

08 October 2018

The General Manager
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PLANNING DEVELOPMENT PROPERTY

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Attention: Damian Jaeger

Revised Clause 4.6 Variation Justification

RE: Development Application for Construction of a Three Storey Health Services Facility above an Approved Multi-Level Carpark Lingard Street, Merewether NSW

1 Introduction

The development to which this application relates is the proposed construction of a three (3) storey health services facility (hospital) on top of an approved multi-level carpark associated with the expansion of Lingard Private Hospital at Lingard Street, Merewether NSW (the site).

Specifically, the Development Application (DA) seeks approval for:

- Construction of a three (3) storey health services facility comprising:
 - Four (4) operating theatres;
 - 17 consultation rooms;
 - Office, waiting room and storage facilities;
 - Medical gas storage; and
 - Ground level carpark with 42 parking spaces;
- Design modification of previously approved two (2) storey carpark; with a total of 129 parking spaces provided;
- Alteration of pedestrian footpath and existing vehicle crossings; and
- Ancillary building and site works as detailed on the Architectural drawings at Appendix A.

The proposal generally complies with the provisions of the Newcastle Local Environmental Plan 2012 (NLEP 2012), with the exception of two development standard exceedances related to height and floor space ratio.

An assessment of the variations is provided in the following pages in accordance the requirements of Clause 4.6 of the NLEP 2012. This variation has been prepared in accordance with the NSW Department of Planning and Infrastructure's publication "*Varying Development Standards: A Guide*" (August 2011), which identifies matters to be addressed in an application to vary a development standard.

The objectives of clause 4.6 are to provide an appropriate degree of flexibility in applying the development standards to achieve better outcomes for, and from, development.

An Urban Design Strategy has been prepared by AE Design Partnership and is included at Appendix B. The Urban Design Strategy supports the proposal, demonstrating that the proposed development is consistent with the desired future character of the area as established in Newcastle's Local Planning Strategy and the Greater Newcastle Metropolitan Plan 2036.

The proposed variation is considered reasonable on the basis that:

- The proposed development meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental amenity;
- The development will further reinforce and cement the long-term viability of the Lingard Private Hospital Health Precinct;
- The site is physically separated from nearby Heritage Items and will not adversely impact on their heritage values;
- The proposed development has been architecturally designed to minimise the overall bulk of the building, resulting in a built form that does not present an unacceptable visual affect;
- The corner location of the proposed development reduces the impact of the height and floor space exceedances;
- The height resulting from non-compliance does not result in any significant impacts on adjoining properties, particularly with respect to overshadowing, loss of privacy and loss of views;
- The natural 'barrier' and separation that exists to surrounding residential land created by Merewether Street and Lingard Street;
- The proposed density is aligned with the future vision for the urban renewal area and will deliver critical health infrastructure as identified in the Newcastle Metropolitan Plan to cope with significant predicted population growth;
- The proposal represents an efficient use of land within the site, providing essential health infrastructure and high-quality health services to benefit the public; and
- The application satisfies other numerical standards which result in a high quality development.

2 Site Details

The site is located in Merewether, on the corner of Merewether Street and Lingard Street. It has a total area of approximately 2,613m². The site is relatively flat and presents no topographical constraints to the proposed development. The site comprises 4 individual lots (see Figure 1), identified as the following:

- Lot 7 DP741487;
- Lot 1 DP1027546;
- Lot 2 DP1027546; and
- Lot 3 DP1027546.

Figure 1 – Cadastral Plan



The site is located within the B5 Business Development zone. The site is within close proximity to a primary school, park, shopping centre, recreational facilities and public transport.

On the opposite side of Merewether Street to the north west, development consists of existing health care facilities at Lingard Private Hospital. Two dwellings are also present on the north west corner Lingard and Merewether Streets. An automotive repair facility adjoins the site to the north east. Adjoining the site to the south with street frontage to Lingard Street is a place of public worship. Mitchell Park is located on the opposite side of Lingard Street to the west of the site.

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3 Strategic Direction

3.1 Strategic Direction for Newcastle LGA

Clause 1.2 of the NLEP 2012 outlines the aims of the LEP and strategic development direction for the Newcastle local government area (LGA), the below summary addresses each subclause and provides a comment in respect to proposal.

(a) to respect, protect and complement the natural and cultural heritage, the identity and image, and the sense of place of the City of Newcastle,

Comment: The proposal is sympathetic to existing and desired future character of Merewether and the City of Newcastle. The proposal is architectural designed to respond to the surrounding context; in addition, the site is physically separated from nearby Heritage Items and will not adversely impact on their heritage values.

The proposal will contribute to the sense of place of Merewether and will reinforce Lingard Private Hospital's position within the community. Furthermore, the development is in keeping with the Hunter Regional Plan 2036 and Greater Newcastle Metropolitan Plan 2036 strategic direction. Within the Hunter Regional Plan, Newcastle is identified as a knowledge centre of excellence in health providing world-class research into medicine and health. The proposal will enhance the identity and image of Newcastle as a knowledge centre for health.

(b) to conserve and manage the natural and built resources of the City of Newcastle for present and future generations, and to apply the principles of ecologically sustainable development in the City of Newcastle,

Comment: The proposed development has been designed in accordance with best practice ecologically sustainable development and architectural principles. The proposed finishes and materials have been selected based upon product lifespan to ensure the longevity of the development. The proposal will build upon an existing car park structure that is ancillary to the existing Lingard 'health service facility.'

(c) to contribute to the economic wellbeing of the community in a socially and environmentally responsible manner and to strengthen the regional position of the Newcastle city centre as a multi-functional and innovative centre that encourages employment and economic growth,

Comment: The proposal will significantly contribute to the economic wellbeing of the community by providing construction jobs and operational jobs for both skilled and unskilled workers.

In addition, the proposal will contribute to strengthening the position of Newcastle as a knowledge centre of excellence in health and enhance Lingard's medical offerings to target a broader cross section of patients and specialist areas.

Strategy 4: Grow health precincts and connect the health network of the Greater Newcastle Metropolitan Plan 2036 outlines that a number of private hospitals area also expanding and will provide future job opportunities. Growth in health and medical research in Greater Newcastle will build on these investments. These will be the diverse health services for a globally competitive city.

(d) to facilitate a diverse and compatible mix of land uses in and adjacent to the urban centres of the City of Newcastle, to support increased patronage of public transport and help reduce travel demand and private motor vehicle dependency,

Comment: The site is strategically located approximately 3 kilometres from Newcastle City Centre and is zoned as B5 Business Development; this zoning encourages a wide range of employment generating uses.

The 'health service facility' use is compatible with the zoning and surrounding context given that Lingard Private Hospital is directly adjacent to the site. The site is also located in close proximity to public transport

routes as well as The Junction shopping centre, which has numerous retail and commercial uses and additional public transport offerings.

(e) to encourage a diversity of housing types in locations that improve access to employment opportunities, public transport, community facilities and services, retail and commercial services,

Comment: Not relevant. The proposal does not seek consent for any residential components. However, the proposed development is located in close proximity to residential land uses, public transport, retail and commercial services. The site is strategically located adjacent to the existing Lingard Private Hospital to leverage the hospitals access to public transport and patient catchment.

(f) to facilitate the development of building design excellence appropriate to a regional city.

Comment: The proposed development has been architectural designed by renowned nationwide health architects HSPC and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage and built form of Merewether Street and Lingard Street. The proposed architectural design has been carefully designed having due regard to the locality. It is considered that the proposal demonstrates a high level of design excellence.

The proposed built form will reflect the emerging contemporary character of Merewether and is considered appropriate to a regional city. The visual bulk of the building is broken up by the horizontal architectural expression of blue tinted glass in contrast to vertical 'fins'. The building will create a landmark that is identifiable and consistent with leading contemporary hospitals. The expansion of Lingard with a purpose built building as proposed supports the expansion of a much needed service sector as Newcastle City continues to undergo growth and transformation.

3.2 Strategic Direction for Merewether

Merewether has become a significant part of the health and medical industry in the Greater Newcastle area. Lingard Private Hospital is located within an urban renewal corridor identified within the Greater Newcastle Metropolitan Plan 2036 (the Plan). This identified urban renewal corridor will be undergoing significant built form change over the next decade or so.

The Plan recommends urban densities of between 50 to 75 people per hectare for urban renewal corridors. The identified density increase will reduce urban sprawl and ensure housing is provided in close proximity to employment opportunities, education and health infrastructure. In addition, the projected population increase will require hospitals to be leading edge to be able to cope with the increase in demand.

Lingard Private Hospital is located in the identified 'Metro Heart' area which is proposed to contain almost two-thirds of Greater Newcastle's jobs. The Metro Heart is well positioned to take advantage of improved integration of transport and health service facilities. As illustrated in Figure 2 Lingard Private Hospital is in a key strategic location, close to residents and is easily accessible to patients, visitors and staff.

Figure 2 – Vision Map 2036 for Greater Newcastle (Source: Department of Planning & Environment)



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4 Exception to Development Standards

The Department of Planning and Infrastructure's publication "*Varying Development Standards: A Guide*" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- *Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and*
- *State Environment Planning Policy No 1 – Development Standards (SEPP1).*

In this instance, SEPP 1 does not apply as the NLEP 2012 is a Standard Instrument LEP. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

4.1 Clause 4.6

Clause 4.6 of the NLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

(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.

The proposal seeks to vary the height and floor space ratio standards applicable to the site in the subject development application and does not introduce new controls across an area. The Clause 4.6 guidelines also state specifically when this clause is not to be used, namely:

"...in Rural or Environmental zones to allow subdivision of land that will result in 2 or more lots less than the minimum area specified for such lots by a development standard, or the subdivision of land that will result in any lot less than 90% of the minimum area specified for such lots by a development standard in the following SI zones: Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living."

Neither the site nor the proposal is included within these criteria and therefore, the use of Clause 4.6 to vary the height standard is appropriate in this instance.

4.2 Legal Context to Varying Development Standards

This request has been prepared having regard to the important NSW Land and Environment judgements related to varying development standards, contained in the following guideline judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)

- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)
- Moskovich v Waverley Council [2016] NSWLEC 1015
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118

In the decision of *Moskovich v Waverley Council* [2016] NSWLEC 1015 it was deemed consistent with the decision in Four2Five and the Court agreed that the public interest test (incl 4.6(4)(a)(ii)) is different to the "unreasonable or unnecessary in the circumstances of the case" test (incl 4.6(3)(a)). The Court said that *"the latter, being more onerous, would require additional considerations such as the matters outlined by Preston CJ in Wehbe at [70-76]"*.

Randwick City Council v Micaul Holding Pty Ltd [2016] NSWLEC 7 is a decision of the Chief Judge of the Land and Environment Court in an appeal against a decision of Commissioner Morris to uphold a request under clause 4.6 of the Randwick LEP 2012 to vary development standards relating to the height and FSR of a building.

The Chief Judge observed in his judgement at [39] that clause 4.6(4) of the Standard Instrument does not require the consent authority to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed those matters. This lessens the force of the Court's earlier judgement in Four2Five that a variation request must demonstrate consistency with the objectives of the standard in addition to consistency with the objectives of the standard and zone.

The decision in Micaul is an example of discretion at work. The principal circumstances that Commissioner Morris found to justify the variation to height and FSR was the location of the site at the low point of the locality, its proximity to larger Residential Flat Buildings (RFBs) that would not comply with the building height development standard and its flood affectation. Presumably this was not the only site in the locality having those characteristics, and yet the Commissioner was satisfied that the variation was justified.

The objection principles identified in the decision of Justice Lloyd in *Winten v North Sydney Council* are outlined below:

- (1) *Is the planning control in question a development standard;*
- (2) *What is the underlying object or purpose of the standard;*
- (3) *Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act 1979;*
- (4) *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;*
- (5) *Is a development which complies with the development standard unreasonable or unnecessary; and*
- (6) *Is the objection well founded.*

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision Preston CJ noted:

"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)."

Wehbe V Pittwater [2007] NSW LEC 827 established the 'five part test' to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

- (1) Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;*
- (2) Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary;*
- (3) Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;*
- (4) Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or*
- (5) Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.*

Of particular relevance in this instance is Part 1, that "*the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives*".

In the decision of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Chief Justice Preston has further clarified the correct approach to the consideration of clause 4.6 requests including that the clause establishes two preconditions which must be satisfied before a consent authority has the power to grant a development consent that contravenes a development standard.

At paragraph 13 of his judgement the Chief Justice states "*The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*"

The first is that there must be a written request that addresses the matters set out in Clause 4.6(4)(a) and the second is that the proposal must be in the public interest because it is consistent with the objectives of the development standard sought to be varied and the objectives of the zone. The matters which the written request must address are set out in Clause 4.6 (3) and are that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

This finding is of particular significance as it is not simply a matter of whether a proposal has merit but rather notwithstanding that a project may have merit, it must also demonstrate that the compliance with the development standard which is sought to be varied is unreasonable or unnecessary in the circumstances of the case and that sufficient environmental planning grounds exist to justify the contravention of the development standard.

Similarly, it is not sufficient to simply demonstrate that the proposal is in the public interest and any negative impacts of the proposal can be appropriately mitigated. The correct test is whether it has been demonstrated that the project is in the public interest because it is consistent with the objective of the development standard sought to be varied and the objectives of the zone within which the development is located.

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5 Development standard to be varied

This section pertains to the “*Application form to vary a development standard*” by Newcastle City Council.

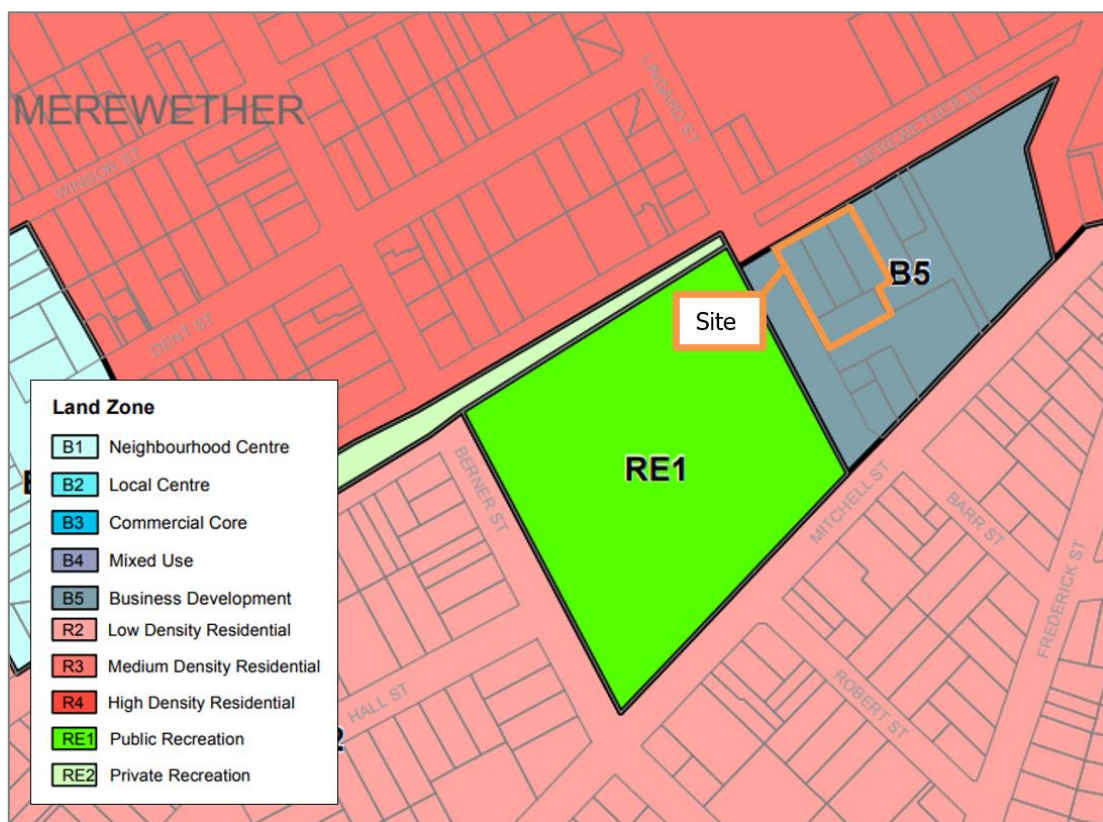
What is the name of the environmental planning instrument that applies to the land?

Newcastle Local Environmental Plan 2012

What is the zoning of the land?

The NLEP 2012 indicate that the site is within the B5 Business Development, as illustrated in Figure 3.

Figure 3 – Land Zoning Map Extract (Map 004G)



What are the objectives of the zone?

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To accommodate a wide range of employment generating uses and associated support facilities including light industrial, transport and storage activities*

Comment: The proposed 'health service facility' is permissible within the B5 Business Development zone and is compatible within the surrounding context given the proximity to Lingard Private Hospital. The proposed development will support the delivery of essential health services in a location that is close to The Junction shopping centre and is accessible to future patients and staff as it is well serviced by public transport.

The development will result in wide range of employment generating uses; including construction jobs and jobs during the operational phase for both skilled and unskilled workers. As a result of the development, additional medical offerings will be able to be delivered in an area with a predicted population increase and

an ageing population. The advanced facilities will draw surgeons and medical professional to Newcastle and the proposal will contribute positively to the economy and society in general.

What are the development standards being varied?

The building height development standard contained in Clause 4.3 and the floor space ratio standard in Clause 4.4 of the NLEP 2012.

Are the standards to be varied a development standard?

Yes, both standards are considered to be a development standard in accordance with the definition contained in Section 4(1) of the *Environmental Planning and Assessment Act 1979* and not a prohibition.

What are the objectives of the development standard?

The objectives of Clause 4.3 – Height of Buildings are as follows:

- (a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,*
- (b) to allow reasonable daylight access to all developments and the public domain.*

The objectives of Clause 4.4 – Floor Space Ratio are as follows:

- (a) to provide an appropriate density of development consistent with the established centres hierarchy,*
- (b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

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

The maximum height under the NLEP 2012 is 10 metres, as shown in Figure 4.

The maximum floor space ratio under NLEP 2012 is 0.9:1, as shown in Figure 5.

Figure 4 - Height of Building Map Extract (Map 004G)

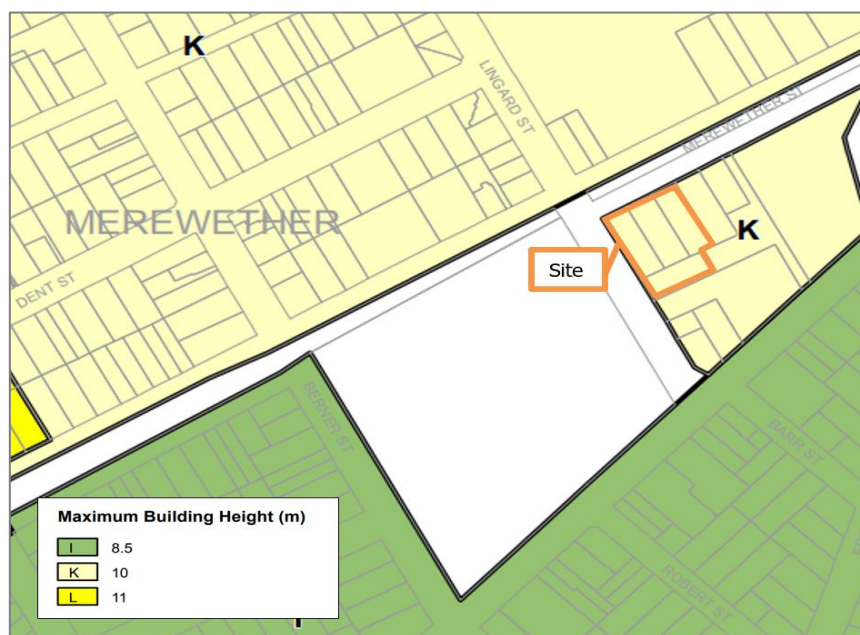
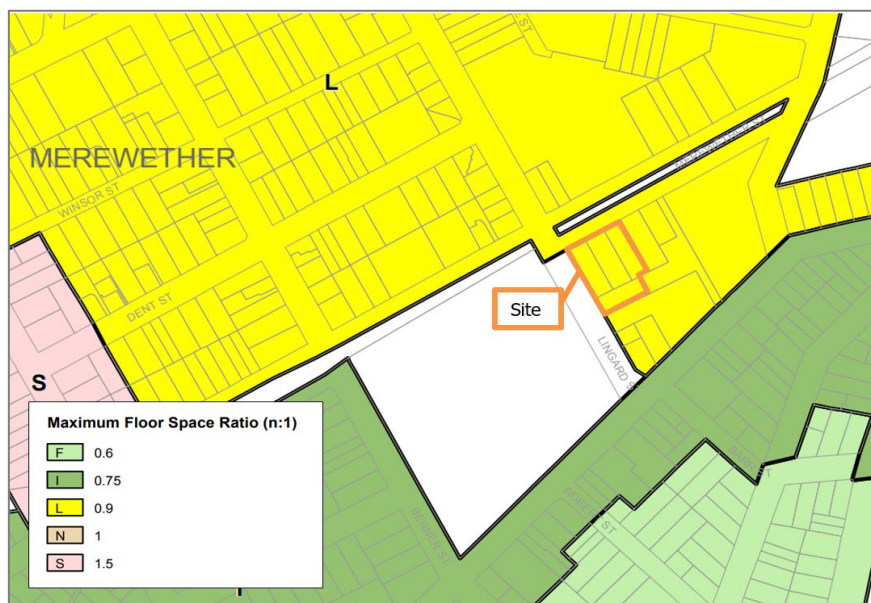


Figure 5 – Floor Space Ratio Map Extract (Map 004G)



What is the proposed numeric value of the development standard in your development application?

The numeric value of the proposed development and percentage variation are detailed in the following table.

Height

Clause	Control	Proposal	Variation
Clause 4.3 – Building Height	10m	Building height – 14.06m Plant deck height – 16.11m	4.06m (40.6%) 6.11m (61.1%)

Note:

Newcastle LEP 2012 defines building height as the following:

building height (or **height of building**) means:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

The numeric values used in the table above are the vertical distance from ground level (existing) to the highest point of the building, as opposed to the RL of the building. The Architectural Plans attached at Appendix A make reference to both forms of measurement.

Floor Space Ratio

Clause	Control	Proposal	Variation
Clause 4.4 – FSR	2351.7m ² (0.9:1)	4,246m ² (1.62:1)	1,894.3m ² (80.6%)

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6 Justification for the Contravention

This section addresses Section (3) and (4) of Clause 4.6 and justifies the contravention from development standard 4.3.

(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 Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary 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 Secretary before granting concurrence.

6.1 Compliance is unreasonable or unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary in the circumstances of the case, if the objectives of the standard are achieved notwithstanding noncompliance with the standard. This is one of the ways of demonstrating unreasonable or unnecessary as cited in paragraph 17 of Justice Preston's judgement (Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118),

Height

The proposed development achieves the objectives of Clause 4.3:

(a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,

The proposed development has been designed by HSPC and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage and built form of Merewether Street and Lingard Street. The projection of the building above the height limit will not result in an overbearing visual

impact, as the exceedance is largely due to the plant deck which is set back from street level in the centre of the building.

The building will create a landmark that is identifiable and consistent with the leading contemporary hospitals. The expansion of Lingard with a purpose built building as proposed, supports the expansion of a much needed service sector as Newcastle City continues to undergo growth and transformation.

Furthermore, the height exceedance is primarily associated with the regulated height requirements of surgical rooms and operating theatres. Operating theatres in private hospitals must have a minimum height of 4.2m. The proposed development is compliant with the requirements as Level 1 has a floor to ceiling height of 4.2 metres (refer to Architectural Plans in Appendix A).

The proposed built form will reflect the emerging contemporary character of Merewether. The visual bulk of the building is broken up by the horizontal architectural expression of blue tinted glass in contrast to vertical 'fins'. Details of the façade and articulation are provided in the Architectural Plans appended at Appendix A.

Further to this, Figure 6 shows that the proposed development is well separated from the two dwellings on the corner of Lingard and Merewether Streets and the existing Lingard Private Hospital on Merewether Street.

Sense of enclosure on a street is generally measured as a ratio; where the height of a street wall is measured against the width of a street (1:1). Merewether Street has a width of approximately 24 metres, thereby based upon this urban design principle the site would be capable of presenting a 24 metre street wall height to Merewether Street (accepting the LEP standard is set below this height). The proposal has a street wall height substantially less than this (14.06 metres) and presents as a more contextually appropriate height given the surrounding hospital uses and land zone.

The proposed street wall height will not result in pedestrians feeling overwhelmed and enclosed by the built form; the proposal will maintain the human scale of Merewether Street. The existing street trees located along the median of Merewether Street also mitigate a potential strong sense of enclosure and preserve the local street feeling. In addition, there is a 'barrier' and separation to residential land created by Merewether Street and Lingard Street.

Additionally, the proposed development represents a growth opportunity for the established medical precinct within Merewether and will form a natural health precinct. Enhancing the Lingard medical precinct bodes well in terms of the supporting the desired land use hierarchy of Newcastle and the increased regional emphasis on health facilities within the Newcastle city area.

Figure 6 - Streetscape Elevation



In this instance, the strict application of the development standard for maximum height is considered unreasonable and unnecessary and does not achieve a greater planning or urban design outcome. This is particularly relevant in this circumstance given the height is associated with higher ceiling requirements for operating theatres and medical rooms.

(b) to allow reasonable daylight access to all developments and the public domain.

Reasonable daylight access is provided to all surrounding developments (as shown in Shadow Diagrams - Figure 6, 7 and 8). The proposed development is located on a corner block which decreases the impact of the

height exceedance. The 9.00am shadow shown in Figure 7, 8 and 9 cast over Lingard Street (21 September and 21 December) and Townson Oval (21 June). This will not result in any demonstrable detrimental impact to sensitive land uses, therefore the impact of the variation is negligible. The 3.00pm shadow falls on C3 church and CrashCorp. Neither of these land uses are residentially zoned or sunlight sensitive. The proposal therefore provides these sites with reasonable solar access.

The amenity of adjoining properties will not be diminished to any unreasonable extent as a result of the height exceedance. The proposed development does not compromise the ability of adjoining land to develop and achieve their intended built form. The proposed development achieves the objectives of this clause and therefore strict compliance with a 10 metre height limit would be unreasonable, unnecessary and would not achieve a greater planning or urban design outcome.

Figure 7 - Shadow Diagram of Proposed Development 21 June (9.00am, 12.00pm, 3.00pm)



Figure 8 - Shadow Diagram of Proposed Development 21 September (9.00am, 12.00pm, 3.00pm)

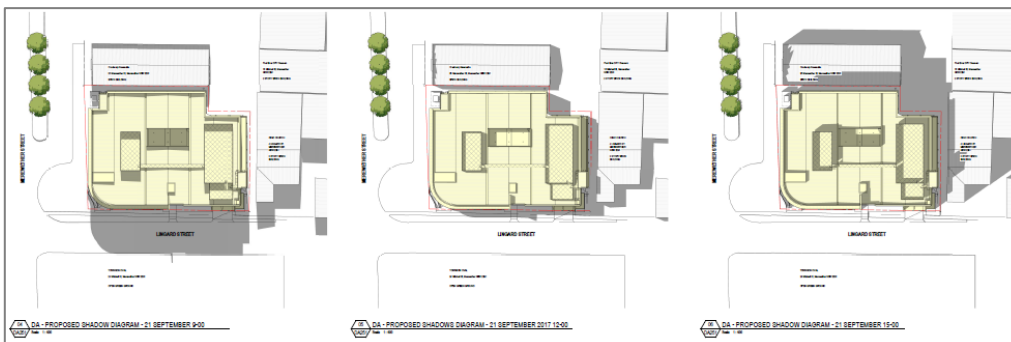


Figure 9 - Shadow Diagram of Proposed Development 21 December (9.00am, 12.00pm, 3.00pm)



Floor Space Ratio

The proposed development achieves the objectives of Clause 4.4:

-
- (a) *to provide an appropriate density of development consistent with the established centres hierarchy,*
- (b) *to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.*

Despite the variation, the proposed development makes a positive contribution towards the streetscape of Merewether. The proposed density of the development is 1.69:1. The proposal is a modern architecturally designed building providing a high level of amenity on the site.

The bulk and scale of the development is minimized through high quality architectural design by HSPC. The visual bulk of the building is broken up by the horizontal architectural expression of blue tinted glass in contrast to vertical 'fins'. Details of the façade and articulation are provided in the Architectural Plans appended at Appendix A. The location of the proposed development on a corner site opposite Mitchell Park significantly reduces the impact of the floor space ratio exceedance.

The proposal represents an efficient use of land, providing essential medical infrastructure and high-quality health services to the community. The proposed development achieves the objectives of this clause and therefore strict compliance with an FSR of 0.9:1 would be unreasonable, unnecessary and would not achieve a greater planning or urban design outcome.

In addition, the proposed density is in keeping with the desired future character of urban renewal areas as expressed in the Greater Newcastle Metropolitan Plan. The Plan recommends urban densities of between 50 to 75 people per hectare for urban renewal corridors.

Conclusion

Overall, it is submitted that the development is consistent with the objectives of Clause 4.3 and Clause 4.4 for the following reasons:

- The proposed development meets the underlying intent of the controls and is a compatible form of development that does not result in unreasonable environmental impacts on the local amenity;
- The development will reinforce the Lingard Private Hospital Health precinct;
- The site is physically separated from nearby Heritage Items and will not adversely impact on their heritage values;
- The proposed development has been architecturally designed to reduce the overall bulk of the building;
- The proposed built form will not result in an overbearing visual impact, with much of the excess height due to plant decks that are setback from street view;
- The corner location of the proposed development reduces the impact of the height and floor space exceedances;
- The 'barrier' and acceptable separation to surrounding residential land is created by Merewether Street and Lingard Street;
- The excess height resulting from non-compliance does not result in any undue impacts on adjoining properties particularly with respect to overshadowing, loss of privacy and loss of views;
- The proposal represents an efficient use of land, providing essential health infrastructure and high-quality health services to benefit the public; and
- The application satisfies other numerical standards which result in a high quality development.

Accordingly, the proposal is considered to be consistent with the strategic objectives of NLEP 2012, as well as the objectives of Clause 4.3 and Clause 4.4. Therefore, notwithstanding that the proposed development is not consistent with the numerical height and floor space ratio standards in NLEP 2012, the non-compliance is considered to be acceptable.

6.2 Adequate Grounds for Contravening the Development Standard

Clause 4.6 requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. The above assessment demonstrates that the resultant environmental impacts are satisfactory. If made to strictly comply with Clause 4.3 and 4.4, there would be little if any additional benefit to the streetscape, neighbouring properties and the local area. The variation will enable a high quality, architecturally designed medical facility to be provided in Merewether. It is considered that the objectives of Clause 4.3 and Clause 4.4 have been met and there is sufficient environmental planning grounds to justify contravening the development standard in this instance.

6.3 Public interest

As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.

The proposed development's ability to meet the objectives of the development standards sought to be varied are discussed at length in Section 6.1 of this variation justification report. It is clear from this discussion that the public interest will be well served by the proposed development's attainment of the objectives of these two development standards which are sought to be varied.

The intent of the Business Development zone is to accommodate a wide range of employment generating uses. The proposed development is a 'health service facility' which will generate significant employment and is compatible with the objectives of the zone. It will complement the existing health facilities and strengthen the Newcastle City Core. It is therefore considered to be consistent with the objectives of the B5 Business Development zone as set out in Section 5 (page 14) of this variation justification report.

The proposed development will provide a number of significant public benefits to the community.

- It will provide an expansion to the variety of high quality health services on offer at the region's leading private hospitals, especially to the growing and ageing population. The proposed purpose built building supports the expansion of a much needed service sector as Newcastle City continues to undergo growth and transformation;
- The proposed development will also generate employment in the expanding health sector and therefore provide ongoing economic and social benefits;
- The proposed built form reflects the emerging contemporary character of The Junction / Merewether precinct as well as Newcastle City as a leading regional city; and
- The building will create a landmark that is identifiable and consistent with leading contemporary hospitals making it a centre of excellence thereby attracting further leading surgeons and specialist to the area.

It is considered that the public interest will be well served as the proposed development satisfies the objectives of the two development standards sought to be varied and the objectives of the zone within which the development is to be constructed. The height and floor space ratio exceedances do not outweigh these public benefits given the merits of the proposal.

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7 Conclusion

This Clause 4.6 Variation Justification report has been prepared in response to numerical non-compliances against the standards of Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio of the NLEP 2012. Overall, it is submitted that the proposed development is consistent with the objectives of Clause 4.3 and Clause 4.4, it is also consistent with the objectives of the B5 Business Development zone and is consistent with the test in Clause 4.6 that requires it to be in the public interest because it meets the objectives of the development standards to be varied and the objectives of the zone.

This proposed development has been able to demonstrate this consistency for a number of reasons including:

- The unique nature of the site;
- The built form, landscape and topographic context of the site;
- The 'barrier' or separation to surrounding residential land created by Merewether Street and Lingard Street;
- The negligible impact of the proposal on the amenity of surrounding land;
- The public benefits arising from the proposed development; and
- The design merits of the proposed development.

The proposed development meets the underlying intent of the relevant development controls and is a compatible form of development that does not result in unreasonable environmental impacts on the local amenity. The excess height and bulk resulting from non-compliance will not result in any significant impacts on adjoining properties particularly with respect to overshadowing, loss of privacy and loss of views. These issues are examined in depth in the Urban Design Strategy prepared by AE Design Partnership and annexed as Appendix B to this variation justification report.

It is considered that the variation allows for the orderly and economic use of the development of land in accordance with objective 1.3(c) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as well as providing good design and amenity of the built environment as required by objective 1.3(g) of the EP&A Acts.

The referenced case law and in particular the recent judgement of the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, makes it clear that certain preconditions must be met before consent can be granted to a development which contravenes certain development standards. These preconditions have clearly been met as has the requirement to provide sufficient environmental planning grounds to support the granting of consent. Further, previous decisions granted by the Hunter JRPP demonstrates that albeit the variations being sought are not insignificant, there is strong evidence and precedent that justifies the granting of consent where the tests in Clause 4.6 have been met and there are clear positive outcomes that will be achieved.

Council can therefore be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening these two development standards. It is therefore requested that development consent for the proposed development be granted subject to appropriate conditions.

Yours sincerely,



Steve O'Connor
Partner
KDC Pty Ltd

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Appendix A – Architectural Plans

HSPC Architects

LINGARD PRIVATE HOSPITAL

PROPOSED DAY SURGERY ,CONSULTANT SUITS & CAR PARK



DEVELOPMENT APPROVAL

DA000	COVER SHEET / DRAWING SCHEDULE	N/A
DA001	SITE CONTEXT	1:2000
DA010	EXISTING / DEMOLITION PLAN	1:100
DA020	PROPOSED SITE PLAN	1:100
DA030	PROPOSED FLOOR PLAN - LEVEL B2	1:100
DA031	PROPOSED FLOOR PLAN - LEVEL B1	1:100
DA032	PROPOSED FLOOR PLAN - LEVEL GROUND / UPPER GROUND	1:100
DA033	PROPOSED FLOOR PLAN - LEVEL 1	1:100
DA034	PROPOSED FLOOR PLAN- LEVEL 2	1:100
DA035	PROPOSED FLOOR PLAN - LEVEL ROOF	1:100
DA200	ELEVATIONS - SHEET 1	1:100
DA201	ELEVATIONS - SHEET 2	1:100
DA250	SECTIONS - SHEET 1	1:100
DA251	SECTIONS - SHEET 2	1:100
DA500	SHADOW DIAGRAMS JUNE	1:400
DA501	SHADOW DIAGRAMS SEPTEMBER	1:400
DA502	SHADOW DIAGRAMS DECEMBER	1:400
DA510	PERSPECTIVE VIEWS	N/A
DA550	MATERIAL BOARD	N/A

	NEW
THEATRE	4
CAR PARK	129 (INC 3 ACC.)
MOTOR BIKE PARK	3

SITE INFORMATION

SITE AREA	2613 m²
PROPOSED SITE COVERAGE	79.5%
FLOOR SPACE RATIO:	1.69 (EX:CAR PARK)

CAR PARK AREA

BASEMENT 2 (CAR PARK) FLOOR AREA:	1700m²
BASEMENT 1 (CAR PARK) FLOOR AREA:	1700m²
UPPER GROUND FLOOR PARKING AREA:	1571m²

GROSS FLOOR AREA

GROUND GROSS FLOOR AREA :	326m²
LEVEL 1 GROSS FLOOR AREA:	2097m²
LEVEL 2 GROSS FLOOR AREA:	2000m²

TOTAL GROSS FLOOR AREA:	9574m²
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ISSUE	REVISION	CHK'D	APP	DATE
-	ISSUE FOR COORDINATION	AA	SS	31/10/2017
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CONSULTANTS:

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40-6027

PROJECT:
LINGARD - DAY SURGERY & CAR PARK
PROJECT ADDRESS:
23 MEREWETHER STREET,
MEREWETHER, NSW
CLIENT:
HEALTHe CARE

DRAWING TITLE:
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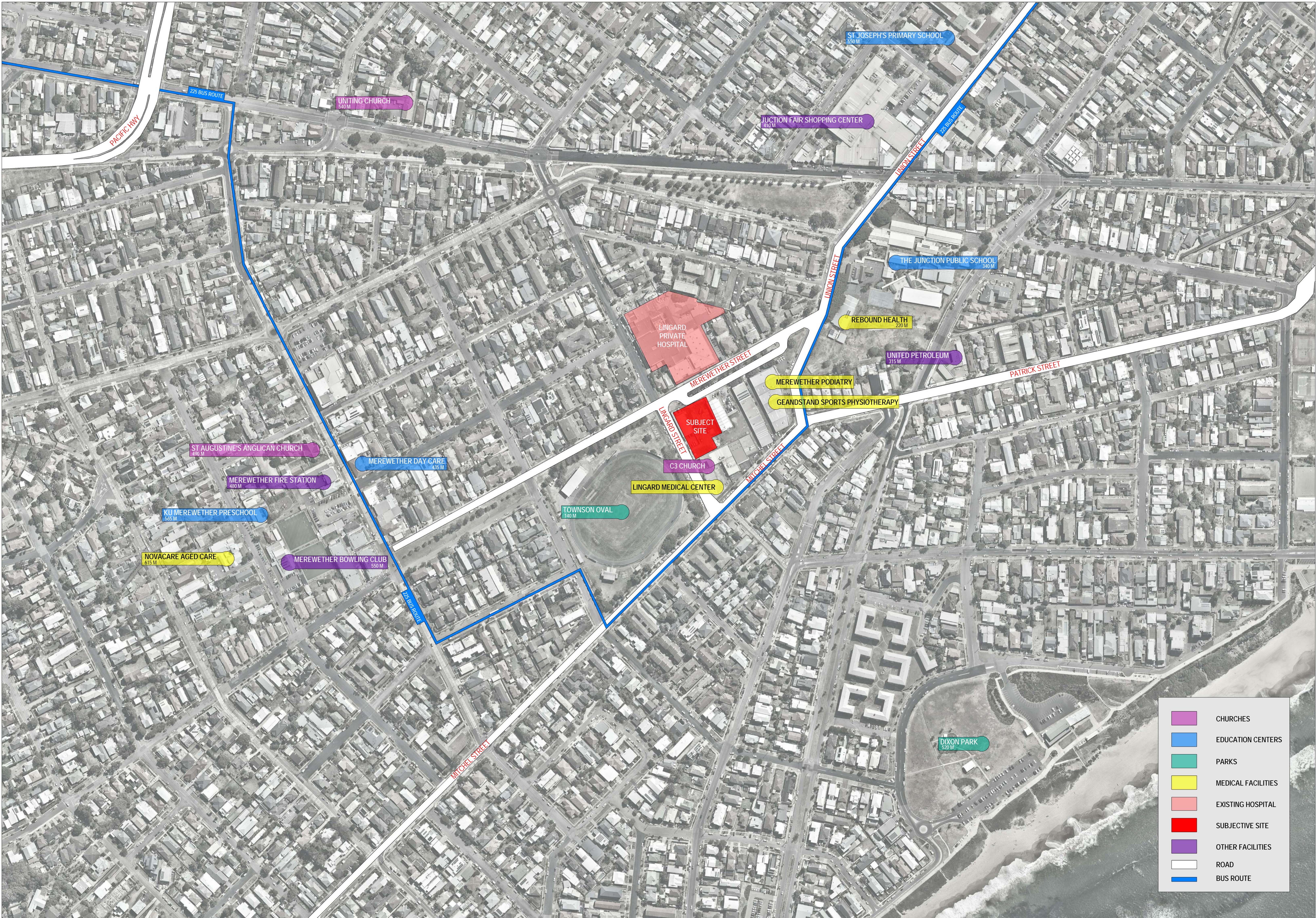
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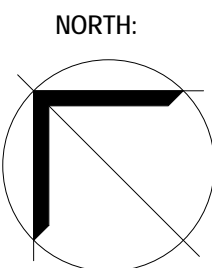
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SITE CONTEXT

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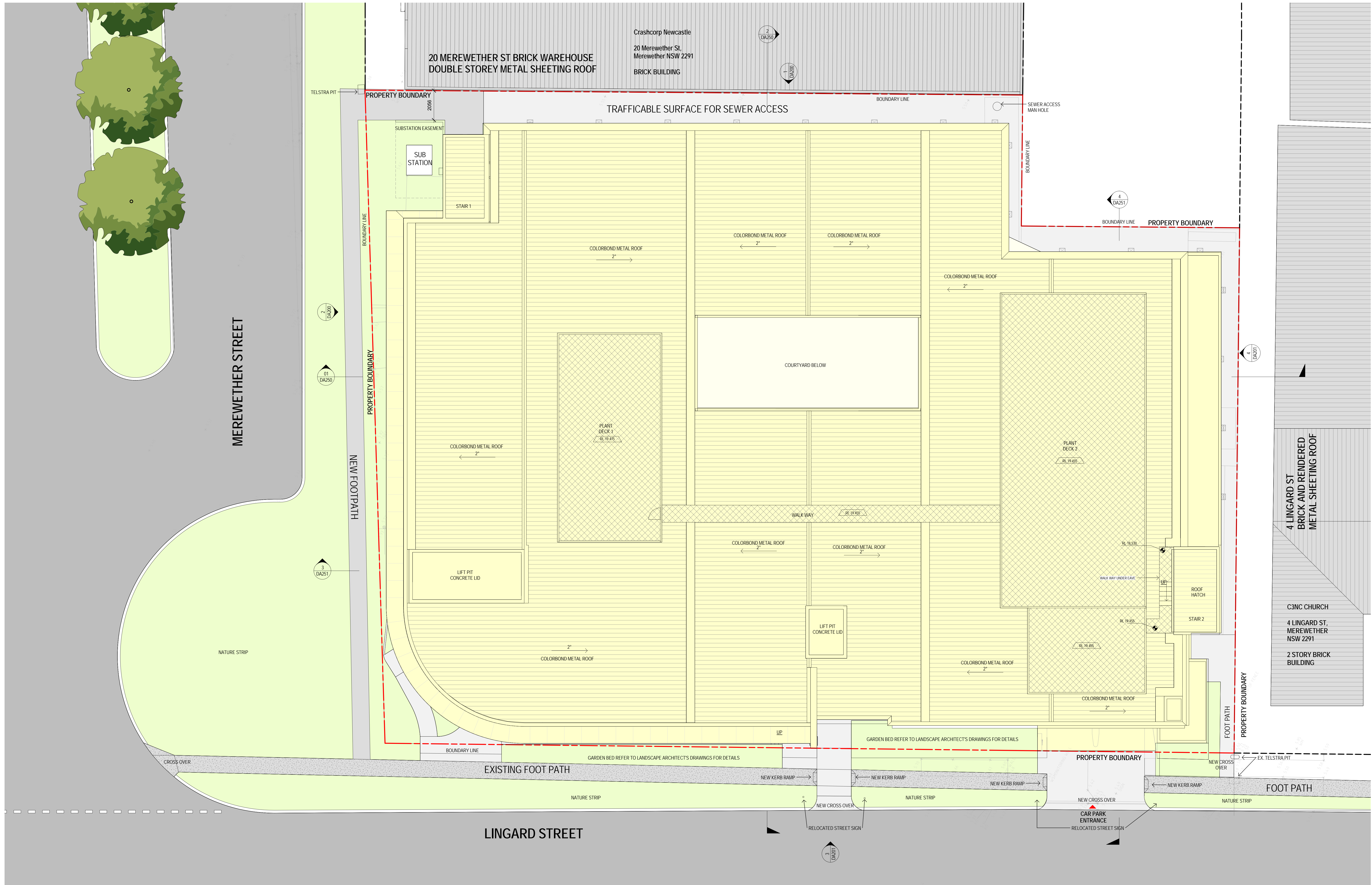
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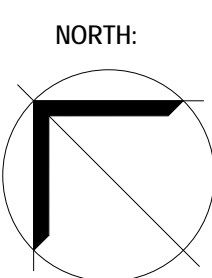
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CLIENT:
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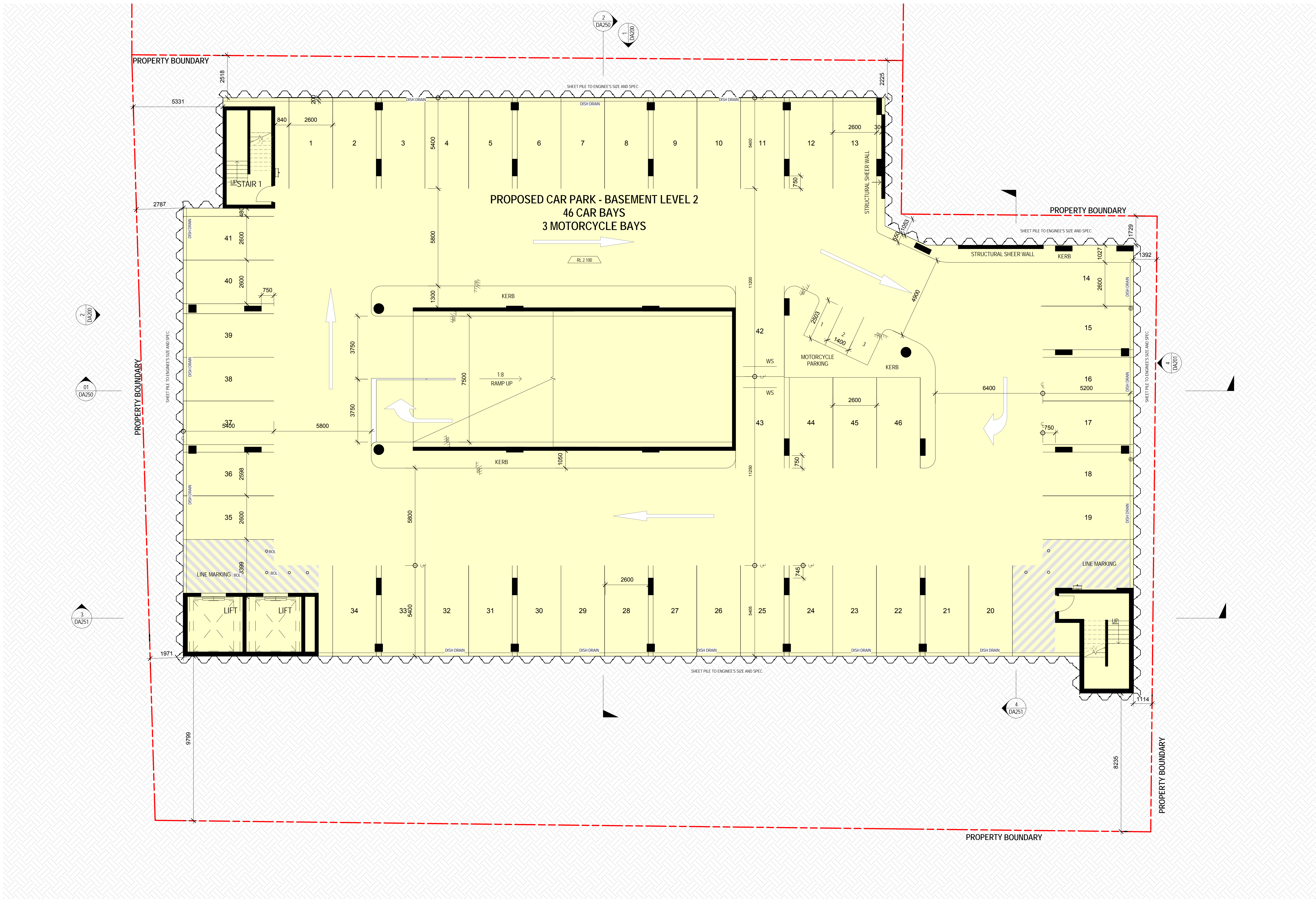
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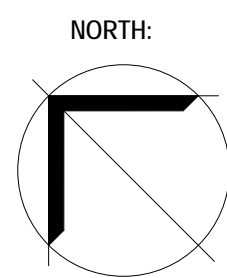
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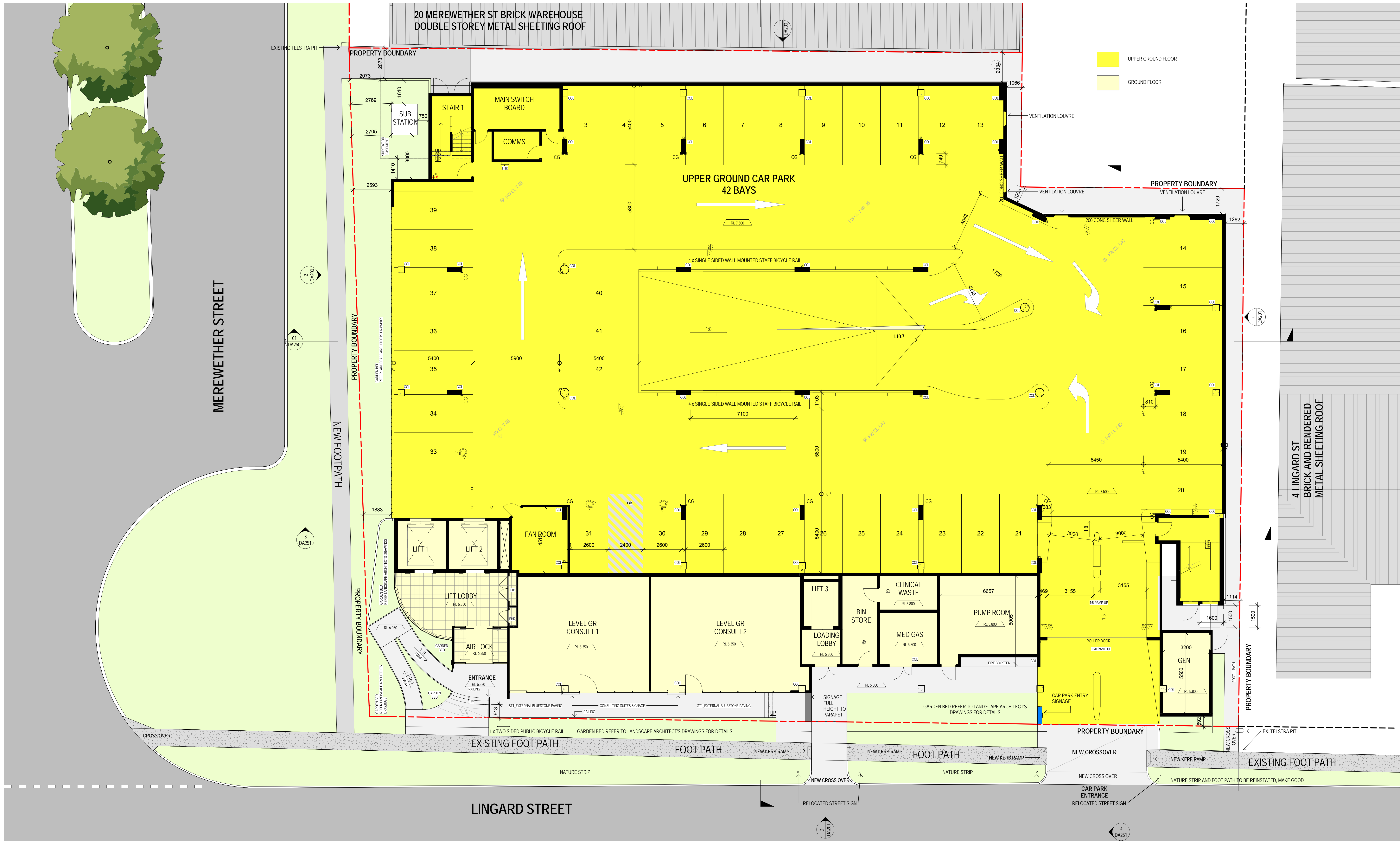
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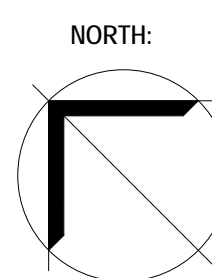
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GROUND / UPPER GROUND

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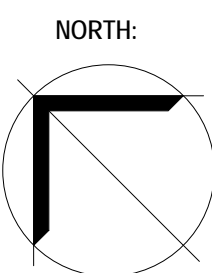
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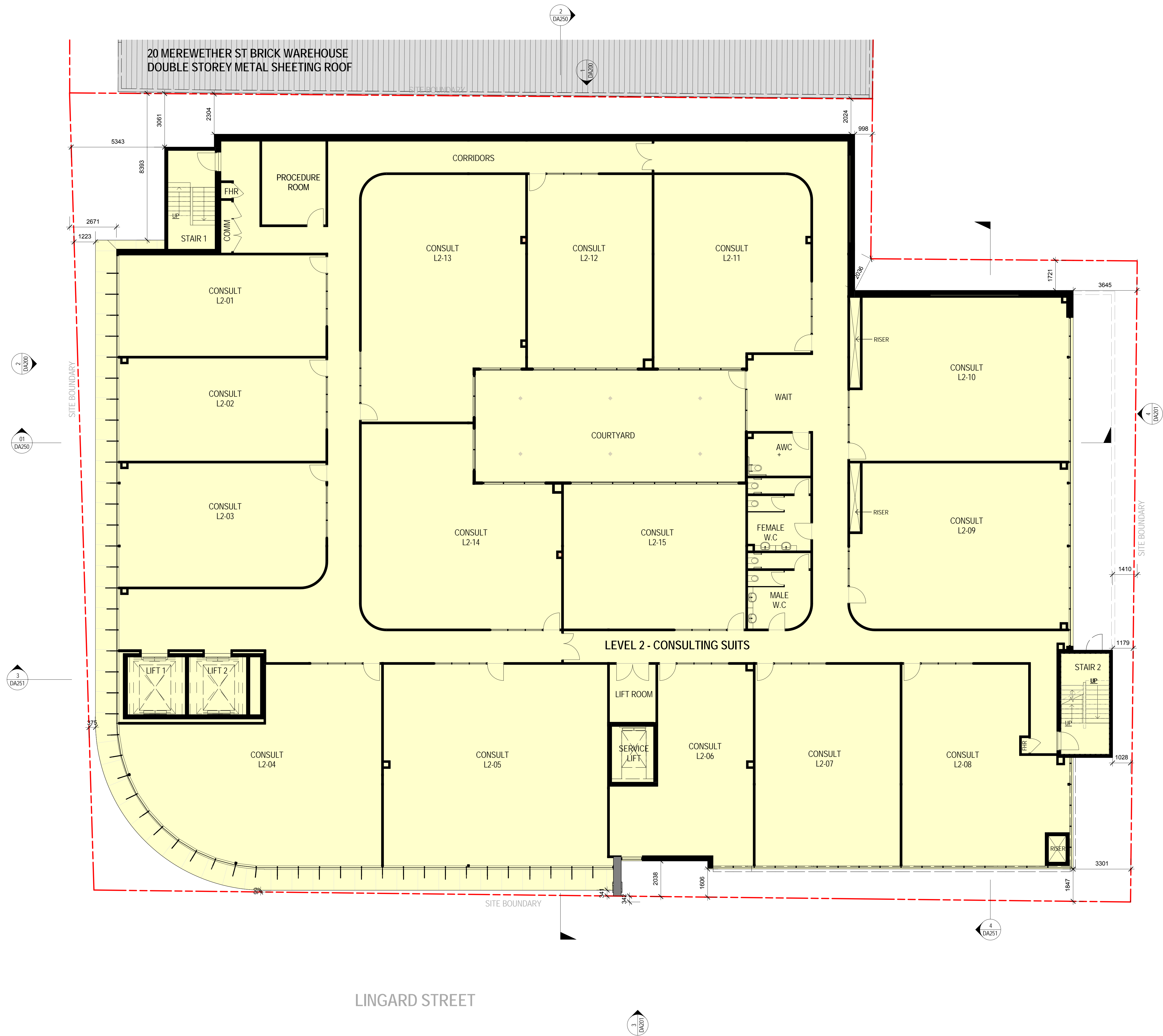
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MEREWETHER STREET



LINGARD STREET

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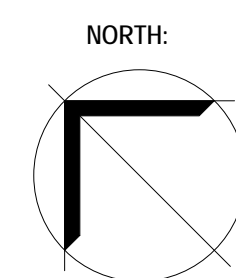
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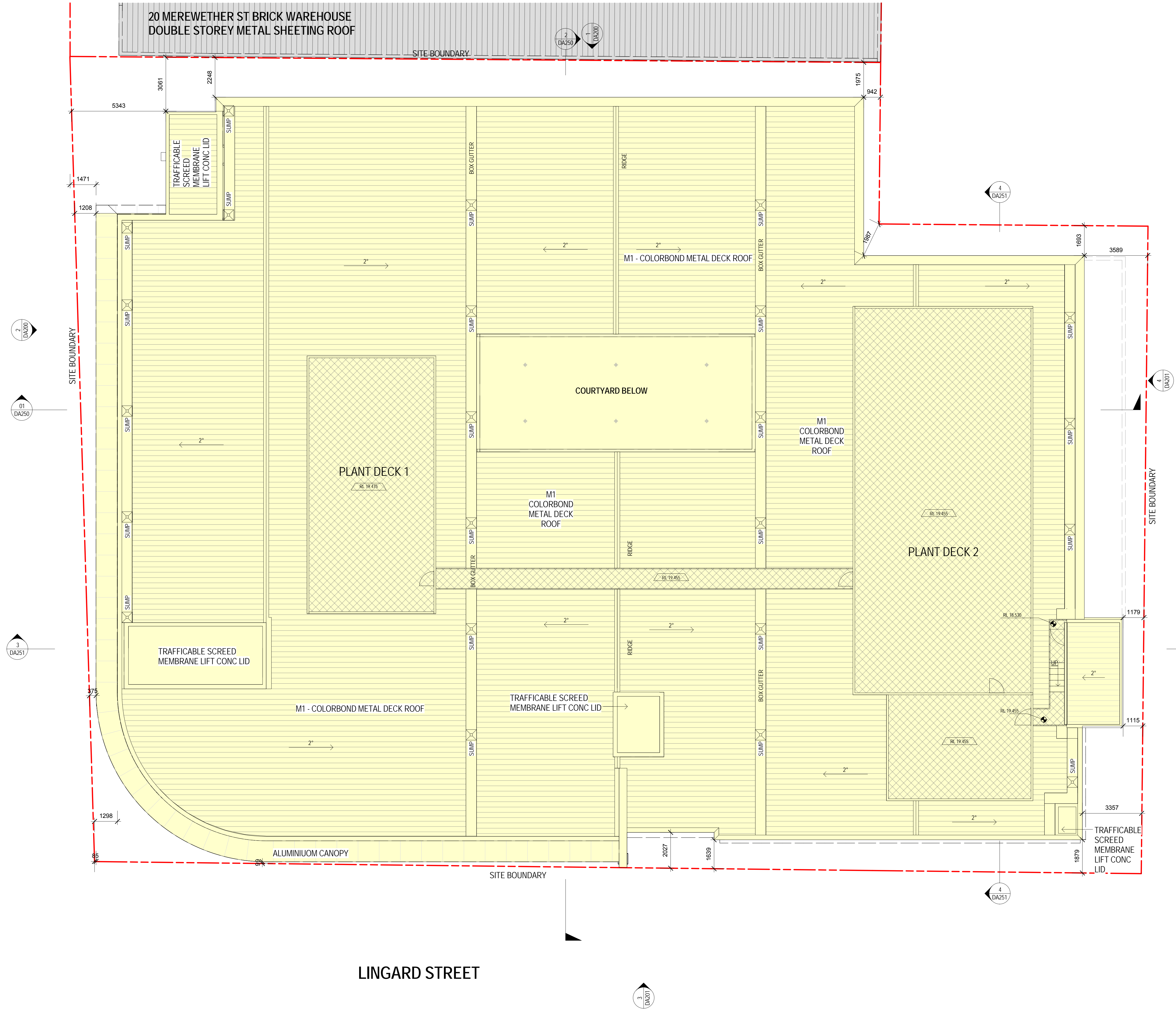
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MEREWETHER STREET



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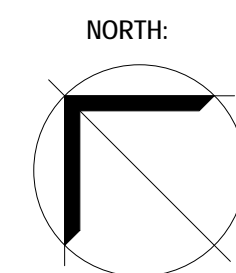
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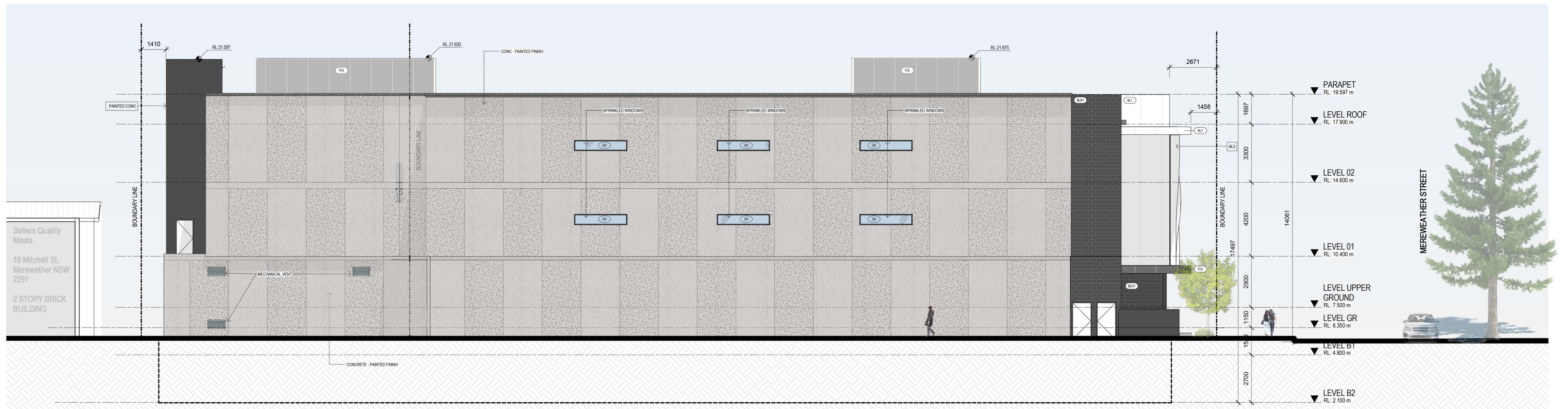
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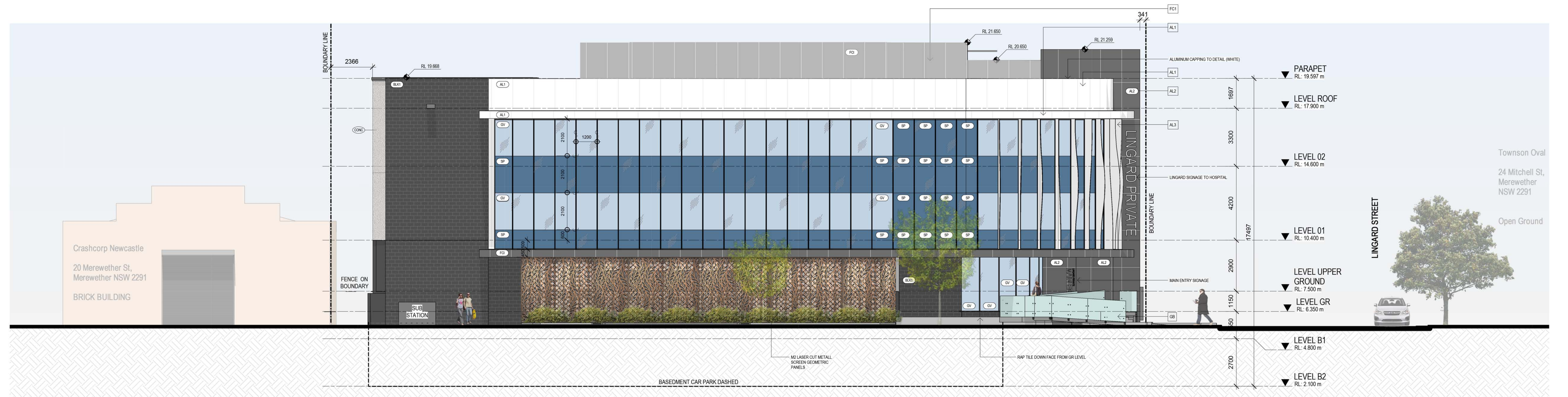
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1 ELEVATION - NORTH EAST
Scale 1:100



2 ELEVATION - NORTH WEST
Scale 1:100

ISSUE	REVISION	CHK / APP	DATE
-	ISSUE FOR COORDINATION	AA	31/10/2017
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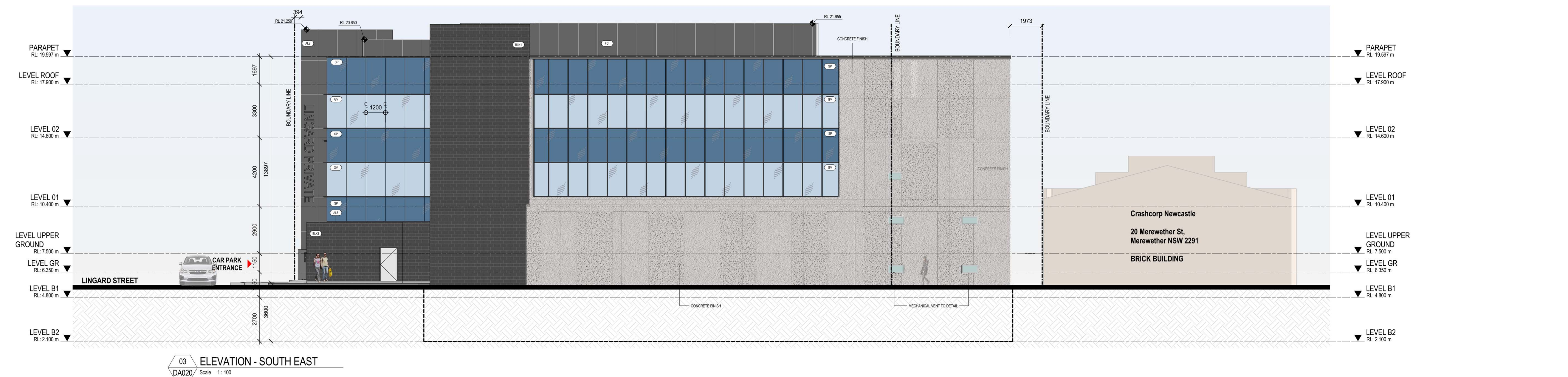
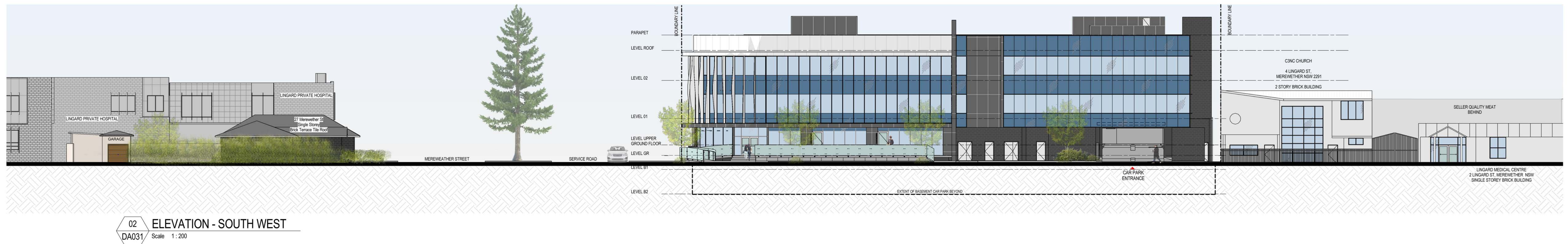
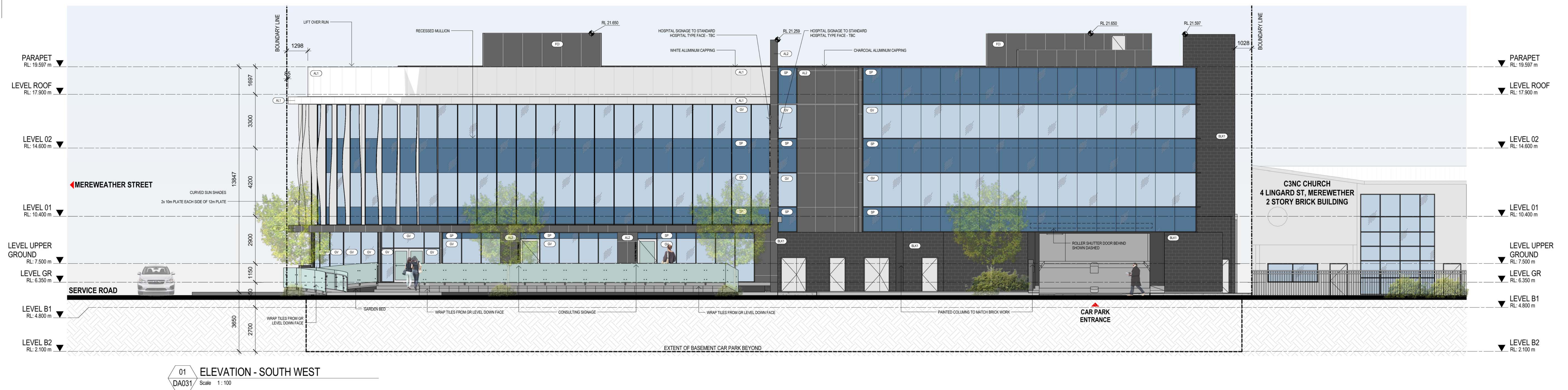
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ELEVATIONS - SHEET 2

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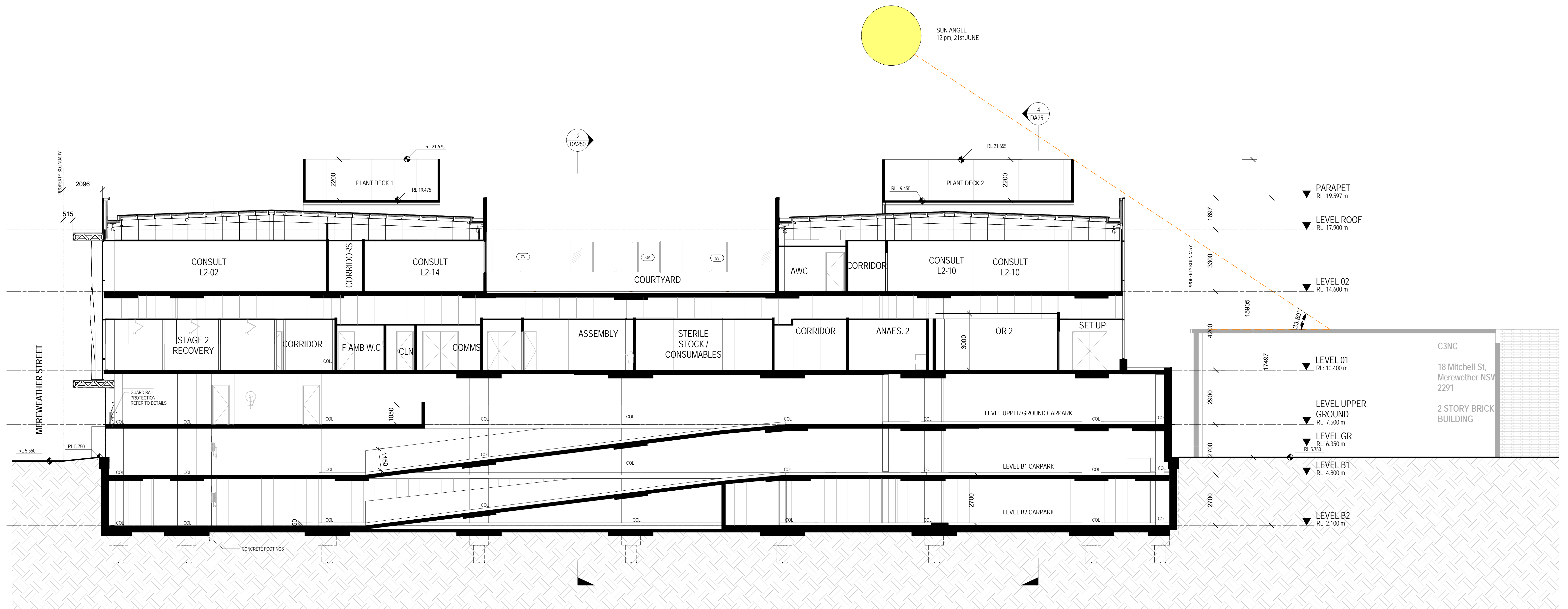
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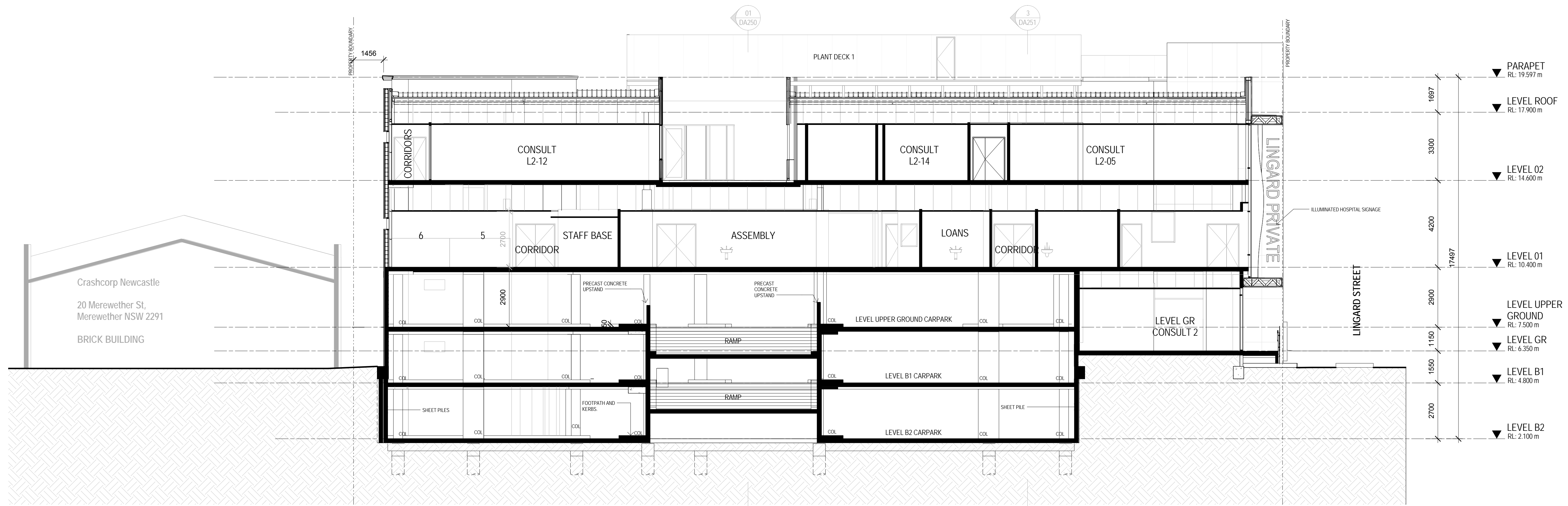
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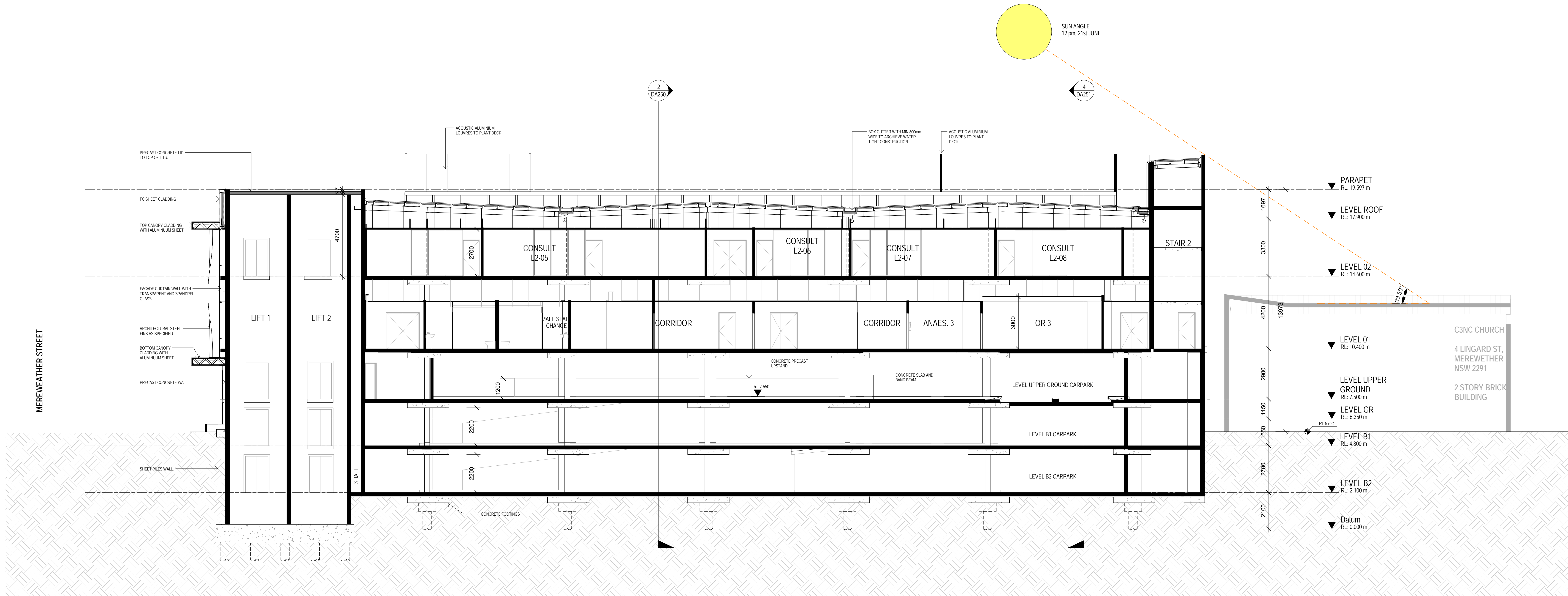
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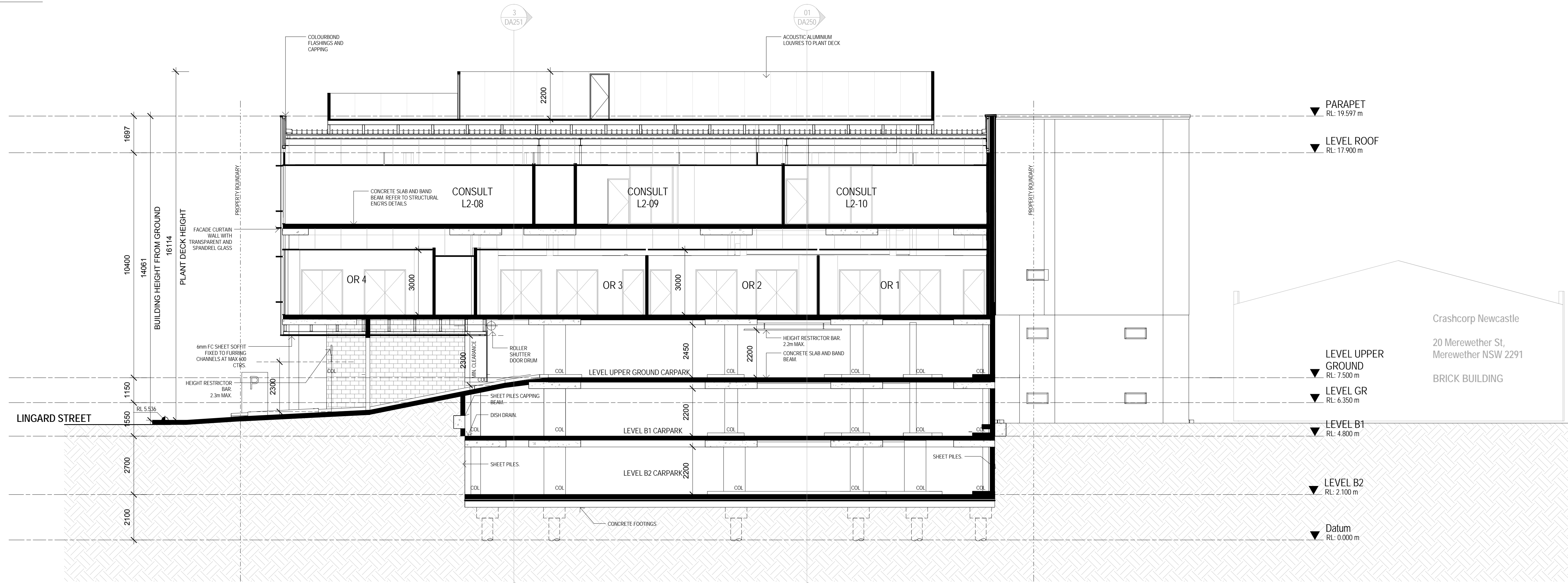
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4 DA SECTION 4
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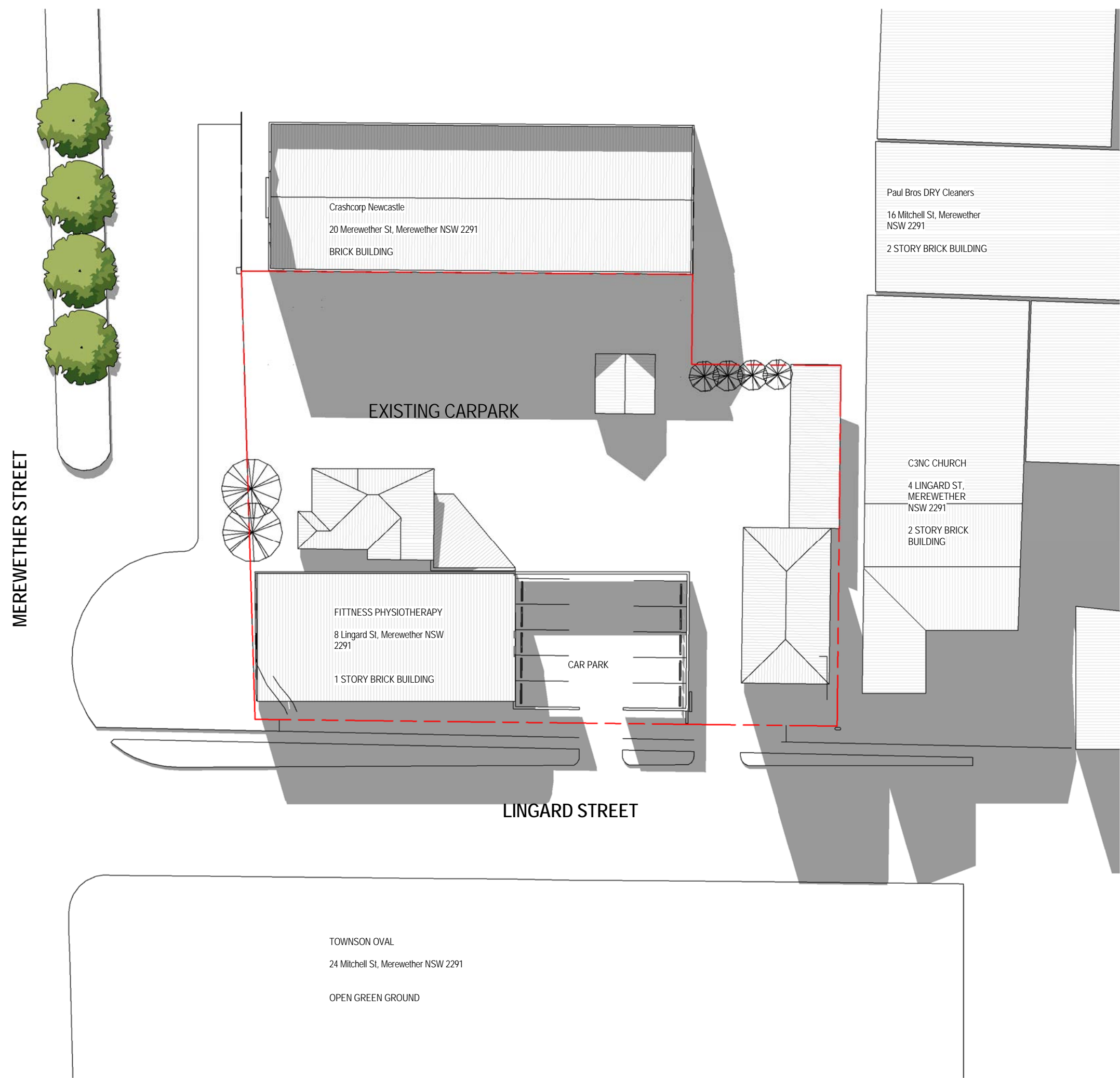
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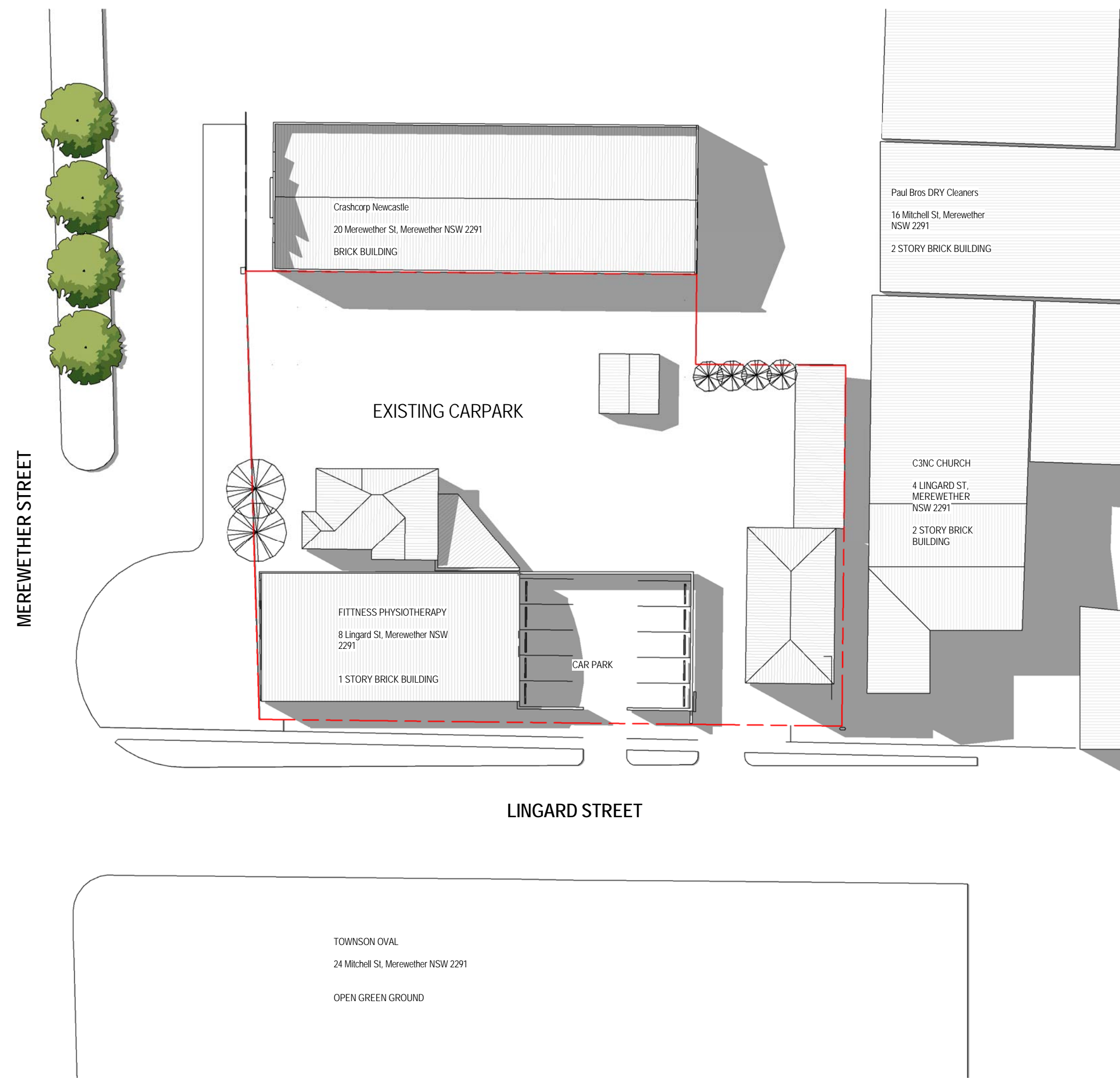
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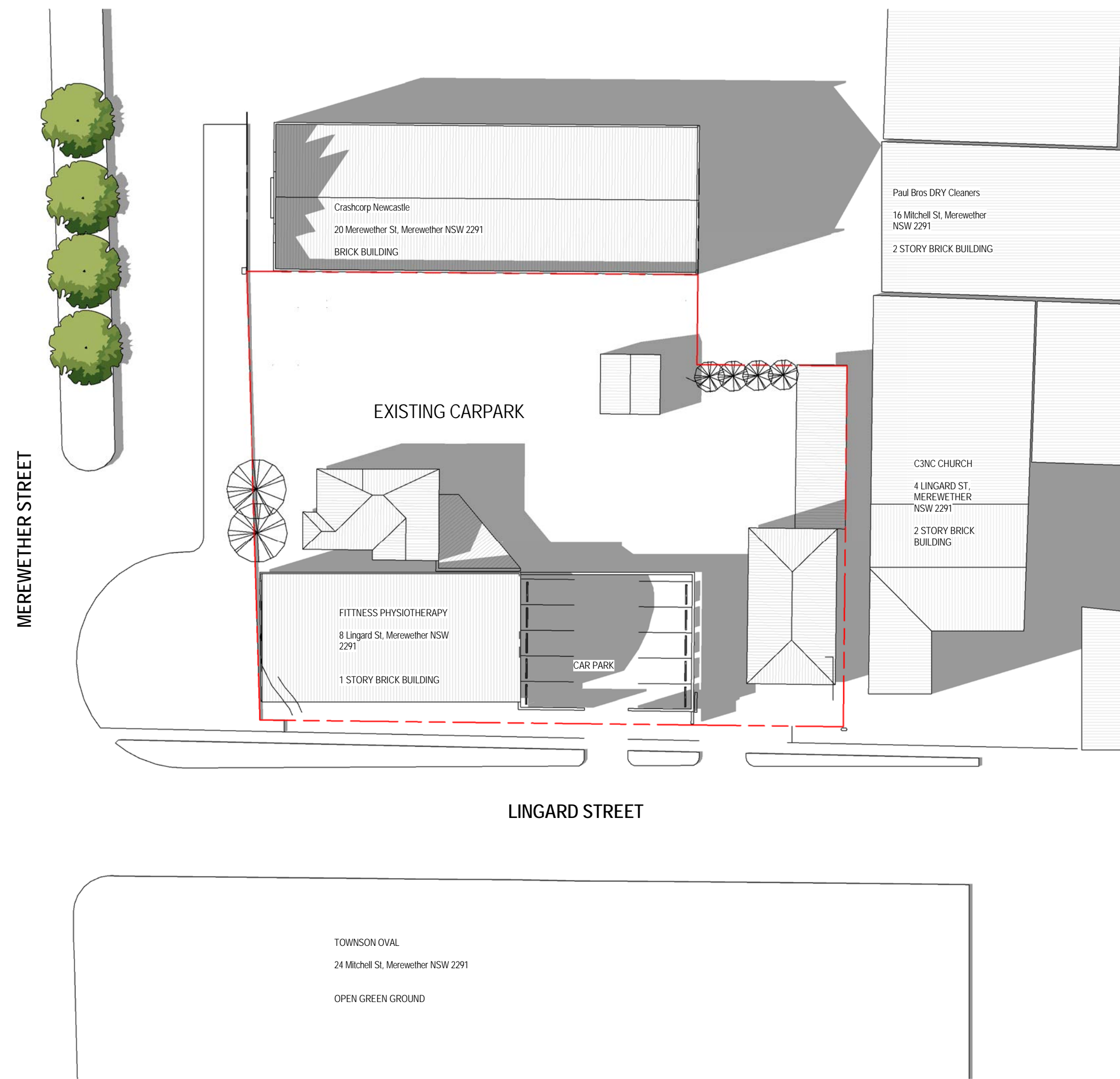
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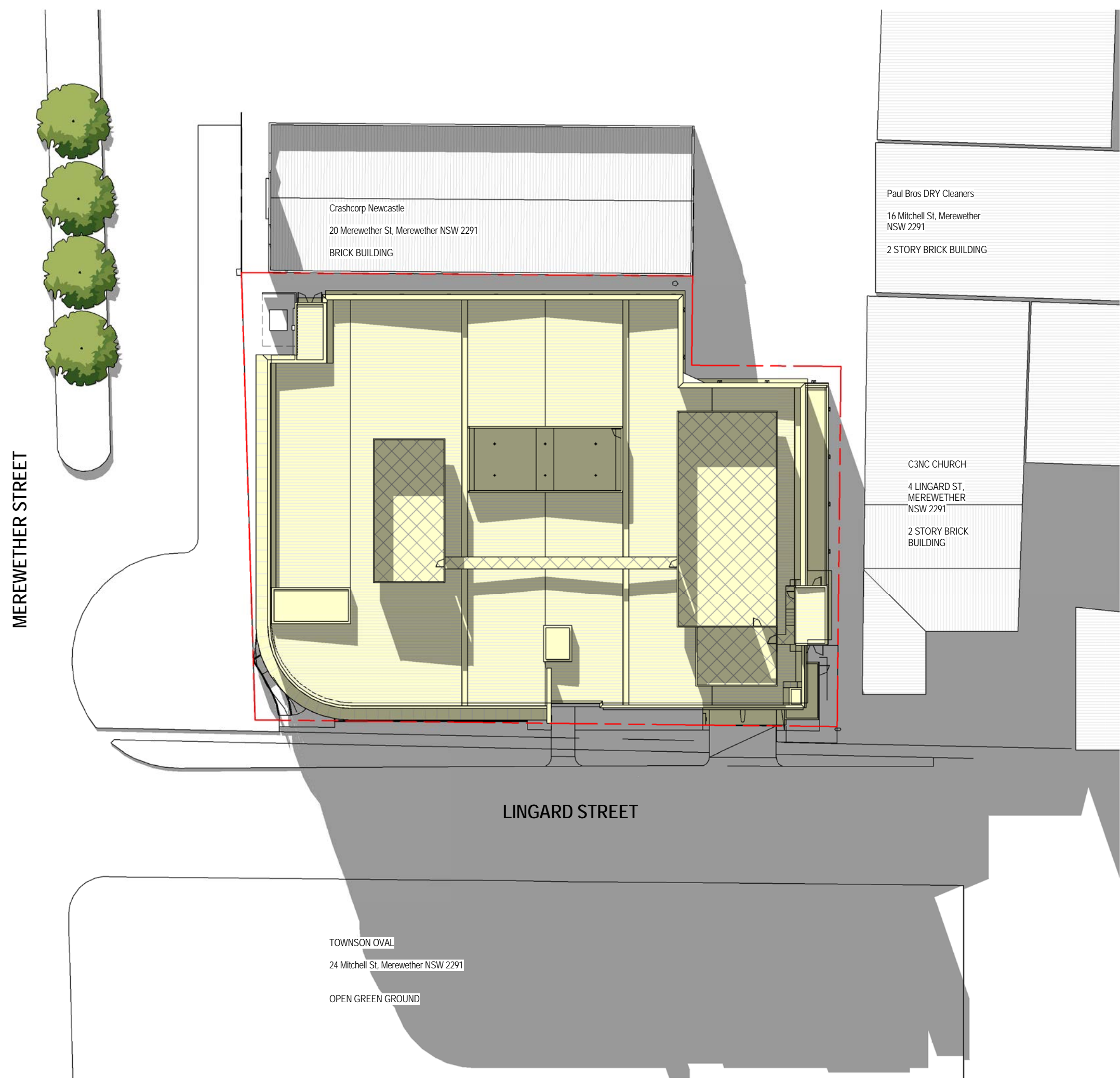
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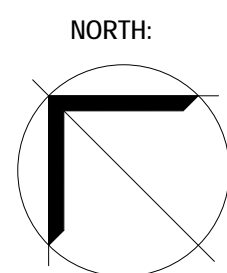
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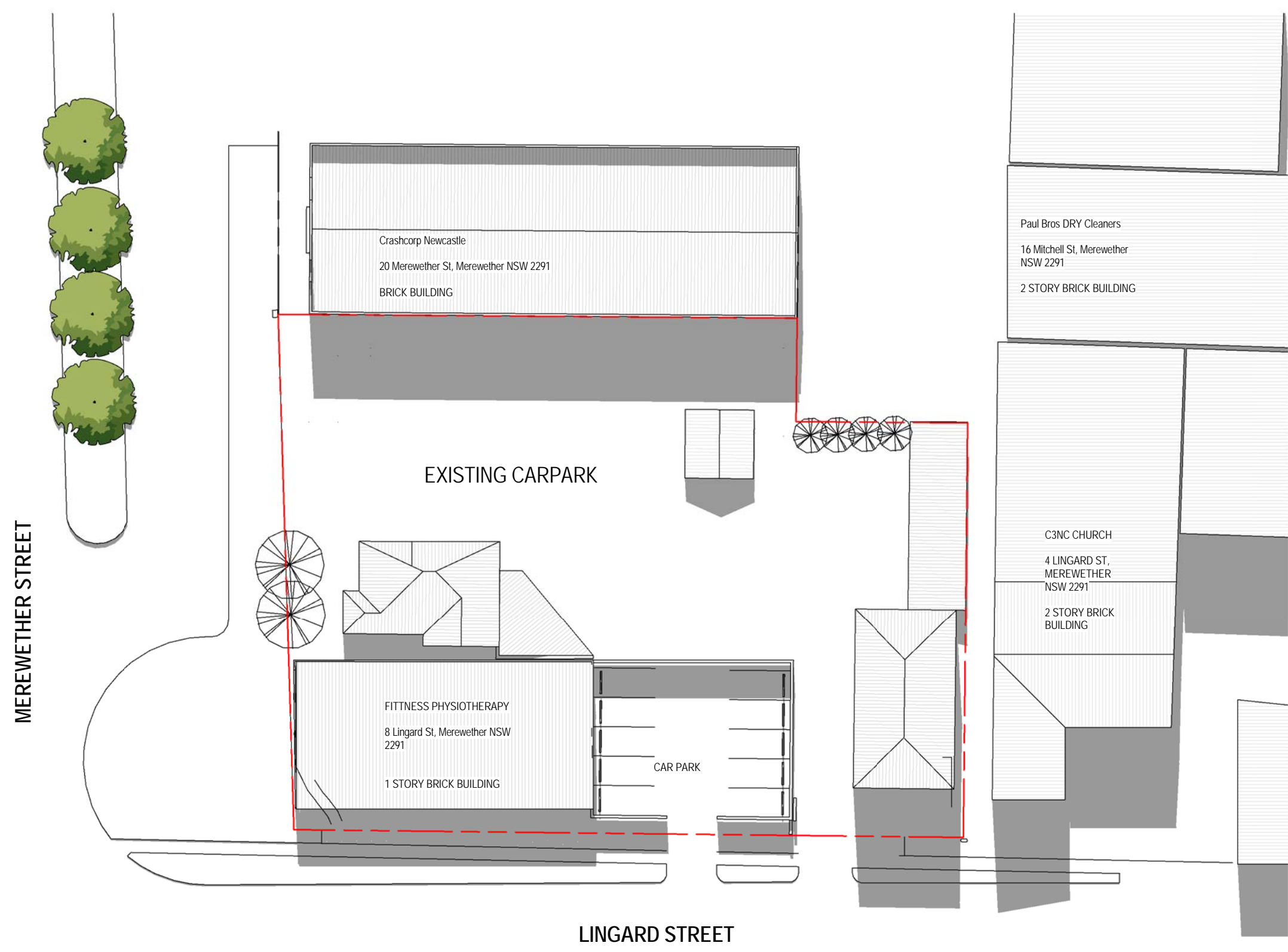
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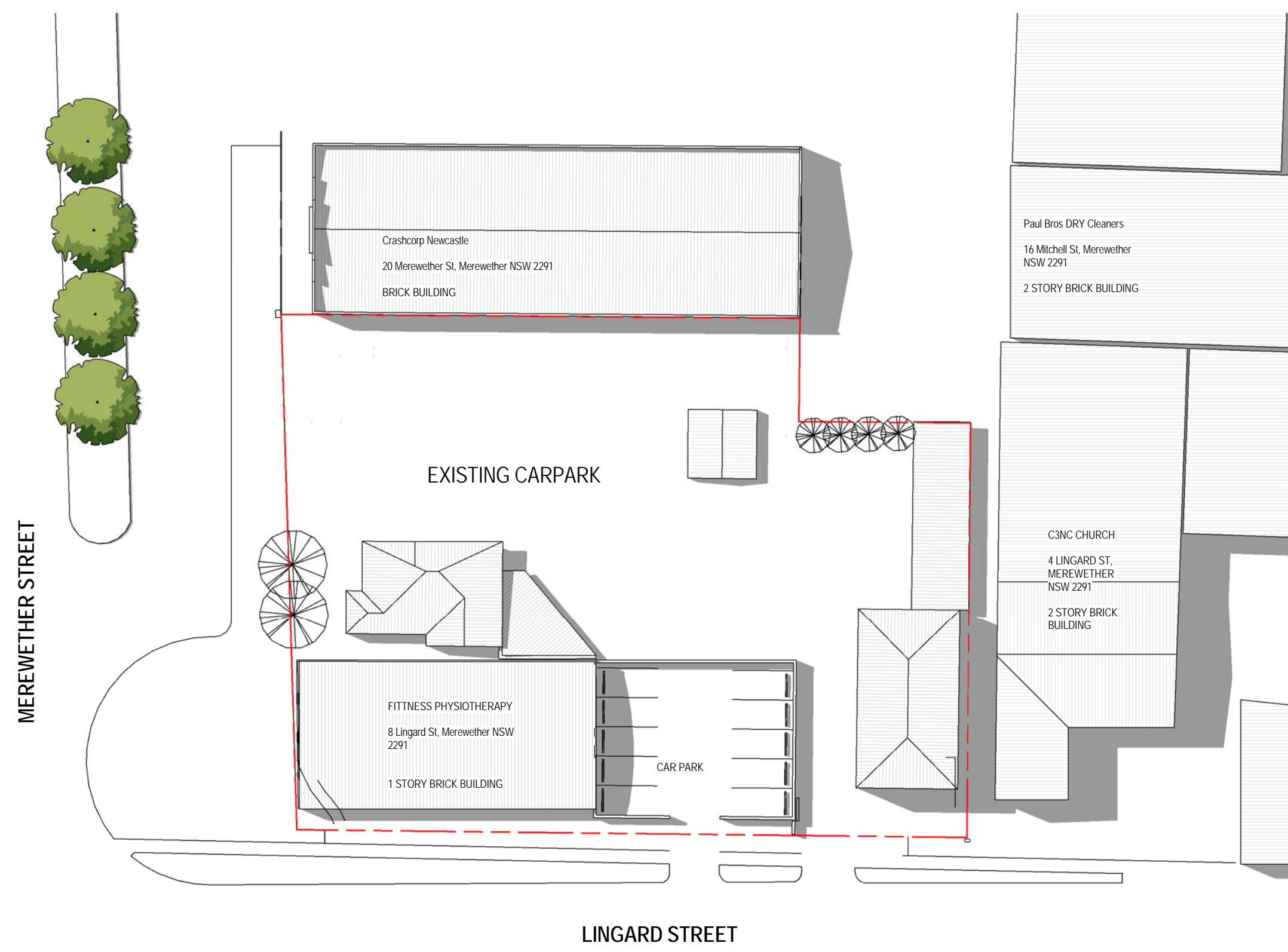
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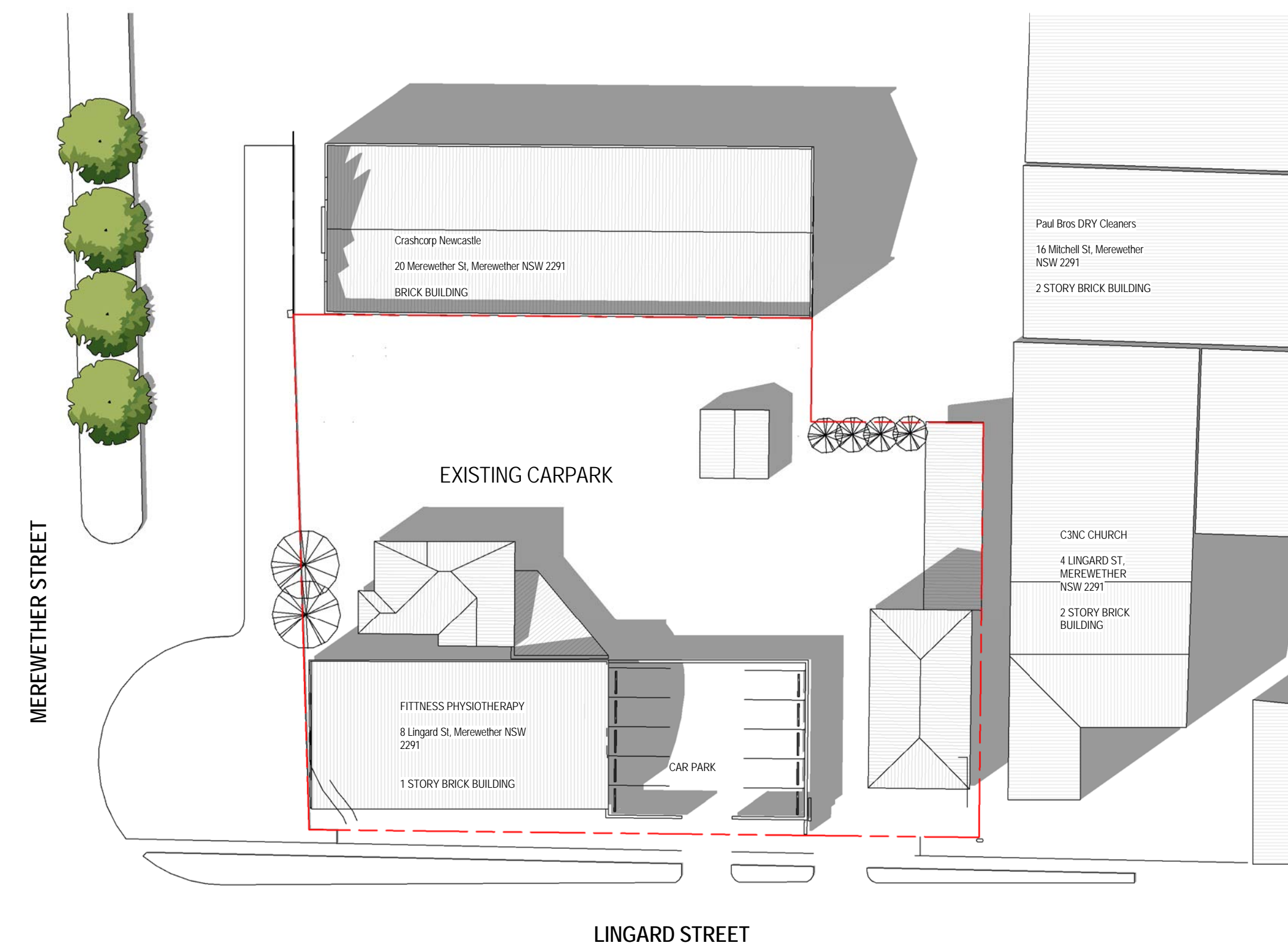
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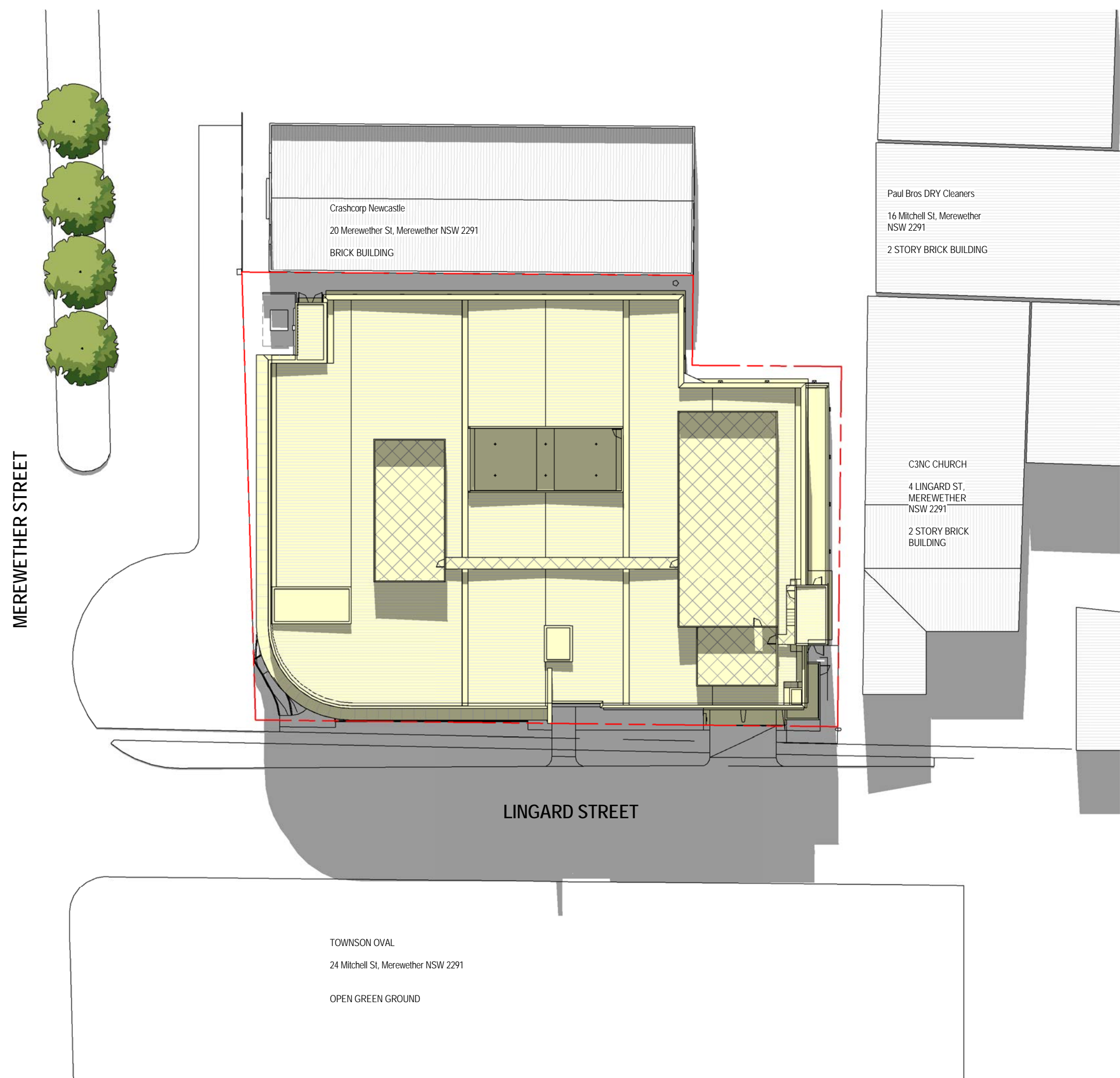
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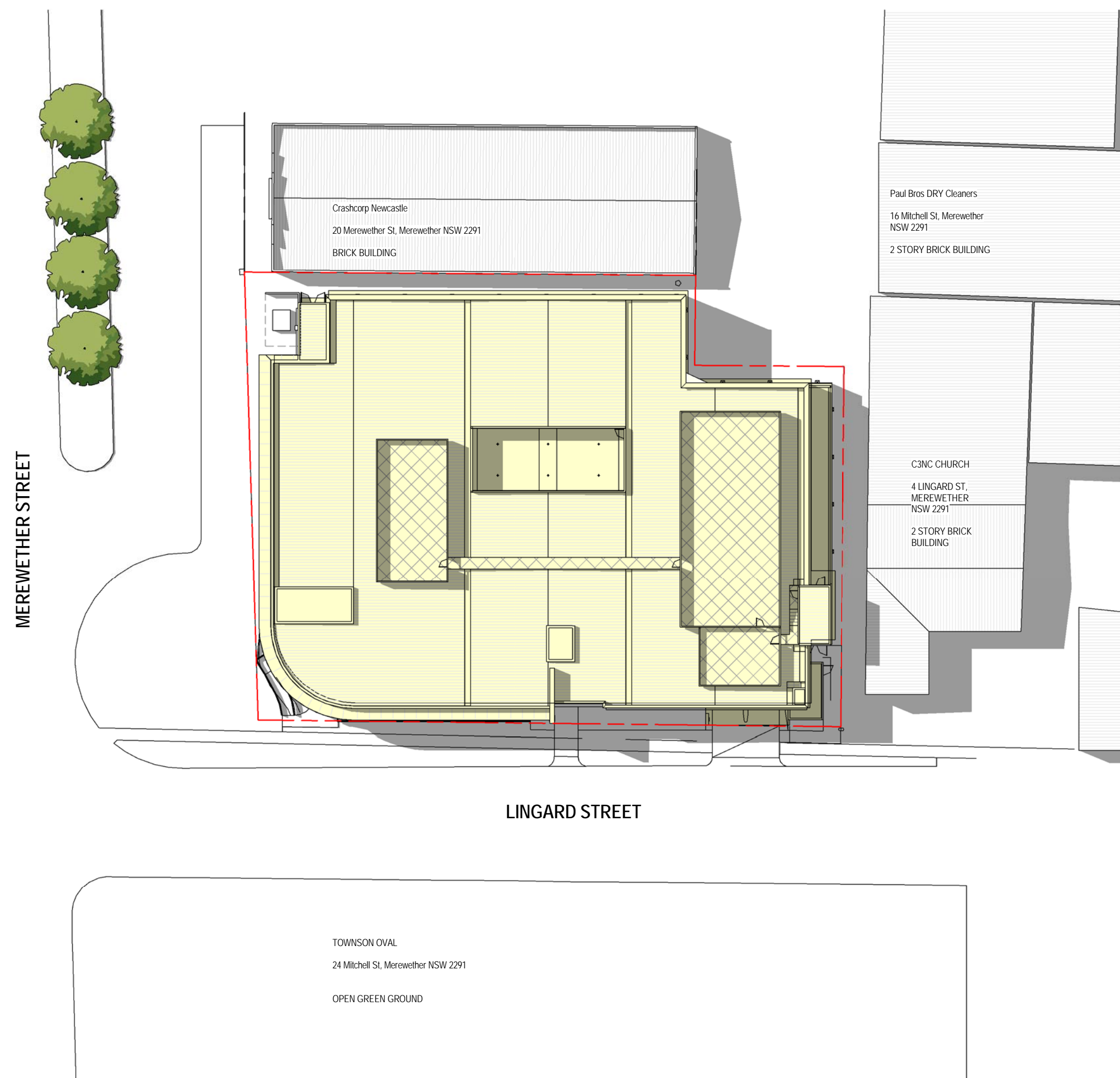
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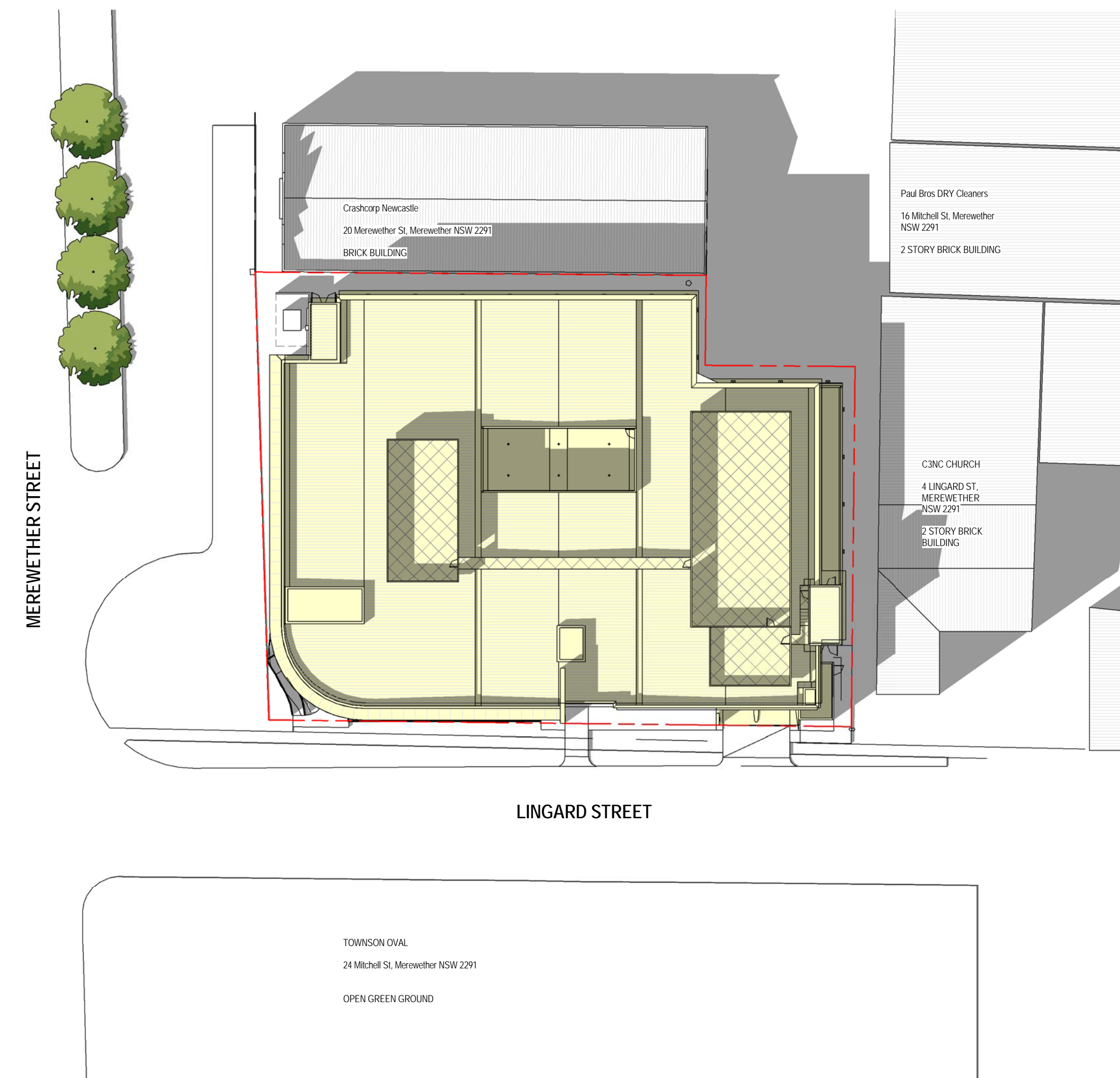
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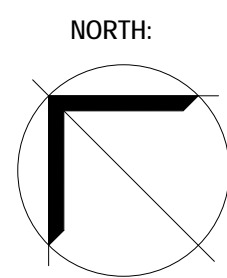
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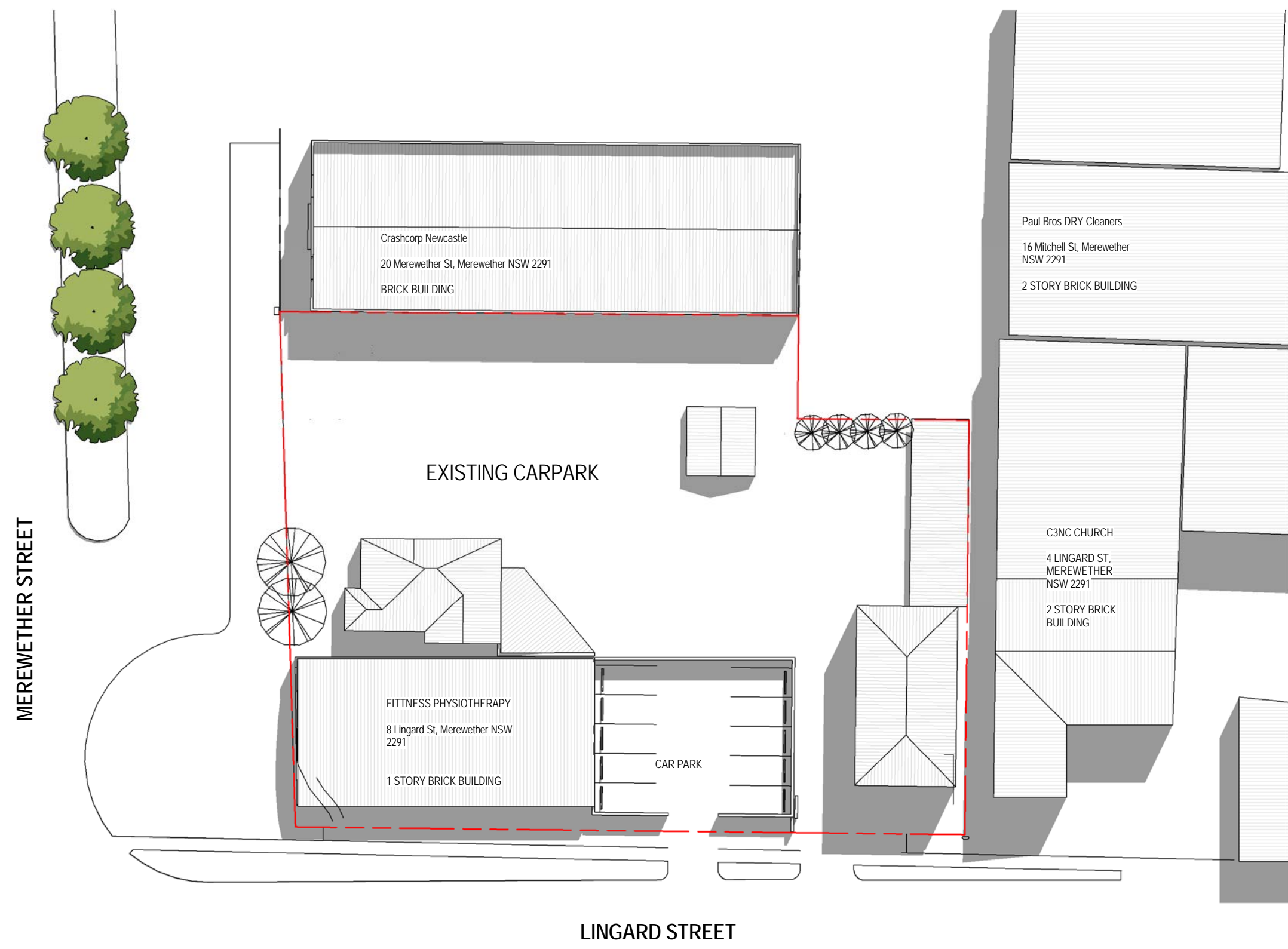
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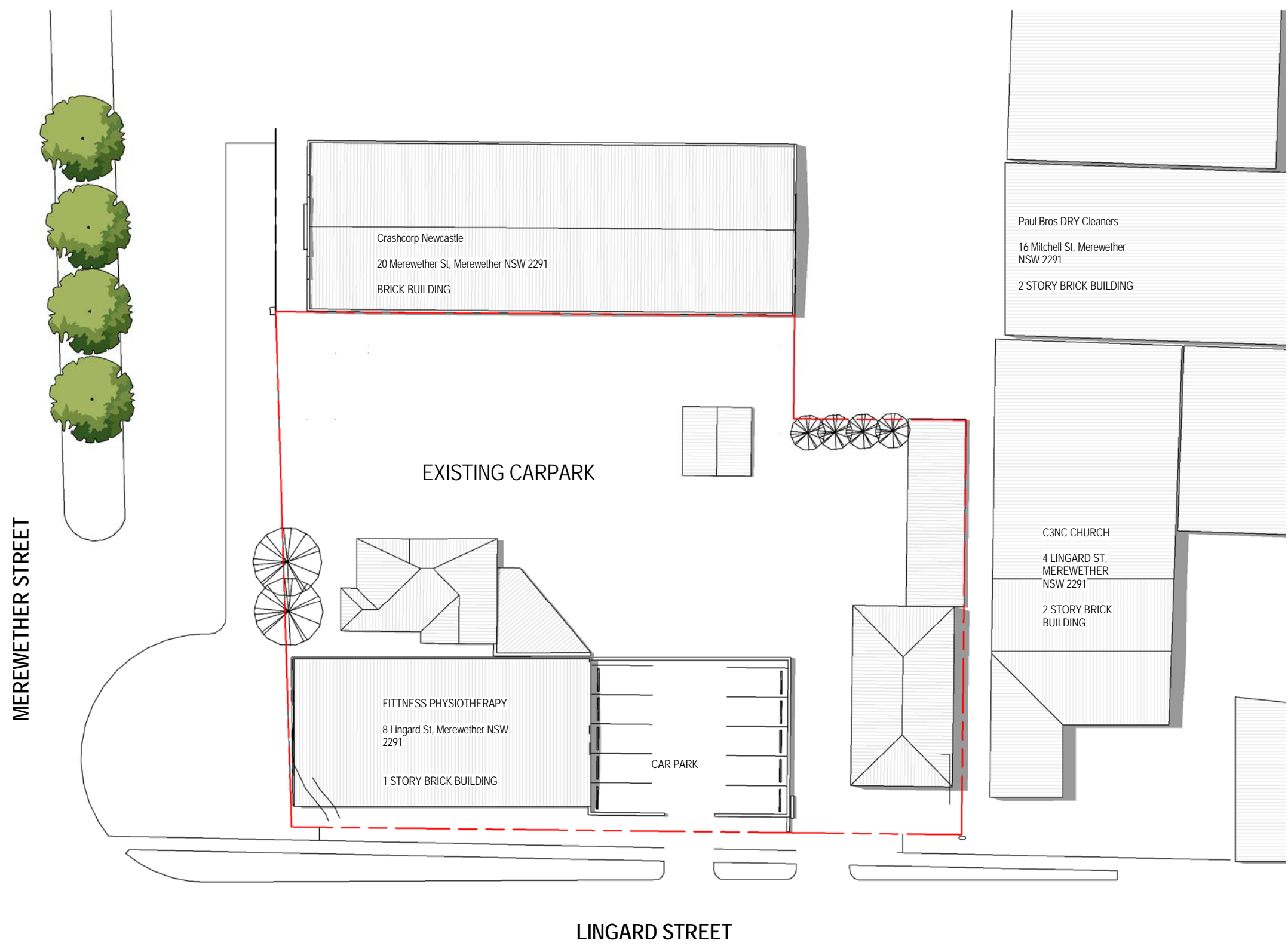
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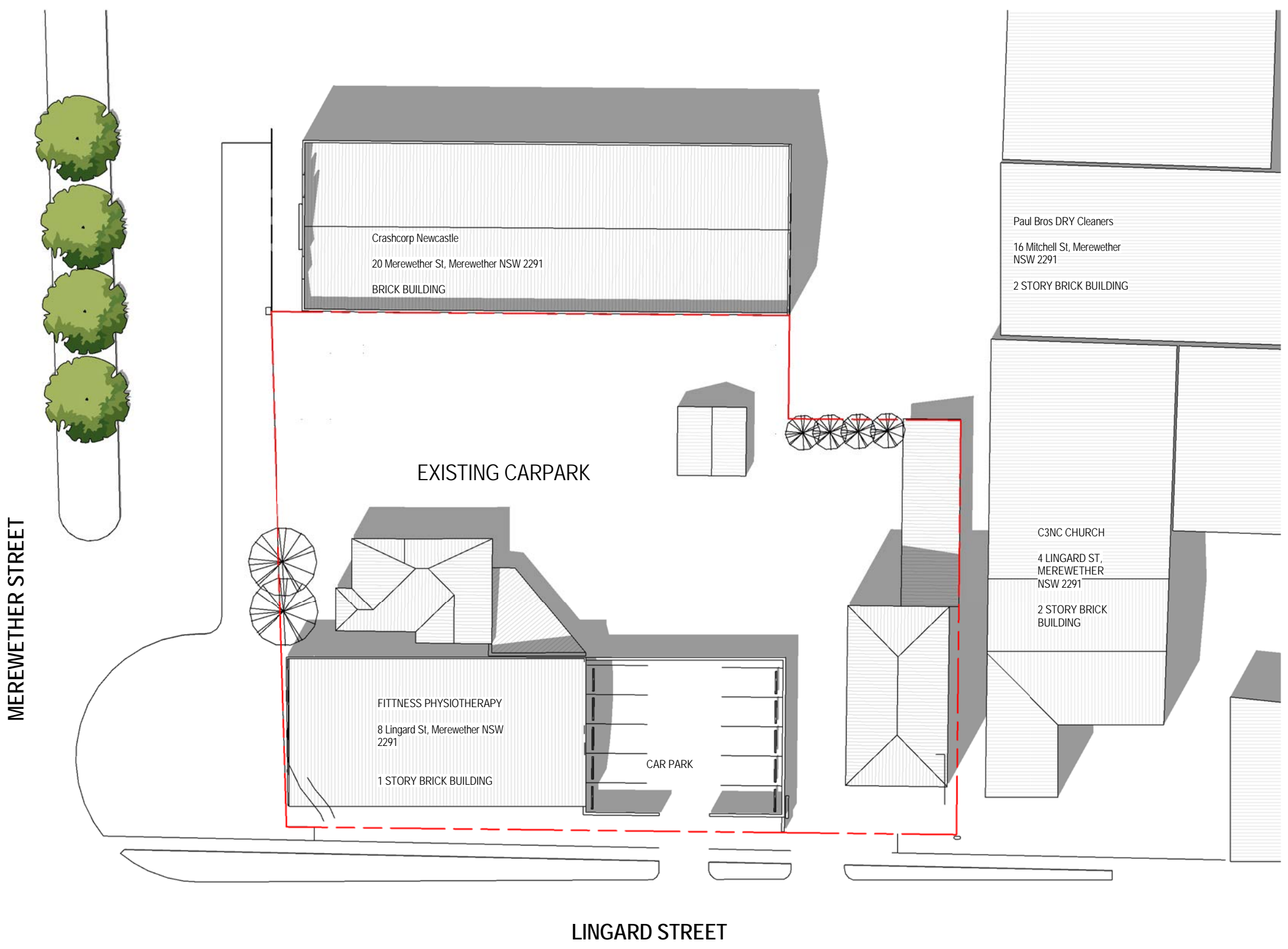
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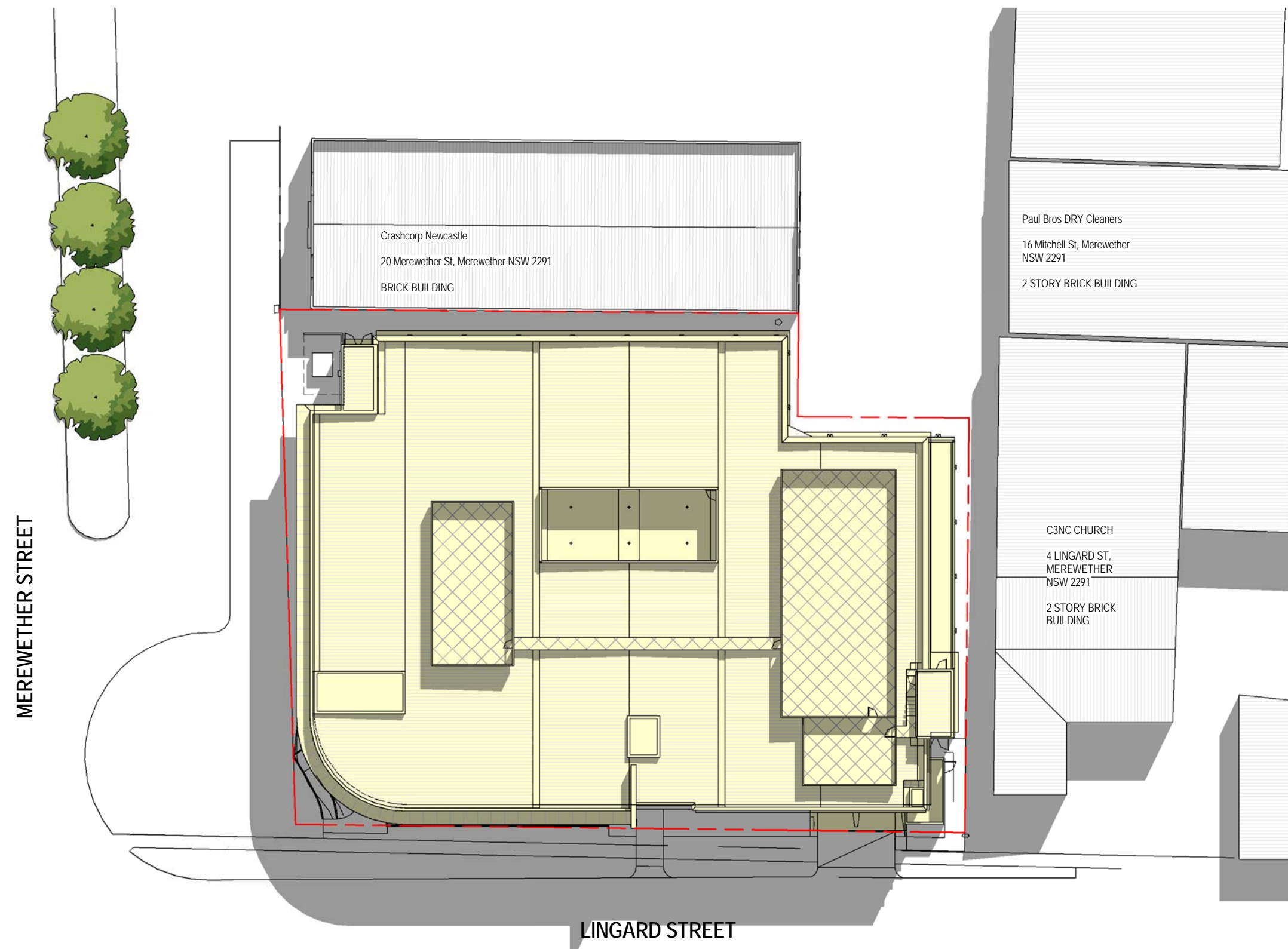
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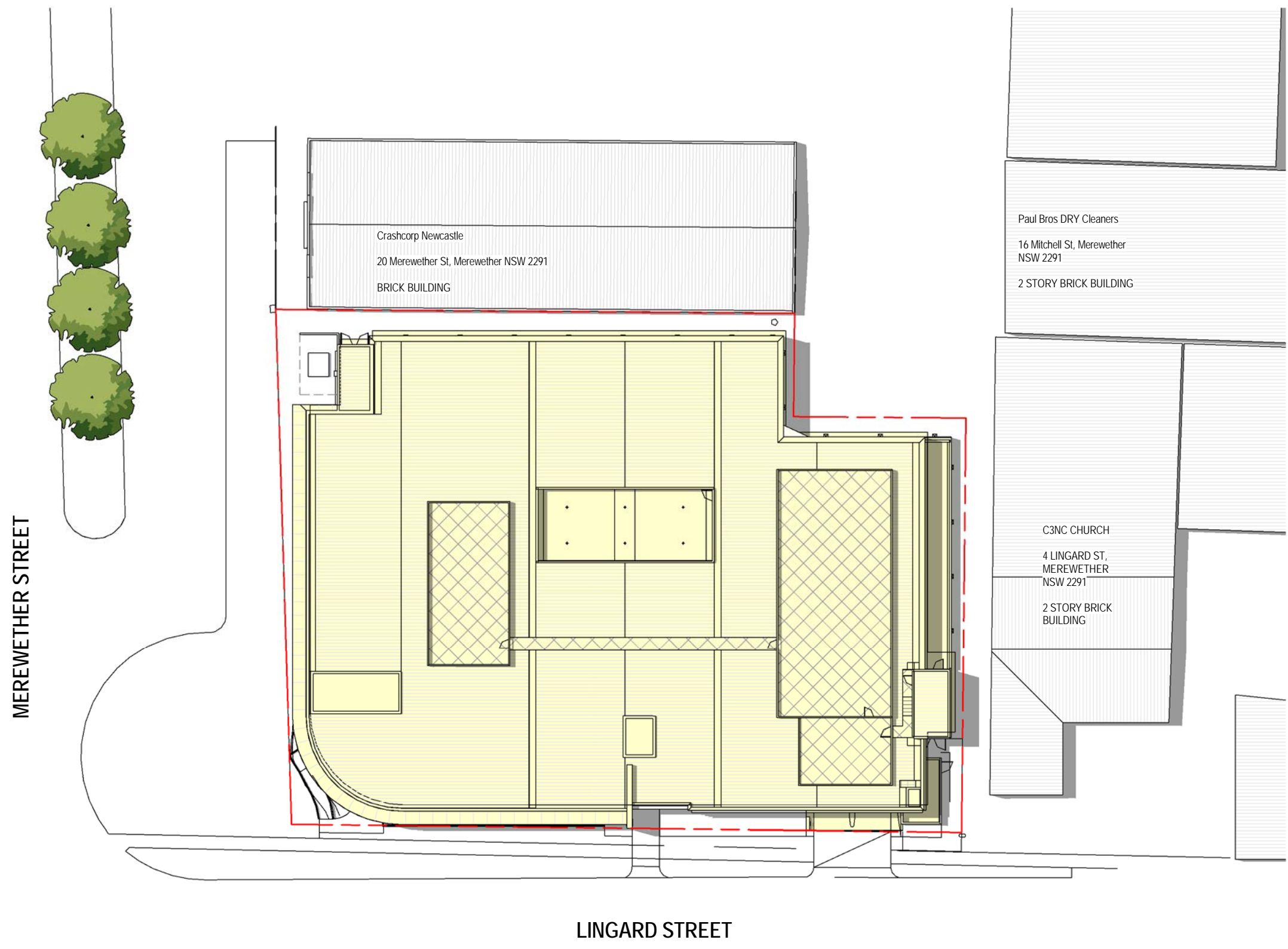
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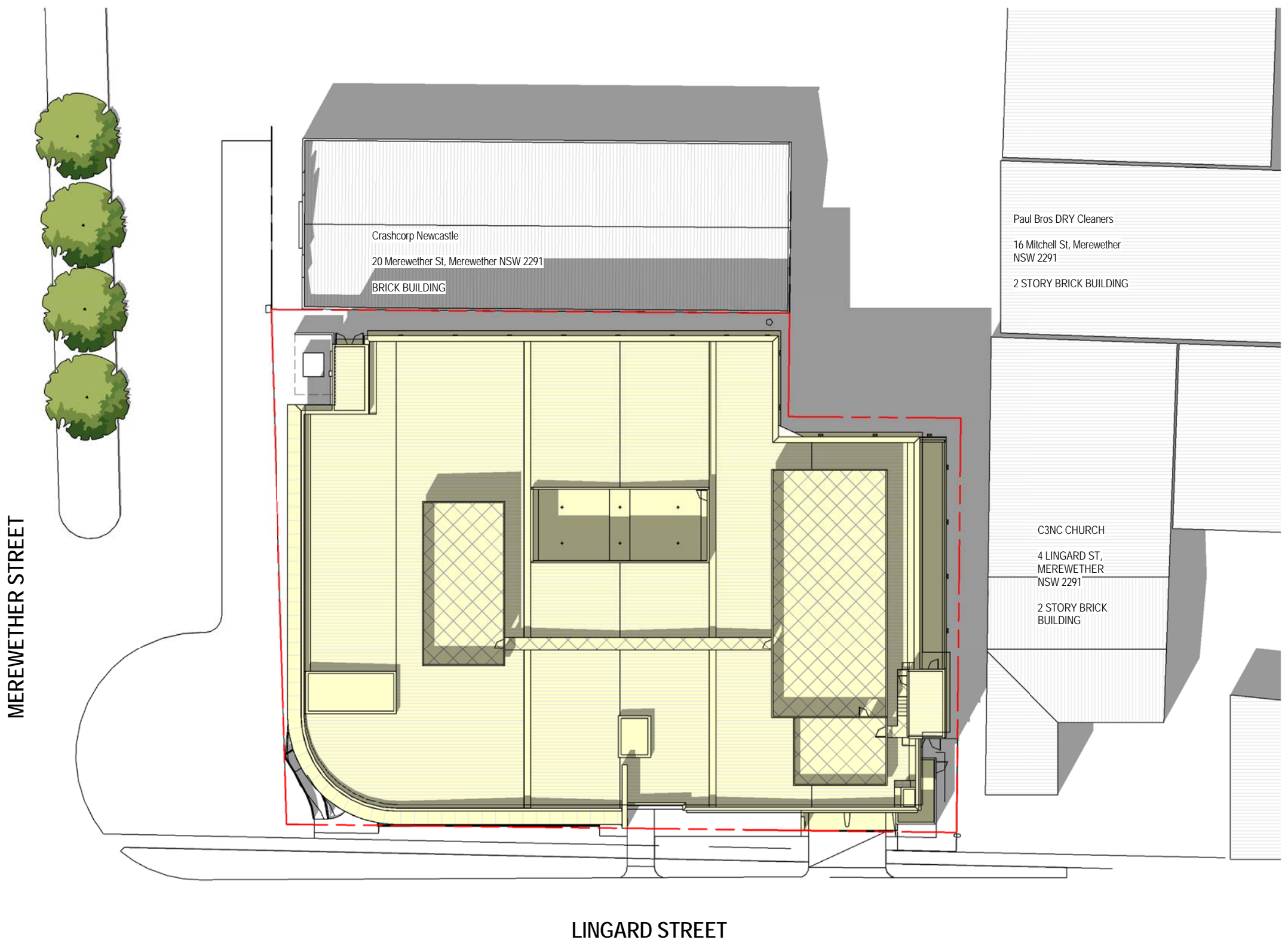
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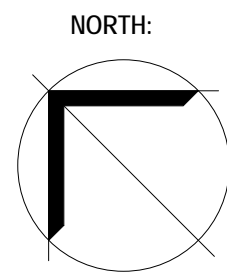
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ARCHITECTURAL FIN ELEMENT TO VISUALLY
SEPARATE PUBLIC FROM SERVICE AREAS

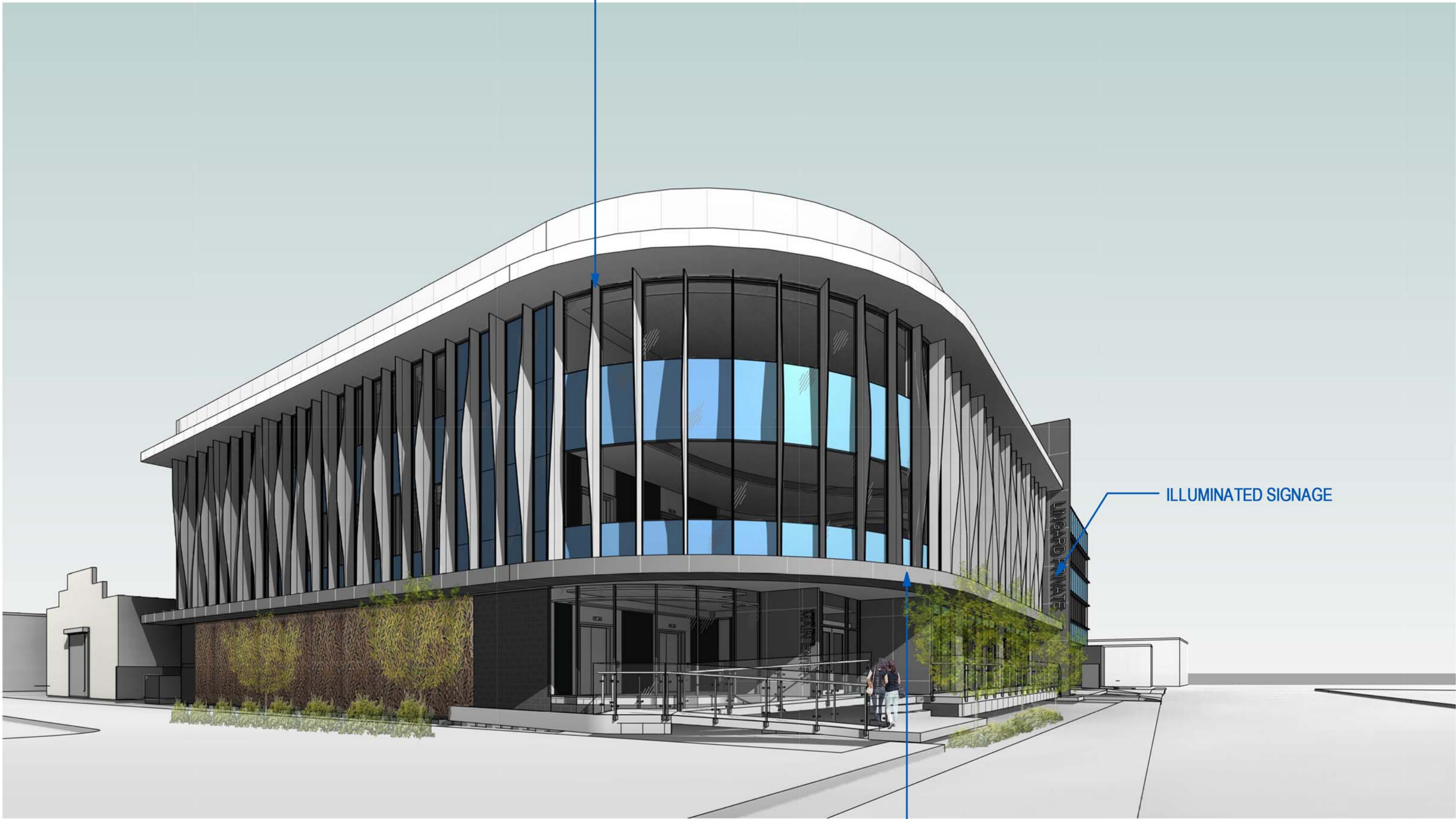
SPLIT FACE BLOCK CONNECTS MATERIAL PALETTE
TO ADJUST LINGARD PRIVATE HOSPITAL

HORIZONTAL + VERTICAL FINS SHADE CURTAIN WALL FACADE, REDUCING
ENERGY CONSUMPTION + IMPROVING COMFORT OF PATIENTS



1 PARKING ENTRANCE, LINAGRD ST
Scale

"HORIZONTAL" ARCHITECTURAL EXPRESSION
CONTRAST TO VERTICAL FINS TO BREAK UP
VISUAL BULK OF BUILDING

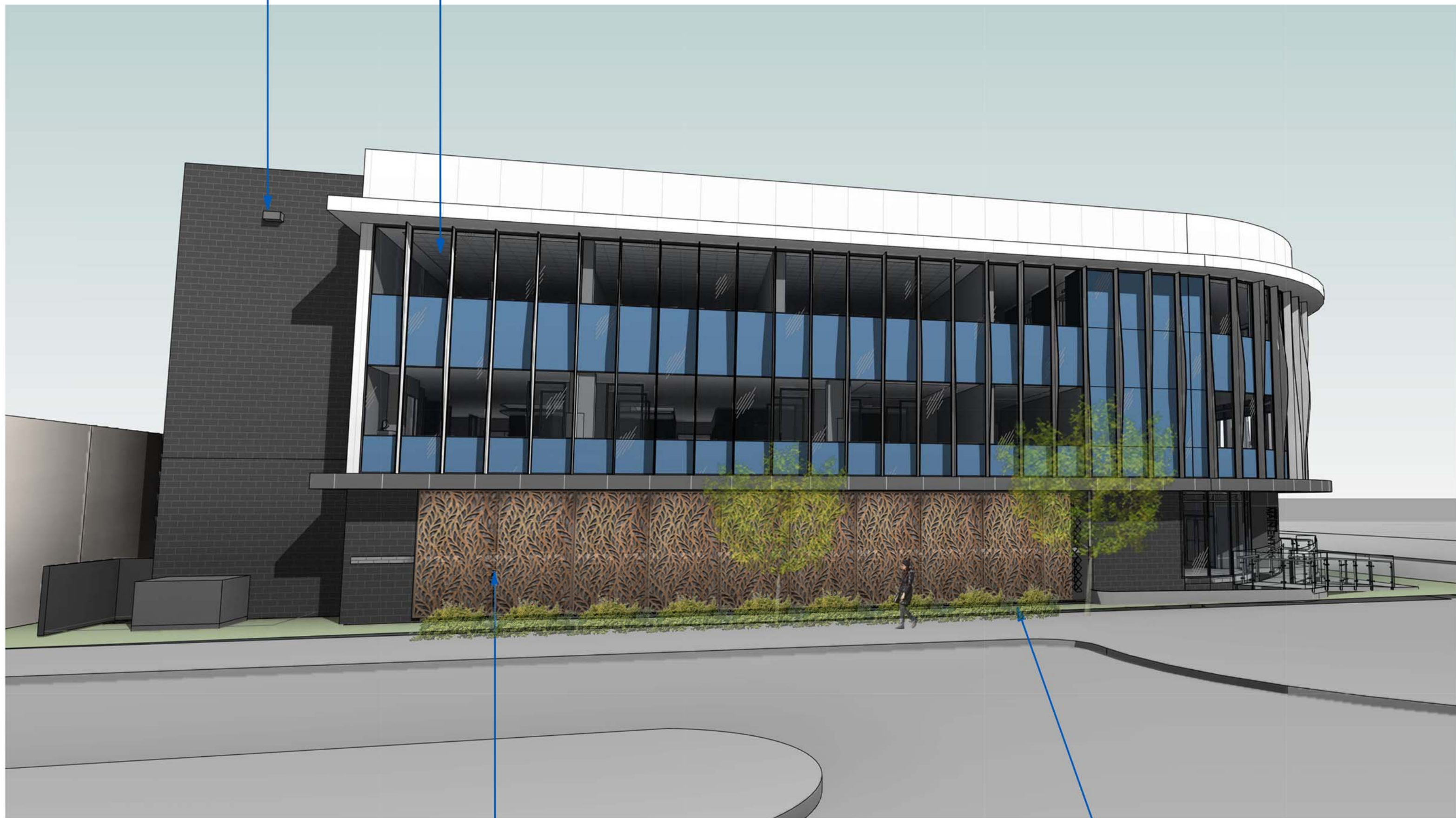


2 MAIN ENTRY, CORNER MEREWETHER ST + LINGARD ST
Scale

ILLUMINATED SIGNAGE

HORIZONTAL FINS PROVIDES SHELTER
+ BRINGS GROUND LEVEL FACADE TO
PEDESTRIAN SCALE

ORIENTING PATIENT + CONSULTING AREAS TO THE STREET,
ALONG WITH DESIGNED LIGHTING, ENHANCES PASSIVE
SURVEILLANCE



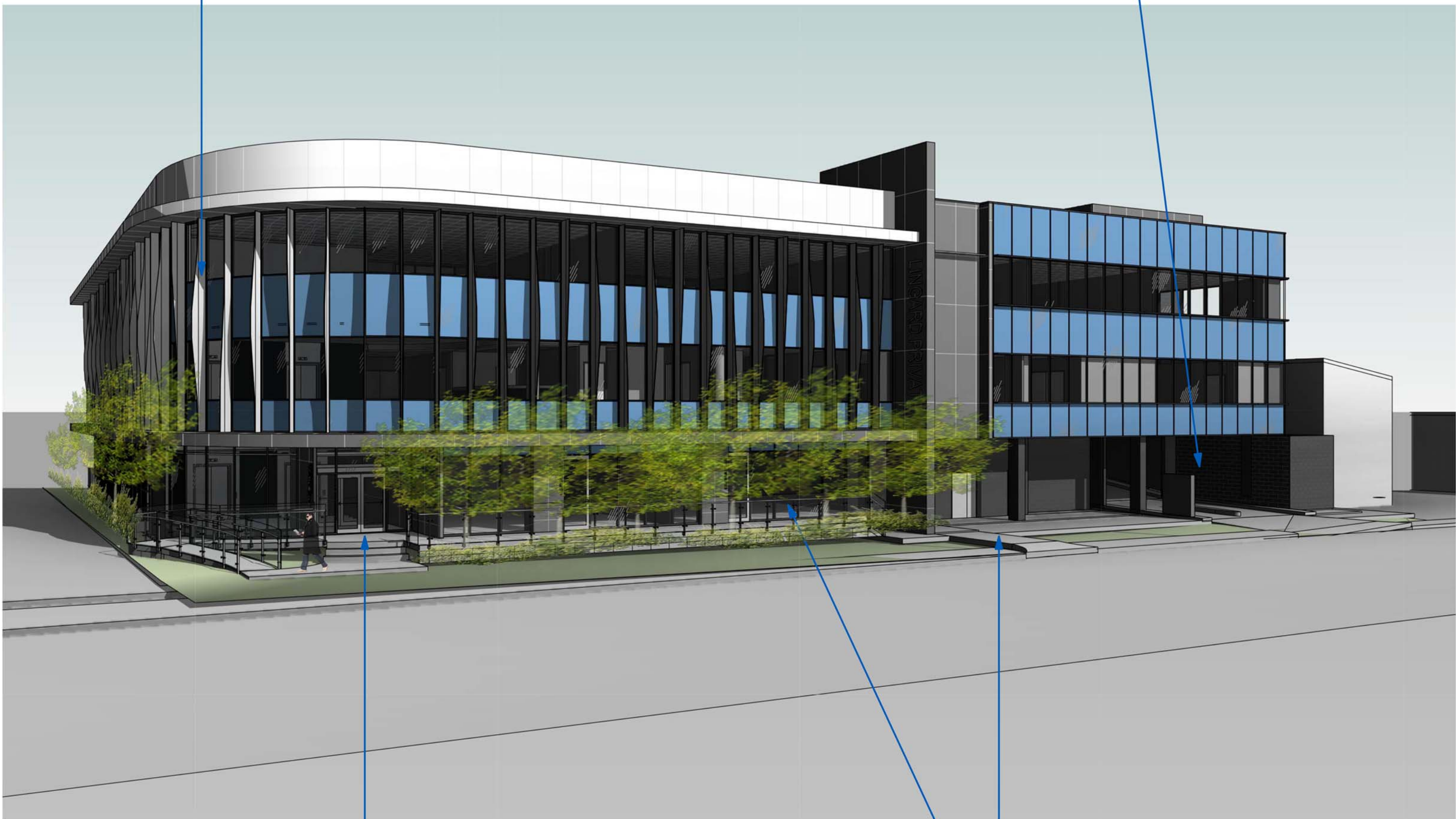
3 NORTH WEST FACADE, MEREWETHER ST
Scale

LASER CUT METAL SCREENS ADD FINE GRAIN
DETAIL TO PEDESTRIAN LEVEL

EXTENSIVE LANDSCAPING DESIGN TO STREET
FRONT

"WAVE FORM" ARCHITECTURAL FINS + TINTED BLUE GLASS ACKNOWLEDGE
THE COASTAL LOCAL SETTING

AIRPARK ENTRY SET AWAY FROM "T" INTERSECTION
OF MEREWETHER STREET + LINGARD STREET



4 MAIN ENTRY, CORNER MEREWETHER ST + LINGARD ST
Scale

ENTRY POSITIONED ON STREET CORNER

CAR PARK SET BACK + GROUND FLOOR TENEMENTS
INCLUDED TO ARTICULATE STREET LEVEL OF
BUILDING

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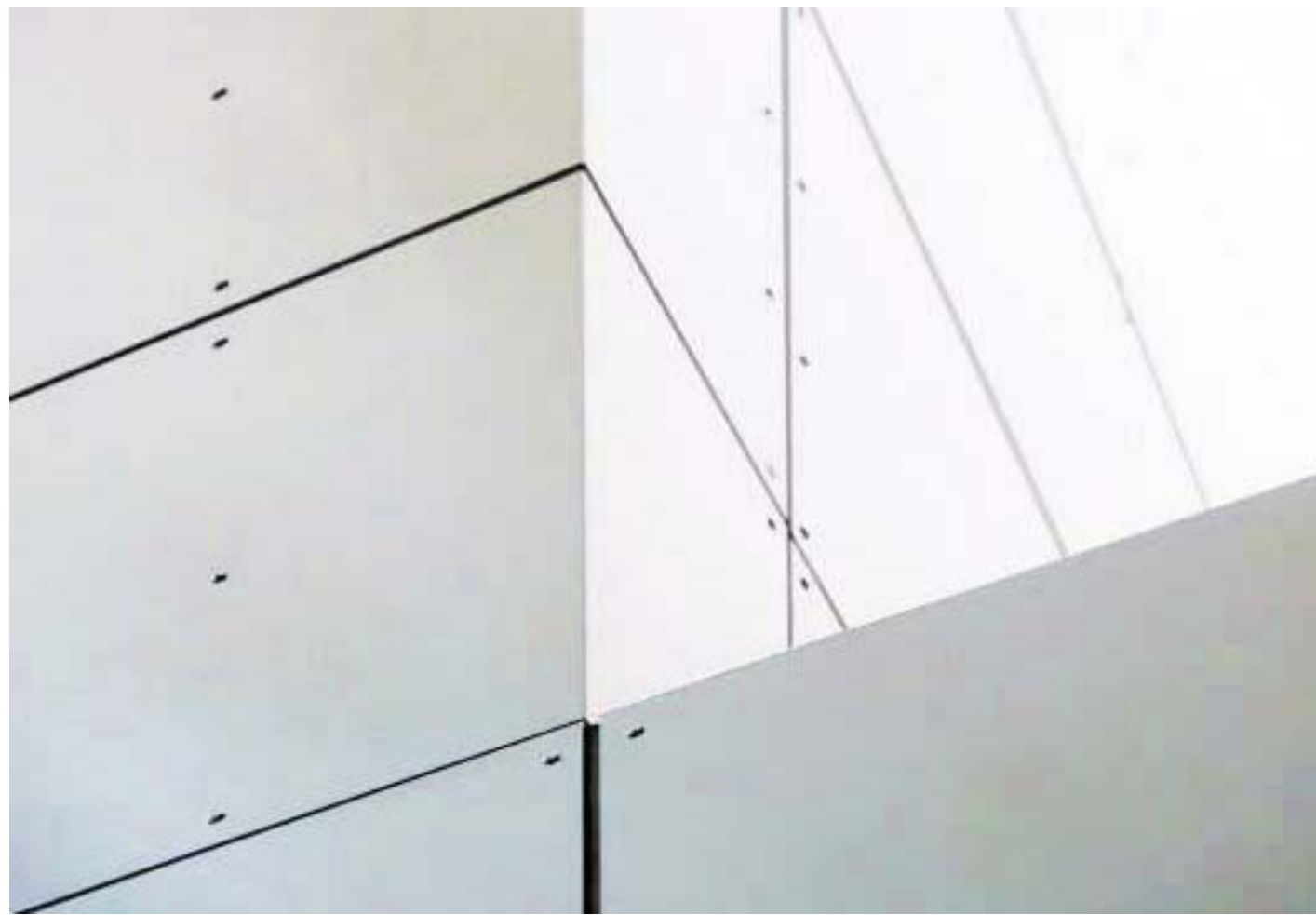
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COLOUR - WHITE



BLK1 - BLOCK SPLIT FACE
COLOR - CHARCOAL



GB - GLASS BALUSTRADE



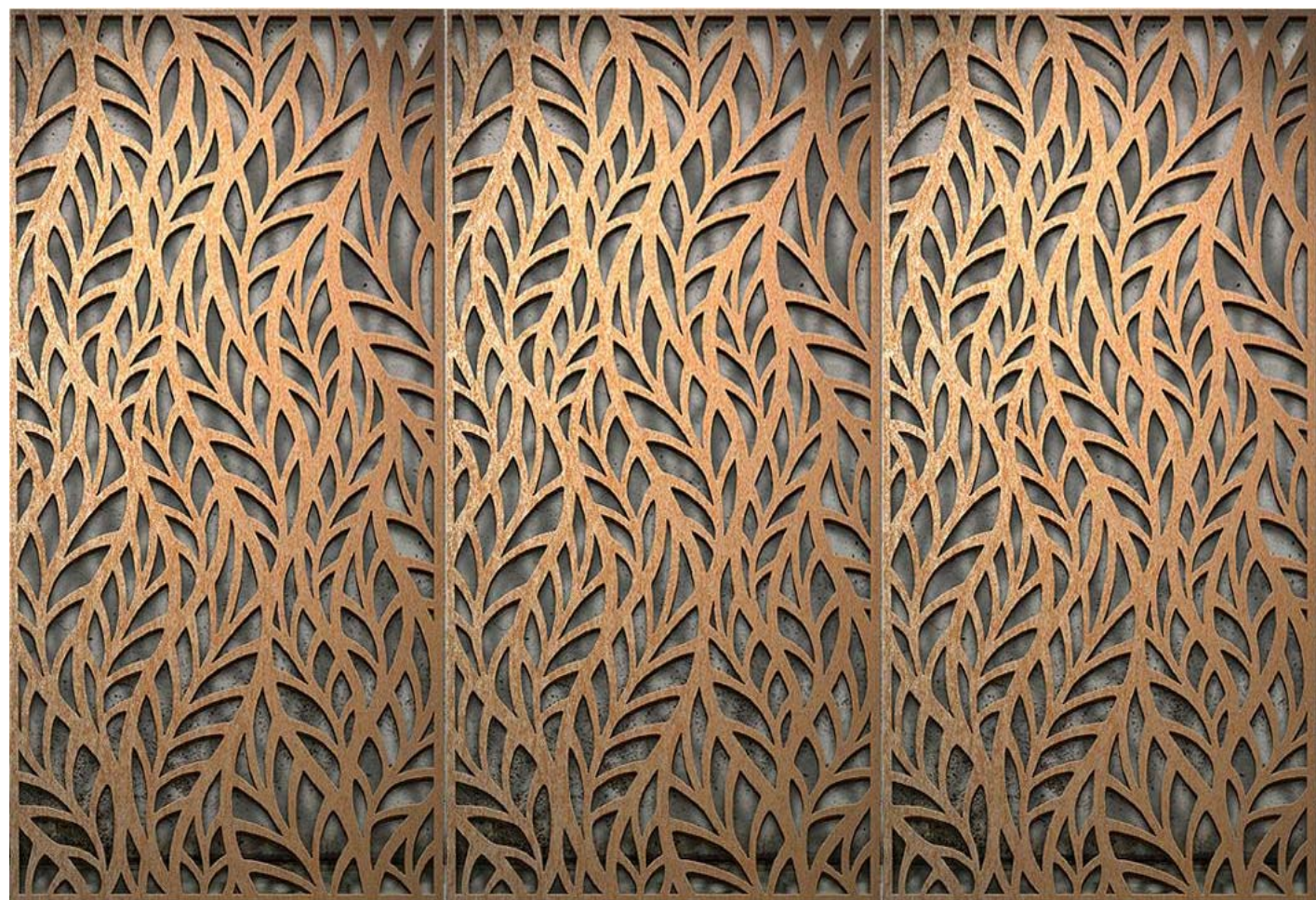
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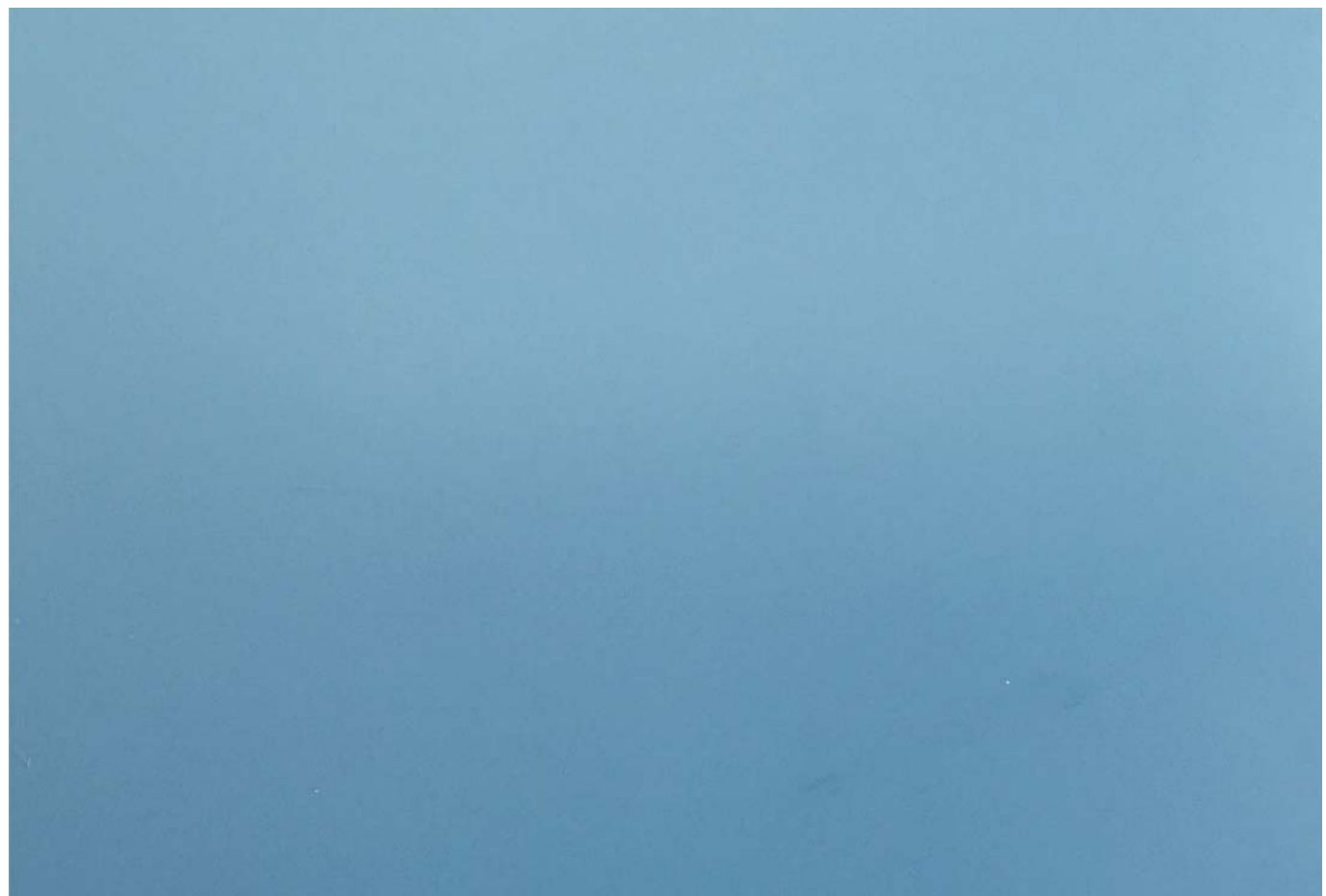
AL2 - VITRACORE SOLID ALUMINIUM CLADDING
COLOUR - GREY



GV - GLASS VISION



M2 - LASER CUT METAL SCREEN GEOMETRIC PATTERN



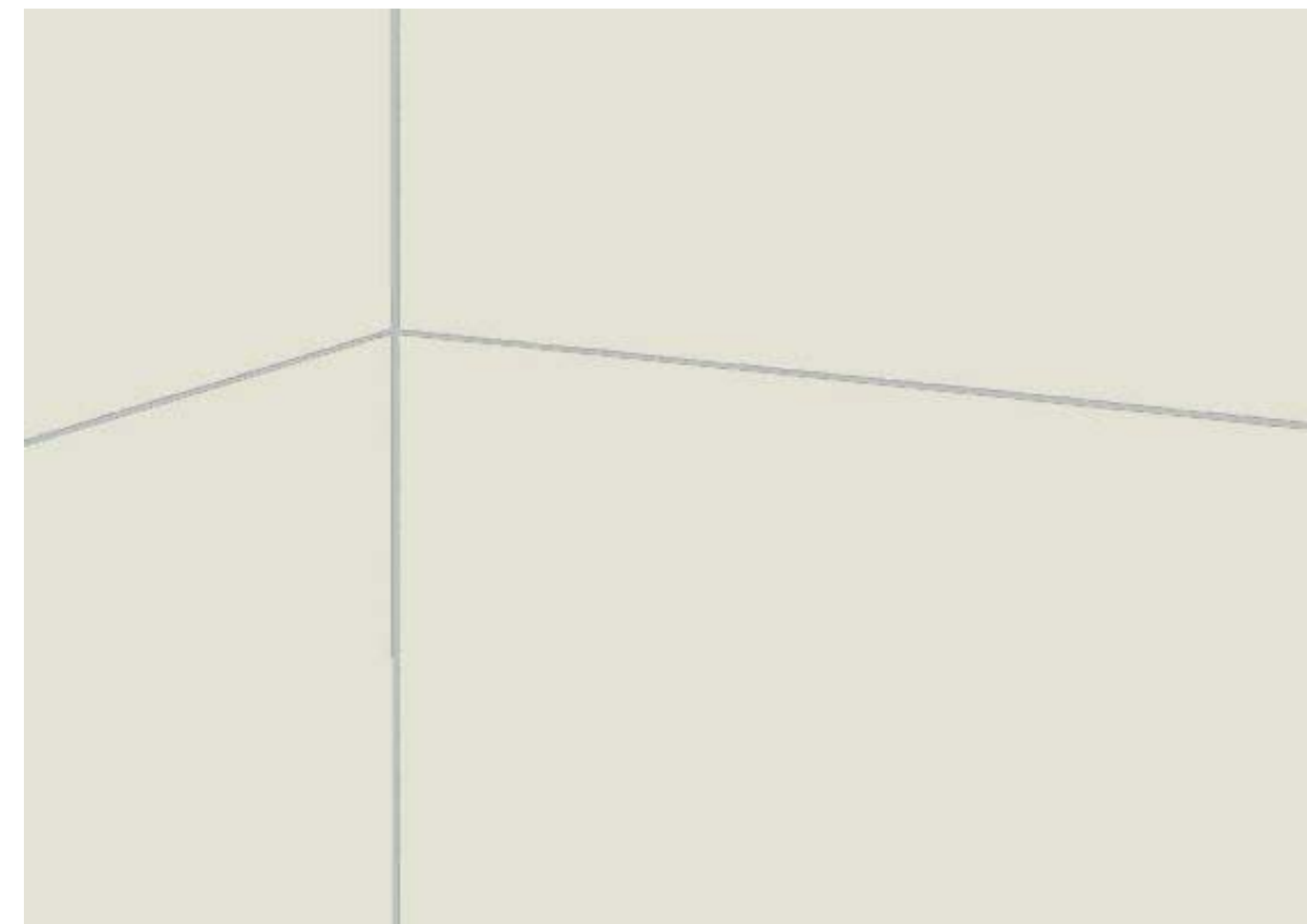
SP - SPANDREL GLASS
COLOUR - BLUE



AL3 - EXTERNAL FRAMING ELEMENTS
METAL ARCHITECTURAL FIN



M1 - METAL ROOFING - STRAMIT LONGSPAN
COLOR - SURFMIST



FC1 - COMPRESSED FIBRE CEMENT CLADDING
COLOUR - SURFMIST



ST1 - BLUESTONE TILE

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MATERIAL BOARD

SCALE:
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Appendix B – Urban Design Strategy

AE Design Partnership

Kingsland Precinct

6-8, Lingard Street
Merewether NSW 2291

Urban Design Strategy

13 September 2018

Prepared for:



Prepared by:

ae design partnership
architecture urban design planning

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1.0 Introduction

ae design partnership has been engaged by KDC Pty Ltd to provide urban design direction to assist with the redevelopment of the property at 6-8 Lingard Street, Merewether NSW 2261 (the site) under Development Application No.2017/01546 for a three-storey health services facility (hospital) with three levels of car parking.

The objectives of this Urban Design Report are to:

- Conduct analysis and identify opportunities in the Strategic and Local Context;
- Analyse the impact of the development on the surrounding locality through a site analysis and appropriateness of the proposed built form; and
- Establish a Desired Future Character for the site, sensitive to its environments that consider existing characteristics, opportunities and constraints of the site and its surroundings.

This report is to be read in conjunction with the following documents:

- Architectural drawings prepared by HSPC Health Architects;
- Statement of Environmental Effects (SEE) prepared by KDC Pty Ltd; and
- Clause 4.6 Variation Statement prepared by KDC Pty Ltd.



Figure 1: Aerial of Precincts (Nearmap 2018)

Hopkins Street
Precinct

Lingard Private
Hospital

Kingsland
Precinct

2.0 Planning Context

2.1 Newcastle LEP 2012

2.1.1 Existing Land Use Zone

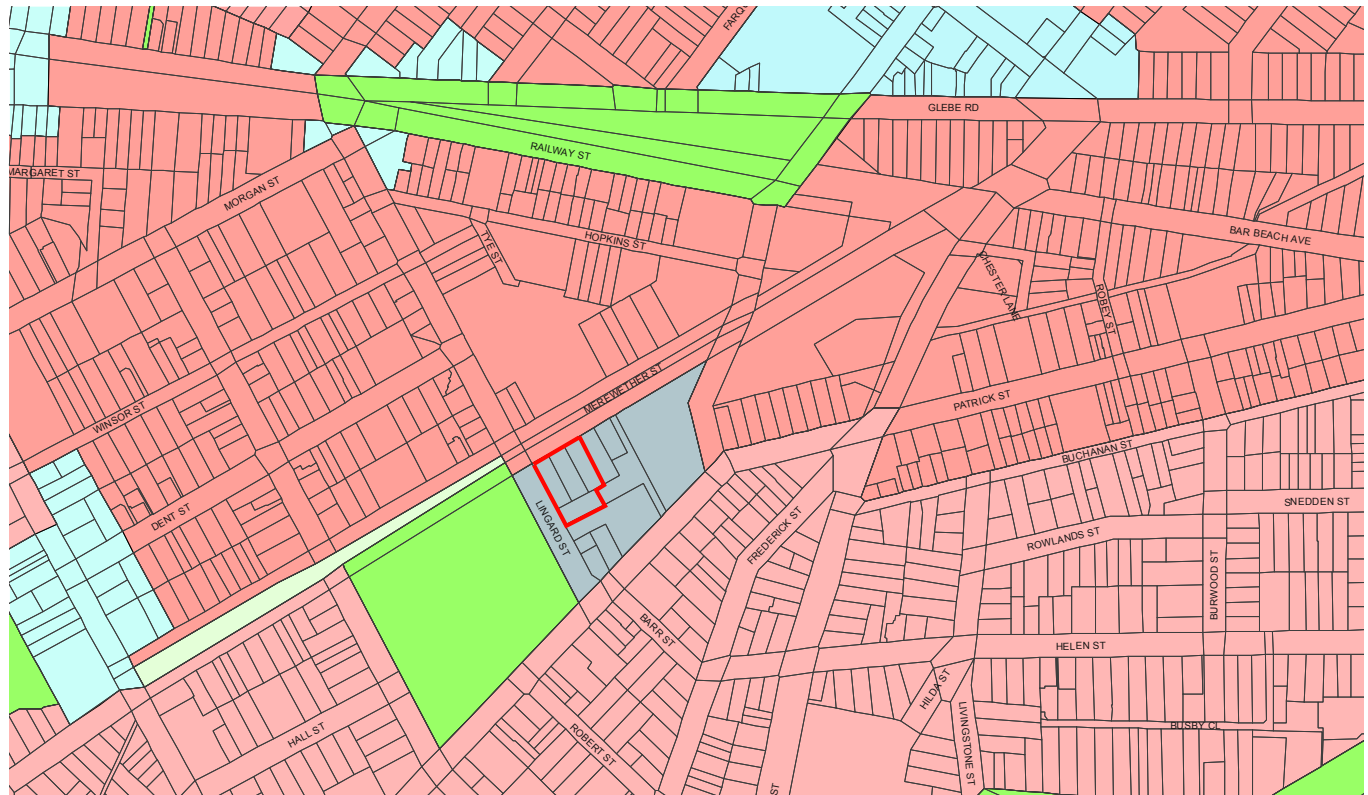
Under the current zoning controls prescribed under Newcastle LEP 2012, the existing land use zone for the site is B5 Business Development zone. Permitted uses include:

- Commercial Premises;
- Community Facilities;
- Industrial Retail Outlets;
- Education Establishments;
- Centre-Based Child Care Facilities;
- Bulky goods premises;
- Light Industries;
- Vehicle Repair Workshops;
- Warehouse or Distribution Centres and
- Car Parks etc.

See **Section 2.2** for permissibility of a 'health services facility' under SEPP (Infrastructure) 2007 on the site.

Land uses which produce built form development of greater bulk and scale as described above are permissible within the following land uses under Newcastle LEP 2012:

- R2 Low Density Residential;
- R3 Medium Density Residential;
- R4 High Density Residential;
- B1 Neighbourhood Centre; and
- B2 Local Centre.



LEGEND

	Site Boundary		B2 - Local Centre		RE1 - Public Recreation
	Cadastral (NLEP 2012)		R2 - Low Density Residential		RE2 - Private Recreation
	B1 - Neighbourhood Centre		R3 - Medium Density Residential		B5 - Business development

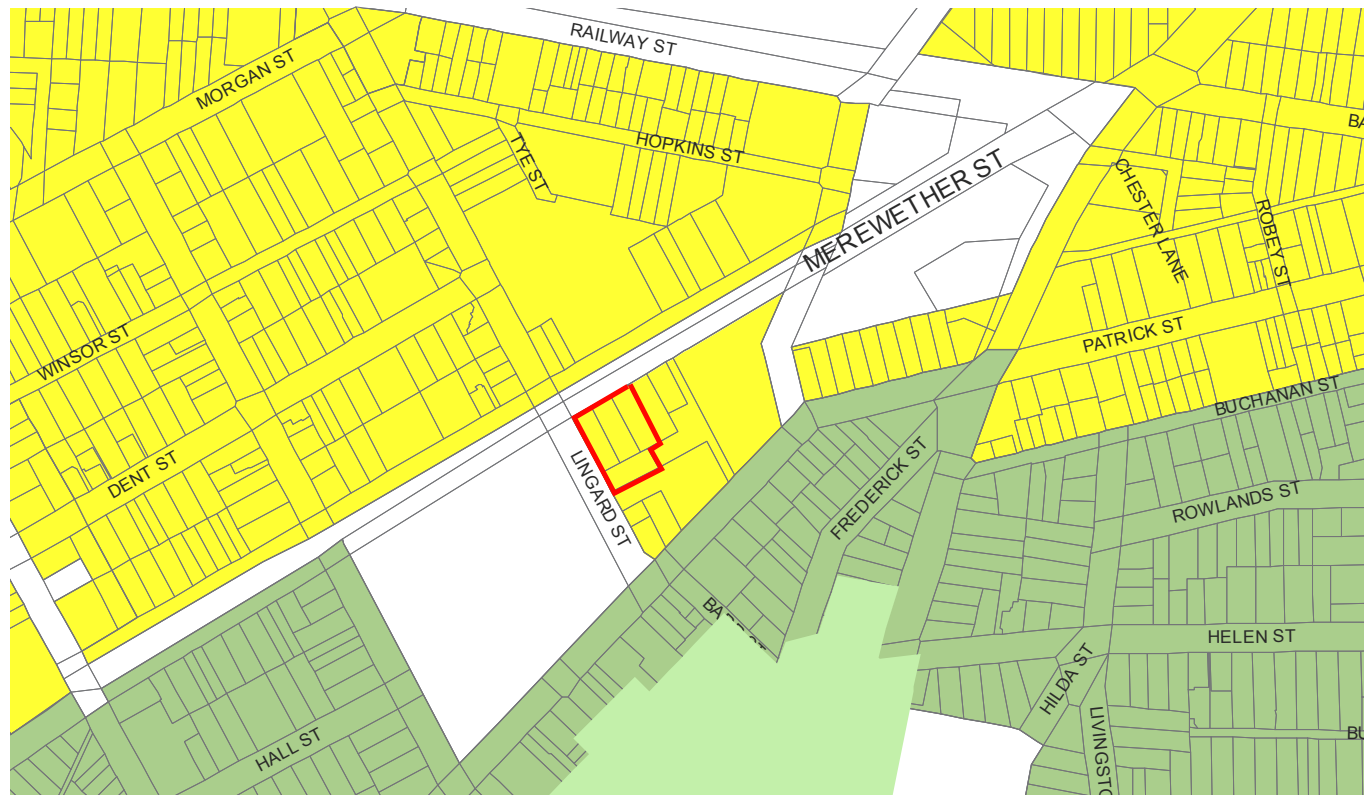
Figure 2: Existing Land Use Zones (Newcastle LEP 2012) 

2.1.2 Floor Space Ratio

Newcastle LEP 2012 prescribes a floor space ratio control of 0.9:1 on the site.

Consideration is to be given to development of institutional buildings such as hospitals, which require larger floor plates that accommodate greater circulation spaces, room sizes, floor to ceiling heights etc. than residential developments.

Subject to such consideration, floor space ratios of new development needs to ensure building envelopes remain consistent with the **desired future character** of the site and its immediate area.



LEGEND

	Site Boundary		I - 0.75:1		S - 1.5:1
	Cadastre (NLEP 2012)		L - 0.9:1		N - 1:1
	F - 0.6:1				

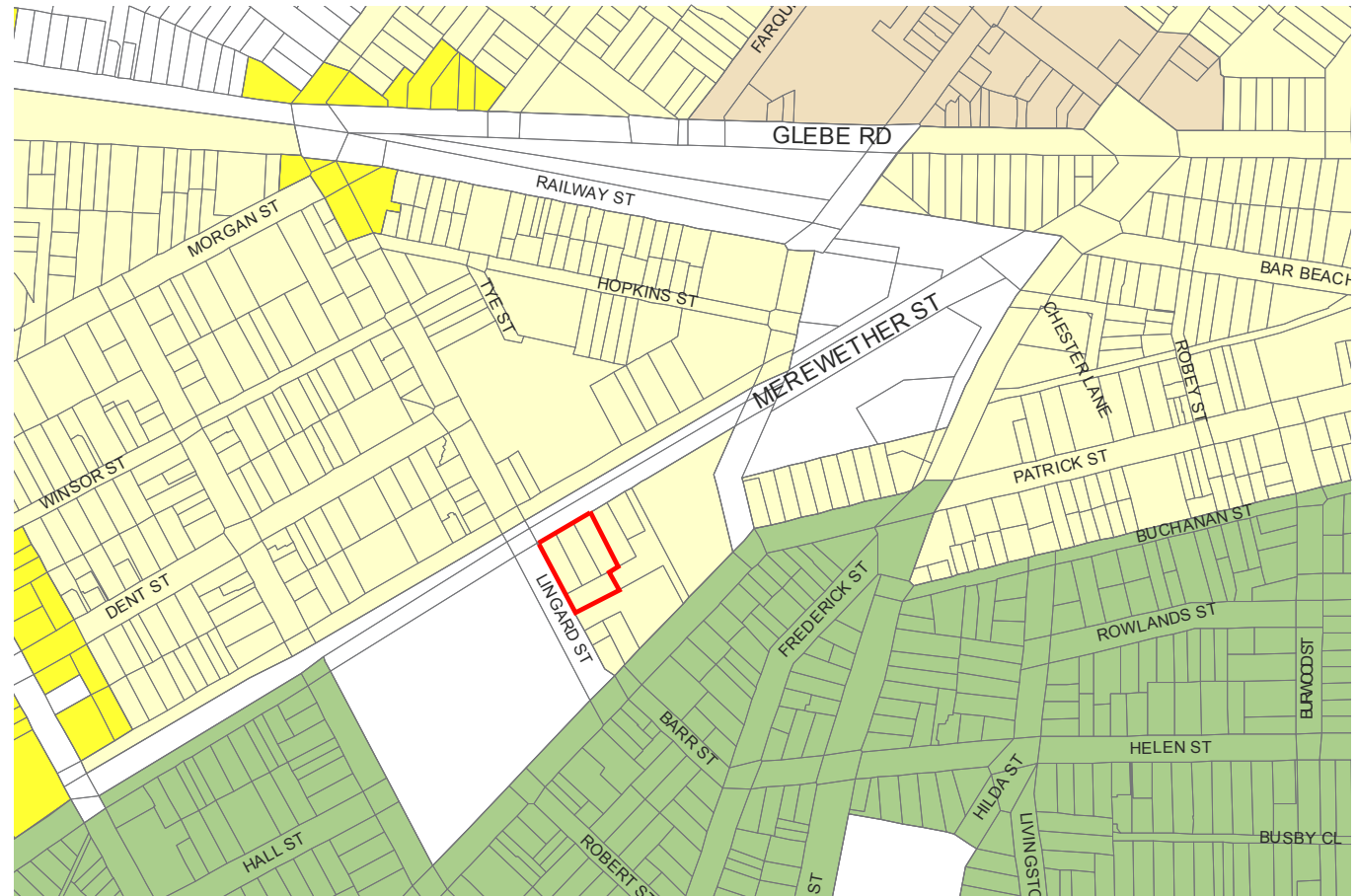
Figure 3: Existing Floor Space Ratio (Newcastle LEP 2012)

2.1.3 Height of Building control

Newcastle LEP 2012 prescribes a maximum height of building control of 10.0 metres on the site.

Similar to floor space ratio controls for development of institutional buildings such as hospitals, consideration is to be given for greater heights in the context of development of a health services facility to accommodate additional services.

Subject to such consideration, height of buildings of new development needs to ensure building envelopes remain consistent with the desired future character of the site and its immediate area.



LEGEND

- Site Boundary
- Cadastre (NLEP 2012)

- I - 8.5m
- K - 10m

- L - 11m
- N - 14m

Figure 4: Existing Height of Buildings (Newcastle LEP 2012)



2.2 SEPP (Infrastructure) 2007

Part 3, Division 10 of State Environmental Planning Policy (Infrastructure) 2007 (SEPP infrastructure) permits development for the purposes of health services facility on land in a prescribed zone under Clause 56.

Development of a proposed health services facility is permissible on land zoned B5 Business Development under SEPP (Infrastructure) 2007.

health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- a) a medical centre,
- b) community health service facilities,
- c) health consulting rooms,
- d) patient transport facilities, including helipads and ambulance facilities,
- e) hospital.

2.3 Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118

In Land and Environment Court Proceeding 2017/63470, it was identified that the assessment of Clause 4.6 applications would be assessed against the **desired future character of the site**.

This case sets precedent in the **correct** assessment of Clause 4.6 applications.

Commissioner Preston identified five ways in which variation to objectives were misconducted by Commissioner Smithson (at paragraph 94) of the judgement.

- a) *in considering the consistency of the development with objective (a) of the height development standard, the Commissioner used the wrong referent (the heights of the adjoining, interwar, residential flat buildings and other buildings in the vicinity rather than the desired future character of the neighbourhood) and the wrong test for comparison (whether the height of the development exceeds the height of the adjoining residential flat buildings or other buildings in the vicinity rather than whether the height of the development is consistent with the desired future character of the neighbourhood);*
- b) *in considering the consistency with objective (b) of the height development standard, the Commissioner made a simple factual comparison of the height of the development (exceeding 14m), the maximum height in the R3 zone (10.5m) and the maximum height in the adjoining R2 zone (9.5m), without addressing the question, which cl 4.6(4)(a)(ii) required to be addressed, of whether the height of the development was consistent with objective (b) of establishing a transition in scale to protect local amenity;*

- c) *in holding incorrectly in that the lack of adverse amenity impacts on adjoining properties is not a sufficient ground justifying the development contravening the development standard, when one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts (see Randwick City Council v Micaul Holdings Pty Ltd);*
- d) *in asking the wrong question by discerning whether the non-compliant development generated a benefit to the neighbouring properties relative to a lower, height compliant development, which was inconsistent with cl 4.6(4)(a)(ii) and the objectives of the height development standard; and*
- e) *in considering the consistency of the development with objective (d) of the height development standard, the Commissioner held that it was not sufficient that the development minimised the impacts on adjoining or nearby properties because impacts still arise, which was inconsistent with objective (d) of the height development standard that development should minimise impacts on adjoining or nearby properties.*

2.4 SEPP No.65 - Apartment Design Guide

2.4.2 Development under SEPP No. 65

This section is solely for the purpose of establishing the level of bulk and scale of developments within surrounding land uses of the site.

It is important to note proposed development associated with this application does not propose residential flat building development.

Under the provisions of Clause 6A of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, development of residential flat buildings would require development of greater bulk and scale as per design criteria and guidelines prescribed under the Apartment Design Guide (ADG).

The ADG applies to residential flat buildings, shop top housing and the residential component of mixed use developments that are **'three or more storeys and that have four or more dwellings where the development consists of:**

- *erection of a new building;*
- *substantial redevelopment or refurbishment of an existing building; and*
- *conversion of an existing building to a residential flat building.'*

In the instance of development under SEPP No.65, existing development controls in relation to floor space ratio and height of buildings are inconsistent with the development typologies permitted within surrounding land uses.

2.4.2 Inconsistencies between LEP Controls

Height of building controls within the area of the site range between 8.5m to 14m (Refer to **Figure 4**). In order to meet minimum ceiling height requirements under Objective 4C-1 Design Criteria 1 of the ADG for four storey residential development, developments would typically require the minimum floor-to-floor heights:

- Ground Level: 3.3m
- Level 1: 3.1m
- Level 2: 3.1m
- Level 3: 3.1m

This produces a total building height of 12.6m.

As such, development consistent with the ADG would not be viable within surrounding land use zones without exceeding the prescribed height of building control and by default floor space ratio controls.

2.4.3 Medium Density Residential Development

The land use zoning of the site forms the 'boundary transition' between medium density residential development and low density residential development.

Under Newcastle LEP 2012, medium density housing permits residential land uses including multi-dwelling housing and residential accommodation. These land uses are defined under the standard instrument:

- **multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.**

- **residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:**
 - a) *attached dwellings,*
 - b) *boarding houses,*
 - c) *dual occupancies,*
 - d) *dwelling houses,*
 - e) *group homes,*
 - f) *hostels,*
 - g) *multi dwelling housing,*
 - h) *residential flat buildings,*
 - i) *rural workers' dwellings,*
 - j) *secondary dwellings,*
 - k) *semi-detached dwellings,*
 - l) *seniors housing,*
 - m) *shop top housing,**but does not include tourist and visitor accommodation or caravan parks.*

Built form typology within medium density residential development are best used when:

- Street edge infill sites are being redeveloped;
- Corner sites with two or more frontages are being developed;
- A perimeter block is intended; and
- Street activation is desired.

It is envisioned that development on the site will establish a 'bell curve' building typology that forms a transition between medium density residential, business development and low density residential land use zones.

2.5 Newcastle Development Control Plan 2012

2.5.1 Residential Growth Precincts

The Residential Growth Precincts identified in the DCP are a key component of the Local Planning Strategy (LPS) in planning for residential growth across the City. Residential growth of substantial, limited and moderate growth are taken into consideration depending upon proximity to transportation corridors and commercial centres. The objective is to achieve compact and sustainable urban form.

In the interest of achieving a more compact, sustainable urban form (urban consolidation) within the area of the site, a range of residential density standards is nominated which vary from low, medium and high depending upon proximity to commercial centres or public transport corridors. By increasing housing densities within walking distance of centres/public transport the LPS can:

- Reduce pressure of 'urban sprawl' and its associated impacts on outer areas;
- Maximise proximity of residents to services and employment;
- Increase housing diversity;
- Locate dwellings to support existing infrastructure and services; and
- Facilitate revitalisation of existing commercial centres by increasing housing densities.

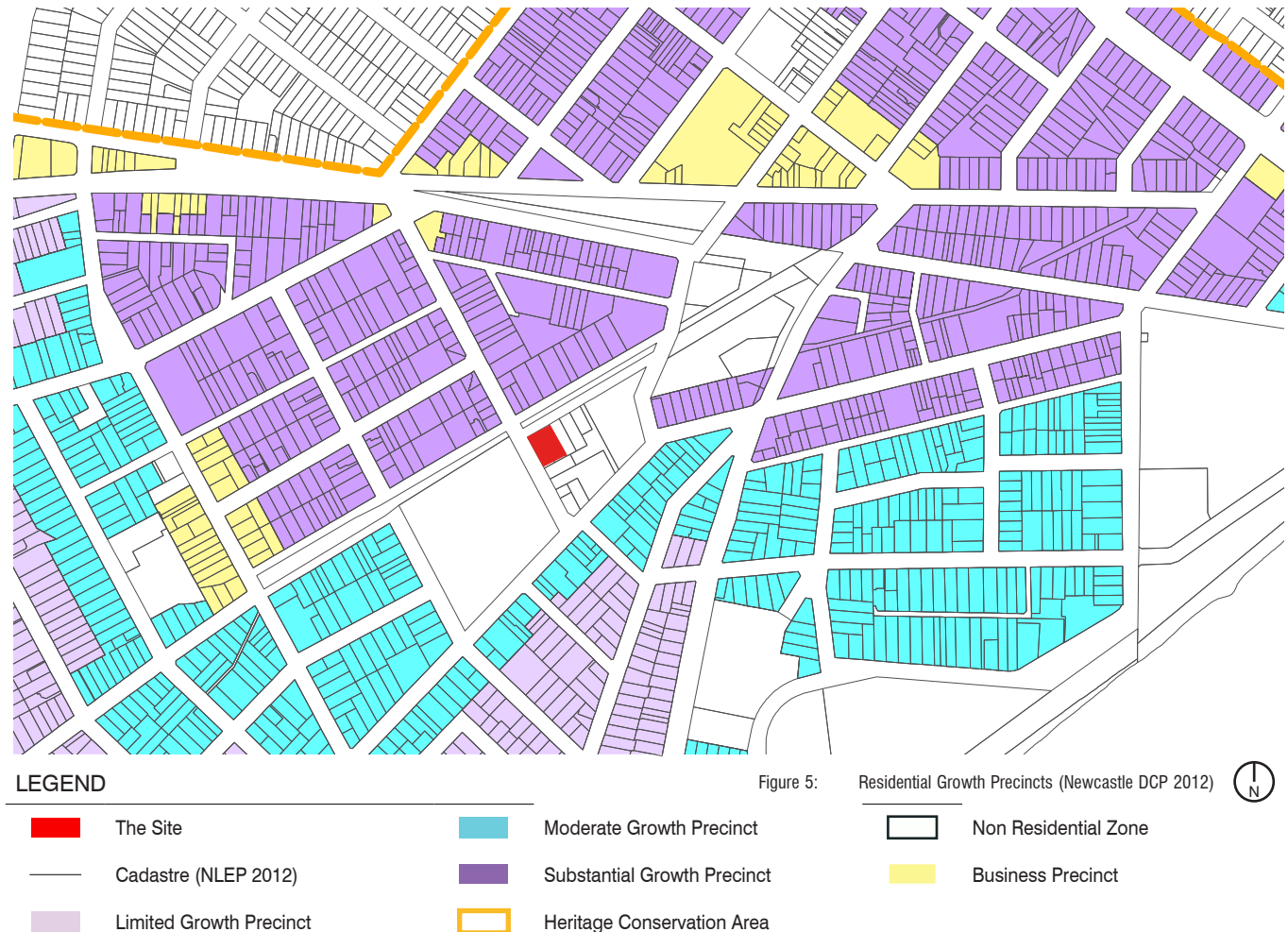


Figure 5: Residential Growth Precincts (Newcastle DCP 2012)

The DCP envisages:

- Apartment buildings and residential flat buildings up to 3-5 storeys which implies FSR of 1.0:1 and 1.8:1 within the substantial and the moderate growth precincts and
- Land uses at appropriate densities located to support effective and integrated public transport.

The proximity of the site to the growth precincts identified in the DCP presents the opportunity to support for the expansion of The Junction and to provide the necessary community services and infrastructure to support growing and expected ongoing growth of the population in the precinct.

2.5.2 Key Development Control Standards

This section details key development control standards applicable to commercial development within a B5 Business Development land use zone as prescribed under Section 3.10 Commercial Uses of the Newcastle DCP 2012.

Under LEP Practice Note PN 11-003, a 'health services facility' is a group term used outside of the 'commercial premises' group term but includes defined land uses such as hospital, medical centre and health consulting rooms.

Newcastle DCP 2012 does not prescribe numerical controls for development for the purposes of a health services facility under Section 3.11 Community Services of the DCP. In order to establish a desired future character of built form on the site, development is assessed against the provisions under Section 3.10 Commercial Uses, which applies to all land zoned B5 Business Development and does not preclude development of a health services facility.

2.5.2.1 Building Setbacks

- Front Setbacks:
 - Setbacks consistent with adjoining development within established areas.
- Variations to minimum setbacks can be considered to create variation and interest in the streetscape.
 - Pedestrian access available from the street frontage.
- Side and Rear Setbacks:
 - Side and rear setbacks to walls are in accordance with the Building Code of Australia and subject to consideration of impact on the privacy, private open space and solar access of adjoining properties.

2.5.2.2 Building Design and Appearance

- Provide development that enhance the desired built form.
- Existing characteristics of the area integrated into new development where possible, including:
 - Street setbacks;
 - Grouping or 'rhythm' of buildings within the streetscape;
 - Corner feature sites;
 - Traditional street and lane patterns;
 - Pedestrian walkways and other public open space areas; and
 - Pavement design, materials and finishes, kerb and gutter treatment.

2.5.2.3 Street Activation

- Activated street edges to ensure safe and accessible environment;
- Ground floor retail/business premises;
- Provision of multiple pedestrian access points along the street frontage;
- Visual connection into ground level uses through solid wall to void ratios.

3.0 Strategic Context

3.1 Newcastle Urban Strategy - Update 2009

The Newcastle Urban Strategy – Update 2009 provides a revision of the 2005 version of the plan which facilitated incremental changes established for a sustainable city. The strategic direction for the Merewether neighbourhood in the Newcastle Urban Strategy is outlined in the following objectives:

- Encourage development between the beach and the commercial areas with mixed use development to improve amenity by providing more diverse pedestrian based activities; and
- Reduce the impact of medium density housing on the neighbourhood through more sensitive design.

Under this strategy, a principle for commercial viability and marketing is the inclusion of key public facilities:

‘Community buildings, a highly desirable element in the overall mix, provide interaction of all uses with a balance of commercial and community activities, such as child care, libraries, churches and health care.’



Figure 6: Hospitals and Medical Education Precincts within Greater Newcastle

3.2 Local Planning Strategy (2015)

The Local Planning Strategy (LPS), was published in 2015 to provide a comprehensive land use strategy that guides future growth and development of Newcastle.

3.2.1 Zone Directions

The centres hierarchy identify precincts within Merewether under a 'Neighbourhood Centre Hierarchy'. As illustrated in Table 1 the Newcastle Commercial Centres Hierarchy establishes key functions for centres in Greater Newcastle.

Table 1: Newcastle Commercial Centres Hierarchy (LPS 2015)

Centre	Centres Hierarchy	Key Function
Newcastle City Centre	Regional City	Services the Hunter region with higher order administration, education, health services, cultural and recreational facilities in addition to high density commercial and residential uses
<ul style="list-style-type: none"> Adamstown Broadmeadow Beresfield/Tarro Jesmond Kotara Hamilton Islington Mayfield The Junction Wallsend Warabrook Waratah (Kmart) 	Local Centre (Major)	Shopping and business centre for the area, including health and professional services, supermarket or other retail anchor, mixed with medium and higher density residential.

<ul style="list-style-type: none"> Carrington Elernmore Vale Fletcher (Maryland Drive) Fletcher (Churnwood Drive) Georgetown Lambton Maryland New Lambton Stockton Waratah (Station Street) 	Local Centre (Minor)	Meets the daily and weekly needs of the local residents and provides a limited range of retail, community and service facilities.
<ul style="list-style-type: none"> Bar Beach Beresfield (Lenox Street) Birmingham Gardens Fletcher (Kurra Drive / Tabin Drive) Fletcher (Britannia Boulevard) Kotara (Joslin Street) Kotara (Orchardtown Road) Merewether (Beach) Merewether (City Road) Merewether (Glebe Road) Merewether (Llewellyn Street) 	Neighbourhood Centre	Smaller centre that meets the daily and weekly needs of the local resident and working population through the provision of small scale retail, community and service facilities.
<ul style="list-style-type: none"> Port of Newcastle Newcastle Airport University of Newcastle John Hunter Hospital Mater Hospital 	Specialised Centre	Areas of importance to the economy and employment generation which specialise in service provision or business activities.

For the majority of Merewether, precincts are categorised under 'Neighbourhood Centre', including:

- Merewether (Beach)
- Merewether (City Road)
- Merewether (Glebe Road)
- Merewether (Llewellyn Street)

The site is located within a B5 Business Development land use zone. Under the LPS, *"The B5 zone differentiates from other employment zones by providing for commercial uses.. [and] consist of a mix of business and warehouse uses, including bulky good premises, which require large floor plates and high traffic exposure.*

Furthermore the B5 zone is also used in locations, such as the area bound by Lingard, Merewether, Mitchell and Union Streets in Merewether, which accommodate a wide range of employment generating uses and associated support facilities that support the viability of nearby centre without competing with these." (LPS 2015, p.21).

In the context of the Kingsland Precinct, the site is within 400 metres of The Junction major local centre, which is envisioned for medium and higher density residential development characteristic of buildings producing FSR's between 1.5 and 2.1.

There is opportunity for redevelopment on sites consistent with the strategic direction within B5 Business Development zones.

3.3 Draft Greater Newcastle Metropolitan Plan 2036

A strategic direction outlined within the Draft Greater Newcastle Metropolitan Plan 2036 (DGNMP 2036) is to facilitate the **growth of health precincts** and **connect the health network** within the Greater Newcastle Metropolitan Area.

Currently, the John Hunter Health Precinct is Greater Newcastle's busiest public health precinct. A number of private hospitals are also contributing to the growing health precincts, including Lingard Private Hospital, Hunter Valley Private Hospital, Newcastle Private Hospital, Charlestown Private Hospital, Lake Macquarie Private Hospital and Warners Bay Private Hospital which provide both general and specialised health services.

These private hospitals continue to expand, providing more job opportunities within the health and construction industry that meet Outcome 1 in the DGNMP 2036 to create a workforce skilled and ready for the new economy.

The Lingard Private Hospital is located within the Kingsland Precinct which is expected to undergo expansion following the issue of the Draft Greater Newcastle Metropolitan Plan 2036, which identifies the Kingsland Precinct within the Stage 2 Urban Renewal Corridor of Greater Newcastle.

Redevelopment of the precinct will provide opportunity to:

- Generate employment opportunities in the health service sector and construction industries;
- Facilitate commercial and community services that meet the needs of the residential community of Merewether;
- Increase Lingard Private Hospital's current offerings to service a broader range of people;
- Encourage potential for higher density settlements within Merewether due to its locational advantages:
 - The DGNMP 2036 recommends change in present density of 18 people per hectare to 50-75 people per hectare for the renewal corridors.
 - A change in the area's urban character from low density residential style to more diverse and high density residential development.
 - This will also focus on providing housing close to jobs, green spaces, and efficient transportation facilities to reduce urban sprawl.
- Promote state government investment into public transport infrastructure such as the proposed light rail expansion to attract more residents to the area.



Figure 7: Excerpt of Figure 7 Urban Renewal Corridors (DGNMP 2036)

4.0 Local Context

4.1 Location

4.1.1 Merewether

The site is located within the neighbourhood of Merewether and is situated approximately 3.0 kilometres south-west from the high street (Hunter Street) of Newcastle CBD.

Merewether is dominated by a lower density residential frame for the majority of the suburb and is bordered by medium density residential development to the north where it meets the commercial core of The Junction precinct, approximately 450 metres from the site.

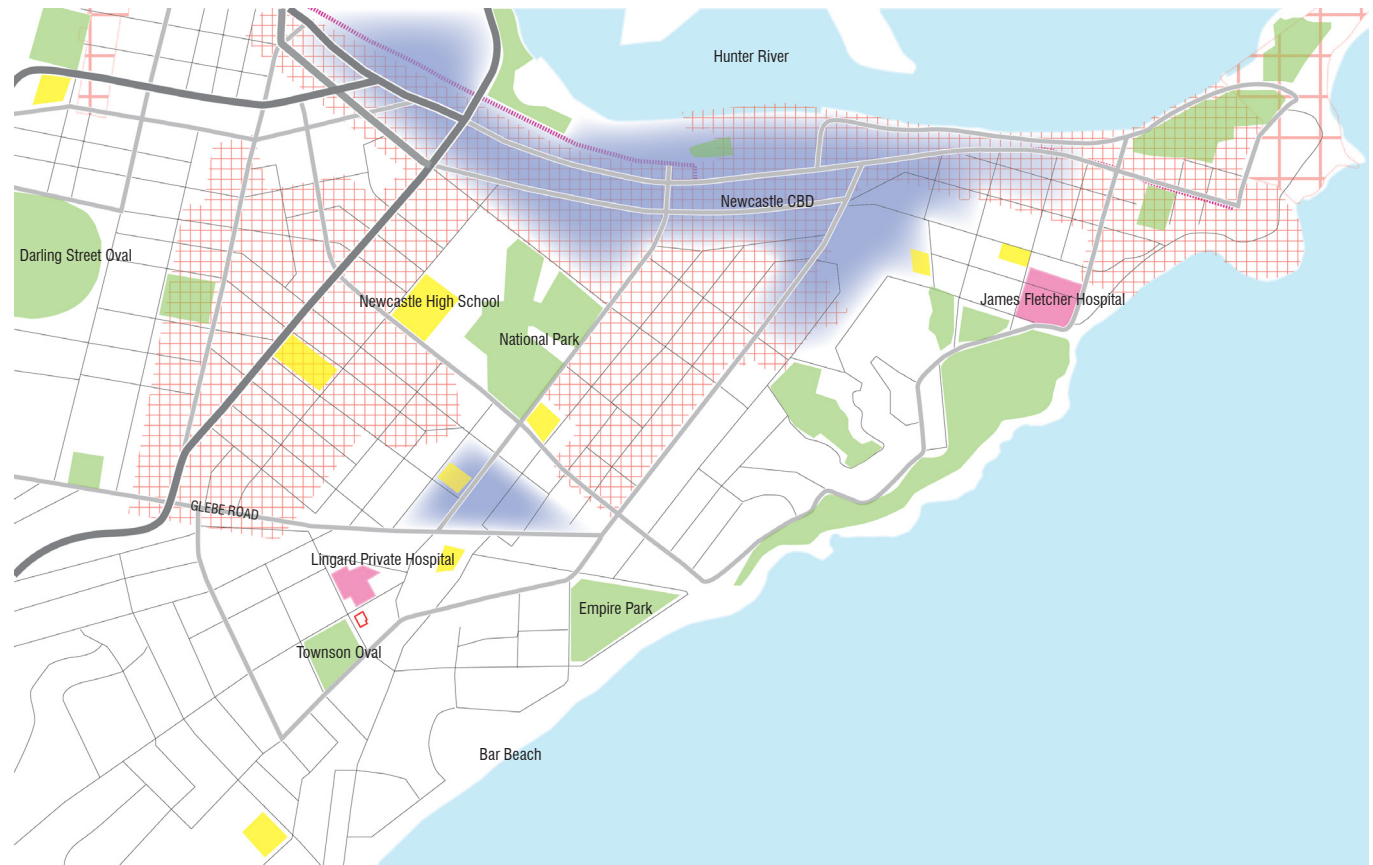
Development in the suburb is generally characteristic of two-storey built form in residential neighbourhoods and two storey built of increased floor to ceiling heights to provide for additional services for commercial/community buildings and facilities such as the existing Lingard Private Hospital precinct.

4.1.2 The Site

The site is officially known as Lots 1-3 in DP 1027546 and Lot 7 in DP 741487 and is located at the intersection of Lingard Street and Merewether Street directly opposite Townson Oval.

The site occupies a site area of approximately 2,637m² with a primary street frontage of approximately 59.5 metres to Lingard Street and secondary street frontage of approximately 46.0 metres to Merewether Street.

Within the last year, existing structures on the site have been cleared and vacated with excavation works undertaken since April 2018 (desktop assessment via Nearmap aerial images).



LEGEND

	The Site		Arterial Roads
	Local Streets		Hospitals
	Main Roads		Educational Establishments

Figure 8: Merewether Local Context Map

	Heritage Conservation Area
	Business Growth Zone
	Open Space



4.2 Access and Movement

4.2.1 Accessibility to Services

The site has a high level of accessibility to:

- The existing pedestrian network along the main street structure of the area. It is important to note, there is no pedestrian footpath along the north western side of the park, however this does not discourage walking within the area.
- Public Transport:
 - - The nearest bus stops are located along Union Street near Merewether Street (230 metres from the site) and Glebe Road (330 metres from the site).
 - - The aforementioned bus stops are all within a five minute walking catchment from the site.

Appropriate parking provision is to be provided on site to minimise parking infiltration that currently occurs within the surrounding residential precinct.



LEGEND

- The Site
- Local Streets
- Main Roads
- Pedestrian Movement

- Hospitals
- Educational Establishments
- Open Space

Figure 9: Existing Access and Movement

- Bus Route 12
- Bus Route 14
- Bus Route 21



4.2.2 The Site

The site has recently been cleared and excavated for the construction of approved development for a car park over three levels for 129 spaces under DA2016/00394.02. At present, no pedestrian or vehicular movements exist into the site with the exception of construction access.

Street frontages to both Merewether Street and Lingard Street enable opportunity for vehicular access onto the site from either street frontages. It would be in the interest of the public that vehicular access remains from the primary street frontage (Lingard Street) to reduce any congestion from Merewether Street.

The site is located directly opposite 2.8 Ha of public open space, that is Townson Oval, which will assist with the architectural expression of surrounding buildings in relation to height without creating adverse impacts that reduce the amenity of adjoining development in the immediate area.



Figure 10: Aerial Image of The Site (Nearmap 2018)

4.3 Existing Built Form

4.3.1 Land Uses

The site is located in proximity to:

- Other **health services facilities** within an 800 metre walking catchment (10 minute walk). Most of these health services facilities are specialist services in small buildings that do not accommodate sufficient areas for operating theatres and consultation rooms.
 - Lingard Private Hospital – directly north of the site;
 - Aviano Remedial Therapies – directly east of the site;
 - Grandstand Sports clinic Physiotherapy – directly east of the site;
 - Merewether Podiatry – directly east of the site;
 - Fitness Physiotherapy – directly east of the site;
 - Lingard Medical Centre – directly south of the site;
 - Glebe Road Medical Practice – north of the site;
 - The AIM Specialist Medical Centre – west of the site;
 - Merewether Family Practice – west of the site;
 - Merewether Ridge Street Surgery – south-west of the site; and
 - Merewether The Junction General Practice.

- The block (associated with the site) bounded by Merewether Street to the north, Lingard Street to the west, Mitchell Street to the south and Union Street to the east is dominated by **general industry** and **commercial uses**, including:
 - Vehicle body repairs and associated workshops;
 - Dry cleaning businesses;
 - Butcher; and a
 - Place of public worship.
- **Residential** uses:
 - Low density residential uses on the south-eastern side of Mitchell Street; and
 - Medium density residential uses on the northern side of Merewether Street.

4.3.2 Floor Space Ratios

In the context of existing land uses:

- **Health services facilities** occupy a larger building footprint than that of existing residential development in the area.
- Similarly **general industry** and **commercial uses** produce larger building footprints than existing residential development.
- **Residential** uses to the south generally occupy less than 50% of the site coverage of a residential allotment. Residential uses located within the R3 Medium Density Residential land use zone occupy larger site coverages within each residential allotment.

4.3.3 Building Heights

Building heights in the immediate area are generally single-two storey built form. Building developments tend to increase in height up to three storeys closer to Merewether Beach.

It is important to note that over the last five years, residential development in the area have increased from single storey built form to two and three storey built form.

In the context of the site, development of built form of greater heights can leverage off public open space within immediate vicinity of the site.

4.3.4 Bulk and Scale

The character of the immediate locality is diverse, as there is a mix of single detached dwellings, townhouses residential, community, medical and commercial buildings.

In the context of existing land uses:

- **Health services facilities** are characteristic of:
 - Predominantly two storey built forms;
 - Increased floor-to-ceiling heights to accommodate:
 - Emergency vehicles within ground floor parking; and
 - Additional services including operating rooms.
 - Articulation accentuated through vertical fins adjacent windows at the primary frontage;
 - A mixture of opaque and transparent glazing at street level;
 - A mixture of dark and light materials and finishes that complement surrounding built form.

- **General industry and commercial buildings** are characteristic of:

- Built form of increased bulk and scale, exacerbated by large expanses of solid wall and minimal window openings;
- Increased floor-to-ceiling heights to accommodate repair workshop spaces for business;
- Minimal articulation;
- A mixture of dark and light materials and finishes;
- Streetscape dominated by vehicular access into sites.

- **Residential buildings** are characteristic of:

- Single or two storey detached built form;
- Predominantly face brickwork or rendered brickwork materials;
- A mixture of pitched hipped or gable roof forms made of tiles or metal roof sheeting;
- A mixture of solid and palisade fencing; and
- Sparse landscaping within front setbacks;

4.3.5 Setbacks

There is a disparity of setbacks for existing structures within the immediate area of the site which creates an inconsistent streetscape character. Setbacks for:

- Health services facilities are typical of:
 - 3.0m – 8.0m street setback, where setbacks to Lingard Street are designed to accommodate patient drop-off areas; and
 - 0m – 3.0m side and rear setbacks.
- General industry and commercial buildings are typical of:
 - 0m – 10.0m street setback; and
 - 0m side and rear setbacks.
 - Residential buildings are typical of:
 - 1.0m – 7.5m street setback; and
 - 0m – 3.0m side setback; and
 - 2.5 – 30.0m rear setback.

5.0 Desired Future Character

The site is located within an urban renewal corridor which will undergo significant changes to accommodate built form of **greater bulk and scale**.

The desired future character of the area is derived from development provisions prescribed under Local Planning Strategy and Newcastle DCP 2012.

Residential areas within the site's immediate locality will experience urban transition with:

- Development up to five storeys in height including mixed use buildings and residential flat buildings;
- Medium and higher density residential development characteristic of buildings producing FSR's between 1.5 and 2.1.
- Active street frontage with ground floor retail/commercial uses; and
- Improved pedestrian networks that provide walkable connections between precincts and a high level of access to public infrastructure and community facilities.

The rise in residential density will facilitate consolidation and revitalisation of the town centre with active frontages and a well-connected pedestrian network.

Built Form:

- Front Setbacks:
 - Setbacks consistent with adjoining development within established areas.
- Variations to minimum setbacks can be considered to create variation and interest in the streetscape.
 - Pedestrian access available from the street frontage.
- Side and Rear Setbacks:
 - Side and rear setbacks to walls are in accordance with the Building Code of Australia and subject to consideration of impact on the privacy, private open space and solar access of adjoining properties.
- Activated street edges to ensure safe and accessible environment;
- Ground floor retail/business premises;

- Provision of multiple pedestrian access points along the street frontage;
- Visual connection into ground level uses through solid wall to void ratios.
- Existing characteristics of the area integrated into new development where possible, including:
 - Street setbacks;
 - Grouping or 'rhythm' of buildings within the streetscape;
 - Corner feature sites;
 - Traditional street and lane patterns;
 - Pedestrian walkways and other public open space areas; and
 - Pavement design, materials and finishes, kerb and gutter treatment.

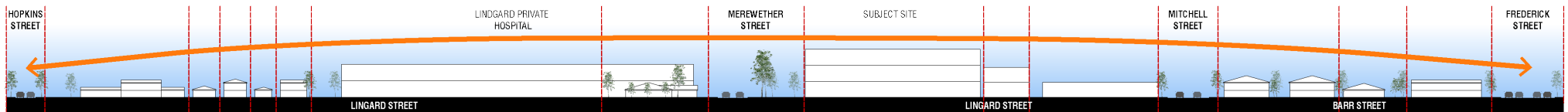


Figure 11: Indicative Street Section of Built Form

6.0 The Proposal

6.1 Proposed Development

The development proposal involves demolition of all existing structures on the site and construction of:

- A three-storey health services facility comprising:
 - 4 x operating theatres;
 - 17 consultation rooms;
 - Office, waiting room and storage facilities;
 - Medical Gas Storage; and
 - Ground level carpark with 42 parking spaces;
- Design modification to development consent approved for a car park with a total of 129 car spaces under DA2016/00394.02;
- Alteration of pedestrian footpath and existing vehicle crossings; and
- Ancillary signage, building and site works as detailed on the Architectural drawings that form this application.

This application seeks to make minor modifications.

The proposed development is summarised as follows:

- Three storey health services facility development;
- Maximum building height of 16.11 metres
- Floor Space Ratio of 1.62:1 (exclusive of the approved car park)
- Total site coverage of 79.5%



Figure 12: 3D Render of Proposed Development (HSPC Health Architects)

6.2 Proposed Character of the Development

The proposed development represents a growth opportunity for the established health precinct within Merewether. It supports the increased regional emphasis on health facilities of the Greater Newcastle Metropolitan Area.

The development will reflect the emerging character of Merewether as the proposed development will be:

- Three storeys high which is consistent with the desired built form up to five storeys, compatible with substantial and moderate residential growth precincts (as explained in **Section 2.5.1**);
- Consistent with the recommended urban densities of 50-75 people per hectare within the urban renewal corridors in the Draft Greater Newcastle Metropolitan Plan 2036. As such, developments would produce floor space ratios between 1.8:1 and 2.4:1 to achieve this;
- Responsive to the scale and character of the future resultant built form due to the expansion of The Junction Centre to accommodate projected housing densities; and
- Bigger and bulkier in scale contrasting the residential landscape of the area. The hospital will become a landmark as the corner location of the development will add to its symbolic image and make it more identifiable.



Figure 13: 3D Model of Proposed Development within the Local Context (HSPC Health Architects)

7.0 Assessment of the proposal

7.1 Newcastle LEP Controls

7.1.1 Proposed Land Use

Development of a health services facility on the site may be carried out within a B5 Business Development zone under Division 10 of SEPP infrastructure.

The proposed development is compatible with existing land uses within the area as detailed in **Section 4.3.1**.

7.1.2 Proposed FSR

Consideration is to be given to development of institutional buildings such as hospitals, which require larger floor plates that accommodate greater circulation spaces, room sizes, floor to ceiling heights etc. than residential developments.

The proposed health services facility produces a floor space ratio of 1.69:1, a departure of 0.79:1 from the floor space ratio prescribed under Newcastle LEP 2012 on the site.

This is an acceptable design outcome on the grounds that proposed built form makes a positive contribution to the desired future character of the area in relation to compatibility with the site coverage of similar developments in the area including:

- Health services facilities that occupy large building footprints; and
- Similar general industry and commercial uses that produce large building footprints within the block associated with the site

Similar to private hospitals within the Greater Newcastle area, proposed development is characteristic of built of increased bulk and scale.

This section is to be read in conjunction with the Revised Clause 4.6 Justification prepared by KDC Pty Ltd dated 25 May 2018.

7.1.3 Proposed Building Heights

Similar to floor space ratio controls for development of institutional buildings such as hospitals, consideration is to be given for greater heights in the context of development of a health services facility to accommodate additional services.

The proposed health services facility produces a maximum building height of 16.11 metres.

This is an acceptable design outcome on the following ground:

- The development will be read as three storeys from street level;
- The primary building form is consolidated within a maximum height of 13.8 metres to the parapet of the proposed building;
- Mechanical services including plant deck located on roof level numerically exacerbate the height of the building. These services will not be easily discernible to pedestrians walking along Lingard Street and Merewether Street;

- Additional height is required for operating theatres and medicals rooms in hospitals where the proposed floor to floor heights are as followed:

- Ground Level: 4.05 metres;
- Level 1: 4.20 metres; and
- Level 2: 5.00 metre.

- Residential areas directly north of the site are not limited to any height control under Newcastle LEP 2012.

This section is to be read in conjunction with the Revised Clause 4.6 Justification prepared by KDC Pty Ltd dated 25 May 2018.

The proposed development of a three-storey health services facility is assessed against existing and desired future character of the area.

7.2 Access and movement

A concrete pedestrian footpath network exists around the site along Lingard Street along the site frontage through to Glebe Road; Mitchell Street; Merewether Street and Union Street providing suitable connections to the local bus transit system that provides connection to the nearby The Junction Shopping Centre.

Development on the site will promote public transport patronage within the area and is within 150 metres of the nearest bus stop located at the intersection of Union Street and Merewether Street. Bus connections are provided via:

- Bus Route 12:
 - Connections to Merewether Beach; The Junction; Newcastle West; Hamilton East; Hamilton; Hamilton North; Georgetown; Waratah; Lambton; Jesmond; Wallsend; and Maryland.
- Bus Route 21:
 - Connections to Broadmeadow; Hamilton; Hamilton South; Merewether Beach; The Junction; Bar Beach; The Hill, Newcastle CBD; and Newcastle East.

Vehicular ingress/egress in and out of the site is proposed at the Lingard Street frontage, which is in substantially the same location as vehicular access into the site for previous uses prior to excavation works. No vehicular entry will be located along Merewether Street in an effort to increase pedestrian movement along the footpath.

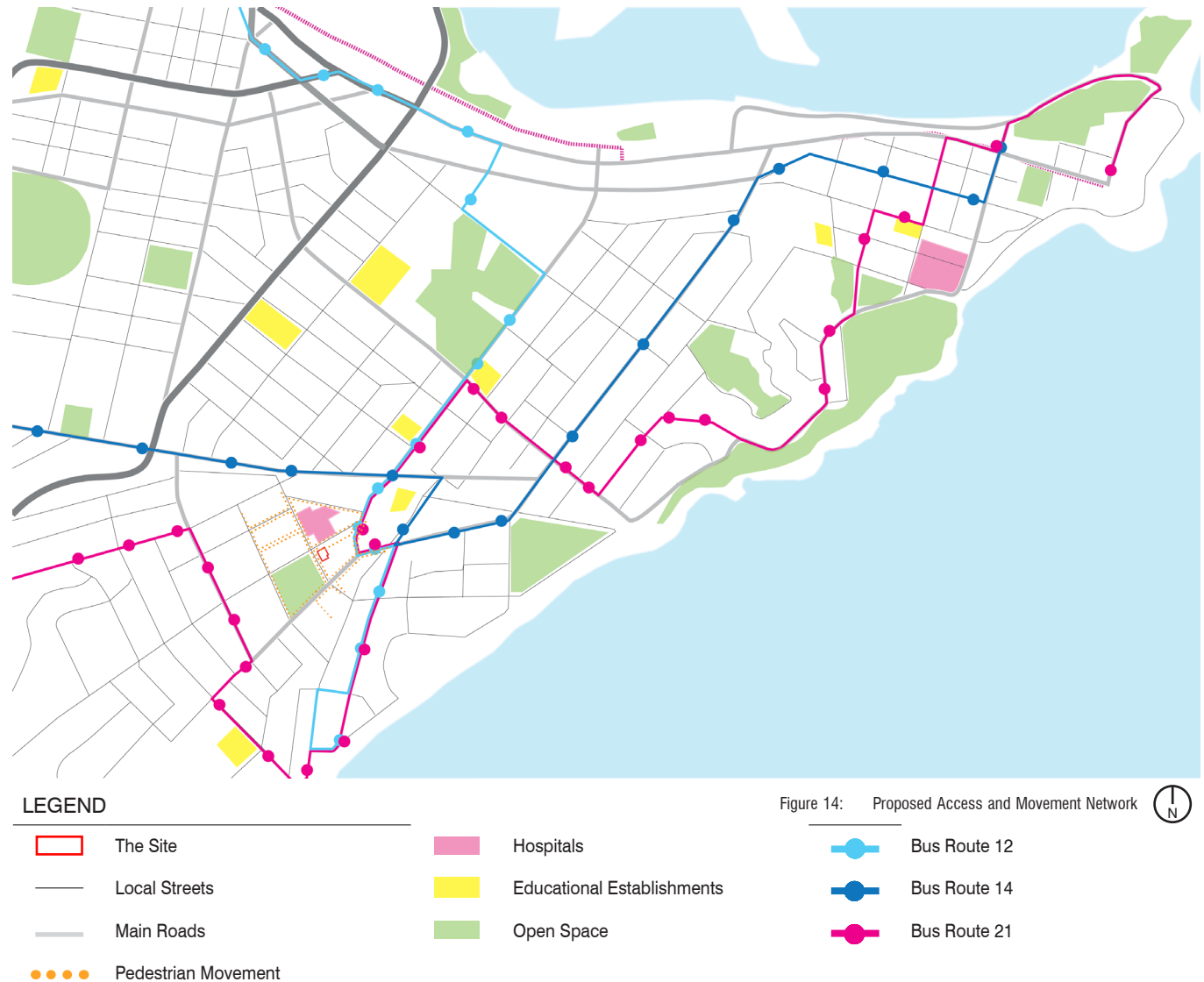


Figure 14: Proposed Access and Movement Network



7.3 Built Form

7.3.1 Bulk and Scale

Notwithstanding exceedances in floor space ratio and height of building controls applicable to the site, the proposed development is compatible with the desired future character of the local area.

Proposed development of a three storey health services facility is appropriate in the context of the site on the grounds that the proposed development:

- Produces heights compatible with the existing Lingard Private Hospital directly opposite the site;
- Has been designed to reduce the overall bulk of the building; and
- Has urban design merit:
 - The visual bulk of the building is broken up by the horizontal architectural expression of blue tinted glass in contrast to vertical fins;
 - The horizontal fins also provide shelter to pedestrians along the street;
 - Maintains the human scale of Merewether Street through landscaping along the street wall.

- Will be of three storeys, consistent with the desired built form of the area up to five storeys in substantial and moderate residential growth precincts (as explained in **Section 2.5.1**);
- Responds to the scale and character of the future resultant built form due to the expansion of The Junction Centre to accommodate projected housing densities; and
- Contrasts with the existing dominant residential character of the area thereby becoming a landmark building that can be singled out against a landscape background of repetitive detail. The corner location of the development adds to its iconic image and makes it more identifiable.

- The proposed development is consistent with the recommended urban densities of 50-75 people per hectare within the urban renewal corridors in the Draft Greater Newcastle Metropolitan Plan 2036. As such, developments would produce floor space ratios between 1.8:1 and 2.4:1 to achieve this; and
- Assist with future development potential of the underutilised block.



Figure 15: 3D Render of Proposed Built Form from intersection of Merewether Street and Lingard Street (HSPC Health Architects)
6-8 Lingard Street, Merewether
Urban Design Strategy

7.3 Landscape

7.3.1 Proposed Landscape Plan

There are no existing trees on site. The proposed species for landscaping include the following:

Street Trees

- *Lagerstroemia fauriei* 'natchez' (Crepe Myrtle)

Accent Planting/Shrubs

- *Poa labillardieri* (Common Tussock Grass)
- *Arthropodium cirratum* (Matapouri Bay)
- *Syzygium resilience* (Lilly Pilly 'Resilience')
- *Buddleia davidii* (Black Knight)
- *Calytrix tetragona* (Fringe Myrtle)
- *Correa alba* (Native fuchsia)
- *Pennisetum advena* 'Rubrum' (Purple Fountain Grass)
- *Philodendron xanadu* (Philodendrons)

Groundcover

- *Cuphea hyssopifolia* 'Mauve' (Mauve False Heather)
- *Cuphea hyssopifolia* 'White' (White False Heather)
- *Banksia spinulosa* 'Birthday Candles' (Dwarf Candle Banksia)

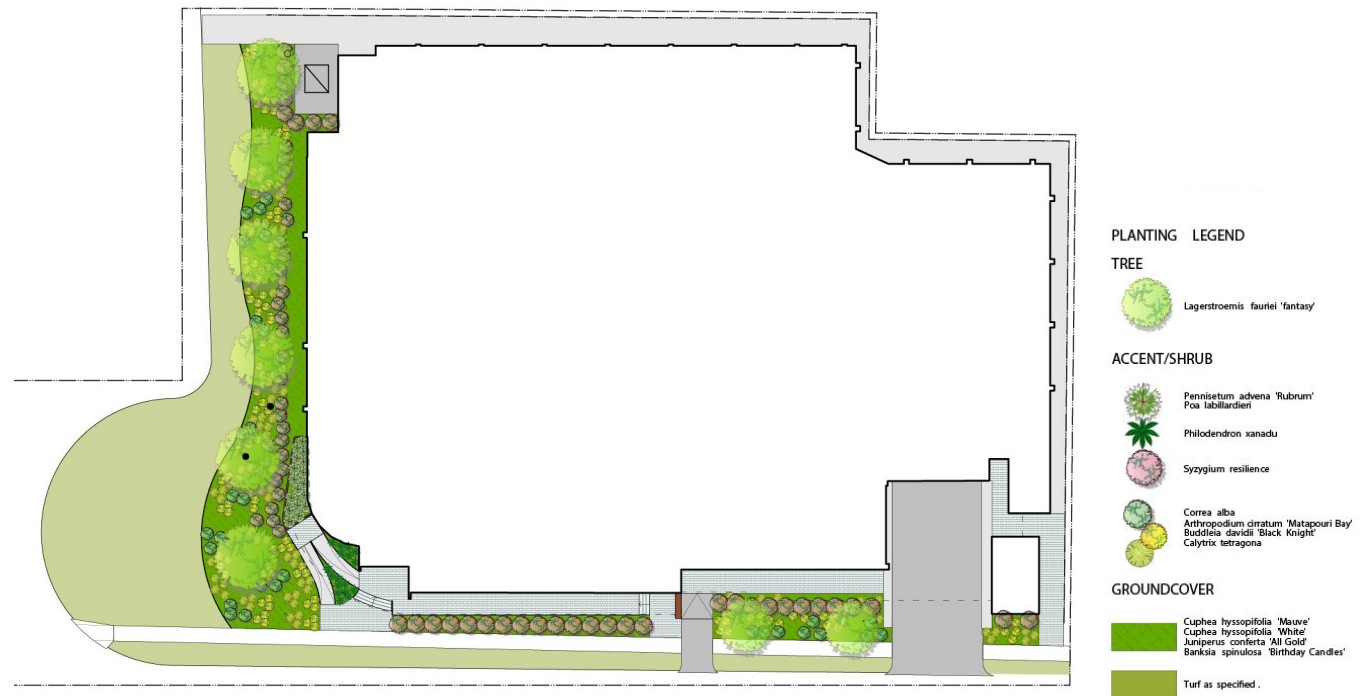


Figure 17: Proposed Landscape Plan (Moir Landscape Architects)

7.4 Overshadowing

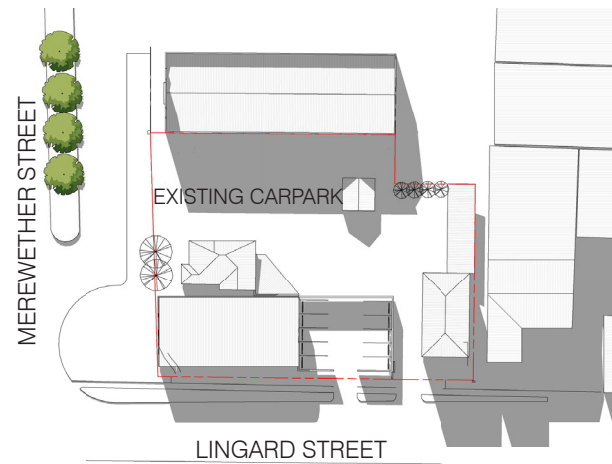
7.4.1 Shadow Diagrams of Proposed Development during Mid-Winter (21 June)

This section details an assessment of shadow diagrams prepared by HSPC Architects in the architectural drawings that form part of this application.

It is important to note that shadow diagrams of the existing site depict structures that were originally on the site prior to commencement of works under development consent DA2016/00394.02 for a car park.

7.4.1.1 9:00AM

- Current:
 - Overshadowing from adjacent brick building onto the existing carpark.
 - Majority overshadowing of existing structures are to Lingard Street.



- Proposed:
 - Overshadowing of proposed development extends beyond Lingard Street and onto Townson Oval.
 - Mature trees are located along the edges of Townson Oval that establishes a tree canopy along Lingard Street. Overshadowing into the oval from proposed development will be less of that depicted in the proposed shadow diagram assessment at this time.

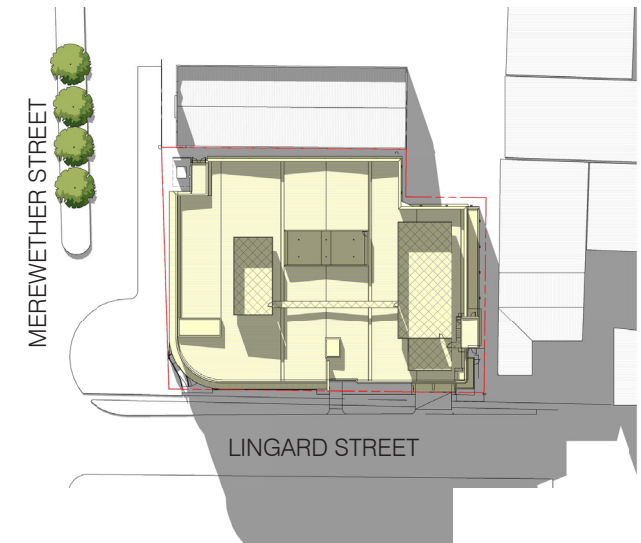
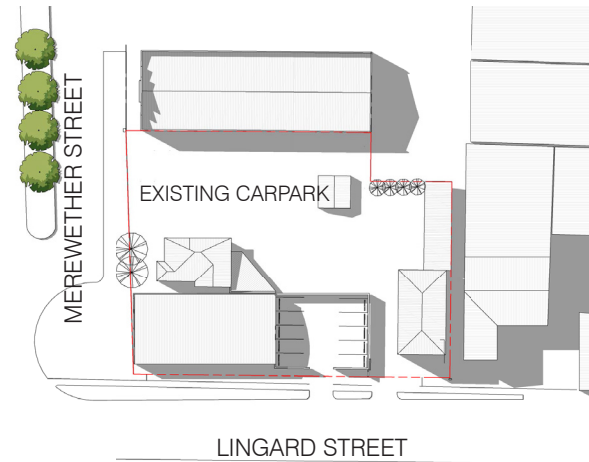


Figure 18: 9:00AM Shadow Diagrams (HSPC Health Architects)

7.4.1.2 12:00PM

- Current:
 - No overshadowing onto Lingard Street;
 - Overshadowing of existing structures are contained predominantly within the boundaries of the site.



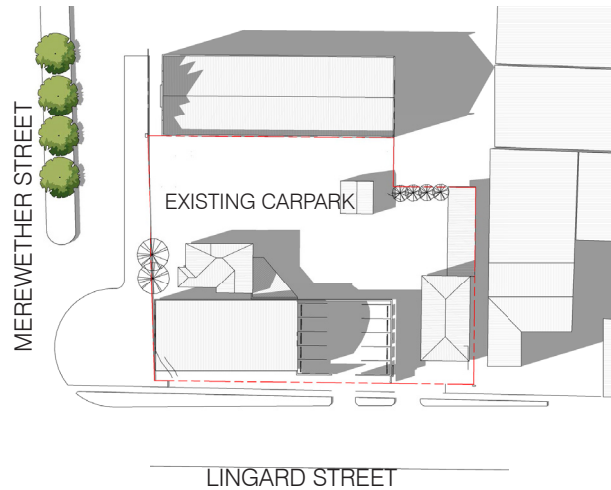
- Proposed:
 - No overshadowing onto Lingard Street with the exception of the pedestrian footpath;
 - Minimal overshadowing to adjacent properties.



Figure 19: 12:00PM Shadow Diagrams (HSPC Health Architects)

7.4.1.3 3:00PM

- Current:
 - No overshadowing onto Lingard Street;
 - Overshadowing of existing structures are contained predominantly within the boundaries of the site.



- Proposed:
 - Overshadowing onto vacant lot parcel associated with No. 16 Merewether Street;
 - No overshadowing onto Lingard Street with the exception of the pedestrian footpath;
 - Minimal overshadowing to adjacent property No. 16 Mitchell Street.

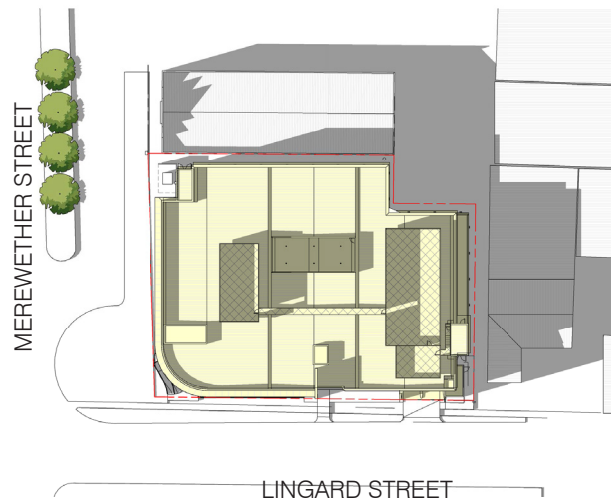


Figure 20: 3:00PM Shadow Diagrams (HSPC Health Architects)

8.0 Conclusion

The development application seeks for the construction of a three-storey health services facility (hospital) with three levels of car parking.

The proposed development represents a growth opportunity for the established health precinct within Merewether.

- It supports the increased regional emphasis on health facilities of the Newcastle City Area.
- The proximity of the site to the growth precincts identified in Newcastle DCP 2012 presents opportunity to expand The Junction and to provide the necessary community services to support the growing population in the precinct.
- Redevelopment on the site is consistent with the strategic direction within B5 Business Development zones, which envisions medium and higher density residential development characteristic of buildings producing FSR's between 1.5 and 2.1.
- Proposed development on the site will contribute to the area's transition in urban character from low density residential to more diverse and high density residential development as a result of its locational advantages within an urban renewal corridor (DGNMP 2036).
- Proposed development is consistent with the strategic direction of Greater Newcastle to facilitate the growth of health precincts and connect the health network.

The proposed development has urban design merit on the following grounds:

- Consideration has been given to development of institutional buildings such as a hospital within the Greater Newcastle metropolitan area in relation to:
 - Floor Space Ratio; and
 - Height of Buildings.

Consistent with the assessment of Clause 4.6 variations under precedent in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118.

- Proposed development is consistent with the Desired Future Character of the area.
- Proposed bulk and scale of development is mitigated through architectural elements that reduce visual bulk as perceived from the street and remains consistent with the existing and desired character of the streetscape and immediate locality.
- Accordingly, development of a three-storey health services facility on the site is supported on urban design grounds.

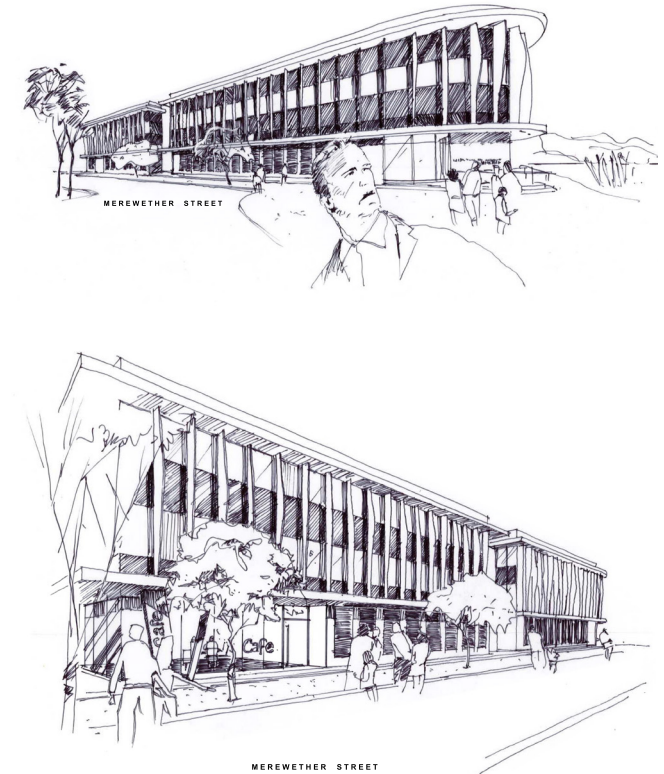


Figure 21: Sketches (HSPC Health Architects)

