

Determination No: **14-2593**
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I ADVISORY NOTES

I.1 Terminology

1.1.1 Any reference in this document to a "consent" means a "development consent" defined in the Environmental Planning and Assessment Act 1979.

1.1.2 Any reference in this consent to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to a certificate as defined by Section 109C of the Environmental Planning and Assessment Act 1979.

1.2 Scope of Consent

1.2.1 Separate approval is required prior to the fit out of each of the three (3) commercial units on the ground floor. The applicant is advised to contact Council's Development Services Unit in this regard.

1.2.2 The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992. The applicant is advised to investigate any liability that may apply under that Act. The current suite of Australian Standard 1428 - Design for Access and Mobility, should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

I.3 Other Approvals

1.3.1 A separate valid Construction Certificate shall be issued prior to commencement of any construction works.

1.3.2 The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary development not approved by this consent, including:

- (a) the removal of any tree(s) not indicated on the approved plans and any tree(s) located greater than 3 metres from the building perimeter, and
- (b) any fence, retaining wall, land excavation or filling, advertising structure or other development not being exempt development, and
- (c) demolition of any existing buildings and associated structures in accordance with the requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, and
- (d) the erection of any advertising sign, not being "Exempt Development" within the State Environmental Planning Policy (Exempt and Complying Development) 2008, and
- (e) the use or fit-out of any shop or commercial premises not being "Exempt Development" within the State Environmental Planning Policy (Exempt and Complying Development) 2008, and
- (f) the installation of a vehicular footway crossing servicing the development.
- (g) separate Council approval under the Roads Act 1993 is required for any

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crane used to construct this development that swings over public air space.

- 1.3.3 This consent does not authorise the encroachment or overhang of any building or structure over or within any easement.

1.4 Services

- 1.4.1 The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Endeavour Energy
- (c) Natural Gas Company
- (d) The relevant local telecommunications carrier

regarding any requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on the land or on the adjacent public road(s).

All approved building construction plans attached to the Construction Certificate should be submitted to and stamped by a Sydney Water Corporation Limited Customer Centre or a Sydney Water Quick Check Agent as an indication that the proposal complies with the Sydney Water requirements. Sydney Water may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to ascertain the Sydney Water requirements for the eventual operation of the approved use.

- 1.4.2 Prior to any demolition works, all services or utilities should be disconnected in consultation with the relevant service provider.
- 1.4.3 Underground assets may exist in the area that is subject to your application. In the interests of health, safety, and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset holders a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.
- 1.4.4 Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect

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or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number: 1800 810 443.

1.5 Identification Survey

- 1.5.1 The applicant is advised to obtain an identification survey from a registered surveyor to ascertain the correct location of the property boundaries, and to ensure the development does not encroach upon adjoining properties.

1.6 Services

- 1.6.1 The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

2 GENERAL

2.1 Scope of Consent

- 2.1.1 This consent relates to the following drawings/details submitted to Council with the Development Application, subject to compliance with any other conditions of this consent:

Drawing No.	Dated	Council's File Enclosure No.
Basement 4 Floor Plan A100 Rev. B	18.02.15	38G
Basement 2-3 Floor Plan A101 Rev. B	18.02.15	38H
Basement 1 Floor Plan A102 Rev. B	18.02.15	38I
Ground Floor Plan A103 Rev. C	29.04.15	49C
Level 1 Floor Plan A104 Rev. C	12.05.15	49D
Level 2 Floor Plan A105 Rev. B	18.02.15	38L
Level 3 Floor Plan A106 Rev. B	18.02.15	38M
Level 4 Floor Plan A107 Rev. C	29.04.15	49E
Level 5-8 Floor Plan A108 Rev. B	18.02.15	49F
Level 9-10 Floor Plan A109 Rev. B	18.02.15	49G
Level 11-23 Floor Plan A110 Rev. B	18.02.15	49H
Roof Plan A111 Rev. B	19.02.15	38R

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Drawing No.	Dated	Council's File Enclosure No.
Section A A300 Rev. B	18.02.15	38T
Section B A301 Rev. B	18.02.15	38S
South Elevation A203 Rev. B	18.02.15	38U
East Elevation A202 Rev. C	12.05.15	49I
North Elevation A201 Rev. B	18.02.15	38W
West Elevation A200 Rev. B	18.02.15	38V
Landscape Plan Ground Floor and Streetscape works Dwg. No. 001 Issue C	16.2.15	38Y
Landscape Plan Level 4 Communal Terraces Dwg. No. 002 Issue B	16.12.14	2R
Landscape Plan Communal Roof Terrace Dwg. No. 003 Issue B	16.12.14	2S
Landscape Plan Details and Schedules Dwg. No. 004 Issue C	16.2.15	38Z

* Unless modified by any conditions of this consent.

2.1.2 This consent grants approval for the following, subject to full compliance with all other conditions of this consent:

- (a) 19 x 1 bedroom units;
- (b) 74 x 2 bedroom units; and
- (c) 13 x 3 bedroom units.

2.2 Suburb Name

2.2.1 The land the subject of this consent is known to be located in the following suburb. This suburb name shall be used for all correspondence and property transactions:

Suburb: BLACKTOWN

2.2.2 Any advertising of land sales in association with the approved development shall clearly indicate that the development is located in the following suburb. No other estate names shall be used in any advertisements or other promotional information:

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Suburb: BLACKTOWN

2.3 Engineering Matters

2.3.1 Definitions

- 2.3.1.1 Where this consent requires both engineering and building works to be undertaken, a separate Construction Certificate may be issued for each category of works i.e. a separate construction Certificate for the Engineering works nominated in "Prior to Construction Certificate (Engineering)" e.g. Onsite stormwater Detention; and a separate Construction Certificate for all building works relating to the erection and fit-out of a structure. This excludes all works on existing public roads significant enough to warrant separate engineering approval pursuant to the Road Act 1993. In relation to this consent, an engineering approval pursuant to the Road Act, 1993 or Section 68 of the Local Government Act must be issued for stormwater connection prior to the issue of the Construction Certificate.

In lieu of issuing a separate Construction Certificate, the above-mentioned engineering works can be included on an overall Construction Certificate provided that SPECIFIC REFERENCE is made to the relevant Engineering works. In such instances, the certifier shall provide evidence that they are accredited to do so. This is not applicable where Roads Act or Local Government Act Approvals are required.

Council does not permit the private certification of works on existing public roads or reserves, or any land under the care and control of Council. In this regard Council will not accept a Construction or Compliance Certificate from a Private Certifier for any works on Boys or Second Avenues.

- 2.3.1.2 The Construction Certificate for Engineering works may be issued by Council or by an appropriately qualified certifier. For Council to issue the Construction Certificate a separate application must be made on the prescribed form complete with detailed plans and specifications.

2.3.2 Design and Works Specification

- 2.3.2.1 All engineering works required by Scope of Engineering Works and other sections of this consent must be designed and undertaken in accordance with the relevant aspects of the following documents except as otherwise authorised by this consent:

- (a) Blacktown City Council's Works Specification - Civil (Current Version)
- (b) Blacktown City Council's Engineering Guide for Development (Current Version)
- (c) Blacktown City Council Development Control Plan (Current Version) including Part R – Water Sensitive Urban Design and Integrated Water Cycle Management

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(d) Blacktown City Council Soil Erosion and Sediment Control Policy (Current Version)

(e) Blacktown City Council On Site Detention General Guidelines and Checklist

(f) Upper Parramatta River Catchment Trust On Site Stormwater Detention Handbook THIRD Edition December 1999.

Design plans, calculations and other supporting documentations prepared in accordance with the above requirements MUST be submitted to Council with any application for Construction Certificate, Road Act 1993 or Local Government Act 1993 Approval.

Any Construction Certificates issued by Private Certifiers must also be accompanied by the above documentations.

NOTE: Any variations from these design requirements must be separately approved by Council.

2.3.3 Payment of Engineering Fees

2.3.3.1 If it is the applicant's intention to engage Council to undertake the checking of the engineering design plans and the issue of the Construction Certificate for the engineering works nominated in the "Prior to Construction Certificate (Engineering)" section, it will be necessary to submit the relevant engineering plans to obtain a quote for this service.

A verbal quote will be provided within 48 hours based upon Council's Goods and Services Pricing Schedule. This will also be confirmed in writing.

2.3.3.2 If it is the applicant's intention to engage Council to undertake Construction inspections and the issue of the Compliance Certificate for engineering works, it will be necessary to contact Council's Development Services Engineer for a quote.

A verbal quote will be provided within 48 hours based upon Council's Goods and Services Pricing Schedule. This will also be confirmed in writing.

2.3.3.3 Fees are required to be paid to Council's Development Services Unit pursuant to Section 223 of the Roads Act 1993 for;

(a) The checking of engineering drawings for stormwater connection and the issue of an Engineering Approval pursuant to the Roads Act 1993.

(b) All construction inspections for the works approved by (a) above. The required fee will be determined upon submission of the relevant plans to Council. This fee is subject to periodic review and may vary at the actual time of payment.

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2.3.4 Other Necessary Approvals

- 2.3.4.1 A separate application or details (as necessary) shall be submitted for the separate approval of Council under the provisions of the Local Government Act 1993 and/or the Roads Act 1993 for any of the following (a) The installation of a vehicular footway crossing servicing the development as required by "Scope of Engineering Works and other sections of this consent" (b) Works on or occupation of existing public roads - that are not covered by a Roads Act Approval - which may require a Road Occupancy Licence or Work Zone Permit.

2.3.5 Subdivision

- 2.3.5.1 Principal Certifying Authority - Blacktown City Council shall be the Principal Certifying Authority for the proposed subdivision and shall issue the Subdivision Certificate upon compliance with all conditions of this consent.

2.4 Other Matters

- 2.4.1 Any future substation or other utility installation required to service the approved subdivision/development shall not under any circumstances be sited on future or existing Council land, including road reservations and/or public reserves. Any proposal to locate a proposed substation or other utility installation on Council land shall be negotiated with and fully endorsed by the relevant Council Directorates.
- 2.4.2 No construction preparatory work (including tree or vegetation removal, ground clearing, excavation, filling, and the like) shall be undertaken on the land prior to a valid Construction Certificate being issued for the construction works.
- 2.4.3 In relation to matters concerning Aboriginal archaeology, should any archaeological material be uncovered during construction activities on any location within the proposed development, then all works are to cease immediately and representatives of the Department of Environment and Climate Change (National Parks and Wildlife Service) and a member of each of the Western Sydney Aboriginal Stakeholder Groups is to be contacted.

3 PRIOR TO CONSTRUCTION CERTIFICATE (GENERAL)

3.1 DA Plan Consistency

- 3.1.1 A Construction Certificate for the proposed development shall only be issued when the accompanying plans, specifications and/or details are consistent with the approved Development Application design plans.

3.2 Road Deposit/Bond

- 3.2.1 The following current fee and bond (which is subject to periodic review and may vary at time of payment) shall be lodged with Council:

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- (a) Road inspection fee of \$169.00,
- (b) Road maintenance bond of \$5000.00, and
- (c) Administration fee of \$90.00.

The bond is required to cover the cost of any damage to Council's public assets (eg: road, guttering, footpaths, drainage systems) arising from development works. The bond (less an administration fee) will be refunded upon the completion of the development should there be no damage to Council's assets as a result of the development works.

The road inspection fee covers Council's costs to inspect public assets adjacent to the development site before and after development work.

3.3 Services/Utilities

3.3.1 The following documentary evidence shall accompany any Construction Certificate:

- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Applications must be made through an authorised Water Servicing Coordinator. Please refer to the "Building Plumbing and Developing" Section of the website www.sydneywater.com.au, then follow the "Developing Your Land" link or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

NOTE: A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate (CC) being issued. The Section 73 Certificate must be submitted to the PCA prior to the occupation of the development/release of the plan of subdivision, whichever occurs first.

- (b) A "Notification of Arrangement" Certificate from Endeavour Energy, or any other recognised energy provider, stating that electrical services, including the provision of street lighting, have been made available to the development.

3.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

3.4.1 No construction certification must be issued unless all design verifications have been provided in accordance with Clause 143A of the Environmental Planning and Assessment Regulation 2000, a certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve

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the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

3.5 Other Matters

3.5.1 A Work Method Statement and Construction Traffic Management Plan (CTMP) must be prepared for the development by a suitably qualified person and submitted to Council prior to the release of the Construction Certificate. The Work Method Statement is to demonstrate how the basement is to be excavated. The CTMP is to address truck movements associated with the construction, in particular the disposal of excavated soil from the site as well as the impact on adjacent pedestrian and traffic movement.

3.5.2 A dilapidation report shall be carried out for any of the potentially affected existing buildings surrounding the proposed development. A copy of the report shall be submitted to Council prior to construction commencing.

3.6 Waste

3.6.1 The certifying authority is to ensure that the basement access for garbage trucks is to be built in accordance with the dimensions indicated on the vertical cross-section plans showing truck entry at the critical/transition point is adequate.

3.7 Wind Impact Mitigations

3.7.1 The recommendations of the Pedestrian Wind Environment Statement prepared by Windtech (Report No. WC405-01F02 (Rev1)) dated 24 February 2015 are to be identified on the construction certificate plans.

3.8 Acoustic assessment

3.8.1 The recommendations of the submitted Acoustic Assessment prepared by Acoustic Logic ((Report No. 20141366.1) dated 8 December 2014 and held at Enclosure 2K are to be implemented and any mitigation measures are to be identified on the construction certificate plans. Note: Should any external modifications be made to the development, then a Section 96 application may be required.

3.9 Salinity and Aggressive Soil Management

3.9.1 A Salinity and Geotechnical Report prepared by a suitably qualified consultant shall be submitted to Council prior to the issue of a construction certificate. The recommendations of the report are to be identified on the construction certificate plans.

4 PRIOR TO CONSTRUCTION CERTIFICATE (PLANNING)

4.1 Section 94 Contributions

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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- 4.1.1 The following monetary contributions pursuant to Section 94 of the Environmental Planning & Assessment Act 1979 must be paid. The amounts below are BASE contributions which WILL BE INDEXED from the nominated base date to the date of payment. Payment of the indexed amounts must be made (BY BANK CHEQUE IF IMMEDIATE CLEARANCE IS REQUIRED. NOTE Council DOES NOT accept payment of S.94 Contributions by credit card or EFTPOS) prior to the issue of a Construction Certificate (for building works) either by Council or any accredited certifier, whichever occurs first.

Contribution Item	Base Amount	Relevant C.P.	Base Date
(i) Open Space	\$492,374	3	1.09.2012
(ii) Open Space	\$125,421	16	1.06.2003
(iii) Community Facilities	\$156,453	16	1.06.2003
(iv) Local Road	\$93,153	16	1.06.2003
Construction			
(v) Streetscape Facilities	\$70,755	16	1.06.2003
(vi) Traffic Management	\$165,425	16	1.06.2003
Facilities			
(vii) Car parking	\$134,610	7	1.06.1998

The contribution(s) will be indexed according to the Australian Bureau of Statistics' Implicit Price Deflator for Gross Fixed Capital Expenditure (Private Dwellings) and the Consumer Price Index (Sydney Dwellings).

Copies of the following relevant Contributions Plan(s) may be inspected/purchased from Council's Development Services Unit:

S.94 CP No. 3 - Open Space in Established Residential Areas
 S.94 CP No. 7 - Car Parking - Blacktown CBD
 S.94 CP No. 16 - Blacktown CBD (Northern Precinct)

The Section 94 Contribution(s) have been based on the total developable area, the site's road frontage and the potential additional population nominated below. Should the final plan of survey indicate any change in the total developable area or should amendments change the potential additional population, the Section 94 Contribution(s) will be adjusted accordingly.

Commercial area: 285 sqm
 Additional Population: 258.6 persons
 Road Frontage: 68.495 m

4.2 Aesthetics/Landscaping

- 4.2.1 Council is particularly concerned about the appearance of the development. Accordingly, the following additional information is required to be submitted for Council's separate approval prior to the issue of any Construction Certificate for the

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approved development:

- (a) Details of the proposed awning over Council's road reserve, including colour samples of the materials/finishes from brochures or the like. Note: The height and width of the proposed footpath awning is to comply with the requirements of Council's Maintenance Engineers.
- 4.2.2 The reflectivity index of glass used in the external facade of the building is not to exceed 20 percent.
- 4.2.3 All landscaping must be in accordance with the landscape details approved by condition 2.1.1 of this development consent.
- 4.2.4 All common open space areas are to be appropriately illuminated by the use of bollard type outdoor lighting or the like, to provide for the safety of residents at night. Details of all outdoor lighting are to be identified on the Construction Certificate plans. Note: If artificial lighting is proposed full details are to be submitted indicating the manner in which adjoining residential properties/units are to be protected.
- 4.2.5 Any bathroom, w.c. or laundry window in the external wall of the building shall be fitted with translucent glazing.
- 4.2.6 The development approved by Council is to be constructed in accordance with the schedule of materials, finishes and colours (identified on Drawing No. A700 dated 19.12.14 Rev. A) and held at Enclosure 51A on Council's File JRPP-14-2593.

4.3 Access/Parking

- 4.3.1 The internal driveway and parking areas are to be designed in accordance with Australian Standard 2890.1.

The loading facility must be designed so that trucks do not interfere with resident's vehicles during loading/unloading operations.

- 4.3.2 106 resident and 21 resident visitor car parking spaces are to be designed having minimum internal clear dimensions in accordance with Australian Standard 2890.1 as follows:

Commercial Car Space: 2.6m x 5.4m
Residential Flat Building (excluding width of pillar): 2.5m x 5.4m
Residential Flat Building (adjacent to solid wall): 2.7m x 5.4m
Disabled Car Space: 4.8m x 5.4m (including shared zone)

Suitable bicycle parking must also be provided as indicated on the approved plans.

- 4.3.3 Access to and parking for persons with disabilities shall be designed in accordance with Australian Standard 2890.6 – 2009.

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5 PRIOR TO CONSTRUCTION CERTIFICATE (BUILDING)

5.1 Building Code of Australia Compliance

- 5.1.1 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by :

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which :
 - (i) complies with the performance requirements, or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provision, or
 - (iii) A combination of (a) and (b).

- 5.1.2 A preliminary assessment of the plans submitted with the application has disclosed that the following design and/or construction issues need to be addressed prior to the issue of any Construction Certificate to ensure compliance with the Building Code of Australia:

- (a) Section C, D, E, F and J

5.2 BASIX Certificate Compliance

- 5.2.1 The plans and specifications must indicate compliance with the commitments listed in the BASIX Certificate Number: 599109M dated 19 December 2014 and held at Enclosure 2F on Council File JRPP-14-2593.

6 PRIOR TO CONSTRUCTION CERTIFICATE (ENGINEERING)

6.1 Compliance with Conditions

- 6.1.1 All conditions in the "Prior to Construction Certificate (Engineering)" Section and the relevant conditions in the "General" Section of this consent, must be complied with prior to the issue of any Construction certificates.

- 6.1.2 All fees for Construction and Compliance Certificates, Roads Act 1993 and Local government Act 1993 approvals must be paid to Council prior to the issue of any of the above certificates or approvals.

6.2 Road-works

- 6.2.1 A Traffic Management / Control Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RTA Traffic Control at

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Work Sites manual. Any persons preparing such traffic control layout plans shall be RTA accredited.

6.3 **Drainage**

- 6.3.1 Where the internal driveway cannot be drained to an internal pit a grated drain shall be provided at the property boundary.

6.4 **Erosion and Sediment Control**

- 6.4.1 Soil erosion and sediment control measures for road, drainage, On Site Stormwater Detention and earth works shall be designed in accordance with Council's Soil Erosion and Sediment Control Policy and Engineering Guide for Development. Details are to be included with the plans and specifications to accompany any Construction Certificate.

6.5 **On-Site Detention**

- 6.5.1 A certificate from a Registered Engineer (NPER) to be submitted to Council certifying that the structures associated with the on-site detention system have been designed to withstand all loads likely to be imposed on them during their lifetime.
- 6.5.2 A certificate from a Professional Civil Engineer/Registered Surveyor must be obtained verifying that the On Site Detention system will function hydraulically in accordance with the requirements of Upper Parramatta River Catchment Trust and Council's current development guide.
- 6.5.3 Any Construction Certificate issued for or including an On-site Stormwater Detention (OSD) and Stormwater Quality System must be accompanied by;
- a. A Drainage Design Summary Sheet per Appendix B1 of the Upper Parramatta River Catchment Trust Handbook, current version.
 - b. Full drainage calculations and details for all weirs overland flow-paths and diversion/catch drains - including catchment plans and areas, times of concentration and estimated peak run-off volumes.
 - c. A completed OSD Detailed Design Submission and Checklist per Appendix B9 of the above-mentioned Handbook.
 - d. A complete address of Council's OSD General Guidelines and Checklist requirements and DCP Part R.
 - e. A Maintenance Schedule is to be presented with the designer's name, his signature and date on it in accordance with the Upper Parramatta River Catchment Trust handbook guideline. (If an underground tank is involved this must include reference to WorkCover Authority of NSW Occupational Health & Safety Act 1983 and Confined Spaces Regulation.)

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6.6 Asset Management

- 6.6.1 A detailed estimate of the cost of civil engineering work must be submitted to Council prior to the issue of the Construction Certificate for engineering works. If engineering works are of a value greater than \$25,000; documentary proof of payment of the levy required by the Building and Construction Industry Long Service Payments Act must be provided to Council prior to any approval of engineering plans either by Council or an appropriately accredited certifier.

6.7 Ancillary Works

- 6.7.1 Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this consent effective. Such works shall include but are not limited to the following:

- (a) the relocation of underground services where required by the positioning of new drainage and road infrastructure.
- (b) the relocation of above ground power and telephone services.
- (c) the matching of new infrastructure into existing or future designed infrastructure.

6.8 Scope of Engineering Works

The following scope of works shall be included in the design documentation accompanying the Construction Certificate for engineering works:

6.8.1 Road and Drainage works

- 6.8.1.1 Redundant gutter and/or footway crossing(s) must be replaced with integral kerb and gutter.
- 6.8.1.2 Drainage from the site must be connected into Council's existing drainage system.

6.8.2 On Site Stormwater Detention and Stormwater Quality System

6.8.2.1 On Site Detention

(A) On-site detention of stormwater runoff from the site must be provided to achieve the following nominated permissible site discharge and site storage capacity for the following percentages of site area draining to the system. (Absolute minimum site draining area is 80%)

Nominated Discharge PSD: 95l/s/ha for 100%; 65l/s/ha for 90%; 36l/s/ha for 80%.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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Nominated Storage SSR: 343cu.m/ha for 100%; 429cu.m/ha for 90%; 580cu.m/ha for 80%.

Intermediate values can be interpolated linearly for PSD and a fair curve through the 3 values for SSR.

Council electronic OSD calculation spreadsheet is available for calculating the above parameters. This electronic spreadsheet can be obtained upon request from Council Development Services Unit.

- (B) Council acknowledges the submission of the On-site Stormwater Detention and Stormwater Quality concept plan Reference No. 140760 Drawing D06 to D08 Revision A (except D05 revision B). The Construction Certificate issued in this regard must generally be in accordance with this concept.

This plan is considered sufficient in detail for the purpose of issuing Consent, however the final plan may need to vary from this concept to fully comply with Council's guidelines and works specification.

- (C) Any variation to the following design parameters of the above mentioned concept plan will require a lodgement of a Section 96 application to Council for amendment of the consent;
- (i) location of storage area
 - (ii) alteration of the type of storage - i.e changing from above ground to below ground storage
 - (iii) location of discharge outlet from the system.
- (D) Professional accreditation of OSD designers and certifiers must be in accordance with the requirements of Council's Policy.
- (E) The concept plan referred to above is for Development Application purposes only and is not to be used for construction.
- (F) Comprehensive design plans showing full construction details must be prepared by an accredited OSD designer to be issued with a Construction Certificate under the Environmental Planning and Assessment Act 1979 prior to the commencement of works.

6.8.3 Vehicular Crossings

- 6.8.3.1 Construction of Council's standard commercial and industrial vehicular footway crossing(s), with the following nominated width(s) at the property boundary in accordance with Council plan A(BS)103S.

Nominated Widths: 6m each

6.8.4 Footpaths

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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- 6.8.4.1 Construction of segmental block path paving (65mm thick clay paver) for the full width of the footway area over the full frontage of the site. Any street trees are to be planted in suitable grates or bays. Please contact Council's Development Services Engineers for details of type and colour of pavers to be laid.

6.8.5 Finished Boundary Levels

- 6.8.5.1 Finished levels of all internal works at the road boundary of the property must be:

(a) 4% above the top of the kerb.

7 PRIOR TO DEVELOPMENT WORKS

7.1 Safety/Health/Amenity

- 7.1.1 Toilet facilities shall be provided on the land at the rate of 1 toilet for every 20 persons or part thereof employed at the site.

Each toilet provided shall be:

- (a) a standard flushing toilet, or
- (b) a temporary on-site toilet which is regularly maintained and the waste disposed to an approved sewerage management facility.

- 7.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (a) the name, address and telephone number of the principal certifying authority for the work, and
- (b) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

This condition does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- 7.1.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involve the enclosure of a public place,

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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a hoarding or protective barrier shall be erected between the work site and the public place. Such hoarding or barrier shall be designed and erected in accordance with Council's current Local Approvals Policy under the Local Government Act 1993.

Where necessary, an awning shall be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to any person in the public place.

- 7.1.4 Soil erosion and sediment control measures shall be provided in accordance with Council's Soil Erosion and Sediment Control Policy.
- 7.1.5 All soil erosion and sedimentation control measures indicated in the documentation accompanying the Construction Certificate shall be installed prior to the commencement of development works.
- 7.1.6 A single vehicle/plant access to the land shall be provided to minimise ground disturbance and transport of soil onto any public place. Such access shall be provided in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. Single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided as a minimum.
- 7.1.7 Any excavation and/or backfilling associated with the development shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent such work being dangerous to life or property.
- 7.1.8 Should any excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
- (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting work commences, be given notice of such intention and particulars of the excavation or supporting work.

7.2 Notification to Council

- 7.2.1 The person having the benefit of this consent shall, at least 2 days prior to work commencing on site, submit to Council a notice under Clauses 135 and 136 of the Environmental Planning and Assessment Regulation 2000, indicating details of the appointed Principal Certifying Authority and the date construction work is proposed to commence.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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- 7.2.2 At least five (5) full working days written notice must be given for the commencement of engineering works. Such notice must be accompanied by evidence of the contractors Public Liability and Workers Compensation Insurances. For Public Liability Insurance this should be a minimum amount of \$20,000,000.

7.3 Sydney Water Authorisation

- 7.3.1 Sydney Water Corporation's approval, in the form of appropriately stamped Construction Certificate plans, shall be obtained and furnished to the Principal Certifying Authority to verify that the development meets the Corporation's requirements concerning the relationship of the development to any water mains, sewers or stormwater channels.

OR

The approved plans are to be submitted to a Sydney Water Customer Centre or Quick Check Agent, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. The plans must be appropriately stamped and all amended plans will require restamping. For Quick Check Agent details, please refer to the "Building Plumbing and Developing" Section of the website www.sydneywater.com.au, then follow the "Developing Your Land" link or telephone 13 20 92 for assistance.

7.4 Construction Details

- 7.4.1 Structural details of the nominated building component(s), prepared and/or certified by a professional engineer or other appropriately qualified person, shall be lodged with Council prior to commencing or erecting that portion of the approved development.

Nominated Component

- (a) Footing piers
- (b) Footing system
- (c) Floor slab
- (d) Structural concrete
- (e) Wall frame bracing
- (f) Roof trusses
- (g) Structural steelwork
- (h) Retaining walls

7.5 Use of Crane

- 7.5.1 Any crane used in the construction of this development must have approval under the Roads Act 1993 from Council to swing over public air spaces.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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- 7.5.2 The crane used must be provided with a light in accordance with the requirements of the Civil Aviation Authority (CASA) requirement. This may require a separate approval from CASA.

8 DURING CONSTRUCTION (BUILDING)

8.1 Safety/Health/Amenity

- 8.1.1 The required toilet facilities shall be maintained on the land at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.

- 8.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (c) the name, address and telephone number of the principal certifying authority for the work, and
- (d) the name of the principal contractor (if any) for the building work and a telephone number on which that person may be contacted outside working hours, and
- (e) stating that unauthorised entry to the work site is prohibited.

- 8.1.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involves the enclosure of a public place,

the required hoarding, awning or protective barrier shall be maintained between the land and the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to persons in the public place.

- 8.1.4 Soil erosion and sediment control measures (including the connection of roofwater downpipes to stormwater drainage lines upon fixing of roof covering) shall be maintained during the development works.

- 8.1.5 All measures specified in the Construction Certificate to control soil erosion and sedimentation shall be maintained throughout development works.

- 8.1.6 A single vehicle/plant access to the land shall be maintained to minimise ground disturbance and transport of soil onto any public place. Such access shall be maintained in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. As a minimum, single sized 40mm or larger aggregate placed 150mm deep, and extending from the street kerb/road shoulder to the land shall be provided.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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- 8.1.7 Any excavation and/or backfilling associated with the ongoing development works shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent them from being dangerous to life or property.
- 8.1.8 Should any excavation associated with the ongoing development works extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
- (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting works be given notice of such intention and particulars of the excavation or supporting works.
- 8.1.9 Building and construction materials, plant, equipment and the like shall not to be placed or stored at any time on Council's footpath, roadway or any public place.
- 8.2 Building Code of Australia Compliance**
- 8.2.1 All building work shall be carried out in accordance with the provisions of the Building Code of Australia.
- 8.3 Surveys**
- 8.3.1 The building(s) shall be set out by a registered surveyor and a survey report lodged with the Principal Certifying Authority to verify the approved position of each structure in relation to the property boundaries.
- 8.3.2 A registered surveyor's report indicating that the required minimum Australian Height Datum floor level has been achieved, shall be lodged with the Principal Certifying Authority prior to work proceeding above floor level.
- 8.4 Nuisance Control**
- 8.4.1 Any objectionable noise, dust, concussion, vibration or other emission from the development works shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.
- 8.4.2 The hours of any offensive noise-generating development works shall be limited to between 7.00am to 6.00pm, Mondays to Fridays: 8.00am to 1pm, Saturdays; and no such work to be undertaken at any time on Sundays or public holidays.
- 8.4.3 Construction work on all buildings (except that on single dwelling houses and associated structures on the on the site of a single dwelling house) shall not occur on Saturdays and Sundays on weekends adjacent to a public holiday.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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8.5 Waste Control

- 8.5.1 The waste material sorting, storage and re-use requirements of the approved Waste Management Plan and Council's Site Waste Management and Minimisation Development Control Plan shall be implemented during the course of development works.

8.6 Construction Inspections

- 8.6.1 The person having the benefit of this consent is required to notify the Principal Contractor for the building construction project that various mandatory and critical stage inspections must be conducted by an accredited certifier, and may include inspections (where applicable):

- (a) After excavation for, and prior to placement of, any footings; and
- (b) Prior to pouring any in-situ reinforced concrete building element; and
- (c) Prior to the covering of the framework for any floor, wall roof or other building element, and prior to covering waterproofing in any wet areas; and
- (d) Prior to covering waterproofing in any wet areas (but for a minimum of 10% of rooms with wet areas in any class 2,3 or 4 building); and
- (e) Prior to covering any stormwater drainage connections; and
- (f) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The critical stage inspection "(f)" must be carried out by the Principal Certifying Authority.

Any inspection conducted by an accredited other than the nominated PCA for the project must be verified by way of a Compliance Certificate issued for the relevant works.

Note: Failure to ensure the relevant inspections are conducted will preclude the issue of an Occupation Certificate.

8.7 Site Contamination

- 8.7.1 Should any contaminated material be unearthed or fly-tipped rubbish be encountered during construction, all works are to cease immediately. In this situation, an amended Remediation Action Plan (RAP) is to be submitted to Council's Manager, Development Services for further consideration and all potentially contaminated material is to be tested, removed or undergo remediation. In this regard, the environmental consultant engaged for this project is to be on site for regular monitoring of the approved site works.

These conditions are imposed for the following reasons:

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8.7.2 Throughout the duration of the works, the applicant is to demonstrate compliance with the following approval parameters:

- a) The applicant is to ensure that validation for the entire subject site can be prepared by a suitably qualified environmental consultant in accordance with Council's Contamination Land Policy.
- b) The applicant is to ensure that the site has been satisfactorily secured so as to prevent any unauthorised dumping of illegal fill/waste building materials (i.e. non-V.E.N.M soils) from entering onto the development site.
- c) Appropriate dust suppression measures are to be incorporated into the site works process, so as to ensure that adjoining properties in the local vicinity are not negatively impacted upon by dust generated from the development site.
- d) Any filling shall be undertaken in accordance with the fill protocol approved by Council's Manager, Development Assessment.

Should Council receive any complaints regarding non-compliance with any of the above matters or other such operational type matters, then Council will have no alternative but to fully investigate the complaint and pursue an appropriate course of action.

8.8 Aboriginal Archaeology

8.8.1 Should any archaeological material be uncovered during construction activities on any location within the approved development, then all works are to cease immediately and representatives of the Office of Environment & Heritage (OEH) and a member of each of the Western Sydney Aboriginal Stakeholder Groups is to be contacted.

8.9 Salinity and Aggressive Soil Management

8.9.1 All salinity management measures provided in the Geotechnical and Salinity Assessment Report required by Condition 3.9.1 of this consent shall be implemented during construction.

9 DURING CONSTRUCTION (ENGINEERING)

9.1 Maintenance of Soil Erosion Measures

9.1.1 All required soil erosion and sediment control measures are to be maintained during the entire construction period until disturbed areas are restored by turfing paving or revegetation. Infringement Notices incurring a monetary penalty may be issued by Council where the maintenance of measures is inadequate.

These conditions are imposed for the following reasons.

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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9.2 **Filling of Land & Compaction**

- 9.2.1 Regular wetting down of the site must be undertaken during the course of works being carried out in order to control wind blown dust from the site.
- 9.2.2 Roads adjoining the site must be kept clean and free of all excavated /transportable spoil materials.

9.3 **Inspections of Works**

- 9.3.1 Inspection Compliance Certificates issued by a Registered Engineer (NPER) or Registered Surveyor or Compliance Certificates issued by an accredited certifier, under Part A of Environmental Planning and Assessment Act 1979 as amended, are to be issued for works covered by the Construction Certificate for engineering works at the completion of the following mandatory inspection stages: -

(i) Soil Erosion and Sediment Control

- (a) Implementation of erosion and sediment control
- (b) Revegetation of disturbed areas
- (c) Construction of major controls (i.e gabions mattresses shotcreting etc)
- (d) Removal of sediment basins/ fencing etc.
- (e) Internal sediment/ pollution control devices
- (f) Final Inspection

(ii) Traffic Control

- (a) Implementation of traffic control
- (b) Maintenance of traffic control during works
- (c) Removal of traffic control

(iii) Construction of Drainage works (including inter-allotment)

- (a) Pipes before backfilling including trench excavation and bedding
- (b) Sand Backfilling
- (c) Final pipe inspection
- (d) Pit bases and headwall aprons
- (e) Pit Walls/ wingwalls/ headwalls
- (f) Concrete pit tops
- (g) Connection to existing system
- (h) Tailout works
- (i) Final Inspection

(iv) Footpath Works

- (a) Footpath Trimming and/or turfing (to ensure 4% fall)

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
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- (b) Pathway construction (cycle/ link pathways)
- (c) Path-paving construction
- (d) Service Adjustments
- (e) Final Inspection

(v) Construction of on-site detention system

- (a) Steel and Formwork for tank/ HED control pit
- (b) Completion of HED control pit
- (c) Pit formwork
- (d) Pipes upstream/ downstream of HED control pit before backfilling
- (e) Completion of OSD system

(vi) Stormwater Quality Control

- (a) Installation of Stormwater Quality Control devices
- (b) Final Inspection

(vii) Final overall Inspections

- (a) Preliminary overall final inspection
- (b) Overall final inspection

ALTERNATIVELY, one comprehensive Inspection Certificate or Compliance certificate may be issued to include all of the above-mentioned stages of construction.

Where Council is appointed as the Principal Certifying Authority for the development (e.g. all Torrens Title subdivisions), only Compliance Certificates issued by accredited certifiers will be accepted at the completion of the above-mentioned stages. Any Compliance Certificate must certify that the relevant work has been completed in accordance with the pertinent Notice of Determination / Development Consent and Construction certificate.

- 9.3.2 Inspection of the works required pursuant to the engineering approval issued under the Roads Act 1993 must be made by Council's Development Overseers who can be contacted on 9839 6586 between 7am - 8am and 12.30pm - 1.30pm. A site inspection is required prior to commencement of work. A minimum twenty-four (24) hours notice must be given prior to any required inspection. A schedule of mandatory inspections is listed in Council's Works Specification – Civil (current version).

9.4 Public Safety

- 9.4.1 The applicant is advised that all works undertaken in a public place are to be maintained in a safe condition at all times. Council may at any time and without prior notification make safe any such works Council considers to be unsafe and recover all reasonable costs incurred from the applicant.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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10 **DURING CONSTRUCTION (ENVIRONMENTAL HEALTH)**

10.1 **Premises Construction**

- 10.1.1 Any asbestos material is to be handled and treated in accordance with the WorkCover document "*Your Guide to Working With Asbestos - Safety guidelines and requirements for work involving asbestos*" dated March 2008.

11 **PRIOR TO OCCUPATION CERTIFICATE**

11.1 **Road Damage**

- 11.1.1 The cost of repairing any damage caused to Council's assets in the vicinity of the land as a result of the development works shall be met in full by the applicant/developer.

Note: Should the cost of damage repair work not exceed the road maintenance bond Council will automatically call up the bond to recover its costs. Should the repair costs exceed the bond amount a separate invoice will be issued.

11.2 **Compliance with Conditions**

- 11.2.1 An Occupation Certificate shall not be issued until such time as all conditions of this consent, other than "Operational" conditions, have been satisfied. The use or occupation of the development prior to compliance with all conditions of consent, other than "Operational" conditions, may render the applicant/developer liable to legal proceedings.

- 11.2.2 Prior to occupation/use of a new building, it is necessary to obtain an Occupation Certificate from the Principal Certifying Authority in accordance with the provisions of Section 109H of the Environmental Planning & Assessment Act 1979.

11.3 **Temporary Facilities Removal**

- 11.3.1 Any hoarding or similar barrier erected to protect a public place shall be removed from the land and/or public place.
- 11.3.2 Any temporary toilet facilities provided during construction works shall be appropriately dismantled, disconnected and removed from the land.
- 11.3.3 Any temporary soil erosion control measure installed during development works shall be removed and other permanent measures required by Council's Soil Erosion Control Policy shall be provided.
- 11.3.4 Any temporary builder's sign or other site information sign shall be removed from the land.

These conditions are imposed for the following reasons

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- 11.3.5 Any temporary site access provided for the purpose of development works shall be removed and the kerb and gutter and/or previous roadworks reinstated in a manner satisfactory to Council. Should the reinstatement involve the provision of a new vehicular crossing, layback, kerb and gutter or road shoulder works the separate approval of Council's Maintenance Section shall be obtained (and any appropriate fees paid) prior to such works commencing.

11.4 Service Authorities

- 11.4.1 A final written clearance shall be obtained from Sydney Water Corporation, Endeavour Energy and Telstra (or any other recognised communication carrier) if such clearance (in the form of a Section 73 Certificate, Notification of Arrangement, etc) has not previously been issued.

- 11.4.2 The following documentary evidence shall accompany any Occupation Certificate:

- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Applications must be made through an authorised Water Servicing Coordinator. Please refer to the "Building Plumbing and Developing" Section of the website www.sydneywater.com.au, then follow the "Developing Your Land" link or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the occupation of the development.

11.5 Fire Safety Certificate

- 11.5.1 A final fire safety certificate complying with Clause 153 of the Environmental Planning and Assessment Regulation 2000 shall be issued prior to the use or change of use of the building, except in the case of any Class 1a and Class 10 building(s).

11.6 External Finishes

- 11.6.1 The development approved by Council is to be constructed in accordance with the approved schedule of materials, finishes and colours (identified on Drawing No. A700 dated 19.12.14 Rev. A) and held at Enclosure 51A on Council's File JRPP-14-2593. All landscaping, fencing, retaining walls and driveways are to be provided in accordance with the approved plans, and the details submitted and approved as part of the Construction Certificate.

11.7 Landscaping

- 11.7.1 All landscaping and common open space areas shall be completed in accordance

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with approved landscaping design plan. All turfed areas shall be finished level with adjoining surfaces and graded to approved points of drainage discharge.

- 11.7.2 All common open space areas and internal driveways shall be appropriately illuminated by the use of bollard lighting or the like to provide for the safety and convenience of occupants and other people resorting to the land at night. The loading dock area and car parking areas must also be provided with sufficient lighting to enhance the safety of users.

11.8 Car Parking

- 11.8.1 Off-street resident and resident visitor car parking shall be encouraged by the installation of appropriate, permanent and prominent signs indicating its availability for residents and their visitors.

- 11.8.2 Entrance/exit points are to be clearly signposted and visible from the street and the site at all times.

- 11.8.3 Access and parking for people with disabilities shall be provided in accordance with Australian Standard 2890.6. - 2009

- 11.8.4 All required internal driveways and car parking spaces shall be line-marked, sealed with a hard standing, all-weather material to a standard suitable for the intended purpose. In this regard, a minimum 106 residential and 21 resident visitor car parking spaces must be provided on site.

- 11.8.5 The car parking allocation is to be incorporated into a Parking Management Strategy which will also include the following responsibilities for the Managing Agent/future Body Corporate:

- (a) Measures to ensure a clear segregation between the residential and non-residential parking spaces is maintained at all times.

- 11.8.6 Bicycle racks are to be provided on site in accordance with the Residential Flat Design Code (RFDC).

- 11.8.7 On-site waste collection areas, loading areas and manoeuvrability paths are to be suitably line-marked and sign-posted to ensure areas are kept clear of obstructions that may prohibit their future use.

11.9 Ancillary Work

- 11.9.1 Each dwelling unit is to be provided with a mechanical drying appliance within the unit.

- 11.9.2 Mail boxes are to be provided on site in accordance with the requirements of Australia Post.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
(b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
(c) It is in the public interest that they be imposed

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- 11.9.3 The awning must be constructed in accordance with the those details submitted as part of the Construction Certificate. The height and width of the awning must comply with the requirements of Council's Maintenance Section.
- 11.9.4 Plumbing services are to be provided to the commercial tenancy to enable the installation of a potential kitchen.

11.10 Waste Management Plan

- 11.10.1 Evidence (e.g. in the form of receipts) is to be submitted to confirm that waste and recyclable materials, including fill from the excavation of the basement car parking have been managed and disposed.
- 11.10.2 Arrangements shall be made for an effective private contractor commercial refuse removal service.
- 11.10.3 A private contractor and/or Council contractor must be engaged. Note: The engagement of Council to service the development requires final approval of Council's Waste Services Section prior to the release of Occupation Certificate.
- 11.10.4 Appropriate provisions are to be included in any future Strata Management Plan for the ongoing management of waste and recyclables on the property during the operations of the development. The following provisions must also be adopted:
- a. The managing agent and future Body Corporate is to be responsible for ensuring the implementation of the ongoing waste management system in accordance with this condition, including the collection of recycled materials from the residential levels, commercial levels and transporting them to the storage and collection room.
 - b. If the development is to be strata subdivided, a clause is to be included in the Plan of Strata Management to incorporate the requirements of this condition to address the ongoing management of waste and recycled materials in accordance with this Condition.
- 11.10.5 Contact details of the private contractor engaged used to provide the collection services will need to be provided to Council once the development is operational.
- Note: Should a private contractor be engaged for the residential component, residents will not be able to access Council's household clean up service, or garbage/recycling service.
- 11.10.6 A Community Management/Strata Management Agreement must:
- a. clearly outline the method of communication to new tenants and residents regarding the waste management services and collection system for the complex

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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- b. indicate their responsibility for the maintenance of the garbage collection system and bin cleaning, and ensure waste collection points are clear and unobstructed prior to collection times.

11.10.7 The strata manager must sign the 'Agreement for Onsite Waste Collection' form prior to the release of Occupation Certificate. The Agreement must be entered into with Council's Waste Services Section who must be satisfied prior to the release of Occupation Certificate.

11.11 Fee Payment

11.11.1 Any fee payable to Council as part of a Construction, Compliance or Occupation Certificate or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.

11.12 Engineering Matters

11.12.1 Surveys/Certificates/Works As Executed plans

11.12.1.1 A works-as-executed plan (to a standard suitable for microfilming) signed by a Chartered Professional Engineer or a Registered Surveyor must be lodged with Blacktown City Council when the engineering works are completed. All engineering work-as-executed plans MUST be prepared on a copy of the original, stamped Construction Certificate plans for engineering works. The works as executed plan must confirm that the On Site Detention system identification plate has been installed in accordance with the Upper Parramatta River Catchment Trust Guidelines. The On Site Detention system identification plate can be purchased from Upper Parramatta River Catchment Trust or Council.

11.12.1.2 A certificate from a Chartered Professional Engineer/Registered Surveyor must be obtained and submitted to Council verifying that the on-site detention system as constructed will function hydraulically in accordance with the approved design plans.

11.12.1.3 A certificate from a Registered Engineer (NPER) must be lodged with Council verifying that the structures associated with the on-site detention systems have been constructed to withstand all loads likely to be imposed on them during their lifetime.

11.12.1.4 A certificate from a Chartered Professional Civil Engineer must be obtained and submitted to Council verifying that the constructed Stormwater Quality Control system will function effectively in accordance with Blacktown Council's DCP Part R – Water Sensitive Urban Design and Integrated Water Cycle Management.

11.12.1.5 The submission to Council of all Inspection/Compliance Certificates required by the "During Construction (Engineering)" Section of this consent.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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11.12.2 Easements/Restrictions/Positive Covenants

11.12.2.1 Any easement(s) or restriction(s) required by this consent must nominate Blacktown City Council as the authority to release vary or modify the easement(s) or restriction(s). The form of easement or restriction created as a result of this consent must be in accordance with the following:

(a) Blacktown City Council's standard recitals for Terms of Easements and Restrictions (Current Version).

(b) The standard format for easements and restrictions as accepted by the Lands Property Information.

11.12.2.2 Restrictions and positive covenants must be registered with Land and Property Information over the on-site detention storage areas, stormwater quality and outlet works.

Prior to Council endorsing the Restrictions and Positive Covenants, all relevant conditions in the consent must be satisfied. All relevant OSD documentations as required by the conditions of consent must be submitted to Council in accordance with Council's standards and requirements. All submitted documentation will be checked by Council's officer for compliance prior to endorsement of required instruments.

In summary the following documentation will be required;

1. An approved and certified design plan of the OSD and stormwater quality system by an accredited certifier.
2. A Structural certificate from an NPER structural engineer for the design of the On Site Detention (OSD) tank and an approved structural detail design plan certified by an NPER structural engineer if an underground tank is involved.
3. Hydraulic certificate for the design of the OSD system.
4. Design summary sheet for OSD, Weir calculation, Form B9 – OSD detailed design submission.
5. An OSD and stormwater quality maintenance schedule.
6. An inspection certificate from an Accredited Certifier or a (NPER registered) Professional Engineer for the construction of OSD and stormwater quality system.
7. Hydraulic Compliance certificate Form B.11
8. A Structural Certificate for the constructed OSD and water quality tank verifying that the structures have been constructed structurally adequate to withstand all loads likely to impose on it during its lifetime.
9. Works as executed (WAE) plan for OSD in accordance with Council' requirements.

11.12.3 Inspections

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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- 11.12.3.1 Any **additional** Council inspections beyond the scope of any Compliance Certificate package and needed to verify full compliance with the terms of this consent will be charged at the individual inspection rate nominated in Council's Fees and Charges Schedule.

11.13 Street tree planting

- 11.13.1 Prior to the issue of any Occupation Certificate, the person having the benefit of the development consent is to enter into an arrangement satisfactory to the Council for the planting and maintenance of tree(s) along the frontage of the development site for the purposes of improving the amenity of the streetscape.

Number of Trees: 6 x 45 litre street trees (to the satisfaction of Council's Manager Open Space).

NOTE: If the applicant wishes to undertake the planting and maintenance of street tree/s to Council's satisfaction at no cost to Council (making any necessary Applications with Council or obtaining any necessary clearances from relevant Service Authorities), the Applicant is, subject to any alternative arrangements satisfactory to the Council, to lodge a tree bond of \$ 300 per tree (total \$1,800) and \$120 Inspection fee with Council to ensure the health and vigour of the tree/s. The bond shall be returned 12 months after the completion of the development (i.e. issue of final Occupation/Subdivision Certificate) if the trees are in a state of good health and vigour to Council's satisfaction.

11.14 Other Matters

- 11.14.1 All commitments listed in the BASIX Certificate number: 599109M dated 19 December 2014 held at Enclosure 2F of Council's File JRPP-14-2593 shall be complied with prior to the issue of an Occupation Certificate for the development.

- 11.14.2 All fencing, landscaping, clotheslines, hot water systems, TV antennae, mailboxes, driveways and the common open space area are to be completed in accordance with the approved plans and conditions of this consent to Council's satisfaction prior to the release of the Occupation Certificate.

- 11.14.3 A post-construction dilapidation report shall be carried out for any of the potentially affected existing buildings surrounding the proposed development. A copy of the report shall be submitted to Council prior to issue of Occupation Certificate.

11.15 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

- 11.15.1 No occupation certification must be issued unless all design verifications have been provided in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000, a certifying authority must not issue a construction certificate for residential flat development unless the certifying authority has received a design verification from a qualified designer, being a statement in which

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the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development.

11.16 Graffiti Management Plan

11.16.1 A "Graffiti Management Plan" is to be submitted for the separate approval of Council's Manager, Development Services. The plan is to address the following issues:

- (a) Methods to minimise the potential for graffiti;
- (b) Management/notification procedures for the "early" removal of graffiti;
- (c) Annual review of any "management agreement" for the removal of graffiti to ensure the property is maintained at its optimum level; and
- (d) Maintenance of suitable landscaping to minimise the potential for graffiti attacks.

11.16.2 The Owners Corporation is to manage the graffiti management plan. The recommendations of the plan are to be integrated into a Strata Management Agreement/by-laws.

12 OPERATIONAL (PLANNING)

12.1 Graffiti Removal

12.1.1 Removal of any graffiti, visible from any public road or space, is the responsibility of the property owner/s. All graffiti must be removed within 48 hours.

12.2 Access/Parking

12.2.1 All required off-street car parking spaces and internal roads shall be maintained to a standard suitable for the intended purpose.

12.2.2 All loading and unloading operations shall take place at all times wholly within the confines of the land. All vehicles must enter and exit the site in a forward direction at all times.

12.2.3 Access and parking for people with disabilities shall be maintained in accordance with provisions of Australian Standards 1428.1 and 2890.1.

12.3 General

12.3.1 No goods, materials, or trade waste shall be stored at any time outside the building

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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other than in approved garbage receptacles.

- 12.3.2 Spillage of light, if any, shall be controlled so as not to cause nuisance to the amenity of adjoining land.
- 12.3.3 If artificial lighting is proposed full details are to be submitted indicating the manner in which adjoining properties are to be protected.
- 12.3.4 Should an intruder alarm be installed on the land it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 12.3.5 Emission of sound from the land shall be controlled at all times so as to not unreasonably impact upon nearby owners/occupants.

12.4 Landscaping

- 12.4.1 All landscaped areas provided in accordance with the approved landscaping design plan shall be maintained at all times in a suitable manner.
- 12.4.2 Sightlines must be kept free from obstructions. If a lack of natural surveillance occurs this would quickly encourage anti-social behaviour and criminal offences specifically malicious damage to the area. The 'fear of crime' would also no doubt increase if there is sign of malicious damage, rubbish, broken bottles etc around the development. Regular maintenance and up-keep of the site must therefore be adhered to.
- 12.4.3 The management of vegetation, gardens, planter boxes, communal areas, BBQ facilities, children's play equipment, etc is to be incorporated within the future strata management plan once the development is occupied.

12.5 Use of Premises

- 12.5.1 The use of the approved development shall, at all times, be conducted in a manner consistent with the terms and conditions of this consent.

12.6 Waste Management

- 12.6.1 Waste and recycling collection vehicles entering and exiting the property must do so in a forward direction.
- 12.6.2 All waste generated on site must be disposed of in accordance with the Waste Management Plan held at Enclosure 49B on Council's File JRPP-14-2593.

12.7 Emergency Procedures

- 12.7.1 Instructions concerning procedures to be adopted in the event of an emergency shall be clearly displayed throughout the development for both public and staff information at all times to the satisfaction of Council.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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12.8 Clothes Drying

- 12.8.1 Clothes drying is to be conducted in the mechanical dryers. The drying of clothes on balconies (where visible from a public place) is prohibited. If the development is to be strata subdivided, a clause is to be included in the Plan of Strata Management prohibiting the drying of clothes on balconies (where visible from a public place).

13 OPERATIONAL (ENVIRONMENTAL HEALTH)

13.1 Environmental Management

- 13.1.1 Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- 13.1.2 All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- 13.1.3 In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

These conditions are imposed for the following reasons

- (a) To ensure compliance with the terms of the relevant Environmental Planning Instruments and/or the Building Code of Australia and/or Council's codes, policies and specifications
- (b) To ensure that no injury is caused to the amenity of the area, to other persons or to private and public property
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**JUSTIFICATION PURSUANT TO CLAUSE 4.6 OF BLACKTOWN LEP
(CENTRAL BUSINESS DISTRICT) 2012
BUILDING HEIGHT DEVELOPMENT STANDARD**

SITE ADDRESS: No. 28 Second Avenue, Blacktown

PROPOSAL: Construction of a 24 storey shop top housing development

Name of the applicable planning instrument which specifies the development standard;

Blacktown Local Environmental Plan (Central Business District) 2012

The nature of the variation request is as follows:

Clause 4.3 of Blacktown LEP (CBD) 2012 relates to the maximum height of buildings and requires that the proposed development does not exceed 72m above ground level as identified on the LEP building height maps. The proposed building has been designed to generally comply with the height standard, however, seeks a departure in relation to the lift overrun, balustrades to the roof top terrace and the architectural roof feature as detailed at Figure 1 below.

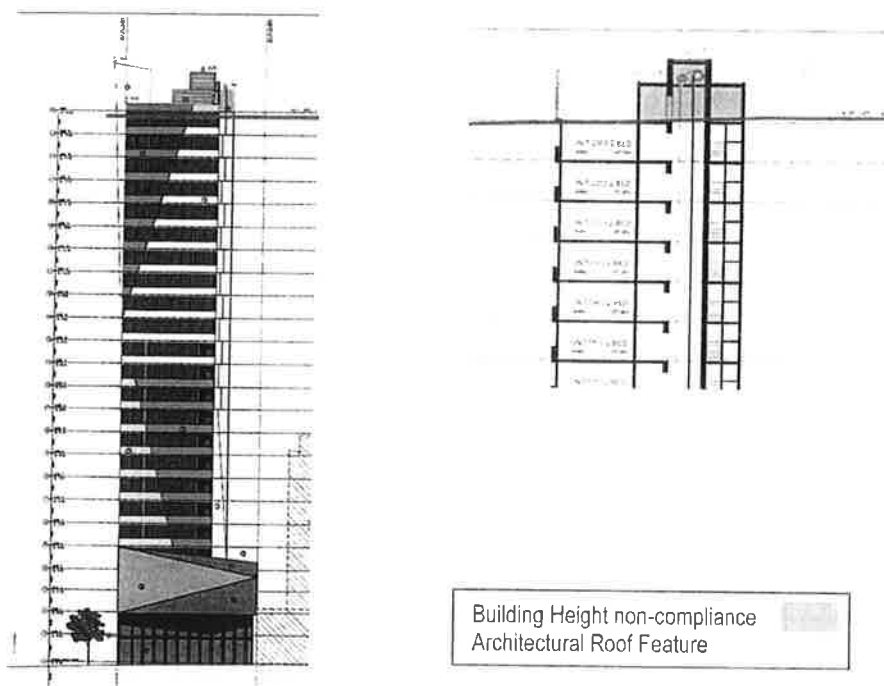


Figure 1: Building Height non-compliance

The height non-compliance results from providing a communal open space area within the roof terrace and associated lift access. The architectural roof feature does exceed the maximum height limit, however, has been designed to be a decorative element that is not capable of being adapted as floor space and will

not be used for advertising. As architectural roof features are permitted by Clause 5.6 of the LEP, this variation request will focus on the aspects of the building that are not classified as architectural roof features, that is the areas shaded red on Figure 1.

The upper level of the lift overrun is located at RL 128.7 and extends 77.1m above natural ground level in order to provide access to the roof terrace area. This results in a 5.1m departure from the subject control at an isolated portion of the building. The 7% departure from the maximum height limit is minor, will not materially alter the appearance of the building and would be indiscernible to the casual observer. The non-compliance provides a functional benefit of enabling access to the roof top terrace without any material visual or amenity related impacts.

Justification Pursuant to Clause 4.6 of BLEP (CBD) 2012

The height control is a "development standard" to which exceptions can be granted pursuant to Clause 4.6 of the LEP. The objectives and provisions of Clause 4.6 are as follows:

- "
- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
 - (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
 - (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
 - (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
 - (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

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

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

(a) a development standard for complying development,

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

(ba) clause 4.3A,

(c) clause 5.4,

(ca) clause 5A.1 or 5A.2,

(cb) clause 6.7."

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

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

Objective 1(b) of Clause 4.6 is addressed later in this request.

The objectives and relevant provisions of Clause 4.3 are as follows:

(a) to establish maximum height controls for buildings as a means of controlling the density and scale of buildings,

(b) to nominate heights that will provide a transition in built form and land use intensity,

(c) to define focal points by way of nominating greater building heights in certain locations,

(d) to provide sufficient space for development for the purposes of retail premises, commercial premises and residential accommodation,

- (e) to allow sun access to the public domain and ensure that specific areas are not overshadowed,*
- (f) to ensure that buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,*
- (g) to minimise any visual impact on, or loss of solar access to, land in the vicinity of proposed development as a result of that development,*
- (h) to minimise any loss of privacy to residential land as a result of proposed development,*
- (i) to ensure that there is an appropriate interface between commercial centres and land in any adjoining residential zone or in any adjoining public land."*

As previously noted, the *height of buildings map*, nominates a maximum building height of 72m at the site. It is hereby requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit the building height proposed which extends up to 77.1m in relation to the upper most portion of the lift overrun.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the objectives of Clause 4.3 are addressed below:

Objectives (a) and (b) are inherently satisfied by the provision of the subject development standard and do not relate to a specific intended control outcome.

Objective (c) seeks to provide focal points by way of nominating varied building heights. The proposal will not disrupt the intended height hierarchy of the Blacktown CBD and will assist in achieving the intended focal point of the Centre consistent with this objective.

Objective (d) intends on providing sufficient space for the provision of retail and commercial premises and residential accommodation. The proposal has been designed to ensure that all residential accommodation and commercial aspects of the development are contained within the maximum building height proposed. The extent of the departure relates to the functional components of the building that are required to provide a communal roof terrace. The proposal is therefore consistent with this objective.

Objectives (e) to (g) relate to the impacts of overshadowing and loss of sunlight to sensitive private and public spaces. As detailed at Section 4.3.6 of this Statement, the impacts of overshadowing from the proposal are entirely appropriate and could reasonably be expected. To insist on strict compliance in this instance would have no material benefits in terms of overshadowing and solar access due to the offending portion of the building being isolated to the lift overrun and balustrades to the roof terrace.

Objective (h) relates to minimising privacy impacts. As detailed at Section 4.3.6, the proposal achieves appropriate levels of privacy to adjoining properties and the roof terrace and associated lift overrun will not give rise

to any privacy impacts due to the existing and likely built form context of the area.

Clause 4.6(4) also requires consideration of the relevant zone objectives. As detailed at Section 4.2.2 of this Statement, the proposed development will assist with encouraging economic growth and vitality by increasing residential accommodation in the Blacktown CBD as well as commercial tenancies that provide an active frontage to the street.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard relating to height, as discussed above it is considered that there is an absence of significant impacts of the proposed non-compliance on the adjoining properties or the character of development in the area.

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the current proposal provides an appropriate scale and form of development and in doing so will provide access to a communal open space area in the form of a roof top terrace. This will provide an improved amenity and will enable the provision of significantly more communal open space than that required under the Residential Fat Design Guide.

As such, the proposal results in improved outcome for future residents within a scale of development that is entirely appropriate to the site and locality. Therefore, on balance, the proposal is considered to achieve a planning purpose of enhancing residential amenity in the absence of any additional adverse impacts.

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

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an

alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

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

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

Having regard to all of the above, it is our opinion that compliance with the maximum building height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that standard would be unreasonable. Additionally, the proposed design will offer improved residential amenity within an acceptable built form outcome. As such, there are sufficient environmental planning grounds to justify an exception to the development standard. On this basis, the requirements of Clause 4.6(3) are satisfied.

**JUSTIFICATION PURSUANT TO CLAUSE 4.6 OF BLACKTOWN LEP
(CENTRAL BUSINESS DISTRICT) 2012
FSR DEVELOPMENT STANDARD**

SITE ADDRESS: No. 28 Second Avenue, Blacktown

PROPOSAL: Construction of a 24 storey shop top housing development.

Name of the applicable planning instrument which specifies the development standard;

Blacktown Local Environmental Plan (Central Business District) 2012

The nature of the variation request is as follows:

Clause 4.4 of Blacktown LEP (CBD) 2012 relates to the maximum permitted density and requires that the proposed development does not exceed an FSR of 8.5:1. When calculated in accordance with the LEP definition, the proposal results in a gross floor area of 8,629.04m² which results in an FSR of 8.83:1. The proposal exceeds the maximum permitted gross floor area by 323.69m² resulting in a 3.8% variation to the maximum permitted FSR.

The extent of the proposed non-compliance is minor to the extent that a development of the proposed scale is indistinguishable to that of a compliant scheme. As such, the proposal provides additional residential accommodation within the maximum permitted height limit (*note: height exceedence relates to the architectural roof feature and roof top terrace as discussed at Annexure C*) and results in a form of development encouraged by the applicable controls.

Justification Pursuant to Clause 4.6 of BLEP (CBD) 2012

The FSR control is a "development standard" to which exceptions can be granted pursuant to Clause 4.6 of the LEP. The objectives and provisions of Clause 4.6 are as follows:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (ba) clause 4.3A,
 - (c) clause 5.4,
 - (ca) clause 5A.1 or 5A.2,
 - (cb) clause 6.7."

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

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate that the exception sought is consistent with the exercise of "an appropriate

degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited.

Objective 1(b) of Clause 4.6 is addressed later in this request.

The objectives of Clause 4.4 are as follows:

- " (a) to establish maximum floor space ratios as a means of controlling the density, bulk and scale of buildings,*
- (b) to establish the maximum floor space for development for the purpose of commercial premises, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,*
- (c) to concentrate intensive land uses in locations that are most accessible to transport or are on key gateway sites."*

As previously noted, the *FSR Map*, nominates a maximum FSR of 8.5:1 at the site. It is hereby requested that an exception to this development standard be granted pursuant to Clause 4.6 so as to permit the FSR of 8.83:1.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the objectives of Clause 4.4 are addressed below:

Objective (a) seeks to control the extent of density, bulk and scale of development in the Blacktown CBD and as previously discussed, the proposed 24 storey building has a gross floor area of 8,629.04m². The residential tower extends to fill out the building envelope established by the maximum permitted height and it is considered that the exceedence in floor area by 323.69m² will have a negligible impact on the perceived bulk and scale of the building. In fact, to insist on strict compliance, would result in scale of development that is indistinguishable from the proposal and in doing so would preclude the provision of additional residential accommodation in the Blacktown CBD.

Objective (c) relates to establishing the maximum floor area for the purpose of commercial premises in light of available infrastructure and traffic generation. The commercial floor area provided with this application is sufficient to activate the street frontage and provide smaller scale commercial and retail tenancies. The FSR exceedence relates to the provisions of residential dwellings within the desired building envelope. The proposal will provide additional activity within the Blacktown CBD without giving rise to any undue impacts on infrastructure and or the local street network.

The proposal is consistent with Objective (d) in that it concentrates a high intensity of development within an appropriate centre site that has excellent access to public transport and services. The proposal is located on a corner site and the density and form of development proposed will

result in an iconic residential tower block that is of a scale that is encouraged by the applicable planning controls.

Clause 4.6(4) also requires consideration of the relevant zone objectives. As detailed at Section 4.2.2 of this Statement, the proposed development will assist with encouraging economic growth and vitality by increasing residential accommodation in the Blacktown CBD as well as commercial tenancies that provide an active frontage to the street.

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard relating to FSR, as discussed above it is considered that there is an absence of a significant impacts of the proposed non-compliance on the adjoining properties or the character of development in the area.

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the current proposal provides an appropriate scale and form of development and in doing so will provide additional residential accommodation within an area that has immediate access to public transport and key services. This will provide for the fulfillment of the objectives of the Blacktown LEP (CBD) 2012 in that it will promote the economic revitalisation of the Blacktown central business district, will provide employment and development that achieves sustainable social, economic and environmental outcomes for the benefit of present and future generations.

As such, the proposal results in improved outcomes for future residents and the Blacktown CBD within a scale of development that is entirely appropriate to the site and locality. Therefore, on balance, the proposal is considered to achieve a planning purpose of enhancing residential amenity in the absence of any additional adverse impacts.

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

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are

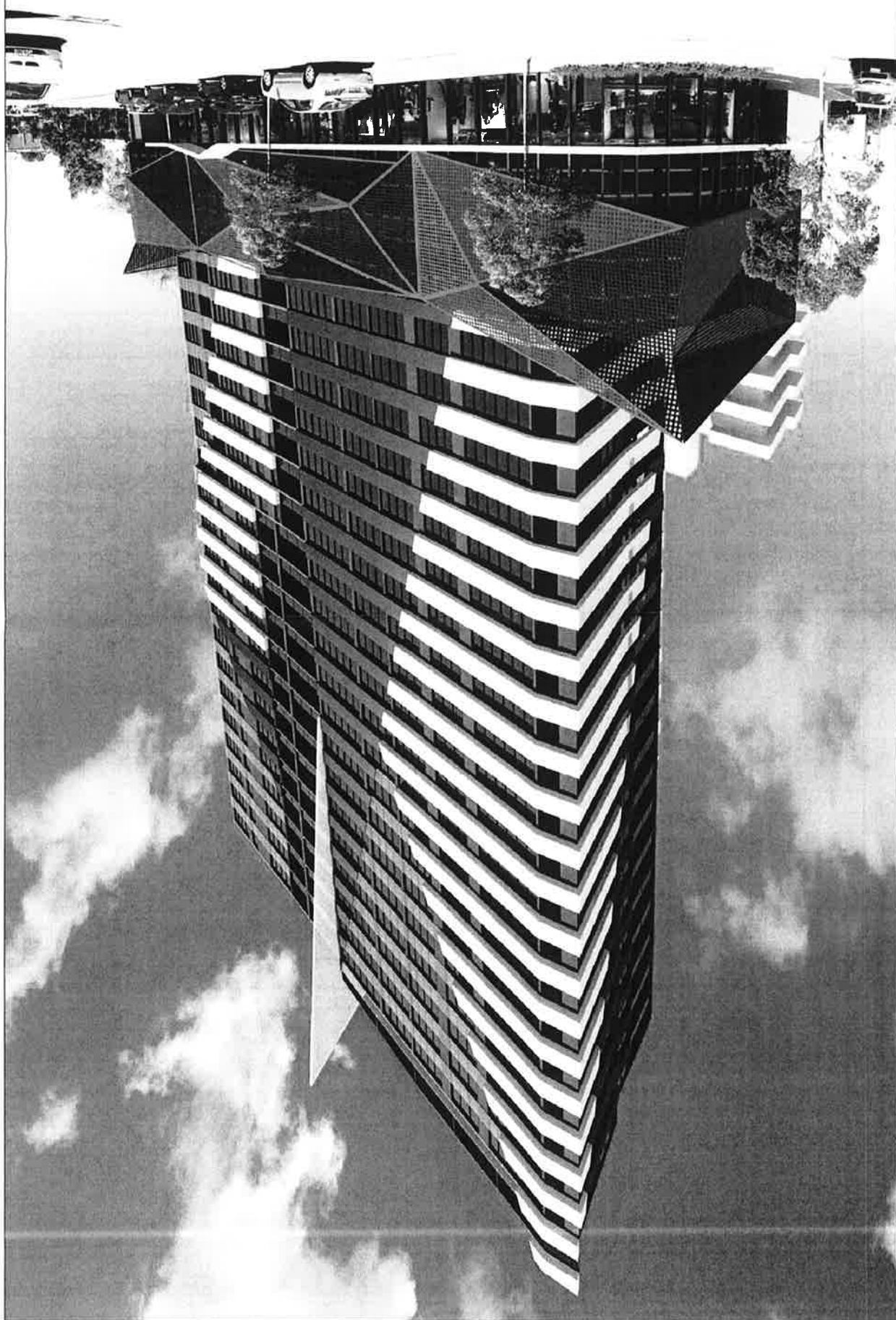
environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

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

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

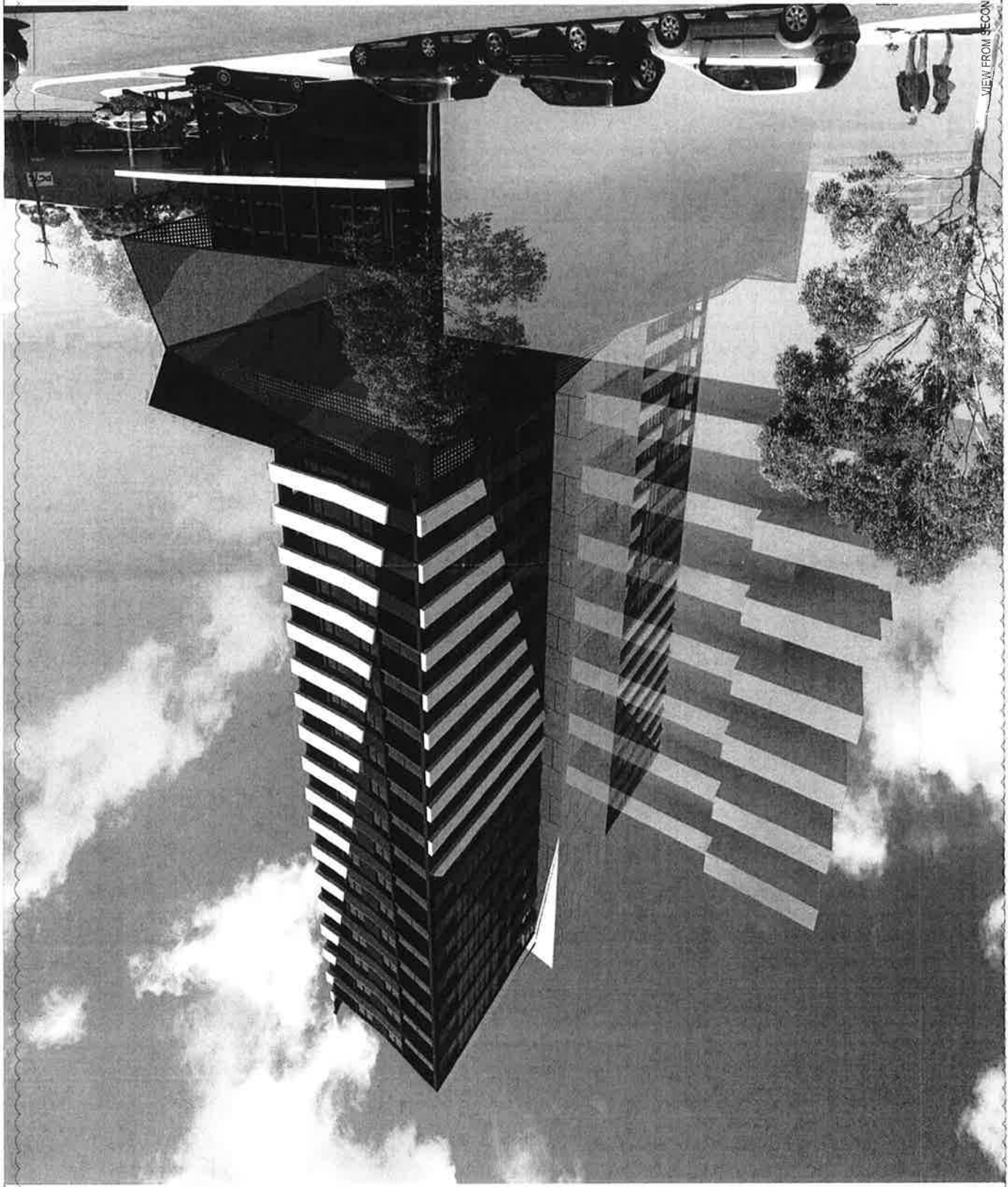
Having regard to all of the above, it is our opinion that compliance with the maximum FSR development standard is unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives.

Therefore, insistence upon strict compliance with that standard would be unreasonable. Additionally, the proposed design will offer additional residential accommodation in an area that is ideally suited for this and will contribute to fulfilling the objectives of the BLEP (CBD) 2012. As such, there are sufficient environmental planning grounds to justify an exception to the development standard. On this basis, the requirements of Clause 4.6(3) are satisfied.



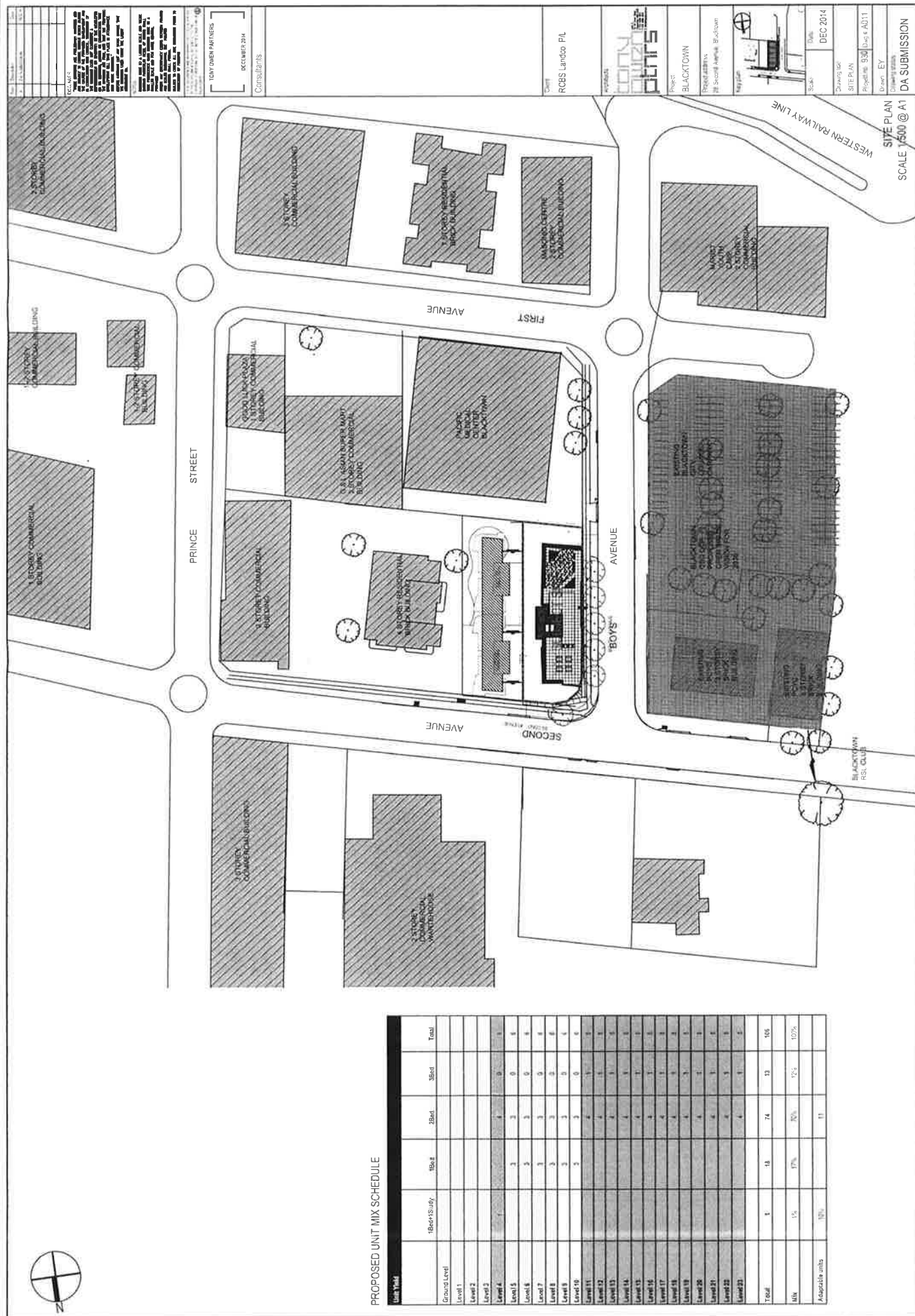
VIEW FROM BOYS AVENUE

[illegible]



VIEW FROM SECOND AVENUE

<p>100% OWNER PARTICIPATES</p> <p>02/2008 BSA</p> <p>Consultants</p>		<p>Architects</p> <p>Project</p> <p>BLACKTOWN</p> <p>Project address</p> <p>24 Second Avenue, Blacktown</p> <p>Key plan</p>	<p>Client</p> <p>Scale</p> <p>Date</p> <p>DEC 2014</p> <p>Drawn by</p> <p>PERFECTING</p> <p>Project no. 830 (Ref: A 831)</p> <p>Drawn by</p> <p>EY</p> <p>DA SUBMISSION</p>
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PROPOSED UNIT MIX SCHEDULE

Unit Type	1 Bed + Study	2 Bed	3 Bed	4 Bed	5 Bed	Total
Ground Level						
Level 1						
Level 2						
Level 3						
Level 4	1	1	0	0	0	2
Level 5		3	3	0	0	6
Level 6		3	3	0	0	6
Level 7		3	3	0	0	6
Level 8		3	3	0	0	6
Level 9		3	3	0	0	6
Level 10		3	3	0	0	6
Level 11		4	4	1	0	9
Level 12		4	4	1	0	9
Level 13		4	4	1	0	9
Level 14		4	4	1	0	9
Level 15		4	4	1	0	9
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Level 19		4	4	1	0	9
Level 20		4	4	1	0	9
Level 21		4	4	1	0	9
Level 22		4	4	1	0	9
Level 23		4	4	1	0	9
Total	8	18	74	13	0	103
Mix	1%	17%	70%	12%	0%	100%
Adaptable units			11			11

SITE PLAN
SCALE 1/500 @ A1

DA SUBMISSION

DATE: DEC 2014

PROJECT: 9301 DUNE A011

DESIGNER: EY

CHECKED: EY

DATE: DEC 2014

PROJECT: 9301 DUNE A011

DESIGNER: EY

CHECKED: EY

DATE: DEC 2014

PROJECT: 9301 DUNE A011

DESIGNER: EY

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PROJECT: 9301 DUNE A011

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DATE: DEC 2014

PROJECT: 9301 DUNE A011

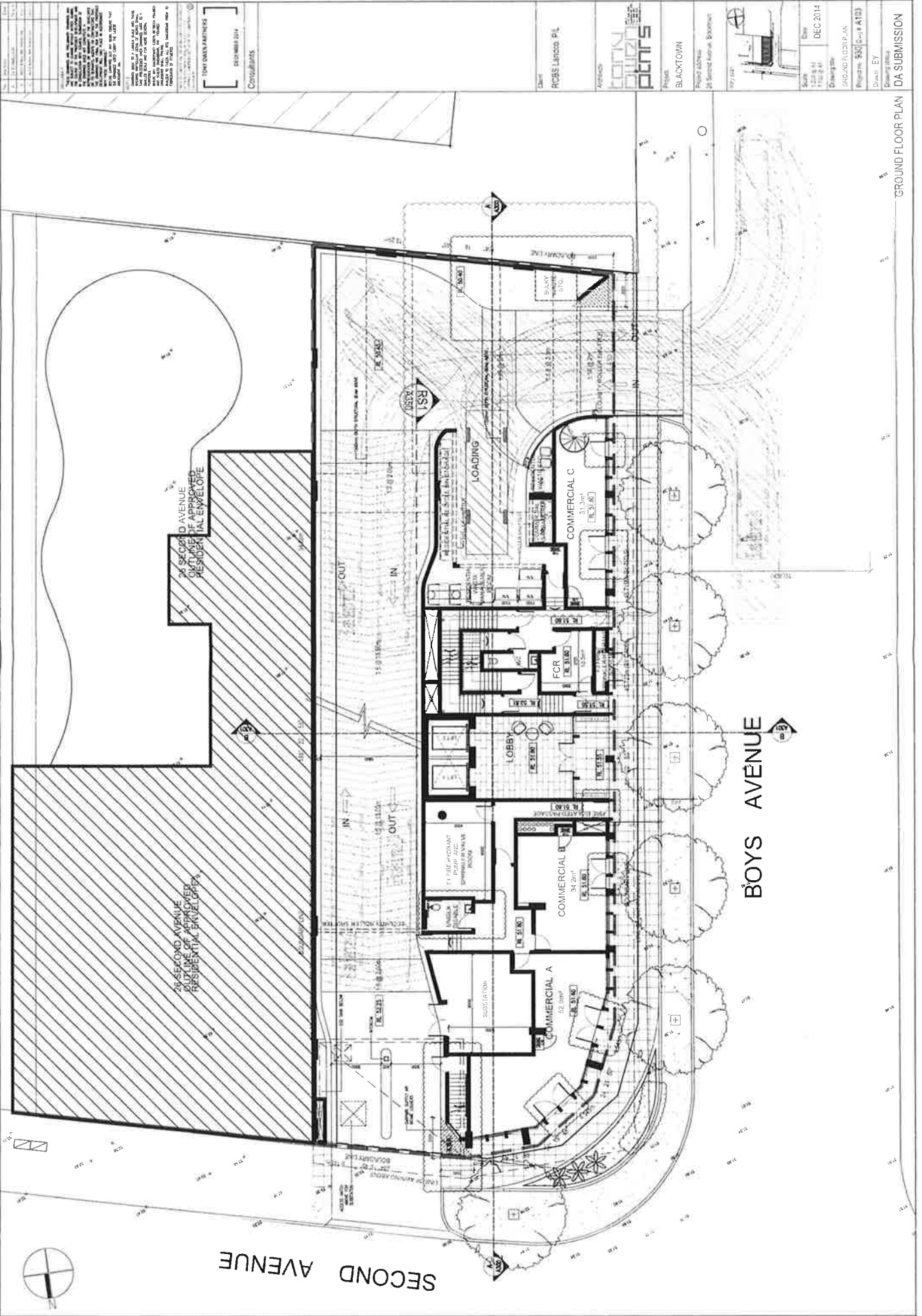
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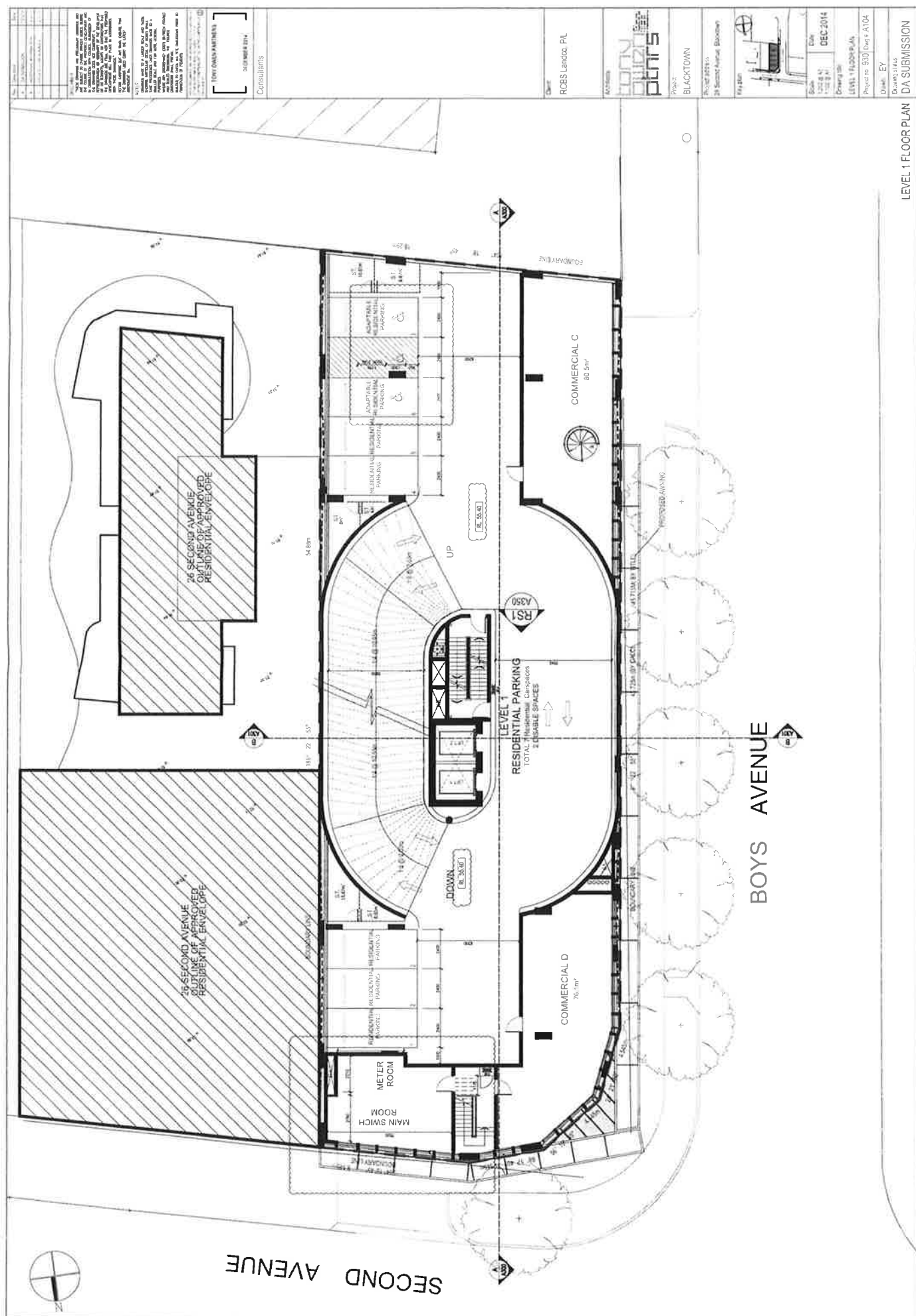
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DATE: DEC 2014

PROJECT: 9301 DUNE A011

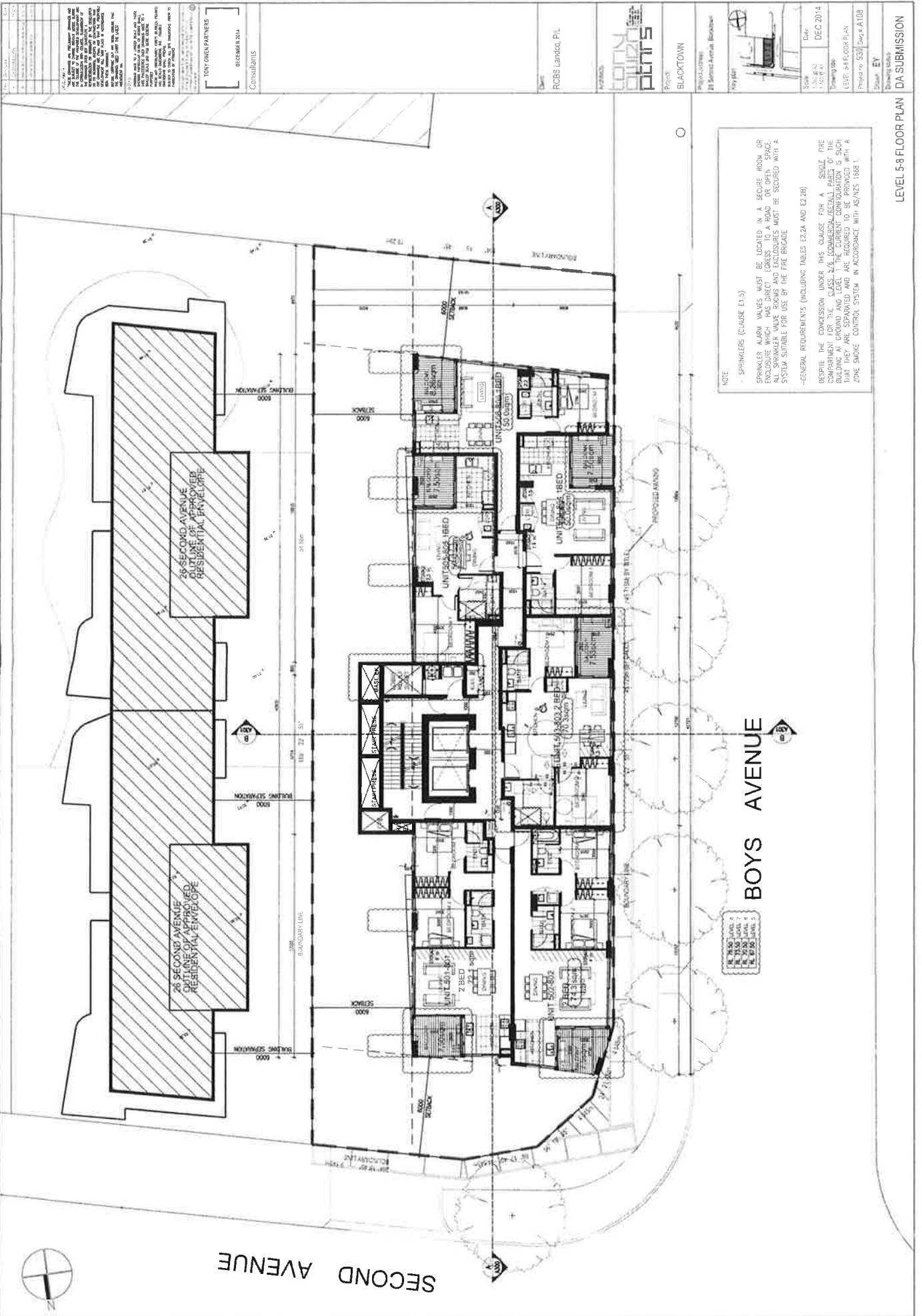
DESIGNER: EY





LEVEL 1 FLOOR PLAN

Drawing skills
DA SUBMISSION



NOTE

- SPRINKLERS (CLAUSE E13)
- SPRINKLER ALARM VALVES MUST BE LOCATED IN A SECURE ROOM OR ENCLOSURE WHICH WOULD BE ACCESSIBLE TO THE FIRE BRIGADE. ALL SPRINKLER VALVE ROOMS AND ENCLOSURES MUST BE SECURED WITH A SYSTEM SUITABLE FOR USE BY THE FIRE BRIGADE.
- GENERAL REQUIREMENTS (INCLUDING TABLES E2.2A AND E2.2B)
- DISPERSE THE CONCESSION UNDER THIS CLAUSE FOR A SINGLE FIRE COMPARTMENT FOR THE CLASS 3/6 COMMERCIAL/RETAIL PARTS OF THE BUILDING AT GROUND AND LEVEL 1. THE CURRENT CONFIGURATION IS SUCH THAT THEY ARE SEPARATED AND ARE REQUIRED TO BE PROVIDED WITH A ZONE SMOKE CONTROL SYSTEM IN ACCORDANCE WITH AS/NZS 1668.1.

Rev	Description	Date
1	Issue for DA	12/12/2014
2	Issue for DA	12/12/2014
3	Issue for DA	12/12/2014
4	Issue for DA	12/12/2014
5	Issue for DA	12/12/2014
6	Issue for DA	12/12/2014
7	Issue for DA	12/12/2014
8	Issue for DA	12/12/2014
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98	Issue for DA	12/12/2014
99	Issue for DA	12/12/2014
100	Issue for DA	12/12/2014

Client: RCBG Limited, P/L

Project: BLACKTOWN

Proposed Address: 28 Second Avenue, Blacktown

Scale: 1:500

Date: DEC 2014

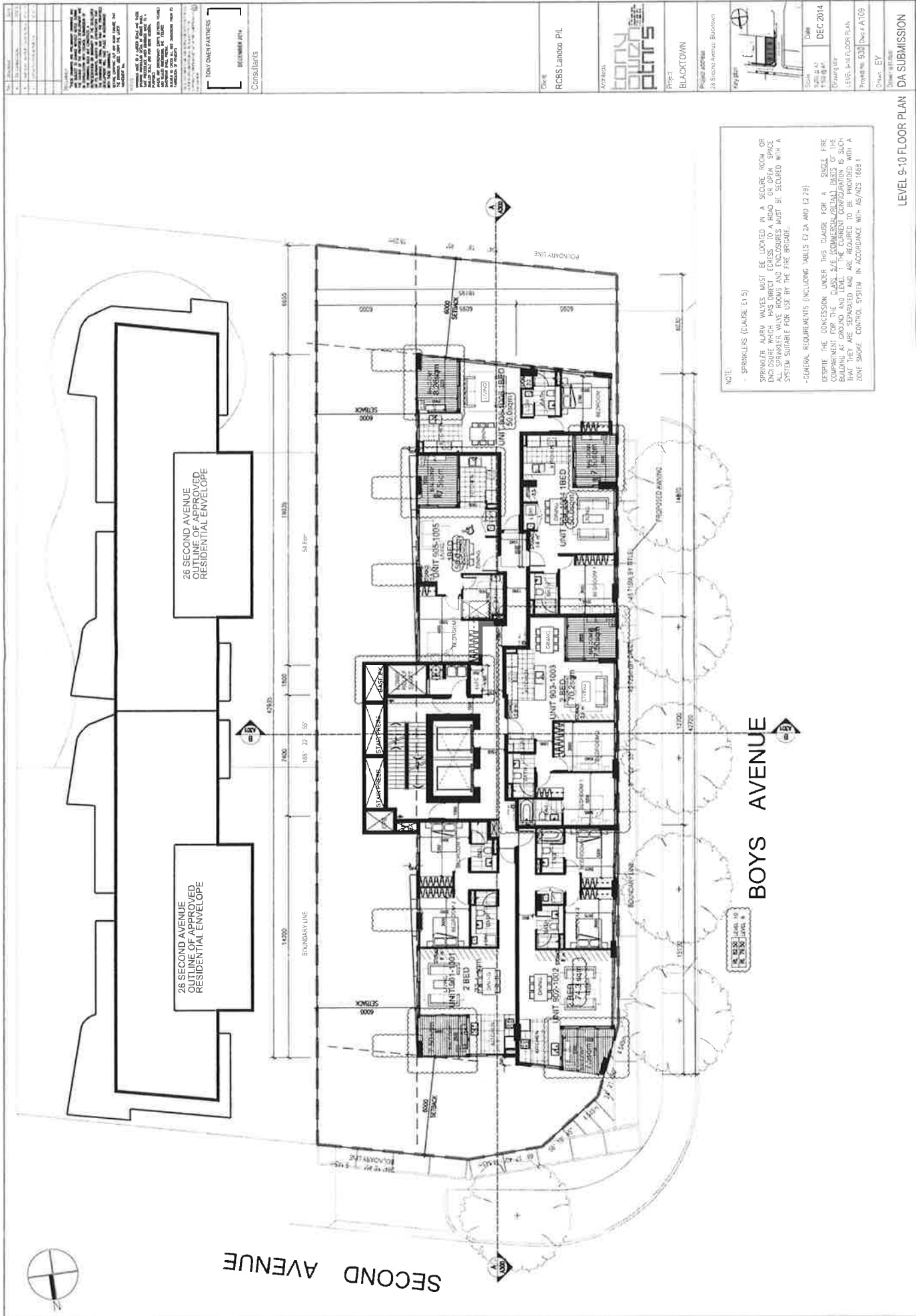
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Level: 5/8 FLOOR PLAN

Project no: 5301

Sheet: 5/8

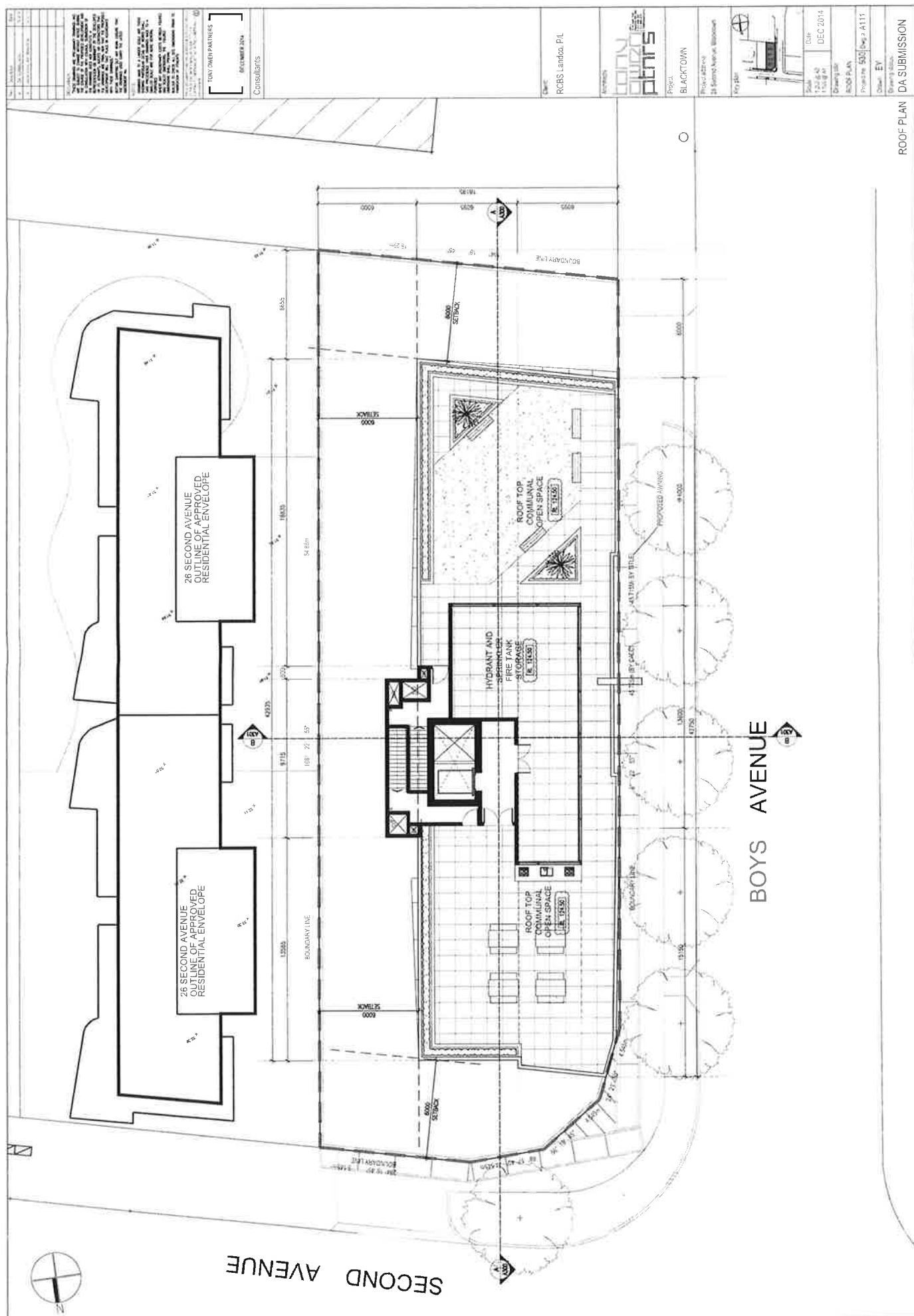
DA SUBMISSION



NOTE

- SPRINKLERS (CLAUSE E1.5)
- SPRINKLER ALARM VALVES MUST BE LOCATED IN A SECURE ROOM OR ENCLOSURE WHICH HAS DIRECT EGRESS TO A ROAD OR OPEN SPACE. ALL SPRINKLER VALVE ROOMS AND ENCLOSURES MUST BE SECURED WITH A SYSTEM SUITABLE FOR USE BY THE FIRE BRIGADE.
- GENERAL REQUIREMENTS (INCLUDING TABLE E7.2A AND D2.2.9)
- DESPITE THE CONCESSION UNDER THIS CLAUSE FOR A SINGLE FIRE COMPARTMENT FOR THE CLASS 4/5 COMMERCIAL/RESIDENTIAL PARTS OF THE BUILDING AT GROUND AND LEVEL 1 THE CURRENT CONFIGURATION IS SUCH THAT THEY ARE SEPARATED AND ARE REQUIRED TO BE PROVIDED WITH A ZONE SMOKE CONTROL SYSTEM IN ACCORDANCE WITH AS/NZS 1868.1

<p>THIS DOCUMENT IS THE PROPERTY OF THE CLIENT AND IS NOT TO BE REPRODUCED OR COPIED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT. THE ARCHITECT'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED AND DOES NOT EXTEND TO ANY OTHER MATTER. THE CLIENT AGREES TO INDEMNIFY AND HOLD THE ARCHITECT HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY THE ARCHITECT IN CONNECTION WITH THIS PROJECT.</p>	
<p>DATE: 10/10/2014</p> <p>BY: [Signature]</p>	<p>DATE: 10/10/2014</p> <p>BY: [Signature]</p>
<p>PROJECT: RCBS Lanoo P/L</p>	<p>ARCHITECT: BOYD KIDNEY ARCHITECTS</p>
<p>PROJECT: BLACKTOWN</p>	<p>ENGINE ADDRESS: 28 Stone Avenue Blacktown</p>
<p>DATE: DEC 2014</p>	<p>SCALE: 1:100</p>
<p>LEVEL: 9-10 FLOOR PLAN</p>	<p>PROJECT NO: 9300</p>
<p>Drawn: EY</p>	<p>Checked: EY</p>
<p>DA SUBMISSION</p>	



1. The applicant is required to provide a copy of this plan to the City of Blacktown for review and approval. The City of Blacktown reserves the right to require the applicant to provide additional information or to refuse to approve the plan if it is not satisfied with the information provided.

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1500 GLEN PATRICKS
OCTOBER 2014
Consultants

Project
BLACKTOWN
25 Scott Avenue, Blacktown
Project Address

1:10 (B-4)
Drawing Date
DEC 2014
SECTION A
Project No. 531, Sub = A, 300
Drawing Scale
DA SUBMISSION

1:10 (B-4)
Drawing Date
DEC 2014
SECTION A
Project No. 531, Sub = A, 300
Drawing Scale
DA SUBMISSION

1:10 (B-4)
Drawing Date
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DA SUBMISSION

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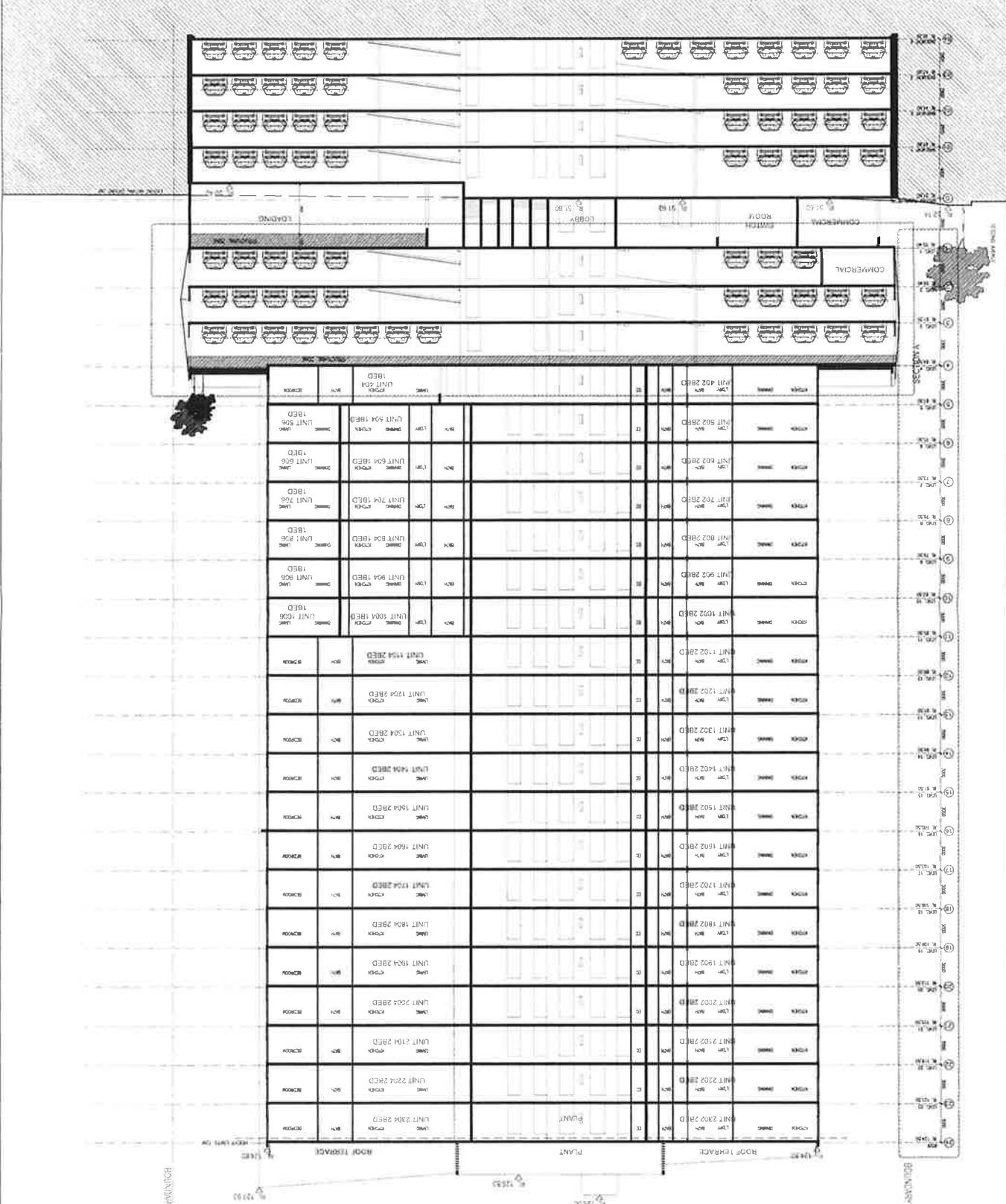
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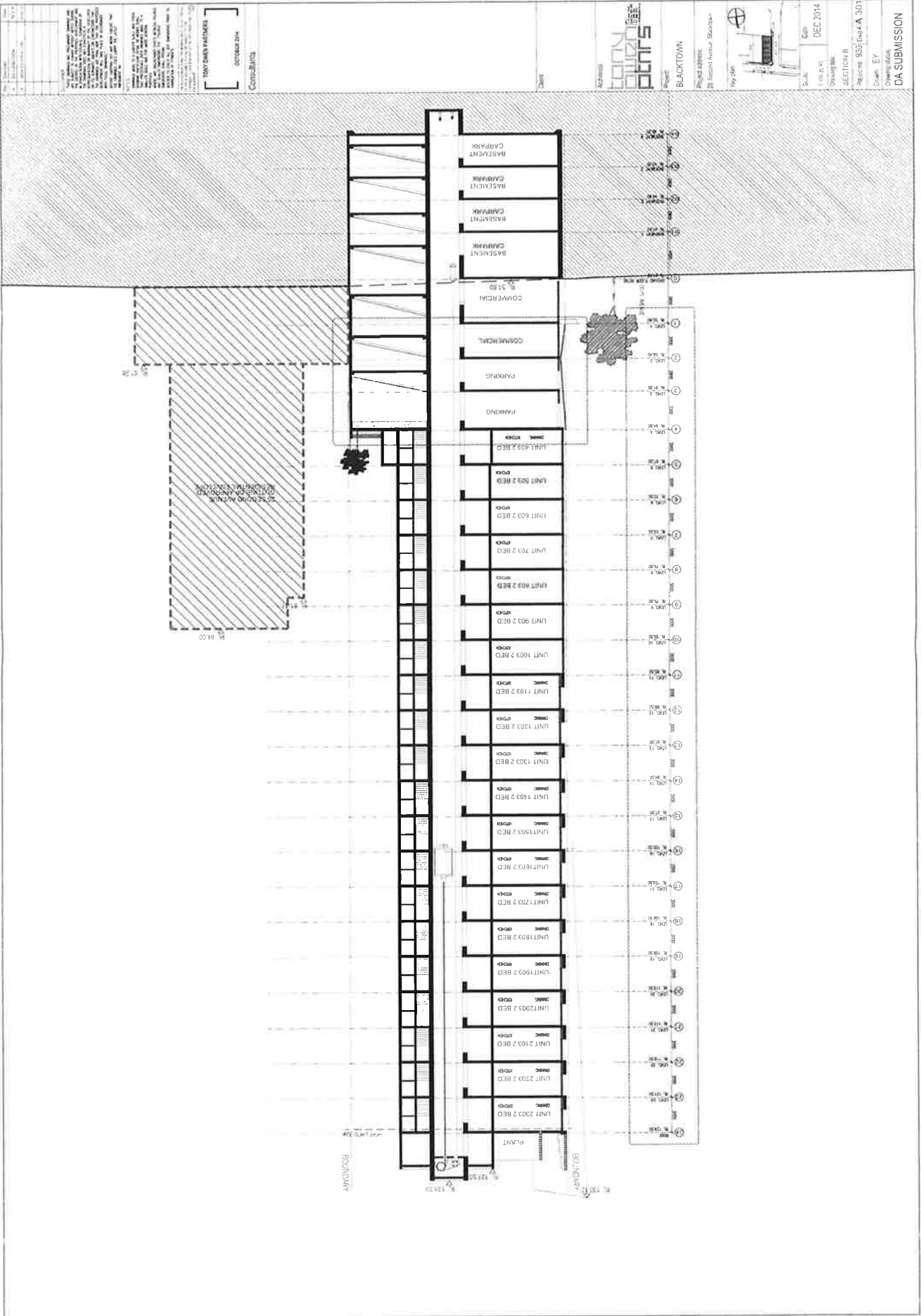
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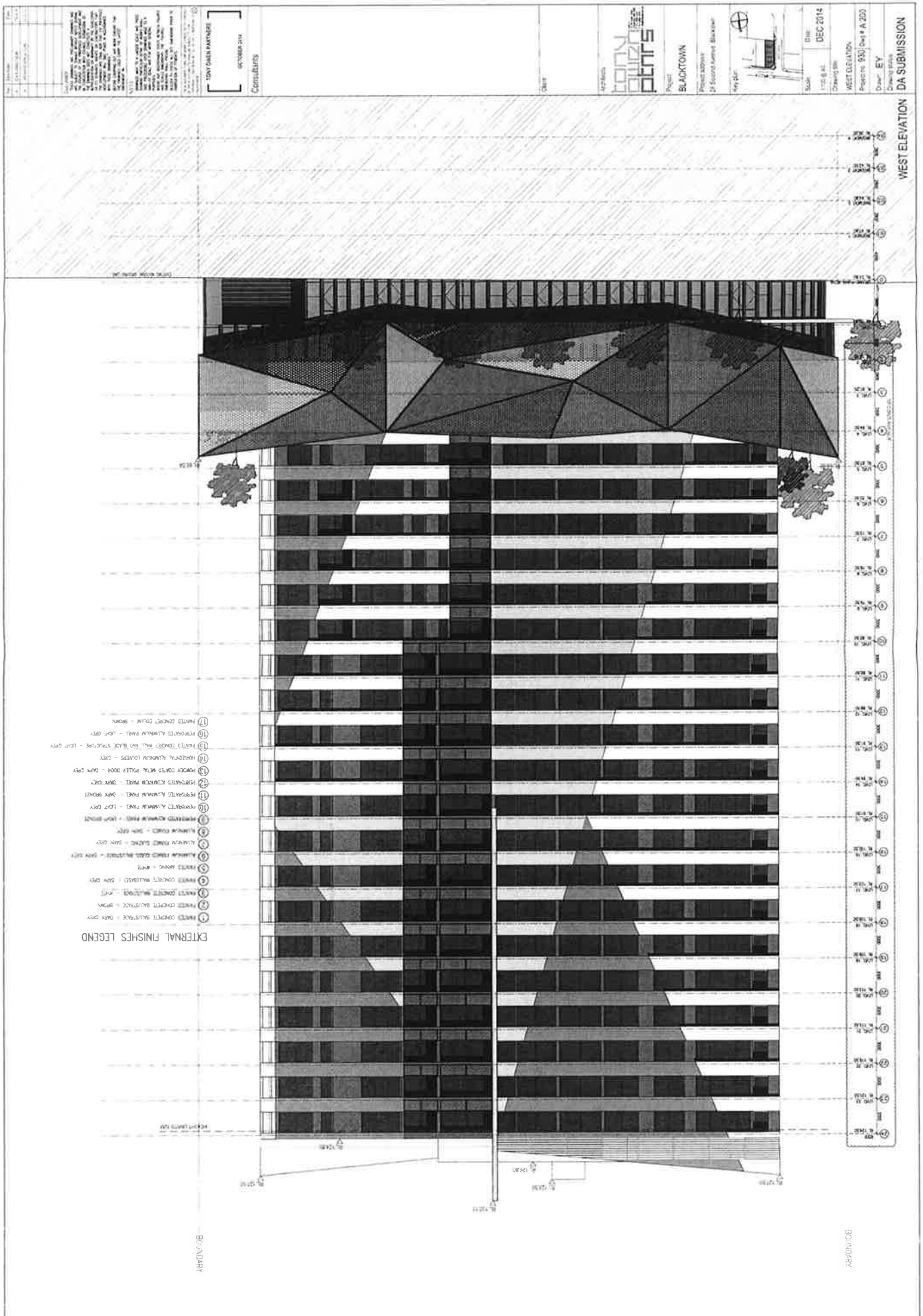
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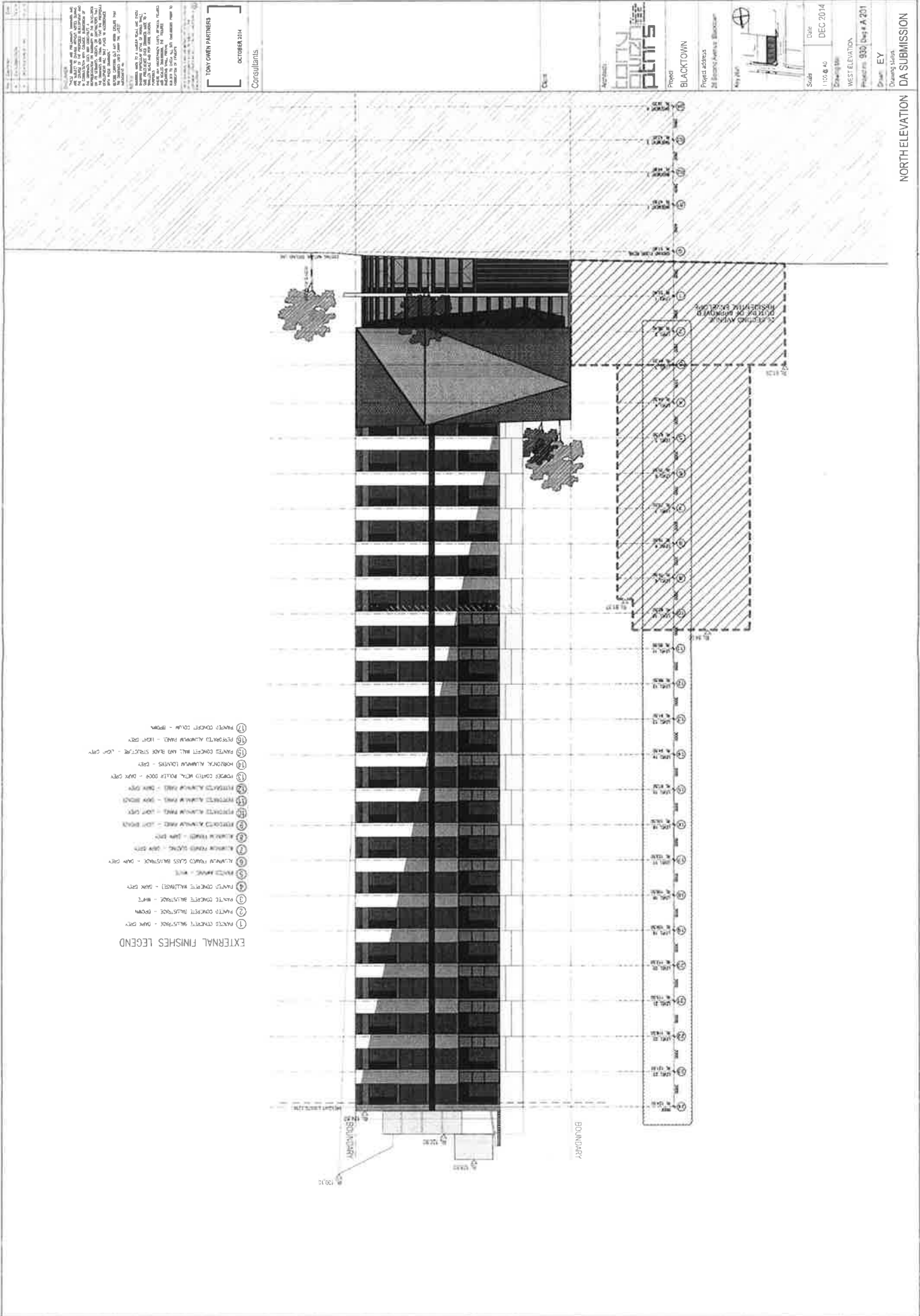
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DA SUBMISSION





Architect: **SLIPS**
Project: **BLACKTOWN**
Project Address: **28 Second Avenue, Blacktown**
Scale: **1:100**
Date: **DEC 2014**
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Drawing Number: **933/004 A.307**
Drawing Date: **DEC 2014**
Drawing By: **EY**
Drawing Title: **DA SUBMISSION**



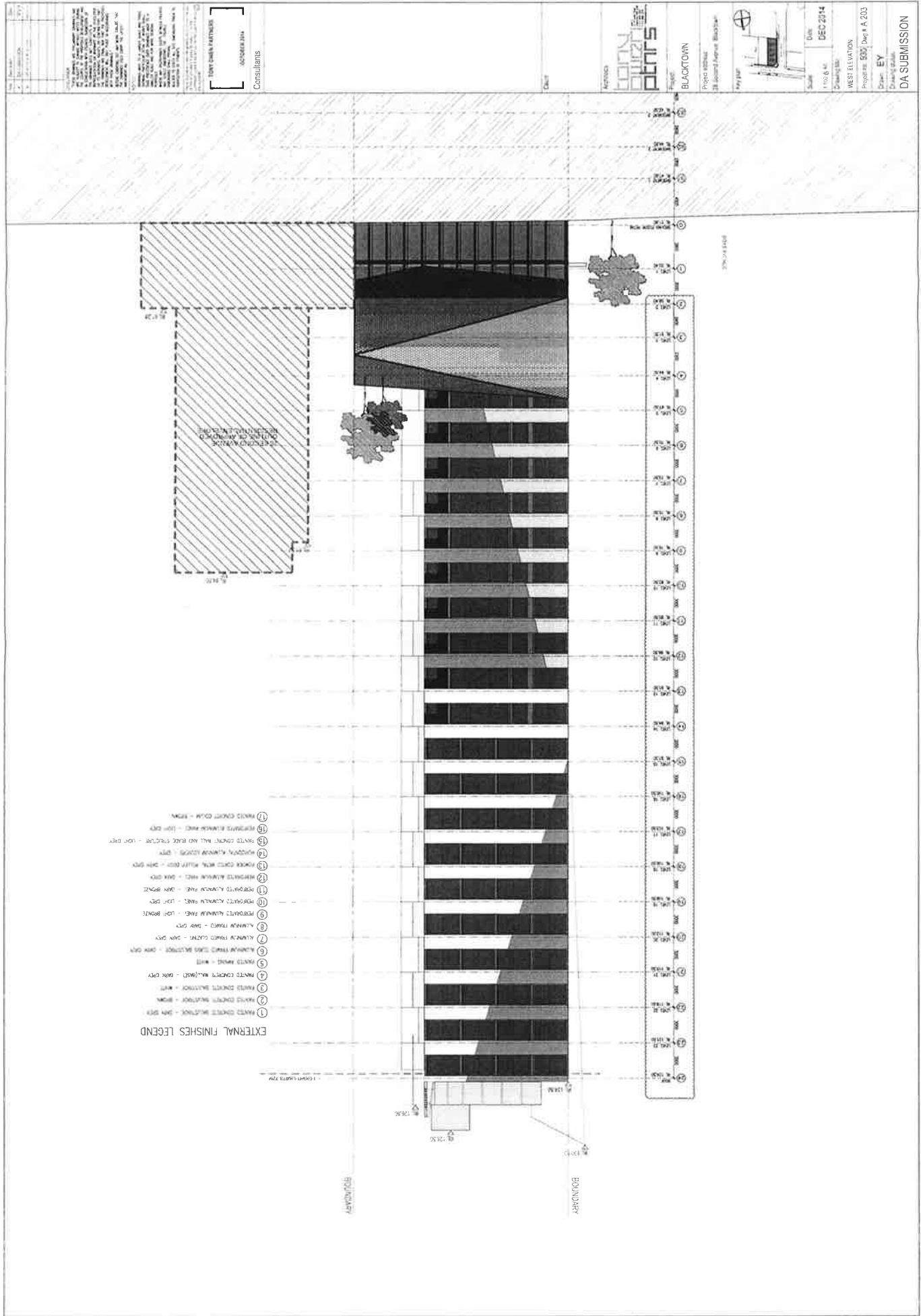


EXTERNAL FINISHES LEGEND

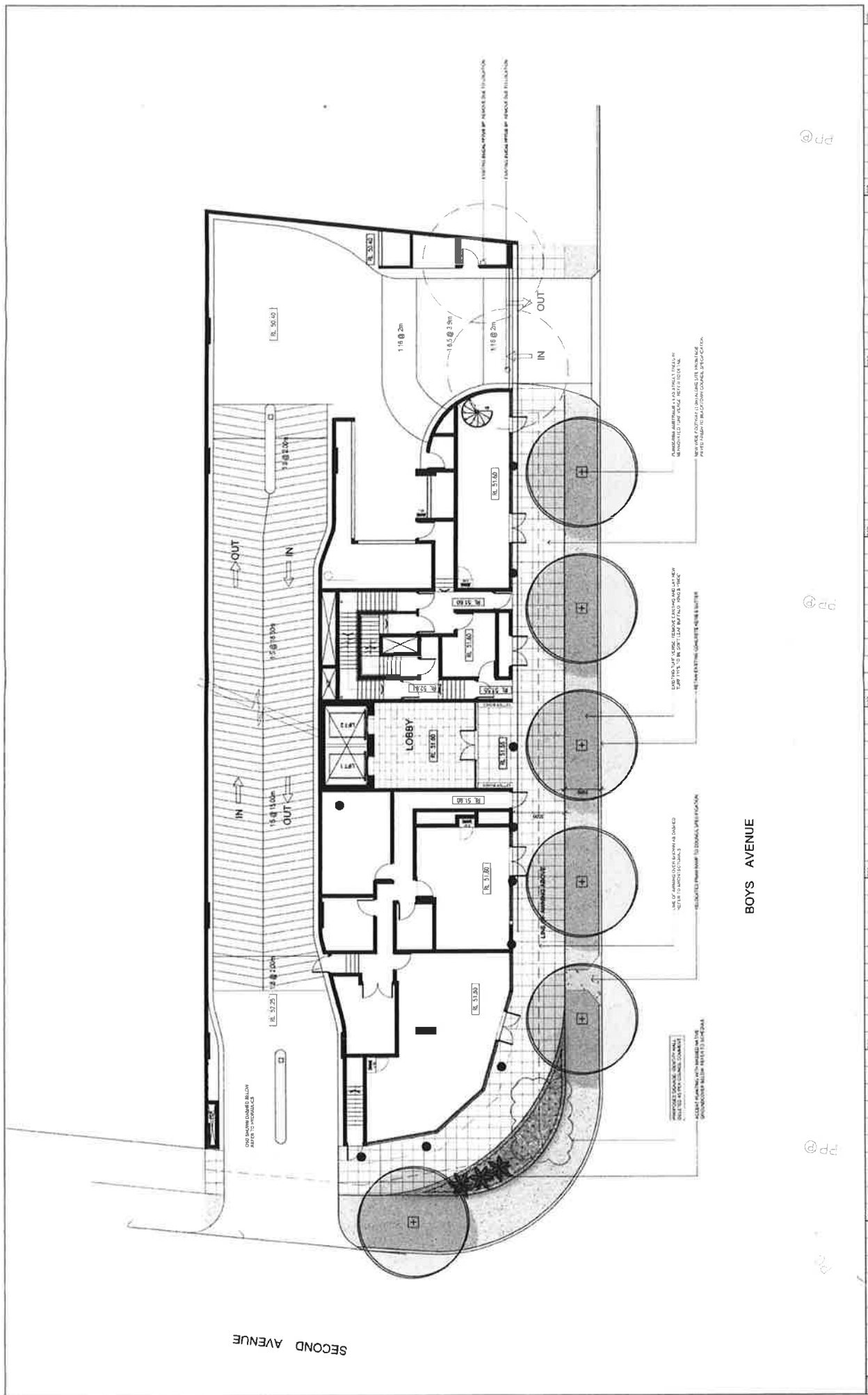
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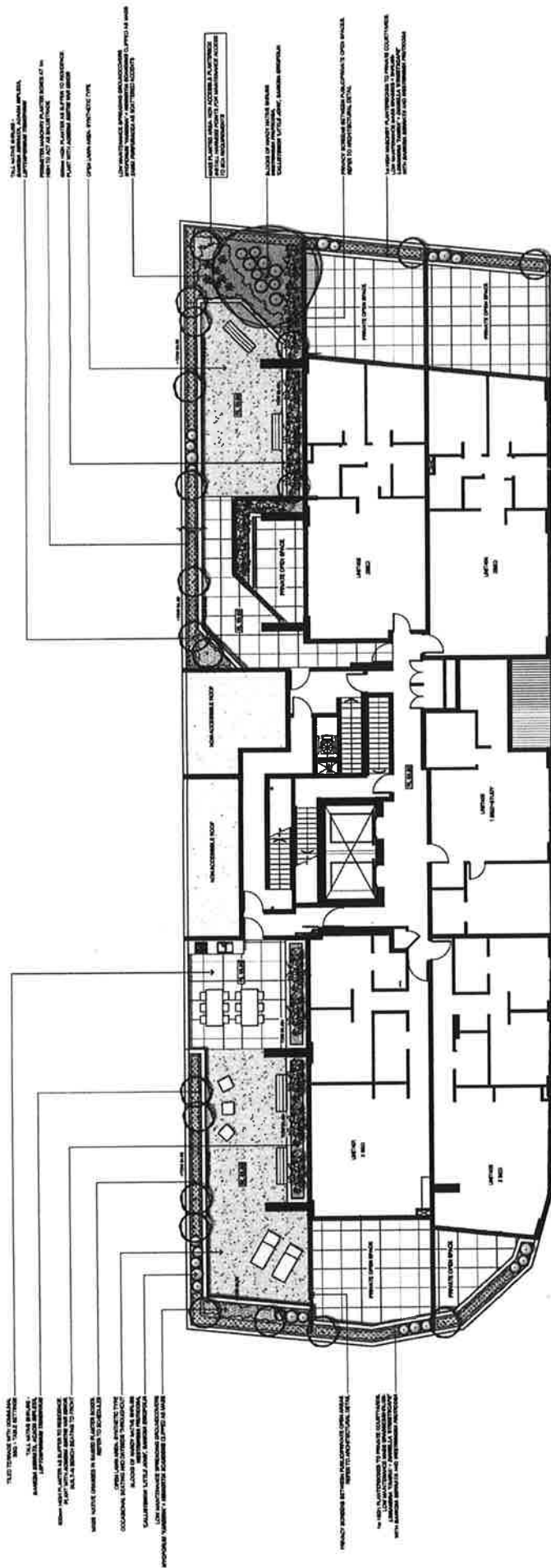
TONY OWEN PARTNERS
OCTOBER 2014
Consultants

Project: BLACKTOWN
Project address: 28 Belling Avenue, Blacktown, NSW 2157
Date: DEC 2014
Scale: 1:100 & A2
Drawing title: WEST ELEVATION
Project no: 930, Drawing no: A 201
Drawn by: EY
Checked by: [blank]
DA SUBMISSION



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LANDSCAPE PLAN LEVEL 4 COMMUNAL TERRACES

<p>Client: ROBS LANDCO PTY LTD</p> <p>Project: 28 SECOND AVENUE BLACKTOWN NSW 2148</p> <p>Formed gardens: Formed gardens</p> <p>Scale: 1:100 @ A1</p> <p>Drawing Number: FG 14.305</p> <p>Page: 002 of B</p>		<p>LANDSCAPE PLAN</p> <p>LEVEL 4 COMMUNAL TERRACES</p> <p>DEVELOPMENT APPLICATION</p> <p>Scale: 1:100 @ A1</p> <p>Drawing Number: FG 14.305</p> <p>Page: 002 of B</p>																																	
<p>LEGEND</p> <p>Planting: Planting</p> <p>Seating: Seating</p> <p>Tables: Tables</p> <p>Chairs: Chairs</p> <p>Stairs: Stairs</p> <p>Pathways: Pathways</p> <p>Landscaping: Landscaping</p> <p>Other: Other</p>		<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>No.</th> <th>Description</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Issue for tender</td> <td>10/10/2018</td> </tr> <tr> <td>2</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>3</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>4</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>5</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>6</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>7</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>8</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>9</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> <tr> <td>10</td> <td>Issue for construction</td> <td>10/10/2018</td> </tr> </tbody> </table>	No.	Description	Date	1	Issue for tender	10/10/2018	2	Issue for construction	10/10/2018	3	Issue for construction	10/10/2018	4	Issue for construction	10/10/2018	5	Issue for construction	10/10/2018	6	Issue for construction	10/10/2018	7	Issue for construction	10/10/2018	8	Issue for construction	10/10/2018	9	Issue for construction	10/10/2018	10	Issue for construction	10/10/2018
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DA no. : JRPP-14-1593

Proposal: 24 storey shop top housing

Location: 28 Second Avenue, Blacktown

SEPP No. 65 – Design quality principles

i. Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

The site is located within the northern precinct of the Blacktown Central Business District (CBD). The Blacktown CBD was rezoned in 2012, which as part of the Blacktown master plan encouraged a variety of uses within Blacktown major centre. Land uses including commercial, retail and business uses combined with residential uses were identified for the future character of the area.

The proposed development is in keeping with the desired future character of the northern precinct of the Blacktown CBD. The site and surrounding sites are zoned B4 Mixed Use under the Blacktown Local Environmental Plan (Central Business District) 2012. The site has a 72 m height limit.

The proposal is considered to be of suitable landmark design that responds well to the desired future character identified by the Blacktown CBD master plan.

ii. Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The proposed development complies with the permissible building height of 72m, with the exception of architectural roof features, lift overrun and plant and equipment. The podium design of the development provides a response to the development site, creating a street wall podium approach 4 storeys in height. Adjoining approved developments proposed a 2 story podium.

The scale of the development is a suitable response to the development controls applicable to the site. The use of aluminium mesh in a variety of neutral colours help delineate the design and reduce the bulk of the development.

iii. Principle 3: Built Form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The proposed design has been developed in keeping with the requirements of the Residential Flat Design Code (RFDC) and the BLEP (CBD) 2012 and BDCP requirements in relation to building alignment, setbacks and building type.

The proposed building has been architecturally designed by Tony Owens and provides for a variety of colours and finishes as well as architectural elements to

define the building. The use of the podium and provision of awnings along the streetscape will help define the streetscape and provide all weather protection for future users.

The design ensures that the adjoining proposed park on Boys Ave is provided with adequate solar access. The building design also ensures that an active street is present for future users of the public domain.

The development itself provides for 574 sqm of embellished common open space to ensure an acceptable level of internal amenity is achieved.

iv. Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

The BLEP (CBD) establishes a maximum floor space ratio of 8.5:1 on the subject site. Whilst the development exceeds the maximum floor space ratio by providing an FSR of 8.83:1, the density of the proposal is still considered to be suitable for the context of the area given the sites proximity to infrastructure. Further, as the site is located within the CBD, it is considered a more desirable outcome that the building height specified within the BLEP (CBD) 2012 is achieved.

As previously identified, the site is located within the northern precinct of the Blacktown CBD. The site is 350m from the Blacktown rail line, bus interchange, major commercial areas and main arterial road network. In addition, existing community facilities including medical centres, parks such as the Blacktown Showground and future parks, such as that on Boys Ave, are all within close proximity to the site. The minor variation to FSR of 323 sqm is considered negligible when consideration is given to the sites context within the Blacktown CBD and services available to the development.

v. Principle 5: Resource, Energy and Water Efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

The proposal has been designed so each unit receives a satisfactory level of natural light, energy and ventilation. In particular, the proposal provides:

- 75% of the units with at least 3 hours of solar access to the main living areas.
- Active and passive sun control systems, including aluminium shading devices
- Installation of low energy saving devices.
- Natural cross-flow ventilation to 70% of the units.
- On-site detention of run-off from paved areas to reduce peak flows.

The submitted Waste Management Plan (WMP) also details measures to maximise recycling during the construction and operational phases of the development.

vi. Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Detailed landscape plans as well as a landscape design statement prepared by Formed Gardens Pty Ltd has been submitted as part of the DA. The landscape proposal ensures that a high quality streetscape as well as internal common open space areas are adequately embellished for the use of future residents.

Common open space areas are located both on the roof of the podium and the roof top terrace servicing the development. The landscape design will be integrated with the proposed buildings to provide a high level of aesthetic quality on the development site and a high level of amenity for the future occupants of the development.

The landscape design includes grass and paved finishes, seating areas, covered areas and communal cooking areas. The overall landscape design ensures that the amenity of future residents and adjoining landowners is of a high standard.

vii. Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

The efficient yet spacious unit layouts provide a high level of amenity for all residents, and generally promote good visual and acoustic privacy. Unit areas correspond with the minimum unit areas established by the RFDC, include 50 sqm for 1 bedroom units, 70 sqm for 2 bedroom units and 90 sqm for 3 bedroom units. All units achieve or exceed the minimum unit areas.

Each unit is provided with an adequate outdoor private open space in the form of a balcony or terrace that is directly accessible from the internal living areas. All apartments have direct access to the basement via centrally located lifts and stairs, where parking for residents and visitors will be provided. Adequate storage areas have also been provided in the form of basement storage cubicles. All apartments have easy access to waste rooms, provided on each floor near the lifts, for the disposal of garbage into chutes and recyclables into collection bins.

75% of the proposed units also receive a minimum 3 hours solar access to the main living areas, and 70% of the units achieve natural cross-flow ventilation.

viii. Principle 8: Safety and Security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

The proposal affords good casual surveillance of the street frontage, future public park at Boys Ave and internal common open space areas through the design of the residential and commercial components promoting good casual surveillance. Appropriate lighting is also to be provided to all common areas to increase the safety of those areas, especially at night. With regards to the parking areas, secure access is to be maintained at all times. Separation between the resident and visitor parking spaces has been achieved through their location, and basement car parking is to be provided with security garage doors at the basement level. In addition, separate access is proposed for commercial tenancies and residential tenancies to ensure desirable safety outcomes are achieved.

ix. Principle 9: Social dimensions and housing affordability

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

The development proposes a variety of housing choices comprising 19 x 1 bedroom units (18%), 74 x 2 bedroom units (70%) and 13 x 3 bedroom units (12%). The variation provides a range of housing choices and promotes affordability for the community, therefore satisfying the intent of this principle.

The design also provides 11 adaptable apartments (i.e. 10 % of the total number of units), as required by the DCP and the BCA, thus providing a choice of attractive living locations and facilities to persons with disabilities and their families. The design promotes easily accessible common facilities and outdoor recreation spaces, and caters towards ease of use for everyone from children right through to the elderly.

The development provides high levels of amenity to future residents and alternate housing opportunities in the locality.

x. Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The development has been architecturally designed. The proposal has a high degree of architectural definition with an innovative design that positively responds to the site and the development controls applicable to the Blacktown CBD. Overall, it is considered that the appearance of the development is appropriate for its location.

The use of quality finishes will also add to the visual interest of the buildings. The materials and colours have been selected to give the buildings an identity, and to 'soften' the apparent bulk and scale of the development. A variety of materials will be used, including rendered and painted finishes for the facade walls, with variation in colours and finishes such as a combination of aluminium feature privacy columns and louvres. Glass and concrete balustrades with aluminium finishes enables the development to present a modern façade.

Accordingly, it is determined by the above assessment that the proposed development is acceptable when considered against the 10 design principles identified under SEPP 65.

DA no. : JRPP-14-1593

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Residential Flat Design Code (RFDC) compliance table

Control	Proposal	Compliance
Building Separation <i>9 storeys and above/over 25 metres</i> <ul style="list-style-type: none"> - 24 metres between habitable rooms/balconies - 18m between habitable/balconies and non-habitable rooms - 12m between non-habitable rooms 	<p>The proposal provides for a 6m side and rear property boundary setback, with the exception of lift well encroachments to 4m. This results in a maximum 12m building separation, which is compliant with BDCP 2006.</p>	<p>No, but the variation is reasonable in the circumstances – Building separation discussed in Section 8 of report.</p>
Street setback <ul style="list-style-type: none"> - Maintain existing street setbacks 	<p>The development provides a 4 storey podium, with tower on top. The top is setback appropriately with the existing street setbacks. The podium exceeds the 3 storey podium height permissible under the BDCP 2006.</p>	<p>No, but the variation is reasonable in the circumstances – Podium variation discussed in Section 8 of report.</p>
Side and rear setbacks <ul style="list-style-type: none"> - Retain setbacks to existing streetscape patterns 	<p>6m side and rear setbacks provided consistent with adjoining developments.</p>	<p>Yes</p>
Communal Open Space <ul style="list-style-type: none"> - 25-30% of site area - Minimum 25% of the open space area of a site shall be a deep soil zone. Exception may be made in urban areas. In these cases, stormwater treatment measures are to be provided. 	<p>574 sqm of communal open space provided, which is equivalent to 58% of the site area. Deep soil zones have not been provided, however, given context within CBD this is considered acceptable. On-site detention is provided by the development.</p>	<p>Yes</p>
Building Entry <ul style="list-style-type: none"> - Activate the street 	<p>Boys Ave and Second Ave provided with commercial frontage.</p>	<p>Yes</p>
Car parking <ul style="list-style-type: none"> - Determine appropriate car parking spaces in relation to proximity to public transport, the density of the development. - Preference to underground car parking - Provision of bicycle parking 	<p>Car parking compliant with the Blacktown CBD car parking management plan.</p>	<p>Yes</p>
Vehicle access <ul style="list-style-type: none"> - Limit driveway widths to 6 metres 	<p>Driveways are less than 6m.</p>	<p>Yes</p>
Apartment sizes <ul style="list-style-type: none"> - 1 bedroom – 50sqm - 2 bedroom – 70sqm - 3 bedroom – 95sqm 	<p>Variation is unit sizes in accordance with RFDC. Dimensions are as follows:</p> <ul style="list-style-type: none"> - 1 bedroom – Between 57 sqm and 77 sqm - 2 bedroom – Between 77 sqm and 87 sqm - 3 bedroom – 96 sqm 	<p>Yes</p>

Control	Proposal	Compliance
Apartment mix - Provide a variety of unit types	The development proposes a variety of housing choices comprising 19 x 1 bedroom units (18%), 74 x 2 bedroom units (70%) and 13 x 3 bedroom units (12%).	Yes
Balconies - Minimum depth of 2 metres	Minimum balcony dimensions of 2.5m as required by BDCP.	Yes
Ceiling heights - Minimum 2.7 metres	Min. 2.7m ceiling height achieved.	Yes
Internal Circulation - Where units are arranged off a double loaded corridor, the number of units accessible from a single core / corridor should be limited to 8	2 lifts proposed, with a maximum of 6 units per level.	Yes
Storage - One bedroom units – 6m ³ - Two bedroom units – 8m ³ - Three bedroom units – 10m ³	Storage areas are provided within units and basement storage.	Yes
Acoustic privacy - Arrange apartment to minimise noise transition	Suitable acoustic privacy has been provided to individual units.	Yes
Daylight access - Living rooms and private open spaces for at least 70% of apartments should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter	83 units - 75.4%	Yes
Cross ventilation - 60% of residential units should be naturally ventilated	74 units – 70%	Yes
Facades - Ensure that new development have facades which define and enhance the public domain and desired street character	Façade of building promotes active street frontage, covered awning for pedestrians and architectural building design.	Yes
Roof Design - Provide quality roof designs, which contribute to the overall design and performance of the residential flat building	Roof includes architectural roof features to break up building mass.	Yes
Energy Efficiency - Provide AAA rated shower heads - reduce the need for artificial lighting	BASIX Certificate has been provided.	Yes

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Blacktown LEP (CBD) 2012 compliance table

Development Standard	Requirement	Proposal	Compliance
Maximum Height of Buildings	72m	72m to finished roof line, 77.1m to the top of the lift overrun.	No, but the variation is reasonable in the circumstances – Clause 4.6 variation lodged. Variation discussed in report.
Maximum Floor Space Ratio	8.5:1	8.83:1	No, but the variation is reasonable in the circumstances – Clause 4.6 variation lodged. Variation discussed in report.
6.3 Development in Zone B4	Development consent must not be granted to the erection of a building, or to the change of use of a building on land in zone B4 Mixed Use unless the consent authority is satisfied that the ground floor and first floor of the building will be used for a purpose other than residential accommodation.	Commercial use and car parking proposed.	Yes

Development Standard	Requirement	Proposal	Compliance
5.6 Architectural roof features	<p>Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.</p> <p>Development consent must not be granted to any such development unless the consent authority is satisfied that:</p> <p>(a) the architectural roof feature:</p> <p>(i) comprises a decorative element on the uppermost portion of a building, and</p> <p>(ii) is not an advertising structure, and</p> <p>(iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and</p> <p>(iv) will cause minimal overshadowing, and</p> <p>(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.</p>	<p>An architectural roof features up to 80m in height is proposed on the eastern and western sides of the tower in the form of glass panel and parapet to . The feature is a decorative element only above the roofline. The feature is not an advertising structure and does not increase floor space. Overshadowing as a result of the feature is minimal.</p>	Yes
6.4 Design Excellence	<p>Development consent must not be granted to development involving the erection of a new building or external alterations to an existing building on any land unless the consent authority is satisfied that the development exhibited design excellence.</p>	<p>The building has been architecturally designed and generally consistent with the Residential Flat Design Code (RFDC).</p>	Yes
6.5 Essential Services	<p>Consent Authority is to be satisfied that essential services are available or adequate arrangements have been made.</p>	<p>The site is within the existing CBD, therefore services available. Relevant servicing conditions will be imposed.</p>	Yes
6.6 Development with frontage to local road		<p>The site has frontage to 2 public roads - Second Ave and Boys Ave, Blacktown.</p>	Yes

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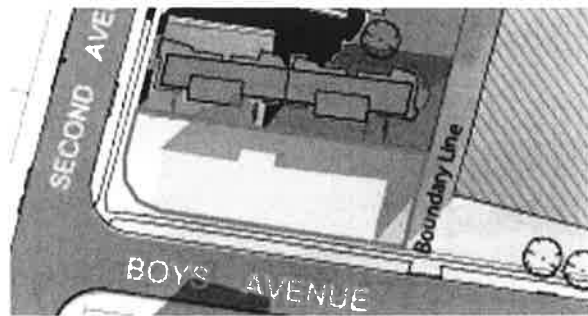
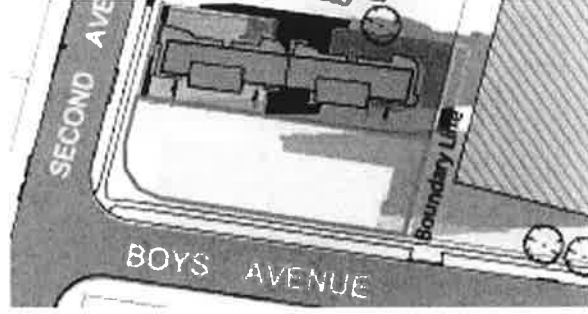
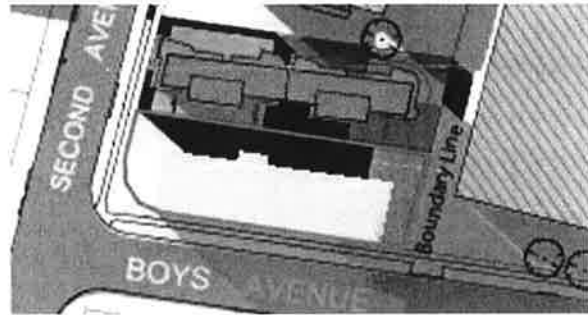
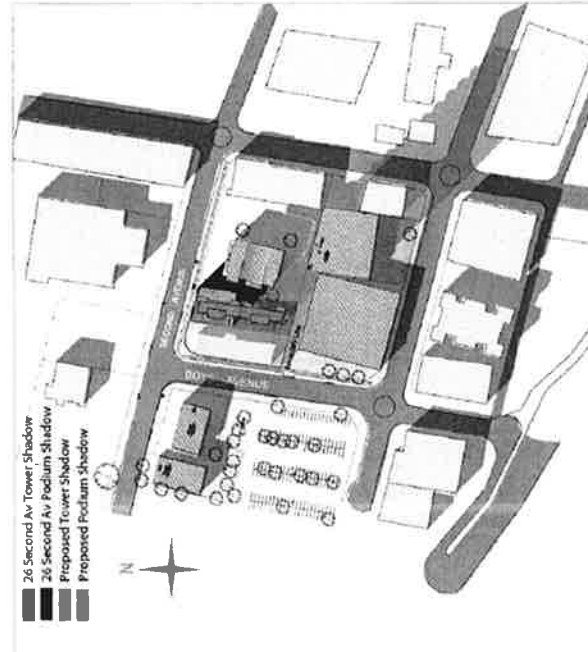
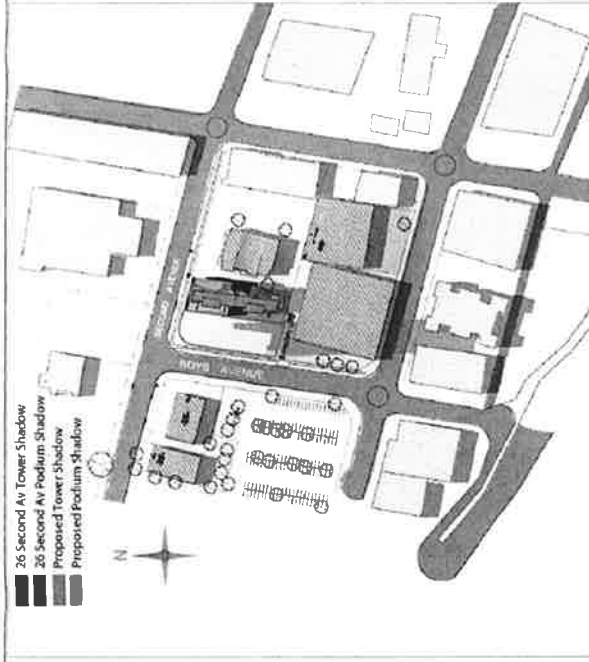
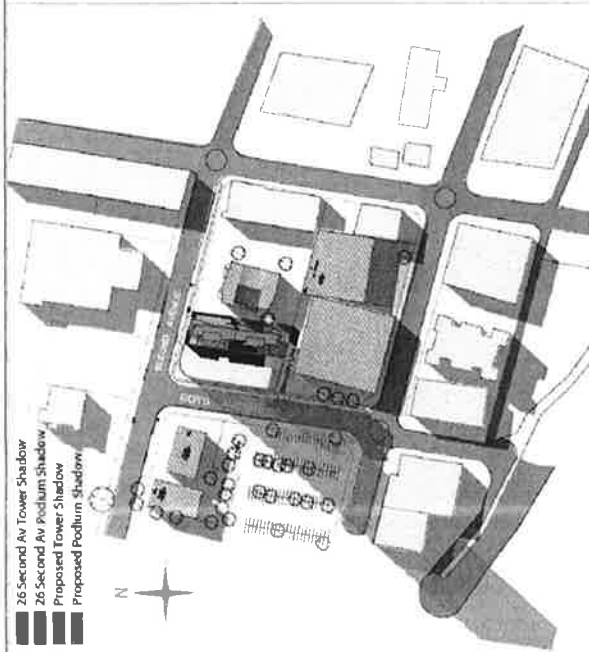
Blacktown Development Control Plan 2006 – Part D

Development in Business zones compliance table

Development Standard	Requirement	Proposal	Compliant
Minimum Site Width	30m	45m (Boys Ave)	Yes
Maximum Height	Inconsistent with BLEP (CBD) 2012, LEP takes precedence over DCP.	77m to lift overrun.	N/A
Building Quality	Design of Buildings is to have regard to SEPP 65. New development should provide visual interest through architectural design elements, including material selection, finishes and colour should complement and enhance existing streetscapes.	The development complies with the design quality principles established by SEPP 65.	Yes
Minimum Setbacks: Front	Zero setback to the front boundary for ground floor (GF) and the 1-2 levels above (i.e. podium). Levels above the podium should be setback in order to create a comfortable street scale, reduce building bulk and provide greater solar access. Courtyards and balconies may encroach into the setback area to provide articulation.	4 levels of podium (GF to L3).	No – Variation sought to podium height and discussed in report.
Rear and Side	Zero setback to side and rear boundaries permitted for ground floor and the 1-2 levels above. Minimum 6m side and rear setback, balcony encroachment permissible.	6m side and rear setbacks proposed with lift well encroachments only. Zero setback proposed to Boys Ave.	

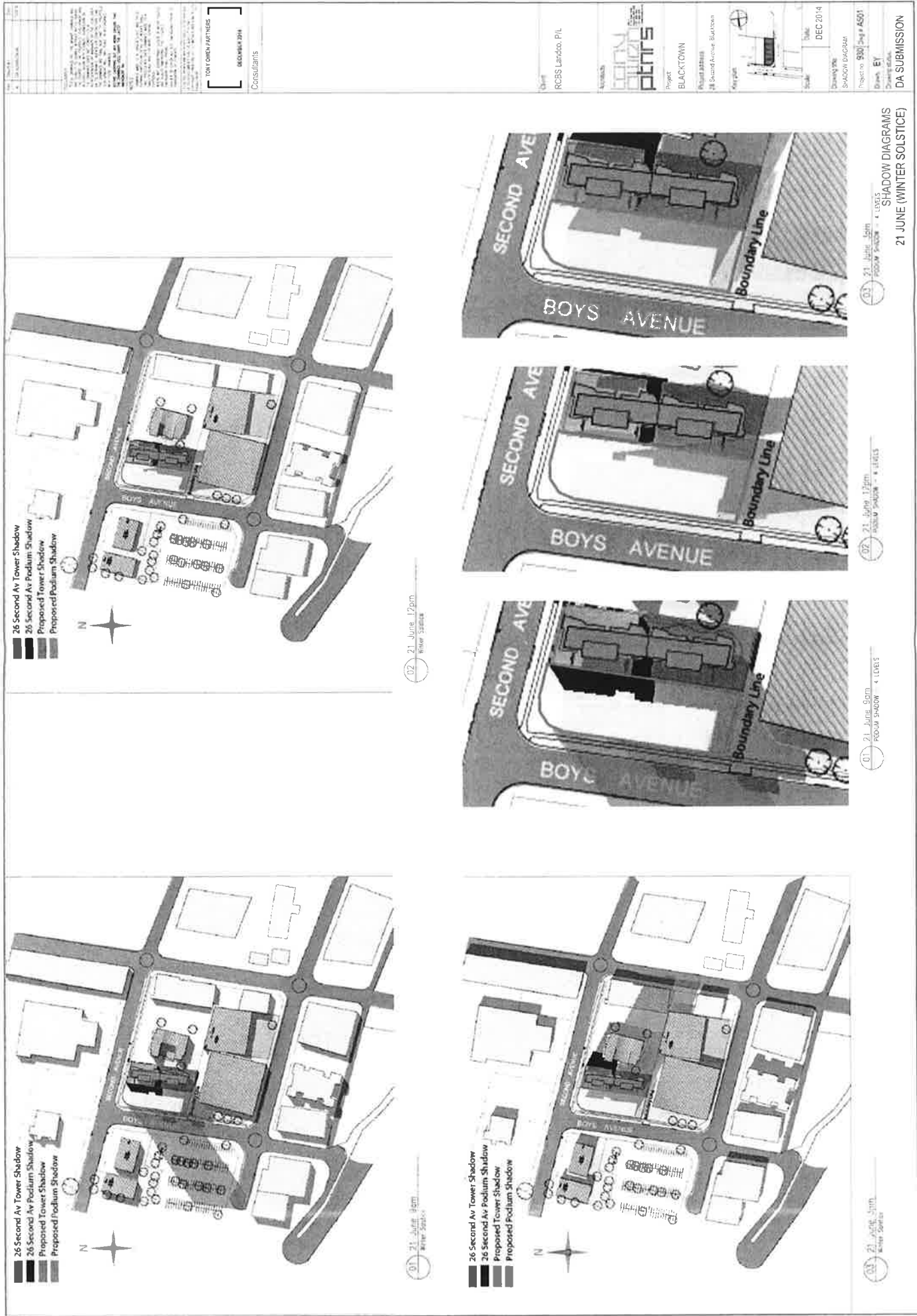
Development Standard	Requirement	Proposal	Compliant
Minimum Common Open Space Provision	A minimum rate of 42% of the sum of the following: 40 sqm 1 bedroom unit 50 sqm 2 bedroom unit 70 sqm 3 bedroom unit No more than 30% of the above-ground open space (balconies or terrace areas) may be included in total.	19 x 1 bed – 760 sqm 74 x 2 bed – 3,700 sqm 13 x 3 bed – 910 sqm Requires – 2,255.4 sqm 574sq.m proposed on roof terrace and above podium. (25% of required).	No – variation discussed in report.
Private Open Space	Each unit is to be provided with a private balcony/courtyard or terrace area with minimum dimensions of 3m x 2.5m.	All private balconies/courtyards meet the minimum dimensions requirements, and are between 7.5 sqm and 36 sqm.	Yes
Natural Cross Ventilation and Solar Access	Development will be required to comply with the provisions of SEPP 65 and the Residential Flat Design Code concerning cross ventilation and solar access.	75% of units meet the solar access requirements. 70% of units are naturally ventilated.	Yes
Lifts	All development will be required to be service by stretcher-sized lifts.	All lifts achieve minimum dimensions.	Yes
Parking Provision	1 vehicle space/dwelling 1 additional space per 3 bedroom dwelling 1 visitor space/2.5 dwellings 1 vehicle space/ 30sq.m GFA for commercial component	Car parking has been revised by Blacktown Car Parking Management Scheme as follows: <u>Blacktown CBD Residential Parking</u> 0.6 spaces per studio apartment, 1 space per one, two or 3-bedroom dwelling. 2 spaces per dwelling for four-bedrooms or more <u>Visitor Parking</u> 1 space per 5 dwellings. For other components of a shop top housing development, the car	Yes – Applicant has agreed to Section 94 contribution for retail/commercial premises car parking requirements.

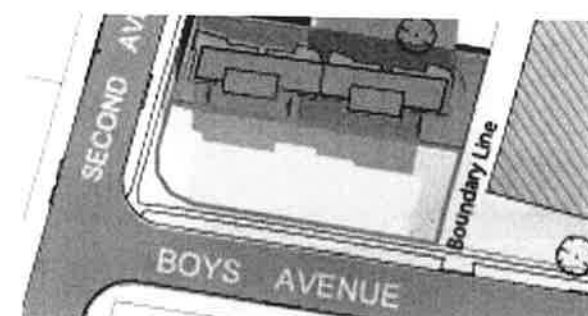
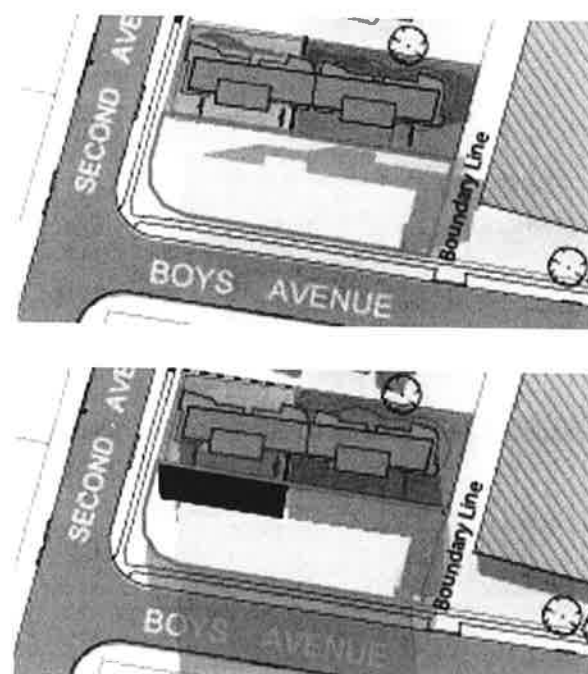
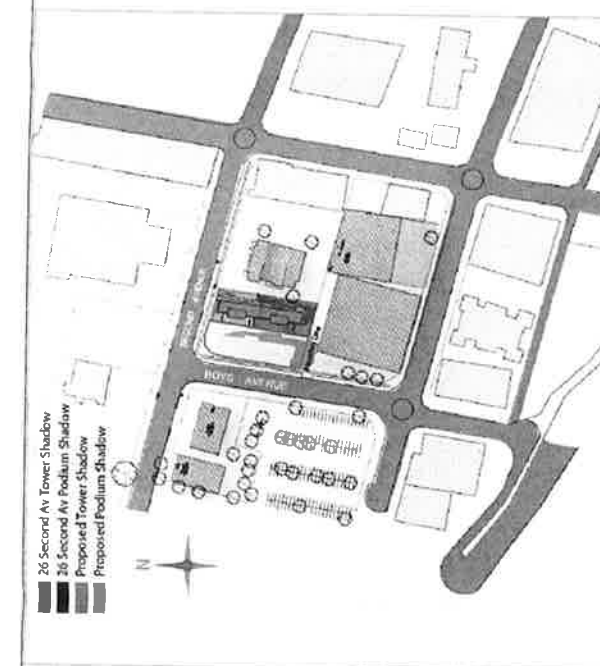
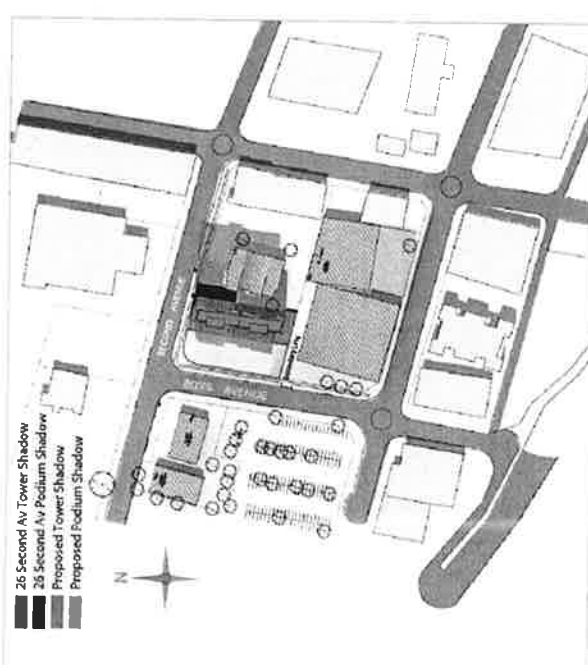
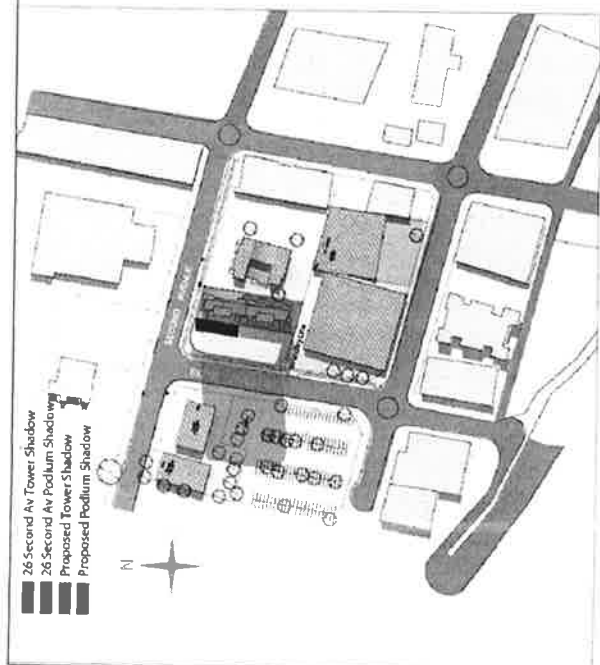
Development Standard	Requirement	Proposal	Compliant
		<p>parking requirement will be determined by the type of land use and will need to address that specific land use's car parking requirement</p> <p>Worst case – business premises – 1 space per 30 sqm.</p>	
Waste Management	<p>Commercial tenants must be a dedicate area/room for the storage of waste.</p> <p>Residential component requires a minimum 110L per unit (collected weekly) for garbage and 90L per unit (collected fortnightly) for recycling.</p>	On-site waste collection proposed through private contractor.	Yes



SHADOW DIAGRAMS
21 JUNE (WINTER SOLSTICE)

<p>Client: ROSS JAMES P/L</p> <p>Architect: JONATHAN BURNS</p> <p>Project: BLACKTOWN</p> <p>Project address: 26 Second Avenue, Blacktown</p> <p>File path: [unclear]</p> <p>Scale: 1:500</p> <p>Date: DEC 2014</p> <p>Drawing title: SHADOW DIAGRAM</p> <p>Project to: 950 (3x4) A500</p> <p>Drawn by: EY</p> <p>Drawing scale: DA SUBMISSION</p>	<p>CONSULTANTS</p> <p>BLACKTOWN 2014</p>
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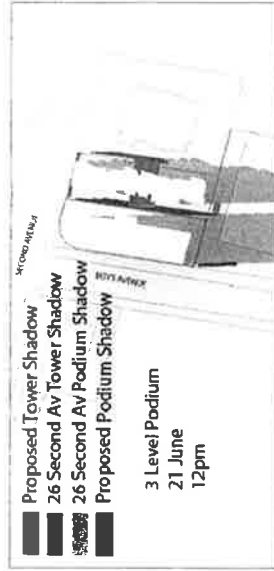




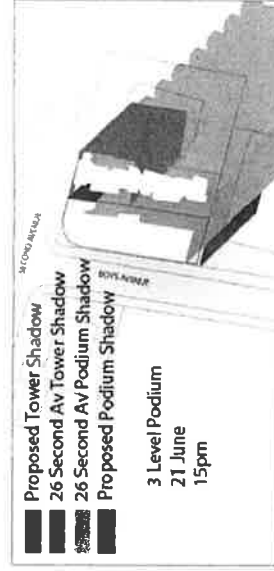
PODIUM SHADOW DIAGRAMS - 3 LEVELS
21 JUNE (WINTER SOLSTICE)



01 21 June 9am
PODIUM SHADOW - 3 LEVELS

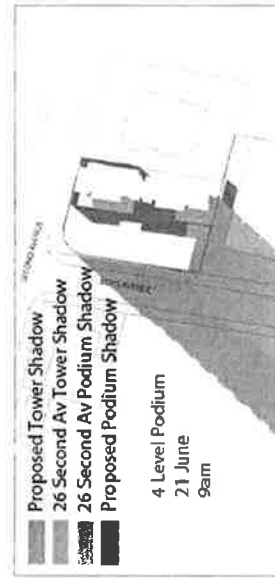


02 21 June 12pm
PODIUM SHADOW - 3 LEVELS

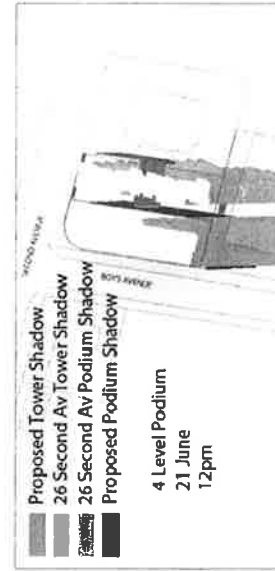


03 21 June 3pm
PODIUM SHADOW - 3 LEVELS

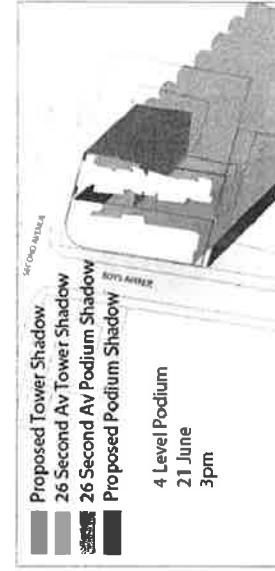
PODIUM SHADOW DIAGRAMS - 4 LEVELS
21 JUNE (WINTER SOLSTICE)



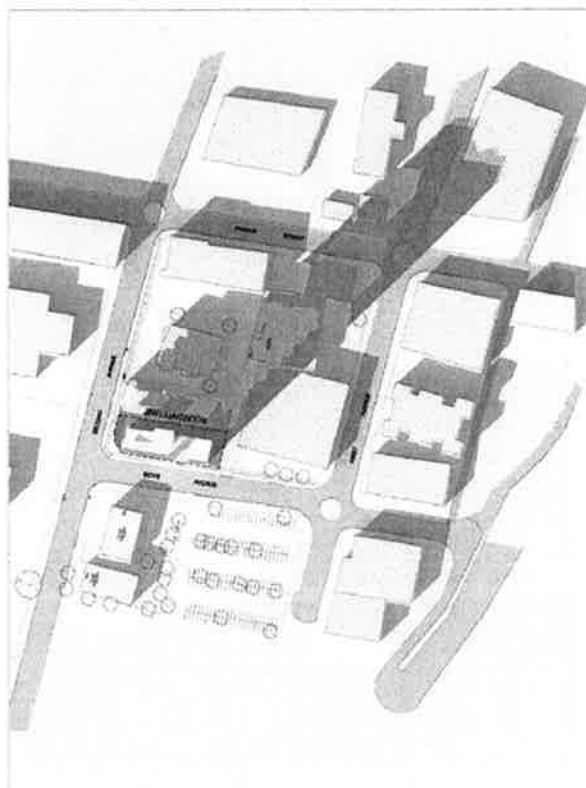
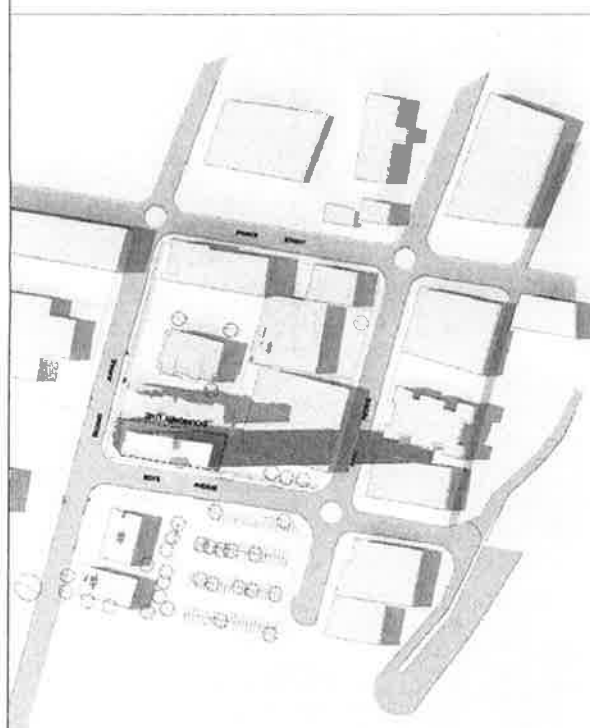
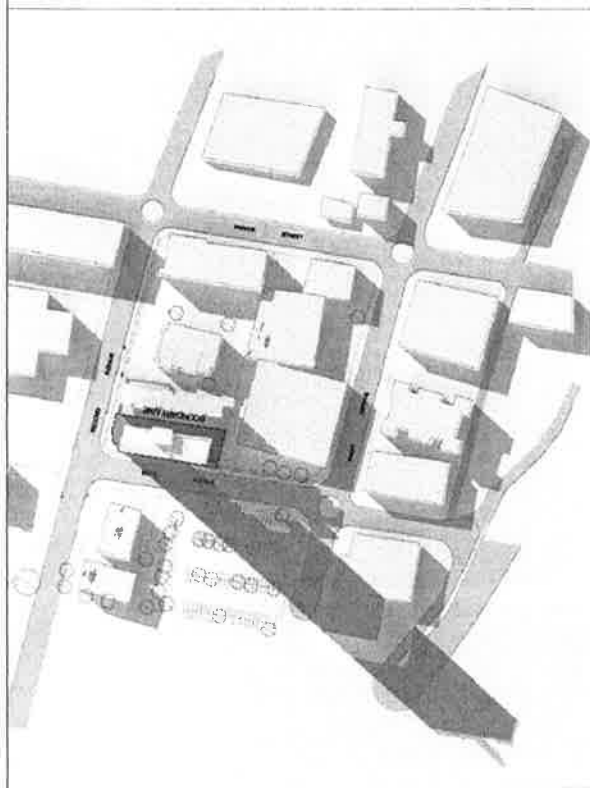
01 21 June 9am
PODIUM SHADOW - 4 LEVELS



02 21 June 12pm
PODIUM SHADOW - 4 LEVELS



03 21 June 3pm
PODIUM SHADOW - 4 LEVELS



-  SITE BOUNDARY LINE
 PROPOSED BUILDING SHADOW
 80CP COMPLIANCE ENVELOPE SHADOW
 SURROUNDING BUILDINGS SHADOW

RCBS Landco, PA


 SANTITAS
 100% WHOLESALE
 100% WHOLESALE

Project:	BLACKTOWN
Project address:	One Second Avenue, Blacktown

On being told
SHADOW DIAGRAM

Project no. 930 Design A510
Drawn EY
Drawing status
DA SUBMISSION