

**NSLPP MEETING HELD ON 04/12/2024****Attachments:**

1. Site Plan
2. Architectural Plans & Landscape Plan
3. Clause 4.6 Height of Buildings
4. Survey Plan
5. Heritage Impact Statement & Traffic Impact Assessment
6. Geotechnical Investigation

**ADDRESS:** 1 Warung Street, McMahons Point**APPLICATION NO:** DA 85/2024**PROPOSAL:** Demolition of existing structures and erection of a new residential flat building and ancillary works**PLANS REF:**

Plan No.	Rev	Description	Prepared by	Dated
DA-011	C	Site Plan	Squillace	03.09.2024
DA-020	C	Demolition Plan	Squillace	03.09.2024
DA-099	C	Basement Plan	Squillace	03.09.2024
DA-100	C	Ground Level Plan	Squillace	03.09.2024
DA-101	C	Level 1 Plan	Squillace	03.09.2024
DA-102	C	Level 2 Plan	Squillace	03.09.2024
DA-103	C	Level 3 Plan	Squillace	03.09.2024
DA-104	C	Roof Plan	Squillace	03.09.2024
DA-205	C	Proposed North Elevation	Squillace	03.09.2024
DA-206	C	Proposed East Elevation	Squillace	03.09.2024
DA-207	C	Proposed West Elevation	Squillace	03.09.2024
DA-208	C	Proposed South Elevation	Squillace	03.09.2024

**OWNER:** Highbury Warung Pty Ltd**APPLICANT:** Highbury Warung Pty Ltd**AUTHOR:** Report of Thomas Holman, Senior Assessment Officer**DATE OF REPORT:** 24 October 2024**DATE LODGED:** 17 April 2024**DATE AMENDED:** 19 September 2024**RECOMMENDATION:** Refusal

## EXECUTIVE SUMMARY

The Applicant seeks development consent from the North Sydney Local Planning Panel (NSLPP) for demolition of an existing residential flat building, construction of a new residential flat building, excavation and construction of basement, new basement entry from Henry Lawson Avenue and new landscaping on land identified as No 1 Warung Street, McMahons Point.

**The application is required to be reported to the NSLPP for determination, as directed by the Minister of Planning, as the development application has attracted 10 or more unique submissions by way of objection; involves a departure from a development standard that is greater than 10%; and is considered sensitive development which State Environmental Planning Policy Housing 2021 – Chapter 4 Design of Residential Apartment Development applies.**

The proposal involves reconstruction of a residential flat building which benefits from Existing Use Rights provisions under Div 4.11 of the *EP & A Act 1979* and the incorporated provisions at s163 to 167 of the *EP & A regulations 2021*. The development application has been assessed against relevant State Planning Policies including Chapter 4 of the Housing SEPP, as well as Council policies including the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* and North Sydney Development Control Plan 2013 (NSDCP 2013).

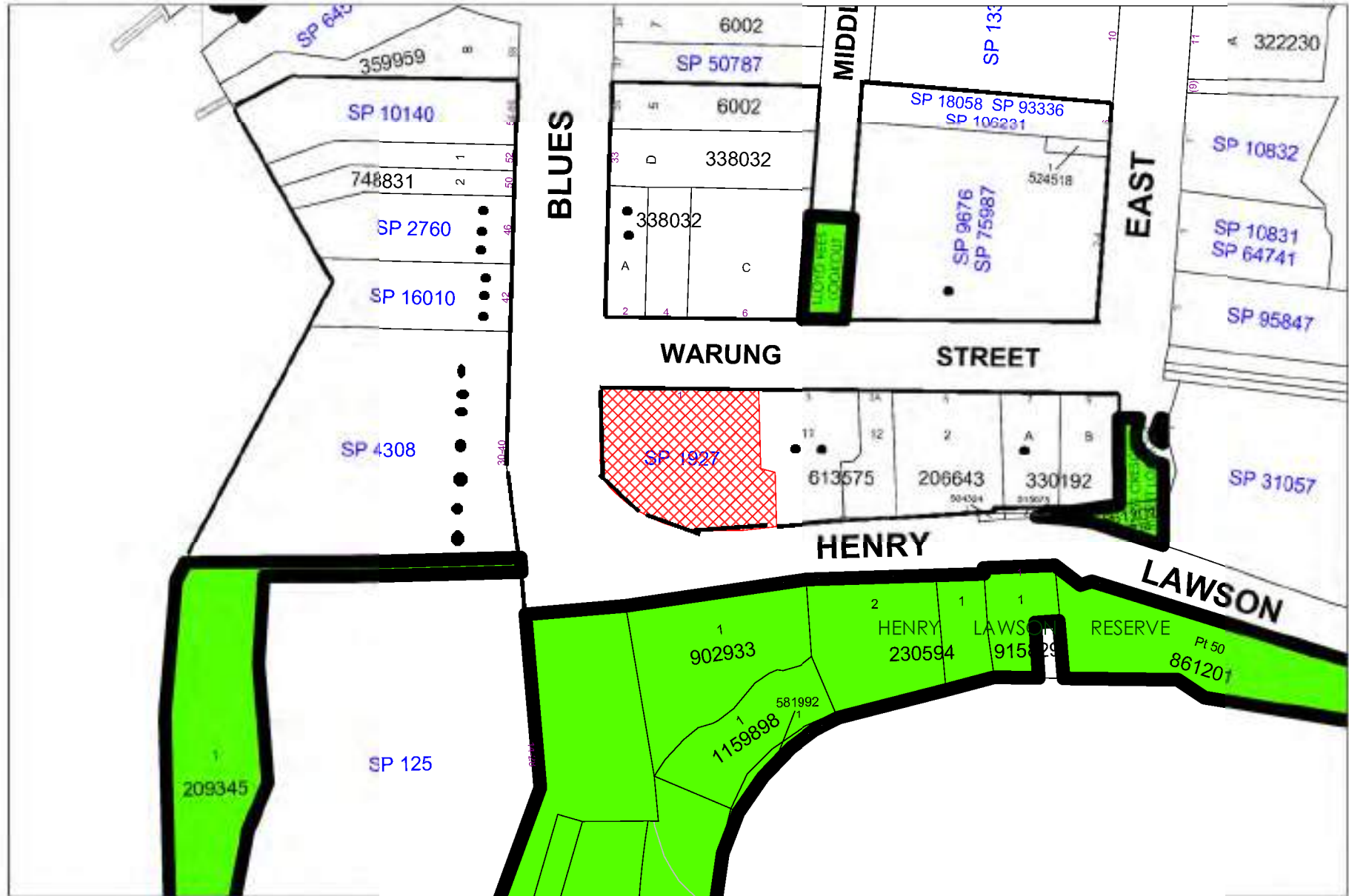
Council's notification of the original plans has attracted a total of twenty (20) submissions by way of objection including a submission by the Lavender Bay Precinct Committee raising concerns regarding privacy loss to neighbouring private open space, the uncharacteristic form and appearance of the building and its conflict with the character of the McMahons Point Conservation Area, concerns with regards to the lift overrun, view loss, privacy impacts, built form & design, site excavation and associated impacts, impact to heritage conservation area and character generally, inadequate setbacks, impact to street parking and insufficient landscaping. Amended plans illustrating a revised scheme were re-notified in October 2024, which attracted a further seven (7) submissions by way of objection.

The proposed development prioritises views of Sydney Harbour and associated iconic views of the Harbour Bridge and Opera house views, to the detriment of the amenity of No. 3 Warung Street and the heritage significance of the McMahons Point South Conservation Area. The splayed south eastern balconies are excessive in size directing views which would have a direct impact and insufficiently mitigated impact on the private open space of No. 3 Warung Street. The built form would not relate well to the adjoining heritage item and conflicts with the predominantly rectilinear form of buildings within the conservation area. The development proposes excessive glazing and glazed balustrades which detract from the significance of the conservation area and there is a substantial increase in earthworks and excavation which does not promote substantial landscaping. Concern is also raised that the earthworks will not maintain the structural integrity of No. 3 Warung Street.

The application involves a height breach of 11.07m (exceedance of 30% or 2.57m), a non compliance with the maximum height of buildings development standard (8.5m) under Clause 4.3 of *NSLEP 2013*. The written request pursuant to Clause 4.6 of the *NSLEP 2013* is not supported as insufficient planning grounds were provided and the included information failed to demonstrate that compliance with this development standard is unreasonable or unnecessary particularly failing with satisfying Objectives of Cl. 4.3 Height of Buildings.

The assessment has considered the concerns raised in the submissions and performance against applicable planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for refusal given the proposal's failure to achieve compliance to and consistency with critical objectives, provisions and controls under the Chapter 4 of *SEPP Housing 2021*, would not achieve an appropriate outcome in terms of built form and character and would substantially impact on the amenity of No. 3 Warung Street.

LOCATION MAP



□ Property/Applicant ● Submitters - Properties Notified

## DESCRIPTION OF PROPOSAL

The proposal before the Panel is for demolition of an existing residential flat building, excavation and construction of a basement, new basement entry from Henry Lawson Avenue and construction of a new residential flat building. The new residential flat building will comprise of seven (7) residential units, which is reduced from the current yield of twelve (12) units.

Specifically, the proposed development involves the following elements:

### Demolition

- Demolition of existing residential flat building and demolition of components of the site including ground level concrete car parking and existing landscaping.

### Construction

- Excavation works and demolition of an existing sandstone rock wall to facilitate a single basement level and opening for vehicular access to the basement. The basement level will comprise of elevation (11) car spaces including one visitor/car wash space, seven (7) bicycle/storage cages, one (1) visitor bicycle parking space, one (1) motorbike space, plant rooms, garbage room and a stairwell/lift to upper levels.
- Ground level comprising 2 x 3 bedrooms units with on ground private open space courtyards.
- Level 1 & 2 comprising 2 x 3 bedroom units with south facing balconies orientated to Sydney Harbour.
- Level 3 comprising 1 x 4 bedroom unit with a south facing balcony orientated to Sydney Harbour.
- A flat concrete roof with photovoltaic panels, a roof access hatch and lift overrun (RL 25.170).

### Landscaping

- Removal of seven (7) trees within the subject site.
- Existing Plumeria in NW corner of site to be retained.
- Four (4) replacement trees proposed – *Tristaniopsis laurina* – *Water Gum* in the south eastern corner of the site, two (2) *Tristaniopsis laurina* – *Water Gum* on the western side boundary and three (3) *Lagerstroemia 'Natchez'* adjacent to the western side boundary.
- Landscaping and garden beds primarily within the setbacks of the site plus a southern lawn and garden bed.
- Some on structure landscaping proposed to balconies of the residential flat building.



**Figure 1 – Proposed North Elevation**



**Figure 2 – Proposed East Elevation**



**Figure 3 – Proposed West Elevation**



**Figure 4 – Proposed South Elevation**

## **STATUTORY CONTROLS**

### *North Sydney LEP 2013*

- Zoning – R3 Medium Density Residential
- Item of Heritage - No
- In Vicinity of Item of Heritage – Yes, adjoins No. 3 Warung Street (I0515)
- Conservation Area – Yes, noted as an uncharacteristic item in McMahons Point South (CA14)
- FSBL – No
- 6.10 – Earthworks

### *Environmental Planning & Assessment Act 1979*

### *Environmental Planning and Assessment Regulation 2021*

### *SEPP (Biodiversity and Conservation) 2021*

- Chapter 2 Vegetation in non-rural areas
- Chapter 6 Water catchments

### *SEPP (Housing) 2021*

- Chapter 2 Affordable Housing
- Chapter 4 Design of residential apartment development

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

- Chapter 2 Coastal Management
- Chapter 4 Remediation of Land

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

- Chapter 2 Infrastructure

### *SEPP (Sustainable Buildings) 2022*

### *SEPP (Precincts – Eastern Harbour City) 2021*

- Appendix 1 State Significant Precinct Sydney Opera House

## **POLICY CONTROLS**

North Sydney Local Infrastructure Contributions Plan

North Sydney Development Control Plan 2013 (NSDCP 2013)

Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023

## DESCRIPTION OF LOCALITY

The subject site is commonly identified as No. 1 Warung Street, McMahons Point, and is legally described as SP 1927. It is an irregular shaped allotment, located on a prominent corner with Warung Street, Blues Point Road and Henry Lawson Avenue bordering its northern, western and southern boundaries. The site has a north-south orientation, a 33.53m wide frontage (addressing Warung Street), a 19.178m wide secondary frontage (addressing Blues Point Road) and a 32.59m wide splayed boundary (addressing Henry Lawson Avenue). It comprises a total area of 985.4m<sup>2</sup> and features a steep fall of 5m from the north-eastern corner to the south western corner with a small cliff to the road reserve at Henry Lawson Avenue.

The subject site is predominantly modified and currently occupied by a 3 storey residential flat building containing twelve (12) units and at-grade undercover parking and undercroft service areas arranged in a L-shaped formation. The surrounding curtilage of the existing building are open areas consisting of internal driveway and paved turning areas, garden beds and grassed lawn areas and pedestrian access paths. The site features a sandstone rock wall that wraps around its northern, southern and western perimeters.



*Figure 5 – Photo of the existing RFB as viewed from Blues Point Road*



***Figures 6 & 7 – Photo of the existing RFB from Warung Street (left) and photo of the western side of the RFB from Blues Point Road (right)***

The immediate locality features a varied low-medium and high density residential-suburban character that is dominated by low-rise apartment buildings, taller and expansive residential flat buildings, and grand, traditional-style dwelling houses on sloping sites. Many residences overlook Sydney Harbour (including Blues Bay) and have some views and vistas of the Opera House and public reserves.

The site is surrounded and adjoined by the following properties:

- Front (North): No. 2 Warung Street (dwelling house), No. 4 Warung Street (dwelling house), No. 6 Warung Street (dwelling house)
- East-adjointing: No. 3 Warung Street (dwelling house)
- Secondary front (West): No. 30-40 Blues Point Road (4-storey residential flat building)
- Rear (south): Henry Lawson Reserve.



***Figures 8 & 9 – Photo of the existing RFB and surrounding properties as viewed from Blues Point Reserve (left) and photo 1 Warung & 30-40 Blues Point Road from Henry Lawson Avenue (right)***





**Figures 10 & 11 – Photos of residential properties 2-6 Warung Street located opposite the subject site**

## RELEVANT HISTORY

### Previous applications

<b>Date</b>	<b>Action</b>
<b>01/06/2022</b>	<p>Development Application No. 379/21 for partial demolition of an existing residential flat building, construction of below ground basement and reconstruction and new apartment addition plus configuration of remaining apartments was refused by the North Sydney Local Planning Panel (NSLPP). The Panel reason for refusal is detailed below (<i>in italics</i>):</p> <p><i>The Panel, in addition to the reasons in the Council Officer’s report considered that the number of breaches to planning controls and guidelines was symptomatic of an unsatisfactory development in the circumstances. The development would be an inappropriate and uncharacteristic intrusion in the heritage conservation area particularly given its highly prominent location, the prevailing landscape character of the sandstone rock face, the visibility of the site to Sydney Harbour and considering its location adjacent to a neighbouring heritage item. In particular, the Panel did not support the driveway access through the Henry Lawson Avenue rock face, a significant landscape element visible from the Harbour, an important consideration given the Planning Principles of Clause 10.10(b) and (f) in Part 10.2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021.</i></p>
<b>28/06/2023</b>	<p>A Class 1 appeal was lodged pursuant to the provisions of s 8.7 of the <i>Environmental Planning and Assessment Act 1979</i> (EPA Act), brought by Highbury Warung Pty Ltd (the Applicant), against the refusal of Development Application DA379/21 (the DA) by North Sydney Council (the Respondent).</p> <p>The appeal was upheld and consent granted to Development Application 379/21 for the partial demolition of an existing residential apartment building, excavation and construction of a basement, new basement entry, construction of new apartment additions above and alteration of the remaining apartments at 1 Warung Street, McMahons Point, subject to the conditions of consent.</p>

	<p>It is notable referring to the LEC judgement for LEC File Number 2022/157325 that contentions concerning building height, excessive earthworks, SEPP 65, NSDCP con-compliances and waste management had been resolved (refer to para 35) and the judgement principally considered in detail the vehicular access off Henry Lawson Avenue and visual impact on the rocky outcrop.</p> <p>The LEC judgement upheld the appeal and in paragraphs 84-90 various reasons are provided in support of the basement entry (paragraphs 85 &amp; 85) of the judgement are detailed below (<i>in italics</i>).</p> <p><i>85 I find that the DA includes a number of attributes which serve to improve the site’s contribution to the conservation of environmental heritage in the vicinity.</i></p> <p><i>These include:</i></p> <ol style="list-style-type: none"> <li><i>(1) Alterations and additions, which renew an otherwise uncharacteristic building and generally improve its presentation and contribution to the local context to a least a state of neutrality.</i></li> <li><i>(2) The removal of existing at-grade and undercroft car parking and associated improved streetscape presentation within the HCA.</i></li> <li><i>(3) An increased extent of compensatory deep soil, landscape and planting to improve the streetscape presentation within the HCA.</i></li> </ol> <p><i>86 I also accept that the heritage impacts attributable to the creation of a new basement entry into the cliff face and retaining wall are minimised to the greatest extent possible by:</i></p> <ol style="list-style-type: none"> <li><i>(1) A generally discreet design solution that minimises the extent of intervention, is neatly detailed in sandstone and with a recessed garage door receding from view.</i></li> <li><i>(2) Its general south-facing orientation, resulting in the proposed opening being cast in shadow for the majority of the day.</i></li> <li><i>(3) The proposed removal of non-significant concrete elements and existing sewer pipe to improve the presentation and clarity of the remaining cliff face and retaining wall.</i></li> <li><i>(4) The landscape design proposal, which will result in vegetation trailing down the cliff face and retaining wall, improving its general presentation from the public reserve.</i></li> </ol>
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**Subject Application**

<b>Date</b>	<b>Action</b>
<b>17/04/2024</b>	Development Application No. 85/24 was lodged for the demolition of existing structures and erection of a new residential flat building and ancillary works.
<b>24/05/2024</b>	DA No. 85/24 was notified to adjoining properties and the Lavender Bay Precinct between 26/04/2024 and 24/05/2024.
<b>11/06/2024</b>	The Design Excellence Panel (DEP) Meeting was held via Microsoft Teams with the DEP, the Applicant and Council on 11 June 2024. The review conducted by the Panel have been structured against the 9 Design Quality Principles set out in the SEPP and ADG.

	<p>The following matters/issues were raised in the meeting:</p> <ul style="list-style-type: none"> <li>• Context and Neighbourhood Character;       <ul style="list-style-type: none"> <li>○ Proportion of solid surfaces particularly the southern façade.</li> <li>○ Current form appears to maximise views to the Harbour.</li> <li>○ Maximisation of natural finishes.</li> </ul> </li> <li>• Built Form and Scale       <ul style="list-style-type: none"> <li>○ Height, bulk, scale, views, overshadowing</li> <li>○ Building separation</li> <li>○ Excavation, existing ground level and subterranean habitable areas</li> <li>○ Street Presentation</li> </ul> </li> <li>• Density</li> <li>• Sustainability       <ul style="list-style-type: none"> <li>○ Provision of rainwater tanks, EV charging points and reuse of excavated sandstone.</li> </ul> </li> <li>• Landscape       <ul style="list-style-type: none"> <li>○ Public domain</li> <li>○ Communal open space</li> <li>○ Deep soil</li> <li>○ Planting on structures</li> <li>○ Site Coverage</li> </ul> </li> <li>• Amenity       <ul style="list-style-type: none"> <li>○ Solar access and natural cross ventilation</li> <li>○ Apartment size and layout</li> </ul> </li> <li>• Safety       <ul style="list-style-type: none"> <li>○ Common circulation</li> </ul> </li> <li>• Housing Diversity and Social Interaction       <ul style="list-style-type: none"> <li>○ Loss of Dwellings and the proposed apartment mix</li> </ul> </li> <li>• Aesthetics       <ul style="list-style-type: none"> <li>○ Schedule of finishes and colours/ Materials palette</li> <li>○ Composition and proportion</li> <li>○ Extent of glazing</li> <li>○ Design intent</li> </ul> </li> </ul> <p>The minutes of the meeting were sent to the Applicant via the Planning Portal on 05 July 2024. A summary of the issues raised were also included in a request for amended plans and additional information letter.</p>
<p><b>20/06/2024</b>  <b>21/06/2024</b>  <b>24/06/2024</b></p>	<p>Site visits were completed by the Council Development Services staff to consider views and amenity impacts to adjoining properties at 3 Warung Street, Unit 5 42 Blues Point Road and Unit 6 42 Blues Point Road.</p>
<p><b>05/07/2024</b></p>	<p>Following a detailed assessment of the development application a letter was issued to the Applicant identifying issues and non-compliances which required preparation of amended plans and additional information. Below is a summary of the issues detailed in the letter dated 05 July 2024.</p>

	<p><b>Clause 4.3 – Height of Buildings</b></p> <p>Amendments were required to reduce the height of the development particularly the height of the lift overrun to satisfy view loss concerns for neighbouring properties and additional information is required detailing the height exceedances and height of the solar panels.</p> <p><b>SEPP (Housing) 2021 – Retention of existing affordable rental housing</b></p> <p>Insufficient evidence is provided on whether the existing residential building subdivided in 1966 is excluded or whether the building is a low rental residential building.</p> <p><b>SEPP (Transport and Infrastructure) 2021 – Sydney Metro</b></p> <p>Sydney Metro is not in a position to decide on granting of concurrence without the provision of additional information stipulated in their referral response dated 16 May 2024.</p> <p><b>Design Excellence Panel</b></p> <p>The DEP comments included building separation and the resultant privacy concerns to 3 Warung Street, amenity to ground level subterranean apartments, insufficient common open space and suggested improvements to materials and finishes.</p> <p><b>Heritage</b></p> <p>Council’s Heritage Officer raised concerns with the insufficient landscaped setting, excessive glazing to the southern façade facing Henry Lawson Avenue, complexity in fenestration to the western elevation facing Blues Point Road, the use of glazed balustrades and the detrimental impact to the heritage significance of the adjoining heritage item at 3 Warung Street.</p> <p><b>Visual Privacy</b></p> <p>Concerns were raised with respect to the amenity outcome for occupants of No. 3 Warung Street due to the insufficient side setbacks to the eastern side boundary, insufficient privacy measures and direct overlooking of the principal private open space of No. 3 Warung Street.</p> <p><b>Site Coverage, Landscaped Area and Un-built upon area</b></p> <p>The proposed site coverage of 444.0m<sup>2</sup> does not comply with the maximum site coverage of 443.43m<sup>2</sup> (45%) stipulated in Table B-1.6, Provision P1, s1.5.5 of NSDCP 2013.</p> <p><b>Landscaping</b></p> <p>Amendments to the plans including Landscape Plan were required because the development provided an insufficient landscaped buffer between adjoining properties, the development encompasses insufficient tree planting and canopy cover and insufficient landscaping that contributes to the streetscape.</p>
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	<p><b>Colours and Materials</b></p> <p>Amendments were considered appropriate to improve the materials and finishes so that the RFB is more reflective of the McMahons Point Conservation which includes reducing the expanse of glass to the southern façade and introducing more solidity to this elevation and amendments are sought whereby the textured render is replaced with masonry. The solar panels are to be integrated and not visible from the public domain and conservation area.</p> <p><b>Common Open Space</b></p> <p>Common open space should be provided to provide enhanced residential amenity and at present there is no intention to provide some landscaped common open space.</p> <p><b>Waste Management</b></p> <p>The development should have a garbage chute and recycling bin on each level, a temporary bin holding area and a bulky waste storage area.</p> <p><b>Car Parking and Transport</b></p> <p>A car wash bay and motorcycle space should be provided and the traffic and parking assessment report should confirm sight lines are acceptable for vehicles leaving the driveway.</p> <p><b>Fences</b></p> <p>Insufficient detail was provided concerning the height and materiality of the boundary fencing. Further consideration of the boundary fencing is required to achieve an outcome more compliant with directions in s1.4.14 of NSDCP 2013 and the character statement for the McMahons Point South Conservation Area.</p> <p><b>Submissions</b></p> <p>The Applicant was provided with a summary of concerns received following notification of the development which primarily involved view loss, impact to the conservation area, Sydney Harbour &amp; Opera House, amenity impact and provision of landscaping.</p>
<p><b>16/09/2024</b></p>	<p>The Applicant provided amended plans and additional information including an amended Landscape Plan, additional view loss assessment, a revised Cl. 4.6 Variation Request, an updated Traffic Impact Assessment Report and updated/additional supporting Survey and Geotechnical Investigations in response to the Sydney Metro referral. Below are details of the Applicant's response to the RFI.</p> <p><b>Clause 4.3 – Height of Buildings</b></p> <p>The building is in line with the ADG minimums and the overall height of the building is 150mm lower.</p>

	<p><b>SEPP (Housing) 2021 – Retention of existing affordable rental housing</b></p> <p>Under the savings and transitions provisions of Part 2 Schedule 8 of the 1975 Act, with similar savings provisions in the 1973 Act, stratas under the former Act i.e. the Conveyancing (strata Titles) Act 1961 are protected under which the existing building was approved.</p> <p><b>SEPP (Transport &amp; Infrastructure) 2021 – Sydney Metro</b></p> <p>The Applicant is in consultation with Sydney Metro in terms of attaining concurrence from Sydney Metro.</p> <p><b>Design Excellence Panel</b></p> <p>The DEP feedback has been taken into consideration in the amended plans, ensuring design excellence is achieved. Squillace Architects have created more solidity to the southern façade while also addressing the view loss concerns from neighbours.</p> <p><b>Heritage</b></p> <p>Through the provision of amended plans and documentation the original concerns regarding insufficient landscaping, excessive glazing, fenestration to the western elevation, glazed balustrades and interrelationship with No. 3 Warung Street have been addressed.</p> <p><b>Visual Privacy</b></p> <p>In relation to No. 3 Warung Street, visual privacy between the eastern units and their balconies have been considered and plans amended. A privacy study is provided concerning the privacy between the balconies of 1 Warung Street and 3 Warung Street.</p> <p><b>Site Coverage</b></p> <p>This minor discrepancy of 0.57m<sup>2</sup> has been amended.</p> <p><b>Landscaping</b></p> <p>The Landscape Plans have been revised increasing planting to the south, southeastern and southwestern boundaries and additional trees are proposed.</p> <p><b>Colours &amp; Materials</b></p> <p>The southern façade has been revised showing compliant solid to glass ratio in line with the McMahons Point South Conservation Area.</p> <p><b>Common Open Space</b></p> <p>Where there is a lack of COS, the ADG recommends larger POS balconies. The proposal has large POS balconies and a communal bench and sitting area has been added to the building entry.</p>
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	<p><b>Waste Management</b></p> <p>The bulk store and garbage area have been relocated to the basement level and a temporary bin hold has been included on the ground floor.</p> <p><b>Car Parking and Transport</b></p> <p>A carwash bay has been added to the basement, motorbike parking added and sight distance analysis provided in the updated Traffic and Parking Assessment.</p> <p><b>Fences</b></p> <p>A streetscape analysis has been provided showing an array of boundary fences/walls and it is considered the boundary fencing complies with the character statement of the McMahons Point South Conservation Area.</p> <p><b>Submissions</b></p> <p>The Applicant completed inspections to additional units raising view loss and proposed more detailed design solutions including privacy to the eastern neighbouring property (No. 3 Warung) and revised the presentation of the development as well as landscaping.</p>
<p><b>24/10/2024</b></p>	<p>A further site visit was completed by the Assessment Officer.</p>
<p><b>25/10/2024</b></p>	<p>The amended development was notified to adjoining properties and the Lavender Bay Precinct between 11 October to 25 October 2024.</p>

## 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.

### HERITAGE

The application has been referred to Council's Heritage Officer who provided the following comments based on the amended application and architectural plans (*in italics*).

#### 1. **Assessment of revision C plans**

*A comparison of the southern elevation to Henry Lawson Avenue and the harbour for the three elevations being the LEC approval of DA 379/21 on 28 June 2023, the revised elevation relating to the subject DA [Rev C] and the southern elevation relating to the subject DA as submitted [Rev A] has been considered.*



**A. Revision C - southern elevation**

Comments relating to **Revision C** being the plans subject to assessment are as follows:

*The articulation of the western corner is a positive outcome that goes some way towards breaking down the massing of the south-western side of the building and reconfiguring the larger balcony element. In line with the comments raised in Council's letter to the applicant dated 5 July 2024, the following issues remain:*

- The revisions indicate an overall 67% solid to 32.5% void ratio. Whilst it is noted the solid to void ratio in the southern elevation is improved from the earlier version, the solid to void ratio in the southern elevation still appears to be low and do not reflect the recommendations in the area character statement relevant to the site - [Part B:s9.8.6 – Characteristic Built elements P5-] being a high proportion of masonry or solid surfaces to glazed surfaces, It is recommended that a benchmark outcome with a solid to void outcome comparable with the LEC approval should be achieved. Also notable in the immediate site context is the recent LEC approval at 6 Warung Street where the solid to void outcome retains a high solid to void ratio -*

**LEC approval DA 361/21 on 23 Nov 2023 at 6 Warung Street to the north of the subject site**



**Subject site Western elevation**



**Southern elevation facing the harbour**

- The LEC approval at the subject site and the contemporaneous LEC approval at 6 Warung Street directly to the north of the subject both express vertical balustrades. This element should be adopted by the subject proposal. The glass balustrades are not supported.*



- *A descending order to the fenestration pattern relating to the uppermost level and a deeper recess to the bronze element (reduced bulk of the upper addition) would assist to strengthen a recessive expression and further reduce the impact from the bulk and massing of the new building - ref the approved upper-most level at 1 Warung Street (to be constructed in zinc)*
- *Areas of deep soil planting should continue to be maximized to improve the setting of the new building to its site context and be considered in line with the LEC approval that retained a greater area of deep soil planting. These comments should be considered in line with the referral for the landscaping assessment. The use of planter boxes on the upper levels is supported and the outcome will soften the impact of the building and better tie in with the setting of Henry Lawson Reserve in the foreground.*

## **2. Conclusion and Recommendation**

*With reference to the above, modifications to address the issues raised above are recommended so that the proposed built form has a compatible and complementary fit with its site context and retain the setting and views to and from the Warung Street Group of Heritage Items and the reserve at Henry Lawson Reserve in the foreground.*

**Planning Comment:** it is agreed the development still does not achieve a satisfactory heritage outcome particularly the continued intention for glazed balustrades which contributes to the glazing as viewed the public domain. There is also notable opportunity to minimise the extent of earthworks and the size of the basement to maximise the provision of deep soil and substantially promote landscaping. Furthermore, the southern elevation facing the Harbour and Henry Lawson Avenue due to the large irregular skewed balconies, insufficient solid to void ratio will detract from the heritage significance of the conservation area.

## **TRAFFIC**

The application has been referred to Council's Traffic Engineering Team who provided the original referral response to the development application on 25 June 2024 (*in italics*):

*Regarding the Development Application DA85/24 for development at 1 Warung Street, McMahons Point.*

### **Proposed Development**

*This application proposes a similar residential development comprising 7 residential apartments with 11 car spaces in the basement car parking area in accordance with Council's requirements. No change is proposed to the previously approved vehicular access driveway off Henry Lawson Avenue.*

### **Parking Provision**

<b>Description</b>	<b>Quantity</b>
<b>Residential Development Proposal</b>	
<i>Demolition of existing structures</i>	
<i>New Construction of Residential Apartments</i>	

<b>Description</b>	<b>Quantity</b>
3-bedroom apartments	6
4-bedroom apartments	1
<b>TOTAL APARTMENTS</b>	7
<b>Off-street Parking</b>	
Total Parking Spaces	11
Resident Parking Spaces	10
Visitor Parking Spaces	1
<b>Location</b>	New Basement Level Car Parking Area
<b>Compliance</b>	Council's Requirements

*The revised development proposal includes the demolition of the existing structures on the site to facilitate the construction of a residential development. This is in accordance with Council's requirements.*

#### **Car Wash**

*For residential developments containing 4 or more dwellings, a car wash bay is to be provided within the visitor parking area. The car wash bay may comprise a visitor car space. The wash bay is to be adequately drained and connected to the sewer line.*

- **P4** *The use of car spaces is restricted to the occupiers(s) of a development.*
- **P5** *Designate visitor car parking spaces as common property.*
- **P6** *Developments containing adaptable housing must allocate at least one accessible parking space to each adaptable dwelling.*

#### **Accessible Parking**

*Council's DCP requires residential developments to have at least one accessible car parking space for each adaptable dwelling proposed. The development proposes two (2) adaptable units and proposes two (2) accessible parking spaces which complies with Council's DCP.*

#### **Motorcycle Parking**

*Provision 11 of Section 10.2.1 of the North Sydney DCP states that motorcycle parking must be provided at a minimum rate of 1 space per 10 cars or part thereof. However, this development is not proposing any motorbike parking spaces in residential and non-residential areas, which does not comply with Council's DCP.*

### **Bicycle Parking**

*Council's DCP specifies that all new development is to provide on-site, secure bicycle parking facilities. The proposed development makes provision for a total of 7 resident bicycle spaces in storage cages and 1 visitor bicycle space, thereby satisfying Council's bicycle parking code requirements.*

### **Changing / Shower Facilities**

*Not required.*

### **Traffic Generation**

*Generally, the proposed development will not have unacceptable traffic implications in terms of road network capacity. The provided modelling has shown that the level of service is satisfactory and does not impact heavily on the road network with this new development.*

### **Proposed Driveway Access**

*The proposed driveway has been addressed in previous DA iterations; however, it should contain an assessment from a suitably qualified traffic engineer to ensure that the sight lines leaving the driveway are acceptable.*

### **Civil Works on Council Land**

*The proposal indicates civil works on council assets. This must be in accordance with North Sydney Council development engineers' assessment.*

### **Loading Facilities**

*Off street loading and unloading facilities are not required because the development contains less than 30 dwellings pursuant to s10.4 'Loading & Servicing Facilities' of NSDCP 2013.*

### **Conclusion**

*It is recommended that the proposed development address the following:*

- 1. Must address the car wash bay, as visitor parking has not been addressed.*
- 2. Provide an undertaking with North Sydney Council Development Engineers regarding the proposed civil engineering plans.*
- 3. Supply a safety assessment of the proposed driveway access.*

*Should Council approve this development, it is recommended that the following conditions be imposed on the determination:*

- 1. That all civil construction on North Sydney Council land must be undertaken with North Sydney Council Development Engineers.**

*This ensures that all civil works comply with local standards and minimise disruption to public infrastructure and services.*

**2. Any use of Council property shall require appropriate separate permits/approvals.**

*This guarantees that the development adheres to all relevant legal and safety requirements.*

**3. That the driveway access be certified for safe sight distances by way of a safety assessment of the proposed driveway access. This must be undertaken by a suitably qualified engineer.**

*This ensures safe ingress and egress for vehicles, minimising the risk of accidents and ensuring compliance with safety standards.*

**4. A Construction Traffic Management Plan must be prepared by a suitably qualified and experienced traffic consultant and submitted to and approved by the relevant North Sydney Council Traffic Engineer.**

*This plan will mitigate traffic disruption during construction, ensuring safety and efficient movement around the site.*

**5. That all aspects of the car park comply with the Australian Standard AS2890.1 Off-Street Parking and Council's DCP.**

*Compliance with this standard ensures the car park is safe, functional, and meets design requirements.*

**6. That all aspects of bicycle parking and facilities comply with the Australian Standard AS2890.3 and Council's DCP.**

*This ensures the bicycle facilities are safe, accessible, and encourage sustainable transport options.*

**7. That a condition be imposed on the determination stating that Council will not consider any future requests for 'No Parking' restrictions benefitting this development.**

*This prevents potential future parking issues and ensures that the development does not negatively impact on-street parking availability for the broader community.*

**Planning Comment:** the basement of the RFB has been revised to include a carwash within the visitor parking space, a motorbike and visitor bike space included. Council's Traffic Engineer has reviewed the amended Traffic and Parking Assessment Report dated 16 July 2024 and amended plans confirming the compliance is achieved regarding car parking, bicycle and motorbike provision and sight line leaving the driveway are acceptable. Standard condition of consent can be applied concerning the preparation of a Construction Management Plan, the Basement Car Park complies with the Australian Standard AS2890.1 and conditions can be imposed concerning maintenance of existing public parking provisions and public footways and roadways.

## **ENGINEERING**

The application has been referred to Council's Development Engineer who raised no objections subject to appropriate conditions of consent concerning traffic management, stormwater, parking and access, sediment control and excavation.

Notable conditions of consent include a Construction Management Program for consideration by the North Sydney Traffic Committee and Dilapidation Reports for adjoining properties as well as Structural Adequacy and Geotechnical conditions of consent to ensure the protection and structural integrity of adjoining properties.

## LANDSCAPING

The application was referred to Council's Landscape Development Officer who provided the below comments based on the original development documentation (*in italics*):

*The proposal offers a reduced landscaping outcome with far fewer trees than the approved scheme under DA 379/21. Increased paved areas within the front setback, and reduced setback towards the north and east have resulted in what is considered to be a lesser landscaping outcome.*

*Required amendments include substitution of the 24 x Monstera deliciosa with a less invasive species and substitution of 46 x Acmena smithii 'Minor' (75l) with 46 x Syzigium 'Resilience' (75l). 5 x advanced Livistona australis (trunks minimum 3m from base of trunk to base of crown shaft) shall be planted along the north eastern boundary of the subject site and the existing Stenocarpus sinuatus located in the Council verge shall be removed and replaced with 1 x Melaleuca linarifolia (75l).*

Upon receipt of amended plans including an amended Landscape Plan below are additional comments provided (*in italics*):

*The Landscape Area is not considered to comply given the extent of landscaping on structure, if the development is to be approved, the amended Landscape Plan prepared by Secret Gardens dated 6/9/24 is considered to be generally acceptable. All previous tree protection conditions shall apply.*

**Planning Comment:** the landscape plan has been amended improving the provision of trees and the tree canopy is now considered satisfactory. Amendments could be improved further noting the sizeable parking spaces within the basement. A reduced basement and less unbuilt upon area would provide more landscaped opportunity which is important in the promotion of landscaping. A detailed discussion is provided within the compliance table against s1.5.6 concerning the non-compliance with landscaped areas.

## WASTE

Council's Waste Operations and Education Officer reviewed the application and provided the following feedback (*in italics*):

- *Properties with a lift must have a garbage chute and recycling bin on each level or dual garbage and recycling chutes.*
- *Bins must be presented on the kerb.*
- *The residential waste bins need a temporary bin holding area for collection off the street and within 2-10 meters of the street alignment. The proposed holding bay must fit the minimum 6 x 240L bins.*
- *There needs to be functional bulky waste storage area to hold household clean up material. This room must be separate to the waste room.*
- *The proposed development must adhere to the NSC DCP 2013 Section 19 - Waste Minimisation and Management and Part B: Section 1 - Residential Development requirements.*

- *A temporary holding bay for collections must be provided of sufficient size to accommodate the required garbage and recycling bins and located within 2 meters from the street boundary.*
- *The following standard conditions will apply to this proposed development:*

*Condition C11 Waste Management Plan  
Condition C51 Garbage and Recycling Facilities  
Condition I29 Waste Collection.*

**Planning Comment:** the development is considered to generally satisfy the DCP requirements concerning Waste Management. It is noted on the plans that various requirements are provided such as bulk store and garbage room in the basement and there is a temporary bin holding area for collection adjacent to the street. Standard conditions as stipulated by the Waste Operations and Education Officer can be applied.

### **DESIGN EXCELLENCE PANEL (DEP)**

The Design Excellence Panel (DEP) provided a suite of key matters in relation to the design principles under Schedule 9 of SEPP (Housing) 2021 and ADG. These matters were as follows (*in italics*):

#### ***Principle 1 – Context and Neighbourhood Character***

- 1. The Panel commends the quality of documentation provided by the applicant's team, particularly the architectural drawings and 3D views provided as part of the DA submission, including the comparison between the proposed scheme with the NSW LEC-approved scheme.*
- 2. The Panel notes, as part of their site visit and the applicant's design presentation that the architectural expression proposed by the applicant appears of a different and an uncharacteristic nature in comparison to the existing buildings present within the vicinity. The existing local area character offers a well-recognised platform to a variety of prominent and successful buildings such as the Blues Point Tower an example of International style, with numerous well-conserved colonial heritage items in its vicinity.*
- 3. The Panel recognises there are aspects within the proposed expression such as the sandstone base over the stone plinth, and overall emphasis on the horizontal proportions establishes are successful measures in establishing suitability with the character of the area. Furthermore, the bronze cladding for the topmost level is supported by the Panel.*
- 4. There was a discussion about the comments offered by Council's heritage advisor, and the Panel agrees that a greater proportion of solid surfaces (in comparison to voids) would make the architectural expression successful, particularly for the southern façade addressing the harbour. Furthermore, the Panel expressed reservations about any rendered and/or painted surfaces considering longevity and associated long term costs for the building. As an alternative strategy, the Panel recommends maximisation of natural materials with an integral finish and suggested that sandstone, if extracted from the site should be utilised in the architectural expression and landscape design of the proposal.*

5. *In the Panel's view, the architectural expression presented by the applicant borrows different features from different existing buildings within the surroundings and creates an interesting eclectic form, however, the applicant needs to answer the Panel's fundamental question – How does this building belong to McMahon's Point, to this particular site and its vicinity? The current form appears to be based on maximisation of the views to the Harbour, the Sydney Opera House and the Harbour Bridge, and it appears to the Panel that the design prioritises views from the building above other considerations.*

## **Principle 2 – Built Form and Scale**

### **A. Height, bulk, scale, views, overshadowing**

1. *The applicant described in their presentation that their strategy is to locate building massing closer to Warung Street and create a 'skewed' form with a south-eastern alignment addressing the harbour for maximisation of the views.*
2. *The Panel supports the applicant's overall massing strategy. Based on the review of the material provided as part of the DA submission, particularly the comparison with the LEC-approved scheme and extent of the existing built form. It is the Panel's view that the proposed height, scale, and setbacks should be supported as these are largely consistent with the previous LEC-approved scheme.*
3. *There was a discussion about the extent of projection of the lift overrun beyond the roofline and the Panel recommends the applicant should investigate an appropriate lift that would require a compact overrun, thereby minimising the visual prominence of the lift shaft within the Warung Street public domain.*
4. *The Panel notes that the proposed concrete roof does not demonstrate any cross falls for drainage being incorporated within the elevations and building sections, and the Panel is concerned whether a clear 2,700mm floor-to-ceiling height as required by the NSW ADG Part 4C Ceiling heights will be realistically achievable for the top floor. The applicant should investigate further how compliance will be achieved with the ADG, while meeting the requirements under the Design & Building Practitioners Act 2020 and the relevant provisions with the National Construction Code (NCC).*
5. *In terms of consideration of the overall height and bulk, the Panel appreciates that there is slight reduction in the shadows projected to the south on to the Henry Lawson Reserve and this is due to relocation of the built form closer to the north, towards the Warung Street frontage.*
6. *The Panel did not discuss in detail with the applicant, however, is aware that there are submissions concerning the height of the building and height of the lift overrun, since these potentially impact views currently enjoyed from the adjoining properties. Further consideration is to be made by Council's assessment team in regards to these potential view impacts for the neighbours.*

### **B. Building separation**

1. *The Panel discussed that there are potential cross-viewing impacts with the skewing of the eastern part of the building where living areas and balconies are pulled closer to the adjoining property 3 Warung Street resulting in visual privacy concerns.*

2. *Furthermore, the Panel notes that the proposed side setback is less than the 6m requirement as per Design Criteria 1 of Objective 3F-1 of the NSW ADG. Although a combination of blank walls and operable louvers are considered within the eastern elevation, further clarification is required that visual and acoustic privacy to neighbours within property 3 Warung Street is achieved. The applicant should also confirm which windows and rooms within the western elevation of 3 Warung Street are impacted by the proposal.*

C. Excavation, existing ground level and subterranean habitable areas

1. *There was an extensive discussion at the meeting that due to extent of proposed excavation works, the proposed ground floor of the building will be located below the existing Warung Street level, especially impacting the north eastern corner of the site. This results in subterranean bedroom spaces along the northern and eastern corners. Concerns were raised by the Panel whether these rooms will have desirable outlook, daylight and natural ventilation. And the Panel recommends the applicant should investigate further addition of operable highlight windows wherever possible to maximise amenity for the residents. The Panel recommends louvered highlight windows to be added above the sliding glass doors so the residents could benefit from natural ventilation without relying on opening the glass doors.*

D. Street presentation

1. *The Panel discussed that the bin storage provided along the Warung Street interface within the front setback and next to the street entry is considered to be problematic for street presentation. The location creates potential odour issues for habitable areas and bedrooms near the bin storage. The Panel recommends that such temporary holding area or bin storage area should be relocated elsewhere within the site premises, at a more discrete location.*

**Principle 3 – Density**

1. *Principle 3 – Density was not particularly discussed at the meeting, however, the Panel would offer support to the proposed density if the proposal demonstrates improvements and consistency with the recommendations made in this report.*

**Principle 4 – Sustainability**

1. *The Panel expects use of ceiling fans within all bedrooms and living areas as a low energy alternative/augmentation to mechanical A/C systems. Details should be confirmed in the revised architectural drawings.*
2. *Provision of rainwater tanks should be made for collection, storage, and reuse within the subject site for landscape irrigation and other suitable purposes.*
3. *The applicant should include details of the noted roof level photovoltaic system on all architectural drawings and 3D views.*
4. *Full building electrification is encouraged along with the inclusion of EV charging points within the basement carpark, and exclusion of any gas appliances.*
5. *Consideration should be given to the embodied carbon of the proposed materials.*



6. *The Panel notes that given the applicant's built form strategy for the basement, significant amount of sandstone is expected to be extracted from the subject site. The applicant is strongly encouraged to develop a strategy for potentially reusing the sandstone within the building design (cladding, masonry works, internal and/or external surfaces) and landscape design offering an integral finish and sustainability benefits for the project.*

### **Principle 5 – Landscape**

#### **A. Public domain**

1. *The Panel appreciates that the street trees including the 5 Jacaranda mimosifolia will not be impacted and will be retained as part of the landscaped design strategy.*

#### **B. Communal open space**

1. *No communal open space is provided as part of the proposal, contrary to Design Criteria 1 in Objective 3D-1 of the NSW ADG. Based on the ADG, a minimum 25 percentage of the site area is to be offered as a communal open space.*
2. *The Panel discussed that the site is located in close proximity to existing open spaces such as the Blues Point Reserve and the Henry Lawson Reserve, and lack of a communal open space could be justified, however no urban design or context analysis was provided by the applicant in this regard.*
3. *Furthermore, the Panel recommends the applicant should explore incorporation of incidental seating spaces as small congregation areas or casual interaction spaces within the proposal. A suggested strategy is to have a small seating area designed at the pedestrian entry from Warung Street.*

#### **C. Deep soil**

1. *The Panel expects deep soil area to be incorporated as per the Design Criteria in Objective 3E-1 of the NSW ADG, and a clear diagram confirming compliance with the ADG controls should be provided as part of the revised architectural drawings.*

#### **D. Planting on structures**

1. *The Panel supports planting on structures and expects further details confirming the soil depths and volumes to be confirmed as part of detailed 1:20 landscape design sections.*

#### **E. Site coverage**

1. *There was a discussion during de-briefing that the proposal appears to comply with the site coverage controls within the North Sydney Development Control Plan 2013 – s1.5.5, however clarity is required whether any landscaped areas over the basement structures are included within the applicant's calculations.*

### **Principle 6 – Amenity**

#### **A. Solar access and natural cross ventilation**

- 1. The Panel, as part of their deliberation, discussed that full consistency is expected to be achieved with Part 4A Solar and daylight access and Part 4B Natural ventilation the principle matters within the NSW ADG.*
- 2. In this instance, full compliance is not expected for the solar access criteria since Design Guidance within Objective 4A-1 of the ADG mentions that achieving full design criteria may not be possible where ‘significant views’ are oriented away from the desired aspect for direct sunlight. The Panel supports the applicant’s strategy for views maximisation (to the Sydney Harbour) and compliance with the ADG Part 4A is not expected as part of the Panel’s review.*
- 3. Furthermore, the Panel appreciates that all apartments achieve natural cross ventilation significantly exceeding the 60% guidance within Part 4B of the ADG.*

#### **B. Apartment size and layout**

- 1. Overall, the Panel appreciates that home-based design principles are applied to residential apartment living and the internal layouts demonstrate desirable amenity is achieved by the proposal.*

### **Principle 7 – Safety**

#### **A. Common circulation**

- 1. The Panel discussed about potential security issues for the Level 3 apartment since the current layout lacks a transitional foyer space to the apartment main entry door. The applicant should consider further refinement of the layout to avoid potential security issues for the residents by adding a common foyer area between the lift and the apartment entry door, to avoid direct access into the apartment.*

### **Principle 8 – Housing Diversity and Social Interaction**

#### **A. Loss of Dwellings and the proposed apartment mix**

- 1. The Panel notes that the proposal results in loss of dwellings (since the existing residential flat building includes 12 apartments, while the proposal includes 7 apartments in comparison), and the subsequently proposed housing types are primarily larger apartments catering larger households.*
- 2. The merits of the proposed apartment mix and as a balance loss of dwellings within the North Sydney Local Government Area should be further considered by Council’s assessment officers, and be reviewed by the relevant approval authority (North Sydney Local Planning Panel).*

## **Principle 9 – Aesthetics**

### **A. Schedule of finishes and colours / Materials palette**

- 1. The Panel discussed that the proposed colours and finishes are generally well-considered. The bronze cladding is considered acceptable due to its recessive and muted appearance (in comparison to other alternatives).*
- 2. Revised architectural drawings should nominate further details, specifications, manufacturer's details, format, profile for the selected finishes. The Panel expects high quality finishes to be considered in the architectural expression including proper bronze cladding and other elements (rather than aluminium materials with bronze powder-coated finishes).*
- 3. The mid-levels of the building should be considered in a self-finished material with an integral finish and the Panel recommends use of sandstone or high-quality face bricks as an alternative to rendered finishes.*
- 4. The operable louvers in the eastern elevation are supported by the Panel however, Council should condition the opening should only be allowed to a certain angle that avoids potential visual privacy issues with the adjoining neighbour at 3 Warung Street.*

### **B. Composition and proportion**

- 1. Although the Panel did not get to discuss with the applicant, there was a discussion about the vertical 'fins' provided in the eastern part of the building. In the Panel's view, these fins in in-situ concrete would appear heavy and out-of-proportion in comparison with the remaining architectural expression. The Panel recommends reduction in scale of these fins. Additionally, the applicant should explore other self-finished materials or refine the treatment to create a more overall cohesive expression for the building.*
- 2. The roof profile over the Level 3 south eastern balcony be pulled back, since in the Panel's view it will reduce visual prominence of the eastern building wing within the southern streetscape view.*
- 3. Additionally, the applicant should address the comments offered in Part 1 Context and Neighbourhood Character and Part 2 Built Form and Scale of this DEP Report.*

### **C. Extent of glazing**

- 1. The Panel expressed concern regarding excessive glazing and this will create potential impact on the Harbour due to the night-time appearance of the development. In the applicant's view the glazing within the southern elevation consists of 55% of the façade (as described in the DA design report).*
- 2. The Panel recommends Council's assessment officer should confirm accuracy of the solid vs void (glass) analysis within the design report, and the assessment officer should be satisfied of the night-time impact on the Harbour. An updated night-time CGI of the architectural expression should be provided as part of the revised architectural drawings.*

D. Design intent

1. *Developed architectural drawings should fully describe the proposed design intent and include details of each primary façade type in form of 1:20 sections and elevations (or using appropriate detailed 3D design material) indicating materials, construction systems, balustrade types and fixings, balcony edges, window operation, integrated landscape planter beds, junctions, rainwater drainage, including any downpipes and similar details within the proposal.*

**Planning Comment:** Although DEP raised positives with the content of the application there were outstanding issues to resolve concerning the following:

- Requirement for a greater proportion of solid surfaces.
- Reservations over a rendered or painted façade.
- The prioritisation in design for maximising views to the Sydney Harbour, Harbour Bridge and Opera House.
- Reduction in the height of the lift overrun.
- Greater consideration regarding the privacy impact to 3 Warung Street.
- Potential cross viewing impacts with the skewing of the eastern part of the building.
- No common open space therefore opportunities recommended for seating spaces to the front of the RFB.
- Subterranean nature of ground level north eastern unit and the investigation for additional window openings.

The Applicant has addressed some of these issues such as the lift overrun and sufficient evidence has been provided concerning materials and finishes as well as improvement to the front of the building and amenity of the north eastern unit. However, the amenity of No. 3 Warung Street is outstanding and the skewed built form of the building with large balconies remain to the detriment of the appearance of the building/ impact to the conservation area as well as the amenity of occupants at No. 3 Warung Street. The south eastern balconies and the amenity of No. 3 Warung Street is deliberated in detail throughout this report.

## **EXTERNAL REFERRALS**

### **AUSGRID**

Council notified Ausgrid inviting comments pursuant to section 2.48 of SEPP (*Transport and Infrastructure*) 2021. Ausgrid consented to the development subject to the following conditions (*in italics*):

*The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.*

***Ausgrid Underground Cables are in the vicinity of the development.***

*Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.*

*It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA).*

*In addition to BYDA the proponent should refer to the following documents to support safety in design and construction:*

*SafeWork Australia – Excavation Code of Practice.*

*Ausgrid’s Network Standard NS156 which outlines the minimum requirements for working around Ausgrid’s underground cables.*

*The following points should also be taken into consideration.*

*Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.*

*Should ground levels change above Ausgrid’s underground cables in areas such as footpaths and driveways, Ausgrid must be notified, and written approval provided prior to the works commencing.*

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

***Ausgrid Overhead Powerlines are in the vicinity of the development.***

*The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.*

*Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.*

*The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at [www.ausgrid.com.au](http://www.ausgrid.com.au).*

*It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.*

***New Driveways - Proximity to Existing Poles***

*Ausgrid Network standard NS167 requests that proposed driveways should be located to maintain a minimum clearance of 1.5 m from the nearest face of the pole to any part of the driveway, including the layback, to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this norm.*

### ***New or modified connection***

*To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; <https://www.ausgrid.com.au/Connections/Get-connected>*

*Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: [www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries](http://www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries)*

### **TRANSPORT for NSW**

- Sydney Metro

Development Application No. 85/2024 was referred to Sydney Metro on 23 April 2024 in accordance with section 2.99 of the *SEPP (Transport and Infrastructure) 2021*. Amended and additional information was provided to Sydney Metro on 26 September 2024 and Sydney Metro assessed the development in accordance with the requirements of section 2.99(4) of *SEPP (Transport and Infrastructure) 2021* (below concurrence referral comments in italics).

*With regards to the concurrence reference, Sydney Metro has taken into account:*

- (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
  - i. *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
  - ii. *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

### ***Concurrence granted subject to conditions***

*Sydney Metro has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in the DA, subject to the consent authority imposing the conditions at Attachment A.*

*Should the consent authority determine not to impose the conditions provided in Attachment A in the form provided, then concurrence from Sydney Metro has not been granted to the DA.*

*The consent authority is also advised that Sydney Metro's concurrence is not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from Sydney Metro.*

**Planning Comment:** the conditions of consent attached to the concurrence include six (6) pages of conditions including prior to issue of construction certificate conditions, construction conditions, occupation certificate conditions and general conditions of consent. The conditions can be included within the overall conditions of consent if the application is supportable.

## **SUBMISSIONS**

### **Original proposal**

On 19 April 2024, Council notified adjoining properties and the Lavender Bay Precinct of the proposed development seeking comment between 26/04/2024 – 24/05/2024. Council received twenty (20) submissions. The matters raised in the submissions are listed below:

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.

### **Basis of Submissions**

- The development exceeds the height of the current building and the height of the approved building.
- The lift over-run greatly exceeds the approved height of the current approved development and will affect views for properties looking from west to east and from the north.
- The new building allows for very little garden area.
- There will be added competition for street parking as the proposed new building provides fewer parking spaces than the current building.
- Views will be adversely affected particularly those buildings to the north of the site and those on the west looking to the east.
- The development is overdevelopment of the site.
- Out of the 7 trees removed, one will remain and no replacement trees are proposed.
- The proposed vehicular entrance on Henry Lawson Drive will be a major safety problem for vehicles entering and existing the site and for vehicles turning from Blues Point Reserve.
- The new design extends well past the previous design's boundaries approved by Council on the northern and western boundaries.
- We do not believe the building is too big or too high given the surrounds.
- The proposal is a significant improvement to both the existing building and recent approval. It represents a modern architectural expression which will sit nicely in the environment and be a positive attribute to the future character of the area.
- The cutting of the wall on the Henry Lawson Avenue side, for the car parking entrance is not only a heritage concern but an engineering and safety concern to neighbours.
- The proposed design will create a total lack of privacy for the owners of 3 Warung Street.
- Privacy loss to neighbouring private open space from balconies extending eastwards.
- Council should appoint an independent Planning Consultant to assess and prepare a report on the current DA for this important landmark site.
- As the DA involves complete demolition of the building, the existing use rights may be extinguished, and the proposed development may be prohibited under R3 zoning.
- The aesthetic does not fit with the character of the area. It will be obtrusive from land and from the harbour as well, like a space ship has landed.
- Apart from the sandstone base, the concrete balconies will be ugly and the bronze cladding will be blinding when hit by the western sun.
- The 3 metre deep excavation plus basement parking will have incredible drainage problems.
- The proposed building envelope and uncharacteristic exterior will diminish the integral view of the Sydney Opera House and encompassing vista as seen when walking downhill on the western side of Blues Point Road.

- The desire to introduce a very dominant and modern style of building into this heritage area is at odds with the architectural significance of the area.
- The proposal does not respect the curtilage, setbacks, form, scale and style of the heritage buildings in Warung Street.
- The proposed building does not represent the rectilinear alignment of buildings in the McMahon Point Conservation Area which align to the street and side boundaries.
- The development does not complement the HCA being discordant in its curvilinear, horizontally and stepped form, its use of three contrasting materials. The overly large balconies present an unacceptable frontage to the harbour.
- The amount of excavation is excessive and the basement covers almost the whole site. There is an absence in deep soil and planting therefore the development is out of character with buildings in the HCA.
- The proposed parapet roof is not compatible with the HCA where roofs are generally pitched or flat and have eaves.
- The southern elevation is almost all glazing. The long distance view from the harbour will be of glazing and balconies are not articulated into vertical composition elements.
- The mix of shapes and finishes in Warung Street seems jarring and when viewed from the south the large balconies seems un-neighbourly and might they be scaled back?
- The overdevelopment of the site will substantially reduce the available areas of deep soil surrounding the proposed building.
- There is no contiguous shape or continuity of form in the overall building with the Warung Street façade very different from the Henry Lawson Avenue façade.
- The large use of glass is completely out of character with surrounding architecture and the largely white façade is jarring.

### **Amended Proposal**

The applicant submitted amended plans that were renotified to adjoining properties, previous submitters and the precinct for 14 days between 11 October to 25 October 2024. Council received seven (7) submissions and the matters raised in submissions are listed below:

### **Basis of Submissions**

- The amended documents, plans and reports do not address my various significant concerns in the original response to the proposed development.
- This is an entirely new building and cannot masquerade as an ambit claim on an approved DA. This new building involves the full demolition of the existing building therefore should be adhering to the building protocols.
- If these minor adjustments are considered satisfactory how comfortable can rate payers be of the objectivity of the approval process. What does this signal to developers who also wish to over develop sites under the planning provisions.
- The original building on the south west corner is 4.475 metres from the boundary. The proposed DA is 1.85 meters from the boundary blocking views of the Opera House and the bridge from Unit 5, 42 Blues Point Road.
- It is appreciated that the developer has responded positively and the key items that would have detrimentally affected us, namely the oversized lift overrun and increase to the overall roof height have been addressed.
- The development provides a better architectural outcome than the original DA, approved by the LEC.
- The building will not remain inside its current building lines. The DA if granted would allow for an extension which moves the current 4.474m from the boundary down to 1.85m significantly affecting our view from 46 Blues Point Road and property value.
- The applicant should erect height and breath poles to demonstrate the mass of this proposal. By erecting poles, clearly marked it will show to the community the horrific mass and bulk of this proposal, in height and breath.



## **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)*** ***Environmental Planning and Assessment Regulation 2021***

#### **SEPP (Biodiversity and Conservation) 2021** **Chapter 2 – Vegetation in Non-Rural Areas** **Chapter 6 – Water Catchments**

Section 2.6 of the Policy specifies that a person must not clear declared vegetation in a non-rural area of the State without consent of Council. The Policy confers the ability for Council to declare vegetation that consent is required in a Development Control Plan. Section 16 of Part B in NSDCP 2013 specifies declared trees for the purpose of the SEPP which includes trees over 5m in height or canopy.

Council's Landscape Development Officer raises no objections to the proposed removal of the trees within the subject site and the amended Landscape Plan prepared by Secret Gardens dated 6/9/24 is considered to be generally acceptable.

The amended Landscape Plan proposes to retain a *Plumeria* in the north western corner of the site and proposes four (4) replacement trees proposed – *Tristaniopsis laurina* – *Water Gum* in the south eastern corner of the site, two (2) *Tristaniopsis laurina* – *Water Gum* on the western side boundary and three (3) *Lagerstroemia* 'Natchez' adjacent to the western side boundary.

Retention of the *Jacaranda* and street trees and replacement tree planting is supported to satisfy the respective aims under Chapter 2 of the SEPP being the protection of the biodiversity values of trees and preserving the amenity of non-rural areas.

With respect to Chapter 6, the proposed development subject to appropriate stormwater control and erosion and sediment controls would not adversely affect the quantity or quality of water entering Sydney Harbour, being a regulated catchment for the purpose of Section 6.6 of the Policy. The application satisfies the requirements of the Policy.

#### **SEPP (Resilience and Hazards) 2021** **- Chapter 2 Coastal management**

The subject site is located in a coastal environmental and coastal use area therefore Division 3 and 4 in Part 2.2 'Development controls for coastal management areas' of Chapter 2 Coastal Management apply.

Below is NSW Planning Portal mapping detailing the site is situated within the Coastal Environment Area and Coastal Use Area.



**Figures 12 & 13 – SEPP Resilience and Hazards 2021 NSW Planning Portal mapping detailing site is within the Coastal Environment Area (left) and Coastal Use Area (right)**

Section 2.10(1), Division 3 Coastal environment area of *SEPP (Resilience and Hazards) 2021* states development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following –

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) Aboriginal cultural heritage, practices and places,*
- (g) the use of the surf zone.*

**Comment:** the development is situated within a residential site separate from coastal environmental areas of biophysical, hydrological and ecological environment not impacting on features such as public open space, the surf zone, marine and undeveloped headlands and rock platforms. The development is appropriately sited to minimise an impact to elements of the coastal environment stipulated in subsection (1) of 2.10 ‘Development on land within the coastal environment area’.

Section 2.11(1), Division 4 Coastal use area of *SEPP (Resilience and Hazards) 2021* states development consent must not be granted to development on land that is within the coastal use area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following –

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage.*

**Comment:** the development is situated within a residential site not affecting access to the foreshore along Henry Lawson Reserve and Blues Point Reserve.

The development as proposed due to the siting of the RFB closer to Warung Street has an improved shadow outcome compared to that approved under the LEC determination and views from public places to foreshores will remain unaffected with the development generally within the approved building envelope.

The RFB will replace an existing uncharacteristic building within the McMahons Point South Conservation Area and the proposed building inclusive of its size and materials and finishes would not impact upon the visual and scenic qualities of the coast.

The development is appropriately sited and designed to not adversely impact upon the foreshore and the visual and scenic qualities of the coast satisfying subsection (1) of 2.11 'Development on land within the coastal use area'.

- **Chapter 4 Remediation of Land**

Section 4.6 of the SEPP requires the consent authority to consider whether the land is contaminated, and if so whether the land is suitable for the intended use or any remediations measures required. The subject site has been used for residential purposes (residential flat building) for over 50 years and as such is unlikely to contain any contamination. Further, the Applicant provided information such as a geotechnical report, demonstrating measures for disposal of excavated material including the requirement for environmental testing to determine the most appropriate off-site destination for the surplus excavated material.

**SEPP (Sustainable Buildings) 2022**

A valid BASIX Certificate (*No. 1230923M\_03 dated 05 March 2024*) for the proposed development was submitted with the original application to satisfy the Aims of the SEPP. However, an amended BASIX Certificate has not been submitted for the amended plans therefore Council's standard BASIX condition will need to be modified under the Construction Certificate if the development were approved.

**SEPP (Transport & Infrastructure) 2021**

- **Chapter 2 Infrastructure**

Council notified Ausgrid inviting comments pursuant to section 2.48 of *SEPP (Transport and Infrastructure) 2021*. Ausgrid raised no objections subject to conditions to ensure no interference with existing underground cables in the vicinity of the development.

Development Application No. 85/2024 was referred to Sydney Metro in accordance with section 2.99 of the *SEPP (Transport and Infrastructure) 2021*. Following a review of the DA documents Sydney Metro advised that they were not in a position to make a decision on the granting of concurrence until additional information such as a Survey Plan, Land Title, Cross Sectional Drawings, Structural Design Documentation, Electrolysis Report and Engineering Impact Assessment is provided for Sydney Metro's further review.

Additional information was duly provided and Sydney Metro as the relevant authority for the Sydney Metro City & Southwest rail corridor assessed that the development was in accordance with the requirements of section 2.99(4) of the *SEPP (Transport and Infrastructure) 2021* therefore concurrence granted subject to conditions.

### **SEPP (Housing) 2021**

#### **- Chapter 2 Affordable Housing**

Part of the Council request for amended plans and additional information required that the application addressed Part 3 'Retention of existing affordable rental housing' in Chapter 2 Affordable Housing of the SEPP Housing 2021.

Part 3 'Retention of existing affordable rental housing' applies to low rental residential buildings on land in the Eastern Harbour City. There are exclusions for buildings approved under the Strata Schemes Development Act 2015, however the building was strata subdivided in 1966 (Strata Plan 1927).

Insufficient information was initially provided confirming whether the existing residential flat building comprises low rental dwellings pursuant to the definition in cl. 45 of the SEPP.

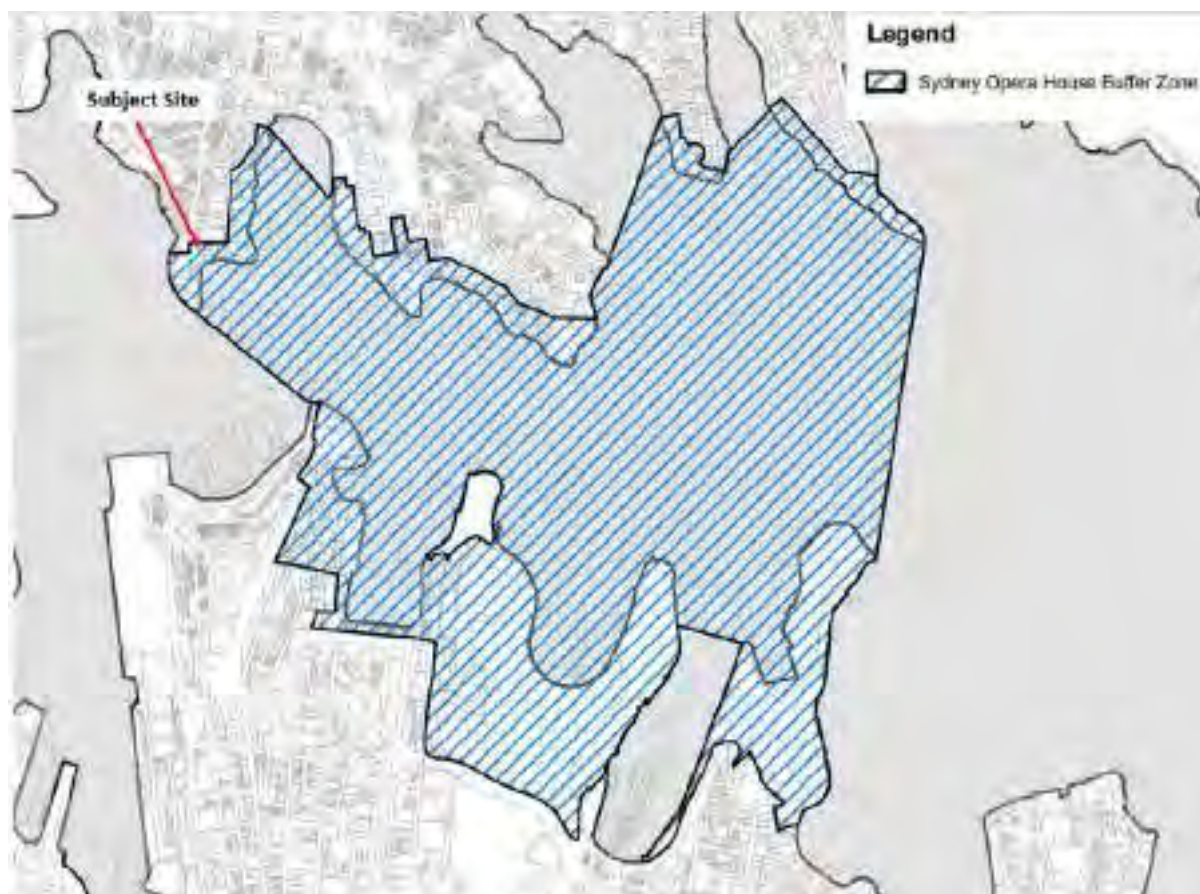
The Applicant sought legal advice which is included within the RFI response confirming that as there is a consent granted to DA 379/21, then clause 47 which includes consideration to retention of affordable housing does not apply by virtue of clause 46(2) the consent granted by the Court included strata subdivision.

In addition, a pathway also exists via the savings and transitions provisions of Part 2 Schedule 8 of the 1975 Act, with similar savings provisions in the 1973 Act, protecting consents/stratas under the former Act i.e the Conveyancing (Strata Titles) Act 1961 under which the existing building was approved.

### **SEPP (Precincts – Eastern Harbour City) 2021**

#### **- Appendix 1 State significant precinct – Sydney Opera House**

The site is located within the Sydney Opera House buffer zone as identified in the SEPP (Precincts – Eastern Harbour City) 2021 Sydney Opera House Buffer Zone Map.



**Figure 14 – SEPP (Precincts – Eastern Harbour City) 2021 Sydney Opera House Buffer Zone Map**

In deciding whether to grant consent to the development in the buffer zone, the consent authority must consider the need for the development to satisfy the following subclauses in Appendix 1, Part 1 (2) of the SEPP.

- (a) preserve the world heritage value of the Sydney Opera House, and

**Comment:** although sited within the buffer zone of the Sydney Opera House the development is not in the immediate vicinity of the Opera House situated approximately 2km in a north western direction across the Sydney Harbour. The location of the subject site and any visual impact to the Opera House is also diminished by more prominent iconic buildings and structures situated close to the Opera House such as the Sydney Harbour Bridge, Hickson Road Reserve and Circular Quay.

It is also noted that the building is designed to not mimic the architectural elements of the Opera House and is designed as a building intended to be responsive to the site opportunities and surrounds. The materials and finishes are distinctively different from the Opera House such as sandstone for the lower ground, textured render (grey) for the elevations and a bronze metal upper level.

- (b) preserve views and vistas between the Sydney Opera House and other public places in the buffer zone, and

**Comment:** the site is situated behind (to the north) both Henry Lawson Reserve and Blues Point Reserve and is a corner site adjoining Blues Point Road to the west, Warung Street to the north and Henry Lawson Avenue to the south and adjoins a dwelling (No. 3 Warung Street) to the eastern boundary.

The development would therefore preserve views and vistas between the Sydney Opera House and public places such as Henry Lawson Reserve and Blues Point Reserve.

- (c) avoid diminution of the visual prominence of the Sydney Opera House when viewed from other public places in the buffer zone.

**Comment:** the visual prominence of the Sydney Opera House will remain when viewed from public places in the buffer zone. It is notable referring to the above map that the subject site is within the north western edge of the buffer zone behind the public reserves Henry Lawson Reserve and Blues Point Reserve and other public places of note such as Bradfield Park and Mary Booth Lookout and other reserves and public spaces to the southern side of the harbour will continue to have views uninterrupted.

#### - **Chapter 4 Design of residential apartment development**

The proposed development involves the construction of a residential flat building that is over three (3) storeys and comprises more than four (4) dwellings. Consequently, Chapter 4 of the SEPP applies to the application. Below is an assessment of the proposed development against the design quality principles contained in Schedule 9 of the SEPP and the Apartment Design Guide (ADG).

#### **Principle 1: Context and neighbourhood character**

The proposed skewed alignment of the southern elevation together with the large south eastern balconies do not respond appropriately to the context or is compatible with built features of the area.

The southern elevation does not adequately respond to the desirable elements of the area primarily due to the inclusion of extensive glazing which is excessive and uncharacteristic of the McMahons Point South Conservation Area. For these reasons, Principle 1 of the ADG is not satisfied.

#### **Principle 2: Built form and scale**

Amendments have been made to improve the height of the lift overrun which is a positive outcome and the site coverage is now compliant. The building above the basement is sited appropriate to Warung Street with a greater setback to the rear and generally the building appropriately addresses each boundary apart from the southern elevation.

The skewed form on the south eastern part of the RFB is however not supported inappropriate to the existing or desired future character of the street or surrounding buildings. Additionally the bulk of the building could be revised with greater setbacks to the eastern boundary to improve the amenity to the adjoining dwelling at No. 3 Warung Street.

#### **Principle 3: Density**

The proposed development seeks to provide high amenity family type apartments and density of apartments is considered appropriate within the R3 Medium Density Residential Zone.

The density of the RFB and proposed apartments are well supported by the provision of private vehicular parking, access to public transport, access to reserves and highly accessible to sources of employment whether North Shore or City of Sydney.

#### **Principle 4: Sustainability**

The proposed development achieves a good outcome in terms of amenity for occupants with all units receiving cross ventilation. The roof will comprise of solar panels to improve the energy efficiency of the building and features such as ceiling fans, rain water tanks and car spaces equipped with EV charging points are committed to as outlined in the response to Council's RFI.

#### **Principle 5: Landscape**

The impact of the overly large basement footprint will not enable sufficient landscaping to reduce the impact of the building on its surrounds.

The landscaping should be improved subject to amendments to the size of the basement and increase in deep soil planting and landscaped area.

#### **Principle 6: Amenity**

The development provides good amenity to the residents of the apartments noting all units achieve cross ventilation and each apartment are significantly greater in area including their private open space compared to the requirements in the ADG.

There are concerns which remain as to the amenity of No. 3 Warung Street, the development is not considered reasonable. The south eastern balconies are excessive in size and orientated to allow direct overlooking into No. 3 Warung Street, impacting upon the private open space, pool plus living room windows over 3 floors, of No. 3 Warung Street. Amendments are also required to reduce the extent of openings with excessive reliance on louvres to the eastern side elevation to further improve the amenity of No. 3 Warung Street.

#### **Principle 7: Safety**

The RFB is considered appropriately designed to ensure a high level of safety for people occupying or visiting the site.

The development clearly distinguishes various parts of the site and building for public, communal and private use.

It is noted DEP provided comments regarding improving the security of the Level 3 apartment as there is no transitional foyer space to the apartment. A minor change is achieved with an addition of a door so that the hallway of the Level 3 unit could have additional security.

#### **Principle 8: Housing diversity and social interaction**

The proposed development does seek a different housing typology compared to the existing or that approved proposing less units but units to serve large households. This is considered satisfactory throughout the report primarily due to the zoning being R3 Medium Density where large dwellings are commonplace. Below is confirmation of the existing, approved and proposed number of units and housing mix.

Existing RFB	=	12 Apartments (3 x 1 bed & 9 x 2 bed)
Approved RFB (DA 379/21)	=	9 Apartments (5 x 3 bed & 4 x 2 bed)
Proposed RFB	=	7 Apartments (6 x 3 bed & 1 x 4 bed)

**Principle 9: Aesthetics**

The development achieves a building with a varied and balanced composition of elements, colours and materials with a sandstone lower ground rendered middle level and bronze clad upper level. The lower ground sandstone merges well with the existing sandstone boundary wall and the bronze clad upper level is recessive and muted in appearance supported by DEP and Council’s Heritage Officer.

Apartment Design Guide (ADG)

The proposal has also been assessed against the relevant provisions within the ADG as follows:

Amenity	Design Criteria	Comment	Compliance
<p><b>2F - Building Separation</b></p>	<p><i>Minimum separation distances for buildings are:</i></p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> <li>• <i>12m between habitable rooms/balconies (6m to boundary)</i></li> <li>• <i>9m between habitable and non-habitable rooms (4.5m to boundary)</i></li> <li>• <i>6m between non-habitable rooms (3m to boundary)</i></li> </ul>	<p>The site is a corner lot with boundaries to streets on the northern, western and southern sides. The site shares an eastern side boundary with No. 3 Warung Street.</p> <p>The development proposes a variety of side setbacks to the eastern boundary ranging from 3.555m for the building in the north eastern corner of the site to 5.565m for the south eastern balconies.</p> <p>It is noted there are varying privacy measures are sought to ensure visual privacy is maintained to No. 3 Warung Street inclusive of a landscaped buffer within the side setback at ground level and blank walls for the upper levels or bronze non-operable louvres.</p> <p>It is noted that the louvres that serve an eastern side window for the Level 3 Unit 301 do not cover the entire window presumably to ensure a view from the living area to the Harbour Bridge and Opera House. This is not supported and greater emphasis should be on preventing views or even partial views to the neighbouring No. 3 Warung Street especially given the separation distances proposed.</p> <p>In consideration of the suitability of the side setbacks reference was made to the previous approved plans for DA No. 379/21 confirming a consistency in building separation.</p>	<p>No</p>





**Figures 15 & 16 - LEC Approved Ground Level Plan (left) and Proposed Ground Level Plan (right)**



**Figures 17 & 18 - LEC Approved Level 1 Plan (left) and Proposed Level 1 Plan (right)**



**Figures 19 & 20 - LEC Approved Level 2 Plan (left) and Proposed Level 3 Plan (right)**

The above diagrams consider the setbacks approved in the previous application compared to the proposed noting non-compliant side setbacks are maintained in the current proposal and there is greater bulk to the north eastern corner of the site compared to that previously approved.

<p>Note – the proposed floor plans show minimal dimensions from the eastern external wall to the eastern side boundary on the ground level and no dimensions are shown for the Levels above. Additional dimensions detailing the various setbacks from the eastern elevation and balconies to the eastern boundary is important to accurately convey the compliances and non-compliances with the requirements of the ADG and it is also a requirement stipulated in the North Sydney Development Application Checklist.</p>			
<p><b>3D - Communal Open Space</b></p>	<p><i>Communal open space has a minimum area equal to 25% of the site.</i></p> <p><i>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</i></p> <p><i>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting</i></p> <p><i>Communal open space is designed to maximise safety</i></p>	<p>The previous approval included a large north western corner of the site dedicated to common open space with a communal sheltered seating area.</p> <p>The current proposed development seeks to remove common open space dedicating much of the ground level to private open space for the two (2) ground level apartments.</p> <p>In response to not providing COS the Applicant seeks larger POS balconies and the Applicant notes the site is situated adjacent to existing open spaces such as Blues Point Reserve and Henry Lawson Reserve.</p> <p>Amendments have also been made providing a communal seating area to the building entry in response to feedback received by the Design Excellence Panel (DEP).</p> <p>DEP also noted that the lack of provision in COS could be justifiable and it is noted in the ADG that where developments are unable to achieve the provision of COS alternative amenity solutions should be provided including larger balconies and demonstrate good proximity to public open space.</p>	<p>No, however acceptable subject to merit assessment</p>
<p><b>3E – Deep Soil Zones</b></p>	<p><i>Deep soil zones are to meet the following minimum requirements:</i></p> <ul style="list-style-type: none"> <li>• <i>3m minimum width</i></li> <li>• <i>Minimum 7% of the site area</i></li> </ul>	<p>The basement ensures compliant deep soil within the setbacks/fringes of the site particularly the northern and southern setbacks. The total deep soil area is 266.5m<sup>2</sup> (27%) compliant with the minimum 7% stipulated in Design Criteria 1 of Objective 3E-1.</p> <p>The deep soil compliance is shown in the Landscape Area Diagram in Dwg No. DA-531 Issue C.</p>	<p>Yes</p>

<p><b>3F - Visual privacy</b></p>	<p><i>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</i></p> <p><i>6m (between habitable rooms and balconies to boundaries)</i>  <i>3m (between non-habitable rooms)</i></p>	<p>The site shares an eastern boundary with No. 3 Warung Street.</p> <p>The development proposes a variety of side setbacks to the eastern boundary ranging from 3.7m for the building in the north eastern corner of the site to 5.5m for the south eastern balconies.</p> <p>Visual privacy measures are sought inclusive of a landscaped buffer within the side setback at ground level and blank walls for the upper levels or bronze operable louvres.</p> <p>It is noted windows are proposed with a 3.4m side setback for non-habitable rooms (bathrooms) on the first three levels. The windows are modest in size and comply with the minimum 3m side setback requirement.</p> <p>However, there are concerns that the privacy measures are over reliant on louvres for privacy, privacy impacts from an eastern side window for Unit 301 and an unsatisfactory separation distance/ privacy outcome for the southern eastern skewed balconies.</p>	<p>No</p>
<p><b>3G – Pedestrian Access &amp; Entries</b></p>	<p><i>Building entries and pedestrian access connects to and addresses the public domain</i>  <i>Access, entries and pathways are accessible and easy to identify</i></p>	<p>The pedestrian entry is clearly identifiable from Warung Street and an additional entry is proposed off Blues Point Road.</p> <p>The building entry and pedestrian access is designed to address the public domain.</p>	<p>Yes</p>
<p><b>3H – Vehicle Access</b></p>	<p><i>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</i></p>	<p>The car parking entry will remain as per the previous approval (DA 379/21).</p> <p>The car park entry is considered to generally comply with the design guidance in Objective 3H-1 because the entry point is behind the front building line, the entry is at the lowest point of the site, located on what is considered a secondary street and the car parking entry doors are recessed to minimise visibility from the street.</p>	<p>Yes</p>

<p><b>3J – Bicycle and Car parking</b></p>	<p><i>For development in the following locations:</i></p> <ul style="list-style-type: none"> <li>• <i>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</i></li> <li>• <i>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i></li> </ul> <p><i>The car parking needs for a development must be provided off street</i></p> <p><i>Parking and facilities are provided for other modes of transport</i></p>	<p>The site is not located within 800 metres of a railway station or on land zoned B3 Commercial Core or B4 Mixed Use therefore the minimum car parking requirements as set out in the Guide to Traffic Generating Developments is not applicable.</p> <p>The proposed basement is designed to include the provision of other modes of transport principally bicycle parking and a motorbike parking space satisfying Objective 3J-2.</p>	<p>Yes</p>
<p><b>Amenity</b></p>	<p><b>Design Criteria</b></p>		
<p><b>4A - Solar and daylight access</b></p>	<p><i>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</i></p>	<p>29% of units (2 out of 7) living rooms and private open space receive more than 2 hours solar access.</p> <p>Sun eye view diagrams for the winter solstice confirms 2 units receive a minimum 2 hours being the eastern Level 2 unit and the Level 3 unit.</p> <p>The Applicant provides an explanatory note in the Solar Access Diagram (DA-601 Issue C) highlighting that living rooms and private open space have been orientated to the southern aspect of the site due to the significant city and harbour views.</p> <p>Design guidance in Objective 4A-1 'Solar and daylight access' notes achieving design criteria may not be possible on some sites due to south facing sites and where significant views are orientated away from the desired aspect for direct sunlight.</p>	<p>No, however acceptable subject to merit assessment</p>

		<p>The site is noted for its highly sought southern views and it is considered reasonable to locate living rooms and private open space to the south.</p> <p>Further, occupants of the respective units benefit from more than one aspect.</p>	
<b>4B - Natural ventilation</b>	<p><i>All habitable rooms are naturally ventilated.</i></p> <p><i>The layout and design of single aspect apartments maximises natural ventilation.</i></p> <p><i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents – At least 60% of apartments are naturally cross ventilated</i></p>	<p>The units are designed as dual aspect cross through apartments maximising natural cross ventilation.</p> <p>100% of apartments are naturally cross ventilated as shown in the Cross Flor Ventilation Diagram (DA-601 Issue C).</p>	
<b>4C - Ceiling Heights</b>	<p><i>Ceiling height achieves sufficient natural ventilation and daylight access - Minimum 2.7m (habitable rooms), 2.4m for second floor where it does not exceed 50% of the apartment area.</i></p>	<p>The development is designed so that apartments have a minimum 2.7m floor to ceiling height compliant with the minimum ceiling height in Design Criteria 1 of Objective 4C-1.</p> <p>The floor to floor heights is 3.15m which is 0.05m above that detailed within Figure 4C.5. However, the 450mm is reasonable to accommodate a floor slab and provision of services within the ceilings of each floor.</p>	Yes
<b>4D 1 - Apartment size and layout</b>	<p><i>Apartments are required to have the following minimum internal areas: 50m<sup>2</sup> (1B), 70m<sup>2</sup> (2B), 90m<sup>2</sup> (3B)</i></p> <p><i>Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each</i></p> <p><i>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</i></p>	<p>Each apartment is designed to exceed the minimum internal areas as well as the additional space for additional bathrooms and space required for a bedroom unit stipulated in Design Criteria 1, Objective 4D-1.</p> <p>The units are designed so that every habitable room has a window not less than 10% complying with Design Criteria 2, Objective 4D-1.</p> <p>Comments by the Design Review Panel as to the further addition of a highlight window to the ground floor north eastern bedroom of Unit G02 has been adopted in the amended architectural plans to maximise daylight to the habitable room.</p>	Yes

Apartment	Number of Bedrooms	Number of Bathrooms	Minimum internal area	Proposed internal area	Complies
Unit G01	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	197m <sup>2</sup>	Yes (exceeds by 97m <sup>2</sup> )
Unit G02	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	164m <sup>2</sup>	Yes (exceeds by 64m <sup>2</sup> )
Unit 101	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	180m <sup>2</sup>	Yes (exceeds by 80m <sup>2</sup> )
Unit 102	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	152m <sup>2</sup>	Yes (exceeds by 52m <sup>2</sup> )
Unit 201	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	179m <sup>2</sup>	Yes (exceeds by 79m <sup>2</sup> )
Unit 202	3	3	100m <sup>2</sup> = 90m <sup>2</sup> plus 10m <sup>2</sup>	152m <sup>2</sup>	Yes (exceeds by 52m <sup>2</sup> )
Unit 301	4	5	100m <sup>2</sup> = 90m <sup>2</sup> plus 37m <sup>2</sup>	297m <sup>2</sup>	Yes (exceeds by 127m <sup>2</sup> )
<b>4D 2 - Apartment size and layout</b>	<ol style="list-style-type: none"> <li><i>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</i></li> <li><i>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</i></li> </ol>		<p>The development designs each respective apartment so that habitable room depths are not excessive and open plan layouts have an appropriate depth as well as located with glazed aspects to ensure the environmental performance of each unit is maximised.</p>		Yes
<b>4D 3- Apartment size and layout</b>	<ol style="list-style-type: none"> <li><i>Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space)</i></li> <li><i>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</i></li> <li><i>Living rooms or combined living/dining rooms have a minimum width of:</i> <ul style="list-style-type: none"> <li><i>3.6m for studio and 1 bedroom apartments</i></li> <li><i>4m for 2 and 3 bedroom apartments</i></li> </ul> </li> </ol>		<p>The bedrooms including master bedrooms are designed with a minimum area greater than 9m<sup>2</sup> or 10m<sup>2</sup> and the bedroom dimensions are greater than 3m.</p> <p>The width of the living rooms comply with the minimum 4m and the cross through apartments for the first three levels comply with the minimum 4m width stipulated in Design Criteria 4 of Objective 4D-3.</p> <p>The bedrooms within each apartment are also provided with robes which exceed the minimum 1.5m stipulated in the design guidance in Objective 4D-3 of the ADG.</p>		Yes

<p><b>4E - Private open space and balconies</b></p>	<p><b>Design Criteria 1</b></p> <p><i>All apartments are required to have primary balconies as follows:</i></p> <p><i>3+ bedroom apartments 12m<sup>2</sup> minimum depth 2.4m</i></p>	<p>The balconies serving the above ground apartments exceed the minimum area stipulated in Design Criteria 1.</p>	<p>Yes</p>
	<p><b>Design Criteria 2</b></p> <p><i>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</i></p>	<p>The apartments at ground level have private open space which exceeds the minimum area of 15m<sup>2</sup>.</p>	<p>Yes</p>
	<p><b>Objective 4E-2 - Primary private open space and balconies are appropriately located to enhance livability for residents.</b></p>	<p>The private open space and balconies are appropriately located adjacent to living/dining and kitchen areas of each apartment.</p> <p>Although the private open space and balconies face south this is understandably preferable with orientation to the Harbour and Henry Lawson Reserve.</p>	<p>Yes</p>
	<p><b>Objective 4E-3 - Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</b></p>	<p>The balconies comprise a predominantly glass balustrade for the south facing balconies not desirable within the ADG and not a positive heritage outcome for the McMahons Point Conservation Area. Design guidance in the ADG prefers the use of solid balustrades. The ADG also notes balustrades should respond to the location.</p> <p>Instead of glazing, an alternative outcome as per the Heritage referral is the use of metal balustrades more in keeping with the existing balustrades and those approved by the LEC.</p> <p>The use of glazing for the balconies is not a supportable outcome for the building and its context within the surrounding conservation area.</p>	<p>No</p>

	<p><b>Objective 4E-4 - Private open space and balcony design maximises safety.</b></p>	<p>The south eastern balconies are not sufficiently integrated into the building being skewed and forward of the rear building line.</p> <p>DEP noted the skewing of the eastern part of the building and where living areas and balconies are pulled closer to the adjoining property 3 Warung Street resulting in visual privacy concerns. DEP also state in the assessment against Principle 1 – Context and Neighbourhood Character of the ADG that the current form of the building appears to be based on maximisation of the views to the Harbour, the Sydney Opera House and the Harbour Bridge.</p> <p>The proposed skewed arrangement of the balconies is representative of integrated balconies within the building dominating the overall architectural form of the building contrary to Objective 4E-3 in the ADG.</p> <p>The ground level private open space is generally flat and landscaping complements the usability for the ground level private open space. The balconies are not climbable and are designed at a NCC compliant height.</p>	<p>Yes</p>
<p><b>4F - Common circulation and spaces</b></p>	<p>1. <i>The maximum number of apartments off a circulation core on a single level is eight</i></p>	<p>The development complies with a maximum two apartments off the circulation core.</p>	<p>Yes</p>
<p><b>4G - Storage</b></p>	<p><i>Studio apartments - 4m<sup>3</sup>          1 bedroom apartments - 6m<sup>3</sup>          2 bedroom apartments - 8m<sup>3</sup>          3 + bedroom apartments - 10m<sup>3</sup></i></p>	<p>The development complies providing in excess of 10m<sup>2</sup> storage which is located in the units and in the basement.</p> <p>The submitted plans and tables in Dwg SEPP 65 – Storage, Private &amp; Communal Open Space (DA-603 Issue C).</p>	<p>Yes</p>



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

### **1. Permissibility**

The proposed works is defined as a residential flat building which is ordinarily prohibited in the zone. The Proposal, however, benefits from existing use rights under Section 4.65 – 4.67 of the *Environmental Planning and Assessment Act 1979* (as amended).

Below is consideration of Cl 4.65 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) confirming that there is sufficient evidence that development consent was granted for the current use of the site as a residential flat building before amendment 35 of *NSLEP 2013* on 19 May 2023 which amended *NSLEP 2013* to prohibit residential flat buildings in the R3 Zone.

#### **Section 4.65 – Definition of “Existing Use”**

The existing site comprises an existing RFB which was recently approved for alterations and additions subject to Development Application No. 379/21 (LEC Determination No. 2022/157325). Below is a short planning history of the site confirming the use is lawful prior to residential flat buildings being prohibited on 19 May 2023 by amendment 35 of *NSLEP 2013*.

- The existing residential flat building was constructed pursuant to Development Consent 64/16152 by North Sydney Municipal Council in 1965.
- Partial demolition and alterations and additions to the residential flat building under Development Application No. 379/21 was refused by NSLPP on 1 June 2022.
- Refusal of DA No. 379/21 was appealed and the appeal was upheld by the LEC (2022/157325) on 28 June 2023.
- On May 2023, Amendment No. 35 to *NSLEP 2013* was made and came into force. Amendment No. 35 amended the Land Use Table to *NSLEP 2023* such that residential flat buildings are prohibited in the R3 Medium Density Residential Zone.

There is sufficient evidence confirming the site benefits from existing use rights.

#### **Section 4.66 of the Act - Continuance of and limitations on existing use**

The development application seeks to rely upon the established existing use rights as defined in Section 4.66 of the Act to continue the use of the site as a residential flat building.

Section 4.66 of the Act outlines the provisions relating to the continuance of and limitation on, existing use. The site has continually been used as a residential flat building without abandonment as described in sub-section 4.66(3). The recent site visits confirmed the RFB is currently occupied and therefore in use. The most recent development application DA 379/21 court determination confirmed the partial demolition of and alterations and additions to the residential flat building.

The regulations make provisions for the nature of development that can be undertaken with respect to developments that maintain existing use rights.

### **Clauses 165-166 of the *Environmental Planning & Assessment Regulation 2021* (The regulations)**

Clauses 165-166 of the Regulation are also relevant to the proposed development because these clauses set out the nature of development allowed under existing uses, the matters for consideration for rebuilding and the consent requirements for an existing use.

The rebuilding of the RFB would be constructed on the land to which the existing use is carried out. The proposed development is therefore considered to engage Clauses 165-166 of the Regulation which allows an existing use to; *be enlarged, expanded or intensified, or be altered or extended, or be rebuilt.*

### **Land and Environment Court Planning Principle – “Existing Use Assessment” and further case law.**

The application relies on existing use rights and a merit assessment is to be made based on the planning principles which were stated by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council* (2005). In *Stromness Pty Ltd v Woollahra Municipal Council* (2006) NSWLEC 587 the planning principles were considered and confirmed by Justice Pain.

In addition, reference is to be made to a recent L & E Court judgment *Made Property Group Pty Limited v North Sydney Council* [2020] NSWLEC 1332 for a residential flat building on land zoned R3.

This judgment concluded that whilst a development is entitled to existing use rights, the consent authority should undertake an assessment of the proposed development in line with the requirements of s 4.15 of the Act, including that in s 4.15(1)(a)(i) which requires an assessment against the provisions of any environmental planning instrument, such as the LEP. In addition, it was also concluded that the proposed development be assessed against the relevant DCP provisions. Therefore, any future development on the subject site must have regard to the relevant planning standards and controls as contained in the LEP and DCP including the submission of a written Clause 4.6 variation should there be a breach of LEP development standard.

#### **(a) Principle 1 - How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?**

With respect to the first principle, *Fodor* establishes that:

*While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.*

The proposed development is assessed against the relevant planning controls relating to height, site coverage and setbacks that apply to a dwelling house, semi-detached dwelling or attached dual occupancy which is permissible on the surrounding sites. The works subject to this development application are not considered reasonable proposing an additional shadow impact to the western façade of No. 3 Warung Street and due to the setbacks proposed including the orientation of the bulk and scale of the building to No. 3 Warung Street. A more sympathetic outcome is required to the most affected adjoining property and a more sympathetic outcome is required to the context with the neighbouring dwelling.

**(b) Principle 2 - What is the relevance of the building in which the existing use takes place?**

With respect to the second principle, *Fodor* establishes that:

*Where the change of use is proposed within an existing building, the bulk and scale of the building are likely to be deemed acceptable, even if the building is out of scale with its surrounding, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.*

The LEC decision concerning *Made Property Group Pty Limited v North Sydney Council* [2020] NSWLEC 1332 is pertinent to this application being a similar example of an application to rebuild an RFB with variations to the height of building and a building that generally challenges core controls concerning setbacks and landscaped area. The LEC in the *Made Property Group Pty Limited v North Sydney Council* judgement dismissed the appeal and found the variation of the HOB development standard to be not well founded.

The development is not automatically entitled to a building similar to that approved by the LEC and it is notable that the new building seeks variations to height, landscaped area and setbacks and an entirely different form which requires a merit assessment against the applicable planning controls.

**(c) Principle 3 - What are the impacts on adjoining land?**

With respect to the third principle, *Fodor* establishes that:

*The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.*

The development has been assessed under the same scrutiny as a permitted use within the zone and this is of particular concern due to the proximity of No. 3 Warung Street. The development seeks a reduced setback to the north eastern corner of the site increasing shadows cast to No. 3 Warung Street, insufficient blank walls and privacy measures are proposed to the eastern elevation and the skewed balconies provide direct cross views and overlooking affecting the private open space of No. 3 Warung Street. The development provides a worse outcome to the amenity of No. 3 Warung Street compared to the existing and previously approved DA not maintaining reasonable amenity to the neighbouring property.

**(d) Principle 4 - What is the internal amenity?**

With respect to the fourth principle, *Fodor* establishes that:

*Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.*

The internal amenity for the proposed apartments has been deliberated in detail throughout the report. The development is noted in providing units well in excess of the minimum size stipulated in the ADG both internally and for private open space and each unit has more than one aspect ensuring natural cross ventilation.

## 2. Objectives of the zone

The objectives for a R3 Medium Density Residential Zone are stated below (*in italics*):

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal is inconsistent with the above objectives of the zone because the development compromises the amenity of the surrounding area and does not ensure a high level of residential amenity particularly for occupants of the most affected neighbouring property adjoining the site to the east (No. 3 Warung Street). Concerns regarding the amenity impact to No. 3 Warung Street are considered in detail throughout this assessment but principally concern loss of privacy, additional overshadowing to the western façade and impact from additional excavation.

## Part 4 – Principal Development Standards

<b>COMPLIANCE TABLE Principal Development Standards North Sydney Local Environmental Plan 2013</b>			
<b>Site Area – 985.4m<sup>2</sup></b>	<b>Proposed</b>	<b>Control</b>	<b>Complies</b>
Clause 4.1 – Subdivision lot size	N/A	230m <sup>2</sup>	N/A No subdivision proposed
Clause 4.3 – Heights of Building	Lift Overrun RL 25.170 or 10.54m 24% exceedance  Roof RL 24.420 or 10.92m 28% exceedance  Roof Parapet (SW corner) RL 24.570 or 11.07m 30% exceedance	8.5m	No

### 3. Height of Building

The following objectives for the permissible height limit 8.5m pursuant to clause 4.3 in *NSLEP 2013* are stated below:

- (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.
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and C4 Environmental Living.

The proposed development involves a maximum height of 11.07m, which is attributed to the south western corner of the building which is an exceedance of 30% or 2.57m. Other notable exceedances include the roof (RL 24.420) and the lift overrun which is RL 25.170m or 10.54m. It is noted that additional excavation is sought to the north eastern corner of the site to create a level ground floor and due to the topography of the site the height exceedance is greater to the south eastern corner.



**Figures 21 & 22 – Building Height Plane - Existing (left) and Building Height Plane – Proposal (right), DA-552 Issue C**

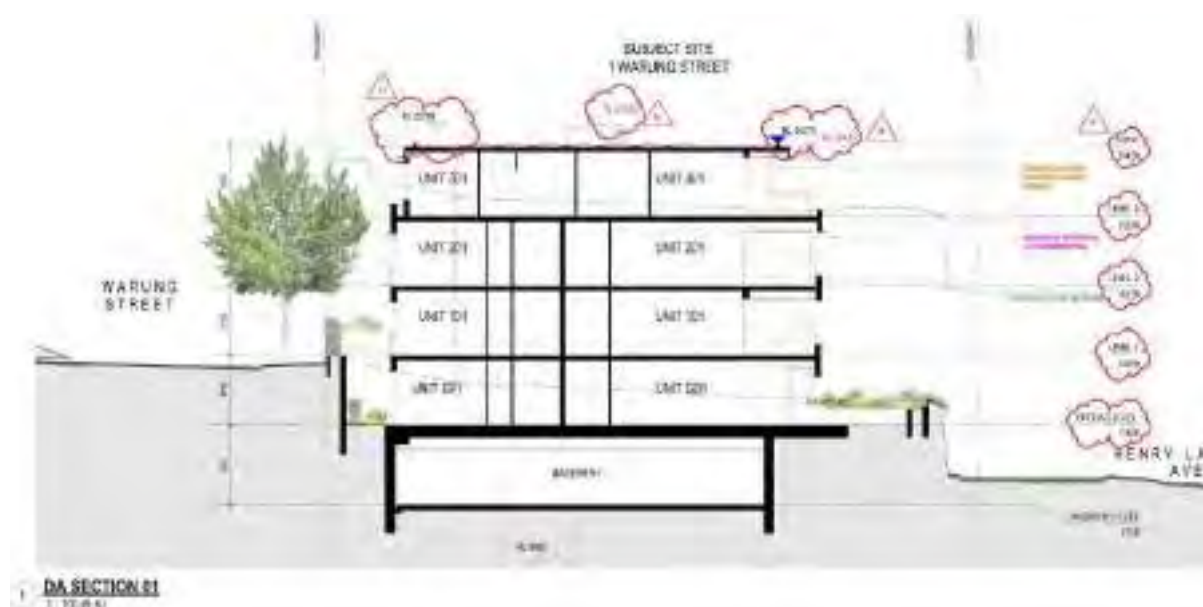


Figure 23 – Sections Sheet 1, DA-301 Issue C

#### Clause 4.6 – Exceptions to development standards

The Applicant has provided a written request to vary the development standard under Clause 4.3 of *NSLEP 2013* – maximum height of buildings.

#### Clause 4.6(3)(a) Is compliance with the development standard unreasonable and unnecessary in the circumstances of the case?

The Applicant's written request relies upon Wehbe Test 1 to demonstrate that compliance with the development standard is unreasonable and unnecessary. In response to Clause 4.6, the following excerpts are relevant and contained within the Applicant's written request:

***“Objective (a) is to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient.***

The site has a crossfall from the north-eastern corner on Warung Street to its Henry Lawson frontage, noting that Henry Lawson Avenue slopes from Blues Point Road towards McMahons Point in the east. The pavement on Henry Lawson Avenue is 3.5m-5.7m lower than the subject site. Below is the Survey Plan detailing an RL of approximately 18m with a fall of 13m to the south western corner of the site.



**Figure 24 – Survey Plan, Dwg Name 19099A detail Issue 6**

The existing building subject to demolition was not stepped down the site, rather it was constructed with ground level parking, accessed off Warung Street, with three habitable levels above. The parking areas utilise the slope of the land, not the habitable floor levels.

The approved building subject to LEC consent sought to primarily use the existing form of the building but provide an infill addition to the north eastern corner of the site. The addition comprised of three stories compared to the four sought under the current application and therefore less excavation was necessitated conforming to the natural gradient of the site.

The current proposal seeks to excavate the entire site and provide a flat topography at RL 11.820 which will require a varying excavation between 2m in the south eastern to up to 7m in the north eastern corner

The development does not satisfy the intent of this objective resulting in a significant alteration to the sloping character of the site and no attempt is made to step the design of the development down the slope of the land.

The proposal provides access to a new basement for parking and services from Henry Lawson Avenue, with apartments above, including ground level units that are subterranean.

Overall, the proposal does not explicitly achieve this objective as the building is not stepped down the site nor does the development seeks to conform with the natural gradient of the site.

***Objective (b) is to promote the retention and, if appropriate, sharing of existing views. The proposal does not adversely impact views of adjoining or adjacent properties.***

The properties to the north of the site are either high set or already impacted by the existing building envelope. A detailed assessment has been completed with regards to views in the DCP table confirming views are maintained similar to that consented by the LEC for DA 85/2024.

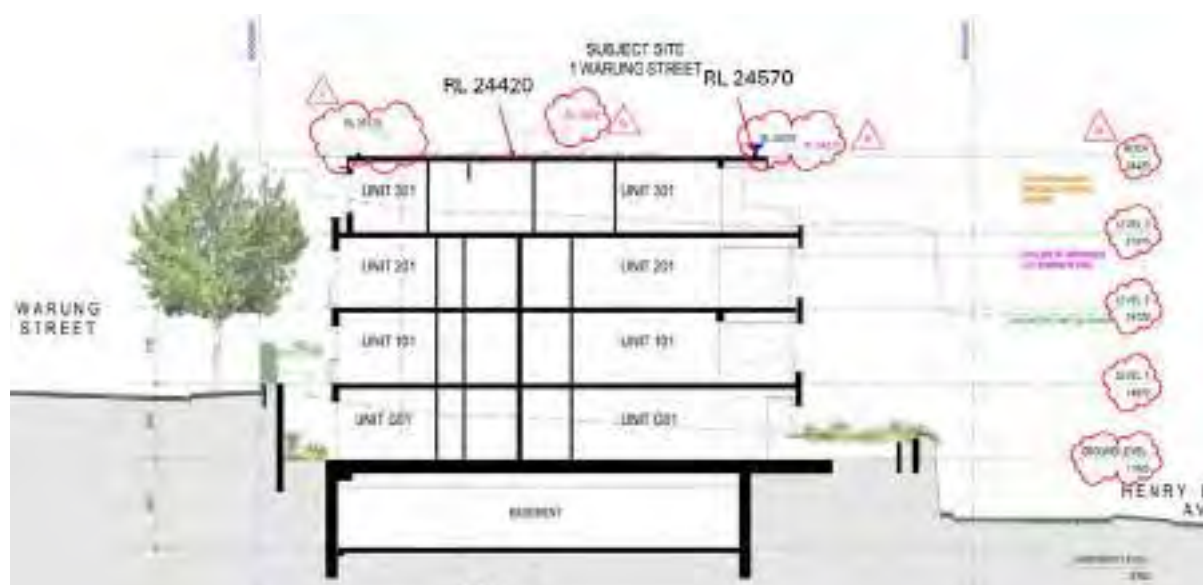
Properties to the north along Blues Point Road are not unduly impacted by the current development application and the height of the lift overrun has been amended with a reduction in height of 700mm to improve views from properties at No. 2 and 4 Warung Street located opposite the subject site.

The Applicant in response to an RFI completed further view analysis and provided an additional setback for the south eastern corner balconies to improve views for an apartment with cross views of the Opera House and the height of building is comparable to the height of the approved RFB and existing RFB. Below are Sections of the consented RFB subject to alterations and additions and the proposed development.



***Figure 25 – Approved DA Section 1, DA-301 Issue D***





**Figures 26 – Proposed Section 01, DA-301 Rev C**

This objective is achieved.

***Objective (c) to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development.***

Due to the site having three boundaries which abut a street only one boundary adjoins a neighbouring property. The eastern side boundary adjoins 3 Warung Street. The shadow study within the architectural plans confirms the development would have no impact until 2pm in the afternoon and between 2.30 and 3pm there would be an additional impact to up to 4 side windows on the western elevation of 3 Warung Street.

The proposed development does have an additional impact to the western elevation of No. 3 Warung Street casting additional shadow to various windows. The Assessment Officer visited the adjoining property to consider the amenity impact and noted main internal living areas are affected (kitchen and lounge room). It was also noted that the windows/ openings on the western elevation are not accurately shown as the western elevation has not been surveyed (refer to C.M.S Surveyors Dwg 19099A detail Issue 6).

The development due to the additional shadows cast does not maintain solar access but has an additional impact not promoting solar access for future development.

This objective is therefore not achieved.

***Objective (d) is to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings.***

The development does not maintain privacy for residents of existing dwellings because the balconies due to their splayed design maintains a view across the private open space of 3 Warung Street and is considered to have a poor amenity outcome to occupants of No. 3 Warung Street.

Additionally, greater privacy measures are appropriate with regards to the eastern side elevation. It is noted the windows provide limited amenity benefit such as solar access and greater privacy measures should be incorporated noting louvres only partially restrict views to the adjoining No. 3 Warung Street. Incorporation of less window openings for the eastern elevation is increasingly important given the setbacks not compliant with the minimum stipulated in the ADG.

The eastern elevation as shown below proposes excessive outlook from the RFB to No. 3 Warung Street and a significant reduction in glazing is required to ensure a reasonable level of visual privacy to No. 3 Warung Street.



**Figure 27 – Eastern Elevation of the Proposed RFB to face No. 3 Warung Street**

***Objective (e) is to ensure compatibility between development, particularly at zone boundaries***

The site does not have a boundary with a differing zone surrounded by R3 Medium Density Residential Zoned land. It is noted McMahons Point and Blues Point contains an eclectic mix of low, medium and high density development. The existing development is a longstanding flat building, built in the 1960's after the Warung Street heritage listed residences, No. 30-40 Blues Point Road (constructed prior to 1955) and the Blues Point Tower (built around 1962) were constructed.

The building's height, bulk and building mass lies between the large, low density residences and the multistorey, high-density tower buildings. The proposal does propose a new building substantially different to that existing and approved however, this is not of concern. The concerns relate to insufficient compatibility between adjoining developments and throughout the report core concerns include the use of glazed balustrades and the dominance of the bulk and massing of the building in context with No. 3 Warung Street. This objective is therefore not achieved.

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

The subject site is located on a corner block with three street frontages and is opposite Henry Lawson Reserve. The three streets that surround the subject site vary in topography and character. The site is zoned R3 Medium Density Residential and the development is subject to existing use rights.

The existing building is a 1960's red brick flat building with at-grade parking with access off Warung Street. It is situated amongst an eclectic mix of building types, including detached older dwellings (some heritage listed), modern infill developments and residential flat buildings (both medium and high density). The development approved proposed additions primarily to the north western corner of the site.

The floor plans including roof plan outlined the building footprint of the proposed RFB compared to that approved as well as the existing. It is noted the building is sited further forward within the lot and relies on excavation to provide an additional level replacing the level currently reserved for on grade parking.

The development has been thoroughly reviewed and the dominant appearance of the large balconies particularly the skewed south eastern balconies are not supported and a more sympathetic outcome is required requiring more modest sized balconies to reduce the prominent and dominance of the southern elevation which is highly visible from the public domain. This objective is therefore not achieved.

***Objective (g) is to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.***

This objective is not applicable to the existing or proposed residential flat building in this case. The existing building is three storeys over at-grade parking. The approved development retains the three habitable floor levels (four to the rear) with a new basement below. The development seeks to retain the same number of levels albeit provide more habitable floor space subject to excavation facing Warung Street (below street level).

Council's evaluation of the Applicant's written request confirmed that the objectives of the development standard and the relevant zone (R3) cannot be achieved.

The Applicant's written request nominates "environmental planning grounds" which should be considered to justify the variation. Council's assessment of the written request confirms that no sufficient environmental planning grounds have been demonstrated.

#### **Clause 4.6(4)(a)(ii) Applicant's written request**

It is noted that the Applicant's written request provides limited justification as it identifies objective (g) of Clause 4.3 as not applicable. Critically, any discussion included in the Applicant's written request fails to provide sufficient information and reasons demonstrating that compliance with the development standard is unreasonable or unnecessary. Considering the development does not confirm or reflect the topography of the site, is excessive in bulk and scale with no break or step in building form, the uncharacteristic and dominant presentation of the built form to the street and surrounding conservation area fails to appropriately and sympathetically respond to the site's constraints and setting. The RFB also provides a poor residential amenity for occupants of the adjoining site to the eastern boundary not maintaining but contributing to additional loss of solar access and would affect the privacy for residents of the adjoining property. The proposed development will deliver an undesirable and poor planning and design outcome for the site and locality and that there are no environmental planning grounds to justify contravening the maximum building height development standard under Clause 4.3.

## Conclusion

The Applicant has submitted a written request pursuant to Clause 4.6 of NSLEP 2013 and this request has been reviewed by Council. Council's review indicated that the request fails to adequately address subclauses (3) and (4). The variation request also is not supported on the basis that the development would not achieve the zone objectives and aims of the LEP which apply to development in a heritage context. As such, the proposed non-compliance is considered unacceptable and cannot be supported.

## 4. Heritage Conservation

The subject site is within the McMahons Point South Conservation Area (CA14), which is listed under Schedule 5 in *NSLEP 2013* and it adjoins a listed heritage item at No. 3 Warung Street (I05015). The following planning objectives apply to the site:

- (a) *to conserve the environmental heritage of North Sydney,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

As confirmed by Council's Heritage Planner the proposed development fails to achieve the above objectives as it fails to respond to the heritage context of the site and will have detrimental impacts on the quality and significance of the conservation area and respective item. Accordingly, the proposed development is not supported on heritage grounds and is unacceptable.

## Part 6 – Additional local Provisions

### 5. Earthworks

The proposed development involves a significant amount of excavation to accommodate the basement and lower ground level. An assessment has been carried out below having regard to Clause 6.10 in *NSLEP 2013*.

As per the provisions of Clause 6.10(3), the following matters are required to consider before consent can be issued.

- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:**
  - (a) the likely disruption of, or any detrimental effect on:**
    - (i) drainage patterns and soil stability in the locality of the development, and**
    - (ii) natural features of, and vegetation on, the site and adjoining land,**

The proposed earthworks are considered major and greater than that approved under the previous consent. The application is supported by a Geotechnical Investigation Report by Douglas Partners which notes the following bulk excavation requirements in Section 9.1 Earthworks of the report.

*The proposed bulk excavation level is assumed to be about RL 8.15 m, requiring bulk excavation to about 5 m below the existing level at the south-eastern end of the site, to about 10 m below the existing levels at the north-eastern end. Based on the likely subsurface conditions, excavations to depths of up to 1.5 m is likely to be in soil and very low and low strength sandstone.*

*The use of excavation equipment will generally cause dust, noise and vibration, the latter which has the potential to affect adjacent buildings and below ground infrastructure, as well as the occupants of nearby buildings. Where rock hammers are required in the vicinity of adjacent structures (closer than 20 m) it would be important to monitor and limit vibrations on these structures, as further discussed in Section 9.1.3.*

Section 9.2 Excavation Support of the Geotechnical Investigation states the following which is of relevance when considering stability of the locality.

*To reduce the risks of causing instability and damage to adjacent structures, surrounding public footpaths/roads, or impact the metro tunnels, careful consideration must be given to the planning and design of any excavation, including any underpinning and excavation retention required to shore the faces. **Prior to commencing bulk excavation, it will be necessary to obtain accurate information on the foundations and founding conditions of the adjacent neighbouring building. This process is critical as excavation of the proposed new basement could destabilise existing structures, including existing retaining walls.***

*Substantial anchor support (see Figure 4), sometimes in conjunction with shotcrete, may be required to stabilise wedges formed by adversely oriented joints, faults and shear zones. Permanent reinforced concrete walls, supported by the floor slabs, may be required if it is not possible to permanently anchor these wedges.*

*Should ground anchors or soil nails/dowels that extend beyond the site boundary be required, it will be necessary to obtain permission from neighbouring landowners and authorities prior to installation.*

The Geotechnical Investigation Report raises several concerns regarding the potential stability of both the adjoining No.3 Warung Street and Henry Lawson Avenue. The information contained within the Geotechnical Investigation fails to give any certainty that the bulk excavation required will not adversely affect the soil stability and amenity of the adjoining property at No. 3 Warung Street. The bulk earthworks will be reliant on accurate information on the foundations and condition of the adjacent neighbouring building which have not been obtained. The use of anchors required to extend into the neighbouring property at No. 3 Warung Street is not considered an acceptable solution and would require consent from the respective owner/s. As such, the above matter is unresolved and the development does not satisfactorily confirm earthworks will not have a detrimental impact on features on surrounding land.

- (b) The effect of the development on the likely future use or redevelopment of the land,

The proposed development will maintain the current use of the land as a residential flat building. The proposed earthworks are unlikely to affect the future use/redevelopment of the land – however, the resultant outcome is not considered acceptable nor supportable in its current amenity impact fails to accord with zone objectives applicable to the site.

- (c) the quality of the fill or the soil to be excavated, or both,

Given the residential history of the site, it is unlikely that the site has experienced any significant contaminating activities which would give rise for concern relating to the quality of material to be utilised as fill or of any existing material that will be disturbed.

- (d) the effect of the development on the existing and likely amenity of adjoining properties,

As mentioned above, the proposed earthworks are considered major substantially more than previously consented and have the potential to affect land stability of the adjoining property of No. 3 Warung Street. The Applicant failed to resolve this issue and as such the proposed development and associated earthworks are not acceptable in this regard.

- (e) the source of any fill material and the destination of any excavated material,

If the proposed development is supported, conditions can be imposed to ensure fill material is adequate and fit for purpose and any waste material from excavation exported and disposed of appropriately.

- (f) the likelihood of disturbing Aboriginal objects or relics,

The site has an extended history of residential usage with no surface outcropping of natural rock occurring on site. The likelihood of disturbing any relics is very low.

- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

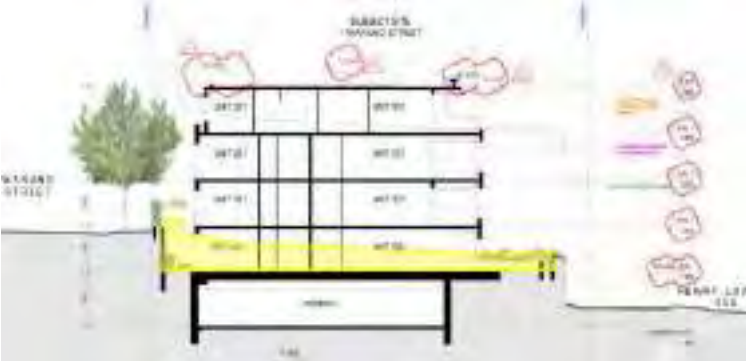
The site does not supply any drinking water catchments. If the proposed development is supported, appropriate sediment and erosion control measures can be included to prevent sediment movement into adjoining properties.

In accordance with the provisions of Clause 6.10(3) this assessment has considered the impact of the proposed excavation within the site and to surrounding properties and found that the proposed earthworks are not acceptable for the reasons as outlined above. Accordingly, the proposed development is not supportable in this regard.

### **NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013**

The proposal has been assessment under the following heading within NSDCP 2013. The objectives and provisions within the DCP are relevant and can be applied to guide the merit assessment of a site subject to existing use rights with reference to the decision by the Commissioner in *Saffioti v Kiama Municipal Council [2018] NSW LEC 1426* which was upheld by the Chief Judge of the LEC in *Saffioti v Kiama Municipal Council [2019] NSWLEC 57*.

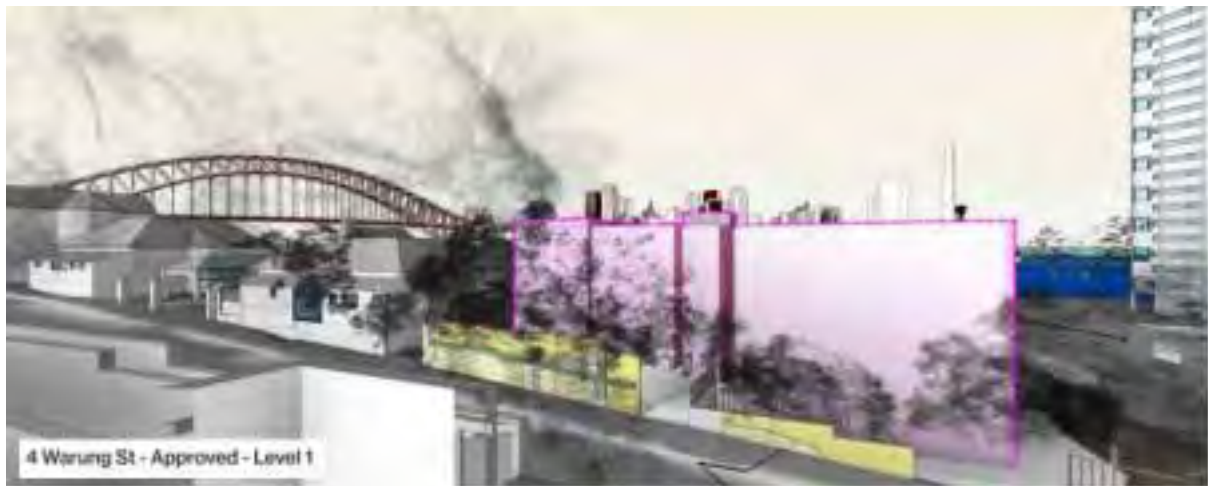
<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1 - Residential Development</b>		
	<i>complies</i>	<i>Comments</i>
<b>1.2 Social Amenity</b>		
<b>1.2.1 Population Mix</b>	Yes	<p>Provision P1 in s1.2.1 'Population Mix' of NSDCP 2013 requires RFBs to have at least two of the following dwelling types:</p> <p>(a) studio; (b) 1-bedroom; (c) 2-bedroom; and (d) 3-bedroom.</p> <p>The development seeks two dwelling types albeit not small sized dwellings comprising primarily 6 x 3 bed units and 1 x 4 bed unit.</p> <p>The dwelling types provide some variety in population mix and it is noted the development seeks to provide a supply of larger household accommodation within the R3 Medium Density Zone.</p>
<b>1.2.2 Universal Design and Adaptable Housing</b>	Yes	<p>Two apartments are designed to satisfy the Silver level performance requirements of the Livable Housing Design Guidelines compliant with Provision P1, s1.2.2 of NSDCP 2013.</p> <p>One ground level unit (Unit G01) and one Level 1 unit (Unit 101) are designed to be adaptable units therefore the development proposes more than 20% of adaptable dwellings within the RFB compliant with Provision P2, s1.2.2 of NSDCP 2013.</p> <p>The application is supported by an Accessibility Capability Statement prepared by Design Confidence. The statement confirms the proposed development is capable of achieving compliance with the relevant accessibility provisions of the BCA.</p>
<b>1.2.3 Maintaining residential accommodation</b>	Supported on Merit	<p>The development would result in a net loss of residential accommodation as highlighted below:</p> <p>Existing RFB = 12 Apartments (3 x 1 bed &amp; 9 x 2 bed)            Approved RFB (DA 379/21) = 9 Apartments (5 x 3 bed &amp; 4 x 2 bed)            Proposed RFB = 7 Apartments (6 x 3 bed &amp; 1 x 4 bed)</p> <p>It is noted that although the number of units would reduce the development seeks larger household accommodation to serve the demands of a differing housing market providing dwelling style accommodation compatible with medium density residential surrounds.</p> <p>It is also noted that although the number of units lowers the number of bedrooms and therefore potentially the number of occupants habiting the proposed RFB would increase and there is sufficient adaptability to accommodate larger families.</p>
<b>1.2.4 Affordable Housing</b>	Yes	<p>Provision P1 in s1.2.4 'Affordable Housing' states development must avoid the loss of low cost accommodation in accordance with the provisions in the SEPP (Housing) 2021.</p> <p>Part 3 'Retention of existing affordable rental housing' applies to low rental residential buildings on land in the Eastern Harbour City. There are exclusions for buildings approved under the Strata Schemes Development Act 2015.</p> <p>The building was strata subdivided in 1966 (Strata Plan 1927) and there are saving provisions in the 1973 Act, protecting consents/stratas under the former Act i.e the Conveyancing (Strata Titles) Act 1961 under which the existing building was approved.</p>

1.3 Environmental Criteria			
1.3.1	Topography	No	<p>Excavation is proposed to accommodate a basement and lower the ground level.</p> <p>Douglas Partners in their Geotechnical Investigation state the proposed bulk excavation level is assumed to be about RL 8.15 m, requiring bulk excavation to about 5 m below the existing level at the south-eastern end of the site, to about 10 m below the existing levels at the north-eastern end.</p> <p>The existing site has an RL of 18m in the north eastern corner and 13m in the south western corner. The proposed ground level will be reduced to RL 11.820 throughout the site and a single basement is required with an RL of 8.150m.</p> <p>The previous consented development sought to have an FFL of 15.60m in the north eastern corner of the site which is an approximate excavation of 3m and the north western and southern landscaped setbacks would have an FFL of 12.975m therefore the current application seeks a greater excavation of the site.</p>  <p><b>Figure 28 – Annotated Section 01 detailing excavation (in yellow)</b></p> <p>The extent of excavation would not sufficiently maintain the site topography contrary to Objective O1 and there are unresolved concerns with the scope of excavation and impact on the amenity structural integrity of the adjoining property at No. 3 Warung Street contrary to Objectives O3 and O5 in s. 1.3.1 of NSDCP 2013.</p> <p>Further, the basement proposes overly large car parking spaces with a width of 3.6m. The basement could be reduced in size to improve the provision of deep soil and promote landscaping including sustaining tree planting within the site. Currently the basement is excessive and subject to amendments to the size of the basement the site could allow for substantial new vegetation and trees. The development therefore does not comply with Objective O2 in s1.3.1 of NSDCP 2013.</p>
1.3.2	Bushland	Yes	The site is not within a bushland buffer.
1.3.3	Bush Fire Prone Land	Yes	The site is not designated as bush fire prone land.
1.3.4	Foreshore Frontage	Yes	The site is not located within a foreshore area refer to the NSLEP mapping – Sheet CL1_002.
1.3.6	Views	Yes	<p>A view sharing assessment is detailed within s5.4 of the SEE and View Analysis including diagrams are within the amended architectural package. The view sharing assessment and corresponding diagrams are concern 2 &amp; 4 Warung Street opposite the subject site and Unit 5 &amp; 6, 42 Blues Point Road.</p> <p><b><u>2 Warung Street</u></b></p> <p>The view analysis confirms City of Sydney skyline views from the Level 1 living room of 2 Warung Street views are currently obscured and this will remain for the approved development and current development. However, the development is designed to ensure views to the Harbour Bridge which is an iconic view stipulated in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.</p>



	<p>For the Level 2 terrace of 2 Warung Street views would be obtained for land views comprising the upper levels of tall high rise buildings in the City of Sydney skyline albeit the views are reduced slightly compared to the previous approval. Views of the Harbour Bridge would remain unaffected.</p> <p>The views that are maintained for 2 Warung Street are considered reasonable noting the iconic views for Level 2 and the roof terrace are maintained and that the additional height for the newly constructed RFB would still retain partial views to the City skyline.</p> <p><b><u>4 Warung Street</u></b></p> <p>The view analysis confirms the Level 1 living room of 2 Warung Street views of the City of Sydney skyline are currently obscured apart from the upper levels of high rise buildings. The previously approved development was approved with views of the City of Sydney skyline and the originally lodged proposal had a further impact primarily due to the size and height of the lift overrun.</p> <p>Below is a comparison between views obtained subject to the previous approval and those obtained subject to the lodged proposal and views obtained with the amended proposal noting a reduction in the height of the lift overrun by 700mm.</p> <p>The Applicant following receipt of the RFI amended the height of the lift overrun to minimise the additional impact on views obtained from Level 1 of 4 Warung Street.</p> <p>It is noted that views from Level 2 of 4 Warung Street enjoys expansive Harbour views and the development would retain these views including views of the Harbour Bridge and Opera House.</p> <p><b><u>Unit 5 42 Blues Point Road</u></b></p> <p>The Applicant in response to concerns raised in the RFI completed a view analysis from Unit 5, 42 Blues Point Road. The view analysis from the front bedroom of the apartment confirmed view loss is negligible with existing views of the Harbour Bridge, cityscape and water views being retained.</p> <p>Unit 5 has a view of the Opera House from the living room, through the kitchen window which would have been affected by the proposed southern balconies. Amendments have subsequently been made offsetting the balconies further away from Blues Point Road to ensure the existing view of the Opera House from the kitchen window of Unit 5 remains.</p> <p>This amendment retains a view from a kitchen/living room of an iconic icon which is of significance as per steps one and three of the LEC Planning Principle for view sharing established in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.</p> <p><b><u>Unit 6 42 Blues Point Road</u></b></p> <p>The Applicant in response to concerns raised in the RFI completed a view analysis from Unit 6, 42 Blues Point Road. The view analysis from the front bedroom of the apartment confirmed view loss is negligible with existing views of the Harbour Bridge (minor impact), cityscape and water views being retained.</p> <p>It is also noted both Units 5 and 6 enjoy expansive water views from the living rooms at the rear of the units unaffected by the proposed development.</p> <p>The view loss analysis confirms the development generally keeps within the approved building envelope has no or minimal impact to views from neighbouring properties and apartments.</p>
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The development is therefore sufficiently designed to ensure equitable access to views generally satisfying the objectives and provisions in s1.3.6 'Views' of NSDCP 2013.



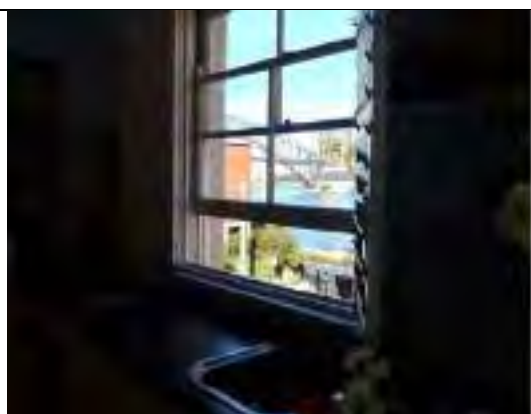
**Figure 29 – View Analysis 4 Warung Street – Approved Level 1**



**Figure 30 – View Analysis 4 Warung Street – Proposed Lodged Level 1**



**Figure 31 – View Analysis 4 Warung Street – Proposed Amended Level 1 with reduced height of building by 150mm and lift overrun by 700mm**



**Figure 32 – Photo and View Analysis of Opera House from Unit 5, 42 Blues Point Road Kitchen Proposed Building as viewed from kitchen window**



Unit 6 42 Blues Point Road - Proposed - Window 2

**Figure 33 – View Analysis Unit 6, 42 Blues Point Road – Proposed – Window 2**

1.3.7	Solar Access	No	<p>Shadow diagrams for mid-winter confirm a reduction in shadows cast to the public domain, streetscape and Henry Lawson Reserve particularly at midday and in the early afternoon hours.</p> <p>Due to the site having three boundaries which abut a street only one boundary adjoins a neighbouring property. The eastern side boundary adjoins 3 Warung Street. The shadow study within the architectural plans confirms the development would have no impact until 2pm in the afternoon and between 2.30 and 3pm there would be an additional impact to up to 4 side windows on the western elevation of 3 Warung Street.</p> <p>The shadow study does not detail what rooms are served by the affected windows and it is noted the Survey Plan (C.M.S Surveyors Dwg 19099Adetail Issue 6) has not been able to survey the western side setback fully of the dwelling No. 3 Warung Street.</p> <p>A site visit has been undertaken and the following can be confirmed:</p> <p>At 2.15pm a secondary lounge room window is affected                  At 2.30pm additional shadows will be cast to a glazed door serving the kitchen.                  At 2.45pm additional shadows will affect a window serving the kitchen of 3 Warung Street.                  At 3.00pm additional shadows would affect a window serving the kitchen of 3 Warung Street.</p> <p>No. 3 Warung Street is a dwelling with limited solar access particularly to the western façade not receiving a minimum of 3 hours sunlight between the hours of 9.00am and 3.00pm at mid-winter.</p>
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		There are concerns with regards to the additional overshadowing proposed particularly the inability to satisfy Objective (1)(a), cl. 4.3 Height of Buildings and it is unreasonable for additional bulk and scale in proximity to the detriment of the access to sunlight for the adjoining No. 3 Warung Street.
<b>1.3.8 Acoustic Privacy</b>	Yes	<p>An acoustic report has been prepared by Acoustic Logic as per the requirements of Provision P3 in s1.3.8 of NSDCP 2013.</p> <p>Acoustic Logic completed noise monitoring adjacent to the site to determine noise levels at the façade of the development and recommended appropriate noise attenuation measures for glazing and doors to ensure compliance with noise intrusion criteria in Table B-1.2, s1.3.8 of the NSDCP 2013.</p> <p>A Sydney Metro tunnel travels underneath the site therefore the report considers potential noise impact from the Metro tunnel pursuant to Cl. 2.100 Impact of rail noise or vibration on non-rail development within the SEPP (Transport and Infrastructure) 2021 determining that rail induced noise meet the requirements stipulated in cl. 2.100(3) of the SEPP.</p>
<b>1.3.9 Vibration</b>	Yes	<p>Acoustic Logic provide a vibration intrusion assessment because ground borne vibration can be transmitted through the subsoil. Acoustic Logic deduce that the development is able to have a low probability of adverse comment compliant with the criteria in Assessing Vibration: a Technical Guidelines (DECC 2006).</p> <p>Appropriate conditions of consent are recommended concerning noise and vibration from the Metro Corridor to ensure the building is designed to minimise the impact of noise and vibration from the adjoining rail corridor (C67 Noise and Vibration from Major Roads and Rail Corridors).</p> <p>Further, Sydney Metro has required conditions concerning noise &amp; vibration. Condition 1.6(b) requires the development to be designed, constructed and maintained to avoid noise and vibration effects that may emanate from the rail corridor.</p>
<b>1.3.10 Visual Privacy</b>	No	<p>Concerns were stipulated in the Council RFI regarding privacy to No. 3 Warung Street. The Applicant was informed via an RFI that the development comprised insufficient privacy measures and had direct overlooking of the private open space of No. 3 Warung Street.</p> <p>Specific concerns were raised concerning the design and size of the balconies for instance the balconies did not comply with the minimum setback stipulated in Design Criteria 1, Objective 3F-1 of the ADG and the balconies are splayed to maximise views for residents of the Harbour Bridge and Opera Bridge with direct overlooking to the principal private open space of No. 3 Warung Street.</p> <p>The development as amended maintains the splayed design of the balconies as well as the size and a non-compliant side setback. Levels 2 and 3 south eastern balconies comprise planter beds as a form of privacy screening which is not a supportable outcome. The balconies due to their splayed design maintains a view across the private open space of 3 Warung Street and is considered to have a poor amenity outcome to occupants of No. 3 Warung Street.</p> <p>The Applicant as part of the amended architectural plans provided a privacy study considering the existing privacy to the private open space of No. 3 Warung Street and the proposed Level 2 and 3 balconies with screen planting.</p>



2 | 3 Warung St - Existing - Level 2 Balcony

**Figure 34 – Existing Level 2 Balcony view to No. 3 Warung Street**



4 | 3 Warung St - Proposed - Level 2 Balcony

**Figure 35 – Proposed view to No. 3 Warung Street inclusive of planter**



**Figure 36 – Photo from No. 3 Warung Street towards existing RFB at No. 1 Warung Street**

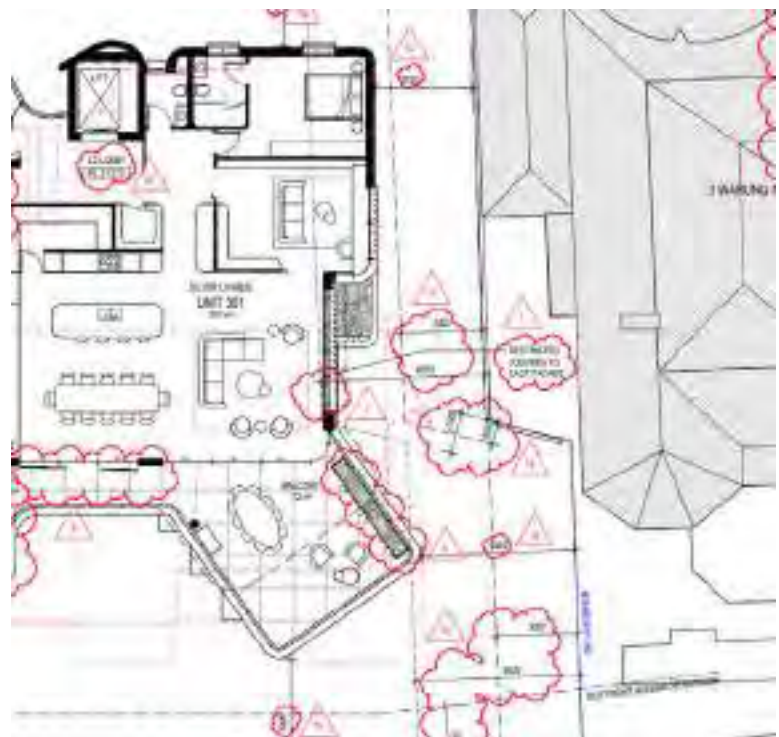
One of the reasons the Applicant contends in support of an acceptable privacy outcome is noting the existing building comprises apartments with overlooking from both windows and balconies. This is not considered an acceptable argument and the new RFB can be designed to accommodate sufficient privacy to the adjoining No. 3 Warung Street. It is also noted the existing balconies including those approved by the LEC under the previous consent comprise of modest balconies substantially setback from No. 3 Warung Street with a differing orientation compared to the splayed balconies with views across No. 3 Warung Street.

The proposed south eastern corner balconies particularly on Levels 2 and 3 would not ensure a reasonable level of visual privacy contrary to Objective O1, s1.3.10 'Visual Privacy' of NSDCP 2013.


Additionally, greater privacy measures are appropriate with regards to the eastern side elevation. It is noted the windows provide limited amenity benefit such as solar access and greater privacy measures should be incorporated noting louvres only partially restrict views to the adjoining No. 3 Warung Street. Incorporation of less window openings for the eastern elevation is increasingly important given the setbacks not compliant with the minimum stipulated in the ADG.

Specific improvements could be made such as the following

- Provision of fixed obscure or frosted glass to the eastern side window that serves a bathroom for Unit 202.
- Removal of side windows on the eastern elevation that serve the living/kitchen area for Unit 202.
- Deletion of the side window on the eastern elevation that serves the living/kitchen area for Unit 301.
- The window on the eastern elevation serving Unit 301 living area only partly includes louvres with an opening provided for views across No. 3 Warung Street to the Harbour Bridge but not prioritising the visual privacy to No. 3 Warung Street.





**Figure 37 – Part of Unit 301 including a side window serving the living area of Unit 301 not encompassing louvres for the full width of the window**

		<p>The eastern elevation as shown below proposes excessive outlook from the RFB to No. 3 Warung Street and a significant reduction in glazing is required to ensure a reasonable level of visual privacy to No. 3 Warung Street.</p>  <p><b>Figure 38 – Eastern Elevation of the Proposed RFB to face No. 3 Warung Street</b></p> <p>Consideration was given as to potential amendments via condition but such significant changes to the design of the building are required especially to the south eastern balconies. Amendments cannot be achieved via condition and therefore warrant refusal.</p>
<p><b>1.4 Quality built form</b></p>		
<p><b>1.4.1 Context</b></p>	<p>No</p>	<p>The building design does not respond to the constraints of the site and wider context. The skewed excessively large balconies have an adverse impact to the amenity of No. 3 Warung Street, the bulk of the side elevation particularly in the north eastern corner of the site has a reduced side setback to No. 3 Warung Street, additional shadow is cast to No. 3 Warung Street and the design of the building particularly the glazed balustrades and irregular shape of the southern elevation is uncharacteristic to the surrounding conservation area.</p> <p>The development therefore fails to satisfy Objective O1 in s1.4.1 of NSDCP 2013.</p>
<p><b>1.4.2 Subdivision Pattern</b></p>	<p>Yes</p>	<p>The development does not comprise subdivision or the amalgamation of lots.</p>
<p><b>1.4.3 Streetscape</b></p>	<p>Yes</p>	<p>Conditions of consent are required as recommended by Council’s Development Engineer for a dilapidation survey and report recording the pre-developed condition of existing public infrastructure prior to commencement of construction (C1 Dilapidation Report Damage to Public Infrastructure) and a bond (\$75,000) to be provided to Council for the payment for any damage caused to Council property (road work, kerbing, guttering or footway). See Condition C41 – Bond for Damage and Completion of Infrastructure Works.</p> <p>The new stormwater channel to convey stormwater to Honda Road is subject to a condition of consent requiring a site drainage management plan prepared by a qualified drainage design engineer (C37 Stormwater Management and Disposal Design Plan – Construct. Issue).</p> <p>A new vehicular crossing is proposed for the RFB from Henry Lawson Avenue therefore prior to issue of a Construction Certificate an application must be made to Council to obtain a driveway crossing and associated works permit (C32 Obtain Driveway Crossing and associated works permit).</p> <p>Council’s Development Engineer also requires via condition construction of a new replacement concrete footpath, kerb &amp; gutter and grass verge on all 3 site frontages in Warung Street, Blues Point Road and Henry Lawson Avenue (Required Infrastructure Works – Roads Act 1993).</p> <p>The street trees within Warung Street are to be retained and protected subject to standard conditions of consent. An existing street tree (1 x <i>Stenocarpus sinuatus</i>) is to be removed and replaced with 1 x <i>Melaleuca linarifolia</i> which is a recommended stipulated by Council’s Landscape Development Officer.</p>

1.4.4 Laneways	N/A	The site does not adjoin a laneway.								
1.4.5 Siting	Yes	<p>The siting of the RFB is more forward than that previously approved having a reduced setback to Warung Street and a front setback that is more compatible with adjoining properties.</p> <p>The siting also allows landscaping within the rear setback of the site. The building is appropriately sited forward on the lot with a landscaped arear setback which is identified as characteristic of the McMahons Point South Conservation Area as stipulated in Section 9.8, Part C of the DCP.</p>								
1.4.6 Setback – Front & Rear Setback	Yes	<p>However, the design outcome for the south eastern corner of the building is not supportable designed with a skewed alignment not parallel to the eastern boundary contrary to Provision P3, s1.4.5 of NSDCP 2013.</p> <p>Although the siting of the building is supportable the skewed orientation of the south eastern corner of the building is not supportable not maintaining the characteristic orientation within the conservation area and contrary to the existing building orientation of the RFB sought for demolition therefore the development fails to comply with Objective O1, s1.4.5 of NSDCP 2013.</p>								
1.4.6 Setback – Side	Yes	<table border="1" data-bbox="783 1227 1358 1552"> <thead> <tr> <th data-bbox="783 1227 1201 1256">Control</th> <th data-bbox="1201 1227 1358 1256">Compliance</th> </tr> </thead> <tbody> <tr> <td colspan="2" data-bbox="783 1256 1358 1285"><b>Zone R3 (Medium Density Residential)</b></td> </tr> <tr> <td colspan="2" data-bbox="783 1285 1358 1314">Residential flat buildings</td> </tr> <tr> <td data-bbox="783 1314 1201 1552">3m; and The building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 450 (refer to Figure B-1.3).</td> <td data-bbox="1201 1314 1358 1552">No, merit assessment below</td> </tr> </tbody> </table> <p>The RFB has a side setback to the eastern boundary greater than the minimum 3m. Building envelope diagrams confirm an improved outcome with less built form protruding beyond the building envelope.</p> <p>However, setbacks as detailed in Section 3F Visual Privacy prevails over the DCP and it is noted greater separation is required for habitable rooms and balconies of residential flat buildings to side and rear boundaries.</p>	Control	Compliance	<b>Zone R3 (Medium Density Residential)</b>		Residential flat buildings		3m; and The building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 450 (refer to Figure B-1.3).	No, merit assessment below
Control	Compliance									
<b>Zone R3 (Medium Density Residential)</b>										
Residential flat buildings										
3m; and The building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 450 (refer to Figure B-1.3).	No, merit assessment below									
1.4.7 Form Massing Scale	No	<p>The most applicable provision in s1.4.7 of the NSDCP 2013 concerns Provision P5 which is stipulated below:</p> <p><i>P5 Facades of buildings which face any public street should not be dominated by large expanses of glass (i.e. facades should incorporate smaller door and window openings, so that glass does not dominate the façade).</i></p> <p>A Solid vs Glass Study is provided within Appendix 3 of the architectural package. It is notable that less glazing is proposed compared to that originally lodged as per the Heritage referral comments. The southern elevation facing the harbour and Henry Lawson Avenue has a solid ration of 55.4% which is an improvement of 45% compared to that originally submitted.</p>								



<p><b>1.4.8 Built Form Character</b></p>	<p>No</p>	<p>The development, however, still proposes large glazed openings and not a satisfactory solid to glass ratio appropriate for the conservation area.</p> <p>The south eastern balconies are not considered to be integrated within the building envelope but are large protruding aspects of the building primarily sought for maximising views to the harbour and iconic items such as the Harbour Bridge and Opera House.</p> <p>The south eastern balconies are large extending significantly beyond the rear façade of the building not incorporated within the building envelope contrary to Provision P3, s1.4.8 of NSDCP 2013.</p> <p>The skewed large balconies to the south western corner of the RFB is not complementary to the existing character of the locality noting the locality has more modest balconies integrated within the building envelope. The balconies associated with the existing RFB at 1 Warung and the approved balconies under the LEC determination are also notable as more compatible designed balconies for the McMahons Point South Conservation Area.</p> <p>Below are examples of balconies which are integrated and more complementary to the locality.</p>  <p><i>Figure 39 – Existing RFB at No. 1 Warung Street detailing the modest partially integrated balconies</i></p>  <p><i>Figure 40 – Existing RFB at No. 2-4 East Crescent Street detailing the fully integrated balconies</i></p>
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		 <p><b>Figure 41 – Existing RFB at No. 30-40 Blues Point Road detailing the predominantly integrated modestly sized balconies</b></p>  <p><b>Figure 42 – Existing dwelling at No. 2 Warung Street detailing the predominantly Level 1 integrated balcony</b></p>
<p><b>1.4.9 Dwelling Entry</b></p>	<p>Yes</p>	<p>The pedestrian entry is clearly identifiable from Warung Street and an additional entry is proposed off Blues Point Road.</p> <p>The building entry and pedestrian access is designed to address the public domain.</p>
<p><b>1.4.10 Roofs</b></p>	<p>Yes</p>	<p>The RFB is designed with a flat roof which is appropriate to address views of adjoining properties and it is noted the flat roof is characteristic of the existing RFB and that approved under DA No. 379/21.</p>
<p><b>1.4.12 Colours and Materials</b></p>	<p>Yes</p>	<p>Objective O1 in s1.4.12 of the NSDCP 2013 seeks for new buildings to reflect and reinforce the existing and desired character of a locality.</p> <p>Furthermore, P1 in s1.4.12 states buildings should use colours finishes and materials identified in the relevant area character statement.</p> <p>Characteristic materials within the character statement for McMahons Point South Conservation Area encompasses a high proportion of masonry or solid surfaces to glazed surfaces.</p> <p>The RFB comprises a sandstone base, two levels of textured render and a top level bronze cladded elevation.</p> <p>The colours and materials for the RFB are generally accepted and it is noted the DEP feedback concerning colours and materials was positive. The bronze cladding was considered acceptable due to its recessive and muted appearance.</p>

		<p>Within the RFI letter prepared by Council the option of incorporating masonry to the middle levels of the RFB instead of textured render was suggested, however noting textured render was previously approved by the LEC it is considered too onerous to impose this requirement.</p> <p>In Part 8 of the originally submitted Design Report, the southern elevation was to comprise of 55% glazing. This has been reduced to 44.6% however, additional reduction in glazing is needed as per Heritage requirements and noting the context of the conservation area.</p> <p>Provision P5 in s1.4.12 of NSDCP 2013 requires that solar panels are integrated into a building design where possible. Council required further detail which has been subsequently provided within a Detailed Section drawing in the amended architectural package confirming the solar panels do not exceed the height of the parapet and will not be visible from the surrounding street/ conservation area.</p>
<p><b>1.4.13 Balconies – Apartments</b></p>	<p>No</p>	<p>The following provisions are noted as applicable and concerns are raised as to the size and projection of the balconies which was detailed in the Council assessment letter requiring improvements to reduce the prominence and cantilevered appearance of the balconies.</p> <p><i>P3 Balconies must be incorporated within building envelope (as specified by setbacks and or building height plane) and should not be located on roofs, podiums or be cantilevered.</i></p> <p><i>P4 Balconies should be integrated into the overall architectural form and detail of the building.</i></p> <p>The size of the balconies should be reduced with a reduced projection into the south eastern corner of the site. The proposed balconies are not integrated and are too dominant not contributing to the overall architectural form and detail of the building.</p> <p>Substantial concern was raised within the RFI letter to the Applicant which has not been sufficiently satisfied and the concerns remain from both a privacy concern and visual impact to the conservation area.</p> <p><i>'The large, dominant harbour facing balconies with glazed balustrades are uncharacteristic within the conservation area and are also out of character with the site context. It should be noted that there are no balconies to the Blues Point Tower building to the south-east of the subject site, and those relating to the building at 30-40 Blues Point Road, located to the immediate west of the site on the opposite side of Blues Point Road, are limited to the southern and northern ends of the building facing the street.</i></p> <p><i>Where there are balconies to the dwellings that form part of the Warung Street Group, they are comparatively modest in scale. Notable also is that the balconies to the existing building are of a modest and open character, like those at 30-40 Blues Point Road, enabling them to be recessive and visually penetrable retaining clear views to 3 Warung Street and to the Warung Street Group generally.'</i></p>
<p><b>1.4.14 Front Fences</b></p>	<p>No</p>	<p>The Applicant has prepared a streetscape analysis of boundary walls and fencing in support confirming the boundary fencing and walls proposed are not out of character with surrounding properties.</p> <p>The boundary walls and fencing are acceptable noting fencing plays a part in obscuring the communal garbage holding area and provides privacy to the lower level units of the RFB.</p> <p>The break in materiality and the stepped approach in the fencing particularly as viewed from Warung Street and Blues Point Road is a positive outcome as well as no further loss of sandstone apart from the vehicular entry.</p>

1.5 Quality Urban Environment														
1.5.1 High Quality Residential Accommodation	Yes	<p>Many of the provisions stipulated in s1.5.1 'High Quality Residential Accommodation' are addressed in detail earlier in the report with respect to assessment against the ADG.</p> <p>The units including private open space are generous in size exceeding the minimum requirements stipulated in the ADG.</p> <p>The units are considered to provide a high level of internal amenity complying with Objective O1 in s1.5.1 of NSDCP 2013 despite the non-compliance with solar access.</p>												
1.5.3 Safety and Security	Yes	<p>The RFB is considered appropriately designed to ensure a high level of safety for people occupying or visiting the site.</p> <p>The development clearly distinguishes various parts of the site and building for public, communal and private use.</p> <p>It is noted DEP provided comments regarding improving the security of the Level 3 apartment as there is no transitional foyer space to the apartment. This has not been included in the amended plans, however, it may subject to owner/occupier and developer discretion be incorporated at a later stage in the development.</p>												
1.5.4 Vehicle Access and Parking	Yes	<p>The parking is underground within one basement complying with requirements of P2, in s1.5.4 of the NSDCP 2013.</p> <p>The basement will be designed to ensure sufficient manoeuvrability and will be required by condition to comply with Australian Standard AS 2890.1.</p> <p>A separate pedestrian access to the site is provided from Warung Street satisfying Provision P7, s1.5.4.</p> <p>Council's Traffic Engineer has reviewed the plans and is satisfied the development complies with the maximum car parking rates and minimum bicycle/motorbike rates stipulated in Section 10 – Car Parking and Transport of the DCP.</p>												
1.5.5 Site Coverage	Yes	<p>The development complies with the maximum 443.43m<sup>2</sup> (45%) as stipulated in Table B-1.6. Refer to the Landscape Coverage &amp; Excavation Plan (DA-531 Rev C).</p>												
1.5.6 Landscape Area	No	<table border="1"> <thead> <tr> <th>Control</th> <th>Proposed</th> <th>Compliance</th> </tr> </thead> <tbody> <tr> <td>Site coverage Max 45%</td> <td>443.43m<sup>2</sup> (45%)</td> <td>Yes</td> </tr> <tr> <td>Landscaped area Min 40%</td> <td>266.5m<sup>2</sup> (27%)</td> <td>No</td> </tr> <tr> <td>Unbuilt-upon area Max 15%</td> <td>275.47m<sup>2</sup> (28%)</td> <td>No</td> </tr> </tbody> </table> <p>The landscaped area diagram accounts for landscaping above the basement which is incorrect contrary to Figure B-1.10 and the definition in P2, s1.5.6 of NSDCP 2013.</p> <p>The landscaped area being the deep soil area is 27% not compliant with the minimum 40%. A detailed consideration of the proposed basement noted very large car parking spaces being 3.4m wide. It is noted the adaptable spaces are 2.5m and 2.5m is a nominated parking space width in the Australian Standard 2890.1 Parking facilities: off street parking.</p> <p>It is considered the development prioritises generous car parking spaces and to maximise the allowance of 70% basement excavation stipulated in Provision P9, S1.3.1 of NSDCP 2013 whilst compromising landscaped area.</p> <p>The development due to the scope of excavation and insufficient landscaped area does not promote substantial landscaping and the contribution to landscaping within the streetscape contrary to the following objectives in s1.5.6 of the NSDCP 2013.</p>	Control	Proposed	Compliance	Site coverage Max 45%	443.43m <sup>2</sup> (45%)	Yes	Landscaped area Min 40%	266.5m <sup>2</sup> (27%)	No	Unbuilt-upon area Max 15%	275.47m <sup>2</sup> (28%)	No
Control	Proposed	Compliance												
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Unbuilt-upon area Max 15%	275.47m <sup>2</sup> (28%)	No												

		<p>(a) promote the character of the neighbourhood;                  (c) provide a landscaped buffer between adjoining properties;                  (f) promote substantial landscaping, that includes the planting of trees that when mature will have significant canopy cover;                  (h) minimise site disturbance;                  (i) contributes to streetscape and amenity;</p>
<b>1.5.8 Landscaping</b>	Yes	<p>Council's Landscape Development Officer raises no objections to the proposed removal of the trees within the subject site and the amended Landscape Plan prepared by Secret Gardens dated 6/9/24 is considered to be generally acceptable.</p> <p>The amended Landscape Plan proposes to retain a Plumeria in the north western corner of the site and proposes four (4) replacement trees proposed – <i>Tristaniopsis laurina</i> – <i>Water Gum</i> in the south eastern corner of the site, two (2) <i>Tristaniopsis laurina</i> – <i>Water Gum</i> on the western side boundary and three (3) <i>Lagerstroemia 'Natchez'</i> adjacent to the western side boundary.</p> <p>Replacement/ additional tree planting is supported in ensuring the provision of a tree canopy within the subject site.</p>
<b>1.5.8 Front Gardens</b>	Yes	<p>The front setback is considered sufficiently landscaped noting the limited setback to Warung Street which is a supportable outcome due to views and shadows to public reserves.</p> <p>The Plumeria in the north eastern corner of the site will remain and the site benefits from Jacaranda's in the Council verge.</p>
<b>1.5.9 Private and Communal Open Space</b>	Yes	<p>Common open space and private open space requirements are assessed earlier in the report. The balconies are very large achieving sufficient outdoor amenity.</p>
<b>1.5.12 Garbage Storage</b>	Yes	<p>The waste and recycling storage and collection is also detailed earlier in the report and the development will be subject to standard conditions of consent if supported.</p>
<b>1.5.13 Site Facilities</b>	Yes	<p>The development comprises sufficient site facilities for the needs of the residents such as lockable mailboxes, storage space and space to open air dry clothes.</p>
<b>1.6 Efficient Use of Resources</b>		
<b>1.6.1 Energy Efficiency</b>	Yes	<p>An updated BASIX Certificate has not been provided to support the latest architectural plans. If the development is supported this can be satisfied subject to condition.</p> <p>Solar panels are proposed to the roof which is supportable providing on-site renewable energy.</p>

### Lavender Bay Planning Area (McMahons Point South Conservation Area) – Part C of NSDCP 2013

Section 9.8.2 provides a description of the McMahons Point South Conservation describing the housing stock as follows:

*There is a mix of architectural periods and styles in the mainly residential building stock. There are buildings from 1840s stone cottages to Federation dwelling houses and residential flat buildings and Inter-war buildings.*

The principle of rebuilding the residential flat building is supported noting the site comprises of an existing RFB and existing use rights apply.

*Street trees include Jacarandas, mixed native species and the occasional palm, and are mature and substantial on the major streets. Front gardens supplement street plantings and give a sense of continuity between the side streets and Blues Point Road. Other urban elements such as stone retaining walls and rocky outcrops combine with avenue plantings to create a sense of place.*

Warung Street has a predominance of Jacarandas and the street trees are to remain subject to conditions of consent and their retention is shown in the submitted Landscape Plan. Tree planting within the side setback between the building and Blues Point Road plus the retention of the mature Plumeria contributes to the streetscape and stone retaining boundary walls are to remain apart for vehicular entry contributing to the sense of place.

With reference to Section 9.8.5 'Characteristic built elements' of Part C in the DCP the RFB has been amended with a siting closer to Warung Street and this is a supportable outcome in terms of improving views from Blues Point Road and the siting of the RFB forward on the lot is also characteristic of the conservation area.

Detailed consideration has been given to whether the development satisfies the below characteristic built elements of the conservation area and below is reasoning for why the proportion of solid to glazed is unacceptable and why the boundary walls and fencing is acceptable on merit:

### **9.8.6 Characteristic built elements**

#### **Materials**

**P5 High proportion of masonry or solid surfaces to glazed surfaces.**

#### **Fences**

**P8 Low, 900mm max. height (timber) or 1m (iron palisade)**

Planning Response:

In Appendix 3 of the architectural package there is a table detailing the solid to glass ratio for each elevation. Glazing is greater to Blues Point Road and especially for the southern elevation facing the harbour. It is noted there have been progressive improvements in reducing glazing, however, concerns remain from Council's Heritage Officer regarding the glazing proposed not characteristic of the conservation area which is concurred with. Further, the glazed balustrades are not supported and the balustrades should be similar to the existing development, approved LEC RFB and other properties in the vicinity comprise of metal palisade balcony balustrades. Glazed balustrades are not a supportable heritage outcome as stipulated in Provision P6, s13.9.3 'Verandahs and balconies' of NSDCP 2013.

The boundary walls and fencing to Warung Street are acceptable noting fencing plays a part in obscuring the communal garbage holding area and provides privacy to the lower level units of the RFB. The break in materiality and the stepped approach in the fencing particularly as viewed from Warung Street and Blues Point Road is a positive outcome as well as no further loss of sandstone apart from the vehicular entry.

### **LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

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:	\$ 16,865,439.00
(payment amount subject to indexing at time of payment)	Contribution:	\$ 168,654.00

The reason a s7.12 applies is because the contribution is based on whatever contribution is greater. The development does not result in a net increase in dwellings therefore contributions are based on the cost of development being 1% of the cost of development. This is in accordance with paragraph 1.4 'Which type of contribution applies' of the North Sydney Local Infrastructure Contributions Plan 2020.

If the development is supported a condition will be imposed requiring payment of contributions.

## **HOUSING PRODUCTIVITY CONTRIBUTION**

The Ministerial Order for Housing Productivity Contribution came to effect on 1 July 2024.

The order applies to land in that includes the Greater Sydney Region in which North Sydney Council is located.

Part 2 Division 1 Clause 5 outlines that Residential Development triggers a contribution if development consent is granted.

(2) States that Residential Development means any of the following –

- (a) *subdivision of land (other than strata subdivision) on which development for the purposes of residential accommodation is permitted with development consent by an environmental planning instrument applying to the land (residential subdivision),*
- (b) *medium or high-density residential development,*
- (c) *development for the purposes of a manufactured home estate.*

Schedule 1 defines medium or high density residential development as –

medium or high-density residential accommodation means any of the following:

- (a) *attached dwellings,*
- (b) *build-to-rent housing,*
- (c) *dual occupancy,*
- (d) *multi-dwelling housing,*
- (e) *residential flat building,*
- (f) *semi-detached dwellings,*
- (g) *seniors living consisting of a group of independent living units,*
- (h) *shop top housing.*

Based on the subject development application, the application is defined as a residential flat building Schedule 2 outlines exemptions for this contribution, of which remains silent on matters such as the proposed development. Therefore, a contribution would be applicable should development consent be granted.

Division 2 clause 7 sets out the base contribution amounts as follows:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Medium or high-density residential development	\$10,000	new dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA
Central Coast	Residential subdivision	\$8,000	new dwelling lot
	Medium or high-density residential development	\$6,000	new dwelling
Illawarra-Shoalhaven	Manufactured home estate	\$6,000	new dwelling site
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA
Lower Hunter	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

If the development is supported a condition will be imposed requiring payment of contributions, as the proposal involves the construction of a residential flat building in accordance with *Clause 7 of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

#### ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

#### ENVIRONMENTAL APPRAISAL

#### CONSIDERED

- |   |     |
|---|-----|
| 1. Statutory Controls   | Yes |
| 2. Policy Controls  | Yes |
| 3. Design in relation to existing building and natural environment                                      | Yes |
| 4. Landscaping/Open Space Provision   | Yes |
| 5. Traffic generation and Carparking provision  | Yes |
| 6. Loading and Servicing facilities   | Yes |
| 7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.) | Yes |



- |    |   |     |
|----|---|-----|
| 8. | Site Management Issues  | Yes |
| 9. | All relevant S4.15 considerations of<br><i>Environmental Planning and Assessment (Amendment) Act 1979</i> | Yes |

### **SUBMITTERS CONCERNS**

The application was twice notified to adjoining properties and the Lavender Bay Precinct. The first notification was between 26 April and 24 May 2024 and upon receipt of amended plans the development was notified between 11 October to 25 October 2024 Council received in total twenty seven (27) submissions where the following matters were raised:-

**The lift over-run greatly exceeds the approved height of the current approved development and will affect views for properties looking from west to east and from the north.**

Planning Response: the lift overrun has been reduced by 700mm from an originally lodged RL 25.870 to RL 25.170. The lift overrun height is also noted to be less than that approved by the LEC – DA 379/2021 (RL 25.400).

**The new building allows for very little garden area.**

Planning Response: the amended Landscape Plans prepared by Secret Gardens provides an improved landscape outcome including additional/ replacement tree planting. However, the size of the basement due to large car parking spaces prioritises basement space when additional deep solid and associated landscaping could be achieved to promote substantial landscaping. These concerns are stipulated specifically with regards to the noncompliance in landscaped area (27%) compared to the minimum 40% stipulated in Table B-1.7 of the DCP.

**There will be added competition for street parking as the proposed new building provides fewer parking spaces than the current building.**

Planning Response: the emphasis is on ensuring parking provision for vehicles do not exceed the maximum rates stipulated in Section 10 of the DCP so as to minimise excavation, provide landscaped areas and promote alternative methods of transportation.

**Views will be adversely affected particularly those buildings to the north of the site and those on the west looking to the east.**

Planning Response: the reduction in the height of the lift overrun is a good outcome to improve the views for properties on Warung Street and amendments have been made to the south eastern balconies with an additional setback to improve views particularly a resident with views of the Opera House on Blues Point Road.

**The development is overdevelopment of the site.**

Planning Response: the development has been amended albeit marginally to ensure compliance with site coverage which is an indicator of the density of development.

**Out of the 7 trees removed, one will remain and no replacement trees are proposed.**

Planning Response: The original application was noted in achieving an insufficient landscaping outcome especially in tree planting. Amendments have been made to improve the tree canopy within the subject.

**The proposed vehicular entrance on Henry Lawson Drive will be a major safety problem for vehicles entering and exiting the site and for vehicles turning from Blues Point Reserve.**

Planning Response: The amended traffic and parking assessment report includes an assessment of the sight distance requirements confirming the proposed driveway achieves a driver sight distance/visibility in excess of the minimum requirements specified in AS2890.1:2004.

**The new design extends well past the previous design's boundaries approved by Council on the northern and western boundaries.**

Planning Response: The newly sited RFB is sited closer to Warung Street, however this is supportable noting it will result in less shadows to Henry Lawson Reserve and siting of buildings to the front of the lot is characteristic of the McMahons Point South Conservation Area.

**The cutting of the wall on the Henry Lawson Avenue side, for the car parking entrance is not only a heritage concern but an engineering and safety concern to neighbours.**

Planning Response: The vehicular entry and necessary removal of part of the stone wall facing Henry Lawson Drive was approved and considered in substantial detail within the previous consent (DA 379/21 or LEC No. 2022/157325). Appropriate conditions of consent would apply concerning dilapidation, structural and geotechnical reports.

**The proposed design will create a total lack of privacy for the owners of 3 Warung Street. Privacy loss to neighbouring private open space from balconies extending eastwards.**

Planning Response: Privacy to No. 3 Warung Street has been considered extensively during the assessment and within the report. Ultimately the development does not achieve a satisfactory amenity outcome to No. 3 Warung Street and an acceptable privacy impact.

The development as amended maintains the splayed design of the balconies as well as the size and a non-compliant side setback. Levels 2 and 3 south eastern balconies comprise planter beds as a form of privacy screening which is not a supportable outcome. The balconies due to their splayed design maintains a view across the private open space of 3 Warung Street and is considered to have a poor amenity outcome to occupants of No. 3 Warung Street.

Additionally, greater privacy measures are appropriate with regards to the eastern side elevation. It is noted the windows provide limited amenity benefit such as solar access and greater privacy measures should be incorporated noting louvres only partially restrict views to the adjoining No. 3 Warung Street. Incorporation of less window openings for the eastern elevation is increasingly important given the setbacks not compliant with the minimum stipulated in the ADG.

**Council should appoint an independent Planning Consultant to assess and prepare a report on the current DA for this important landmark site.**

Planning Response: The development does not merit an independent planning consultant to assess and prepare a report. The original determination was completed by North Sydney Council and determined by the North Sydney Local Planning Panel and there is no requirement to refer the matter to an independent consultant.

**As the DA involves complete demolition of the building, the existing use rights may be extinguished, and the proposed development may be prohibited under R3 zoning.**

Planning Response: Section 4.67 'Regulations respecting existing use' of the Environmental Planning and Assessment Act 1979 states the regulations may make provision for or with respect to existing use, in particular, for or with respect to the rebuilding of a building or work being use for an existing use.

Section 166 'Rebuilding of buildings and works' of the Environmental Planning and Assessment Regulation 2021 permits subject to development consent the rebuilding of a building.

**The aesthetic does not fit with the character of the area. It will be obtrusive from land and from the harbour as well, like a space ship has landed.**

Planning Response: amendments have been made to the southern elevation increasing the solidity of the façade. However, the continued glazed balustrades are not supportable. The materials and finishes are generally supportable and it is noted the DEP feedback concerning colours and materials was positive.

**Apart from the sandstone base, the concrete balconies will be ugly and the bronze cladding will be blinding when hit by the western sun.**

Planning Response: the balconies are not supportable and considered not consistent with the design and materiality of balconies in the locality differing from the existing RFB balconies and those approved by the LEC. DEP considered the bronze cladding as acceptable due to its recessive and muted appearance.

**The 3 metre deep excavation plus basement parking will have incredible drainage problems.**

Planning Response: drainage associated with the site and proposed development has been considered by Council's Development Engineer and an appropriate condition of consent is required whereby a site drainage management plan must be prepared by a qualified drainage design engineer to control stormwater runoff and manage sub-soil seepage drainage. Additionally, a condition is required to adequately provide for the discharge of sub-surface stormwater from excavated parts of the site.

**The proposed building envelope and uncharacteristic exterior will diminish the integral view of the Sydney Opera House and encompassing vista as seen when walking downhill on the western side of Blues Point Road.**

Planning Response: the RFB envelope particularly to Blues Point Road is supported being similar to that approved. The materials and finishes have been considered in detail and supportable. However, there are aspects of the southern rear elevation comprising glazed balustrades and the skewed large south eastern balconies that do result in an uncharacteristic exterior when viewed from Henery Lawson Reserve.

**The desire to introduce a very dominant and modern style of building into this heritage area is at odds with the architectural significance of the area. The proposal does not respect the curtilage, setbacks, form, scale and style of the heritage buildings in Warung Street.**

Planning Response: the building being a new building will appear modern compared to those established buildings. However, there are opportunities for improvement in addressing bulk and scale and the relationship with adjoining heritage properties including the conservation area specifically an alternative outcome for the balustrades and amendments to the size, shape and orientation of the south eastern balconies. The planning report raises concerns with the impact to the amenity of the adjoining No. 3 Warung Street and this is in part due to the insufficient separation and bulk and scale.

**The proposed building does not represent the rectilinear alignment of buildings in the McMahon Point Conservation Area which align to the street and side boundaries.**

Planning Response: the design outcome for the south eastern corner of the building is not supportable designed with a skewed alignment not parallel to the eastern boundary contrary to Provision P3, s1.4.5 of NSDCP 2013.

Although the siting of the building is supportable the skewed orientation of the south eastern corner of the building is not supportable not maintaining the characteristic orientation within the conservation area and contrary to the existing building orientation of the RFB sought for demolition therefore the development fails to comply with Objective O1, s1.4.5 of NSDCP 2013.

**The development does not complement the HCA being discordant in its curvilinear, horizontally and stepped form, its use of three contrasting materials. The overly large balconies present an unacceptable frontage to the harbour.**

Planning Response: the balconies are noted for being very large and although a response to no provision of common open space the balconies particularly the south eastern balconies should be reduced in size from an amenity outcome and visual impact to the conservation area.

**The amount of excavation is excessive and the basement covers almost the whole site. There is an absence in deep soil and planting therefore the development is out of character with buildings in the HCA.**

Planning Response: the basement although designed to be a maximum 70% of the site compliant with Provision P9 in s1.3.1 'Topography' does result in a non compliance with landscaped area.

**The proposed parapet roof is not compatible with the HCA where roofs are generally pitched or flat and have eaves.**

Planning Response: The RFB is designed with a flat roof which is appropriate to address views of adjoining properties and it is noted the flat roof is characteristic of the existing RFB and that approved under DA No. 379/21.

**The mix of shapes and finishes in Warung Street seems jarring and when viewed from the south the large balconies seem un-neighbourly and might they be scaled back?**

Planning Response: this comment is concurred with and the large balconies are dominant when viewed from the south and unneighbourly in context with No. 3 Warung Street.

**The overdevelopment of the site will substantially reduce the available areas of deep soil surrounding the proposed building.**

Planning Response: the site provides a compliant provision in deep soil greater than that required in the ADG.

**The original building on the south west corner is 4.475 metres from the boundary. The proposed DA is 1.85 meters from the boundary blocking views of the Opera House and the bridge.**

Planning Response: the development has been amended whereby the south western balconies have been offset further to manage views and the Unit with views of the Opera House affected has been considered and further view investigations completed by the Applicant is detailed in Appendix 2 of the architectural package. Additional setbacks help protect views of the Opera House from an apartment at 42 Blues Point Road.



**Figure 43 – Proposed Floor Plan of Level 2 at No. 1 Warung Street detailing the predominantly Level 1 integrated balcony**

## **PUBLIC INTEREST**

Whilst it is within the public interest to reinforce the importance of this location for quality housing supply, the proposal fails to provide the following benefits:

- The proposal does not align with the desired scale and significance of the area, leading to an incompatible building height relative to the surrounding environment.
- The overall built form does not present a design that fits within the envisaged character of the area, nor does it respond to the sites attributes and applicable development controls, therefore failing to ensure adequate residential amenity, impacting the quality of life for current and future occupants and neighbouring residents.
- The proposed earthworks and topographical changes disrupt the natural landscape, causing adverse environmental impacts and visual intrusion.
- The proposal adversely affects heritage values and the historical context of the area, failing to respond appropriately to relevant heritage considerations.
- The design does not appropriately fit within the envisaged character of the area, lacking a built form that harmonises with the local context or responds to site-specific attributes.
- The proposal does not sufficiently integrate landscaped areas.

Therefore, the proposal is not considered to be in the public interest.

## **SUITABILITY OF THE SITE**

The development is not considered appropriate in that:

- The design and architectural elements do not compliment the streetscape, character and amenity of the area and thus do not enhance residential quality of life and satisfaction.
- The size and dimensions of the land are not able to accommodate the proposal, resulting in non compliance with policies and controls as identified.
- The proposed building height exceeds acceptable limits, resulting in an overbearing presence that disrupts the surrounding context and fails to respect the area's desired scale and character.
- The proposed built form is not compatible with the existing and future developments in the area. It does not align with the envisaged character of the neighbourhood and fails to create a cohesive streetscape.

Subsequently, the site is unsuitable for the proposed development, as it does not align with key planning principles and would likely result in adverse impacts on the locality, built and natural environment, and heritage values.

## **HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?**

The subject application was notified twice to adjoining properties and the Lavender Bay Precinct for 14 days where a number of issues were raised including privacy loss, uncharacteristic form of the building, landscaping and adverse impact to the heritage significance of the conservation area. These concerns and issues have been discussed in this report and have not been adequately addressed by the final scheme.

Having regard to the merits of the proposed development, the application is recommended refusal for reasons outlined below.

## CONCLUSION

The proposal involves reconstruction of a residential flat building which benefits from Existing Use Rights provisions under Div 4.11 of the *EP & A Act 1979* and the incorporated provisions at s163 to 167 of the *EP & A regulations 2021*. The development application has been assessed against relevant State Planning Policies including Chapter 4 of the Housing SEPP, as well as Council policies including the *North Sydney Local Environmental Plan 2013 (NSLEP 2013)* and North Sydney Development Control Plan 2013 (NSDCP 2013).

Council's notification of the original plans has attracted a total of twenty (20) submissions by way of objection including a submission by the Lavender Bay Precinct Committee raising concerns regarding privacy loss to neighbouring private open space, the uncharacteristic form and appearance of the building and its conflict with the character of the McMahons Point Conservation Area, concerns with regards to the lift overrun, view loss, privacy impacts, built form & design, site excavation and associated impacts, impact to heritage conservation area and character generally, inadequate setbacks, impact to street parking and insufficient landscaping. Amended plans illustrating a revised scheme were re-notified in October 2024, which attracted a further seven (7) submissions by way of objection.

The proposed development prioritises views of Sydney Harbour and associated iconic views of the Harbour Bridge and Opera Views to the detriment of the amenity of No. 3 Warung Street and also heritage significance of the McMahons Point Conservation Area. The splayed south eastern balconies are excessive in size directing views which would have a direct impact and insufficiently mitigated impact on the private open space of No. 3 Warung Street. The built form would not relate well to the adjoining heritage item and conflicts with the predominantly rectilinear form of buildings within the conservation area. The development proposes excessive glazing and glazed balustrades which detract from the significance of the conservation area and there is a substantial increase in earthworks and excavation which does not promote substantial landscaping. Concern is also raised that the earthworks will not ensure the structural integrity of No. 3 Warung Street.

The application involves a height breach of 11.07m (exceedance of 30% or 2.57m) not compliant with the maximum height of buildings development standard (8.5m) under Clause 4.3 of *NSLEP 2013*. The written request pursuant to Clause 4.6 of the *NSLEP 2013* is not supported as insufficient planning grounds were provided and the included information failed to demonstrate that compliance with this development standard is unreasonable or unnecessary particularly failing with satisfying Objectives of Cl. 4.3 Height of Buildings.

The assessment has considered the concerns raised in the submissions and performance against applicable planning requirements. Following this assessment and having regard to the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), the application is recommended for refusal given the proposal's failure to achieve compliance to and consistency with critical objectives, provisions and controls under the Chapter 4 of the Housing SEPP, would not achieve an appropriate outcome in terms of built form and character and would substantially impact on the amenity of No. 3 Warung Street.

In light of the above and the numerous unresolved matters and issues identified, the application is not considered to be satisfactory and is recommended for refusal.

## RECOMMENDATION

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

In consideration of the written request made by the Applicant pursuant to Clause 4.6 of the *North Sydney Local Environmental Plan 2013*, the consent authority is not satisfied that compliance with the development standard contained in Clause 4.3 – Maximum Height of Buildings of *NSLEP 2013* is well founded.

The Local Planning Panel as the consent authority is not satisfied that there are sufficient environmental planning grounds which would justify contravening the development standard.

**THAT** the North Sydney Local Planning Panel, exercising the functions of Council as the consent authority, resolve to refuse development consent to Development Application No. 379/21 for development involving demolition of existing structures and erection of a new residential flat building and ancillary works, on land at No. 1 Warung Street (legally described as SP 1927), as shown on Architectural Plans, prepared by Squillace and dated 09/09/24 – Rev C, for the following reasons:

### 1. Variation to Height of Building Standard

The variation request to the maximum height of buildings standard is not well founded and insufficient environmental planning grounds have been identified to support the height variation. The resulting development would present an actual impact to No. 3 Warung Street in terms of excessive overshadowing and privacy impacts and the resulting development would be uncharacteristic of the locality.

#### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives and provisions of *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013*.
- b) The proposed development does not achieve the objective in Clause 4.3(1)(a) of *NSLEP 2013* as the building is not stepped down the site nor does the development seek to conform with the natural gradient of the site.
- c) The proposed development does have an additional impact to the western elevation of No. 3 Warung Street casting additional shadow to various windows. It was also noted the windows/ openings on the western elevation are not accurately shown as the western elevation has not been surveyed (refer to C.M.S Surveyors Dwg 19099A detail Issue 6).
- d) The development due to the additional shadows cast does not maintain solar access but has an additional impact not promoting solar access for future development therefore not satisfying the objective in Clause 4.3(1)(d) of *NSLEP 2013*.
- e) The development does not maintain privacy for residents of existing dwellings because the balconies due to their skewed or splayed design maintains a view across the private open space of 3 Warung Street and is considered to have a poor amenity outcome to occupants of No. 3 Warung Street. Additionally, greater privacy measures are appropriate with regards to the eastern side elevation. It is noted the windows provide limited amenity benefit such as solar access and greater privacy measures should be incorporated noting louvres only partially restrict views to the adjoining No. 3 Warung Street.



- f) The development therefore does not maintain privacy for residents of the adjoining No. 3 Warung Street not satisfying the objective in Clause 4.3(1)(d) of *NSLEP 2013*.
- g) The development is not compatible with adjoining development and core concerns include the extent of glazing, glazed balustrades and the dominance of the bulk and massing of the building including the skewed south eastern balconies in context with No. 3 Warung Street. The development does not satisfy the objective in Clause 4.3(1)(e) of *NSLEP 2013* because the development is incompatible with the adjoining dwelling at No. 3 Warung Street.
- h) The dominant appearance of the large skewed south eastern balconies is not supported and a more sympathetic outcome is required such as more modest sized balconies to reduce the prominence and dominance of the southern elevation which is highly visible from the public domain and surrounding conservation area. The development does not satisfy the objective in Clause 4.3(1)(f) of *NSLEP 2013*.
- i) The height of building is not supported and the written request to justify the contravention of the development standard is not well founded. The written request does not demonstrate compliance with the development standard would be unreasonable and there are insufficient planning grounds to justify the variation. In particular the development does not comply with the following objectives in Clause 4.3 'Height of Buildings' of *NSLEP 2013*.

## 2. Residential Amenity

The development compromises the amenity of the surrounding area and does not ensure a high level of residential amenity particularly for occupants of the most affected neighbouring property adjoining the site to the east (No. 3 Warung Street).

### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives, design criteria and provisions of Chapter 4 Design of residential apartment development in *State Environmental Planning Policy (Housing) 2021*, *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013 (DCP 2013)*.
- b) The bulk and scale of the residential flat building combined with setbacks less than the minimum stipulated in Design Criteria 1, Objective 3F-1 of the ADG results in additional overshadowing compared to the existing or previously approved residential flat building. The development will have a detrimental impact reducing access to sunlight for the adjoining No. 3 Warung Street. The development does not uphold the Objective O1 in s1.3.7 of *NSDCP 2013*.
- c) The south eastern balconies do not comply with the minimum setback stipulated in Design Criteria 1, Objective 3F-1 of the ADG and the balconies are splayed to maximise views for residents of the Harbour Bridge and Opera Bridge with direct overlooking to the principal private open space of No. 3 Warung Street.
- d) The balconies due to their splayed or skewed design maintains a view across the private open space of 3 Warung Street and is considered to have a poor amenity outcome to occupants of No. 3 Warung Street.
- e) Greater privacy measures are appropriate with regards to the eastern side elevation. It is noted the windows provide limited amenity benefit such as solar access to apartments within the development and greater privacy measures should be incorporated noting louvres only partially restrict views to the adjoining No. 3 Warung Street. Incorporation of less window openings for the eastern elevation is increasingly important given the setbacks are not compliant with the minimum stipulated in the ADG.

- f) The development due to the large splayed south eastern balconies and extent of glazing on the eastern side elevation does not ensure residents of the adjoining No. 3 Warung Street are provided with a reasonable level of visual privacy contrary to Objective O1 in s1.3.10 'Visual Privacy' in NSDCP 2013.
- g) The proposal is inconsistent with the objectives of the zone because the development compromises the amenity of the surrounding area and does not ensure a high level of residential amenity particularly for occupants of the most affected neighbouring property adjoining the site to the east (No. 3 Warung Street).
- h) The development will adversely affect the residential amenity for occupants of No. 3 Warung Street in terms of visual privacy and solar access contrary to Aims of Plan 1.2(2)(c)(i) in NSLEP 2013.

### **3. Earthworks and Topography**

The proposal seeks to excavate the entire site and provide a flat topography at RL 11.820 which will require a varying excavation between 2m in the south western corner to up to 7m in the north eastern corner.

The proposal provides access to a new basement for parking and services from Henry Lawson Avenue, with apartments above, including ground level units that are subterranean.

The proposed earthworks are considered major and greater than that approved under the previous consent. The application is supported by a Geotechnical Investigation Report by Douglas Partners which notes the bulk excavation requirements, the necessity to obtain accurate information concerning the adjoining No. 3 Warung Street and methodology for earthworks and associated support.

#### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s 4.15(1)(a)(i), 4.15(1)(a)(iii), and 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives and provisions of *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013* (DCP 2013).
- b) The site has a crossfall from the north-eastern corner on Warung Street to its Henry Lawson and Blues Point Road frontage. The pavement on Henry Lawson Avenue is 3.5m-5.7m lower than the subject site. The Survey Plan details an RL of approximately 18m in the north eastern corner of the site with a fall of approximately 5m to the south western corner of the site.
- c) The Geotechnical Investigation Report raises several concerns regarding the potential stability of both the adjoining No. 3 Warung Street and Henry Lawson Avenue. The information contained within the Geotechnical Investigation fails to give any certainty that the bulk excavation required will not adversely affect the soil stability and amenity of the adjoining property at No. 3 Warung Street. The bulk earthworks will be reliant on accurate information on the foundations and condition of the adjacent neighbouring building which have not been obtained. The use of anchors required to extend into the neighbouring property at No. 3 Warung Street is not considered an acceptable solution and would require consent from the respective owner/s. As such, the above matter is unresolved and the development does not satisfactorily confirm earthworks will not have a detrimental impact on features on surrounding land.

- d) In accordance with the provisions of Clause 6.10(3) of NSLEP 2013 the impact of the proposed excavation and filling within the site and to surrounding properties and found that the proposed earthworks are not acceptable and the application insufficiently details measures to avoid, minimise or mitigate the impacts of earthworks. Accordingly, the proposed development is not supportable in this regard.
- e) The extent of excavation would not maintain any of the site topography contrary to Objective O1 and there are unresolved concerns with the scope of excavation and impact on the amenity structural integrity of the adjoining property at No. 3 Warung Street contrary to Objectives O3 and O5 in s. 1.3.1 of NSDCP 2013.
- f) The basement proposes overly large car parking spaces with a width of 3.6m. The basement should be reduced in size to improve the provision of deep soil landscaping including sustaining tree planting within the site as well as responding to the prominent site topography. The basement excavation is excessive for the site conditions and subject to amendments to the size of the basement the site could allow for substantial new vegetation and trees. The development therefore does not comply with Objective O2 in s1.3.1 of NSDCP 2013.
- g) The proposed earthworks will not maintain sufficient topographic features and existing ground levels of the site contrary to Aims of Plan 1.2(2)(e) in *NSLEP 2013*.

#### **4. Heritage Impacts**

The proposed development will not contribute positively to the heritage significance of the site and surrounding McMahons Point South Conservation Area because the southern rear elevation comprises too much glazing and glazed balustrades not characteristic of the conservation area. The development also is not supported due to its bulk and scale with insufficient recession in the built form of the building and the landscaping is insufficient in the context of the site to emphasise the sandstone forms evident in the street and at the site boundaries nor would the design response complement the foreground of Henry Lawson Reserve and the surrounding conservation area.

#### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives and provisions of *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013* (DCP 2013).
- b) The proposed glazing to the southern rear elevation remains too extensive and a greater solidity in the façade is required to ensure the development achieves a high proportion of masonry or solid surfaces to glazed surfaces. The glazing does not comply with Provision P5, s9.8.6 in Part C 'McMahons Point South Conservation Area' of NSDCP 2013. The development encompassing the large glazed window/ doors and glazed balustrades would be dominated by large expanses of glass contrary to Provision P5, s1.4.7 'Form, Massing & Scale' of NSDCP 2013.
- c) The glazed balustrades are not supported and the balustrades should be similar to the existing development, the approved RFB under DA 379/21 and other properties in the vicinity that comprise of metal palisade balcony balustrades. Glazed balustrades are not a supportable heritage outcome as stipulated in Provision P6, s13.9.3 'Verandahs and balconies' of NSDCP 2013.

- d) The skewed orientation of the south eastern balconies is not supportable not maintaining the characteristic orientation of buildings within the conservation area and contrary to the existing building orientation of the RFB sought for demolition therefore the development fails to comply with Objective O1, s1.4.5 'Siting' of NSDCP 2013.
- e) The siting of the development including proximity to the eastern boundary and the south eastern balconies detrimentally impacts upon the heritage significance of the heritage item and its setting. The bulk and scale of the development adjacent to the eastern boundary does not respond to the curtilage, setbacks, form and scale of the heritage item and has no compatibility with the orientation and alignment of the heritage item. The development does not comply with Objective O1, Provisions P1 and P3 in s13.4 'Development in the Vicinity of Heritage Items' of NSDCP 2013.
- f) The proposed glazing, glazed balustrades and the bulk, scale and siting of the development will detract from the significance of the heritage conservation area and adjoining heritage item contrary to Aims of Plan 1.2(2)(f), Objective 1(b) in Clause 5.10 in *NSLEP 2013*.

## 5. Built Form and Character

The south eastern balconies are not considered to be integrated within the building envelope but are large protruding aspects of the building primarily sought for maximising views to the harbour and iconic items such as the Harbour Bridge and Opera House.

The skewed large balconies to the south eastern corner of the RFB is not complementary to the existing character of the locality noting the locality has more modest balconies integrated within the building envelope.

### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives, design criteria and provisions of *Chapter 4 Design of residential apartment development in State Environmental Planning Policy (Housing) 2021*, *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013 (DCP 2013)*.
- b) The skewed orientation of the south eastern corner of the building is not supportable not maintaining the characteristic orientation within the conservation area and contrary to the existing building orientation of the RFB sought for demolition therefore the development fails to comply with Provision P3 and Objective O1, s1.4.5 of NSDCP 2013.
- c) The south eastern balconies are large extending significantly beyond the rear façade of the building not incorporated within the building envelope contrary to Provision P3, s1.4.8 of NSDCP 2013. The proposed skewed arrangement of the balconies is not integrated within the building dominating the overall architectural form of the building contrary to Objective 4E-3 in the ADG.
- d) The skewed south eastern balconies due to their size, orientation and insufficient integration within the building envelope is not compatible with the desired future character of the area contrary to Aims of Plan 1.2(2)(b)(i) in *NSLEP 2013*.

## 6. Landscaped Area

The development proposes 266.5m<sup>2</sup> (27%) landscaped area not compliant with the minimum 40% stipulated in Table B-1.7, Provision P1, s1.5.6 'Landscaped Area' of NSDCP 2013. Basement parking comprises large car parking spaces being 3.4m wide. It is noted the adaptable spaces are 2.5m and 2.5m is a nominated parking space width in the Australian Standard 2890.1 Parking facilities: off street parking.

It is considered the development prioritises generous car parking spaces and to maximise the allowance of 70% basement excavation stipulated in Provision P9, S1.3.1 of NSDCP 2013 whilst compromising landscaped area.

### Particulars

- a) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(a)(i) and s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development does not satisfy the relevant objectives and provisions of *North Sydney Local Environmental Plan 2013* and *North Sydney Development Control Plan 2013* (DCP 2013).
- b) The basement is excessive and subject to amendments to the size of the basement the site could allow for substantial new vegetation and trees. The development therefore does not comply with Objective O2 in s1.3.1 of NSDCP 2013.
- c) The development does not promote substantial landscaping and the contribution to landscaping within the streetscape contrary to the following objectives in s1.5.6 of the NSDCP 2013.
- d) The shortfall in landscaped area is not appropriate to the landscaped context or enhances the amenity of the North Sydney environment contrary to Aims of Plan 1.2(2)(a) in *NSLEP 2013*.

## 7. Site suitability

The proposed development will result in adverse impacts on the locality and is therefore unsuitable for the site.

### Particulars:

The application is considered unacceptable pursuant to the provisions of s.4.15(1)(c) & (d) of the *Environmental Planning and Assessment Act 1979* in that the proposed development will result in an unacceptable built form that does not conform to the constraints of the site.

## 8. Public Interest

The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is not considered to be within the public interest and is likely to set an undesirable precedent due to the non-compliances with objectives and controls under Council policy including the *NSLEP 2013* and *NSDCP 2013* as well as non-compliances with Chapter 4 Design of residential apartment development of *State Environmental Planning Policy (Housing) 2021* and the Apartment Design Guide.

**THOMAS HOLMAN**  
**SENIOR ASSESSMENT OFFICER**

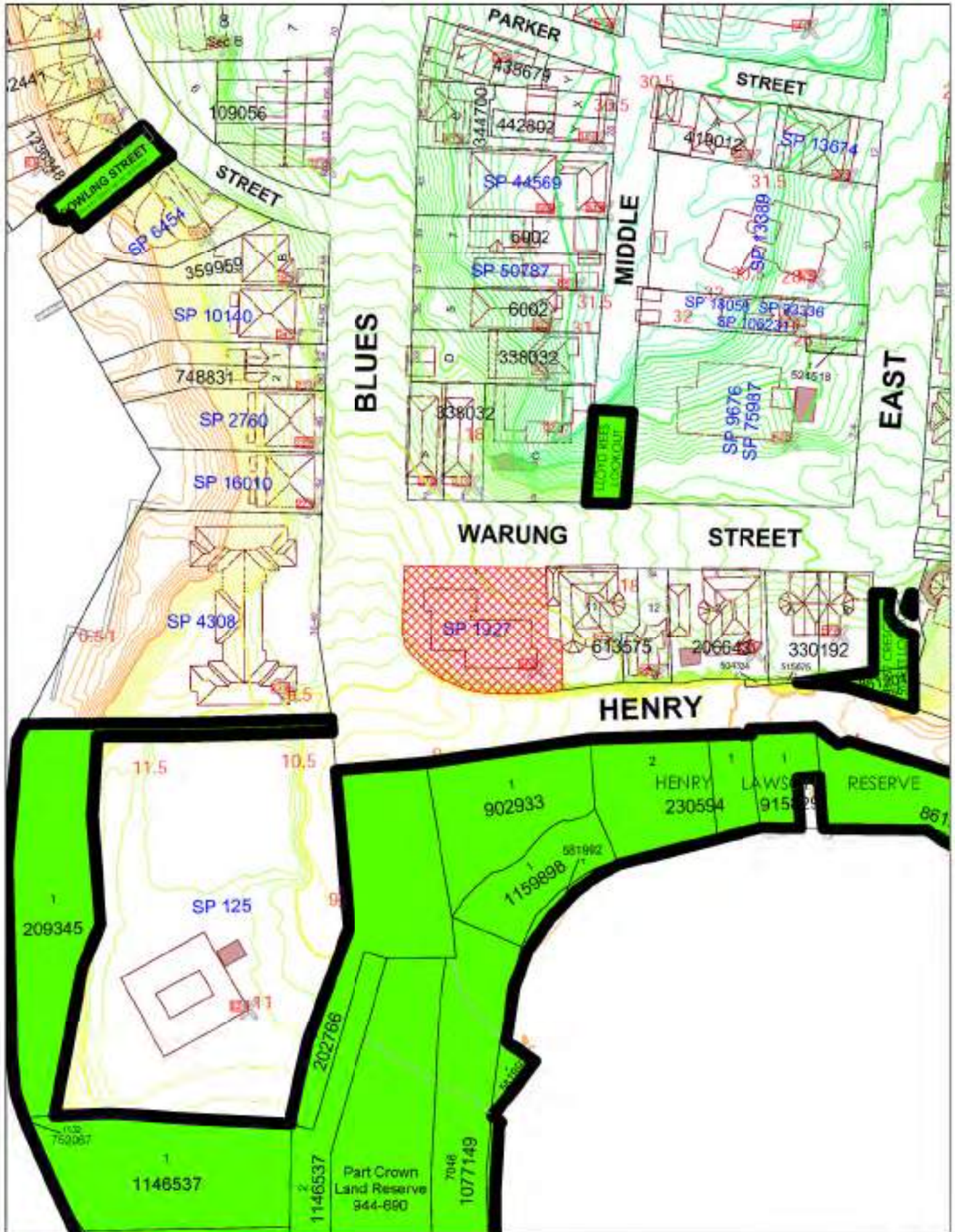
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**DAVID HOY**  
**TEAM LEADER ASSESSMENTS**

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**ISOBELLA LUCIC**  
**A/MANAGER DEVELOPMENT SERVICES**

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**North Sydney Council**

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# WARUNG STREET APARTMENTS

1 WARUNG STREET, McMAHONS POINT

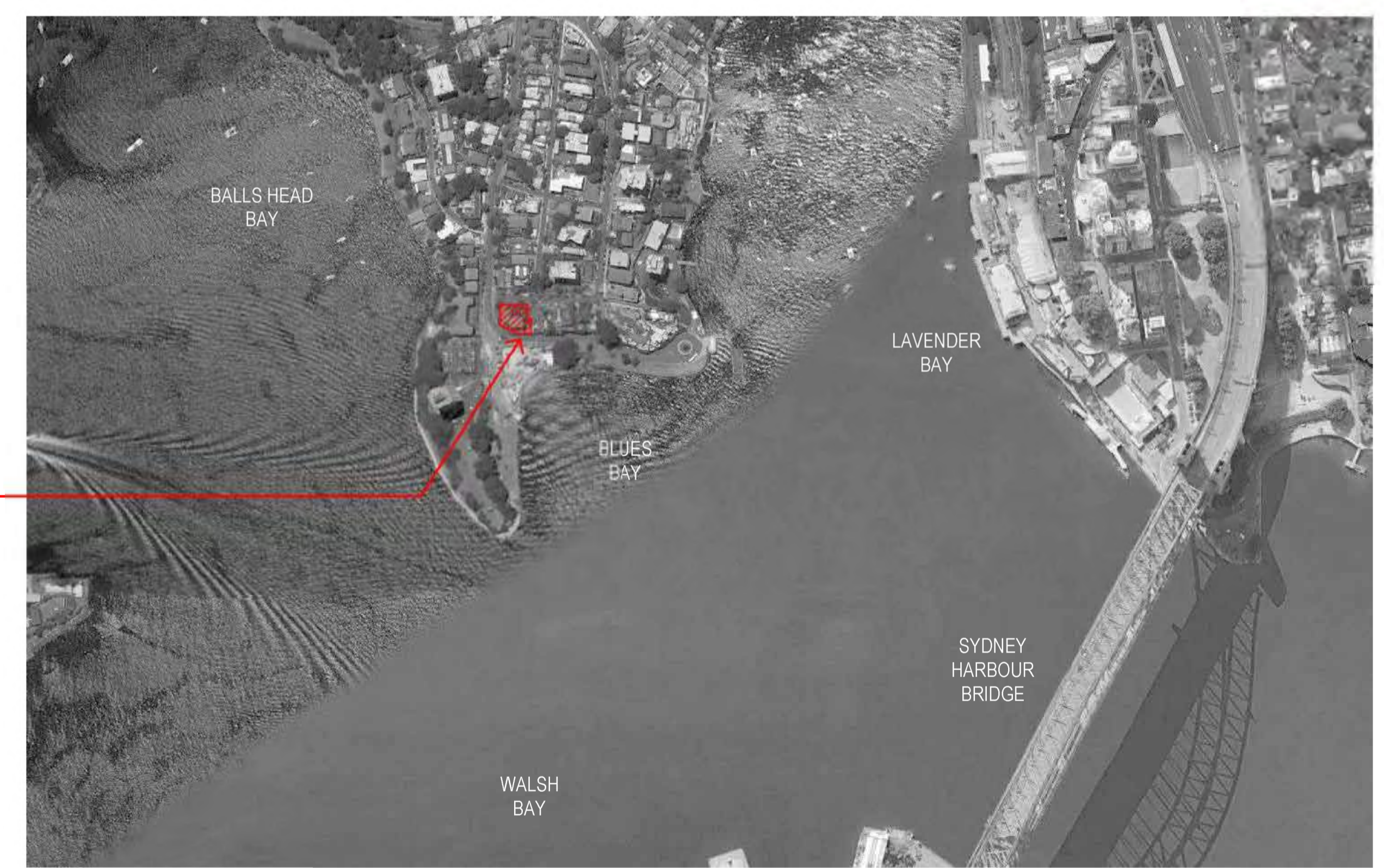
## DEVELOPMENT APPLICATION

### DA DRAWING LIST

NUMBER	NAME	CURRENT REVISION	ISSUED
DA-001	COVER SHEET	C	03.09.2024
DA-011	SITE PLAN	C	03.09.2024
DA-012	SITE ANALYSIS PLAN	C	03.09.2024
DA-020	DEMOLITION PLAN	C	03.09.2024
DA-099	BASEMENT LEVEL PLAN	C	03.09.2024
DA-100	GROUND LEVEL PLAN	C	03.09.2024
DA-101	LEVEL 1 PLAN	C	03.09.2024
DA-102	LEVEL 2 PLAN	C	03.09.2024
DA-103	LEVEL 3 PLAN	C	03.09.2024
DA-104	ROOF PLAN	C	03.09.2024
DA-205	NORTH ELEVATION - PROPOSED	C	03.09.2024
DA-206	EAST ELEVATION - PROPOSED	C	03.09.2024
DA-207	WEST ELEVATION - PROPOSED	C	03.09.2024
DA-208	SOUTH ELEVATION - PROPOSED	C	03.09.2024
DA-301	SECTIONS SHEET 1	C	03.09.2024
DA-401	SHADOW STUDY - WINTER SOLSTICE - SHEET 1	C	03.09.2024
DA-402	SHADOW STUDY - WINTER SOLSTICE - SHEET 2	C	03.09.2024
DA-403	SHADOW STUDY - WINTER SOLSTICE - SHEET 3	C	03.09.2024
DA-404	SHADOW STUDY - EQUINOX - SHEET 1	C	03.09.2024
DA-405	SHADOW STUDY - EQUINOX - SHEET 2	C	03.09.2024
DA-406	SHADOW STUDY - EQUINOX - SHEET 3	C	03.09.2024
DA-431	SUN'S EYE VIEW - WINTER SOLSTICE	C	03.09.2024
DA-432	SUN'S EYE VIEW - EQUINOXES	C	03.09.2024
DA-450	3 WARUNG ST - SHADOW STUDY @ WINTER SOLSTICE	C	03.09.2024
DA-531	LANDSCAPE COVERAGE & EXCAVATION PLAN	C	03.09.2024
DA-541	ADAPTABLE UNIT LAYOUT	C	03.09.2024
DA-551	BUILDING ENVELOPE	C	03.09.2024
DA-552	BUILDING HEIGHT PLANE	C	03.09.2024
DA-601	SOLAR ACCESS & CROSS FLOW VENTILATION	C	03.09.2024
DA-603	SEPP65 - STORAGE, PRIVATE & COMMUNAL OPEN SPACE	C	03.09.2024
DA-701	PHOTOMONTAGE 1	C	03.09.2024
DA-800	BASEMENT ENTRY DRAWING	C	03.09.2024

### AMENDMENTS TO ARCHITECTURAL DRAWINGS

ITEM NO.	PART NO.	DESCRIPTION
1.	12 A	ADDED VISITOR/CARWASH BAY TO BASEMENT
2.	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED
3.	11 C	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT
4.	8 -	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
5.	14 G	ADDED COMMUNAL BENCH TO BUILDING ENTRY
6.	10 -	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
7.	5 A	RESTRICTED LOUVRES TO EAST FACADE
8.	4 -	ADDED PLANTER BOXES TO UNITS 202 & 301
9.	4 -	ADJUSTED LOUVRES TO UNIT 301
10.	14 A	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
11.	15 F	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL
12.	14 E	SOLID VS GLASS STUDY CALCULATIONS UPDATED
13.	5 A	ADDITIONAL VIEW STUDIES PROVIDED
14.	9 -	ADDITIONAL DETAILED SECTION PROVIDED
15.	1 D.E.F.G.H	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
16.	5 C	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
17.	6 AC	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
18.	14 AF	REVISED AS PER COUNCIL COMMENTS
19.	15 EF	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
20.	15 D	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT
21.	6 B	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
22.	15 C	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
23.	1 K	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
24.	5 D	BUILDING HEIGHT REDUCED BY 150MM
25.	14 B.E.F	HIGH WINDOW ADDED TO BEDROOM



**SUBJECT SITE**

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**STATUS**  
**DEVELOPMENT APPLICATION**

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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
A	29.02.2024	ISSUE FOR DA

**CLIENT**  
Highbury Warung Pty Ltd

**squillace**

**ARCHITECTURE / INTERIORS**

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17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

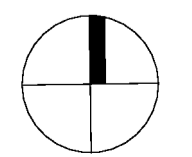
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**DRAWING NO.** DA-001  
**ISSUE** C

**JOB NO.** HIG2307  
**SCALE** N.T.S.  
**DATE** 03.09.2024

**DRAWING TITLE**  
COVER SHEET

**DRAWN BY** MS  
**CHECKED BY** VS



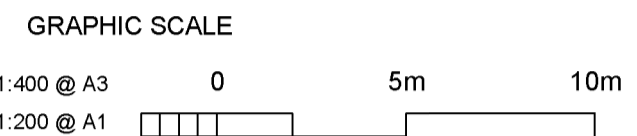


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**DRAWING NOTES**

- LEGEND**  
HERITAGE ITEM

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FCR DA
B		
A	29.02.2024	ISSUE FCR DA

**CLIENT**  
Highbury Warung Pty Ltd

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**PROJECT**  
Warung Street Apartments

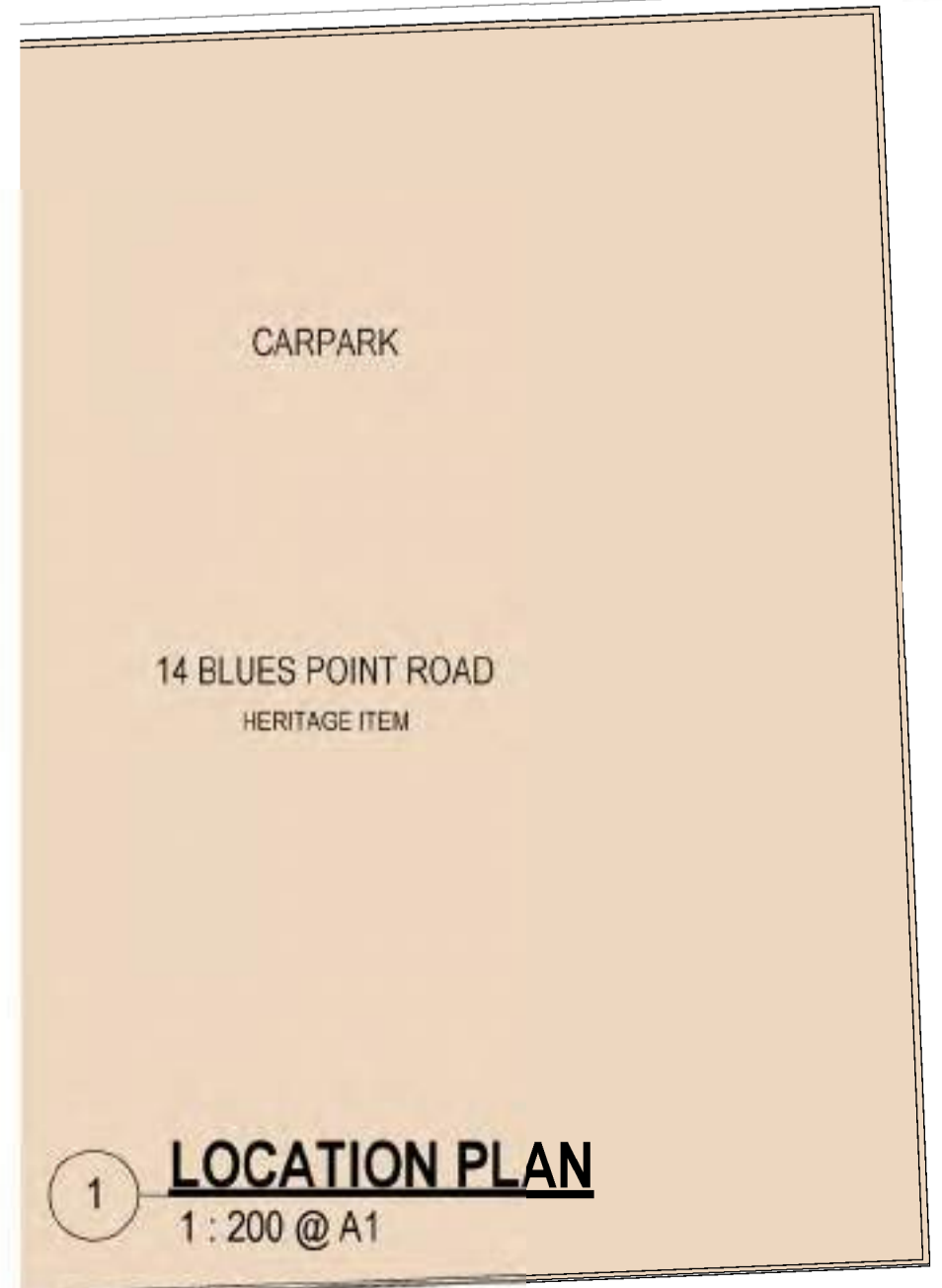
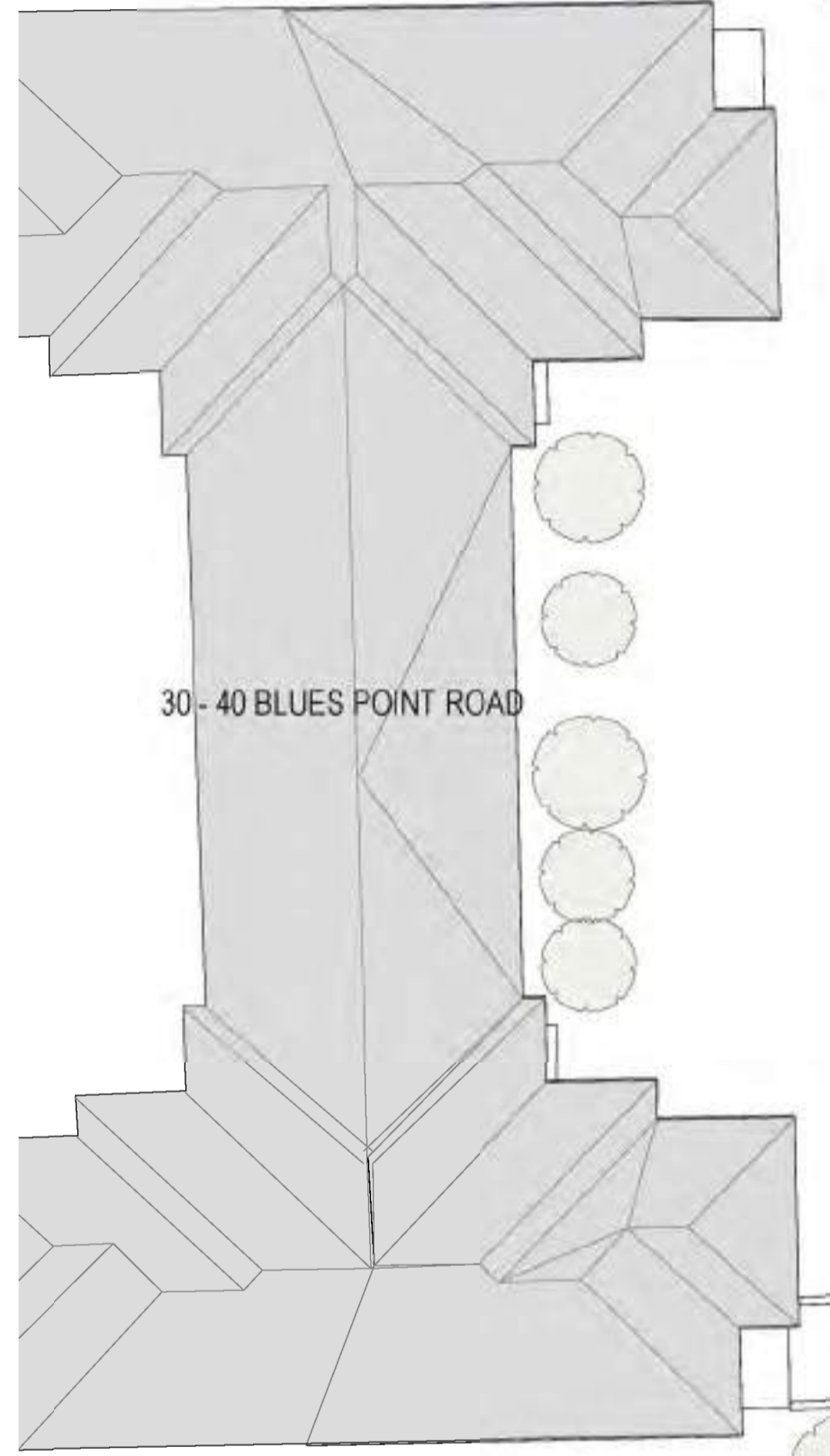
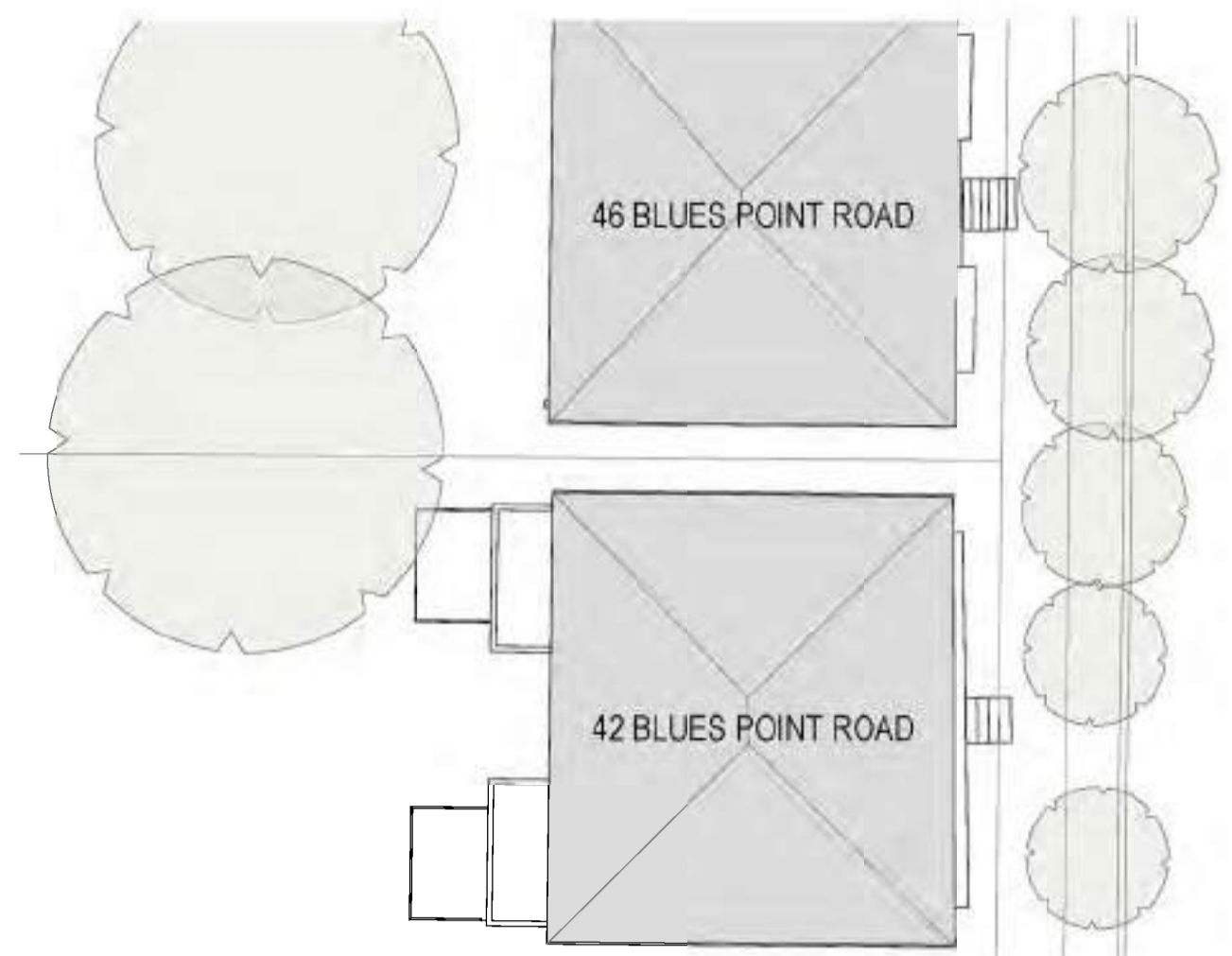
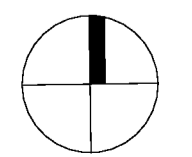
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**DRAWING NO.** DA-011 **ISSUE** C

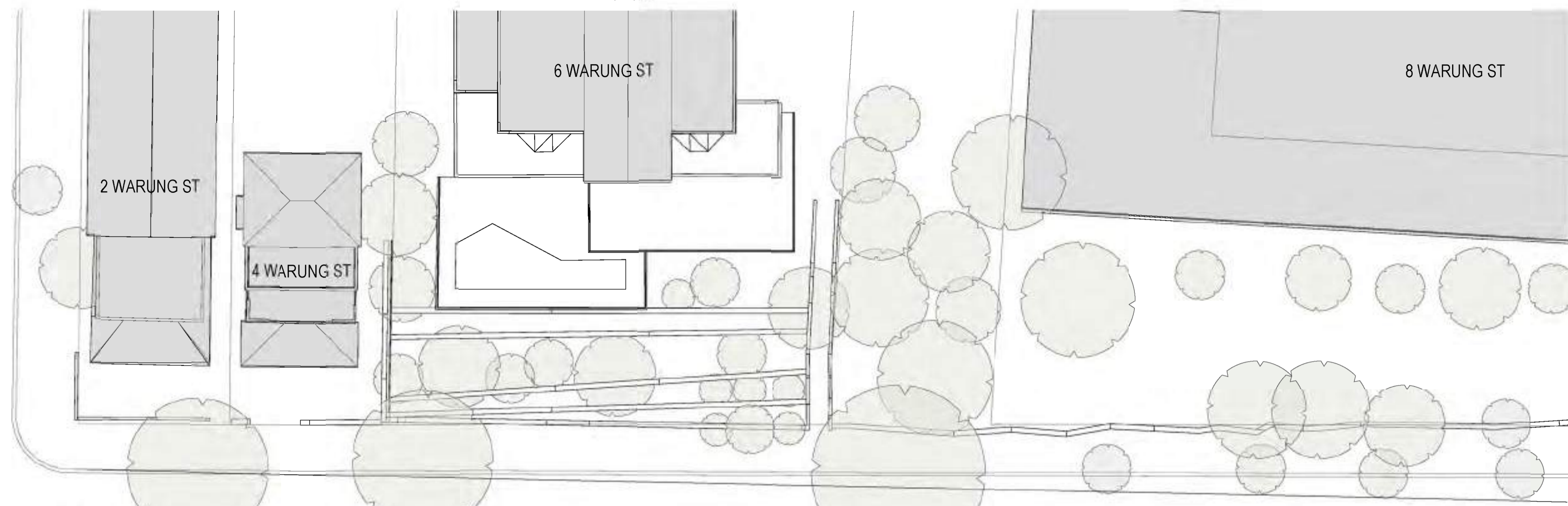
**JOB NO.** HIG2307 **SCALE** 1 : 200@ A1 **DATE** 03.09.2024

**DRAWING TITLE**  
SITE PLAN

**DRAWN BY** MS **CHECKED BY** VS

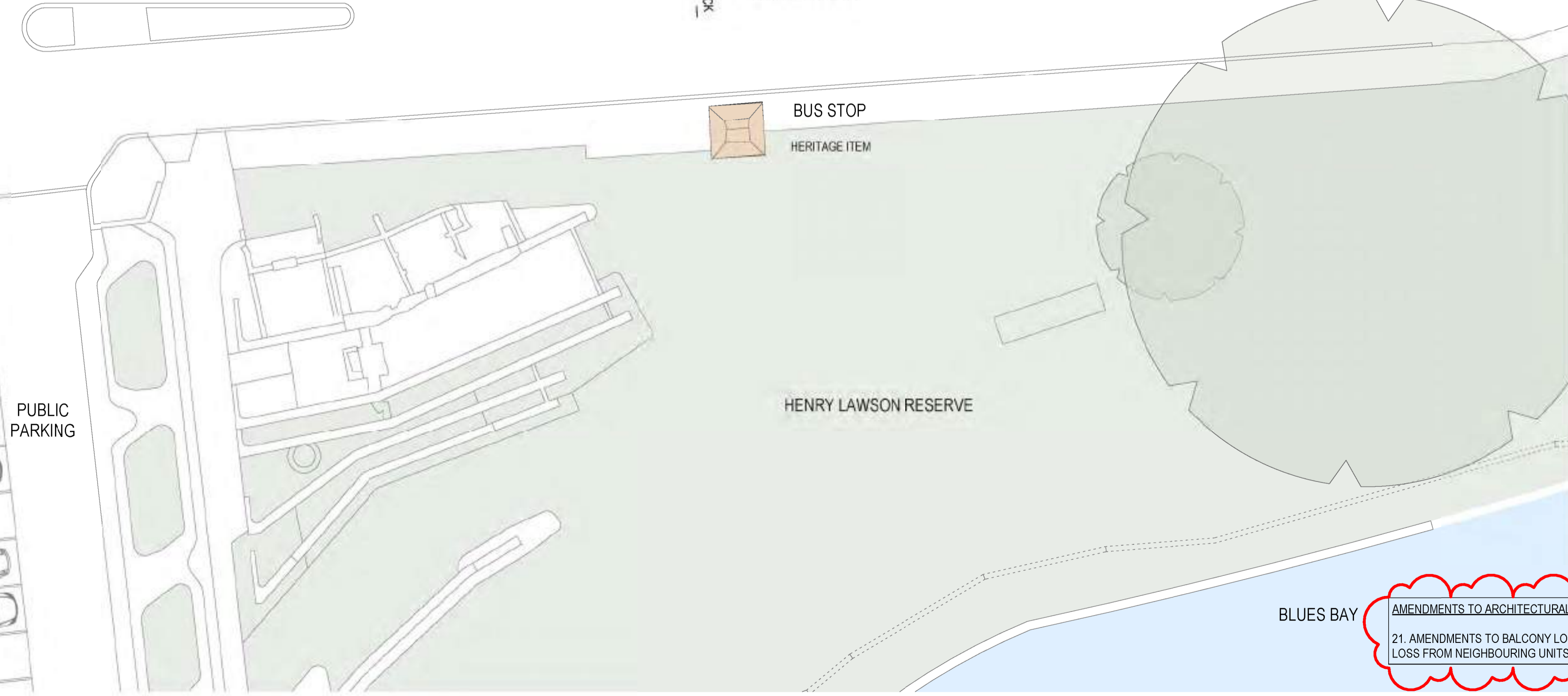
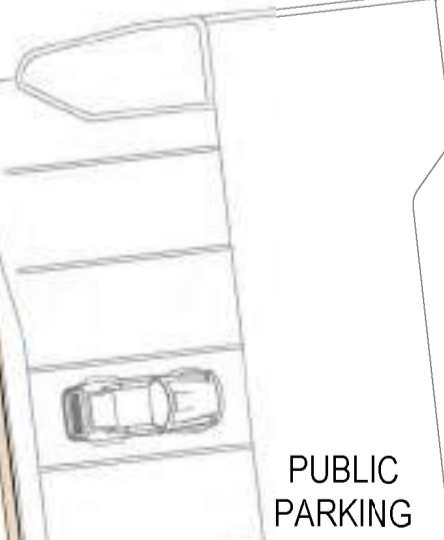


**1 LOCATION PLAN**  
1 : 200 @ A1



BLUES POINT ROAD

HENRY LAWSON AVE



**21 AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-1, 6-A,B, 14-A,B)**

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STATUS  
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DRAWING NOTES

- LEGEND**
- HERITAGE ITEM
  - SUBJECT SITE
  - DOMINANT WIND SOURCES
  - NOISE
  - BUS STOPS
  - SIGNIFICANT VIEWS FROM SITE

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B		
A	29.02.2024	ISSUE FOR DA

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Highbury Warung Pty Ltd

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NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

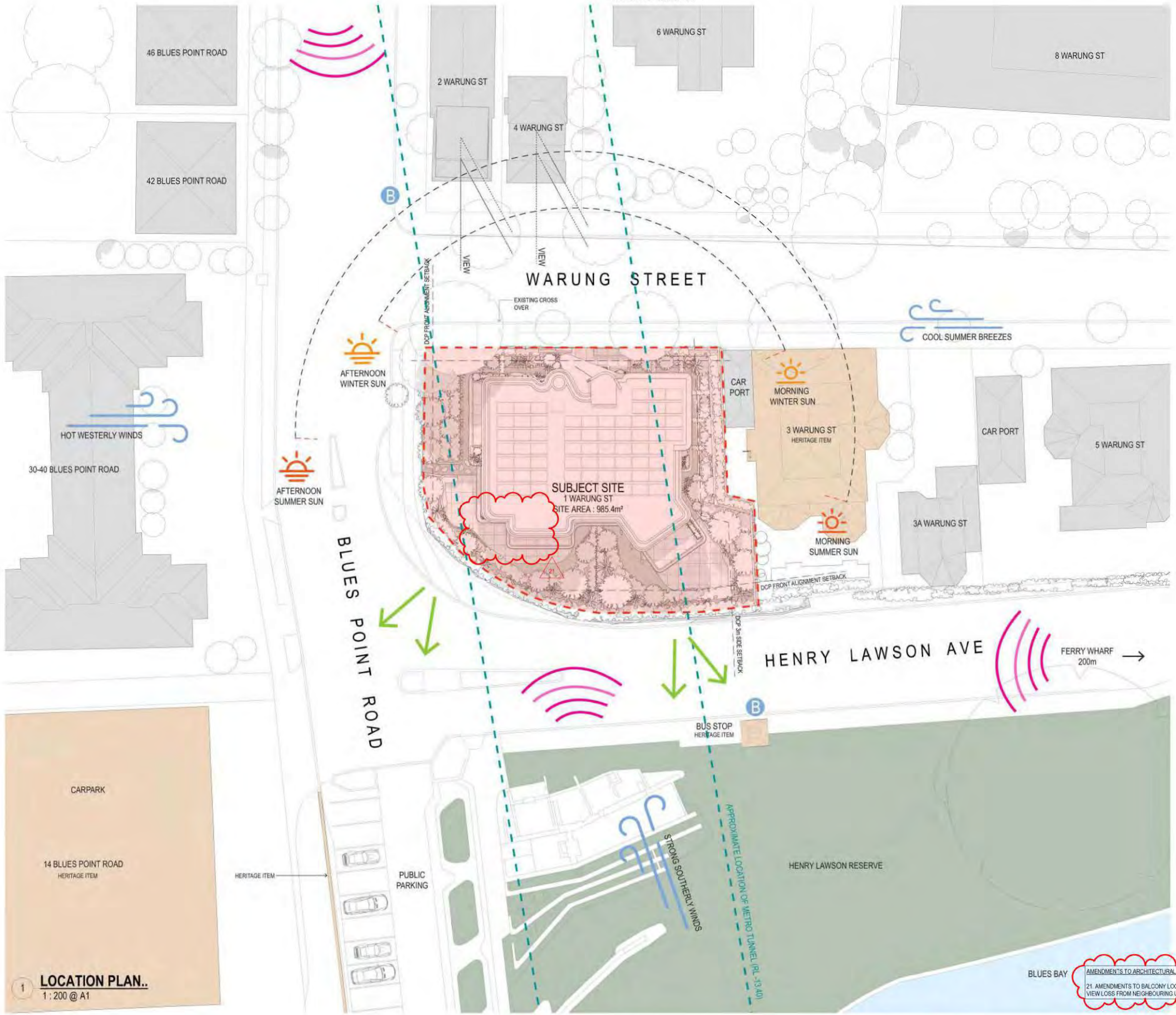
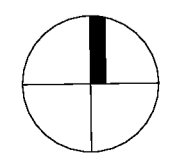
1 Warung Street, McMahons Point NSW

DRAWING NO. **DA-012** ISSUE **C**

JOB NO. HIG2307 SCALE **AS SHOWN** DATE 03.09.2024

DRAWING TITLE  
SITE ANALYSIS PLAN

DRAWN BY MS CHECKED BY VS



**LOCATION PLAN..**  
1: 200 @ A1

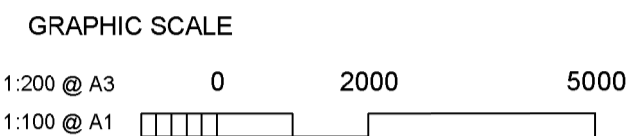
**AMENDMENTS TO ARCHITECTURAL DRAWINGS**  
21 AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS

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DRAWING NOTES

- LEGEND**
- EXISTING WALLS
  - EX. WALLS TO BE DEMOLISHED
  - EX. SLABS & TREES TO BE DEMOLISHED
  - EXCAVATION EXTENT

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B		
A	29.02.2024	ISSUE FOR DA

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Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 5877 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

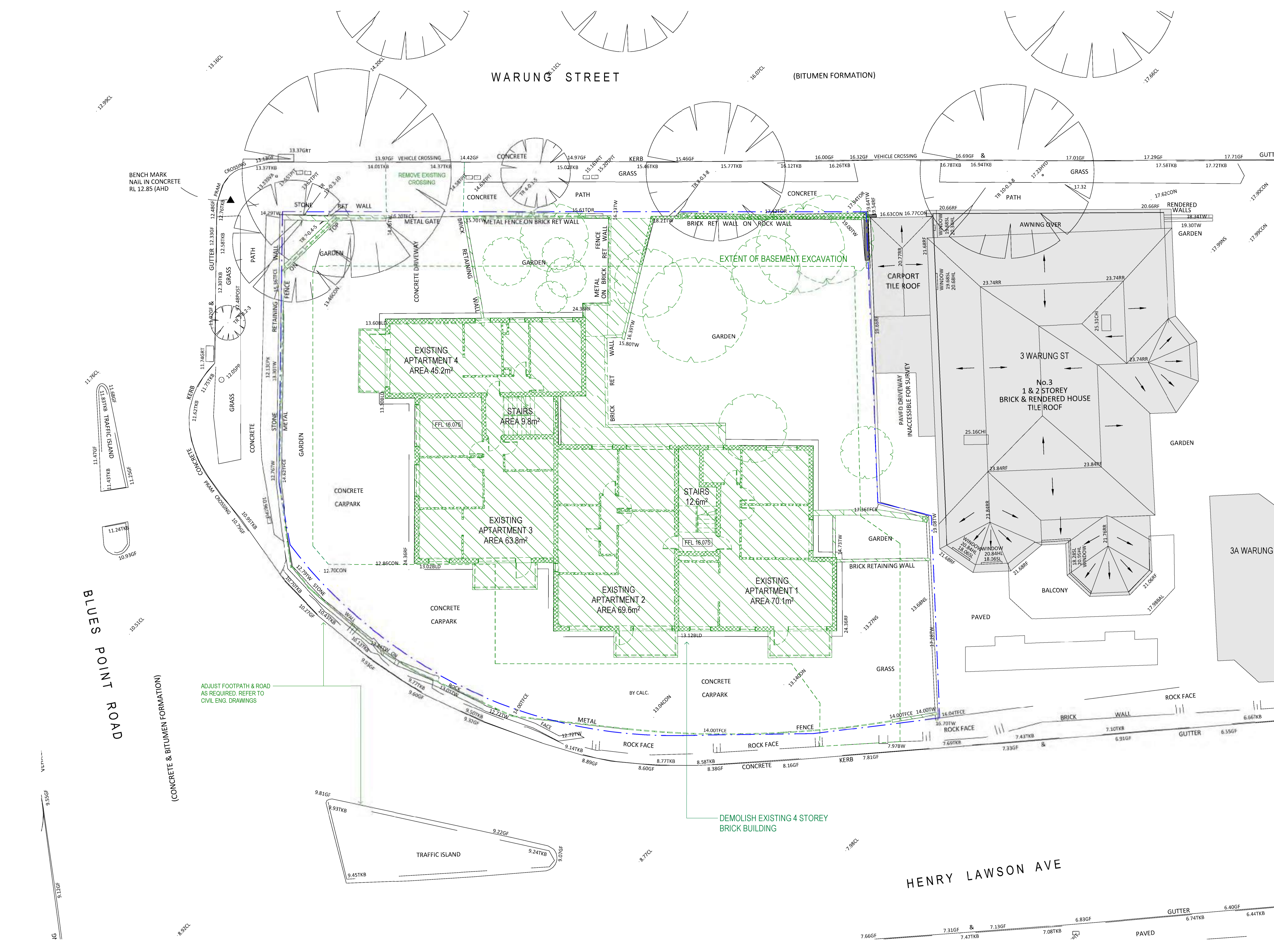
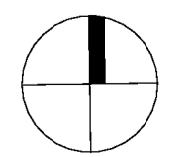
1 Warung Street, McMahons Point NSW

DRAWING NO. DA-020  
ISSUE C

JOB NO. HIG2307  
SCALE 1:100 @ A1  
DATE 03.09.2024

DRAWING TITLE  
DEMOLITION PLAN

DRAWN BY MS  
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**1 DEMOLITION PLAN**  
1:100 @ A1

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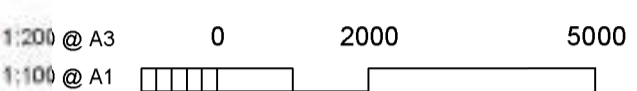
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**STATUS**  
**DEVELOPMENT APPLICATION**

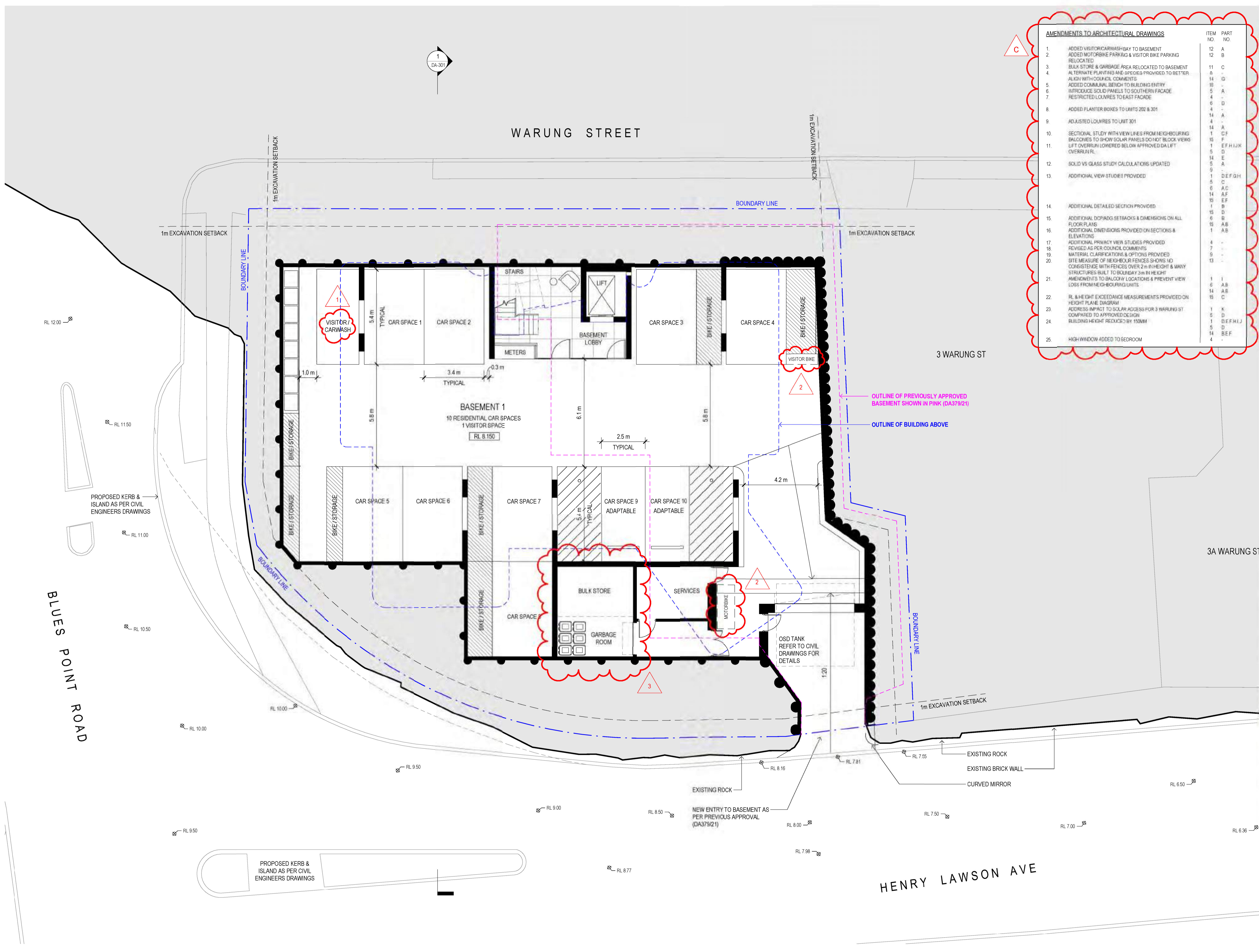
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**GRAPHIC SCALE**



**DRAWING NOTES**

ITEM NO.	DESCRIPTION	PART NO.
1	ADDED VISITOR/CARWASH BAY TO BASEMENT	12 A
2	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING	12 B
3	RELOCATED BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	11 C
4	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	14 G
5	ADDED COMMUNAL BENCH TO BUILDING ENTRY	10 -
6	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	5 A
7	RESTRICTED LOUNGES TO EAST FACADE	4 -
8	ADDED PLANTER BOXES TO UNITS 202 & 301	6 D
9	ADJUSTED LOUNGES TO UNIT 301	14 A
10	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	14 A
11	LIFT OVERRIDE LOWERED BELOW APPROVED DA LIFT OVERRIDE	1 C F
12	SOLID VS GLASS STUDY CALCULATIONS UPDATED	10 F
13	ADDITIONAL VIEW STUDIES PROVIDED	1 E F H J K
14	ADDITIONAL DETAILED SECTION PROVIDED	5 D
15	ADDITIONAL TOPRAGS SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	14 E
16	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	5 A
17	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED	1 D E F G H
18	REVISED AS PER COUNCIL COMMENTS	5 C
19	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	6 A C
20	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCY WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	14 A F
21	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	15 E F
22	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	1 B
23	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	15 D
24	BUILDING HEIGHT REDUCED BY 150MM	6 B
25	HIGH WINDOW ADDED TO BEDROOM	15 A B



ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	20.02.2024	ISSUE FOR DA

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NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

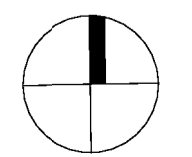
1 Warung Street, McMahons Point NSW

DRAWING NO. DA-099 C

JOB NO. HIG2307 SCALE 1:100@A1 DATE 03.09.2024

DRAWING TITLE  
BASEMENT LEVEL PLAN

DRAWN BY MS CHECKED BY VS



**1 BASEMENT FLOOR PLAN**  
1:100 @A1



AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING	12	B
3	RELOCATED	11	C
4	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	8	-
5	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	14	G
6	ADDED COMMUNAL BENCH TO BUILDING ENTRY	10	-
7	INTRODUCE SOLID PANELS TO SOUTH-FRONT FACADE	5	A
8	RESTRICTED LOUNGES TO EAST FACADE	4	-
9	ADDED PLANTER BOXES TO UNITS 202 & 301	14	A
10	ADJUSTED LOUNGES TO UNIT 301	4	-
11	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	14	A
12	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL	15	F
13	SOLID VS GLASS STUDY CALCULATIONS UPDATED	1	EF.H.I.J.K
14	ADDITIONAL VIEW STUDIES PROVIDED	5	D
15	ADDITIONAL DETAILED SECTION PROVIDED	14	E
16	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	5	A
17	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	5	C
18	REVISED AS PER COUNCIL COMMENTS	1	B
19	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	15	D
20	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCY WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	6	AC
21	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	14	AF
22	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	15	EF
23	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	1	B
24	BUILDING HEIGHT REDUCED BY 150MM	15	D
25	HIGH WINDOW ADDED TO BEDROOM	1	K

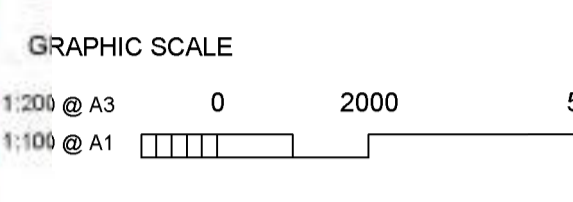
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**DRAWING NOTES**

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C	03.09.2024	ISSUE FOR DA
A	29.02.2024	ISSUE FOR DA

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 Vince Squillace Reg No. 6468 (NSW),  
 17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
 Warung Street Apartments

1 Warung Street, McMahons Point NSW

**DRAWING NO.**  
**DA-100**

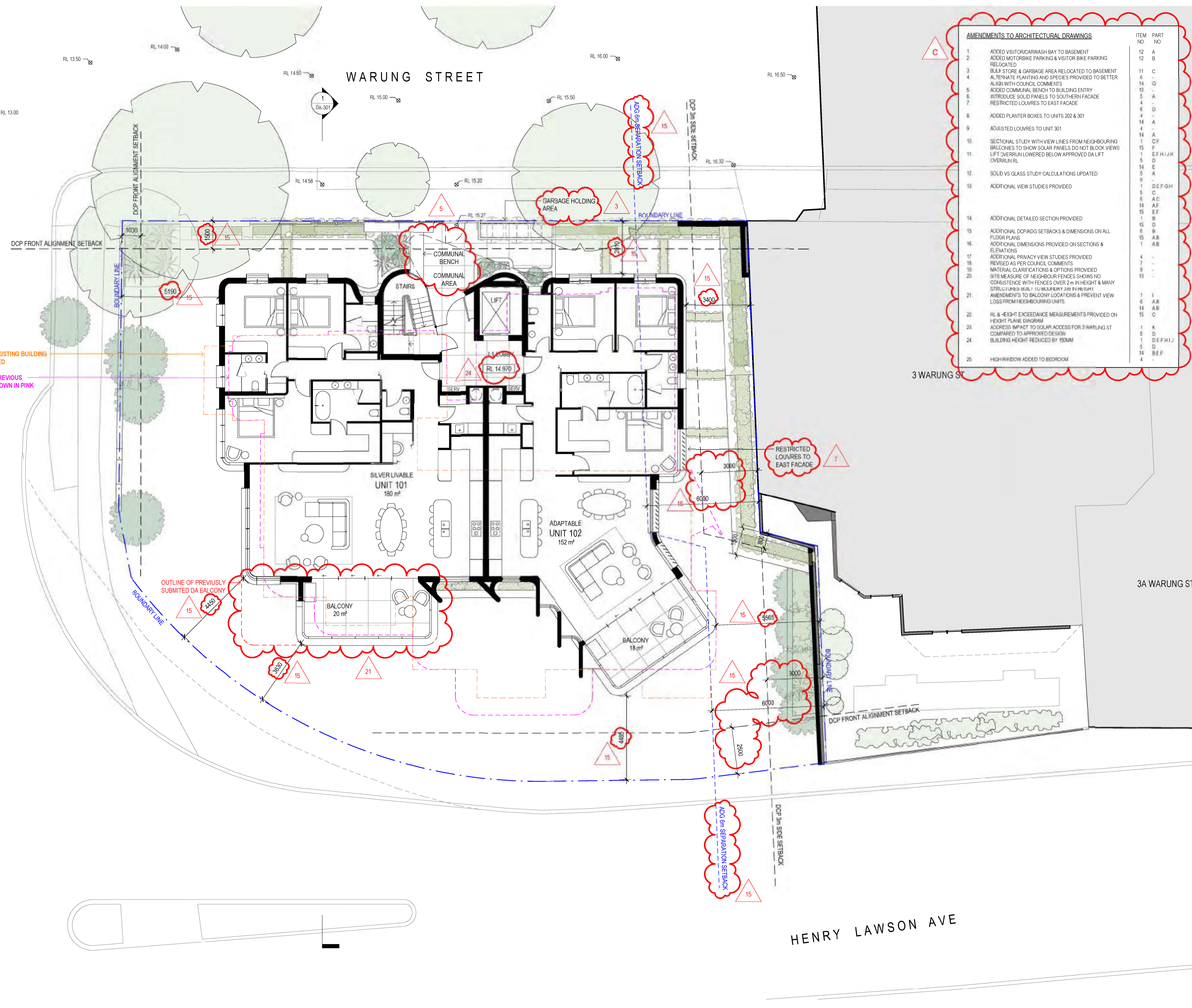
**ISSUE**  
**C**

**JOB NO.** HIG2307  
**SCALE** 1:100@A1  
**DATE** 03.09.2024

**DRAWING TITLE**  
 GROUND LEVEL PLAN

**DRAWN BY** MS  
**CHECKED BY** VS

**1 GROUND LEVEL FLOOR PLAN**  
 1:100 @A1



AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING	12	B
3	RELOCATED	11	C
4	BLK STORE & GARBAGE AREA RELOCATED TO BASEMENT	8	B
5	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	14	G
6	ADDED COMMUNAL BENCH TO BUILDING ENTRY	5	A
7	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	4	D
8	RESTRICTED LOUVERES TO EAST FACADE	4	D
9	ADDED PLANTER BOXES TO UNITS 202 & 301	14	A
10	ADJUSTED LOUVERES TO UNIT 301	4	A
11	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	1	CF
12	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN	15	F
13	SOLID VS GLASS STUDY CALCULATIONS UPDATED	1	EFHIJK
14	ADDITIONAL VIEW STUDIES PROVIDED	5	D
15	ADDITIONAL DETAILED SECTION PROVIDED	14	E
16	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	5	A
17	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	5	C
18	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED	6	AC
19	REVISED AS PER COUNCIL COMMENTS	14	AF
20	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	15	BF
21	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCY WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES NEAR TO BOUNDARY 3m IN HEIGHT	1	B
22	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	15	D
23	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	15	B
24	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	15	A
25	BUILDING HEIGHT REDUCED BY 150MM	1	D
	HIGH WINDOW ADDED TO BEDROOM	14	BEF

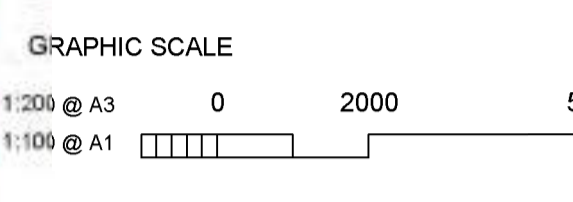
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**DRAWING NOTES**

1. K  
 6. AB  
 14. AB  
 15. C

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
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A	29.02.2024	ISSUE FOR DA

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 17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
 Warung Street Apartments

1 Warung Street, McMahons Point NSW

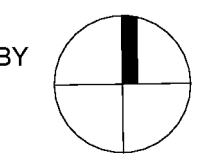
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**DA-101**

**ISSUE**  
**C**

**JOB NO.** HIG2307  
**SCALE** 1:100@A1  
**DATE** 03.09.2024

**DRAWING TITLE**  
 LEVEL 1 PLAN

**DRAWN BY** MS  
**CHECKED BY** VS



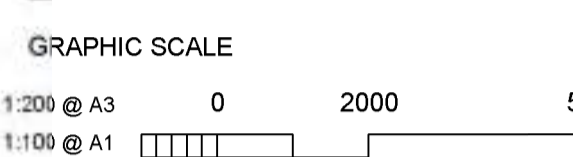
**1 LEVEL 1 FLOOR PLAN**  
 1:100 @A1

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A	29.02.2024	ISSUE FOR DA

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17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

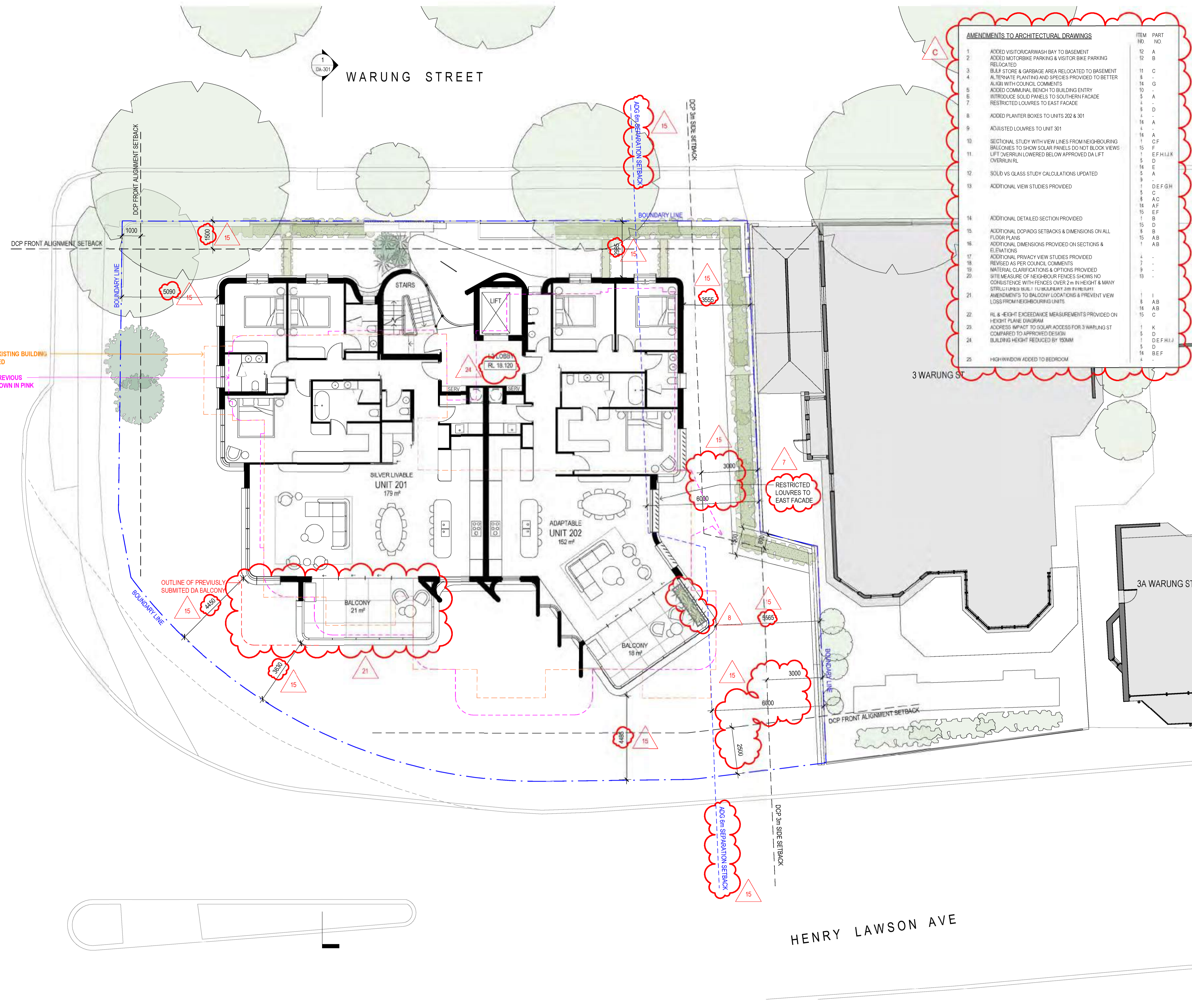
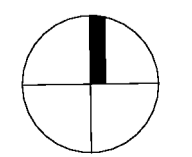
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-102 **ISSUE** C

**JOB NO.** HIG2307 **SCALE** 1:100@A1 **DATE** 03.09.2024

**DRAWING TITLE**  
LEVEL 2 PLAN

**DRAWN BY** MS **CHECKED BY** VS



ITEM NO.	PART NO.	DESCRIPTION
1	12 A	ADDED VISITOR/CARWASH BAY TO BASEMENT
2	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING
3	-	RELOCATED
4	11 C	BLK STORE & GARBAGE AREA RELOCATED TO BASEMENT
5	8 -	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
6	14 G	ADDED COMMUNAL BENCH TO BUILDING ENTRY
7	10 -	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
8	5 A	RESTRICTED LOUVRES TO EAST FACADE
9	4 -	ADDED PLANTER BOXES TO UNITS 202 & 301
10	14 A	ADJUSTED LOUVRES TO UNIT 301
11	4 -	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
12	15 CF	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN
13	14 E	SOLID VS GLASS STUDY CALCULATIONS UPDATED
14	5 A	ADDITIONAL VIEW STUDIES PROVIDED
15	1 D E F G H	ADDITIONAL DETAILED SECTION PROVIDED
16	15 C	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
17	15 AB	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
18	1 AB	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
19	7 -	REVISED AS PER COUNCIL COMMENTS
20	19 -	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
21	13 -	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCY WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BELY TO BULKY 3m IN HEIGHT
22	1 K	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
23	8 AB	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
24	14 AB	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
25	5 D	BUILDING HEIGHT REDUCED BY 150MM
26	14 B E F	HIGH WINDOW ADDED TO BEDROOM

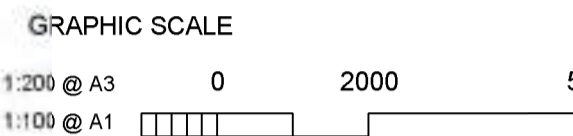
**1 LEVEL 2 FLOOR PLAN**  
1:100 @ A1

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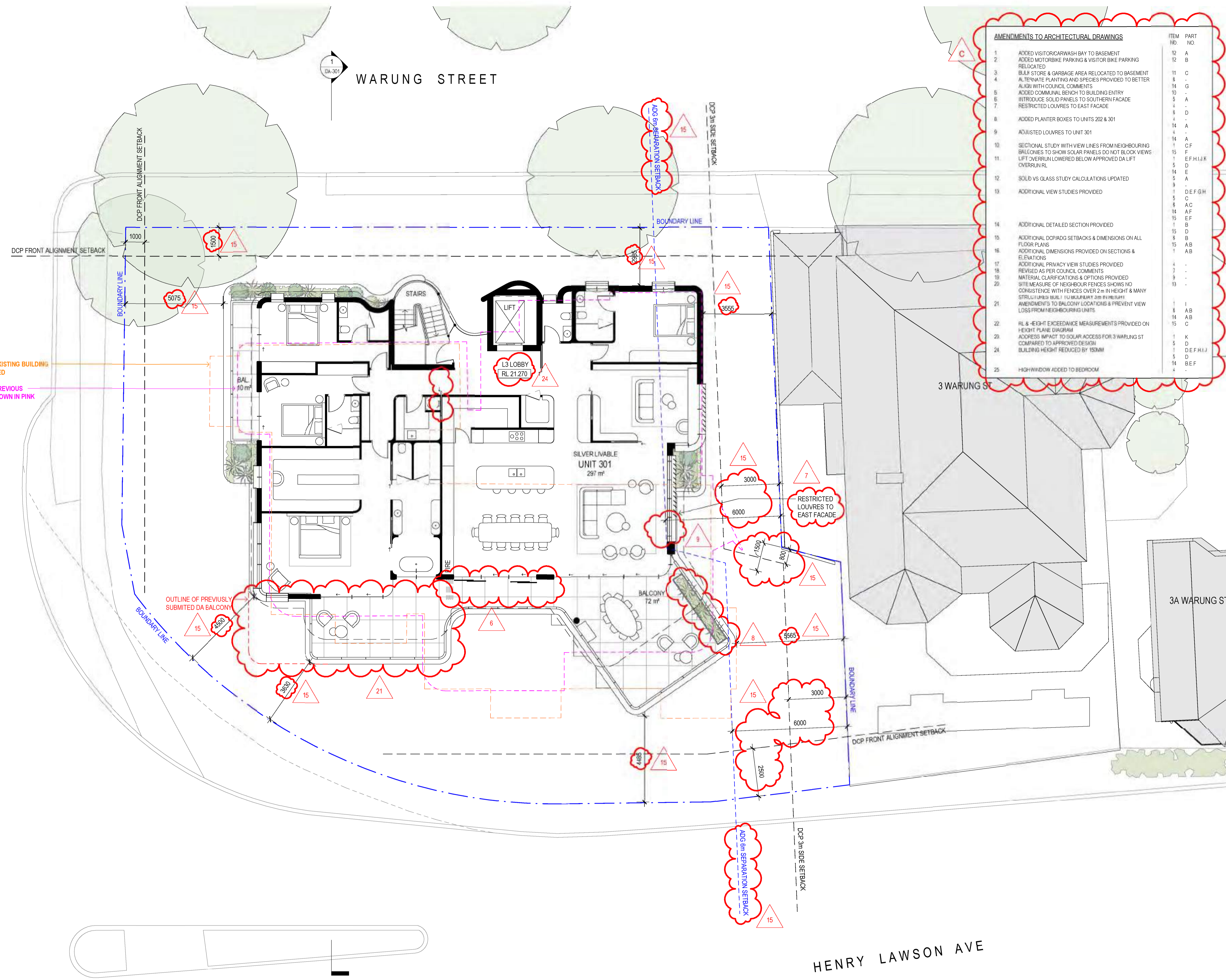


**STATUS**  
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**DRAWING NOTES**

ITEM NO	PART NO	DESCRIPTION
1	12 A	ADDED VISITOR/CARWASH BAY TO BASEMENT
2	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING
3	11 C	RELOCATED
4	8 -	BLK STORE & GARBAGE AREA RELOCATED TO BASEMENT
5	14 G	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
6	10 -	ADDED COMMUNAL BENCH TO BUILDING ENTRY
7	5 A	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
8	4 -	RESTRICTED LOUVRES TO EAST FACADE
9	14 A	ADDED PLANTER BOXES TO UNITS 202 & 301
10	4 -	ADJUSTED LOUVRES TO UNIT 301
11	14 A	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
12	15 F	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN
13	14 E	SOLID VS GLASS STUDY CALCULATIONS UPDATED
14	5 A	ADDITIONAL VIEW STUDIES PROVIDED
15	1 C	ADDITIONAL DETAILED SECTION PROVIDED
16	5 C	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
17	15 AB	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
18	1 AB	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
19	7 -	REVISED AS PER COUNCIL COMMENTS
20	19 -	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
21	13 -	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCY WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES NOT TO BOUNDARY 3m IN HEIGHT
22	1 K	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
23	8 AB	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
24	14 AB	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
25	15 C	BUILDING HEIGHT REDUCED BY 150MM
26	14 BEF	HIGH WINDOW ADDED TO BEDROOM



OUTLINE OF EXISTING BUILDING SHOWN DASHED  
OUTLINE OF PREVIOUS APPROVAL SHOWN IN PINK (DA379/21)

OUTLINE OF PREVIOUSLY SUBMITTED DA BALCONY

BLUES POINT ROAD

WARUNG STREET

HENRY LAWSON AVE

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

CLIENT  
Highbury Warung Pty Ltd

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SYDNEY  
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ABN: 24 132 654 753

NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

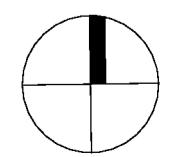
1 Warung Street, McMahons Point NSW

DRAWING NO. **DA-103** ISSUE **C**

JOB NO. HIG2307 SCALE 1:100@A1 DATE 03.09.2024

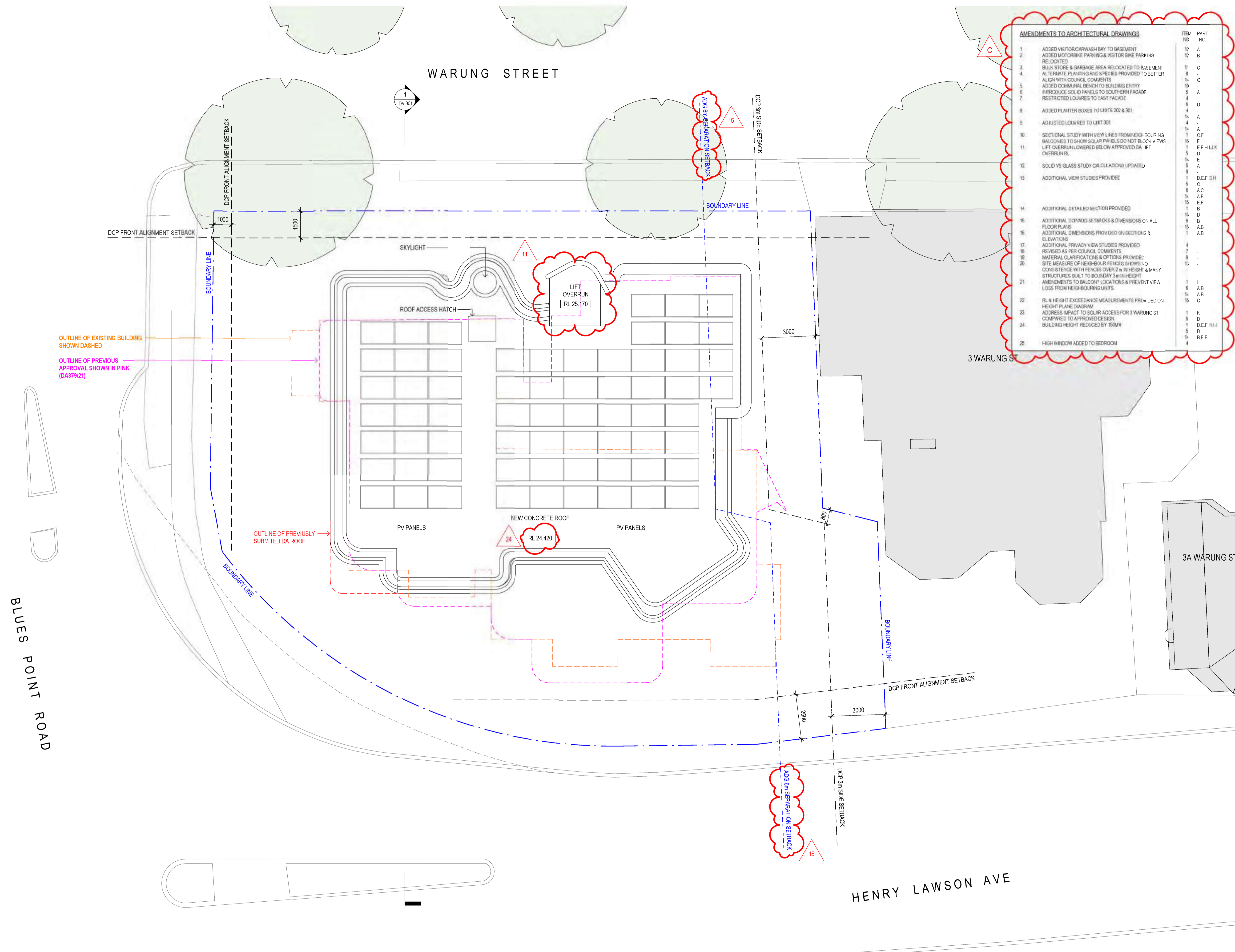
DRAWING TITLE  
LEVEL 3 PLAN

DRAWN BY MS CHECKED BY VS



**1 LEVEL 3 FLOOR PLAN**  
1:100 @A1





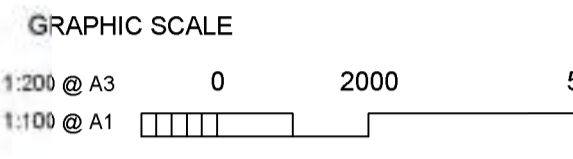
AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2	ADDED MOTORBIKE PARKING & VISITOR BKE PARKING	12	B
3	RELOCATED	11	C
4	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	8	-
5	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	14	G
6	ADDED COMMUNAL BEACH TO BUILDING ENTRY	10	-
7	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	5	A
8	RESTRICTED LOUNGES TO EAST FACADE	4	-
9	ADDED PLANTER BOXES TO UNITS 202 & 301	4	-
10	ADJUSTED LOUNGES TO UNIT 301	14	A
11	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	14	A
12	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL	1	CF
13	SOLID VS GLASS STUDY CALCULATIONS UPDATED	15	F
14	ADDITIONAL VIEW STUDIES PROVIDED	1	EF H I J K
15	ADDITIONAL DETAILED SECTION PROVIDED	5	D
16	ADDITIONAL DCP/DRG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	14	A
17	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	14	A
18	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED	1	B
19	REVISED AS PER COUNCIL COMMENTS	15	D
20	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	8	B
21	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	15	AB
22	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	1	AB
23	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	6	AB
24	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	14	AB
25	BUILDING HEIGHT REDUCED BY 150MM	15	C
26	HIGH WINDOW ADDED TO BEDROOM	1	K

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**DEVELOPMENT APPLICATION**  
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**DRAWING NOTES**

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

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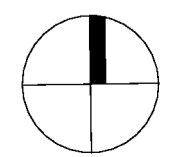
**NOMINATED ARCHITECT**  
 Vince Squillace Reg No. 6468 (NSW),  
 17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
 Warung Street Apartments  
 1 Warung Street, McMahons Point NSW

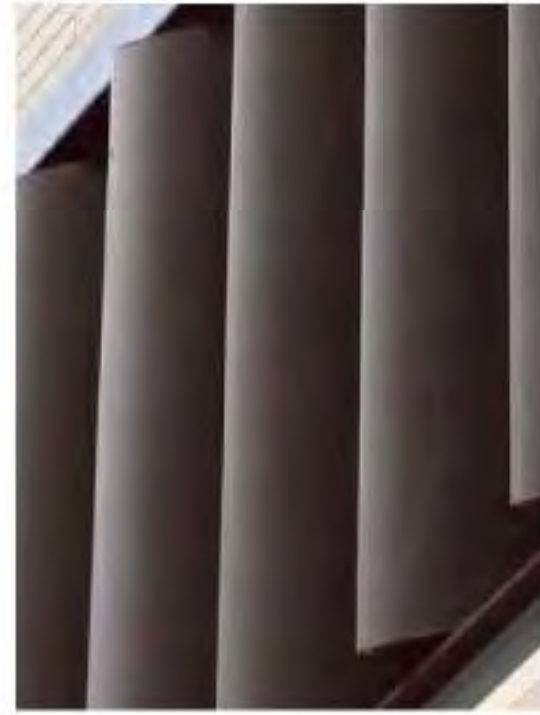
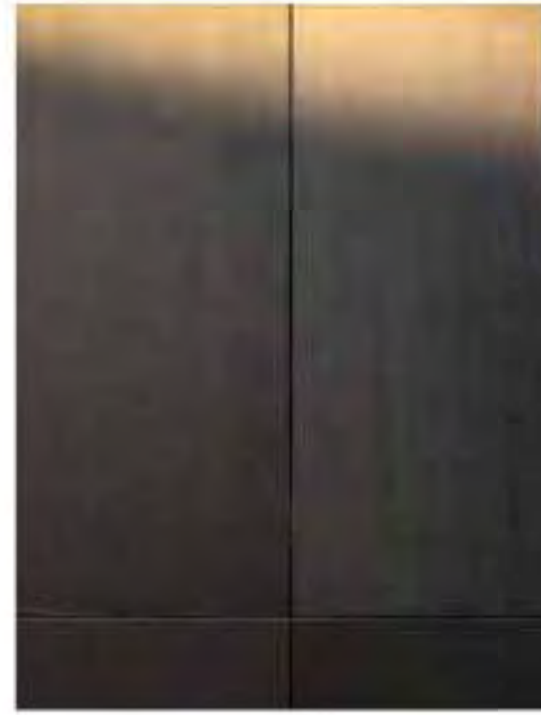
**DRAWING NO.** DA-104  
**ISSUE** C  
**JOB NO.** HIG2307  
**SCALE** 1:100@A1  
**DATE** 03.09.2024

**DRAWING TITLE**  
 ROOF PLAN

**DRAWN BY** MS  
**CHECKED BY** VS



**1 ROOF FLOOR PLAN**  
 1:100 @A1



- 1. SANDSTONE (ROUGH)
- 2. SANDSTONE (SMOOTH)
- 3. MOSAIC IRREGULAR WHITE TILE
- 4. PIGMENTED TEXTURED RENDER  
NOTE: TO MATCH APPROVED 19
- 5. BRONZE CLADDING
- 6. BRONZE METAL WORKS
- 7. BRONZE RESTRICTED LOUVRES 7
- 8. CLEAR GLASS

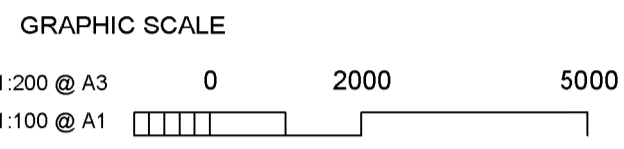
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**STATUS**  
**DEVELOPMENT APPLICATION**

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**DRAWING NOTES**



**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

ITEM NO.	PART NO.	DESCRIPTION
1	12 A	ADDED VISITOR CARWASH BAY TO BASEMENT
2	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED
3	11 D	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT
4	8 -	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
5	14 B	ADDED CORUNNAL BENCH TO BUILDING ENTRY
6	5 A	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
7	4 -	RESTRICTED LOUVRES TO EAST FACADE
8	6 D	ADDED PLANTER BOXES TO UNITS 202 & 301
9	4 -	ADJUSTED LOUVRES TO UNIT 301
10	14 A	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
11	15 F	LIFT OVERRUL LOWERED BELOW APPROVED DA LIFT OVERRUL
12	5 D	SOLID VS GLASS STUDY CALCULATIONS UPDATED
13	14 E	ADDITIONAL VIEW STUDIES PROVIDED
14	9 -	ADDITIONAL DETAILED SECTION PROVIDED
15	1 DEF G H	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
16	5 AC	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
17	14 AF	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
18	15 EF	REVISED AS PER COUNCIL COMMENTS
19	1 B	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
20	15 D	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT
21	6 B	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
22	15 AB	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
23	1 AB	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
24	1 DEF H I J	BUILDING HEIGHT REDUCED BY 150MM
25	5 D	HIGH WINDOW ADDED TO BEDROOM

**1 NORTH ELEVATION - PROPOSED**  
1:100 @ A1

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

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ABN: 24 132 654 753

**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

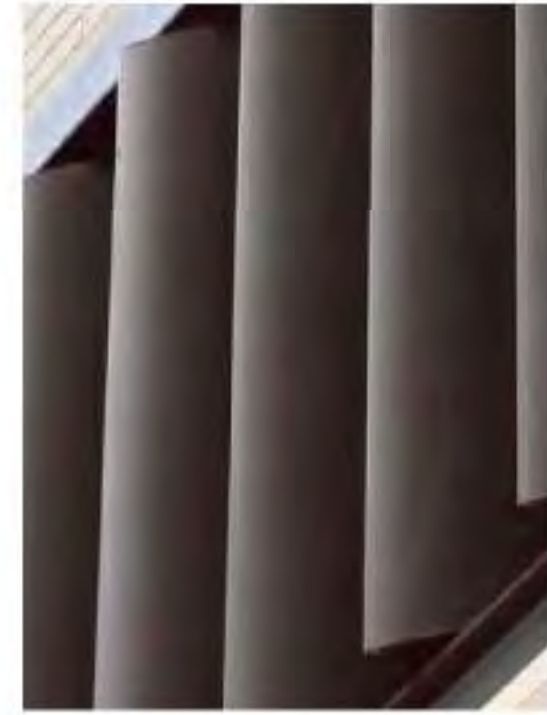
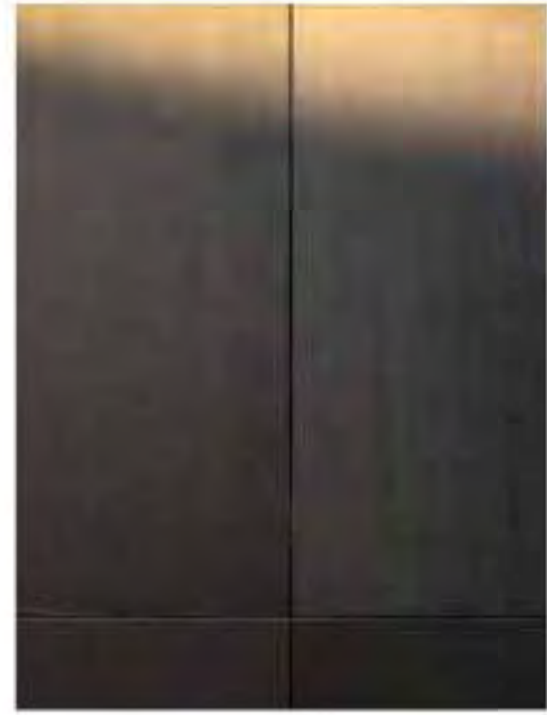
1 Warung Street, McMahons Point NSW

DRAWING NO.      ISSUE  
**DA-205 C**

JOB NO.      SCALE      DATE  
HIG2307      1:100 @ A1      03.09.2024

DRAWING TITLE  
NORTH ELEVATION - PROPOSED

DRAWN BY      CHECKED BY  
MS      VS



1. SANDSTONE (ROUGH)      2. SANDSTONE (SMOOTH)      3. MOSAIC IRREGULAR WHITE TILE      4. PIGMENTED TEXTURED RENDER NOTE: TO MATCH APPROVED      5. BRONZE CLADDING      6. BRONZE METAL WORKS      7. BRONZE RESTRICTED LOUVRES      8. CLEAR GLASS

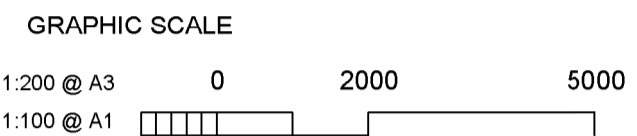
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**STATUS**  
**DEVELOPMENT APPLICATION**

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**DRAWING NOTES**

AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1.	ADDED VISITOR CAR WASH BAY TO BASEMENT	12	A
2.	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED	12	B
3.	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	11	C
4.	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	8	-
5.	ADDED COMMUNAL BENCH TO BUILDING ENTRY	10	-
6.	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	5	A
7.	RESTRICTED LOUVRES TO EAST FACADE	4	-
8.	ADDED PLANTER BOXES TO UNITS 202 & 301	4	-
9.	ADJUSTED LOUVRES TO UNIT 301	14	A
10.	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	1	CF
11.	LIFT OVER RUN LOWERED BELOW APPROVED DA LIFT OVER RUN RL	15	F
12.	SOLID VS GLASS STUDY CALCULATIONS UPDATED	1	EFHIJK
13.	ADDITIONAL VIEW STUDIES PROVIDED	5	D
14.	ADDITIONAL DETAILED SECTION PROVIDED	14	A
15.	ADDITIONAL DCP/PAVING SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	15	B
16.	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	15	D
17.	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED REVISED AS PER COUNCIL COMMENTS	6	B
18.	MATERIAL CLASSIFICATIONS & OPTIONS PROVIDED	1	AB
19.	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	1	AB
20.	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	1	AB
21.	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	14	AB
22.	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	15	C
23.	BUILDING HEIGHT REDUCED BY 150MM	1	K
24.	HIGH WINDOW ADDED TO BEDROOM	5	D
25.		14	DEFHIJ
		4	-



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ABN: 24 132 554 753

NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

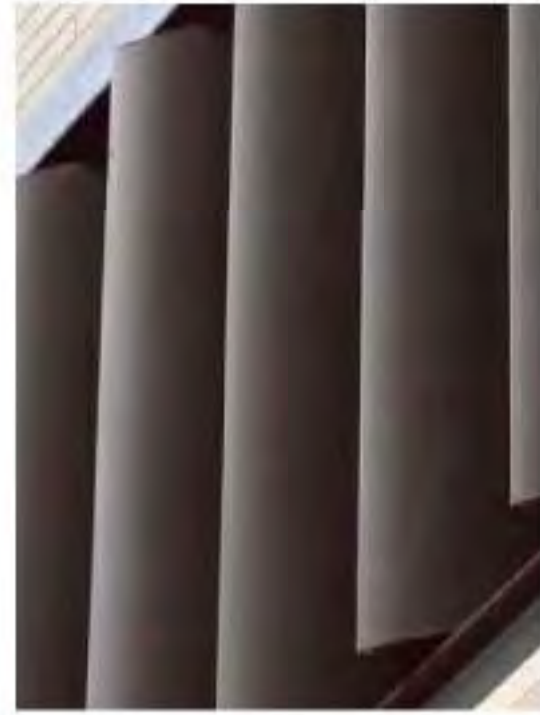
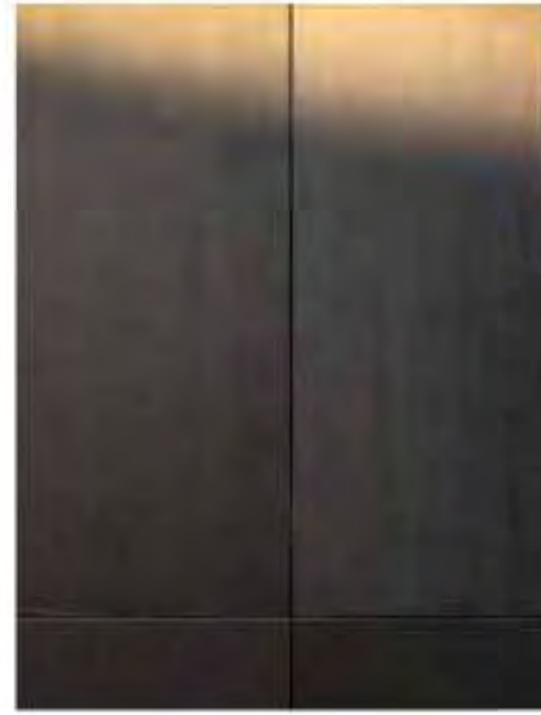
DRAWING NO.      ISSUE  
**DA-206      C**

JOB NO.      SCALE      DATE  
HIG2307      1 : 100 @ A1      03.09.2024

DRAWING TITLE  
EAST ELEVATION - PROPOSED

DRAWN BY      CHECKED BY  
MS      VS

**1 EAST ELEVATION - PROPOSED**  
1 : 100 @ A1



1. SANDSTONE (ROUGH)      2. SANDSTONE (SMOOTH)

3. MOSAIC IRREGULAR WHITE TILE

4. PIGMENTED TEXTURED RENDER  
NOTE: TO MATCH APPROVED

5. BRONZE CLADDING

6. BRONZE METAL WORKS

7. BRONZE RESTRICTED LOUVRES

8. CLEAR GLASS

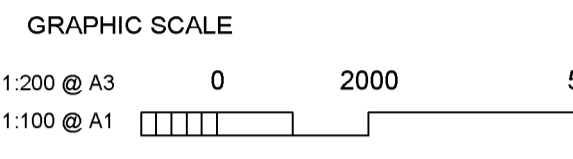
**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

ITEM NO.	PART NO.	DESCRIPTION
1.	12 A	ADDED VISITOR CARWASH BAY TO BASEMENT
2.	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED
3.	11 C	BULK STORE & GARAGE AREA RELOCATED TO BASEMENT
4.	8 -	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
5.	10 -	ADDED CORONAL BEIGN TO BUILDING ENTRY
6.	5 A	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
7.	4 -	RESTRICTED LOUVRES TO EAST FACADE
8.	6 D	ADDED PLANTER BOXES TO UNITS 202 & 301
9.	4 -	ADJUSTED LOUVRES TO UNIT 301
10.	14 A	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
11.	1 CF	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL
12.	15 F	SOLID VS GLASS STUDY CALCULATIONS UPDATED
13.	14 E	ADDITIONAL VIEW STUDIES PROVIDED
14.	9 -	ADDITIONAL DETAILED SECTION PROVIDED
15.	5 C	ADDITIONAL COPING SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
16.	14 AF	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
17.	15 EF	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
18.	1 B	REVISED AS PER COUNCIL COMMENTS
19.	4 -	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
20.	7 -	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO DOUBLE 3m IN HEIGHT
21.	1 AB	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
22.	1 K	RL & HEIGHT EXCEEDED MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
23.	14 AB	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
24.	5 D	BUILDING HEIGHT REDUCED BY 150MM
25.	14 BEF	HIGH WINDOW ADDED TO BEDROOM



**STATUS**  
**DEVELOPMENT APPLICATION**

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**DRAWING NOTES**

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

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**NOMINATED ARCHITECT**  
 Vince Squillace Reg No. 6468 (NSW),  
 17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
 Warung Street Apartments

1 Warung Street, McMahons Point NSW

**DRAWING NO.**      **ISSUE**  
**DA-207**      **C**

**JOB NO.**      **SCALE**      **DATE**  
 HIG2307      1 : 100 @ A1      03.09.2024

**DRAWING TITLE**  
 WEST ELEVATION - PROPOSED

**DRAWN BY**      **CHECKED BY**  
 MS      VS

**1 WEST ELEVATION - PROPOSED**  
 1 : 100 @ A1



1. SANDSTONE (ROUGH)



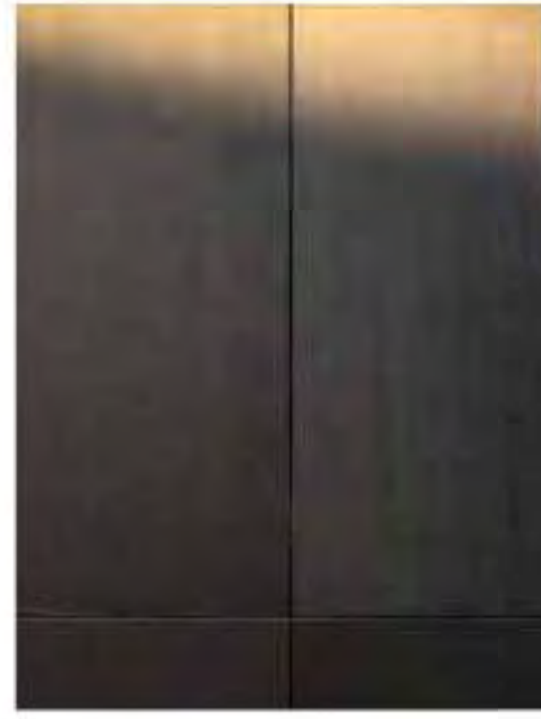
2. SANDSTONE (SMOOTH)



3. MOSAIC IRREGULAR WHITE TILE



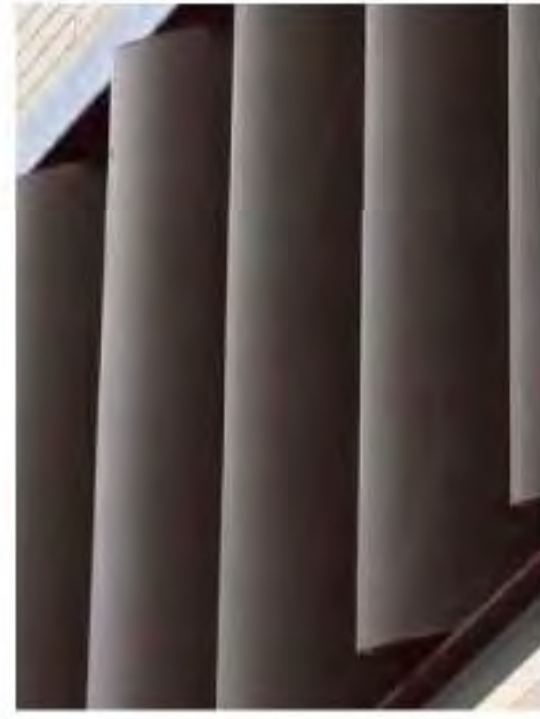
4. PIGMENTED TEXTURED RENDER  
NOTE: TO MATCH APPROVED



5. BRONZE CLADDING



6. BRONZE METAL WORKS



7. BRONZE RESTRICTED LOUVRES



8. CLEAR GLASS

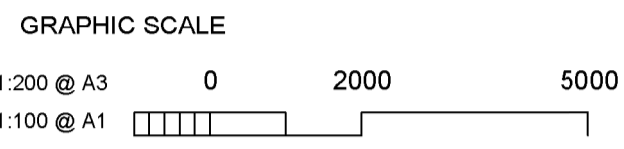
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STATUS  
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DRAWING NOTES



ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

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17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

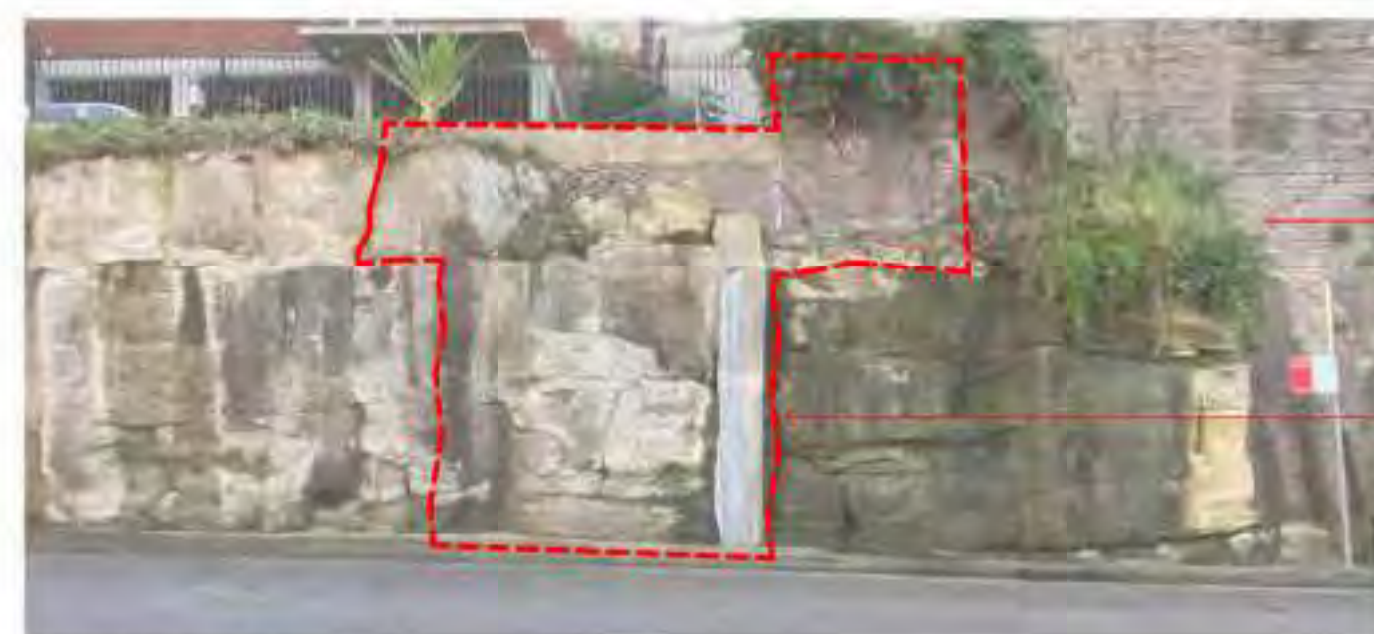
DRAWING NO. DA-208 C

JOB NO. HIG2307 SCALE 1:100@A1 DATE 03.09.2024

DRAWING TITLE  
SOUTH ELEVATION - PROPOSED

DRAWN BY MS CHECKED BY VS

- AMENDMENTS TO ARCHITECTURAL DRAWINGS**
- INTRODUCE SOLID PANELS TO SOUTHERN FACADE (REF: 5-A)
  - RESTRICTED LOUVRES TO EASTERN FACADE (REF: 4, 6-J)
  - ADDED PLANTER BOXES TO UNITS 202 & 301 (REF: 4, 14-A)
  - LIP 1 OVERHUNG LOWERED BELOW APPROVED DA LIP 1 OVERHUNG RL (REF: 1-E, F, H, I, J, K, 5-D, 14-E)
  - ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS (REF: 1-A, B)
  - MATERIAL CLARIFICATIONS & OPTIONS PROVIDED (REF: 9)
  - AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A, B, 14-A, B)
  - BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)



EXISTING PHOTO

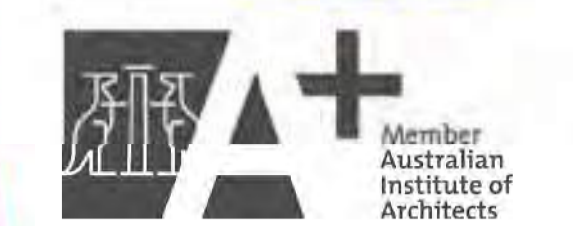
REFER TO DRAWING DA-704 & DA 800 FOR FURTHER DETAILS

PORTION OF THE WALL TO BE REMOVED (AS PER APPROVED DA379/21)

**1 SOUTH ELEVATION - PROPOSED**  
1:100 @ A1

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**DRAWING NOTES**

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

**CLIENT**  
Highbury Warung Pty Ltd



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**SYDNEY**  
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Ph: +61 2 8354 1300  
ABN: 24 132 554 753

**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-301  
**ISSUE** C

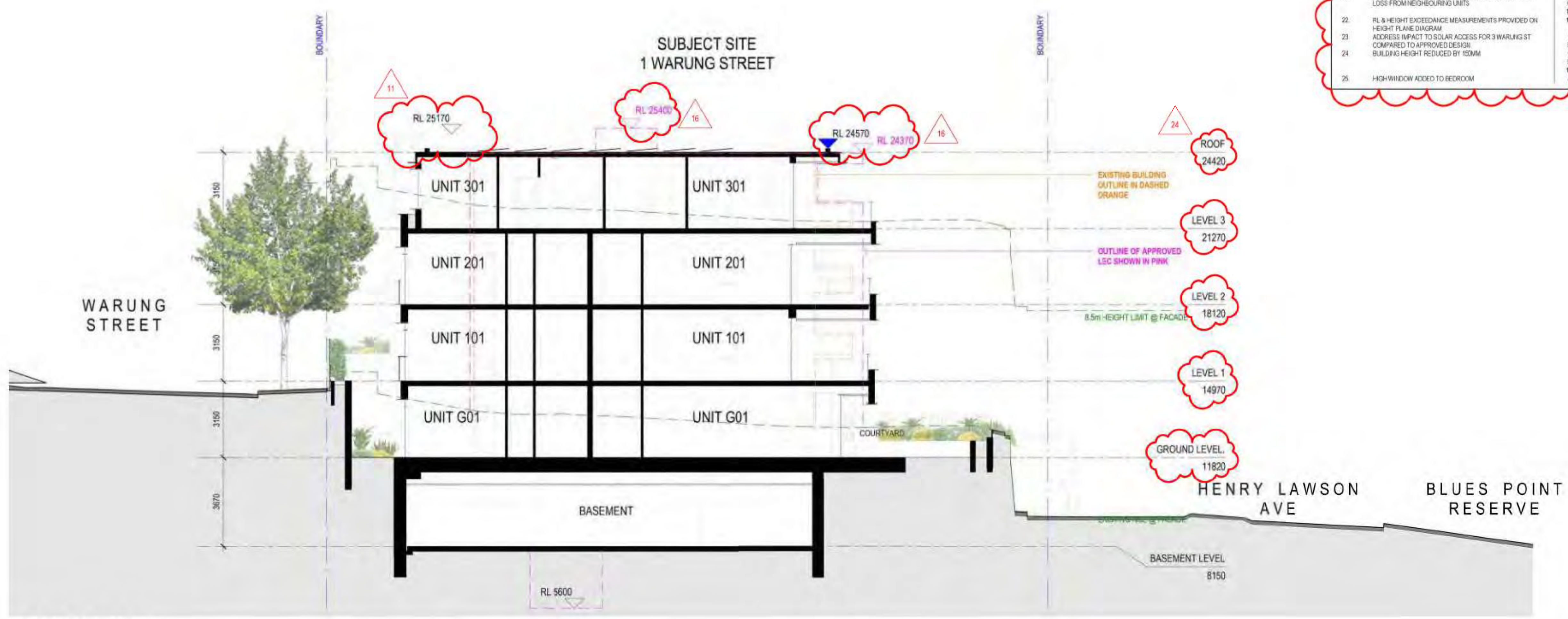
**JOB NO.** HIG2307  
**SCALE** 1 : 100 @ A1  
**DATE** 03.09.2024

**DRAWING TITLE**  
SECTIONS SHEET 1

**DRAWN BY** MS  
**CHECKED BY** VS

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

ITEM NO.	PART NO.	DESCRIPTION
1	12 A	ADDED VISITOR CARWASH BAY TO BASEMENT
2	12 B	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED
3	11 C	BULK STORE & GARAGE AREA RELOCATED TO BASEMENT
4	6 -	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS
5	10 -	ADDED COMMUNAL BENCH TO BUILDING ENTRY
6	5 A -	INTRODUCE SOLID PANELS TO SOUTHERN FACADE
7	4 -	RESTRICTED LOUVRES TO EAST FACADE
8	4 -	ADDED PLANTER BOXES TO UNITS 202 & 301
9	14 A -	ADJUSTED LOUVRES TO UNIT 301
10	14 A	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS
11	15 F	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL
12	14 E	SOLID VS GLASS STUDY CALCULATIONS UPDATED
13	5 A	ADDITIONAL VIEW STUDIES PROVIDED
	1	D.E.F.G.H
	5	C
	6	AC
	14	AF
	15	BF
	1	B
	15	D
	6	B
	15	AB
	1	AB
14		ADDITIONAL DETAILED SECTION PROVIDED
15		ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS
16		ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS
17		ADDITIONAL PRIVACY VIEW STUDIES PROVIDED
18		REVISED AS PER COUNCIL COMMENTS
19		MATERIAL CLARIFICATIONS & OPTIONS PROVIDED
20		SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2 m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT
21		AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS
		1
		6
		14
		15
		C
22		RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM
23		ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN
24		BUILDING HEIGHT REDUCED BY 150MM
		1
		5
		14
		BEF
		5
		D
25		HIGH WINDOW ADDED TO BEDROOM
		4
		A



**1 DA SECTION 01**  
1 : 100 @ A1

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**STATUS**  
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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**

**LEGEND**

- SHADOW CAST BY EXISTING BUILDINGS
- SHADOWS CAST BY APPROVED DA
- ADDITIONAL SHADOWS CAST BY PROPOSED NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
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A	29.02.2024	ISSUE FOR DA

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**NOMINATED ARCHITECT**  
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17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

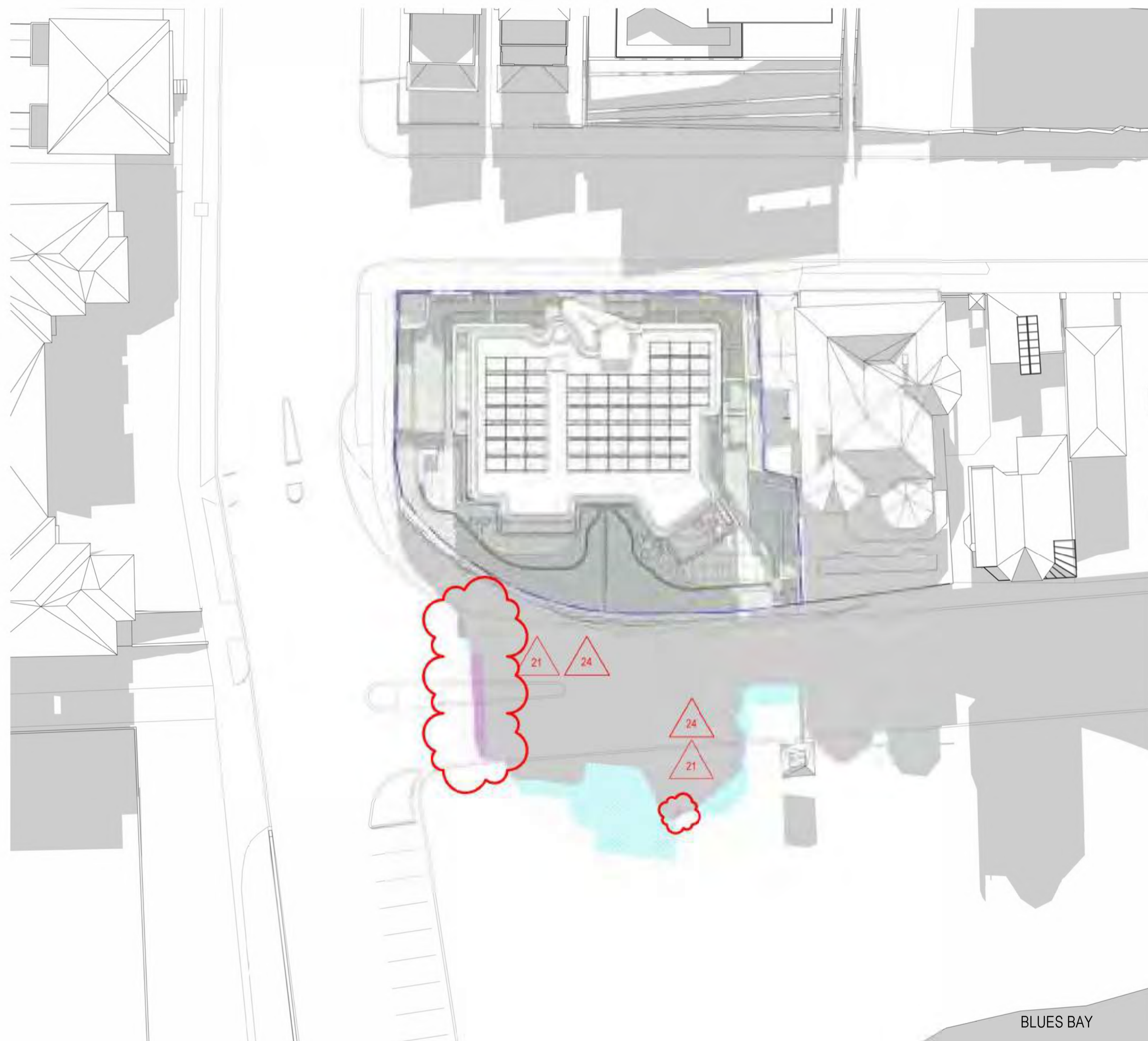
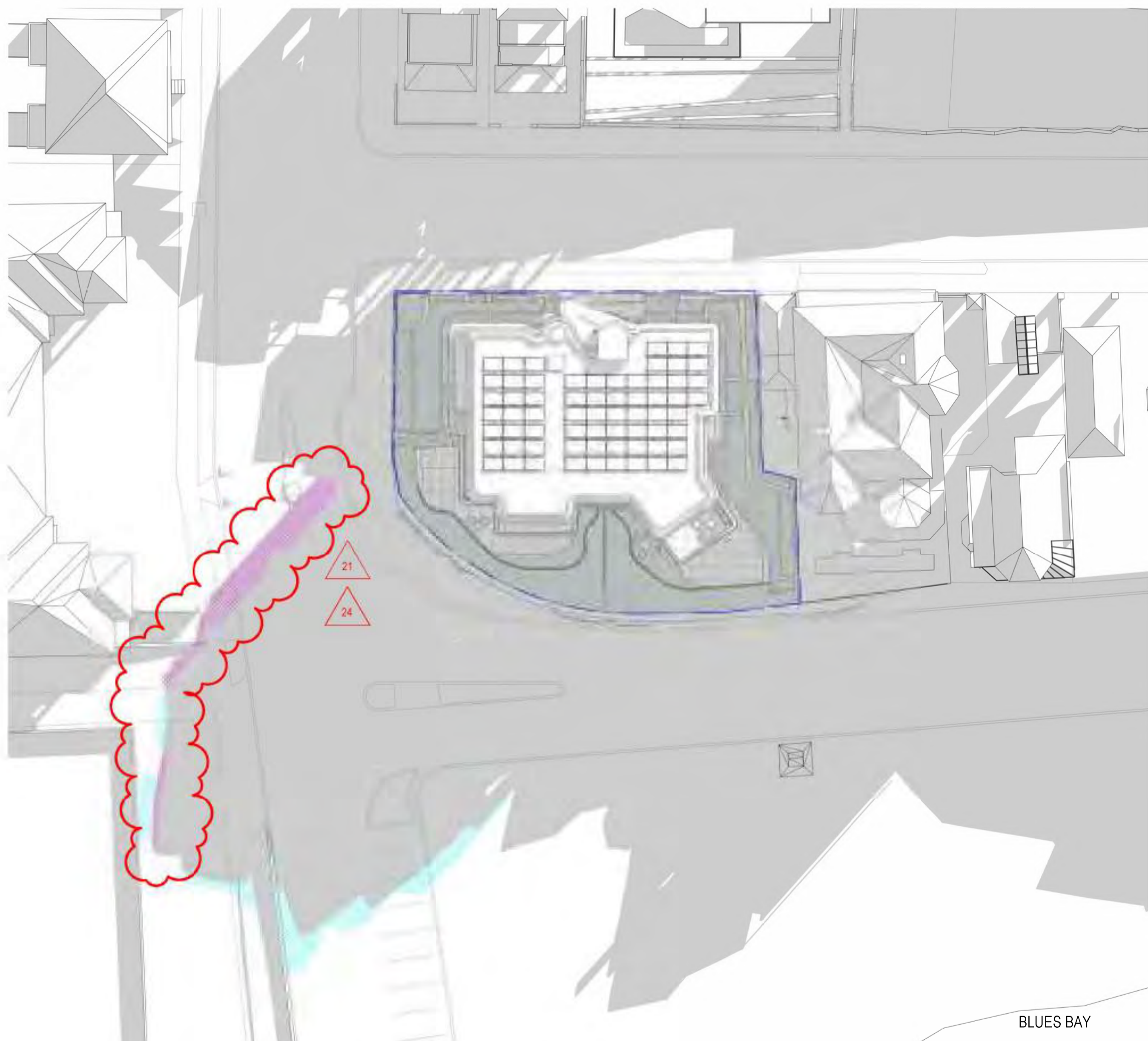
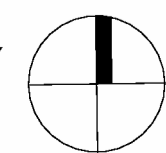
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-401  
**ISSUE** C

**JOB NO.** HIG2307  
**SCALE** AS SHOWN  
**DATE** 03.09.2024

**DRAWING TITLE**  
SHADOW STUDY - WINTER SOLSTICE - SHEET 1

**DRAWN BY** MS  
**CHECKED BY** VS



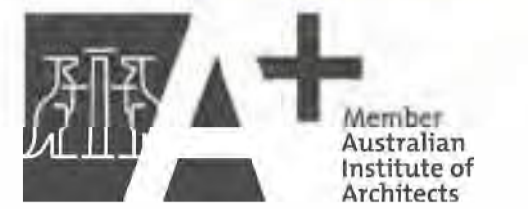
1 **SHADOW STUDY PLAN - WINTER SOLSTICE - 9AM**  
1 : 300 @ A1

2 **SHADOW STUDY PLAN - WINTER SOLSTICE - NOON**  
1 : 300 @ A1

**C**  
AMENDMENTS TO ARCHITECTURAL DRAWINGS  
21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A.B, 14-A.B)  
24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)

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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**

**LEGEND**

- SHADOW CAST BY EXISTING BUILDINGS
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**PROJECT**  
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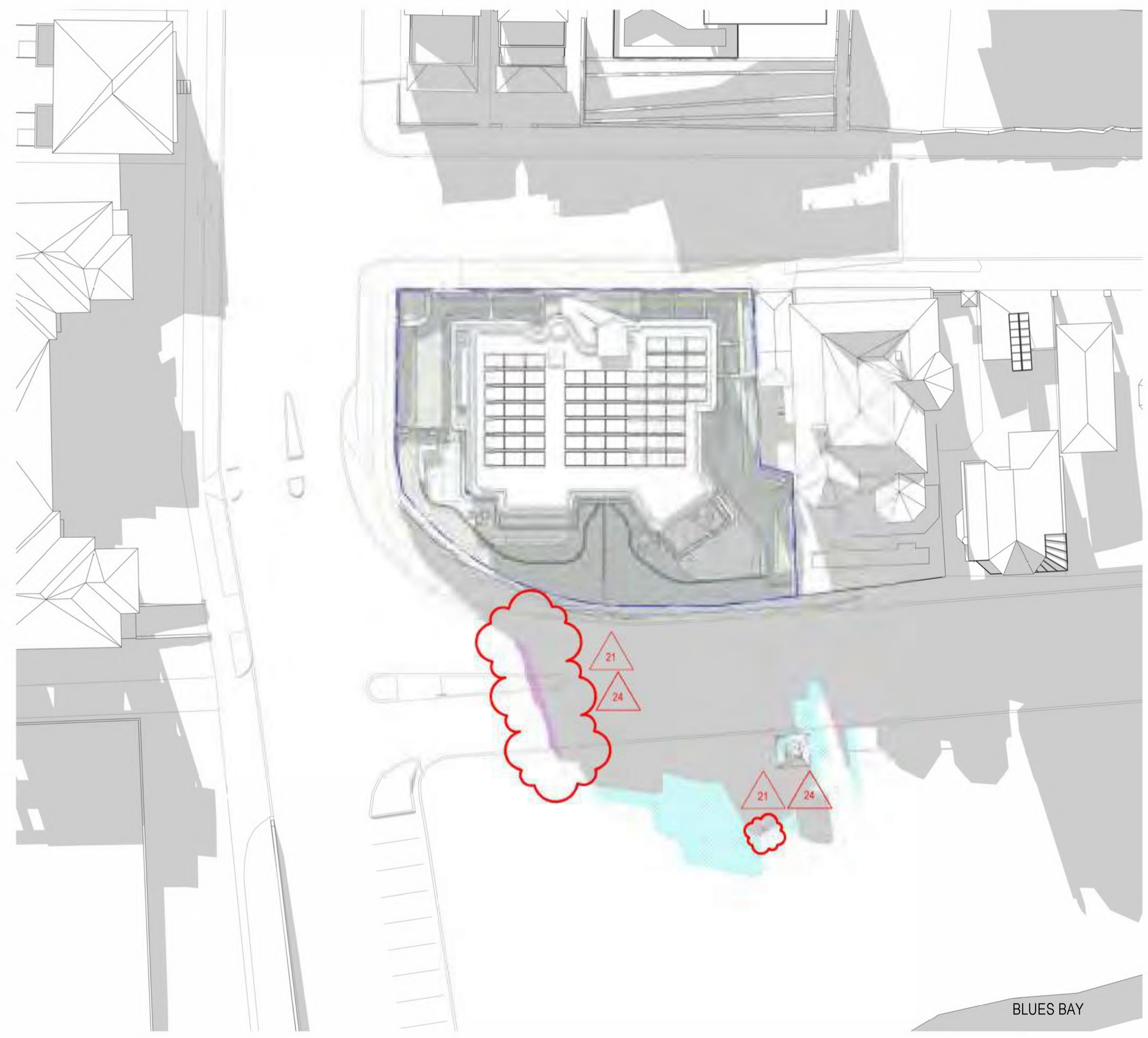
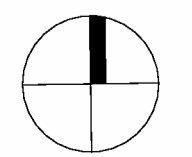
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-402  
**ISSUE** C

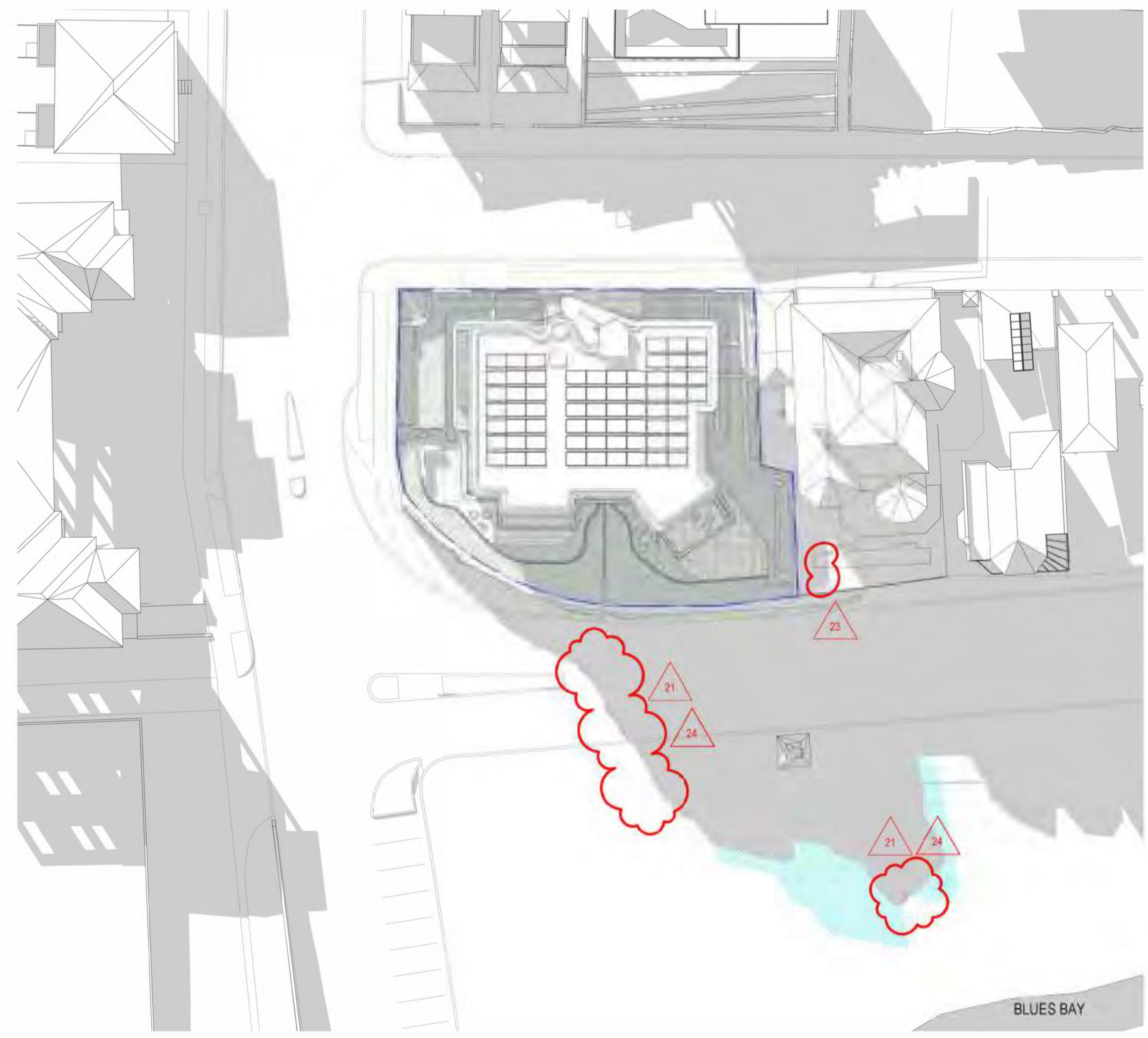
**JOB NO.** HIG2307  
**SCALE** AS SHOWN  
**DATE** 03.09.2024

**DRAWING TITLE**  
SHADOW STUDY - WINTER SOLSTICE - SHEET 2

**DRAWN BY** MS  
**CHECKED BY** VS



**3 SHADOW STUDY PLAN - WINTER SOLSTICE - 1PM**  
1 : 300 @ A1



**1 SHADOW STUDY PLAN - WINTER SOLSTICE - 2PM**  
1 : 300 @ A1

**C**

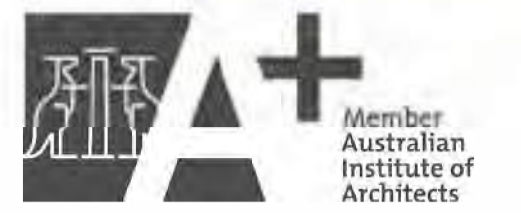
**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A.B, 14-A.B)  
24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)



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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**

**LEGEND**

- SHADOW CAST BY EXISTING BUILDINGS
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**PROJECT**  
Warung Street Apartments

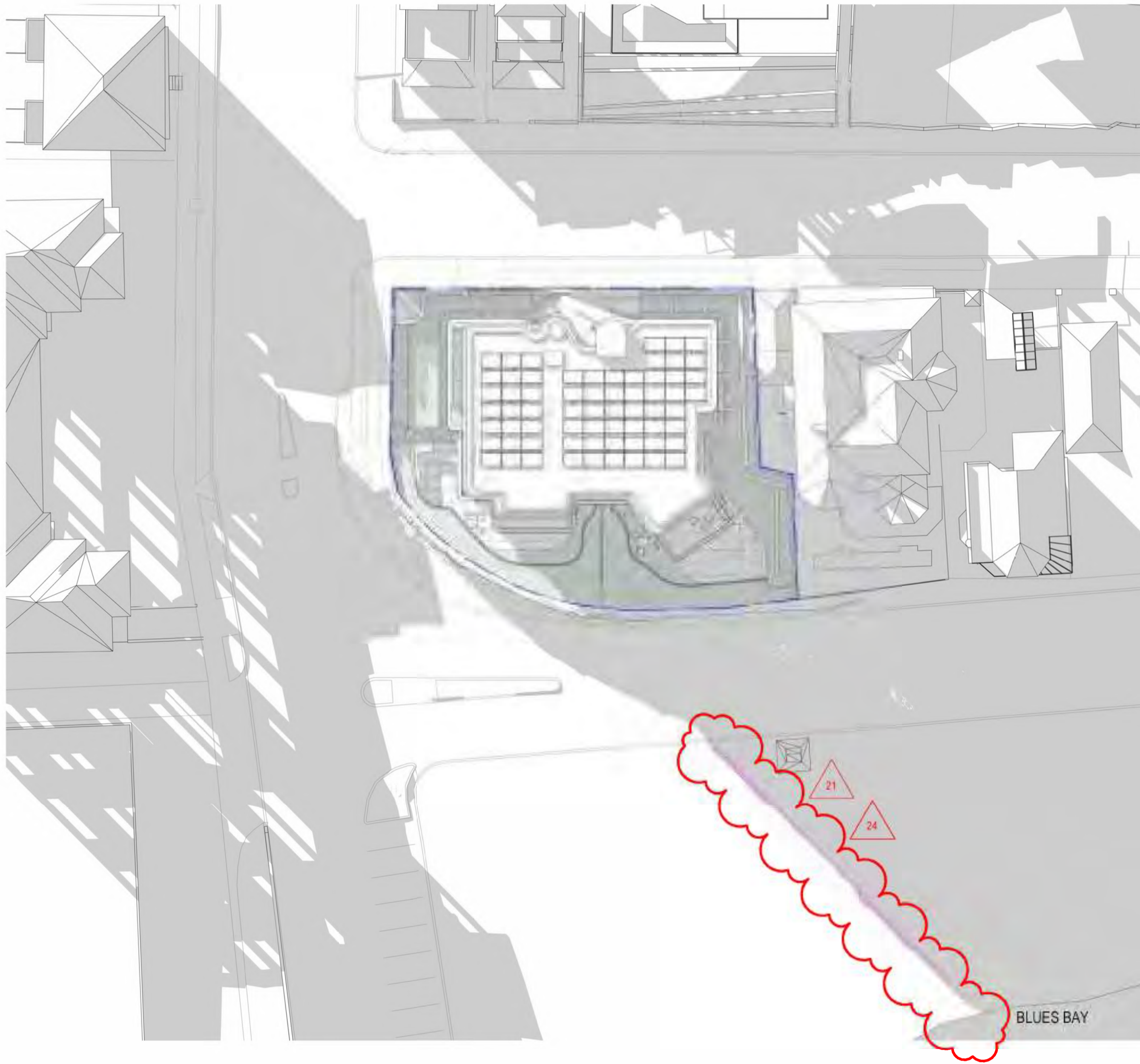
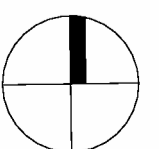
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-403  
**ISSUE** C

**JOB NO.** HIG2307  
**SCALE** AS SHOWN  
**DATE** 03.09.2024

**DRAWING TITLE**  
SHADOW STUDY - WINTER SOLSTICE - SHEET 3

**DRAWN BY** MS  
**CHECKED BY** VS



1 **SHADOW STUDY PLAN - WINTER SOLSTICE - 3PM**  
1 : 300 @ A1

**C**

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS  
(REF: 1-I, 6-A.B, 14-A.B)

24. BUILDING HEIGHT REDUCED BY 150MM  
(REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)

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**DRAWING NOTES**

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**PROJECT**  
Warung Street Apartments

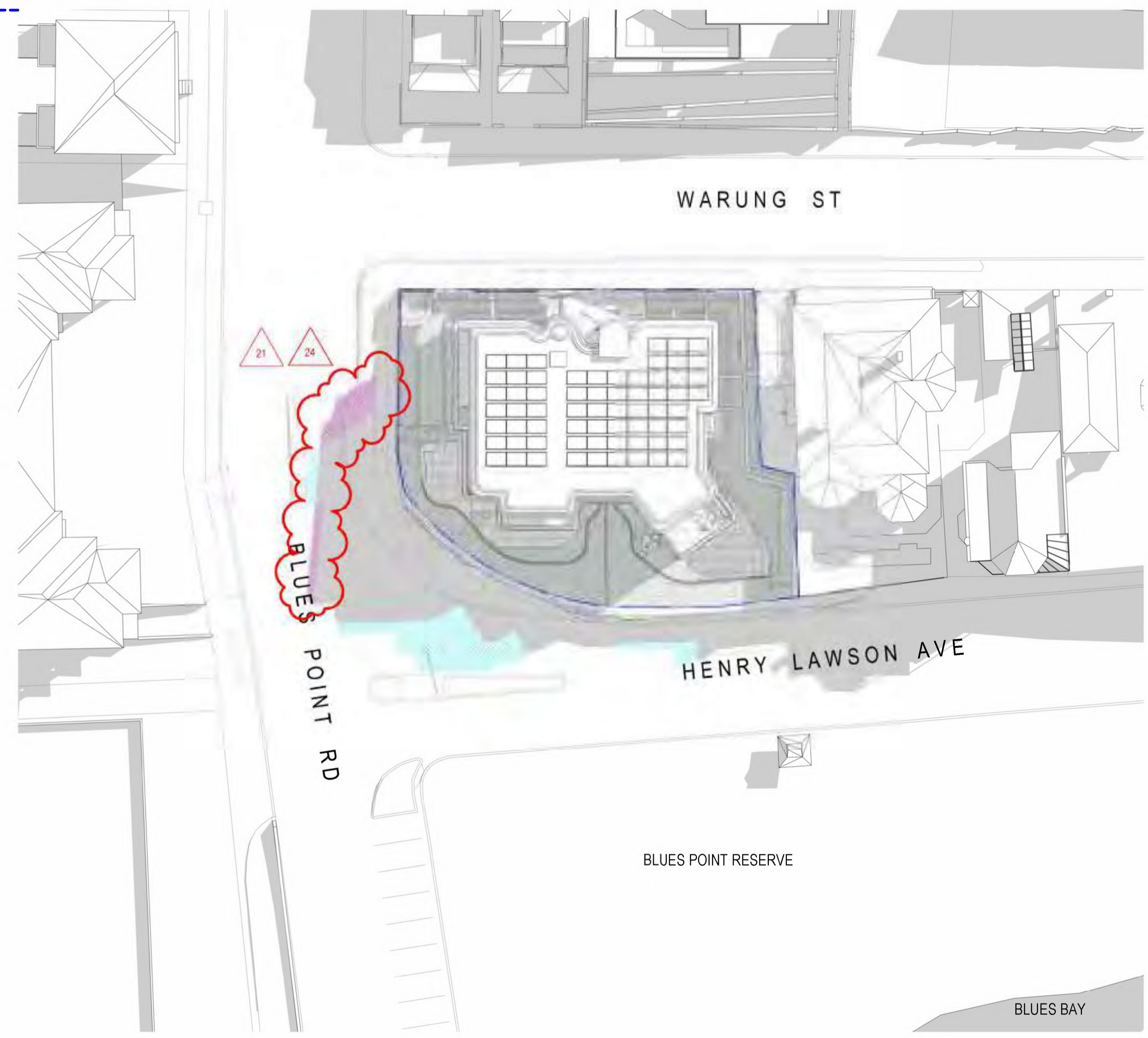
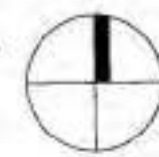
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-404 **ISSUE** C

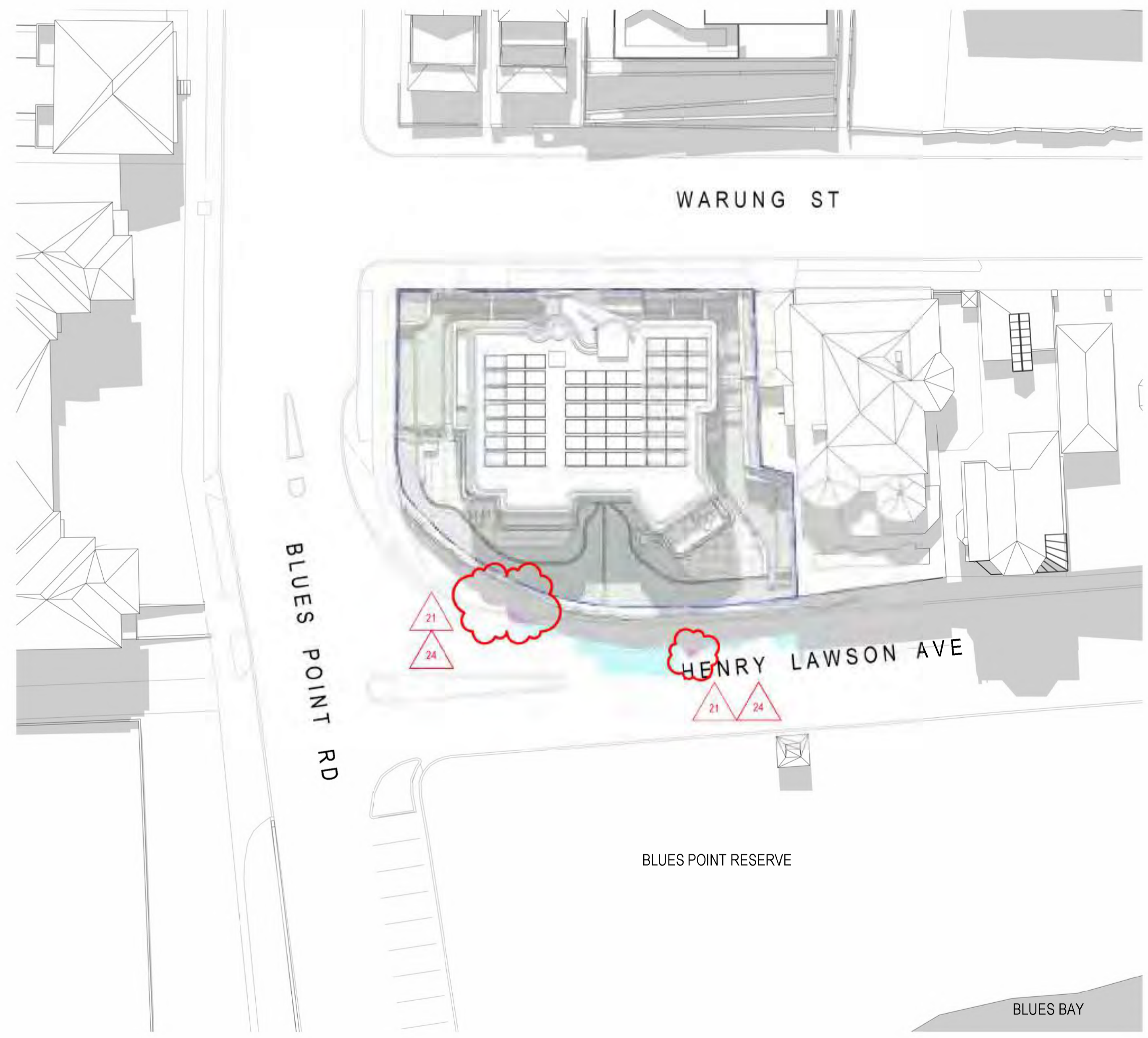
**JOB NO.** HIG2307 **SCALE** AS SHOWN **DATE** 03.09.2024

**DRAWING TITLE**  
SHADOW STUDY - EQUINOX - SHEET 1

**DRAWN BY** MS **CHECKED BY** VS



**1 SHADOW STUDY PLAN - EQUINOX - 9AM**  
1:300 @ A1



**2 SHADOW STUDY PLAN - EQUINOX - NOON**  
1:300 @ A1

**C**  
**AMENDMENTS TO ARCHITECTURAL DRAWINGS**  
21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A.B, 14-A.B)  
24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D.E.F.H.I.J, 5-D, 14-B.E.F)

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**GRAPHIC SCALE**

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**DRAWING NOTES**

**LEGEND**

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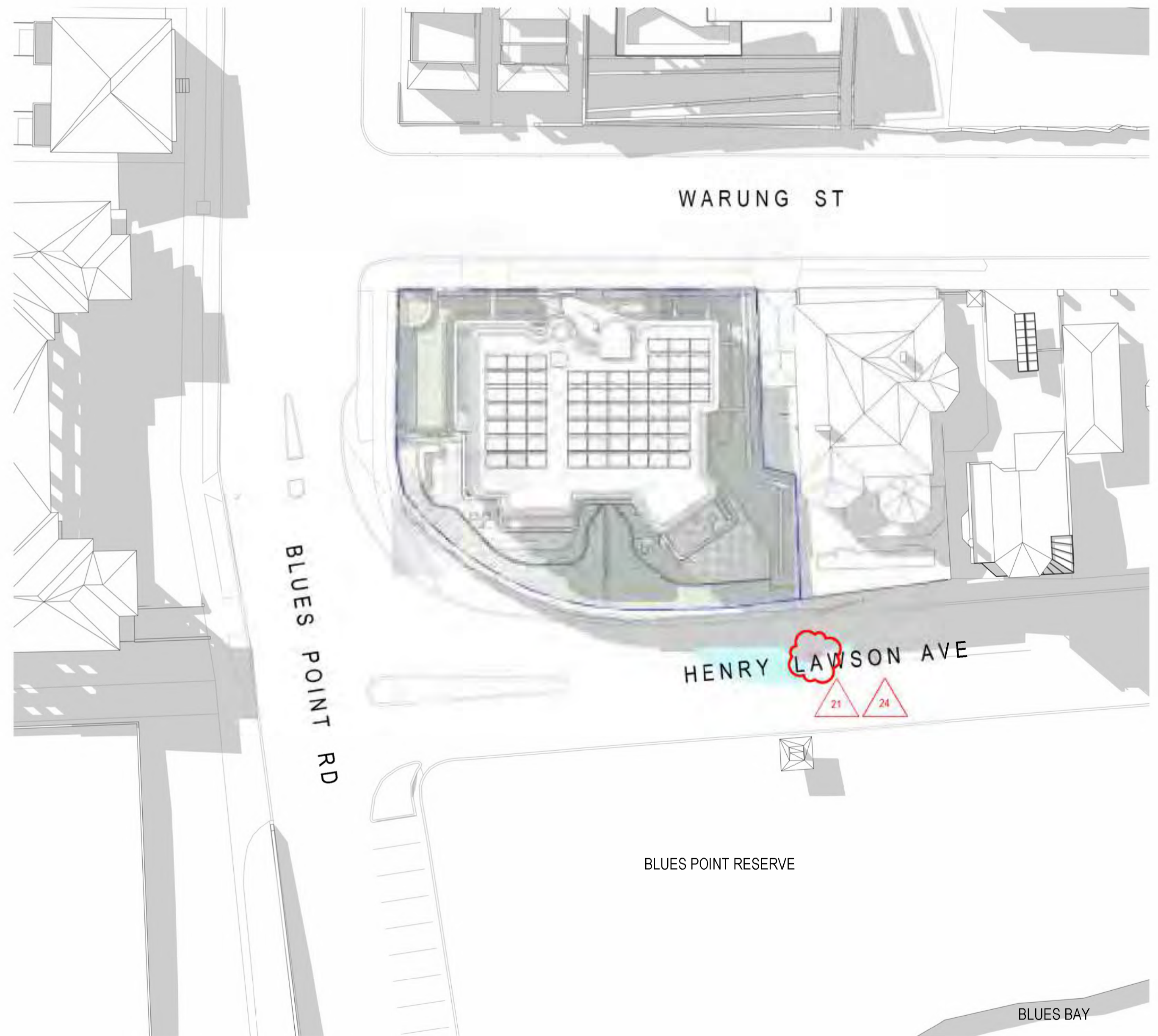
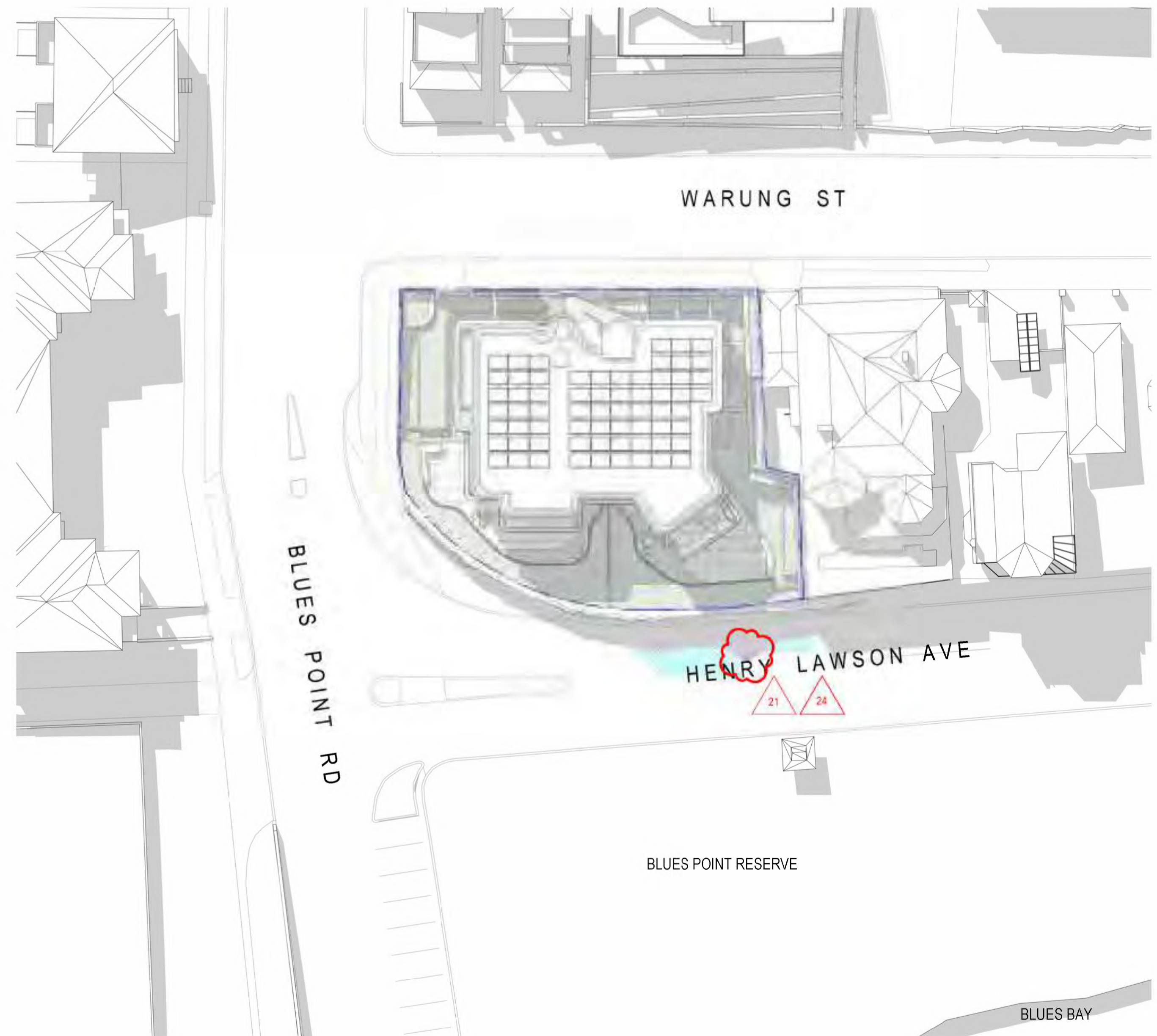
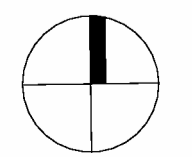
PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO.	ISSUE
<b>DA-405</b>	<b>C</b>
JOB NO. HIG2307	SCALE <b>AS SHOWN</b>
	DATE 03.09.2024

DRAWING TITLE  
SHADOW STUDY - EQUINOX - SHEET 2

DRAWN BY MS  
CHECKED BY VS



**1 SHADOW STUDY PLAN - EQUINOX - 1PM**  
1:300 @ A1

**2 SHADOW STUDY PLAN - EQUINOX - 2PM**  
1:300 @ A1

**C**

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS  
(REF: 1-I, 6-A.B, 14-A.B)

24. BUILDING HEIGHT REDUCED BY 150MM  
(REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)

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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**

**LEGEND**

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17219 (VIC), 3677 (QLD), AR1173 (NT)

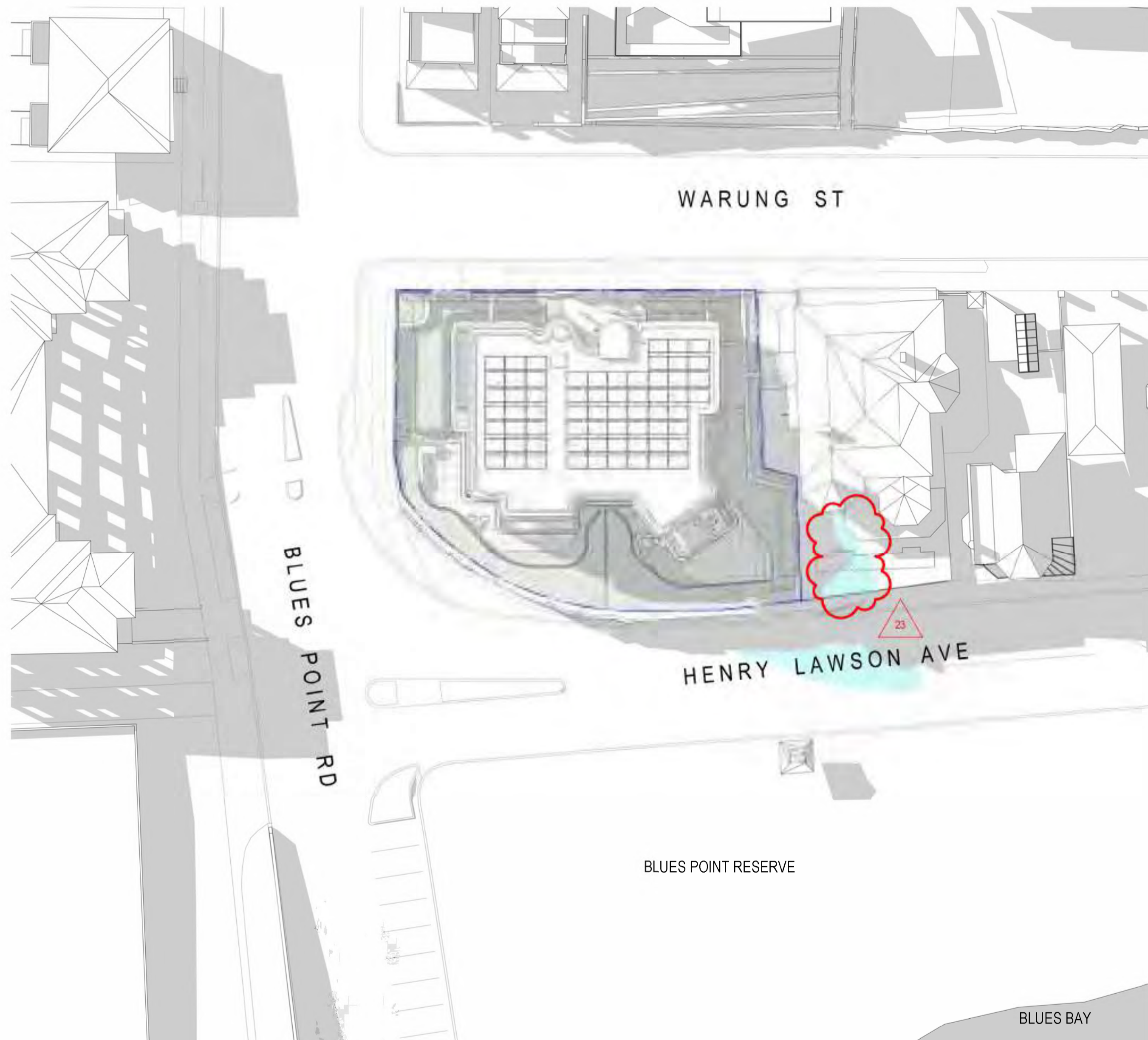
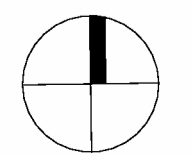
**PROJECT**  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO.	ISSUE
<b>DA-406</b>	<b>C</b>
JOB NO. HIG2307	SCALE <b>AS SHOWN</b>
	DATE 03.09.2024

**DRAWING TITLE**  
SHADOW STUDY - EQUINOX - SHEET 3

**DRAWN BY** MS **CHECKED BY** VS

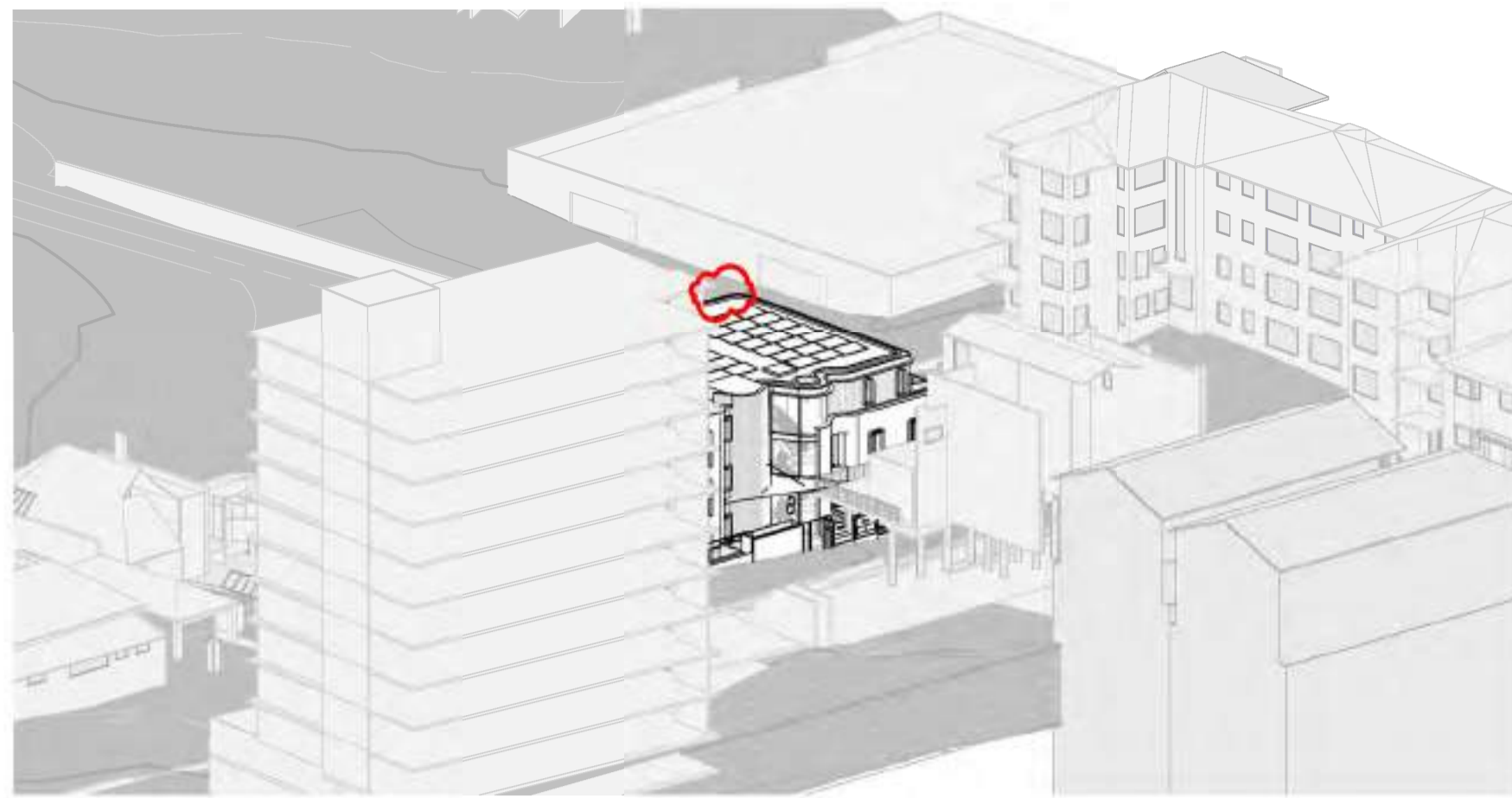


**1 SHADOW STUDY PLAN - EQUINOX - 3PM**  
1:300 @A1

**C**

AMENDMENTS TO ARCHITECTURAL DRAWINGS

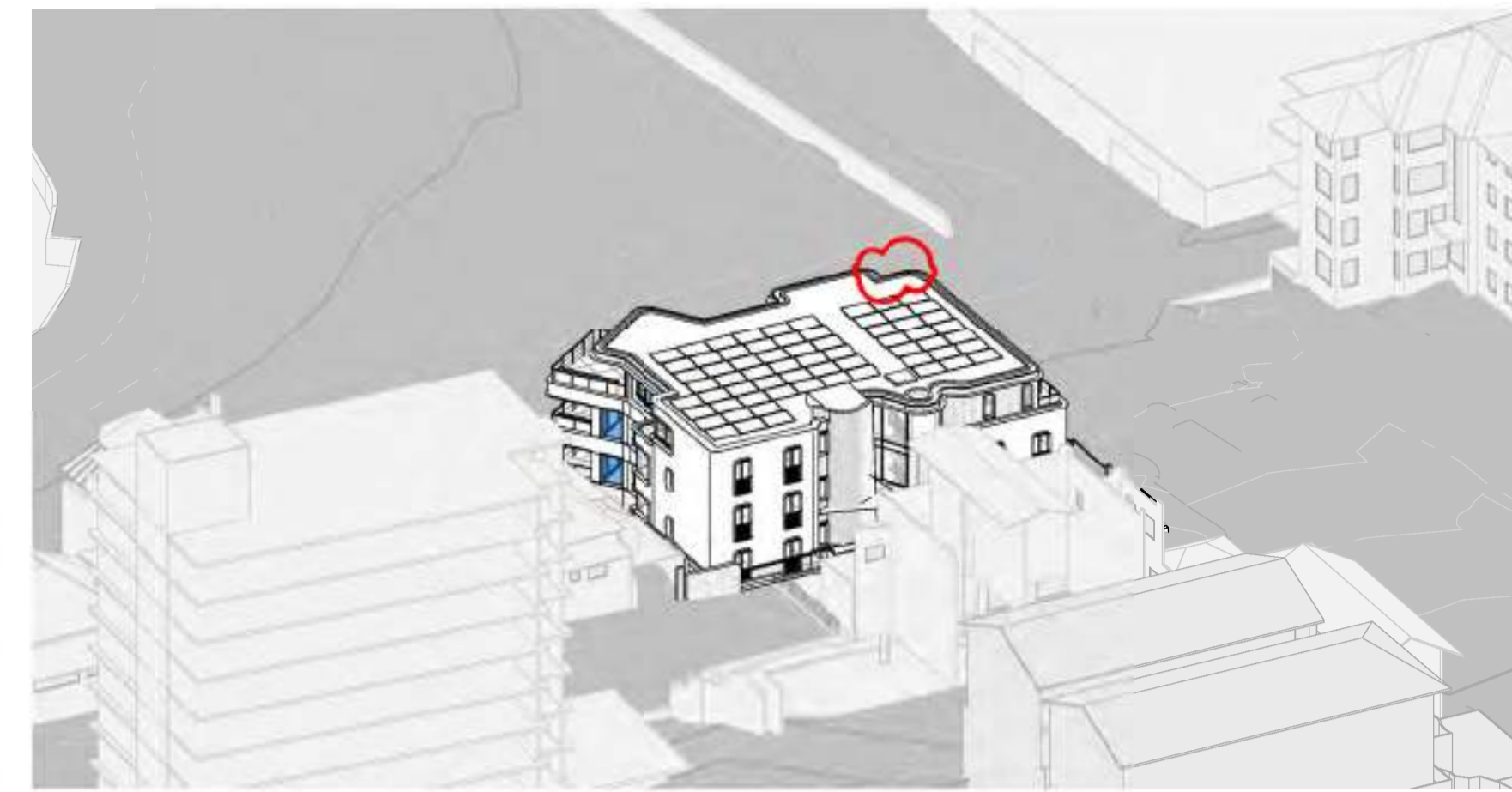
23. ADDRESSED IMPACT TO SOLAR ACCESS FOR 3 WARUNG COMPARED TO APPROVED DESIGN (REF:1-K, 5-D)



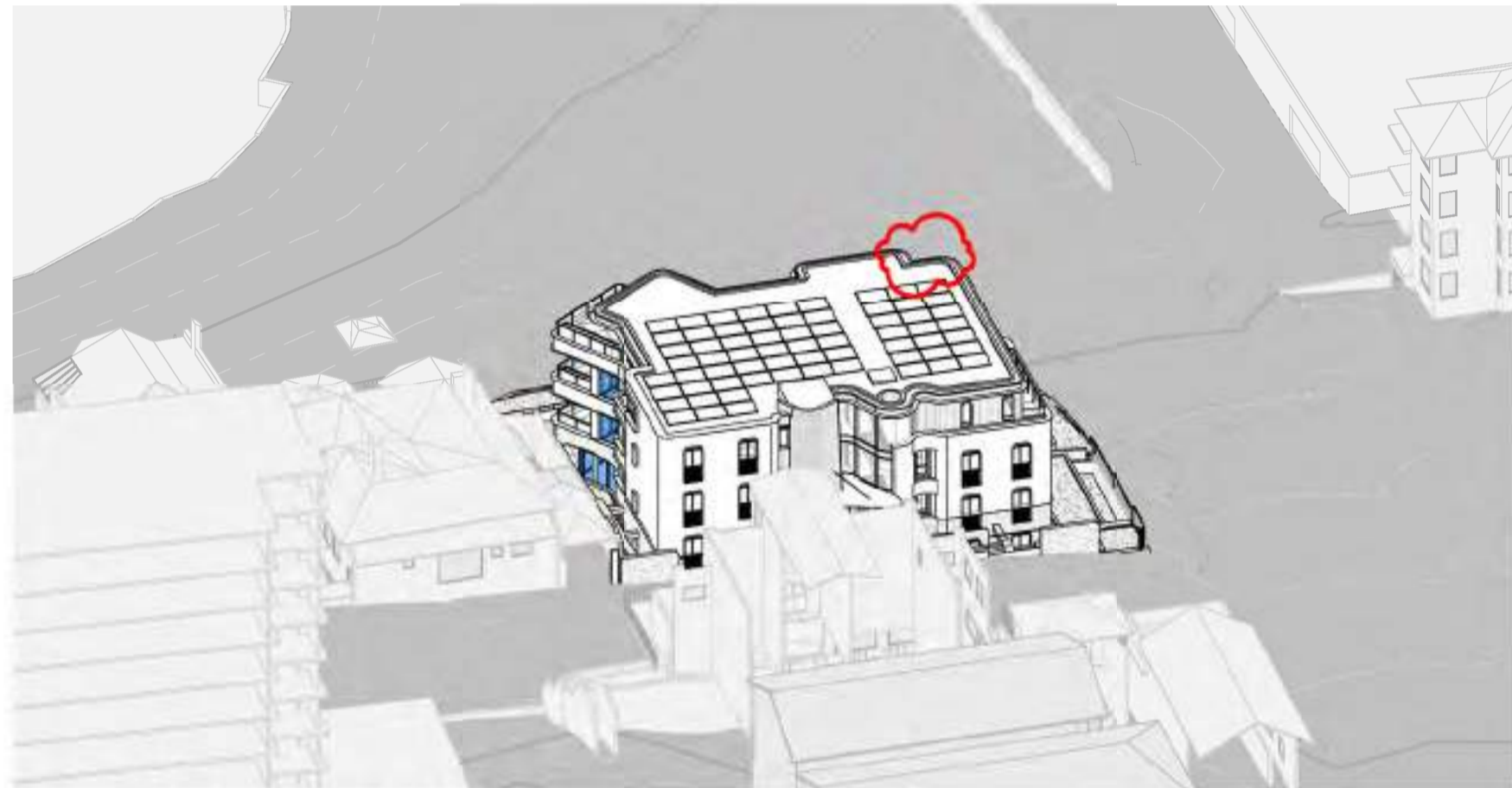
1 **SUN EYE VIEW - 9AM**



2 **SUN EYE VIEW - 9.45AM**



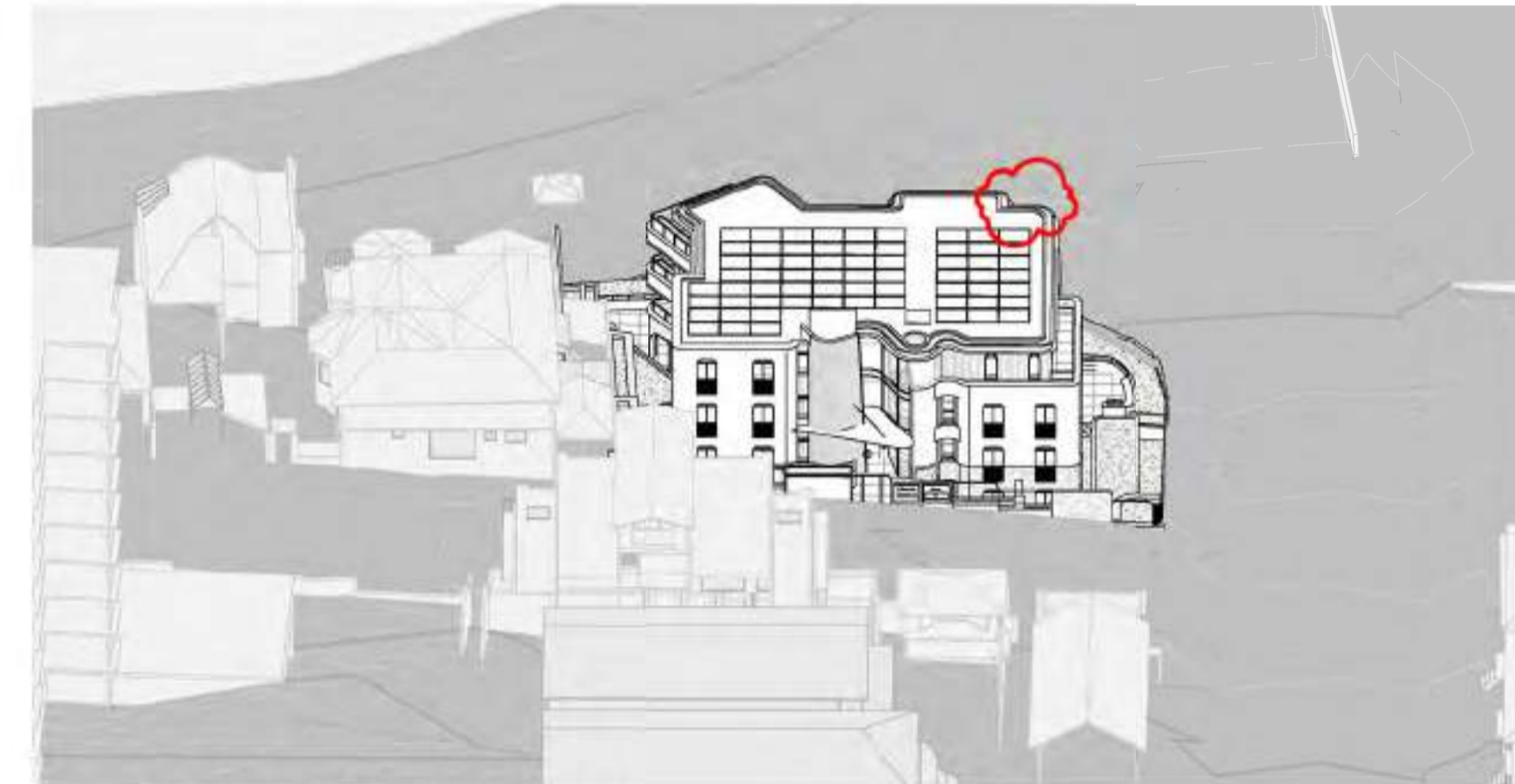
3 **SUN EYE VIEW - 10AM**



4 **SUN EYE VIEW - 11AM**



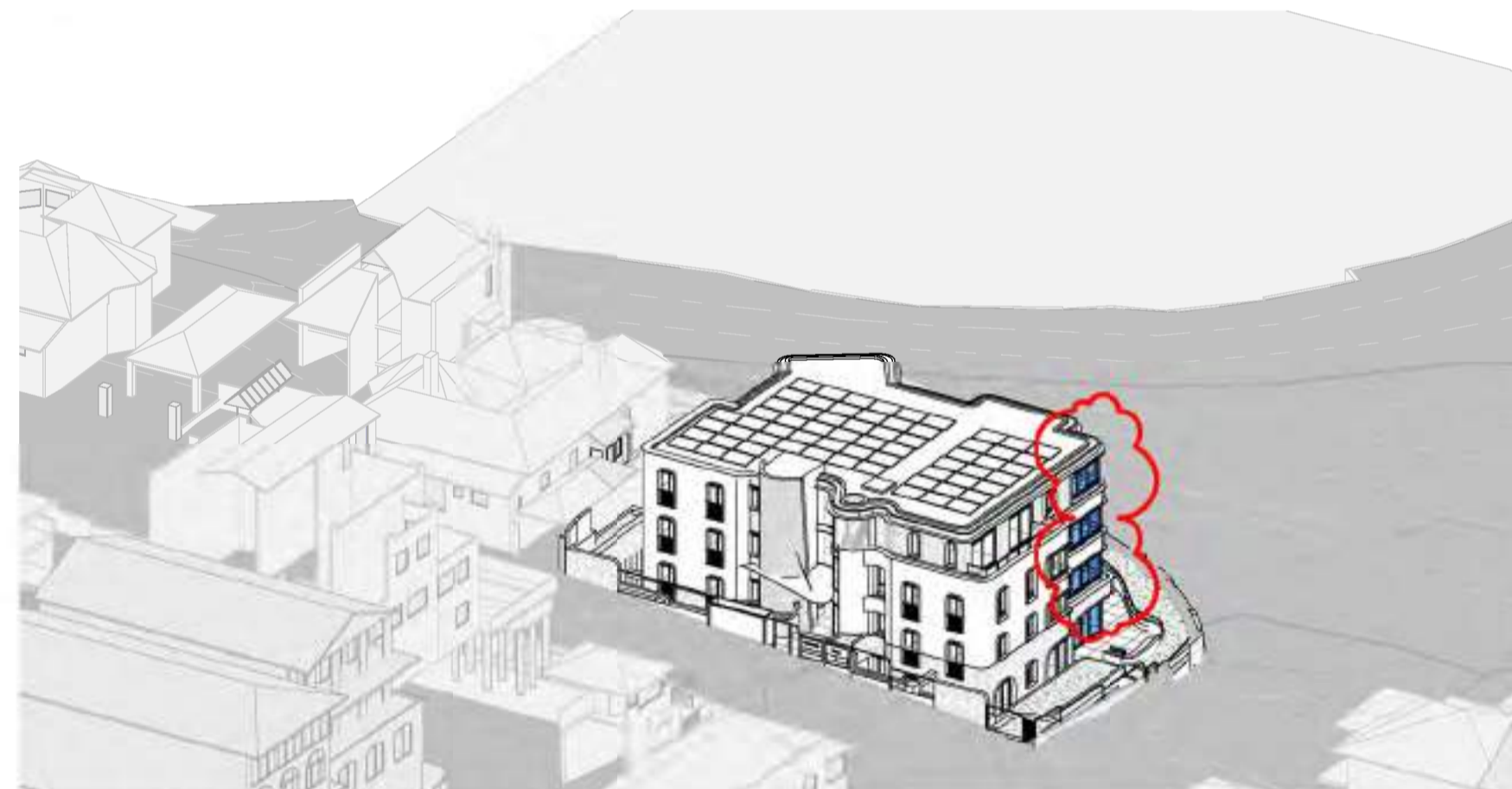
5 **SUN EYE VIEW - 11.45AM**



6 **SUN EYE VIEW - 12PM**



7 **SUN EYE VIEW - 1PM**



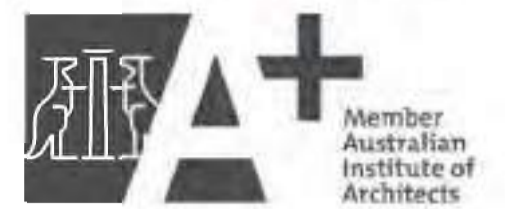
8 **SUN EYE VIEW - 2PM**



9 **SUN EYE VIEW - 3PM**

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GRAPHIC SCALE

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**DRAWING NOTES**

**SUN'S EYE VIEW LEGEND**

INDICATES BUILDING GLAZING TO LIVING AREAS

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

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Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO. **DA-431** ISSUE **C**

JOB NO. HIG2307 SCALE N.T.S. DATE 03.09.2024

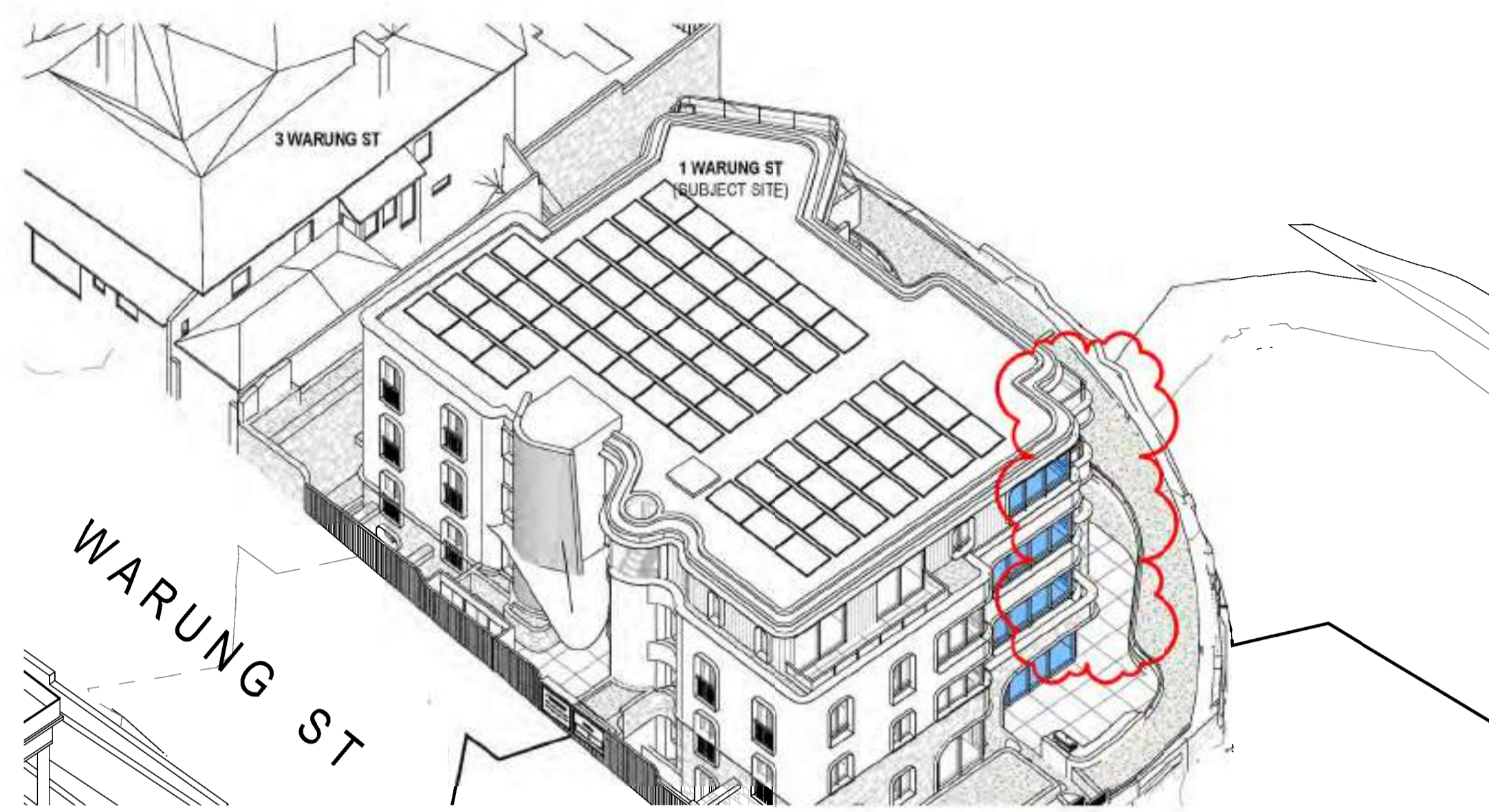
DRAWING TITLE  
SUN'S EYE VIEW - WINTER SOLSTICE

DRAWN BY MS CHECKED BY VS

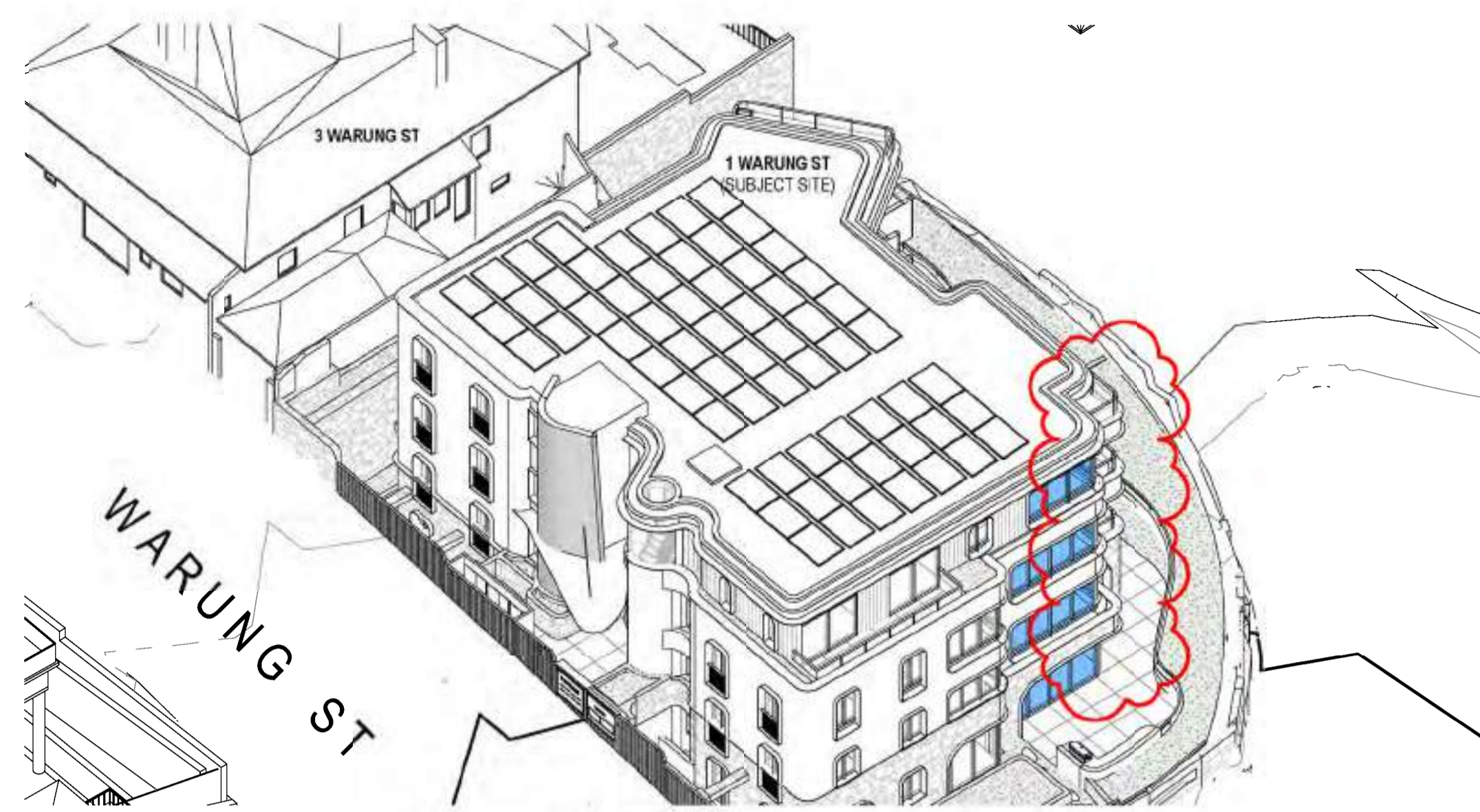
**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A.B, 14-A.B)

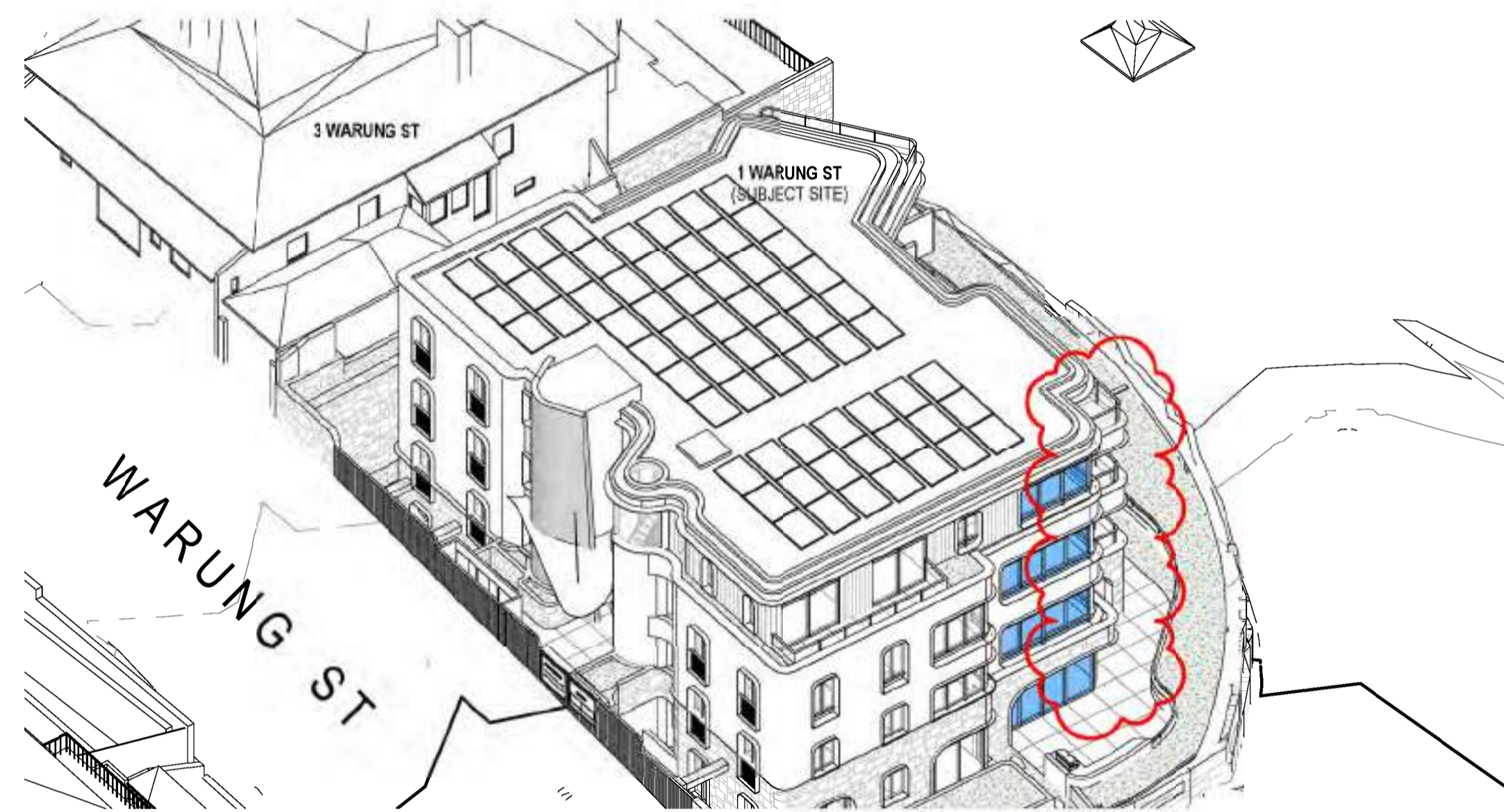
24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)



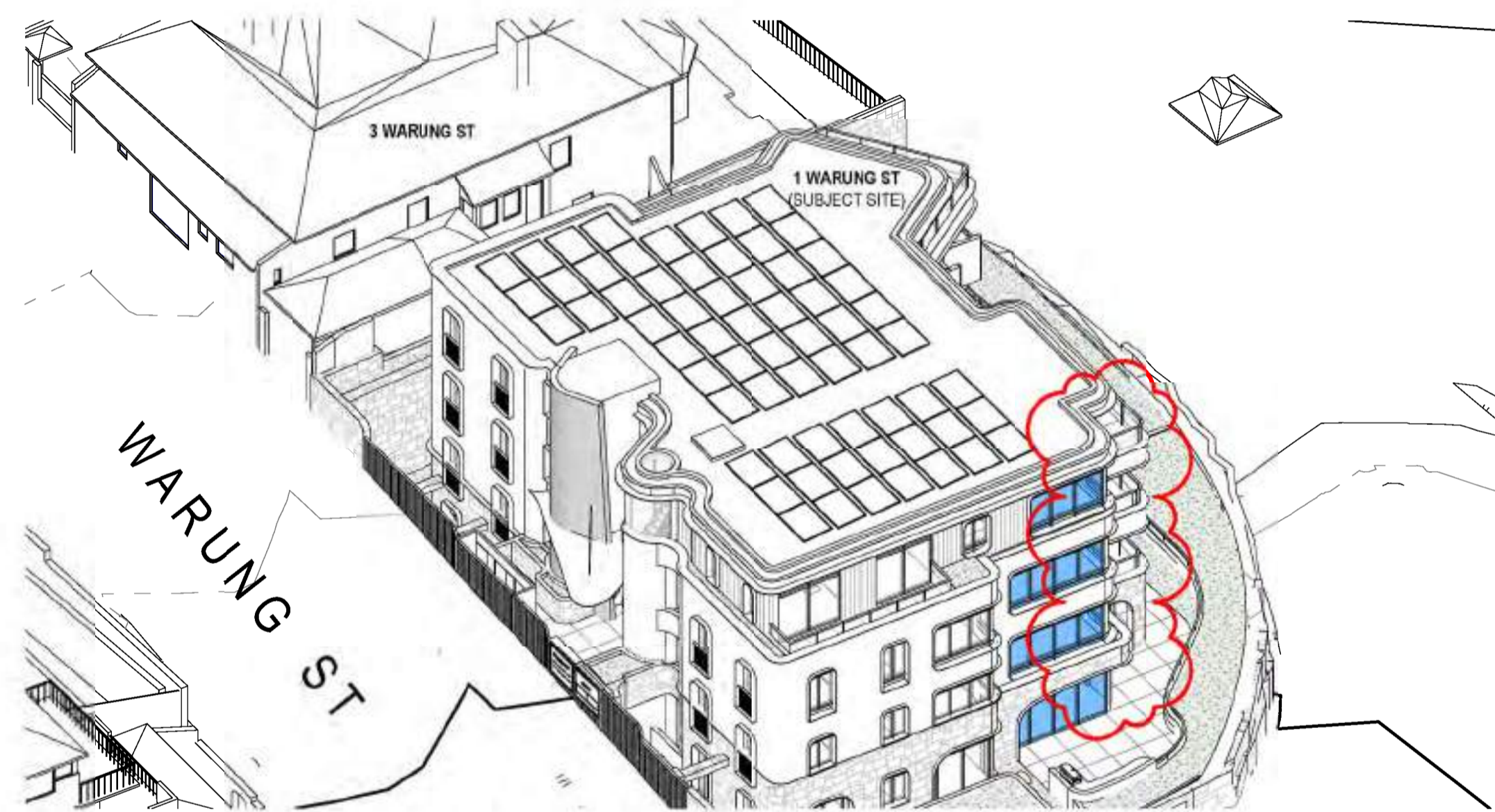
1 **SUN EYE VIEW - 2.00PM - EQUINOX**  
@ A1



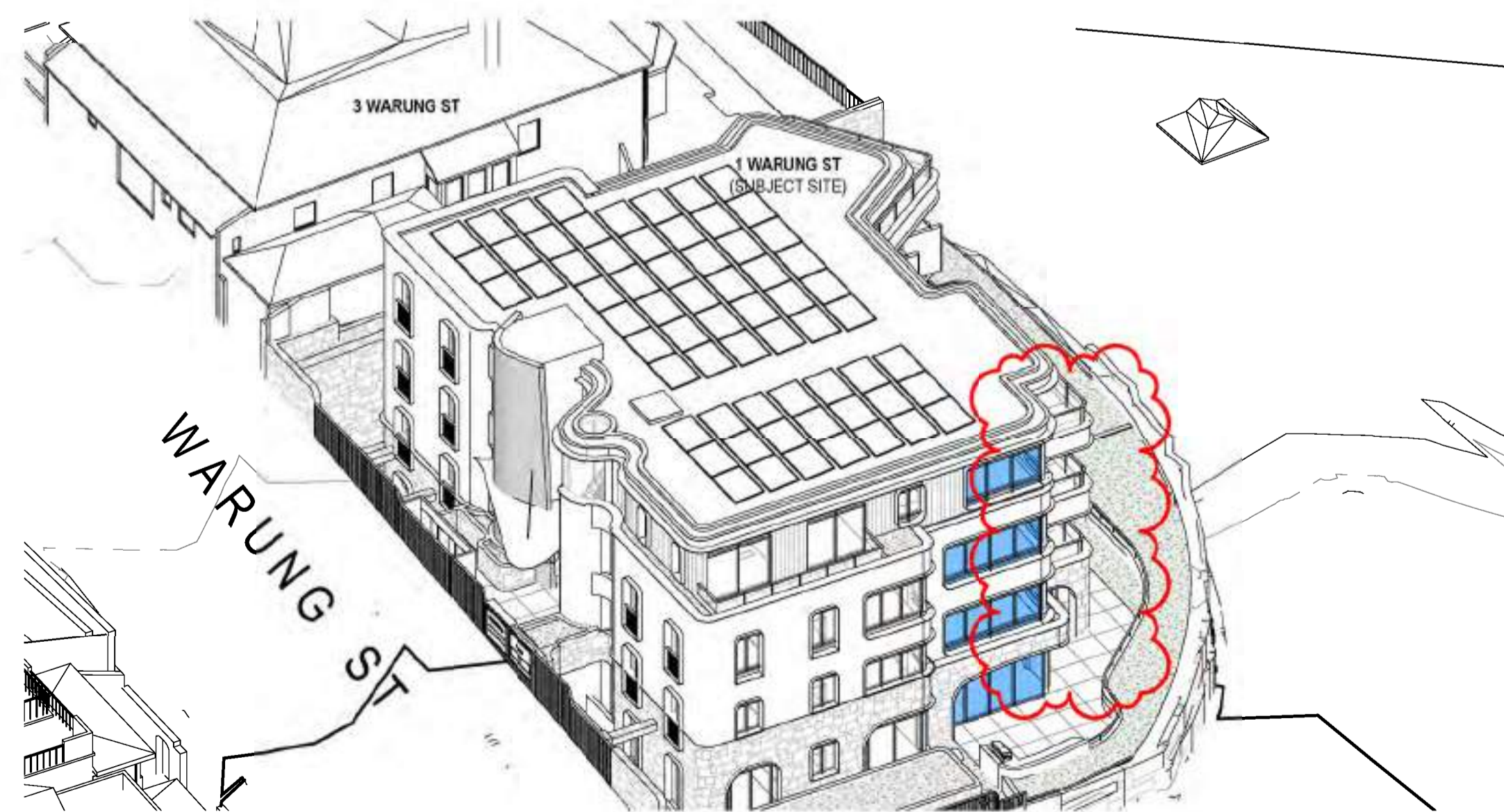
2 **SUN EYE VIEW - 2.15PM - EQUINOX**  
@ A1



3 **SUN EYE VIEW - 2.30PM - EQUINOX**  
@ A1



4 **SUN EYE VIEW - 2.45PM - EQUINOX**  
@ A1

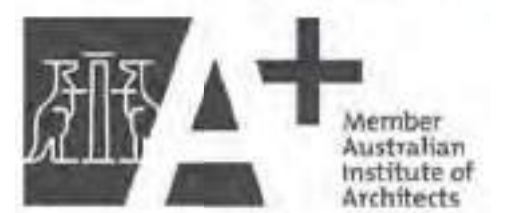


5 **SUN EYE VIEW - 3.00PM - EQUINOX**  
@ A1

**\* HABITABLE AREAS OF 3 WARUNG ST NOT AFFECTED BY PROPOSED NEW WORKS DURING THE EQUINOXES FROM 9AM TO 3PM.**

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GRAPHIC SCALE

NOT TO SCALE

DRAWING NOTES

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
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A	29.02.2024	ISSUE FOR DA

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NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO.	SCALE	DATE
DA-432	N.T.S.	03.09.2024

DRAWING TITLE  
SUN'S EYE VIEW - EQUINOXES

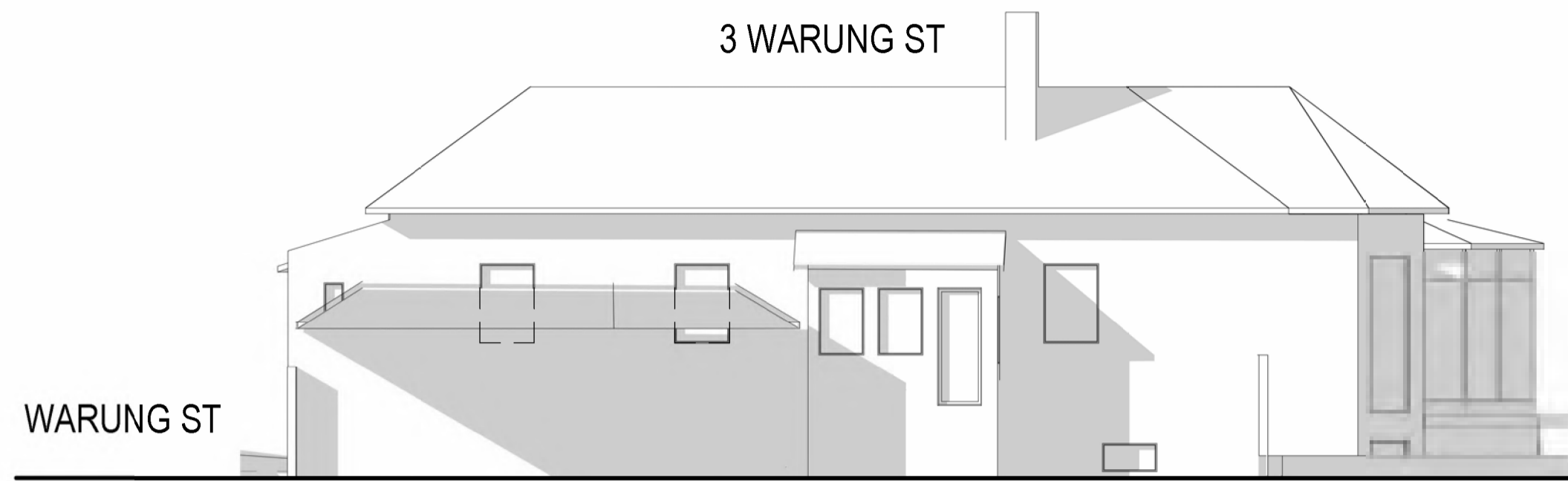
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CHECKED BY: VS

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

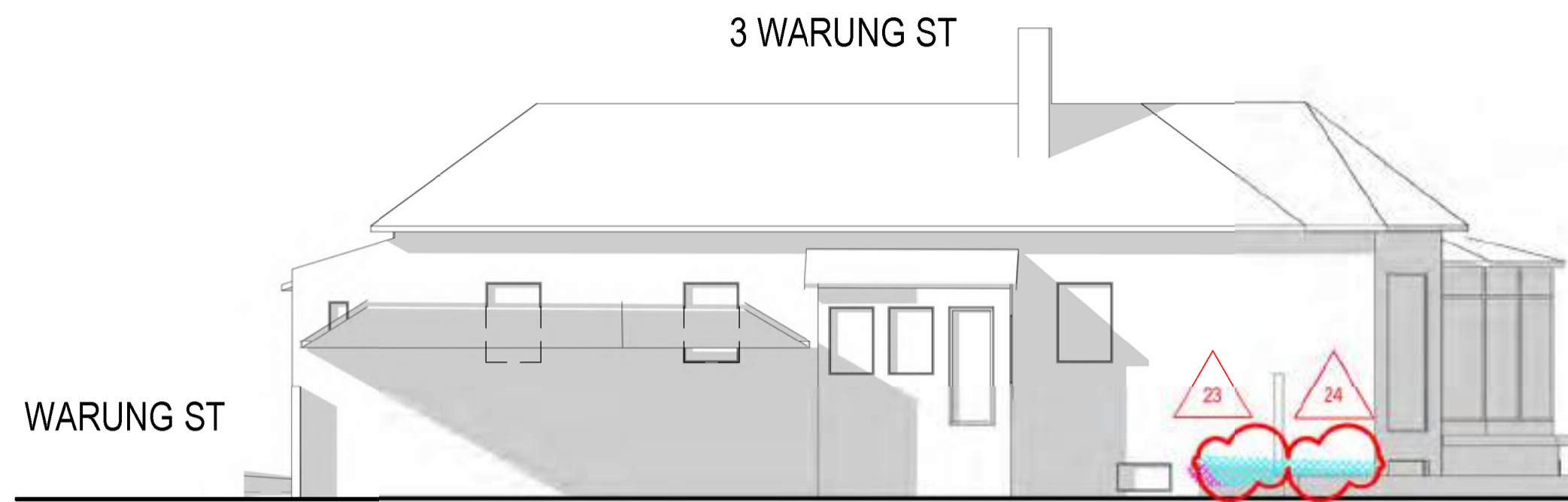
- 21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-I, 6-A.B, 14-A.B)
- 24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)

# WESTERN FACADE OF 3 WARUNG ST

## SHADOW STUDY @ WINTER SOLSTICE



1 **3 WARUNG ST - 1.45 PM**  
@ A1



2 **3 WARUNG ST - 2.00 PM** - NO OVERSHADOWING BEFORE 2:00 PM  
@ A1



3 **3 WARUNG ST - 2.15 PM**  
@ A1



4 **3 WARUNG ST - 2.30 PM**  
@ A1



5 **3 WARUNG ST - 2.45 PM**  
@ A1



6 **3 WARUNG ST - 3.00 PM**  
@ A1

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GRAPHIC SCALE

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LEGEND

- SHADOW CAST BY EXISTING BUILDINGS
- SHADOWS CAST BY APPROVED DA
- ADDITIONAL SHADOWS CAST BY PROPOSED NEW WORKS

ISS	DATE	PURPOSE OF ISSUE
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NOMINATED ARCHITECT  
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PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO. **DA-450** ISSUE **C**

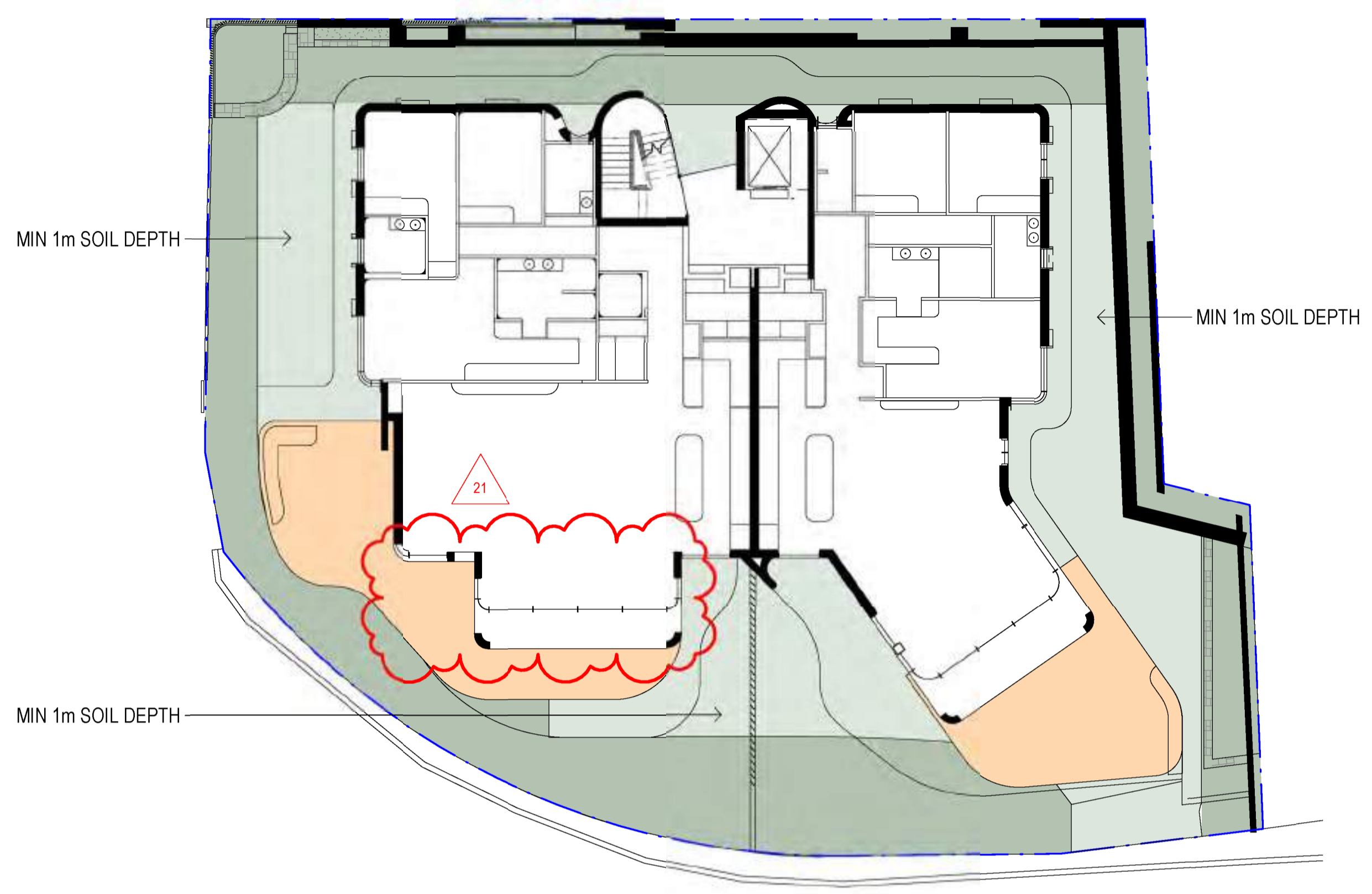
JOB NO. **HIG2307** SCALE **N.T.S.** DATE **03.09.2024**

DRAWING TITLE  
**3 WARUNG ST - SHADOW STUDY @ WINTER SOLSTICE**

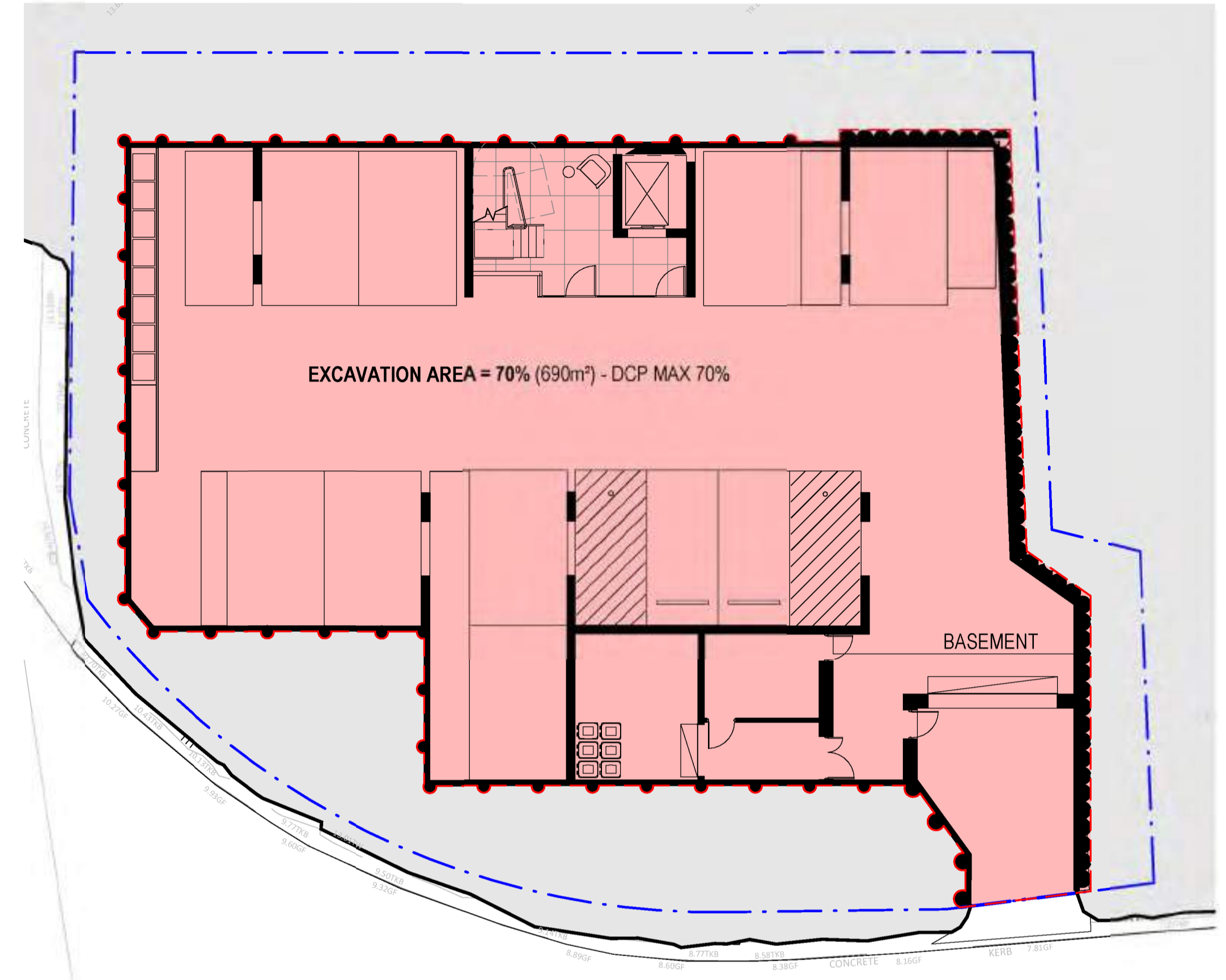
DRAWN BY **MS** CHECKED BY **VS**

**C**  
AMENDMENTS TO ARCHITECTURAL DRAWINGS  
23. ADDRESSED IMPACT TO SOLAR ACCESS FOR 3 WARUNG COMPARED TO APPROVED DESIGN (REF:1-K, 5-D)  
24. BUILDING HEIGHT REDUCED BY 150MM (REF:1-D,E,F,H,I,J 5-D, 14-B,E,F)

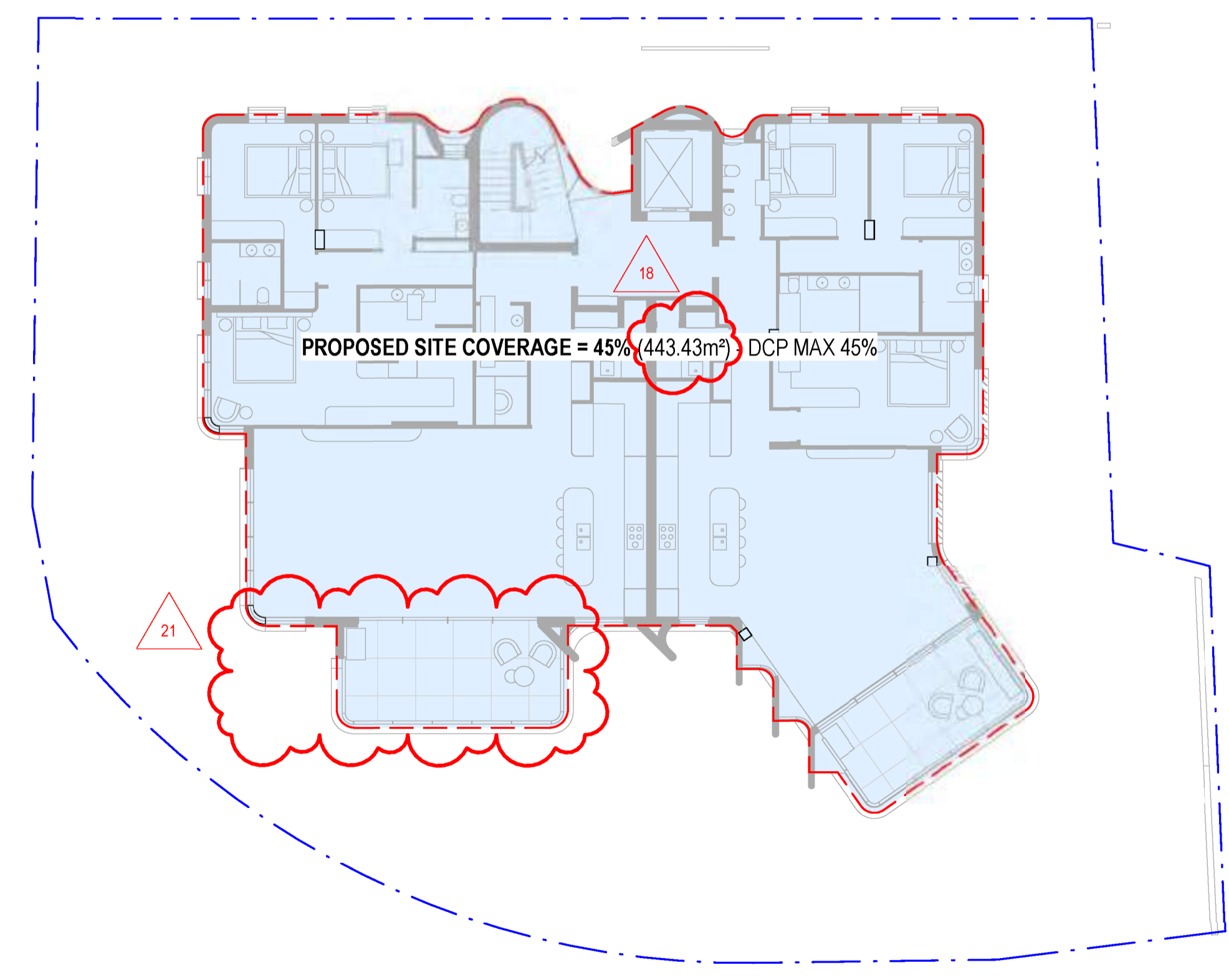
UN-BUILT = 7.7% (76.7 m<sup>2</sup>) - DCP MAX 15%  
 DEEP SOIL LANDSCAPING = 27.0% (266.5m<sup>2</sup>)  
 \*TOTAL LANDSCAPE AREA = 45.3% (446.4 m<sup>2</sup>) - DCP MIN 40%  
 \*INCLUDING AREA OVER BASEMENT WHICH WILL HAVE SUFFICIENT SOIL DEPTH



1 **LANDSCAPE AREA**



2 **EXCAVATION PLAN.**



3 **SITE COVERAGE - PROPOSED**

**SITE AREA : 985.4m<sup>2</sup>**

**DCP CONTROLS**

Landscape area = Min 40% (COMPLIES)

Un-built Upon = Max 15% (COMPLIES)

Excavation = Max 70% (COMPLIES)

Site coverage = Max 45% (COMPLIES)

AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1.	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2.	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED	12	B
3.	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	11	C
4.	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	8	-
5.	ADDED COMMUNAL BENCH TO BUILDING ENTRY	14	G
6.	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	10	-
7.	RESTRICTED LOUVRES TO EAST FACADE	5	A
8.	ADDED PLANTER BOXES TO UNITS 202 & 301	4	-
9.	ADJUSTED LOUVRES TO UNIT 301	6	D
10.	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	4	-
11.	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL	14	A
12.	SOLID VS GLASS STUDY CALCULATIONS UPDATED	4	-
13.	ADDITIONAL VIEW STUDIES PROVIDED	14	A
14.	ADDITIONAL DETAILED SECTION PROVIDED	1	C,F
15.	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	15	F
16.	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	1	E,F,H,I,J,K
17.	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED	5	D
18.	REVISED AS PER COUNCIL COMMENTS	14	E
19.	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	5	A
20.	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	9	-
21.	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	1	D,E,F,G,H
22.	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	5	C
23.	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	6	AC
24.	BUILDING HEIGHT REDUCED BY 150MM	14	AF
25.	HIGH WINDOW ADDED TO BEDROOM	15	EF

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GRAPHIC SCALE  
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DRAWING NOTES

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
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 17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
 Warung Street Apartments

1 Warung Street, McMahons Point NSW

DRAWING NO. DA-531  
 ISSUE C

JOB NO. HIG2307  
 SCALE N.T.S.  
 DATE 03.09.2024

DRAWING TITLE  
 LANDSCAPE COVERAGE & EXCAVATION PLAN

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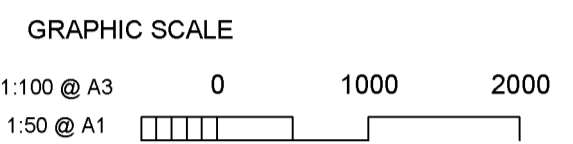
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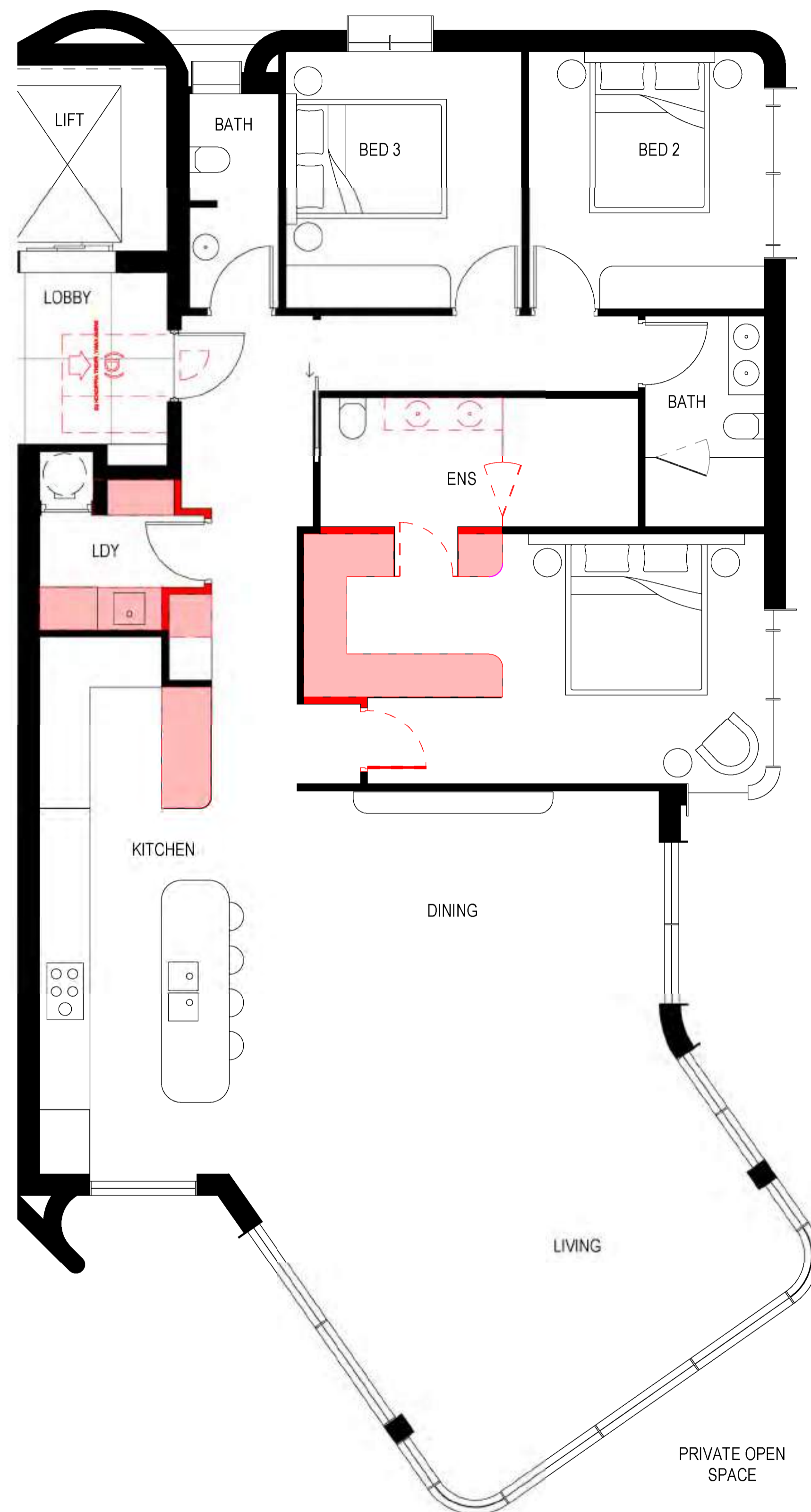
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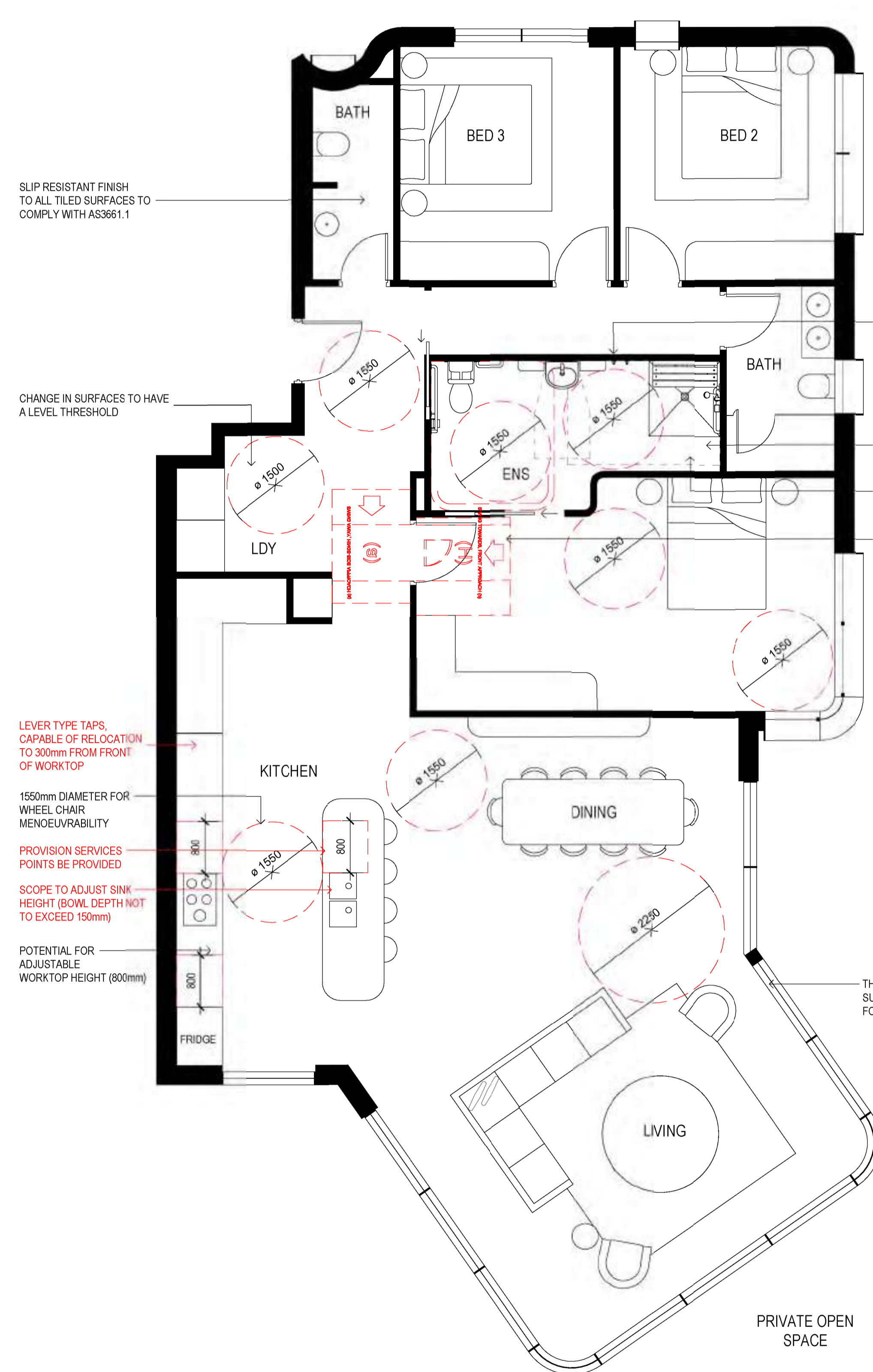


DRAWING NOTES

- CONSTRUCTION OF WALLS IN BATHROOM TO MEET AS4299 REQUIREMENTS FOR GRABRAILS ETC.
- SLIP RESISTANT FINISH TO ALL TILED SURFACES TO COMPLY WITH AS3661.1
- BATHROOM DESIGN TO IN ACCORDANCE WITH AS1428.1
- INTERNAL DOORS TO MEET AS1428.1 (850mm CLEAR WIDTH)



1 **UNIT 102 & 202 (PRE-ADAPTED)**  
1 : 50 @ A1



2 **UNIT 102 & 202 (POST-ADAPTED)**  
1 : 50 @ A1

All units must be designed to at least Silver Level Livable Housing

- LHA Silver Level Requirements**  
Seven core livable housing design elements
- Dwelling Access**  
Please Note: For Class 2 buildings, the Commonwealth Disability (Access to Premises-Buildings) Standards 2010 require a safe and continuous pathway from the pedestrian entrance to at least one floor containing sole occupancy units and to the entrance of units located on that level. The requirements detailed below therefore do not apply to Class 2 buildings.
- Internal doors and corridors**
- Doorways to rooms on the entry level used for living, dining, bedroom, bathroom, kitchen, laundry and sanitary compartment purposes should provide:
    - a minimum clear opening width of 820mm (see Figure 2(a)); and
    - a level transition and threshold (maximum vertical tolerance of 5mm between abutting surfaces is allowable provided the lip is rounded or beveled).
  - Internal corridors/passageways to the doorways referred to in (a) should provide a minimum clear width of 1000mm.
- Toilet**
- Dwellings should have a toilet on the ground (or entry) level that provides:
    - a minimum clear width of 900mm between the walls of the bathroom if located in a separate room; and
    - a minimum 1200mm clear circulation space forward of the toilet pan exclusive of the swing of the door in accordance with Figure 3(a).
    - The toilet pan should be located in the corner of the room to enable installation of grabrails at a future date. Reinforcement guidelines for walls in bathrooms and toilets are found in element 6.
- Shower**
- One bathroom should feature a slip resistant, hobless shower recess. Shower screens are permitted provided they can be easily removed at a later date.
  - The shower recess should be located in the corner of the room to enable the installation of grabrails at a future date. For hobless specification please see Australian Standard AS3740-3.6. Reinforcement guidelines for walls in bathrooms and toilets are found in element 6.
- Reinforcement of Bathroom and Toilet Walls**
- Except for walls constructed of solid masonry or concrete, the walls around the shower, bath (if provided) and toilet should be reinforced to provide a fixing surface for the safe installation of grabrails.
  - The walls around the toilet are to be reinforced by installing:
    - noggings with a thickness of at least 25mm in accordance with Figure 6(a); or
    - sheeting with a thickness of at least 12mm in accordance with Figure 6(b).
  - The walls around the bath are to be reinforced by installing:
    - noggings with a thickness of at least 25mm in accordance with Figure 7(a); or
    - sheeting with a thickness of at least 12mm in accordance with Figure 7(b).
  - The walls around the hobless shower recess are to be reinforced by installing:
    - noggings with a thickness of at least 25mm in accordance with Figure 8(a); or
    - sheeting with a thickness of at least 12mm in accordance with Figure 8(b).
- Internal Stairways**
- Stairways in dwellings must feature:
    - a continuous handrail on one side of the stairway where there is a rise of more than 1m.
- Kitchen** - No requirements  
**Laundry** - No requirements  
**Ground or Entry Level Bedroom Space** - No Requirements  
**Switches and Power Points** - No requirements  
**Door and Tap Hardware** - No requirements  
**Family/Living Room Space** - No requirements  
**Window Sills** - No Requirements  
**Flooring** - No requirements

SLIP RESISTANT FINISH TO ALL TILED SURFACES TO COMPLY WITH AS3661.1

CHANGE IN SURFACES TO HAVE A LEVEL THRESHOLD

LEVER TYPE TAPS, CAPABLE OF RELOCATION TO 300mm FROM FRONT OF WORKTOP

1550mm DIAMETER FOR WHEEL CHAIR MANOEUVRABILITY

PROVISION SERVICES POINTS BE PROVIDED

SCOPE TO ADJUST SINK HEIGHT (BOWL DEPTH NOT TO EXCEED 150mm)

POTENTIAL FOR ADJUSTABLE WORKTOP HEIGHT (800mm)

FRIDGE

THRESHOLD TO BE LEVED OR SUITABLE RAMP DETAIL ALLOW FOR ACCESS TO BALCONY

ISS	DATE	PURPOSE OF ISSUE
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NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

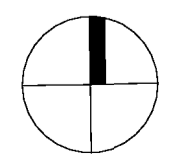
1 Warung Street, McMahons Point NSW

DRAWING NO. DA-541  
ISSUE C

JOB NO. HIG2307 SCALE 1 : 50 @ A1 DATE 03.09.2024

DRAWING TITLE  
ADAPTABLE UNIT LAYOUT

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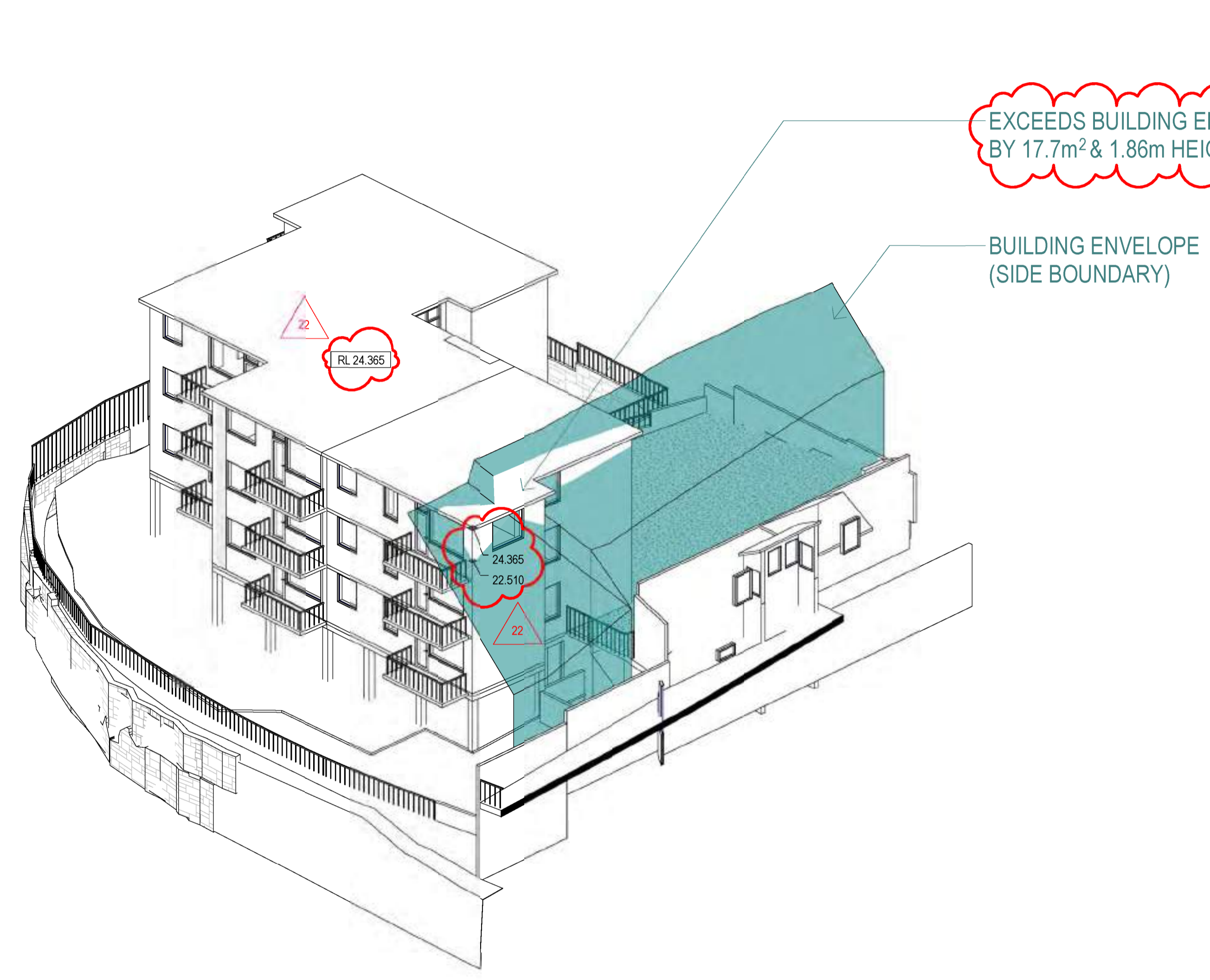
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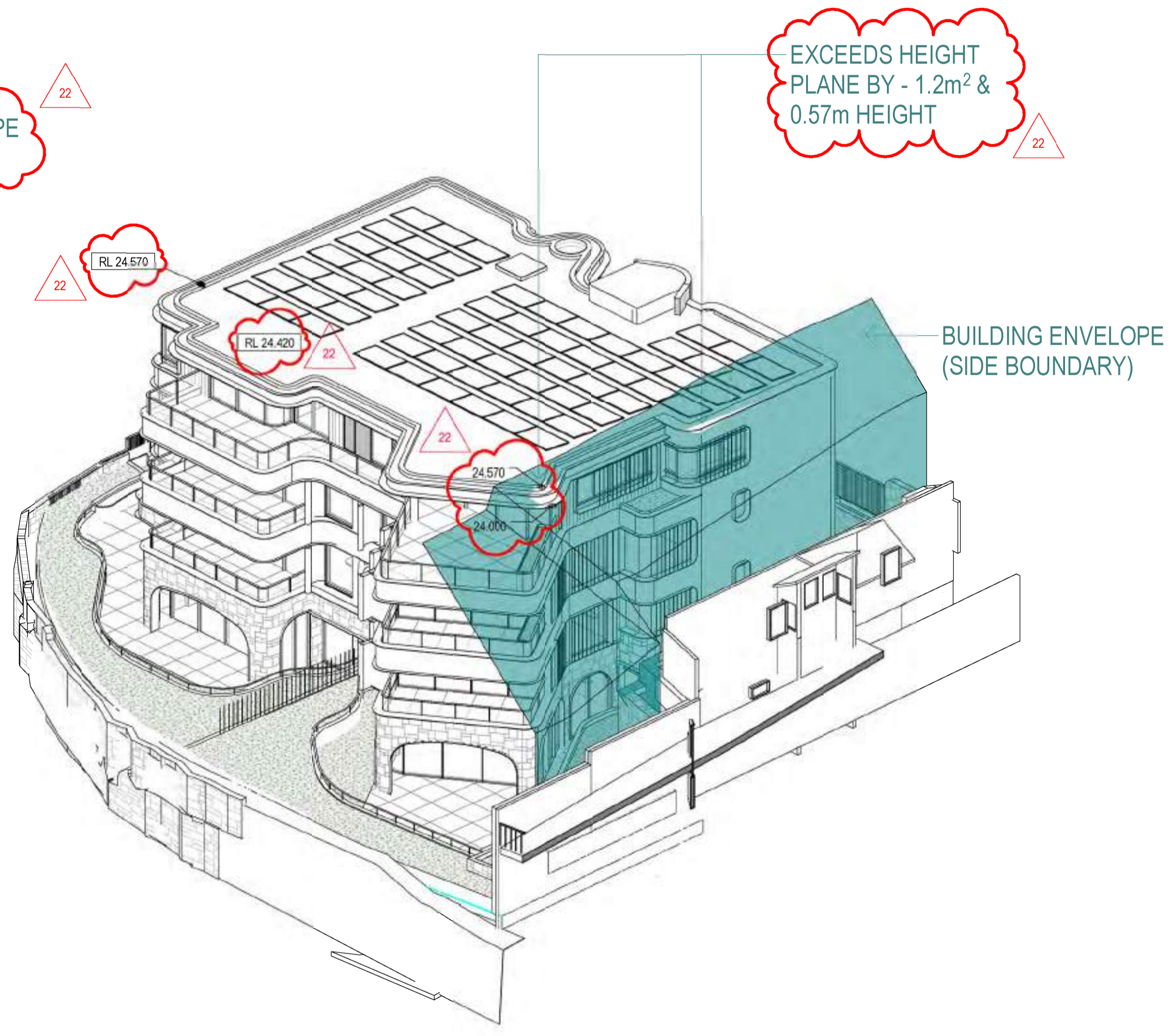
GRAPHIC SCALE

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DRAWING NOTES



1 **BUILDING ENVELOPE - EXISTING**  
@ A1



2 **BUILDING ENVELOPE - PROPOSAL**

**C**  
AMENDMENTS TO ARCHITECTURAL DRAWINGS  
22. RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM (REF: 15C)

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
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PROJECT  
Warung Street Apartments

1 Warung Street, Mooloolah Point NSW

DRAWING NO.	SCALE	ISSUE
DA-551	N.T.S.	C
JOB NO.	SCALE	DATE
HIG2307	N.T.S.	03.09.2024

DRAWING TITLE  
BUILDING ENVELOPE

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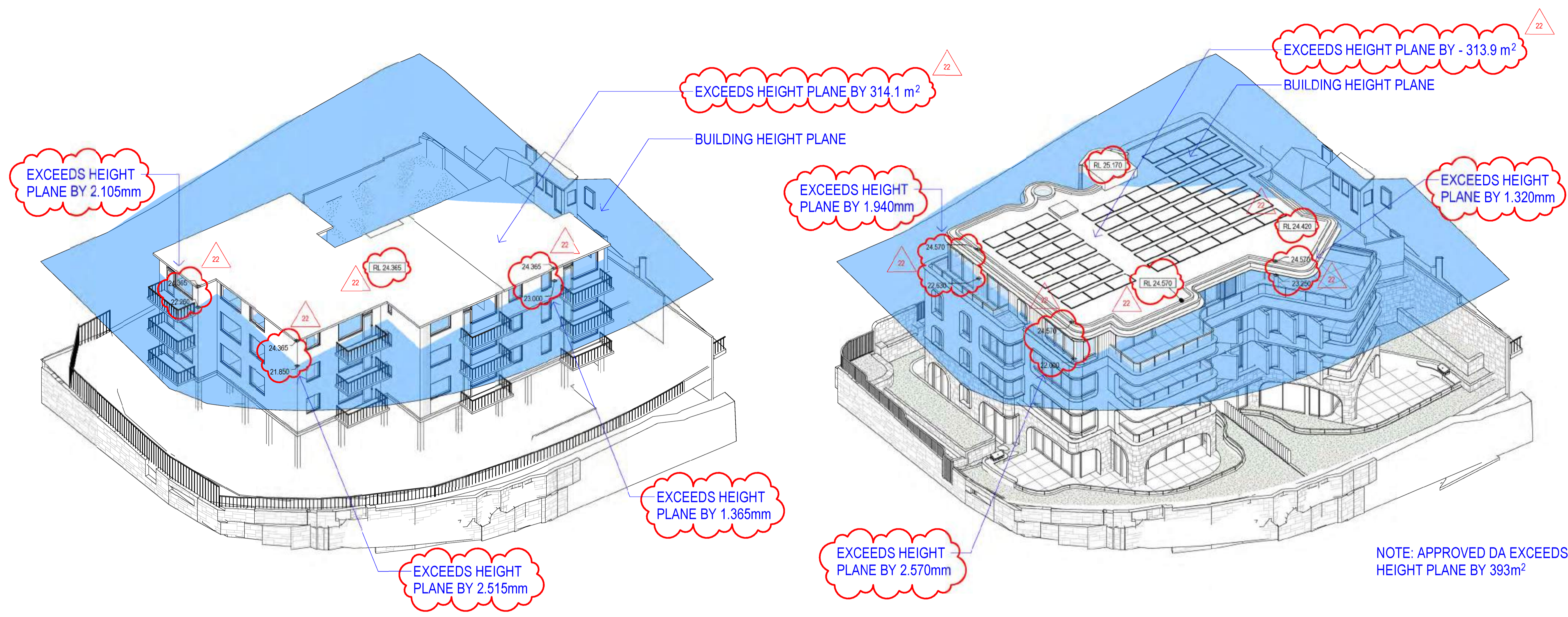
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DRAWING NOTES



1 **BUILDING HEIGHT PLANE - EXISTING**  
@ A1

2 **BUILDING HEIGHT PLANE - PROPOSAL**  
@ A1

NOTE: APPROVED DA EXCEEDS HEIGHT PLANE BY 393m²

C  
AMENDMENTS TO ARCHITECTURAL DRAWINGS  
22 RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM (REF: 15C)

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PROJECT  
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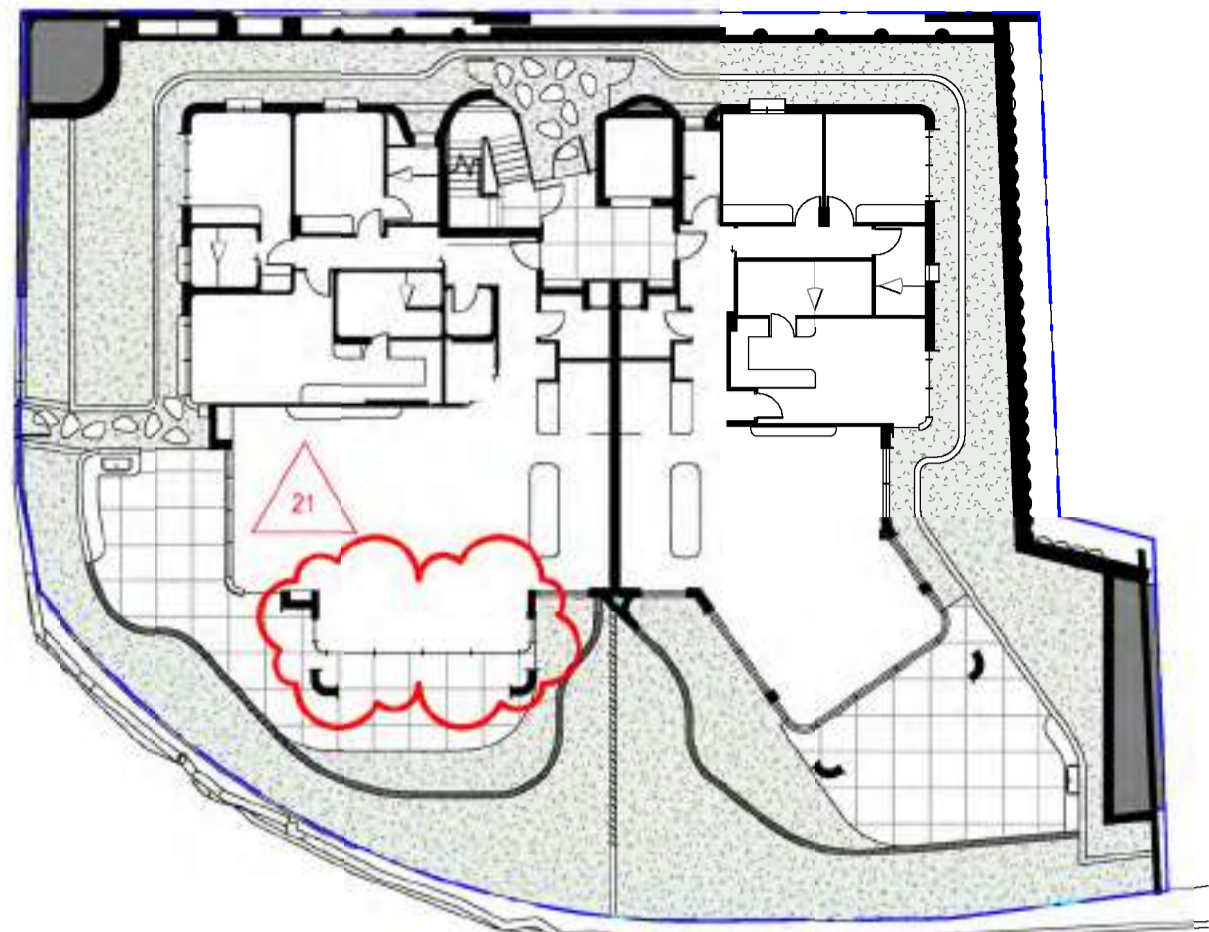
1 Warung Street, Maitlands Point NSW

DRAWING NO.	ISSUE	
DA-552	C	
JOB NO.	SCALE	DATE
HIG2307	N.T.S.	03.09.2024

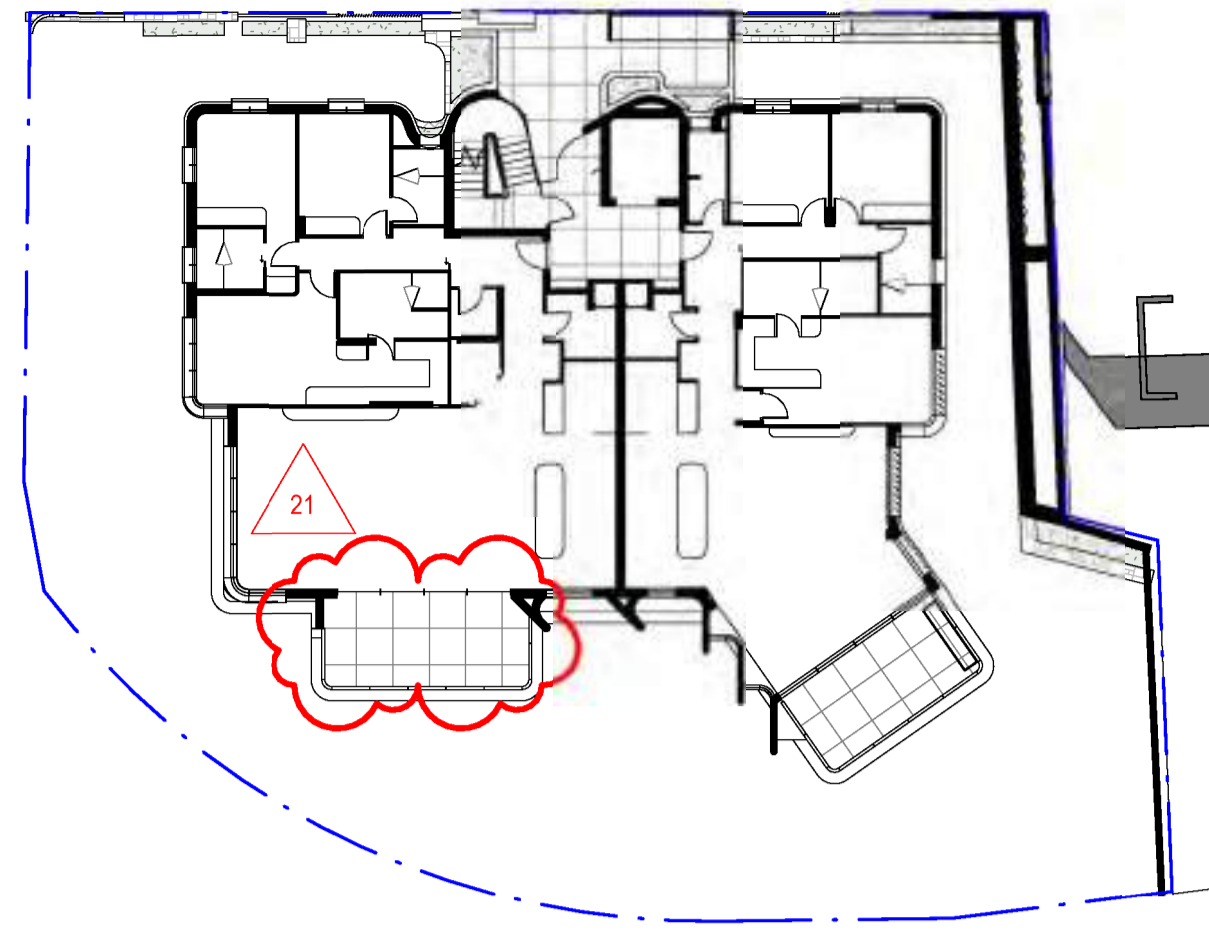
DRAWING TITLE  
BUILDING HEIGHT PLANE

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MS

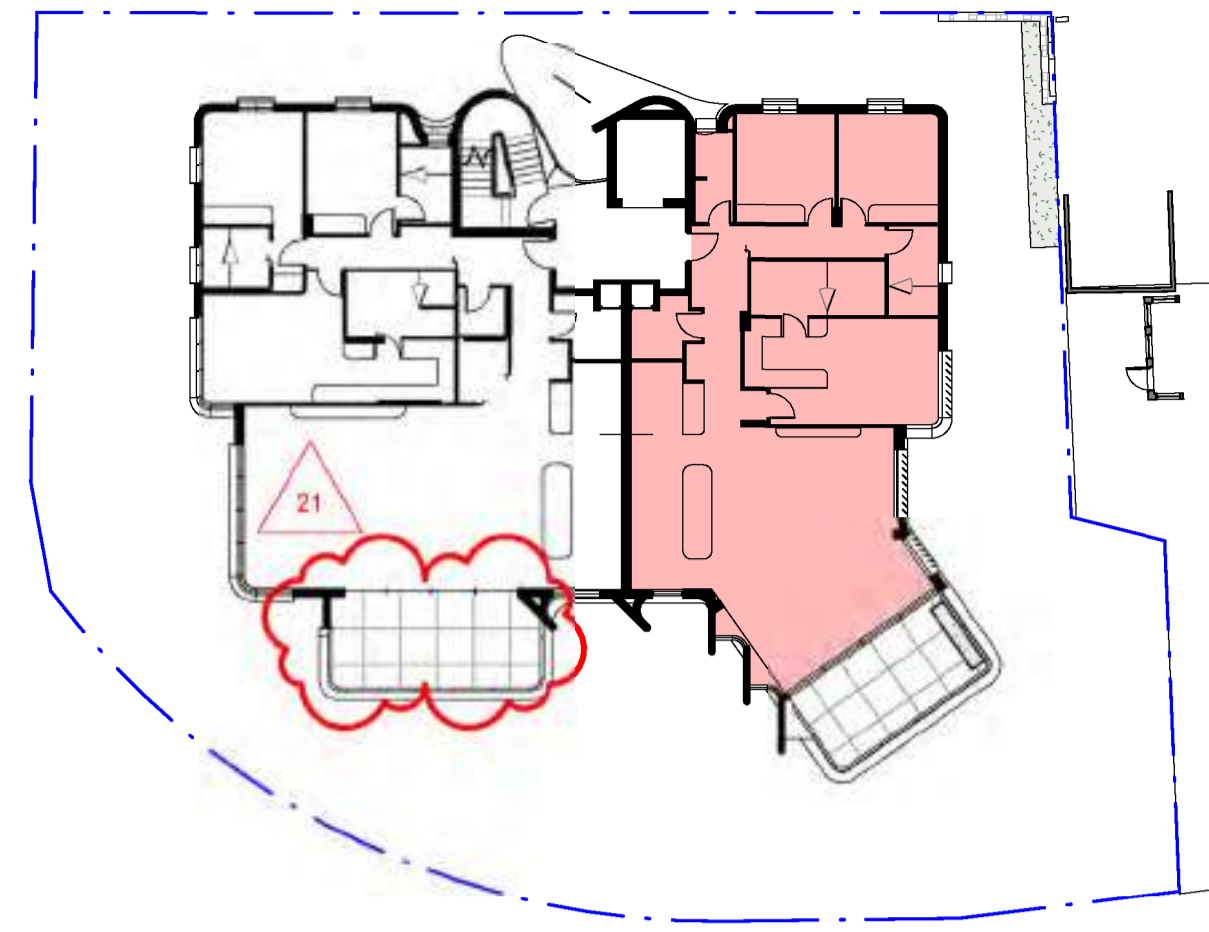
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VS



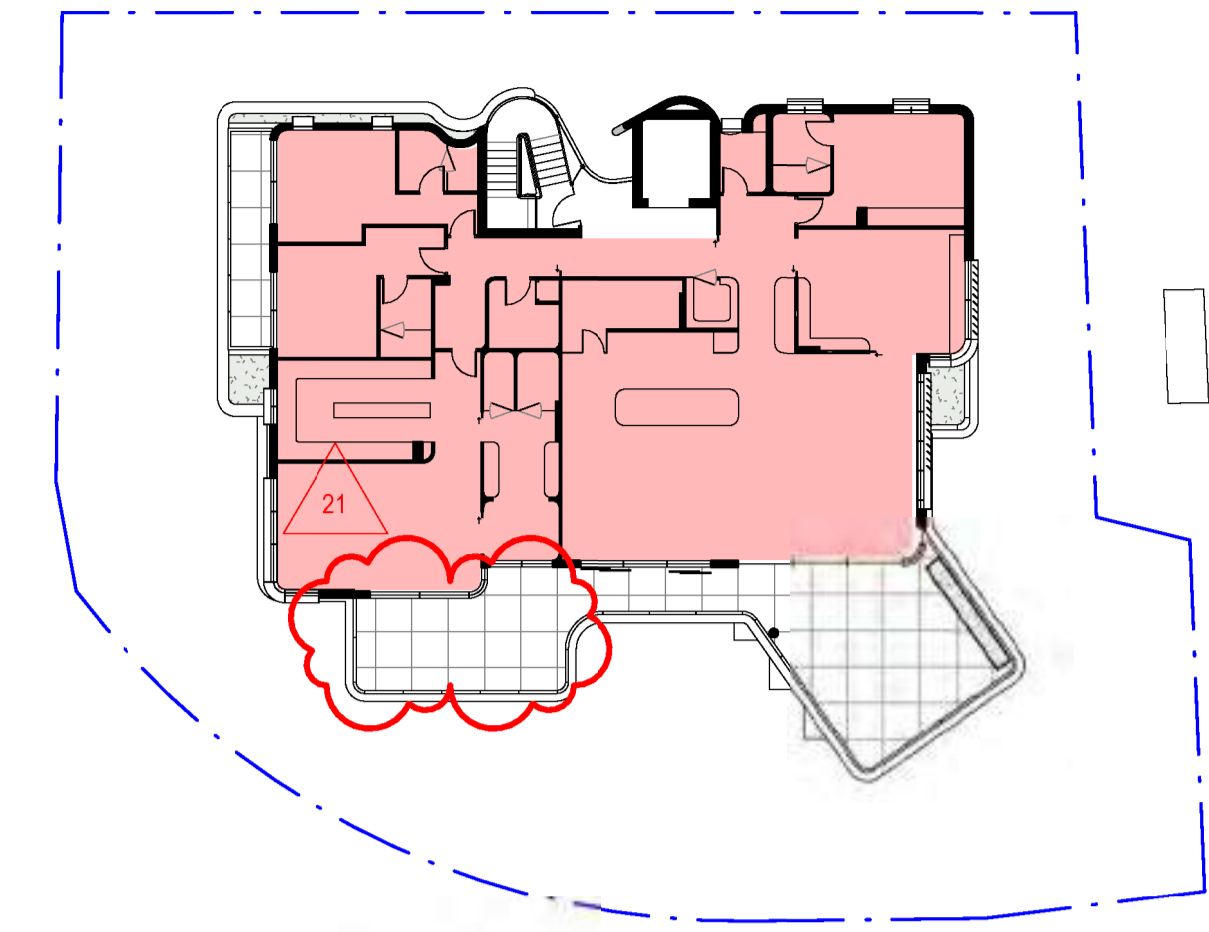
2 **GROUND - SOLAR ACCESS**  
1 : 250 @ A1



1 **LEVEL 1 - SOLAR ACCESS**  
1 : 250 @ A1



3 **LEVEL 2 - SOLAR ACCESS**  
1 : 250 @ A1



4 **LEVEL 3 - SOLAR ACCESS**  
1 : 250 @ A1

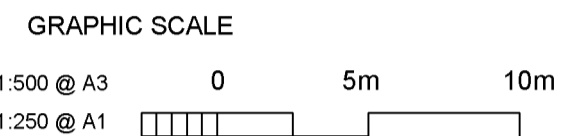
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**DEVELOPMENT APPLICATION**

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**DRAWING NOTES**

**SOLAR ACCESS CALCULATIONS**

SEPP 65 APARTMENT DESIGN GUIDE REQUIREMENT - SECTION 4A; SOLAR AND DAYLIGHT ACCESS

MINIMUM NUMBER OF APARTMENTS WITH LIVING AND PRIVATE OPEN SPACES RECEIVING MINIMUM 2 HOURS DIRECT SUNLIGHT BETWEEN 9am - 3pm AT MID WINTER = 70%

LEVEL	UNITS WITH MORE THAN 2 HOUR SOLAR ACCESS	TOTAL NUMBER OF UNITS
GROUND LEVEL	0	2
LEVEL 1	0	2
LEVEL 2	1	2
LEVEL 3	1	1

TOTAL 2 TOTAL 7

2 UNITS OUT OF 7 UNITS = 29% OF UNITS RECEIVE MORE THAN 2 HOURS SOLAR ACCESS (DOESN'T COMPLY)\*

**\* NOTE**  
LIVING ROOMS & PRIVATE OPEN SPACES HAVE BEEN ORIENTATED TO THE SOUTHERN ASPECT OF THE SITE DUE TO THE SIGNIFICANT CITY VIEWS IN THIS DIRECTION.  
DUE TO THE CONSTRAINT NOTED ABOVE, THE DEVELOPMENT HAS BEEN ORIENTATED TO HENRY LAWSON AVE. ALTHOUGH NO DIRECT SUNLIGHT ENTERS THE PRIMARY LIVING AREAS AND BALCONIES, NATURAL LIGHT TO THE UNITS HAVE BEEN PROVIDED THOUGH LARGE GLAZING WITH LOUVRES & LARGE BALCONIES.

**NATURAL VENTILATION CALCULATIONS**

SEPP 65 APARTMENT DESIGN GUIDE REQUIREMENT - 4B NATURAL VENTILATION:

MINIMUM NUMBER OF APARTMENTS CROSS VENTILATED ON FIRST 4 STORIES	= 60%
TOTAL NUMBER OF UNITS	= 7
NUMBER OF UNITS WITH CROSS-VENTILATION	= 7
	= 100% (COMPLIES)

C

AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1.	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2.	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED	12	B
3.	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	11	C
4.	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	8	-
5.	ADDED COMMUNAL BENCH TO BUILDING ENTRY	14	G
6.	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	10	-
7.	RESTRICTED LOUVRES TO EAST FACADE	5	A
8.	ADDED PLANTER BOXES TO UNITS 202 & 301	4	-
9.	ADJUSTED LOUVRES TO UNIT 301	6	D
10.	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	14	A
11.	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL	4	-
12.	SOLID VS GLASS STUDY CALCULATIONS UPDATED	14	A
13.	ADDITIONAL VIEW STUDIES PROVIDED	4	-
14.	ADDITIONAL DETAILED SECTION PROVIDED	1	C.F
15.	ADDITIONAL DCP/ADG SETBACKS & DIMENSIONS ON ALL FLOOR PLANS	15	F
16.	ADDITIONAL DIMENSIONS PROVIDED ON SECTIONS & ELEVATIONS	1	E.F.H.I.J.K
17.	ADDITIONAL PRIVACY VIEW STUDIES PROVIDED	5	D
18.	REVISED AS PER COUNCIL COMMENTS	5	A
19.	MATERIAL CLARIFICATIONS & OPTIONS PROVIDED	9	-
20.	SITE MEASURE OF NEIGHBOUR FENCES SHOWS NO CONSISTENCE WITH FENCES OVER 2m IN HEIGHT & MANY STRUCTURES BUILT TO BOUNDARY 3m IN HEIGHT	9	-
21.	AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS	1	D.E.F.G.H
22.	RL & HEIGHT EXCEEDANCE MEASUREMENTS PROVIDED ON HEIGHT PLANE DIAGRAM	5	C
23.	ADDRESS IMPACT TO SOLAR ACCESS FOR 3 WARUNG ST COMPARED TO APPROVED DESIGN	6	A.C
24.	BUILDING HEIGHT REDUCED BY 150MM	14	A.F
25.	HIGH WINDOW ADDED TO BEDROOM	15	E.F

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
A	29.02.2024	ISSUE FOR DA

CLIENT  
Highbury Warung Pty Ltd



ARCHITECTURE / INTERIORS

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ABN: 24 132 554 753

NOMINATED ARCHITECT  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

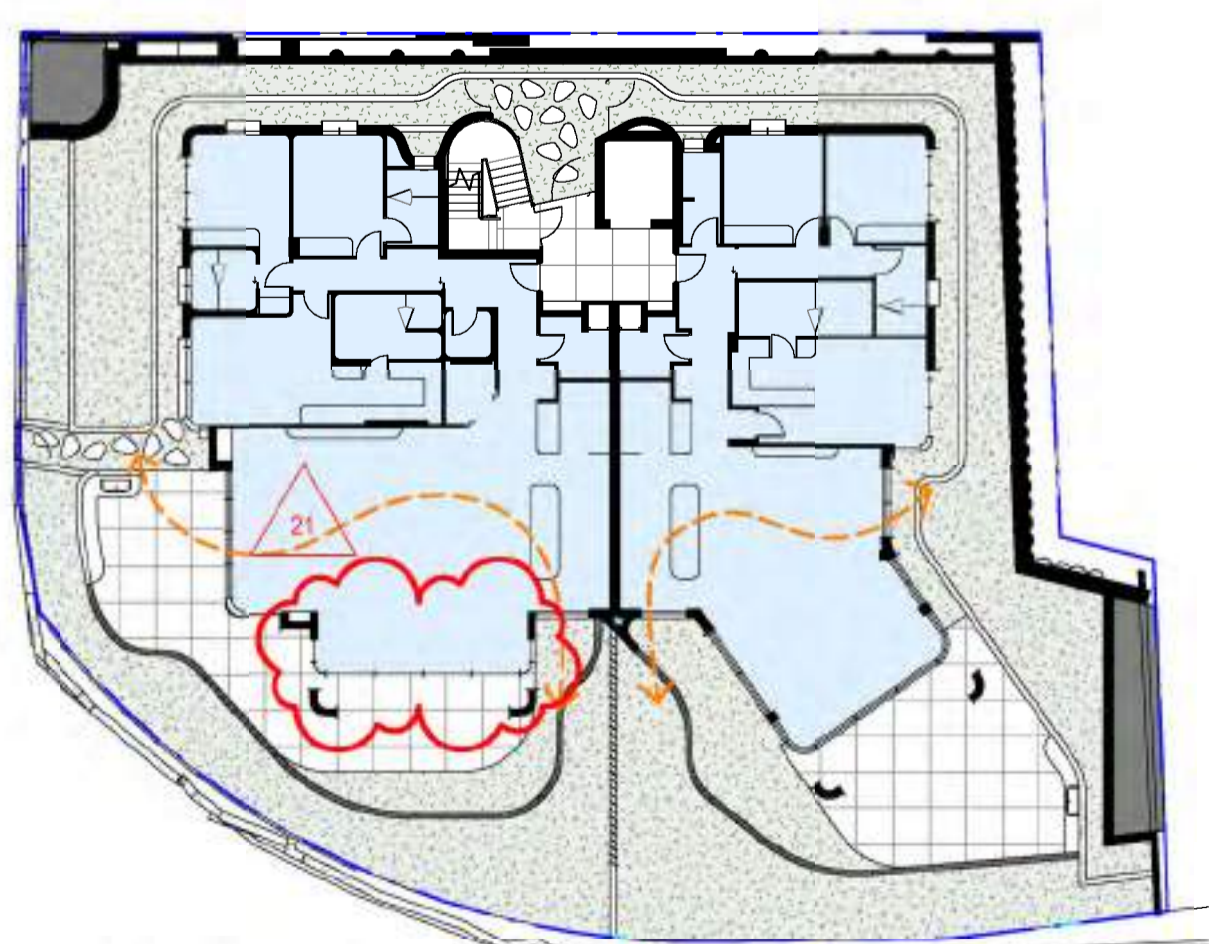
PROJECT  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

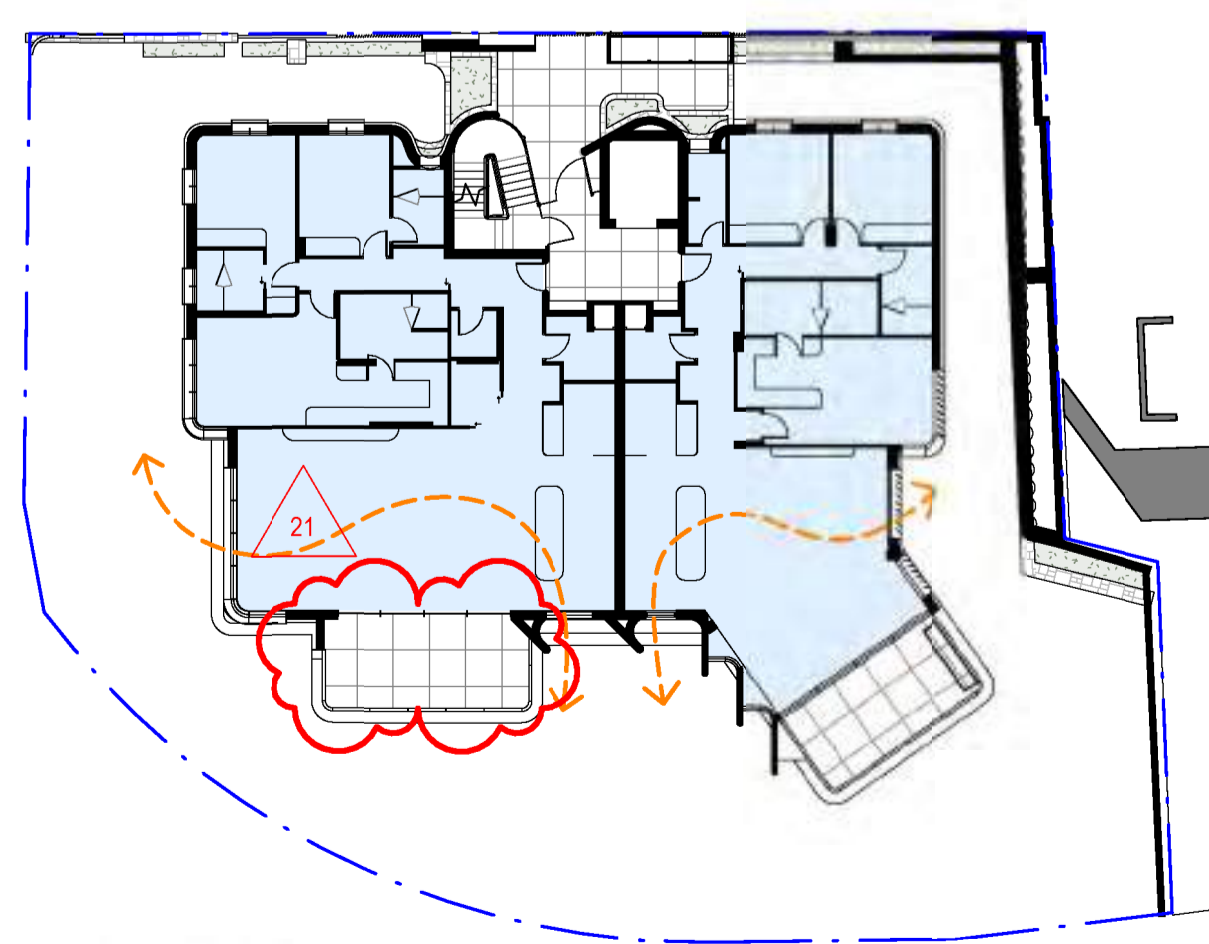
DRAWING NO. **DA-601** ISSUE **C**  
JOB NO. **HIG2307** SCALE **AS SHOWN** DATE **03.09.2024**

DRAWING TITLE  
**SOLAR ACCESS & CROSS FLOW VENTILATION**

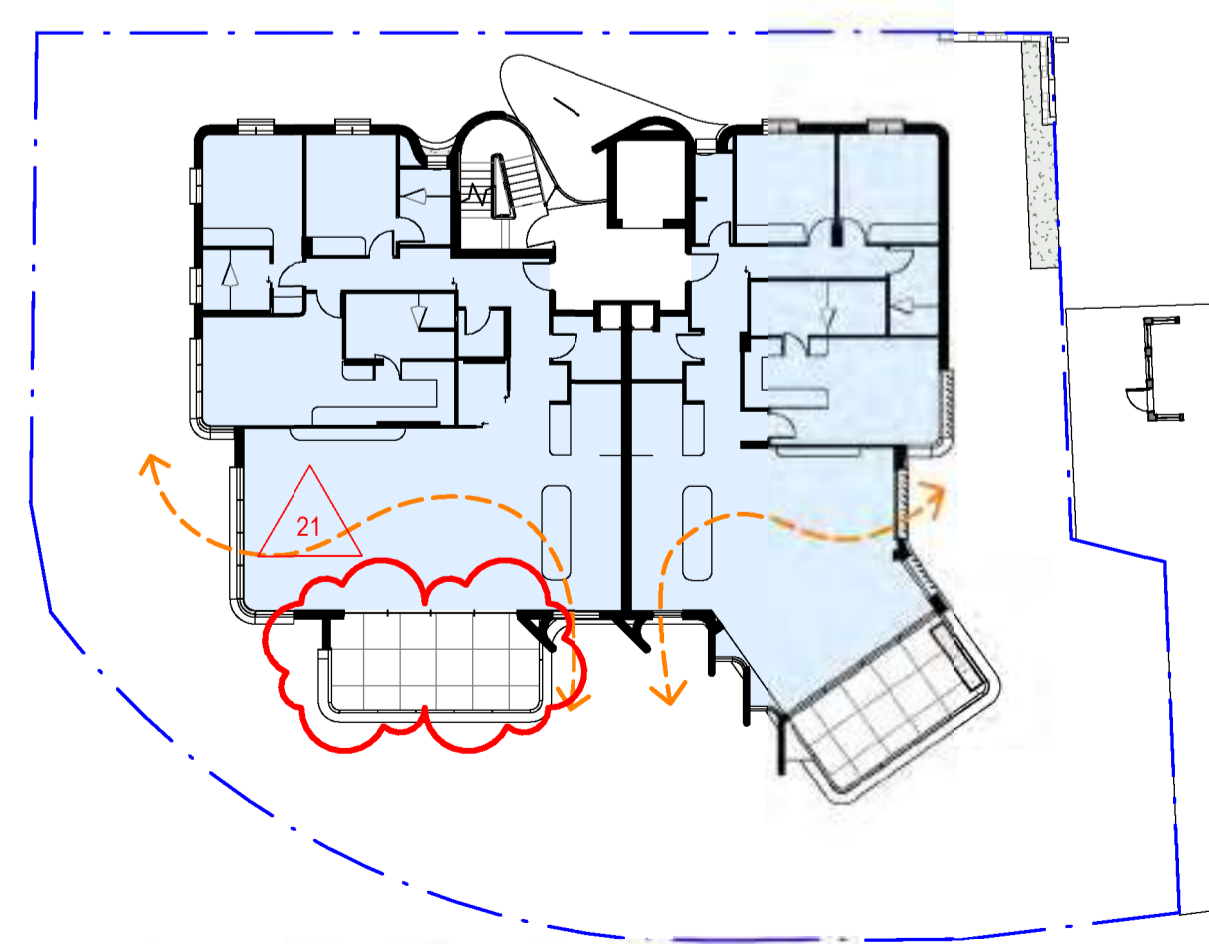
DRAWN BY **MS** CHECKED BY **VS**



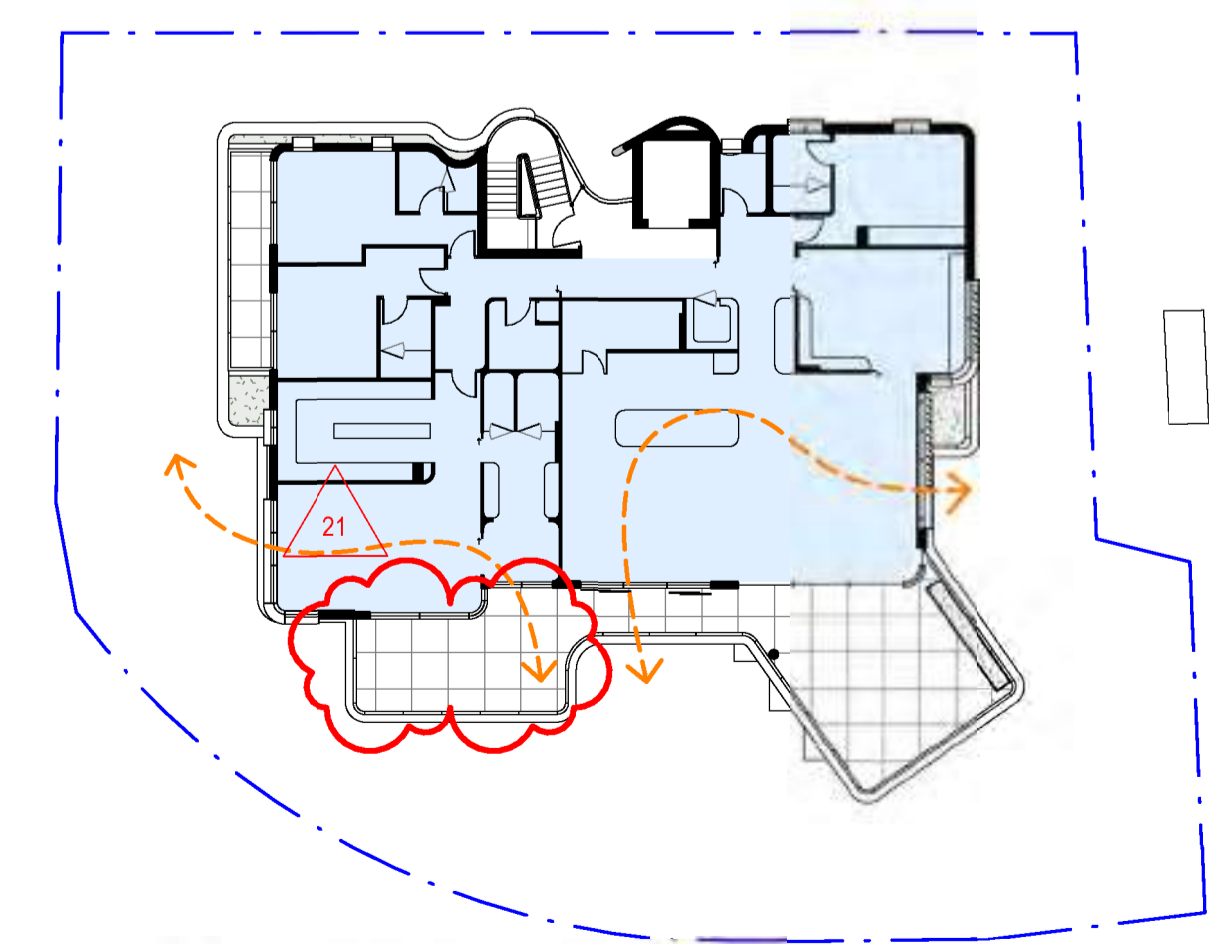
8 **GROUND FLOOR - CROSS FLOW - CROSS FLOW**  
1 : 250 @ A1



5 **LEVEL 1 - CROSS FLOW**  
1 : 250 @ A1



6 **LEVEL 2 - CROSS FLOW**  
1 : 250 @ A1



7 **LEVEL 3 - CROSS FLOW**  
1 : 250 @ A1

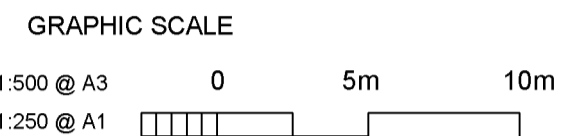
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**STATUS**  
**DEVELOPMENT APPLICATION**

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**DRAWING NOTES**

- IN-APARTMENT AREA STORAGE
- COMMON AREA STORAGE
- PRIVATE OPEN SPACE

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
A	29.02.2024	ISSUE FOR DA

**CLIENT**  
Highbury Warung Pty Ltd



**ARCHITECTURE / INTERIORS**

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ABN: 24 132 554 753

**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

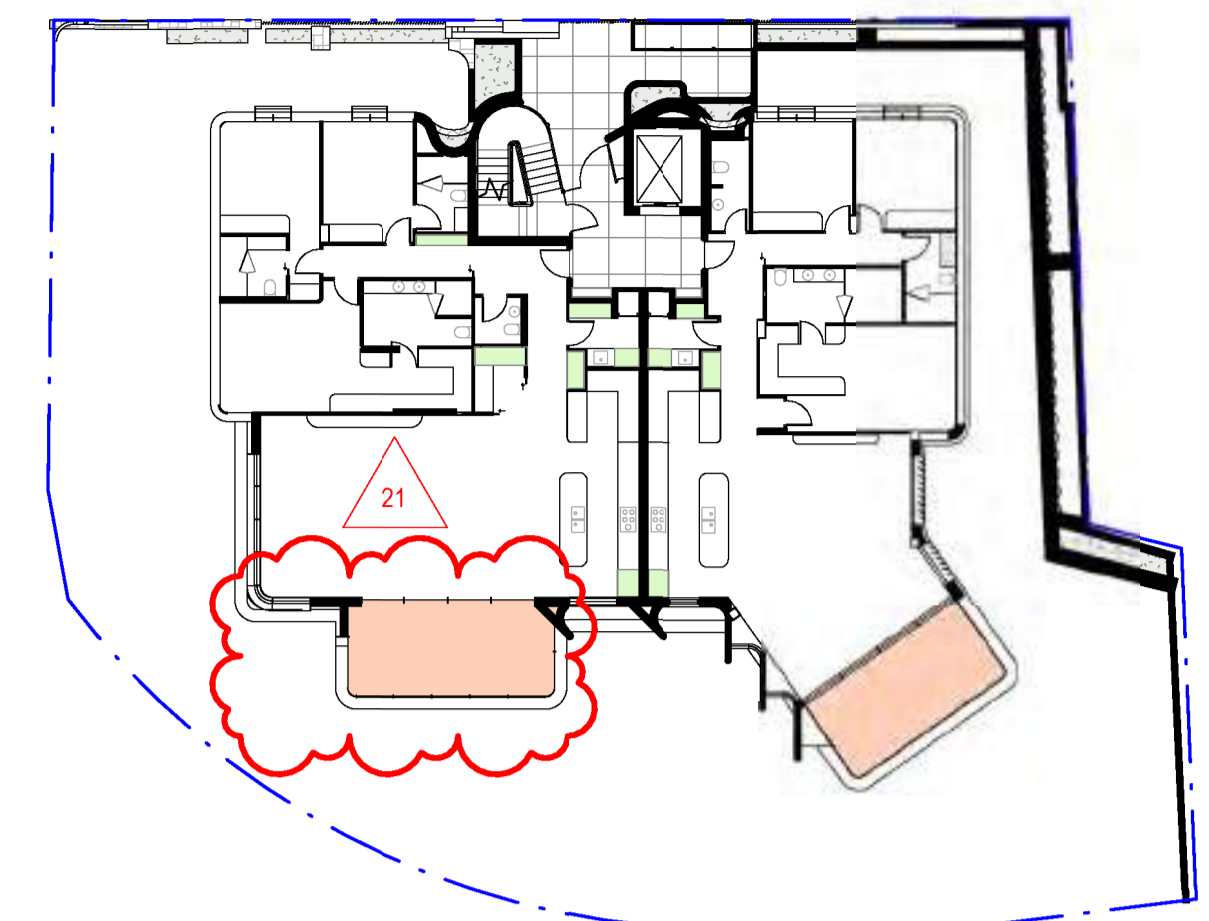
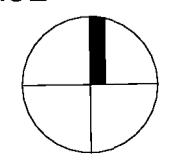
1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-603 **ISSUE** C

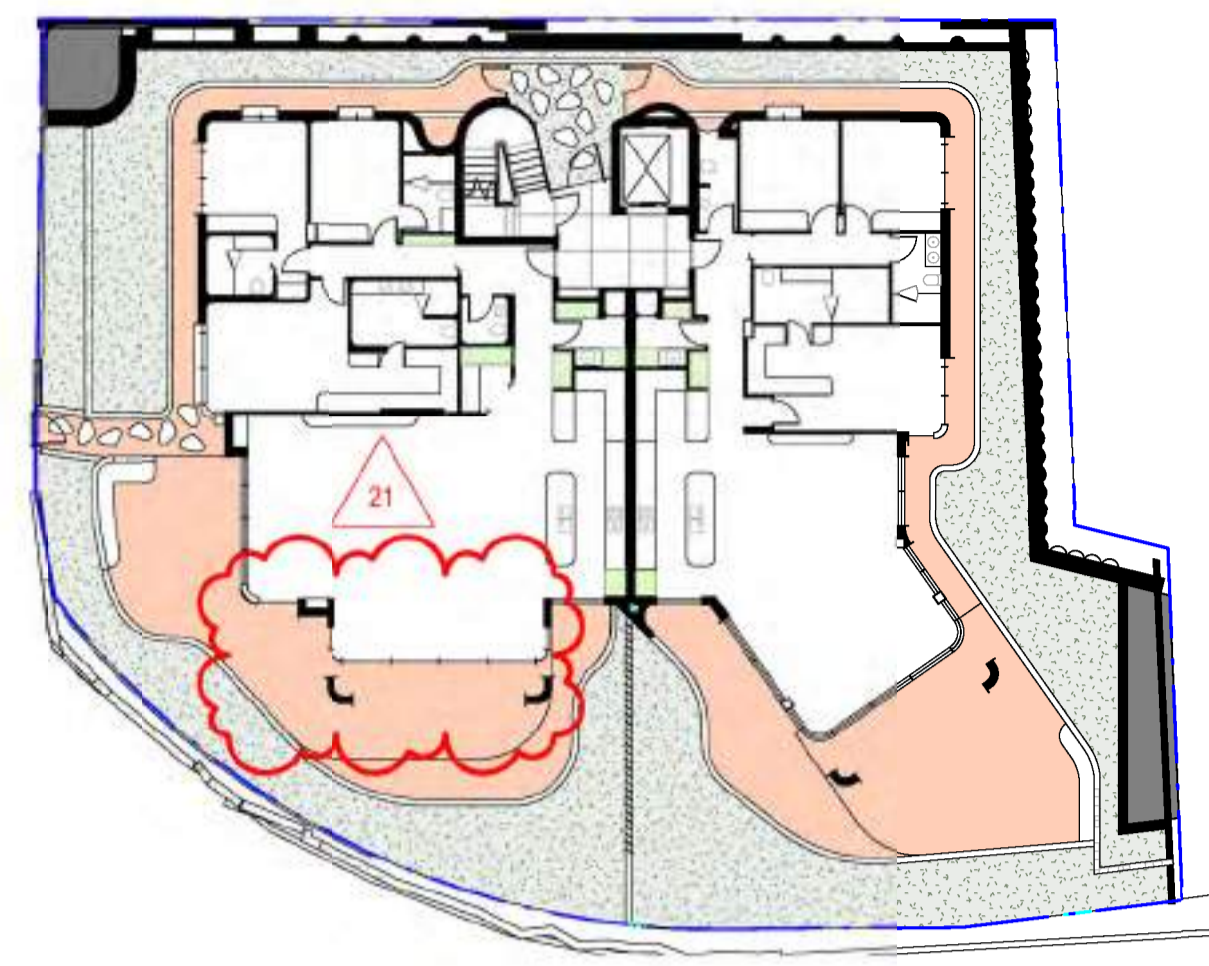
**JOB NO.** HIG2307 **SCALE** AS SHOWN **DATE** 03.09.2024

**DRAWING TITLE**  
SEPP65 - STORAGE, PRIVATE & COMMUNAL OPEN SPACE

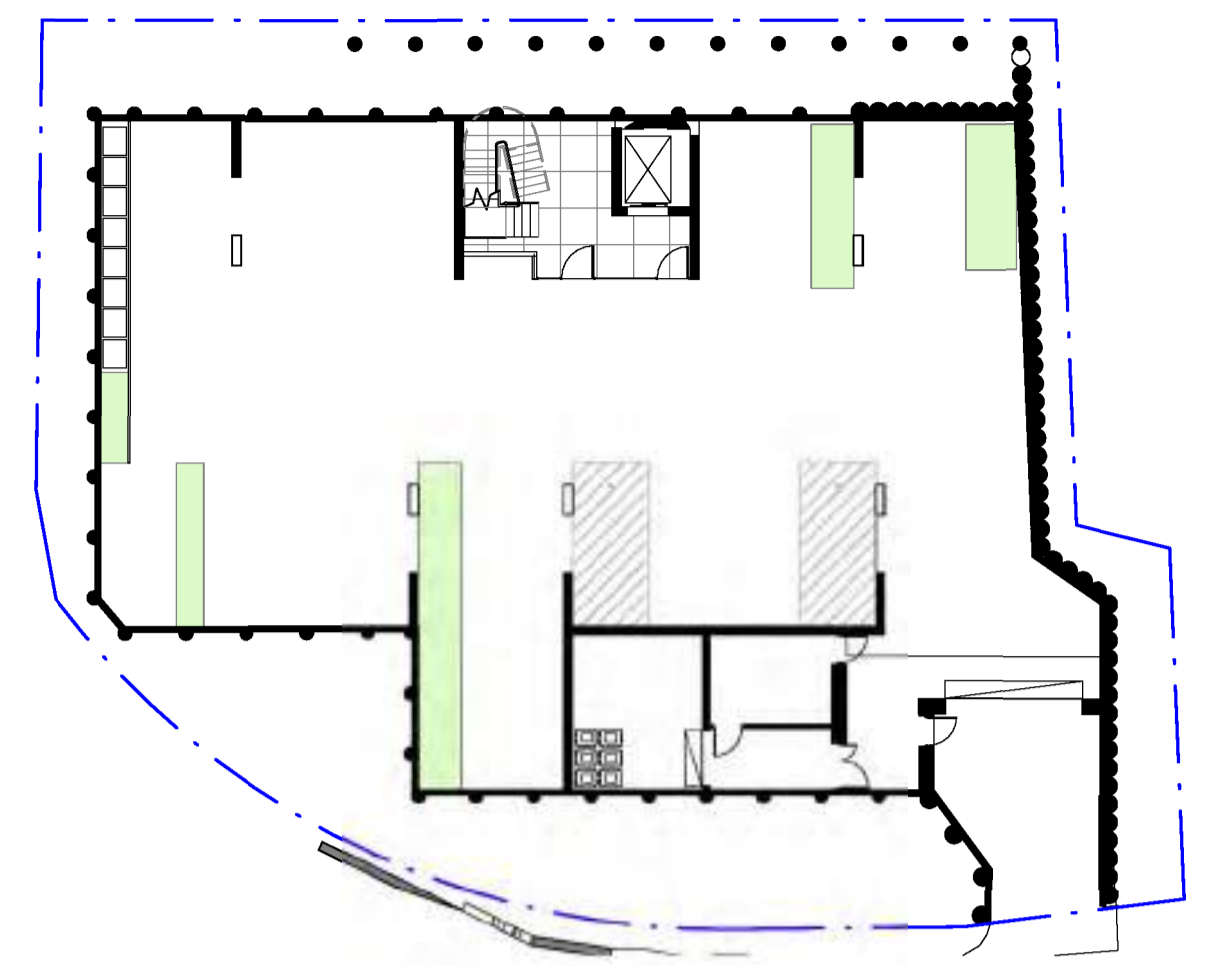
**DRAWN BY** MS **CHECKED BY** VS



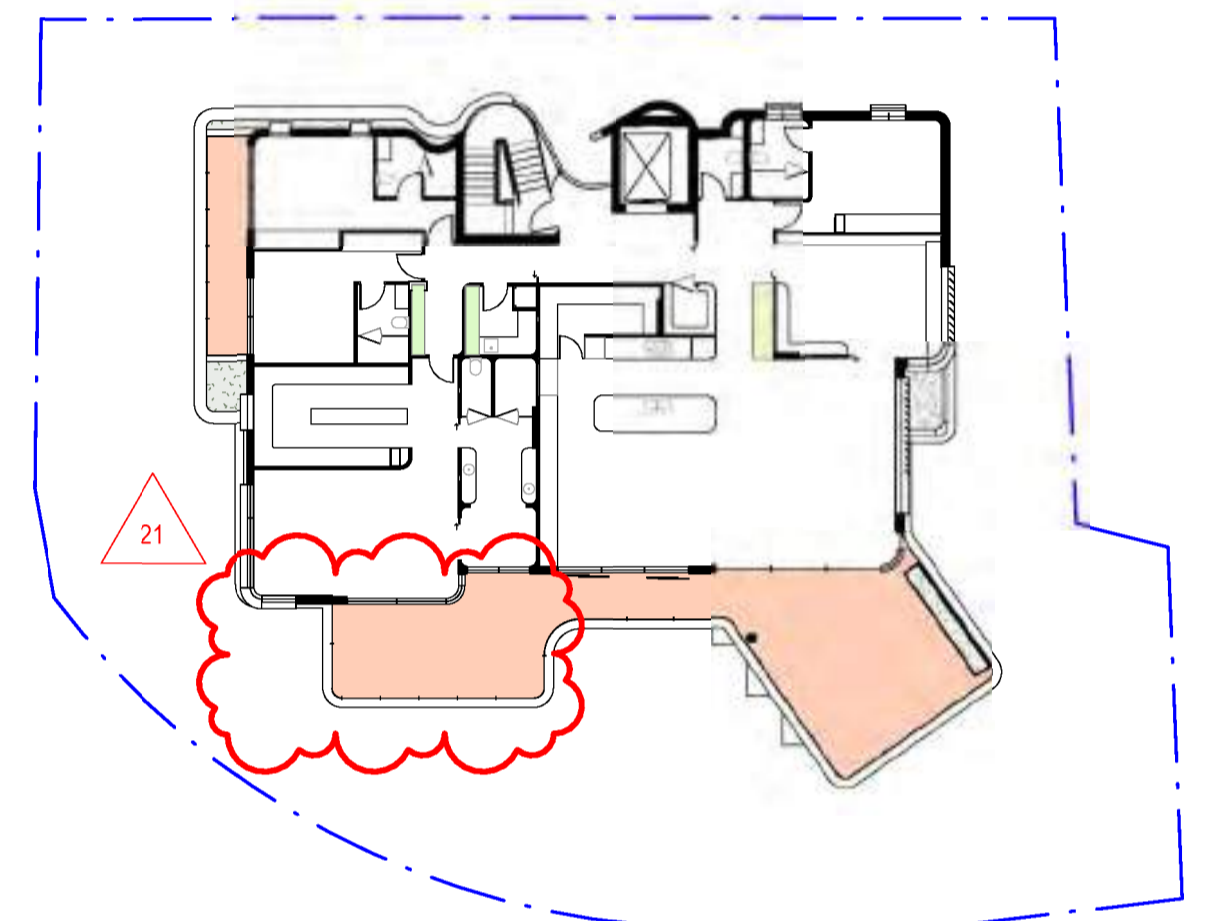
3 **LEVEL 1 - STORAGE & P.O.S**  
1 : 250 @ A1



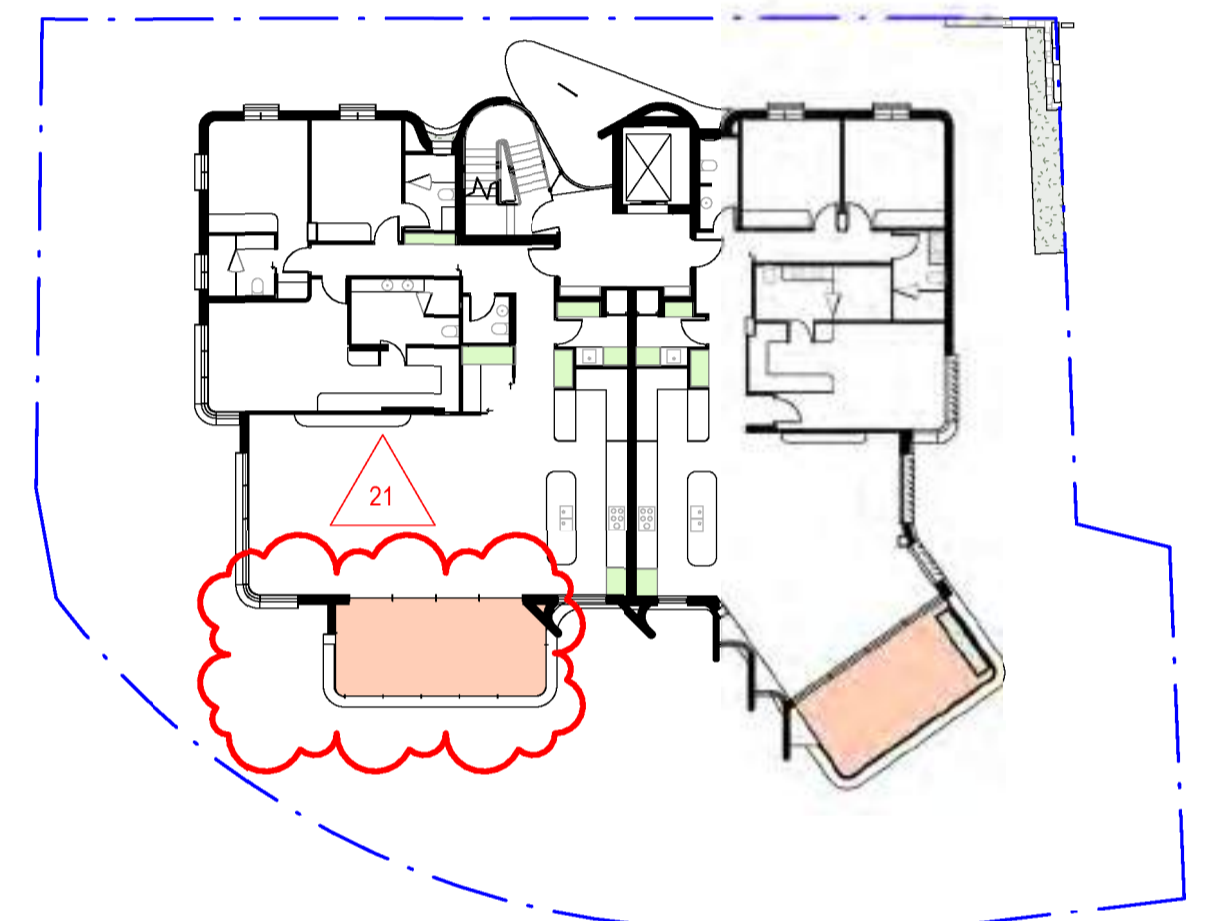
2 **GROUND LEVEL - STORAGE & P.O.S**  
1 : 250 @ A1



1 **BASEMENT LEVEL - STORAGE & P.O.S**  
1 : 250 @ A1



5 **LEVEL 3 - STORAGE & P.O.S**  
1 : 250 @ A1



4 **LEVEL 2 - STORAGE & P.O.S**  
1 : 250 @ A1

AMENDMENTS TO ARCHITECTURAL DRAWINGS		ITEM NO.	PART NO.
1.	ADDED VISITOR/CARWASH BAY TO BASEMENT	12	A
2.	ADDED MOTORBIKE PARKING & VISITOR BIKE PARKING RELOCATED	12	B
3.	BULK STORE & GARBAGE AREA RELOCATED TO BASEMENT	11	C
4.	ALTERNATE PLANTING AND SPECIES PROVIDED TO BETTER ALIGN WITH COUNCIL COMMENTS	8	-
5.	ADDED COMMUNAL BENCH TO BUILDING ENTRY	14	G
6.	INTRODUCE SOLID PANELS TO SOUTHERN FACADE	10	-
7.	RESTRICTED LOUVRES TO EAST FACADE	5	A
8.		4	-
9.	ADDED PLANTER BOXES TO UNITS 202 & 301	6	D
10.	ADJUSTED LOUVRES TO UNIT 301	4	-
11.	SECTIONAL STUDY WITH VIEW LINES FROM NEIGHBOURING BALCONIES TO SHOW SOLAR PANELS DO NOT BLOCK VIEWS	14	A
12.	LIFT OVERRUN LOWERED BELOW APPROVED DA LIFT OVERRUN RL	1	C,F
13.		15	F
14.		1	E,F,H,I,J,K
15.		5	D
16.		14	E
17.		5	A
18.		9	-
19.		1	D,E,F,G,H
20.		5	C
21.		6	A,C
22.		14	A,F
23.		15	E,F
24.		1	B
25.		15	D
26.		6	B
27.		15	A,B
28.		1	A,B
29.		4	-
30.		7	-
31.		9	-
32.		13	-
33.		1	I
34.		6	A,B
35.		14	A,B
36.		15	C
37.		1	K
38.		5	D
39.		1	D,E,F,H,I,J
40.		5	D
41.		14	B,E,F
42.		4	-

STORAGE REPORTED IN APARTMENTS					
LEVEL	APT NUMBER	NUM BEDS	IN-APARTMENT STORAGE	MANDATED IN-APARTMENT STORAGE	COMPLIES
GROUND LEVEL	G01	3 Bed	10.0 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
GROUND LEVEL	G02	3 Bed	5.5 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
LEVEL 1	101	3 Bed	10.0 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
LEVEL 1	102	3 Bed	5.5 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
LEVEL 2	201	3 Bed	10.0 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
LEVEL 2	202	3 Bed	5.5 m <sup>2</sup>	5.0 m <sup>2</sup>	YES
LEVEL 3	301	3 Bed	9.0 m <sup>2</sup>	5.0 m <sup>2</sup>	YES

PRIVATE OPEN SPACE REPORTED IN APARTMENTS					
LEVEL	APT NUMBER	AREA	REQUIRED AREA	COMPLIES	
GROUND LEVEL	G01	157 m <sup>2</sup>	12m <sup>2</sup>	YES	
GROUND LEVEL	G02	200 m <sup>2</sup>	12m <sup>2</sup>	YES	
LEVEL 1	101	23 m <sup>2</sup>	12m <sup>2</sup>	YES	
LEVEL 1	102	19 m <sup>2</sup>	12m <sup>2</sup>	YES	
LEVEL 2	201	23 m <sup>2</sup>	12m <sup>2</sup>	YES	
LEVEL 2	202	19 m <sup>2</sup>	12m <sup>2</sup>	YES	
LEVEL 3	301	87 m <sup>2</sup>	12m <sup>2</sup>	YES	
Grand total: 10		527 m <sup>2</sup>			

STORAGE MANDATED BY APARTMENT BEDROOMS - AREA		
Key Name	MANDATED IN-APARTMENT STORAGE	MANDATED TOTAL APARTMENT STORAGE
N/A	0.00 m <sup>2</sup>	0.00 m <sup>2</sup>
Studio	2.00 m <sup>2</sup>	4.00 m <sup>2</sup>
1 Bed	3.00 m <sup>2</sup>	6.00 m <sup>2</sup>
2 Bed	4.00 m <sup>2</sup>	8.00 m <sup>2</sup>
3 Bed	5.00 m <sup>2</sup>	10.00 m <sup>2</sup>

\*AT LEAST 50% OF THE REQUIRED STORAGE IS LOCATED WITHIN THE APARTMENT. THE REMAINING STORAGE IS LOCATED IN THE BASEMENT.

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**GRAPHIC SCALE**

NOT TO SCALE

**DRAWING NOTES**



EXISTING VIEW FROM BLUES POINT ROAD

*BASEMENT ENTRY AS PER APPROVED DA379/21*



PROPOSED VIEW FROM BLUES POINT ROAD

*EXISTING DEVELOPMENT SHOWN AS DASHED*

*BASEMENT ENTRY AS PER APPROVED DA379/21*

ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

CLIENT  
Highbury Warung Pty Ltd

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ABN: 24 132 554 753

NOMINATED ARCHITECT  
Vince Squillace Reg No. 6469 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

PROJECT  
Warung Street Apartments

1 Warung Street, McMalons Point NSW

DRAWING NO.	ISSUE
<b>DA-701</b>	<b>C</b>
JOB NO. HIG2307	SCALE N.T.S.
	DATE 03.09.2024

DRAWING TITLE  
PHOTOMONTAGE 1

DRAWN BY MS  
CHECKED BY VS

**AMENDMENTS TO ARCHITECTURAL DRAWINGS**

21. AMENDMENTS TO BALCONY LOCATIONS & PREVENT VIEW LOSS FROM NEIGHBOURING UNITS (REF: 1-L, 6-A.B, 14-A.B)

24. BUILDING HEIGHT REDUCED BY 150MM (REF: 1-D, E, F, H, I, J, 5-D, 14-B, E, F)



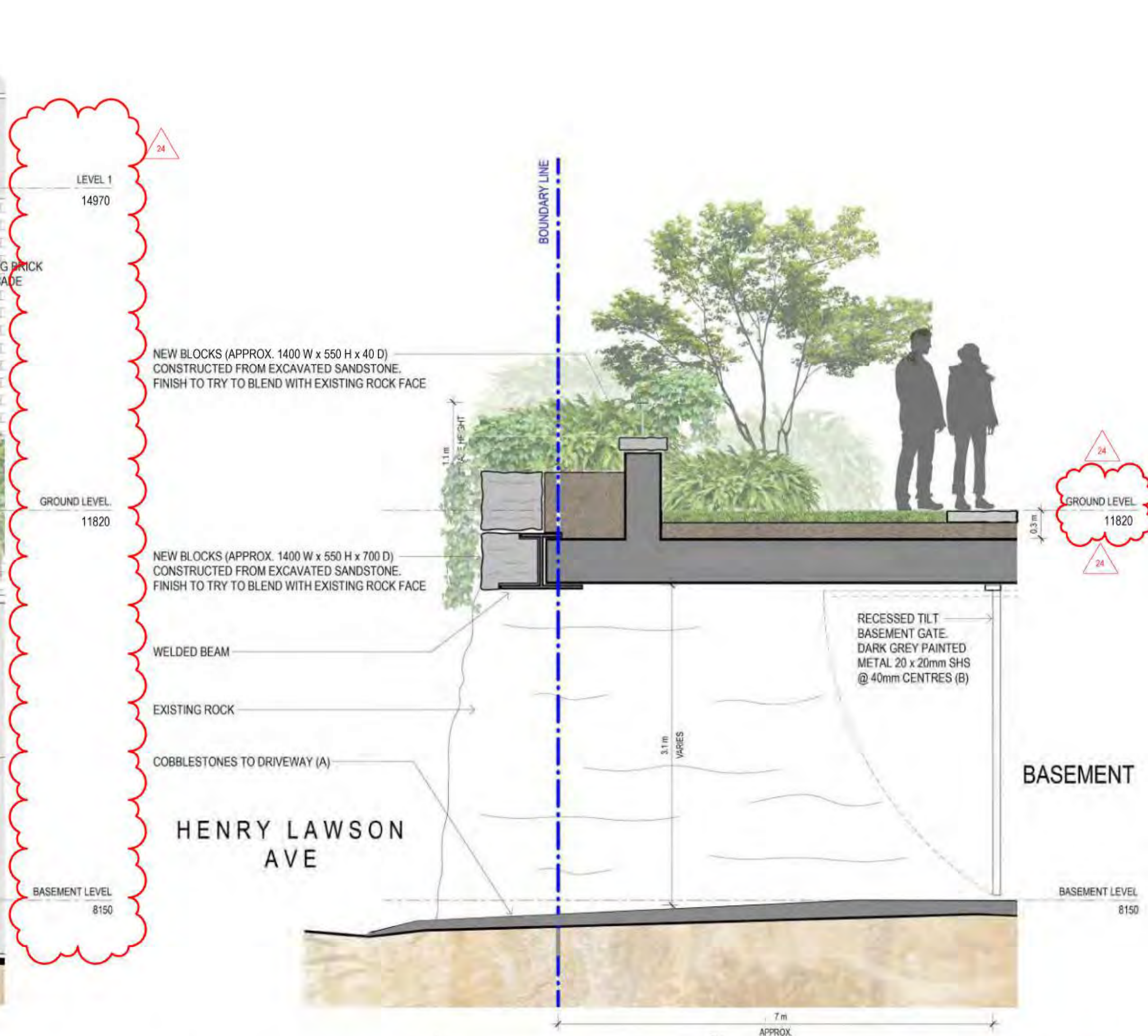
A. COBBLESTONE TILES TO BASEMENT DRIVEWAY



B. BASEMENT GATE. DARK WEATHERED BRONZE FINISH METAL 20 x 20mm SHS @ 40mm CENTRES



1 DA BASEMENT ENTRY ELEVATION  
1:25 @ A1



2 DA BASEMENT ENTRY SECTION  
1:25 @ A1

AMENDMENTS TO ARCHITECTURAL DRAWINGS  
24. BUILDING SET DOWN 150MM

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ISS	DATE	PURPOSE OF ISSUE
C	03.09.2024	ISSUE FOR DA
B	-	-
A	29.02.2024	ISSUE FOR DA

**GRAPHIC SCALE**  
1:50 @ A3 0 500 1000  
1:25 @ A1

**DRAWING NOTES**

**PROJECT**  
Warung Street Apartments  
1 Warung Street, McMahons Point NSW

**CLIENT**  
Highbury Warung Pty Ltd

**PROJECT**  
Warung Street Apartments  
1 Warung Street, McMahons Point NSW

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**NOMINATED ARCHITECT**  
Vince Squillace Reg No. 6468 (NSW), 17219 (VIC), 3677 (QLD), AR1173 (NT)

DRAWING NO.	ISSUE	JOB NO.
DA-800	C	HIG2307

DRAWN BY	CHECKED BY	SCALE	DATE
MS	VS	AS SHOWN	03.09.2024

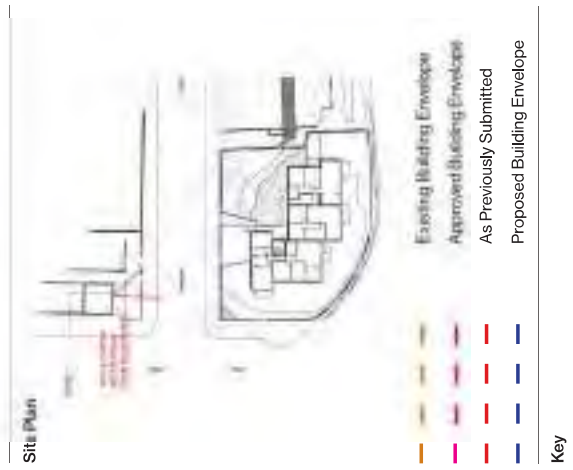
**DRAWING TITLE**  
BASEMENT ENTRY DRAWING

# 02 View Analysis

## 2 Warung St - Level 1

The proposal has a negligible impact on views from Level 1, 2 Warung st. There is some view loss but this is of sky only and improves the view towards Balmain when compared to the existing building outline(orange).

Approximate reduction of water view from approved building envelope = 0%



2 Warung St - Existing - Level 1



2 Warung St - Approved - Level 1



2 Warung St - Proposed - Level 1

WARUNG ST

SQUILLACE / RESPONSE TO COUNCIL



# 02 View Analysis 2 Warung St - Level 2

The proposal provides an improved outcome when considering the view impact of the previous approval. The relocation of the lift overrun provides views to city buildings in place of views of sky. There is also a slight improvement of views of the harbor bridge when compared to the previously approved building envelope (Pink).

Approximate reduction of sight lines from approved building envelope = 0%



2 Warung St - Existing - Level 2



2 Warung St - Approved - Level 2



2 Warung St - Proposed - Level 2

WARUNG ST

SQUILLACE / RESPONSE TO COUNCIL

# 02 View Analysis 4 Warung St - Level 1

The proposal provides a neutral outcome when considering the view impact of the previous approval.

Approximate reduction of water view from approved building envelope = 2%



Sit Plan



Color	Description
Yellow	Existing Building Envelope
Purple	Approved Building Envelope
Red	As Previously Submitted
Blue	Proposed Building Envelope

Key

SQUILLACE / RESPONSE TO COUNCIL



4 Warung St - Existing - Level 1



4 Warung St - Approved - Level 1



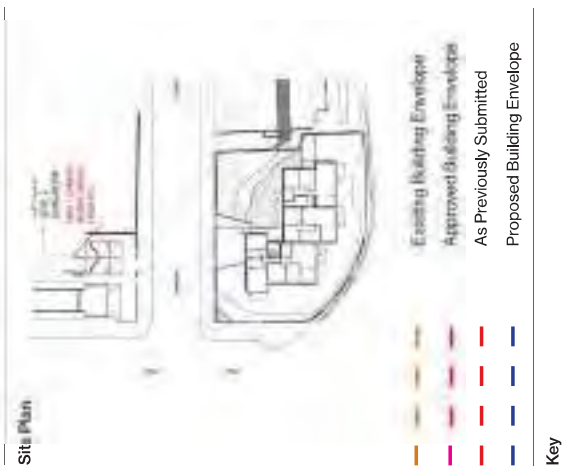
4 Warung St - Proposed - Level 1

WARUNG ST

# 02 View Analysis 4 Warung St - Level 2

The proposal provides an improved outcome when considering the view impact of the previous approval. The relocation and lowering of the lift overrun provides views to the finger wharves city buildings that would have otherwise been blocked by the current approval (Pmk). There is also a slight improvement of views towards Hickson rd.

A appropriate reduction of water view form approved building envelope - 0%



4 Warung St - Existing - Level 2



4 Warung St - Approved - Level 2



4 Warung St - Proposed - Level 2



# 02 View Analysis - Solar Panel Detailed Review 4 & 6 Warung St

## Solar Panel View Impact Analysis

The location of the solar panels has been carefully positioned to both maximise the efficiency of the panels and minimise any view impacts they may be perceived to cause.

These diagrammatic sections illustrate that the positioning of the solar panels towards Warung st ensures that they do not cause additional view impact. The location, orientation and tilt does not exceed the furthest extent of the slab edge and fish when viewed from both 4 and 6 Warung st.



Streetscape section - 4 Warung St



Streetscape section - 6 Warung St

# 02 View Analysis - Solar Panel Detailed Review 4 Warung St

## Solar Panel View Impact Analysis

These diagrammatic sections and view study further convey that the solar panels do not cause additional view impact when viewed from Level 2 of 4 Warung St.



Streetscape section - 4 Warung St



4 Warung St - Level 2 Proposed

# 02 View Analysis Unit 5 42 Blues Point Rd



The proposal has a negligible impact on views from Unit 5 42 Blues Point Rd as the amended balcony location retains the existing view of the Harbour Bridge pillar on the city site.  
Approximate reduction of water view from approved building envelope = Less than 1%



Site Plan - A



Floor Plan (Rotated for Clarity) - A

- Key**
- Existing Building Envelope
  - Approved Building Envelope
  - As Previously Submitted
  - Proposed Building Envelope



Unit 5 42 Blues Point Road - Existing - Window 1



Unit 5 42 Blues Point Road - Approved - Window 1



Unit 5 42 Blues Point Road - Proposed - Window 1

# 02 View Analysis Unit 5 42 Blues Point Rd

13  
24

The proposal has a negligible impact on views from the bedroom of Unit 5 42 Blues Point Rd.

Approximate reduction of water view from approved building envelope = 0%



Site Plan - B



Floor Plan (Rotated for Clarity) - B

Color	Description
Orange	Existing Building Envelope
Pink	Approved Building Envelope
Red	As Previously Submitted
Blue	Proposed Building Envelope

Key



Unit 5 42 Blues Point Road - Existing - Window 1



Unit 5 42 Blues Point Road - Approved - Window 1



Unit 5 42 Blues Point Road - Proposed - Window 1

# 02 View Analysis Unit 5 42 Blues Point Rd

The proposal has a negligible impact on views from best start window of Unit 5 42 Blues Point Rd as the amended balcony location retains the existing view of the Harbour Bridge pillar on the city side. There is some minor view loss of the bridge but the relocation of the balconies (Red) and the rolling alignment of the corner of the building closest to Blues Point rd and Henry Lawson Dr is slightly set back from the existing, providing additional views than previous.



- Existing Building Envelope
  - Approved Building Envelope
  - As Previously Submitted
  - Proposed Building Envelope
- Key





# 02 View Analysis Unit 5 42 Blues Point Rd

The proposal has a neutral impact on views from the dining space when view through the kitchen and kitchen window of Unit 5 42 Blues Point Rd as the amended balcony location retain the existing view of the Harbour Bridge pillar on the east side and the Opera house view and the rolling alignment of the corner of the building closest to Blues Point rd and Henry Lawson Dr is slightly set back from the existing, providing additional views than previous.

Approximate reduction of water view from approved building envelope = 5%



Site Plan - D02



Floor Plan (Rotated for Clarity) - D2

- Existing Building Envelope
- Approved Building Envelope
- As Previously Submitted
- Proposed Building Envelope

Key



Unit 5 42 Blues Point Road - Existing - Kitchen Window - from Dining Area



Unit 5 42 Blues Point Road - Approved - Kitchen Window - from Dining Area



Unit 5 42 Blues Point Road - Proposed - Kitchen Window - from Dining Area

# 02 View Analysis Unit 6 42 Blues Point Rd



The proposal has a negligible impact on views from bedroom window of Unit 5 42 Blues Point Rd as the amended balcony location retains the existing view of the Harbour Bridge pillar on the city side. There is some minor view loss of the bridge but the relocation of the balconies (Red) and the rolling alignment of the corner of the building closest to Blues Point rd and Henry Lawson Dr is slightly set back from the existing, providing additional views than previous.

Approximate reduction of water view from approved building envelope = 1%



Side Plan - C



Floor Plan (Rotated for Clarity) - C

- Existing Building Envelope
- Approved Building Envelope
- As Previously Submitted
- Proposed Building Envelope

Key



Unit 6 42 Blues Point Road - Existing - Window 2



Unit 6 42 Blues Point Road - Approved - Window 2



Unit 6 42 Blues Point Road - Proposed - Window 2

# 02 View Analysis Unit 6 42 Blues Point Rd

The proposal has a negligible impact on views from bedroom window of Unit 6 42 Blues Point Rd, with is some minor view loss of the bridge when compared to the previous approval

APPROXIMATE WATER REDUCTION FROM APPROVED BUILDING ENVELOPE = 0%



Site Plan - E



Floor Plan (rotated for clarity) - E

- Existing Building Envelope
- Approved Building Envelope
- As Previously Submitted
- Proposed Building Envelope

Key



Unit 6 42 Blues Point Road - Existing - 1m from Window



Unit 6 42 Blues Point Road - Approved - 1m from Window



Unit 6 42 Blues Point Road - Proposed - 1m from Window

# 02 View Analysis

## 3 Warung St - Level 2 - Privacy Study

### Privacy View Study - Level 2

This study compares the view from level two of both the existing and proposed conditions, addressing visual privacy concerns to 3 Warung st from council. The images provided illustrate the implementation of restricted louvres and planters to provided screening (image 3 & 4) between the two properties improving on the exiting condition shown in images 1 and 2. The proposal improves visual privacy to 3 Warung st as illustrated.



3 Warung St - Existing - Level 2



1|3 Warung St - Existing - Level 2 Window



2|3 Warung St - Existing - Level 2 Balcony



3|3 Warung St - Proposed - Level 2



3|3 Warung St - Proposed - Level 2 Window



4|3 Warung St - Proposed - Level 2 Balcony

# 02 View Analysis

## 3 Warung St - Level 3 - Privacy Study

### Privacy View Study - Level 3

This study compares the view from level three of both the existing and proposed conditions, addressing visual privacy concerns to 3 Warung st from council. The images provided illustrate the implementation of restricted louvres and planters to provided screening (image 3 & 4) between the two properties improving on the exiting condition shown in images 1 and 2. The proposal improves visual privacy to 3 Warung st as illustrated.



3 Warung St - Existing - Level 3



1|3 Warung St - Existing - Level 3 Window



2|3 Warung St - Existing - Level 3 Balcony



3 Warung St - Proposed - Level 3

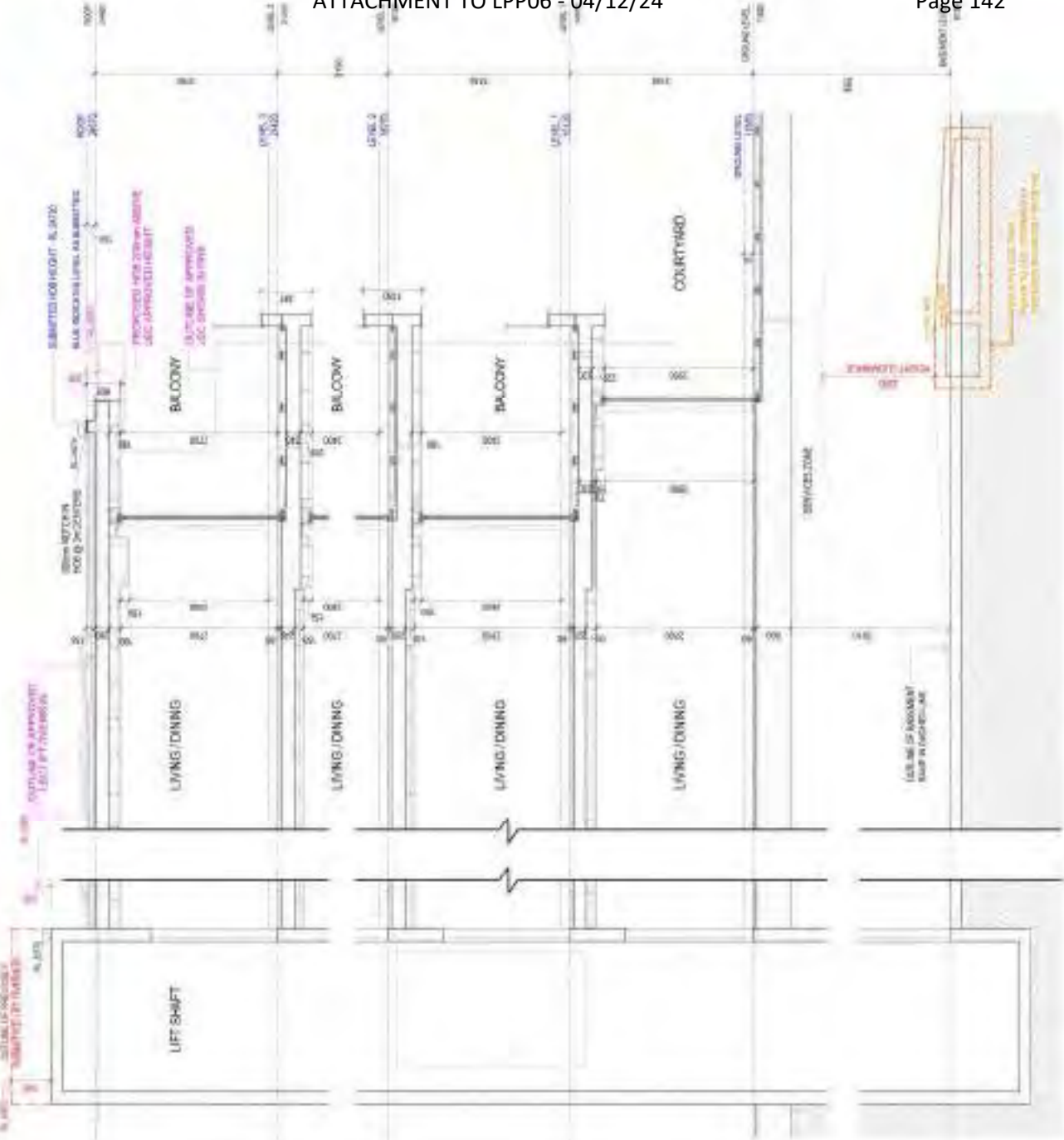


3|3 Warung St - Proposed - Level 3 Window



4|3 Warung St - Proposed - Level 3 Balcony

# 01 Detailed Section Building Lowered by 150mm



**Roof**

Reducing the building height by 150mm has reduced the impact of the building on the neighboring context, reducing any significant view impacts, while retaining the 3150mm floor to floor height.

**Roof**

A detailed investigation and co-ordination with our consultant team has resolved the structural, storm water and thermal requirements of the roof, including falls in the roof slab, slab thickness, hobs, drainage points and other services. Due to the build up of the above items we require a floor to floor height of 3150mm which allows for the compliance with ADG ceiling heights and a services zones as indicated for drainage, duct work and sprinkler reticulation through the building.

**Roof**

This also illustrates that the solar panels will not impede or views or be visible from the surrounding street based on their location and arrangement.

**Typical Levels and Level 3**

Overall, the proposal has been lowered by 150mm while retaining the basement level as previously submitted. This has resulted in the typical floor to floor height of 3150mm which has been reviewed in detail with services, structure and construction team.

Taking into consideration structural thicknesses, folds and beams, services reticulation and falls in balconies 3150mm is the minimum we can work to without causing buildability issues and potential non-compliances with ADG. This allows for a services zones as indicated for drainage, duct work and sprinkler reticulation through the building.

**Basement 1**

The Basement Level has remained at the same RL as previously submitted. This is because the invert levels of the proposed OSD tanks could not be altered in the basement to the levels of the existing storm water asset at the street therefore restricting the basement RL. This was reviewed in detail with the Civil Storm water engineer and constructor team and allows for 2.2m clear at the drive way entrance.

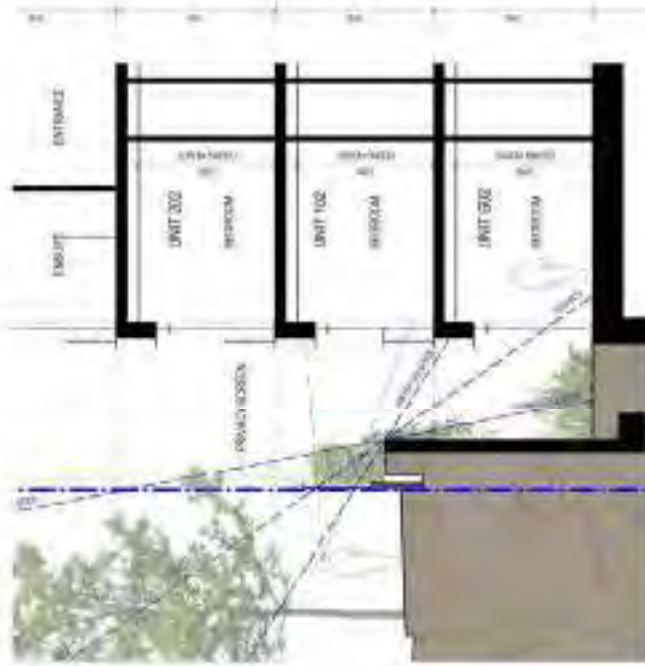
# 01 Detailed Section Warung Street



## Warung St

The Warung Street public interface between the existing context with a curated fence that is consistent in scale, rhythm and materiality of the established street facade. A contemporary interpretation of a private courtyard which is a feature of many of the existing structures was implemented in buildings in the immediate context, providing a clear articulated street address.

Careful consideration has been given as the construction of palisade style fencing, screening all entry and courtyards to ensure both privacy and amenity are achieved to the proposed bedrooms.



Warung St Section 1 1:50 @ A1



Warung St Section 2 1:50 @ A1



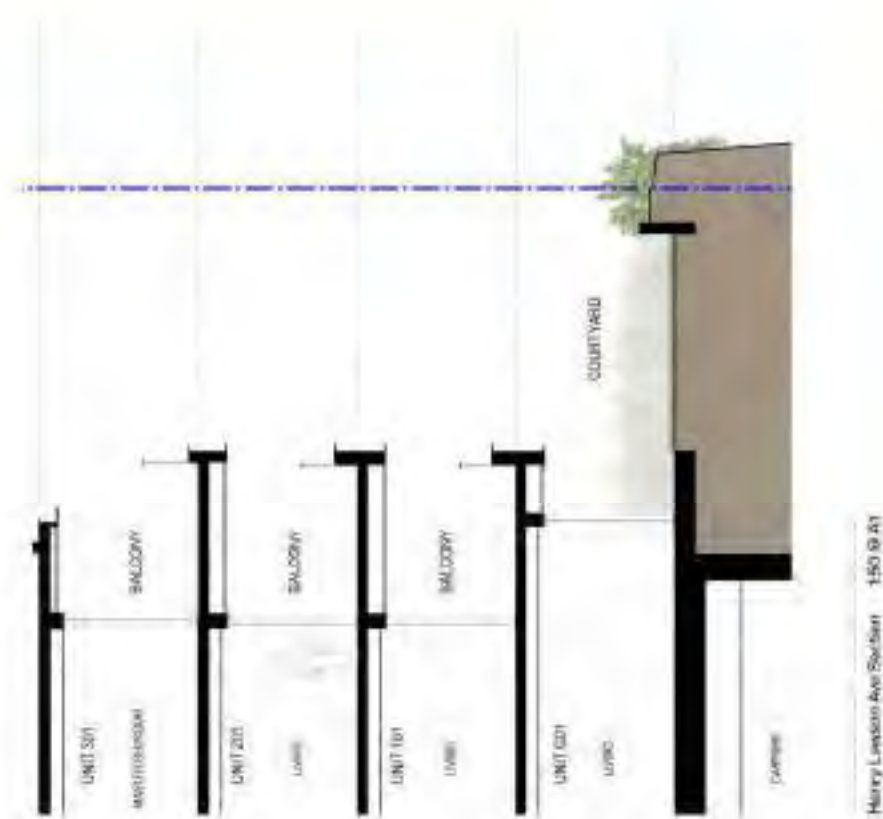
# 01 Detailed Section Henry Lawson Ave

## Henry Lawson Ave

Along Henry Lawson Drive we are retaining the sandstone cliff face and utilising the previously approved garage entry opening.

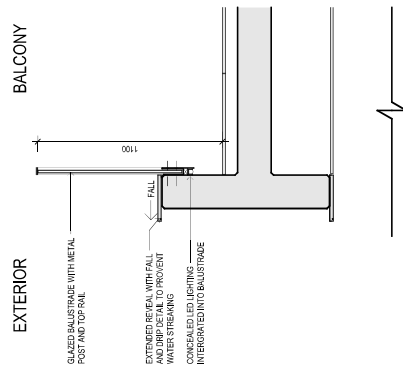
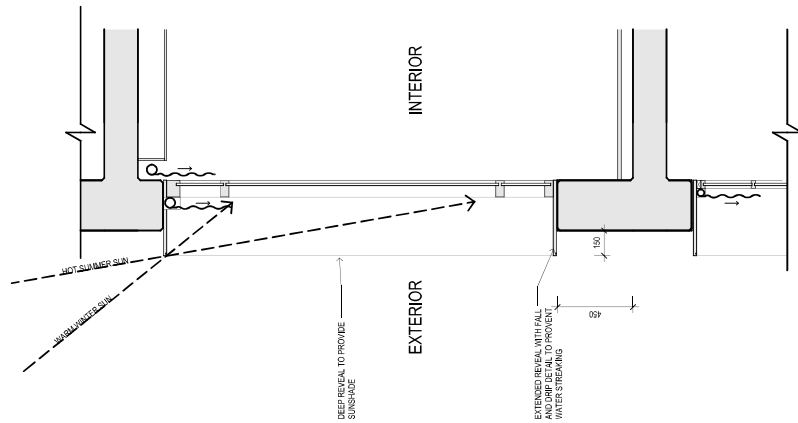
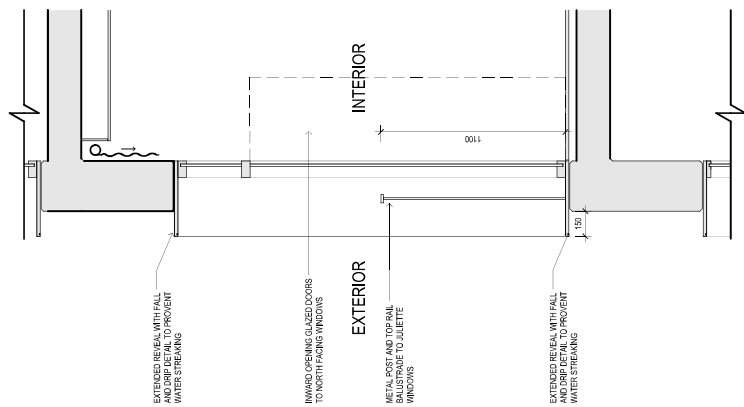
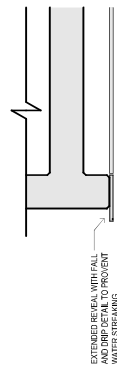
The lower floors use a split stone cladding that grounds the building, tying it to the existing sandstone cliff face. By establishing this link through materiality, it reduces the design perceived bulk from the public domain and beyond.

The banding and balcony balustrade has been detailed to maximise views from the units while providing privacy from the streets below.





# 01 Details



Blues Point Road Window Detail NTS

Juliette Balcony Detail NTS

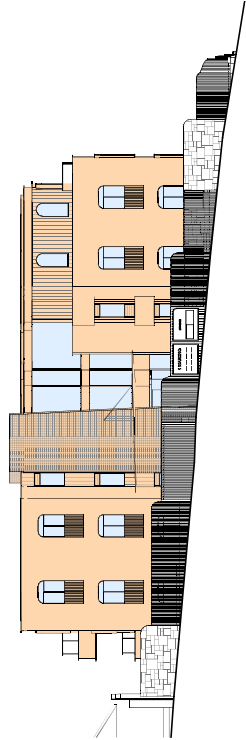
Balustrade Detail NTS



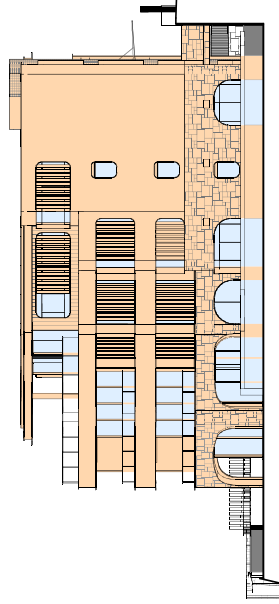
# 03 Development Controls Solid vs Glass Study

**Response**

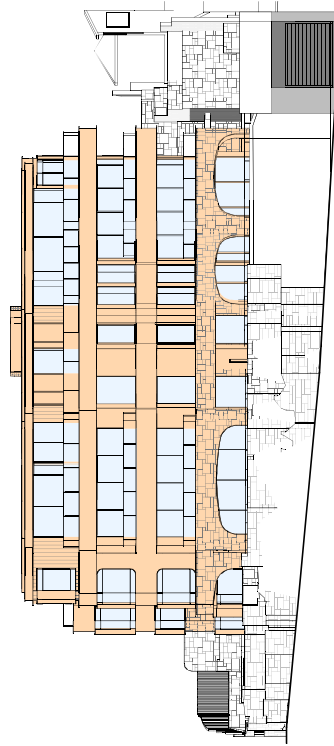
The relocation of the balconies and the introduction of more solidity has resulted in the Southern having a 55% solid to 45% glazed ratio which **COMPLIES** with local planning controls.



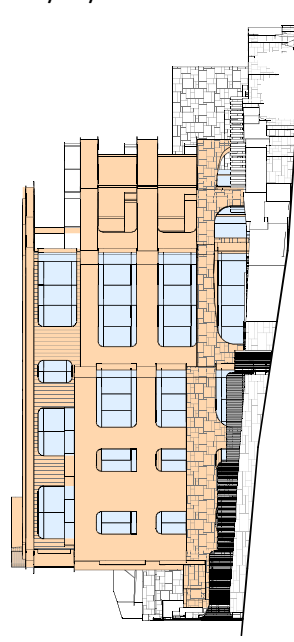
North Elevation



East Elevation



South Elevation



West Elevation

Elevation	Solid (%)	Glazed (%)
North	81.2%	18.6%
East	79.8%	20.2%
South (Pre DA) (DA)	55.4% (37.5%) (45%)	44.6% (62.5%) (55%)
West	70.6%	29.4%
<b>Overall</b>	<b>71.8%</b>	<b>28.2%</b>

# 03 Development Controls Neighbour Fence Measurements

A detailed site measure of the neighbouring fences shows no consistency, with many fences over 2m in height & many structures built to boundary 3m in height and over.



Warung St - Facing North



Warung St - Facing South



Blues Point Road - Facing East



Blues Point Road - Facing West

# 1 Warung Street McMahons Point NSW

## Development Application

### SITE DETAILS

Address: 1 Warung St McMahons Point NSW  
 Property: CP/-/SP1927  
 Site area: 985.4 m<sup>2</sup>

Architect: Squillace  
 1/80 Albion Street, Surry Hills NSW 2010  
 +61 2 8354 1300

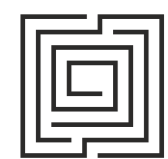
Arborist: Advanced Treescape Consulting  
 PO Box 7192 Kariang NSW 2250  
 +61 2 4340 2964

BASIX: Certificate number 0006179370  
 Assessor number 10194

Hydraulic Engineer: ACOR Consultants  
 Suite 2, Level 1, 33 Herbert Street  
 St Leonards NSW 2065  
 +61 2 9438 5098

### DRAWING LIST

Drawing No.	Drawing Name	Scale	Size
<b>Plans</b>			
DA-000	Cover Page & Drawing List	N/A	A2
DA-101	Tree Protection & Removal Plan	1:100	A2
DA-201	Proposed Landscape Plan - Ground Floor	1:100	A2
DA-202	Proposed Planting Plan - Ground Floor	1:100	A2
DA-211	Proposed Landscape Plan - Level 1	1:100	A2
DA-221	Proposed Landscape Plan - Level 2	1:100	A2
DA-231	Proposed Landscape Plan - Level 3	1:100	A2
DA-401	Plant Palette	N/A	A2
DA-402	Plant Palette & Schedule	N/A	A2
DA-403	Notes	N/A	A2



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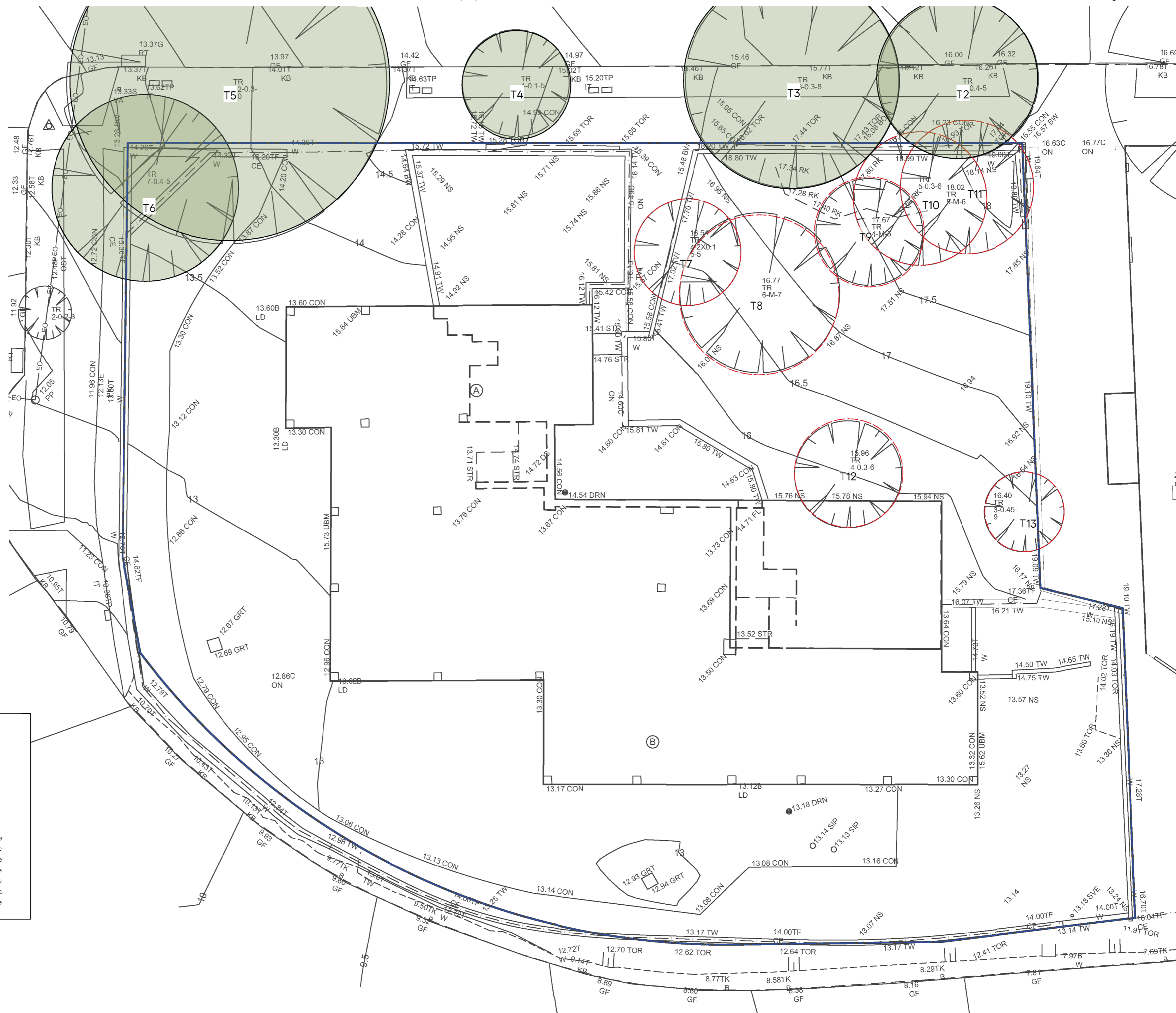
Rev	Amendment	Date	By	ADDRESS
B	Council RFI	29/07/24	MK	1 Warung Street, McMahons Point
C	Council RFI	28/08/24	MK	SCALE
D	Council RFI	6/09/24	MK	N/A

DATE  
6/09/2024

DRAWN  
MK

PROJECT  
Highbury Warung  
 DWG. TITLE  
Cover Page & Drawing List

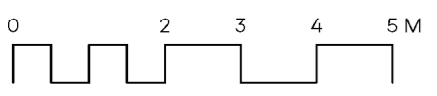
DA-000



- KEY
- Site boundary
  - Existing tree to be removed
  - Existing tree to be retained

Existing Trees  
Refer to Arboricultural Impact Assessment prepared by Advanced Treescape consulting (AQF5 Arboriculturist) on 27/08/2021

1 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
2 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
3 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
4 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
5 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
6 <i>Plumeria</i> (Frangipani)	Retain
7 <i>Plumeria</i> (Frangipani)	Remove
8 <i>Lagerstroemia indica</i> (Crepe Myrtle)	Remove
9 <i>Cotoneaster glaucophyllus</i> (Grey-leaved Cotoneaster)	Remove
10 <i>Pittosporum undulatum</i> (Native Daphne)	Remove
11 <i>Olea europaea Africana</i> (African Olive)	Remove
12 <i>Morus</i> sp (Mulberry)	Remove
13 <i>Washingtonia robusta</i>	Remove



Rev	Amendment	Date	By	ADDRESS	PROJECT
B	Council RFI	29/07/24	MK	1 Warung Street, McMahons Point	Highbury Warung
C	Council RFI	28/08/24	MK		DWG. TITLE
D	Council RFI	6/09/24	MK		Tree Protection & Removal Plan

DA-101



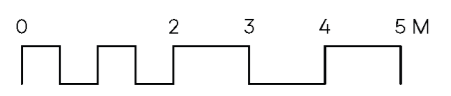


- Existing Frangipani to be retained
- Wall with fence to architects detail
- 1 x Melaleuca linariifolia to replace existing Stenocarpus sinuatus
- 2 x proposed Tristaniopsis laurina
- 3 x Lagerstroemia 'Natchez'
- Proposed natural stone steppers through planting
- Proposed BBQ bench top
- Proposed 700mm high rendered masonry retaining wall with top rail to achieve overall height of 1000mm to comply with BCA standard
- Proposed sandstone wall along boundary. Finish to match existing

- Refer to Tree Protection & Removal Plan for details
- Proposed natural stone steppers through planting
- Proposed natural stone steppers through planting
- Magenta line indicates basement extent below
- Proposed tiled surface
- 4 x proposed Tristaniopsis laurina
- Proposed 1800mm high louvred fence with painted finish
- Proposed BBQ bench top
- Proposed 700mm high rendered masonry retaining wall with top rail to achieve a total height of 1000mm to comply with BCA standard
- Refer to section prepared by Squillace for detail above driveway.
- Proposed block wall above driveway constructed with excavated sandstone. Finish to blend with rock face.

**KEY**

- Proposed stepping stone
- Proposed garden bed
- Site boundary
- Basement extent
- +EXT Existing levels
- +RL Proposed levels
- Existing tree to be removed
- Existing tree to be retained



Proposed 700mm high rendered masonry retaining wall with top rail to achieve a total height of 1000mm to comply with BCA standard

Existing planting outside of boundary to be removed and replaced with new.

Rev	Amendment	Date	By	ADDRESS
B	Council RFI	29/07/24	MK	1 Warung Street, McMahon's Point
C	Council RFI	28/08/24	MK	SCALE
D	Council RFI	6/09/24	MK	DATE

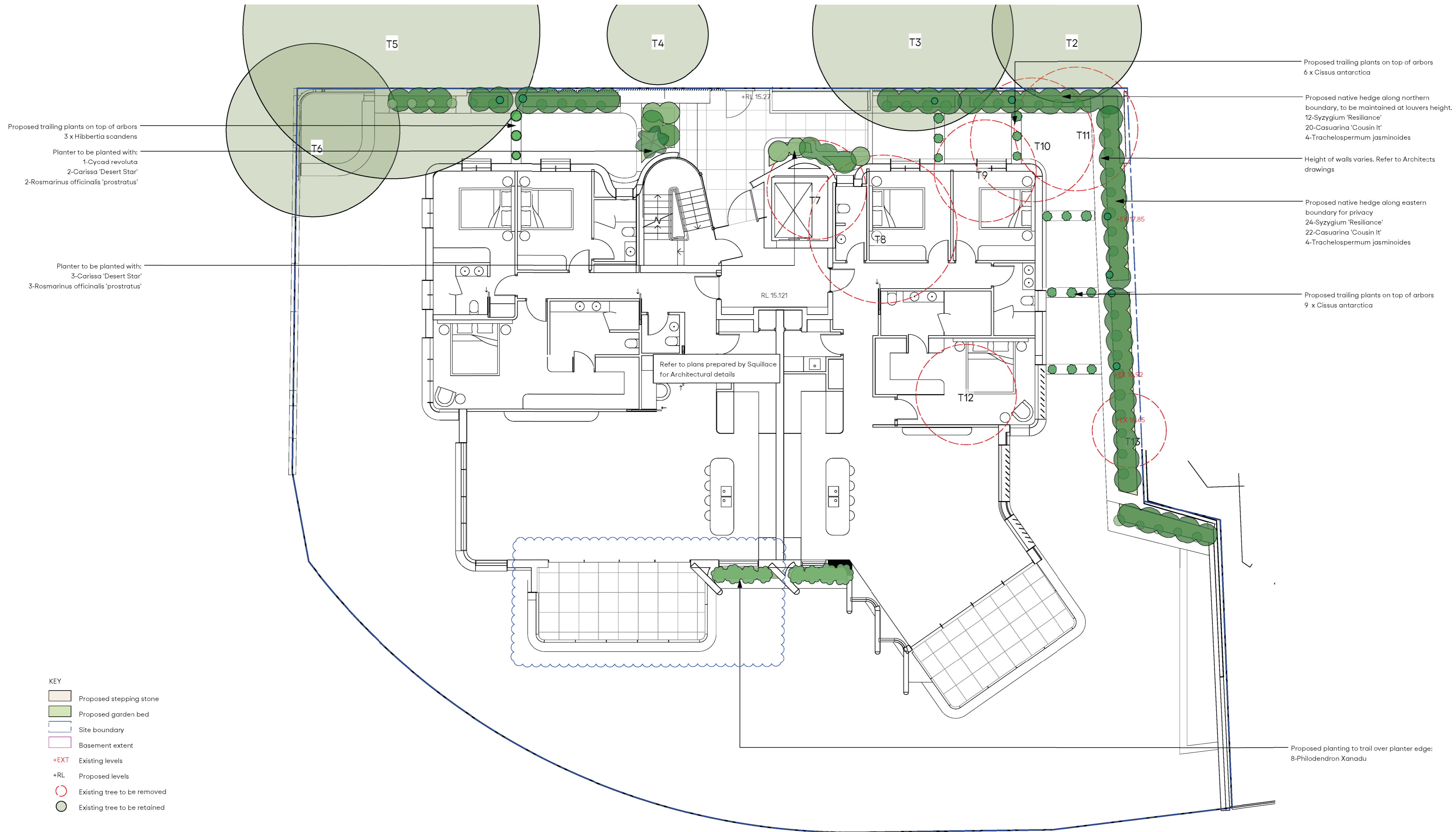
PROJECT  
**Highbury Warung**  
 DWG. TITLE  
**Proposed Landscape Plan - Ground Floor**





Rev	Amendment	Date	By	ADDRESS
B	Council RFI	29/07/24	MK	1 Warung Street, McMahons Point
C	Council RFI	28/08/24	MK	
D	Council RFI	6/09/24	MK	

SCALE: 1:100@A2  
 DATE: 6/09/2024  
 DRAWN: MK



Rev	Amendment	Date	By	ADDRESS
B	Council RFI	29/07/24	MK	1 Warung Street, McMahons Point
C	Council RFI	28/08/24	MK	
D	Council RFI	6/09/24	MK	

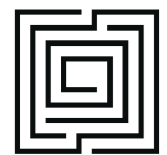
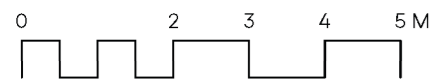
SCALE 1:100@A2      DATE 6/09/2024      DRAWN MK

PROJECT  
 Highbury Warung  
 DWG. TITLE  
 Proposed Landscape Plan - Level 1





- KEY**
- Proposed stepping stone
  - Proposed garden bed
  - Site boundary
  - Basement extent
  - +EXT Existing levels
  - +RL Proposed levels
  - Existing tree to be removed
  - Existing tree to be retained



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B	Council RFI	29/07/24	MK	1 Warung Street, McMahon's Point
C	Council RFI	28/08/24	MK	
D	Council RFI	6/09/24	MK	

SCALE: 1:100@A2  
 DATE: 6/09/2024

DRAWN: MK

PROJECT: Highbury Warung  
 DWG. TITLE: Proposed Landscape Plan - Level 2

DA-221





Proposed planting to trail over planter edge:  
13-Rosmarinus officinalis 'Prostratus'

Proposed planting to trail over planter edge:  
3-Rosmarinus officinalis 'Prostratus'  
4-Aloe 'Fairy Pink'

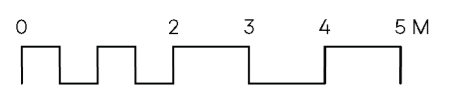
Proposed planting to trail over planter edge:  
4-Philodendron Xanadu  
4-Trachelospermum asiaticum

Proposed planting in planter:  
6-Philodendron Xanadu

Refer to plans prepared by Squillace for Architectural details

RL 21.270

- KEY**
- Proposed stepping stone
  - Proposed garden bed
  - Site boundary
  - Basement extent
  - +EXT Existing levels
  - +RL Proposed levels
  - Existing tree to be removed
  - Existing tree to be retained



Rev	Amendment	Date	By	ADDRESS	PROJECT
B	Council RFI	29/07/24	MK	1 Warung Street, McMahon's Point	Highbury Warung
C	Council RFI	28/08/24	MK		DWG. TITLE
D	Council RFI	6/09/24	MK		Proposed Landscape Plan - Level 3

SCALE: 1:100@A2      DATE: 6/09/2024      DRAWN: MK

Southern Waterfront Planting



Level 1 & Level 3 Balcony



East side Passage



Rev	Amendment	Date	By	ADDRESS	PROJECT
B	Council RFI	29/07/24	MK	1 Warung Street, McMahon's Point	Highbury Warung
C	Council RFI	28/08/24	MK	SCALE	DWG. TITLE
D	Council RFI	6/09/24	MK	N/A	Plant Palette

DATE	DRAWN
6/09/2024	MK

West side Passage



\* indicates Indigenous or Low Water Use Species by North Sydney Council

Note: Areas of indigenous or low water use species: 135.2m²

South-Eastern Buffer Planting



\* indicates native plant

ID	Qty	Botanical Name	Common Name	Scheduled Size	Mature Height	Mature Spread
Aci	110	<i>Arthropodium cirratum</i>	Renga Lilly	200 mm	0.75 - 0.9m	0.6 - 0.9m
Ae	35	<i>Aspidistra elatior</i>	Cast Iron Plant	200 mm	1.5m	1.5m
Afp	4	<i>Aloe 'Fairy Pink'</i>	Aloe 'Fairy Pink'	200 mm	0.75 - 0.9m	0.6 - 0.9m
* Alb-2	23	<i>Alocasia brisbanensis</i>	Spoon Lily	200 mm	0.75 - 0.9m	0.6 - 0.9m
* As-2	62	<i>Adiantum spp</i>	Maidenhair Fern	140mm	0.5m	0.5m
* Az	12	<i>Alpinia caerulea</i>	Native Ginger	200 mm	1.5 - 3m	1.2 - 2.0m
* Bl	1	<i>Melaleuca linariifolia</i>	Snow in Summer	75 Ltr	5 - 10m	3.5 - 6m
Bm	15	<i>Buxus microphylla japonica</i>	Japanese Box	140 mm	0.5-1m	0.5-1m
* Ca	15	<i>Cissus antarctica</i>	Kangaroo vine	140mm		
Cds	69	<i>Carissa 'Desert Star'</i>	Dwarf Natal Plum	200 mm	1-2m	1-2m
* Cgol-2	159	<i>Casuarina glauca 'Cousin It'</i>	Prostrate Swamp Oak	140 mm	0.1-0.15m	1m
* CoSt	13	<i>Cordyline stricta</i>	Narrow-leaved Palm Lily	200 mm	3 - 5m	0.6 - 0.9m
* Cr	17	<i>Cycas revoluta</i>	Dwarf Sago Palm, Fossil Cycad.	500 mm	3 - 5m	1.2 - 2.0m
* DiCa	19	<i>Dianella caerulea</i>	Blue Flax-lily	140mm	0.45 - 0.6m	0.3 - 0.6m
* Doa-2	38	<i>Doodia aspera</i>	Prickly Rasp Fern	200mm	0.4m	0.6m
Dr	167	<i>Dichondra repens</i>	Kidney Weed	100 mm	0.0 - 0.3m	0.9 - 1.2m
Fp	48	<i>Ficus pumila</i>	Creeping fig	140mm	6m	6m
* Hsc	3	<i>Hibbertia scandens</i>	Golden Guinea Flower, Snake Vi	140mm	0.0 - 0.3m	3.5 - 6m
Lin	3	<i>Lagerstroemia indica 'Nanchez'</i>	Crepe Myrtle	45 Ltr	5 - 10m	6 - 10m
Lir-2	77	<i>Ligularia reniformis</i>	Ligularis	200 mm	0.8m	0.8m
Mod	24	<i>Fatsia japonica</i>	Fatsia	200 mm	4m	2m
Prc	6	<i>Philodendron var 'Rojo Congo'</i>	Philodendron	200mm	1.5m	0.7m
Px	85	<i>Philodendron 'Xanadu'</i>	Philodendron	200 mm	1.5m	1.5m
Ro	18	<i>Rosmarinus officinalis 'Prostratus'</i>	Rosemary	200 mm	0.3-0.6m	0.6-0.9m
Rop	26	<i>Raphiolepis indica 'Oriental Pearl'</i>	Indian Hawthorn	200mm	0.8-1m	1m
* Syr	46	<i>Syzygium australe 'Resilience'</i>	Lillypilly	75 Lt	3 - 5m	3.5 - 6m
Ta	7	<i>Trachelospermum asiaticum</i>	Japanese star jasmine	200 mm	0.15-0.3m	4.5 - 6m
Tj	8	<i>Trachelospermum jasminoides</i>	Chinese Star Jasmine	200 mm	1.5 - 3m	3.5 - 6m
* Tll	6	<i>Tristaniopsis laurina 'Luscious'</i>	Water Gum	100 Ltr	12-15m	4-6m
* Vh	339	<i>Viola hederacea</i>	Native Violet	100mm	0.0 - 0.3m	1.2 - 2.0m
* Wjg	65	<i>Westringia fruticosa</i>	Coastal rosemary	300 mm	2m	2m

**GENERAL PLANTING NOTES:**

**NOTE:** IT IS RECOMMENDED THAT ALL PLANTS USED BE SUBJECT TO AN ESTABLISHMENT PERIOD. DURING THIS PERIOD MAINTENANCE WORK CARRIED OUT WILL INCLUDE; WATERING, MOWING, WEEDING, FERTILISING, PEST AND DISEASE CONTROL, RESEEDING, RETURFING, STAKING AND TYING, REPLANTING, CULTIVATING, PRUNING, HEDGE CLIPPING, AERATING, REINSTATEMENT OF MULCH, TOP DRESSING AND KEEPING THE SITE NEAT AND TIDY.

**NOTE:** THE ESTABLISHMENT PERIOD IS A CRITICAL TIME IN THE DEVELOPMENT OF A NEW LANDSCAPE. NEW PLANTINGS NEED TO BE WATERED, FERTILISED, AND PRUNED TO SHAPE UNTIL THEY HAVE BECOME HARDY ENOUGH TO SURVIVE WITHOUT HELP FROM PEOPLE. SOME PLANTS WILL ALWAYS NEED SOME EXTRA CARE TO SURVIVE.

**NOTE:** PLANTS SHALL BE VIGOROUS, WELL ESTABLISHED, OF GOOD FORM CONSISTENT WITH SPECIES OR VARIETY, NOT SOFT OR FORCED, FREE FROM DISEASE AND INSECT PESTS, WITH LARGE HEALTHY ROOT SYSTEMS AND NO EVIDENCE OF HAVING BEEN RESTRICTED IN GROWTH OR DAMAGED. ROOT SYSTEM SHALL BE WELL BALANCED IN RELATION TO THE SIZE OF THE PLANT.

**NOTE:** HAND WATER ON DESIGNATED DAYS TO PROTECTED TREES THROUGHOUT DURATION OF THE PROJECT

**NOTE:** WEED CONTROL SHALL BE BY HAND PULLING ONLY.

**PLANTING NOTES**

**GRAPHIC ILLUSTRATION**

Please note that the plant graphics are indicative sizes only and not an accurate representation at time of purchase

**SITE PREPARATION**

All existing plants marked for retention shall be protected for the duration of works. Remove from site all perennial weeds and rubbish before commencing landscape works.

**SOILWORKS**

Thoroughly cultivate the subsoil to a depth of 200mm. Supply and install to a depth of 300mm quality garden soil mix to all planting beds and 150mm turf underlay to lawn areas.

**MULCH**

Supply and install a 75mm layer of hardwood horticultural grade mulch to all planting beds set down 25mm from adjacent paving or garden edge.

**MAINTENANCE**

All failed or defective plant species to be replaced by landscaper for a 3 months period following completion of work. Further maintenance during and after this period should include watering, weeding, fertilising, pest and disease control, pruning and hedging, reinstatement of mulch and keeping the site neat and tidy.

**GENERAL NOTES: WASTE MANAGEMENT**

**NOTE:** ALL DEMOLITION MATERIALS AND WASTE MATERIALS MUST BE DISPOSED OF AT A WASTE MANAGEMENT FACILITY. SORT WASTE MATERIALS & WHERE PRACTICAL RECYCLE ON SITE TAKE TO COUNCIL RECYCLE CENTER.

**NOTE:** IF REQUIRED WASTE BINS LOCATED ON ROADWAY IS SUBJECT TO COUNCIL APPROVAL.

**NOTE:** BUILDING MATERIALS AND EQUIPMENT MUST BE STORED WHOLLY WITHIN THE WORK SITE UNLESS AN APPROVAL TO STORE THEM ELSEWHERE IS HELD

**NOTE:** THE WORK SITE MUST BE LEFT CLEAR OF WASTE AND DEBRIS AT THE COMPLETION OF WORKS.

**GENERAL DRAINAGE & WASTE MANAGEMENT NOTES:**

**NOTE:** ACCESS TO BE USED ONLY FOR DELIVERY OF MATERIALS OR DURING EXCAVATION, ALL SEDIMENT CONTROL MEASURES ARE TO REMAIN IN PLACE WHEN ACCESS NOT IN USE

**NOTE:** DURING CONSTRUCTION OF DRAINAGE ALL PITS TO HAVE GEOFABRIC WRAPPING OVER GRATING UNTIL SEDIMENT LOADINGS ARE MINIMISED.

**NOTE:** CLOUDY WATER IS CONTAMINATED & MUST BE SETTLED & TREATED WITH GYPSUM UNTIL CLEAR, FOR QUANTITIES REFER TO EPS, 'BLUE BOOK'

**NOTE:** EXCAVATION OF THE SITE SHALL BE LIMITED TO THE IMMEDIATE CONSTRUCTION AREA.

**NOTE:** ANY TOPSOIL STRIPPED FROM THE SITE SHALL BE STOCKPILED AT THE SITE FOR RE-USE. THE STOCKPILE SHALL BE LOCATED AWAY FROM ANY STORMWATER FLOWPATH AND PROTECTED AS SHOWN ON PLAN.

**NOTE:** WASTE (INCLUDING SKIP BINS) AND CONSTRUCTION MATERIALS, EQUIPMENT AND SEDIMENT BARRIERS SHALL AT NO TIME BE PLACED IN PUBLIC WALKWAYS, VERGES, COUNCIL ROADS OR ROAD RESERVES UNLESS A PERMIT HAS BEEN OBTAINED FROM COUNCIL.

**NOTE:** ALL SEDIMENT CONTROL STRUCTURES TO BE INSPECTED AFTER EACH RAINFALL EVENT FOR STRUCTURAL DAMAGE AND ALL TRAPPED SEDIMENT TO BE REMOVED TO A NOMINATED STOCKPILE SITE. ANY SEDIMENT SPILLED WITHIN THE PROPERTY OR ONTO ROADWAYS SHALL BE COLLECTED AND REMOVED WITH A SPADE AND DRY BROOM (WITHOUT WATER) AND DISPOSED OF AS TO PREVENT FURTHER EROSION AND POLLUTION OF WATERWAYS.

**NOTE:** DURING DRY WEATHER, WHERE THERE IS POTENTIAL OF DUST MOVEMENT, A LIGHT SPRAY OF WATER SHALL BE APPLIED TO THE SITE AT REGULAR INTERVALS (WITHOUT CREATING RUNOFF) TO MINIMISE AIRBORNE TRANSFER OF SEDIMENT.

**NOTE:** THE SUB-SURFACE COMPONENTS OF THE SITE DRAINAGE SYSTEM SHALL BE INSTALLED TO WORKING ORDER PRIOR TO CONSTRUCTION OF ANY BUILDING.

**SURFACE WATER / STORMWATER DRAINAGE NOTES:**

**NOTE:** SURFACE WATER / STORMWATER MUST BE DRAINED AND DISCHARGED TO THE STREET GUTTER OR SUITABLY DESIGNED ABSORPTION PIT, TO THE SATISFACTION OF THE CERTIFYING AUTHORITY.

**NOTE:** ABSORPTION PITS MUST BE LOCATED NOT LESS THAN 3M FROM ANY ADJOINING PREMISES AND THE STORMWATER MUST NOT BE DIRECTED OR FLOW ONTO ANY ADJOINING PREMISES OR CAUSE A NUISANCE.

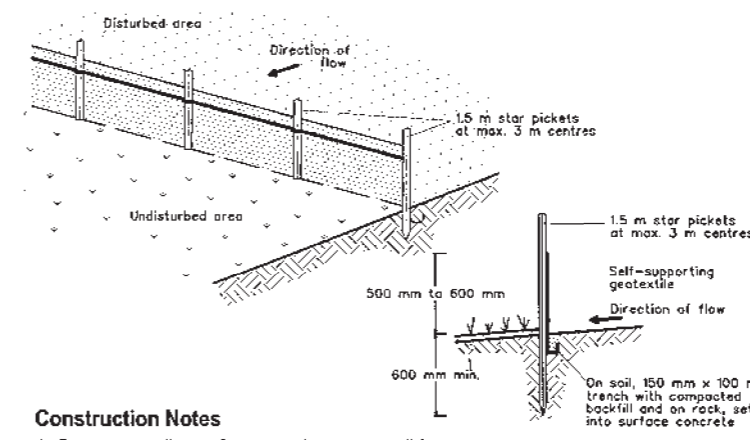
**NOTE:** EXTERNAL PATHS AND GROUND SURFACES ARE TO BE CONSTRUCTED AT APPROPRIATE LEVELS AND TO BE GRADED AND DRAINED AWAY FROM THE BUILDING AND ADJOINING PREMISES, SO AS NOT TO RESULT IN THE ENTRY OF WATER INTO THE BUILDING, OR CAUSE A NUISANCE OR DAMAGE TO ADJOINING PREMISES.

**NOTE:** DURING CONSTRUCTION STAGES, SEDIMENT LADEN STORMWATER RUN-OFF SHALL BE CONTROLLED USING THE SEDIMENT CONTROL MEASURES OUTLINED IN THE MANUAL FOR MANAGING URBAN STORMWATER - SOILS AND CONSTRUCTION, PUBLISHED BY THE NSW DEPARTMENT OF HOUSING.

**Existing Trees**

Refer to Arboricultural Impact Assessment prepared by Advanced Treescape consulting (AQF5 Arboriculturist) on 27/08/2021

1 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
2 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
3 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
4 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
5 <i>Jacaranda mimosifolia</i> (Jacaranda)	Retain
6 <i>Plumeria</i> (Frangipani)	Retain
7 <i>Plumeria</i> (Frangipani)	Remove
8 <i>Lagerstroemia indica</i> (Crepe Myrtle)	Remove
9 <i>Cotoneaster glaucophyllus</i> (Grey-leaved Cotoneaster)	Remove
10 <i>Pittosporum undulatum</i> (Native Daphne)	Remove
11 <i>Olea europaea Africana</i> (African Olive)	Remove
12 <i>Morus</i> sp (Mulberry)	Remove
13 <i>Washingtonia robusta</i>	Remove

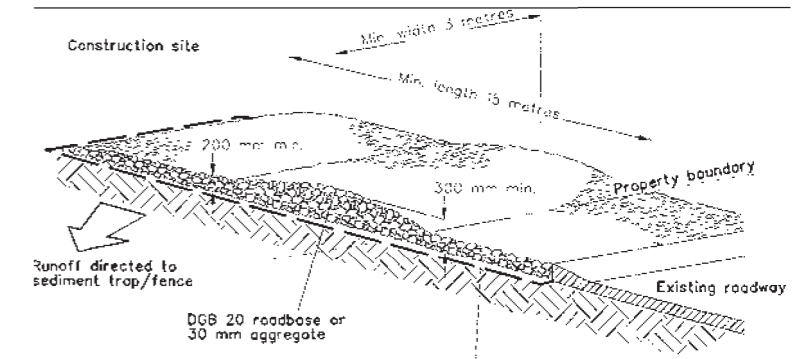


**Construction Notes**

- Construct sediment fence as close as possible to parallel to the contours of the site.
- Drive 1.5 metre long star pickets into ground, 2.5 metres apart (max.).
- Dig a 150 mm deep trench along the upslope line of the fence for the bottom of the fabric to be entrenched.
- Fix self-supporting geotextile to upslope side of posts with wire ties or as recommended by geotextile manufacturer.
- Join sections of fabric at a support post with a 150 mm overlap.
- Backfill the trench over the base of the fabric and compact it thoroughly over the geotextile

**SEDIMENT FENCE**

SD 6-8

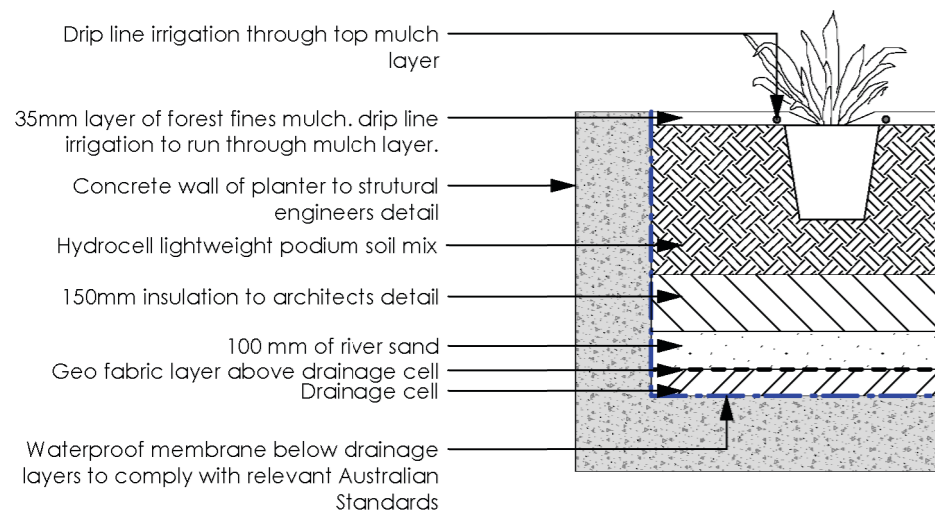


**Construction Notes**

- Strip topsoil and level site.
- Compact subgrade.
- Cover area with needle-punched geotextile.
- Construct 200 mm thick pad over geotextile using roadbase or 30 mm aggregate. Minimum length 15 metres or to building alignment. Minimum width 3 metres.
- Construct hump immediately within boundary to divert water to a sediment fence or other sediment trap.

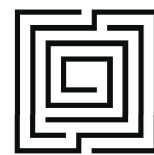
**STABILISED SITE ACCESS**

SD 6-14



**1 Typical Planting Detail On Slab**

Scale: 1:20



**Secret Gardens**

Landscape Design, Construction & Maintenance | 17 Aylesbury Street, Botany NSW 2019 | Phone 9234 5333 Fax 9234 5322  
Secret Gardens retains intellectual property ownership, and moral rights are asserted. Copyright 2023 Secret Gardens of Sydney Pty Ltd. This drawing, including plant graphics, is for design guidance only. All dimensions are to be verified with a site survey, and final details must meet site conditions, building standards and relevant authorities.

Rev	Amendment	Date	By	ADDRESS
B	Council RFI	29/07/24	MK	1 Warung Street, McMahon's Point
C	Council RFI	28/08/24	MK	
D	Council RFI	6/09/24	MK	

SCALE	DATE	DRAWN	PROJECT
N/A	6/09/2024	MK	Highbury Warung

DWG. TITLE  
Notes

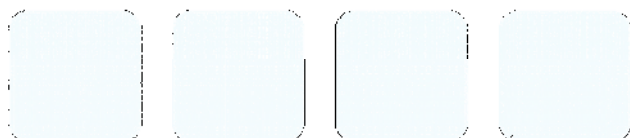
DA-403



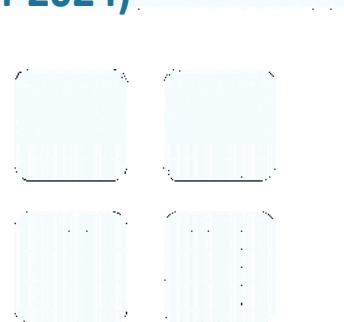
## Clause 4.6 Variation Request to the Height of Buildings Development Standard under Clause 4.3 of North Sydney LEP 2013

### Demolition of existing building, construction of new residential flat building

#### 1 Warung Street, McMahons Point



12 March, 2024 (Revised 16 September 2024)



# 1 Introduction

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## 1.1 Commission

*JVUrban Pty Ltd* has been commissioned by the Applicant to prepare a written request ('Variation Request') pursuant to cl4.6 of *North Sydney Local Environmental Plan 2013* (the LEP) in respect of a proposed residential flat building development, at 1 Warung Street, McMahons Point (the Site).

The Proposal is described in detail in Section 3 of the Statement of Environmental Effects (SEE) prepared by *JVUrban Pty Ltd* and generally comprises the demolition of the existing building and construction of new residential building containing 7 units over a single level basement.

The Proposal exceeds the 8.5m maximum Height of Buildings (HOB) development standard under cl4.3 of the NSLEP having a maximum building height of RL 25170 or 10.54m (top of lift overrun). This is a variation of 2.04m. This is a reduction from the submitted DA plans with an overall height (lift overrun) of RL25870 or 10.77m. The changes are shown in Figure 2 below.

The variation from the NSLEP development standard is therefore 2.04m or 24%.

As above, the overall roof height has been lowered by 150mm and lift overrun height minimised from that proposed when DA85/24 was lodged with North Sydney Council. In general terms the change from the height of the existing will not be discernible to the general observer from either close up or distant views. On this basis the HOB variation is a function of the modification of the existing site (for construction of the existing building); slope of the land and locational context of the site in terms of the nature, height and built form of surrounding development and promotion of good design.

Notwithstanding the contravention of the development standard, the development is considered to be consistent with the objectives of the development standard. There are sufficient environmental planning grounds to justify the contravention in this instance including the historical development of the site, the lack of adverse amenity impacts and positive social and economic considerations as a result of the development.

# 1 Introduction

This written request has been prepared to provide a detailed assessment in accordance with the statutory requirements of cl4.6 so that the consent authority can exercise its power to grant development consent, notwithstanding the contravention to the HOB development standard.

## 1.2 Material Relied Upon

This Variation Request has been prepared based on the Architectural Drawings prepared by Squillace Architecture/Interiors, Project No. HIG2009.

Drawing No.	Title	Prepared By	Date
DA-001/ C	Cover Sheet	Squillace Architecture	03.09.24
DA-011/ C	Site Plan	Squillace Architecture	03.09.24
DA-012/ C	Site Analysis Plan	Squillace Architecture	03.09.24
DA-020/ C	Demolition Plan	Squillace Architecture	03.09.24
DA-099/ C	Basement Level Plan	Squillace Architecture	03.09.24
DA-100/ C	Ground Level Plan	Squillace Architecture	03.09.24
DA-101/ C	Level 1 Plan	Squillace Architecture	03.09.24
DA-102/ C	Level 2 Plan	Squillace Architecture	03.09.24
DA-103/ C	Level 3 Plan	Squillace Architecture	03.09.24
DA-104/ C	Roof Plan	Squillace Architecture	03.09.24
DA-205/ C	North Elevation - Proposed	Squillace Architecture	03.09.24
DA-206/ C	East Elevation - Proposed	Squillace Architecture	03.09.24
DA-207/ C	West Elevation - Proposed	Squillace Architecture	03.09.24
DA-208/ C	South Elevation - Proposed	Squillace Architecture	03.09.24
DA-301/ v	Sections Sheet 1	Squillace Architecture	03.09.24
DA-401/ C	Shadow Study – Winter Solstice – Sheet 1	Squillace Architecture	03.09.24
DA-402/ C	Shadow Study – Winter Solstice – Sheet 2	Squillace Architecture	03.09.24
DA-403/ C	Shadow Study – Winter Solstice – Sheet 3	Squillace Architecture	03.09.24
DA-404/ C	Shadow Study – Equinox Sheet 1	Squillace Architecture	03.09.24
DA-406/ C	Shadow Study – Equinox Sheet 2	Squillace Architecture	03.09.24
DA-402/ C	Shadow Study – Equinox Sheet 3	Squillace Architecture	03.09.24
DA-431/ C	Sun’s Eye View - Winter Solstice	Squillace Architecture	03.09.24
DA-432/ C	Sun’s Eye View – Equinox	Squillace Architecture	03.09.24
DA-450/ C	3 Warung St – shadow study @ winter solstice	Squillace Architecture	03.09.24
DA-531/ C	Landscape Coverage & Excavation Plan	Squillace Architecture	03.09.24



# 1 Introduction

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DA-541/ C	Adaptable Unit Layout	Squillace Architecture	03.09.24
DA-551/ C	Building Envelope	Squillace Architecture	03.09.24
DA-552/ C	Building Height Plane	Squillace Architecture	03.09.24
DA-601/ C	Solar Access & Cross Flow Ventilation	Squillace Architecture	03.09.24
DA-603/ C	Storage, POS and COS	Squillace Architecture	03.09.24
DA-701/ C	Photomontage	Squillace Architecture	03.09.24
DA-800/ C	Basement Entry Drawing	Squillace Architecture	03.09.24

This Variation Request should be read in conjunction with the detailed environmental planning assessments contained in the DA documentation submitted with the DA and documents appended thereto.

## 2 The Relevant LEP Provisions

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### 2.1 North Sydney Local Environmental Plan 2013

#### 2.1.1 Clauses 2.2-2.3 – Zoning and Permissibility

Clause 2.2 and the Land Zoning Map of the LEP provide that the entire Site is zoned R3 Medium Density Residential Zone. A residential flat building is a prohibited landuse in the R3 zone.

Notwithstanding the landuse prohibition, the existing residential flat building is a longstanding landuse (since the 1960's) and it has been accepted, by Council, that the site benefits from existing use rights in this case. Legal Advice regarding the existing use rights for the site is provided in Appendix 4 of the SEE.

#### 2.1.2 Clause 4.3 – Height of Buildings (HOB)

*Clause 4.3 of the NSLEP 2013 sets out the HOB development standard as follows:*

*“(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,*
- (g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living.*

The Height of Buildings Map designates a maximum 8.5m height limit for the Site (see Figure 1).

## 2 The Relevant LEP Provisions



Figure 1: Extract of NSLEP 2013 Map (HOB\_002) – “1” = 8.5m

The NSLEP Dictionary contains the following definitions:

**Height of Buildings Map** means the North Sydney Local Environmental Plan 2013 Height of Buildings Map.

**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.

### 2.1.3 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of the LEP states the objectives of the clause 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.

In the Judgment of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”) (see Section 4.7), Preston CJ ruled that there is no provision that requires the applicant to demonstrate compliance with these objectives for the consent authority to be satisfied that the development achieves these objectives. Furthermore, neither cl4.6(3) nor cl4.6(4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”.

## 2 The Relevant LEP Provisions

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Accordingly, the remaining subclauses of cl4.6 provide the operable provisions and preconditions which must be satisfied before a consent authority may grant development consent to a development that contravenes a development standard imposed by an environmental planning instrument.

Clause 4.6(2) provides that:

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

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

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

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The proposed development does not comply with the HOB development standard pursuant to cl4.3 of the NSLEP 2013. However, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as detailed in Section 5.2.

In addition, there are considered to be sufficient environmental planning grounds to justify contravening the development standard as detailed in Section 5.4.

Clause 4.6(4) is administrative, as follows:

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).*

Clauses 4.6(5) & (7) & (8A) are repealed.

## 2 The Relevant LEP Provisions

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Clause 4.6(6) applies to certain zones, as:

*(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 C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 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.*

The site is zoned R3 Medium Density Residential. This clause is not applicable to the proposal.

Clause 4.6(8) applies to certain clauses of the LEP, as:

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

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

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

*(c) clause 5.4,*

*(caa) clause 5.5,*

*(ca) clause 4.3 in relation to land identified as “Area 1” on the Special Provisions Area Map, other than subject land within the meaning of clause 6.19C,*

*(cab) clause 4.4, 5.6 or 6.19C in relation to land identified as “Area 1” on the Special Provisions Area Map,*

*(cb) clause 6.3(2)(a) and (b),*

*(cba) clause 6.19A.*

*(cc) (Repealed)*

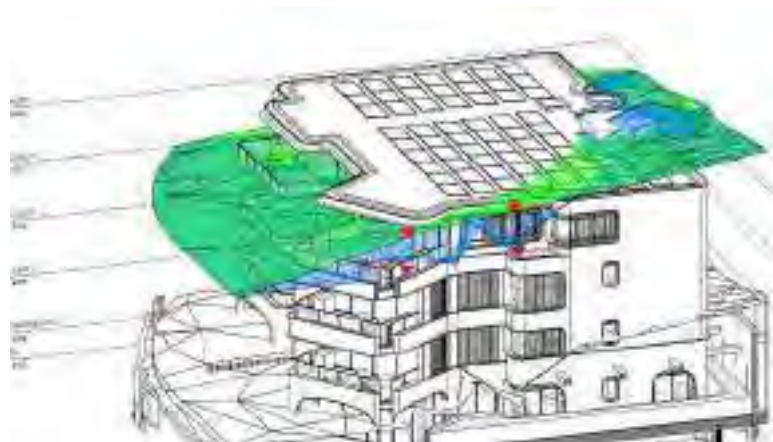
The development standard is contained in clause 4.3 of the NSLEP 2013 and the site is not located within “Area 1”. It is therefore not excluded from the application of Clause 4.6.

### 3 The Nature of the Variation

The proposal seeks a variation to the 8.5m maximum permissible height limit. In this case there are two possible methods to calculate and define the height of the building given the circumstances of the site, the proposal and the merit assessment of the proposed building height. In this regard, the site contains an existing residential flat building which is a longstanding landuse and part of the McMahon Point built form fabric. The site was modified due to its slope and the need to provide access to undercroft parking area via hardstand driveways and turning areas off Warung Street.

The first building height method is based on the on the RL's of the existing lowest floor levels (as built); the second method is extrapolated across the site based on the natural ground level at the boundaries of the site (refer *Bettar v Sydney City Council*). For completeness a diagrammatic assessment against both methods is provided in Figure 2.

The following show the two building height limits against the backdrop of the proposed building envelope. The blue areas are the existing condition (from slab and hardstand areas); the green areas are the extrapolated areas (assumed ground levels).



**Figure 2: Existing -v- extrapolated height limit lines across the proposed building envelope**

The difference between the two methods varies across the building envelope, with some areas showing up to 1200mm increase, when the extrapolated height is applied. If this method was adopted, the building would not fully comply but the requested variation would be reduced by up to 1200mm in some areas.

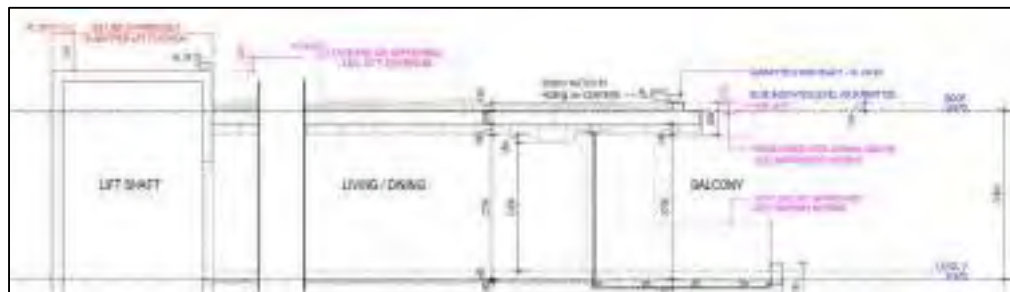
Figure 3 below shows the building heights to the top of the roof and lift overrun using the

### 3 The Nature of the Variation

first method of assessment – the existing site modification and slab RL's.

The proposed residential flat building development will result in a maximum height (to the top of the lift overrun) of RL25170 or 10.54m, constituting a non-compliance of 2.04m. This is a reduction from the submitted DA plans with an overall height (lift overrun) of RL25870 or 10.77m. The roof height has also been lowered by 150mm (from RL24720 to RL24370). The changes are shown in Figure 2 below.

The variation from the NSLEP development standard is therefore 2.04m or 24%.



**Figure 3: Upper section plan showing new roof height (150mm lower than submitted plans) and lower lift overrun than submitted (reduced 700mm) to RL25.17m**

### 3 The Nature of the Variation

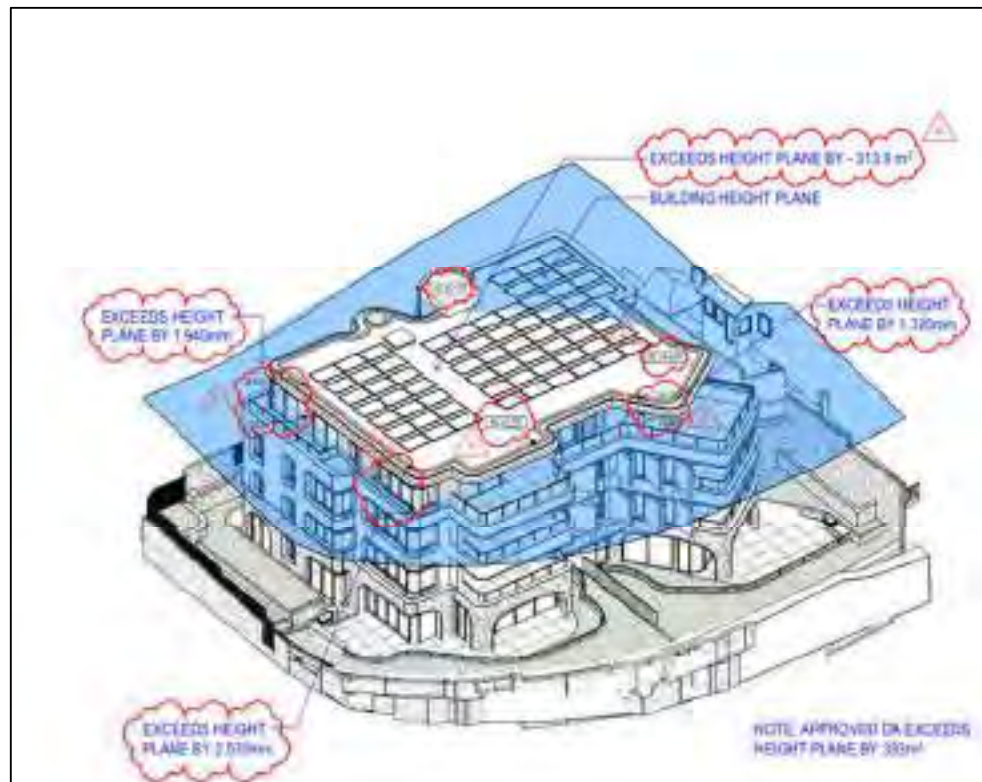


Figure 3: Extract of height plane diagram notating the heights of the building at various points across the building envelope (Source: Squillace, Sept 2024)

The following Figure 4, Figure 5, Figure 6, Figure 7 and Figure 8 show the 8.5m LEP height line across the section plans of the building and the view of the building from the primary corner location.



Figure 4: Extract of north elevation (Warung St) showing LEP 8.5m height line (Source: Squillace Architecture, Project No. HIG2307, Sept 2024)



### 3 The Nature of the Variation



Figure 5: Extract of south elevation (Warung St frontage) showing LEP 8.5m height line (Source: Squillace Architecture, Project No. HIG2307, Sept 2024)



Figure 6: Extract of east elevation (from No. 3 Warung St) showing LEP 8.5m height line (Source: Squillace Architecture, Project No. HIG2307, Sept 2024)



Figure 7: Extract of west elevation (Blues Point Road) showing LEP 8.5m height line (Source: Squillace Architecture, Project No. HIG2307, Sept 2024)

Figure 8: Extract of height blanket diagram – existing building (Source: Squillace Architecture)

### 3 The Nature of the Variation

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*Figure : Comparison of existing building, NSWLEC approved building, as lodged and proposed amendment (RFI response)*

## 4 Case Law

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### 4.1 Introduction

The proposed variation to the development standard has been considered in light of the evolving methodology and “tests” established by the NSW Land & Environment Court (the Court) and the following subsections provide a brief summary of key Judgments in regard to variations under the former SEPP 1 and cl4.6 of the SILEP.

### 4.2 *Winten Developments Pty Ltd v North Sydney Council [2001]*

Through the Judgment in *Winten Developments Pty Ltd v North Sydney Council [2001] NSWLEC 46* (“Winten”) the Court established a ‘5-part test’ for considering whether strict compliance with a development standard is unreasonable or unnecessary in a particular case. The elements of this test can be summarised as:

- Is the planning control a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*?
- Is compliance with the development standard unnecessary or unreasonable in the circumstances of the case?
- Is the objection well founded?

The 1<sup>st</sup> ‘test’ continues to be relevant and is a precondition for the application of cl4.6. It is addressed in Section 5.1.

The 2<sup>nd</sup> ‘test’ is demonstrated in Section 5.3.

The 3<sup>rd</sup> ‘test’ was specific to cl3 of SEPP 1 and has not been transferred to cl4.6 of the SILEP. Notwithstanding, in Initial Action (see below), Preston CJ indicated that it is reasonable to infer that “environmental planning grounds” as stated in under cl4.6(3)(b), means grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EP&A Act – see Section 5.4.

The 4<sup>th</sup> ‘test’ is required to be demonstrated under cl4.6(3)(a) - see Section 5.1.

The 5<sup>th</sup> ‘test’ is demonstrated in Section 5.5.

## 4 Case Law

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### 4.3 *Wehbe v Pittwater Council* [2007]

The 5-part test under *Winten* was later supplemented by the Judgment in *Wehbe v Pittwater Council* [2007] LEC 827 (“*Wehbe*”) where Chief Justice Preston expressed the view that there are 5 different ways in which an objection to a development standard may be assessed as being well founded and that approval of the objection may be consistent with the aims of SEPP 1. These included:

1. Notwithstanding the non-compliance, is the proposal consistent with the relevant environmental or planning objectives?
2. Is the underlying objective or purpose of the development standard not relevant to the development with the consequence that compliance is unnecessary?
3. Would the underlying objective or purpose of the development standard be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable?
4. Has the development standard been virtually abandoned or destroyed by the consent authority’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable?
5. Is the zoning of the particular land unreasonable or inappropriate such that the development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and therefore, compliance with the standard would be unreasonable or unnecessary?

### 4.4 *Four2Five Pty Ltd v Ashfield Council* [2015]

In the Judgment of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (“*Four2Five*”) Pearson C expanded on the earlier Judgments of *Winten* and *Wehbe*, indicating that whilst consistency with zoning and standard objectives of the development standard is addressed specifically in cl4.6(4)(a)(ii), there remains an onus of also demonstrating that there are “*sufficient environmental planning grounds*” such that compliance with the development standard is unreasonable or unnecessary. Furthermore, that the environmental planning grounds must be particular to the circumstances of the proposed development rather than public benefits that could reasonably arise from a similar development on other land.

## 4 Case Law

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The environmental planning grounds that support the proposed variation to the HOB development standard in this circumstance are detailed in Section 5.2 of this variation request.

### 4.5 **Moskovich v Waverley Council [2016]**

Providing further guidance on the interpretation of cl4.6 compared to its predecessor SEPP 1, the Judgment in *Moskovich v Waverley Council [2016] NSWLEC 1015* ('Moskovich') outlines that cl4.6(3)(a) is similar to cl 6 of SEPP 1 and the ways of establishing that contravention of a development standard is well founded expressed in *Wehbe* (e.g. "achieving" the objectives of the development standard) are equally appropriate for the consideration of cl4.6(3)(a).

However, cl4.6(4)(a)(ii) has different wording to SEPP 1 and requires the consent authority to be satisfied that the proposed development is in the public interest because it is "consistent" with objectives of the development standard and objectives for the zone rather than "achieving" the objectives. Consequently, the considerations of cl4.6(3)(a) and cl4.6(4)(a)(ii) are different with the achievement test being more onerous and requiring justification in 'ways' such as those expressed in *Wehbe*.

Accordingly, whilst the Judgments in *Winten* and *Wehbe* related to variation requests under SEPP 1, the methodology and reasoning expressed in those Judgments continues to be the accepted basis upon which to assess variation requests pursuant to cl 4.6 with minor areas of differing interpretation.

### 4.6 **Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118**

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

## 4 Case Law

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In addition, Preston CJ ruled that cl4.6 does not directly or indirectly establish a “test” that a development which contravenes a development standard result in a “*better environmental planning outcome*” relative to a development that complies with the development standard. In fact, there is no provision in SILEP that gives substantive effect to the objectives of cl4.6 stated in cl4.6(1)(a) and (b). That is to say, neither cl4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “*achieve better outcomes for and from development*”.

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

## 5 Assessment of Variation

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### 5.1 Is the planning control a development standard?

Clause 4.3 provides inter-alia that (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

‘Development Standards’ has the following meaning ascribed to it under Section 4(1) of the *Environmental Planning and Assessment Act, 1979*:

*“development standards” means provisions of an environmental planning instrument in relation to the carrying out of development, being provision by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of -*

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

## 5 Assessment of Variation

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The Clause relevant in this instance is:

*(c) the character, location, siting, bulk, scale, size, height, density, design or external appearance of a building or work;*

On this basis, it is my opinion that Clause 4.3 of the North Sydney LEP 2013, although referred to as a local standard is a development standard and not a “prohibition” in respect of development, and one amenable to an objection under Clause 4.6. This would be consistent with Council’s intention.

### 5.2 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Preston CJ in *Wehbe v Pittwater Council [2007] NSWLEC 827* (21 December 2007), sets out 5 ways of establishing that compliance is unreasonable or unnecessary as follows:

*“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.....*

*43 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).*

*A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.....*

*A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.....*

*A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.....*

*A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary.....*



## 5 Assessment of Variation

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*However, care needs to be taken not to expand this fifth way of establishing that compliance is unreasonable or unnecessary beyond its limits. It is focused on “particular land” and the circumstances of the case. Compliance with the development standard is unreasonable or unnecessary not because the standard is inappropriate to the zoning, but rather because the zoning of the particular land is found to be unreasonable or inappropriate. If the particular land should not have been included in the particular zone, the standard would not have applied, and the proposed development would not have had to comply with that standard. To require compliance with the standard in these circumstances would be unreasonable or unnecessary.*

*50 However, so expressed, this way is limited. It does not permit of a general inquiry into the appropriateness of the development standard for the zoning. An objection would not be well-founded by an opinion that the development standard is inappropriate in respect of a particular zoning (the consent authority must assume the standard has a purpose).....*

*The requirement that the consent authority form the opinion that granting consent to the development application is consistent with the aims of SEPP 1 as set out in clause 3 (one of which is the promotion and coordination of the orderly and economic use and development of land) makes it relevant “to consider whether consent to the particular development application encourages what may be summarised as considered and planned development” or conversely may hinder a strategic approach to planning and development.”*

Set out below is an analysis of the standard, having regard to the principles enunciated in both the *Winten* and *Wehbe* judgements as applicable:

- The historic use of the site for a residential flat building containing 12 apartments demonstrates that the site is capable of having a new residential flat building, substantially within the same building envelope and general development standards on the site.
- The existing building was not stepped down the site, rather it was constructed with ground level parking, accessed off Warung Street, with three habitable levels above. The parking areas utilises the slope of the land, not the habitable floor levels.
- The DA plans submitted as part of the Development Application demonstrate that a residential flat building is capable of being constructed on the land, generally in accordance with the Local and State Government strategic and statutory planning provisions.
- The variation to the NSLEP 2013 Height of Buildings development standard is not applicable to the whole footprint of the building. The north-eastern section of the new building is fully compliant with the 8.5m height limit for the site. To raise the building higher at the north east so as to further emphasise stepping would however result in view loss impacts on properties across the road.

## 5 Assessment of Variation

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- The proposal does not adversely impact views of adjoining or adjacent properties. The properties to the north of the site are either high set or already impacted by the existing building envelope. As the height and eastern extent of the new building is compliant, views from the north are not unreasonably impacted.
- The lift overrun (the highest part of the building) has been revised in the amended RFI response plan set. It is low-set and not wide. The broad water views from the north remain either side of the structure with specific views to the Sydney Harbour Bridge to the south-east and majority of the city skyline retained.
- The area subject to the variation has been significantly reduced by revision of the proposal as part of the RFI response (LEC approved HOB variation area is 393m<sup>2</sup> of the roof area; amended plans is reduced to 313.9m<sup>2</sup>. Refer to Figure 3 above).
- The amended proposal has reduced the height and envelope of the lift overrun to its minimum; the solar panels are low profile and do not protrude above the parapet; the roof has been lowered by 150mm (optimised while retaining internal living area minimum and residential amenity).

### 5.3 Is the proposal consistent with the objectives of the standard?

The Land and Environments Court's recent position in considering consistency with objectives, is the adoption of Pearlman J in *Schaffer Corporation v Hawkesbury City Council (1992) 77 LGRA 21* where, Her Honor expresses the following opinion [at 27]:

"The guiding principle, then, is that a development will be generally consistent with the objectives, if it is not antipathetic to them. It is not necessary to show that the development promotes or is ancillary to those objectives, not even that it is compatible."

#### The objectives of the Maximum Height of Buildings standard are:

- (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

## 5 Assessment of Variation

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*accordance with, and promotes the character of, an area,  
(g) to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*

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

The site has a crossfall from the north-eastern corner on Warung Street to its Henry Lawson frontage, noting that Henry Lawson Avenue slopes from Blues Point Road towards McMahons Point in the east. The pavement on Henry Lawson Avenue is 3.5m-5.7m lower than the subject site.

The existing building was not stepped down the site, rather it was constructed with ground level parking, accessed off Warung Street, with three habitable levels above. The parking areas utilises the slope of the land, not the habitable floor levels.

The proposal achieves this objective as far as is practical in the circumstances with the ultimate development comprising only 3 storeys at the front and 4 storeys at the rear so as to give the effect of a stepped building with minimal disruption to the landform. The new building has been reimaged to provide a horizontal stratification and layering of the habitable floor levels when viewed from vantage points in the public realm and from the water. To raise the building higher at the north east so as to further emphasise stepping would however result in view loss impacts on properties across the road.

Overall, the proposal is considered to achieve this objective.

**Objective (b)** *is to promote the retention and, if appropriate, sharing of existing views*

The proposal does not adversely impact views of adjoining or adjacent properties. As shown in Figure 10 below, the properties to the north of the site are either high set or already impacted by the existing building envelope. As the height and eastern extent of the new building is compliant, views from the north are not unreasonably impacted. The lift overrun is low-set and not wide. The broad water views from the north remain either side of the structure with specific views to the Sydney Harbour Bridge to the south-east and majority of the city skyline retained.

Appended is a view impact assessment, dated September 2024 which is to be read in support of satisfaction of this objective.

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The non-complying element of the new building does not create unreasonable view impacts, with the north east section of the building being below the height limit. Increasing the height at this part of the building, up to the height limit would have greater potential for view impacts. The roof of the new building is only 200mm higher than the existing building, a minor increase.



Level 1/2 Warung St view analysis (orange = existing envelope; pink = LEC approved; blue = amended proposed)



Level 1 4 Warung Street view analysis (orange = existing envelope; pink = LEC approved; blue = amended proposed)

### ***Figure 10: View sharing analysis from Level 1 of No. 2 and No. 4 Warung Street***

Properties to the north along Blues Point Road are not unduly impacted by the western façade of the new building. Figure 11 is the existing façade, Figure 12 is the new building (with the outlines of the existing façade in orange). There are improved views past the new building than either the existing or approved building. Similarly views down Blues Point Road (Figure 13) towards the Harbour are not adversely impacted on the western façade.

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**Figure 11: Existing western façade**



**Figure 12: Proposed western façade**



**Figure 13: Proposed view from U5/42 Blues Point Road across western façade of building (purple is approved envelope; blue is amended RFI response envelope)**

The following Figure 14 shows view lines from a unit within No. 30-40 Blues Point Road. This view is not impacted by the building envelope of the new building and the iconic view of the Sydney Harbour Bridge and Sydney Cityscape is across the public carpark and reserve area.



**Figure 14: View from No. 30-40 Blues Point Road**

## 5 Assessment of Variation

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Overall, the height of the new building remains generally within the parameters of the existing building. The new roof is only 200mm higher than the existing building and the only protrusion above that is the lift overrun. This is centrally located (east-west) and approximately 3m wide.

As views are shared, having regard to the siting of development and hierarchical expectation of views to the front row, this objective is satisfied

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

The site has a north-south orientation with road reserves on the northern, western and southern sides of the property. Additional shadows from the proposal have been tracked and shadow diagrams submitted with the DA package. These demonstrate that only very minor increases occur as a result of the new development and these predominantly fall over the road reserve areas only, there is also a reduction in the amount of overshadow cast over the Henry Lawson Reserve during winter when comparing the current proposal to the LEC approved DA. Solar access to adjoining properties is reasonably maintained and the breaching height does not create any material impact on the adjoining property. This objective is achieved.

**Objective (d)** *is to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings*

The layout and orientation of the apartments is improved by the opportunities presented to redevelop the whole of the site, rather than additions and alterations to the existing building. The layout of the apartments takes into account the location of window openings, particularly in relation to No. 3 Warung Street (being the only property adjoining the site). These have revised further in the amended RFI response plan set to address concerns raised by the owners of No. 3. Low traffic bedrooms are located in the north-eastern section of the building, to be fitted with privacy screens where they face towards the dividing boundary (above fence height). Where living areas are proposed in the south-section of the building off-privacy screens are to be installed to address any potential overlooking to the east. Figure 15 below shows the small window openings towards Warung Street and screens on each of the upper levels. No unreasonable privacy impacts occur with overlooking potentials appropriately mitigated by screens, strategic siting of windows and incorporation of planter boxes to balcony edges.

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Figure 15: No. 3 View analysis (Source: Squillace, Sept 2024)

The western balconies on the existing building are not repeated in the new building with only low traffic bedrooms facing Blues Point Road. The living areas are focused to the south – towards the Harbour and city skyline views.

**Objective (e)** is to ensure compatibility between development, particularly at zone boundaries

The development site is not located at a zone boundary and is an existing use right in the R3 zone.

This section of McMahons Point and Blues Point contains an eclectic mix of low, medium and high-density development. The existing development is a longstanding flat building, built in the 1960's after the Warung Street heritage listed residences, No. 30-40 Blues Point Road (constructed prior to 1955) and the Blues Point Tower (built around 1962) were constructed. The building's height, bulk and building mass lies between the large, low-density residences and the multistorey, high-density tower buildings.

The proposal does not seek to substantially alter the built form or volume of the existing development. In heritage terms the existing building has been categorised as

## 5 Assessment of Variation

'uncharacteristic'. The proposed modern building of the site by the proposal provides a link between the past and present, providing a recategorisation of the building as 'neutral' within the McMahon Point South Heritage Conservation Area landscape. Given this in addition to the retention of the overall urban morphology of the area, the new development, in my opinion, is compatible with the height and urban morphology of adjoining and adjacent development. This objective is achieved.

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

The subject site is located on a corner block with three street frontages and is opposite Henry Lawson Reserve. The three streets that surround the subject site vary in topography and character. The site is zoned R3 Medium Density Residential and the proposed development is permissible, via existing use rights, with Council's consent.

As stated above the existing building is a 1960's red brick flat building with at-grade parking with access off Warung Street. It is situated amongst an eclectic mix of building types, including detached older dwellings (some heritage listed), modern infill developments and residential flat buildings (both medium and high density).

In relation to the scale of the proposal, including overall height the following comparison provides an overview of how the new building fits and complements the existing character of the McMahons Point area.





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*Figure 17: Existing and proposed building – visual fit with character of area*

In terms of heritage, the site is not a listed heritage item, rather Council's DCP (Appendix) lists the site as 'uncharacteristic'. The proposal is deemed to be a visual fit of the development, recategorising the new development as 'neutral'. The existing setting is generally only changed in a positive manner and the building is compatible with the character of the area by way of a building that represents modern architecture and the evolution of development in the locality which respects the existing traditional built form whilst appreciating its context and external amenity. This objective is achieved.

**Objective (g)** is to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone E4 Environmental Living

This objective cannot be achieved as the existing built form and surrounding already is inconsistent with the one-two storey forms which are referenced.

The existing building is three storeys over at-grade parking with adjoining and adjacent

## 5 Assessment of Variation

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buildings ranging in age, height and scale between 3-4 storeys and many much higher examples within the visual catchment that create and define the character of the locality particularly when viewed in round from public places. Figure 17 above shows the general view of site and adjoining buildings, demonstrating that the proposal, being substantially the same as the existing building, is not dissimilar or a poor fit with the urban morphology of the immediate area.

### 5.4 Are there sufficient environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the NSLEP 2013 requires the departure from the development standard to be justified by demonstrating:

*That there are sufficient environmental planning grounds to justify contravening the development standard.*

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings control as it applies to the site. In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

The applicable circumstances that relate to the site are discussed below:

- The proposal achieves the NSLEP building height objectives. It achieves view sharing, solar access, privacy, scale, density, compatibility and character objectives as outlined in this submission. The impacts on amenity from the variation are negligible to minimal. The proposal complies with other envelope controls.
- The height and scale of the building is compatible with the surrounding development which demonstrates significant variation, most of which are well in excess of the height limit and which define the existing and desired future character.
- In the round, the building height does not appear to be inconsistent with the height of surrounding development, including the lower density dwellings, and does not appear to be “standing out above the crowd”.
- The requested variation is based on the topography of the land together with the

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historical development of the site and more broadly the height, form and function of development in the immediate area, addressed below.

- The original flat building was built in the 1960's. It did not step down the site. Rather it was built over at-grade parking which altered the original topography and lowered the base ground level. The parking utilised the slope of the land, not the habitable floor levels above. Hence the upper floor level of the existing building varies from Council's adopted height limit.
- In June 2023, in *Highbury Warung Pty Ltd v North Sydney Council [2023] NSWLEC 1329*, the NSW LEC approved a residential flat building that varied the height limit for the site by 3.15m (37%); to a maximum height of 11.65m. It has already established a height variation as acceptable in the circumstances, the envelope approved has established an acceptable baseline and the built form and massing in fact reduced in critical areas particularly to the south.
- In considering the clause 4.6 submission, Acting Commissioner Pullinger, at paragraph [98] was satisfied that the written request was justified for the following reasons:
  - (1) *The DA exceeds the 8.5m height of buildings development standard, proposing a maximum height of 11.65m, which is 3.15m greater than the development standard, or a variation of approximately 37%.*
  - (2) *Of relevance, the maximum height of building is attributable to a proposed lift overrun generally situated towards the centre of the site. The remaining upper- most roof level - given the site's sloping topography - is situated at a height of approximately 11.5m along the southern facade line and approximately 8.3m towards the north-east corner of the site along Warung Street.*
  - (3) *Aside from the proposed new lift overrun, the typical height of the roof is not proposed to increase from that currently evident on the site today - acknowledging that the extent of this existing roof is proposed to increase as a consequence of the proposed alterations and additions and will result in new building form situated in the north-eastern corner of the site in a location where it is otherwise generally consistent with the 8.5m height*

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*control.*

- (4) The DA does not materially impact views of nearby properties. Affected properties to the north of the subject site have views already determined by the height of the existing building. As the extent of the existing roof extends to the north-east, I accept that views to the north will not be unreasonably impacted, while views toward the harbour bridge, its pylons and the city skyline will be generally retained with some relatively minor impact.*
- (5) The protrusion above the existing roof height attributable to the lift overrun has been limited to 360mm, is situated towards the centre of the building and minimises the extent of any view impact.*
- (6) The proposed height exceedance does not result in unreasonable overshadowing impacts off site, with any additional shadowing falling primarily on Henry Lawson Avenue and Henry Lawson Reserve. Minor additional overshadowing affects the neighbouring property at 3 Warung Street from 2pm on the winter solstice and affects a small number of windows addressing the common boundary and improves solar access to the private open space at 3 Warung st during the Equinox when compared to the previous approval.*
- (7) The works associated with the DA will improve the presentation of the existing uncharacteristic building and result in a building which is agreed to be at least neutral in its contribution to the local area.*
- The existing building and the site have not been substantially changed since its original construction. The quantitative value of the proposed variation is therefore substantially the same as the existing development and the development approved by the NSW LEC in DA379/2021. The proposal, including the lift overrun, is amended to be lower than the height of the approved LEC lift overrun (RL25400). and does not seek to significantly increase the overall height of the building from the original building or that approved in June 2023.
  - The proposal seeks to utilise substantially the same building envelope as the existing building, particularly in terms of height which established the available views and built form and volume.

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- The existing building is listed in Council's DCP as 'uncharacteristic' in heritage terms. The replacement of this building, as proposed, will improve the form and function of the site within the setting of the McMahons Point South HCA by providing new, high quality living standards to the area without substantially altering the built form or locational context of the HCA. The proposal results in a site-specific uplift from 'uncharacteristic' to 'neutral' within the HCA.
- The north-eastern section of the building is height compliant; the eastern façade setback is increased and overall interrelationship of the proposed development and the heritage item immediately east of the property (No. 3 Warung St) is substantially improved in the new building.
- The consequence of strict compliance with the 8.5m height limit would necessitate the loss of an entire floor of the new building. This is economically unviable, not desirable and would be contrary to the Object of the Act at s1.3 which seeks to promote the orderly and economic development of the land.
- The overall height of the building when viewed from the street is entirely consistent with (and in many cases, subservient to) the predominant scale of buildings in the immediate area particularly Warung Street and lower end of Blues Point Road.
- To step the building would create a foreign and undesirable built form inconsistent with the traditional built form which characterises the local historic context and locality and in fact exacerbate the visual impact and layering of the built form when viewed from the south.
- Arguably, the height standard applicable is grossly out of alignment with both the existing and likely future scale and character of the locality, and the proposed height better reflects and is complimentary to and compatible with the height and scale of development in the locality. In this regard, a two-storey building would appear squat and uncharacteristic in terms of its proportions and result in a poor urban design outcome particularly within this denser urban environment.
- The non compliance allows for orderly and economic development of the land for the use of a residential flat building contributing to increased housing stock.

Based on the above the consent authority can be satisfied that there are sufficient

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environmental planning grounds to warrant the Height of Building variation.

Notwithstanding the contravention of the development standard, the proposed residential flat building development will not result in significant adverse environmental harm in that the environmental amenity of neighbouring properties will be preserved and any perceived adverse impacts on the amenity of the locality are minimised through good design solutions and/or retention of the existing urban morphology of the existing development.

There are direct social and economic benefits for the property owner and the local residents with the modification of the facades of the building, maintenance of the character of the area by sympathetic new development and enhanced residential amenity for occupants.

The proposal will allow the building to be recategorised, in heritage terms, from 'uncharacteristic' to 'neutral' within its locational context without compromising the thematic reading of nearby heritage items or significantly altering the interrelationship of the site to its immediate, high-profile environs.

In addition, this written request outlines, in Section 5.2, sufficient environmental planning grounds to justify the contravention of the Height of Building development standard.

Accordingly, this written request can be relied upon by the consent authority in accordance with cl4.6(3) of the LEP.

### 5.5 Clause 1.3 Objects of the EP&A Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in 'Initial Action' considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP&A Act 1979 relevantly provides:

#### **1.3 Objects of Act**

*The objects of this Act are as follows:*

**(a) to promote the social and economic welfare of the community and a better**

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

The proposal, accepting the height variation described above, reasonably satisfies the objectives of under s1.3 EP&A Act 1979. The DA plan set satisfy the objectives in bold (as above) given that:

- The built form and building envelope have been developed to optimise the available development volume for the site.
- The proposal makes best use of land currently serviced by existing infrastructure, within an area identified by Council and the historical development pattern and built forms as a reasonable fit in this case;
- The proposed variations are permissible, subject to clause 4.6 of the NSLEP 2013;
- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit based assessment under the s4.15 heads of the consideration of the EP&A Act 1979;
- Redevelopment to a compliant height and FSR would necessitate removal of at least one storey of the building. This would impact significantly the viability of the site redevelopment;
- The urban design outcomes, incorporating the proposed building, which includes the proposed height variation is not antipathetic to the likely future character of the McMahons Point area, particularly as the area is experiencing demand for high quality apartments in accessible areas of urban centres.

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

- The additional height is created from a combination of site characteristics, historical development and design considerations that present a high quality design for the site that is demonstrated to be an acceptable fit within the McMahons Point area.
- The additional height does not result in any undue adverse impacts on the site, its surrounds or any neighbouring property.
- The variation is very site specific and does not create any precedence in the application of the height limits in the area.



## 6 Conclusion

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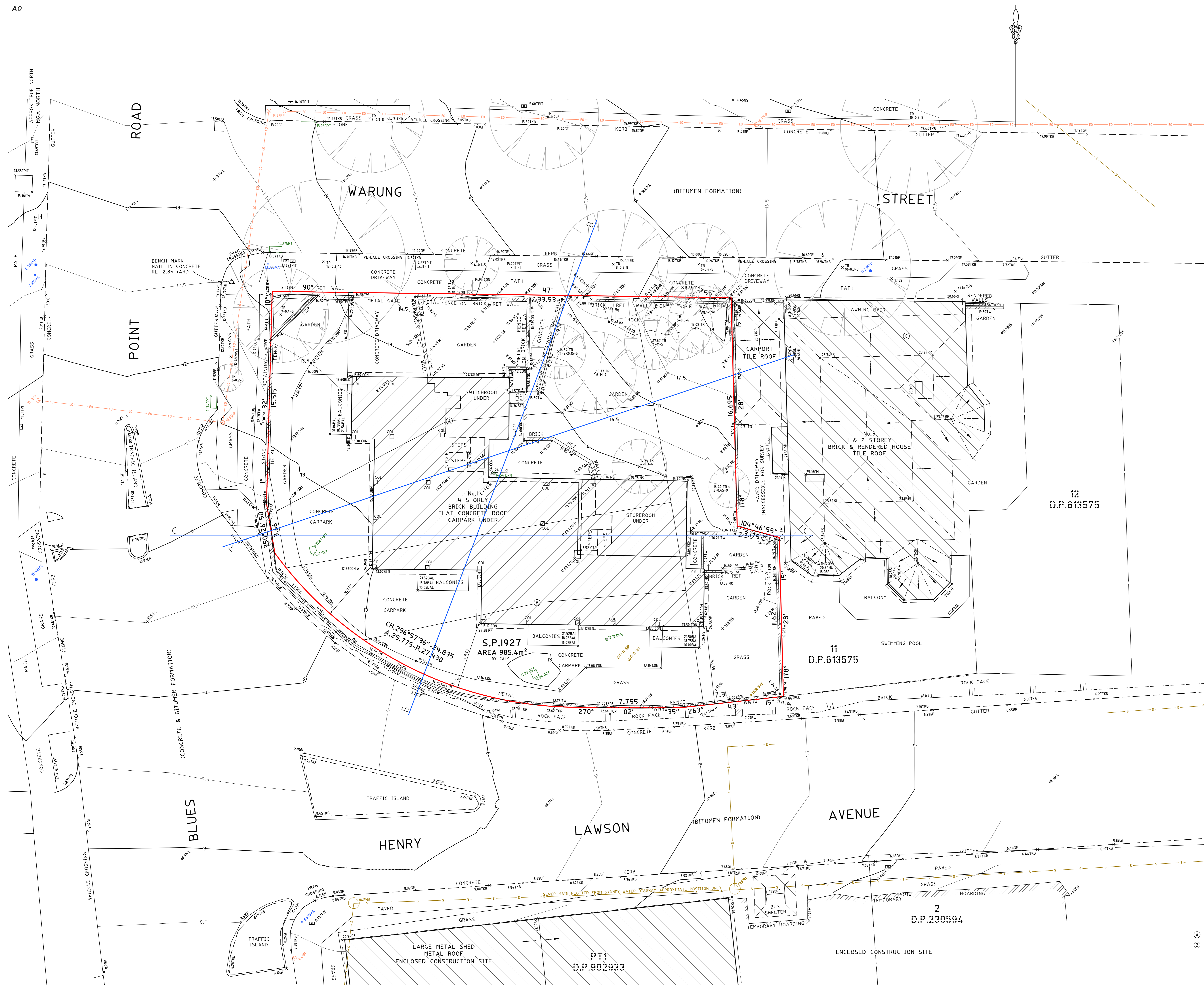
The proposed development contravenes Clause 4.3 of the NSLEP 2013 being a *development standard* and height is not excluded from the application of clause 4.6 of NSLEP 2013.

This written request to vary the development standard has been prepared in accordance with cl4.6 of the NSLEP 2013 and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the reasons outlined in this submission.

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the development standard.

Accordingly, the consent authority can exercise its power pursuant to cl4.6(2) to grant development consent to the proposed development notwithstanding the contravention of the development standard.

AO



SEE SHEET 2 FOR SECTIONS

NOTES

- BOUNDARIES HAVE BEEN DEFINED.
- IF CONSTRUCTION ON OR NEAR BOUNDARIES IS REQUIRED IT IS RECOMMENDED THAT THE BOUNDARIES OF THE LAND BE MARKED.
- AREA IS APPROXIMATE ONLY AND HAS BEEN CALCULATED BY TITLE DIMENSIONS. ALL TITLE DIMENSIONS OF THE LAND HAVE NOT BEEN CONFIRMED BY SURVEY. IF AREAS ARE CRITICAL WE RECOMMEND A BOUNDARY SURVEY FOR PUBLIC RECORD.
- TREE SIZES ARE ESTIMATES ONLY.
- THIS PLAN HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF HGBURY WARUNG PTY LTD
- RELATIONSHIP OF IMPROVEMENTS TO BOUNDARIES IS DIAGRAMMATIC ONLY. WHERE SPOTS ARE CRITICAL THEY SHOULD BE COVERED BY FURTHER SURVEY.
- EXCEPT WHERE SHOWN BY DIMENSION LOCATION OF DETAIL WITH RESPECT TO BOUNDARIES IS INDICATIVE ONLY.
- ONLY VISIBLE SERVICES HAVE BEEN LOCATED. UNDERGROUND SERVICES HAVE NOT BEEN LOCATED. BEFORE YOU DO SERVICES (60 1000 SHOULD BE USED AND A FULL UTILITY INVESTIGATION INCLUDING A GUTTER LEVEL SURVEY SHOULD BE UNDERTAKEN BEFORE CARRYING OUT ANY CONSTRUCTION ACTIVITY IN OR NEAR THE SURVEYED AREA.
- SEWER MAIN PLOTTED FROM SYDNEY WATER SEWER DIAGRAM. LOCATION SHOULD BE MARKED ON SITE IF CRITICAL.
- CRITICAL SPOT LEVELS SHOULD BE CONFIRMED WITH SURVEYOR.
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**LEGEND:**

BAL	= BALCONY
BLD	= EXTERNAL BUILDING
BW	= BOTTOM WALL
CHE	= CHIMNEY
CL	= CENTRELINE
CON	= CONCRETE
CPIT	= COMMUNICATIONS PIT
EPK	= ELECTRICITY PILLAR
GF	= GUTTER LEVEL
GR	= GRATE
HL	= HOOD LEVEL
HYD	= HYDRANT
LID	= MISCELLANEOUS PIT LID
NS	= NATURAL SURFACE
PP	= POWER POLE
POST	= POST BOX
RF	= TOP OF ROOF
RK	= ROCK
RR	= ROOF RIDGE
SL	= SILL LEVEL
SMH	= SEWER MAN HOLE
SVA	= STOP VALVE
TFCE	= TOP OF FENCE
TKB	= TOP OF KERB
TOR	= TOP OF ROCK
TPIT	= TELSTRA PIT
TR	= TREE
TW	= TOP OF WALL
EH	= ELECTRICITY OVERHEAD
S	= SEWER UNDERGROUND

TREE  
 SPREAD-DIAMETER-HEIGHT

**HORIZONTAL DATUM:**  
 CO-ORDINATE SYSTEM: MGA (GDA94)  
 MARKS: ADOPTED: PM 95753, PM 95754

**VERTICAL DATUM:**  
 DATUM: AUSTRALIAN HEIGHT DATUM (AHD)  
 B.M. ADOPTED: PM 95753  
 R.L. 19.67 (ORDER 4)  
 SOURCE: S.C.I.M.S. (28/01/2020)

6	ADDED DP XSECTIONS	27/05/2024
5	SECTION ADDED: SYD METRO	07/12/2021
4	EXTRA DETAIL ADDED	04/02/2021
3	STREET LEVELS ADDED	7/08/2020
2	AMEND SUBJECT BUILDING TEXT	24/02/2020
1	FIRST ISSUE	21/02/2020

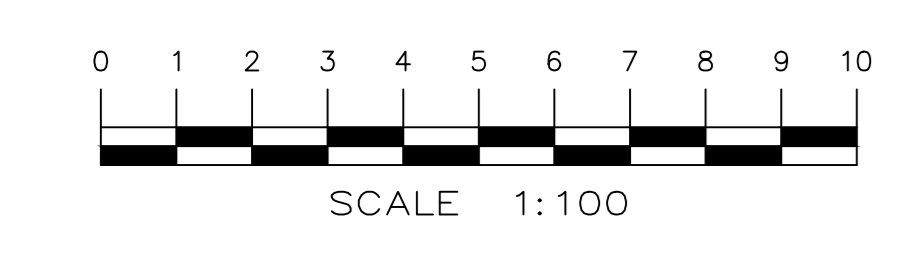
**CLIENT:**  
**HGBURY WARUNG PTY LTD**  
 SUITE 5/540 SYDNEY ROAD  
 SEAFORTH NSW 2092

**SURVEY PLAN**  
**SHOWING DETAIL & LEVELS**  
**OVER S.P.1927**  
**1 WARUNG STREET**  
**McMAHONS POINT NSW 2060**

**C.M.S. Surveyors Pty Limited**  
 ACN: 096 240 201  
 PO Box 463, Sea View, NSW 2250  
 2/206 South Coast Road, Potts Point NSW 2011  
 Telephone: (02) 9511 4800  
 Facsimile: (02) 9511 4822  
 Email: info@cmsurveyors.com.au

LG: NORTH SYDNEY	SHEET 1 OF 2		
SURVEYED	DRAWN	CHECKED	APPROVED
PB_MB_ABS	ABS/CL	PB	AF
SURVEY INSTRUCTION	SCALE	DATE OF SURVEY	
19099	1:100 @ AO	28/01/20-25/01/21	
DRAWING NAME	ISSUE		
19099Adetail	6		
CAD FILE			
19099Adetail 6.dwg			

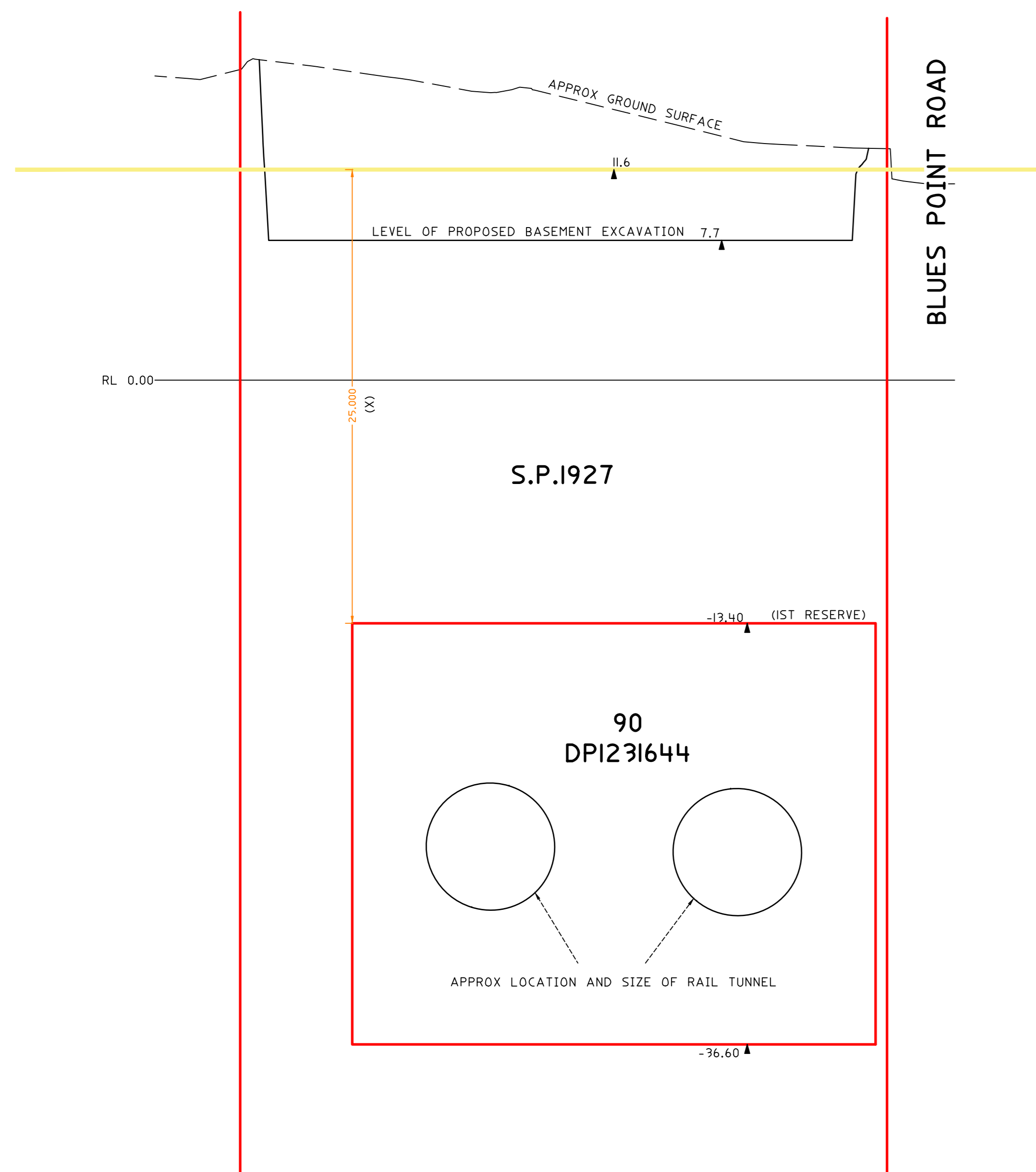
TITLE INDICATES THAT IN S.P.1927 SUBJECT TO:  
 - RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)  
 - ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA SCHEMES MANAGEMENT REGULATION 2006  
 - DIPS058599 CROSS EASEMENTS (SEE IBB, CONVEYANCING ACT, 1991)  
 - TRANSFER J56628 AFFECTING THE PARTY WALL ON THE COMMON BOUNDARY AFFECTING THE SITE DESIGNATED (A) IN THE TITLE DIAGRAM  
 - X903967 CHANGE OF BY-LAWS  
 - ATTENTION IS DIRECTED TO CLAUSE 9 SCHEDULE 4 STRATA SCHEMES (FREELAND DEVELOPMENT ACT 1973 REGARDING BOUNDARIES BETWEEN LOTS AND COMMON PROPERTY IN STRATA SCHEMES REGISTERED BEFORE 1-7-1974  
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 AFFECTING THE LAND ABOVE DESCRIBED, ISSUED 27/6/2017  
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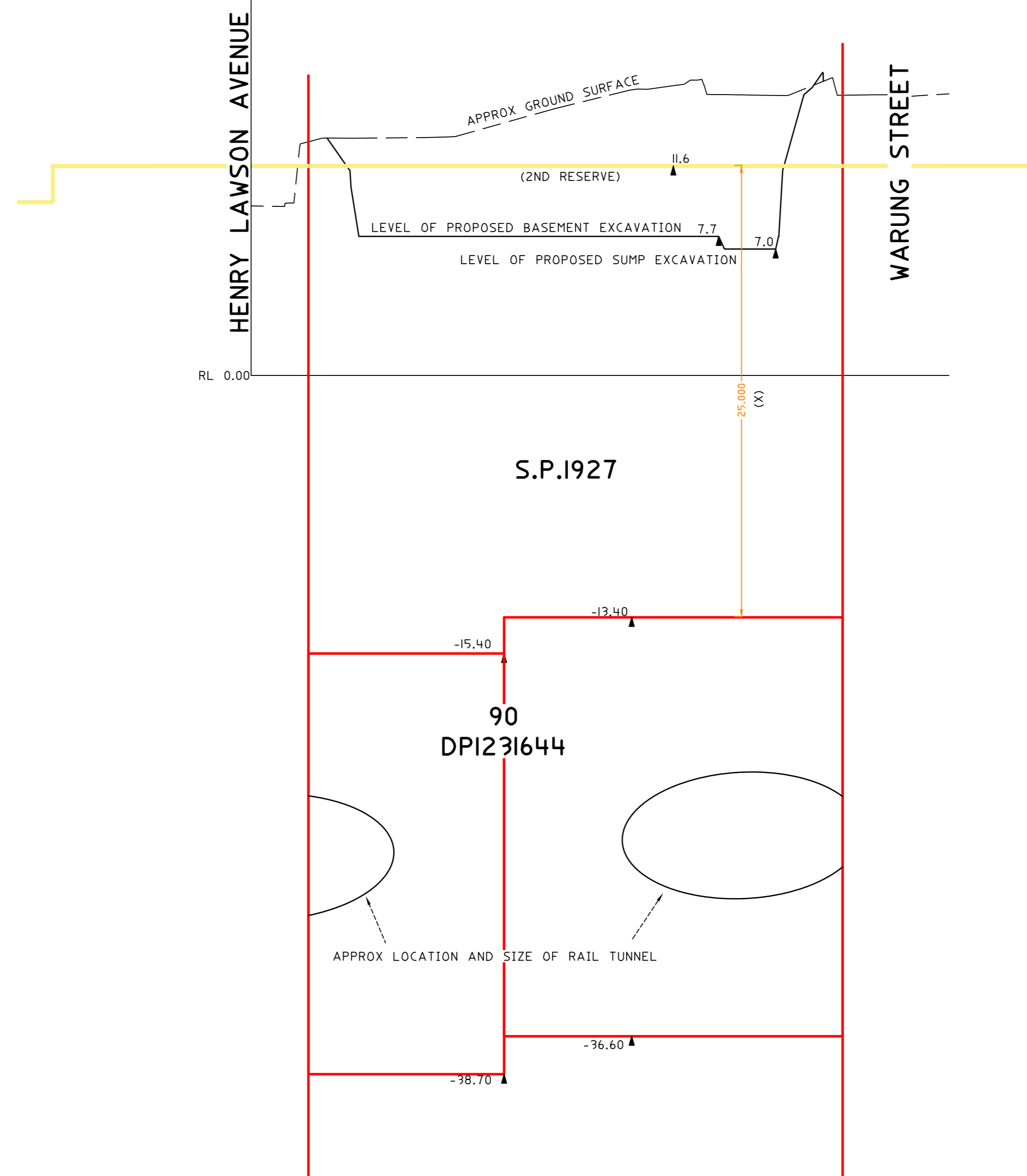
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THESE SECTIONS HAVE BEEN CREATED TO ALIGN WITH CROSS SECTION UNDERLAY DRAWINGS (SHOWN IN GREY) SUPPLIED BY DOUGLAS PARTNERS - DRAWING REFERENCES 203182.01.D.002 Rev0 AND 203182.01.D.003 Rev0. THESE HAVE BEEN INCLUDED TO VERIFY THE LOCATION OF THE BORE HOLES AND SUB SOIL PROFILES - PLEASE SEE DOUGLAS PARTNERS DRAWINGS FOR FURTHER INFORMATION.

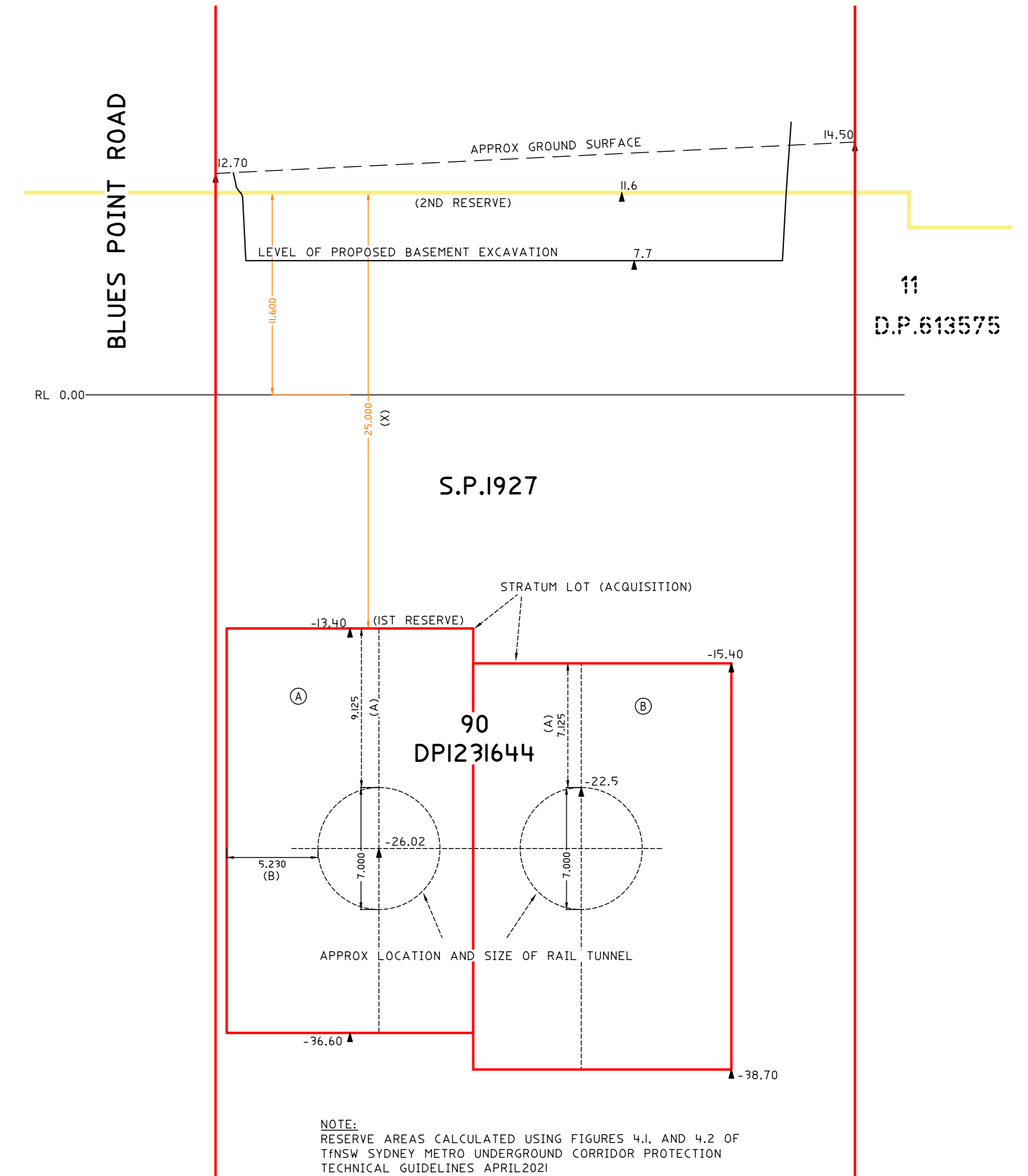
SECTION A-A SHOWING LOCATION OF SYDNEY METRO SUBSTRATUM LOTS AND PROTECTION RESERVES



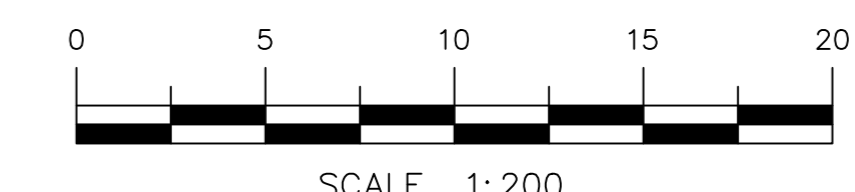
SECTION B-B SHOWING LOCATION OF SYDNEY METRO SUBSTRATUM LOTS AND PROTECTION RESERVES



SECTION C-C SHOWING LOCATION OF SYDNEY METRO SUBSTRATUM LOTS AND PROTECTION RESERVES



NOTES: RESERVE AREAS CALCULATED USING FIGURES 4.1 AND 4.2 OF TNSW SYDNEY METRO UNDERGROUND CORRIDOR PROTECTION TECHNICAL GUIDELINES APRIL 2021. TUNNELS AND CAVERNS: 1ST RESERVE: TOP (A) CALCULATED TO BE EXTENT OF SYDNEY METRO SUBSTRATUM ABOVE CROWN. SIDE (B) CALCULATED TO BE LATERAL EXTENT OF SYDNEY METRO SUBSTRATUM. 2ND RESERVE: TOP (A-X) CALCULATED TO BE A+25m. SIDE (B-Y) CALCULATED TO BE B+25m.



- (A) EXCLUDING LOT 90 IN D.P.1231644 LYING BETWEEN RL -13.4 AND RL -36.6m AHD
(B) EXCLUDING LOT 90 IN D.P.1231644 LYING BETWEEN RL -15.4 AND RL -38.7m AHD

TITLE INDICATES THAT IN S.P.1927 IS SUBJECT TO: - RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S); - ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA SCHEMES MANAGEMENT REGULATION 2016; - D.P.1231644 CROSS EASEMENTS (SEE 188, CONVEYANCING ACT, 1999) CREATED BY TRANSFER J56428 AFFECTING THE PARTY WALL ON THE COMMON BOUNDARY AFFECTING THE SITE DESIGNATED (A) IN THE TITLE DIAGRAM; - 903967 CHANGE OF BY-LAWS; - ATTENTION IS DIRECTED TO CLAUSE 9 SCHEDULE 4 STRATA SCHEMES (FREELAND DEVELOPMENT ACT 1973 REGARDING BOUNDARIES BETWEEN LOTS AND COMMON PROPERTY IN STRATA SCHEMES REGISTERED BEFORE 1-7-1974); - ART01719 PROPOSED ACQUISITION PURSUANT TO SECTION 11 LAND ACQUISITION (JUST TERMS COMPENSATION) ACT, 1991 AFFECTING THE LAND ABOVE DESCRIBED, ISSUED 27/6/2017; - APPROVED THIS EDITION ISSUED PURSUANT TO SUB REAL PROPERTY ACT, 1900

NOTES

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HORIZONTAL DATUM: CO-ORDINATE SYSTEM: MGA (GDA94) MARKS: ADOPTED: PM 95753, PM 95754. VERTICAL DATUM: AUSTRALIAN HEIGHT DATUM (AHD) B.M. ADOPTED: PM 95753 R.L. 19.67 (ORDER 4) SOURCE: S.C.I.M.S. (28/01/2020)

Revision table with columns for revision number, description, and date. Includes entries for added DP sections, section added, extra detail added, street levels added, amend subject building text, and first issue.

CLIENT: HGBURBY WARUNG PTY LTD SUITE 5/540 SYDNEY ROAD SEAFORTH NSW 2092

SURVEY PLAN SHOWING DETAIL & LEVELS OVER S.P.1927 1 WARUNG STREET McMAHONS POINT NSW 2060

C.M.S. Surveyors Pty Limited ACN: 096 240 201

Project information table including LGA (NORTH SYDNEY), SHEET (2 OF 2), SURVEYED, DRAWN, CHECKED, APPROVED, SURVEY INSTRUCTION, SCALE, DATE OF SURVEY, DRAWING NAME, and ISSUE.

# STATEMENT OF HERITAGE IMPACT

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*Development Application*  
**1 Warung Street, McMahons Point**  
February 2024 | J4903

**Weir  
Phillips**  
*Heritage  
and Planning*

Level 19, 100 William Street, Woolloomooloo NSW 2011  
Phone: (02) 8076 5317

Report Preparation			
Director	James Phillips B.Sc.(Arch), B.Arch, M.Herit.Cons.(Hons)		
Associate Director	Anna McLaurin B.Envs.(Arch.), M.Herit.Cons. MURP.		
Report Details			
Statement of Heritage Impact for:	Demolition of existing residential flat building and construction of a new residential flat building.		
Prepared for:	Highbury Warung		
Revisions			
Revision	Date	Prepared by	Reviewed by
Draft 1	02.02.24	AM	JP
Final	27.02.24	AM	AM

*We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all aboriginal people.*

Cover photo: View of the existing building from the intersection of Warung Street and Blues Point Road.

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## 1 INTRODUCTION

### 1.1 Preamble

This Statement of Heritage Impact (SoHI) has been prepared in conjunction with a Development Application (DA) for the demolition of the existing residential flat building and construction of a new residential flat building at No. 1 Warung Street, McMahons Point, New South Wales.

The site is located within the North Sydney Council Area. The principal planning instrument for the site is the *North Sydney Local Environmental Plan 2013 (LEP 2013)*. The site is located within the McMahons Point South Heritage Conservation Area (CA14) as defined by Schedule 5 Part 2 of the *LEP 2013*. Under Part 5.10 of this plan:

*(4) Effect of proposed development on heritage significance*

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

*(5) Heritage assessment*

*The consent authority may, before granting consent to any development:*

*(a) on land on which a heritage item is located, or*

*(b) on land that is within a heritage conservation area, or*

*(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

In order to assess the potential impacts of the DA on the Conservation Area and on any nearby heritage items, a heritage management document must be submitted with the DA. The appropriate heritage management document, in this instance, is a SoHI. This document is submitted in satisfaction of this requirement.

This report has been prepared at the request of the owners of the site and accompanies architectural drawings prepared by Squillace.

### 1.2 Statutory Heritage Listings for the Site

The following table identifies the statutory heritage listings for the site and identifies any heritage items/conservation areas that lie in its vicinity. For further information refer to Section 4.0.

<i>Listing Type</i>	<i>Item Name and Details</i>	<i>Listing Number</i>
Listed by the State Heritage Register under the <i>Heritage Act 1977</i> (NSW).	No	N/A



<i>Listing Type</i>	<i>Item Name and Details</i>	<i>Listing Number</i>
Listed as an item of local heritage significance by Schedule 5 Part 1 of the <i>North Sydney LEP 2013</i>	No	N/A
Located within a heritage conservation area identified by Schedule 5 Part 2 of <i>North Sydney LEP 2013</i>	Yes	McMahons Point South (CA14)
Located in the vicinity of items or conservation areas listed by the State Heritage Register under the <i>Heritage Act 1977</i> (NSW).	No	N/A
Located within the vicinity of local heritage items by Schedule 5 Part 1 of <i>North Sydney LEP 2013</i>	Yes	No. 3 Warung Street (I0515); No. 5 Warung Street (I0516); No. 7 Warung Street (I0517); No. 9 Warung Street (I0518); North Sydney Bus Shelter (I0407); Blues Point Waterfront Group (I0423); Blues Point Tower (I0408); Stone Retaining Wall, Blues Point Road (I0426).
Located within the vicinity of a Conservation Area identified by Schedule 5 Part 2 of <i>North Sydney LEP 2013</i>	No	N/A
Sydney Opera World Heritage Buffer Zone Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Yes	N/A

**Table 1: Statutory Heritage Listings.**

### 1.3 Methodology

A site inspection was undertaken in January 2024 for the preparation of this SoHI by Weir Phillips Heritage and Planning. All photographs of the site were taken at this time unless otherwise noted.

This SoHI has been prepared with reference to the Heritage NSW publications *Assessing Heritage Significance* (2023 update) and *Statements of Heritage Impact* (2023 update) and with reference to the planning documents listed under

#### 1.4 *Limitations*

A detailed history of the site and a full assessment of significance to Heritage NSW standards were not provided for. This SoHI provides a brief history and assessment of significance for site compiled from readily available sources.

An assessment of archaeological potential and archaeological significance, Aboriginal or historical, is outside the scope of this SoHI.

Site inspection was done from ground level only and was non-invasive.

Community consultation has not been undertaken as part of this Development Application.

#### 1.5 *Site Location*

No. 1 Warung Street, McMahons Point is located on the southern side of the street near to the junction with Blues Point Road (Figure 1). The site is identified as SP. 1927.



**Figure 1: Site Location shown highlighted in yellow.**

Source: SIX Maps 2024

## 2 **SITE ASSESSMENT**

### 2.1 *The Site*

For the following, refer to Figure 2 an aerial photograph over the site, and to the survey that accompanies this application.



**Figure 2** An aerial photograph showing the subject site.

**Source:** Six Maps.

The subject site is an irregularly shaped lot is located on a corner block with Warung Street to the north, Blues Point Road to the west and Henry Lawson Avenue to the south. The site area is 985.4sqm. The site has a northern boundary (Warung Street) of 33.53m; a western boundary (Blues Point Road) of 19.175m; a long curved southern boundary; and a staggered eastern boundary of approximately 28.315m.

The material of boundary fencing/ walling varies between brick sandstone block, cut sandstone and metal palisade fencing. The main pedestrian access from Warung Street is defined by a brick wall containing the residents post boxes to the eastern side and a low wall with a modern metal palisade fence to the western side.

Vehicular access is located to the western end of the Warung Street boundary and secured by tall metal palisade style electric gates. The concrete vehicular access leads to the under-croft style parking area to the southern side of the site. There is also a small garden area to the north east corner of the site. This is comprised of lawn with boundary planting.

The residential flat building, described below, occupies the southern section of the site.

Refer to Figure 3 - Figure 7.



**Figure 3: The Henry Lawson Drive boundary. The curve was cut to accommodate a steady gradient for the tramline.**



**Figure 4: Detail of the sandstone cutting comprising the southern boundary.**



**Figure 5: Pedestrian access from Warung Street. Note the variety of fences.**



**Figure 6: Vehicular access from Warung Street.**



**Figure 7: Small area of lawn to the north east portion of the site.**

## **2.2 The Building**

No. 1 Warung Street, McMahons Point is a three-storey c.1960s residential flat building (RFB). The RFB is constructed in a roughly L shaped formation. It is constructed of face brick set beneath a flat roof.

The Warung Street elevation has informally arranged white aluminium framed windows of varying sizes and orientation.

To the northern end of the western elevation there are three balconies, one to each level. The balconies are constructed of cantilevered concrete slabs bound with simple metal rail balustrades. They are typical of this building style. The lower two balconies are accessed by a single glass swing doors and also have fixed frame windows set above a small section of face brick wall. The upper-level apartment has been modified to replace the original door and window arrangement with a full width sliding door. To the north of the balconies the face brick wall contains two windows to each level. The windows are comprised of a large fixed frame with an operable sash.

---

The southern façade has a further nine balconies all detailed to match those of the western elevation. As with the western elevation there is some evidence of the original door and window arrangement having been altered to some of the apartments.

The slope of the site permits for an open undercroft to the south which is currently used for car parking.

The exterior of the building is illustrated by Figure 8- Figure 11



**Figure 8:**  
The northern  
elevation as viewed  
from Warung Street.



**Figure 9:**  
The northern  
elevation as viewed  
from within the  
grounds.



**Figure 10:**  
Eastern  
elevation.



**Figure 11:** The  
southern and  
western  
elevations.

### 2.3 *The Surrounding Area*

For the following, refer to Figure 12 an aerial photograph of the site and its surrounds. Note the works relating to the north of the site for the new Metro have since been completed and relandscaped.



**Figure 12:** Aerial photograph over the subject site and the surrounding area.

#### **SIX Map 2024**

##### 2.3.1 *Warung Street*

Warung Street runs from Blues Point Road in the west to East Crescent Street in the east. Warung Street carries traffic in both directions and has parking on both sides of the street. There are regularly spaced street trees and concrete footpaths, kerbs and gutters.

No. 1 Warung Street is located within an area of mixed building types, including detached older style dwellings, modern infill development, medium density residential flat buildings and high density residential flat buildings.

No. 3 Warung Street, to the east of the subject property, refer to Section 4.4.1 of this report, is a Victorian era dwelling with high boundary walls providing privacy from the streetscape. Directly opposite the site are No. 2 and No. 4 Warung Street, these dwellings are shown in the 1958 aerial, Figure 29, as a pair of single storey dwellings. They have since been modified with the inclusion of living space to their upper floors, refer to Figure 15. The building at No. 10 Warung Street, Figure 17, is a mid-20<sup>th</sup> Century brick and concrete high density residential flat building.

The surrounding lots are relatively generous and are orientated towards the view of Sydney Harbour. The street pattern is irregular and follows the contours of the land.

Figure 13 - Figure 16- illustrate the setting of Warung Street.





**Figure 13:**  
Streetscape  
character to the east  
of the subject  
building.



**Figure 14:** View from  
the east back  
towards the subject  
building.



**Figure 15:**  
Dwellings  
directly opposite  
the subject  
property.



**Figure 16:**  
**Dwellings**  
**directly opposite**  
**the subject**  
**property.**

### 2.3.2 *Blues Point Road*

The western street boundary addresses Blues Point Road, this is a long north- south running road provides the main access to McMahon's Point from North Sydney. The subject site is located at the southern end which terminates at the Blues Point Reserve car park. The general character of the section of Blues Point Road in which the subject property is located is defined by a mix of inter-war flat buildings and mid 20<sup>th</sup> Century residential flat buildings. Blues Point Tower, refer Figure 17 and Section 4.4.5 of this report, is located to the southeast of the subject property, due to its scale and location on the headland this building is a dominant landmark within McMahons Point.

No. 30-40 Blues Point Road, is located to the immediate west of the subject property. it is a mid 20<sup>th</sup> Century three-storey, face brick, residential flat building, refer to Figure 18.

Figure 17 -Figure 18 illustrate the character of Blues Point Road in the vicinity of the site.



**Figure 17: Blues Point Tower. To the south west of the subject property.**



**Figure 18: Medium density residential flat building at No. 30-40 Blues Point Road, McMahon's Point.**

### 2.3.3 *Henry Lawson Avenue*

Located to the southern side of the subject site, Henry Lawson Avenue was created by cutting into the natural stone as part of the construction of a tramline in 1909, resulting in a man-made sandstone wall to the northern side of the street. It was originally known as Cliff Avenue, its name having been changed to Henry Lawson Avenue in the late 1960s to commemorate the centenary of his birth in 1868. The wall has undergone alteration in the past and as shown in Figure 21 sections have previously been repaired or altered.

The southern side of Henry Lawson Avenue comprises a foreshore park that has since been relandscape following the removal of the Sydney Metro tunnel boring dive site.

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Also located to the southern side of the street is the Blues Point Bus Shelter, refer to Section 4.4.2 of this report for further details.

Figure 19- Figure 22 illustrate the character of Henry Lawson Avenue in the immediate vicinity of the site.



**Figure 19:**  
Streetscape  
character of  
Henry Lawson  
Avenue.



**Figure 20:**  
The northern  
side of Henry  
Lawson Avenue  
showing the  
road cutting.



**Figure 21:**  
Southern  
boundary of  
No.3 Warung  
Street. Note the  
brickwork  
retaining wall  
above the 1909  
sandstone  
cutting.



**Figure 22** Heritage  
Listed bus stop to  
the south of the  
subject property.

### **3 BRIEF OUTLINE OF THE HISTORICAL DEVELOPMENT**

#### **3.1 *Land of the Cammeraigal People***

While an Aboriginal history is not provided for, it is acknowledged that present-day McMahons Point and surrounding suburbs lie within the traditional country of the Cammeraigal people.

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### 3.2 **Brief Outline of the History of the Area**

In his *An Account of the English Colony in New South Wales*, published at the end of the eighteenth century, David Collins refers to the 'North Shore' of Sydney Harbour, a designation that remains to this day.<sup>1</sup>

From 16 January 1793, successive colonial governors granted land outside the declared boundaries of the township of Sydney in order to open up the land and augment the colony's food supplies.<sup>2</sup> The northern shores of Sydney Harbour were located well outside the first township boundaries. Beyond use for timber getting and the collection of shells for lime, the North Shore was largely ignored by the first European settlers until a series of land grants were made in and around the present-day North Sydney area in the mid-1790s. Few of the soldier recipients of these first 20- to 30-acre grants would appear to have developed their holdings. Most grants were not taken up, but were traded or abandoned for better land elsewhere.<sup>3</sup>

Whether occupied or not, by the end of the 1830s, most of the land within the present North Sydney Council area had been granted. The subject property stands on 80 acres granted to William Blue under the hand of Governor Lachlan Macquarie on 24 January 1817 (Figure 2). Blue's grant was subject to a number of conditions typical of the period: no land was to be sold or alienated for five years; within this time, 18 acres were to be cultivated. The Crown reserved the right to create a public road through the grant, of watering, shipping and of all timber deemed 'fit for naval purposes.' The deed of grant specified that it be known by the name of 'Northampton.'<sup>4</sup>

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<sup>1</sup> Isadore Brodsky, *North Sydney 1788-1962*, NSW, Municipal Council of North Sydney, 1963, p. 8.

<sup>2</sup> The right to land grants was only gradually conceded from this date. Land was available to officers from 16 January, 1793 and to emancipists from 1794.

<sup>3</sup> Eric Russell, *The Opposite Shore: North Sydney and Its People*, NSW, North Shore Historical Society, 1990, p. 27.

<sup>4</sup> Register of Grants, Serial 2, Page 122. NSW LPI.



**Figure 23: An early map of Billy Blue's Point, showing the 80-acre grant to William Blue. The approximate position of the subject site is shown by the black arrow.**

**Source: Undated Map Parish of Willoughby. Part of the Parish Map Preservation Project conducted by the Department of Lands.**

William ('Billie') Blue was one of the more colourful of the early colonists. Described in records as a 'Jamaican Negro sailor', Blue was convicted of theft and sentenced to seven years transportation in 1796. By the time he reached Sydney in 1801, he had less than two years of his sentence to serve. Blue worked as a waterman and collected and sold oysters and other items. His services were advertised in the *Sydney Gazette* in 1807 in the following manner:

*'William Blue respectfully informs the public that he being the only waterman licensed to ply a ferry on this Harbour, they will be accommodated with a tight and clean boat, an active oar and an unalterable inclination to serve those who honour him with their command.'*<sup>5</sup>

Blues 'eccentric' and 'loquacious' character made him a popular figure. Finding favour with Governor Macquarie, he was appointed harbour watchman and constable in 1811, a position that came with a landmark octagonal dwelling on the southern shores of the Harbour. Blue established a harbour ferry service, giving rise to the nickname the 'Old Commodore.' Despite his government appointment, Blue was often suspected of smuggling. When two illicit casks of rum were found in his possession in 1818, he lost his government appointments and was imprisoned for a year. Blue and his family occupied their North Shore grant. By 1833, they were reported as keeping a ferryboat and cultivating fruit and vegetables for the Sydney market.<sup>6</sup> Billy Blue died in 1834 at his property 'Northampton'; under the terms of his will, his land was divided among his five

<sup>5</sup> Cited in Stanton Library, Heritage Leaflet Series: Boat Building in North Sydney, NSW, Stanton Library, 2001 (update).

<sup>6</sup> Ibid.

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surviving children, William, Robert, John, Susannah and Mary.<sup>7</sup> Contrary to Blue's wishes, his family began to subdivide and sell their land within two years of his death.

The subdivision of Blue's grant occurred at the very beginning of a significant period of development on the North Shore. The Township of St. Leonards was declared in 1838; by 1846, the township boasted a population of just over 400 people. A year after the gazettal of St. Leonards, Blues Point Road was gazetted as a thoroughfare connecting the ferry wharf and the township. The road was sometimes known as St. Leonards Road or Lane Cove Road.

By 1851, the township of St. Leonards supported a population of 737 people.<sup>8</sup> Outside of the township, a pattern of harbourside villa estates developed as substantial residences were constructed at Neutral Bay, Kirribilli, Milsons Point and Lavender Bay to take advantage of the spectacular harbour views. Among the residents were prominent merchants or colonial administrators. Alongside these villas were more modest dwellings occupied by people able to obtain local or independent employment.

In September 1854, a second township, 'North Sydney', was proclaimed and it was predicted that:

'...It is no Little Sydney but a North Sydney, a rival to the southern city intended to be a depot for the produce of the rich tracts of land to be opened up between it and the unexplored north of the County of Cumberland.'<sup>9</sup>

A real estate advertisement from March 1855 claimed that:

*'...no town in New South Wales had progressed so rapidly as St. Leonards...(it is)...studded with first class mansions, shops, family houses, cottages and farms in all directions.'*<sup>10</sup>

The establishment of the first all-passenger service between Milsons Point and Circular Quay in 1861 would stimulate progress over the next period.

### **3.3 Subdivision and site development**

Blue's grant was progressively subdivided during this formative period of development on the North Shore; between 1850 and 1870, most of the middle and southern sections of the peninsula were subdivided and sold.

Between 1881 and 1895, the population of the North Shore grew from 7,000 people to 25,000 people, an increase brought about by the numerous subdivisions that occurred during these years and by improved transportation and services. The development of North Sydney had received a significant boost when the North Shore Railway line opened between Hornsby and St. Leonards in January 1890. The line was extended to Milsons Point

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<sup>7</sup> 'Blue, William (Billy) (1767? - 1834)', *Australian Dictionary of Biography, Supplementary Volume*, Victoria, Melbourne University Press, 2005, pp 35-36.

<sup>8</sup> Barry Bridges, *The Crows Nest Estate, 1821-1873*, p.20. Unpublished document dated 1996. North Sydney Heritage Collection, Stanton Library.

<sup>9</sup> Illustrated Sydney News 2 September, 1854.

<sup>10</sup> Cited in B. Bridges, *op cit.*, 1996, p.31.



in 1893.<sup>11</sup> From 1886, a double-track cable tramway ran from the original Milsons Point Ferry wharf, located where the north pylon of the Harbour Bridge is now, via Alfred Street (now Alfred Street South), Junction Street (now Pacific Highway), Blue Street and Miller Streets to the engine house and depot in Ridge Street.

Sydney was divided into municipalities during this era. The area now the Municipality of North Sydney was initially divided into two, and later three, separate council areas. The first to be established was the Borough of East St. Leonards, declared in 1860; it would not be until 1868, however, that the first Council was elected. The Borough of St. Leonards was declared in 1867. Four years later, however, it split, creating the Borough of Victoria, in which the subject property was located. The three boroughs would eventually combine to create the Municipality of North Sydney in 1890.

Prior to the development of the residential flat building, described in Section 3.0 of this report, the subject site appears to have previously been developed with a single storey structure. Figure 24, extracted from the 1890 water board plan, indicates that the southern section of the subject property was occupied by a building and a separate outhouse. The northern portion of the site is shown as undeveloped. Warung Street is largely undeveloped at this time and that the plan appears to have been created prior to the construction of Henry Lawson Avenue, it is shown on the plan as 'Cliff Lane'.



**Figure 24: 1890 Waterboard Plan. The arrow indicates the location of the subject property.**

Stanton Library North Sydney Sheet No. 16, 1891

As demonstrated by Figure 25 and Figure 26 the structure depicted in Figure 24 remains evident until the pre WWI. This phase of development appears to comprise of a single storey dwelling set beneath a pair of gabled roofs.

<sup>11</sup> Godden Mackay, *North Sydney Heritage Study*. Unpublished report for North Sydney Council, 1993. North Sydney Heritage Collection, Stanton Library.



**Figure 25: c.1900 Image to McMahons Point.**  
City of Sydney Archives [SRC 919.441 SOUV/2 #12]



**Figure 26: Extract of a circa 1900 of Sydney Harbour from McMahons Point.**

State Library of Victoria H34434

Figure 27 **Error! Reference source not found.** demonstrates that by 1943 the site had been modified and appears at this time to contain hipped roofed structure located to the southern boundary. There is no evidence of the earlier double gable roof form. Further

detail shown in Figure 29 from 1958 depicts a single storey dwelling set beneath wide gable roofed brick structure.



**Figure 27: Aerial photograph, showing the subject property in 1943. Note the bitumen strip tracing the tramline, closed in 1932. Blues Point Road continues top link with the car ferry landing. It was the principal car ferry service from the North Shore to Dawes Point.**

**Source: SIX Maps**

Also depicted in Figure 28 is the former tramline which was closed in 1932 when all tram services were diverted across the Harbour Bridge to the new terminus at Wynyard and the ferry service from Circular Quay to MacMahons Point ferry wharf was suspended.

The cut was made in 1909 to accommodate the tram line from McMahon's Point to Chatswood and Lane Cove, giving residents from these suburbs and locations along the line direct access to a cross harbour ferry. Figure 28 is an extract of the supplementary maps from the Wilson's Sydney & Suburban Street Directory 1928, it shows that the Cliff Lane had been widened and was referred to as Cliff Avenue.



**Figure 28: Extract of Tram map showing Cliff Avenue.**

**Wilson's Sydney & Suburban Street Directory 1928, supplementary maps.**



**Figure 29: 1958 Aerial view north along Blues Point Road.**

**Source: Stanton Lib LH REF PF2757**

The earliest photographic evidence of the subject building, discovered during the preparation of this report, is the 1965 aerial, Figure 30. This aerial show that the earlier hipped roofed house had been demolished and construction of the subject building had commenced. In 1966 H.D Allen & Co and Allen Estates Pty Ltd created the Strata Plan for the residential flat building.<sup>12</sup>

<sup>12</sup> NSW LPI Register of Strata Plans 1966 pg 148

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Cliff Avenue was renamed Henry Lawson Avenue in 1967<sup>13</sup> in the year of the centenary of Henry Lawsons birth<sup>14</sup>.

Figure 31 depicts the building in 1973 showing the altered setting of Warung Street and McMahon's Point arising from the development of the subject property.



**Figure 30: 1965 aerial showing the site under construction.**

**Source: NSW Government Spatial Collaboration Portal**

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<sup>13</sup> 'MUNICIPALITY OF NORTH SYDNEY. —NAMING OF ROAD.—Notice is hereby given that the North Sydney Council,' *Government Gazette of the State of New South Wales (Sydney, NSW : 1901 - 2001*

<sup>14</sup> Australian Dictionary of Biography - Henry Lawson <https://adb.anu.edu.au/biography/lawson-henry-7118>



**Figure 31 McMahon's Point c.1973**

**Source: Stanton Library LH REF CT 3 of 25**

#### **4 ASSESSMENT OF SIGNIFICANCE**

##### **4.1 Summary of Statutory Heritage Listings**

No. 1 Warung Street, McMahon's Point

<b><i>Listing Type</i></b>	<b><i>Item Name and Details</i></b>	<b><i>Listing Number</i></b>
Listed by the State Heritage Register under the <i>Heritage Act 1977</i> (NSW).	No	N/A
Listed as an item of local heritage significance by Schedule 5 Part 1 of the <i>North Sydney LEP 2013</i>	No	N/A
Located within a heritage conservation area identified by Schedule 5 Part 2 of <i>North Sydney LEP 2013</i>	Yes	McMahon's Point South (CA14)
Located in the vicinity of items or conservation areas listed by the State Heritage Register	No	N/A

<b>Listing Type</b>	<b>Item Name and Details</b>	<b>Listing Number</b>
under the <i>Heritage Act 1977</i> (NSW).		
Located within the vicinity of local heritage items by Schedule 5 Part 1 of <i>North Sydney LEP 2013</i>	Yes	No. 3 Warung Street (I0515); No. 5 Warung Street (I0516); No. 7 Warung Street (I0517); No. 9 Warung Street (I0518); North Sydney Bus Shelter (I0407); Blues Point Waterfront Group (I0423); Blues Point Tower (I0408); Stone Retaining Wall, Blues Point Road (I0426).
Located within the vicinity of a Conservation Area identified by Schedule 5 Part 2 of <i>North Sydney LEP 2013</i>	No	N/A
Sydney Opera World Heritage Buffer Zone Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	Yes	N/A

#### **4.2 The McMahons Point South Conservation Area**

The North Sydney DCP provides the following Statement of Significance for the McMahons Point South Conservation Area:

*The McMahon's Point South Conservation Area is significant:*

*(a) For its connection to the early grant to William Blue and the Harbour crossing point at Blues Point, the early waterfront industry of Sydney Harbour, both of which can be interpreted by physical remnants.*

*(b) As a mid 19th to early 20th century residential area with a mix of Victorian, Federation, 1920's and 1930's housing mixed with some Inter-war residential flat buildings.*

This statement is adopted for the purposes of this assessment.

#### **4.3 Contribution of the subject property to the Conservation Area**

The building is a late 1960s residential flat building and as such falls outside of the key development period of the McMahon's Point South Conservation Area as identified by the North Sydney DCP.

No. 1 Warung Street, McMahons Point has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.

Weir Phillips concurs that the building currently makes a negative contribution to the McMahon's Point South Heritage Conservation Area.

#### 4.4 Heritage Items and Conservation Areas in the Vicinity of the Site

For the following, refer to Figure 32 which provides a detail of a heritage map from the NSW Planning Portal. In this plan, local heritage items are coloured brown and numbered and Conservation Areas are hatched red and numbered. The site is outlined in yellow and indicated by the red arrow.



**Figure 32: An extract from the NSW Planning Portal showing the site (outlined in yellow) and the heritage items in the vicinity of the site**

As shown above, there are two heritage items listed by Schedule 5 Part 1 of the *LEP 2013* within the vicinity of the site, being:

- Warung Street Group comprising:
  - No. 3 Warung Street (I0515);
  - No. 5 Warung Street (I0516);
  - No. 7 Warung Street (I0517);
  - No. 9 Warung Street (I0518);
- North Sydney Bus Shelter (I0407);
- Blues Point Waterfront Group (I0423);
- Blues Point Tower (I0408);
- Stone Retaining Wall, Blues Point Road (I0426).

#### 4.5 Sydney Opera House World Heritage Buffer Zone

It is noted that the site lies within the Sydney Opera House World Heritage Buffer Zone as indicated by the map contained in the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. Assessment against the controls is considered as part of this proposal.





**Figure 33: Sydney Opera House world heritage buffer zone. The site is indicated by the orange arrow.**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005



**Figure 34: View from the south of the site towards the Sydney Harbour Bridge and Opera House.**

#### 4.5.1 Warung Street Group

As depicted in Figure 35 - Figure 37 the Warung Street Group is comprised of the four properties to the immediate east of the subject property.

The following physical description has been extracted from the items Heritage Inventory Sheet:

*Three houses sited on the ridge above the Blues Point/McMahons Point waterfront, two single storey and one two storey, all built of rendered brick with slate roofs. Architecturally, they all are of a Victorian Italianate style, though No. 7-9, the two storey house has timber gable-screens and an entrance porch which are stylistically more related to the Queen Anne Style. Nevertheless, the hipped roofs, faceted bays and cast-iron verandah balustrades dominate and produce a consistent visual sweep along the ridge. The view is spoiled by the flats at No. 1, which are entirely contrasting, however, an infill development at No. 3A is a new house which pays homage to its neighbours through use of slate to the roof and a vestigial faceted bay to the waterfront facade, and is a quality sympathetic building. This building is designed in the Victorian Italianate style.*

The following Statement of Significance has been extracted from the items Heritage Inventory Sheet:

*A group of fine quality late nineteenth century waterfront villas prominently sited and with important views across the Harbour. Each house is a good example of its type, the three being stylistically similar, and as a group would be exceptional on any site. Their survival here is remarkable and is a tribute to their standard.<sup>15</sup>*

The information within the individual listing sheet for No. 3 Warung Street (refer to Figure 35) describes the building as:

*Single storey rendered brick house with basement storey towards the waterfront. Hipped gable roof is clad in slate and a three-facet projecting bay to the waterfront has a faceted hipped roof. Verandah bay is modified by projecting balcony over lower storey with cast-iron lace balustrade. This building is designed in the Victorian Italianate style.<sup>16</sup>*



**Figure 35: No. 3 Warung Street, McMahon's Point.**

<sup>15</sup> Warung Street Group, McMahon's Point. State Heritage Inventory Database No.: 2180673.

<sup>16</sup> House, No. 3 Warung Street, McMahon's Point. State Heritage Inventory Database No.: 2180674.

The information within the individual listing sheet for No. 5 Warung Street (refer to Figure 36) describes the building as:

*Single storey rendered brick house with hipped gable roof of slate and a verandah returning on two sides towards the waterfront, which has a corrugated-iron skillion roof. There are two three-faceted projecting bays, each with faceted hipped roof, one central to the western facade, the other forming the south-east corner. This building is designed in the Victorian Italianate style.<sup>17</sup>*



**Figure 36: No. 5 Warung Street, McMahons Point**

The information within the individual listing sheet for No. 7 Warung Street (refer to Figure 37) describes the building as:

One of a two storey rendered brick semi-detached pair of houses (Nos. 7 & 9 Warung Street) with gabled roof of slate formed as twin parallel gables, each with a timber half-screen to the gable end. The side elevations each have a central projecting three-facet bay with hipped faceted roof. Ground and basement floor verandahs to waterfront have corrugated-iron bull-nosed roof carried on iron posts with cast-iron lace valences, quadrant brackets and balustrades. This building is designed in the Victorian Filigree style...<sup>18</sup>

<sup>17</sup> House, No. 5 Warung Street, McMahons Point. State Heritage Inventory Database No.: 2180675.

<sup>18</sup> House, No. 5 Warung Street, McMahons Point. State Heritage Inventory Database No.: 2180675.



**Figure 37: No. 7 Warung Street, McMahons Point.**

#### View Corridors

The buildings within the Warung Street Group are best viewed from the south as they are generally orientated towards the view of the Harbour. The subject property does not form part of any significant view setting of the items however is part of the setting of the items.

#### 4.5.2 *North Sydney Bus Shelter*

The Bus shelter located on Henry Lawson Avenue is part of a group listing which spans North Sydney. There is no listing sheet for this group. However as shown in Figure 38. It is a small timber framed structure set beneath a tiled half hipped gable roof. The structure has the stop name painted to its frame.

This item is best viewed from within the street.



**Figure 38:  
Henry Lawson  
Bus shelter.**

#### 4.5.3 Blues Point Waterfront group

The following information has been extracted from the items State Heritage Inventory Listing Sheet.

##### Statement of Significance:

*'One of the earliest areas of Settlement on the North Shore and with Milson's Point, the major gateway from the city to the North Shore until the opening of the Bridge. Important relics of transportation by ferry and tram, plus associated modified landforms, all now contained in a Public Reserve. Highly regarded public reserve with important views to and from the harbour, made colourful and interesting by relics of its development.'*

##### Physical Description:

*The area encompassed in this listing covers all lands south of the cliff face that forms the northern boundary of Henry Lawson Drive, from the McMahons Point Ferry Wharf to the northernmost end of the public reserve on the western side of Blues Point, but additionally includes the public steps from the corner of East Crescent Street and Warung Street down to the McMahons Point Ferry Wharf. This area is largely a flat shelf retained by seawalls around the foreshore, with a ridge along Blues Point on which sits the Blues Point Tower. Most of the land, excepting the Blues Point Tower, is publicly owned. Numerous features, plus the landform itself, are evidence of the progressive usage of the area from the early nineteenth century.<sup>19</sup>*



**Figure 39:**  
**Image of the Blues Point Water front Group.**

#### 4.5.4 Blues Point Tower

The following information has been extracted from the items State Heritage Inventory Listing Sheet.

##### Statement of Significance:

*'Conspicuous, though unpopular, example of Internationalist style. This landmark building was innovative in its day and intended as a forerunner of a whole movement in architecture and*

<sup>19</sup> Blues Point Waterfront Group, McMahons Point. State Heritage Inventory Database No.: 2180621

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*high-density housing. The tower in its landscaped setting is illustrative of the modernist architectural philosophies propounded by Le Corbusier and others. Its construction was a factor in a popular revolt against such types of development, particularly in this area. It was voted, in a popular poll, the building most Sydneysiders would like to see removed. Interior Ground Level foyer of significance including its relationship with the exterior landscape.'*

Physical Description:

This building is designed in the Post-War International style.

A twenty-five storey apartment building, square in plan, of steel and reinforced concrete. Floors are articulated by central Corbusian windows to each floor, with a flanking square balcony recess on alternating sides on alternating floors on the east/west facades and a similar but more complex alternation of the same features on the north/south facades.<sup>20</sup>



**Figure 40: Blues Point Tower.**

View Corridors

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<sup>20</sup> Blues Point Tower, McMahons Point. State Heritage Inventory Database No.: 2180599

Due to the scale of the Blues Point Tower, it is a visually dominant item which is visible from both the land and the water. The subject property does not form part of any of the view corridors of this building.

#### 4.5.5 *Stone Retaining Wall, Blues Point Road (10426).*

The following information has been extracted from the items State Heritage Inventory Listing Sheet.

##### Physical Description:

A stretch of waterfront which is comprised of a series of boat landings, some as stone lined solid jetties, some as stone-walled slipways and others as channels between lines of stone walling. There is one major boatshed, used for small-scale boat repair which, although the shed is of relatively recent construction might well be a continuation of a long-standing activity. A road reservation (Dowling Street) runs to the water from West Crescent Street, it contains a set of steps to the water. This site also contains the shore connection of a group of electricity cables connected to Good Island.<sup>21</sup>



**Figure 41: Stone retaining wall.**

##### View Corridors

Due to the scale of the Blues Point Tower, it is a visually dominant item which is visible from both the land and the water. The subject property does not form part of any of the view corridors of this building.

## 5 HERITAGE IMPACT ASSESSMENT

### 5.1 *Scope of Works*

The following should be read in conjunction with the plans prepared by Squillace that accompany this application.

- Demolish all structures on site. Retain sandstone wall and cutting.
- Construction a contemporary residential flat building of five levels with basement.

<sup>21</sup> Foreshores, Slipways and Seawalls McMahons Point. State Heritage Inventory Database No.: 2180703

- Expansion of approved basement footprint as approved via NSW LEC 2022/157325 (DA379/21). Garage entry to basement to remain the same as approved.
- The new residential flat building is to be of similar scale and footprint to the existing building on site.
- Materials & Finishes:
  - Rough-cut sandstone base.
  - Mosaic irregular white tile detail for the exterior of circulation cores.
  - White textured render for the majority of the façade.
  - Bronze cladding for the upper level of the façade.
  - Bronze privacy screens and window frames.

## 5.2 **Pre-Lodgment Consultation**

In June 2023 the NSW Land and Environment Court (LEC 2022/157325) approved the works relating to DA379/21. The DA sought consent for the partial demolition of an existing residential apartment building, excavation and construction of a basement, new basement entry off Henry Lawson Drive, as well as construction of new apartment additions above and alteration of the remaining apartments at 1 Warung Street, McMahons Point. Prior to commencement of the hearing in the proceedings, on 25 November 2022, the Court granted leave to the Applicant to amend the DA. The DA underwent minor amendments to address and revolve the Respondents (North Sydney Council) contentions. In relation to heritage the Commissioner made the following comments in regard to the proposed entry off Henry Lawson Avenue:

*I also accept that the heritage impacts attributable to the creation of a new basement entry into the cliff face and retaining wall are minimised to the greatest extent possible by:*

*(1) A generally discreet design solution that minimises the extent of intervention, is neatly detailed in sandstone and with a recessed garage door receding from view.*

*(2) Its general south-facing orientation, resulting in the proposed opening being cast in shadow for the majority of the day.*

*(3) The proposed removal of non-significant concrete elements and existing sewer pipe to improve the presentation and clarity of the remaining cliff face and retaining wall.*

*(4) The landscape design proposal, which will result in vegetation trailing down the cliff face and retaining wall, improving its general presentation from the public reserve.*

## 5.3 **Method of Assessment**

The following is a merit-based assessment. It does not consider compliance or otherwise with numerical controls unless non-compliance will result in an adverse heritage impact. Refer to the planning documents that accompany this application.

The proposal is assessed by consideration of:

- The relevant controls of the North Sydney LEP 2013;
- The objectives and controls for new works to and in the vicinity of heritage items as per Part 3 of the North Sydney DCP 2013;
- with an understanding of the requirements for Heritage Impact Statements provided by the Heritage NSW publication Statements of Heritage Impact (2023 update); and



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## 6 EFFECT OF WORK

### 6.1 General Discussion

The proposed works will have a minimal and acceptable impact on the significance of The McMahons Point South Heritage Conservation Area and neighbouring heritage listed items for the following reasons:

- The proposed works will construct a sympathetically designed modern infill building that will not detract from the significance of the heritage items and heritage conservation area in the vicinity. The proposed new building is contemporary in character but demonstrates respect for the key forms, architectural proportions, and materials of contributory buildings in the HCA. This is an appropriate response to new works in HCA and is supported by the *North Sydney DCP 2013* and Article 22 of the *Burra Charter 2013*. The explanatory notes for which state:

*New work should respect the significance of a place through consideration of its siting, bulk, form, scale, character, colour, texture and material. Imitation should generally be avoided.*

- The proposed materials and finishes complement the adjoining Conservation Area whilst helping to identify this building as later infill development, which is a desirable outcome in a site adjoining Conservation Area. A rendered finish is the predominant wall finish in the Conservation Area, particularly the heritage items to the north. A cement render with split face sandstone base for the building and a rough cut sandstone block fencing has been chosen as part of the contemporary design to reference the finishes of the nearby items.
- The inclusion of a basement entry was approved by DA379/21 (approved by NSW Land and Environment Court 2022/157325). In the current proposed the publicly visible entry will not differ from the approved entry. As such the expansion of the basement will have no additional impact on the presentation of the sandstone cutting along Henry Lawson Avenue.
- As noted elsewhere, the subject site is not a heritage item. The building on site is not considered to be of heritage significance, either through the assessment of North Sydney Council or by the authors of this statement. The proposal to demolish the existing building on the subject site, this will have no impact on the significance of the McMahons Point.
- The proposed building will read as one of several residential flat buildings in the immediate vicinity, including the contributory Inter-war era flat buildings to the west of the site. However, in terms of other apartment buildings in the vicinity it is moderate scale and will not have undue prominence in the locality.
- The proposed works will improve the contribution made by the building to the conservation area by means of a refreshed design which utilises warm modern neutral finishes. This will enable the building to act as a transitional buffer between the mid 20<sup>th</sup> century development to the west of the site and the older heritage listed buildings to the east of the site.
- No change is proposed to the location of the site boundaries.

- The proposal landscaping is appropriate and will improve the appearance of the building within the streetscape.

## 6.2 *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

Part 5 Heritage Provisions	
Objectives	
53 Objectives	
(1) The objectives of this plan in relation to heritage are:	
Control	Comment
(a) to conserve the environmental heritage of the land to which this Part applies, and	The environmental heritage of the Sydney Opera House including significant view will not be affected by the proposed worked. The proposed development is similar in scale to the existing apartment building and has adopted a muted colour scheme to not conflict with white of the Opera House Sales.
(b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items, and	The proposed new building is located approx.. 1km from the Opera House. The proposed development does not have excessive height or bright colours which could hamper views to or from the item.
(c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and	n/a
(d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items.	n/a

<p>(2) The objectives of this plan in relation to the Sydney Opera House are:</p> <p>(a) to establish a buffer zone around the Sydney Opera House so as to give added protection to its world heritage value, and</p>	<p>This report responds to the controls for sites within the buffer zone to ensure there is no adverse impacts on the Sydney Opera House.</p>
<p>(b) to recognise that views and vistas between the Sydney Opera House and other public places within that zone contribute to its world heritage value.</p>	<p>Given the similar scale to the existing building and views to and from the Sydney Opera House will be unaffected.</p>
<p>58B Protection of world heritage value of Sydney Opera House</p> <p>The matters to be taken into consideration in relation to development within the Sydney Opera House buffer zone include the following:</p> <p>(a) the objectives set out in clause 53 (2),</p>	<p>See above.</p>
<p>(b) the need for development to preserve views and vistas between the Sydney Opera House and other public places within that zone,</p>	<p>Given the similar scale to the existing building and views to and from the Sydney Opera House will be unaffected. Views towards the Opera House from Henry Lawson Reserve to the immediate south of the site will not be affected by the proposed work.</p>
<p>(c) the need for development to preserve the world heritage value of the Sydney Opera House,</p>	<p>See above.</p>
<p>(d) the need for development to avoid any diminution of the visual prominence of the Sydney Opera House when viewed from other public places within that zone.</p>	<p>See above.</p>

### 6.3 North Sydney DCP 2013 Controls

The *North Sydney Development Control Plan 2013* supplements the provisions and controls of the *North Sydney LEP 2013*. Section 13 provides general guidelines for Heritage and Conservation areas.

The proposal is assessed against these controls.

9.8 McMahons Point South Conservation Area	
Control	Comment
<p>Topography</p> <p>P1 Sloping down from the north towards Blues Point.</p>	<p>The outward appearance of the topography will not change. The cliff cutting will remain the dominant element streetscape.</p>
<p>Subdivision</p> <p>P2 Mostly rectilinear subdivision with boundary to street frontage.</p>	<p>The subdivision pattern will remain unchanged.</p>
<p>Streetscape</p> <p>P3 Sandstone kerbing and walls.</p> <p>P4 Street trees are a key feature in Waiwera, Miller and Lavender Streets.</p> <p>P5 Double rail timber fences.</p>	<p>P3 Sandstone kerbing and walls will be retained. Note the alteration to the sandstone wall at Henry Lawson Avenue was approved by DA379/21 (approved by NSW Land and Environment Court 2022/157325).</p> <p>P4 N/A</p> <p>P5 N/A</p>
<p>Views</p> <p>P6 Blues Point Reserve and Lloyd Rees lookouts: views to Lavender Bay and Sydney Harbour.</p> <p>P7 Views to Berry's Bay via Dowling Street Lookout.</p>	<p>P6 The proposed building will be the similar scale to the existing apartment building. No addition views from the lookouts will be impacted by the proposed works.</p>
<p>9.8.5 Characteristic buildings</p> <p>P1 Detached dwelling houses, semi-detached dwellings, attached dwellings, 20th Century residential flat buildings according to zone. Victorian, Federation and Inter-war period detailing.</p>	<p>N/A Site is not a characteristic building.</p>

<p>9.8.6 Characteristic built elements</p> <p>Siting</p> <p>P1 Forward on lot with larger rear garden.</p> <p>P2 Consistent setbacks.</p>	n/a
<p>Form, massing and scale</p> <p>P3 Detached and attached dwellings vertically proportioned with massing determined by historic subdivision pattern.</p>	n/a
<p>Roofs</p> <p>P4 Pitched between 30 and 45 degrees with some use of parapets to the street, skillion roofs to rear extensions.</p>	<p>It is proposed to incorporate a parapeted roofscape as per the existing and approved design. The surrounding area contains an eclectic mix of pitched, skillion and parapeted roofs. The proposed use of a parapeted roof will assist in minimising visual impact in the vicinity.</p>
<p>Materials</p> <p>P5 High proportion of masonry or solid surfaces to glazed surfaces.</p>	<p>The proposed new building aims to reduce the prominence of extensive glazed areas by enlarging balcony soffits on the harbor-facing elevations. Overall, the elevations maintain a suitable average ratio of solid (69.1%) to void (30.9%) across the façade, aligning well with the proportions observed in nearby historic buildings.</p>
<p>Windows, doors and joinery</p> <p>P6 Timber frames windows and doors have traditional styles and proportions according to architectural style of the building.</p> <p>P7 Face brick, terracotta tiles, corrugated metal, slate, timber joinery, sandstone base courses.</p>	<p>P6 As the proposed building is a modern apartment building, it is therefore proposed to have modern powder coated aluminium windows in a bronze finish. This darker tone is consistent with other contemporary apartment complexes. The proposed windows will be vertically proportioned to complement the adjoining historic buildings.</p> <p>P7 The proposal will utilise a sandstone base course and utilise a more contemporary rendered finish</p>

	for the middle sections. The off-white colour of the render has been chosen to differ from the colour of the Opera House so as to not distract from its setting. The upper levels are proposed to be clad in a recessive powder coated aluminium in a bronze finish to reduce the perception of the overall bulk of the building.
Fences  P8 Low, 900mm max. height (timber) or 1m (iron palisade).	The proposed fence on site varies in height across the site but is approx. 1.8m in most areas. This height is consistent with other fences belonging to heritage items along Warung Street.
Car accommodation  P9 Car spaces or carports located off rear lanes.	Basement carparking has been approved by DA379/21 (approved by NSW Land and Environment Court 2022/157325. As such the expansion of the basement will have no additional impact on the presentation of the sandstone cutting along Henry Lawson Avenue.
9.8.7 Uncharacteristic elements  P1 Post-war residential flat buildings and modern infill development; garages to front setback, roof lights and dormers in front and side roof pitches, removal of original detail, garden paving, verandah infills.	The building was constructed in the 1960s as a residential flat building. The building has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area. The proposed works seek to reinvigorate the building and improve its contribution to the Conservation Area.

### 6.3.1 *Development in the Vicinity of Heritage items*

13.4 Development in the Vicinity of Heritage Items
Objectives
O1 Ensure that new work is designed and sited so as to not detrimentally impact upon the heritage significance of the heritage item and its setting

Control	Comment
<p>P1. Respect and respond to the curtilage, setbacks, form, scale and style of the heritage item in the design and siting of new work.</p>	<p>The proposed development has been designed to respect and respond to the heritage values of the neighbouring items.</p> <p>The setback of the building from Warung Street will be behind that of the neighbouring heritage item and is similar to the existing set back of the building. The side set back of the existing building will be maintained.</p> <p>The proposed form, scale and style of the building respects that of the existing building. The proposed changes will enhance the overall character and contribution made by the site to the neighbouring heritage items.</p> <p>There are no proposed changes to the lot boundary curtilage of the neighbouring heritage item.</p>
<p>P2 Maintain significant public domain views to and from the heritage item.</p>	<p>The proposed works will have no impact on significant view corridors to/from nearby heritage items.</p> <p>The two neighbouring heritage items at No. 5 and No. 7 Warung Street are concealed from view by tall boundary walls, refer to section 4.4.1 of this report. Principal views to and from these items are from within their grounds and to from the harbour.</p> <p>All items in the vicinity will retain their existing view corridors.</p>
<p>P3 Ensure compatibility with the orientation and alignment of the heritage item.</p>	<p>The proposed work maintains the existing orientation and alignment of the subject building and will not impact the orientation and alignment of the nearby heritage items.</p>

P4 Provide an adequate area around the heritage item to allow for its interpretation.	The proposed works will have no impact on the amount of space around the nearby heritage items and will not block view corridors towards them.
P5 Retain original or significant landscape features that are associated with the heritage item or that contribute to its setting.	A new Landscape Plan for the site accompanies this proposal. No original or significant landscape features will be impacted by the proposed development.
P6 Protect and allow interpretation of archaeological features (as appropriate and relevant).	N/A – The LEP has not identified the site as having archaeological potential.

### 6.3.2 Heritage Conservation Areas

13.6 Heritage Conservation Areas	
Objectives	
<p>O1 Ensure that new development is designed to retain and complement the character and significance of the conservation area (refer to Part C of this DCP for a description of the significance of the heritage conservation area).</p> <p>O2 Ensure that contributory items are retained and where practical improved, with a focus to locate new work to the rear or away from publicly visible elevations of building.</p> <p>O3 Enable neutral items to be improved such that they contribute to the character of the heritage conservation area through the removal of unsympathetic and inappropriate elements, and reinstating missing details where appropriate.</p> <p>O4 Encourage change that will remove uncharacteristic items or reduce the extent of their intrusion.</p>	
Control	Comment
P1 Development should reflect the bulk, mass, scale, orientation, curtilage and setbacks of surrounding heritage and contributory items.	As previously noted, the proposed works respect the bulk, mass, scale, orientation, curtilage and setbacks of the surrounding heritage and contributory items.



	<p>While the building envelop is proposed to be increased there are minimal changes to the existing setbacks and the buildings orientation is retained.</p> <p>An addition will be added to the northeast of the building; however, the proposed works include a suite of works to the entire building which will result in an improved presentation and contribution to the McMahons Point South Conservation Area.</p>
<p>P2 Development should recognise and complement the predominant architectural scale and form of the area.</p>	<p>The proposed development respects the architectural massing of the existing building.</p> <p>The proposed addition will not challenge the existing pattern of massing and scale in the area and will sit comfortably within the mixed forms of the Conservation Area.</p>
<p>P3 Do not obstruct existing views in the public domain, including slot views over and between buildings as these provide connection and contribute to the context of the area's location.</p>	<p>The proposed works will not obstruct existing views or slot views from the public domain.</p>
<p>P4 Reinstate characteristic and decorative features to contributory items where possible and reasonable where alterations and additions are proposed. This could include reinstatement of verandahs and balconies, joinery, chimneys, fences or window detailing</p>	<p>N/A</p> <p>The building was constructed in the 1960s as a residential flat building. The building has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p>
<p>P5 Achieve a neutral or improved outcome to neutral items by:</p> <p>(a) respecting original or characteristic building patterns in terms of bulk, form, scale and height;</p>	<p>N/A</p> <p>As above</p>

<p>(b) minimising changes to original and characteristic features;</p> <p>(c) removing unsympathetic and uncharacteristic changes and/or;</p> <p>(d) reinstating characteristic details where there is physical or documentary evidence.</p>	
<p>P6 Achieve an improved outcome to uncharacteristic items by removing the uncharacteristic or intrusive element or incorporating changes to improve the contextual design and visual impact of the site.</p>	<p>No. 1 Warung Street, McMahons Point has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p> <p>The proposed works seek to reinvigorate the building and improve its contribution to the Conservation Area.</p> <p>The proposed use of contemporary finishes and modern neutral colour scheme is considered to be an appropriate response for the proposed works and will result in an improved appearance and enhance the setting within the Conservation Area.</p>
<p>P7 Respond to characteristic building alignments by not building forward of the established or characteristic front setback.</p>	<p>The established front setback of Warung Street will be retained.</p>
<p>P8 Repeat any consistent pattern of side and rear setbacks of heritage and contributory items in the vicinity of the site.</p>	<p>The neighbouring heritage items have minimal set backs from their boundaries. The subject site has established setbacks which will be respected by the proposed addition.</p>
<p>P9 New work may adopt a contemporary character, provided the development is not likely to have a detrimental impact on the characteristic built form of the area, particularly in terms of bulk, scale, height, form or materials.</p>	<p>The proposal seeks to update the appearance of the building.</p> <p>This will be achieved with the use of contemporary finishes and neutral and colours this is an appropriate response for the proposed works and will result in an improved appearance</p>

	and enhance the setting within the Conservation Area.
<b>13.6.2 Form, massing and scale</b>	
<b>Objectives</b>	
<p>O1 To ensure new development has a compatible and complementary building form and scale to that which characterises the conservation area.</p> <p>O2 To maintain and enhance streetscape character as identified within the Area Character Statements.</p>	
<b>Provisions</b>	
<p>P1 Development should reflect the bulk, mass, scale, orientation, curtilage and setbacks of surrounding heritage and contributory items.</p>	<p>The proposed development is limited to the extension of the existing building. The bulk scale and massing of the addition matches that of the existing building which has formed part of the streetscape setting of the conservation area for approximately 55 years.</p> <p>Furthermore, as noted in Section 3.3 of this report, there further examples of medium and high density residential flat buildings in the immediate area and the scale of the proposed addition is considered to be appropriate to this established setting.</p>
<p>P2 Development should recognise and complement the predominant architectural scale and form of the area.</p>	<p>As noted above, the proposed development is limited to the extension of the existing building. The architectural scale and form of the addition has been designed to match that of the existing building and is considered to be an appropriate addition.</p>
<p>P3 Do not obstruct existing views in the public domain, including slot views over and between buildings as these provide connection and contribute to the context of the area's location.</p>	<p>No established slot viewed from the public domain will be obstructed as a result of the development.</p>

<p>P4 Reinstate characteristic and decorative features to contributory items where alterations and additions are proposed. This could include reinstatement of verandahs and balconies, joinery, chimneys, fences or window detailing.</p>	<p>N/A</p>
<p>P5 Achieve a neutral outcome to neutral items or improved outcome to neutral items which were constructed in the core period of development by:</p> <ul style="list-style-type: none"> <li>(a) respecting original or characteristic building patterns in terms of bulk, form, scale and height;</li> <li>(b) minimising changes to original and characteristic features;</li> <li>(c) removing unsympathetic and uncharacteristic changes and/or;</li> <li>(d) reinstating characteristic details where there is physical or documentary evidence.</li> </ul>	<p>N/A as noted in section 4.3 of this report, No. 1 Warung Street, McMahons Point has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p>
<p>P6 Achieve an improved outcome to uncharacteristic items by removing the uncharacteristic or intrusive element or incorporating changes to improve the contextual design and visual impact of the site.</p>	<p>No. 1 Warung Street, McMahons Point has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p> <p>The proposed works seek to reinvigorate the building and improve its contribution to the Conservation Area and will result in a building that would be reclassified as having a “neutral” contribution to the HCA.</p> <p>The proposal seeks to introduce contemporary material and finishes whilst retaining a section of the original red brick. This will enable the building to continue to read as part of the 1960s development of the area whilst acting as a transitional buffer between the mid 20th century development to the west of the site and the heritage listed buildings to the</p>

	east. The proposed use of contemporary finishes and modern neutral colour scheme is considered to be an appropriate response for the proposed works and will result in an improved appearance and enhance the setting within the Conservation Area.
P7 Respond to characteristic building alignments by not building forward of the established or characteristic front setback.	The proposed development will not stand forward of the established front setback of the neighbouring heritage items.
P8 Repeat any consistent pattern of side and rear setbacks of heritage and contributory items in the vicinity of the site.	The proposed addition to the building will respect the established side of and rear setbacks of the site.
P9 New work may adopt a contemporary character, provided the development is not likely to have a detrimental impact on the characteristic built form of the area, particularly in terms of bulk, scale, height, form or materials.	<p>The intent of this project is to improve the onsite carparking, update the appearance of the building and introduce four additional apartments.</p> <p>The current red brick residential flat building has little architectural expression or articulation and is identified in Appendix 1 of the North Sydney DCP as being an Uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p> <p>As addressed above, the proposed works will reinvigorate the building and improve its contribution to the Conservation Area.</p>
<b>13.6.5 Internal layouts</b>	
<b>Objectives</b>	
O1 To ensure that significant interiors are retained.	
<b>Provisions</b>	
P1 Consideration is given to the internal layouts of buildings.	The current layout of the apartment building is not significant and does not

	contribute to the character of the conservation area.
P2 Where interior layouts are determined to be significant, they should be retained.	N/A as above.
<b>13.8 DEMOLITION</b>	
Objectives	
<p>O1 To ensure that heritage items and buildings which positively contribute to the significance and character of a heritage conservation area retained.</p> <p>O2 To outline the criteria which need to be considered by Council should applicant still seek to demolish the heritage item or building which positively contributes to a heritage conservation area.</p>	
<b>Demolition of uncharacteristic items</b>	
<p>P7 Council will only consider the demolition of uncharacteristic items if the applicant can satisfactorily demonstrate:</p> <p>(a) that the replacement building will allow the site to be reclassified from at least “uncharacteristic” to “neutral”.</p> <p>(b) that sustainability outcomes of the proposed replacement development reasonably justify the change.</p>	<p>The proposed development will result in aesthetically enhanced building which positively contribute to the character of the area. The proposal will result in a building that would be reclassified as having a “neutral” contribution to the HCA.</p> <p>Further information regarding the sustainability outcomes of the development are contained within the SoEE and BAXIX reports.</p>
<b>13.9.4 Materials, colours and finishes</b>	
Objectives	
O1 To ensure that materials and finishes are consistent with the characteristic elements of the heritage item or heritage conservation areas.	
Provisions	
P1 Retain external face brick or stone walls where they are significant features of a heritage item or identified as part of the characteristic built elements of a	DA379/21 (approved by NSW Land and Environment Court 2022/157325) approved a garage entry into the stone wall. No other alterations will be made.

heritage conservation area. Rendering of face brickwork will not be permitted unless it comprised a construction method used on the original building.	
P2 Retain original rendering on walls and ensure that any new materials required for repairs are consistent with the original render texture.	N/A
P3 Where new materials are required, ensure that they are easily recognised as new, but are compatible with the key elements of the heritage item.	The proposed materiality will be readily identifiable as a contemporary. The proposed finishes including the use of a sandstone base course and rendered finish are detailed to complement the similar finishes of the Victorian era heritage items to the east of the site.
P4 Select materials and finishes to reflect their characteristic usage, such as stone at the building base.	It is proposed to have a sandstone base and rendered upper level to the new building. These finishes are characteristics of a contemporary residential flat building in a historic setting.
P5 Details of proposed colour scheme are to be provided with the development application	Noted.
P13 Ensure materials, finishes and colours are compatible with the characteristic built elements of the heritage conservation area as described in the relevant Area Character Statement (refer to Part C of the DCP)	The proposed modern neutral colour scheme is appropriate to the established character of the Conservation Area.
13.9.5 Garages and Carports	
Objectives	
<p>O1 To ensure that vehicular accommodation does not detrimentally impact upon the significance of the heritage item or heritage conservation area.</p> <p>O2 To ensure that off-street car parking does not dominate the streetscape.</p>	

Provisions	
P1 Must comply with the provisions contained within s.1.5.4 to Part B of this DCP.	Details regarding compliance with Section 1.5.4 Vehicular Access & Car Parking are provided within the SoEE.
P2 Rooms/studios located above garages or where increased floor to ceiling heights are sought to accommodate vertical car stackers and that garage fronts a laneway will not be supported	<p>N/A</p> <p>During design development, the potential inclusion of a car lift accessible from Warung Street was explored but ultimately ruled out owing to the height constraints of the envisioned structure.</p> <p>Concerns were raised about the possible adverse effects on the adjacent property at No.3 Warung Street if the car lift were situated on Warung Street. Consequently, the proposed arched access from Henry Lawson Avenue was deemed more suitable. This alternative entrance was favoured for its discreet nature and its alignment with the aesthetic and heritage considerations of neighbouring structures within the Conservation Area.</p> <p>The decision to opt for the arched access from Henry Lawson Avenue was validated with the approval of DA379/21 by the NSW Land and Environment Court in 2022.</p>
P3 Do not alter or demolish any part of a building for car parking, carports and garages.	<p>The proposal does seek to demolish the building to facilitate the construction of the basement garage. Which will remove at grade car parking which is visible from the public domain.</p> <p>It is further noted that the building is not a heritage item and is identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area.</p> <p>The proposed replacement building is more sympathetic in character and</p>



	will have a lessened impact on the surrounding area.
P4 Roof form, detailing and materials are to compliment the associated building.	N/A
P5 Retain original garages for heritage items and contributory items.	N/A
P6 Any off street parking located within the front setback area is to remain uncovered and be constructed using minimal paving and incorporate soft landscaping.	No additional parking is proposed within the front setback of the site. All visitor parking will be located within the basement.
13.10.5 Apartment buildings	
Objectives	
<p>O1 Ensure that changes are sympathetic to significant fabric and building elements and do not have a detrimental impact on the heritage significance of the building.</p> <p>O2 Conserve significant building elements and features including verandahs, fenestration patterns, internal lobbies and staircases.</p>	
Provisions	
P1 Major changes to the scale and form of apartment buildings should not occur where the additional floor space would compromise the heritage significance of the existing building or surrounding area.	The proposal does not include a major change of scale or form. The proposed additional floor space is considered to be modest and will not compromise the heritage significance of the McMahons Point South Conservation Area or that of the neighbouring items.
P2 Alterations and additions are to respond to the articulation and rhythm of the existing building through the repetition of significant features that occur at regular intervals	Noted.
P3 Retain original or significant window and opening patterns.	The original openings within the apartment building is not considered

New openings are to respect this pattern and not introduce new patterns of window or door openings.	to be significant fabric. As such it is proposed to update the position of window openings in order to comply with the ADG.
P4 External awnings, hoods and other overhanging devices that will detract from the buildings form are not permitted.	No awnings, hoods and other overhanging devices are proposed by the development.
P5 Incorporation of lifts should be designed to minimise impacts on significant spaces and fabric within the building.	N/A
P6 Upgrading for compliance with the BCA, fire egress, disable access or service installations or structural upgrade should comply with Section 13.5.6 to this Part of the DCP.	The proposed building is a new building and will comply with all the relevant standards.
P7 Refer to section 13.5, 13.6 and 13.9 to this Part of the DCP for other applicable controls.	The proposed building is a new building and will comply with all the relevant standards.

## 7 CONCLUSIONS

This SoHI has been prepared in conjunction with a DA for the demolition of the existing building and construction of a new residential flat building at No. 1 Warung Street, McMahons Point.

No. 1 Warung Street, McMahons Point has been identified in Appendix 1 of the North Sydney DCP as being an uncharacteristic Item within the McMahons Point South Heritage Conservation Area. As discussed within this report it is considered that the proposed works will enhance the buildings contribution to the conservation area and the setting of the neighbouring heritage items.

The proposed development is considered to be well thought out and are considered to fulfil the objectives for alterations and additions to a building within a Conservation Area and in the vicinity of a heritage item as set out by the *North Sydney LEP 2013* and the *North Sydney DCP 2013*.

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## 7.1 *Documentary Evidence*

### 7.1.1 *General References*

Australian Dictionary of Biography - Henry Lawson

<https://adb.anu.edu.au/biography/lawson-henry-7118>

'Blue, William (Billy) (1767? - 1834)', *Australian Dictionary of Biography, Supplementary Volume*, Victoria, Melbourne University Press, 2005, pp 35-36.

Bridges, Barry, *The Crows Nest Estate, 1821-1873*, Unpublished document dated 1996. Stanton Library.

Brodsky, Isadore, *North Sydney 1788-1962*, NSW, Municipal Council of North Sydney, 1963.

Godden Mackay, *North Sydney Heritage Study*. Unpublished report for North Sydney Council, 1993. Stanton Library.

Russell, Eric, *The Opposite Shore: North Sydney and Its People*, NSW, North Shore Historical Society, 1990

'Municipality Of North Sydney. —Naming Of Road"—Notice is hereby given that the North Sydney Council,', *Government Gazette of the State of New South Wales (Sydney, NSW : 1901 - 2001*

*Naming North Sydney*. North Sydney Heritage Centre Database

NSW LPI 1966 Register of Strata Plans

Stanton Library, *Heritage Leaflet Series: Boat Building in North Sydney*, NSW, Stanton Library, 2001 (update).

### 7.1.2 *Historic Plans and Photographs*

NSW Lands Department, (*Aerial Photograph over McMahons Point*), 1943. SIX Maps.

NSW Government Spatial Collaboration Portal, (*Aerial Photograph over McMahons Point*), 1965.

Stanton Library North Sydney Sheet 1890 Waterboard Plan No. 16, 1891

Wilson's Sydney & Suburban Street Directory 1928, supplementary maps.

### 7.1.3 *Planning Documents*

North Sydney Development Control Plan 2013.

North Sydney Local Environmental Plan 2013.

## **Revised Residential Development Proposal**

### **1 Warung Street, McMahons Point**

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#### **TRAFFIC AND PARKING ASSESSMENT REPORT**

16 July 2024

Ref 23524



Suite 6, 20 Young Street, Neutral Bay NSW 2089 - PO Box 1868, Neutral Bay NSW 2089 Ph: 9904 3224

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### APPENDIX A ARCHITECTURAL PLANS

### LIST OF ILLUSTRATIONS

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## 1. INTRODUCTION

This report has been prepared to accompany an application to Council for a residential development located at 1 Warung Street, McMahons Point (Figures 1 and 2).

Council has previously approved the construction of a new residential development on the site comprising 10 residential units with basement car parking for a total of 12 cars (DA379/21)

This application proposes a similar residential development comprising 7 residential apartments with 11 cars in the basement car parking area in accordance with Council's requirements.

*No change* is proposed to the previously approved vehicular access driveway off Henry Lawson Avenue.

The key change, from a traffic and parking perspective, replaces the previously approved car stackers with a conventional single-level basement car park layout.

The subject site is zoned *R3 Medium Density Residential* pursuant to *North Sydney Local Environmental Plan (LEP) 2013*, and the revised development proposal is permissible with development consent.

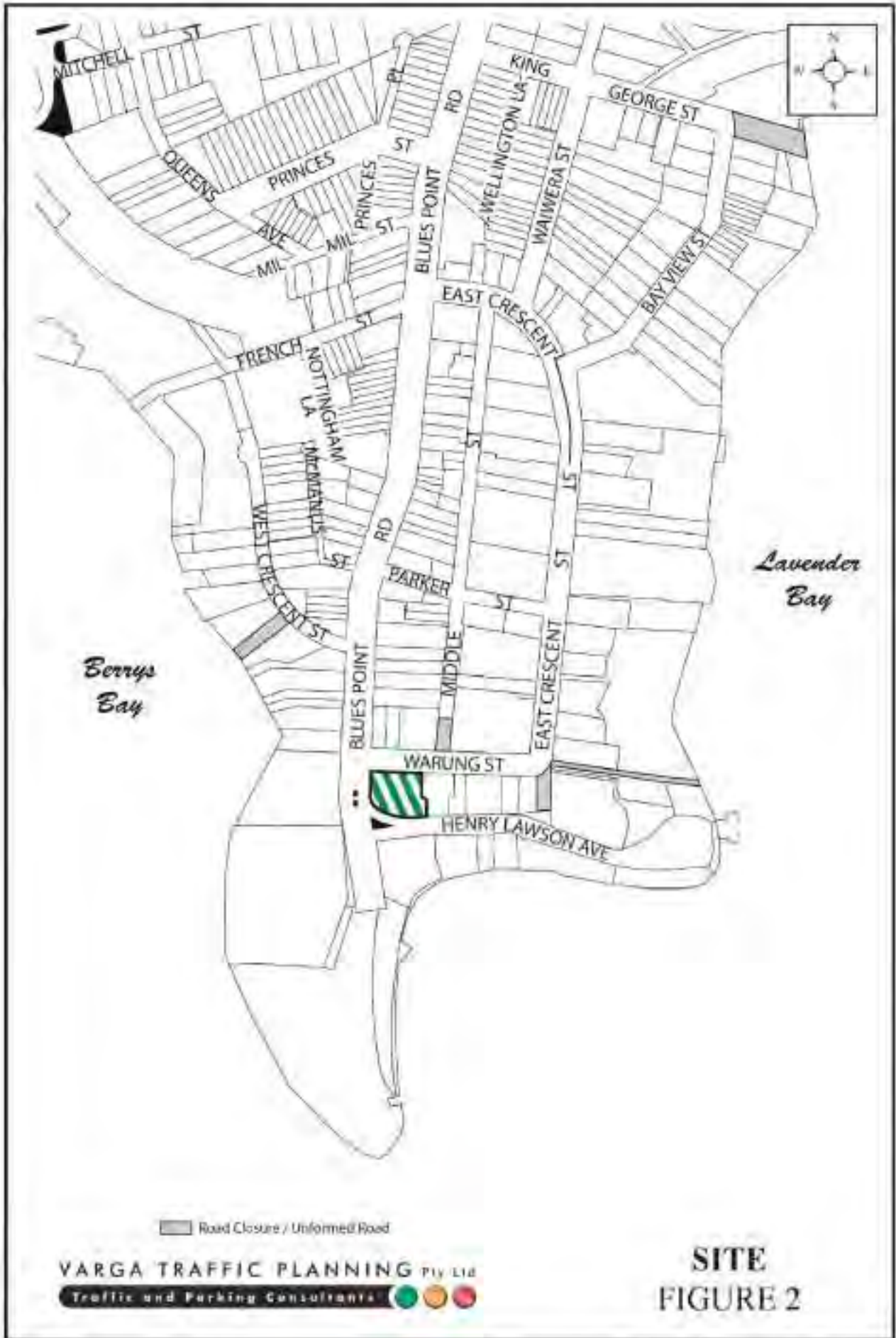
The purpose of this report is to assess the traffic and parking implications of the development proposal and to that end this report:

- describes the site and provides details of the development proposal
- reviews the road network in the vicinity of the site and the traffic conditions on that road network
- estimates the traffic generation potential of the development proposal and assigns that traffic generation to the road network serving the site

- assesses the traffic implications of the development proposal on the surrounding local and arterial road network in terms of road network capacity
- reviews the geometric design features of the proposed car parking facilities for compliance with the relevant codes and standards
- assesses the adequacy and suitability of the quantum of off-street parking provided on the site.







## 2. PROPOSED DEVELOPMENT

### Site

The subject site is located on the eastern side of Blues Point Road, extending from Warung Street to Henry Lawson Avenue. The site has street frontages approximately 34m in length to Warung Street, approximately 19m in length to Blues Point Road, approximately 41m to Henry Lawson Avenue, and occupies a site area of approximately 985.4m<sup>2</sup>.

The site is currently occupied by a residential flat building comprising a total of 12 residential apartments as follows:

1 bedroom apartments:	3
2 bedroom apartments:	9
<b>TOTAL APARTMENTS:</b>	<b>12</b>

Off-street parking is currently provided for a total of 12 cars in an at-grade, undercroft car parking area on lower ground level, accessed via a driveway off Warung Street.

A recent aerial image of the site and its surroundings as well as *Streetview* images of the site frontages are reproduced below.



Source: Nearmap



Site view from Warung Street, facing south



Site view from Henry Lawson Avenue, facing north

### Previously Approved Development

Council has previously approved the construction of a residential development (DA379/21).

A total of 10 residential apartments were approved as below:

2 bedroom apartments:	6
3 bedroom apartments:	4
<b>TOTAL APARTMENTS:</b>	<b>10</b>

Off-street parking was approved for a total of 12 spaces (plus 2 shared zones) in 7 car stackers provided in a new single-level basement car parking area.

Vehicular access to the parking area was approved to be provided via an existing driveway off Warung Street and a new driveway located at the eastern end of the Henry Lawson Avenue site frontage.

As part of the proposed development, the previously approved plans included footpath widening in Blues Point Road and traffic calming treatments on the south-western corner of the site to reduce the corner radius and the speed of vehicles making the left-turn into Henry Lawson Avenue. The footpath widening and traffic calming will improve pedestrian amenity and safety for pedestrians crossing Henry Lawson Avenue.

The approved footpath widening in Blues Point Road and traffic calming on the corner have been designed to accommodate the swept turning path of the largest vehicle expected to turn left into Henry Lawson Avenue such as a 12.5m long truck or bus, a 19m long articulated bus, and a 19m long articulated truck.

Garbage collection arrangements were approved to be retained as per existing, where Council waste contractors will collect the rubbish bins from the kerbside.

### **Proposed Development**

The revised development proposal includes the demolition of the existing structures on the site to facilitate the construction of a *residential development*.

A total of 7 residential apartments are proposed as follows:

3-bedroom apartments:	6
4-bedroom apartments:	1
<b>TOTAL APARTMENTS:</b>	<b>7</b>

Off-street parking is proposed for a total of 11 cars, comprising 10 resident parking spaces and 1 visitor parking space, in a new basement level car parking area in accordance with Council's requirements.

Vehicular access to the car parking facilities is proposed to be provided via the previously approved new entry/exit driveway which is to be located at the eastern end of the Henry Lawson Avenue site frontage.

The previously approved footpath widening in Blues Point Road and traffic calming treatments on the south-western corner of the site are retained in the new development, to reduce the corner radius and the speed of vehicles making the sweeping left-turn into Henry Lawson Avenue. The footpath widening and traffic calming are proposed to improve pedestrian amenity and safety for pedestrians crossing Henry Lawson Avenue.

The proposed footpath widening in Blues Point Road and traffic calming on the corner have been designed to accommodate the swept turning path of the largest vehicle expected to turn left into Henry Lawson Avenue such as a 12.5m long truck or bus, a 19m long articulated bus, and a 19m long articulated truck.

Waste collection for the future development is expected to be undertaken by Council's garbage trucks using the existing, previously approved kerbside collection arrangements.

Plans of the proposed development have been prepared by *Squillace* and are reproduced in **Appendix A**.

### 3. TRAFFIC ASSESSMENT

#### Road Hierarchy

The road hierarchy allocated to the road network in the vicinity of the site by the Transport for New South Wales (TfNSW) is illustrated on Figure 3.

The Warringah Freeway is classified by the TfNSW as a *State Road* and provides the key north-south road link in the area, linking the Bradfield Highway to the Gore Hill Freeway. It carries multiple traffic lanes in each direction in the vicinity of the site with tidal flow arrangements implemented during commuter peak periods. All intersections with the Warringah Freeway are grade-separated.

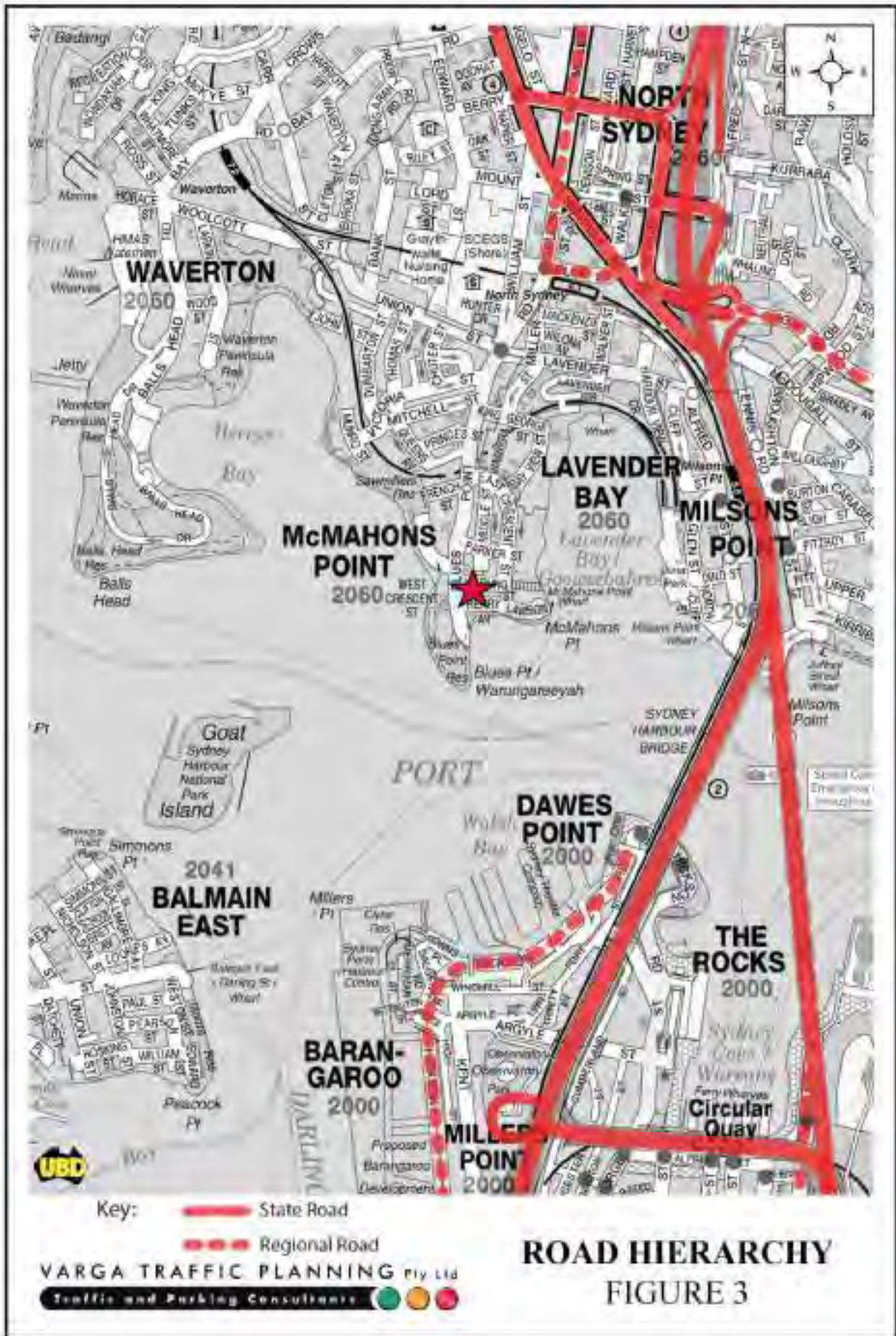
The Pacific Highway is also classified by the TfNSW as a *State Road* which provides another key north-south road link in the area, linking North Sydney to Hornsby and beyond. It typically carries three traffic lanes in each direction in the vicinity of the site with turning bays provided at key locations.

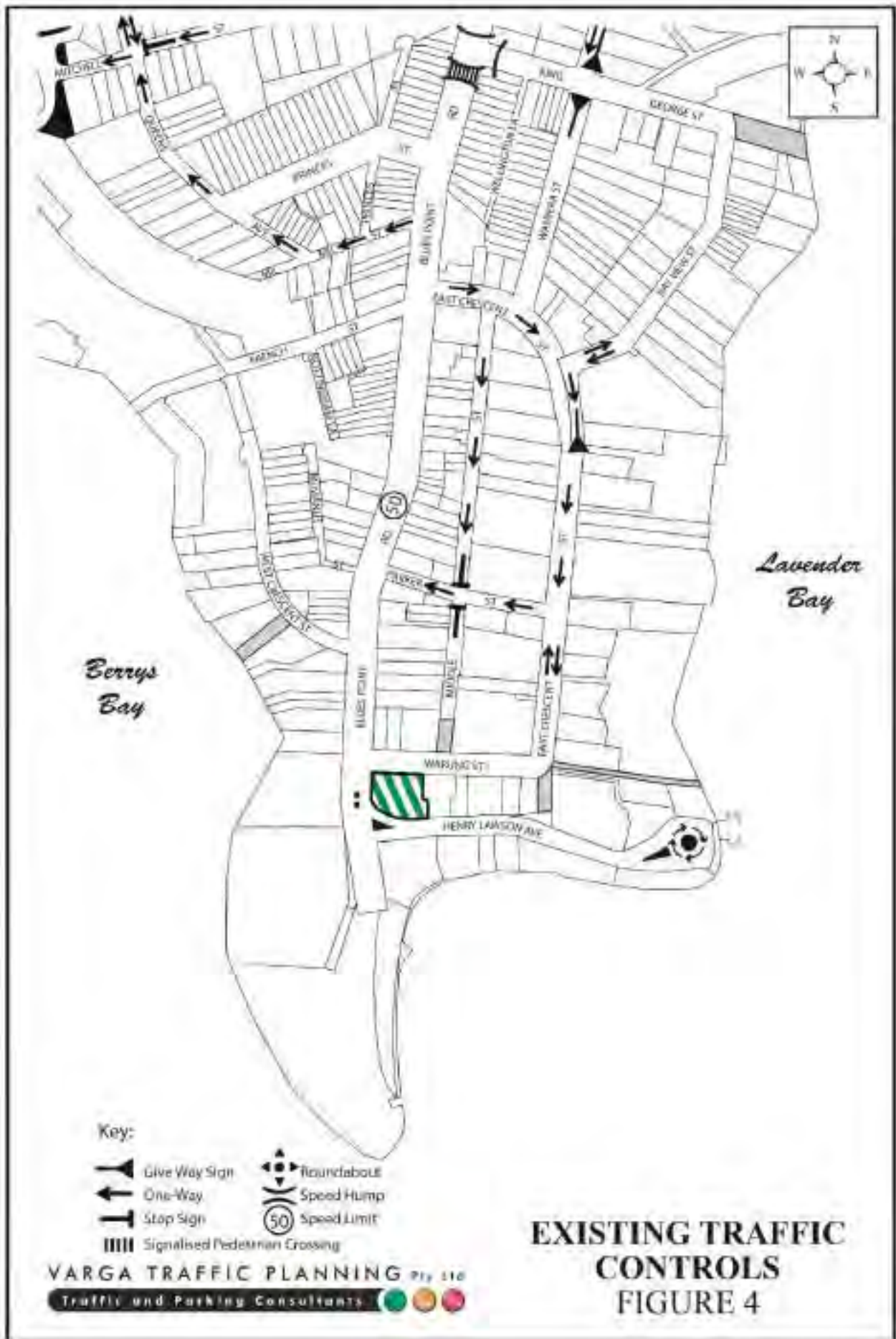
Miller Street, in between Falcon Street and the Pacific Highway, is classified by the TfNSW as a *Regional Road* which provides another key north-south road link through the North Sydney CBD. It typically carries two traffic lanes in each direction in the vicinity of the site with Clearway restrictions during commuter peak periods. Metered kerbside parking is generally permitted outside of Clearway times.

Blues Point Road, Warung Street, and Henry Lawson Avenue are local, unclassified roads which are primarily used to provide vehicular and pedestrian access to frontage properties. Kerbside parking is generally permitted on both sides of these roads, subject to signposted restrictions.

#### Existing Traffic Controls

The existing traffic controls which apply to the road network in the vicinity of the site are illustrated on Figure 4. Key features of those traffic controls are:







- a 50 km/h SPEED LIMIT which applies to Blues Point Road and all other local roads in the area
- a ONE-WAY westbound restriction in Parker Street
- a ONE-WAY southbound restriction in East Crescent Street north of Parker Street
- a ONE-WAY southbound restriction in Middle Street
- a PEDESTRIAN REFUGE in Blues Point Road in front of the site.

### Existing Public Transport Services

The existing public transport services available in the vicinity of the site are illustrated on Figure 5. There are currently three bus services operating within the 37m walking distance to the site:

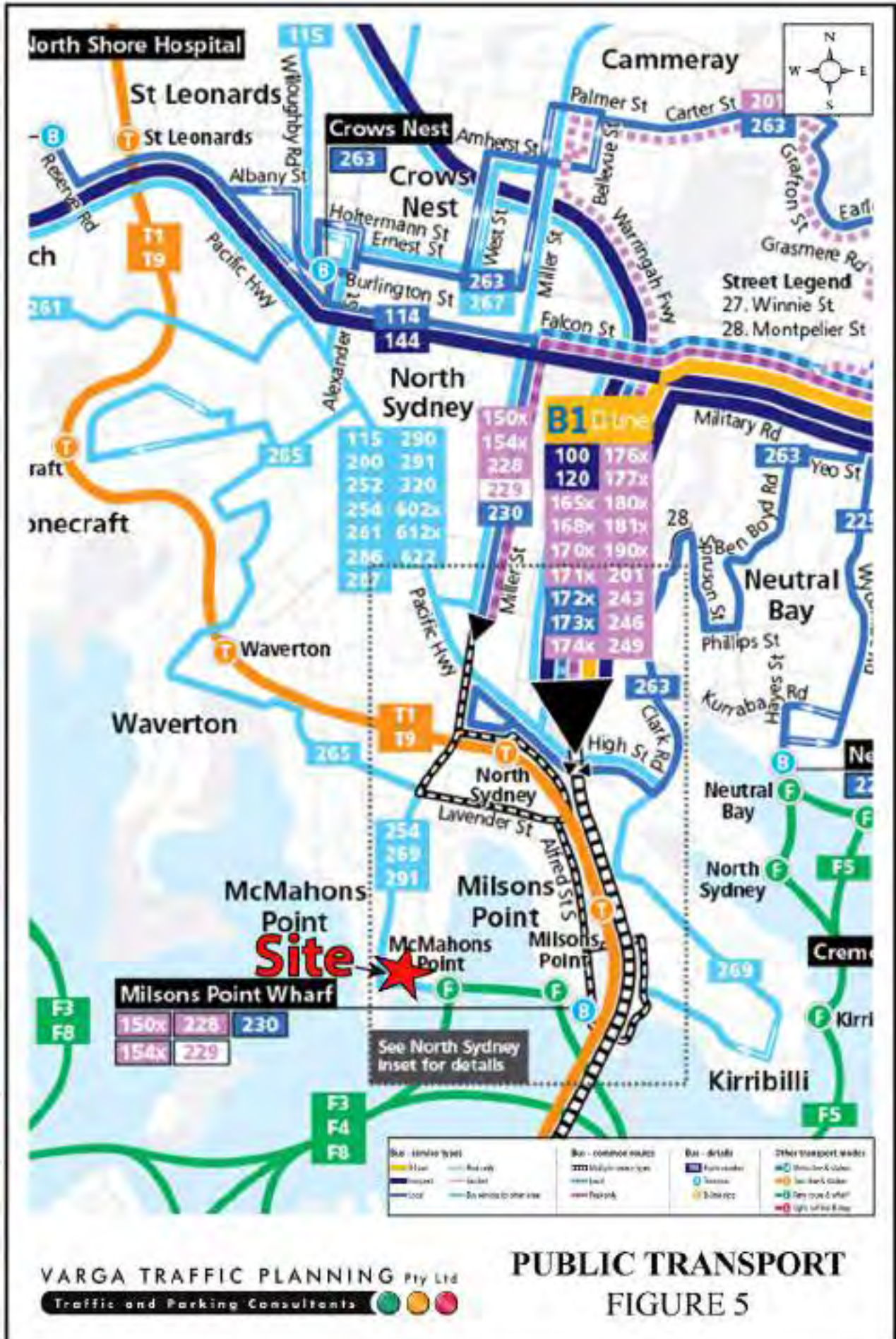
- 1) Bus Route 254 – Riverview to McMahons Point via North Sydney
- 2) Bus Route 269 – McMahons Point to Milsons Point via North Sydney & Kirribilli
- 3) Bus Route 291 – Epping to McMahons Point via North Sydney

In summary, there are 138, 68 and 69 bus services per day travelling in the vicinity of the site on weekdays, Saturday and Sunday & public holidays respectively, as set out in the table below.

**Table 1 Public Transport Services**

Route No.	Weekday			Saturday			Sunday & Pub. Hol.		
	IN	OUT	Total	IN	OUT	Total	IN	OUT	Total
254	25	28	53	17	17	34	15	15	30
269	16	16	32	-	-	-	-	-	-
291	25	27	52	17	17	34	15	15	30
<b>Total</b>	<b>66</b>	<b>72</b>	<b>138</b>	<b>34</b>	<b>34</b>	<b>68</b>	<b>30</b>	<b>30</b>	<b>60</b>

Furthermore, North Sydney Railway Station is located approximately 1.0km walking distance to the north-east of the site with regular day services. North Sydney Railway Station lies on 2 railway lines:



- T1 North Shore & Western Line, linking Emu Plains Station or Richmond Station and Berowra Station via Sydney Central Station, and
- T9 Northern Line, linking Berowra Station and North Shore via Sydney Central Station.

Train services operate out of North Sydney Railway Station as set out below:

- T1 North Shore & Western Line – every 3-12 minutes during commuter peak periods and every 30 minutes at other times, and
- T9 Northern Line – every 3-16 minutes throughout the day.

A recent Sydney Rail Network map is provided below.



On the above basis, the site has a good access to public transport services, including buses and trains, and is in an ideal location to support a *residential development* that emphasises on sustainable travel habits to reduce reliance on private vehicles.

## Sydney Metro

Sydney Metro is a fully automated rapid transit system, designed to improve public transportation and connectivity in the greater Sydney region. By 2030, Sydney will have a network of four metro lines, 46 stations and 113km of new metro rail.

Currently, Sydney Metro is operating between Tallawong and Chatswood, comprising 13 metro stations and 36km of twin tracks. The metro program includes three projects, which are under construction at the moment.

Victoria Cross is an underground metro station which is to be located beneath Miller Street (to the north of Pacific Highway) between McLaren Street and south of Berry Street, approximately 1.3km north-east of the subject site.

Victoria Cross Metro Station is a part of the Sydney Metro network delivering 31 metro stations and more than 66 kilometres of new metro rail running from Sydney's North West region under Sydney Harbour, through new underground stations in the Sydney CBD, and beyond to Bankstown and Parramatta. There will be an ultimate capacity for a metro train every two minutes in each direction. The approximate completion year is 2024.

The proposed Sydney Metro Map is reproduced below.



## Existing Cycleways

The existing cycleways in the vicinity of the site are illustrated on Figure 6, showing that Blues Point Road and Henry-Lawson Avenue form a designated on-road bike route that connect to the wider cycling network.

## Projected Traffic Generation Potential

The traffic implications of a development proposal primarily concern the effects of the *additional* traffic flows generated as a result of a development and its impact on the operational performance of the adjacent road network.

An indication of the traffic generation potential of the development proposal is provided by reference to the Transport for NSW publication *Guide to Traffic Generating Developments – Version 2.2 October 2022, Section 3 – Land Use Traffic Generation* and the updated traffic generation rates in the TfNSW *Technical Direction (TDT 2013/04a)* document.

The TfNSW *Technical Direction* document specifies that it replaces those sections of the TfNSW *Guidelines* indicated and must be followed when TfNSW is undertaking trip generation and/or parking demand assessments.

The TfNSW *Guidelines* and the updated *TDT 2013/04a* are based on extensive surveys of a wide range of land uses and nominate the following traffic generation rates which are applicable to the development proposal:

### Medium Density Residential Flat Building

Up to 2 bedrooms:	0.4-0.5 peak hour vehicle trips per dwelling
3 bedrooms or more:	0.5-0.65 peak hour vehicle trips per dwelling

The TfNSW *Guidelines* also make the following observation in respect of medium density residential flat buildings:

### Definition

A *medium density* residential flat building is a building containing at least 2 but less than 20 dwellings. This includes villas, town houses, flats, semi-detached houses, terrace or row houses and other medium density developments. This does not include aged or disabled persons' housing.



Application of the above traffic generation rates to the development proposal yields a traffic generation potential of approximately 4 vph during both the *morning* and *afternoon* peak hours, as set out below:

**Projected Future Peak Hour Traffic Generation Potential**

3 bedrooms or more (7 apartments):	4.0 vph
<b>TOTAL FUTURE TRAFFIC GENERATION POTENTIAL:</b>	<b>4.0 vph</b>

This is likely to comprise approximately 1 vph IN/3 vph OUT during the *morning peak hour*, and vice versa in the *afternoon* peak hour.

That projected future level of traffic generation potential should however, be offset or *discounted* by the volume of traffic which could reasonably be expected to be generated by the previously approved uses of the site, in order to determine the *nett increase (or decrease)* in traffic generation potential expected to occur as a consequence of the modification proposal.

The traffic generation potential of the previously approved development of the site is set out below:

**Peak Hour Traffic Generation Potential of the Previously Approved Development**

Up to 2 bedroom (6 apartments):	2.7 vph
3 bedroom (4 apartments):	2.3 vph
<b>TOTAL TRAFFIC GENERATION POTENTIAL:</b>	<b>5.0 vph</b>

Accordingly, it is likely that the proposed development will result in a *nett decrease* in the traffic generation potential of the site of 1 vph during both the *morning* and *afternoon* peak hours when compared to the previously approved development, as set out below:

**Projected Nett Decrease in Peak Hour Traffic Generation Potential  
of the Site as a Consequence of the Development Proposal**

Projected Future Traffic Generation Potential:	4.0 vph
Less Previously Approved Traffic Generation Potential:	-5.0 vph
<b>NETT DECREASE IN TRAFFIC GENERATION POTENTIAL:</b>	<b>-1.0 vph</b>

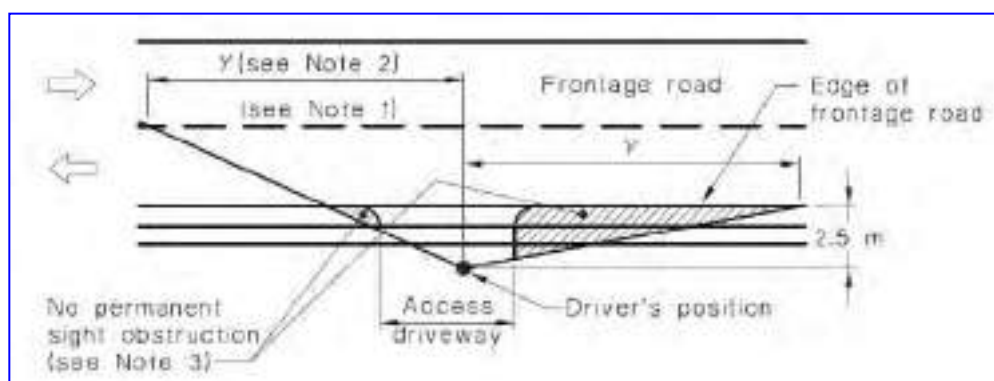
That projected “change” in the traffic generation potential of the site as a consequence of the development proposal when compared with the previously approved development will clearly not have any unacceptable traffic implications in terms of road network capacity.

## Road User Safety

As noted in the foregoing, the proposed driveway is in the same location as was previously approved (DA379/21) and will be ultimately designed to comply with AS2890.1 driver sight distance requirements as set out below.

### 1. Sight Distance Requirements and Access Driveways

The driver’s sight distance/visibility requirements at the proposed access driveway are specified in the *AS/NZS 2890.1:2004 Section 3.2 Clause 3.2.4 Figure 3.2 Sight Distance Requirements at Access Driveways*, as shown below:



**Sight Distance Requirements at Access Driveways**

The driver sight distance/visibility requirements specified in Figure 3.2 of *AS2890.1:2004* are set out in the extract shown in Table 2 below.

**Table 2 Sight Distance Requirements**

Frontage road speed (km/h)	Distance (Y) along frontage road (m)		
	Access driveways other than domestic		Domestic
	Desirable 5s gap	Minimum SSD	Property Access
40	55	35	30
50	69	45	40
60	83	65	55

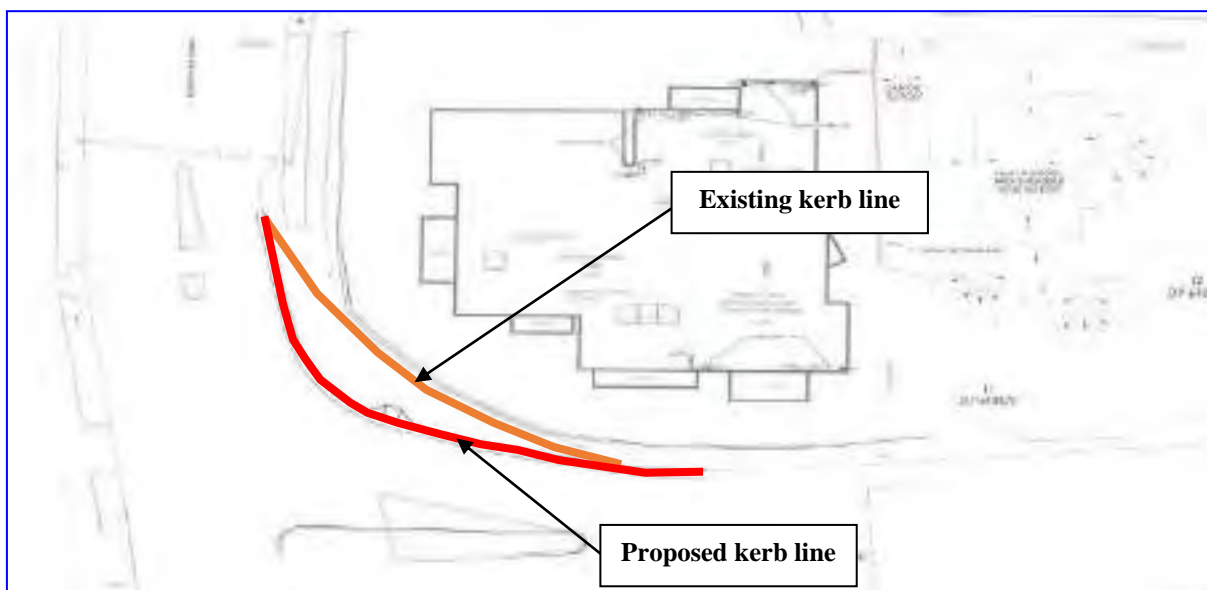


The proposed driveway achieves a driver sight distance/visibility well *in excess* of the 'Minimum SSD' non-domestic driveway requirement of 45m to the east approach. Vehicles approaching from the west are required to slow to 40km/h or less when turning left or right into Henry Lawson Avenue, thereby satisfying the driver sight distance/visibility 'Minimum SSD' non-domestic driveway requirement of 35m for the west approach, as shown on the image below.



**Sight Distance along Henry Lawson Avenue**

In addition, Council has previously approved the footpath widening in Blues Point Road and traffic calming treatments on the south-western corner of the site to further *reduce the corner radius and the speed of vehicles* making the left-turn into Henry Lawson Avenue off Blues Point Road, as demonstrated on the civil plan below.



This will also inevitably improve the safety of pedestrians crossing the intersection as it reduces the crossing width of the road, and allows a straighter alignment for the kerb ramps to be better located on either side of the road, clear of the intersection.

In addition, the proposed development includes the installation of a convex mirror at the driveway access to enhance safety and visibility for drivers exiting the basement parking area.

On the basis of the aforementioned measures, it is evident that the proposed driveway meets the driver sight distance and visibility requirements for non-domestic driveway. Specifically, it ensures adequate sight distance for both the east and west approaches of Henry Lawson Avenue. The traffic treatments and safety enhancements, including the installation of a convex mirror, collectively contribute to this compliance. These adjustments provide drivers with clear visibility, thereby increasing safety and facilitating secure ingress and egress from the driveway.

## 4. PARKING IMPLICATIONS

### Existing Kerbside Parking Restrictions

The existing kerbside parking restrictions which apply to the road network in the vicinity of the site are illustrated on Figure 7. Key features of those parking restrictions are:

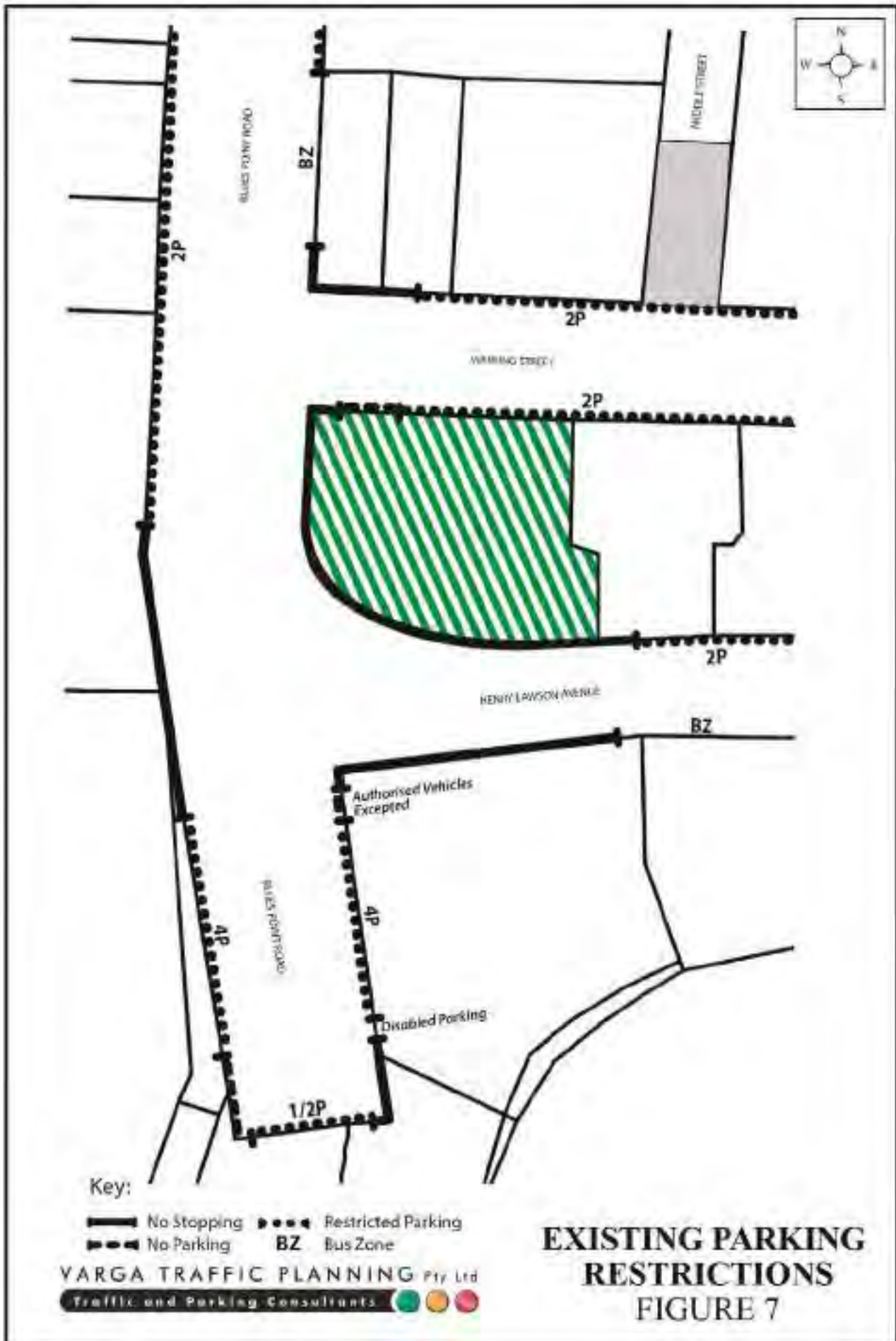
- 2 HOUR / 4 HOUR PARKING on both sides of Blues Point Road
- ½ HOUR PARKING at the end of Blues Point Road
- 2 HOUR PARKING on both sides of Warung Street
- 2 HOUR PARKING on the northern side of Henry Lawson Avenue.

### Off-Street Car Parking Provisions

The *maximum permissible* off-street car parking requirements applicable to the development proposal area are specified in the *North Sydney Council Development Control Plan 2013, Part B, Section 10 – Car Parking and Transport* document, as set out in the table below:

**Table 2 Maximum Residential Parking Rates**

Development Type	Zone	Location	Maximum Parking Rate	
Residential Flat Buildings	All zones other than: B3 Commercial Core B4 Mixed Use	High Accessibility Area	Studio	0.3 space / dwelling
			1-bedroom	0.4 space / dwelling
			2-bedroom	0.7 space / dwelling
			3 + bedrooms	1 space / dwelling
			Motorcycle Parking	1 space / 10 car spaces
		All locations other than High Accessibility Area	Studio, 1-2 bedrooms	1 space / dwelling
			3 + bedrooms	1.5 space / dwelling
			Visitor	0.25 space / dwelling (min of 1 space)



The subject site is zoned *R3 Medium Density Residential* and not located in the *High Accessibility Area*, thus the application of the above parking requirements to the development proposal yields a *maximum* permissible off-street car parking provision of 13 car parking spaces, as set out below:

#### **Maximum Permissible Off-Street Parking Provisions**

##### *Residential Flat Buildings (Zone R3)*

Residential:

3+ bedrooms (7 apartments):	10.5 spaces
Visitors (7 apartments):	1.8 spaces (min. of 1 space)
<b>TOTAL:</b>	<b>12.3 spaces (min. of 1 visitor space)</b>

The proposed development makes provision of 11 car parking spaces, including 1 combined visitor/car wash parking space, thereby satisfying Council's *maximum* car parking requirements as well as actively responding to Council's objective of minimising reliance on private car usage.

The parking area geometric layout of the proposed development has been designed to comply with the relevant requirements specified in the *AS 2890.1:2004 Off-Street Car Parking*, and *AS 2890.6:2022 Off-Street Car Parking for People with Disabilities* in respect of parking bay dimensions, gradients, aisle widths, and driveway widths.

#### **Off-Street Bicycle Parking Provisions**

The *minimum* off-street bicycle parking requirements applicable to the development proposal are specified in the *North Sydney Council Development Control Plan 2013, Part B, Section 10 – Car Parking and Transport* document in the following terms:

##### **Residential Accommodation**

Occupants:	1 space per dwelling
Visitors:	1 space per 10 dwellings

Application of the above bicycle parking rates to the 7 residential apartments outlined in the development proposal yields a *minimum* off-street bicycle parking requirement of 8 spaces, as set out below:

---

Residential (10 apartments):	7.0 spaces
Visitors:	0.7 space
<b>TOTAL:</b>	<b>7.7 spaces</b>

The proposed development makes provision for a total of 7 resident bicycle spaces in storage cages, and 1 visitor bicycle space, thereby satisfying Council's bicycle parking code requirements.

The geometric design layout of the proposed bicycle parking facilities has been designed to comply with the relevant requirements specified in the Standards Australia publication *Parking Facilities Part 3 - Bicycle Parking AS2890.3* in respect of parking space dimensions.

### **Off-Street Motorcycle Parking Provisions**

The *minimum* off-street motorcycle parking requirements applicable to the development proposal are specified in the *North Sydney Council Development Control Plan 2013, Part B, Section 10 – Car Parking and Transport* document in the following terms:

#### **Motorcycle**

1 space per 10 cars or part thereof

Application of the above motorcycle parking rates to the 11 cars outlined in the development proposal yields a *minimum* off-street motorcycle parking requirement of 1 space.

The proposed development makes provision for a total of 1 motorcycle space, thereby satisfying Council's motorcycle parking code requirements.

### **Conclusion**

In summary, the proposed parking facilities satisfy the relevant numerical requirements as well as the relevant design aspects of the Australian Standards. It is therefore concluded that the proposed development will not have any unacceptable parking or traffic implications.

**APPENDIX A**

**ARCHITECTURAL PLANS**

**ISSUED FOR RESPONSE  
TO COUNCIL RFI  
15.07.2024**

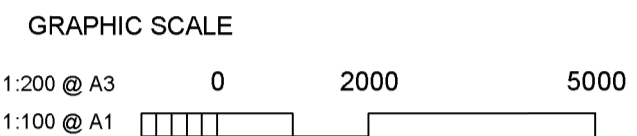
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Vince Squillace Reg No. 6468 (NSW),  
17219 (VIC), 3677 (QLD), AR1173 (NT)

**PROJECT**  
Warung Street Apartments

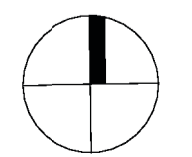
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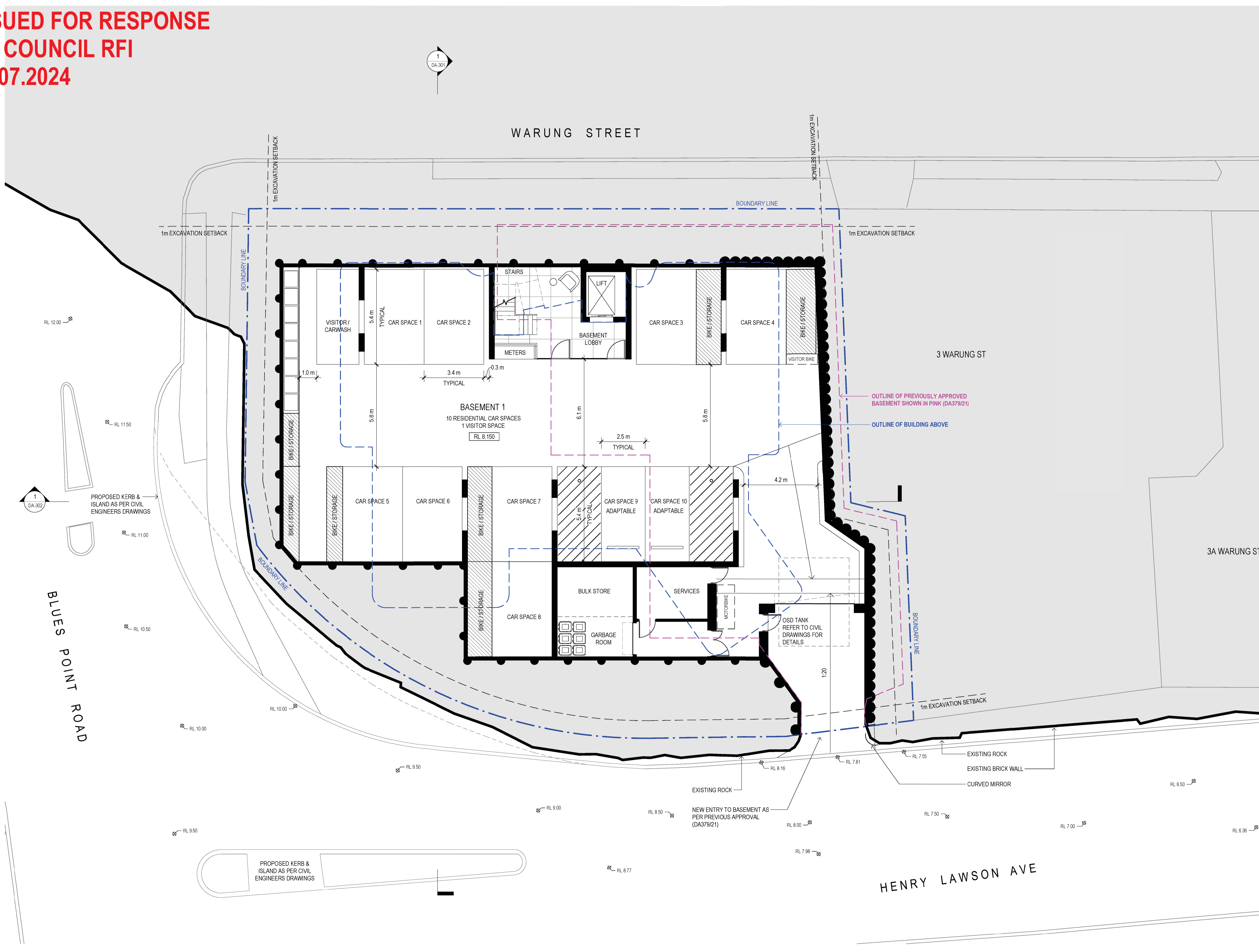
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**DRAWING TITLE**  
BASEMENT LEVEL PLAN

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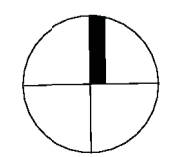


**1 BASEMENT FLOOR PLAN**  
1:100 @ A1



**1 BASEMENT FLOOR PLAN**  
1:100 @ A1

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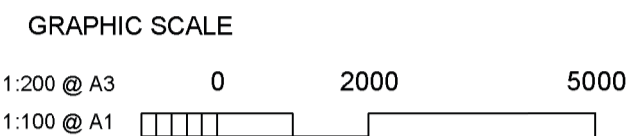


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**PROJECT**  
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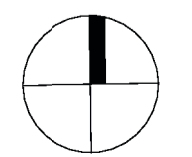
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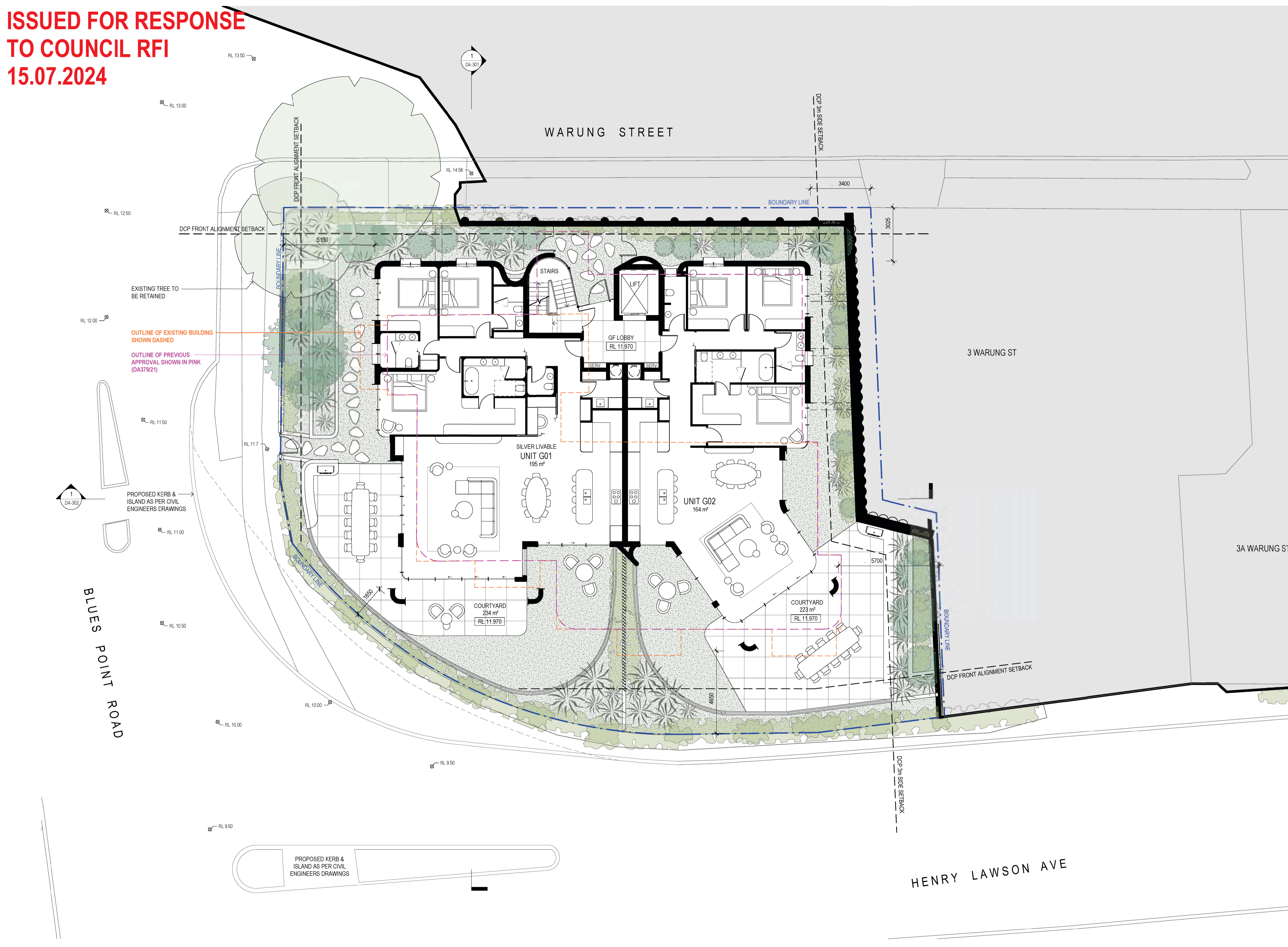
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**DRAWING TITLE**  
GROUND LEVEL PLAN

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**1 GROUND LEVEL FLOOR PLAN**  
1:100 @ A1



1

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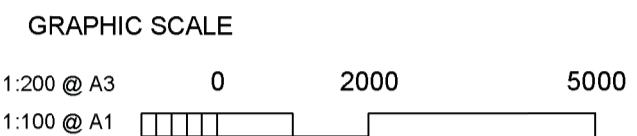
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**PROJECT**  
Warung Street Apartments

1 Warung Street, McMahons Point NSW

**DRAWING NO.** DA-101 **ISSUE** A

**JOB NO.** HIG2307 **SCALE** 1:100@A1 **DATE** 29.02.2024

**DRAWING TITLE**  
LEVEL 1 PLAN

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**1 LEVEL 1 FLOOR PLAN**  
1:100@A1