



NSLPP MEETING HELD ON 09/07/2025

Attachments:

1. Site Plan
2. Architectural Plans
3. Clause 4.6 Variation - Height of Buildings
4. Survey Plan

ADDRESS: 54 Victoria Street, McMahon's Point

APPLICATION No: DA 46/2025

PROPOSAL: Alterations and additions to existing commercial premises

PLANS REF:

Plan No.	Rev	Description	Prepared by	Dated
DA 00	B	Site Plan	COSO	20/05/2025
-	B	Proposed Ground Floor	COSO	20/05/2025
-	B	Proposed First Floor	COSO	20/05/2025
DA 04	B	Proposed Roof Plan	COSO	20/05/2025
DA 05	B	Proposed South East Elevation	COSO	20/05/2025
DA 06	B	Proposed North West Elevation	COSO	20/05/2025
DA 07	B	Proposed South West Elevation	COSO	20/05/2025
DA 08	B	Proposed North East Elevation	COSO	20/05/2025
DA 09	B	Proposed Section A-A	COSO	20/05/2025
DA 10	B	Proposed Section B-B	COSO	20/05/2025
DA 11	B	Proposed Section C-C	COSO	20/05/2025

OWNER: Freshon Pty Limited

APPLICANT: COSO Architecture

AUTHOR: Thomas Holman, Senior Assessment Officer

DATE OF REPORT: 02 June 2025

DATE LODGED: 21 March 2025

AMENDED: 20 May 2025

RECOMMENDATION: Approved

EXECUTIVE SUMMARY

This development application seeks consent for alterations and additions to a building in use as an office premises. The works principally entail new internal layouts to the ground and first floor and alterations to the rear façade replacing the existing brick façade with aluminium framed glazing and fibre cement cladding. A new pedestrian entry lift and stair access from the rear car parking is proposed.

The application is reported to the North Sydney Local Planning Panel for determination as the application relates to alterations which exceed 10% of the height of building standard in accordance with the Minister's Directions.

The existing building height would remain however there are new works which exceeds the 8.5m maximum height of building being a variation in the height standard of 1.5m or 17.64%. A written request has been submitted pursuant to clause 4.6 in NSLEP 2013 which demonstrates that compliance with the development standard is unreasonable and unnecessary as the objectives of the standard are achieved notwithstanding the variation, and that there are sufficient environmental planning grounds to justify the variation in the circumstances of the case.

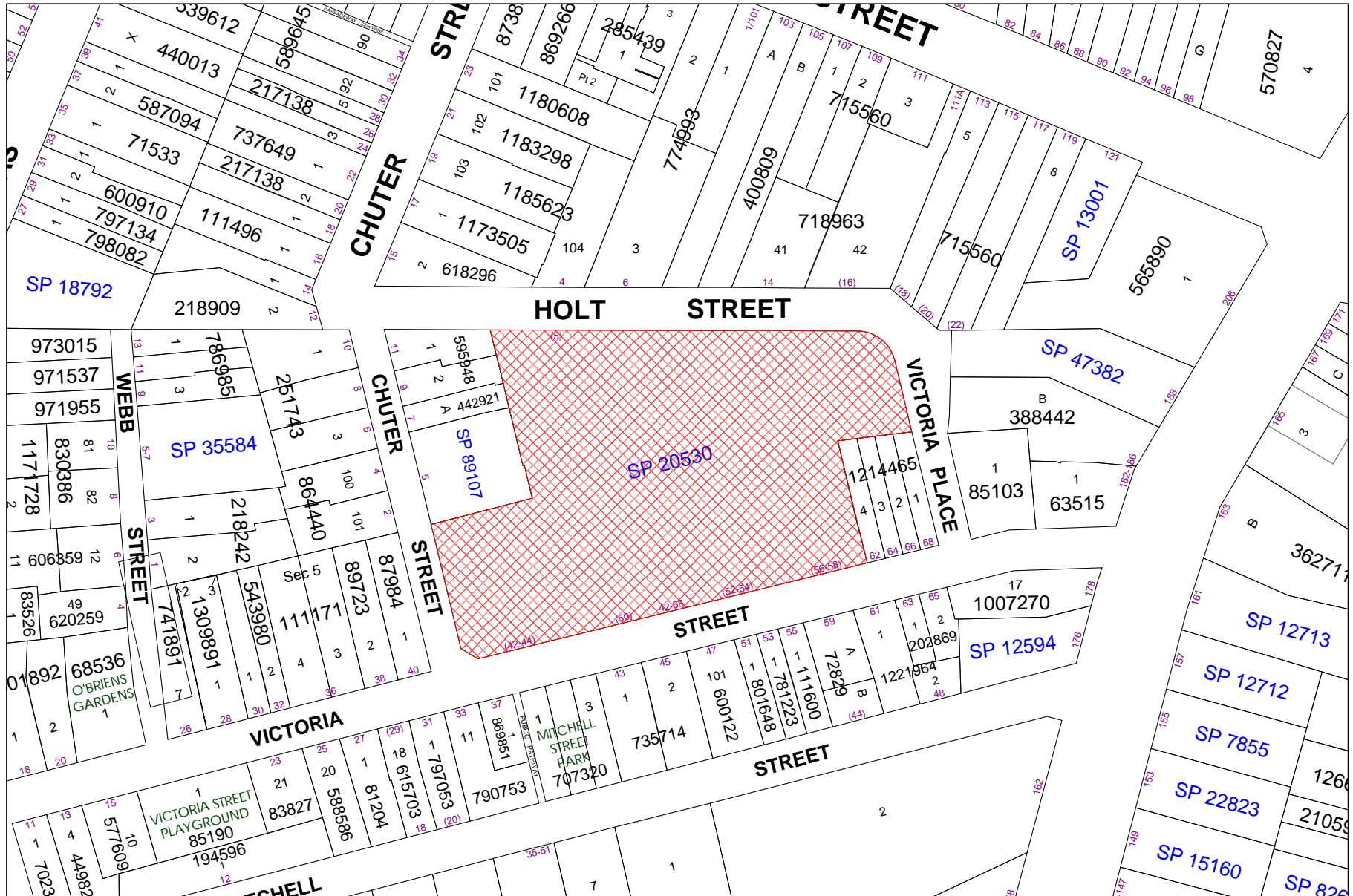
The development has been subject to notification to adjoining properties and no submissions have been received. The development achieves a satisfactory outcome investing in the continued use of the building as an office premises providing a core facility and service in the E3 Productivity Support Zone.

The development proposes a compact provision of stairs and a wheelchair lift which is a supportable outcome achieving improved ease of access to the building and minimising the impact to manoeuvring and accommodation of vehicles in the car park.

The development application is supported by a BCA Upgrade Report and subject to conditions of consent the building will have an improved outcome in conformity with the current BCA in particular improving the safety of people using the building and adjoining buildings.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific conditions.

LOCATION MAP



DESCRIPTION OF PROPOSAL

The applicant is seeking development consent for alterations and additions to the office premises at 54 Victoria Street. Below is a summary of the scope of works:

Rear (North West) Elevation Façade Works

- Replacement of existing brickwork with steel framed glazing and removal of existing awning and externally mounted A/C equipment.
- New entry lift and stair access from the rear car parking to the Ground Floor Tenancy.

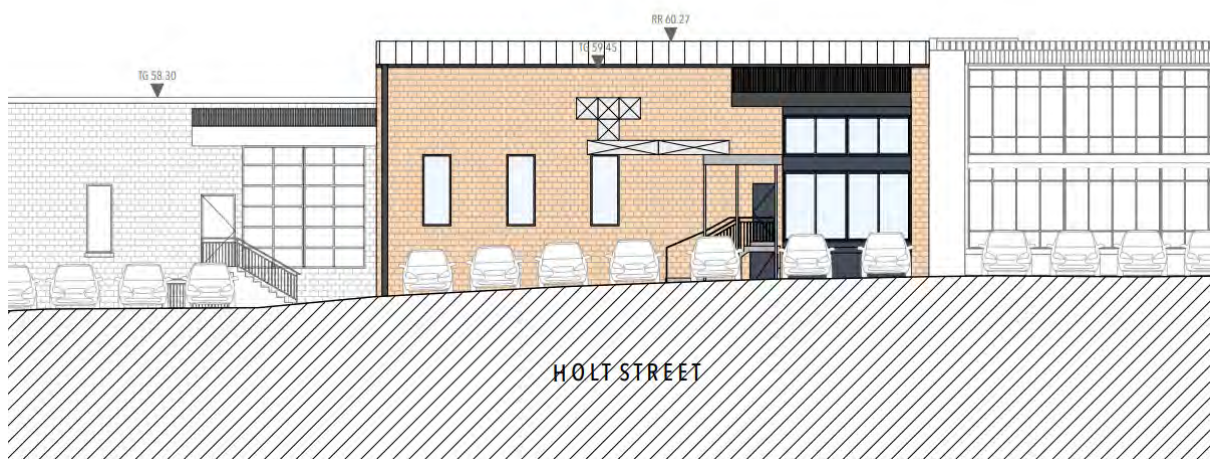


Figure 1 – Existing (Rear) North West Elevation

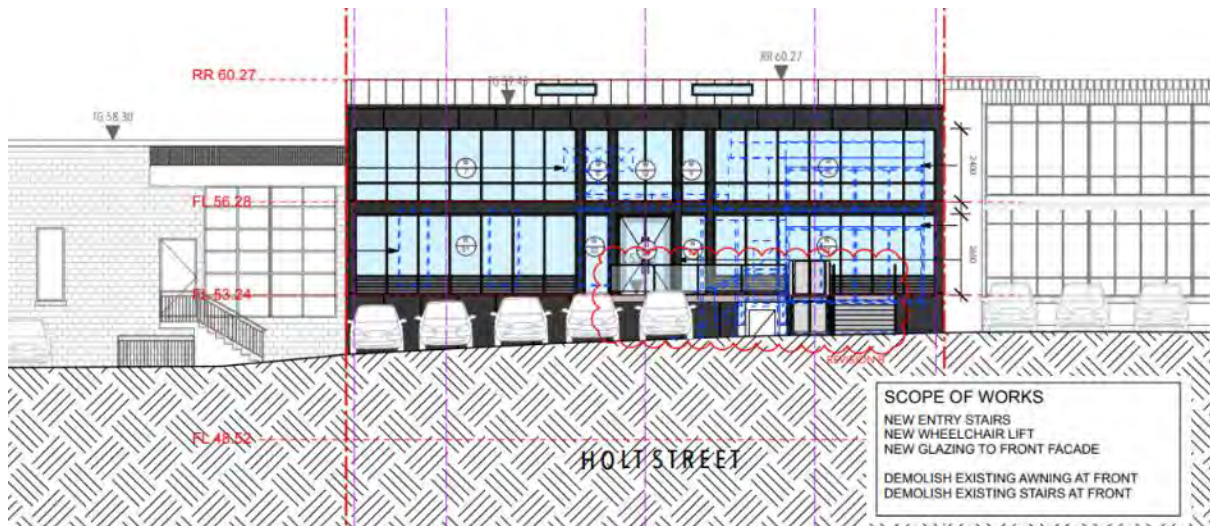


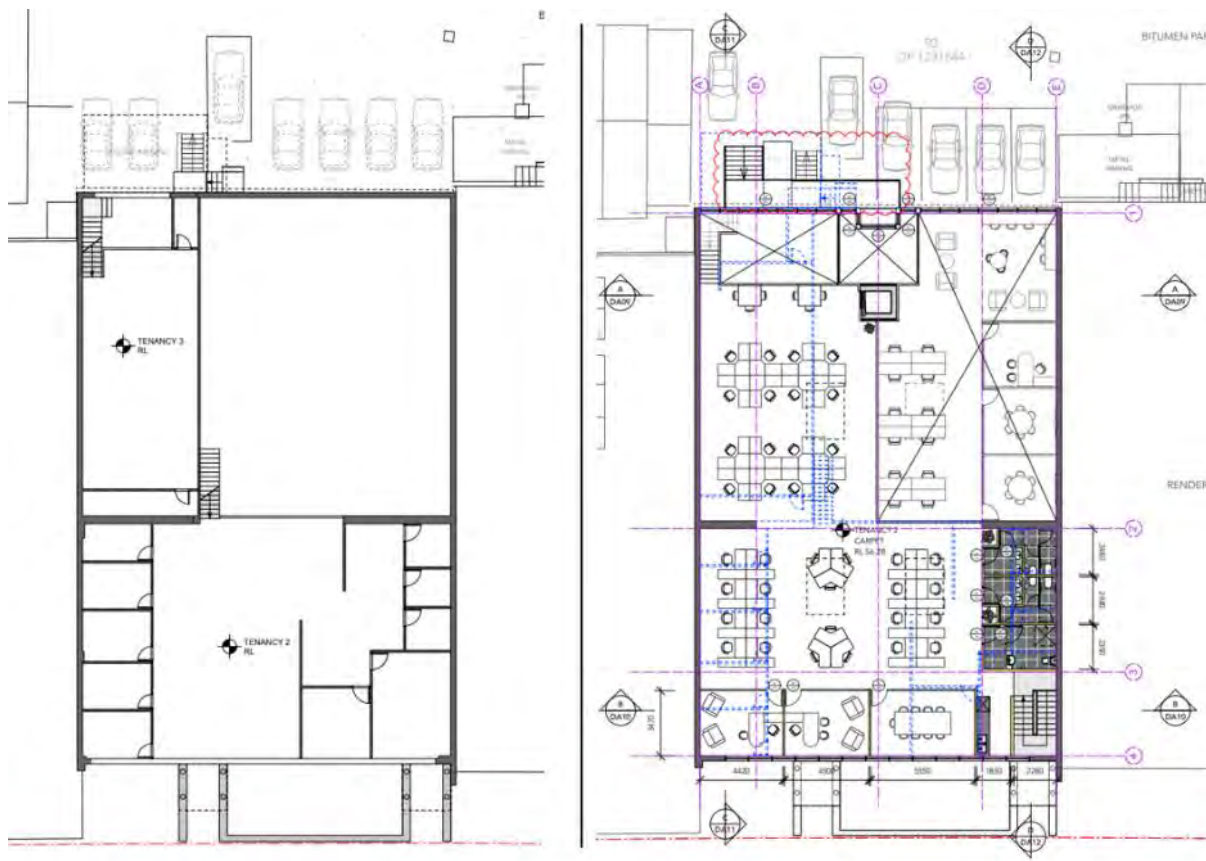
Figure 2 – Proposed (Rear) North West Elevation

Ground Floor

- New internal layout to create a new open plan office space inclusive of partial demolition of partition walls.
- The amalgamation of two tenancies into one tenancy.
- A new entry lobby is proposed for access from the rear car park.



- New internal layout to create new open plan office space with new bathrooms, private offices, breakout space and conference room.
- Alterations to the First Floor floorplate creating new and altered voids to the ground floor.



Figures 5 & 6 – Existing & Proposed First Floor Plan

Roof

- 4 x skylights

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – E3 Productivity Support
- Item of Heritage - No
- In Vicinity of Item of Heritage – Several Heritage Items adjoin or located opposite the site
- Conservation Area - No
- FSBL - No

Environmental Planning & Assessment Act 1979

SEPP (Biodiversity and Conservation) 2021

- Chapter 2 – Vegetation in non-rural areas
- Chapter 6 – Water Catchments

SEPP (Sustainable Buildings) 2022

SEPP (Resilience and Hazards) 2021

- Chapter 4 – Remediation of Land

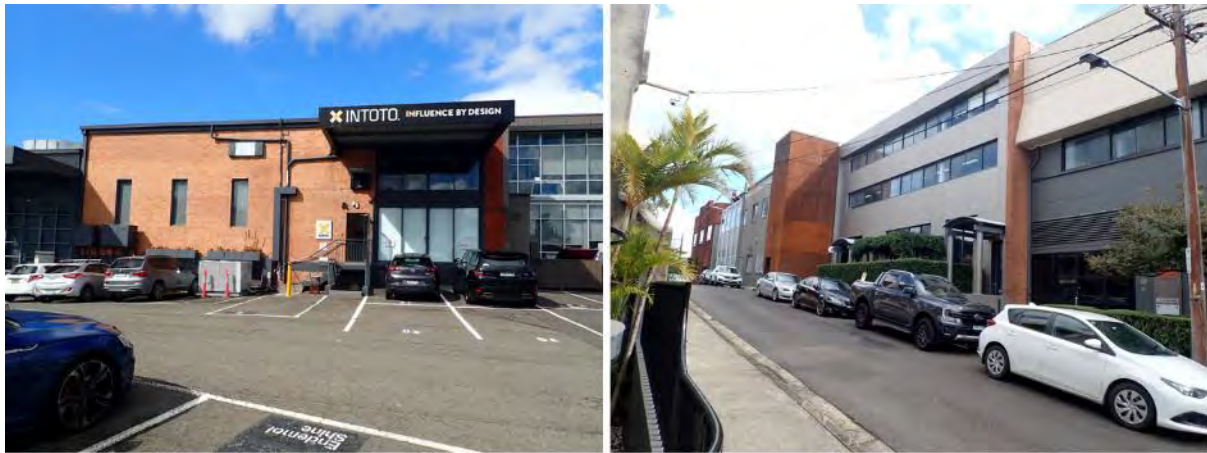
POLICY CONTROLS

NSDCP 2013

North Sydney Local Infrastructure Contributions Plan

DESCRIPTION OF LOCALITY

The subject site is located on the corner of Chuter and Victoria Street, McMahon's Point and the site is occupied by a two storey light industrial style building with car parking. No. 54 Victoria Street which is part of the light industrial building comprises three levels within the building including a large void area.



Figures 7 & 8 – Existing Rear North West Elevation (left) and Existing Front South East Elevation (right)

The area is characterised by a mixture of residential and light industrial developments. The southern side of Victoria Street, within the vicinity of the subject site, contains a small park (Mitchell Street Park) and a row of small scale workers cottages. To the east of the site, Victoria Street is occupied on both sides by small scale residential development. At its southern boundary the site is occupied by a two storey industrial building, which fronts Chuter and Victoria Street. The western side of Victoria Street is occupied by small scale residences.

The site is located in an E3 Productivity Support zone, subject to a maximum 8.5m height limit and is not a heritage item or within a conservation area although within the vicinity of heritage items and the north western/ western boundary adjoins CA15 Union, Bank and Thomas Streets Conservation Area.



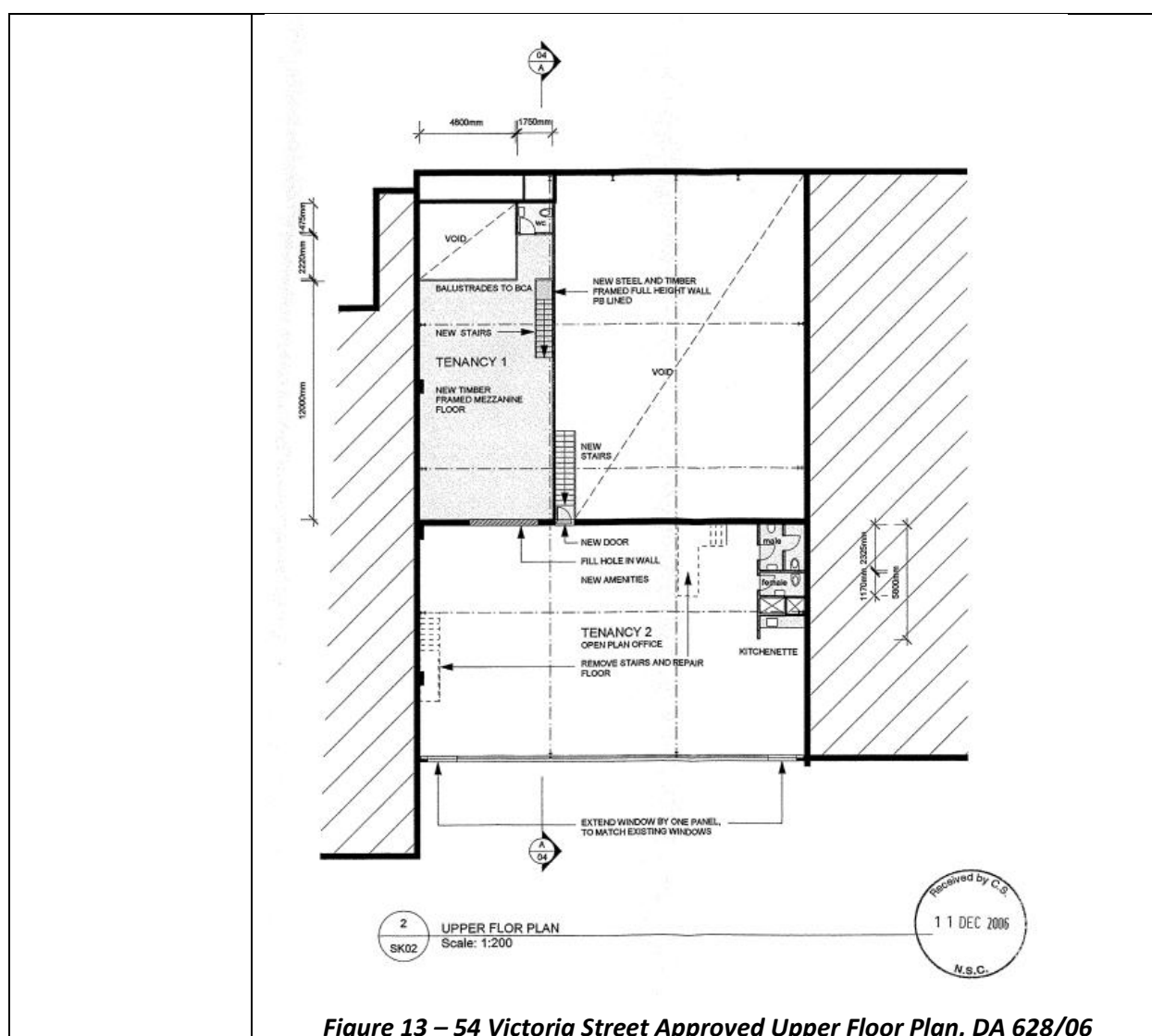
Figures 9, 10 & 11 – Land Zoning Map (left), Height of Building Map (centre) and Heritage Map with site hatched in red (right)

RELEVANT HISTORY

Previous Applications

Date	Action
02/02/2007	<p>Development Application No. 628/06 proposing subdivision of existing tenancy into three (3) tenancies, construction of mezzanine level and changes to façade was determined under delegated authority by grant of consent.</p> <p>NORTH SYDNEY COUNCIL THIS IS THE PLAN/S REFERRED TO IN NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION No. 628/06 DATE 5/2/07 SIGNED MJO</p> <p>1 LOWER FLOOR PLAN Scale: 1:200</p>

Figure 12 – 54 Victoria Street Approved Lower Floor Plan, DA 628/06



Current Application

Date	Action
21/03/2025	Lodgement
10/04/2025	Additional Information Requested and Provided by the Applicant – Existing and Proposed GFA Diagrams
11/04/2025 – 25/04/2025	Notification
09/04/2025	Site Inspection
17/04/2025	Following a preliminary assessment two significant issues were identified and relayed to the Applicant. Council requested deletion of the long linear ramp and an alternative accessible entry to minimise the impact to the existing car parking in terms of manoeuvring and accommodation of vehicles. It was requested a BCA Upgrade Report to be provided identifying any non-compliances and recommendations on how the existing building may be brought into partial conformity with the BCA.

19/05/2025	Council's Assessment Officer requested an update on lodgement of the amended plans and additional information and requested lodgement within 7 days or otherwise the application should be withdrawn.
20/05/2025	Amended drawings were provided with an alternative access solution comprising a wheelchair lift. Council was informed that a consultant has been engaged to prepare a BCA Upgrade Report but there were delays in preparation of the report.
29/05/2025	Council's Assessment Officer spoke to the Applicant requesting lodgement of the BCA Upgrade Report. Amended plans and the BCA Upgrade Report were lodged by the Applicant on 03 June 2025.

REFERRALS

BUILDING

The proposed works the subject of this application have been assessed by Council's Senior Building Officer who has provided the following referral response (*in italics*):

The proposed development application relates to the rebuilding or alteration of an existing commercial building.

Clause 62 – Environmental Planning & Assessment Regulation 2021 (EP&A Regulation)

Given the application includes building works Clause 62 of the EP&A Regulation is not applicable.

Clause 64 – EP&A Regulation

As the application includes building works Clause 64 of the EP&A Regulation is applicable.

An assessment of the existing building has concluded the measures contained within the building are inadequate for the protection of persons using the building, facilitate egress from the building and/ or restrict the spread of fire from the building to other buildings nearby in accordance with s 64(1)(b) of the EP&A Regulation.

Council must consider whether it is appropriate to require the existing building to be brought into total or partial conformity with the current Building Code of Australia (BCA) in accordance with s 64(2) of the EP&A Regulation.

ASSESSMENT

The BCA Upgrade Report prepared by J Squared Consulting Pty Ltd has been reviewed and considered. A site inspection of the existing building has also been undertaken. It is recommended the existing building be brought into partial conformity with the BCA in accordance with s 64(2) of the EP&A Regulation.

The upgrades relate to ensuring there are provisions for structural stability and spread of fire, fire hydrant system, safe egress, portable fire extinguishers, automatic fire detection and alarm system, emergency lighting, exit signs.

A condition was not imposed to upgrade external cladding on basis external cladding was replaced under a CDC with associated Occupation Certificate (CFT-509518) issued dated 4 April 2024.

During the site inspection it was observed that there was an existing AS1670.1-2018 system on-site that had not been extended into this tenancy therefore a Condition has been imposed to upgrade the system to the Performance Requirements of the BCA.

Council's site inspection confirmed the use of tenancy Lot 5, 52 Victoria Street remains as previously approved as a class 8 building.

All new proposed building works must comply with the National Construction Code – Building Code of Australia in accordance with the prescribed condition under s 69 of the EP&A Regulation.

STANDARD & NON-STANDARD CONDITIONS RECOMMENDED

The following conditions are recommended for inclusion in the Development Consent to ensure compliance with s 64 of the EP&A Regulation.

National Construction Code

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Upgrade of Existing Building - Fire Spread and Safe Egress

- C10. Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021, aspects of the existing building must be brought into conformity with the National Construction Code (NCC).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the following provisions of the NCC:

- a. The existing stairways, handrails and barriers to prevent falls must be upgraded to comply with D1P2 and D1P3 of the BCA,
- b. The floor area of the existing building needs to be reviewed to ensure the building does not exceed the floor area limitations for Type B construction in accordance with C3D3 of the BCA, if the floor area exceeds the fire compartment limitations the existing building must be upgraded to comply with C1P1 and C1P2 of the BCA, size of the existing fire compartment must be reviewed and type of construction confirmed.
- c. Fire hydrant coverage to the tenancy must be provided to comply with E1P3 of the BCA,
- d. The existing tenancy must be upgraded to comply with E4D5, NSW E4D6 and E4D8 of the BCA.

- e. The existing tenancy must be upgraded to comply with E4D2 and E4D4 of the BCA.
- f. The existing tenancy must be upgraded to comply with E1D14 of the BCA,
- g. All existing door handles throughout the tenancy must be upgraded to comply with D3D26 of the BCA,
- h. The existing enclosed space (electrical cupboard) beneath the non-fire isolated stair within the tenancy must be upgraded to comply with D3D9 of the BCA,
- i. The electrical distribution boards within the tenancy must be upgraded to comply with D3D8 of the BCA,
- j. The unobstructed width of the path of travel within the tenancy to an exit must be upgraded to comply with D1P6 & E2P2 of the BCA,
- k. The travel distance from within the tenancy to an exit must be upgraded to comply with D1P6 and E2P2 of the BCA,
- l. The discharge of exists from the tenancy on the northern elevation must be upgraded in accordance with D2D15 of the BCA,
- m. The door serving as an exit that swings against the direction of egress from the tenancy to Victoria street must be upgraded to comply with D3D25 of the BCA,
- n. The existing automatic fire detection and alarm system servicing the tenancy must be upgraded to comply with E2P2 of the BCA,

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifier for approval prior to the issue of the relevant Construction Certificate.

Note:

- 1) The Certifier issuing the relevant Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.

(Reason: Application of Regulations relating to Fire and Life Safety)

NON-STANDARD CONDITIONS

Section 14 – Fire protection and structural capacity

C11. Prior to a Construction Certificate being issued, building work plans and specifications must be submitted to the Certifying Authority to demonstrate how:

- a. the fire protection and structural capacity of the building will be appropriate to its new use, and*
- b. the building will comply with the Category 1 fire safety provisions that apply to the new use.*

(Reason: Ensure compliance with s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021)

Section 64 – Upgrade of building – complete upgrades

G5. *Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 64 of the Environmental Planning and Assessment Regulation 2021 must be completed.*

(Reason: *Ensure the upgrades required under s 64 of the Environmental Planning and Assessment Regulation 2021 are completed prior to use*)

Section 14 – Fire protection and structural capacity – complete upgrades

G6. *Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 must be completed.*

(Reason: *Ensure the upgrades and works required under s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 are completed prior to use*)

Planning Comment: upon the receipt of the BCA Upgrade Report and review by Council's Building Officer appropriate conditions of consent are recommended to ensure new building works comply with the NCC and to ensure the existing building is brought into partial conformity with the BCA in accordance with s64(2) of the EP&A Regulation 2021.

ENGINEERING

The application has been referred to Council's Development Engineer who raised no objections and due to the works being primarily internal and not adjoining the public domain a dilapidation report of public infrastructure and a bond for potential damage to public infrastructure is not required. Otherwise, standard engineering conditions can be applied.

SUBMISSIONS

On 31 March 2025, Council notified adjoining properties and the Euroka Precinct of the proposed development seeking comment between 11/04/2025 – 25/04/2025. Council received no submissions following notification.

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

State and Sydney Regional Environmental Planning Policies

The development application is satisfactory having regard to the relevant matters for consideration under the State Environmental Planning Policies as identified briefly below within this report.

SEPP (Sustainable Buildings) 2022

Chapter 3 'Standards for non-residential development' in SEPP (Sustainable Buildings) 2022 does not apply because the alterations to the non-residential building have an estimated cost of development of less than \$10 million.

SEPP (Industry and Employment) 2021

Chapter 3 of SEPP (Industry and Employment) 2021 applies to applications to display signage. The development although concerns the internal and external alterations to a commercial building does not proposed signage therefore no further consideration is required against Chapter 3 of the SEPP.

SEPP (Resilience and Hazards) 2021

- Chapter 4 Remediation of Land

Section 4.6 of the SEPP requires the consent authority to consider whether the land is contaminated, and if so whether the land is suitable for the intended use or if there are any remediation measures required. 54 Victoria Street is currently occupied by office tenants which is an activity unlikely to result in contamination of the site. Furthermore, the proposed works do not require any significant excavation and soil disturbance. The subject site is therefore considered suitable for the continues commercial use given that contamination is unlikely nor are remediation measures necessary.

NORTH SYDNEY LOCAL ENVIRONMENT PLAN (NSLEP 2013)

1. Permissibility

The site is zoned E3 Productivity Support under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Development for the purposes of alterations to an office premises is permissible with the consent of Council.

2. Objectives of the zone

The proposal is satisfactory with regard to the relevant zone objectives for E3 Productivity Support. The works upgrade and invest in existing office space contributing to the economic viability of the site, providing employment and the development is not considered over intensification to the detriment of the surrounding residential area.

Part 4 – Principal Development Standards

COMPLIANCE TABLE Principal Development Standards North Sydney Local Environmental Plan 2013			
Site Area – 4,970.6m²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	10.0m to rear first floor glazing facing Holt Street	8.5m	No – variation of 1.5m or 17.64%
	10.3m height of internal alterations		No – variation of 1.8m or 21.17%

3. Height of Building

The following objectives for the permissible height limit 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.

The proposed works includes alterations including new glazing to the rear façade. Boston Blyth Town Planners state the existing building height as measured from the lower ground is 11.47m. However, it is noted the Section within the supporting Cl. 4.6 has a different floor level compared to the lodged architectural plans. Below are various measurements of a long section detailing the various heights of the building and height of the proposed works.

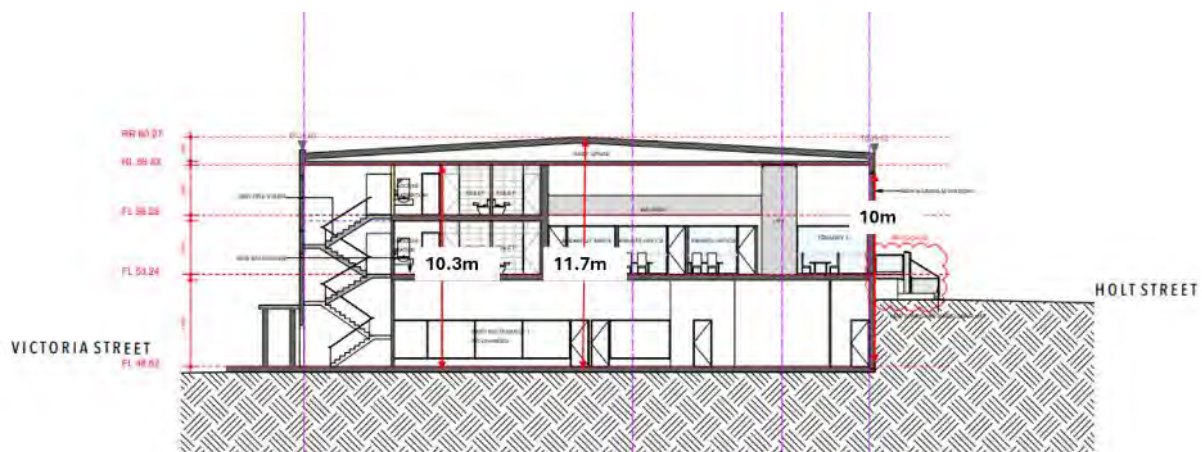


Figure 14 – Annotated Proposed Section D-D with details of height of works and height of existing building

The proposed building height would remain, however, works to the rear façade is over the height limit relating to the new glazing therefore the application is supported by a Clause 4.6 Variation Request.

The Cl. 4.6 request to vary the development standard for height is supported and adequate confirming both the objectives for the zone and height of building in NSLEP 2013 are satisfied.

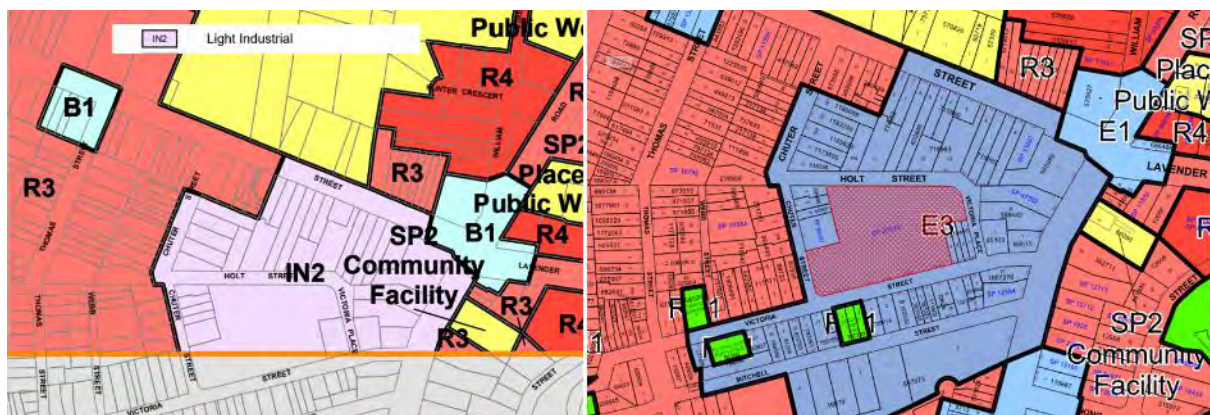
Although the works are above the maximum 8.5m the works are reasonable and justifiable, having no impact on bulk and scale of the building, solar access, privacy and no impact on views for surrounding properties.

The Cl. 4.6 variation request prepared by Boston Blyth Fleming Town Planners provides sufficient environmental planning grounds to justify the contravention of the development standard as follows:

- Existing Building exceeds the Height Standard – the height of the building will remain with works above the 8.5m relating to new rear façade glazing treatments.
- Unreasonable to restrict the height of building – it is unreasonable to not permit upgrade works to an existing non-compliant development.
- Environmental impact – there is an absence of environmental impacts/consequences resulting from the non-compliance with the development standard.

Pursuant to Cl. 4.6(3) of NSLEP 2013, the consent authority (North Sydney Council) can be satisfied that the Applicant has demonstrated compliance with the development standard is unreasonable and there are sufficient environmental planning grounds.

Note: the directions for whether the application should be determined by a Local Planning Panel is based on the direction under Section 9.1 of the EP&A Act 1979 dated 06 May 2024 by the Minister for Planning and Public Spaces. Council does have delegations for development for height variations which exceed 10% of a height of building standard where no material impact occurs pursuant to an NSLPP delegation dated 04 November 2020. However, this NSLPP delegation applies only to R2, R3, R4, B1, B3 and B4 zones and not the E3 Productivity Support Zone. To clarify, the B1, B3 and B4 zones are now termed E1 Local Centre, E2 Commercial Centre and MU1 Mixed Use. At the time of delegation (04 November 2020) the site was zoned IN2 Light Industrial and therefore does not benefit from the NSLPP delegation and therefore the development is subject to determination by NSLPP.



Figures 15 & 16 – Land Zoning Map 13 Sep 2013 to 29 June 2021 identifying site as IN2 Light Industrial and current Land Zoning Map identifying the zone as E3 Productivity Support

4. Heritage Conservation

The subject site is not listed as a Heritage Item or located in a Conservation Area. The site is noted for being in the vicinity of heritage items, however due to the nature of the works being predominantly internal and alterations to the secondary rear façade the objectives in cl. 5.10 of NSLEP 2013 are met.



Figure 17 – Aerial map with heritage map overlay detailing the various heritage items in the vicinity of the subject site tagged by a yellow star


5. Earthworks


The proposal does not involve any works to the lower ground therefore no excavation is likely apart from minor earthworks for the lift and stairs from the rear car park. Given the nature of the works and limited earthworks no further assessment is necessary against the objectives and controls of Clause 6.10 in NSLEP 2013.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

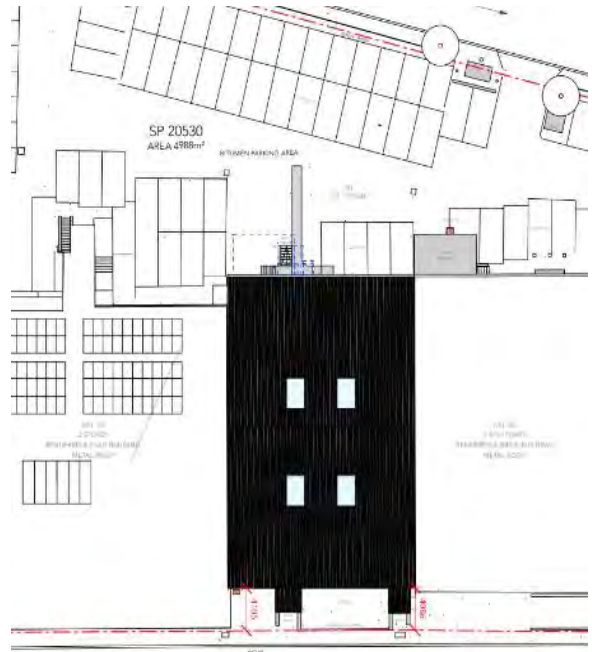
The proposal has been assessment under the following heading within NSDCP 2013:

North Sydney Development Control Plan 2013 Part B Section 2 – Commercial and Mixed Use Development		
Control	Compliance	Comments
2.2 Function		
2.2.1 Diversity of activities, facilities, opportunities and services	Yes	The proposal seeks to retain the office use of 54 Victoria Street and improve upon the internal and external spaces ensuring the 54 Victoria Street contributes to the E3 Productivity Support Zone.
2.3 Environmental criteria		
2.3.1 Clean air	Yes	There is no change of use remaining as an office premises which is unlikely to adversely affect air quality.
2.3.2 Noise	Yes	The proposed development will not result in significant acoustic amenity impacts.

2.3.4 Reflectivity	Yes	<p>The rear façade of the building will change from predominantly masonry to glass. The supporting SEE states the glass is to be non-reflective.</p> <p>A standard condition of consent can be applied to ensure excessive glare or reflectivity from glazing does not occur (C7 Reflectivity Index of Glazing).</p> <p>It is noted that Provision P1, s2.3.4 of NSDCP 2013 requires buildings to have a greater proportion of solid to void on all facades.</p> <p>Although more glazing is proposed this would not be out of character with its immediate surrounds noting the approved glazing to the neighbouring 50 Victoria Street subject to DA No. 365/17. The front and more prominent façade is also not subject to additional glazing.</p>
2.3.5 Artificial illumination	Yes	No illumination is proposed to the external facades of the building.
2.3.7 Solar access	Yes	The existing envelope of the building is not altered by the proposed works. There is no change to the existing solar access to neighbouring properties.
2.3.8 Views	Yes	The built form is unchanged and view loss impacts will remain the same as existing.
2.3.9 Acoustic privacy	Yes	<p>The proposed development is within an existing light industrial/commercial building and within an E3 Productivity Support Zone.</p> <p>The site is also not immediately adjoining a residential property. The works primarily seek internal alterations and are not considered an extensive intensification which would impact surrounding acoustic privacy.</p>
2.3.11 Visual privacy	Yes	<p>The additional glazing to the rear façade would direct views primarily to the rear car park of the site not having a direct or close view to windows, balconies or private open space of adjoining dwellings.</p>  <p><i>Figure 18 – Photo of existing façade subject to alterations and adjoining car park</i></p>

2.4 Quality built form		
2.4.1 Context	Yes	<p>The proposed alterations to the rear of the building comprising additional glazing is considered contextually appropriate and adequately responsive to the characteristics, opportunities and constraints of the site and wider context.</p> <p>It is noted the adjoining building (50 Victoria Street) was approved under Development Consent No. 365/17) with additional glazing to the rear of the building not dissimilar to the proposed.</p>  <p>Figure 19 – Photo of rear façade of adjoining 50 Victoria Street</p>
2.4.5 Building design	Yes – merit assessment	<p>Table B-2.9, Provision P1, s2.4.5 of NSDCP 2013 requires the following minimum floor to ceiling height requirements for buildings in an E3 Productivity Support Zone.</p> <p>Ground Floor – 3.3m First Floor – 2.7m Upper Floors - 2.7m</p> <p>The floor to ceiling heights in the building are as follows:</p> <p>Lower Ground – 4.57m Ground Floor – 2.74m First Floor – 2.55m</p> <p>The floor to ceiling heights is generally compliant apart from the first floor. The first floor is a mezzanine style level having a 2.55m floor to ceiling height.</p> <p>The additional glazing at the rear of the building improves natural sunlight into the building and a variation is suitable in the circumstances pursuant to flexibility afforded in P2, s2.4.5 of NSDCP 2013.</p>
2.4.6 Skyline	Yes	<p>The development would have no impact on the North Sydney skyline. No additions are proposed to the existing roof other than the addition of skylights to the roof.</p>

2.4.10 Streetscape	Yes	All levels are non-residential. There are no changes to the front façade facing Victoria Street.
2.4.11 Entrances and exits	Yes	<p>There is no change to the main entrance/exit for the lower ground floor of the building facing Victoria Street.</p> <p>A new entry is proposed from the rear including a set of stairs and accessible lift. The entrances/ exists to the building are considered acceptable generally satisfying the objectives and provisions in s2.4.11 of NSDCP 2013.</p>
2.4.12 Night-time appearance	Yes	The altered rear façade with additional glazing is acceptable, enabling passive surveillance of the public domain and some light spill onto public areas.
2.5 Quality urban environment		
2.5.1 Accessibility	Yes	<p>The application was supported by an Access Design Review report by Jensen Hughes. The Access Review indicates compliance with provision of continuous accessible paths, doorways and walkways.</p> <p>However, the application including accessibility has been amended with an alternate solution to access from the rear of the building with the use of a lift rather than a ramp which adversely impacted upon the manoeuvring and accommodation of vehicles in the car park.</p> <p>An amended Access Design Review report is not required at this stage and additional assessment will be completed at Construction Certificate stage. An appropriate condition of consent is therefore recommended ensuring the provision of access to the premises in accordance with applicable legislation and Australian Standards (C14 Provision of Accessible Paths of Travel).</p>
2.5.2 Safety and security	Yes, subject to condition	<p>The application is supported by a BCA Compliance Assessment prepared by J-Squared BCA Consulting which considers sections of the BCA including Fire Resistance, Access and Egress and Health and Amenity.</p> <p>Council's Building Officer has reviewed the application and notes the existing building is inadequate for the protection of persons using the building, facilitate egress from the building and/or restrict the spread of fire from the building to other buildings.</p> <p>The Applicant submitted a BCA Upgrade Report making recommendations on how the existing building may be brought into total or partial conformity with the BCA.</p>

		<p>Council's Building Officer requires all new works to comply with the NCC and conditions are recommended so that the existing building is brought into partial conformity with the BCA in accordance with s64(2) of the EP&A Regulation 2021.</p> <p>Upgrades to the fire safety and safe egress of the building is in accordance with Objective O1, s2.5.2 of NSDCP 2013.</p>
2.5.3 Illumination	Yes	<p>Passive light spill (from internal lighting) will be achieved with the additional glazing to the rear façade. No external lighting is provided, nevertheless a standard condition of consent can be recommended if lighting inclusive of security lighting is installed.</p>
2.5.7 Vehicular access	Yes	<p>Vehicular access will remain uninterrupted from Holt Street.</p>
2.5.8 Car parking	Yes, subject to condition	<p>The original application proposed a long linear ramp which would result in a loss of car parking and disruption to the use of the existing car park including the manoeuvring within the car park.</p> <p>The ramp as shown below was considered by the Assessment Officer and Council's Development Engineer to prevent the manoeuvring and accommodation of vehicles contrary to Objective O1, s10.3 'Design and Layout' of NSDCP 2013. The ramp was also considered to result in a parking area not in accordance with AS2890 and is contrary to Provision P1, s10.3 of the NSDCP 2013.</p>  <p>The site plan shows a large rectangular building footprint with four small square windows. To the left of the building is a parking area with several parking spaces. A linear ramp, highlighted in grey, runs along the right side of the building. The ramp is labeled 'RAMP' and 'DA 00'. The plan also shows a 'SP 20530 AREA 4888m²' and a 'RETRACTABLE AREA'.</p> <p>Figure 20 – Originally lodged site plan with linear ramp in grey, DA 00</p>

The amended design utilising a more compact provision of stairs and a wheelchair lift is a supportable outcome achieving improved ease of access to the building and minimising the loss of parking provision for employees and visitors. In total the new stairs and lift will result in the loss of 2 car spaces. However, maximum parking rates apply to the site therefore although there is the potential for two (2) car parking spaces to be removed the loss of parking is acceptable in the circumstances namely providing access to all persons.

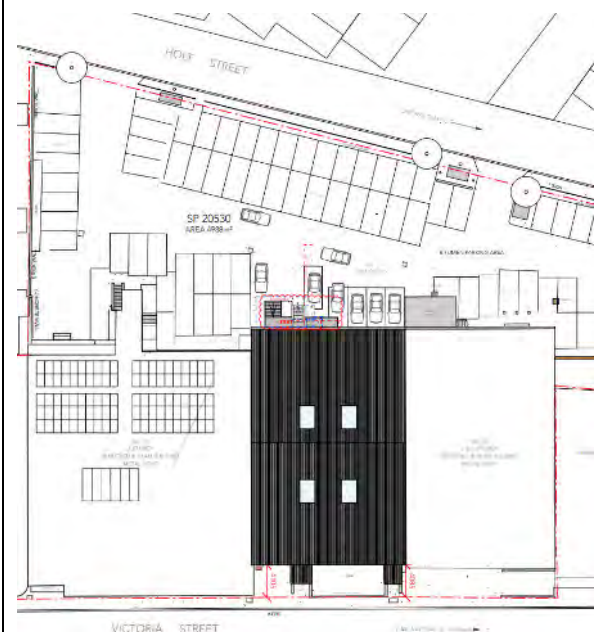


Figure 21 – Amended site plan with linear ramp dashed in red deleted and new stairs and proposed lift in grey, DA 00 Rev B

The Ground Floor Plan (DA 02) indicates the installation of a ramp to the rear will result in the loss of 2 x car parking spaces. The plan and photo showing the car parking spaces to be removed is detailed below.

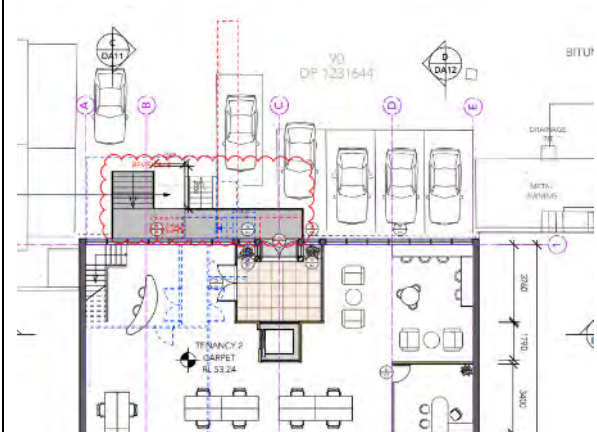



Figure 22 – Rear of building with proposed stairs and lift, Proposed Ground Floor Plan

		 <p>Figure 23 – Photo of rear of the site with car parking affected to accommodate stairs and lift dashed in red</p>
2.5.9 Garbage storage		<p>No information is proposed concerning the waste and recycling arrangements either during construction or operation of the tenancies within 54 Victoria Street. A standard condition of consent is recommended for waste management at demolition, construction and operation of the tenancies.</p> <p>C4. Waste Management Plan</p>

Part B, Section 7 – Late Night Trading and Trading Hours

The development comprises alterations primarily internal alterations. No detail is provided concerning the use of the future tenancies; however the layouts are open plan office spaces. The maximum trading hours for future use of the tenancies is 7am to 10pm as stipulated in Table B-7.1, s7.3 of NSDCP 2013. It is highly unlikely the office premises will operate outside these maximum hours.

CHARACTER STATEMENTS – PART C

Lavender Bay Planning Area (McMahon's Point Business Precinct)

The application has been assessed against the relevant provisions and controls under Part C of the DCP and is found to be aligned with the desired future character and the desired built form of the relevant planning area. Particularly the commercial use of the building will remain and the alterations to the rear façade and retention of the front façade facing Victoria Street is acceptable retaining the heritage items and character of Victoria Street.

HOUSING AND PRODUCTIVITY CONTRIBUTION

A Housing and Productivity Contribution (HPC) applies in the Greater Sydney, Illawarra Shoalhaven, Lower Hunter and Central Coast regions. Contributions collected help to deliver essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space.

The contribution applies to development applications for an increase in gross floor area of commercial development (including complying development and state significant development). The HPC is separate to the contributions that developers pay to councils for local infrastructure, such as local roads, drainage and local open space.

The site being 54 Victoria Street is best defined as a commercial building. The ministerial order for applications lodged on or after 1 July 2024 stipulates the base amount of \$30 per square metre of new GFA. Examples of commercial development which would require a contribution such as the erection of a new building, the alteration, enlargement or extension of an existing building whereby there would be an additional increase in gross floor.

The proposed development comprises a 13m² additional internal floor area as shown in the Gross Floor Area Calculations Plan (DA 21) therefore an increase in GFA is proposed. The increase in GFA of 13m² which would equate to a contribution of \$390.00. A Housing and Productivity Contribution will therefore be included within the determination.

LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN

The proposal is subject to Local Infrastructure Contributions in accordance with the North Sydney Local Infrastructure Contributions Plan (as amended). The required contribution has been calculated in accordance with the applicable contribution rates as follows

Applicable Contribution Type		
S7.12 contribution detail	Development cost:	\$ 1,200,000.00
(payment amount subject to indexing at time of payment)	Contribution:	\$ 12,000.00

Conditions requiring payment of contributions are included in the attached recommended conditions of consent.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

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

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	N/A
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes

7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	N/A
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMISSIONS

No concerns were submitted following the notification of the application.

PUBLIC INTEREST

The proposal is considered to be in the public interest for the reasons stated throughout this report.

SUITABILITY OF THE SITE

The proposal would be located in a E3 Productivity Support Zone where alterations to an office premises is a permissible form of development. Consequently, the proposal is considered to be suitable for the site having regard to the merits of the proposal as described in the above report.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject application was notified to adjoining properties and the Euroka Precinct for 14 days where no issues were raised. Nevertheless, where appropriate conditions of consent have been recommended to maintain the amenity of adjoining properties and the character of the streetscape.

CONCLUSION

The development application proposes alterations to the existing building including internal alterations, alterations to the rear elevation and a new pedestrian access via either stairs or a platform lift.

The matters for consideration as outlined in section 4.15(1) of the Act have been satisfied. The proposed development is permissible, meets the development standards and relevant provisions of NSLEP 2013 subject to the written request to vary a development standard made pursuant to Clause 4.6 *Height of buildings* of NSLEP 2013.

The written request made pursuant to Clause 4.6 *Departure to development standards* in NSLEP 2013 demonstrates that compliance with the development standard is both unreasonable and unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the variation.

The development has been subject to notification to adjoining properties and no submissions have been received. The development achieves a satisfactory outcome investing in the continued use of the building as an office premises providing a core facility and service in the E3 Productivity Support Zone.

The development application is supported by a BCA Upgrade Report and subject to conditions of consent the building will have an improved outcome in conformity with the current BCA in particular improving the safety of people using the building and adjoining buildings.

Having regard to the merits of the proposal, the application is recommended for approval subject to appropriate standard and site specific conditions.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, exercising the functions of Council, assume the concurrence of the Secretary of The Department of Planning, Housing and Infrastructure and invoke the provisions of Clause 4.6 in NSLEP 2013 with regards to the non-compliance with Clause 4.6 in NSLEP 2013 and grant consent to Development Application No. 46/2025 for alterations and additions including alterations to the rear façade, internal alterations and new entry to the rear on land at 54 Victoria Street, McMahon's Point subject to the following site specific and standard conditions:-

Fire protection and structural capacity

- C11. Prior to a Construction Certificate being issued, building work plans and specifications must be submitted to the Certifying Authority to demonstrate how:
- a. the fire protection and structural capacity of the building will be appropriate to its new use, and
 - b. the building will comply with the Category 1 fire safety provisions that apply to the new use.

(Reason: Ensure compliance with s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021)

Upgrade of building – complete upgrades

- G5. Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 64 of the Environmental Planning and Assessment Regulation 2021 must be completed.

(Reason: Ensure the upgrades required under s 64 of the Environmental Planning and Assessment Regulation 2021 are completed prior to use)

Fire protection and structural capacity – complete upgrades

- G6. Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 must be completed.

(Reason: Ensure the upgrades and works required under s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 are completed prior to use)

Thomas Holman
SENIOR ASSESSMENT OFFICER

David Hoy
TEAM LEADER

STEPHEN BEATTIE
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
54 VICTORIA STREET, MCMAHONS POINT
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A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings endorsed with Council's approval stamp and other documentation listed in the tables to this condition, or cited by other conditions, and as amended by other conditions of this consent.

Plan No.	Rev	Title	Drawn by	Dated
DA 00	B	Site Plan – Wheelchair Lift	COSO	20/05/2025
DA 01	B	Existing Lower Ground Floor Plan	COSO	20/05/2025
DA 02	B	Proposed Ground Floor – Wheelchair Lift	COSO	20/05/2025
DA 03	B	Proposed First Floor	COSO	20/05/2025
DA 04	B	Proposed Roof Plan	COSO	20/05/2025
DA 05	B	Proposed South East Elevation (Front)	COSO	20/05/2025
DA 06	B	Proposed North West Elevation (Rear)	COSO	20/05/2025
DA 07	B	Proposed South West Elevation (Side)	COSO	20/05/2025
DA 08	B	Proposed North East Elevation (Side)	COSO	20/05/2025
DA 09	B	Proposed Section A-A	COSO	20/05/2025
DA 10	B	Proposed Section B-B	COSO	20/05/2025
DA 11	B	Proposed Section C-C	COSO	20/05/2025
DA 12	B	Proposed Section D-D	COSO	20/05/2025
DA 19	B	Proposed Material Finishes	COSO	20/05/2025

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Plans on Site

- A2. A copy of all plans endorsed with Council's approval stamp, specifications and documents (including the plans, specifications and documents submitted and approved with all Construction Certificates) must be always kept on site and be readily available for perusal by an officer of Council or the Principal Certifier.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the Principal Certifier upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

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No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

External Finishes and Materials

- A4. External finishes and materials must be in accordance with the submitted schedule prepared by COSO and dated 20 May 2025, unless otherwise modified by Council in writing. Substitution of materials must not be undertaken, except where otherwise approved in writing by Council.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***Dilapidation Survey Private Property (Neighbouring Buildings)**

- C1. A photographic survey and dilapidation report of adjoining property No. 50 Victoria Street and 56-58 Victoria Street, McMahon's Point detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, MUST BE submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate. The survey and report are to be prepared by an appropriately qualified person and a copy to be given to the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Principal Certifier, prior to the issue of the relevant Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

Should access for undertaking the photographic survey and dilapidation report be denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record-keeping purposes only and may be used by an Applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the Applicant's and adjoining owner's interest for it to be as full and detailed as possible

(Reason: Proper management of records)

Structural Adequacy of Existing Building

- C2. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Principal Certifier for approval prior to issue of the relevant Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

Erosion and Sediment Control

- C3. Where any works authorised by this consent require disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication, *Managing Urban Stormwater: Soils and Construction*, (4th Edition, Landcom, 2004) commonly referred to as the "Blue Book," or a suitable and effective alternative method.

An Erosion and Sediment Control Plan must be prepared and implemented prior to any works commencing. The Erosion and Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;
- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained;
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Erosion and Sediment Control Plan.

The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

C4. A Waste Management Plan prepared in accordance with the provisions of Part B Section 19 of the *North Sydney DCP 2013*, must be submitted for approval by the Principal Certifier prior to the issue of the relevant Construction Certificate. The plan must include, but not be limited to:

- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
- b) The design of the on-site waste storage and recycling area; and
- c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

Skylight(s)

C5. Skylight flashing(s) and frame(s) to be coloured to match the roof material. Skylight(s) to sit no higher than 100mm above roof plane when in a closed position. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To minimise the visual impact of the skylight(s) on the roof plane)

External Finishes and Materials

C6. The external colours and finishes must be in accordance with the approved schedule of finishes and materials, prepared by COSO and dated 20 May 2025. The Principal Certifier must ensure that the building plans and specifications submitted, referenced on and accompanying the relevant issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of development)

Reflectivity Index of Glazing

C7. The glazing for windows, walls or roof finishes of the approved development must be factory pre-finished with low glare and reflectivity properties. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

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Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur because of the development)

Work Zone

- C8. If a Work Zone is required a Work Zone permit is to be obtained from Council prior to the issue of any Construction Certificate.

Note: For major development, an application for work zone permit must be considered by the North Sydney Local Traffic Committee.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Principal Certifier to enable issue of the relevant Construction Certificate.

Where approval of the Work Zone is given by the Committee, the requirements of the Committee, including installation of the necessary "Work Zone" signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the Applicant is required to remove the Work Zone signs and reinstate any previous signs, all at the Applicant's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Stormwater Disposal

- C9. Stormwater runoff generated by the approved development must be conveyed by gravity to the existing site stormwater drainage disposal system. A licensed tradesman shall install plumbing components to achieve this requirement in accordance with the NCC and current plumbing standards and guidelines. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure appropriate provision for disposal and stormwater management arising from the development)

Upgrade of Existing Building - Fire Spread and Safe Egress

- C10. Pursuant to section 64 of the *Environmental Planning and Assessment Regulation 2021*, aspects of the existing building must be brought into conformity with the National Construction Code (NCC).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with the following provisions of the NCC:

- a) The existing stairways, handrails and barriers to prevent falls must be upgraded to comply with D1P2 and D1P3 of the BCA,
- b) The floor area of the existing building needs to be reviewed to ensure the building does not exceed the floor area limitations for Type B construction in accordance with C3D3 of the BCA, if the floor area exceeds the fire compartment limitations the existing building must be upgraded to comply with C1P1 and C1P2 of the BCA, size of the existing fire compartment must be reviewed and type of construction confirmed.
- c) Fire hydrant coverage to the tenancy must be provided to comply with E1P3 of the BCA,
- d) The existing tenancy must be upgraded to comply with E4D5, NSW E4D6 and E4D8 of the BCA.
- e) The existing tenancy must be upgraded to comply with E4D2 and E4D4 of the BCA.
- f) The existing tenancy must be upgraded to comply with E1D14 of the BCA,
- g) All existing door handles throughout the tenancy must be upgraded to comply with D3D26 of the BCA,
- h) The existing enclosed space (electrical cupboard) beneath the non-fire isolated stair within the tenancy must be upgraded to comply with D3D9 of the BCA,
- i) The electrical distribution boards within the tenancy must be upgraded to comply with D3D8 of the BCA,
- j) The unobstructed width of the path of travel within the tenancy to an exit must be upgraded to comply with D1P6 & E2P2 of the BCA,
- k) The travel distance from within the tenancy to an exit must be upgraded to comply with D1P6 and E2P2 of the BCA,
- l) The discharge of exists from the tenancy on the northern elevation must be upgraded in accordance with D2D15 of the BCA,
- m) The door serving as an exit that swings against the direction of egress from the tenancy to Victoria street must be upgraded to comply with D3D25 of the BCA,
- n) The existing automatic fire detection and alarm system servicing the tenancy must be upgraded to comply with E2P2 of the BCA.

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

Note:

1. The Principal Certifier issuing the relevant Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.

(Reason: Application of Regulations relating to Fire and Life Safety)

Fire Protection and Structural Capacity

C11. Prior to a Construction Certificate being issued, building work plans and specifications must be submitted to the Certifying Authority to demonstrate how:

- a) the fire protection and structural capacity of the building will be appropriate to its new use, and
- b) the building will comply with the Category 1 fire safety provisions that apply to the new use.

(Reason: Ensure compliance with s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021)

Garbage and Recycling Facilities

C12. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Asbestos and Hazardous Material Survey

C13. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a SafeWork NSW licensed contractor;

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- b) all removal must be in strict accordance with the requirements of the SafeWork NSW in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Principal Certifier as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Provision of Accessible Paths of Travel

- C14. The building must be designed and constructed to provide access and facilities in accordance with the *National Construction Code and Disability (Access to Premises - Buildings) Standards 2010*. Plans and specifications complying with this condition must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate

Note:

- 1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to the relevant Construction Certificate being issued. Approval of a modification application may be required.
- 2. It is not within Council's power to set aside national legislation which requires the upgrade of buildings to meet modern access standards. The Building Commission NSW may be contacted in these or similar circumstances.
- 3. Enquiries regarding making an application for an "unjustifiable hardship exemption" under the accessibility standards can be made with the Building Commission NSW.

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

Local Infrastructure Contributions

- C15. A monetary contribution pursuant to the provisions of section 7.12 of the *Environmental Planning and Assessment Act 1979* is to be paid to Council, in accordance with the North Sydney Council's Local Infrastructure Contributions Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is **\$12,000.00**.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of the relevant Construction Certificate for any work approved by this consent.

A copy of the *North Sydney Local Infrastructure Contribution Plan 2020* can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, NORTH SYDNEY, or downloaded via Council's website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the *North Sydney Council Local Infrastructure Contributions Plan 2020*)

Housing and Productivity Contribution

- C16. The housing and productivity contribution (HPC) set out in the table below is required to be made:

Housing and productivity contribution	Amount
Housing and productivity contribution (base component)	\$390.00
Transport project component	\$0
Total Housing and productivity contribution	\$390.00

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

(Reason: To provide contribution as required by the Environmental Planning and Assessment (Housing Productivity Contribution) Order 2023)

Outdoor Lighting

- C17. All outdoor lighting must comply with, where relevant AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Principal Certifier for approval prior to the issue of the relevant Construction Certificate.

(Reason: To maintain the amenity of adjoining land uses)

D. Prior to the Commencement of any Works (and continuing where indicated)**Public Liability Insurance - Works on Public Land**

- D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings, etc., will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Sydney Water Approvals

- D2. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains, and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746).

(Reason: To ensure compliance with Sydney Water requirements)

Commencement of Works' Notice

- D3. Works in accordance with this development consent must not be commenced until the Applicant has given at least two days' notice to North Sydney Council of the person's intention to commence works in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. During Demolition and Building Work**Parking Restrictions**

- E1. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions, or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Applicant will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E2. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public accessways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers (at full Applicant cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads." **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed of in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Principal Certifier.

(Reason: Stormwater control during construction)

Removal of Extra Fabric

- E4. Should any portion of the existing building, trees, or curtilage of the site, which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

Dust Emission and Air Quality

- E5. The following must be complied with at all times:
- a) Materials must not be burnt on the site.
 - b) Vehicles entering and leaving the site with soil or fill material must be covered.
 - c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with *the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction*.
 - d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

- E6. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (i.e., parks, reserves, roads, etc.,) without the prior written consent of Council. In this regard the Applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land, and to ensure public safety and proper management of public land)

Developer's Cost of Work on Council Property

- E8. The Developer or the person, company or other entity that is acting upon this consent, must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

- E9. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

- E10. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The Applicant, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

For example, cranes, concrete pumps, cherry-pickers, etc., - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the Applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) Hoardings

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) Kerbside restrictions, construction zones

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made, and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

Construction Hours (All Other Zones)

E11. Construction activities and works approved under this consent must be restricted to within the hours stipulated in the following table:

Standard Construction Hours	
Day	Hours
Monday - Friday	7.00am - 5.00pm
Saturday	8.00am - 1.00pm
Sunday Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above, *the EPA Noise Policy for Industry 2017* and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction, Council take may take enforcement action under Part 9 of the *Environmental Planning and Assessment Act 1979* and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Erosion and Sediment Controls

- E12. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and Erosion Control Plan submitted and approved with the relevant Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication *Managing Urban Stormwater: Soils and Construction 4th ed. Landcom, 2004*. commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E13. Most development consents require a durable sign to be displayed in a prominent location on construction sites during building works which displays information and warning of penalties should appropriate erosion and sedimentation control measures not be maintained.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

- E14. Where work involved in the erection and/or demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E15. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any SafeWork NSW requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.safework.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Prohibition on Use of Pavements

- E16. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E17. All plant and equipment used in the undertaking of the development/works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc., must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

Waste Disposal

- E18. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environment Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

- E19. All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current SafeWork NSW Asbestos or "Demolition Licence," and a current SafeWork NSW "Class 2 (Restricted) Asbestos Licence" (or equivalent). Removal must be carried out in accordance with National Occupational Health and Safety Commission requirements.

(Reason: To ensure works are carried out in accordance with relevant SafeWork NSW requirements)

F. *Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation*

National Construction Code

- F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

- F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in *the Home Building Act 1989*) for which *the Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifier for the development to which the work relates, has given North Sydney Council written notice of the contract of insurance being issued, and of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this condition is out of date, work must cease, and no further work may be carried out unless the Principal Certifier for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

**54 VICTORIA STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 46/25**

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Note: A certificate purporting to be issued by an approved insurer under Part 6 of *the Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this condition, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifier

- F3. Building or excavation works in accordance with the development consent must not be commenced until the Applicant has appointed a Principal Certifier for the building work in accordance with the provisions of *the Environmental Planning and Assessment Act 1979* and its Regulation.

(Reason: Statutory, to ensure appropriate safeguarding measures are in place prior to the commencement of any building or excavation works)

Construction Certificate

- F4. Building or excavation works in accordance with the development consent must not be commenced until the Construction Certificate for the relevant part of the work has been issued.

Note: For clarity, this condition does not apply to demolition of whole buildings and works. A Construction Certificate is not required for these works. Demolition is controlled by AS 2601-2001 - Demolition of Structures. This Australian Standard requires safeguards to be in place before demolition commences, including traffic control and management, which may form part of the Construction Traffic Management Plan. Vegetation may also be removed or cleared unless the development consent requires that specified vegetation must not be removed.

(Reason: Statutory, to ensure appropriate safeguards are in place prior to the commencement of any works)

Occupation Certificates

- F5. A person must not commence occupation or use of the whole or any part of a new building (new building includes an altered portion of, or an extension to, an existing building) unless the relevant Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory compliance)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifier at the critical stages prescribed by *the Environmental Planning and Assessment Act 1979* and *the Environmental Planning and Assessment Regulation 2021*, and as directed by the appointed Principal Certifier.

(Reason: Statutory)

Excavation/Demolition

- F7. Excavation and demolition shall be carried out as follows:

- a) All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- b) All excavation associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- c) Demolition work must be undertaken in accordance with the provisions of AS2601 - Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F8.
 - 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
 - 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - 3) The work site must be kept lit between sunset and sunrise, if it is likely to be hazardous to persons in the public place.
 - 4) Any such hoarding, fence or awning, is to be removed when the work has been completed.
 - 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property, owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance, or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F9. 1) A sign must be erected in a prominent position on the site:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifier for the work.
- 2) Any such sign must be maintained while the building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. Prior to the Issue of an Occupation Certificate**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of the relevant Occupation Certificate, any and all works relating to the development:
- a) in the road reserve must be fully completed; and
 - b) to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council. Council's development engineer must be contacted to arrange inspections of the completed works in the Public Domain.

(Reason: Maintain quality of Public assets)

Access to Premises

- G2. Prior to the issue of the relevant Occupation Certificate, a certificate must be prepared by an appropriately qualified and practising Civil Engineer, certifying that access and facilities for persons with a disability, in accordance with the National Construction Code and AS Disability (Access to Premises - Buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Principal Certifier prior to issue of the relevant Occupation Certificate.

(Reason: Equitable access and facilities for people with a disability)

Damage to Adjoining Properties

- G3. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G4. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of the relevant Occupation Certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Upgrade of building – complete upgrades

- G5. Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 64 of the Environmental Planning and Assessment Regulation 2021 must be completed.

(Reason: Ensure the upgrades required under s 64 of the Environmental Planning and Assessment Regulation 2021 are completed prior to use)

Fire protection and structural capacity – complete upgrades

- G6. Prior to an Occupation Certificate being issued, all upgrades and works required to be undertaken pursuant to s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 must be completed.

(Reason: Ensure the upgrades and works required under s 14 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 are completed prior to use)

Asbestos Clearance Certificate

- G7. For building works where asbestos-based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Principal Certifier (and a copy forwarded to Council if it is not the Principal Certifier) for the building work prior to the issue of the relevant Occupation Certificate. The asbestos clearance certificate must certify the following:

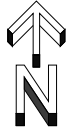
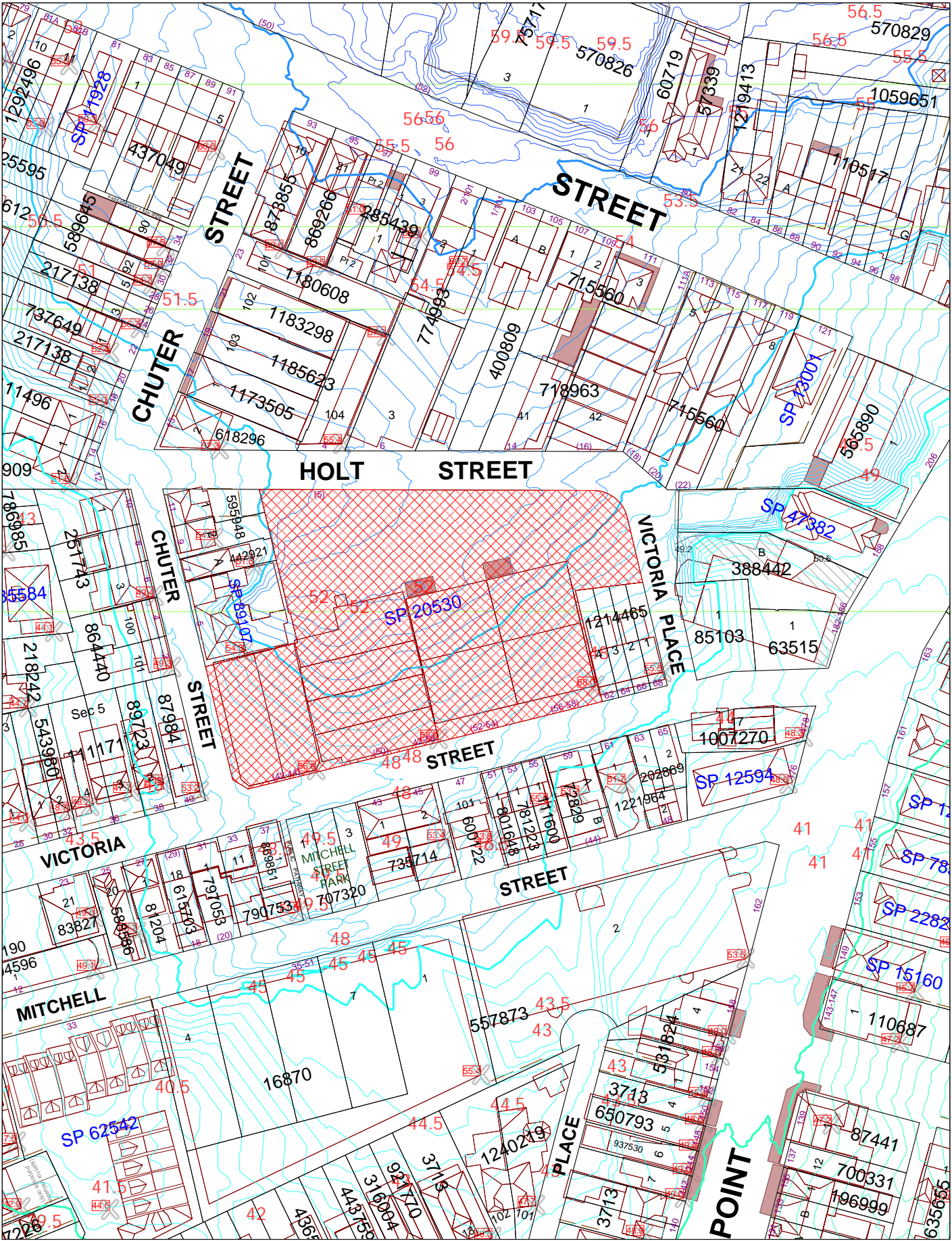
- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

**54 VICTORIA STREET, MCMAHONS POINT
DEVELOPMENT APPLICATION NO. 46/25**Page **22** of **22**

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos-based products are safe for occupation and will pose no health risks to occupants)



Development Application

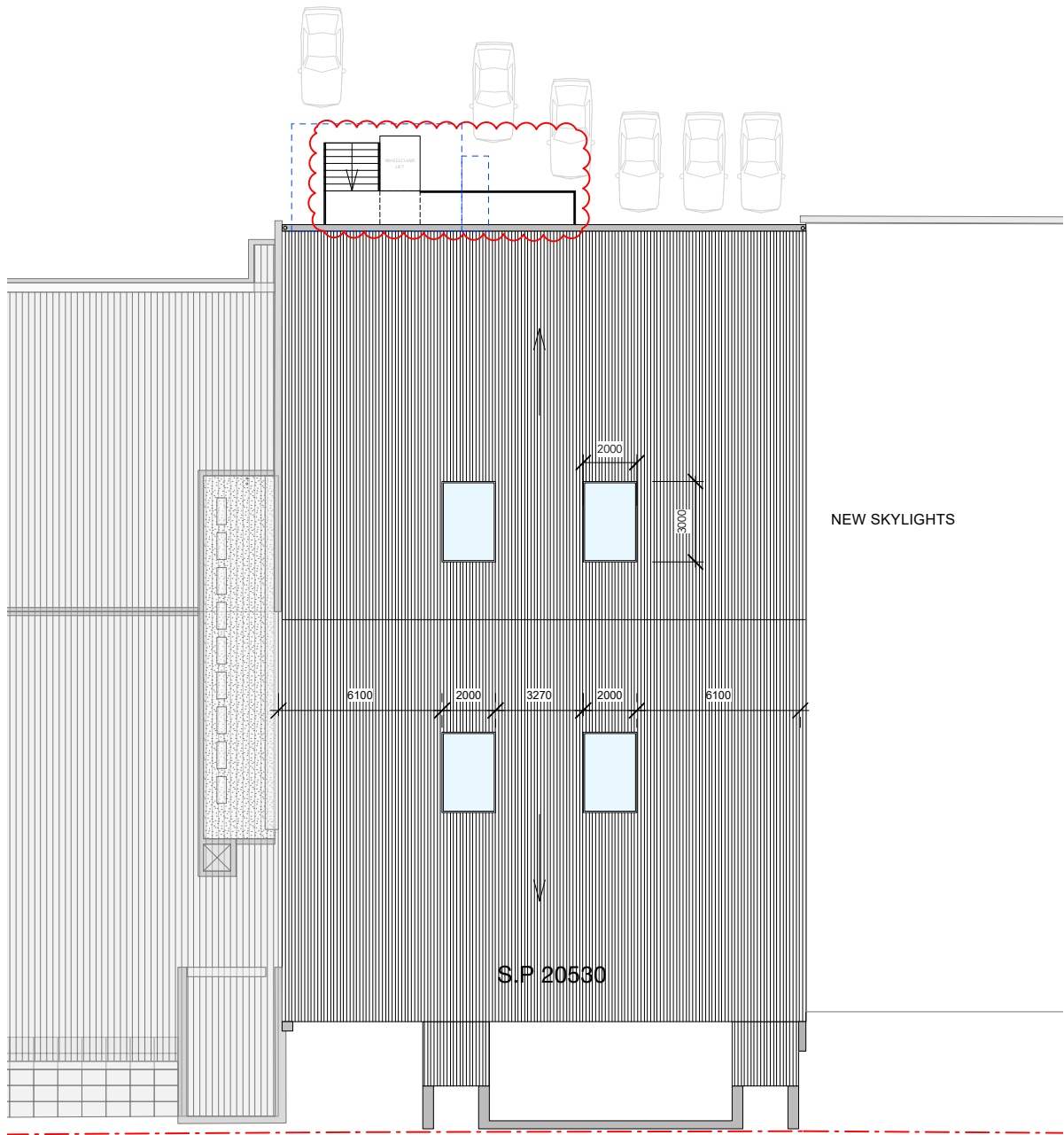
Alterations and Additions to
54 Victoria Street, McMahon's Point
SP 20530

Drawing	Title	Scale
MD-01	Existing Lower Ground Floor Plan	1:200
MD-02	Existing Ground Floor Plan	1:200
MD-03	Existing First Floor Plan	1:200
MD-04	Existing Roof Plan	1:200
MD-05	Existing Front Elevation	1:200
MD-06	Existing Rear Elevation	1:200
DA-000	Notification Plan	1:250
DA-00	Site Plan	1:500
DA-01	Lower Ground Floor Plan	1:200
DA-02	Proposed Ground Floor Plan	1:200
DA-03	Proposed First Floor Plan	1:200
DA-04	Proposed Roof Plan	1:200
DA-05	Proposed Front Elevation	1:200
DA-06	Proposed Rear Elevation	1:200
DA-07	Proposed East Elevation	1:200
DA-08	Proposed West Elevation	1:200
DA-09	Proposed Section A-A	1:200
DA-10	Proposed Section B-B	1:200
DA-11	Proposed Section C-C	1:200
DA-12	Proposed Section D-D	1:200
DA-13	Proposed 9 am Equinox Shadow Diagram	1:200
DA-14	Proposed 12 pm Equinox Shadow Diagram	1:200
DA-15	Proposed 3 pm Equinox Shadow Diagram	1:200
DA-16	Proposed 9 am Solstice Shadow Diagram	1:200
DA-17	Proposed 12 pm Solstice Shadow Diagram	1:200
DA-18	Proposed 3 pm Solstice Shadow Diagram	1:200
DA-19	Material Finishes Schedule	1:200
DA-20	Accessible Bathroom Plan	1:20
DA-21	Ground Floor Area Calculations	1:200

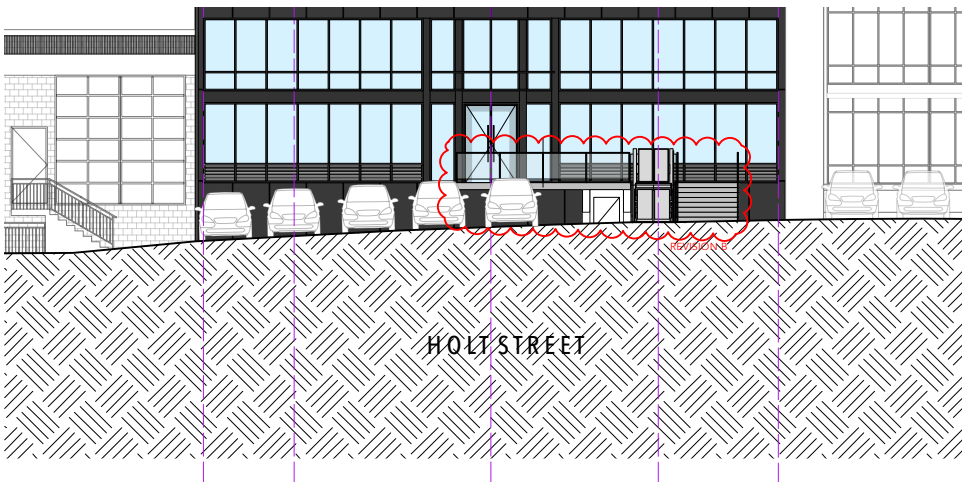
Section J Commitments		
J5D4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving; (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
J5D4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with; (a) an imperforate ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.
J5D5(1)	Windows & Doors	(1) A door, openable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.
J5D5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.
J5D5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.
J5D5(4)	Entrance Door	(4) An entrance to a building, if leading to a conditioned space must have an airlock, self- closing door, rapid roller door, revolving door or the like, other than; (a) where the conditioned space has a floor area of not more than 50 m2; or (b) where a café, restaurant, open front shop or the like has; (i) a 3 m deep un-conditioned zone between the main entrance, including an open front, and the conditioned space; and (ii) at all other entrances to the café, restaurant, open front shop or the like, self-closing doors. The main ground floor entry doors shall be self- closing doors.
J5D6	Exhaust Fans	An exhaust fan must be fitted with a sealing device such as a self-closing damper or the like when serving (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
J5D8	Evaporative Coolers	An evaporative cooler must be fitted with a self- closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.



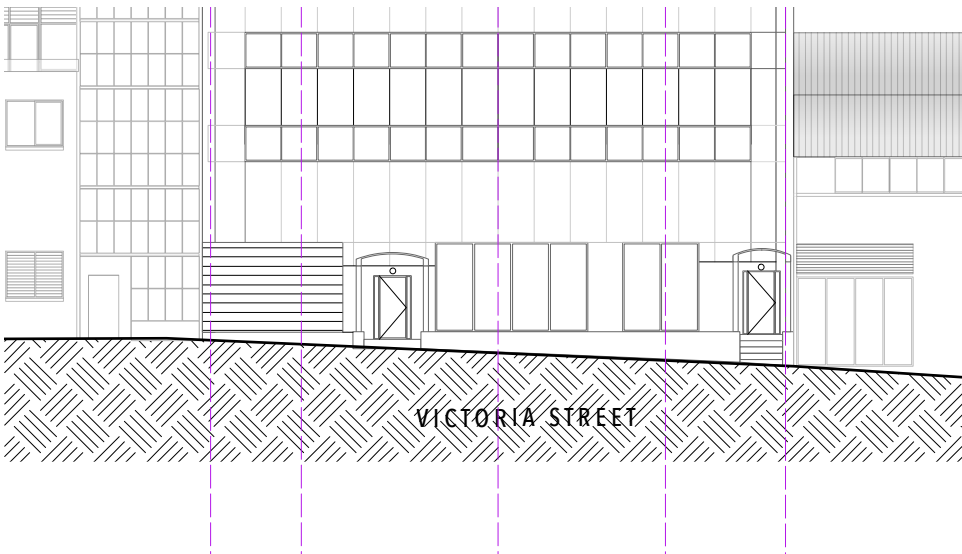
Contact
E: studio@coso.com.au



1 SITE PLAN



2 REAR ELEVATION



3 FRONT ELEVATION

COSO

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Nominated Architect
Anthony Solomon RAIA 5684

Compliance
Comply with all relevant authorities, NCC and Australian Standards. Dimensions in mm. Do not scale from drawings - use figured dimensions only and notify Architect if discrepancy exists.

Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Development Application
54 Victoria Street, McMahons Point

Client
Sam Campisi
Chris Hartigan

Status
Not For Construction

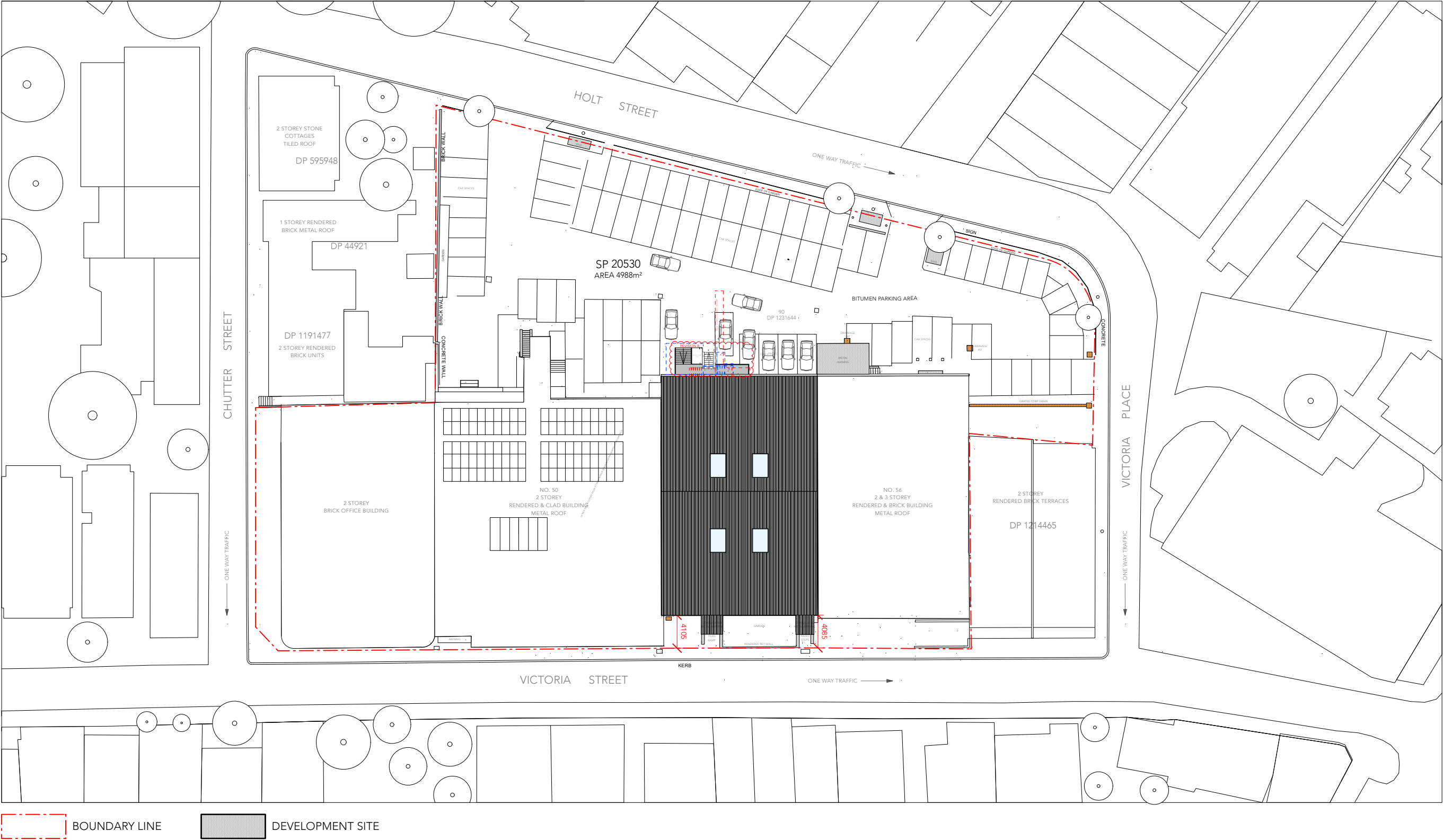
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North

Drawing
Notification Plan

Project No.

Sheet No.
DA 000



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Nominated Architect
Anthony Solomon RAIA 5684
Paul Connor FRAIA 7058

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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria St

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

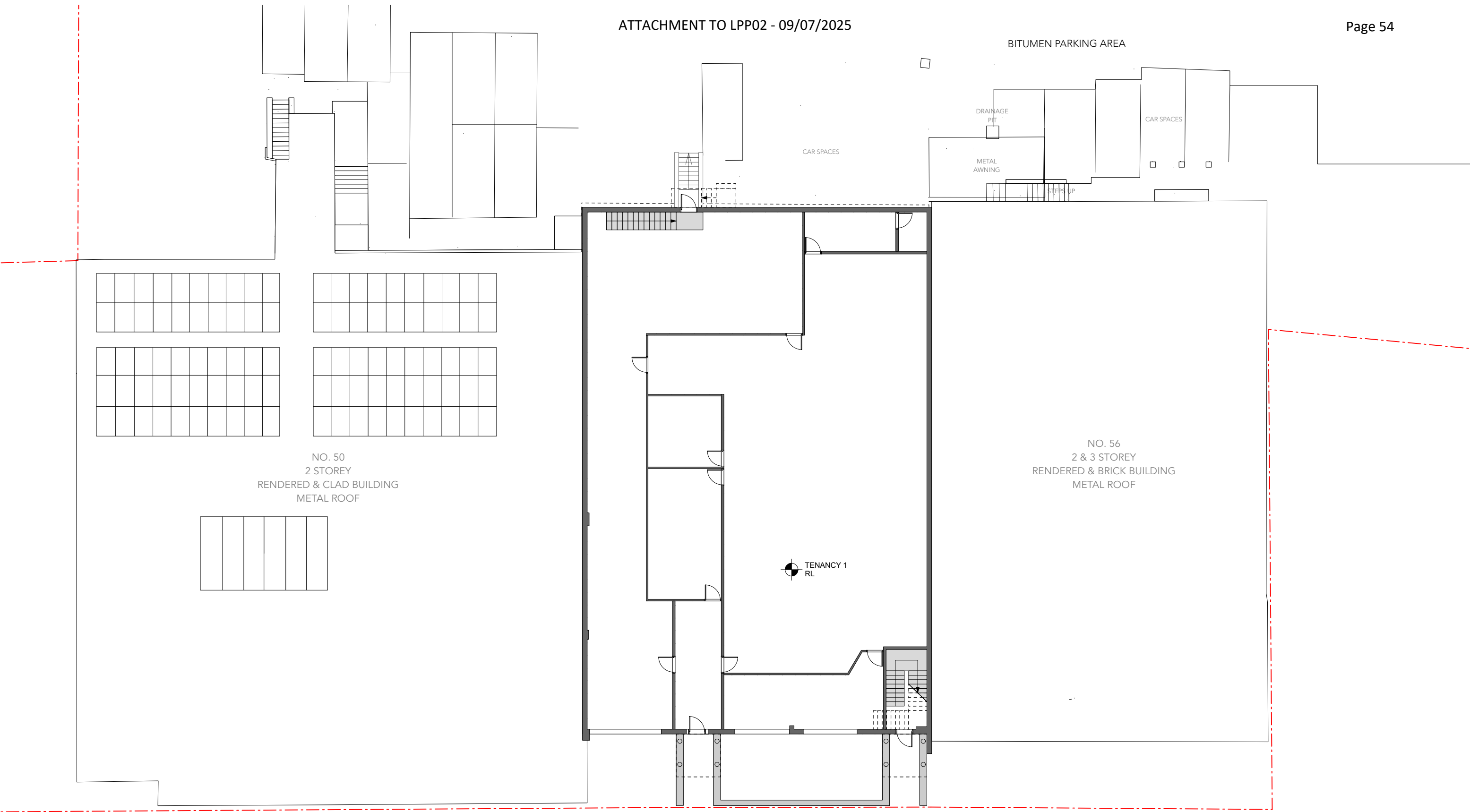
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North

Drawing
Site Plan - Wheelchair Lift

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Nominated Architect
Anthony Solomon RAIA 5684

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Legend	
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To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahons Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

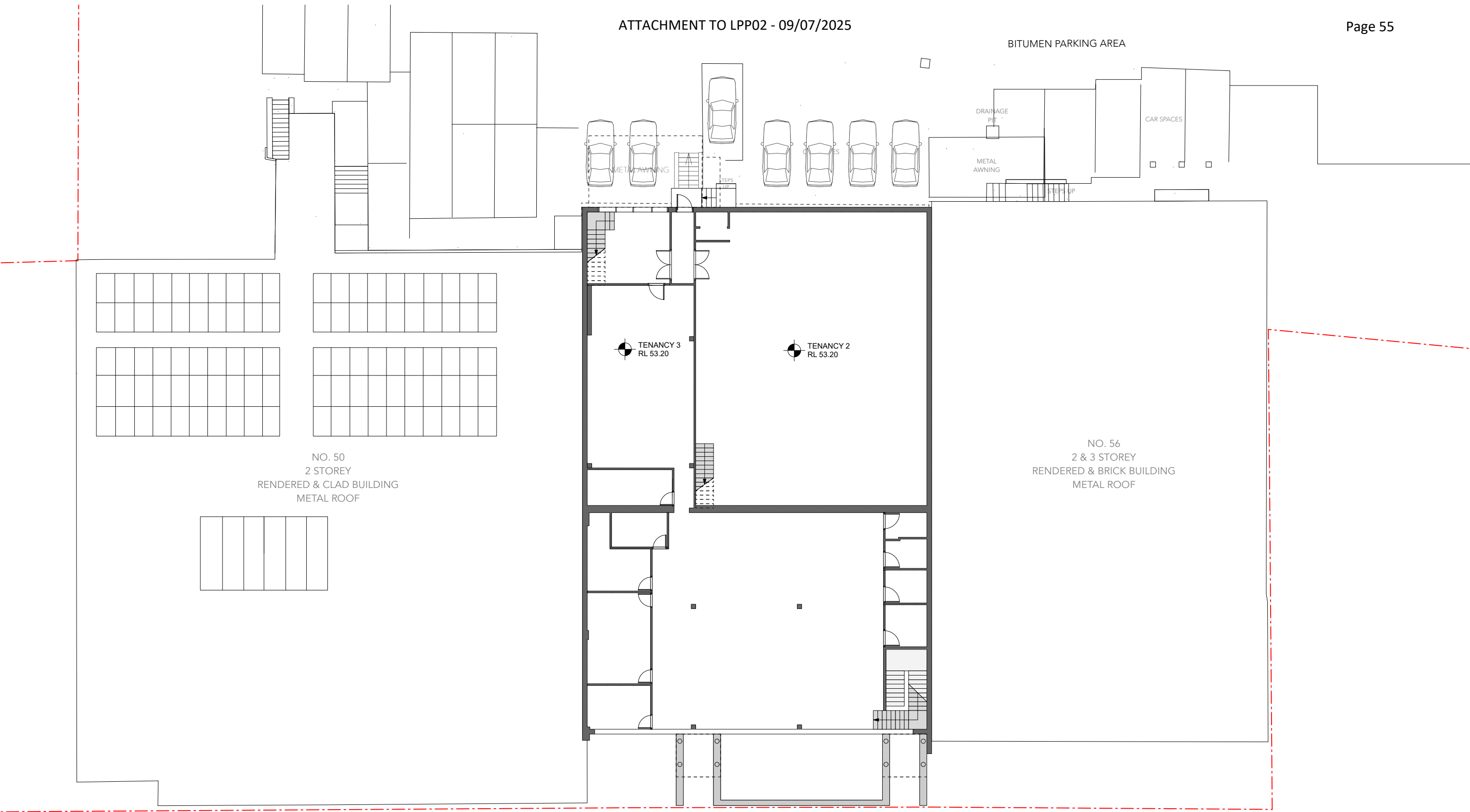
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North

Drawing
Existing
Lower Ground Floor Plan

Project No.

Sheet No.
MD-001



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Nominated Architect
Anthony Solomon RAlA 5684

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Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

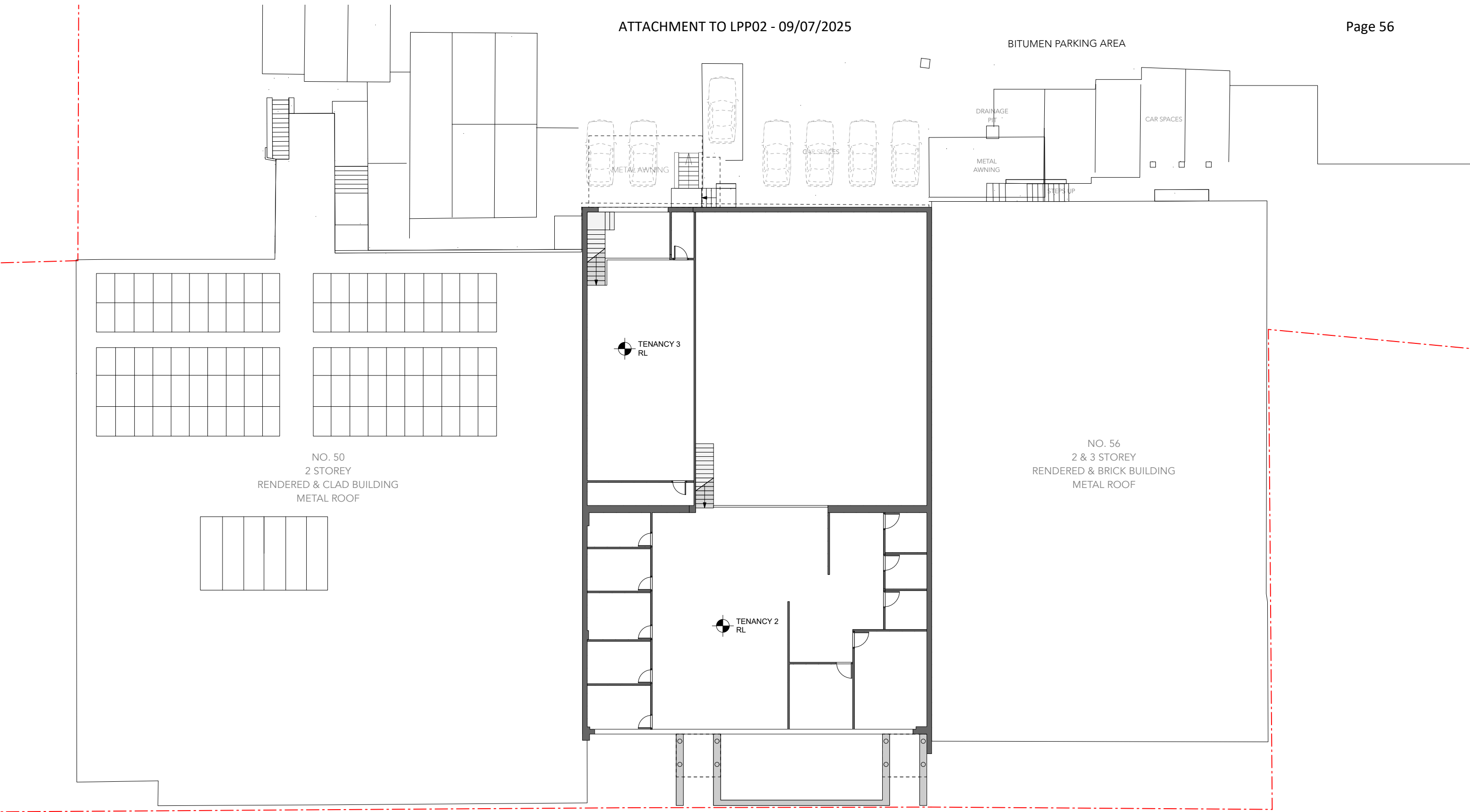
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North

Drawing
Existing
Ground Floor Plan

Project No.

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MD-002



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Nominated Architect
Anthony Solomon RAIA 5684

Compliance
Comply with all relevant authorities, NCC and Australian Standards. Dimensions in mm. Do not scale from drawings - use figured dimensions only and notify Architect if discrepancy exists.

Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

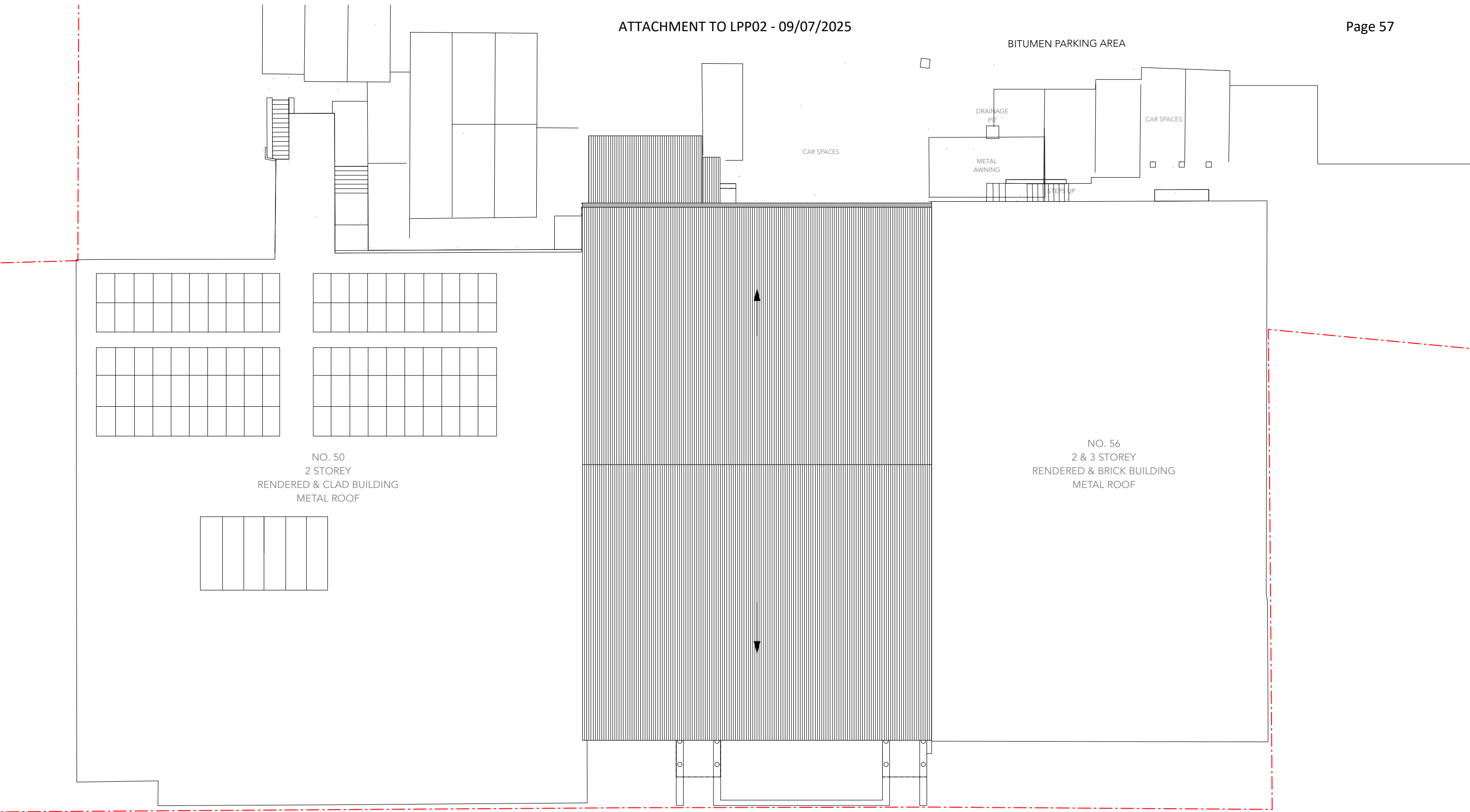
Scale
1:200

North

Drawing
Existing
First Floor Plan

Project No.

Sheet No.
MD-003



Location
108, 50 Holt Street, Surry Hills, 2010

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Legend	
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To be demolished	<div></div>
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New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200



Drawing
Existing
Roof Plan

Project No.
Sheet No. MD-004



COSO

Location
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To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

North

Drawing
Existing
West Elevation (Front)

Project No.

Sheet No.
MD-005



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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

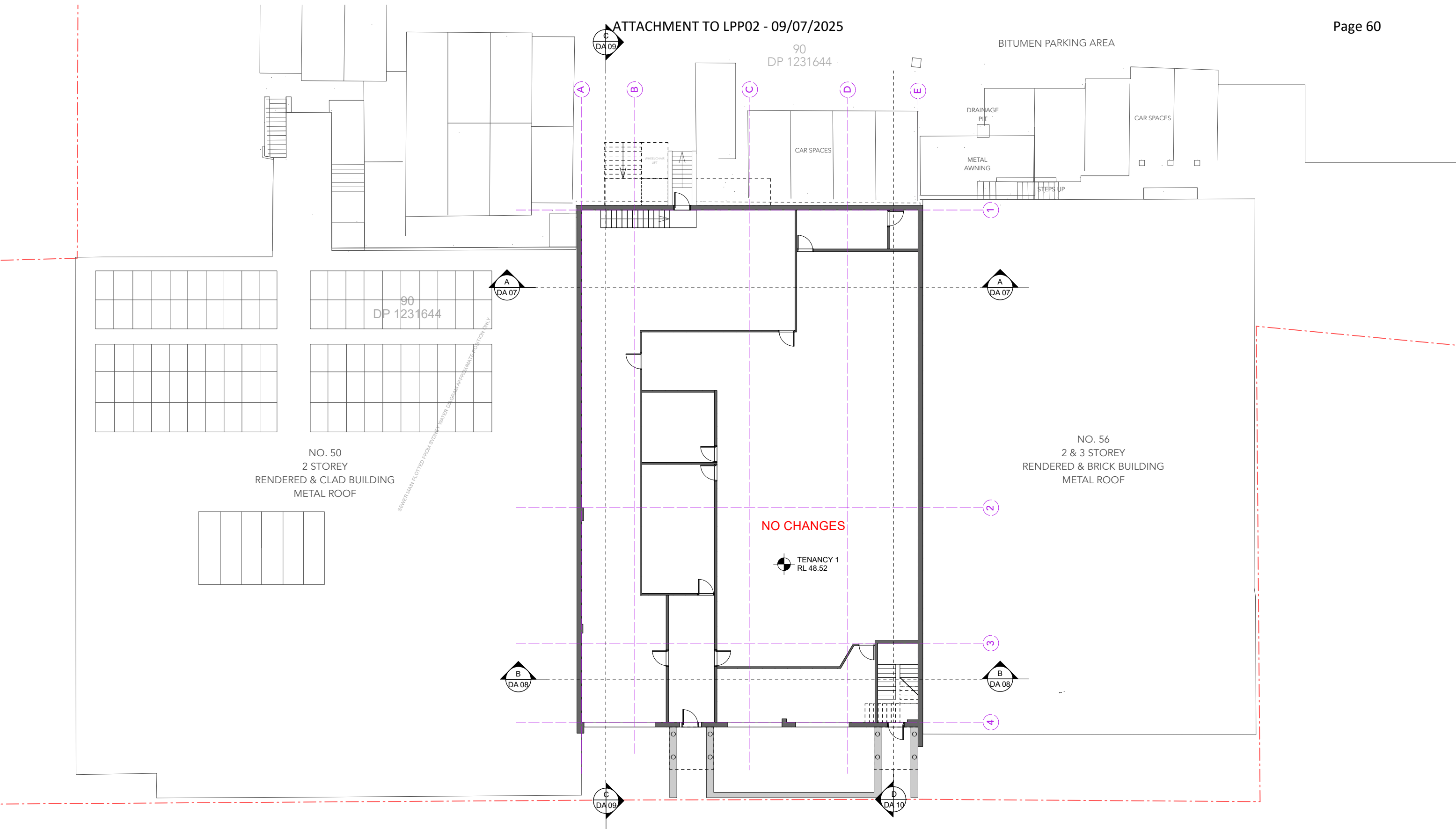
Scale
1:200

North

Drawing
Existing
East Elevation (Rear)

Project No.
MD-006

Sheet No.
MD-006



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Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200



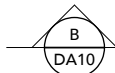
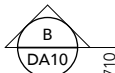
Drawing
Existing
Lower Ground Floor Plan

Project No.
Sheet No.
DA 01

Section J Commitments			
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.	
JSD4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with: (a) an imperforate ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.	
JSD5(1)	Windows & Doors	(1) A door, operable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.	
JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.	
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an operable window or other such opening, may be a foam or rubber compression strip, fibrous seal.	
JSD5(4)	Entrance Door	(4) An entrance to a building, if leading to a conditioned space must have an airlock, self-closing door, rapid roller door, revolving door or the like, other than; (a) where a café, restaurant, open front shop or the like has; (i) a 3 m deep un-conditioned zone between the main entrance, including an open front, and the conditioned space; and (ii) at all other entrances to the café, restaurant, open front shop or the like, self-closing doors. The main ground floor entry doors shall be self-closing doors.	
JSD6	Exhaust Fans	An exhaust fan must be fitted with a sealing device such as a self-closing damper or the like when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.	
JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self-closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.	



Discovery Lift by Aussie Lifts



ATTACHMENT TO LPP02 - 09/07/2025

90
DP 1231644

BITUMEN PARKING AREA

DRAINAGE
PIPE

METAL
AWNING

CAR SPACES

STEPS UP

TENANCY 2
CARPET
RL 53.24

NO. 56
2 & 3 STOREY
RENDERED & BRICK BUILDING
METAL ROOF

Page 61

SCOPE OF WORKS

NEW ENTRY
NEW ENTRY STAIRS
NEW WHEELCHAIR LIFT
NEW COMMERCIAL LIFT
NEW GLAZING TO FRONT FACADE
NEW BATHROOMS
NEW ACCESSIBLE BATHROOM

DEMOLISH INTERNAL WALLS
DEMOLISH EXISTING AWNING AT FRONT
DEMOLISH EXISTING STAIRS AT FRONT

REWORK REAR ACCESS STAIRS

COMPLIANCE NOTES

SEPARATE SANITARY FACILITIES PROVIDED FOR MALE AND FEMALE (INCLUDING BASINS) AS PER BCA F4D4

AMBULANT SANITARY COMPARTMENT PROVIDED WITHIN SANITARY FACILITIES AS PER BCA F4D5

ACCESSIBLE UNISEX SANITARY FACILITY PROVIDED WITH 2.5m² AIRLOCK WITH SELF CLOSING DOORS AS PER BCA F6D10

COSO

Location

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Contact

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Legend

Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date Rev. Description

21/02/25 A DA

20/05/25 B DA

Project

Alterations and Additions

54 Victoria Street, McMahons Point

Client

Sam Campisi
Chris Hartigan

Status

Development Application (DA)
Not For Construction

Scale

1:200

North



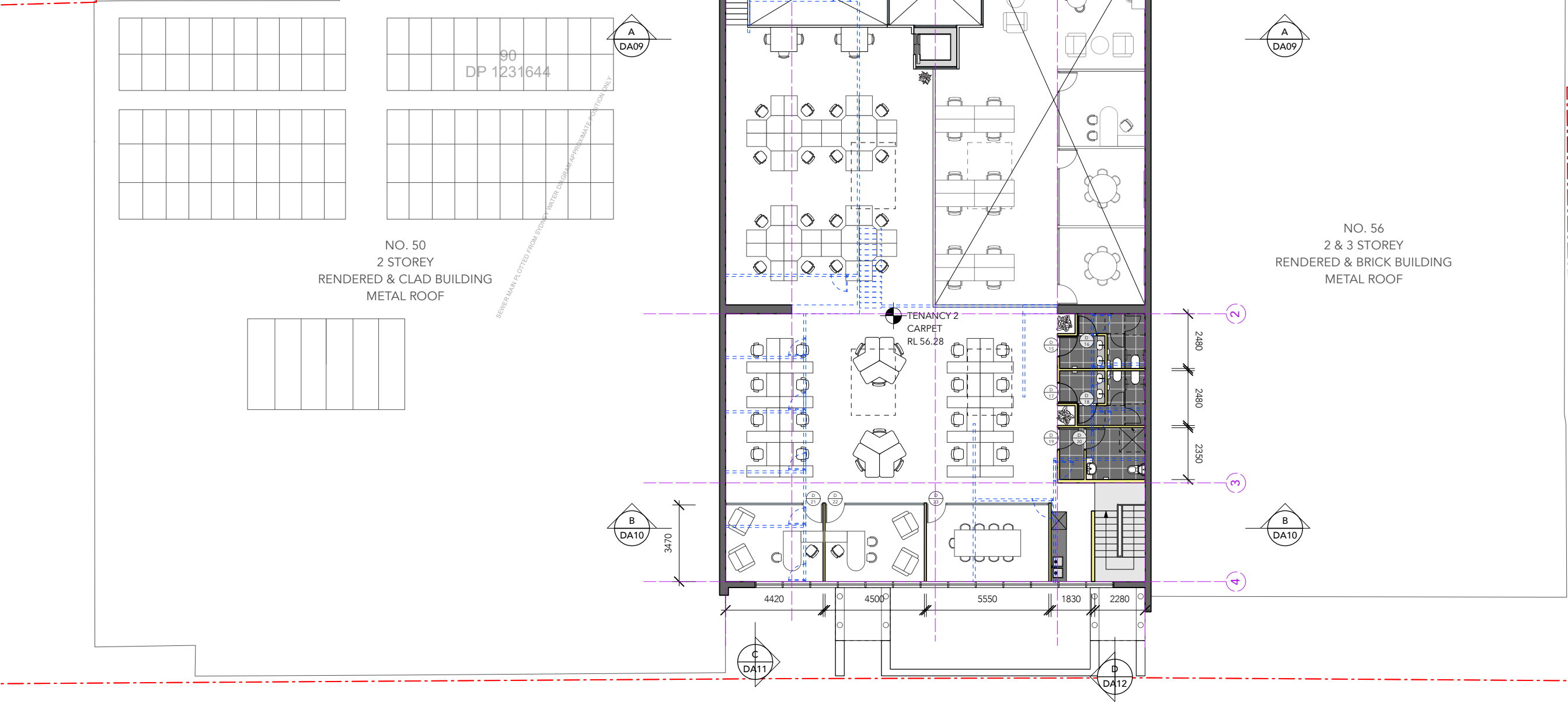
Drawing

Proposed Ground Floor - Wheelchair Lift

Project No.

Sheet No.

Section J Commitments			
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.	
JSD4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with: (a) an impermeable ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.	
JSD5(1)	Windows & Doors	(1) A door, openable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.	
JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.	
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.	
JSD5(4)	Entrance Door	(4) An entrance to a building, if leading to a conditioned space must have an airlock, self-closing door, rapid roller door, revolving door or the like, other than; (a) where the conditioned space has a floor area of not more than 50 m2; or (b) where a cafe, restaurant, open front shop or the like has; (i) a 3 m deep un-conditioned zone between the main entrance, including an open front, and the conditioned space; and (ii) at all other entrances to the cafe, restaurant, open front shop or the like, self-closing doors. The main ground floor entry doors shall be self-closing doors.	
JSD6	Exhaust Fans	An exhaust fan must be fitted with a sealing device such as a self-closing damper or the like when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.	
JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self-closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.	



SCOPE OF WORKS
NEW COMMERCIAL LIFT NEW GLAZING TO FRONT FACADE NEW BATHROOMS NEW ACCESSIBLE BATHROOM
DEMOLISH INTERNAL WALLS
REWORK REAR ACCESS STAIRS

COMPLIANCE NOTES
SEPARATE SANITARY FACILITIES PROVIDED FOR MALE AND FEMALE (INCLUDING BASINS) AS PER BCA F4D4
AMBULANT SANITARY COMPARTMENT PROVIDED WITHIN SANITARY FACILITIES AS PER BCA F4D5
ACCESSIBLE UNISEX SANITARY FACILITY PROVIDED WITH 1.4m² AIRLOCK WITH SELF CLOSING DOORS AS PER BCA F6D10

COSO

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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahons Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

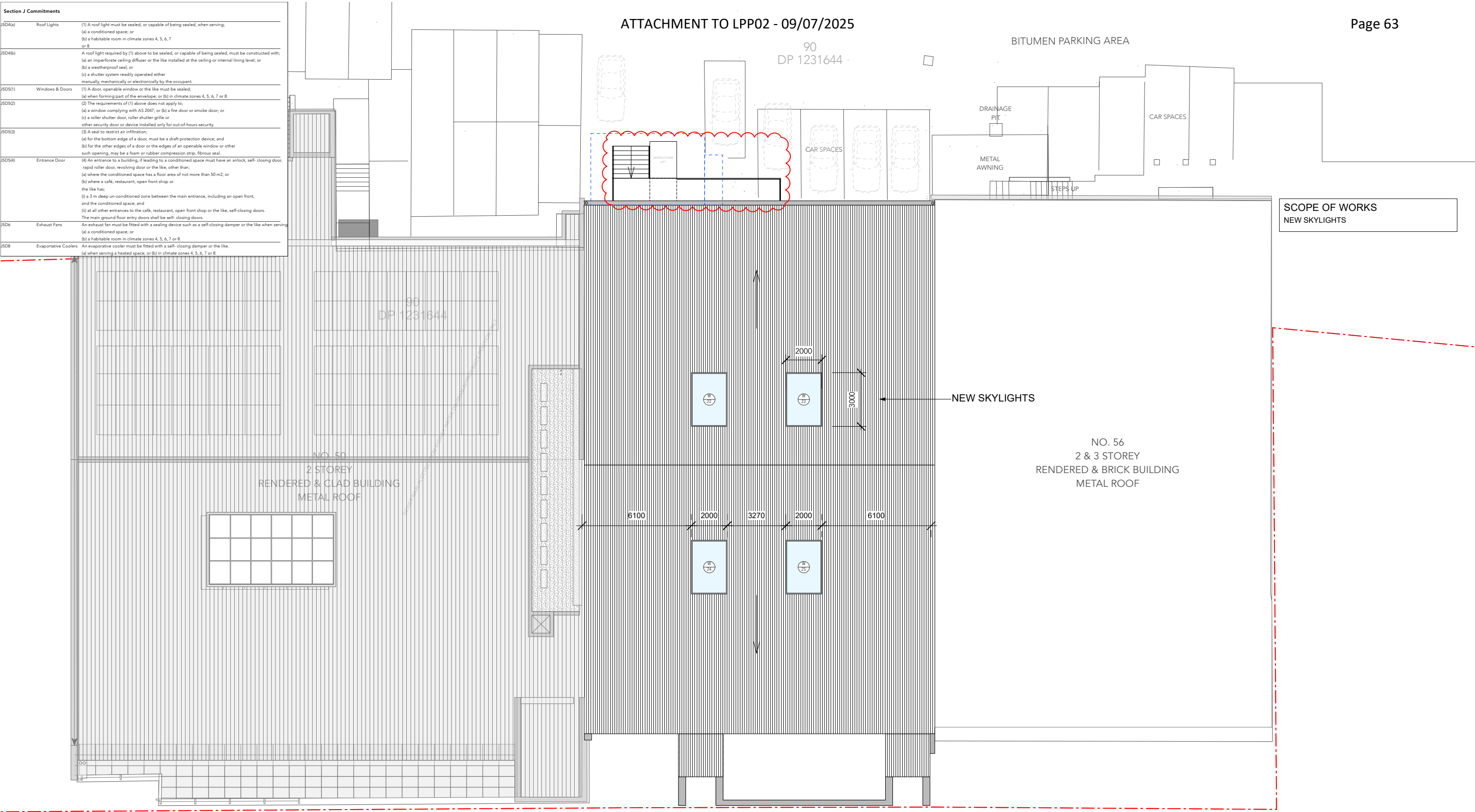
Scale
1:200

North
↑

Drawing
Proposed First Floor

Project No. **Sheet No.**

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
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Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahons Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

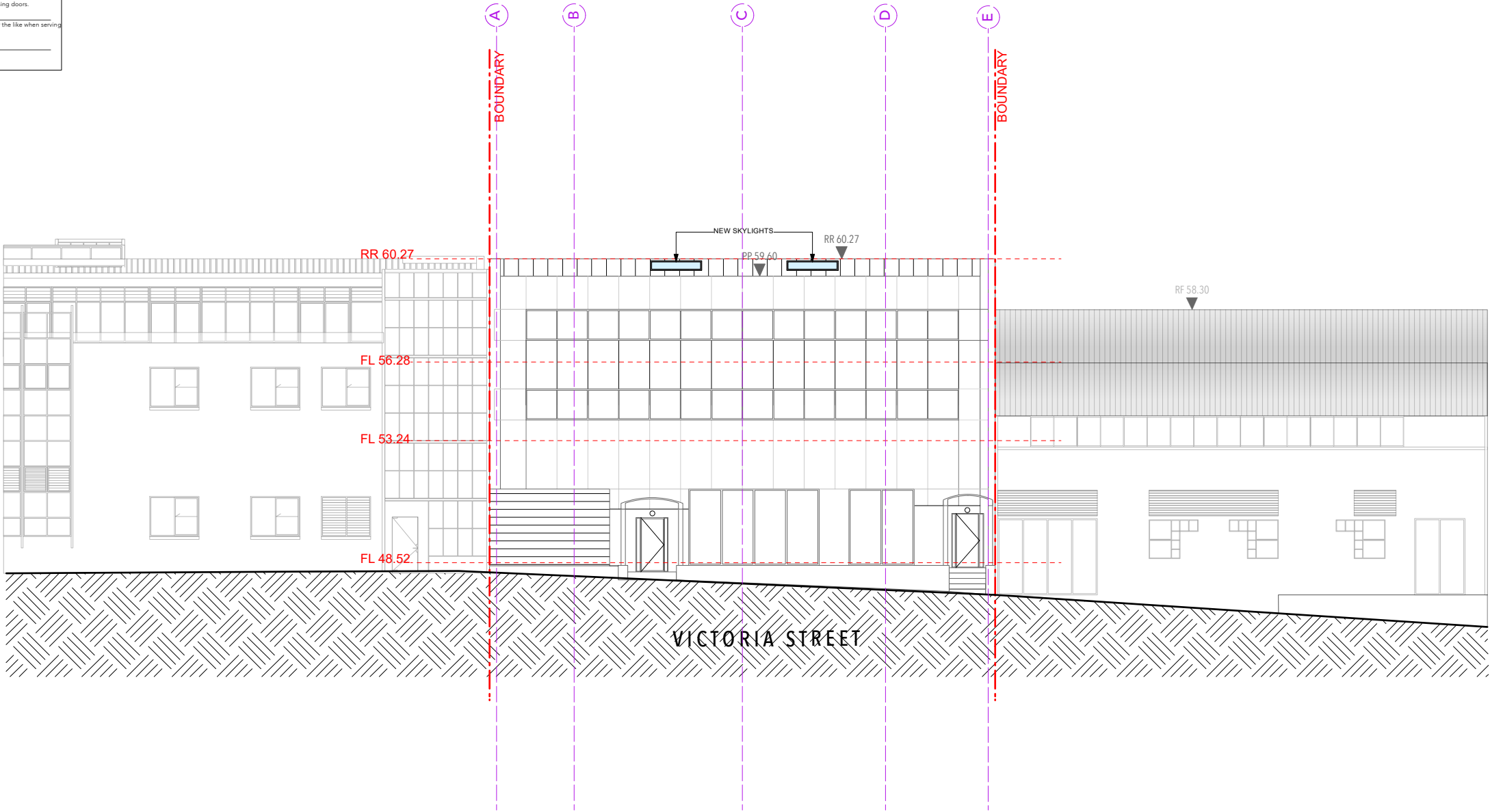
North

Drawing
Proposed
Roof Plan

Project No.

Sheet No.
DA 04

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
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JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self- closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.



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Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

North

Drawing
Proposed
South East Elevation (Front)

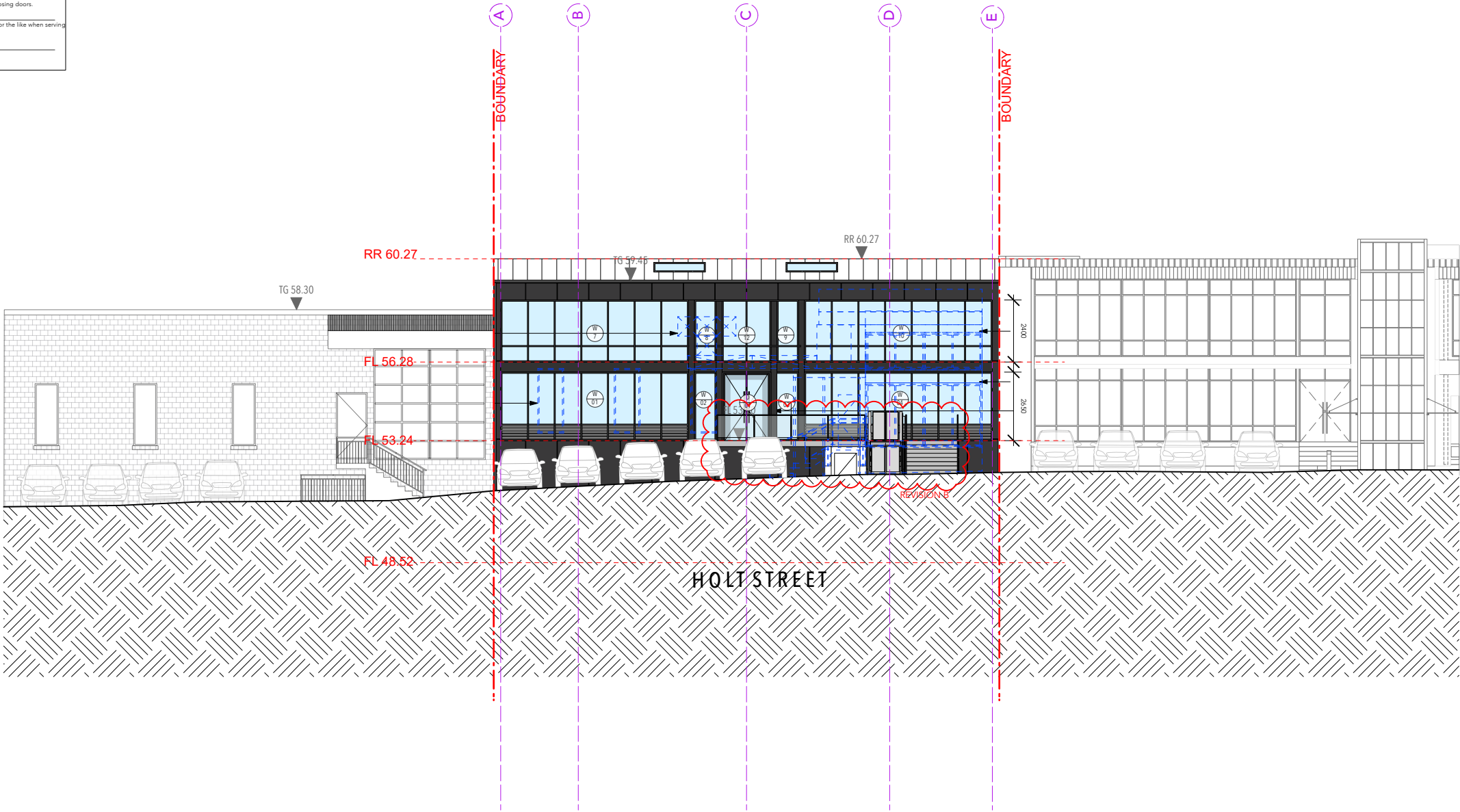
Project No.

Sheet No.
DA 05

SCOPE OF WORKS
NEW ENTRY STAIRS
NEW WHEELCHAIR LIFT
NEW GLAZING TO FRONT FACADE

DEMOLISH EXISTING AWNING AT FRONT
DEMOLISH EXISTING STAIRS AT FRONT

Section J Commitments		
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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

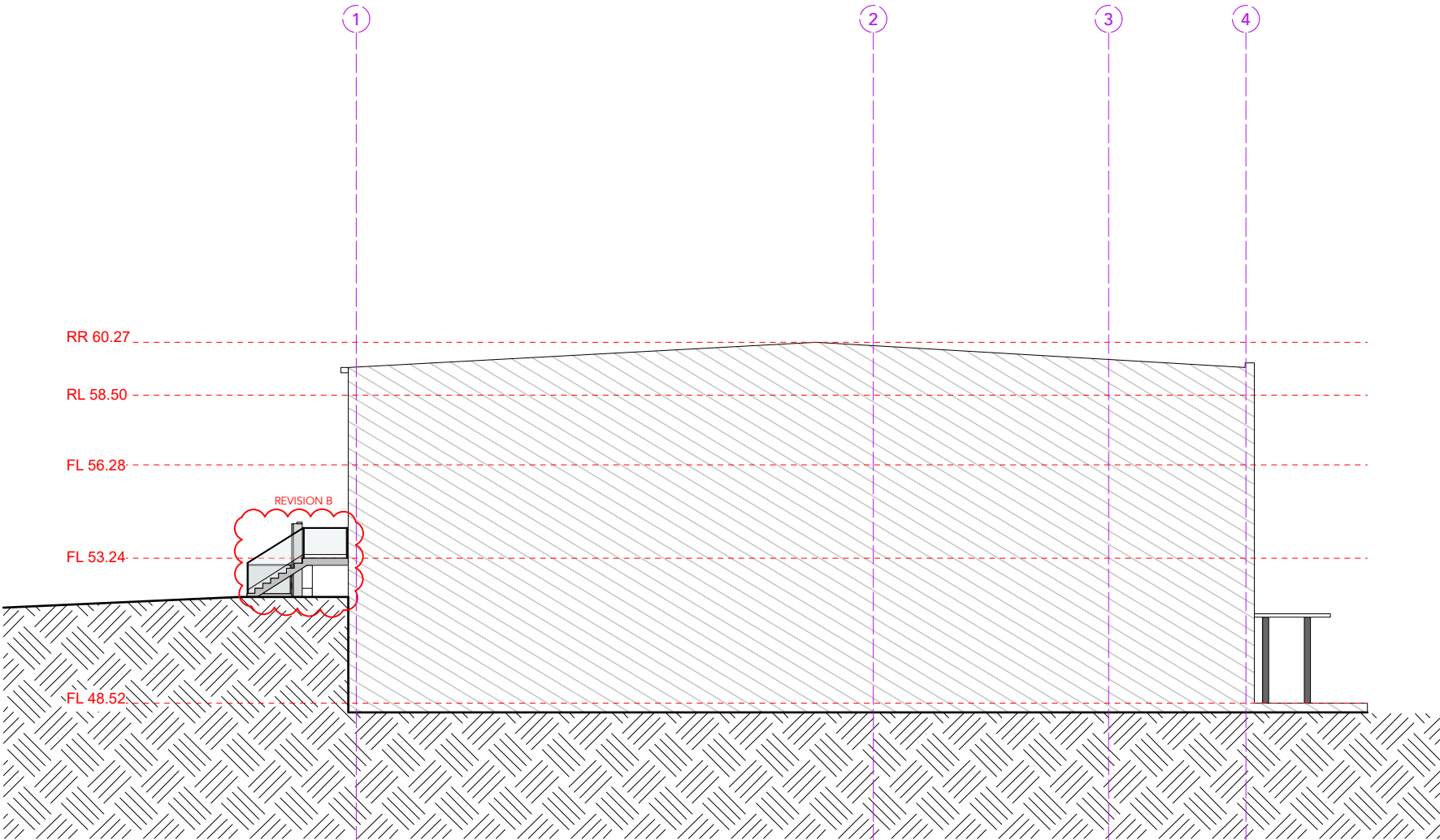
North

Drawing
Proposed
North West Elevation (Rear)

Project No.
DA 06

Sheet No.

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
JSD4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with: (a) an impermeate ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.
JSD5(1)	Windows & Doors	(1) A door, openable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.
JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.
JSD5(4)	Entrance Door	(4) An entrance to a building, if leading to a conditioned space must have an airlock, self- closing door, rapid roller door, revolving door or the like, other than; (a) where the conditioned space has a floor area of not more than 50 m2; or (b) where a cafe, restaurant, open front shop or the like has; (i) a 3 m deep un-conditioned zone between the main entrance, including an open front, and the conditioned space; and (ii) at all other entrances to the cafe, restaurant, open front shop or the like, self-closing doors. The main ground floor entry doors shall be self- closing doors.
JSD6	Exhaust Fans	An exhaust fan must be fitted with a sealing device such as a self-closing damper or the like when serving (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self- closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.



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Nominated Architect
Anthony Solomon RAIA 5684

Compliance
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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

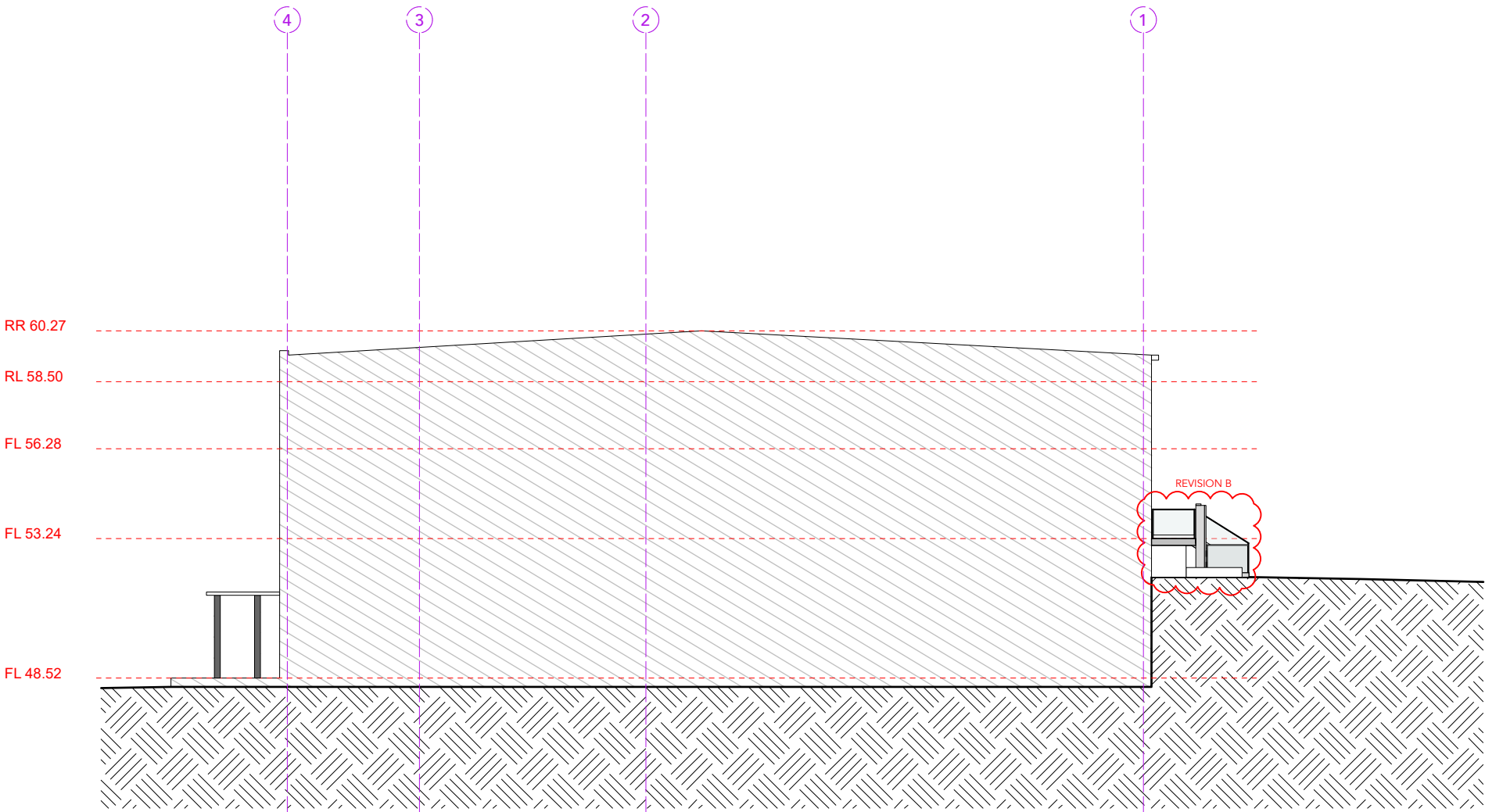


Drawing
Proposed
South West Elevation (Side)

Project No.
DA 07

Sheet No.

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
JSD4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with: (a) an imperforate ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.
JSD5(1)	Windows & Doors	(1) A door, openable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.
JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.
JSD5(4)	Entrance Door	(4) An entrance to a building, if leading to a conditioned space must have an airlock, self- closing door, rapid roller door, revolving door or the like, other than; (a) where the conditioned space has a floor area of not more than 50 m2; or (b) where a cafe, restaurant, open front shop or the like has; (i) a 3 m deep un-conditioned zone between the main entrance, including an open front, and the conditioned space; and (ii) at all other entrances to the cafe, restaurant, open front shop or the like, self-closing doors. The main ground floor entry doors shall be self- closing doors.
JSD6	Exhaust Fans	An exhaust fan must be fitted with a sealing device such as a self-closing damper or the like when serving (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self- closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.



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Nominated Architect
Anthony Solomon RAlA 5684

Compliance
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Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

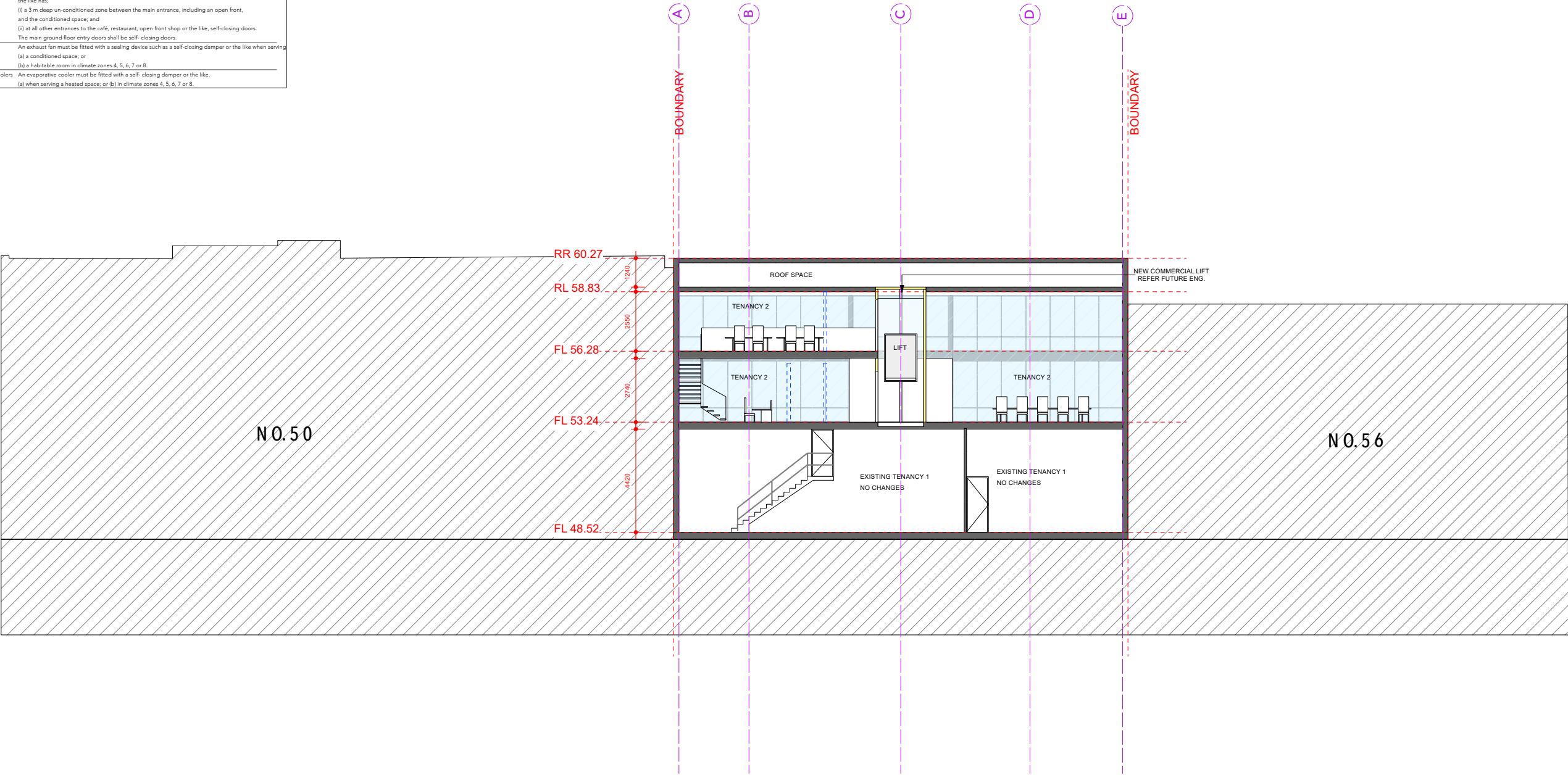


Drawing
Proposed
North East Elevation (Side)

Project No.

Sheet No.
DA 08

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
JSD4(b)		A roof light required by (1) above to be sealed, or capable of being sealed, must be constructed with: (a) an imperforate ceiling diffuser or the like installed at the ceiling or internal lining level; or (b) a weatherproof seal; or (c) a shutter system readily operated either manually, mechanically or electronically by the occupant.
JSD5(1)	Windows & Doors	(1) A door, openable window or the like must be sealed; (a) when forming part of the envelope; or (b) in climate zones 4, 5, 6, 7 or 8.
JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.
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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

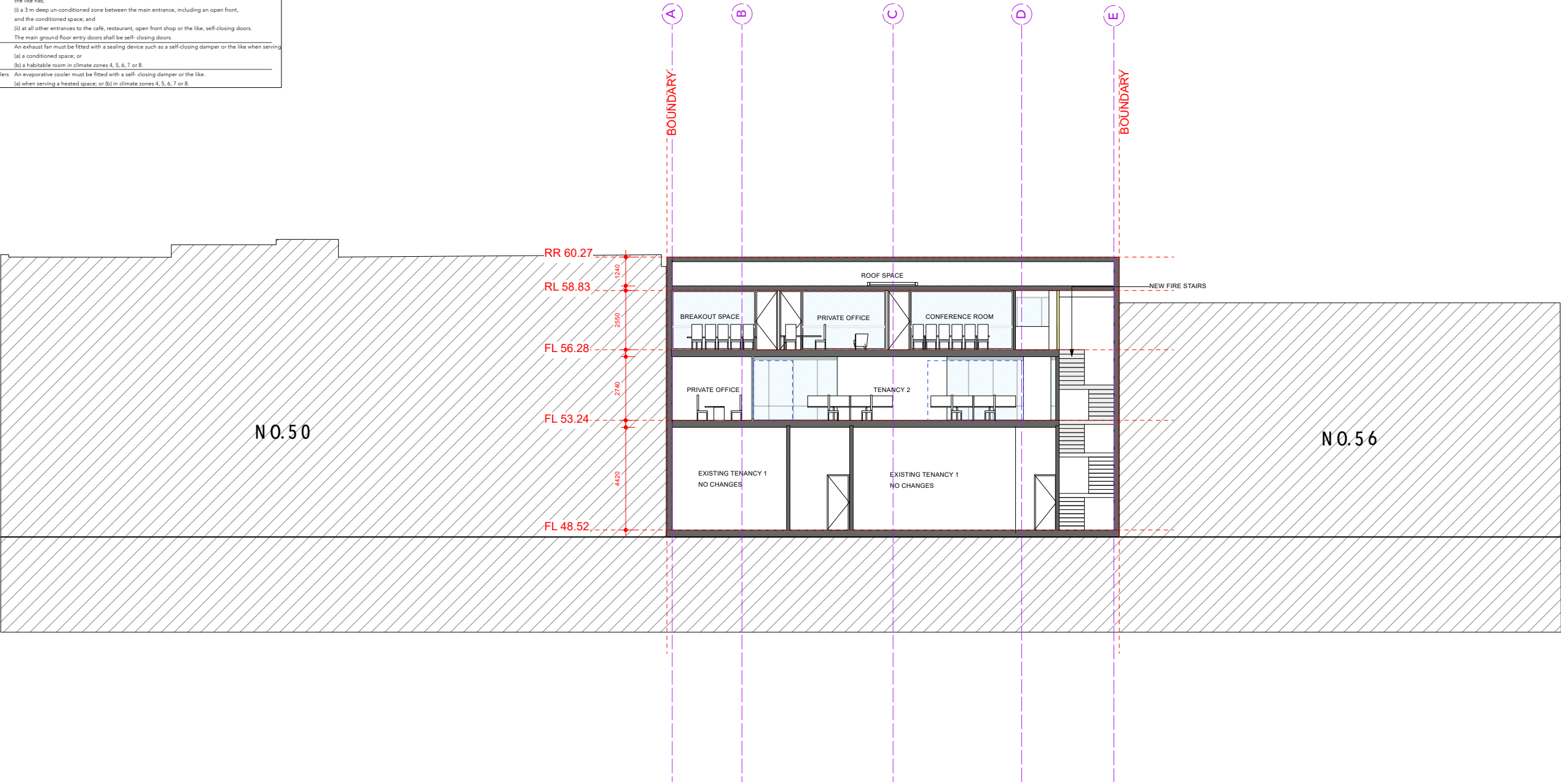
North

Drawing
Proposed
Section A-A

Project No.

Sheet No.
DA 09

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
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JSD5(2)		(2) The requirements of (1) above does not apply to; (a) a window complying with AS 2047; or (b) a fire door or smoke door; or (c) a roller shutter door, roller shutter grille or other security door or device installed only for out-of-hours security.
JSD5(3)		(3) A seal to restrict air infiltration; (a) for the bottom edge of a door, must be a draft protection device; and (b) for the other edges of a door or the edges of an openable window or other such opening, may be a foam or rubber compression strip, fibrous seal.
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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

North

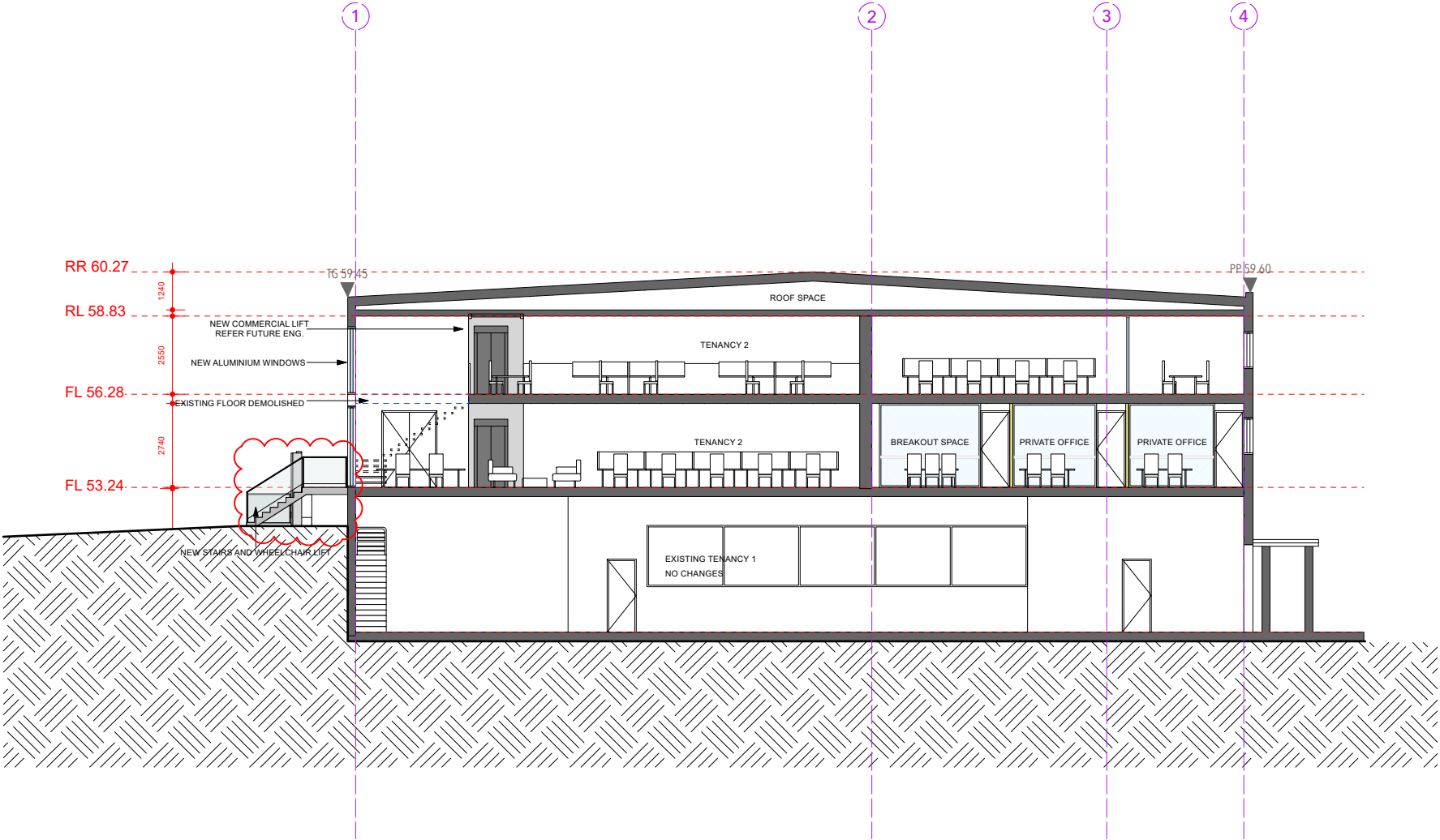
Drawing
Proposed
Section B-B

Project No.

Sheet No.
DA 10

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
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JSD8	Evaporative Coolers	An evaporative cooler must be fitted with a self- closing damper or the like. (a) when serving a heated space; or (b) in climate zones 4, 5, 6, 7 or 8.

HOLT STREET



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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

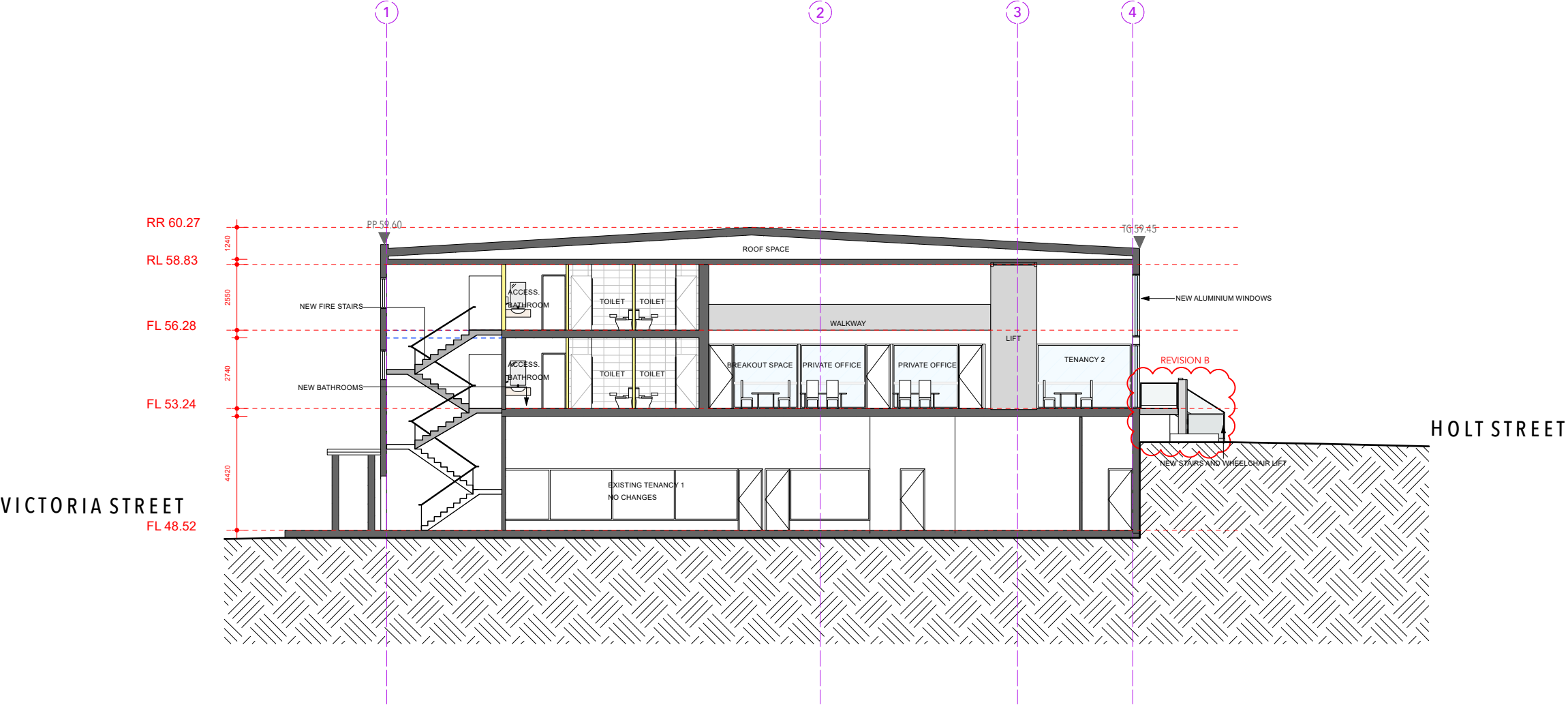
North

Drawing
Proposed
Section C-C

Project No.

Sheet No.
DA 11

Section J Commitments		
JSD4(a)	Roof Lights	(1) A roof light must be sealed, or capable of being sealed, when serving: (a) a conditioned space; or (b) a habitable room in climate zones 4, 5, 6, 7 or 8.
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Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahons Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

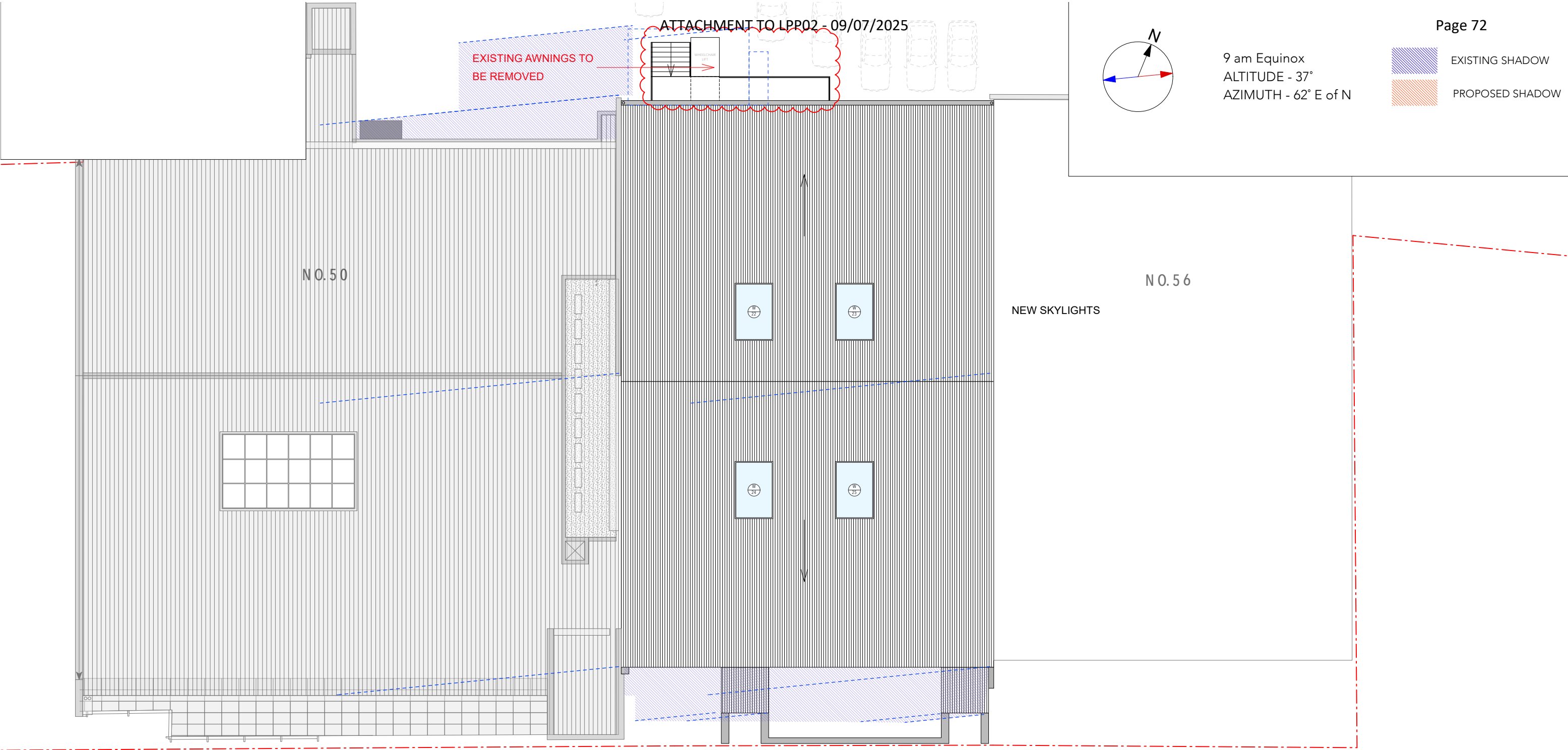
Scale
1:200

North

Drawing
Proposed
Section D-D

Project No.

Sheet No.
DA 12



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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

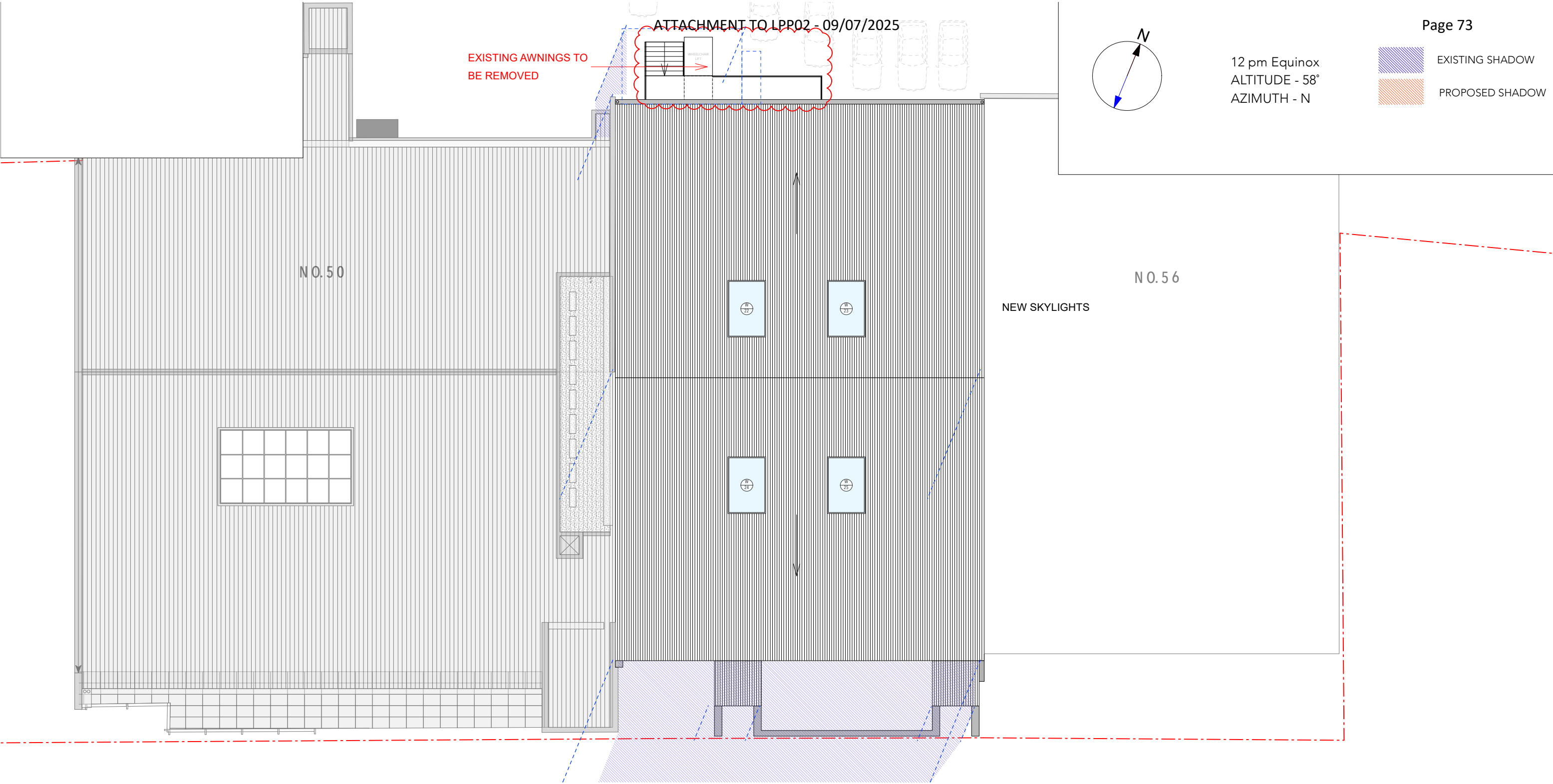
Status
Development Application (DA)
Not For Construction

Scale
1:200

North

Drawing
Proposed
9 am Equinox Shadow Diagram

Project No.
Sheet No.
DA 13



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Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200

North

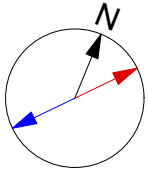
Drawing
Proposed
12 pm Equinox Shadow Diagram

Project No.
Sheet No.
DA 14

9 am solstice
ALTITUDE - 18°
AZIMUTH - 42° E of N

EXISTING SHADOW

PROPOSED SHADOW



ATTACHMENT TO LPP02 - 09/07/2025

EXISTING AWNINGS TO
BE REMOVED

N0.50

N0.56

NEW SKYLIGHTS

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Anthony Solomon RAIA 5684

Compliance
Comply with all relevant authorities, NCC and Australian Standards. Dimensions in mm. Do not scale from drawings - use figured dimensions only and notify Architect if discrepancy exists.

Legend

Existing Wall

To be demolished

New Construction / Timber

New Construction / Masonry

New Construction / Concrete

Metal

Glass

Finished floor / relative level

Downpipe

FFL / RL

DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

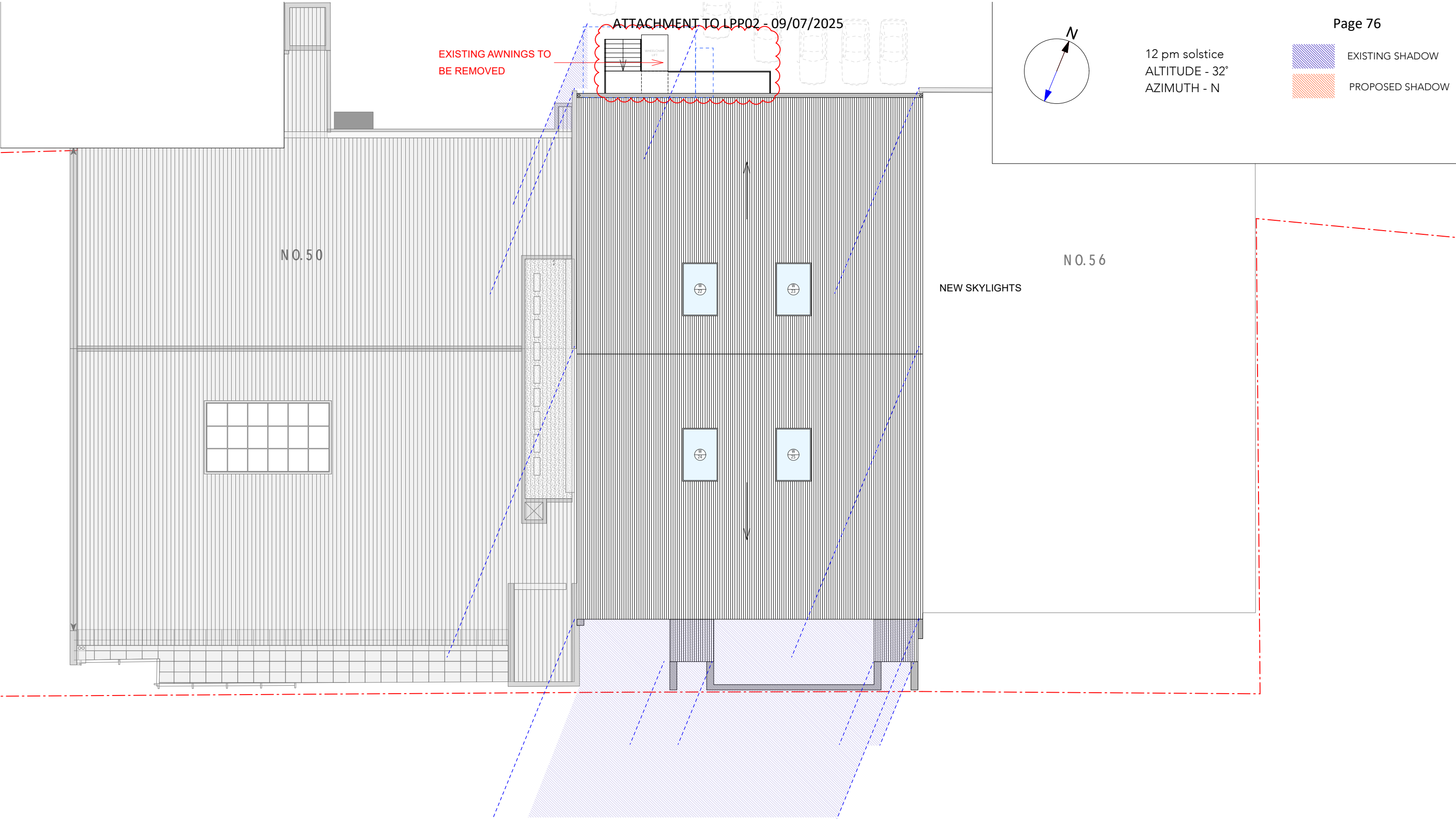
Status
Development Application (DA)
Not For Construction

Scale
1:200



Drawing
Proposed
9 am Solstice Shadow Diagram

Project No.
Sheet No.
DA 16



COSO

Location
108, 50 Holt Street, Surry Hills, 2010

Contact
E: studio@coso.com.au

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Nominated Architect
Anthony Solomon RAIA 5684

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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:200



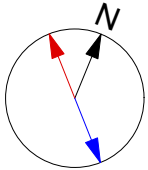
Drawing
Proposed
12 pm Solstice Shadow Diagram

Project No.

Sheet No.

DA 17

EXISTING AWNINGS TO
BE REMOVED



3 pm solstice
ALTITUDE - 18°
AZIMUTH - 44° W of N

EXISTING SHADOW
PROPOSED SHADOW

N O. 50

N O. 56

NEW SKYLIGHTS

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Nominated Architect
Anthony Solomon RAlA 5684

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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

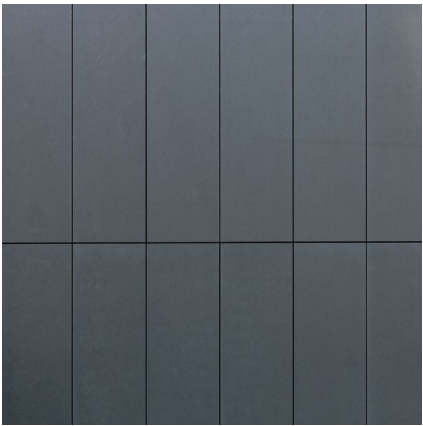
Scale
1:200



Drawing
Proposed
3 pm Solstice Shadow Diagram

Project No.
DA 18

Sheet No.



FC CLADDING FACADE

Finish: Dulux
Notes: Weathershield - Black Caviar



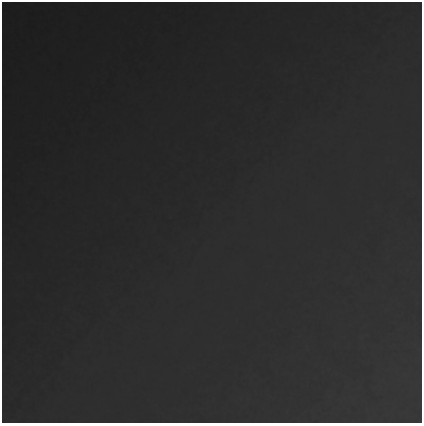
HANDRAILING

Finish: Black Stainless Steel
Notes: BCA Compliant



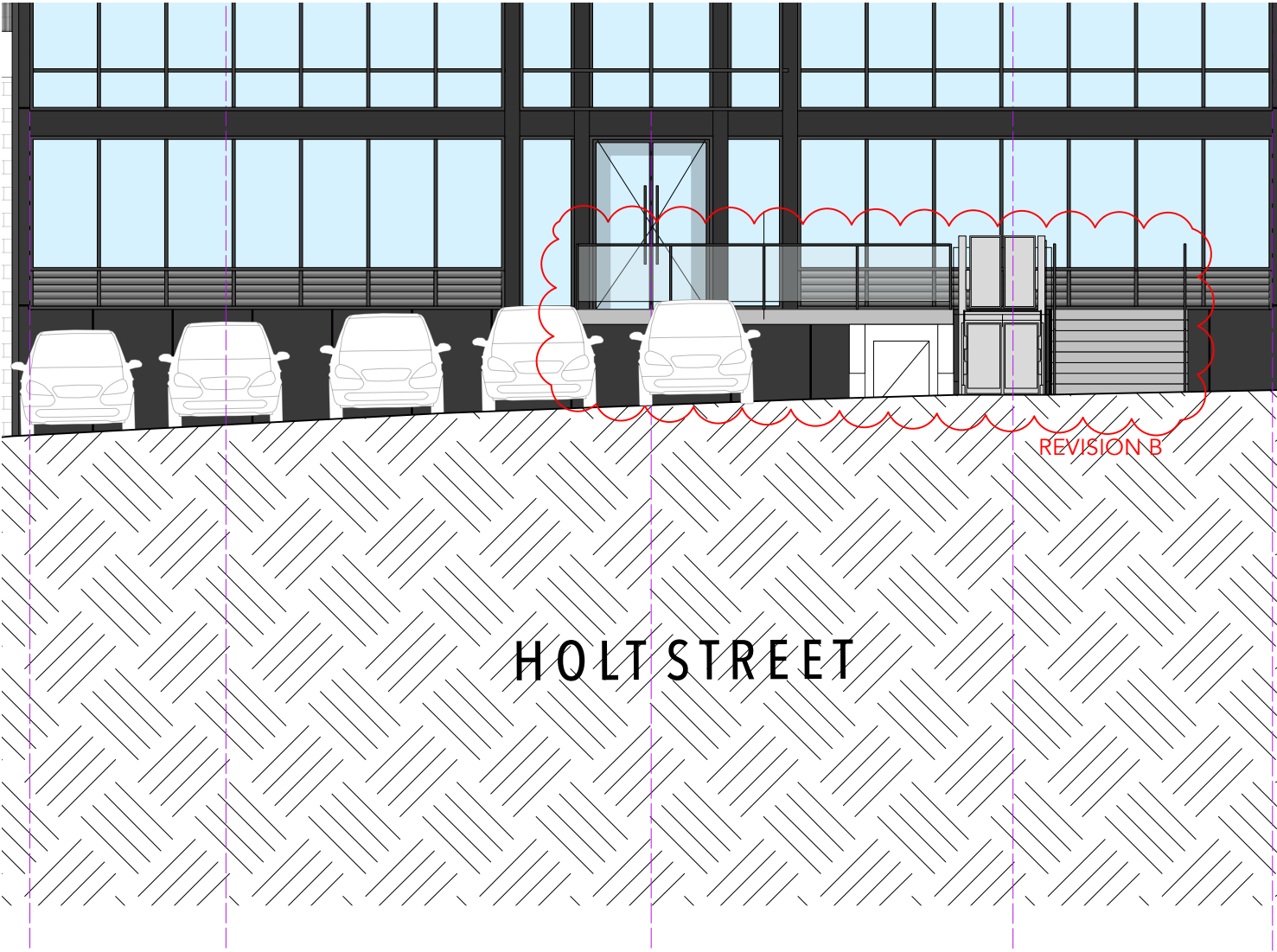
ENTRANCE RAMP

Finish: Concrete



EXTERNAL DOORS, WINDOWS, GUTTERS,
DOWNPIPES & VENTS

Finish: Aluminium
Notes: Pre-Finished, Monument or Similar



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Contact
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Nominated Architect
Anthony Solomon RAIA 5684

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Legend	
Existing Wall	
To be demolished	
New Construction / Timber	
New Construction / Masonry	
New Construction / Concrete	
Metal	
Glass	
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Development Application
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

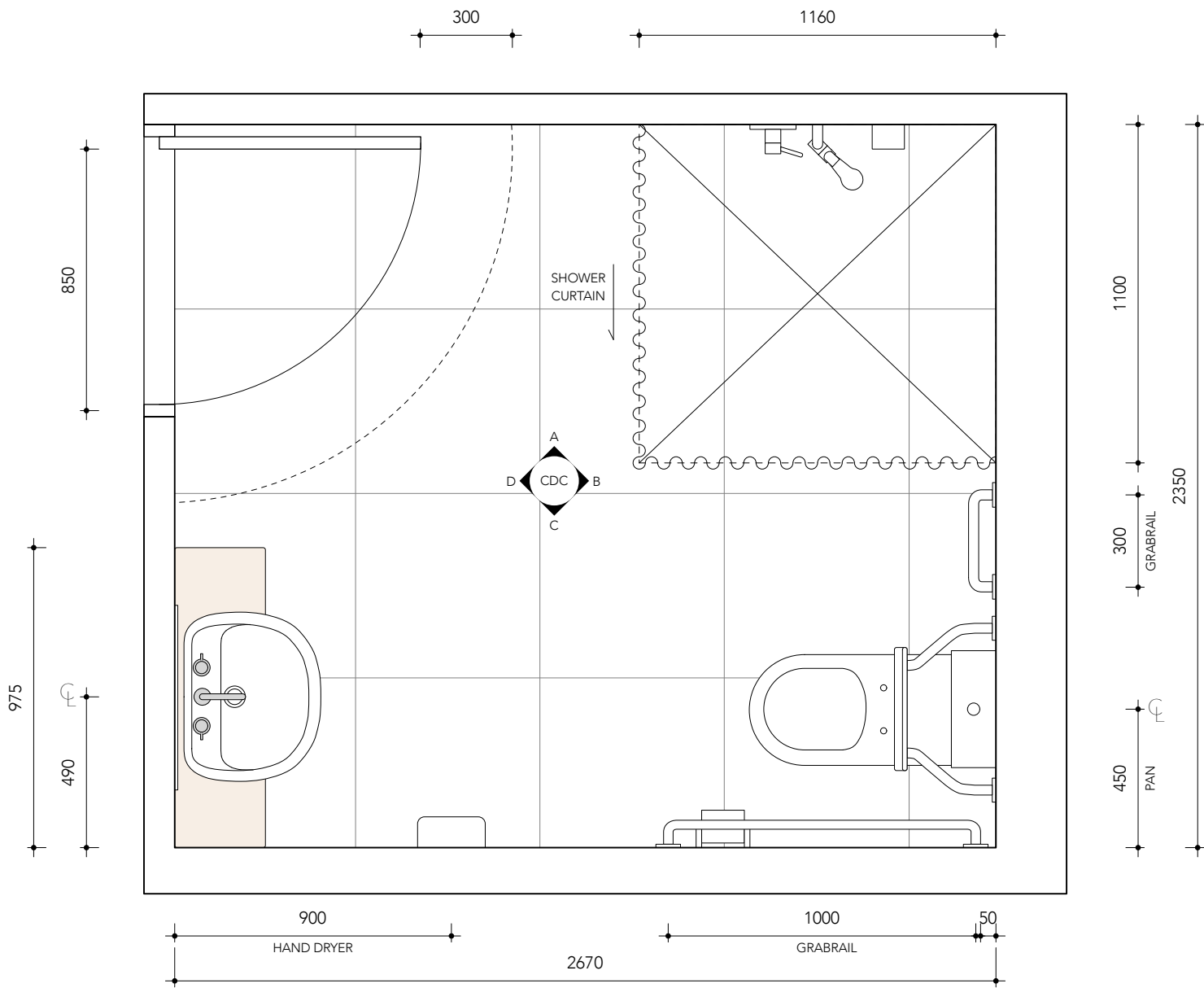
Status
Not For Construction

Scale
1:200

North

Drawing
Proposed
Material Finishes

Project No.
Sheet No.
DA 19



ACCESSIBLE TOILET & SHOWER
SCALE 1:20

Designed in compliance with AS 1428.1-2021

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Location
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Contact
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Nominated Architect
Anthony Solomon RAIA 5684

Compliance
Comply with all relevant authorities, NCC and Australian Standards. Dimensions in mm. Do not scale from drawings - use figured dimensions only and notify Architect if discrepancy exists.

Legend	
Existing Wall	<div></div>
To be demolished	<div></div>
New Construction / Timber	<div></div>
New Construction / Masonry	<div></div>
New Construction / Concrete	<div></div>
Metal	<div></div>
Glass	<div></div>
Finished floor / relative level	FFL / RL
Downpipe	DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria Street, McMahon's Point

Client
Sam Campisi
Chris Hartigan

Status
Development Application (DA)
Not For Construction

Scale
1:20



Drawing
Accessible Bathroom Plan

Project No.
DA 20

Sheet No.
DA 20

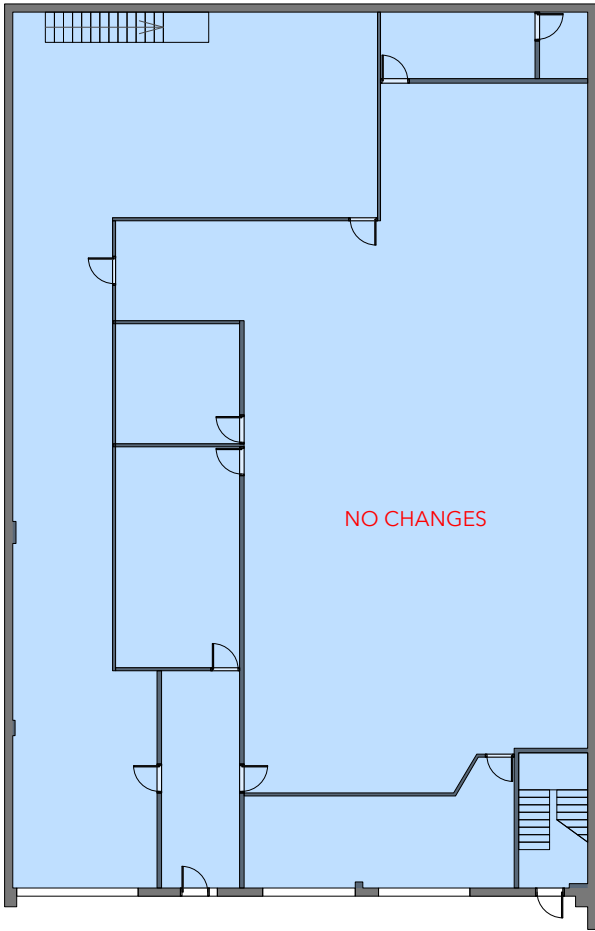
Gross Floor Area Calculations

Existing Floor Area

Proposed Floor Area

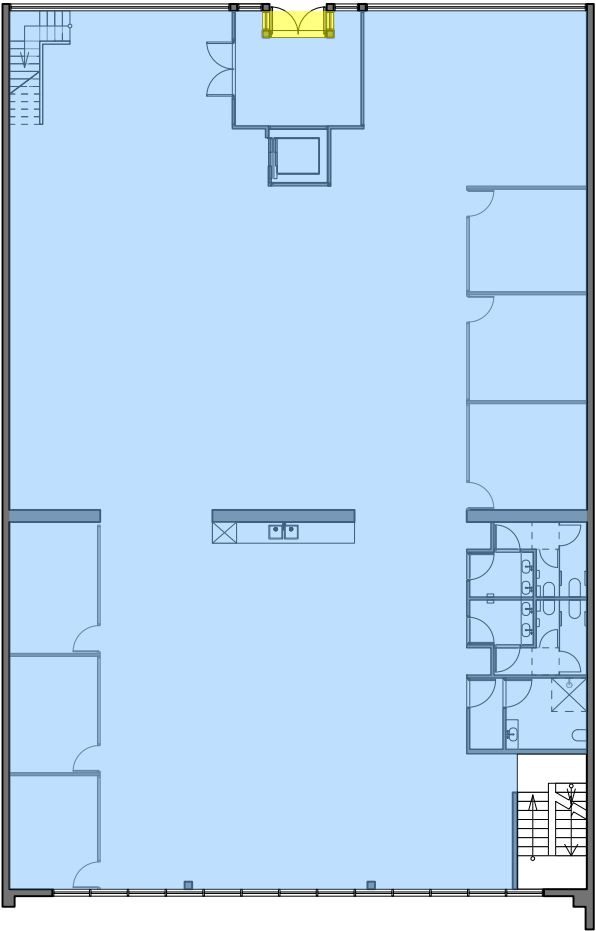
Removed Floor Area

LOWER GROUND



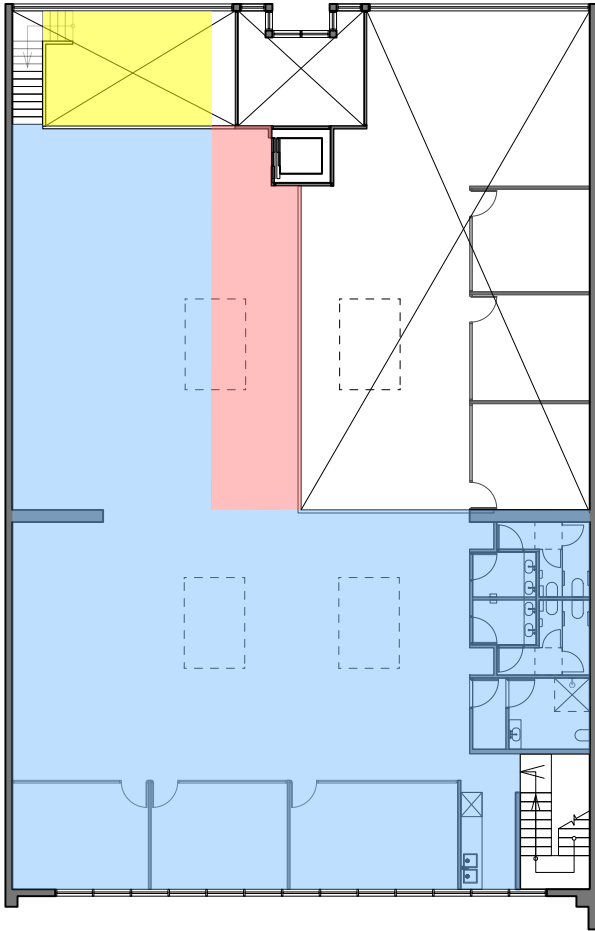
NO CHANGES

GROUND FLOOR



Existing = 544m²
Proposed = 542m²

FIRST FLOOR



Existing = 333m²
Proposed = 348m²

Total Increase of 13m²

COSO

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Nominated Architect
Anthony Solomon RAlA 5684
Paul Connor FRAIA 7058

Compliance
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Legend

Existing Wall

To be demolished

New Construction / Timber

New Construction / Masonry

New Construction / Concrete

Metal

Glass

Finished floor / relative level

Downpipe

FFL / RL

DP

Date	Rev.	Description
21/02/25	A	DA
20/05/25	B	DA

Project
Alterations and Additions
54 Victoria St

Client
Sam Campisi
Chris Hartigan

Status
Development Application
Not For Construction

Scale
1:500

North
7

Drawing
Gross Floor Area Calculations

Project No.
DA 21

Sheet No.
DA 21

Suite 1 No.9 Narabang Way Belrose NSW 2085 • acn 121 577 768
t (02) 9986 2535 • f (02) 99863050 • www.bbfplanners.com.au

BostonBlythFleming
Town Planners

16 December 2024

Clause 4.6 variation - Height of buildings (clause 4.3 NSLEP 2013)
Alterations and additions to a commercial building
54 Victoria Street, McMahon's Point

1.0 Introduction

This clause 4.6 variation request has been prepared having regard to architectural plans prepared by COSO Architecture with the drawing numbers provided below:

Drawing	Title	Scale
MD-001	Existing Lower Ground Floor Plan	1:200
MD-002	Existing Ground Floor Plan	1:200
MD-003	Existing First Floor Plan	1:200
MD-004	Existing Roof Plan	1:200
MD-005	Existing Front Elevation	1:200
MD-006	Existing Rear Elevation	1:200
DA-001	Proposed Lower Ground Floor Plan	1:200
DA-002	Proposed Ground Floor Plan	1:200
DA-003	Proposed First Floor Plan	1:200
DA-004	Proposed Roof Plan	1:200
DA-005	Proposed Front Elevation	1:200
DA-006	Proposed Rear Elevation	1:200
DA-007	Proposed Section A-A	1:200
DA-008	Proposed Section B-B	1:200
DA-009	Proposed Section C-C	1:200
DA-010	Proposed Section D-D	1:200

This variation request has regard to the Land and Environment Court judgements in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 and *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582.

It is important to note that clause 4.6 of the LEP “is as much a part of [the LEP] as the clauses with development standards. **Planning is not other than orderly simply because there is reliance on cl 4.6 for an appropriate planning outcome.**” (*SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [73]).

2.0 North Sydney Local Environmental Plan 2013

2.1 Clause 4.3 - Height of buildings

Pursuant to Clause 4.3 of *North Sydney Local Environmental Plan 2013* (NSLEP) the height of a building on the subject land is not to exceed the height shown on the height of buildings map. In the case of the subject land, the height shown on the map is 8.5 metres as depicted in the NSLEP Height of Building Map extract over page.

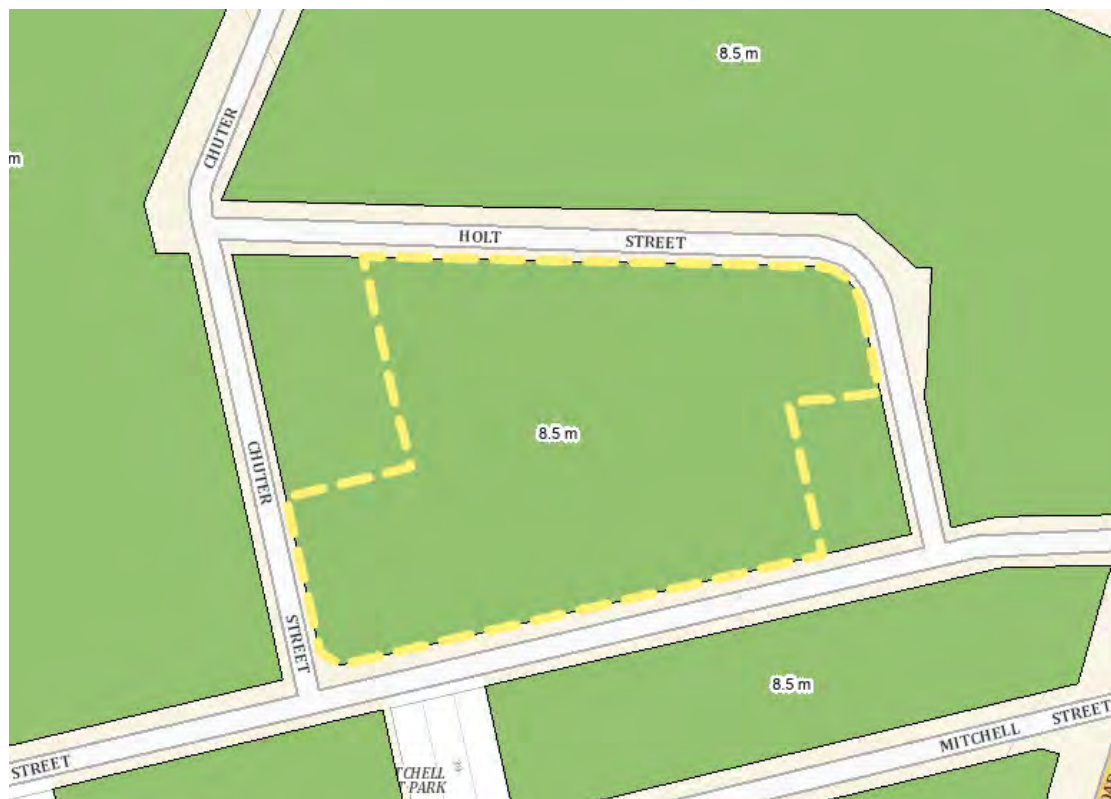


Image 1: LEP height of buildings map

The stated objectives of this standard are as follows:

- (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.*

Building height is defined as follows:

building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

Ground level existing is defined as follows:

ground level (existing) means the existing level of a site at any point.

I note that Council has adopted the interpretation of ground level (existing) as that established in the matter of *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582 where at paragraphs 73 and 74 O'Neill C found:

73. *The existing level of the site at a point beneath the existing building is the level of the land at that point. I agree with Mr McIntyre that the ground level (existing) within the footprint of the existing building is the extant excavated ground level on the site and the proposal exceeds the height of buildings development standard in those locations where the vertical distance, measured from the excavated ground level within the footprint of the existing building, to the highest point of the proposal directly above, is greater than 10.5m. The maximum exceedance is 2.01m at the north-eastern corner of the Level 3 balcony awning.*

74. *The prior excavation of the site within the footprint of the existing building, which distorts the height of buildings development standard plane overlaid above the site when compared to the topography of the hill, can properly be described as an environmental planning ground within the meaning of cl 4.6(3)(b) of LEP 2014.*

It has been determined that the existing building height is 11.47m which is measured from the existing lower level. The proposed building height does not increase the existing height however there are new works above the 8.5m relating to the glazing proposed to the rear façade. As such, the variation to the height standard is 2.97m or 34.94%. A section drawing is provided below:

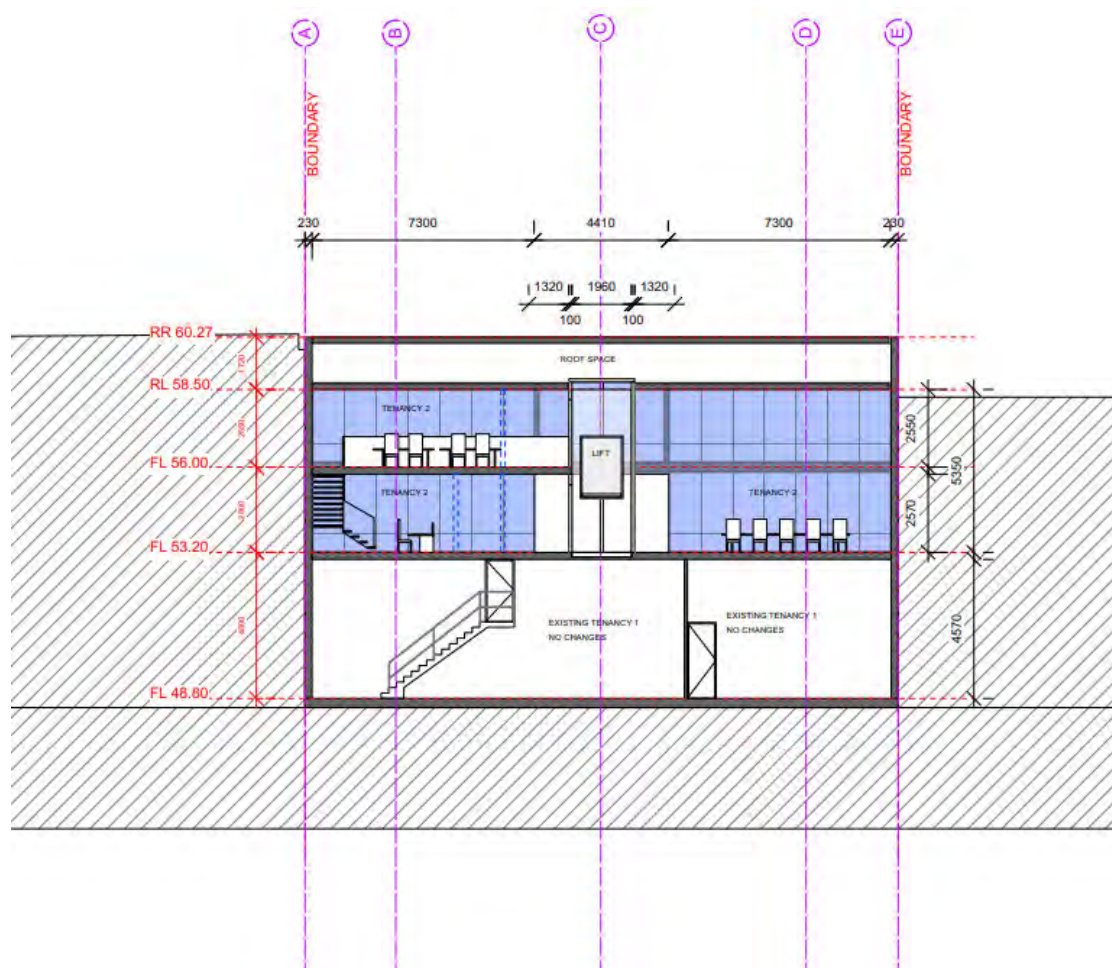


Image 2: Section Drawings

2.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6(1) of NSLEP provides:

- (1) *The objectives of this clause are:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The decision of Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial Action”) provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [1], [4] & [51] where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant’s written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

“In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause.

In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard “achieve better outcomes for and from development”. If objective (b) was the source of the Commissioner’s test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test.”

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of NSLEP provides:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

This clause applies to the clause 4.3 Height of Buildings Development Standard.

Clause 4.6(3) of NSLEP provides:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The proposed development does not comply with the height of buildings provision at 4.3 of NSLEP which specifies a maximum building height however strict compliance is considered to be both unreasonable and unnecessary in the circumstances of this case. There are considered to be sufficient environmental planning grounds to justify contravening the development standard.

The relevant analysis is set out later in this written request.

Clause 4.6(4) of NSLEP provides:

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Planning Secretary has been obtained.*

In *Initial Action* the Court found that clause 4.6(4) required the satisfaction of two preconditions ([14] & [28]). The first precondition is found in clause 4.6(4)(a). That precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has

adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) (*Initial Action* at [25]).

The second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will be in the public interest ***because*** it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out (*Initial Action* at [27]). The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (*Initial Action* at [28]).

Under cl 64 of the *Environmental Planning and Assessment Regulation 2000* (now section 55 of the *Environmental Planning and Assessment Regulation 2021*), the Secretary has given written notice dated 5th May 2020, attached to the Planning Circular PS 20-002 issued on 5th May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice. Clause 4.6(5) of NSLEP provides:

- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

Clause 4.6(6) relates to subdivision and is not relevant to the development. Clause 4.6(7) is administrative and requires the consent authority to keep a record of its assessment of the clause 4.6 variation. Clause 4.6(8) is only relevant so as to note that it does not exclude clause 4.3 of NSLEP from the operation of clause 4.6.

3.0 Relevant Case Law

In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 continue to apply as follows:

17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51].*

The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is clause 4.3 of NSLEP a development standard?
2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:
 - (a) compliance is unreasonable or unnecessary; and
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard
3. Is the consent authority satisfied that the proposed development will be in the public interest because it is consistent with the objectives of clause 4.3 NSLEP and the objectives for development in the zone?
4. Has the concurrence of the Secretary of the Department of Planning, Housing and Infrastructure been obtained?
5. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes clause 4.3 of NSLEP?

4.0 Request for variation

4.1 Is clause 4.3 of NSLEP a development standard?

The definition of “development standards” at section 1.4(1) of the *Environmental Planning & Assessment Act 1979* (the Act) includes:

- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*

Clause 4.3 prescribes height provisions that relate to certain development. Accordingly, clause 4.3 is a development standard.

4.2 Clause 4.6(3)(a) – Whether compliance with the development standard is unreasonable or unnecessary

The common approaches for an applicant to demonstrate that compliance with a development standard is unreasonable or unnecessary are set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

The first way, which has been adopted, is to establish that compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

Consistency with objectives of the height of buildings standard

An assessment as to the consistency of the proposal when assessed against the objectives of the standard is as follows:

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*

Comment: The proposal does not alter the existing relationship between the built form and the natural landform as the height of the existing building is not being increased.

In this context, the building height breaching elements do not compromise the existing buildings performance when assessed against this objective and accordingly this objective is achieved.

- (b) *to promote the retention and, if appropriate, sharing of existing views,*

Comment: The existing view sharing relationship is maintained with the existing height and overall envelope of the building is not altered with the proposed works.

- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*

Comment: No additional overshadowing will occur with the works proposed.

- (d) *to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,*

Comment: The works above 8.5m relate to new glazing to the rear façade. The new glazing does not give rise to any unreasonable privacy impacts and will overlook onto the car park associated with the strata development. No residential dwellings will be impacted.

Notwithstanding the building height breaching elements the proposal achieves this objective.

- (e) *to ensure compatibility between development, particularly at zone boundaries,*

Comment: The subject property is not at a zone boundary.

- (f) *to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.*

Comment: The existing height and envelope of the building is unchanged with the proposed works. The character of the area is maintained.

- (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 E4 Environmental Living.*

Comment: The site is zoned E3 Productivity support.

The non-compliant component of the development, as it relates to building height, demonstrates consistency with the height of building standard objectives. Adopting the first approach in *Wehbe* strict compliance with the height of buildings standard has been demonstrated to be unreasonable and unnecessary.

4.3 Clause 4.6(3)(b) – Are there sufficient environmental planning grounds to justify contravening the development standard?

In *Initial Action* the Court found at [23]-[24] that:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds.*

The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].

Sufficient Environmental Planning Grounds

There are sufficient environmental planning grounds to justify the building height variation as outlined below.

Ground 1 – Existing Building Exceeds the Height Standard

The existing height of the building exceeds the 8.5m height development standard and the works proposed do not increase the height of the buildings. The new works above 8.5m relate to new rear façade glazing treatments. Enabling a variation to the development standard to achieve reasonable alterations and additions promotes good design and the orderly and economic use and development of the land that is consistent with the objectives of the standard.

Ground 2 - Objectives of the Act

Strict compliance would prevent alterations and additions to the existing commercial building that are above the 8.5m. This would be contrary to the objectives of the Act and unreasonably restrict existing non-compliant developments from providing reasonable redevelopment or upgrade works to a building.

Approval of the building height variation will also promote good contextually compatible and responsive building design of appropriate amenity consistent with objective 1.3(g) of the Act.

Grounds that relate to the subject matter, scope and purpose of the Act, including the objects in section 1.3 of the Act and the absence of unacceptable environmental consequences/impacts resulting from a non-compliance with a development standard are environmental planning grounds that are sufficient to justify the non-compliance (*Initial Action* at [23] and *Moorgate Mosman Pty Ltd v Mosman Municipal Council* [2023] NSWLEC 1188 at [54]).

Ground 3 - Consistency with objectives of clause 4.6 NSLEP 2013

Providing an appropriate degree of flexibility in applying the height of buildings development standard to this particular development will achieve better outcomes for and from the proposed development given the site specific and immediate built form contextual circumstances of this application. Such an outcome is consistent with objectives 4.6(1)(a) and (b) of the NSLEP.

There are sufficient environmental planning grounds to justify contravening the development standard.

5.0 Conclusion

Pursuant to clause 4.6(4)(a) of NSLEP, the consent authority can be satisfied that this written request has adequately addressed the matters required to be demonstrated by subclause (3) being:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

As such, I have formed the opinion that there is no statutory or environmental planning impediment to the granting of a building height variation in this instance.

Boston Blyth Fleming Pty Limited



Greg Boston

B Urb & Reg Plan (UNE) MPIA
Director

