



**18 May 2022**

A meeting of the **WAVERLEY LOCAL PLANNING PANEL** will be held by video conference at:

**12PM WEDNESDAY, 25 May 2022**

**QUORUM:** Three Panel members.

**APOLOGIES:** By email to [WLPP@waverley.nsw.gov.au](mailto:WLPP@waverley.nsw.gov.au)

## AGENDA

### **WLPP-2205.A** **Apologies**

### **WLPP-2205.DI** **Declarations of Interest**

The Chair will call for any declarations of interest.

### **WLPP-2205.1** **PAGE 4** **179 Military Road Dover Heights NSW Alterations and additions to dwelling including new swimming pool at rear (DA-23/2022)**

Report dated 11 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED for the reasons contained in the report.

### **WLPP-2022.2** **PAGE 50** **2/21 William Street Rose Bay NSW 2029 Alterations and additions to attached dwelling including, second floor addition (DA-15/2022)**

Report dated 11 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be REFUSED for the reasons contained in the report.

### **WLPP-2205.3** **PAGE 88** **169 Old South Head Road Bondi Junction NSW 2026 Construction of a double garage with studio above the rear facing Barnett Lane (DA-42/2022)**

Report dated 10 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED for the reasons contained in the report.

**WLPP-2205.4**

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**107 Ramsgate Avenue North Bondi NSW 2026 Alteration and additions to the building concurrently with ongoing construction of the approved balconies, approved rectification work and approved heritage exemption works (DA-403/2021)**

Report dated 10 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED for the reasons contained in the report.

**WLPP-2205.5**

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**60 O'Donnell Street North Bondi NSW 2026 Use of subfloor area of existing residential flat building as storage areas with proposed alterations (DA-544/2021)**

Report dated 4 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be APPROVED for the reasons contained in the report.

**WLPP-2205.6**

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**140-142 Curlewis Street Bondi Beach NSW 2026 AMENDED: Demolition of buildings and construction of a new 4-storey shop top housing building with retail at ground, residential units above, basement parking and a Voluntary Planning Agreement (DA-355/2021)**

Report dated 4 May 2022 from the Development and Building Unit.

**Council Recommendation:** That the application be granted DEFERRED COMMENCEMENT CONSENT in accordance with the conditions contained in the report.



## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-23/2022
<b>Site address</b>	179 Military Road DOVER HEIGHTS
<b>Proposal</b>	Alterations and additions to dwelling including new swimming pool at rear
<b>Date of lodgement</b>	17 January 2022 (Amended on 9 March 2022)
<b>Owner</b>	Mr K J & Mrs A M Newswan
<b>Applicant</b>	CSA Architects Pty Ltd
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$425,000
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Building height; and</li> <li>• Rear balcony.</li> </ul>
<b>Recommendation</b>	That the application be <b>APPROVED</b> in accordance with the conditions contained in the report

### SITE MAP



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to the dwelling house including a new swimming pool in the rear yard at the site known as 179 Military Road DOVER HEIGHTS.

The principal issues arising from the assessment of the application are as follows:

- Building height; and
- Rear balcony.

The assessment finds these issues acceptable because the Clause 4.6 written request has appropriately justified the breach of the building height development standard and provided adequate reasoning for the proposed roof top works. This is due to these works matching the existing height of the building and therefore having a negligible impact on adjoining properties. In addition, the proposal is acceptable because the roof top addition has been reduced, and the amended form of development would have no additional overshadowing or visual and acoustic privacy impacts. The proposed rear balcony extension would be appropriately screened at the sides to ensure potential overlooking and privacy impacts would be managed.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

The application is referred to the Waverley Local Planning Panel (WLPP) for determination having regard to the variation sought to building height (>10% exceedance).

### 1.2. Site and Surrounding Locality

A site visit was carried out on 16 February 2022.

The site is identified as Lot 36 in DP 14520, known as 179 Military Road DOVER HEIGHTS.

The site is rectangular in shape with a frontage to Military Road, measuring 12.405m. It has an area of 454.3m<sup>2</sup> and falls from the front western boundary towards the eastern rear boundary by approximately 1m.

The site is occupied by a two-storey dwelling with vehicular access provided from Military Road.

The site is adjoined by a single storey detached dwelling to the north and a two-storey dwelling to the south. The locality is characterised by a variety of low density residential development.

Figures 1 to 6 are photos of the site and its context.



**Figure 1:** Site frontage, 179 Military Road



**Figure 2:** Rear of the site



**Figure 3:** Neighbouring site to the north, No. 181 Military Road



**Figure 4:** Neighbouring site to the south, No. 177 Military Road



**Figure 5:** Stair hood on roof associated with the roof terrace



**Figure 6:** Rear yard of subject site

### 1.3. Relevant Development History

A search of Council's records revealed there is no recent or relevant development history of the site.

## 1.4. Proposal

The development application, as amended on 9 March 2022, seeks consent for alterations and additions to the existing dwelling, including:

- Garage level:
  - retention of existing garage parking and existing storage, laundry and bath;
  - new storage and pool equipment rooms;
  - new rear facing windows and sliding door;
- Ground floor level:
  - alteration to front stairs and a new retaining wall;
  - new entry and portico;
  - rear balcony extension with new stairs and privacy screen;
- First floor level:
  - alteration to stairs;
  - new windows and skylights;
  - new planter on front of dwelling;
- Roof level:
  - demolition of existing stair hood;
  - alterations to stairs;
  - new extended stair hood with east, west and south facing windows;
  - new north facing sliding door to access existing roof terrace;
  - new skylight and balustrade;
- Landscaping:
  - new swimming pool and landscaping in the front and rear yards.

## 1.5. Background

The development application was lodged on 17 January 2022 and a stop the clock letter was sent to the applicant on 27 January 2022 for the following reasons:

### 1. *Landscape Plan*

*A landscape plan is required to be submitted as the application is seeking amendments to the landscaped area...the Statement of Environmental Effects (SEE) states that a landscape plan accompanies the application however a plan has not been provided.*

On 16 February 2022, the applicant submitted a landscape plan, detailing the proposed works to the front and rear yards and swimming pool.

It is noted that application, as originally submitted included an extension to the existing rooftop stair hood to create an enlarged roof top room including a bathroom and kitchenette. On 1 March 2022, Council advised the applicant that the application, as originally submitted, is not supported for the following reasons (summarised):

- *The application assumes that the dwelling comprises an existing elevated deck/roof terrace. However, while the roof is currently accessible via the stair hood, the roof is not currently a roof terrace or able to be used as such, given the corrugated iron materiality.*
- *The intent of Waverley DCP 2012, Part C2, Section 2.5 is to minimise the impact of roof terraces on adjoining properties. Control (f) sets out the maximum allowable area for a roof terrace (15sqm), where there is a predominance of roof terraces in the immediate vicinity.*
- *The proposed roof level and expansive roof terrace may give rise to unacceptable amenity impacts, including visual and acoustic privacy impacts.*
- *The proposed roof level addition may create an undesirable precedent of additional levels/rooms provided to support the use of a roof terrace/elevated deck and is therefore not supported.*

On 3 March 2022, the applicant advised that they would amend the application to significantly reduce the rooftop room, retaining the stair hood and increasing the floor area by 3.5m<sup>2</sup>. In addition, the applicant provided historical aerial images as evidence that the roof terrace is existing, having originally been constructed in the 1930s. The current metal roofing sheets that sit on top of the existing roof terrace were installed by previous owners as a temporary fix to a waterproofing issue. Council agreed to accept amended plans reflecting these matters including that sufficient evidence had been provided to reflect that the rooftop terrace is indeed an existing element to the building.

On 9 March 2022, the applicant submitted amended plans reflecting the matters set out above. The plans received on the 9 March 2022 have been used in the assessment of the application as set out in this assessment report.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1. State Environmental Planning Policies (SEPPs)

*SEPP (Building Sustainability Index – BASIX) 2004* applies to the development and is considered acceptable in the assessment of this development application:

#### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.



### 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposed development is not inconsistent with the aims of the Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as alterations and additions to a 'dwelling house', which is permitted with consent in the zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	No	The proposal retains the maximum building height of the dwelling, which is 11.88m (measured 200mm below the garage slab RL 78.26 to the highest point of roof, known as RL 89.94). It varies the development standard by 3.38m or 39%.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> <li>0.605:1 (274.97m<sup>2</sup>)</li> </ul>	Yes	The proposal has a total GFA of 223.4m <sup>2</sup> and an FSR of 0.49:1.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	The proposal includes excavation for a swimming pool at the rear of the site. The minor excavation works would be managed by Council's standard conditions of consent.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum building height of 8.5m. The proposed development has a building height of 11.88m, exceeding the standard by 3.38m or equating to a 39% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of building development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The existing building height is already in exceedance of the standard, with no greater height variation proposed.*
  - (ii) *The existing building already exhibits a breach to the height controls of 39.8% and the works proposed have a matching height exceedance with no increase/change to the roof height being proposed.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The nature of the existing height of the building being 39.8% over the height control, and that there are opportunities for replacement and improvement of the structure above the height plane so long as they do not have an unreasonable impact.*
  - (ii) *The minor expansion of the stair lobby of the existing building above the height control, located to the rear of the building, makes a positive urban design contribution by maintaining the existing perceived bulk and scale of the building from the street.*
  - (iii) *The variation is necessary to provide safer and improved access to the existing elevated terrace at the roof level. The rearranged area will facilitate a small working from home desk area that will enjoy the existing open outlook from an existing terrace.*
  - (iv) *The height allows for an increase in the dwelling's floor area, which remains well under the FSR development standard, to be located on the roof level rather than diminishing site coverage, setbacks, landscape area or deep soil areas when compared to an extension at the lower levels.*

- (v) *The enlarged stair lobby area modestly decreases the existing terrace area by 7.8m<sup>2</sup>, reducing potential visual and acoustic privacy impacts on neighbouring properties.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. As noted above, the existing building height exceeds the development standard, however the proposal does not seek to vary the standard further. In this regard, the proposed works to the roof level would not impact on neighbouring properties as a result of demolition of the existing stair hood and replacement with a slightly larger structure.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The proposed expansion of the stair hood, whilst above the height control, is located to the rear of the building, is not readily visible from the streetscape or from surrounding properties and is therefore considered to maintain the existing perceived bulk and scale of the built form from the streetscape. In addition, environmental amenity of neighbouring properties would be maintained whilst greatly enhancing the amenity of the dwelling for the occupants.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height of buildings development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The proposal does not seek to further exceed the height of buildings development standard and the additional space provided in the stair hood would not impact on solar receptors on neighbouring properties or give rise to additional visual or acoustic privacy impacts. Accordingly, the environmental amenity of neighbouring properties would be preserved.

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal provides for the needs of the occupants and is considered acceptable given that the building height would not be further exceeded. The increased area of the stair hood would not unduly impact on the streetscape or neighbouring properties. Accordingly, the environmental amenity of neighbouring properties would be preserved whilst greatly enhancing the amenity of the dwelling for the occupants.

## Conclusion

For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings and the R2 Low Density Residential zone.

### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory. The application includes a BASIX certificate setting out the energy efficiency and water conservation targets as required under the SEPP.
3. Landscaping and Biodiversity	Yes	The site is not located within a habitat corridor as defined under the DCP. A Landscape Plan has been submitted with the application, which proposes the planting of native species.
5. Vegetation Preservation	Yes	There are no trees proposed to be removed under the application. Standard tree protection conditions of consent are recommended.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport  Maximum parking rate: <ul style="list-style-type: none"> <li>• 1 space for 2 or less bedrooms</li> <li>• 2 spaces for 3 or more bedrooms.</li> </ul>	Acceptable on merit	The existing site comprises a garage, which can accommodate up to two standard sized vehicles. The proposal indicates parking for a vehicle within the existing driveway of the site. Given that the driveway is existing and the proposal is not seeking to alter the garage, the provision of car parking on the site is deemed existing and acceptable
10. Safety	Yes	Satisfactory. The existing roof terrace would be reinstated, and a new glass balustrade provided around the perimeter of the existing roof terrace to comply with the requirements of the Building Code of Australia (BCA).
12. Design Excellence	Yes	Satisfactory. The proposed works are considered to achieve design excellence.
14. Excavation	Yes	Satisfactory. The extent of excavation is limited to the proposed swimming pool. These works

Development Control	Compliance	Comment
		would be managed by Council's standard conditions of consent.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	No	The proposal has a maximum wall height of 9m at the rear in the centre of the building. While the proposal exceeds the maximum wall height, this is an existing non-compliance and would not be further exacerbated by this application. The increased area of the stair hood would not impact on the existing wall height of the building. See discussion under section 2.1.3 of this report with respect to the height of buildings non-compliance.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant front building line</li> <li>Predominant rear building line at each floor level</li> </ul>	Yes	<p>The proposal includes renovation of the existing entry porch and a new planter at first floor level. The new elements give the front of the dwelling greater articulation. The predominant front building line would be maintained.</p> <p>The proposal includes a replacement rear balcony with a metal roof and skylights. The predominant rear building line would be consistent with neighbouring dwellings.</p>
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m) or 1.2m (height non-compliant 2 storey dwelling)</li> </ul>	Yes	The side setbacks of the dwelling would not be altered under the proposal. The new stair hood would be set back from the southern side boundary by 2.170m and from the northern boundary by 7.370m.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> <li>Replacement windows to complement the style and proportions of existing dwelling</li> </ul>	Yes	The proposal would be compatible with the existing streetscape context and the emerging pattern of development. The new elements to the front dwelling would be in keeping with neighbouring properties and provide a positive contribution to the streetscape context.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Significant landscaping to be maintained.</li> <li>Porticos only permitted where a character of the streetscape</li> </ul>		<p>The proposal includes enlarged windows within the basement level, which would not be readily visible from the streetscape.</p> <p>The application includes improvements to the landscaping in the front setback and seeks to maintain two large trees in the rear yard.</p> <p>The proposed portico over the front entry gate is characteristic of the streetscape context. Varying scales of porticos are visible in the immediate vicinity, including at No. 177 and No. 234 Military Road.</p>
<b>2.4 Fences</b>		
<p><i>Front:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.2m</li> <li>Solid section no more than 0.6m high</li> </ul> <p><i>Side and Rear:</i></p> <ul style="list-style-type: none"> <li>Maximum height of 1.8m</li> </ul>	Acceptable on merit	<p>The existing front fence has a maximum height of 1.5m. The front fence would be rendered, and the modified gate elements offer a more open design than the existing gates.</p> <p>The side fences would be maintained at 1.8m.</p>
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design</li> <li>External stairs are not acceptable.</li> <li>Maximum size of balconies: <i>10m<sup>2</sup> in area</i> <i>1.5m deep</i></li> <li>Roof tops to be non-trafficable unless predominant in the immediate vicinity</li> </ul>	<p>Yes</p> <p>Acceptable on merit</p> <p>Yes</p>	<p>There are no new windows at ground floor level. At first floor level, the east facing windows would be modified however these have been positioned to maintain visual privacy for neighbouring dwellings.</p> <p>Stairs are proposed at the rear to provide access from the replacement balcony to the rear yard. A privacy screen is proposed at the top section of the stair. Overlooking opportunities are considered to be minimal.</p> <p>The proposed replacement rear balcony has total area of 32m<sup>2</sup>. It would be an extension of the internal living space and be fitted with privacy screens at the sides to minimise potential overlooking or visual privacy concerns. See below table for further discussion.</p> <p>The existing roof terrace has an area of 88m<sup>2</sup> which will be reduced to 78m<sup>2</sup> under the proposal. Given the roof terrace is existing and the predominance of roof terraces in the immediate vicinity, reinstatement of the roof terrace and access via the extended stair hood is acceptable in this instance.</p>

Development Control	Compliance	Comment
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposal complies with the minimum requirements for solar access within the subject site.</p> <p>A minimum of three hours of sunlight would be maintained on the neighbouring site to the south on 21 June.</p> <p>The submitted shadow diagrams in plan and 3-D form demonstrate that the extended stair hood would not overshadow solar collectors on the neighbouring property to the south. The applicant notes that the alignment of the roof addition and its setback from the building edge has been specifically selected to avoid shadowing solar collectors.</p>
<b>2.7 Views</b>		
<ul style="list-style-type: none"> <li>Views from the public domain are to be maintained</li> <li>Development to be designed and sited so as to enable a sharing of views with surrounding dwellings particularly from habitable rooms and decks.</li> </ul>	<p>Yes</p>	<p>There would not views impacted from the public domain and no impacts on view sharing as a result of the proposal.</p>
<b>2.8 Car parking</b>		
<p>2.8.1 Design Approach</p> <ul style="list-style-type: none"> <li>Parking only allowed where site conditions permit</li> <li>Designed to complement the building and streetscape</li> <li>Car parking structures to be behind the front building line</li> </ul>	<p>Yes</p>	<p>The existing site comprises a part basement garage with space to accommodate two vehicles and a driveway /hardstand space, which is proposed to be upgraded to porous paving. Given that the driveway is an existing condition and there is no change proposed to the garage or extension to basement, the car parking arrangement is acceptable.</p>
<p>2.8.6 Driveways</p> <ul style="list-style-type: none"> <li>Maximum of one per property</li> </ul>	<p>N/A</p>	<p>There would be no change to the driveway as a result of the proposal.</p>
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>Overall open space: 40% of site area (<b>181.72m<sup>2</sup></b>)</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>The proposal comprises approximately 257m<sup>2</sup> of usable open space and 187m<sup>2</sup> of landscaped area. The proposal provides well in excess of the</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Overall landscaped area: 15% of site area (68.14m<sup>2</sup>)</li> <li>Minimum area of 25m<sup>2</sup> for private open space</li> <li>Front open space: 50% of front building setback area</li> <li>Front landscaped area: 50% of front open space provided</li> <li>Outdoor clothes drying area to be provided</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>minimum requirements for both open space and landscaped area. A condition of consent is recommended to require the driveway and front setback area to be of porous paving.</p> <p>The proposal provides in excess of 25m<sup>2</sup> of private open space.</p> <p>Approximately 50% of the front building setback is open space and at least half of the open space is provided as landscaped area.</p> <p>The site contains ample space for an outdoor clothes drying area.</p>
<b>2.10 Swimming pools and spa pools</b>		
<ul style="list-style-type: none"> <li>Located in the rear of property</li> <li>Pool decks on side boundaries must consider visual privacy</li> </ul>	<p>Yes</p>	<p>The proposed swimming pool is located in the rear yard in accordance with the DCP. The pool deck is not elevated, is set in from the site boundaries and would therefore not give rise to overlooking. The mature trees in the rear yard would be retained, assisting to maintain privacy in the rear yard.</p>

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

### *Rear balcony*

The existing rear balcony is proposed to be replaced and extended to a total area of 32m<sup>2</sup>. The balcony would be accessed via the ground floor living area and would be an extension of that space. Due to the topography of the site, the balcony is elevated above ground level, however the balcony would be fitted with privacy screens on both sides to minimise potential overlooking.

Although the proposed balcony exceeds the maximum controls for balconies, the proposal is not anticipated to unduly impact neighbouring properties with respect to visual privacy, given the privacy screen treatment and is therefore acceptable in this instance.

## 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not re-notified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The roof top addition was significantly reduced, and the stair hood increased in area by only 3.5m<sup>2</sup>.
- The reduced form of the development would have less impact in terms of overshadowing, visual privacy and acoustic impacts.

No submissions were received.

## 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Stormwater

The application was referred to Council's Stormwater Engineer. From a stormwater drainage perspective, Council raised no objections to the application subject to the recommended standard stormwater conditions of consent being imposed:

### 3.2. Tree Management

The application was referred to Council's Tree Management Officer. The officer noted that no trees are proposed to be removed and that the Landscape Plan is satisfactory. A condition of consent is recommended to ensure that the *Banksia integrifolia* (coast Banksia) tree is protected during construction.

## 4. CONCLUSION

The development application seeks consent for alterations and additions to dwelling including new swimming pool at rear at the site known as 179 Military Road DOVER HEIGHTS.

The principal issues arising from the assessment of the application are as follows:

- Building height; and

- Rear balcony.

The assessment finds these issues acceptable because the Clause 4.6 written request has appropriately justified the breach of the building height development standard and provided adequate reasoning for the proposed roof top works. This is due to the works matching the existing height of the building and therefore having a negligible impact on adjoining properties. In addition, the proposal is acceptable because the roof top addition has been reduced, and the amended form of development would have no additional overshadowing or visual and acoustic privacy impacts. The proposed rear balcony extension would be appropriately screened at the sides to ensure potential overlooking and privacy impacts would be managed.

There were no submissions received as a result of notification of the application. There were no declared conflicts of interest with respect to the application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

*Development and Building Unit (DBU) Decision:*

The application was reviewed by the DBU at the meeting on 1 March 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B McNamara and K Johnstone*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Alana Jelfs	Ben Magistrale
<b>Senior Development Assessment Planner</b>	<b>A/Manager, Development Assessment (Area 2) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 5 May 2022	<b>Date:</b> 11 May 2022

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by CSA Architects including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
NEW-01, Rev B	Site Plan	07/03/2022	09/03/2022
NEW-02, Rev B	Floor Plans (pg 1 of 2)	07/03/2022	09/03/2022
NEW-03, Rev B	Floor Plans (pg 2 of 2)	07/03/2022	09/03/2022
NEW-04, Rev B	North Elevation	07/03/2022	09/03/2022
NEW-05, Rev B	South Elevation	07/03/2022	09/03/2022
NEW-06, Rev B	East Elevation	07/03/2022	09/03/2022
NEW-07, Rev B	West Elevation	07/03/2022	09/03/2022
NEW-08, Rev B	Section 1	07/03/2022	09/03/2022

(b) Landscape Plan No. DA01 and documentation prepared by Michael Zinn Landscape Designer, dated (15/02/2022) and received by Council on (16/02/2022).

(c) BASIX and NatHERs Certificate/s.

(d) Stormwater Details and documentation prepared by prepared by itm design Pty Ltd, Job No. 21/140, Drawing No. H-DA-00, H-DA-01 & H-DA-02, Revision A, dated (21/12/2021), and received by Council on (14/01/2022).

(e) The Site Waste and Recycling Management Plan (SWRMP) Part 1 (14/01/2022).

Except where amended by the following conditions of consent.

#### 2. GENERAL MODIFICATIONS

The application is approved subject to the following plans amendments;

(a) The proposed paving within the front setback and driveway area is to be of porous paving.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

#### 3. DOMESTIC HEATERS

The provision of solid fuel heating is prohibited.

## B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### GENERAL REQUIREMENTS

#### 4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### 5. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

### CONTRIBUTIONS, FEES & BONDS

#### 6. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy;
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **7. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$ 11,230.00** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **8. LONG SERVICE LEVY**

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **9. TREE BOND**

A bond of **\$5,000** is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the one (1) *Banksia integrifolia* (coast Banksia) street tree at the front of the property. The bond is to be lodged prior to the issue of a Construction Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded twelve (12) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

## **10. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## CONSTRUCTION MATTERS

### **11. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **12. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **14. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## STORMWATER & FLOODING

### **15. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by itm design Pty Ltd, Job No. 21/140, Drawing No. H-DA-00, H-DA-01 & H-DA-02, Revision A, dated 21/12/2021, is considered unsatisfactory.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The plans shall provide details of any required On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- c) Where an infiltration system is proposed, a geotechnical report prepared by a suitably qualified and practising Geotechnical Engineer shall be submitted to Council for assessment. The hydraulic conductivity must be tested at a minimum of four locations at the site of the proposed infiltration system, and at the base level of the proposed system (and at a minimum of one metre deep). The infiltration system is to be designed using the infiltration rate of the soil of the site. The geotechnical report is to also determine the depth to rock and the presence and depth of the water table. Reference shall also be made to Council's Water Management Technical Manual. The proposed infiltration system shall be designed in accordance with Council's Water Management Technical Manual. Details of the proposed infiltration system shall be drawn to a suitable scale.
- d) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- e) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval.
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above.



Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.

- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## ENERGY EFFICIENCY & SUSTAINABILITY

### **16. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## WASTE

### **17. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## TRAFFIC MANAGEMENT

### **18. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **19. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### PRIOR TO ANY WORKS

#### 20. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### DEMOLITION & EXCAVATION

#### 21. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- Protection of the Environment Operations Act 1997.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- b) Confirm that no asbestos products are present on the subject land, or
- c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- d) Describe the method of demolition;
- e) Describe the precautions to be employed to minimise any dust nuisance; and
- f) Describe the disposal methods for hazardous materials.

#### 22. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air

(HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

### **23. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

#### CONSTRUCTION MATTERS

### **24. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

### **25. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

### **26. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and clause 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

### **27. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

### **28. CONSTRUCTION OF SWIMMING POOLS AND OUTDOOR SPAS**

The following applies to the construction of swimming pools and outdoor spas:

- (a) Reinforcement of the swimming pool/outdoor spa is to be inspected by an Accredited Officer or other suitably qualified person prior to the pouring of concrete
- (b) The electrical wiring system for any proposed underwater artificial lighting installation to the pool/spa is to be installed in accordance with the requirements of Australian Standard 3000, Part 1 - Wiring Rules
- (c) The swimming pool/outdoor spa water is to be treated by an approved water treatment and filtration unit
- (d) To prevent noise nuisance to surrounding properties, the swimming pool/outdoor spa filtration motor and pump unit is to be housed within a ventilated soundproof enclosure
- (e) Waste waters from the swimming pool/outdoor spa are to be discharged into Sydney Water's sewerage system and in this regard, approved plans MUST be submitted to Sydney Water at least 14 days prior to commencement of building operations.

## 29. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

### TREE PROTECTION AND REMOVAL

## 30. TREE PROTECTION

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

## 31. STREET TREES TO BE RETAINED/ TREE PROTECTION

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

**Trunk protection** as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk

protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **32. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **33. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **34. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **35. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **36. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD**

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

### **37. CERTIFICATION OF SWIMMING POOL/OUTDOOR SPA**

Prior to the pool being used, the following must be provided;

- (a) Certification that the pool has been constructed in accordance with the consulting engineers design;
- (b) Evidence that the swimming pool/outdoor spa has been registered on the State Government Swimming Pool Register (<http://www.swimmingpoolregister.gov.au>);
- (c) A sign outlining details of resuscitation techniques for adults, children and infants has been placed in a prominent position, close to the pool/outdoor spa. Signs are available from Council;
- (d) A copy of the occupation certificate must be submitted to Council.

Note: Swimming/spa pool pumps are restricted from use between 8pm to 7am weekdays and Saturdays, 8pm to 8am on Sundays and public holidays in accordance with the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

## E. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

### AD2. SYDNEY WATER REQUIREMENTS

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

### AD3. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

#### **AD5. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed, works must cease immediately and a new development application will be required to be submitted for assessment.

#### **AD6. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required.

Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval. Permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

If any trees on Council owned land require pruning, an Arborist with AQF level 5 qualification or above is to submit a report with photos showing the branches that need to be removed. If approval is granted the applicant may prune the tree at their expense.

#### **AD7. RAINWATER HARVESTING AND REUSE**

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.







































LANDSCAPE NOTES:

- GENERAL**
- The landscape drawings have been based on site survey and building layout information as supplied by CSA Architects.
  - Landscape plans are to be read in conjunction with all architectural and other project consultant drawings and specifications and with such other written instructions as may be issued during the course of the contract.
  - Any discrepancies between landscape/architectural or other project consultant's drawings shall be reported to the landscape designer prior to any works being carried out.
  - All works are to be carried out in accordance with drawing notation and/or written specifications where applicable.
  - Works and supply of materials not covered by drawing notation or written specifications are to be carried out in accordance with AS Codes, LCA guidelines and the By-Laws and Ordinances of the relevant Building Authority and/or manufacturer's recommendations as applicable.
  - All dimensions and locations of works are to be checked on site and confirmed by the landscape/building site supervisor prior to the commencement of any works.
  - Dimensions shall not be obtained by scaling from structural drawings. Dimensions are indicated in millimeters unless otherwise specified.
  - The contractor shall at all times implement adequate erosion and sediment control measures where applicable.
  - The position of services indicated on drawings (when applicable) are approximate and must be confirmed on site prior to the commencement of any site works.
  - DA drawings may be subject to future detail landscape specification.

**SITE PREPARATION**  
All existing trees and/or vegetation to be retained, is to be preserved and protected from any damage occurring during the execution of landscape works. The root systems of existing retained plants are not to be disturbed. Landscape operations carried out within the root zone is to be carefully carried out using hand tools. Storage of materials, mixing of materials, vehicular parking, disposal of building materials and stockpiling shall not be carried out within 3m of the drip line of these trees/vegetation.

**SOIL PREPARATION**  
All proposed planting areas are to be deep ripped to a depth of 300mm and clay soils are to be treated with a clay breaker. 75mm depth of ANL Organic Garden Mix to be imported and combined with 25mm depth Greenlife compost or approved equivalent.

**NEW PLANTING**  
All plants shall be true to type and size, of healthy growth, disease free nursery stock, and not displaying any restricted growth or damage. Plants shall have been hardened off and suitable for planting in the climatic conditions prevailing at the site. Trees shall be of uniform appearance and have a single leading trunk and proportionate and balanced crown. The Contractor shall be responsible for the health of plants from time of delivery, and no consideration will be given to any claim arising from the Contractor's neglect or failure to observe any defects in the plants at time of delivery. Remove plant from container without disturbing the root ball and place centrally and plumb in the hole with the top of the root ball level with the surrounding surface level. Backfill root ball with an Organic garden soil mix, lightly tamp and water thoroughly to eliminate air pockets. Refer to Tree Planting Detail when applicable. Ensure soil mix is not placed over the top of the root ball and that the plant stem remains the same height above the ground as it was in the container. Soil mix for backfilling of plants shall conform to AS 4419:1995.

**MULCHING**  
On completion of planting, all areas are to be mulched using Green Life compost to a depth of 75mm. A water catchment dish is to be provided around the base of each plant.

**FERTILISER**  
All newly planted areas are to be fertilised with an organic life, slow release fertiliser (Comco 8-9 month / Agriform (R) 21g) which is to be adequately watered in.

**IRRIGATION**  
An automated irrigation system is to be selected and installed to access all lawn and garden areas. The contractor is to liaise with the client as to the level of automation required. The system is to comply with the latest Council, Water Board and Australian standards applicable at the time of installation.

**LAWN**  
Turf is to be laid on 75mm soil compost mix. Turf underlay over 200mm deep rotary hoed prepared and levelled area. Turf shall be of even thickness, free from weed and other foreign matter and laid within 36 hours of cutting. Turf shall be laid in a stretcher bond pattern, lightly jointed and finished flush with adjacent existing paving surfaces after tamping down. Water immediately after laying, ensuring topsoils watered to full depth. Contractor to provide adequate drainage facility under lawn where applicable. Lawn species: Buffalo 'Sir Walter'

**PROTECTION OF EXISTING TREES**  
Protection of existing trees to be retained on site as per DA 01, shall be adequately protected for the duration of the building contract. Storage of materials, mixing of material, vehicular parking, disposal of building materials and stockpiling shall not be carried out within the drip line of these trees. Erect a starpicket fence with four strand galv. wire, tensioned at changes in direction, around the extremities of the tree or adjacent to the building works. Any roots damaged during the building operations shall be cleanly cut off inside the damaged or exposed area. Trees are to be monitored for health during the building contract ensuring the root zone has not been damaged or has dried out. Tree root pruning shall be undertaken by an experienced Arborist with a qualification in tree surgery.

**MAINTENANCE**  
The landscape contractor shall maintain the landscape area for a period of 6 weeks from the date of practical completion. Works shall include weeding, pruning, checking watering systems, fertilising, removal of rubbish and the control of pests and disease to the plants as they arise. During the maintenance period, any plants deemed to have failed shall be replaced progressively and not all at once upon the completion of the maintenance period.

**COPYRIGHT DECLARATION**  
The information shown/contained in this drawing/file is copyright. The information is intended for the purpose for which it was produced. No part of this drawing/file may be used or reproduced, in part or whole, for any other client, person or company without the prior written permission of MICHAEL ZINN LANDSCAPE DESIGNER

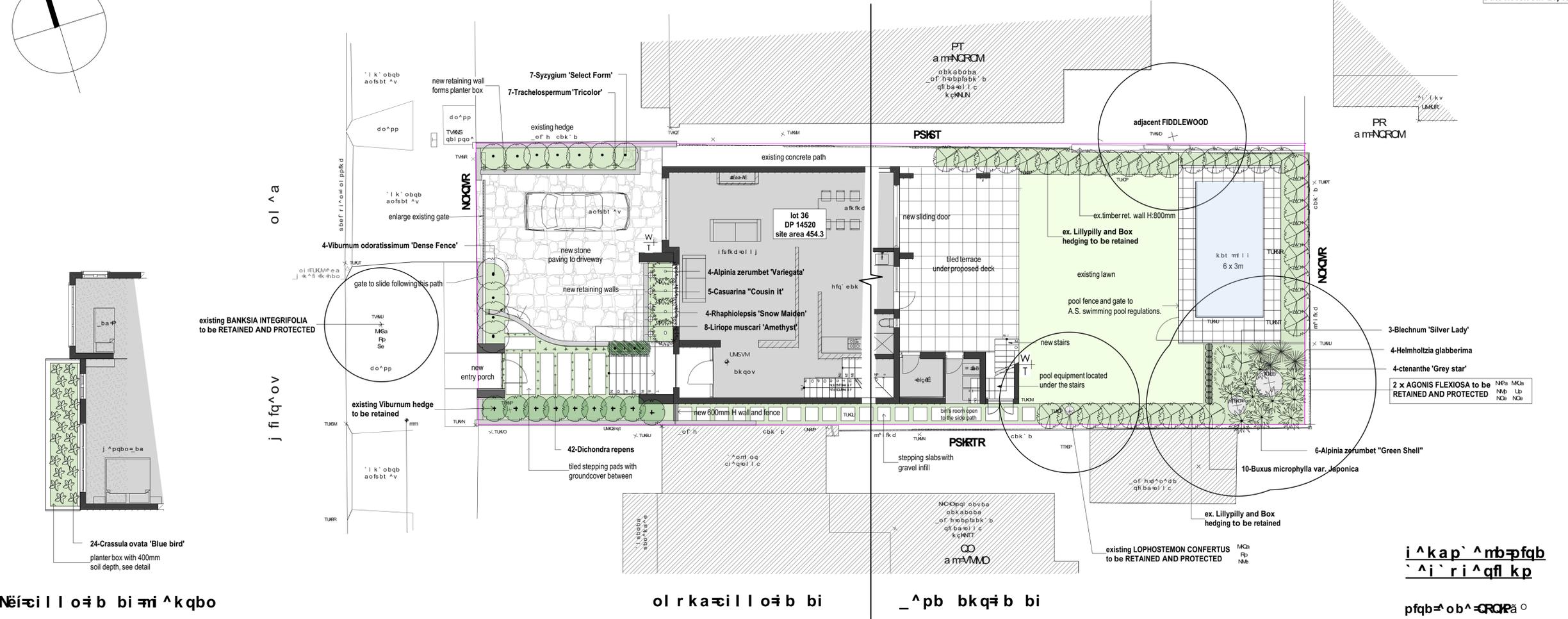
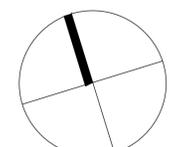
NEWSWAN RESIDENCE

12/41 Ocean Street  
Bondi, NSW 2026  
mob: 0410 239285

MICHAEL ZINN  
landscape designer

LANDSCAPE PLAN  
Development Application

scale 1:100 @A1	date 15 Feb 2022	check mdz	dwg no. DA 01
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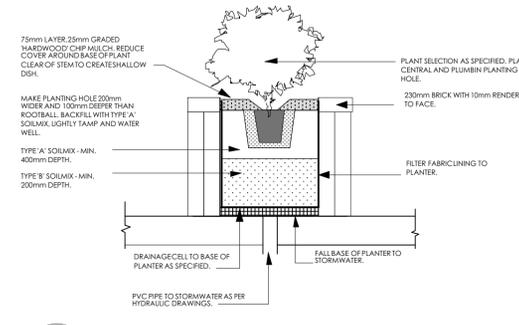
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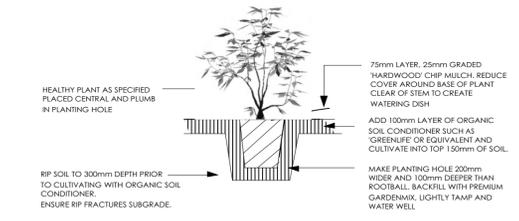


PLANT SCHEDULE

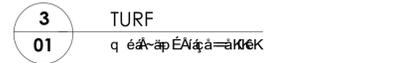
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Syzygium 'Select Form'	Lillypilly sp	7	5000	1200	45lt	
Trachelospermum 'Tricolor'	Star Jasmine	7	300	1000	200mm	
Alpinia zerumbet 'Variegata'	Variegated Shell Ginger	4	2000	1200	200mm	
Viburnum odoratissimum 'Dense Fence'	Laurustinus	4	1500	1500	300mm	
Casuarina 'Cousin it'	She-oak groundcover	5	250	1200	200mm	
Raphiolepis 'Snow Maiden'	Indian Hawthorn	4	1000	700	300mm	
Liriope muscari 'Amethyst'	Liriope var.	8	400	300	200mm	
Alpinia zerumbet 'Green Shell'	Native Ginger	6	2500	1200	300mm	
Helmholtzia glaberrima	Stream Lily	4	1500	1000	200mm	
ctenanthe 'Grey star'	ctenanthe	4	1000	1000	200mm	
Blechnum 'Silver Lady'	Lady Fern	3	1000	1000	200mm	
Buxus microphylla var. Japonica	Japanese Box	10	350	350	140mm	
Dichondra repens	Kidney weed	42	50	500	tube	
Crassula ovata 'Blue bird'	Jade plant	24	500	500	200mm	



1 TYPICAL PLANTER ON SLAB n.i.s



2 SHRUB PLANTING



3 TURF

LEGEND

- EXISTING TREES RETAINED AND PROTECTED
- PLANTING AREAS (DEEP SOIL)
- LAWN AREAS (DEEP SOIL)
- RANDOM STONE PAVING
- PAVING SLABS/TILES
- STEPPING PADS WITH GROUNDCOVERS (DEEP SOIL)
- EXISTING SITE LEVELS
- PROPOSED LEVELS
- WATER TAP



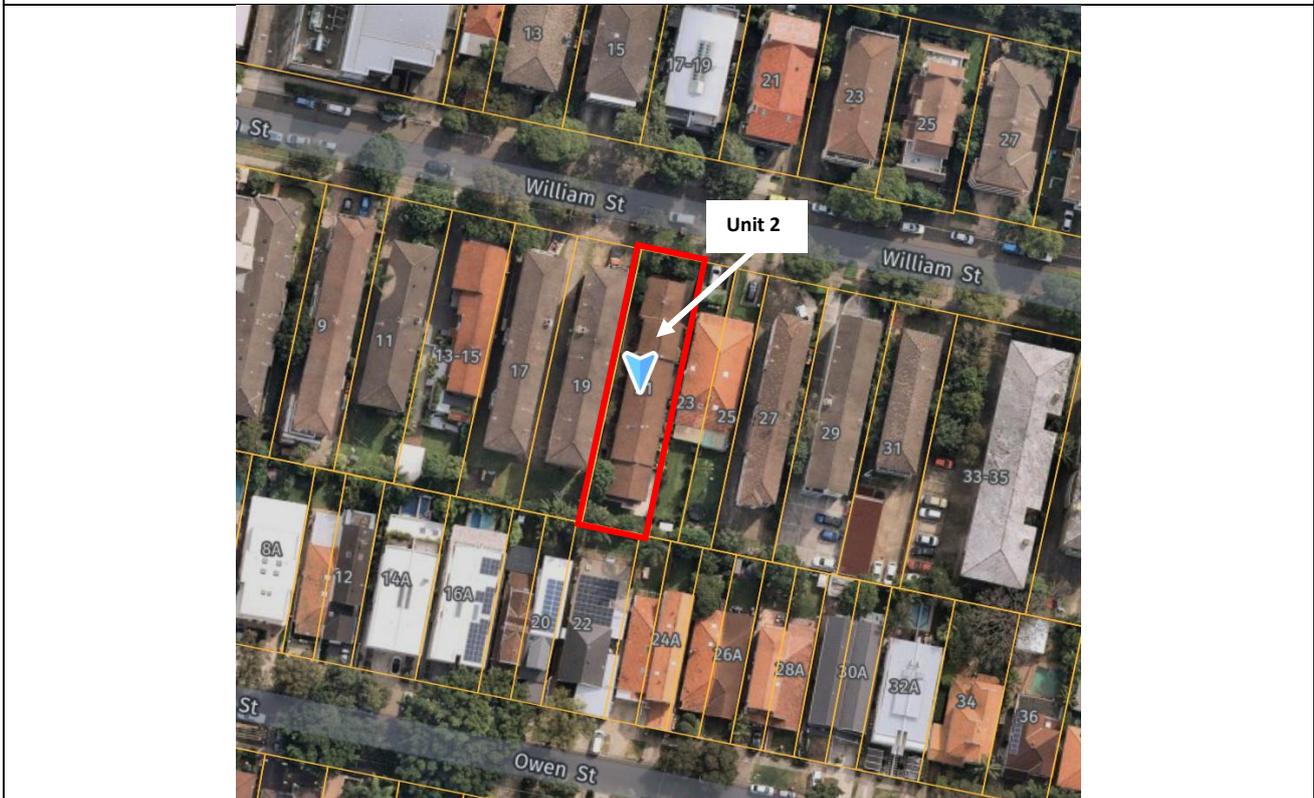
Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-15/2022
<b>Site address</b>	Unit 2, 21 William Street, Rose Bay
<b>Proposal</b>	Alterations and additions to Unit 2 within existing multi-dwelling housing development including the construction of a new second floor level.
<b>Date of lodgement</b>	12 January 2022
<b>Owner</b>	Mr D Harvey and Ms T Gelman
<b>Applicant</b>	Mr D Harvey
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$248,600
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Building height</li> <li>• Floor to ceiling height</li> <li>• Overshadowing</li> </ul>
<b>Recommendation</b>	That the application be REFUSED for the reasons contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for alterations and additions to Unit 2 within the existing multi-dwelling development for construction of a new second floor level at the site known as 21 William Street, Rose Bay.

The principal issues arising from the assessment of the application are as follows:

- FSR
- Building height
- Floor to ceiling height
- Overshadowing

The assessment finds these issues unacceptable as the variation to the FSR and building height development standards will result in additional overshadowing impacts to habitable windows and private open space at adjoining properties. The Clause 4.6 written requests seeking variation to the FSR and height of buildings development standards have failed to demonstrate that the proposal, notwithstanding the non-compliances, satisfies the objectives of the development standards, particularly the preservation of environmental amenity of neighbouring properties.

No submissions were received as a result of the notification period for the application. No Councillor submission were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for refusal.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 18 January 2022.

The site is identified as Lot 2 in SP 22631, known as Unit 2, 21 William Street, Rose Bay.

The site is rectangular in shape with a northern frontage to William Street, measuring 12m and a depth of 53m along the eastern and western side boundaries. It has an area of 648.6m<sup>2</sup> and is generally flat.

The site is occupied by a multi-dwelling housing development comprising six x two storey dwellings with a basement carpark accessed via a driveway along the eastern side boundary. Unit 2 is the second dwelling from the street and is accessed from the pedestrian pathway along the western side boundary.

The site is adjoined by a three storey residential flat building (RFB) with ground level garages to the west, single storey semi-detached dwellings to the east and a single storey detached dwelling to the south fronting Owen Street. The locality is characterised by predominantly medium density residential development on the northern and southern side of William Street, single and two storey detached and

semi-detached dwellings to the south along Owen Street and various commercial developments further to the east on Old South Head Road.

Figures 1 to 6 are photos of the site and its context.



Figure 1: View of site, looking south-east from William Street



Figure 2: View of site and adjoining RFB, looking south-east from William Street



Figure 3: View of site and adjoining properties, looking south-west from William Street



Figure 4: Existing RFB and multi dwelling housing developments opposite site, looking north on William Street



Figure 5: Entry, windows and balconies on the southern elevation of No. 19 William Street



Figure 6: View of entry to Unit 2 from the western side passageway looking north towards William Street

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-551/2021 for alterations and additions to Unit 2 including a second floor addition was rejected by Council on 14 December 2021 due to insufficient shadow diagrams, incorrect calculation of gross floor area and building height.
- PD-9/2022 a Pre-DA was lodged on 14 March 2022 for alteration and additions to Unit 1 including a second floor addition. The merits of the proposal have been reviewed by Council officers who have advised that the proposal is not supported on the basis of bulk and scale and additional environmental impacts on adjoining properties.

### 1.4. Proposal

The development application seeks consent for alterations and additions to Unit 2 within the existing multi-dwelling housing development including construction of a new second floor addition, specifically the following:

#### Ground floor

- Demolition of internal kitchen partition; and
- New beam above existing kitchen bench.

#### Level 1

- Alterations to existing bathroom for construction of new stairs.

#### New Level 2

- New bedroom and bathroom.

#### Roof

- Four x new skylights.

### 1.5. Background

The development application was lodged on 12 January 2022 and deferred on 25 February 2022 for the following reasons:

1. Variation to floor space ratio (FSR) and height of buildings development standards will result in additional building bulk and overshadowing impacts in adjoining properties and is considered an overdevelopment of the site.
2. The Clause 4.6 written requests to vary the FSR and height of buildings development standards have not satisfactorily demonstrated compliance with the FSR and height of building development standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravention of the development standards. In particular, the proposal results in additional overshadowing impacts and does not preserve the environmental amenity of neighbouring properties.

On 23 March 2022, the applicant submitted amended architectural plans, shadow diagrams, SEE, Clause 4.6 written justifications seeking variation to the FSR and height of buildings development standards in

response to the amended plan. The amended proposal reduced the proposed building height variation from the originally proposed from 25.4% to 18% exceedance.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004

#### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

#### 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is not inconsistent with the objectives of the plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <ul style="list-style-type: none"> <li>• R3 Medium Density Residential Zone</li> </ul>	Yes	The proposal is defined as alterations and additions to a multi-dwelling housing development, which is permitted with consent in the R3 Medium Density Residential zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 9.5m</li> </ul>	No	The proposal has a building height of 11.21m and exceeds the building height development standard by 1.71m (variation of 18%).

Provision	Compliance	Comment
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.6:1 (389.14m<sup>2</sup>)</li> </ul>	No	<p>The applicant has submitted GFA plans and calculations that are inconsistent. The drawings show a proposed GFA of 464m<sup>2</sup> and a FSR of 0.71:1 (variation of 18%); however, the calculations accompanying the drawings state a proposed GFA of 447m<sup>2</sup> and FSR of 0.69:1 (variation of 15%).</p> <p>Council's assessment officer has utilised the figures provided on the GFA plans to confirm the proposed GFA to be 464m<sup>2</sup> with a FSR of 0.71:1 or 18%.</p>
4.6 Exceptions to development standards	See discussion	<p>The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of building and FSR development standards.</p> <p>The Clause 4.6 seeking variation to the FSR development standard contains incorrect GFA and FSR calculations and is inconsistent with the proposed GFA and FSR variation sought by the proposed architectural plans.</p> <p>A detailed discussion of the variation to the development standards is presented below this table.</p>
<b>Part 5 Miscellaneous provisions</b>		
5.21 Flood Planning	Yes	The site is identified as a flood area. Council's Stormwater Engineer has reviewed the proposal and raises not objection to proposed stormwater drainage, subject to conditions.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site is identified as containing Class 5 Acid Sulfate soils. The proposal does not seek to disturb existing soils on the site.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

*Clause 4.6 Exceptions to Development Standards - Height of Buildings*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of building development standard of 9.5m. The proposed development has a building height of 11.21m, exceeding the standard by 1.71m equating to a 18% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal is of a reasonable scale and provided a high-quality renovated townhouse that will contribute to meeting the high demand for additional housing in Rose Bay.*
  - (ii) *The proposal is commensurate in scale and character to the streetscape.*
  - (iii) *The 3 storey development complies with the maximum height permitted for the site, excluding the basement level.*
  - (iv) *The proposal does not result in any adverse impacts on privacy, views solar access and amenity of surrounding properties.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The proposal is compatible and consistent with the character and amenity of the area which comprises various two to four storey buildings.*
  - (ii) *The proposed external materials and finishes integrates the addition to the existing building.*
  - (iii) *The variation of building height is a result of the measurement of height from the basement car park level. Basement car parking is not characteristic of developments in the vicinity of the site and does not add bulk to the building. The proposal would comply with the building height development standard if the basement level was excluded from the height of building measurement.*
  - (iv) *The proposal does not result in any change to existing setbacks, landscaping, private open space or car parking for the site.*
  - (v) *The proposal does not result in any amenity impacts on adjoining properties such as view loss, overlooking, overshadowing or loss of visual or acoustic privacy.*



Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant argues that despite the variation to the height of buildings development standard, the objectives of the development standard is achieved as the proposal does not result in any impacts on views, visual or acoustic privacy of adjoining properties. The extent of an additional 15 minutes of overshadowing to No. 19 William Street windows and 1 hour of overshadowing to No. 23 William Street will not adversely affect the amenity of adjoining occupants as compliant solar access in accordance with the Waverley DCP 2012 is achieved.

Council's assessment officer disagrees with the applicant's justification, as Clause 4.3(1)(a) of the height of building development standard requires the height of a development "to **preserve** the environmental amenity of neighbouring properties" and the additional overshadowing to the existing bedroom, living

areas and private open space of adjoining properties fails to preserve the existing amenity of adjoining properties. As shown in the submitted shadow diagrams, the ground floor windows at No. 19 William Street does not receive a minimum of 3 hours of direct sunlight between 9am and 3pm at mid-winter and will be further impacted by the proposed exceedance in building height.

No. 23 William Street is a single storey semi-detached dwelling with window openings to habitable rooms to the street, west and rear (south) elevations and has limited solar access to windows as a result of the scale of immediately adjoining developments. The impacted windows on the western elevation currently receive less than 1 hour of full sunlight between 9am and 3pm at mid-winter. As such, the additional overshadowing, which is a direct result of the exceedance of the building height development standard, will reduce the amenity of the adjoining property and fails to satisfy the objective (a) in Clause 4.3(1) of the development standard.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the applicant argues that the proposal results in a variation to the building height due to the requirement to include the basement floor level in the measurement of building height and notwithstanding this, the built form is consistent with the existing character of the streetscape and will not result in any adverse amenity impacts on adjoining properties.

As discussed above, the proposed variation to the building height development standard will result additional environmental impacts on adjoining properties and has not demonstrated sufficient environmental planning grounds to contravene the development standard.

Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular development standard.

The relevant objectives of the height of buildings development standard are as follows:

- (a) *to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) *to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The proposal has failed to demonstrate compliance with the relevant objectives of the height of buildings development standard as the variation does not preserve the environmental amenity of adjoining properties as it will result in additional overshadowing of habitable room windows at adjoining properties. The proposal, which also seeks a variation to the FSR development standard and insufficient floor to ceiling heights on the second floor is considered an overdevelopment of the site.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objectives of the R3 Medium Density Residential zone, as it maintains the existing multi dwelling housing development on the site which is consistent with the various residential developments provided within the locality.

### Conclusion

For the reasons provided above, the requested variation to the height of buildings development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of height of buildings development standard and will result in additional overshadowing of neighbouring properties and fails to satisfy the objective of the development standard to preserve the environmental amenity of adjoining properties.

### *Clause 4.6 Exceptions to Development Standards - FSR*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6:1. The proposed development has a FSR of 0.71:1, exceeding the standard by 74.8m<sup>2</sup> equating to a 18% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

The applicant's written request contains incorrect GFA and FSR calculations stating a exceedance of 66m<sup>2</sup> equating to a 15% variation.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The proposal provides greater amenity for the subject dwelling and contributes to housing in the locality.*
  - (ii) *The proposal is consistent with the scale and character of the existing multi dwelling housing development and developments in the streetscape comprising various two to four storey developments.*
  
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The proposed built form is not inconsistent with the built form permitted by planning controls and is compatible with surrounding developments.*
  - (ii) *The proposal does not result in adverse amenity impacts on adjoining properties and has minimal impacts on the locality.*
  - (iii) *The proposed external materials and finishes integrates the addition to the existing building.*
  - (iv) *The proposal does not result in any change to existing setbacks, landscaping, private open space or car parking for the site.*
  - (v) *The additional floor space is contained within the additional roof form which is consistent with the height of surrounding residential flat buildings.*
  - (vi) *The proposal allows for the orderly and economic use of the site, contributing to different housing stock in the locality and is consistent with Clause 1.3 of the Environmental Planning and Assessment Act 1979.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant's justification is not supported in this instance as the proposal has failed to demonstrate an appropriate correlation between the building height and FSR development standards as it seeks a variation to both the development standards and will result in additional adverse amenity impacts on adjoining properties. Specifically, the proposal will result in additional overshadowing impacts to habitable room windows and private open space which fails to demonstrate that notwithstanding the variation to the FSR development standard, the proposal achieves the objective of Clause 4.4(1)(d) and therefore does not preserve the environmental amenity of adjoining properties.

While the proposed addition does not exceed the existing height of surrounding residential flat building developments, the existing multi dwelling housing development is a different building typology to surrounding residential flat buildings. The increase in building bulk and height at the centre of the site, which is clearly visible from the street and adjoining properties, is likely to set a precedent for altering the built form and scale of the existing development and will erode the objectives of the development standard which seeks to maintain an appropriate correlation between FSR and building height and preserve the amenity for surrounding properties.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. In particular, the variation to the FSR development standard results in additional building bulk including exceedance of the height of buildings development standard and will have additional overshadowing impacts on adjoining properties between 9am and 3pm in mid-winter. The variation to the FSR development standard and subsequently the height of buildings development standard is considered an overdevelopment of the site.

### Is the development in the public interest?

The proposed development will not be in the public interest because it is inconsistent with the objectives of the particular development standard.

The relevant objectives of the FSR development standard are as follows:

- (b) *to provide an appropriate correlation between maximum building heights and density controls,*
- (c) *to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*
- (d) *to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The proposal has failed to satisfactorily demonstrate compliance with the relevant objectives of the FSR development standard as it seeks a variation to both the FSR and height of buildings development standards (the latter discussed in the report above) for the site. The proposal in its current form projects above the established height of the existing multi dwelling housing development and will result in additional overshadowing impacts on adjoining properties. As such, the variation sought to the FSR development standard results in a built form that does not preserve the environmental amenity of neighbouring properties and cannot be supported.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the objectives of the R3 Medium Density Residential zone as it maintains the existing multi dwelling housing development on the site which is consistent with the various residential developments provided within the locality.

### Conclusion

For the reasons provided above, the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of FSR development standard and does not preserve the environmental amenity of adjoining properties.

#### 2.1.4. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

#### 2.1.5. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
12. Design Excellence	No	<p>The proposal will result in a variation to the building height and FSR development standards, and results in additional overshadowing impacts which will impact the amenity of adjoining properties to the east and west of the site.</p> <p>The proposed second floor does not achieve a minimum floor to ceiling height of 2.7m required for a habitable room and will impact on the amenity for occupants. The proposal provides floor to ceiling heights commensurate of an attic room which is not appropriate as the design of the second floor is a new floor level and not contained within a roof space. The proposed design has failed to address the constraints of the site and its context and does not demonstrate design excellence.</p>

**Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
<ul style="list-style-type: none"> <li>• Minimum frontage:               <ul style="list-style-type: none"> <li>• 15m</li> </ul> </li> </ul>	No – as existing	The site has an existing frontage of 12.19m. No change is proposed to the site frontage.
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>• Maximum external wall height:</li> </ul>	No	The existing building wall height of the subject unit measured to the existing ground level of the

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>7m</li> </ul>		<p>basement is 7.9m which exceeds the maximum external wall height control.</p> <p>The proposal for a second floor further exceeds the building wall height control and measures 9.67m.</p> <p>The proposal results in additional building bulk that projects above the existing roof line of the multi dwelling housing development which is visible from the street and adjoining properties.</p>
<b>3.3 Setbacks</b>		
<p>3.3.1 - Street setbacks</p> <ul style="list-style-type: none"> <li>Consistent street setback</li> </ul>	Yes	No change is proposed to the street setback as the subject unit is located behind Unit 1, which has a frontage to William Street. The existing building is consistent with the predominant front setback of surrounding properties on the southern side of William Street.
<p>3.3.2- Side and rear setbacks</p> <ul style="list-style-type: none"> <li>Minimum side setback: 1.5m</li> <li>Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	<p>Yes</p> <p>As existing</p> <p>As existing</p>	<p>The proposed second storey addition is setback 2.7m from the eastern side boundary and 3.5m from the western side boundary. No change is proposed to the existing rear building setback as the subject unit is located in the middle section of the existing building.</p> <p>No change is proposed to existing landscaped areas.</p>
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	The proposal does not exceed the height of surrounding residential flat buildings and comprises external materials that are consistent with the materials and finishes of the existing building. No significant architectural features are proposed to be removed.
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to a minimum of 70% of units in the development on 21 June</li> <li>New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter.</li> <li>Direct sunlight to north facing windows of habitable rooms on all</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The subject unit receives at least 3 hours of sunlight and complies with the solar access requirements. No change is proposed to the sunlight received by the subject unit or any existing units within the development.</p> <p>The skylights on the roof of No. 23 William Street will be overshadowed between 2pm and 3pm. However, the adjoining property receives a minimum of 2 hours of direct sunlight between 9am and 1pm.</p> <p>The proposal does not impact solar access to existing north facing windows of adjoining</p>



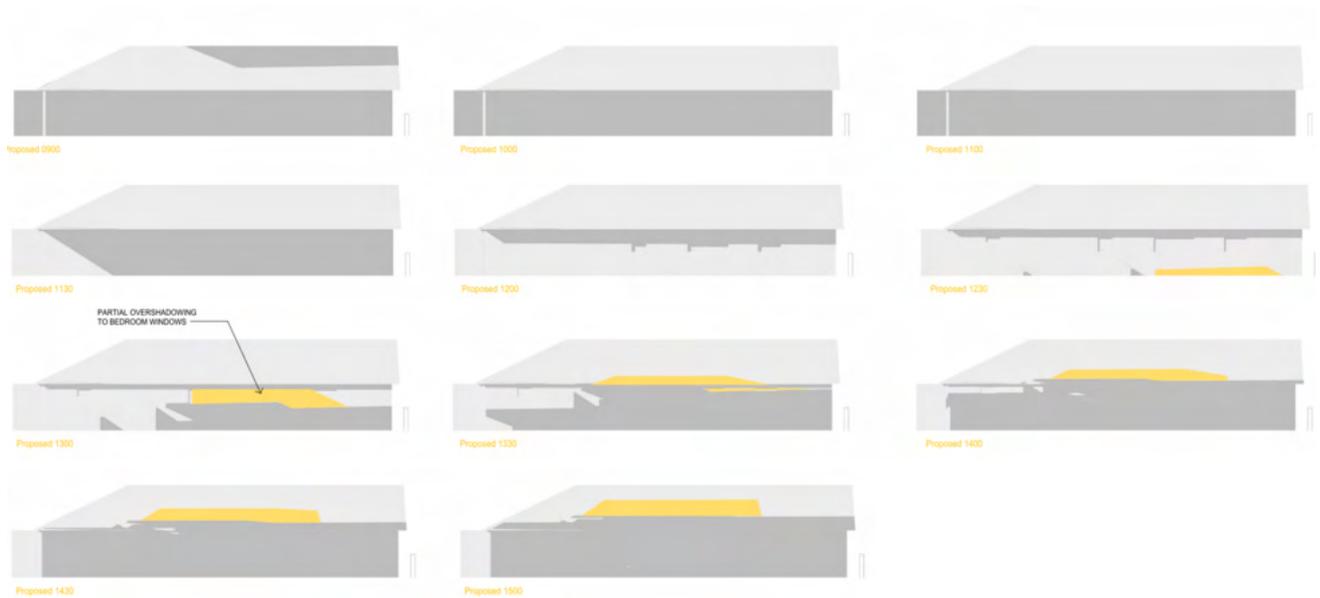
Development Control	Compliance	Comment
private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.		properties or private open spaces, however the proposal results in additional overshadowing to west facing windows at No. 23 William Street between 1pm and 1.30pm and east facing ground floor windows and private open space at No. 19 William Street between 9am and 9.15am on 21 June.
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss through design.</li> <li>Views from public spaces to be maintained.</li> </ul>	<p>Yes</p> <p>Yes</p>	There are no views from adjoining properties or the public domain that will be affected by the proposal.
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>Privacy be considered in relation to context density, separation use and design.</li> <li>Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> </ul>	<p>As existing</p> <p>Yes</p> <p>Yes</p>	<p>The entry to the subject site is provided along the western side boundary. No change is proposed.</p> <p>The proposed new window openings on the second floor western elevation to the new stairs and bedroom are directly opposite existing openings to the residential flat building at No. 19 William Street. The windows are proposed to be frosted glazing and are unlikely to result in any unreasonable amenity impacts on adjacent occupants at No. 19 William Street.</p>
<b>3.16 Dwelling size and layout</b>		
<ul style="list-style-type: none"> <li>Max habitable room depth for single aspect dwelling is 8m from a window</li> <li>All habitable rooms to have a window</li> <li>Min sizes 3 bedroom = 100m<sup>2</sup></li> <li>Flexible design</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The depth of the second floor addition is 5.48m. The second floor provides window openings on the east and west elevations.</p> <p>The proposed 3 bedroom unit has a GFA of 106m<sup>2</sup> and complies with the minimum unit size requirement.</p> <p>The proposal provides sufficient internal areas within the unit for flexible furniture layouts for occupants.</p>
<b>3.17 Ceiling Heights</b>		
<ul style="list-style-type: none"> <li>Min 2.7m floor to ceiling height residential floors</li> </ul>	No	The proposed second floor has a varying floor to ceiling height between 1.62m to 2.8m at the highest point at the centre of the bedroom. The applicant has shown that a minimum of 2/3 of the floor area has a floor to ceiling height of more than 2.2m in accordance with the BCA provisions for attic rooms. However, the proposed second floor is a whole new floor level and is not contained

Development Control	Compliance	Comment
		<p>within an attic therefore the BCA provisions are not applicable.</p> <p>In this instance, a floor to ceiling height of 2.7m will result in a further exceedance of the height of buildings development standard and additional overshadowing impacts on adjoining properties and would not be supported.</p>
<b>3.18 Storage</b>		
In addition to kitchen cupboards and bedroom wardrobes, min storage required is 3 or more bed = 10m <sup>3</sup>	Yes	Adequate storage is proposed within the second floor level for a 3 bedroom apartment.
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	No change is proposed to the existing location of main living areas. The proposed second floor contains a bedroom and bathroom and will not result in any adverse noise impacts for occupants or adjoining properties.
<b>3.20 Natural Ventilation</b>		
<ul style="list-style-type: none"> <li>All dwellings to be naturally cross-ventilated</li> <li>Building to be orientated to maximise breezes</li> <li>Ceiling fans are to be provided in all habitable rooms.</li> </ul>	<p>Yes</p> <p>As existing</p> <p>No</p>	<p>The subject unit will be naturally cross ventilated. The second floor has window openings on the east and west elevations. The existing orientation of the building remains unchanged.</p> <p>No ceiling fans have been shown or proposed.</p>

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

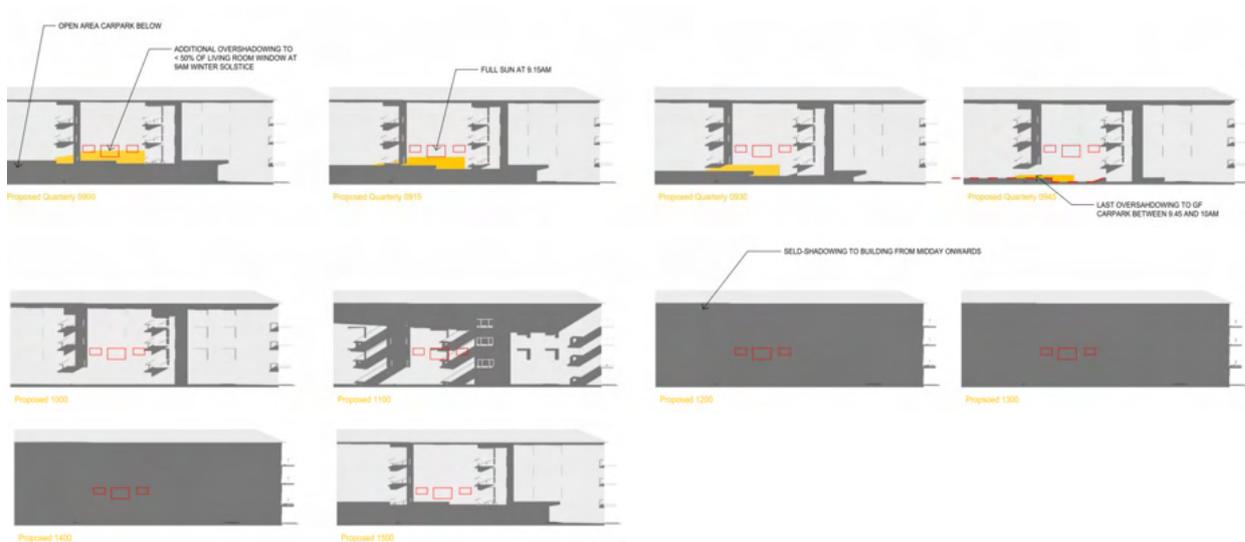
### *Solar Access*

The proposal results in additional overshadowing to habitable room windows on the western elevation of the semi-detached dwelling to the east (No. 23 William Street). The additional overshadowing to windows occurs between 1pm and 1.30pm on 21 June. The additional overshadowing, resulting from a variation to the height of building and FSR development standards, will have a significant impact on the amenity of the adjoining property as the window openings currently receive limited solar access (less than 2 hours) consisting partial sunlight to the window till at 12noon, direct sunlight between 12.30 and 1pm, and partial sunlight between 1.30pm and 2pm on 21 June (see Figure 7 below).



**Figure 7:** Additional overshadowing to No. 23 William Street between 9am and 3pm on 21 June (shown in yellow)

The proposal will also result in additional overshadowing of habitable windows and balcony on the ground floor of the residential flat building to the west at No. 19 William Street between 9am and 9.15am on 21 June. The impacted windows currently received 1 hour of direct sunlight between 9am to 10am and at 3pm in mid-winter. Partial sunlight at 11am is provided to the windows at 11am in mid-winter (see Figure 8 below). Whilst the impacted windows are not north facing, they provide solar access and amenity to the apartments and is significant given the existing built form and scale of surrounding developments.



**Figure 8:** Additional overshadowing to No. 19 William Street between 9am and 3pm on 21 June (shown in yellow)

The additional overshadowing impact is not acceptable given it is a result of further non-compliance with the building height and FSR development standards that are applicable to the site. The additional impacts to adjoining properties to the east and west of the site demonstrate that the site has reached

its development potential and the proposal for an additional floor level is overdevelopment of the site and will adversely impact the amenity of surrounding properties.

## 2.2. Other Impacts of the Development

The proposal is considered to have a significant detrimental effect relating to environmental, social or economic impacts on the locality, and is recommended for refusal.

## 2.3. Suitability of the Site for the Development

The site is not considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 14 days between 1 February and 15 February 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- Reduction in height from
- Reduced floor area
- Reduced overshadowing impact

No submissions were received.

## 2.5. Public Interest

The proposal is considered to have a detrimental effect on the public interest, and is recommended for refusal.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Stormwater

Council's Stormwater Engineer has reviewed the proposal and raises no objection, subject to recommended conditions.

### 3.2. Fire Safety

Council's Fire Safety Officer has reviewed the proposal and raises no objection, subject to recommended conditions.

## 4. CONCLUSION

The development application seeks consent for alterations and additions to Unit 2 within the existing multi-unit dwelling for construction of a new second floor level at the site known as Unit 2, 21 William Street, Rose Bay.

The principal issues arising from the assessment of the application are as follows:

- FSR
- Building height
- Floor to ceiling height
- Overshadowing

The assessment finds these issues unacceptable, as the variation to the FSR and building height development standards will result in additional overshadowing impacts to habitable windows and private open space at adjoining properties. The Clause 4.6 written requests seeking variation to the FSR and height of buildings development standards have failed to demonstrate that the proposal, notwithstanding the non-compliances, satisfies the objectives of the development standards, particularly the preservation of environmental amenity of neighbouring properties.

No submissions were received as a result of the notification period for the application. No Councillor submission were received. There are no declared conflicts of interest relating to this application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for refusal.

***Development and Building Unit (DBU) Decision:***

The application was reviewed by the DBU at the meeting on 3 May 2022 and the DBU determined:

- (a) The application is not acceptable and should be refused for the reasons in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara, B Matlawski and B Magistrale*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be REFUSED by the Waverley Local Planning Panel for the reasons contained in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Peggy Wong	Bridget McNamara
<b>Senior Development Assessment Planner</b>	<b>Manager, Development Assessment (Area 3) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 6 May 2022</b>	<b>Date: 9 May 2022</b>

***Reason for WLPP referral:***

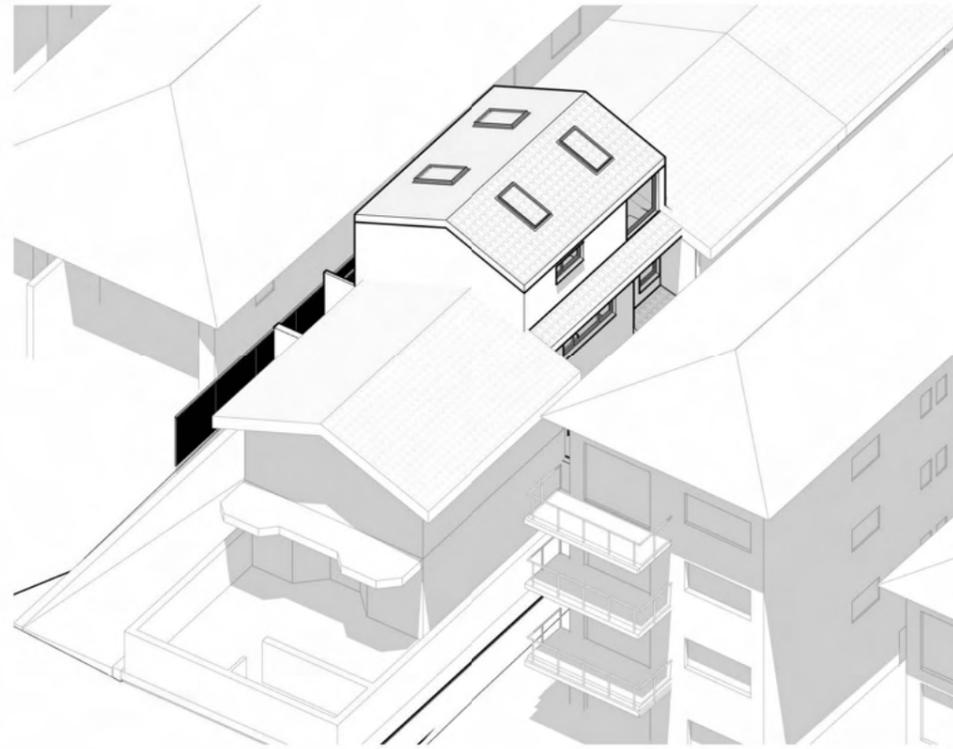
1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – REASONS FOR REFUSAL

Having regard to section 4.15(1) of the Environmental Planning and Assessment Act 1979 (the Act) the development application (the application) is refused for the following reasons:

1. The proposal does not satisfy the objectives of the Environmental Planning and Assessment Act 1979, as stipulated in section 1.3 (g) as the proposal does not promote good design or amenity of the built environment.
2. The proposal does not satisfy section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, as the proposal does not satisfy the Waverley Local Environmental Plan 2012 (WLEP), in particular the following provisions:
  - a. Clause 4.3 *Height of Buildings*, as the proposal is considered an overdevelopment of the subject site and the proposed development does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clause 4.4 (1)(a) of WLEP.
  - b. Clause 4.4 *Floor Space Ratio* as the proposal is considered an overdevelopment of the subject site and the proposed development does not provide an appropriate correlation with the maximum building height development standard and does not preserve the environmental amenity of neighbouring properties and the surrounding locality as required under clauses 4.4 (1)(b) and (d) of WLEP.
  - c. Clause 4.6 *Exceptions to development standards* (1) and (3) as the applicant has failed to demonstrate that the proposed development will result in a better outcome for the site and a compliant development is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the breach to the floor space ratio and height of buildings development standards. The proposal is not considered to be in the public interest.
3. The application does not satisfy section 4.15 (1)(a)(iii) of the Act as it is contrary to Waverley Development Control Plan 2012, in respect to the following provisions:
  - a. Part B12 – *Design Excellence*
    - i. Section 12.1 *Design* specifically objectives (a), (c) and (d), controls (a) and (e) and 12.2 *Context Analysis* objectives (a), (b) and (d) as the proposal has failed to consider the suitability of the land for development given the relationship of the development to other development on neighbouring sites and the result of additional amenity impacts particularly additional overshadowing of adjoining properties.
  - b. Part C3 – *Other Residential Development*
    - i. Section 3.2 *Height*, specifically objectives (b) and (c), controls (a) to (c) as the proposed development is not of a scale or density that is appropriate for the allotment, does not provide a compliant building or building wall height resulting in additional building bulk and impacts on the amenity of adjoining properties.

- ii. Section 3.13 *Solar access and overshadowing*, specifically objectives (a) to (d), as the proposal results in additional amenity impacts on surrounding properties specifically, the reduction of direct sunlight received to habitable rooms and private open space of adjoining properties where the windows and private open spaces do not currently receive a minimum of 3 hours of direct sunlight between 9am and 3pm on 21 June.
  - iii. Section 3.17 *Ceiling heights*, specifically objectives (a) to (d) and control (a), as the second floor addition does not achieve a minimum floor to ceiling height of 2.7m for a habitable room and will not provide adequate amenity within the dwelling.
- 4. The application does not satisfy section 4.15 (1)(b) of the Act as the proposed development in terms of the additional building bulk results in unacceptable amenity impacts on adjoining properties.
- 5. The application is contrary to section 4.15 (1)(c) of the Act due to the site being unsuitable to accommodate the proposed development. The scope of the development exceeds the floor space ratio and height of building development standards resulting in additional amenity impacts on adjoining properties and is an over development of the site.
- 6. The application is contrary to section 4.15 (1)(e) of the Act in relation to the public interest as the variation sought to the floor space ratio and height of buildings development standards have not been adequately justified by a Clause 4.6 written requests demonstrating that compliance with the development standards is unnecessary or unreasonable and that there are sufficient environmental planning grounds to contravene the standards.



# BASIX Certificate

Building Sustainability Index www.basix.nsw.gov.au

## Alterations and Additions

Certificate number: A439719\_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Alterations and Additions Definitions" dated 06/10/2017 published by the Department. This document is available at www.basix.nsw.gov.au

This certificate is a revision of certificate number A439719 lodged with the consent authority or certifier on 24 Dec 2021 with application DA-15/2022.

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Sch 1 Cl 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000.

Secretary  
Date of issue: Friday, 18, March 2022  
To be valid, this certificate must be lodged within 3 months of the date of issue.



BASIX Certificate number: A439719\_02

page 1 / 6

Description of project	
Project name	2/21 William St ROSE BAY_02
Street address	21 William Street Rose Bay 2029
Local Government Area	Waverley Council
Plan type and number	Strata Plan SP22631
Lot number	2
Section number	
Project type	
Dwelling type	Unit
Type of alteration and addition	My renovation work is valued at \$50,000 or more.

Certificate Prepared by (please complete before submitting to Council or PCA)	
Name / Company Name:	Good Spaces
ABN (if applicable):	98635670834

page 2 / 6

Fixtures and systems	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
<b>Lighting</b> The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.		✓	✓
<b>Fixtures</b> The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating. The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating. The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.		✓ ✓ ✓	✓ ✓ ✓

# 2/21 WILLIAM ST ADDITION

2 21 WILLIAM ST  
ROSE BAY  
NSW

## DA REVIEW

### DRAWING LIST

SHEET NUMBER	TITLE
DA.000	COVER
DA.101	SITE PLAN
DA.102	AREA PLAN
DA.103	DEMOLITION PLAN
DA.104	FLOOR PLANS
DA.105	ROOF/STORMWATER CONCEPT
DA.201	ELEVATIONS
DA.202	ELEVATIONS
DA.301	SECTIONS
DA.302	SITE SECTIONS
DA.601	FINISHES
DA.602	GLAZING SCHEDULE
DA.701	SHADOWS - PLAN
DA.702	SHADOWS - EAST ELEVATIONS
DA.703	SHADOWS - WEST ELEVATIONS
DA.704	SHADOWS - VIEW FROM SUN

**AMENDED PLANS**

**RECEIVED**  
**Waverley Council**  
  
Application No: DA-15/2022  
  
Date Received: 23/03/2022

(02) 9055 2058  
hello@goodspaces.com.au  
PO BOX 408  
SURREY HILLS  
NSW 2010  
[www.goodspaces.com.au](http://www.goodspaces.com.au)

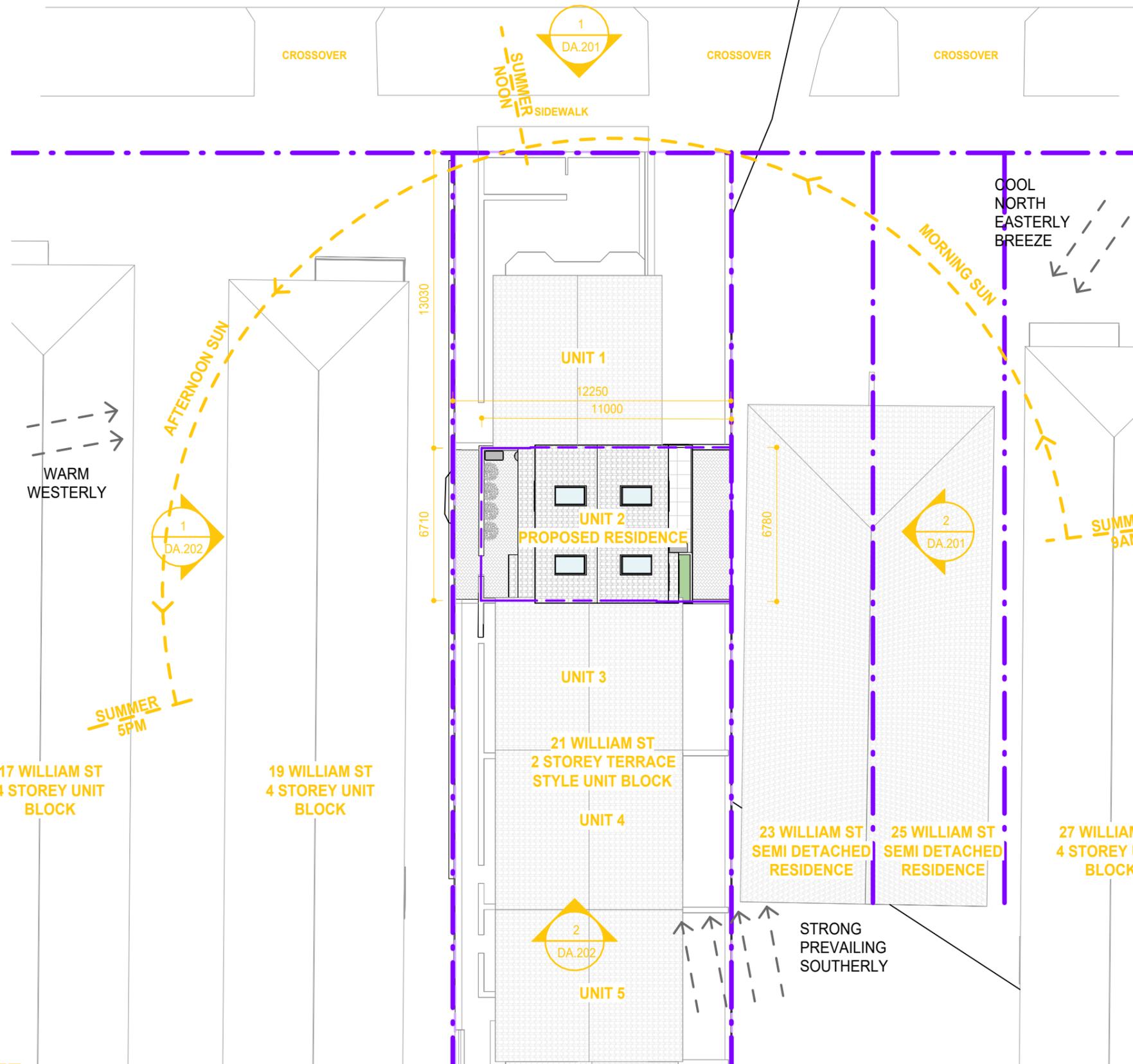
GENERAL NOTES: These drawings shall be read in conjunction with each other and with all consultants drawings and documentation. All dimensions are in mm unless otherwise stated. All RL's in metres. Use figured dimensions only. Verify all dimensions on site before the commencement of any works. Do not scale off drawings. Any discrepancies are to be made to the author prior to commencement on site. All work shall be carried out in accordance with ASA, BCA and local government regulations.

This drawing in copyright to Good Spaces and may not be used or reproduced without prior consent

Project	2/21 WILLIAM ST ADDITION			<b>COVER</b>
Client	DANIEL & TIA			
Status	DA REVIEW	Project number	2125	<b>DA.000</b>
Revision	J	Drawn by	LS	
Description	DA RE-ISSUE	Date	23 MARCH 22	Scale @ A3



**WILLIAM STREET**



**SITE OVERVIEW**

Source: SIX Maps

**AMENDED PLANS**

**RECEIVED**  
**Waverley Council**  
 Application No: DA-15/2022  
 Date Received: 23/03/2022

AREA CALCULATIONS:		
TOTAL SITE AREA:		648.6 m <sup>2</sup>
UNIT SITE AREA:		74 m <sup>2</sup>
PROPOSED GFA:		104 m <sup>2</sup>
FSR:	ALLOWED	0.6:1
	EXISTING	0.64:1
	PROPOSED	0.70:1
SITE COVERAGE:	ALLOWED	38 m <sup>2</sup>
	EXISTING	38 m <sup>2</sup>
	PROPOSED	38 m <sup>2</sup>
PRIVATE OPEN SPACE:	ALLOWED	25 m <sup>2</sup>
	EXISTING	39 m <sup>2</sup>
	PROPOSED	39 m <sup>2</sup>
LANDSCAPING:	ALLOWED	22 m <sup>2</sup>
	EXISTING	0 m <sup>2</sup>
	PROPOSED	0 m <sup>2</sup>

**SITE**  
1:200



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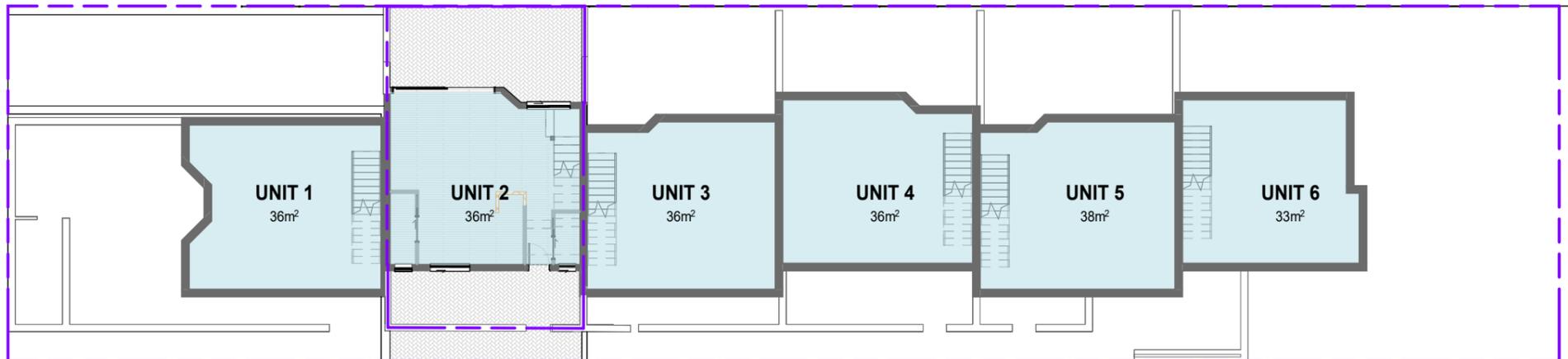
**NORTH**

Project	2/21 WILLIAM ST ADDITION		<b>SITE PLAN</b> <b>DA.101</b>	
Client	DANIEL & TIA			
Status	DA REVIEW	Project number		2125
Revision	J	Drawn by		LS
Description	DA RE-ISSUE	Date		23 MARCH 22
			Scale	1 : 200@ A3

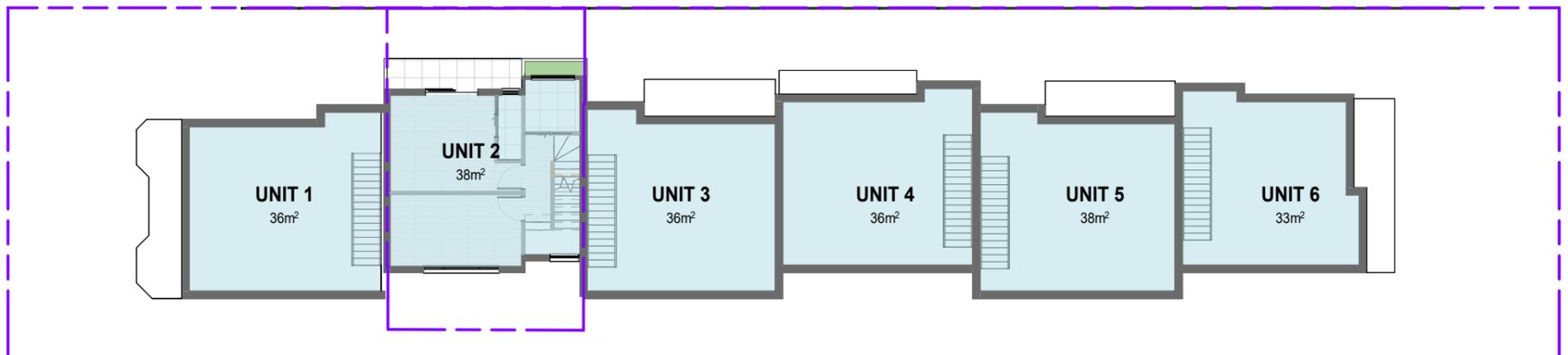


# AMENDED PLANS

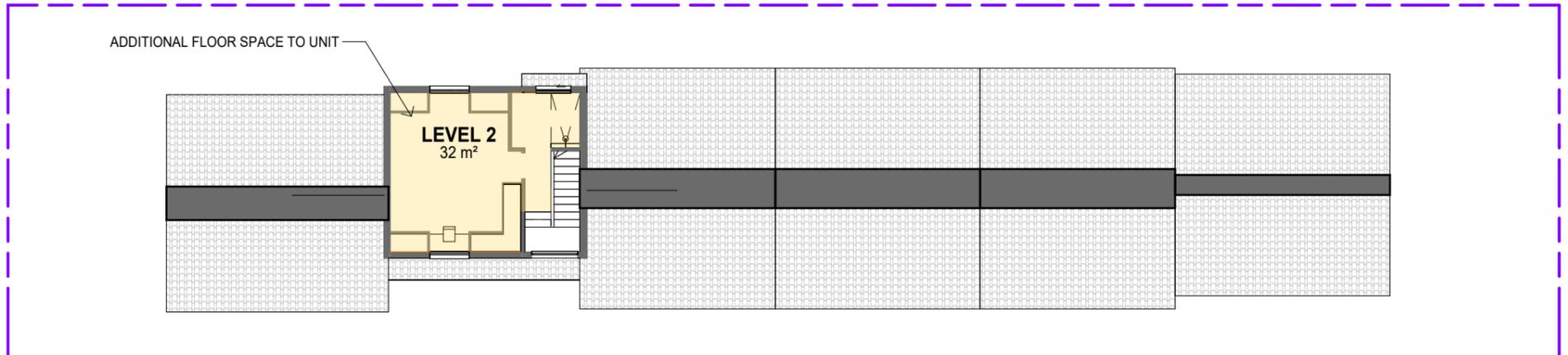
**BASEMENT**  
1 : 200



**GROUND FLOOR**  
1 : 200



**LEVEL 1**  
1 : 200



**LEVEL 2 ADDITION**  
1 : 200

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**SITE AREA:**

TOTAL SITE	648.6m <sup>2</sup>
UNIT BOUNDARY	74m <sup>2</sup>

**SITE FSR:**

ALLOWED FSR:	0.60:1 (389.14m <sup>2</sup> )
EXISTING FSR:	0.64:1 (415.00m <sup>2</sup> )
PROPOSED FSR:	0.69:1 (447.00m <sup>2</sup> )

**SITE GFA:**

UNIT 1 =	70m <sup>2</sup>
UNIT 2 =	74m <sup>2</sup>
UNIT 3 =	70m <sup>2</sup>
UNIT 4 =	69m <sup>2</sup>
UNIT 5 =	73m <sup>2</sup>
UNIT 6 =	63m <sup>2</sup>
<b>TOTAL =</b>	<b>415m<sup>2</sup></b>

**EXISTING UNIT 2 GFA:**

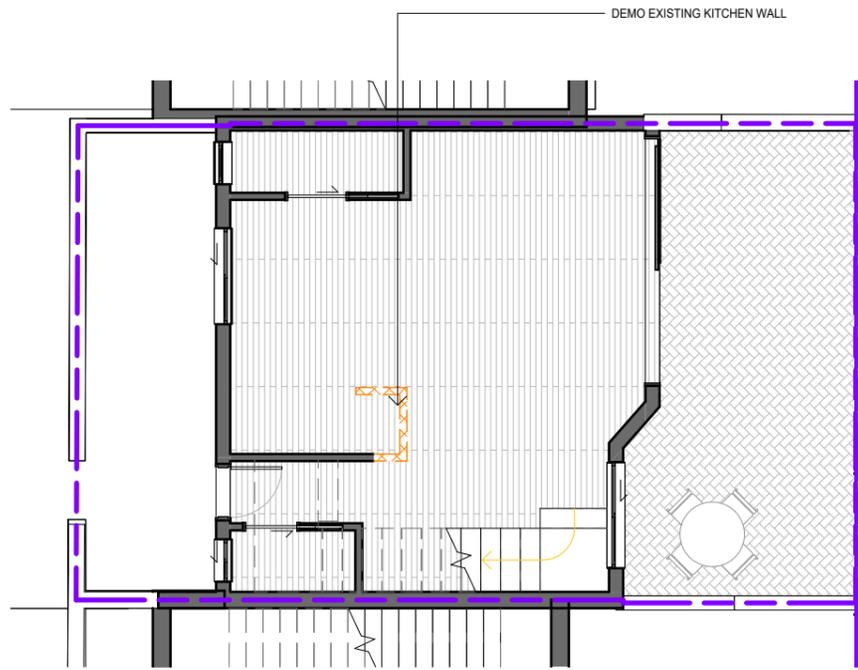
GF =	36m <sup>2</sup>
1F =	38m <sup>2</sup>
<b>TOTAL =</b>	<b>74m<sup>2</sup></b>

**PROPOSED UNIT 2 GFA:**

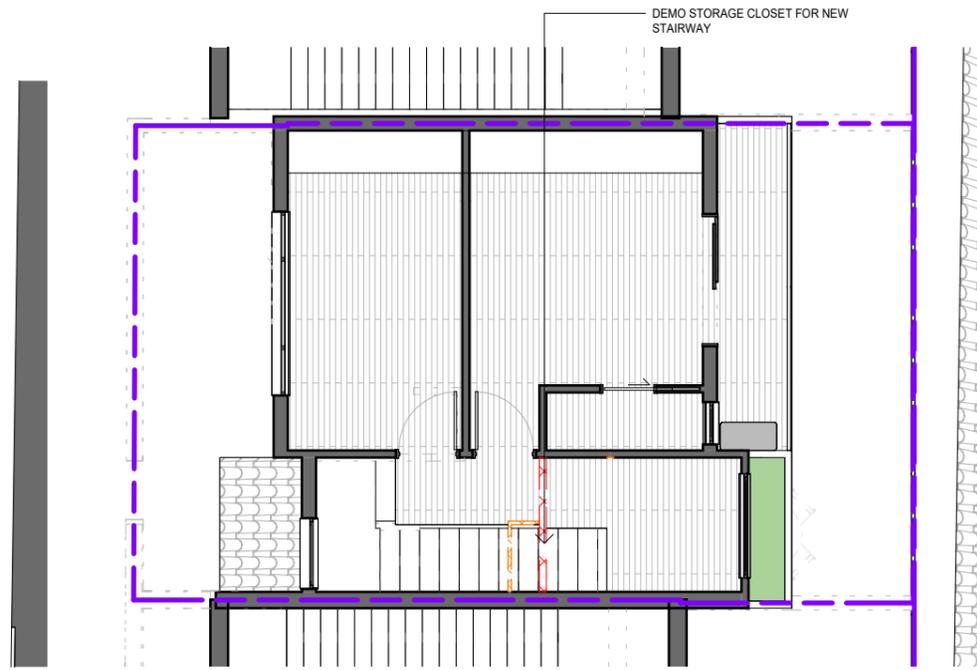
GF =	36m <sup>2</sup>
1F =	38m <sup>2</sup>
2F =	32m <sup>2</sup>
<b>TOTAL =</b>	<b>106m<sup>2</sup></b>

**DEMO NOTES:**

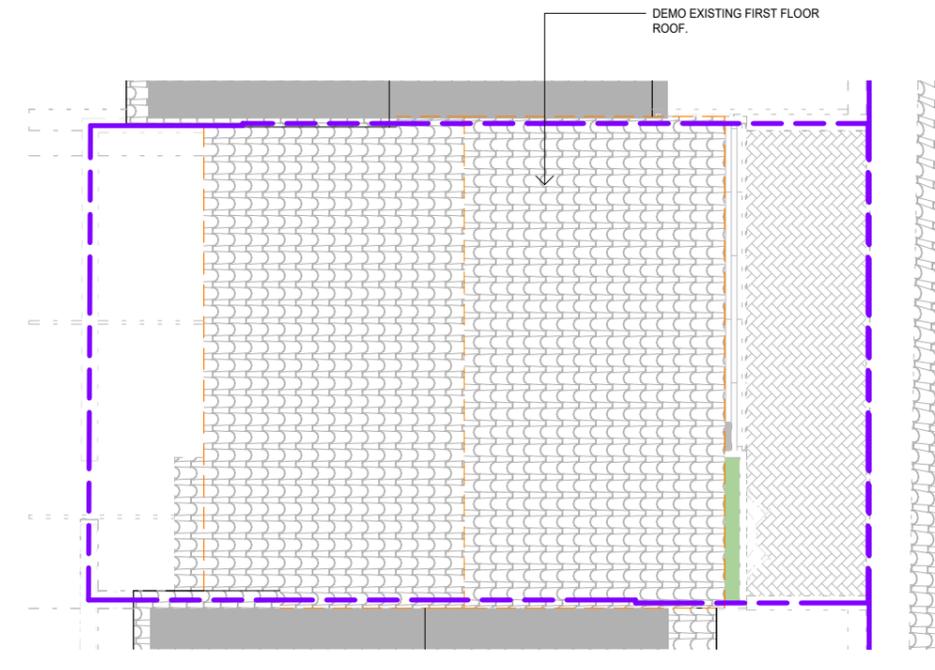
- 'DIAL BEFORE YOU DIG'
- CAP OFF EXISTING PLUMBING AND ELECTRICAL WORKS AS NEEDED BY QUALIFIED TRADE
- SITE WASTE TO BE DISPOSED OF AS PER COUNCIL GUIDELINES
- SEDIMENT CONTROL TO BE PROVIDED WHERE NECESSARY
- MATERIAL RE-USE AS SPECIFIED BY DRAWINGS OR DIRECTLY BY OWNER ONLY



**GROUND FLOOR**  
1:100



**LEVEL 1**  
1:100



**ROOF**  
1:100

**AMENDED PLANS**

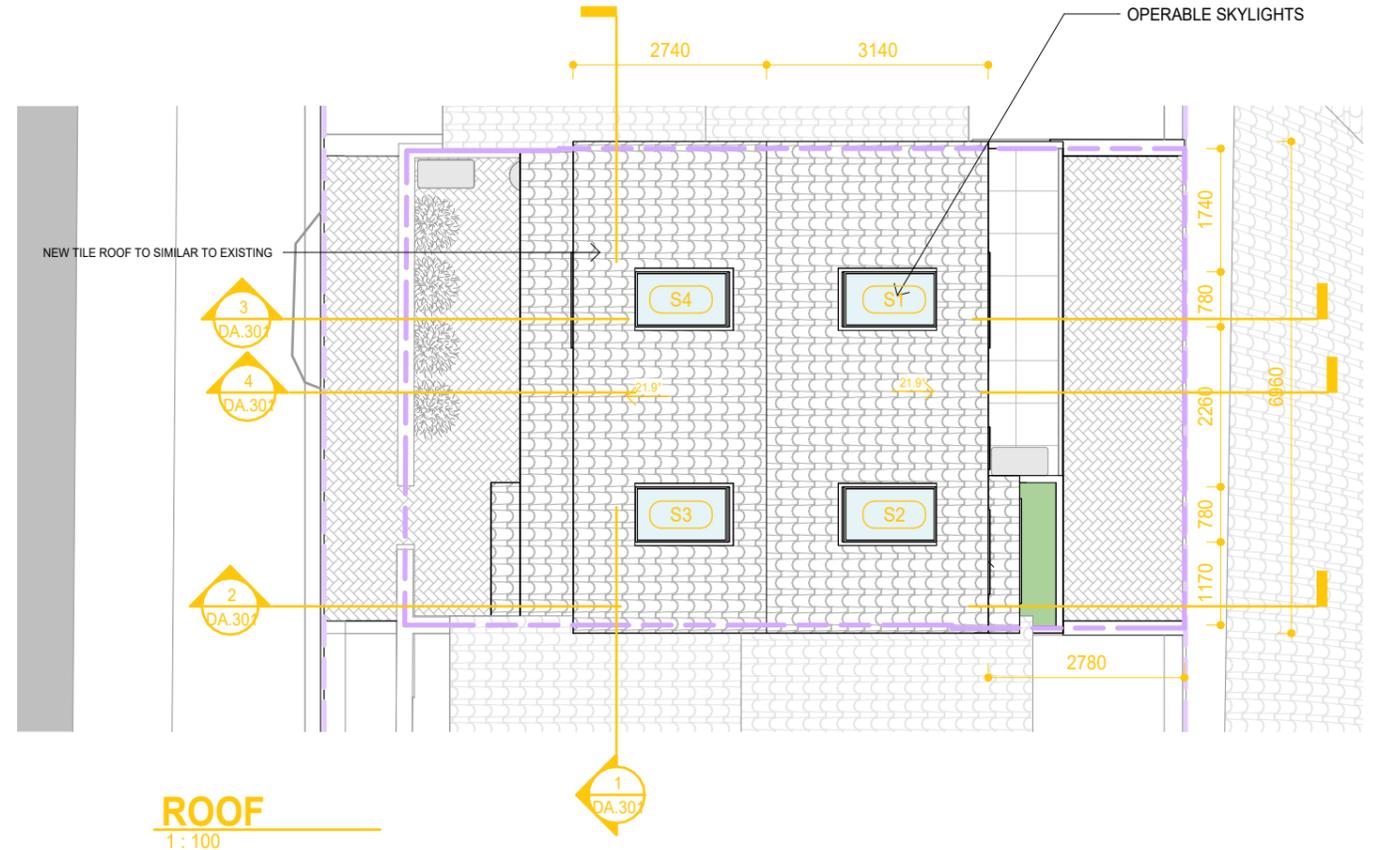
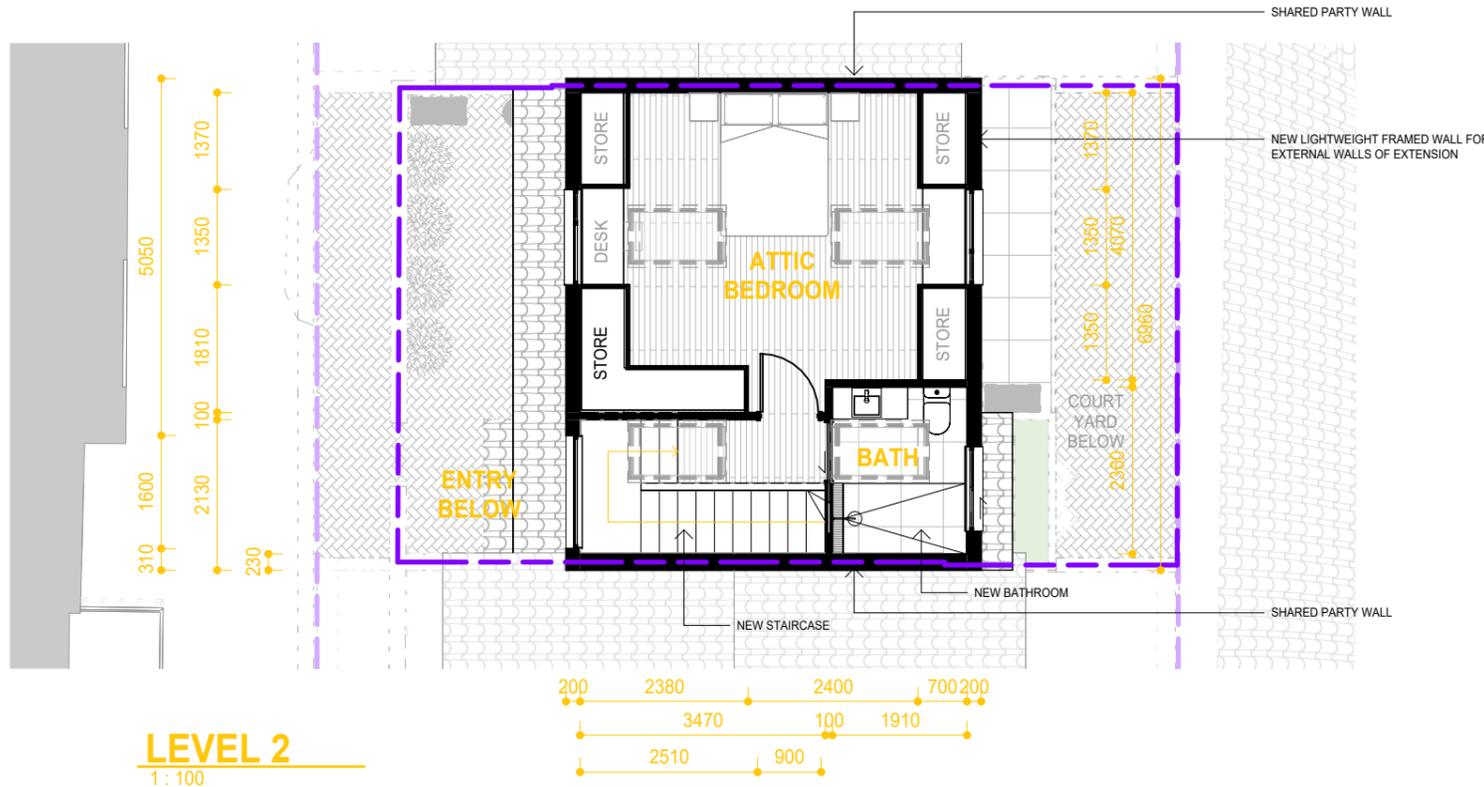
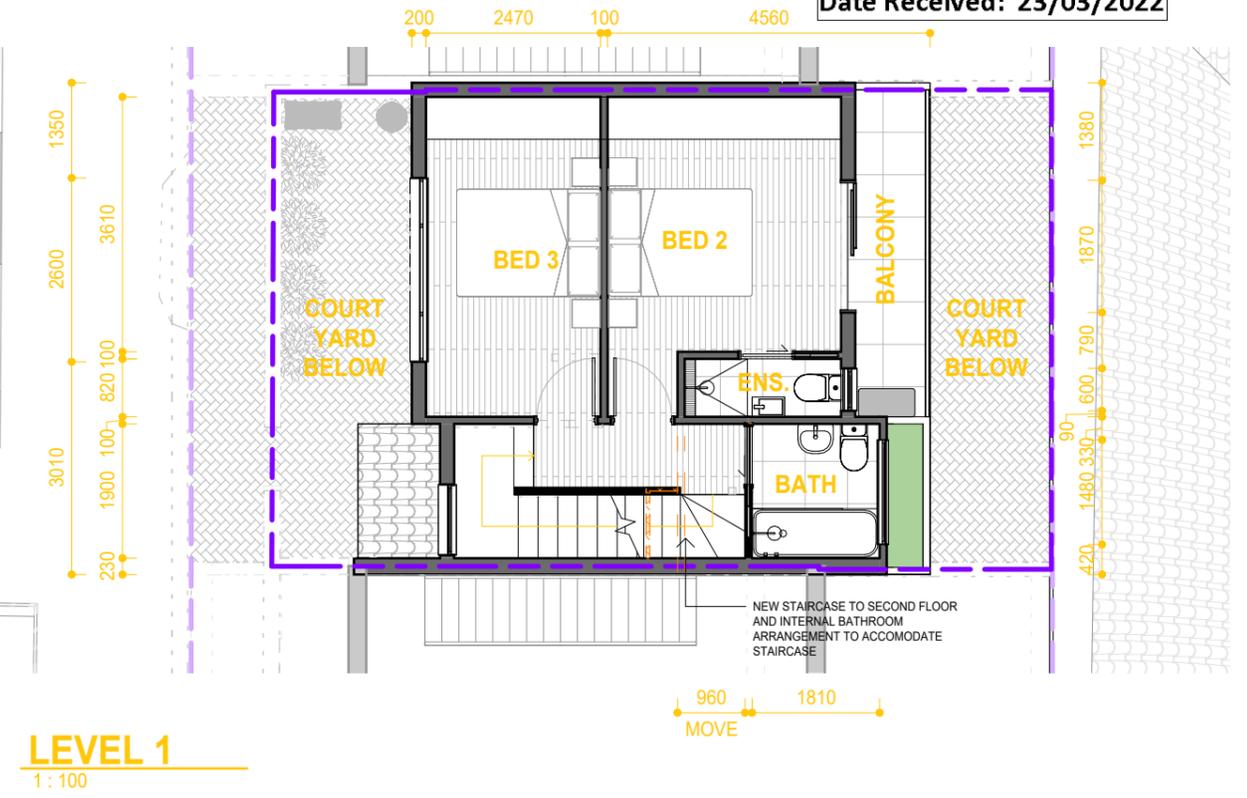
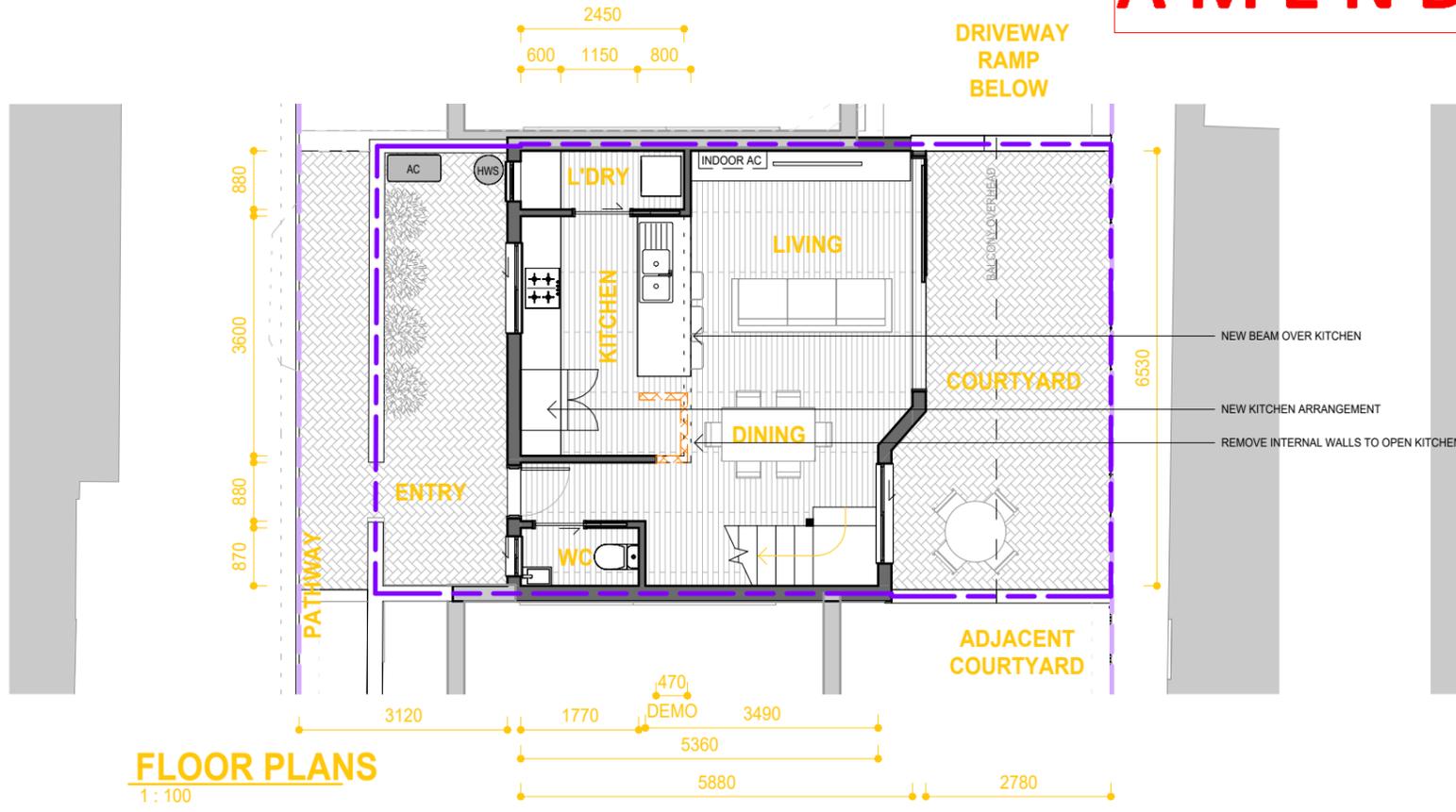
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Application No: DA-15/2022  
Date Received: 23/03/2022



Project	2/21 WILLIAM ST ADDITION	<b>DEMOLITION PLAN</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
			<b>DA.103</b>
			Scale 1:100@ A3

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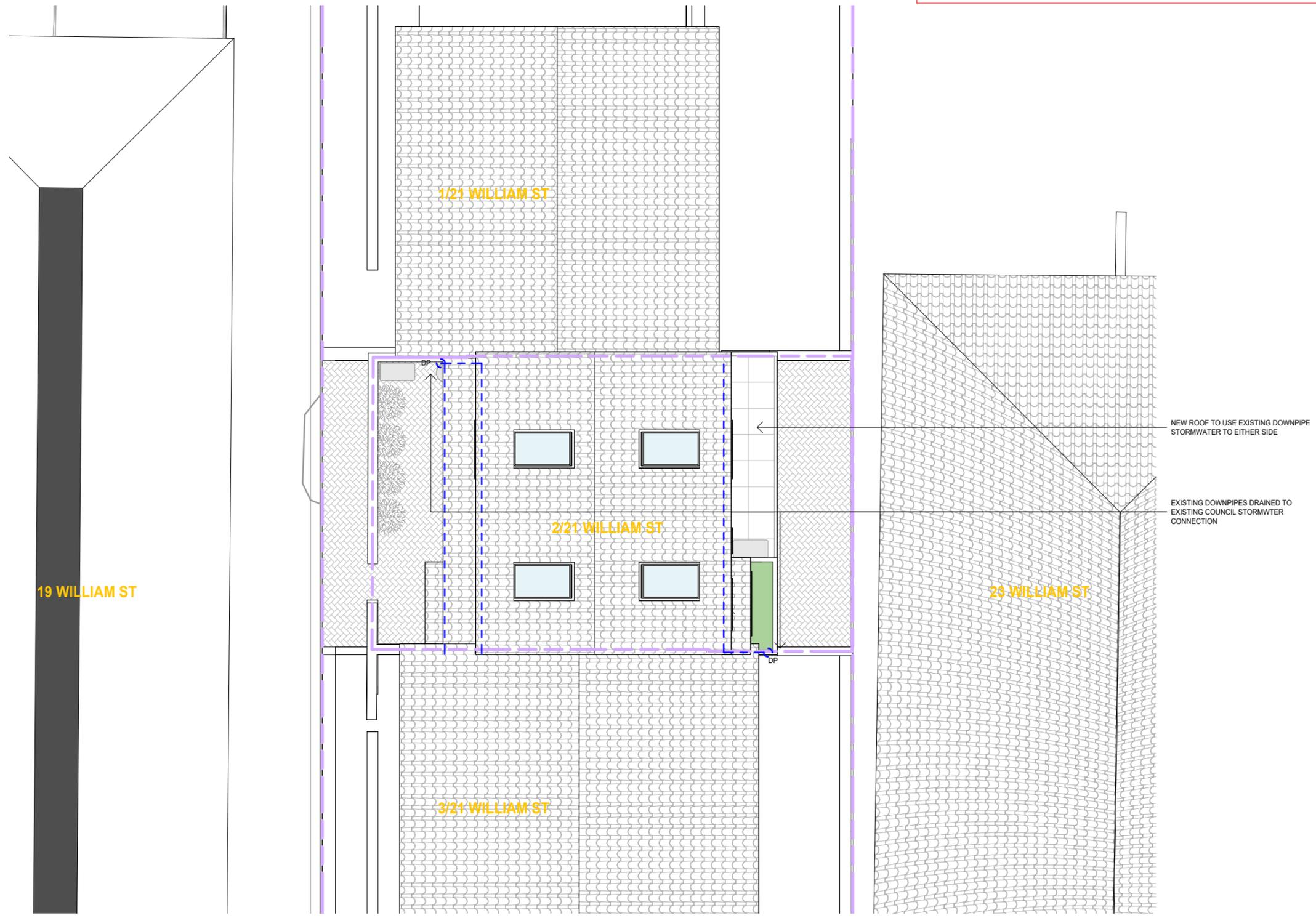


Project	2/21 WILLIAM ST ADDITION		
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22

**FLOOR PLANS**  
**DA.104**  
Scale 1 : 100@ A3

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Date Received: 23/03/2022



## CONCEPT STORMWATER

1:100

**NOTE:**  
NO CHANGES TO NET STORMWATER COLLECTION AREAS.  
EXISTING DOWNPIPE AND DISCHARGE SYSTEMS USED.  
STORMWATER CONNECTED TO COUNCIL DISCHARGE POINT

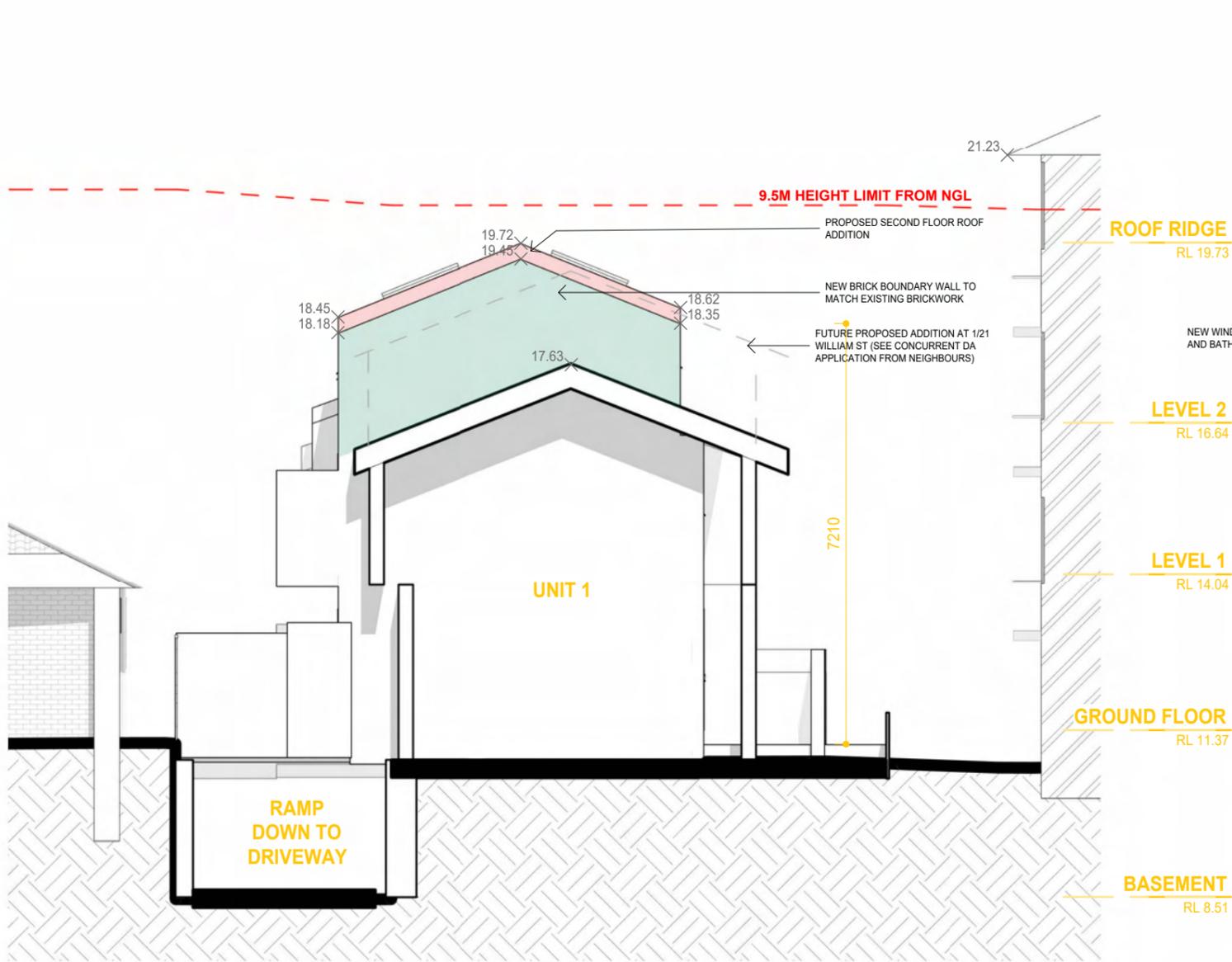
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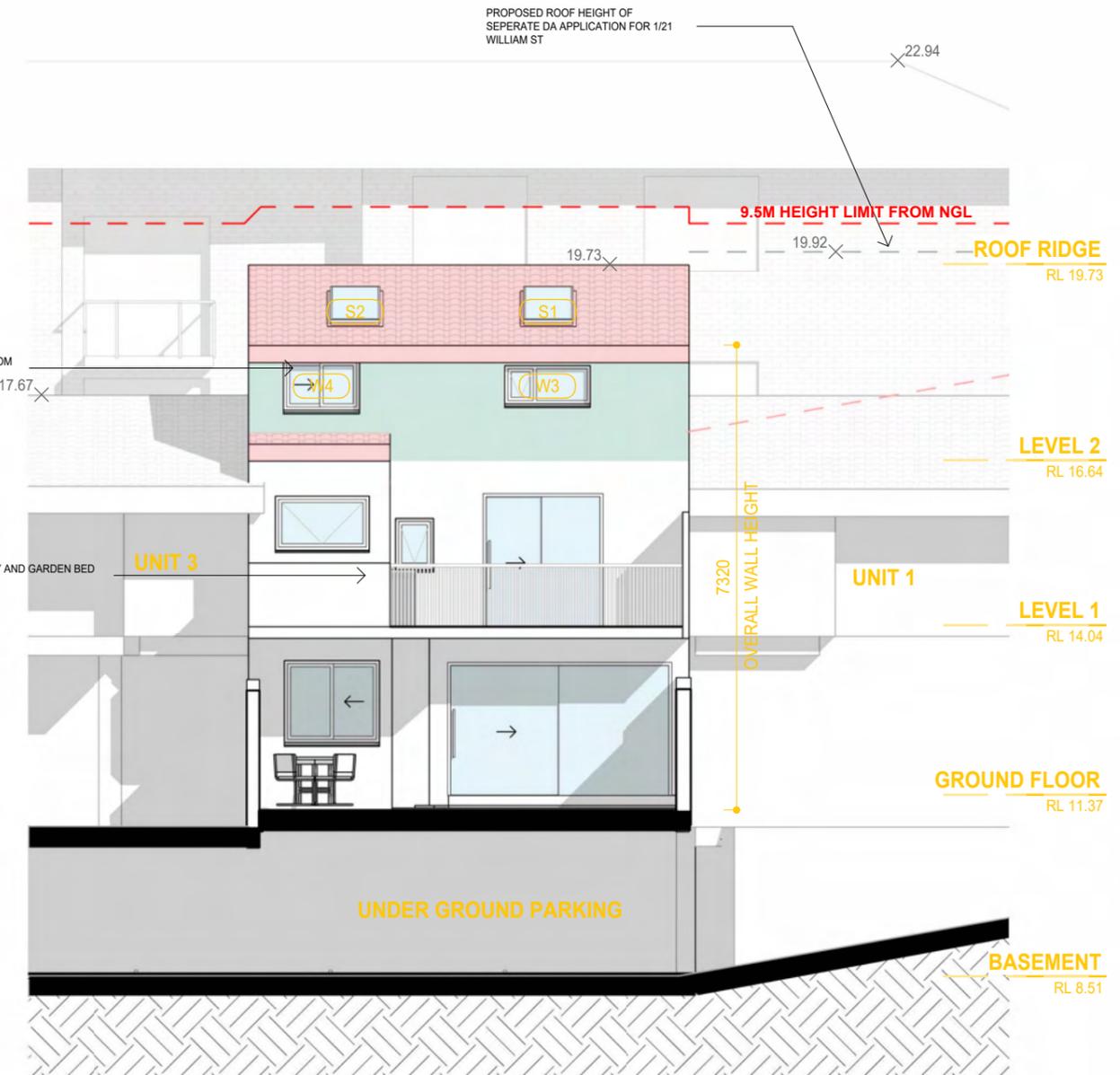
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Project	2/21 WILLIAM ST ADDITION	<b>ROOF/STORMWATER CONCEPT</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
			<b>DA.105</b>
			Scale 1:100@ A3



**NORTH**  
1:100



**EAST**  
1:100

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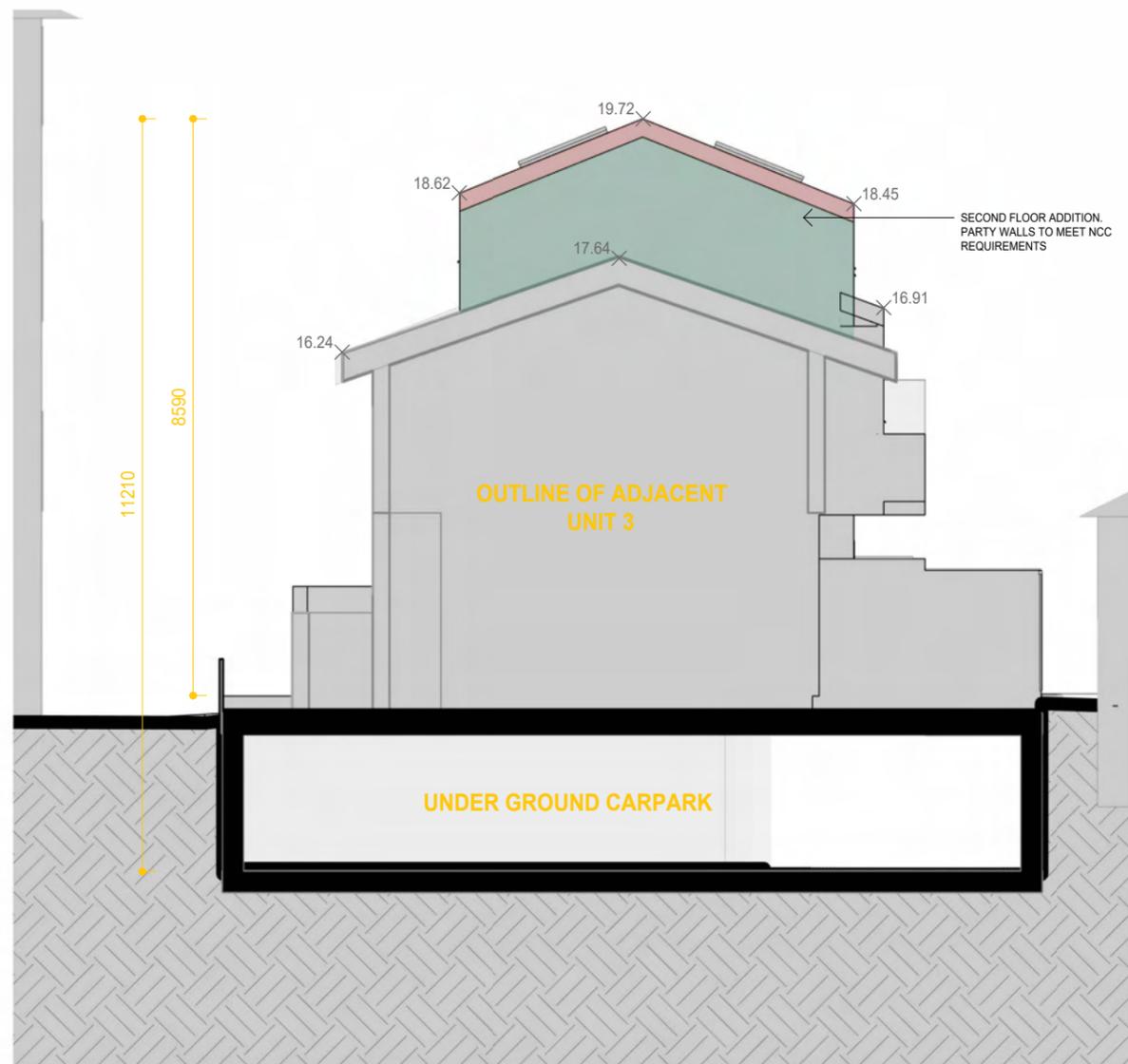
TILE ROOF  
 WEATHERBOARD/FIBRO CLADDING

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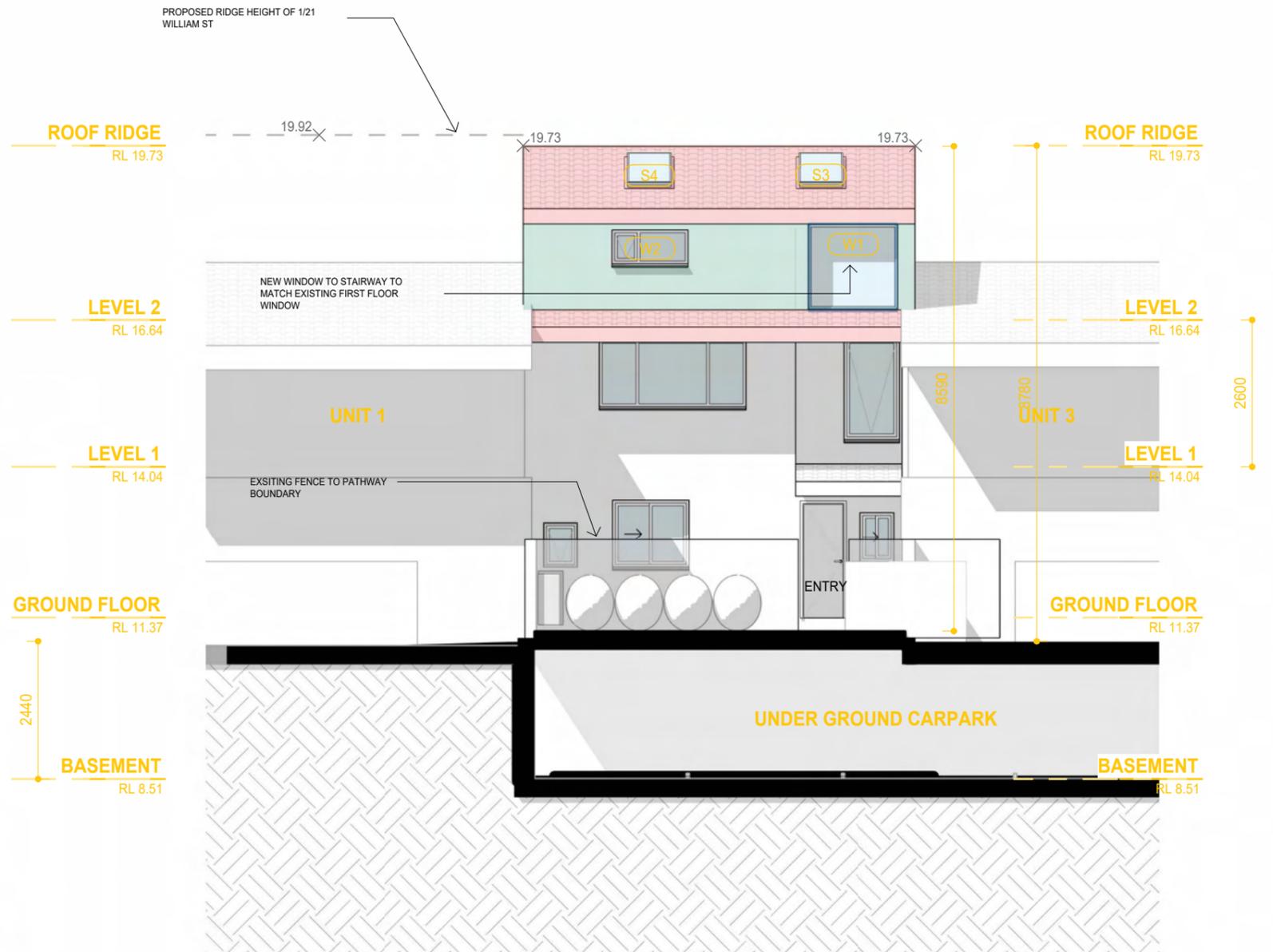
**GENERAL NOTES:** These drawings shall be read in conjunction with each other and with all consultants drawings and documentation. All dimensions are in mm unless otherwise stated. All RL's in metres. Use figured dimensions only. Verify all dimensions on site before the commencement of any works. Do not scale off drawings. Any discrepancies are to be made to the author prior to commencement on site. All work shall be carried out in accordance with ASA, BCA and local government regulations.

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Project	2/21 WILLIAM ST ADDITION	<b>ELEVATIONS</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
			<b>DA.201</b>
			Scale 1:100@A3



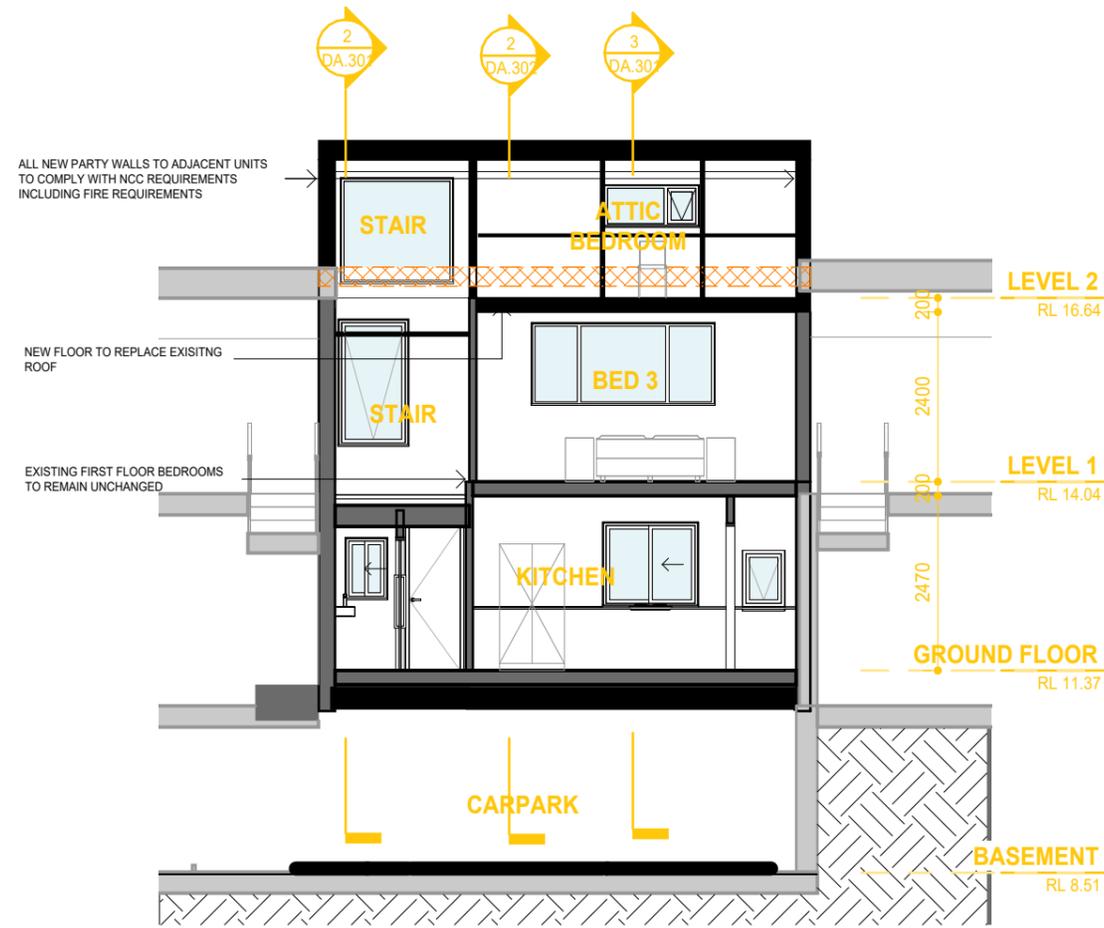
**SOUTH**  
1:100



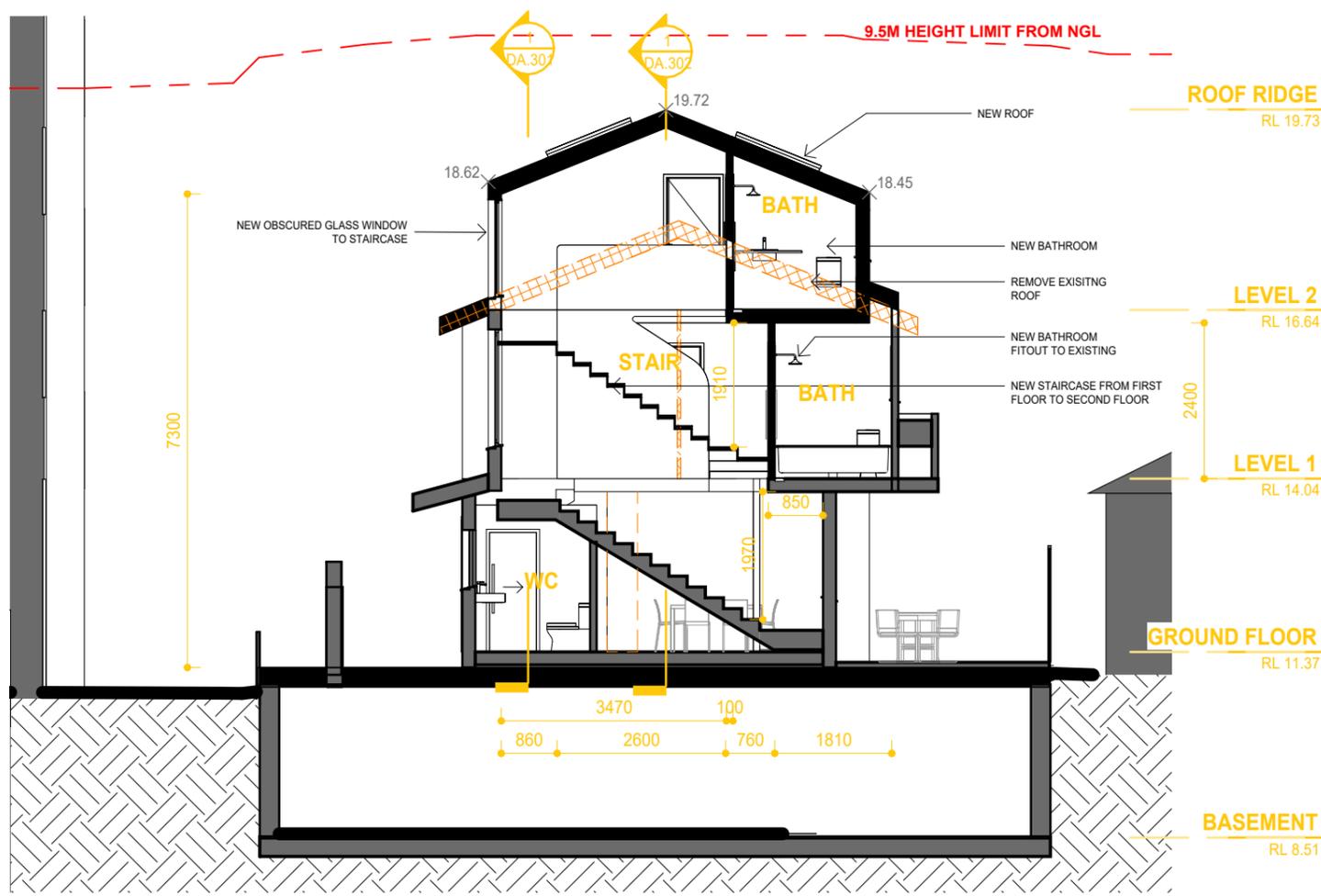
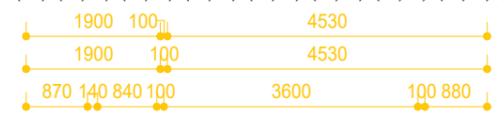
**WEST**  
1:100

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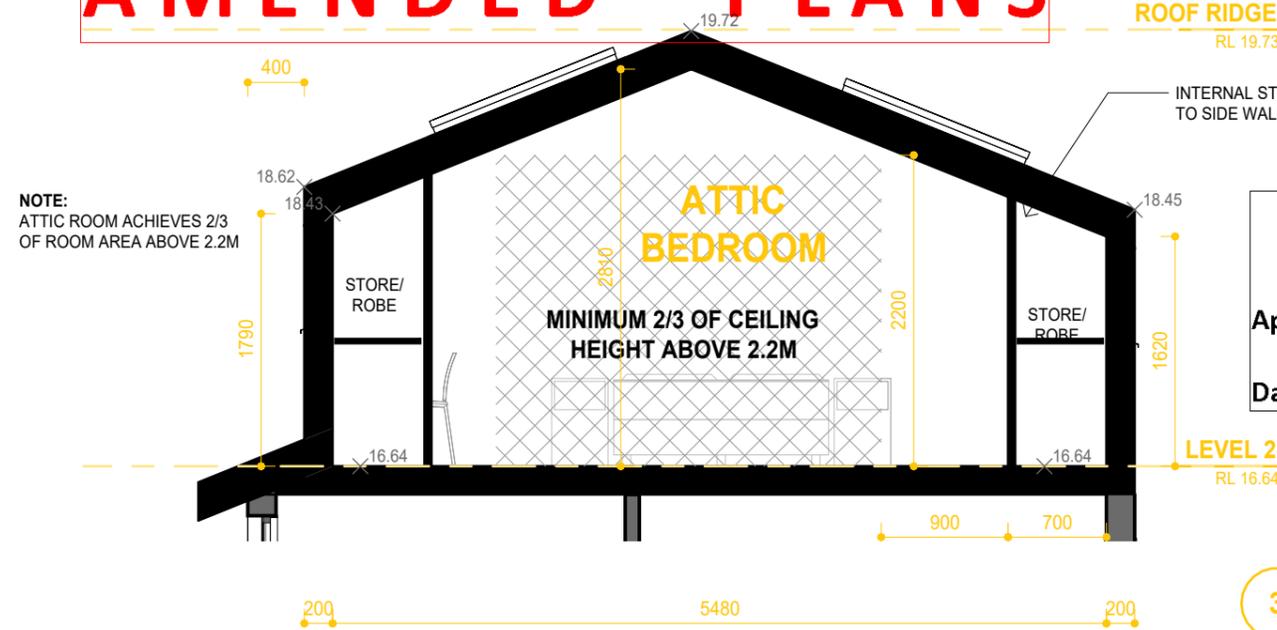


**1 SECTION 1**  
1:100



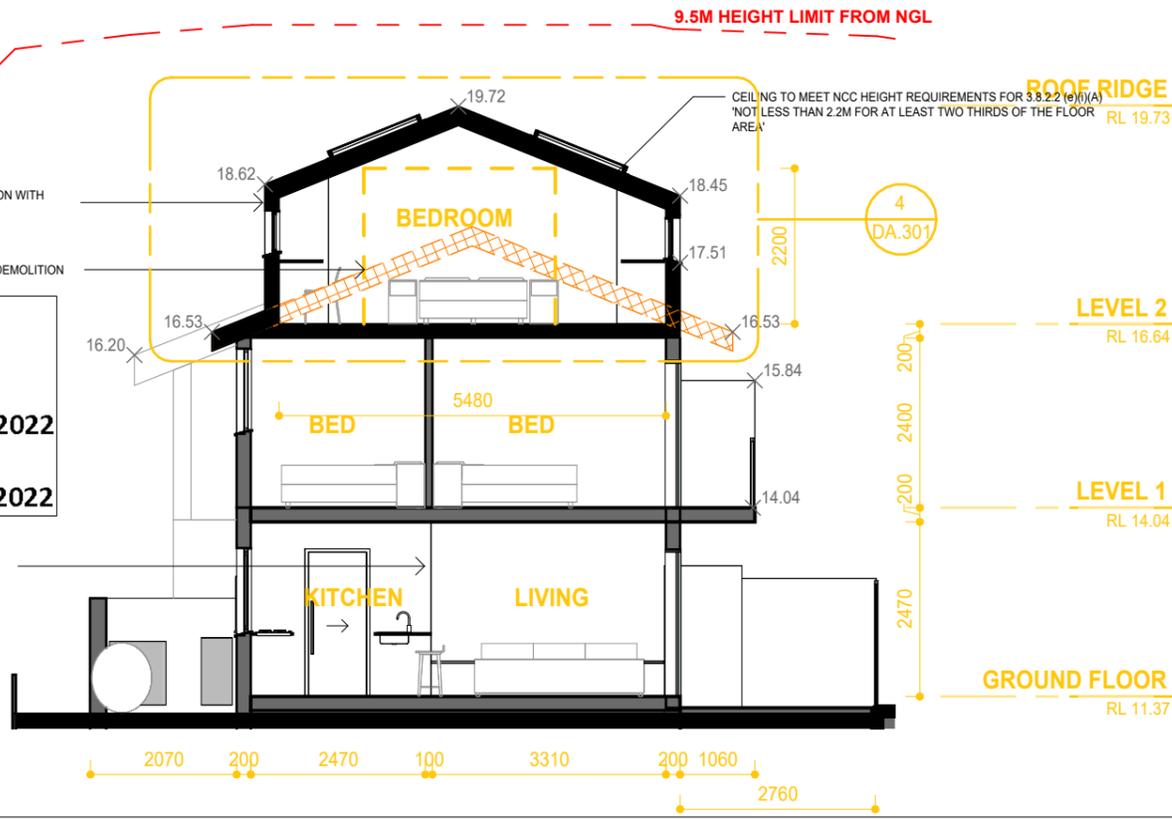
**2 SECTION 2**  
1:100

# AMENDED PLANS



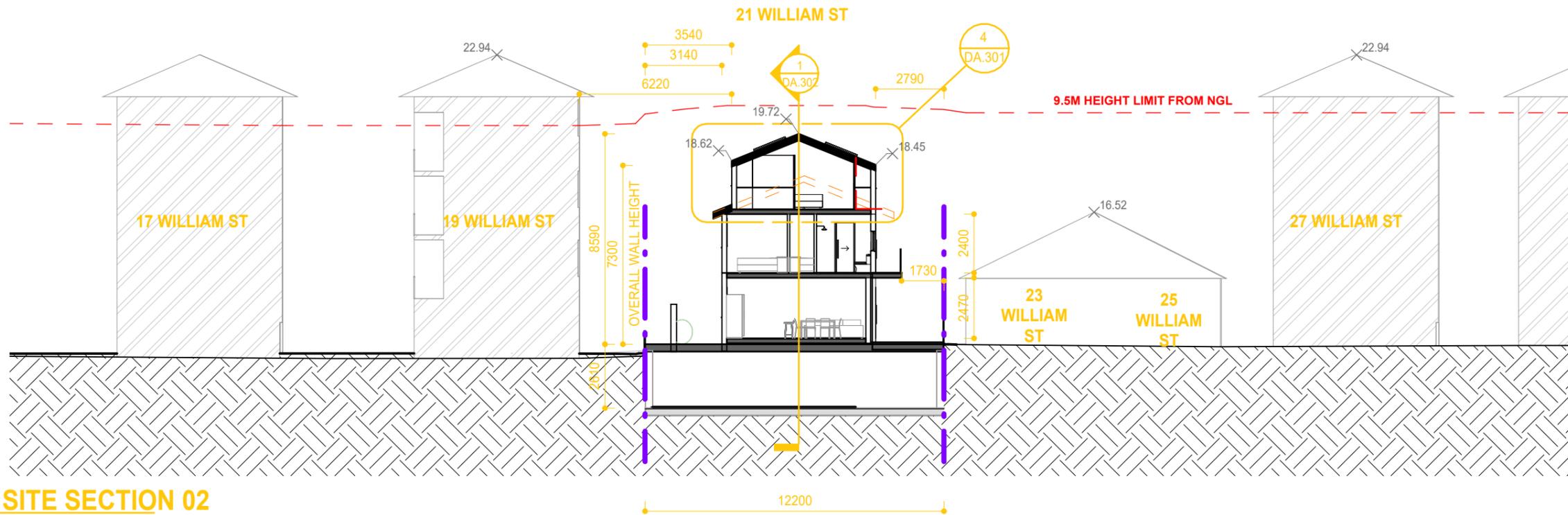
**ROOM HEIGHT CALCULATION**  
1:50

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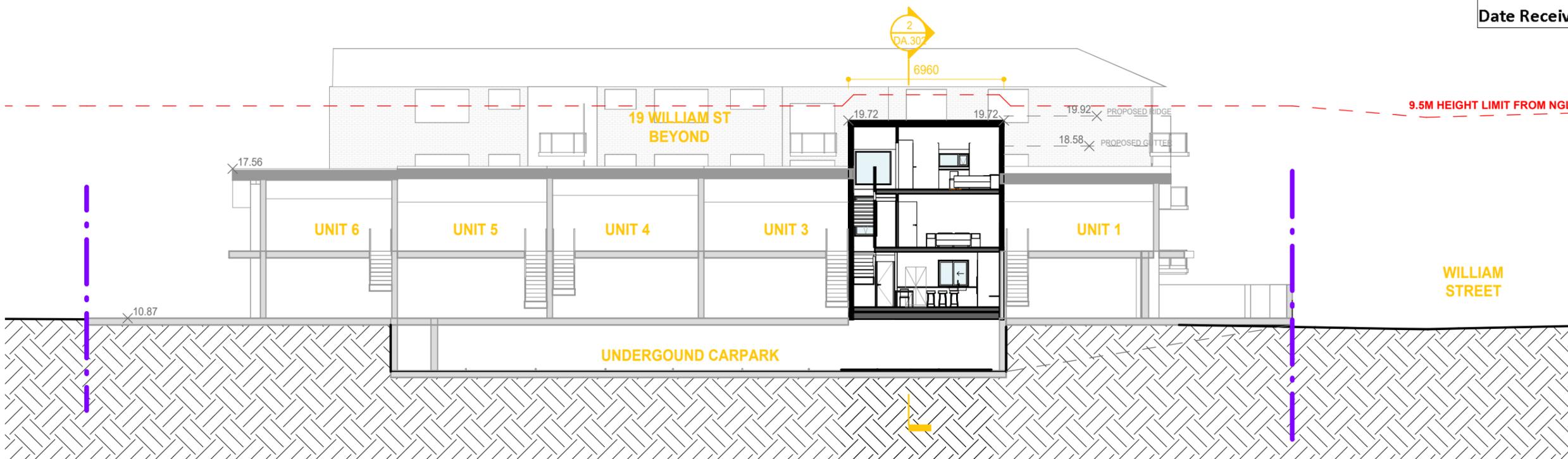
**3 SECTION 3**  
1:100





**SITE SECTION 02**  
1:200

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**SITE SECTION 1**  
1:200

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Project	2/21 WILLIAM ST ADDITION		<b>SITE SECTIONS</b>  <b>DA.302</b>  Scale 1:200@ A3
Client	DANIEL & TIA		
Status	DA REVIEW	Project number 2125	
Revision	J	Drawn by LS	
Description	DA RE-ISSUE	Date 23 MARCH 22	



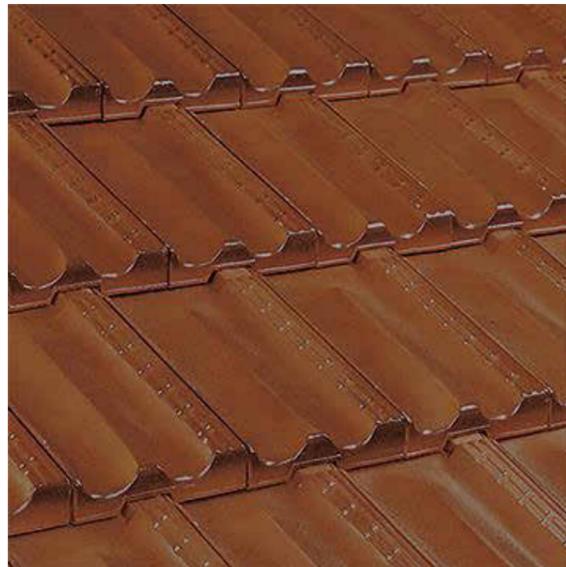
HARDIE PLANK WEATHERBOARD OR SIMILAR IN LIGHT COLOURWAY. TO MATCH EXISTING



BAG/SMOOTH RENDER IN DULUX NATURAL WHITE OR SIMILAR



WINDOWS & DOOR FRAMES  
ALUMINIUM FRAME - SURFMIST OR SIMILAR



ROOF TILES TO MATCH OR REUSE EXISTING

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# WINDOW SCHEDULE

MARK	DESCRIPTION	DIMENSIONS		SILL	FRAME	GLAZING	ORIENTATION	COMMENTS
		W	H					
LEVEL 2								
W1	Window - Fixed	1600	1500	200	Aluminium	Frosted	West	
W2	Window - Suite	1350	600	1000	Aluminium	Frosted	West	
W3	Window - Suite	1350	600	900	Aluminium	Clear	East	
W4	Window - Slide to left	1200	800	800	Aluminium	Clear	East	
ROOF RIDGE								
S1	Window - Fixed, 780 x 1400mm	780	1400		Aluminium	Clear	Sky	
S2	Window - Fixed, 780 x 1400mm	780	1400		Aluminium	Frosted	Sky	
S3	Window - Fixed, 780 x 1400mm	780	1400		Aluminium	Clear	Sky	
S4	Window - Fixed, 780 x 1400mm	780	1400		Aluminium	Clear	Sky	

BASIX Certificate number: A439719\_02

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Construction	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
<b>Insulation requirements</b>			
The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m <sup>2</sup> , b) insulation specified is not required for parts of altered construction where insulation already exists.			
Construction	Additional insulation required (R-value)	Other specifications	
floor above existing dwelling or building.	nil		
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)		
external wall: brick veneer	R1.16 (or R1.70 including construction)		
external wall: brick veneer	R1.16 (or R1.70 including construction)		
flat ceiling, pitched roof	ceiling: R2.50 (up), roof: foil/sarking	medium (solar absorptance 0.475 - 0.70)	

Planning, Industry & Environment

Building Sustainability Index www.basix.nsw.gov.au

BASIX Certificate number: A439719\_02

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Glazing requirements	Show on DA Plans	Show on CC/CDC Plans & specs	Certifier Check
Each skylight may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below.			
<b>Skylights glazing requirements</b>			
Skylight number	Area of glazing inc. frame (m <sup>2</sup> )	Shading device	Frame and glass type
S1	0.89	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S2	0.89	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S3	0.89	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)
S4	0.89	no shading	timber, low-E internal/argon fill/clear external, (or U-value: 2.5, SHGC: 0.456)

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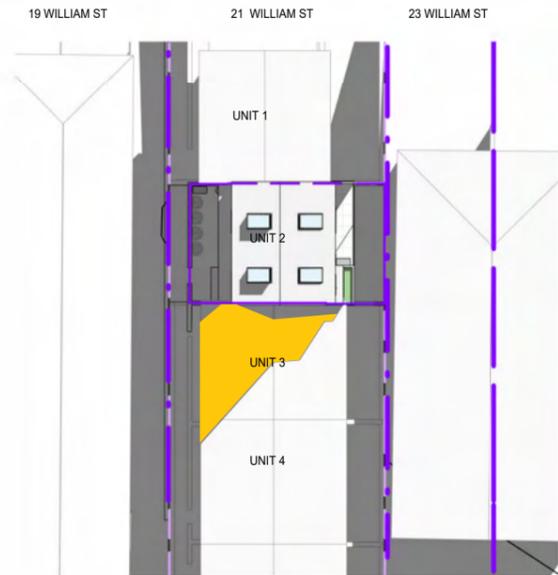
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Project	2/21 WILLIAM ST ADDITION	<b>GLAZING SCHEDULE</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
		Scale	@ A3

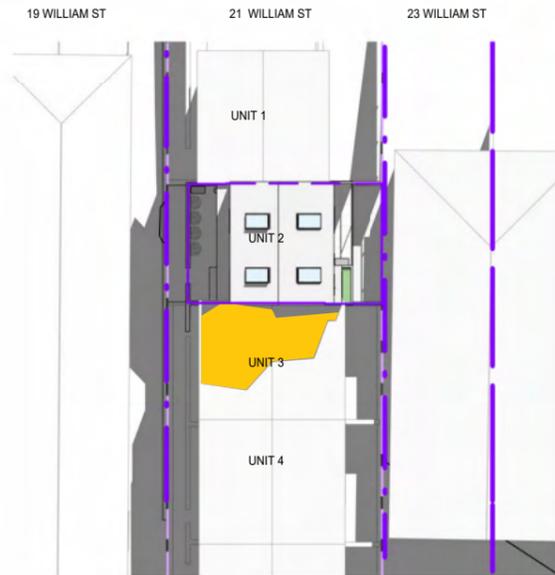
**DA.602**

**OVERSHADOWING TO 23 WILLIAM ST ROSE BAY  
(LOOKING EAST)**

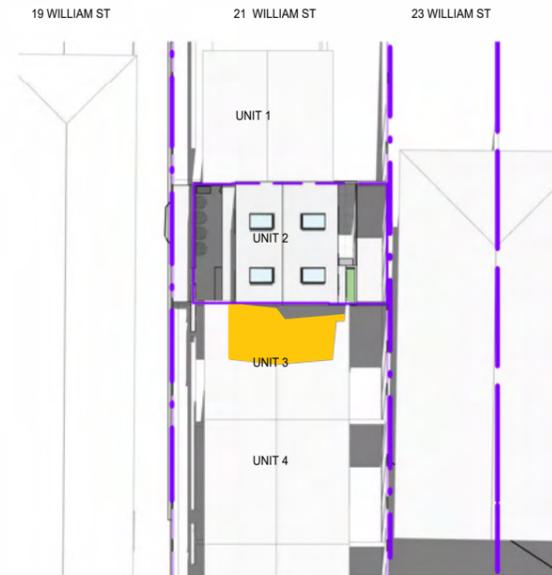
**AMENDED PLANS**



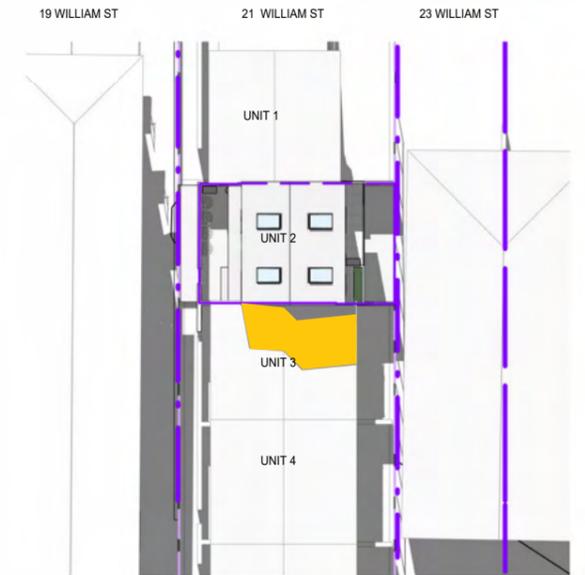
SHADOWS 0900



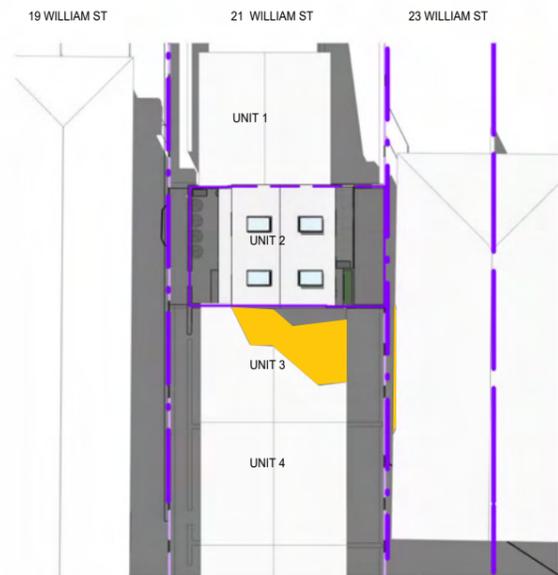
SHADOWS 1000



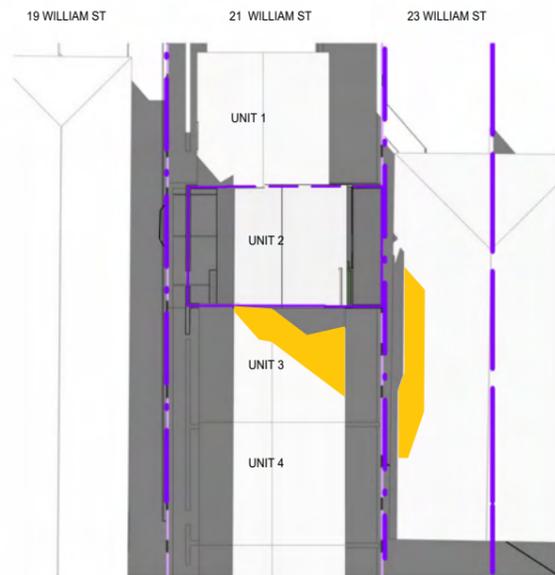
SHADOWS 1100



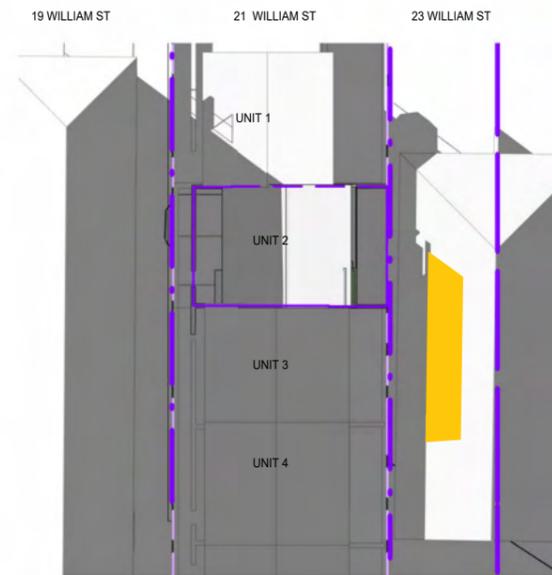
SHADOWS 1200



SHADOWS 1300



SHADOWS 1400



SHADOWS 1500

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**Date Received: 23/03/2022**

■ EXISTING SHADOWS  
■ PROPOSED SHADOWS

Project	2/21 WILLIAM ST ADDITION			<b>SHADOWS - PLAN</b>
Client	DANIEL & TIA			
Status	DA REVIEW	Project number	2125	<b>DA.701</b>
Revision	J	Drawn by	LS	
Description	DA RE-ISSUE	Date	23 MARCH 22	
		Scale	1 : 400@ A3	

# OVERSHADOWING TO 23 WILLIAM ST ROSE BAY (LOOKING EAST)

TIMES AT WINTER SOLSTICES (21ST JUNE)

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HOURLY



Proposed 0900



Proposed 1000



Proposed 1100



Proposed 1130

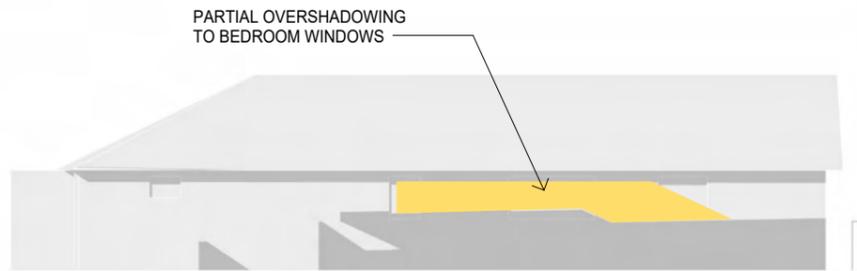


Proposed 1200



Proposed 1230

QUARTERLY



Proposed 1300



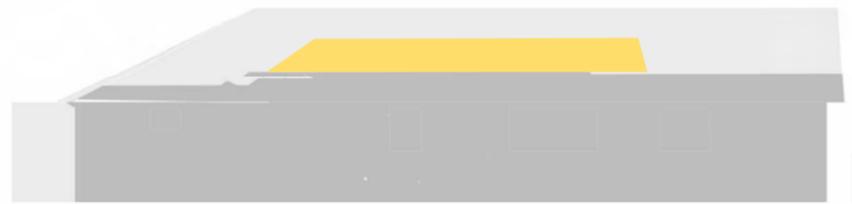
Proposed 1330



Proposed 1400



Proposed 1430



Proposed 1500

EXISTING SHADOWS  
PROPOSED SHADOWS



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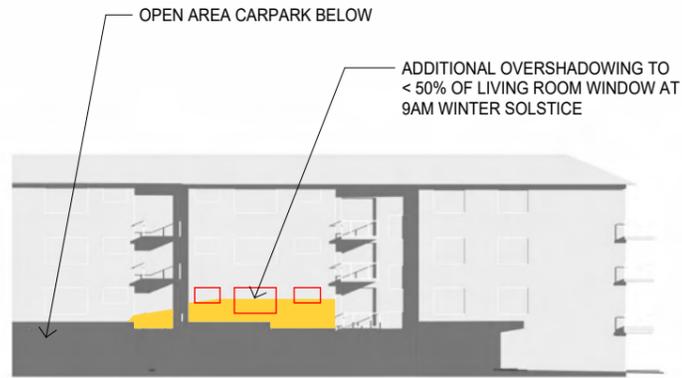
Project	2/21 WILLIAM ST ADDITION	<b>SHADOWS - EAST ELEVATIONS</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
		Scale	@ A3

DA.702

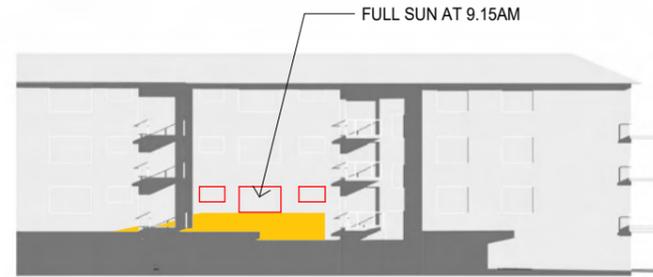
# OVERSHADOWING TO 19 WILLIAM ST ROSE BAY (LOOKING WEST)

TIMES AT WINTER SOLSTICES (21ST JUNE)

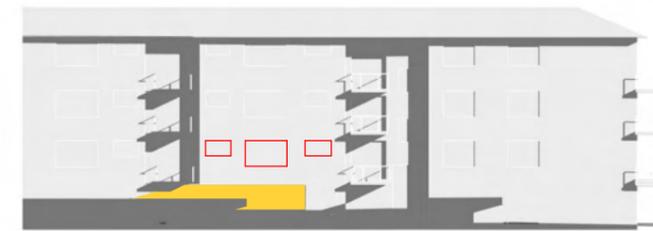
QUARTERLY



Proposed Quarterly 0900



Proposed Quarterly 0915

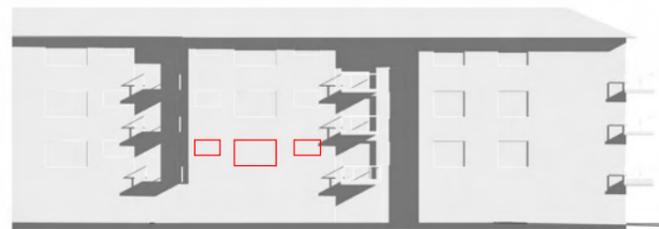


Proposed Quarterly 0930

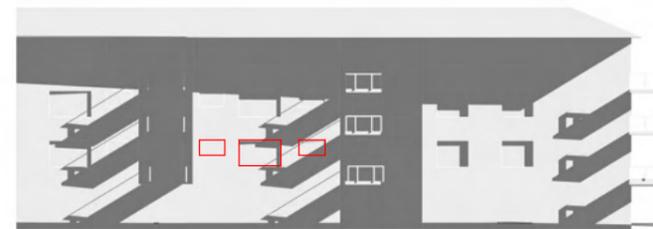


Proposed Quarterly 0945

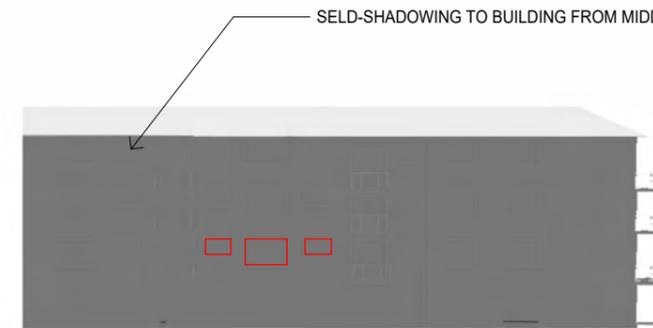
HOURLY



Proposed 1000



Proposed 1100



Proposed 1200



Proposed 1300



Proposed 1400



Proposed 1500

## AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-15/2022  
Date Received: 23/03/2022

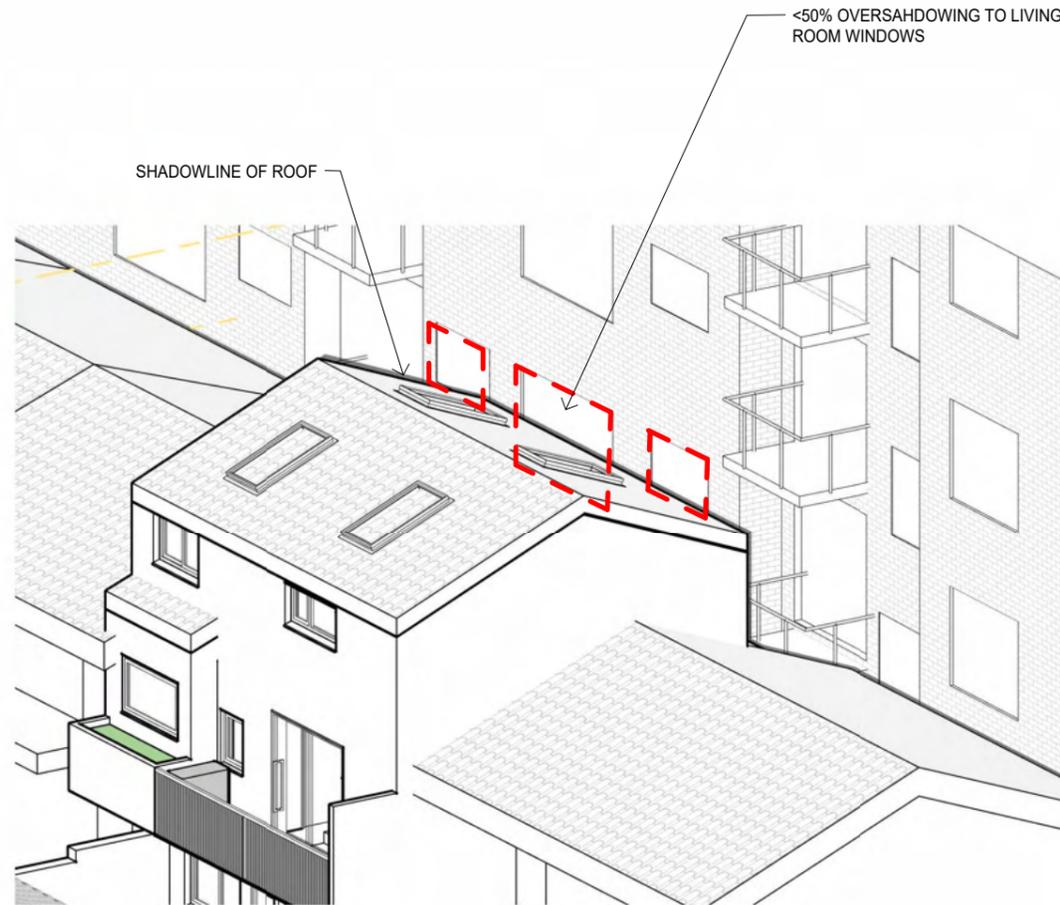
EXISTING SHADOWS  
PROPOSED SHADOWS

Project	2/21 WILLIAM ST ADDITION	<b>SHADOWS - WEST ELEVATIONS</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22

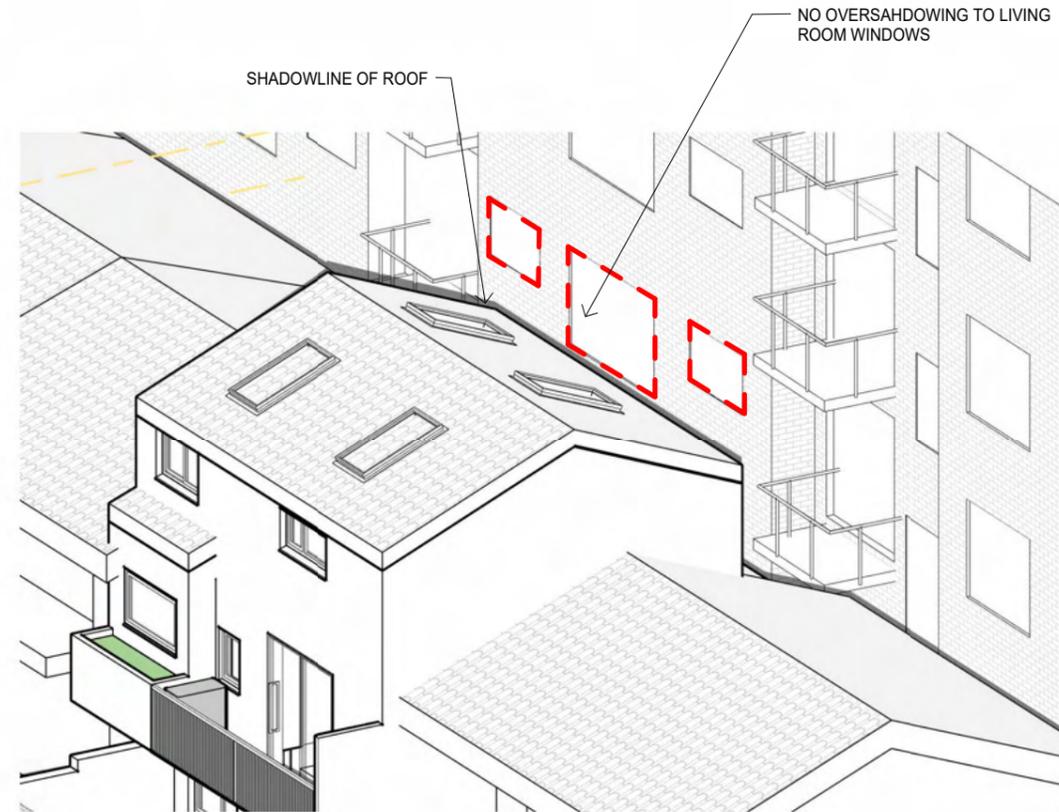
**DA.703**  
Scale @ A3

# QUARTERLY OVERSHADOWING TO 19 WILLIAM ST ROSE BAY (VIEW FROM SUN)

TIMES AT WINTER SOLSTICES (21ST JUNE)



**9.00AM 21ST JUNE VIEW FROM SUN**



**9.15AM 21ST JUNE VIEW FROM SUN**

**AMENDED PLANS**

RECEIVED  
Waverley Council  
Application No: DA-15/2022  
Date Received: 23/03/2022



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GENERAL NOTES: These drawings shall be read in conjunction with each other and with all consultants drawings and documentation. All dimensions are in mm unless otherwise stated. All RL's in metres. Use figured dimensions only. Verify all dimensions on site before the commencement of any works. Do not scale off drawings. Any discrepancies are to be made to the author prior to commencement on site. All work shall be carried out in accordance with ASA, BCA and local government regulations.

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Project	2/21 WILLIAM ST ADDITION	<b>SHADOWS - VIEW FROM SUN</b>	
Client	DANIEL & TIA		
Status	DA REVIEW	Project number	2125
Revision	J	Drawn by	LS
Description	DA RE-ISSUE	Date	23 MARCH 22
			<b>DA.704</b>
			Scale @ A3



Low Density Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-42/2022
<b>Site address</b>	169 Old South Head Road, Bondi Junction
<b>Proposal</b>	Construction of a double garage with studio above to the rear facing Barnett Lane.
<b>Date of lodgement</b>	28 January 2022
<b>Owner</b>	Mrs R and Mr Y Shuchat
<b>Applicant</b>	Ted Quinton Architecture Pty Ltd
<b>Submissions</b>	One
<b>Cost of works</b>	\$124,740
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• FSR</li> <li>• Open space</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

**SITE MAP**





## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the construction of a double garage with studio above to the rear of the site facing Barnett Lane at the site known as 169 Old South Head Road, Bondi Junction.

The principal issues arising from the assessment of the application are as follows:

- Breaching the FSR development standard by 14%
- Under the minimum required open space.

The assessment finds these issues acceptable, as the applicant's written Clause 4.6 FSR variation request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the FSR standard and the R2 zone. Given the location of the studio garage on the southern end of the site fronting Barnett Lane, the non-complying FSR is considered acceptable on merit because the built form preserves the surrounding environmental amenity. The main dwelling is retained and the built form to Barnett Lane is similar to other garages with first floor studios along the lane. The open space non-compliance is in similar to surrounding developments along the southern side of Old South Head Road, which have similar limitations.

One submission was received, and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 2 March 2022.

The site is identified as Lot 14 in DP 1640, known as 169 Old South Head Road, Bondi Junction.

The site is rectangular in shape with a northern street frontage to Old South Head Road, measuring 6.47m and a southern rear lane way frontage to Barnett Lane measuring 6.1m. It has an area of 290.1m<sup>2</sup> and is generally flat.

The site is occupied by a three storey attached dwelling with vehicular access provided from Barnett Lane to an existing two car hardstand and outdoor spa off the southern end of the dwelling. The private open space and landscaping is provided mainly at the front of the site and within the internal courtyard.

The site is adjoined by two storey attached dwellings on either side. The locality is characterised by a variety of low and medium residential development.

**Figures 1 to 7** are photos of the site and its context.



**Figure 1:** Northerly view of the rear façade of the subject site from Barnett Lane.



**Figure 2:** Northerly view of the front yard along Old South Head Road.



**Figure 3:** Easterly view along Barnett Lane, showing the existing studio garages at No. 175 Old South Head Road and 40 Bon Accord Ave.



**Figure 4:** Easterly view from the subject site of the elevation of the existing studio garage at No. 175 Old South Head Road.



**Figure 5:** North westerly view of the studio garage at No. 157 Old South Head Road.



**Figure 6:** Easterly view of the studio garage at No. 30 Bon Accord Ave.



**Figure 7:** South westerly view of the lane way development at No. 22 Bon Accord Ave.

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- CD-212/2019: Substantial alterations and additions to the existing dwelling house to construct a three storey dwelling; issued to Council on 28 May 2019;
- CD-212/2019/A: Amended CDC for roof and window changes issued to Council on 4 February 2021;
- CD-212/2019/B: Amended CDC alterations to ground and first floor façade to reinstate two windows issued to Council on 4 February 2021;

### 1.4. Proposal

The development application seeks consent for a new studio above a garage to the southern end of the site, specifically the following:

- Double garage at ground level, with storage and access to the rear open space of the property;
- A staircase with internal access on the eastern side connects to the upper level;
- Studio located on the first floor with a small bathroom on the eastern side; and
- One dormer window facing south to Barnett Lane and to smaller dormer windows facing north.

### 1.5. Background

The development application was lodged on 28 January 2022 and deferred on 31 March 2022 for the following reasons:

1. Incorrectly calculated Floor Space Ratio;

2. Overshadowing and incorrect shadow diagrams;
3. Building compliance for the approved CDC dwelling;
4. Studio design and proposed use.

Amended documentation was lodged on 20 April 2022 addressing the above issues through an amended FSR calculation of the CDC dwelling, strengthened Clause 4.6 variation and amended shadow diagrams with additional elevational shadows on adjoining properties located on the southern side of Barnett Lane. The applicant received 13 signed letters of support from surrounding properties on Old South Head Road and Bon Accord Avenue.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from the 1<sup>st</sup> March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004

#### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

#### 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The development does not contravene the aims of this plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R2 Low Density Residential Zone	Yes	The proposal is defined as a studio garage to a dwelling, which is permitted with consent in the R2 zone.

Provision	Compliance	Comment
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>8.5m</li> </ul>	Yes	The height of the main dwelling is preserved, while the studio garage provides a compliant maximum height of 6m.
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio <ul style="list-style-type: none"> <li>0.785:1 (227.72m<sup>2</sup>)</li> </ul>	No	The proposed studio development results in an increase to the existing GFA by 34m <sup>2</sup> to a GFA of 259.7m <sup>2</sup> and an FSR of 0.89:1 which is a departure of 14% from the development standard.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### *Clause 4.6 Exceptions to Development Standards*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.785:1 (227.72m<sup>2</sup>). The proposed development has a FSR of 0.89:1 (259.7m<sup>2</sup>), exceeding the standard by 34m<sup>2</sup> equating to a 14% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

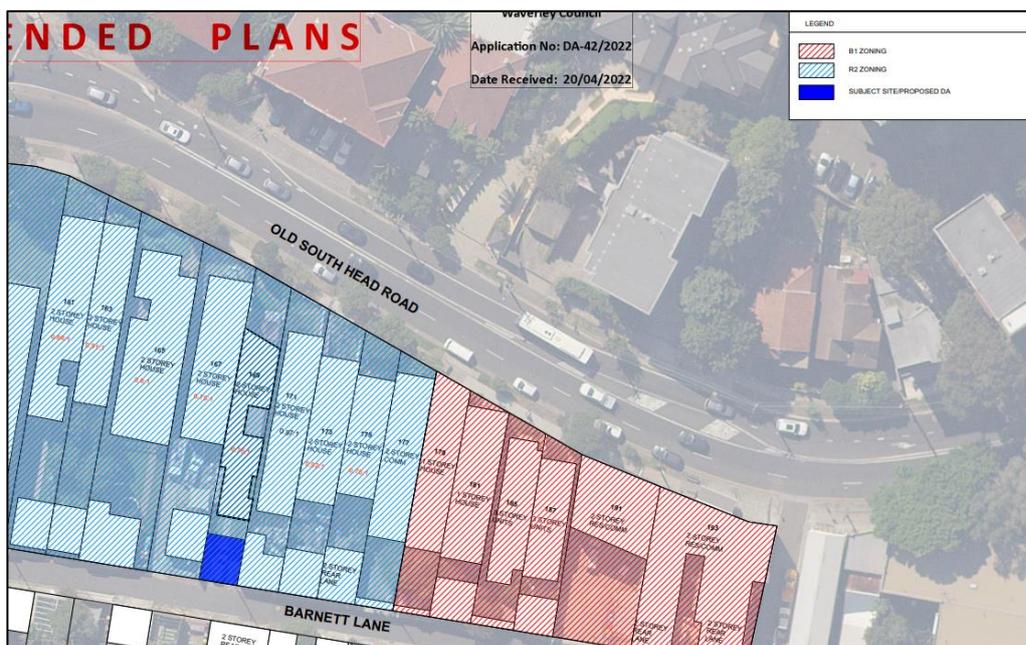
A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *Despite the non-compliance, the proposal is consistent with the area's desired low density character, as required in the LEP. The proposal provides a bulk and scale that is consistent with that envisaged by Council's controls. The proposal is also consistent with the LEP FSR development standard's objectives.*

- (ii) The LEP provides a maximum height of 8.5m and FSR of 0.785:1 for the site. The proposal is approximately 2.5m below the maximum building height. The proposed FSR only relates to the studio level located above the garage. The proposal also achieves compliance with the relevant laneway design controls of the DCP.
- (iii) The FSR variation allows for an architecturally designed single storey garage with a studio above. The proposal will have a pitched roof comprising roof dormers at the front and rear. As demonstrated in Photographs 1-8, the proposed garage and studio will present a bulk and scale that is contextually compatible with existing and recently approved garage and studio developments along Barnett Lane.
- (iv) Importantly, the proposal does not involve any alterations to the GFA of the existing dwelling house on the subject site. Given the additional area on relates to the proposed studio, it will be compatible with the bulk and scale of surrounding developments and the correlations between density and building height is considered appropriate.
- (v) The proposal is compatible with the envelope of neighbouring garage and studio developments recently approved and constructed on Barnett Lane, which have been discussed on previous pages. This demonstrates the proposed external envelope is contextually compatible. In other words, the height and envelope is consistent with these buildings and compatible with the area's desired future character as per the Court judgment of *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112.
- (vi) This approach was confirmed in the appeal of this case by Preston CJ that the desired future character should be informed by the nearby and future development and not limited by the development standards. Barnett Lane is characterised by a mix of older-style and contemporary two storey garage and studio developments, most of which comprise pitched roof forms. A contextual analysis of the existing FSR's of neighbouring and nearby properties has been undertaken by Ted Quinton Architecture (**Figure 8**).



**Figure 8:** Context plan and FSR Study

- (vii) *The analysis found a number of properties with a similar or greater FSR compared to the proposed development, which include, but not limited to the following:*
- *161 Old South Head Road, Bondi Junction – 0.88:1*
  - *163 Old South Head Road, Bondi Junction – 0.91:1*
  - *165 Old South Head Road, Bondi Junction – 0.8:1*
  - *167 Old South Head Road, Bondi Junction – 0.75:1*
  - *171 Old South Head Road, Bondi Junction – 0.97:1*
  - *173 Old South Head Road, Bondi Junction – 0.92:1*
  - *175 Old South Head Road, Bondi Junction – 0.73:1*
- (viii) *Whilst the proposal has been assessed on its own merits and is appropriate from a planning point of view despite the existing dwellings in the surrounding area, it is important to note that there are a number of nearby properties which have an FSR that is similar or greater than the proposal. The proposed studio has been carefully designed, ensuring that the bulk of the dwelling remains compatible with the area. As the proposed floor space is well below the maximum building height and complies with the relevant laneway design controls of the DCP, the proposal will appear compatible within the streetscape. Accordingly, the proposed development remains an appropriate scale in accordance with the desired future character of the area.*
- (ix) *The proposal has been carefully to preserve or improve neighbours' amenity, compared to the existing situation. Environmental amenity comprises a number of elements including privacy, solar access and views. However, it is understood that the term "preservation of amenity" does not necessarily imply that a development should have a zero impact in order to satisfy this term. Therefore, it is our opinion that there is some elasticity in this term and a negligible or minor impact on one or a number of elements of amenity can still satisfy the term preservation of amenity.*
- (x) *Privacy is maintained as the proposed dormer windows on the southern side of the studio overlook Barnett Lane. The properties on the opposite side of Barnett Lane include a hardstand carparking space associated with No. 28 Bon Accord Avenue and a garage with a studio above at No. 30 Bon Accord Avenue. The proposed dormer windows will be offset from the windows associated with the studio at No. 30 Bon Accord Avenue. The proposal will preserve privacy to private open space areas and habitable rooms of the properties located on the opposite side of Bon Accord Avenue.*
- (xi) *The proposed dormer windows on the northern side of the studio, which have outlook to the rear of the site, are from a stairwell and bathroom. As such, privacy will be preserved to the rear of the neighbouring properties at Nos. 167 and 171 Old South Head Road. Given the continued use of the site as a dwelling, it is unlikely that there would be significant additional noise generation associated with the proposal. As such, visual and acoustic privacy will be preserved to neighbouring properties.*
- (xii) *The additional floor area will also not generate significant shadows. The additional overshadowing only occurs to the garage of Nos. 28 and 30 Bon Accord Avenue between 9am and 1pm. In fact, the shadow diagrams indicate the FSR variation will not affect the existing*

*solar access to any principal private open space or habitable rooms of neighbouring and nearby dwellings from 9am to 3pm (or windows from 9am to 12pm). This is more than compliant with Council's requirement and in this regard, solar access is preserved.*

- (xiii) *The surrounding properties do not appear to have any water or iconic views available across the site due to existing built form and vegetation. Further to this, the proposal has a fully compliant building height and is compliant with the relevant laneway design controls from the DCP. Accordingly, views will be preserved from neighbouring properties.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *There are a number of environmental planning grounds that justify the additional FSR in this particular circumstance. In addition to compliance with the objectives of the zone and the development standard; environmental planning grounds include contextual and character fit, and negligible amenity and environmental impacts. The proposal is permissible in the R2 Low Density Residential zone, is consistent with the relevant zone objectives and satisfies an 'unreasonable and unnecessary' test established in Wehbe.*
- (ii) *The FSR variation will enhance the site's appeal by replacing a vehicle hardstand with an architecturally designed development that will maintain or even improve the relationship with surrounding developments. The development will positively address the street by accommodating a garage and studio below the maximum building height and compliant with the building envelope controls of the DCP.*
- (iii) *In Initial Action v Woollahra Municipal Council [2019] NSWLEC 1097, Commissioner O'Neill states at [42], inter alia: "I am satisfied that justifying the aspect of the development that contravenes the development standard as creating a consistent scale with neighbouring development can properly be described as an environmental planning ground within the meaning identified by His Honour in Initial Action [23], because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome" (see s 1.3(g) of the EPA Act).*
- (iv) *This report demonstrates the proposal will be compatible with nearby developments. The FSR exceedance will also not adversely impact neighbouring residential amenity and will not be out of character with surrounding properties in terms of bulk and scale, nor will it be incompatible with the area's desired future character. Accordingly, in our opinion, the non-compliance will not be inconsistent with the locality's existing or desired future planning objectives. For the reasons in this application, there are sufficient environmental planning grounds to justify the variation to the development standard, as required in Clause 4.6(3)(b).*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and



- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. Despite the non-compliance, the proposal is consistent with the area's desired low density character, as required in the Waverley LEP 2012. The applicant provides justification through stating that the proposal provides a bulk and scale that is consistent with that envisioned by the DCP controls. The proposal is also consistent with the FSR development standard's objectives and preserve the existing environmental amenity surrounding the site.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard referencing that despite the numerical non-compliance, the proposal will deliver a laneway development of a scale that is compatible with the proportions of neighbouring developments on both the northern and southern sides of Barnett Lane, maintaining amenity, and an appropriate relationship between height and density. The new studio garage has been located along the southern boundary where a carport was previously positioned, maintaining side setbacks and has been designed in a similar style to present to the laneway as the studio garage at 175 Old South Head Road. The development will not result in visual bulk or overdevelopment of the site when viewed from neighbouring properties and the streetscape.

Is the development in the public interest?

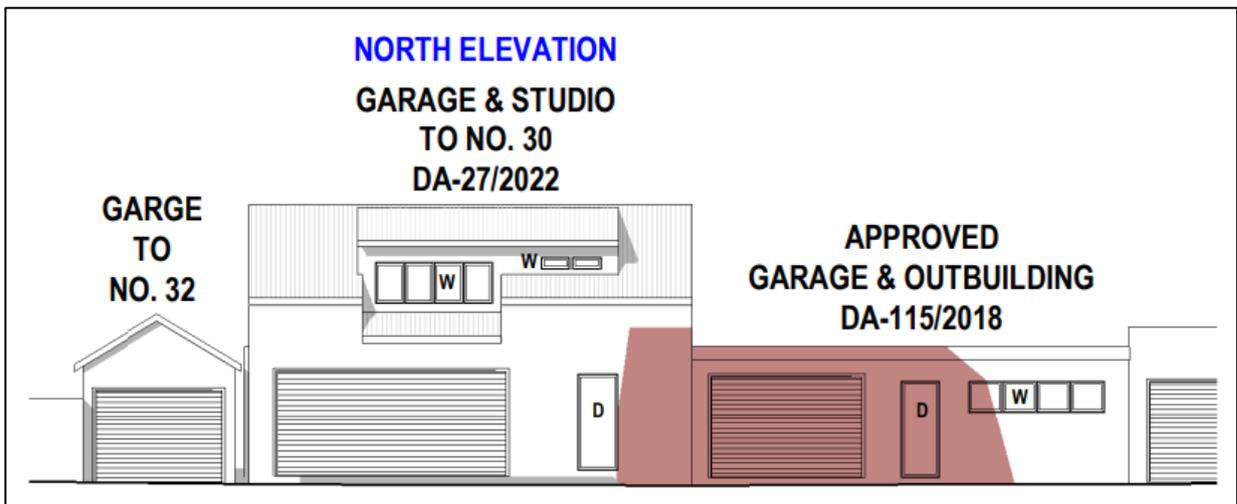
The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the Floor Space Ratio development standard are as follows:

- (b) to provide an appropriate correlation between maximum building heights and density controls,
- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.

Objective (b) is satisfied as the proposal maintains an appropriate correlation between the existing height of the building and the relevant density controls. The additional floor space does increase the building envelope at the rear of the site due to the first floor studio but the main dwelling is preserved. The studio's bulk and scale are relative to surrounding dwelling sizes along the northern and southern side of Barnett Lane.

Notwithstanding the FSR standard non-compliance, the proposed development respects the surrounding locality, demonstrating compliance with objectives (c) and (d). The supporting Shadow Diagrams demonstrate that the new shadows cast from the first floor fall across Barnett Lane (**Figure 9**) and a garage roof and roller door at 28 Bon Accord Avenue (south of the site). The development preserves the surrounding environmental amenity as neighbours solar access to living rooms and private open spaces. Visual privacy is preserved on neighbouring proposed as the new windows do not result in overlooking from the first floor.



**Figure 9:** Proposed shadowing June 21<sup>st</sup> at 9am across the northern elevations of the properties directly south of the subject site, across Barnett Lane. The red denotes the area of proposed additional building shadow.

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maximise public transport patronage and encourage walking and cycling.

**Comment:** The proposal satisfies the first objective, by maintaining the existing dwelling and population density of the locality, as the proposal is for a studio garage. This locality is largely an environment of family dwellings with a slowly increasing spread of apartment development. The area is popular because of proximity to the Bondi Junction Centre. The second objective is satisfied as a modern studio garage will continue to serve the needs of its occupants. The last objective is not relevant to the development.

### Conclusion

For the reasons provided above, the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory. Refer to section 3 of this report on referral commentary in relation to stormwater.
8. Transport Maximum parking rate: <ul style="list-style-type: none"> <li>• 2 spaces for 3 or more bedrooms.</li> </ul>	To be conditioned	The proposal provides for 2 car spaces within the garage. Its design and location are satisfactory at the rear of the site. Access is off Barnett Lane from a 4.8m double garage door and 0.9m wide pedestrian door complies with Council's requirements.
9. Heritage	Yes	The site borders the Woodstock Heritage Conservation Area. The proposed work are not considered to impact the conservation area.
12. Design Excellence	Yes	The proposal is considered a suitable response to the site and streetscape along Barnett Lane.

**Table 3: Waverley DCP 2012 – Part C2 Low Density Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>2.0 General Objectives</b>		
	Yes	The proposal does not contravene the general objectives of this part of the DCP.
<b>2.1 Height</b>		
Flat roof dwelling house <ul style="list-style-type: none"> <li>Maximum wall height of 7.5m</li> </ul>	Yes	The proposed studio garage provides a compliant maximum height of 6m.
<b>2.2 Setbacks</b>		
2.2.1 Front and rear building lines <ul style="list-style-type: none"> <li>Predominant rear building line at each floor level</li> </ul>	Yes	The front and rear setbacks of the laneway development are considered against a separate set of controls. The northern façade of the building is located behind the studio garage located at No. 175 Old South Head Road and sits within the predominant building line shown in <b>Figure 10</b> . <div data-bbox="820 920 1402 1397" data-label="Image"> </div>
2.2.2 Side setbacks <ul style="list-style-type: none"> <li>Minimum of 0.9m (for height up to 8.5m)</li> </ul>	No	The studio garage proposes nil side setbacks to either boundary. This setback is considered acceptable because the adjoining garages already maintains a nil setback to both boundaries.
<b>2.3 Streetscape and visual impact</b>		
<ul style="list-style-type: none"> <li>New development to be compatible with streetscape context</li> </ul>	Yes	The studio garage is not visible from Old South Head Road and is compatible with the existing laneway developments on Barnett Lane, consisting of garages and studios located above. Existing studio garages are located at Nos. 151, 157, 175 Old South Head Road and Nos 12, 14, 30, 40 and 44 Bon Accord Ave.

Development Control	Compliance	Comment
<b>2.5 Visual and acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Habitable windows are not to directly face habitable windows or open space of neighbouring dwellings unless direct views are screened or other appropriate measures are incorporated into the design.</li> </ul>	Yes	The proposed windows off the first floor studio do not result in adverse privacy impacts. The northern windows face the main dwelling and the southern windows face high sill windows on the southern garage studio at 30 Bon Accord Ave.
<b>2.6 Solar access</b>		
<ul style="list-style-type: none"> <li>Minimum of three hours of sunlight to living areas and principal open space areas on 21 June</li> <li>Minimum of three hours of sunlight maintained to at least 50% of principal open space areas of adjoining properties on 21 June.</li> <li>Avoid unreasonably overshadowing of solar collectors (including habitable windows).</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	The supporting Shadow Diagrams demonstrate that the new shadows cast from the first floor fall across Barnett Lane and a garage roof and roller door at 28 Bon Accord Avenue (south of the site). The development preserves the surrounding environmental amenity as neighbours solar access to living rooms and private open spaces.
<b>2.8 Car parking</b>		
2.8.1 Design Approach	Yes	The proposal maintains the existing arrangement of the driveway off Barnett Lane to the new double garage. The location and design approach are accepted on this basis.
2.8.2 Parking rates	Yes	Parking rates are set by Part B8 of Waverley DCP 2012.
2.8.4 Design	Yes	The proposed garage has an acceptable design and will be complementary and compatible with other garage and laneway developments within Barnett Lane. The garage door width at the property boundary is proposed at 4.8m and a 0.9m pedestrian access door adjoins the garage door which is considered acceptable.
2.8.5 Dimensions <ul style="list-style-type: none"> <li>5.4m x 2.4m per vehicle</li> </ul>	Yes	The new garage has sufficient internal dimensions to accommodate two vehicles.
2.8.6 Driveways	Yes	The rear driveway is maintained off Barnett Lane which is currently the width of the site. There is

Development Control	Compliance	Comment
		no on-street car parking spaces within Barnett Lane.
<b>2.9 Landscaping and open space</b>		
<ul style="list-style-type: none"> <li>• Overall open space: 40% of site area</li> <li>• Overall landscaped area: 15% of site area</li> <li>• Minimum area of 25m<sup>2</sup> for private open space</li> <li>• Front open space: 50% of front building setback area</li> </ul>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The open space on site is 33% (97.3m<sup>2</sup>). This non-compliance is in context with the surrounding developments along the southern side of Old South Head Road which have similar open space limitations.</p> <p>The landscaped area represents 20% of the site.</p>
<b>2.14 Dual Frontage Development</b>		
<p>2.14.1 - General Controls</p> <ul style="list-style-type: none"> <li>• Primary and secondary frontage to be defined</li> <li>• Appropriate forms to be provided to each street</li> <li>• Dormer or roof projections: <ul style="list-style-type: none"> <li>○ set a minimum of 0.6m from outer garage walls;</li> <li>○ set a minimum of 0.3m below the garage ridgeline; and</li> <li>○ not have a maximum combined width exceeding 50% of associated roof width.</li> <li>○ be detailed to address overlooking</li> </ul> </li> <li>• Privacy treatments to be provided for first floors above garages</li> <li>• Pedestrian pass door provided for single width garage doors</li> <li>• Garage studios and rear lane garage develops are to be provided with landscaping</li> </ul>	<p>Partial</p>	<p>The site maintains a primary street frontage to Old South Head Road and its rear frontage to Barnett Lane. The proposal provides a contemporary response to the rear of the site.</p> <p>Windows from the studio garage face towards the rear yard and building and Barnett Lane.</p> <p>A single pedestrian pass door is provided.</p> <p>No landscaping is provided to the lane way and isn't a common form along Barnett Lane.</p> <p>The proposed studio garage proposes two dormer windows to face the main dwelling and one window facing Barnett Lane. The southern dormer is set in 1.2m from the outer walls and 1.6m below the ridgeline.</p> <p>The southern dormer window faces high sill windows on the southern garage studio at 30 Bon Accord Avenue which does not result in privacy impacts. The windows overlook Barnett Lane and garage roofs. One of the northern facing windows is off the staircase to the studio which will not result in adverse privacy issues.</p> <p>The double garage includes a 4.8m roller door with a 0.9m pedestrian access door adjoining it which complies.</p>

Development Control	Compliance	Comment
<p>2.14.2 - Laneway Design Provisions</p> <ul style="list-style-type: none"> <li>• Maximum external wall height of 3.6m</li> <li>• Maximum overall height of 6m to the roof ridge</li> <li>• Pitched roof form required</li> <li>• Landscape character of the lane maintained</li> <li>• Garages to employ gable ended and hipped roof forms with continues roof pitch from outer walls to ridgeline</li> </ul>	Yes	<p>The garage presents a 3m wall to Barnett Lane which complies.</p> <p>The studio garage proposes a compliant 6m overall height.</p> <p>No trees are removed.</p>
<p>2.14.3 Development in Heritage Conservation areas</p> <ul style="list-style-type: none"> <li>• Single width garages or double with central divide</li> <li>• Roof pitch and modulation to reflect the form of the area</li> <li>• Finishes and proportions to match the traditional construction in the area</li> </ul>	Yes	<p>The site is not within a heritage conservation area, but rather borders the Woodstock Heritage Conservation Area. Given the mix of contemporary laneway developments and rear garage structures that front Barnett Lane, the proposed laneway development is considered suitable within the Barnett Lane context.</p>

## 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 14 days and was notified between 18 February 2022 and 10 March 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified, for the following reasons:

- The design of the garage studio does not change;

- The additional context plan and amended reports addressed the issues in the deferral letter through an amended FSR calculation of the CDC dwelling;
- The Clause 4.6 variation was strengthened;
- Amended shadow diagrams with additional elevational shadows on adjoining properties located on the southern side of Barnett Lane were shown on the plans.

A total of one unique submission was received from the following property:

- 23 Barr Street, Camperdown (on behalf of a neighbour but property number was not identified).

The following issues raised in the submissions have already been discussed and addressed in the body of this report:

- Environmental Planning and Assessment Act 1979 No 203;
- Land Zoning.

All other issues raised in the submissions are summarised and discussed below.

**Issue:** The Statement of Environmental Effects has multiple mistakes including property identification, assessment lacking detail of the objectives and controls of the LEP, DCP and doesn't address the public interest.

**Response:** These issues are valid and were requested to be addressed by the deferral letter. The amended Clause 4.6 variation report addressed these issues.

**Issue:** Clause 4.6 written request does not demonstrate compliance with the floor space ratio, the numerical non compliance is relevant and there isn't sufficient environmental planning ground to justify contravening the development standard.

**Response:** The amended Clause 4.6 is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 Low Density Residential zone.

## 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

The proposed garage and first floor studio was referred to Council's Traffic Engineers for comment. The proposed double garage was compliant but a recommended condition of consent required the garage



door to be reduced from 5.29m to 5m. However, this measurement is wrong as the garage door width at the property boundary measures 4.8m and a 0.9m pedestrian access door adjoins that door which is considered acceptable on merit.

### 3.2. Stormwater

Council's Stormwater Engineer reviewed the stormwater plans and found them unacceptable. Recommended conditions allow the stormwater plans to be satisfied with Council prior to a construction certificate is issued.

## 4. CONCLUSION

The development application seeks consent for the construction of a double garage with studio above to the rear facing Barnett Lane at the site known as 169 Old South Head Road, Bondi Junction.

The principal issues arising from the assessment of the application are as follows:

- Breaching the FSR development standard by a 14% variation; and
- Under the minimum required open space.

The assessment finds these issues acceptable, as the applicant's written Clause 4.6 FSR variation request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the R2 zone. Given the location of the studio garage on the southern end of the site fronting Barnett Lane, the non-complying FSR is considered acceptable on merit because the build form preserves the surrounding environmental amenity. The main dwelling is preserved and the built form to Barnett Lane is similar to other first floor studios along the street. The open space non-compliance is in context with the surrounding developments along the southern side of Old South Head Road which have similar open space limitations.

One submission was received and the issues raised in the submission have been considered and addressed in this report and in the recommendation. There were no conflict of interests declared on the application.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

#### *Development and Building Unit (DBU) Decision:*

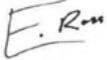
The application was reviewed by the DBU at the meeting on 3 May 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara, B Matlawski and B Magistrale*

## 5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Edwina Ross	Bridget McNamara
<b>Development Assessment Planner</b>	<b>Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 9/05/2022</b>	<b>Date: 10 May 2022</b>

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

(a) Architectural Plans prepared by Ted Quinton Architect of Project No: 0865 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
A1.01, revision A	Ground Plan	24/01/2022	28/01/2022
A1.02, revision A	First Floor Plan	24/01/2022	20/04/2022
A1.03, revision A	Roof Plan	24/01/2022	28/01/2022
A2.01, revision A	South and North Elevations	24/01/2022	28/01/2022
A2.02, revision A	East Elevation	24/01/2022	28/01/2022
A2.02, revision A	West Elevation	24/01/2022	28/01/2022
A2.04, revision A	West Elevation	24/01/2022	28/01/2022
EX01, revision A	External Materials	24/01/2022	28/01/2022

(b) BASIX Certificate

(c) The Site Waste and Recycling Management Plan (SWRMP) Part 1 (received by Council on 28/01/2022);

Except where amended by the following conditions of consent.

#### **2. APPROVED USE - DWELLING HOUSE WITH STUDIO**

This application approves the use of the principle dwelling on site as a single unit dwelling house only, with a studio above the garage at the rear.

No approval is granted or implied for the studio to be used as a separate domicile.

### **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

#### **GENERAL REQUIREMENTS**

#### **3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

(a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;

- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

#### **4. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the *Home and Building Act 1989*. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicable requirements of Part 6, before any work commences.

### **CONTRIBUTIONS, FEES & BONDS**

#### **5. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the *Environmental Planning and Assessment Regulation 2000*, the levy must be paid in accordance with the following;
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

#### **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$ **3,700** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works

and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **7. LONG SERVICE LEVY**

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **CONSTRUCTION MATTERS**

### **8. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **9. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **10. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **STORMWATER & FLOODING**

### **11. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the

development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The applicant must submit plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and include:

- a) The stormwater management plan must specify any components of the existing system to be retained and certified during construction to be in good condition and of adequate capacity to convey additional runoff and be replaced or upgraded if required.
- b) Detail the location of the existing stormwater drainage system including all pipes, inspection openings, surface drains, pits and their discharge location as well as any new stormwater drainage system.
- c) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- d) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system (independent of any OSD system).
- e) All new downpipes are to be located wholly within the property's boundary.
- f) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## **12. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

### **ENERGY EFFICIENCY & SUSTAINABILITY**

## **13. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

### **WASTE**

## **14. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### **TRAFFIC MANAGEMENT**

## **15. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **16. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being

carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **17. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### **DEMOLITION & EXCAVATION**

#### **18. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and



(f) Describe the disposal methods for hazardous materials.

## **19. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

## **CONSTRUCTION MATTERS**

### **20. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

### **21. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

### **22. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the Building Legislation Amendment (Quality of Construction) Act 2002 and 162A Critical stage inspections for building work of the Environmental Planning and Assessment Regulation 2000.

### **23. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### **24. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **25. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

#### **TREE PROTECTION AND REMOVAL**

#### **26. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

#### **27. STREET TREES TO BE RETAINED/TREE PROTECTION**

No existing street trees shall be removed without Council approval. Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter in accordance with AS4970-2009 "Protection of trees on construction sites.

#### **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **28. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

## **29. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

## **30. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

## **31. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

## **32. VEHICULAR ACCESS - FINISHED LEVELS TO INVERT OF THE GUTTER**

The finished level at the property boundary on **both** sides of the vehicle crossing is to be 110mm above the level of the invert of the existing concrete gutter.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to 'Electronic lodgement guidelines' on Council's website. Failure to adhere to Council's naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.

- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council's standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

## **AD2. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

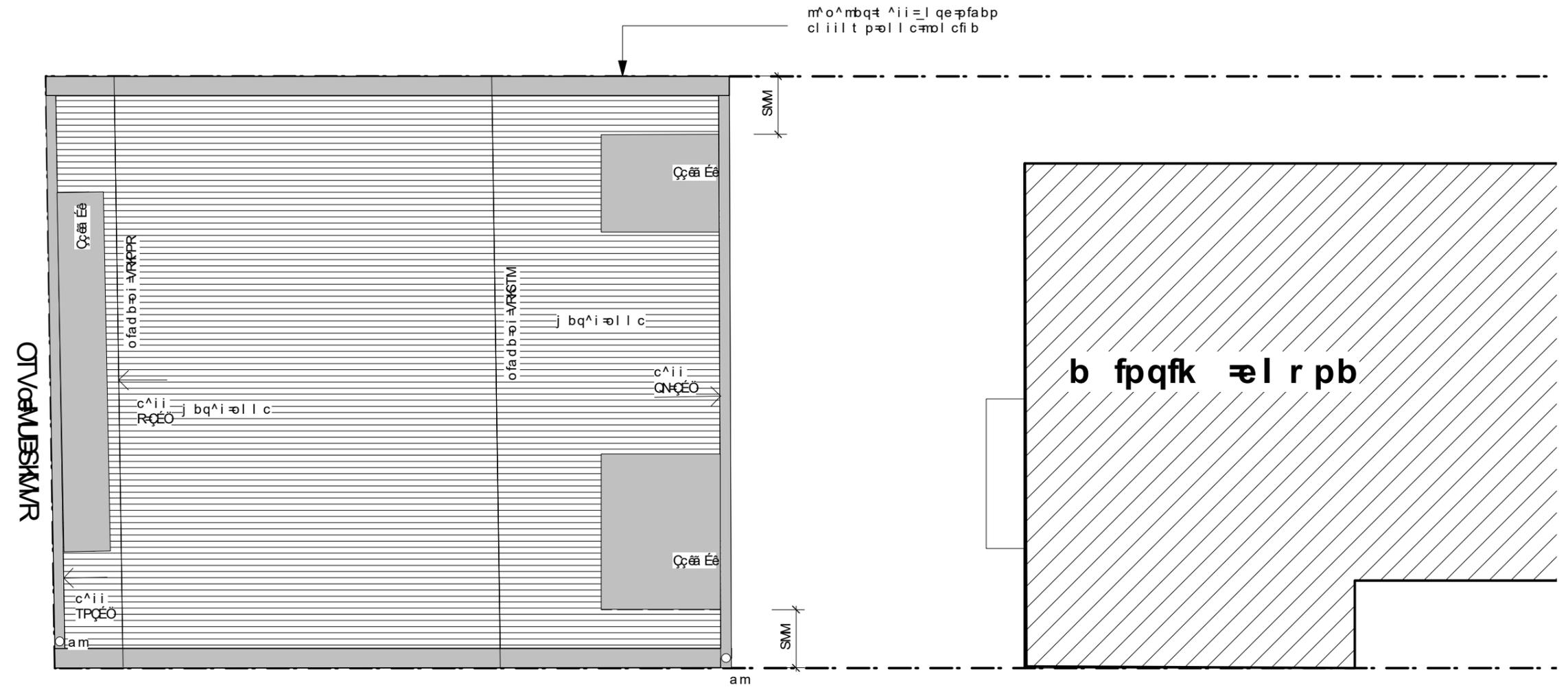
## **AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.









Thermal Comfort Commitments	Show on DA plans	Show on CC-CCC plans & specs	Carroll's check
<b>General features</b>			
The dwelling must not have more than 2 storeys.	✓	✓	✓
The conditioned floor area of the dwelling must not exceed 300 square metres.	✓	✓	✓
The dwelling must not contain open mezzanine area exceeding 25 square metres.	✓	✓	✓
The dwelling must not contain third level habitable attic room.	✓	✓	✓
<b>Floor, walls and ceiling/roof</b>			
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below.	✓	✓	✓

Construction	Additional insulation required (R-value)	Other specifications
Floor - concrete slab on ground	R0	
Floor - suspended floor above garage, framed	R0	
external wall - brick veneer	1.88 (or 2.48 including construction)	
ceiling and roof - raked ceiling / pitched or skillion roof, framed	ceiling 2.5 (up), roof fullbacking	framed, light (solar absorbance < 0.475)

Note: Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.  
 Note: In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.

Thermal Comfort Commitments	Show on DA plans	Show on CC-CCC plans & specs	Carroll's check
<b>Windows, glazed doors and skylights</b>			
The applicant must install the windows, glazed doors and shading devices described in the table below, in accordance with the specifications listed in the table. These most comprehensive specifications must be verified for each window and glazed door. The dwelling may have 1 m <sup>2</sup> (up to 7 square metres) which is not listed in the table.	✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:	✓	✓	✓
For the following glass and frame types, the Carroll's check can be performed by visual inspection:	✓	✓	✓
- Aluminium single clear	✓	✓	✓
- Aluminium double clear	✓	✓	✓
- Timber/UPVC/Alu-glass double clear	✓	✓	✓
- Timber/UPVC/Alu-glass double (air) clear	✓	✓	✓
- Double-glazed building operations must be of the height and distance from the panes and the base of the window and glazed door, as specified in the 'transmitting column'.	✓	✓	✓

Window/door type	Minimum height (mm)	Minimum width (mm)	Type	Shading Device (Dimension in mm)	Transmitting
North facing					
UPF1	1400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
UPF2	1400	1600	aluminium, single, clear	none	>4 m high, 2.0 m away
CG01	2400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
CG02	2400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
South facing					
UPF3	1400	1600	aluminium, single, clear	none	not overhanging

Energy Commitments	Show on DA plans	Show on CC-CCC plans & specs	Carroll's check
<b>Hot water</b>			
The applicant must install the following hot water system in the development, or a system with a higher energy rating, gas instantaneous with a performance of 2 stars.	✓	✓	✓
<b>Natural lighting</b>			
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.	✓	✓	✓
The applicant must install a window and/or skylight in 3 bathrooms/toilets in the development for natural lighting.	✓	✓	✓

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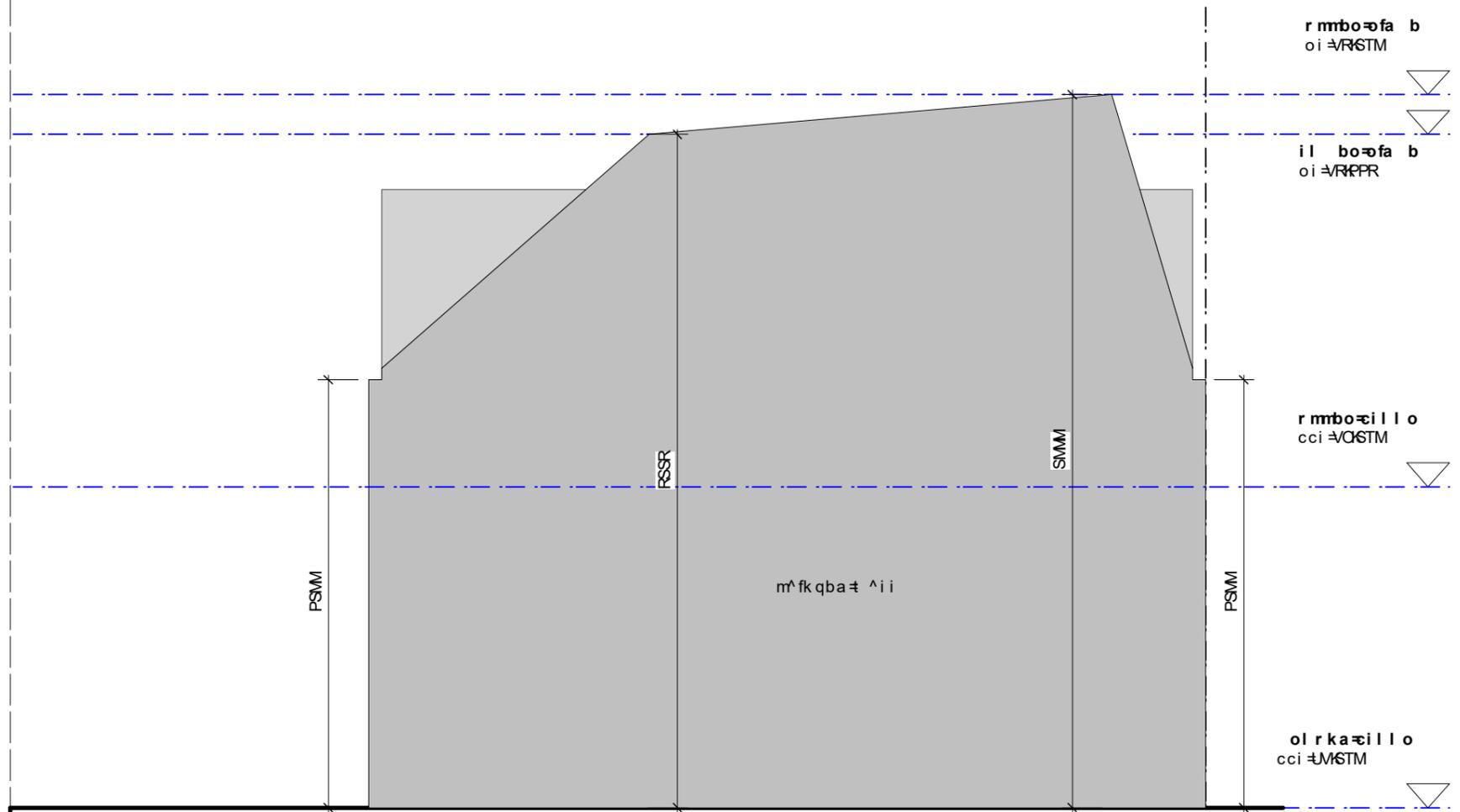








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Thermal Comfort Commitments	Show on DA plans	Show on CC/CCD plans & specs	Certifier check
<b>General features</b>			
The dwelling must not have more than 2 storeys.	✓	✓	✓
The conditioned floor area of the dwelling must not exceed 300 square metres.	✓	✓	✓
The dwelling must not contain open mezzanine area exceeding 25 square metres.	✓	✓	✓
The dwelling must not contain third level habitable attic room.	✓	✓	✓
<b>Floor, walls and ceiling/roof</b>			
The applicant must construct the floor(s), walls, and ceiling/roof of the dwelling in accordance with the specifications listed in the table below.	✓	✓	✓

Construction	Additional insulation required (R-value)	Other specifications
floor - concrete slab on ground	R0	
floor - suspended floor above garage, framed	R0	
external wall - brick veneer	1.88 (or 2.48 including construction)	
ceiling and roof - raked ceiling / pitched or skillion roof, framed	ceiling 3.5 (up) roof full raking	framed, light (solar absorbance < 0.475)

Note: \* Insulation specified in this Certificate must be installed in accordance with Part 3.12.1.1 of the Building Code of Australia.  
Note: \* In some climate zones, insulation should be installed with due consideration of condensation and associated interaction with adjoining building materials.

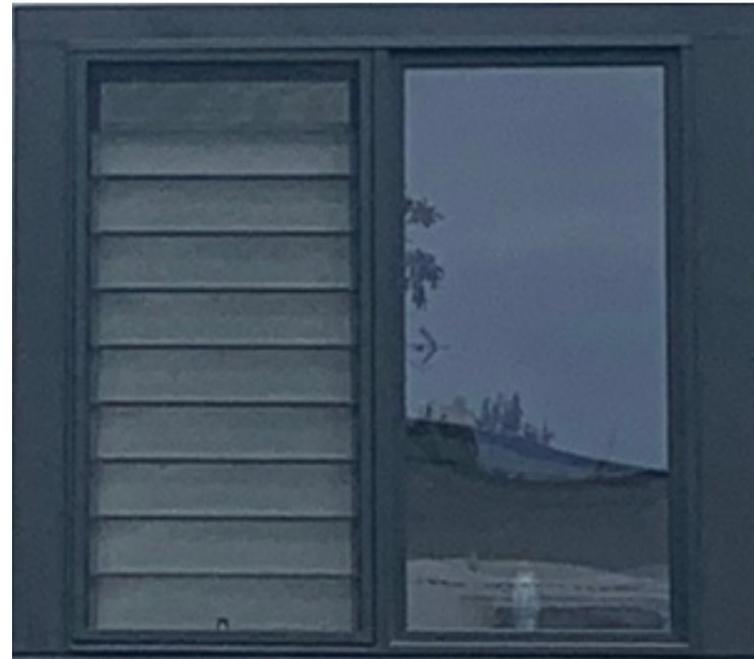
Thermal Comfort Commitments	Show on DA plans	Show on CC/CCD plans & specs	Certifier check
<b>Windows, glazed doors and skylights</b>			
The applicant must install the windows, glazed doors and shading devices described in the table below - in accordance with the specifications listed in the table. The most constraining specifications must be satisfied for each window and glazed door. The dwelling may have 1 m <sup>2</sup> (or 1.7 square metres) which is not listed in the table.	✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:	✓	✓	✓
* For the following glass and frame types, the certifier check can be performed by visual inspection.	✓	✓	✓
- Aluminium single clear	✓	✓	✓
- Aluminium double clear	✓	✓	✓
- Timber UPVC/finless single clear	✓	✓	✓
- Timber UPVC/finless double clear	✓	✓	✓
* Overheating building regulations must be of the height and distance from the parties and the base of the window and glazed door, as specified in the 'overheating' column.	✓	✓	✓

Window/door type	Minimum height (mm)	Minimum width (mm)	Type	Shading Device (Dimensionless ratio)	Overheating
North facing					
UPF1	1400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
UPF2	1600	1600	aluminium, single, clear	none	>4 m high, 2.0 m away
CG01	2400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
CG02	2400	900	aluminium, single, clear	none	>4 m high, 2.0 m away
South facing					
UPF3	1400	3400	aluminium, single, clear	none	not overhanging

Energy Commitments	Show on DA plans	Show on CC/CCD plans & specs	Certifier check
<b>Hot water</b>			
The applicant must install the following hot water system in the development, or a system with a higher energy rating, gas instantaneous with a performance of 2 stars.	✓	✓	✓
<b>Natural lighting</b>			
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.	✓	✓	✓
The applicant must install a window and/or skylight in 1 bathroom/toilet in the development for natural lighting.	✓	✓	✓

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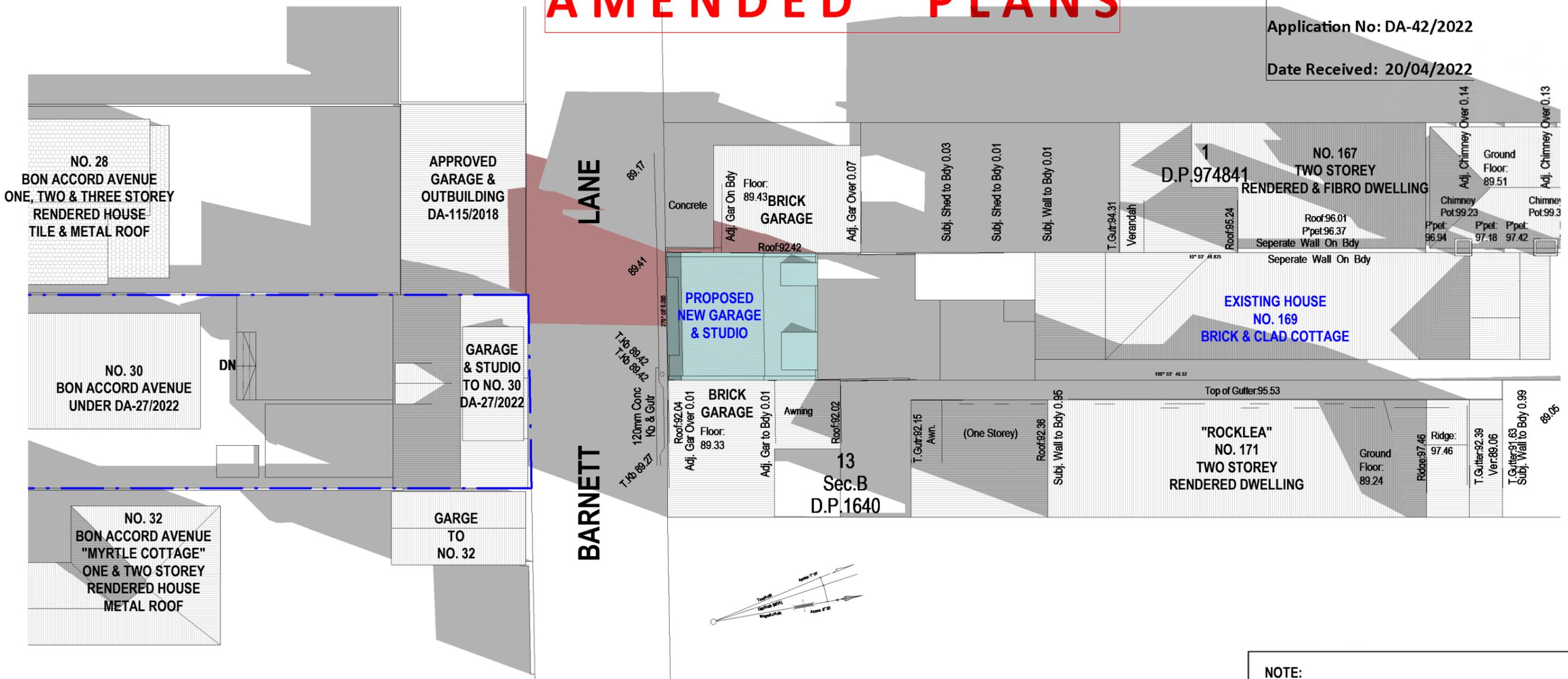
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# AMENDED PLANS

RECEIVED  
Waverley Council

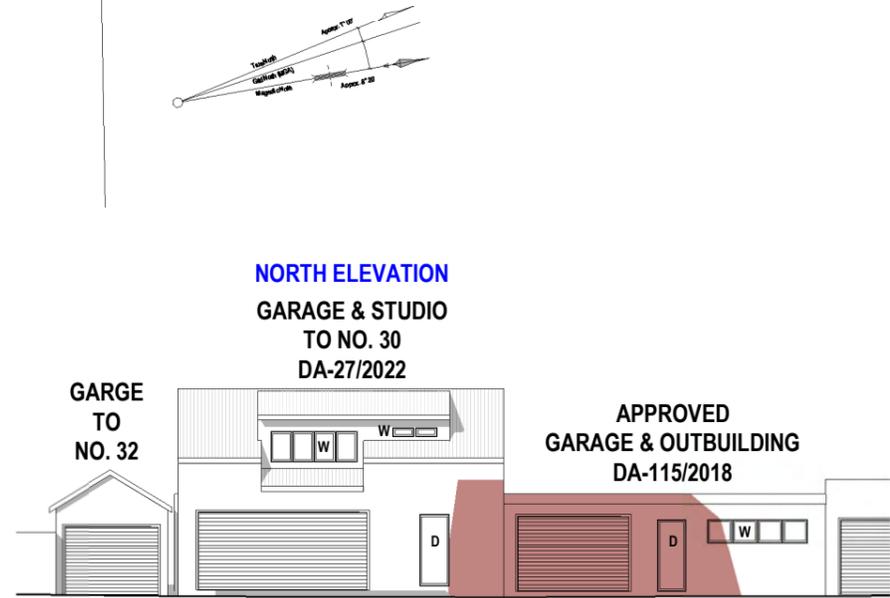
Application No: DA-42/2022

Date Received: 20/04/2022



**LEGEND:**

- DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
- DENOTES AREA OF PROPOSED NEW GARAGE AND STUDIO
- DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW



**NOTE:**

SHADOWS SHOWN HAVE BEEN COMPILED FROM DETAIL & LEVEL SURVEYS BY PAUL A. LAWSON FOR NO. 169 REF NO. 9633-18 DATED 25 JULY 2018 AND FOR 28 BON ACCORD AVE REF NO. 9500-18 DATED 13 MARCH 2018 AND BY BEE & LETHBRIDGE REF NO. 22251 DATED 15/09/2021 FOR NO. 30 BON ACCORD AVE. AND ARCHITECTURAL PLANS BY PETER BANFIELD DATED 29/3/18 FOR NO 28 BON ACCORD AVE AND BY ARCHITECTURAL PROJECTS PROJ. NO. 2002 DATED 22/12/2022 FOR 30 BON ACCORD AVE AND PLANS SUPPLIED BY TED QUINTON ARCHITECTURE FOR 169 OLD SOUTH HEAD ROAD DATED 22.01.22

**1** Shadowing June 21st 9.00am  
1 : 200

**Cad Draft P/L** SHADOW ANALYSIS CONSULTANTS  
ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW 2040  
PH: 9555 8545  
info@caddraftnsw.com.au

No.	Description	Date
A	DA ISSUE	19-4-22

**SHADOW DIAGRAMS**  
No. 169 OLD SOUTH HEAD ROAD BONDI  
**CLIENT: YOSSI SCHUCHAT**

**Shadowing June 21st 9.00am**

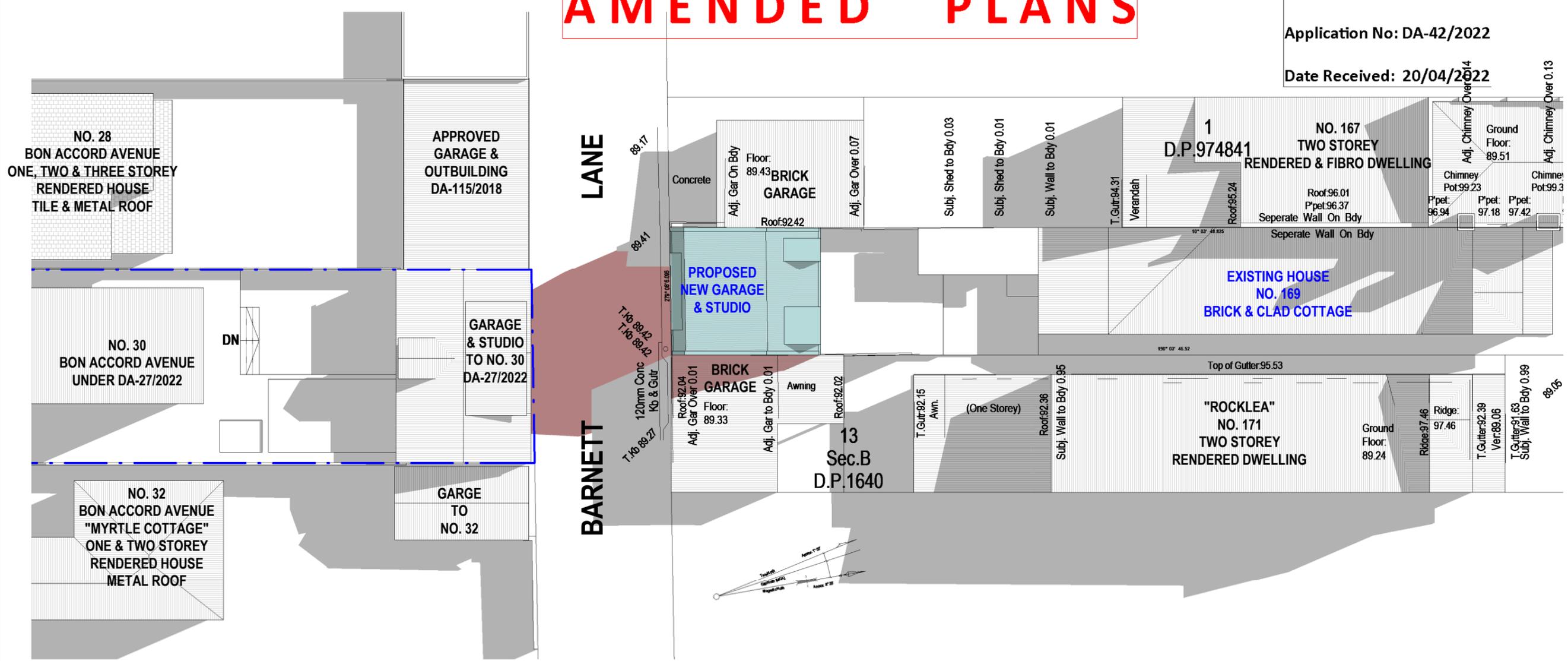
Project number	22-42	<b>A100</b>
Date	04-04-22	
Drawn by	KP	
Checked by	JD	
Scale		1 : 200

# AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-42/2022

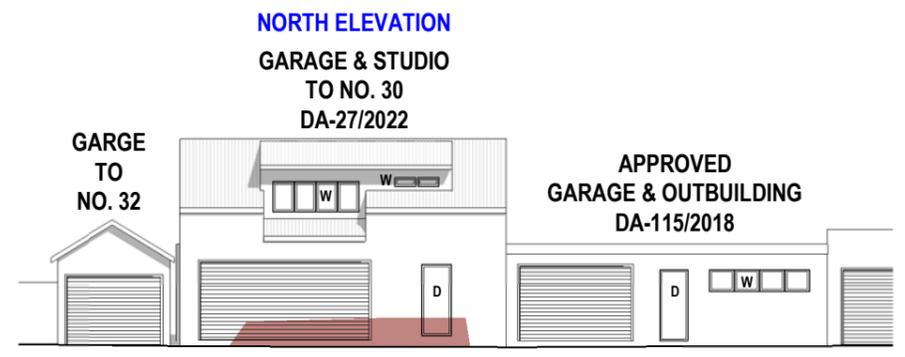
Date Received: 20/04/2022



OLD SOUTH HEAD ROAD

**LEGEND:**

- DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
- DENOTES AREA OF PROPOSED NEW GARAGE AND STUDIO
- DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW



**NOTE:**

SHADOWS SHOWN HAVE BEEN COMPILED FROM DETAIL & LEVEL SURVEYS BY PAUL A. LAWSON FOR NO. 169 REF NO. 9633-18 DATED 25 JULY 2018 AND FOR 28 BON ACCORD AVE REF NO. 9500-18 DATED 13 MARCH 2018 AND BY BEE & LETHBRIDGE REF NO. 22251 DATED 15/09/2021 FOR NO. 30 BON ACCORD AVE. AND ARCHITECTURAL PLANS BY PETER BANFIELD DATED 29/3/18 FOR NO 28 BON ACCORD AVE AND BY ARCHITECTURAL PROJECTS PROJ. NO. 2002 DATED 22/12/2022 FOR 30 BON ACCORD AVE AND PLANS SUPPLIED BY TED QUINTON ARCHITECTURE FOR 169 OLD SOUTH HEAD ROAD DATED 22.01.22

**1** Shadowing June 21st 12.00pm  
1 : 200

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153

PH: 9555 8545

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

info@caddraftnsw.com.au

No.	Description	Date
A	DA ISSUE	19-4-22

**SHADOW DIAGRAMS**  
No. 169 OLD SOUTH HEAD ROAD BONDII

**CLIENT: YOSSI SCHUCHAT**

**Shadowing June 21st 12.00pm**

Project number	22-42	<b>A103</b>
Date	04-04-22	
Drawn by	KP	
Checked by	JD	
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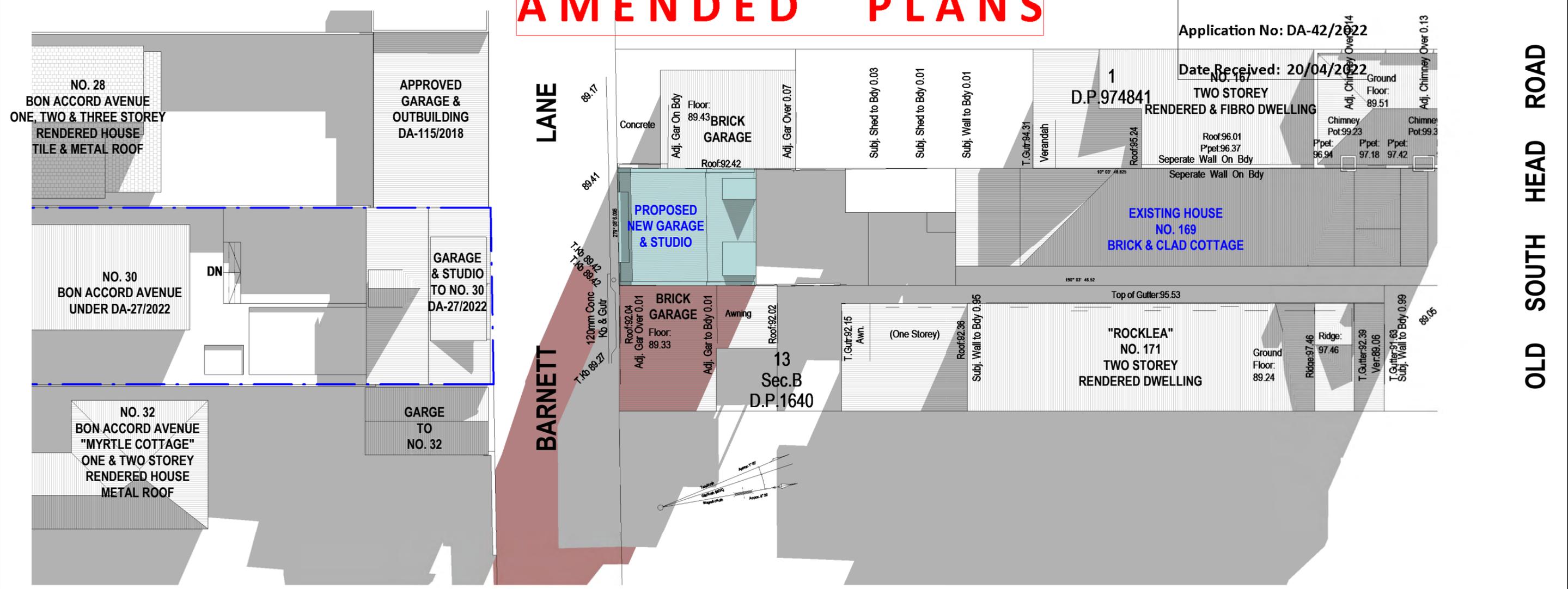


# AMENDED PLANS

RECEIVED  
Waverley Council

Application No: DA-42/2022

Date Received: 20/04/2022



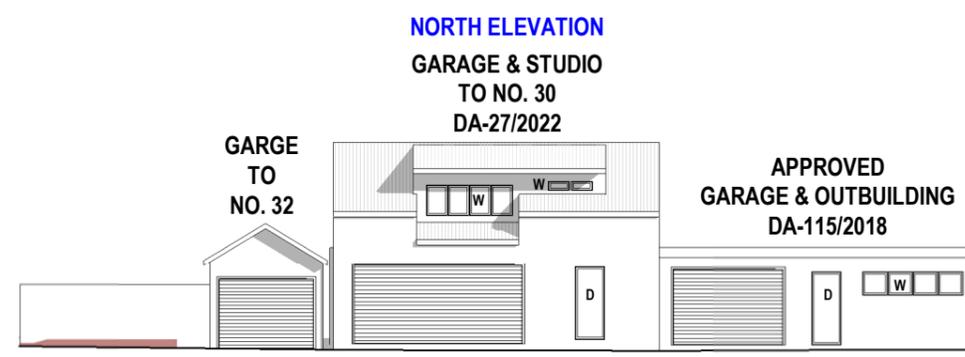
**LEGEND:**

- DENOTES AREA OF EXISTING & SURROUNDING BUILDING SHADOW
- DENOTES AREA OF PROPOSED NEW GARAGE AND STUDIO
- DENOTES AREA OF PROPOSED ADDITIONAL BUILDING SHADOW

**NOTE:**

SHADOWS SHOWN HAVE BEEN COMPILED FROM DETAIL & LEVEL SURVEYS BY PAUL A. LAWSON FOR NO. 169 REF NO. 9633-18 DATED 25 JULY 2018 AND FOR 28 BON ACCORD AVE REF NO. 9500-18 DATED 13 MARCH 2018 AND BY BEE & LETHBRIDGE REF NO. 22251 DATED 15/09/2021 FOR NO. 30 BON ACCORD AVE. AND ARCHITECTURAL PLANS BY PETER BANFIELD DATED 29/3/18 FOR NO 28 BON ACCORD AVE AND BY ARCHITECTURAL PROJECTS PROJ. NO. 2002 DATED 22/12/2022 FOR 30 BON ACCORD AVE AND PLANS SUPPLIED BY TED QUINTON ARCHITECTURE FOR 169 OLD SOUTH HEAD ROAD DATED 22.01.22

**1** Shadowing June 21st 3.00pm  
1 : 200



**Cad Draft P/L** SHADOW ANALYSIS CONSULTANTS  
 ABN 27 083 288 153  
 SUITE 1, 505 BALMAIN ROAD, LILYFIELD, NSW 2040  
 PH: 9555 8545  
 info@caddraftnsw.com.au

No.	Description	Date
A	DA ISSUE	19-4-22

**SHADOW DIAGRAMS**  
 No. 169 OLD SOUTH HEAD ROAD BONDI  
 CLIENT: YOSSI SCHUCHAT

**Shadowing June 21st 3.00pm**

Project number	22-42	<b>A106</b>
Date	04-04-22	
Drawn by	KP	
Checked by	JD	
Scale		1 : 200



Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-403/2021
<b>Site address</b>	107 Ramsgate Avenue, NORTH BONDI
<b>Proposal</b>	Amending development application to facilitate further alterations and additions to the current approval on site (DA-461/2006). The proposal includes modifying the layout of units to reduce from 10 to 4 units, new balcony, window and façade detailing.
<b>Date of lodgement</b>	30 September 2021
<b>Owner</b>	Proprietors of SP 5170
<b>Applicant</b>	Proprietors of SP 5170
<b>Submissions</b>	Nil
<b>Cost of works</b>	\$4,715,000
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Height</li> <li>• Floor space ratio (reduction)</li> <li>• Car parking</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for an amending development application to the approved alterations and additions to the residential flat building (RFB) at the site known as 107 Ramsgate Avenue, NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

- Height exceeds the development standard;
- Floor space ratio exceeds the development standard (is a reduction from the approval); and
- Car parking.

The assessment finds these issues acceptable and are discussed in detail in the report. No submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 17 November 2021.

The site is identified as CP SP 5170, known as 107 Ramsgate Avenue, NORTH BONDI.

The site is a battle-axe arrangement, with a rectangular block measuring 28.955m by 12.19m. An access handle to Ramsgate Avenue, to the east, measuring 28.995m by 1.2m, plus a neighbouring 1.22m wide access handle shared with the neighbouring property provides a shared vehicular and pedestrian access to the site via a right of way. The site has an area of 389.4m<sup>2</sup> and has a steep fall from Ramsgate Avenue towards the ocean. From the entry to the access handle on Ramsgate Avenue, there is a slope of 6m to the front elevation of the building. The building steps down multiple levels, with the base of the building being 9m lower than the front elevation.

The front elevation of the building is not visible from Ramsgate Avenue; however, the 'rear' of the building is considered the main elevation as it is highly visible from the public domain on the Ben Buckler headland from many angles on Bondi Beach, Campbell Parade and South Bondi.

The site is occupied by a multi-storey building, which presents as a 3-storey building from the front and at the rear presents as a 7-storey building, with 6-storeys of accommodation atop a blank single storey base.

The site is adjoined by multi-storey RFB's to the north, south and east. To the west of the site is the Ben Buckler headland and Bondi Beach. The Ben Buckler Boat Ramp runs along the south-west corner of the site and further to the east is Ray O'Keefe Reserve (also known as Gararra Reserve).

Figures 1 to 4 are photos of the site and its context.



Figure 1: Front eastern elevation of subject site



Figure 2: Rear western elevation



Figure 3: Site viewed from Ben Buckler boat ramp across the adjoining property

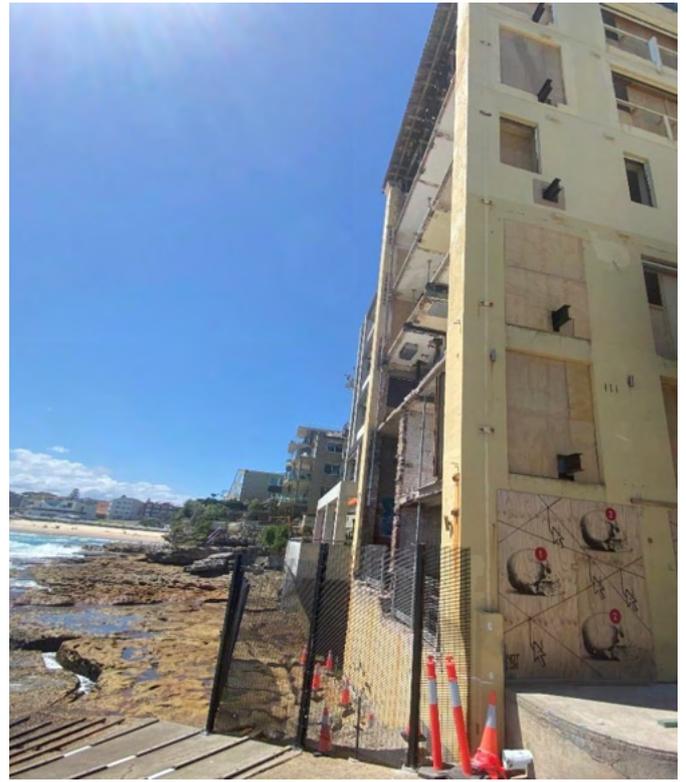


Figure 4: Site and beach frontage looking west towards Bondi Beach

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-461/2006, in June 2008, the Land and Environment Court approved the construction of balconies and changes to doors and windows on the building.

- A construction certificate was issued on 13 June 2013 and records indicate that physical commencement of works occurred prior to this date. A new construction certificate was issued on 25 June 2021, by the same PCA, for the installation of sliding doors in accordance with the DA-461/2006 consent.
- On 23 December 2020, an Order (NO-4705) was issued by Council’s Health and Building team which required works to the building to make it safe and structurally sound.
- On 25 February 2021, a Heritage Exemption Certificate (HEC-3/2021) was issued which allowed for fire safety works, asbestos removal and like for like changes.

The works currently underway on site encompass the approved HEC, DA and CC as well as the works required under the Council issued Order.

#### 1.4. Proposal

The development application (DA) is considered an amending DA and seeks consent to consolidate the emergency works, HEC and portions of the previously approved DA (DA-461/2006) that remain relevant to provide for alterations and additions to the existing residential flat building, specifically the following:

- Internal alterations to the existing units, modifying the layout of units and reducing the number from 10 to 4;
- Integration of the roof area for the top floor unit with a terrace fully contained within the roof structure;
- Updates to the external design and finishes including façade detailing and design changes to the already approved balconies and windows; and
- Introduction of three car spaces.



**Figure 5:** Photomontage of proposal as viewed from the south-west (ocean).



**Figure 6:** Photomontage of proposal as viewed from north.

## 1.5. Background

The development application was not formally deferred. However, following referral comments from various Council units, the applicant provided additional information and amendments to the proposal on 17 February 2022 including:

### Heritage

- The proposal originally included off-form concrete which has been amended to be a high build paint spec in a peach colour (as recommended by Council's Heritage Advisor). The amendments also include a Cathodic Protection to the steel structure, and stainless steel and galvanised reinforcement installed to prevent corrosion.

### Coastal Risk Assessment

- A response to the comments from Council's Coastal Engineering Advice was provided by Peter Horton, Coastal Engineer dated 14 January 2022.

### Geotechnical Risk Assessment and Management:

- A response to the comments from Council's comments was provided by JK Geotechnics dated 27 November 2021.

### Waste:

- Concern was raised by Council about inadequate number of bins provided. The applicant responded advising that the amended plans deleted Unit 3 and therefore reduced the number of apartments from 5 to 4.

### Traffic:

- It is noted that Council's Traffic and Transport team did not raise any objection to the original proposal. However, the amended proposal allocated 3 car parking spaces to Unit 1, which results in an exceedance of the maximum car parking rate under Waverley DCP 2012 Part B8. This is discussed in further detail in the report below and a suitable condition is recommended.

### Fire:

- It is noted that Council's Fire Safety team did not raise any issues with the original proposal. However, the applicant's Fire Engineer (Cardno) advised that it would be beneficial to delete the car stacker and replace it with an at grade car parking garage.

Additional amendments made:

- In order to comply with Australian Standards, the lift dimensions have been updated.
- The car stacker has been deleted and an at grade car parking garage for 3 cars included.
- The one-bedroom apartment (Unit 3) has been deleted, reducing the overall number of apartments from 5 to 4. The apartments have been renumbered.

- The front façade has been updated provide a new 3 car garage and associated double width garage panel door.
- Modifications to balconies and windows on the southern elevation.
- The amendments also reduce the GFA. The proposal originally sought an additional 8.5sqm of GFA, the amendments have reduced the overall GFA by 16.4sqm.

On 14 April 2022, Council staff raised concerns that were required to be addressed prior to finalising the assessment. On 28 April 2022, the applicant provided documentation to address the issues below:

1. *Further information regarding the issue of a Construction Certificate and whether this satisfies the test of evidence of substantial commencement of the 2006 consent. Further information was requested on the emergency order and HEC and their relationship to this amending DA under assessment.*

The applicant has provided documentation regarding the previously approved DA, the emergency order and the HEC. The documentation includes legal advice confirming that the substantial commencement of works test has been satisfied and the previously approved DA is considered active. The applicant advised that 60% of the works approved under the HEC have been completed, including external skin of brickwork removed, asbestos roof removed, rendering of external face of internal skin of brickwork completed. Furthermore, 30% of the works approved under the DA have been completed, including the LG3 balcony slab poured and the LG2 balcony slab formed up.

2. *The relationship of the boat ramp to the balconies and whether the boat ramp needed to be realigned and the height clearance between the lower-level balcony and the boat ramp. Clarification was also sought on the recommendations from the Coastal Risk Assessment regarding large swells and inundation.*

The applicant confirmed that a black post and temporary site security fence was constructed by the builders to secure and make safe the site during construction. Once completed there will be no columns fixed to the boat ramp. The previously approved DA allows for a sea wall sitting directly under the balconies onto the rock shelf below. However, this current amended DA (if approved) will delete the sea wall and cantilever the balcony which provides more space to the boat ramp. This section of the boat ramp is on the subject site and not in the public domain.

The balcony does extend over the boat ramp by 350mm. The overlap occurs entirely within the boundary of 107 Ramsgate Avenue. The overlap of the balcony is not considered to be an issue given the overall width of the boat ramp and the fact that the boat ramp continues across the subject site in this location.

The applicant has provided details from the Fishing Club which indicates that the Fishing Club is in discussions with Council to widen their boat ramp, at their own cost. Accordingly, the matter of the boat ramp realignment is separate from this amending DA.

In terms of Coastal Risk Assessment regarding large swells and inundation, the applicant has provided a comprehensive report detailing the collaboration of both the Coastal Engineer and

Structural Engineer in the design of the new curved balcony profile and 1200mm high projecting RC window sill to deal with wave run up and large dwells. The applicant has also provided specifications on the external materials, detailing that the concrete mix is able to provide a lifespan of 80 years.

3. *The applicant was asked about whether dilapidation reports had been carried out of neighbouring properties.*

The applicant provided dilapidation reports for 101, 105, 109 and 111 Ramsgate Avenue.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### 2.1.1. State Environmental Planning Policies (SEPPs)

A detailed discussion is provided for relevant SEPPs as follows:

##### *SEPP 65 (Design Quality of Residential Apartment Design)*

The application was referred to the Waverley Design Advisory Excellence Panel (DEAP) on 13 October 2021. The DEAP's comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment are set out in **Table 1** of this report.

**Table 1: Assessment against the Nine Design Quality Principles under SEPP 65**

Principle	Panel's Comment	Planning Comment
1. Context and Neighbourhood	<p><i>The proposal is an unusual configuration due to the site location, history and brief, and is deemed to satisfy this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>This is a redevelopment and almost total rebuild of an existing building that will enhance its appearance and capacity to survive beyond earlier expectations with substantial structural and façade improvements that are considered compatible with the Bondi Beach context.</i></li> <li>- <i>As the height, bulk, form and scale of the building will be virtually unchanged, and the façade improvements consistent with the Special Character attributes for the Ben</i></li> </ul>	Noted.



Principle	Panel's Comment	Planning Comment
	<p><i>Buckler precinct, the DA proposal as amended is considered consistent with the desirable future character elements and be complementary to nearby buildings in the immediate heritage conservation.</i></p> <ul style="list-style-type: none"> <li>- <i>It was noted that the boat access ramp would not be impacted by the proposed works when completed, and some minor refinements to the already approved balcony structure could improve the interface with the foreshore and rock shelf amenity on Lower Ground Floor 3.</i></li> </ul>	
2. Built form and Scale	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>The overall scale and built form will not be any different to the exiting building, so on the basis explained for replacing the damaged and failing elements with more robust and contemporary details and finishes, it is deemed that the result should achieve the design quality expected.</i></li> <li>- <i>From the available information and viewing a 3D virtual tour there does not appear to be any adverse environmental impacts on adjacent properties, but the Applicant was advised to check the relationship of window openings on the northern elevation to ensure that privacy impacts can be avoided or mitigated.</i></li> <li>- <i>There were some inconsistencies between the lodged DA package viewed by the Panel and the information shared by the Applicant during the meeting, and a fully updated and coordinated set of documentation must be provided to Council.</i></li> </ul>	Noted. A fully updated set of documentation has been provided to Council.
3. Density	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>With the proposed reduction of units from 10 to 5 there will be a reduction in density of this site and provisions of upgraded accommodation for the residents that is appropriate to the Bondi Beach market.</i></li> <li>- <i>The introduction of a 2-space car stacker for the complex will relieve on street parking and is considered worthwhile with minimal impact on the building or surrounds.</i></li> </ul>	The amended proposal further reduces the number of apartments from 5 to 4. Further, an additional car parking space has been added.
4. Sustainability	<p><i>The proposal does achieve this principle in the following ways:</i></p>	Noted. The amended proposal includes high build

Principle	Panel's Comment	Planning Comment
	<ul style="list-style-type: none"> <li>- <i>From the DA submission it appeared that close attention had been paid to sustainable design features such as cross ventilation complemented by ceiling fans, robust detailing and finishes.</i></li> <li>- <i>Nevertheless, concern was raised with how the upgraded building and materials would perform overtime, and it was recommended that there be 1:20 scale sections along with more information on the applied finishes to be used, associated warranties and what maintenance provisions would need consideration.</i></li> </ul>	<p>paint spec and Cathodic Protection to the steel structure, also the use of stainless steel and galvanised re-enforcement installed to prevent corrosion.</p>
5. Landscape	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>Concern was raised about the viability of the planter landscaping on the balcony to the Lower Ground Floor 2, and the Applicant advised this was being reviewed along with the balcony profile to be amended for final issue.</i></li> <li>- <i>The Panel recommended that all planters should be based on ADG minimum standards for soil depth and volume.</i></li> </ul>	<p>The amended plans indicate a planter can be accommodated on the balcony to the Lower Ground Floor 2 and drainage is provided.</p>
6. Amenity	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>The intentions for improving the overall residential amenity and the history behind the evolution of the brief were appreciated.</i></li> <li>- <i>Given the constricted site and relationship to adjacent properties in this sought after Bondi Beach locality, it was considered that the several non-compliances with ADG guidelines were not problematic with minimal impacts and that leniency should be applied given the design quality proposed.</i></li> </ul>	<p>Noted.</p>
7. Safety	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>As issue was raised with the relative balcony height on the south-west corner of the Lower Ground Floor 3, and possible risk to any members of the public accessing the rock shelf below. Some indication of how this might be dealt with was recommended.</i></li> <li>- <i>Given the likely impact of high tide conditions with rising sea levels, concern was discussed on the relative detailing for the sea wall and how the long-term safety of</i></li> </ul>	<p>The balcony referred to by the DEAP is not considered to pose a significant safety risk. It is also noted that this balcony is already approved under the parent consent. This DA proposes to delete the sea wall below the balcony and provide a cantilever.</p> <p>The Coastal Risk Assessment Report by Horton Coastal</p>

Principle	Panel's Comment	Planning Comment
	<p><i>this could be ensured. There was also the issue of extreme marine conditions in this location and how deterioration such as that affecting the present building fabric could be avoided in the future.</i></p> <ul style="list-style-type: none"> <li>- <i>The Applicant indicated that liaison with appropriate engineers was being undertaken on both these fronts to ensure safety for both residents and any members of the public. It would be expected that risk mitigation details be further clarified as a DA approval condition.</i></li> </ul>	<p>Engineering notes that concrete and tiled floor finishes and wall materials should be used on the lower-level balcony that would withstand ocean inundation. The annotations on the plans reference the Coastal Engineer's report and the Report will be included as an approved document in the recommended conditions.</p>
8. Housing Diversity and Social Interaction	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>The unit mix appears appropriate given the brief and context.</i></li> <li>- <i>While there are only to be 5 units, scope for residents to enjoy the benefits of the roof terrace ambience was recommended and the potential for the 1 bedroom Unit 5 to have secure entry off the Second Floor lift lobby that allowed other residents unhindered access from the units below.</i></li> </ul>	<p>The amended proposal reduces the number of apartments from 5 to 4. Each unit has access to a balcony fronting the ocean and are afforded adequate amenity. It is not considered necessary to provide roof top access to Units 1, 2 &amp; 3.</p>
9. Aesthetics	<p><i>The proposal does achieve this principle in the following ways:</i></p> <ul style="list-style-type: none"> <li>- <i>The proposed upgrading and improvements to the overall façade are considered well-conceived and will realise a significantly better and higher quality built form.</i></li> </ul>	<p>Noted.</p>

### *Apartment Design Guide*

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. An assessment against the provisions within the ADG is provided in **Table 2** of this report.

**Table 2: Apartment Design Guide**

Design Criteria	Compliance	Comment
<b>3F Visual privacy</b>		
<ul style="list-style-type: none"> <li>Min separation distances from buildings to side and rear boundaries:</li> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	No, but as existing	The existing building is non-complaint in this regard. The proposal reduces the number of apartments from 10 to 4 which reduces the privacy impacts.
<b>4A Solar and daylight access</b>		
<ul style="list-style-type: none"> <li>Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter</li> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter.</li> </ul>	Yes	100% of units (4/4) receive at least 2 hours direct sunlight between 9am and 3pm mid-winter to living rooms and private open space.
<b>4B Natural ventilation</b>		
<ul style="list-style-type: none"> <li>All habitable rooms are naturally ventilated</li> <li>Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> <li>At least 60% of units naturally ventilated</li> </ul> </li> </ul>	Yes	100% of units (4/4) are naturally cross ventilated.  All habitable rooms are provided with at least one window for natural ventilation.  The proposal uses a combination of full height openable doors, slot windows, skylights and voids to achieve appropriate cross ventilation within the building.
<b>4C Ceiling heights</b>		
<ul style="list-style-type: none"> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> </ul>	Yes	The ceiling heights within all units comply with the minimum requirement.
<b>4D Apartment size and layout</b>		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li>1 Bed = 50 m<sup>2</sup></li> <li>2 Bed = 70 m<sup>2</sup></li> <li>3 Bed = 90 m<sup>2</sup></li> <li>Add 5m<sup>2</sup> for each additional bathroom (above 1)</li> </ul>	Yes	<p>All units have internal areas in excess of the minimum ADG requirements. In this regard, the proposed unit sizes and layout are acceptable.</p> <p>The proposal achieves compliance with the minimum glazed area to each habitable room.</p> <p>All bedrooms meet the minimum requirements in terms of dimensions and area.</p>

Design Criteria	Compliance	Comment
<ul style="list-style-type: none"> <li>• Add 12m<sup>2</sup> for each additional bedroom</li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>		The proposal is consistent with the objectives of this part of the ADG.
<b>4E Private open space and balconies</b>		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> <li>• 1-bed – 8m<sup>2</sup> &amp; 2m depth</li> <li>• 2-bed - 10m<sup>2</sup> &amp; 2m depth</li> <li>• 3+bed - 12m<sup>2</sup> &amp; 2.4m depth</li> <li>• Ground level, min 15m<sup>2</sup> &amp; 3m depth</li> </ul>	No, but considered acceptable	<p>100% of the units are provided with a balcony or roof terrace accessed from the main living areas.</p> <p>However, the balconies to Units 1, 2 &amp; 3 do not meet the minimum ADG sizes. This non-compliance is acceptable given the balcony location and size has been approved via a previous development consent. The balconies provide a high level of amenity given their orientation and views.</p> <p>The design of the balconies is integrated into, and contributes to, the architectural form and detail of the building. The finish of the balconies is consistent with the contemporary palette of materials in the building overall.</p>
<b>4F Common circulation and spaces</b>		
<ul style="list-style-type: none"> <li>• Max of 8 units accessed off a circulation core on a single level</li> </ul>	Yes	All 4 units are serviced by the proposed fire stair and lift. Private entry is offered to some units.
<b>4G Storage</b>		
<p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> <li>• 1-bed – 6m<sup>3</sup></li> <li>• 2-bed – 8m<sup>3</sup></li> <li>• 3+bed – 10m<sup>3</sup></li> </ul>	Yes	The proposal provides separate storage within each apartment which meets the requirements and objectives of the ADG.

*State Environmental Planning Policy (Resilience and Hazards) 2021*

The SEPP applies to the subject site as it is wholly located within the Coastal Environment Area and Coastal Use area and use area according to the SEPP.

Clause 2.10 states that development consent must not be granted for development on land within the coastal environment area unless the consent authority:

- (1) has considered whether the proposed development is likely to cause an adverse impact on the following –

- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) *coastal environmental values and natural coastal processes,*
- (c) *the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

(2) *is satisfied that –*

- (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or*
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Clause 2.11 states that development consent must not be granted for development on land within the coastal use area unless the consent authority:

- (a) *has considered whether the proposed development is likely to cause an adverse impact on the following –*
  - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
  - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
  - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) *Aboriginal cultural heritage, practices and places,*
  - (v) *cultural and built environment heritage, and*

(b) *is satisfied that –*

- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

The proposal does not result in changes to the natural environment and there is no impact on marine vegetation or further interruption to the rock platform. The public access ways, Aboriginal cultural heritage and the surf zone are not impacted. The proposal will not increase the risk of coastal hazards on the subject site or on other land. The building is in its existing location and views are retained between the subject site and neighbouring properties. The proposal will improve the visual amenity and scenic

qualities of the coast, providing an updated façade that is fitting and sympathetic to the heritage conservation area along the Ben Buckler headland.

The proposed development satisfies the relevant requirements of the SEPP.

### 2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

The Draft Waverley Local Environmental Plan 2022 was exhibited from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

### 2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the Aims of the Plan.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table R3 Medium Density Residential Zone	Yes	The proposal is for alterations to a residential flat building, which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>12.5m</li> </ul>	No	The proposed maximum height is 19.09m, which is the same as the existing building.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>0.9:1</li> </ul>	No	The existing FSR is 2.08:1 (811.4m <sup>2</sup> ). The amended proposal reduces the GFA by 16.4m <sup>2</sup> , resulting in a FSR of 2.04:1 (795m <sup>2</sup> ).
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the Height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	The site is located within the Bondi Beach Heritage Conservation Area and a number of heritage items are nearby.  The proposed development is considered acceptable from a heritage perspective. A letter of support and Heritage Impact Assessment prepared by Weir and Phillips supports the application and comments from

Provision	Compliance	Comment
		Council's Heritage Advisor are discussed in further detail below.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site is designated as Class 4 land on the Acid Sulfate Soils Map. The proposal does not include works that will likely lower the water table.
6.2 Earthworks	Yes	This Clause is satisfied by the Geotechnical advice submitted to Council to support the development application and the recommended conditions of consent.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### *Clause 4.6 Exceptions to Development Standards*

##### **Height**

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height of building development standard of 12.5m. The existing building has a height of 19.09m and the proposal includes a new balcony frame to match this height of 19.09m, and therefore exceeds the standard by 6.59m equating to a 52.7% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

##### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The existing building height already exceeds the standard, with no greater height variation proposed.*



*(ii) The existing building already exhibits a breach to the height control of 52.7% and the works proposed have a matching height exceedance and are below the overall top of building, with no increase/change to the roof height being proposed.*

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

*(i) The variation facilitates the orderly and economic development of approved balconies with an improved aesthetic contribution to the locality. The approved balconies have a horizontally emphasised appearance in contrast to the desired future character of the area as defined in Council's controls.*

*(ii) The nature of the existing height of the building being 52.7% over the height control and those elements that are inconsistent with desired future character dictates that there are opportunities for replacement and improvement of the structure above the height plane so long as they do not have unreasonable impact.*

*(iii) The balcony framing, as well as all other alterations to the existing building above the height control, make a positive urban design contribution by reducing the perceived bulk and scale of the building. From Bondi Beach, where it is principally viewed and makes a significant visual contribution to the setting, the alterations soften the building form and improve the building's built-form relationship with the surrounding properties.*

*(iv) The height breach matches elements on the existing building and the building sits comfortably amongst a suite of buildings with a matching height and scale that make up the existing and desired future character of Ben Buckler.*

*(v) The proposal is consistent with the objectives of the height development standard and objectives of the zone.*

*(vi) The variation is necessary in order to facilitate the orderly and economic use and development of land, being a stated Object of the Act (1.3(c) of the EP&A Act). In particular, the proposal seeks to retain, restore and improve a contributory building in a heritage conservation area. The variation of the height control relative to the balcony framing is an essential component of design's success towards a positive outcome for the built heritage.*

*(vii) The variation is necessary to improve the design and amenity of the built environment, being a stated Object of the Act (1.3(g) of the EP&A Act). In particular, the balcony framing is necessary to emphasis the verticality of the building and respond to the Ben Buckler Special Character Area.*

*(viii) The variation is necessary to allow for the 'proper construction and maintenance of buildings, including the protection of the health and safety of their occupants', being a stated Object of the Act (1.3(g) of the EP&A Act). In particular, the proposal seeks to alter and improve a building already deemed to be structurally inadequate, being subject to emergency order works and approved heritage exemption works. The proposed alterations and additions form part of a significant overhaul of the building aimed at securing its retention in the long-term.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is a sound justification as the existing building height already exceeds the standard, with no greater height variation proposed, and that the objectives of the height development standard and the zone are achieved, notwithstanding the non-compliance with the control.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. Despite the non-compliance, the proposal is consistent with the objectives of the height development standard and the zone. Further, the proposal is consistent with the Objectives of the Act.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height development standard are as follows:

- (a) *to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*

The building preserves the environmental amenity of neighbouring properties and public spaces and the sharing of views, as the proposal does not exceed the height of the existing building. Shadow diagrams and view loss analysis provided with the development application indicate that the proposal preserves the environmental amenity of neighbouring properties. In the case of visual and acoustic privacy impacts, the number of units is reduced from 10 to 4 and the number of balconies overall is reduced, therefore, improving the amenity to neighbouring properties.

- (d) *to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The site is located in the Ben Buckler Special Character Area, which outlines specific desired future character objectives and controls. The building's design responds to the desired future character of the area in that the rhythm of the building frontage and the existing building character of a boxy proportioned building and architectural elements is maintained. While the height does not comply, the further non-compliance is limited to the balcony frame and the existing building is retained which ensures its compatibility with the height, bulk and scale of the locality and its contribution to the physical definition of the street and public space.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*

The proposal will provide for the housing needs of the community by upgrading and enhancing the existing building, ensuring it has the capacity to survive beyond earlier expectations. While providing a reduced number of apartments (from 10 to 4), the apartments will have significantly improved amenity and provide housing stock that is suitable for the Bondi Beach market.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal will provide a variety of housing types within the building. The lower levels include a 4-bedroom 3-storey apartment, both a two and three bedroom apartment are accommodated on the middle levels and the top floor houses a one-bedroom penthouse with large terrace and pool.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not applicable.

- *To maximise public transport patronage and encourage walking and cycling.*

The proposal includes 3 car parking spaces. Walking and cycling is encouraged given that not every apartment will have access to a car parking space.

### Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the R3 Zone.

### **Floor Space Ratio**

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.9:1. The approved development has a FSR of 2.08:1 with a GFA of 811.4m<sup>2</sup>, which is a variation of 131.5%. The proposed development will reduce the approved FSR to 2.04:1, and therefore exceed the standard by 127%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The existing building's FSR is already in exceedance of the standard.*
  - (ii) *The reduction of 16.4sqm of GFA is a result of reconfiguration of the floor area within the building envelope and does not cause any increase in the bulk, scale or volume of the building.*
  - (iii) *In circumstances where the existing building is already well above the FSR control, it is unreasonable to require strict compliance with the control, particularly as there are no external cues to the additional floor area.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The ongoing but reduced variation facilitates the orderly and economic development, with improved amenity, safety and accessibility for the residents and an improved aesthetic contribution to the locality.*

*(ii) The nature of the existing FSR of the building being 131.5% over the control and the redistribution and recalculation that causes a decrease to 127% over the control, allow for the renovation of the building to make it consistent with the desired future character of Ben Buckler.*

*(iii) The proposal is consistent with the objectives of the FSR development standard and the objectives of the zone.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This justification is sound in that the existing building's FSR already exceeds the standard and the proposed works will reduce the FSR on site and are consistent with the objectives of the FSR development standard and the zone.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. Despite the non-compliance, the proposal is consistent with the objectives of the FSR development standard and the zone. Further, the proposal is consistent with the Objectives of the Act.

Is the development in the public interest

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

- (b) *to provide an appropriate correlation between maximum building heights and density controls,*

The existing building exceeds the height and FSR controls by 52.7% and 131.5% respectively. The proposal does not seek to increase the height of the existing building, and the amended proposal reduces the FSR non-compliance to 127%. Despite the non-compliances, the building does provide an appropriate correlation between maximum building heights and density controls.

- (c) *to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*

The proposed alterations to the building respond to the Ben Buckler Special Character Area and makes a positive contribution to the streetscape and Ben Buckler Headland when viewed from the public domain. The building maintains the rhythm of the street frontage and respects the existing building character of boxy proportioned buildings, architectural elements and a range of materials and finishes.

- (d) *to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The building preserves the environmental amenity of neighbouring properties and locality. The proposal results in a reduction of FSR and does not externally alter the building in a way that impacts the environmental amenity of neighbouring properties. The number of units is reduced from 10 to 4 which will improving the amenity to neighbouring properties.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*

The proposal will provide for the housing needs of the community by upgrading and enhancing the existing building, ensuring it has the capacity to survive beyond earlier expectations. While providing a reduced number of apartments (from 10 to 4), the apartments will have significantly improved amenity and provide housing stock that it suitable for the Bondi Beach market.

- *To provide a variety of housing types within a medium density residential environment.*

The proposal will provide a variety of housing types within the building. The lower levels include a 4-bedroom 3-storey apartment, both a two and three bedroom apartment are accommodated on the middle levels and the top floor houses a one-bedroom penthouse with large terrace and pool.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Not applicable.

- *To maximise public transport patronage and encourage walking and cycling.*

The proposal includes 3 car parking spaces. Walking and cycling is encouraged given that not every apartment will have access to a car parking space.

### Conclusion

For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the FSR development standard and the R3 Medium Density Residential zone.

#### 2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	Satisfactory.
2. Ecologically Sustainable Development	Yes	Satisfactory.
3. Landscaping and Biodiversity	Yes	Satisfactory.
4. Coastal Risk Management	Yes	Satisfactory.
6. Stormwater	Yes	Satisfactory.
7. Accessibility and Adaptability	Yes	Satisfactory
8. Transport Zone 2 Minimum parking rate: • 0 Maximum parking rate: • 1.0 / 1-bed unit • 1.2 / 2 bed unit • 1.5 / 3+ bed unit	No	The proposal provides for 3 car spaces. Their design and location are satisfactory.  However, the 3 car parking spaces are allocated to Unit 1 (the 4-bedroom unit occupying the lower levels). The allocation of 3 car parking spaces to Unit 1 results in an exceedance in the maximum car parking rate under Clause 8.2.2. It is recommended that 2 car parking spaces remain allocated to Unit 1, and 1 car parking space be

Development Control	Compliance	Comment
Visitor parking: <ul style="list-style-type: none"> <li>1 space per 5 units</li> </ul> Motorcycle parking: <ul style="list-style-type: none"> <li>Resident: 1</li> </ul> Bicycle parking: <ul style="list-style-type: none"> <li>Resident: 4</li> </ul>		<p>allocated to Unit 3 (3-bedroom unit). A condition has been recommended.</p> <p>The proposal does not include visitor, motorcycle or bicycle parking. Clause 8.2.3 allows for variations to parking rates where it can be demonstrated that the requirement cannot be reasonably achieved. In this case, the site and building constraints are justification to vary the parking rates in that visitor, motorcycle and bicycle parking are not provided.</p> <p>The proposal results in a reduction from 10 to 4 apartments, with a net increase of 3 car parking spaces (there is no existing car parking on site). It is therefore considered that the development is unlikely to create significant additional demand for on-street car parking.</p>
9. Heritage	Yes	Satisfactory.
10. Safety	Yes	Satisfactory.
12. Design Excellence	Yes	Satisfactory.
14. Excavation	No	<p>The proposal includes excavation within 900mm of side boundaries, which does not comply with B14 (I), however it is within the building footprint and does not add to the visual bulk and scale to the building.</p> <p>The excavation is supported by a Geotechnical Report which forms part of the approved documents in the recommended conditions.</p>
16. Public Domain	Yes	Satisfactory.

**Table 5: Waverley DCP 2012 – Part C1 – Special Character Areas**

Development Control	Compliance	Comment
<b>1.3 Ben Buckler</b>		
Desired Future Character Objectives <ul style="list-style-type: none"> <li>Maintain Landscape Character</li> <li>Maintain rhythm of buildings to the street</li> <li>Allow ocean glimpses through side setbacks</li> <li>Respect character and architectural elements</li> <li>View Sharing</li> </ul>	Yes	<p>The proposal achieves the objectives in that the building frontage is maintained and the proposed works respect and will enhance the form and architectural elements of the existing building.</p> <p>The proposal maintains the existing setbacks to allow for ocean glimpses through the side setbacks.</p>



Development Control	Compliance	Comment
Controls <ul style="list-style-type: none"> <li>Side setbacks are to be clear to allow views</li> <li>Rendered and painted finish is appropriate</li> </ul>	Yes	The proposal maintains the existing side setbacks to allow for views from the public domain.  The amended proposal includes a rendered and painted finish.

**Table 6: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.2 Height</b>		
<ul style="list-style-type: none"> <li>Maximum external wall height: R3/9.5m</li> </ul>	No	The proposal does not seek to alter the existing wall heights of the building.  The significant slope of the site results in the existing building being non-compliant. The front of the building has an external wall height of 10.12m, the rear of the building has a wall height of 19.09m.
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> <li>Removal of original architectural features not supported.</li> </ul>	Yes	The existing façade is maintained and the proposed works are sympathetic to the original external finishes. The proposed rendered and painted finish is consistent with the Ben Buckler Special Character Area.  The proposed balconies are sympathetic and do not detract from the existing building design.
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level and respond to pattern within the street</li> <li>Accessible entry</li> <li>Separate to vehicular entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	The entry to the building responds to the pattern within the street and is legible and safe.
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>Comply with part B3-Landscaping and Biodiversity</li> <li>Minimum of 30% of site area landscaped: 116.82m<sup>2</sup></li> </ul>	No	There is currently no landscaping on site and given the existing building and site constraints, there is limited opportunity for landscaping onsite. The non-compliance is considered acceptable.  The proposal does include planters within the architecture of the building, namely along the lower ground floor balcony fronting the beach, in

Development Control	Compliance	Comment
		some areas along the side setback and on the roof terrace for Unit 4.
<b>3.10 Communal open space</b>		
<ul style="list-style-type: none"> <li>• Minimum 15% communal (R3 zone)</li> </ul>	No	There is no communal open space provided on site. The DEAP suggested that a portion of the roof terrace be dedicated as communal open space, however this is not considered necessary given the proximity to Bondi Beach and reserves within the immediate surrounding area. In addition, the balconies provide significant amenity and views to each apartment.
<b>3.12 Vehicular access and parking</b>		
<ul style="list-style-type: none"> <li>• Car parking to be integrated into the design of the development</li> <li>• Max 1 x 2 way vehicle access point</li> <li>• Provided from secondary street or lane</li> <li>• Pedestrian safety considered</li> </ul>	Yes	The proposal provides an at grade car parking garage with double width roller door. Given the battle-axe arrangements, there is only one access driveway provided. Separate pedestrian entry is provided.
<b>3.14 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> <li>• Views from public spaces to be maintained</li> </ul>	Yes Yes	The proposal is within the existing building envelope and therefore does not impact views from neighbouring properties or the public domain.
<b>3.15 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>• Dwellings to be orientated to the street with entrances and street numbering visible</li> <li>• Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> </ul>	Yes	The proposal reduces the number of apartments and minimises window and Juliette balcony openings on the side elevations, therefore increasing visual privacy for neighbouring residents.
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>• Services are to be integrated into the design of buildings (garbage</li> </ul>	Partial	Services are integrated into the design of the building on Lower Ground Floor 1. It is on the southern side of the building, away from the

Development Control	Compliance	Comment
rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures <ul style="list-style-type: none"> <li>Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>Outdoor Communal clothes drying area to be provided</li> </ul>		communal entrance lobby and is not in close proximity to bedrooms or private open space.  There is no outdoor communal clothes drying area provided. Given the site constraints and that each apartment is afforded a balcony, this non-compliance is considered acceptable.

**Table 7: Waverley DCP 2012 –E2 Bondi Beachfront Area Compliance Table**

Development Control	Compliance	Comment
<b>2.1 General Controls</b>		
2.1.1 Public Domain Interface	Yes	The building has a well-defined entry.
2.1.2 Building Use	Yes	The building is wholly residential uses.
2.1.3 Built Form	Yes	The existing building form and scale is retained. The proposal is sympathetic to and reinforces the prevailing street pattern.
2.1.4 Roofs	Yes	The existing roof form is retained. The proposed roof terrace for Unit 4 has a retractable sliding glass roof to provide a portion that can be open to the sky. The glass roof follows the roof plane. It is not visible from the front of the building but may be visible from Bondi Beach. It does not detract from the overall appearance of the building.
2.1.5 Views	Yes	The proposal retains the view corridors from the public domain and does not impact on existing views.
2.1.6 Heritage conservation	Yes	The site is located in a heritage conservation area. The proposal maintains the built form and proportions of the existing building and complements neighbouring buildings. Following comments from Council’s Heritage Advisor, the proposal has been amended to include a rendered and painted finish in a peach colour (as opposed to off-form concrete as originally proposed).

Development Control	Compliance	Comment
<b>2.2 Character Areas – Ramsgate Ave East</b>		
(a) Maintain the residential character of the area	Yes	The residential use of the building is retained.
(b) Maximum height of 3 storeys fronting Ramsgate Street. Additional storeys permitted where the topography permits	Yes	The building is 3 storeys at the street frontage. The significant fall in the site allows for 6 storeys to the coastline, which is consistent with this control.
(c) Setbacks	Yes	The existing setbacks are maintained
(d) New facades to be rendered masonry with vertical expression.	Yes	The existing built form and street wall is retained. The architectural detailing provides vertical expression, particularly the balcony detailing fronting Bondi Beach. The amended proposal is rendered and painted, which is consistent with the area.
(e) Maintain the existing character of the area	Yes	The existing built form is maintained, and the proposed façade works are consistent with the character of the conservation area.
(f) Fenestrations must have a vertical proportion	Yes	The fenestrations have vertical proportions.
(g) Balustrades and balconies fronting the coastline must be predominantly solid with no glazing.  Multiple balconies must be arranged with a vertical expression.  Balconies along the coastline must be recessed into the building envelope and should not project in front of the principal façade.	Yes  Yes  No	The balconies are rendered and painted.  The architectural detailing of the balconies with the rendered vertical structure assists in the building presenting with a vertical expression to the coastline.  The balconies along the coastline are not recessed into the building, however, they were approved under a previous consent and are considered acceptable.
(h) External sun shading must be consistent with the building	N/A	External sun shading is not proposed.

Development Control	Compliance	Comment
(i) Lift motor rooms and plant rooms are to be designed into the architectural form	Yes	There is no plant equipment on the roof. It has been incorporated into the building.
(j) Façade colours to be consistent with Annexure E2-1	Yes	The peach paint colour and concrete finish with sandstone are consistent with the Colours in Annexure E2-1
(k) Awnings are not permitted	Yes	Awnings are not proposed.
(l) Parking at ground level discouraged. It should not be visible from the street or public place	No	Car parking is provided at grade. However, it is not visible from Ramsgate Avenue or a public place. It is accessible via the right of way driveway.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

## 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified 14 days from 13 to 27 October 2021 in accordance with the *Waverley Community Development Participation and Consultation Plan*. No submissions were received.

Following receipt of amended plans and additional information, the application was not renotified as the amended form of the proposal represents a lesser impact than that of the original form that was publicly notified because there was no change to the building envelope and a reduction in apartments.

## 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Waste Management

The referral comments did not raise objection to the application, subject to standard conditions of consent being imposed.

### 3.2. Fire Safety

The referral comments did not raise objection to the application, subject to standard conditions of consent being imposed.

### 3.3. Land information / GIS

The referral comments did not raise objection to the application, subject to a standard condition of consent being imposed.

### 3.4. Traffic and Development

The referral comments did not raise objection to the application, subject to standard conditions of consent being imposed.

Notwithstanding there was no objection raised, the assessing officer maintains that only two car parking spaces should be allocated to Unit 1, and one car parking space be allocated to Unit 3. This ensures that the parking is allocated in a way that does not exceed the maximum parking rates under WDCP Part B8.

### 3.5. Public Domain and Stormwater

Council's Engineer raised concern with the application, particularly with regards to Coastal and Geotechnical Assessment and Management. These comments were provided to the applicant who submitted additional information. The application was re-referred to the Public Domain team who have raised no objection, subject to the imposition of conditions which have been included in the attached recommended conditions of consent.

### 3.6. Heritage

The referral comments raised objection to the application. However, it is noted that many of the objections raised relate to elements of the proposal that have already been approved by the previous consents. A summary is provided below.

Heritage Advisor's referral	Planner's comment
- The proposed works appear to project into the ramped area of the Bondi Fishing Club, the interface of the southeast supporting column and the ramp located within the ramp pavement. A compromise solution should be provided ensuring ongoing functioning of the ramp	- The works are fully contained within the subject site.
- No additional projections into the western side passage are supported, these having a detrimental	- There are no projections into the side passage proposed. The view slots are

<p>impact on the narrow view slots between the ocean front buildings and those to the rear. [north]. These view slots are a key aspect of the development from the Inter- War period. The proposed awning and any aspect of the extension to the lower ground floors impacting on the view down the site to the water and rock shelf is not supported. These items should be deleted due to impact on the contributory value of the building, and it's set out to the Conservation Area.</p>	<p>maintained. The proposal includes excavation at a level lower than the building frontage and within the existing building footprint. The extension of the lower ground floors into the side setback was approved under the parent consent.</p>
<p>- The proposed replacement of the sand colour finish to the balcony columns in favour of off form concrete is not supported the long history of failure of this finish in the aggressive marine environment is both well documented and evident in staining and concrete cancer of both old and recent buildings in the locality.</p>	<p>- The applicant has since amended the proposal, replacing the off-form concrete with render and a high build paint spec in a peach colour. The amendments also include a Cathodic Protection to the steel structure, and stainless steel and galvanised reinforcement installed to prevent corrosion.</p> <p>- The colour scheme is consistent with the colour guide in WDCP Part E2 Annexure E2-1.</p>
<p>- The extension of the concrete frame proposed to the south elevation above the top floor level is likely to be followed by application for a roof, this further impacting on interpretation of the building elevation from the bay and from Bondi Beach. The extended frame is not supported unless a covenant is implement preventing future introduction of a roof or other enclosure [pergolas, glass screens etc to the top, front and sides of the frame.</p>	<p>- The notion of anticipating a future application for work (or indeed unauthorised work) is not reason enough to refuse the architectural detailing around the balconies.</p> <p>- The introduction of a roof or enclosures cannot be exempt development and would require development consent. Should consent be sought for a roof or enclosures in the future, it will be assessed on its own merit at that time.</p> <p>- There is no objection raised to the façade works as they are currently proposed. Therefore it is recommended for approval.</p>

#### 4. CONCLUSION

The development application seeks consent for an amending development application to the approved alterations and additions to the residential flat building at the site known as 107 Ramsgate Avenue, NORTH BONDI.

The principal issues arising from the assessment of the application are as follows:

- Height exceeds the development standard;
- Floor space ratio exceeds the development standard, albeit reducing from the approved;

- Car parking.

The assessment finds these issues acceptable. No submissions were received.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of consent.

*Development and Building Unit (DBU) Decision:*

The application was reviewed by the DBU and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara and B Matlawski*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Emma Finnegan	Bridget McNamara
<b>Senior Development Assessment Planner</b>	<b>Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 5 May 2022</b>	<b>Date: 10 May 2022</b>

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%



## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

- (a) Architectural Plans prepared by Architects Nicholas + Associates of Project No: BHA2003 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA000 Rev C	Cover Page and schedule of finishes	16/02/2022	17/02/2022
DA003 Rev B	Site plan	20/09/2022	28/09/2022
DA020 Rev C	Proposed lower ground floor 3	16/02/2022	17/02/2022
DA021 Rev C	Proposed lower ground floor 2	16/02/2022	17/02/2022
DA022 Rev C	Proposed lower ground floor 1	16/02/2022	17/02/2022
DA023 Rev C	Proposed ground floor	16/02/2022	17/02/2022
DA024 Rev C	Proposed first floor	16/02/2022	17/02/2022
DA025 Rev C	Proposed second floor	16/02/2022	17/02/2022
DA026 Rev C	Proposed roof plan	16/02/2022	17/02/2022
DA150 Rev C	Proposed north elevation	16/02/2022	17/02/2022
DA151 Rev C	Proposed south elevation	16/02/2022	17/02/2022
DA152 Rev C	Proposed east elevation	16/02/2022	17/02/2022
DA153 Rev C	Proposed west elevation	16/02/2022	17/02/2022
DA160 Rev C	Proposed section AA	16/02/2022	17/02/2022
DA161 Rev C	Proposed section BB	16/02/2022	17/02/2022
DA162 Rev C	Proposed section CC	16/02/2022	17/02/2022
DA163 Rev C	Proposed section DD	16/02/2022	17/02/2022
DA560 Rev B	Detail south elevation – sea wall	16/02/2022	17/02/2022

- (b) BASIX and NatHERs Certificate/s
- (c) Geotechnical Report and documentation prepared by JK Geotechnics Ref: 33711L dated 4 December 2020, and received by Council on 28 September 2021.
- (d) Geotechnical Advice and Risk Assessment prepared by JK Geotechnics Ref: 33711LCletC dated 27 November 2021, and received by Council on 17 February 2022.
- (e) Additional Coastal Engineering Advice prepared by Horton Coastal Engineering dated 14 January 2022, and received by Council on 17 February 2022.
- (f) Letter of Support prepared by Weir Phillips Heritage and Planning dated 9 December 2020, and received by Council on 218 September 2021
- (g) BCA Assessment Report and documentation prepared by Building Control Group Ref. 210235 dated 16 September 2021, and received by Council on 28 September 2021
- (h) Access Review prepared by Morris Goding Access Consulting dated 16 December 2020, and received by Council on 28 September 2021.

- (i) Structural Adequacy Certificate dated 19 November 2020 and drawing numbers S1.00, S1.01 and S2.00 all Rev 1, dated 6 October 2020, prepared by Geoff Ninnes Fong & Partners Pty Ltd and received by Council on 28 September 2021.
- (j) The Site Waste and Recycling Management Plan (SWRMP) Part 1

Except where amended by the following conditions of consent.

## **2. PUBLIC AREAS AND RESTORATION WORKS**

Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas due to construction activities must be made safe to the general public and be regarded as a high level priority. This includes, but not limited to works performed for the purpose of connection/s to public utilities, including repairs of damaged infrastructure. Should Council discover any unsafe construction activities within the public areas surrounding the development, the works must be resolved immediately to the satisfaction of Council.

## **3. GEOTECHNICAL RISK MANAGEMENT**

The following geotechnical risk management measures must be followed:

- a) The Applicant to comply with *Waverley Council Development Control Plan, Coastal Risk Management Policy*, and *Waverley Risks and Hazards Vulnerability Study Part 1 and Part 2, Reference No.301015-02526-CS-REP-0001, dated December 2011*.
- b) A qualified Geotechnical Engineer and/or Structural Engineer must be engaged to review the full detailed design including the temporary and permanent excavation, and shoring support systems. This review and findings must be submitted to the Principle Certifying Authority and Council outlining methodology in undertaking excavation works is suitable in this application.
- c) Prior to construction certificate, a qualified Geotechnical Engineer must be engaged to review the structural compatibility and construction methodology. Any proposed excavations shall be undertaken with minimal vibration methods. This review shall be approved by the Principle Certifying Authority and submitted to Council's Infrastructure Services Department for records.
- d) The recommendations set out in the Additional Coastal Engineering Advice on 107 Ramsgate Avenue North Bondi prepared by Horton Coastal Engineering, Reference No. Irj0479, dated 14/1/22 must be addressed in the detailed design documentation and followed through the demolition, construction and post occupation stages.
- e) The recommendations set out in the Geotechnical Advice and Risk Assessment prepared by JK Geotechnics Pty Ltd, Reference No. 33711LClet2, dated 27/11/21 must be addressed in the detailed design documentation and followed through the demolition, construction and post occupation stages.

## **4. PRE-DEMOLITION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-demolition dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter

- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure.

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

## 5. MULTI UNIT HOUSING DEVELOPMENT DESIGN (SEPP 65 DEVELOPMENT)

The approved design (including any element or detail of that design) or materials, finish or colours of the building must not be changed without the written approval of Council.

## B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

### GENERAL REQUIREMENTS

#### 6. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- Council is given at least two days' notice in writing of the intention to commence the building works.

### CONTRIBUTIONS, FEES & BONDS

#### 7. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

(b) As legislated in section 25K of the Environmental Planning and Assessment Regulation 2000, the levy must be paid in accordance with the following;

- (i) A development valued at \$100,000 or less will be exempt from the levy;
- (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **8. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of \$94,300 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **9. LONG SERVICE LEVY**

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **PLAN DETAILS**

### **10. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION (SEPP 65 BUILDINGS)**

The preparation of the construction certificate plans shall be supervised and be to the satisfaction of an architect who is registered in accordance with the *Architects Act 2003* (i.e. a qualified designer) in accordance with the requirements of the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

In accordance with the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification statement from a qualified designer which verifies that the construction certificate plans and specifications achieve or improve the design quality of the development for which development

consent was granted, having regard to the design quality principles set out in *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development*.

## **CONSTRUCTION & SITE MATTERS**

### **11. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **12. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **13. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **14. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **15. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS**

Evidence is to be provided to the Principal Certifier that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

## TRAFFIC MANAGEMENT

### **16. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## STORMWATER & FLOODING

### **17. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

### **18. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

## ENERGY EFFICIENCY & SUSTAINABILITY

### **19. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

## WASTE

### **20. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

## **21. WASTE STORAGE AREAS**

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins for the residential and/or commercial components of the development;

- **Residential**
  - 2 Mobile Garbage Bins (MGBs) for general waste
  - 2 MGBs for paper and cardboard recycling
  - 2 MGBs for container recycling

All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

## **22. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### **DEMOLITION**

## **23. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials

Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### **24. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### **25. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

#### **26. EXCAVATION AND BACKFILLING**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

### **CONSTRUCTION MATTERS**

#### **27. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.



Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

## **28. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

## **29. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

## **30. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

## **31. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

## **32. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

## **33. ESSENTIAL SERVICES - EXISTING BUILDING**

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

### **34. FIRE SAFETY UPGRADING WORKS**

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):
- (i) Fire resistance and stability – Part C1;
  - (ii) Compartmentation and separation – Part C2;
  - (iii) Protection of openings – Part C3
  - (iv) Provision for escape – Part D1;
  - (v) Construction of exits – Part D2;
  - (vi) Fire fighting equipment – Part E1;
  - (vii) Smoke hazard management – Part E2;
  - (viii) Lift installations – Part E3;
  - (ix) Emergency lighting, exit signs and warning systems – Part E4;
  - (x) Sanitary and other facilities – Part F2;
  - (xi) Room heights – Part F3;
  - (xii) Light and ventilation – Part F4; and
  - (xiii) Sound transmission and insulation - Part F5.
- b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, a performance solution in accordance with Part A2 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 4.55 of the Act to be lodged with Council to amend this consent.
- d) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

### **VEHICLE ACCESS & PUBLIC DOMAIN WORKS**

#### **35. RECONSTRUCT VEHICLE CROSSING**

The existing vehicle crossing is to be demolished and a new crossing constructed to provide access to the garage. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

#### **36. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

#### **37. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

#### **38. CERTIFICATION OF APPROVED DESIGN**

In accordance with the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate, to authorise a person to commence occupation or use of the development unless it has received a design verification statement from an architect who is registered in accordance with the Architects Act 2003 (i.e. qualified designer) that verifies that the building achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

#### **39. CERTIFICATION OF STORMWATER SYSTEM**

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

#### **40. COUNCIL PUBLIC INFRASTRUCTURE**

Prior to the issue of any Occupation Certificate, a Compliance Certificate shall be obtained from Council's Infrastructure Services Department confirming any affected Councils infrastructure as the result of construction activities within the public domain area including stormwater, stormwater outlet/s, kerb and gutter, road pavement, pedestrian footpath, grass verges and vehicle crossover within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual and Development Control Plan.

## VEHICLE ACCESS AND PARKING

### 41. CAR PARKING

Car parking spaces are to be allocated with the rates specified in the DCP, with no more than 2 spaces allocated to any residential unit. All car spaces are to be appropriately signposted and parked. Unit 1 is to be allocated a maximum of 2 car parking spaces.

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

### 42. STREET NUMBER/S

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. Should the number be fixed to an awning then it shall be a minimum 150mm high.

### 43. ALLOCATION OF STREET NUMBER

The redevelopment or subdivision of the property requires the allocation of street numbers as follows:

- No. 107 for the primary address site number;
- Ramsgate Avenue primary address location

The following sub-addressing will apply:

- Nos. 1-4 for the residential sub-address sites within the building correlating with Nos. 1-4 on the floor plans for the building.
- The address number for a sub-address site shall not consist of the primary address number on its own.
- The address number for a sub-address site shall not consist of the primary address number with an alpha suffix.
- Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.
- The primary and sub-address numbers are to be positioned on the site prior to the issue of the Subdivision/Occupation Certificate.

Any variation to the above street numbering requires a new application to be lodged with Council.

## E. OPERATIONAL MATTERS

### 44. ADJUSTMENTS TO STREET SIGNS

Any street signs required to be removed as a result of the works shall be relocated at the applicant and/or owner's expense in accordance with Council's requirements.

## ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### **AD2. SYDNEY WATER REQUIREMENTS**

You may be required to submit your plans to the appropriate Sydney Water office to determine whether the development will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements.

Contact Sydney Water for more information.

#### **AD3. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD4. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or

impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

**AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD6. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD7. BUILDING TO BE WRAPPED**

The applicant is encouraged to investigate possibilities of extracting an image of the completed building onto the hoarding and mesh surrounding the site during the demolition and construction stages of the development to minimise the visual intrusion of what is otherwise a large single coloured mesh 'block' during this time. Any advertising on the hoarding requires Council's written approval.

**AD8. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.

# AMENDING DEVELOPMENT APPLICATION

107 RAMSGATE AVENUE, NORTH BONDI, NSW, 2026



DWG NO	DRAWING DESCRIPTION	REV	DATE
DA000	COVER PAGE	C	16.02.2022
DA001	SITE CONTEXT	B	20.09.2021
DA002	CONTEXT	B	20.09.2021
DA003	SITE PLAN	B	20.09.2021
DA004	SITE PLAN - EXIT PATH OF TRAVEL	A	20.09.2021
DA005	BASIX REQUIREMENTS	B	20.09.2021
DA006	SITE PLAN - WASTE MANAGEMENT	A	20.09.2021
DA010	PERSPECTIVES	C	16.02.2022
DA020	PROPOSED LOWER GROUND FLOOR 3	C	16.02.2022
DA021	PROPOSED LOWER GROUND FLOOR 2	C	16.02.2022
DA022	PROPOSED LOWER GROUND FLOOR 1	C	16.02.2022
DA023	PROPOSED GROUND FLOOR	C	16.02.2022
DA024	PROPOSED FIRST FLOOR	C	16.02.2022
DA025	PROPOSED SECOND FLOOR	C	16.02.2022
DA026	PROPOSED ROOF PLAN	C	16.02.2022
DA100	CROSS VENTILATION PLANS	C	16.02.2022
DA101	CROSS VENTILATION PLANS	C	16.02.2022
DA102	SOLAR ACCESS PLANS	C	16.02.2022
DA103	SOLAR ACCESS PLANS	C	16.02.2022
DA150	PROPOSED NORTH ELEVATION	C	16.02.2022
DA151	PROPOSED SOUTH ELEVATION	C	16.02.2022
DA152	PROPOSED EAST ELEVATION	C	16.02.2022
DA153	PROPOSED WEST ELEVATION	C	16.02.2022
DA160	PROPOSED SECTION AA	C	16.02.2022
DA161	PROPOSED SECTION BB	C	16.02.2022
DA162	PROPOSED SECTION CC	C	16.02.2022
DA163	PROPOSED SECTION DD	C	16.02.2022
DA300	GFA CALCULATION - EXISTING	B	20.09.2021
DA301	GFA CALCULATION - EXISTING	B	20.09.2021
DA302	GFA CALCULATION - PROPOSED	C	16.02.2022
DA303	GFA CALCULATION - PROPOSED	C	16.02.2022
DA304	PRIVATE OPEN SPACE CALCULATION - PROPOSED	B	20.09.2021
DA305	PRIVATE OPEN SPACE CALCULATION - PROPOSED	B	20.09.2021
DA560	DETAIL SOUTH ELEVATION - SEA WALL	B	16.02.2022
DA700	EXISTING SHADOW PLAN - JUNE 21 - 9AM	B	20.09.2021
DA701	EXISTING SHADOW PLAN - JUNE 21 - 12PM	B	20.09.2021
DA702	EXISTING SHADOW PLAN - JUNE 21 - 3PM	B	20.09.2021
DA703	PROPOSED SHADOW PLAN - JUNE 21 - 9AM	B	20.09.2021
DA704	PROPOSED SHADOW PLAN - JUNE 21 - 12PM	B	20.09.2021
DA705	PROPOSED SHADOW PLAN - JUNE 21 - 3PM	B	20.09.2021
DA800	VIEWS FROM SUN - JUNE 21 - 9AM/10AM	B	20.09.2021
DA801	VIEWS FROM SUN - JUNE 21 - 11AM/12PM	B	20.09.2021
DA802	VIEWS FROM SUN - JUNE 21 - 1PM/2PM	B	20.09.2021
DA803	VIEWS FROM SUN - JUNE 21 - 3PM	B	20.09.2021
DA850	VIEW SHARING ANALYSIS FROM NO.101	B	20.09.2021
DA851	VIEW SHARING ANALYSIS FROM NO.109	B	20.09.2021
DA852	VIEW SHARING ANALYSIS FROM NO.111	B	20.09.2021

**GENERAL NOTES**

The copyright of this design remains the property of AN+A. This design is not to be used, copied, or reproduced without the authority of AN+A. Do not scale from drawings. Confirm dimensions on site prior to the commencement of works. Where a discrepancy arises seek direction prior to proceeding with the works. This drawing is only to be used by the stated Client in the stated location for the purpose it was created. Do not use this drawing for construction unless designated.

**COORDINATION**

Where applicable refer to and coordinate information contained in the architectural drawings, and the documentation of other consultants. Notify discrepancies between architectural and/or other consultant's documentation for direction prior to proceeding with the affected part of the works.

**SPECIFICATIONS AND SCHEDULES**

Where applicable refer to and coordinate with relevant specifications and schedules. Written specifications and schedules take precedence to the extent of any discrepancy. Notify discrepancies between documents for direction prior to proceeding with the affected part of the works.

**DETAIL DRAWINGS**

Unless noted otherwise, refer to detail drawings for set-out information. Drawings at larger scales take precedence over drawings at smaller scales to the extent of any discrepancy. Notify discrepancies for direction prior to proceeding with the affected part of the works. **EXECUTIVE OF THE WORKS (STANDARD)**  
Execute the works in compliance with the current edition of the Building Code of Australia (as amended), current editions of relevant Australian and other applicable published Standards and the relevant requirements of Local and Statutory Authorities.

**UNITS OF MEASUREMENT**

Unless otherwise noted:  
-Dimensions are shown in millimetres; and  
-Levels are shown in metres

**TO DETAIL**

Where a notation refers to an item as "...to detail" the applicable item is to be in accordance with the relevant Architect's detail.

**MATERIALS HANDLING AND STORAGE**

Unless noted otherwise material, fixtures and fittings are to be handled, stored and installed in accordance with the Manufacturer's current written instructions.

**STRUCTURE**

Foundations, footings, reinforced concrete, slabs, retaining walls, framing, bracing, tie-down and other structural elements are to be designed and constructed in accordance with the Structural Engineer's details and specifications.

**HYDRAULICS**

Stormwater drainage, waste water drainage, fresh water, gas supply and other hydraulic services are to be designed and constructed in accordance with the Local Authority, Statutory Authority, Hydraulic and/or Civil Works Consultant's requirements.

**EROSION & SEDIMENT CONTROL**

Apply erosion and sediment control measures in accordance with the Local Authority and, where applicable, Hydraulic or Civil Works Consultant's requirements to avoid erosion, sedimentation and/or contamination of the site, surrounds and stormwater drainage system. Apply measures to ensure that the site remains free of water and to prevent water flow over the new work. Erosion & sediment control measures are to be effective from commencement of the works (including demolition) and maintained throughout the course of the works until the site is fully stabilised.

**SERVICES (EXISTING & PROPOSED)**

Confirm location of existing under and above-ground services and coordinate with the relevant service authority to ensure that services are handled in accordance with the relevant authorities instructions prior to commencement of demolition, excavation and/or construction works.

**LEVELS**

Levels shown are consistent with the datum and benchmarks shown on the associated detail survey. In most instances the surveyed levels will be indicated relative to Australian Height Datum. However the existing site levels and datum are to be confirmed on site with the reference to the site survey documents.

**FALLS**

Finish surfaces typically to fall as required to facilitate effective drainage.

**INTERPRETATION**

"Provide" means to supply and install.  
"Required" means required by the contract documents or by the Local or Statutory Authorities.  
"Proprietary" means identifiable by naming the manufacturer, supplier, installer, trade name, brand name, and catalogue or reference number.

**AMENDED PLANS**

COBBLE SOTNE - DRIVEWAY



COBBLE SOTNE - WALKWAY



SEAWALL - 50 MPA SANDSTONE



WALL RENDER - PEACH COLOUR



PEDISTAL PAVER - BALCONIES



CONCRETE FINISH



ZINC ROOF, GUTTERS & DOWNPIPES



# AMENDED PLANS

RECEIVED  
 Waverley Council  
 Application No: DA-403/2021  
 Date Received: 17/02/2022



PROPOSED - RAMSGATE AVENUE



PROPOSED - VIEW FROM WATER

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A	02.12.2020	FOR DA
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FSL 00.00	FINISHED STRUCTURAL LEVEL		EXISTING TO BE RETAINED
+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		CC APPROVED WORKS SHOWN YELLOW
	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE

KEY:

ARCHITECTS  
 NICHOLAS +  
 ASSOCIATES

6/1 MARYS PLACE  
 SURRY HILLS  
 NSW 2010  
 T + 61 2 8353 9500  
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DRAWING NO:	ISSUE NO:	JOB NO:
DA010	C	BHA2003
AMENDING DA		

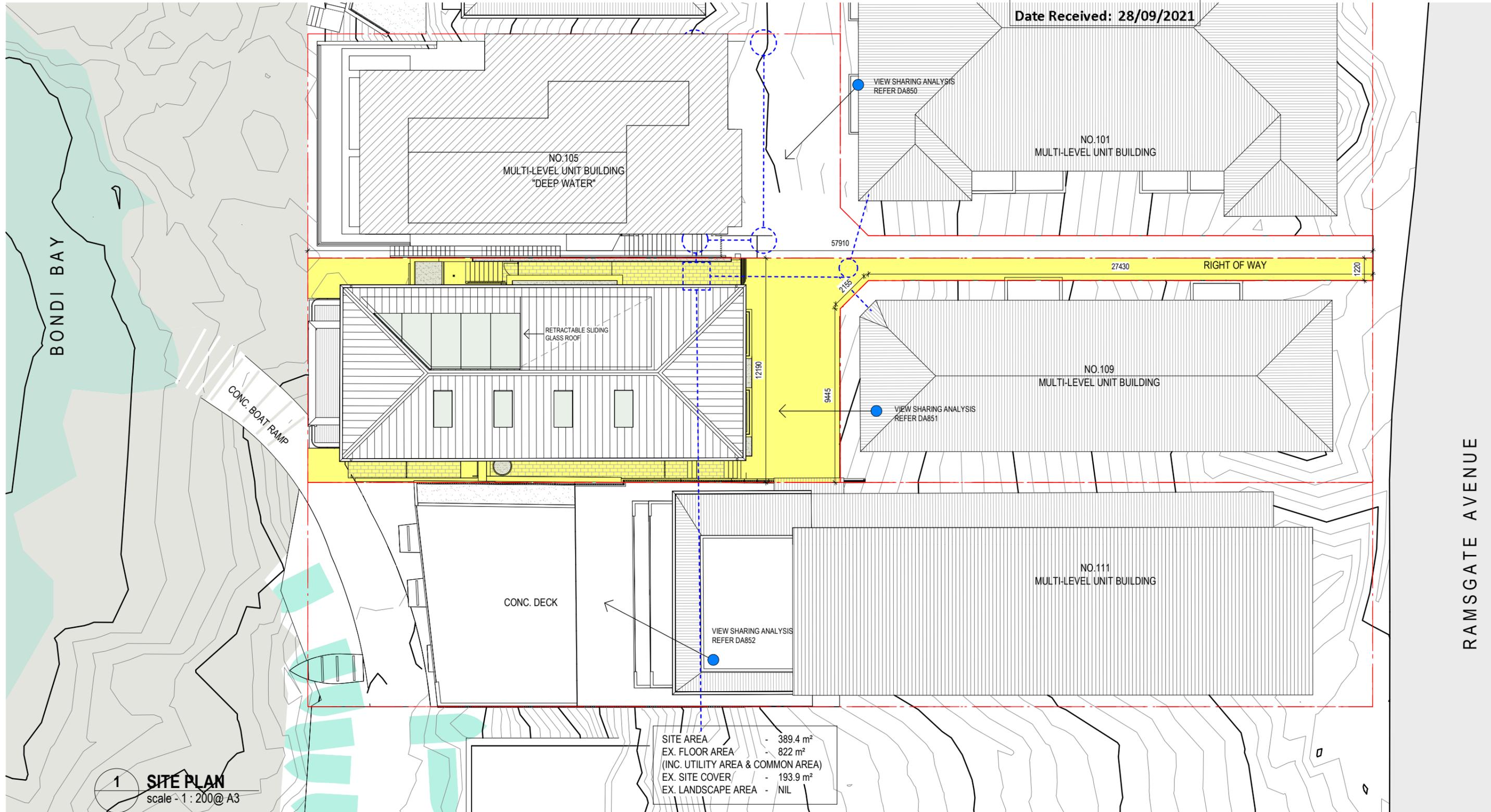


NOMINATED ARCHITECT  
 PATRICK NICHOLAS  
 NSW 6672

DRAWING TITLE:  
 PERSPECTIVES

PROJECT NAME:  
 BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
 NORTH BONDI, NSW, 2026  
 CLIENT:  
 SP 5170 / DP 341546





**1 SITE PLAN**  
scale - 1 : 200 @ A3

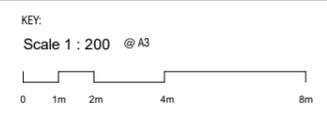
SITE AREA	- 389.4 m <sup>2</sup>
EX. FLOOR AREA	- 822 m <sup>2</sup>
(INC. UTILITY AREA & COMMON AREA)	
EX. SITE COVER	- 193.9 m <sup>2</sup>
EX. LANDSCAPE AREA	- NIL

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		CC APPROVED WORKS SHOWN YELLOW
	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE

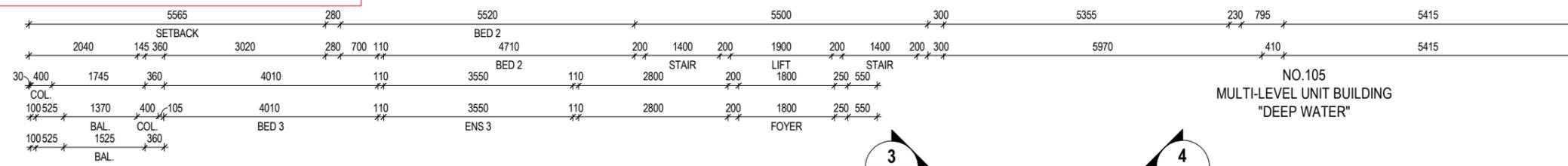


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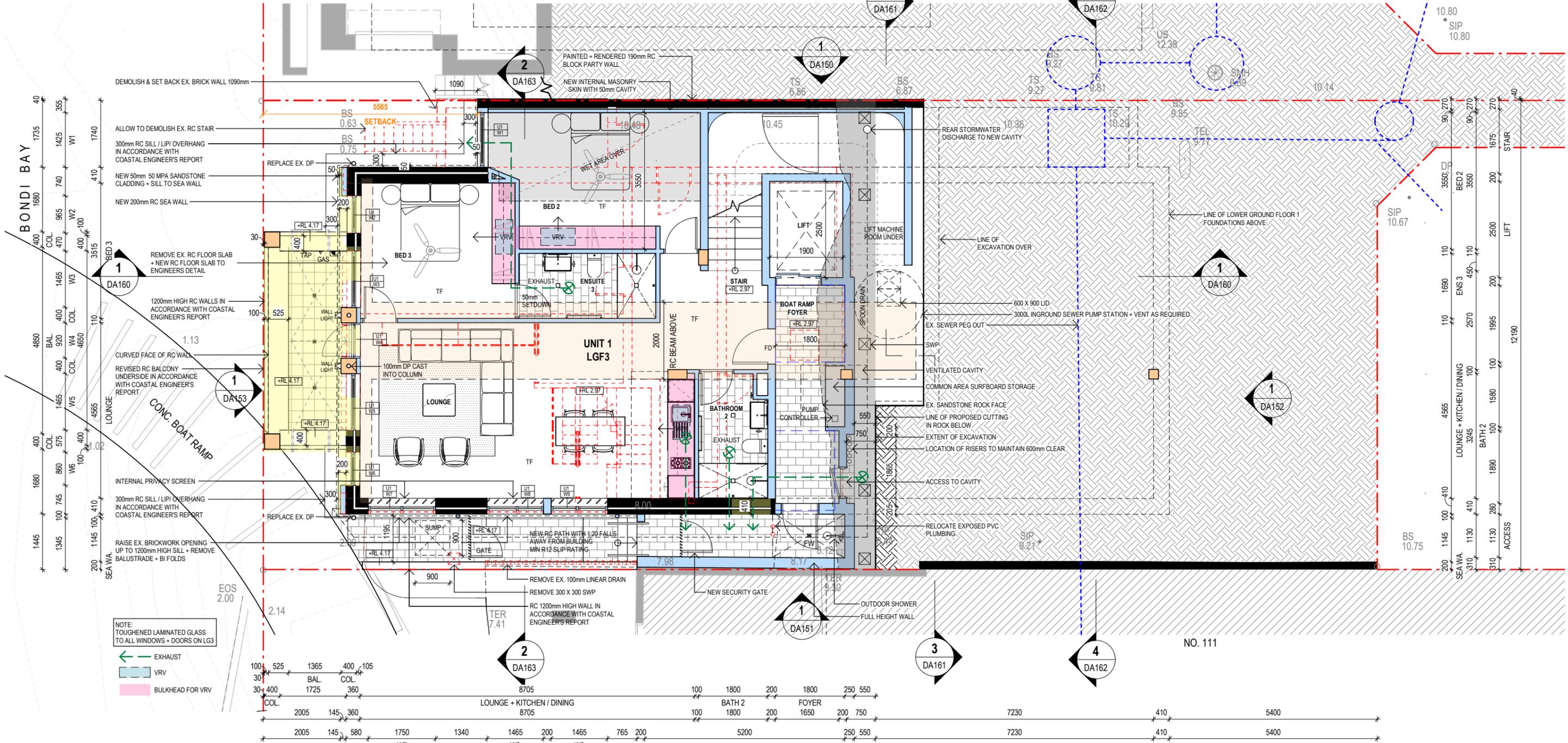
**AN+A**

NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING NO:	ISSUE NO:	JOB NO:
DA003	B	BHA2003
AMENDING DA		
DRAWING TITLE: SITE PLAN		
PROJECT NAME: BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026		
CLIENT: SP 5170 / DP 341546		



NO.105  
MULTI-LEVEL UNIT BUILDING  
"DEEP WATER"



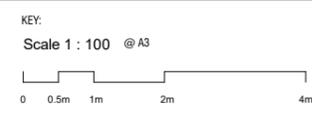
**1 PROPOSED LOWER GROUND FLOOR 3**  
scale - 1 : 100@ A3

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P4	26.11.2021	CLIENT REVIEW
P3	11.11.2021	ISSUE TO HYDRAULIC
B	20.09.2021	ISSUE TO COUNCIL
P2	08.09.2021	REVISED FOR DA
P1	11.08.2021	REVISED FOR DA
A	02.12.2020	FOR DA
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FFL 00.00	FINISHED FLOOR LEVEL	CC APPROVED WORKS SHOWN YELLOW
100.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY
00.000	EXISTING LEVEL	



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NSW 6672

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ISSUE NO: C  
JOB NO: BHA2003

FOR CONSTRUCTION

DRAWING TITLE:  
PROPOSED LOWER GROUND FLOOR 3

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546

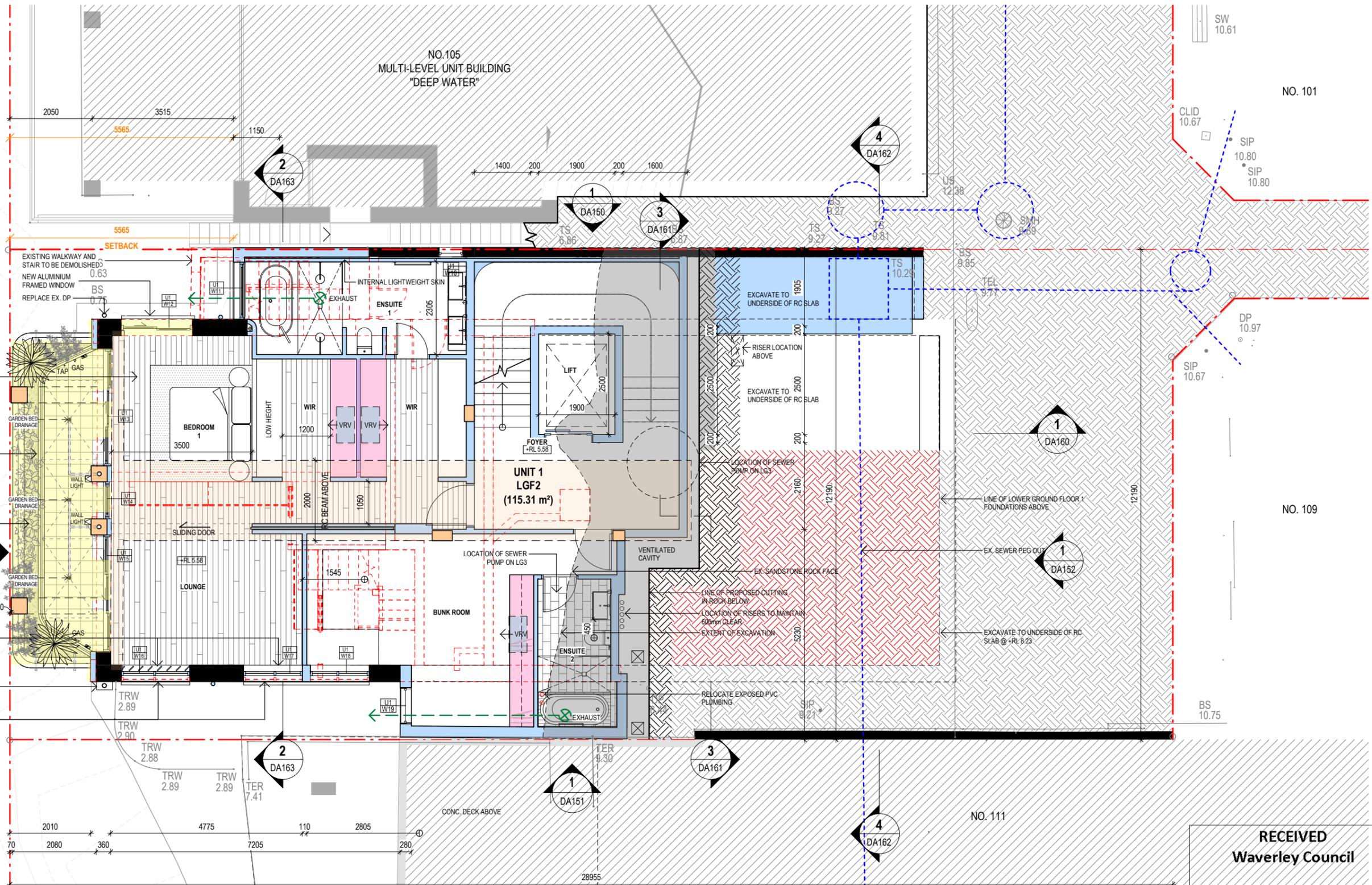
BONDI BAY

NO.105  
MULTI-LEVEL UNIT BUILDING  
"DEEP WATER"

NO. 101

NO. 109

NO. 111



**1 PROPOSED LOWER GROUND FLOOR 2**  
scale - 1 : 100@ A3

**AMENDED PLANS**

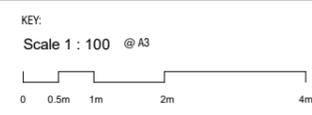
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Waverley Council  
Application No: DA-403/2021  
Date Received: 17/02/2022

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φ 00.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY	█
φ 00.000	EXISTING LEVEL	AMENDING DA WORKS SHOWN BLUE	█



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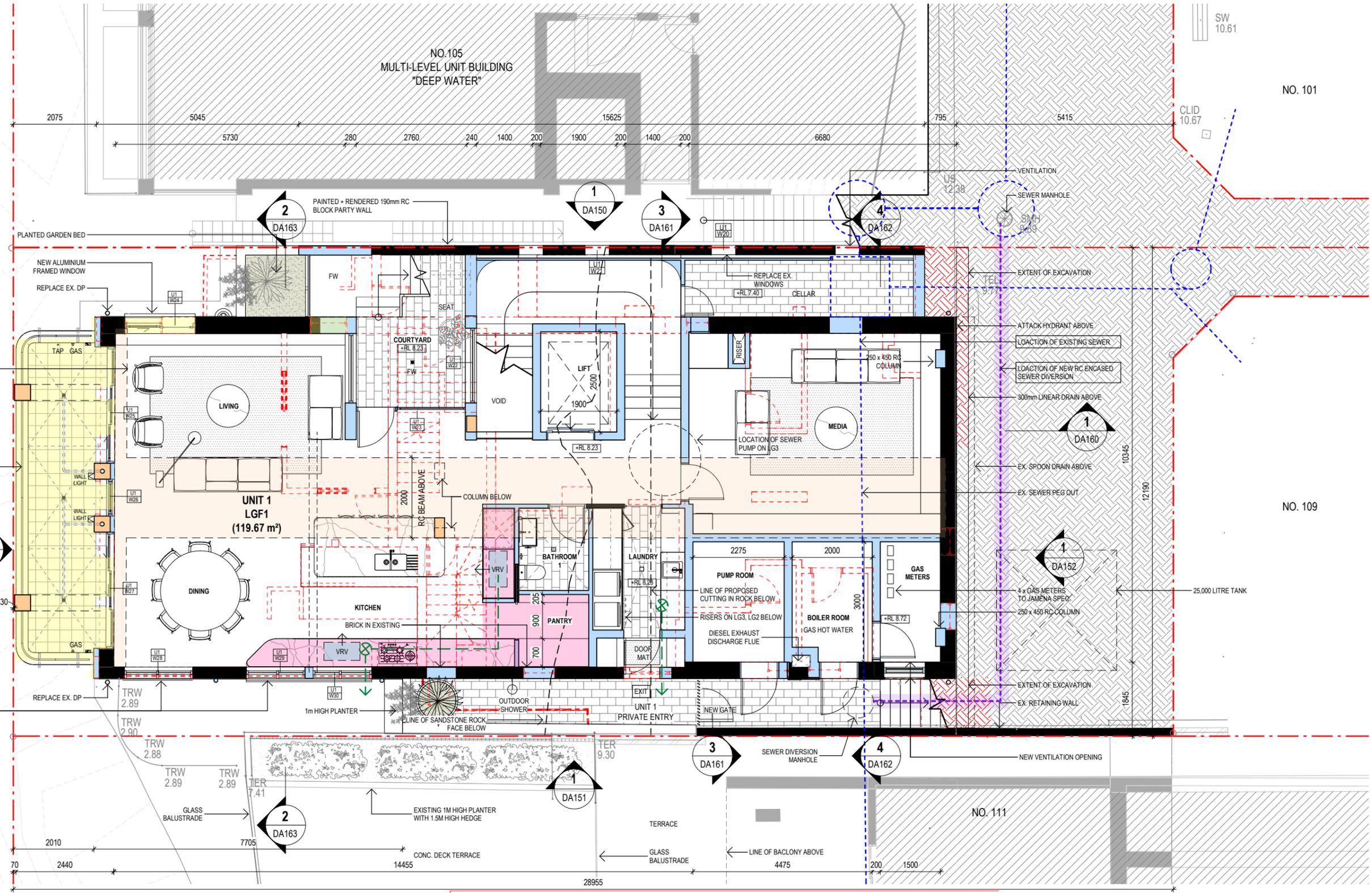
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ISSUE NO: C  
JOB NO: BHA2003

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DRAWING TITLE:  
PROPOSED LOWER GROUND FLOOR 2

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546



**1 PROPOSED LOWER GROUND FLOOR 1**  
scale - 1 : 100@ A3

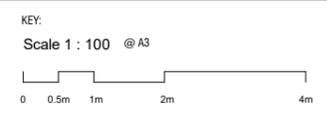
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█ FFL 00.00	FINISHED FLOOR LEVEL	█ CC APPROVED WORKS SHOWN YELLOW
○ 00.000	SURVEY SPOT LEVEL	█ CC APPROVED WORKS COMPLETED SHOWN GREY
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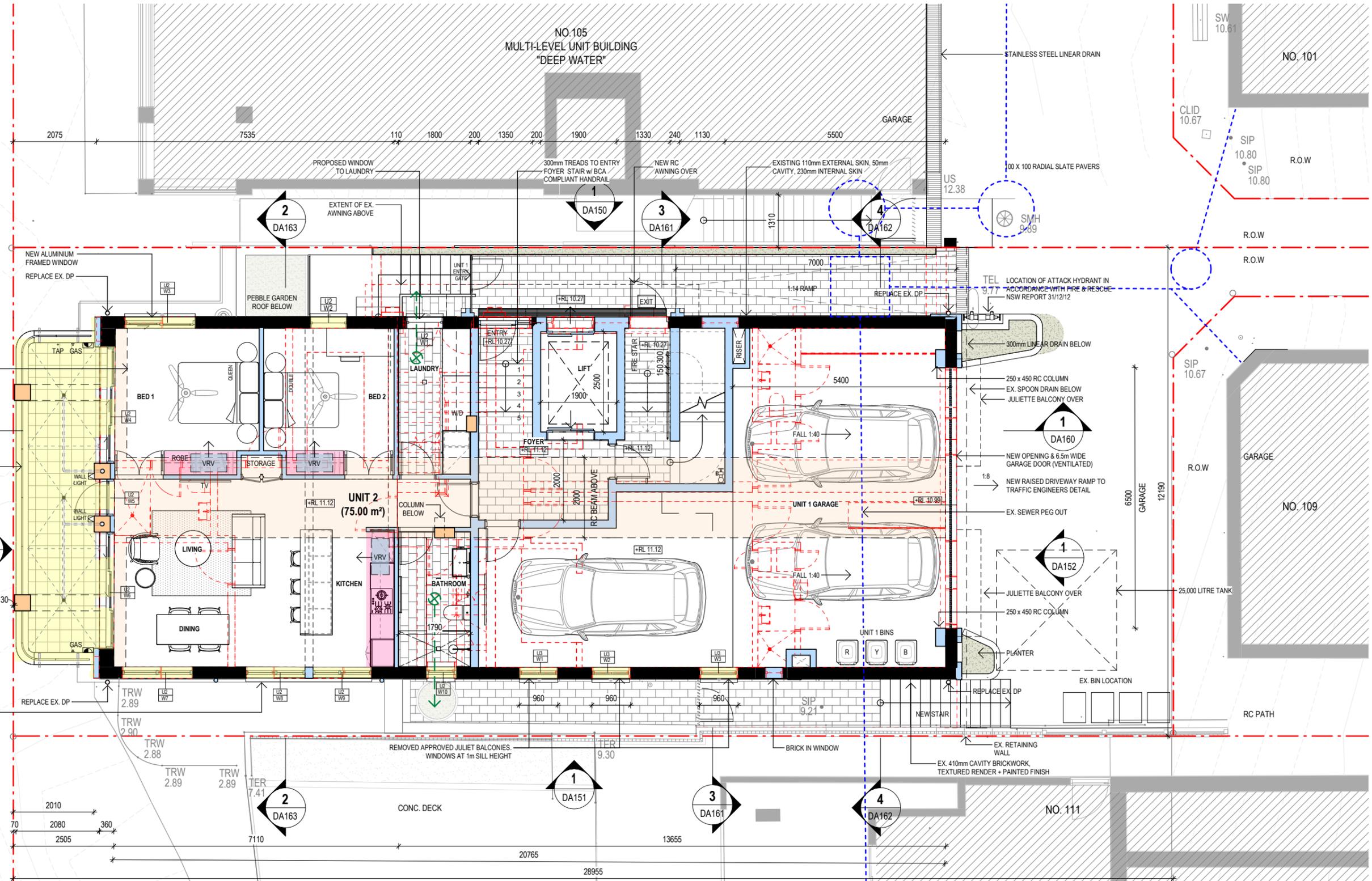
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DRAWING TITLE: PROPOSED LOWER GROUND FLOOR 1		
PROJECT NAME: BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026		
CLIENT: SP 5170 / DP 341546		

BONDI BAY



**1** PROPOSED GROUND FLOOR  
scale - 1 : 100@ A3

# AMENDED PLANS

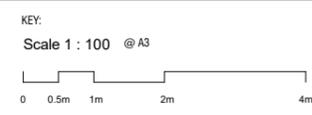
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P2	11.11.2021	ISSUE TO HYDRAULIC
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A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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FFL 00.00	FINISHED FLOOR LEVEL	CC APPROVED WORKS SHOWN YELLOW
100.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY
00.000	EXISTING LEVEL	AMENDING DA WORKS SHOWN BLUE



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NSW 6672

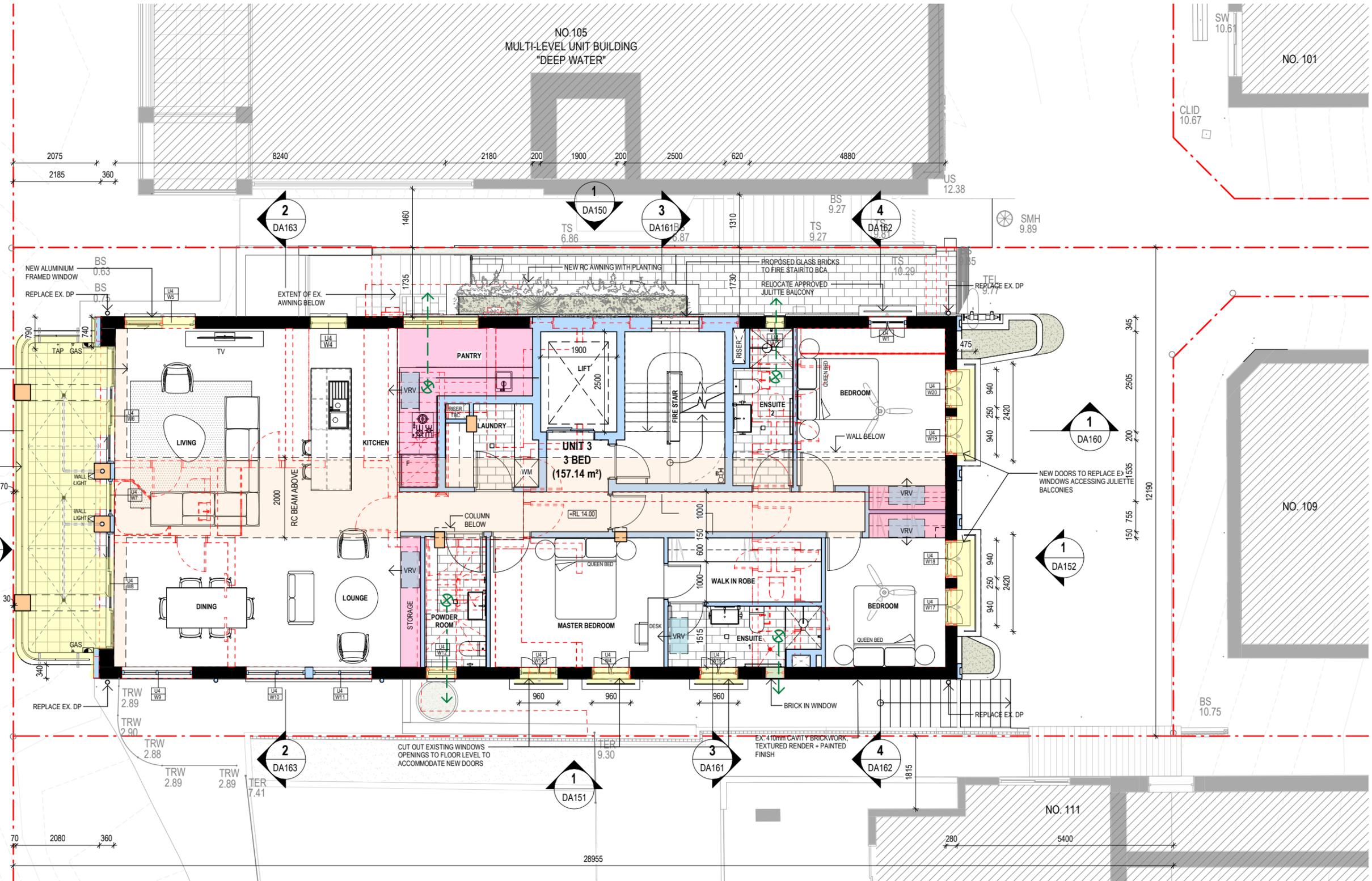
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DRAWING NO:	ISSUE NO:	JOB NO:
DA023	C	BHA2003
AMENDING DA		

DRAWING TITLE:  
PROPOSED GROUND FLOOR

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546



**1 PROPOSED FIRST FLOOR** ADAPTABLE ACCESSIBLE APARTMENT  
scale - 1 : 100@ A3

# AMENDED PLANS

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± 00.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY	
± 00.000	EXISTING LEVEL	AMENDING DA WORKS SHOWN BLUE	

Scale 1 : 100 @ A3  
0 0.5m 1m 2m 4m

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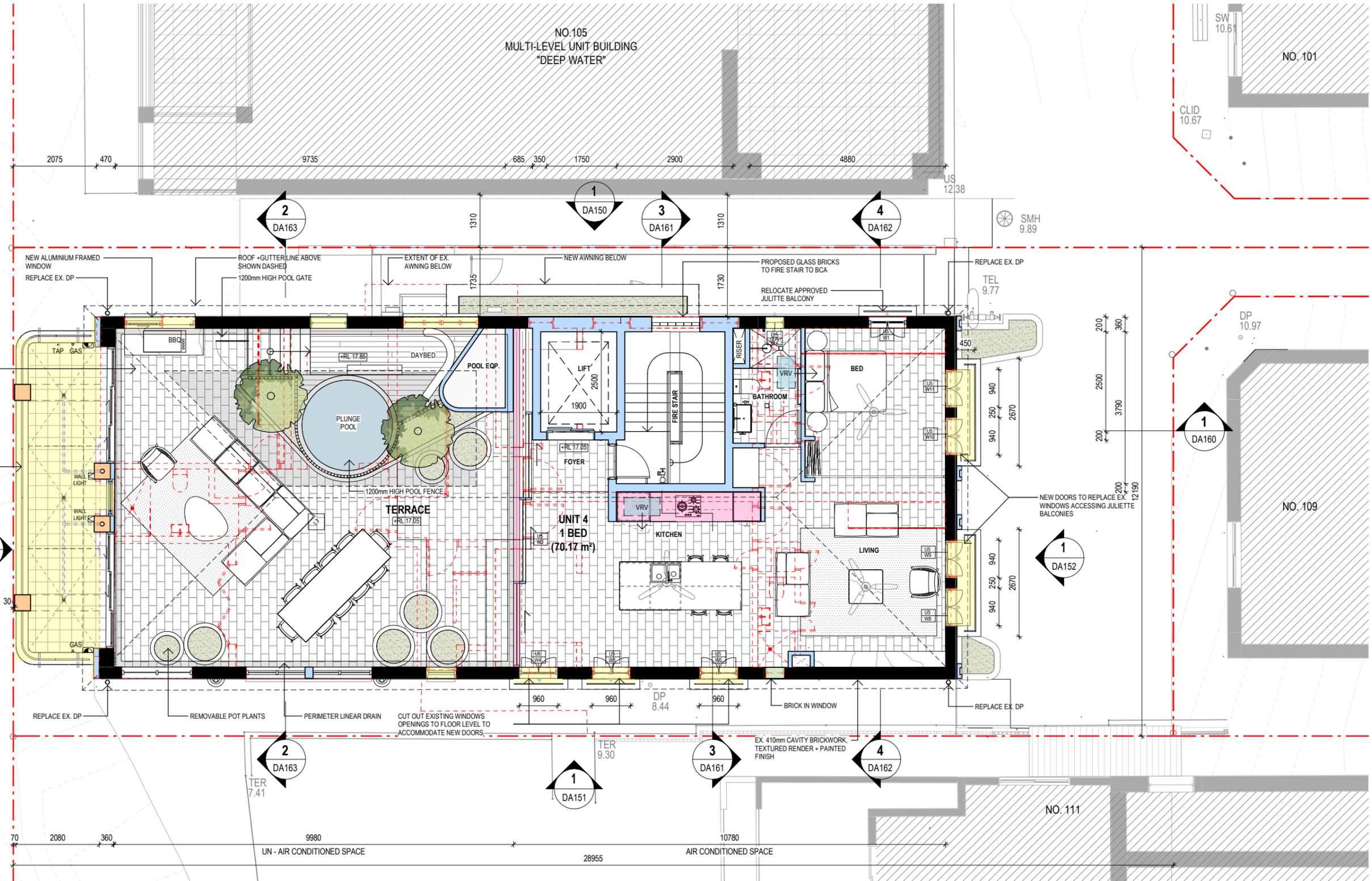


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DA024	C	BHA2003
AMENDING DA		

DRAWING TITLE:  
PROPOSED FIRST FLOOR  
PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026  
CLIENT:  
SP 5170 / DP 341546



**1 PROPOSED SECOND FLOOR**  
scale - 1 : 100@ A3

# AMENDED PLANS

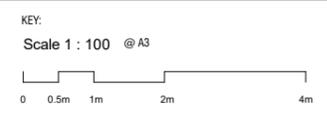
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P1 11.11.2021 ISSUE TO HYDRAULIC  
B 20.09.2021 ISSUE TO COUNCIL  
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ISS DATE PURPOSE OF ISSUE

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FFL 00.00	FINISHED FLOOR LEVEL	CC APPROVED WORKS SHOWN YELLOW
± 00.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY
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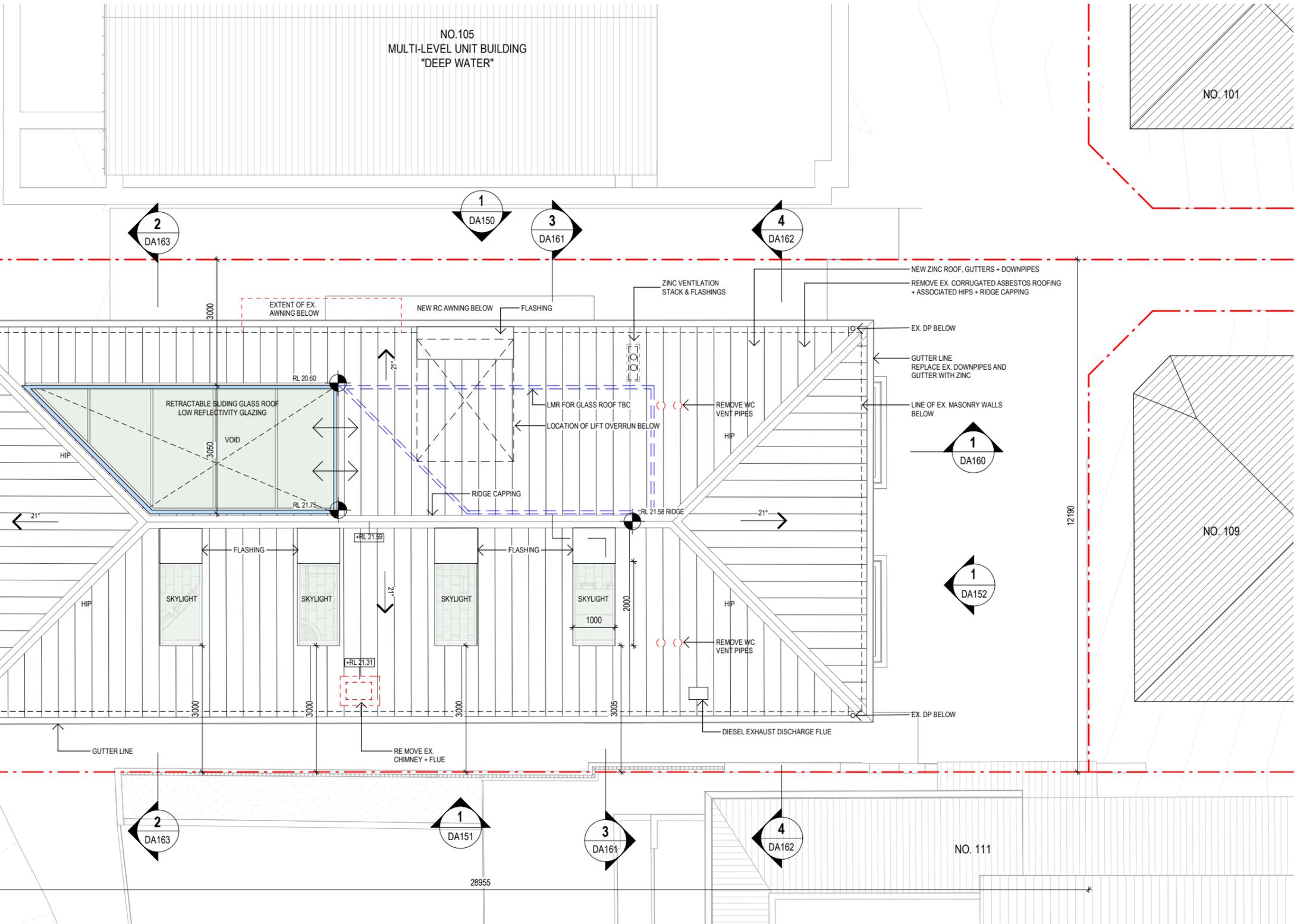
DRAWING NO: **DA025** ISSUE NO: **C** JOB NO: **BHA2003**

AMENDING DA

DRAWING TITLE:  
**PROPOSED SECOND FLOOR**

PROJECT NAME:  
**BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026**

CLIENT:  
**SP 5170 / DP 341546**



BONDI BAY

12190  
8330  
5650

12190

28955

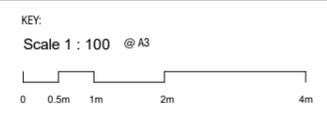
**1 PROPOSED ROOF LEVEL**  
scale - 1 : 100@ A3

# AMENDED PLANS

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NSW 6672

DRAWING NO: <b>DA026</b>	ISSUE NO: <b>C</b>	JOB NO: <b>BHA2003</b>
AMENDING DA		
DRAWING TITLE: PROPOSED ROOF PLAN		
PROJECT NAME: BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026		
CLIENT: SP 5170 / DP 341546		



PROPOSED FIRE RATED GLASS BRICKS TO FIRE STAIR TO BCA REQUIREMENTS  
 REMOVE WC VENT PIPES  
 NEW ZINC ROOF  
 REMOVE EX. CORRUGATED ASBESTOS ROOFING + ASSOCIATED HIPS + RIDGE CAPPING

REPLACE EX. DOWNPIPE  
 FACADE OPENINGS LOCATED WITHIN 6m OF THE ADJACENT BUILDINGS MUST BE PROTECTED IN ACCORDANCE WITH CLAUSE C3.4 OF THE BCA  
 BRICK IN EX. WINDOWS  
 NEW LEC APPROVED JULIET BALCONIES TO EAST ELEVATION  
 NEW SLAB PROJECTION

PROPOSED PLANTER BOX ON EXISTING BOUNDARY WALL  
 BRICK CORBEL DETAILING  
 RAISED PLANTER  
 LOCATION OF ATTACK HYDRANT IN ACCORDANCE WITH FIRE & RESCUE NSW REPORT 31/12/12

INTERNAL GROUND LINE @ RL 8.23  
 INVERT LEVEL OF THE EXISTING SEWER AT THE BOTTOM OF THE MANHOLE @ RL 6.99  
 NEW RENDER & PAINT TO EXISTING BOUNDARY WALL

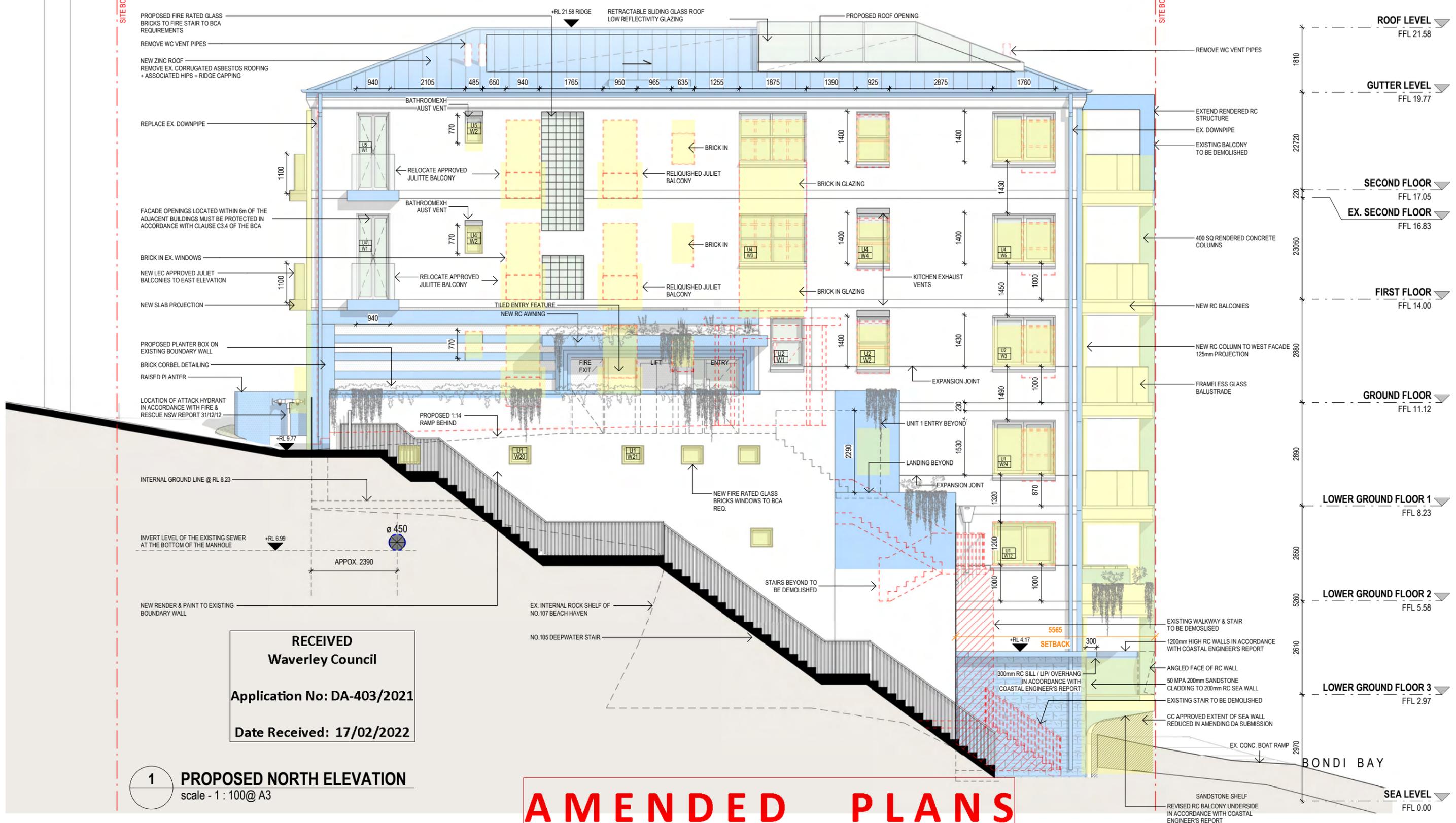
APPOX. 2390

NEW RENDER & PAINT TO EXISTING BOUNDARY WALL

**RECEIVED**  
**Waverley Council**  
 Application No: DA-403/2021  
 Date Received: 17/02/2022

**1 PROPOSED NORTH ELEVATION**  
 scale - 1 : 100@ A3

# AMENDED PLANS

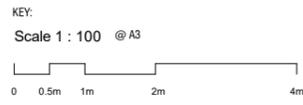


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C	16.02.2022	DEFERRAL
B	20.09.2021	ISSUE TO COUNCIL
P2	08.09.2021	REVISED FOR DA
P1	11.08.2021	REVISED FOR DA
A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

- LEGEND:
- FSL 00.00 FINISHED STRUCTURAL LEVEL
  - +RL 00.00 FINISHED SPOT OR SURFACE LEVEL
  - FFL 00.00 FINISHED FLOOR LEVEL
  - ϕ 00.000 SURVEY SPOT LEVEL
  - ϕ 00.000 EXISTING LEVEL
  - EXISTING TO BE RETAINED
  - EXISTING TO BE DEMOLISHED
  - CC APPROVED WORKS SHOWN YELLOW
  - CC APPROVED WORKS COMPLETED SHOWN GREY
  - AMENDING DA WORKS SHOWN BLUE



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**NICHOLAS + ASSOCIATES**

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 SURRY HILLS  
 NSW 2010  
 T + 61 2 8353 9500  
 ANPLUSA.COM

NOMINATED ARCHITECT  
 PATRICK NICHOLAS  
 NSW 6672

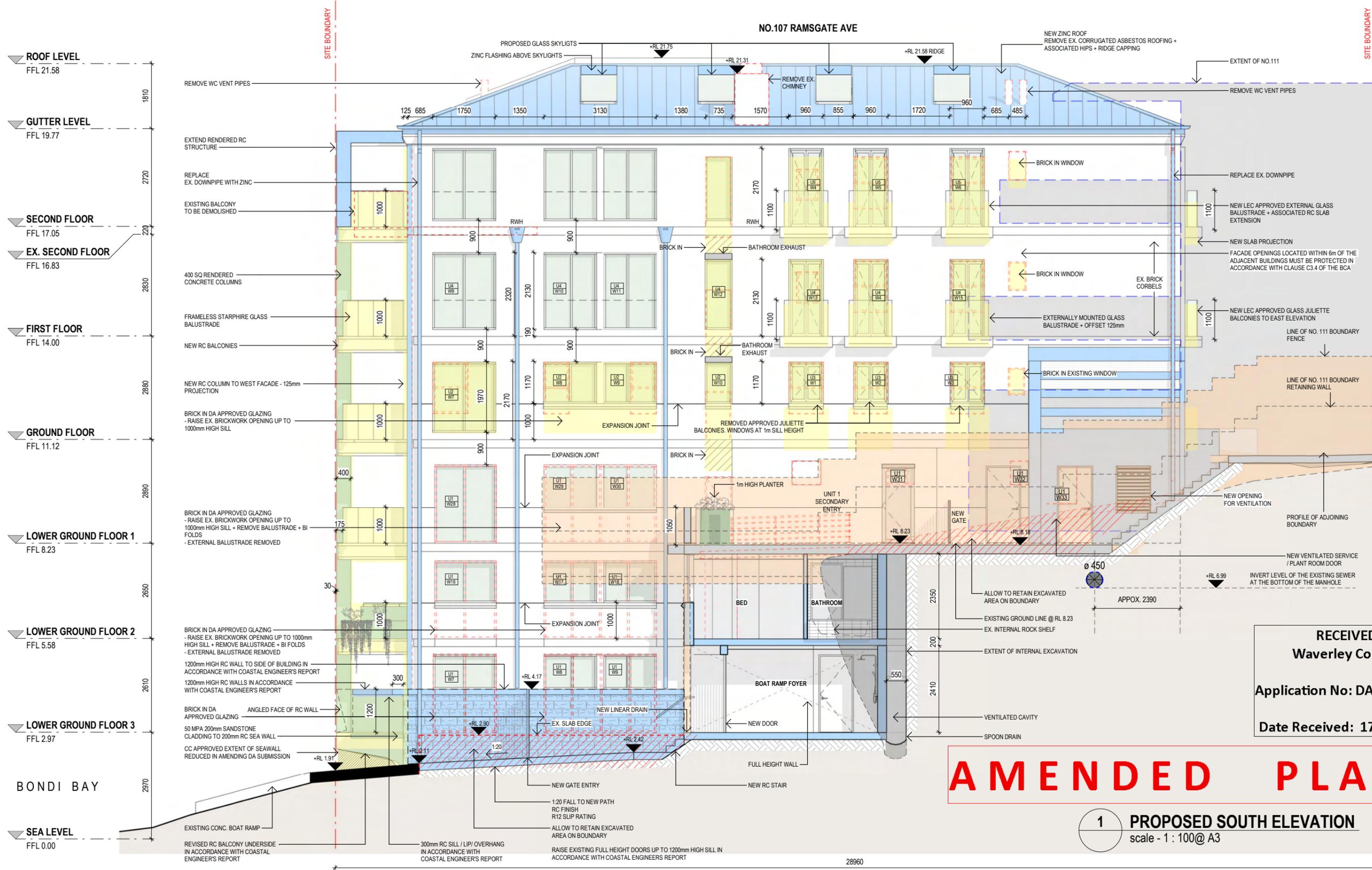
DRAWING NO: **DA150** ISSUE NO: **C** JOB NO: **BHA2003**

**AMENDING DA**

DRAWING TITLE:  
**PROPOSED NORTH ELEVATION**

PROJECT NAME:  
**BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026**

CLIENT:  
**SP 5170 / DP 341546**



RECEIVED  
Waverley Council  
Application No: DA-403/2021  
Date Received: 17/02/2022

**AMENDED PLANS**

1 PROPOSED SOUTH ELEVATION  
scale - 1 : 100@ A3

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ISS DATE PURPOSE OF ISSUE

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		CC APPROVED WORKS SHOWN YELLOW
ϕ 00.000	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
ϕ 00.000	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE

KEY:  
Scale 1 : 100 @ A3

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NSW 6672

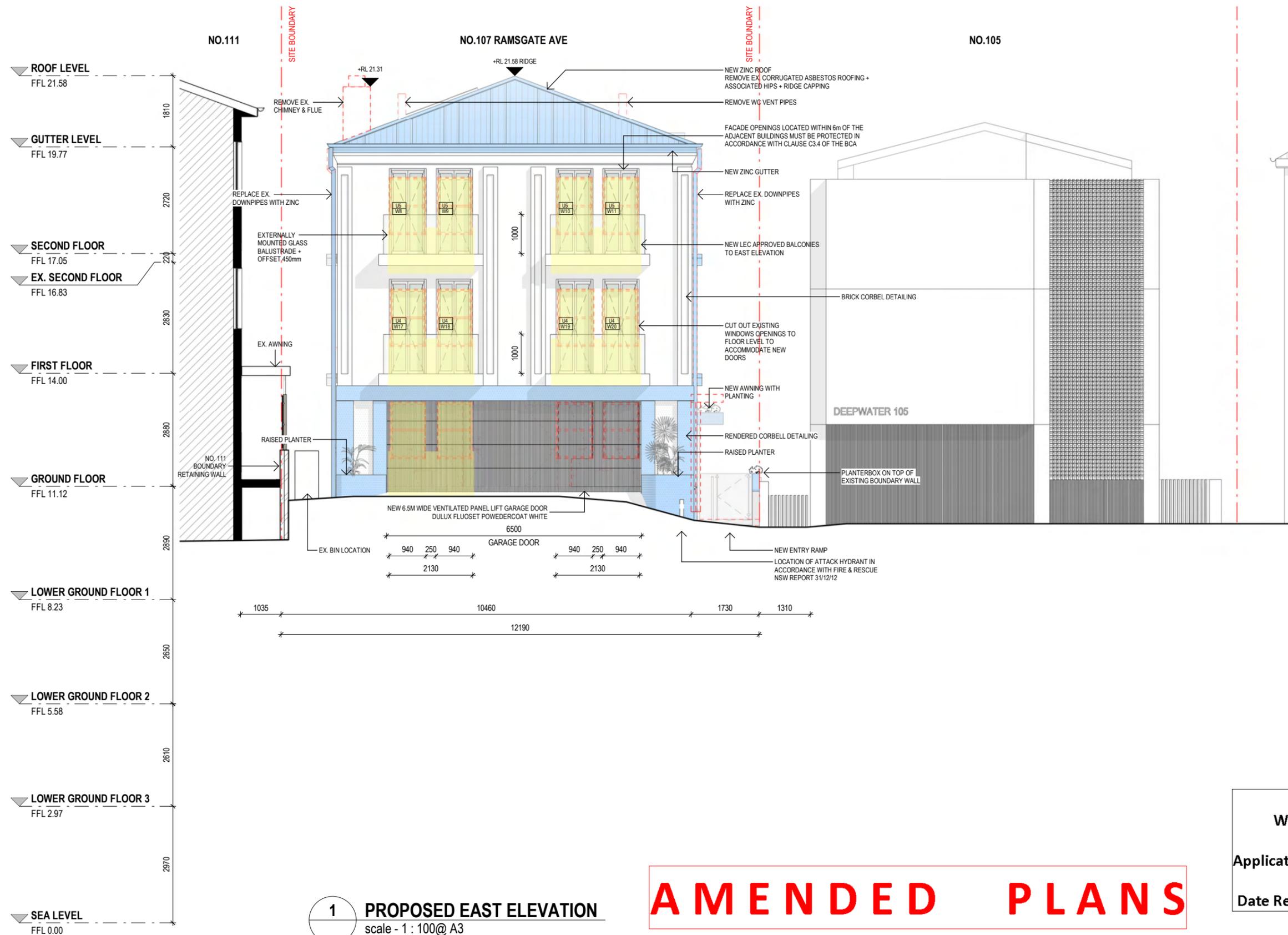
DRAWING NO: DA151  
ISSUE NO: C  
JOB NO: BHA2003

AMENDING DA

DRAWING TITLE:  
PROPOSED SOUTH ELEVATION

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546



1 PROPOSED EAST ELEVATION  
scale - 1 : 100@ A3

**AMENDED PLANS**

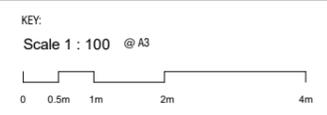
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PLOTTED : 16/02/2022 12:16:04 PM

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B 20.09.2021 ISSUE TO COUNCIL  
P1 11.08.2021 REVISED FOR DA  
A 02.12.2020 FOR DA  
ISS DATE PURPOSE OF ISSUE

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL	---	EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL	█	CC APPROVED WORKS SHOWN YELLOW
ϕ 00.000	SURVEY SPOT LEVEL	█	CC APPROVED WORKS COMPLETED SHOWN GREY
ϕ 00.000	EXISTING LEVEL	█	AMENDING DA WORKS SHOWN BLUE



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DRAWING NO: DA152  
ISSUE NO: C  
JOB NO: BHA2003

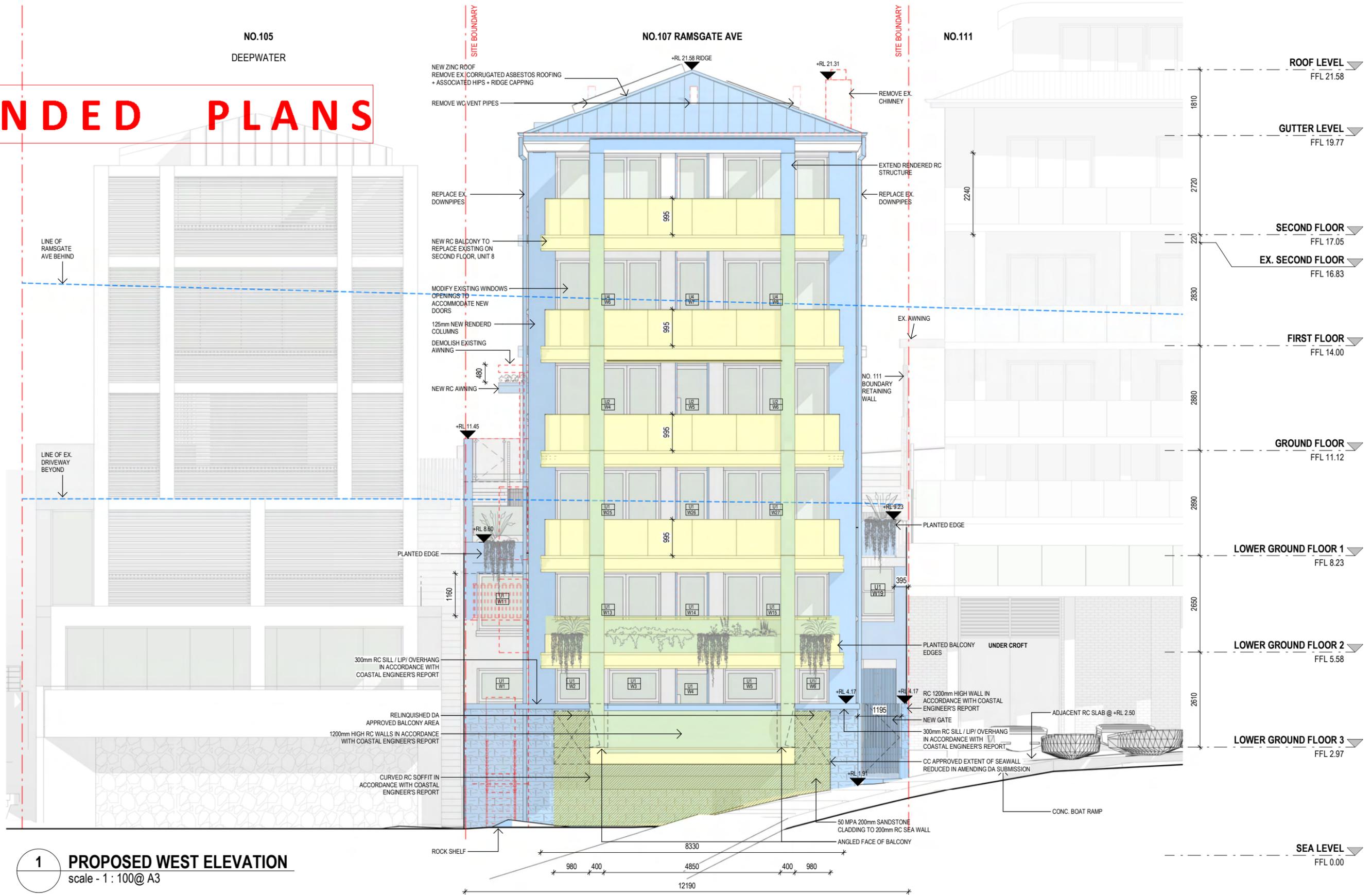
AMENDING DA

DRAWING TITLE:  
PROPOSED EAST ELEVATION

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546

# AMENDED PLANS



**1 PROPOSED WEST ELEVATION**  
scale - 1 : 100@ A3

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P2	08.09.2021	REVISED FOR DA
P1	11.08.2021	REVISED FOR DA
A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		CC APPROVED WORKS SHOWN YELLOW
	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE

Scale 1 : 100 @ A3  
0 0.5m 1m 2m 4m

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Application No: DA-403/2021

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NSW 6672

DRAWING NO: **DA153** ISSUE NO: **C** JOB NO: **BHA2003**

AMENDING DA

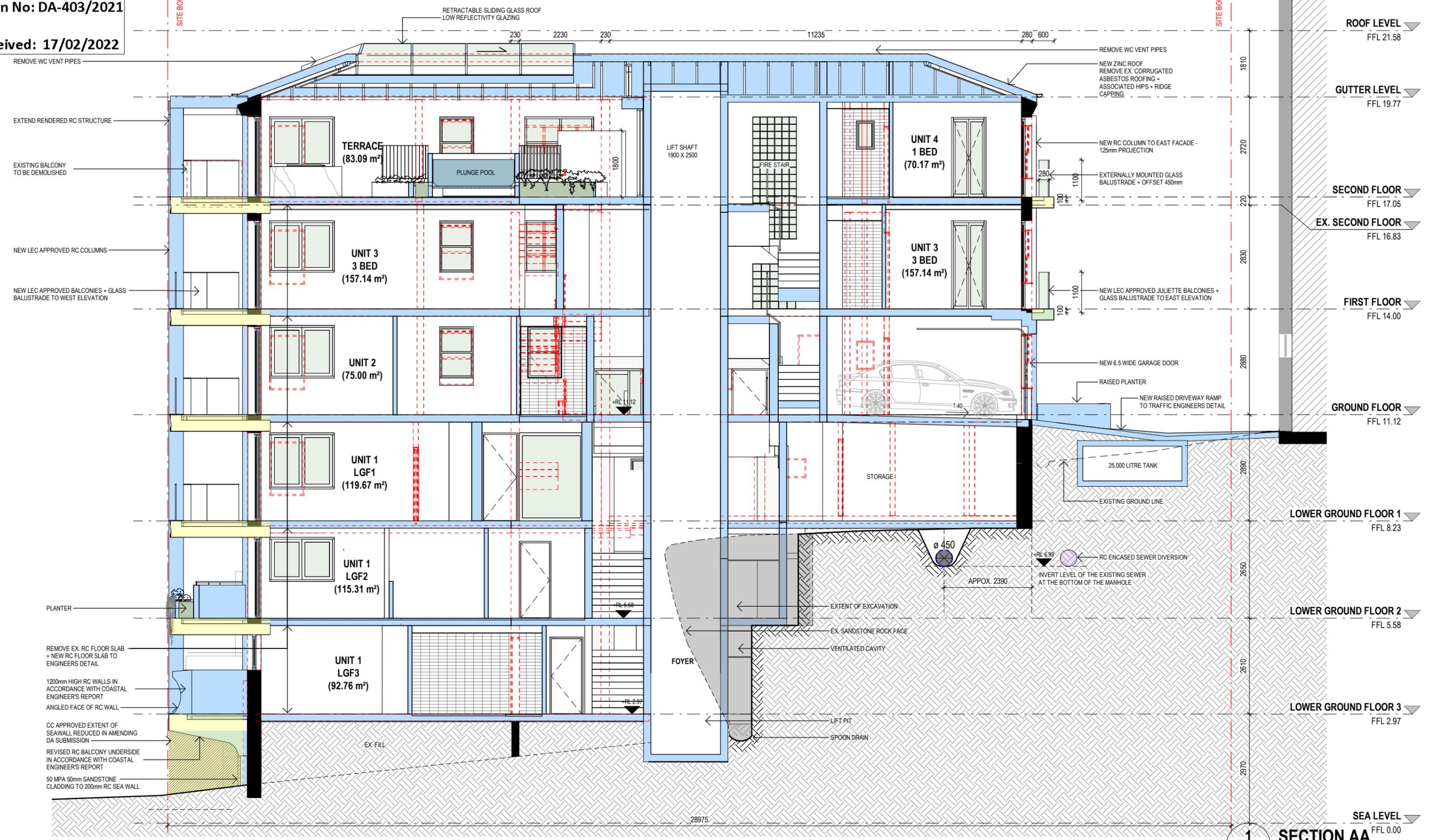
DRAWING TITLE:  
PROPOSED WEST ELEVATION

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026  
CLIENT:  
SP 5170 / DP 341546

# AMENDED PLANS

NO.107 RAMSGATE AVE

NO.109



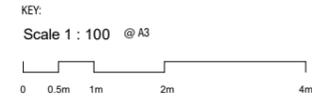
**SECTION AA**  
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P3	21.12.2021	FOR REVIEW
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P2	08.09.2021	REVISED FOR DA
P1	11.08.2021	REVISED FOR DA
A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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⊕ 00.000	SURVEY SPOT LEVEL	█	CC APPROVED WORKS COMPLETED SHOWN GREY
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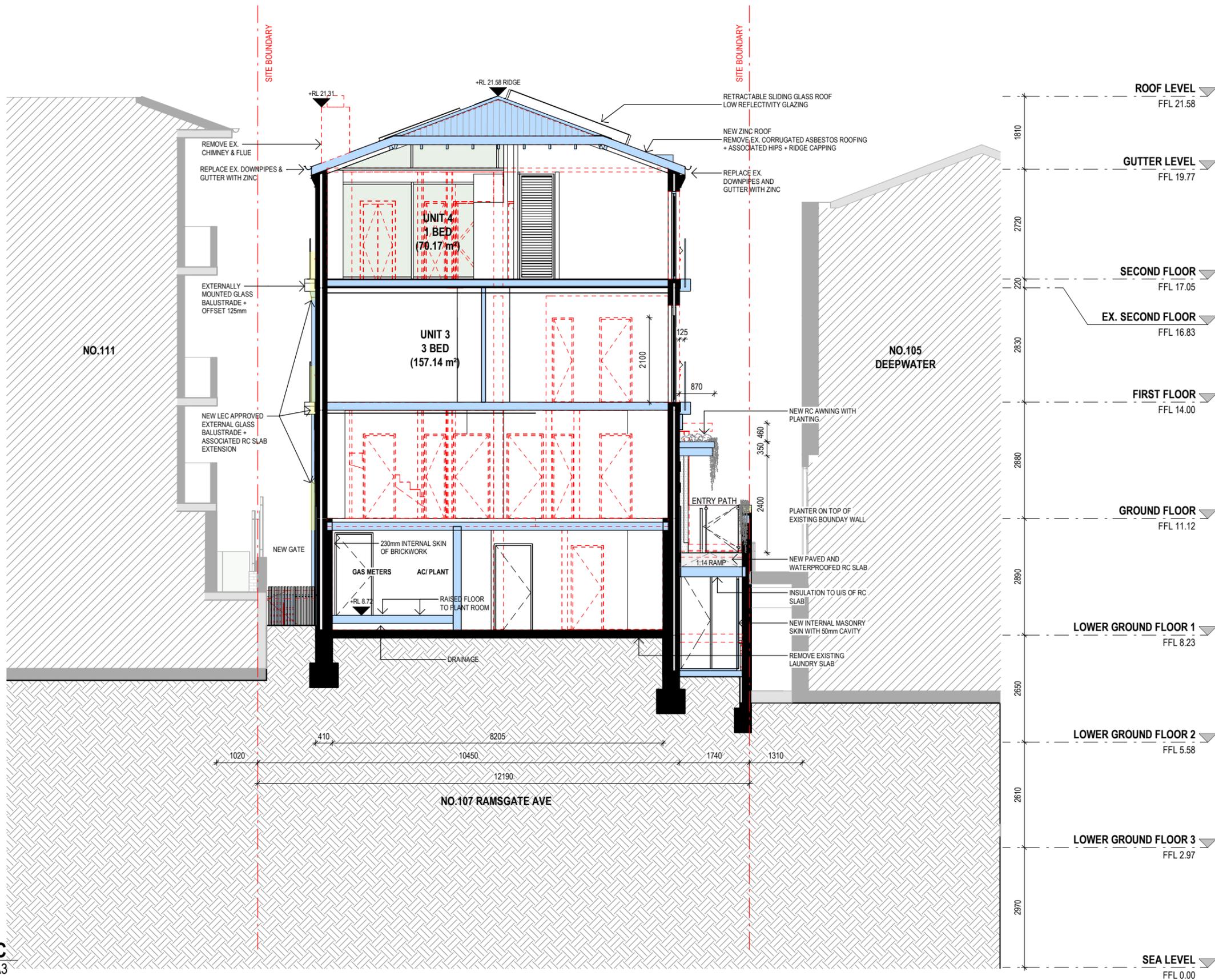


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NSW 6672

DRAWING NO:	ISSUE NO:	JOB NO:
DA160	C	BHA2003
AMENDING DA		
DRAWING TITLE: PROPOSED SECTION AA		
PROJECT NAME: BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026		
CLIENT: SP 5170 / DP 341546		





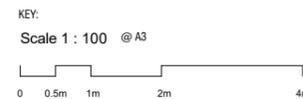
**4 SECTION CC**  
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A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
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	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE



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DRAWING NO:	ISSUE NO:	JOB NO:
DA162	C	BHA2003
AMENDING DA		



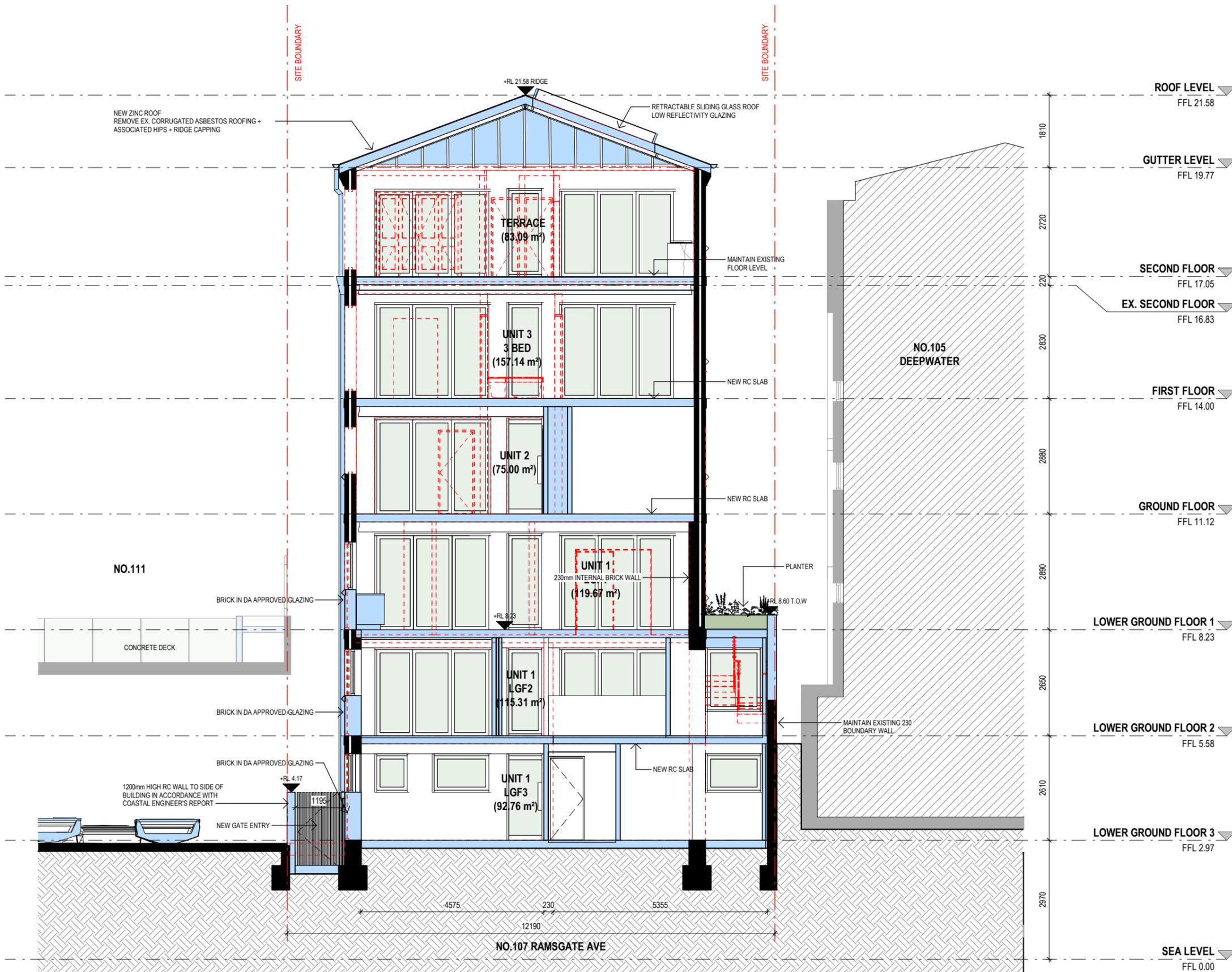
NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

DRAWING TITLE:  
PROPOSED SECTION CC

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546

**AMENDED PLANS**



**2 SECTION DD**  
scale - 1 : 100@ A3

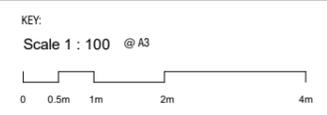
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P1	11.08.2021	REVISED FOR DA
A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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± 00.000	SURVEY SPOT LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY
± 00.000	EXISTING LEVEL	AMENDING DA WORKS SHOWN BLUE



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DRAWING NO: DA163  
ISSUE NO: C  
JOB NO: BHA2003

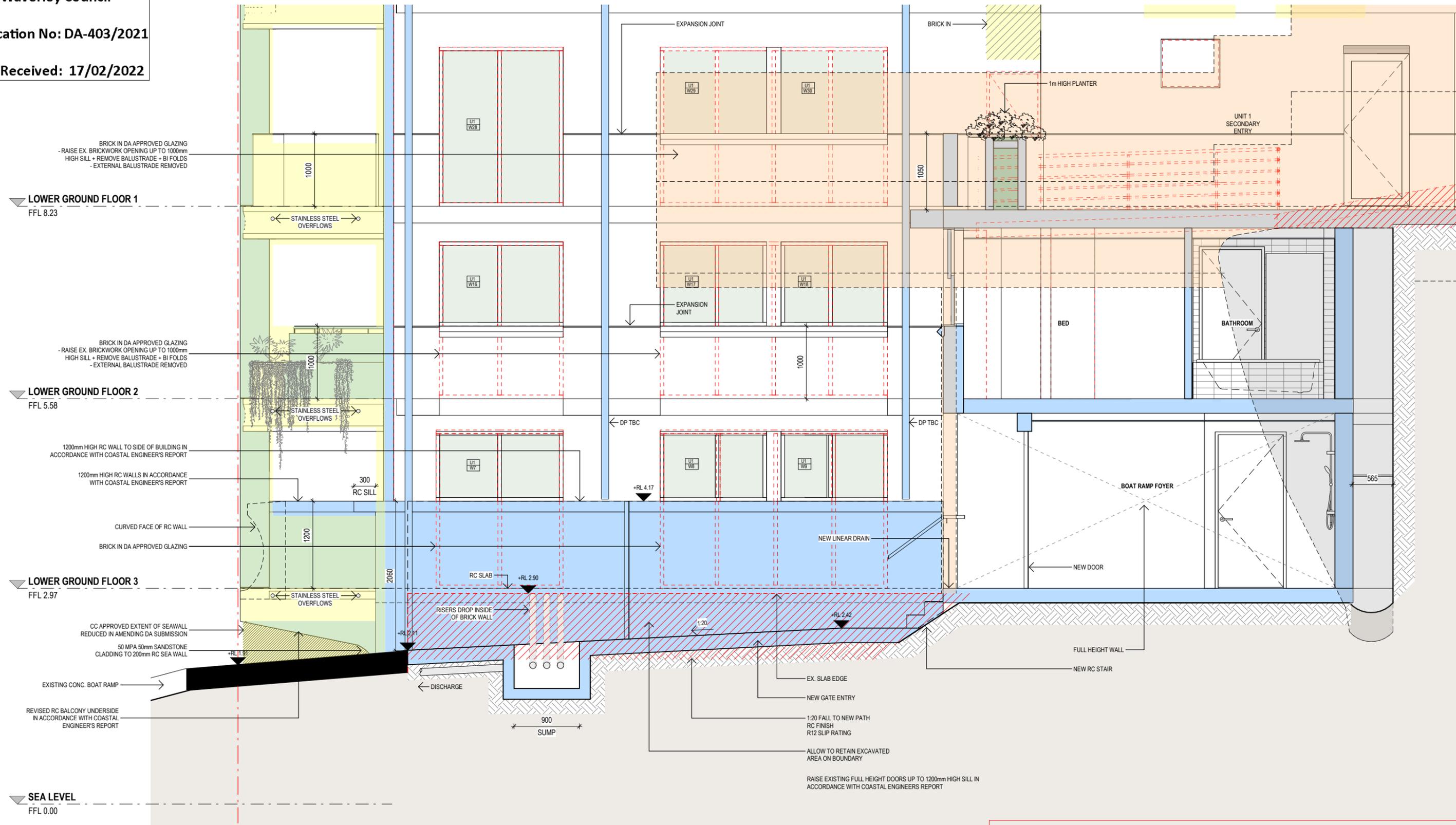
AMENDING DA

DRAWING TITLE:  
PROPOSED SECTION DD

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026

CLIENT:  
SP 5170 / DP 341546





1 PROPOSED SOUTH ELEVATION - SEA WALL  
scale - 1 : 50@ A3

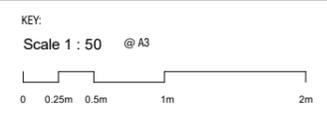
# AMENDED PLANS

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A	11.11.2021	AMENDING DA ADDENDUM
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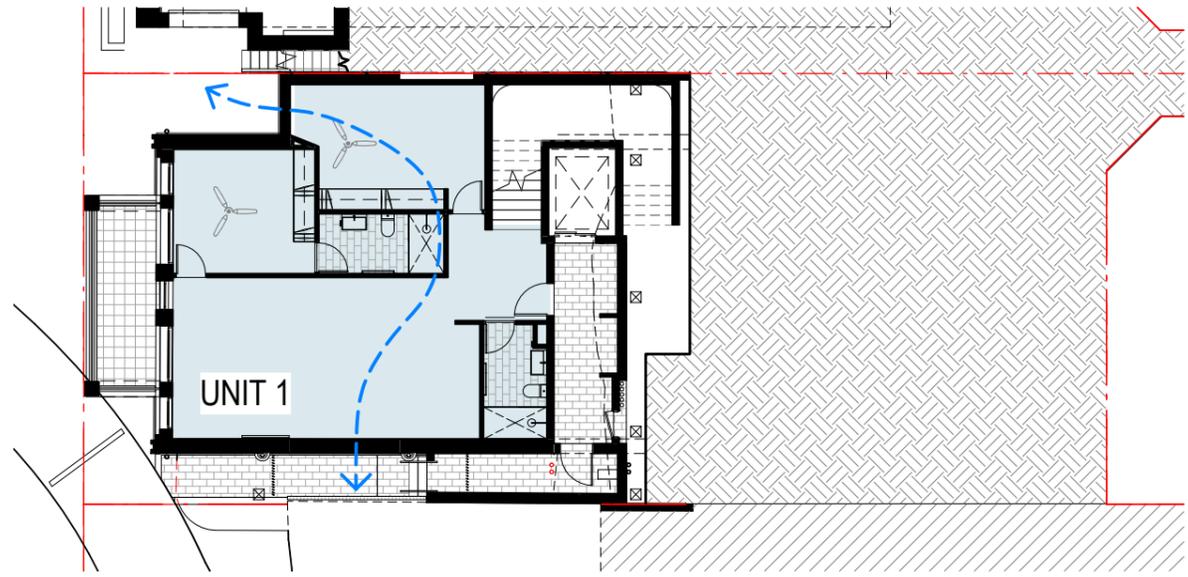


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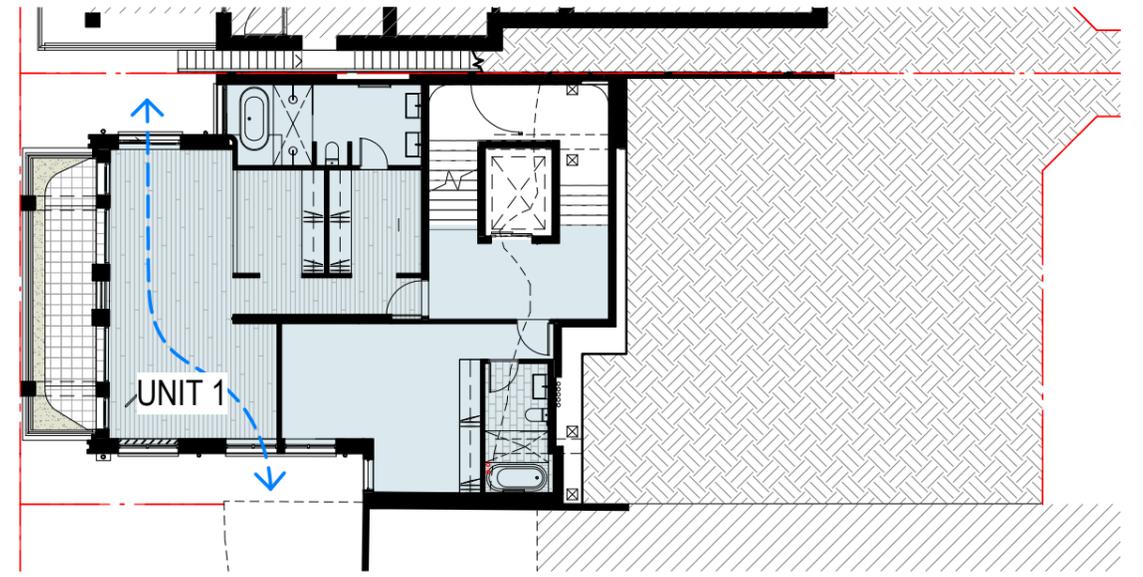
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NOMINATED ARCHITECT  
PATRICK NICHOLAS  
NSW 6672

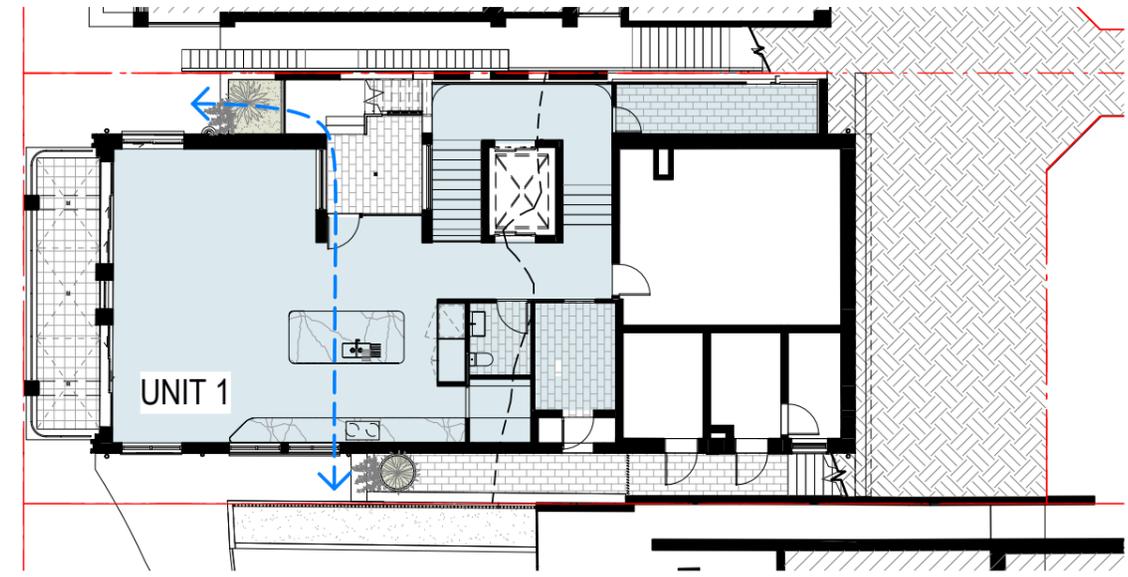
DRAWING NO: DA560	ISSUE NO: B	JOB NO: BHA2003
AMENDING DA		
DRAWING TITLE: DETAIL SOUTH ELEVATION - SEA WALL		
PROJECT NAME: BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026		
CLIENT: SP 5170 / DP 341546		



**1 LOWER GROUND FLOOR 3 - CROSS VENTILATION**  
scale - 1 : 200@ A3



**2 LOWER GROUND FLOOR 2 - CROSS VENTILATION**  
scale - 1 : 200@ A3



**3 LOWER GROUND FLOOR 1 - CROSS VENTILATION**  
scale - 1 : 200@ A3

**Cross Ventilation**

Yes

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**Waverley Council**  
  
Application No: DA-403/2021  
  
Date Received: 17/02/2022

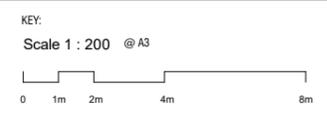
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PLOTTED : 16/02/2022 12:14:43 PM

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A	02.12.2020	FOR DA
ISS	DATE	PURPOSE OF ISSUE

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+RL 00.00	FINISHED SPOT OR SURFACE LEVEL		EXISTING TO BE DEMOLISHED
FFL 00.00	FINISHED FLOOR LEVEL		CC APPROVED WORKS SHOWN YELLOW
	SURVEY SPOT LEVEL		CC APPROVED WORKS COMPLETED SHOWN GREY
	EXISTING LEVEL		AMENDING DA WORKS SHOWN BLUE



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NSW 6672

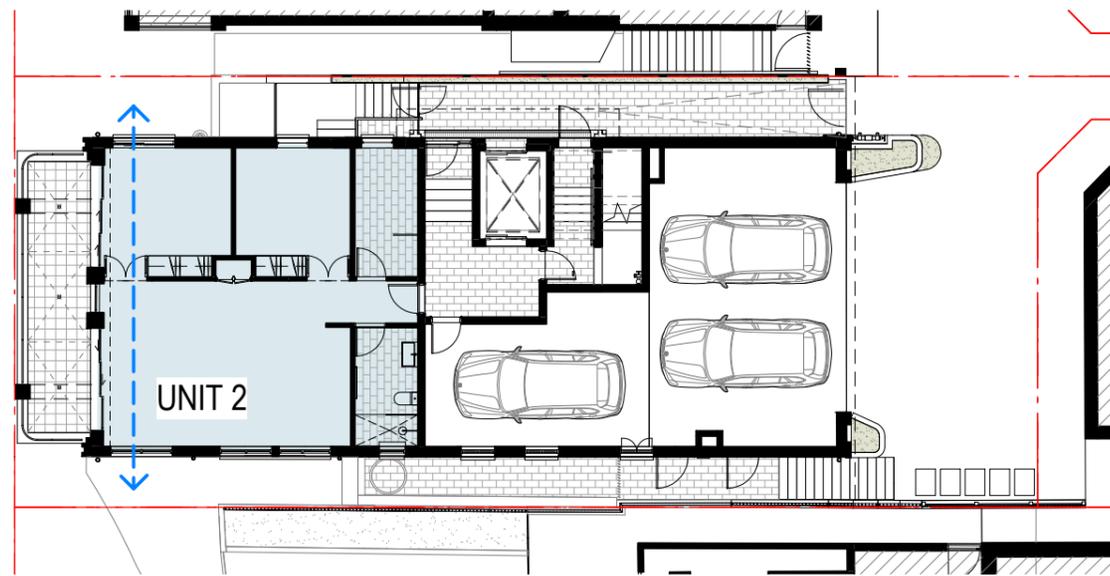
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**AMENDING DA**

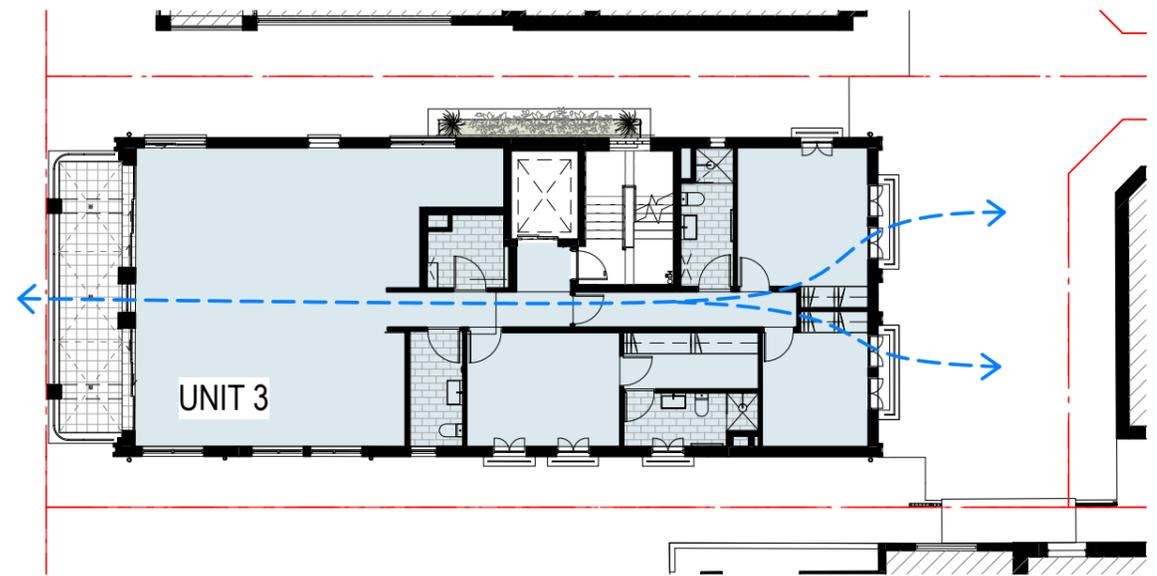
DRAWING TITLE:  
**CROSS VENTILATION PLANS**

PROJECT NAME:  
**BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE, NORTH BONDI, NSW, 2026**

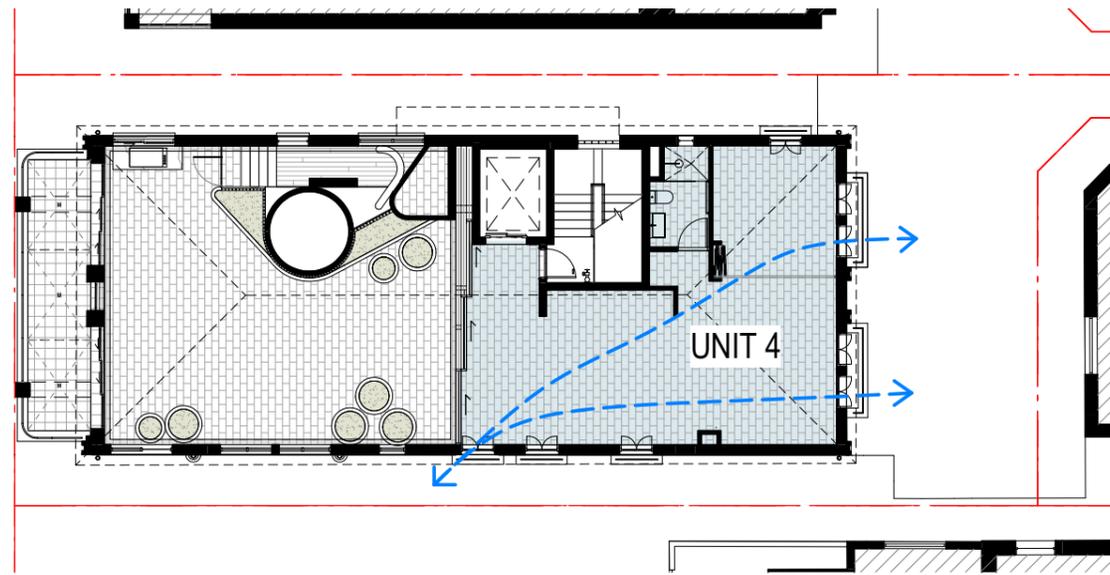
CLIENT:  
**SP 5170 / DP 341546**



**1 GROUND FLOOR - CROSS VENTILATION**  
scale - 1 : 200@ A3



**2 FIRST FLOOR - CROSS VENTILATION**  
scale - 1 : 200@ A3



**3 SECOND FLOOR - CROSS VENTILATION**  
scale - N.T.S.

**Cross Ventilation**

Yes

NOTE:  
100% (4/4) OF APARTMENTS ARE  
NATURALLY CROSS VENTILATED.

**RECEIVED**  
Waverley Council  
  
Application No: DA-403/2021  
  
Date Received: 17/02/2022

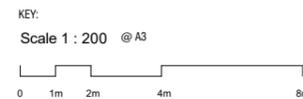
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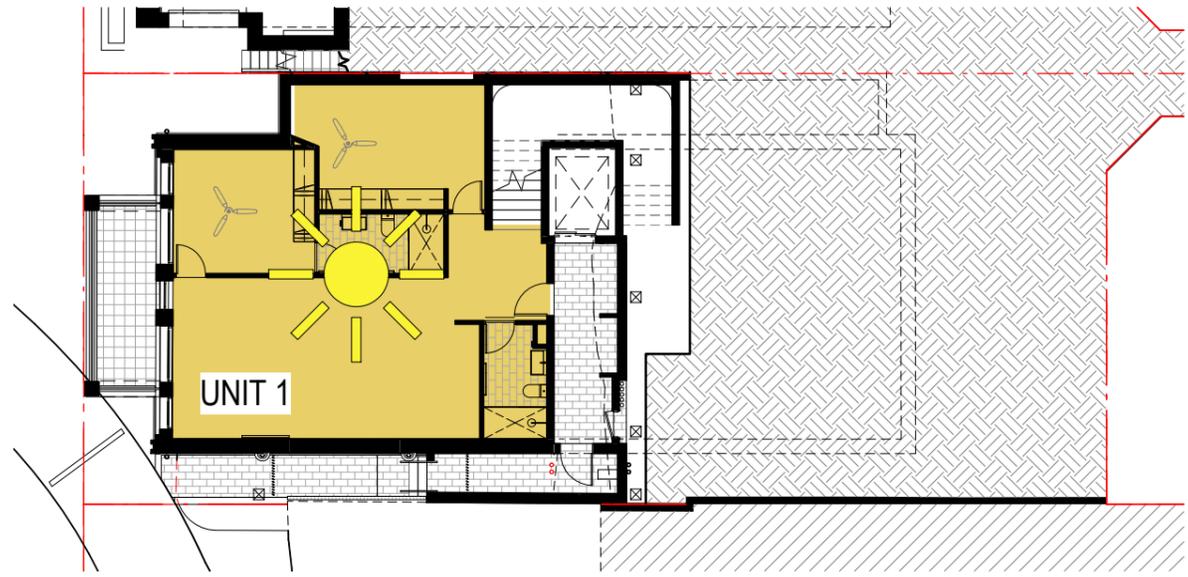
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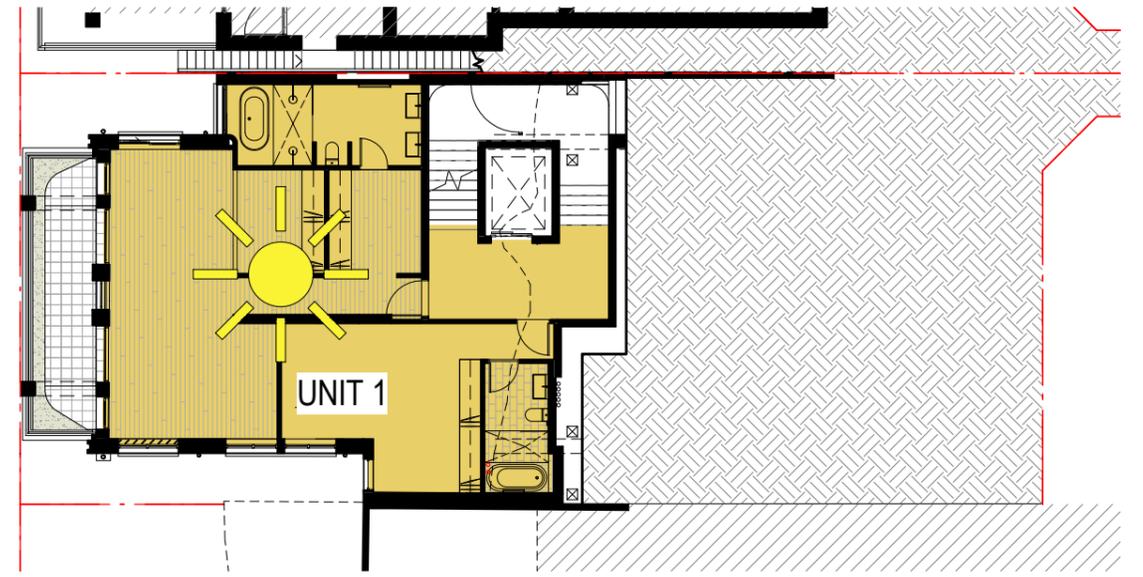
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CROSS VENTILATION PLANS

PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026  
CLIENT:  
SP 5170 / DP 341546

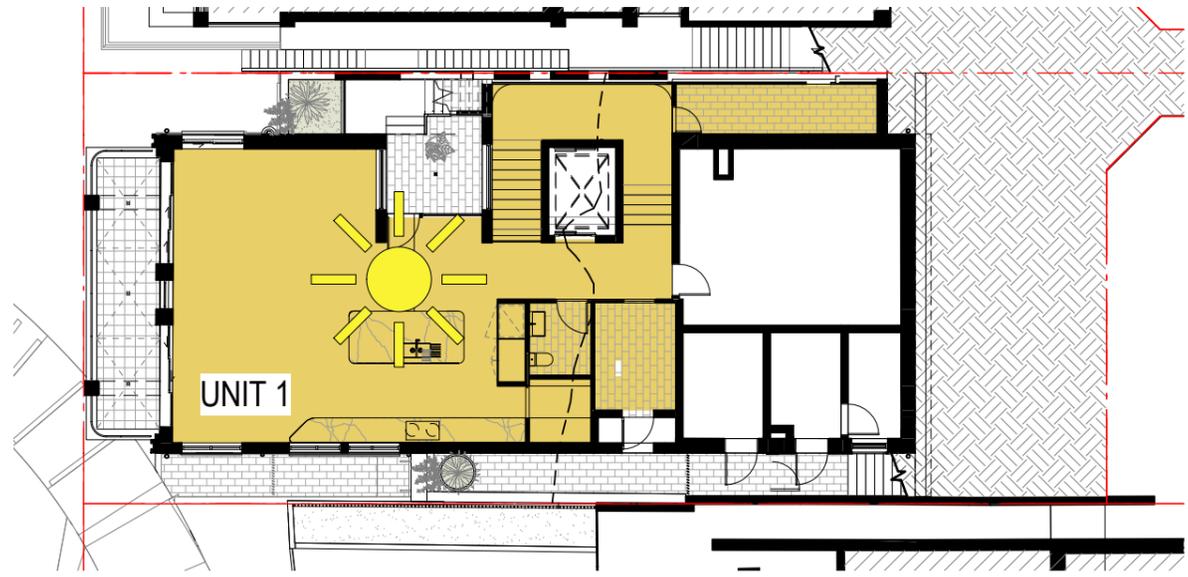




**1 LOWER GROUND FLOOR 3 - SOLAR ACCESS**  
scale - 1 : 200@ A3



**2 LOWER GROUND FLOOR 2 - SOLAR ACCESS**  
scale - 1 : 200@ A3



**3 LOWER GROUND FLOOR 1 - SOLAR ACCESS**  
scale - 1 : 200@ A3

Hours of direct sunlight between 9am & 3pm



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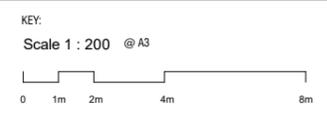
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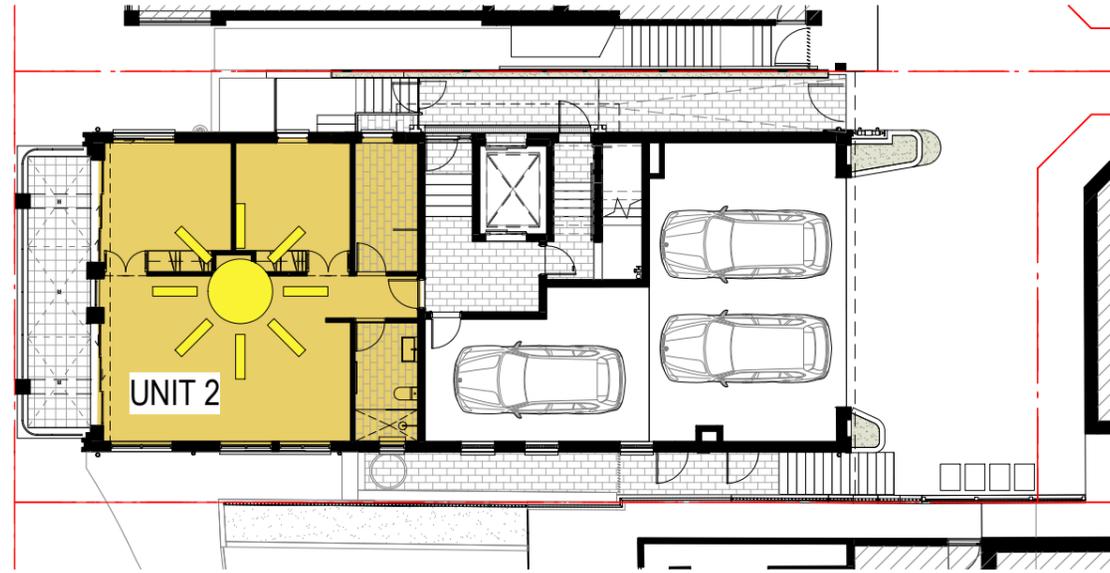
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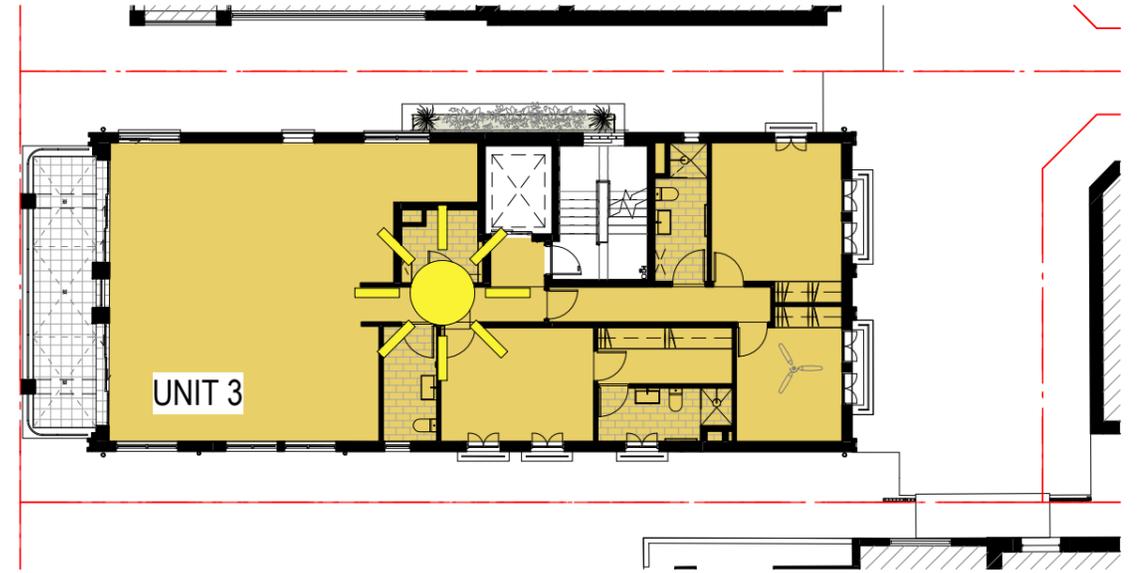
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SOLAR ACCESS PLANS

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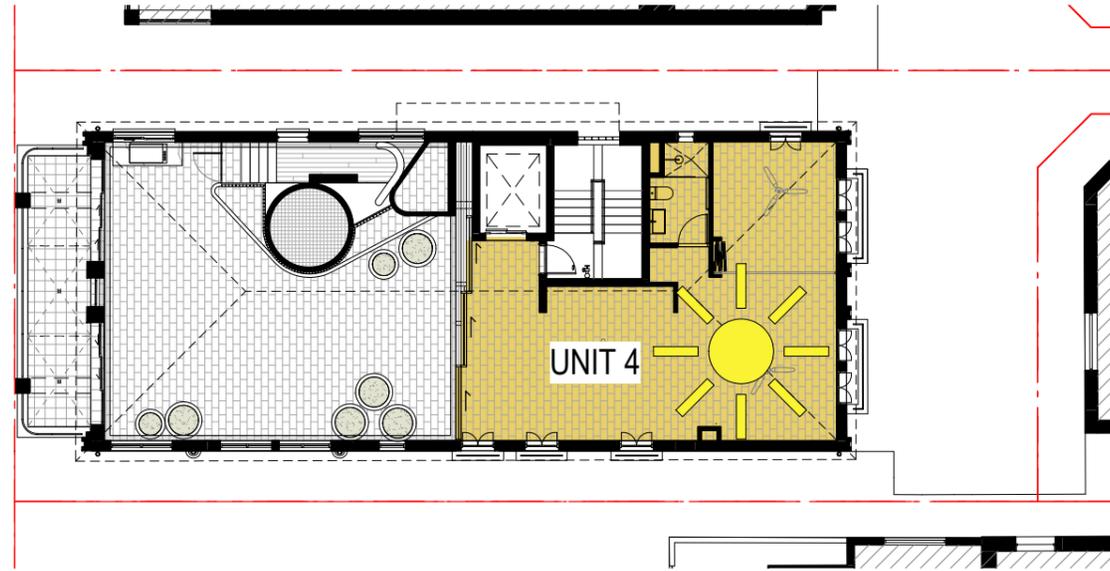
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**1 GROUND FLOOR - SOLAR ACCESS**  
scale - 1 : 200@ A3



**2 FIRST FLOOR - SOLAR ACCESS**  
scale - 1 : 200@ A3



**3 SECOND FLOOR - SOLAR ACCESS**  
scale - N.T.S.

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Hours of direct sunlight between 9am & 3pm

2 hrs

NOTE:  
100% (4/4) OF APARTMENTS RECEIVE A MINIMUM OF  
2HRS OF DIRECT SUNLIGHT ON THE 21ST OF JUNE .

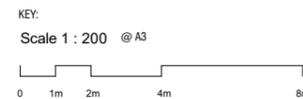
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P4	17.11.2020	DRAFT DA
P3	06.11.2020	DA FOR CLIENT APPROVAL
P2	28.10.2020	DA FOR CLIENT APPROVAL
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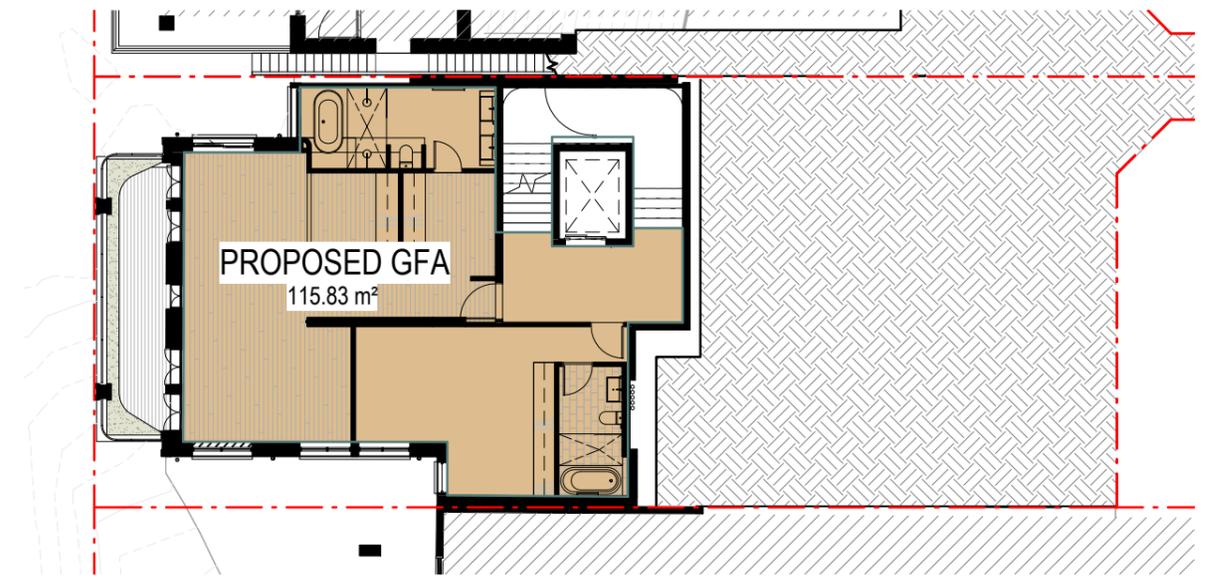
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PROJECT NAME:  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026  
CLIENT:  
SP 5170 / DP 341546

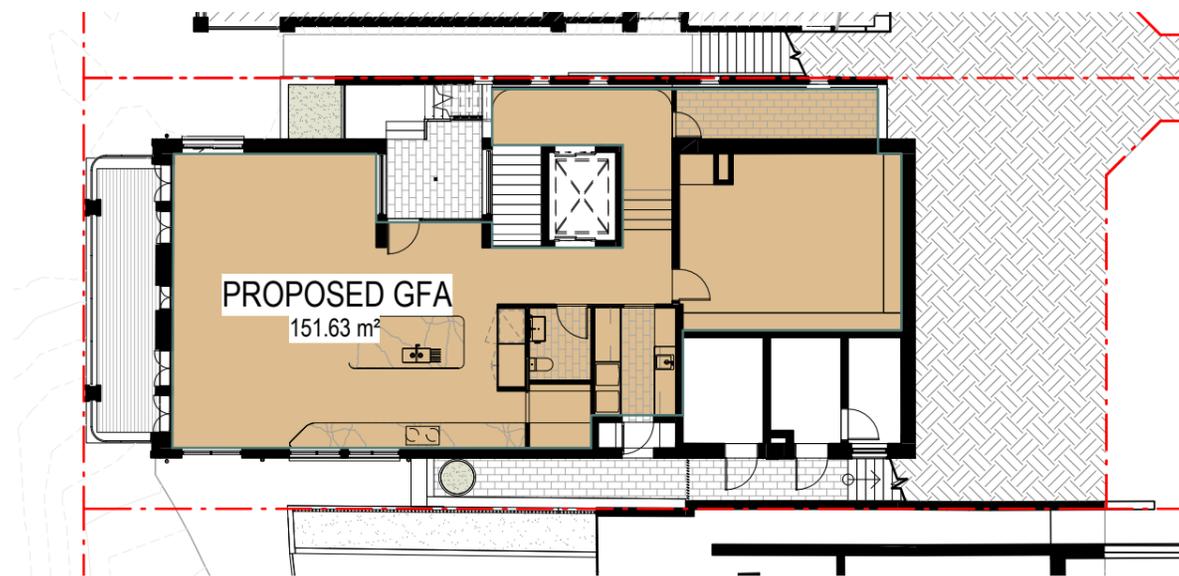




**1 PROPOSED GFA - LOWER GROUND FLOOR 3**  
scale - 1 : 200@ A3



**2 PROPOSED GFA - LOWER GROUND FLOOR 2**  
scale - 1 : 200@ A3



**3 PROPOSED GFA - LOWER GROUND FLOOR 1**  
scale - 1 : 200@ A3

<b>SITE AREA</b>	389.4m <sup>2</sup> by survey
<b>EXISTING GFA</b>	811.4m <sup>2</sup>
<b>EXISTING SITE COVER</b>	193.8m <sup>2</sup>
<b>PROPOSED GFA</b>	819.9m <sup>2</sup>
<b>PROPOSED SITE COVER</b>	193.8m <sup>2</sup>
<b>EXISTING FSR</b>	1 : 2.08
<b>PROPOSED FSR</b>	1 : 2.04

**GFA - PROPOSED**

LEVEL	TYPE	AREA
LOWER GROUND FLOOR 3	PROPOSED GFA	126.3 m <sup>2</sup>
LOWER GROUND FLOOR 2	PROPOSED GFA	115.8 m <sup>2</sup>
LOWER GROUND FLOOR 1	PROPOSED GFA	151.6 m <sup>2</sup>
GROUND FLOOR	PROPOSED GFA	86.4 m <sup>2</sup>
FIRST FLOOR	PROPOSED GFA	157.4 m <sup>2</sup>
SECOND FLOOR	PROPOSED GFA	157.4 m <sup>2</sup>
<b>TOTAL GFA</b>		<b>795.0 m<sup>2</sup></b>

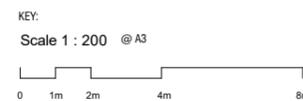
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FFL 00.00	FINISHED FLOOR LEVEL	CC APPROVED WORKS COMPLETED SHOWN GREY
± 00.000	SURVEY SPOT LEVEL	AMENDING DA WORKS SHOWN BLUE
± 00.000	EXISTING LEVEL	



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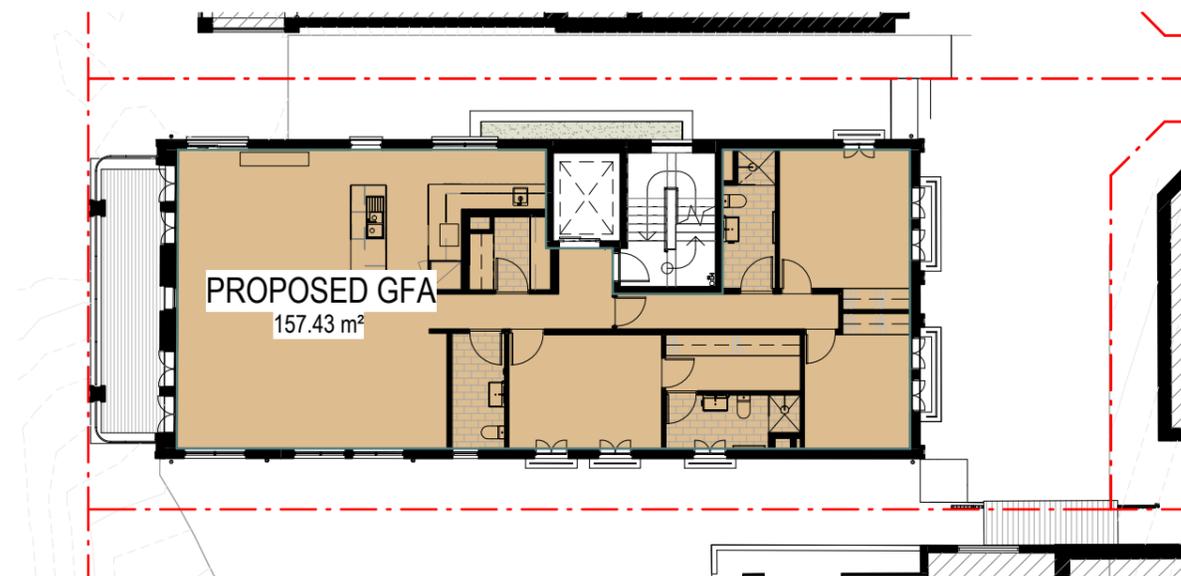
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GFA CALCULATION - PROPOSED

**PROJECT NAME:**  
BEACH HAVEN APARTMENTS, 107 RAMSGATE AVE,  
NORTH BONDI, NSW, 2026  
**CLIENT:**  
SP 5170 / DP 341546

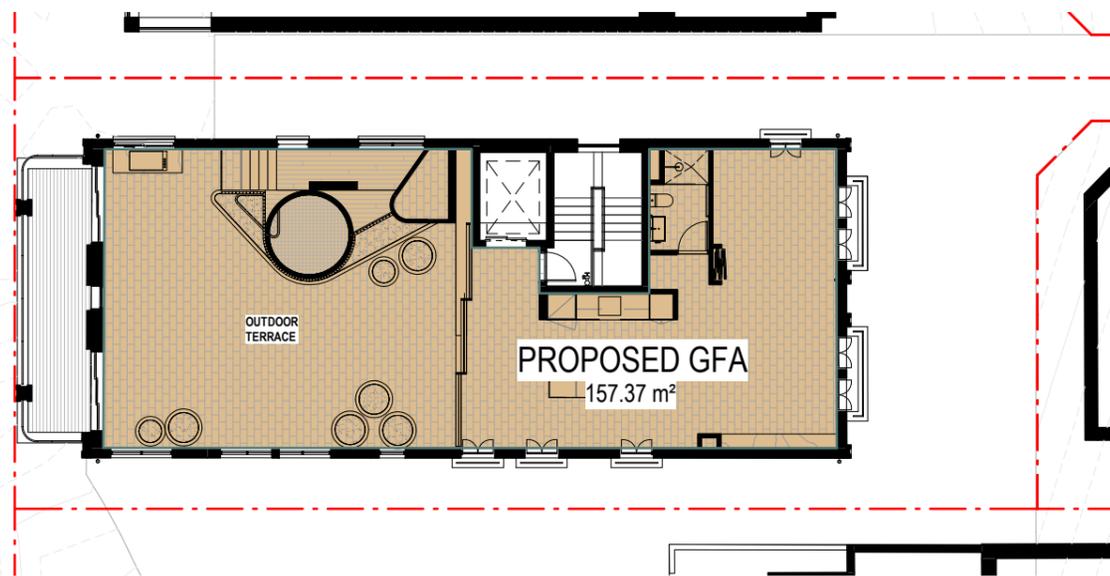
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Page 198 of 331



**1 PROPOSED GFA - GROUND FLOOR**  
scale - 1 : 200@ A3



**2 PROPOSED GFA - FIRST FLOOR**  
scale - 1 : 200@ A3



**3 PROPOSED GFA - SECOND FLOOR**  
scale - 1 : 200@ A3

<b>SITE AREA</b>	389.4m <sup>2</sup> by survey
<b>EXISTING GFA</b>	811.4m <sup>2</sup>
<b>EXISTING SITE COVER</b>	193.8m <sup>2</sup>
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SECOND FLOOR	PROPOSED GFA	157.4 m <sup>2</sup>
<b>TOTAL GFA</b>		<b>795.0 m<sup>2</sup></b>

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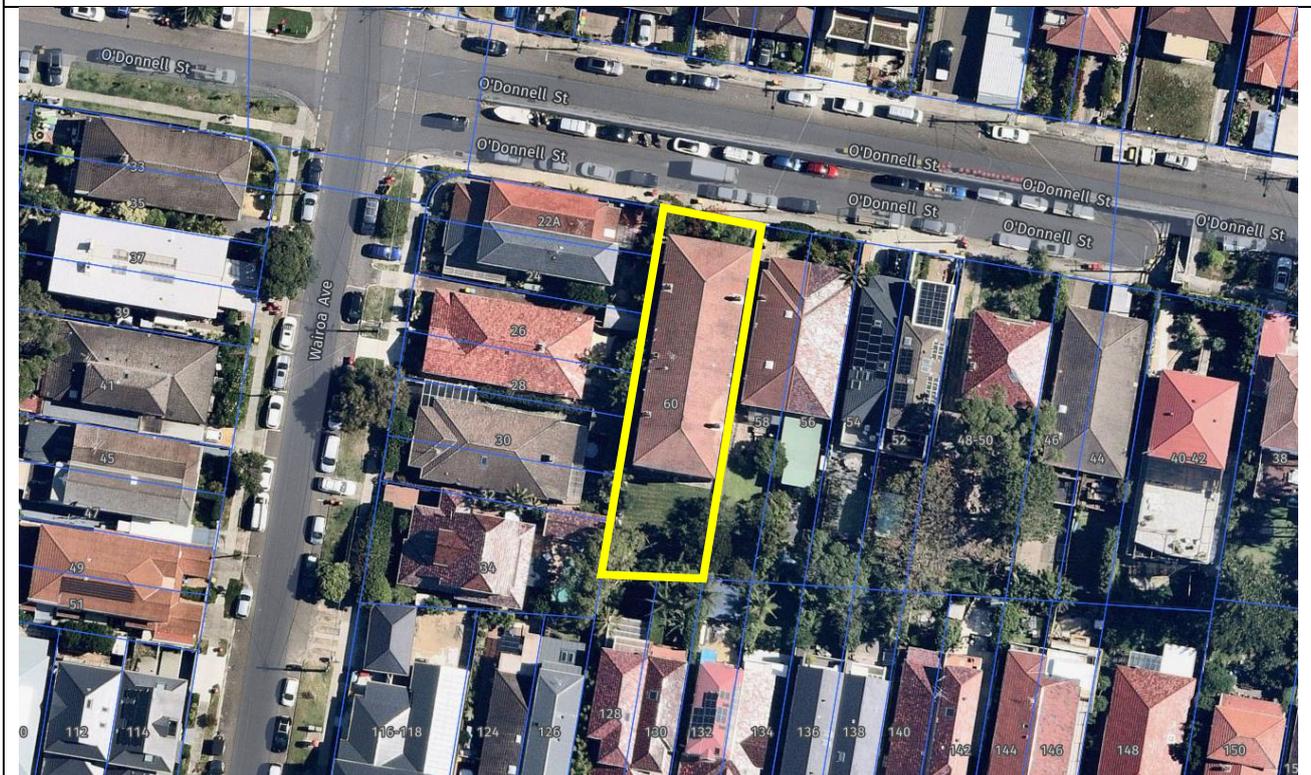
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CLIENT:  
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## Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-544/2021
<b>Site address</b>	60 O'Donnell St, North Bondi
<b>Proposal</b>	Consent for unauthorised use of subfloor area of existing Residential Flat Building (RFB) as storage areas.
<b>Date of lodgement</b>	10 December 2021
<b>Owner</b>	Proprietors of Strata Plan 17674
<b>Applicant</b>	Solutions Zane
<b>Submissions</b>	One
<b>Cost of works</b>	\$49,940
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Breach to Floor Space Ratio (FSR)</li> <li>• Floor-to-ceiling height</li> </ul>
<b>Recommendation</b>	That the application be APPROVED in accordance with the conditions contained in the report

### SITE MAP



(Source: Nearmaps, 2022)



## 1. PREAMBLE

### 1.1. Executive Summary

The Development Application (DA) seeks consent for the unauthorised use of the subfloor area of an existing RFB as storage area with proposed alterations at the site known as 60 O'Donnell Street, North Bondi.

The principal issues arising from the assessment of the application are as follows:

- Breach to FSR; and
- Floor-to-ceiling heights.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted justifying the breach in FSR, and as the storage is located in the sub-floor area it will not result in any additional bulk or scale to the existing building; and the non-compliant storage floor-to-ceiling height is accepted on merit due to the adequate justification provided in the Building Code of Australia (BCA) report.

One submission was received, and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 17 February 2022.

The site is identified as SP17674, known as 60 O'Donnell St, North Bondi.

The site is rectangular in shape with a northern frontage to O'Donnell Street, measuring 13.105m. It has an area of 621.7m<sup>2</sup> and falls from the north (front) towards the rear (south) by approximately 3.85m.

The site is occupied by a part-two, part-three storey RFB, containing eight units.

The site is adjoined by a single storey semi-detached dwelling to the east (no. 58 O'Donnell St) and the rear of the lots that front Wairoa Avenue (no's 22-34 Wairoa Avenue). The locality is generally characterised by a majority of low density residential built-form.

**Figures 1 to 6** are photos of the site and its context.



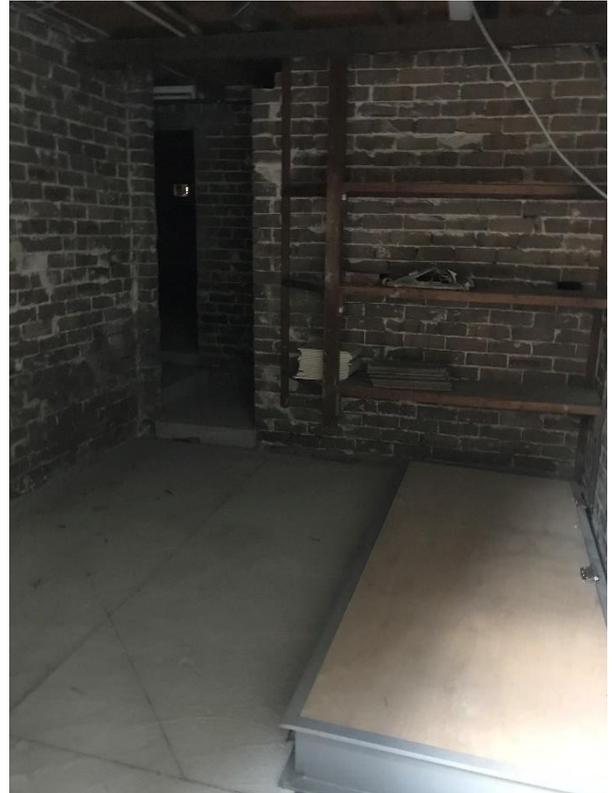
**Figure 1:** Front of the RFB from O'Donnell Street, looking south.



**Figure 2:** Rear of the RFB from the communal open space, looking north.



**Figure 3:** Existing entry to the lower-ground (sub-floor) storage area on western elevation.



**Figure 4:** Existing lower ground space with concrete floor, proposed to be used for storage.



**Figure 5:** Existing lower ground space with concrete floor, proposed to be used for storage.



**Figure 6:** Existing lower ground space with concrete floor, proposed to be used for storage.

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-9/2008 for alteration to an internal wall within apartment 5 was approved on 23 January 2008.

### 1.4. Proposal

The DA seeks consent for unauthorised use of the subfloor area of an existing RFB as storage areas with proposed alterations, in detail the DA seeks consent for:

#### Works proposed to be completed post the granting of consent:

- Installation of new door to revised wall opening along the western elevation.
- Fabricate and install new cage doors to respective storage spaces.
- Install sensor lights within subfloor storage areas.
- Tidying of existing services within subfloor area (including electrical cabling and pipework) to allow for functional use of storage areas.
- Install required fire protection to services as well as bearers and joists to the floor of units above.

#### Unauthorised works carried out: (to be approved via a separate Building Certificate)

- Increase in width and height of an existing opening to subfloor area along western side elevation.
- New opening to central party wall within subfloor area to provide access to storages space along the eastern elevation.
- Minor leveling ground surfaces and new concrete slab to subfloor area.

### 1.5. Background

The DA was lodged on 10 December 2021 and deferred on 23 February 2022 requiring an amended Building Code of Australia (BCA) report and a Clause 4.6 Variation was to be provided regarding the breach in the FSR standard. These documents were provided to Council on 20 April 2022.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this DA under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

### 2.2. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this DA:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.

### 2.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 1: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal meets the aims of the Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table <i>Medium Density Residential 'R3' Zone</i>	Yes	The proposal is defined as alterations and additions to an RFB, which is permitted with consent in the R3 zone.
<b>Part 4 Principal development standards</b>		
4.4 Floor Space Ratio (FSR) <ul style="list-style-type: none"> <li>• Lot Size: 621.7m<sup>2</sup></li> <li>• Max FSR: 0.6:1</li> <li>• Max GFA: 373.02m<sup>2</sup></li> </ul>	Yes	<u>Gross Floor Area (GFA) Calculation:</u> Basement: 128m <sup>2</sup> Ground Floor: 264.2m <sup>2</sup> First Floor: 264.2m <sup>2</sup> <b>Total GFA: 656.4m<sup>2</sup></b> <b>Total FSR: 1.06:1</b>  The total GFA of the RFB will breach FSR by 283.38m <sup>2</sup> or 76%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the FSR development standard. A detailed discussion of the variation to the development standard is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The subject site is located within class 5 acid sulfate soils. However, the proposed works will not lower the water table.
6.2 Earthworks	N/A	No excavation is proposed.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

#### *Clause 4.6 Exceptions to Development Standards - FSR*

The application seeks to vary the FSR development standard in clause 4.4 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 0.6:1. The proposed development has a FSR of 1.06:1, exceeding the standard by 283.38m<sup>2</sup> equating to a 76% variation.

It is noted the existing RFB breaches the FSR development standard by 155.38m<sup>2</sup> or 41.7%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

#### Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:*
  - a. *Despite the strict numerical departure from the development standard, the proposed development is consistent with the objectives of the standard in that:*
    - i. *The works have been and will be carried out entirely within the existing building envelope, namely the subfloor area.*
    - ii. *The nil changes to the existing building envelope will ensure that the end development will continue to be compatible with the height, bulk and scale of the desired future character of the locality.*
    - iii. *The nil change in building height and non-residential use of the sub-floor area will continue to ensure an appropriate correlation between maximum building heights and density controls for the locality.*
    - iv. *As the works are entirely internal (with the exception of the alteration of the existing access door), the proposed development will not be visible from surrounding properties or the public domain.*
    - v. *Further, the proposed development will not alter the existing landscape or communal spaces on the site, or the existing suitable provision of solar access and privacy to the residents of the existing residential flat building and surrounding developments.*

- b. *The proposed development will provide for enhanced storage space for the residents of each of the existing units without any apparent increase in the height, bulk or scale of the existing building.*
- c. *The proposed works, which are both minor and innocuous, will not result in an intensification of the existing use of the site, with works relating to non-habitable, ancillary storage spaces only.*
- d. *The strict numerical non-compliance with the maximum floor space ratio standard will have a negligible impact on the amenity of surrounding residents, including those within the existing building.*
- e. *As the works are entirely internal and do not relate to any increase in the residential intensity of site usage, the application of the standard in this instance is somewhat irrelevant.*
- f. *Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 established 5 ways in which a departure from a development standard can be justified and this was reiterated by Chief Justice Preston in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. The most invoked means of justifying a departure from a development standard is the achievement of the end objectives, despite the strict numerical non-compliance.*

*For the reasons outlined above, the relevant objectives of the FSR standard, in this instance, are achieved and the request for departure is entirely justified and worthy of support on this occasion.*

*Given the justification provided in this request, the remaining ways by which a clause 4.6 Request may be justified do not require elaboration. Notwithstanding, for the purposes of completeness, the remaining ways are articulated with relevant commentary:*

- i. *The underlying objective or purpose of the standard is not relevant to the development*

***Applicant's comment:*** *As the works carried out are all within the existing building envelope and indiscernible from surrounding properties or the public domain, the underlying objective of the standard, whilst satisfied, is not relevant.*

- ii. *The underlying objective or purpose would be defeated or thwarted if compliance was required.*

***Applicant's comment:*** *In this instance, the underlying objective or purpose would be defeated or thwarted if compliance was required, as compliance would not facilitate any discernible benefits and would defeat an opportunity to improve internal amenity.*

- iii. *The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or*

***Applicant's comment:*** *Whilst the abovementioned standard is frequently varied by Council in justified circumstances, it has not been abandoned or destroyed by the Council's own actions.*

iv. *The zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.*

**Applicant's comment:** *Whilst The zoning of the land on this occasion is not regarded as unreasonable or inappropriate although the FSR is regarded as unlikely to encourage redevelopment of R3 Medium Density land in this location.*

g. *The proposal meets the objectives of the R3 zone in the following way:*

i. *The proposed development, inclusive of the strict numerically non-compliant components is entirely consistent with the relevant zone objectives in that:*

1. *The end development, inclusive of a component of strictly non-compliant FSR, will provide for the housing needs of the community within a medium density residential environment.*
2. *The end development, inclusive of a component of strictly non-compliant FSR, will continue to contribute to the provision of a variety of housing types within a medium density residential environment.*
3. *The strict numerically non-compliant component of proposed works will not alter the public transport patronage or the amount of walking and cycling from the existing building.*

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

- a. *Notwithstanding the departure from the maximum allowable FSR, the proposed development will not alter the maximum building height, minimum setbacks, suitable landscaped and communal space provisions, solar access and overshadowing or the visual and acoustic privacy interfaces observed by the existing residential flat building.*
- b. *Having regard to the acceptable scale of the existing development, commensurate with that in the surrounding locality, the inclusion of the strictly numerical non-compliant component within the existing building will not result in any adverse impacts on the streetscape.*
- c. *Council has a documented history of applying a flexible approach to the maximum FSR standard as per the allowances under Clause 4.6, in appropriate circumstances, such as is the case on this occasion.*

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and



(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is sound justification as it is demonstrated that despite the numerical non-compliance the development still meets the objectives of the development standard and the zone.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant has demonstrated that despite the numerical non-compliance, the development will not increase in bulk and scale as the storage is located within the sub-floor area of the existing building and will therefore not create additional environmental amenity impacts to surrounding properties.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the FSR development standard are as follows:

*Objection (b): to provide an appropriate correlation between maximum building heights and density controls.*

The storage area is located at lower ground level within the existing built form. The additional FSR will not create additional bulk or scale.

*Objective (c): to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality.*

The storage area is located at lower ground level within the existing built form. The additional FSR will not create additional bulk or scale.

*Objective (d): to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

The storage area is located at lower ground level within the existing built form. The additional FSR will not create additional bulk or scale and therefore will not create any unreasonable environmental impacts.

The objective of the R3 zone is *to provide for the housing needs of the community within a medium density residential environment.*

The storage area contributes to the housing needs of the community.

#### Conclusion

For the reasons provided above the requested variation to the FSR is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR and the R3 zone.

#### 2.4. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration.

#### 2.5. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 2: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Condition recommended.	Appropriate conditions are recommended regarding waste management during the construction phase.
6. Stormwater	Condition recommended.	Council's Stormwater Engineer has reviewed the proposal and recommended appropriate conditions of consent.
13. Subdivision	Condition recommended.	A condition is recommended that a draft Strata subdivision plan be provided.

**Table 3: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>• Respond to streetscape</li> <li>• Sympathetic external finishes</li> <li>• Corner sites to address both streets as primary frontages</li> <li>• Removal of original architectural features not supported.</li> </ul>	N/A	The proposed works will not impact the overall building design or streetscape.
<b>3.17 Ceiling Heights</b>		
	See discussion.	Refer to discussion below this table.
<b>3.18 Storage</b>		
	Yes	The additional storage for the units within the RFB is supported.
<b>3.20 Natural Ventilation</b>		
	N/A	As the use of the lower ground is storage (non-habitable), ventilation is not required.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

*Floor-to-Ceiling Height*

In accordance with Volume one, Part F3 of the National Construction Code (NCC), the minimum floor-to-ceiling height for the storage area is required to be 2.1m. Although the floor to ceiling heights to the lower ground level are less than 2.1m, they are supported on merit due to the alternate solution proposed in the BCA report. This alternate solution is outlined below:

### 3.16 Room Heights – New Subfloor Storeroom Area Only

The BCA requires a non-*habitable room* to have a ceiling height of not less than 2.1m.

The majority of the new subfloor storeroom will have a finished ceiling height of between 2.2m to 1.935m at its lowest.

Performance requirement FP3.1 requires a *habitable rooms* or space to have sufficient height that does not unduly interfere with the intended junction.

As the proposed subfloor storeroom area will not be visited frequently and an average height person can walk around uninhibited by the height, it is considered that Performance Requirement FP3.1 is satisfied as the 17cm in reduction of the ceiling height does not interfere with the proposed function of the room, therefore the minor non-compliance should be accepted.

Any beams or doorways less than 1.9m in height must be provided with yellow and black warning tape / paint with the wording "Caution – Low Head Height".

There are 2 proposed storerooms that will have a finished ceiling height of 1.63m and 1.55m which is considered too low and must not be used. Access to the area of these 2 rooms must be restricted to maintenance purposes only (i.e., access to subfloor for pipe maintenance etc). A -/60/30 self-closing fire door or fire rated access panel must be provided to separate these 2 rooms from the main storeroom area of the subfloor – see Attachment 1 - Plans.

**Figure 7.** Outline of alternate solution for non-compliant floor to ceiling heights within the BCA Assessment Report. (Source: Accurate Fire and Building Consulting, 2022)

## 2.6. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.7. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.8. Any Submissions

The application was notified for 28 days (Holiday Period) from 16 December 2021 – 20 January 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of one unique submission was received from 30 Wairoa Avenue, North Bondi.

The issues raised in the submission are summarised and discussed below.

**Issue: Confirming the DA is ONLY for alterations of the existing space under the apartment block into proper storage units?**

Response: A summary of the DA works has been provided within this report and demonstrated in the plans.

**Issue: Confirming there is NO additional windows to be added?**

Response: No additional windows are proposed.

**Issue: Confirming the ONLY amendment externally is the opening to the subfloor area? And confirming this doorway is to be ONLY used for accessing storage cages?**

Response: The opening to the subfloor already exists as per **Figure 3** within this report. The DA proposes the installation of a new door to the revised wall opening along the western elevation.

**Issue: The increase in existing height of the opening to the subfloor area (noted under unauthorised works) has actually resulted in the doorway being visible from my property. Previously I had no visibility of a doorway, dispute the point of "slight increase". Is this new height being accepted by Council?**

Response: This opening is considered acceptable to access the storage area.

**Issue: I would like to understand more about the type of door (materials and aesthetics) being proposed?**

Response: The building is not classed as a heritage item. Council raises no objection to the materiality of the door.

**Issue: I would like to understand what type of hinge / closing mechanism is proposed for the door? Given I spend a lot of time in the back part of the house/backyard I don't want to a hearing slamming door. I request a soft closing door be installed and included as part of the DA submission.**

Response: The type of detail relating to the door is not considered as part of the development application process. A condition is recommended that the door not be prone to slamming (slow closing door).

**Issue: Details on illumination requested.**

Response: A condition is recommended that the lighting not affect other properties and the door be constructed of solid material (i.e. no openings).

**Issue: Is their additional ventilation being proposed for the subfloor area/storage area? If so what type / where? As I am concerned about sound from any proposed ventilation or a/c systems.**

**Issue: Related to point 1 - Confirming the DA is not proposing any laundry or like facility be added in the subfloor area?**

Response: No additional ventilation proposed to the storage area. It is not to be used as a habitable space.

**Issue: Confirming the DA is not proposing any laundry or like facility be added in the subfloor area?**

Response: The area is proposed to be used for storage only.

## 2.9. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Fire Safety

An internal referral was sought from Council's Fire Safety Officer who recommended conditions of consent.

### 3.2. Compliance

An internal referral was sought from Council's Compliance Department who provided no comments.

### 3.3. Stormwater

An internal referral was sought from Council's Stormwater Department who recommended conditions of consent.

## 4. CONCLUSION

The Development Application (DA) seeks consent for the unauthorised use of the subfloor area of an existing RFB as storage area with proposed alterations at the site known as 60 O'Donnell Street, North Bondi.

The principal issues arising from the assessment of the application are as follows:

- Breach to FSR; and
- Floor-to-ceiling heights.

The assessment finds these issues acceptable as a well-founded clause 4.6 variation has been submitted justifying the breach in FSR and it is noted that the storage is located within the sub-floor and will therefore not result in any additional bulk to the existing building; and the non-compliant storage floor-to-ceiling heights are accepted on merit due to the adequate justification provided in the Building Code of Australia (BCA) report.

One submission was received, and the issues raised in the submission have been considered and addressed in this report and in the recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of consent.

#### ***Development and Building Unit (DBU) Decision:***

The application was reviewed by the DBU at the meeting on 15 February 2022 and the DBU determined:

- (a) The application is acceptable and should be approved, subject to the conditions in Appendix A.

DBU members: *A Rossi, B McNamara, B Matlawski and J Elijah*

5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL

That the development application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Joseph Somerville	Bridget McNamara
<b>Development Assessment Planner</b>	<b>Manager, Development Assessment (North/South) (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date:</b> 22 April 2022	<b>Date:</b> 4 May 2022

*Reason for WLPP referral:*

1. Departure from any development standard in an EPI by more than 10%

## APPENDIX A – CONDITIONS OF CONSENT

### A. APPROVED DEVELOPMENT

#### 1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by CSA Architects including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
01	Site Plan	16/11/2021	09/12/2021
02	Lower Ground Floor Plan and Section	16/11/2021	09/12/2021
03	Existing Elevations	16/11/2021	09/12/2021

(b) BASIX Certificate

(c) Building Code of Australia (BCA) Report (Report no. 1819) prepared by Accurate Fire and Building Consulting, dated 12/04/2022 and received by Council 20/04/2022.

(d) The Site Waste and Recycling Management Plan (SWRMP) Part 1 received by Council 09/12/2021.

Except where amended by the following conditions of consent.

#### 1. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

(a) The external door to the storage area on the western elevation is to have a soft closing mechanism.

(b) The external door to the western elevation is to be constructed of solid material (i.e. no openings) as to not create light pollution to neighbouring properties.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

#### 2. UNAUTHORISED WORKS

Any unauthorised works are to be approved via a Building Certificate prior to any Construction Certificate being issued.

### B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.



## GENERAL REQUIREMENTS

### 3. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

## CONTRIBUTIONS, FEES & BONDS

### 4. SECTION 7.12 CONTRIBUTION

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the *Environmental Planning and Assessment Regulation 2000*, the levy must be paid in accordance with the following:
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or
  - (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

### 5. SECURITY DEPOSIT

A deposit (cash or cheque) or guarantee for the amount of \$2,290.00 must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **6. LONG SERVICE LEVY**

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **7. BASEMENT STORAGE**

The basement level/s are to provide separate and secure storage areas (in the form of lockable storage cages or the like), allocated to each apartment in the development for larger bulkier items (surfboards, boxes, camping equipment etc.) which are not suited to be stored within each individual apartment. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012.

## **CONSTRUCTION & SITE MATTERS**

### **8. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **9. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

## **10. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

## **11. ENGINEERING CERTIFICATE OF ADEQUACY**

A Certificate of Adequacy prepared by a practicing Structural Engineer is to be provided certifying the adequacy of the existing building structure to carry the extra load of the proposed additions, prior to the issue of the relevant Construction Certificate.

### WASTE

## **12. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

*A Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### FIRE SAFETY

## **13. ESSENTIAL SERVICES - EXISTING BUILDING**

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

## **14. FIRE SAFETY UPGRADING WORKS**

- a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the building must be upgraded to comply with all recommendations detailed in the Building Code of Australia Assessment Report prepared by Scott Robshaw of Accurate Fire & Building Consulting, dated 12 April 2022 with Reference No. 1819 – Amendment 1.

- b) Details demonstrating compliance with the BCA and the matters listed in condition (a) must be submitted and approved by the Certifying Authority prior to the issue of a Construction Certificate.
  
- c) Prior to the commencement of the required upgrade works, a Construction Certificate must be issued by an accredited Certifying Authority and an accredited PCA be appointed. The required upgrading works detailed in this condition must be completed prior to the issue of an Occupation Certificate and Strata Subdivision Certificate.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### PRIOR TO ANY WORKS

#### **15. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

### DEMOLITION & EXCAVATION

#### **16. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997.*

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials

Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

#### **17. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

#### **CONSTRUCTION MATTERS**

#### **18. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

#### **19. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

## **20. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

## **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

### **21. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained. The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **22. SUBDIVISION CERTIFICATE**

A Subdivision Certificate must be obtained from Council in accordance with of the *Environmental Planning and Assessment Act 1979* prior to the registration of the subdivision plans.

### **23. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **24. CERTIFICATION OF RETAINED STORMWATER DRAINAGE SYSTEM**

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer or Plumber, that any retained stormwater drainage system is unblocked, in good working order and to be repaired/replaced in accordance with Council's Water Management Technical Manual and Development Control Plan and all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

## **E. ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### **AD2. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra’s assets in any way, you are required to contact: Telstra’s Network Integrity Team on 1800 810 443.

#### **AD4. ALTERATIONS AND ADDITIONS ONLY**

This consent is for alterations and additions to the existing building only and should during the course of construction a significant amount of the remaining fabric of the building be required to be removed,

works must cease immediately and a new development application will be required to be submitted for assessment.

**AD5. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD6. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD7. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.













Other Residential Development



Report to the Waverley Local Planning Panel

<b>Application number</b>	DA-355/2021
<b>Site address</b>	140-142 Curlew Street BONDI BEACH
<b>Proposal</b>	Demolition of buildings and construction of a new four-storey shop top housing building with retail at ground, residential units above, basement parking and a Planning Agreement
<b>Date of lodgement</b>	03/09/2021
<b>Owner</b>	Proprietors of Strata Plan 31173; Mr C Mormanis
<b>Applicant</b>	HSN Property Group P/L
<b>Submissions</b>	10 objections and 2 letters of support
<b>Cost of works</b>	\$12,320,000
<b>Principal Issues</b>	<ul style="list-style-type: none"> <li>• Height and FSR</li> <li>• Separation distances</li> </ul>
<b>Recommendation</b>	That the application be granted DEFERRED COMMENCEMENT CONSENT in accordance with the conditions contained in the report.

**SITE MAP**



## 1. PREAMBLE

### 1.1. Executive Summary

The development application seeks consent for the construction of a new four-storey shop top housing building with retail at ground, residential units above, basement parking and a Planning Agreement at the site known as 140-142 Curlewis Street, Bondi Beach.

The principal issues arising from the assessment of the application are as follows:

- The proposal exceeds the FSR development standard resulting in overshadowing impacts on the adjoining property. In this case, the proposal does not preserve the amenity of the adjoining property and the offer to enter into a planning agreement is not accepted. A condition of deferred commencement is recommended to reduce the FSR to be compliant with the development standard.
- The proposal exceeds the height development standard by 825mm or 6.3%. The height variation relates to plant, clerestory windows and a small part of the parapet and will not result in unreasonable amenity impacts upon surrounding properties.
- The proposal does not meet the separation distances of the Apartment Design Guide (ADG); however privacy treatments have been incorporated into the design to ensure that privacy impacts are not unreasonable.

A total number of 10 objections and two letters of support were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for approval subject to conditions of deferred commencement consent.

### 1.2. Site and Surrounding Locality

A site visit was carried out on 16/11/2021.

The site is comprised of two adjoining sites, identified as SP 31173, known as 140 Curlewis Street, Bondi Beach and Lot 2 Sec 3 DP 747, known as 142 Curlewis Street, Bondi Beach.

The combined sites (the site) are rectangular in shape with a combined south-western frontage to Curlewis Street, measuring 24.38m. The combined sites have an area of 1167.4m<sup>2</sup> and falls from the rear towards the front by approximately 1-1.5m.

No. 140 Curlewis Street is occupied by a three-storey shop top housing development with a shop at ground level, parking behind and residential apartments on the levels above. No. 142 Curlewis Street contains another three-storey shop top housing development with a shop at ground level and residential apartments above. There is no parking provided on this site.

The site is adjoined by a part four and five-storey shop top housing development to the west and a three-storey shop top housing development to the east, on the corner with Gould Street. The locality is characterised by a variety of low or medium density residential development and is within a commercial centre.

**Figures 1 to 2** are photos of the site and its context.



**Figure 1:** Combined site frontage to Curlewis Street



**Figure 2:** Site viewed from Gould Street (rear elevation of No. 142)

### 1.3. Relevant Development History

A search of Council's records revealed the following recent and relevant development history of the site:

- DA-65/20003 (142 Curlewis Street): Alterations and additions including new rear balconies and windows approved 30/04/2003.

### 1.4. Proposal

The development application seeks consent for the demolition of the existing buildings and construction of a new four-storey shop top housing development. The proposed development will provide six retail shops at ground level with 18 residential apartments in the levels above and two levels of basement parking.

The residential apartments will be comprised of the following:

- 12 x two-bedroom apartments
- 6 x three-bedroom apartments.

The basement carpark will provide 34 car spaces comprised of the following:

- 8 vehicle spaces for retail uses
- 23 vehicle spaces for residents (4 are accessible)
- 3 vehicle spaces for residential visitors
- 11 motorcycle spaces
- 24 bicycle spaces.



**Figure 3:** Photomontage of proposed development as provided by the Applicant



## 1.5. Background

The development application was lodged on 02 September 2021 and deferred on 22 November 2021 for the following reasons:

1. Bulk and scale and the proposed variation to the FSR development standard.
2. SEPP 65 and Apartment Design Guide (ADG) predominantly relating to separation distances and solar access.
3. Design Excellence Advisory Panel comments and issues.
4. Non-compliance with DCP controls relating to deep soil, excavation, sanitary facilities, mechanical plant and exhausts and character study area.
5. Waste storage.
6. Stormwater.
7. Corrections to plans and documentation.

Amended plans and documentation were provided to Council on 23 March 2022 with the plans forming the basis for the assessment within this report. The principal changes can be summarised as follows:

- A reduction of 98m<sup>2</sup> to the overall gross floor area (GFA), resulting in a lowered variation to the development standard of 9.5% (original application sought a 13.7% variation).
- Increased rear and side setbacks.
- Increased deep soil landscaping, from 159m<sup>2</sup> to 190m<sup>2</sup>.
- A reduction in car parking, from a total of 38 car spaces reduced to 34.
- A reduction in motorcycle parking, from a total of 13 spaces reduced to 11.
- Relocation of sanitary facilities from the basement car park to the ground floor level.
- Amendments to the side elevations to provide greater modulation of the building and increased privacy.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

### 2.1. Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

### 2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004.
- SEPP 55 Remediation of Land.
- SEPP 65 (Design Quality of Residential Apartment Development).
- SEPP (Affordable Rental Housing) 2009.
- SEPP (Vegetation in Non-Rural Areas) 2017.

A detailed discussion is provided for relevant SEPPs as follows:

#### *SEPP (Design Quality of Residential Apartment Design)*

The application was referred to the Waverley Design Advisory Excellence Panel (DEAP) on 13 October 2021. The DEAP’s comment of the proposed development against the nine design quality principles under Schedule 1 of SEPP 65 and a planning response to each comment are set out in **Table 1** of this report.

**Table 1: Assessment against the Nine Design Quality Principles under SEPP 65**

<b>Principle 1: Context and Neighbourhood</b>
<p><i>The proposal demonstrates a high level of analysis of the local character, and the Curlewis Street frontage is considered as complementary to the streetscape with a setback fourth level. However, the adjacent property at 144 Curlewis St was noted as potentially being compromised if developed in the future due to constraints that would be imposed by this proposal, and it was recommended that further analysis be undertaken to show likely impacts and how these may be overcome.</i></p> <p><b>Planning comment:</b> The amended proposal increases the side boundary setbacks to 3m and has been designed to minimise privacy impacts upon adjoining sites, through screening and/or orientation of windows. The amended documentation also includes an analysis plan of potential neighbouring development. The plan indicates that future development upon the adjoining site to the east could be achieved through similar variations to the separation distance controls sought under the subject development. This variation is consistent with those sought for similar four-storey development within the area being consistent with the pattern of development within Bondi Beach.</p>
<b>Principle 2: Built Form and Scale</b>
<ul style="list-style-type: none"> <li>• <i>The proposal is consistent with the surrounding context and massing and responds to both its street address and visibility from surrounding streets.</i></li> <li>• <i>Minor exceedances of height as shown are not producing a negative impact as set back from building edges and largely not visible from public domain.</i></li> <li>• <i>Setbacks from side boundaries and the rear are not satisfactory, and balconies that project beyond the required setback will create privacy and potential amenity issues with adjacent properties, particularly to the east.</i></li> </ul>

**Planning comment:** As detailed above, the amended proposal has increased the setbacks from the side boundaries to 3m and from the rear to 5.5m to balconies and at least 6m to windows. This is considered acceptable as discussed in detail later in this report.

### **Principle 3: Density**

- *The exceedance of GFA coupled with the non-compliance with setbacks is not supported without demonstrating how this improves the proposal for the future residents and neighbours. In particular, the rear setback should be addressed to improve the interface with the side boundary of Gould Street residences and their rear yards.*
- *It was recommended that review of the unit mix and built form be considered to address issues with setbacks as noted above and reduce the ground floor tenancies at the rear to allow communal open space connected to the landscaped area.*
- *The level 1 and 2 middle 2-bedroom apartments currently have limited outlook and natural light and this should be improved through replanning and possibly changing the unit mix to provide some 1-bedroom units.*
- *It was deemed that the parking provision was excessive for this proposal, and scope to minimise the need for basement excavation should be considered and this would assist in overcoming the shortfall in deep soil.*

**Planning comment:** The amended proposal has increased the separation distance from the rear to 5.5m – 6m. The balconies encroach upon the ADG required separation distance by only 500mm, which is considered justified given the setbacks of surrounding similar scale development in the area (refer to detailed discussion under ADG in this report). A condition of deferred commencement requiring compliance with the FSR development standard is recommended as discussed in detail in Section 2.1.3 of this report.

The underground car park has been reduced to increase setbacks and provide more deep soil.

The amended proposal increases the side and rear setbacks however continues to provide a mix of two and three-bedroom apartments. Advice from the applicant and developers is that this is in response to market feedback and local community demand, particularly post COVID-19, where more people are working from home.

### **Principle 4: Sustainability**

*It was recommended that the proposal should include the following ESD initiatives:*

- *Ceiling fans to all living areas and bedrooms.*
- *Material selection to avoid transport (local supply where possible).*

**Planning comment:** The amended plans indicate ceiling fans in bedrooms and living areas. Details regarding where materials are sourced is not required at the development application stage and this is at the discretion of the developer.

### Principle 5: Landscape

- *The proposal should be amended to provide improved access to the rear garden. This will encourage better consideration of the garden, scope for resident communal space and scope for maintenance access.*
- *Further detail should be provided regarding landscape boundary interfaces with the proposed building and the three boundary conditions.*
- *The high number of parking spaces on the site is impacting the 6m rear setback and reducing deep soil availability. This should be addressed to increase deep soil and reduced parking would be considered acceptable.*
- *A more detailed landscape plan is required that complies to Council's standards and the ADG's requirement for planting over structure. The landscape set must include sectional details of the proposed plantings that indicates soil depth and width.*

**Planning comment:** The applicant has resisted providing access to the rear gardens for the residential apartments and as such, the amended proposal continues to provide landscaping as periphery planting for the visual benefit of both the retail and residential uses and surrounding properties, without any active uses within these spaces. This is consistent with the pattern of development within Bondi Beach, particularly within the mixed commercial areas that provide retail shops at the ground level. This is discussed in more detail in section 2.1.3 of this report.

The car park has been reduced and deep soil increased in the amended proposal. Conditions regarding landscaping are recommended.

### Principle 6: Amenity

*As noted above the rear yard should be reconsidered to provide residential amenity. This could include an undercover communal space that connects to the garden. The retail arcade should be reconsidered to enable resident access and interface with retail tenancies.*

**Planning comment:** Refer to above discussion.

### Principle 7: Safety

*The proposal must include information on the management of the differing uses with regard to user interface and safety ie, residents and retail users overlapping at waste and basement and the residential access to communal garden.*

**Planning comment:** Refer to discussion above regarding the rear garden area. The retail and residential garbage rooms are separate; however it is noted that there is no enclosing door to the residential garbage room, meaning that this area could be utilised by the commercial tenants. A condition is recommended requiring that the access to each is separate.

### Principle 8: Housing Diversity and Social Interaction

- *The proposal includes a range of retail tenancy types and a mix of 2 and 3 bed units. This could be improved to include other types and a more diverse mix. The panel would prefer that the boundary interface issues are improved over the increase in dwelling types, and inclusion of some 1 br units or 1 br with media space could be considered.*

- *Scope for more 'work from home' spaces would be desirable given the likely future of working environments, and a ground floor tenancy at the rear could be a desirable work-share space.*

**Planning comment:** Refer to previous comments.

**Principle 9: Aesthetics**

*The proposal demonstrates a high quality aesthetic outcome. The panel requires that larger scale typical façade sections (1:20) be provided as addendum to the application to confirm the detail and materiality. These sections should be typical however at a minimum include retail façade and awning, street elevation, side screened elevation, rear elevation and typical lift lobby / planter area.*

**Planning comment:** A condition to this effect is recommended.

*Apartment Design Guide (ADG)*

An assessment against the provisions within the ADG is provided in **Table 2** of this report.

**Table 2: ADG**

Design Criteria	Compliance	Comment
<b>Part 3 Siting the development</b>		
<b>3A Site analysis</b>	Yes	A satisfactory site analysis was provided with the application.
<b>3B Orientation</b>	Yes	The proposed building has been orientated and designed to relate to the shape of the site, addressing the street frontages and properties at the rear.  Notwithstanding, the proposal results in increased overshadowing of the adjoining southern property as a result of seeking an additional 222.22m <sup>2</sup> of floor space above the FSR development standard. The additional floor space is not supported as discussed in detail in Section 2.1.3 of this report and a condition of deferred commencement is recommended deleting the two top floor apartments at the rear of the building. This will result in improved solar access to the adjoining property.
<b>3C Public domain interface</b>	Yes	The proposed building provides a satisfactory interface with the public domain providing retail shops at ground consistent with the zoning of the site.

Design Criteria	Compliance	Comment
<p><b>3D Communal and public open space</b></p> <p>ADG control: Minimum of 25% of site Minimum of 50% direct sunlight to the principal usable part on winter solstice</p>	No	<p>The proposal provides no communal open space; however, given the mixed use zoning of the site with shops at the ground floor level, this is not considered unreasonable.</p> <p>Each apartment is provided with sufficient private open space to meet user needs and the site is within proximity of Bondi Beach and foreshore parks which provide an abundance of recreational areas.</p>
<p><b>3E Deep soil zones</b></p> <p>ADG control: 7% of the site, deep soil zones should be provided</p>	Yes	<p>The proposal provides 16% (190m<sup>2</sup>) of the site as deep soil located along the rear and eastern side boundary.</p>
<p><b>3F Visual privacy</b></p> <p>Min separation distances from buildings (windows and balconies) to side and rear boundaries:</p> <ul style="list-style-type: none"> <li>• Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> </ul>	No	<p>Refer to detailed discussion following this table in relation to this issue.</p>
<p><b>3G Pedestrian access and entries</b></p>	Yes	<p>The proposal will provide a separate residential entry from the central retail arcade. The entry is connected to, and addresses the public domain, is easily identifiable and provides a strong connection with the streetscape.</p> <p>Electronic key access and intercom points are proposed at residential and vehicular entrances.</p>
<p><b>3J Bicycle and car parking</b></p>	N/A	<p>The car parking will be provided within an underground car park accessed via a driveway along the western side boundary of the site.</p> <p>The car parking rates of Waverley DCP 2012 apply to this development as the DCP rates are less than the minimum of the <i>'Guide to Traffic Generating Developments'</i> as discussed in section 2.1.7 of this report.</p>



Design Criteria	Compliance	Comment
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li>• 2 Bed = 70 m<sup>2</sup></li> <li>• 3-Bed = 90m<sup>2</sup></li> <li>• Add 5m<sup>2</sup> for each additional bathroom (above 1)</li> </ul> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Maximum depth of open plan living layouts is 8m.</p>		<p>The applicant states the proposal achieves compliance with the minimum glazed area to each habitable room.</p> <p>Habitable room depths and widths are in accordance with the design criteria. All bedrooms meet the minimum requirements in terms of dimensions and area.</p> <p>All kitchens are separate to the circulation spaces.</p> <p>The proposal is generally consistent with the objectives and design guidance of this part of the ADG.</p>
<p><b>4E Private open space and balconies</b></p> <p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> <li>• 2-bed - 10m<sup>2</sup> &amp; 2m depth</li> <li>• 3-bed - 12m<sup>2</sup> &amp; 2.4m depth</li> </ul>	Yes	<p>All apartments are provided with a balcony accessed from the main living areas, the majority of which meet the minimum requirements of the ADG in terms of area and depth. Given that all apartments exceed the minimum area requirements, there is sufficient area to provide compliant balconies to all apartments. This requirement will also result in a slight reduction in GFA/FSR and as such this is included as a condition of deferred commencement.</p> <p>The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The finishes of the balconies are consistent with the contemporary palette of materials in the building overall. Screens or solid side walls are provided to enhance privacy.</p>
<p><b>4F Common circulation and spaces</b></p> <ul style="list-style-type: none"> <li>• Max of 8 units accessed off a circulation core on a single level</li> </ul>	Yes	<p>Maximum of seven apartments accessed off the central circulation core.</p>



Design Criteria	Compliance	Comment
<p><b>4G Storage</b></p> <p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> <li>• 2-bed – 8m<sup>3</sup></li> <li>• 3-bed – 10m<sup>3</sup></li> </ul>	Yes	<p>The proposal provides separate storage within each apartment and storage allocated to each apartment within the basement carpark. The storage provided meets the requirements and objectives of the ADG. A condition is recommended to ensure compliance in this respect.</p>
<p><b>4H Acoustic privacy</b></p>	Yes	<p>Windows and door opening are generally oriented away from noise sources.</p> <p>The internal planning of apartments is consistent with the ADG in regard to this issue.</p>
<p><b>4K Apartment mix</b></p>	Yes	<p>The proposal provides a mix of two and three-bedroom apartments.</p>
<p><b>4M Facades</b></p>	Yes	<p>The proposal provides visual interest along the street and respects the character of the area. The palette of materials is considered appropriate and reflective of the desired future character.</p>
<p><b>4N Roof design</b></p>	Yes	<p>The roof provides plant, solar panels and clerestory windows, all of which are set back an appropriate distance from the outer edges of the roof or are largely concealed by a parapet to ensure low visibility from surrounding areas and within the streetscape.</p>
<p><b>4O Landscape design</b></p>	Yes	<p>The proposal includes landscaping to the rear and side boundaries, providing a transition to the residential uses adjoining.</p>
<p><b>4P Planting on structures</b></p>	Condition	<p>Greater detail is required which is required by condition.</p>
<p><b>4Q Universal Design</b></p>	Yes	<p>The applicant states that all apartments will incorporate silver level universal design features.</p>
<p><b>4S Mixed Use</b></p>	Yes	<p>The proposal will provide a mix of retail and residential uses appropriately contributing to the public domain and the character of the area.</p>
<p><b>4T Awnings and signage</b></p>	Yes	<p>The proposal provides a continuous awning along the Curlewis Street frontage with cut out for</p>

Design Criteria	Compliance	Comment
		future street tree planting as required by condition.  The use of each retail premise is unknown at this stage and signage is not proposed.
<b>4U Energy</b>	Yes	All apartments within the building incorporate passive environmental design, meeting the cross-ventilation requirements in the ADG.  Adequate natural light and solar access is provided to the majority of apartments.
<b>4V Water management and conservation</b>	Yes	A BASIX Certificate has been provided with the application which indicates that the proposal will meet the required water target.
<b>4W Waste management</b>	Yes	Separate waste storage rooms for the commercial and residential uses are provided. As discussed elsewhere, a condition is recommended that the access to each is restricted to only the commercial or residential occupants.
<b>4X Building maintenance</b>	Yes	The guideline suggests that building design should provide protection from weathering, systems and access for maintenance and materials which reduce ongoing maintenance costs. There is no evidence to suggest that the proposed building could not achieve this through the detailed construction certificate documentation process.

The following is a detailed discussion of the issues identified in **Table 2** of this report in relation to the ADG.

#### *Separation Distances*

The ADG requires minimum separation distances from windows and balconies to side and rear boundaries of 6m for habitable rooms and 3m for non-habitable rooms for a four-storey building. The proposal provides 3m from both side boundaries to habitable rooms and 5.5m from the rear boundary to balconies.

As is often the case with infill buildings, it is difficult to achieve 6m side boundary separation distances, as this would result in narrow buildings and apartments with poor internal amenity. In practice, a

variation to the side setback is often permitted subject to appropriate consideration of the privacy impacts and measures to ameliorate any impact. The amended proposal incorporates privacy screening and angled windows to achieve privacy for the subject site and adjoining buildings. The 3m side setbacks are consistent with the pattern of development within the Bondi Beach area, particularly in the B4 zone. Accordingly, the variation to the separation distances is considered acceptable.

The rear setback varies from 5.5m-6m with only a small part of each rear balcony extending within the 6m zone. Given that properties the adjoining site to the west at 136-138 Curlewis Street provides approximately 4m, this slight variation is considered acceptable.

*Solar and daylight access*

The ADG requires that at least 70% of units receive minimum of 2 hours direct sunlight to living rooms and private open spaces between 9am-3pm mid-winter. The proposal does not satisfy this requirement, providing 67% with sufficient solar access to meet these requirements (these figures will be further impacted by the deferred commencement condition which will reduce the number of apartments with a northerly aspect).

The site is within a B4 zone fronting Curlewis Street generally to the south. The DCP requires that the retail shops and front apartments address the street frontage. Given the width of the site, this results in two to three apartments having a southern aspect fronting Curlewis Street on each level. These apartments struggle to achieve the minimum solar access given the southern orientation. This configuration provides a better design outcome than strict compliance with the control and is considered acceptable given the constraints of the site.

The proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory and incorporating shading in the warmer months.

**2.1.2. Draft Waverley Local Environmental Plan 2022 (Draft Waverley LEP 2022)**

It is acknowledged that the Draft Waverley Local Environmental Plan 2022 was on exhibition from 12 November 2021 to 23 January 2022, however at the time of this assessment, there are no relevant matters for consideration

**2.1.3. Waverley Local Environmental Plan 2012 (Waverley LEP 2012)**

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

**Table 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
<b>Part 2 Permitted or prohibited development</b>		

Provision	Compliance	Comment
Land Use Table B4 Mixed Use Zone	Yes	The proposal is defined as <i>shop top housing</i> , which is permitted with consent in the B4 zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>13m</li> </ul>	No	The proposal has a maximum height of 13.825m exceeding the development standard by 825mm or 6.3%.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>2:1</li> </ul>	No	The proposal has an FSR of 2.19:1 exceeding the development standard by 222.22m <sup>2</sup> or 9.5%.  The proposal is accompanied by an offer to enter into a planning agreement.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height and FSR development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulfate soils	Yes	The site is classified as Class 5 on the Acid Sulfate Soils Map.  A preliminary Geotechnical report has been provided which indicates that the development is unlikely to lower the water table.
6.2 Earthworks	Yes	The proposal includes excavation to provide a two level basement car park. The proposal has been amended to provide a minimum of 900mm from all setbacks except on the western side boundary due to the location of the driveway. It is noted that this driveway adjoins a similar driveway on the adjoining site to the west.  A Preliminary Geotechnical report has been provided with the application which is referenced in the consent conditions in addition to all standard excavation conditions.

Provision	Compliance	Comment
6.9 Design excellence	N/A	Although the site is a 'Key Site' on the Key Sites Map, this clause only applies to buildings that will have height equal to, or greater than, 15m.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

*Clause 4.6 Exceptions to Development Standards – Height of Buildings*

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height development standard of 13m. The proposed development has a height of 13.825, exceeding the standard by 825m equating to a 6.3% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the height development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.*
  - (ii) *The amenity of the neighbouring properties is preserved to the extent anticipated by a height compliant development, such that the proposed elements above the height control do not cause any diminution of their amenity.*
  - (iii) *In relation to privacy, the whole roof sits below the height limit and there are no elements above the height control that cause privacy impacts.*
  - (iv) *In relation to overshadowing, all of the rooftop elements above the height plane are sufficiently set in from the side of the building that they do not cause any additional overshadowing of adjoining properties. Their shadows fall solely on the roof plane.*

- (v) *The building is compatible with the bulk, scale, streetscape and desired future character of the locality as the principal components of the building comply with the height standard, including all accommodation and the roof being located below the height standard. Embellishments at the roof level have no floor space ratio consequence and are justifiable on their own merit as they demonstrate the attainment of positive environmental planning grounds, including equitable access, additional sunlight to the apartments and a more environmentally sensitive A/C condenser location.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) *The scale of the buildings is 3-4 storeys as anticipated by the controls, with no storeys or accommodation above the height plane.*
  - (ii) *The elements above the height plane are required, as:*
    - a. *the limited area of parapet upturn wall that breaches the standard (up to 200mm) is a physical requirement of the roof design, noting the whole roof is below the height limit and the parapet upturn is as low as possible, overwhelmingly complying with the height control except for the front corner of the building;*
    - b. *the lift overrun of 600mm ensures equitable access to throughout the building;*
    - c. *the upstand of the clerestory window (535-820mm above the height plane) provides northern light into the south-east-facing apartments in a more meaningful and environmentally sustainable way than would be achieved with alternative height-compliant skylights; and*
    - d. *the placement of air-conditioning units on the roof as opposed to inside the building is a component derived from delivering a development with greenhouse gas emissions that are 30% less than those of a reference building as required by the WDCP.*
  - (iii) *The materials and finishes to the areas of height breach are purposefully recessive and are viewed as embellishments above the top of the building and limited in size to their functional requirements.*
  - (iv) *From a pedestrian perspective the additional height will not be perceived, with those elements above the height plane being at the centre of the roof, screened by the height-compliant edge of the building.*
  - (v) *The proposal is accompanied by an offer to enter into a Planning Agreement in accordance with Council's Planning Agreements Policy (PAP), in the amount of \$888,800 to be used towards a Council nominated Public Purpose.*
  - (vi) *The design satisfies the Object 1(g) of the EP&A Act 1979 which seeks to promote good design and amenity of the built environment.*
  - (vii) *The proposal is consistent with the objectives of the height development standard and the objectives of the zone.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justifications as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- (b) to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- (c) to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- (d) to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*
- (e) to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. The applicant has provided sound justification establishing that the proposal is consistent with the objectives of the height development standard and the zoning.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds used to justify the breach are well-considered and sound.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The relevant objectives of the height development standard are as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

The proposed variation to the height development standard is contained to plant and lift overrun, clerestory windows and part of the roof parapet as demonstrated in **Figure 4** below (provided by the Applicant). No habitable space will be contained above the height limit.



**Figure 4:** Height plane diagram as provided by the Applicant

Those parts of the building exceeding the height development standard will be set back from the roof edges and as such will not be readily discernible from the public domain. At the pedestrian level the height variation will not be noticeable with these structures not unnecessarily increasing the bulk and scale of the building. The clerestory windows provide solar access to the apartments fronting Curlewis Street to comply with the ADG and improve the amenity of these apartments. The air-conditioning condensers could be provided within the basement; however this would result in further excavation, reducing deep soil on the site and the opportunity for substantial vegetation. Accordingly, it is considered that the location of these elements provides environmental benefits to the development.



As will be detailed in Section 2.1.4 of this report, the proposed development, subject to the imposition of a deferred commencement condition discussed in the next section of this report, is consistent with the character controls of the DCP for the Bondi Beachfront Area. The proposal presents to Curlew Street with an appropriate bulk and scale built to the street edge to provide a continuous street wall. The fourth storey is set back from the levels below, reading as a recessive element within the streetscape and from the public domain. Subject to a reduction in floor space at the rear of the building (as discussed further below), the proposal will also present appropriately to the smaller scale residential dwellings at the rear (noting that these properties are zoned R3 with a height development standard of 12.5m). It is noted that the reduction in floor space at the rear will require the potential relocation of some of the plant on the roof, however a condition will ensure that these continue to be centrally located on the roof, set back from the roof edges, to ensure that the limited visibility of these elements is maintained.

The elements that vary the development standard are centrally located on the roof and will not cause unreasonable amenity impacts upon surrounding properties by way of overshadowing or loss of privacy. There are no known significant views across the site that will be impacted by the varied height control.

Given the above analysis, the proposal is considered to be consistent with objectives (a) and (d).

The objectives of the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.*

The proposal provides a mixture of land uses by providing retail shops at ground with residential apartments above. The retail premises occupy the ground floor level and will provide six retail shops. The four shops at the front will be suited to retail uses requiring a shop front for display and/or visibility whilst the two rear shops would suit less visible office uses. Notwithstanding that the retail shops could potentially accommodate varied commercial uses, the specific uses are not known at this stage and would be subject to consent at a later date. The commercial and residential uses are within proximity of public transport and the local shopping area of Bondi Beach. The proposal provides less parking than allowed by the maximum rates of the DCP and includes bicycle parking, both encouraging patronage of public transport and walking and cycling. In this regard, the proposal is consistent with the relevant objectives of the zone.

### Conclusion

For the reasons provided above, the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the B4 zone.

*Clause 4.6 Exceptions to Development Standards – Floor Space Ratio (FSR)*

The application seeks to vary the FSR of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum FSR development standard of 2:1. The proposed development has an FSR of 2.19:1, exceeding the standard by 222.22 m<sup>2</sup> equating to a 9.5% variation.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 2012 seeking 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 standard.

A copy of the applicant's written request has been provided to the Waverley Local Planning Panel for consideration.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

The applicant seeks to justify the contravention of the FSR development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
  - (i) *The gross floor area associated with the 9.5% variation cannot be rationally identified as being located in any specific part of the building. There is no obvious additional section or number of storeys attributable to the variation, which is 222.22m<sup>2</sup> above the standard, or on average 55.55m<sup>2</sup> per floor.*
  - (ii) *All of the gross floor area/floor space ratio is contained within the height limit. The requested variation to the FSR is independent of the height standard variation as the proposed FSR does not rely on a height breach.*
  - (iii) *The density on the site is appropriate as it provides a built form that conforms to the setback and height controls in the WDCP, offering a three-storey street wall and part additional fourth level above, set back from the street.*
  - (iv) *This is consistent with recent Bondi Basin developments that respond to the site specific DCP controls. Given the general conformity with the majority of the relevant controls in the WDCP, the breach in FSR will not be perceived as excessive bulk and is not perceptible from the public domain. The building provides compliant front, rear and side setbacks in accordance with the WDCP controls.*
  - (v) *The additional FSR does not affect the building's response to the controls that motivate the desired future character of the locality. The bulk and scale is as anticipated by the controls and the streetscape value of this development is particularly positive as an infill development.*

- (vi) *The amenity of the neighbouring properties is preserved to the extent anticipated by a FSR compliant development, as the floor space is accommodated within the height limit and has setbacks greater than anticipated as per the Waverley Development Control Plan.*
  - (vii) *In relation to privacy, the additional GFA is not attributable to any visual or acoustic privacy impacts beyond a compliant development. Balconies at the rear of the building are appropriately sized and Apartment Design Guide compliant. Side facing openings have been specifically limited and have integrated privacy treatments as part of the architecture of the building. These attributes exist irrespective of the variation to the floor space.*
  - (viii) *With respect to overshadowing, detailed analysis accompanies the application that demonstrates the reasonableness of any impacts, to which it is the building envelope rather than the floor space variation that causes any overshadowing. Particular attention has been given to the openings on the south-east adjoining property, which dictated an additional setback of the uppermost floor to preserve sunlight.*
  - (ix) *The only effective impact attributable to the 3m-4.8m side setback that is greater than a 6m side setback, occurs at 11am, with some additional shadow caused to the north-west facing windows of the ground floor of the neighbouring building to the east. The zoning of the site requires the neighbouring building to contain only commercial/retail uses on the ground floor and therefore this impact does not relate to any residential accommodation.*
  - (x) *At other times the shadow cast by the 3m-4.8m side setbacks is essentially a few minutes ahead of the nominal 6m side setback. Notwithstanding this, the amenity of the rear facing adjoining units is preserved, noting they achieve compliant levels of sunlight from the rear of the property, whilst the primary living areas from front facing units are unaffected. This is true of both the existing neighbouring building and the prospective building form.*
  - (xi) *The proposed building appropriately shares views and there is no additional view interruption attributable to the floor space variation, or in general. No views are available over a compliant building on this site, and none are impacted by any negligible areas that are above the height standard.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) *The scale of the buildings is 3-4 storeys as anticipated by the controls, with no storeys or accommodation above the height plane.*
  - (ii) *The floor space is necessary to provide a building consistent with building envelope controls outlined in the DCP that dictate the future desired character, particularly with regards to height and setbacks.*
  - (iii) *The floor space is necessary to provide a meaningful provision of retail/business premises, with 614m<sup>2</sup> of GFA (almost triple the variation) attributable to these uses, including a central arcade that offers access to 6 independent retail/business premises.*
  - (iv) *From a pedestrian perspective the additional FSR will not be perceived, with the edge of the building complying with the height limitation specified in the LEP to provide a four-storey form completing this section of the Mixed Use zone.*

- (v) *The proposal is accompanied by an offer to enter into a Planning Agreement in accordance with Council's Planning Agreements Policy (PAP), in the amount of \$888,800 to be used towards a Council nominated Public Purpose.*
- (vi) *The design satisfies the Object 1(g) of the EP&A Act 1979 which seeks to promote good design and amenity of the built environment.*
- (vii) *The proposal is consistent with the objectives of the height development standard and the objectives of the zone.*

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

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

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Does the written request adequately address those issues at clause 4.6(3)(a)?

Although the written request has referenced justification (a) as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 to address clause 4.6(3)(a) of Waverley LEP 2012, it is considered that the applicant has not adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case.

The written request does not convincingly demonstrate that the proposal *preserves* the amenity of the adjoining building as the additional floor space above the development standard will result in overshadowing of the existing building to the east at 144-146 Curlewis Street as discussed following.

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has not adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard. The public benefit offered by way of an offer to enter into a planning agreement does not offset the unreasonable overshadowing impact upon the neighbouring property.

Is the development in the public interest

The proposed development will not be in the public interest because it is inconsistent with the objectives of the FSR development standard.

The objectives of the FSR development standard are as follows:

- (b) to provide an appropriate correlation between maximum building heights and density controls,*

- (c) to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and the locality.*

Detailed shadow diagrams were provided indicating the overshadowing impacts of the proposed development and a development with increased setbacks to the upper floor level on the eastern side. The shadow diagrams are 'view from the sun' diagrams, hour by hour between 9am and 3pm on the winter solstice and indicate the impact upon the existing building at No. 144-146 Curlewis Street and upon a potential future shop top housing development on that site. The shadow diagrams indicate that the adjoining property will experience increased overshadowing from 12pm onwards that would not be experienced if the proposal did not exceed the development standard. In this regard, the proposal is not consistent with objective (d) in that it does not preserve the environmental amenity of the neighbouring property.

The application is accompanied by an offer to enter into a Planning Agreement under Council's Planning Agreement Policy. The Policy allows for development 'up to 15%' above the maximum GFA permitted under Clause 4.4 of the WLEP' provided that is accepted on planning grounds. The application proposes an additional 222.22m<sup>2</sup> of GFA, equating to 9.5% over the maximum FSR permitted for the site. This meets the limitations set in the Planning Agreement Policy.

The Policy provides a mechanism to address the public benefit offset of additional reasonable impacts from developments exceeding the controls. Proposals which have been granted approval with 15% additional floor space have demonstrated that where there will be additional impacts, they were not considered unreasonable and were accepted on the balance of public benefit offered by affordable housing or monetary contribution in accordance with the Planning Agreement policy.

The fundamental principle of the Policy is that any benefit that arises from an agreement to vary these development standards is shared between developer and the community and must be acceptable on environmental impact grounds. Having regard to the Policy, it has been demonstrated that there will be additional shadow impacts on the adjoining property and this impact is not considered to be offset by the contribution to public works proposed by the applicant.

The reasonableness of impacts associated with the additional floor space has been weighted against the likely public interest (i.e. public domain improvements in the area) and it has been concluded that the impacts in this case would be unacceptable.

It is apparent from the shadow diagrams that the area of greatest impact in terms of overshadowing is the rear portion of the building at the upper floor level. Reducing the floor space at this level to comply with the development standard will result in improved solar access to the adjoining site. As the proposal exceeds the development standard by 222.22m<sup>2</sup> and the rear two apartments have a combined floor space of 280m<sup>2</sup>, a condition of deferred commencement is recommended that deletes these two apartments, replacing them with a one-bedroom apartment with a GFA no more than 60m<sup>2</sup> with a minimum setback of 6m from each side boundary.

The proposal is consistent with the objectives of the B4 zone as discussed in the previous section of this report.

Conclusion

For the reasons provided above, the requested variation to the FSR development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by clause 4.6(3) of the Waverley LEP 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of the FSR development standard.

**2.1.4. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9**

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

**Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	<p>The proposal includes separate storage rooms for commercial and residential waste within the basement car park. However, access to each is not restricted upon entry into the waste room. In this regard, a condition will require that access to each bin room is restricted to ensure no mingling of waste between the commercial and residential uses.</p> <p>Given that the proposal provides less than 20 apartments, on-site collection is not required and bins may be presented to the street for collection. Notwithstanding, the proposal includes a bin holding area and dedicated lift for transporting the bins from the basement to the bin holding area on collection day. The bin holding area has direct access to the street for transporting to the collection point. The Waste Management Plan indicates that the holding area is for Council staff to access and transport to and from the holding area on collection day; however, advice from Council’s Waste and Cleansing unit is that the distance and logistics cannot accommodate this arrangement and bins must be presented to the street for collection.</p> <p>Council’s Waste Management Officer has raised issues with the number of bins to be presented for</p>

Development Control	Compliance	Comment
		collection; however has recommended that a Waste Plan of Management be submitted for approval post-consent to manage the number of bins and frequency of collection. Appropriate conditions have been recommended.
2. Ecologically Sustainable Development	Yes	Satisfactory, subject to conditions as recommended in Section 3 by Council's Sustainable Transport Officer.  The applicant has provided a commitment to provide an Energy Assessment Report for the proposed development demonstrating the reduction of 30% Green House Gas (GHG) emissions compared to a reference building. A condition is recommended.
3. Landscaping and Biodiversity	Yes	The landscaping plan has been reviewed and is considered acceptable and is cohesive with the site and streetscape.
5. Vegetation Preservation	Yes	Three trees are to be removed from the site and as such the application was referred to Council's Tree Preservation Officer (refer to Section 3 of this report). The trees possess no outstanding attributes worthy of requiring retention and as such are permitted to be removed.  The landscape plan indicates that at least eight new trees are to be planted throughout the site and significant understorey planting.  Council's Public Domain Team have recommended that three street trees be planted along Curlewis Street at the front of the site. A condition to this effect is recommended.
6. Stormwater	Yes	Satisfactory subject to conditions.
7. Accessibility and Adaptability	Yes	The proposal provides three accessible apartments and lift access to all levels. The shops are accessible from the footpath level. An accessible sanitary facility is provided for the use of the ground floor shops. Four accessible parking

Development Control	Compliance	Comment
		spaces are provided in the basement car park. Appropriate conditions are recommended.
<p>8. Transport</p> <p>Zone 2</p> <p>Minimum parking rate:</p> <ul style="list-style-type: none"> <li>• Nil</li> </ul> <p>Maximum parking rate:</p> <ul style="list-style-type: none"> <li>• 42</li> </ul> <p>Visitor parking:</p> <ul style="list-style-type: none"> <li>• 4</li> </ul> <p>Motorcycle parking:</p> <ul style="list-style-type: none"> <li>• 11</li> </ul> <p>Bicycle parking:</p> <ul style="list-style-type: none"> <li>• Resident: 18</li> <li>• Visitor: 4</li> </ul>	<p>Yes</p>	<p>The basement carpark will provide 38 car spaces comprised of the following:</p> <ul style="list-style-type: none"> <li>• 8 vehicle spaces for retails uses</li> <li>• 23 vehicle spaces for residents (4 are accessible)</li> <li>• 3 vehicle spaces for residential visitors</li> <li>• 11 motorcycle spaces</li> <li>• 20 bicycle spaces (14 in storage cages).</li> </ul> <p>The proposal provides parking to satisfy the requirements of the DCP. In terms of bicycle parking, only 14 storage cages for bicycle parking are provided; however there is sufficient area within the basement to provide the additional three storage cages. A condition to this effect is recommended. A condition will also require that the two bicycle visitor spaces associated with the shops be provided at ground level.</p> <p>Electric Vehicle (EV) charging points have been provided, with the exception of one for electric bicycles and mobility scooters. Appropriate conditions are recommended.</p> <p>Conditions have also been recommended by Council’s Traffic Engineer in relation to loading spaces and allocation of accessible spaces. A condition will also require the provision of a Green Travel Plan.</p> <p>A planned Curlewis Street Pop-up Cycleway will be impacted by the traffic generated by the proposed development. A traffic signal system will be required that gives priority to inbound vehicles so the chance of drivers pausing on Curlewis Street is minimised.</p> <p>A queuing analysis conducted by Varga Traffic Planning shows that the probability of two vehicles approaching to the one-way ramp at the same time is 1.8%. This satisfies the requirements of AS2890.1:2004 with no waiting bay required.</p>



Development Control	Compliance	Comment
9. Heritage	Yes	The site is not located within a heritage conservation area or is heritage listed. The site is located within the Bondi-Rose Bay Sand Body which is designated as being 'low sensitivity' for Aboriginal artefacts and heritage. In this regard, an Aboriginal cultural heritage assessment is not required, and an appropriate condition recommended.
10. Safety	Yes	<p>The proposal has been designed to provide separate entries to the commercial and residential premises.</p> <p>The proposal provides windows and balconies on Curlewis Street overlooking the street providing passive surveillance to the area.</p> <p>The retail frontages provide activity on Curlewis Street also improving the security along this part of the street.</p> <p>The proposal is consistent with the aims and objectives of this part of the DCP.</p>
12. Design Excellence	Yes	The amended design is considered acceptable given the surrounding context of the area and the proposal is considered capable of achieving design excellence, subject to a reduction in GFA.
14. Excavation	Yes	As previously discussed, the excavation is considered satisfactory providing adequate setbacks from boundaries where possible.
15. Advertising and signage	N/A	The tenancies of the retail spaces are unknown at this stage and therefore advertising and signage would be subject to a separate application (if applicable).
16. Public Domain	Yes	The application was reviewed by Council's Public Domain team with conditions recommended which are included in the consent.

Clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,

- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. These matters have been discussed in Table 2 of this report and as such are not discussed in Table 5 below.

**Table 5: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table**

Development Control	Compliance	Comment
<b>3.1 Site, scale and frontage</b>		
Lot sizes and dimensions must enable development to be sited to meet the site and building design controls outlined in this Part.	Yes	The site frontage and area are appropriate for the development.
<b>3.2 Height</b>		
	N/A	There are no specific controls for wall height in the mixed use zone. The Bondi Beach Character Area controls (refer to <b>Table 7</b> ) are more specific in the requirements for this part of Curlewis Street.  Notwithstanding, height has been previously discussed in this report.
<b>3.3 Setbacks</b>		
3.3.1 - Street setbacks <ul style="list-style-type: none"><li>• Consistent street setback</li></ul>	Yes	The front setback is built to the street edge consistent with the adjoining building at 144-146 Curlewis Street and the requirement for mixed use development within the zoning.
3.3.2- Side and rear setbacks <ul style="list-style-type: none"><li>• Minimum side setback: 1.5-2.5m</li><li>• Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback</li><li>• Deep soil on side boundary min 2m wide</li></ul>	Yes	The Bondi Beach Character Area controls (refer to <b>Table 7</b> ) are more specific in the requirements for this part of Curlewis Street and require street edge design and nil side boundary setbacks to the front section of the building when consistent with adjoining properties and the streetscape.  In terms of the rear portion of the building, the proposal provides 3m from each side boundary exceeding the requirement of the DCP.

Development Control	Compliance	Comment
		<p>The rear setback varies from 5.5m-6m, with only a small part of each rear balcony extending within the 6m zone. Given that properties the adjoining site to the west at 136-138 Curlewis Street provides approximately 4m, this slight variation is considered acceptable.</p> <p>A 2m in width deep soil zone is provided along the eastern side boundary. This does not extend for the entire side setback given that street edge design is required for the front section of the building.</p>
<b>3.4 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>• Maximum building length: 24m</li> <li>• Façade to be articulated</li> <li>• Maximum depth of 18m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>No</p>	<p>The building is approximately 24m at the street, which is consistent with the requirements for street edge design for buildings within the mixed use zone (refer to <b>Table 7</b> in relation to the Bondi Beach Character Area).</p> <p>The front façade is appropriately articulated to provide visual interest along the street and to decrease the perceived bulk of the building.</p> <p>The proposed building is split into two portions, one addressing Curlewis Street for the full site width and the other at the rear with setbacks from boundaries. The front portion provides a depth of 16m and the rear portion, a depth of approximately 25m. This is reflective of the pattern of development within the area and there are sufficient setbacks to ensure adequate light and ventilation.</p>
<b>3.5 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>• Respond to streetscape</li> <li>• Sympathetic external finishes</li> </ul>	<p>Yes</p>	<p>The Bondi Beach Character Area controls (refer to <b>Table 7</b>) are more specific in the requirements for this part of Curlewis Street.</p> <p>The proposal provides a contemporary building which responds appropriately to the streetscape.</p>
<b>3.8 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>• Entry at street level and respond to pattern within the street</li> </ul>	<p>Yes</p>	<p>As previously discussed in <b>Table 2</b>, the entries are considered appropriate. All entries are legible and accessible.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>• Accessible entry</li> <li>• Separate to vehicular entry</li> <li>• Legible, safe, well-lit</li> </ul>		The driveway access is separate to the vehicular access.
<b>3.9 Landscaping</b>		
<ul style="list-style-type: none"> <li>• Comply with Part B3-Landscaping and Biodiversity</li> <li>• Minimum of 30% of site area landscaped: 350m<sup>2</sup></li> <li>• 50% of the above is to be deep soil: 175m<sup>2</sup></li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Refer to <b>Tables 2 and 4.</b></p> <p>The proposal provides 31% (360m<sup>2</sup>) of the site as landscaped area.</p> <p>The proposal provides 52% (190m<sup>2</sup>) of the landscaped area as deep soil located along the rear and eastern side boundary.</p>
<b>3.10 Communal open space</b>		
<ul style="list-style-type: none"> <li>• Minimum dimensions: 6m x 6m</li> <li>• Minimum of 30% of communal area must receive three hours of sunlight</li> <li>• Accessible</li> </ul>	No	<p>The proposal provides no communal open space; however given the mixed use zoning of the site with shops at the ground floor level, this is not considered unreasonable.</p> <p>Each apartment is provided with sufficient private open space to meet user needs and the site is within proximity of Bondi Beach and foreshore parks which provide an abundance of recreational areas.</p>
<b>3.12 Vehicular access and parking</b>		
<ul style="list-style-type: none"> <li>• Car parking to be integrated into the design of the development</li> <li>• Max 1 x 2 way vehicle access point</li> <li>• Provided from secondary street or lane</li> <li>• Pedestrian safety considered</li> <li>• Basement parking should not contravene deep soil zone controls</li> </ul>	Yes	<p>The car parking is located in the basement, integrated into the design of the building and will not increase the bulk and scale of the building.</p> <p>The proposal provides one vehicular crossing on the western boundary of the site, consistent with the existing driveway crossing.</p> <p>A condition is recommended by Council's Traffic Manager to provide convex mirrors to ensure pedestrian safety.</p> <p>The proposal meets the deep soil zone requirements.</p>
<b>3.13 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>• New development should maintain at least two</li> </ul>	No	Overshadowing has been previously discussed in Section 2.1.1 of this report. A deferred

Development Control	Compliance	Comment
<p>hours of sunlight to solar collectors on adjoining properties in mid winter.</p> <ul style="list-style-type: none"> <li>• Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June.</li> </ul>		<p>commencement condition is recommended to address this issue.</p>
<p><b>3.14 Views and view sharing</b></p>		
<ul style="list-style-type: none"> <li>• Minimise view loss through design</li> <li>• Views from public spaces to be maintained.</li> </ul>	<p>N/A</p>	<p>View impacts were not raised in objections. It is unlikely that views would be achieved over the subject site particularly given the higher buildings to the east and west which would block any available views.</p> <p>No public views are available over the site.</p>
<p><b>3.15 Visual privacy and security</b></p>		
<ul style="list-style-type: none"> <li>• Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or are to be screened</li> <li>• Privacy be considered in relation to context density, separation use and design.</li> <li>• Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> <li>• Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site.</li> </ul>	<p>Yes</p>	<p>Balconies on side boundaries where there are insufficient separation distances are provided with screening as previously discussed in Section 2.1.1.</p> <p>The proposal will not result in overlooking of balconies within the development.</p> <p>The roof is non-trafficable. The deferred commencement condition requires that the balcony to the new one-bedroom apartment shall be no larger than 12m<sup>2</sup> with setbacks of 6m from all side boundaries. This is considered adequate to ensure no unreasonable privacy impacts to adjoining properties.</p>

Development Control	Compliance	Comment
<b>3.19 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	Acoustic privacy has been considered in the design.
<b>3.21 Building services</b>		
<ul style="list-style-type: none"> <li>Services are to be integrated into the design of buildings (garbage rooms, mail boxes, fire hydrants boosters, electrical substations, down pipes, plant rooms, satellite/communications structures</li> <li>Outdoor Communal clothes drying area to be provided</li> <li>Plant rooms away from entry communal and private open spaces and bedrooms.</li> <li>Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge</li> </ul>	Yes	<p>Services at roof level are set back from the edges to be screened from the street. Plant, services and exhausts are integrated into the design of the building.</p> <p>There is no communal open space due to the retail shops being at ground level and as such, there are no communal clothes drying areas. Balconies are provided to each unit enabling outdoor clothes drying.</p>

**Table 6: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table**

Development Control	Compliance	Comment
<b>1.2 Design</b>		
1.2.1 Frontages 1.2.2 Awnings 1.2.3 Lighting	Yes	<p>The street frontage of the commercial shops has been appropriately designed to be sympathetic to the overall proportion of the building and provide an active street level frontage.</p> <p>The proposal provides a continuous awning along the Curlewis Street frontage that is consistent with the character of the proposed development.</p>

Development Control	Compliance	Comment
		Details regarding lighting have not been provided at this stage. An appropriate condition is included in Appendix A.
1.2.4 Amenity	Yes	The specific uses of the commercial premises are not known at this stage and would be subject to separate consent at a later date.  Notwithstanding, the proposal has been designed to include ducting and ventilation within the building envelope for the potential future use of the shop as a food premises.
1.2.4 Noise	Yes	Sound insulation between floors is a standard requirement under the BCA/NCC.  All other standard conditions in regards to noise are included in Appendix A.  The use of the shops are unknown at this stage and subject to separate consent as required by condition.
<b>1.3 Hours of operation</b>		
	N/A	The use of the shops are unknown at this stage and a condition is recommended requiring that the uses be subject to separate consent.

**Table 7: Waverley DCP 2012 - Part E2 Bondi Beachfront Area Compliance Table**

Development Control	Compliance	Comment
<b>2.1 General Controls</b>		
2.1.1 Public domain interface	Yes	The proposal provides a strong retail frontage at the ground floor level addressing Curlewis Street. The ground floor retail maximises the frontage on Campbell Parade and is active, open and inviting. Additionally, the retail frontage is provided with an awning on Curlewis Street.  The commercial and residential entries are separated and are clear, legible and safe. The residential entry occupies only 8% of the frontage, being substantially less than the maximum 20% control of the DCP.

Development Control	Compliance	Comment
		The proposal is consistent with this part of the DCP.
2.1.2 Building use	N/A	<p>The use of each shop has not been nominated as part of this application. Any shop use is subject to a separate assessment under a separate development application.</p> <p>Notwithstanding, the waste storage has been designed assuming the waste generation of a food shop, which has the highest waste generation rate. This is to 'future-proof' the retail spaces for a variety of uses.</p> <p>Mechanical ductwork for future food shops uses have been provided adjacent to the lift core.</p>
2.1.3 Built form	Yes	The DCP requires that new buildings are sympathetic to the scale and height of existing buildings. The proposal is consistent with the pattern of development for properties fronting Curlewis Street and the desired future character anticipated by the controls.
2.1.4 Roofs	Yes	The roof elements are set back a sufficient distance from the building edge to ensure minimal visibility within the streetscape.
2.1.5 Views	Yes	There are no known private or public domain views that would be adversely affected by the proposal.
2.1.7 Infill buildings	Yes	<p>The replacement building does not mimic decorative details of the conservation area to the east of the site.</p> <p>Infill buildings must build to the prevailing street wall height then setback a minimum of 3m to any upper floors. The proposal complies with this control with a set back upper level to Curlewis Street.</p>
<b>2.2 Campbell Parade Centre Character Areas</b>		
Land Use	Yes	The proposal retains the mixed use character of the area locating retail shop at ground with residential accommodation on the levels above.



Development Control	Compliance	Comment
<p>Height and Bulk</p> <ul style="list-style-type: none"> <li>• A maximum of 3 storeys for buildings fronting Curlewis Street, Beach Road or the western side of Gould Street.</li> <li>• A maximum external wall height 10m is permitted for buildings fronting Curlewis St, Beach Rd or the western side of Gould St.</li> <li>• An attic level or part additional floor may be permitted.</li> </ul>	Yes	<p>The site has a height development standard of 13m which equates to four storeys. The fourth storey of the proposal is set back from the levels below presenting a three-storey street wall to Curlewis Street.</p> <p>The wall height on Curlewis Street is approximately 11m to the top of the balustrade. Although marginally over the 10m wall height control, the wall height at the street frontage is lower than the adjoining four-storey building to the west and as such is contextually appropriate to the streetscape.</p> <p>The deferred commencement condition will result in part additional floor at the fourth storey.</p>
<p>Setbacks</p> <ul style="list-style-type: none"> <li>• Buildings within the B4 – Mixed Use zone are to be built to the street edge with no setbacks.</li> <li>• Buildings are to be built to the side boundaries for a minimum of 10m from the front street wall</li> </ul>	Yes	<p>The proposal will be built to the street edge with no setbacks both on the frontage and from the side boundaries. The proposal will be built to the side boundaries for approximately 11m (eastern) and 15m (western). This results in a continuous street wall which is consistent with the desired future character for this section of the character area.</p>
<p>Façade Materials and Finishes</p> <ul style="list-style-type: none"> <li>• New facades must be predominately rendered masonry with solid parapets and have a vertical expression.</li> <li>• Blank, flat and unarticulated facades are not permitted.</li> <li>• Access to residential dwellings above ground level should not occupy more than 20% of the</li> </ul>	Yes	<p>The front façade is predominantly rendered masonry with vertical expression through window proportions, vertical banding within the concrete finish and four defined vertical breaks within the facade.</p> <p>The residential access occupies 8% of the street frontage.</p> <p>Windows are vertically proportioned to be consistent with the character of the area. It is noted that the character in the immediately surrounding area is a mixture of horizontal and vertical expression, particularly the large development site at the Bondi Pacific. The proposal blends appropriately with this mix of</p>

Development Control	Compliance	Comment
<p>principal street frontage of any development.</p> <ul style="list-style-type: none"> <li>Fenestrations above ground level must have a vertical proportion, unless the existing character is otherwise.</li> </ul>		<p>character providing both horizontal and vertical expression to the built form.</p>
<p>Balconies and Balustrades</p> <ul style="list-style-type: none"> <li>Balconies must be composed as part of the overall form of the building.</li> <li>All balustrades, except those along Campbell Parade, must be predominantly constructed of clear, semi-frameless glazing.</li> </ul>	<p>Yes</p>	<p>The balconies, although not constructed of clear glazing, provide visual interest to the building and are integrated into the design. The solid balconies allow for privacy from Curlewis Street for the occupants.</p>
<p>External Sun Shading</p> <ul style="list-style-type: none"> <li>External sun shading must be constructed of materials to suit the environmental conditions of the site.</li> <li>External sun shading must be consistent with the style and articulation of the building. Sun shading must not project beyond the principal façade.</li> </ul>	<p>Yes</p>	<p>Sun shading is provided by balcony overhangs and roofs at the uppermost level set back slightly from the front and rear. The shading devices do not extend beyond the principal façade and are consistent with the style of the building. These are considered appropriate.</p>
<p>Roof and Parapets</p> <ul style="list-style-type: none"> <li>Parapets must be predominantly rendered masonry.</li> <li>Roofs must be flat with parapets.</li> <li>The roofline of buildings, predominately comprising lift motor</li> </ul>	<p>Yes</p>	<p>The parapet is white concrete consistent with the predominantly masonry finish of the building. The roof is flat with a parapet surrounding. A clerestory window is provided at the roof level to provide solar access to the top apartments fronting Curlewis Street. This is set back from the front edge and as such will be recessive within the streetscape.</p>

Development Control	Compliance	Comment
rooms and plant rooms shall be designed as an integral part of the buildings architectural form.		
Façade Colours <ul style="list-style-type: none"> <li>• Light to mid colours must be used on all other buildings.</li> <li>• Dark colours are not permitted.</li> </ul>	Yes	The façade colours are light to mid colours.
Awnings <ul style="list-style-type: none"> <li>• New awnings must step to reflect the topography</li> </ul>	Yes	The awning is continuous.
Parking <ul style="list-style-type: none"> <li>• Parking should be located below ground level and should not be visible from the street.</li> </ul>	Yes	The parking is below ground and not visible from the street.

## 2.2. Other Impacts of the Development

The proposal is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

## 2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

## 2.4. Any Submissions

The application was notified for 21 days and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of amended plans and additional information, the application was re-notified for 14 days.

A total of 10 unique objections and two letters of support were received from the following properties:

**Table 8: Number of and where submissions were received from.**

Count	Property Address
1.	26 Wairoa Avenue NORTH BONDI (support)

2.	31 Sir Thomas Mitchell Road BONDI (support)
3.	11 Ormond Street BONDI BEACH
4.	3/124 Warners Avenue BONDI BEACH
5.	144 Curlewis Street BONDI BEACH
6.	136 Curlewis Street BONDI BEACH (2 objections)
7.	409/136 Curlewis Street BONDI BEACH
8.	62 Simpson Street BONDI (2 objections)
9.	180 Campbell Parade, BONDI BEACH
10.	Address not provided 1

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- FSR and height
- Driveway location
- Setbacks
- Visual and acoustic privacy impacts
- Non-compliance with the DCP
- Insufficient separation distances impact upon the development potential of the adjoining site
- Overshadowing and solar access
- Excavation setbacks insufficient
- Dilapidation reports
- Landscaping and deep soil

All other issues raised in the submissions are summarised and discussed below.

**Issue:** Cost of works is underestimated and as such, the voluntary planning agreement offer would also be lower.

**Response:** A Cost Summary by a Registered Quantity Surveyor was provided in accordance with Council requirements. The planning agreement amount is a square meterage rate and as such is not calculated using the cost of works.

## 2.5. Public Interest

The proposal is considered to have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

The following internal and external referral comments were sought:

### 3.1. Traffic and Development

Conditions were provided which are included in the consent conditions.

### 3.2. Stormwater

Conditions were provided which are included in the consent conditions.

### 3.3. Tree Management

The following comment was provided:

*On inspection, it was noted that on site there were no trees of any significance, the trees possess no outstanding attributes worthy of retention **and their removal is supported.***

### 3.4. Waste Management

Conditions were provided which are included in the consent conditions.

### 3.5. Public Domain

Conditions were provided which are included in the consent conditions.

### 3.6. Land Information (GIS)

Conditions were provided which are included in the consent conditions.

### 3.7. Green Travel Plans

Comments were provided in relation to the provision of a Green Travel Plan and the accessibility of visitor bike parking. It is recommended that as accessibility for customers would be problematic with the convoluted access to the basement, and as such two U-rail bicycle racks should be provided at ground level. Conditions were also recommended which are included in the consent conditions.

### 3.8. Sustainable Development

The following comments were provided:

- *The applicant has provided the required BASIX Certificate, NatHERS Certificate and the BASIX Water, Energy and Thermal Comfort targets have been met.*
- *The applicant has correctly marked the required BASIX commitments, NatHERS stamps and specification blocks on the architectural plans.*
- *The applicant has also provided a letter from Certified Energy (dated 11/8/21) explaining that they will provide an Energy Assessment Report to Council to comply with Part B2-2.5 of the Waverley DCP.*

Conditions were provided which are included in the consent conditions.

### 3.9. Strategic Planning

The following comment was provided:

*In accordance with Waverley Planning Agreement Policy 2014 and the Letter of Offer dated 22 March 2022, the \$4,000/sqm Bondi Beach residential benchmark rates would apply. The VPA payable would therefore be 222.2sqm x \$4,000 = \$888,800.00.*

The condition has not been included in Appendix A as a deferred commencement condition requiring that the proposal be amended to comply with the FSR development standard is recommended.

**3.10. Environmental Health**

Conditions were provided which are included in the consent conditions.

**4. CONCLUSION**

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the Act. It is recommended for approval subject to conditions of deferred commencement consent.

***Development and Building Unit (DBU) Decision:***

The application was reviewed by the DBU at the several meetings with the final comment provided at the meeting on 03 May 2022 and the DBU determined:

- (a) The additional floor space sought by way of an offer to enter into a planning agreement is not supported due to impacts upon surrounding properties. In this regard the application should be approved by way of a deferred commencement condition to reduce the FSR to comply with the development standard and all other conditions in Appendix A.

DBU members: *M Reid, A Rossi, B McNamara, B Matlawski and B Magistrale*

**5. RECOMMENDATION TO WAVERLEY LOCAL PLANNING PANEL**

That the development application be GRANTED DEFERRED COMMENCEMENT CONSENT by the Waverley Local Planning Panel subject to the conditions in Appendix A.

<b>Report prepared by:</b>	<b>Application reviewed and agreed on behalf of the Development and Building Unit by:</b>
	
Kylie Lucas	Bridget McNamara
<b>Senior Development Assessment Planner</b>	<b>Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)</b>
<b>Date: 09/05/2022</b>	<b>Date: 11 May 2022</b>

*Reason for WLPP referral:*

1. Contentious development (10 or more objections)
2. Sensitive development: SEPP 65 and Planning Agreements

## APPENDIX A – DEFERRED COMMENCEMENT CONDITIONS

That the Council grant deferred commencement consent in accordance with the provisions of Section 4.16 (3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

1. The plans shall be amended to comply with the floor space ratio (FSR) development standard of 2:1 in the following manner:
  - (a) Apartments 301 and 302 shall be deleted from the proposal and replaced with a single apartment at the rear at Level 3. The replacement apartment shall not make the development exceed the FSR development standard and shall have side and rear setbacks of at least 6m. This apartment shall provide a terrace no larger than 12m<sup>2</sup>.
  - (b) All balconies are required to comply with both the depth and area requirements of the Apartment Design Guide.
  - (c) Structures on the roof shall be amended to reflect the amended plans detailed in deferred commencement condition 1(c) and shall be set back from the building edges to ensure minimal visibility from the public domain and surrounding properties.

**This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.**

## APPENDIX B – CONDITIONS OF CONSENT

**Upon satisfying the consent authority as to the matters in Attachment A, the following conditions will apply.**

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED PLANS AND DOCUMENTATION**

The development must be in accordance with:

- (a) Architectural Plans prepared by MHNDUNION of Project No: 21-001 including the following:

<b>Plan Number and Revision</b>	<b>Plan description</b>	<b>Plan Date</b>	<b>Date received by Council</b>
DA 1000 Rev. B	SITE AND ROOF PLAN	16/3/2022	23/03/2022
DA 2001 Rev. D	BASEMENT 2 PLAN	16/3/2022	23/03/2022
DA 2002 Rev. D	BASEMENT 1 PLAN	16/3/2022	23/03/2022
DA 2003 Rev. D	GROUND FLOOR PLAN	16/3/2022	23/03/2022
DA 2004 Rev. D	LEVEL 1 FLOOR PLAN	16/3/2022	23/03/2022

DA 2005 Rev. D	LEVEL 2 FLOOR PLAN	16/3/2022	23/03/2022
DA 2006 Rev. D	LEVEL 3 FLOOR PLAN	16/3/2022	23/03/2022
DA 2007 Rev. C	ROOF PLAN	16/3/2022	23/03/2022
DA 2400 Rev. B	ELEVATION SOUTH	16/3/2022	23/03/2022
DA 2401 Rev. B	ELEVATION NORTH	16/3/2022	23/03/2022
DA 2402 Rev. B	ELEVATION EAST	16/3/2022	23/03/2022
DA 2403 Rev. B	ELEVATION WEST	16/3/2022	23/03/2022
DA 3101 Rev. B	SECTION A	16/3/2022	23/03/2022
DA 3102 Rev. B	SECTION B	16/3/2022	23/03/2022
DA 6000 Rev. B	EXTERNAL FINISHES	16/3/2022	23/03/2022
DA 9001 Rev. B	SEPP 65 DIAGRAMS	16/3/2022	23/03/2022

- (b) Landscape Plan No. HSN.02.01, HSN.02.02, HSN.02.03 and documentation prepared by Bates Landscape, dated 17/03/2022 and received by Council on 23/03/2022,
- (c) BASIX and NatHERs Certificates,
- (d) Acoustic Report V2 prepared by Koikas Acoustics dated 07/03/2022 and received by Council on 23/03/2022,
- (e) Traffic and Parking Assessment Report Ref 21100 dated 10 March 2022 prepared by Varga Traffic Planning and received by Council on 23/03/2022,
- (f) Preliminary Geotechnical Assessment Ref 33609Scrt dated 19/11/2020 prepared by JK Geotechnics and received by Council on 02/09/2022, and
- (g) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

## 2. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) There is to be no co-mingling of waste between the commercial and residential occupants. In this regard, each waste room shall have separate access that restricts entry/access between waste rooms.
- (b) A waste storage cage for each apartment shall be provided in the basement car park.
- (c) Two of the visitor bike spaces shall be located at the ground level within the forecourt of the shops.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

## 3. MULTI UNIT HOUSING DEVELOPMENT DESIGN (SEPP 65 DEVELOPMENT)

The approved design (including any element or detail of that design) or materials, finish or colours of the building must not be changed without the written approval of Council.



## **B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### **GENERAL REQUIREMENTS**

#### **4. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

### **CONTRIBUTIONS, FEES & BONDS**

#### **5. SECTION 7.12 CONTRIBUTION**

A monetary development contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and the Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the *Environmental Planning and Assessment Regulation 2000*, the levy must be paid in accordance with the following:
  - (i) A development valued at \$100,000 or less will be exempt from the levy;
  - (ii) A development valued at \$100,001 - \$200,000 will attract a levy of 0.5% of the full cost of the development; or

- (iii) A development valued at \$200,001 or more will attract a levy of 1% of the full cost of the development.

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

## **6. SECURITY DEPOSIT**

A deposit (cash or cheque) or guarantee for the amount of **\$246,400** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) or guarantee must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

## **7. LONG SERVICE LEVY**

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

## **PLAN DETAILS**

## **8. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION**

The preparation of the construction certificate plans shall be supervised and be to the satisfaction of an architect who is registered in accordance with the *Architects Act 2003* (i.e. a qualified designer) in accordance with the requirements of the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

In accordance with the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification statement from a qualified designer which verifies that the construction certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development*.

## **9. ARCHITECTURAL DETAILING**

Further details of the architectural detailing of the building are required to be submitted for review and the satisfaction of Council's Executive Manager, Development Assessment (or delegate) which address the following matters:

- (a) A schedule of external materials and finishes and design details of all elements of the building façade.

- (b) Large-scale detailed sections at a scale of 1:20 illustrating the retail façade and awning, street elevation, side screened elevation, rear elevation and typical lift lobby / planter area.

This may also require a referral to the Waverley Design Excellence Advisory Panel with a referral fee to be paid at the time of lodgement. Please contact the assessment planner to clarify whether this applies in this case, prior to lodging documentation to satisfy this condition.

#### **10. PLANTING ON STRUCTURES**

The construction certificate landscape plans are to provide details for planting on structures including the following;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.

A qualified landscape architect must review the design and verify that it complies with the above requirements.

#### **11. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES**

Adequate provision shall be made within the confines of the building, for the installation of a mechanical exhaust system for future food/commercial use/s within the building.

#### **12. BASEMENT STORAGE**

The basement levels are to provide separate and secure storage areas (in the form of lockable storage cages or the like), allocated to each apartment in the development for larger bulkier items (surfboards, boxes, camping equipment etc.) which are not suited to be stored within each individual apartment. Storage is to be allocated to individual units in accordance with the requirements of the Waverley Development Control Plan 2012.

#### **13. ADAPTABLE HOUSING**

A minimum of 20% of the apartments in the development are to be provided as 'adaptable housing' within the development, with at least 1 car space allocated to each of these apartments. Adaptable apartments must be certified as 'adaptable housing units' by an independent suitably qualified person, confirming compliance with the relevant Australian Standards.

#### **14. UNIVERSAL HOUSING**

Apartments in the development are to be provided with universal design features (as outlined in the *Liveable Housing Design Guidelines*) to meet the changing need of occupants over their lifetimes in accordance with Part B7 of the *Waverley Development Control Plan 2012*.

## **CONSTRUCTION & SITE MATTERS**

### **15. HOARDING**

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

### **16. EROSION & SEDIMENT CONTROL**

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request.

The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

### **17. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **18. ENGINEERING DETAILS**

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

### **19. GROUND ANCHORS**

Where any ground anchors (i.e. rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) on 9083 8886.

Separate approval will be required for ground anchors beneath roadways governed by the Roads and Maritime Services.

### **20. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING AND MIXED USE DEVELOPMENTS**

Evidence is to be provided to the Principal Certifying Authority that arrangements have been made for;

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

## **21. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION**

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact **with the Coordinator**, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

## **22. VERMIN AND RAT CONTROL**

A *Pest and Vermin Control Management Plan* prepared by a suitable qualified person outlining measures to be taken to reduce rat/vermin populations is to be submitted for the approval of Council's Manager, Health and Compliance (or delegate) prior to the issue of a Construction Certificate for the demolition of existing buildings.

## **TRAFFIC MANAGEMENT**

### **23. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)**

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate, prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

### **24. HEADROOM CLEARANCE**

The headroom clearance on the driveway and within the carpark for access to car parking spaces is to be a minimum of 2.2 metres in general and 2.5 metres above the disabled parking spaces and shared zones for the car parking spaces.

## **STORMWATER AND PUBLIC DOMAIN**

### **25. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT**

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plans prepared by Xavier Knight (Job No. 210415), dated 16/03/22, Drawing No. C000 (Rev 3), C100 (Rev 4), C101 (Rev 4), C102 (Rev 4), C103 (Rev 3), C200 (Rev 3), C201 (Rev 3), C300 (Rev 3), C301 (Rev 3) & C310 (Rev 2) are considered conceptual.

The applicant must submit amended plans with specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- a) The proposed infiltration system shall be designed in accordance with Council's Water Management Technical Manual. Details of the proposed infiltration system shall be drawn to a suitable scale.
- b) A site specific geotechnical report prepared by a suitably qualified and practising Geotechnical Engineer shall be submitted to Council for assessment. The hydraulic conductivity must be tested at a minimum of four locations at the site of the proposed infiltration system, and at the base level of the proposed system (and at a minimum of one metre deep). The infiltration system is to be designed using the minimum infiltration rate of the soil of the site. The geotechnical report is to also determine the depth to rock and the presence and depth of the water table. Reference shall also be made to Council's Water Management Technical Manual.
- c) The roof guttering and internal drainage system shall be designed to cater for all storms up to and including the 1% Annual Exceedance Probability (AEP) event.
- d) If the proposed infiltration is deemed unsatisfactory and additional onsite storage is required, the plans shall provide additional details for an On-Site Stormwater Detention (OSD) system and its details e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be resubmitted and amended to reflect any changes.
- e) If applicable, a certificate from a registered structural engineer certifying the structural adequacy of any below ground OSD tank structure is to be provided.
- f) If the OSD system is proposed to be a sealed system or will have inadequate cross ventilation, a vent shall be provided to establish and maintain a safe atmosphere, and to prevent the accumulation of noxious odours. The ventilation shall be continued throughout the period of occupancy to comply with the relevant Australian Standards. The location and details of the ventilation system shall be submitted.

- g) Provide details of all pipe sizes, type, grade, length, invert levels, dimensions, types of drainage pits and inspection openings and their location, for the full extents of the development. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided at Council request.
- h) Show an alarm system in the event of the basement pump-out system failing. A warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement. A minimum freeboard of 150 mm from the pump out system to all parking spaces, full hydraulic details and pump manufacturers specification are to be provided.
- i) To protect the underground basement from possible inundation by surface waters from the street gutter and footpath overflows, a crest shall be installed at the boundary.
- j) The current stormwater design proposes to transfer seepage water collected via sub soil drainage pipes installed throughout the perimeter of the basement. It is Council requirement for the Seepage water not be directly or indirectly discharged to Council's street gutter. For this the applicant must either:
  - i. Show sub-soil drainage being restricted from entering the basement areas of the building and the stormwater drainage system by waterproofing and tanking the basement areas of the building in accordance with a Registered Structural Engineer's design.
  - ii. The stormwater plans to be amended with the current kerb outlet discharge removed and piped to the underground stormwater drainage system.
- k) Details of the drainage design for the proposed awning are to be provided. All associated pipework must be installed within the property and not encroach the boundary. If the awnings are being discharged to the street kerb, it shall be designed to ensure a maximum PSD of 25L/s.
- l) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Since a sewer main runs through the property, plans must also be presented to a Sydney Water Tap in™ for their approval
- The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths and pavement prior to setting the floor levels for the proposed development.
- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: [assets@waverley.nsw.gov.au](mailto:assets@waverley.nsw.gov.au) or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

## **26. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES**

The Applicant is to pay to Council fees for the assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development.

## **27. PUBLIC DOMAIN IMPROVEMENTS**

The public domain is to be upgraded along the Curlewis Street frontage of the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to, and approved by the Executive Manager, Infrastructure Services, or delegate prior to the issue of the Construction Certificate.

- Pedestrian footpath
- Vehicular Crossing
- Kerb and gutter
- Stormwater infrastructure located within the Council Public Domain
- Undergrounded utility connections (Electrical, Communications inclusive)
- Landscape and street tree plantings

## **28. PUBLIC INFRASTRUCTURE WORKS**

All Public infrastructure works traversing the development frontage must be completed to Council's satisfaction at no cost to Council.

Full engineering design drawings must be prepared by a suitably qualified engineering professional, submitted to Council, and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Domain Engineer:

- a) Footpath, Kerb and Gutter: The existing footpath, kerb and gutter along Curlewis Street frontage to be reconstructed and upgraded. Details of the footpath treatments and surface type details to be advised by Council at the time of Engineering plan approval.
- b) Street Trees: A minimum of three (3) street trees must be planted along Curlewis Street frontage. All new trees proposed within the Council verge will require the installation of suitable tree pits and surrounds as per the Waverley Council Public Domain Technical Manual.
- c) Proposed Awning Structure: A structural engineering certification alongside structural detailed Design is to be submit to Council for the proposed Awning structure. A positive covenant will be imposed for such awning structure and wording will be provided by council prior completion of such covenant. Lighting under the Awning is to comply with AS/NZS 1158.



- d) Any existing or proposed utility pillars on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.

## **ENERGY EFFICIENCY & SUSTAINABILITY**

### **29. BASIX**

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

### **30. ENERGY EFFICIENCY**

An Energy Assessment Report is to be submitted in accordance with the *Waverley Development Control Plan 2012*, which recommends design solutions to reduce the predicted operational energy demand and greenhouse gas emissions of the proposed development by 30% less than a reference building (i.e. NCC, Section J compliant only). The report is to be submitted and be to the satisfaction of Council's Executive Manager, Environmental Sustainability (or delegate) prior to the issue of a Construction Certificate for any works above ground level.

The construction certificate plans are to incorporate the recommendations of the approved Energy Assessment Report.

### **31. GREEN TRAVEL PLAN**

A Green Travel Plan is to be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The Green Travel Plan must include the following:

- (a) Travel Data – an initial estimate of the number of trips to the site by mode is required
- (b) Targets – while this typically includes the reduction of single occupant car trips to the site for the journey to work and the reduction of business trips, it should also consider targets for other journeys for transport
- (c) Measures – a list of specific tools or actions to support and achieve the targets.

The measures at a minimum shall include:

- Appointment of a Green Travel Plan manager to oversee future surveys, implement and monitor the plan.
- Provision of safe and usable access to compliant bicycle parking for residents, staff, visitors to residents and visitors and customers to the retail businesses.
- Provision of a car share space be considered within the development.
- That the bicycle parking should provide power access (through a standard power point) to all bikes.
- That the bicycle parking should cater for cargo bikes up to at least 2.2 metres.

A final version of the Green Travel Plan shall be provided within six months of occupancy with the Travel Data and Targets informed by a travel survey of residents and staff.

The Green Travel Plan be monitored annually, including a travel survey of residents and staff and measures reviewed as to their effectiveness and additional measures considered in order to meet the targets.

## **WASTE**

### **32. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### **33. WASTE STORAGE AREAS**

The development must have waste storage areas with sufficient space to accommodate the following minimum requirements.

- **Residential** (18 x 2+ bedroom units)
  - 9 x 240L Mobile Garbage Bins (MGBs) for general waste (collected weekly) or 4 x 660L
  - 9x 240L MGBs for paper and cardboard recycling (collected fortnightly) or 4 x 660L
  - 9 x 240L MGBs for container recycling (collected fortnightly) or 4 x 660L
  - A minimum of 4m<sup>2</sup> floor space is required for the on-site storage of bulky waste awaiting collection; A minimum of 1m<sup>2</sup> floor space is required for additional problem waste streams (such as electronic waste or textile waste). This should be inside or adjacent to the onsite storage of bulky waste with doorway clearance for the bulky waste storage area of a minimum 1.5m.
- **Commercial** retail shops mix of non-food related and cafés (498m<sup>2</sup>).
  - 16 x 240L Mobile Garbage Bins (MGBs) for general waste (based on bins collected 3 times per week)
  - 10 x 240L MGBs for comingled recycling (based on bins collected 3 times per week)
  - Extra space is required to store reusable products such as crates, and excess cardboard and other packaging materials.
  - Frequency of collection must be monitored and adjusted accordingly, particularly over summer where extra collections may be required
- All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

## **NOISE**

### **34. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION**

A site specific Noise Management Plan, prepared by a suitably qualified acoustic consultant (as defined in the advisory section of this consent) must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate) for construction works.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

## **C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

### **PRIOR TO ANY WORKS**

#### **35. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

#### **36. DILAPIDATION REPORT**

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

### **DEMOLITION & EXCAVATION**

#### **37. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS**

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997.*

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) Outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) Confirm that no asbestos products are present on the subject land, or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by SafeWork NSW (catalogue WC03561);
- (d) Describe the method of demolition;
- (e) Describe the precautions to be employed to minimise any dust nuisance; and
- (f) Describe the disposal methods for hazardous materials.

### **38. CONTROL OF DUST ON CONSTRUCTION SITES**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

### **39. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

### **40. EXCAVATION AND BACKFILLING**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

## **CONSTRUCTION MATTERS**

### **41. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays, with no work to be carried out on Sundays and public holidays.

Excavation works involving the use of heavy earth movement equipment, including rock breakers and the like, must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays, with no such work to be carried out on Saturday, Sunday or a public holiday.

Noise from construction activities shall comply with the *Protection of the Environmental Operations (Noise Control) Regulation 2017*.

#### **42. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS**

All building materials and any other items associated with the development are to be stored within the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **43. CONSTRUCTION INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

#### **44. CERTIFICATE OF SURVEY - LEVELS**

All construction works are to be in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to the construction of a higher level of the building.

#### **45. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the location of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **46. TREATMENT OF BOUNDARY WALLS**

The walls approved on the side boundaries with the neighbouring properties are to be finished to the same standard as the remaining building and not left unfinished to ensure a consistent visual appearance.

#### **47. WORK OUTSIDE PROPERTY BOUNDARY**

This consent does not authorise any work outside the property boundary.

### **TREE PROTECTION AND REMOVAL**

#### **48. TREE PROTECTION**

All trees on site and adjoining properties, including street trees, are to be retained and protected in accordance with AS4970-2009 'Protection of Trees on Construction Sites' and to be certified by an Arborist with AQF level 5 qualification or above, unless approved to be removed in this development consent.

## **VEHICLE ACCESS AND PUBLIC DOMAIN WORKS**

### **49. NEW VEHICLE CROSSING**

A new vehicle crossing is to be provided to access the proposed basement car park. A separate application is required for the vehicle crossing, with all work to be carried out with the approval of and in accordance with the requirements of Council.

Note: Prior to the submission of the vehicle crossing application, works as executed drawings shall be submitted to Council for the approval of the Executive Manager Creating Waverley confirming the finished levels of the internal driveway between the property boundary and the garage floor comply with the approved driveway long sections.

### **50. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH**

The finished level at the property boundary on both sides of the vehicle crossing is to match the level of the existing concrete footpath.

### **51. PRE-CONSTRUCTION DILAPIDATION REPORT**

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description, and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Domain Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

## **NOISE**

### **52. REFRIGERATION UNITS & MECHANICAL PLANT**

Air conditioning units, refrigeration motors/units and other mechanical plant are not to be installed outside the building without the prior consent of Council in order to assess the cumulative impacts of noise to adjoining properties. All plant is to be installed within the confines of the building and be acoustically treated to ensure that it within the acceptable limits.

Or

A further Acoustic report is to be submitted when the mechanical plant has been selected, to ensure compliance with the Protection of the Environment Operations Act 1997 & relevant standards.

### **53. MECHANICAL VENTILATION SYSTEMS**

The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

### **D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE**

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

#### **CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS**

### **54. FINAL OCCUPATION CERTIFICATE**

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

### **55. CERTIFICATION OF ACOUSTIC PERFORMANCE**

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic recommendations (including noise from mechanical plant) and conditions of consent (including the operational conditions) have been incorporated into the development and can be satisfied.

### **56. CERTIFICATION OF ALL MECHANICAL PLANT**

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

### **57. CERTIFICATION OF BASIX COMMITMENTS**

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

### **58. CERTIFICATION OF APPROVED DESIGN**

In accordance with the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate, to authorise a person to commence occupation or use of the development unless it has received a design verification statement from an architect who is registered in accordance with the Architects Act 2003 (i.e. qualified designer) that verifies that the building achieves the design quality of the development as shown in the plans and

specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

#### **59. CERTIFICATION OF LANDSCAPING**

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

#### **60. CERTIFICATION OF STORMWATER SYSTEM**

Prior to issue of an occupation certificate, certification is to be provided from a suitably qualified Hydraulics Engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

#### **61. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS**

Prior to the issue of any Occupation Certificate, a final Compliance Certificate shall be obtained from Council confirming that all works in the road reserve including all public domain infrastructure works and restoration, have been completed to Council's satisfaction.

#### **62. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE**

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

#### **63. NOISE – ACOUSTIC REPORT**

An Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development\\_applications/post\\_determination/development\\_applications\\_-\\_conditions\\_of\\_consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

#### **64. ACOUSTIC REPORT RECOMMENDATIONS**

The "recommendations" as outlined in the acoustic report referenced in Condition 1 of this consent shall be implemented.



A Certificate of Compliance prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and Council certifying that the recommendations made in the above report have been satisfied and Council's noise criteria has been met prior to the issue of an Occupation Certificate.

## **STORMWATER**

### **65. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM**

- a. A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, the detention facility, the pump out system and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- b. A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

### **66. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD SYSTEM**

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

### **67. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM**

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of any pump out system prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the system. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

## **MANAGEMENT PLANS**

### **68. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE**

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant;

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.
- (d) The role and responsibility of managing composting facilities (if provided);
- (e) Clear signage identifying the different bin types, space for reusable items such as crates and pallets, bulky household waste and problem waste must be displayed.
- (f) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (h) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.
- (i) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan is be available on site when requested.
- (j) At no times shall bins be stored on the public domain (e.g. footpaths).

## **VEHICLE ACCESS AND PARKING**

### **69. CAR PARKING**

A total of 34 car vehicle parking spaces are to be provided within the development, allocated in the following manner:

- (a) 23 residential parking spaces
- (b) 4 residential visitor parking spaces
- (c) 7 retail parking spaces
- (d) At least 10% of all the car parking spaces are to be allocated as accessible parking spaces and be shared amongst the residential, visitor and commercial spaces where applicable.
- (e) Minimum 3 'Level 2' AC fast electric vehicle charging points to be installed
- (f) 1 electric charging point and parking space for bicycles and motor scooters.

Accessible parking spaces are to be designed in accordance with Australian Standard AS2890.6 - 2009 Off Street Parking for People with Disabilities.

Car parking spaces are to be allocated with the rates specified in the DCP, with no more than 2 spaces allocated to any residential unit/dwelling with 3 or more bedrooms. All car spaces and to be appropriately signposted and parked.

Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.

## **70. BICYCLE PARKING**

A total of 24 bicycle parking spaces are to be provided within the development, allocated in the following manner:

- (a) 18 residential bicycle spaces
- (b) 2 visitor bicycle spaces
- (c) 4 retail bicycle spaces

The bicycle spaces are to be designed in accordance with Australian Standard AS2890.3 - 2015 Parking Facilities - Bicycle Parking.

The bicycle spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area. Signage and line-marking (way finding) is to be provided to guide visitors to the allocated bicycle parking spaces to ensure a safe path of travel to the bicycle spaces (separate to cars). Details of this are to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

## **71. CONVEX MIRRORS**

Convex mirrors are to be placed inside the site at the vehicular access ramp for drivers when exiting the site to view pedestrians approaching from either direction along the adjacent roadway/footpath.

The purpose of the convex mirrors is NOT for drivers to identify moving vehicles on the public road as this distorts the location and speed of vehicles on the roadway, therefore the location of the mirrors is to be such that it provides sight to pedestrians as the priority.

Details are to be shown on the plans to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

## **72. VEHICLE PRIORITY/TRAFFIC LIGHT SYSTEM**

A vehicle priority system (mirrors etc.) or traffic light system shall be provided for driveways and ramps which have access via a single lane to or from car parking spaces. Details are to be shown in documentation and on plans to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

## **OTHER MATTERS**

### **73. WAVERLEY DIGITAL MODEL**

An accurate 'as built' 3D digital model of the building must be submitted to be used in the Waverley Digital Model, to the satisfaction of Council's Digital Urban Designer which complies with the requirements outlined in on Council's website at:

[https://www.waverley.nsw.gov.au/building/development\\_applications/decision\\_makers/3d\\_modelling](https://www.waverley.nsw.gov.au/building/development_applications/decision_makers/3d_modelling)

#### **74. STREET NUMBER/S**

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. Should the number be fixed to an awning then it shall be a minimum 150mm high.

#### **75. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering:

- No. 140 - primary address site number
- Curlewis Street - primary address location for the common property

The primary premises number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level and be clearly visible on the site boundary that fronts Curlewis Street.

- All sub premises numbers must be unique,
- The floor/level number will represent the first number of the sub address and the last two digits in the sub address shall be unique on each level,
- For clarity, a zero will be interposed in the number of the first nine sub address levels ie Level 3 unit 7 =307,
- Level at ground and below ground shall also be identified by prefixes to distinguish these levels ie Ground =G, Lower Ground = LG Etc
- Commercial premises will also be identified with an address identifier ie Shop G1, Shop G2 etc.

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site. The address number for a sub-address site shall not consist of the primary address number on its own. Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation Certificate and Council notified of the corresponding sub-address numbers to lot number prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application for a change of street number and/or location to be lodged with Council.

### **E. OPERATIONAL MATTERS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

#### **AMENITY & SAFETY**

#### **76. LIGHTING**

Lighting shall comply with the following requirements:

- (a) Under awning lighting is to be provided.
- (b) Fluorescent lighting is discouraged.

- (c) Any lighting shall not be directed toward the residential apartments within the building or adjoining buildings.
- (d) Illumination at the rear of commercial properties or where installed for security purposes must be sensor controlled, except where public street frontage and/or footpaths require it.

#### **77. WASTE MANAGEMENT PLAN REVIEW**

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

#### **78. NOISE EMISSIONS**

- (a) The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

#### **79. NOISE - MECHANICAL PLANT (COMMERCIAL PREMISES)**

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy.
- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

#### **PARKING AND ACCESS**

#### **80. PARKING PERMITS**

Occupants of the building are not to be eligible for resident parking permits under Council's Residents Preferential Parking permits scheme.

#### **ADVISORY MATTERS**

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

#### **AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT**

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to [info@waverley.nsw.gov.au](mailto:info@waverley.nsw.gov.au) or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

#### **AD2. DIAL BEFORE YOU DIG**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

#### **AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)**

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra’s network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra’s infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra’s assets in any way, you are required to contact: Telstra’s Network Integrity Team on 1800 810 443.

#### **AD4. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

**AD5. BONDI - ROSE BAY SAND BODY**

This site may be located within the Bondi - Rose Bay Sand Body as identified in Council's Aboriginal Cultural Heritage Study 2009. Should an object of potential Aboriginal or archaeological significance be discovered during the demolition, excavation or construction period associated with this development, works are to immediately cease and the NSW National Parks and Wildlife Service must be contacted.

Waverley Council must be notified of any referral to the NSW National Parks and Wildlife Service and be provided with a copy of any subsequent response.

**AD6. SEPARATE APPLICATIONS FOR USE/FIT OUT**

Specific development applications are to be lodged for the approval of Council in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises, unless otherwise permitted under SEPP (Exempt and Complying Development Codes) 2008.

**AD7. SEPARATE APPLICATION FOR SIGNAGE**

No signage has been proposed in this application, therefore any advertising or signage requires the separate approval from Council, unless deemed Exempt Development under Division 2 of the SEPP (Exempt and Complying Development) 2008.

**AD8. TREE REMOVAL/PRESERVATION**

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

**AD9. BUILDING TO BE WRAPPED**

The applicant is encouraged to investigate possibilities of extracting an image of the completed building onto the hoarding and mesh surrounding the site during the demolition and construction stages of the development to minimise the visual intrusion of what is otherwise a large single coloured mesh 'block' during this time. Any advertising on the hoarding requires Council's written approval.

**AD10. SUITABLY QUALIFIED ACOUSTIC CONSULTANT**

In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.

**AD11. SITE RECTIFICATION WORKS**

The vacant site is to be maintained in a safe and secure manner. Fencing is to be erected around the perimeter of the site once demolition has been completed to secure the site. The site is to be protected from windblown soil loss and stormwater erosion at all times.

If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance not acceptable to Council, then the Council will have the readily enforceable rights to:

- (i) Require certain works to be carried out, including but not limited to:
  - (a) Make the building/site safe and of an appearance acceptable to Council;
  - (b) Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point;
  - (c) For the hole to be covered to allow it to be landscaped and made attractive from any public vantage point.
  - (d) Council may call on any bank guarantee to cover the cost thereof.
  
- (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the costs of the works.

#### **AD12. PUBLIC UTILITIES AND SERVICE ALTERATIONS**

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations. Upon notifying Council, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, TfNSW or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

Written approval from the applicable Public Authority shall be submitted to Council along with the Public Domain design plans submission.

#### **AD13. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS**

Prior to commencement of the public domain works notice shall be submitted to Council's Public Domain Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

#### **AD14. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING**

To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's engineering inspector/s prior to works commencing on site.

#### **AD15. PUBLIC DOMAIN ENGINEERING INSPECTIONS**

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required, and compliance certificates must be obtained from Council's Public Domain Engineer for the road pavement, kerb and gutter, stormwater, footpath paving, undergrounding, street trees and landscape hold points.

#### **AD16. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMAIN**

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.



**AD17. WORK-AS-EXECUTED PLAN – PUBLIC DOMAIN**

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered surveyor is to be submitted to the principal certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

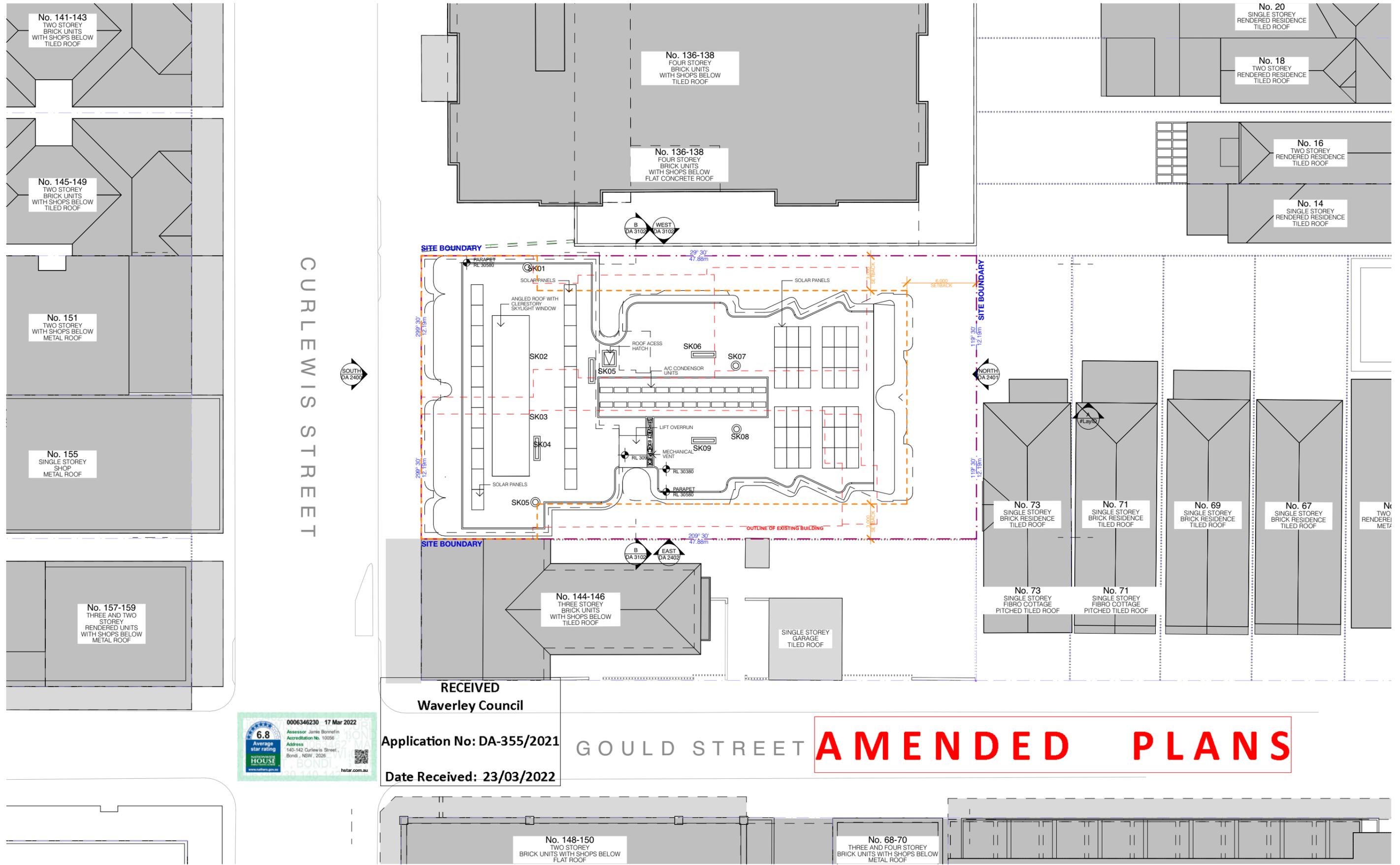
The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

**AD18. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS**

The issue of a final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.

The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.

To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.



RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022

AMENDED PLANS

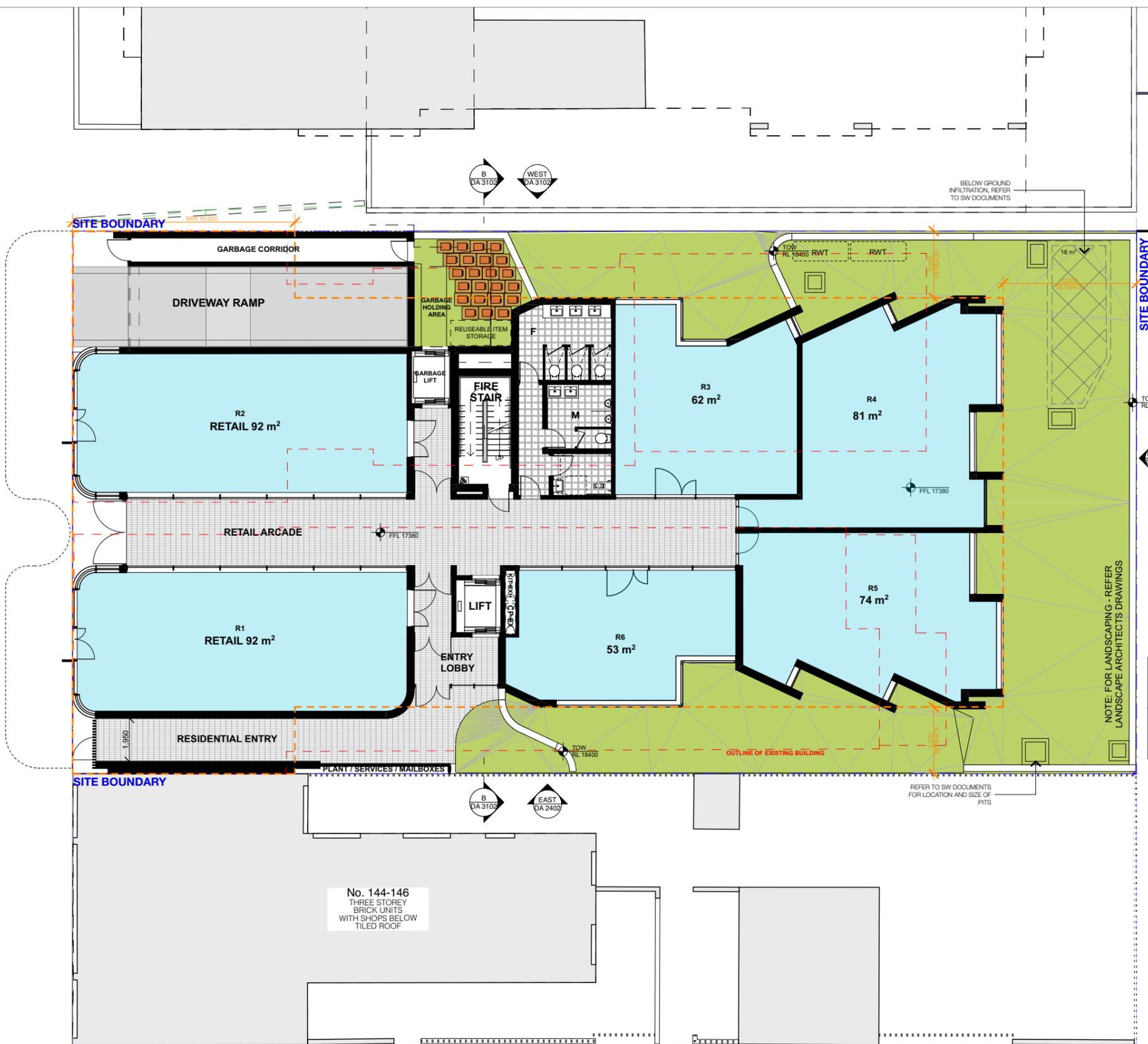
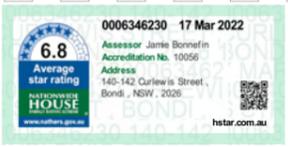
REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT GLAZING: TO COMPLY WITH 4.2 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 21 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 21 OF BCA MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 21 OF BCA	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:	
A	DA ISSUE	19/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C 1.1 FIRE RESISTING CONSTRUCTION SPEC. C 1.10 FIRE HAZARD PROPERTIES SPEC. C 1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C 2.12 SEPARATION OF EQUIPMENT CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C 3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C 3.9 OPENING FOR SERVICE INSTALLATIONS CLAUSE D 1.9 DISCHARGE FROM EXITS CLAUSE D 2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D 2.13 GOINGS AND RISERS CLAUSE D 2.14 LANDINGS CLAUSE D 2.15 THRESHOLDS CLAUSE D 2.16 BALUSTRADES	CLAUSE D 2.17 HANDRAILS CLAUSE D 2.21 OPERATION OF LATCH CLAUSE D 2.23 SIGNS ON DOORS CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILTY FEATURES CLAUSE D 3.9 TACTILE INDICATORS CLAUSE F 1.7 WATERPROOFING OF WET AREAS CLAUSE F 1.8 F1.10 DAMP PROOFING CLAUSE F 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F 4.1 LIGHTING AND VENTILATION CLAUSE F 5.4 SOUND INSULATION OF FLOORS CLAUSE F 5.5 SOUND INSULATION OF WALLS CLAUSE F 5.6 SOUND INSULATION OF SERVICES CLAUSE F 5.7 SOUND INSULATION OF PUMPS	SMOKE ALARMS: TO COMPLY WITH BCA PART 4.4 & SPEC E2.2 & AS3785 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH/ELECTRICAL PENETRATIONS TO COMPLY WITH BCA CLAUSE D2.13 & AS1300 4.2005 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	WATER OPTIONS: SHOWERS/HEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven, hot water tank SEPARATION SPACE: No CLOTHES DRYING LINES: No THERMAL COMFORT OPTIONS: R3 INSULATION TO: ROOF R2 INSULATION TO: External cavity - Concrete, Flatboard Light colour water absorbance 30.475, no insulation 100 g/g concrete, 100 g/g + 40mm fill A/C cables, duct to plaster A/C cables on slabs External ceiling Suspended concrete slab NO INSULATION TO: R10 1 phase air conditioning, 4.0 Vdr to Living & Bed room. 1 phase air conditioning, 4.0 Vdr to Living & Bed room. Individual air-vent duct to Laundry manual switch on/off Gas instantaneous - central system	EXISTING FINISHED FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com MHND Design Urban Pty Ltd. ABN 94 003 717 682 NSW Registration Number 4907	SITE & ROOF PLAN PROJECT ADDRESS: 140-142 CURLEWIS ST, BONDI NSW 2026	1:300@A3 ISSUE DATE: 16/3/22 PROJECT NUMBER: 21-001	RS RS B DA 1000	RS REVISION: B DWG NUMBER: DA 1000





CURLEWIS STREET

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



# AMENDED PLANS

REV	DESCRIPTION	DATE
06	PRELIMINARY	9/7/21
07	FOR COORDINATION	18/8/21
A	DA ISSUE	19/8/21
B	FOR COORDINATION	4/3/22
C	FOR COORDINATION	9/3/22
D	DA REISSUE	16/3/22

ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS

CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS  
SPEC. C 1.1 FIRE RESISTING CONSTRUCTION  
SPEC. C 1.10 FIRE HAZARD PROPERTIES  
SPEC. C 1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE  
CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL  
CLAUSE C 2.12 SEPARATION OF EQUIPMENT  
CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM  
CLAUSE C 3.1 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS)  
CLAUSE C 3.8 OPENING IN FIRE SOLATED EXITS  
CLAUSE C 3.9 OPENINGS FOR SERVICE INSTALLATIONS  
CLAUSE D 2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL  
CLAUSE D 2.13 GOINGS AND RISERS  
CLAUSE D 2.14 LANDINGS  
CLAUSE D 2.15 THRESHOLDS  
CLAUSE D 2.16 BALUSTRADES

CLAUSE D 2.17 HANDRAILS  
CLAUSE D 2.21 OPERATION OF LATCH  
CLAUSE D 2.23 SIGNS ON DOORS  
CLAUSE D 3.1 GENERAL BUILDING ACCESS REQUIREMENTS  
CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE  
CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILITIES/FEATURES  
CLAUSE D 3.9 TACTILE INDICATORS  
CLAUSE F 1.7 WATERPROOFING OF WET AREAS  
CLAUSE F 1.9 F.15 DAMP PROOFING  
CLAUSE F 3.8 OPENING IN FIRE RATED CONSTRUCTION FOR MECH  
PART F 4.1 LIGHTING AND VENTILATION  
CLAUSE F 5.4 SOUND INSULATION OF FLOORS  
CLAUSE F 5.5 SOUND INSULATION OF WALLS  
CLAUSE F 5.8 SOUND INSULATION OF SERVICES  
CLAUSE F 5.7 SOUND INSULATION OF PUMPS

ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS1880  
BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16  
DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2  
ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 21 OF BCA  
FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA  
HOT WATER: SYSTEMS TO COMPLY WITH PART 21 OF BCA  
MASONRY: TO COMPLY WITH AS3700  
MECHANICAL/HYDRAULIC: BCA CLAUSE C3.15 & AS1530-4:2005  
MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 21 OF BCA  
MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1959 & AS/NZS 4  
SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3785  
PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH  
ELECTROHYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1530-4:2005  
STAIR CONSTRUCTION: TO COMPLY WITH PARTS OF BCA  
STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13  
WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740

BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)

WATER OPTIONS:  
SHOWERHEADS: 4 STAR  
TOILETS: 3 STAR  
KITCHEN TAPS: 3 STAR  
BATHROOM TAPS: 3 STAR  
RAIN WATER TANK: 5000 L

ENERGY OPTIONS:  
COOKING: 4.0  
REF: 4.0  
HEATING: 4.0  
VENTILATION: 4.0  
WATER HEATING: 4.0

ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas  
COOK TOPS: Gas cooktop, electric oven, hot water tank  
SEPARATION SPACE: No  
CLOTHES DRYING LINES: No

THERMAL COMFORT OPTIONS:  
R3 INSULATION TO:  
ROOF: External cavity - Concrete, Flatboard  
Light colour, water absorbance < 0.475, no insulation  
100% of concrete, brick  
+ parapets full  
Cavity walls, direct to plaster AAC cavity or masonry  
Internal ceiling  
Suspended concrete slab  
Use = 0.5 & 0.050 < 0.08 (4-10%)  
Low e clear glass in aluminium frame in all glazing

NO INSULATION TO:  
PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH  
ELECTROHYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1530-4:2005  
GLAZING TYPE: Low e clear glass in aluminium frame in all glazing

NOTES:  
EX FFL EXISTING RL OF FINISHED FLOOR LEVEL  
RL REDUCED LEVEL  
NEW SUBDIVIDING LOT BOUNDARY  
BOUNDARY  
SETBACK  
EX BUILDING TO BE DEMOLISHED  
DCP 7.5M WALL  
HEIGHT CONTROL  
LEP 8.5M BUILDING HEIGHT CONTROL

ARCHITECT:  
**MHNDUNION**  
35 RICHARDS LANE  
SURREY HILLS SYDNEY NSW 2010  
T +61 2 9101 1111  
F +61 2 9101 1100  
www.mhndu.com  
MHND Design Union Pty Ltd. ABN 94 003 717 682 NSW Registration Number 4907

DRAWING TITLE:  
**GROUND FLOOR PLAN**

PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
BONDI NSW 2026**

SCALE: 1:200@A3  
ISSUE DATE: 16/3/22  
PROJECT NUMBER: 21-001

DRAWN BY: EK  
CHECKED: RS  
REVISION: D  
DWG NUMBER: DA 2003

0006295125-04 17 Mar 2022  
**7.1**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 101, 140-142 Curlewis Street, Bondi, NSW, 2026  
 36.9  
 hstar.com.au

0006295133-04 17 Mar 2022  
**8.2**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 102, 140-142 Curlewis Street, Bondi, NSW, 2026  
 23.3  
 hstar.com.au

0006346084-02 17 Mar 2022  
**5.4**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 103, 140-142 Curlewis Street, Bondi, NSW, 2026  
 58.8  
 hstar.com.au

0006346092-02 17 Mar 2022  
**6.1**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 104, 140-142 Curlewis Street, Bondi, NSW, 2026  
 50.0  
 hstar.com.au

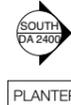
0006295141-03 17 Mar 2022  
**6.4**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 105, 140-142 Curlewis Street, Bondi, NSW, 2026  
 45.4  
 hstar.com.au

0006346100-02 17 Mar 2022  
**7.4**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 106, 140-142 Curlewis Street, Bondi, NSW, 2026  
 34.0  
 hstar.com.au

0006346118-02 17 Mar 2022  
**6.2**  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address Unit 107, 140-142 Curlewis Street, Bondi, NSW, 2026  
 48.6  
 hstar.com.au

0006346230 17 Mar 2022  
**6.8**  
 Average star rating  
 Assessor Jamie Bonnell  
 Accreditation No. 10056  
 Address 140-142 Curlewis Street, Bondi, NSW, 2026  
 hstar.com.au

CURLEWIS STREET



PLANTER



RECEIVED  
 Waverley Council  
 Application No: DA-355/2021  
 Date Received: 23/03/2022



NORTH DA 2407

No. 73 SINGLE STOREY BRICK RESIDENCE TILED ROOF

No. 71 SINGLE STOREY BRICK RESIDENCE TILED ROOF

No. 144-146 THREE STOREY BRICK UNITS WITH SHOPS BELOW TILED ROOF

**AMENDED PLANS**

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS1680 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 02.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 21 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER: SYSTEMS TO COMPLY WITH PART 21 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL/REFRIGERATION: BCA CLAUSE C3.15 & AS1555.4-2005 MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 21 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1959 & AS1959.2 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3700 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELECTRICAL/REFRIGERATION PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1555.4-2005 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 02.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3700	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:	
04	PRELIMINARY	27/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS CLAUSE C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.10 FIRE HAZARD PROPERTIES CLAUSE C1.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C.3 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE RATED EXITS CLAUSE C3.9 OPENING IN FIRE RATED EXITS CLAUSE D2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.13 GOINGS AND RISERS CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES	CLAUSE 02.17 HANDRAILS CLAUSE 02.21 OPERATION OF LATCH CLAUSE 02.23 SIGNS ON DOORS CLAUSE 03.1 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE 03.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 03.8 IDENT. OF ACCESSIBLE FACILITIES/FEATURES CLAUSE 03.9 TACTILE INDICATORS CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.9F.15 DAMP PROOFING CLAUSE F2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERS/BATHS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven, hot waterless SEPARATION SPACE: No CLOTHES DRYING LINES: No	EX FFL RL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	ARCHITECT: <b>MHNDUNION</b> 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	LEVEL 1 FLOOR PLAN	1:200@A3	EK	RS	RS
05	FOR COORDINATION	18/8/21								PROJECT ADDRESS: <b>140-142 CURLEWIS ST, BONDI NSW 2026</b>	ISSUE DATE: 16/3/22		REVISION: <b>D</b>
A	DA ISSUE	19/8/21									PROJECT NUMBER: <b>21-001</b>		DWG NUMBER: <b>DA 2004</b>
B	FOR COORDINATION	4/3/22											
C	FOR COORDINATION	9/3/22											
D	DA REISSUE	16/3/22											





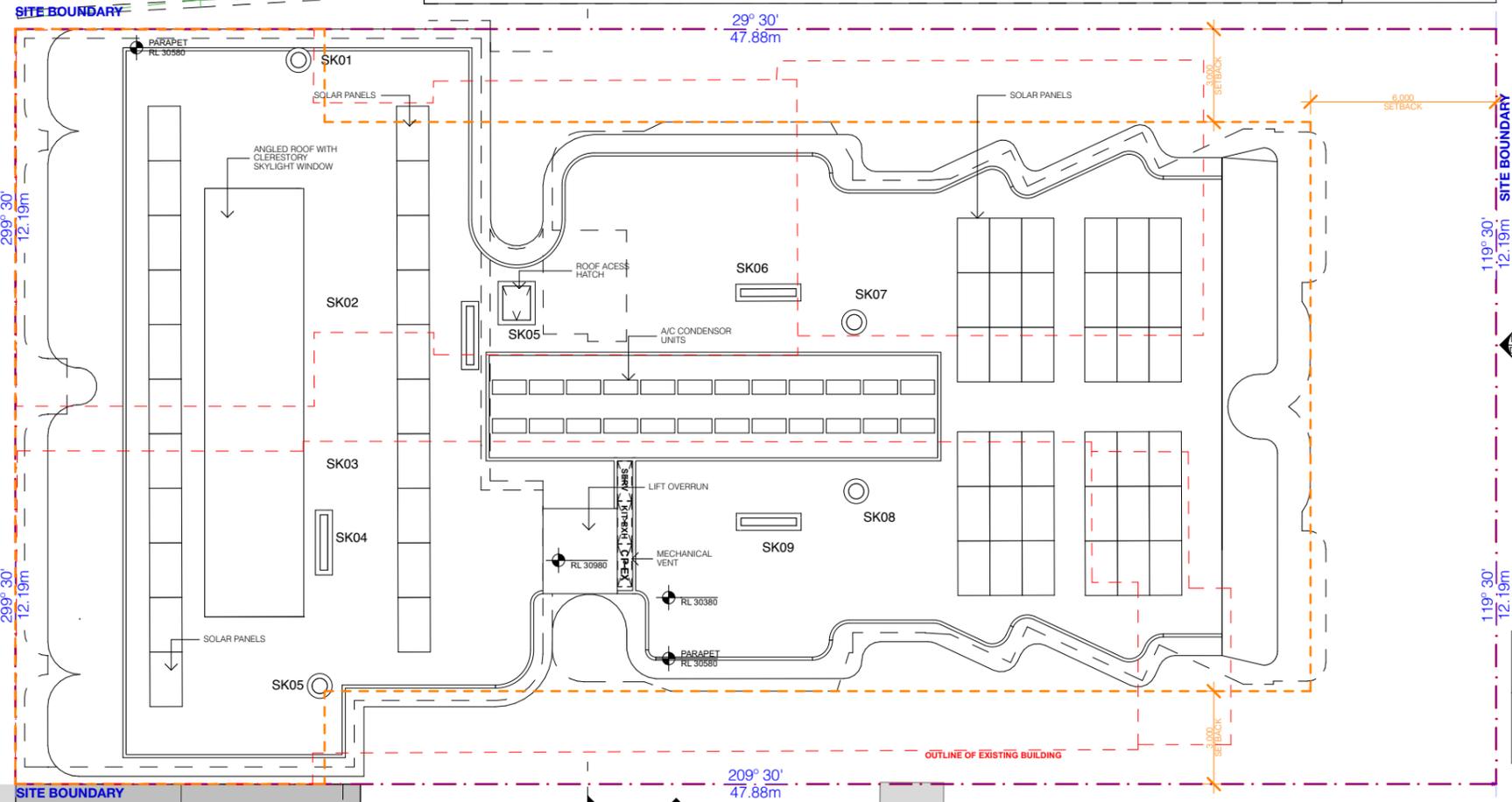


RECEIVED  
Waverley Council

Application No: DA-355/2021

Date Received: 23/03/2022

CURLEWIS STREET



# AMENDED PLANS



REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 22.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT GLAZING: TO COMPLY WITH 2.1 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION 4 OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 21 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL/REFRIGERANT: TO COMPLY WITH AS1553.4-2005 MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 25 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1966 & AS1972 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 4 & SPEC E2.2 & AS3700 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELEC/HYDRANTIC PENETRATIONS TO COMPLY WITH BCA CLAUSE 23.15 & AS1930-4-2005 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 22.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	
01	PRELIMINARY	21/5/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTION SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.10 FIRE HAZARD PROPERTIES SPEC. C1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.1 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.9 OPENING FOR SERVICE INSTALLATIONS CLAUSE D1.16 DISCHARGE FROM EXITS CLAUSE D2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.13 GOINGS AND RISERS CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES	CLAUSE 22.17 HANDRAILS CLAUSE 22.21 OPERATION OF LATCH CLAUSE 22.23 SIGNS ON DOORS CLAUSE 23.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 23.8 IDENT. OF ACCESSIBLE FACIL/SERV/FEATURES CLAUSE 23.9 TACTILE INDICATORS CLAUSE 23.10 WATERPROOFING OF WET AREAS CLAUSE 23.11 DAMP PROOFING CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.6 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven. SEPARATION SPACE: Not required. CLOTHES DRYING LINES: No	EXISTING FINISHED FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	
02	FOR COORDINATION	18/8/21						
A	DA ISSUE	19/8/21						
B	FOR COORDINATION	9/3/22						
C	DA REISSUE	16/3/22						

ARCHITECT:  
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DRAWING TITLE:  
**ROOF PLAN**  
PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
BONDI NSW 2026**

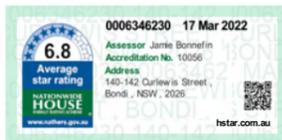
SCALE: 1:200@A3  
ISSUE DATE: 16/3/22  
PROJECT NUMBER: 21-001

DRAWN BY: AT  
CHECKED: RS  
REVISION: C  
DWG NUMBER: DA 2007

RECEIVED  
Waverley Council

Application No: DA-355/2021

Date Received: 23/03/2022



**AMENDED PLANS**

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 4.4 & AS1680	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:
01	FOR COORDINATION	18/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C 1.1 FIRE RESISTING CONSTRUCTION SPEC. C 1.10 FIRE HAZARD PROPERTIES CLAUSE B 1.5 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C 2.12 SEPARATION OF EQUIPMENT CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C 3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C 10.1 DISCHARGE FROM EXITS CLAUSE C 10.2 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C 12.1 GOINGS AND RISERS CLAUSE C 21.4 LANDINGS CLAUSE C 21.5 THRESHOLDS CLAUSE D 2.16 BALUSTRADES	CLAUSE D 2.17 HANDRAILS CLAUSE D 2.21 OPERATION OF LATCH CLAUSE D 2.23 SIGNS ON DOORS CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILITY FEATURES CLAUSE D 3.9 TACTILE INDICATORS CLAUSE F 1.7 WATERPROOFING OF WET AREAS CLAUSE F 1.8F 1.10 DAMP PROOFING CLAUSE F 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F 4.1 LIGHTING AND VENTILATION CLAUSE F 5.4 SOUND INSULATION OF FLOORS CLAUSE F 5.5 SOUND INSULATION OF WALLS CLAUSE F 5.6 SOUND INSULATION OF SERVICES CLAUSE F 5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: 4 STAR 5 STAR 5 STAR 5000 L	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	EXISTING FFL RL OF FINISHED FLOOR LEVEL NEW SUBDIVIDING LOT BOUNDARY REDUCED LEVEL BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL
A	DA ISSUE	19/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C 1.1 FIRE RESISTING CONSTRUCTION SPEC. C 1.10 FIRE HAZARD PROPERTIES CLAUSE B 1.5 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C 2.12 SEPARATION OF EQUIPMENT CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C 3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C 10.1 DISCHARGE FROM EXITS CLAUSE C 10.2 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C 12.1 GOINGS AND RISERS CLAUSE C 21.4 LANDINGS CLAUSE C 21.5 THRESHOLDS CLAUSE D 2.16 BALUSTRADES	CLAUSE D 2.17 HANDRAILS CLAUSE D 2.21 OPERATION OF LATCH CLAUSE D 2.23 SIGNS ON DOORS CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILITY FEATURES CLAUSE D 3.9 TACTILE INDICATORS CLAUSE F 1.7 WATERPROOFING OF WET AREAS CLAUSE F 1.8F 1.10 DAMP PROOFING CLAUSE F 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F 4.1 LIGHTING AND VENTILATION CLAUSE F 5.4 SOUND INSULATION OF FLOORS CLAUSE F 5.5 SOUND INSULATION OF WALLS CLAUSE F 5.6 SOUND INSULATION OF SERVICES CLAUSE F 5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: 4 STAR 5 STAR 5 STAR 5000 L	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	EXISTING FFL RL OF FINISHED FLOOR LEVEL NEW SUBDIVIDING LOT BOUNDARY REDUCED LEVEL BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL
B	DA REISSUE	16/3/22	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C 1.1 FIRE RESISTING CONSTRUCTION SPEC. C 1.10 FIRE HAZARD PROPERTIES CLAUSE B 1.5 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C 2.12 SEPARATION OF EQUIPMENT CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C 3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C 10.1 DISCHARGE FROM EXITS CLAUSE C 10.2 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C 12.1 GOINGS AND RISERS CLAUSE C 21.4 LANDINGS CLAUSE C 21.5 THRESHOLDS CLAUSE D 2.16 BALUSTRADES	CLAUSE D 2.17 HANDRAILS CLAUSE D 2.21 OPERATION OF LATCH CLAUSE D 2.23 SIGNS ON DOORS CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILITY FEATURES CLAUSE D 3.9 TACTILE INDICATORS CLAUSE F 1.7 WATERPROOFING OF WET AREAS CLAUSE F 1.8F 1.10 DAMP PROOFING CLAUSE F 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F 4.1 LIGHTING AND VENTILATION CLAUSE F 5.4 SOUND INSULATION OF FLOORS CLAUSE F 5.5 SOUND INSULATION OF WALLS CLAUSE F 5.6 SOUND INSULATION OF SERVICES CLAUSE F 5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: 4 STAR 5 STAR 5 STAR 5000 L	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	EXISTING FFL RL OF FINISHED FLOOR LEVEL NEW SUBDIVIDING LOT BOUNDARY REDUCED LEVEL BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL

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F +61 2 9101 1100  
www.mhndu.com  
MHND Design Urban Pty Ltd. ABN 94 003 717 692 NSW Registration Number: 4907

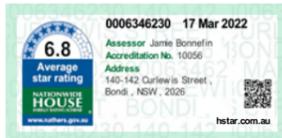
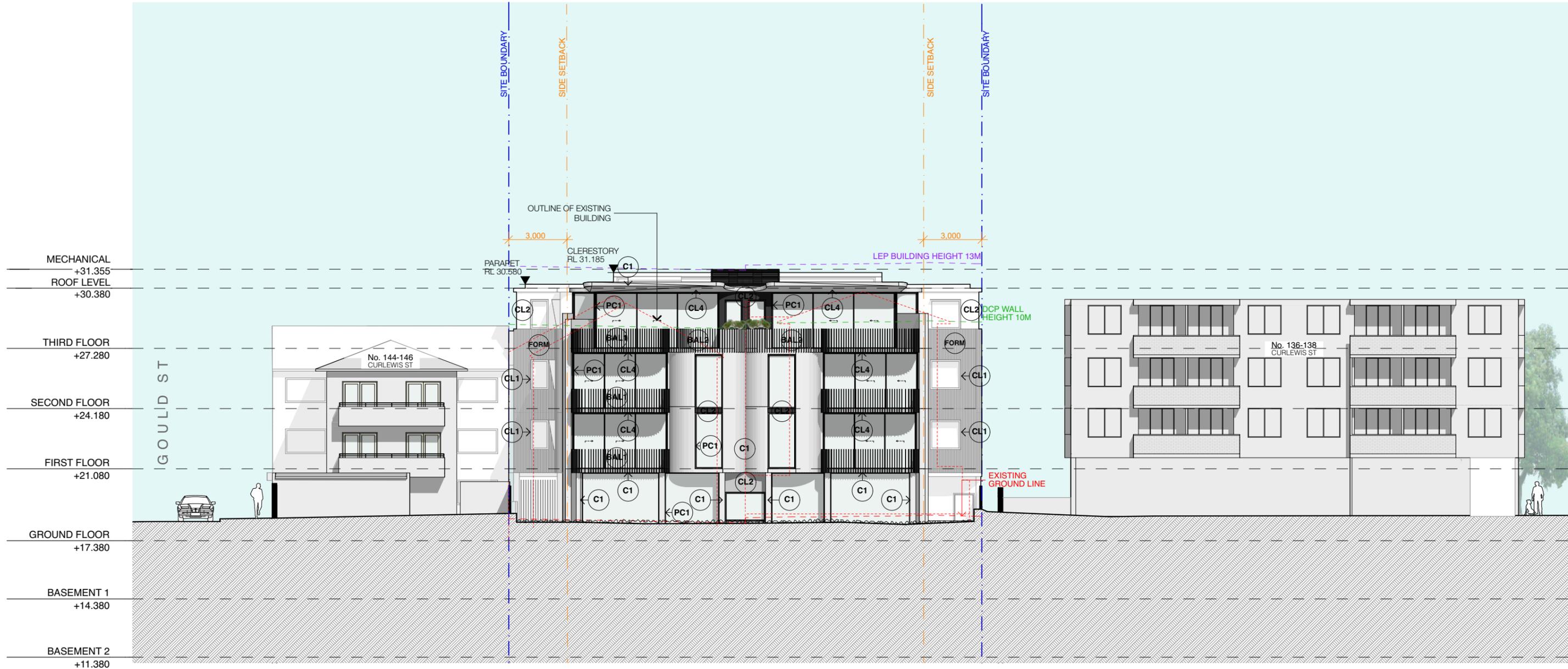
DRAWING TITLE:  
**ELEVATION SOUTH**  
PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
BONDI NSW 2026**

SCALE: 1:200@A3  
DRAWN BY: AT  
CHECKED: RS  
ISSUE DATE: 16/3/22  
REVISION: B  
PROJECT NUMBER: 21-001  
DWG NUMBER: DA 2400

RECEIVED  
Waverley Council

Application No: DA-355/2021

Date Received: 23/03/2022



# AMENDED PLANS

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 4.4 & AS1680 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 12.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 2.7 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 2.1 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL/HYDRAULIC: BCA CLAUSE C3.15 & AS1539-4-2005 MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 2.1 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1966 & AS1975 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3786 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELECTRICAL/HYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1539-4-2005 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	
01	FOR COORDINATION	18/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.10 FIRE HAZARD PROPERTIES CLAUSE C1.1 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.1 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE C3.17 DISCHARGE FROM EXITS CLAUSE C3.22 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D3.3 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 IDENT. OF ACCESSIBLE FACIL/SERV/FEATURES CLAUSE D3.8 TACTILE INDICATORS CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.8F1.10 DAMP PROOFING CLAUSE F2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4.1 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	ENERGY OPTIONS: COOLING: 1 phase air conditioning, 4.0 W/m <sup>2</sup> to Living & Bed areas. HEATING: 1 phase air conditioning, 4.0 W/m <sup>2</sup> to Living & Bed areas. WATER HEATING: Gas instantaneous - central system	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas COOK TOPS: Gas cooktop, electric oven. SEPARATION SPACE: Not installed. CLOTHES DRYING LINES: No THERMAL COMFORT OPTIONS: R33 INSULATION TO: ROOF: External ceiling - Concrete, Flat/ceiling Light colour, water absorption < 10.0%, no insulation 100% of concrete, tile + parapets full. C4.2 walls, direct to plaster AAC plaster on studs Internal ceiling Suspended concrete slab Uw = 0.5 & 0.450C + 0.08 (4+10%) Low e clear glass in aluminium frame in all glazing	EX FFL EXISTING RL OF FINISHED FLOOR LEVEL RL REDUCED LEVEL NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL LEP 8.5M BUILDING HEIGHT CONTROL

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MHND Design Urban Pty Ltd. ABN 94 003 717 692 NSW Registration Number: 4907

DRAWING TITLE:  
**ELEVATION NORTH**  
PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
BONDI NSW 2026**

SCALE: 1:200@A3  
DRAWN BY: AT  
CHECKED: RS  
ISSUE DATE: 16/3/22  
REVISION: B  
PROJECT NUMBER: 21-001  
DWG NUMBER: DA 2401







RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022

# AMENDED PLANS



REV	DESCRIPTION	DATE
01	DRAFT concept	2/2/21
02	PRELIMINARY	23/4/21
03	PRELIMINARY	24/5/21
04	FOR COORDINATION	18/8/21
A	DA ISSUE	19/8/21
B	DA REISSUE	16/3/22

ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS

CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS  
SPEC. C 1.1 FIRE RESISTING CONSTRUCTION  
SPEC. C 1.10 FIRE HAZARD PROPERTIES  
SPEC. C 1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE  
CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL  
CLAUSE C 2.12 SEPARATION OF EQUIPMENT  
CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM  
CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS)  
CLAUSE C 3.8 OPENING IN FIRE SOLATED EXITS  
CLAUSE C 3.9 OPENING FOR SERVICE INSTALLATIONS  
CLAUSE C 10.1 DISCHARGE FROM EXITS  
CLAUSE C 10.2 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL  
CLAUSE C 13 GOINGS AND RISERS  
CLAUSE C 14 LANDINGS  
CLAUSE C 15 THRESHOLDS  
CLAUSE C 16 BALUSTRADES

CLAUSE D2 17 HANDRAILS  
CLAUSE D2 21 OPERATION OF LATCH  
CLAUSE D2 23 SIGNS ON DOORS  
CLAUSE D3 3 GENERAL BUILDING ACCESS REQUIREMENTS  
CLAUSE D3 3 PARTS OF BUILDING TO BE ACCESSIBLE  
CLAUSE D3 8 IDENT. OF ACCESSIBLE FACILTY FEATURES  
CLAUSE D3 8 TACTILE INDICATORS  
CLAUSE F1 7 WATERPROOFING OF WET AREAS  
CLAUSE F1 8F 1.10 DAMP PROOFING  
CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS  
PART F4 LIGHTING AND VENTILATION  
CLAUSE F5 4 SOUND INSULATION OF FLOORS  
CLAUSE F5 5 SOUND INSULATION OF WALLS  
CLAUSE F5 6 SOUND INSULATION OF SERVICES  
CLAUSE F5 7 SOUND INSULATION OF PUMPS

ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE F4.4 & AS1680  
BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2 16  
DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2  
ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 21 OF BCA  
FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA  
HOT WATER SYSTEMS: TO COMPLY WITH PART 21 OF BCA  
MASONRY: TO COMPLY WITH AS3700  
MECHANICAL/REFRIGERATION: BCA CLAUSE C3 15 & AS1530 4-2025  
MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 25 OF BCA  
MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1966 & AS/NZS 2  
SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3796  
PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH  
ELECTROHYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3 15 & AS1530 4-2025  
STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2 13  
STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2 13  
WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740

BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)

WATER OPTIONS: 4 STAR  
SHOWERHEADS: 3 STAR  
TOILETS: 3 STAR  
KITCHEN TAPS: 3 STAR  
BATHROOM TAPS: 3 STAR  
RAIN WATER TANK: 5000 L

ENERGY OPTIONS  
COOLING: 1. Green air conditioning, 4.0 W/m² to Living & Bed areas.  
HEATING: 1. Green air conditioning, 4.0 W/m² to Living & Bed areas.  
VENTILATION: 1. Natural air, not ducted to Laundry, manual switch on/off.  
WATER HEATING: Gas instantaneous - central system.

ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas  
COOK TOPS: Gas cooktop, electric oven, hot water tank  
SEPARATION SPACE: No  
CLOTHES DRYING LINES: No  
THERMAL COMFORT OPTIONS  
R3 INSULATION TO: External walls: Concrete, Flat/insulated  
Light colour, water absorbance < 0.85, no insulation  
100 g GPC concrete, tile + aggregate fill  
Cement screed, direct to plaster AAC masonry on slabs  
Internal ceiling  
Suspended concrete slab  
ROOF: U<sub>w</sub> = 0.5 & R40C = 0.08 (4.0%)  
Low e clear glass in aluminium frame in all glazing

NOTES:  
EX FFL EXISTING RL OF FINISHED FLOOR LEVEL  
RL REDUCED LEVEL  
NEW SUBDIVIDING LOT BOUNDARY  
SETBACK  
EX BUILDING TO BE DEMOLISHED  
DCP 7.5M WALL  
HEIGHT CONTROL  
LEP 8.5M BUILDING HEIGHT CONTROL

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MHND Design Urban Pty Ltd. ABN 94 003 717 692 NSW Registration Number: 4907

DRAWING TITLE: SECTION A  
PROJECT ADDRESS: 140-142 CURLEWIS ST, BONDI NSW 2026

SCALE: 1:200@A3  
ISSUE DATE: 16/3/22  
PROJECT NUMBER: 21-001

DRAWN BY: AT  
CHECKED: RS  
REVISION: B  
DWG NUMBER: DA 3101

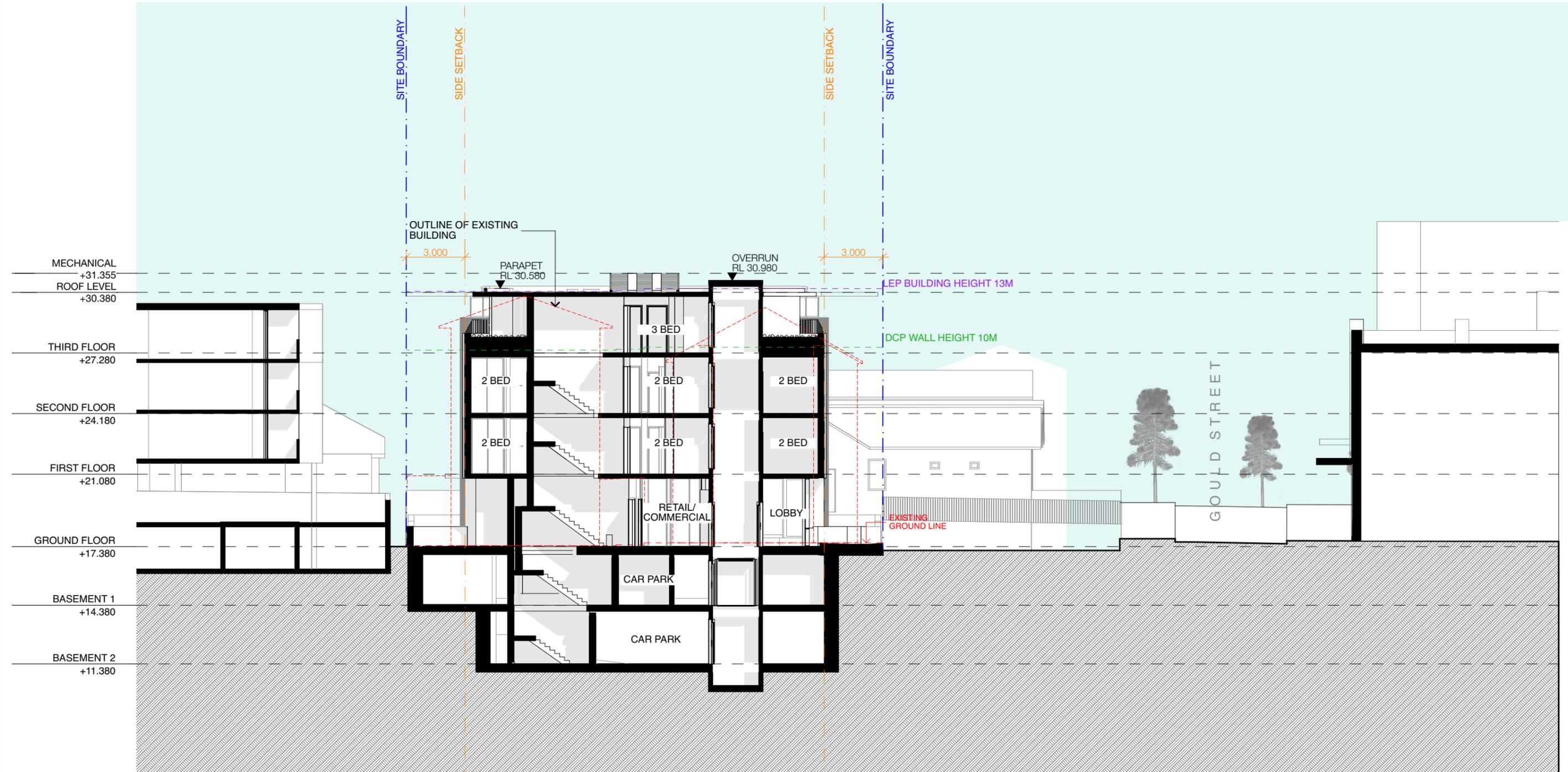


0006346230 17 Mar 2022  
 Assessor: Jamie Bonnell  
 Accreditation No: 10056  
 Address: 140-142 Curlew St, Bondi, NSW, 2026  
 hstar.com.au

**RECEIVED**  
**Waverley Council**

Application No: DA-355/2021  
 Date Received: 23/03/2022

# AMENDED PLANS



REV	DESCRIPTION	DATE
A	DA ISSUE	19/8/21
B	DA REISSUE	16/3/22

ALL CONSTRUCTION TO COMPLY WITH MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS

CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS  
 SPEC. C 1.1 FIRE RESISTING CONSTRUCTION  
 SPEC. C 1.10 FIRE HAZARD PROPERTIES  
 SPEC. C 1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE  
 CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL  
 CLAUSE C 2.12 SEPARATION OF EQUIPMENT  
 CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM  
 CLAUSE C 3.1 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS)  
 CLAUSE C 3.8 OPENING IN FIRE ISOLATED EXITS  
 CLAUSE C 15 OPENING FOR SERVICE INSTALLATIONS  
 CLAUSE D 1.10 DISCHARGE FROM EXITS  
 CLAUSE D 2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL  
 CLAUSE D 2.13 GOINGS AND RISERS  
 CLAUSE D 2.14 LANDINGS  
 CLAUSE D 2.15 THRESHOLDS  
 CLAUSE D 2.16 BALUSTRADES

CLAUSE D 2.17 HANDRAILS  
 CLAUSE D 2.21 OPERATION OF LATCH  
 CLAUSE D 2.23 SIGNS ON DOORS  
 CLAUSE D 3.3 PARTS OF BUILDING TO BE ACCESSIBLE  
 CLAUSE D 3.8 IDENT. OF ACCESSIBLE FACILTY FEATURES  
 CLAUSE D 3.9 TACTILE INDICATORS  
 CLAUSE D 3.11 WATERPROOFING OF WET AREAS  
 CLAUSE F 1.10 DAMP PROOFING  
 CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS  
 PART F 4.1 LIGHTING AND VENTILATION  
 CLAUSE F 5.4 SOUND INSULATION OF FLOORS  
 CLAUSE F 5.5 SOUND INSULATION OF WALLS  
 CLAUSE F 5.6 SOUND INSULATION OF SERVICES  
 CLAUSE F 5.7 SOUND INSULATION OF PUMPS

ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS 1580  
 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D 2.16  
 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2  
 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 2.7 OF BCA  
 FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA  
 HOT WATER SYSTEMS: TO COMPLY WITH PART 2.1 OF BCA  
 MASONRY: TO COMPLY WITH AS 3700  
 MECHANICAL/MECHANICAL: BCA CLAUSE C 1.15 & AS 1530.4-2005  
 MECHANICAL AIR CONDITIONING: TO COMPLY WITH PART 2.1 OF BCA  
 MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS 1566 & AS 1570  
 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E 2.2 & AS 1596  
 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH  
 ELEC/HYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C 1.15 & AS 1530.4-2005  
 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D 2.13  
 STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D 2.13  
 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS 3740

BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)

WATER OPTIONS:  
 SHOWERHEADS: 4 STAR  
 TOILETS: 3 STAR  
 KITCHEN TAPS: 3 STAR  
 BATHROOM TAPS: 3 STAR  
 RAIN WATER TANK: 5000 L

ENERGY OPTIONS:  
 COOLING: 1 phase air conditioning, 4.0 W/m<sup>2</sup> to Living & Bed areas, 1 phase air conditioning, 4.0 W/m<sup>2</sup> to Living & Bed areas, Individual air, 100% ducted to Laundry, manual switch on/off  
 HEATING: NO INSULATION TO: Glazing in sunroom area, Gas instantaneous - central system

VENTILATION:  
 MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 2.1 OF BCA

ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas

COOK TOPS: Gas cooktop, electric oven, Hot water tank, No  
 SEPARATION SPACE: No  
 CLOTHES DRYING LINES: No

THERMAL COMFORT OPTIONS:  
 R3 INSULATION TO:  
 External walls: Concrete, Flat/ceiling  
 Light colour, water absorbance < 0.45, no insulation  
 100 mm concrete, 100 mm + aggregate fill, 100 mm AAC plaster on studs, External ceiling, Suspended concrete slab  
 U<sub>av</sub> = 0.5 & 0.450 < 0.58 (4.0%)  
 Low e clear glass in aluminium frame in all glazing

ROOF:  
 R1 INSULATION TO:  
 NO INSULATION TO:  
 U<sub>av</sub> = 0.5 & 0.450 < 0.58 (4.0%)  
 Low e clear glass in aluminium frame in all glazing

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DRAWING TITLE:  
**SECTION B**

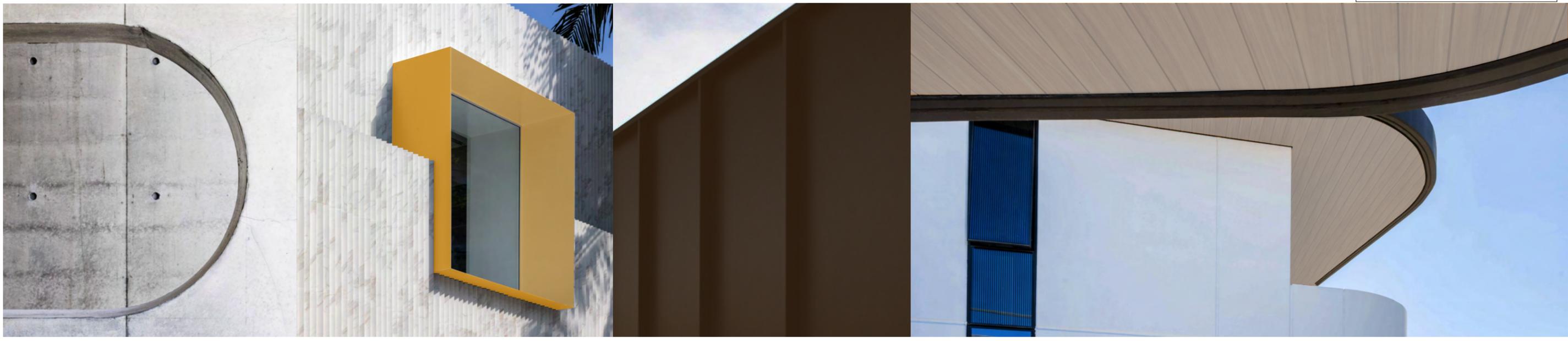
PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
 BONDI NSW 2026**

SCALE: 1:200@A3  
 ISSUE DATE: 16/3/22  
 PROJECT NUMBER: 21-001

DRAWN BY: AT  
 CHECKED: RS  
 REVISION: B  
 DWG NUMBER: DA 3102

# AMENDED PLANS

## EXTERNAL FINISHES



**C1** CONCRETE: IN SITU (COLOURED WHITE)

**CL1** ALUMINIUM SHROUD: POWDERCOAT FINISH (ORANGE)

**CL2** CLADDING: ALUMINIUM POWDERCOAT FINISH (SATIN ESPRESSO BRONZE)

**CL4** CLADDING: BLACK BUTT TIMBER SOFFITS (WHITE WASHED)



**FORM** CONCRETE: PATTERNED, FORMLINED FACADES



**PC1** WINDOW SUITES: ALUMINIUM POWDERCOAT FINISH (SATIN ESPRESSO BRONZE)

**PC2** WINDOW SUITES: ALUMINIUM POWDERCOAT FINISH (OFF WHITE)

**BAL1** BALUSTRADES/FENCES: ALUMINIUM BLADES POWDERCOAT FINISH (SATIN ESPRESSO BRONZE)

**BAL2** BALUSTRADES/FENCES: ALUMINIUM BLADES POWDERCOAT FINISH (WHITE)

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE D2.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 21 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 21 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL/HYDRAULIC: TO COMPLY WITH AS1530 4.2025 MECHANICAL/EXHAUST VENTILATION: TO COMPLY WITH PART 21 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1568 & AS1562 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3709 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELEC/HYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE C3.15 & AS1530 4.2025 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	BASIC COMMITMENTS (ALL OTHER BASIC COMMITMENTS AS PER BASIC CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:
A	DA ISSUE	19/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC C1.1 FIRE RESISTING CONSTRUCTION SPEC C1.10 FIRE HAZARD PROPERTIES SPEC C1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C.3 ACCEPTABLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 OPENING FOR SERVICE INSTALLATIONS CLAUSE D1.16 DISCHARGE FROM EXITS CLAUSE D2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.14 GOINGS AND RISERS CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 IDENT. OF ACCESSIBLE FACIL./SERVICES FEATURES CLAUSE D3.8 TACTILE INDICATORS CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.8F1.10 DAMP PROOFING CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven. SEPARATION SPACE: Not applicable. CLOTHES DRYING LINES: No	EXISTING FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL
B	DA REISSUE	16/3/22	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 IDENT. OF ACCESSIBLE FACIL./SERVICES FEATURES CLAUSE D3.8 TACTILE INDICATORS CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.8F1.10 DAMP PROOFING CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven. SEPARATION SPACE: Not applicable. CLOTHES DRYING LINES: No	EXISTING FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	

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DRAWING TITLE:  
**EXTERNAL FINISHES**  
PROJECT ADDRESS:  
**140-142 CURLEWIS ST,  
BONDI NSW 2026**

SCALE: NTS  
DRAWN BY: AT  
CHECKED: RS  
REVISION: B  
DWG NUMBER: DA 6000  
PROJECT NUMBER: 21-001  
DATE: 20/07/2021



# GFA DIAGRAMS

## SUMMARY

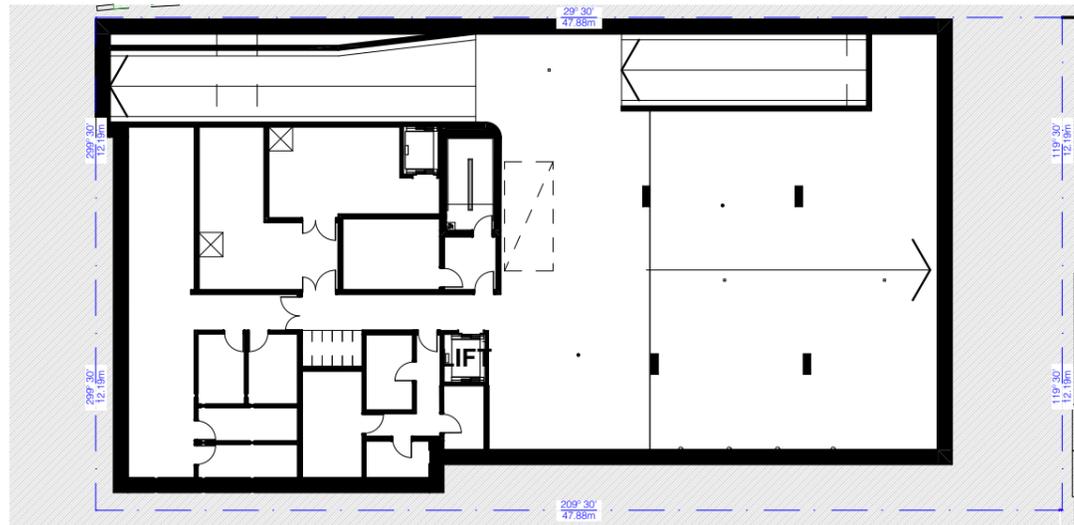
SITE AREA: 1167.4 m<sup>2</sup>  
FSR CONTROL: 2.0 : 1

## GFA CALCULATIONS

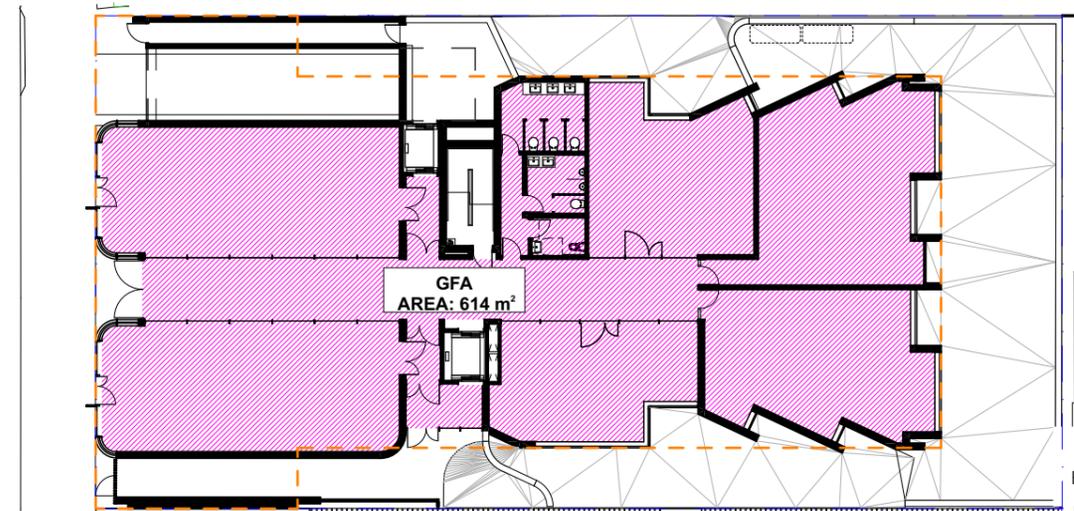
BASEMENT 1	0
GROUND FLOOR	614
FIRST FLOOR	678
SECOND FLOOR	678
THIRD FLOOR	587
<b>TOTAL</b>	<b>2557</b>

PROPOSED GFA: 2,557  
PROPOSED FSR: 2.19:1

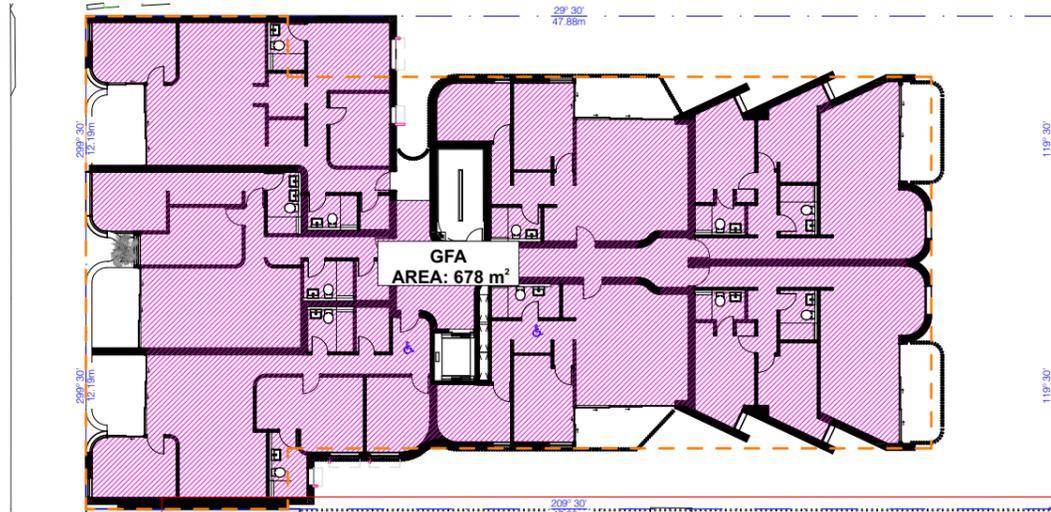
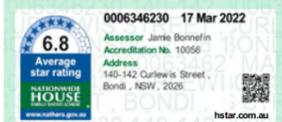
**RECEIVED**  
**Waverley Council**  
**Application No: DA-355/2021**  
**Date Received: 23/03/2022**



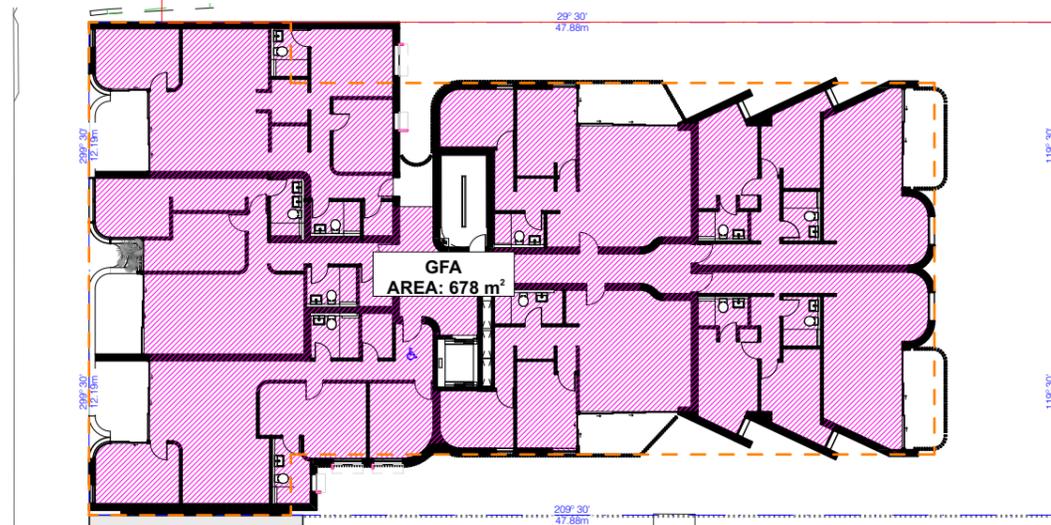
**BASEMENT 1**



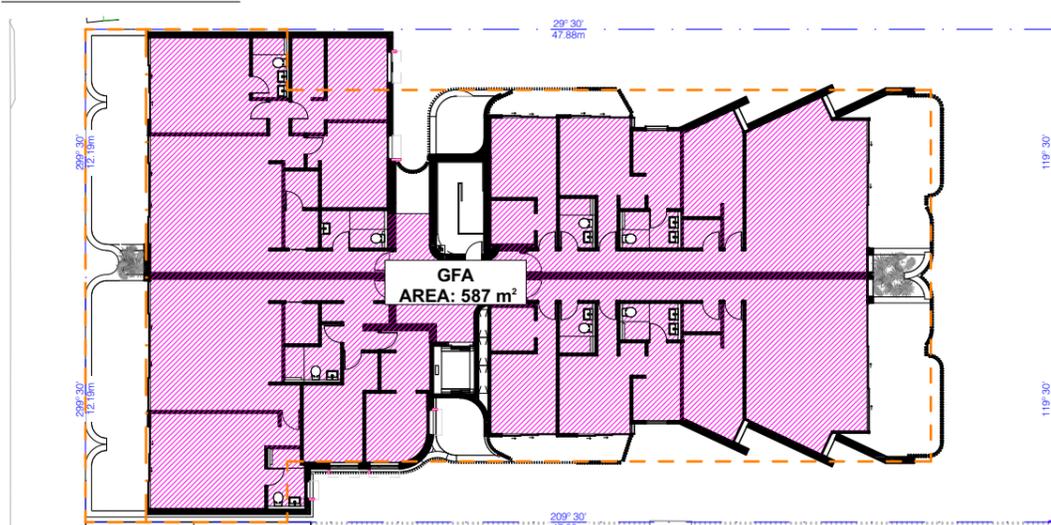
**GROUND FLOOR**



**FIRST FLOOR AMENDED PLANS**



**SECOND FLOOR**



**THIRD FLOOR**

BASIX Project Commitments		BASIX Number: 1225455M_02	
Proposed: Class 2 Apartment Units			
Address: 140-142 Curlewis Street Bondi 2026			
Lot No / DP: 2/Sec 3/747			
<b>Water</b>			
Factories	Specification		
Shower head rating	4 star (1-4.5 but <= 6 L/min)		
Toilet rating	3 star		
Kitchen taps rating	3 star		
Bathroom taps rating	3 star		
All Clothes Washers	2 star		
All Dish Washers	2 star		
<b>Alternative water details</b>			
Rainwater tank size	Central	1000L	
Connected to:	Garden and lawn areas	Yes	
	All toilets	No	
	Laundry	No	
<b>Thermal Comfort</b>			
External walls		Accreditation Number: NHER 10056	NATHERS Number: 6346230
Tilt up concrete, lined	Light colour R1.5	Bulk + Anti-glare foil	
<b>Internal walls</b>			
Cavity wall, direct fix plasterboard	No insulation		
<b>Partition walls</b>			
AAC, plaster on studs	No insulation		
Concrete panel/blocks/filled, plaster on studs	No insulation		
<b>Ceiling</b>			
External ceiling - Concrete, plasterboard	R3.5 Bulk insulation		
Internal ceiling - Concrete, plasterboard	No insulation		
<b>Roof</b>			
Waterproofing membrane	Light Colour (solar absorptance <= 0.475)		
	No insulation		
<b>Floors</b>			
Suspended concrete slab	No insulation		
Suspended concrete slab	Exposed Areas: R0.5 Bulk insulation		
<b>Windows</b>			
Aluminium frame ALM-002-03	Single low-e glazing with U-value 5.4 and SHGC 0.58 for Group B windows (double hung, fixed, louvers and sliding type windows/doors)		
<b>Downlights</b>			
Downlight Covers	Approved fireproof downlight covers must be installed to all downlights in ceilings where insulation is installed.		
Downlight specification	Dwelling is rated without downlight		
Downlighting details	Adjoining units calculated into model calculations		
<b>Orientation of nominal north elevation</b>			
As shown on plans			
<b>Energy</b>			
<b>Hot water</b>			
Central system	Specification	Rating	
	Gas instantaneous		
<b>Ventilation</b>			
Bathroom exhaust	Individual fan, not ducted	Interlocked to light	
Kitchen exhaust	Individual fan, not ducted	Interlocked to light	
Laundry	Individual fan, not ducted	Interlocked to light	
Control switch			
<b>Cooling</b>			
Individual systems - living areas	1-phase airconditioning	EER > 4.0	
Individual systems - bedroom areas	1-phase airconditioning	EER > 4.0	
<b>Heating</b>			
Individual systems - living areas	1-phase airconditioning	EER > 4.0	
Individual systems - bedroom areas	1-phase airconditioning	EER > 4.0	
<b>Lighting</b>			
Carpark	Light-emitting diode	Daylight sensor and motion sensor	
Lift Cars	Light-emitting diode	Connected to lift call button	
Lift Rooms	Light-emitting diode	Manual on/manual off	
Switch rooms	Light-emitting diode	Manual on/manual off	
Garbage room	Light-emitting diode	Motion sensors	
Plant/Service room	Light-emitting diode	Manual on/manual off	
Hallway/Lobby	Light-emitting diode	Daylight sensor and motion sensor	
<b>Appliances</b>			
Cooktop/oven	Gas cooktop & electric oven		
Ventilated fridge space	No		
Private outdoor clothes drying line	No		
Private indoor or sheltered clothes drying line	No		
Zoned air-conditioning	Yes		
<b>Alternative Energy</b>			
Photovoltaic system	30 kW		

### WAVERLEY COUNCIL LEP 2012 GFA DEFINITION:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes—

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
  - (i) storage, and
  - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 12.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 2.7 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 2 OF BCA MASS CONCRETE: TO COMPLY WITH AS3700 MECHANICAL/EXHAUST VENTILATION: TO COMPLY WITH PART 2.1 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1668 & AS1672 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE 4 & SPEC E2.2 & AS2796 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELEC/HYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE 13.15 & AS1530-4:2005 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 12.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:
01	PRELIMINARY	9/7/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.10 FIRE HAZARD PROPERTIES SPEC. C.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C3.1 OPENING FOR SERVICES INSTALLATIONS CLAUSE C3.8 OPENING IN FIRE ISOLATED EXITS CLAUSE C3.15 DISCHARGE FROM EXITS CLAUSE C3.17 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES	CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D3.2 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 IDENTIFICATION OF ACCESSIBLE FACILITIES CLAUSE D3.9 TACTILE INDICATORS CLAUSE D3.11 WATERPROOFING OF WET AREAS CLAUSE F1.9F.12 DAMP PROOFING CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART F4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS COOKING: 4 STAR SHOWERHEADS: 4 STAR TOILET TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 1000L	COOK TOPS: Gas cooktop, electric oven REFRIGERATOR SPACE: Not specified CLOTHES DRYING LINES: No	EXISTING FLL RL NEW SUBDIVIDING BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	<b>GFA DIAGRAMS</b>	1:350@A3	AT	RS
A	DA ISSUE	19/8/21						PROJECT ADDRESS: <b>140-142 CURLEWIS ST, BONDI NSW 2026</b>	16/3/22		REVISION: <b>B</b>
B	DA REISSUE	16/3/22						<b>21-001</b>			DWG NUMBER: <b>DA 9000</b>

# SEPP 65 DIAGRAMS

## WASTE MANAGEMENT

9x240L GENERAL WASTE GARBAGE  
 9x240L COMINGLED RECYCLING  
 9x240L PAPER RECYCLING  
 3x240L SERVICE BINS

## SOLAR ACCESS

TOTAL UNITS RESIDENTIAL 18

2hr WINTER SUN ACCESS (9am-3pm) 12/18 (67%) **NON COMPLIANT (70%)**  
 3hr WINTER SUN ACCESS (8am-4pm) 12/18 (67%) **NON COMPLIANT (70%)**

## CROSS VENTILATION

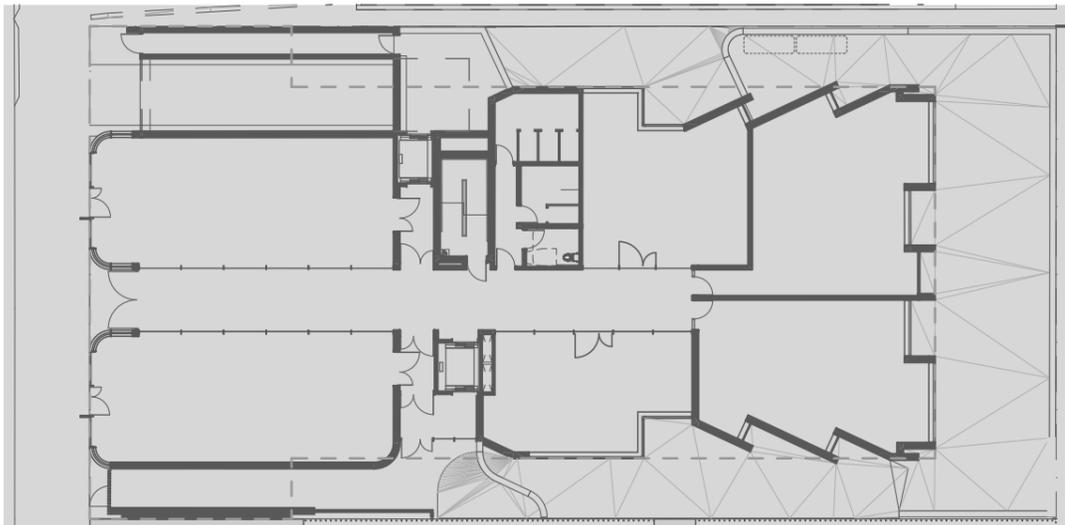
TOTAL UNITS RESIDENTIAL 18

CROSS VENTILATED UNITS 12/18 (66%) **COMPLIES**

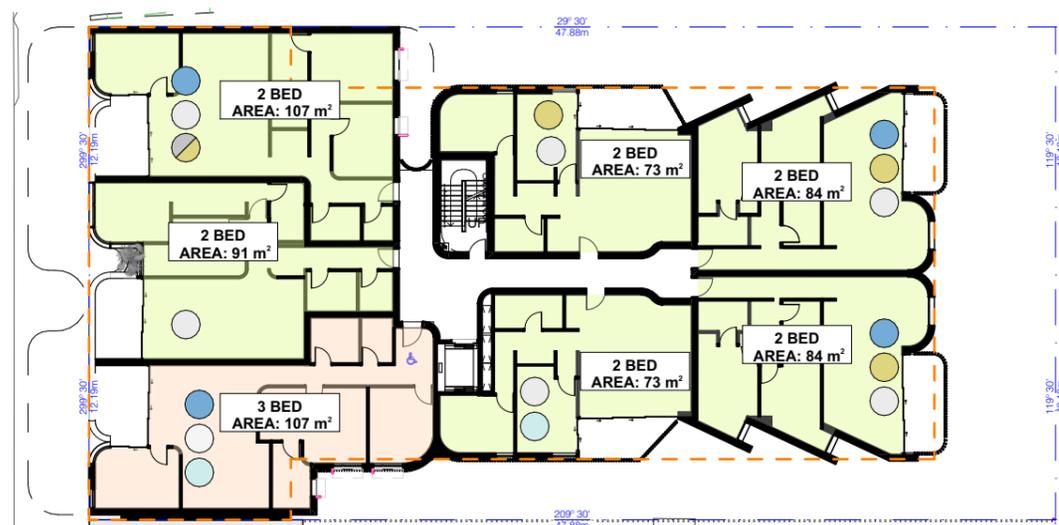
## UNIT BREAKDOWN

TOTAL RESIDENTIAL UNITS 18

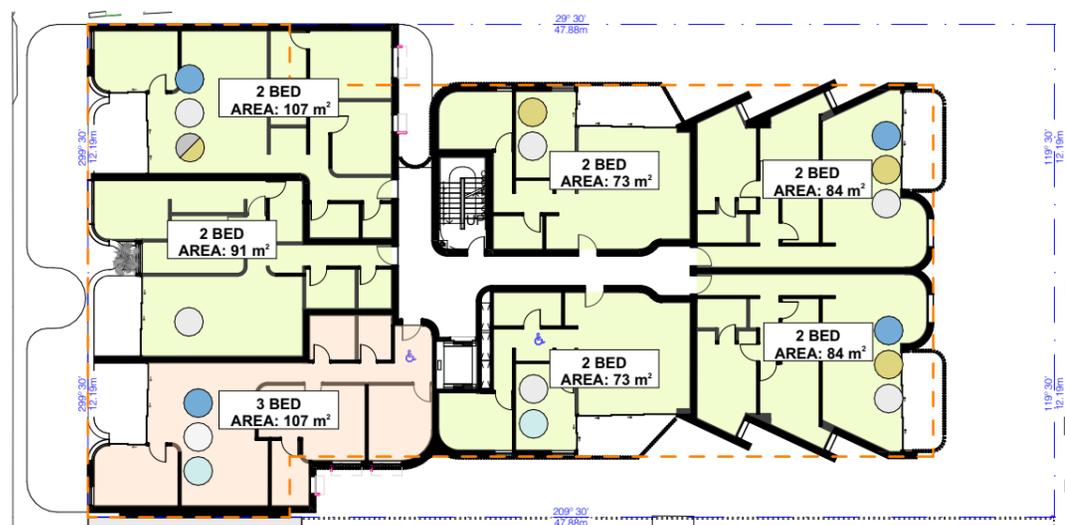
2 Bed: 12  
 3 Bed: 6



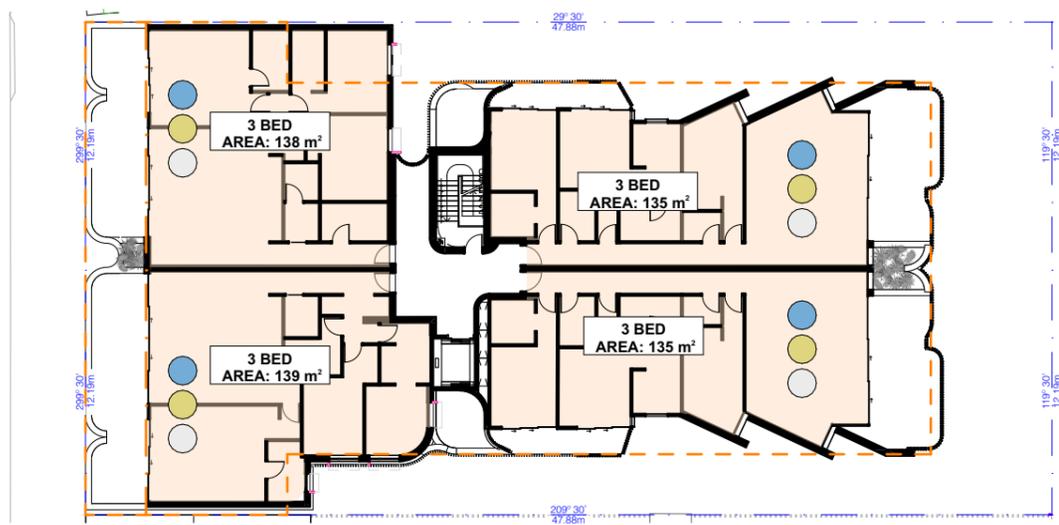
GROUND FLOOR COMMERCIAL



SECOND FLOOR



FIRST FLOOR

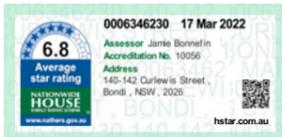


THIRD FLOOR

**RECEIVED**  
 Waverley Council

Application No: DA-355/2021

Date Received: 23/03/2022



# AMENDED PLANS

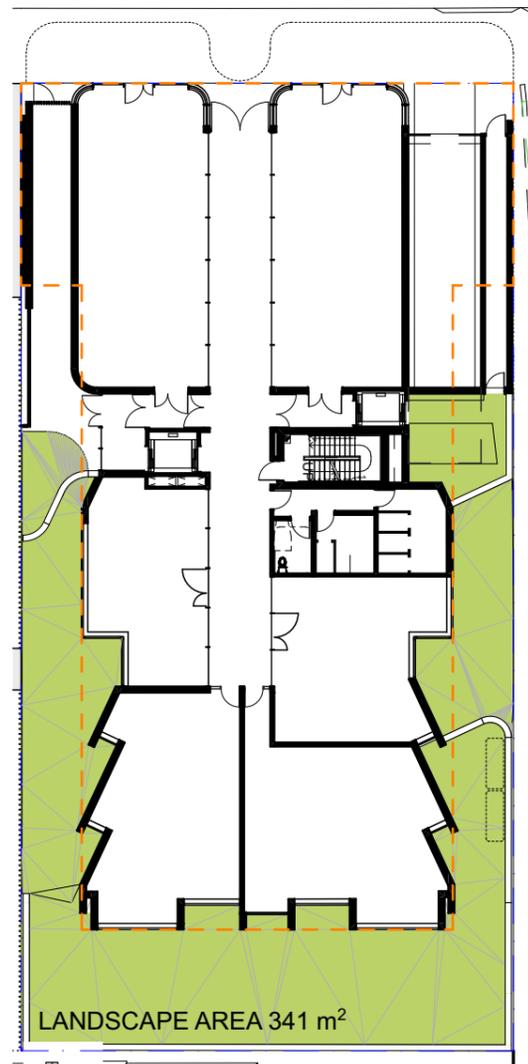
- LEGEND**
- RECEIVES 2HRS SOLAR ACCESS TO LIVING AREAS & PRIVATE OPEN SPACE (POS)
  - RECEIVES 2HRS SOLAR ACCESS TO LIVING AREAS
  - CROSS VENTILATED
  - ADAPTABLE APARTMENT
  - LIVABLE APARTMENT

REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSE 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 02.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 2.7 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 2.1 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH PART 2.1 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1989 & AS1992 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS3700 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH ELEC/HYDRAULIC PENETRATIONS TO COMPLY WITH BCA CLAUSE 02.15 & AS1930 4.2025 SOUND TRANSMISSION: TO COMPLY WITH PARTS OF BCA STAIR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE 02.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3700	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:	ARCHITECT:	DRAWING TITLE:	SCALE:	DRAWN BY:	CHECKED:	
A	DA ISSUE	19/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C 1.1 FIRE RESISTING CONSTRUCTION SPEC. C 1.10 FIRE HAZARD PROPERTIES SPEC. C 1.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C 2.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C 2.12 SEPARATION OF EQUIPMENT CLAUSE C 2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C 3.1 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C 3.8 OPENING IN FIRE SOLATED EXITS CLAUSE C 3.10 OPENING FOR SERVICE INSTALLATIONS CLAUSE C 11.10 DISCHARGE FROM EXITS CLAUSE C 12.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE C 12.16 GOINGS AND RISERS CLAUSE C 21.4 LANDINGS CLAUSE C 21.15 THRESHOLDS CLAUSE 02.18 BALUSTRADES	CLAUSE 02.17 HANDRAILS CLAUSE 02.21 OPERATION OF LATCH CLAUSE 02.23 SIGNS ON DOORS CLAUSE 03.2 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE 03.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE 03.8 IDENT. OF ACCESSIBLE FACIL-SERV-FEATURES CLAUSE 03.9 TACTILE INDICATORS CLAUSE 03.11 WATERPROOFING OF WET AREAS CLAUSE 03.12 DAMP PROOFING CLAUSE 03.13 CONSTRUCTION OF SANITARY COMPARTMENTS PART 4.4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: TOILETS: KITCHEN TAPS: BATHROOM TAPS: RAIN WATER TANK: 5 STAR 4 STAR 3 STAR 2 STAR 1 STAR 000 L	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	EXISTING FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	MHNDUNION 35 RICHARDS LANE SURRY HILLS SYDNEY NSW 2010 T +61 2 9101 1111 F +61 2 9101 1100 www.mhndu.com	SEPP 65 DIAGRAMS	1:350@A3	AT	RS	
B	DA REISSUE	16/3/22								PROJECT ADDRESS: 140-142 CURLEWIS ST, BONDI NSW 2026	ISSUE DATE: 16/3/22	PROJECT NUMBER: 21-001	REVISION: B DWG NUMBER: DA 9001

# LANDSCAPE AREA CALCULATION

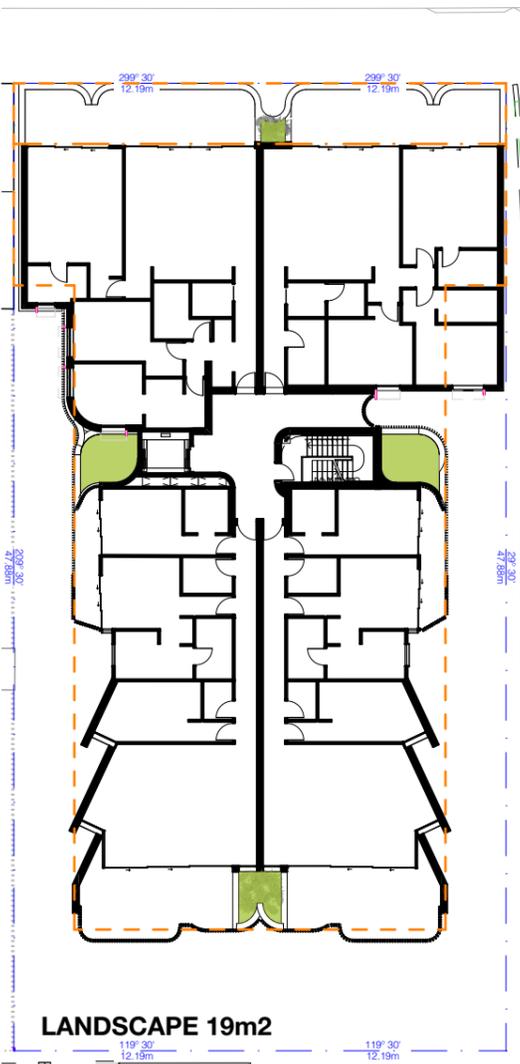
LANDSCAPE AREA					
CONTROL:	SITE	REQUIRED	LEVEL	PROVIDED	COMPLIES
30% Site Area	1167.31m <sup>2</sup>	350.2m <sup>2</sup>	Ground	341	YES
			Level 1	1	
			Level 2	1	
			Level 3	19	
			<b>TOTAL</b>	<b>362m<sup>2</sup></b>	

## LANDSCAPE OPEN SPACE



GROUND FLOOR

## LANDSCAPE OPEN SPACE



THIRD FLOOR

LANDSCAPE AREA 341 m<sup>2</sup>

LANDSCAPE 19m<sup>2</sup>

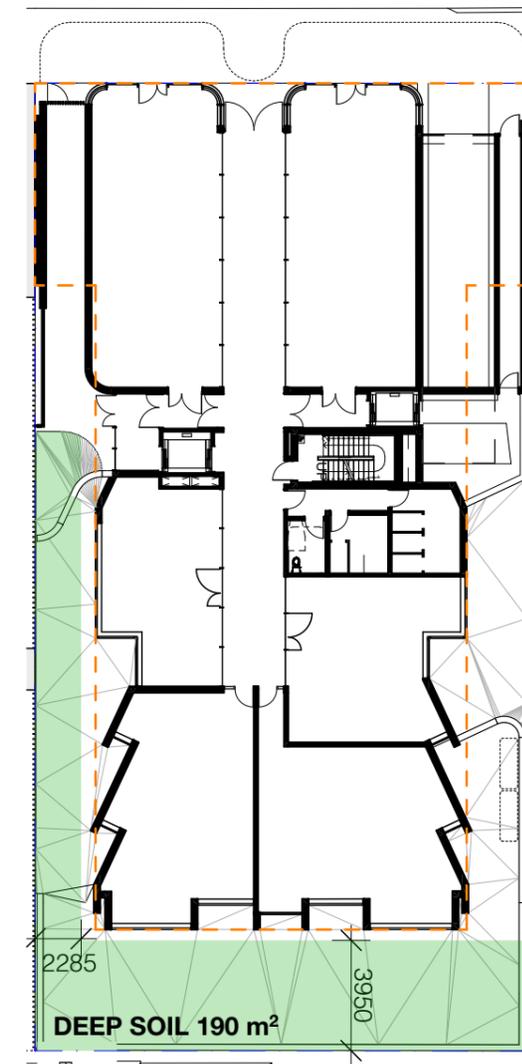
RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022

# DEEP SOIL CALCULATION

DEEP SOIL					
CONTROL	REQUIRED	SITE	PROVIDED	COMPLIES	
50% Landscape Area	175.1m <sup>2</sup>	1167.31m <sup>2</sup>	190m <sup>2</sup>	YES	

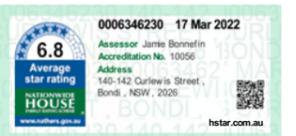
**AMENDED PLANS**

## DEEP SOIL (DS)



GROUND FLOOR

DEEP SOIL 190 m<sup>2</sup>



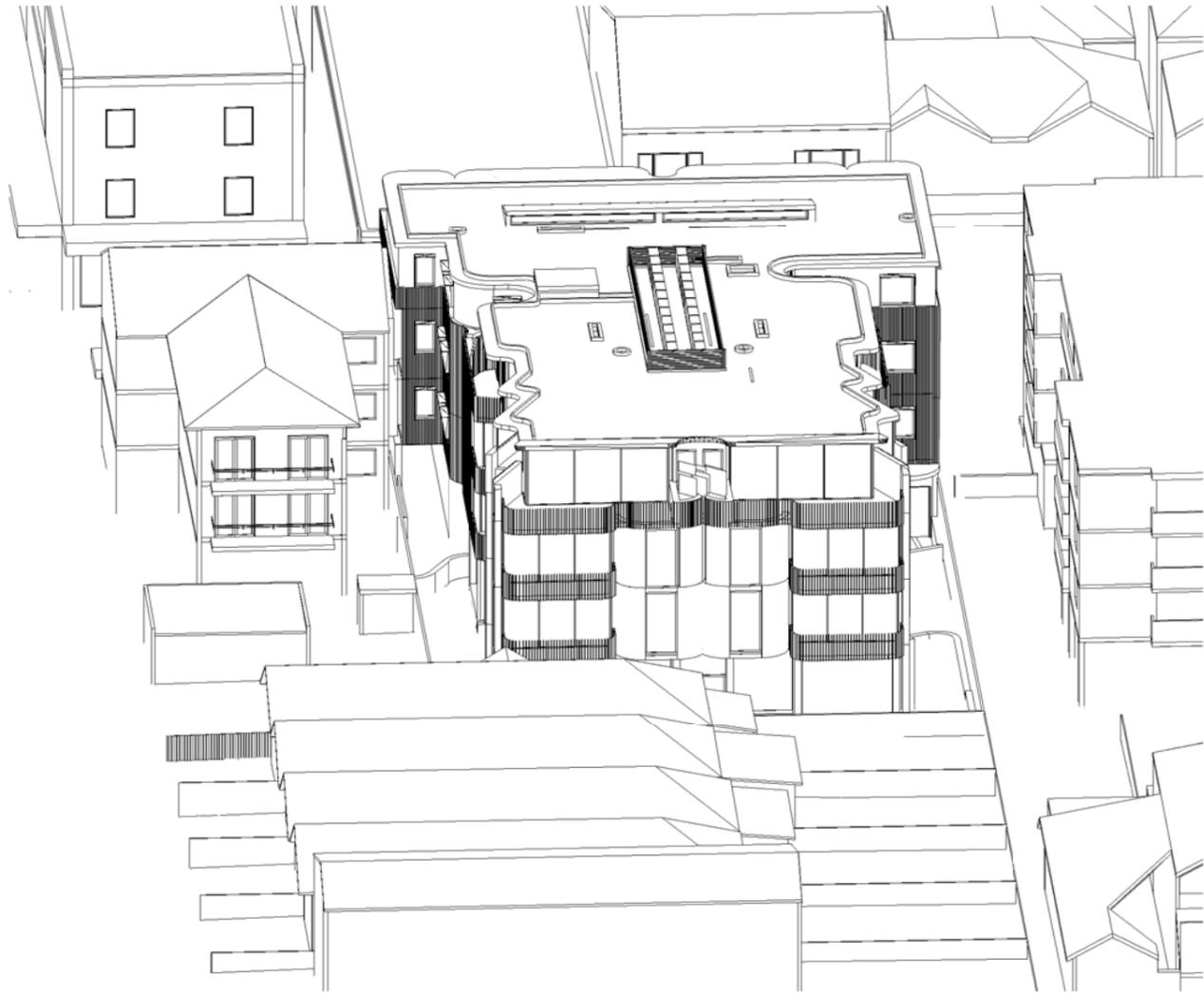
REV	DESCRIPTION	DATE	ALL CONSTRUCTION TO COMPLY AT MINIMUM W/ BCA CLAUSES & AUSTRALIAN STANDARDS	ARTIFICIAL LIGHTING: TO COMPLY WITH BCA PART CLAUSES 4.4 & AS1880 BALUSTRADE HEIGHTS: TO COMPLY WITH BCA CLAUSE 12.16 DRAINAGE GUTTERS & DOWNPIPES: TO COMPLY WITH AS/NZS 3500 3.2 ENERGY EFFICIENT LIGHTING: TO COMPLY WITH 2.7 OF BCA FIRE SERVICES: TO COMPLY WITH SECTION E OF BCA HOT WATER SYSTEMS: TO COMPLY WITH PART 2.1 OF BCA MASONRY: TO COMPLY WITH AS3700 MECHANICAL/HYDRAULIC: BCA CLAUSE C3.15 & AS1530 4.2025 MECHANICAL AIRCONDITIONING: TO COMPLY WITH PART 2.1 OF BCA MECHANICAL EXHAUST VENTILATION: TO COMPLY WITH AS1969 & AS1970 SMOKE ALARMS: TO COMPLY WITH BCA PART CLAUSE & SPEC E2.2 & AS1970 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH AS3700 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH AS3700 PENETRATIONS: THROUGH FIRE RATED CONSTRUCTION FOR MECH AS3700 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 STAR CONSTRUCTION: TO COMPLY WITH BCA CLAUSE D2.13 WATERPROOFING OF WET AREAS: TO COMPLY WITH AS3740	BASIX COMMITMENTS (ALL OTHER BASIX COMMITMENTS AS PER BASIX CERTIFICATE AND STAMPED PLANS)	ENERGY EFFICIENT LIGHTING: LED in all rooms and common areas	NOTES:
A	DA ISSUE	19/8/21	CLAUSE B 1.4 MATERIAL & FORMS CONSTRUCTIONS SPEC. C1.1 FIRE RESISTING CONSTRUCTION SPEC. C1.10 FIRE HAZARD PROPERTIES SPEC. C.11 PERFORMANCE OF EXTERNAL WALLS IN A FIRE CLAUSE C1.8 VERTICAL SEPARATION OF OPENINGS IN EXTERNAL WALL CLAUSE C2.12 SEPARATION OF EQUIPMENT CLAUSE C2.13 ELECTRICITY SUPPLY SYSTEM CLAUSE C.3 ACCESSIBLE METHODS OF PROTECTION (OF OPENINGS) CLAUSE C3.8 OPENING IN FIRE SOLATED EXITS CLAUSE C2.7 INSTALLATIONS IN EXITS AND PATHS OF TRAVEL CLAUSE D2.14 LANDINGS CLAUSE D2.15 THRESHOLDS CLAUSE D2.16 BALUSTRADES CLAUSE D2.17 HANDRAILS CLAUSE D2.21 OPERATION OF LATCH CLAUSE D2.23 SIGNS ON DOORS CLAUSE D3.3 GENERAL BUILDING ACCESS REQUIREMENTS CLAUSE D3.3 PARTS OF BUILDING TO BE ACCESSIBLE CLAUSE D3.8 IDENT. OF ACCESSIBLE FACIL-SERVICES FEATURES CLAUSE D3.9 TACTILE INDICATORS CLAUSE F1.7 WATERPROOFING OF WET AREAS CLAUSE F1.8F.1.10 DAMP PROOFING CLAUSE 2.5 CONSTRUCTION OF SANITARY COMPARTMENTS PART 4.4 LIGHTING AND VENTILATION CLAUSE F5.4 SOUND INSULATION OF FLOORS CLAUSE F5.5 SOUND INSULATION OF WALLS CLAUSE F5.8 SOUND INSULATION OF SERVICES CLAUSE F5.7 SOUND INSULATION OF PUMPS	WATER OPTIONS: SHOWERHEADS: 4 STAR TOILETS: 3 STAR KITCHEN TAPS: 3 STAR BATHROOM TAPS: 3 STAR RAIN WATER TANK: 5000 L	COOK TOPS: Gas cooktop, electric oven, not wall-hung SEPARATION SPACE: No CLOTHES DRYING LINES: No	EXISTING FFL RL EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL	
B	DA REISSUE	16/3/22		ENERGY OPTIONS: COOLING: 1 phase air conditioning, 4.0 kWh/m <sup>2</sup> to Living & Bed areas HEATING: 1 phase air conditioning, 4.0 kWh/m <sup>2</sup> to Living & Bed areas VENTILATION: Individual fan, not ducted to Laundry, manual switch on/off WATER HEATING: Gas instantaneous - central system	ROOF: R3.3 INSULATION TO: R5 INSULATION TO: NO INSULATION TO: GLAZING SPEC: Low e clear glass in aluminium frame in all glazing	EXISTING FLOOR LEVEL REDUCED LEVEL BOUNDARY NEW SUBDIVIDING LOT BOUNDARY SETBACK EX BUILDING TO BE DEMOLISHED DCP 7.5M WALL HEIGHT CONTROL LEP 8.5M BUILDING HEIGHT CONTROL	





# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



**1** June 21st 9.00am Proposed

**2** June 21st 9.00am Setback

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153

PH: 9555 8545

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

info@caddraftnsw.com.au

No.	Description	Date

3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 9.00am

Project number 21-84

Date 17-03-22

Drawn by KP

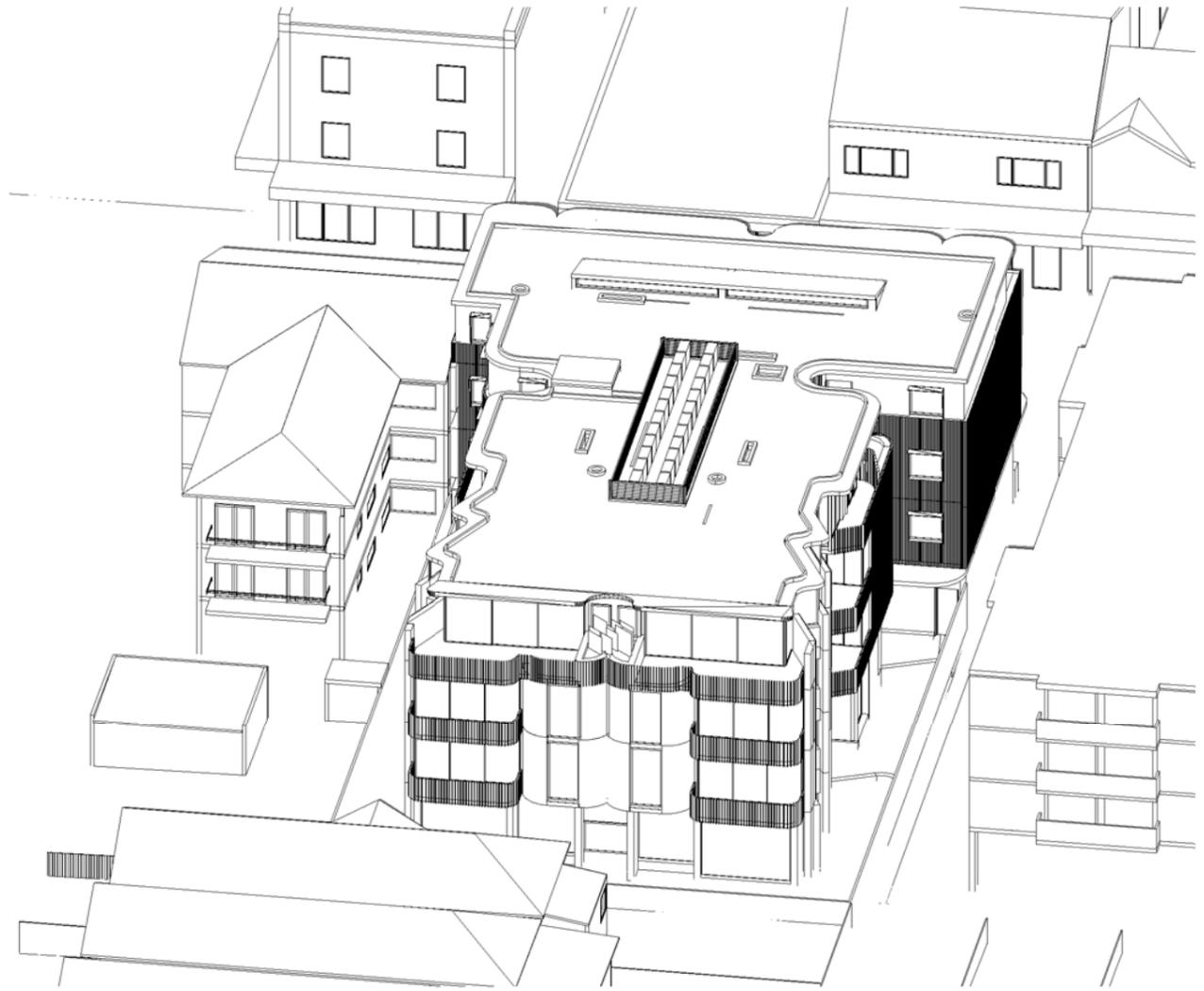
Checked by JD

**A100**

Scale

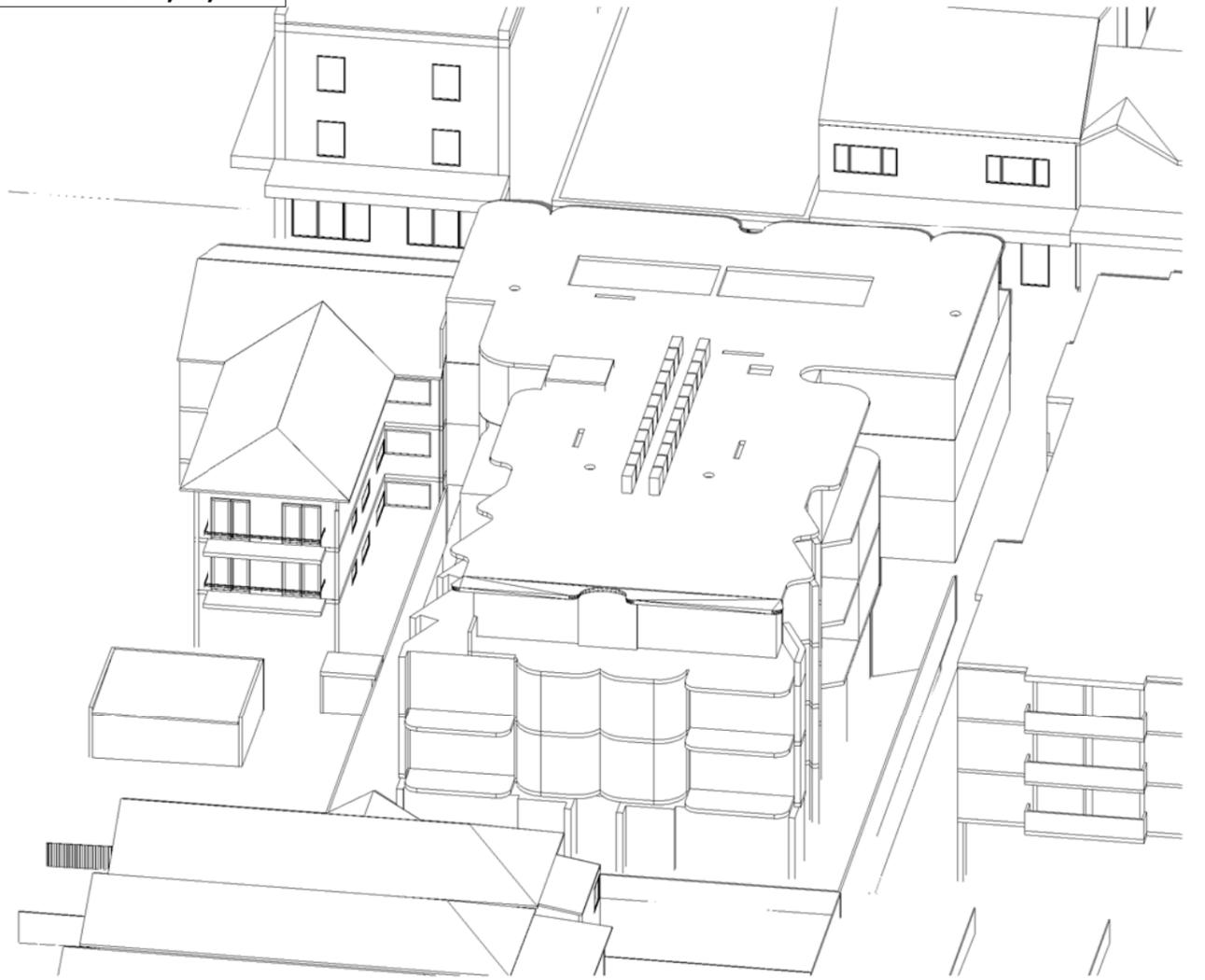
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 10.00am Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 10.00am Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

PH: 9555 8545  
info@caddraftnsw.com.au

No.	Description	Date

3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI  
CLIENT: HSN PROPERTY GROUP

Solar Access June 10.00am

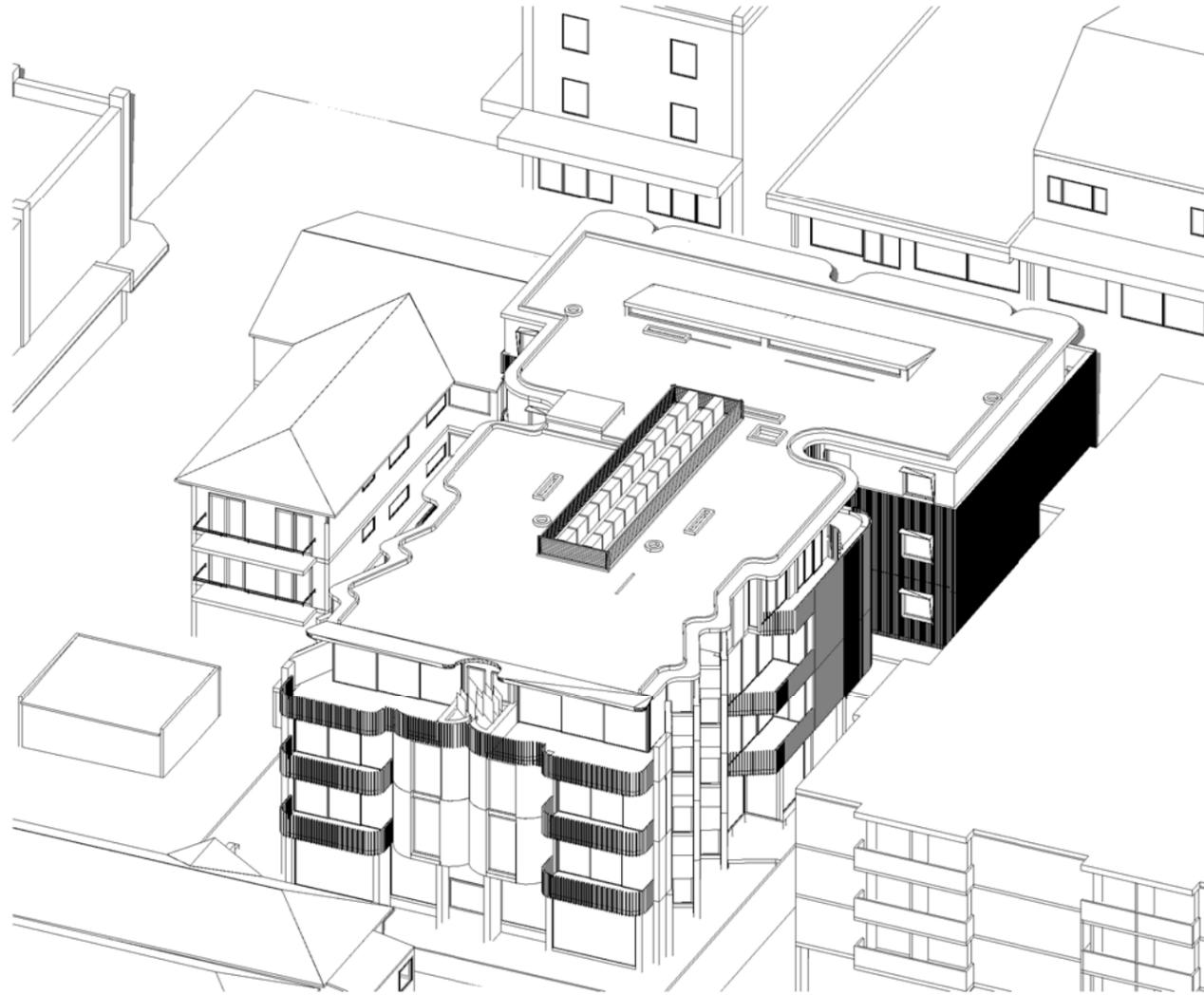
Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A101

Scale

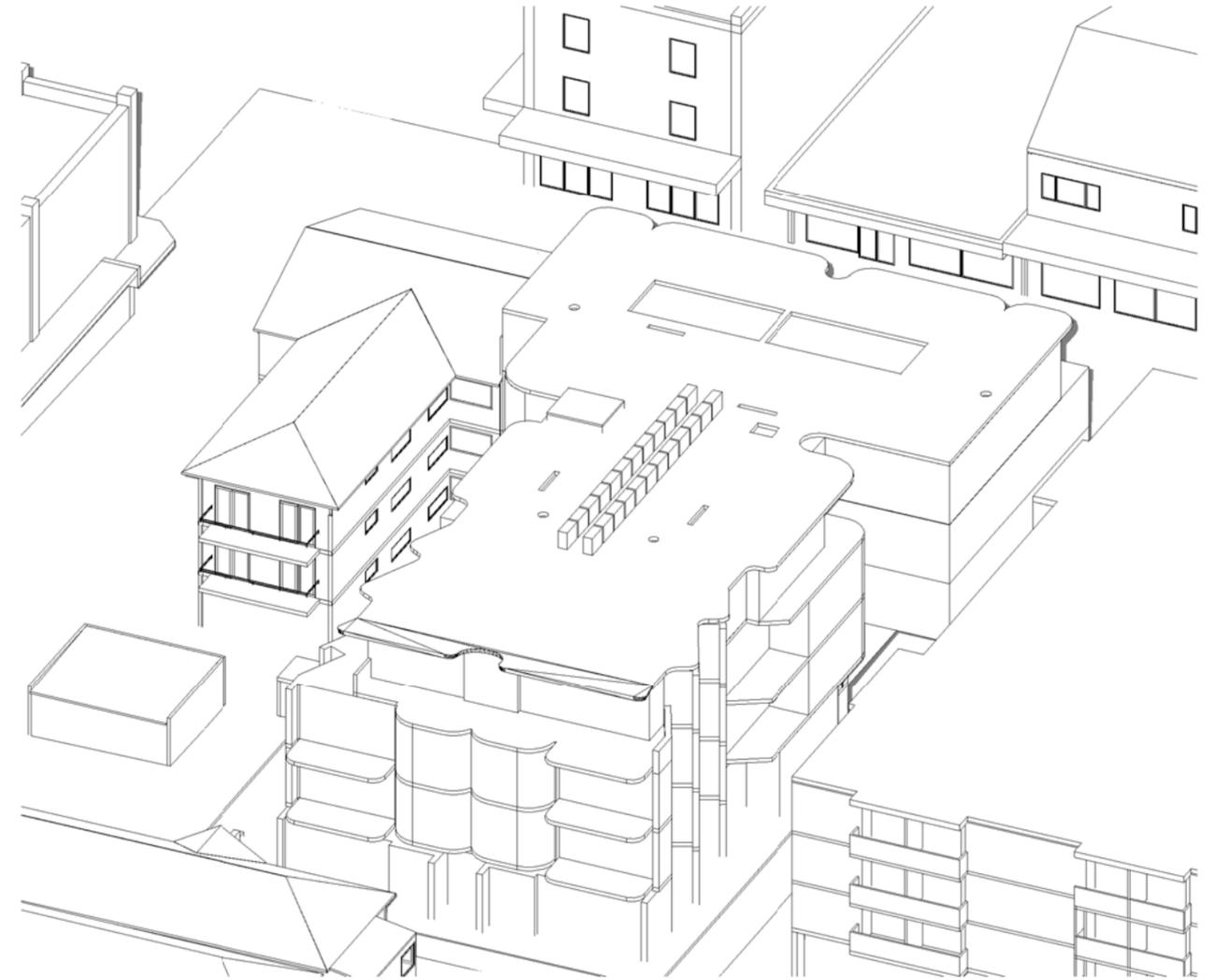
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 11.00am Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 11.00am Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

ABN 27 083 288 153

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

SHADOW ANALYSIS CONSULTANTS

PH: 9555 8545

info@caddraftnsw.com.au

No.	Description	Date

3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 11.00am

Project number 21-84

Date 17-03-22

Drawn by KP

Checked by JD

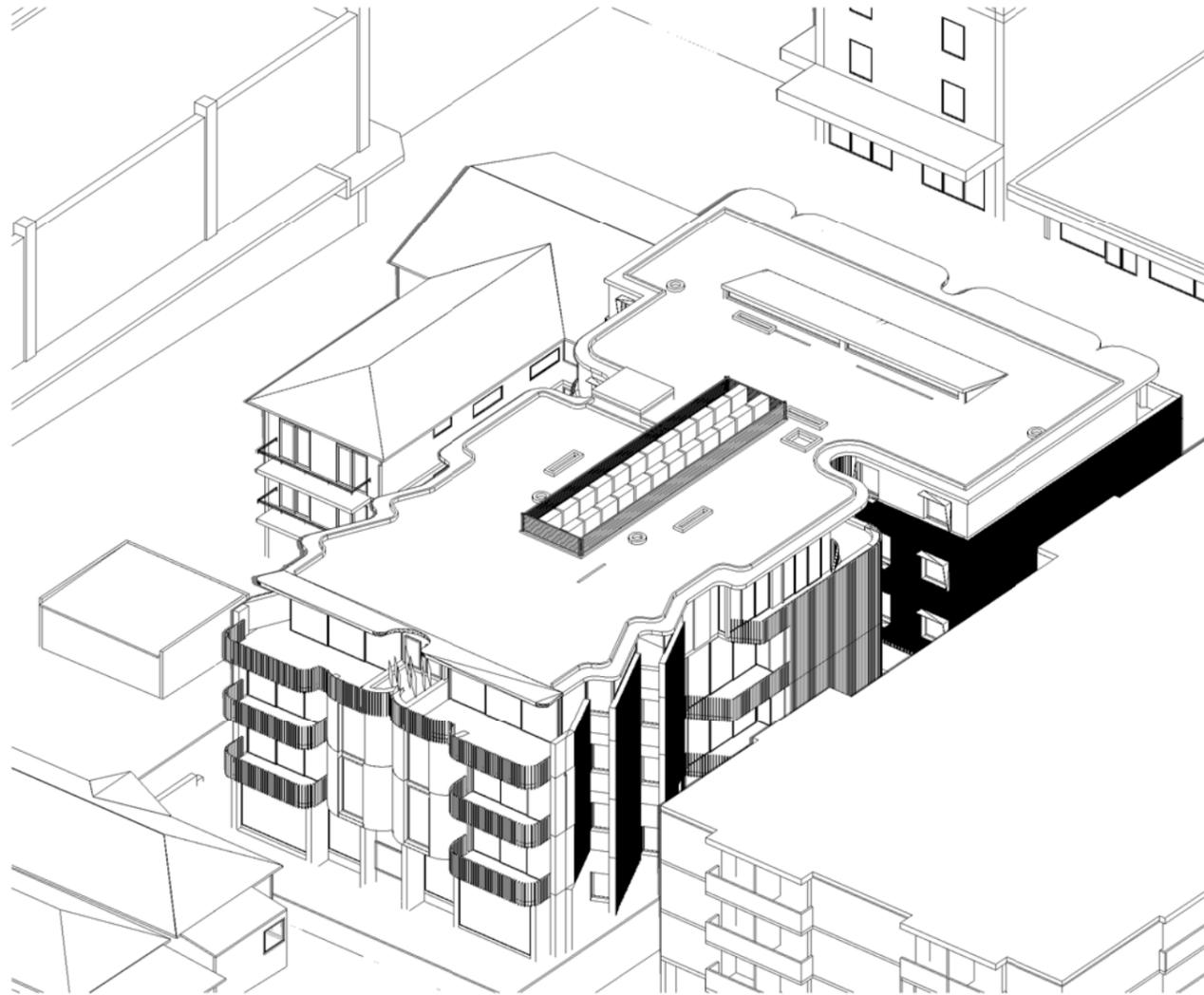
Scale

**A102**



# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 12.00pm Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 12.00pm Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

ABN 27 083 288 153

SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

SHADOW ANALYSIS CONSULTANTS

PH: 9555 8545

info@caddraftnsw.com.au

No.	Description	Date

3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 12.00pm

Project number 21-84

Date 17-03-22

Drawn by KP

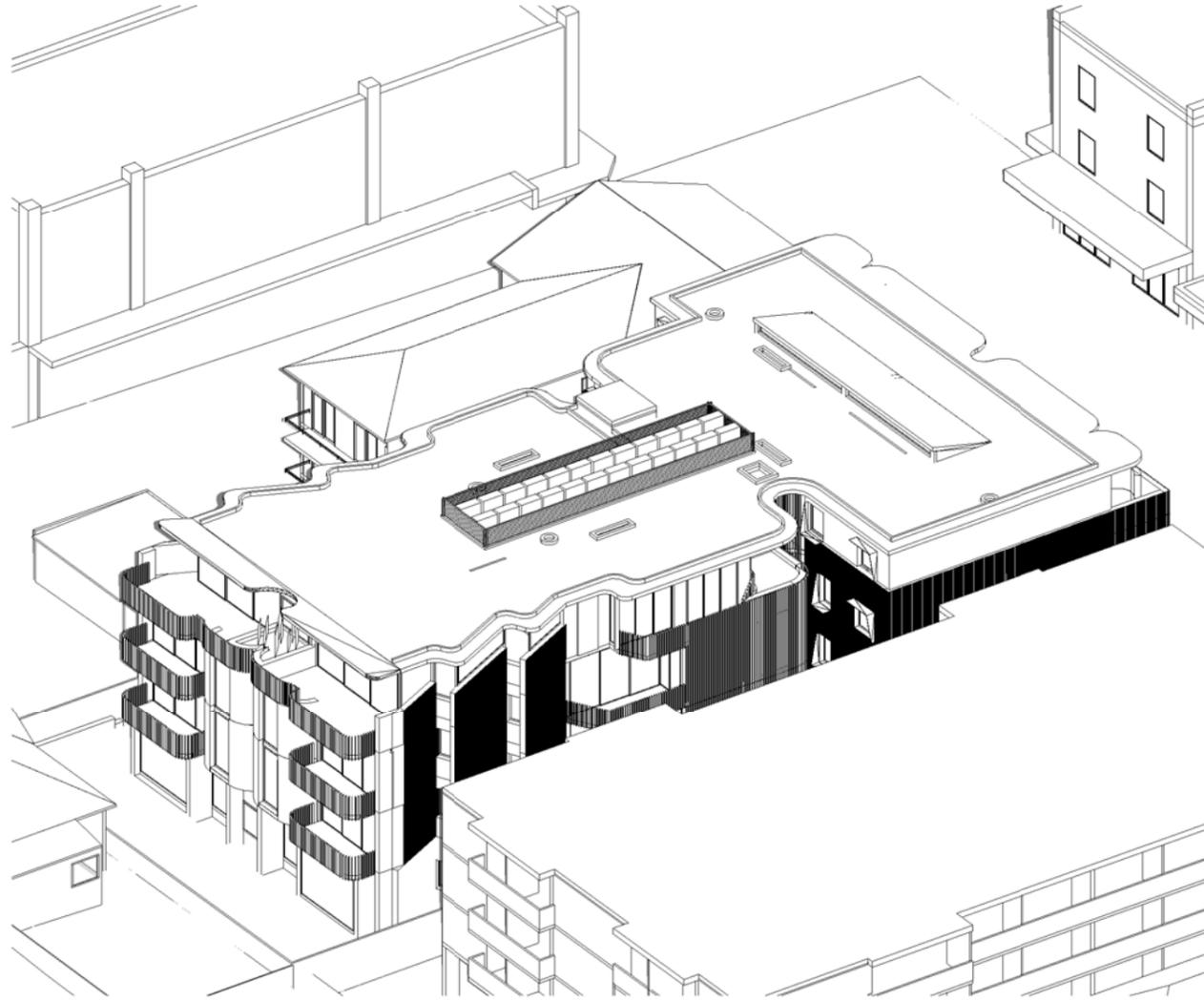
Checked by JD

**A103**

Scale

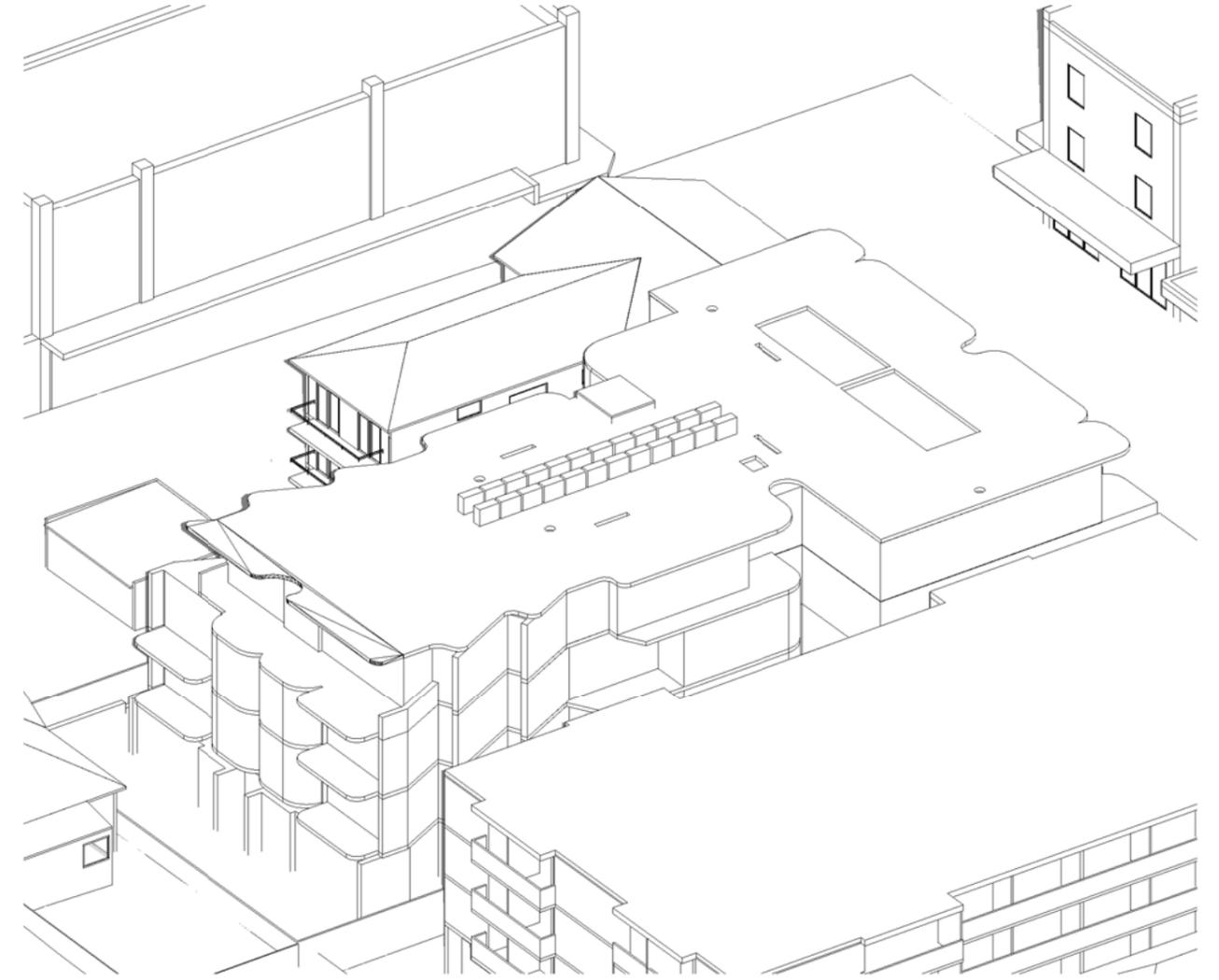
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 1.00pm Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 1.00pm Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

SHADOW ANALYSIS CONSULTANTS

ABN 27 083 288 153  
SUITE 1, 505 BALMAIN ROAD,  
LILYFIELD, NSW 2040

PH: 9555 8545  
info@caddraftnsw.com.au

No.	Description	Date

3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI  
CLIENT: HSN PROPERTY GROUP

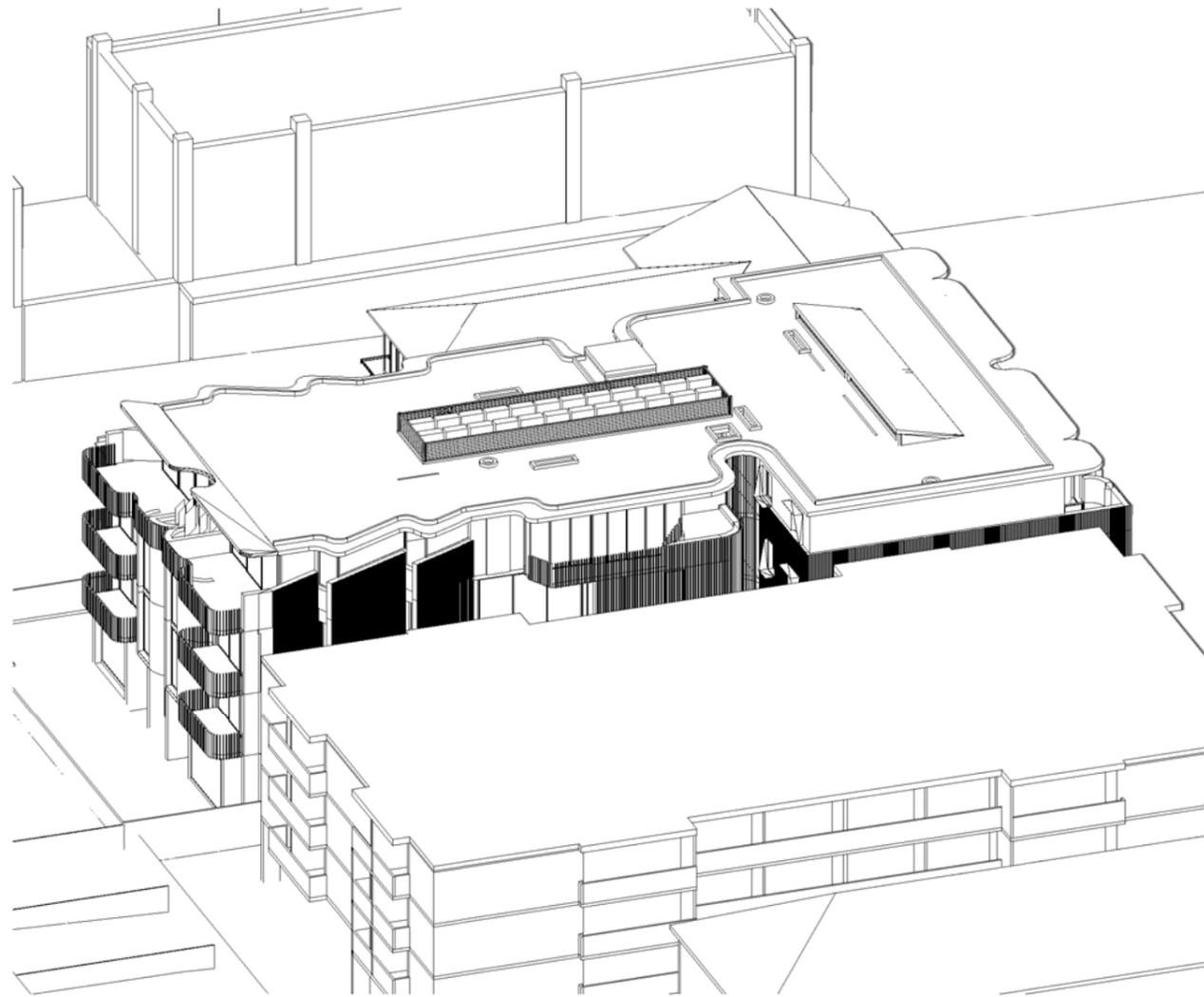
Solar Access June 1.00pm

Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

**A104**  
Scale

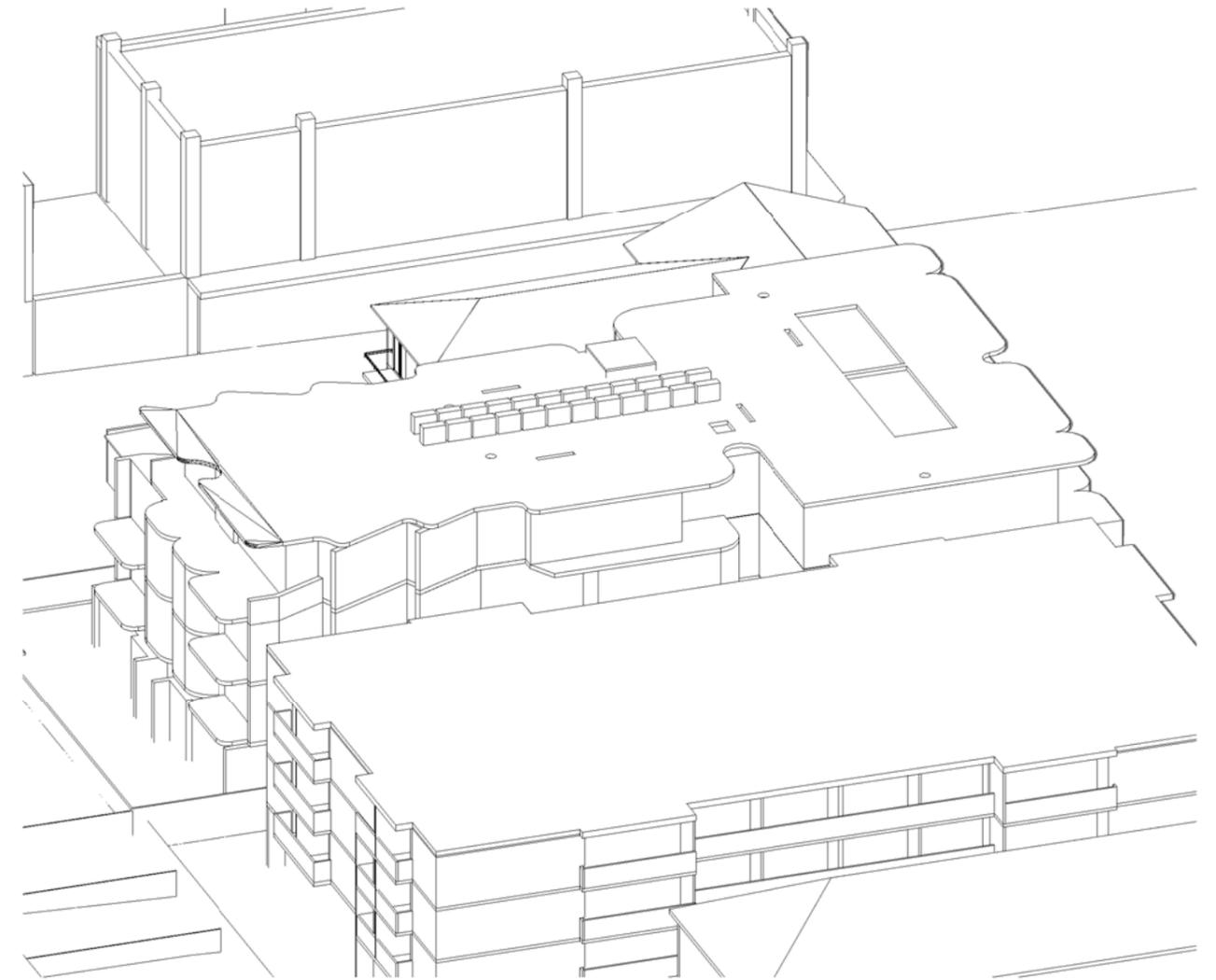
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 2.00pm Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 2.00pm Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

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BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 2.00pm

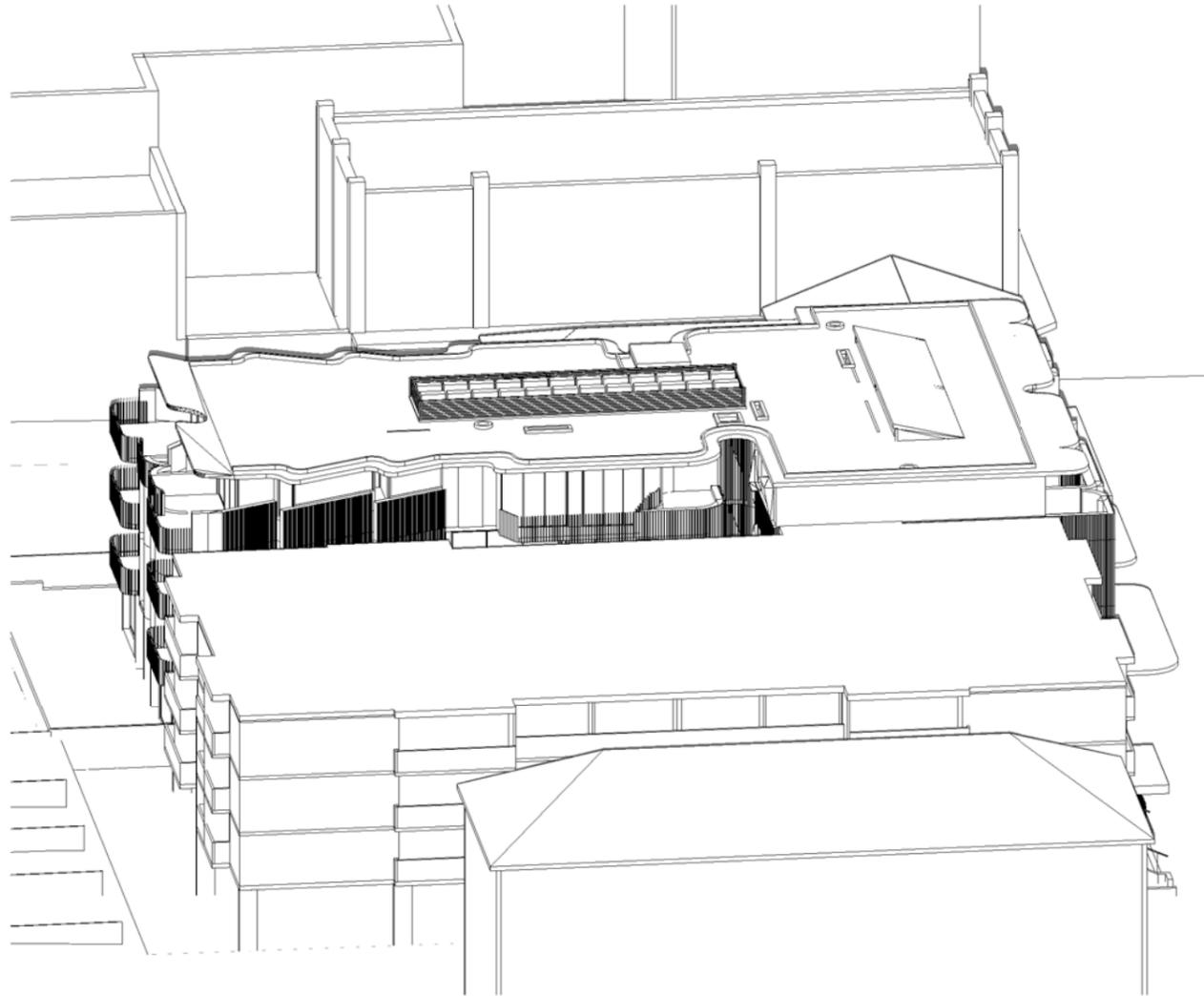
Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A105

Scale

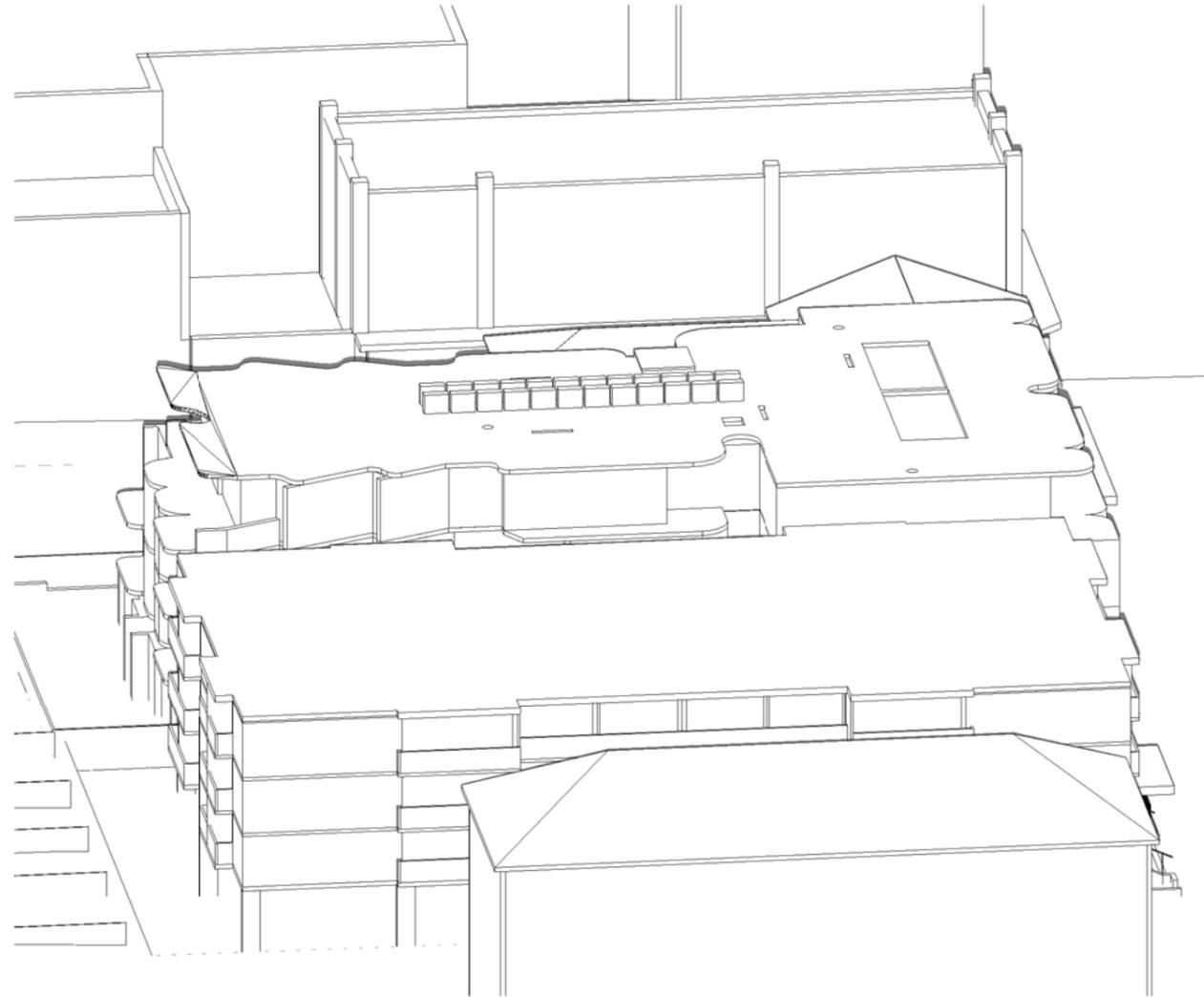
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 3.00pm Proposed

OPTION 1: PROPOSED BUILDING WITH EXISTING NEIGHBOUR AT NO. 144 - 148



2 June 21st 3.00pm Setback

OPTION 2: INCREASED SETBACK MODEL WITH EXISTING NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

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3D COMPARISONS  
OPTION 1 & OPTION 2  
No. 140 -142 CURLEWIS STREET  
BONDI  
CLIENT: HSN PROPERTY GROUP

Solar Access June 3.00pm

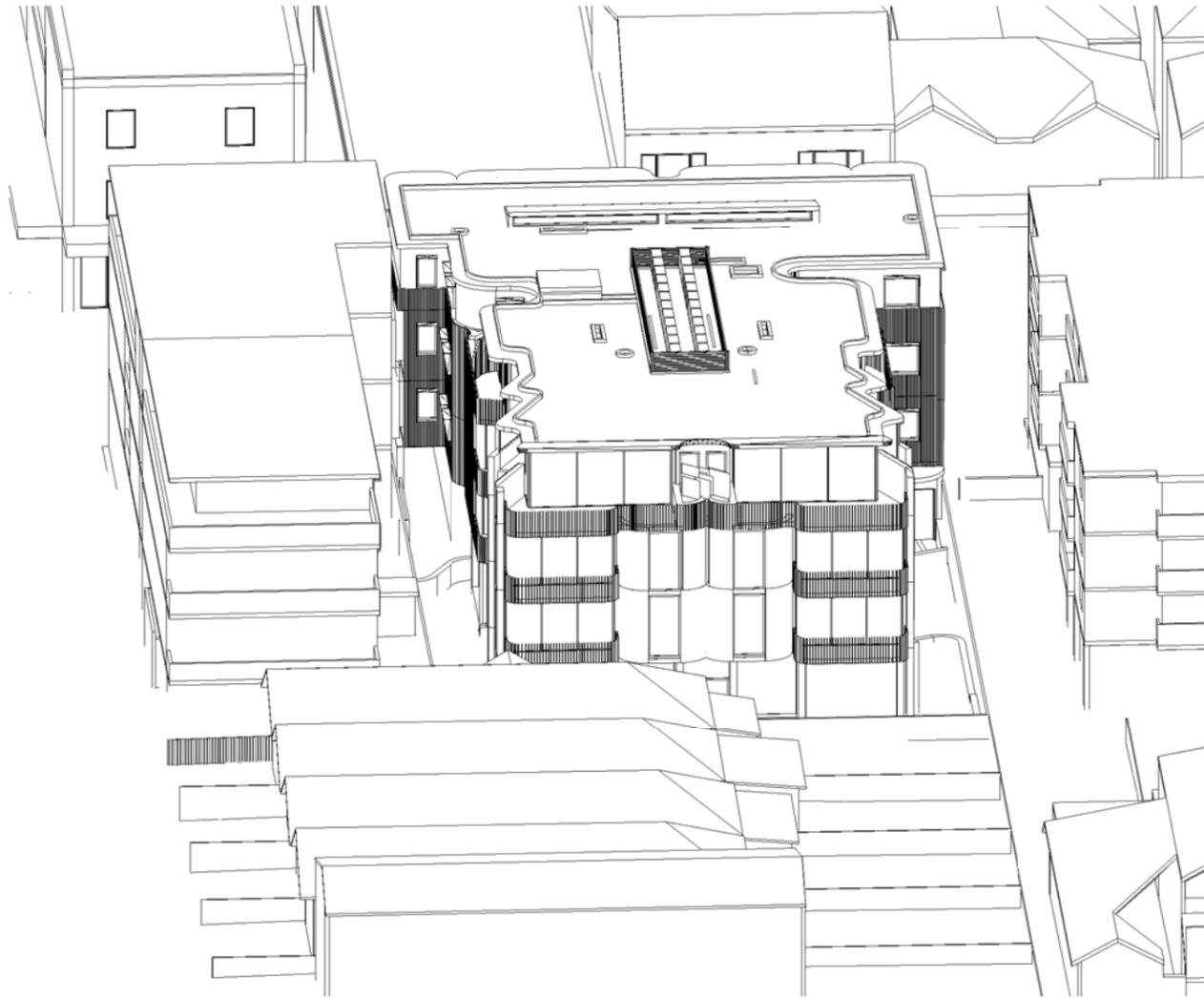
Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A106

Scale

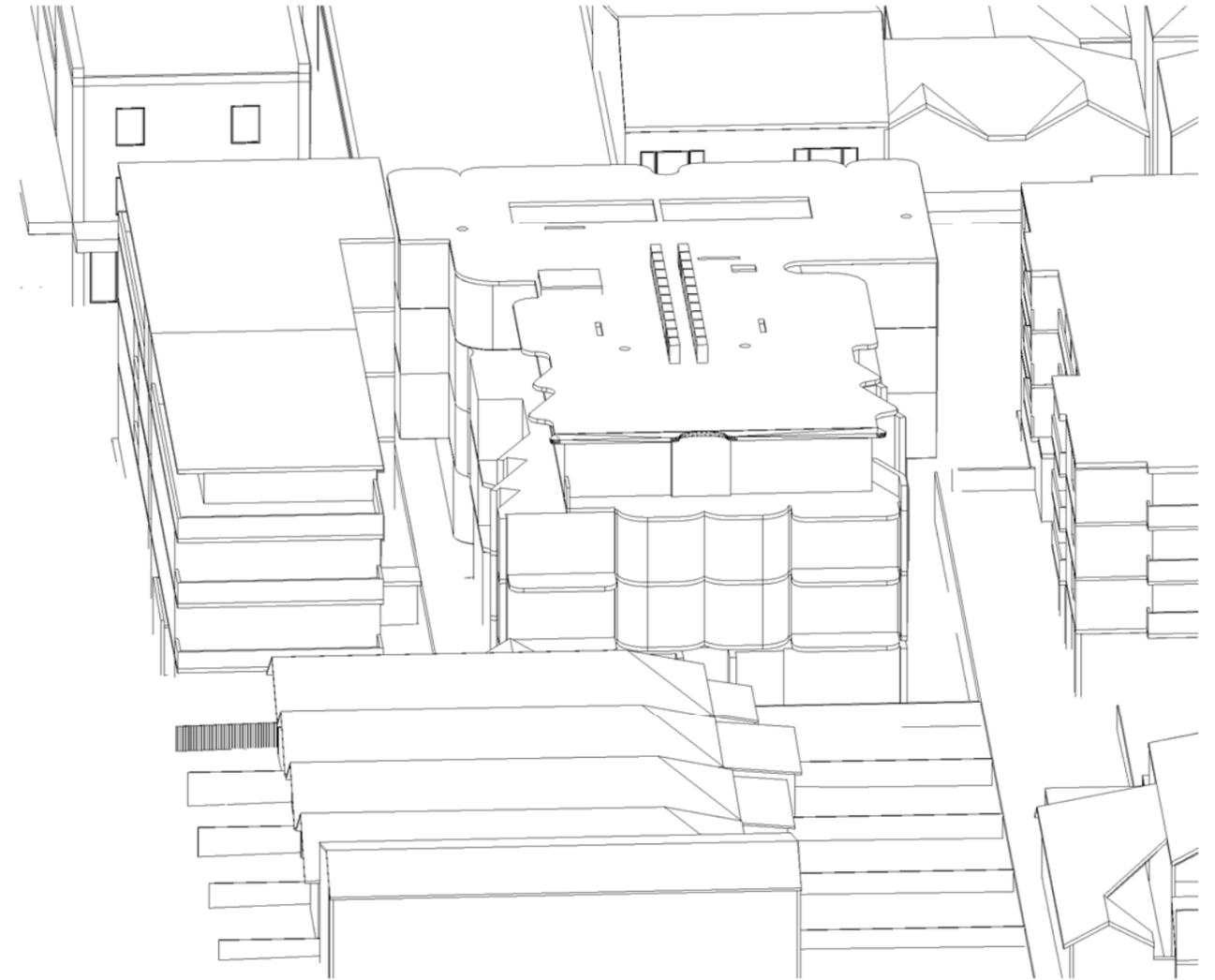
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 9.00am Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 9.00am Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

ABN 27 083 288 153

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No.	Description	Date

3D COMPARISONS  
OPTION 3 & OPTION 4  
No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 9.00am

Project number 21-84

Date 17-03-22

Drawn by KP

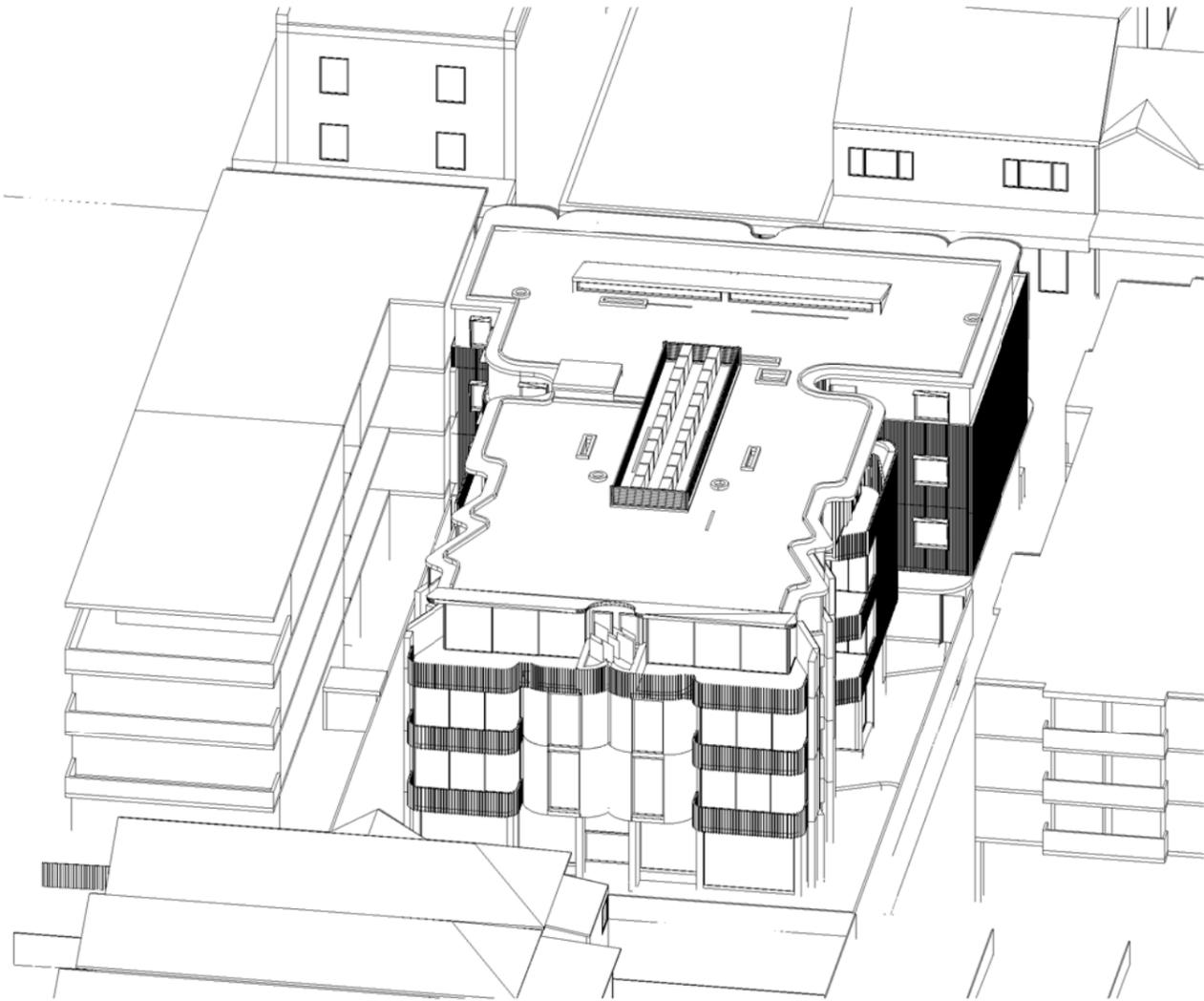
Checked by JD

A100

Scale

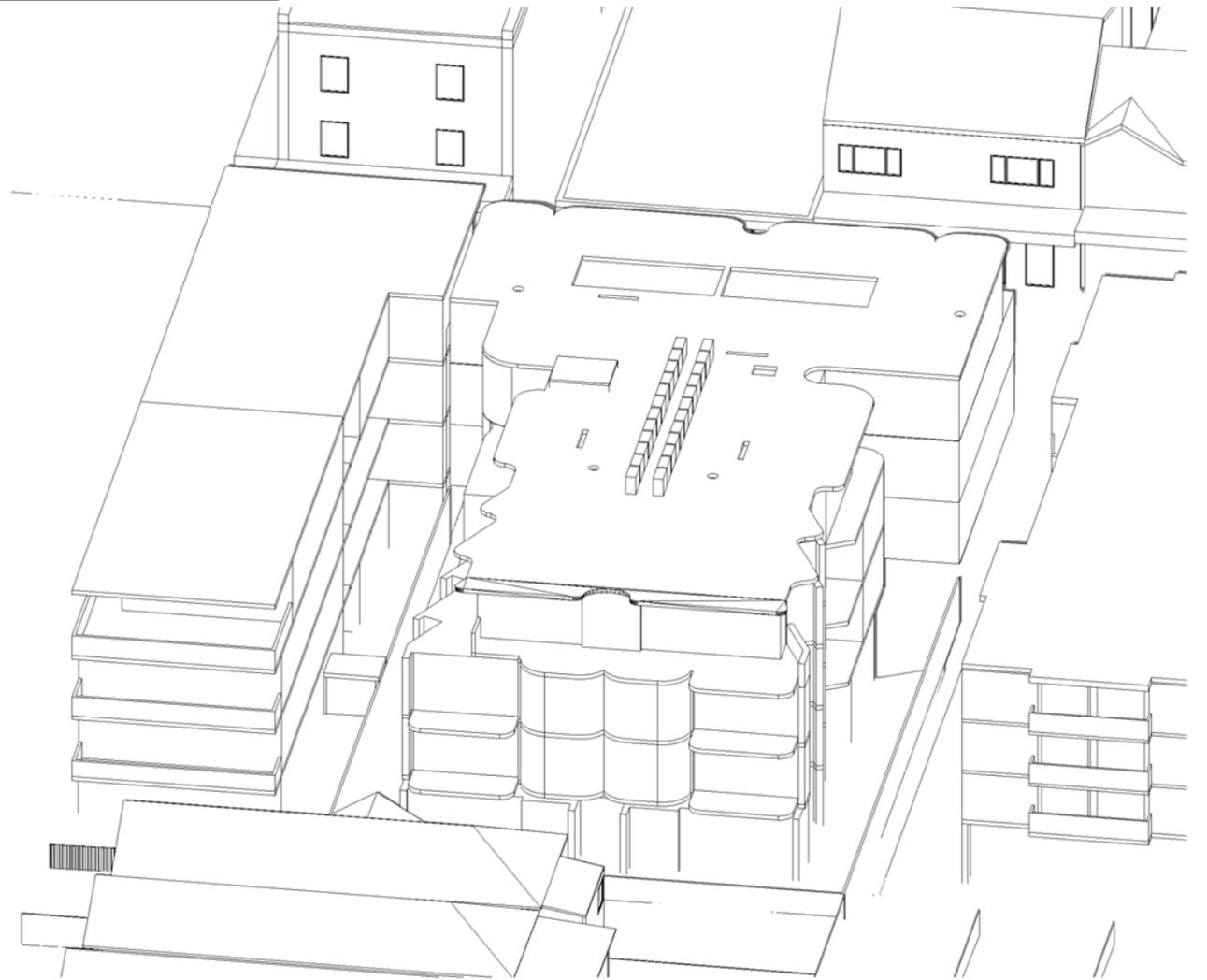
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 10.00am Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 10.00am Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

ABN 27 083 288 153

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3D COMPARISONS  
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No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 10.00am

Project number 21-84

Date 17-03-22

Drawn by KP

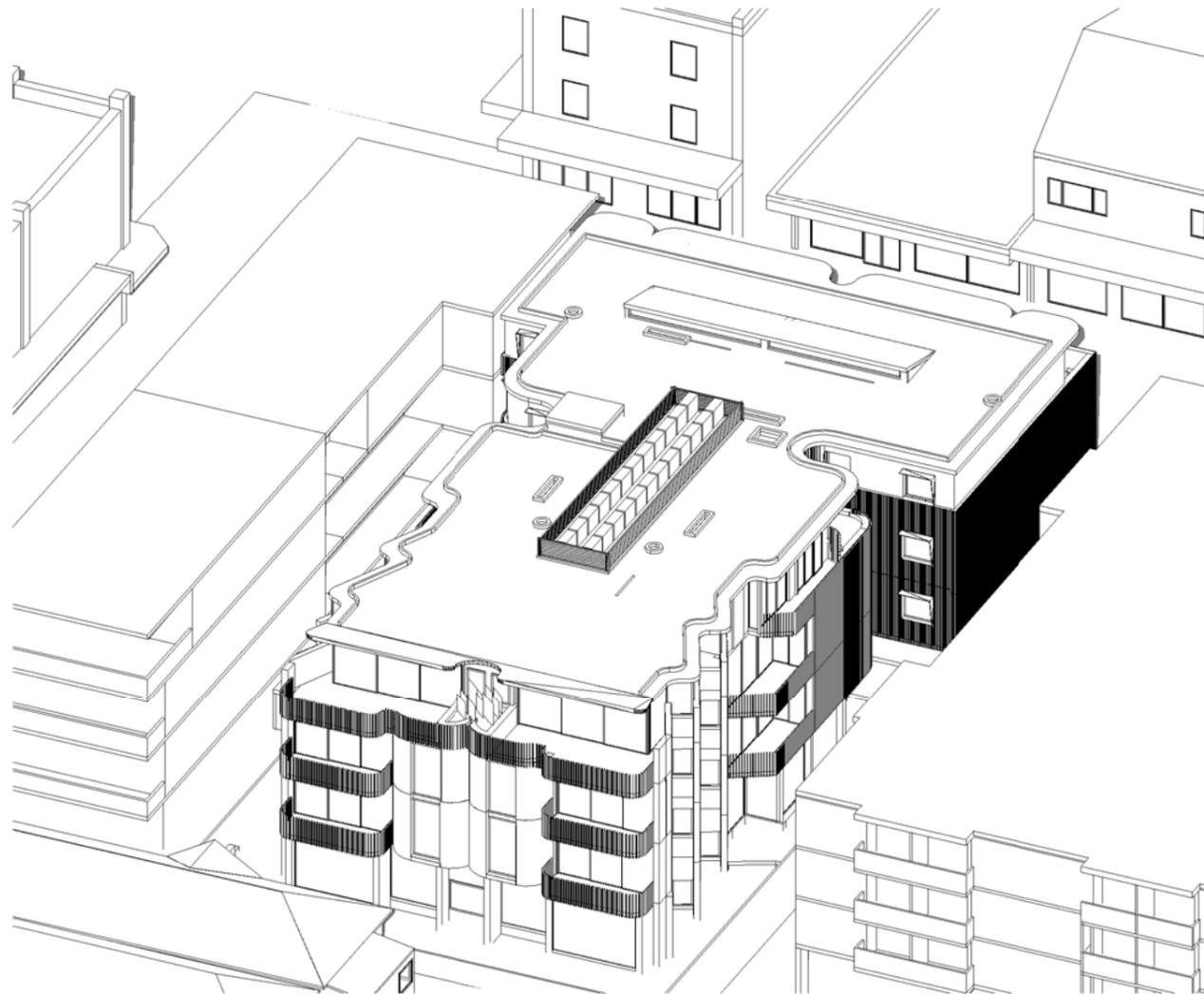
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A101

Scale

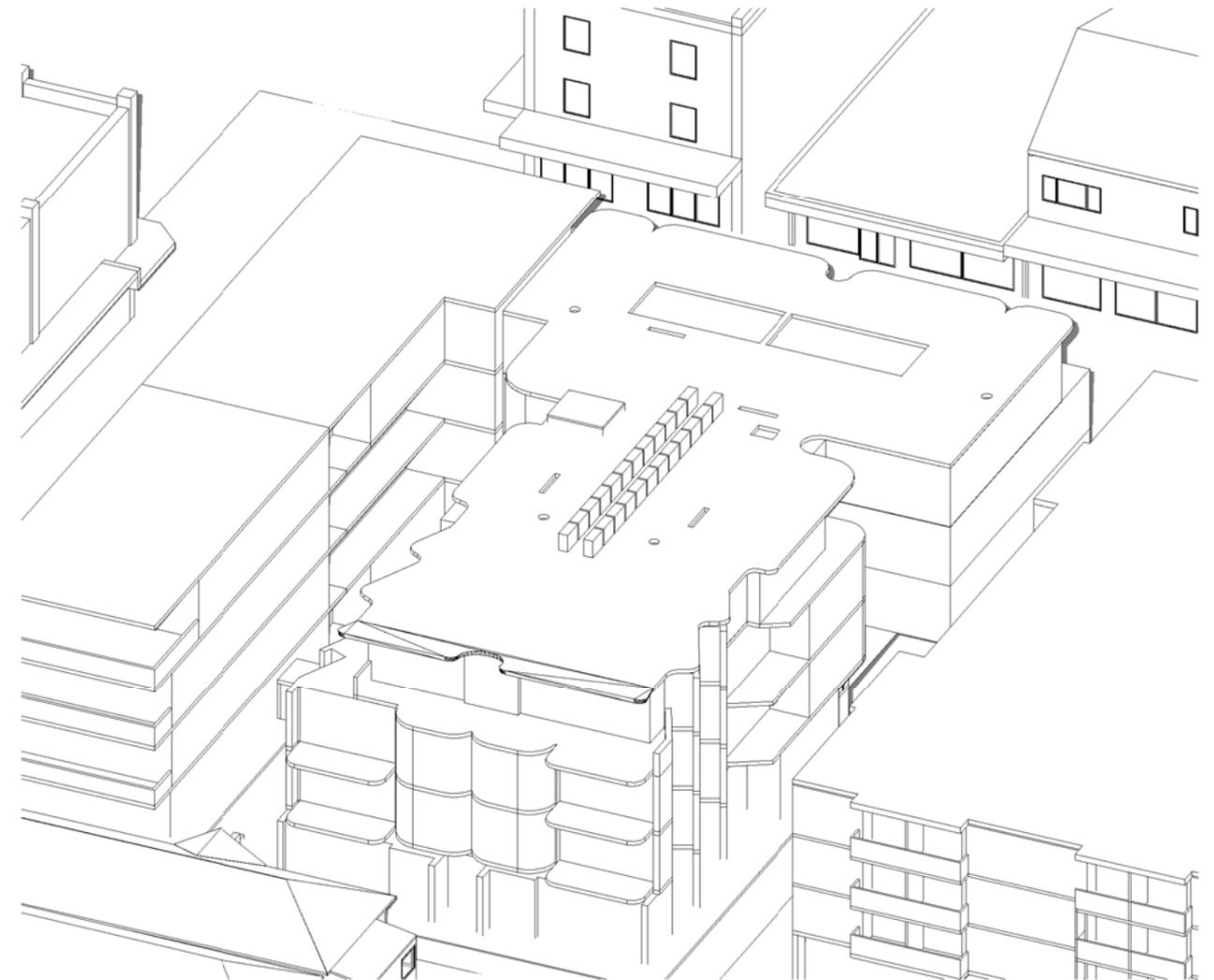
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 11.00am Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 11.00am Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

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CLIENT: HSN PROPERTY GROUP

Solar Access June 11.00am

Project number 21-84

Date 17-03-22

Drawn by KP

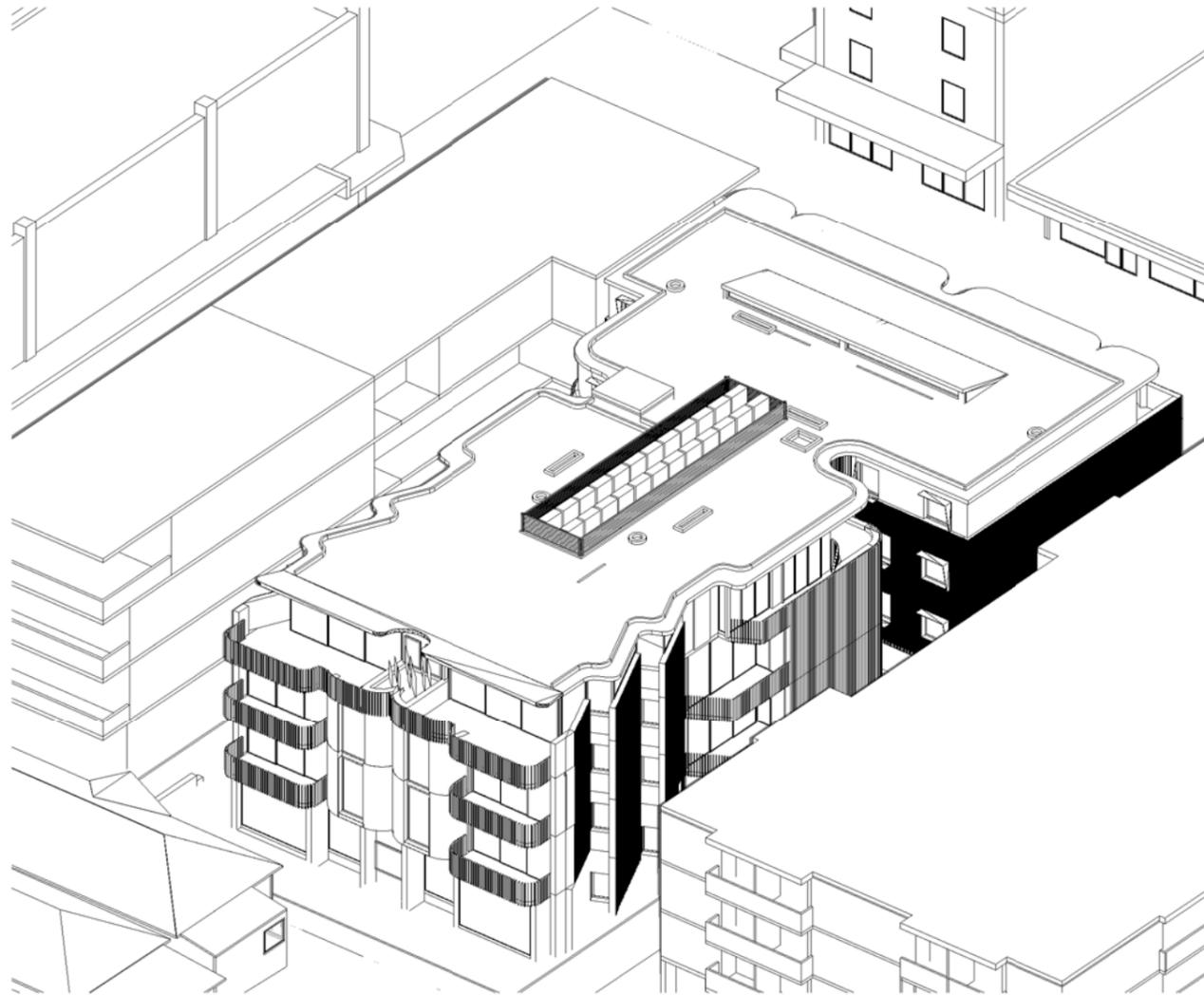
Checked by JD

**A102**

Scale

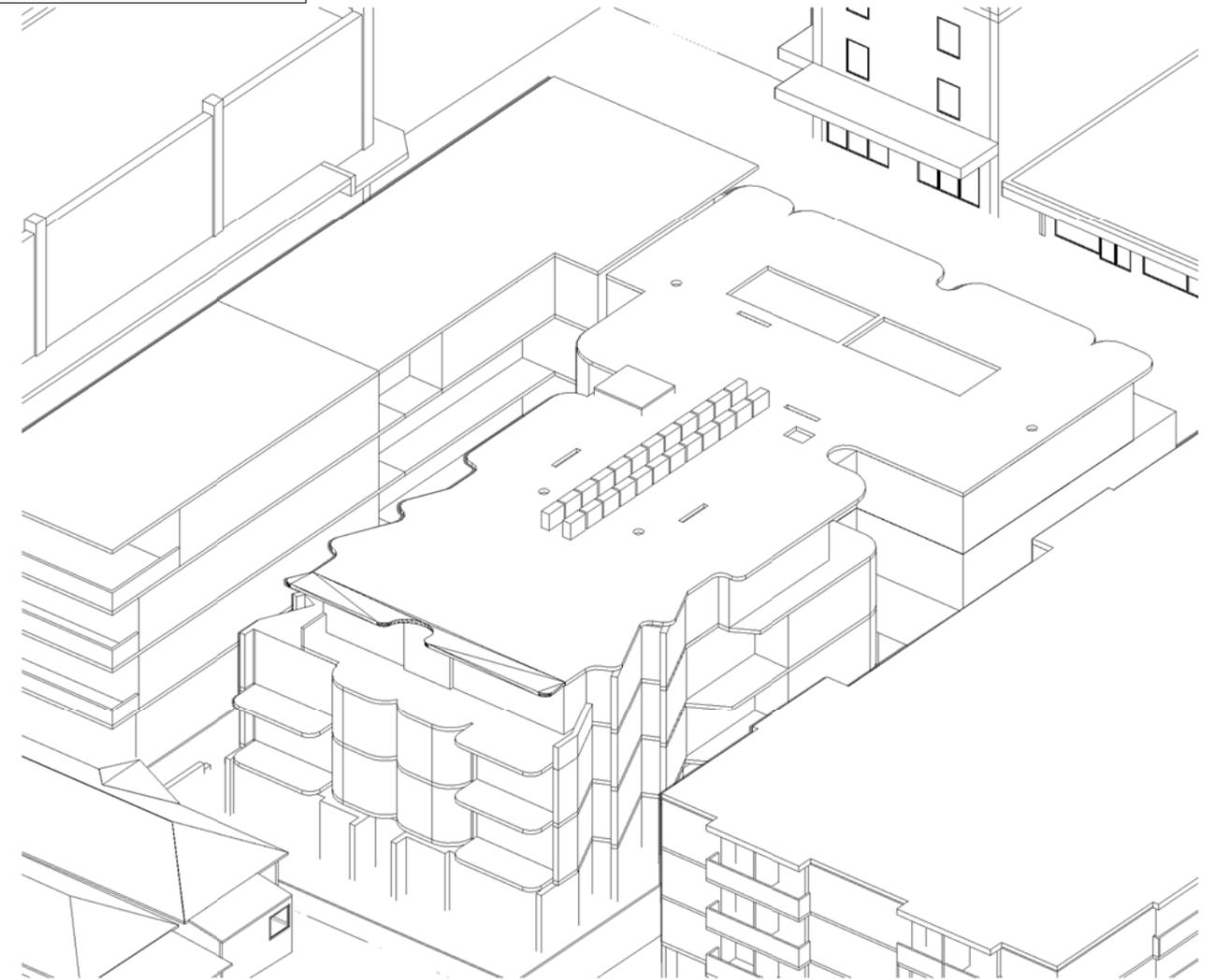
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 12.00pm Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 12.00pm Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

ABN 27 083 288 153

SUITE 1, 505 BALMAIN ROAD,  
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SHADOW ANALYSIS CONSULTANTS

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No.	Description	Date

3D COMPARISONS  
OPTION 3 & OPTION 4  
No. 140 -142 CURLEWIS STREET  
BONDI

CLIENT: HSN PROPERTY GROUP

Solar Access June 12.00pm

Project number 21-84

Date 17-03-22

Drawn by KP

Checked by JD

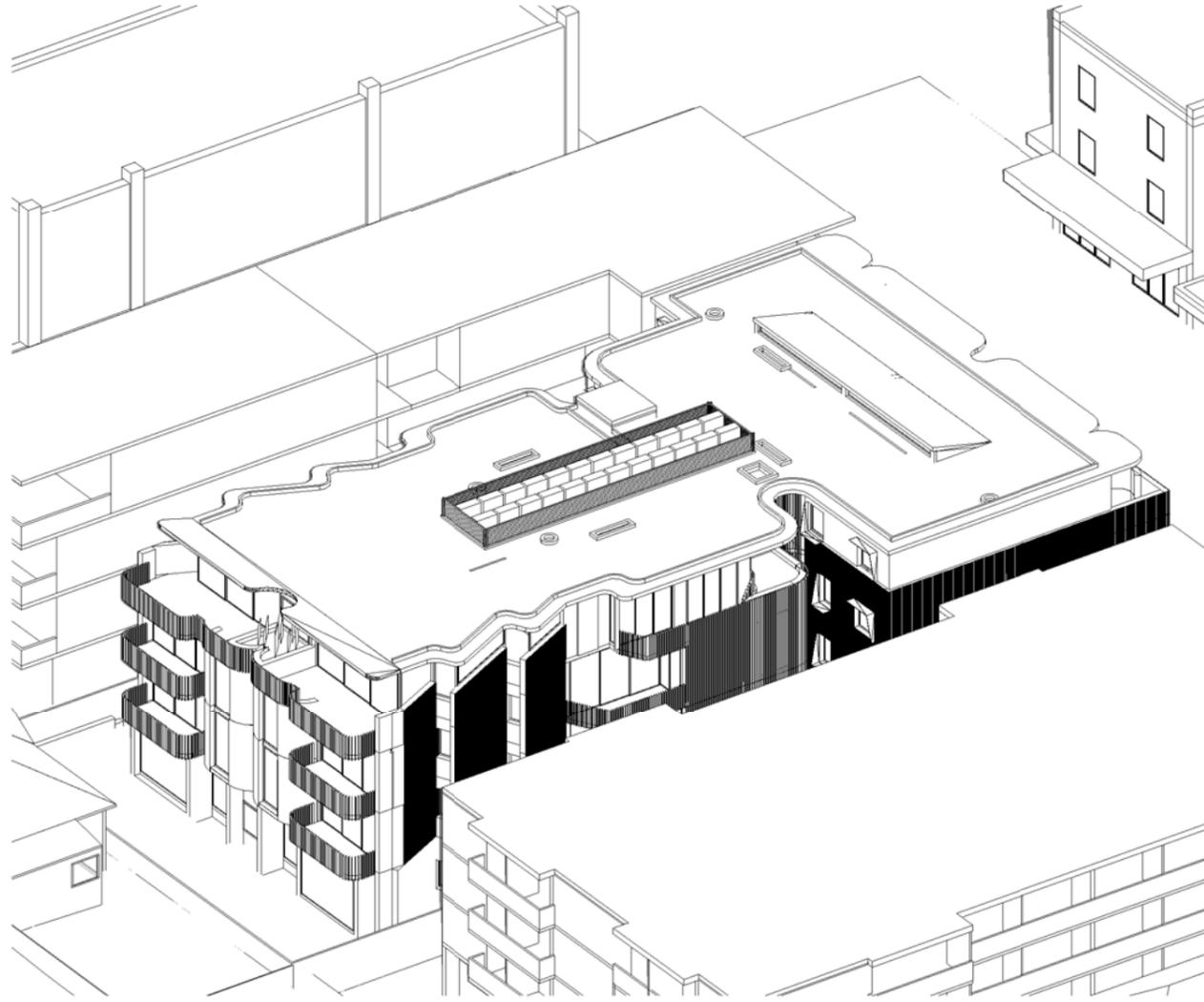
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**A103**



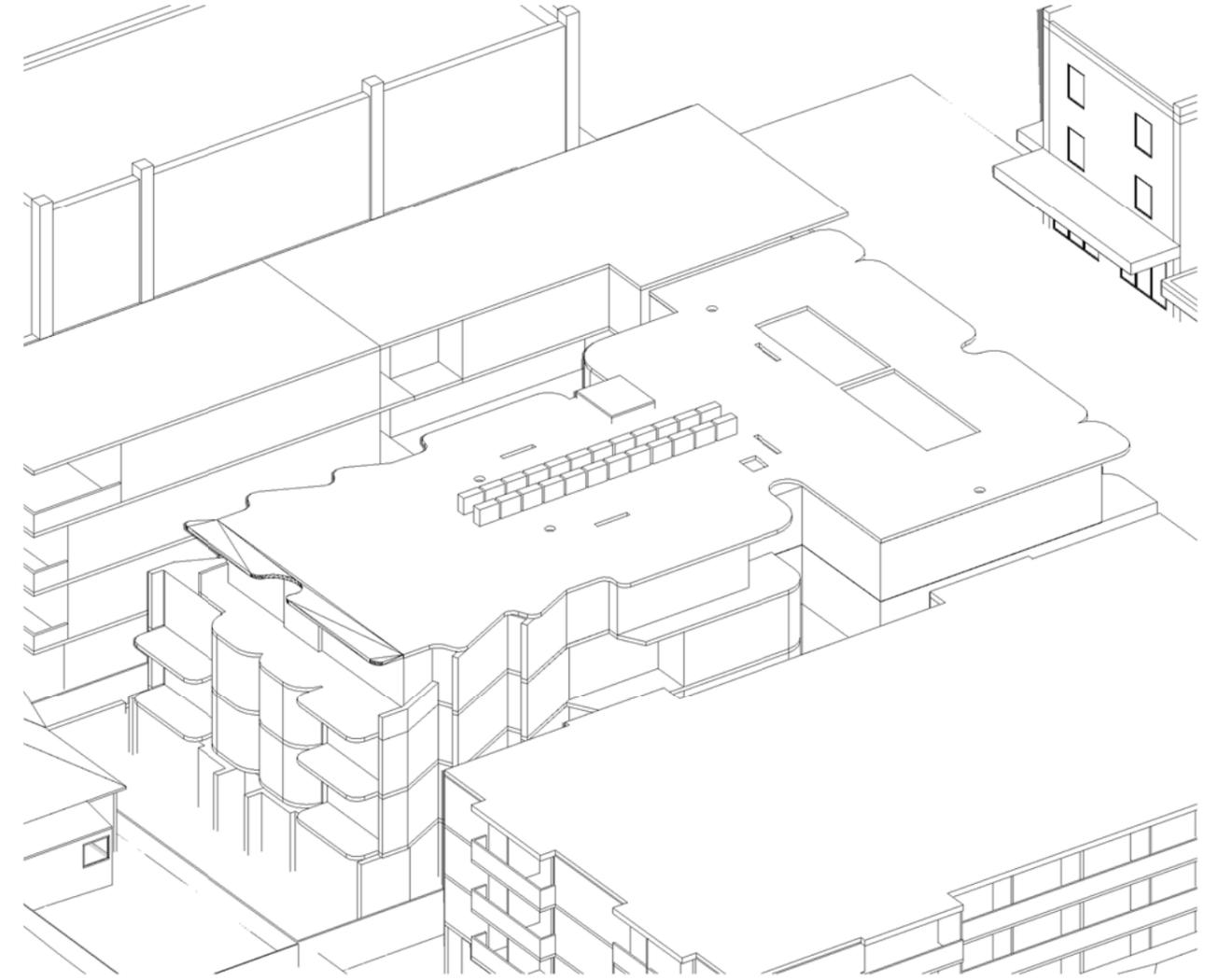
# AMENDED PLANS

RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 1.00pm Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 1.00pm Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

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Solar Access June 1.00pm

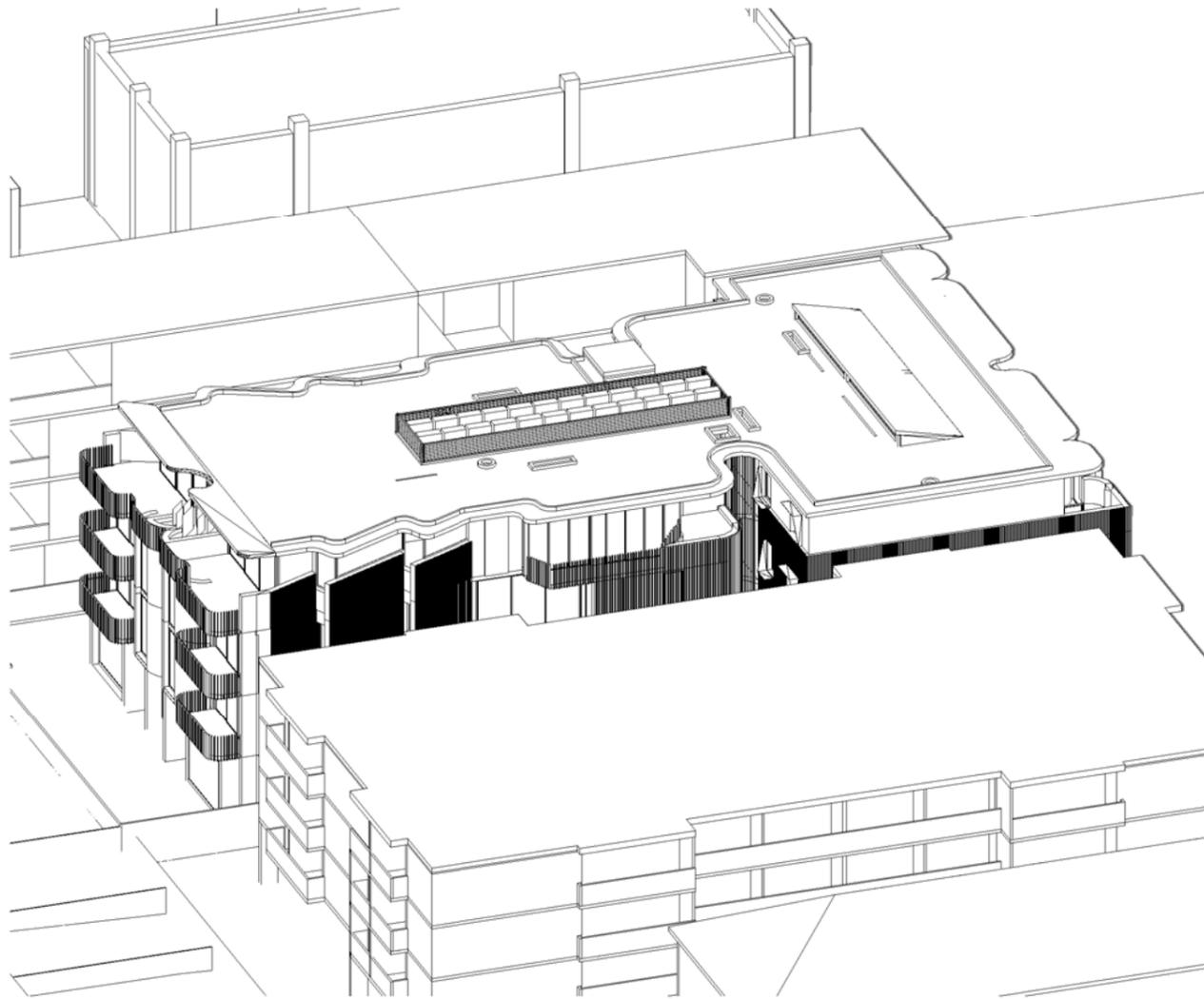
Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A104

Scale

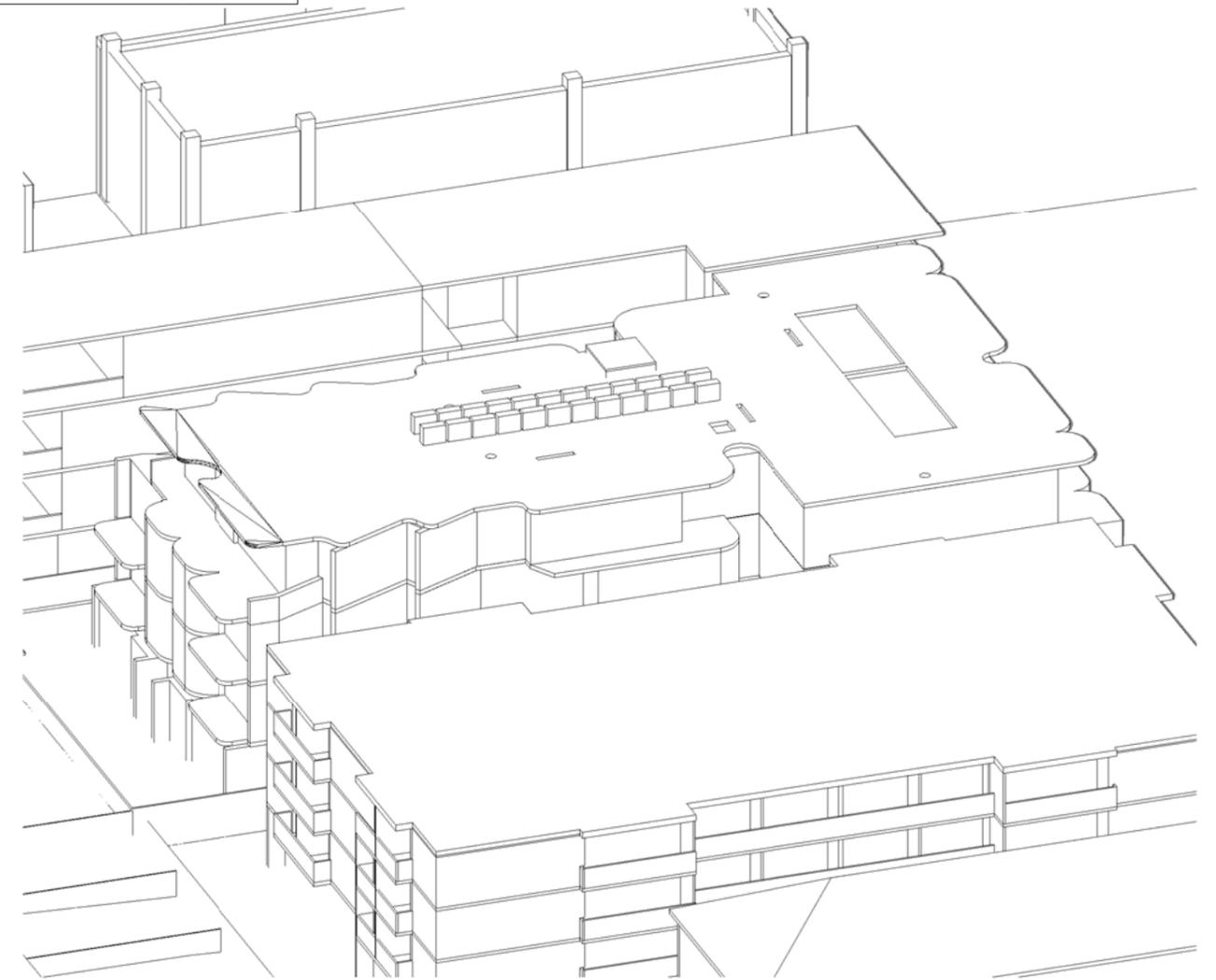
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RECEIVED  
Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 2.00pm Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 2.00pm Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

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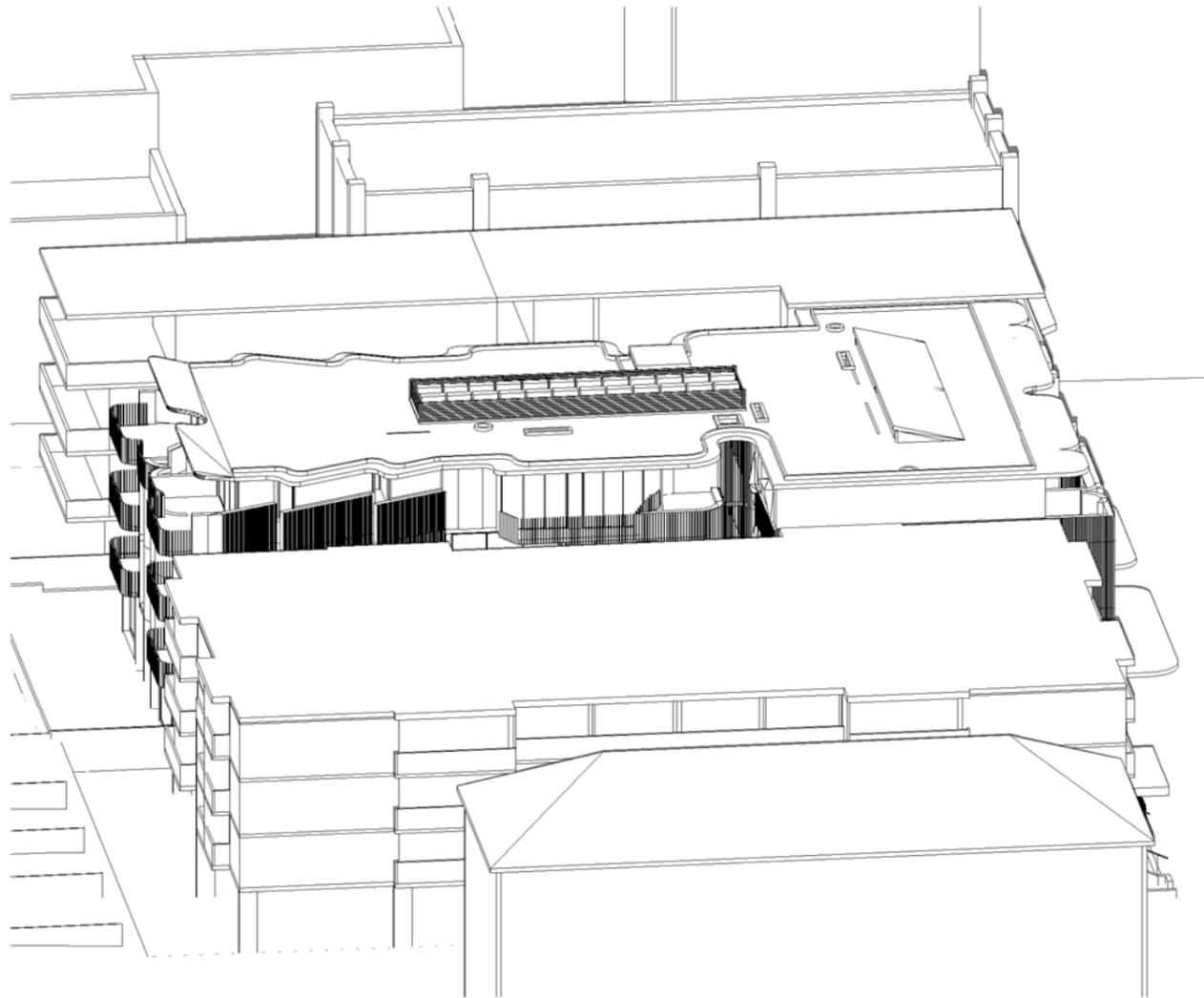
Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A105

Scale

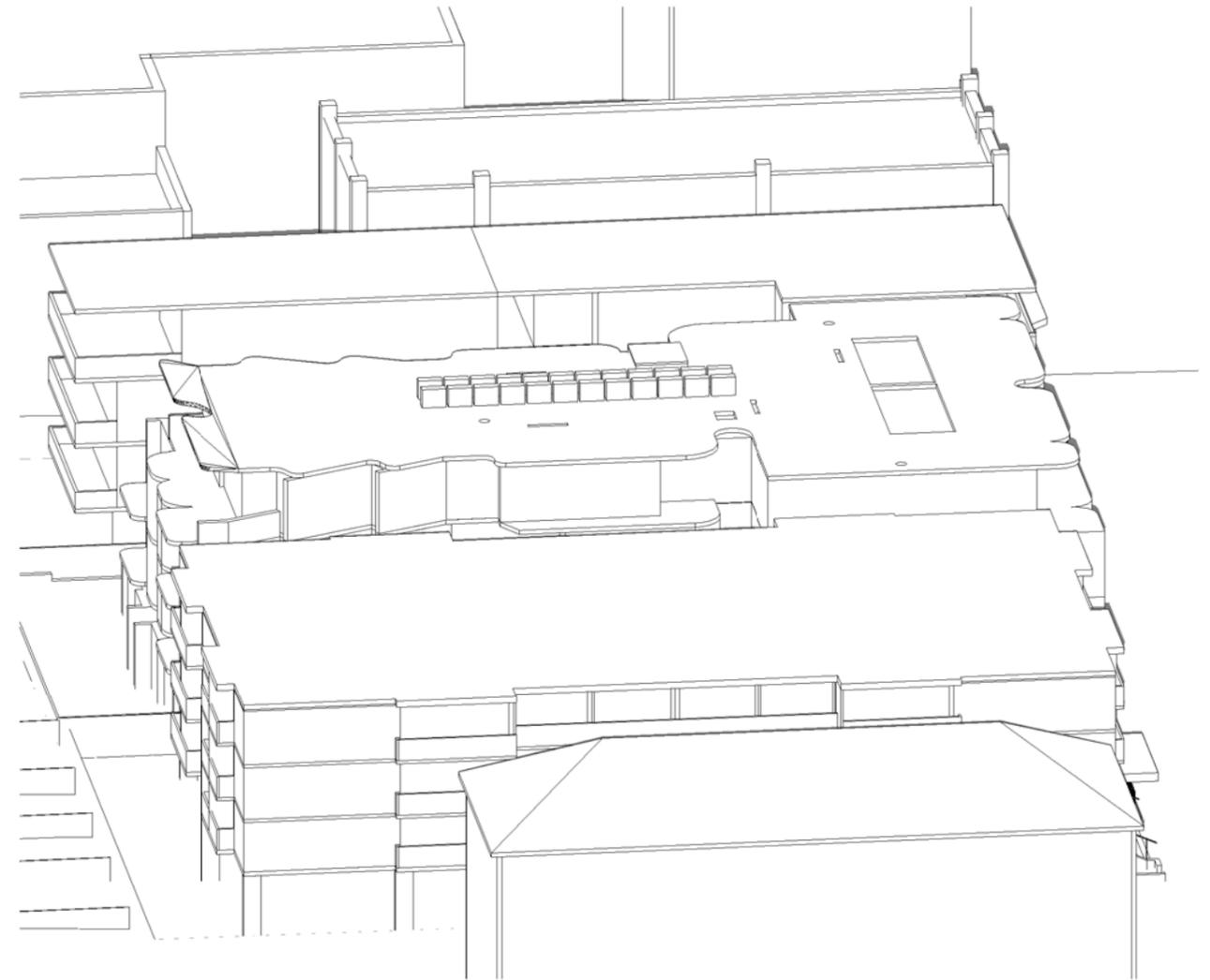
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Waverley Council  
Application No: DA-355/2021  
Date Received: 23/03/2022



1 June 21st 3.00pm Proposed

OPTION 3: PROPOSED BUILDING WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148



2 June 21st 3.00pm Setback

OPTION 4: INCREASED SETBACK MODEL WITH ALTERNATE SCHEME NEIGHBOUR AT NO. 144 - 148

**Cad Draft P/L**

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Solar Access June 3.00pm

Project number	21-84
Date	17-03-22
Drawn by	KP
Checked by	JD

A106

Scale