

Wollongong Local Planning Panel Assessment Report | 2 July 2020

WLPP No.	Item 3
DA No.	DA-2019/1008
Proposal	Residential - demolition of existing structures and the construction of and eight (8) storey residential flat building
Property	1 Smith Street, WOLLONGONG
Applicant	ADM Architects
Responsible Team	Development Assessment and Certification - City Centre Team (NL)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal was referred to the Local Planning Panel for determination on 7 April 2020 pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The Panel resolved to defer the application subject to the applicant addressing a number of recommendations as contained at Attachment 2 and discussed at section 1.2 of this report. This report should be read in conjunction with the Council report of 7 April 2020 contained at Attachment 1.

Proposal

The proposal seeks consent to demolish all structures on site and construct an 8 storey residential flat building with two levels of basement car parking.

Permissibility

The site is zoned R1 General Residential pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a residential flat building and is permissible in the zone with development consent.

Consultation

The amended plans were renotified and a further 20 submissions were received as discussed section 2.8 of this report. The changes made are not of a nature that require reconsideration by referral staff. However, Council's Heritage Officer remains unsupportive of the proposal as outlined at section 1.6.1 of this report. External comments have been received from the National Trust of Australia, Illawarra Shoalhaven Branch, both in the original notification and following re-exhibition of the recent changes.

Main issues

The amendments are generally consistent with the recommendations of the Panel at their meeting of the 7 April 2020. However, setbacks have not been increased to all boundaries above level 5 and the upper levels are not significantly smaller than those presented to the Panel at the 7 April 2020 meeting. There are opportunities for further reducing the upper bulk of the building with minimal loss of gross floor area or functionality to make the building sit better within its surrounds and fully meet the Panel recommendations.

Recommendation

It is recommended the application be refused subject to the reasons at **Attachment 7**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies

- SEPP 55 – Remediation of Land
- SEPP (Affordable Rental Housing) 2008
- SEPP 65 Design Quality of Residential Apartment Development
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Coastal Management) 2018

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

- Demolition of 2 two-storey brick residential buildings containing 6 units
- Construction of an 8 level residential flat building comprised of the following:
 - Lower level basement: 6 residential car spaces
 - Upper basement level: 5 residential car spaces and 2 visitor spaces
 - Ground floor: One 3 bedroom dwelling and communal open space area
 - First floor: One 3 bedroom dwelling
 - Second floor: One 3 bedroom dwelling
 - Third floor: One 3 bedroom dwelling
 - Fourth floor: One 3 bedroom dwelling
 - Levels 5-7 dedicated to one 3 bedroom unit

Changes to the proposal to address the WLPP recommendations are detailed below.

- *Panel comment: The officer's report does not make a clear recommendation either for approval or refusal. The Panel notes that although reasons for refusal are provided, the assessment and commentary throughout the report does not entirely support these reasons.*

Response: Noted, the subject report provides a clear recommendation.

- *Panel comment: The Panel acknowledges the concerns raised by submitters in relation to the height of the building, the character of the locality and nearby heritage items. It is also noted that reference was made to the adjacent “special area” identified in the Wollongong DCP 2009. For the sake of clarity, the Panel notes that this is not a Heritage Conservation Area under the Wollongong LEP 2009 and that the site itself is not identified as a heritage item.*

Response: Whilst the buildings located on the site are not heritage listed and the site is not within the adjoining special area, the site is subject to the application of WLEP 2009 clause 5.10 heritage conservation as further discussed at 1.6.1 of this report.

- *Panel comment: As described by the applicant, the design has been the subject of numerous iterations in response to the Design Review Panel and Council Planning staff comments and recommendations. The applicant claims that the current design is consistent with the advice provided by the Design Review Panel.*

Response: Noted, the amended plans were not re-referred to the DRP.

- *Panel comment: Notwithstanding that a lower scale building would fit more comfortably in the existing streetscape, in this case the LEP set a maximum height and FSR which establishes a building envelope for the site.*

Response: It is noted that height is not a minimum standard but a maximum not to be exceeded. In this respect, it is not a right but a threshold. Notwithstanding, it is acknowledged that a reduction in height was not specified in the Panel recommendations.

- *Panel comment: The Panel acknowledges the use of brick elements to create a five storey podium which is comparable to the height limit of the majority of Harbour Street. The design as presented does not achieve the design principle of creating a podium at the fifth level. To achieve this the three levels that comprise the penthouse need to be reduced in bulk and solidity, so the **building above the podium is a much smaller and lighter element**. It is the Panel’s view that the upper levels need to be further **set in from all boundaries** and the materiality be lightened.*

Response: The applicant contends that this has been addressed through the following changes:

- An increase to the setback of the penthouse levels along the west boundary by 500mm;
- An increased to the setback the penthouse levels along the east boundary by 600mm;
- Decreased footprint above level 5 by approximately 11.9m²
- Reduction in FSR from 1.5:1 to 1.46:1
- Removal of the concrete roof top terrace awning;
- Change the materiality of the upper levels to a darker matt Colorbond finish
- Further articulation the west elevation including softening the south west edge with curved brickwork.

It is noted that setbacks to the northern and southern boundaries have not been increased. The changes made to the plans presented to the Panel are not considered to result in a built form above level 5 that is “much smaller”. As noted by the Panel and in the original Council report, a lower scale building would fit more comfortably in the streetscape. There are considered to remain opportunities for this to be investigated further, such as some consolidation of the upper three levels through removal/reduction of the double height void area and further reductions of the rooftop element (i.e. removal of the laundry), which would not appear to compromise functionality or amenity and would potentially result minimal reduction in gross floor area.

- *Panel comment: As agreed by the architect the southern and western elevations should also be further articulated and detailed.*

Response: The western and southern elevations have been amended to replace concrete at levels 5 and 6 with dark matt colorbond. Louvres and brickwork are wrapped around the southwestern corner. Louvres and slab protrusion adjacent to laundry/bath areas added on the western side. These changes are acceptable.

1.3 BACKGROUND

A previous proposal for demolition of all structures and construction of an 8 storey residential flat building was considered by Council on 26 October 2016 at pre-lodgement meeting PL-2016/120. That proposal did not proceed beyond the pre-lodgement stage.

The current proposal was considered by the Design Review Panel meeting prior to lodgement of the development application on 14 May 2019.

The proposal was reviewed by the Design Review Panel again following lodgement of the development application on 10 October 2019 and recommendations made were incorporated into the scheme.

The application was referred to the Wollongong Local Planning Panel for determination on the 7 April. The Panel chose to defer the application at that meeting subject to a range of matters being addressed.

1.4 SITE DESCRIPTION

The site address is 1 Smith Street, Wollongong and the title reference is Lot 1 DP 8441.

The site is a relatively level triangular shaped corner lot with frontage to both Smith Street to the east and Harbour Street to the north.

Located on the site are a three storey brick residential flat building and a separate two storey residential flat building containing a combined total of 6 units. The buildings are strata subdivided.

Adjoining development is as follows:

- Opposite the site to the north are a single storey dwelling, a two storey block of units and an 8 storey residential flat building.
- Adjacent to the site to the west are a three storey residential flat building and a two storey residential flat building.
- Opposite the site to the east are a two storey residential flat building and a three storey residential flat building.
- Land immediately to the south of the site is current vacant.
- Land two lots to the south is vacant with approval for construction of a three storey dwelling (DA-2013/365)

St Mary's college is located opposite the site to the south east which includes St Mary's Convent and secondary girls' school and chapel which are listed as being of local heritage significance in schedule 5 of WLEP 2009.

The site is also adjacent to Market Square/Courthouse special area as identified under Chapter D13 of Wollongong Development Control Plan 2009 as illustrated at Figure 1 below.



Figure 1: Market Square / Courthouse special

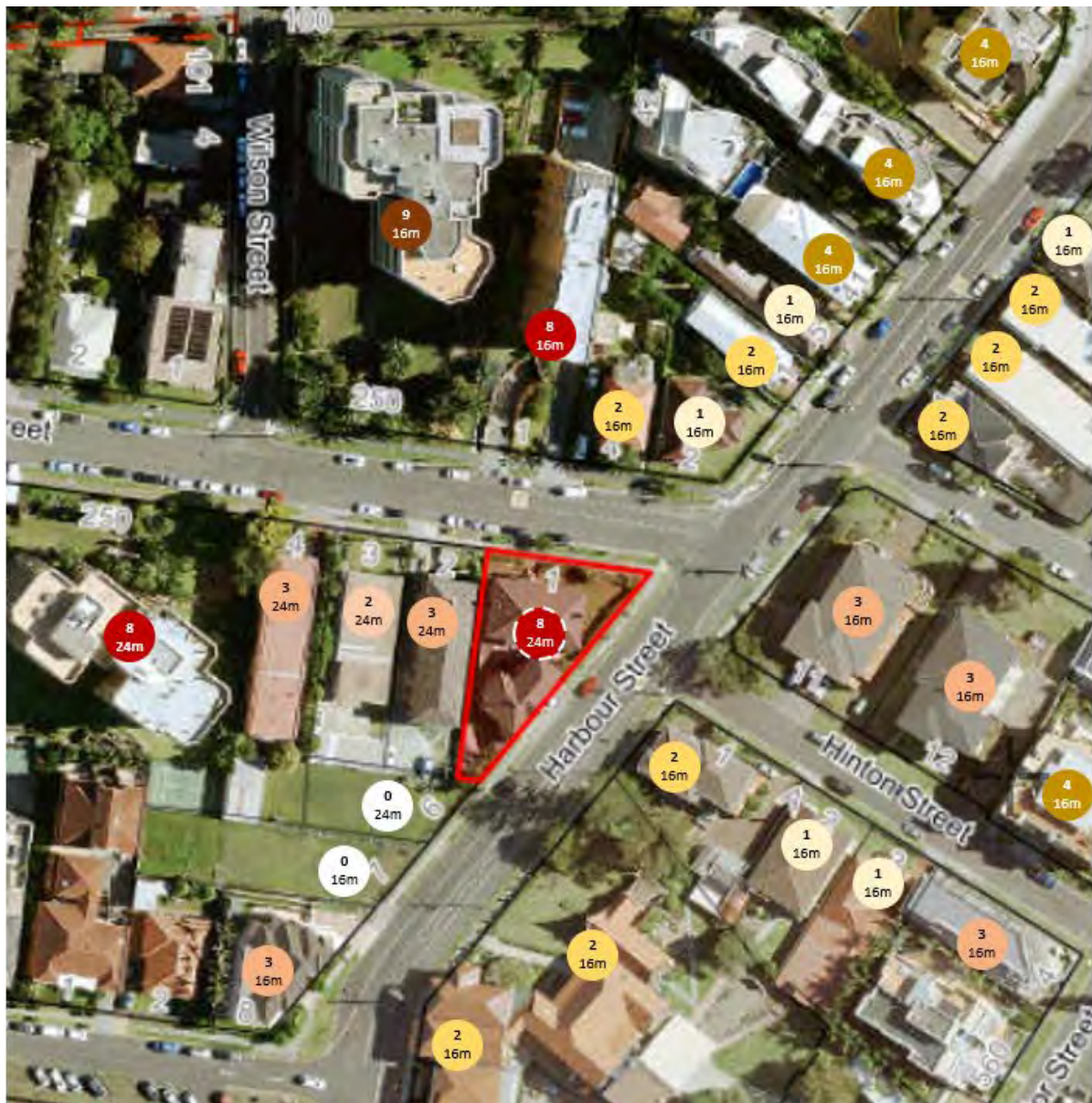


Figure 2: Heights of buildings in storeys and maximum permissible height

Views to site from nearby locations (current vs proposed)

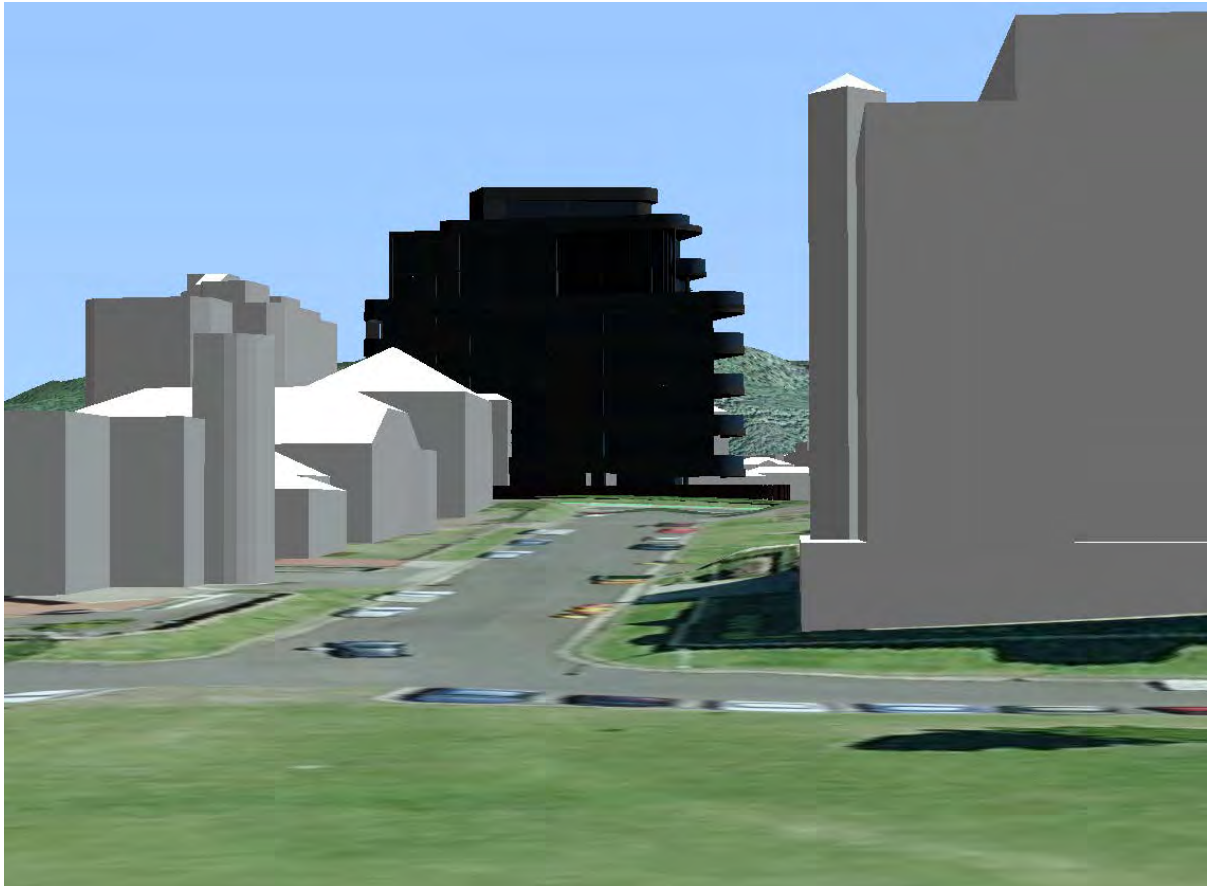


Figure 3: 3D image looking west from Lang Park



Figure 4: View looking south west from Cliff Rd/Harbour St intersection



Figure 5: View looking north east towards harbour from Market Square



Figure 6: View looking east along Smith Street

Property constraints

A Monument listed as being of local heritage significance in schedule 5 of WLEP 2009 is located adjacent to the site.


1.5 SUBMISSIONS

The amended plans were renotified in accordance with Council community participation plan and received a further 20 submissions as discussed at Table 1 below. Submissions made in the previous notification periods would largely still apply to the proposal and can be found in the previous Council officer report to the Panel.

Table 1: Submissions received following exhibition of new plans

Concern	Comment
The alterations made to the design are insufficient to address the panel/community concerns.	Concerns made in previous submissions were assessed by the Panel at their meeting of the 7 April. In consideration of the report and submissions, the Panel made a number of recommendations. Comments regarding how the amendments respond to the WLPP recommendations are discussed at section 1.2 above.
The proposal remains too close to the footpath and is too tall.	The building does not exceed the maximum height limit and the Panel did not recommend reduction in height at the 7 April 2020 WLPP meeting. The building is generally compliant with setback requirements with the exception of a minor encroachment into the setback to Smith Street. The setback variation is discussed at Chapter A1.
BASIX compliance. The majority of glazing is predominantly south facing. For six months of the year, when it's needed most, none of the bedroom will get a single ray of sun. Energy wise this is extremely inefficient and the design has been based on maximising size using allowable setbacks with no regard to beneficial orientation.	<p>The proposal is supported by a BASIX certificate that demonstrates the applicable energy and water efficiency targets will be met.</p> <p>There is no requirement for bedrooms to receive direct sunlight. Direct sunlight is of greater importance to the living and private open space areas. These are all oriented towards the north.</p>
The existing flats should be preserved. Double brick construction built to last an eternity being demolished after half a century to satisfy greedy developers. The flats typify their era and add charm to area as opposed to adding more of 'the same' as what has happened further along Harbour St. You can't rebuild them and once they are gone we will be left with nothing but regret as future residents look at what was once there and ask how we could have let this happened. Numerous examples of this come to mind.	This was a matter discussed in the previous Council report and no recommendation was made in respect of preserving the existing buildings on the site. The buildings are not heritage listed and whilst they do sit comfortably within their surrounds, their retention on heritage grounds is not supported.
There is no net gain to the area, replacing six flats with six flats, profit to the developers, detrimental to the city as a whole.	It is not a matter relevant to the planning considerations.

Concern	Comment
WLPP recommendations confusingly stating the Council officer report was unclear as to the recommendation where it clearly stated refusal.	Notwithstanding any perceived misinterpretation of the previous recommendation contained in the Council report, the Panel read the report and discussed the proposal with Council staff and made a number of recommendations in order for the proposal to be given further consideration.
The 24m height limit is an anomaly and should be revised down to 16m.	The current development application is not the appropriate mechanism for making changes to the LEP. This would have to occur separately via an amendment to that plan. Requiring a building on the site be only 16m high is not considered reasonable or supportable.
The development is completely out of character/context	The character of the proposal was reviewed by the Panel at their meeting of the 7 of April 2020. Their recommendations reflect changes that were considered necessary in order for the building to better sit within its surrounds. Their recommendations and the changes made in response are discussed at section 1.2 of this report.
The revised form is not consistent with the Panel recommendation that the top three levels be reduced in bulk and solidity, so the building above the podium is a much smaller and lighter element.	See section 1.2 of this report for a discussion of the changes in the context of the Panel recommendations.
The development should be 5 storeys only in height.	Requiring the building be 5 storeys in height in this instance is unreasonable given the height limit of 24m stipulated under the LEP.
Impacts the surrounding heritage areas and special area	This matter was assessed in the previous Council Officer report presented to the Panel and further consideration has been given to heritage in this report. The primary issue remains the bulk and scale of the building. This is discussed further in the context of the Panel recommendations at section 1.2 of this report.
When and how did the 24m height limit get approved.	This is not a matter for consideration under the current application.

Concern	Comment
Traffic safety impacts to Smith Street	<p>The revised form raises no additional concerns regarding traffic safety.</p> <p>The building is setback approximately 8m from the corner and provides acceptable sight lines for pedestrians and motorists. The driveway is set back as far as possible from the intersection of Smith and Harbour Streets and complies with minimum requirements. Site lines are not considered to be compromised and the small number of units will not generate a significant number of traffic movements into and out of the site. Any contribution to traffic congestion arising from the proposal is considered to be negligible.</p>
Overshadowing impacts to Unit 8, 9-13 Smith Street.	<p>This unit is located on level 3 of the Sorrento building, 4 lot to the west of the site. The shadow diagrams provided indicate that building will not be overshadowed in the nominated crucial solar access period in the planning controls, that being within the 9am-3pm time period on the 21 June. The 9am shadow is illustrated below and clearly misses the subject unit.</p>  <p>9am</p>
The site should have been included in the adjoining Market Square / Courthouse special area. The development is inconsistent with the applicable controls under section 7.1 of Chapter D13 and the submission does not adequately address those controls.	<p>This is not a matter for consideration under this DA. Notwithstanding, consideration was given to the special area controls under the previous assessment and that report reviewed by the WLPP. In that report, noted that if the upper bulk of the building was reduced, the proposal may be supportable with respect to the special area controls and the recommendations reflected this. These are discussed further at section 1.2 of this report.</p>

Concern	Comment
The submission does not address the concerns of the National Trust, Council's Heritage Officer or the assessing officer, particularly in regard to the proposed height.	The WLPP is the determining authority for the application and give consideration to the referrals, submissions and Council officer report in making their determination. In consideration of these matters, the Panel made a number of recommendations for changes to the plans in order for the building to better sit within its surrounds. A reduction in the height of the building was not included in those recommendations.
The building would obscure views towards Mount Keira from Lang Park along Hinton Street.	The view to Mount Keira will be obscured from Lang Park by the proposed building. It is also noted that a building approximately 5 storeys in height would also obstruct views of Mount Keira. Requiring a building to preserve views to the escarpment and Mount Keira along this view line are not considered a reasonable imposition on the site, particularly given this is not identified as a key view corridor under the section 3.10 of Chapter D13.
The proposal does not have regard to the requirement of SEP65 that its execution should contribute to a harmonious visual environment.	The proposed development does not reduce the upper bulk of the building consistent with the Panel recommendations. In this respect, the view contained in the previous Council officer report that the design quality principles of SEPP 65 with respect to context and scale were not satisfied is maintained.
The requirements of SEPP65 are not to be lightly dismissed.	The proposal is generally consistent with the built form controls of the SEPP. Matters relating to context and scale are not numeric and are more nuanced. There are outstanding concerns regarding the context and scale however this does not constitute a dismissal of that policy.
The architectural vision behind the LEP2009 selective designation of only two sites namely lot 26 and lot 24 in Harbour Street as having a 24m height limit in lieu of the then prevailing 16m was driven by a perceived area planning benefit arising from site amalgamation of several existing narrow sites thus permitting structures with a higher population density incorporating generous site setbacks set within a desirable green canopy. This being similar to two existing builds in Smith Street.	This is not substantiated and is not reflected in the applicable planning controls. Amalgamation of adjoining lots has been investigated and is discussed at Chapter A1 in regard to lot isolation. It is not necessarily true that amalgamation would result in an improved streetscape. The smaller site drives a smaller building footprint which in turn provides more view lines around the building. A consolidated lot arrangement could potentially result in a bulkier built form outcome.

Concern	Comment
The deep soil zone provision is marginal. A feature not contributing to a generous green canopy.	The deep soil area does not meet the recommended 15% under the ADG. A paved area adjacent to the deep soil area could be converted to deep soil to make the area fully comply.
Site setbacks are not generous and are marginally short in Smith Street.	The setbacks are compliant with the exception of a minor encroachment to Smith street of approximately 15cm for approximately 8.5m. This is discussed at Chapter A1.
<p>The need to provide an 8m deep two level car park while technically possible is an expensive item for only 13 car parks and the preliminary design as submitted is subject to fine tuning based on a more detailed geotechnical study.</p> <p>The possibility of latent problems and increased costs involved in managing ground water ingress in the car park is real. Particularly if the underlying rock is heavily fractured.</p> <p>The relatively deep excavation immediately adjacent to the existing building on the neighboring property with its limited set back will need to be carefully managed to avoid any ground settlement and building cracking issues with consequent extra remedial costs.</p>	The proposal and supporting geotechnical report has been reviewed by Council's Geotechnical Officer in regard to the proposed excavation and found to be satisfactory subject to conditions of consent.
Providing rooms with mechanical ventilation in lieu of natural ventilation just to present a blank feature wall either for aesthetic or setback requirements is questionable and it does not contribute to the amenity of the rooms or the needs of BASIX targets.	The rooms facing west are made up of laundries, bathrooms, walk in robes and bedrooms. Bedrooms all have windows as do the bathrooms..
Excluding a lobby outside the lift on each of the top floors may be technically okay but the lift action is like a reciprocating piston either sucking or pushing air and consequently distributing any fumes to all floors.	This is considered to be a matter for detailed investigation in lift selection and not something that requires particular consideration under the DA.
The fact that there is no lobby also impacts on the penthouse owner's privacy particularly as regards the need for regular and breakdown lift maintenance. A lobby also helps to reduce noise transfer between floors.	This is a matter that was raised with the proponent in the early stages where all units opened directly from the lift into the units. Lobbies were subsequently provided to all but the top unit. This is a choice of the proponent and given the small number of units and controlled card level selection that will accompany this in the lifts, it is not considered to be a determinative issue.

Concern	Comment
A MRL lift has no lift house but as the controller is usually located at the top floor the event of an unplanned lift stoppage in the absence of the owner will hamper any necessary remedial action.	This is not considered to be something that warrants further investigation under the DA.
If the minimum site width requirement of clause 7.14 can be set aside, why can't the 24m height limit also be set aside for a lesser height that better fits in the context.	The proposed variation to the minimum site width has been supported and is not considered to warrant a requirement for a lower height building.
The WLPP proposed a podium with setbacks at the second-floor level.	The WLPP recommended a podium at the fifth floor.
Insufficient setbacks at ground floor level and insufficient landscaping.	The ground floor setbacks comply as do landscaped areas.
Building Height profiles of the area are misleading.	Notwithstanding the usefulness of the profiles provided, it is clear the building is an conspicuous along the Harbour Street view corridor.
The 3 storey penthouse still dominates the building. The construction materials and style bear no relationship to the remainder of the building or the nature of the area.	The top three stories are treated differently to the remainder of the building. This is a deliberate design strategy to break up the built form and the intent of the darker materials is to soften the appearance of that part of the building.
The removal of the internal void in the penthouse would allow a greater setback at the podium level especially on the critical Harbour St frontage and reduce the impact of the building.	It is considered that the large void area presents opportunities for a further shrinking of the upper levels that would be more consistent with the WLPP recommendations and result in a building that better fits within its surrounds.
Concerns re damage from excavation of two levels of underground parking in black sandstone- the hardest form of sandstone. The Norfolk requests that if this building proceeds that as a condition of the DA it be mandatory that vibration monitors be placed on our building and other nearby buildings to ensure vibrations do not exceed safe levels.	Council's Geotechnical Officer has advised of appropriate conditions of consent with regard to excavation and mitigation of potential impacts to adjoining development.
Impacts to street parking	The proposal provides car parking in accordance with Council requirements, including visitor car parking spaces. The proposal will also not result in any net loss of on-street parking spaces.

Concern	Comment
Overshadowing of the public domain.	The proposal does not overshadow an areas identified under the sun plane protection clause of the LEP. The building will result in shadows being cast across the adjoining footpath areas however it is not a requirement of the applicable planning controls to preserve solar access to the footpath.
Overshadowing of adjoining buildings.	Shadow diagrams have been submitted which indicate the building would not appear to compromise solar access to nearby dwellings.
The proposal sets a dangerous precedent to other inappropriate development.	The proposal does not breach the height or floor space ratio controls and does not set a precedent in this regard for other non-complying development. It is noted that the site width does not comply however this has been assessed as not being a contributory factor in any outstanding concerns with the proposal. Concerns regarding bulk and scale in this instance are quite specific to the locality.
Non-compliance with SEPP 65, setbacks, landscaped areas, site width accompanied with impacts to the streetscape and adjoining special area and nearby heritage items are indicative of a development that does not fit comfortably on the site.	<p>The proposal is satisfactory with regard to the applicable numeric controls under SEPP 65. There are however concerns regarding the design quality principles in respect of the scale of the proposal, particularly the upper three levels as detailed elsewhere in this report.</p> <p>The setbacks are generally compliant with the exception of a minor encroachment to Smith Street.</p> <p>Landscaped areas and the deep soil area provided is generally consistent with the applicable objectives and controls relating to landscaping for this type of development. An increase to the deep soil area to comply with the ADG is possible by converting part of the communal open space paved area to landscaping.</p>

Concern	Comment
	<p>Heritage impacts are considered to be multifaceted and include both Aboriginal and European archaeological heritage, as well as the buildings on the site and nearby heritage items contained in the adjacent special area. The archaeological heritage considerations are considered manageable through conditions of consent and would not preclude the proposal. The built form on the site is not heritage listed and does not justify retention in its own right.</p> <p>Physical impacts to the adjoining Monument can be managed through the construction stage and conditions of consent.</p> <p>Heritage impacts on the setting and nearby heritage items are more nuanced in so far as they relate to the presentation of the building in terms of materials palette, bulk and scale. This remains of concern as discussed elsewhere in this report.</p>
An acceptable description of how the Monument is to be protected needs to be given if this building is to go ahead	Were the application to be supported, it would be a condition of consent that detail of the approach and agreements to ensure the protection of the Charles Throsby Monument during construction be provided to Council's Heritage Staff for approval prior to commencement of works.
The updated documents do not outline how much extra height will be required above the existing 24m maximum allowable when solar panels are added - as suggested by the WLPP to address the sustainability of the building.	Solar panels are not proposed and were not a recommendation of the Panel. This was a recommendation in the previous Council report however and incorporation of solar panels would make a more meaningful contribution to sustainability given the amount of concrete used in the construction.

Concern	Comment
The proposal will adversely impact on the view from Lang Park looking west along Hinton Street.	<p>A representation of the impact of the proposal on this view has been provided using Council's 3D software model in the Council report to the Panel on the 7 April 2020 and similarly undertaken for the revised plans (see Figure 3).</p> <p>It is considered this is sufficient to understand the impacts to views toward the escarpment resulting from the proposal.</p> <p>The building will clearly obscure Mount Keira and the escarpment however this is not identified as a key view corridor under section 3.10 of Chapter D13. Additionally, in order to preserve a view of Mount Keira and the escarpment along that corridor would require a building of only approximately 5 storeys. This is not considered a reasonable proposition in consideration of the LEP height limits for the site.</p>
The building will impinge on views towards the escarpment from Flagstaff hill.	<p>The photomontage provided indicates the building will not extend above the escarpment line as viewed from Flagstaff Hill as illustrated below.</p> 
View impacts from adjoining and nearby residences.	The proposed building envelope is within the numeric standards of the applicable controls. In this respect, view impacts through the subject site are considered unreasonable to preserve.
Inadequate notification	The application was notified in accordance with Council participation plan and the amended plans were re-exhibited, including letters to all those that made submissions previously.
Requirements for a site notice.	There is no Council requirement for a site notice of the proposed development.
The deep soil area does not comply	It is considered that the deep soil area could be improved by reducing the paved area immediately adjacent to it to increase opportunities for substantial landscaping that complies with the ADG.

Concern	Comment
Wind tunnel impacts arising from the proposal.	Preparation of a wind impacts assessment is only required under the DCP for buildings in excess of 32m in height. An 8 storey building is not considered likely to result in significant wind impacts. The building has a façade that is generally well articulated which should mitigate adverse wind impacts to the street and surrounds.
The site is very small and constrained and it has not been demonstrated how construction will be managed.	Were the application to be supported it is considered suitable that a construction management plan be prepared prior to works commencing.

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Geotechnical, Stormwater, Landscape and Traffic Officers provided satisfactory referrals in the assessment of the plans referred to the Local Planning Panel. The current plans have not been amended in such a way as to require revisiting those conditions.

Heritage Officer

Council's Heritage Officer reviewed the revised scheme and raised a number of outstanding concerns. The provisions of clause 5.10 of WLEP 2009 apply and heritage considerations for the site are multifaceted including archaeological as well as built heritage concerns. As such, notwithstanding the subject buildings on the site not being heritage listed, it is stressed that heritage is an integral component to assessing the suitability of the proposal to the site.

Council's Heritage Officer remains opposed to the development on heritage grounds, primarily on the basis of the building being of a bulk and scale that does not fit in the context. Bulk and scale is discussed in greater detail elsewhere in this report.

Other outstanding heritage concerns raised include the following:

- The materials schedule only including one elevation,
- The Heritage Significance Assessment Report recommends the proposed salvage and re-use of building materials from the existing development. It is unclear whether the brickwork from the existing "Marlene Court" Building is proposed to be re-used on the site as the building material palette's have not been provided for all elevations of the building.
- No photomontage was prepared for the building looking west along Hinton Street from Lang Park to properly assess view impacts along that corridor.

In respect of the materials schedule, whilst the materials palette submitted includes only one elevation, the materials shown will be used throughout and will be consistent across elevations. This could be further addressed via conditions for greater clarity if the application were to be supported.

The same can be said for the reuse of existing building materials in the new façade.

With regard to the photomontages, a representation of that view using Council's 3D software model was included in the Council report to the Panel on the 7 April 2020 and similarly undertaken for the revised plans (see Figure 3). Whilst this does not include the same detail as the other photomontages, it is considered sufficient to understand the impacts to views toward the escarpment. The building will clearly obscure Mount Keira and the escarpment. In order to preserve a view of Mount Keira and the escarpment along that corridor the building on the site would have to be limited to only

approximately 5 storeys. This is not considered a reasonable proposition in consideration of the LEP height limits for the site and the fact that this is not identified as a key view corridor under section 3.10 of Chapter D13.

Overall, Council's Heritage Officer remains of the view that the proposed development is unsatisfactory from a heritage perspective but has provided draft conditions which provide a basis for management of the heritage matters relevant to the site if the WLPP decides to approve the application.

1.6.2 EXTERNAL CONSULTATION

Design Review Panel

The application was reviewed by the Design Review Panel on 14 May 2019 and 10 October 2019 and recommendations made by the Panel were addressed in the plans previously referred to the Local Planning Panel. The amendments are considered relatively minor and the current plans do not change the general aesthetic of the building. The proposal remains satisfactory with regard to the Apartment Design Guide. Re-referral to the Design Review Panel under the circumstances was not considered necessary.

National Trust of Australia (NSW) Illawarra Shoalhaven Regional Branch

The National Trust of Australia have reviewed the revised proposal and noted that whilst the changes were an improvement, they continue to oppose the proposal in terms of its eight storey height, massing and lack of set-back from the boundary lines. They continue to contend the proposal is out of context and will dominate the streetscape. Their full commentary is contained at **Attachment 6**.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

The site has historically been used for residential purposes dating back to approximately 1938. Council records do not identify the site as contaminated and the site is considered suitable for the proposal without need for any remediation.

2.1.2 SEPP AFFORDABLE RENTAL HOUSING 2008

This policy does not apply as the buildings on the site are strata subdivided pursuant to clause 49.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY NO 65—DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

The previous plans were reviewed by the Design Review Panel in accordance with clause 28 of this policy. The current plans do not differ in any significant way to warrant reconsideration by the Design Review Panel.

Design quality principles

Schedule 1 of SEPP 65 sets out the design quality principles for residential apartment development. These must be considered in the assessment of the proposal pursuant to clause 30(2)(a) of the Policy and are discussed below

Schedule 1 Design quality principles

Principle 1: Context and neighbourhood character

The area is one undergoing transition and that the height and density of the proposal is within the limits set by the applicable planning controls.

Following consideration by the WLPP, amendments have been made to the building to better address context and character as outlined in this report.

The building will still be a notable exception along Harbour Street in terms of height and bulk, both in terms of existing development and likely future development. The changes listed above do not increase the setbacks to all boundaries nor do they result in a built form that is “much smaller” above level 5. The building is not considered to adequately respond to the context or character of the locality.

Principle 2: Built form and scale

The proposed height and FSR do not exceed the maximum permitted under the LEP.

The building design is of architectural merit and previous revision of the plans have been reviewed as satisfactory by the Design Review Panel. Changes have been made to the façade treatment following recommendations by the Local Planning Panel.

Setbacks remain satisfactory and have not been increased slightly at the upper levels. There is a high level of amenity for occupants.

Changes made in response to the Panel recommendations are however considered inadequate to address the key issue of scale.

Principle 3: Density

The density of the development complies with the maximum FSR permitted for the land.

The number of units is small, and the development is not of a scale that is expected to place unreasonable strain on local infrastructure.

The proposal does not provide an increase to the number of units given there are 6 existing dwellings on the land. Notwithstanding, there is nothing to require a developer to increase the number of dwellings with redevelopment.

Contributions applicable to the development will go towards local infrastructure and facilities.

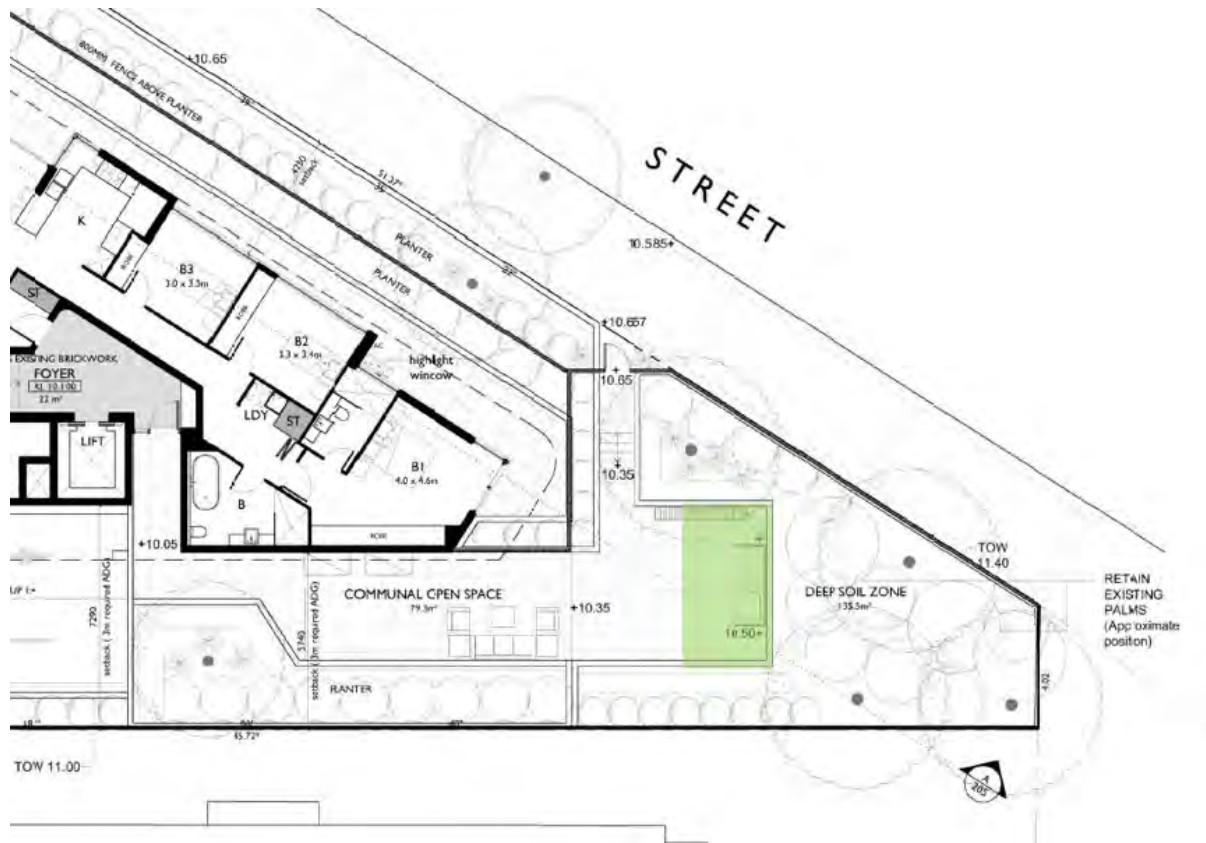
The site is well situated with regard to existing public open space and services.

Principle 4: Sustainability

The proposal achieves BASIX targets however does not go beyond those minimum requirements.

Principle 5: Landscape

The proposal provides suitable landscaped areas and communal open space that will provide a high degree of amenity to the occupants and soften the appearance of the development from adjoining properties and the public domain. It is however considered that the deep soil area should be extended to encompass part of the paved area adjacent to it as illustrated below. This would bring the proposal into full compliance with the recommended 15% under the ADG (the proposal is currently approximately 13%). Whilst this change would reduce the common open space, the area is considered to provide greater benefit as landscaping.



Principle 6: Amenity

The proposal achieves a high degree of amenity for occupants with respect to solar access, private open space, storage, visual and acoustic privacy, ventilation, outlook access and the like.

Principle 7: Safety

The proposal is satisfactory regarding safety and security.

Principle 8: Housing diversity and social interaction

All 6 units within the development have three bedrooms. The mix is considered acceptable given the small scale of the development.

Principle 9: Aesthetics

Previous plans were reviewed by the Design Review Panel who were satisfied of the materials and finishes and general presentation of the building. The plans have been amended following comments from Council and the WLPP which are considered to improve the building façade.

Apartment Design Guide

An assessment of the application against the Apartment Design Guide (ADG) was undertaken with the previous plan assessed by Council and the LPP. The built form has not altered significantly with respect to the building envelope and layout with the exception of some minor reductions to the upper floors. The ADG has been adequately considered and can be found at attachment 1.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal is BASIX affected development to which this policy applies. In accordance with Schedule 1, Part 1, 2A of the Environmental Planning and Assessment Regulation 2000, a BASIX Certificate has been submitted in support of the application demonstrating that the proposed scheme achieves the BASIX targets.

The BASIX certificate was issued no earlier than 3 months before the date on which the development application was lodged. A revised BASIX certificate has been provided reflecting the recent changes.

2.1.5 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

The site is identified as being within the coastal use area under this policy.

Division 4 Coastal use area

14 Development on land within the coastal use area

(1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*

(a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*

(i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

N/A

(ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*

The proposal does not overshadow the foreshore. No significant wind funnelling impacts are expected. Views from public places to the foreshore are not considered to be significantly impacted.

(iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*

The proposal is not considered to have adverse impacts in this regard.

(iv) *Aboriginal cultural heritage, practices and places,*

Aboriginal and cultural heritage matters have been considered in the assessment and the application has been supported by an Aboriginal Due Diligence report and Heritage Impact Assessment. The proposal has been reviewed by Council's Heritage Officer who has raised issues with regard to heritage. This is further discussed at section 1.6.1.

(v) *cultural and built environment heritage, and*

The proposal has been reviewed by Council's Heritage Officer who has raised issues as discussed at section 1.6.1.

(b) *is satisfied that:*

(i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

Discussed above.

(ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*

Discussed above

(iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

Discussed above

(c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

These matters are addressed elsewhere in this report.

(2) *This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.*

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Satisfactory.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

The site is not impacted by coastal hazards nor is the site located on the foreshore.

17 Other development controls not affected

Subject to clause 7, for the avoidance of doubt, nothing in this Part:

- (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or*
- (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.*

N/A

18 Hierarchy of development controls if overlapping

If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency:

- (a) the coastal wetlands and littoral rainforests area,*
- (b) the coastal vulnerability area,*
- (c) the coastal environment area,*
- (d) the coastal use area.*

2.1.6 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

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

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned R1 General Residential.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide for the housing needs of the community.*

- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

*Attached dwellings; Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Group homes; Hostels; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; **Residential flat buildings**; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Signage; Tank-based aquaculture*

The proposal is categorised as a residential flat building as defined above and is permissible in the zone with development consent.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposed building height of 24m does not exceed the maximum of 24m permitted for the site.

Clause 4.4A Floor space ratio – Wollongong city centre

Maximum FSR permitted for the zone: 1.5:1

FSR proposed: 1.46:1

Clause 4.6 – Exceptions to development standards

A variation to the minimum site width under clause 7.14 of the LEP is requested and an assessment against the provisions of this clause is therefore contained below.

WLEP 2009 clause 4.6 proposed development departure assessment	
Development departure	Clause 7.14, minimum site width. Requires that development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.
Is the planning control in question a development standard?	Yes
4.6 (3) Written request submitted by applicant contains a justification:	
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and	A satisfactory clause 4.6 variation has been submitted
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.	Yes
(a) the consent authority is satisfied that—	
(i) the applicant's written request has adequately addressed the matters	The applicant's written request seeks to justify that compliance with the development standard is

<p>required to be demonstrated by subclause (3), and</p>	<p>unreasonable or unnecessary in the circumstances of the case based on the following rationale:</p> <ul style="list-style-type: none"> • In order to comply with the site width, the site would have to be consolidated with the adjoining lot immediately to the west. Notwithstanding the unsuccessful attempt by the proponents to enter into negotiations with the owner of that property, it is not considered that there is a clear benefit in doing so in this instance. • The building achieves a high degree of amenity for occupants and complies with setbacks. • A consolidated site may lead to a bulkier building than currently proposed that would present greater challenges with respect to the fit in the locality. The unusual shape of the site results in a slim tower. • The proposal is further not considered to detrimentally impact on development potential of adjoining land, given that lot could reasonably amalgamate with other adjoining lots in future. (Lot isolation is further discussed at chapter B1 below). • That compliance with the building separation standard is unnecessary in the circumstances of the case as the objectives of the standard and zone objectives are met and strict compliance with the minimum site width would result in a bulkier building with a poorer design outcome. <p>The variation further goes to explaining the lack of obvious impacts arising from the variation given the satisfactory setbacks and that the amenity for occupants of the building is not compromised</p> <p>The applicant's Clause 4.6 Statement forms Attachment 5. The written request has adequately addressed the matters required to be addressed under subclause (3)</p>
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<p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p>	<p>There is a public benefit in allowing flexibility in application of the minimum lot width in dense urban areas, where the proposed building form sits comfortably within the streetscape. The R1 zone objectives encourage higher densities, and height and FSR controls facilitate those densities. Compliance with the development standard i.e. strictly prohibiting residential apartment buildings on lots less than 24m, would be at odds with the desired height, FSR and other DCP controls established for the zone. For example, a townhouse development would typically be two storeys with multiple garages and limited deep soil zone. The desired building typology is more aligned with existing apartment buildings located in the vicinity. The proposed development has demonstrated that a functional building can be provided on the site, including appropriate carparking and access, landscaping and private open space areas, without detrimentally impacting the surrounding properties.</p> <p>There is no objective for clause 7.14 minimum site width control in WLEP 2009. However, WDCP 2009 does provide some guidance. Clause 6.2.2 of chapter B1 also requires for a minimum site width of 24m and states that variations may be considered where in the opinion of Council, the proposed development will not cause any significant adverse overshadowing, privacy or amenity impact upon any adjoining development.</p>
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	<p>The objectives of DCP 2009 clause 6.2.2 include:</p> <p><i>(a) allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements</i></p> <p><i>(b) To promote the efficient utilisation of land.</i></p> <p><i>(c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.</i></p> <p>The proposed variation to the standard is considered to be consistent with these objectives.</p> <p>The objectives of the R1 General Residential zone are:</p> <p><i>To provide for the housing needs of the community.</i></p> <p><i>To provide for a variety of housing types and densities.</i></p> <p><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></p> <p>The proposed development has regard to the objectives of the R1 zone, and despite the constraints on the site, the proposed development meets the FSR and Height controls. The proposed development would provide for housing needs of the community and would contribute to achieving a variety of housing types in the area and the existing high-density environment. With regard to unreasonableness of requiring 24m, the applicant would need to acquire the adjoining site to the west at n3 Smith Street which is in single ownership and not strata titled.</p> <p>The applicant has provided documentation that demonstrates an attempt to purchase the adjoining property in order to amalgamate and achieve a larger, compliant site width.</p> <p>It is considered that the applicant has followed the process required by the land and environment court planning principle and <i>Melissa Grech v Auburn Council</i> [2004] NSW LEC. The principle asks whether amalgamation is feasible and also whether orderly and economic use of the separate sites can be achieved if amalgamation is not feasible. The documentation demonstrates that amalgamation is not feasible and also that viable residential flat buildings can be achieved on both sites independent of each other. There is not considered to be a public benefit served in this instance by insisting on strict compliance with the standard. The proposal has adequately addressed SEPP 65, ADG and the DRP support the proposal. The development will</p>
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	<p>remain consistent with the objectives of the R1 zone despite the non-compliance with Clause 7.14.</p> <p>It is considered that in this instance there are sufficient environmental planning grounds specific to the site to justify contravening the development standard</p>
(b) the concurrence of the Secretary has been obtained.	Concurrence is not required as the LPP is the determining authority.

Clause 5.10 Heritage conservation

See discussion under Council's Heritage Officer referral at section 1.6.1.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

Conditions are recommended regarding specific requirements of utility providers.

Clause 7.5 Acid Sulfate Soils

The site is identified as potentially containing class 5 acid sulphate soils. The site is also within 500m of adjacent class 3 land that is below 5m AHD. The water table is not however likely to be lowered below 1m AHD on adjacent land. An acid sulphate soils management plan is therefore not required by this clause.

Clause 7.14 Minimum site width

(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

The site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other but does not include the area of any land on which development is not permitted to be carried out under this Plan. The lot is triangular in shape and the building footprint is part located in an area of the site where the minimum dimension is less than 24m as illustrated at Figure 7 below.

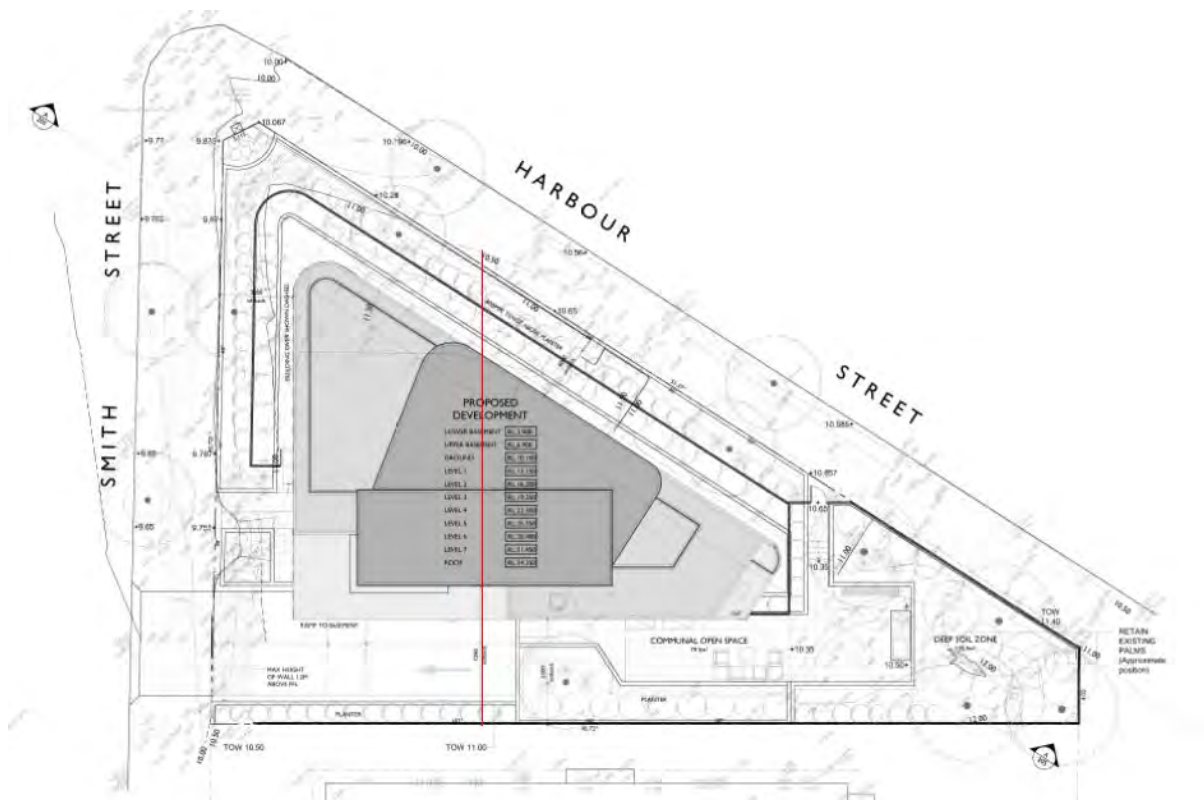


Figure 7: Approximate location of 24m width

A variation request has been submitted in accordance with clause 4.6 as discussed above.

Clause 7.18 Design excellence in Wollongong city centre and at key sites

(4) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

The façade incorporates durable finishes, a mixed palette and articulation. The materials include brickwork to provide some reference to the heritage buildings in the locality and fabric of Marlene Court.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

The proposal occupies a prominent corner site and will dominate the streetscape, particularly when viewed along Harbour Street and looking west along Hinton Place. The materials palette has been amended throughout the assessment to provide a better link to the history of the site and other buildings located within the Market Square/Courthouse special area.

(c) whether the proposed development detrimentally impacts on view corridors,

View corridors identified under Chapter D13 Wollongong Development Control Plan 2009 include of relevance to the proposal include the corridor along Harbour Street between Market Square and Belmore Basin and the view towards the escarpment over the city from Flagstaff Hill. The applicant has prepared photo montages for both of those viewsheds. There remain concerns in respect of the impact of the proposal in terms of bulk and scale on the view corridor along Harbour Street.

(d) whether the proposed development detrimentally overshadows an area shown distinctively coloured and numbered on the Sun Plane Protection Map,

The building does not overshadow any area identified on the sun plane protection map.

(e) how the proposed development addresses the following matters:

(i) the suitability of the land for development,

The development is of a character that is consistent with the objectives of the zone and the built form is within the key numeric standards dictating the building envelope. There are however outstanding concerns regarding the bulk and the fit of the building within the context as discussed elsewhere in this report.

(ii) existing and proposed uses and use mix,

The type of use is compatible with the existing and likely future uses in the locality.

(iii) heritage issues and streetscape constraints,

See discussion at section 1.6.1.

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

The setbacks of the proposal are satisfactory with regard to the requirements of the DCP and ADG. It is however noted the Panel recommendation that setbacks to all boundaries above level 5 be increased have not been fully resolved.

(v) bulk, massing and modulation of buildings,

As discussed elsewhere in this report, the scale of the building remains of concern.

(vi) street frontage heights,

N/A

(vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,

The triangular shape of the site has resulted in a building with a reasonably small footprint which also reduces the extent of overshadowing. Solar access to existing and future development on adjoining land is not considered to be compromised in so far as residential requirements go. The building will overshadow the landscaped forecourt area of St Mary's to the east. A building of a lesser height would obviously have less of an impact in this regard. Notwithstanding, the forecourt area of St Mary's is not identified in the sun access plane and the impact is primarily on the northern corner where there are already some significant trees.

There are no concerns regard to reflectivity.

The proposal meets BASIX requirements.

(viii) the achievement of the principles of ecologically sustainable development,

The building design provides good amenity for occupants and satisfies solar access and natural ventilation requirements.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

The proposal is acceptable regarding vehicle and pedestrian access and circulation as further discussed at Chapter E3.

(x) impact on, and any proposed improvements to, the public domain.

The proposal incorporates suitable landscaping, mixture of materials and articulation as well as new footpath and street trees for the frontage.

Part 8 Local provisions—Wollongong city centre

Clause 8.1 Objectives for development in Wollongong city centre

The objectives of this Part and (in so far as it relates to the Wollongong city centre) clause 7.18 are as follows—

- (a) to promote the economic revitalisation of the Wollongong city centre,*
- (b) to strengthen the regional position of the Wollongong city centre as a multifunctional and innovative centre that encourages employment and economic growth,*
- (c) to protect and enhance the vitality, identity and diversity of the Wollongong city centre,*
- (d) to promote employment, residential, recreational and tourism opportunities within the Wollongong city centre,*
- (e) to facilitate the development of building design excellence appropriate to a regional city,*
- (f) to promote housing choice and housing affordability,*
- (g) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that the Wollongong city centre achieves sustainable social, economic and environmental outcomes,*
- (h) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Wollongong city centre for the benefit of present and future generations.*

The proposal is broadly acceptable regarding this clause.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable.

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The proposed changes are minor in nature and do not raise additional concerns with respect to the DCP. The variations to the DCP previously considered by the Panel as outlined in attachment 1 remain relevant.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

The estimated cost of works is ~\$6 million and a levy of 1% is applicable under this plan.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

Conditions of consent would apply with regard to demolition.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

The primary concern with respect to impacts arising from the development is in relation to the context and scale as discussed elsewhere in this report.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The amended plans are considered to improve the fit of the building within the locality however do not adequately address the recommendations of the Panel. The view that the building does not suitably respond to the site and context is maintained.

Are the site attributes conducive to development?

The building footprint is considered to be appropriate with respect to the unusual shape and small size of the site. The physical site constraints are not considered to preclude the development.

Archaeological heritage is considered to be manageable through conditions of consent were the application to be supported.

The building does however remain of a bulk and scale that is not compatible with the unique characteristics of the site and locality and does not adequately respond to the Panel recommendations of the 7 April 2020.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

Submissions received following notification are discussed at section 1.5 of this report.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The development is satisfactory with regard to the zone objectives. A variation to the minimum site width requirement under the LEP, lot isolation, and a minor encroachment into the Smith Street setback are considered to have been suitably addressed previously.

The height, setbacks and general layout are generally consistent within the parameters set under the LEP and DCP.

There is however outstanding concern that the proponent has not adequately addressed the recommendations of the Panel and that the building still does not represent a good fit for the locality in terms of scale.

3 CONCLUSION

The amended plans have been assessed against the recommendations of the Panel at the 7 April 2020 meeting and also having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, including the provisions of Wollongong LEP 2009 and relevant SEPPs, DCPs, Codes and Policies.

Public submissions following re-exhibition of the amended scheme have been considered and discussed in section 1.5 of this report.

Whilst the changes made are considered positive steps towards addressing the Panel recommendations, they do not significantly alter the built form from that presented to the Panel. The changes do not involve increased setbacks to all boundaries nor do they result in a building above the podium that is a “much smaller” and lighter element. There are considered to be clear opportunities for further reducing the scale of the upper three levels without compromising function and potentially with minimal loss of gross floor area. This would address the Panel recommendations and improve the fit of the building in the streetscape.

It is also considered the deep soil area should be increased by removing the hard surface communal space paving area as this would provide greater visual amenity overall than a small paved area.

4 RECOMMENDATION

It is recommended that the proposal be refused subject to the draft reasons contained at **Attachment 7**.

5 ATTACHMENTS

1. WLPP report of 7 April 2020 [Click on red line for link to previous report](#)
2. WLPP Commentary and Decision – 7 April 2020
3. Plans
4. Cover letter in response to Panel recommendations
5. Clause 4.6 Statement
6. National Trust letter
7. Draft refusal

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	7 April 2020
PANEL MEMBERS	Robert Montgomery (Chair), Mark Carlon, Helena Miller, Tina Christy (Community Representative)

Public meeting held by teleconference at Wollongong City Council, 41 Burelli Street, Wollongong on 7 April 2020 opened at 5:00pm and closed at 6:42pm.

MATTER DETERMINED

DA-2019/1008, Lot 1 DP 8441, 1 Smith Street, Wollongong (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by seven (7) submitters.

The Panel also heard from the applicant's representatives.

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 7, and the material presented at the meeting and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to defer the development application as described in Schedule 1 pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.





REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The officer's report does not make a clear recommendation either for approval or refusal. The Panel notes that although reasons for refusal are provided, the assessment and commentary throughout the report does not entirely support these reasons.
- The Panel acknowledges the concerns raised by submitters in relation to the height of the building, the character of the locality and nearby heritage items. It is also noted that reference was made to the adjacent "special area" identified in the Wollongong DCP 2009. For the sake of clarity, the Panel notes that this is not a Heritage Conservation Area under the Wollongong LEP 2009 and that the site itself is not identified as a heritage item.
- As described by the applicant, the design has been the subject of numerous iterations in response to the Design Review Panel and Council Planning staff comments and recommendations. The applicant claims that the current design is consistent with the advice provided by the Design Review Panel.
- Notwithstanding that a lower scale building would fit more comfortably in the existing streetscape, in this case the LEP set a maximum height and FSR which establishes a building envelope for the site.
- The Panel acknowledges the use of brick elements to create a five storey podium which is comparable to the height limit of the majority of Harbour Street. The design as presented does not achieve the design principle of creating a podium at the fifth level. To achieve this the three levels that comprise the penthouse need to be reduced in bulk and solidity, so the building above the podium is a much smaller and lighter element. It is the Panel's view that the upper levels need to be further set in from all boundaries and the materiality be lightened.
- As agreed by the architect the southern and western elevations should also be further articulated and detailed.

DEFERRAL

The development application is deferred to allow the applicant to address the matters raised in the commentary above. Any revised application should be reported to a future panel for determination. Any amended plans should be notified in accordance with the Community Consultation Plan requirements.

PANEL MEMBERS	
 Robert Montgomery (Chair)	 Mark Carlon
 Helena Miller	 Tina Christy (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2019/1008
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures and the construction of and eight (8) storey residential flat building
3	STREET ADDRESS	1 Smith Street, Wollongong
4	APPLICANT	ADM Architects
5	REASON FOR REFERRAL	The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The proposal is captured by Schedule 2, 3 & 4(b) of the Local Planning Panels Direction of 1 March 2018. The proposal is the subject of 10 or more unique submissions by way of objection and is development to which State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies and is more than 4 storeys in height.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ Wollongong Local Environment Plan 2009 • NSW Apartment Design Guide • Wollongong Section 94A Development Contributions Plan • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report dated 7 April 2020 • Written submissions during public exhibition: ~100 • Verbal submissions at the public meeting: seven
8	SITE INSPECTIONS BY THE PANEL	<p>Site inspection 7 April 2020. Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Robert Montgomery (Chair), Mark Carlon, Helena Miller, Tina Christy (Community Representative) ○ <u>Council assessment staff</u>: Nigel Lamb, Pier Panozzo
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Attached to the council assessment report

PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
BUILDING OVER BASEMENT CARPARK
AT
1 SMITH STREET, WOLLONGONG



ARTIST IMPRESSION
CORNER OF SMITH AND HARBOUR STREET ASPECT
IMAGE NOT TO BE REPRODUCED WITHOUT ADM ARCHITECTS APPROVAL

ARCHITECTURAL DRAWING SCHEDULE

No.	DESCRIPTION	SCALE@A3
A-000	TITLE SHEET	NTS
A-001	DEVELOPMENT SUMMARY	NTS
A-002	SITE ANALYSIS	NTS
A-003	CONTEXTUAL STREET SECTIONS	NTS
A-004	PHOTOMONTAGE 01	NTS
A-005	PHOTOMONTAGE 02	NTS
A-006	PHOTOMONTAGE 03	NTS
A-007	VIEW ANALYSIS PERSPECTIVE	NTS
A-008	PHOTOMONTAGE 04	NTS
A-009	PHOTOMONTAGE 05	NTS
A-010	ISOMETRICS COMPARISON	NTS
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July 2019		BSA Reference: 13802	
Building Sustainability Assessments		Ph: (02) 4962 3439	
enquiries@buildingsustainability.net.au		www. buildingsustainability.net.au	
Important Note			
The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate and takes precedence over any other specification.			
If different construction elements are applied then the Assessor Certificate is no longer valid.			
Thermal Performance Specifications (does not apply to garage)			
External Wall Construction		Added Insulation	
Brick Veneer & Lightweight & 75mm AAC Veneer		R2.0	
200mm Concrete + furring channel + plasterboard		R1.0	
Internal Wall Construction		Added Insulation	
Plasterboard on studs		none	
75mm AAC + studs + Plasterboard (party walls)		none	
Ceiling Construction		Added Insulation	
Plasterboard		R1.0 to ceilings adjacent to roof space and decks above	
Roof Construction	Colour	Added Insulation	
Concrete	Any	none	
Floor Construction	Covering	Added Insulation	
Concrete	As drawn	none	
Windows	Glass and frame type	U Value	SHGC Range
Performance glazing Type A		4.10	0.42 - 0.52
Performance glazing Type B		4.10	0.47 - 0.57
Performance glazing Type A		5.40	0.44 - 0.54
Performance glazing Type B		5.40	0.52 - 0.64
Type A windows are awning windows, bifolds, casements, tilt 'n turn' windows, entry doors, french doors			
Type B windows are double hung windows, sliding windows & doors, fixed windows, stacker doors, louvres			
Skylights	Glass and frame type	U Value	SHGC
U and SHGC values are according to AFRC. Alternate products may be used if the U value is lower and the SHGC is within the range specified			
External Window Shading		(eaves, verandahs, pergolas, awnings etc)	
All shade elements modelled as drawn			
Ceiling Penetrations		(downlights, exhaust fans, flues etc)	
No adjustment has been made for losses to insulation arising from ceiling penetrations.			



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Project

PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
BUILDING OVER BASEMENT CARPARK

At

1 SMITH STREET
WOLLONGONG

For

HARBOUR SMITH MANAGEMENT PTY. LTD.

Title

DEVELOPMENT APPLICATION
TITLE SHEET

Scale

NTS

Date

APRIL 2020

Drawn

SJ

Checked

ADM

Project No.

2016-05

Drawing No.

A-000

Issue

D

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Project:	I Smith Street, WOLLONGONG	
Project No:	2016-05	
Site Area:	841m ²	
Wollongong LEP 2009 Controls		
	Control	Proposed
Land use	Residential	Residential
FSR	1.5:1	1.46:1
Height (m)	24m	23.950m

Level	Residential GFA	3bdrm	Unit Totals
Basements (surpus parking)	38.9m ²		
Ground	158.5m ²	1	1
Level 1	175.3m ²	1	1
Level 2	170.4m ²	1	1
Level 3	175.3m ²	1	1
Level 4	170.4m ²	1	1
Level 5	159.0m ²	1	1
Level 6	132.1m ²	-	-
Level 7	47.5m ²	-	-
TOTAL	1227.4m ²	6	6
Unit Mix		100%	100%
Permissible GFA	1261.5m ²		

Car Parking Requirements (WCC)	Min Rate	Required	Provided
>110m ²	1.25/unit	7.5	11
TOTAL		7.5	11

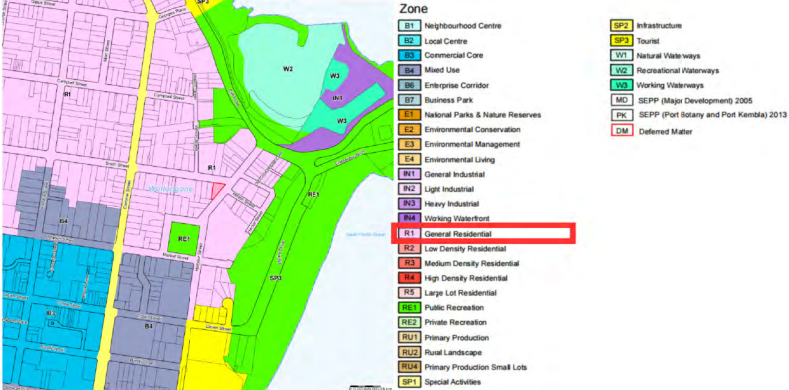
Visitor Parking Requirements	Min Rate	Required	Provided
	1/5 units	1.2	2
TOTAL		1.2	2

Bicycle Parking Requirements	Min Rate	Required	Provided
Residents	1/3 units	2	2
Visitors	1/12 units	0.5	1
TOTAL		2.5	3

Motorcycle Parking Requirements	Min Rate	Required	Provided
Residents	1/15 units	0.4	1
TOTAL		0.4	1

Waste Management	General	Recycling	Green
Rate:	80L/unit/week	80L/unit/fortnight	
Weekly Total:	480L/week	480L/fortnight	
Bins Required:	2 @ 240L	2 @ 240L	1 @ 240L
Bins Provided:	2 @ 240L	2 @ 240L	1 @ 240L
TOTAL		5 bins @ 240L	

Figure A: Land Zoning Map



R1 General Residential

Figure B: Floor Space Ratio Map

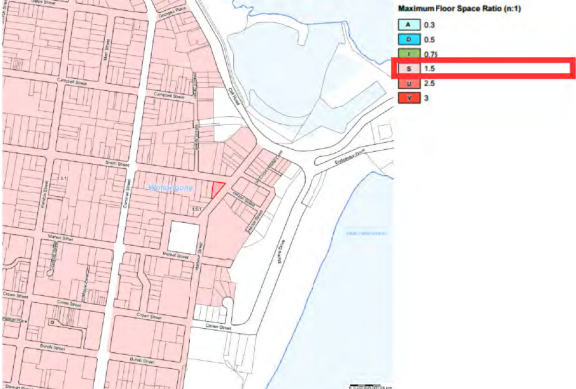


Figure C: Height of Building Map

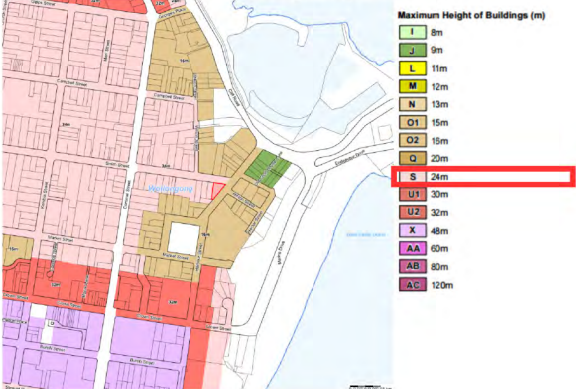
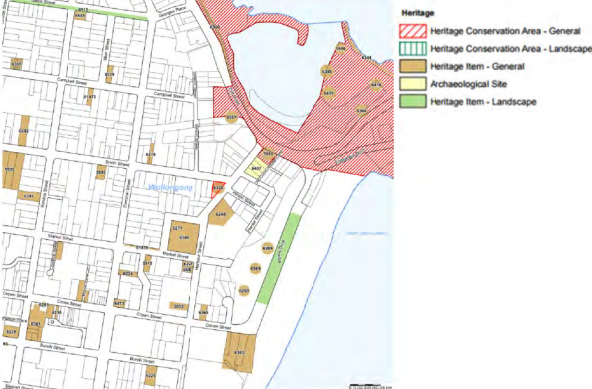


Figure D: Heritage Map



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At:
I SMITH STREET
WOLLONGONG
For:
HARBOUR SMITH MANAGEMENT PTY. LTD.

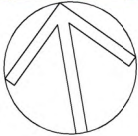
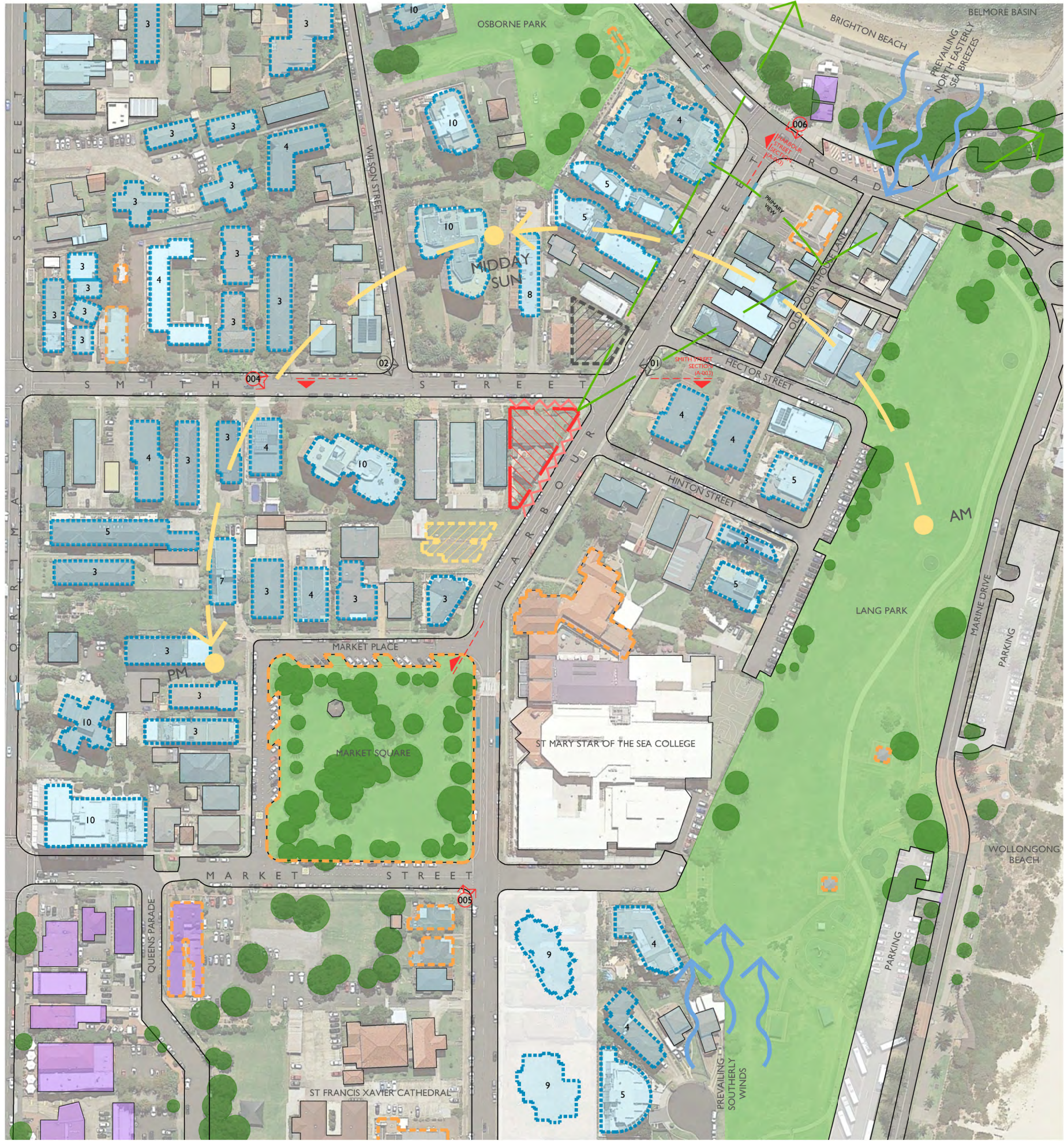
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DEVELOPMENT SUMMARY

Scale:	Date:
NTS	APRIL 2020

Drawn:	Checked:
SJ	ADM

Project No.	Drawing No.	Issue
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SITE ANALYSIS

LEGEND

- PROPOSED DEVELOPMENT
- DA APPROVED DEVELOPMENT
- POTENTIAL FUTURE DEVELOPMENT
- HERITAGE LISTED ITEM
- GREEN &/OR PUBLIC SPACES
- BUS STOP
- WIND DIRECTION
- SOURCE OF NOISE
- LOCATION OF SITE PHOTO
- LOCATION OF PHOTOMONTAGE
- SIGNIFICANT TREES IN PUBLIC DOMAIN
- RESIDENTIAL USE
- RESIDENTIAL USES ABOVE 3 STOREY + HEIGHT
- BUSINESS / COMMERCIAL PREMISES



SITE PHOTO 01 - LOOKING SOUTH WEST AT INTERSECTION OF HARBOUR AND SMITH STREET TOWARDS SITE



SITE PHOTO 02 - LOOKING SOUTH EAST AT INTERSECTION OF WILSON AND SMITH STREET TOWARDS SITE

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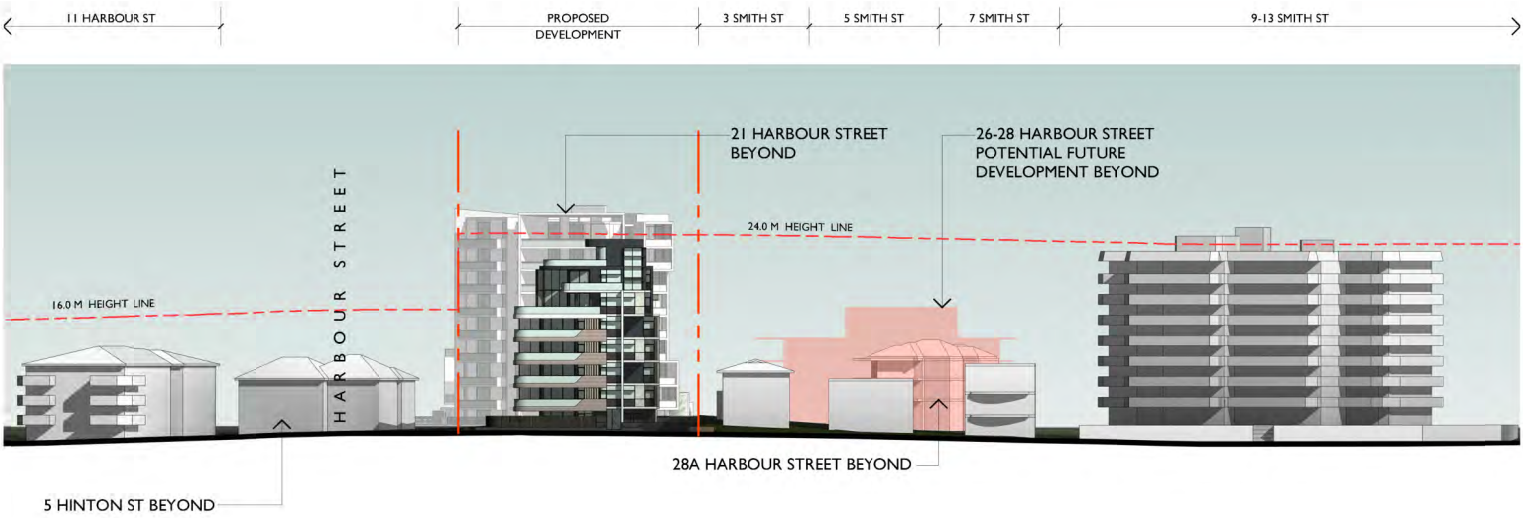
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Project No. 2016-05	Drawing No. A-002	Issue A

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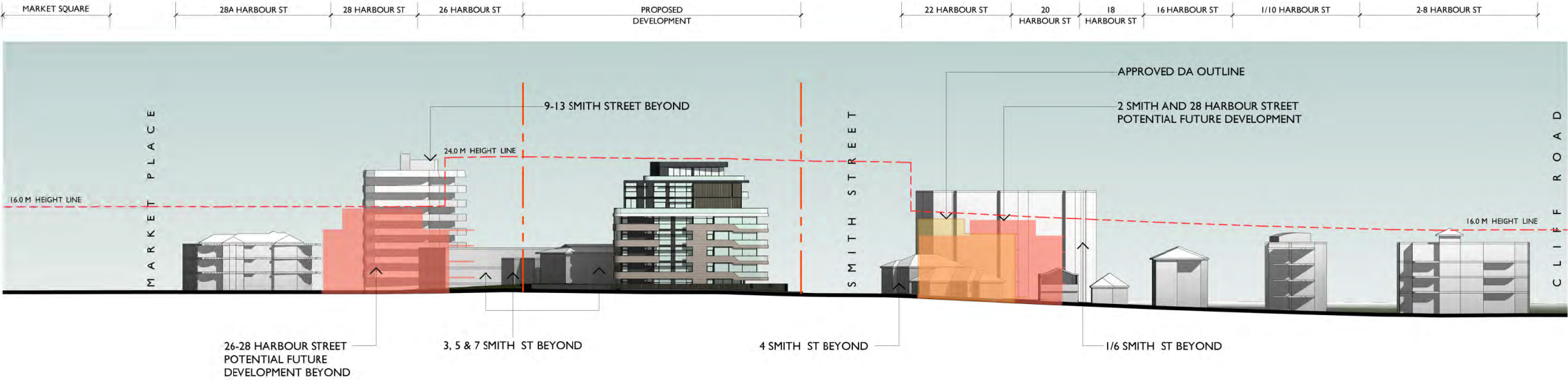
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SMITH STREET SECTION
BETWEEN 11 HARBOUR STREET AND 13 SMITH STREET (LOOKING SOUTH)



HARBOUR STREET SECTION
BETWEEN MARKET SQUARE AND CLIFF ROAD (LOOKING WEST)



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Title
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Scale NTS		Date APRIL 2020
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Project No. 2016-05	Drawing No. A-003	Issue D

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PHOTOMONTAGE 01
LOOKING EAST TOWARDS SITE ALONG SMITH STREET

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Title
DEVELOPMENT APPLICATION
PHOTOMONTAGE 01

Scale	Date	
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Project No.	Drawing No.	Issue
2016-05	A-004	D

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PHOTOMONTAGE 02
LOOKING NORTH TOWARDS SITE FROM MARKET STREET INTERSECTION



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Title
DEVELOPMENT APPLICATION
PHOTOMONTAGE 02

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PHOTOMONTAGE 03
LOOKING SOUTH TOWARDS SITE FROM CLIFF ROAD INTERSECTION



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Title
DEVELOPMENT APPLICATION
PHOTOMONTAGE 03

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LINE OF SIGHT DIAGRAM



VIEW FROM FLAGSTAFF HILL PARK

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Title
DEVELOPMENT APPLICATION
VIEW ANALYSIS PERSPECTIVE

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PHOTOMONTAGE 04
LOOKING EAST TOWARDS SITE FROM PARK



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Title
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PHOTOMONTAGE 04

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PHOTOMONTAGE 05
FLAGSTAFF HILL PANORAMIC



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PHOTOMONTAGE 05

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ORIGINAL DA

NORTH EAST ISOMETRIC
AMENDED DA (AS SUBMITTED TO WLPP)

NORTH EAST ISOMETRIC
RESPONSE TO WLPP



NORTH WEST ISOMETRIC
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NORTH WEST ISOMETRIC
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Title
DEVELOPMENT APPLICATION
ISOMETRICS COMPARISON

Scale NTS		Date APRIL 2020	
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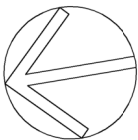
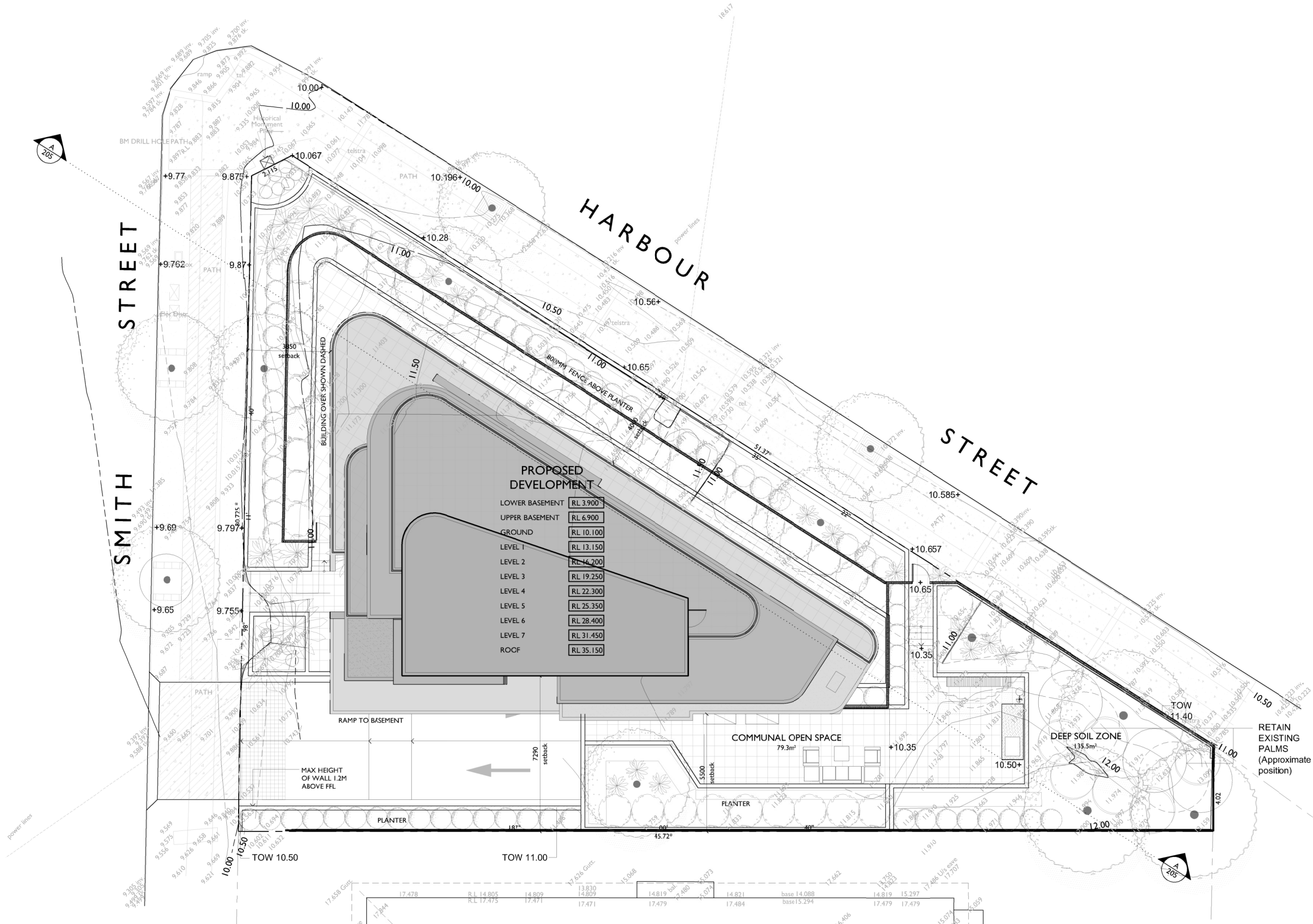
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SITE PLAN

NOTE: REFER TO CIVIL ENGINEER'S DOCUMENTATION FOR STORMWATER COLLECTION & ALL EXTERNAL SURFACE LEVELS.
REFER TO LANDSCAPE ARCHITECTS DOCUMENTATION FOR ALL PAVING & PLANTING DETAILS.



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Project:
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BUILDING OVER BASEMENT CARPARK

At:
1 SMITH STREET
WOLLONGONG

For:
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title:
DEVELOPMENT APPLICATION
SITE PLAN

Scale:
1:100 @ A1
1:200 @ A3

Date:
APRIL 2020

Drawn:
DP SJ

Checked:
ADM

Project No.:
2016-05

Drawing No.:
A-101

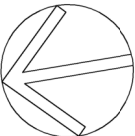
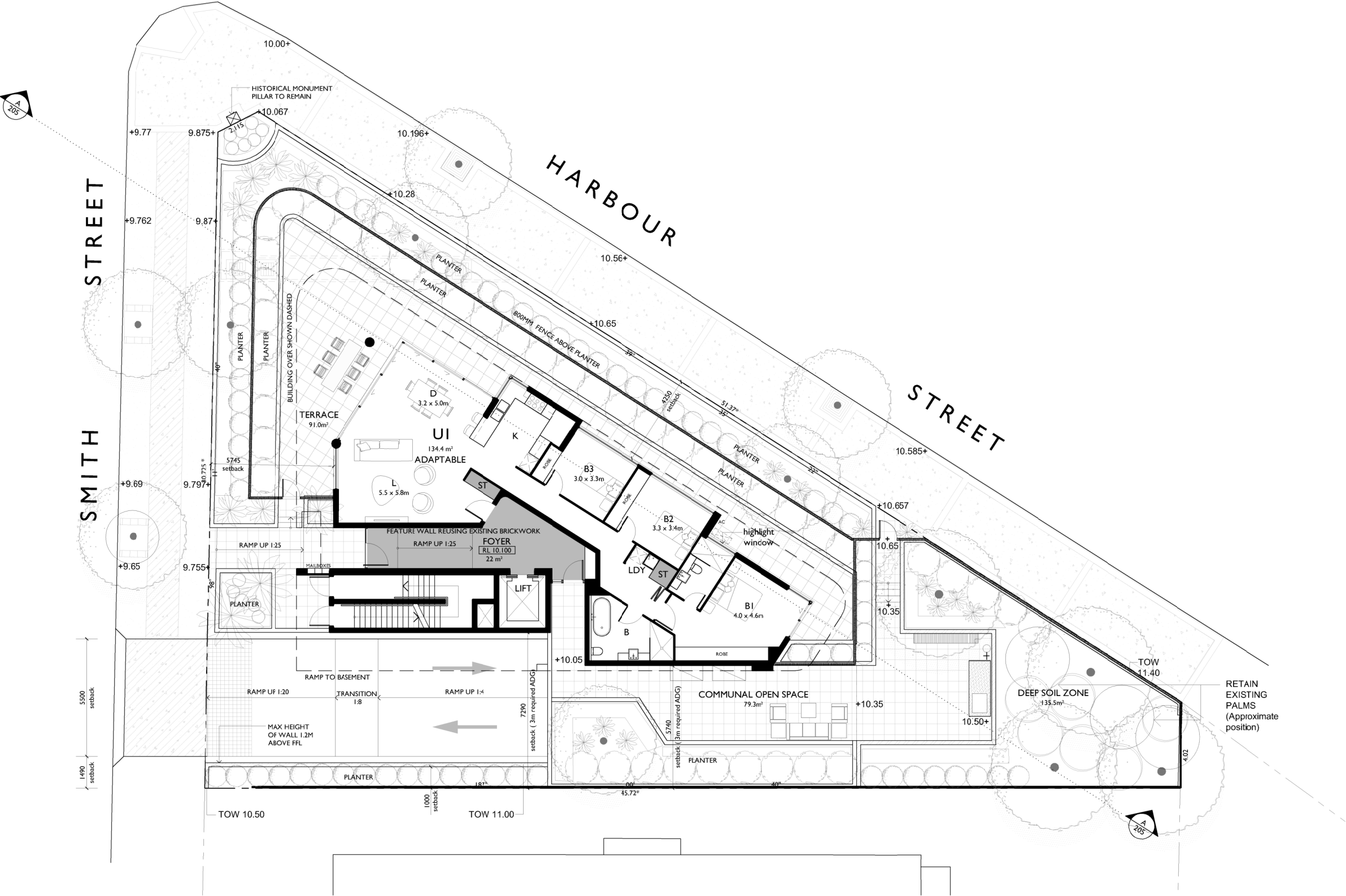
Issue:
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GROUND FLOOR PLAN

GROUND RL 10.100



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Title
DEVELOPMENT APPLICATION
GROUND FLOOR PLAN

Scale
1:100 @ A1
1:200 @ A3
Date
APRIL 2020

Drawn
DP SJ
Checked
ADM

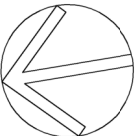
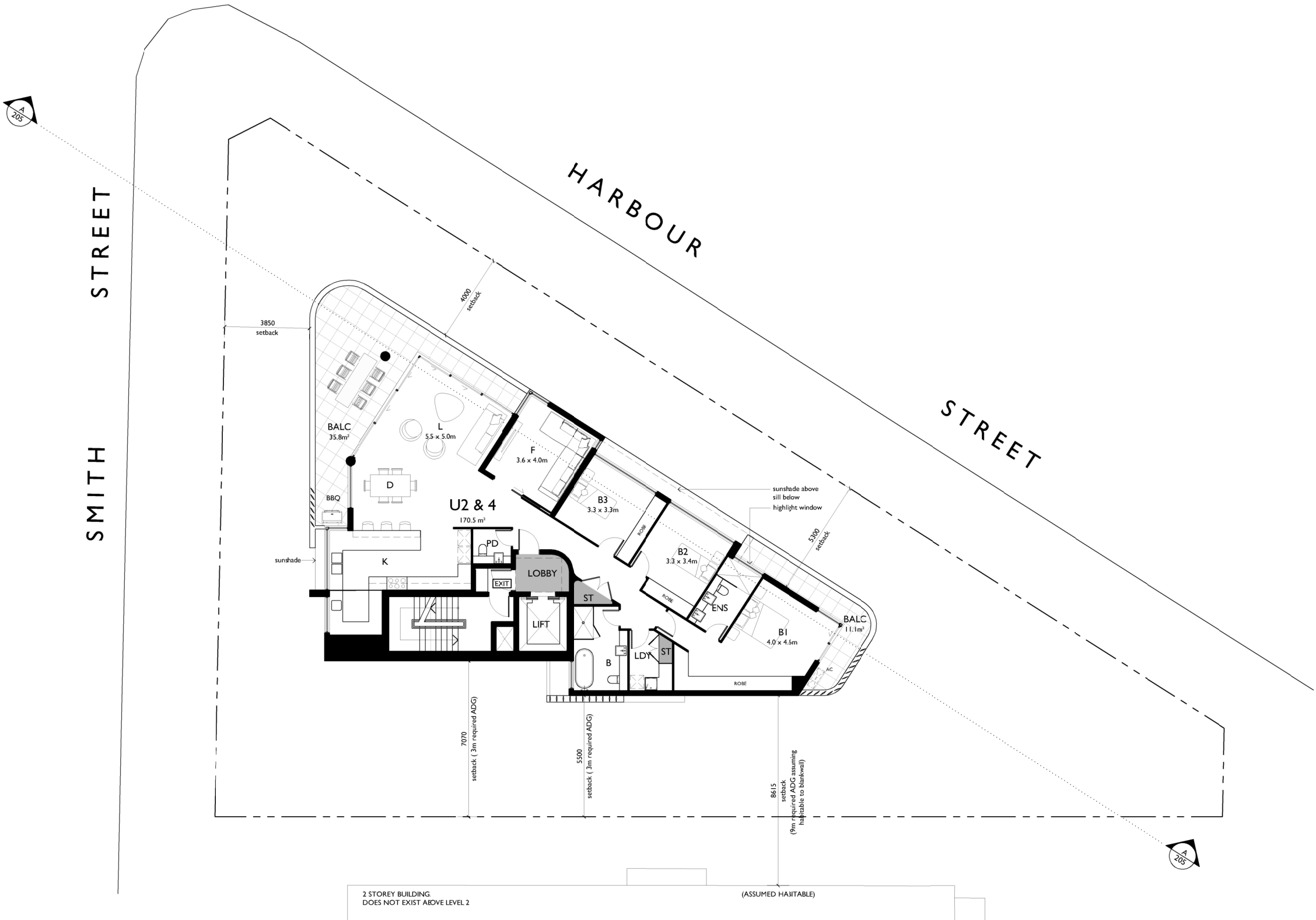
Project No.
2016-05
Drawing No.
A-104
Issue
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LEVEL 1 & 3 FLOOR PLAN

LEVEL 1 RL 13.150
LEVEL 3 RL 19.250



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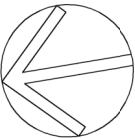
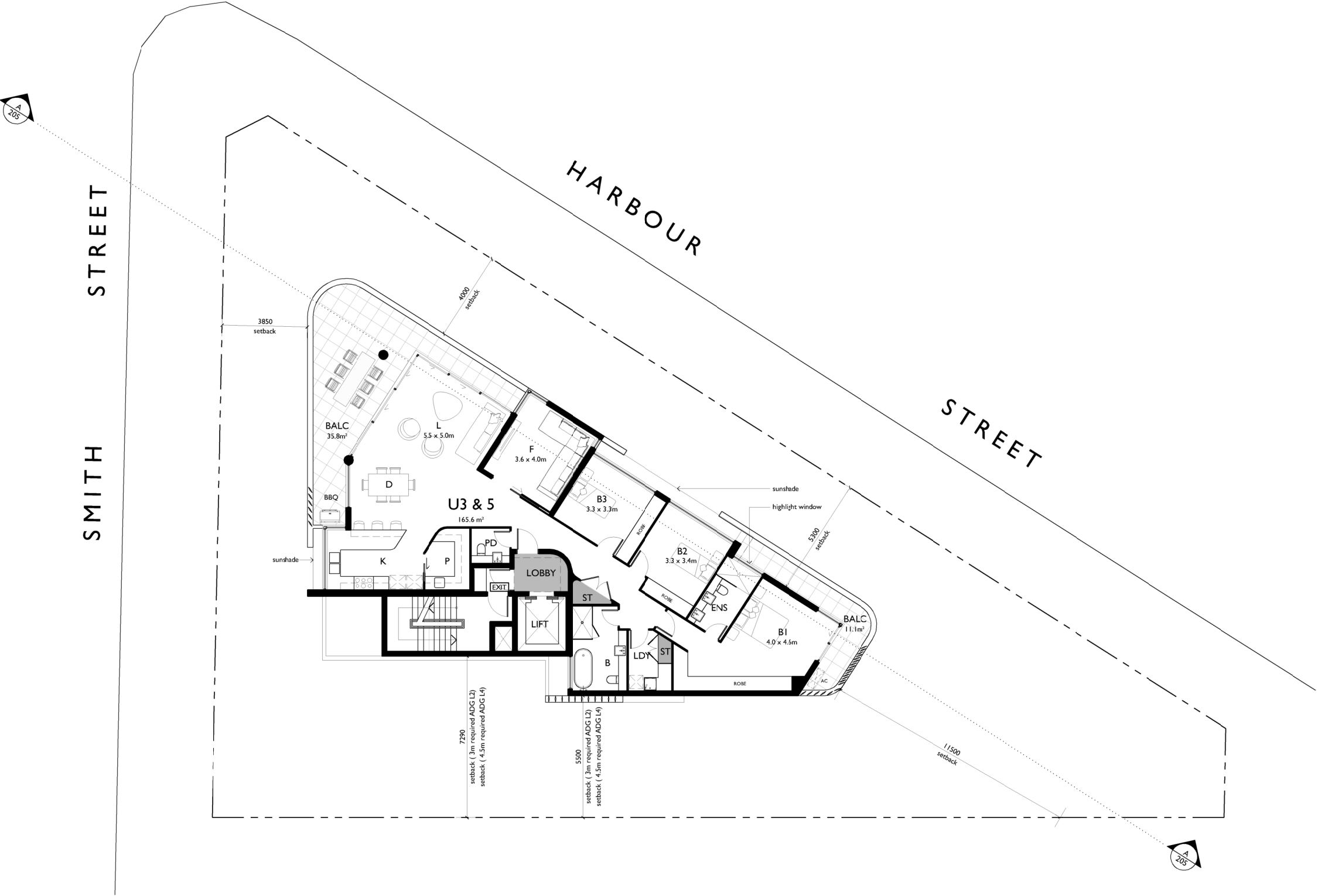
Title DEVELOPMENT APPLICATION LEVEL 1 & 3 FLOOR PLAN		
Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020	
Drawn DP SJ	Checked ADM	
Project No. 2016-05	Drawing No. A-105	Issue D

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LEVEL 2 & 4 FLOOR PLAN

LEVEL 2 RL 16.200
LEVEL 4 RL 22.300



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Title DEVELOPMENT APPLICATION LEVEL 2 & 4 FLOOR PLAN		
Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020	
Drawn DP SJ	Checked ADM	
Project No. 2016-05	Drawing No. A-106	Issue D

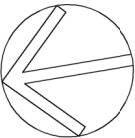
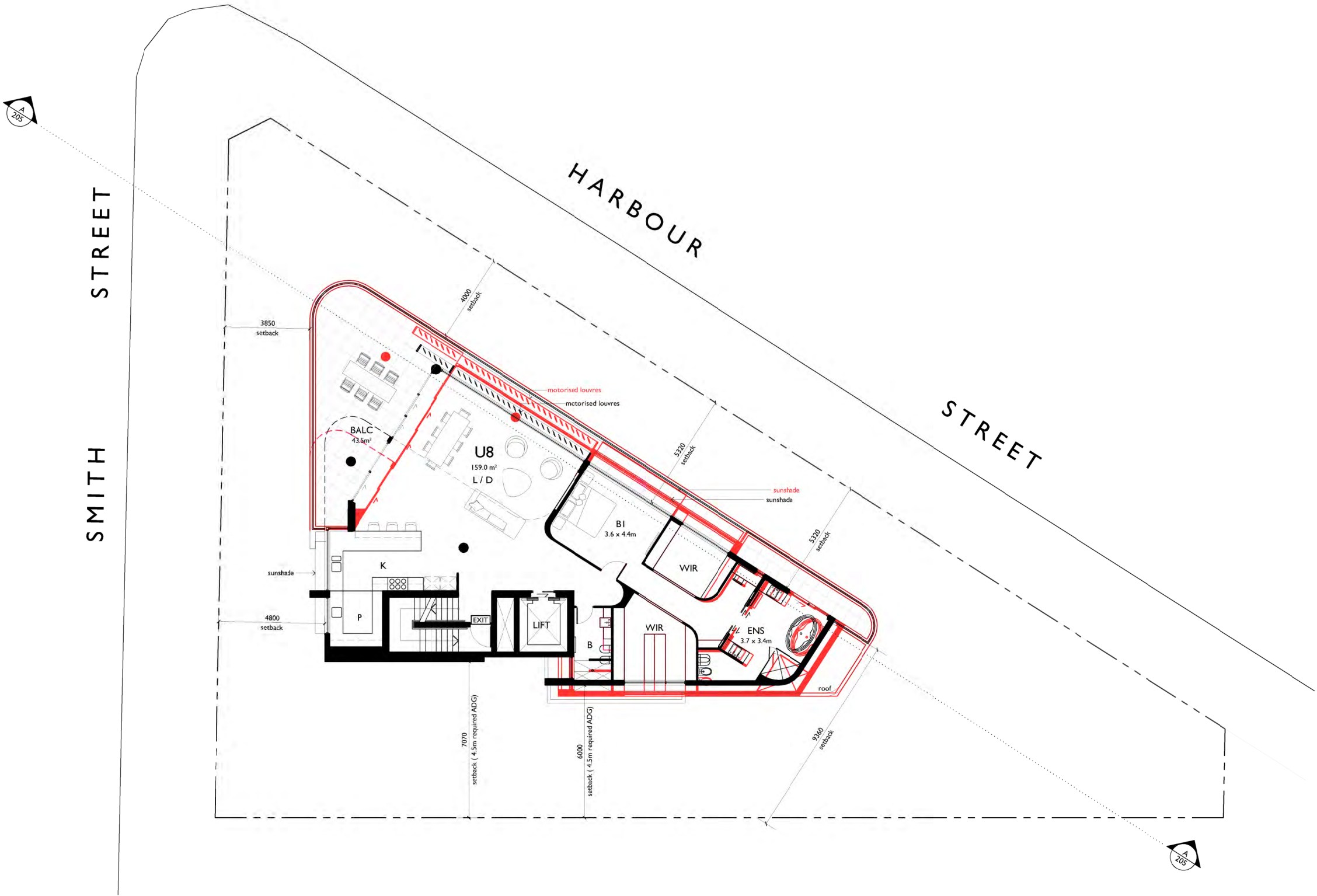
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LEVEL 5 COMPARISON PLAN



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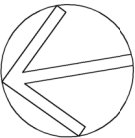
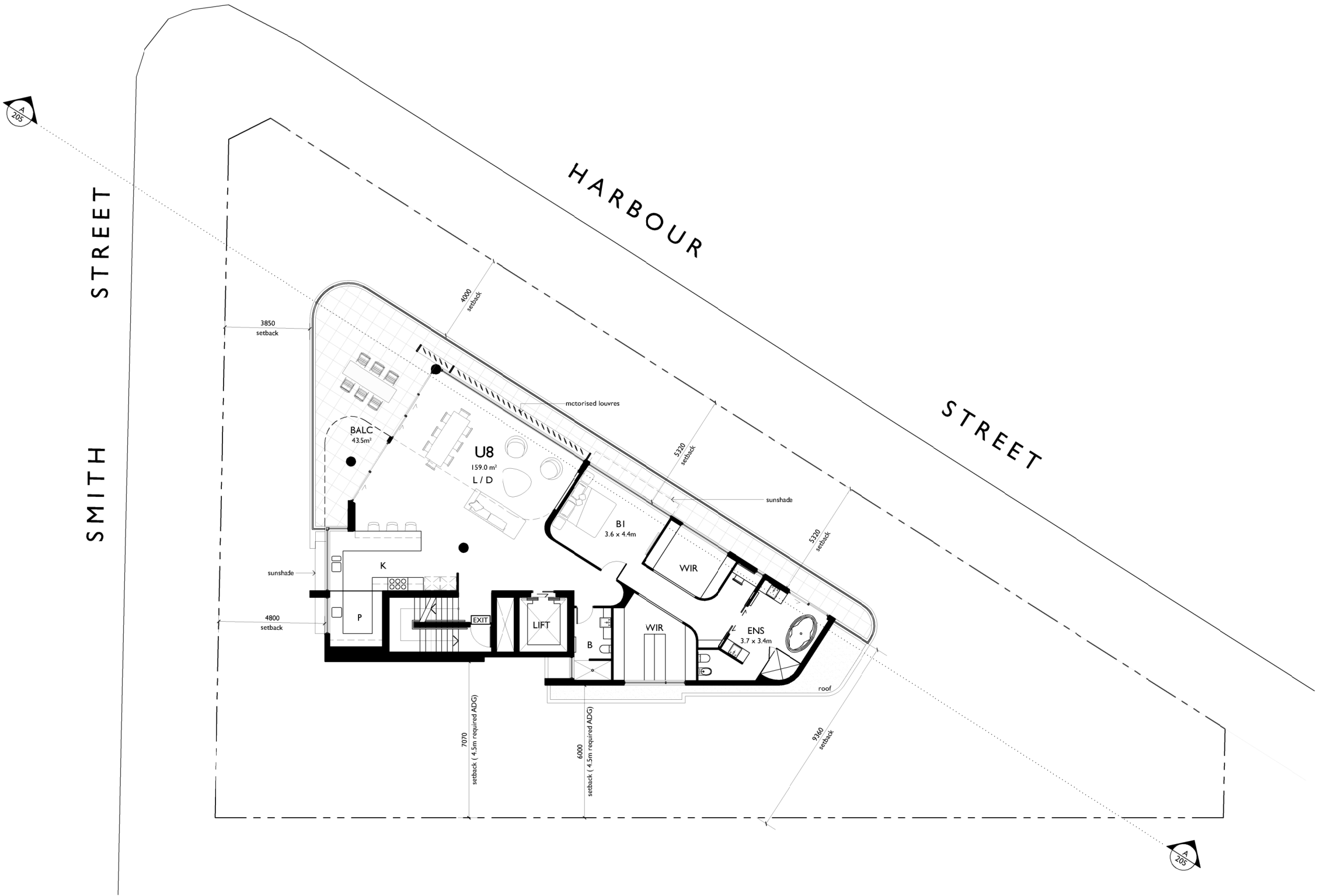
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Title DEVELOPMENT APPLICATION LEVEL 5 COMPARISON PLAN		
Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020	
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Project No. 2016-05	Drawing No. A-107.1	Issue A

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LEVEL 5 FLOOR PLAN

LEVEL 5 **RL 25.350** (PENTHOUSE)

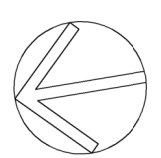
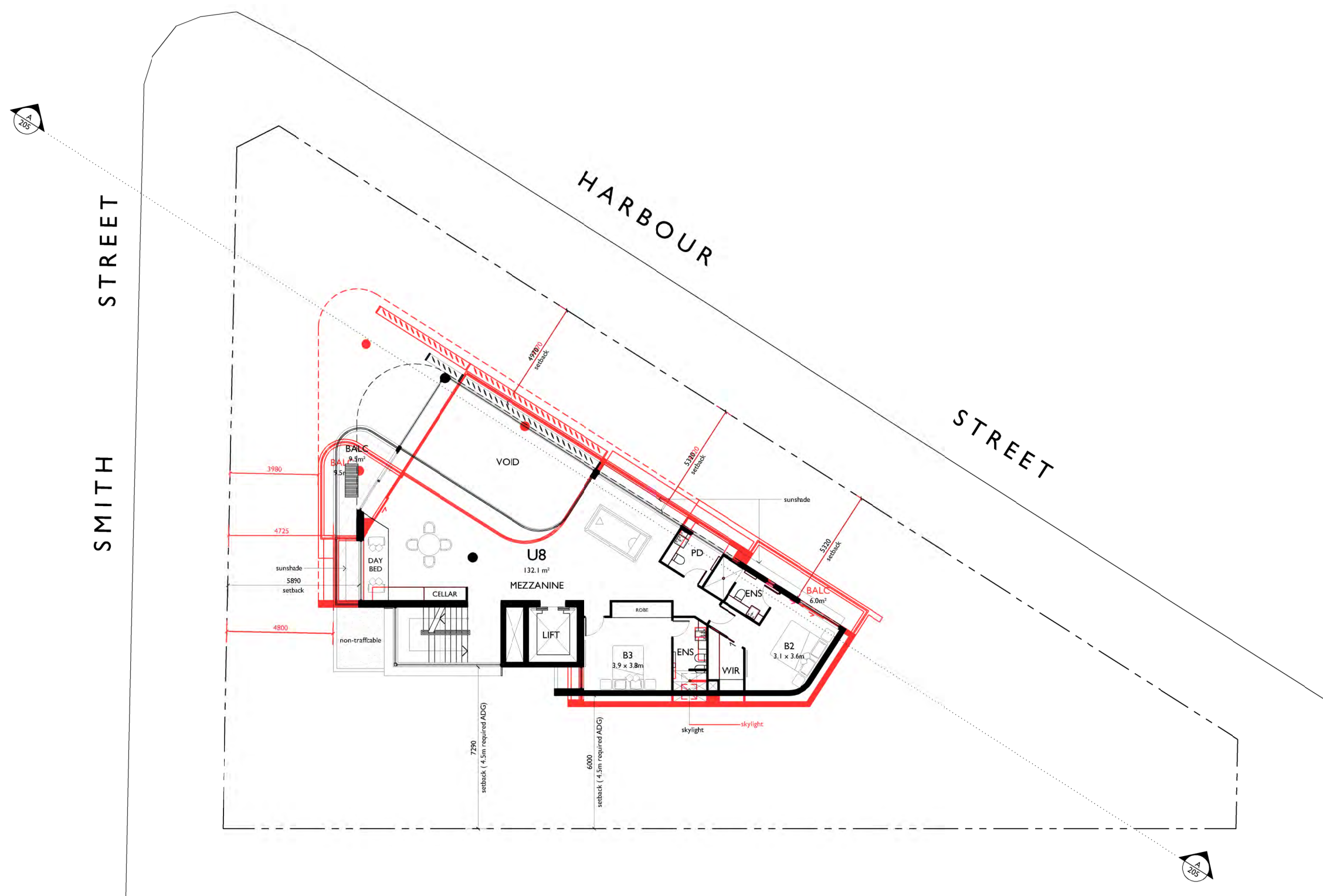


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LEVEL 6 COMPARISON PLAN

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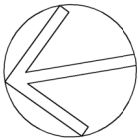
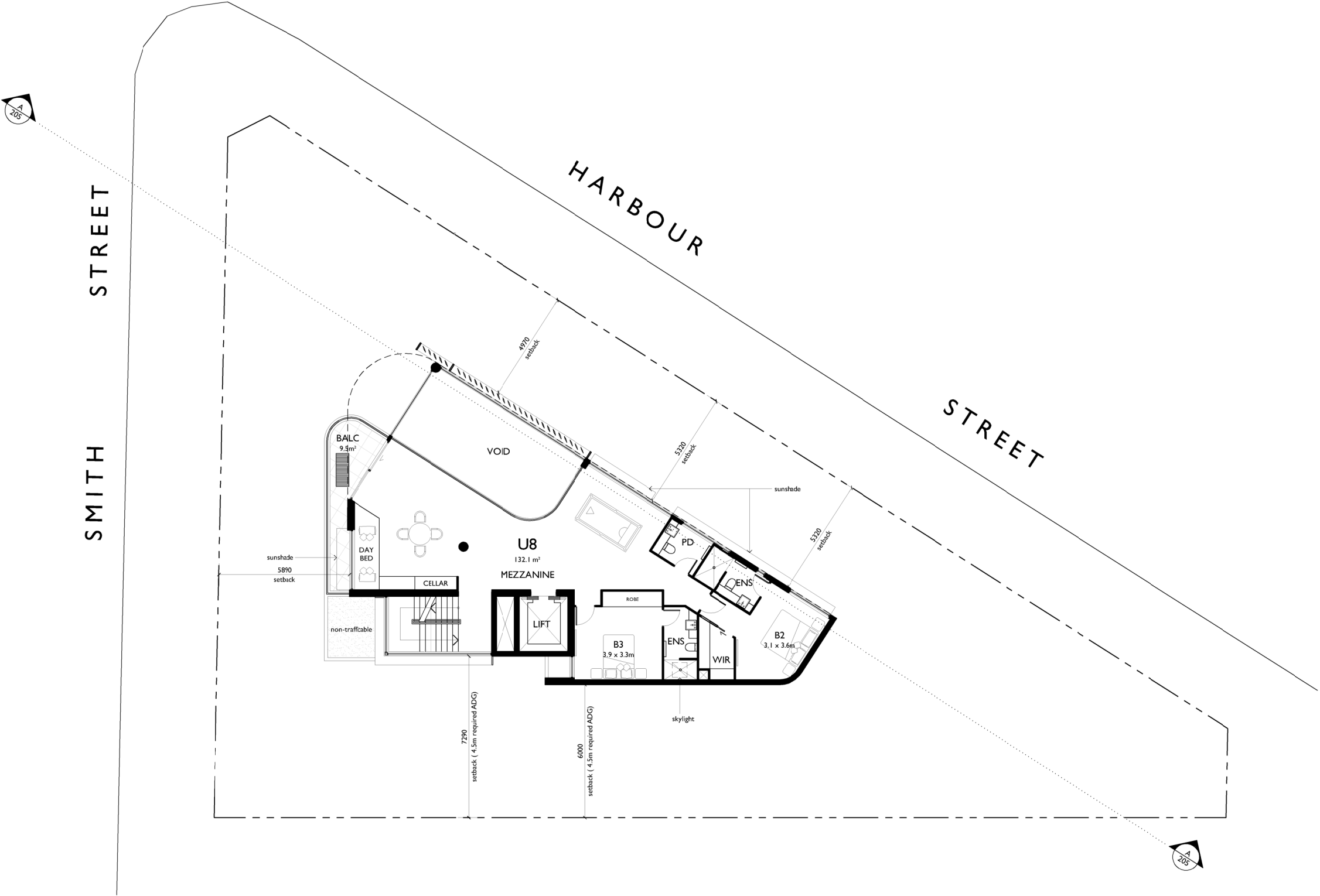
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Project No. 2016-05	Drawing No. A-108.1	Issue A

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LEVEL 6 FLOOR PLAN

LEVEL 6 RL 28.400 (PENTHOUSE)

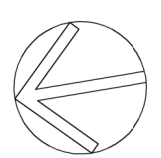
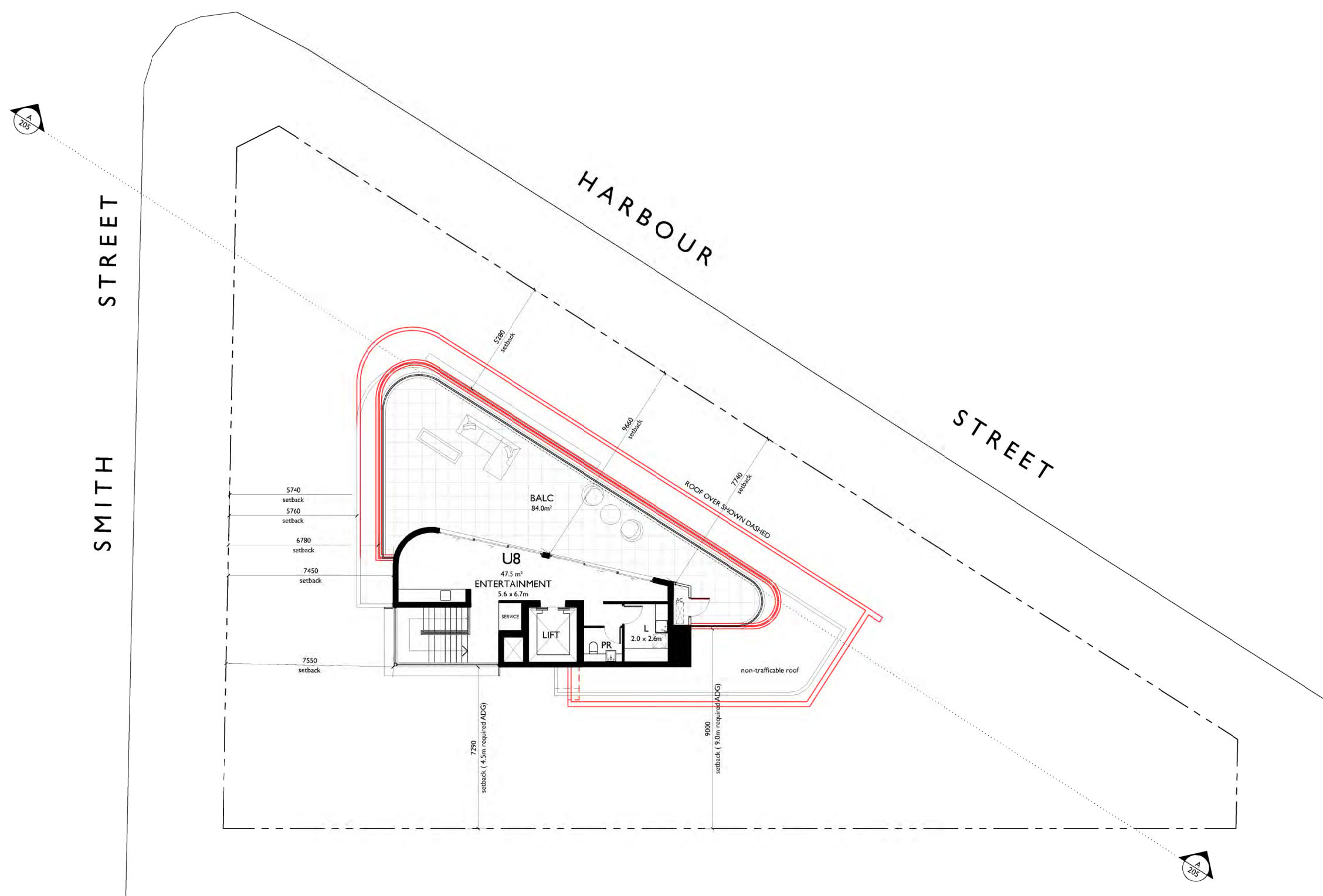


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Title DEVELOPMENT APPLICATION LEVEL 6 FLOOR PLAN		
Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020	
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LEVEL 7 COMPARISON PLAN

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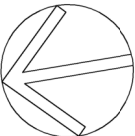
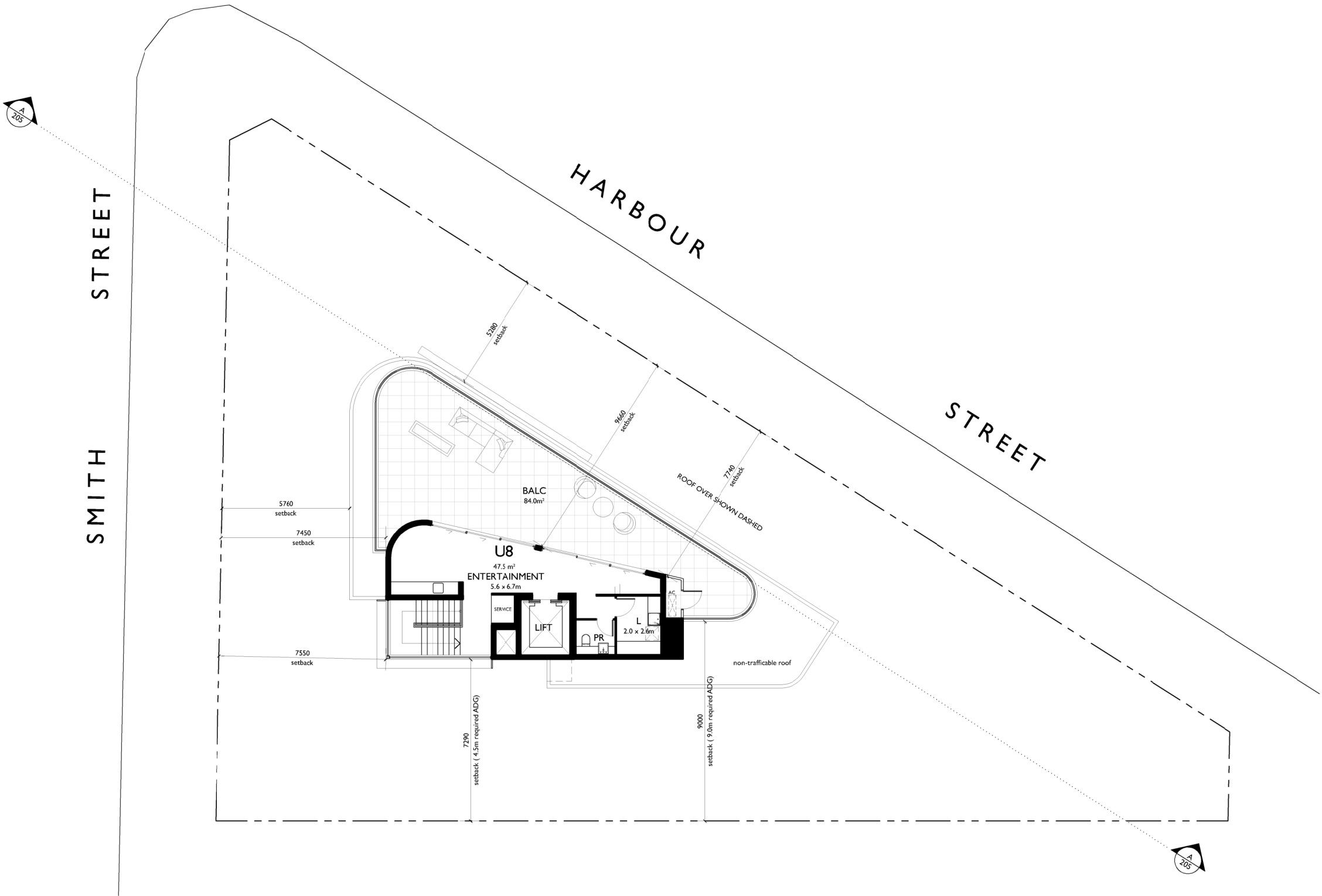
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For
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Title DEVELOPMENT APPLICATION LEVEL 7 COMPARISON PLAN		
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LEVEL 7 FLOOR PLAN

LEVEL 7 RL 31.450 (PENTHOUSE)

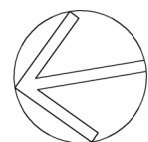
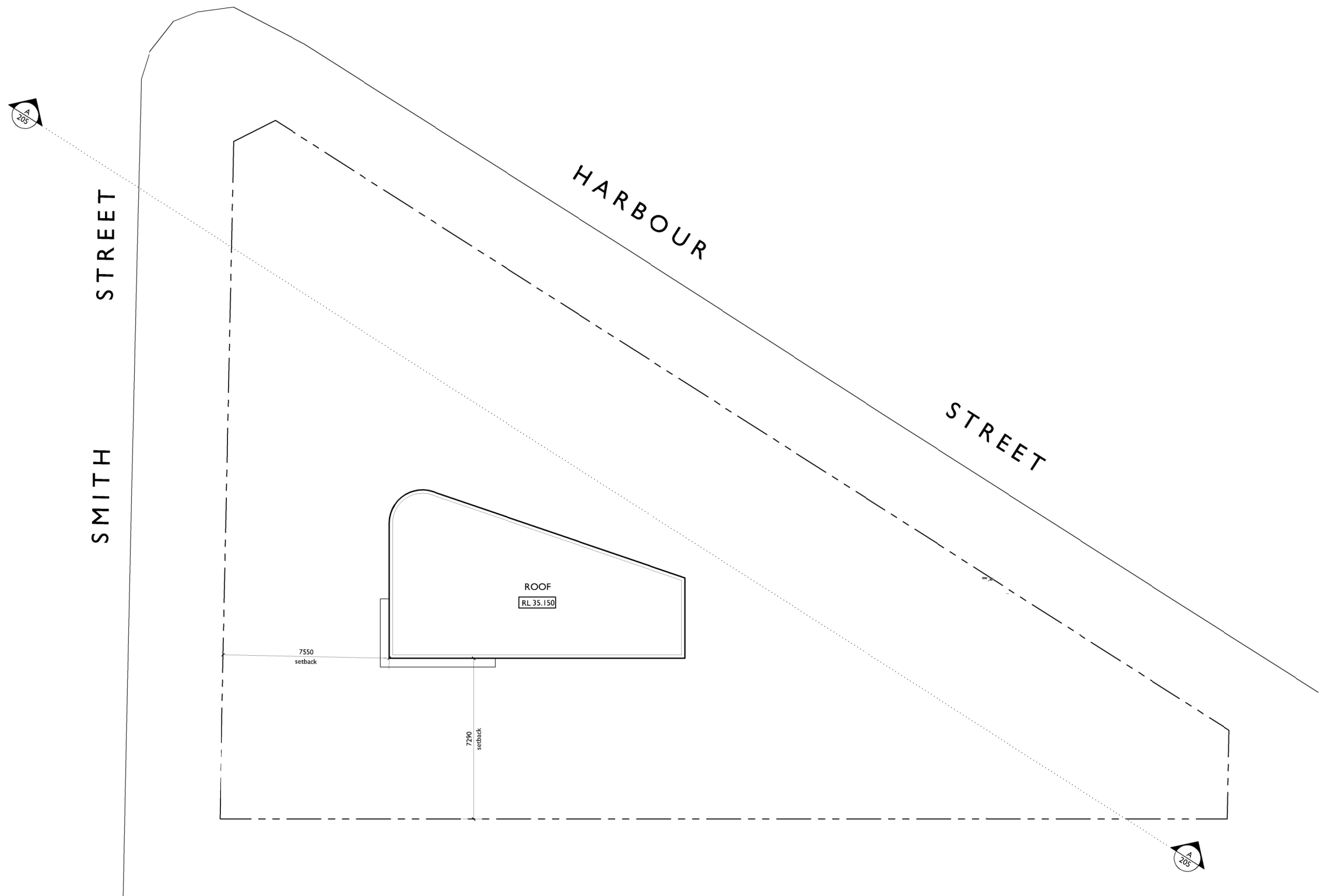


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ROOF PLAN

ROOF RL varies

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Title
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Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020
Drawn DP SJ	Checked ADM

Project No. 2016-05	Drawing No. A-110	Issue C
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NORTH ELEVATION COMPARISON
SMITH STREET ASPECT

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Title
DEVELOPMENT APPLICATION
NORTH ELEVATION COMPARISON

Scale 1:100 @ A1 1:200 @ A3	Date MAY 2020
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Project No. 2016-05	Drawing No. A-201.1	Issue A
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NORTH ELEVATION
SMITH STREET ASPECT



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Title
DEVELOPMENT APPLICATION
NORTH ELEVATION

Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020
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Drawn SJ	Checked ADM
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Project No. 2016-05	Drawing No. A-201	Issue D
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

EAST ELEVATION COMPARISON
HARBOUR STREET ASPECT

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Title
DEVELOPMENT APPLICATION
EAST ELEVATION COMPARISON

Scale 1:100 @ A1 1:200 @ A3	Date MAY 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-202.1	Issue A
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EAST ELEVATION
HARBOUR STREET ASPECT

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WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
EAST ELEVATION

Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-202	Issue D
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

SOUTH ELEVATION COMPARISON

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ISSUE	DATE	DESCRIPTION
A	05.05.2020	ISSUED FOR DA

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LEGEND

-  PREVIOUS FOOTPRINT
-  LAST WL?P SUBMISSION



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Project
PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
SOUTH ELEVATION COMPARISON

Scale 1:100 @ A1 1:200 @ A3	Date MAY 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-203.1	Issue A
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ISSUE	DATE	DESCRIPTION
A	09.09.2019	ISSUED FOR DA
B	19.02.2020	AMENDED FOR DA
C	11.03.2020	AMENDED FOR DA
D	24.04.2020	AMENDED FOR DA

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SOUTH ELEVATION



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At
1 SMITH STREET
WOLLONGONG
For
HARBOR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
SOUTH ELEVATION

Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-203	Issue D
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

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ISSUE	DATE	DESCRIPTION
A	05.05.2020	ISSUED FOR DA

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LEGEND

-  PREVIOUS FOOTPRINT
-  LAST WL?P SUBMISSION



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At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
WEST ELEVATION COMPARISON

Scale 1:100 @ A1 1:200 @ A3	Date MAY 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-204.1	Issue A
------------------------	------------------------	------------

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WEST ELEVATION COMPARISON

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ISSUE	DATE	DESCRIPTION
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B	10.12.2019	AMENDED FOR DA
C	11.03.2020	AMENDED FOR DA
D	24.04.2020	AMENDED FOR DA

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WEST ELEVATION



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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
WEST ELEVATION

Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020
Drawn SJ	Checked ADM

Project No. 2016-05	Drawing No. A-204	Issue D
------------------------	----------------------	------------

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SECTION AA

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D	24.04.2020	AMENDED FOR DA

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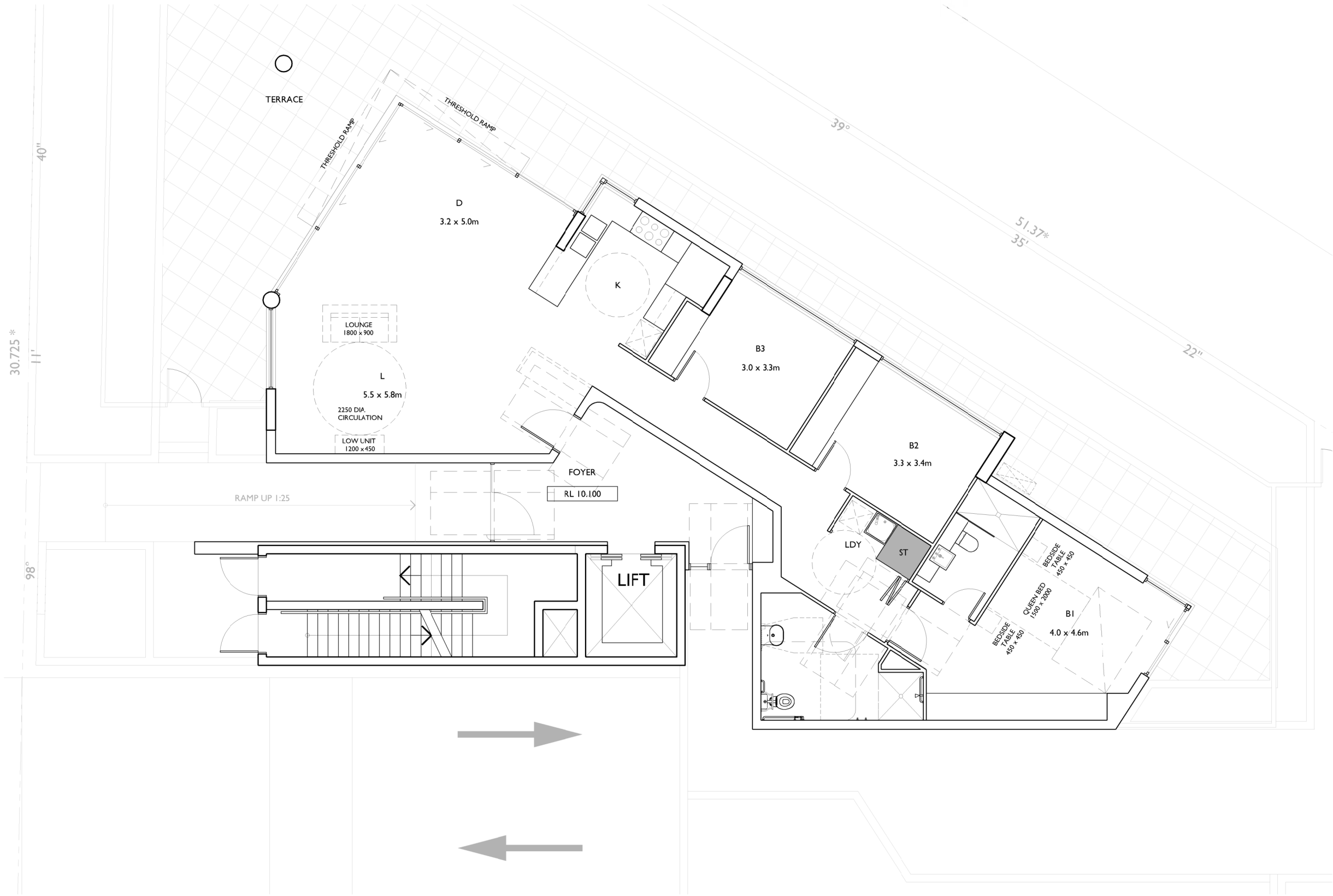


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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title DEVELOPMENT APPLICATION SECTION AA		
Scale 1:100 @ A1 1:200 @ A3	Date APRIL 2020	
Drawn SJ	Checked ADM	
Project No. 2016-05	Drawing No. A-205	Issue D

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POST-ADAPTATION PLAN

UNIT 1
REFER TO ACCESS CONSULTANT'S REPORT
FOR PRE-ADAPTATION REFER SHEET A-104

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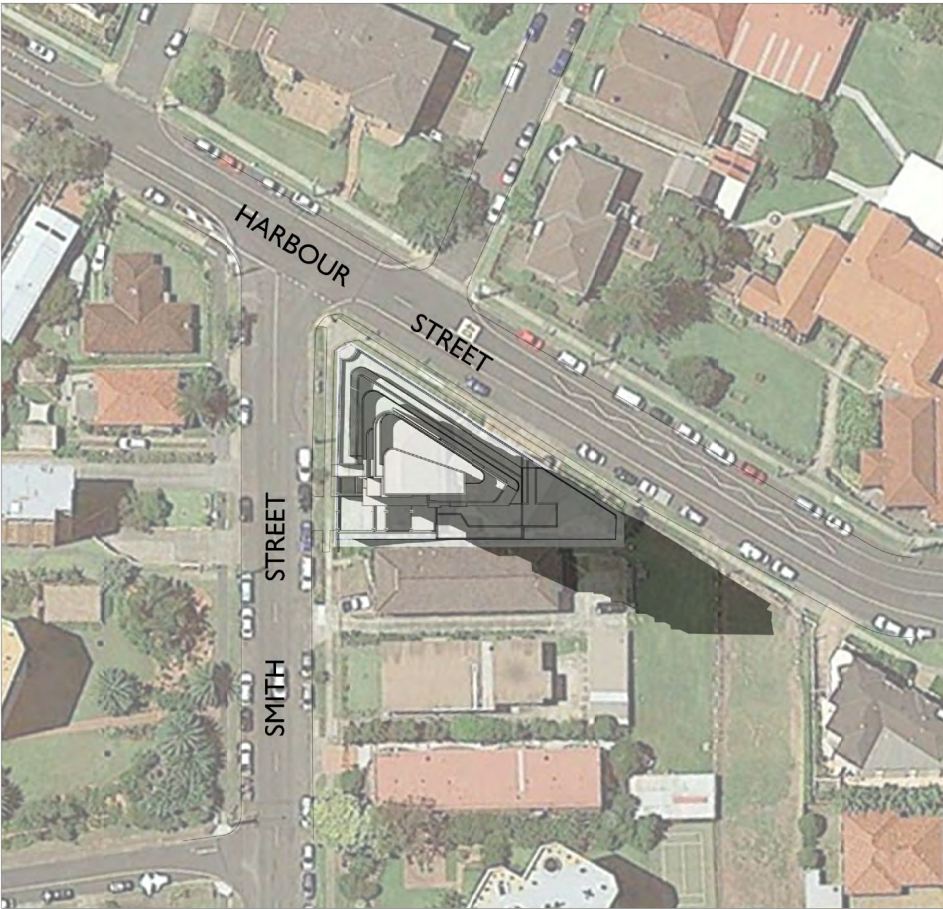
Project
PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title DEVELOPMENT APPLICATION POST ADAPTATION PLAN		
Scale 1:50 @ A1 1:100 @ A3	Date SEPTEMBER 2019	
Drawn SP	Checked ADM	
Project No. 2016-05	Drawing No. A-301	Issue A

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9am



10am



11am

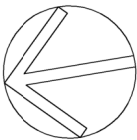


12pm

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ISSUE	DATE	DESCRIPTION
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SHADOW ANALYSIS - 21ST OF JUNE



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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
SHADOW ANALYSIS 1 OF 2

Scale	Date
NTS	APRIL 2020

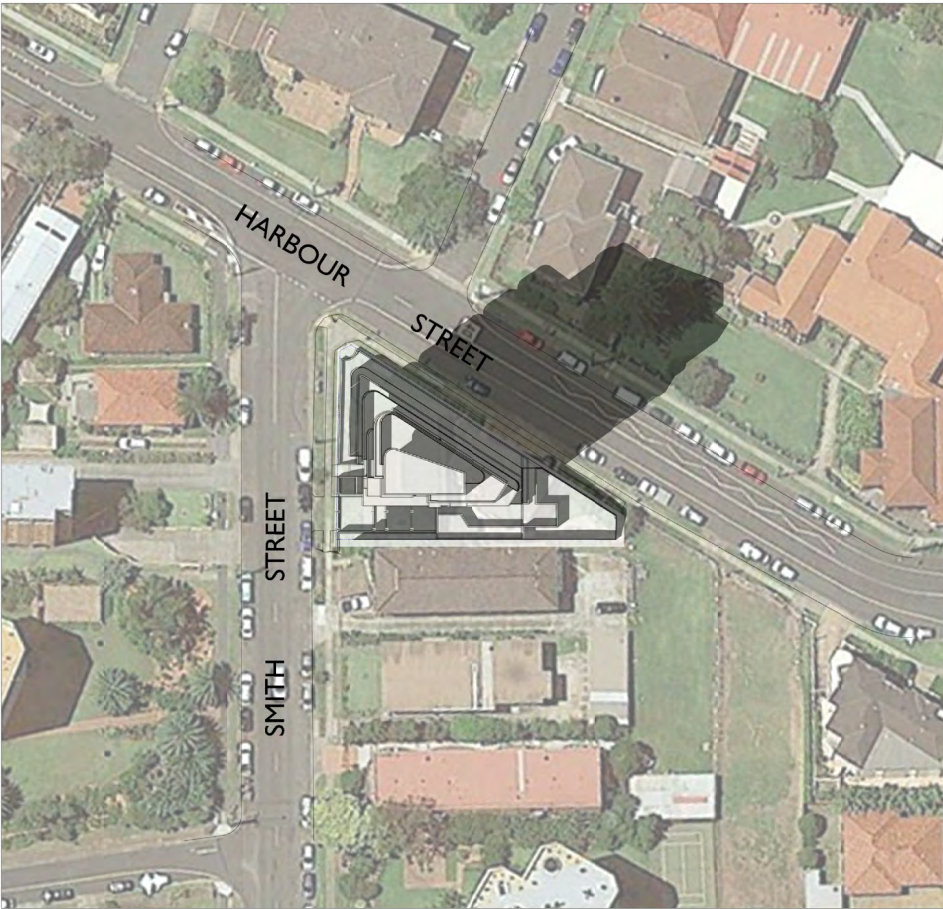
Drawn	Checked
SJ	ADM

Project No.	Drawing No.	Issue
2016-05	A-401	C

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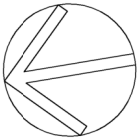
1pm



2pm



3pm



SHADOW ANALYSIS - 21ST OF JUNE

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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

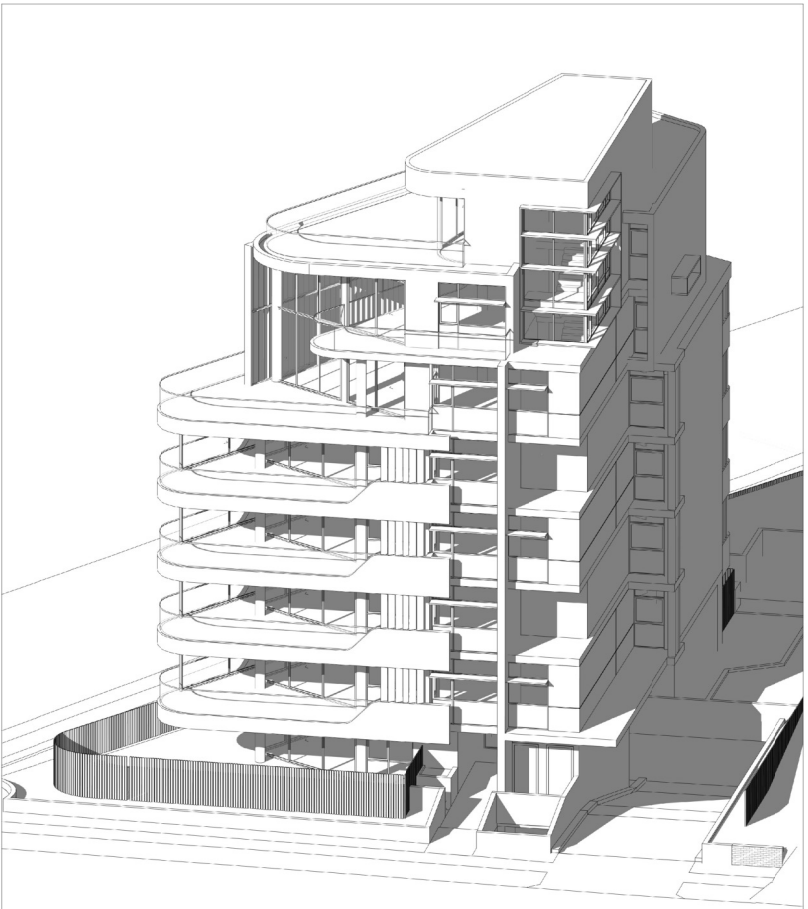
Title
DEVELOPMENT APPLICATION
SHADOW ANALYSIS 2 OF 2

Scale N.T.S		Date APRIL 2020
Drawn SJ		Checked ADM
Project No. 2016-05	Drawing No. A-402	Issue C

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9am



10am



11am

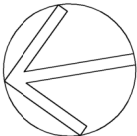


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C	11.03.2020	AMENDED FOR DA
D	24.04.2020	AMENDED FOR DA

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SOLAR ACCESS STUDY - 21ST OF JUNE



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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
SOLAR ACCESS STUDY 1 OF 2

Scale	Date
NTS	APRIL 2020

Drawn	Checked
SJ	ADM

Project No.	Drawing No.	Issue
2016-05	A-403	D

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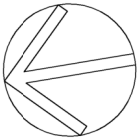
1pm



2pm



3pm



SOLAR ACCESS STUDY - 21ST OF JUNE

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D	24.04.2020	AMENDED FOR DA

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Project
PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
SOLAR ACCESS STUDY 2 OF 2

Scale NTS		Date APRIL 2020	
Drawn SJ		Checked ADM	
Project No. 2016-05	Drawing No. A-404	Issue D	

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COLOUR & MATERIALS SCHEDULE

1

DULUX
VIVID WHITE
CONCRETE UPTURNS AND
SLAB EDGES

2

COLORBOND
MONUMENT
WALLING, COLUMNS

3

COLORBOND
MONUMENT
STANDING SEAM
MATT FINISH
CLADDED WALLING

4

AUSTRAL
GERTRUDIS BROWN
FACE BRICK WALLING

5

NATURAL
CONCRETE FINISH
CONCRETE WALLING

6

POWDERCOAT
GUNMETAL KINETIC
PEARL
DOOR AND WINDOW
FRAMES, HANDRAILS

7

POWDERCOAT
ETERNITY
NICKEL PEARL
LOUVRES, SUNSHADES AND
FENCING

8

CLEAR GLAZING
GLAZING ELEMENTS AND
GLAZED BALUSTRADES

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C	11.03.2020	AMENDED FOR DA
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ARCHITECTS

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Project
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BUILDING OVER BASEMENT CARPARK
At
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WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
DEVELOPMENT APPLICATION
COLOUR & MATERIALS SCHEDULE

Scale	Date	
NTS	APRIL 2020	
Drawn	Checked	
SJ	ADM	
Project No.	Drawing No.	Issue
2016-05	A-501	D

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HEIGHT PLANE DIAGRAM



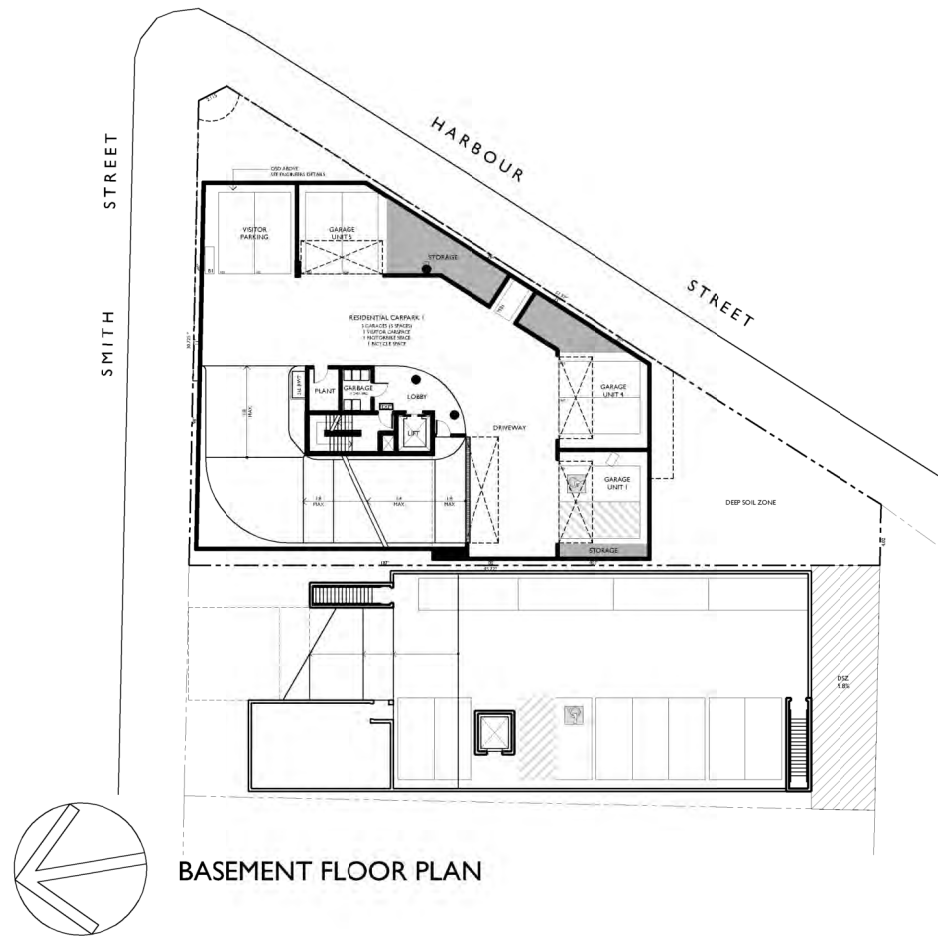
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Project
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BUILDING OVER BASEMENT CARPARK
At
1 SMITH STREET
WOLLONGONG
For
HARBOUR SMITH MANAGEMENT PTY. LTD.

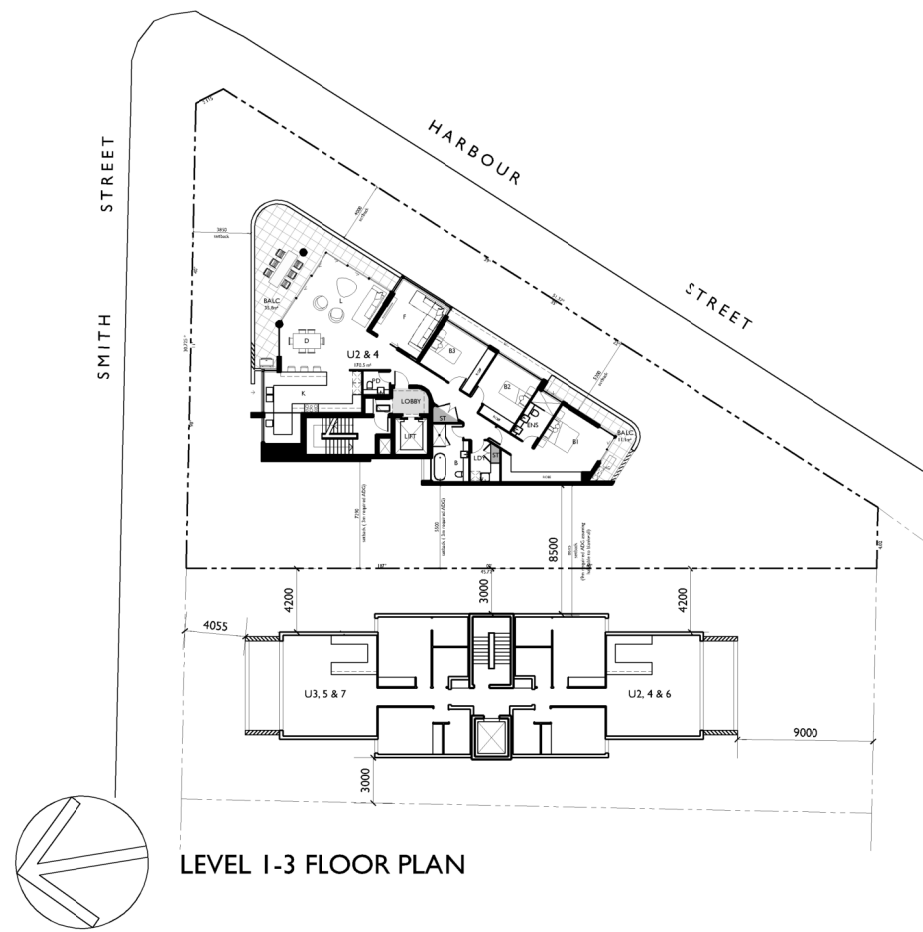
Title
DEVELOPMENT APPLICATION
HEIGHT PLANE DIAGRAM

Scale	Date	
NTS	APRIL 2020	
Drawn	Checked	
SJ	ADM	
Project No.	Drawing No.	Issue
2016-05	A-701	D

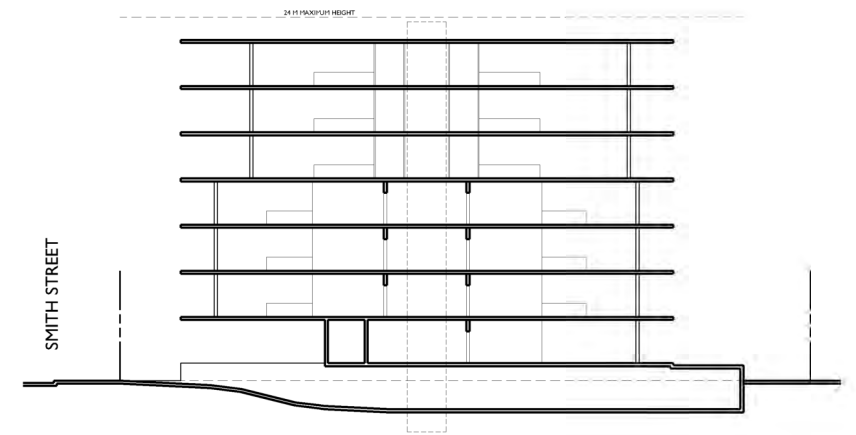
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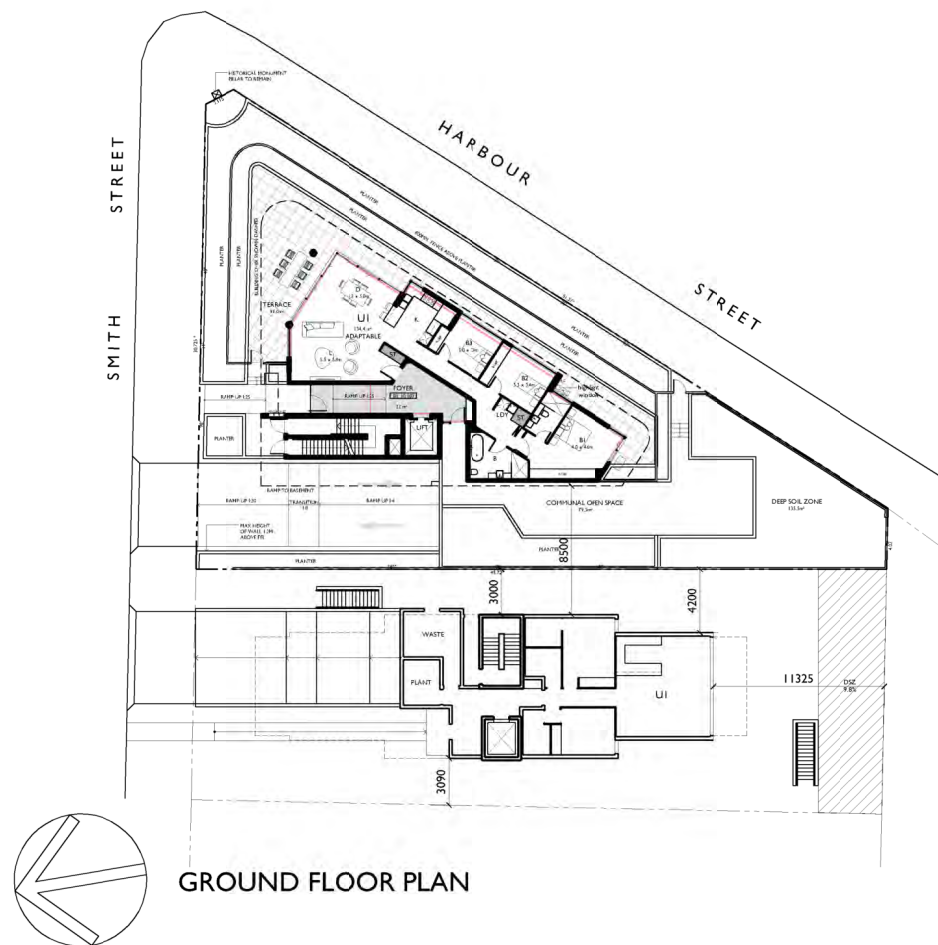
BASEMENT FLOOR PLAN



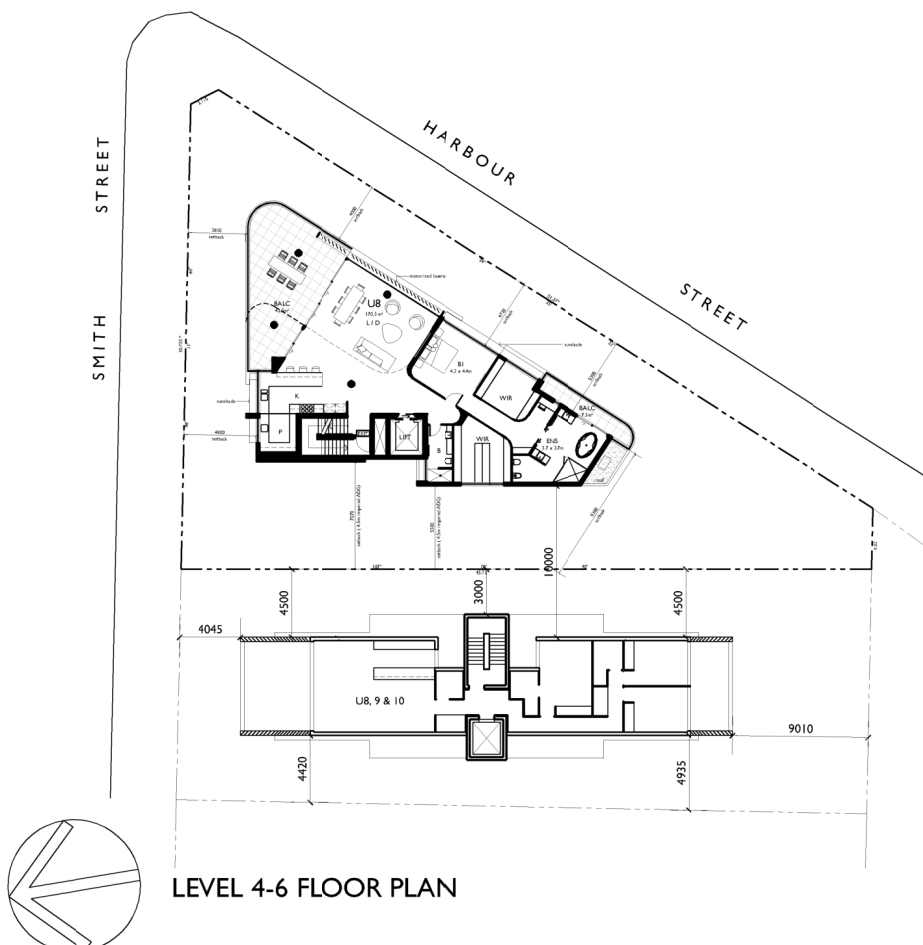
LEVEL 1-3 FLOOR PLAN



SECTION



GROUND FLOOR PLAN



LEVEL 4-6 FLOOR PLAN

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Project
 PROPOSED BOUTIQUE RESIDENTIAL APARTMENT
 BUILDING OVER BASEMENT CARPARK
 At
 1 SMITH STREET
 WOLLONGONG
 For
 HARBOUR SMITH MANAGEMENT PTY. LTD.

Title
 DEVELOPMENT APPLICATION
 3 SMITH STREET POTENTIAL DEVELOPMENT

Scale 1:250 @ A1 1:500 @ A3	Date DECEMBER 2019
Drawn DP SP LGD	Checked ADM
Project No. 2016-05	Drawing No. A-801
	Issue A

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1 May 2020

General Manager
C/- Nigel Lamb
Wollongong City Council
Locked Bag 8821
WOLLONGONG DC NSW 2500

Via email: CS.Planning.Applications@wollongong.nsw.gov.au

Attention: Nigel Lamb

Dear Nigel,

**RE: ADDITIONAL INFORMATION DA-2019/1008 – POST WLPP MEETING RESPONSE
PROPOSED RESIDENTIAL FLAT BUILDING AT 1 SMITH STREET, WOLLONGONG**

I refer to the Wollongong Local Planning Panel's (WLPPs) determination dated 7th April 2020 for DA-2019/1008 for the aforementioned development.

The WLPP determined to defer the development application for various reason – primarily due to the nature of the Council assessment report presented; to provide clarification on particular development assessment matters; and also subject to modifications requested to the upper penthouse levels of the development. The project team have reviewed these reasons for the decision by WLPP and ADM Architects have revised the architectural drawings to reflect the advice from the Panel.

The following provides a summary of the Project Team's response and amendments made, as well as supplementary information for this DA. Comparison plans for Levels 5-7 have also been prepared to identify the recessive and reduced footprint of the upper levels, as intended by the Panel's requests.

Specific responses to the Panel's reasons for deferral are outlined below:



- *The officer's report does not make a clear recommendation either for approval or refusal. The Panel notes that although reasons for refusal are provided, the assessment and commentary throughout the report does not entirely support these reasons.*

Comment:

The Project Team's view is for favourable consideration and determination of this DA and we agree that the assessment and commentary throughout the Council Officer's report indicates that the development can and should be approved. It is our opinion that the nature and type of the limited reasons raised previously by Council as 'concerns' do not actually warrant reasons for refusal of the entire application.

- *The Panel acknowledges the concerns raised by submitters in relation to the height of the building, the character of the locality and nearby heritage items. It is also noted that reference was made to the adjacent "special area" identified in the Wollongong DCP 2009. For the sake of clarity, the Panel notes that this is not a Heritage Conservation Area under the Wollongong LEP 2009 and that the site itself is not identified as a heritage item.*

Comment:

The Project Team agrees with the Panel's view and note that the site is not identified as a Heritage Item under Clause 5.10 in Wollongong LEP 2009, nor is it located in a Heritage Conservation Area. We additionally agree that the adjacent "special area" identified in Part 7, Chapter D13 of Wollongong Development Control Plan 2009 is also not a Heritage Conservation Area. This has been confirmed in accordance with specialist advice from our own project Heritage Experts (Heritage 21 and Austral Archaeology), and detailed in their respective studies/reports prepared as part of this application..

- *As described by the applicant, the design has been the subject of numerous iterations in response to the Design Review Panel and Council Planning staff comments and recommendations. The applicant claims that the current design is consistent with the advice provided by the Design Review Panel.*

Comment:

The Design Review Panel (DRP) have reviewed this proposal pre and post DA lodgement. The most recent panel meeting held on 10th October 2019 in principle supports the proposed development from an urban design and design excellence



perspective. The DRP acknowledged that the context has been well described in the documentation that was presented and the proposal demonstrates a deep understanding of the site's development potential, especially in terms of design strategy and coastal outlook. The DRP advised that whilst the building is robustly expressed with an interesting composition and material palette, minor modifications were previously recommended primarily around the following:

- improved amenity associated with vehicular and pedestrian
- access
- removal of protruding massing on level 5 and 6
- reduction of level 7 roof
- spandrels to level 5
- review of entry arrangements
- introduction of large trees

The panel stated that the building is very well composed and expressed, however, improvements to the landscape, palette and character were requested. A number of changes were made to reflect this commentary and recommendations made by the DRP, all of which are considered consistent with their advice.

- *Notwithstanding that a lower scale building would fit more comfortably in the existing streetscape, in this case the LEP set a maximum height and FSR which establishes a building envelope for the site.*

Comment:

The Wollongong Local Environmental Plan 2009 sets a maximum height of 24 and the maximum FSR of 1.5:1. The proposed changes to the building continue to achieve compliance with the maximum building height and FSR controls in the LEP, with a proposed building height of 23.95m and a proposed FSR of 1.46:1. Thus, the proposed development is consistent with the available building envelope for this site.

- *The Panel acknowledges the use of brick elements to create a five storey podium which is comparable to the height limit of the majority of Harbour Street. The design as presented does not achieve the design principle of creating a podium at the fifth level. To achieve this the three levels that comprise the penthouse need to be reduced in bulk and solidity, so the building above the podium is a much smaller and lighter element. It*



is the Panel's view that the upper levels need to be further set in from all boundaries and the materiality be lightened.

The Panel's advice regarding the creation of a more defined podium at the fifth level has been taken on board, with the following design changes made:

1. An increase to the setback of the penthouse levels along the west boundary by 500mm;
2. An increased to the setback the penthouse levels along the east boundary by 600mm;
3. The above setback increases have provided a visual recedence to the penthouse form above Level 5 and decreased its overall footprint by some 11.9sqm; resulting in an overall reduced GFA of 1.46:1 (NB: The penthouse is already well setback from the south and northern sides)
4. Removal of the concrete roof top terrace awning; and
5. Change the materiality of the upper levels to a darker matt Colorbond finish to "recede" its visual appearance; and
6. Further articulation the west elevation including softening the south west edge with curved brickwork.

For clarity, Comparison Plans for Levels 5-7 have also been prepared to identify the reduced footprint of the upper levels and changes that have been made pre and post the LPP meeting. The changes are also quite visible in the ADM Architects isometrics.

In terms of the colour, ADM Architects advise that the 3D modelling demonstrates that the previous white balconies and lighter concrete colours were more visible than the proposed darker colours. This is based on the principle of colour reflection (i.e. if you want an object to disappear then black, which absorbs light, is much harder to see than white which reflects the light). Viewing the building from Flagstaff Hill for example, one would more readily see a white surface than a black surface against the escarpment backdrop.

Furthermore, the specification of the material is a Colorbond matt surface, not reflective. Interestingly, a team, from Monash University in Australia (ABC News article Aug 2013) scrutinised police data on 850,000 accidents for information on the car, the time of day and the type of accident. The 20-year study revealed "black cars to be the



most dangerous – and white, gold and yellow to be the safest. The reason lies not in who is behind the wheel, but in the visibility of their vehicle, say the researchers. Black, grey, silver, red and blue fail to stand out against the background of the road, scenery and other traffic”. Therefore, if the panels intention is to “recede” the upper levels, then darker colours would be best over lighter ones.

- *As agreed by the architect the southern and western elevations should also be further articulated and detailed.*

Further articulation has been included in the west elevation including softening the south west edge with curved brickwork. The introduction of additional materials in the southern and eastern elevations and colours to recede the upper levels also provide further articulation to improve the design aesthetics.

We trust this information satisfactorily addresses the WLPPs reason for deferral, and that approval can now be forthcoming for the proposed DA through a subsequent Panel meeting. Please feel free to contact the undersigned should further information and/or discussion be required.

Yours faithfully,

MARTIN MORRIS & JONES PTY LTD

A handwritten signature in blue ink, appearing to read 'L. Rollinson', with a stylized flourish at the end.

LUKE ROLLINSON BUrbRegPlan DipArchTech MPIA
DIRECTOR – TOWN PLANNER



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EXCEPTION TO DEVELOPMENT STANDARD VARIATION STATEMENT

Site Width – Wollongong LEP 2009

Address: 1 Smith Street, Wollongong (SP 3294)
Proposal: Proposed New Residential Flat Building (6 Units)
Date: September 2019

1 Introduction

The purpose of this variation statement is to outline the justification for seeking an exception to the site width (being a development standard) contained within the *Wollongong Local Environmental Plan (WLEP) 2009*. This variation statement has been prepared in consideration of Clause 4.6 and Clause 7.14 (Minimum Site Width) in *WLEP 2009* and the NSW Department of Planning, Infrastructure and Environment's (DPIE) *"Varying development standards: a guide"* (August 2011).

The advice herein relates to an application for the proposed demolition of existing buildings/structures and construction of a new eight (8) storey residential flat building (RFB) at 1 Smith Street, Wollongong (the site). The site is legally referred to as SP 3294. The property is a corner site with 2 x street frontages (to both Smith Street and Harbour Street), which is irregular in shape and composition.

The Development Application seeks consent to undertake the following works:

- Demolition of all existing buildings/structures (2 x blocks of units);
- Excavation to accommodate a two (2) level basement;
- Construction of a new eight (8) storey RFB containing six (6) residential apartments. The building is to be an exclusive boutique complex, offering one unit per level with a 3-level penthouse atop;

- Basement parking for thirteen (13) cars (11 x resident and 2 x visitor), with additional bike and motorbike parking; and
- Associated landscaping and stormwater drainage.

The details of this proposal are shown within the development drawings prepared by ADM Architects (attached to the application).

The proposed development application seeks to provide an appropriate and balanced development/environmental outcome for the subject site, and the Wollongong City Centre. In doing so, an exception to a development standard contained within *Wollongong Local Environmental Plan (LEP) 2009* is requested. In this regard, the proposed development generally accords with all *LEP* controls, apart from a numerical variation being requested to the minimum 24 metre site width development standard contained within *Clause 7.14 Minimum site width*. The subject site is a corner property, with both street frontages exceeding 24 metres in site width. However, given the irregular shape of the site, part of the development will occur on portions of the land that are technically below 24 metres in site width. Hence the purpose of this statement.

The request is in writing to address the relevant provisions within *Clause 4.6*, to demonstrate that strict compliance with the development standard is unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the proposed variation sought.

This statement has been prepared in accordance with the NSW Department of Planning Infrastructure (DPI) guideline “*Varying Development Standards: A Guide*” dated August 2011. Applications to vary development standards should also address the ‘five-part test’ established by the NSW Land and Environment Court (LEC) to determine whether the objection is well founded. An assessment of this applicant against the ‘five-part test’ is included in this statement.

The commentary provided herein outlines the development standard variation being proposed, which should be read in conjunction with the Statement of Environmental Effects and other documentation submitted to Council in support of the application.

Accordingly, the information below addresses the afore-mentioned requirements.

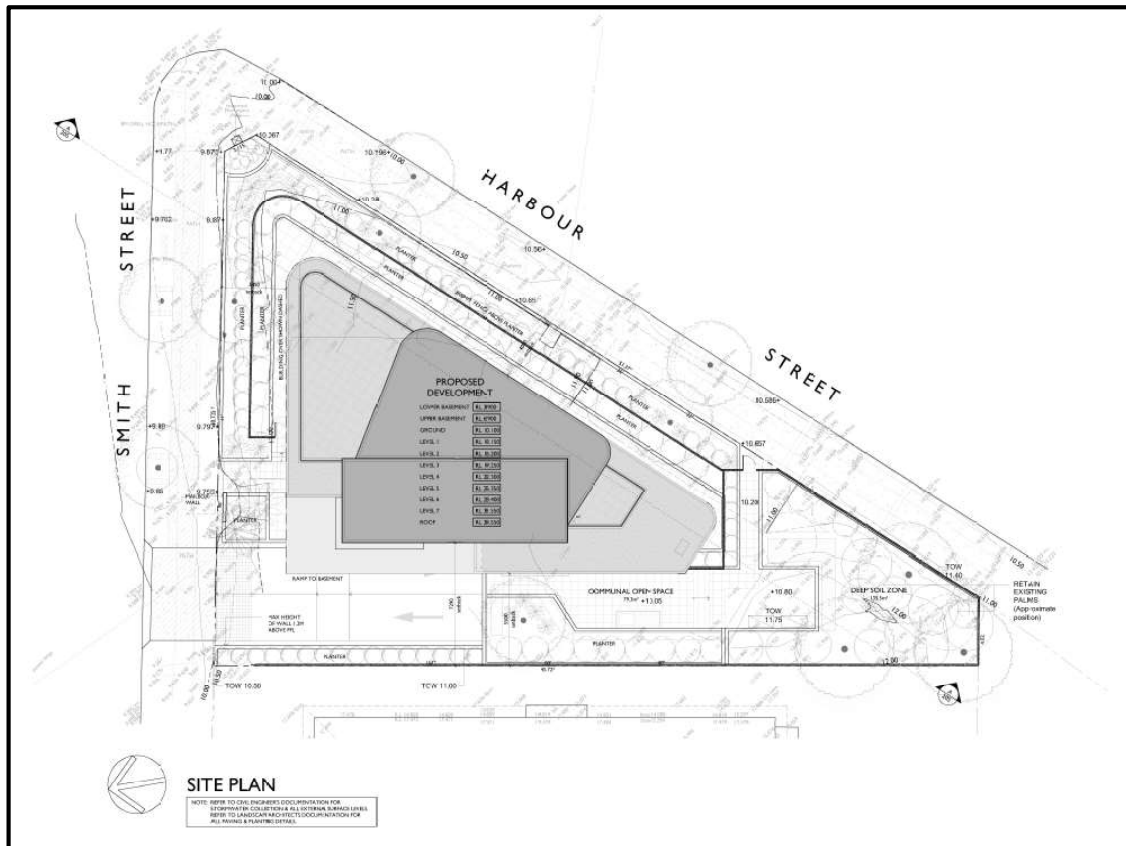


Figure 1: Proposed Site Plan (*Source: ADM Architects)

2 Overview of Clause 4.6

Clause 4.6 provides a framework for varying the applicable development standards under a Local Environmental Plan (LEP).

The objectives of this clause are as follows:-

- (a) to provide an appropriate degree of flexibility in applying particular development standards to particular development;
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Sub Clauses (3)(a) and (3)(b) state that development consent must not be granted unless the consent authority has considered a written request from the applicant that seeks to justify the contravention by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Furthermore sub *Clause 4(a)(i)* and *(ii)* provide that development consent must not be granted unless:-

- (a) the consent authority is satisfied that:

 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
- (b) the concurrence of the secretary has been obtained.*

In deciding whether concurrence is to be granted or assumed, the following considerations are relevant:-

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

3 Details of the environmental planning instrument, the applicable development standard and proposed variation.

3.1 What is the applicable environmental planning instrument (EPI)?

Wollongong Local Environmental Plan (WLEP) 2009.

3.2 What is the zoning of the land?

The site is zoned R1 General Residential under the WLEP 2009, as shown in the extract from the Land Zoning Map in *Figure 2* below.



Figure 2: Extract of the WLEP 2009 Zoning Map (*Source: IntraMaps)

3.3 What are the objectives of the zone?

Residential flat buildings are permitted with development consent and are consistent with the objectives of the zone, as detailed in the table below.

R1 Zone Objectives	Comment
<ul style="list-style-type: none"> To provide for the housing needs of the community. 	The proposed development will provide additional housing supply (i.e. six (6) new residential apartments) to meet the needs of the community.
<ul style="list-style-type: none"> To provide for a variety of housing types and densities. 	The proposed residential flat building provides an increased density and the single level apartments will provide an exclusive option in this sought-after location. The form and density of development is appropriate in the R1 General Residential zone.

<ul style="list-style-type: none"> • To enable other land uses that provide facilities or services to meet the day-to-day needs of residents 	<p>This objective is not applicable to the proposal, however the development does not compromise the achievement of this objective on nearby and/or surrounding land.</p>
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3.4 What is the development standard being varied?

The minimum site width dimension of 24m for residential flat buildings contained in Clause 7.14 Minimum site width is stated as:

(2) Development consent must not be granted for development for the purposes of a residential flat building unless the site area on which the development is to be carried out has a dimension of at least 24 metres.

As aforementioned, the subject site is a corner property, with both street frontages exceeding 24 metres in site width. However, given the irregular shape of the site, part of the development will occur on portions of the land that are technically below 24 metres in site width.

3.5 What are the objectives of the standard?

There are no stated objectives for Clause 7.14 under the *LEP*, however, the objectives stated in *Section 6.2* of the *Wollongong Development Control Plan 2009 (WDCP 2009) - Chapter B1* in relation to minimum site width are considered most relevant in this instance, and provide for the following:

- a) To allow for development of sites, which are of sufficient width to accommodate the required building envelope, car parking and landscaping requirements.*
- b) To promote the efficient utilisation of land.*
- c) To encourage amalgamation of allotments to provide for improved design outcomes including greater solar access and amenity.*

3.6 What is the numeric value of the development standard in the environmental planning instrument?

Clause 7.14(2) requires a minimum site width of 24 metres.

**3.7 How do the existing and proposed numeric values relate to the development standard?
What is the percentage variation (between the proposal and the environmental planning instrument)?**

Minimum Site Width				
Smith Street Frontage (primary)				
Current Site Width	Minimum Site Width required under WLEP2009	Proposed Minimum Site Width	Area of site/building envelope below 24m site width	Percentage variation
Variable - 31.56m (northern building extent 12.94m (southern building extent))	24m	Variable - 29.6m (northern building extent) and 13.7m (southern building extent)	305.7m ² of the total site area of 708.7m ²	43% (percentage against site width dimension and site area)
<p><i>*N.B WLEP2009 does not provide a definition of Minimum Site Width, however the DCP advises that the site width should be measured at the location of the building extent perpendicular to the boundary. For the purpose of this assessment we have applied this interpretation to the primary street frontage, being Smith Street. Notwithstanding, it should be noted in due consideration of this site width clause and criteria that the subject site also presents a street frontage to Harbour Street in excess of 24 metres.</i></p>				

4 Assessment of Proposed Variation

4.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Yes, compliance with the development standard is unreasonable in the circumstances, due to:

- The building potential is already limited by the shape of the allotment. Adopting the site width would mean a large part of the subject site would be excluded from any built form. Logically, restricting the built form allowable on the site is completely impractical for a site of this size and in an area requiring additional housing and, therefore, totally unreasonable to consider in this instance.
- The proposed variation sought only relates to part of the site, with the other part exceeding the minimum 24 metres site width requirement.

- The proposed new 8 x storey RFB will replace two (2) existing unit blocks (that are already Strata titled), effectively continuing the multiple residential occupation of the land (replacing old units with new units). Effectively the land use relationship between the number of units pre and post construction will be similar.
- This unique site is not technically defined as an “isolated lot” as per Wollongong DCP 2009. Several approaches have been made to the adjoining landowner at 3 Smith Street with offers to purchase the land, however they have not been successful (refer to SEE Report Appendix 3). In addition to this, 3 Smith Street contains multiple dwellings in a single residential unit block. The redevelopment opportunities through amalgamation are limited at present given the existing development and unsuccessful purchase approaches.
- Strict application and compliance with the control would effectively prohibit a residential flat building development being undertaken on the subject site, despite it being a permitted form of development within the R1 General Residential zone and despite other development standards in place promoting higher density outcomes at this location.
- The reduced site width does not result in any undue privacy or overlooking impacts to adjoining properties, by virtue of the proposed architectural interface treatment to these edges (restricted window treatments and dwelling orientations to these boundaries, etc.).
- The proposed development provides a boutique high quality design that is compliant with State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Apartment Development and the *Apartment Design Guide*. A Design Verification Statement and ADG Compliance Assessment prepared by ADM Architects is included with the Development Application.
- Whilst the proposed numerical and percentage variation not necessarily minor, the proposed development in the context of the overall development will not result in any adverse environmental or planning implications. Again, this variation only applies to a portion of the building as it sits upon the land. In considering this,

when viewed from Harbour Street, that portion of building on the land is technically within the 24 metres site width.

- The afore-mentioned development standard requires strict compliance across the whole of the site (generally making allowance for traditional land parcels) and does not make any allowances for irregular shapes lots such as this.

Thus, deeming strict compliance with the minimum site width is unwarranted in the circumstances of this particular case.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes, there are sufficient environmental planning grounds in the circumstances of the case to justify contravening the development standard. These include:

- The building form is triangular in shape and is a direct response to the shape of the site.
- The development is a boutique residential flat building with a unique offering of single level 3-bedroom apartments and a three level 3 bedroom penthouse. The proposed development is generally compliant with SEPP 65 and ADG requirements as outlined in the SEPP Design Report prepared by ADM Architects.
- The proposed development resulting from this variation will result in no unacceptable adverse environmental impacts.
- The proposed development complies with the objectives of the R1 zone in this location.
- The layout and built form of the proposed development is contemporary in character and has been designed to reflect the amenity of the area. The redevelopment of the site will make a positive contribution to the locality through the replacement of aged/inefficient building structures with a new contemporary and sustainability designed product.

- The development has been specifically designed to provide a suitable environment for all future inhabitants of the dwellings, whilst respecting the considerations of adjoining land uses.
- Acoustic privacy for future visitors and neighbouring land uses has been taken into account, with the proposed development being designed to limit noise intrusion into adjoining properties through the use of appropriate building materials and associated landscaping noise control treatments. This is shown in the layout of the floor plans and orientation of both windows and private open space balconies throughout.
- The proposal satisfies the objectives and development controls in relation to minimum site width contained within Clause 6.2 Minimum Site Width Requirement of Chapter B1 of the DCP, as the site in itself is of sufficient size to accommodate the required building envelopes, parking and landscaping requirements. Section 6.2 of Chapter B1 of the DCP states that the 24 metre site width requirement can be varied for irregular shaped lots or where the development meets the intent of setbacks, private open space, visual amenity, solar access, built form and landscaping development controls. The proposed development satisfies the intent of all of the above-mentioned DCP development controls.
- Council are seeking to encourage higher density housing and living in the locality and this form of development is identified in the desired future character statement for Wollongong in Chapter D1, in particular, the design principle to “ensure high quality design of buildings and public areas”.
- The Illawarra Shoalhaven Regional Plan identifies the need for 14,600 additional new homes within the Wollongong LGA by 2036. The proposed development would directly contribute to this target and provide housing to meet the needs of the community.
- The development as proposed will allow for the orderly and economic use of the subject land.

Overall, it is evident from the above commentary if there are sufficient planning grounds to justify contravening the maximum height development standard identified. To this end, strict compliance with the numerical development standards are both unwarranted and unnecessary in this instance.

4.3 Is the proposed development in the public interest because it is consistent with the underlying intent of the development standard and the objectives for development in the zone?

Yes, the proposed development is in the public interest because it is consistent with the underlying intent of *Wollongong LEP 2009* to encourage a range of housing choices consistent with the capacity of the land. The development is permissible within the R1 zone as part of a residential flat building development and meets the objectives of the zone by providing for the housing needs of the community. The capacity of the site enables the proposed development through its architectural design response and will provide an improved residential amenity outcome for the site.

4.4 Does contravening the development standard raise any matters of significance for the State or regional environmental planning?

No, contravening the development standard in this case does not raise any matters of State or Regional planning significance.

4.5 How would strict compliance hinder the attainment of the objectives specified in Section 1.3 (a) and (c) of the Act?

The objectives set down in *Section 1.3 (a)* and *(c)* are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources; and

(c) to promote the orderly and economic use and development of land.

Compliance with the standard would not hinder the attainment of the above-mentioned objectives, which aim to encourage development that promotes the social and economic welfare of the community and a better environment, and co-ordinate the orderly and economic use of land.

4.6 Is there public benefit in maintaining the development standard?

Broadly speaking, there is public benefit in maintaining the development standard across the LGA as it encourages consistency in development outcomes. However, fundamentally the development standard does not allow for circumstances where a reduced site width is required due to site constraints.

4.7 Is the objection well founded?

For the reasons outlined in the previous sections above, the objection is considered to be well founded in this particular instance. Granting an exception to the development standard can therefore be supported in the circumstances of the case.

The proposed development will be consistent with the outcomes envisaged in the zoning and policy framework. The development is also compatible with the relevant objectives specified in *Section 1.3* of the *EPAA 1979*.

5 Conclusion

The proposed variation is based on the reasons contained within this request for an exception to the *Minimum Site Width* requirement being a development standard contained within *Clause 7.14* of *Wollongong LEP 2009*. The proposal will not result in any adverse impacts with regards to the amenity of the adjoining properties.

The proposed non-compliance is unlikely to result in any future precedents given the surrounding pattern of development and the combination of zoning and other associated controls currently in place. In conclusion, the objection is considered to be well founded and compliance with the standard is unreasonable in the circumstances of the case.

Yours faithfully,

MARTIN MORRIS & JONES PTY LTD



LAUREN TURNER

B UrbRegPlan MPIA

SENIOR TOWN PLANNER



THE NATIONAL TRUST of AUSTRALIA (New South Wales)
Illawarra Shoalhaven Regional Branch

NTISB20011.1

17 June 2020

The General Manager
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Cc: Nigel Lamb, Assessing Officer (nlamb@wollongong.nsw.gov.au)
Joel Thompson, Coordinator Heritage (jthompson@wollongong.nsw.gov.au)
Carly Boag, Heritage Officer (cboag@wollongong.nsw.gov.au)

Dear Mr Doyle,

Re: Marlene Court, 1 Smith, Wollongong. Further Modifications to DA-2019/1008

The National Trust Illawarra Shoalhaven Branch has inspected documents on display relating to the further modifications to the above proposed development.

The Trust acknowledges these latest modifications are an improvement to the initial modifications for the proposed development, however the Trust continues to oppose the proposal in terms of its eight storey height, massing and lack of set-back from the boundary lines (refer our previous response, attached).

While the site of the proposed development is not located within a heritage precinct or Heritage Conservation Area, it is located adjacent to/between both the State listed Belmore Basin Heritage Conservation Area and the locally listed Market Square precinct which includes St Mary's Convent, Secondary Girl's School and Chapel. As such, the Trust continues to contest that any development on this site should consider the character of these historic precincts.

Existing Character

The Trust reminds Council that the over-riding character of these precincts is one of low-rise development and horizontal lines. The strong lines of the Norfolk Island pines along the foreshore and within the area's parks are, and should continue to be the dominant vertical architectural elements in these precincts. They provide identifiable visual cues, and are synonymous elements within most of the coastal precincts in the Illawarra.

The major view lines and vistas along the key streets (being Harbour, Smith and Hinton), across the skyline and toward the escarpment are currently uninterrupted by the existing residential flat development on the site. The uninterrupted view lines assist in reinforcing the precincts' character of low-rise development and horizontal lines. In particular, uninterrupted views along Harbour Street retain the strong visual link between the old Wollongong's centre around the Square and the historic harbour, the early lifeblood for the town.

Concerns with the Proposed Development

At eight storeys, the proposed development is not in scale with the adjacent heritage items such as St Mary's Convent and Chapel, or the wider, adjacent heritage precincts. The Trust strongly opposes the proposed development at current height of eight storeys.

The bulk and massing of the proposed development continues to present an uninterrupted solid 'podium wall' along the Harbour Street elevation in particular. The current sense of spacing between the buildings in the precinct is a risk of being lost.

While the proposed development may not negatively impact the line of site from the Flagstaff Hill Park to the Illawarra escarpment (refer View Analysis Perspective), it will severely compromise major view lines and vistas within the adjacent historic precincts, particularly from Harbour, Smith and Hinton Streets. Not only are the views along the streetscapes impacted, but the view west from Lang Park along Hinton Street will completely obscure the escarpment from the park. The Trust notes that a representation of the view west from Lang Park along Hinton Street has not been included in the photomontages presented with the development application, and recommends a photomontage from this viewpoint be prepared.

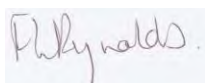
Conclusion

It is unfortunate the current height restrictions within this locality vary from anywhere between eight and 24 metres. The Trust believes a lower, unified height restriction across the whole area is required. The Wollongong City Centre Urban Design Framework, has identified a key Historic Spine Precinct, which incorporates this site and its surrounds. While the Historic Spine Precinct and its principles are still a concept, the Trust urges Council to proactively adopt the principles of a low-rise historic precinct that represents the character of 'old Wollongong', and refuse this development application as it stands.

The Trust also refers Council to our previous communication regarding infill development in the Wollongong City heritage centre, attached. Our concerns apply to this proposed development.

Please feel free to contact me on 0488 037 234 should you wish to discuss this response further.

Yours faithfully,



Fiona Reynolds

Chair

THE NATIONAL TRUST of AUSTRALIA (NSW)
Illawarra Shoalhaven Branch

Attachments:

ISB19022.1 20191030 DA-2019.1008 Marlene Court 1 Smith St Wollongong

NTISB20005.1 20200221 DA-2019.1008 Marlene Court 1 Smith St Wollongong
Modifications

NTISB20003.1 20200221 Infill Development in Wollongong City Heritage Areas

P.O. Box 1672 Wollongong NSW 2500
Tel: (02) 4272 9613 Email: nt_isb@nationaltrust.com.au

The NATIONAL TRUST is a community charity working to protect our environment and cultural heritage

Attachment 7 – Draft refusal reasons

1. Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to suitably address State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development with respect to the aims and objectives and Schedule 1 Design quality principles.
2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to achieve design excellence as required by Wollongong Local Environmental Plan 2009, clause 7.18 with respect to sustainability and visual impacts.
3. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed height and bulk of the development would adversely impact upon streetscape and adjoining special area.
4. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the site is not suitable for a building of the proposed height and bulk.
5. Pursuant to the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.