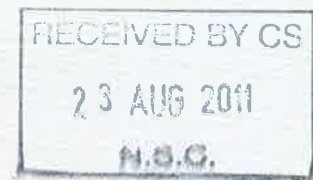




## Objection to Maximum Building Height Development Standard



### 619 Pacific Highway, St Leonards Mixed Use Development

Submitted to  
North Sydney Council  
On Behalf of Duppa Pty Ltd

April 2011 (Revised: August 2011) ■ 10767

## Contents

|     |   |    |
|-----|---|----|
| 1.0 | Introduction  | 1  |
| 1.1 | SEPP 1 Framework  | 1  |
| 1.2 | Is the Planning Control in Question a Development Standard? | 2  |
| 1.3 | What is the Underlying Object or Purpose of the Standard?   | 3  |
| 2.0 | The Objection is "Well Founded"?                            | 5  |
| 3.0 | Consistency with the Policy's Aim                           | 12 |
| 4.0 | Other Matters for Consideration                             | 13 |
| 4.1 | Matters of State or Regional Planning Significance          | 13 |
| 4.2 | Public Benefit  | 14 |
| 5.0 | Conclusion  | 15 |

## Figures

|   |  |   |
|---|--|---|
| 1 | North elevation of the proposed development showing the 49m development standard in red                  | 3 |
| 2 | Birds eye view of the existing St Leonards Centre  | 7 |
| 3 | View of the Pacific Highway streetscape<br>(the site is shown in red with the IBM building to the right) | 7 |
| 4 | View Loss Study  | 9 |

## 1.0 Introduction

This objection under State Environmental Planning Policy No.1 - Development Standards (SEPP 1) has been prepared by JBA Urban Planning Consultants Pty Ltd (JBA) on behalf of Duppa Pty Ltd. It relates to the Building Height development standard (clause 29) within the *North Sydney Local Environmental Plan 2001*.

A SEPP 1 was submitted to North Sydney Council (the Council) in April 2011 in support of a Development Application (DA) for a new mixed use development at 619 Pacific Highway, St Leonards.

In August 2011 Council's Design Excellence Panel requested the proponent consider amending the submitted DA drawings to include a fully accessible communal roof garden. Amended plans incorporating the roof garden were submitted to Council on 22 August 2011. As a consequence of providing lift access to the roof terrace the lift overrun in the centre of the building will now increase the maximum height of the building 25cm above the variation to the height control sought as part of the original SEPP 1 Objection.

It is noted that during their review of the proposal North Sydney Council's Design Excellence Panel were satisfied that the original variation to the building height development standard was appropriate in the circumstances of this case and that in light of there being no additional view loss or adverse shadow impacts, a further increase in height to incorporate the roof garden would also be acceptable. The amended design will not result in any additional view loss or adverse shadow impacts.

In light of the above, the original SEPP 1 Objection has been updated to reflect the amended design. This SEPP 1 Objection should be read in conjunction with the Statement of Environmental Effects (SEE) dated April 2011 and amended architectural drawings prepared by Marchese Partners (submitted August 2011).

### 1.1 SEPP 1 Framework

The objective of SEPP 1 is to allow flexibility in the application of numeric development standards. It enables a consent authority to vary a development standard within an environmental planning instrument (EPI) where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979 (EP&A Act).

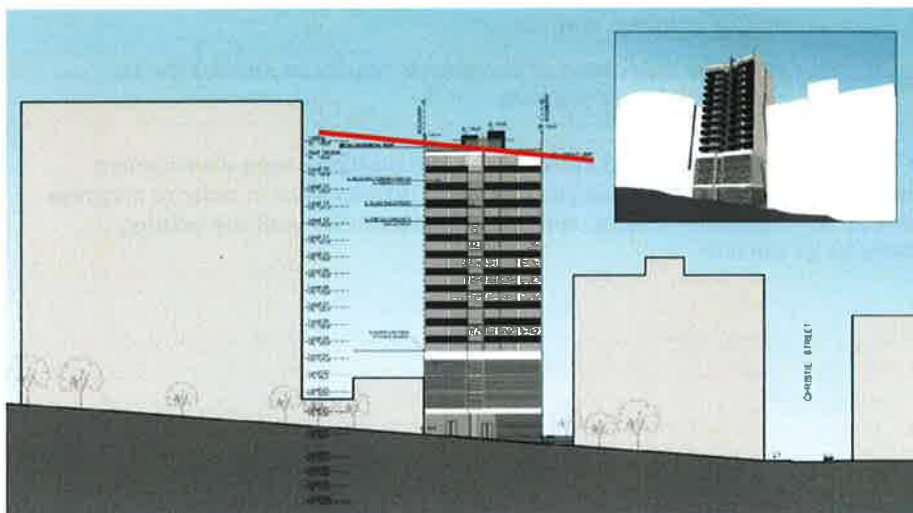
The objectives of Section 5(a) are to encourage:

- (i) *the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *the promotion and co-ordination of the orderly and economic use of and development of land;*

Clause 6 of SEPP 1 provides that a person may make a written objection demonstrating that compliance with a development standard is unreasonable or unnecessary in relation to the proposed development.

50.65m - 53.15m which is 1.65m - 4.15m more than the development standard under LEP 2001 (**Figure 1**).

It is noted that the maximum height of the building has been calculated in accordance with the LEP height definition using the highest point of the building at the top of the architectural roof feature and lift overrun. The actual height variation to the parapet of the main building is only 0m to 3.25m.



**Figure 1** – North elevation of the proposed development showing the 49m development standard in red

“Development Standards” has the following definition under Section 4(1) of the *Environmental Planning and Assessment Act (EP&A Act)*:

*development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

*(a) ...*

*(d) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work*

(our emphasis)

As this SEPP 1 objection relates to a departure from the numerical standard for the building height, it is considered that clause 29 of LEP 2001 is a development standard and not a ‘prohibition’ in respect of development.

### 1.3 What is the Underlying Object or Purpose of the Standard?

The objectives of the building height development standard as detailed in clause 29 of LEP 2001 are as follows:

*(1) Building height objectives*

*The specific objectives of the building height controls in the mixed use zone are to:*

- (a) ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones, and*
- (b) encourage an appropriate scale and density of development for each neighbourhood that is in accordance with, and promotes the character of, the neighbourhood, and*

## 2.0 The Objection is "Well Founded"?

Item 1 of the LEC SEPP 1 Matters for Consideration states that the applicant must satisfy the consent authority that "the objection is well founded" as compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. The five ways include:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Of particular relevance in this instance are ways 1 and 4. The following section demonstrates that the proposed development will achieve the objectives of the standard notwithstanding the non-compliance with the standard and the development standard has been varied in many instances with consents departing from the standard.

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard

*(a) ensure compatibility between development in the mixed use zone and adjoining residential areas and open space zones,*

The purpose of the above objective is to ensure development in the mixed use zone is compatible with the adjoining development in the residential and open space zones.

The site does not directly adjoin any open space zones or residential areas. The nearest residential uses are generally located on the upper floors of similar medium to high-rise buildings and are therefore compatible with the proposed development.

The closest residential zones are within the Lane Cove LGA to the south west across the Pacific Highway and within Willoughby LGA to the north of Chandos Street. As a result of the considerable separation between the site and these areas the proposed variation to the building height control will not have any perceivable impact or compatibility issues with these residential areas.

In terms of the proposed height, and its general compatibility with the area, the site is located on the Pacific Highway, a wide arterial road, and is part of a series of taller buildings fronting the Highway.



**Figure 2** - Birds eye view of the existing St Leonards Centre  
Source: Winten Property Group



**Figure 3** - View of the Pacific Highway streetscape  
(the site is shown in red with the IBM building to the right)





- 32-38 Atchison Street, recent approval for a 15 storey building approved at 8.3m (approximately 3 storeys) above its 40m height control (DA78/09).
- 5-11 Atchison Street, approval for a 12 storey building at 3m (approximately 1 storey) above its 40m height control (DA257/05).
- 45-49 Chandos Street, approval for a 12 storey building at 1.8m above its 33m height control (DA105/2003).
- 13-19 Atchison Street, approval for a 12 storey building at 0.9m above its 40m height control (DA87/01).

These buildings and recent approvals demonstrate that compliance with the maximum building height development standard would be unreasonable because:

- Council has in many instances granted variations to the building height control in the mixed use zone, in some instances greater than a storey. The consistent application of the building height standard in the mixed use zone has therefore been reduced/ undermined.
- The site is located in the immediate vicinity of existing building stock that exceeds their LEP 2001 nominated control of 49m (i.e. The Abode and IBM buildings).
- Whilst exceeding the 49m control, the proposal better fits within the context of the Pacific Highway streetscape including The Abode and IBM buildings and the Forum to the west.
- The amended plans (with further height increase of 0.25m) provide significant amenity benefits to occupants in terms of a communal roof top space, without privacy, overshadowing or view impacts.



## 4.0 Other Matters for Consideration

Item 3 of the LEC SEPP 1 Matters for Consideration states that it is also important to consider:

- (a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The matters are addressed in detail below.

### 4.1 Matters of State or Regional Planning Significance

The proposed variation to the building height development standard is not inconsistent with any State planning policies or Ministerial directives.

North Sydney LEP was prepared in 2001, since that time there has been significant strategic planning undertaken at the State level, which set substantial dwelling targets for the North Sydney LGA including St Leonards. Consequently North Sydney's building height control does not optimally accommodate the need for greater density around the St Leonards centre.

The Metropolitan Plan for Sydney 2036, Inner North Sydney Subregional Strategy (INSS) and St Leonards Strategy seek to bring jobs closer to home creating more compact communities. The INSS targeted St Leonards for increasing residential densities in the area close to the train station where the subject site is located. In particular the St Leonards Strategy highlighted the ability of the subject site's precinct to accommodate mixed use developments with residential on the upper levels. A greater density of mixed use development on the site would meet the objectives of the Metro Plan, INSS and St Leonards Strategy.

Allowing for more homes in the Centre would assist in creating a more vibrant area. This would increase night time activity, passive surveillance and in turn safety of the area. There also are economic benefits from increased patronage of local businesses and the close proximity of the railway station and bus services would increase patronage of sustainable transport.

In particular the serviced apartments will provide ongoing economic and social support of the St Leonards centre. It is understood that IBM currently lease approximately 50 serviced apartments in the St Leonards area to provide housing for its transient staff and visitors to the company. Providing serviced apartments in close proximity to the Centre will assist in providing the commercial attractors which draw high profile commercial tenants like IBM to St Leonards instead of the Sydney CBD or North Sydney, thereby supporting the commercial function of the centre and attainment of strategic planning objectives and targets.

## 5.0 Conclusion

This SEPP 1 Objection demonstrates that Council and the Joint Regional Planning Panel can be satisfied that the proposed variation to the building height development standard is justified as:

- it is 'well founded' because the objectives of the standard are achieved notwithstanding non-compliance with the standard and the standard has already been varied in many instances by Council;
- strict application of the standard would be unreasonable and unnecessary in the circumstances;
- the variation will not result in any adverse impacts on amenity of surrounding development or within the proposed development;
- it is compatible with and promotes the desired future character of St Leonards;
- the urban context of St Leonards is capable of accommodating additional height on the site; and
- it will assist in achieving strategic planning goals for the site.

It is therefore requested that the Joint Regional Planning Panel grant development consent for the proposed development.

DEVELOPMENT APPLICATION  
MIXED USE DEVELOPMENT - RESIDENTIAL & COMMERCIAL  
619 PACIFIC HWY  
ST LEONARDS, NSW 2065

DRAWING LIST

| DWG NO.     | DRAWING                            | SCALE       | REVISION |
|-------------|------------------------------------|-------------|----------|
| <b>1.00</b> | <b>GENERAL</b>                     |             |          |
| DA1.00      | COVER SHEET                        | -           | B        |
| DA1.01      | SURVEY PLAN                        | NTS         | -        |
| DA1.02      | SITE PLAN                          | 1:400 @ A3  | B        |
| DA1.03      | SITE ANALYSIS                      | 1:400 @ A3  | A        |
| <b>2.00</b> | <b>FLOOR PLANS</b>                 |             |          |
| DA2.00      | LEVEL B2-B4 (CAR-STACKER PIT)      | 1:200 @ A3  | B        |
| DA2.01      | LEVEL B1                           | 1:200 @ A3  | B        |
| DA2.02      | LEVEL GROUND                       | 1:200 @ A3  | B        |
| DA2.03      | LEVEL 01                           | 1:200 @ A3  | B        |
| DA2.04      | LEVEL 02-03                        | 1:200 @ A3  | B        |
| DA2.05      | LEVEL 04                           | 1:200 @ A3  | B        |
| DA2.06      | LEVEL 05-09                        | 1:200 @ A3  | B        |
| DA2.07      | LEVEL 10-15                        | 1:200 @ A3  | B        |
| DA2.08      | LEVEL ROOF                         | 1:200 @ A3  | B        |
| DA2.09      | TOP ROOF                           | 1:200 @ A3  | B        |
| <b>3.00</b> | <b>ELEVATIONS</b>                  |             |          |
| DA3.00      | ELEVATION SOUTH                    | 1:400 @ A3  | B        |
| DA3.01      | ELEVATION NORTH                    | 1:400 @ A3  | B        |
| DA3.02      | ELEVATION EAST                     | 1:400 @ A3  | B        |
| DA3.03      | ELEVATION WEST                     | 1:400 @ A3  | B        |
| <b>4.00</b> | <b>SECTION</b>                     |             |          |
| DA4.00      | SECTION A-A                        | 1:400 @ A3  | B        |
| <b>5.00</b> | <b>SHADOW STUDIES</b>              |             |          |
| DA5.00      | SHADOW STUDY - MID-WINTER          | 1:5000 @ A3 | A        |
| DA5.01      | SHADOW STUDY - EQUINOX             | 1:5000 @ A3 | A        |
| <b>7.00</b> | <b>FINISHES AND MATERIAL BOARD</b> |             |          |
| DA7.00      | NORTH/SOUTH ELEVATION              | 1:400 @ A3  | A        |
| DA7.01      | CONCEPT DESIGN - 621 PACIFIC       | 1:400 @ A3  | A        |

CONSULTANT LIST

| DISCIPLINE                   | COMPANY                     | CONTACT                         |
|------------------------------|-----------------------------|---------------------------------|
| Client                       | Ron Winestock, DUPPA P/L    | Ron Winestock                   |
| Architect                    | Marchese Partners           | Paolo Salotto/Robert Jurukovski |
| Town Planner                 | JBA Planners                | Micheal Rowe/Claire Swan        |
| Erosion and Sediment Control | ITM Design                  | Markus Lachele                  |
| Traffic Planner              | TTPA                        | Ross Nettle                     |
| Geotechnical Engineer        | EIS                         | Brendan Page                    |
| Disabled Access              | BCA Logic                   | Warwick Hunter                  |
| Photomontage                 | AIMCO                       | John Zang                       |
| Basix                        | AGA                         | Anthony Gaskell                 |
| Acoustic                     | Sebastian Giglio            | Sebastian Giglio                |
| Wind                         | Windtech                    | Trong Thien                     |
| Waste Management             | Elephantfoot                | Eddie Saidi                     |
| BCA Consultant               | MBC                         | Sean Moore                      |
| Model Maker                  | Sydney Architectural Models | John Ji                         |
| Quantity Surveyor            | BMT & Assoc.                | Doug Martin                     |



DEVELOPMENT SUMMARY

|                    |                      |        |
|--------------------|----------------------|--------|
| UNIT MIX           |                      |        |
| TYPE               | QUANTITY             | MIX    |
| STUDIO             | 15                   | 21.7%  |
| 1 Bed              | 30                   | 43.5%  |
| 2 Bed              | 24                   | 34.8%  |
| Total              | 69                   | 100.0% |
| GENERAL            |                      |        |
| EXISTING SITE AREA | 480.0m <sup>2</sup>  |        |
| COMMERCIAL AREA    | 1487.0m <sup>2</sup> |        |
| COMMERCIAL FSR     | 3.1:1                |        |

CARPARKING

|                |          |
|----------------|----------|
| LEVEL          | QUANTITY |
| Basement 01    | 1        |
| Basement 02-04 | 42       |
| Total          | 43       |

SOLAR ACCESS

91.3% of residential and service apartment units receive 2 hours minimum direct sunlight in living spaces.  
According to SEPP65, in dense, urban areas a minimum of 2 hours is acceptable.

NATURAL VENTILATION

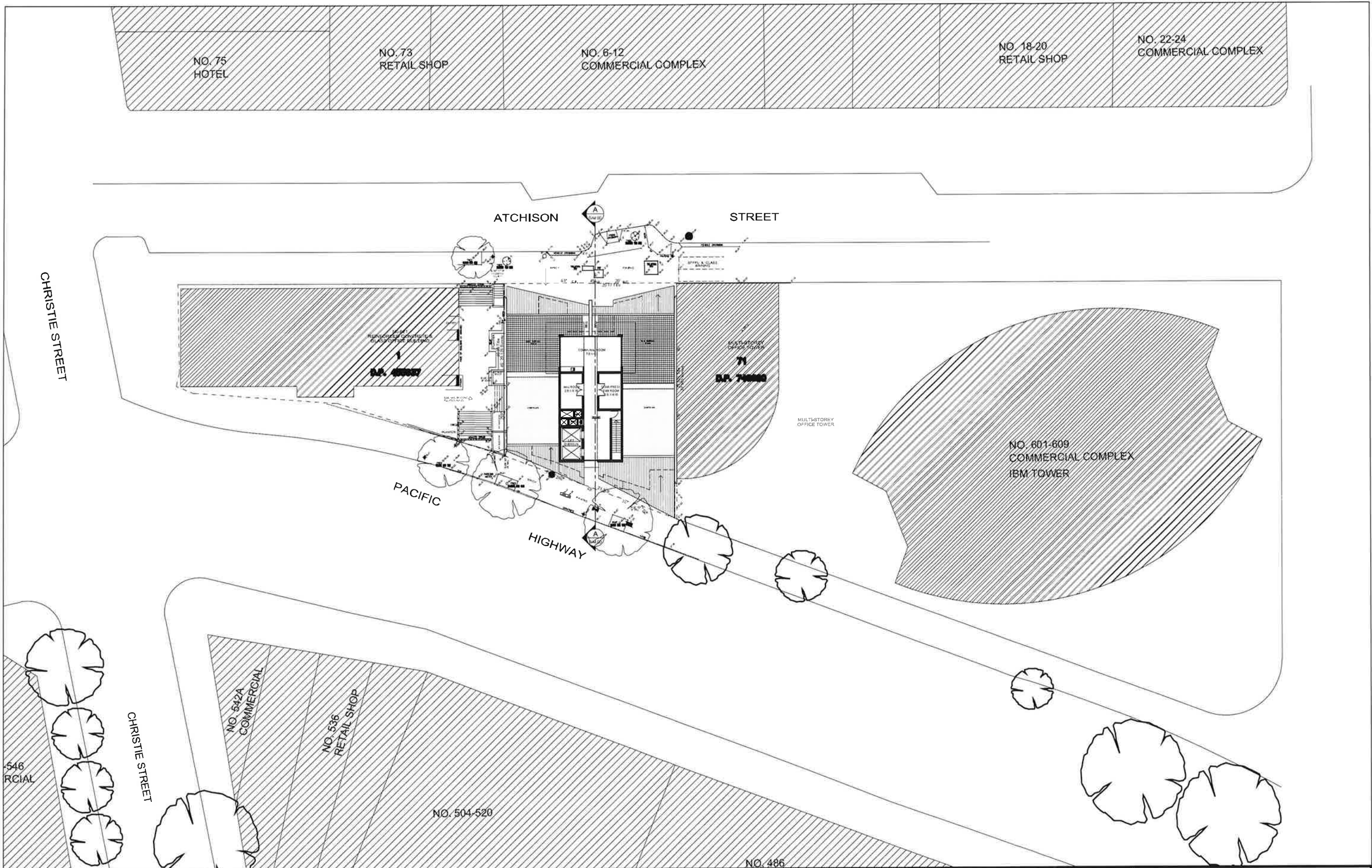
50% of the residential units receive natural cross ventilation through dual aspect units layouts, and 50% receive passive natural ventilation through single aspect layout

|                        |          |                    |           |       |       |       |
|------------------------|----------|--------------------|-----------|-------|-------|-------|
| SITE AREA              |          | 480.0 sqm          |           |       |       |       |
|                        | GFA      |                    | Studio    | 1B    | 2B    | total |
| 1                      | LEVEL 00 | Revoler            | 348.0 sqm |       |       |       |
| 2                      | LEVEL 01 | Service Apartments | 390.0 sqm | 5     | 2     | 7     |
| 3                      | LEVEL 02 | Service Apartments | 390.0 sqm | 5     | 2     | 7     |
| 4                      | LEVEL 03 | Service Apartments | 390.0 sqm | 5     | 2     | 7     |
| 5                      | LEVEL 04 | Residential        | 390.0 sqm |       | 2     | 2     |
| 6                      | LEVEL 05 | Residential        | 390.0 sqm |       | 2     | 2     |
| 7                      | LEVEL 06 | Residential        | 390.0 sqm |       | 2     | 2     |
| 8                      | LEVEL 07 | Residential        | 390.0 sqm |       | 2     | 2     |
| 9                      | LEVEL 08 | Residential        | 390.0 sqm |       | 2     | 2     |
| 10                     | LEVEL 09 | Residential        | 390.0 sqm |       | 2     | 2     |
| 11                     | LEVEL 10 | Residential        | 390.0 sqm |       | 2     | 2     |
| 12                     | LEVEL 11 | Residential        | 390.0 sqm |       | 2     | 2     |
| 13                     | LEVEL 12 | Residential        | 390.0 sqm |       | 2     | 2     |
| 14                     | LEVEL 13 | Residential        | 390.0 sqm |       | 2     | 2     |
| 15                     | LEVEL 14 | Residential        | 390.0 sqm |       | 2     | 2     |
| 16                     | LEVEL 15 | Residential        | 390.0 sqm |       | 2     | 2     |
| 6448.0 sqm             |          |                    | 15        | 30    | 24    | 69    |
|                        |          |                    | Studio    | 1B    | 2B    | total |
|                        |          |                    | 0.217     | 0.435 | 0.348 |       |
| Service Apartments GFA |          | 1487.0 sqm         | 3.1       | 1     |       |       |
| Residential Apart. GFA |          | 3090.0 sqm         | 0.25      | 1     |       |       |

|   |          |          |                         |      |  |   |  |                             |      |               |         |
|---|----------|----------|-------------------------|------|--|---|--|-----------------------------|------|---------------|---------|
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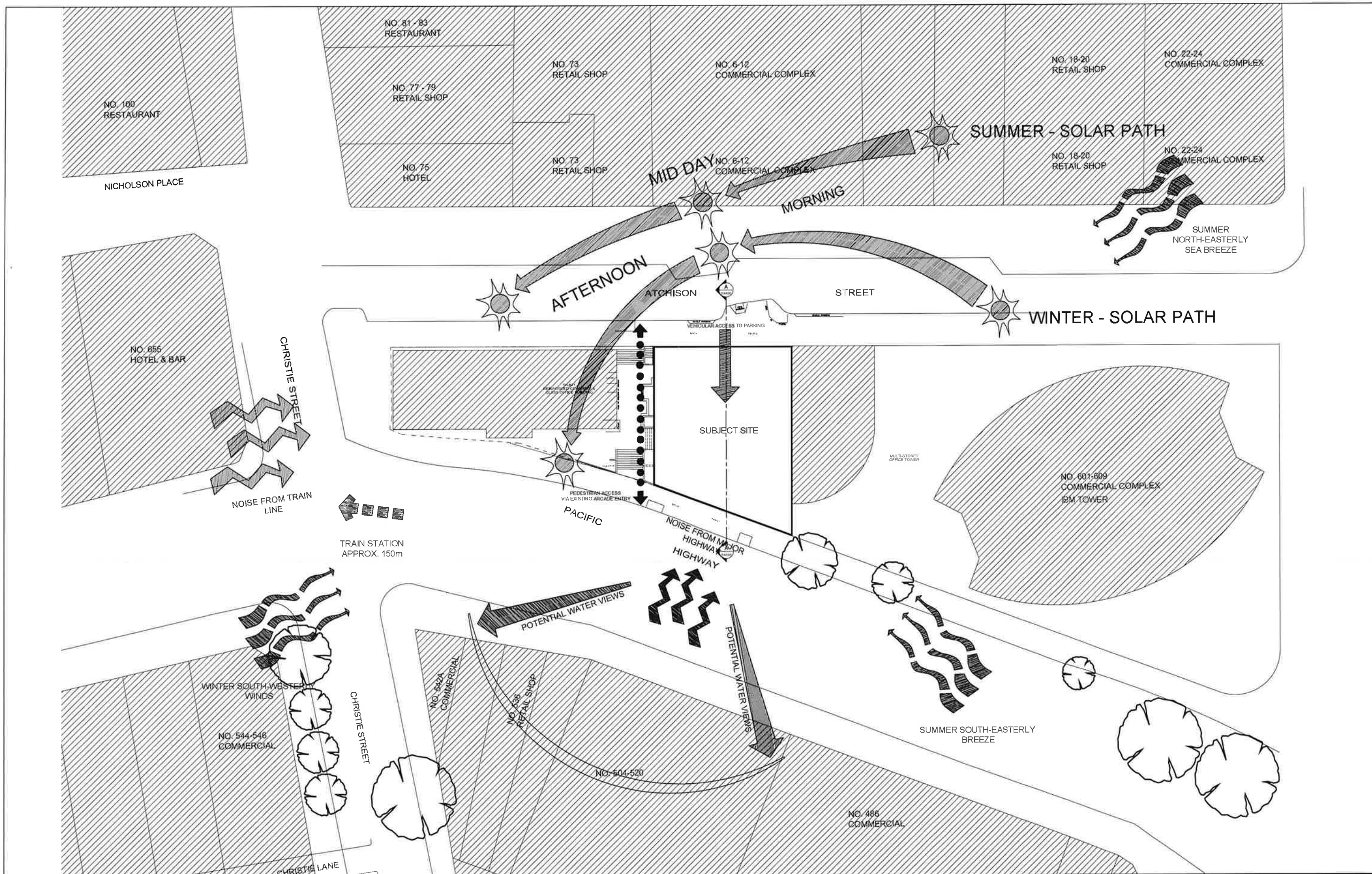






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|  | <div>PROJECT</div> <div>619 PACIFIC HWY<br/>ST LEONARDS</div>                   | <div>SCALE</div> <div>1:400 @ A3</div>  | <div>DATE</div> <div>11/03/2011</div>  | <div>DRAWN</div> <div>YC</div>                           | <div>CHECKED</div> <div>PS/RJ</div>                    |
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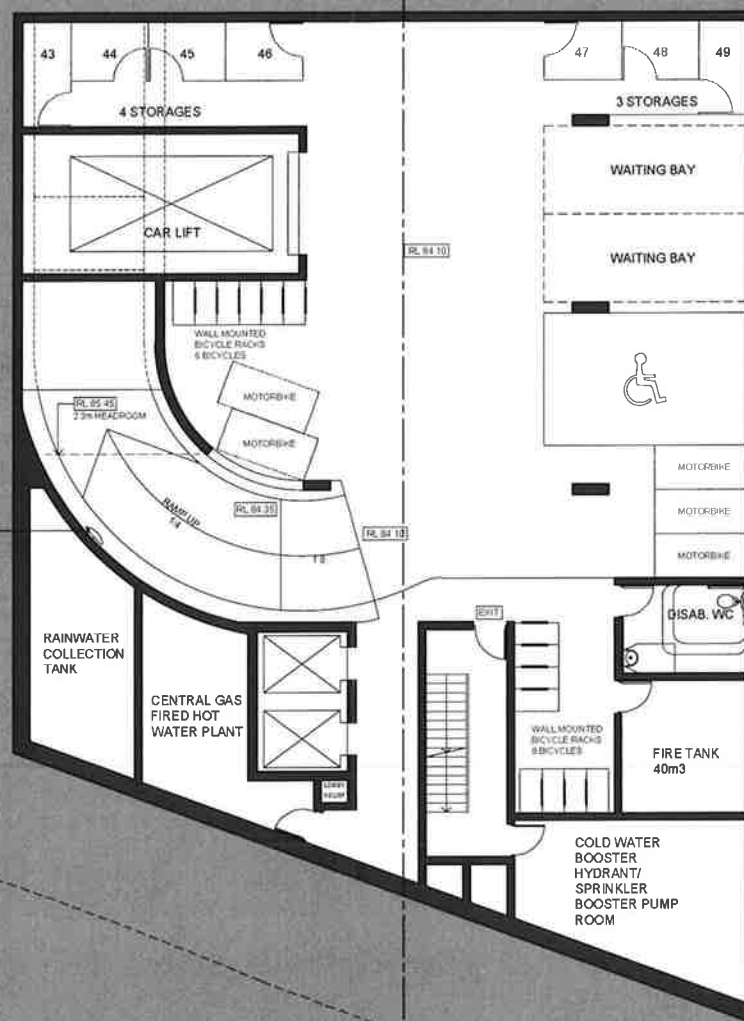


ATCHISON

STREET

PACIFIC

HIGHWAY



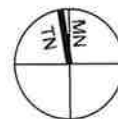
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| B        | 04 08 11 | BASEMENT 1 REVISED   | RJ   |

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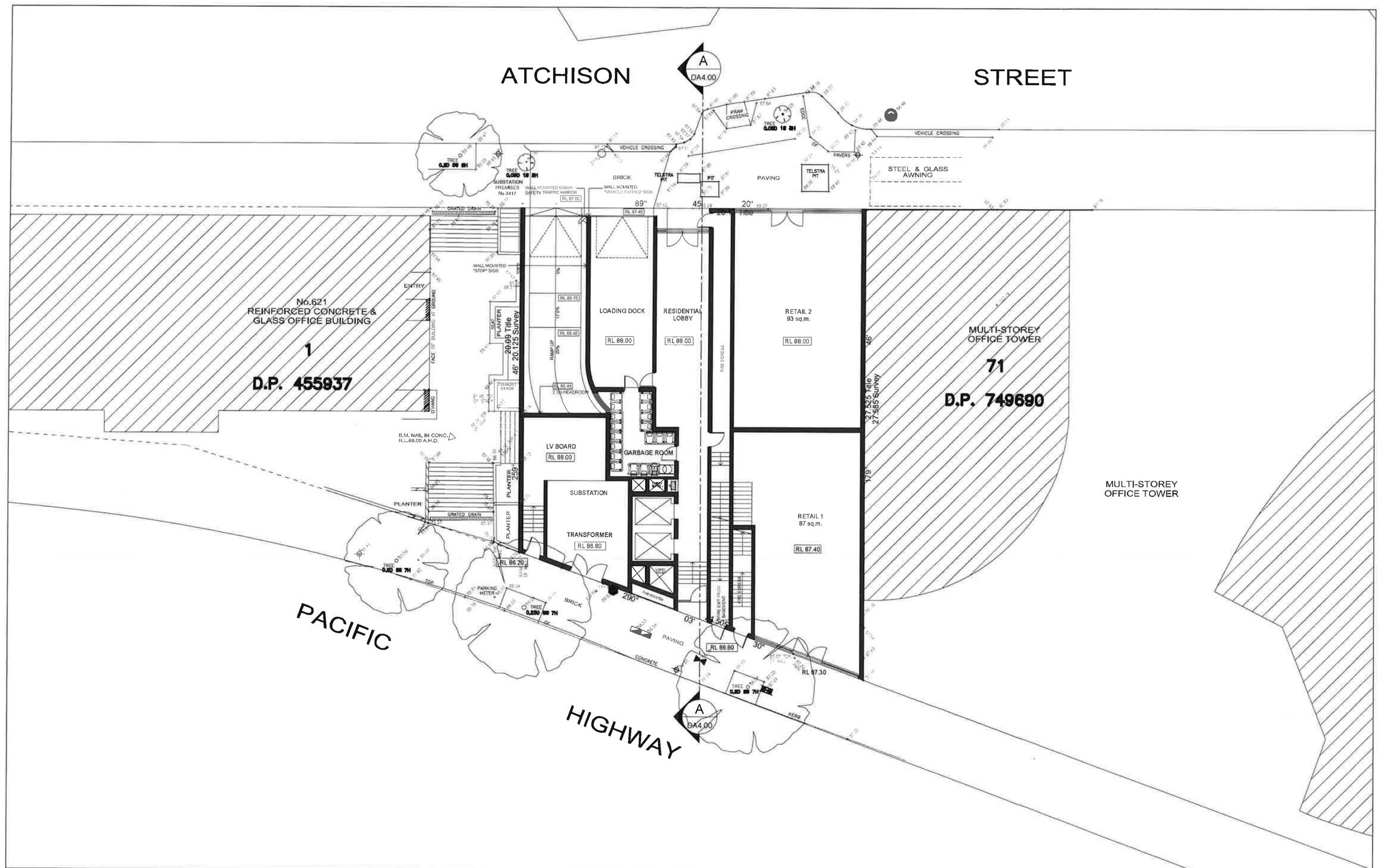
CLIENT  
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DUPPA P/L**

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**619 PACIFIC HWY  
ST LEONARDS**

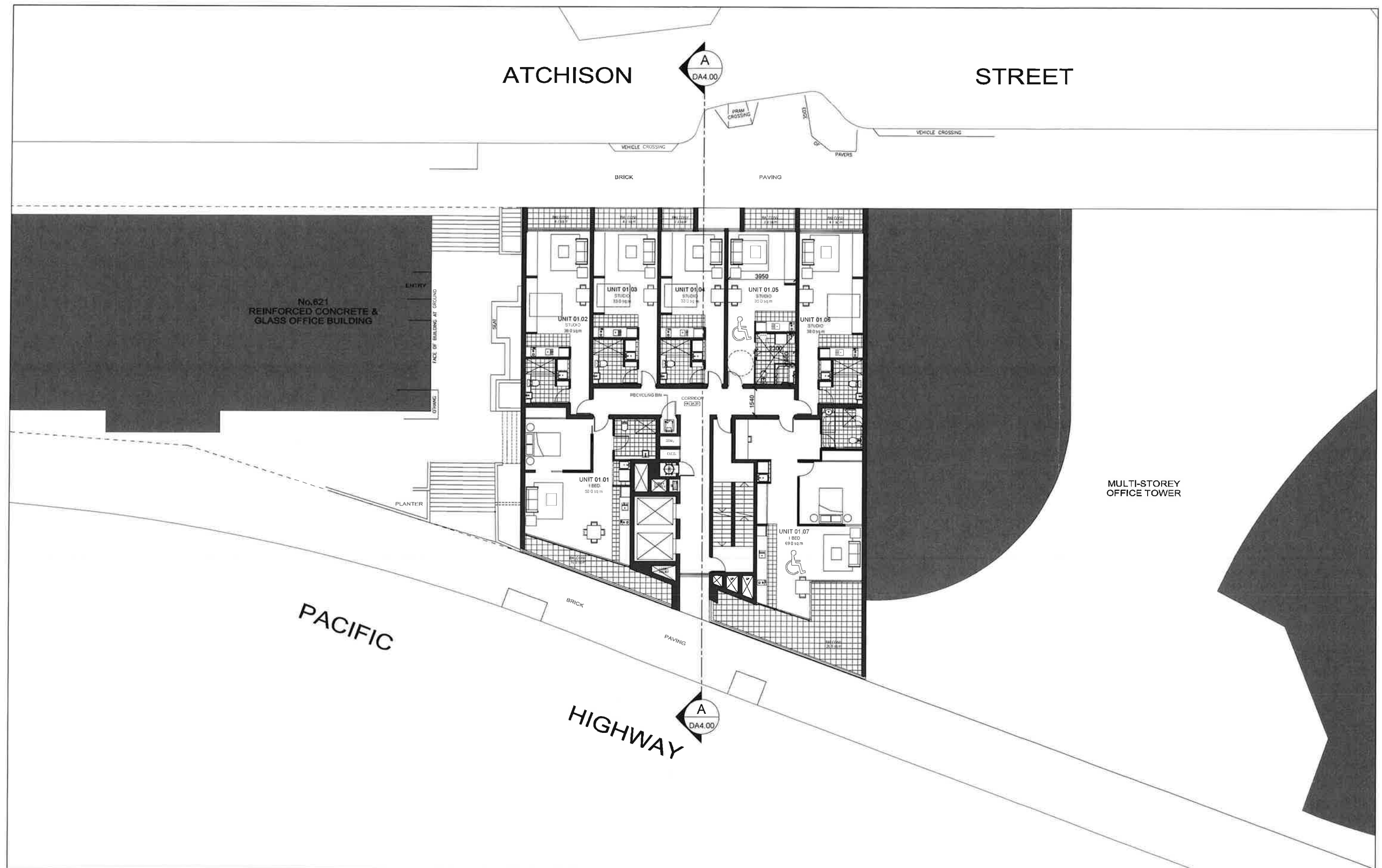
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| JOB        | DRAWING    | REVISION |         |
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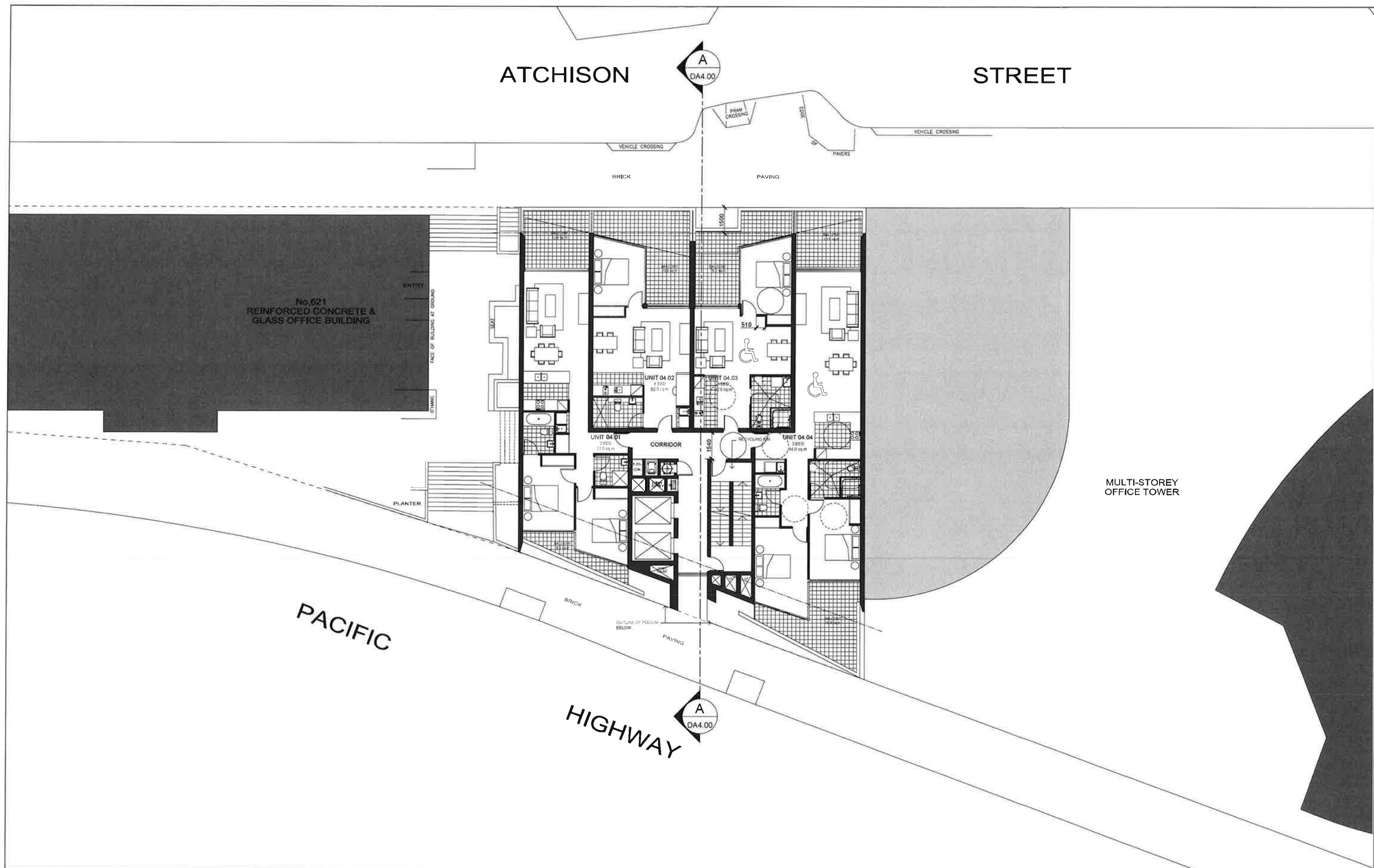


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|  | A        |  | APR 11 04 08 11 | DA ISSUED TO COUNCIL GROUND FLOOR PLAN REVISED | RJ/YC |  |  |  |  |   |  |                                   |  |                    |  |
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| <div>PROJECT</div> <div>619 PACIFIC HWY<br/>ST LEONARDS</div>  |          |  |                 |  |       |  |  | <div>SCALE</div> <div>1:200 @ A3</div>                   |  | <div>DATE</div> <div>11/03/2011</div>                 |  | <div>DRAWN</div> <div>RJ/YC</div> |  | <div>CHECKED</div> |  |
| <div>JOB</div> <div>10036</div>  |          |  |                 |  |       |  |  | <div>DRAWING</div> <div>DA 2.02</div>                    |  | <div>REVISION</div> <div>B</div>                      |  |                                   |  |                    |  |



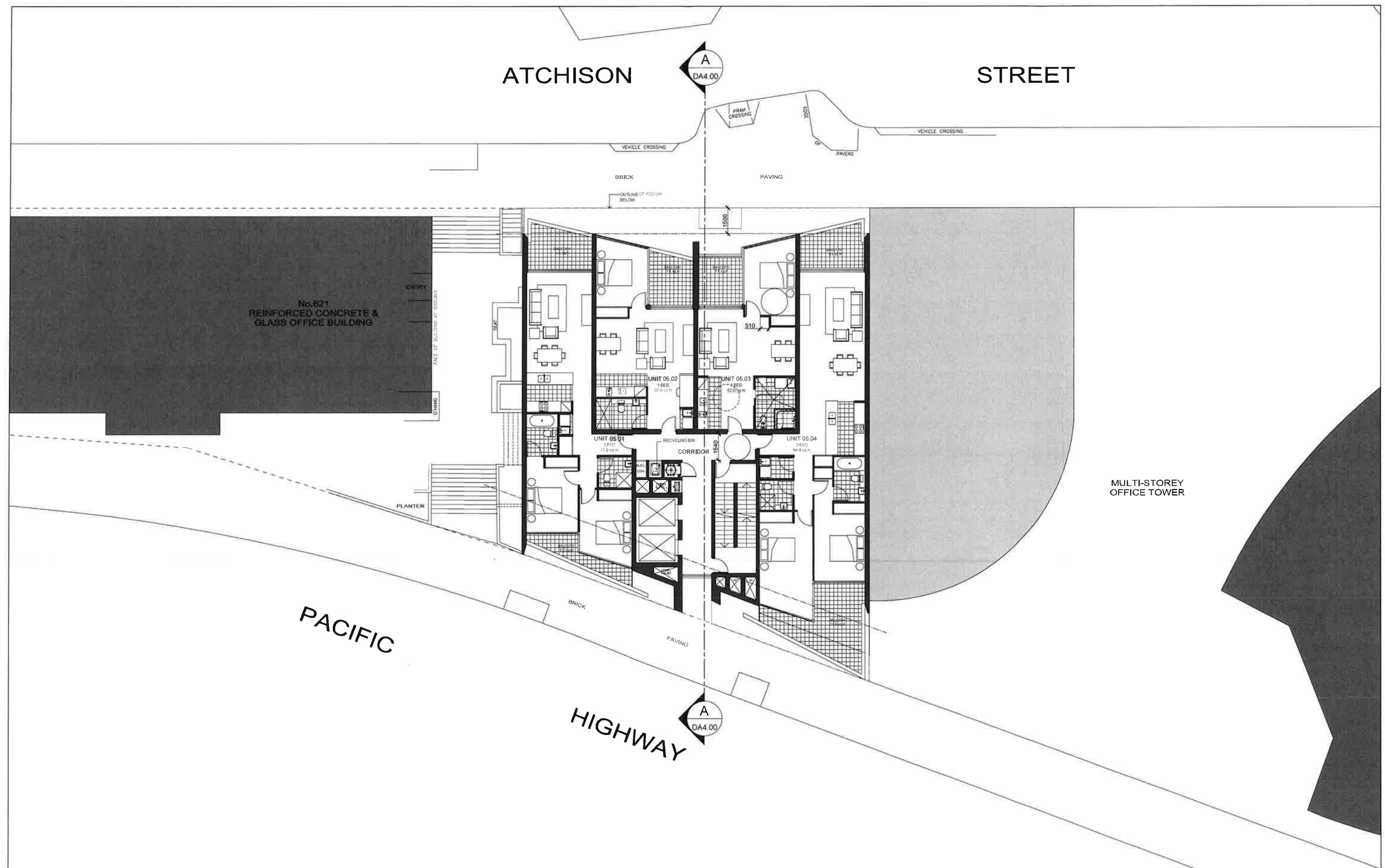
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|  |          |  |          |                          |      | ST LEONARDS   |               | 1:200 @ A3      |                     | 11/03/2011 |  | RJYC     |       |         |
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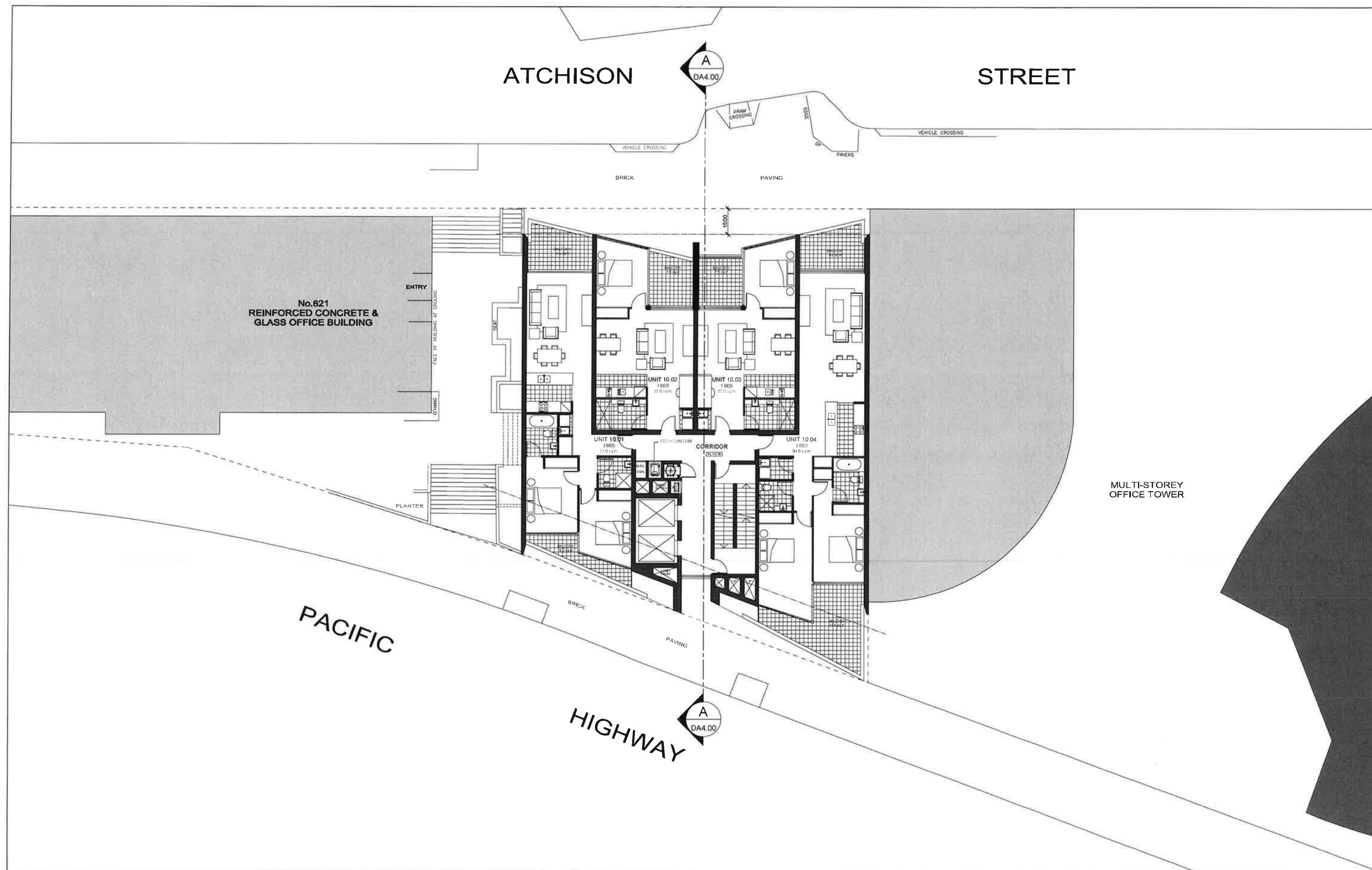


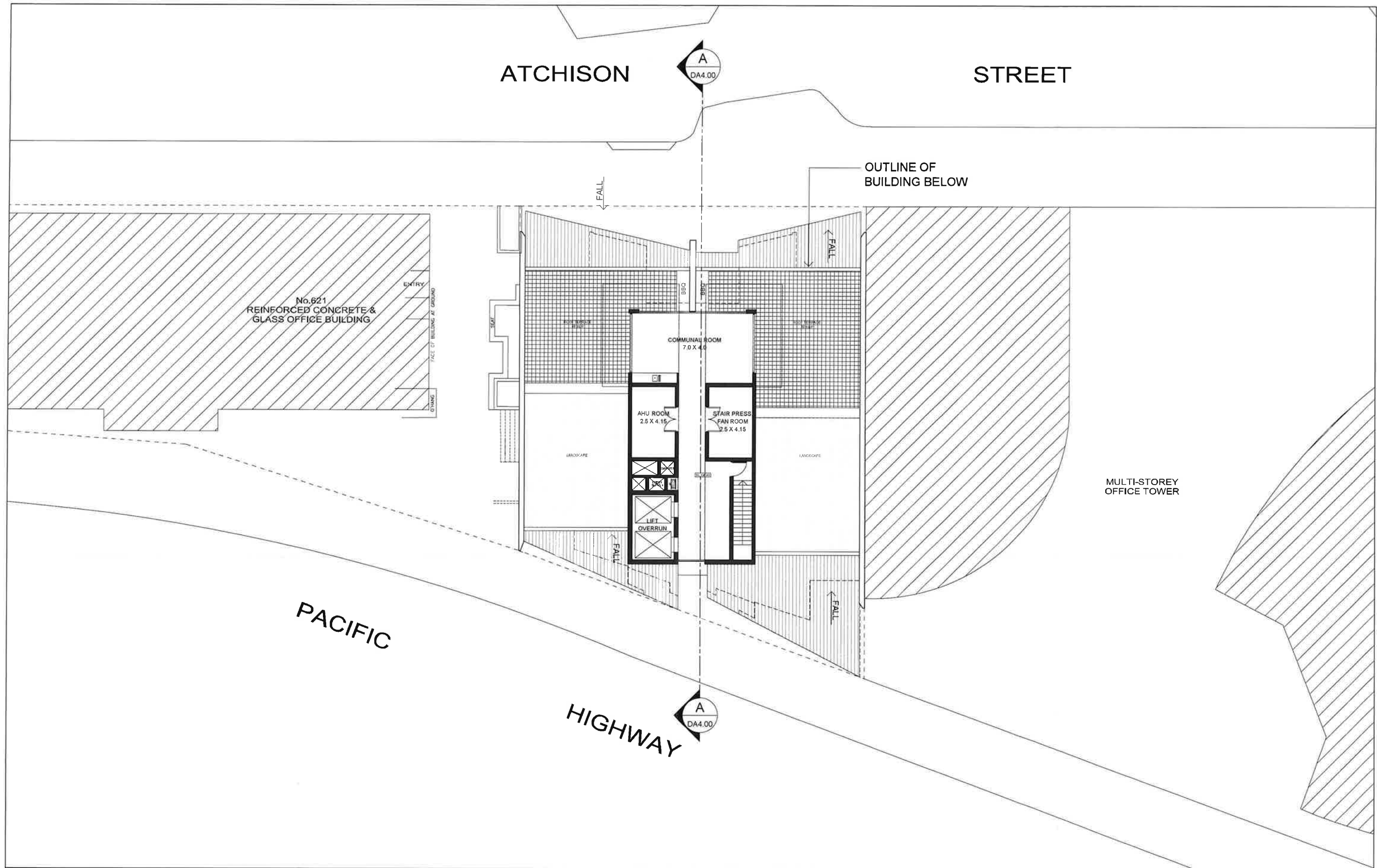


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## — OUTLINE OF BUILDING BELOW

ENTRY

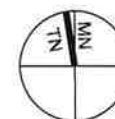
FACE OF BUILDING AT 1000 BROADWAY

10' HANG

PACIFIC

HIGHWAY

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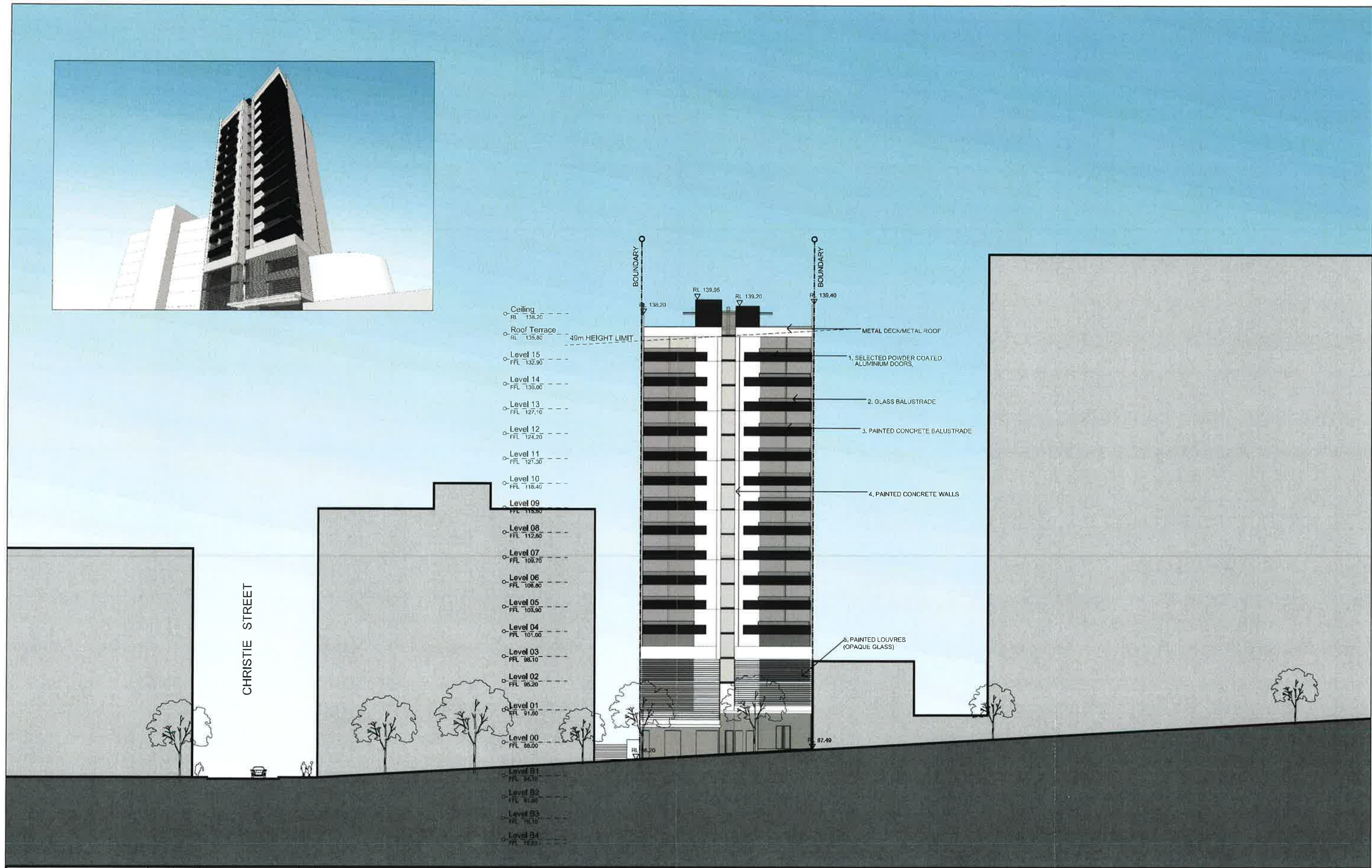


PROJECT  
619 PACIFIC HWY  
ST LEONARDS

|       |            |
|-------|------------|
| SCALE | 1:200 @ A3 |
| JOB   | 10036      |

|               |               |
|---------------|---------------|
| DRAWN<br>RJYC | CHECKED       |
|               | REVISION<br>B |





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|----------|----------|-------------------------|------|
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| B        | 04.08.11 | SOUTH ELEVATION REVISED | RJ   |

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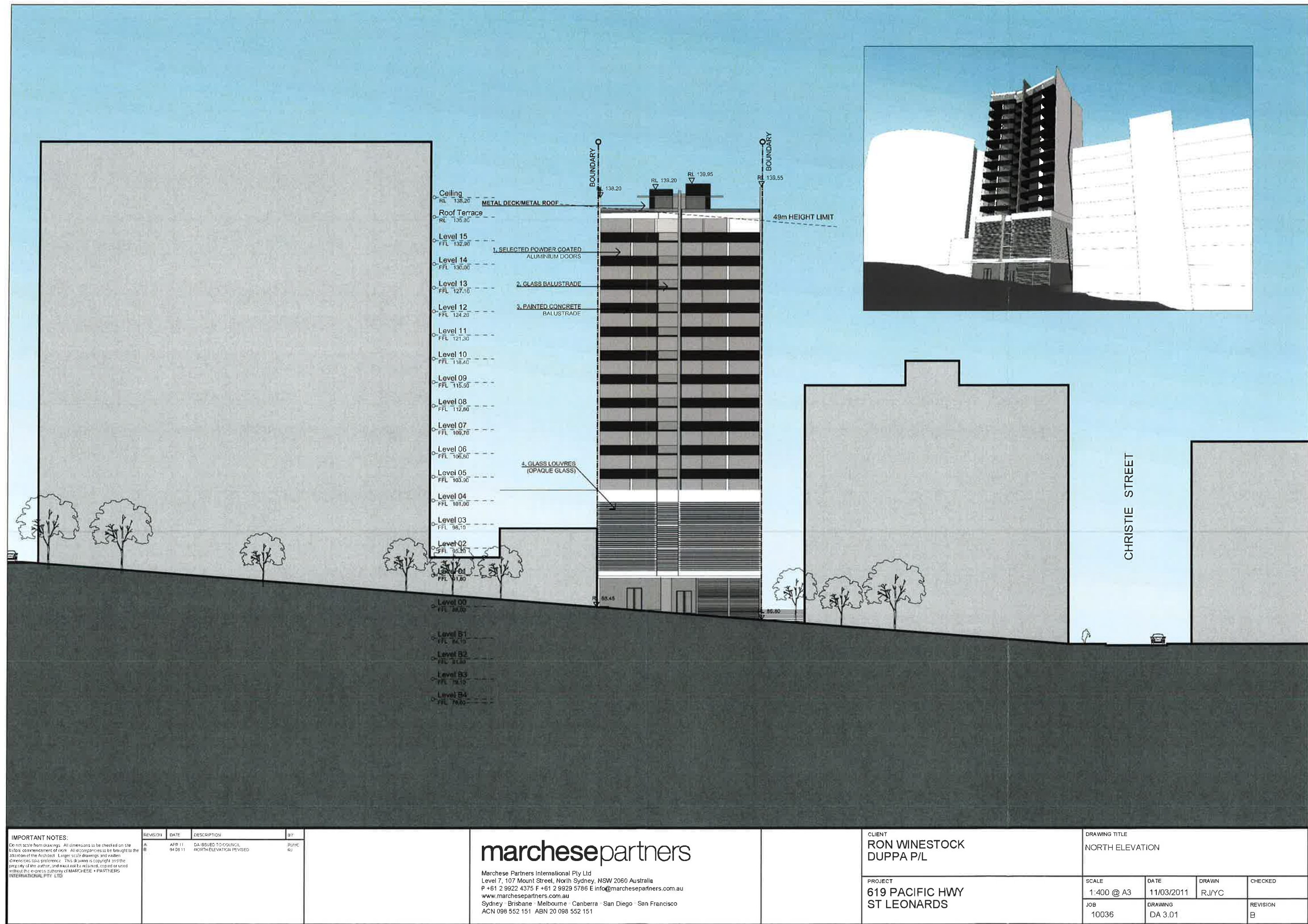
CLIENT  
**RON WINESTOCK  
DUPPA P/L**

PROJECT  
**619 PACIFIC HWY  
ST LEONARDS**

DRAWING TITLE  
**SOUTH ELEVATION**

| SCALE      | DATE       | DRAWN    | CHECKED |
|------------|------------|----------|---------|
| 1:400 @ A3 | 11/03/2011 | RJYC     |         |
| JOB        | DRAWING    | REVISION |         |
| 10036      | DA 3.00    | B        |         |





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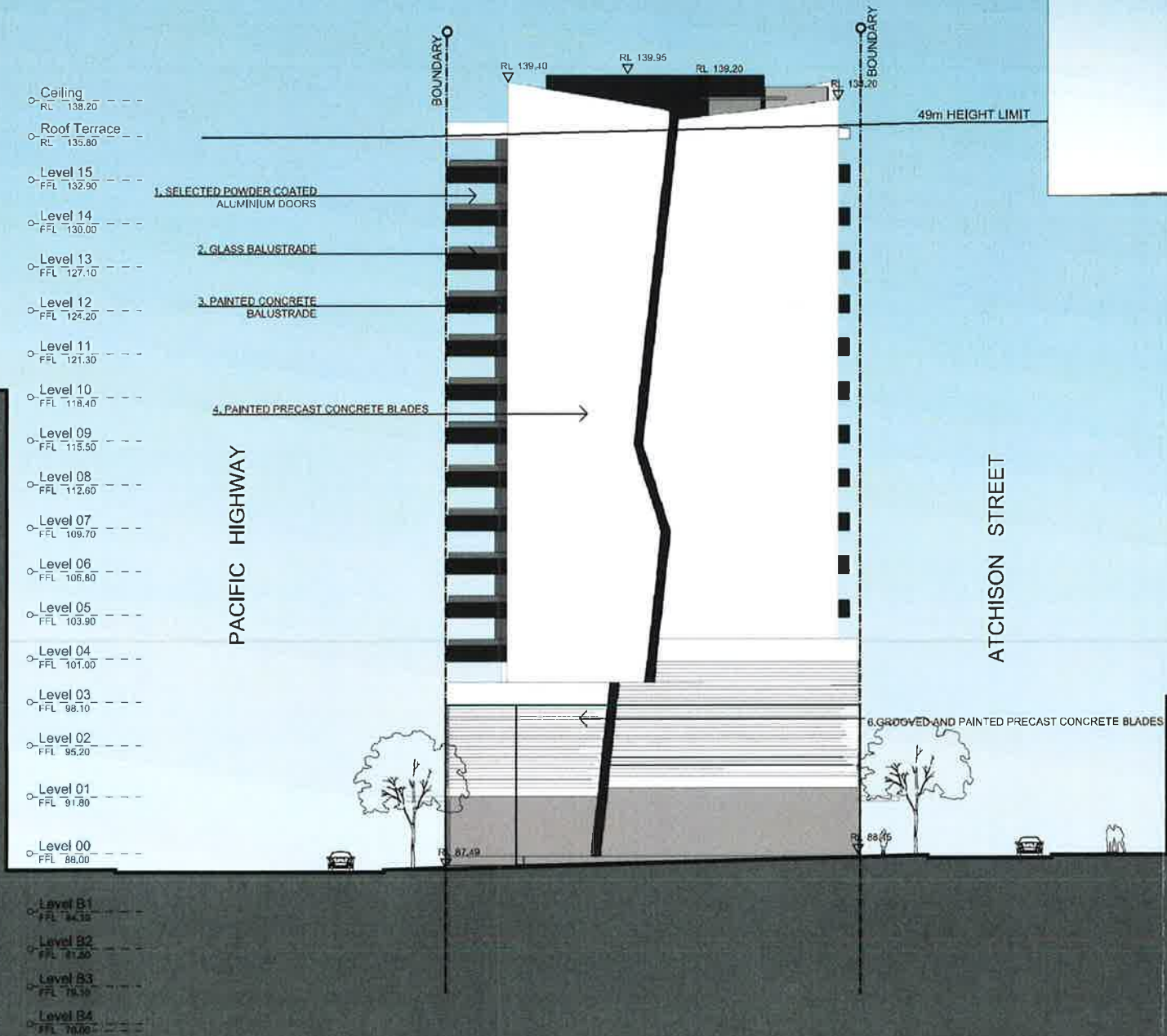
CLIENT  
**RON WINESTOCK  
DUPPA P/L**

PROJECT  
**619 PACIFIC HWY  
ST LEONARDS**

DRAWING TITLE  
**NORTH ELEVATION**

| SCALE      | DATE       | DRAWN    | CHECKED |
|------------|------------|----------|---------|
| 1:400 @ A3 | 11/03/2011 | RJYC     |         |
| JOB        | DRAWING    | REVISION |         |
| 10036      | DA 3.01    | B        |         |





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| B        | 04/09/11 | EAST ELEVATION REVISED | RJ   |

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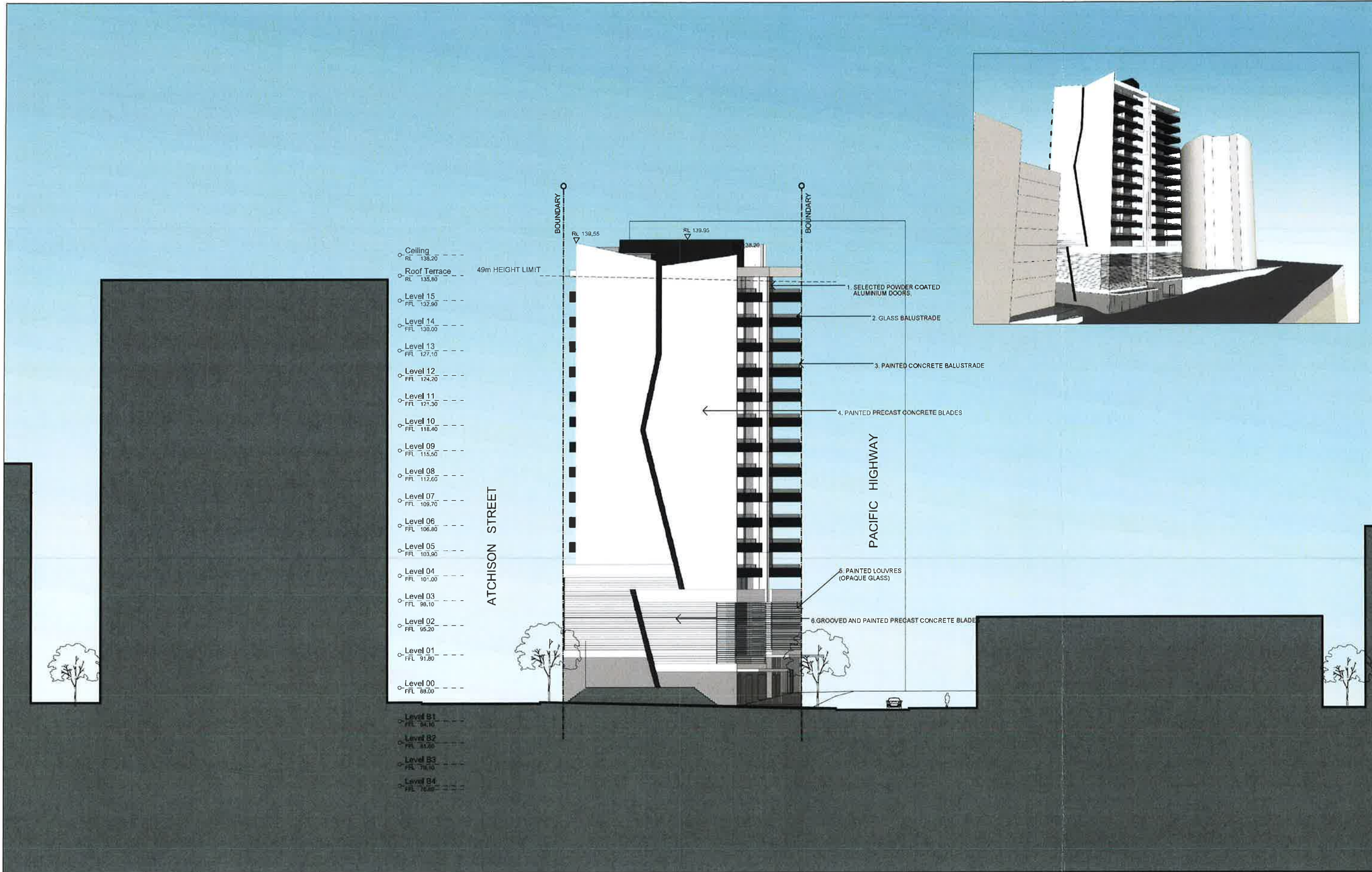
CLIENT  
**RON WINESTOCK  
DUPPA P/L**

PROJECT  
**619 PACIFIC HWY  
ST LEONARDS**

DRAWING TITLE  
**EAST ELEVATION**

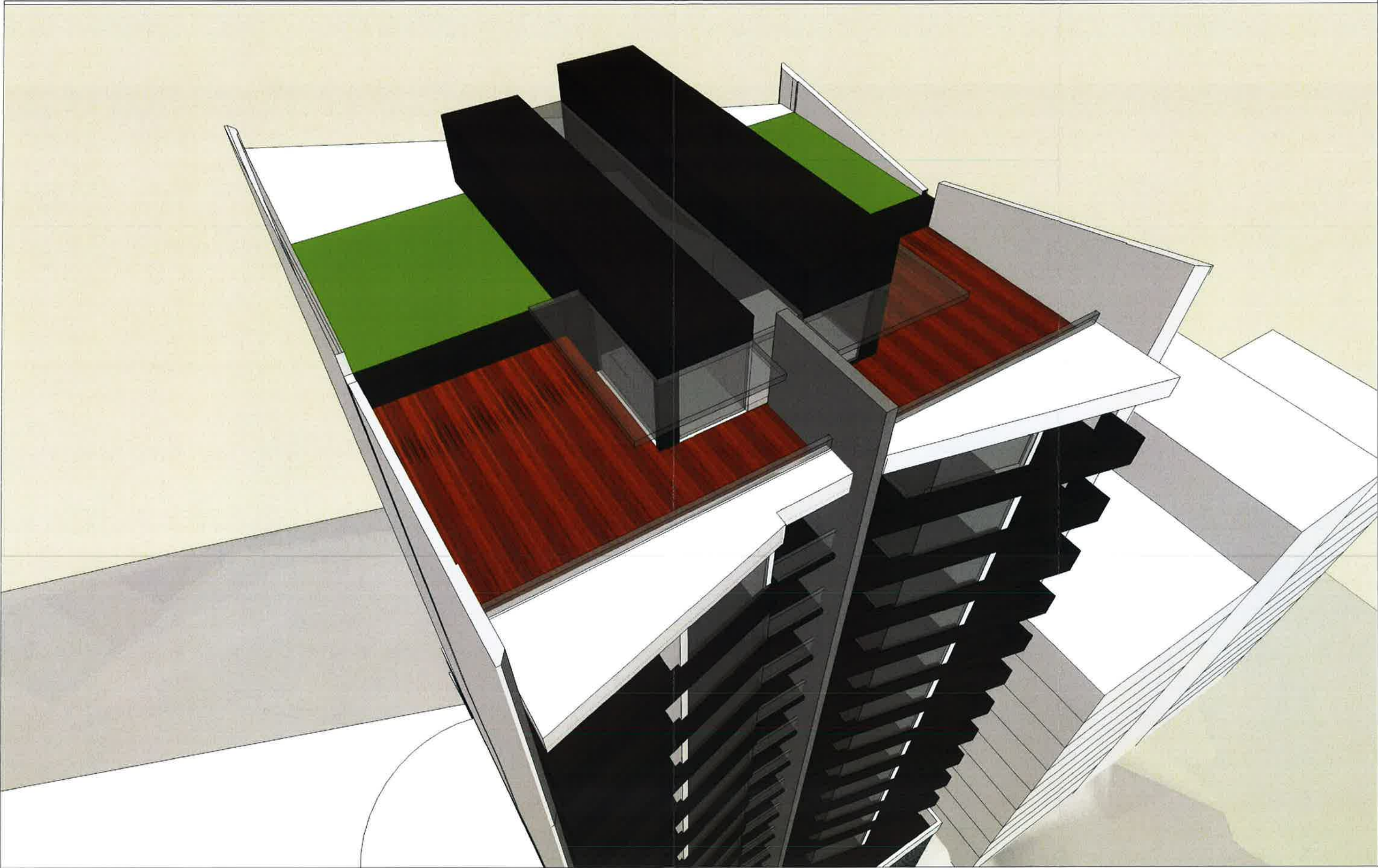
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| JOB        | DRAWING    | REVISION |         |
| 10036      | DA 3.02    | B        |         |





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|  | A                | 11/03/11    | ISSUED TO COUNCIL      | RJYC      |   |  |  |  |  |  | <div><div>PROJECT</div><div>619 PACIFIC HWY<br/>ST LEONARDS</div></div> | <div>SCALE</div> <div>1:400 @ A3</div> | <div>DATE</div> <div>11/03/2011</div> | <div>DRAWN</div> <div>RJYC</div> | <div>CHECKED</div> |
|  | B                | 04/08/11    | WEST ELEVATION REVISED | RS        |   |  |  |  |  |  |   | <div>JOB</div> <div>10036</div>        | <div>DRAWING</div> <div>DA 3.03</div> | <div>REVISION</div> <div>B</div> |                    |
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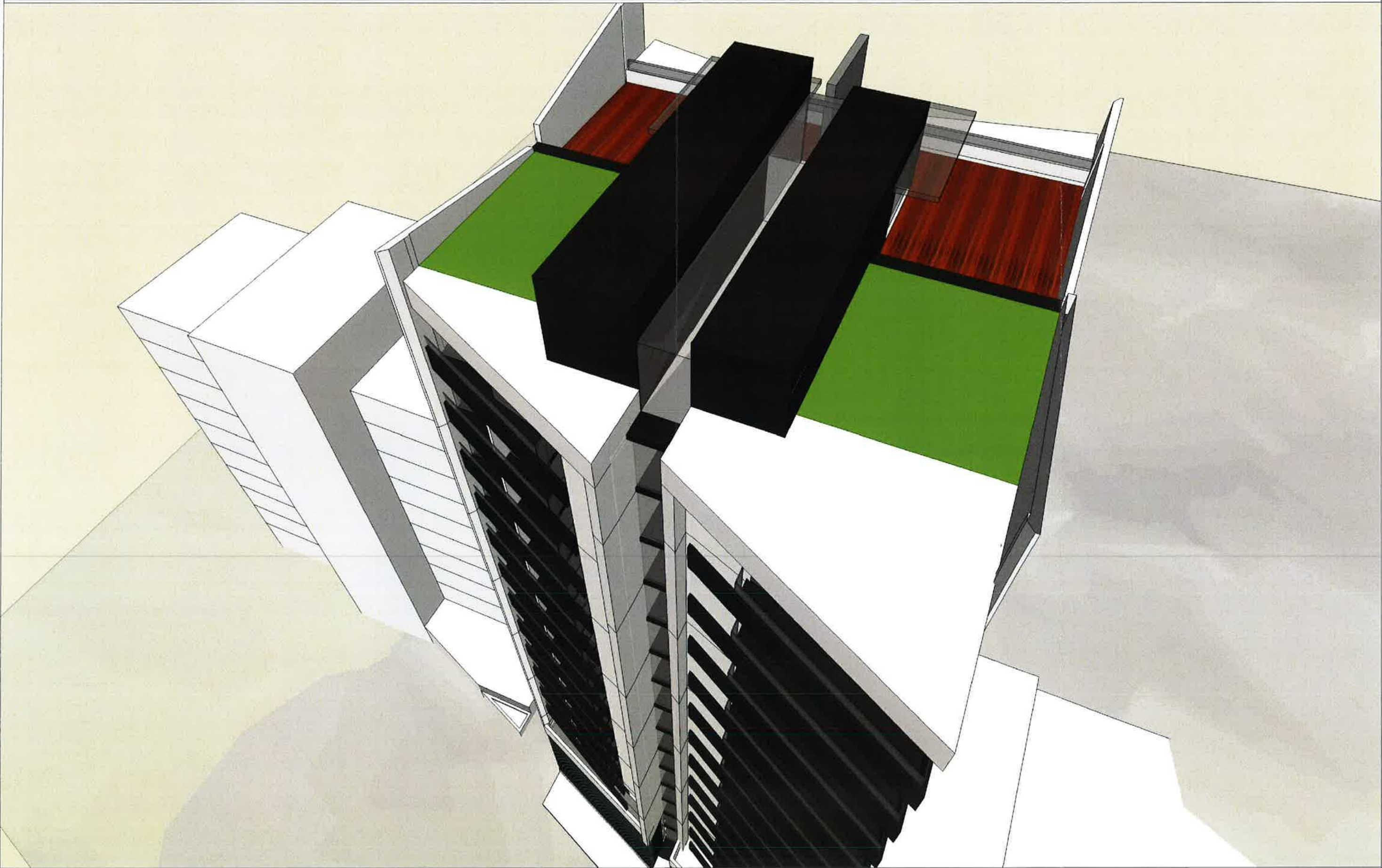
CLIENT  
**RON WINESTOCK  
DUPPA P/L**

PROJECT  
**619 PACIFIC HWY  
ST LEONARDS**

DRAWING TITLE  
**ROOF TERRACE VIEW 1**

| SCALE | DATE       | DRAWN    | CHECKED |
|-------|------------|----------|---------|
| NTS   | 11/03/2011 | RJYC     |         |
| JOB   | DRAWING    | REVISION |         |
| 10036 | DA 3.04    | A        |         |





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|---|---|---------|---------------------|-------------------|----------|
| <div>IMPORTANT NOTES:<br/>Do not scale from drawings. All dimensions to be checked on site before commencement of work. All discrepancies to be brought to the attention of the Architect. Larger scale drawings and written dimensions take preference. This drawing is copyright and the property of the author, and must not be retained, copied or used without the express authority of MARCHESE + PARTNERS INTERNATIONAL PTY LTD.</div> | REVISION  |         | DATE                | DESCRIPTION       | BY       |
|   | A.  |         | APR 11              | ISSUED TO COUNCIL | RJ/YC    |
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|   | <div><div>CLIENT</div><div>RON WINESTOCK<br/>DUPPA P/L</div><div>PROJECT</div><div>619 PACIFIC HWY<br/>ST LEONARDS</div></div>  |         |                     |                   |          |
| DRAWING TITLE   |   |         | ROOF TERRACE VIEW 2 |                   |          |
| SCALE   | NTS   | DATE    | 11/03/2011          | DRAWN             | RJ/YC    |
| JOB   | 10036   | DRAWING | DA 3.05             | CHECKED           | REVISION |
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