

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

1. Conditions of Consent
2. Site Plan
3. Architectural Plans
4. Legal Opinion
5. Draft Operational Management Plan

ADDRESS: 182-188 Falcon Street North Sydney**APPLICATION No:** 39/24**PROPOSAL:** Alterations and additions to a 'private' boarding house.**PLANS REF:**

Plan No.	Rev No.	Description	Prepared by	Dated
A000	03	Drawing Register	McNally Architects	18/10/24
A005	04	Demolition Plan Lower Ground Floor	McNally Architects	18/10/24
A006	04	Demolition Plan Ground Floor	McNally Architects	18/10/24
A007	04	Demolition Plan First Floor	McNally Architects	18/10/24
A0010	04	Site Plan	McNally Architects	18/10/24
A100	04	Lower Ground Floor Plan	McNally Architects	18/10/24
A101	05	Ground Floor Plan	McNally Architects	18/10/24
A102	05	First Floor Plan	McNally Architects	12/11/24
A103	04	Roof Plan	McNally Architects	18/10/24
A200	04	South Elevations	McNally Architects	18/10/24
A201	03	North Elevation	McNally Architects	18/10/24
A202	04	East Elevation and West Elevation	McNally Architects	18/10/24
A203	03	East Elevations Buildings C & B	McNally Architects	18/10/24
A204	03	Street View South Elevation	McNally Architects	18/10/24
A300	04	Section A-A & Section B-B	McNally Architects	18/10/24
A301	04	Section C-C & Section D-D	McNally Architects	18/10/24
A302	04	Section E-E & Section F-F	McNally Architects	18/10/24
A303	03	Section G-G	McNally Architects	18/10/24
A400	03	External Finishes and Colours	McNally Architects	18/10/24
A700	04	Window Schedule Building A	McNally Architects	18/10/24
A701	04	Window Schedule Building A	McNally Architects	18/10/24
A702	04	Window Schedule Building B	McNally Architects	18/10/24
A703	04	Window Schedule Building C	McNally Architects	18/10/24
A704	04	Window Schedule Building D	McNally Architects	18/10/24
A705	03	Door Schedule Building A & B	McNally Architects	18/10/24
A706	01	Door Schedule Building C & D	McNally Architects	18/10/24

OWNER: Griffin Prop Pty Ltd ATF Falcon Trust**APPLICANT:** Mr R Gill, Balance Planning**AUTHOR:** Jim Davies, Executive Planner**DATE OF REPORT:** 19 November 2024**DATE LODGED:** 19 March 2024**RECOMMENDATION:** Approval (deferred commencement)

EXECUTIVE SUMMARY

This development application seeks approval for alterations of and additions to an existing, privately operated boarding house at 182-188 Falcon Street North Sydney, known as Falcon Lodge.

The applicant submits that the site is the subject of existing use rights, established in accordance with Division 4.11 *Environmental Planning and Assessment Act 1979* (the Act).

As addressed in the body of this report, the applicant supports this claim on the basis the privately owned and operated boarding house may continue, despite no longer being consistent with the current definition of a boarding house, introduced in November 2021. This definition states that use of a building can only be defined as a boarding house if carried out by the NSW Land and Housing Corporation or a registered community housing provider.

Being privately operated and having been lawfully established before the new definition was introduced, the applicant submits continuation of this use is permitted by existing use rights provisions of the Act.

Consent may be granted to this application by virtue of these provisions, as they permit alteration of and addition to an activity or development commenced lawfully before planning controls were introduced to prohibit or prevent the continuation of that activity or development, provided it had not ceased for a period of more than 12 months. It understood that use of the subject premises had not ceased before the application was lodged.

The *Environmental Planning & Assessment Act 1979*'s definition of "existing use" also requires a use to have commenced in accordance with a development consent granted before the use was prohibited and that the approved use had not lapsed, as a result of the consent not being acted upon within 12 months of the use or development becoming prohibited.

Determination by the North Sydney Local Planning Panel is required, as the application involves partial demolition of four buildings which are heritage items, integral to the proposed alterations and additions.

The application was notified publicly and to nearby property owners. No submissions were received.

Regarding assessment of the application, the applicant submitted legal opinion that State *Environmental Planning Policy (Housing) 2021* does not apply. Applying 'an abundance of caution', lest this opinion be incorrect, may leave an approval if granted open to challenge. The application's assessment has consequently had regard to applicable provisions of the SEPP for boarding houses and affordable rental housing.

In conclusion, as examined in this report, the applicant's claim to existing use rights is considered valid and an assessment against relevant planning controls finds the proposed development is satisfactory.

Approval is accordingly recommended.

DESCRIPTION OF PROPOSAL

Existing use

The application seeks consent for alterations and additions to an existing boarding house, privately and lawfully operated since before the boarding house definition was changed across NSW in 2021. The changed definition means that all boarding houses must be operated by a registered community housing provider or the NSW Land and Housing Corporation.

A boarding house not operated by either of these types of entities are able to continue, provided they satisfy the provisions of Division 4.11 - Existing Use Rights, of the *Environmental Planning and Assessment Act 1979* (the Act). This division ensures that any use of a building or place is allowed to continue when lawfully commenced before a planning instrument is altered or introduced which has the effect of prohibiting that use, provided the use does not cease for a period of more than 12 months. An 'existing use' must also have been carried out in accordance with a valid development consent, within one year of the use becoming prohibited.

Division 4.11 also permits the alteration of and additions to buildings and places with existing use rights, examined later, subject to satisfying provisions of this division and other applicable planning instruments.

Proposed works

Specifically, the proposed works comprise, according to the statement of environmental effects that accompanied the application:

- Partial demolition of internal elements of the building such as walls and staircases, and external amenities such as awnings.
- Removal of three trees (T1, T10 & T11).
- Minor earthworks.
- A two-storey addition to Building A (Architectural plans are in Attachment 3), built to the western side boundary.
- Additions to the rear of the existing buildings, identified as Buildings A, B, C and D, from west to east.
- Reconfiguration of several rooms to enable improved east-west circulation through the centre of the complex.
- Upgrading of rooms to have their own bathroom and kitchenette.
- Improvement of accessibility and amenities in common areas and new communal facilities, including:
 - o A communal living room in Building B,
 - o Conversion of Building B's kitchen into a shared workspace, and
 - o Improvements to shared laundries.
- Externalising access to most rooms and additional rooms being made accessible.
- Upgrading fire safety, providing fire separation between rooms.
- Improved waste management area, including bin enclosure with space for recyclables and bulky waste storage.

The works are to be carried out in two stages, allowing two buildings to remain open while the other two are being extended and renovated. Details will be provided in a construction management plan.

Boarding house capacity

The table below is from the statement of environmental effects prepared by Balance Planning, submitted with the application. There is a net loss of 7 rooms from the proposal, and a reduction in capacity of 27 boarders.

Room type	Existing (Lodger #)	Proposed (Lodger #)
Single	53	58
Double	33 (66)	29 (4 accessible) (58)
Triple	8 (24)	-
Total	94 (143)	87 (116)

SITE AND LOCALITY

The site is east of Miller Street on Falcon Street, with only the International Society for Krishna Consciousness building (Sydney Hare Krishna Temple) separating the site from the intersection of these two arterial thoroughfares.

Each of the four, two-storey buildings (182, 184, 186 and 188 Falcon Street) are heritage-listed in the *North Sydney Local Environmental Plan 2013*, having been erected in the Federation Era. Their front gardens are formally landscaped, which draws the buildings together into a single entity, when viewed from Falcon Street.



Figure 1 Site (yellow edge) and local context (Six Maps image, 5 Nov 24). West of site is the Sydney Hare Krishna Temple, medium density housing to the east. South of the site is St Leonards Park, to the left (south west) is North Sydney Boys High School, both heritage sites. The intersection on which the temple is on the north east corner is between Falcon Street (east-west) and Miller Street (north-south).

Each building has been extended to the rear, northern boundary. They have been used as a boarding house for several decades (Stanton Library records indicate the use was in existence in the 1940s, prior to introduction of planning laws via the County of Cumberland Planning Scheme). The submitted SEE documents three development applications lodged and approved between 1988 and 2013, to extend and modify the boarding house, as it existed at the time.

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R3 Medium Residential
- Item of Heritage – Yes (local significance)
- In Vicinity of Item of Heritage – St Leonards Park (State significance) and North Sydney Boys High School (local significance)
- Conservation Area - No

Environmental Planning & Assessment Act 1979 - Local Development SEPP (Housing) 2021,

Chapter 2 Affordable Housing, Part 2 Division 2 Boarding houses,
Part 3 Retention of existing affordable rental housing

SEPP (Biodiversity and Conservation) 2021, Chapter 6 Regulated Catchments

SEPP (Resilience and Hazards) 2021,

Chapter 4 Remediation of Land

POLICY CONTROLS

North Sydney Local Infrastructure Contributions Plan 2020

North Sydney DCP 2013 (DCP)

RELEVANT HISTORY

Previous applications

Date	Action
24 January 1989	DA 1138/88 – alterations to and refurbishment of the existing boarding house, identified by Council in the assessment report as a “licensed boarding house”. The establishment had 59 rooms. Consent was granted.
28 March 1990	Three storey additions to the four buildings on the site, adding 44 rooms resulting in a total 103 rooms, were approved.
14 November 2013	DA 210/13 - alterations and additions to the boarding house were approved (deferred commencement). An additional room (making the total 104) office and resident amenities comprised the application. Although the deferred commencement conditions were satisfied (re fire safety) the approved works were not carried out and the consent lapsed.

Current Application

Date	Action
19 March 2024	Application lodged.
29 March – 12 April 2024	Application notified for 14 days.
14 May 2024	Site inspected.

2 September 2024	Additional information requested, to: <ul style="list-style-type: none">- Address landscaping details,- Provide a relocation plan for residents and a revised plan of management,- Consider various heritage related design amendments,- Address waste management requirements,- Advice regarding various matters that can be conditioned (if consent granted), and- Advice of TfNSW terms of approval, also to be included in a consent.
10 September 2024	Meeting held with applicant to discuss design, heritage and planning issues.
18 October 2024	Additional information received. Design amendments mostly internal or not in direct view from public domain, except for redesign of garbage bin storage. Amendments were deemed minor, not requiring notification, noting there were no submissions when the application was first notified.

INTERNAL REFERRALS

BUILDING

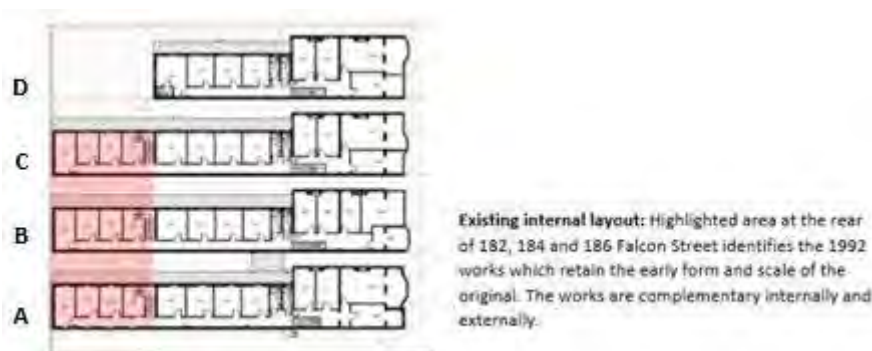
The proposed works the subject of this application have been assessed for compliance with the National Construction Code of Australia. Standard conditions are recommended for the proposed alterations and additions, including fire safety requirements.

HERITAGE

Below is Council's conservation planners' assessment of the proposal.

1. Heritage Status and Significance

- *Group of four Federation Queen Anne style buildings identified as heritage items [I 0831; I 0832; I 0833; I 0834]. The service wings of three of the four buildings have been extended at the rear under DA 1122/89 – additions highlighted in red below.*



- *The site is in the immediate vicinity of North Sydney Oval/ St Leonards Park which is listed on the SHR*

2. Heritage Assessment and Recommendations

The following comments relate to the final amendments submitted by the applicant subsequent to those provided by email relating to the draft amendments dated 9 October 2024:

- *Retention and adaptation of the existing openings in lieu of creating a new fenestration pattern in the rear service wings*

The amended plans provide a revised fenestration pattern so that existing window openings in the original service wing areas can be adapted to doors by dropping their windowsills and for any new work to reconstruct the traditional fenestration openings and retain brick lintel patterns etc. in situ to minimise unnecessary intervention and retain the original service wing character.

With respect to the accessible accommodation on the ground floor levels of buildings B and C, the applicants response to exploring alternative options such as creating contemporary openings for access within the flank walls of the service wings, is that this option is prohibitive because of the varying level changes that do not align appropriately to create at-grade access. In the absence of an alternative option, the new openings for accessible access are supported. However, the approach should achieve a recessive/subservient design approach that continues to retain brick lintel details in situ to promote the ongoing interpretive qualities of the original service wing character.

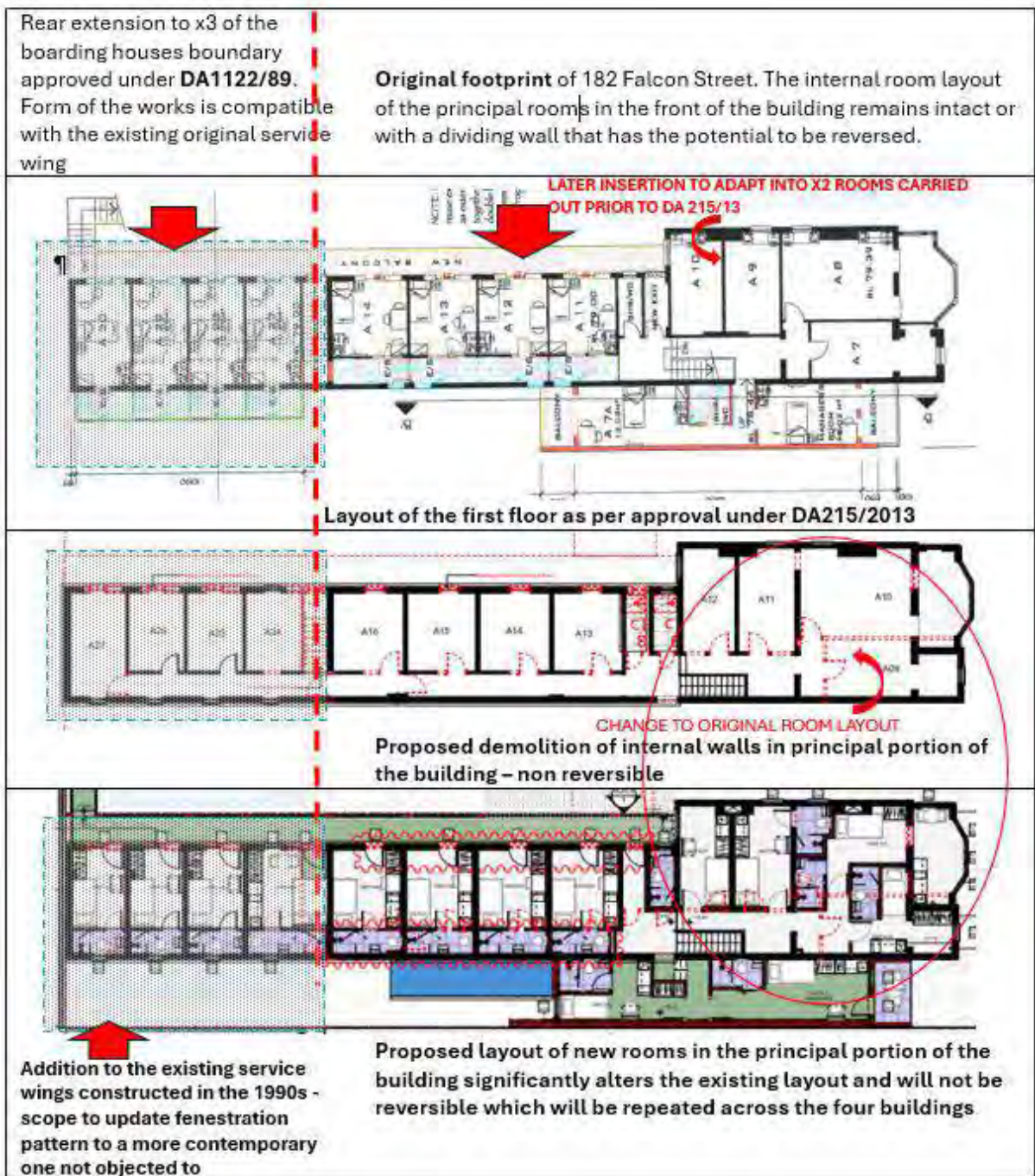
- *Interpretation of internal details and layout*
 - *Retention of appropriate bulkhead and nib walls relating to the upgrade works to the reception area*

The final revised plans indicate retention of nib walls/bulkheads in building B relating to the reception/lounge area which supports the ongoing interpretation of the earlier room configuration.

- *Retention of the internal first floor corridors*

With reference to Burra Charter Article 21 - Adaptation and NDCP 2013 Part B: s13.5.5 Internal layout, a building that retains its traditional layout and features, is more likely to retain its significance than a building that has been extensively changed inside (- and in this case outside as well through the proposed fenestration changes).

The applicant's reference in support of infilling the first floor level corridors cites the approval under DA 215/13 which supported the infilling of the first floor corridor. It is important to note that this adaptation only related to 182 Falcon Street and did not include additional changes to the internal layout of the primary rooms beyond the change to bedroom two with a dividing wall creating two rooms (see tabulated summary of the plan layout above). It is noted that the subject DA will remove this wall and retain the remaining insitu decorative architectural elements behind a false ceiling.



In contrast to DA 215/13, the works relating to the subject DA are more extensive and predominantly non-reversible adversely impacting heritage fabric and the interpretive qualities across the four buildings. As such, the accumulative impact will adversely downgrade the heritage significance of the individual buildings and the group as a whole. The changes are summarised as follows:

- *infilling of the traditional first floor corridor of the service wings across all four buildings within the original portion of the service wings,*

- *reconfiguring the principal front room layouts to accommodate bathroom/kitchenette facilities across all four buildings (see tabulated summary above). To date, there are no details to fully understand the degree to which the decorative architectural elements within these primary rooms such as the decorative ceiling details, ornate architraves, bulkheads and nib walls across the four properties will be retained behind the proposed false ceilings. There are also no details relating to the service installations relating to the bathroom/kitchenette upgrade works.*
- *introducing a contemporary fenestration pattern to create accessible openings in the original portions of the rear service wings of buildings B and C – these are supported in light of an unsuitable alternative option (see comments above).*

The pinch-point of the subject DA lies in achieving a balance between the socio-economics of the project being to support low cost accommodation within the North Sydney area versus the appropriate heritage management of the place. It would also be useful to ascertain the potential financial metrics of the project following the proposed upgrade of amenities for each of the rooms. With reference to the above, the infill of the first floor corridors within the original service wing areas is not supported on heritage grounds.

- *Location of the garbage storage area –*

The preferred option, as originally proposed, is due to a replacement tree being able to be planted in lieu of the one being removed. It is noted that the proposed perimeter landscaping will mitigate the visual impacts of the new waste management storage area from the public domain and will maintain a leafy setting that is important to the setting of St Leonards Park on the opposite side of the street. It is noted that the impact from this approach is reversible.

3. Conclusion and Recommendations

With reference to the above, should the application be recommended for an approval, the following conditions relating to heritage conservation issues are advised:

Non-standard Conditions:

- *That details relating to the following are to be submitted to Council for approval prior to the issue of any CC:*
 - *retention of the nib walls and bulkhead between the two front rooms adapted for use as the reception/lounge area be undertaken to ensure the ongoing interpretation of the earlier room configuration.*
 - *details to fully understand the degree to which the decorative architectural elements within the primary front rooms such as the decorative ceiling details, ornate architraves, bulkheads and nib walls across the four properties will be retained behind the proposed false ceilings, including details relating to the service installations relating to the bathroom/kitchenette upgrade works.*

- *the design of the new accessible openings in the ground floor levels such that they express a submissive expression within the original service wing elements - existing brick lintel detailing are to remain in situ for interpretive purposes.*
- *That a heritage strategy to manage the ongoing conservation of the group of building by way of a maintenance schedule be prepared as per the current NSW guidelines set out in the Statement of best practice for heritage asset action plans document <https://www.environment.nsw.gov.au/research-and-publications/publications-search/statement-of-best-practice-for-heritage-asset-action-plans>*
- *That BCA upgrade works are to be based on a performance solution in order to mitigate any adverse impacts on heritage fabric.*
- *That where practical, period doors are either to be retained in situ or reused within the buildings and any removed heritage fabric is to be salvaged and recycled into local heritage restoration facilities.*

Standard Conditions:

- *A3 No demolition of extra fabric*
- *C12 Colours, Materials and finishes (Heritage items)*
- *E5 Removal of extra fabric*
- *D1 Photographic survey (Heritage items)*
- *C6 Heritage Architect to be commissioned*

(Reason: To protect the heritage significance of the heritage item group and its setting and minimize any impact on the SHR listed St Leonards Park in the vicinity of the development)

Assessment Officer's comment

The non-standard condition has been included in the recommended deferred commencement condition, wording has been adjusted for this purpose, without altering the intent and purpose of the conditions. Other heritage-related conditions have been included in the recommended operational conditions, except for C12, as a colours and materials schedule has been submitted with the application.

WASTE MANAGEMENT

Council's waste management officer advised that because the boarding house will continue to be managed daily, it is appropriate to continue waste collection by a licensed commercial waste contractor, not Council's waste collection service. A condition is accordingly recommended, which also stipulates that the property will not be entitled to use Council's waste collection services, including pre-booked clean-ups.

DEVELOPMENT ENGINEERING

Council's development engineer examined these aspects of the application:

- *Traffic Management*
- *Stormwater*
- *Parking and Access*
- *Sediment and Erosion Control measures*
- *Excavation and Retaining Walls*

Having regard to applicable provisions of the DCP, suitable conditions are recommended.

TRANSPORT ENGINEERING

Council's transport engineers have reviewed the application and recommend preparation of a construction traffic management plan including traffic guidance schemes.

Recommended measures are suitably addressed in the standard condition as recommended by the development engineers, including concurrence of Transport for NSW as required, due to Falcon Street being an arterial road.

LANDSCAPE DEVELOPMENT

Advice from Council's Landscape Development Officer follows:

Removal of T1 Cupressus sp. (8x6m) from the front setback of 188 Falcon St is not supported, in order to construct the proposed bin enclosure. This medium sized tree provides screening and softens built form. An amended design incorporating bin storage within existing hardstand in front of 182 Falcon St should be considered. There is limited landscaping across the site, with the majority concentrated within the front setback – the removal of an existing mature site tree and replacement with services area and associated structures within the front setback of heritage building is considered to be less than ideal.

The Landscape Development Officer also recommended:

- *1 x Lagerstroemia indica (45l) shall be included within the COS in the rear setback of 188 Falcon St*
- *1 x existing Magnolia grandiflora cv. in the front setback of 182 Falcon St, not shown on plans or in arborist report, shall be retained and protected, and shown as such on plans.*
- *Location of stockpile shown on Erosion & Sediment Control Plan prepared by Van Der Meer Consulting dated February 24 shall be relocated outside the area of existing landscaping.*
- *Inclusion of standard conditions to protect trees and ensure suitable landscaping.*

Assessment Officer's Comment:

These and other standard conditions are recommended.

Regarding removal of the tree due to the proposed location of a waste bin storage facility, the matter was raised with the applicant who responded by submitting three design alternatives. Only one avoided removal of the tree, which would have a greater impact on the frontage of development and its appearance from Falcon Street. Another option considered was relocating the bin enclosure to the western side of the site. This was found to be unacceptable, as it would preclude provision of four motorcycle parking spaces in front of the proposed additions to Building A. Amenity of the main entry to the complex and of nearby rooms would also have been compromised, were bins to have been stored in this location. The preferred, originally submitted location of the bin enclosure still requires removal of the tree. Taking waste management practicalities, streetscape and heritage into consideration, planting of a replacement specimen of the same or other suitable species in the space in front of Buildings B & C is required by a recommended condition.

SOCIAL & HOUSING PLANNING

Council's Social Planner has advised, in relation to the originally submitted application:

The applicant has supplied a variety of information which I have relied on to make comments, including:

- *Statement of Environmental Effects (SEE)*
- *Social Impact Assessment*
- *An Access Review Report.*

The applicant:

- *states that the "proposal is to deliver alterations and additions to reconfigure the rooms in the boarding house to provide for additional and improved communal facilities, to enhance the amenity and utility of boarding rooms, to improve circulation throughout the facility, and to improve alignment with contemporary building standards and accessibility requirements" (SEE, p.1).*
- *characterises the proposed development as constituting alterations and additions to an "existing privately operated boarding house" (SEE, p.1).*
- *describes the reduction in rooms as a consequence of room reconfiguration for disability access, fire safety and enhance the utility and as a result recognises that the number of boarding rooms within the facility will reduce (SEE, p.2).*
- *proposes to stage the construction of the development. "Construction will occur within two of the four buildings, enabling half of the boarding house to remain operational during the construction phase of the development".*

As noted, where a loss of affordable housing occurs, under the SEPP the applicant is required to pay a monetary contribution for the replacement of affordable housing. I note that the Applicant characterises itself as a "private boarding house" and does not believe that this condition applies. This is not an issue I will concern myself with, as these are legal issues, which in the end, if there were any dispute, only a NSW Court could decide. The more salient point, which is not in question nor disputed, is that the proposal, while seeking to improve amenity, will see a loss of 7 rooms (SEE, p.2, SIA, p.13). The renovations, to done in stages, therefore raises the issue of the concerns for residents, a significant portion of who will need to find affordable, alternate accommodation and who may not return if there is an associated increase in fees beyond their means.

Assessment Officer's comment

Following receipt of application amendments, the author in drafting this report concluded that the applicant should not be immune from consideration of the Housing SEPP's provisions requiring payment of a contribution to assist in off-setting loss of low cost affordable rental housing. This was also later discussed with the Social Planner, who agreed.

In view of the detailed commentary below from Council's Social Planner, maintaining an affordable rental rate and payment of a contribution are warranted. Suitable conditions are recommended, presented at the conclusion of this report section.

Council's role in Affordable Housing

Affordable rental is housing that can be rented by very low or low- or moderate-income households for no more than 30% of household income. Council has concerned itself with the need for affordable housing through a number of measures, including on a regular basis to engage Judith Stubbs and Associates to undertake an Affordable Housing Strategy and Reviews of the Housing Market (2008, 2013, 2015, 2017, 2019, 2022). There is both a positive obligation focus of producing more low-cost housing as well as mitigating against the loss of affordable housing and strengthening the Social Impact Assessment processes to assess the loss of and protect the existing supplies of affordable housing. Maintaining and strengthening boarding house stock is integral to this.

Judith Stubbs's 2019 Report found that:

"Since the affordable housing program began in 1984, at least 2,400 affordable bed spaces have been lost in the LGA".

She further noted that:

"Considering only the maintenance of 2016 levels of affordable housing within North Sydney LGA, the following targets will need to be met between 2016 and 2036:

- An additional 160 social housing dwellings (1.6% of projected additional dwellings)*
- An additional 6,200 affordable rental and purchase dwellings (62% of projected additional dwellings)*
- An additional 136 beds in boarding houses"(p.9).*

Rents and Affordability

In 2021, 48.6% of North Sydney Council area's households were renting their dwelling from a private landlord and 1.6% were renting Social Housing dwellings. A search of studio and 1 bedroom flats through real estate sites, (e.g. <http://www.realestate.com.au>) gives a range of rentals in North Sydney from \$400 (studio) to \$1125 per week. The current weekly median advertised rent for units in North Sydney was \$700. (see: [Investment Property North Sydney, NSW, North Sydney, 2060 \(realestateinvestar.com.au\)](http://www.investmentproperty.com.au)).

Boarding houses are a traditionally reliable source of affordable accommodation. However, since 1984, Council records show that at least 2,400 low-cost bed spaces in residential flat buildings and boarding houses have been lost in North Sydney LGA (see Stubbs, 2019: p.8). The first Background Report to the Strategy (Judith Stubbs and Associates, 2008) established that there were around 23 accommodation facilities in North Sydney Council area that were operating as boarding houses or private hotels at that time. It also reported on a survey of 29 boarding house properties that analysed the characteristics of boarding house residents. The majority (88.4%) of these people were single and 60.8% were employed (full time or part time). Over 60% reported themselves as being long term residents, living there for more than 3 months, with 19% residing in a boarding house for more than 10 years. About one third (33.8%) were overseas visitors and 20.3% of those surveyed had been at the boarding house for less than two weeks. About 20% of the surveyed residents were pensioners (see NSAHS p. 21).

In May 2022, Council received a Report from Judith Stubbs & Associates titled: North Sydney LGA: Analysis of Strata Prices 2011-2022 and Sales and Rental. It clearly sets out the difficult housing situation on renters and mortgage holders, and the resultant housing stress. It notes (p.1) that North Sydney’s cost of housing, adjusted for inflation has experienced “a 60% increase between 2011 and 2017, a drop of 11% through 2018-19, and an increase of 30% through 2020-22”. In relation to renting, it noted (p. 14) that for the period 1990-2021:

“Median rental for separate houses is currently 65% above rents for Greater Sydney. Median rental for one-bedroom apartments have tended to converge to the Greater Sydney median over the period, and are currently equal to Greater Sydney values, while median rentals for two bedroom apartments are currently 30% above the Greater Sydney median.”

While some affordable rental is available for moderate income households, this largely consists of studio and one-bedroom apartments. Due to Sydney’s highest home prices in Australia, renters pay through a flow-on effect. The median rental asking price has increased quicker than it has in nearly 15 years, and Sydney rental costs were up 9.1% in 2022¹.

Cost of Boarding and Affordability of Local Boarding Houses

The following are some comparable rates for existing boarding houses:

Address	Current/Most Recent Rent (per week)
Kirribilli Boarding House Willoughby Street, Kirribilli 12/51-53 Willoughby Street, Kirribilli NSW 2061 - Studio For Rent Domain	\$290.00 per week (2024)
Cammeray Gardens, Sydney Boarding House Accommodation » Sydney Boarding House	Share facilities – Single or Double From: \$350 per week (2024)

¹ See <https://www.mpamag.com/au/mortgage-industry/guides/why-is-housing-in-sydney-so-unaffordable/416682>

Neutral Bay Lodge https://neutralbaylodge.com.au/	Shared Bathroom \$641.70 per week (2024) Single Room with Ensuite \$1057.50 per week (2024)
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Table 2: North Sydney LGA - comparable prices for boarding houses

It is assumed with the increase in amenity, there will be improved returns and fees will increase. In order to assess impacts, it would be useful to have the Applicant document present and proposed room rates. Within the Applicant’s SIA, it states:

“The Applicant anticipates that, due to the construction costs of the proposed works, improved building amenity to be provided and the slight reduction in number of rooms provided, the rental level for rooms after the proposed works will increase slightly” (p.14).

Could the applicant please indicate what their current rates are compared to the proposed rates after the renovations, as well as bond required?

Falcon Lodge	Current room rate	Proposed Rate After Renovations	Bond
<i>Share facilities – Single or Double</i>			
<i>Single Room with Ensuite</i>			

Impact on Residents

The proposed development will impact on residents in the short and long term. The development constitutes an expansion of an existing use and it is inevitable that low-cost housing will be lost (7 rooms) and will impact on both the supply (loss) and cost (increase in price) of affordable housing. While increase in fees may seem justified in these circumstances, the subsequent increase will preclude some residents with low incomes from returning to the facility or of staying in the area. The applicant, in acknowledging the anticipated social impacts on residents due to construction works, proposes:

- *the staging of the development,*
- *providing sufficient notice of dates for residents to vacate.*
- *assistance to prepare rental applications,*
- *assisting residents with temporary relocation,*
- *developing a relocation plan to be and supplied with the construction certificate, and*
- *managing impacts through a detailed Plan of Management.*

With the maximum Centrelink pension basic rate² being \$510.30 per week, and the chronic shortage of affordable housing for people on limited incomes in North Sydney, this will be a trying time for the residents once they are contacted about vacating the premises. Turning to this issue, it is imperative that the applicant do all of the above. Conditions on the development should include that the Applicant:

- 1. Develop a Relocation Plan for the affected residents which is approved by the Council's Community Development Section,*
- 2. Consult with local housing and homeless specialists to assess the needs of the affected residents, and carry out assessments utilising a qualified social worker with experience in housing issues. The Community Development section has attached a template to be filled out and approved before works commence.*
- 3. Submits a detailed Plan of Management for approval by Council before works commence.*

Access and Inclusion

It is noted that the applicant has provided a qualified Access Consultant's Report to assess the proposed accessibility standards that the development will deliver. The applicant should follow all the recommendations for improvements which the Consultants have suggested.

Recommendations:

- 1. That the applicant develop a Relocation Plan for the affected residents which is approved by the Council's Community Development Section. **Purpose:** To ensure that the impact on residents of relocation are mitigated.*
- 2. That the applicant submits a detailed Plan of Management for approval by Council before works commence. **Purpose:** To ensure that the impact on residents of relocation are mitigated.*
- 3. That the applicant follow all the recommendations for improvements which the qualified Access Consultant's Report has recommended as conditions of the development. **Purpose:** To comply with anti-discrimination laws and maximise inclusion for people with disabilities.*

Author's comment

These recommendations were conveyed to the applicant who subsequently submitted a relocation plan and a revised plan of management for the facility. These were referred to the Social Planner who provided this further advice:

In relation to the above DA, I make some observations after looking at the following:

- Falcon Lodge – Draft Plan of Management*
- Filled in Template of the Resident Relocation Plan Falcon Lodge, (No.1 RRP)*
- Resident Relocation Plan Falcon Lodge, Revision 2.0, September 2024 (No.2 RRP)*
and
- Letter from Balance Planning dated 1 October 2024*

² [How much Age Pension you can get - Age Pension - Services Australia](#), accessed 9/7/24

I note that the Plan of Management (POM) has a Section 5.0 During Construction which includes a brief section of how residents will be approached during this stage.

To avoid confusion, as there are two Resident Relocation Plans (RRP), I have referred to No.1 RRP and No.2 RRP.

In the POM, at 39 – it notes: “The Relocation Plan prepared for the proposed development will operate in conjunction with the Plan of Management whilst construction of the upgrade works is being undertaken.”

At 40, it notes: “The construction works is proposed to be carried out across two (2) separate stages within two of the four buildings, enabling two (2) of the boarding house buildings to remain operational during construction.”

At 41. & 42. It provides information of how the residents will be consulted and assisted and supported with their accommodation arrangements.

No 2 RRP outlines the options available to existing residents which include:

- *relocate to another room within the Falcon Lodge; or*
- *relocate to another address temporarily (i.e. during construction) and return to Falcon Lodge at a later date (subject to the conditions specified in the Relocation Plan); or*
- *relocate to another address permanently.*

With the above, the most appropriate option will depend on the individual circumstances of the residents.

No.1 RRP – *at a, d and e, the Timeframe/ Outcome is filled in as “To be managed post approval.”*

Comment: *I would prefer that some indications were given about what is anticipated. In other words, by when and what outcome are anticipated. However, I understand that moving forward is contingent on approval. I would like to stress to the Applicant that they need to provide more detail (if not now, then when the DA is approved). I would like to suggest that a condition is that on approval, the Applicant further liaises with the Community Development Section to submit more measurable detail on their RRP. The imperative is identifying equivalent affordable rental or social housing on behalf of residents, empowering them to search for appropriate alternatives and that the alternative housing arrangements provide security. Council confirms that the supports identified in the No.1 RRP are available to assist and should be engaged with in a timely manner on approval. Both myself and George Carrick (cc’ed) are available to discuss further, and the Applicant should set up an online meeting with us once they have provided the details of a, d and e on No.1 RRP.*

At i and j in No.1 RRP, I would suggest that the Applicant supply fortnightly reports on progress with resident relocations via email.

No.2 RRP – Comment: *Detail of how relocation is to be managed is appreciated. At 2.3 in relation to the General Tenant Meeting, I would suggest that the Support Services be invited to participate in such a meeting, ie. A timely invitation be issued to Council’s Access & Inclusions Coordinator, St Vincent de Paul Society NSW, [SGCH](#), [Link Wentworth Housing](#) and the [Crows Nest Centre](#) (CNC).*

At 2.3 Rental Support, I note that the operator offers existing residents that have resided at the premises for 12 months or more, a one-off payment of \$1,000. However, accepting “the \$1,000 Rental Support payment offer, will disqualify a person to qualify for the Return Accommodation support scheme”. How this is conveyed to the residents and how it works practically will need more detail, and it should include briefing and communicating with the Support Services about their involvement.

In relation to 2.7 Relocation Agreement, what is in the Relocation Agreement is important to know and also be conveyed to the Support Services who can offer their assistance and also link a resident to independent advice. For example, from the NSW Tenants Advice and Advocacy Service.

Post Development Room Rates - *In relation to room rates after the development is completed, I note the Applicant says: “The post development room rates will continue to be determined by the market... Numerous factors that will influence room rates at completion, including the rental market, cost of utilities, and fluctuations in construction costs. It is therefore not possible to qualify post-development rates as requested.”*

Comment: *This is a very qualified answer, and underlying it is the probability that the affordability of room rates is likely to be tested. Giving a comparison of studio apartments is understandable, but boarding houses are aimed to provide affordable rental housing intended for low-income renters. I await to see what rates will be set; however, I believe that rates should be lower than a studio apartment in the area.*

Assessment Officer’s comment

Following further discussions with the Social Planner, the following conditions are recommended:

As part of a deferred commencement condition, the following documents must be submitted for approval by Council’s Manager Community Resilience and Sustainability:

- a) *A final relocation plan, prepared in consultation with Council’s Community Resilience and Sustainability Unit and any consultation with other stakeholders as deemed necessary by members of the unit.*

(Reason: To acceptably minimise the impact of the development on existing residents)

- b) *A revised plan of management, including a commitment that room rates will remain affordable, as defined by s. 1.4 (1) of the Environmental Planning and Assessment Act 1979 and cl. 13 of SEPP (Housing) 2021.*

(Reason: To ensure that room rental rates remain affordable)

Regarding the social planner's earlier recommendation regarding the development to comply with the submitted access report, this report has been included in the consent, in the table to condition A1.

EXTERNAL REFERRALS

Transport for NSW

The application was referred to Transport for NSW, as required by the Transport and Infrastructure SEPP, due to Falcon Street being an arterial road.

This agency advised as follows:

Following a review of the submitted application, TfNSW has no objections to the application and recommends the following requirements are included in any consent issued by Council:

- 1. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Falcon Street are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.*

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

- 2. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Falcon Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>*
- 3. Any proposed public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening/underboring to be submitted to TfNSW for review and acceptance prior to the commencement of any works. The developer must also obtain any necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.*

Assessment Officer's comment

These conditions are included in the attached recommended conditions.

INTEGRATED REFERRALS

None required.

SUBMISSIONS

The application was notified for 14 days from 29 March 2024 until 12 April 2024. No submissions were received.

CONSIDERATION

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal is assessed below with regard to SEPPs that apply to the site and the proposed development.

SEPP (Housing) 2021

Chapter 2, Part 2, Division 2 Boarding Houses

Each clause of Division 2 Boarding Houses is considered below. Definition and characterisation of the proposal, given the proposal relies on existing use rights, is examined in detail below, in relation to zoning and permissibility provisions of the LEP.

Cl 23 Boarding houses permitted with consent

This clause is relevant in so far as development for the purpose of a boarding house is permitted, if allowed with consent by another planning instrument.

The applicant contends that the Division does not apply because the proposal does not satisfy the current definition of *boarding house*.

In contrast to this interpretation, it is considered that certain provisions apply to an application relying on existing use rights, because these provisions do not derogate from the incorporated provisions, thus preventing an application being made.

Cl. 24 Non-discretionary standards – the Act, s. 4.15

These standards prevent the consent authority from applying more onerous standards, when the standards of this clause are complied with. Non-compliance with them does not preclude granting of consent either. They do not derogate from the Act's incorporated (existing use) provisions.

Provision Cl. 24(2)	Standard	Consideration
(a) & (b)	Maximum FSR and an additional 30% FSR, when RFB or MUD permitted	N/A – Residential flat buildings and mixed use developments are prohibited in the R3 zone that applies to the land. An FSR is not applied for any form of residential accommodation by the <i>North Sydney LEP 2013</i> , except for a few specified sites. The subject land is not one of these.
(c)	Minimum landscaping requirements in R3 zone under a relevant planning instrument	N/A No landscaping requirements in a relevant planning instrument apply.
(d)	Minimum landscaping requirements in R4 zone under a relevant planning instrument	N/A The land is not zoned R4.
(e)	Min. 3 hrs direct solar access, 9am-3pm in midwinter, to at least one communal living area	The extant communal open space does not presently receive the required minimum midwinter sunlight, this condition does not change as a result of the proposed alterations and additions. Compliance cannot be achieved due to site-orientation and shadowing by neighbouring buildings and existing buildings on the site.
(f)	In boarding houses of 6 rooms at least 30m ² communal living area with a min. dimension of 3m for each are required	N/A the boarding house contains more than 6 rooms.

(g)	In boarding houses of more than 6 rooms there shall be 30m ² communal space and 2m ² additional space for each room over 6.	The boarding house as proposed will have 87 rooms, reduced from 94. The SEE notes improvements to indoor space in building B and the outdoor space, and other shared facilities including kitchens. Although the quantum of communal facilities would not comply with the minimum 192m ² required, improvements to room facilities and communal areas reasonably enhance amenity for boarders.
(h)	Communal open space must be at least 20% of the site area, with a 3m minimum dimension	1,794m ² is the site area, 20% of this is 358m ² . The outdoor common open space is about 108m ² . In circumstances where this is an existing boarding facility and the number of rooms is being reduced, this space is deemed acceptable.
(i)	Parking on a site in an accessible area requires at least 0.2 parking spaces	The site is in an accessible area as defined by the SEPP, with high frequency bus services to all centres in the site's vicinity and beyond, including North Sydney, the City, Neutral Bay, Crows Nest and Chatswood. No parking for any vehicles is presently available and none is proposed, except four spaces for motor cycles. Outdoor parking suitable for visitor's bicycles is made available. With the boarding house having operated for many years, there is no reason to believe existing facilities, without parking, need to change.
(j)	If a planning instrument applies a lower number of parking spaces, this shall apply	No planning instrument specifies a lower parking rate for the site.

Cl. 25 Standards for boarding houses

Provision Cl. 25	Standard	Consideration
(1) (a)	No room greater than 25m ² , excluding kitchen bathroom	No rooms exceed 25m ² in area. The largest double rooms, excluding kitchenette and bathroom, have an area of about 10m ² .
(b)	No more than 2 residents per room	This is addressed by a recommended condition of consent.
(c)	Adequate bathroom, kitchen and laundry facilities will be available	Each room has its own bathroom, there are common and private cooking facilities available, including a barbeque in the communal open space. All rooms have access to shared laundry facilities on the lower ground floor of three of the four buildings.
(d)	R2 zone, no more than 12 rooms	N/A the site is zoned R2.
(e)	In business zones street frontage not to be used for residential purpose	N/A the site is not in a business zone.
(f)	Boarding house of at least 6 rooms shall have at least 1 communal living area	1 communal space is provided.
(g)	Minimum lot size in R3 zone – 800m ²	The site area of 1,794m ² exceeds the minimum required
(2) (a)	Boarding house design will be compatible with elements of local character.	The four residential buildings on the site are heritage items and are significant contributors to the locality's character. The proposed development adequately conserves these qualities and is deemed to fulfil this standard.
(b)	Front, side and rear setbacks must comply with those set by a planning instrument, for multi-dwelling housing	The North Sydney DCP 2013 establishes setback controls, which is not a planning instrument.

(c)	The Apartment Design Guide's building separation standards apply to boarding houses with at least 3 storeys	The boarding house is partly 3 stories at the rear and does not comply with these building separation requirements. This being an existing condition, and the ADG not being a planning instrument, strict compliance is unnecessary.
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Clause 26 Must be used for affordable housing

Unless development is carried out for or by the Aboriginal Housing Office or the Land and Housing Corporation, consent must not be granted unless, from the date an occupation certificate is issued, the boarding house will be used to provide affordable housing and be operated by a community housing provider, in perpetuity.

As discussed, the applicant relies on existing use rights, as defined by s. 4.65 of the Act, wherein approval is sought for alterations and additions to a boarding house. Because the boarding house has not been, and nor is it intended to be managed by one of the organisations specified by the current definition, it cannot be approved, but for the incorporated provisions. Clause 26 derogates from the incorporated provisions of Division 4.11 Existing Use Rights of the EPA Act. In accordance with the Saffioti decision, this clause has no effect, as set out by s. 4.67 (3) of the Act (**emphasis added**):

- (3) *An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but **any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.***

Cl. 27 Subdivision of boarding houses not permitted

Subdivision is not proposed. A condition to enforce the requirement of this clause is recommended.

Chapter 2, Part 3 Retention of Affordable Rental Housing

This matter has not been considered by the applicant. It appears the solicitors that prepared the attached legal opinion may have only been briefed to address application of Chapter 2, Part 2, Divisions 2 and 3, not Part 3.

The application was however accompanied by a social impact report addressing loss of low cost rental housing, which concluded that despite the loss of seven rooms the boarding house will still have spare capacity, having had a 17% vacancy rate over the last 4 years.

Regarding these provisions of the SEPP, this report relies on the conclusion these provisions do not apply because the facility is not run by an agency specified by the boarding house definition.

As mentioned, the proposed development involves the loss of 7 boarding rooms. While this is satisfactory on the terms submitted by the applicant, improving amenities and complying with fire safety regulations, the application has not addressed the broader social impacts of the loss of these rooms, particularly on those in the community who need such affordable rental accommodation.

Cl. 47 and 48 require consideration of whether the loss of affordable rental housing will result from proposed development, and whether a contribution toward offsetting that cost should be paid.

While the submitted social impact report concluded the development may continue to have a relatively high vacancy rate, the SEPP requires the vacancy rate to be considered across a local government area, as discussed above by Council's Social Planner.

Part 3's provisions do not prevent approval being granted or prohibit the development and should therefore be considered. As noted below, the definition of 'boarding house' requires affordable housing to be provided.

As the applicant has not submitted information to enable consideration of Part 3, Chapter 2 of the Housing SEPP, a condition is recommended to require information to be submitted to satisfy this part of the Housing SEPP, and payment of a contribution, in accordance with cl. 48 of the SEPP.

SEPP (Biodiversity and Conservation) 2021

Development in the Sydney Harbour Catchment

The land to be developed is in a 'regulated catchment' (Sydney Harbour's) as defined by the SEPP. Consequently, the following provisions apply, which have been considered in this assessment, concluding that where relevant the proposed development is not inconsistent with these provisions and generally supportive of principles for planning and development of land in the catchment.

- 6.6 Water quality and quantity
- 6.7 Aquatic ecology
- 6.8 Flooding
- 6.9 Recreation and public access

SEPP (Resilience and Hazards) 2021

The SEE that accompanied the application submits that the site has not been used for potentially contaminating activities, rather it has a lengthy history of residential use and is unlikely to be contaminated to require remediation or prevent ongoing use for the purpose of residential accommodation. Consent may accordingly be granted, the potential risk of contamination and the need for remediation having been considered.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

Characterisation, permissibility, existing use rights and application of planning instruments

Definition of boarding house

The subject development application seeks consent to make alterations and additions to an existing 'private' boarding house, on land zoned R3 Medium Density Housing.

In this zone, boarding houses are permitted with consent, provided they satisfy this definition:

boarding house means a building or place—

- (a) that provides residents with a principal place of residence for at least 3 months, and
- (b) that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and

- (c) *that contains rooms, some or all of which may have private kitchen and bathroom facilities, and*
- (d) *used to provide affordable housing, and*
- (e) *if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,*

but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Existing use rights

As mentioned, the application as submitted seeks approval to continue operation of a 'privately operated' boarding house. However, no such term is defined in the Housing SEPP or the LEP.

The application is more accurately seeking consent to continue operation of a boarding house, in accordance with the EP&A Act's definition of "existing use".

S. 4.65 of the Act defines an **existing use** as:

- (a) ***the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and***
- (b) ***the use of a building, work or land—***
 - (i) ***for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and***
 - (ii) ***that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.***

In this case, the above definition of *boarding house* was introduced to the *North Sydney Local Environmental Plan 2013* (the LEP) via an amendment to the LEP template, to ensure consistency with the newly introduced *State Environmental Planning Policy (Housing) 2021*, on 26 November 2021.

To demonstrate the site has existing use rights, the statement of environmental effects submitted with the subject application states that the development has been the subject of consents issued when the enterprise was lawful, being compliant with the *boarding house* definition at the time the development consents were granted.

The three approvals cited are:

- DA 1138/88 – alterations to and refurbishment of the existing boarding house, identified by Council in the assessment report as a "licensed boarding house". The establishment had 59 rooms. Consent was granted on 24 January 1989.
- DA 1122/89 – additions of three storeys (44 rooms) to the four buildings on the site, resulting in a total 103 rooms. Consent was granted on 28 March 1990.

- DA210/13 – alterations and additions to the boarding house were approved on 14 November 2013 (deferred commencement). An additional room (making the total 104) office and resident amenities comprised the application. Although the deferred commencement conditions were satisfied (re fire safety) the approved works were not carried out and the consent lapsed.

At the time of the third approval, the *North Sydney LEP 2001* defined a *boarding house* thus:

boarding house means a residential building:

(a) that is wholly or partly let in lodgings, and

(b) that provides lodgers with a principal place of residence, and

(c) that has shared facilities, such as a communal bathroom, kitchen or laundry,

but does not include backpackers' accommodation, a serviced apartment or a motel.

The 2013 approval was allowed to lapse and cannot be relied upon to support the claim the site has existing use rights.

With regard to the two earlier approvals, the SEE noted the North Sydney Planning Scheme zoned the site Residential 2 (a) and *boarding houses* were permissible with consent. Council's records confirmed these details.

A *boarding house* was defined by the Planning Scheme Ordinance as a type of 'residential building', which was an innominate, permitted use in the 2 (a) zone. There was no definition of a 'boarding house' per se, spelling out the qualifications for being defined as such, as in current and previous planning instruments.

The applicant's claim on existing use rights is deemed to have satisfied the requirements of Division 4.1 of the Act, the current use as a *boarding house* having been lawfully commenced before the definition of boarding house in the LEP and Housing SEPP waws changed in November 2021, having the effect of prohibiting the use as the boarding house has not been, and neither is it intended to be, operated by a registered community housing provider or the NSW Land and Housing Corporation.

Division 4.11 of the Act ensures that any use of a building or place is allowed to continue when lawfully commenced before a planning instrument is altered or introduced which has the effect of prohibiting that use, provided that use does not cease for a period of more than 12 months (or 3 years if the use ceased during the COVID period between March 2020 and March 2022).

Division 4.11 also permits the alteration of and additions to buildings and places with existing use rights, subject to satisfying provisions of this division and other planning instruments, as considered in this report.

Consideration of Development Standards and existing use rights

According to the Land and Environment Court's judgement in *Saffioti v Kiama MC [2019] NSWLEC 57*, development standards, provisions of environmental planning instruments (LEPs and SEPPs) and development control plans should be considered in an application such as this one, when those provisions do not derogate from the "incorporated provisions" of Division 4.11 of the Act.

These “incorporated provisions” enable continuation of and as in this case allow an application to be made for alterations and additions to development that has the benefit of existing use rights. In short, only a provision which prevents or prohibits the making of a development application to enlarge or expand an existing use derogates from the existing use rights provisions of the Act. This is the only type of provision that need not be considered when assessing an application that relies on existing use rights, because s. 4.67 (3) of the Act states such provisions have no cause of effect when they derogate from the existing use rights provisions.

Accordingly, provisions of the LEP and other planning instruments, form part of an application’s assessment under S 4.15 (1) of the Act. Applicable LEP provisions are considered below. In assessing the subject application, those provisions of SEPPs that do not derogate from or prohibit an application being made for the proposal have been considered.

The applicant submitted legal opinion (attached) that provisions of the *SEPP (Housing) 2021*, do not apply and therefore should not be considered. The opinion concludes that operation of a ‘private’ boarding house that enjoys existing use rights, is not subject to the provisions of the SEPP, because the policy only applies to boarding houses that are operated by or on behalf of the NSW Land and Housing Corporation or a registered community housing provider (i.e. that satisfy the prerequisites of the current *boarding house* definition).

This opinion goes on to state that as no change of use is proposed, to conform with the current definition, the SEPP’s controls on boarding houses do not apply. The SEPP only applies if the proposed development is permitted under another planning instrument, as is the case here, being the LEP, and that the proposed development is consistent with the definition of a boarding house, which is not the case in this instance.

The opinion concludes that the LEP’s controls do apply, because they apply to buildings more generally, and because the standards do not impinge upon the ability to make a development application.

The principle reestablished in *Saffioti* (in referring to several previous judgements) is that the controls on development in a planning instrument (not only LEPs) do not apply, when they remove the ability to make a development application or prevent development, including granting consent for development. There are provisions of the Housing SEPP that control development for boarding houses and other types of development that do not derogate from the ability to make a development application. These controls should therefore be considered in this application’s assessment.

In contentious circumstances such as this, another principle is relevant, in that Panel’s consideration of the application should apply “an abundance of caution”. To not do so, could risk the consent, if granted, being declared null and void, as the application could, inter alia, be the subject of legal challenge for not having considered applicable planning controls.

Accordingly, relevant provisions of SEPPs have been considered and consideration of applicable LEP provisions follows.

NORTH SYDNEY LOCAL ENVIRONMENTAL PLAN 2013

Objectives of the zone

Despite the above, the proposed development for the purpose of a *boarding house* is consistent with the R3 Medium Density Housing zone objectives, applicable to the land:

- *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.*

Part 4 Principal development standards

Maximum height

Of the LEP's principal development standards, only the 8.5m maximum building height control applies to the site. As shown on cross-section drawings in the architectural plans, all proposed works are below this maximum height.

Part 5 Miscellaneous provisions

Heritage Conservation

The subject site is listed as a Heritage Item by Schedule 5, *NSLEP 2013* and the following planning objectives apply:

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

As discussed by the Conservation Planner's assessment, the proposal is consistent with the LEP's heritage objectives and relevant provisions of clause 5.10.

Flood planning

The site is prone to flooding. A letter from a suitably qualified engineer has been submitted certifying that the proposed development has acceptable, insignificant impacts on localised flow of floodwater. The proposal is consistent with the objectives and matters for consideration specified by clause 5.21.

Part 6 Additional local provisions

Earthworks

Excavation is proposed to be carried out for footings of the new extension on the western side of the site, which are negligible and consistent with applicable provisions of clause 6.10.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>Complies</i>	<i>Comments</i>
1.2 Social Amenity		
1.2.1 Population Mix	N/A	Not applicable to boarding houses.
1.2.2 Universal Design and Adaptable Housing	N/A	Not applicable to boarding houses.
1.2.3 Maintaining Residential Accommodation	Deemed to comply	<p>The applicant submits the proposal is necessitated by the need to improve accessibility and communal spaces, comply with fire safety requirements and to meet demand for improved personal amenities in boarding rooms. The resultant loss of rooms, from 94 to 87 is considered warranted by the applicant.</p> <p>The loss of 7 rooms equates to about 7.4% of the current total. Given the long-term loss of affordable housing in North Sydney, detailed by the Social Planner, the applicant is required to submit information to ascertain the amount of a contribution payable to offset this loss, as provided for by the Housing SEPP. This is recommended as a condition of consent.</p>
1.2.4 Affordable Housing		Considered in relation to the Housing SEPP, above.
1.2.5 Housing for Seniors and People with a Disability	N/A	Not applicable to boarding houses.
1.3 Environmental Criteria		
1.3.1 Topography	Yes	No significant change to the local landscape will result from minor excavation for the addition's slab.
1.3.2 Bushland	N/A	
1.3.3 Bush Fire Prone Land	N/A	
1.3.4 Foreshore Frontage	N/A	
1.3.6 Views	N/A	Views from and over the site are unaffected by proposed works.
1.3.7 Solar Access	No	Considered in relation to the Housing SEPP, deemed satisfactory due to impacts of adjoining development. On the site, mid-winter shadows of the buildings mainly fall on the front yard and onto Falcon Street.
1.3.8 Acoustic Privacy	N/A	Not applicable to boarding houses.
1.3.9 Vibration	N/A	Not applicable to boarding houses.
1.3.10 Visual Privacy	Yes	Privacy relationships with adjoining developments are not altered by proposed works.
1.4 Quality built form		
1.4.1 Context	Yes	The heritage qualities of the buildings are maintained, making a significant contribution to local urban context. Maintaining and updating facilities for ongoing use of the site as a boarding house supports the local community, optimising access to transport, services and amenities.

1.4.2	Subdivision Pattern	N/A	
1.4.3	Streetscape		Proposed landscaping and provision of improved waste bin storage have acceptable effects on the streetscape.
1.4.4	Laneways	N/A	
1.4.5	Siting		There is no change to the buildings' footprints.
1.4.6	Setbacks – Side		There is no change to the buildings' footprints. Setbacks are not being altered.
P1	Front setback		There is no change to the buildings' footprints. Setbacks are not being altered.
	<ul style="list-style-type: none"> To match adjoining properties. 		
P5	Rear Setback – Rear		There is no lane at the rear or side of the site and building separation will not alter, except at the western side.
	<ul style="list-style-type: none"> To match adjoining properties. 		
P7	Laneways		
P8	Building Separation		
			To the west is a place of public worship, the Hare Krishna Temple, a mainly non-residential building. An application is being considered for a replacement for the existing temple, which is understood to include additional ancillary residential accommodation, 3 or 4 storeys above ground. If approved, development of the land to the west is expected to have limited impacts on the subject boarding house, and vice versa.
1.4.7	Form Massing Scale	Yes	Form massing and scale remain substantially the same, and the addition is capable of BCA compliance with floor to ceiling height standards and fire rating of walls.
	<ul style="list-style-type: none"> Floor to ceiling height 2.7m 		
1.4.8	Built Form Character	Yes	The alterations and additions are respectively complementary and recessive to the existing buildings.
1.4.9	Dwelling Entry	Yes	Formal entries to the complex and each building are satisfactory.
1.4.10	Roofs	Yes	Roof design and materials remain as existing.
1.4.11	Dormers	N/A	
1.4.12	Materials	Yes	Materials are complementary to existing heritage fabric.
1.4.13	Balconies – Apartments	N/A	
1.4.14	Front Fences		Changes to the fence to accommodate access to bins for waste collection are compatible with the remaining fence and the formally landscaped front yard. Conditions are recommended for additional tree planting.
1.5 Quality Urban Environment			
1.5.1	High Quality Residential Accommodation	N/A	Not applicable to boarding houses.
1.5.2	Lightwells & Ventilation		Ventilation and light are BCA considerations. The proposal is capable of compliance.
1.5.3	Safety and Security	N/A	Addressed below in relation to DCP Boarding House provisions.
1.5.4	Vehicle Access and Parking	N/A	Addressed in relation to the Housing SEPP.
1.5.5	Site Coverage	N/A	Not applicable to boarding houses.
1.5.6	Landscape Area	N/A	Not applicable to boarding houses.
1.5.7	Landscaping	Yes	The extant front garden with the addition of waste storage, is satisfactory. Conditions are included for supplementary planting, as recommended by the Landscape Development Officer.

1.5.8 Front Gardens	Yes	The extant front garden with the addition of suitably designed waste storage, is satisfactory. Conditions are included, as recommended by the Landscape Development Officer.
1.5.9 Private and Communal Open Space	N/A	Addressed in relation to the Housing SEPP.
1.5.10 Swimming Pools	N/A	
1.5.11 Tennis Courts	N/A	
1.5.12 Garbage Storage	Yes	As advised by Council's waste management team, the proposal includes adequate waste management arrangements.
1.5.13 Site Facilities	N/A	Not applicable to boarding houses.
1.5.14 Servicing of new lots	N/A	
1.6 Efficient Use of Resources		
	N/A	Boarding houses are exempt from sustainability requirements including BASIX. The submitted SEE addresses several sustainability-related design principles, including lighting, shade and ventilation.

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 4- Boarding Houses

	<i>complies</i>	<i>Comments</i>
4.2 Internal Building Design		
4.2.2 Communal living areas	Deemed to comply	Addressed in relation to the SEPP, noting there is a series of conjoined communal spaces accommodating cooking, lounge and work spaces for residents in building B. This area is about 44m ² and is an improvement on current facilities. Buildings A and C also have common kitchen spaces. The proposal's amenities being satisfactory is also contributed to by the number of rooms and boarders being respectively reduced from 94 to 87 and 143 to 116.
4.2.2 Boarding rooms	Yes	<p>Addressed in relation to the SEPP, which specifies a maximum room area of 25m². Several rooms do not satisfy the minima specified by the DCP (single room 12m² and 16m² otherwise, excluding kitchen and bathroom facilities), however there is sufficient space in each room for activities typically undertaken in a bedroom. The smallest rooms accommodate a single bed, a desk and wardrobe, with separate bathroom, with shower recess, toilet and basin.</p> <p>These rooms have minimum floor area of 10m² and are provided light and ventilation via windows and doors measuring about 0.9m x 2.5m = 2.25m², which exceeds the DCP requirement for windows to be at least 10% of the floor area.</p> <p>Despite SEPP compliance, several rooms are arguably too narrow or shallow, or have non-rectangular floor plans, which limit their liveability/habitability.</p> <p>This not being a planning matter, changes are not enforceable via this assessment, noting the proposal is capable of BCA compliance. However, the applicant may wish to revise floor plans by way of a s 4.55</p>

		application to modify the development, should consent be granted.
4.2.2 Shared facilities	Deemed to comply	Addressed in relation to the SEPP, see above discussion in relation to communal living areas.
4.2.2 Internal circulation	Deemed to comply	Most rooms have access via breezeways on the eastern side of each building, except for those accessed by hallways in the original building sections, these halls provide access to no more than 4 rooms per floor.
4.2.2 Management office design	Yes	The reception area remains located at the front of Building B, accessible at ground level, from all parts of the complex.
4.2.2 Personal security	Yes	Entrances and publicly accessible areas are readily visible and adequately-lit. All rooms will have secure locks and an on-site manager will be responsible for safety and security of the premises.
4.2.2 Fire safety	Yes	The proposal is capable of compliance.
4.2.2 Accessibility	Yes	Ultimately a matter addressed post-consent, the submitted BCA and Access reports conclude the proposal is capable of compliance with accessibility requirements.
4.4 Management and Registration		
4.2.2 Management	Yes	The application is accompanied by a Plan of Management. A condition is recommended to ensure the final plan is appropriate and that it addresses operational criteria outlined by the DCP.
4.2.2 Registration	Yes	As an existing facility registration requirements are assumed to have been satisfied and will continue, as required by other legislation.

North Sydney Planning Area– Part C of NSDCP 2013

The site is in the ANZAC Neighbourhood of the Cammeray Planning Area.

Desired future character is characterised by medium and high density housing with higher density focused on Miller Street, Falcon Street and West Street, these roads being part of several bus routes, connecting with local centres and transport nodes.

Development is to have front gardens, especially facing busy roads.

The proposal is consistent with the planning intent for the neighbourhood and the Cammeray area.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure, pursuant to s. 7.12 EP&A Act. The plan exempts provision of affordable housing by a social housing provider, from paying a contribution.

The contribution is 1% of the cost of the development's value of \$11,735,158.00. The contribution payable is \$117,352.00.

HOUSING AND PRODUCTIVITY CONTRIBUTION

Development applications for a boarding house is exempt from this contribution given there is a net loss of seven (7) bedrooms. In accordance with the Ministerial Order dated 02 October 2023, Applications only levy contributions where there is a net increase in bedrooms.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL

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 s. 4.15 considerations of <i>Environmental Planning and Assessment (Amendment) Act 1979</i>	Yes

SUBMITTERS CONCERNS

The application was notified to adjoining properties and the local precinct committee. Council received no submissions.

PUBLIC INTEREST

The proposal is in the public interest for the reasons stated throughout this report, subject to deferred commencement and other conditions being satisfied. The application seeks approval for development relying on existing use rights. Provided obligations regarding acceptable arrangements being made for maintaining rents at an affordable level and loss of seven affordable rental rooms, the application will be in the public interest.

SUITABILITY OF THE SITE

Substantially involving alterations and a relatively small addition to building A, development proposed has little impact on the built environment. The site is suitable for the development proposed, subject to recommended conditions being observed.

CONCLUSION + REASONS

The proposal was considered under the relevant Environmental Planning Instruments and policies including relevant parts of *SEPP (Housing) 2021*, *NSLEP 2013* and *NSDCP 2013* and as is deemed to be satisfactory.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

As noted, the application was notified and no submissions were received.

RECOMMENDATION

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

THAT the North Sydney Local Planning Panel exercising the functions of Council as the consent authority grant deferred commencement consent to DA 39/24 for alterations and additions to a boarding house at 182-188 Falcon Street North Sydney subject to the attached conditions.

JIM DAVIES
EXECUTIVE PLANNER

ISOBELLA LUCIC
A/MANAGER, DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
182-188 FACON STREET, NORTH SYDNEY
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AA. *Deferred Commencement Condition*

This consent shall not operate until the following deferred commencement conditions have been satisfied.

The applicant must submit information to satisfy Council as to the matters specified in the deferred commencement conditions within 6 months of the date of the grant of this consent.

If the applicant fails to submit information to satisfy Council as to the matters specified in the deferred commencement conditions within 6 months of the date of the grant of this consent this consent will lapse in accordance with Section 4.16(3) of the Environmental Planning and Assessment Act 1979.

NOTE: Consideration should be given to providing the evidence to Council to allow sufficient time to consider the same and form a view as to whether the deferred commencement conditions are satisfied or not. You are also advised of your appeal rights under clause 76 of the *Environmental Planning and Assessment Regulation 2021*, which provides that: *If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of Section 8.3 of the Act, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.*

Deferred commencement condition

The following information is to be submitted to Council's satisfaction, to enable an operational consent to be issued:

Affordable Housing

- AA1 a) A final resident relocation plan, prepared in consultation with Council's Community Resilience and Sustainability Unit and any consultation with other stakeholders as deemed necessary by members of the Unit.

(Reason: To acceptably minimise the impact of the development on existing residents)

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- b) A revised plan of management, prepared in consultation with Council's Community Resilience and Sustainability Unit, including a commitment that room rental rates will maintain availability of affordable housing, as defined by s. 1.4 (1) of the *Environmental Planning and Assessment Act 1979* and cl. 13 of State *Environmental Planning Policy (Housing) 2021*.

(Reason: To ensure the plan of management is effective and that room rental rates remain affordable)

Heritage Conservation

- AA2 a) Details of the following works are to be included on architectural plans:
- i) retention of nib walls and the bulkhead between the two front rooms adapted for use as the reception/lounge, to ensure ongoing interpretation of the earlier room configuration;
 - ii) retention and conservation of decorative architectural elements within the primary front rooms, such as the decorative ceiling details, ornate architraves, bulkheads and nib walls in each of the four buildings, behind the proposed false ceilings, including details of service installations for bathroom and kitchenette upgrade works;
 - iii) new accessible openings at the ground floor level in each building must be designed with a submissive expression, within the original service wing elements - existing brick lintel detailing shall remain in-situ for interpretive purposes.
- b) A heritage strategy to manage the ongoing conservation of the group of buildings and grounds the subject of this consent, including a maintenance schedule, prepared in accordance with the current NSW guidelines of the Statement of Best Practice for Heritage Asset Action Plans.
- <https://www.environment.nsw.gov.au/research-and-publications/publications-search/statement-of-best-practice-for-heritage-asset-action-plans>
- c) Performance based solutions for BCA compliance shall be appropriately applied to avoid or mitigate adverse impacts on heritage fabric.
- d) Where practical, period doors are either to be retained in-situ or reused within the buildings, any removed heritage fabric is to be salvaged and recycled into local heritage restoration facilities.

(Reason: Paragraphs b) to d) – Heritage Conservation)

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Upon satisfaction of the deferred commencement condition, the following conditions apply:

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the table to this clause, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Rev No.	Description	Prepared by	Dated
A000	03	Drawing Register	McNally Architects	18/10/24
A005	04	Demolition Plan Lower Ground Floor	McNally Architects	18/10/24
A006	04	Demolition Plan Ground Floor	McNally Architects	18/10/24
A007	04	Demolition Plan First Floor	McNally Architects	18/10/24
A0010	04	Site Plan	McNally Architects	18/10/24
A100	04	Lower Ground Floor Plan	McNally Architects	18/10/24
A101	05	Ground Floor Plan	McNally Architects	18/10/24
A102	05	First Floor Plan	McNally Architects	12/11/24
A103	04	Roof Plan	McNally Architects	18/10/24
A200	04	South Elevations	McNally Architects	18/10/24
A201	03	North Elevation	McNally Architects	18/10/24
A202	04	East Elevation and West Elevation	McNally Architects	18/10/24
A203	03	East Elevations Buildings C & B	McNally Architects	18/10/24
A204	03	Street View South Elevation	McNally Architects	18/10/24
A300	04	Section A-A & Section B-B	McNally Architects	18/10/24
A301	04	Section C-C & Section D-D	McNally Architects	18/10/24
A302	04	Section E-E & Section F-F	McNally Architects	18/10/24
A303	03	Section G-G	McNally Architects	18/10/24
A400	03	External Finishes and Colours	McNally Architects	18/10/24
A700	04	Window Schedule Building A	McNally Architects	18/10/24
A701	04	Window Schedule Building A	McNally Architects	18/10/24
A702	04	Window Schedule Building B	McNally Architects	18/10/24
A703	04	Window Schedule Building C	McNally Architects	18/10/24
A704	04	Window Schedule Building D	McNally Architects	18/10/24
A705	03	Door Schedule Building A & B	McNally Architects	18/10/24
A706	01	Door Schedule Building C & D	McNally Architects	18/10/24
C1	E	Landscape Plan Ground Floor	Contour Landscape Architecture	17/10/24
C2	E	Plant Images	Contour Landscape Architecture	17/10/24
C3	E	Landscape Details	Contour Landscape Architecture	17/10/24
C4	E	Landscape Specification	Contour Landscape Architecture	17/10/24
C111	C	Erosion and Sediment Control	Van der Meer Consulting	03/09/24
C001	B	Standard Notes	Van der Meer Consulting	14/02/24
C401	B	Drainage Layout	Van der Meer Consulting	14/02/24
C451+		Drainage Details Sheet 1	Van der Meer Consulting	14/02/24

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		Letter	Ezigrow	18/09/24
23242-R1.1		Access Reports	Access 1 Pty Ltd	February 2024
23184B R1.2		BCA Compliance Report	Access 1 Pty Ltd	22/02/24
		Arboricultural Impact Appraisal and Method Statement	Ezigrow	07/02/24
		Waste Management Plan	Dickens Solutions	February 2024

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

Plans on Site

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

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

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

No Demolition of Extra Fabric

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

(Reason: To ensure compliance with the approved development)

B. Matters to be completed before the lodgement of an application for a construction certificate

Construction and Traffic Management Plan (Major DAs and sites with difficult access)

- B1. Prior to issue of the relevant Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
- i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - ii. Signage type and location to manage pedestrians in the vicinity;
 - iii. The locations of any proposed Work Zones in the frontage roadways;

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- iv. Locations and type of any hoardings proposed;
 - v. Area of site sheds and the like;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following:
- i. Traffic control measures proposed in the road reserve that are in accordance with the TfNSW publication "Traffic Control at Work Sites Manual" and designed by a person licensed to do so (minimum TfNSW 'red card' qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all times.
- A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.**
- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process;
- (e) Evidence of TfNSW concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road;
- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements; and

- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of the relevant Construction Certificate. A certificate of compliance with this condition from Council's Development Engineers as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Principal Certifier for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) To apply for certification under this condition, an '*Application to satisfy development consent*' must be prepared and lodged with North Sydney Council. North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)**Transport for NSW Requirements**

C1A. The following conditions of Transport for NSW shall be complied with:

- (a) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Falcon Street are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

- (b) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Falcon Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

- (c) Any proposed public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening/underboring to be submitted to TfNSW for review and acceptance prior to the commencement of any works. The developer must also obtain any necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

(Reason: Compliance)

Dilapidation Report Damage to Public Infrastructure

- C1. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

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

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

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

Dilapidation Report Private Property (Excavation)

- C2. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer and a copy to be given to the owner of any affected adjoining property.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by the developer or affected property owners to assist in any action required to resolve dispute(s) over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/ies prior to the commencement of construction)

Structural Adequacy of Existing Buildings

- C3. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Principal Certifier for approval prior to issue of the relevant Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Sediment Control

- C4. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate and prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

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

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C5. A Waste Management Plan is to be submitted for approval by the Principal Certifier prior to the issue of the relevant Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and

- c) Administrative arrangements for waste and recycling management during the construction process.

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

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

Heritage Architect to be commissioned

- C6. An appropriately qualified and experienced heritage architect must be commissioned to assist the design development, contract documentation and overseeing of construction works on the site for their duration by undertaking regular inspections of the works in progress and providing advice in relation to heritage matters.

Written details of the engagement of the experienced heritage architect must be submitted to the Principal Certifier prior to the issue of the relevant Construction Certificate.

Note: if advice provided by the heritage architect is to the effect that works requiring development consent be carried out, such works would require a Modification under s 4.55 of the *Environmental Planning and Assessment Act 1979* or further development application. This condition, and any advice given by the heritage architect, should not be construed as authorising the carrying of development with/ otherwise than in accordance with the development consent.

(Reason: To ensure that all matters relating to significant fabric and spaces are resolved and recorded using best practice for heritage conservation)

Reflectivity Index of Glazing

- C7. The glazing for windows, walls or roof finishes of the approved development must be factory pre-finished with low glare and reflectivity properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity

- C8. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

- C9. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C10. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of the relevant Construction Certificate.

Note: For major development an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the relevant Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Required Infrastructure Works - Roads Act 1993

C11. Prior to issue of the relevant Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development.

Note: Application for approval of Infrastructure Works under this condition must be submitted to Council using the '*Application to satisfy development consent*' form accompanied by payment of the adopted assessment/inspection fees.

Road Works

- a) Construction of a new concrete footpath is required across the entire site frontage in Falcon Street except in the location of the existing vehicular crossing. The footpath pavement must be placed on a single straight grade of 3.0% rising from the top of kerb, towards the property boundary, without dipping or rising, including at building entrances. The footpath pavement must be constructed for the existing width only, using the construction required for the Local Residential area, as specified in the Public Domain Style Manual and Design Codes. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary line.
- b) Kerb and gutter in Falcon Street are in satisfactory condition, no works are required until and unless damaged during development works.
- c) Cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the National Construction Code (NCC), including disability requirements. The Council-approved footpath levels must be accommodated at the building entry points.

Certifiers must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Stormwater Disposal – Drainage Plan

- C12. Prior to the issue of the relevant Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must –be designed in accordance with the following criteria:
- a) compliance with NCC drainage requirements and current Australian Standards and guidelines;
 - b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to the existing site stormwater disposal system;
 - c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres;
 - d) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

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Drainage plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Proper disposal of stormwater)

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

C13. Prior to the issue of the relevant Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$43,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.
- d) Council reserves the right to retain all bonds on infrastructure works relating to the completion of required Infrastructure work for a 12-month defect liability period. Council may elect to provide a lesser period for minor residential work.

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

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

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

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and

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- the Principal Certifier must ensure that security is provided to North Sydney Council prior to issue of the relevant Construction Certificate.

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

Tree Bond for Public Trees

- C14. Prior to the issue of the relevant construction certificate, security in the sum of \$25,000.00 must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

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

The security will be refundable following the expiration of 6 months from the issue of the relevant Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

Tree Species	Location	Bond
<i>T4-T6 Platanus acerifolia (to 14x16m)</i>	Council verge in front of 182-188 Falcon St	\$25,000

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

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Tree Protection Measures to be shown on Construction Drawings

- C15. The tree protection measures contained in the arborist report prepared by Ezigrow, dated 7 February 2024, and Addendum, dated 18 September 2024, shall be shown clearly on the Construction Certificate drawings. Plans and specifications showing the said tree protection measures must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure the construction plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that appropriate tree protection measures are shown on construction drawings)

Protection of Trees

- C16. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Tree	Location	Height
T4-T6 <i>Platanus acerifolia</i>	Council verge in front of 182-188 Falcon St	To 14-16m
T2 <i>Phoenix canariensis</i>	Front setback of 182-188 Falcon St	14x6m
T3 <i>Sabal palmetto</i>	Front setback of 182-188 Falcon St	18x4m
T7&T8 <i>Magnolia grandiflora cv</i>	Front setback of 182-188 Falcon St	5x3m
<i>Magnolia grandiflora cv</i> (not shown on drawings)	Front setback of 182 Falcon St	4m
All existing landscaping incl <i>Murraya</i> & <i>Buxus</i> hedges	Front setback of 182-188 Falcon St	var
T9 <i>Syagrus romanzoffiana</i>	SE cnr 176-180 Falcon St	8x4m

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

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Approval for Removal of Trees

- C17. The following tree(s) are approved for removal in accordance with the development consent:

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Trees that are acceptable to remove	Location	Height
<i>T1 Cupressus sp</i>	Front setback 188 Falcon St	8x6m
<i>T10 Leptospermum petersonii</i>	Rear setback 182 Falcon St	6x4m
<i>T11 Cyathea cooperii</i>	Rear setback 182 Falcon St	4x3m

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Section 16 of the North Sydney DCP 2013.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Garbage and Recycling Facilities

C18. As indicated on the approved plans cited by condition A1, an appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met:

- a) all internal walls of the storage area must be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- b) provision for the separation and storage in appropriate categories of material suitable for recycling;
- c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;

Waste materials are to be collected by a commercial contractor at least twice per week.

The development is not permitted to use Council waste collection services including kerbside bulky waste pick-ups.

Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

Asbestos and Hazardous Material Survey

C19. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the report, and other plans, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily)

Noise from Plant and Equipment

C20. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 shall be applied.

- (b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

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

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

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

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

Vibration from Plant and Equipment

- C21. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

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

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

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

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

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

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

Air Conditioners in Residential Premises

C22. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2017 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00am or after 10.00pm on any other day
- (d) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Noise Policy for Industry 2017 will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

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

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

(Reason: To maintain residential amenity)

Noise and Vibration from Major Roads and Rail Corridors (A)

C23. To minimise the impact of noise from the adjoining major road or rail corridor, the building shall be acoustically designed and constructed to comply with the requirements of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

(Reason: To comply with State regulations and to ensure a suitable level of amenity not affected by excessive noise and vibration from surrounding activities)

Construction Noise Management Plan

C24. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:

- (a) Identification of noise affected receivers near to the site.

- (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) Details of work schedules for all construction phases.
- (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Construction Noise Guideline.
- (e) Representative background noise levels should be submitted in accordance with the ICNG.
- (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
- (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
- (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
- (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

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

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

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The Construction Noise Management Plan must be submitted to the Principal Certifier and a copy provided to Council prior to the issue of the relevant Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Underground Electricity and Other Services

C25. All electricity and telecommunication provision to the site is to be designed in conjunction with Ausgrid and any other relevant authority so that it can be easily connected underground. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground)

Section 7.12 Development Contributions

C26. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$117,352.00.

Indexation

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

Timing of payment

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

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

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

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Security Deposit/Guarantee Schedule

- C27. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of the relevant Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	25,000.00
Infrastructure Damage Bond	35,000.00
Engineering Construction Bond	8,000.00
TOTAL BONDS	\$68,000.00

Note: The following fees applicable

Fees	
Local Infrastructure Contributions	117,352.00
TOTAL FEES	\$117,352.00

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

(Reason: Compliance with the development consent)

Outdoor Lighting

- C28. All outdoor lighting must comply with, where relevant AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

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

Amendments to the Landscape Plan

- C29. The landscape plan must be amended as follows to provide an appropriate landscaped setting:
- a) A replacement tree for T1 *Cupressus sp* of the same or another suitable species of similar dimensions (8m x 6m) shall be shown in suitable location in the front setback, in front of Buildings B & C.
 - b) 1 x *Lagerstroemia indica* (45l) shall be included within the COS in the rear setback of 188 Falcon Street
 - c) 1 x existing *Magnolia grandiflora* cv. in the front setback of 182 Falcon St, not shown on plans or in arborist report, shall be retained and protected, and shown as such on plans.

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- d) Location of stockpile shown on Erosion & Sediment Control Plan prepared by Van Der Meer Consulting dated Feb 24 shall be relocated outside the area of existing landscaping.

An amended landscape plan complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The Principal Certifier must ensure that the amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

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

Affordable Housing Contribution

- D1A. Before works commence, a contribution calculated in accordance with clause 48 of SEPP (Housing) 2021 shall be paid. The amount of the contribution must be calculated based on an independent and comprehensive analysis and assessment as required by Clause 47 of this SEPP. This information must be submitted to the satisfaction of Council before the contribution is paid.

(Reason: To assist in mitigating the loss of affordable housing caused by the development.

Affordable Housing

- D1B. The accommodation provided by the boarding shall remain affordable housing as defined by S1.4(1) of the *Environmental Planning and Assessment Act 1979* and Cl 13 of State Environmental Planning Policy (Housing) 2021.

(Reason: To reduce the loss of affordable rental housing in North Sydney)

Photographic Survey (Heritage Items)

- D1. Prior to any works commencing a photographic survey recording, in accordance with the NSW Heritage Office Guidelines "Photographic recording of Heritage Items using file or digital capture", is to be prepared to the satisfaction of Council's Historian and Conservation Planner. Two (2) copies of the photographic survey must be provided to Council.

(Reason: To provide a historical record of heritage significant fabric on site for archival purposes)

Protection of Trees

- D2. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites).

Sensitive construction techniques including hand excavation, pier & beam construction & flexible location of piers/footings shall be used within the TPZ of any protected tree. No roots greater than 40mm shall be cut. No stormwater or any other underground services shall be directed through the TPZ of any protected tree.

No canopy pruning shall be permitted. Branches shall be tied back rather than pruned if required.

Existing front lawn and garden areas (182-188 Falcon St) shall be completely enclosed with 1.8m high steel mesh tree protection fencing.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D3. All protected trees on-site that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Principal Certifier prior to demolition or commencement of any works and must be maintained for the duration of the works: -

Schedule

Tree Species	Location	Bond
<i>T4-T6 Platanus acerifolia (to 14x16m)</i>	Council verge in front of 182-188 Falcon St	\$25,000

(Reason: To protect the trees to be retained on the site during construction works)

Sydney Water Approvals

- D4. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes:

- **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works' Notice

- D5. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

E. During Demolition and Building Work**Reuse of Sandstone**

- E1. Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance.

Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Parking Restrictions

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

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

Road Reserve Safety

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

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

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E4. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E5. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

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

Dust Emission and Air Quality

- E6. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

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

Noise and Vibration

- E7. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

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

No Work on Public Open Space

- E8. No work can be undertaken within adjoining public lands (i.e., Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

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

Applicant's Cost of Work on Council Property

- E9. The Developer or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

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

No Removal of Trees on Public Property

- E10. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

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

Protection of Trees

- E11. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report prepared by Ezigrow dated 7 February 2024 must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

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

Trees to be Removed

- E12. All trees on the site must be protected and retained save for those expressly identified below as being approved for removal:

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Trees that are acceptable to remove	Location	Height
<i>T1 Cupressus sp</i>	Front setback 188 Falcon St	8x6m
<i>T10 Leptospermum petersonii</i>	Rear setback 182 Falcon St	6x4m
<i>T11 Cyathea cooperii</i>	Rear setback 182 Falcon St	4x3m

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

Special Permits

- E13. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The applicant, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc., - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) Kerbside restrictions, construction zones

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Noxious Plants

E14. All lantana, privet, rubber trees, asthma weed, and other declared noxious plants on the site, must be eradicated before the commencement of landscape works.

(Reason: To ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality landscaping outcome)

Construction Hours

E15. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
All zones	Monday - Friday	7.00am - 5.00pm
	Saturday	8.00am - 1.00pm
	Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, the EPA Noise Policy for Industry 2017 and any Construction Noise Management Plan required under this consent.

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

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

Out of hours' Work Permits

E16. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is not at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and
 - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
 - extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

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

Installation and Maintenance of Sediment Control

E17. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the relevant Construction Certificate.

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Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th Edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

E18. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

E19. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work-place determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

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

Health and Safety

E20. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

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

Prohibition on Use of Pavements

- E21. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

Plant and Equipment Kept Within Site

- E22. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

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

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

Imported Fill Material

- E23. The only waste derived fill material that may be received at the development site is:
- a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997); and
 - b) Any other waste-derived material the subject of a resource recovery exemption under cl. 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site, must be accompanied by documentation as the material's compliance with the exemption conditions and must be provided to the Principal Certifier on request.

(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)

Waste Disposal

- E24. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

Asbestos Removal

- E25. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

Service Adjustments

- E26. The adjustment or inclusion of any new utility service or facilities must be carried out by an appropriately contractor in accordance with the requirements of the relevant utility authority.

These works shall be at no cost to Council. It is the Applicant's responsibility to contact the relevant utility authorities to ascertain the impacts of the proposal upon utility services prior to the commencement of any work, including demolition (including water, phone, gas and the like).

Council accepts no responsibility for any impact on or influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

National Construction Code

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

(Reason: Prescribed - Statutory)

Home Building Act

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifier for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of Principal Certifier

- F3. Building work or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifier for the building work in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulations 2021.

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

Construction Certificates

- F4. Building work or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

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

Occupation Certificates

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifier on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Commencement of Works'

- F7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence the erection of the building.

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

Excavation/Demolition

- F8. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

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

Protection of Public Places

- F9. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.

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- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

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

Site Sign

- F10. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

Maximum Capacity Site Sign

- F11. A sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in this development consent, that are permitted in the approved boarding house.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of the relevant Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
 - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Damage to Adjoining Properties

- G2. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

Utility Services

- G3. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of the relevant occupation certificate. This shall be at no cost to Council.

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

Asbestos Clearance Certificate

- G4. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant Occupation Certificate, the asbestos clearance certificate must certify the following: -

- a) the building/ land is free of asbestos; or
- b) the building/ land has asbestos that is presently deemed safe.

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The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

Certification of Tree Condition

- G5. Prior to the issue of the relevant Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) must be submitted to the Principal Certifier, describing the health of the tree(s) specifically nominated below: -

Tree	Location	Height
T4-T6 <i>Platanus acerifolia</i>	Council verge in front of 182-188 Falcon St	To 14-16m
T2 <i>Phoenix carariensis</i>	Front setback of 182-188 Falcon St	14x6m
T3 <i>Sabal palmetto</i>	Front setback of 182-188 Falcon St	18x4m
T7&T8 <i>Magnolia grandiflora cv</i>	Front setback of 182-188 Falcon St	5x3m
<i>Magnolia grandiflora cv</i> (not shown on drawings)	Front setback of 182 Falcon St	4m
All existing landscaping incl <i>Murraya</i> & <i>Buxus</i> hedges	Front setback of 182-188 Falcon St	var
T9 <i>Syagrus romanzoffiana</i>	SE cnr 176-180 Falcon St	8x4m

The report must detail the condition and health of the nominated tree(s) upon completion of the works, and shall certify that the tree(s) has/have not been significantly damaged during the works on the site, and has/have reasonable prospects for survival.

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

Disposal Information

- G6. Upon completion of works and prior to occupation, a report including the following information must be provided to Council's Open Space and Environmental Services Department:

- (a) the total tonnage of all waste and excavated material disposed of from the site (including any tipping docket); and
- (b) the disposal points and methods used.

(Reason: To ensure appropriate disposal methods are undertaken for auditing and inspection purposes)

Sydney Water

- G7. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The final Section 73 Certificate must be submitted to the Principal Certifier prior to release of any linen plan for subdivision or prior to occupation of the development, whichever is the earlier.

The Section 73 Certificate must be submitted to the Principal Certifier prior to the issue of the Strata Certificate.

Notes:

Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

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

(Reason: To ensure compliance with the statutory requirements of Sydney Water)

Landscaping

- G8. The landscaping shown in the approved landscape plans cited in condition A1 must be completed prior to the issue of the relevant Occupation Certificate.

(Reason: To ensure compliance)

Damage to Adjoining Properties

- G9. On completion of the development the subject of this consent and prior to the issue of the final Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Principal Certifier (and a copy to Council if it is not the Principal Certifier) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Principal Certifier in accordance with this consent.

A copy of the report and certification required by this condition must be submitted to Council with the Final Occupation Certificate. All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To record the condition of adjoining properties prior to completion of the development and to facilitate claims against damage)

Verification Statement (External Finishes and Materials)

G10. Prior to the issue of the relevant Occupation Certificate, a verification statement from a qualified designer or architect (preferably the original designer), must be submitted to Council and the Principal Certifier certifying that the external finishes and materials are in accordance with the approved schedule of finishes and materials identified in this consent.

“qualified designer” means a person registered as an architect in accordance with the Architects Act 2003 cf 50(1A) EP & A Regs 2000.

(Reason: To ensure the design quality and finishes for residential flat development)

Unpaved Verge

G11. The unpaved verge area must be constructed or reconstructed and planted with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

I. On-Going / Operational Conditions

Connection to Sewers of Sydney Water Corporation

I1. In the event a Trade Waste licence is required, waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (**SWC**) under a Trade Waste License Agreement. Details of the Corporation’s requirements should be obtained prior to the commencement of any work.

(Reason: To ensure compliance with Sydney Water’s requirements and protect the environment)

Loading within Site

12. All loading and unloading operations must be carried out wholly within the confines of the site, at all times and must not obstruct other properties or the public way.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity)

Maximum Occupancy of Boarding House

13. Accommodation for a maximum of 116 persons is to be provided. No more than one (1) person per single room and two (2) persons per nominated double room are permitted to occupy rooms.

(Reason: To ensure the occupancy and use of the premises is in accordance with the terms of the consent)

Boarding house – Operational Plan of Management

14. The management of the boarding house shall be conducted in accordance with the Operational Plan of Management required to be submitted and approved in accordance with condition AA1, and must comply with the requirements of the following relevant legislation:

- a) Schedule 2 (Standards for Places of Shared Accommodation) to the Local Government (General) Regulation, 2005
- b) the Public Health Act, 1991, and
- c) Boarding Houses Act 2012.

except where otherwise amended by the conditions of this consent.

(Reason: To ensure the ongoing operation of the boarding house is in accordance with the terms of this consent)

Maintenance of Approved Landscaping

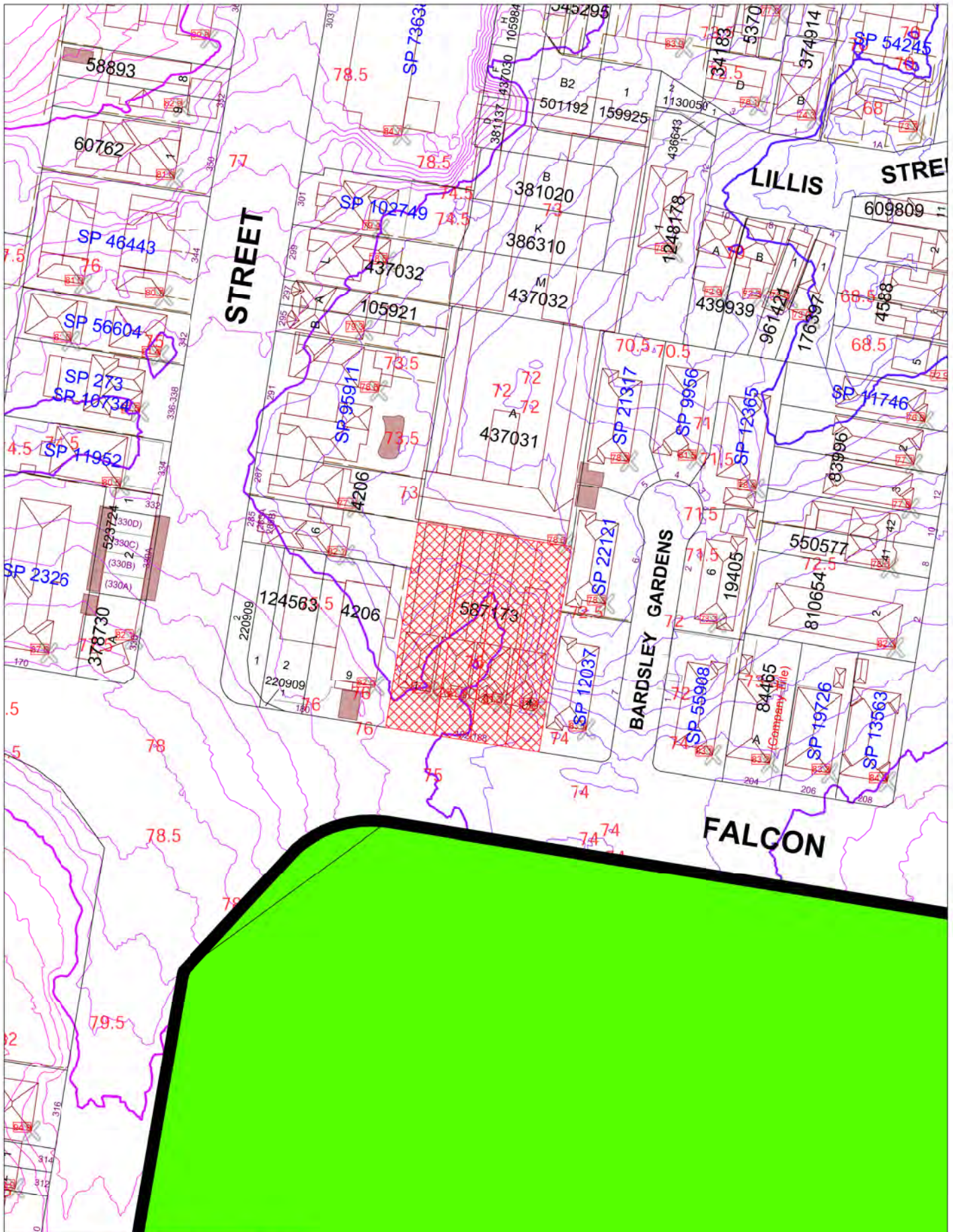
15. The owner of the premises at 182-188 Falcon Street North Sydney is to maintain the landscaping approved by this consent generally in accordance with landscape plans cited in condition A1, as modified by any other condition of this consent.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

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Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non-flowering, native for exotic, deciduous for non-deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)



North Sydney Council

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

Scale: 1:1200 approx.

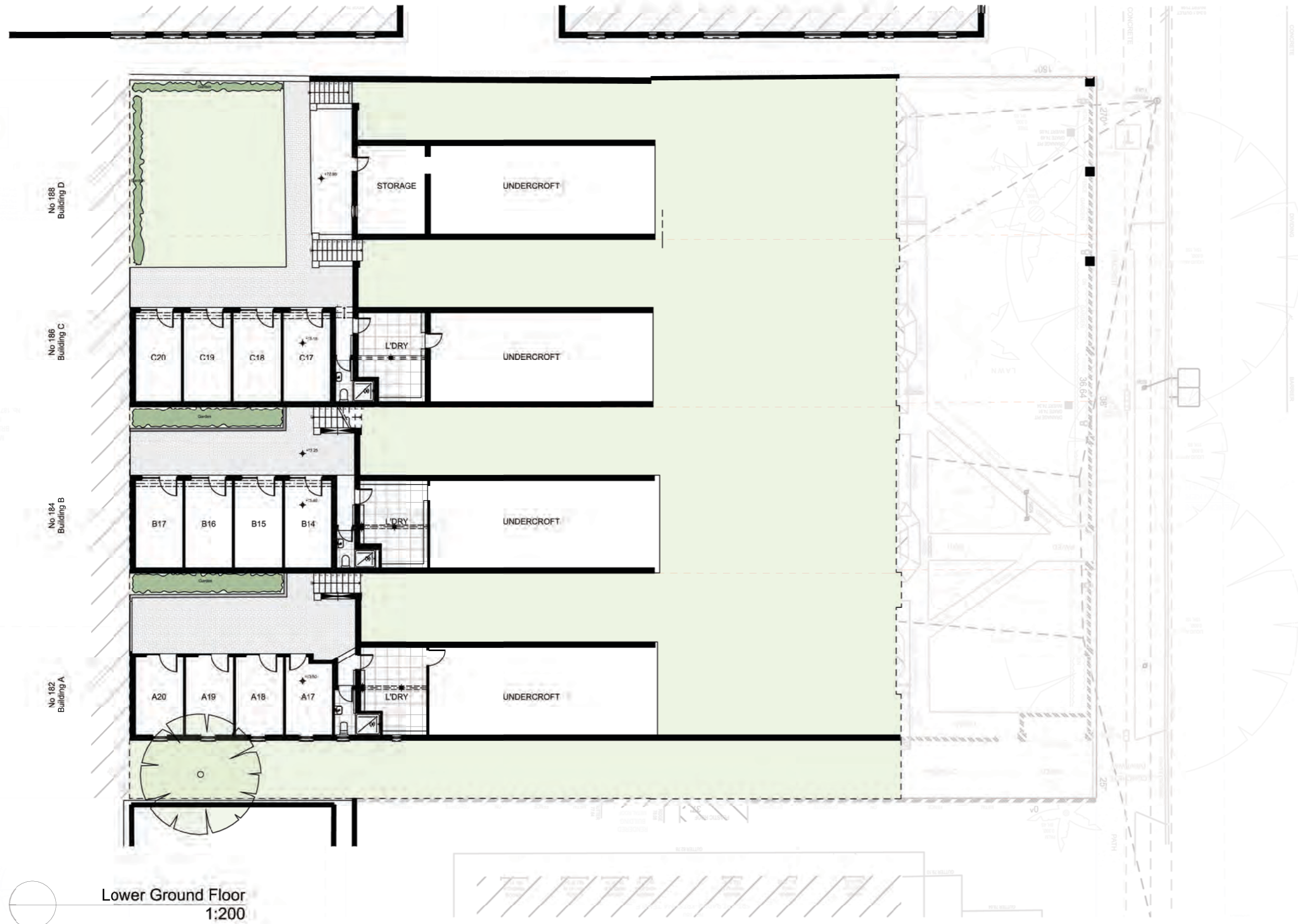




DRAWING REGISTER	
Drawing No.	Drawing Name
A000	Drawing Register
A001	Existing Lower Ground Floor Plan
A002	Existing Ground Floor Plan
A003	Existing First Floor Plan
A004	Existing Roof Plan
A005	Demolition Plan - Lower Ground Floor
A006	Demolition Plan - Ground Floor
A007	Demolition Plan - First Floor
A008	Site Analysis
A0010	Site Plan
A100	Lower Ground Floor Plan
A101	Ground Floor Plan
A102	First Floor Plan
A103	Roof Plan
A200	South Elevations
A201	North Elevation
A202	East Elevation & West Elevation
A203	East Elevation Buildings C & B
A204	Street View - South Elevation
A300	Section A-A & Section B-B
A301	Sections C-C & Section D-D
A302	Section E-E & Section F-F
A303	Section G-G
A400	External Finishes and Colours
A700	Window Schedule - Building A
A701	Window Schedule - Building A
A702	Window Schedule - Building B
A703	Window Schedule - Building C
A704	Window Schedule - Building D
A705	Door Schedule Building A & B
A706	Door Schedule Building C & D
A800	Shadow Diagram 21st March
A801	Shadow Diagram 21st June
A802	Shadow Diagram 21st September

LIST OF CHANGES - Issue 03	
For Council Response	
Lower ground floor:	<ul style="list-style-type: none"> An admin Area has been added in building B. The BBQ Area has been redesigned in building C. Laundries have been redesigned.
Ground Floor	<ul style="list-style-type: none"> Openings in the Fenestration Area have changed based on heritage feedback. Windows and doors tags have been updated to reflect changes. The Bin Area has moved North to allow room for the front hedge to continue. An existing tree has been added in front of building A. The nib in building B has been extended to 750mm. Internal room layouts have been updated. The main kitchen internal layout has been updated. Courtyard layouts have been updated.
First Floor	<ul style="list-style-type: none"> Openings in the Fenestration Area have changed based on heritage feedback. Windows and doors tags have been updated to reflect changes. Ensuites layout have been updated to retain the archway at the start of each corridor, with a recess behind it to ensure the beginning of the corridor remains legible.
Sections and Elevations have been updated	
Window and door schedule have been updated	

			 <p>Studio 201, 6-8 Clarke Street, Crowns Nest, 2065, NSW, Australia</p> <p>+61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au</p> <p>ABN 94 096 165 445 James McNally 6744</p> <p><small>This drawing is copyright © and shall remain the property of McNally Architects. No reproduction without permission unless noted otherwise. This drawing is not for construction. do not scale from drawings. figured dimensions shall take precedence.</small></p>	project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/1/2024	revision issue 03
				project number 23021	client ARCH Capital Management	
				drawing Drawing Register	drawing scale	drawing number A000
ISSUE	DATE	REVISION				
03	18/10/2024	For Council Response				
02	31/1/2024	For DA Submission				
01	23/1/2024	For DA Submission - Draft				



Lower Ground Floor
1:200

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	project number 23021		client ARCH Capital Management	drawing scale 1:200@ A3	drawing number A001	
	drawing Existing Lower Ground Floor Plan					
	ISSUE 04 03 02 01	DATE 18/10/2024 31/1/2024 23/1/2024 8/12/2023	REVISION For Council Response For DA Submission For DA Submission - Draft For Client Review			



Ground Floor
1:200

ISSUE	DATE	REVISION
04	18/10/2024	For Council Response
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review



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James McNally 6744

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project Falcon Lodge 182 - 188 Falcon Street North Sydney	client ARCH Capital Management
project number 23021	
drawing Existing Ground Floor Plan	

date 31/1/2024	revision (ISSUE) 04
drawing scale 1:200@ A3	drawing number A002



First Floor
1:200

ISSUE	DATE	REVISION
04	18/10/2024	For Council Response
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review

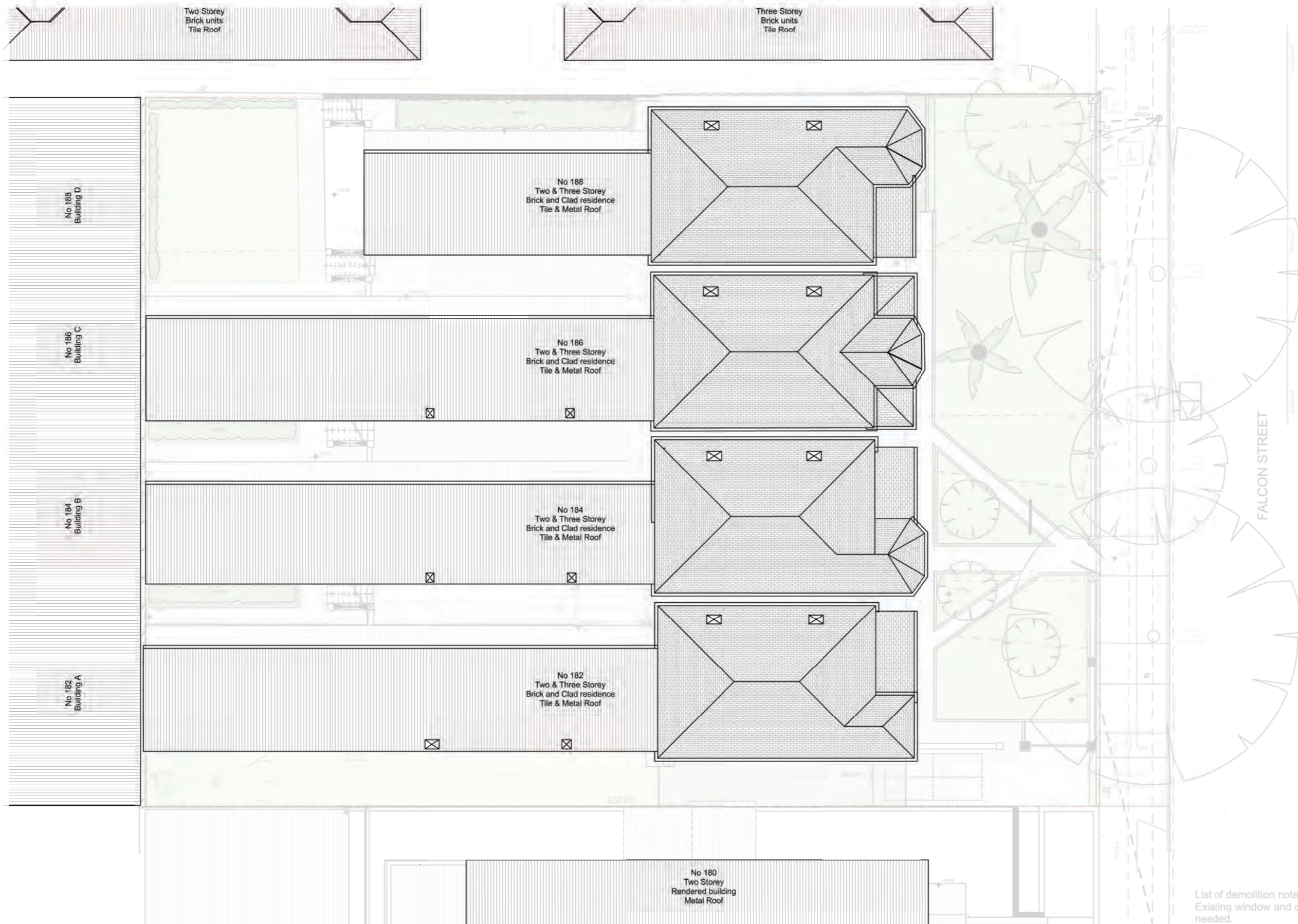
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 Crows Nest, 2065, NSW, Australia
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 office@mcnallyarchitects.com.au
 www.mcnallyarchitects.com.au
 ABN 94 096 185 445
 James McNally 6744

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project
Falcon Lodge 182 - 188 Falcon Street North Sydney
 project number
23021
 drawing
Existing First Floor Plan

client
ARCH Capital Management

date	31/1/2024	revision issue	04
drawing scale	1:200@ A3	drawing number	A003



List of demolition notes GF:
Existing window and doors to be upgraded
needed.

Roof
1:200

	04	18/10/2024	For Council Response	 Studio 201, 6-8 Clarke Street, Crows Nest, 2065, NSW, Australia +61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au ABN 94 096 165 445 James McNally 6744	project Falcon Lodge 182 - 188 Falcon Street North Sydney project number 23021 client ARCH Capital Management drawing Existing Roof Plan	date 31/1/2024 drawing scale 1:200@ A3	revision issue
	03	31/1/2024	For DA Submission				04
	02	23/1/2024	For DA Submission - Draft				drawing number
	01	8/12/2023	For Client Review				A004
ISSUE	DATE	REVISION					



Lower Ground Floor
1:200

GENERAL NOTES

- NOTES
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 - All foulings, piers, roof structure and columns to Structural Engineers requirements
 - Smoke alarms to be installed to comply with AS3786. All smoke alarms to be located in accordance with BCA requirements
 - Refer to Landscape Plan for landscape related works
 - Refer to ID Package for all joinery details

LEGEND

- To be demolished
- New Construction

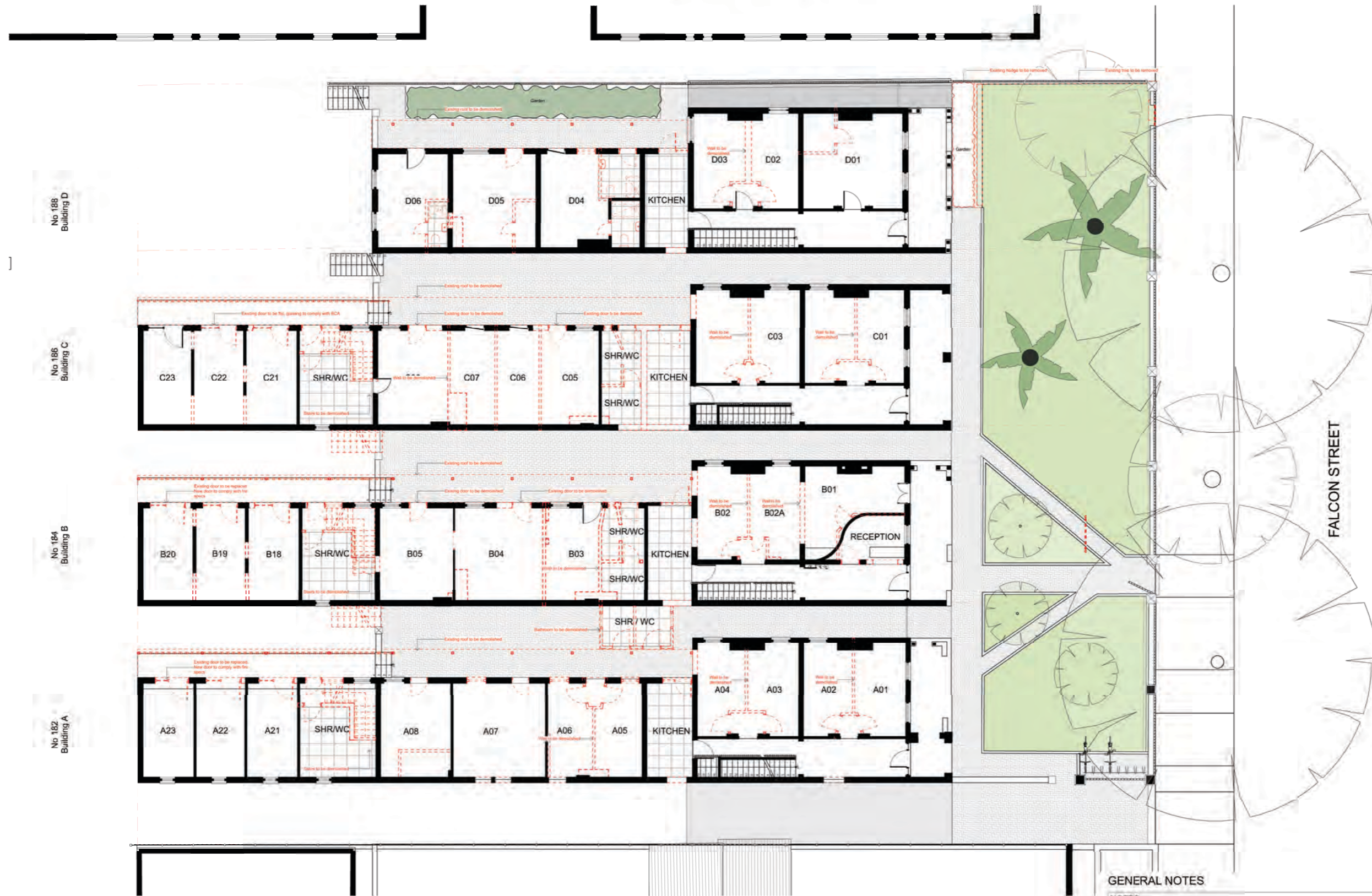
ISSUE	DATE	REVISION
04	18/10/2024	For Council Response
03	31/11/2024	For DA Submission
02	23/11/2024	For DA Submission - Draft
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project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/11/2024	revision issue 04
project number 23021	client ARCH Capital Management	drawing number A005
drawing Demolition Plan - Lower Ground Floor	drawing scale 1:200@ A3	



Ground Floor
1:200

GENERAL NOTES

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LEGEND

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- New Construction

ISSUE	DATE	REVISION
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03	31/11/2024	For DA Submission
02	23/11/2024	For DA Submission - Draft
01	8/12/2023	For Client Review

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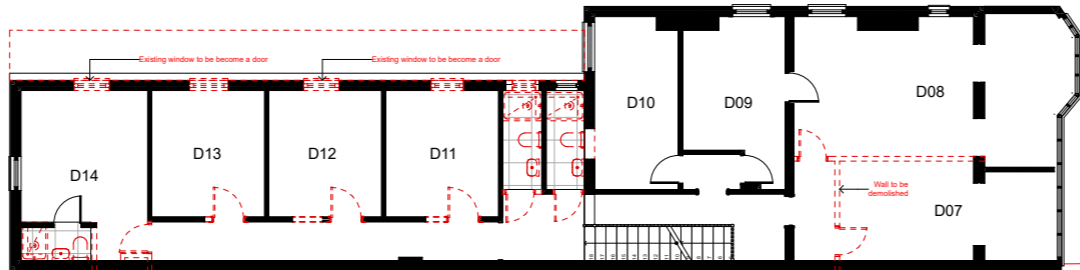
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project	Falcon Lodge 182 - 188 Falcon Street North Sydney
project number	23021
client	ARCH Capital Management
drawing	Demolition Plan - Ground Floor

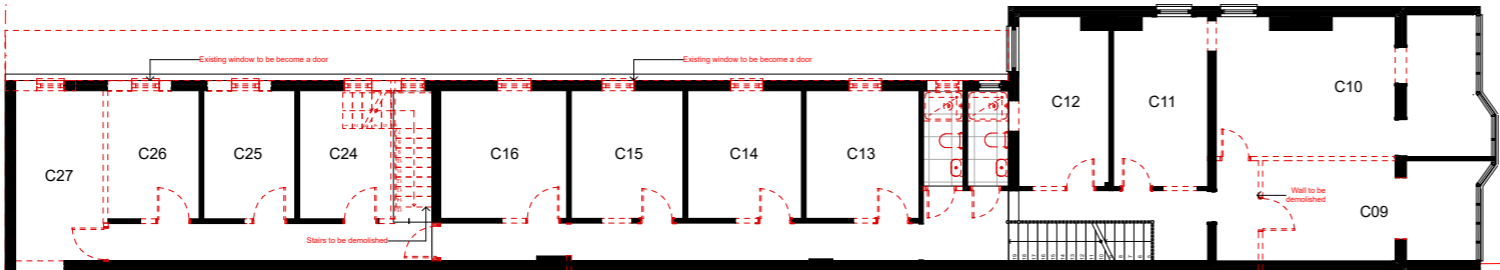
date	31/11/2024	revision issue	04
drawing scale	1:200@ A3	drawing number	A006



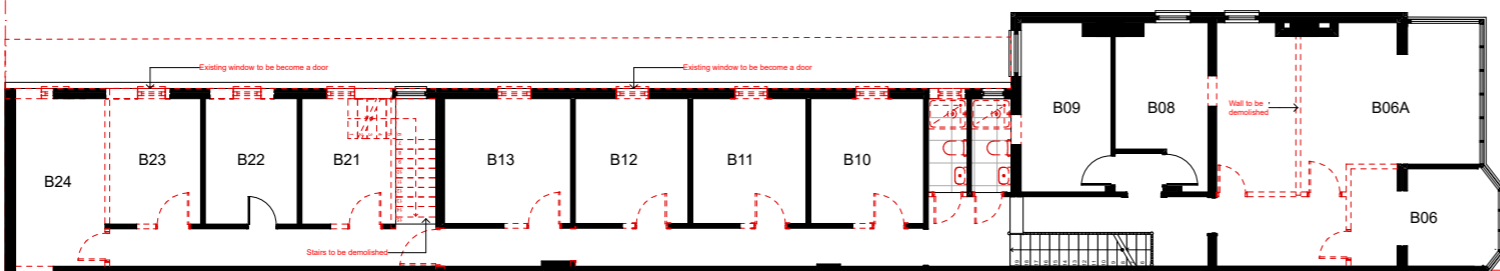
No 188
Building D



No 186
Building C



No 184
Building B



No 182
Building A



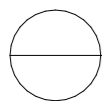
First Floor
1:200

GENERAL NOTES

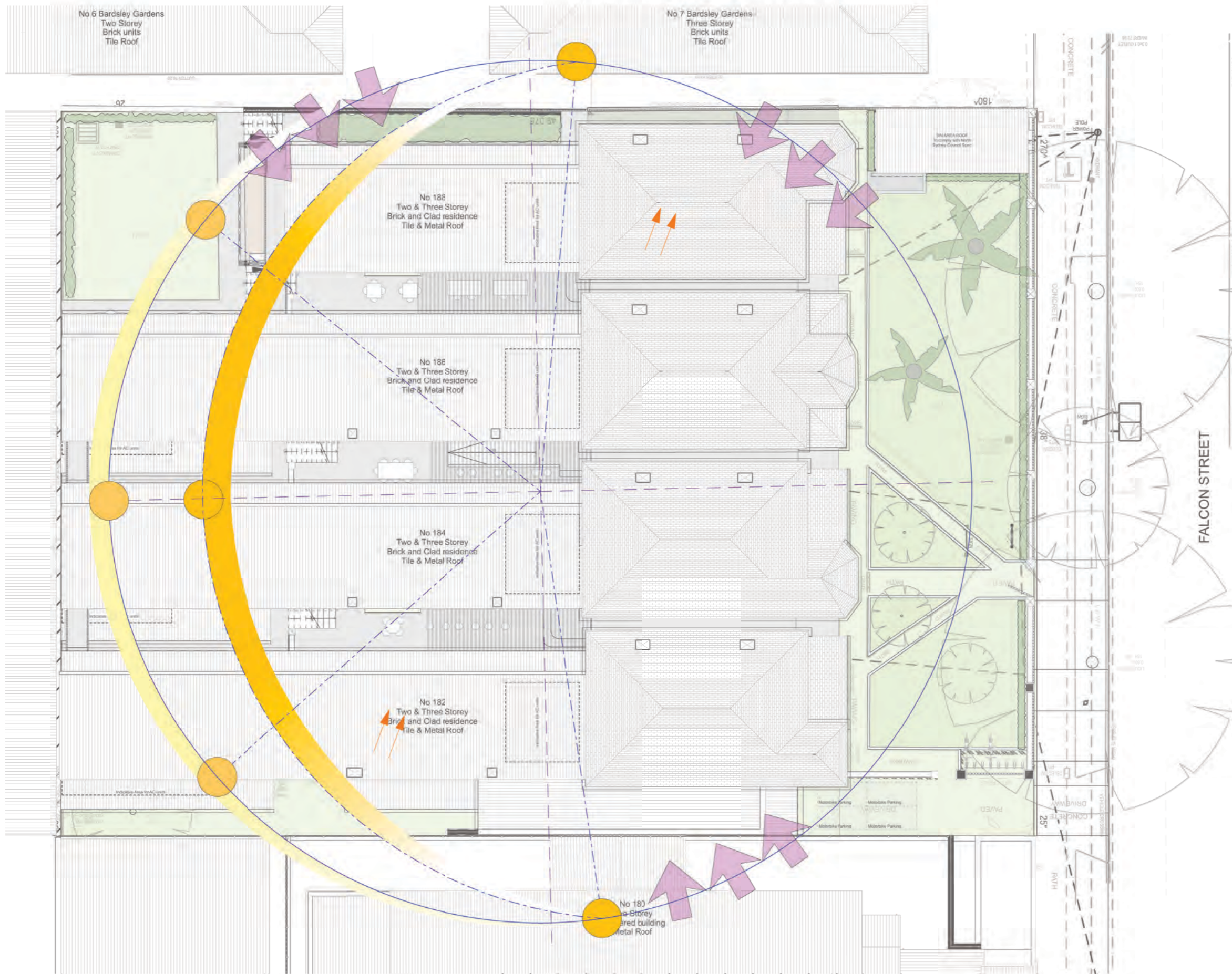
- NOTES
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 - Refer to ID Package for all joinery details


LEGEND

- To be demolished
- New Construction



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	04 18/10/2024 For Council Response 03 31/1/2024 For DA Submission 02 23/1/2024 For DA Submission - Draft 01 8/12/2023 For Client Review	ISSUE DATE REVISION	drawing Demolition Plan - Firts Floor			



		
04	18/10/2024	For Council Response
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review
ISSUE	DATE	REVISION

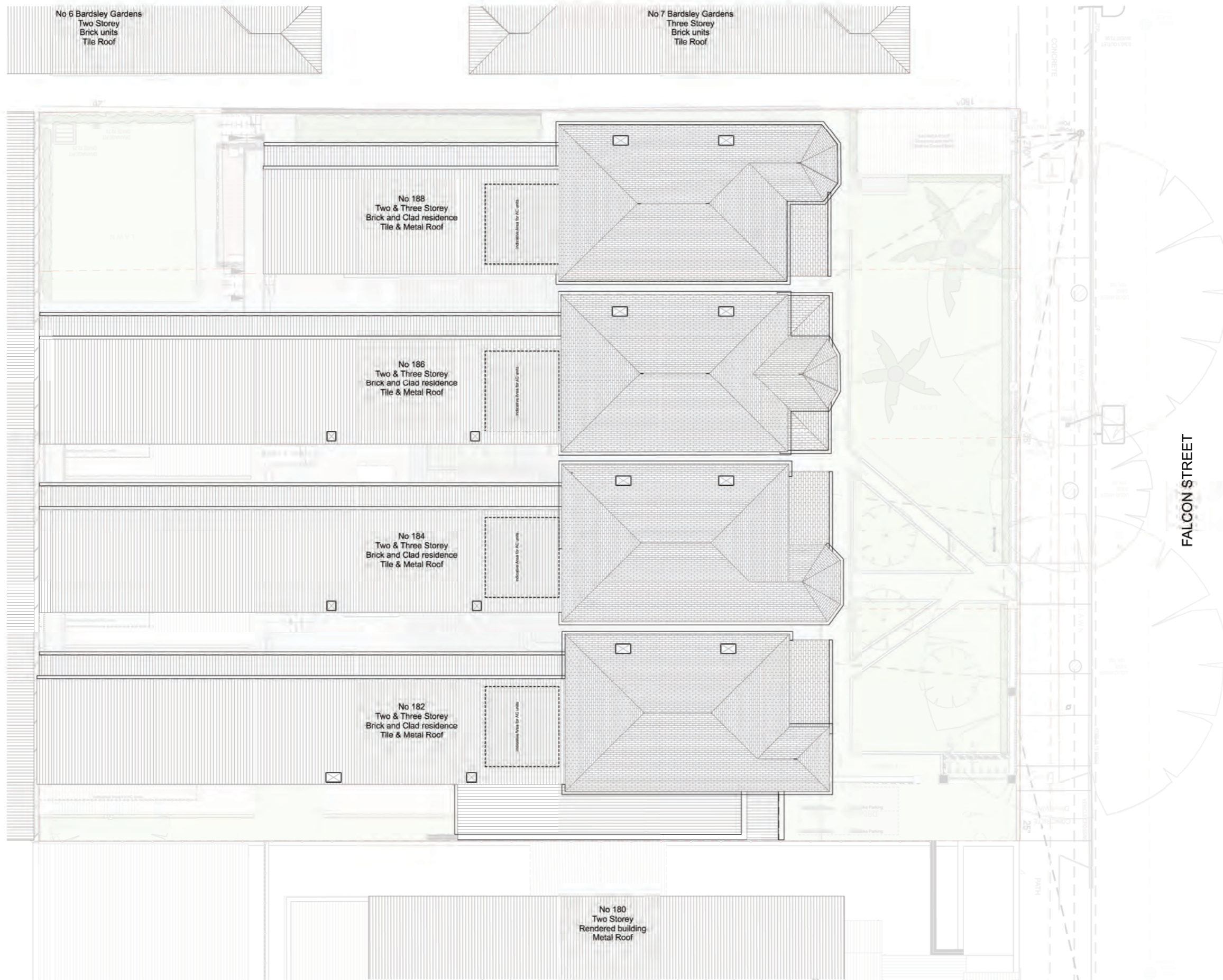

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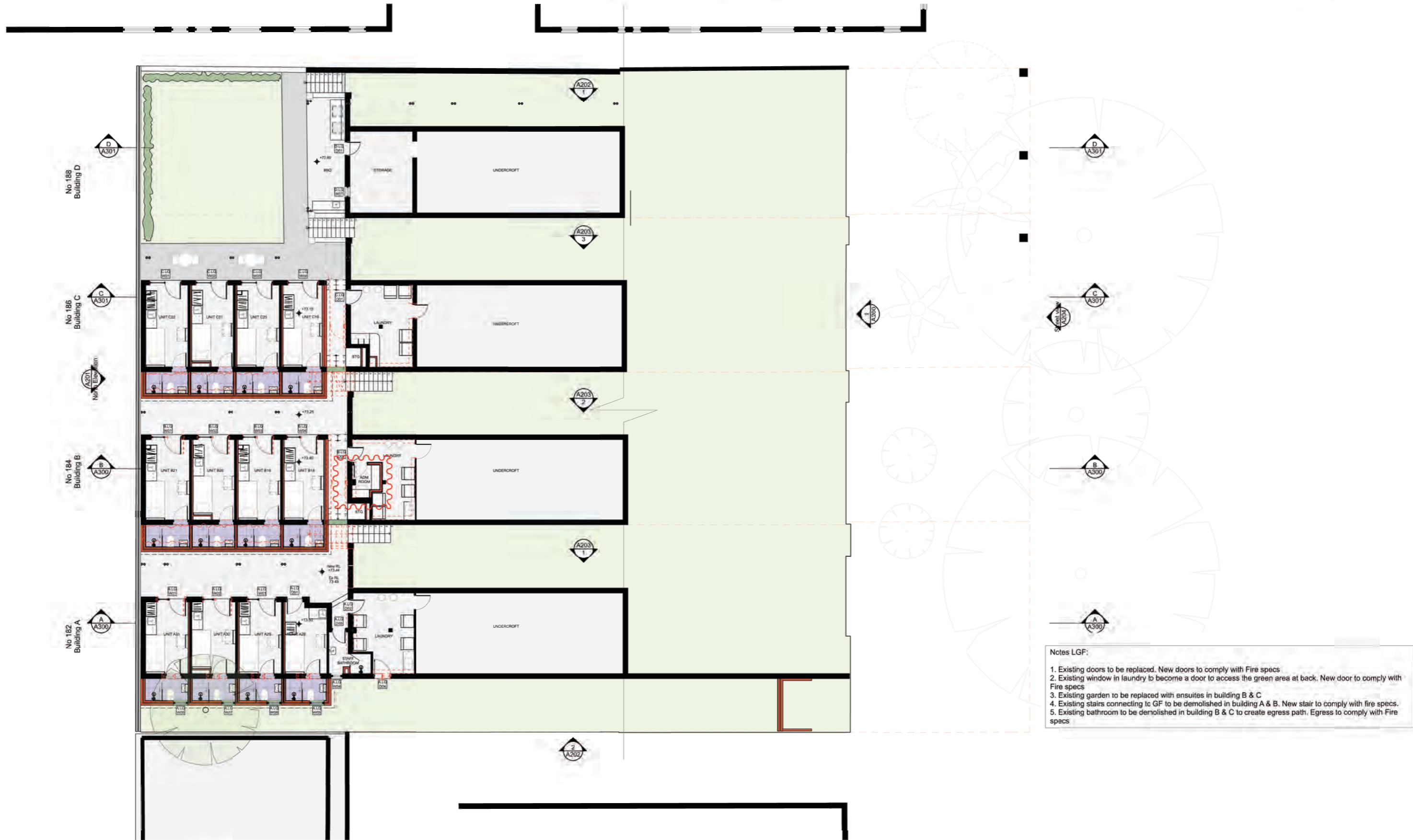
project	Falcon Lodge 182 - 188 Falcon Street North Sydney
project number	23021
client	ARCH Capital Management
drawing	Site Analysis

date	31/1/2024	revision issue	04
drawing scale	1:200@ A3	drawing number	A008



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	04 18/10/2024 For Council Response			+61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au	project number 23021	client ARCH Capital Management	drawing scale 1:200@ A3	drawing number A0010
	03 31/1/2024 For DA Submission			ABN 94 096 165 445 James McNally 6744	drawing Site Plan			
	02 23/1/2024 For DA Submission - Draft 01 8/12/2023 For Client Review							
ISSUE DATE REVISION								

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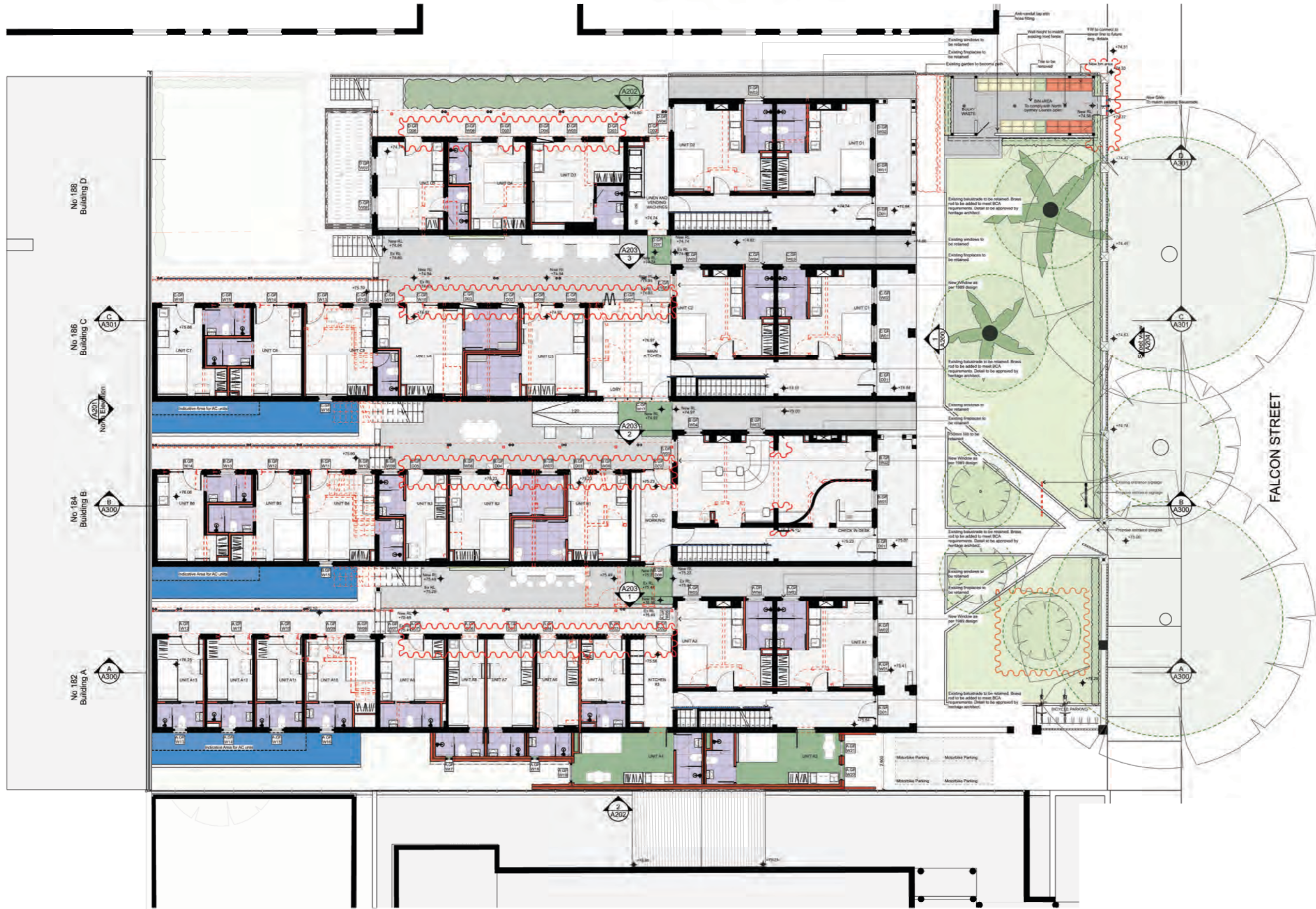


- Notes LGF:
1. Existing doors to be replaced. New doors to comply with Fire specs
 2. Existing window in laundry to become a door to access the green area at back. New door to comply with Fire specs
 3. Existing garden to be replaced with ensuites in building B & C
 4. Existing stairs connecting to GF to be demolished in building A & B. New stair to comply with fire specs.
 5. Existing bathroom to be demolished in building B & C to create egress path. Egress to comply with Fire specs

Lower Ground Floor
1:200

	04	18/10/2024	For Council Response	 McNally Architects Studio 201, 6-8 Clarke Street, Crows Nest, 2065, NSW, Australia +61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au ABN 94 096 165 445 James McNally 6744	project	Falcon Lodge 182 - 188 Falcon Street North Sydney	date	31/1/2024	revision issue	04		
	03	31/1/2024	For DA Submission		project number	23021	client	ARCH Capital Management	drawing scale	1:200@ A3	drawing number	A100
	02	23/1/2024	For DA Submission - Draft		drawing	Lower Ground Floor Plan						
	01	8/12/2023	For Client Review									
ISSUE	DATE	REVISION										

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Ground Floor
1:200

ISSUE	DATE	REVISION
05	18/10/2024	For Council Response
04	11/10/2024	For Landscape
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review



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project	Falcon Lodge 182 - 188 Falcon Street North Sydney
project number	23021
client	ARCH Capital Management
drawing	Ground Floor Plan

date	31/1/2024	revision issue	05
drawing scale	1:200@ A3	drawing number	A101



- Notes FF:
1. Existing window and doors to be upgraded to comply with fire specs when needed.
 2. Existing balustrade at front of buildings to be maintained. Brass rod to be added to comply with BCA. Detail to be approved by heritage architect.
 3. Existing ceiling at front of buildings to be protected with a new ceiling, located underneath the existing to comply with fire specs.
 4. Kitchenettes located at front of units to connect to the adjacent bathrooms, no perforations to existing verandah flooring.
 5. Joinery located at front of units to be freestanding to protect fabric of the existing building.
 6. Glassed Louvre to be replaced when needed, new glass to match existing windows.

First Floor
1:200

ISSUE	DATE	REVISION
05	12/11/2024	Council RFI Response
04	18/10/2024	For Council Response
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review

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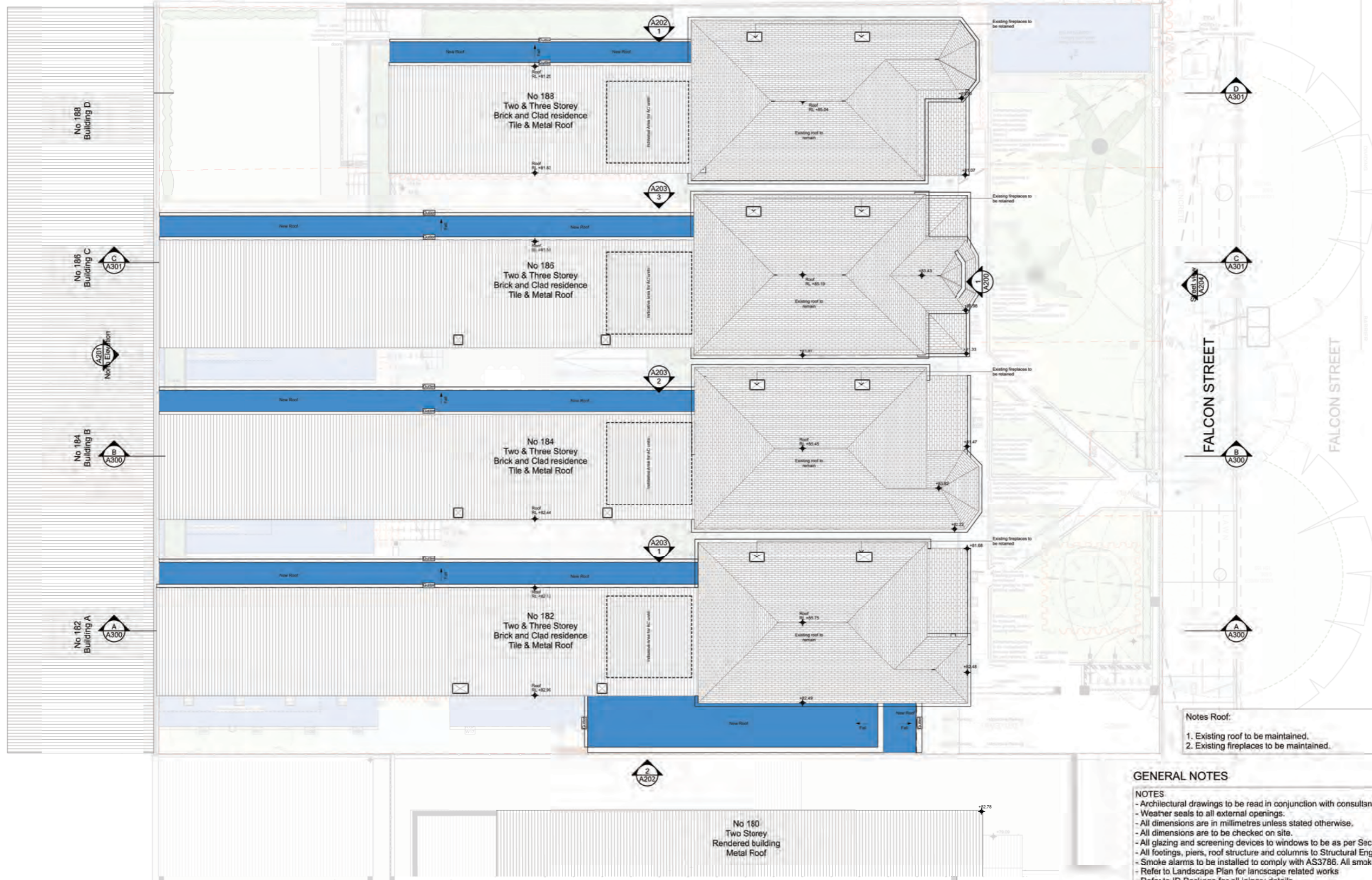
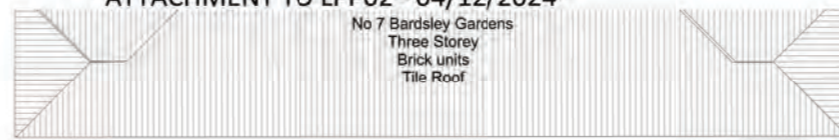
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project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/1/2024	revision issue 05
project number 23021	client ARCH Capital Management	drawing scale 1:200@ A3
drawing First Floor Plan		drawing number A102



Notes Roof:
 1. Existing roof to be maintained.
 2. Existing fireplaces to be maintained.

GENERAL NOTES
NOTES
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 - Refer to Landscape Plan for landscape related works
 - Refer to ID Package for all joinery details

LEGEND
 To be demolished
 Window/Door Tag
 Building #
 Story
 Window/Door ID

Roof
 1:200

ISSUE	DATE	REVISION
04	18/10/2024	For Council Response
03	31/1/2024	For DA Submission
02	23/1/2024	For DA Submission - Draft
01	8/12/2023	For Client Review

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project
Falcon Lodge 182 - 188 Falcon Street North Sydney
 project number
23021
 drawing
Roof Plan

client
ARCH Capital Management

date	31/1/2024	revision issue	04
drawing scale	1:200@ A3	drawing number	A103

MATERIALS AND FINISHES

- BAL - Balustrade
- BW - Brick Wall
- CL - Scyon/Weatherex/Timber cladding
- DP - Down pipe
- FC - Fibre Cement sheeting- painted
- G - Gutter
- MR - Metal roofing
- OG - Opaque glazing
- PS-F - Privacy Screen(Fixed)
- RW - Render Wall
- SC - Slate Cladding
- TS - Timber Shingles
- SP - Steel Post- painted steel
- SR - Slate Roof
- DK - Timber Deck
- TB - Timber Battens - Painted
- TP - Timber pergola
- WT - Water Tank



South Elevation
1:100

GENERAL NOTES

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LEGEND

To be demolished

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04	18/10/2024	For Council Response						
03	31/1/2024	For DA Submission						
02	23/1/2024	For DA Submission - Draft						
01	8/12/2023	For Client Review						
ISSUE	DATE	REVISION						

MATERIALS AND FINISHES

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- DK - Timber Deck
- TB - Timber Battens - Painted
- TP - Timber pergola
- WT - Water Tank

BOUNDARY

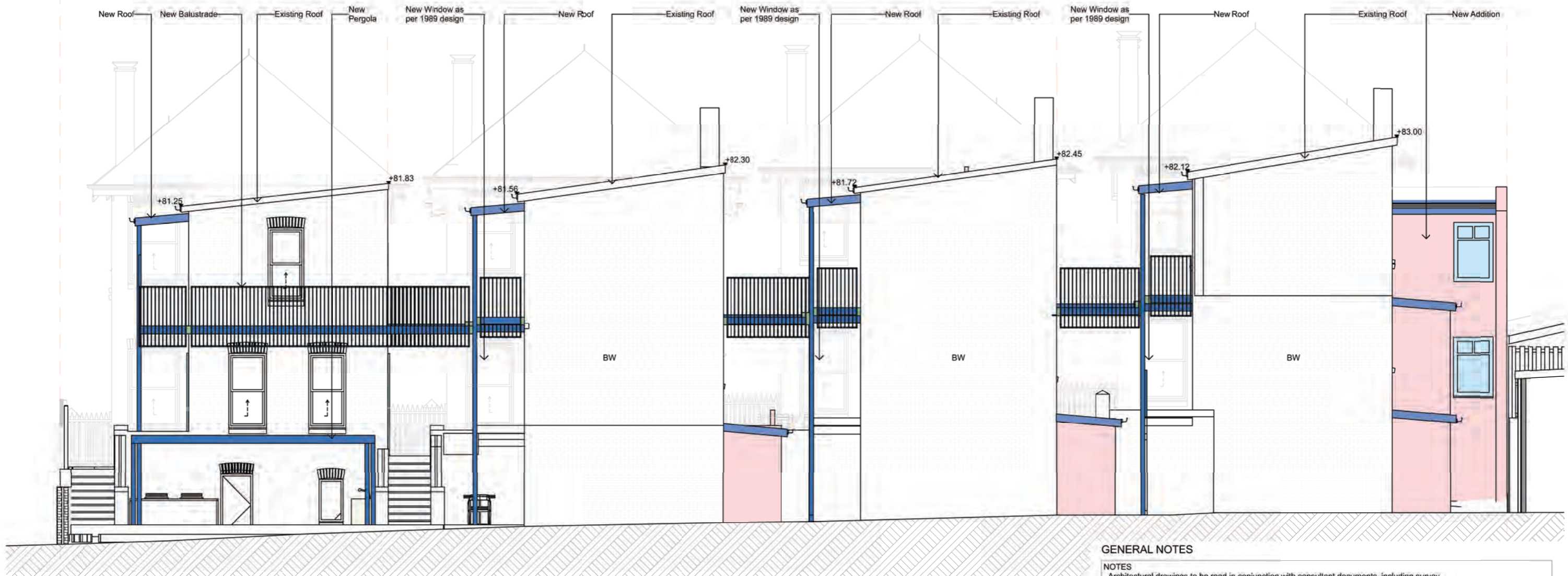
BOUNDARY

BUILDING D
No 188
Two & Three Storey
Brick and Clad residence
Tile & Metal Roof

BUILDING C
No 186
Two & Three Storey
Brick and Clad residence
Tile & Metal Roof

BUILDING B
No 184
Two & Three Storey
Brick and Clad residence
Tile & Metal Roof

BUILDING A
No 182
Two & Three Storey
Brick and Clad residence
Tile & Metal Roof



GENERAL NOTES

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LEGEND

To be demolished

North Elevation
1:100

ISSUE	DATE	REVISION
03	18/10/2024	For Council Response
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01	23/1/2024	For DA Submission - Draft

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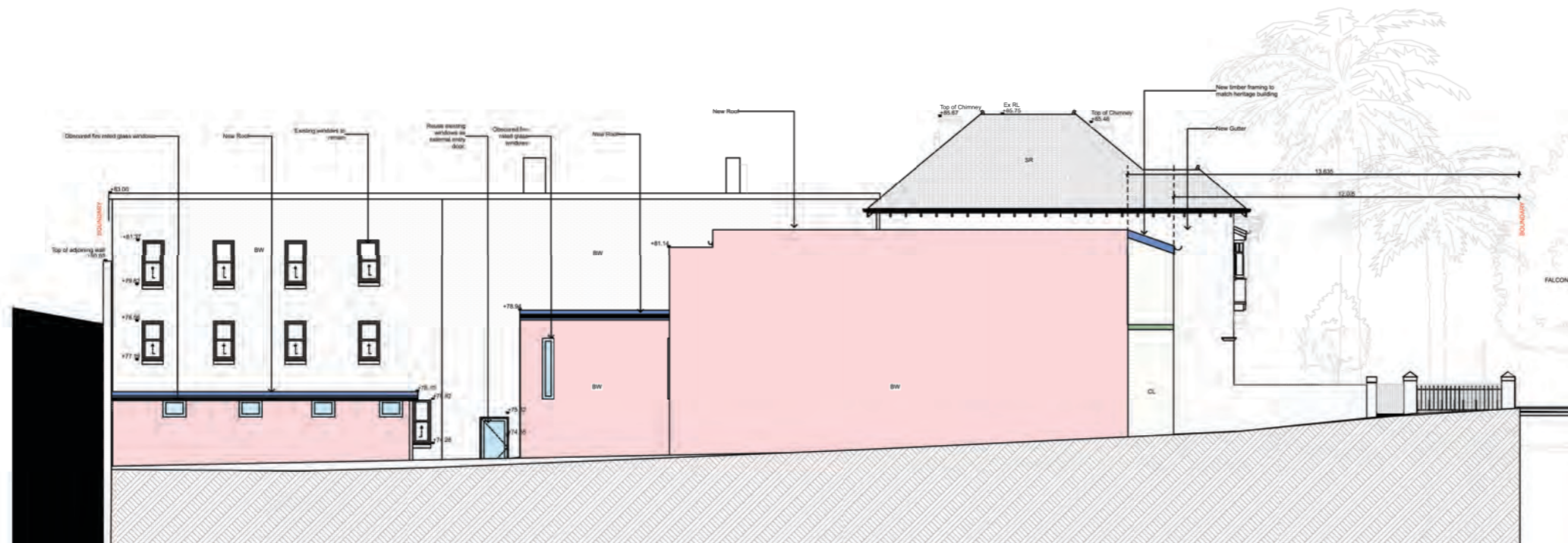
project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/1/2024	revision issue 03
project number 23021	client ARCH Capital Management	drawing scale 1:100@ A3
drawing North Elevation		drawing number A201



MATERIALS AND FINISHES

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- TP - Timber pergola
- WT - Water Tank

East Elevation - Building D
1:200



West Elevation - Building A
1:200

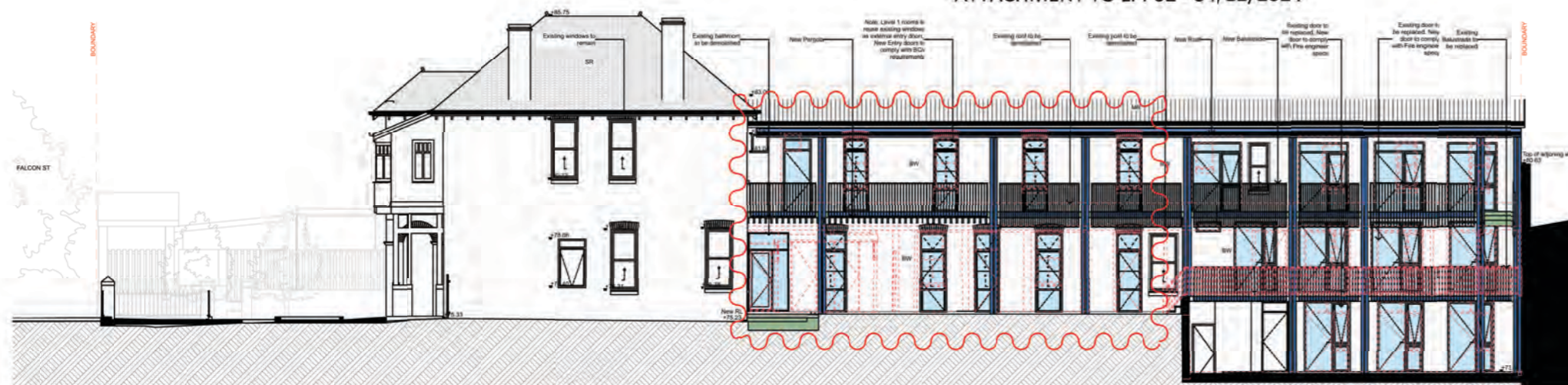
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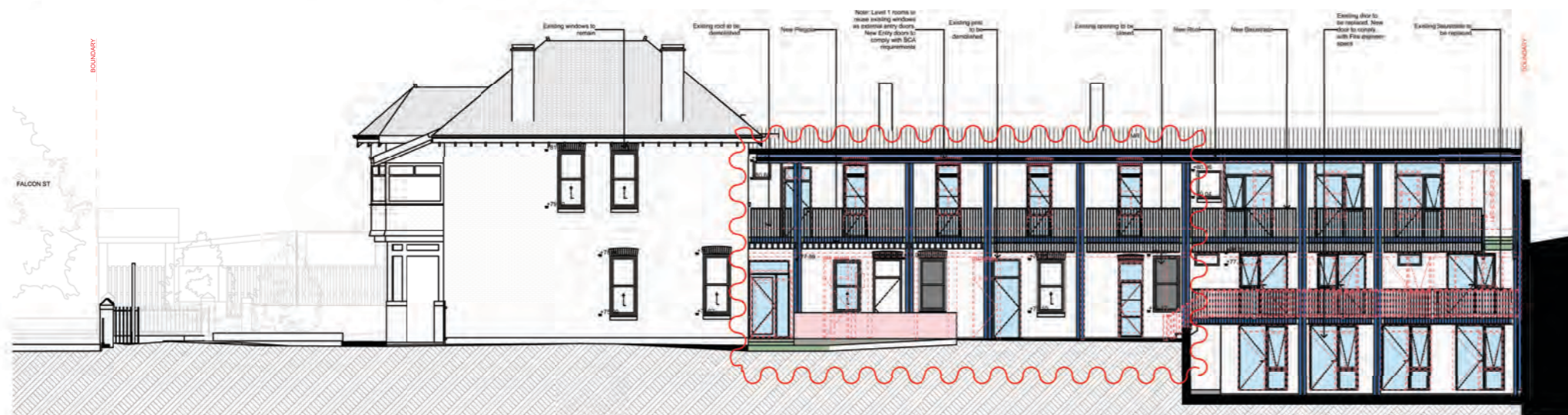
LEGEND

To be demolished

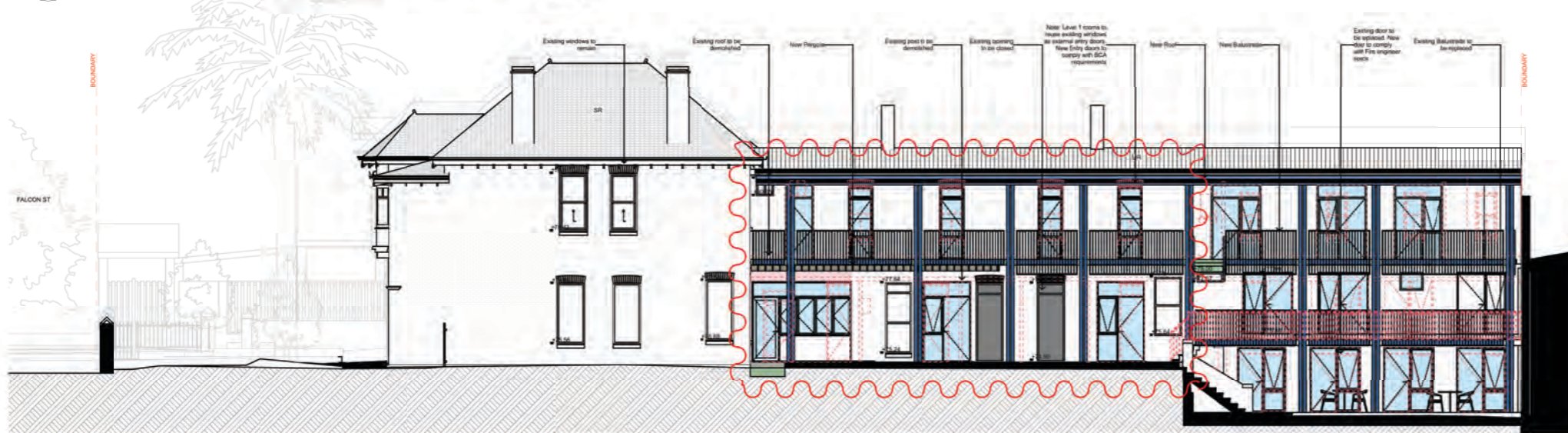
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	+61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au ABN 94 096 165 445 James McNally 6744		project number 23021	client ARCH Capital Management	drawing scale 1:200@ A3
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	ISSUE DATE REVISION	04 18/10/2024 For Council Response 03 31/1/2024 For DA Submission 02 23/1/2024 For DA Submission - Draft 01 8/12/2023 For Client Review			



East Elevation - Building A
1:200



East Elevation - Building B
1:200



East Elevation - Building C
1:200

MATERIALS AND FINISHES

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LEGEND

To be demolished

ISSUE	DATE	REVISION
03	18/10/2024	For Council Response
02	31/1/2024	For DA Submission
01	23/1/2024	For DA Submission - Draft

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project	Falcon Lodge 182 - 188 Falcon Street North Sydney
project number	23021
client	ARCH Capital Management
drawing	East Elevation Buildings C & B

date	31/1/2024	revision issue	03
drawing scale	1:200@ A3	drawing number	A203

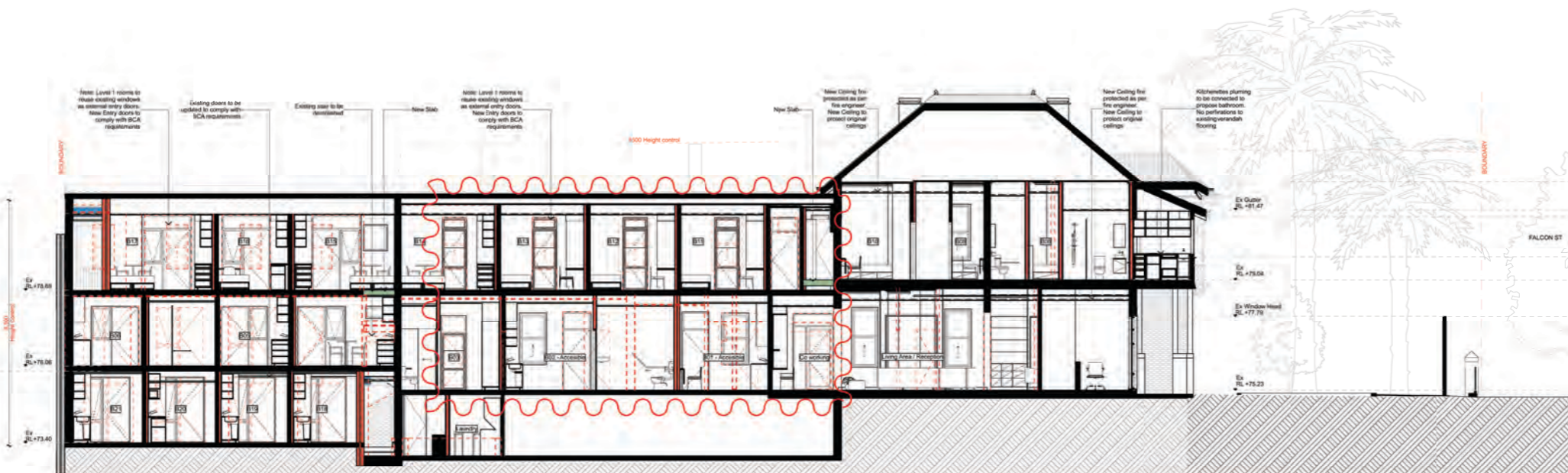


Street view South Elevation
1:125

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	ABN 94 096 165 445 James McNally 6744		project number 23021	client ARCH Capital Management	drawing number A204
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	03 18/10/2024 For Council Response 02 31/1/2024 For DA Submission 01 23/1/2024 For DA Submission - Draft	ISSUE DATE REVISION			



Section A - A
1:200



Section B - B
1:200

GENERAL NOTES

- NOTES
- Architectural drawings to be read in conjunction with consultant documents, including survey.
 - Weather seals to all external openings.
 - All dimensions are in millimetres unless stated otherwise.
 - All dimensions are to be checked on site.
 - All glazing and screening devices to windows to be as per Section J requirements.
 - All foulings, piers, roof structure and columns to Structural Engineers requirements
 - Smoke alarms to be installed to comply with AS3786. All smoke alarms to be located in accordance with BCA requirements
 - Refer to Landscape Plan for landscape related works
 - Refer to ID Package for all joinery details

LEGEND

- To be demolished
- New Construction

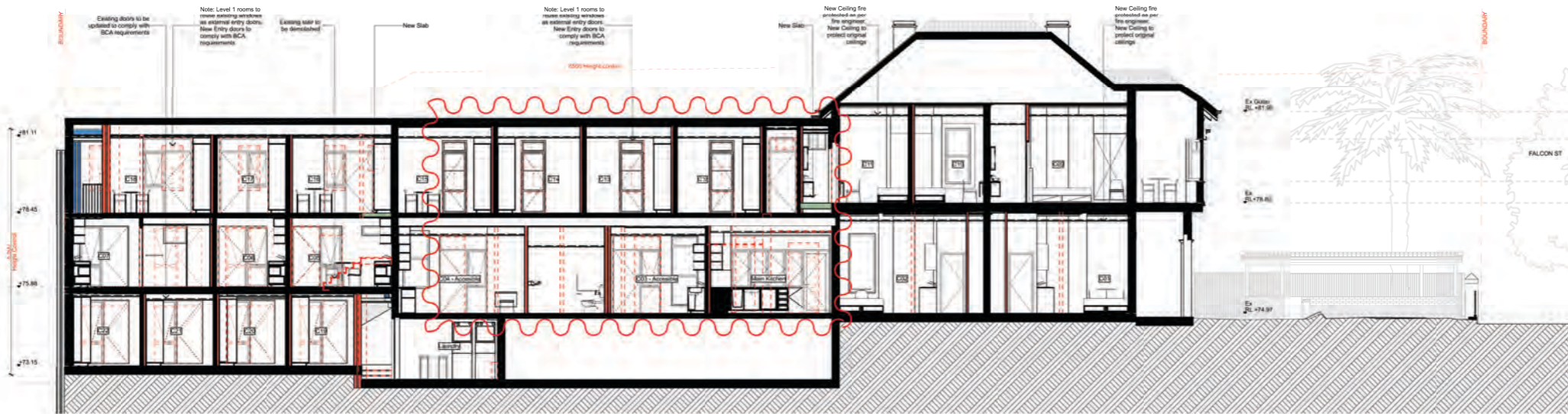
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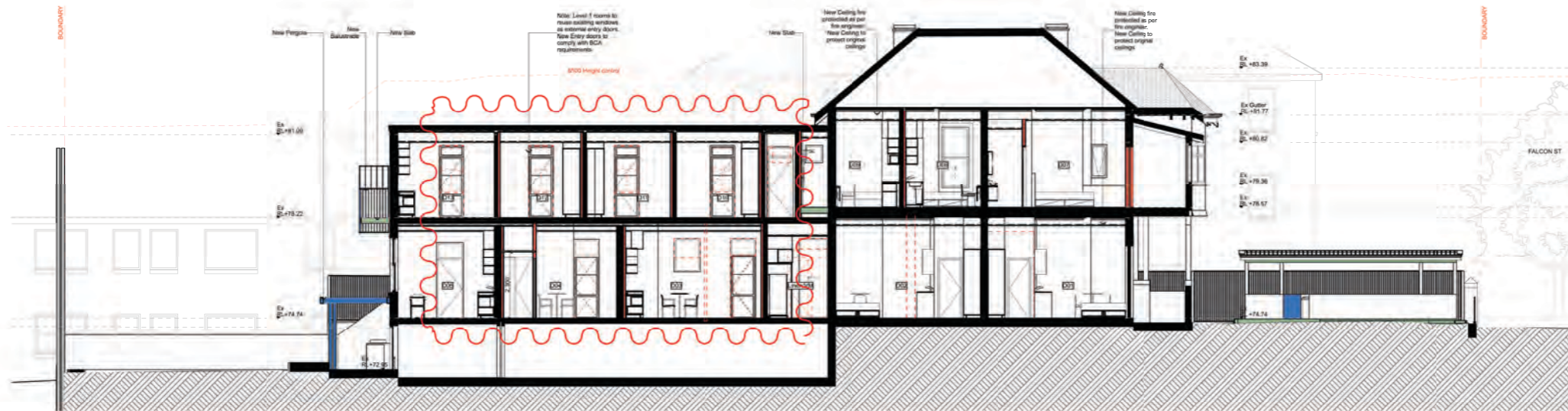
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project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/11/2024	revision issue 04
project number 23021	client ARCH Capital Management	drawing scale 1:200@ A3
drawing Section A-A & Section B-B		drawing number A300



Section C - C
1:200



Section D - D
1:200

GENERAL NOTES

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LEGEND

- To be demolished
- New Construction

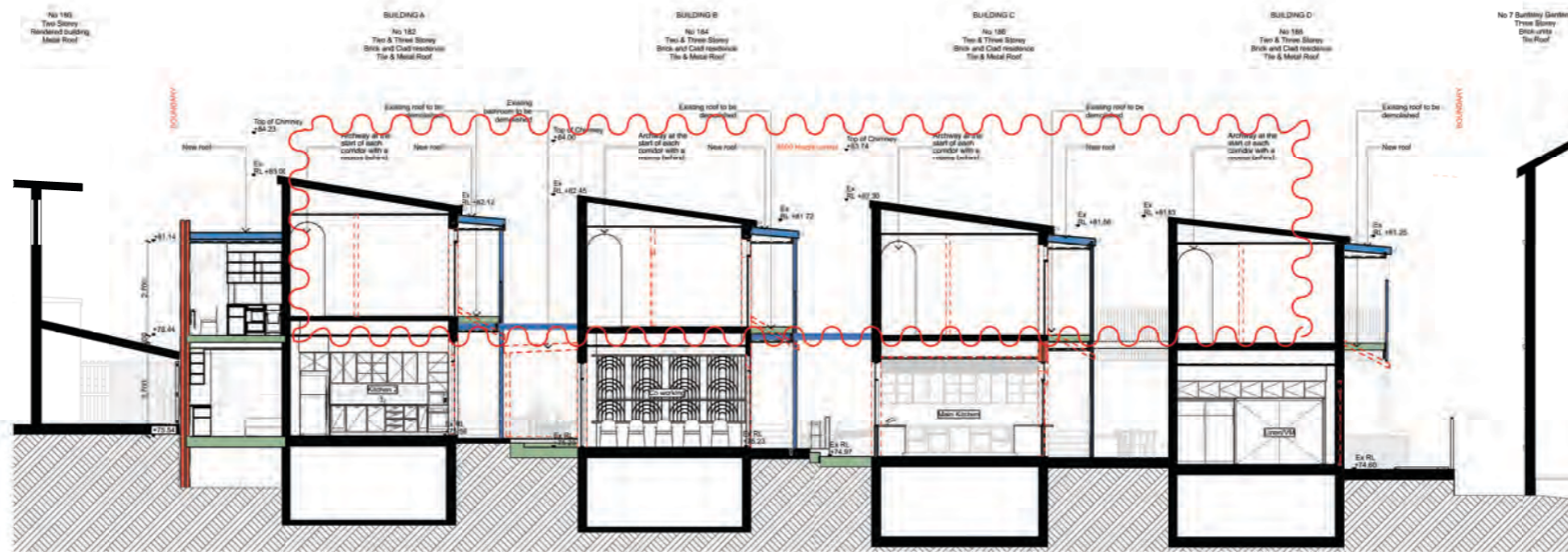
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01	8/12/2023	For Client Review



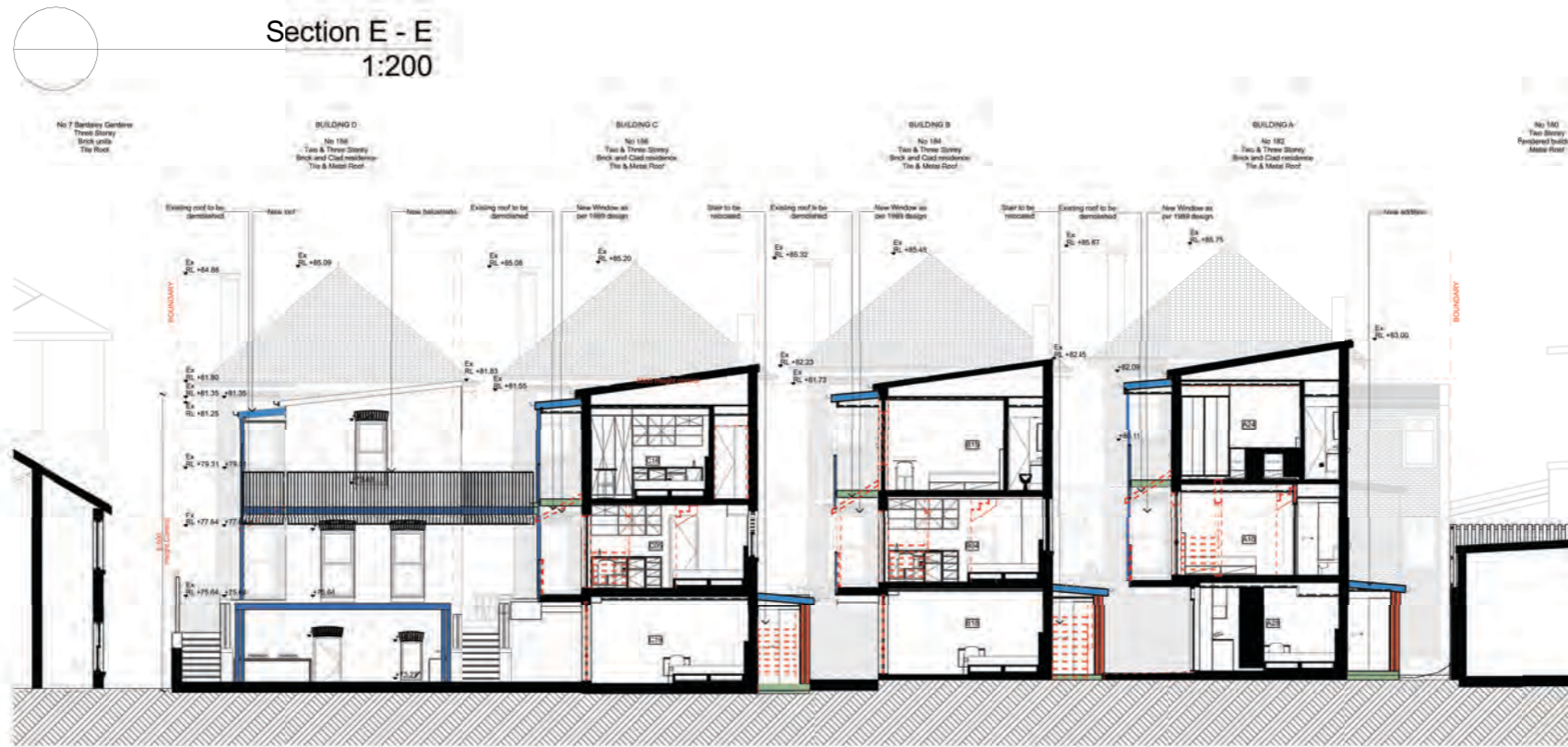
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project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/11/2024	revision issue 04
project number 23021	client ARCH Capital Management	drawing number A301
drawing Sections C-C & Section D-D	drawing scale 1:200@ A3	



Section E - E
1:200



Section F - F
1:200

GENERAL NOTES

- NOTES
- Architectural drawings to be read in conjunction with consultant documents, including survey.
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 - Refer to Landscape Plan for landscape related works
 - Refer to ID Package for all joinery details

LEGEND

- To be demolished
- New Construction

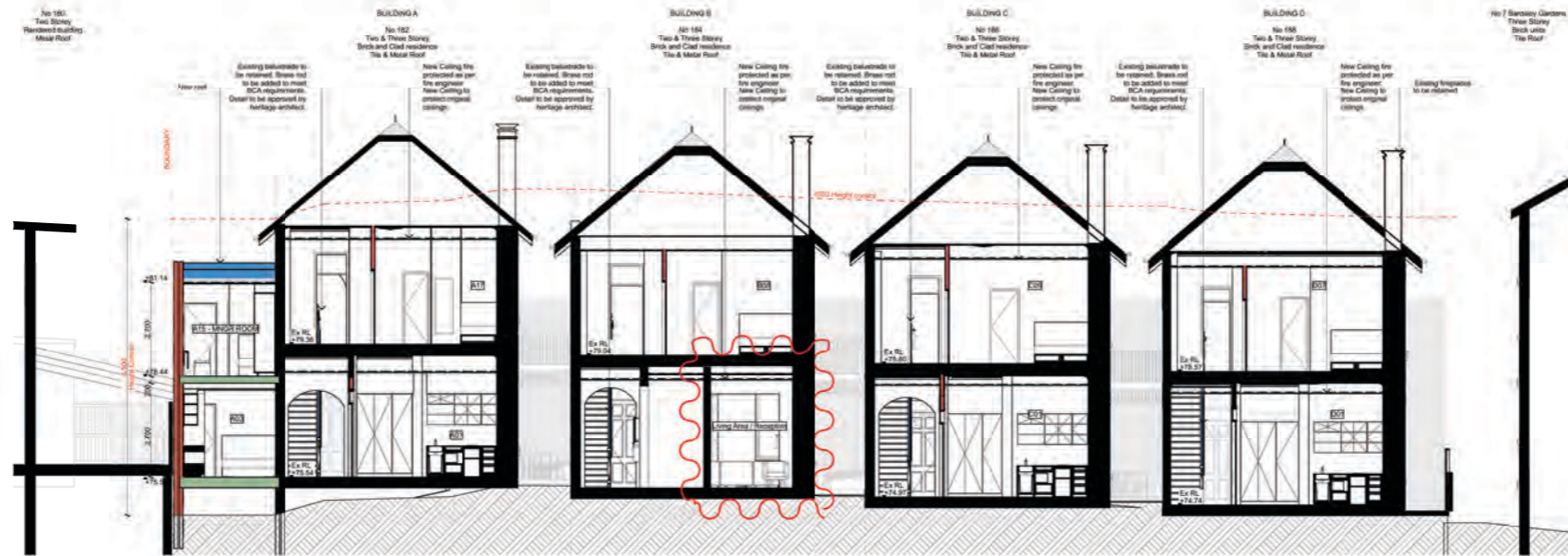
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project	Falcon Lodge 182 - 188 Falcon Street North Sydney	date	31/11/2024	revision issue	04
project number	23021	client	ARCH Capital Management	drawing scale	1:200@ A3
drawing	Section E-E & Section F-F			drawing number	A302



Section G - G
1:200

GENERAL NOTES

- NOTES
- Architectural drawings to be read in conjunction with consultant documents, including survey.
 - Weather seals to all external openings.
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 - Refer to Landscape Plan for landscape related works
 - Refer to ID Package for all joinery details

LEGEND

- To be demolished
- New Construction

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	ISSUE	DATE	REVISION													
	03	18/10/2024	For Council Response													
	02	31/1/2024	For DA Submission													
01	23/1/2024	For DA Submission - Draft														
project number 23021	client ARCH Capital Management	drawing scale 1:200@ A3	drawing number A303													
drawing Section G-G																

EXTERNAL FINISHES - HERITAGE TERRACES

NEW ROOF, GUTTER AND EAVES:
TEAHOUSE GR23

EXISTING SLATE ROOF MAINTAINED

EXTENSION WALLS:
TERRACE WHITE

SHINGLES FINISH:
TEAHOUSE GR23

RAILING AND WINDOW FRAMES:
TEAHOUSE GR23

TIMBER FRAMING:
WHITE DUCK 1/2

BOUNDARY FENCE:
MONUMENT COLOUR

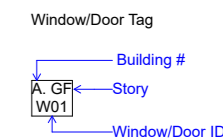
EXISTING BRICK MAINTAINED

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					<p>project number 23021</p>	<p>client ARCH Capital Management</p>	<p>drawing scale 1:100@ A3</p>	<p>drawing number A400</p>
					<p>drawing External Finishes and Colours</p>			
ISSUE	DATE	REVISION						
03	18/10/2024	For Council Response						
02	31/1/2024	For DA Submission						
01	23/1/2024	For DA Submission - Draft						

Window Schedule Building A															
STORY	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor
Building ID	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Home Story ID	LG	LG	LG	LG	LG	LG	LG	LG	LG	GF	GF	GF	GF	GF	GF
ID	W01	W02	W03	W04	W05	W06	W07	W08	W01	W02	W03	W04	W05	W06	W07
External View															
Location/Room Name	A31	A30	A29	Staff	A28	A29	A30	A31	A01	A01	A01	A02	A02	A02	A09
Renovation Status	New	New	New	Existing	New	New	New	New	New	Existing	Existing	Existing	Existing	Existing	New
Notes															

Window Schedule Building A																	
STORY	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor
Building ID	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Home Story ID	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF
ID	W08	W09	W10	W11	W12	W13	W14	W15	W16	W17	W18	W19	W20	W21	W01	W02	
External View																	
Location/Room Name	A10	A10	A11	A12	A13	A13	A12	A11	A10	A08	A06	A04	A03	A03	A16	A17	
Renovation Status	Existing	New	New	New	New	Existing	Existing	Existing	Existing	New	New	New	New	New	Existing	Existing	
Notes																Existing Louvre to be replaced. New glazing to match existing windows	

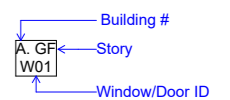
Window Schedule Building A																
STORY	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Home Story ID	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF
ID	W03	W04	W05	W06	W07	W08	W09	W10	W11	W12	W13	W14	W15	W16		
External View																
Location/Room Name	A17	A17	A17	A18	A18	A19	A19	A24	A24	A25	A26	A27	A27	A26		
Renovation Status	Existing	Existing	Existing	Existing	Existing	Existing	Existing	New	Existing	New	New	New	Existing	Existing		
Notes		Existing Louvre to be replaced. New glazing to match existing windows														



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	04 18/10/2024 For Council Response 03 31/1/2024 For DA Submission 02 23/1/2024 For DA Submission - Draft 01 8/12/2023 For Client Review	This drawing is copyright © and shall remain the property of McNally Architects. No reproduction without permission unless noted otherwise. This drawing is not for construction. Do not scale from drawings. Figured dimensions shall take precedence.	client ARCH Capital Management		
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Window Schedule Building A				
STORY	First Floor	First Floor	First Floor	First Floor
Building ID	A	A	A	A
Home Story ID	FF	FF	FF	FF
ID	W17	W18	W19	W20
External View				
Location/Room Name	A25	A24	A14	A15 - MNGR ROOM
Renovation Status	Existing	Existing	New	New
Notes				

Window/Door Tag

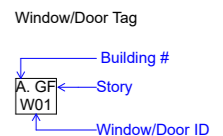


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					project number 23021	client ARCH Capital Management		
					drawing Window Schedule - Building A	drawing scale 1:1@ A3	drawing number A701	
	ISSUE	DATE	REVISION					

Window Schedule Building B															
Home Story Name	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor
Building ID	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Home Story ID	LG	LG	LG	LG	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF
ID	W01	W02	W03	W04	W01	W02	W03	W04	W05	W06	W07	W08	W09	W10	W11
External View															
Location/Room Name	B21	B20	B19	B18	Living Area / Reception	Living Area / Reception	Living Area / Reception	Living Area / Reception	Living Area / Reception	B01 - Accesible	B02 - Accesible	B02 - Accesible	B03	B04	B04
Renovation Status	New	New	New	New	Existing	Existing	Existing	Existing	New	New	Existing	Existing	Existing	Existing	New
Notes											Existing window to be closed up		Existing window to be closed up		

Window Schedule Building B															
Home Story Name	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Home Story ID	GF	GF	GF	GF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF	FF
ID	W12	W13	W14	W15	W01	W02	W03	W04	W05	W06	W07	W08	W09	W10	W11
External View															
Location/Room Name	B05	B06	B06	B04	B07	B07	B07	B08	B08	B09	B09	B10	B10	B10	B10
Renovation Status	New	New	New	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	New
Notes								Existing Louvre to be replaced. New glazing to match existing windows							

Window Schedule Building B		
Home Story Name	First Floor	First Floor
Building ID	B	B
Home Story ID	FF	FF
ID	W12	W13
External View		
Location/Room Name		
Renovation Status	New	New
Notes		



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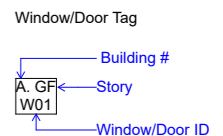
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project Falcon Lodge 182 - 188 Falcon Street North Sydney	date 31/1/2024	revision issue 04
project number 23021	client ARCH Capital Management	drawing scale @ A3
drawing Window Schedule - Building B		drawing number A702

Window Schedule Building C													
STORY	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor
Building ID	C	C	C	C	C	C	C	C	C	C	C	C	C
Home Story ID	LG	LG	LG	LG	GF	GF	GF	GF	GF	GF	GF	GF	GF
ID	W01	W02	W03	W04	W01	W02	W03	W04	W05	W06	W07	W08	W09
External View													
Location/Room Name	C22	C21	C20	C19	C01	C01	C01	C02	C02	C02	Main Kitchen	C03 - Accessible	C03 - Accessible
Renovation Status	New	New	New	New	Existing	Existing	Existing	Existing	Existing	New	New	Existing	New
Notes													

Window Schedule Building C														
STORY	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor
Building ID	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Home Story ID	GF	GF	GF	GF	GF	GF	GF	GF	GF	GF	FF	FF	FF	FF
ID	W10	W11	W12	W13	W14	W15	W16	W17	W18	W18	W01	W02	W03	W04
External View														
Location/Room Name	C04 - Accessible	C04 - Accessible	C05	C05	C06	C07	C07	Main Kitchen	C05	C05	C08	C08	C08	C09
Renovation Status	New	Existing	Existing	New	New	New	Existing	New	Existing	Existing	Existing	Existing	Existing	Existing
Notes														

Window Schedule Building C								
STORY	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	C	C	C	C	C	C	C	C
Home Story ID	FF	FF	FF	FF	FF	FF	FF	FF
ID	W05	W06	W07	W08	W09	W10	W11	W12
External View								
Location/Room Name	C09	C10	C10	C11	C11			
Renovation Status	Existing	Existing	Existing	Existing	Existing	New	New	New
Notes								

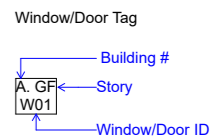


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	project number 23021	client ARCH Capital Management	drawing scale 1:1@ A3	drawing number A703
	drawing Window Schedule - Building C			
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Window Schedule Building D																
STORY	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
Home Story ID	LG	GF	GF	GF	GF	GF	GF	GF	GF	GF	FF	FF	FF	FF	FF	FF
ID	W01	W01	W02	W03	W04	W05	W06	W07	W08	W01	W02	W03	W04	W05	W06	W07
External View																
Location/Room Name	Storage	D01	D01	D02	D02	D03	D04	D05	D05	D06	D07	D07	D07	D07	D08	D08
Renovation Status	Existing	Existing	Existing	Existing	Existing	New	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing	Existing
Notes							Existing window to be closed up									

Window Schedule Building D			
STORY	First Floor	First Floor	First Floor
Building ID	D	D	D
Home Story ID	FF	FF	FF
ID	W08	W09	W10
External View			
Location/Room Name	D09	D09	D13
Renovation Status	Existing	Existing	Existing
Notes			



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	ABN 94 096 165 445 James McNally 6744	project number 23021	client ARCH Capital Management	drawing scale @ A3	drawing number A704
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	ISSUE DATE REVISION				

Door Schedule Building A Building D copy 1												
STORY	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor
Building ID	A	A	A	A	A	A	A	A	A	A	A	A
Home Story ID	LG	LG	LG	LG	GF	GF	GF	GF	GF	GF	GF	GF
ID	D01	D02	D03	D04	D01	D02	D03	D04	D05	D06	D07	D01
External View												
Location/Room Name	A28	Laundry	Staff	Laundry		Kitchen 2	A05	A06	A07	A08	A09	
Renovation Status	Existing	Existing	Existing	New	Existing	New	New	New	New	New	New	New
Notes												

Door Schedule Building A Building D copy 1					
STORY	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	A	A	A	A	A
Home Story ID	FF	FF	FF	FF	FF
ID	D02	D03	D04	D05	D06
External View					
Location/Room Name	A20	A21	A22	A23	A15 - MNGR ROOM
Renovation Status	New	New	New	New	New
Notes					

Door Schedule Building A

Door Schedule Building B												
STORY	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor
Building ID	B	B	B	B	B	B	B	B	B	B	B	B
Home Story ID	LG	GF	GF	GF	GF	GF	GF	GF	FF	FF	FF	FF
ID	D01	D01	D02	D03	D04	D05	D06	D01	D02	D03	D04	D05
External View												
Location/Room Name	Laundry		Co working	B01 - Accesible	B02 - Accesible	B03	Co working		B11	B12	B13	B14
Renovation Status	Existing	Existing	New	Existing	New	New	New	New	New	New	New	New
Notes												

Door Schedule Building B

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	03 18/10/2024 For Council Response 02 31/1/2024 For DA Submission 01 23/1/2024 For DA Submission - Draft	This drawing is copyright © and shall remain the property of McNally Architects. No reproduction without permission unless noted otherwise. This drawing is not for construction. do not scale from drawings. figured dimensions shall take precedence.	client ARCH Capital Management		
	ISSUE DATE REVISION				

Door Schedule Building C									
STORY	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor	First Floor
Building ID	C	C	C	C	C	C	C	C	C
Home Story ID	LG	GF	GF	GF	FF	FF	FF	FF	FF
ID	D01	D01	D02	D03	D01	D02	D03	D04	D05
External View									
Location/Room Name			C04 - Accessible	C04 - Accessible		C12	C13	C14	C15
Renovation Status	Existing	Existing	Existing	Existing	New	New	New	New	New
Notes			Existing door to be closed up	Existing door to be closed up					

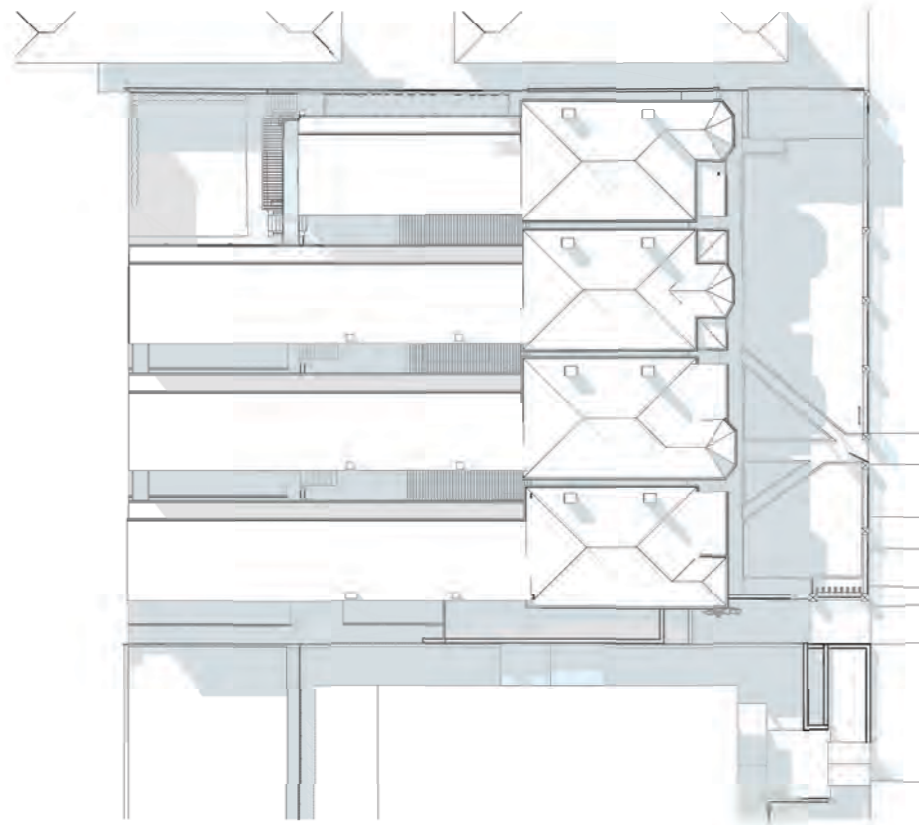
Door Schedule Building C

Door Schedule Building D												
STORY	Lower Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor
Building ID	D	D	D	D	D	D	D	D	D	D	D	D
Home Story ID	LG	GF	GF	GF	GF	GF	GF	GF	GF	FF	FF	FF
ID	D01	D01	D02	D03	D04	D05	D06	D07	D07	D01	D02	D03
External View												
Location/Room Name	Storage		Linen/VM	D03	D03	D04	D05	Linen/VM	Linen/VM		D10	D11
Renovation Status	Existing	Existing	New	New	Existing	New	Existing	New	New	New	New	New
Notes						Existind door to be closed up						

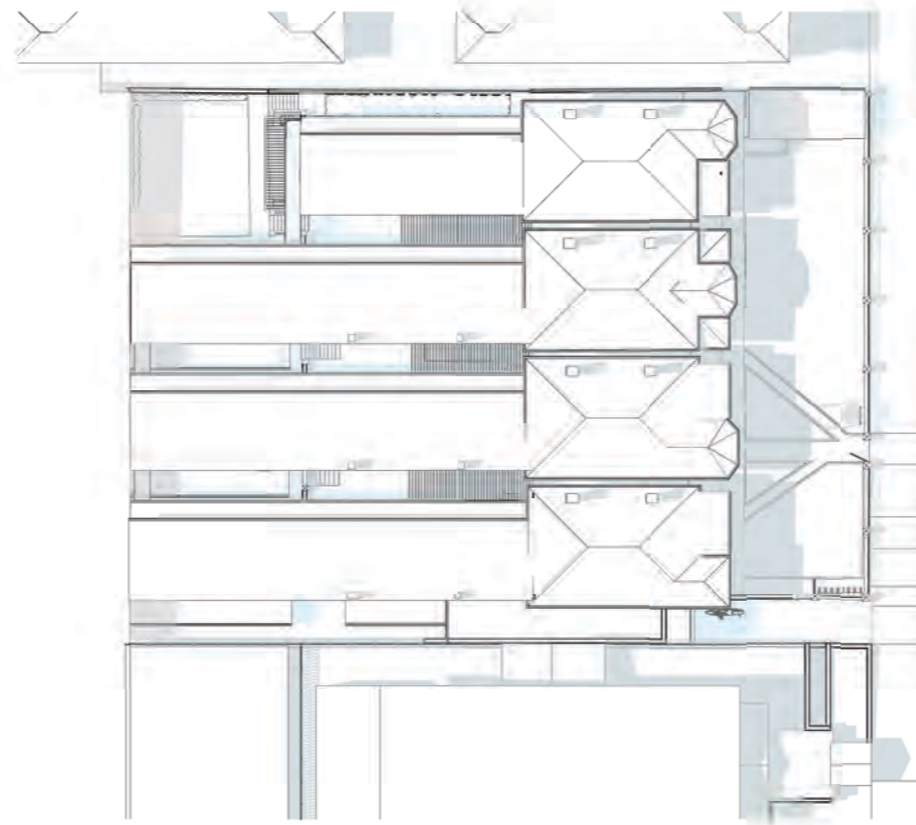
Door Schedule Building D		
STORY	First Floor	First Floor
Building ID	D	D
Home Story ID	FF	FF
ID	D04	D05
External View		
Location/Room Name	D12	D13
Renovation Status	New	New
Notes		

Door Schedule Building D

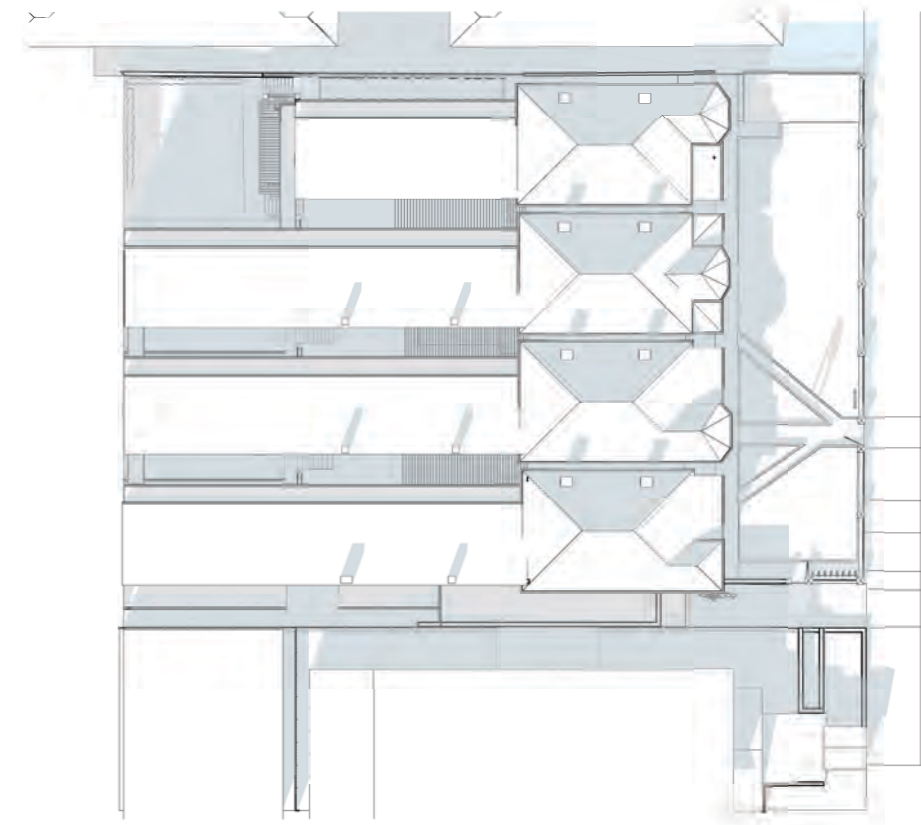
<p>McNally Architects</p>	Studio 201, 6-8 Clarke Street, Crows Nest, 2065, NSW, Australia +61 2 9438 3565 office@mcnallyarchitects.com.au www.mcnallyarchitects.com.au ABN 94 096 165 445 James McNally 6744	project Falcon Lodge 182 - 188 Falcon Street North Sydney project number 23021 drawing Door Schedule Building C & D	date 18/10/2024 drawing scale @ A3	revision issue 01 drawing number A706
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	For Council Response	drawing scale @ A3	drawing number A706	
	ISSUE DATE REVISION 01 18/10/2024 For Council Response			



21st of March 9 am - Propose
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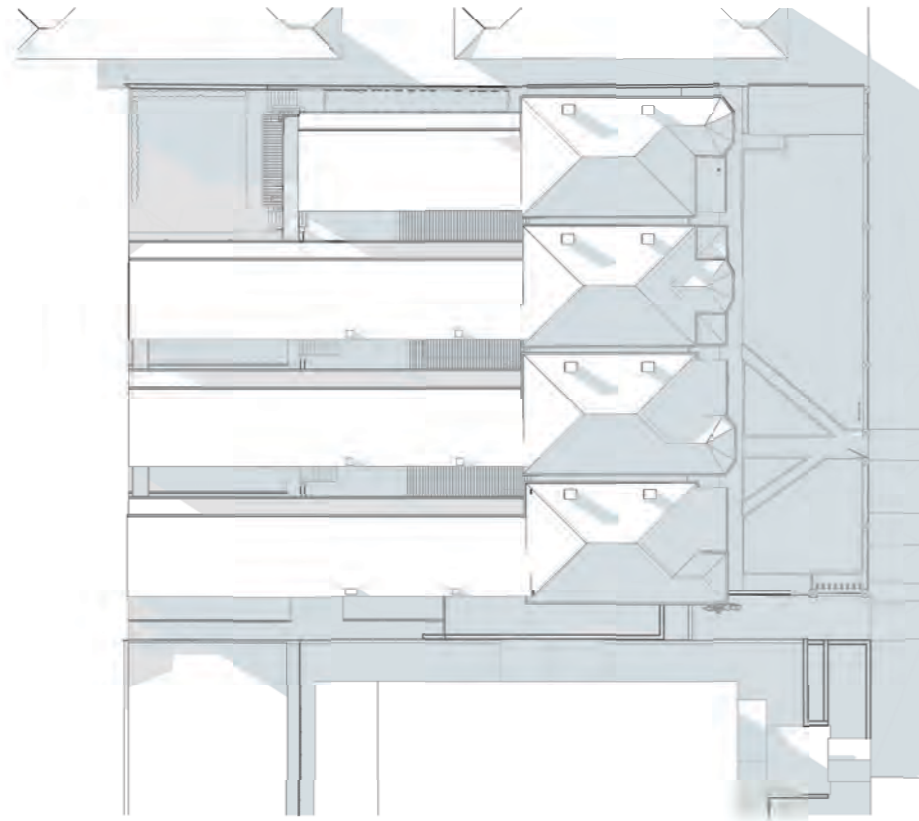
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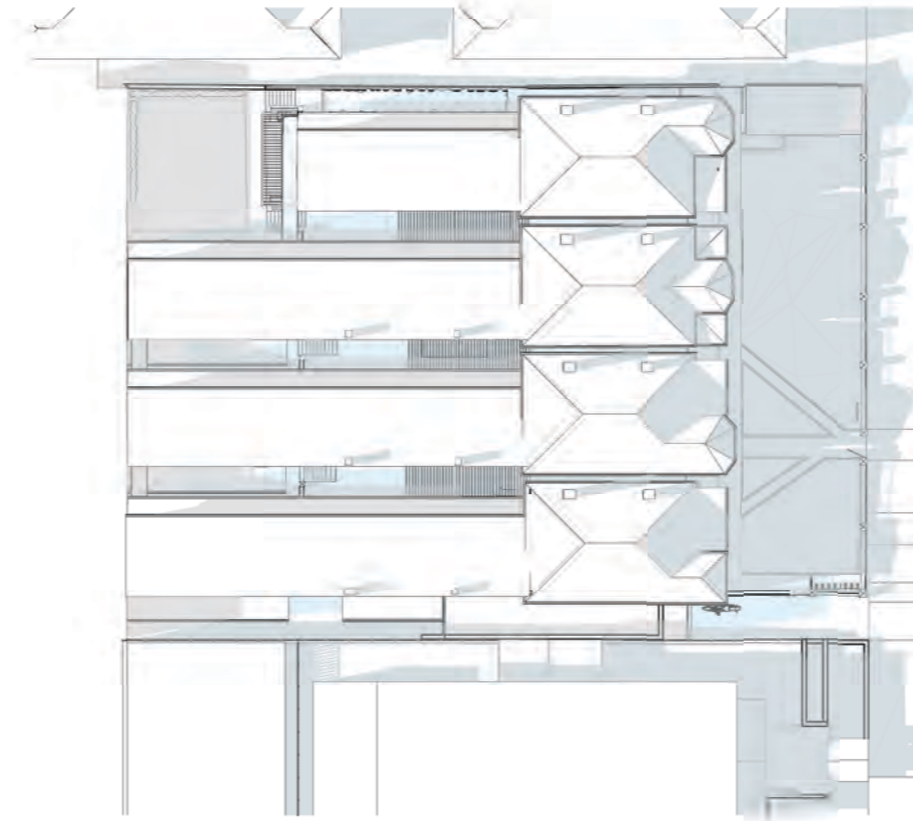
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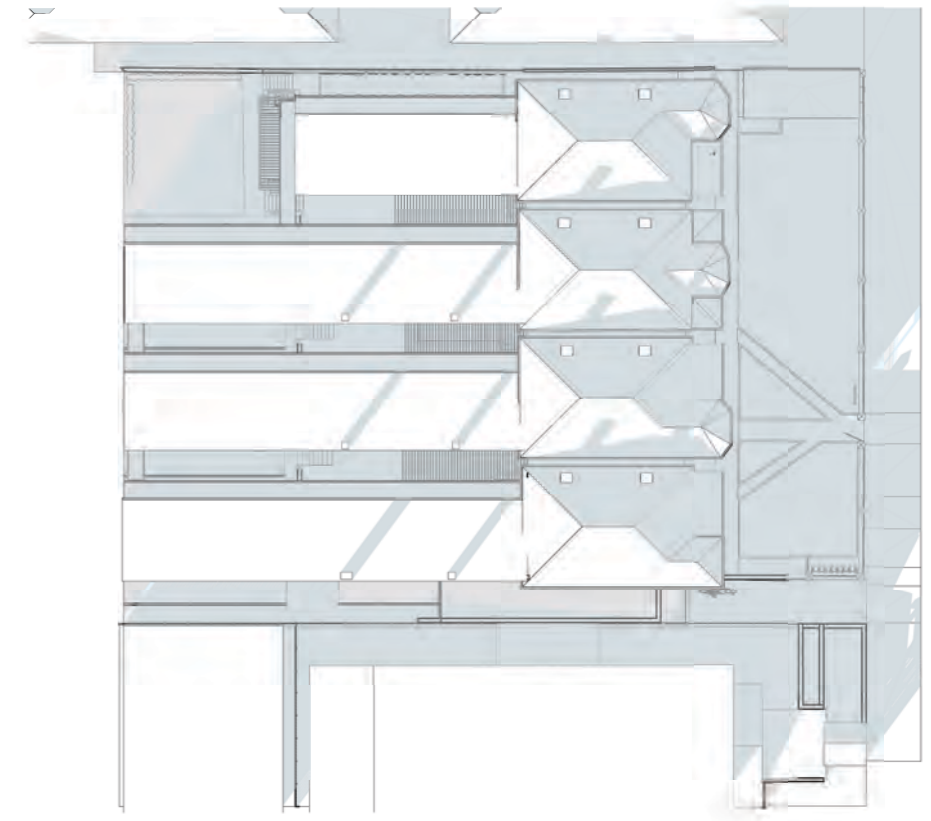
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drawing Shadow Diagram 21st March																		



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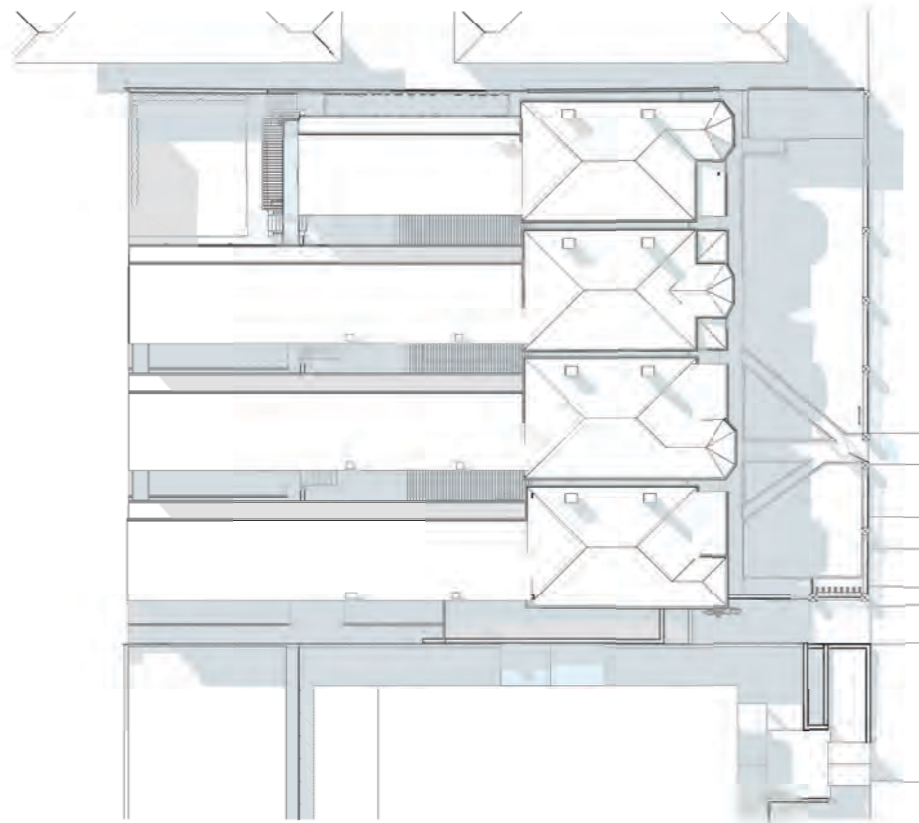
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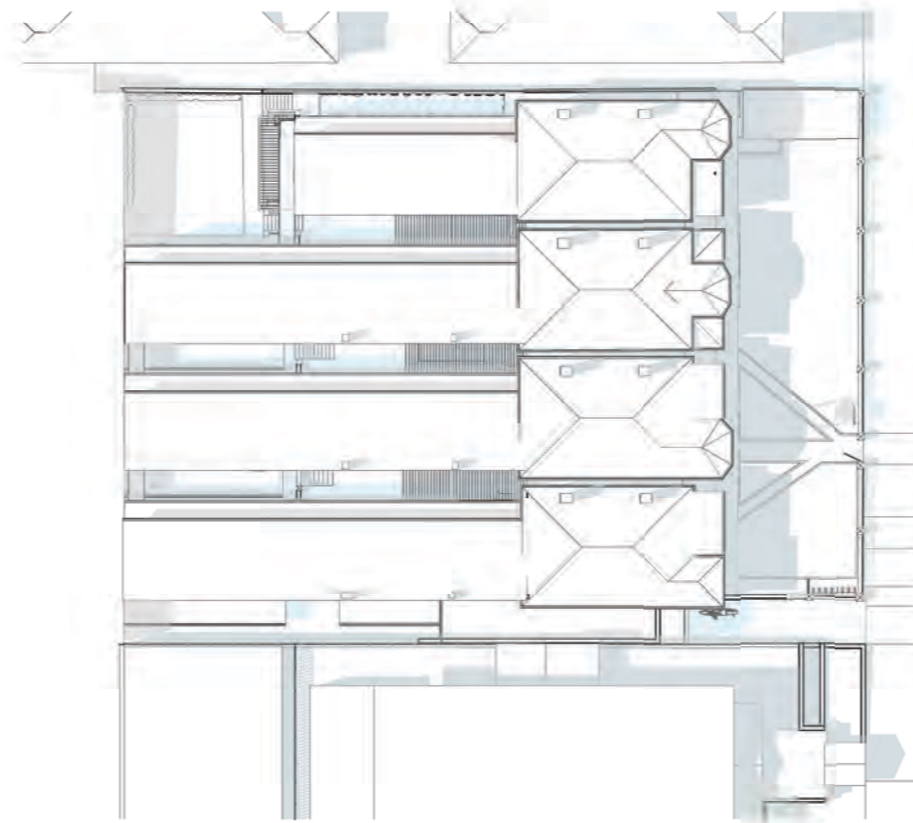
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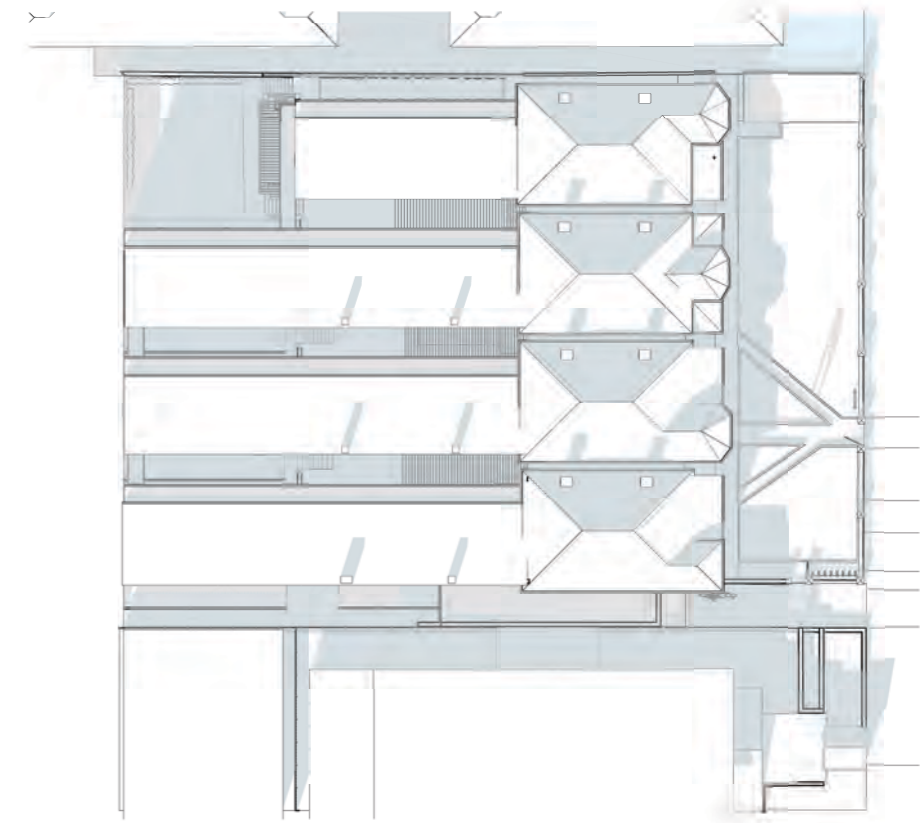
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21st of September 12 Noon - Propose
1:500



21st of September 3 pm - Propose
1:500

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14 June 2024

Our Ref: PLM:HEM:ARC009/4001

Arch Australia Management
Level 18, 2 Park Street
SYDNEY NSW 2000

By Email:
jscicluna@archcapital.net

Attention: John Scicluna

Dear John

**DA 39/24 – Development application for alterations and additions to a private boarding house
Property: 182-188 Falcon Street, North Sydney NSW 2060**

1. Introduction

- 1.1 We refer to the email correspondence between your planner, Ryan Gill, and the Council's Executive Assessment Planner, Jim Davies in relation to the proposed development, and in particular, the application of *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)* to the proposed development.
- 1.2 We understand that Council's view is that the Housing SEPP applies to the proposed development for alterations and additions to the private boarding house, contrary to the views expressed in the Statement of Environmental Effects prepared by Balance Planning dated 21 February 2024 (**SEE**). Accordingly, the Council has advised that it proposes to assess the proposed development having regard to the provisions of Division 2, Part 2 of Chapter 2 of the Housing SEPP that apply to boarding houses.
- 1.3 Mr Gill advised the Council that the applicant's legal advisers consider that the Housing SEPP does not apply to privately operated boarding houses. The Council has requested a copy of our legal opinion.
- 1.4 The Council has also questioned our conclusion that the Housing SEPP does not apply stating:
- "By that logic, the LEP does not apply either. It has the same definition".*
- 1.5 We confirm our legal opinion that Divisions 2 and 3, Part 2 of Chapter 2 of the Housing SEPP does not apply to the proposed development and confirm that *North Sydney Local Environmental Plan 2013 (NLEP 2013)* does apply to the development. As the SEE states,¹ the proposed development relies on existing use rights in Division 4.11 of Part 4 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the provisions in Part 7 of the *Environmental Planning and Assessment Regulation 2021 (Regulation 2021)*.

¹ Section 4, pages 12-13; section 6.1.6, page 23;

2. Divisions 2 and 3, Part 2 of Chapter 2 of the Housing SEPP does not apply

- 2.1 Although the Housing SEPP applies to the State², parts of the Housing SEPP apply to particular forms of development namely, diverse forms of housing, such as for example boarding houses, co-living housing, group homes, build to rent housing, manufactured home estates, caravan parks and seniors housing.
- 2.2 Divisions 2 and 3, Part 2 of Chapter 2 of the Housing SEPP provides the planning controls for 'boarding house' development under the Housing SEPP. Section 23(1) in Division 2, Part 2, Chapter 2 of the Housing SEPP states:

(1) Development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument.

- 2.3 The term 'boarding house' is defined for the purposes of the Housing SEPP as follows³ and has the same definition in NSLEP 2013 which is:

boarding house means a building or place—

(a) that provides residents with a principal place of residence for at least 3 months, and

(b) that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and

(c) that contains rooms, some or all of which may have private kitchen and bathroom facilities, and

(d) used to provide affordable housing, and

(e) if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,

but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

(Emphasis added)

- 2.4 For section 23(1) of the Housing SEPP to apply, the proposed development must be 'for the purpose' of a 'boarding house' and must be permitted with consent under NSLEP 2013.
- 2.5 The Property is zoned R3 Medium Density Residential, and 'boarding houses' are permitted with consent in the R3 zone under NSLEP 2013. However, the proposed development does not meet the definition of 'boarding house' under the Housing SEPP and NSLEP 2013, because it is not 'carried out by or on behalf of the Land and Housing Corporation' and is not proposed to be 'managed by a registered community housing provider' as required by section (e) of the definition.
- 2.6 Accordingly, the proposed development cannot be 'for the purpose' of a 'boarding house' and section 23(1) of the Housing SEPP does not apply. Similarly, the development standards in Part 2, Division 2 do not apply to the proposed development, as those development standards

² Housing SEPP, section 7.

³ Being the same meaning as in *the Standard Instrument (Local Environmental Plans) Order 2006*: section 4(2), Housing SEPP.

only apply to ‘development for the purposes of boarding houses’ and to which ‘this Division applies’.⁴

2.7 We note that the Property benefits from existing use rights as a ‘private boarding house’⁵, and as we understand it, the Council has not raised any issue with existing use rights. However, as discussed above a privately operated development does not meet the definition of ‘boarding house’ under the Housing SEPP and NSLEP 2013.

2.8 Section 4.67(1)-(2) of the EP&A Act provides:

4.67 Regulations respecting existing use

(1) *The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—*

(a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*

(b) *the change of an existing use to another use, and*

(c) *the enlargement or expansion or intensification of an existing use.*

(d) *(Repealed)*

(2) *The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*

...

2.9 We note DA 39/24 is seeking consent for alterations and additions to the existing privately operated boarding house. This is permitted, with consent, under section 163(1)(b) of the Regulation 2021 which states:

163 Certain development allowed

(1) *An existing use may, subject to this Part—*

(a) *be enlarged, expanded or intensified, or*

(b) *be altered or extended, or*

(c) *be rebuilt, or*

(d) *be changed to another use, but only if the other use is a use that may be carried out with or without development consent under the Act, or*

(e) *if it is a commercial use—be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or*

(f) *if it is a light industrial use—be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.*

(Emphasis added)

⁴ See section 24(1) of SEPP Housing. Although section 25 refers to a ‘boarding room’ that term is defined under SEPP Housing to mean a room within a ‘boarding house’.

⁵ Section 4 of SEE.

2.10 We note that section 167(1) of the Regulation 2021 provides:

167 Change of existing uses

(1) *Development consent is required for—*

(a) *a change of an existing use to another use, and*

(b) *for a building, work or land that is used for different existing uses—a change in the proportions in which the various parts of the building, work or land are used for the different existing uses.*

(2) *This Part does not prevent the granting of a development consent referred to in another provision of this Part at the same time as the granting of a development consent referred to in subsection (1).*

2.11 However, as discussed above, DA 39/24 is seeking consent for alterations and additions to the existing use, and is not seeking consent for a change of use to a 'boarding house' because it is not proposed to be managed by a registered community housing provider. Accordingly, because there is no proposed change in use, the provisions of Divisions 2 and 3, Part 2 of Chapter 2 of the Housing SEPP do not apply.

3. NLEP 2013 does apply

3.1 We agree with the Council that the definition of "*boarding house*" is defined in NLEP 2013, and has the same meaning in the Housing SEPP.

3.2 However, we do not agree with the Council that if the Housing SEPP does not apply to the proposed development, by the same logic, NLEP 2013 would not apply to the Property or the proposed development. We say this for the following reasons:

- (a) Although the Housing SEPP applies to the State, the relevant development standards under the Housing SEPP only apply to the Property when development of a kind defined in the Housing SEPP is proposed to be carried out on the Property, which is not the case here;
- (b) In contrast to the Housing SEPP, the aims and provisions of NSLEP 2013 are broader, and its provisions apply more broadly, including provisions incorporating development standards, such as height (clause 4.3) and floor space ratio (clause 4.4) which apply to any development comprising "*a building*" carried out on the Property. The extent to which provisions such as development standards apply to development relying on existing use rights will depend on whether the provisions deleteriously impinge upon the entitlement to lodge a development application for alterations, extension and rebuilding for consideration and determination by the consent authority: *Saffioti v Kiama Municipal Council [2019] NSWLEC 57* per Preston CJ at [69].
- (c) The existing use provisions in Part 7 of Regulation 2021 upon which the applicant relies to carry out the alterations and additions to the existing private boarding house with development consent⁶, are incorporated into NLEP 2013.⁷ Environmental planning instruments such as NSLEP 2013 can extend, expand or supplement the incorporated provisions provided they do not derogate or have the effect of derogating from the incorporated provisions (section 4.67(3) of the EP&A Act). The relevant development standards in these environmental planning instruments, such as NSLEP 2013 and *North Sydney Development Control Plan 2013* will continue to

⁶ Clause 165, Regulation 2021.

⁷ Section 4.67(2), EP&A Act.

Arch Australia Management

14 June 2024

apply under s4.15 of the EP&A Act when assessing an application for alteration, expansion, or rebuilding of an existing use⁸; and

- (d) Each of the properties comprising the Property are listed as heritage items in Schedule 5 of NSLEP 2013 and the heritage conservation provisions in clause 5.10 of NSLEP 2013 apply to the Property, as well as the broad forms of development that fall within clause 5.10(2) of NSLEP 2013.

- 3.3 We note that the SEE includes a compliance summary with the provisions of NSLEP 2013.⁹ For the reasons discussed above, the Council must only consider NSLEP 2013 when assessing and determining DA 39/24 and cannot take into consideration the provisions of the Housing SEPP.

Yours faithfully

Penny Murray
Partner

Direct Line: +61 2 8915 1031
Direct Fax: +61 2 8916 2000
Email: penny.murray@addisons.com

Helen Macfarlane
Consultant

Direct Line: +61 2 8915 1004
Direct Fax: +61 2 8916 2000
Email: helen.macfarlane@addisons.com

⁸ See *Saffioti v Kiama Municipal Council* [2019] NSWLEC 57 per Preston CJ at [60] – [70]; *oOh! Media Assets Pty Limited v The Council of the City of Sydney* [2016] NSWLEC 47 per Sheahan J at [158] – [159].

⁹ Section 6.1.6, Table 5, pages 24-27.

BOARDING HOUSE PLAN OF MANAGEMENT

**182-188 FALCON STREET, NORTH SYDNEY
FALCON LODGE**

Date: February 2024
Issue A

Falcon Lodge – Plan of Management

1.0 Introduction

This Plan of Management has been prepared for the operational aspects relating to the Falcon Lodge boarding house, located at 182-188 Falcon Street, North Sydney, legally described as Lots 1-4 in Deposited Plan (DP) 587173.

The purpose of this Plan of Management is to provide guidelines and management practices for the operations of the boarding house. The overarching aims of the plan of management are:

- 1) To operate in a manner that provides good and clear communication between residents and the boarding house operator;
- 2) To operate in a manner that has careful consideration for preserving a high level of amenity for the surrounding area;
- 3) To take a proactive approach in peacefully resolving conflict; and
- 4) To establish a complaints register.

The boarding house comprises a total of 87 lettable rooms, inclusive of four (4) accessible rooms under one on-site management team. Each room is a self-contained suite with ensuite and mini kitchenette. Internal and external communal areas are provided within the site.

The site will be managed by a team of part and full-time managers. They operate reception hours between 9am and 3pm, Monday to Sunday, from the building's office at Block B. When the manager is off, there is an after-hours manager available for emergencies, such as lockouts, medical issues, noise complaints and fire alarms.

2.0 Overview of Boarding House

2.1 Room Types and Occupancy

1. Falcon Lodge provides for the following room types:

Room Type	Number of Rooms
Single (all King Single)	58
Double (Queen and Accessible Queen)	29 (25 + 4)
TOTAL	87

2. The maximum occupancy for any room within Falcon Lodge is 2 persons.

2.2 Communal Areas

3. An internal Communal Area is provided within Building B and available for use by residents of the boarding house. The internal communal area provides for seating areas, desks, and a TV unit.

4. An external Communal Area is provided towards the rear of Building D.

5. The Communal Areas provided on site are to be kept tidy and clean by residents. .

6. A cleaner will be employed on a weekly basis to maintain the internal Communal Area, with the cost burdened to the Boarding House operator.

2.3 Laundry Facilities

7. Laundry facilities are provided within Building A, Building B and Building C, located on the Lower Ground Floor. Use of these laundry facilities is available to residents of the boarding house. The laundry machines cost \$4 per wash and dry.

2.4 On-site Parking

8. A motorcycle parking zone is proposed over an existing hardstand area at the south-west corner of the site.

9. The motorcycle parking zone is accessed via Falcon Street.

3.0 Management of Boarding House

3.1 Role of the Boarding House Manager

10. Falcon Lodge will be managed by an on-site manager, who will be appointed by the owner.

11. The role of the boarding house manager is to ensure that the site is regularly maintained and monitored and to have control of the operations of the boarding house and to enforce the house rules.

3.2 Cleaning

12. Cleaning of rooms and ensuites will be the responsibility of the residents.

3.3 Operational Waste Management

13. Waste management will be overseen by the boarding house manager. Bins provided in the communal areas, such as the kitchen, bathrooms, and laundry areas, are emptied every day by staff.

14. Guest rooms are provided with a small bin, which is up to the guest to clean and empty into the provided larger bins in the bin storage area.

15. Collection of waste will be in accordance with the Council operated waste collection services. It will be the role of the boarding house manager to transfer waste from bins within the boarding house to the dedicated waste storage area.

16. It is the role of the boarding house manager to move the bins to the kerb and to collect bins promptly after collection.

3.4 Deliveries

17. Deliveries can be made during office hours to reception.

3.5 Complaints Process

18. A complaints register will be established by the Boarding House and managed by the Boarding House Manager. A copy of the complaints register is kept with this Plan of Management and held on site.

3.6 House Rules

19. A copy of the House Rules (see Section 4.0) must be provided to the residents and displayed within the Communal Area of the boarding house.

3.7 Security

20. Each room is to be fitted with secure locks. Residents are advised to keep their doors locked at all times when not present.

3.8 Payment of Fees

21. The lodging fee is to be paid in advance and by the due date. Accepted payment methods are bank transfer, credit card, and cash.

3.9 Emergency Procedures

22. All rooms, bathrooms, kitchens, and communal areas are equipped with smoke alarms. These smoke alarms are back-to-base monitored, and once activated, the fire brigade will attend automatically. Staff on site will attend to any alarms.

23. Clearly marked exit routes, assembly points, and emergency exits and provided throughout

Falcon Lodge – Plan of Management

the site. Emergency alarms will be regularly tested, including fire alarms and other warning systems, through an external company.

24. Fire extinguishers and fire blankets are available throughout the lodge, including in the communal kitchens.

25. Emergency supply kits with essentials such as first aid supplies, flashlights, batteries, and basic provisions are provided on site.

3.10 Emergency Contacts

In an Emergency: Call Triple Zero (000)

North Sydney Police Station: (02) 9956 3199

Crows Nest Fire Station: (02) 9493 1036

Boarding House Manager: Phone: (02) 9955 2358, Mobile: 0424 945 465.

4.0 House Rules

4.1 Noise Control

26. Between 10pm and 7am a strict no noise policy applies to all areas within the Boarding House. Outside of these hours please use common courtesy and be considerate of your fellow residents and neighbours by keeping noise levels to a minimum. Parties and rowdiness are not permitted at all anywhere in Falcon Lodge.

4.2 Antisocial Behaviour

27. Residents must ensure that they do not interfere with the privacy of other residents.

4.3 Use of Common Areas

28. Communal areas are available for use 24 hours a day. Between 10pm and 7am, we have a strict no-noise policy. During other hours, please use common courtesy and be considerate of fellow residents by keeping noise levels to a minimum. Parties and rowdiness are not permitted anywhere on the premises.

29. Residents must ensure that the Communal areas are left clean and tidy after use.

4.4 Alcohol and Smoking

30. The consumption of drugs on Falcon Lodge property is strictly prohibited in the communal areas. If any person is consistently under the influence or believed to be using drugs on the premises, their agreement will be terminated, and the police will be informed.

Alcohol consumption is only allowed in the private premises and not excessively.

4.5 Pets

31. For health and safety no pets are permitted on Falcon Lodge grounds unless specifically approved by management.

4.6 Guests

32. Prior to entering the premises, residents must ensure that guests are familiar with the House Rules of the Boarding House.

33. Guests must only enter the premises when in the company of a resident.

34. No guests are permitted within the premises later than 10pm.

4.7 Rubbish

35. Waste must be disposed of within the rubbish bins provided within the rooms and communal areas.

36. If a resident has any concerns or issues with the removal of waste, they must raise this with the boarding house manager.

37. Disposal of household goods that are unable to be disposed of in the rubbish bins provided must be disposed of during allocated Council clean-ups or by a private contractor at the resident's expense.

38. Rubbish must not be left on the kerb without the permission of the boarding house manager.

Falcon Lodge – Plan of Management

Complaints Register

Date	Name of Complaint	Address of Complaint	Nature of Complaint	Action Taken or Proposed to be Taken	Date Complainant advised of completed action

Falcon Lodge – Plan of Management