

COUNCIL ASSESSMENT REPORT TO PANEL

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PAN-333710 – 0741/23DA
PROPOSAL	Boarding House and Subdivision (Boundary Alteration)
ADDRESS	Lot 5 DP 5344 - 11 Duke Street & Lot 12 DP 1265199 - 9 Duke Street
APPLICANT	Keiley Hunter Urban Planner
OWNER	Mission Australia Housing
DA LODGEMENT DATE	23/05/2023
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: <ul style="list-style-type: none"> <i>Affordable housing over \$5 million</i>
CIV	\$12,236,610
CLAUSE 4.6 REQUESTS	Clause 4.4 Floor Space Ratio
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> <i>State Environmental Planning Policy (Housing) 2021</i> <i>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>Coffs Harbour Local Environmental Plan 2013</i> <i>Coffs Harbour Development Control Plan 2015</i>
AGENCY REFERRALS	<ul style="list-style-type: none"> NSW Rural Fire Service (integrated development) Essential Energy
TOTAL & UNIQUE SUBMISSIONS	10 submissions by way of objection <ul style="list-style-type: none"> 3 submissions to original notification 7 submissions to amended proposal

KEY ISSUES	<ul style="list-style-type: none"> • Floor space ratio non-compliance • Non-compliances with SEPP (Housing) design standards • Apartment Design Guide compliance • The submitted landscape plan is inconstant with the amended architectural drawings. • Construction related amenity impacts upon 15 Duke Street • Parking
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Architectural drawings (Become Architecture) • Landscape plans (Taylor Brammer) • Plan of Subdivision (Anthony Spagnolo) • Statement of Environmental Effects (Keiley Hunter Town Planning) • Clause 4.6 Variation Report - Floor Space Ratio (Keiley Hunter Town Planning) • Bushfire Report (Anthony Hulbert) • Acid Sulphate Soils Assessment (Regional Geotechnical Solutions) • Civil Engineering Plans (Northop) • Flood impact Assessment (Northop) • Traffic and parking Report (TEF Consulting) • Quantity Surveyors Report (David Gallagher) • Waste Management Plan (Dickson Solutions) • Survey (Newnham Karl Weir) • Acoustic Report (Acoustic Logo) • BCA Report (Technical Inner Sight) • Access Report (CP Code Performance) • Response to Additional Information Requests (Keiley Hunter Town Planning)
PREVIOUS BRIEFINGS	Panel briefing 26 October 2023
ASSESSMENT STATUS	Recommended for approval, subject to conditions
PREPARED BY	Matthew Kelly
DATE OF REPORT	13 November 2023

1. THE SITE AND LOCALITY

1.1 The Site

The development land is legally described as Lot 5 DP5344 (11 Duke Street) and lot 12 DP 1265199 (9 Duke Street).

11 Duke Street is a rectangular shaped allotment with an area of 505.9 m². The lot has a depth of 50.29m, and a width with frontage to both Duke Street and a rear unnamed lane of 10.06m. The site is currently vacant.

9 Duke Street is a rectangular shaped allotment with an area of 1012m². The lot has a depth of 50.29m, and a width with frontage to both Duke Street and a rear unnamed lane of 20.2m.

The site incorporates a 2 storey commercial building occupied by the Mission Australia office. The proposal seeks approval for a boundary adjustment to transfer 31.3227m² of land (landscaped area) from this site to assist with the provision of car parking and vehicular manoeuvrability.

The development land is relatively flat and is affected by the following key constraints:

- Acid Sulphate Soils (Class 4)
- Bushfire Prone Land
- Flood planning Area & 1%AEP

The site has been previously disturbed and does not contain any significant vegetation. There is no significant biodiversity in immediate proximity of the proposed works, nor are there any heritage items identified.



Figure 1: Locality Map



Figure 2: Photo of subject site taken from the rear laneway



Figure 3; Photo incorporating subject site and surrounding properties taken from the rear laneway



Figure 4: Photo of subject site taken from Duke Street frontage.



Figure 5: Photo incorporating subject site and surrounding properties taken from Duke Street

1.2 The Locality

The subject site is located in the north-eastern region of the Coffs Harbour City Centre. To the east of the site (across Duke Street) is parkland owned by Crown Land. Development to the north, south and west is predominantly characterised by low to medium scale commercial development. This includes a single storey medical centre at 15 Duke Street (to the North) and a 2 storey office building occupied by Mission Australia at 9 Duke Street (to the south). Immediately west of the site, across the unnamed Lane, is commercial development with primary frontage to Gordon Street.

The land is in close proximity to public transport and pedestrian and cycleways.

2. THE PROPOSAL AND BACKGROUND

2.1 Pre-DA Meeting

A Pre-DA meeting was held on 20 April 2023 to discuss a proposal for a boarding house development comprising of 33 boarding rooms.

The Pre-DA meeting established that State Environmental Planning Policy (Housing) 2021 does not apply to the development as the land is less than 800m² and therefore the proposal is not permissible under Clause 25(1)(g) of the SEPP.

It was advised that the proposal must be lodged pursuant to the CHCC Local Environmental Plan 2013, which permits 'Boarding houses' in the E2 Commercial Centre zone with consent.

Notwithstanding the above, advice was provided that the SEPP (Housing) 2021 would be used as a guideline to assess the development in absence of any specific local controls relating to boarding houses.

Therefore, the assessment of this proposal has used the boarding house design requirements of the SEPP (Housing) 2021 as a guideline.

2.2 The Proposal

The proposal seeks consent for a subdivision (boundary adjustment) and construction of a Boarding House comprising of 25 boarding rooms; twenty-two (22) one-bedroom boarding rooms and three (3) two-bedroom boarding rooms. Ground level parking facilities comprising five (5) car parks, six (6) motorbike spaces and a bicycle store for sixteen (16) bicycles. Communal open space is proposed on the roof level of each building. The works are proposed in the following stages:

Stage 1 – Subdivision (boundary adjustment)

The proposed subdivision is a boundary change between the 11 Duke Street (505.9 m²) and 9 Duke Street (1,012 m²) to create Lot 1 (980.6 m²) and Lot 2 (537.2 m²). Effectively, 31.3227m² of land is being transferred from 9 Duke Street to 11 Duke Street.

Stage 2 - Construction of boarding house 'Building A' adjoining Duke Street

The building comprises of 8 x one bedroom boarding rooms and 2 x two bedroom boarding rooms.

Stage 3 - Construction of boarding house 'Building B' adjoining rear Lane.

The building comprises of 14 x one bedroom boarding rooms (including managers residence) and 1 x two bedroom boarding room.

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	537.2 m ² (proposed)
GFA	1,219m ²
FSR (1:1)	2.27:1
Clause 4.6 Requests	Yes – The applicant has submitted a written request to vary the Clause 4.4 Floor Space Ratio development standard of the CHCC LEP 2013.
No of boarding rooms	25 Boarding Rooms (22 one bedroom boarding rooms, 3 two bedroom boarding rooms).
Max Height (28m)	24.35m
Landscaped area	31.75m ²
Car Parking spaces	5 spaces (including 1 accessible space) Note: One parking space is non-compliant
Setbacks	Front: 580mm (balcony), 2.32m (wall) Side (South): 0m Side (North): 0.2m Rear: 0m (balcony), 1.65m (wall)

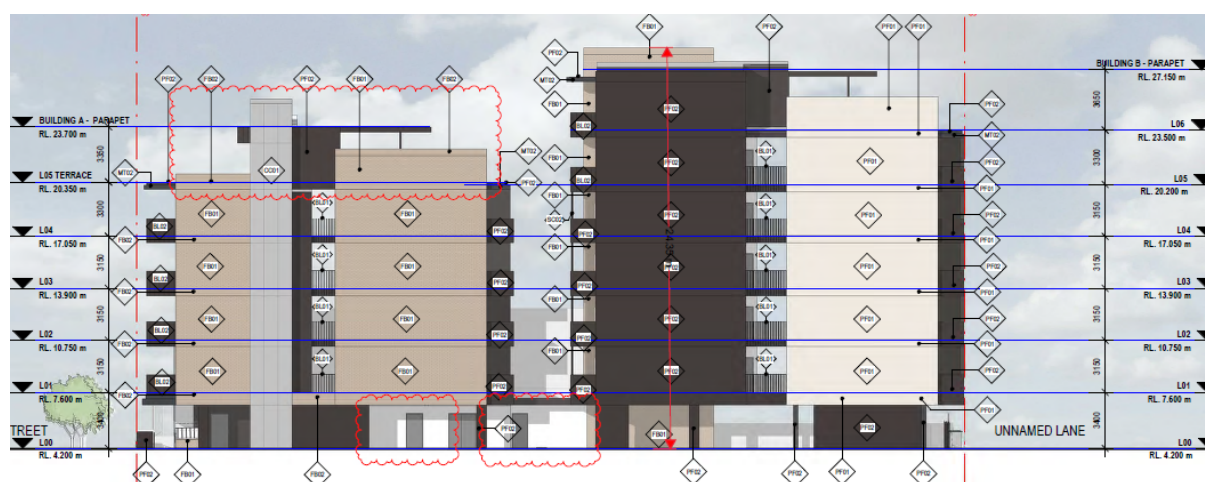


Figure 6: North Elevation



Figure 7: South Elevation

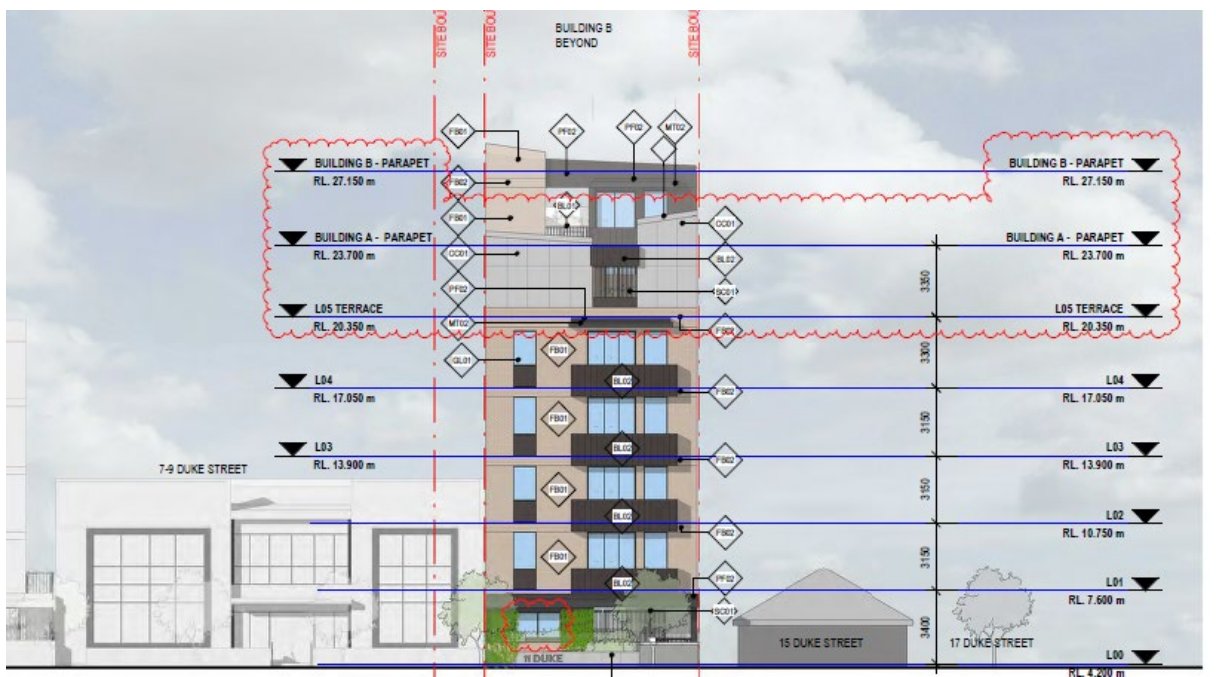


Figure 8: Front (East) Elevation (Duke Street)

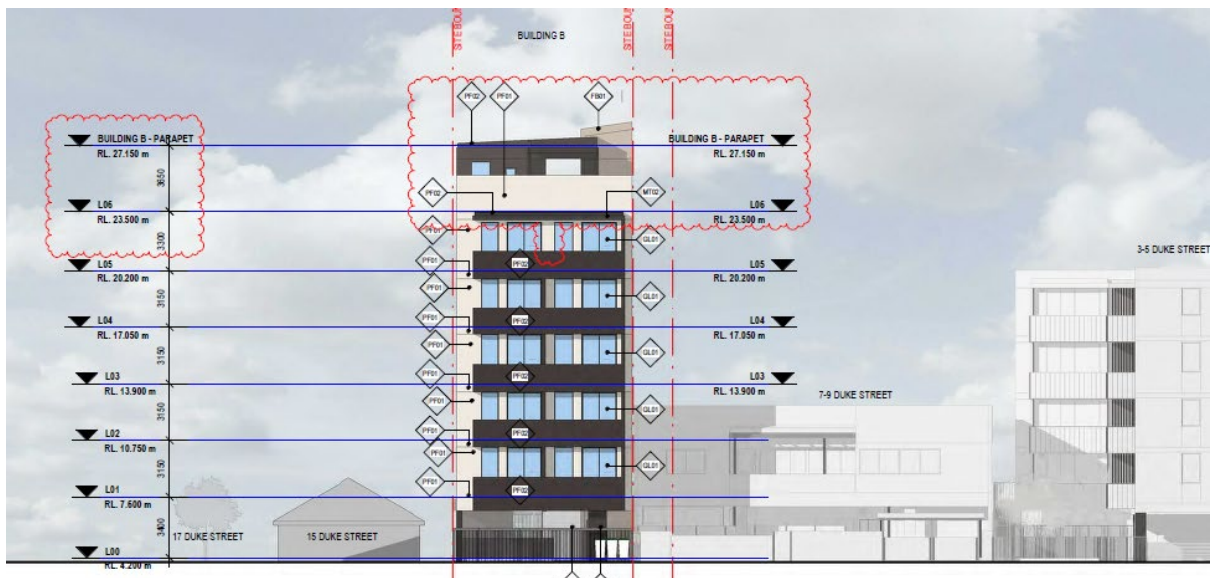


Figure 9: Rear (west) Elevation (Rear Lane)

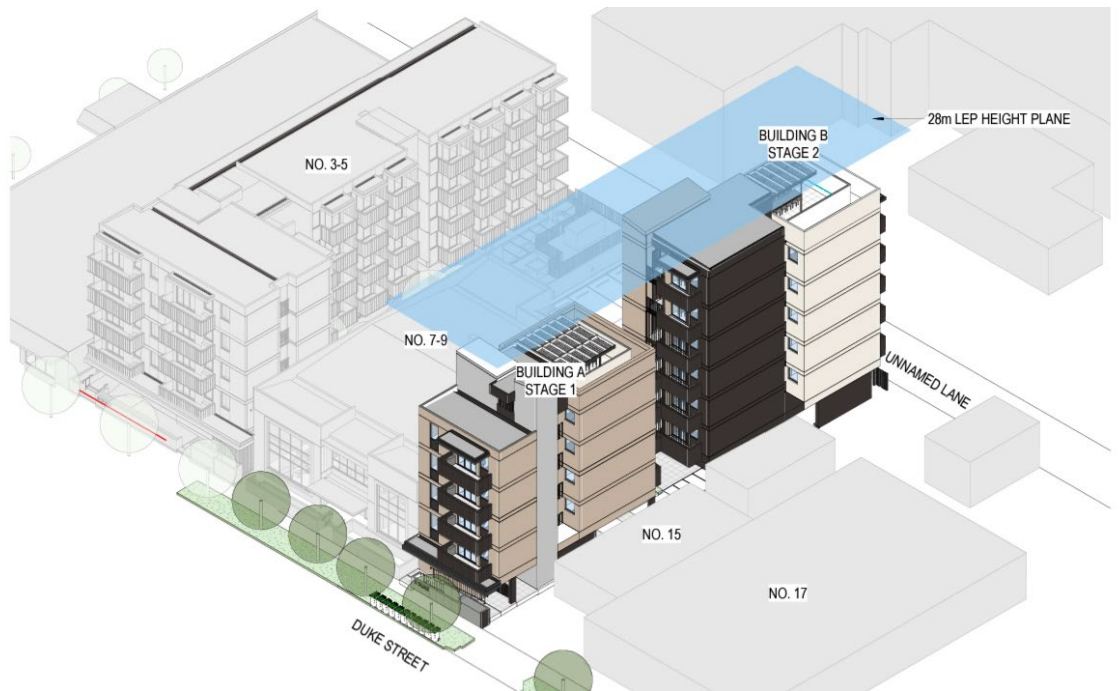


Figure 10: 3D image incorporating proposed development within existing streetscape.

2.3 Background

The development application was lodged on **25 May 2023**. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
30 May 2023	Exhibition of the application
29 May 2023	DA referred to external agencies
21 July 2023	Request for Information 1: <ul style="list-style-type: none"> • Characterisation of development unacceptable • Clause 7.21 Minimum Building Street Frontage and height issues • State Environmental Planning Policy (Housing) 2021- Building Design – departure to standards unacceptable • Flooding issues • Stormwater issues • Request for Acid Sulphate Soil Report • Amended waste design
19 August 2023	Additional information was provided by applicant: <ul style="list-style-type: none"> • Amended architectural plans: <ul style="list-style-type: none"> ○ Incorporation of shared facilities room at ground floor level to satisfy boarding house definition (characterisation of development).

	<ul style="list-style-type: none"> ○ Height of building reduced below 28m via reduction to stair and lift over-run to address the building height requirements of Clause 7.21 of the LEP. • Updated stormwater plans provided. • Desktop Acid Sulphate Soils Report provided. • Written justification in support of the flooding issues, waste services design, and departures to the SEPP (Housing) 2021 Boarding House design standards.
26 September 2023	The City of Coffs Harbour (City) staff briefed the panel of the proposal (Panel Briefing)
29 September 2023	<p>Request for Information 2:</p> <ul style="list-style-type: none"> • Updated plans which satisfactory address the State Environmental Planning Policy (Housing) 2021- Clause 24 (Communal open space and communal living area) requirements. • Amended waste design including waste collection being collected from the laneway. • Amended plans addressing vehicular manoeuvrability, motorcycle parking, and pedestrian sightlines. • Investigation into electrical sub-station • Request for managers residence to be provided on-site. • Updated flood assessment • Clause 4.6 Written Request unsatisfactory • Request for detailed Acid Sulphate Soil Report
16 October	Joint site inspection of 11 Duke Street with the NRPP, Applicant and City representatives.
20 October	<p>Additional information provided by applicant:</p> <ul style="list-style-type: none"> • Amended architectural plans: <ul style="list-style-type: none"> ○ Reduction to number of boarding rooms from 30 to 25 boarding rooms. This has resulted in a reduction to the FSR and maximum building height. ○ Managers residence allocated (top level of Building B) ○ Revised car parking layout including reduction to number of proposed parking spaces from 6 spaces to 5 spaces. ○ Revision to motorcycle parking layout ○ Revision to bicycle parking area including increase in bicycle spaces. ○ Revised waste arrangements with collection moved from Duke Street to the rear lane as requested by the City. ○ Shared facilities room relocated to Duke Street frontage and increased in area.

	<ul style="list-style-type: none"> ○ Communal open space relocated from ground floor level to the roof level of each building. ● Updated Waste Management Plan ● Updated Traffic and Parking Assessment ● Updated Flood Report ● Update Clause 4.6 Written Request ● Updated Plan of Management provided for the premises
30 October	Updated ASS Report provided.
23 November	Application presented to Councillors at Council meeting.

2.4 Relevant Site History

11 Duke Street

- 0647/22DA for the demolition of the existing dwelling

9 Duke Street

- 0475/20DA for construction of two storey office premises
- 0058/21DM for alterations to building and external areas

3. PLANNING CONTROLS

A summary of the key matters for consideration and non-compliances arising from the relevant EPIs are outlined in **Table 3**. The pre-conditions to the grant of consent have been considered and are outlined in bold.

Table 3: Summary of Key Matters in the Relevant EPIs

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p>Chapter 2: Vegetation in non-rural areas</p> <p>The land does not contain any high conservation value vegetation, mature trees or high landscape value trees.</p> <p>The proposal is satisfactory with regard to State Environmental Planning Policy (Biodiversity & Conservation) 2021</p>	Y
State Environmental Planning Policy (Housing) 2021	<p>As previously raised, State Environmental Planning Policy (Housing) 2021 does not apply to the proposal. This is due to Clause 25(1)(g), which requires a minimum land area of 800m² for the policy to apply.</p> <p>Due to the above, the Application has been lodged pursuant to the CHCC Local Environmental Plan 2013, which permits 'boarding houses' with consent in the zone.</p>	N/A

The design requirements of the SEPP have been used as a guideline to assess the proposal in absence of local development controls specific to boarding house developments. Assessment of the design criteria is provided below:

Part 2 Division 2 Boarding houses

24 Non-discretionary development standards

- *The object of this section is to identify development standards for particular matters relating to development for the purposes of boarding houses that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*
- *The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—*
- *for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—*

(i) the maximum permissible floor space ratio for residential accommodation on the land, and

(ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,

Comment: N/A.

- *if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,*

Comment: The floor space ratio shown for the land on the Floor Space Ratio Map is 4.5:1.

LEP Clause 4.4 Part 2(A) reduces the floor space ratio to 1:1 as the site area is less than or equal to 600m².

The proposed development has a floor space ratio of 2.27:1 and is therefore non-compliant with the applicable 1:1 floor space ratio.

The application, as amended, is accompanied by a Clause 4.6 Written Request from Keiley Hunter Town Planning to vary the floor space ratio development standard.

This has been assessed in the relevant subsection of the report and is considered satisfactory and the variation supported in this instance.

- *at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,*

Comment: The amended architectural drawings incorporate a 'shared facilities with kitchenette room' (communal living area), at the ground floor level.

The living area does not receive any direct solar access between 9am and 3pm during the mid-winter solstice and therefore does not comply.

The amended proposal also included two communal open space areas with pergolas on the roof level of each building. These areas obtain high levels of solar access.

Whilst these areas are not 'communal living areas' by definition, they are partly enclosed (contribute to gross floor area) and provide occupants with a high level of solar access and amenity.

Due to the above, the proposal is considered to be an acceptable alternative despite the non-compliance.

- *for a boarding house containing more than 6 boarding rooms*
 - *a total of at least 30m² of communal living area plus at least a further 2m² for each boarding room in excess of 6 boarding rooms, and*
 - *minimum dimensions of 3m for each communal living area,*

Comment: Part (g) requires 78m² of communal living area.

The proposal incorporates a 'shared facilities with a kitchenette' room with an area of 14.5m². The dimensions are 4.55m by 3.2m. The proposal is therefore non-compliant with part (g).

The amended proposal incorporated communal open space on the roof level of each building. Whilst these areas are not 'communal living areas' by definition, they include 2m high solid walls and are partly covered by a pergola and will provide a high level of amenity for the occupants.

Overall, the proposal provides a level of communal amenity that is considered to be satisfactory.

- *communal open spaces*
 - (i) *with a total area of at least 20% of the site area, and*
 - (ii) *each with minimum dimensions of 3m,*

Comment: Part (h) requires 105.4 m² of communal open space with a minimum dimension of 3m.

The amended proposal involved a relocation of the communal open space from the ground floor level to the roof level of each building. Building A incorporates 53m² and Building B 37m² totalling 90m² in area.

Whilst this is numerically non-compliant with the minimum area requirements of Part (h) the non-compliance is minor and the site is located in an area with immediate access to parkland and outdoor open space. The extent of communal open space is considered to be satisfactory in these circumstances.

- *if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces—*

- (i) for development on land within an accessible area—0.2 parking spaces for each boarding room,*
- (ii) otherwise—0.5 parking spaces for each boarding room.*

accessible area means land within— [...] (c) 400m walking distance of a bus stop used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between— (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and (ii) 8am and 6pm on each Saturday and Sunday.

Comment: Part F1.5 of the DCP does not stipulate parking provisions for a 'boarding house' landuse and requires a Parking Study to be undertaken.

It was advised in the Pre-DA meeting that the State Environmental Planning Policy (Housing) 2021 'accessible area' parking rates could be used as a guideline in the traffic and parking study. This approach has been accepted by the City previously for development in the Coffs Harbour Commercial Core, noting the site is not an 'Accessible Area' only due to the bus service not being provided on Sunday's between 8:00am and 9:00am.

With reference to the 'accessible area' parking rates, the provision of on-site car parking is calculated at 0.2 parking spaces for each boarding room. With 25 boarding rooms proposed, 5 on-site parking spaces are required.

Whilst 5 car parking spaces are proposed, the City's Development Engineer has identified that Car Space No. 4 requires a 4-point manoeuvre and therefore does not comply with Australian Standard AS2890.1 Table 1.1. Therefore, this assessment is based on the provision of 4 parking spaces being provided.

Traffic and parking is assessed in the DCP Part F1 assessment. The assessment has found the proposal to be satisfactory from a parking and access perspective.

if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.

Comment: Part F1.5 of the DCP does not stipulate parking provisions for a 'boarding house' landuse, therefore the proposal is subject to a Parking Study.

A traffic and parking study was submitted with the application based on the provision of 5 spaces being provided. The report concluded that 5 spaces is more than sufficient to cater for the development and that there is ample public parking opportunities to cater for additional demand for residents utilising street parking.

As detailed in the relevant subsection of the report the provision of 4 compliant car parking spaces is considered to be satisfactory in the circumstances of the case, noting a fifth parking space will be available for a 'small car'.

25 Standards for boarding houses

Development consent must not be granted under this Division unless the consent authority is satisfied that:

- *no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m², and*

Comment: 3 boarding rooms have a gross floor area in excess of 25m² and are therefore non-compliant.

The non-compliant boarding rooms each contain 2 bedrooms. The remainder of the boarding rooms within the building contain 1 bedroom and do not exceed 25m² in gross floor area.

The non-compliance is derived from the second bedroom within the 3 non-compliant boarding rooms. The two-bedroom boarding rooms facilitate social diversity in the building. The non-compliance is minor in context of the development and is acceptable.

- *no boarding room will be occupied by more than 2 adult residents.*

Comment: This requirement forms a recommended condition of consent.

- *adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and*

Comment: Each boarding room contains adequate bathroom, kitchen and laundry facilities and is therefore compliant with this requirement.

- *for a boarding house on land in a business zone—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and*

Comment:

The boarding house is permitted pursuant to the CHCC LEP 2013. The proposal is compliant with the standard.

- *for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area,*

Comment: A 'shared facilities' room is provided on the ground floor level. The room contains a kitchenette and is considered to be a communal living area.

The proposal is compliant with the standard.

- *the minimum lot size for the boarding house is not less than*
- *for development on land in Zone R2 Low Density Residential—600m², or*
- *for development on other land—800m².*

Comment: The land is less than 800m² and therefore the proposal is not permissible under the SEPP. As previously raised the design criteria of the SEPP is only being used as a guideline to assess the proposal.

- *each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following*
 - (i) *for a boarding room intended to be used by a single resident—12m²,*
 - (ii) *otherwise—16m², and*
- *the boarding house will include adequate bicycle and motorcycle parking spaces.*

Comment: The boarding rooms comprise of the following areas based on the above formula:

- 1 Bedroom units 24.5m²
- 2 Bedroom Units 61.1m²

The proposal incorporates 6 motorbike spaces and 16 bicycle spaces. This level of provision is assessed as being satisfactory in the Traffic and Parking Report and is considered acceptable.

- *Development consent must not be granted under this Division unless the consent authority considers whether the design of the boarding house will be compatible with—*

	<ul style="list-style-type: none"> ○ <i>the desirable elements of the character of the local area, or</i> ○ <i>for precincts undergoing transition—the desired future character of the precinct,</i> <p>Comment: The built form character of Duke Street does not currently reflect the development potential afforded by the applicable building envelope controls and the existing development does not reflect the desired future character of the area.</p> <p>The proposed building is substantially below the maximum 44m statutory building height and the 4.5:1 floor space ratio that applies to the area. No numerical setbacks are prescribed for the site. The proposed setbacks are considered to be in keeping with the building envelope objectives.</p> <p>It is considered that the proposed built form achieves an appropriate balance between the existing streetscape character and future character of the area.</p> <ul style="list-style-type: none"> • <i>if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.</i> <p>Comment: The proposal does not comply with the numerical visual privacy separation distances stipulated in the Apartment Design Guide, however the proposal is acceptable as the overarching objectives are achieved. This is detailed in the SEPP 65 assessment below.</p>	
SEPP 65	<p>Clause 25(2)(c) of State Environmental Planning Policy (Housing) 2021 requires compliance with the minimum building separation distances specified in the Apartment Design Guide.</p> <p>The SEPP has therefore been used as a guideline in the assessment.</p>	Y

Objective 3F-1

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Design criteria

1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2)

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties

For residential buildings next to commercial buildings, separation distances should be measured as follows:

- for retail, office spaces and commercial balconies use the habitable room distances
- for service and plant areas use the non-habitable room distances

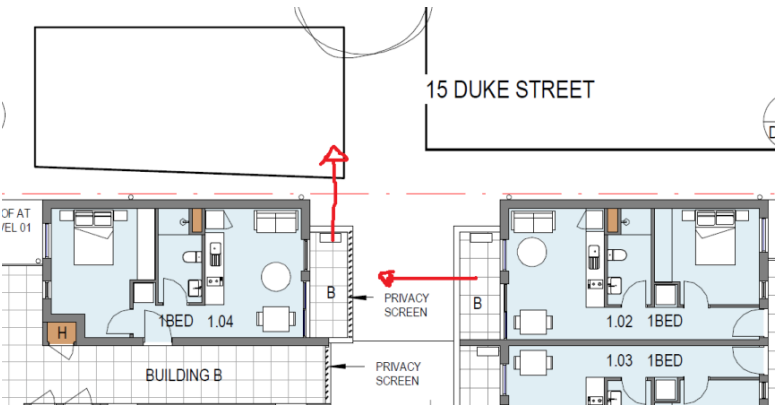
Figure 11: Extract of ADG Design Criteria

The design criteria provides the measurable requirements for how Objective 3F-1 can be achieved. However, numerical non-compliance with design criteria 1 of 3F-1 is not required if the proposal achieves the objectives.

Comment:

15 Duke Street adjoins the site to the north and is contains a single storey building occupied by a medical professional.

The northern elevation of the proposed development does not involve any windows or balconies. The east-west facing balconies are setback

	<p>1.2m from the northern side boundary and have an area no greater than 5m².</p> <p>Any visual privacy impacts across the northern side boundary would be minor and acceptable for the following reasons:</p> <ul style="list-style-type: none"> • The proposed balcony size is not excessive, • Due to the limited size of the balconies, the frequency and duration of use would not be excessive. • The proposal incorporates large communal open space areas that would be expected to be used for outdoor amenity. • The height/level differences between the buildings limits visual privacy impacts. • As shown on the marked-up plan below, the primary outlook for U1.02 is west facing and the outlook for 1.04 is north facing, with an outlook over the carport. The visual privacy impacts are considered to be minor.  <p>Figure 12: Plan showing primary balcony outlook</p> <p>The southern building elevation contains a south facing bedroom window at each level. The outlook is across a car parking area and is therefore acceptable. All other windows and balconies overlook formed roads and lanes and do not result in adverse visual privacy impacts.</p> <p>Despite the numerical non-compliance with design criteria 1 of OF-1, the proposal satisfies the objective and is therefore acceptable.</p>	
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 of Schedule 6: Affordable housing over \$5 million. 	Y
SEPP (Resilience & Hazards)	<p>Chapter 2: Coastal Management</p> <p>The following applies to the proposal:</p> <ul style="list-style-type: none"> • Section 2.8(1) - Development on land in proximity to coastal wetlands or littoral rainforest 	Y

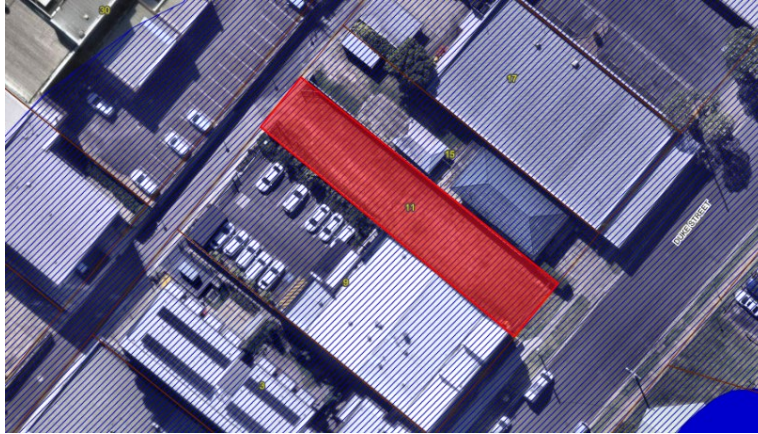


Figure 13: Coastal wetland mapping

- **Section 2.10(1) & (2)** - Development on land within the coastal environment area

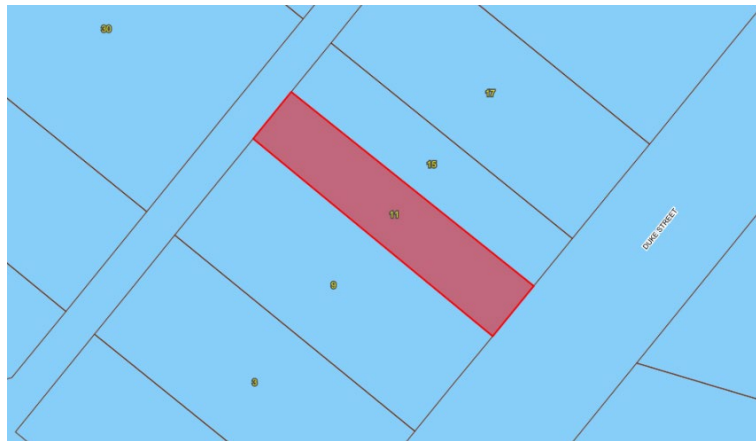


Figure 14: Coastal environmental area mapping

- **Section 2.11(1)** - Development on land within the coastal use area

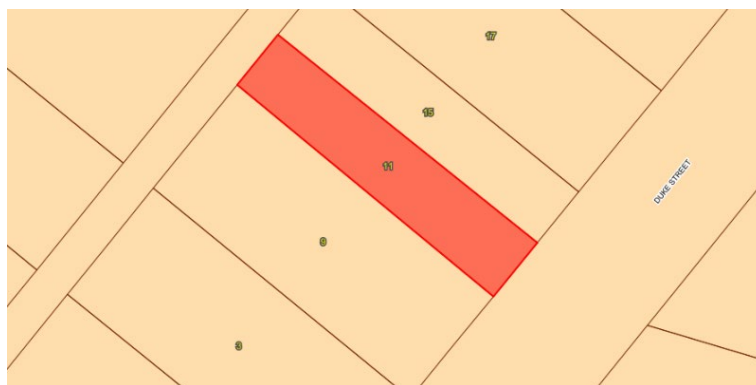
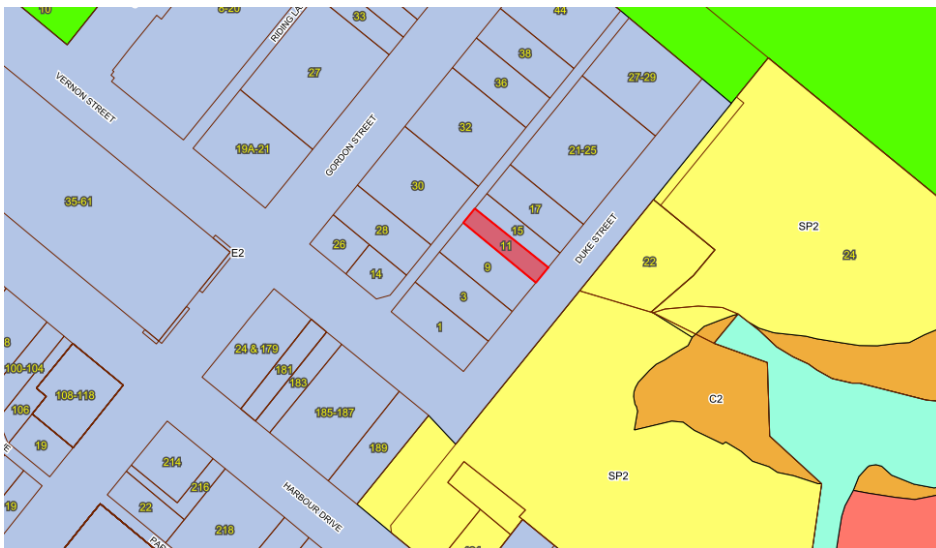


Figure 15: Coastal use area mapping

Comment:

It is considered that the proposal, as conditioned, will not have any significant adverse environmental impacts upon the coastal locality and is satisfactory with regard to the relevant provisions of Chapter 2.

	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> • Section 4.6 – As the site has a long history of use and is not identified as being contaminated on the City's register, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4). <p>The proposal is acceptable with regard to the relevant matters for consideration in Chapter 4.</p>	
LEP	<ul style="list-style-type: none"> • <u>2.3 Zone objectives and Land Use Table</u> <p>The site is located within the E2 Commercial Centre pursuant to Clause 2.3 of the Coffs Harbour LEP 2013. The proposed land use (boarding house) is permissible with consent in the zone.</p>  <p>Figure 16: Zoning map</p> <p>The objectives of the zone are:</p> <ul style="list-style-type: none"> • <i>To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.</i> • <i>To encourage investment in commercial development that generates employment opportunities and economic growth.</i> • <i>To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.</i> • <i>To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.</i> • <i>To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</i> • <i>To ensure the scale and nature of development reinforces the role of the Coffs Harbour City Centre as the principal business, office, cultural, civic, entertainment and retail hub, while supporting the objectives of other employment zones.</i> • <i>To ensure development makes a positive contribution to the streetscape through opportunities for improved pedestrian links,</i> 	Y

retention and creation of view corridors and the provision of a safe public domain.

- *To promote the Coffs Harbour City Centre for higher density living to provide for housing diversity and choice that supports the changing housing needs of the population.*
- *To promote uses that activate and add to the vibrancy of the Coffs Harbour City Centre and contribute to the night-time economy.*
- *To ensure development is consistent with the Coffs Harbour City Centre Masterplan.*
- *To encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.*
- *To ensure development reflects design excellence and a high visual standard within the public domain.*

The proposed boarding house is a form of residential development that is consistent with the 'office living' area in the City's adopted Precinct Analysis: Gordon Street Library & Gallery.

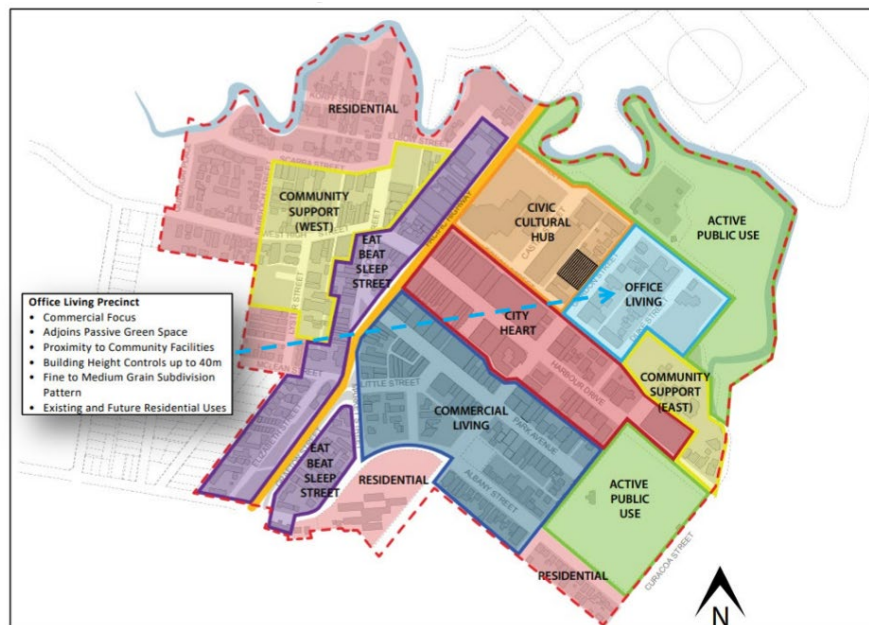


Figure 17: Gordon Street library and gallery Precinct Analysis

The boarding house landuse is located in a highly suitable area next to the existing Mission Australia Office Building and within immediate proximity City Centre which incorporates business, entertainment, public transport and parks and open spaces.

With urban renewal occurring in the Commercial Centre including a variety of land uses and densities, the proposal is positioned to successfully integrate into the locality and assist with the wellbeing of the community members.

In terms of bulk and scale, the proposal is considered to achieve the objectives of the City's building envelope controls. The built form is an appropriate balance between achieving the existing and desired future character of the area.

In terms of amenity impacts upon surrounding development, this assessment has found the proposal to be acceptable in terms of environmental impacts.

The proposal is acceptable with regard to Clause 2.3.

- 4.1 Minimum subdivision lot size

No minimum lot size applies to the land.

Objective (1) requires that lot sizes have a practical and efficient layout to meet their intended use.

The proposed subdivision (boundary adjustment) facilitates compliant vehicular manoeuvrability across the site. The boundary adjustment results in a reduction to the landscaped area on 9 Duke Street.

It is considered that the boundary adjustment achieves a practical and efficient layout across both sites.

The proposal is acceptable with regard to Clause 4.1.

- 4.3 – Height of Buildings

The height of building maps applicable to the land is 44m. However, pursuant to Clause 7.21 the maximum height of buildings on the subject site is 28m.

Amended architectural drawings were received during the assessment reducing the height of the building to 24.35m. In doing so, Building B was reduced by one level.

The proposal complies with Clause 4.3 and 7.21.

- 4.4 – Floor Space Ratio

The floor space ratio shown for the land on the Floor Space Ratio Map is 4.5:1.

Clause 2(A) reduces the floor space ratio to 1:1 as the site area is less than or equal to 600m².

The proposed development has a floor space ratio of 2.27:1 and is therefore non-compliant with the applicable 1:1 floor space ratio.

This is detailed and assessed in accordance with Clause 4.6 below.

- 4.6 Exceptions to development standards

Description of non-compliance

As detailed in Clause 4.4 the application is seeking a variation to the floor space ratio development standard. In accordance with Clause 4.4 (2A) the maximum floor space ratio is 1:1.

The application proposes a floor space ratio of 2.27:1.

Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 – Floor space ratio development standard, has taken into consideration the recent judgement contained within *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

- *The objectives of this clause are as follows:*
 - *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- *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.*

Note: Clause 4.4 – Floor space ratio development standard is not expressly excluded from the operation of this clause.

- *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:*
 - *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.*
- *Development consent must not be granted for development that contravenes a development standard unless:*
- *the consent authority is satisfied that:*
 - *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - *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*

- *the concurrence of the Secretary has been obtained.*

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

Comment: The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the floor space ratio development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

- *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined but would refer to grounds that relate to the subject matter, scope, and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows:

- *to promote the social and economic welfare of the community and a better environment by the proper management, development, and conservation of the State's natural and other resources,*
- *to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,*
- *to promote the orderly and economic use and development of land,*
- *to promote the delivery and maintenance of affordable housing,*

- *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities, and their habitats,*
- *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- *to promote good design and amenity of the built environment,*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- *to provide increased opportunity for community participation in environmental planning and assessment.*

Comment: The applicants written request (as summarised below) justifies the non-compliance with the floor space ratio development standard:

- The proposal achieves the objectives of the zone.
- The proposal achieves the objectives of the floor space ratio development standard.
- The proposal is in the public interest.
- The exception will enable a positive planning and urban design outcome for the site with the delivery of social housing.
- The floor space ratio of 1:1 is derived from the proposed lot size of 537.2m² being below 600m².
- The proposed floor area of 2.27:1 is significantly below the maximum 4.5:1 standard that is available to development in central business district for sites above 1500m².
- The site is unable to be amalgamated with the adjoining site of 9 Duke Street (Mission Australia office building) due to funding stream reasons. If the sites were consolidated (9 & 11 Duke Street) the combined site area would be greater than 1500m², which would permit a FSR of 4.5:1.
- The site is located next to the Mission Australia office premises at 9 Duke Street. The office premises provides support services to assist people successfully transition back into society. The location of the proposed boarding house next to the office premises will enable the best support for occupants.
- The proposed bulk and scale is compatible with the streetscape and the desired future character of the area
- The proposal does not result in any unacceptable overshadowing impacts to adjoining properties or the public domain.
- The proposal complies with all other applicable built form controls and/or objectives.
- The proposal assists in addressing affordable and social housing issues in a manner that is consistent

	<p>with the North Coast Regional Plan 2041, the City's Affordable Housing Strategy and Policy, and the Coffs Harbour Local Growth Management Strategy.</p> <p>Further to the comments made by the applicant the following comments are also relevant to the proposed bulk and scale and desired future character of the area.</p> <p>The proposal incorporates 5 levels for Building A (excluding the roof terrace level) and 7 levels for Building B. Building 'A' presents to Duke Street with the overall height and scale being comparable to the recently constructed boarding house at 3 Duke Street.</p> <p>The majority of the bulk and scale associated with building 'B' is skilfully presented to the rear unnamed service laneway. Building 'B' is unlikely to be seen from Duke Street when viewed directly in front of the property and will be distant from any other public community areas.</p> <p>The existing character of Duke Street does not currently reflect the City's controls. It is considered that the proposal strikes an appropriate balance, in terms of bulk and scale, of being compatible with surrounding development and achieving the desired future character of the area as existing sites are developed to their potential.</p> <p>The applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying clauses 1.3 (c) and (g) of the EPA Act.</p> <p>Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).</p> <p>It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).</p> <p><u>Clause 4.6 (4)(a)(ii) (Public Interest) assessment:</u></p> <p>cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:</p> <ul style="list-style-type: none">• <i>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.</i> <p>Comment: In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the floor space ratio development standard and the</p>	
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objectives of the E2 Commercial Centre zone. An assessment against these objectives is provided below.

OBJECTIVES OF DEVELOPMENT STANDARD

The underlying objectives of the standard, pursuant to Clause 4.4 – ‘Floor space ratio’ of the CHEP 2013 are:

- The objectives of this clause are as follows:
 - *to define the allowable development density of a site*

Comment: The allowable density is defined by Clause 4.4(2A). However, Clause 4.6 enables flexibility to be applied to the development standard.

The surrounding built form character of the area does not currently reflect the development potential afforded by the City's development controls. It is expected that these sites will form part of the desired future character of the area when they are developed to their potential.

The proposed development is considered to be compatible with the streetscape and is consistent with the desired future character of the area.

The proposal does not result in any significant impact to adjoining properties with respect to view loss, solar access, visual privacy, or general amenity.

It is considered that the proposed density is a suitable response to the site and reflects the desired future character of the area.

- *to encourage increased building densities through site amalgamation at certain locations.*

Comment: The applicant has provided written correspondence acknowledging that due to funding stream issues there is no opportunity to amalgamate the site with surrounding allotments to benefit from a more generous floor space ratio. This is despite the adjoining allotment of 9 Duke Street being owned by Mission Australia and occupied by the Mission Australia Office.

ZONE OBJECTIVES

The objectives of the E2 Commercial Centre zone are:

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council's strategic planning for residential development in the area.*

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To ensure the scale and nature of development reinforces the role of the Coffs Harbour City Centre as the principal business, office, cultural, civic, entertainment and retail hub, while supporting the objectives of other employment zones.*
- *To ensure development makes a positive contribution to the streetscape through opportunities for improved pedestrian links, retention and creation of view corridors and the provision of a safe public domain.*
- *To promote the Coffs Harbour City Centre for higher density living to provide for housing diversity and choice that supports the changing housing needs of the population.*
- *To promote uses that activate and add to the vibrancy of the Coffs Harbour City Centre and contribute to the night-time economy.*
- *To ensure development is consistent with the Coffs Harbour City Centre Masterplan.*
- *To encourage active living through the provision of healthy, walkable, green and safe built environments and streets, greener connections and walking and cycling infrastructure.*
- *To ensure development reflects design excellence and a high visual standard within the public domain.*

The proposed boarding house is a form of residential development that is consistent with the 'office living' area in the City's adopted Precinct Analysis: Gordon Street Library & Gallery as shown in Figure 17 above.

The boarding house is located in a highly suitable area next to the existing Mission Australia Office Building and within immediate proximity City Centre which incorporates business, entertainment, public transport and parks and open spaces.

With urban renewal occurring in the Commercial Core including a variety of land uses and higher densities, the proposal is positioned to successfully integrate into the locality and provide needed resources to the community.

In terms of bulk and scale, the proposal is considered to achieve the objectives of the City's building envelope controls. The built form is an appropriate balance between achieving the existing and desired future character of the area.

In terms of amenity impacts upon surrounding development this assessment has found the proposal to be acceptable in terms of environmental impacts.

Conclusion: For the reasons detailed above, the proposal is considered to be consistent with the objectives of the Clause 4.4 – 'Floor space ratio' and 'E2 Commercial Centre zone'.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed.

- 5.21 Flood Planning

This clause applies to land at or below the flood planning level. Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: is compatible with the flood hazard of the land; is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties; incorporates appropriate measures to manage risk to life from flood; is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

Comment:

11 Duke Street is located within a flood planning area and is partly affected by the 100-year Average Recurrence Interval. This is depicted on the following image:



Figure 18: Flood mapping

The application was referred to the City's Flood Engineer for assessment and was found to be acceptable subject to recommended conditions including:

- The finished floor level of the ground floor of the building is to be a minimum of 4.2 m AHD.
- All new electrical infrastructure and equipment (wiring, power outlets, switches etc.) to the maximum extent possible must be

located a minimum of 0.5m above finished floor level or suitably waterproofed.

- An Emergency Business Continuity Plan (Business Floodsafe Plan) is to be prepared for approval.

Subject to the recommended referral conditions, it is considered that the development is:

- compatible with the flood hazard of the land;
- is not likely to significantly adversely affect flood behaviour (resulting in detrimental increases in the potential flood affectation of other development or properties);
- incorporates appropriate measures to manage risk to life from flood;
- is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and
- is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The proposal is therefore acceptable with regard to Clause 5.21 of the LEP.

- 7.1 Acid sulfate soils

Part 7.1 requires the City to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Comment:

The site is underlain by Class 4 Acid Sulphate Soils and excavation will be required in relation to the lift pit, OSD tank, foundations and servicing.

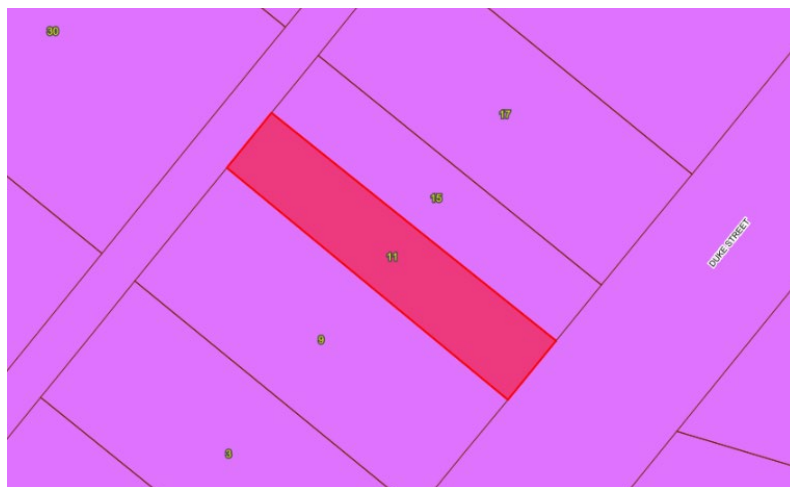


Figure 19: Class 4 Acid Sulphate Soils mapping

The applicant submitted an Acid Sulphate Soils Report by Douglas and Partners dated October 2023 in support of the proposal. The findings of

the investigation indicate that acid sulfate soils are present in the clay and silty clay material located at depths of greater than 1m.

The application was referred to the City's Environmental Health Officer for assessment and was found to be acceptable subject to conditions requiring the preparation of an Acid Sulfate Soil Management Plan (ASSMP) prior to the issue of a Construction Certificate.

As conditioned the proposal is acceptable with regard to Clause 7.1 of the LEP.

- 7.2 Earthworks

The Clause specifies that development consent is required for earthworks unless such works are exempt development under another environmental planning instrument or ancillary to development that is permitted without consent under the LEP or development to which consent has been given.

Comment:

Earthworks are required in relation to the lift pit, OSD tank, foundations servicing and general site works.

Subject to the recommended conditions of approval is considered that the development is unlikely to: disrupt or detrimentally affect drainage patterns and soil stability in the locality of the development; affect the likely future use or redevelopment of the land; affect the existing and likely amenity of adjoining properties; disturb relics; adversely affect any waterways, drinking water catchment or environmentally sensitive area.

As conditioned the proposal is acceptable with regard to Clause 7.2 of the LEP.

- 7.8 Koala habitat

Part of the subject land is mapped as land adjoining primary koala habitat.



Figure 20: Land adjoining primary koala habitat mapping

The objective of Lands Adjoining primary Koala Habitat is to minimise impacts on Primary Koala Habitat from development proposed on adjoining lands, particularly where such areas may contain scattered preferred koala trees, and to maintain opportunities for free movement of koalas between areas of habitat.

Comment:

The City is satisfied the proposed development meets the above objective as:

- The Lands Adjoining Primary Koala Habitat mapping is by virtue of the koala habitat located on the adjoining parkland. The development site does not provide any connectivity or opportunities between areas of koala habitat.
- The proposal does not contain any trees.
- The site has been previously developed and will not result in new barriers to koala movement.
- The land is required to be maintained as an inner protection zone and does not require any fuel reduced zones outside of the boundary and therefore will not impact upon any Koala Habitat.
- 7.11 Essential Services

The proposed development is to be serviced via reticulated water, sewer, and electricity. The proposed method for stormwater drainage has been considered satisfactory. A detailed design is required to be approved at Construction Certificate/Civil Works stage.

Vehicular access and waste collection is proposed via the rear service laneway and is acceptable.

The proposal is satisfactory with 7.11.

- 7.12 Design Excellence

Development consent must not be granted for development on land to which this clause applies unless the consent authority considers that the development exhibits design excellence.

Comment:

The proposed boarding house is considered to be a well-designed contemporary style of building, which is highly articulated and includes a variety of materials. The built form is compatible with the existing character of the street and will achieve the desired future character of the area.

The proposal is not expected to result in any significant adverse amenity impacts upon surrounding properties or the public domain in terms of view loss, visual intrusion, solar access, wind tunnelling and reflectivity.

In terms of solar access, shadow diagrams prepared by Become Architects (provided below) demonstrate that the proposal will not cast any shadows onto the adjoining parkland until approximately 1pm. The impact of overshadowing at this point is not significant and is minimised by the fact that Building 'B' located at the rear of the site with substantial separation from Duke Street and the adjoining parkland.

The proposal will not overshadow No. 15 Duke Street during the winter solstice and an acceptable level of solar access is retained at the surrounding office building at 9 Duke Street. The boarding house at 3-5 Duke Street retains a high level of solar access.



Figure 21: 9.00 Winter Solstice

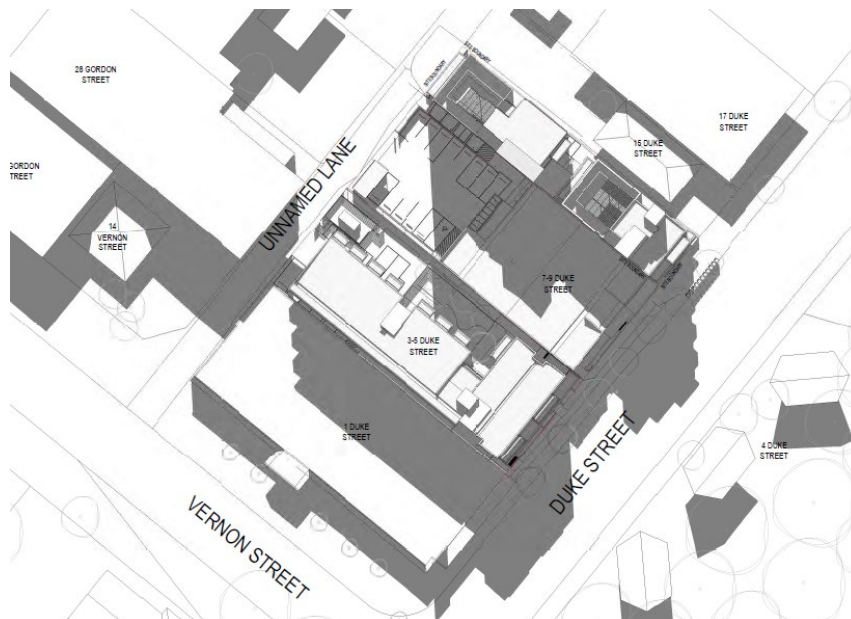


Figure 22: 12.00pm Winter Solstice



Figure 23: 3.00pm Winter Solstice

The potential for wind tunnelling is minimised by the narrow building mass and the break between the buildings and is considered to be acceptable.

The proposal is not envisaged to result in any unacceptable view loss impacts and contains a suitable material schedule comprising of neutral colours and low reflectivity materials.

The proposal is considered to achieve the controls and objective of Part 7.12 of the LEP.

- 7.13 Coffs Harbour City Centre

The objective of this clause is to maintain the primacy of the Coffs Harbour City Centre as the principal business, office, retail, cultural, civic and entertainment hub of the city centre and to ensure that development does not conflict with the hierarchy of commercial centres, and to strengthen Coffs Harbour's position as an eminent regional centre by creating employment opportunities for tourism, commerce, education, health care, culture and the arts.

Development consent must not be granted to development on any land unless the consent authority has considered whether the development maintains the primacy of the Coffs Harbour City Centre as the principal business, office, retail, cultural, civic and entertainment hub of the Coffs Harbour City.

Comment:

As previously raised the proposed site is located within an area identified for officed/living on the Precinct Analysis Gordon Street New Library Gallery Preliminary map. Refer to Figure 17 above.

The E2 Commercial Core zoning permits limited residential landuses in this the zone. However, a boarding house landuse is permitted with

consent. This reinforces that the proposed landuse is consistent with intended use of this area.

The proposed location provides residents with immediate access to the benefits of the City Centre including business, entertainment, public transport and proximity to community facilities such as parks and open spaces. The proposed boarding house is also located next to the Mission Australia Office building at 9 Duke Street, which will be used to provide services to the residents.

The proposal will not take away from the primacy of the Coffs Harbour City Centre and will promote the vibrancy of the area.

The development is satisfactory with regard to Clause 7.13.

- 7.21 Minimum building street frontage

The Clause specifies that development consent must not be granted for the erection of a building over 28 metres in height on land that does not have at least one street frontage of 30 metres.

Amended architectural plans were received during the assessment reducing the building to a maximum height of 24.35m.

The development complies with the controls and objectives of Clause 7.21.

DCP

Part C Subdivision Controls

The proposed subdivision is a boundary adjustment between 11 Duke Street (505.9 m²) and 9 Duke Street (1,012 m²) to create Lot 1 (980.6 m²) and Lot 2 (537.2 m²). Effectively, 31.3227m² of land is being transferred from 9 Duke Street to 11 Duke Street to enable a compliant parking and manoeuvring area for spaces 1 - 3. The area is highlighted on the following plan extract.

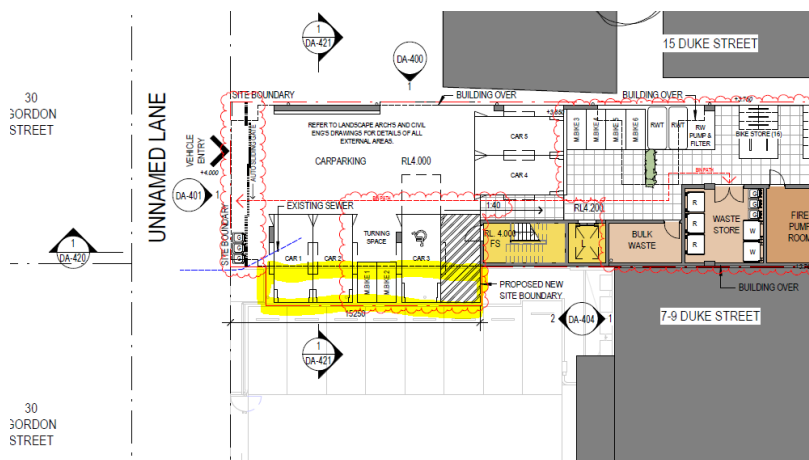


Figure 24: Boundary adjustment area highlighted yellow.

Y

The proposed subdivision does not alter the frontage of the properties and will not have any servicing implications for the established development at 9 Duke Street.

It is considered that the boundary adjustment achieves a practical and efficient layout across both sites, adequately responds to the intended development use, and is acceptable in terms of servicing.

The proposal is satisfactory with regard to the controls and objectives of Part C1 of the DCP.

Part D Built Form Controls

- D1.1 Setback Requirements

Due to the fact that the proposed development resides within the Coffs Harbour City Core Precinct, setbacks must comply with the precinct controls and objectives in Part G3.2. The proposed building setbacks are discussed within this Section of the report and are considered satisfactory.

- D1.2 Design Requirements - General

Control 1 requires that development is designed:

- a) so that buildings do not exceed a total length of 45 metres; and*
- b) to address the street, with front entryways to be generally parallel with the street; and*
- c) to incorporate modulation of form, articulation of building facades, window arrangements and architectural enhancements to add visual interest and to reduce the apparent bulk and scale of buildings as demonstrated below; and*
- d) to contribute to a visually interesting skyline and to differentiate between the base, middle and top in design, where buildings are over 13 metres high; and*
- e) so that large unrelieved expanses of wall or building mass do not face a public road or adjoin residential areas; and*
- f) so that no blank or opaque side walls are provided on any street elevation; and*
- g) so that building design, materials, construction and finishes achieve microclimate responsive solutions such as louvres, shading, verandahs and indoor/outdoor spaces; and*
- h) so that colours and textures of all external finishes are of a high quality and are suitable for the locality and the context of the site; and*
- i) to maximise glazing whilst avoiding large unrelieved expanses of glass; and*
- j) to avoid the use of building materials that are highly reflective or less durable; and*
- k) to integrate roof plant rooms and lift overruns into the overall architecture of the development; and*
- l) so that any outdoor dining is provided at street level; and*
- m) to include light wells and courtyards to improve internal building amenity and achieve ventilation.*

The objectives are:

- To ensure that development exhibits design excellence that contributes to and complements the natural, cultural, visual and built character of the streetscape and public domain.
- To provide richness of detail and architectural interest especially at visually prominent parts of buildings such as lower levels and roof tops of buildings.
- To reduce the apparent bulk and scale of buildings by breaking up expanses of building walls with modulation of form and articulation of facades.
- To provide design responses for the North Coast climate.
- To achieve continuous awnings within certain commercial areas.

The buildings have a width of 9.8m and a maximum height of 24.35m is proposed for Building 'B'. The buildings are vertically proportioned and are therefore required to identify with a differentiated base, middle and top in design. The proposed ground floor level comprises of a landscaped entry that is differentiated in design from the living areas above, which contain balconies, and the roof terraces and lift overrun identify the top of the buildings.

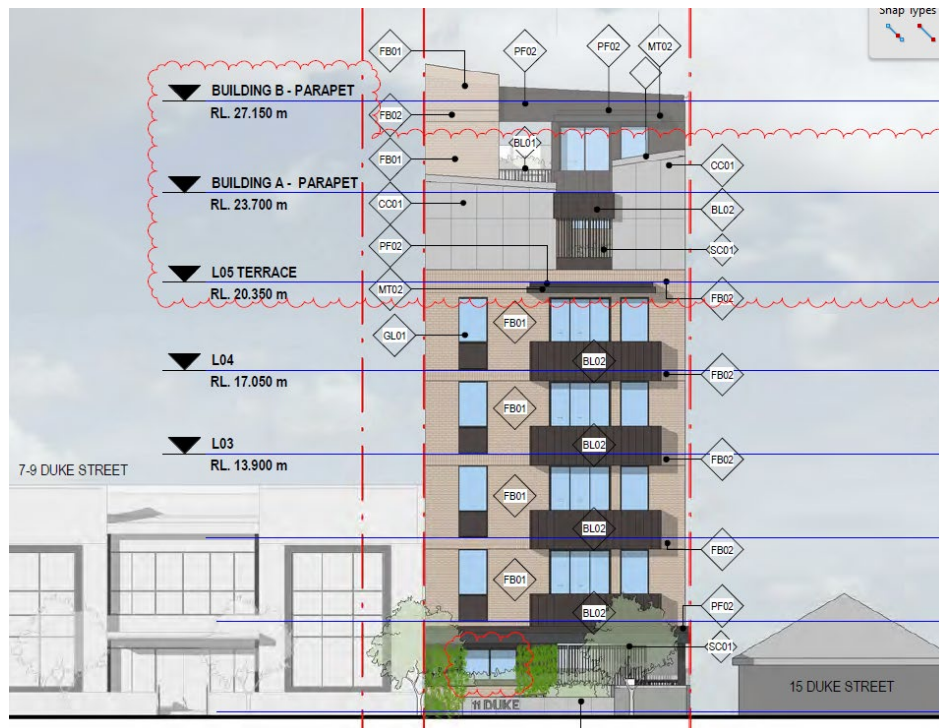


Figure 25: Duke Street Elevation depicting gradual setback of the building as it increases in height.

The two distinctive buildings break up the overall bulk, scale and massing of the proposal and the varying heights contribute to a visually interesting skyline.

The majority of the bulk and scale is associated with building 'B' which is skilfully presented to the rear unnamed service laneway and is unlikely to be seen from Duke Street (when viewed from directly in front of the property) and will be distant from any other public areas.

The proposal was accompanied by a material schedule incorporating a variety materials and finishes that will result in a high quality and visually interesting finish.

Whilst the proposal will have its own unique identity in the street, it will share numerous architectural similarities to the recently constructed boarding house at 3 Duke Street. The building at 3 Duke Street won numerous design awards and is an example of a high-quality development in the area.

The proposal achieves the controls and objectives of part D1.2 of the DCP.

- D1.4 Infrastructure and Site Facility Requirements

The application has been the subject of two sets of revised plans to address the City's requirements in relation to waste management, parking and access, stormwater management and flooding.

The application was referred to essential energy and it has been confirmed that an electrical substation is not required to support the development due to the capacity and available supply of existing substations in the area.

The proposal is satisfactory with regard to part D1.4.

- D1.5 Access and Parking Requirements

The proposed development is required to comply with the objectives of F1 Parking and Access, which is addressed in the relevant subsection of this report.

The proposal is satisfactory with regard to part D1.5.

- D1.6 Laneway Requirements

Vehicular access is provided from the rear lane and is satisfactory.

The proposal is satisfactory with regard to part D1.6.

- D1.7 Landscaping Requirements

The proposed development is required to comply with the controls of F3 Landscaping, which is addressed in the relevant subsection of this report.

The proposal is satisfactory with regard to part D1.7.

- D1.8 Accessibility Requirements

	<p>The proposed development complies with both the Disability (Access to Premises – Building Standards) 2010, and Disability Discrimination Act 1992.</p> <p>The application was accompanied by an Access Report by Code Performance. The report has identified aspects of the design that will not be Deemed to Satisfy and will require performance solutions.</p> <p>The Application was referred to the City's Building Compliance Section for assessment. It was found that any performance solutions will most likely have no impact on the general design and the proposal would be satisfactory subject to recommended conditions.</p> <p>The proposal is satisfactory with regard to part D1.8.</p> <ul style="list-style-type: none"> • <u>D1.9 Safer by Design</u> <p>The development implements the principles of the <i>Crime Prevention Through Environmental Design</i> guidelines. The proposed development allows for passive surveillance of public areas thus increasing the safety of both communal areas and the street.</p> <p>The proposal is satisfactory with regard to part D1.9.</p> <ul style="list-style-type: none"> • <u>D1.13 Water Management Requirements</u> <p>The referral response from City's Development Engineer and Water Sensitive Urban Design Officer determined that stormwater management can be provided in accordance with the City of Coffs Harbour's Development Specifications and Water Sensitive Urban Design Guidelines.</p> <p>A detailed design will be required for approval at the Civil Works/Construction Certificate stage. This requirement forms a condition of consent.</p> <p>The proposal is satisfactory with regard to part D1.13.</p> <ul style="list-style-type: none"> • <u>D1.14 Erosion and Sediment Control Requirements</u> <p>The proposed works will be limited excavations to support building foundations, water detention and servicing.</p> <p>The CHDCP requires a Basic Erosion and Sediment Control Plan to be prepared for developments with a disturbed area less than 800m². A recommended condition of consent requires the provision of a Basic Erosion and Sediment Control Plans prepared in accordance with the principles of Best Practice Management for Small Areas of Disturbance to be submitted to and approved by the Principal Certifying Authority prior to the commencement of works.</p> <p>The proposal is satisfactory with regard to part D1.14.</p> <ul style="list-style-type: none"> • <u>D1.20 Amenity</u> 	
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Control (1) requires that development is designed to incorporate methods to reduce visual and acoustic impacts on adjoining residential zoned land, including the following:

1. landscaping,
2. screening,
3. unobtrusive lighting,
4. the location of delivery areas and loading docks, and
5. appropriate delivery hours and limited after hours deliveries.

There is no residential zoned land within immediate proximity of the development, however a residential landuse (boarding house) exists at 3 Duke Street.

The application was accompanied by an acoustic report by Acoustic Logo which provided a noise emission assessment against sensitive residential noise receptors.

The application was referred to City's Environmental Health Officer for assessment and the proposal was found to be acceptable in terms of acoustic impacts, subject to recommended conditions. Conditions imposed to achieve acoustic amenity (post construction) include:

- Recommendations in the Acoustic Logic's Noise Impact Assessment being fulfilled, including:
 - Glazing and door design
 - Roof and ceiling design
 - External wall design
 - Mechanical plant design
- The Plan of management being fulfilled, which stipulates house rules for the residents, the provision of an on-site manager and process for complaint management.

In other respects, the proposal will be conditioned to ensure that lighting is unobtrusive and in accordance with the Australian Standards for outdoor lighting.

As conditioned the proposal is satisfactory with regard to part D1.20.

Part F General Development Controls

- F1.1 Vehicular Access and Manoeuvring

The proposed use of the laneway to enter and exit the site is satisfactory. The proposal will be required to upgrade the laneway to the City's design standards. This requirement for a recommended condition of consent.

The City's Development Engineer has identified that Car Space No. 4 requires a 4-point manoeuvre to work and therefore does not comply with Australian Standard AS2890.1 Table 1.1.

The provision of 4 compliant on-site car parking spaces has been assessed in Part F1.1 below.

- F1.5 On-Site Parking – Non Residential Uses

Part F1.5 does not stipulate parking provisions for a 'boarding house' landuse, therefore the proposal is subject to a Parking Study.

It was advised in a Pre-DA meeting that the State Environmental Planning Policy (Housing) 2021 'accessible area' parking rates could be used as a reference in the traffic and parking study. This approach has been accepted by the City previously for development in the Coffs Harbour Central Business District, noting the site is not an 'Accessible Area' due to the bus timetable not incorporating busses between 8.00am and 9.00am on Sundays.

With reference to the 'accessible area' parking rates, the provision of on-site car parking is calculated at 0.2 parking spaces for each boarding room. With twenty-five (25) boarding rooms proposed, five (5) on-site parking spaces would be required.

The provision of 4 compliant on-site car parking spaces involves a shortfall of 1 car parking space to the 'accessible area' parking space requirements of the SEPP and number of spaces assessed in the Traffic and parking Report by TEF Consulting.

In this instance the provision of 4 car parking spaces is considered to be acceptable for the following reasons:

- On-street parking accumulation surveys conducted by TEF within convenient walking distance from the site (250 m) indicated that there were at least 42 spaces vacant during the business peak (12:30 to 13:00). During the typical peak parking demand for residential developments, however, (before 08:00 and after 17:00) there were ample parking opportunities (at least 108 vacant spaces). This was concluded to be more than sufficient to cater for the additional car parking demand generated by the development.
- The boarding house is located in the central business district, which would enable immediate access to the City Centre for business, training, employment, entertainment, public transport. The site is also in walking distance of parks and open spaces and community facilities. Due to the location the residents would not rely on a high use or need for private transport.
- The intention of the proposed accommodation is to support disadvantaged people and reduce homelessness. It is anticipated that the residents occupying the boarding house would not have a high level of car ownership.
- Parking space No. 4 can be used as a small car parking space that will help to alleviate parking demand. This will form a recommended condition of consent.
- It is considered to be in the public interest to support the shortfall in off street parking in the circumstances of this case.

F3 Landscaping

The front setback incorporates soft landscaping in accordance with the requirements of Part F3.

Due the revisions submitted throughout the assessment the landscaping plan of Taylor Brammer does not accurately reflect the landscaped areas in the architectural drawing of Become Architecture.

The discrepancies can be dealt with at the Construction Certificate stage. Accordingly, a recommended condition of consent requires the provision of an update landscape plan to be submitted for approval prior to the issue of a construction certificate.

The provisions of F3 can be adequately fulfilled based on the design.

As conditioned the proposal is acceptable with regard to the controls and objectives of part F3.

Part G Special Area Controls

G3.1 City Centre masterplan

Part G3.1 requires that development within the City Centre accords with the Coffs Harbour City Centre Master Plan. The following plan indicates the desired pedestrian links and public car park locations.

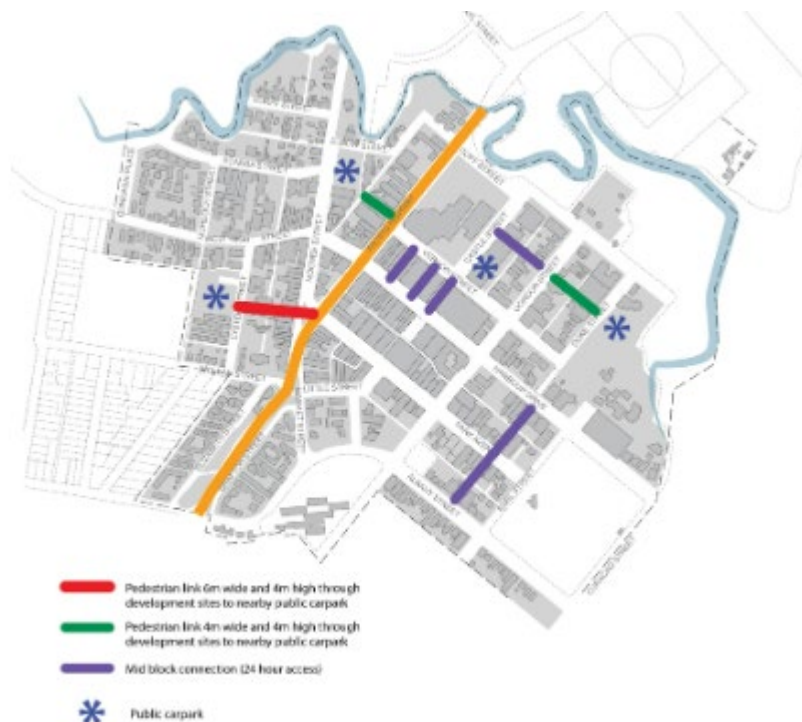


Figure 26: Plan indicating pedestrian links and public car park locations

The proposal development accords with the Coffs Harbour City Centre Master Plan and does not conflict with any of the identified pedestrian links.

The proposal is acceptable with regard to the controls and objectives of part G3.1.

G3.2 Setback Requirements

Part G3.2 requires that the proposed building setbacks are to be considered on merit.



Figure 27: Plan indicating location of subject site within the merit setback area

The objectives of the setback controls are:

- *To ensure that building frontages have consistent alignment and visual appearance.*
- *To achieve active street frontages along major streets.*
- *To achieve human scale at the street frontage.*
- *To ensure an appropriate level of amenity for building occupants in terms of daylight, outlook, view sharing, ventilation and privacy.*
- *To maintain winter sun access to the public domain.*

Front setback

The front setback to Duke Street (Building A) is as follows:

- Balconies 580mm
- Principle building (wall) 2.32m.
- Roof terrace level 6.7m

Building A, which presents to Duke Street, incorporates 6 levels. Levels 1 – 5 are setback a minimum distance of 580mm from the front boundary. The roof terrace level is setback 6.7m from the front boundary.

The existing streetscape is characterised by small front setbacks with numerous buildings being setback 0m from the front boundary.

The height of the proposal is considered to be suitable in context of the front setback. Acknowledging this area benefits from a 44m height limit on the height of buildings map, the proposed height of 16.2m at the front setback is not excessive and is considered to achieve the objective to the objective of human scale at the street frontage.

The proposed front setback relates to the existing streetscape character and achieves the desired future character of the area and results in an acceptable amenity impact upon surrounding properties and the public domain.

Side setbacks

The proposed side setbacks are provided below:

- Side (South): 0m
- Side (North): 0.2m

As the proposal comprises of two articulated buildings, the level of setbacks vary across the site. A minimum setback of 0.2m is proposed to the northern boundary and 0m to the southern boundary. This is considered to be acceptable in context of the immediately surrounding low density commercial landuses, which present limited adverse amenity impacts upon the design of the proposal.

It is considered the proposed side setbacks are consistent with the streetscape character and would not result in any significant adverse amenity impacts upon the development site or surrounding development.

Rear setback

The rear setback (Building B) to the unnamed lane is as follows:

- Balconies 10mm
- Principle building (wall) 1.65m

The rear setback is to the rear laneway. The proposal has been skilfully designed to present the majority of the building bulk to the service laneway.

The rear setback will not result in any significant adverse amenity impacts upon surrounding development and is considered satisfactory.

Clause G3.2 (1) requires that ‘new buildings identified for merit assessment are not to unreasonably impact on winter solar access to the public domain’.

The proposal is substantially below the maximum building height and the extent of overshadowing to the public domain is minimised by siting the taller ‘Building B’ being located at the rear of the site with frontage to the laneway. The level of overshadowing to the adjoining parkland is not excessive and acceptable.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

Table 4: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act) (if none – N/A – to show consideration)			
N/A			
Referral/Consultation Agencies			
Essential Energy	SEPP (Transport and Infrastructure) 2021 Part 2.2 Subdivision 2 Development likely to affect an electricity transmission line or distribution network.	Essential Energy have provided a referral response in support of the proposal. The project specific comments and restrictions are contained within the referral response.	Y
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	NSW Rural Fire Services have considered the proposal and issued General Terms of Approval.	Y

4.2 City Staff Referrals

The development application has been referred to various City officers for technical review as outlined **Table 5**.

Table 5: Consideration of City Staff Referrals

Officer	Comments	Resolved
Development Engineer	No objections, subject to conditions The car parking manoeuvres are shown in the traffic report (DSI 8175553). The manoeuvring for parking space 4 does not comply with AS2890.1 Table 1.1. All	Yes

	<p>other parking spaces comply with Table 1.1 for user class 1A.</p> <p>The access and location of the motor bike parking area is acceptable considering the area has good ventilation and does not include mixed usage.</p> <p>Sight lines for pedestrians comply. Upgrade works required see 0474/20DA & 0475/20DA</p> <p>Recommended conditions have been imposed in relation to the following:</p> <ul style="list-style-type: none"> • The laneway is to be rebuilt along the property frontage, with kerb both sides and design consideration of stormwater drainage. • Amplification of the water main is to be provided from the existing ø150mm main on Duke St and is to be a minimum of ø150mm. • The sewer riser is to be located within the property with calculations provided to justify the size proposed. • Stormwater infrastructure within the lane, draining to the existing City network, is to be provided to adequately service the development and contributing catchment. • The design is to achieve compliance with the Coffs Harbour City Council Water Sensitive Urban Design Guideline. • Footpath width is to be consistent with path on Southern side of development on Duke Street. 	
Water Sensitive Urban Design (WSUD)	<p>The City's WSUD Officer reviewed the proposal and is satisfied the proposal can meet the objectives outlined in CHCC WSUD Guideline (2018). A detailed stormwater design will require approval at the CC/CW Stage.</p>	Yes
Flooding	<p>The City's Flooding engineer has reviewed the proposal and is satisfied the proposal is acceptable subject to recommended conditions, including:</p> <ul style="list-style-type: none"> • The finished floor level of the ground floor of the building is to be a minimum of 4.2 m AHD • All new electrical infrastructure and equipment (wiring, power outlets, switches etc.) to the maximum extent possible must be located a minimum of 0.5m above finished floor level or suitably waterproofed 	Yes

	<ul style="list-style-type: none">An Emergency Business Continuity Plan is required to be prepared for approval.																																												
Public Health and Environment referral (Acoustic & ASS)	<p>The City's Public Health and Environment officer reviewed the proposal, as amended, and found it to be satisfactory subject to recommended conditions.</p> <p>A recommended condition of consent requires the preparation of an Acid Sulfate Soil Management Plan (ASSMP) prior to the issue of a Construction Certificate.</p> <p>It also requires the recommendations of the Acoustic Report being fulfilled.</p>	Yes																																											
Waste	The City's Waste officer reviewed the proposal, as amended, and found the proposed waste arrangements to be satisfactory subject to recommended conditions.	Yes																																											
Finance	<p>The City's finance section have advised that the following contributions apply:</p> <p>Water and Sewer contributions</p> <p>☐ The current contribution rate is:</p> <table><thead><tr><th></th><th>Amount per Bed \$</th><th>Total \$</th></tr></thead><tbody><tr><td>Works to satisfy increased demand within the area for a 28 boarding house development.</td><td></td><td></td></tr><tr><td>Stage 2 – 12 Beds</td><td></td><td></td></tr><tr><td>Water</td><td>4,409.49</td><td>52,913.88</td></tr><tr><td>Sewer</td><td>4,216.72</td><td>50,600.64</td></tr><tr><td>Sub total (less credit for 1 lot)</td><td></td><td>(24,646.33)</td></tr><tr><td>Stage 2 amount payable</td><td></td><td>78,868.19</td></tr><tr><td>Stage 3 – 16 Beds</td><td></td><td></td></tr><tr><td>Water</td><td>4,409.49</td><td>70,551.84</td></tr><tr><td>Sewer</td><td>4,216.72</td><td>67,467.52</td></tr><tr><td>Stage 3 amount payable</td><td></td><td>138,019.36</td></tr></tbody></table> <p>☐</p> <p>S7.11 Contributions</p> <table><thead><tr><th></th><th>\$ Per bed</th></tr></thead><tbody><tr><td>- Coordination and Administration</td><td>100.68</td></tr><tr><td>- Coffs Harbour Road Network</td><td>359.81</td></tr><tr><td>- Surf Rescue Facilities</td><td>58.40</td></tr><tr><td>- District Open Space</td><td>1,641.76</td></tr></tbody></table> <p>The Section 7.11 contribution is currently:</p> <ul style="list-style-type: none">• Stage 2 – 12 Beds \$19,754.51 This includes a credit of \$6,173.29 for the one existing lot.• Stage 3 – 16 Beds \$34,570.40 <p>The applicant has applied for the Coffs Harbour City Centre Development Incentive Policy (revoked 8 June 2023). The Application is eligible for a maximum incentive of \$500,000. The occupation certificate must be issued by 19 May 2026 to remain eligible.</p>		Amount per Bed \$	Total \$	Works to satisfy increased demand within the area for a 28 boarding house development.			Stage 2 – 12 Beds			Water	4,409.49	52,913.88	Sewer	4,216.72	50,600.64	Sub total (less credit for 1 lot)		(24,646.33)	Stage 2 amount payable		78,868.19	Stage 3 – 16 Beds			Water	4,409.49	70,551.84	Sewer	4,216.72	67,467.52	Stage 3 amount payable		138,019.36		\$ Per bed	- Coordination and Administration	100.68	- Coffs Harbour Road Network	359.81	- Surf Rescue Facilities	58.40	- District Open Space	1,641.76	Yes
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4.3 Community Consultation

The original proposal was notified in accordance with the DCP/the City's Community Participation and Engagement Plan from 3 June 2023 until 17 June 2023. A total of 10 unique submissions, by way of objection, were received to the proposal.

The issues raised in the submissions are summarised and assessed below:

- **Characterisation of development (the proposal does not meet the LEP definition of a boarding house). Concern is also raised that supporting documents refer to a 'strata title' development.**

Assessment/comment:

A boarding house is defined by the CHCC LEP as follows;

- boarding house*** means a building or place—
- (a) *that provides residents with a principal place of residence for at least 3 months, and*
 - (b) *that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 - (c) *that contains rooms, some or all of which may have private kitchen and bathroom facilities, and*
 - (d) *used to provide affordable housing, and*
 - (e) *if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,*

but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The proposed boarding house is being carried out Mission Australia and will provide affordable housing for residents for a minimum duration of 3 months. Each proposed boarding room contains a kitchen, bathroom and laundry. Amended plans were received during the assessment incorporating a shared facilities room (communal living area) and communal open space.

The application is for the construction of a boarding house only. The recommendation is for the approval of a boarding house, there is no approval for strata subdivision.

The proposal meets the definition of a boarding house defined by the CHCC LEP 2013.

- **The proposal does not comply with the height of building objectives of clause 4.3 of LEP 2013.**

Assessment/comment:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,*
 - (b) *to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,*
 - (c) *to ensure that the height of future buildings has regard to heritage sites and their settings and their visual interconnections,*
 - (d) *to enable a transition in building heights between urban areas having different characteristics,*
 - (e) *to limit the impact of the height of a building on the existing natural and built environment,*

(f) to encourage walking and decreased dependency on motor vehicles by promoting greater population density in urban areas.

Building heights for the locality are provided within the Height of Buildings Map on the Local Environmental Plan 2013. A 44m maximum height limit applies along Duke Street, noting Clause 7.21 reduces the maximum allowable height to 28 for those sites with a proposed frontage of less than 30m.

The proposal attains a maximum building height of 24.35m and is therefore substantially below the applicable maximum building height.

The height of buildings map has a focus for taller buildings on land along the Pacific Highway or adjoining open space at the edge of the city centre, such as the subject site.

The proposed building height is compatible with the existing streetscape and is appropriate given the respective impacts of the development and the desired future character of the area.

It is considered that the proposal building height is acceptable and in keeping with the objectives.

- **The proposal does not comply with the FSR of Clause 4.4 of LEP 2013 and the Clause 4.6 Written Request to vary the FSR development standard is unsatisfactory.**

Assessment/comment:

Clause 4.6 of the CHCC LEP 2013 enables flexibility to be applied to the floor space ratio development standard in certain circumstances.

As detailed within the relevant subsection of this report, the Clause 4.6 written request to vary the floor space ratio development standard is considered to be well founded and the non-compliance is considered to be acceptable in the circumstances of the case.

- **The proposal does not comply with design excellence requirements of Clause 7.12 of LEP 2013**

Assessment/comment:

As detailed within the relevant subsection of this report, the proposal is considered to achieve the controls and objectives of Clause 7.12 of the CHCC LEP 2013.

- **The proposal does not comply with the Minimum building street frontage of Clause 7.21 of LEP 2013.**

Assessment/comment:

Amended architectural plans were submitted throughout the assessment reducing the overall height of the proposal from 28.4m to 24.35m.

The proposal complies with the maximum building height with the majority of the buildings being significantly below the maximum building height.

It is considered that the proposal building height is acceptable and in keeping with the objectives.

- **The proposal does not comply with the Coffs Harbour City Centre requirements of Clause 7.13 of the LEP 2013.**

Assessment/comment:

As detailed within the relevant subsection of this report, the proposal is considered to achieve the controls and objectives of Clause 7.13 of the CHCC LEP 2013.

- **Overshadowing private property**

Assessment/comment:

Shadow diagrams submitted with the application, as updated to reflect the revised plans, demonstrate that the proposal will not cast a shadow onto 15 Duke Street between 9:00am and 3:00pm on 21 June.

The issue is considered to therefore be resolved.

- **Overshadowing public land**

Assessment/comment:

Shadow diagrams prepared by Become Architects (provided below) demonstrate that the proposal will not cast any shadows onto the public parkland until approximately 1pm. The impact of overshadowing at this point is not significant and is minimised by the fact that Building 'B' located at the rear of the site with substantial separation from Duke Street and the adjoining parkland. The extent of overshadowing is not excessive and is considered to be acceptable.

- **Visual privacy**

Assessment/comment:

As detailed within the relevant subsection of this report, the proposal is considered to be acceptable in terms of visual privacy.

- **Potential for wind tunnelling**

Assessment/comment:

The potential for wind tunnelling is minimised by the narrow building mass and the break between the buildings and is considered to be acceptable.

- **Excessive bulk and scale**

Assessment/comment:

In terms of bulk and scale, the proposal is considered to achieve the objectives of the City's building envelope controls. The proposal is substantially below the maximum building height and the Clause 4.6 written request to vary the floor space ration

development standard is well founded. The built form is an appropriate balance between achieving the existing and desired future character of the area.

- **The proposed setbacks are not appropriate given the height and scale of the building. The building is not progressively setback as it heightens.**

Assessment/comment:

As detailed within the relevant subsection of this report, the proposed setbacks have been assessed against the objectives and have been found to be acceptable.

- **The building is inconsistent with the character of the streetscape**

Assessment/comment:

This assessment has found that the proposed bulk and scale is compatible with the streetscape and achieves the desired future character of the area.

- **Human scale is not achieved from Duke Street**

Assessment/comment:

The height of the proposal is considered to be suitable in context of the front setback. Acknowledging this area benefits from a 44m height limit on the height of buildings map, the proposed height of 16.2m at the front setback is not excessive and is considered to achieve the objective of human scale at the Duke Street frontage.

- **Construction impacts including noise, dust and environmental pollutants.**

Assessment/comment:

Amenity impacts during construction will be adequately mitigated by the City's standard development related conditions to protect amenity including:

- hours of operation in relation to construction induced noise.
- dust management
- erosion and sediment controls
- construction and traffic management

- **Building dilapidation**

Assessment/comment:

A dilapidation report for 15 Duke Street forms a recommended condition of consent.

- **Devaluation of land**

Assessment/comment:

This is not a relevant criteria for assessment pursuant to the *Environmental planning and Assessment Act 1979*.

- **Any future development of 15 Duke Street, to a similar height and floor space ratio as proposed, will obstruct the current north elevation of the development.**

Assessment/comment:

Potential impacts associated with the construction of adjoining sites can only be realised and assessed at the time a future development application is received against the relevant controls that apply at the time.

- **The site does not meet the SEPP (Housing) definition of an ‘accessible area’ for the purpose of calculating car parking rates. Therefore 15 spaces are required.**

Assessment/comment:

As discussed in the relevant sub-section of the report, the parking requirements of the SEPP (Housing) have been considered as a guideline for the assessment and do not explicitly apply to the proposed development.

The proposal incorporates 4 car parking spaces in accordance with AS2890.1. Car parking space No. 4 does not comply with AS2890.1. A condition of consent will require that this space is restricted to ‘small vehicles’. This will result in a total of 5 car parking spaces being provided on the site overall, consistent with the recommendation of the Traffic and Parking Report of TEF Consulting.

The total provision for on site parking is considered to be satisfactory.

- **The traffic management plan does not accurately reflect the true flow of traffic in the area. There is a significant shortage of parking in the area.**

Assessment/comment:

The Traffic and Parking assessment of TEF Consulting included a detailed parking survey and traffic impact assessment. The author is a qualified traffic engineer. The report reached the following conclusions:

- Additional traffic generation will have no noticeable impacts on the existing road network operation nor on road safety.
- Ample parking opportunities in the nearby car parks and on the street are more than sufficient to cater for the occasional minor additional parking demand.

The City is satisfied the report is an accurate and true reflection of traffic and parking in the area and accept the report.

- **Acoustic impacts and lack of detail in acoustic report**

Assessment/comment:

The application was accompanied by an acoustic report by Acoustic Logo. The Acoustic report was not updated in response to the Plan of Management and the amended architectural plans submitted throughout the assessment. Most notably, the proposal, as amended, involves a reduction to the number of boarding rooms from 30 to 25, the provision of communal open space on the roof level of each building and revised waste arrangements including collection from the rear laneway.

In relation to the communal open space, these areas are located the roof level of each building and are substantially setback from the building parapet and are partly

enclosed by 2m high walls. The managers residence adjoins the roof terrace on Building 'B' and directly overlooks the roof terrace on building 'A'.

Subject to recommended conditions the proposal is considered to achieve an acceptable acoustic impact in context of the surrounding environment. Conditions have been imposed in relation to the following:

- Compliance with the recommendations in the acoustic report including:
 - Glazing and door design
 - Roof and ceiling design
 - External wall design
 - Mechanical plant design
- The Plan of Management being fulfilled, which stipulates house rules for the residents, the provision of on-site management and process for complaint management.

- **Waste disposal and traffic impacts upon laneway**

Assessment/comment:

The proposal was amended during the assessment to incorporate satisfactory waste arrangements. This included the provision of 2 x 1100l General Waste bins, 3 x 1100l Recycling bins and 3 x 240l Organics bins.

The City's Waste Section have confirmed that adequate waste arrangements in terms of capacity and collection from the rear unnamed service laneway have been provided to support the proposal.

The laneway is one way and any traffic delays/impacts would be negligible and acceptable.

The issue is therefore considered to be resolved.

- **Inadequate consideration of the following hazards:**

- Bushfire prone land
- Flood affected land
- Buffer area for State significant wetlands
- Coastal use area under SEPP (Resilience & Hazards) 2021
- Class 4 Acid sulfate soils.

Assessment/comment:

These constraints have been assessed against the relevant planning legislation and considered satisfactory. The assessment is provided in the relevant subsections of this report.

- **The owners of No. 15 Duke Street was not contacted in relation to site amalgamation.**

Assessment/comment:

This not matter for consideration as part of the assessment of this application. This assessment considers the development to be acceptable and not unreasonably constrain the future development of adjoining land/s (currently single storey

development at No.15 & 17 Duke Street) in consideration of the desired future character of the area and overarching planning controls applying to future development (height, FSR etc).

In the circumstances of the case amalgamation is not considered necessary as proposal achieves a quality planning outcome for the site and does not unreasonably restrict or limit future development of adjoining properties.

- **No Social Impact Management Plan provided**

Assessment/comment:

A brief social impact assessment is provided in the Statement of Environmental Effects.

The City is satisfied that the proposal, as conditioned, will not result in any significant social risk or unreasonable impacts upon surrounding development.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

- Floor space ratio non-compliance
- Non-compliances with SEPP (Housing) design standards
- Apartment Design Guide visual privacy separation distance non-compliance
- The submitted landscape plan does not reflect the amended architectural drawings.
- Construction related amenity impacts upon 15 Duke Street
- Parking

Likely Impacts of the Development

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

The suitability of the site

The site is suitable for the proposed development.

The public interest

The proposal is considered to be in the public interest.

Conclusion

This assessment has considered the application in terms of the relevant matters under Section 4.15(1) of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to the recommended conditions

6. RECOMMENDATION

That the Development Application No. 0741/23 for boarding house and subdivision (boundary alteration) at Lot 5 DP 5344 - 11 Duke Street & Lot 12 DP 1265199 - 9 Duke Street, Coffs Harbour be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979*, subject to the draft conditions of consent attached to this report.

7. ATTACHMENTS

The following attachments are provided:

- **Assessment Report**
- **Plans**
- **Draft Conditions**



Development Application.

Residential Housing Complex.

11 Duke Street, Coffs Harbour.

Mission Australia Housing

Contents.

Sheet No. Drawing Title.

DA-000	COVER SHEET
DA-001	PROJECT DETAILS
DA-005	SITE ANALYSIS
DA-010	EXISTING / DEMOLITION SITE PLAN
DA-015	PROPOSED SITE PLAN
DA-100	PROPOSED GROUND LEVEL PLAN
DA-101	PROPOSED LEVEL 01 PLAN
DA-102	PROPOSED LEVEL 02 PLAN
DA-103	PROPOSED LEVEL 03 PLAN
DA-104	PROPOSED LEVEL 04 PLAN
DA-105	PROPOSED LEVEL 05 PLAN
DA-106	PROPOSED LEVEL 06 PLAN
DA-107	PROPOSED ROOF PLAN
DA-200	STAGING PLAN
DA-400	PROPOSED BUILDING ELEVATION
DA-401	PROPOSED BUILDING ELEVATION
DA-402	PROPOSED BUILDING ELEVATION
DA-403	PROPOSED BUILDING ELEVATION
DA-404	PROPOSED BUILDING ELEVATION
DA-420	PROPOSED BUILDING SECTIONS
DA-421	PROPOSED BUILDING SECTIONS
DA-800	SHADOW DIAGRAMS – 21ST JUNE - 9AM
DA-801	SHADOW DIAGRAMS – 21ST JUNE - 12PM
DA-802	SHADOW DIAGRAMS – 21ST JUNE - 3PM
DA-820	NOTIFICATION PLANS - PROPOSED SITE PLAN
DA-821	NOTIFICATION PLANS - ELEVATIONS
DA-822	NOTIFICATION PLANS - ELEVATIONS
DA-823	NOTIFICATION PLANS - ELEVATIONS
DA-824	NOTIFICATION PLANS - ELEVATIONS
DA-825	NOTIFICATION PLANS - ELEVATIONS
DA-920	EXTERNAL FINISHES SCHEDULE
DA-940	3D MASSING DIAGRAM

Project Details.

Client.

Mission Australia Housing

Consultants.

Project Management.....	Signature Project Management
Landscape Architect.....	Taylor Brammer
Services Engineer.....	Epicentre
BASIX.....	Epicentre
ASP3.....	Gosling Electrical
Civil.....	Northrop
Quantity Surveyor.....	Hollis Partners
Access Consultant.....	Code Performance
Acoustic Consultant.....	Acoustic Logic
Town Planner.....	Keiley Hunter Town Planning
Traffic Consultant.....	TEF Consulting
Waste Consultant.....	Dickens Solutions
BCA Consultant.....	Technical Inner Sight

Become.

Become. Architecture.
Suite 104, 46-48 East Esplanade, Manly, NSW 2095

Nominated Architect:	Ben Reid	NSW 8767
	Andrew Talbot	NSW 10387

Existing Site Area.
Proposed Site Area.
Zoning.
Maximum Height.
Mapped FSR.
Development FSR.

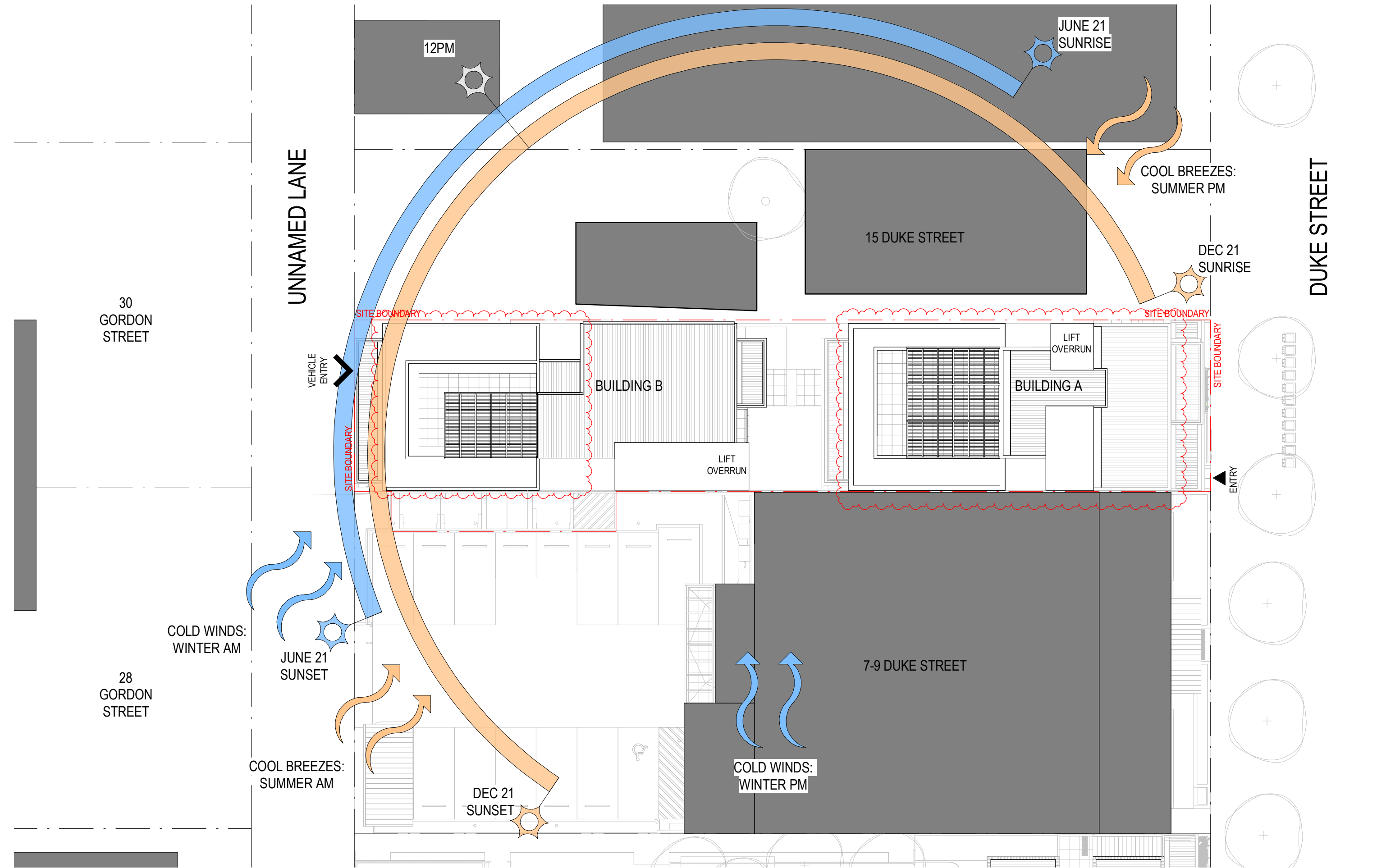
Number of Proposed Dwellings.
Number of Proposed Accessible Dwellings.

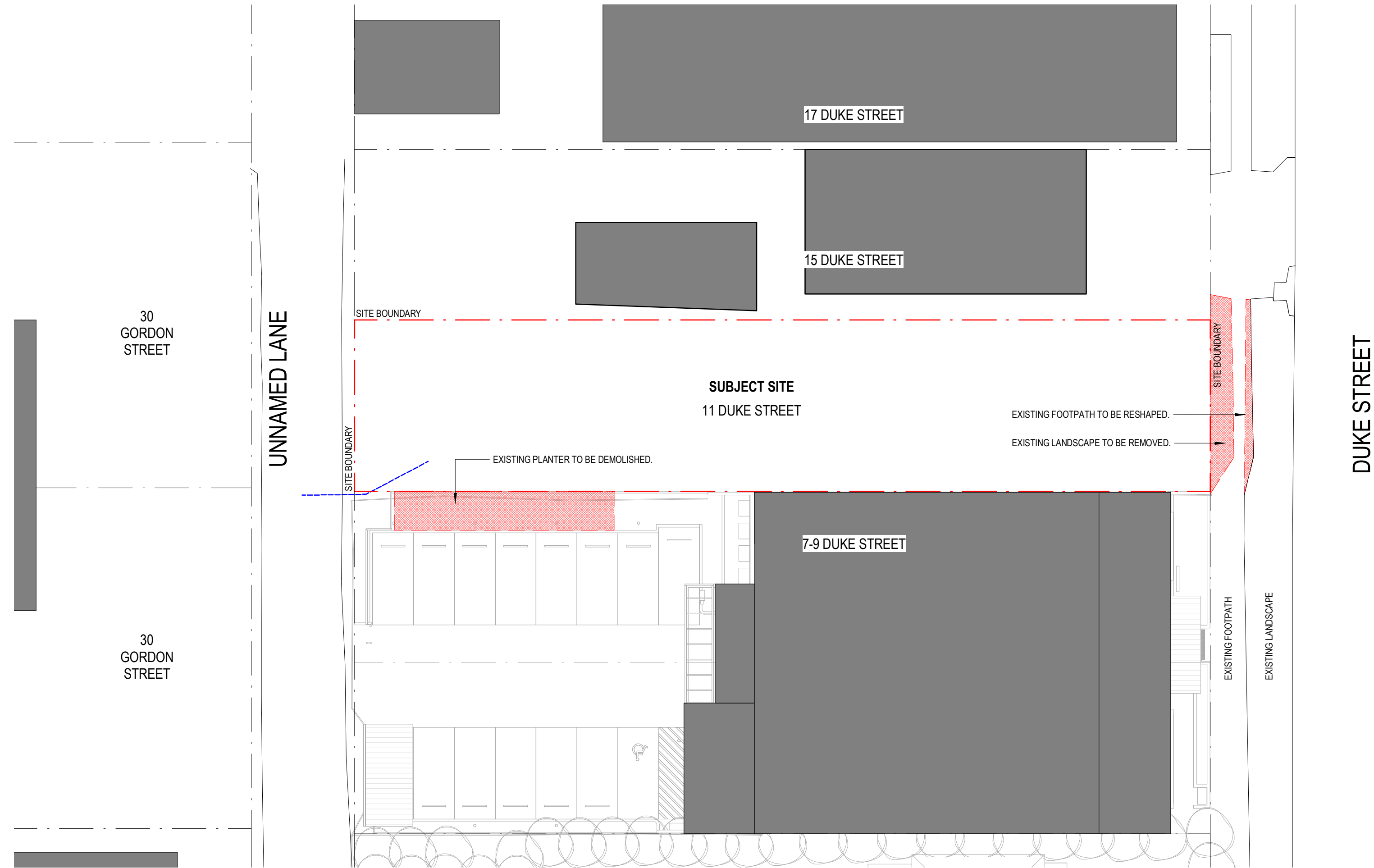
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537.2m²
E2 Commercial Core
28 m
4.5:1
2.27:1

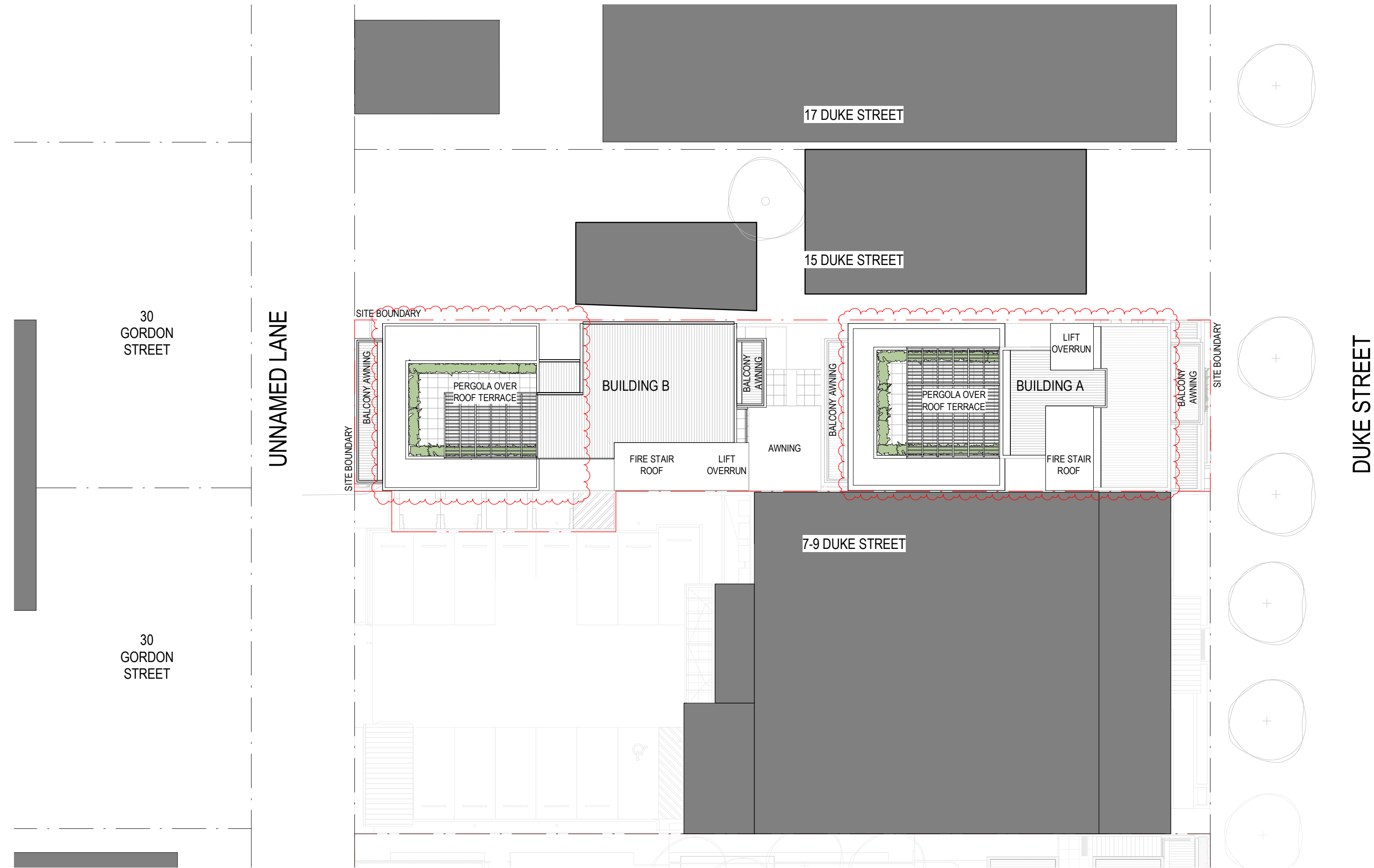
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2 / 25 (8%)

Location Plan.

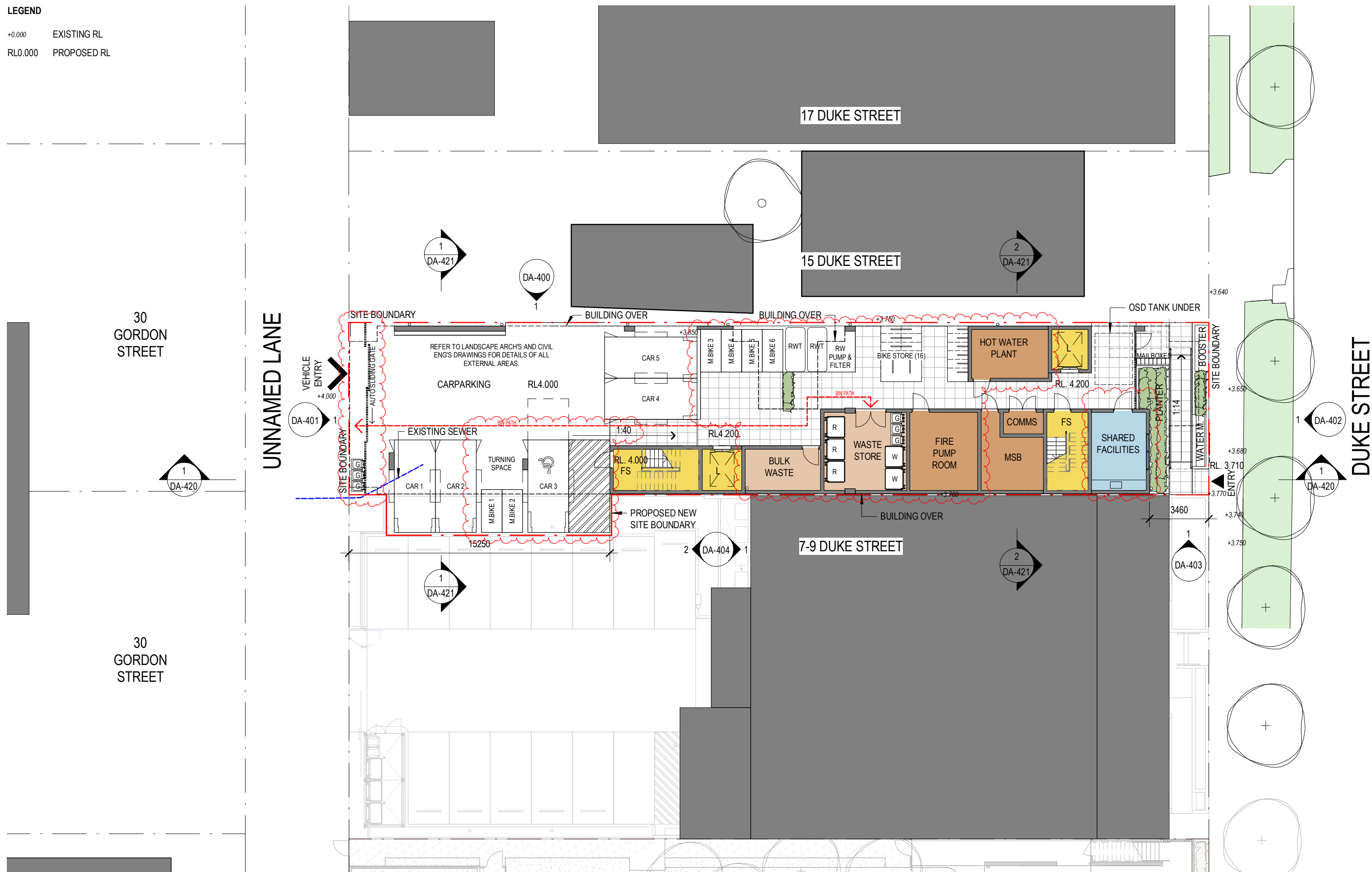








+0.000	EXISTING RL
RL0.000	PROPOSED RL




Residential Housing Complex.

Status. **Development Application. Not For Construction.**

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North. Scale 1 : 200



0 1 2 4 6 8m

Rev. J

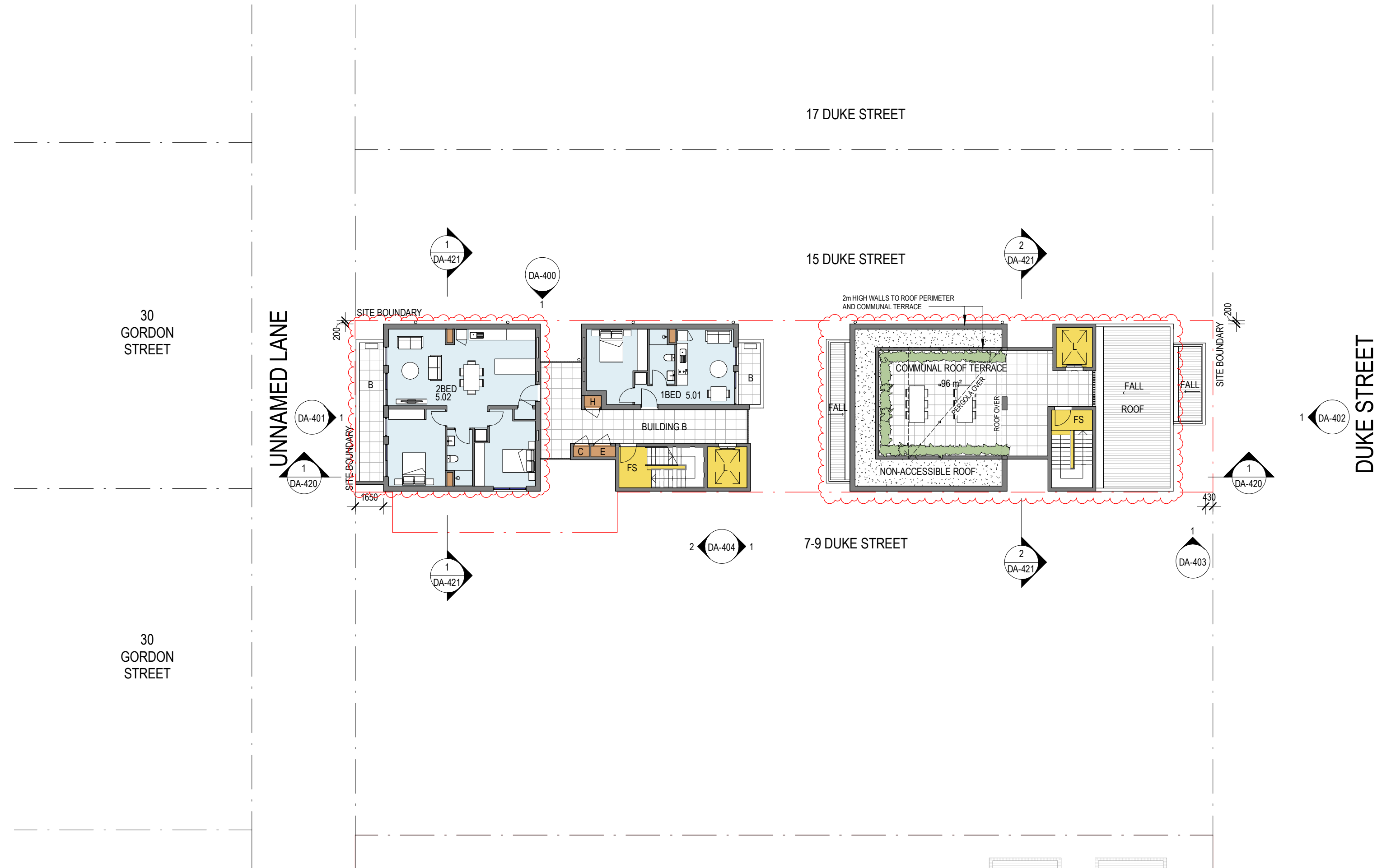












Project.

Residential Housing Complex.

Address.
11 Duke Street, Coffs Harbour.

Client.
Mission Australia Housing

Status.
Development Application. Not For Construction.

Become.
Suite 104, 46-48 East Esplanade, Manly, NSW 2095
studio@become.com.au

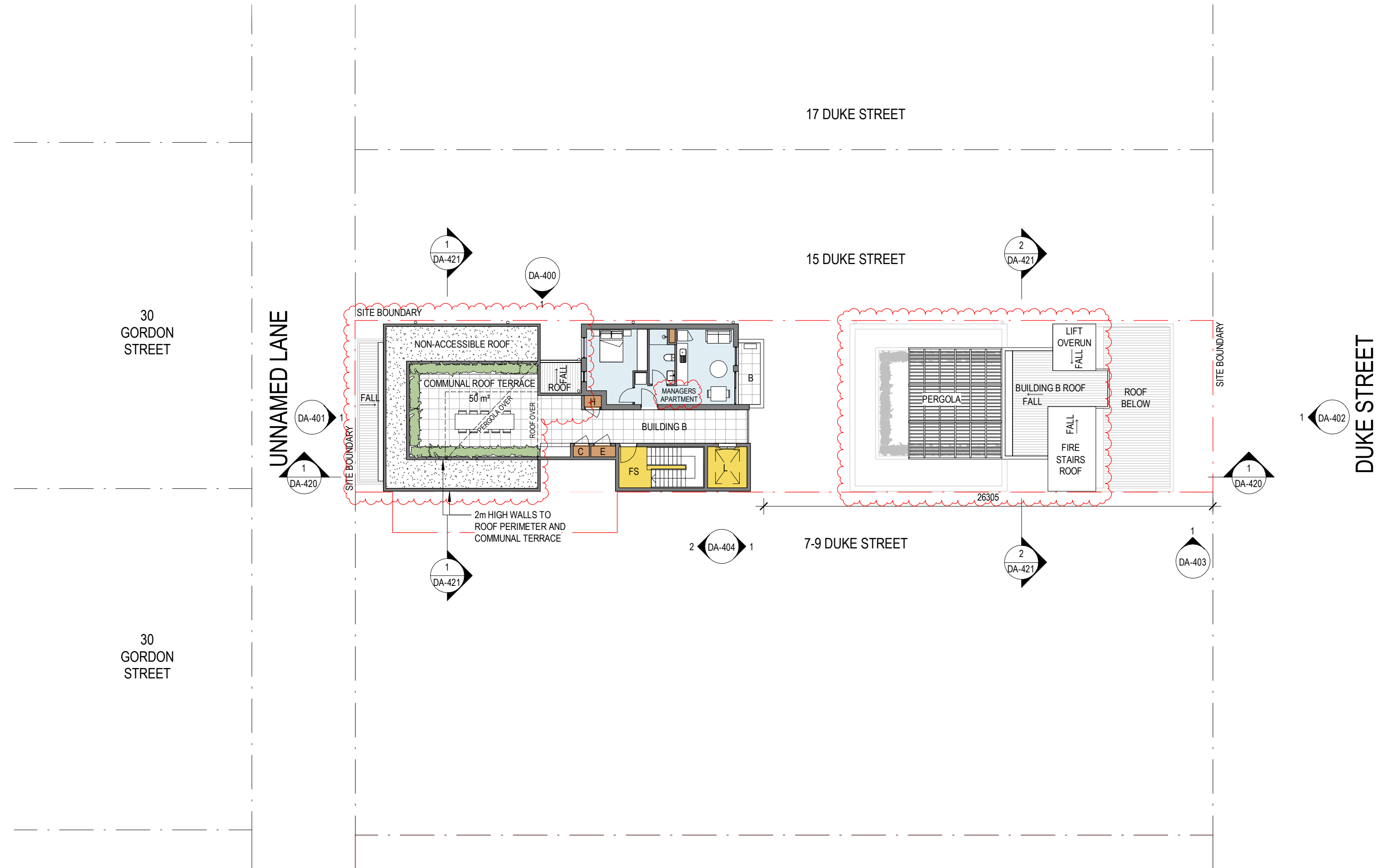
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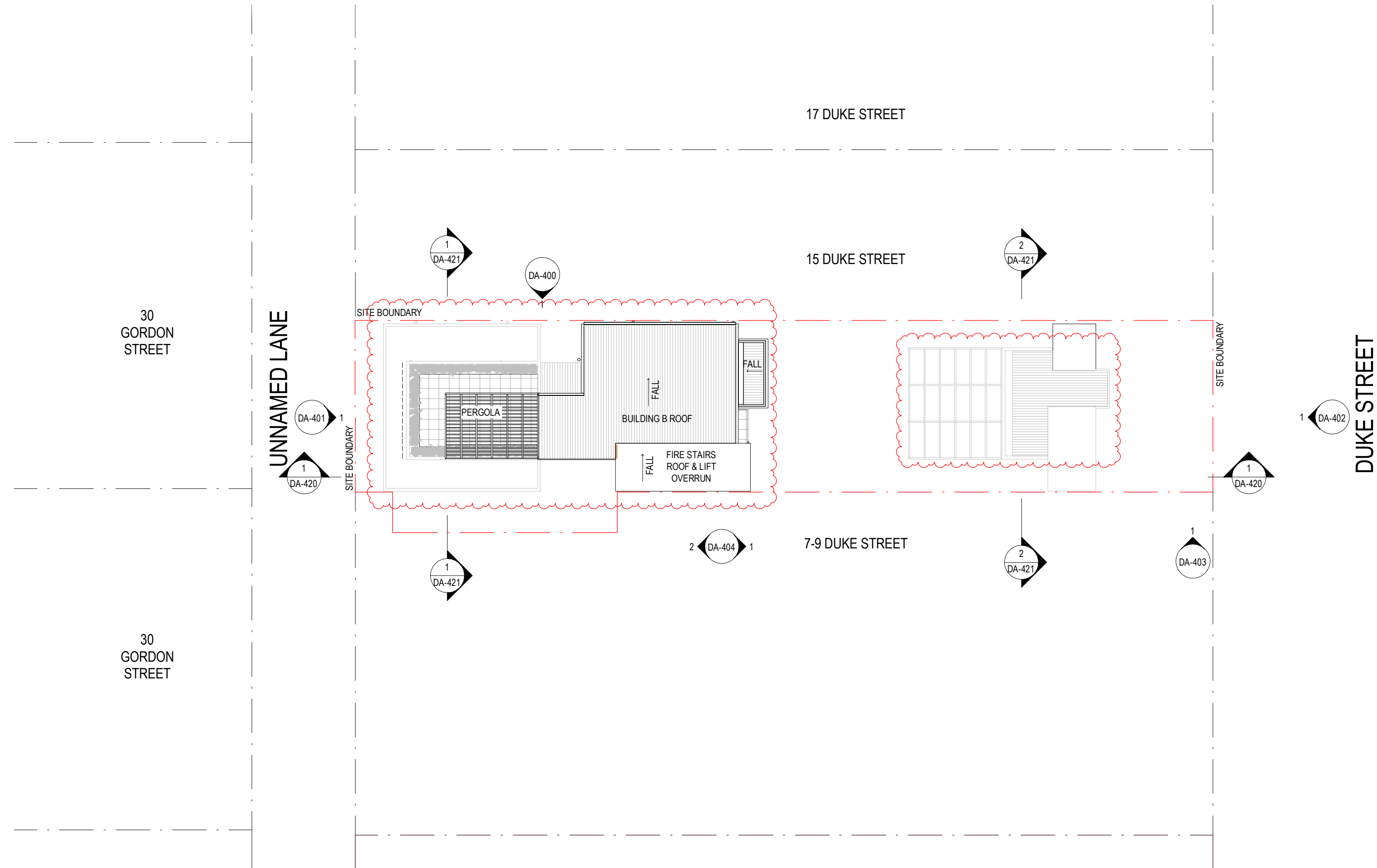
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Scale (@A3)
1 : 200

Date.
19.10.23

Drawing Title.
PROPOSED LEVEL 05 PLAN
Project No.
22026
Drawing No.
DA-105
Rev.
H

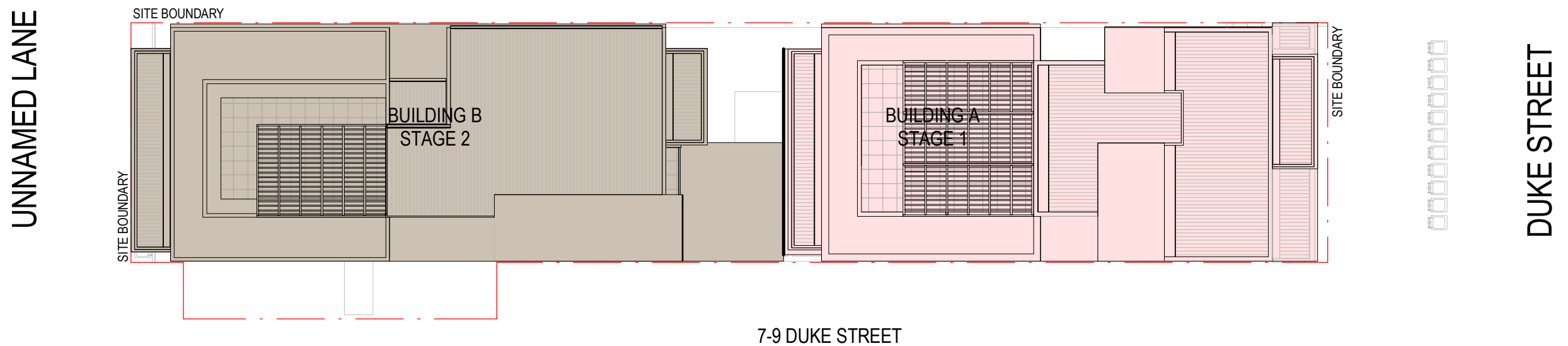
Become.
become.com.au







1 GROUND FLOOR STAGING PLAN
DA-200 1:200

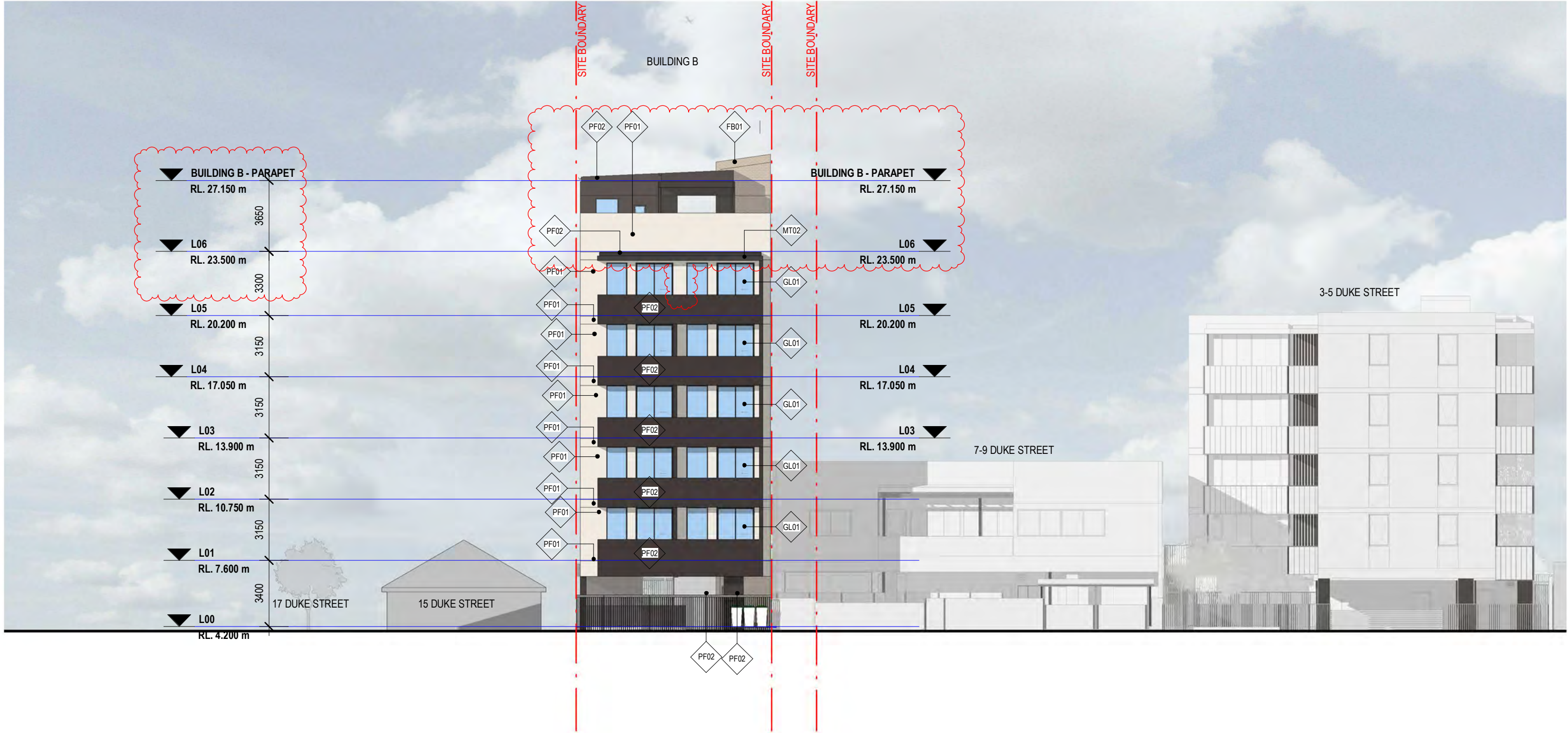


2 ROOF STAGING PLAN
DA-200 1:200

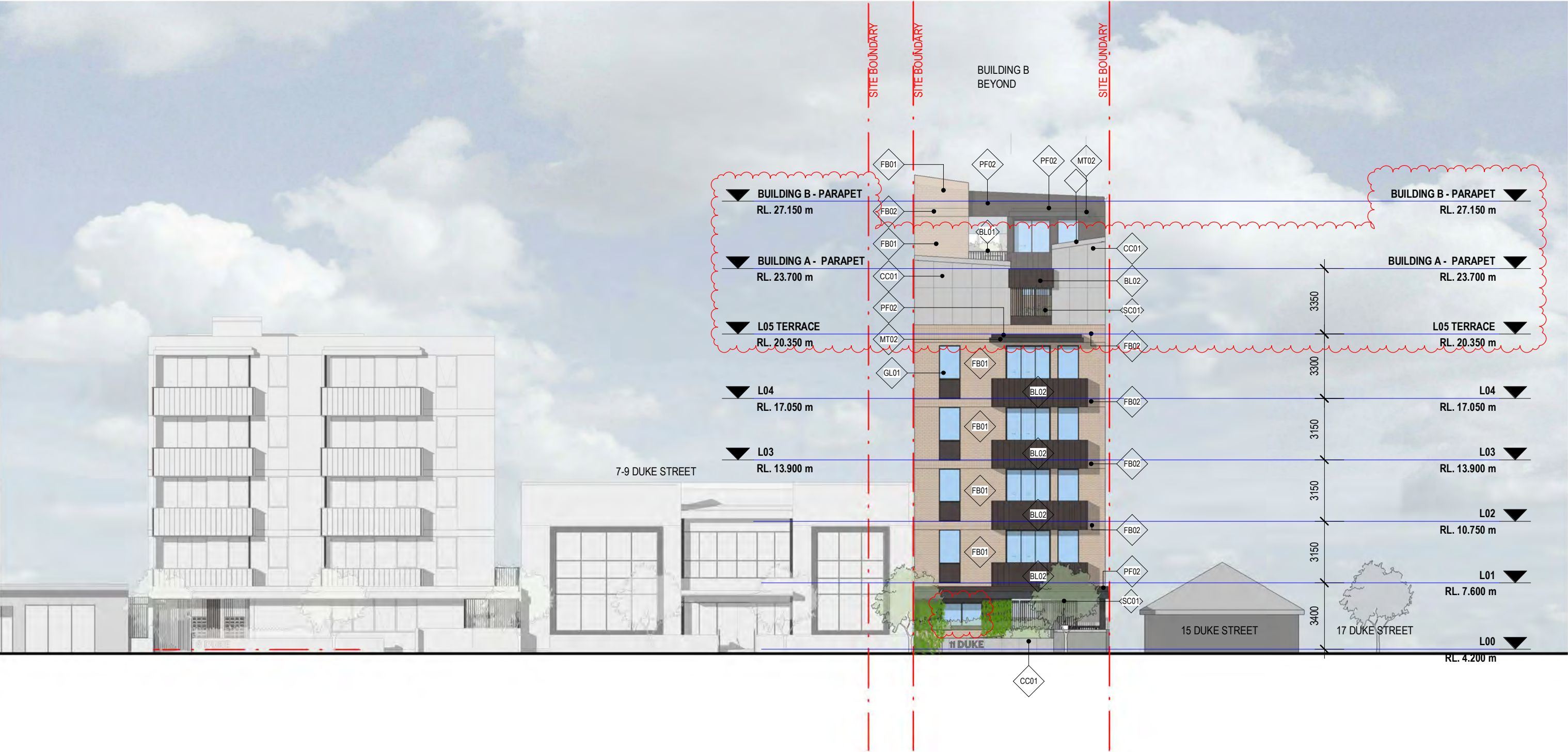
- STAGE 1
- STAGE 2



1 NORTH ELEVATION
DA-400 1:200



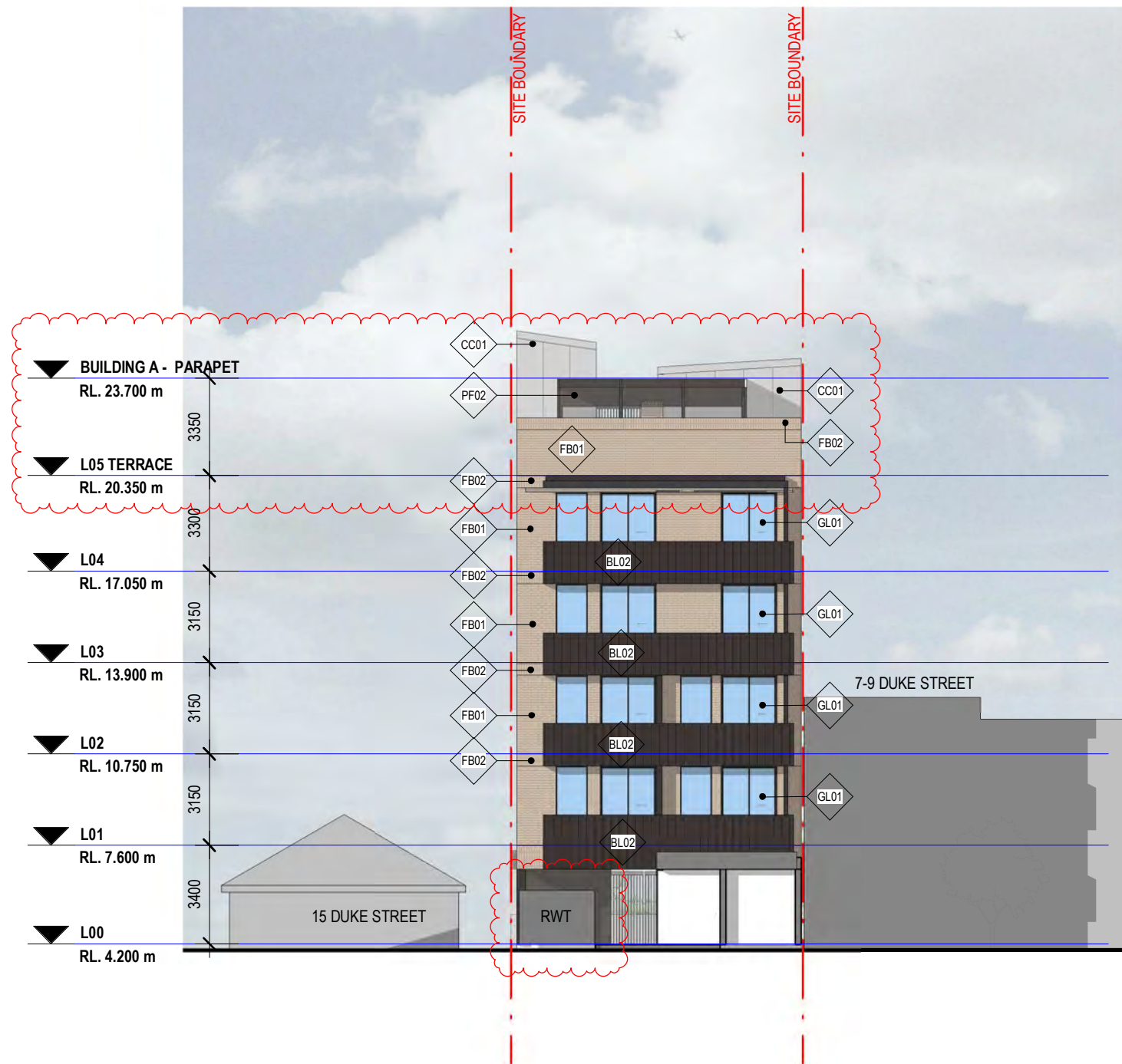
1 WEST ELEVATION
DA-401 1:200



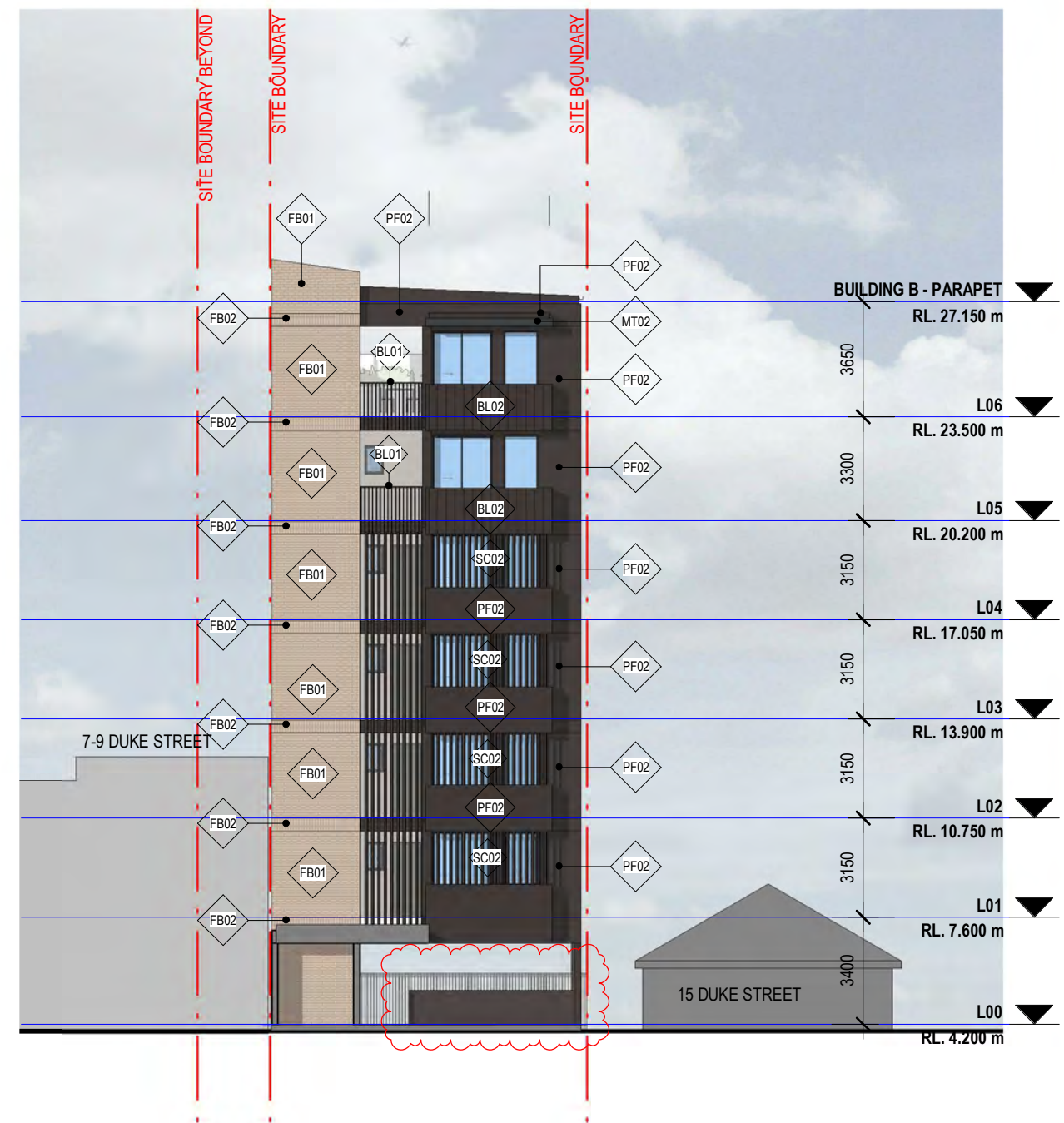
1 EAST ELEVATION
DA-402 1:200



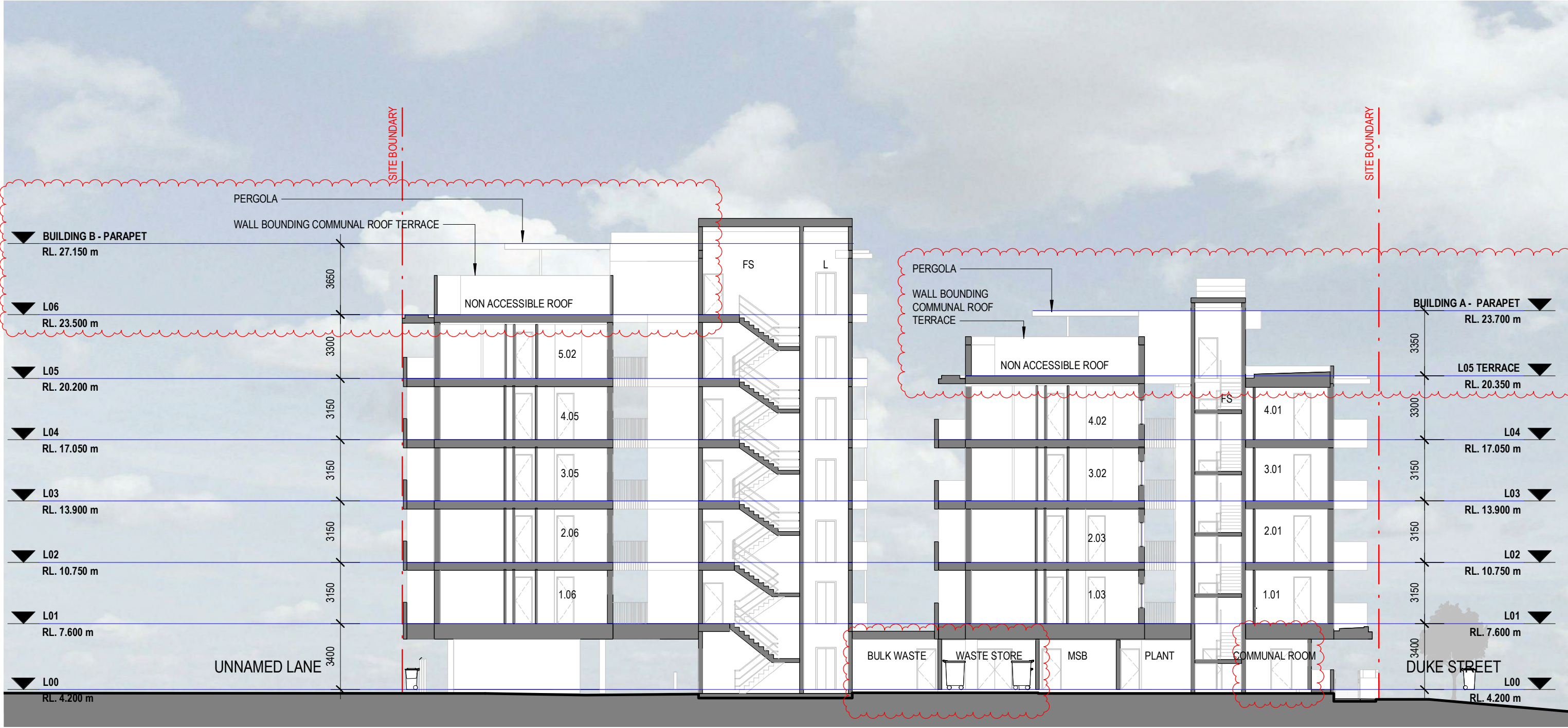
1 SOUTH ELEVATION
DA-403 1:200



1 COURTYARD INTERNAL ELEVATION - WEST
DA-404 1:200



2 COURTYARD INTERNAL ELEVATION - EAST
DA-404 1:200



1
DA-420
SECTION 01
1:200

DEVELOPMENT APPLICATION

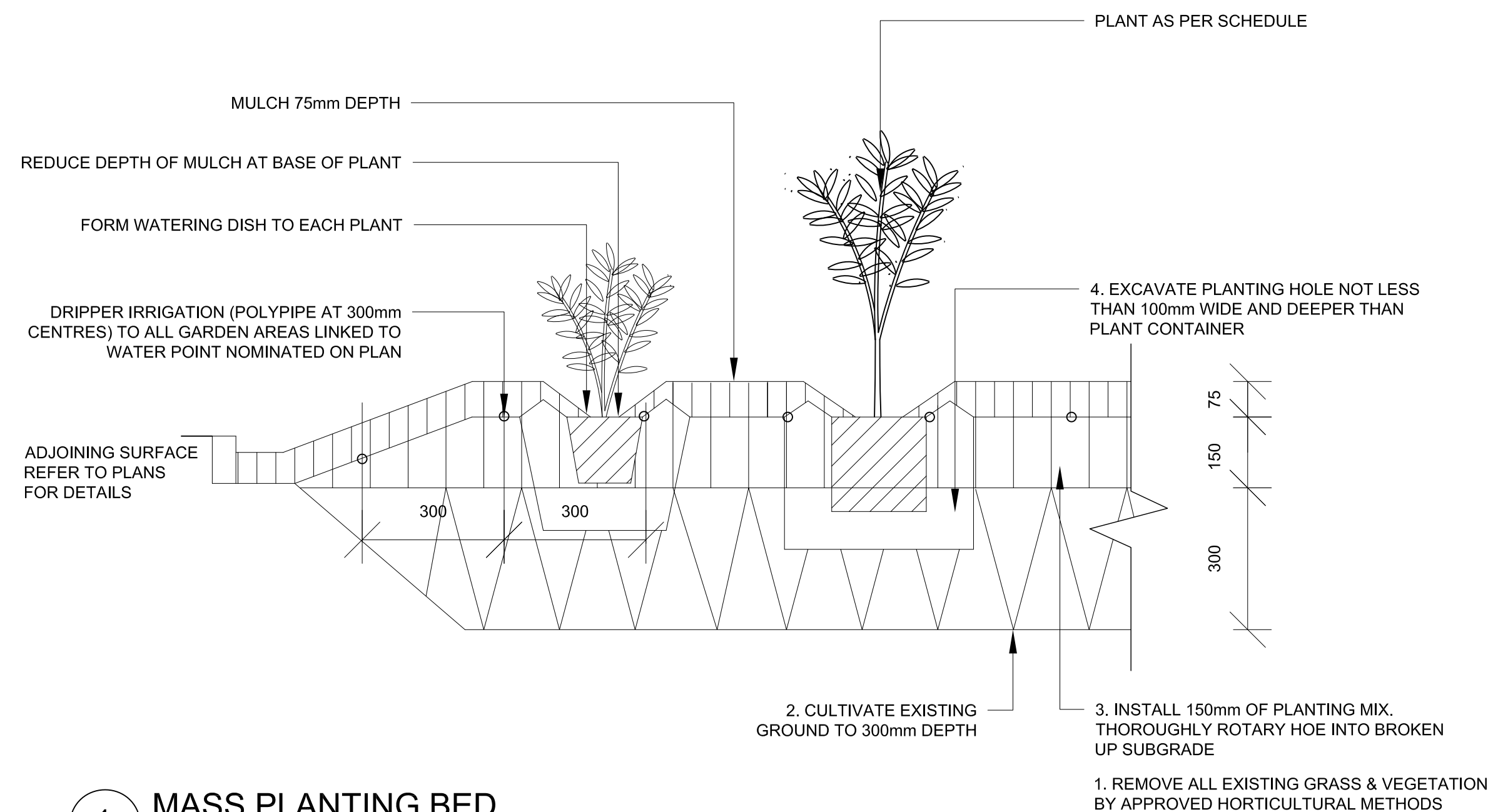
Residential Housing Complex
11 Duke St, Coffs Harbour



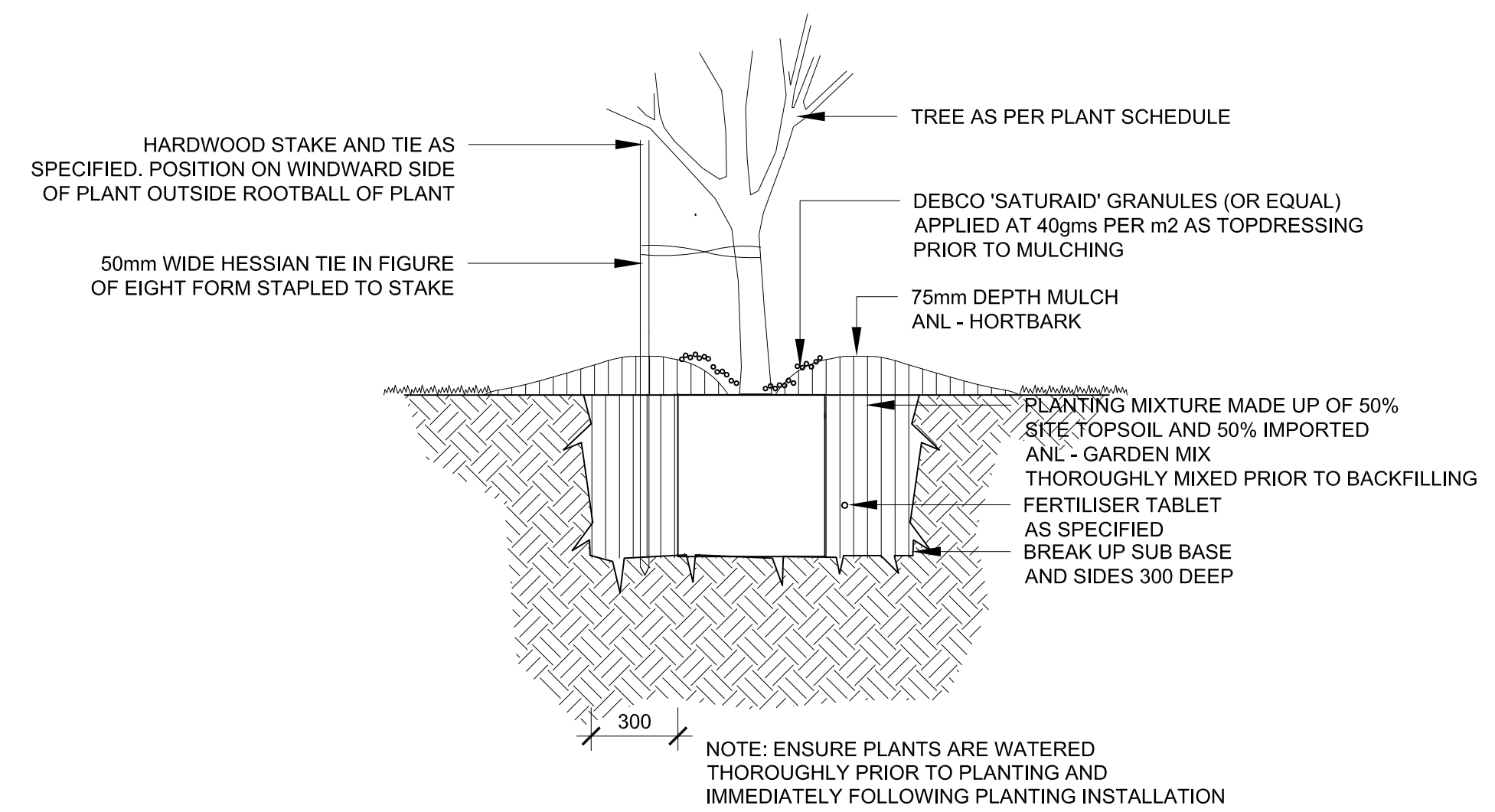
CONTEXT MAP
NTS

DRAWING LIST

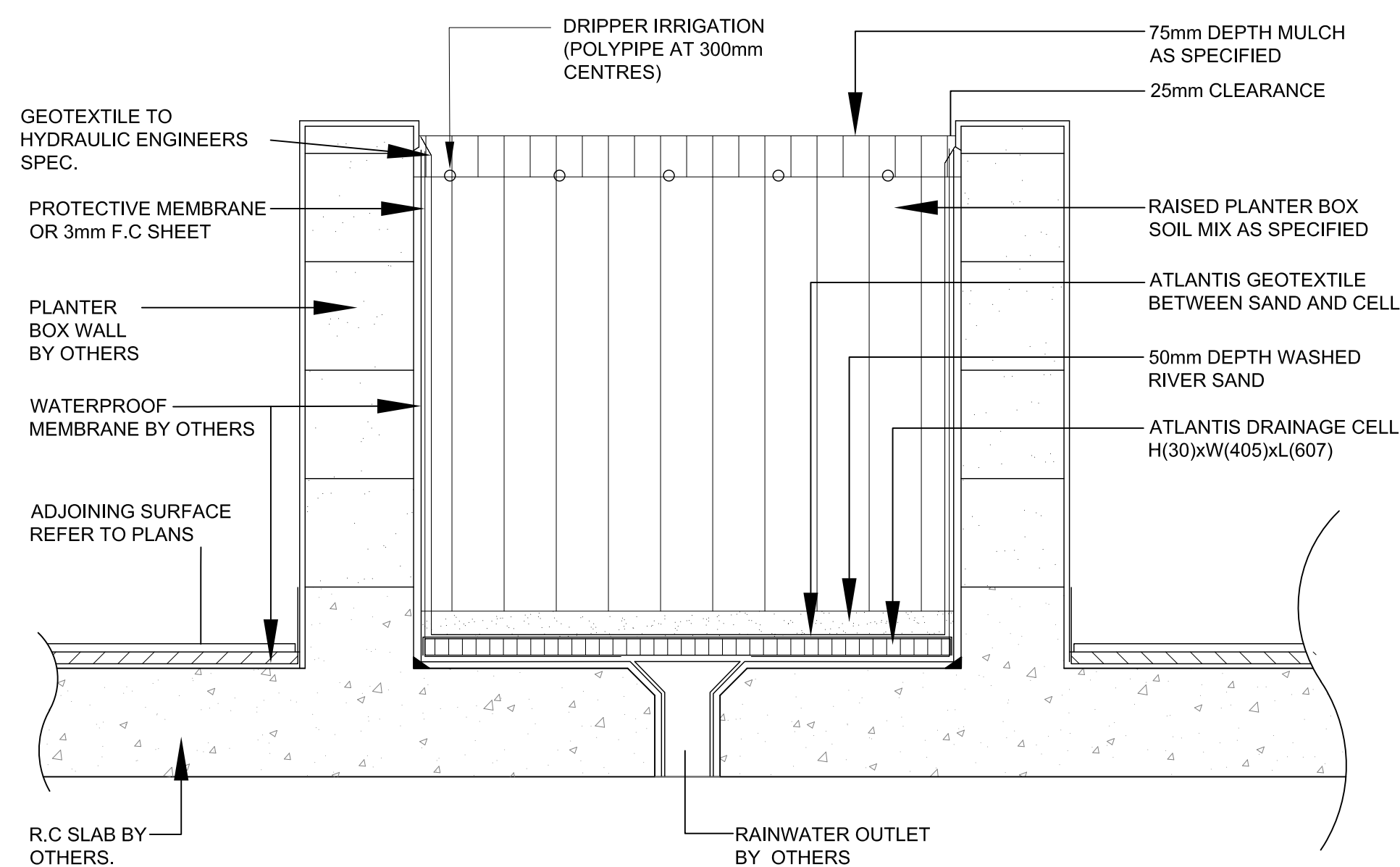
PAGE NO.	DRAWING NAME	SCALE
LA00	COVER PAGE	NTS
LA01	LANDSCAPE PLAN - GROUND FLOOR	1:100 @ A1
LA02	LANDSCAPE DETAILS	AS SHOWN



1 MASS PLANTING BED
TYPICAL SECTION 1:10



2 TREE PLANTING (75L)
TYPICAL SECTION 1:20

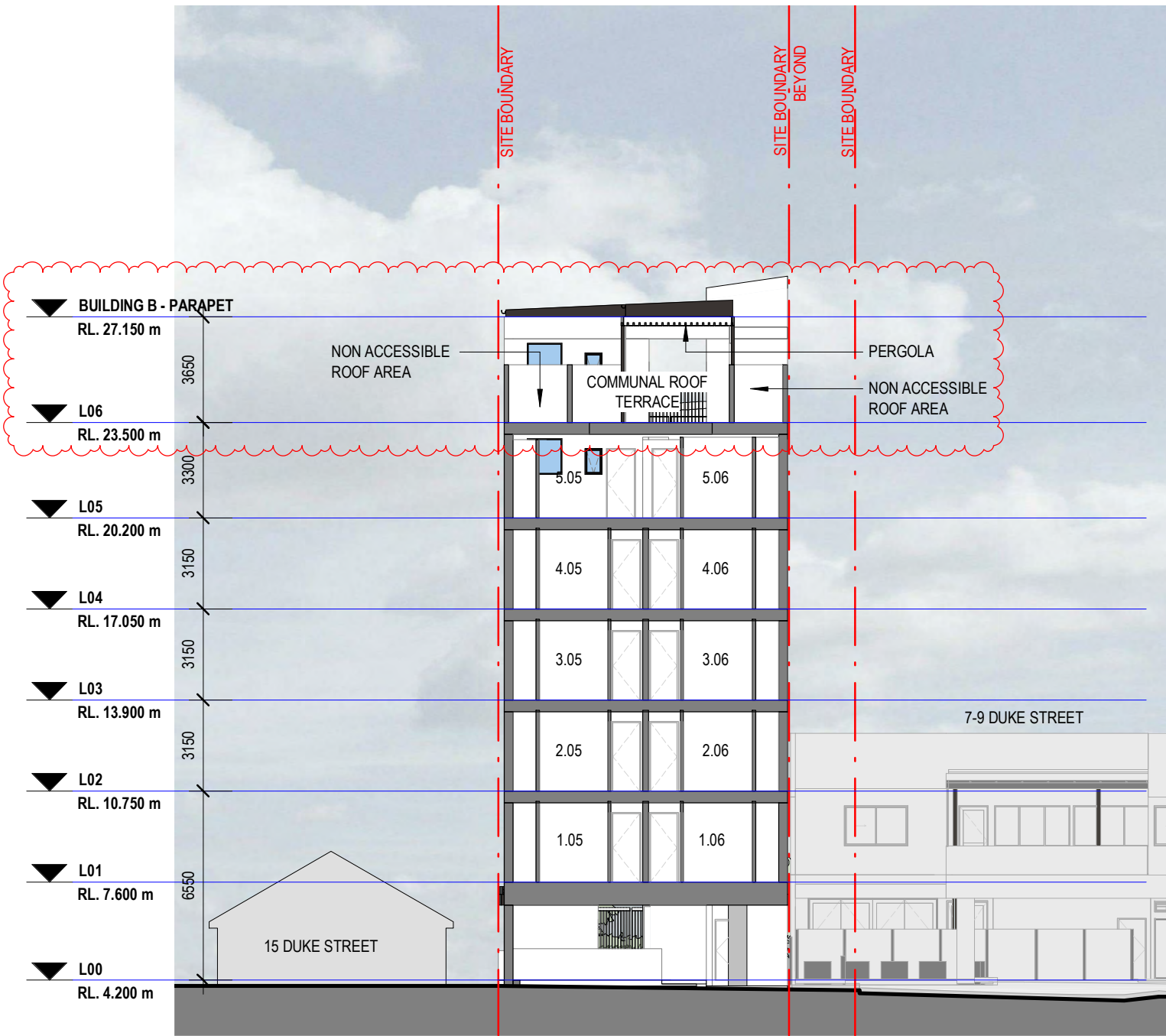


3 RAISED PLANTER BOX
TYPICAL SECTION SCALE 1:10

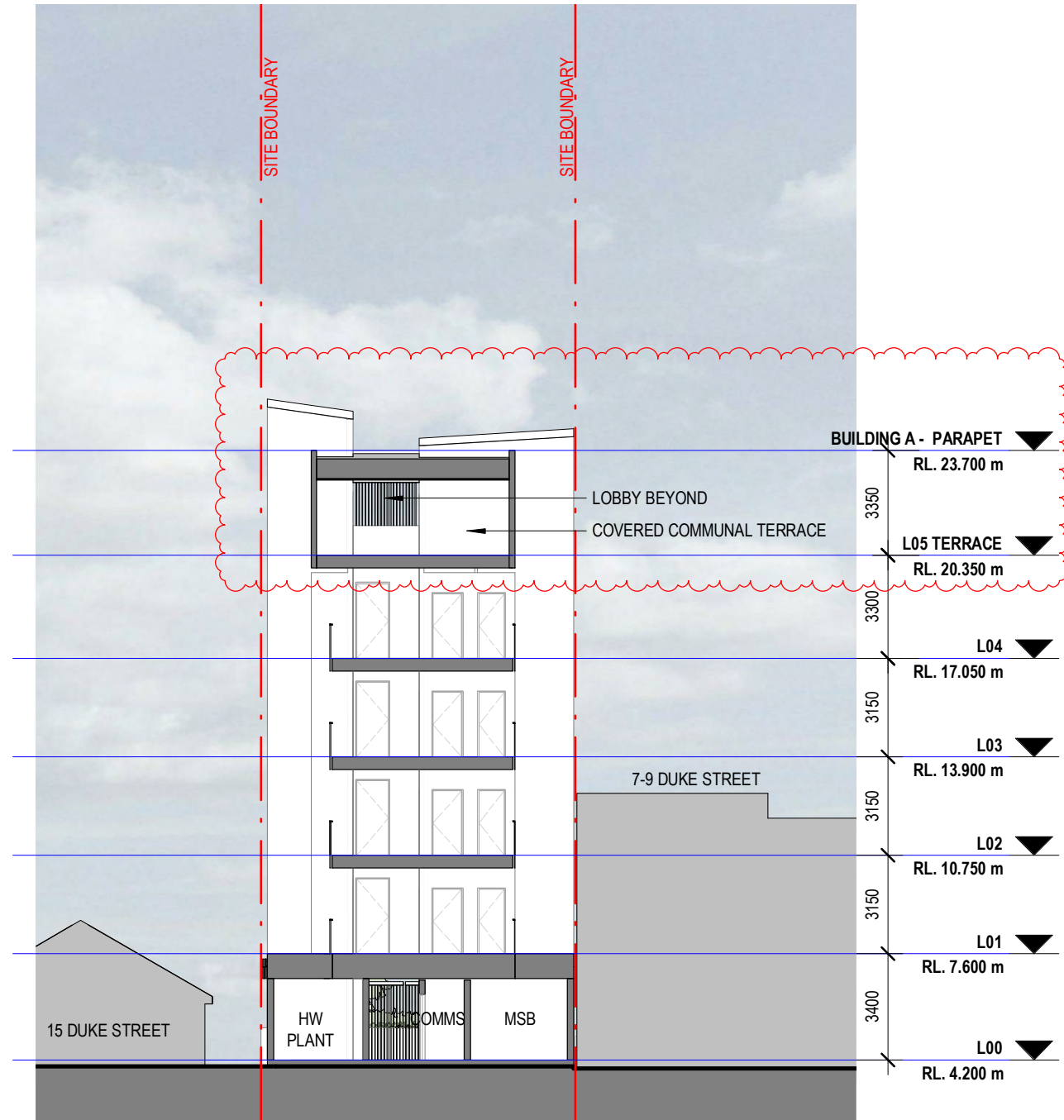
LANDSCAPE DETAILS

project: 23-048s Mission Australia 11 Duke St, Coffs Harbour
client: Mission Australia Housing
date: 17.05.2023
revision: A
drawn: OTJ
checked: AL

TaylorBrammer
TAYLOR BRAMMER LANDSCAPE ARCHITECTS PTY LTD
SYDNEY STUDIO
218 Oxford Street Woodlawn, NSW, 2025 E sydney@taylorbrammer.com.au T 61 2 9387 8855
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1 SECTION 02
DA-421
1:200



2 SECTION 03
DA-421
1:200







ADMINISTRATIVE CONDITIONS

Development Description:

1. Development consent is granted only to carrying out the development described in detail below:
 - ***Boarding House and Boundary Alteration Subdivision***

Prescribed Conditions:

2. The proponent shall comply with the prescribed conditions of development approval under Clauses 69-75 of Environmental Planning and Assessment Regulation 2021 as are of relevance to this development.

Development is to be in accordance with approved plans:

3. The development is to be implemented in accordance with the plans set out in the following table except where modified by any conditions of this consent (Development Consent No. 0741/23DA).

Plan No. / Supporting Document(s)	Title	Rev	Prepared by	Dated
Project No. 22026. Dwg No. DA-010	Existing / Demolition Site plan	D	Become	17/05/23
Project No. 22026. Dwg No. DA-015	Proposed Site Plan	E	Become	19/10/23
Project No. 22026. Dwg No. DA-100	Proposed Ground Level	J	Become	19/10/23
Project No. 22026. Dwg No. DA-101	Proposed Level 01 Plan	H	Become	19/10/23
Project No. 22026. Dwg No. DA-102	Proposed Level 02 Plan	C	Become	19/10/23
Project No. 22026. Dwg No. DA-103	Proposed Level 03 Plan	E	Become	19/10/23
Project No. 22026. Dwg No. DA-104	Proposed Level 04 Plan	B	Become	17/05/23
Project No. 22026. Dwg No. DA-105	Proposed Level 05 Plan	H	Become	19/10/23
Project No. 22026. Dwg No. DA-106	Proposed level 06 Plan	D	Become	19/10/23
Project No. 22026. Dwg No. DA-107	Proposed Roof Plan	E	Become	19/10/23

Draft Conditions

Plan No. / Supporting Document(s)	Title	Rev	Prepared by	Dated
Project No. 22026. Dwg No. DA-200	Staging Plan	E	Become	19/10/2023
Project No. 22026. Dwg No. DA-400	Proposed Building Elevation	F	Become	19/10/23
Project No. 22026. Dwg No. DA-401	Proposed Building Elevation	F	Become	19/10/23
Project No. 22026. Dwg No. DA-402	Proposed Building Elevation	F	Become	19/10/23
Project No. 22026. Dwg No. DA-403	Proposed Building Elevation	F	Become	19/10/23
Project No. 22026. Dwg No. DA-404	Proposed Building Elevation	D	Become	19/10/23
Project No. 22026. Dwg No. DA-420	Proposed Building Sections	F	Become	19/10/23
Project No. 22026. Dwg No. DA-421	Proposed Building Sections	F	Become	19/10/23

In the event of any inconsistency between conditions of this development consent and the plans referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Development in Accordance with Documents:

4. The development shall be undertaken in accordance with the following documents:

Planning Documentation

- (1) *Acoustic Report prepared by Acoustic Logo dated 2 May 2023*
- (2) *Statement of Environmental Effects of Keiley Hunter Town Planning*

Staging of Development:

5. This development consent acknowledges that the construction of the project will be staged.

Stage one works to comprise:

- Subdivision (Boundary Adjustment)

Stage two works to comprise:

- Construction of ground floor level and Building 'A' – shown as Stage 1 on the Staging Plan

Stage three works to comprise:

- Construction of Building 'B' – shown as Stage 2 on the Staging Plan

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Construction Certificate:

6. No building work is to commence on site until a Construction Certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed.

Note: Separate Certificates are to be obtained for the **building works** and any **civil works**.

Design Amendments:

7. Before the issue of a construction certificate, the certifier must ensure the construction certificate plans and specifications detail the following required amendments to the approved plans and documents:
 - a) The provision of perimeter fencing being provided along the northern side boundary. The fencing shall comprise of a solid material (no openings) and measure 1.8m above respective ground level.

Landscape Plan Modifications:

8. A revised landscape plan shall be submitted to and approved by the PCA **prior to the issue of a Construction Certificate**.
 - a) The landscape plans must be modified to reflect the landscaped areas shown on the stamped approved plans of 'Become' and be designed in accordance with the requirements of the CHCC DCP.

Traffic Management Plan:

9. A Traffic Management Plan must be submitted with the Construction Management Plan for approval by Council prior to the issue of a Construction Certificate. The Plan must show the proposals for reducing any impact of the construction site on the adjacent traffic network. This plan will include traffic management of short term activities such as delivery of materials; accessing, exiting and parking in and near the work site by cranes, concrete agitator trucks; tradesmen work vehicles and the like.

The Traffic Management Plan may include Traffic Control Plans detailing proposed methods to ensure safe vehicle access into and out of the general traffic stream, pedestrian control and safe transfer of materials from road reserve to construction site. The Traffic Management Plan should be and any associated Traffic Control Plans must be, prepared by a person authorised by Transport for NSW to prepare Traffic Control Plans. Any Traffic Control Plan must be approved by Council.

An estimate of the number of vehicles that will need to be accommodated at various stages of the construction and what arrangements have been made to accommodate that number of vehicles is to be included in the Traffic Management Plan.

Draft Conditions

Should it become necessary to occupy the road reservation for any reason not included in the approved Traffic Management Plan, even short term, then a specific Traffic Control Plan for the event or events is to be provided to Council. The submission must include the reasons that the occupation is required and any revision of the Construction Management Plan and/or Traffic Management Plan to accommodate the change in the construction methodology.

Construction Waste Management Plan:

10. **Prior to the issue of a Construction Certificate**, the proponent shall submit to the satisfaction of Council a Waste Management Plan prepared by a suitably qualified person in accordance with Council's relevant waste policy.

The Plan shall include the following provisions: all waste building materials shall be recycled or disposed of to an approved waste disposal depot; no burning of materials is permitted on site.

Demolition and Construction Waste Management Plan:

11. **Prior to issue of a Construction Certificate**, the proponent shall submit to the satisfaction of Council a Demolition and Construction Waste Management Plan prepared by a suitably qualified person in accordance with Council's DCP Sections F6.5, F6.7 and the below.

The Plan shall include the following provisions:

- Identify all demolition and construction waste type and volumes (including any hazardous waste types eg Asbestos)
- Identify the disposal facility for each waste type identified
- Identify on a site plan the number and size of bins and location of bins to be used during demolition and construction to ensure separation of the waste types and volumes for transport and disposal
- all waste building materials shall be reused, recycled or disposed of to an approved waste disposal depot;
- all waste disposal receipts are to be kept and provided to Council upon request.
- no burning of materials is permitted on site.

Construction Site Management Plan

12. Before the issue of a Construction Certificate, a construction site management plan must be submitted to and approved by Council. The plan must include the following matters:
1. The location and materials for protective fencing and hoardings on the perimeter

Draft Conditions

- of the site;
- 2. Provisions for public safety;
- 3. Pedestrian and vehicular site access points and construction activity zones;
- 4. Details of construction traffic management including:
 - a. Proposed truck movements to and from the site;
 - b. Estimated frequency of truck movements; and
 - c. Measures to ensure pedestrian safety near the site;
- 5. Details of bulk earthworks to be carried out;
- 6. The location of site storage areas and sheds;
- 7. The equipment used to carry out works;
- 8. The location of a garbage container with a tight-fitting lid;
- 9. Dust, noise and vibration control measures;
- 10. The location of temporary toilets;

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

REASON: *To require details of measures that will protect the public, and the surrounding environment, during site works and construction.*

Works in Road Reserve

13. Apply for and obtain a Roads Act Consent through a Civil Works Certificate from Council for all works required within the road reserve.

The application is to be accompanied by detailed design drawings, reports and other documentation prepared by a suitably qualified and experienced engineer in accordance with Council's policies design standards, Development Control Plan and conditions of this consent.

Design drawings, reports and documentation will be required to address the following works within the road reserve:

- a) *Laneway full width construction along property frontage;*
- b) *Minimum Ø150mm water main to service development along Duke St;*
- c) *Sewer Junction;*
- d) *stormwater connection into Stormwater pit on Duke St;*
- e) *Footpath along Duke St property frontage*

Plans and specifications submitted later than six (6) months from the date of development consent shall comply with Council's current specifications at a date six (6) months prior to submission.

Note:

- (1) *The laneway is to be rebuilt along the property frontage, with kerb both sides and design consideration of stormwater drainage.*
- (2) *Amplification of the water main is to be provided from the existing ø150mm main on Duke St and is to be a minimum of ø150mm.*
- (3) *The sewer riser is to be located within the property with calculations provided to justify*

Draft Conditions

the size proposed

- (4) *Stormwater infrastructure within the lane, draining to the existing Council network, is to be provided to adequately service the development and contributing catchment.*
- (5) *The design is to achieve compliance with the Coffs Harbour City Council Water Sensitive Urban*
- (6) *Footpath width is to be consistent with path on Southern side of development on Duke St*

The section 138 Roads Act Works Approval must be issued by Council and all conditions of that approval must be addressed prior to occupying and commencing any works in the road reserve.

Note: The application may be subject to separate fees and charges.

Equitable Access:

- 14. The building is to be provided with access and facilities for people with disabilities.

The applicants' attention is directed to the *Disability (Access to Premises - Buildings) Standards 2010* and the Building Code of Australia.

Details indicating compliance must be submitted and approved by the certifying authority **prior to the issue of a Construction Certificate.**

Section 7.11 (formerly sec 94) Monetary Contributions:

- 15. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

Note 1 - The contributions are to be paid prior to release of any Construction Certificate unless other arrangements acceptable to Council are made.

Note 2 - The rates will be adjusted in accordance with the procedures set out in Council's Section 7.11 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at quarterly.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

	\$ Per bed
- Coordination and Administration	100.68
- Coffs Harbour Road Network	359.81
- Surf Rescue Facilities	58.40
- District Open Space	1,641.76

The Section 7.11 contribution is currently:

- **Stage 2 – 12 Beds \$19,754.51** This includes a credit of \$6,173.29 for the one existing lot.
- **Stage 3 – 16 Beds \$34,570.40**

The applicant has applied for the Coffs Harbour City Centre Development Incentive Policy (revoked 8 June 2023). This incentive may provide an exemption up to \$500,000 of section 7.11 contributions (excluding car parking) and section 64 contributions. The application currently meets the criteria, however construction will need to be completed

Draft Conditions

through the issue of an occupation certificate by 19 May 2026 and before the \$2.5m incentive allowance is exhausted. The contributions are levied as normal within the consent and will only be payable if the policy conditions are not met.

The exemption amount becomes payable prior to the release of the occupation certificate, if conditions relating to the Coffs Harbour City Centre Development Incentive Policy are not satisfied or the 2.5m allowance has been exhausted.

Contributions have been imposed under the following plans:

- Coffs Harbour Open Space 2019
- Coffs Harbour Road Network 2019
- Surf Rescue Facilities 2019
- Coffs Harbour Administration Levy 2019

The Contribution Plans may be inspected at the Yarrila, 27 Gordon Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

Water Management Act 2000:

16. **The Construction Certificate not being released** until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

The current contribution rate is:

	Amount per Bed \$	Total \$
Works to satisfy increased demand within the area for a 28 boarding house development.		
Stage 1 – 12 Beds		
Water	4,409.49	52,913.88
Sewer	4,216.72	50,600.64
Subtotal (less credit for 1 lot)		(24,646.33)
Stage 1 amount payable		78,868.19
Stage 2 – 16 Beds		
Water	4,409.49	70,551.84
Sewer	4,216.72	67,467.52
Stage 2 amount payable		138,019.36

The applicant has applied for the Coffs Harbour City Centre Development Incentive Policy (revoked 8 June 2023). This incentive may provide an exemption up to \$500,000 of section 7.11 contributions (excluding car parking) and section 64 contributions. The application currently meets the criteria, however construction will need to be completed through the issue of an occupation certificate by 19 May 2026 and before the \$2.5m incentive allowance is exhausted. The contributions are levied as normal within the consent and will only be payable if the policy conditions are not met.

The exemption amount becomes payable prior to the release of the occupation certificate, if conditions relating to the Coffs Harbour City Centre Development Incentive Policy are not satisfied or the 2.5m allowance has been exhausted.

The developer contributions are reviewed from time to time and are also subject to quarterly adjustment in accordance with the Consumer Price Index for Sydney (All Groups).

Draft Conditions

Prior to making your payment you should ascertain the level of developer contributions payable from Council's Developer Contributions Team telephone (02) 6648 4285.

Stormwater and Drainage Works Design

17. Stormwater being drained to City Infrastructure. Design details of the system being approved by Council **before issue of a Construction Certificate**. The design of drainage works on the public road are subject to separate application, fees, and approval from the City.

The on-site drainage system is to be designed in accordance with the Northern Rivers Handbook of Stormwater Drainage Design. Calculations showing the effect of the proposed development on design storm run-off flow rates and the efficacy of proposed measures to limit the flows as set out in this condition are to be submitted with the design details.

The design is to achieve compliance with the relevant controls of Coffs Harbour City Council Water Sensitive Urban Design Policy. A MUSIC Model, and An Operation and Maintenance Plan shall accompany the design for the system.

Street Tree Planting (Plan):

18. A plan is to be submitted to PCA showing street tree planting, which has been prepared in accordance with the requirements of Council's "*Street Tree Master Plan*", "*Street Tree Planting Detail and guidance of CBD Masterplan 2031*". The Plan shall be prepared by a qualified landscape architect or professional landscape consultant.

The Plan must show all services and planting detail in accordance with Council's minimum requirements; alternatively a higher standard may be considered for tree protection. The Plan is to be approved by PCA **prior to the issue of a Construction Certificate**.

Acid Sulfate Soils Management Plan

19. Prior to the issue of a Construction Certificate, an Acid Sulfate Soil Management Plan (ASSMP) must be prepared by a suitably qualified person, in accordance with the Acid Sulfate Soils Assessment Guideline 1998 (ASS Manual), to the satisfaction of Council.

Reason –

To prevent impact of acid sulfate soils on built and natural environment.

PRIOR TO COMMENCEMENT OF WORKS

Site Notice

20. Before building work commences, a site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of the development details including but not limited to:
 1. Details of the Principal Contractor and Principal Certifying Authority for all stages of the development;
 2. The approved hours of work;
 3. The name of the site/project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including

Draft Conditions

construction noise complaints are to be displayed on the site notice; and

4. To state that unauthorised entry to the site is not permitted.

- a) The sign is to be maintained until the building work has been completed and must be erected prior to commencement of work.

REASON: To ensure site signage requirements under EP&A (Development Certification & Fires Safety) Regulation 2021 s75 are met.

Notice to be Given Before Commencement of Works

21. The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the works commencing on the site and a 24-hour telephone number to be operated for the duration of the construction works.

The Principal Certifying Authority is to be given a minimum of 48 hours' notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 4.19, 6.6, 6.7, 6.12, 6.13, 6.14 of the Environmental Planning and Assessment Act 1979.

REASON: To ensure satisfaction of the notice requirements to council and PCA under EP&A Act s6.6 and s6.12.

Sanitary Plumbing and Draining:

22. A separate application is to be made to Council by the licensed plumber and drainer prior to the commencement of any sanitary plumbing and drainage work on site.

Contact Telephone Number:

23. Prior to the commencement of the works for each stage of the development, the proponent shall forward to Council a 24 hour telephone number to be operated for the duration of the construction works.

Erosion and Sediment Control Plan Implementation

24. Runoff and sediment erosion controls as designed in accordance with the approved plans and the current version of document Managing Urban Stormwater - Soils & Construction Volume 1 (2004) by Landcom are to be installed **prior to the commencement of any site works** and incorporate:

- a) Diversion of uncontaminated up-site runoff around cleared and/or disturbed areas.
- b) Containment of the downslope perimeter of the cleared and/or disturbed area with a silt fence and/or other devices to prevent sediment and other debris escaping from the land.
- c) Maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated after completion of construction.

Reason: To properly manage soil erosion, water pollution or the discharge of sediment onto surrounding land for the protection of the environment Pursuant to the Section 8 of the Local Government Act 1993.

Dilapidation Report

25. Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, including No. 15 Duke Street and to the satisfaction of Principal Certifier (PCA)

Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the PCA, that all reasonable steps were taken to obtain access to the adjoining properties.

Prior to any site work commencing, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.

REASON: *To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report*

DURING CONSTRUCTION

Approved Plans to be on-site

26. During Works, a copy of the approved and certified plans, specifications and documents incorporating the conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

REASON: To ensure development and works are consistent with the approved plans and consent.

Hours of Work

27. Construction works are to be limited to the following hours:

Monday to Friday	7.00 am - 6.00 pm
Saturday	7.00 am - 1.00 pm if inaudible from adjoining residential properties otherwise 8.00 am - 1.00 pm

No construction work is to take place on Sunday and Public Holidays.

Excavated Material:

28. Where excavated material is to leave the site it is to be disposed of at an approved landfill facility.

Alternatively, where it is proposed to dispose of the excavated material at another location

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no material is to leave the site until:

- Council has been advised in writing of the destination site(s); and
- Council has been advised of the quantity and makeup of the material; and
- Council has issued written approval for disposal to the alternate location(s).

Note: The exportation of fill or soil from the site must be in accordance with the provisions of the Protection of the Environment Operations Act (POEO) 1997 and the Office of Environment and Heritage "*Waste Classification Guidelines*" and shall comply with the terms of any approval issued by Council.

Construction Waste Management:

29. Compliance with the terms of approved construction waste management plan.

Erosion and Sediment Control:

30. Compliance with the Erosion and Sediment Control Plan shall be undertaken at each appropriate construction stage to prevent erosion of soil.

Dust Control Measures:

31. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:
- (1) All materials shall be stored or stockpiled at the best locations;
 - (2) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that runoff occurs;
 - (3) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other materials;
 - (4) Cleaning of footpaths and roadways shall be carried out regularly; and
 - (5) Rumble grids being installed at access points to the site.

Public Way to be Unobstructed:

32. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

Reason: For the provision of public safety in compliance with Local Government Act 1993 and property accessibility in compliance *with NSW Roads Act 1993*.

Cultural Heritage:

33. In the event that future works during any stage of the development disturb Aboriginal Cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the area and the material must be identified by an independent and appropriately qualified archaeological consultant. The Office of Environment and Heritage (OEH), Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups must be informed. These groups are to advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the OEH and Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups.

Acid Sulphate Soil Management Plan:

34. The Acid Sulphate Soil Management Plan shall be implemented in full.

Finished Floor Level (New Building):

35. The finished floor level of the ground floor of the building is to be a minimum of 4.2 mAHD. An accredited surveyor's certificate certifying such level is to be submitted to the Principal Certifying Authority and a copy submitted to Council before works proceed above finished floor level.

Waste and Contamination:

36. The exportation of waste (including fill or soil) from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage "*Waste Classification Guidelines*".

Any new information that comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Principal Certifying Authority.

Stormwater

37. No new paving, excavation, filling or other work on the site is to interfere with the existing drainage system so as to pond or divert water onto structures and adjoining properties.

The land surrounding any structure must be graded to divert surface water to the legal point of adequate discharge and clear any structures and adjoining premises.

Reason: For the provision of public amenity and management of stormwater runoff in compliance with Local Government Act 1993.

Shoring and adequacy of adjoining property

38. The person having the benefit of the development consent must, at the person's own expense —
- a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and

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- b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

This section does not apply if—

- a) the person having the benefit of the development consent owns the adjoining land, or
- b) the owner of the adjoining land gives written consent to the condition not applying.

This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE OR COMMENCEMENT OF USE

Occupation Certificate:

- 39. A person must not commence occupation or use of the new building **prior to obtaining an Occupation Certificate** from the Principal Certifier.

Acoustic Certification

- 40. The following acoustic documentation must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
 - A. The Acoustic methods specified in the acoustic consultant report (*Acoustic Logic dated 2/5/2023*) being implemented in the development and the completed works subsequently certified by the acoustic consultant **prior to the issue of an Occupation Certificate**. A copy of the certification being referred to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**
 - B. Mechanical plant must be assessed by a suitably qualified person as meeting the noise emission criteria specified in Acoustic Logic's Noise Impact Assessment, dated 2/05/2023. A report demonstrating compliance with the noise emission criteria must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

(One month after the use has commenced a follow up report is to be submitted to the Principal Certifying Authority to assess noise emission from the development, the effectiveness of the noise attenuation methods and compliance with the appropriate maximum noise level) (where applicable).

Car Parking Spaces:

- 41. Car parking spaces as shown on the approved plans being provided on the development site **prior to the issue of an Occupation Certificate**.

Car parking and manoeuvring areas for spaces 1, 2, 3 & 5 being constructed in accordance with the provisions of Australian Standard AS 2890.1 "Parking Facilities: Off-Street Car Parking" and the provisions of AS/NZS 2890.6:2009 "Parking Facilities: Part 6: Off-Street parking for people with disabilities". Car Parking Space No. 4 as shown on the approved plans must be allocated and signposted as 'Building Manager Car Park' and used for a 'small car' only.

Road Design and Services

42. The following works:

- a) *Laneway full width construction along property frontage;*
- b) *Minimum Ø150mm water main to service development along Duke St;*
- c) *Sewer Junction;*
- d) *stormwater connection into Stormwater pit on Duke St;*
- e) *Footpath along Duke St property frontage*

being provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications and relevant policies (WSUD).

These works are to be completed prior to the issue of an Occupation Certificate.

All work is to be at the developer's cost.

Stormwater Management Certification

43. **Before issue of an Occupation Certificate**, the design engineer/hydraulic consultant shall issue a certificate to the Principal Certifying Authority to the effect that the stormwater treatment system has been installed and complies with the approved design.

Maintenance Bond

44. **Prior to issue of an Occupation Certificate** and acceptance of 'On Maintenance' period, a maintenance bond for the constructed civil engineering works required to be dedicated to Council must be paid to Council. The bond may be in cash or by financial institution guarantee.

The bond required is the larger sum of :

- 10% of the contract sum for works associated with water and sewer plus 5% of the contract sum for all other works where the total value is more than \$50,000 or ;
- \$5,000

All work to be dedicated to Council is subject to a maintenance period of six (6) months from the date of the Occupation Certificate issued by Council or accredited private certifier. The maintenance period may be extended by Council due to material or construction work compliance reasons or if an Occupation Certificate approval is delayed beyond the maintenance period.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with Councils Standards.

Note: If a financial institute guarantee is proposed to be used, please contact Council to determine whether this institute is acceptable to Council as well as to ascertain specific requirements of the guarantee.

Works-as-executed plans and any other documentary evidence

45. Before the **issue of an Occupation Certificate**, the following must be submitted to the satisfaction of Council:
- works-as-executed plans endorsed by a registered surveyor,
 - quality testing required for compliance with Council's standards and conditions of this consent,
 - a compliance certificate prepared by superintendent certifying they inspected the works with sufficient frequency to ensure materials and workmanship conform to the requirements of the approved plans and specifications,
 - any other required evidence confirming completion with approved plans and specifications,
 - certification from a registered surveyor that all relevant structures are wholly contained within the relevant easement.

Reason: For the intention of unique identification to facilitate access, delivery of emergency services or maintenance of records Pursuant to the Section 124 (order No.8) of the Local Government Act 1993.

Letter of Completion for Civil Works

46. **Prior to the issue of an Occupation Certificate**, a Letter of Completion for Civil Works is required to be obtained from the relevant Civil Works Principal Certifying Authority(s) stating that all conditions relating to the civil works have been satisfactorily completed.

Street Tree Planting (Individual Trees)

47. Any street tree planting being carried out to satisfaction of Council, **prior to issue of an Occupation Certificate**.

The planting being maintained for twelve (12) months in accordance with Council's requirements to ensure successful establishment and development. A bond per tree is to be paid to Council **prior to issue of an Occupation Certificate**. The bond will be returned at the end of the twelve month maintenance period provided that plantings have been established successfully.

Landscaping Works:

48. **Prior to the issue of an Occupation Certificate** a works as executed plan is to be submitted to the Principal Certifying Authority certifying that all landscape works have been carried out in accordance with the approved plan.

Infrastructure (Flood Management)

49. All new electrical infrastructure and equipment (wiring, power outlets, switches etc.) to the maximum extent possible must be located a minimum of 0.5m above finished floor level or suitably waterproofed.

Flood Management (Business)

50. An Emergency Business Continuity Plan (Business Floodsafe Plan) in accordance with the NSW State Emergency Service FloodSafe Guides (<https://www.ses.nsw.gov.au/local-region-information/cnr/flood-storm-and-tsunami-guides/>) is to be prepared, and a copy submitted to Council and/or Principal Certifying Authority, **before issue of an Occupation Certificate**.

For further details visit the SES website at <http://www.sesemergencyplan.com.au/>

Note: Shelter in place is the recommended evacuation strategy if early evacuation is not possible.

Modified Plan of Management

51. Prior to the issue of an Occupation Certificate a modified Plan of Management shall be submitted to Council for approval, incorporating the following additional information:
- a) Temporary allocation of the 'on-site managers residence' within 'Building A' until 'Building B' is completed in Stage 3.
 - b) Details of usage times for common areas
 - c) A requirement that no amplified music is permitted within the common areas
 - d) No Boarding Room will be occupied by more than 2 adult residents (excluding visitors).

OPERATIONAL MATTERS

Plan of Management

52. The approved Plan of Management being fulfilled.

Car Parking Areas:

53. Car Parking areas are to be maintained in a serviceable condition at all times.

Driveway Access

54. Any device (gate, door, or similar) preventing uninhibited vehicular access from a lane to an internal driveway, carport or parking space, must have a remote operating system installed for driver access. The system shall be maintained in a serviceable condition at all times.

Sewer manholes, inspection openings and water meters

55. A person must not build over, interfere with access, increase or reduce the cover over any water/sewer/stormwater utility infrastructure, such as; sewer manholes, sewer inspection openings, water meters and stormwater pits.

If for any reason it is necessary to raise the height of a sewer manhole this is subject to a separate application to Council.

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Stormwater

56. All stormwater management systems must be maintained in accordance with the approved stormwater plans.

Noise

57. Noise emanating from the premises shall at all times be in accordance with the provisions of the *Protection of the Environment (Operations) Act 1997*.

External Lighting

58. External lighting shall comply with *Australian Standard AS 4282: 1997 Control of Obtrusive Effects of Outdoor Lighting*.

Boarding Houses

59. It is a condition of the development consent that from the day on which an occupation certificate is issued for the development—
- a) the boarding house must be used for affordable housing, and
 - b) the boarding house must be managed by a registered community housing provider in accordance with a plan of management, and
 - c) notice of a change in the registered community housing provider who manages the boarding house must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change, and
 - d) notice of a change to the plan of management must be given to the consent authority no later than 3 months after the change.

INTEGRATED TERMS OF APPROVAL CONDITIONS

Compliance with Other Department, Authority or Service Requirements:

60. Development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	NSW Planning Portal Reference	Dated
Rural Fire Service	CNR-55752	5/07/2023
Essential Energy (Advice)	A-72410	16/10/2023

Note: For a copy of the above referenced document/s, please refer to the NSW Planning Portal