



**NSLPP MEETING HELD ON 02/04/2025**

**Attachments:**

1. Site Plan
2. Architectural Plans

**ADDRESS/WARD:** 35 East Crescent Street Lavender Bay

**APPLICATION No:** 175/24

**PROPOSAL:** Demolition of a dwelling house, construction of a new dwelling house and associated works.

**PLANS REF:**

Plan No.	Rev No.	Description	Prepared by	Dated
0001-3306 inclusive	02	Architectural Set of Drawings of 26 Sheets.	Craft Architecture Sydney	20 08 2024
-	A	Preliminary Construction Management Plan	Cubiq Construction	12 08 2024
C00.01–C02.03 inclusive	B	Stormwater Plans Set of 6 Drawings	Engineering Studio	28 05 2024
-	1	Geotechnical investigation	JK Geotechnics	20 05 2025

**OWNER:** Ms M Mortlock

**APPLICANT:** Craft Architecture C/- GSA Planning

**AUTHOR:** Jim Davies, Executive Planner

**DATE OF REPORT:** 18 March 2025

**DATE LODGED:** 31 July 2024

**RECOMMENDATION:** Refusal

## EXECUTIVE SUMMARY

Development application 175/24 seeks consent for the demolition of an existing dwelling and associated works and the construction of a dwelling of 5 levels on land known as 35 East Crescent Street Lavender Bay.

The application is reported to North Sydney Local Planning Panel for determination as more than 10 (29) submissions were received.

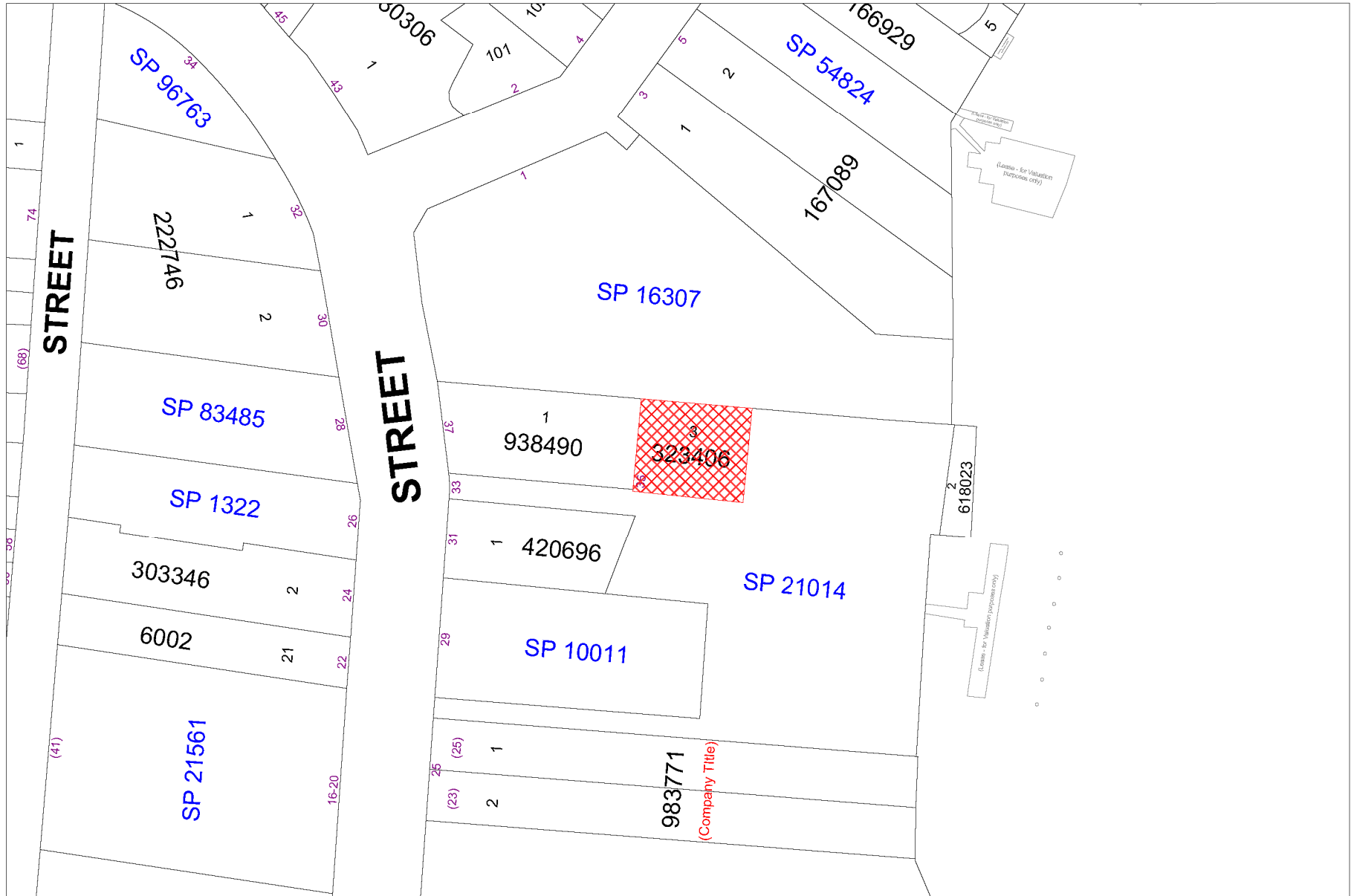
The application is also the subject of a 'deemed refusal' appeal filed with the Land and Environment Court of NSW on 17 January 2025. The Panels determination of this application is required to assist in the direction of the appeal and to reduce the total time for determination which will be applied in the NSW Planning Portal. Currently "deemed refusal" is not treated as a determination for statistical purposes by the Portal with only a determination, or a court decision finalising the application process. A Panel decision is required to assist Council in meeting the Minister's expected processing time of 115 days for the entire application stream.

The application was notified in August 2024 for 14 days and 29 submissions were received. Key issues raised by submissions were:

- Excessive bulk and scale,
- Visual impact on the locality,
- Impact on views from neighbouring residences,
- Negative impact on privacy of occupants of the neighbouring residences,
- Access to the site for construction,
- Environmental impacts of the proposal's construction, including on the amenity of the locality, geotechnical stability and likely impacts on Lavender Bay and Sydney Harbour,
- Incompatibility with local character, and
- Various inaccuracies within the application.

The applicant had submitted additional information, including a preliminary management plan (August 2024) and an additional visual impact assessment (November 2024,) before filing the appeal. Information submitted to date does not address the above matters and other deficiencies of the application, and refusal is recommended.

# LOCATION MAP



## **DESCRIPTION OF PROPOSAL**

The application seeks consent for the demolition of an existing dwelling and associated works and the construction of a dwelling of 5 levels on land known as 35 East Crescent Street (EC St) Lavender Bay

In summary, the proposal comprises:

- Gym, cellar, bathroom, storage and plant rooms on the lower ground floor;
- 2 bedrooms, bathrooms and a lounge/music room of the ground floor;
- Living room, library, 2 bedrooms and bathroom on level 1;
- Kitchen, family room, 1 bedroom and bathroom on level 2; and
- Formal dining room, bar and bathroom, with landscaped terrace, on level 3.

Attached architectural plans illustrate the proposal.

## **SITE & LOCALITY**

### ***Site***

The site comprises lot 3 in DP323406 and is known as 35 East Crescent Street Lavender Bay. It has a regular rectangular shape and is completely landlocked, with an area of 329.9m<sup>2</sup>.

Access to the site from East Crescent Street is available via a Right of Carriageway, Right of Footway and Easement for Services in favour of the site, registered on and burdening DP 637373. This land's address is 33 EC St McMahons Point, and accommodates a residential flat building, with a parking basement below a platform that terminates the driveway and stairway from East Crescent Street.

There is another easement in favour of the site, over a small triangular-shaped piece of land, part of No 33. This small parcel is landscaped as part of No 35, because it is fenced and at the same level as No 35, while the bulk of No 33 is several metres below the level No 35 and the parcel for which occupants of the site (No 35) have recreation rights.

One parking space and access thereto, via the driveway, platform (continuation of the driveway, formal pedestrian access via lift and stairs, and visitor parking for No 33) and circular ramp into the basement at No 33 is also made available for use of occupants of the site, by dealings on DP 637373.

Pedestrian access to the site is available from the visitor parking area and No 33's main pedestrian entry via a stairway adjacent to the driveway and from the parking space below, via a staircase that descends from the visitor entry, which opens onto the site via a door at RL15.14, through a rendered masonry wall.

Apart from landscaped gardens, there is no vegetation of note on the site, except a Lemon-scented tea tree. It appears this tree has been routinely pruned to preserve views from residences north of the site at 1 Bay View Street Lavender Bay. The submitted arborist's report states the tree has low retention value.

Without the benefit of a site visit, it is difficult to visualise the site and locality's topography. Between the street and the Lavender Bay shore, the land has been cut into several platforms or benches to enable urban development.

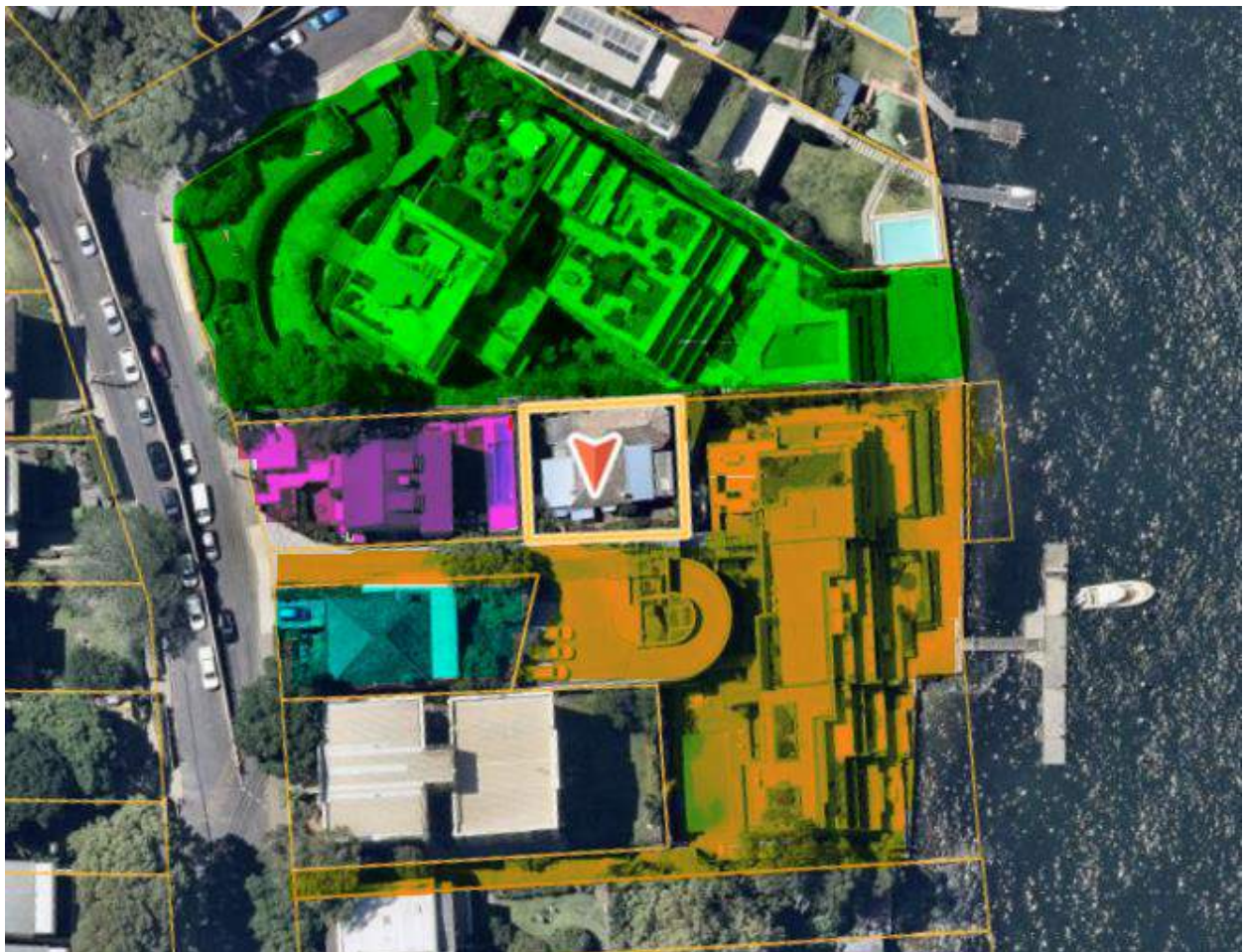


To the north, the site sits atop a sandstone scarp and a 1.0m – 2.0m (approx.) high concrete block retaining wall. Along the northern boundary, the site drops from west to east, from RL17.22 (the top of a rock outcrop that traverses the western side of the site) to RL 12.44 at the north-eastern corner. The change in levels is about 6.0m – 8.0m, from the top of the retaining wall at the site's northern edge, to the adjacent land below at 1 Bay View Street.

On the eastern boundary, from the top of the same retaining wall to the land below, No 33 East Crescent Street, is a drop of some 9.0m. No 33 accommodates a four-level residential building, with frontage and a jetty on Lavender Bay.

To the south, the wall in which the access-door to the site is located rises some 5.0m at the boundary. On the western boundary are remnants of a sandstone escarpment which rises from RL 15.00 to about RL 20.8, at the top of another retaining wall built just inside the cliff top. On this lot, No 37 East Crescent Street, due west of the site is a 3 level dwelling house.

The site appears to drain to a pit in the north-eastern corner, connected to a pipe which runs through an easement over No 33 to the bay, as shown by the submitted stormwater drainage plans prepared by Engineering Studio, 28 May 2024.



***Aerial image (Nearmap) of site and surrounds (Near Map 20 January 2025). The site is indicated by an orange marker. Also visible are the apartments at No 1 Bay View Street (green) and No 33 East Crescent Street (orange) and neighbouring single dwelling at 37 East Crescent Street (pink). The former residence converted into flats at No 31 East Crescent Street (blue) is southwest of the site.***



**Two storey dwelling on site (red). Four level apartment building at 33 East Crescent (orange), Seven level apartments at 1 Bay View Street (green), 3 storey dwelling at 37 East Crescent Street (pink) and apartment building, obscured by trees, at 31 East Crescent Street (blue).**

### **Locality**

The site is on the western side of Lavender Bay, at the suburb boundary of Lavender Bay and McMahons Point. Located in the McMahons Point Neighbourhood, in Part C North Sydney Development Control Plan 2013, key features of the locality are described thus:

- *Predominantly residential accommodation.*
- *Terraced land adjacent to foreshore.*
- *The following views and vistas are to be preserved and where possible enhanced:*
  - *District views from most properties to Sydney Harbour and beyond*
  - *Views to Lavender Bay from King George Street Lookout (80), Extensive views to Sydney Harbour from East Crescent Reserve Lookout (81), Lloyd Rees Lookout (82).*

Indicative examples of the views available from the site and immediately neighbouring dwellings.





***Image taken from the site, near the north-east corner, looking south-east. The top level of apartments and roof terrace at No 33 are in the middle-ground.***



***Image taken from the terrace (private open space) of Unit 20, level 7, 1 Bay View Street Lavender Bay. The dwelling with the dark tiled roof in the lower middle-ground is the house on the site, proposed to be demolished.***

## STATUTORY CONTROLS

North Sydney Local Environmental Plan 2013 (the LEP)

- Zoning – R3 Medium Density Residential
- Item of Heritage – No
- In Vicinity of Items of Heritage - No
- Conservation Area – No
- Foreshore Building Line - No

Environmental Planning & Assessment Act 1979 (the Act) - Local Development

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

SEPP (Resilience and Hazards) 2021

SEPP (Biodiversity and Conservation) 2021

SEPP (Building Sustainability Index: BASIX) 2004

## POLICY CONTROLS

North Sydney Development Control Plan 2013 (the DCP)

North Sydney Local Infrastructure Contributions Plan 2020

## RELEVANT HISTORY

### Previous applications

None is relevant, the extant dwelling, proposed for demolition, is a part two storey house which appears to have been modified over the years.

### Subject Application

<b>Date</b>	<b>Action</b>
31 July 2024	Application lodged.
09 August 2024 – 23 August 2024	Application notified for 14 days. 29 submissions received, including several from legal representatives or planning consultants, on behalf of adjacent or nearby property owners.
4 September 2024	Site inspection.
14 October 2024	Site meeting with applicant's representatives. Site inspection from adjacent residences, at 1 Bay View Street, 37 East Crescent Street to observe potential view impacts, and meeting with residents of 33 East Crescent Street regarding access and other DA-related matters. Several photographs were taken for view assessment by applicant, at their request. Applicant was requested to provide an analysis of building envelopes using sections/elevations of the site and proposal (this diagram is the last page of the architectural plans, attached). A formal RFI was not sent via the portal, as it was planned to send one, once an assessment had been completed. This did not occur due to the appeal being filed.
16 October 2024	Sent photographs to applicant to be used in revised view assessment.
29 November 2024	Additional information received via the Planning Portal.
17 January 2025	"Deemed refusal" appeal filed.
10 & 11 June 2025	Land & Environment Court S34AA conference and hearing scheduled.

## **INTERNAL REFERRALS**

### **BUILDING**

The proposed works the subject of this application have not been assessed in accordance with the National Construction Code of Australia. A comprehensive assessment is required before a Construction Certificate is issued.

### **DEVELOPMENT ENGINEERING**

Council's development engineer has considered the application and has recommended conditions, should approval be granted.

### **TRANSPORT & TRAFFIC ENGINEERING**

A member of Council's transport and traffic team has reviewed the application and recommends as follows:

*The application should be refused because the application does not address foreseeable challenges related to traffic access for construction on a parcel of land that has no immediate public road frontage.*

*Construction activities can pose hazards to pedestrians especially those that will need to use the shared driveway to access 33 East Crescent Street. Hazards may arise from heavy vehicle movements, road closures, or sidewalk obstructions. The application does not address how the safety of vehicles, pedestrians and cyclists would be managed during construction. Any impacts to public transport have not been outlined.*

*While the application does not include a CTMP, there could be challenges involved in ensuring vehicles leave the construction site in a forward direction which may impact on-street parking spaces.*

*While (an adequate) construction methodology has not been provided, if a works zone were to be installed on East Crescent Street, general traffic would not be able to pass as the effective road width between the works zone and a parked vehicle on the other side of the road would be less than 3 metres. This would breach NSW Road Rule 208.*

*The site shares an access driveway with 33 East Crescent Street. If the construction methodology involves occupying the shared driveway, there would be a risk that access to 33 East Crescent Street would be impacted.*

*While the application does not include a CTMP, it is noted that if craning is proposed for construction, it is likely that neighbouring properties may fall under the range of the crane and protection would be required.*

### **LANDSCAPING**

Council's Landscape Development Officer has recommended conditions to be applied should consent be granted.

## EXTERNAL REFERRALS

None required.

## SUBMISSIONS

Council notified adjoining properties and the Lavender Precinct Committee of the proposed development, seeking comment between 09 August 2024 and 23 August 2024. Council received 29 submissions, including several from legal representatives or planning consultants appointed by owners of neighbouring properties. Matters raised in the submissions are considered below:

The original submissions may be viewed by way of DA tracking on Council's website [https://www.northsydney.nsw.gov.au/Building\\_Development/Current\\_DAs](https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs) and are available for review by NSLPP members.

Basis of Submissions	Consideration
Demolition and construction constraints, and methods, have not been (adequately) detailed.	<p>A preliminary construction management plan has been submitted, which has not adequately described the methodology for undertaking the development. Nor has it properly considered managing potential environmental impacts.</p> <p>A key concern is that the proposal has not had due regard to site constraints and the limitations imposed on access to the site, including reliance on a right of carriageway granted over the access handle of No 33 East Crescent St, which is the subject of a 3-tonne load limit.</p> <p>Submissions have noted that in carrying out development at No 33 involved removing demolition debris and delivering building materials by hand.</p>
Significant excavation is proposed, with underground rooms, including a bedroom and other habitable rooms.	<p>Most of the ground floor is below existing ground level (EGL) (DA 0602). All the basement is below EGL. The gym, the only habitable room at this level, has natural light and ventilation from an east-facing door, window and verandah.</p> <p>According to the submitted geotechnical report (JK Geotechnics 20 05 2024) about 7m of excavation is required. Sandstone bedrock was encountered 0.5m to 1.78m below the surface. Above the bedrock, poorly compacted fill and residual soils were encountered (within the retaining wall around the eastern and northern sides of the site).</p> <p>From Page 4 of the submitted geotechnical report:</p>

Basis of Submissions	Consideration
	<p><i>Groundwater monitoring wells were installed in BH2 and BH3. The groundwater monitoring levels were allowed to stabilise, and a return visit was made to site on 30 April 2024 when groundwater levels were measured at 4m and 4.43m in BH2 and BH3, respectively. Given that there is an 8m high cliff line below the site to the east, the measured levels may constitute perched groundwater.</i></p>
<p>Considerable concerns have been raised by several submissions regarding the potential geotechnical impacts of the proposal, including groundwater impacts, surface drainage, vibration, destabilisation of adjoining land, likely need for rock bolts or anchors (temporary, according to the geotechnical report, to be replaced by retaining walls upon completion), excavation techniques and the duration of earthworks (and demolition and construction).</p> <p>Several submissions also noted the proposal is inconsistent with Cl. 1.3.3 Topography, Part B North Sydney DCP 2013.</p>	<p>The submitted geotechnical report has made recommendations concerning these aspects of the development.</p> <p>However, the geotechnical engineer who has prepared the contentions for this topic in Council's Statement of Facts and Contentions (filed with the Court) has indicated there are considerable shortcomings in the report submitted with the development application.</p>
<p>Owners' permission is required, to access the site, relying on the right of way, installation of rock anchors and the like.</p>	<p>Submissions for No 33 indicated that such permissions would not be forthcoming, supported by legal opinion.</p>
<p>Several submissions also raised concerns regarding potential risks and hazards being caused by the development, including impacts of excavation, demolition and construction, such as exposure to silica dust and noise, building materials and debris falling onto and damaging adjacent property and potential risks to human safety, disruption of groundwater flows and surface drainage, noise and the (unspecified) duration of works to complete the development.</p>	<p>These matters and others have not been adequately addressed by the development application.</p> <p>In relation to earthworks, most excavation is between approximately 3.5m to 4.0m, with some parts of the site being excavated to about 7.0m. Most of the proposed building footprint to the southern boundary requires excavation, certainly within 1.0m of the wall of the 'below ground' carpark of the apartments at 33 East Crescent St.</p> <p>Fill on northern and western boundaries is required between about 400mm and 600mm in depth.</p>
<p>Access between Bay View St and East Crescent St may be blocked.</p>	<p>Although details have not been submitted, the submitted preliminary construction management plan implies the need for a work zone close to the junction of these two streets, noting that Bay View St is one-way where it joins East Crescent St, and that there are limited sight lines for motorists entering Bay View St into East Crescent St.</p>

Basis of Submissions	Consideration
	In considering the constraints of the site and access thereto, these possible issues should have been addressed as part of the development application.
Regarding the proposal, particularly regarding access via the right of way over No 33 East Crescent St and the need for rock bolts/anchors to support their 'basement' car park, there has been no consultation with owners of this neighbouring property, or other neighbouring properties.	Noted.
A new dwelling could be built without excavation, or the extant dwelling could be suitably altered and added to.	Noted, either of these approaches would contribute to ameliorating or in some cases eliminating impacts of the proposal.
One parking space is insufficient for a 7-bedroom dwelling.	The plans show 5 bedrooms, a study and a library, on 3 of 5 levels.
No vehicle is permitted to stop on the driveway (RoW over No 33 which benefits the site) "...for any significant period." This restriction and the 3-tonne load limit effectively prevent use of the driveway for construction, in addition to the (eventual) denial of approval to use the RoW for building work by the owners.	Noted.
The building is visually bulky, represents overdevelopment of the site, whereas other development in the locality has been limited to the height of existing buildings, to be compatible with the neighbourhood and minimise impacts.	Height and building envelope are discussed later in the assessment of the application.
The top level is unreasonable, adding floor area and height to the detriment of adjoining landowners.	Amenity impacts are considered later by this report.
The proposal significantly impacts views from 1 Bay View St and 37 East Crescent St.	Views from dwellings at 31 East Crescent Street are also affected.
A more 'skilful' design could reduce height and maintain amenity of the development's occupants and retain neighbours' views without reducing the site's development potential.	Views are further considered below.
The top level should be removed and slab thicknesses reduced to reduce height and bulk, address view impacts and effects on visual privacy.	Privacy is addressed later.
Views are also adversely affected by proposed landscaping, including a Bangalow palm, up to 25m tall, and water gum, up to 8-10m tall.	As above.
Height poles should be correctly located to assist assessment of view impacts, 3D modelling is inadequate.	Noted, installation of height poles or building outline frames, surveyor verified for siting and height, are an effective tool for the evaluating view impacts of development.
A covenant affects the site which "...reflects the historical hierarchy of built form in the immediate vicinity of this proposed development and the importance of a view corridor over the subject site."	Noted, the applicant submitted legal opinion regarding the effect of clause 1.9A NSLEP 2013, which has the effect of nullifying any instrument, agreement, covenant or dealing, when the instrument restricts the carrying out of development.



Basis of Submissions	Consideration
The development does not step with the slope of the land as do other buildings in the locality.	Landscape and scenic values are considered later in this report.
Private open space of adjoining properties is overshadowed, one submission noting that according to the Land & Environment Court's decision in the Benevolent Society v Waverley Council case, that "...overshadowing due to poor design is not acceptable, even if it satisfied numerical guidelines."	Noted, the same observation is applicable in assessing view and other amenity impacts, in the author's opinion.
Several inaccuracies and deficiencies are evident in the application, including: <ul style="list-style-type: none"> <li>- Miscalculation of the building envelope due to incorrect building height measurement,</li> <li>- Inaccurate drawing of the eastern boundary, the drawings not indicating a 400mm encroachment onto adjoining land, and</li> <li>- Incorrect site coverage, landscape and unbuilt upon area calculations.</li> </ul>	Noted, discussed later.
The inaccurate depiction of the building envelope distorts the images used to illustrate view impact.	Discussed later.
The proposal breaches several DCP controls, including building envelopes and setbacks.	These matters are considered in the assessment below.

## CONSIDERATION

The relevant matters for consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 are assessed hereunder.

### ***SEPP (Biodiversity & Conservation) 2021***

#### ***Part 6.2 Development in regulated catchments***

Sydney Harbour is defined as a regulated catchment for the purposes of the SEPP.

#### ***Division 2 Controls on development generally***

The following provisions apply, and the application is not supported by sufficient information to ascertain whether provisions of clause 6.6 and 6.7 are complied with. Other provisions are not affected by the proposed development.

Provision	Consistency
6.6 Water quality and quantity	Erosion and stormwater controls are included for proposed works, However, whether the proposal will impact the harbour cannot be determined based on information submitted with the application.
6.7 Aquatic ecology	With reference to the consideration of cl. 6.6 above, neither can the proposal's impact on aquatic ecology be ascertained.
6.8 Flooding	The site is not flood prone.
6.9 Recreation and public access	Proposed development will not impact recreation and public access in the catchment.

6.10 Total Catchment Management	This provision only relates to large-scaled development that could affect a catchment, which requires consultation with other Councils in the same catchment.
6.11 Land within 100m of a natural waterbody	The site is about 50m from Lavender Bay, the proposal would not cause incompatibility with water-front dependent land uses.

### **Part 6.3 Foreshores and Waterways Area**

Applicable provisions are considered below, as the site is in the Foreshores and Waterways Area.

### **Division 3 Development in Foreshores and Waterways Area**

Clause 6.28 (1) The following must be considered:

<b>Provision</b>	<b>Consideration</b>
(a) whether the development is consistent with the following principles— (i) Sydney Harbour is a public resource, owned by the public, to be protected for the public good, (ii) the public good has precedence over the private good, (iii) the protection of the natural assets of Sydney Harbour has precedence over all other interests,	Proposed development would likely: - reduce the harbour's value as a public resource, by reducing the scenic quality of its visual catchment, - cause a minor adverse effect on the public good associated with the harbour, and - in addition to the harbour's visual qualities being diminished, the application has not demonstrated whether adequate measures have been taken to protect the Harbour's natural assets.
(b) whether the development will promote the equitable use of the Foreshores and Waterways Area, including use by passive recreation craft,	The proposal would unlikely impact equitable use of the harbour and foreshores.
(c) whether the development will have an adverse impact on the Foreshores and Waterways Area, including on commercial and recreational uses of the Foreshores and Waterways Area,	The high scenic visual qualities associated with Lavender Bay and McMahons Point would likely be adversely affected.
(d) whether the development promotes water-dependent land uses over other land uses,	N/A, proposed development does not involve land use change.
(e) whether the development will minimise risk to the development from rising sea levels or changing flood patterns as a result of climate change,	N/A, the site is likely to be sufficiently elevated to avoid sea level rises.
(f) whether the development will protect or reinstate natural intertidal foreshore areas, natural landforms and native vegetation,	The proposal is unlikely to impact native vegetation or natural landforms, but could affect intertidal areas, as it currently proposes virtually uncontrolled release of stormwater into Lavender Bay.
(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation,	As above, for paragraph (a) (iii).

(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.	As above, for paragraph (a) (iii).
------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------

(2) Consent must not be granted unless the consent authority is satisfied of the following:

Provision	Satisfaction
(a) having regard to both current and future demand, the character and functions of a working harbour will be retained on foreshore sites,	The proposal does not affect the harbour's function and character as a working waterway.
(b) if the development site adjoins land used for industrial or commercial maritime purposes—the development will be compatible with the use of the adjoining land,	N/A, the site is not adjacent to industrial or maritime activities.
(c) if the development is for or in relation to industrial or commercial maritime purposes—public access that does not interfere with the purposes will be provided and maintained to and along the foreshore,	N/A, the development is not for a maritime commercial or industrial purpose.
(d) if the development site is on the foreshore—excessive traffic congestion will be minimised in the zoned waterway and along the foreshore,	N/A, the site is not on the foreshore.
(e) the unique visual qualities of the Foreshores and Waterways Area and its islands, foreshores and tributaries will be enhanced, protected or maintained, including views and vistas to and from— (i) the Foreshores and Waterways Area, and (ii) public places, landmarks and heritage items.	The proposed development will be highly visible from the harbour and nearby public places, particularly the public walkways and parks on the eastern and northern sides of Lavender Bay. It will likely negatively affect views of and from the Harbour and the Harbour's catchment.

#### SEPP (Resilience and Hazards) 2021

Past use of the site for residential purposes is unlikely to have caused contamination to an extent that would require remediation. Neither is any change to the current use proposed, likely requiring further investigation or remediation. The application could be approved, as applicable requirements of the policy have been considered.

#### SEPP (Building Sustainability Index: BASIX) 2004

A valid BASIX Certificate (No. 1749772S\_02, 31 May 2024) for a detached dwelling house has been submitted with the application to satisfy the SEPP.

## **NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)**

### **1. Permissibility**

The site and its surrounds are in the R4 High Density Residential zone per the North Sydney Local Environmental Plan 2013 ("NSLEP 2013"). An extract from the Land Zoning Map with the site outlined in yellow is provided below.

According to the land use table, a dwelling house is a permissible form of development in the R4 zone, with consent.



**Figure 1: Land Zoning Map under NSLEP 2013.**

### **2. Objectives of the zone**

R4 zone objectives are:

- *To provide for the housing needs of the community within a high-density residential environment.*
- *To provide a variety of housing types within a high-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day-to-day needs of residents.*
- *To encourage the development of sites for high density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*
- *To ensure that a reasonably high level of residential amenity is achieved and maintained.*

The proposal is consistent with all relevant zone objectives, except the last. As reflected throughout this report, the proposal neither achieves or maintains a reasonably high level of residential amenity, as it is likely to adversely affect neighbours' amenity and enjoyment of their homes and use and enjoyment of the public domain by the community.

## Principal Development Standards

Principal Development Standards – North Sydney Local Environmental Plan 2013				
Site Area - 528m <sup>2</sup>	Existing building	Proposed building	Standard	Complies
Clause 4.1 – Subdivision lot size				N/A
Clause 4.3 – Heights of Building	N/A – existing dwelling to be demolished	11.92 (claimed)	12.0m	Yes*
Clause 4.4 – Floor Space Ratio				N/A
Clause 4.4a – Non-residential FSR				N/A
Clause 6.6 Dual Occupancy:				
• Appearance as a dwelling house				N/A
• Level of attachment to common wall (80%) or common floor to ceiling (80%)				N/A
• Minimum lot size – 450m <sup>2</sup>				N/A

\* According to the statement of environmental effects submitted with the application, the maximum height of the proposed building is 11.92m, ostensibly under the maximum permitted building height. However, the proposed height cannot be accurately measured using information provided on architectural plans, and compliance cannot be verified.

### Height of Building

The following objectives for the permissible height limit pursuant to clause 4.3 in NSLP 2013 are stated below:

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*
- (b) *to promote the retention and, if appropriate, sharing of existing views,*
- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*
- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*
- (e) *to ensure compatibility between development, particularly at zone boundaries,*
- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*
- (g) *to maintain a built form of mainly 1 or 2 storeys in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone C4 Environmental Living.*

As noted, the height of the proposed building cannot be ascertained. In relation to the building envelope and setback controls of the DCP, discussed below, miscalculation of the height has distorted the maximum permissible envelope, by using incorrect existing ground levels.

Regardless of whether the development's height has been accurately calculated the proposal is inconsistent with the development standard's objectives:

- a) The proposed development does not step with the landform.
- b) As discussed later, view sharing is not achieved.
- c) Solar access to other dwellings is likely to be unreasonable, although this cannot be confirmed either.
- d) Visual privacy is not well-considered in the design, likely to compromise the amenity of occupants of adjacent dwellings and their private open space.
- e) Although the proposal is not at zone boundaries, this does not excuse a proposal from being compatible with nearby development. It's bulk and scale are incompatible with the locality, as evidenced by its negative amenity impacts and pernicious intrusion into a visually sensitive and highly valued harbourside landscape.
- f) The proposal's height breach, lack of compliant or appropriate setbacks, excessive site coverage and inadequate landscaped area result in a building which fails to provide an acceptable relationship with adjoining residential development. A land-locked lot such the subject land should be conservatively developed (i.e. with reduced height and increased setbacks) as it has no frontage which would otherwise afford a designer the openness, or separation from other development on at least one side, as frontage to a street or frontage to another form of public space would provide.
- g) This objective does not apply to this application.

### 3. Earthworks

Earthworks are proposed and a geotechnical report was submitted with the application. Taken from the Statement of Facts and Contentions filed with the Court, below is the commentary provided by Council's consulting geotechnical engineer, regarding the proposal's impacts, having regard to clause 6.10 of the LEP and clause 1.3.1 – Topography of the DCP:

#### **Excessive Excavation**

1. *The development application should be refused because the proposed development involves excessive excavation and unacceptable amenity outcomes.*

#### **Particulars**

- (a) *Clause 6.10(3) of NSLEP 2013 was extracted in Contention 2 above. A mandatory consideration under that clause is the "effect of the development on the likely future use or redevelopment of the land" (clause 6.10(3)(b)).*
- (b) *The objectives and controls in Section 1.3.1 in Part B of NSDCP 2013 extracted in Contention 2 above are repeated. The following additional controls are relevant to this contention:*

*"P3 Development should not result in the ground level (finished) being altered greater than 500mm above or below ground level (existing).*

*P4 Habitable rooms (excluding bathrooms, laundries and storerooms) should not be located more than 1m below ground level (existing) for more than 50% of the room's floor area.*

*...*

*P6 The depth of soil around buildings must be sufficient to sustain trees as well as shrubs and smaller scale gardens."*

- (c) *The development application proposes excavation that exceeds the vertical limit imposed by Provision P3 in Section 1.3.1 in Part B of NSDCP 2013 and which otherwise appears to leave little remaining bedrock at the sides of the proposed development contrary to Provision P1 in Section 1.3.1 in Part B of NSDCP 2013.*
- (d) *The rooms on the lower ground floor are subterranean in nature and the amenity to be afforded to their users has not been considered properly in the design of the proposed development.*

### **Inadequate Geotechnical Investigation**

2. *The development application should be refused because the submitted Geotechnical Investigation is inadequate, the likely impacts of and on ground water, soil and rock stability, retaining wall stability and natural features and amenity in the locality have not been fully demonstrated or considered, and inadequate measures are proposed to minimise any such impacts.*

#### **Particulars**

- (a) *The mandatory considerations in clause 6.10(3) of NSLEP 2013 extracted in Contention 2 above are relevant.*
- (b) *Objectives O1, O3, O4 and O5 and Provisions P1, P2 and P5 in Section 1.3.1 in Part B of NSDCP 2013 extracted in Contentions 2 and 4 above are also relevant.*
- (c) *Having regard to the following, the plans and documents submitted with the development application, including the Geotechnical Investigation (JK Geotechnics, 20 May 2024), do not:*
  - (i) *Contain sufficient information to enable the matters in clause 5.10(3) of NSLEP 2013 to be properly considered;*
  - (ii) *Fully demonstrate and consider likely impacts of and on groundwater, soil or rock stability in the locality, on the stability of existing retaining walls, and accordingly upon the natural features and existing and likely amenity of the site and adjoining land;*
  - (iii) *Incorporate appropriate recommendations to facilitate the construction of the proposed development having regard to the geotechnical constraints of the site; and*
  - (iv) *Demonstrate that impacts to nearby properties will be adequately minimised.*

#### **Groundwater**

- (d) *The development application fails to take into consideration the characteristics and potential impact of groundwater on the site and surrounding land, including management of groundwater.*
- (e) *Insufficient information has been provided to properly characterise the local groundwater environment or to enable an assessment of the likely impacts of the proposed development on groundwater conditions during and after construction.*

- (f) *A Site Hydrogeology Report has not been prepared in accordance with the testing, analysis and reporting requirements of the NSW Department of Planning and Environment (DPIE) guideline Minimum Requirements for Building Site Groundwater Investigations and Reporting dated October 2022, notably those contained in sections 3 and 4.*
- (g) *No reasoning was presented regarding the assumption made that measured groundwater levels at the site are due to a perched groundwater within the rock profile and unlikely to represent a true groundwater table.*
- (h) *No consideration was given to, and inadequate recommendations were provided in relation to, the appropriate management of groundwater, having been identified by the geotechnical investigation to be:
  - (i) *present at the soil/rock interface, at between 0.5m and 1.78 mbgl, and then flowing through joints into the rock, collecting within the installed wells, and*
  - (ii) *perched at between 4 m and 4.4 mbgl within the rock, and between 2m and 4m above bulk excavation level.**
- (i) *Inadequate groundwater monitoring was undertaken to appropriately assess groundwater conditions and seasonal variations at the site. As a result of the inadequate assessment of groundwater conditions at the site, including fluctuations, inadequate recommendations are provided to prevent detrimental effect of excavation dewatering on drainage patterns at the site, on ground stability and on retaining wall stability on account of variations in groundwater pressures in the long term.*
- (j) *No assessment of groundwater seepage quantities was undertaken to prevent detrimental effects on drainage patterns at the site as a result of excavation dewatering and removal of the perched water from the system.*
- (k) *The groundwater monitoring well in BH3 was inappropriately screened across the soil rock transition and sealed above this level with bentonite, allowing seepage water from along the top of rock to be collected in the well. This will impact assessment of groundwater conditions in the rock profile.*
- (l) *No monitoring was carried out to assess level fluctuations over time.*

#### **Soil and Rock Stability**

- (m) *The Applicant has not assessed the stability of existing rock cliffs / exposures along (or near) the northern, western and eastern site boundaries, and associated risks of instability to property and health and safety as a result of the proposed development. Inadequate recommendations have been provided to minimise the risks of slope instability to property, structures and services and to health and safety (at the site and on adjacent land) as a result of the proposed development, including as a result of excavation, filling, ground vibration and groundwater condition impacts.*



- (n) *The Applicant has not assessed the condition of retaining walls along all site boundaries, including poor foundation conditions, and associated risks of instability to property and health and safety as a result of the proposed development. No recommendations have been provided to minimise the risk of retaining wall movement or failure to property, structures and services and to health and safety (at the site and on adjacent land) as a result of the proposed development, including where additional loading is applied to existing retaining walls.*
- (o) *Given the height, condition and offset from the proposed development of the rock cliffs / exposures and existing retaining walls, assessment of the rock cliffs / exposures and existing retaining walls, including risk of instability, is to be carried out to provide recommendations for maintaining stability of the site and surrounding land during and as a result of the development, including appropriate stabilisation measures to be implemented considering site constraints. The following matters should be properly considered in such assessment:*

  - (i) *Excavations up to the southern site boundary will extend into the zone of influence of the existing large retaining wall foundation, and*
  - (ii) *Existing wall foundations on sloping rock along the northern, western and eastern sides of the site have limited shear resistance and are susceptible to ground (foundation) movements and load changes, including ground vibrations.*
- (p) *The Applicant has not adequately assessed rock conditions at the site (currently exposed or underlying the site) and provided appropriate recommendations to achieve stable exposed rock conditions during construction and to minimise the risk of failure of exposed excavation faces to property, structures and services and to health and safety (at the site and on adjacent land) as a result of the proposed development. Additional consideration must be given to the remaining slender columns of rock supporting retained soils along the eastern and northern site boundaries following excavation.*
- (q) *The Geotechnical Investigation advises the sandstone exposed by excavations will be self-supporting below top of rock (i.e. 0.5-1.4mbgl) without adequate consideration of the following potential impacts on rock face stability and support requirements:*

  - (i) *Presence of significant rock defects in the exposed rock, as is evident in the western rock exposure, likely to extend across the excavation footprint.*
  - (ii) *Characteristic lower lateral shear strength of bedded sandstone bedrock, significant in determining the need for rock face support. This can be assessed by carrying out diametral point load testing of collected rock core samples, but this was not carried out by the Applicant.*
  - (iii) *Presence of inclined weakness in the rock, such as the 30° dipping carbonaceous layers of rock and inclined joints identified in the rock core collected during the Geotechnical Investigation.*

- (r) *The reliance on inspections of exposed rock during excavation to assess the need and type of support requirements is inappropriate considering the rock conditions exposed at the site and identified in collected rock core samples and the potential significant impacts of alternative lateral support installation requirements on the design framework for the proposed development.*

#### **Retaining Wall Stability**

- (s) *The Geotechnical Investigation has not assessed potential construction induced ground vibration impacts on existing retaining walls that surround the development, nor provided appropriate recommendations to minimise the risks of retaining wall damage and/or of wall failure to property, structures and services and to health and safety (at the site and on adjacent land).*
- (t) *The Geotechnical Investigation has not provided any recommendations to minimise the risks of retaining wall and or excavation support movements to property, structures and services and to health and safety (at the site and on adjacent land), including requirements for monitoring wall/support deflections and ground settlements against approved alert and action criteria for early identification of design inadequacies and, if criteria are exceeded, obligations to implement recommended control measures.*
- (u) *The Geotechnical Investigation has not provided any recommendations to minimise the risks of ground settlements due to ground vibration impacts on uncontrolled fill likely to be present behind existing retaining walls and possibly beneath structures at 37 East Crescent Street to the west.*
- (v) *The Geotechnical Investigation has not considered the monitoring and management of ground vibrations associated with traffic movements along the access road to minimise the risks on adjacent properties, including 31 and 37 East Crescent Street.*
- (w) *The Geotechnical Investigation has provided inappropriate recommendations for excavation support, including inappropriate temporary batters for uncontrolled fill, identified at the site and likely to be present to significant depths behind the eastern and northern retaining walls. Furthermore, no consideration was given to construction induced ground vibration impacts on exposed batter stability or potential water pressures in unsupported rock faces.*

#### **Construction**

- (x) *The Geotechnical Investigation has provided insufficient recommendations for construction of the development, including in relation to the proposed filled working platform at the south-western corner of the site, an area constrained by proposed excavations, and potential impacts on sub-surface services.*
- (y) *The Applicant has not adequately assessed risks to existing structures at the site and on surrounding properties associated with dislodgement of boulders/detached rock blocks and retaining wall rock foundations due to ripping of rock for basement excavation.*

- (z) *The Applicant has not demonstrated that the proposed development will not require the removal and/or covering of the rock outcrop along the western side of the site.*
- (aa) *The Applicant has not demonstrated that excavation for the proposed development will not extend to within 1m property boundaries. Insufficient advice has been provided to ensure that the proposed excavations will not result in adverse impacts upon the structural integrity of adjoining properties, including existing retaining walls located along common property boundaries.*
- (bb) *The Preliminary CMP has not demonstrated that the construction of the proposed development will not disrupt or have no detrimental effect on the site and properties, structures, services and health and safety (at the site and surrounding land). From a geotechnical perspective, the plan must include:*
  - (i) *Appropriate recommendations and implementation program, along with a suitable monitoring program, to allow the satisfactory implementation of the works. The plan is to include methodologies for management of excavations to maintaining stability of existing site structures/rock exposures, of groundwater drawdown impacts and of construction induced ground vibrations, including associated with truck movements along the driveway and material loading and with the demolition of existing structures.*
  - (ii) *Appropriate alert and action criteria and action requirements to ensure early identification and implementation of appropriate controls, including for ground vibrations, groundwater level movements during construction, ground settlements and deflection of existing and constructed retaining walls/excavation supports and rock exposures. The implementation program is to nominate suitable hold points at the various works stages for verification of design intent before sign-off and before proceeding with subsequent works stages.*
  - (iii) *All risk management recommendations presented in the Geotechnical Investigation.*

## NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessed in accordance with applicable DCP provisions:

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	Complies	Comments
<b>1.2 Social Amenity</b>		
<b>1.2.1 Population Mix</b>	Yes	The proposal dwelling would replace an existing dwelling.
<b>1.2.2 Maintaining Residential Accommodation</b>	Yes	
<b>1.2.3 Affordable Housing</b>	N/A	
<b>1.2.4 Housing for Seniors/Persons with disability</b>	N/A	

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development</b>		
	<b><i>Complies</i></b>	<b><i>Comments</i></b>
<b>1.3 Environmental Criteria</b>		
<b>1.3.1 Topography</b> Objectives seek to: <ul style="list-style-type: none"> <li>- Maintain natural topography and landform,</li> <li>- Retain vegetation and trees,</li> <li>- Minimise negative impact on neighbour amenity,</li> <li>- Not disturb local geotechnical and hydrogeological characteristics, and</li> <li>- Minimise effects of adjoining transport infrastructure.</li> </ul>	No	Refer to the comments above regarding the Earthworks requirements of the LEP.
<b>1.3.2 Bushland</b>	N/A	
<b>1.3.3 Bush Fire Prone Land</b>	N/A	
<b>1.3.4 Foreshore Frontage</b>	N/A	
<b>1.3.6 Views</b>	No	See assessment below this table. In summary, impact on public views is unacceptable, as are the impacts on views from residential properties surrounding the site.
<b>1.3.7 Solar Access</b>	No	As noted in relation to building height, the application has misrepresented the building envelope for the proposal. Consequently, the submitted shadow diagrams cannot be relied upon.
<b>1.3.8 Acoustic Privacy</b>	No	<p>The proposed dwelling in a 'typical' residential setting would not be expected to cause additional noise compared with that reasonably expected from regular domestic activities.</p> <p>However, social gatherings on the terrace adjacent the dining room on the upper most level will likely cause negative impacts to local amenity. Due to its size the facilities could accommodate a party of a considerable number of revellers.</p>
<b>1.3.9 Vibration</b>	N/A	
<b>1.3.10 Visual Privacy</b> <ul style="list-style-type: none"> <li>• Roof top terraces are only permitted under specific circumstances, and if appropriate,</li> <li>• Must be the smaller of the lesser of either 50% of the floor area below or 18m<sup>2</sup>.</li> </ul>	No	<p>As indicated above the topmost level's size (dining room and adjacent outdoor terrace) could accommodate a throng of guests.</p> <p>The 18m<sup>2</sup> maximum permitted is exceeded by 22m<sup>2</sup>, or 122%.</p> <p>Additionally, there is ample ground level open space available, a roof terrace is superfluous (as is the adjacent 'dining' room, according to some correspondent-objectors).</p>
<b>1.4 Quality built form</b>		
<b>1.4.1 Context</b>	No	Excessive height and bulk, evidenced by amenity impacts and breach of setback/building envelope controls, render the proposal incompatible with its context.
<b>1.4.2 Subdivision Pattern</b>	N/A	
<b>1.4.3 Streetscape</b>	N/A	
<b>1.4.4 Laneways</b>	N/A	
<b>1.4.5 Siting</b>	No	Discussed in relation to site coverage and setback controls below.

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development				
	<i>Complies</i>	<i>Comments</i>		
1.4.6 Setback – Side	No	Zone R4 (High Density Residential)		
		Control	Proposed (western side)	Compliance
		1.5m, and the building must not exceed a building height plane commencing at 3.5m above ground level (existing) from side boundaries and projected internally to the site at 45°	North side: 1.5m, min. setback  South side: 0.0m, min. setback	No, see assessment below this table.
<b>P1 Front setback</b> <ul style="list-style-type: none"> <li>To match adjoining properties.</li> </ul> <b>P5 Rear Setback</b> <ul style="list-style-type: none"> <li>Same control as for side boundaries in the R4 zone</li> </ul>	<b>Front:</b> N/A  <b>Rear:</b> Questionable	<b>Front setback</b> In the local context, without a 'frontage' and due to the change in levels from the site to its neighbours to the north and south the notion of a 'front' setback is not applicable.  <b>Rear setback</b> Plans submitted with the application indicate the rear setbacks have not been established as required. However, considering the land levels (shown by the survey plan) at the rear boundary indicate the building is probably within the rear setback.		
<b>1.4.7 Form Massing Scale</b>  O1 To ensure the size of new buildings are consistent with surrounding, characteristic buildings and they are not significantly larger than characteristic buildings.	No.	The building is out of proportion to the site's dimensions and will likely have unacceptable potential amenity impacts and effects on landscape and views.  Regardless of whether the building complies with height and setback controls, it's form, massing and scale are incompatible with other buildings in the locality.  Although it is not significantly larger than neighbouring single residences, specific contextual conditions indicate the building should be smaller.		
<b>1.4.8 Built Form Character</b>	No.	For these reasons, and other due to other non-compliances the proposal's design is uncharacteristic in the locality.		
<b>1.4.9 Dwelling Entry</b>	N/A	There are no changes proposed to access the site, from the doorway from the carpark at No 33 East Crescent St.		
<b>1.4.10 Roofs</b>	No.	The flat roof would be acceptable, without the terrace and adjacent internal living space at the same level. It would need to be made untrafficable, except for maintenance.		

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development						
		Complies	Comments			
1.4.11	Dormers	N/A				
1.4.12	Materials	No	See assessment below this table.			
1.4.13	Balconies – Apartments	N/A				
1.4.14	Front Fences	N/A	These controls principally relate to structures erected along street boundaries.			
1.5 Quality Urban Environment						
1.5.1	High Quality Residential Accommodation	N/A				
1.5.2	Lightwells & Ventilation	N/A				
1.5.3	Safety and Security	N/A				
1.5.4	Vehicle Access and Parking	N/A	No parking is proposed on-site.			
1.5.5	Site Coverage	No	See table below.			
1.5.6	Landscape Area	No	Control	Required	Proposed	Compliance
			Site coverage (max %)	50	51	No
			Landscaped area (min %)	30	35.5*	Yes
			Unbuilt-upon area (max %)	15	13.5*	Yes
			*Figures rounded to = 100%			
				See discussion below this table.		
1.5.7	Landscaping	N/A	The landscape development officer has recommended conditions, in the event of consent being granted.			
1.5.8	Front Gardens	N/A	As above.			
1.5.9	Private and Communal Open Space	Yes	The space provided at ground level would be acceptable.			
	A dwelling house on a lot between 230m <sup>2</sup> and 499m <sup>2</sup> requires a minimum ground level open space of 40m <sup>2</sup> and a minimum dimension of 4.0m.					
1.5.10	Swimming Pools	N/A				
1.5.11	Tennis Courts	N/A				
1.5.12	Garbage Storage	N/A	No change proposed.			
1.5.13	Site Facilities	N/A				
1.5.14	Servicing of new lots	N/A				
1.6 Efficient Use of Resources						
		Yes	A valid BASIX certificate has been submitted with the application and BASIX commitments included on the plans. These cover the applicable provisions of the DCP.			

## **Views**

Of concern are impacts on views from the public domain and views from private dwellings. The applicant has provided montages indicating impacts on views from a selection of dwellings adjacent to the site, using photographs taken by the author of this report. Another was submitted with the application showing the proposed building in context, viewed from Lavender Bay, probably using a drone. Several images are reproduced below, a couple indicate the privacy relationships for occupants of the proposed and adjacent buildings, in addition to view impacts.



***Montage of proposal, viewed from a standing position on the first floor of dwelling at 37 East Crescent Street - blue outline depicts the 'building envelope' calculated by the applicant, which is incorrect (Urbaine Design Group).***





***Montage of proposal, viewed from a seated position at the northern end of the pool in the front yard of the dwelling at 37 East Crescent Street (Urbaine Design Group).***



***View from the private open space, sitting position, of a unit on level 6 at 1 Bay View Street – light blue with red edge is the outline of the proposed building (Urbaine Design Group).***





*View from standing position from a unit on level 7 at 1 bay View Street (Urbaine Design Group).*



*View from Lavender Bay, east of the site. The proposed dwelling is central to the image, with the curved ramp (circular structure) to the parking basement of 33 East Crescent Street to the left of the site (Craft Architecture).*

In respect to objectives of the R4 zone, the relevant objectives of the building height development standard in the LEP and provisions of the Views section of the DCP, the filed Statement of Facts and Contentions addressed views as follows:

- (a) *Having regard to their location, elevation, orientation, height and spatial distribution, the existing residence on the site and neighbouring properties have access to iconic views of the Sydney Harbour Bridge, Sydney Opera House, North Sydney CBD, Lavender Bay and Sydney Harbour beyond, and Luna Park.*
- (b) *The submitted Preliminary View Impact Assessment Methodology (Craft Architecture, 15 August 2024) and View Impact Assessment (Urbaine, 20 November 2024) are premised upon the quantification of building height and envelope in the architectural plans, which are likely to be incorrect for the reasons explained above. The Applicant's argument that the visual impacts of the proposed development are reasonable because the development falls within the stated building height and envelope controls therefore cannot be accepted.*
- (c) *The proposed development is likely to contravene the building height and envelope controls where building height is calculated in accordance with the requirements of NSLEP 2013 and the resultant view loss impacts are likely to be more severe than is suggested in the Applicant's assessments.*
- (d) *The proposed development will result in a loss of views from the neighbouring residences at 1 Bay View Street, Lavender Bay and 29, 31 and 37 East Crescent Street, McMahons Point ranging from moderate to devastating in extent, which is unreasonable based upon the contravention of the applicable development controls.*
- (e) *In addition to impacts upon neighbouring residences, it is also likely that the development would be visible from public areas including Lavender Bay and its foreshores and possibly Milsons Point. Visual impacts from these and other public viewpoints have not been adequately assessed in the documentation submitted by the Applicant.*
- (f) *Having regard to the above, the Court cannot be satisfied for the purposes of section 6.28(2)(e) of SEPP B&C that the unique visual qualities of the Foreshore and Waterways Area, including views and vistas to and from the area and public places, landmarks and heritage items, will be enhanced, protected or maintained by the proposed development.*

### ***Setbacks/building envelope***

From the filed Statement of Facts and Contentions:

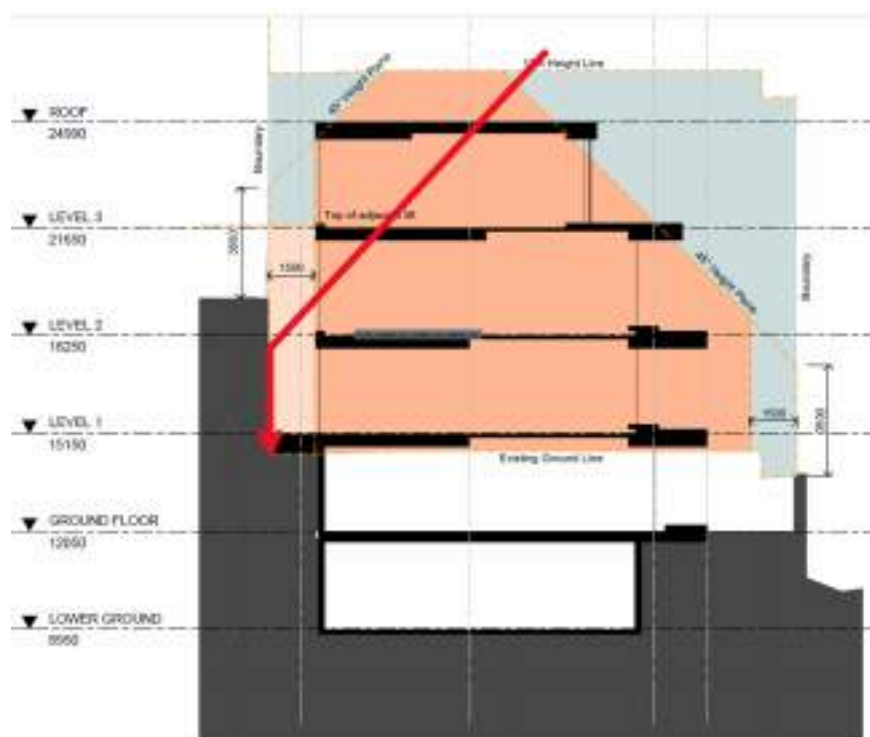
- (a) *The building envelopes that appear to have informed the proposed design have been miscalculated by using incorrect ground levels.*
- (b) *The proposed development is inconsistent with the objectives of and does not comply with the controls in Section 1.4.6 in Part B of NSDCP 2013 relating to side setbacks, the building height plane and the rear setback.*

### ***Further assessment – building envelope***

As the building envelope has resulted from using incorrect ground levels, it indicates that a much taller and larger building may be permitted, compared with a building designed to comply with correctly measured setback controls.

Although the architectural plans indicate several breaches of the building envelope, in several instances they have been drawn at levels higher than that permitted by the DCP, meaning the actual breach of the maximum envelope is greater than shown.

The following example indicates the level used to measure and then apply the building envelope is on adjoining land (possibly the top of a retaining wall), at or near the boundary, not the existing ground level on the site. The level that should have been used as the 'starting point' for measuring and applying the building envelope is the existing ground level shown in the diagram below, below the slab for level 1, which has a proposed RL of 15.150m. Measuring the envelope from this point substantially lowers the envelope, thus indicating the setbacks of the two top levels should be increased (notwithstanding, impacts of the building may require larger setbacks), as approximately indicated by the red line in the diagram below.



***Section toward the rear of the site, side setbacks shown, south to the left and north to the right.  
From Drawing No DA 3401/04, Craft Architecture, 18 November 2024***

### ***Height and building envelope (side and rear setbacks) - combined***

Height and building envelope/setback controls are devised and applied to complement one another, having similar and often the same objectives, to control building bulk and density, for example. In assessing the subject application, applying height and setback controls yields a 'theoretical' building envelope that is unable to be maximised due to the small size of the site and highly sensitive and unusual contextual conditions.

### ***Materials***

From the filed Statement of Facts and Contentions:

3. "...the proposed excessive use of glazing is inappropriate within the surrounding context.

Particulars

- (a) *Section 1.4.12 in Part B of NSDCP 2013 contains the following relevant objectives and controls:*

***“1.4.12 Colours and materials***

***Objectives***

- O1 *To ensure new buildings reflect and reinforce the existing and desired character of a locality.*

***Provisions***

- P1 *Buildings should use colours, finishes and materials identified in the relevant area character statement (refer to Part C of the DCP), if provided.*

...

- P3 *Avoid the extensive use of reflective glass, reflective metal and plastics on the exterior of buildings.*

- P4 *Buildings should incorporate a high proportion of masonry to glass as follows - if a vertical or horizontal line is drawn in any position on any façade it should not pass over more than 50% of glass, or 75% of clear opening and glass.”*

- (b) *Section 9.6.2 in Part C of NSDCP 2013 identifies desirable materials and colours in the McMahons Point Neighbourhood as including:*

*“P3 Buildings are constructed of timber, sandstone, face brick, masonry and/or painted render.”*

- (c) *Almost every level of the proposed development incorporates floor to ceiling windows and doors, with glass balustrades also proposed to face Sydney Harbour/Lavender Bay. The controls in Section 1.4.12 in Part B of NSDCP 2013 preventing the extensive use of reflective glass and other materials were intended to address the glare and reflectivity impacts arising from the use of such materials in developments pre-dating the provisions.*

- (d) *The extent of glazing proposed to be used does not assist in managing these impacts, is inconsistent with the desired future character of the McMahons Point Neighbourhood as articulated in Section 9.6 in Part C of NSDCP 2013, and specifically on the northern and eastern elevations contravenes Provision P4 in Section 1.4.12 in Part B of NSDCP 2013 in terms of the proportion of masonry to glass. The extent of glazing is also a source of detrimental visual privacy impacts for adjoining properties.*

### ***Site coverage, landscape area and unbuilt upon area***

From the filed Statement of Environmental Effects:

- (a) *The submitted architectural plans indicate that the proposed development has a site coverage of 51%, landscaped area of 35.4% and unbuilt upon area of 13.4%. However, some of the areas sought to be included as landscaped area are too narrow in width to offer meaningful utility for planting, including those areas at the top of the walls and sandstone scarp at the site's rear. Other parts of the purported landscaped area, such as that shown on the northern side of the ground floor plan with a level balcony above, should be counted as unbuilt upon area instead.*
- (b) *Whilst site coverage is only 1% in excess of the maximum stipulated in Table B-1.6 in Part B of NSDCP 2013, the proposed development represents a total redevelopment of the site in which compliance should be able to be achieved.*
- (c) *When the other building height and envelope contraventions are considered in combination with the imbalance between site coverage, landscaped area and unbuilt upon area, the proposed development represents an overdevelopment of the site and is inconsistent with the objectives of Sections 1.5.5 and 1.5.6 in Part B of NSDCP 2013.*

### **Lavender Bay Planning Area – Part C of the DCP**

From the filed Statement of Facts and Contentions:

- 4. *"...the proposed development is inconsistent with the existing and desired future character of the McMahon's Point Neighbourhood as articulated in Section 9.6 in Part C of NSDCP 2013.*

#### **Particulars**

- (a) *"...the proposed development fails to preserve and enhance the significant views and vistas of the Sydney Harbour Bridge and beyond as contemplated by Provision P6 in Section 9.6.1 in Part C of NSDCP 2013.*
- (b) *The proposed development is inconsistent with a variety of controls in Part B of NSDCP 2013 (including in terms of its impacts on views, visual privacy and solar access) and therefore Provision P1 in Section 9.6.3 of NSDCP 2013.*
- (c) *The proposed development incorporates an inappropriate extent of glazing contrary to Section 1.4.12 in Part B of NSDCP 2013 and therefore Provision P3 in Section 9.6.3 in Part C of NSDCP 2013.*
- (d) *Having regard to the above, the proposed development is inconsistent with the existing and desired future character of the McMahon's Point Neighbourhood."*

### **LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN**

In accordance with the North Sydney Local Infrastructure Contribution Plan 2020 payment of a contribution towards local infrastructure would be required, should development consent be granted. The contribution payable would be \$32,010.74, levied in accordance with s7.12 of the Act.

As refusal is recommended, no condition requiring payment of the contribution is required.

### **ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>	<b>CONSIDERED</b>
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	N/A
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant s 4.15 (1) considerations of the Act 1979	Yes

### **SUBMITTERS CONCERNS**

The application was notified for 14 days in August 2024. Council received 29 submissions and the matters raised by them have been considered earlier in this report.

### **APPEAL PROGRESS UPDATE**

A Statement of Facts and Contentions was filed with the Court on 21 February 2025. The matter is currently listed for conciliation and possible hearing by way of a s34AA process on 10 and 11 June 2025.

### **PUBLIC INTEREST**

The proposal is not in the public interest for the reasons stated throughout this report.

## **SUITABILITY OF THE SITE**

The proposal, demolition of a dwelling house and construction of another to replace it, is a permissible form of development in the R4 High Density Residential zone.

However, for the reasons detailed in this report and summarised below, the proposed development is unsuitable for the site.

## **CONCLUSION + REASONS**

This report has assessed the subject development proposal having regard to key state planning policies and the principal LEP and DCP for the North Sydney area, and concludes that the proposal is unacceptable. Refusal is recommended for reasons based on the Statement of Facts and Contentions filed in response to the deemed refusal and appeal filed by the applicant with the Land and Environment Court, as follows:

1. Key metrics, building height, setbacks and building envelope as defined by the local planning framework, have been miscalculated and the resultant proposed dwelling appears to be larger than what would be permitted if controls had been correctly applied.
2. Notwithstanding, the proposal has excessive height, width and depth, resulting in disproportionate and exaggerated massing and scale, in turn having negative effects on the Lavender Bay landscape, public views of the site and surrounds.
3. The development has moderate to catastrophic impacts on views from adjacent private residences.
4. The physical relationship of development with adjacent dwellings is unacceptable, resulting from inadequate side setbacks and excessive height, causing adverse impacts on visual privacy, acoustical privacy and overshadowing.
5. Non-compliant site coverage and landscaped area also contribute to the above effects and indicate that the proposal, if approved, would represent an overdevelopment of the site, noting the site's small size, heavily constrained access and topographical conditions.
6. The proposal does not include adequate environmental safeguards for geotechnical conditions and potential hazards and risks during proposed demolition, excavation and construction works.
7. The proposal does not include adequate stormwater management controls for the controlled discharge of properly treated stormwater from the site, to protect the water quality and marine ecology of Lavender Bay and Port Jackson.

## **HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?**

The subject application was notified to adjoining properties and the Lavender Precinct Committee. This report outlines concerns raised and how they have been considered.

## **RECOMMENDATION**

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

**THAT** the North Sydney Local Planning Panel exercising the functions of Council as the consent authority refuse to grant consent to Development Application No. 175/24 for demolition of a dwelling house, erection of a dwelling house and associated works on land at 35 East Crescent Street Lavender Bay, for the reasons set out below:-



1. The proposed development does not satisfy provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021:
  - a) Clause 6.6 Water quality and quantity,
  - b) Clause 6.7 Aquatic Ecology, and
  - c) Clause 6.28 General.
2. The application is inconsistent with the following objective of the R4 High Density Housing zone:
  - o *To ensure that a reasonably high level of residential amenity is achieved and maintained.*
3. Information submitted with the application does not permit accurate measurement of the proposed building height, and the application is inconsistent with objectives of the Building Height development standard of the LEP, clause 4.3 (1), paragraphs (a), (b), (c), (d) and (e).
4. Information submitted with the development application has not allowed proper consideration of the provisions of clause 6.10 (3) Earthworks of the LEP.
5. The application has not provided a site analysis in accordance with the North Sydney Development Control Plan 2013, Part A, Section 5, Site Analysis.
6. The application is inconsistent with the following provisions of North Sydney Development Control Plan 2013, Part B Development Controls, Section 1 - Residential Development:
  - a) Clause 1.3.1 – Topography, information submitted does not adequately address the impacts from the amount of site excavation proposed. Neither does information submitted with the application adequately demonstrate compliance with specific requirements of the clause.
  - b) Clause 1.3.6 – Views, the development has unacceptable impacts on views from the public domain and from several private residences, at 1 Bay View Street Lavender Bay, 31 East Crescent Street McMahons Point and 37 East Crescent Street McMahons Point, view sharing with these properties is not achieved. A “more skilful design” would likely be able to reasonably avoid or reduce impacts on and share views from nearby properties, without diminishing development potential of the site and the ability to provide a reasonable level of amenity for occupants of the proposed development. A design which appropriately responds to site conditions and is compatible with the scale and character of development in the locality, would also likely result in a satisfactory impact on public views of the Lavender Bay locality.
  - c) Clause 1.3.7 – Solar access, the extent of mid-winter overshadowing between 9.00am and 3.00pm, of properties south of the site has not been adequately demonstrated.
  - d) Clause 1.3.8 – Acoustic Privacy, the proposed rooftop terrace in particular, and proximity of the proposed building to several neighbouring dwellings, at 37 East Crescent Street and 1 Bay View Street, will likely interfere with acoustical privacy of those dwellings’ occupants.
  - e) Clause 1.3.10 – Visual Privacy, the design of the development will create unsatisfactory privacy relationships between occupants of the development and neighbouring residences, mainly due to the proposed roof terrace and the amount of glazing proposed on northern and eastern facades.

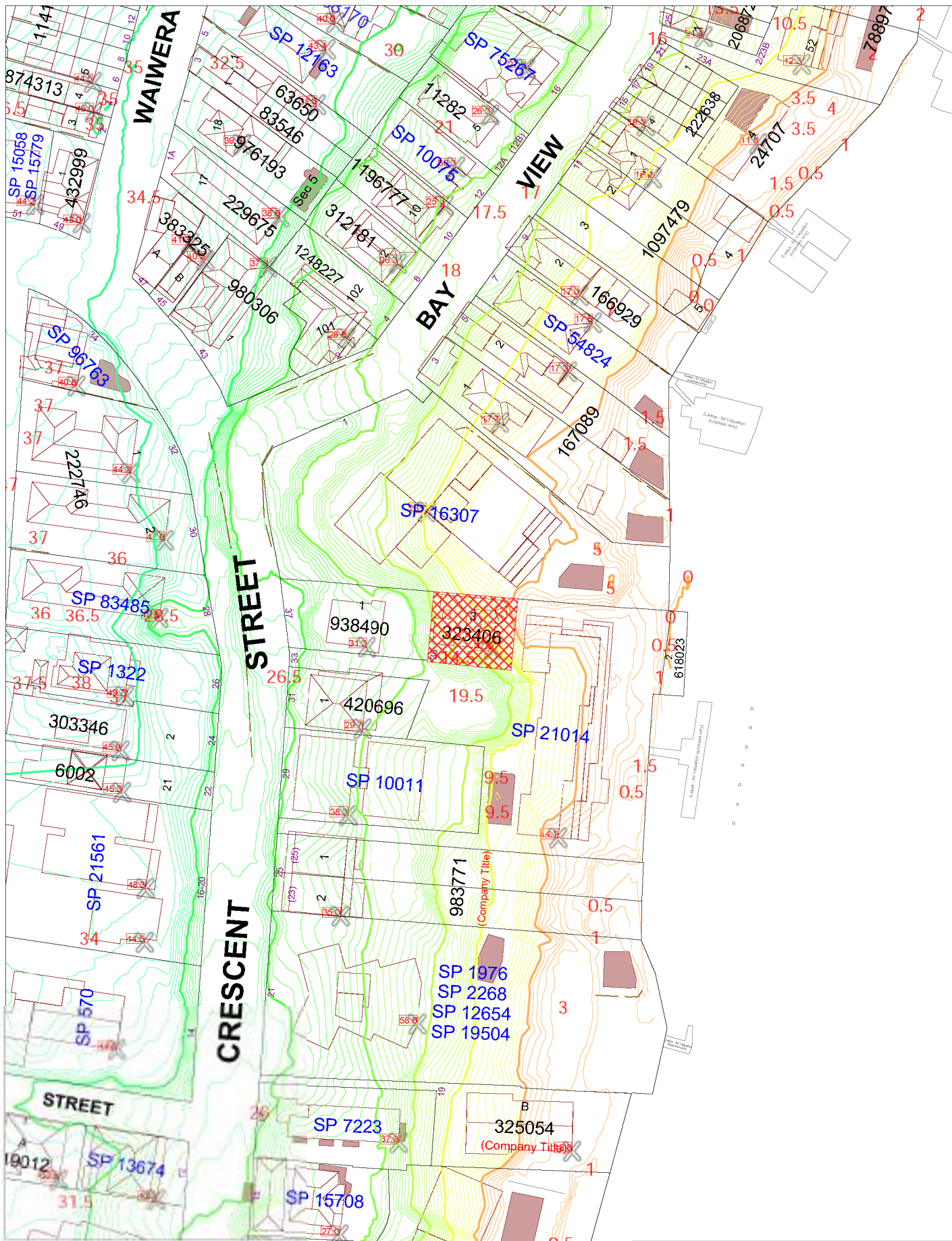


- f) Clause 1.4.1 – Context, the building’s size and bulk in relation to adjacent development is incompatible with its context, evidenced by its potentially adverse impacts on the amenity and scenic qualities of the locality.
  - g) Clause 1.4.5 – Siting, the siting of the development is unacceptable, reflected by its impacts on local amenity and its adverse impact on the scenic qualities of the locality.
  - h) Clause 1.4.6 - Side Setbacks, the proposed development does not provide compliant and adequate setbacks to both sides, north and south, noting the application has miscalculated the setbacks in accordance with this clause.
  - i) Clause 1.4.6 – Rear Setback, the proposed development may not have provided an adequate rear setback, noting the application has miscalculated the setback in accordance with this clause and does not appear to provide sufficient separation with private open space, including swimming pool, at 37 East Crescent Street.
  - j) Clause 1.4.7 – Form, massing and scale, regardless of whether the proposal is compliant with height and setback controls, the proposal’s form and scale is incompatible with the form and scale of development in the locality.
  - k) Clause 1.4.8 – Built form character, for reasons outlined in paragraphs (f), (g) and (j), the built form of the proposal is incompatible with the built form of other buildings in the locality.
  - l) Clause 1.4.10 – Roofs, the flat roof would be acceptable if an open space was not accommodated on it.
  - m) Clause 1.4.12 – Colours and materials, the proposal entails excessive use of glazing, having deleterious impacts on scenic and environmental qualities of the locality, and negatively affecting visual privacy for occupants of neighbouring buildings and of the development.
  - n) Clause 1.5.5 – Site coverage, the development exceeds the maximum site coverage prescribed. Being inconsistent with objectives of this clause, the proposal constitutes an overdevelopment of the site.
  - o) Clause 1.5.6 – Landscape area, the development has inadequate landscape area and is inconsistent with objectives of this clause.
7. The application did not submit adequate information to address relevant provisions of other sections of the North Sydney Development Control Plan 2013:
- a) Section 11 – Construction management,
  - b) Section 17 – Erosion and sediment control,
  - c) Section 19 – Stormwater management, and
  - d) Section 19 - Waste management.
8. The application is inconsistent with the following provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021:
- a) Clause 6.6 (1),
  - b) Clause 6.7 (1) and (2), and
  - c) Clause 6.28 (1) and (2).
9. The site is unsuitable for the site, for reasons 1-8.
10. Approval of the application would not be in the public interest, for reasons 1-8.

**JIM DAVIES**  
**EXECUTIVE ASSESSMENT PLANNER**

**STEPHEN BEATTIE**  
**MANAGER DEVELOPMENT SERVICES**

---



**North Sydney Council**  
Copyright © North Sydney Council. Maps of this map may be reproduced without permission, for limited or occasional use only, on the basis of the data and information provided, without third-party liability. The information is provided for information only.  
Further details: visit the council's website (02) 9550 9100 or email [map@northsydney.nsw.gov.au](mailto:map@northsydney.nsw.gov.au)

Scale: 1:1200 approx.



August, 2024

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

# Development Application

Craft Architecture

403/19A Boundary Street  
Rushcutters Bay NSW 2011

[craft-arch.com.au](http://craft-arch.com.au)

CRAFT

## Drawing List

0000	PRELIM
0001	COVER
0100	OVERALL PLANS
0101	LOCATION PLAN
0102	SITE PLAN
0103	DCP ENVELOPE
0200	FLOOR PLANS
0201	LOWER GROUND FLOOR PLAN
0202	GROUND FLOOR PLAN
0203	LEVEL 1 FLOOR PLAN
0204	LEVEL 2 FLOOR PLAN
0205	LEVEL 3 FLOOR PLAN
0206	ROOF PLAN
0500	ELEVATIONS
0501	ELEVATIONS SHEET 1
0502	ELEVATIONS SHEET 2
0503	ELEVATIONS SHEET 3
0600	SECTIONS
0601	SECTION A
0602	SECTION B
2500	DEMOLITION
2510	BULK EXCAVATION PLAN
3000	SHADOW ANALYSIS
3001	SHADOW ANALYSIS - EXISTING
3002	SHADOW ANALYSIS - DCP
3003	SHADOW ANALYSIS - PROPOSED
3100	AREA PLANS
3101	SITE COVERAGE
3300	VIEW ANALYSIS
3301	VIEW ANALYSIS SHEET 1
3302	VIEW ANALYSIS SHEET 2
3303	VIEW ANALYSIS SHEET 3
3304	VIEW ANALYSIS SHEET 4
3305	VIEW ANALYSIS SHEET 5
3306	VIEW ANALYSIS SHEET 6

## Area Summary

Site area	330 m <sup>2</sup>
Existing site coverage	171 m <sup>2</sup> (51.8%)
Existing landscaped area	74 m <sup>2</sup> (22.5%)
Existing un-built upon area	70 m <sup>2</sup> (21.3%)
Proposed site coverage	168 m <sup>2</sup> (51.0%)
Proposed landscaped area	117 m <sup>2</sup> (35.4%)
Proposed un-built upon area	44 m <sup>2</sup> (13.4%)

## BASIX Commitments

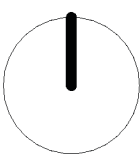
WATER	
Toilets	4 Star
Kitchen taps	5 Star
Bathroom taps	5 Star
Showers	≤9.0L/min
Hot water recirculation / diversion	No
Pools	No
Spas	No
Rainwater (stormwater) tank	3kL collects off 73m <sup>2</sup> (used for laundry and irrigation)
Total grass and planting area	≤158m <sup>2</sup> total (deep soil and planters)
Plants locally indigenous or 1-drop	10% or more are locally indigenous or 1-drop (15.8m <sup>2</sup> or more)
ENERGY	
Hot Water	Heat pumps with 21 STC rating or better
Heating for Living	3 phase AC - EER = 3.0 or better
Heating for Beds	3 phase AC - EER = 3.0 or better
Cooling for Living	3 phase AC - EER = 2.5 or better
Cooling for Beds	3 phase AC - EER = 2.5 or better
AC zoning (bed/living zones)	None
Kitchen Exhaust	Fan to facade or roof - manual on/off
Bathroom Exhaust	Fan to facade or roof - manual on/off
Laundry Exhaust	Fan to facade or roof - manual on/off
Lighting	Development must be primarily lit (minimum 80% of light fittings) by compact fluorescent, fluorescent or LED lamps
Cooking	Induction cooktop and electric oven
Photovoltaic Systems	1.5kW or more
Vented fridge	N/A
External clotheslines	Yes
Internal / balcony clotheslines	No
THERMAL COMFORT SPECIFICATIONS	
External Walls 1	Concrete or filled-block + R2.7 and foil
External Walls 2	FC/weatherboard cladding + R2.7 and foil
Studs and thermal breaks	Assume metal framing (walls, roofs need R0.2 thermal break to stop thermal bridge)
Internal Walls 1	Plasterboard on studs
Internal Walls 2	Framed floor plasterboard under (upper levels)
Internal Walls 3	Concrete or filled-block (near lift)
Internal Floors 1	Slab and plasterboard under (lower level)
Internal Floors 2	Framed floor plasterboard under (upper levels) and concrete 50mm topper
External Floors (room to outside)	Slab-on-ground floor and cantilever slab
External Floors Insulation	R3.5 under cantilevers and R2.3 under slab-on-ground
Floor Finishes	Tiles wet areas + floating timber elsewhere
Roof colour	Light colour roof
Roof 1 (most roofs)	Concrete roof + R4.5 ceiling insulation
Roof 2 (framed/metal roof)	Metal roof + R4.5 ceiling insulation (and extra foil blanket R1.8 + foil)
Ext. Ceilings 1 – under roof	Plasterboard + R5.0
Window sliders/fixed/louvre	Metal frames + light tint double-glazing
Windows - U-value	≤ 2.2
Windows - SHGC	0.39 ± 5% fixed/sliders
Windows – awning/bifold	Metal frames + light tint double-glazing
Windows - U-value	≤ 3.4
Windows - SHGC	0.32 ± 5% awning/bifold/hinged
Skylights	Double glazed (U<2.4 and SHGC 0.27)
Ceiling Fans	All main rooms and 2 for dining (5 beds, library, study and 6 x living to give 13 total)
Shading devices	Eaves, overhangs as shown
Doors	Solid or hollow-core internal and solid-core external
Exhaust Fans	Dampers minimise infiltration (when fans are off)
Weather Stripping	All external doors and windows
Downlights affecting insulation	LED downlights with seals (holes assumed in insulation as per protocol - check at CC)
Exhaust fans affecting insulation	All wet areas (i.e. generic holes assumed in insulation <300 mm2)





Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 85134400368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY  
ABN 85134400368  
412/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS	
01	30.05.2024
02	04.07.2024
03	20.08.2024

DA Issue
DA Resubmission
DA Add'l Information

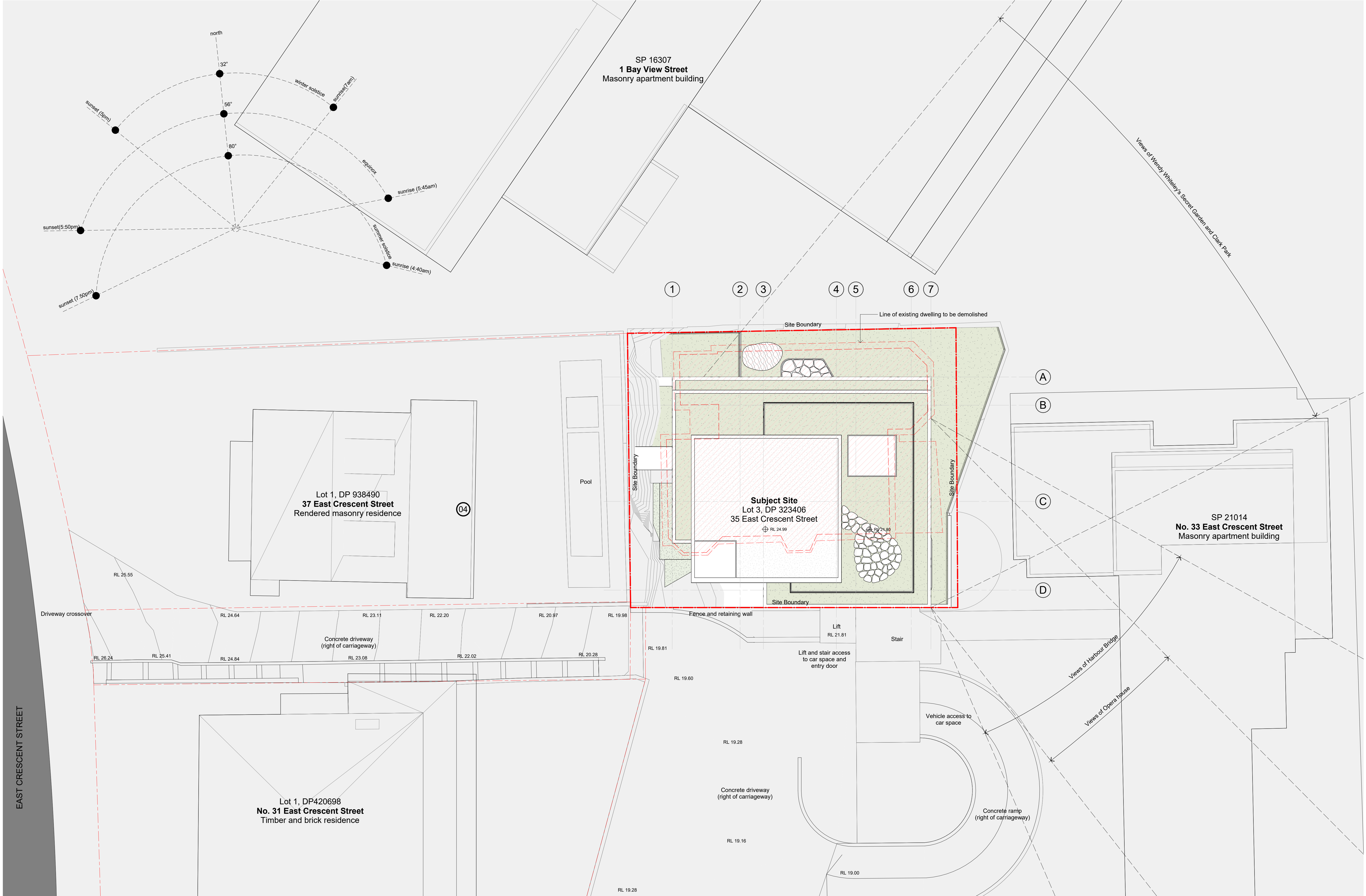
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

LOCATION PLAN	
Drawn:	AB
Checked:	CP
Project No.	23.11

NTS @ A1  
DA-0101 /03

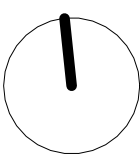
CRAFT





Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 85154403388 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY  
ABN 85154403388  
403/19A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS	
01	30.05.2024
02	04.07.2024
03	20.08.2024

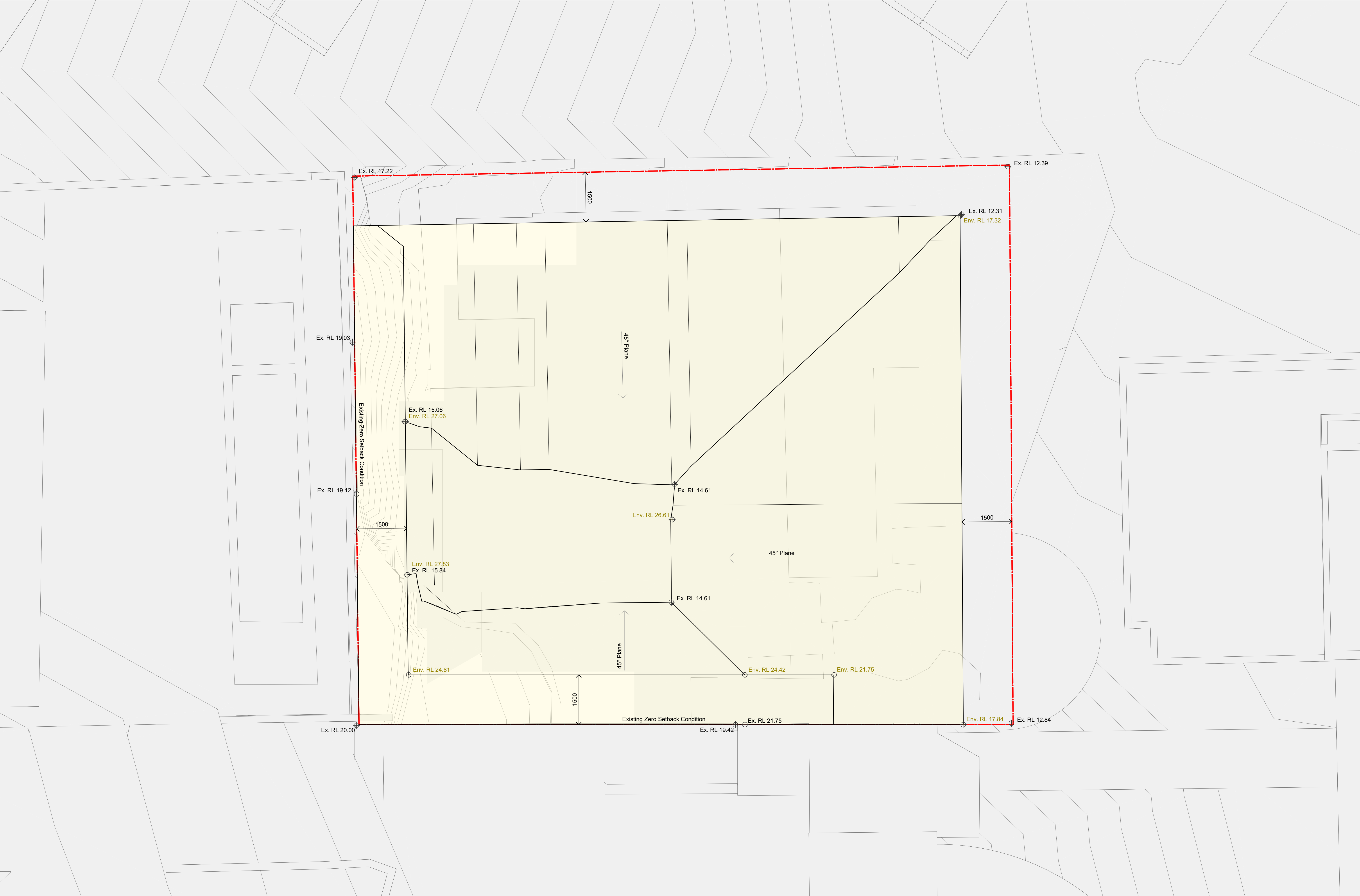
DA Issue  
DA Resubmission  
DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

SITE PLAN	
Drawn	AB
Checked	CP
Project No.	23.11

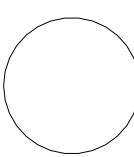
1:100 @ A1  
DA-0102 /03

CRAFT



Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 8504400398 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

**CRAFT ARCHITECTURE SYDNEY**  
ABN 8504400398  
403/19A Boundary Street, Rushcutters Bay NSW 2011  
studio@craft.arch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS			
02	04.07.2024	DA Resubmission	
03	20.08.2024	DA Add'l Information	

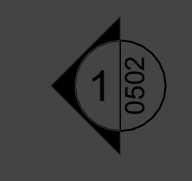
**Lavender Bay House**  
35 East Crescent Street  
Lavender Bay, NSW

DCP ENVELOPE	
Drawn	AB
Checked	CP
Project No.	23.11

1:50 @ A1  
DA-0103 /03

**CRAFT**



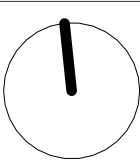
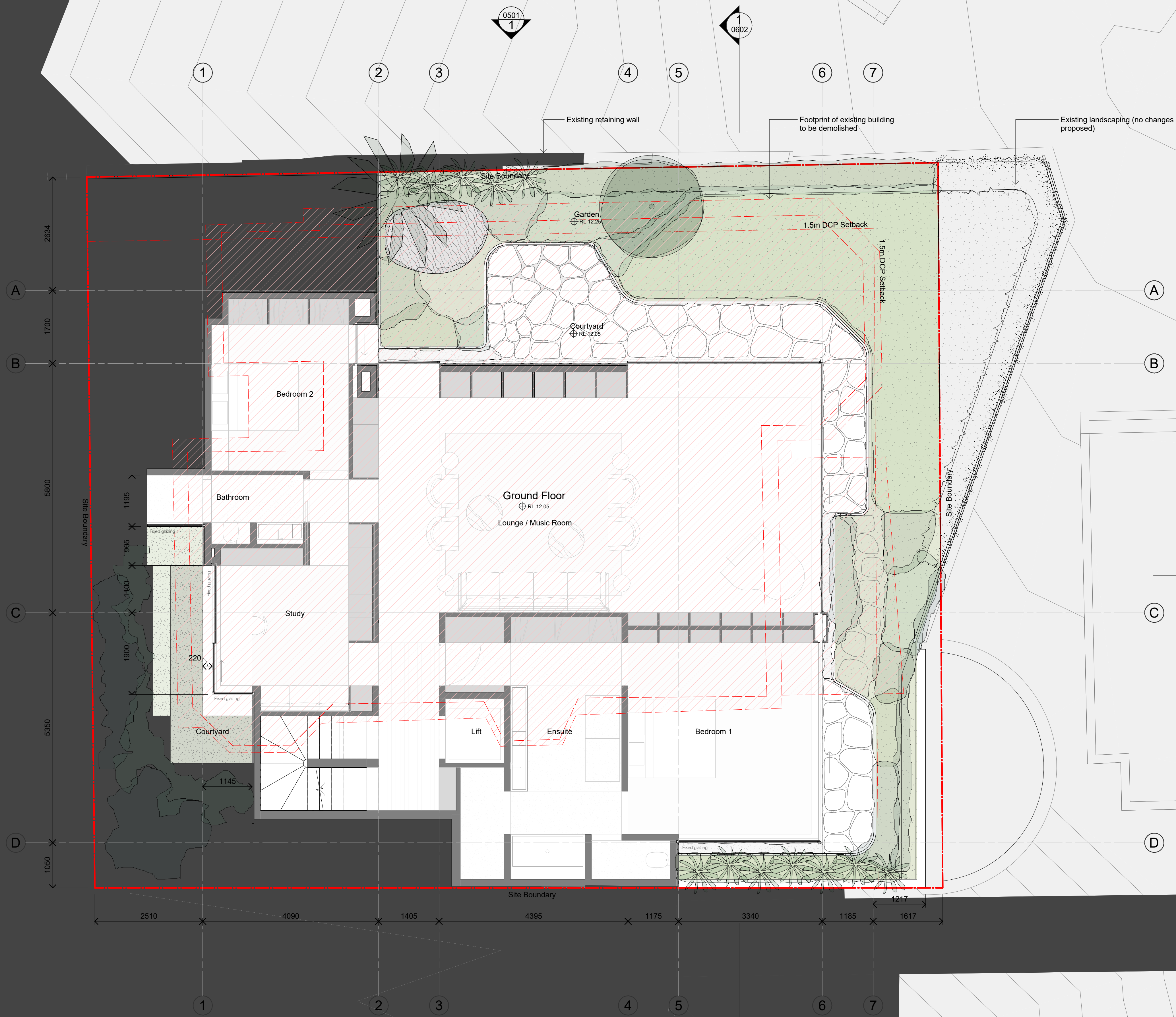


An analog clock face with a single black hand pointing straight up to the 12 o'clock position. The clock face is a simple circle with a horizontal line through the center.

DA Issue  
DA Resubmission  
DA Add'l Information

# CRAFT





REVISIONS	
01	30.05.2024
02	04.07.2024
03	20.08.2024

DA Issue  
DA Resubmission  
DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

GROUND FLOOR PLAN	
Drawn	AB
Checked	CP
Project No.	23.11

1:50 @ A1  
DA-0202 /03

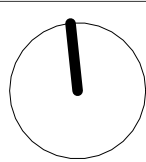
CRAFT





Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 85034403038 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

**CRAFT ARCHITECTURE SYDNEY**  
ABN 85034403038  
403/19A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS	
01	30.05.2024
02	04.07.2024
03	20.08.2024

DA Issue  
DA Resubmission  
DA Add'l Information

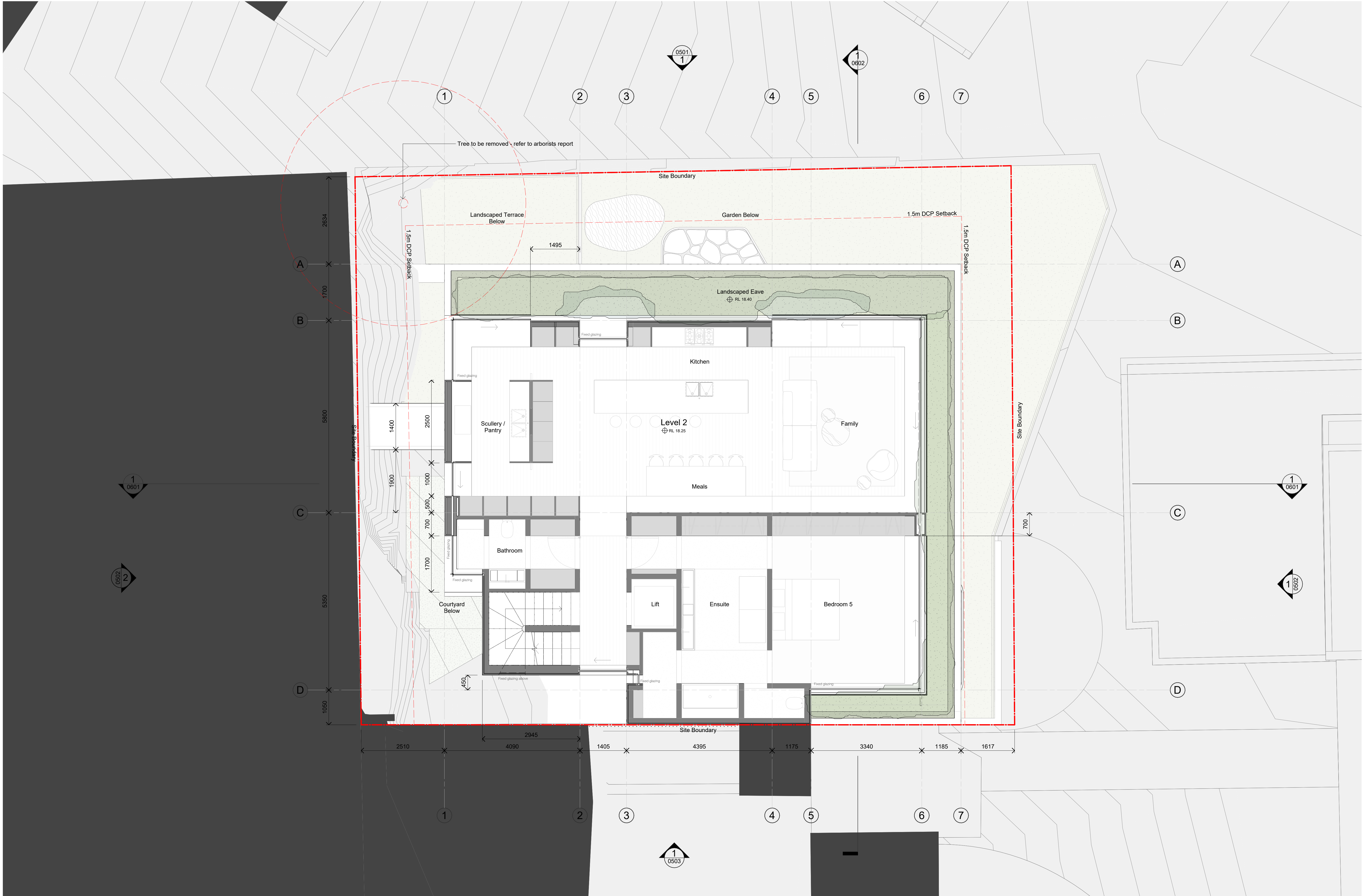
**Lavender Bay House**  
35 East Crescent Street  
Lavender Bay, NSW

**LEVEL 1 FLOOR PLAN**  
Drawn: AB  
Checked: CP  
Project No: 23.11

1:50 @ A1  
DA-0203 /03

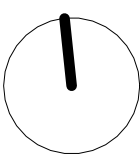
**CRAFT**





Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 8554403038 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

**CRAFT ARCHITECTURE SYDNEY**  
ABN 8554403038  
403/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



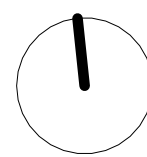
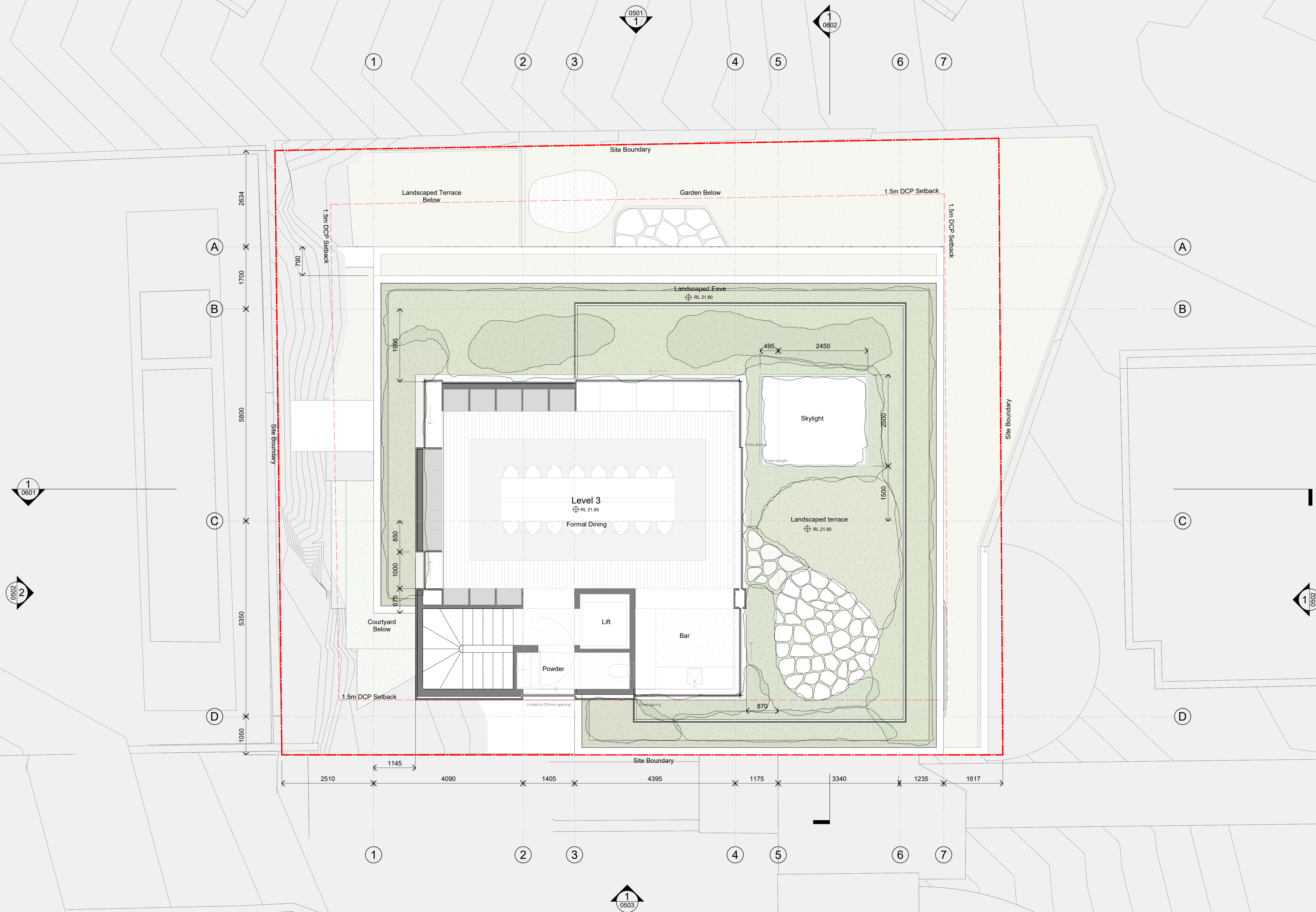
REVISIONS			DA Issue DA Resubmission DA Add'l Information
01	30.05.2024		
02	04.07.2024		
03	20.08.2024		

**Lavender Bay House**  
35 East Crescent Street  
Lavender Bay, NSW

LEVEL 2 FLOOR PLAN			1:50 @ A1
Drawn	AB		
Checked	CP		
Project No.	23.11	DA-0204	/03

**CRAFT**





## REVISIONS

01	30.05.2024
02	04.07.2024
03	20.08.2024

DA Issue
DA Resubmission
DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

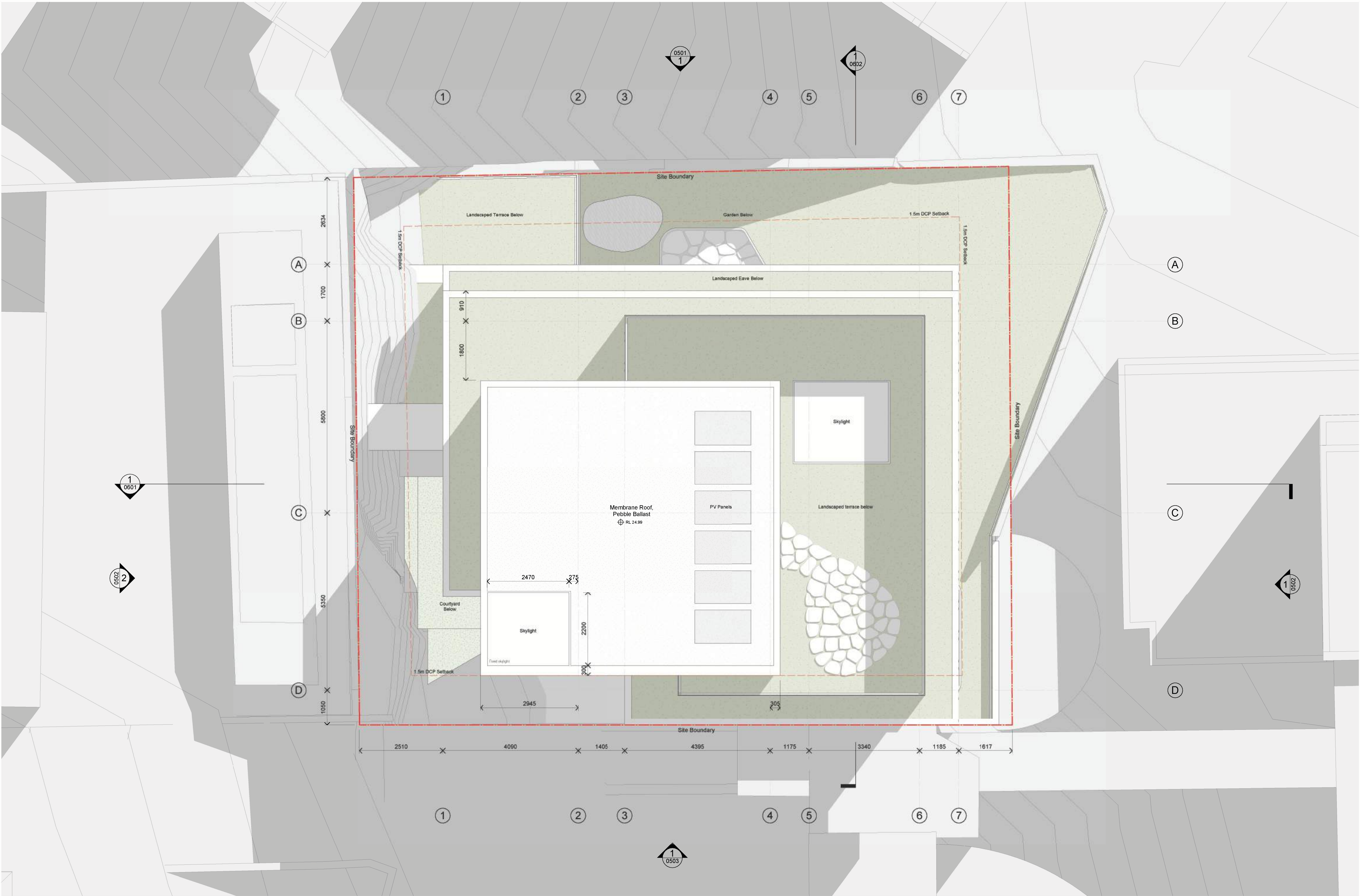
## LEVEL 3 FLOOR PLAN

Drawn	AB
Checked	CP
Project No.	23.11

1:50 @ A1

DA-0205 /03





Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 82134400368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY  
ABN 82134400368  
403/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

DA Issue  
DA Resubmission  
DA Add'l Information

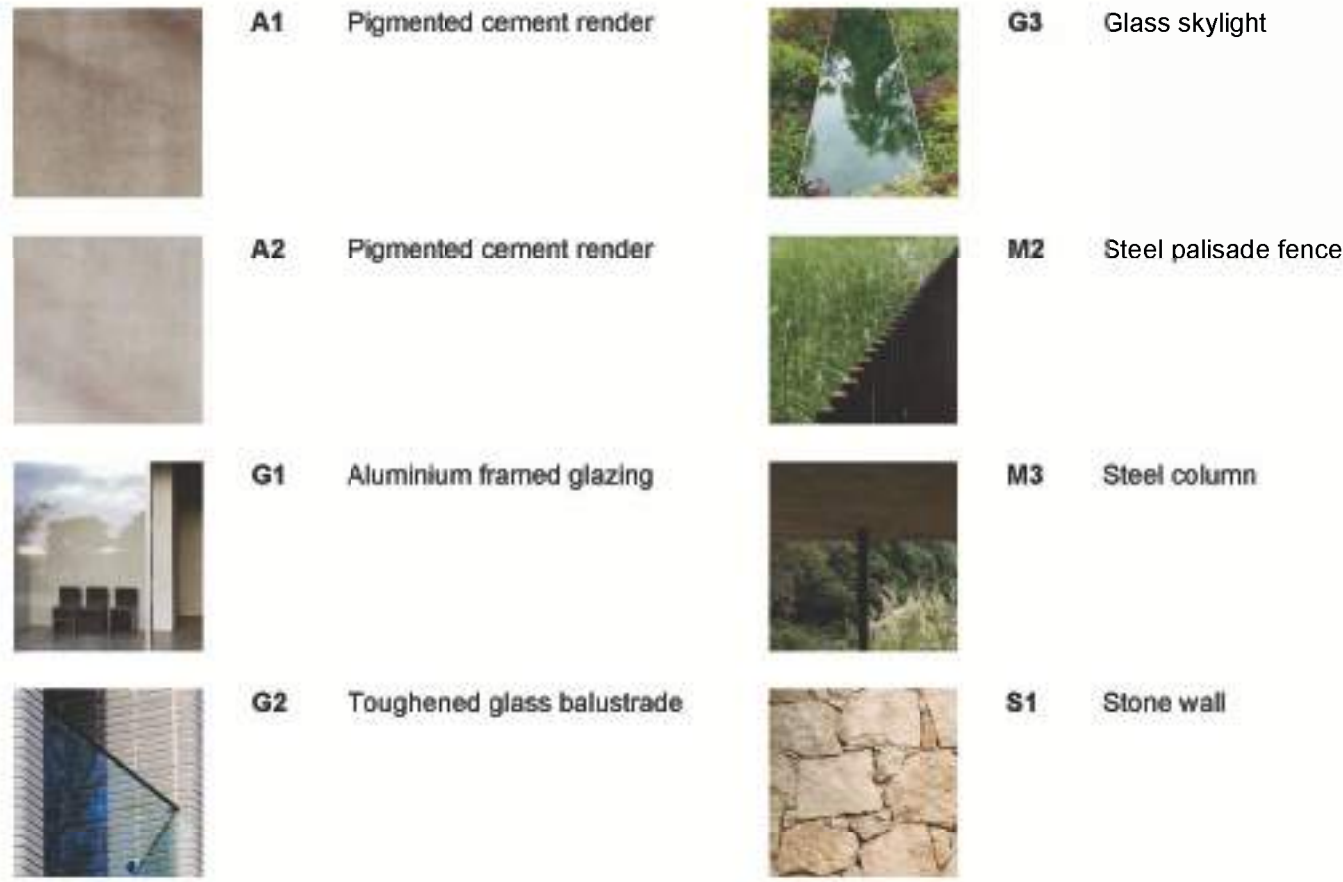
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

ROOF PLAN	
Drawn	AB
Checked	CP
Project No.	23.11

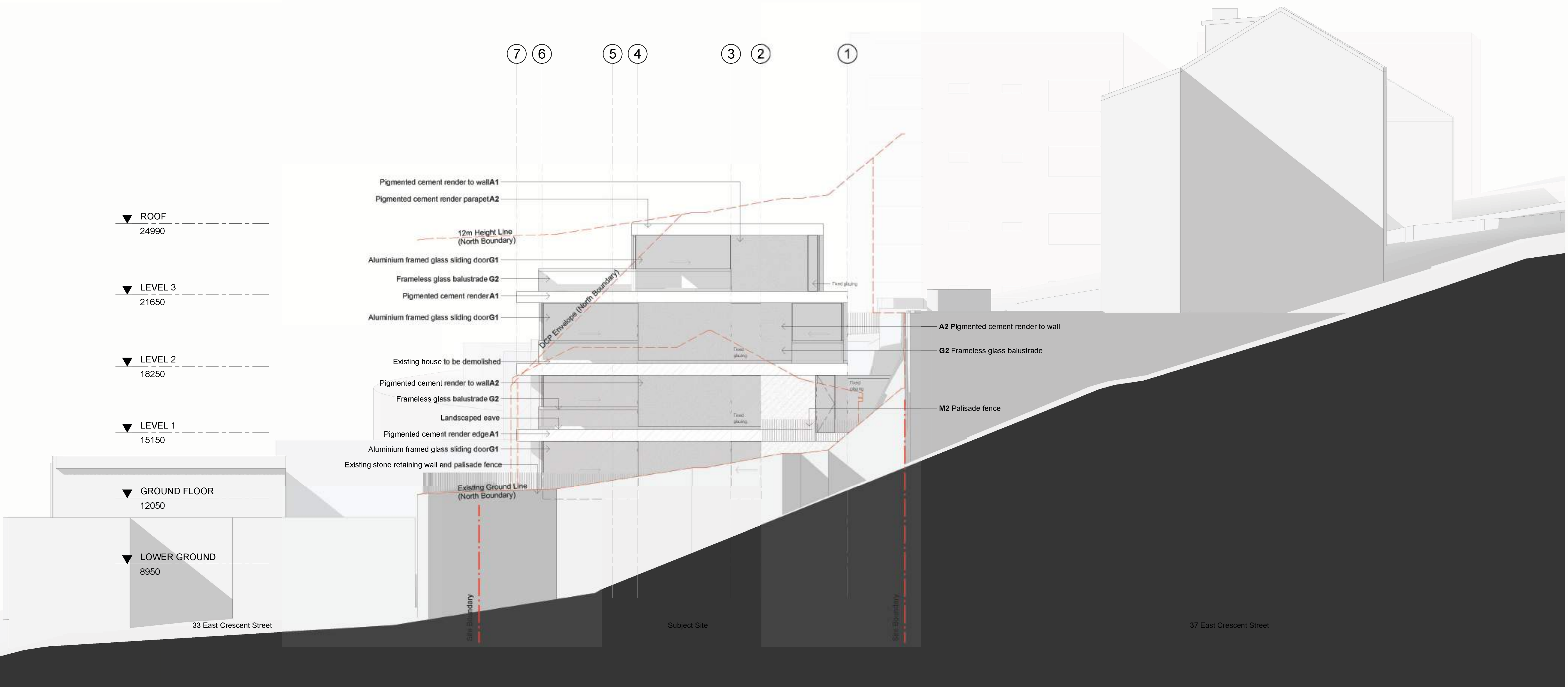
1:50 @ A1  
DA-0206 /03

CRAFT





- ▼ ROOF  
24990
- ▼ LEVEL 3  
21650
- ▼ LEVEL 2  
18250
- ▼ LEVEL 1  
15150
- ▼ GROUND FLOOR  
12050
- ▼ LOWER GROUND  
8950

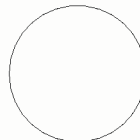


NORTH ELEVATION

Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 82134403368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY

ABN 82134403368  
412/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



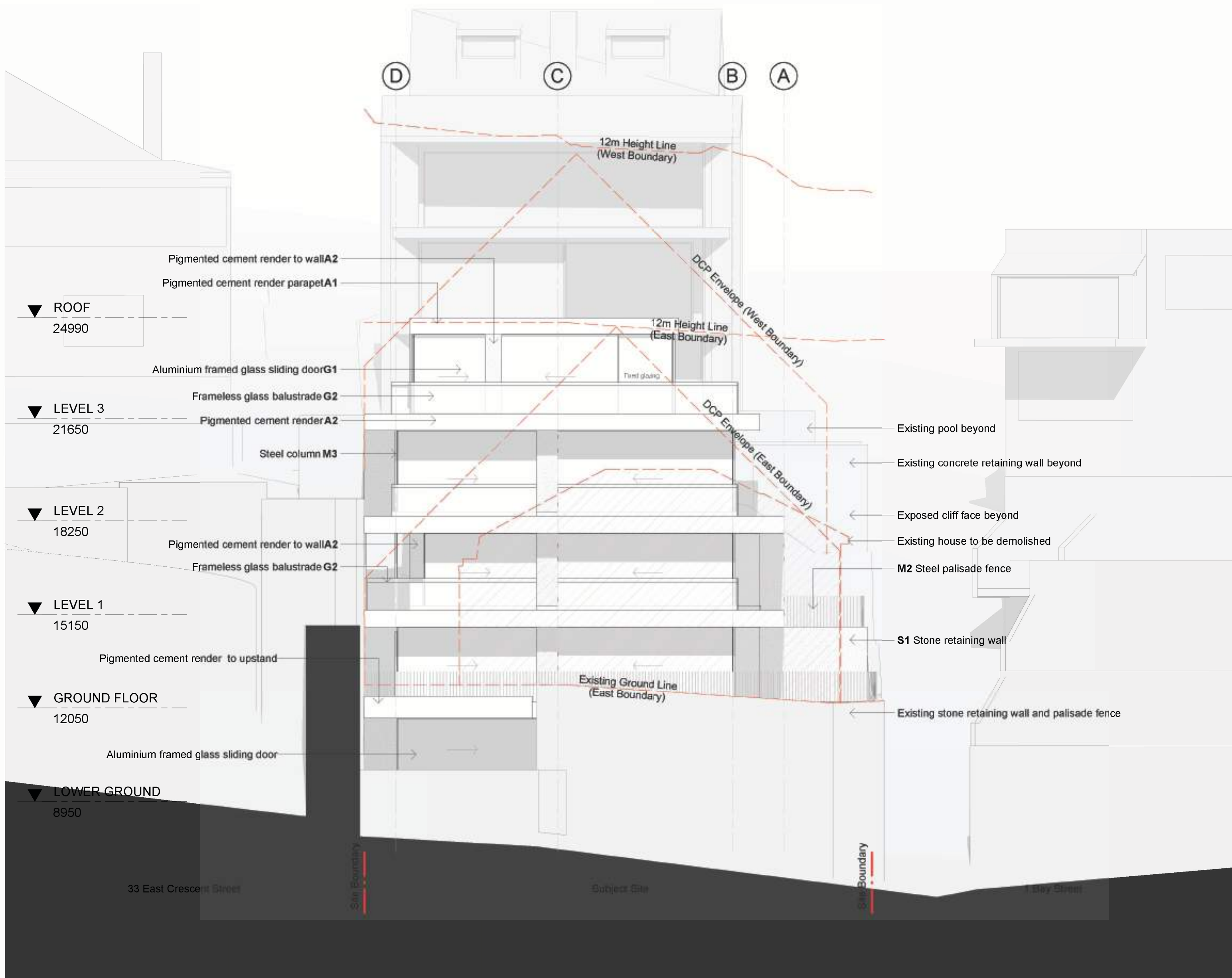
REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

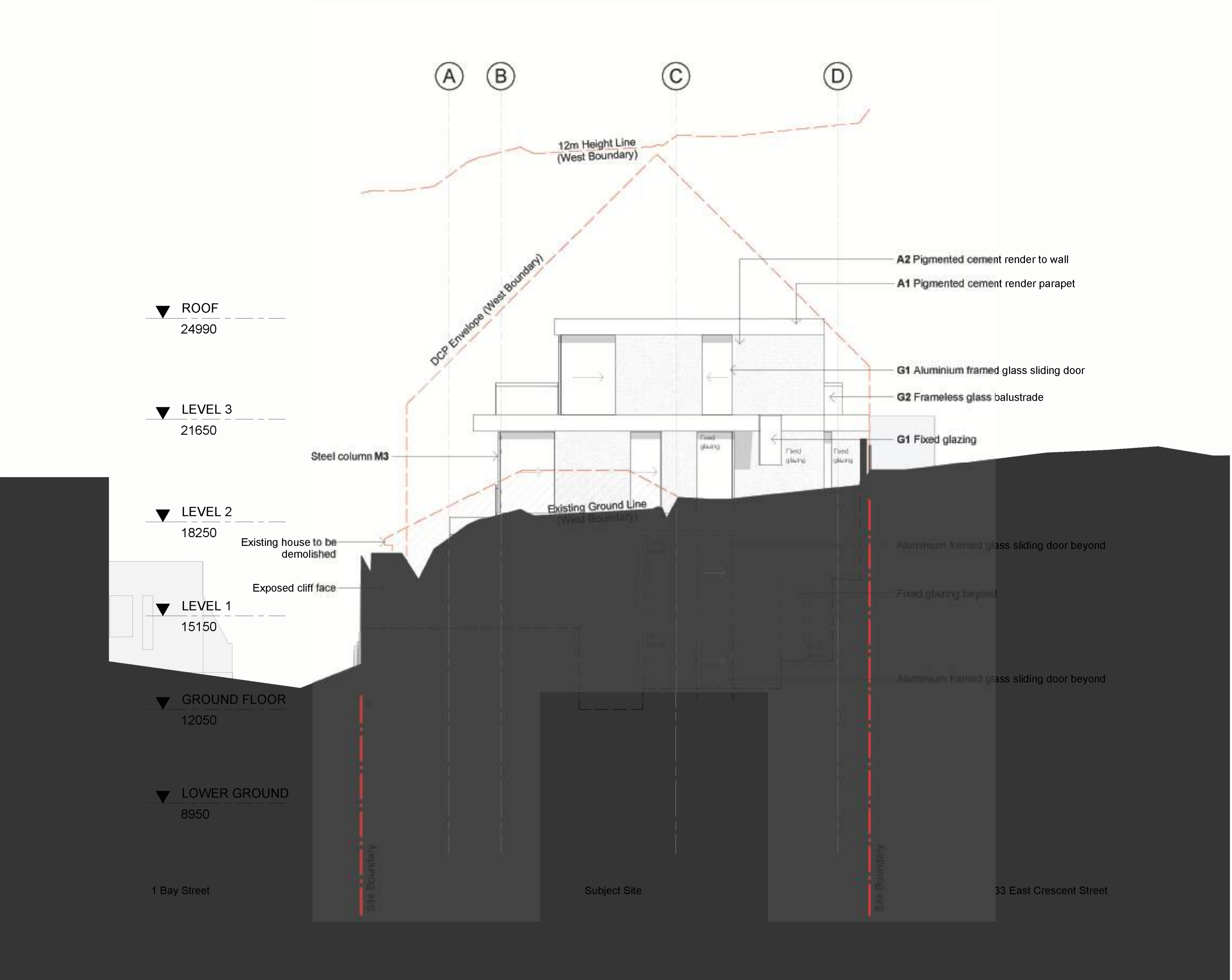
ELEVATIONS SHEET 1		1:100 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-0501 /03

CRAFT





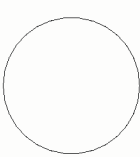
EAST ELEVATION



WEST ELEVATION

Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 82134403368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY  
ABN 82134403368  
412/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@crafterch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

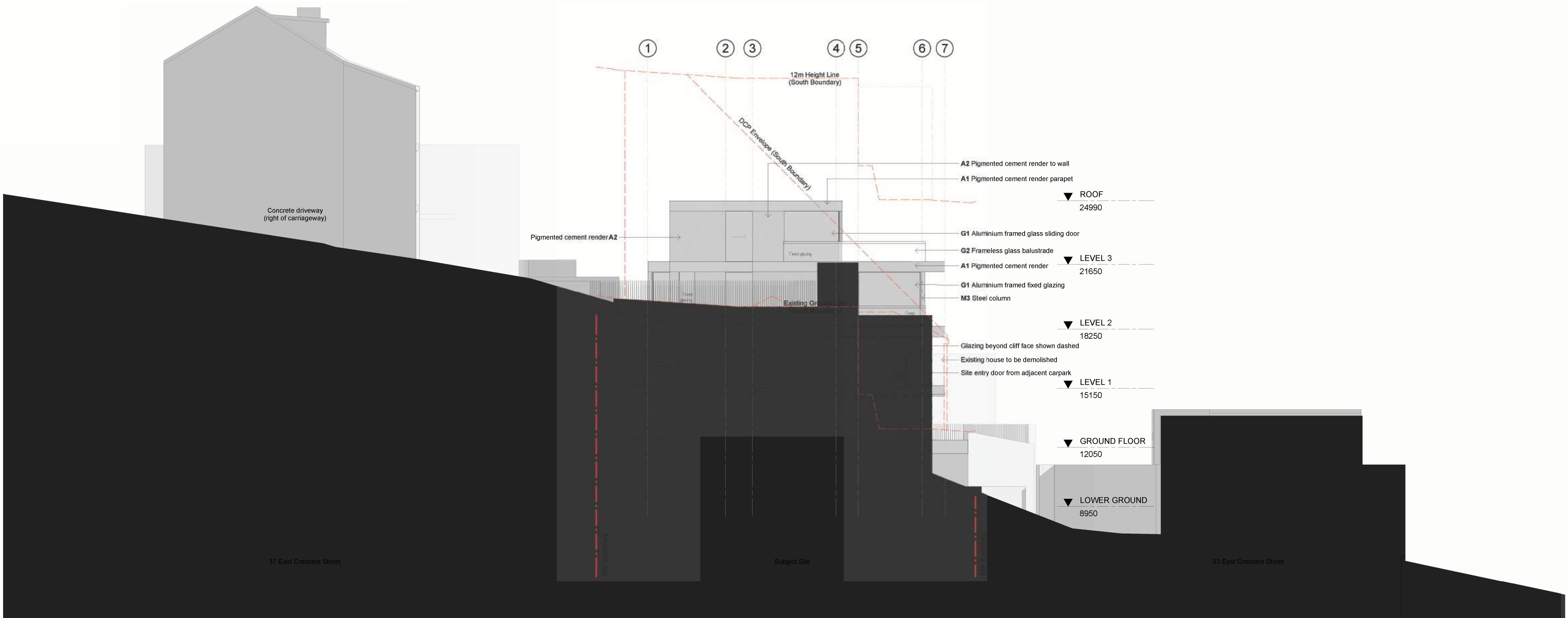
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

ELEVATIONS SHEET 2  
Drawn: AB  
Checked: CP  
Project No: 23.11

1:100 @ A1  
DA-0502 /03

CRAFT

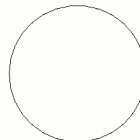




SOUTH ELEVATION

Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 80134400368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY  
ABN 80134400368  
403/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102

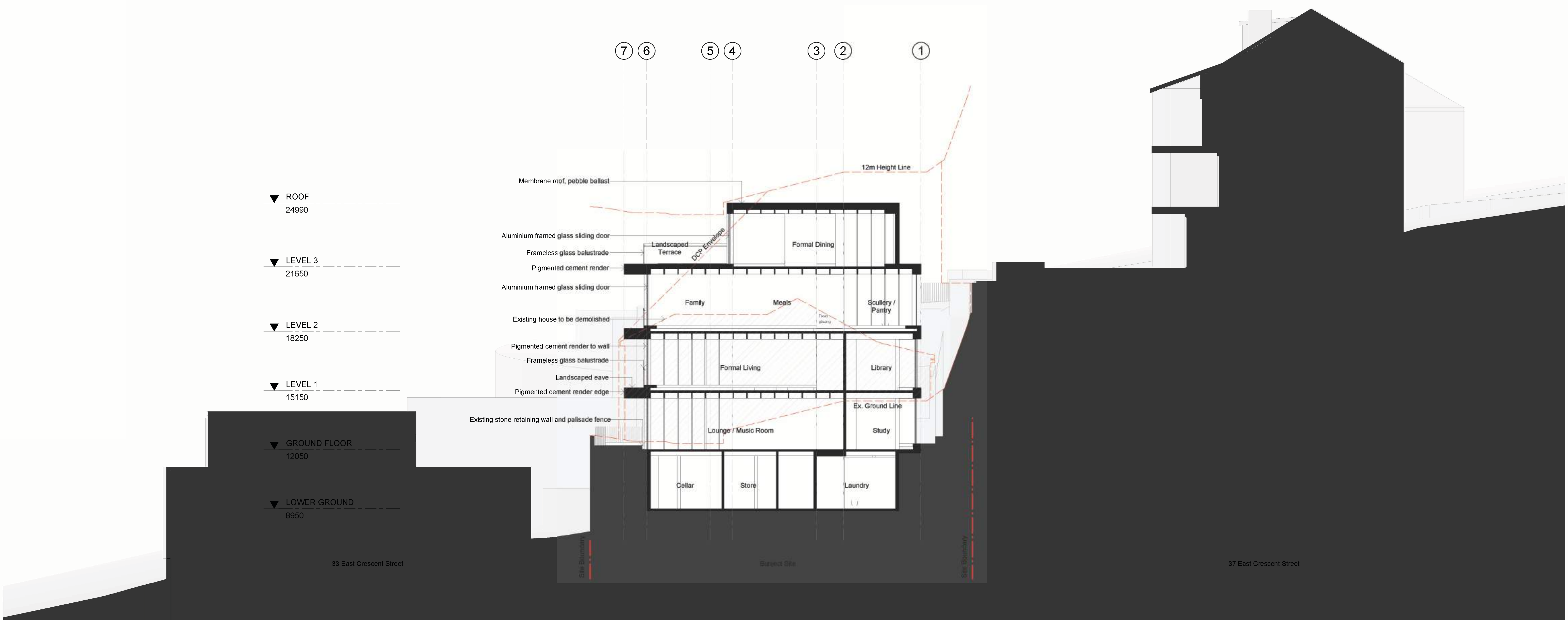


REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

ELEVATIONS SHEET 3		1:100 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-0503 /03

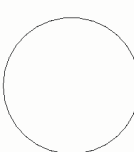
CRAFT



Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 82134400368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.

CRAFT ARCHITECTURE SYDNEY

ABN 82134400368  
412/15A Boundary Street, Rushcutters Bay NSW 2011  
studio@craftarch.com  
+61 415 447 388  
Nominated Architect: Charles Peters Reg. NSW 8102



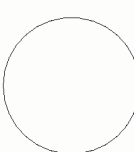
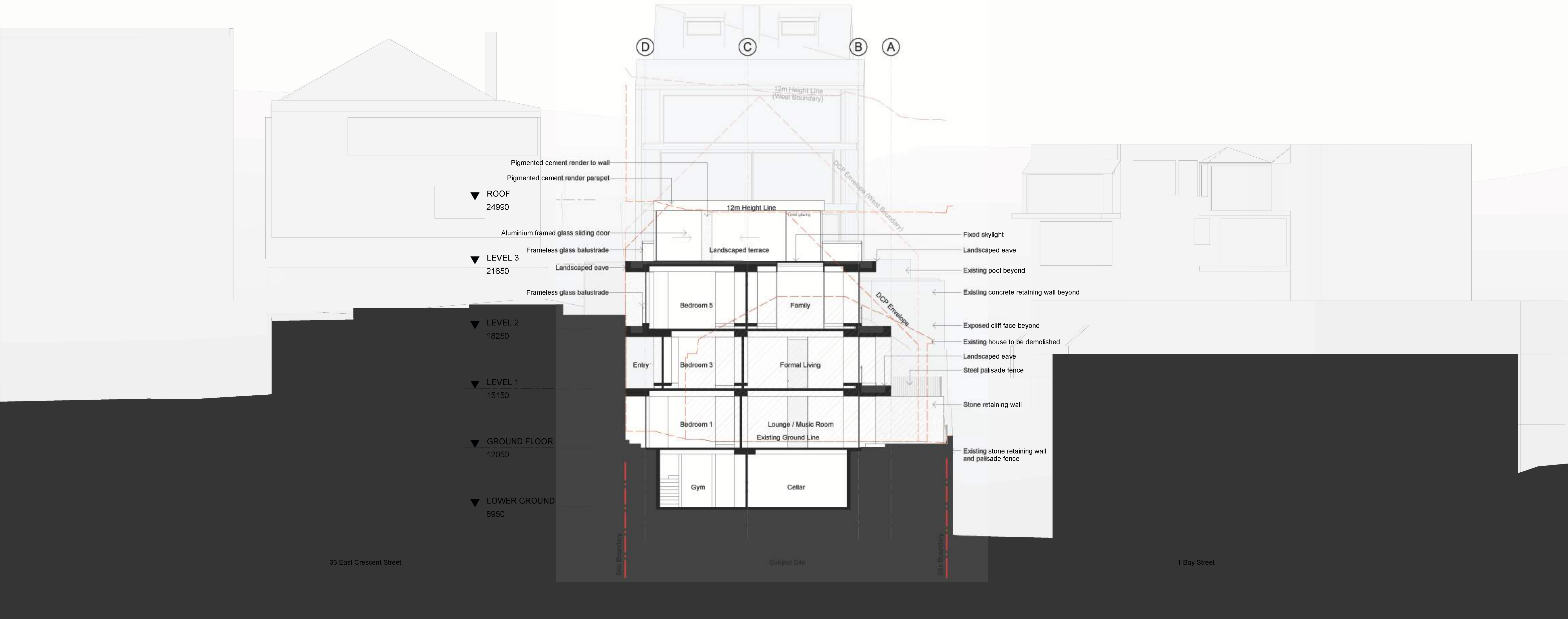
REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

SECTION A		1:100 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-0601 /03

CRAFT



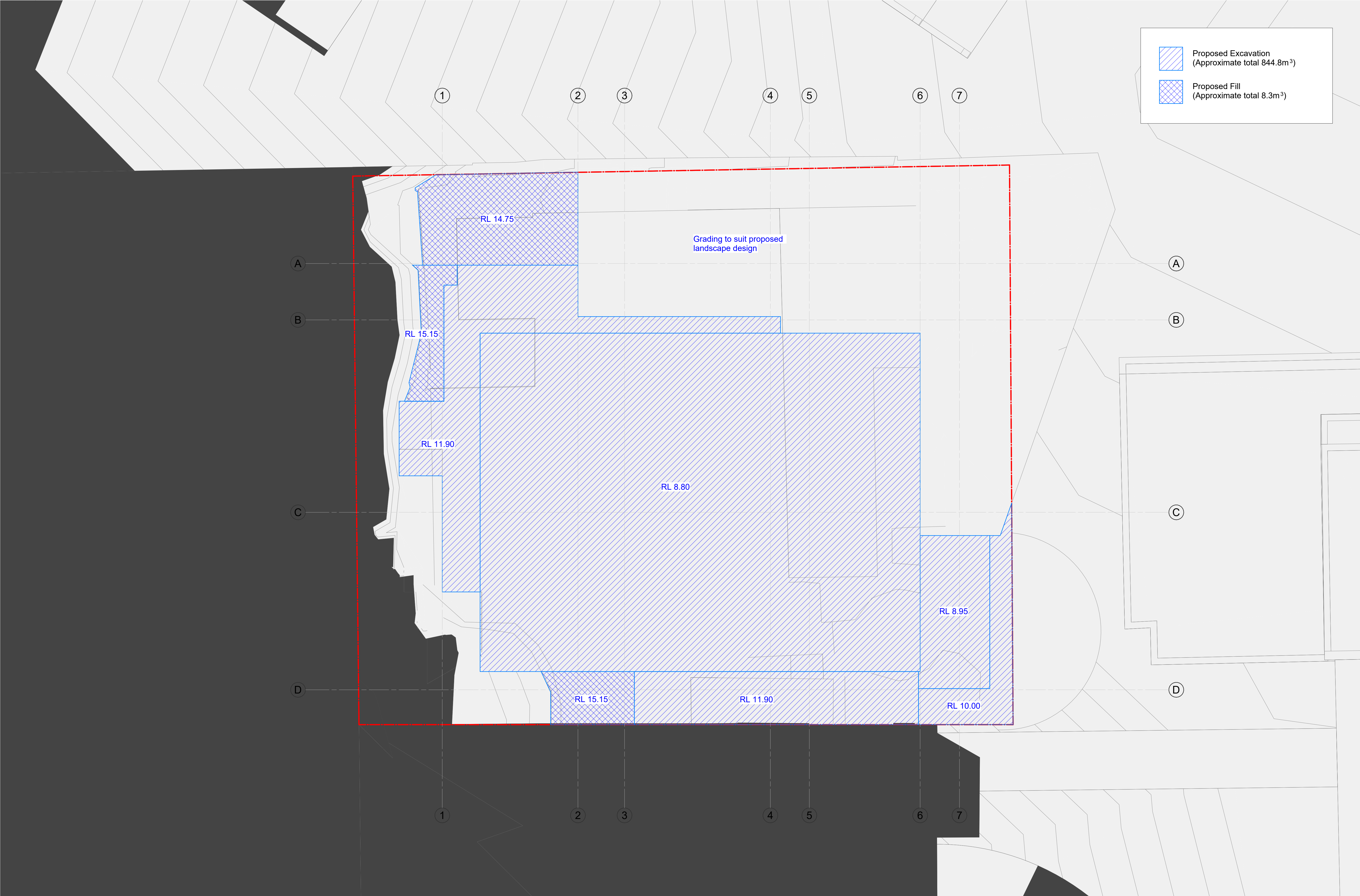


REVISIONS		
01	30.05.2024	DA Issue
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

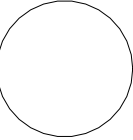
SECTION B		1:100 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-0602 /03

CRAFT



Proposed Excavation  
(Approximate total 844.8m<sup>3</sup>)

Proposed Fill  
(Approximate total 8.3m<sup>3</sup>)

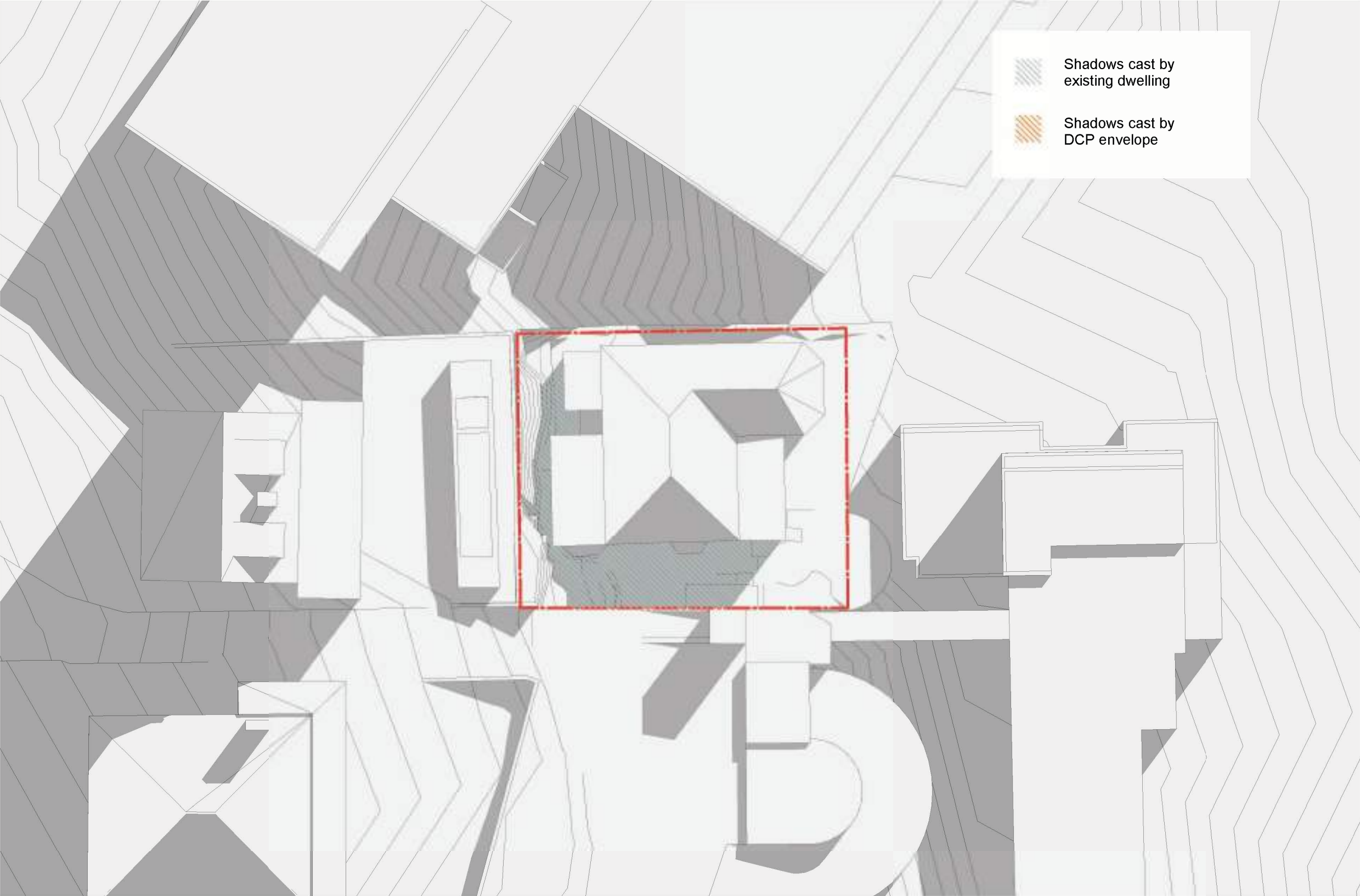


REVISIONS		
02	04.07.2024	DA Resubmission
03	20.08.2024	DA Add'l Information

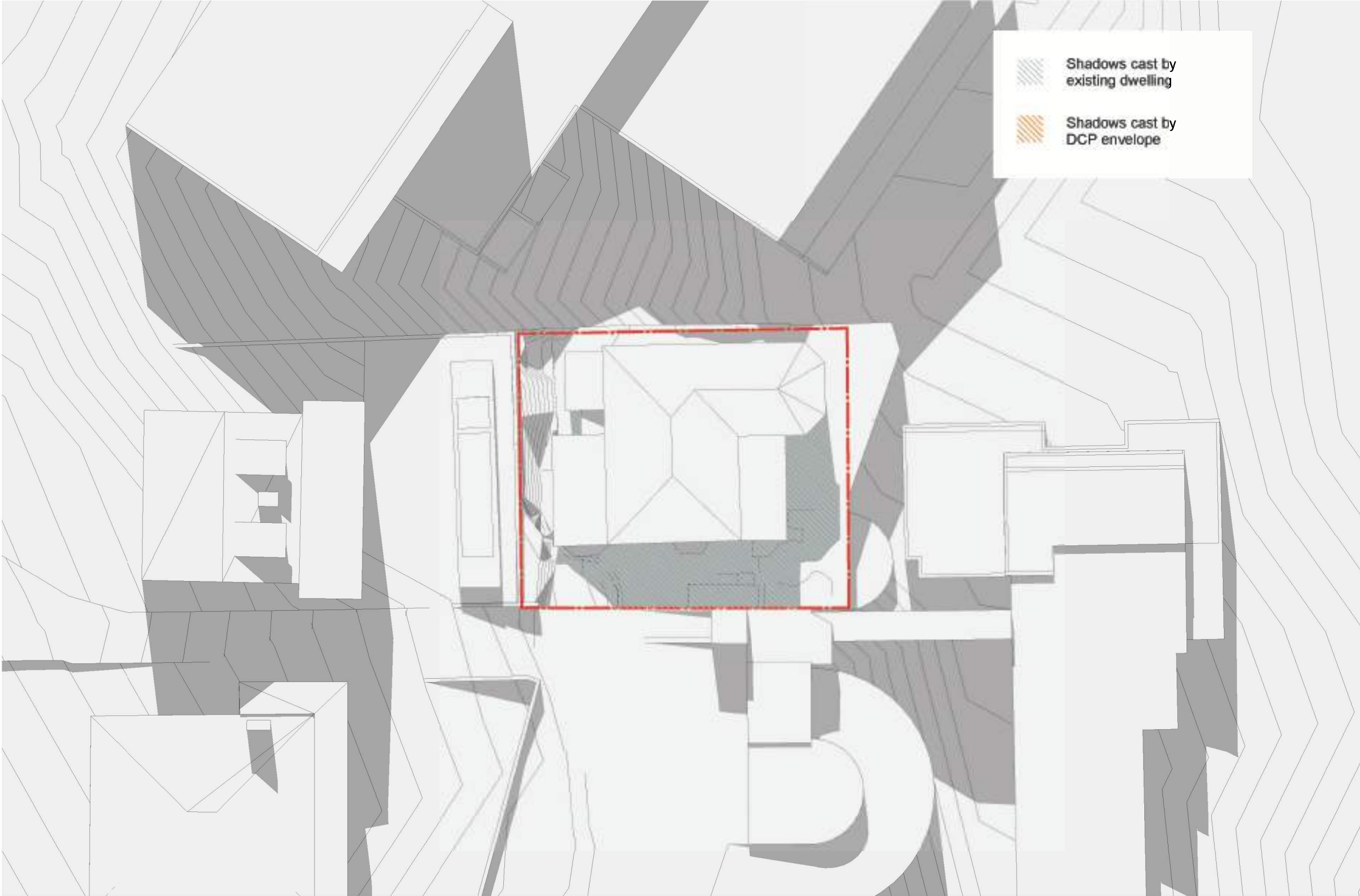
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

BULK EXCAVATION PLAN		1:50 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-2510 /03

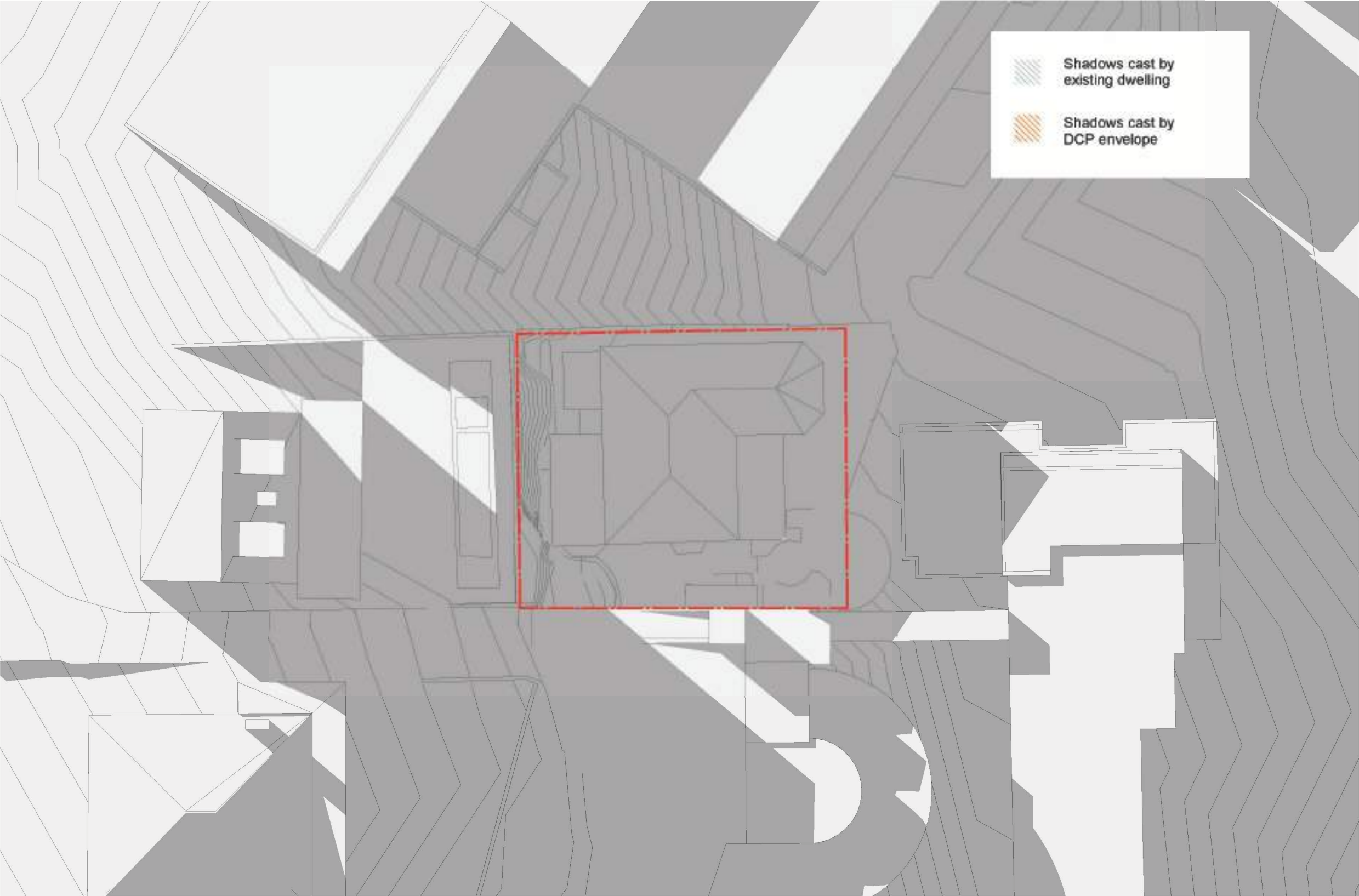




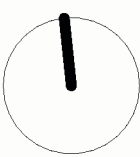
Existing - 9am, June 21



Existing - 12pm, June 21



Existing - 3pm, June 21

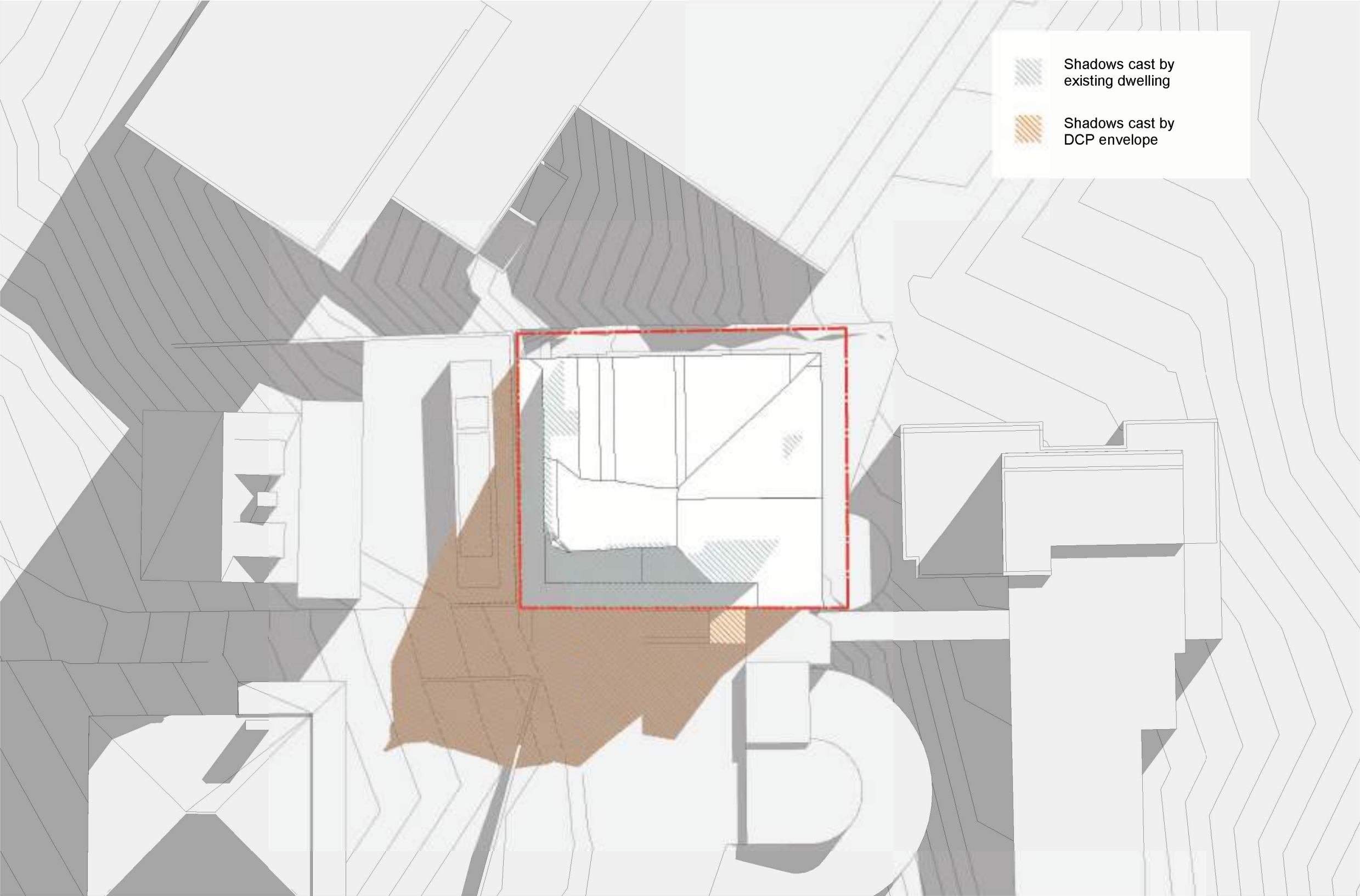


REVISIONS			
01	30.05.2024	DA Issue	
02	04.07.2024	DA Resubmission	
03	20.08.2024	DA Add'l Information	

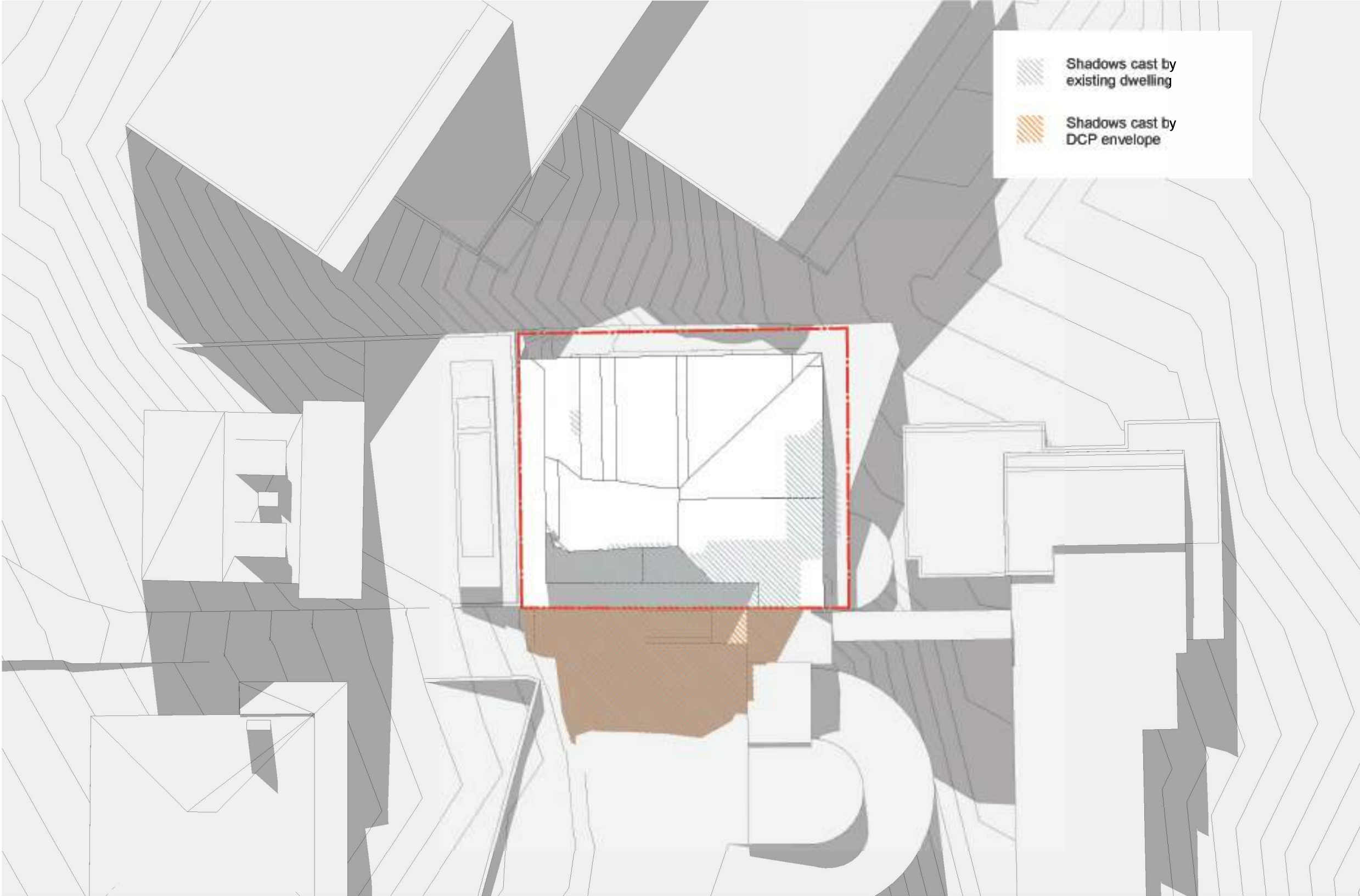
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

SHADOW ANALYSIS - EXISTING		1:250 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-3001 /03





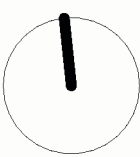
DCP Envelope - 9am, June 21



DCP Envelope - 12pm, June 21



DCP Envelope - 3pm, June 21

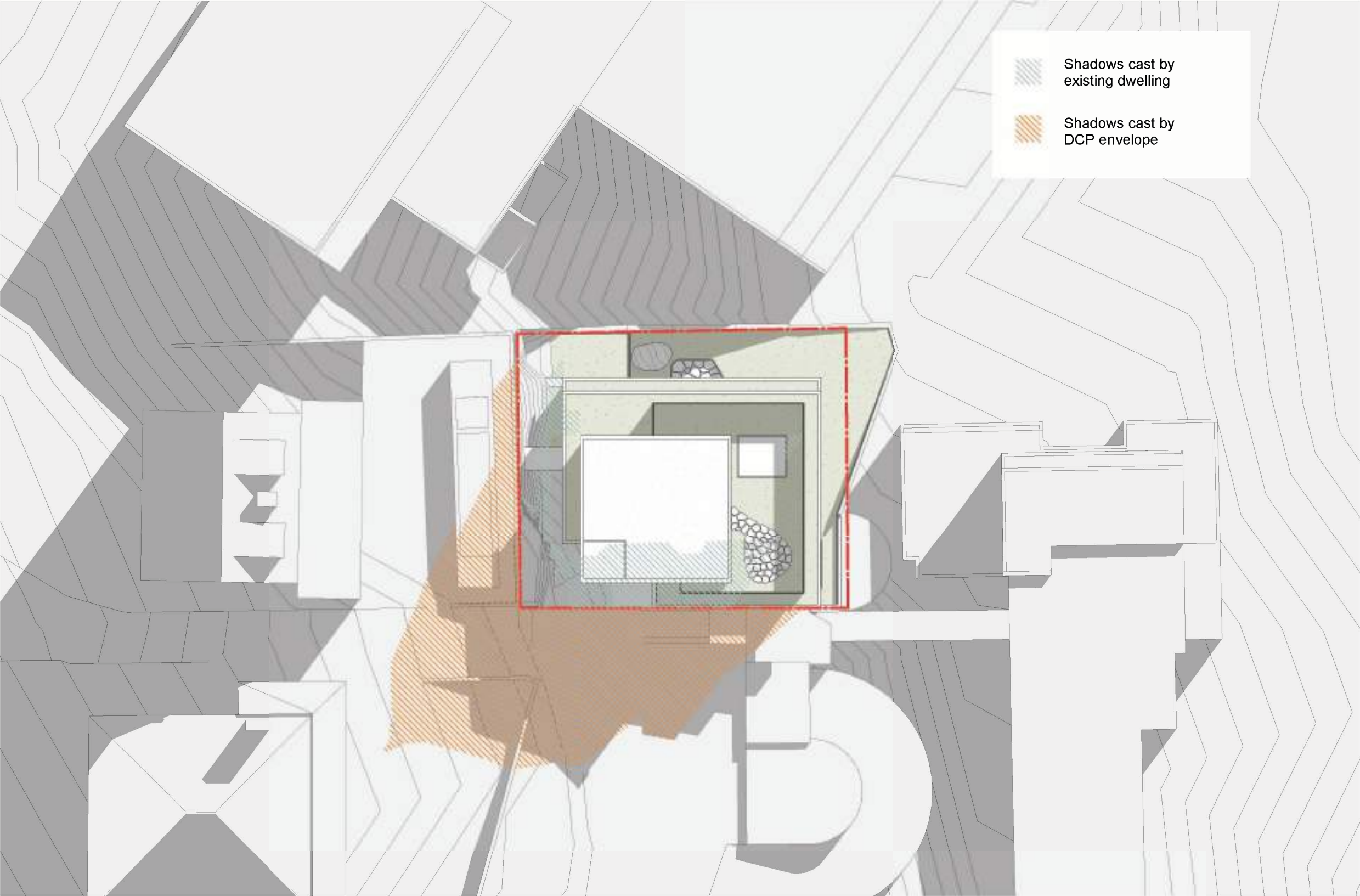


REVISIONS			
01	30.05.2024	DA Issue	
02	04.07.2024	DA Resubmission	
03	20.08.2024	DA Add'l Information	

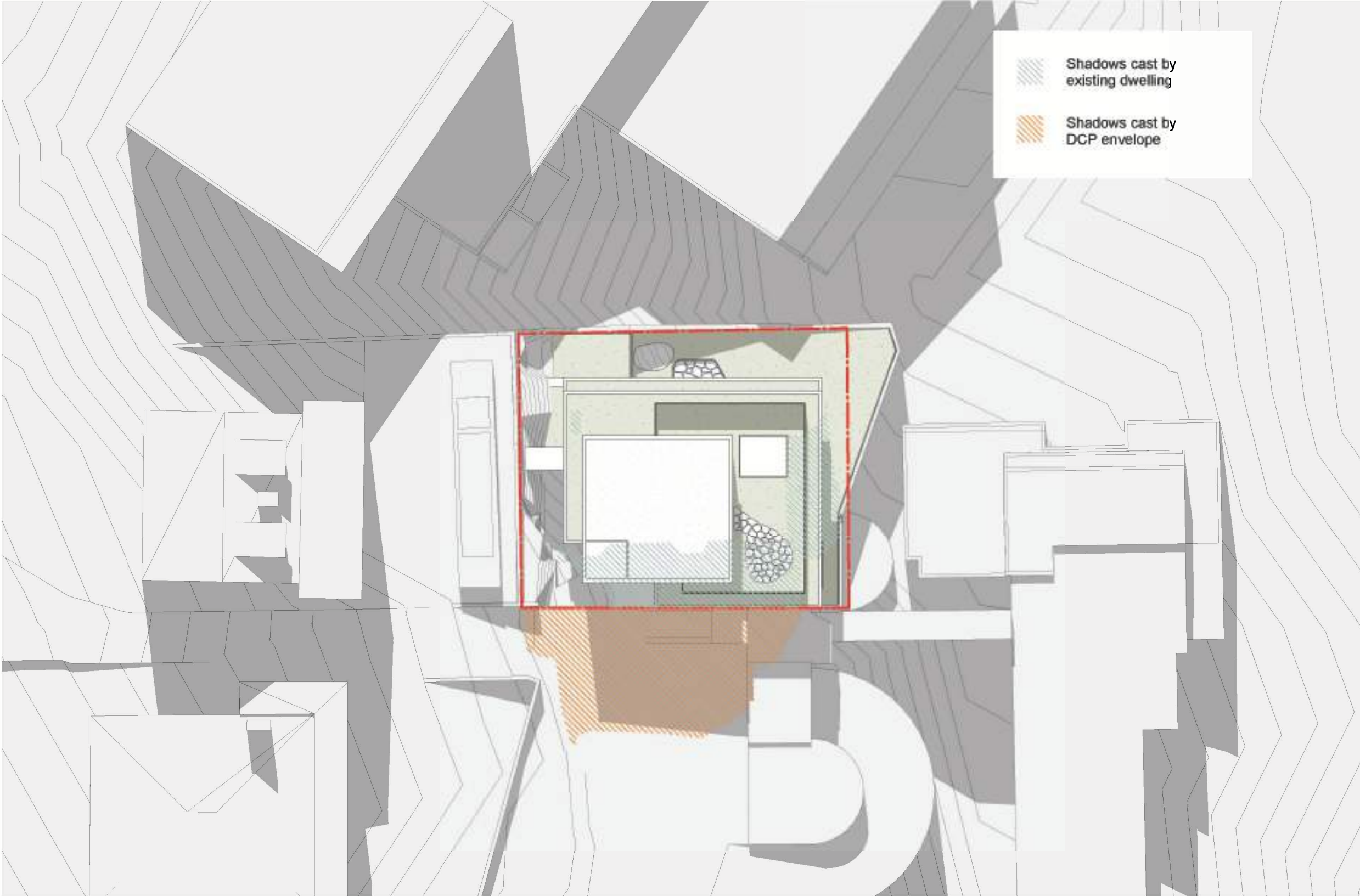
Lavender Bay House  
35 East Crescent Street  
Lavender Bay, NSW

SHADOW ANALYSIS - DCP		1:250 @ A1
Drawn	AB	
Checked	CP	
Project No.	23.11	DA-3002 /03

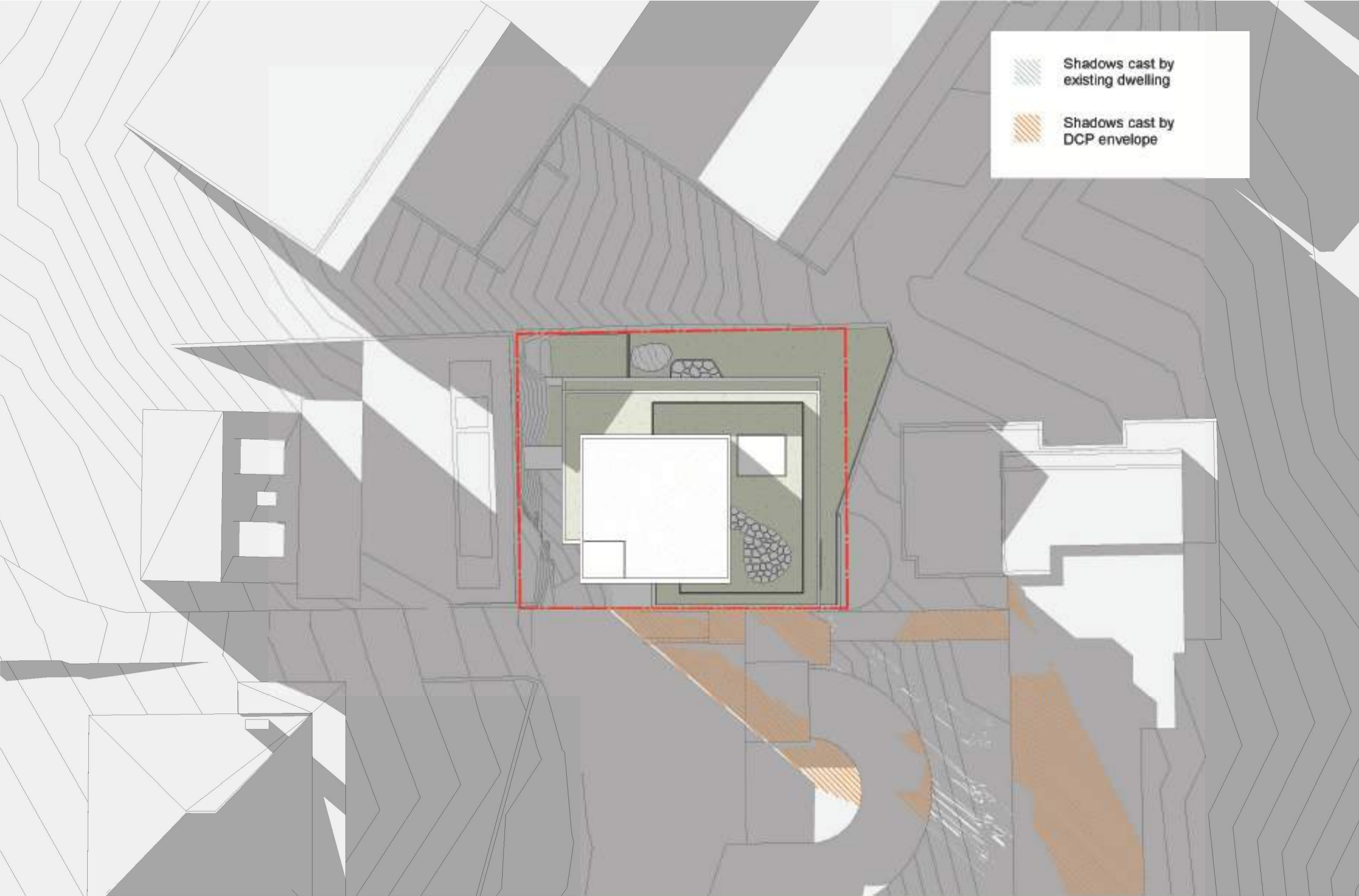




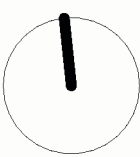
Proposed - 9am, June 21



Proposed - 12pm, June 21



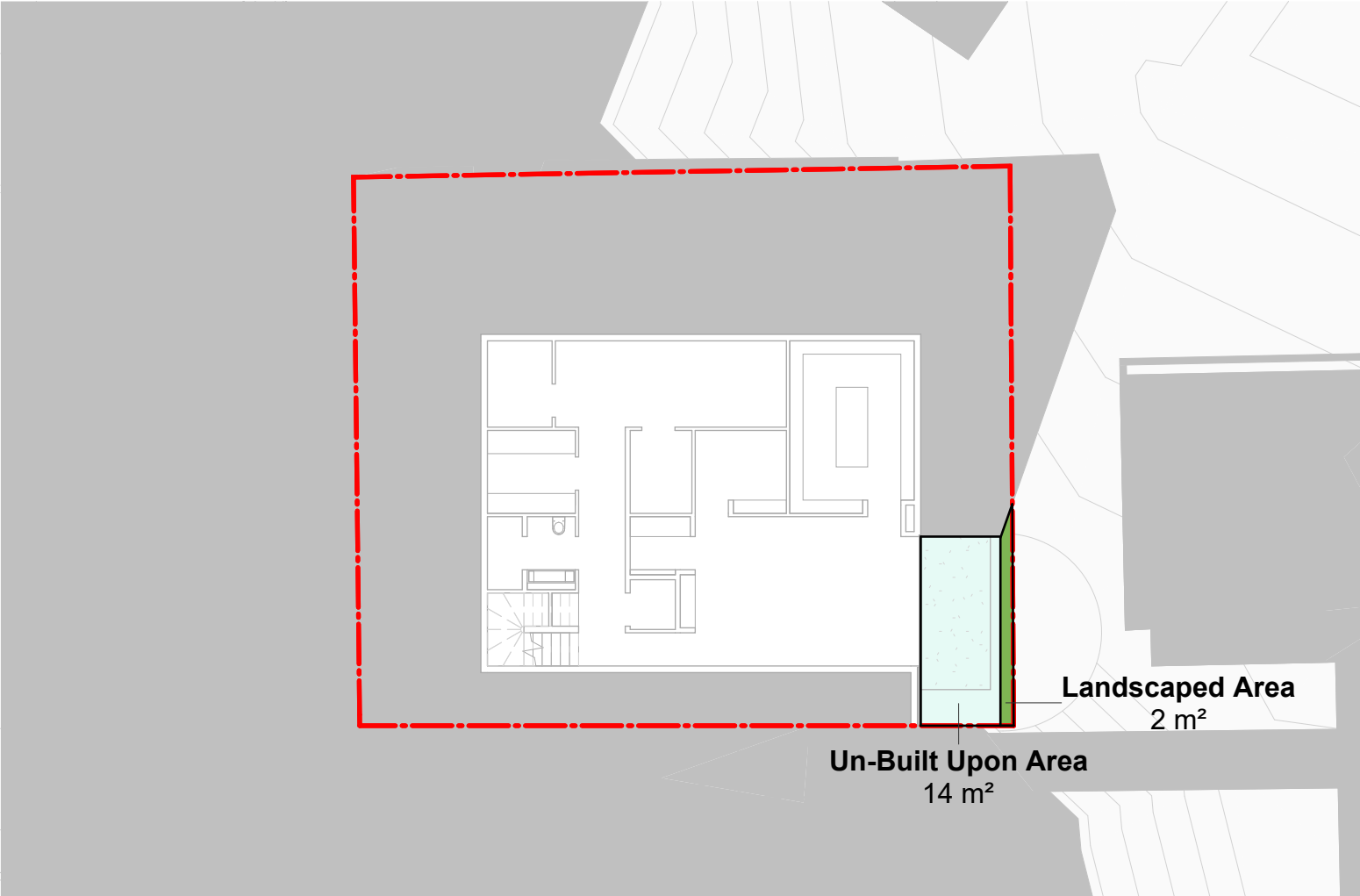
Proposed - 3pm, June 21



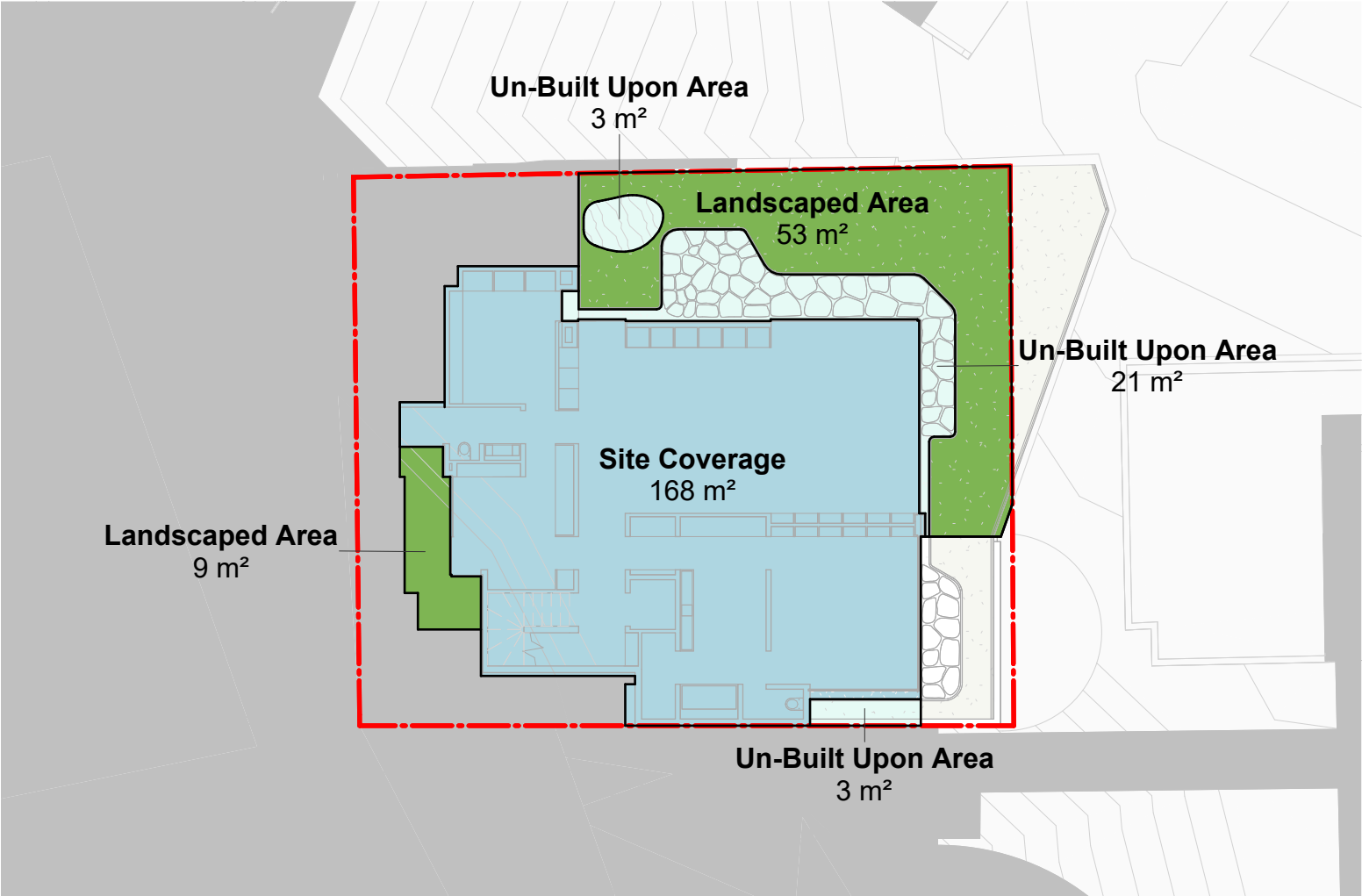
REVISIONS			
01	30.05.2024	DA Issue	
02	04.07.2024	DA Resubmission	
03	20.08.2024	DA Add'l Information	

SHADOW ANALYSIS - PROPOSED				1:250 @ A1
Drawn	AB			
Checked	CP			
Project No.	23.11			
		DA-3003	/03	





LOWER GROUND



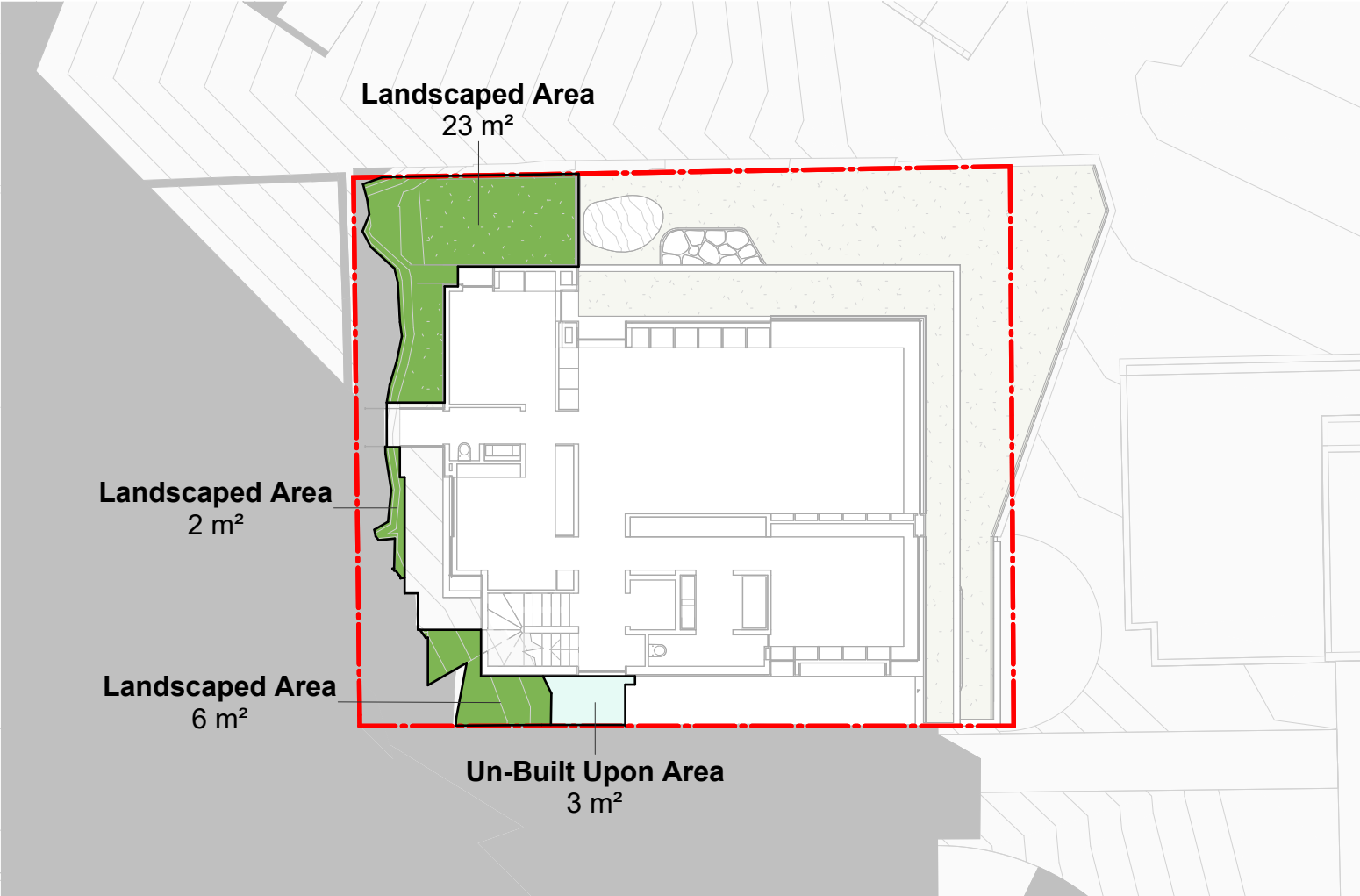
GROUND FLOOR

Site Coverage (Proposed)

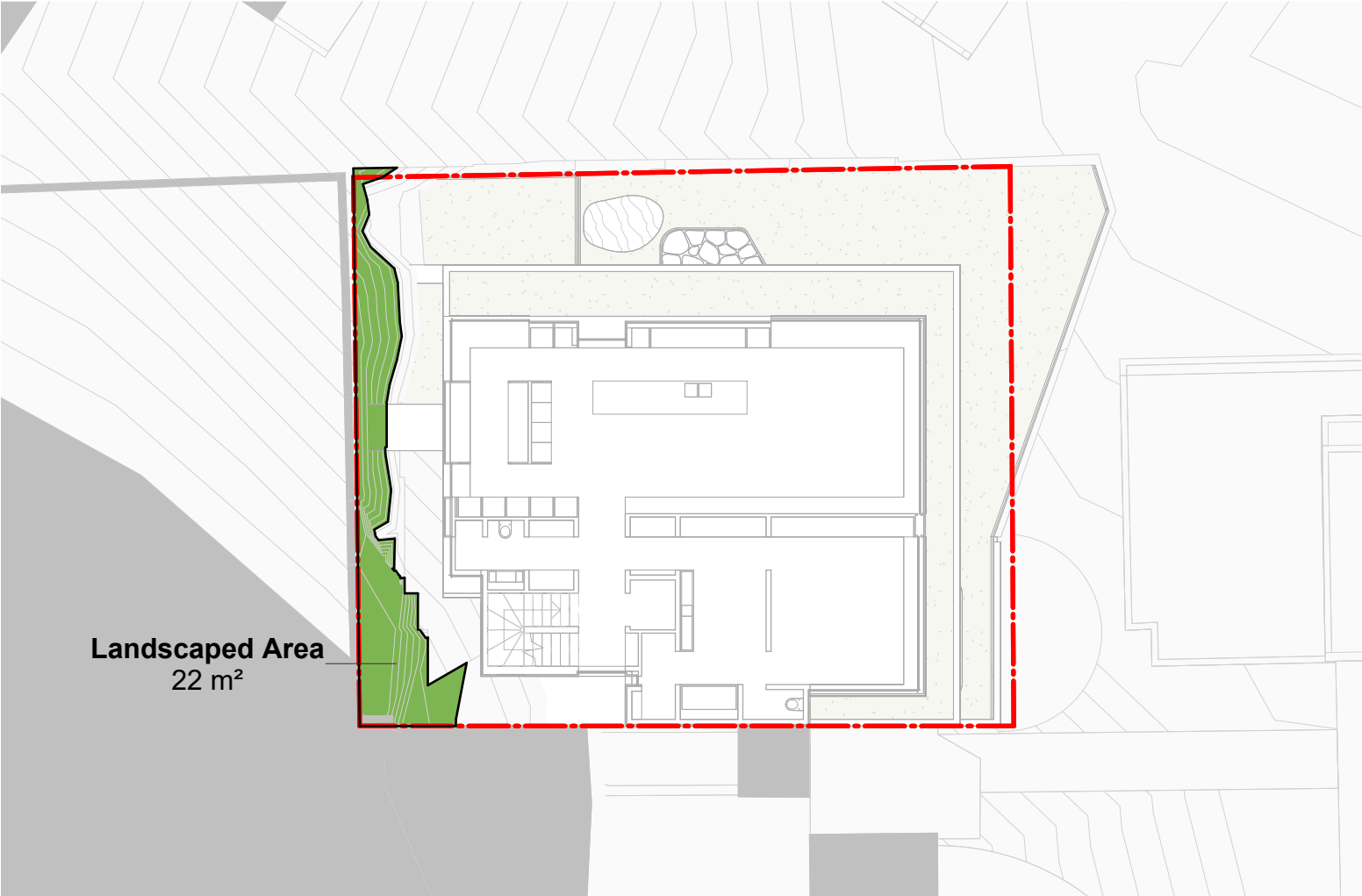
Un-Built Upon Area	44 m <sup>2</sup>	13.4%
Site Coverage	168 m <sup>2</sup>	51.0%
Landscaped Area	117 m <sup>2</sup>	35.4%

Site Coverage (Existing)

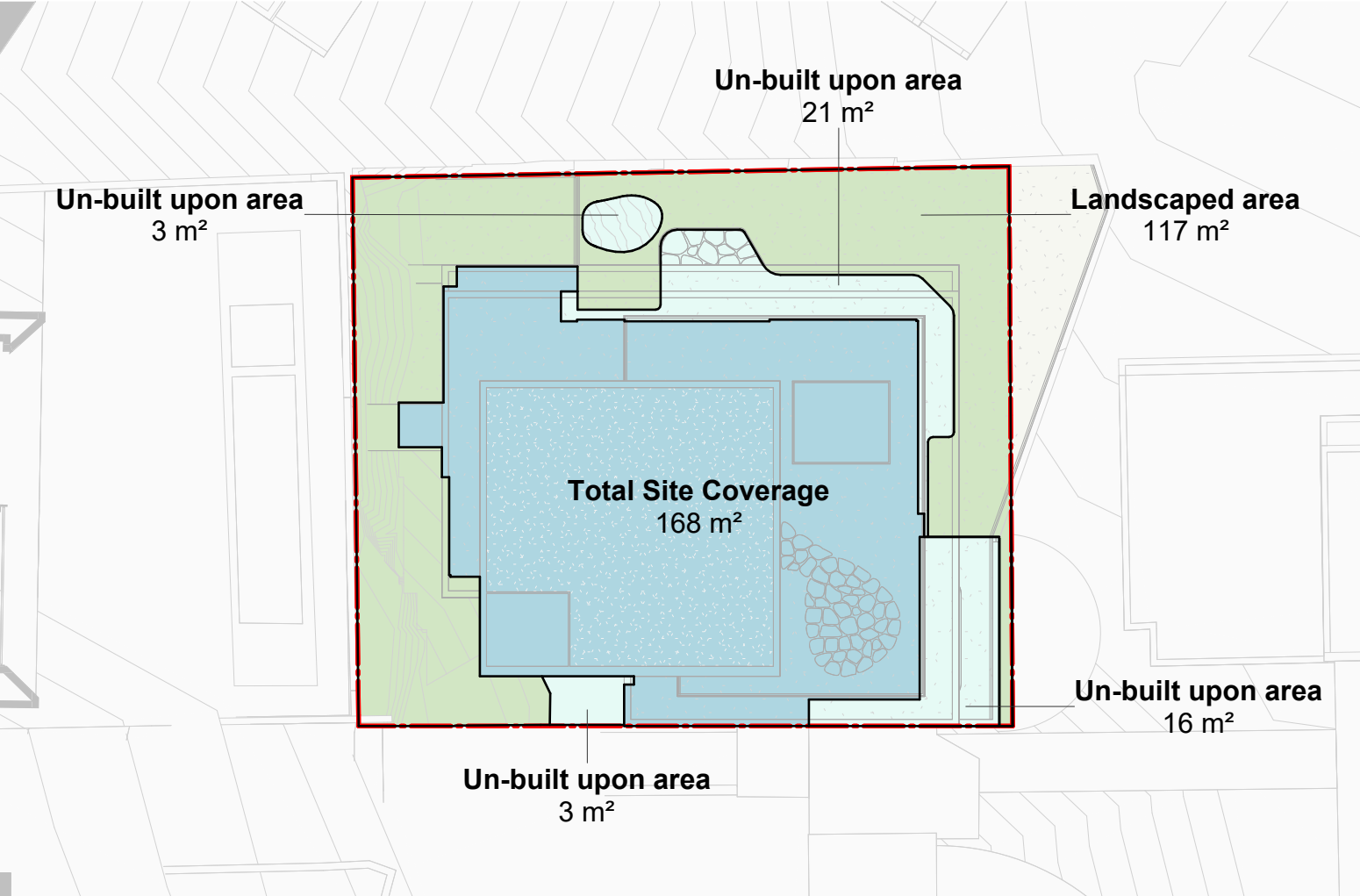
Existing Un-built Upon Area	70 m <sup>2</sup>	21.3%
Existing Site Coverage	171 m <sup>2</sup>	51.8%
Existing Landscaped Area	74 m <sup>2</sup>	22.5%



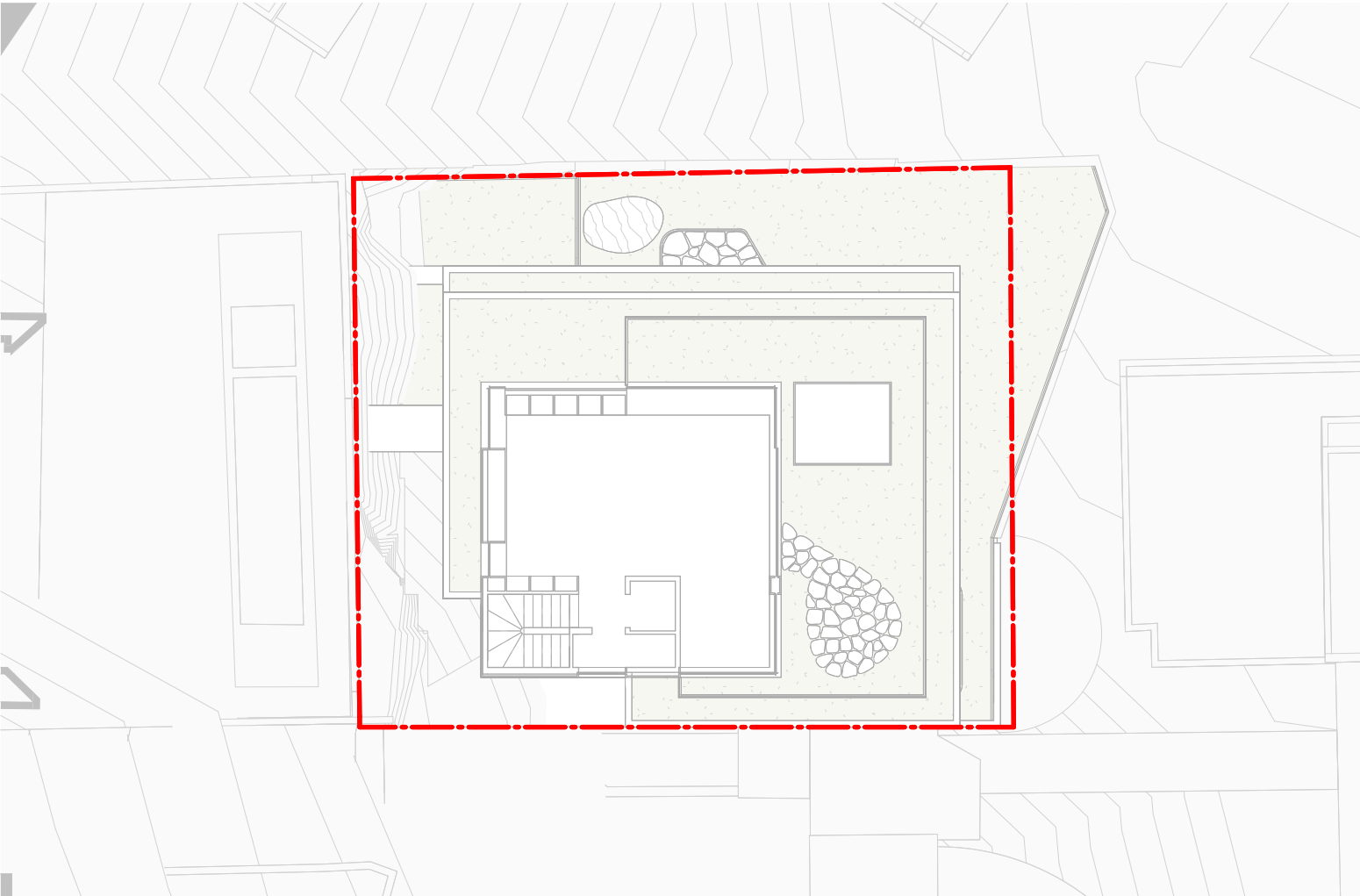
LEVEL 1



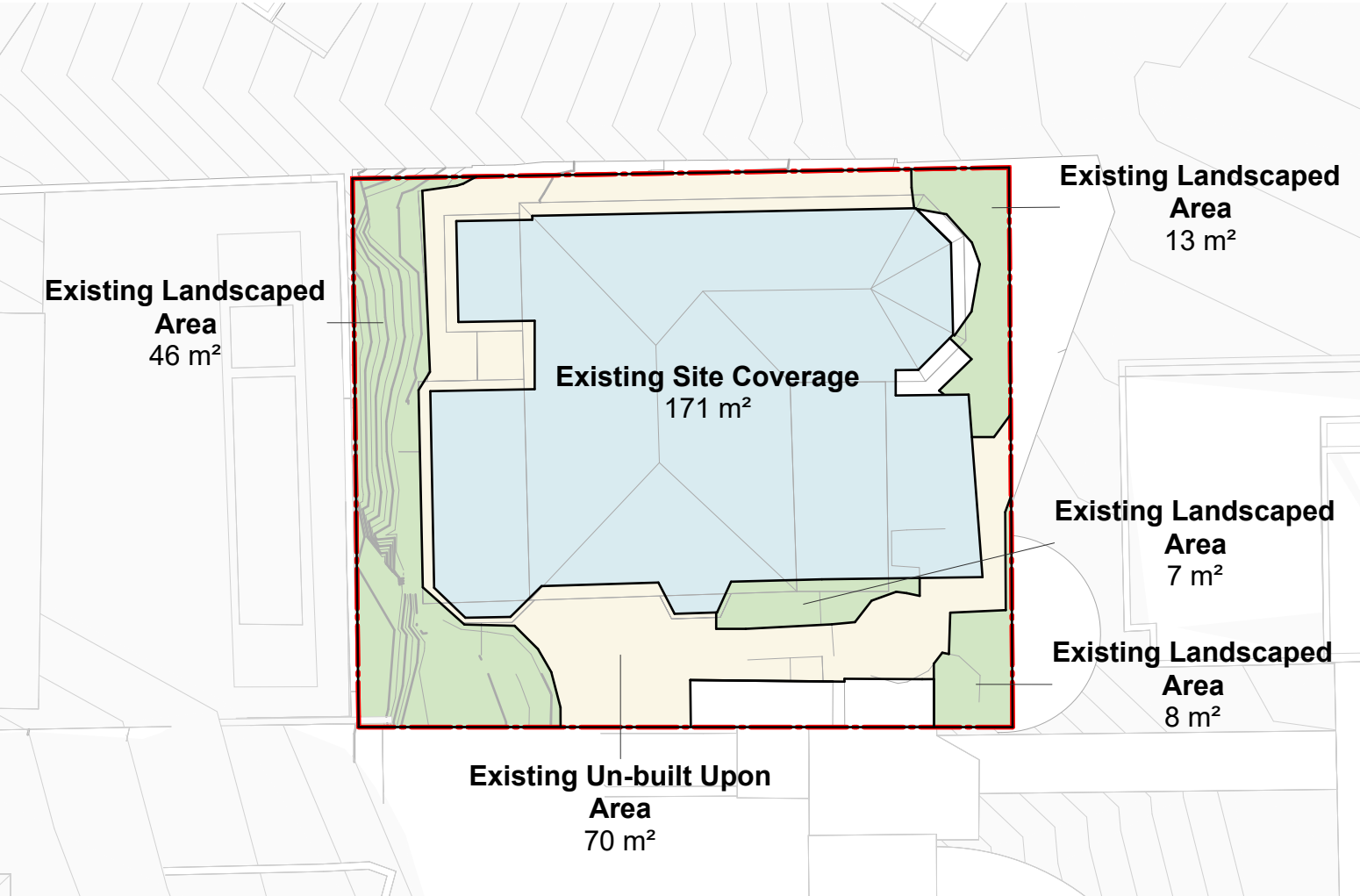
LEVEL 2



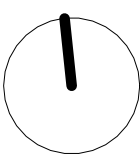
Total - Proposed



LEVEL 3



Total - Existing

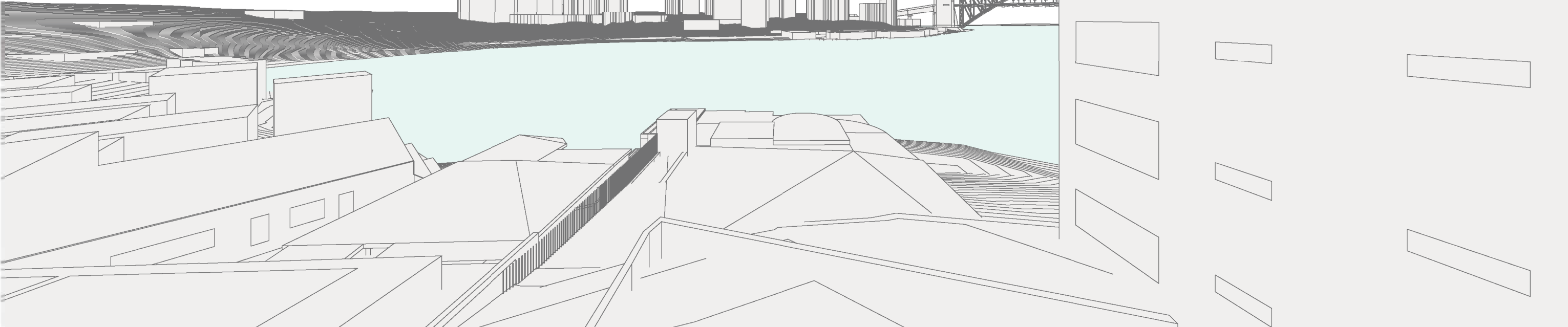




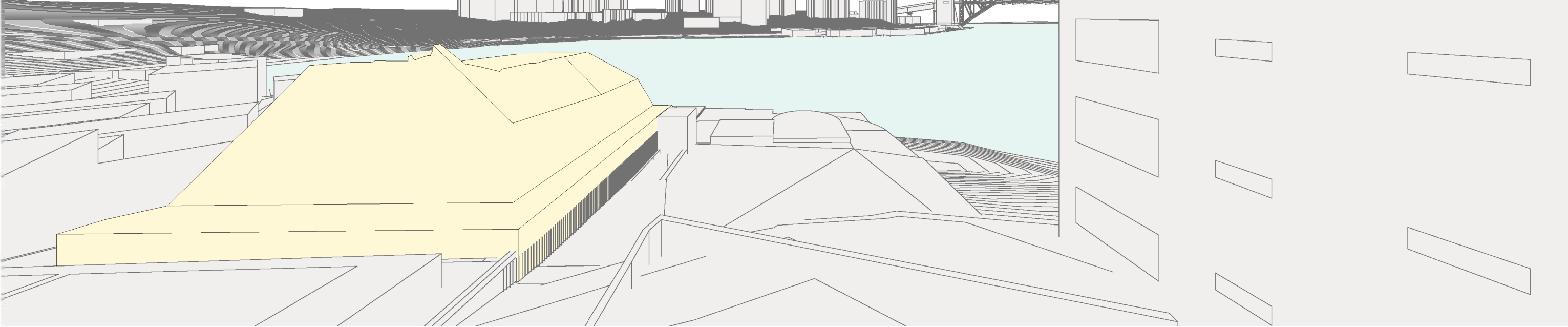


**View Impact Study - Key**  
Note - locations and context are estimated based on survey information and GIS data.

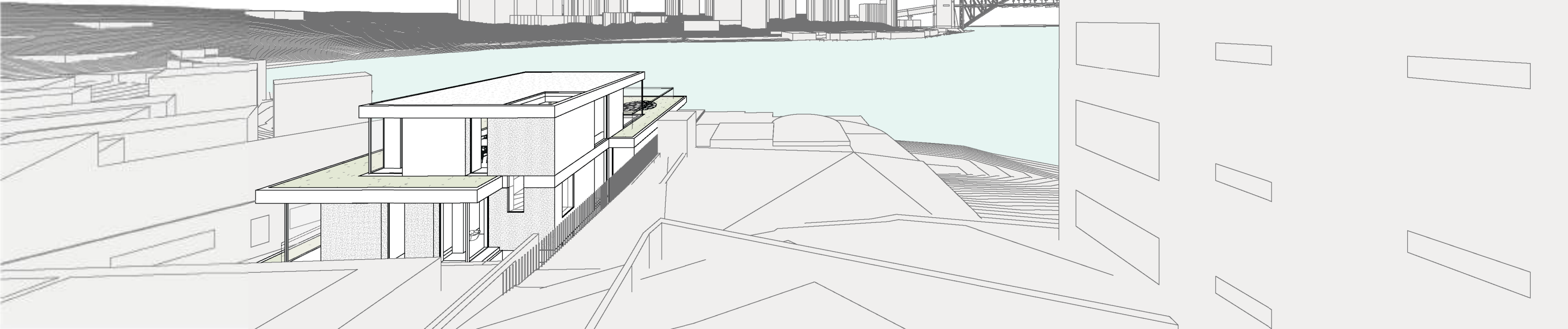
Existing



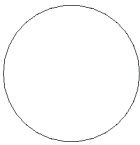
DCP Allowable Mass



Proposed

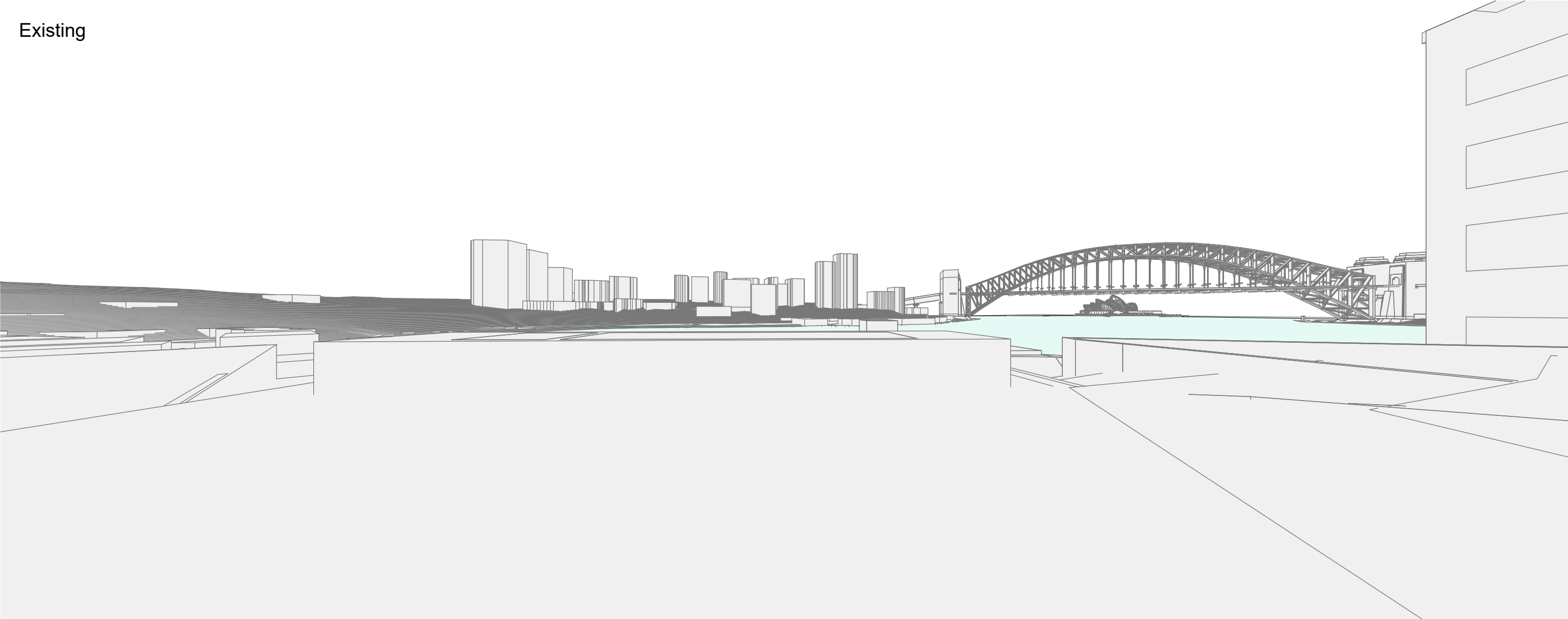


**View Impact Study 01**  
31 East Crescent Street - 2nd Level Window

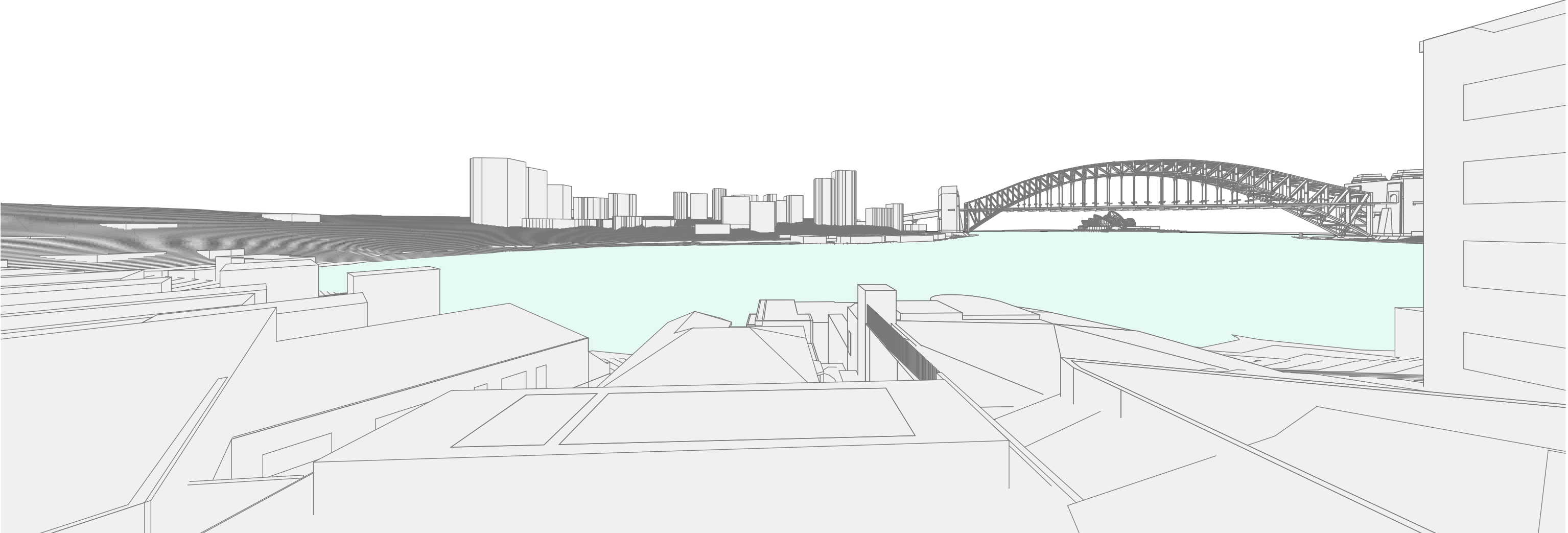




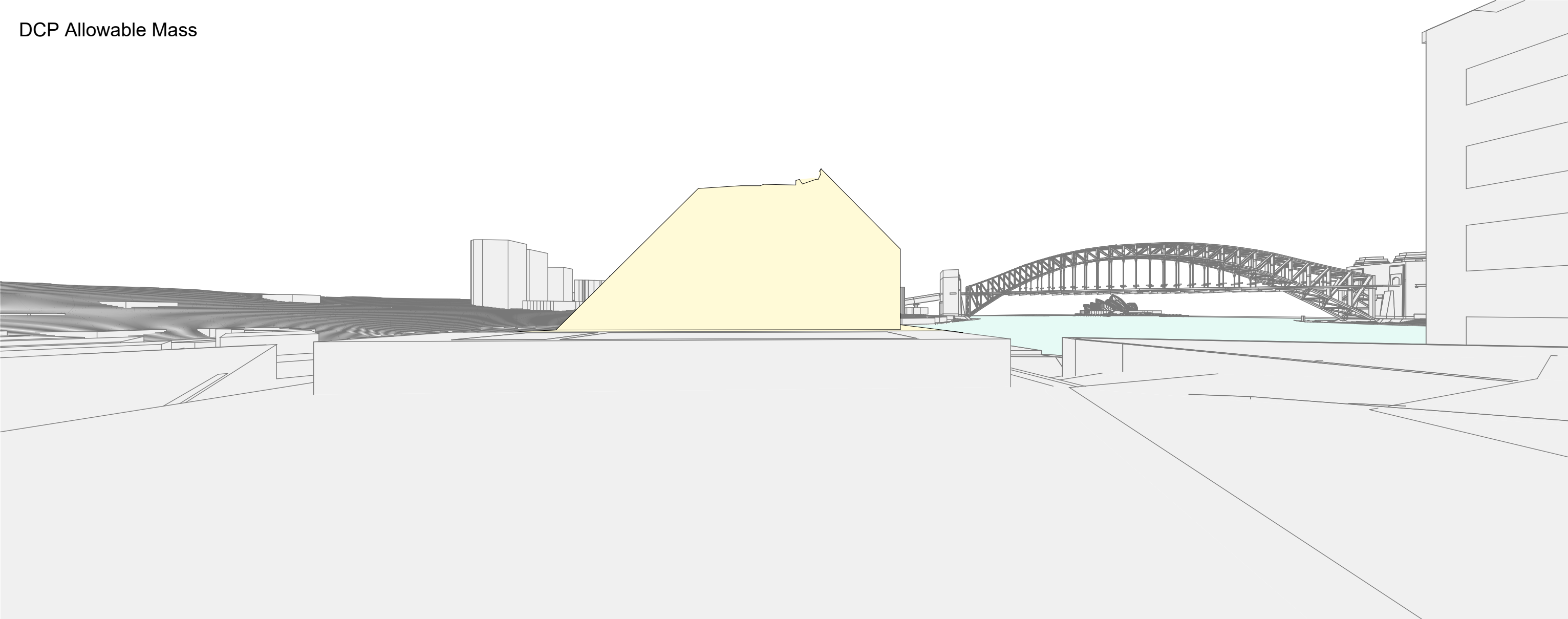
Existing



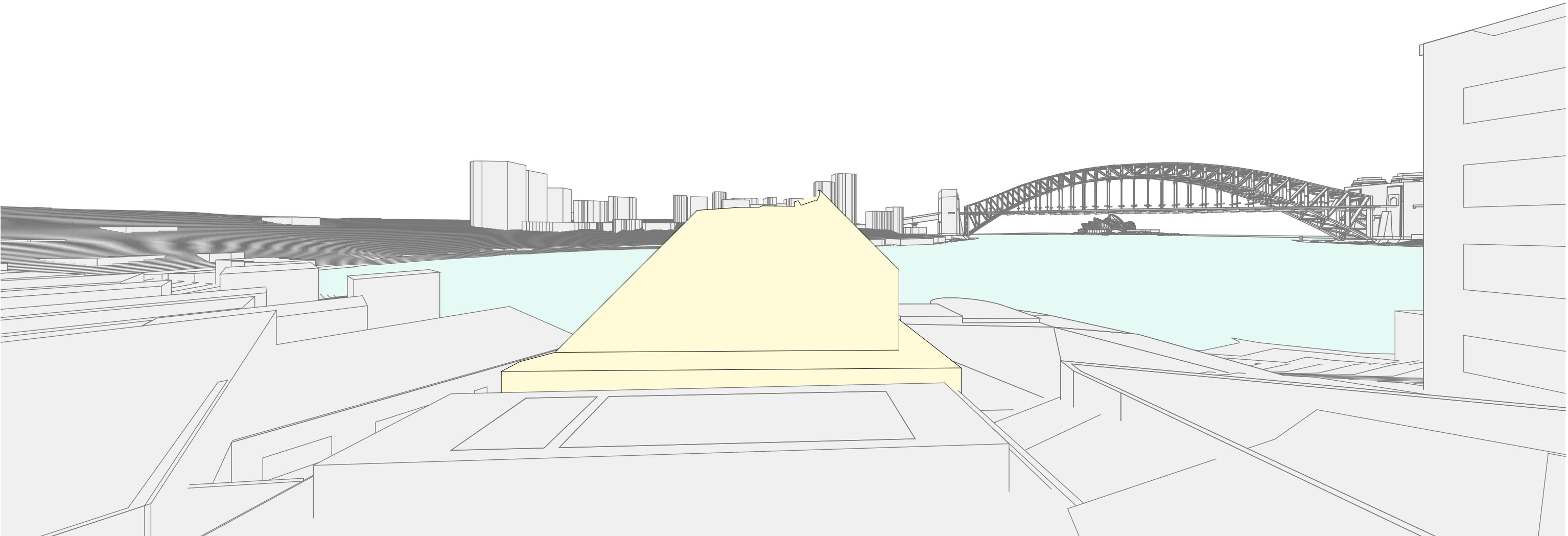
Existing



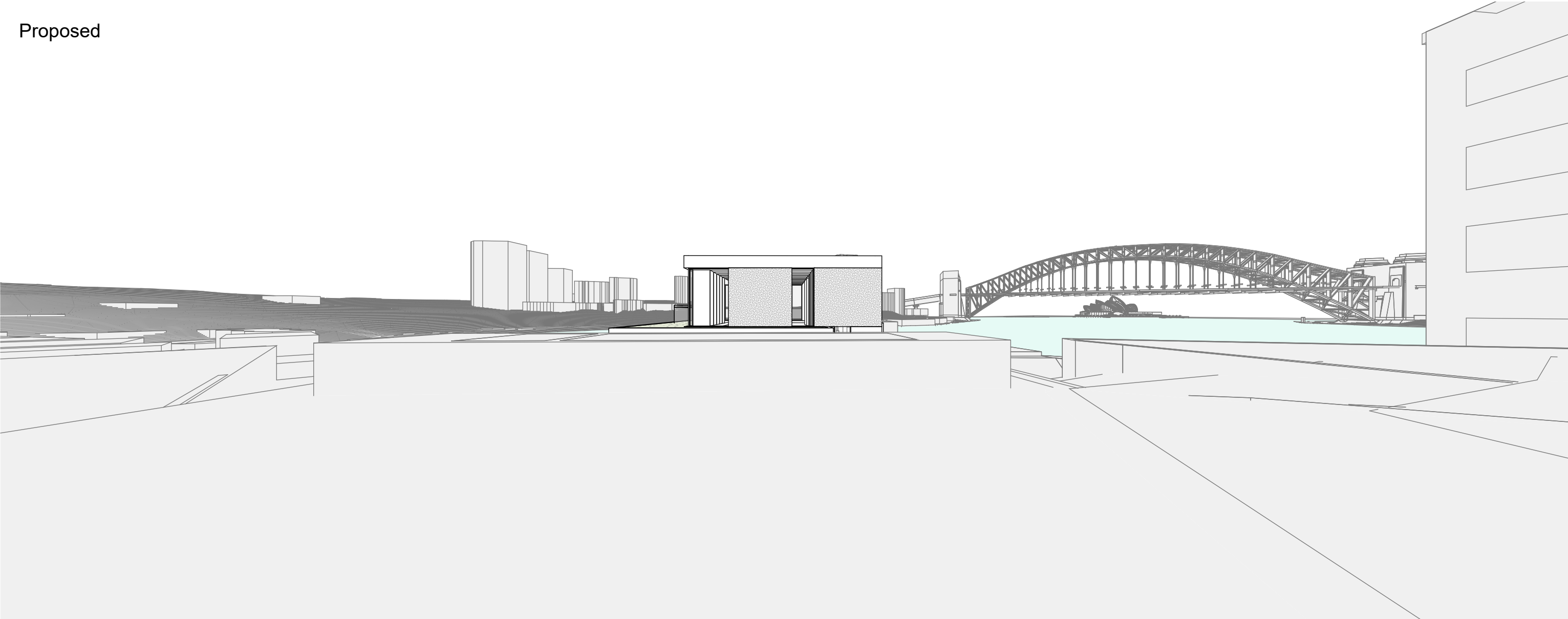
DCP Allowable Mass



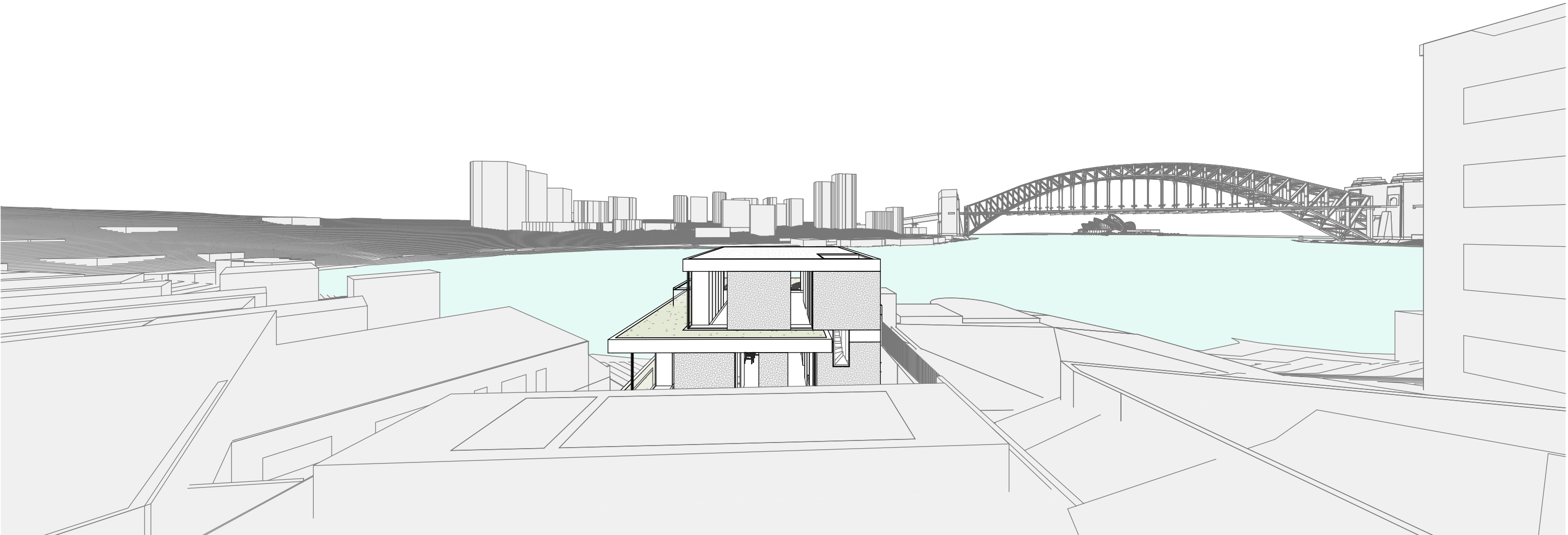
DCP Allowable Mass



Proposed

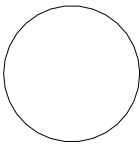


Proposed



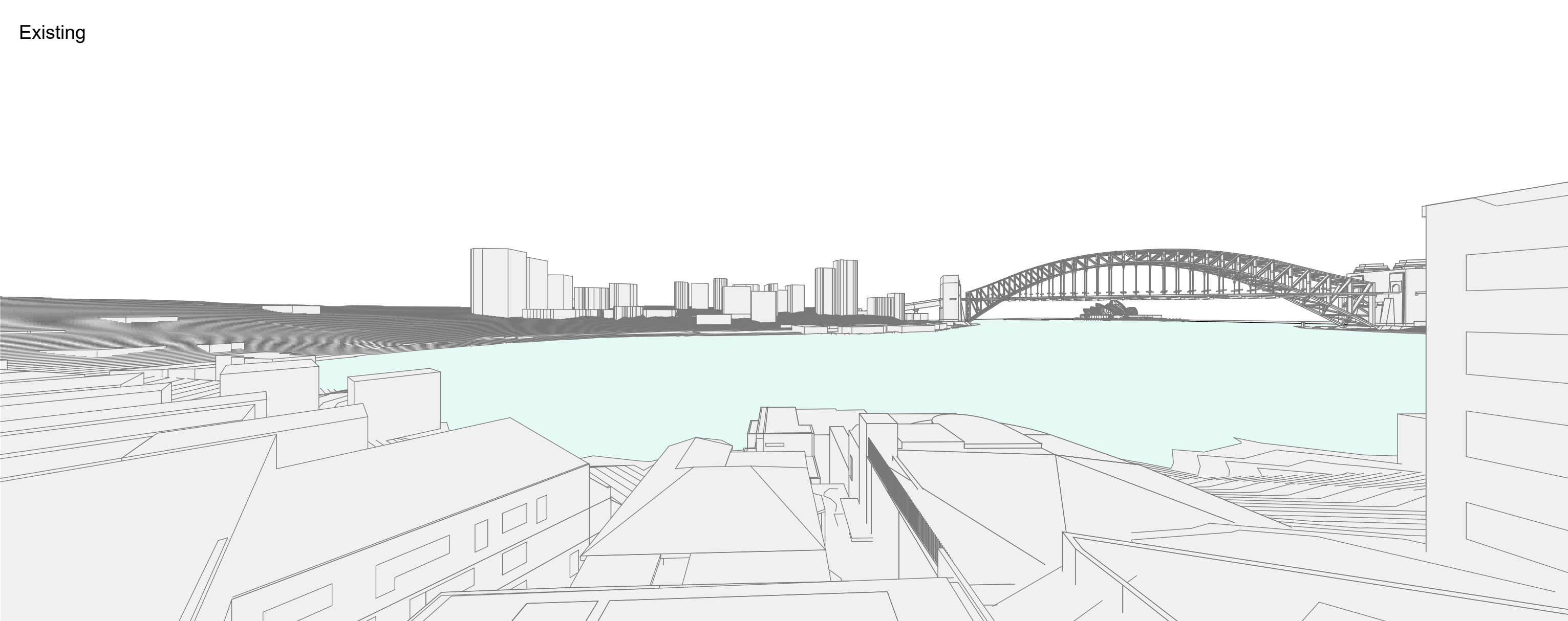
**View Impact Study 02**  
37 East Crescent Street - Ground Level Terrace

**View Impact Study 03**  
37 East Crescent Street - 2nd Level Balcony

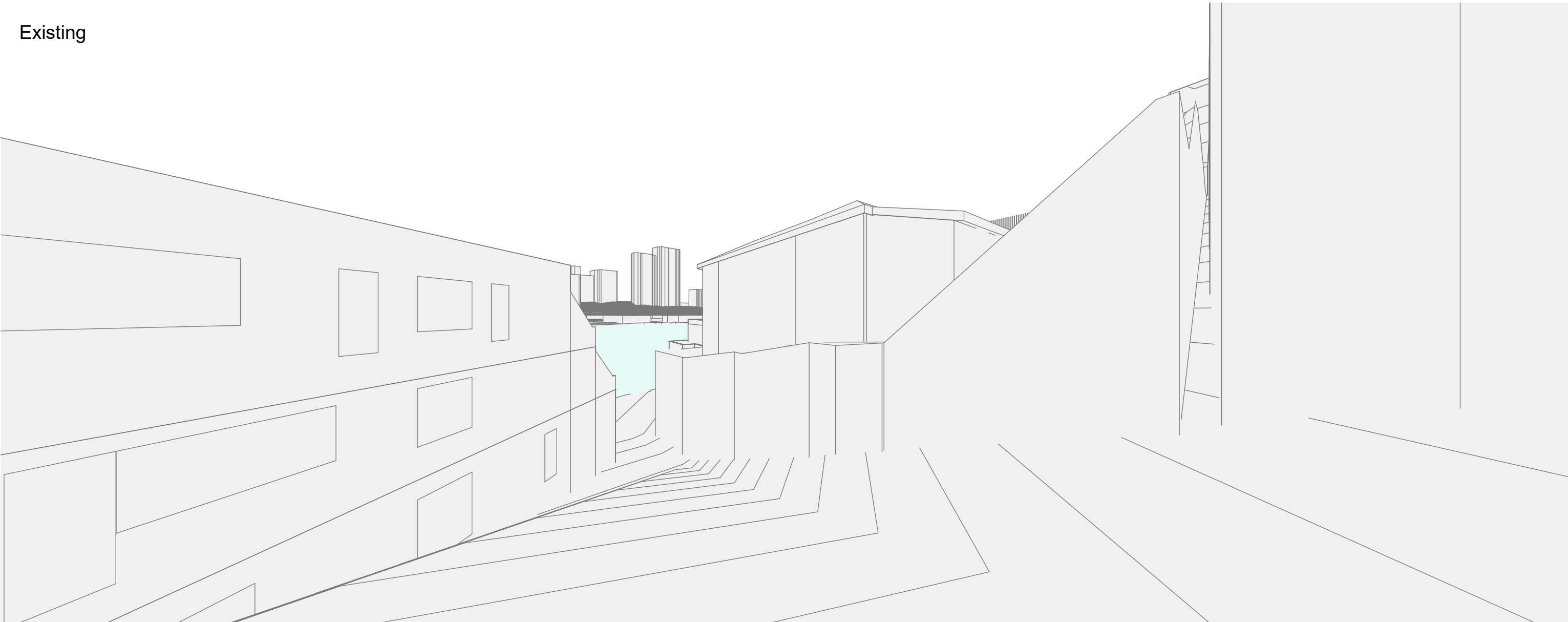




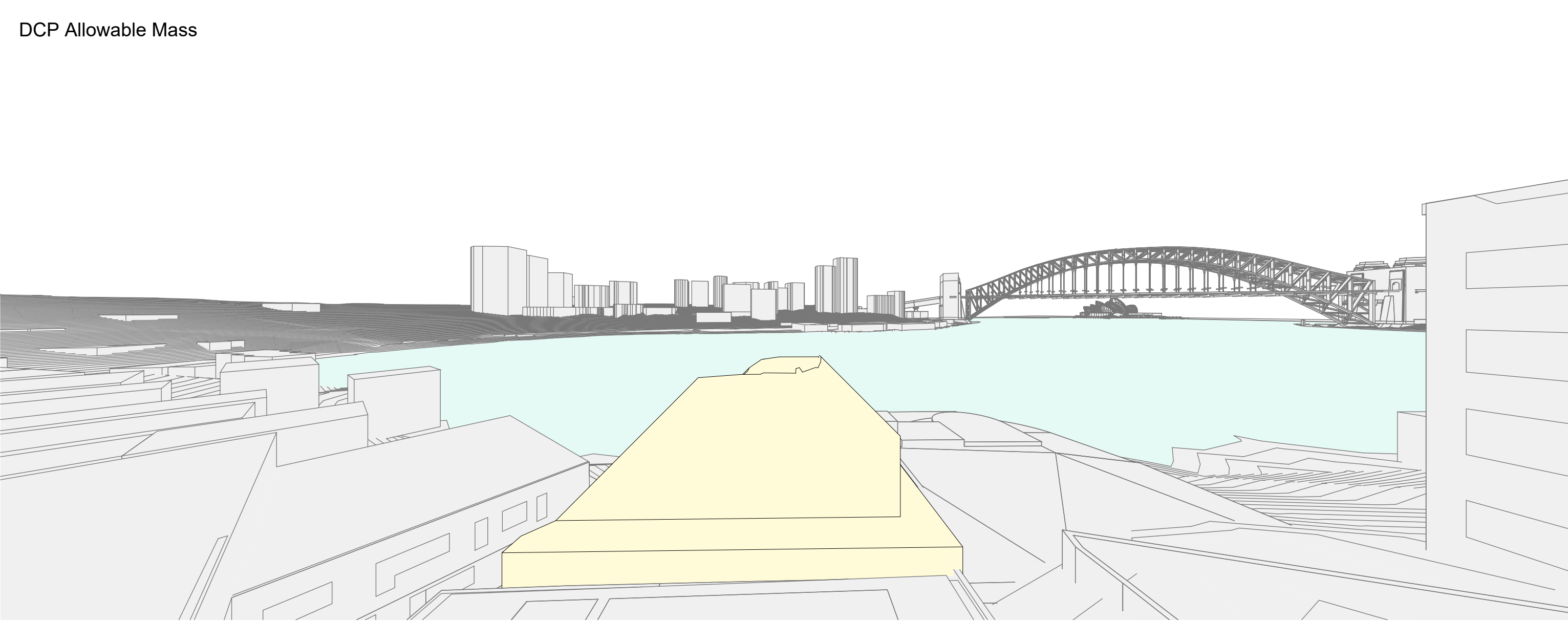
Existing



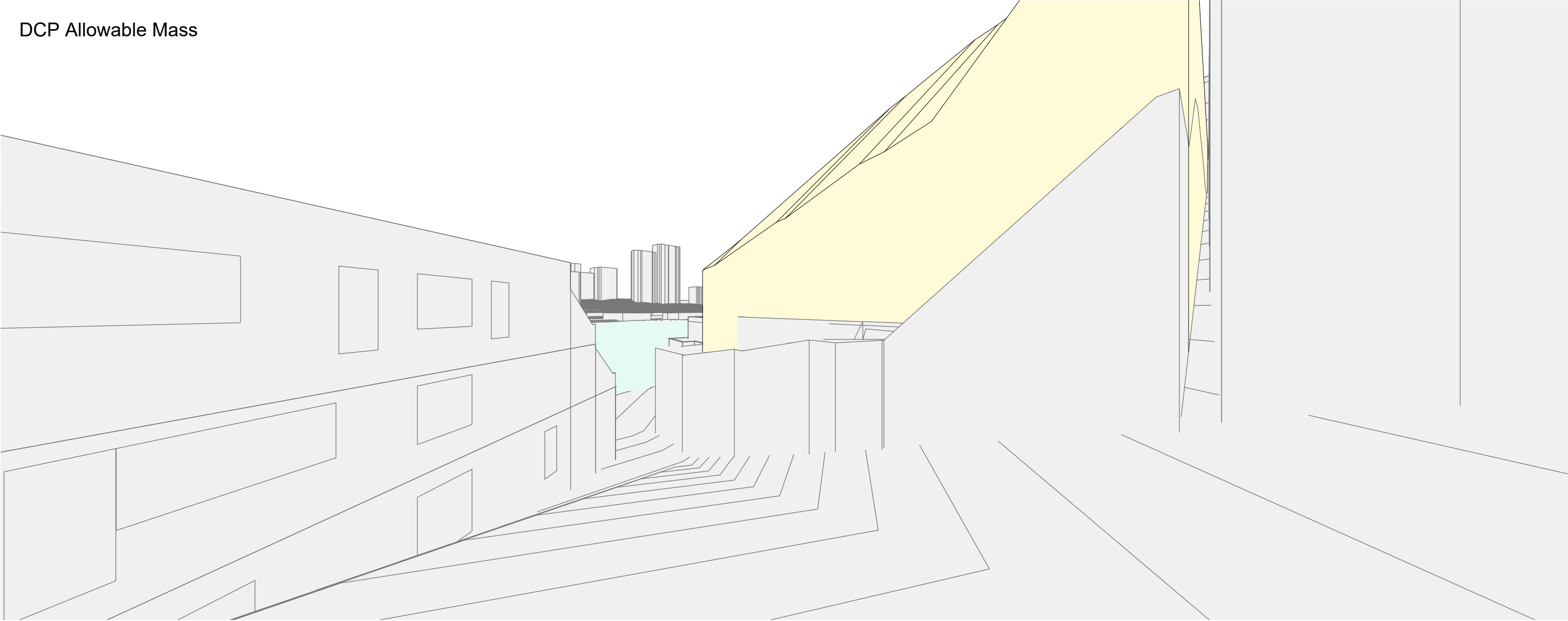
Existing



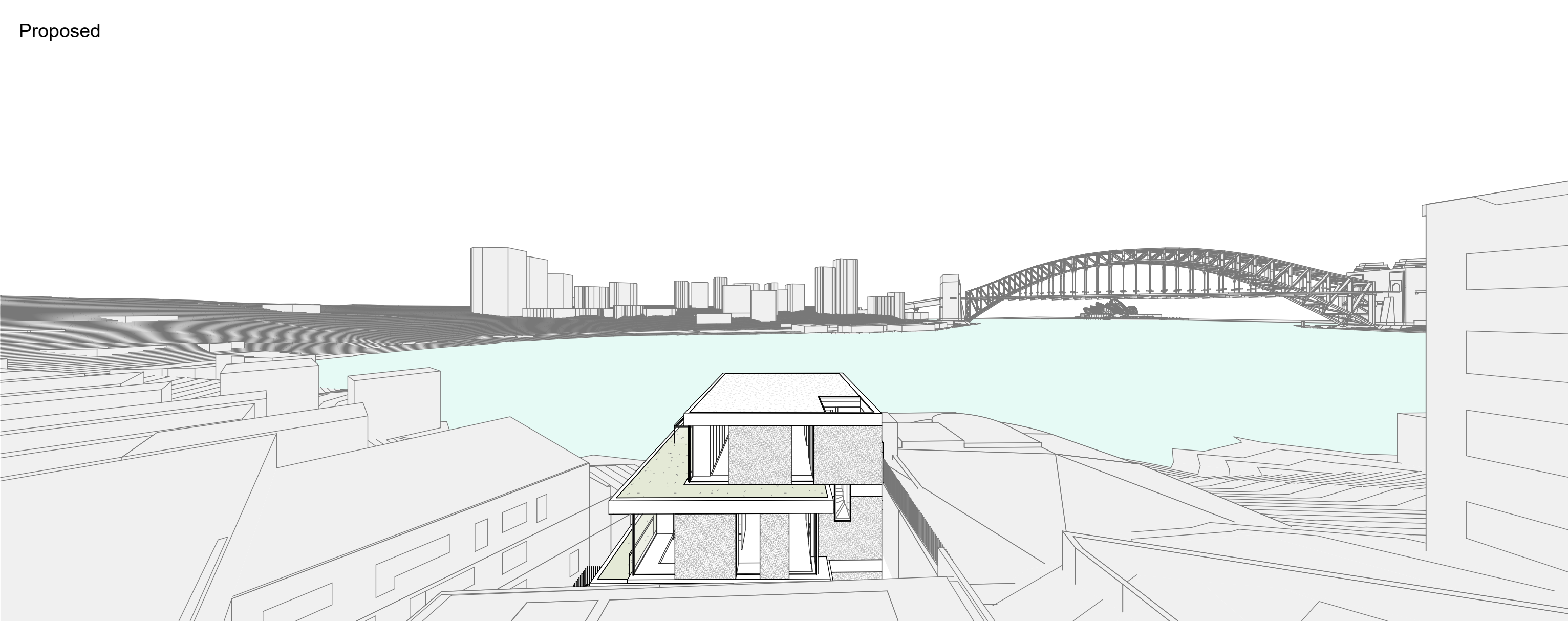
DCP Allowable Mass



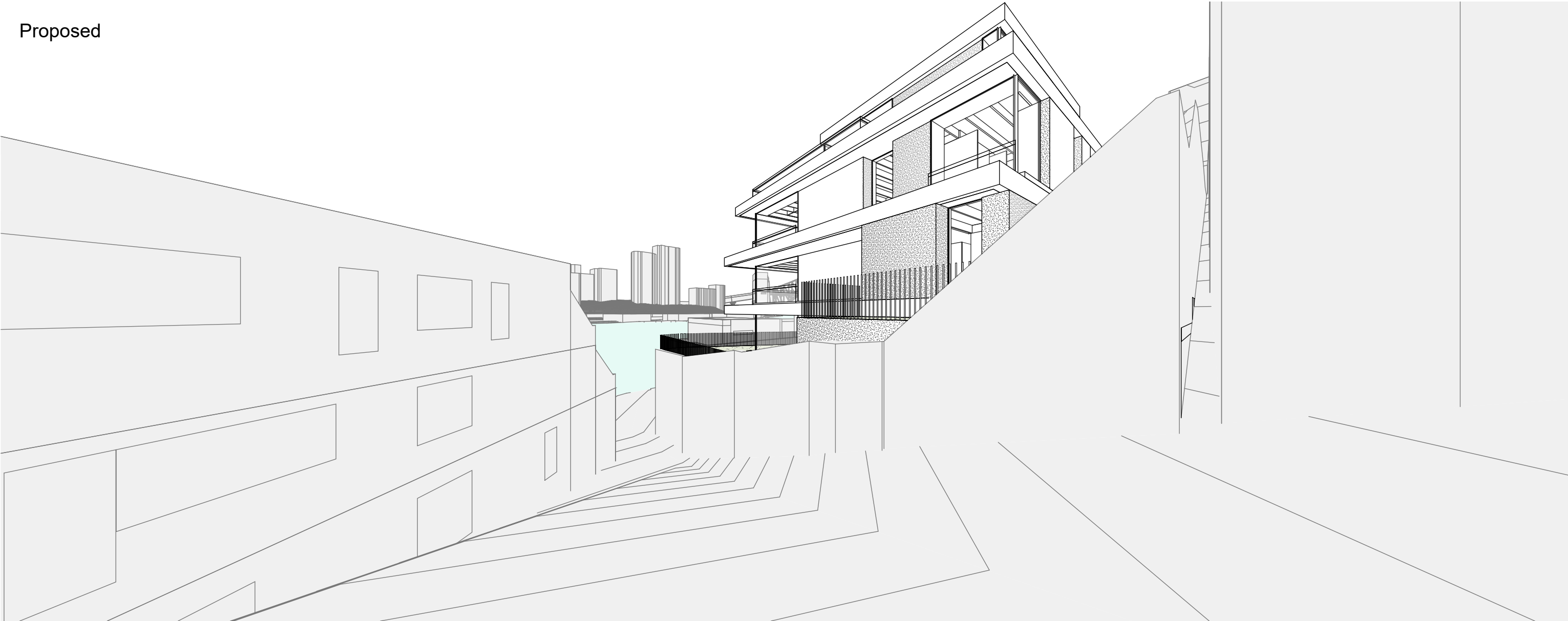
DCP Allowable Mass



Proposed

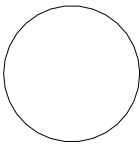


Proposed



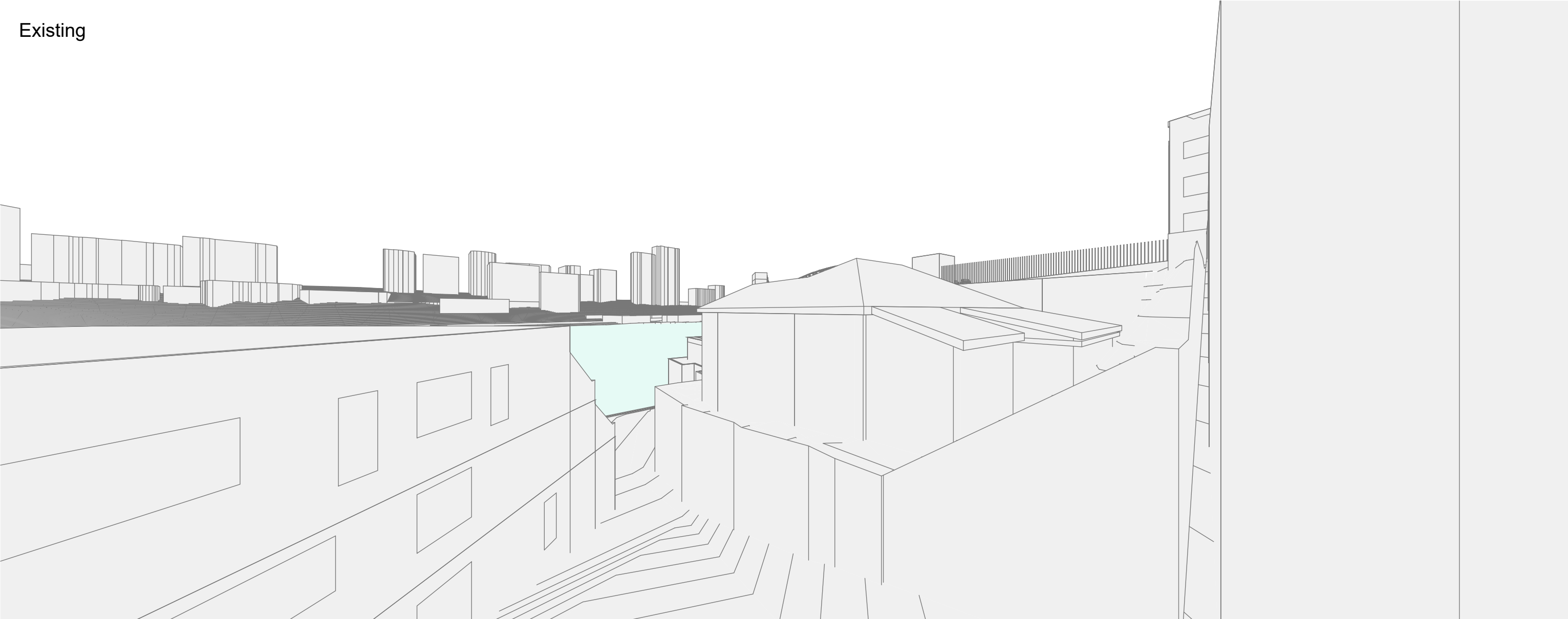
**View Impact Study 04**  
37 East Crescent Street - Third Level Balcony

**View Impact Study 05**  
1 Bay View Street - 4th Level Balcony

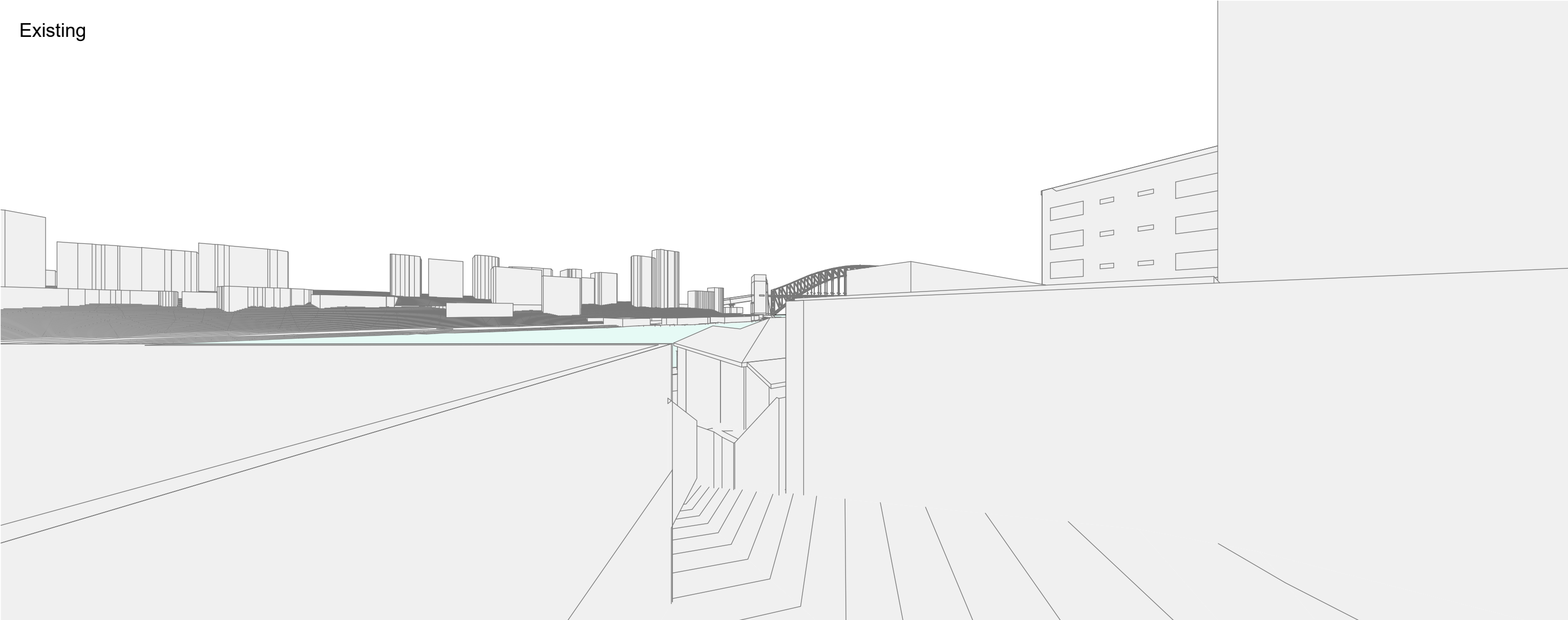




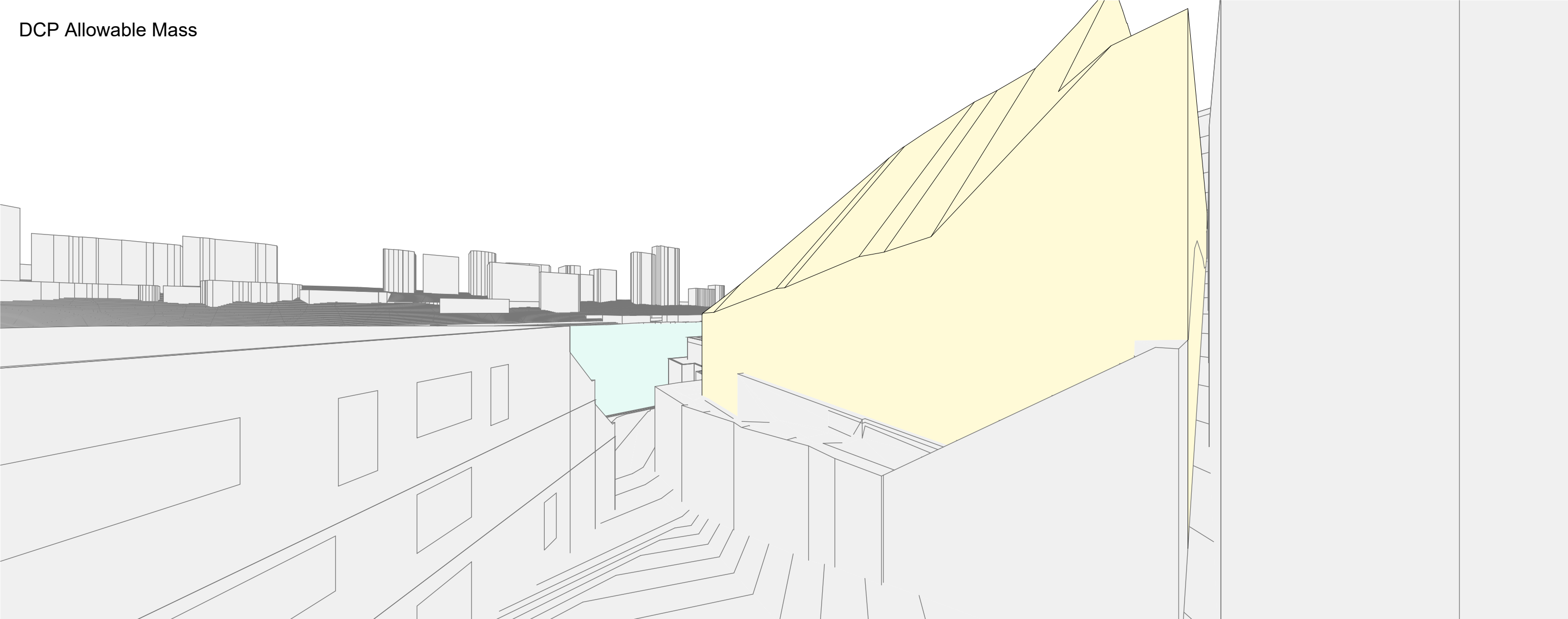
Existing



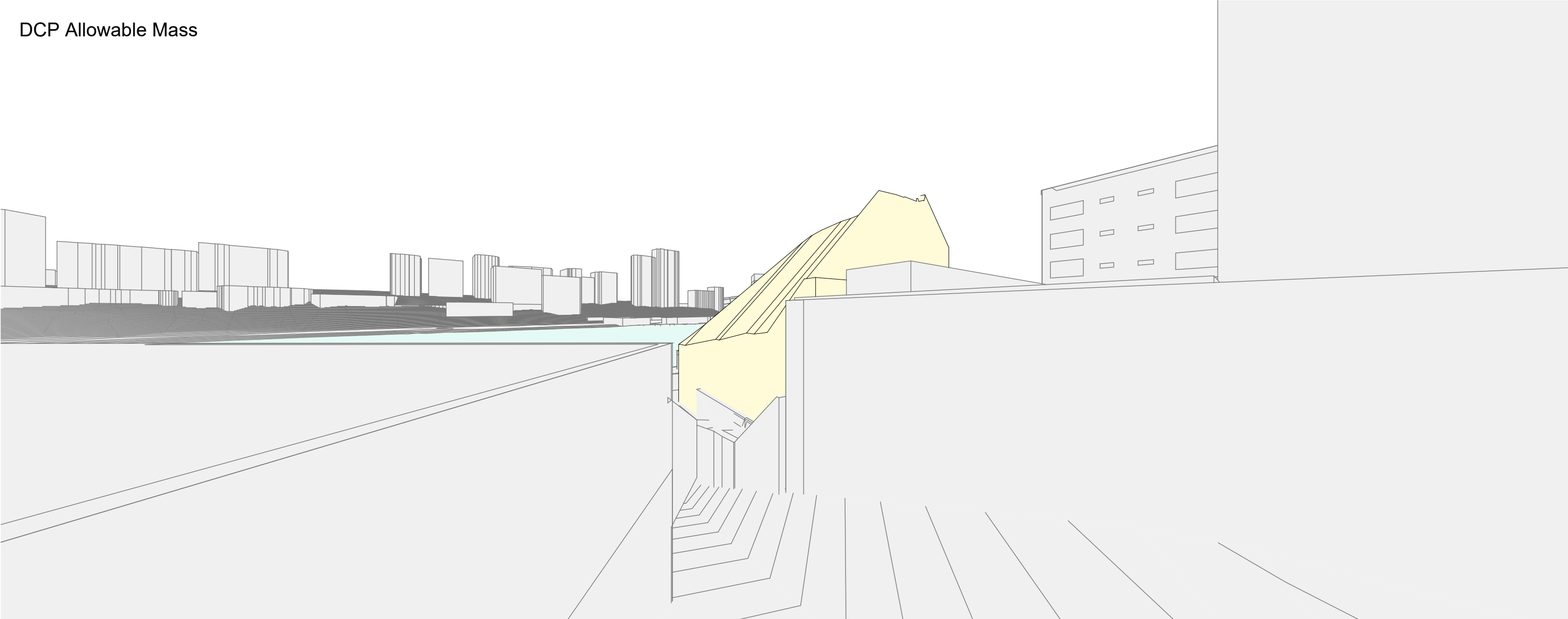
Existing



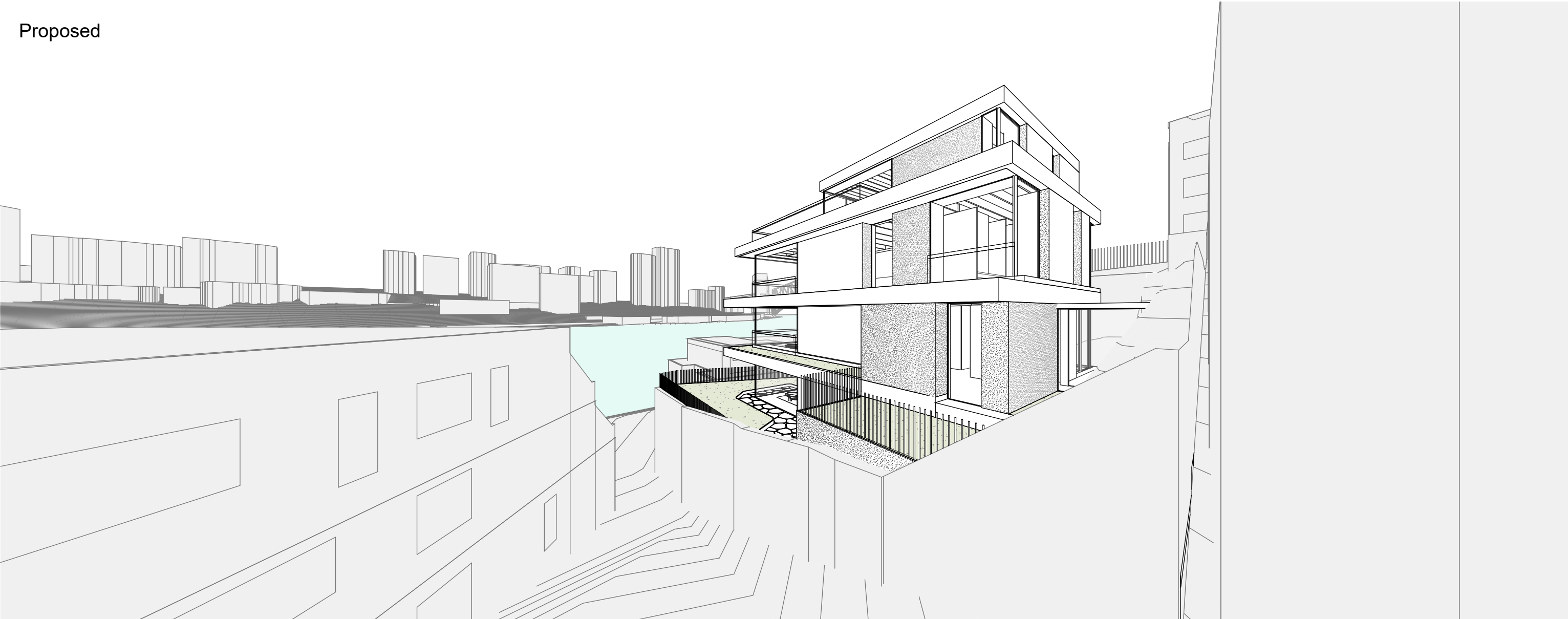
DCP Allowable Mass



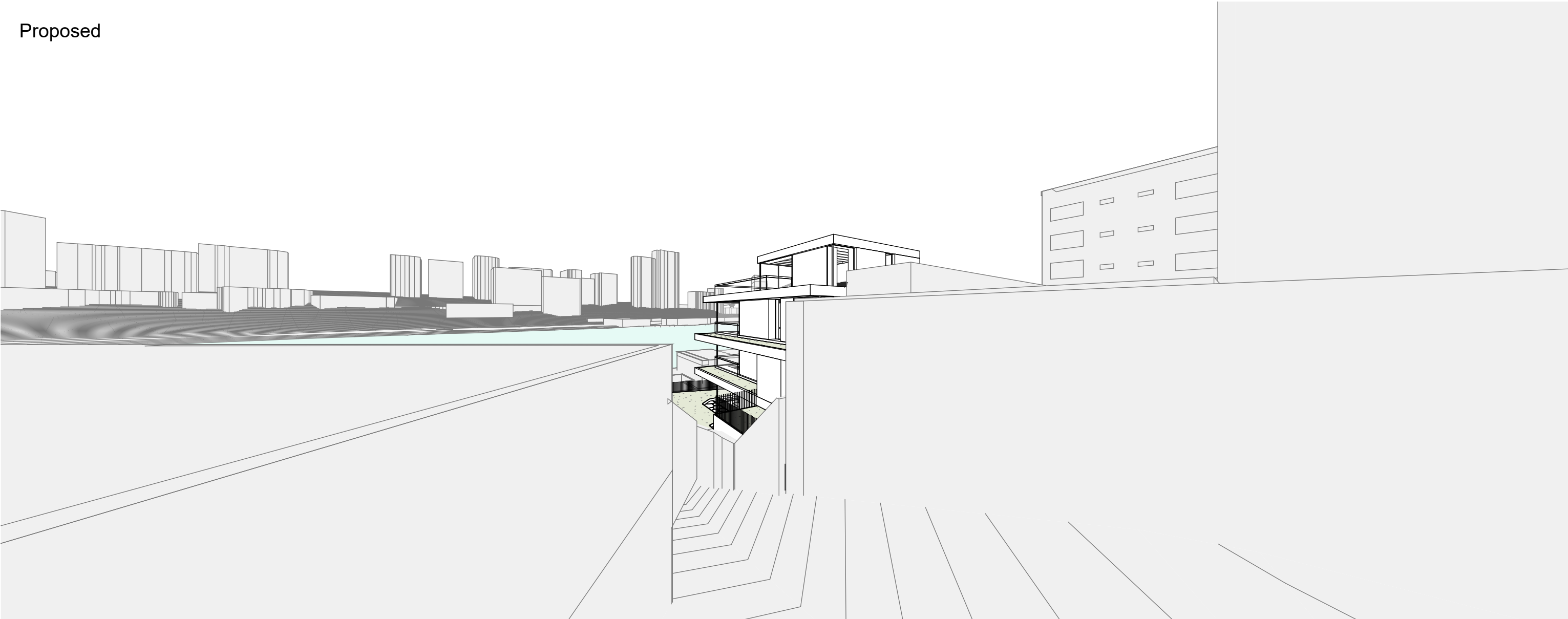
DCP Allowable Mass



Proposed

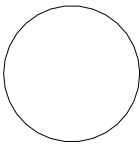


Proposed



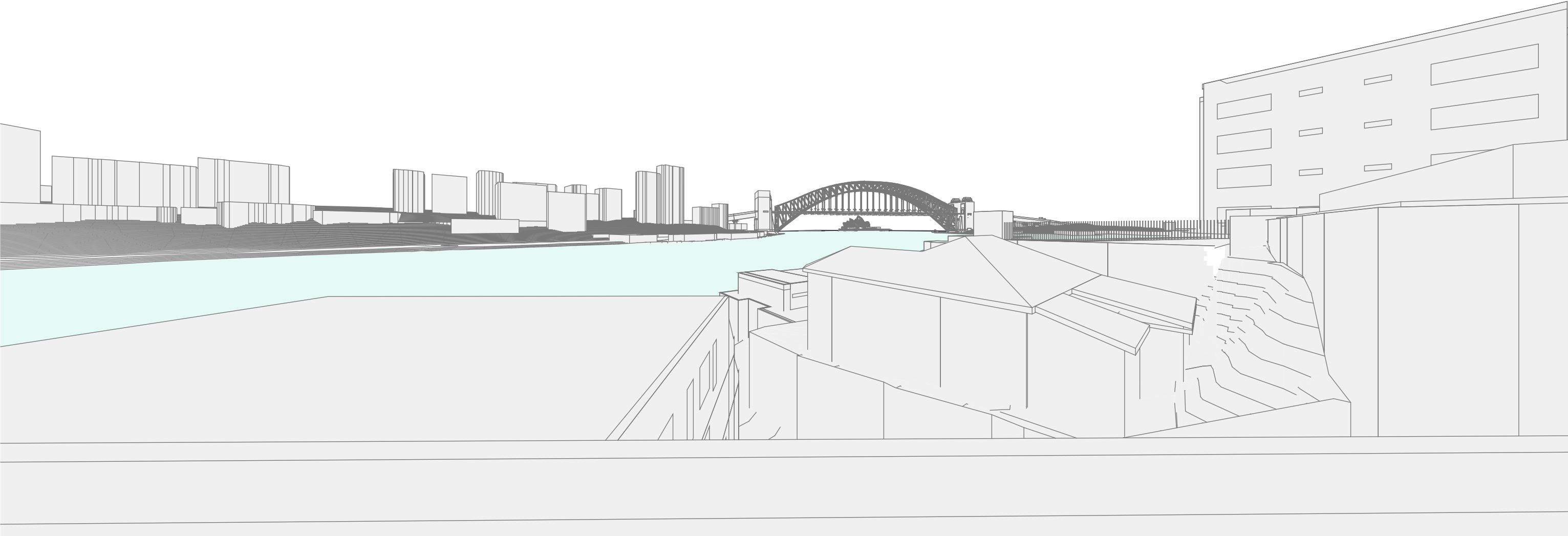
**View Impact Study 06**  
1 Bay View Street - 5th Level Balcony

**View Impact Study 07**  
1 Bay View Street - 6th Level Balcony

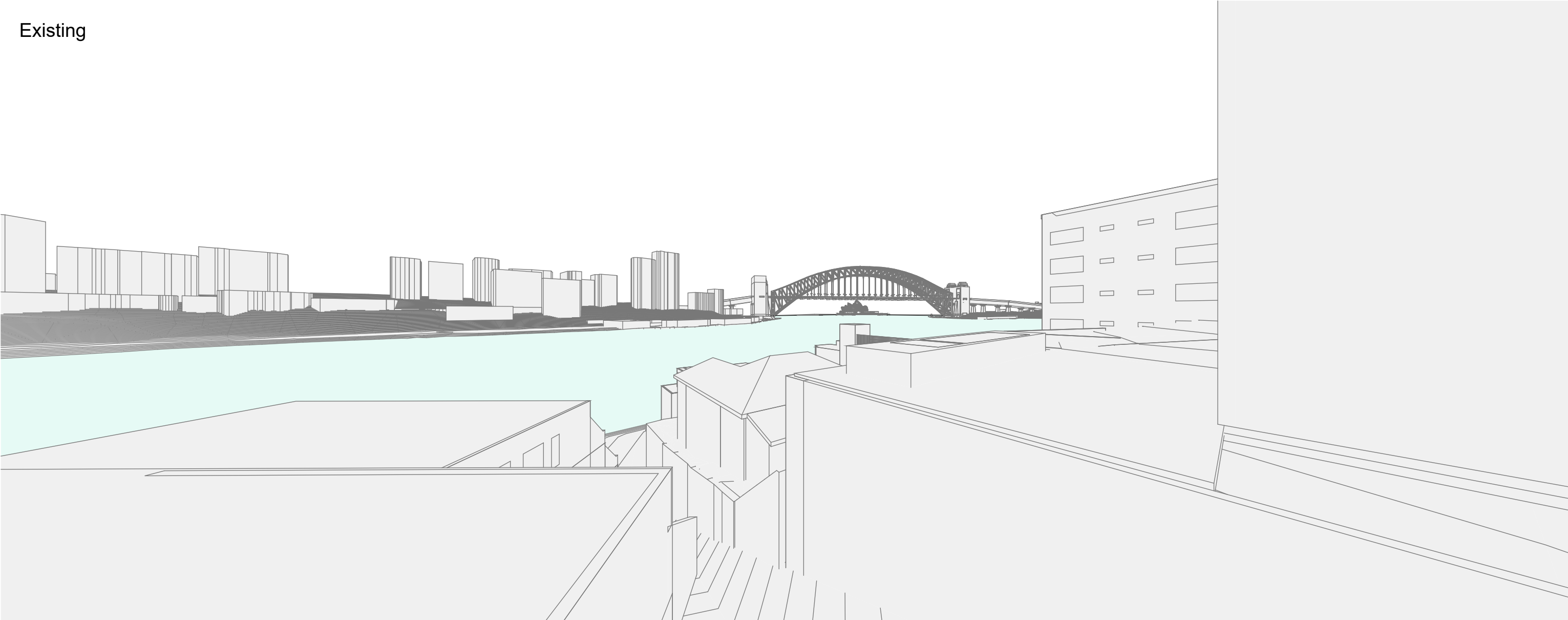




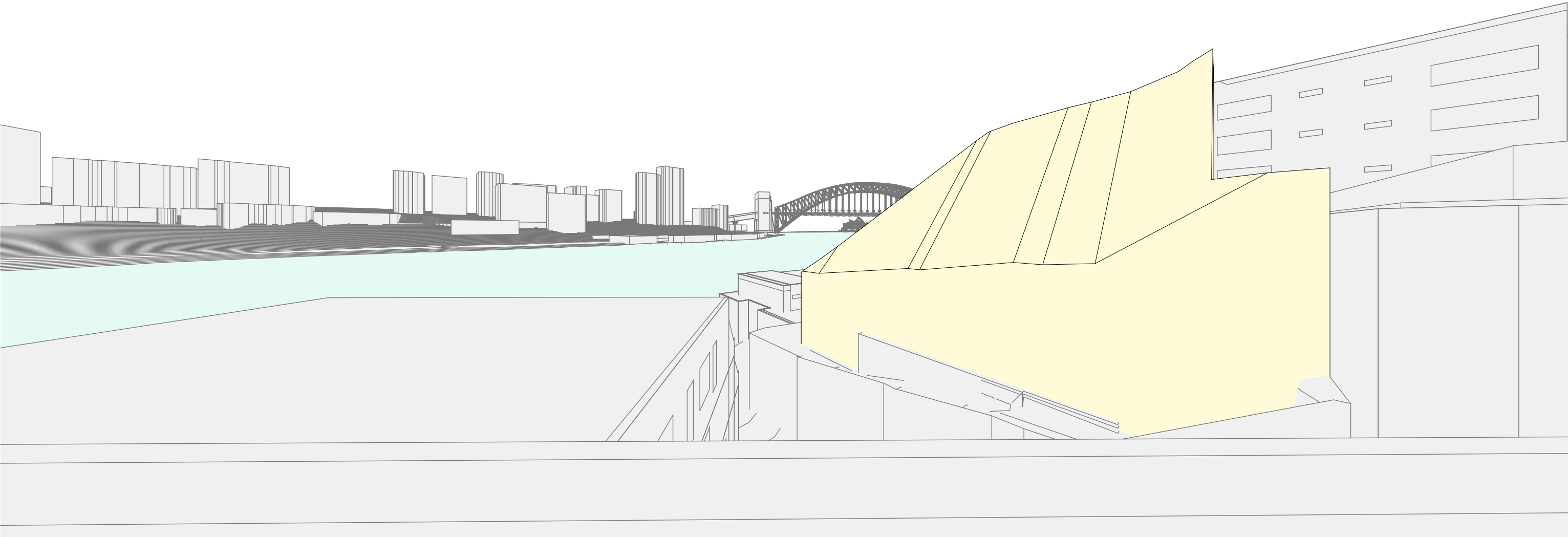
Existing



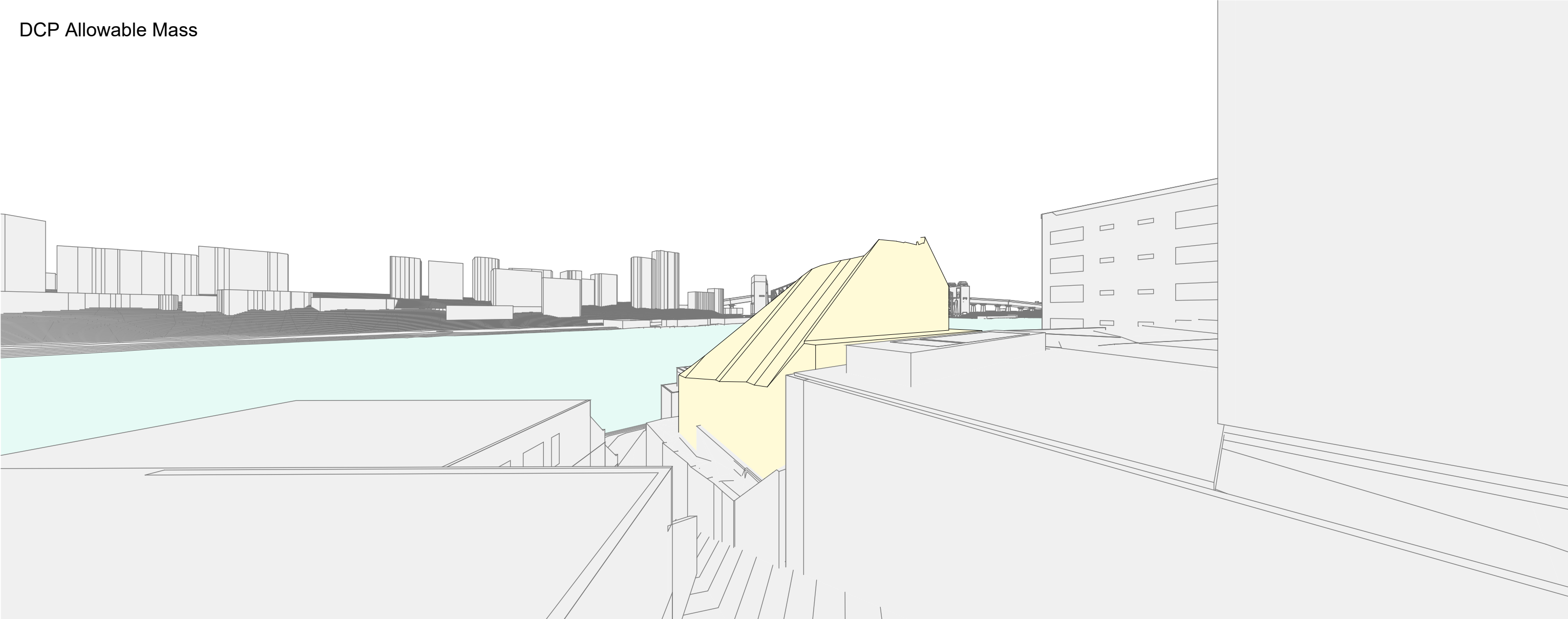
Existing



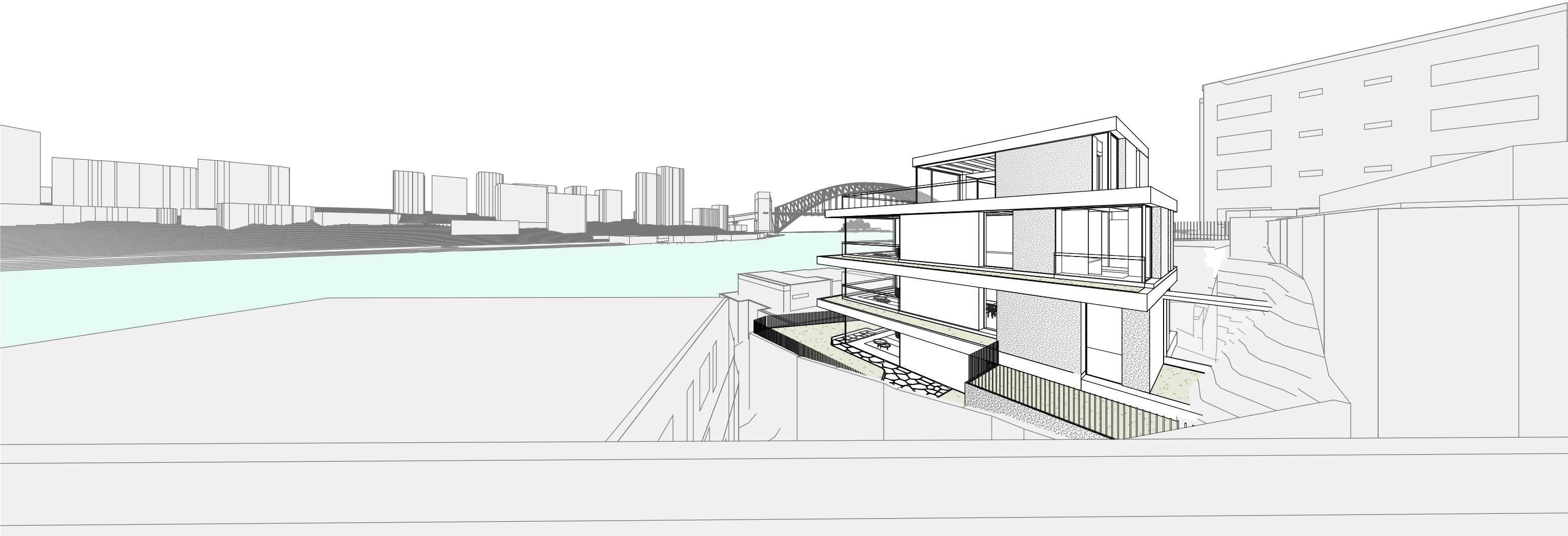
DCP Allowable Mass



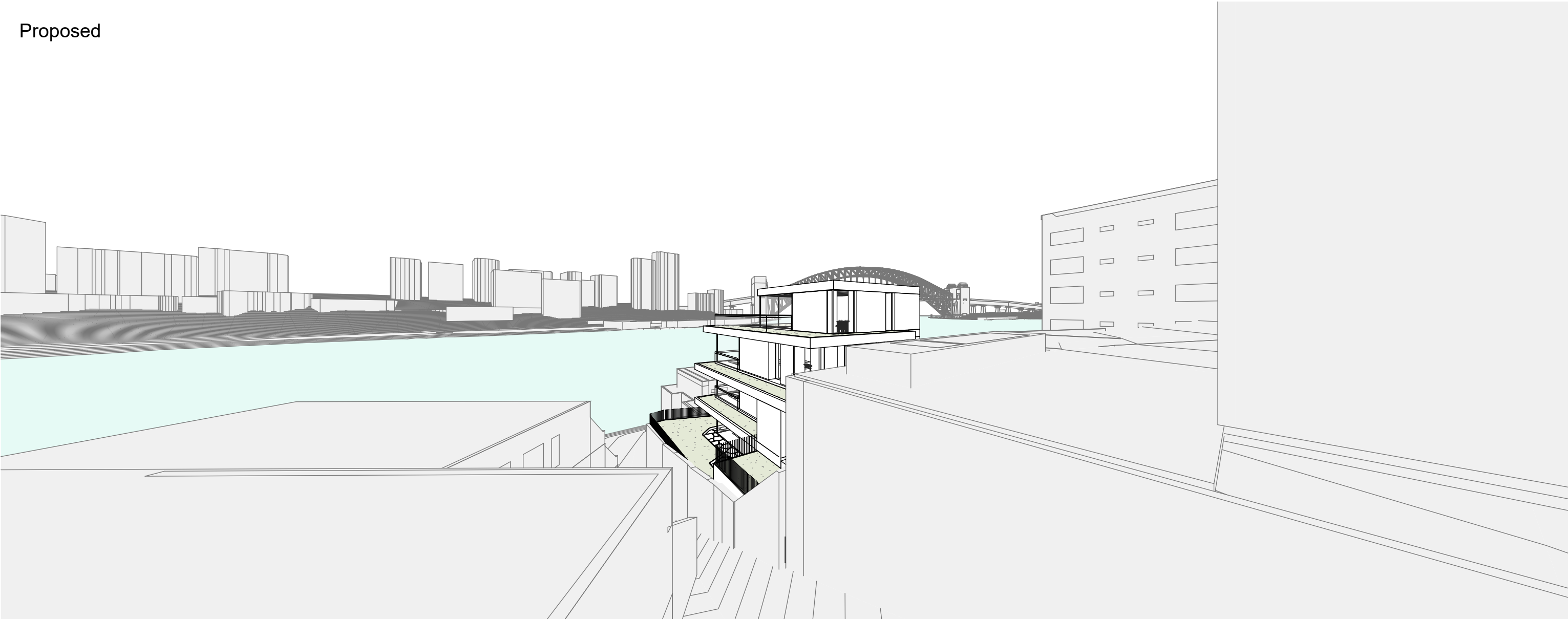
DCP Allowable Mass



Proposed

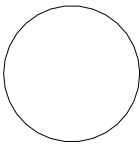


Proposed



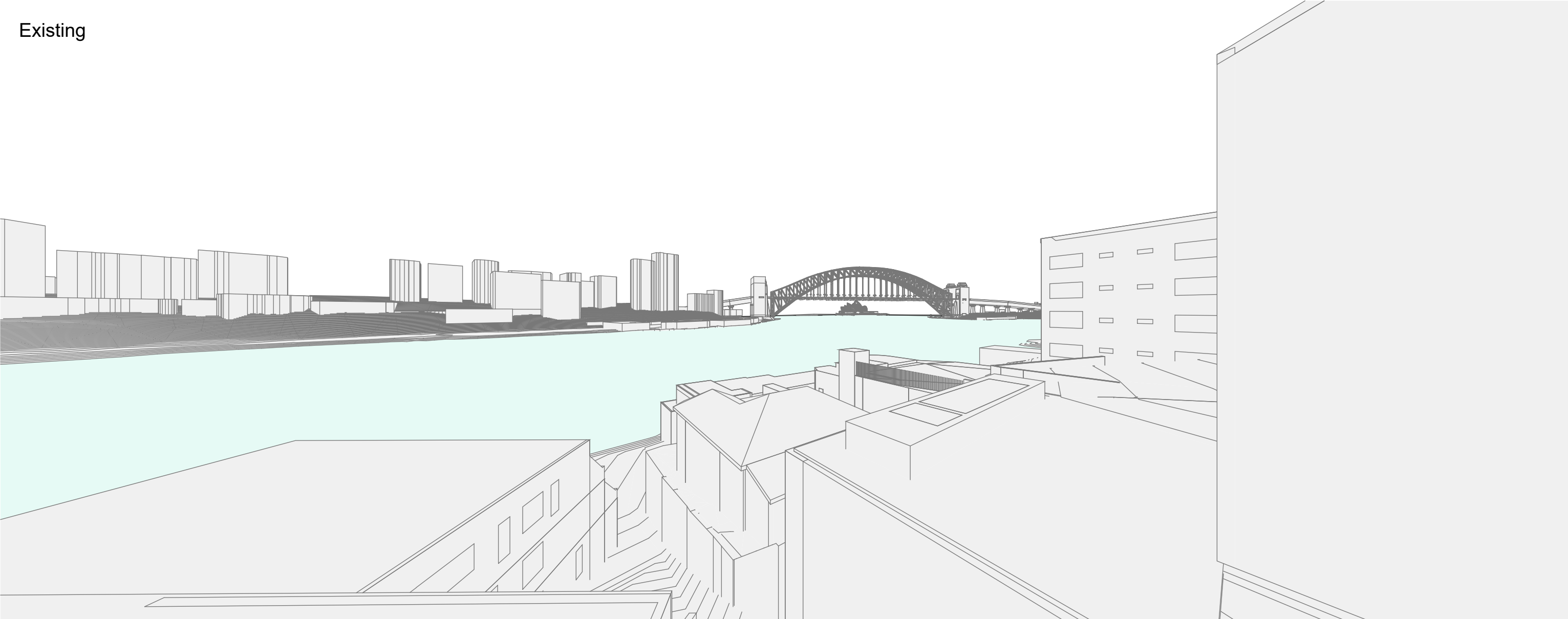
**View Impact Study 08**  
1 Bay View Street - 6th Level Terrace

**View Impact Study 09**  
1 Bay View Street - 7th Level Balcony

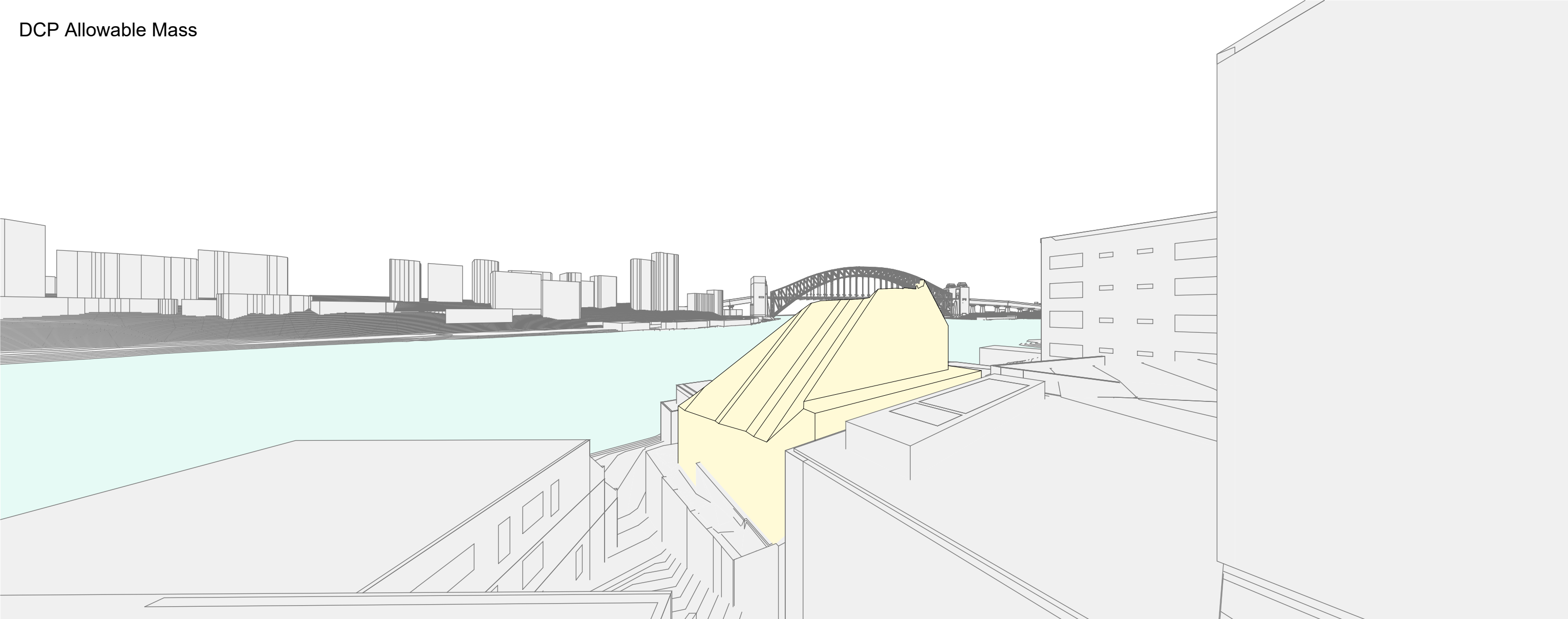




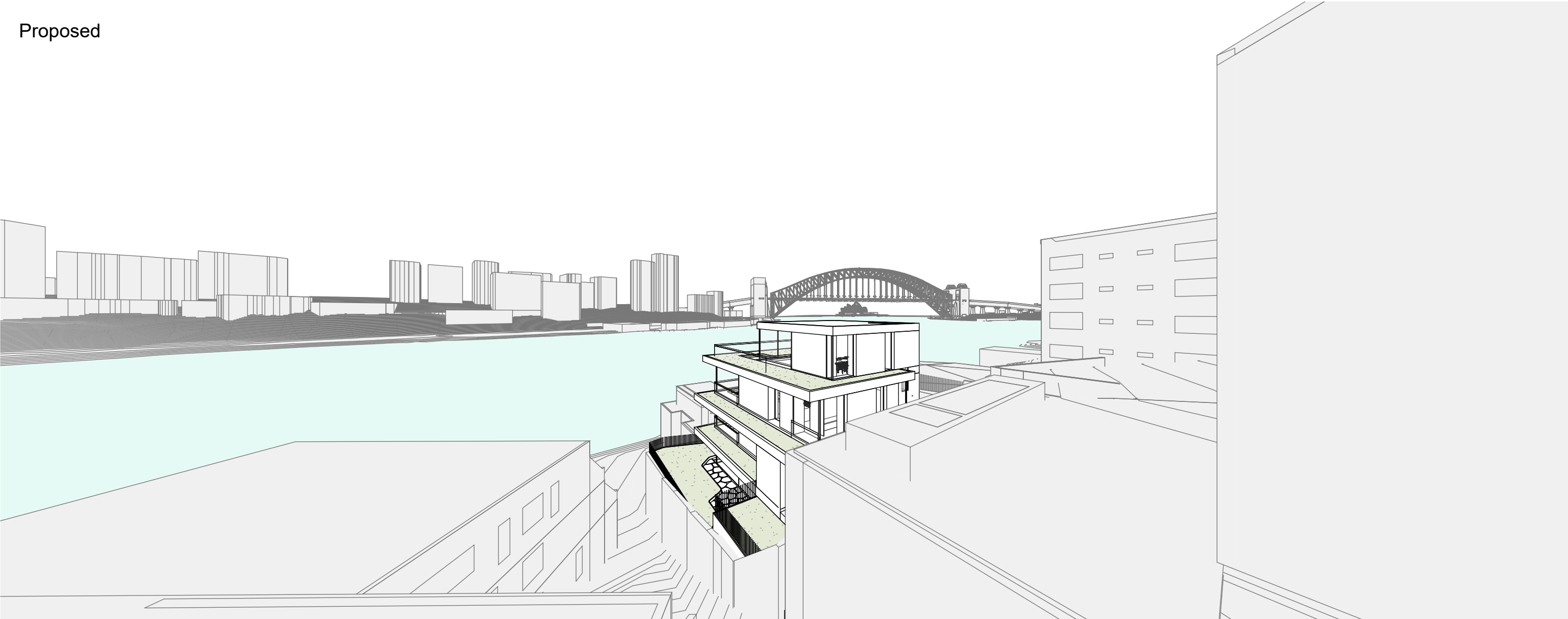
Existing



DCP Allowable Mass

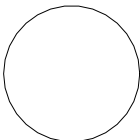


Proposed



View Impact Study 10  
1 Bay View Street - 8th Level Balcony

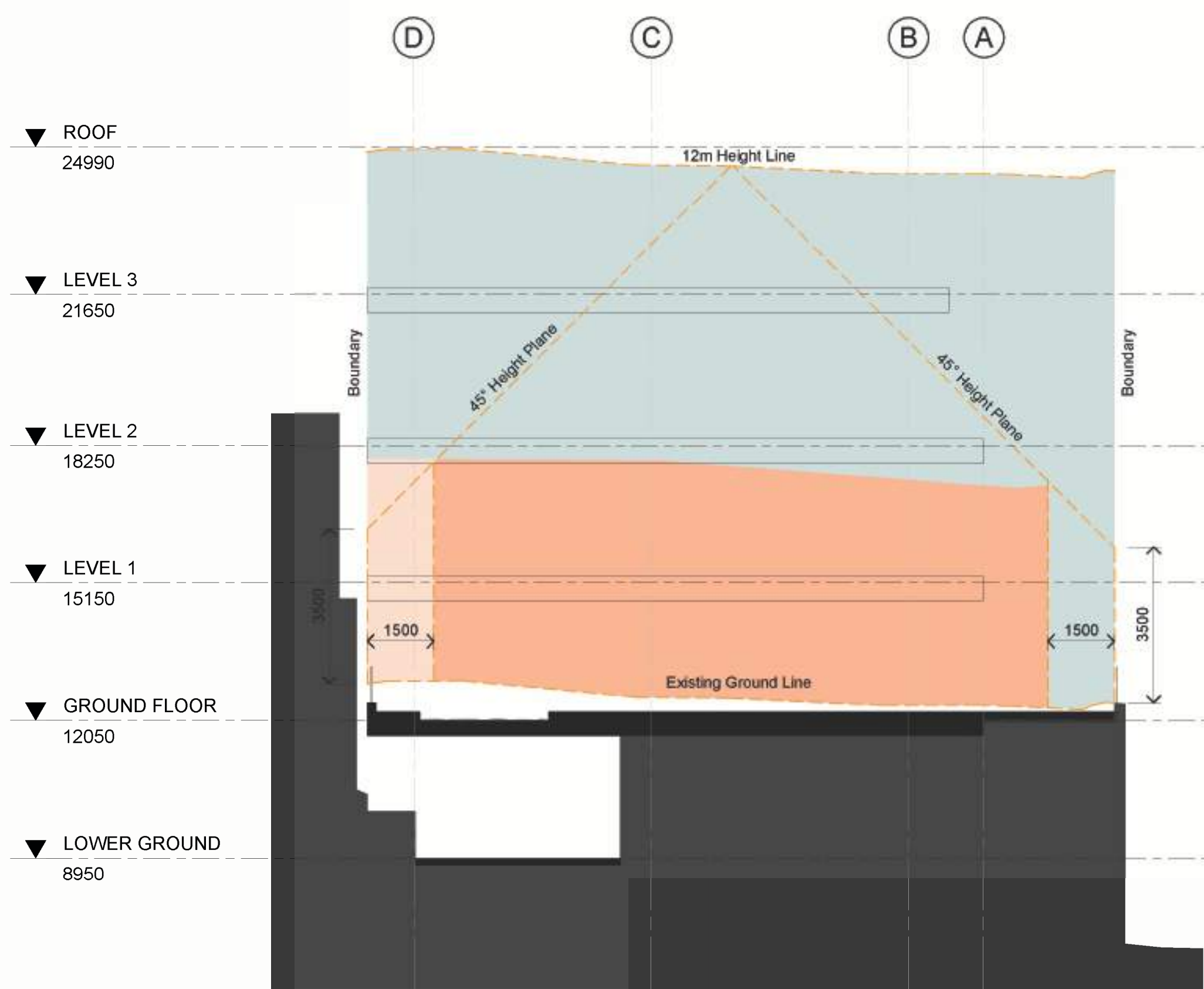
Verify all dimensions prior to commencing work. Use figured dimensions only. Do not scale drawing. If in doubt, ask. In accepting and utilising this document the recipient agrees that Craft Architecture Sydney, ABN 85234403368 retain all common law, statutory law and other rights including copyright and intellectual property rights. The recipient agrees not to use this document for any purpose other than its intended use, to waive all claims against Craft Architecture resulting from unauthorised changes, or to reuse the document on other projects without the prior written consent of Craft Architecture. Under no circumstances shall transfer of this document be deemed a sale. Craft Architecture makes no warranties of fitness for any purpose.



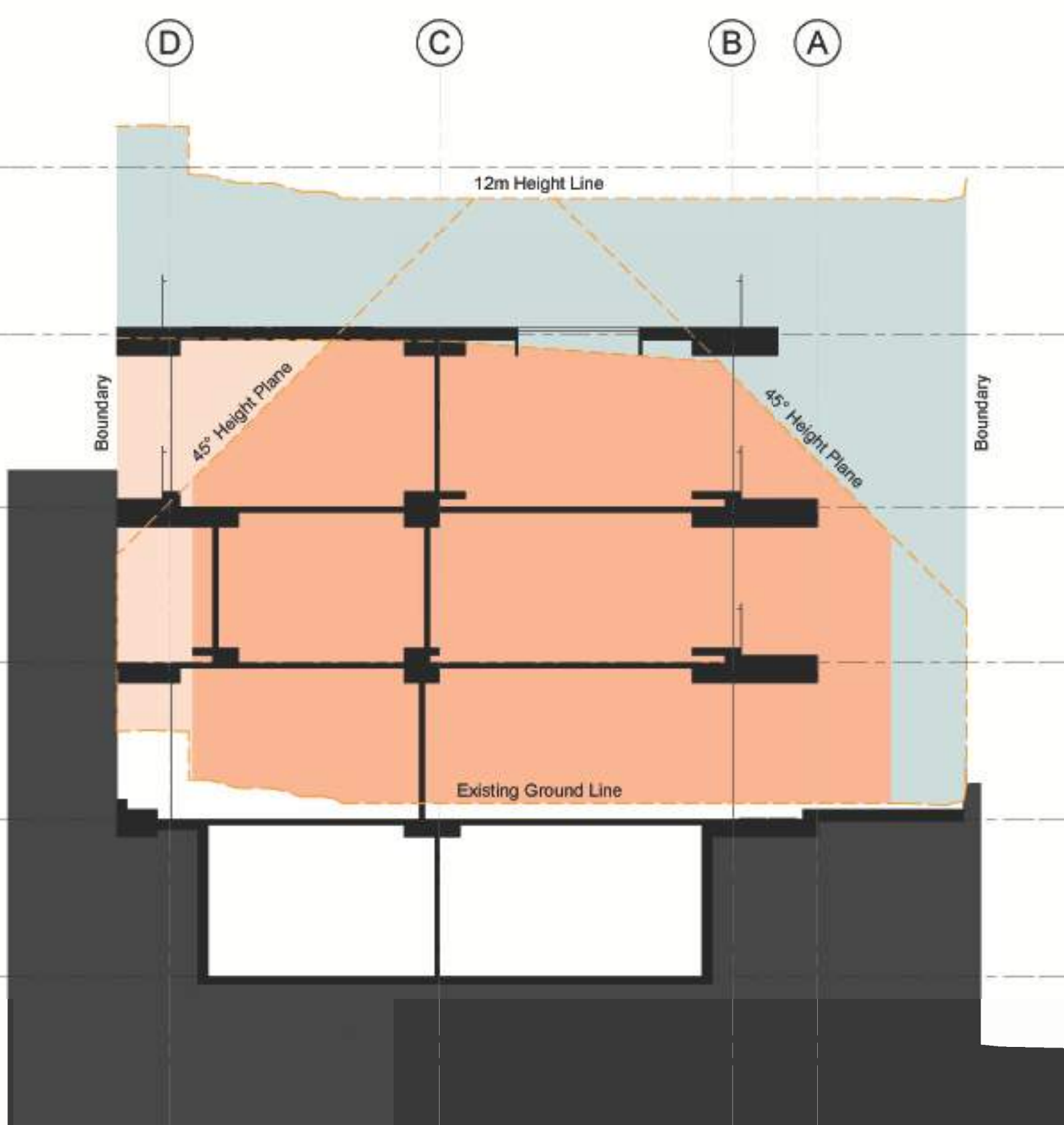
REVISIONS			
02	04.07.2024	DA Resubmission	
03	20.08.2024	DA Add'l Information	

VIEW ANALYSIS SHEET 6			
Drawn	AB		
Checked	CP		
Project No.	23.11	DA-3306	/03

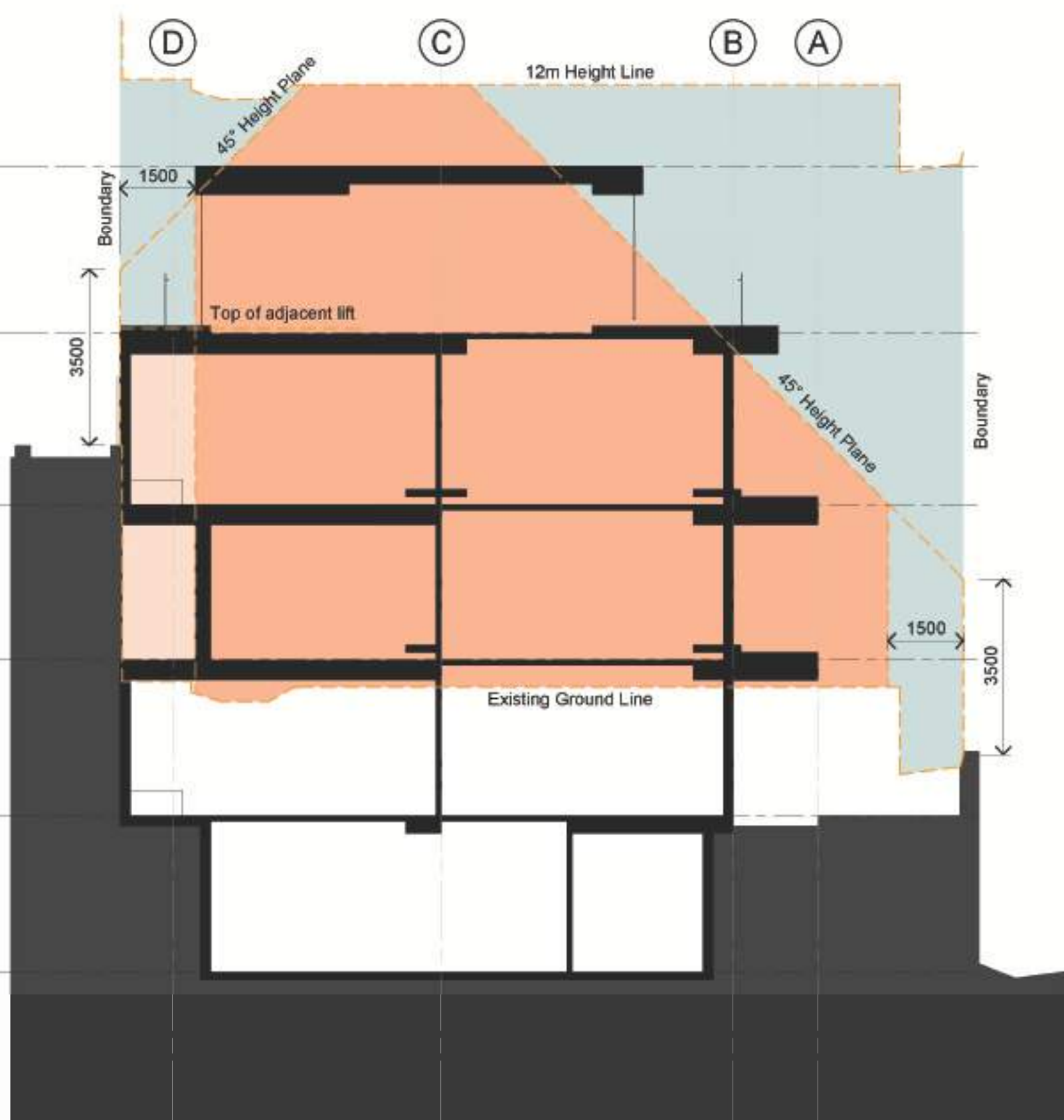




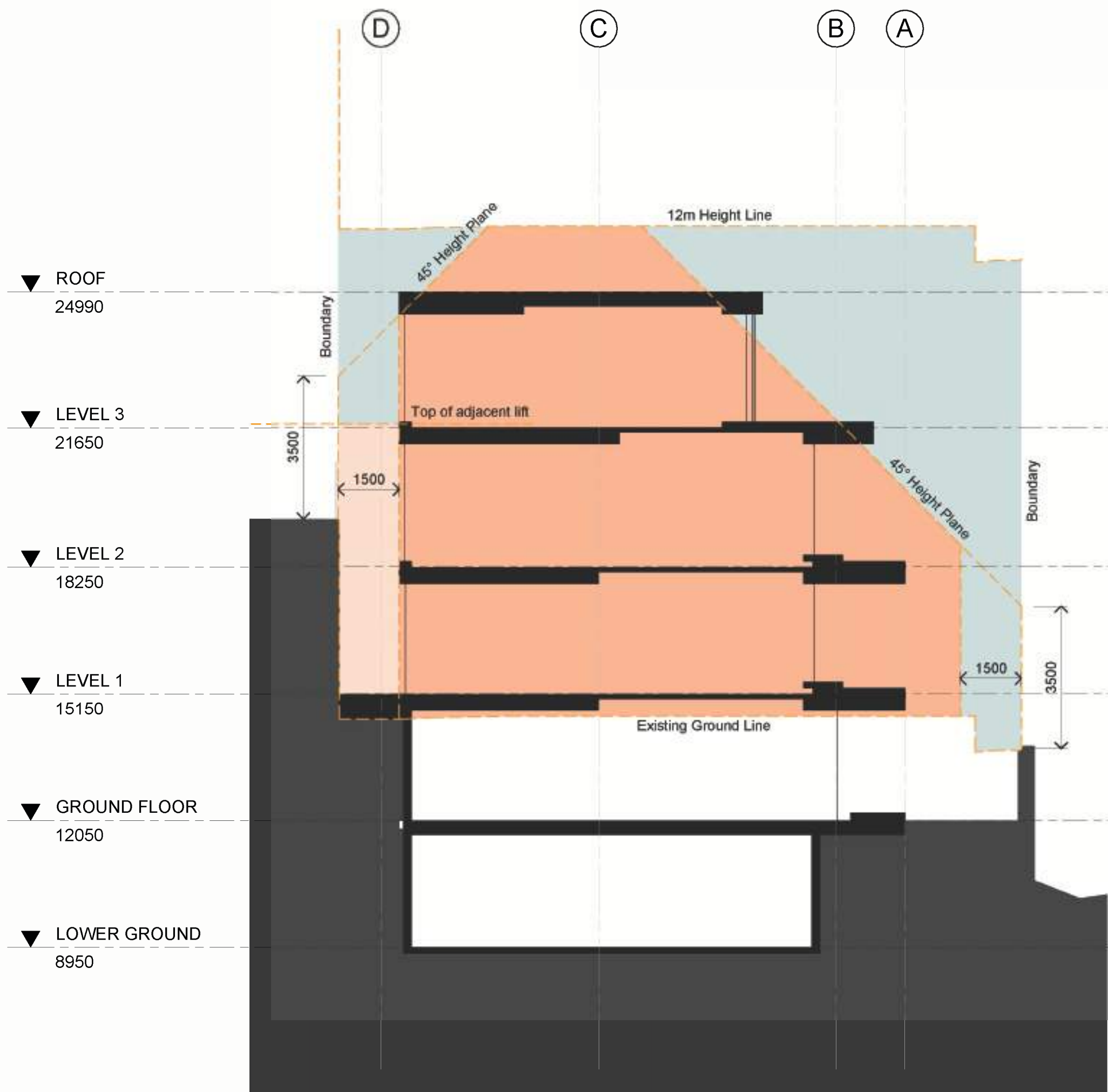
Envelope Analysis - Section 1



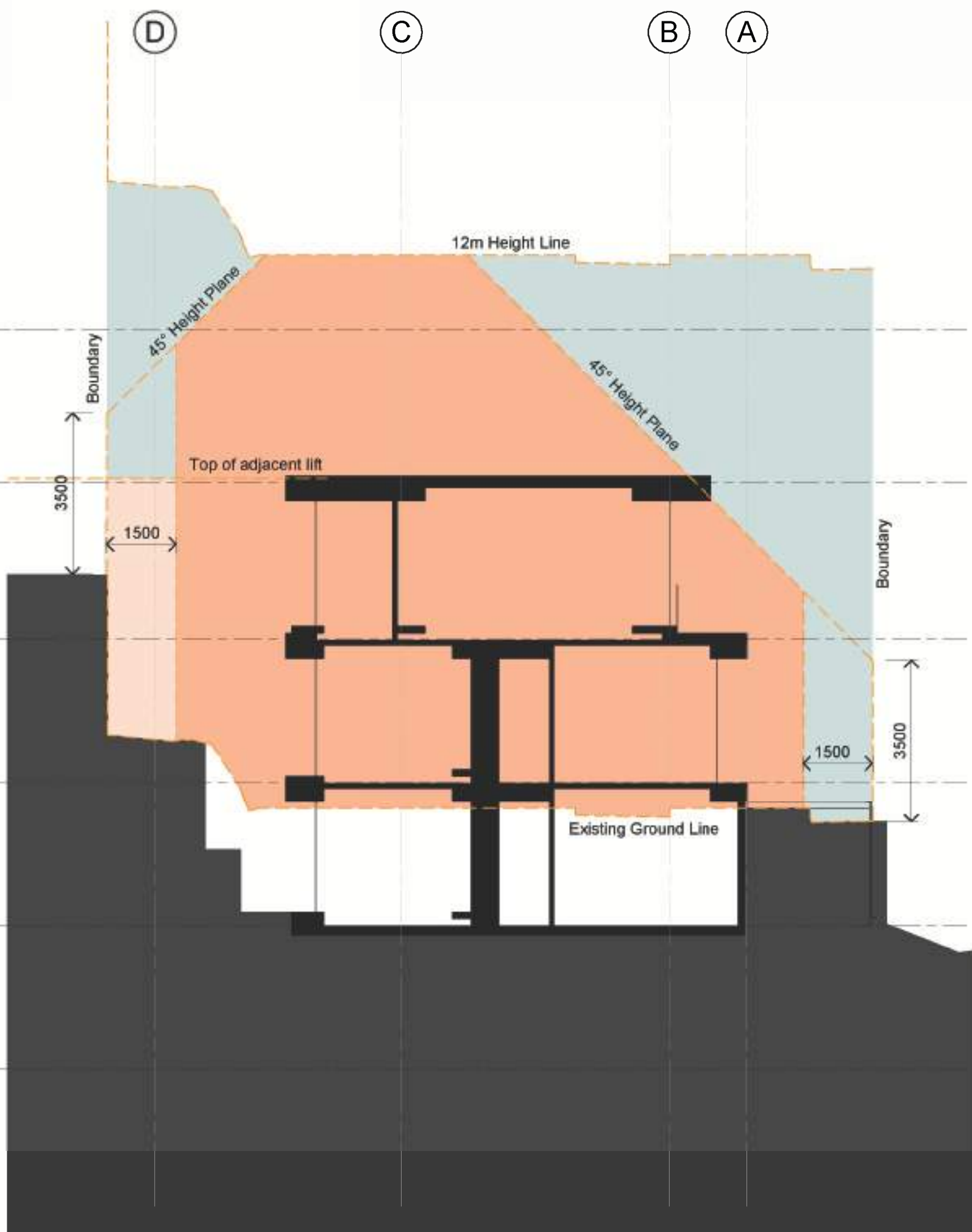
Envelope Analysis - Section 2



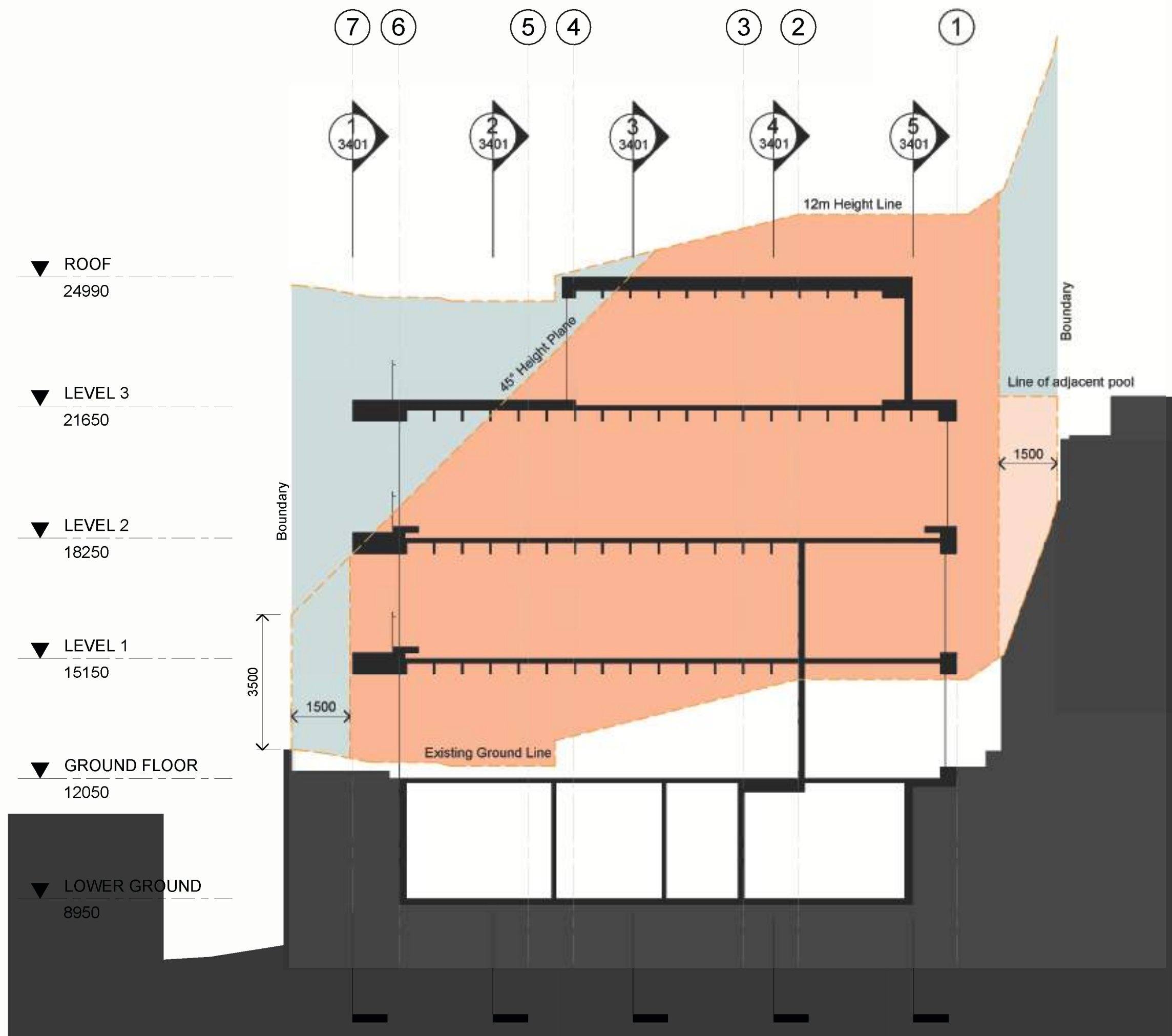
Envelope Analysis - Section 3



Envelope Analysis - Section 4



Envelope Analysis - Section 5



Envelope Analysis - Section 6

- LEP Height Plane
- DCP Envelope
- Zero metre setback to align with surrounding development

