

67 ALBERT AVENUE CHATSWOOD

issue 14
date: 11/07/2018

fitzpatrick+partners

FSR 8:1
site area 3006m²
total allowable GFA 24048m²
existing building GFA 16055m²
available GFA 7993m²
proposed building GFA 7949m²

allowable height (metres) 80.00
proposed height (metres) 78.92

schedule of areas

level	use	RL	floor to floor	GFA**
	top of plant	174.60		
16	plant	169.10	5.50	0m²
15	commercial office	165.10	4.00	398m²
14	commercial office	161.30	3.80	403m²
13	commercial office	157.50	3.80	439m²
12	commercial office	153.70	3.80	450m²
11	commercial office	149.90	3.80	553m²
10	commercial office	146.10	3.80	553m²
9	commercial office	142.30	3.80	553m²
8	commercial office	138.50	3.80	553m²
7	commercial office	134.70	3.80	553m²
6	commercial office	130.90	3.80	553m²
5	commercial office	127.10	3.80	553m²
4	commercial office	123.30	3.80	553m²
3	commercial office	119.50	3.80	553m²
2	commercial office	115.70	3.80	553m²
1	commercial office	111.90	3.80	553m²
mezzanine	plant	106.40	5.50	0m²
ground upper	office entry lobby	100.90	5.50	126m²
ground	parking/ plant/ loading/EOT	95.68	varies	50m²
basement 1	existing car park & plant	91.25	varies	0m²
basement 2	existing car park & plant	88.67	varies	0m²
				7949m²

development areas

GBA	NLA***
363m²	0m²
513m²	345m²
517m²	350m²
555m²	388m²
566m²	399m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
672m²	509m²
522m²	0m²
196m²	55m²
50m²	0m²
na	0m²
na	0m²
10674m²	7136m²

* All areas are subject to detailed design development
* All Areas are approximate only and should be read in conjunction with documentation issued

** GFA as stipulated in LEP 2012
gross floor space area means the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:
(a) the area of a mezzanine within the storey, and
(b) habitable rooms in a basement, and
(c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
(d) any area for common vertical circulation, such as lifts and stairs, and
(e) any basement:
(i) storage, and
(ii) vehicular access, loading areas, garbage and services, and
(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
(g) car parking to meet any requirements of the consent authority (including access to that car parking), and
(h) any space used for the loading or unloading of goods (including access to it), and
(i) terraces and balconies with outer walls less than 1.4 metres high, and
(j) voids above a floor at the level of a storey or storey above.

*** NLA as defined by Property Council of Australia Method of Measurement for Commercial 2008
net lettable area means the sum of its whole floor lettable area. This is
a) window mullions and window frames and
b) structural columns and
c) engaged perimeter columns or piers and
d) fire hose reels attached to walls and
e) additional facilities specially constructed for or used by individual tenants that are not covered in each section but excludes:
f) any area for common vertical circulation, such as lifts, stairs, escalators and
g) plant/motor rooms and
h) accessways and
i) cupboards - telecommunications cupboards and fire hose reel cupboards and
j) toilets, tea rooms and other service areas
k) recessed doorways
l) lift lobbies, foyers and any areas dedicated to public thoroughfare

Attachment E

Supplementary Reports

- **Certificate of Title**
Issued by Land registry Services, dated 30 May 2018
- **Indicative Architectural Drawings**
Prepared by Fitzpatrick+Partners, dated 13 June 2018
(Superseded by revised architectural package appended at Attachment C)
- **Overshadowing Analysis**
Prepared by Fitzpatrick+Partners, including:
 - *Shadow Analysis Winter Solstice 21 June (DA-026, Rev 2, 11/12/2017)*
 - *Shadow Analysis Winter Solstice 21 June (RFI-010, Rev 2, 11/12/2017)*
 - *Sun Shadow Diagram Sheet 01 (RFI-035, Rev 2, 14/06/2018)*
 - *Sun Shadow Diagram Sheet 02 (RFI-036, Rev 2, 14/06/2018)*
 - *Sun Shadow Diagram Sheet 03 (RFI-037, Rev 2, 14/06/2018)*
 - *Sun Shadow Diagram Sheet 04 (RFI-038, Rev 2, 14/06/2018)*
- **Easement Summary Development Application Advice**
Prepared by HFW, dated 29 November 2017
- **Supplementary Wind Report**
Prepared by CPP, dated 29 May 2017
- **Legal Advice Relating to SEPP65/ADG and Easements**
Prepared by King & Wood Mallesons, dated 5 June 2018



FOLIO: AUTO CONSOL 8634-245

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
30/5/2018	3:16 PM	2	15/1/2010

LAND

LAND DESCRIBED IN SCHEDULE OF PARCELS
AT CHATSWOOD
LOCAL GOVERNMENT AREA WILLOUGHBY
PARISH OF WILLOUGHBY COUNTY OF CUMBERLAND
TITLE DIAGRAM SEE SCHEDULE OF PARCELS

DESCRIPTION

67 ALBERT STREET CHATSWOOD

LEASE FOLIOS CREATED. SEE LEASE PREMISES INDEX SEARCH FOR LF305

THIS FOLIO MAY BE AFFECTED BY CAVEATS AND/OR WRITS
RECORDED ON THE LEASE FOLIOS FOR THESE PREMISES

FIRST SCHEDULE

THE COUNCIL OF THE CITY OF WILLOUGHBY (R AD565791)

SECOND SCHEDULE (18 NOTIFICATIONS)

- * 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S) WITHIN THE PART(S) SHOWN SO INDICATED IN THE TITLE DIAGRAM
- 2 LAND EXCLUDES MINERALS AS REGARDS THE PARTS OF LOT 135 SHOWN IN DP1111762 - SEE S700000A
- 3 DP790323 DP1111762 THE LAND WITHIN DESCRIBED IS LIMITED TO STRATA IN THE MANNER INDICATED IN DP790323 & DP1111762
- 4 LAND ABOVE DESCRIBED IS ROAD AS REGARDS LOT 19 IN DP790323 VESTED IN THE COUNCIL BY SEC. 232 LOCAL GOVERNMENT ACT 1919
- 5 DP643247 EASEMENT FOR SUPPORT (D) APPURTENANT TO LOT 19 IN DP790323
- 6 DP643247 EASEMENT FOR SUPPORT (E) AFFECTING THE PART OF LOT 19 DP790323 SHOWN SO BURDENED IN DP643247
- 7 DP642723 RIGHT OF FOOTWAY (W) AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 8 DP790011 EASEMENT FOR SUPPORT (E) (LIMITED IN STRATUM) AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 9 DP790011 EASEMENT FOR DRAINAGE OVER EXISTING LINE OF PIPES (F) AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN SO BURDENED IN THE TITLE DIAGRAM

END OF PAGE 1 - CONTINUED OVER

SECOND SCHEDULE (18 NOTIFICATIONS) (CONTINUED)

-
- 10 DP790011 EASEMENT FOR STANDBY (N) (LIMITED IN STRATUM)
AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN SO
BURDENED IN THE TITLE DIAGRAM
- 11 DP790011 EASEMENT TO DRAIN SEWAGE OVER EXISTING LINE OF PIPES
(P) AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN
SO BURDENED IN THE TITLE DIAGRAM
- 12 DP790011 EASEMENT FOR ELECTRICITY PURPOSES (S) (LIMITED IN
STRATUM) AFFECTING THE PART OF LOT 135 IN DP1111762
SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 13 Y910526 LEASE TO EXPIRES: 20/6/2088. EUREKA FUNDS
MANAGEMENT LIMITED. SEE 7259690 & AD126863
- I700137 LEASE OF LEASE Y910526 TO SYDNEY ELECTRICITY OF
SUBSTATION PREMISES NO.6668 (GROUND FLOOR)
TOGETHER WITH RIGHTS OF WAY & EASEMENT FOR
ELECTRICITY PURPOSES OVER OTHER PARTS OF THE LAND
ABOVE DESCRIBED SHOWN IN PLAN WITH I700137.
EXPIRES: 19/6/2088.
- * AI301042 VARIATION OF LEASE Y910526 EXPIRY DATE NOW
20/6/2112.
- * AI660877 TRANSFER OF LEASE Y910526 LESSEE NOW THE TRUST
COMPANY (RE SERVICES) LIMITED
- * AI836323 MORTGAGE OF LEASE Y910526 TO WESTPAC BANKING
CORPORATION
- 14 DP267690 EASEMENT FOR OVERHANGING AWNING (LIMITED IN STRATUM)
AFFECTING THE PART OF LOT 135 IN DP1111762 SHOWN SO
BURDENED IN THE TITLE DIAGRAM
- 15 DP267690 EASEMENT FOR ENCROACHING STRUCTURE(S) TO REMAIN
(LIMITED IN STRATUM) AFFECTING THE PART OF LOT 135 IN
DP1111762 SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 16 AD833515 RIGHT OF FOOTWAY (WW) (LIMITED IN STRATUM) VARIABLE
WIDTH AFFECTING THE PART(S) OF 135/1111762 SHOWN SO
BURDENED IN DP1111762 (SHEET 9).
- * AH801981 RELEASED IN SO FAR AS IT BENEFITS LOTS 129 AND
130 DP 1111762
- * AI195940 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT
109 IN DP1094273
- * AI195938 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT
101 IN DP1094273
- * AI195939 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 6
IN DP1080001
- * AI195941 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT
110 IN DP1094273
- * AI195951 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT
104 IN DP1094273
- 17 AD833512 EASEMENT FOR SUPPORT AND ENCROACHMENT (DC) (LIMITED
IN STRATUM) VARIABLE WIDTH AFFECTING THE PART(S) OF

END OF PAGE 2 - CONTINUED OVER

FOLIO: AUTO CONSOL 8634-245

PAGE 3

SECOND SCHEDULE (18 NOTIFICATIONS) (CONTINUED)

135/1111762 SHOWN SO BURDENED IN DP1111762 (SHEETS 7 & 9). SEE MEMORANDUM AD656678.

* AH801982 RELEASED IN SO FAR AS IT BENEFITS LOTS 129 AND 130 DP 1111762

* AI195949 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 109 IN DP1094273

* AI195946 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 6 IN DP1080001

* AI195947 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 101 IN DP1094273

* AI195948 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 110 IN DP1094273

* AI195950 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 103 IN DP1094273

* AI195953 EASEMENT RELEASED IN SO FAR AS IT BENEFITS LOT 104 IN DP1094273

18 DP1094273 RIGHT OF CARRIAGEWAY (ROC30) (LIMITED IN STRATUM) VARIABLE WIDTH AFFECTING THE PART OF 135/1111762 SHOWN SO BURDENED IN DP1094273

NOTATIONS

NOTE: REFER ALL DEALINGS TO SD2

UNREGISTERED DEALINGS: NIL

SCHEDULE OF PARCELS

LOT 19 IN DP790323
LOT 135 IN DP1111762

TITLE DIAGRAM

DP790323
DP1111762.

*** END OF SEARCH ***

81541-7

PRINTED ON 30/5/2018

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



67

67 ALBERT AVENUE
CHATSWOOD

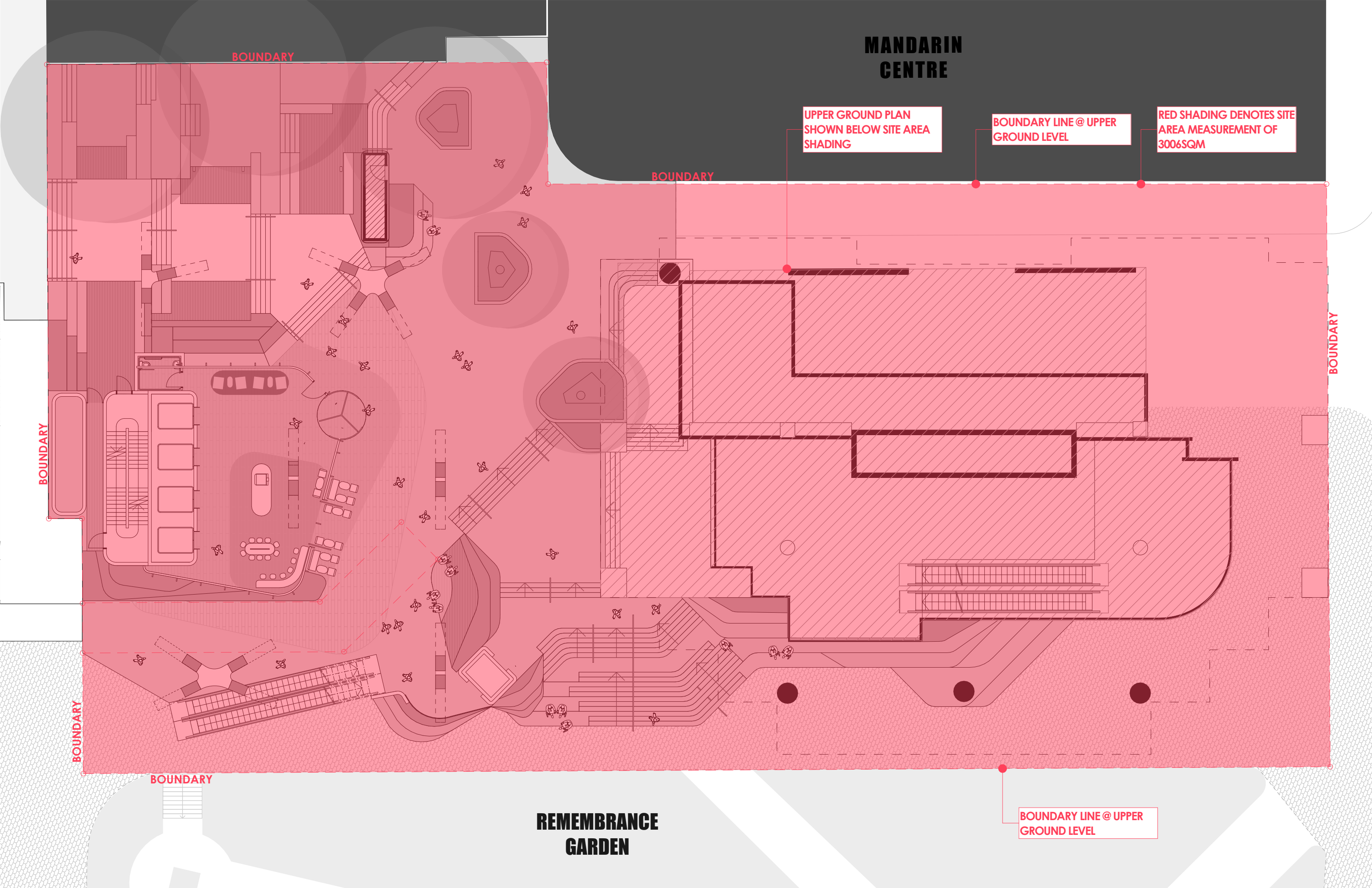
REQUEST FOR INFORMATION
CONDITIONS OF CONSENT
ISSUE 02
13 JUNE 2018

Drawing List

COVER SHEET

DRAWING LIST

RFI-028	SITE AREA MEASUREMENT
RFI-029	BUILDING HEIGHT SHEET 01
RFI-030	BUILDING HEIGHT SHEET 02
RFI-031	BUILDING HEIGHT SHEET 03
RFI-032	FSR COMPLIANT FLOOR PLATE & AREAS
RFI-033	SEBEL HOTEL PRIVACY IMPACT SHEET 01
RFI-034	SEBEL HOTEL PRIVACY IMPACT SHEET 02



fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick + partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3
1:200

50mm ON ORIGINAL

DRAWING
**SITE AREA
MEASUREMENT**

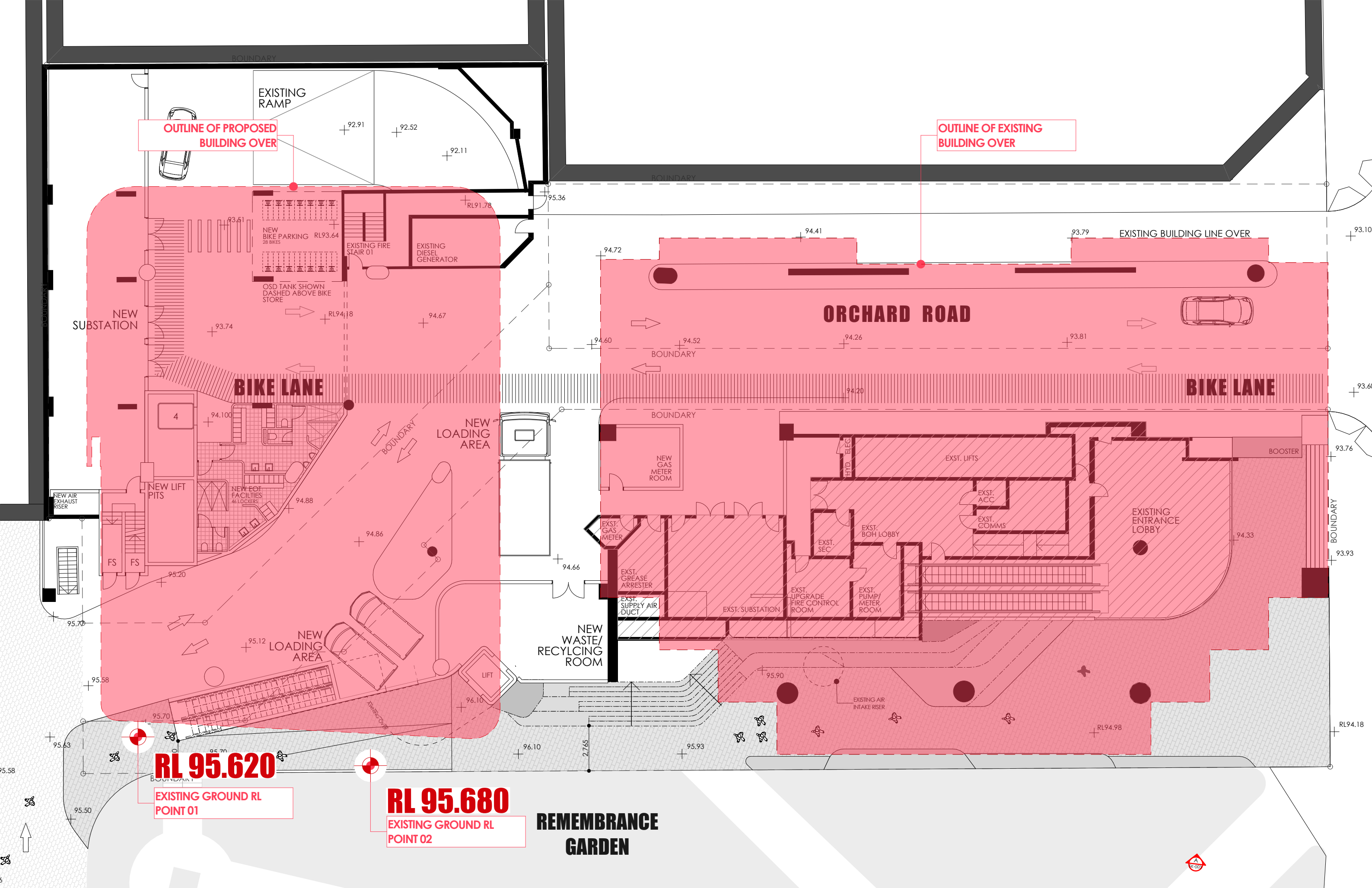
PRINT DATE
14/06/2018

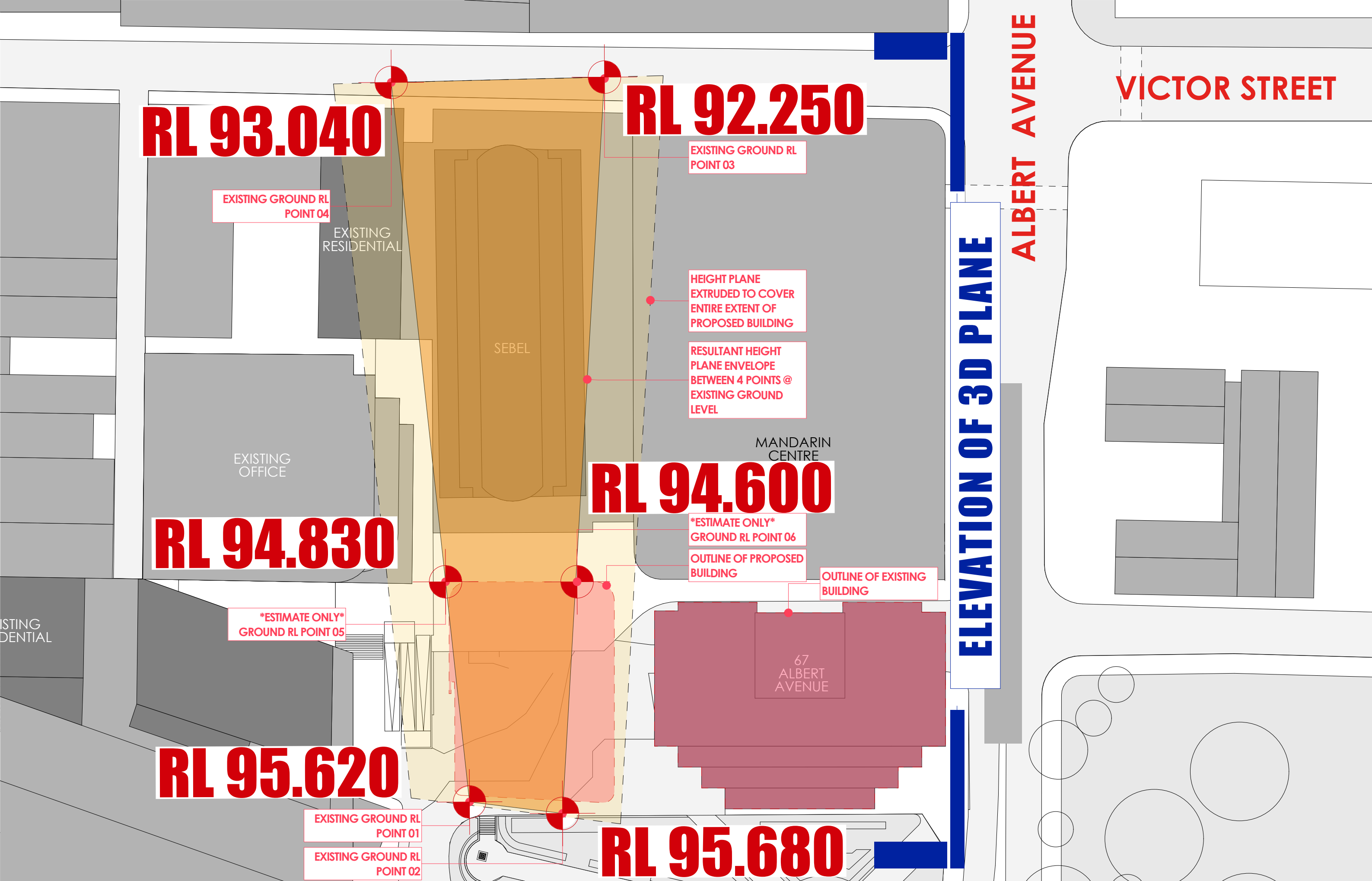
PROJECT NO.
21626
STATUS

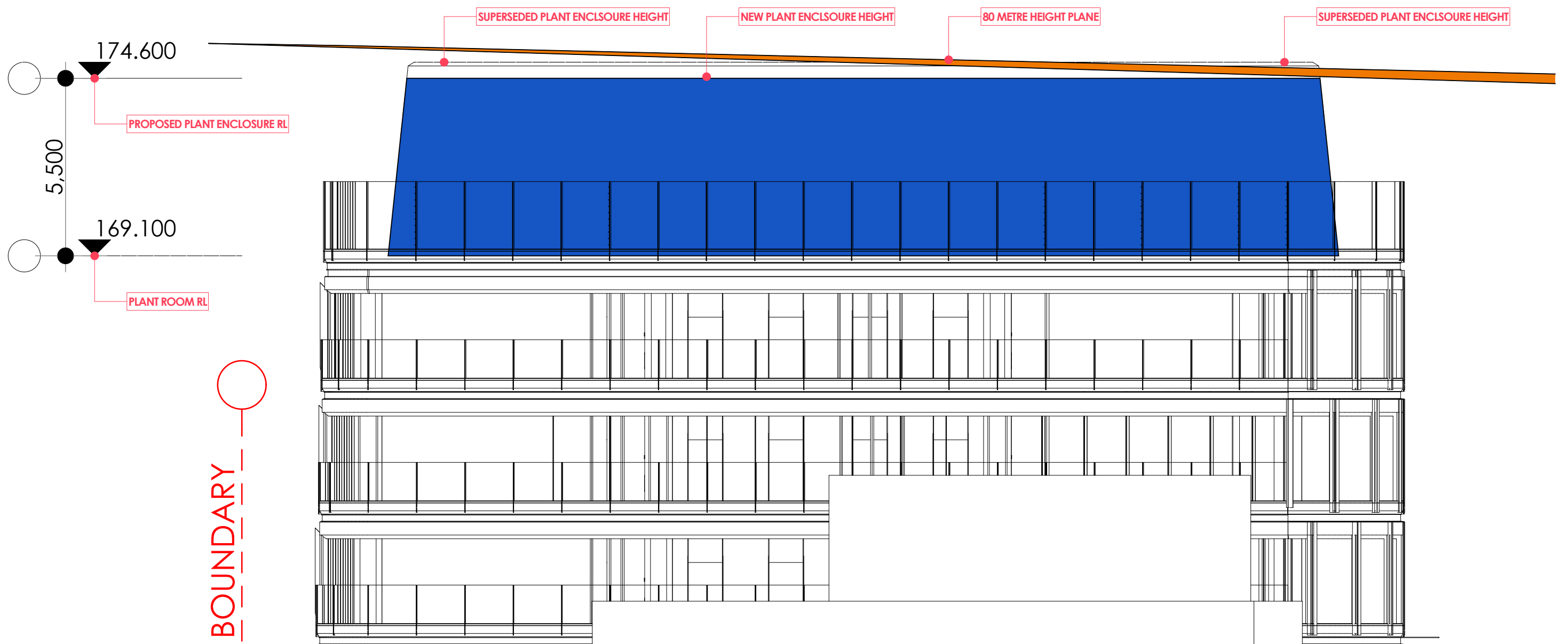
DRAWING NO.
RFI-028

ISSUE
02

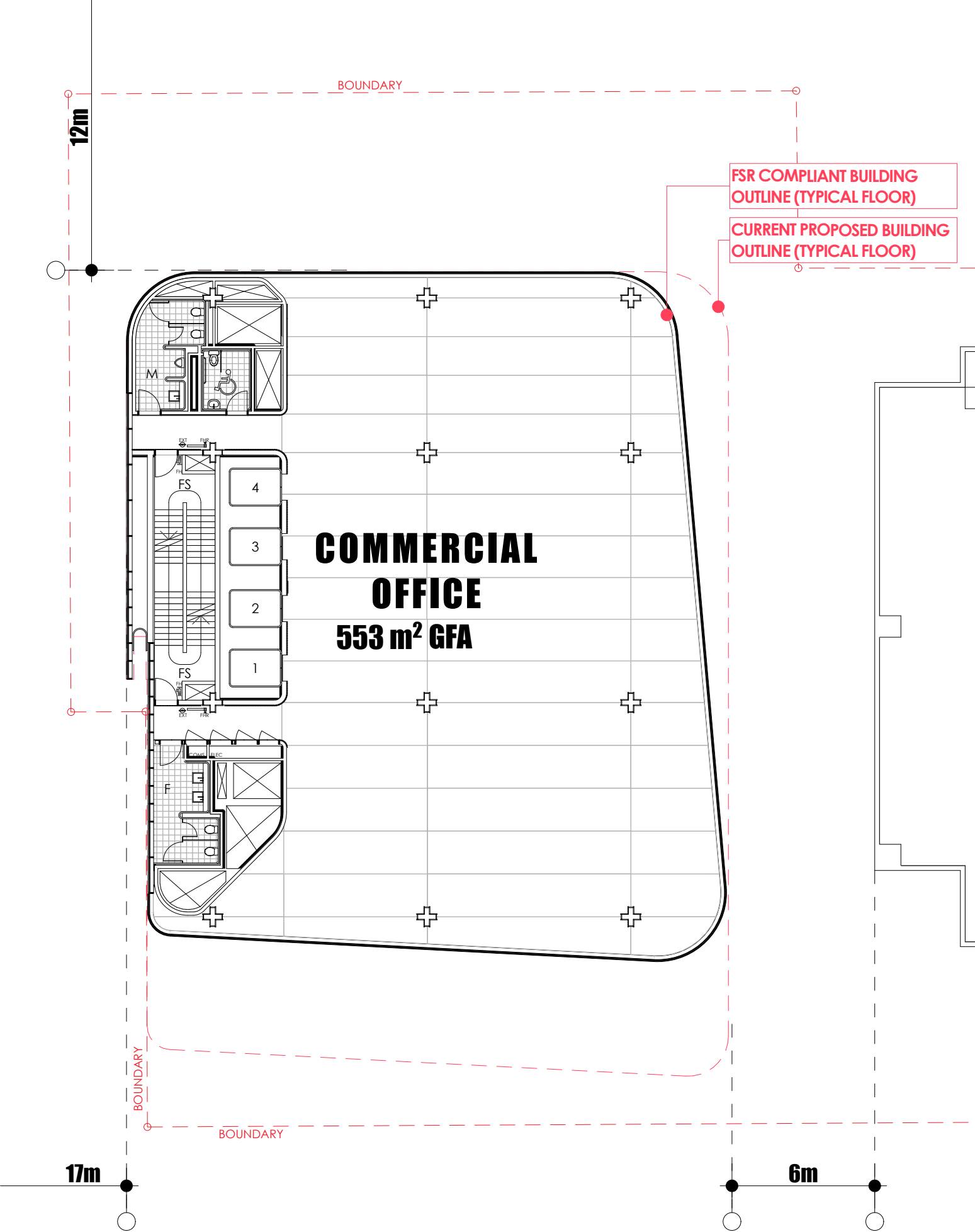
CONDITIONS OF CONSENT







ELEVATION SOUTH



FSR 8:1
site area 3006m²
total allowable GFA 24048m²
existing building GFA 16055m²
available GFA 7993m²
proposed building GFA 7990m²

allowable height (metres) 80.00
proposed height (metres) 79.48

schedule of areas

level	use	RL	floor to floor	GFA* proposed	GFA* modified
	top of plant	175.10			
16	plant	169.10	6.00	0m²	0m²
15	commercial office	165.10	4.00	539m²	418m²
14	commercial office	161.30	3.80	559m²	433m²
13	commercial office	157.50	3.80	594m²	460m²
12	commercial office	153.70	3.80	595m²	461m²
11	commercial office	149.90	3.80	713m²	553m²
10	commercial office	146.10	3.80	713m²	553m²
9	commercial office	142.30	3.80	713m²	553m²
8	commercial office	138.50	3.80	713m²	553m²
7	commercial office	134.70	3.80	713m²	553m²
6	commercial office	130.90	3.80	713m²	553m²
5	commercial office	127.10	3.80	713m²	553m²
4	commercial office	123.30	3.80	713m²	553m²
3	commercial office	119.50	3.80	713m²	553m²
2	commercial office	115.70	3.80	713m²	553m²
1	commercial office	111.90	3.80	713m²	553m²
mezzanine	plant	106.40	5.50	0m²	0m²
ground upper	office entry lobby	100.90	5.50	115m²	89m²
ground lower	parking/ plant/ loading/EOT	95.62	varies	50m²	50m²
basement 1	existing car park & plant	91.25	varies	0m²	0m²
basement 2	existing car park & plant	88.67	varies	0m²	0m²
				10295m²	7990m²

* All areas are subject to detailed design development
* All Areas are approximate only and should be read in conjunction with documentation issued



fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick + partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH

50mm ON ORIGINAL

SCALE @ A3

DRAWING

**SEBEL HOTEL PRIVACY
IMPACT SHEET 01**

PRINT DATE

14/06/2018

PROJECT NO.

21626

STATUS

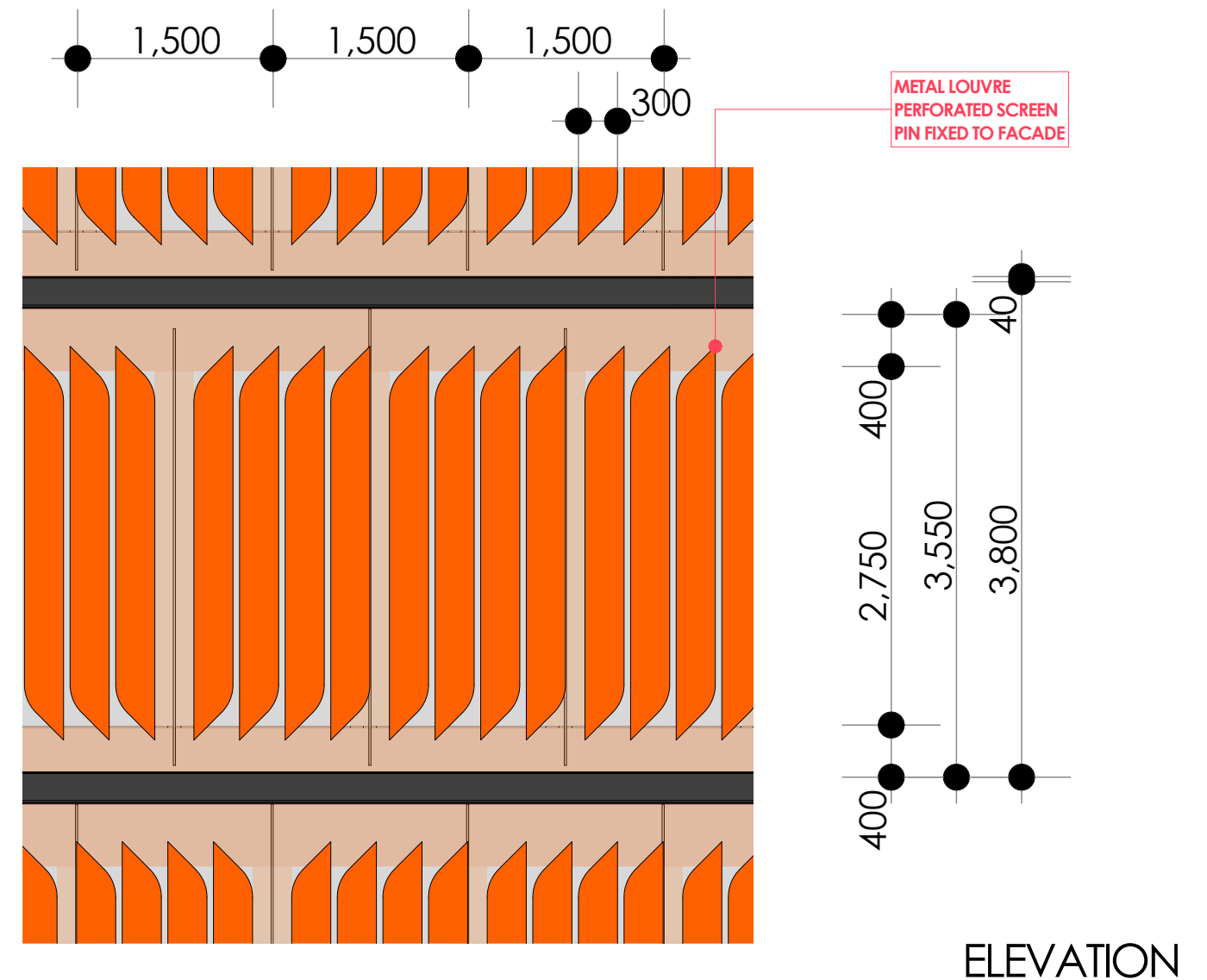
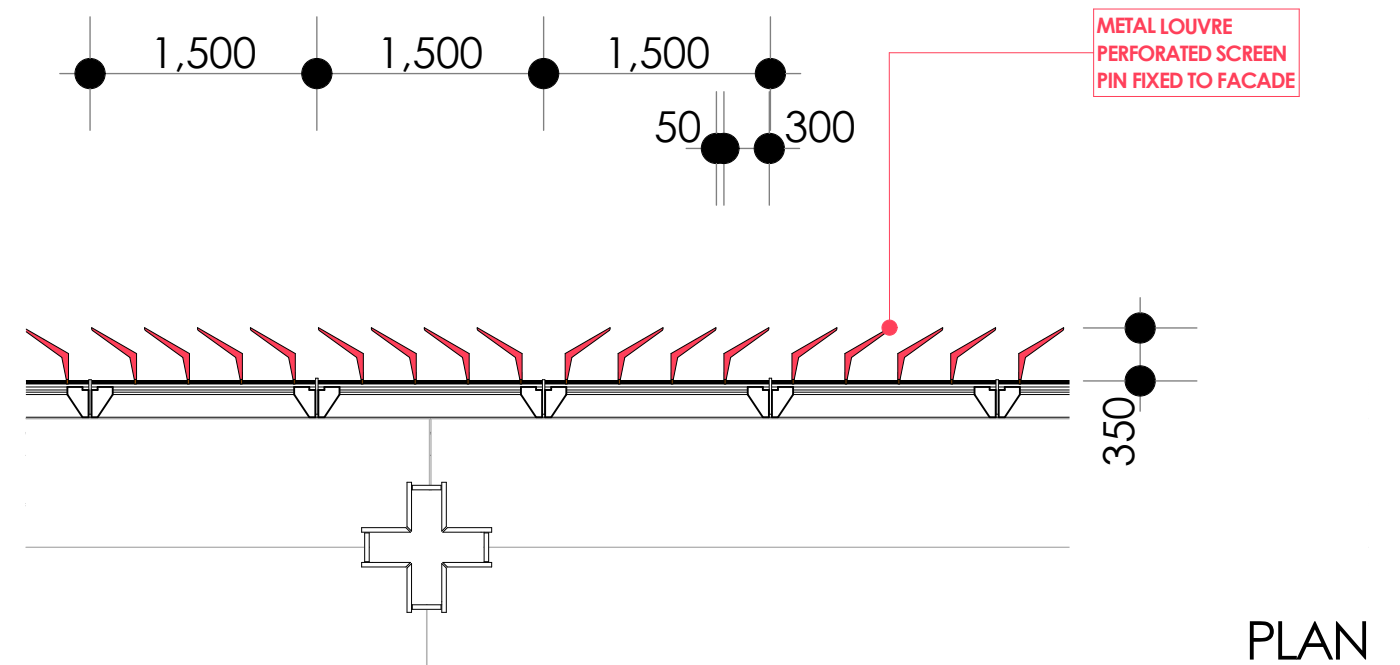
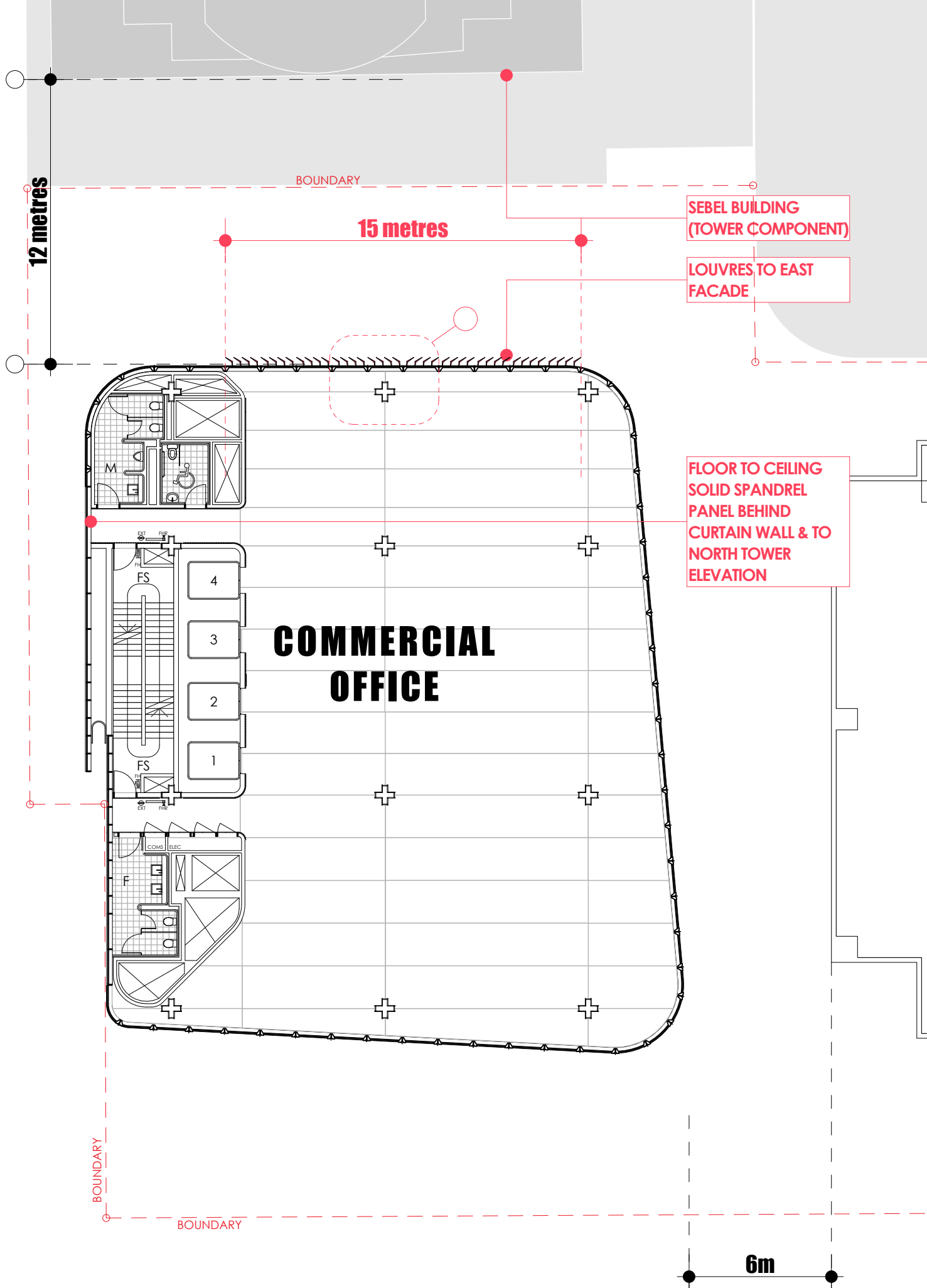
DRAWING NO.

RFI-033

ISSUE

02

CONDITIONS OF CONSENT



fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3
1:50, 1:200

50mm ON ORIGINAL

DRAWING

**SEBEL HOTEL PRIVACY
IMPACT SHEET 02**

PRINT DATE
14/06/2018

PROJECT NO.
21626
STATUS

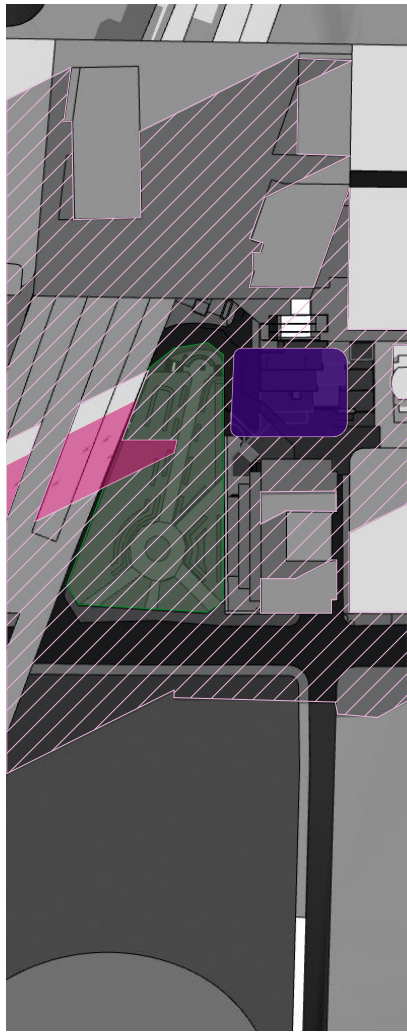
DRAWING NO.
RFI-034

ISSUE
02

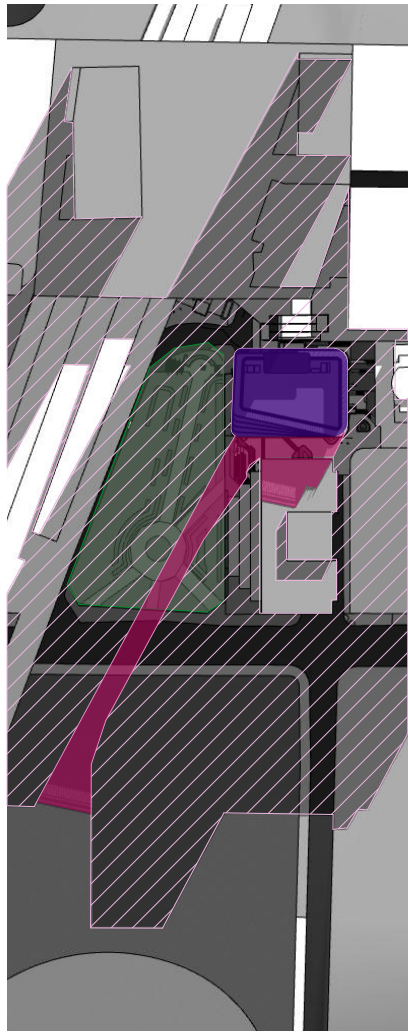
CONDITIONS OF CONSENT

LEGEND

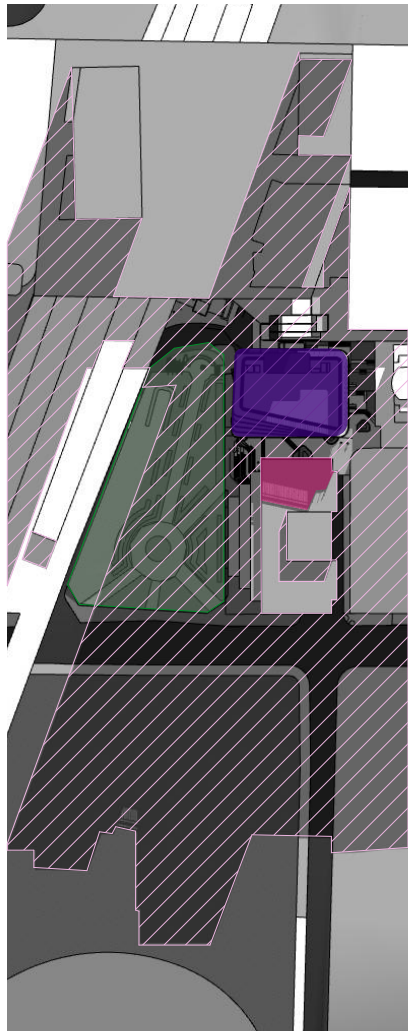
- EXISTING SHADOW
- PROPOSED SHADOW
- PROPOSED BUILDING



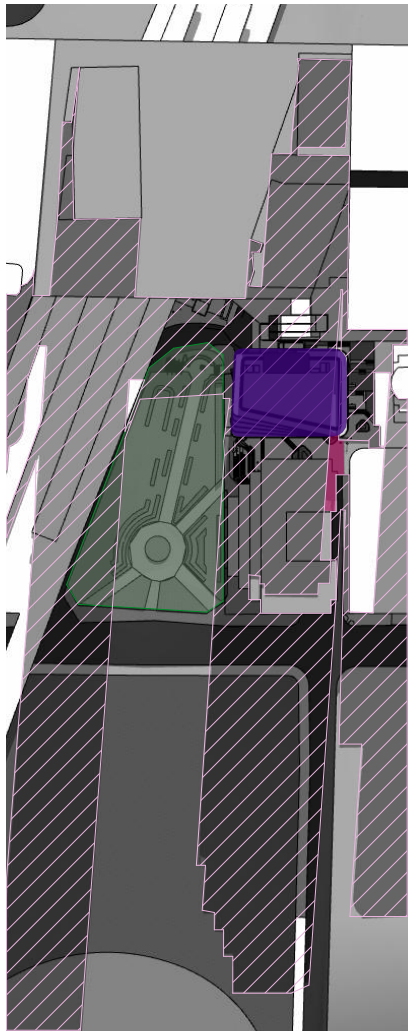
WINTER 9.00AM



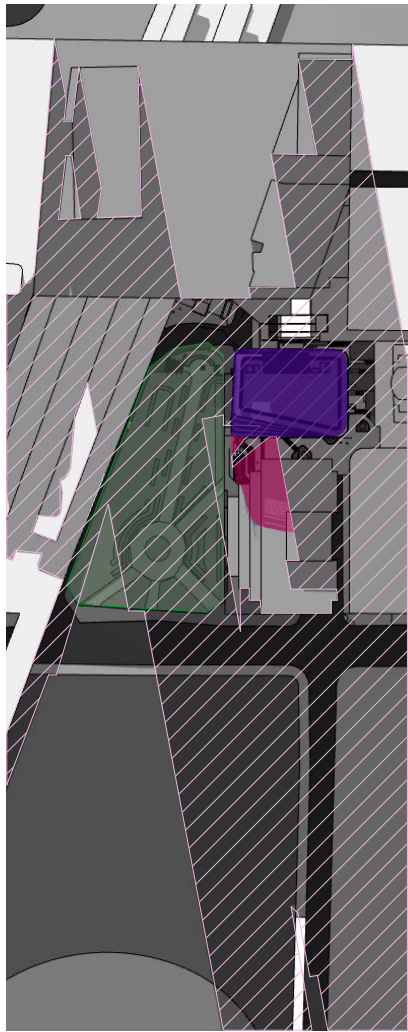
WINTER 11.30AM



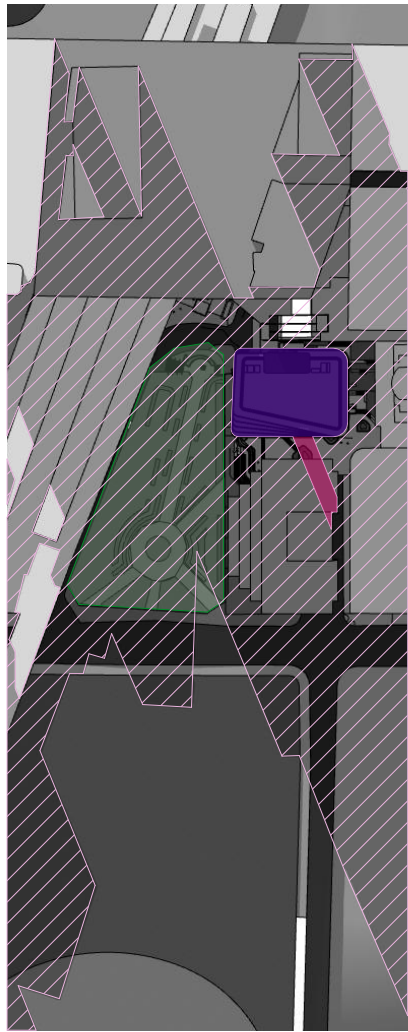
WINTER 12.00PM



WINTER 1.00PM



WINTER 2.00PM



WINTER 3.00PM

fitzpatrick+partners

© Copyright 2017
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3

NTS

50mm ON ORIGINAL

DRAWING

SHADOW ANALYSIS
WINTER SOLSTICE
21 JUNE

PRINT DATE

11/12/2017

PROJECT NO.

21626

DRAWING NO.

DA-026

ISSUE




02

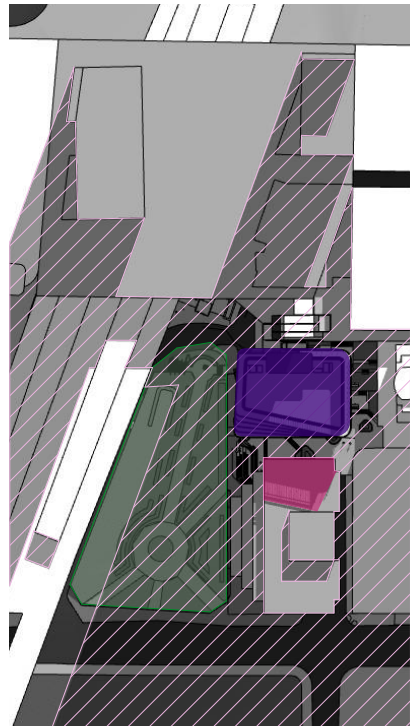
STATUS

DEVELOPMENT APPLICATION

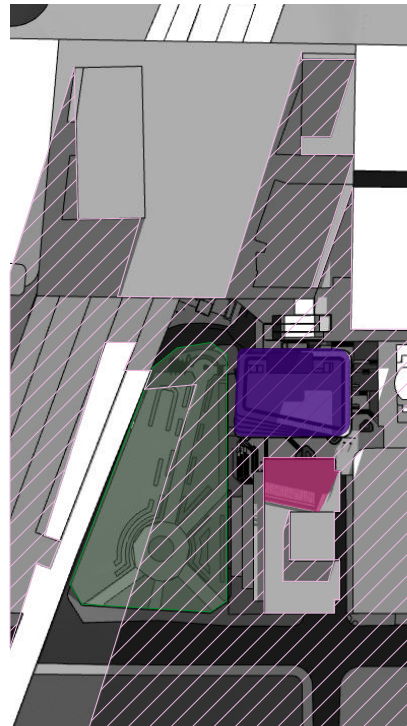
3D MODEL OF SURROUNDING CONTEXT BASED ON AVAILABLE INFORMATION

LEGEND

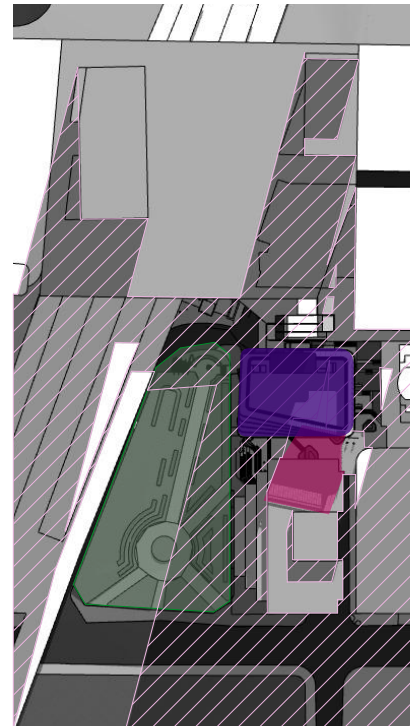
- EXISTING SHADOW 
- PROPOSED SHADOW 
- PROPOSED BUILDING 



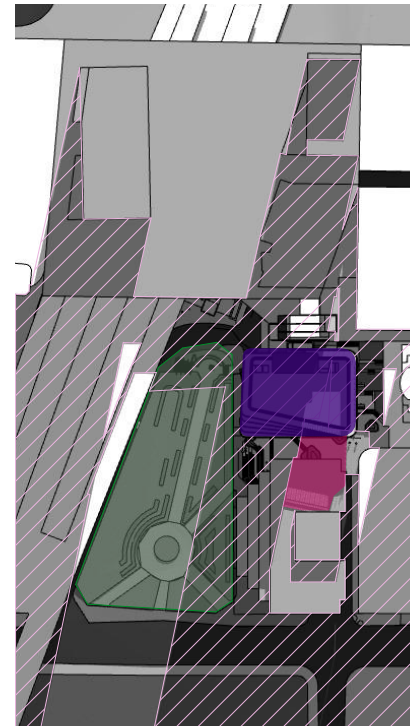
WINTER 12.00PM



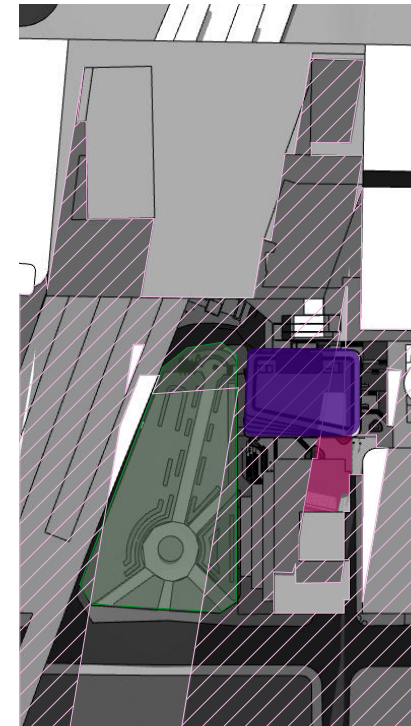
WINTER 12.10PM



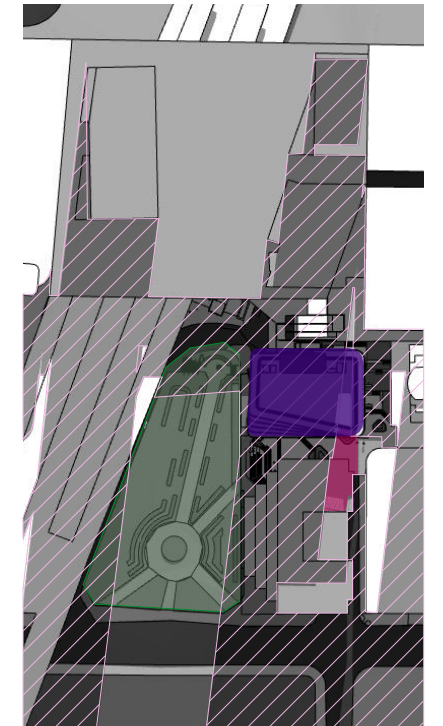
WINTER 12.20PM



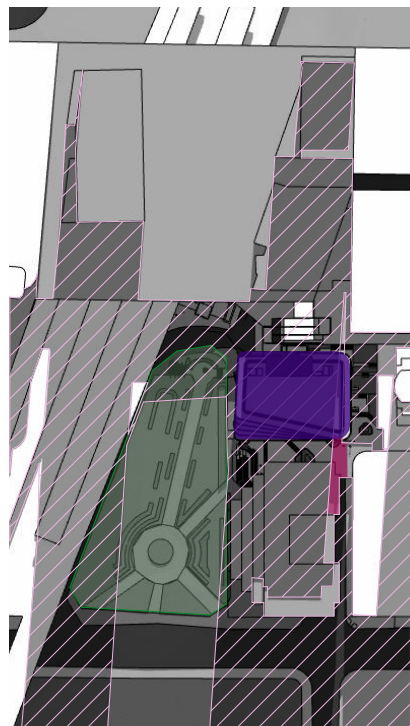
WINTER 12.30AM



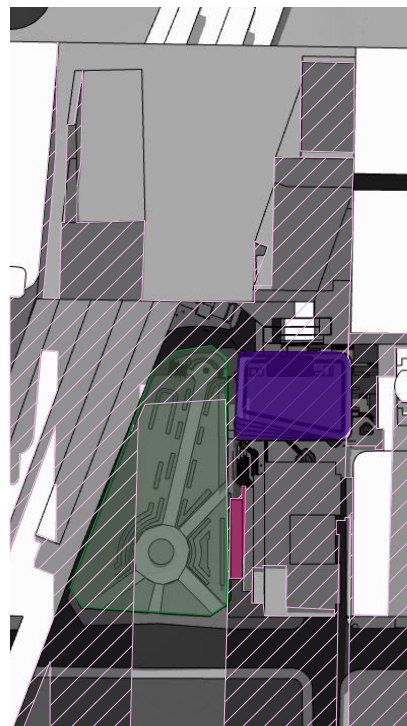
WINTER 12.40AM



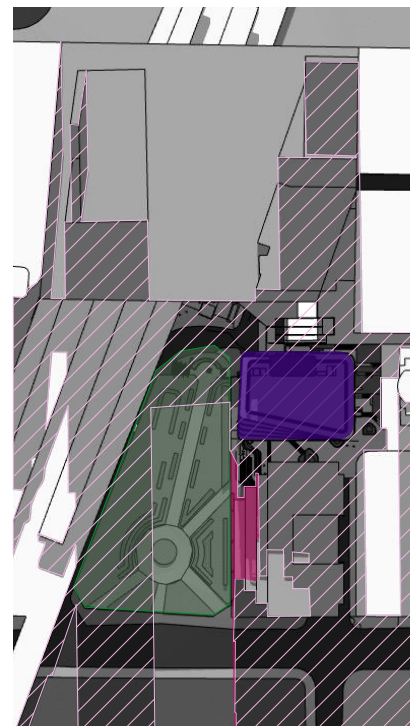
WINTER 12.50AM



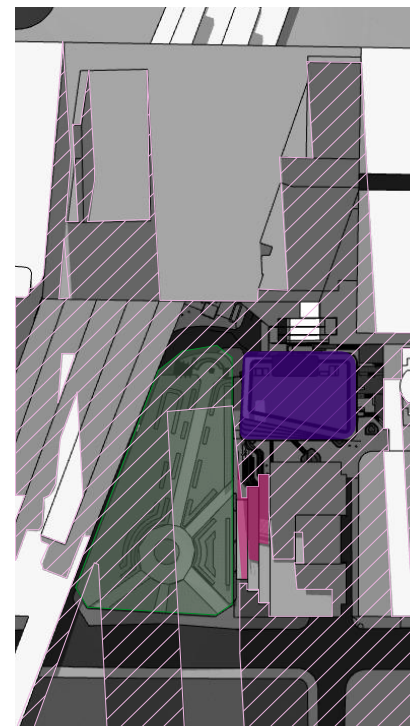
WINTER 1.00PM



WINTER 1.10PM



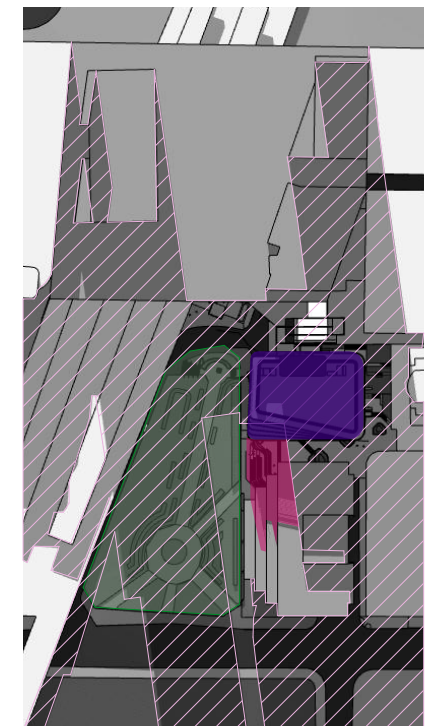
WINTER 1.20PM



WINTER 1.30PM



WINTER 1.40PM



WINTER 1.50PM

fitzpatrick+partners

© Copyright 2017
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3
NTS

50mm ON ORIGINAL

3D MODEL OF SURROUNDING CONTEXT BASED ON AVAILABLE INFORMATION

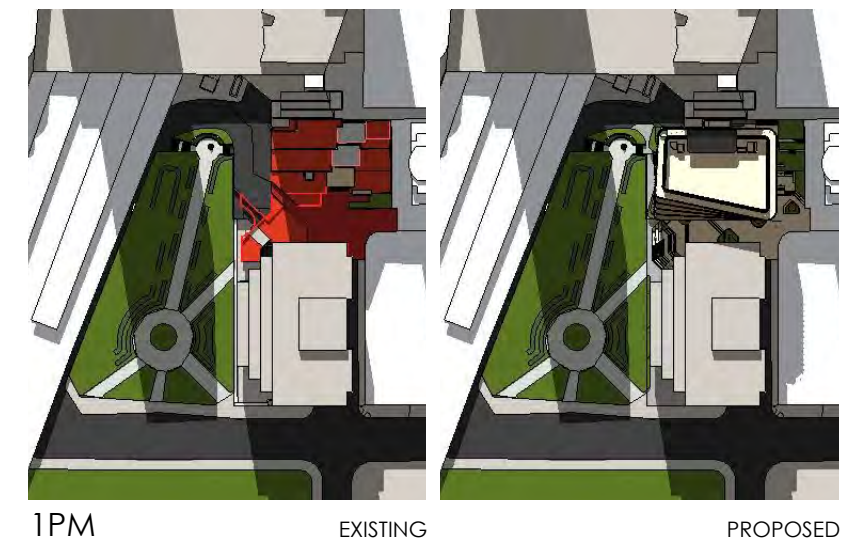
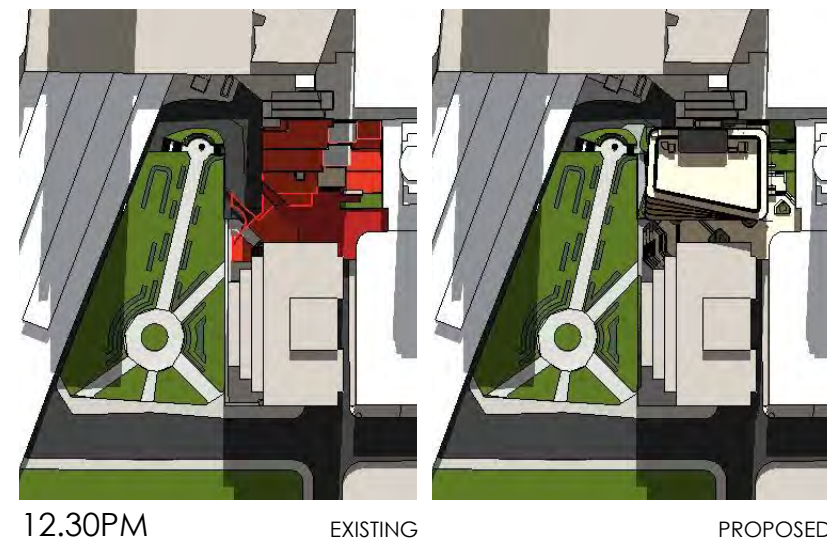
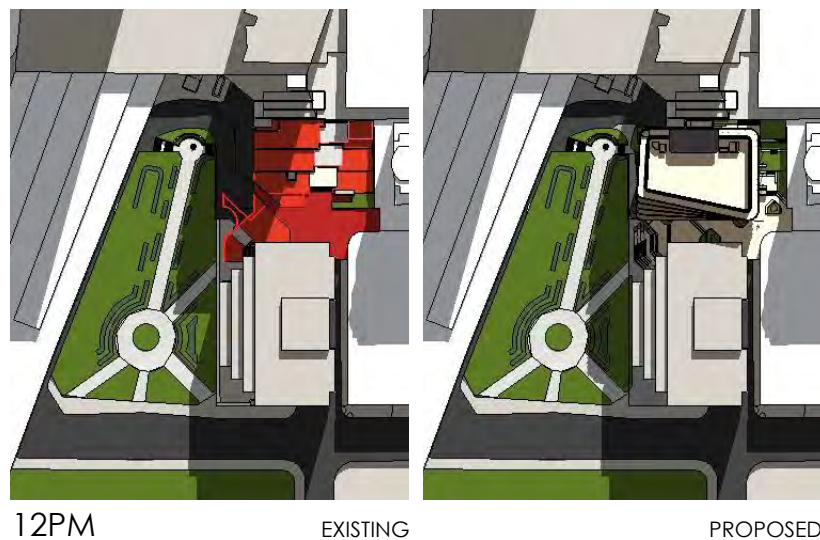
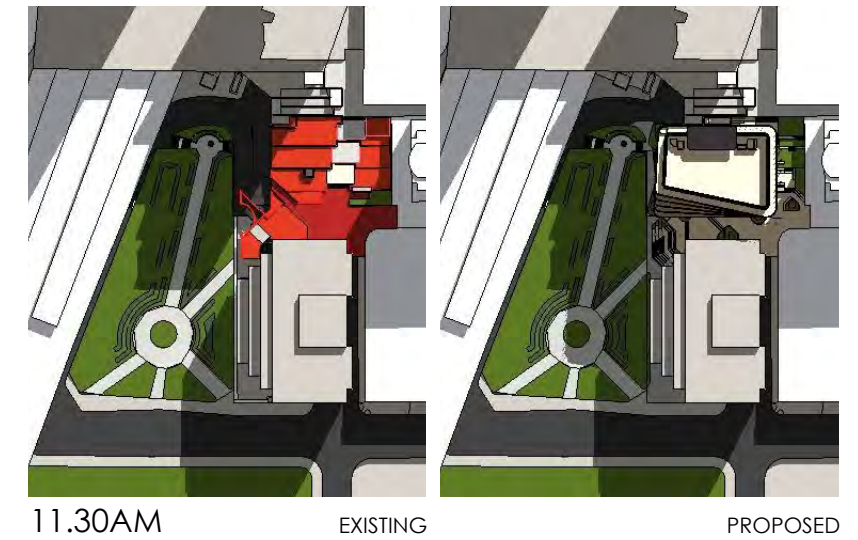
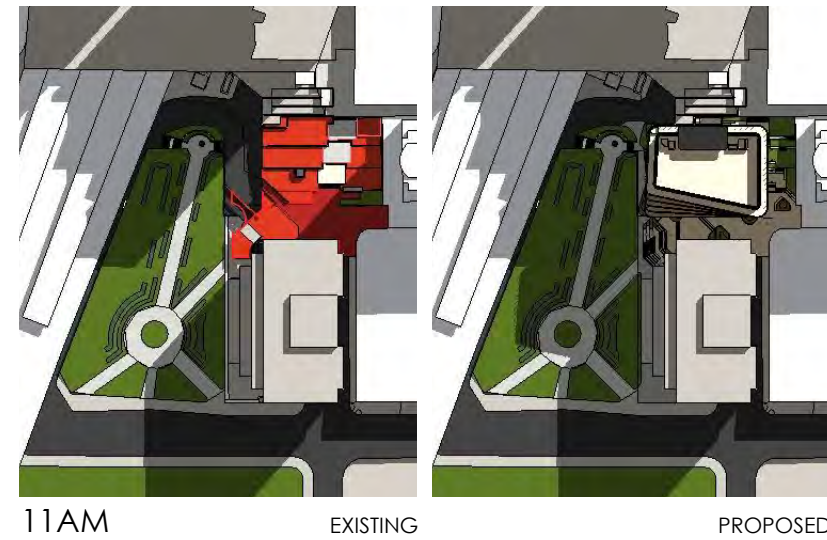
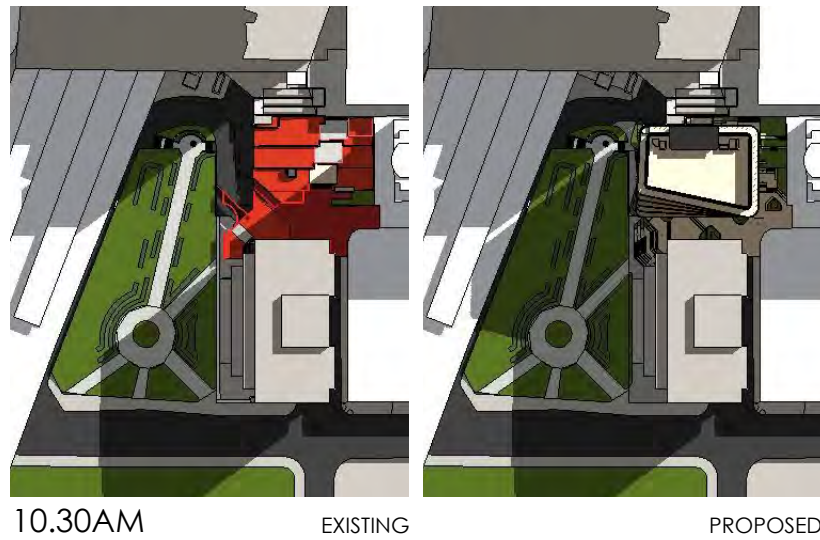
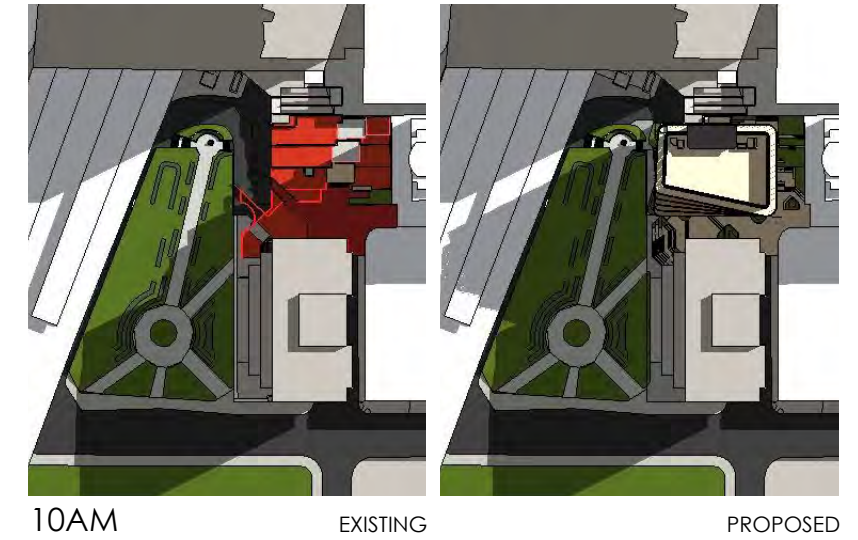
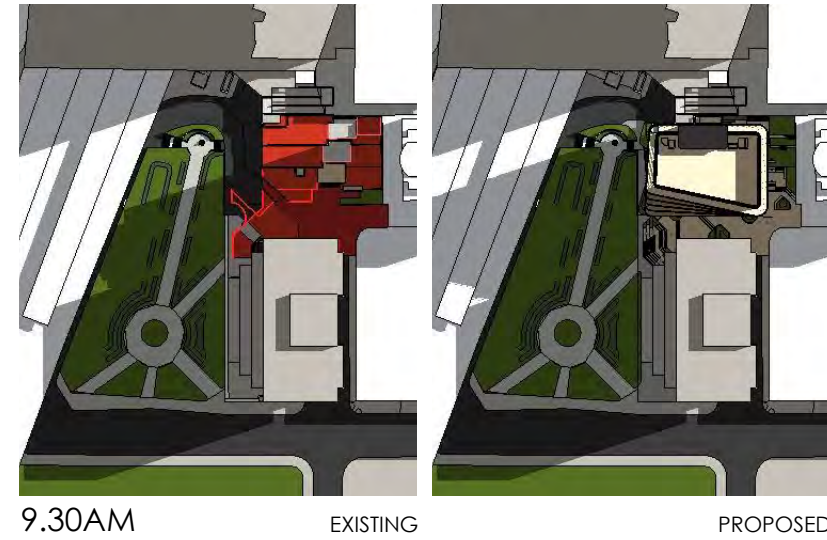
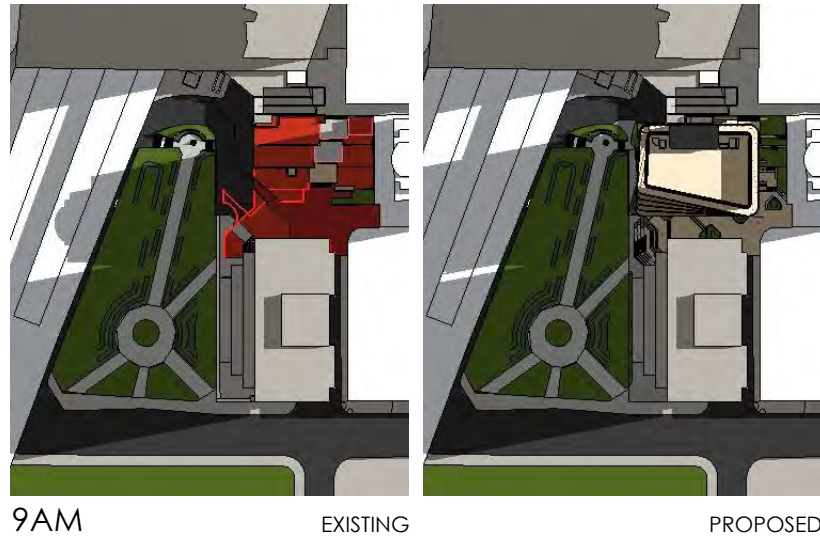
DRAWING
SHADOW ANALYSIS
WINTER SOLSTICE
21 JUNE

PRINT DATE
11/12/2017

PROJECT NO.
21626
DRAWING NO.
RFI-010
STATUS

REQUEST FOR INFORMATION

ISSUE
02



EQUINOX AUTUMN MARCH 21ST

fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3

50mm ON ORIGINAL

DRAWING
**SUN SHADOW
DIAGRAM SHEET 01**

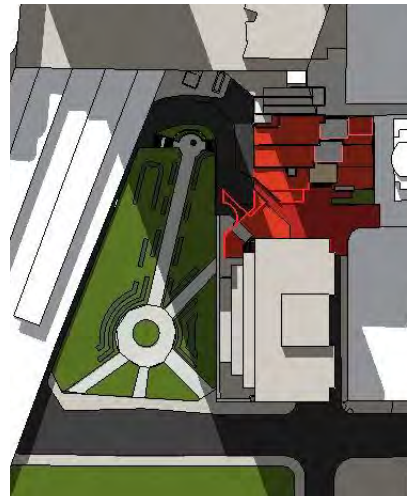
PRINT DATE
14/06/2018

PROJECT NO.
21626
STATUS

DRAWING NO.
RFI-035

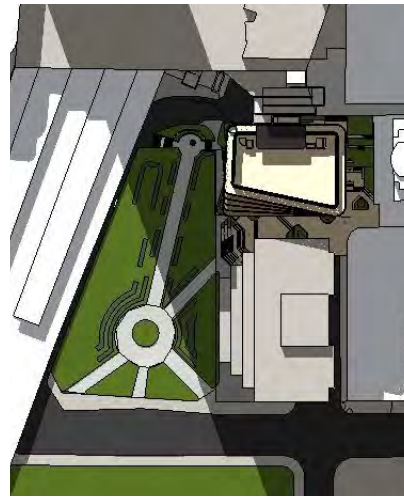
ISSUE
02

CONDITIONS OF CONSENT

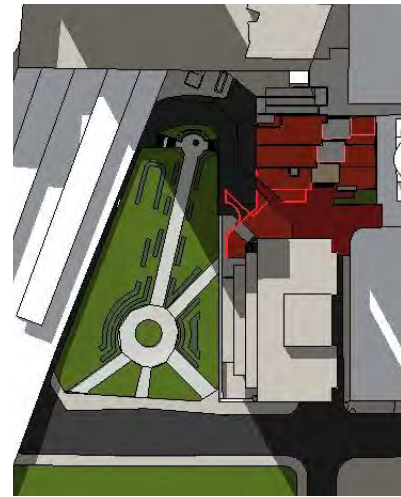


1.30PM

EXISTING

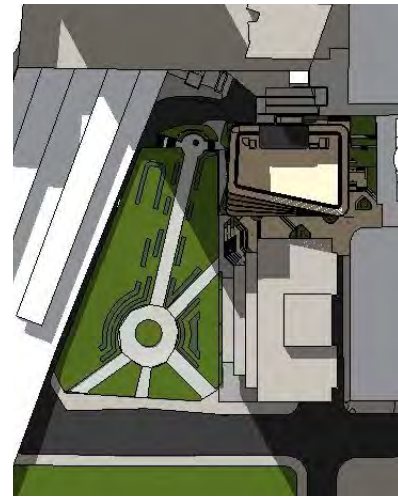


PROPOSED

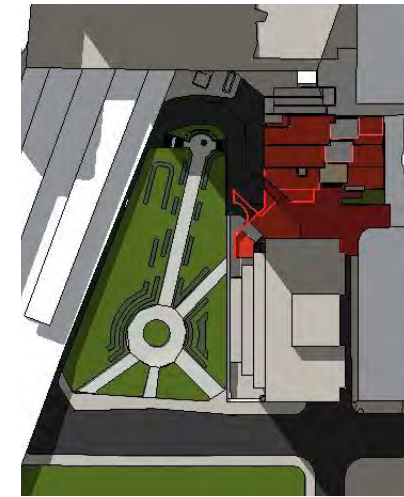


2PM

EXISTING

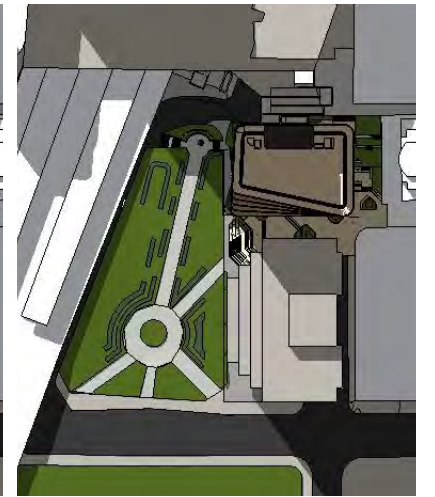


PROPOSED

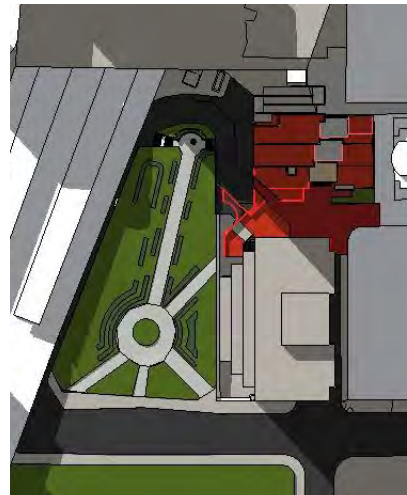


2.30PM

EXISTING

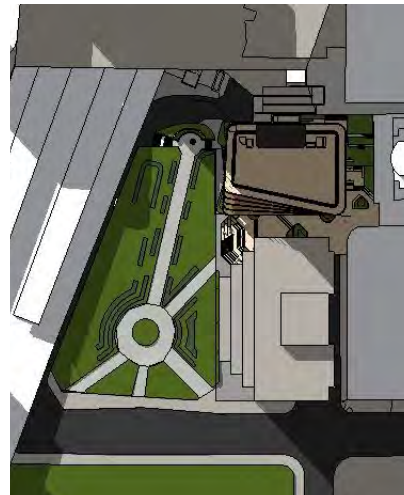


PROPOSED

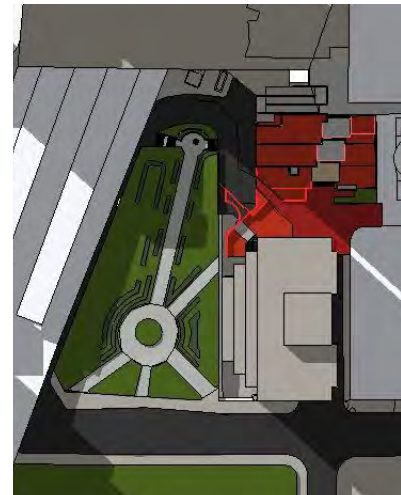


3PM

EXISTING

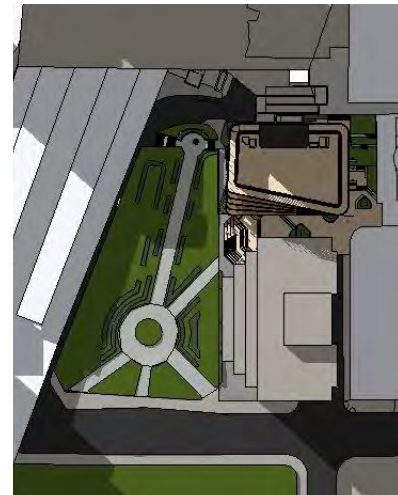


PROPOSED

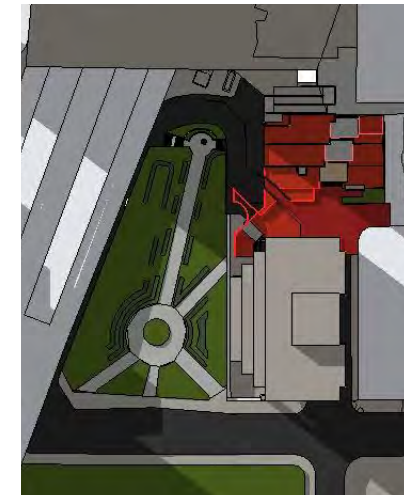


3.30PM

EXISTING

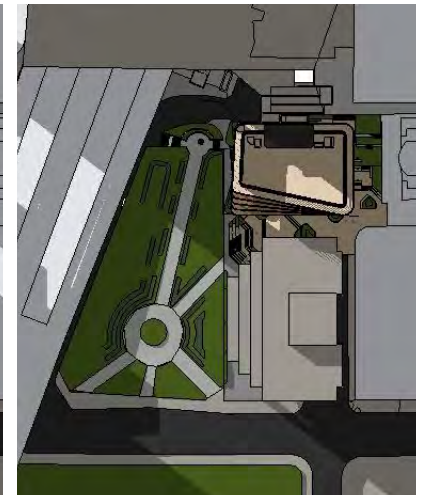


PROPOSED

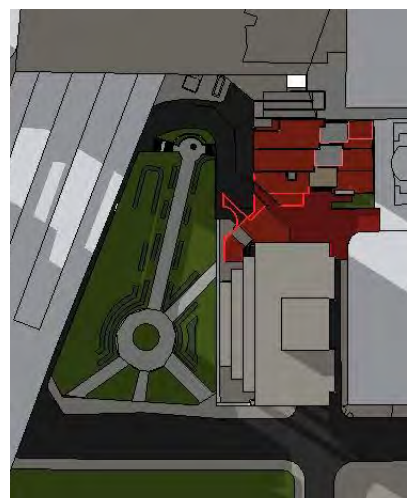


4PM

EXISTING

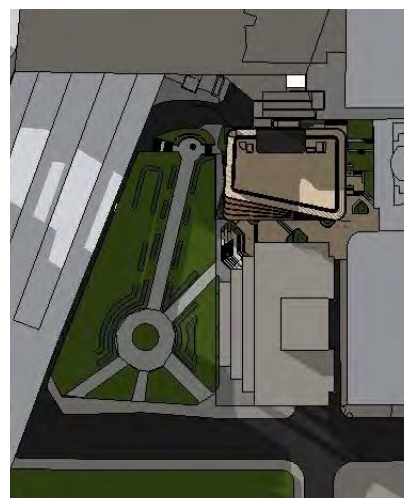


PROPOSED

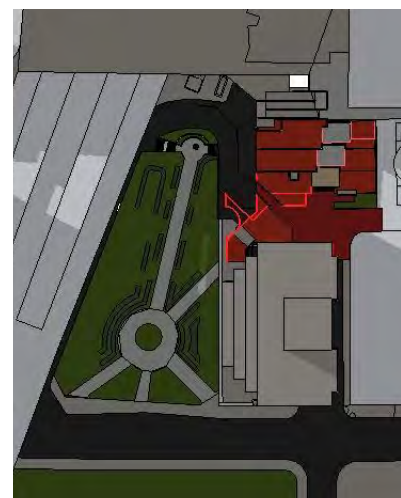


4.30PM

EXISTING

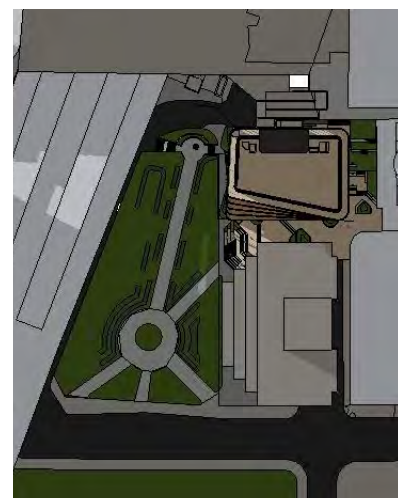


PROPOSED



5PM

EXISTING



PROPOSED

EQUINOX AUTUMN MARCH 21ST

fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3
1:50,

50mm ON ORIGINAL

DRAWING
**SUN SHADOW
DIAGRAM SHEET 02**

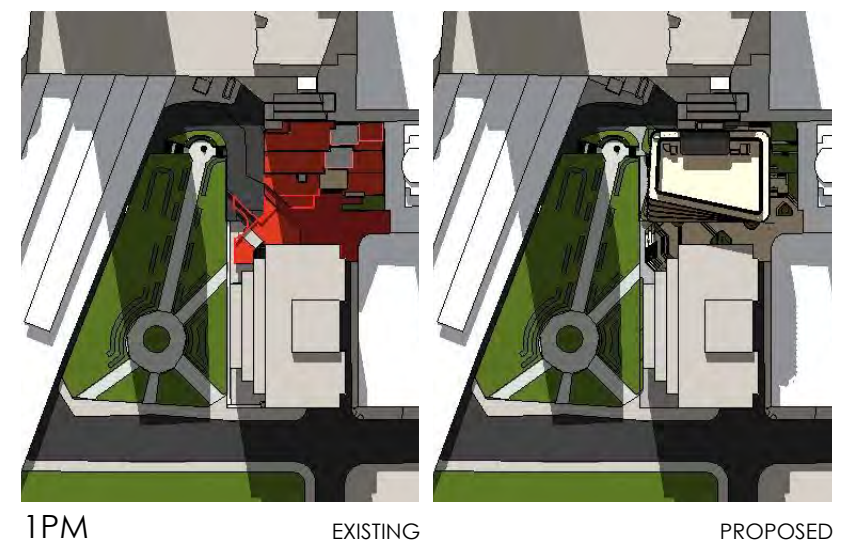
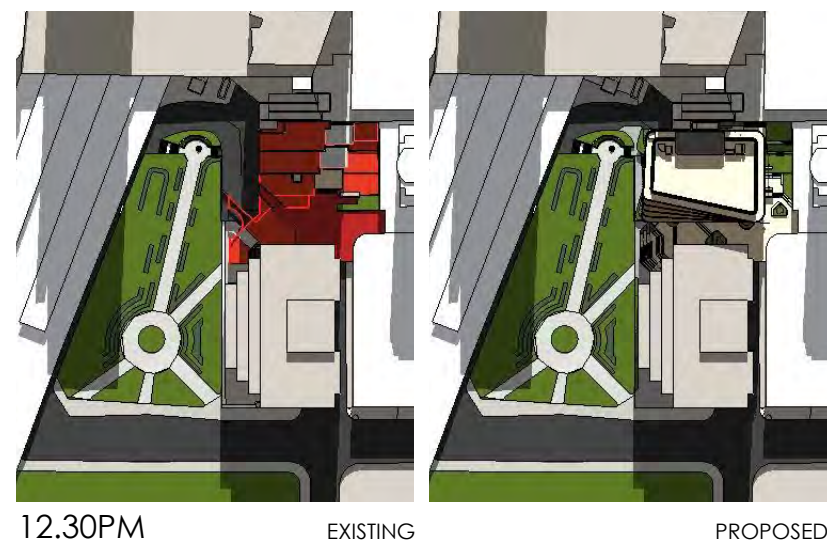
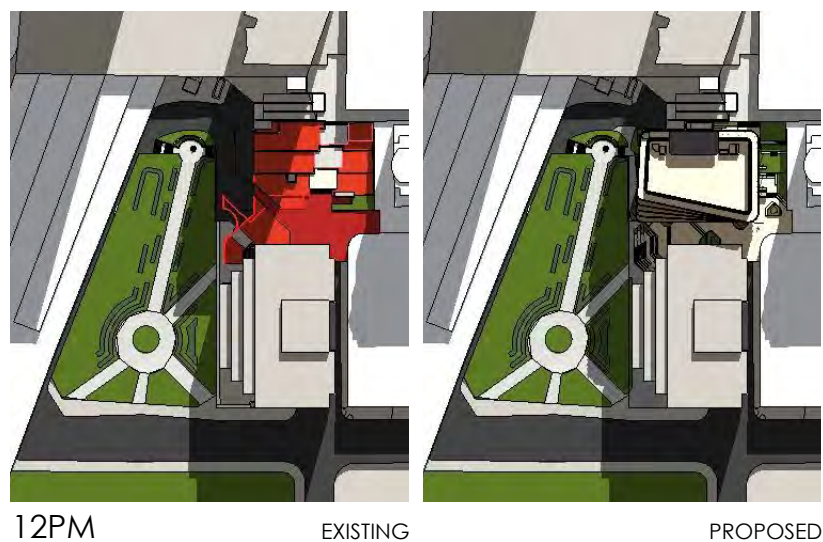
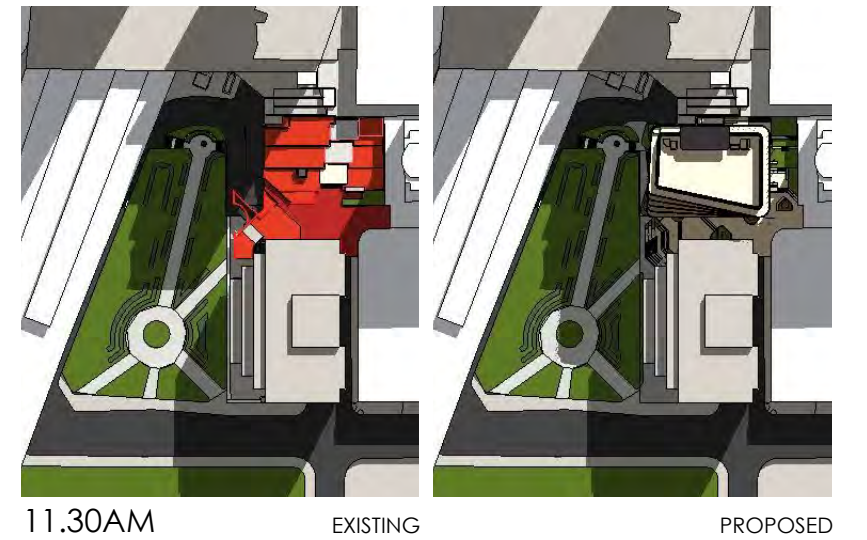
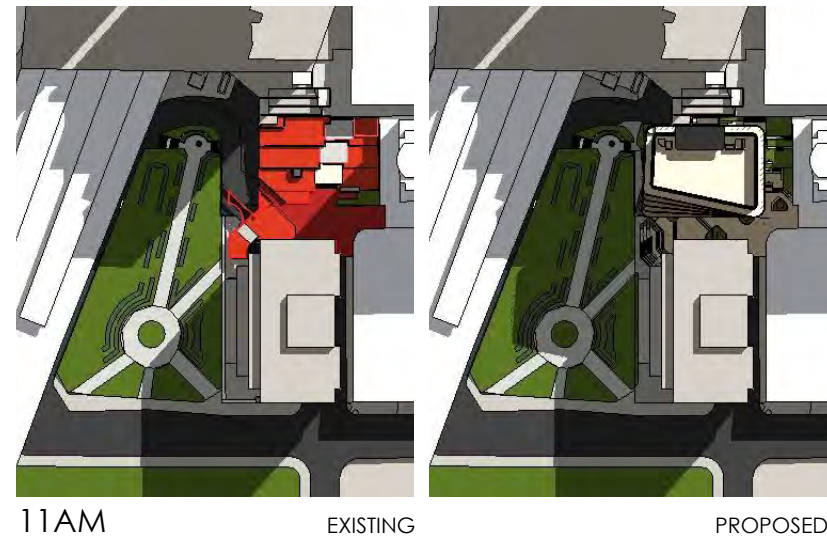
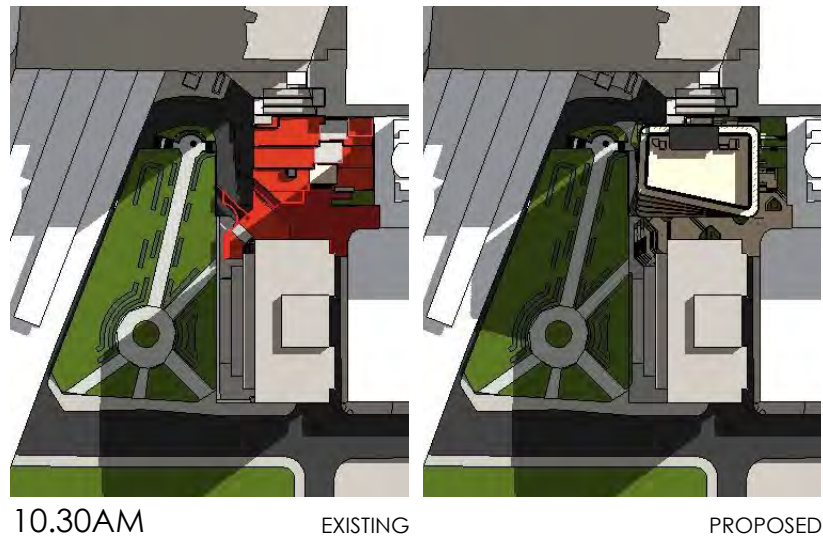
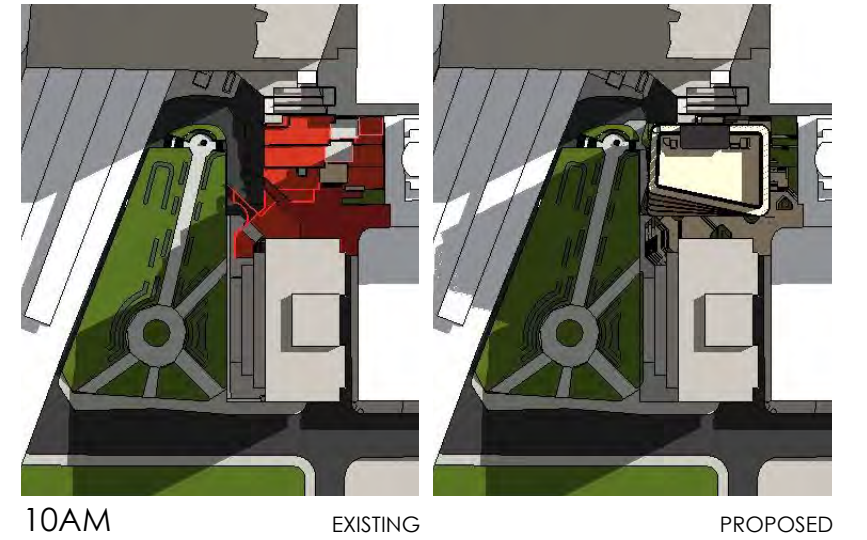
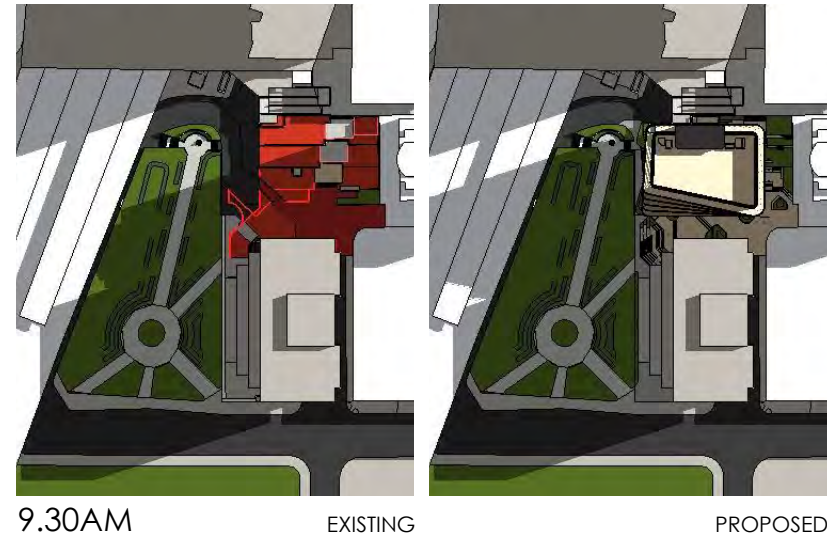
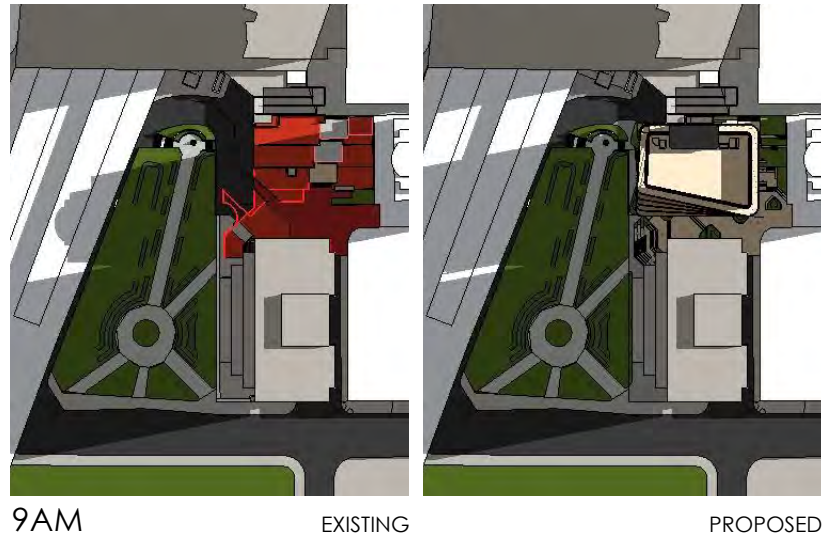
PRINT DATE
14/06/2018

PROJECT NO.
21626
STATUS

DRAWING NO.
RFI-036

ISSUE
02

CONDITIONS OF CONSENT



EQUINOX SPRING SEPTEMBER 21ST

fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3

50mm ON ORIGINAL

DRAWING
**SUN SHADOW
DIAGRAM SHEET 03**

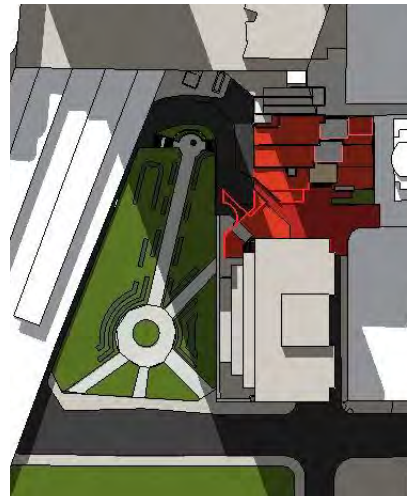
PRINT DATE
14/06/2018

PROJECT NO.
21626
STATUS

DRAWING NO.
RFI-037

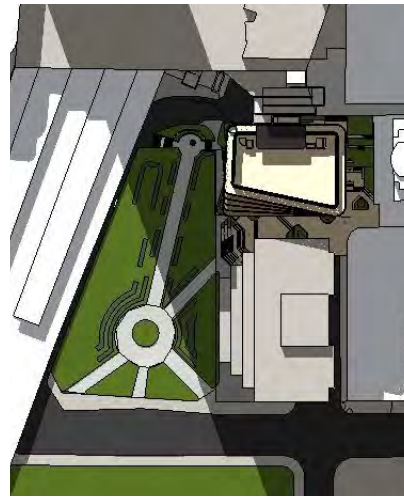
ISSUE
02

CONDITIONS OF CONSENT

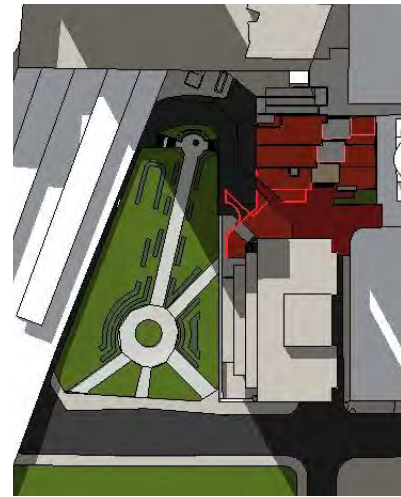


1.30PM

EXISTING

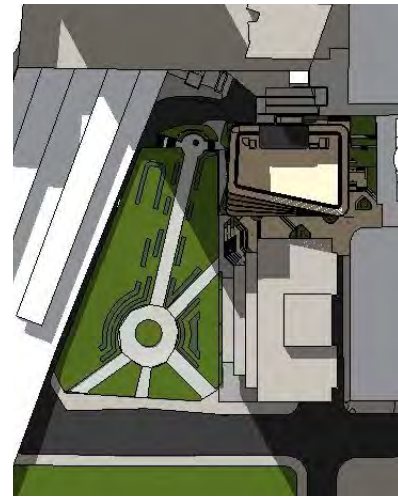


PROPOSED

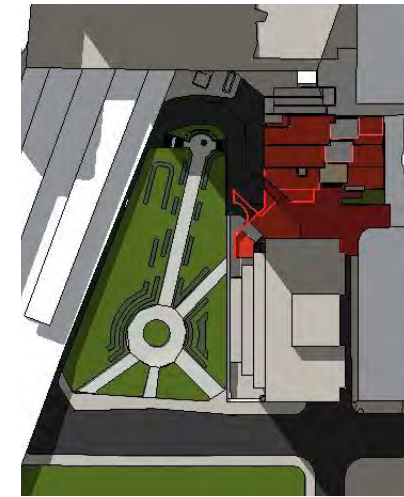


2PM

EXISTING

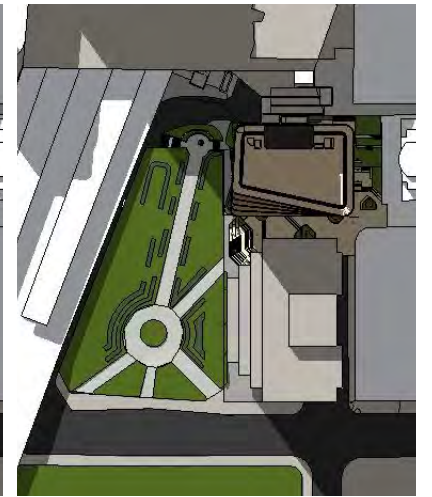


PROPOSED

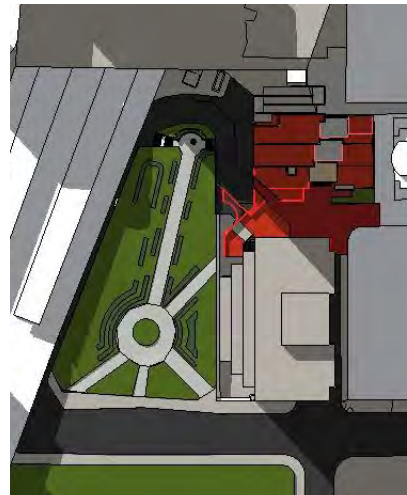


2.30PM

EXISTING

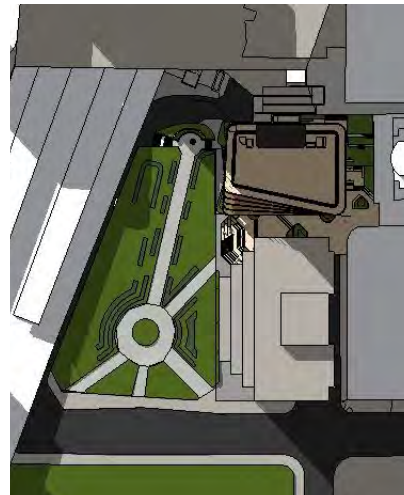


PROPOSED

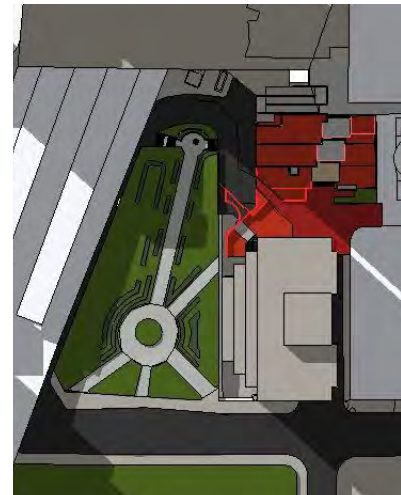


3PM

EXISTING

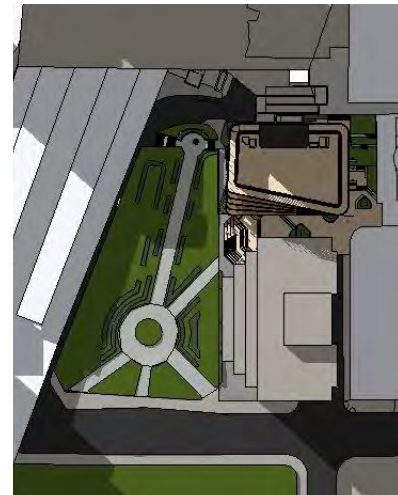


PROPOSED

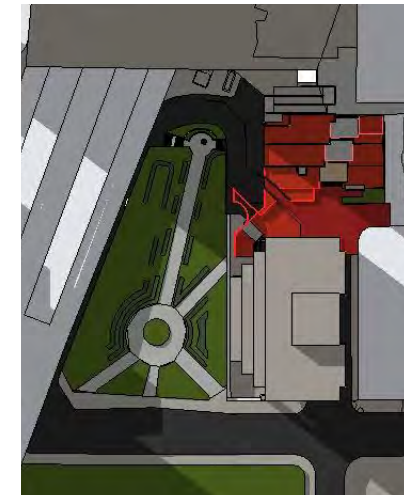


3.30PM

EXISTING

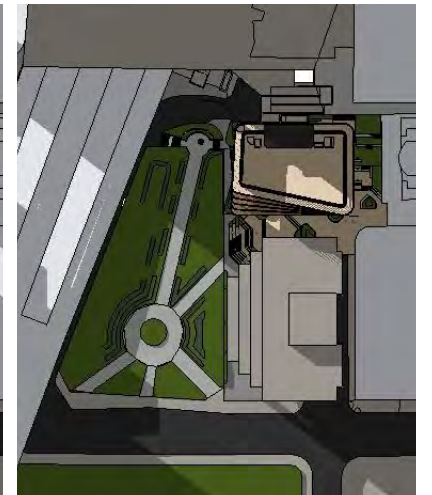


PROPOSED

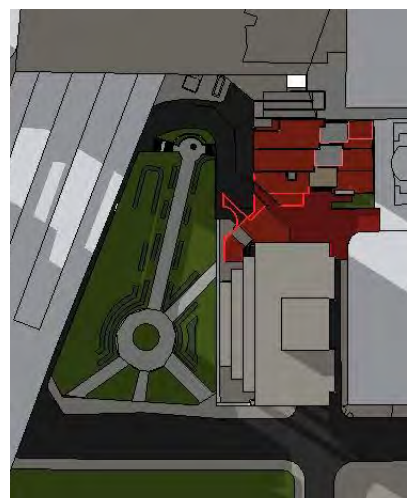


4PM

EXISTING

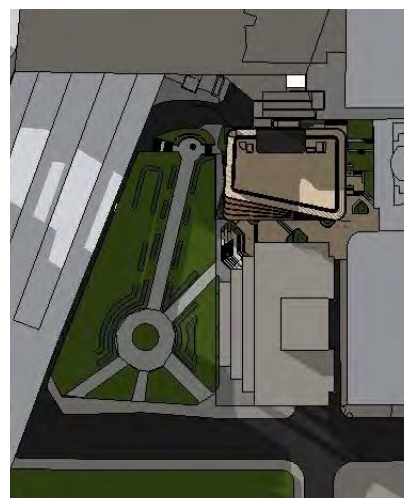


PROPOSED

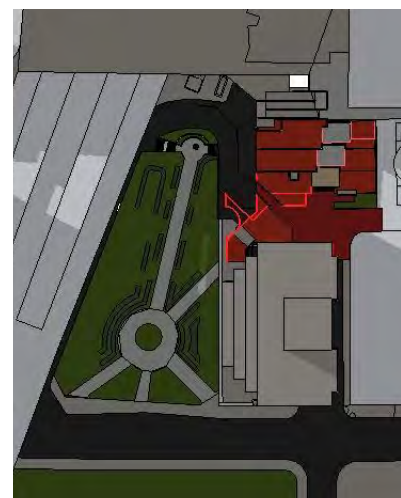


4.30PM

EXISTING

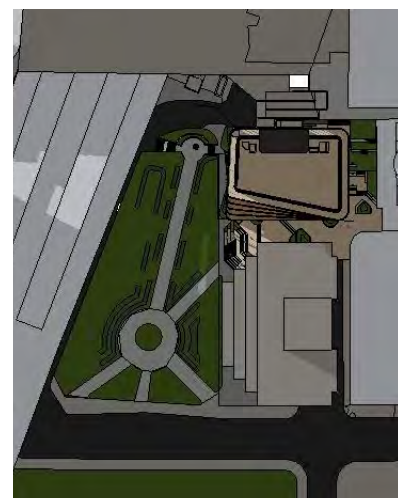


PROPOSED



5PM

EXISTING



PROPOSED

EQUINOX SPRING SEPTEMBER 21ST

fitzpatrick+partners

© Copyright 2018
p. + 61 (0)2 8274 8200 w. www.fitzpatrickpartners.com
a. LEVEL 6, 156 CLARENCE ST, SYDNEY 2000, AUSTRALIA

This drawing is issued upon the condition it is not copied, reproduced, retained or disclosed to any unauthorised person either wholly or in part without prior consent in writing of fitzpatrick+partners.
Do not scale drawings. Check dimensions before commencing work.
Drawings show design intent only. Shop drawings are to be provided for approval prior to construction or manufacture.
Inconsistencies are to be reported to fitzpatrick+partners.

CLIENT

CorVal

PROJECT

67 ALBERT AVENUE
CHATSWOOD NSW

PROJECT NORTH



SCALE @ A3

50mm ON ORIGINAL

DRAWING
**SUN SHADOW
DIAGRAM SHEET 04**

PRINT DATE
14/06/2018

PROJECT NO.
21626
STATUS

DRAWING NO.
RFI-038

ISSUE
02

CONDITIONS OF CONSENT



HFW Australia
1 Bligh Street
Sydney NSW 2000
Australia

T +61 (0)2 9320 4600
F +61 (0)2 9320 4666

hfw.com

Philippa Houghton
CorVal Partners Limited
Level 13, 9 Hunter Street
SYDNEY NSW 2017

Your Ref: Philippa Houghton **Direct Line:** +61 (0)2 9320 4647 **Date:** 29 November 2017
Our Ref: THW:SML:81541/7 **Email:** thomas.wait@hfw.com

Dear Philippa

Development Application Advice
Property: 67 Albert Avenue, Chatswood

We have completed our review of auto consol 8634-245 (**Title**) and enclose a summary of the Registered Encumbrances, Easements and Interests on Title together with details of the parties benefited and burdened (**Schedule**).

Over time, the original parties and lots benefited and burdened have changed (due to transfers of land or subdivisions). To simplify things, we have highlighted in yellow in the Schedule those parties who are currently affected by each notation and included a summary at the bottom of each notation clearly specifying where consent is required.

We further comment on the relevant registered encumbrances, easements and interests as follows:

1. **Item 7: Right of footway (W):**

Any dealing with this easement will require the consent of The Council of the Municipality of Willoughby.

2. **Item 8: Easement for support (E):**

Any dealing with this easement will require the consent of The Council of the Municipality of Willoughby (whom we understand to be the owner of both Dalton Street and Orchard Road).

3. **Item 9: Easement for drainage over existing line of pipes (F):**

Any dealing with this easement will require the consent of each party benefited and burdened (listed below) as well as any mortgagee or lessee who has a registered interest in the land burdened and benefited being:

- The owners of Dalton Street
 - 24/868835 - The Council of the City of Willoughby
 - Lots 1-203 & CP in SP54893 - The Owners – Strata Plan No. 54893
 - 129/1111762 & 130/1111762 - Cessleigh Pty Limited
 - 103/1094273 - Transport for NSW and Rail Corporation New South Wales
 - 104/1094273 - The Council of the City of Willoughby
 - 105/1094273 - Venus Chatswood Pty Limited
 - 109/1094273 - Rail Corporation NSW
 - 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677
4. Item 10: **Easement for standby (N):**
- This easement no longer benefits any party. Accordingly, an application can now be made to Land Registry Services (formally known as Land & Property Information) to have it removed from Title.
5. Item 11: **Easement to drain sewage over existing line of pipes (P):**
- Any dealing with this easement will require the consent of the State Rail Authority of NSW and the Water Board (Sydney Water).
6. Item 12: **Easement for electricity purposes (S):**
- Any dealing with this easement will require the consent of Sydney County Council whom we understand is now Ausgrid.
7. Item 14 (**Easement for overhanging awning (MB)**):
- You should make enquiries as to whether the overhanging awning still exists. If not, you should be seeking a release from The Council of the City of Willoughby and The Owners – Strata Plan No. 548963 for the removal of the easement from Title.
8. Item 15 (**Easement for encroaching structures to remain (MA)**):
- You should make enquiries as to whether the encroaching structures still exists. If not, you should be seeking a release from The Council of the City of Willoughby and The Owners – Strata Plan No. 548963 for the removal of the easement from Title.

9. Item 16 (**Right of Footway (WW)**):

Any dealing with this easement will require the consent of each party benefited (listed below) as well as any mortgagee or lessee who has a registered interest in the land burdened and benefited being:

- 103/1094273 - Transport for NSW and Rail Corporation New South Wales
- 105/1094273 - Venus Chatswood Pty Limited
- 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677

10. Item 17 (**Easement for support and encroachment (DC)**):

We note that:

- (a) a number of lots originally benefited have released this easement; and
- (b) you mentioned that there is a garden now where the easements is situated.

You should therefore make enquiries as to whether the easement for support is still required or whether the encroachment still exists. If not, you should be seeking a release from Venus Chatswood Pty Limited and 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677 for the removal of the easement from Title.

11. Item 18 (**Right of carriageway (ROC30)**):

Any dealing with this easement will require the consent of each party benefited (listed below) as well as any mortgagee or lessee who has a registered interest in the land burdened and benefited being:

- 105/1094273 – Venus Chatswood Pty Limited
- 109/1094273 - Rail Corporation New South Wales
- 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677

NEXT STEPS

At this stage we have ascertained what easements need to be varied or extinguished as a result of the proposed development. However, the most appropriate time for further investigating and implementing the required actions to these easements is following determination of the development application, when the impacts can be fully quantified. Once we have confirmed the easements affected and any required amendments to the easements, we will then be able to provide you with the appropriate advice in respect of

the requirements of NSW Land Registry Services. At this stage, there is nothing preventing Council's determination of this application separately from determining the required actions in respect of the easements.

However, as a guide we note the following requirements which are applicable in respect of the proposed development:

1. an easement may be released by means of an appropriate dealing (Transfer Releasing Easement, Request etc) registered in NSW Land Registry Services;
2. the Registrar General may cancel an easement recorded in the Register on the basis that it has been abandoned. An easement may be treated as abandoned if the Registrar General is satisfied that it has not been used for at least 20 years;
3. the terms or the site of an easement may be varied. A variation of easement dealing is prepared and lodged for registration in NSW Land Registry Services. It should contain the terms of the variation and be signed by the registered proprietors of the land benefited and burdened by the easement.

If you require any further information please do not hesitate to contact us.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'THOMAS WAIT'.

THOMAS WAIT
Partner
HFW Australia

AUTO CONSOL: 8634-245
SCHEDULE OF PARCELS TITLE DIAGRAM
LOT 19 IN DP790323
LOT 135 IN DP1111762

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 1.	Reservations and conditions in the crown grant(s) within the Part(s) shown so indicated in the title diagram			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 2.	Land excludes minerals as regards the parts of Lot 135 shown in DP1111762 - see S700000A			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 3.	DP790323 DP1111762 the land within described is limited to strata in the manner indicated in DP790323 & DP1111762			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 4.	Land above described is road as regards Lot 19 in DP790323 vested in the council by sec. 232 Local Government Act 1919			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 5.	DP643247 Easement for support (D) appurtenant to Lot 19 in DP790323			Easement benefits Lot 19

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 6.	DP643247 Easement for support (E) affecting the part of Lot 19 DP790323 shown so burdened in DP643247	Lot 19	Road benefited - Orchard Road (between the 2 parts of 19/DP790323)	The location of the easements will not impact on the development as the location falls within the footprint of the existing 67 Albert building.

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 7.	DP642723 Right of footway (W) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram	1/790011 then 133/1111762 135/1111762 The Council of the City of Willoughby – 67 Albert Ave then 101/1094273 Rail Corporation New South Wales* 102/1094273 103/1094273 Transport for NSW and Rail Corporation New South Wales* 104/1094273 Willoughby City Council* 105/1094273 Venus Chatswood Pty Limited* 106/1094273 107/1094273 108/1094273 109/1094273	The Council of the Municipality of Willoughby	The easement will impact on the development as the easement falls within Lot 135 of DP1111762. This easement allows full, free and unimpeded right for the Council and any person authorised by it to go pass and repass on foot at all times and for all purposes.

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		<p>Rail Corporation New South Wales* 110/1094273 Railway Corporation New South Wales* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677* <i>*No longer burdened</i></p>		
		<p>Lots 3, 5 and 6 in DP790011 then Lots 12-16 in DP 817116 then Lots 129 & 130 in DP1111762 Cessleigh Pty Limited* <i>*No longer burdened</i></p>		

		20 and 21 in DP790323 then Lots 12-16 in DP 817116 then Lots 129 & 130 in DP1111762 Cessleigh Pty Limited* <i>*No longer burdened</i>		
	(W) requires the consent of: The Council of the Municipality of Willoughby			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 8.	<p>DP790011</p> <p>Easement for support (E) (limited in stratum) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram</p>	<p>1/790011</p> <p>then</p> <p>133/1111762</p> <p>135/1111762</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p> <p>then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited*</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p>	<p>Road benefited - Dalton Street and Orchard Road.</p>	<p>The easement will impact on the development as the easement falls within Lot 135 of DP1111762.</p> <p>This easement allows full and free right for every person who is at any time entitled to an estate or interest in possession in the lot benefited to be erected upon the lot benefited or any part thereof to be supported vertically and horizontally by the soil of the lot burdened or any part thereof and by all pillars, beams, columns, slabs and walls wherever standing for the time being upon, above or across such soil of the lot burdened.</p> <p>This right is subject to the proviso that the proprietor of the lot burdened is able to use such part of the lot as is burdened for any purpose permitted by law not inconsistent with the rights of the easement.</p>

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		Rail Corporation New South Wales* 110/1094273 Railway Corporation New South Wales* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677* <i>*No longer burdened</i>		
	(E) requires the consent of: The owners of Dalton Street and Orchard Road			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 9.	DP790011 Easement for drainage over existing line of pipes (F) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram	1/790011 then 133/1111762 135/1111762 The Council of the City of Willoughby – 67 Albert Ave then 101/1094273 Rail Corporation New South Wales* 102/1094273 103/1094273 Transport for NSW and Rail Corporation New South Wales 104/1094273 Willoughby City Council 105/1094273 Venus Chatswood Pty Limited 106/1094273 107/1094273 108/1094273 109/1094273	Road benefited - Dalton Street	The easement will impact on the development as the easement falls within Lot 135 of DP1111762. The easement allows full and free right for the Council of the Municipality of Willoughby and every person authorised by it to drain water, whether rain, storm, spring, soakage or seepage water in any quantities from Dalton Street and to discharge storm water into the existing line of pipes.
			2/790011 then 21/853200 & 22/853200 then 23/868835 & 24/868835 The Council of the City of Willoughby then Lots 1-203 & CP in SP54893 The Owners – Strata Plan No. 54893 McCormacks Strata Management, Level 2, 275 George Street, Sydney	
			3/790011 then Lots 12 to 16 in DP817116 then 129/1111762 & 130/1111762 Cessleigh Pty Limited	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		Rail Corporation New South Wales 110/1094273 Railway Corporation New South Wales* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677 <i>*No longer burdened</i>	4/790011 then 40 & 41 DP802469 then Lots 12 to 16 in DP817116 then 129/1111762 & 130/1111762 Cessleigh Pty Limited	
			5/790011 then Lots 12 to 16 in DP817116 then 129/1111762 & 130/1111762 Cessleigh Pty Limited	
			6/790011 then 61 & 62 in DP864346 then 101/1094273 Rail Corporation New South	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			<p>Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>104/1094273</p> <p>Willoughby City Council</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation NSW</p> <p>110/1094273</p> <p>Rail Corporation NSW</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p>	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			The Owners – Strata Plan No. 88677 Netstrata PO Box 265 Hurstville NSW 1481 <i>* Easement released from title</i>	
	(F) requires the consent of: <ul style="list-style-type: none"> - The owners of Dalton Street - 24/868835 - The Council of the City of Willoughby - Lots 1-203 & CP in SP54893 - The Owners – Strata Plan No. 54893 - 129/1111762 & 130/1111762 - Cessleigh Pty Limited - 104/1094273 - Willoughby City Council - 105/1094273 - Venus Chatswood Pty Limited - 109/1094273 - Rail Corporation NSW - 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677 			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 10.	DP790011 Easement for standby (N) (limited in stratum) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram	1/790011 then 133/1111762 135/1111762 The Council of the City of Willoughby – 67 Albert Ave then 101/1094273 Rail Corporation New South Wales* 102/1094273 103/1094273 Transport for NSW and Rail Corporation New South Wales* 104/1094273 Willoughby City Council* 105/1094273 Venus Chatswood Pty Limited 106/1094273 107/1094273 108/1094273 109/1094273	3/790011 then Lots 12 to 16 in DP817116 then 129/1111762 & 130/1111762* Cessleigh Pty Limited <i>* Easement released from title</i>	The easement will impact on the development as the easement falls within Lot 135 of DP1111762. Subject to the consent of the proprietor of the lot burdened (among other covenants), the easement allows full and free right for every person who is at any time entitled to an estate or interest in the lot benefited or any part thereof with which the right is capable of enjoyment and every person authorised by it from time to time and at all times to enable the proprietor of the lot benefited access to and egress from the lot benefited with and without heavy machines and materials and for the temporary storage of the same and for the temporary placement of scaffolding, cranes and other equipment or implements.

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		<p>Rail Corporation New South Wales*</p> <p>110/1094273</p> <p>Railway Corporation New South Wales*</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p> <p>The Owners – Strata Plan No. 88677</p> <p><i>*No longer burdened</i></p>		
	<p>(N) requires the consent of:</p> <p>N/A – can be removed</p>			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 11.	DP790011 Easement to drain sewage over existing line of pipes (P) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram	1/DP790011 then 133/1111762 135/1111762 The Council of the City of Willoughby – 67 Albert Ave then 101/1094273 Rail Corporation New South Wales* 102/1094273 103/1094273 Transport for NSW and Rail Corporation New South Wales* 104/1094273 Willoughby City Council* 105/1094273 Venus Chatswood Pty Limited* 106/1094273 107/1094273 108/1094273 109/1094273	State Rail Authority of NSW and Water Board	The easement will impact on the development as the easement falls within Lot 135 of DP1111762. The easement allows full and free right for every person who is at any time entitled to an estate or interest in possession in the lot benefited or any part thereof which the right shall be capable of enjoyment and every person authorised by him from time to time and at all times by means of pipes to drain sewage and other waste material.

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		Rail Corporation New South Wales* 110/1094273 Railway Corporation New South Wales* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677* <i>*No longer burdened</i>		
		5/DP790011 then Lots 12-16 in DP 817116 then Lots 129 & 130 in DP1111762 Cessleigh Pty Limited* <i>*No longer burdened</i>		
	(P) requires the consent of: State Rail Authority and Water Board			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 12.	<p>DP790011</p> <p>Easement for electricity purposes (S) (limited in stratum) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram</p>	<p>1/DP790011</p> <p>then</p> <p>133/1111762</p> <p>135/1111762</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p> <p>then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited*</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p>	<p>Sydney County Council</p>	<p>The easement will impact on the development as the easement falls within Lot 135 of DP1111762.</p> <p>The easement allows for full right, leave, liberty and licence for the Sydney County Council, its agents, servants and workmen to erect, construct and place, repair, renew, inspect, maintain and remove overhead electric mains and other apparatus.</p>

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
		Rail Corporation New South Wales* 110/1094273 Railway Corporation New South Wales* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677* <i>*No longer burdened</i>		
	(P) requires the consent of: Sydney County Council			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 13.	Lease Y910526			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 14.	DP267690 Easement for overhanging awning (MB) (limited in stratum) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram	Auto Consol 8634-245 being 135/1111762 & 19/790323 The Council of the City of Willoughby – 67 Albert Ave	23/DP868835 and 24/DP868835 The Council of the City of Willoughby then Lots 1-203 & CP in SP 54893 The Owners – Strata Plan No. 54893 McCormacks Strata Management Level 2, 275 George Street Sydney NSW 2000	The easement will impact on the development as the easement falls within Lot 135 of DP1111762. This easement permits the overhanging awning and maintenance to same. However, if the owner of the lot burdened wishes to redevelop the lot, it can give notice to reduce the easement site but only to the extent necessary to allow the redevelopment proposal to proceed.
		13/817116 then Lots 129 & 130 in DP1111762 Cessleigh Pty Limited* <i>*No longer burdened</i>		
	(MB) requires the consent of: - 24/DP868835 - The Council of the City of Willoughby - Lots 1-203 & CP in SP 54893 - The Owners – Strata Plan No. 54893			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 15.	<p>DP267690</p> <p>Easement for encroaching structures to remain (MA) (limited in stratum) affecting the part of Lot 135 in DP1111762 shown so burdened in the title diagram</p>	<p>Auto Consol 8634-245 being 135/1111762 & 19/790323</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p>	<p>23/DP868835 and 24/DP868835</p> <p>The Council of the City of Willoughby</p> <p>then</p> <p>Lots 1-203 & CP in SP 54893</p> <p>The Owners – Strata Plan No. 54893</p> <p>McCormacks Strata Management</p> <p>Level 2, 275 George Street Sydney NSW 2000</p>	<p>The easement will impact on the development as the easement falls within Lot 135 of DP1111762.</p> <p>This easement permits an encroaching structure. However, if the owner of the lot burdened wishes to redevelop the lot, it can give notice to reduce the easement site but only to the extent necessary to allow the redevelopment proposal to proceed.</p>
	<p>(MA) requires the consent of:</p> <ul style="list-style-type: none"> - 24/DP868835 - The Council of the City of Willoughby - Lots 1-203 & CP in SP 54893 - The Owners – Strata Plan No. 54893 			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 16.	<p>AD833515</p> <p>Right of footway (WW) (limited in stratum) variable width affecting the part(s) of 135/1111762 shown so burdened in DP1111762 (sheet 9).</p> <p>* AH801981 released in so far as it benefits Lots 129 and 130 DP 1111762</p> <p>* AI195940 easement released in so far as it benefits Lot 109 in DP1094273</p> <p>* AI195938 easement released in so far as it benefits Lot 101 in DP1094273</p> <p>* AI195939</p>	<p>135/1111762</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p>	<p>129/1111762</p> <p>Cessleigh Pty Limited*</p>	<p>The easement will impact on the development as the easement falls within Lot 135 of DP1111762.</p> <p>The easement allows for full, free and unimpeded right for every person who is at any time entitled to an estate or interest in possession of the lots having the benefit of this easement to go, pass and repass on foot at all times for all purposes, including but not limited to fire egress.</p> <p>In the event that the proprietor of the lot burdened proposes to vary, demolish and/or redevelop the land or structures on that lot which will or may affect the easement hereby granted in whole or in part (the "Affecting Development"), the proprietor of the lots benefited will not unreasonably withhold its consent to a variation, modification or release of this easement to accommodate the Affecting Development, provided that either a variation or modification of this easement or an alternate form of easement conferring equivalent rights is granted on terms satisfactory to the proprietor of the lots benefited.</p>
			<p>130/1111762</p> <p>Cessleigh Pty Limited*</p> <p><i>* Easement released from title</i></p>	
			<p>131 to 133 in DP1111762 then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p>	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
	<p>easement released in so far as it benefits Lot 6 in DP1080001</p> <p>* AI195941 easement released in so far as it benefits Lot 110 in DP1094273</p> <p>* AI195951 easement released in so far as it benefits Lot 104 in DP1094273</p>		<p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation NSW*</p> <p>110/1094273</p> <p>Rail Corporation NSW*</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p> <p>The Owners – Strata Plan No. 88677</p> <p>Netstrata</p> <p>PO Box 265</p> <p>Hurstville NSW 1481</p> <p><i>* Easement released from title</i></p> <p>61/864346</p> <p>then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p>	<p>The remaining lots affected are:</p> <p>131/1111762 (now 101/1094273-110/1094273)</p> <p>132/1111762 (now 101/1094273-110/1094273)</p> <p>133/1111762 (now 101/1094273-110/1094273)</p>

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			<p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation NSW*</p> <p>110/1094273</p> <p>Rail Corporation NSW*</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p> <p>The Owners – Strata Plan No. 88677</p> <p>Netstrata</p>	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			PO Box 265 Hurstville NSW 1481 <i>* Easement released from title</i>	
			2 to 5 in DP1080001 then 101/1094273 Rail Corporation New South Wales* 102/1094273 103/1094273 Transport for NSW and Rail Corporation New South Wales 104/1094273 Willoughby City Council* 105/1094273 Venus Chatswood Pty Limited 106/1094273 107/1094273 108/1094273 109/1094273	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			<p>Rail Corporation NSW* 110/1094273 Rail Corporation NSW* then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677 Netstrata PO Box 265 Hurstville NSW 1481 <i>* Easement released from title</i></p> <p>6/1080001 Rail Corporation New South Wales* <i>* Easement released from title</i></p>	
	<p>(WW) requires the consent of:</p> <ul style="list-style-type: none"> - 103/1094273 - Transport for NSW and Rail Corporation New South Wales - 105/1094273 - Venus Chatswood Pty Limited - 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677 			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 17.	<p>AD833512</p> <p>Easement for support and encroachment (DC) (limited in stratum) variable width affecting the part(s) of 135/1111762 shown so burdened in DP1111762 (sheets 7 & 9). See memorandum AD656678.</p> <p>* AH801982 released in so far as it benefits Lots 129 and 130 DP 1111762</p> <p>* AI195949 easement released in so far as it benefits Lot 109 in DP1094273</p> <p>* AI195946 easement released in so far as it benefits Lot 6 in</p>	<p>135/1111762</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p> <p>134/1111762</p> <p>The Council of the City of Willoughby</p>	<p>129/1111762</p> <p>Cessleigh Pty Limited*</p>	<p>The easement will impact on the development as the easement falls within 135 DP 1111762.</p> <p>The easement allows for a full, free and unimpeded right for every person who is at any time entitled to an estate or interest in possession of the lots having the benefit of this easement to have the lots benefited and all structures erected on the lots benefited supported vertically, horizontally and laterally by the lots burdened and any structures, improvements or fixtures constructed or installed from time to time on the lots burdened.</p> <p>In the event that the proprietor of the Lots Burdened proposes to vary, demolish and/or redevelop the land or structures on the Lots Burdened which will or may affect the easement hereby granted in whole or in part (the "Affecting Development"), the Benefiting Party will not unreasonably withhold its consent to a variation, modification or release of this easement to accommodate the Affecting Development, provided that either a variation or modification of this easement or an alternate form of easement conferring equivalent rights</p>
			<p>130/1111762</p> <p>Cessleigh Pty Limited*</p>	
			<p>131 to 133 in DP1111762 and 61/864346</p> <p>then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p> <p>107/1094273</p>	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
	<p>DP1080001</p> <p>* AI195947 easement released in so far as it benefits Lot 101 in DP1094273</p> <p>* AI195948 easement released in so far as it benefits Lot 110 in DP1094273</p> <p>* AI195950 easement released in so far as it benefits Lot 103 in</p>		<p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation NSW*</p> <p>110/1094273</p> <p>Rail Corporation NSW*</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p> <p>The Owners – Strata Plan No. 88677</p> <p>Netstrata</p> <p>PO Box 265</p> <p>Hurstville NSW 1481</p> <p><i>* Easement released from title</i></p>	<p>is granted on terms satisfactory to the Benefiting Party.</p> <p>The remaining lots affected are:</p> <p>131/1111762 (now 101/1094273-110/1094273)</p> <p>132/1111762 (now 101/1094273-110/1094273)</p> <p>133/1111762 (now 101/1094273-110/1094273)</p>

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
	<p>DP1094273</p> <p>* AI195953 easement released in so far as it benefits Lot 104 in DP1094273</p>		<p>2 to 5 in DP1080001 then</p> <p>101/1094273</p> <p>Rail Corporation New South Wales*</p> <p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>104/1094273</p> <p>Willoughby City Council*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation NSW*</p> <p>110/1094273</p> <p>Rail Corporation NSW*</p>	

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
			<p>then 300-302 in DP1186405 then 1-147 & CP in SP 88677 The Owners – Strata Plan No. 88677 Netstrata PO Box 265 Hurstville NSW 1481 <i>* Easement released from title</i></p> <p>6/1080001 Rail Corporation New South Wales* <i>* Easement released from title</i></p>	
	<p>(DC) requires the consent of:</p> <ul style="list-style-type: none"> - 105/1094273 - Venus Chatswood Pty Limited - 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677 			

	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
Item 18.	<p>DP1094273</p> <p>Right of carriageway (ROC30) (limited in stratum) variable width affecting the part of 135/1111762 shown so burdened in DP1094273</p>	<p>135/1111762</p> <p>The Council of the City of Willoughby – 67 Albert Ave</p>	<p>102/1094273</p> <p>103/1094273</p> <p>Transport for NSW and Rail Corporation New South Wales*</p> <p>105/1094273</p> <p>Venus Chatswood Pty Limited</p> <p>106/1094273</p> <p>107/1094273</p> <p>108/1094273</p> <p>109/1094273</p> <p>Rail Corporation New South Wales</p> <p>then</p> <p>300-302 in DP1186405</p> <p>then</p> <p>1-147 & CP in SP 88677</p> <p>The Owners – Strata Plan No. 88677</p> <p>Netstrata</p> <p>PO Box 265</p> <p>Hurstville NSW 1481</p>	<p>The easement will impact on the development as the easement falls within Lot 135 of DP1111762.</p> <p>This easement permits full and free right owners of the lots benefited, its authorised users and members of the public, to go, pass and repass at all times and for all purposes.</p> <p>The owner of the lot burdened may, if it proposes to redevelop the lot burdened, vary the easement site (subject to various conditions).</p>

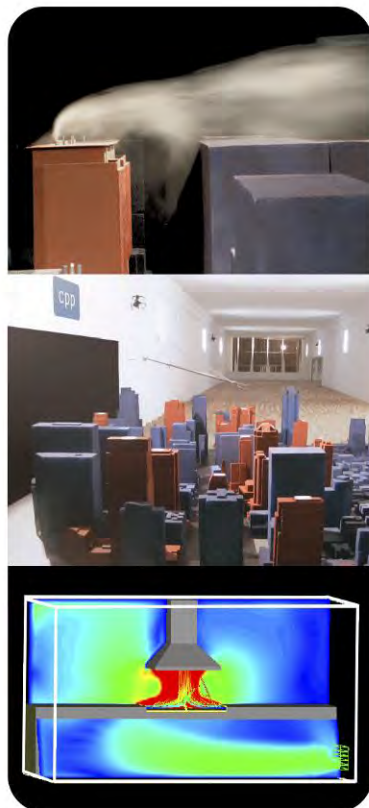
	Registered Encumbrances, Easements and Interests	Burdened	Benefited	Comments
	(ROC30) requires the consent of: <ul style="list-style-type: none"> - 105/1094273 – Venus Chatswood Pty Limited - 109/1094273 - Rail Corporation New South Wales - 1-147 & CP in SP 88677 - The Owners – Strata Plan No. 88677 			



CERMAK
PETERKA
PETERSEN

WIND ENGINEERING AND AIR QUALITY CONSULTANTS

FINAL REPORT



Wind Assessment for:

67 ALBERT AVENUE

Chatswood, Australia

Prepared for:

CorVal Partners

c/- PDS Group

Level 1, 63 York Street

Sydney

NSW 2000

Prepared by:

Thomas Evans, Project Engineer

Graeme Wood, Director

May 2018

CPP Project: 11236

DOCUMENT VERIFICATION

Date	Revision	Prepared by	Checked by	Approved by
24/03/17	Initial release for review	TXE	GSW	GSW
12/04/17	Updated drawings	TXE	TXE	TXE
05/05/17	Updated drawings	TXE	TXE	TXE
08/05/17	Minor edit	TXE	TXE	TXE
10/05/17	Drawing Update	TXE	TXE	TXE
29/05/18	Minor edit	TXE		TXE

TABLE OF CONTENTS

Introduction.....	2
Sydney Wind Climate	3
Environmental Wind Speed Criteria.....	5
Environmental Wind Assessment	6
Conclusions	9
References	10

TABLE OF FIGURES

Figure 1: Location of the proposed development (T)(Google Earth, 2017), Aerial view of site (B) (Fitzpatrick and Partners)	2
Figure 2: Render of proposed development, viewed from the south-west	3
Figure 3: Wind rose of direction and speed for Sydney Airport.....	4
Figure 4: Flow visualisation around a tall building.....	4
Figure 5: South (L) and west (R) elevations of proposed development.....	6
Figure 6: Upper ground floor plan of proposed development.....	7
Figure 7: Level 14 floor plan.....	9

TABLE OF TABLES

Table 1: Pedestrian comfort criteria for various activities.....	5
--	---

Introduction

Cermak Peterka Petersen Pty. Ltd. has been engaged by CorVal Partners to provide an opinion based assessment of the impact of the proposed development at 67 Albert Avenue, Chatswood, on the pedestrian level local wind environment.

The site is located on the south-eastern edge of the Chatswood CBD massing, Figure 1, approximately 7.5 km to the north-west of the Sydney CBD. The focus of this assessment is a proposed new 80 m tall commercial building with a rounded rectangular planform. An indicative drawing is shown in Figure 2.

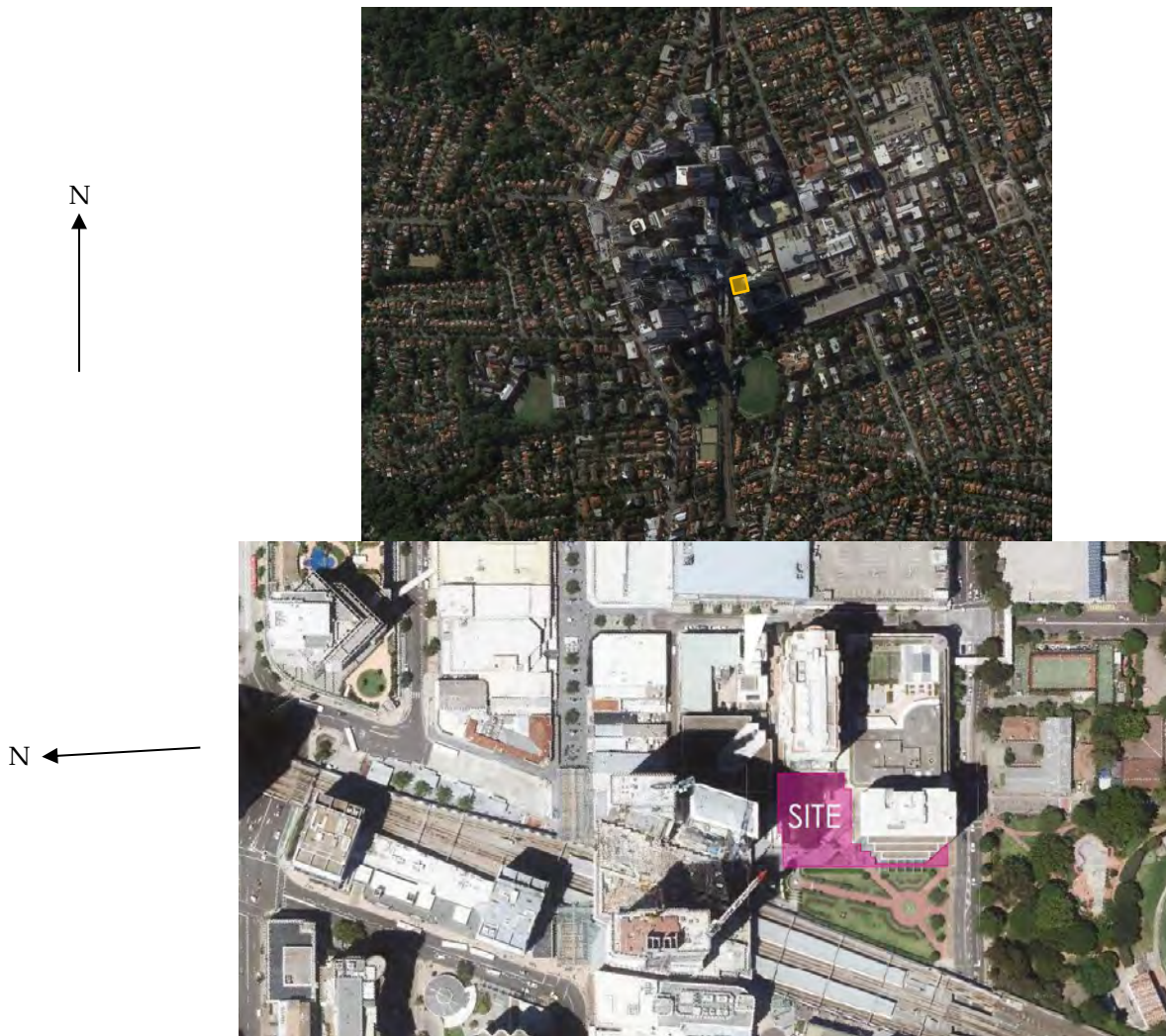


Figure 1: Location of the proposed development (T)(Google Earth, 2017), Aerial view of site (B) (Fitzpatrick and Partners)



Figure 2: Render of proposed development, viewed from the south-west

Sydney Wind Climate

To enable a qualitative assessment of the wind environment, the wind frequency and direction information measured by the Bureau of Meteorology at a standard height of 10 m at Sydney Airport from 1995 to 2015 have been used in this analysis, Figure 3. It is noted from Figure 3 that strong prevailing winds are organised into three main groups which centre at about north-east, south, and west. This wind assessment is focused on these prevailing strong wind directions.

Strong summer winds occur mainly from the south quadrant and the north-east. Winds from the south are associated with large synoptic frontal systems and generally provide the strongest gusts during summer. Moderate intensity winds from the north-east tend to bring cooling relief on hot summer afternoons typically lasting from noon to dusk. These are small-scale temperature driven effects; the larger the temperature differential between land and sea, the stronger the breeze. The site location is further inland than Sydney airport, so the local strength of the winds from the north-east would be lower than measured at the airport.

Winter and early spring winds typically occur from the south and west quadrants. West quadrant winds provide the strongest winds affecting the area throughout the year.

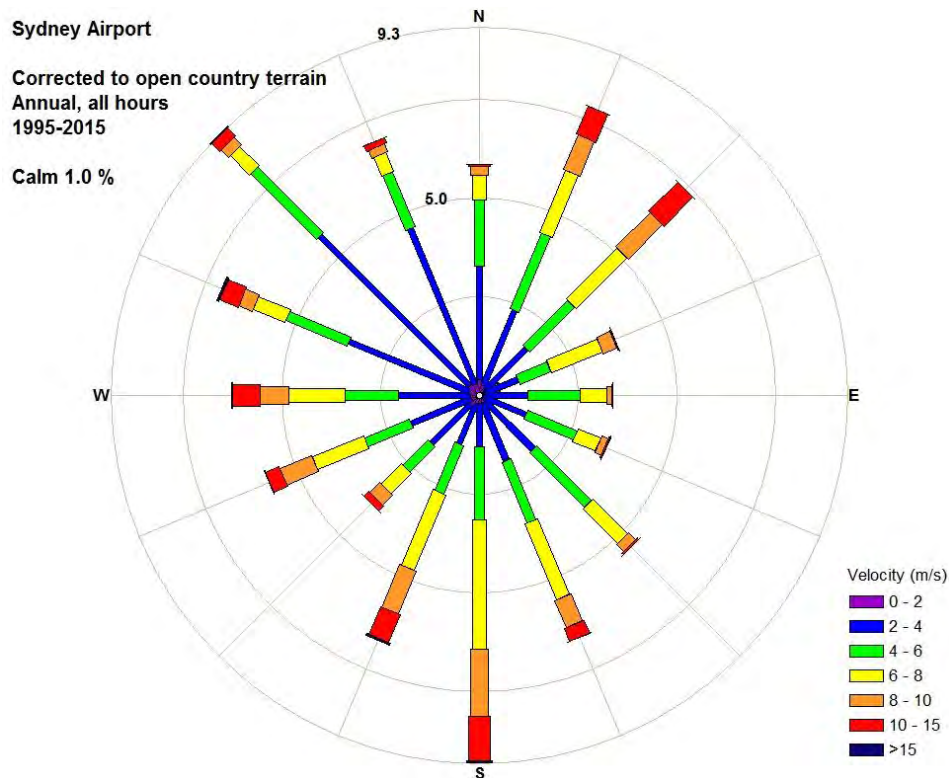


Figure 3: Wind rose of direction and speed for Sydney Airport

Wind Flow Mechanisms

When the wind hits a large isolated building, the wind is accelerated down and around the windward corners, Figure 4; this flow mechanism is called downwash and causes the windiest conditions at ground level on the windward and sides of the building. In Figure 4 smoke is being released into the wind flow to allow the wind speed, turbulence, and direction to be visualised. The image on the left shows smoke being released across the windward face, and the image on the right shows smoke being released into the flow at about third height in the centre of the face.

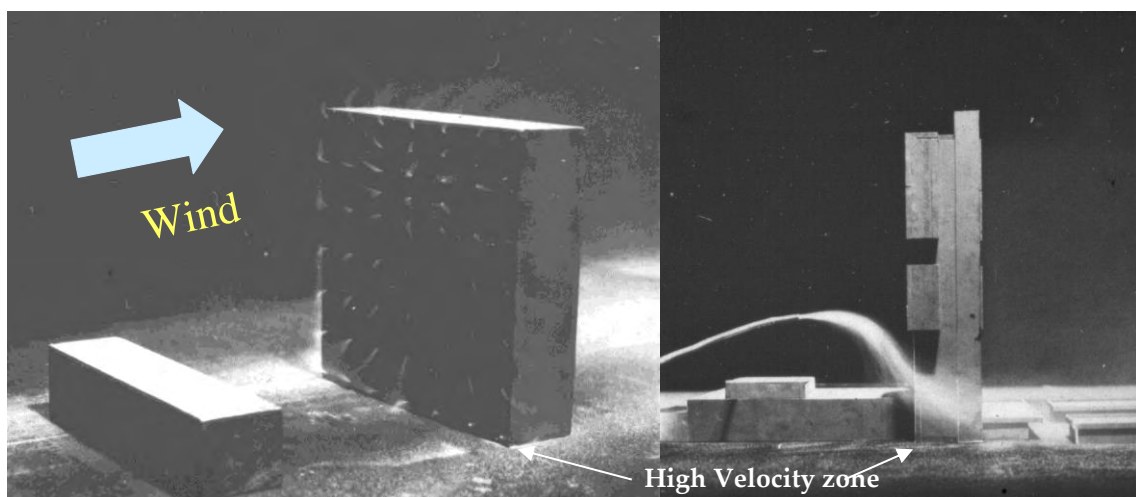


Figure 4: Flow visualisation around a tall building

Techniques to mitigate the effects of downwash winds on pedestrians include the provision of horizontal elements, the most effective being a podium to divert the flow away from pavements and building entrances. Awnings along street frontages perform a similar function and the deeper the horizontal element generally the more effective it will be in diverting the flow.

Channelling occurs when the wind is accelerated between two buildings or along straight streets with buildings on either side.

Environmental Wind Speed Criteria

It is generally accepted that wind speed and the rate of change of wind velocity are the primary parameters that should be used in the assessment of how wind affects pedestrians. Over the years, a number of researchers have added to the knowledge of wind effects on pedestrians by suggesting criteria for comfort and safety. Because pedestrians will tolerate higher wind speeds for a smaller period of time than for lower wind speeds, these criteria provide a means of evaluating the overall acceptability of a pedestrian location. A location can further be evaluated for its intended use, such as for an outdoor café or footpath.

The current Willoughby City Council (2006) Development Control Plan (DCP) has no specific wind controls for the area, but makes reference to the criteria of Melbourne (1978), which specify a maximum wind speed of 10 m/s for retail/restaurant spaces, and 13 m/s for pedestrian streets and open spaces. This is a maximum 3 s gust wind speed in an hour, occurring for 0.1% of the time from each direction. The limiting wind speeds are intended to be interpreted as a comfort rather than a safety criteria. The work of Melbourne (1978), uses the infrequent gust wind event as an estimator of the general wind conditions at a site. To combat this limitation, the current study is based upon the criteria of Lawson (1990), which are described in Table 1 for both pedestrian comfort and distress. The limiting criteria are defined for both a mean and gust equivalent mean (GEM) wind speed. The criteria based on the mean wind speeds define when the steady component of the wind causes discomfort, whereas the GEM wind speeds define when the wind gusts cause discomfort.

Table 1: Pedestrian comfort criteria for various activities

Comfort (maximum of mean or gust equivalent mean (GEM ⁺) wind speed exceeded 5% of the time)	
< 4 m/s	Pedestrian Sitting (considered to be of long duration)
4 - 6 m/s	Pedestrian Standing (or sitting for a short time or exposure)
6 - 8 m/s	Pedestrian Walking
8 - 10 m/s	Business Walking (objective walking from A to B or for cycling)
> 10 m/s	Uncomfortable
Distress (maximum of mean or GEM wind speed exceeded 0.022% of the time)	
<15 m/s	not to be exceeded more than two times per year (or one time per season) for general access
<20 m/s	not to be exceeded more than two times per year (or one time per season) where only able bodied people would be expected; frail or cyclists would not be expected

Assessment using the Lawson criteria generally provides a similar level of stringency to the Melbourne criteria referenced in the Willoughby DCP, however also provides additional information regarding the serviceability of the wind climate. It is noted that there are few areas in Sydney that would satisfy the DCP criteria without local mitigation measures.

Environmental Wind Assessment

The proposed development is located on a block bounded by Remembrance Park, Albert Avenue, Victor Street, and Post Office Lane. Chatswood Station is to the immediate west, and to the south is the open region of Chatswood Park and the adjacent train line. The site is surrounded by medium to high rise developments in all other directions. The proposed tower has rounded corners and a stepped upper façade as shown in Figure 5. The upper ground floor features an exposed colonnade along the south, west, and east facades underneath overhanging upper levels. Topography around the site is predominantly flat from a wind perspective with winds from the south being channelled up the railway corridor.



Figure 5: South (L) and west (R) elevations of proposed development

Winds from the north-east

Winds from the north-east will be channelled between the adjacent tall buildings to the north and east of the subject site, which will cause acceleration of the flow impinging on the proposed development. The oblique orientation of the tower relative to the oncoming wind will encourage flow to pass horizontally around the façade rather than generating downwash. The compound massing of low-to-medium rise neighbouring buildings to the immediate north-east of the site will provide significant shielding from winds from this direction at lower levels. The inclusion of the proposed development will provide shielding from north-easterly winds for the Remembrance Park area.

Winds from the south

Winds from the south approach the site over the relatively open region of Chatswood Park, Remembrance Park, and along the train line. Established tall trees and landscaping in these areas will improve the wind conditions on the ground plane. The proposed development will experience shielding from winds from the south due to the neighbouring 16- storey tower to the immediate south. Winds from the south will be directed along the ground-floor colonnade and expand into the undercut forecourt area. This area is expected to experience conditions suitable for short-term or transient use during winds from the south, however amelioration in the form of temporary or permanent vertical screening elements would be suggested in addition to the landscaped terrace edge if conditions suitable for long term stationary activity are required.

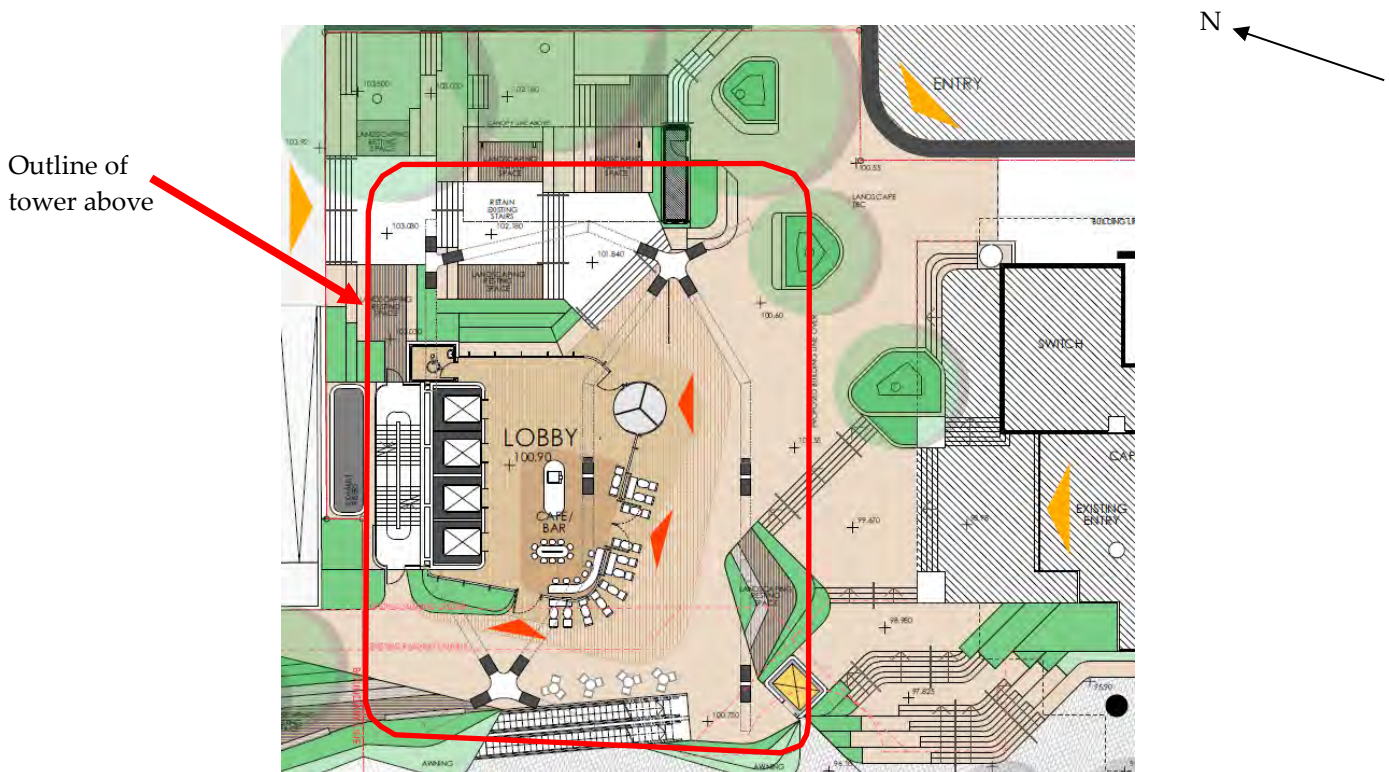


Figure 6: Upper ground floor plan of proposed development

Winds from the west

Winds from the western quadrant will be significantly ameliorated by the general massing of Chatswood CBD, however some flow will be channelled along the relatively open corridor of Thomas Street towards the subject site. Winds from this direction would impinge orthogonally on the narrow tower façade, generating downwash flow at the ground plane windward corners. The undercut design of the ground floor will exaggerate this effect on the upper ground level as flow will accelerate under the tower corners. Flow will also be accelerated between the proposed development and the closely spaced towers to the north and south, creating strong breezes in these areas. The combination of these mechanisms will most strongly affect the undercut colonnade, pedestrian stairs and thoroughfare to the south of the main entry. This area would be comfortable for short-term or transient use, typical of a pedestrian thoroughfare. If non-transient activities such as sitting or dining are intended for this area, mitigation measures such as distributed vertical screening and additional landscaping could be used to improve the wind amenity. The main entry to the lobby is well located, however the effectiveness of the revolving door in preventing wind effects in the lobby will be minimised by the two entrances to the café/bar area. A small amount of downwash flow would be expected to reach the Remembrance Park area during winds from the west, however would not significantly impact pedestrian comfort.

Upper level terraces

The proposed development features outdoor terraces on the four upper levels of the southern façade, Figure 7. Elevated balconies are usually amongst the windiest locations on developments, due to their relative exposure to prevailing strong winds and lack of protection from accelerated flows. Amelioration measures to improve wind conditions on the terraces include perimeter landscaping as planned, tall balustrades, and full-height vertical screening at building corners as indicated on Figure 7. It would be recommended to include such screening to improve the wind conditions on the terraces.

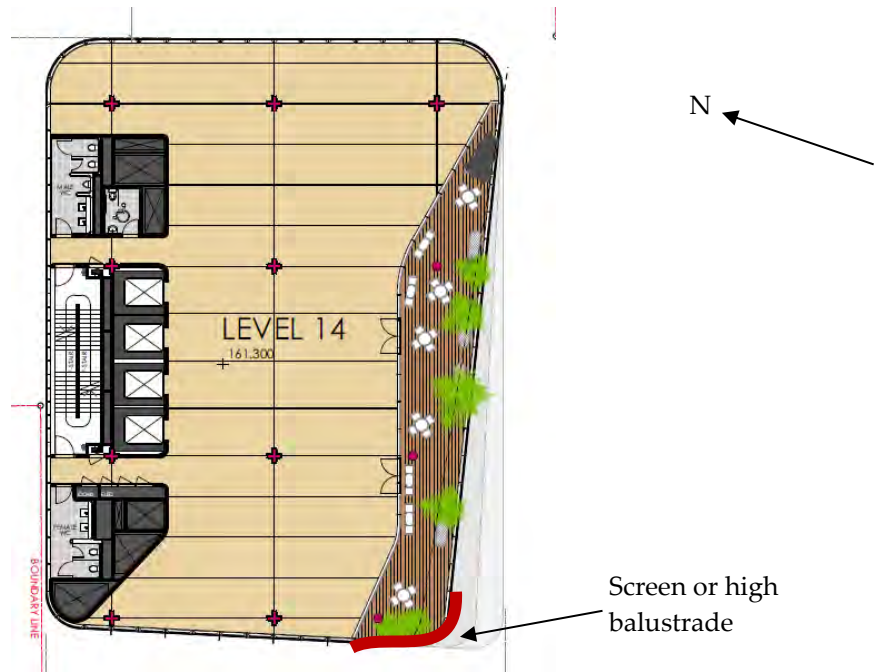


Figure 7: Level 14 floor plan

Summary

Qualitatively, integrating the expected directional wind conditions around the site with the wind climate, it is considered that wind conditions at the majority of locations around the site would be classified as suitable for pedestrian walking or standing under Lawson. All locations would be expected to pass the distress criterion. The most significant effects are likely to be limited to an area approximately within the property boundary, with conditions in areas such as the Remembrance Park garden and Albert Avenue remaining similar to existing.

If it is the intention for the ground floor café to have outdoor seating facilities, local temporary wind protection would be recommended such as vertical screening.

Conclusions

Cermak Peterka Petersen Pty. Ltd. has provided an opinion based assessment of the impact of the proposed development at 67 Albert Avenue, Chatswood on the local wind environment. Our summary assessment of the proposed development is as follows:

The proposed development is of a similar height to surrounding buildings, and will interact with them to influence the local wind conditions, increasing wind speeds for some directions, and providing shelter for others. Due to the relative size of the proposed building to the surrounds, the wind conditions in and around the site would be expected to be similar to existing conditions, with the pedestrian level wind environment for the majority of locations being classified as suitable for pedestrian standing or walking, and all locations passing the distress criterion. The combined action of

downwash and channelling flows will create some strong breezes through the upper ground level pedestrian areas, and amelioration measures in the form of awnings, vertical screens, and/or landscaping would be suggested if non-transient use of this space is intended. Wind tunnel testing would be required to quantify the advice provided herein.

References

Willoughby City Council (2006), Willoughby Development Control Plan (WDCP)

Melbourne, W.H., (1978), Criteria for environmental wind conditions, *J. Industrial Aerodynamics*, **3**, 241-249.

Lawson, T.V., (1990), The Determination of the wind environment of a building complex before construction, *Department of Aerospace Engineering, University of Bristol*, Report Number TVL 9025.

5 June 2018

To Philippa Duncanson
Level 54
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
By email: philippa.duncanson@corval.com.au

Dear Ms Duncanson

67 Albert Avenue, Chatswood - DA2017/157

Each question is below, together with our responses and comments.

1 Can the Panel lawfully require the proposed development to comply with the separation requirements of the ADG?

Answer

No. The Sydney North Planning Panel (**Panel**) cannot lawfully require that the proposed development complies with the separation requirements of the Apartment Design Guide (**ADG**).

If the Panel maintains that the ADG is to be taken into account in assessing the DA and refuses the DA on this basis, the Panel will have erred in law and its decision will not withstand a challenge in the Land and Environment Court of NSW.

Comments

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) is an environmental planning policy which requires that in determining an application for consent to which SEPP 65 applies, a consent authority is required to take into account the ADG.

SEPP 65 does not apply to all development applications.

Clause 4 of SEPP 65 states:

4 Application of Policy

"This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component..."

Clause 4 is abundantly clear. SEPP 65 only applies to development for three specific purposes, being:

- 1 residential flat building;
- 2 shop top housing; or
- 3 mixed use development with a residential accommodation component.

The proposed development, DA2017/157 (**the DA**), is for the purpose of a commercial office building. The DA is not for one of the specific purposes provided in clause 4, meaning that the SEPP and ADG can have no application to the DA.

We note that Part 2F *Building Separation* of the ADG states:

"When measuring the building separation between commercial and residential uses, consider office windows and balconies as habitable space".

This statement relates to building separation in circumstances where a residential development (which requires consideration of the ADG) is to be constructed adjacent to a commercial development, and not vice versa. This is because legally the ADG can have no application to a commercial development.

The Panel has stated in the Record of Deferral dated 23 May 2018 that design changes are required to "achieve SEPP65 ADG separation". This is legally incorrect because neither SEPP 65 nor the ADG have any separation requirements for this development. Even where SEPP 65 does apply, the ADG separation distances are not "requirements", rather they are matters which are required to be considered only. Separation distances for the DA must be assessed against E.3 Chatswood City Centre of the *Willoughby Development Control Plan 2016 (DCP)* which states:

Setbacks

1. *Building separation between tower buildings (buildings over 14 metres in height) of a minimum of 6 metres in the office precinct of Chatswood City Centre shall be provided to allow sunlight penetration between buildings to the public domain and for view sharing. The building separation shall be increased to a minimum of 12 metres for buildings above 30 metres in height.*

2 The DA meets or exceeds the separation provisions in the DCP. Is owner's consent from the beneficiaries of the easements for access and fire egress required prior to the grant of consent to the DA?

Answer

No. Consent from the beneficiaries of any easements within the subject property (whether those easements are proposed to be relocated or otherwise) is not required prior to the grant of development consent.

Comments

Clause 49(1) of the *Environmental Planning and Assessment Regulation 2000 (EPA Reg)* states:

(1) *A development application may be made:*

(a) *by the owner of the land to which the development application relates, or*

(b) by any other person, with the consent in writing of the owner of that land.

Pursuant to clause 49, it is only the owner of the land to which the DA relates, being Willoughby City Council, whose consent is required in respect of the DA.

An easement is a right which attaches to a piece of land (the land benefitted) giving the owner or occupant rights over another piece of land (the land burdened). The beneficiary of an easement which burdens the subject land is not "the owner of that land" within the meaning of clause 49(1) of the EPA Reg, and their consent is not legally required in respect of the DA.

In circumstances where a reason for the Panel refusing the DA is that consent from the beneficiaries of easements is required prior to the grant of development consent, the Panel will have fallen into legal error and its decision will not withstand a challenge in the Land and Environment Court of NSW.

Yours sincerely



Debra Townsend | Partner
King & Wood Mallesons

T +61 2 9296 2341 | M +61 417 238 610

debra.townsend@au.kwm.com

This communication and any attachments are confidential and may be privileged.