.

Accordingly, in terms of considering the environmental planning grounds, the proposed signage covers the same area as the existing signs, has an effective height that is no higher, and will be no more visible or dominant than the existing signs. Furthermore, Council has identified a tolerance to potential increase in building height through recent consideration of a master plan which includes the subject site.

Therefore, on balance, the proposal is considered to achieve a planning purpose of enhancing the existing roof top signage through visual, environmental and technological means and does so in the absence of any additional adverse impacts.

#### **6. Contravention of the development standard does not raise any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))**





There is no identified outcome which would be deleterious to planning matters of state or regional significance that would result as a result of varying the development standard as proposed under the subject application.

**7. There is no public benefit of maintaining the standard (Clause 4.6(5)(b))**

There is no public benefit in maintaining strict compliance with the development standard given that there is no increase to the height variation of the existing signage in a similar location on the building nor are there any unreasonable impacts that will result from maintaining the variation to the maximum building height control given the height of the building on which the signage sits was established over 30 years ago. Hence there are no public disadvantages.

The existing approved signage on the rooftop of the building at the subject site contributes to the cityscape of North Sydney. The height of the proposed signage area is unchanged and will therefore maintain part of the character that contributes to the North Sydney Centre. The signage will continue to screen rooftop plant area.

**8. Conclusion**

The subject development proposal *seeks alterations and additions to approved signage to retain approved signage structure and replace lettering.*

Replacement signage is proposed within the approved height, scale and bulk of the existing signs. The proposal will retain the size and location of existing signage. The new sign will meet current Australian Standards that set lighting levels.

The existing building significantly exceeds the 13m numerical standard under Clause 4.3 Height of Buildings and has existed for over thirty years. The subject signage will replace recently approved signage which was approved under the same planning controls. The subject application does not alter the existing established building height or increase the height of signage on that building compared with the existing sign.

For these reasons, the proposal sits within the threshold of warranting an “appropriate degree of flexibility” to be applied to “achieve a better outcome for and from development”, being the specific aims of Clause 4.6.

